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SENATE—*Tuesday, January 14, 1975*

The 14th day of January being the day prescribed by Public Law 93-553, 93d Congress, 2d session, for the meeting of the 1st session of the 94th Congress, the Senate assembled in its Chamber at the Capitol, at 12 o'clock noon.

The VICE PRESIDENT. The Senate will please come to order. The Chaplain will offer the prayer.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord God of our fathers and our God, in whose providence this Nation was born and by whose strength it has been sustained, be to us now what Thou hast been to our Fathers. Cover our sins with Thy forgiveness. Overrule all that is apart from Thy will. By Thy cleansing and redemptive spirit may the days just past make for the renewal of the soul of America. In this Congress make us new men for new times for new achievements. May the assumption of vows for some be the renewal of vows for all.

Guide by Thy higher wisdom the President and all in authority.

And may our only glory be to do justly, to love mercy, and to walk humbly with our God.

Hear us as we pray together the prayer the Master taught us—

"Our Father who art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done in earth, as it is in heaven. Give us this day our daily bread. And forgive us our trespasses as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil: For Thine is the kingdom, and the power, and the glory forever." Amen.

CREDENTIALS—RESIGNATIONS AND APPOINTMENTS

The VICE PRESIDENT. The Chair lays before the Senate letters of resignation of seven Senators and certificates of appointment of five Senators to fill vacancies caused by five of the resignations.

Without objection, the reading will be waived, and the documents will be printed in the RECORD.

The documents, ordered to be printed in the RECORD, are as follows:

U.S. SENATE,
Washington, D.C., December 18, 1974.

Hon. JAMES O. EASTLAND,
President pro tempore,
U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: I herewith tender my resignation as a Member of the United States Senate from Ohio to become effective as of the close of business on Monday, December 23, 1974.

Respectfully,
HOWARD M. METZENBAUM,
U.S. Senator.

U.S. SENATE,
Washington, D.C., December 18, 1974.

Hon. JOHN J. GILLIGAN,
Governor of Ohio,
Governor's Mansion, Columbus, Ohio.

DEAR GOVERNOR GILLIGAN: I hereby resign as a United States Senator from the State of Ohio, effective with the close of business on Monday, December 23, 1974.

In accordance with Senate rules, I have notified Senator James O. Eastland, President Pro Tempore of the Senate, of my resignation, and have enclosed a copy of my letter to him.

With best wishes,
HOWARD M. METZENBAUM,
U.S. Senator.

U.S. SENATE,
Washington, D.C., December 18, 1974.

Hon. FRANCIS R. VALEO,
Secretary, U.S. Senate, Washington, D.C.

DEAR MR. VALEO: I hereby inform you of my resignation as a United States Senator from the State of Ohio, effective with the close of business on Monday, December 23, 1974.

I have enclosed copies of the letters of resignation I sent on this date to Senator James O. Eastland, President Pro Tempore of the Senate, and to John J. Gilligan, Governor of Ohio.

With best wishes,
HOWARD M. METZENBAUM,
U.S. Senator.

U.S. SENATE,
Washington, D.C., December 16, 1974.

Senator JAMES EASTLAND,
President Pro tempore of Senate, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I hereby resign as a United States Senator from the State of Florida to the Congress of the United States on December 31, 1974.

Sincerely,
EDWARD J. GURNEY,
U.S. Senator.

U.S. SENATE,
Washington, D.C., December 16, 1974.

Gov. REUBEN ASKEW,
State Capitol,
Tallahassee, Fla.

DEAR REUBEN: I hereby resign as a United States Senator from the State of Florida to the Congress of the United States on December 31, 1974.

Sincerely,
EDWARD J. GURNEY,
U.S. Senator.

Resignation accepted to be effective December 31, 1974.

REUBEN ASKEW,
Governor.

U.S. SENATE,
Washington, D.C., December 20, 1974.

Hon. NELSON ROCKEFELLER,
President of the Senate, U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: This is to officially notify you that as of the close of business December 31, 1974, I hereby resign from my position as United States Senator from Arkansas.

I have officially notified Governor Dale Bumpers of Arkansas, of my resignation, and a copy of my letter to him is enclosed for your information.

With best wishes, I am
Sincerely yours,
J. W. FULBRIGHT.

U.S. SENATE,
Washington, D.C., December 20, 1974.

Hon. DALE BUMPERS,
Governor of Arkansas, State Capitol, Little Rock, Ark.

DEAR GOVERNOR BUMPERS: Please consider this as official notification that as of the close of business December 31, 1974, I hereby resign from my position as United States Senator from the State of Arkansas.

With best wishes, I am
Sincerely yours,
J. W. FULBRIGHT.

U.S. SENATE,
Washington, D.C., December 27, 1974.

Hon. NELSON A. ROCKEFELLER,
Vice President and Ex-Officio President of the U.S. Senate, Washington, D.C.

DEAR MR. VICE PRESIDENT: For the reasons stated in the enclosed copy of a letter from me to the Governor of North Carolina, I hereby resign my office as a United States Senator from North Carolina effective at midnight on December 31, 1974.

Sincerely yours,
SAM J. ERVIN, JR.

U.S. SENATE,
Washington, D.C., December 27, 1974.

Hon. JAMES E. HOLSHOUSER, Jr.
Governor of North Carolina, State Capitol, Raleigh, N.C.

DEAR GOVERNOR HOLSHOUSER: I hereby resign my office as a United States Senator from North Carolina effective at midnight on December 31, 1974.

It is necessary for me to retire from the Senate two and one-half days prior to the scheduled time for the expiration of my term because of a peculiar provision of the civil service retirement laws. Under these laws, I must retire from the Senate by December 31, 1974, in order to obtain the maximum retirement benefits for which my years of service and my contributions to my retirement otherwise entitle me.

No ill consequences will flow from my resignation two and one-half days prior to the scheduled expiration of my term because the Senate will not be in session during such time.

I send copies of this letter to Vice President Nelson A. Rockefeller, Ex-Officio President of the Senate; Francis R. Valeo, Secretary of the Senate; and William A. Ridgely, Financial Clerk of the Senate, for their information.

Sincerely yours,

SAM J. ERVIN, Jr.

U.S. SENATE,
Washington, D.C., December 17, 1974.
Hon. JAMES O. EASTLAND,
President Pro Tempore, U.S. Senate,
Washington, D.C.

DEAR SENATOR EASTLAND: I hereby tender my resignation as a member of the United States Senate from the State of Utah effective at the close of business of the *sine die* adjournment of the 2nd Session of the 93rd Congress or at the close of business on December 30, 1974, whichever date occurs first.

I am enclosing a copy of the letter I wrote to the Governor of Utah regarding my resignation.

With kindest personal regards,

Sincerely,

WALLACE F. BENNETT.

U.S. SENATE,
Washington, D.C., December 17, 1974.
Hon. CALVIN L. RAMPTON,
Governor, State of Utah, State Capitol Building, Salt Lake City, Utah.

DEAR GOVERNOR RAMPTON: It seems that the 93rd Congress will complete its work and go out of existence by or before Saturday, December 21st, and the 94th Congress will not meet until January 14th of next year. By resigning at the time the 93rd Congress adjourns and my opportunity for active service ends, I can make it possible for you to appoint Jake Garn to serve as a senator between then and January 14th thus giving him a head start of as much as three weeks. In this way he can get his office open and staff in place before his official duties begin. I feel sure that this would increase his service to the people of Utah.

Therefore, I hereby tender my resignation as a member of the United States Senate from the State of Utah effective at the close of business of the *sine die* adjournment of the 2nd Session of the 93rd Congress or at the close of business on December 30, 1974, whichever date occurs first.

As I close my service in the Senate, I want to thank you for your fine cooperation on every program affecting Utah's best interests.

With kind personal regards.

Sincerely,

WALLACE F. BENNETT.

U.S. SENATE,
Washington, D.C., December 27, 1974.
Hon. NELSON A. ROCKEFELLER,
The Vice President, U.S. Senate, Washington, D.C.

DEAR MR. VICE PRESIDENT: This is to officially notify you that as of the close of business December 27, 1974, I hereby resign from my position as United States Senator from Kentucky.

I have officially notified Governor Ford of Kentucky of my resignation.

A copy of my letter is attached for your information.

With warm, personal, regards.

Sincerely,

MARLOW W. COOK.

U.S. SENATE,
Washington, D.C., December 17, 1974.
Hon. MELDRIM THOMSON, Jr.,
Office of the Governor,
State House, Concord, N.H.

DEAR GOVERNOR THOMSON: I hereby resign as United States Senator from the State of New Hampshire, said resignation to take effect at the close of business December 31, 1974.

Respectfully yours,

NORRIS COTTON,
U.S. Senator.

U.S. SENATE,
Washington, D.C., December 17, 1974.
Hon. FRANCIS R. VALEO,
Secretary of the Senate,
Washington, D.C.

DEAR MR. VALEO: I have today sent my resignation as United States Senator from New Hampshire to the Governor of New Hampshire, said resignation to take effect at the close of business on December 31, 1974.

I am enclosing a copy of my letter to the Governor.

Yours sincerely,

NORRIS COTTON,
U.S. Senator.

U.S. SENATE,
Washington, D.C., December 20, 1974.
Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I enclose herewith a copy of my letter to the Governor of New Hampshire resigning as a United States Senator from New Hampshire, said resignation to take effect at the close of business on December 31st.

I am informed by the Secretary of the Senate and the Financial Clerk that this is the proper method to follow in resigning and that it should appear in the Record before final adjournment.

Respectfully yours,

NORRIS COTTON,
U.S. Senator.

STATE OF UTAH,
OFFICE OF THE GOVERNOR,
Salt Lake City.

CERTIFICATE OF APPOINTMENT

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify, that pursuant to the power vested in me by the Constitution of the United States and the laws of the state of Utah, I, Calvin L. Rampton, the Governor of said state, do hereby appoint E. J. "Jake" Garn, a Senator from said state, to represent that state in the Senate of the United States until the vacancy therein, caused by the resignation of Wallace F. Bennett, is filled by election as provided by law.

Witness: His Excellency Our Governor Calvin L. Rampton, and our seal hereto affixed at Salt Lake City, Utah, this 21st day of December, in the year of our Lord 1974.

By the Governor:

CALVIN L. RAMPTON,
Governor.

CLYDE C. MILLER,
Secretary of State.

CERTIFICATION OF APPOINTMENT

Hon. NELSON A. ROCKEFELLER,
President of the U.S. Senate, U.S. Capitol, Washington, D.C.:

I, Julian M. Carroll, Governor of the Commonwealth of Kentucky, hereby certify that on December 28, 1974, by virtue of the authority vested in me by Section 63.200 of the Kentucky Revised Statutes and the Constitution of Kentucky, did appoint the Honorable Wendell H. Ford as United States Senator from the Commonwealth of Kentucky, to fill a vacancy created by the resignation of the Honorable Marlow Cook on December 27, 1974, and to serve out his unexpired term which ends on January 3, 1975, when at said time the Honorable Wendell H. Ford shall commence his own term as United States Senator by virtue of his election to said office on November 5, 1974; said election results having been certified to the President of the United States Senate on December 20, 1974.

Done at Frankfort, Kentucky, this the 28th day of December, 1974.

JULIAN M. CARROLL,
Governor.

THELMA L. STOVALL,
Secretary of State.

STATE OF OHIO,
EXECUTIVE DEPARTMENT,
OFFICE OF THE GOVERNOR,
Columbus.

CERTIFICATE OF APPOINTMENT

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Ohio, I, John J. Gilligan, the Governor of said State, do hereby appoint John H. Glenn a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the resignation of Howard M. Metzenbaum, is filled by election, as provided by law.

In testimony whereof, I have hereunto subscribed my name and caused the Great Seal of Ohio to be affixed at Columbus, this 24th day of December, in the year of our Lord, One Thousand Nine Hundred and Seventy-Four.

By the Governor:

JOHN J. GILLIGAN,
Governor.

TED W. BROWN,
Secretary of State.

CERTIFICATE OF APPOINTMENT

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Florida, I, Reubin O'D. Askew, the Governor of said State, do hereby appoint Richard (Dick) Stone, a Senator from said State to represent said State in the Senate of the United States beginning January 1, 1975, for the unexpired term of Edward J. Gurney, which vacancy was caused by his resignation effective December 31, 1974.

Witness: His Execellency our Governor Reubin O'D. Askew, and our seal hereto affixed at Tallahassee, Florida, this 30th day of December, in the year of our Lord 1974.

By the Governor:

REUBIN O'D. ASKEW,
Governor.

DOROTHY W. GLISSON,
Secretary of State.

STATE OF NEW HAMPSHIRE,
Concord, N.H., December 30, 1974.

CERTIFICATE OF APPOINTMENT

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of New Hampshire, I, Meldrim Thomson, Jr., the Governor of said state do hereby appoint Louis C. Wyman a senator from said state to represent said state in the Senate of the United States until the vacancy therein caused by the resignation of Norris Cotton, is filled by election as provided by law.

Witness: His Excellency, our Governor Meldrim Thomson, Jr., and our seal hereto affixed at Concord, New Hampshire this 31st day of December, in the year of our Lord 1974.

MELDRIM THOMSON, Jr.,
Governor.

ROBERT L. STARK,
Secretary of State.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the two contestants for the New Hampshire seat, Messrs. Durkin and Wyman, stand aside temporarily, until the oath of office is administered to the other Senators elect.

The VICE PRESIDENT. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not object—would that mean that the credentials would not be laid before the Senate at this time?

The VICE PRESIDENT. The credentials will be laid before the Senate.

Mr. GRIFFIN. I ask that the credentials of the claimants also be laid aside and presented to the Senate later.

The VICE PRESIDENT. Without objection that will be done.

Mr. MANSFIELD. Mr. President, will the Senator repeat that request?

Mr. GRIFFIN. As I understand it, the Chair was about to lay before the Senate the credentials of two claimants for the New Hampshire seat. My only suggestion is that the credentials be laid before the Senate later, after other Senators have been sworn in.

Mr. MANSFIELD. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, what was the Senator's request? I beg his pardon for being distracted.

Mr. GRIFFIN. My request anticipated the tentative program as has been laid before the Senate, and that is that the Chair was about to lay before the Senate 34 sets of credentials for 33 seats in the Senate. The distinguished majority leader asked unanimous consent that the two contestants from New Hampshire stand aside and other Senators be administered the oath at this point, which I think is perfectly in order. I was only making the point that the credentials not be presented at this time, either.

Mr. ROBERT C. BYRD. The credentials of both claimants?

Mr. GRIFFIN. That is right.

Mr. ROBERT C. BYRD. I have no objection.

Mr. MANSFIELD. Mr. President, I withdraw my reservation.

The VICE PRESIDENT. The Chair lays before the Senate 32 sets of credentials, for 32 of the 33 6-year terms beginning on January 3, 1975. All certificates, the Chair is advised, are in the form suggested by the Senate, except the ones from Alaska, Arkansas, Hawaii, Pennsylvania, and Wisconsin, which use various forms but contain all the essential requirements of the form suggested by the Senate.

Mr. MANSFIELD. Mr. President, just to keep the record clear, when I reserved the right to object, it was to a proposal made by the distinguished assistant minority leader; and when I withdrew that reservation, it was to that particular factor.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. ROBERT C. BYRD. Do I correctly understand that the Chair, in laying before the Senate the credentials of the newly elected Senators, is laying before the Senate two certificates of election representing the two claimants from New Hampshire?

The VICE PRESIDENT. Those two sets of credentials, pursuant to unanimous consent, are being held and will not be laid before the Senate; therefore, we will be discussing 32 sets of credentials.

If there is no objection, the reading of the 32 certificates will be waived, and they will be printed in the Record.

The certificates, ordered to be printed in the Record, are as follows:

State of Alabama,
Governor's Office,
Montgomery, December 4, 1974.

To the President of the Senate of the United States:

This is to certify that on the 5th day of November 1974, Jim Allen was duly chosen by the qualified electors of the State of Alabama as Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January 1975.

Witness: His Excellency our Governor, George C. Wallace, and our Seal hereto affixed this 4th day of December, in the year of our Lord 1974.

George C. Wallace,
Governor.
Mabel S. Amos,
Secretary of State.

State of Indiana,
Executive Department,
Indianapolis, Ind.

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Birch E. Bayh, Jr. was duly chosen by the qualified electors of the State of Indiana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred seventy-five.

Witness: His excellency our Governor Otis R. Bowen, M.D. and our seal hereto affixed at Indianapolis, Indiana, this 4th day of December, in the year of our Lord nineteen hundred seventy-four.

By the Governor:

Otis R. Bowen, M.D.
Governor.
Larry Conrad,
Secretary of State.

State of Arkansas,
Executive Department.

Proclamation—Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Dale Bumpers was duly chosen by the qualified electors of the State of Arkansas as Senator from said state to represent said state in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1975, the vote being: Dale Bumpers, 461,056; John Harris Jones, 82,026.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Arkansas to be affixed this 3d day of December, 1974.

Dale Bumpers,
Governor.
Kelle Bryant,
Secretary of State.

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Henry Bellmon was duly chosen by the qualified electors of the State of Oklahoma, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1975.

Witness: His Excellency, Our Governor, David Hall.

Our Seal hereto affixed this 6th day of January in the year of our Lord, 1975.

David Hall,
Governor.

Attest:

John Rogers,
Secretary of State.

State of Idaho

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Frank Church was duly chosen by the qualified electors of the State of Idaho a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1975.

Witness: His excellency our governor Cecil D. Andrus, and our seal hereto affixed at Boise this 3d day of January, in the year of our Lord 1975.

Cecil D. Andrus,
Governor.
Pete T. Cenarrusa,
Secretary of State.

State of California,
Executive Department,
December 4, 1974.

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

I, Ronald Reagan, Governor of California, certify that on the fifth day of November, 1974, Alan Cranston was duly chosen by the qualified electors of the State of California a Senator to represent the State of California in the Senate of the United States for the term of six years, beginning on the third day of January, 1975.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed hereto this 4th day of December, 1974.

Ronald Reagan,
Governor.

Attest:

Edmund G. Brown, Jr.,
Secretary of State.

Office of the Governor,
Des Moines, Iowa.

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, 1974, John C. Culver was duly chosen by the qualified electors of the State of Iowa a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1975.

Witness: His excellency our Governor, Robert D. Ray, and our seal hereto affixed at Des Moines, Iowa, this 16th day of December, in the year of our Lord 1974.

Robert D. Ray,
Governor.
Melvin D. Synhorst,
Secretary of State.

State of Kansas,
Executive Department.

Certificate of Election

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Bob Dole, was duly chosen by the qualified electors of the State of Kansas a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1975.

Witness: The Honorable Robert B. Docking, our Governor, and our seal hereto affixed at Topeka, this 26th day of November, in the year of our Lord 1974.

Robert B. Docking,
Governor.
Elwill M. Shanahan,
Secretary of State.

Executive Office,
Jefferson City, Mo.

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Thomas F. Eagleton was duly chosen by the qualified electors of the State of Missouri a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d of January, 1975.

Witness: His excellency, our governor Christopher S. Bond, and our seal hereto affixed at Jefferson City, Missouri, this Fifth day of December, in the year of our Lord 1974.

Christopher S. Bond,
Governor.

Attest:

James C. Kirkpatrick,
Secretary of State.

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Wendell H. Ford, Owensboro, Kentucky, was duly chosen by the qualified electors of the State of Kentucky a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1975.

Witness: His Excellency our Governor Wendell H. Ford, and our seal hereto affixed at Frankfort, Kentucky, this 19th day of November, in the year of our Lord, 1974.

By the Governor:

Wendell H. Ford,
Governor.
Thelma L. Stovall,
Secretary of State.

State of Utah,
Executive Department.

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, E. J. "Jake" Garn, was duly chosen by the qualified electors of the State of Utah a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1975.

Witness His Excellency, our Governor, Calvin L. Rampton, and our Seal hereto affixed at Salt Lake City, this 26th day of November, 1974.

By the Governor:

Calvin L. Rampton,
Governor.
Clyde L. Miller,
Secretary of State.

The State of Ohio.

Certificate of Election—United States Senator

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, John Glenn was duly chosen by the qualified electors of the State of Ohio a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1975.

Witness: His Excellency our Governor John J. Gilligan, and our Seal hereto affixed at Columbus, Ohio, this 2d day of December, in the year of Our Lord 1974.

By the Governor:

John J. Gilligan,
Governor.
Ted W. Brown,
Secretary of State.

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the 5th day of November 1974, Senator Barry Goldwater was duly chosen by the qualified electors of the State of Arizona a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1975.

Witness: His excellency our Governor, Jack Williams and our seal hereto affixed at Phoenix, Arizona this 4th day of December, in the year of our Lord 1974.

By the Governor:

Jack Williams,
Governor of Arizona.

Attest:

Ross Mofford,
Acting Secretary of State.

State of Alaska.

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Mike Gravel was duly chosen by the qualified electors of the State of Alaska a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d of January, 1975.

Witness: His excellency our governor William A. Egan, and our seal hereto affixed at Juneau this 25th day of November, in the year of our Lord 1974.

By the Governor:

William A. Egan,
Governor.

Attest:

H. A. Boucher,
Lieutenant Governor.

State of Colorado,
Executive Chambers,
Denver.

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Gary Hart was duly chosen by the qualified electors of the State of Colorado a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, 1975.

Witness: His excellency our Governor, John D. Vanderhoof, and our seal hereto affixed at Denver, Colorado, this 10th day of December, in the year of our Lord 1974.

By the Governor:

John D. Vanderhoof,
Governor.

Attest:

Mary S. Buchanan,
Secretary of State.

State of South Carolina,
Executive Office,
Columbia.

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Ernest Frederick Hollings was duly chosen by the qualified electors of the State of South Carolina a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd of January, 1975.

Witness: His excellency our governor John C. West, and our seal hereto affixed at 29th day of November, in the year of our Lord 1974.

By the Governor:

John C. West,
Governor.
O. Frank Thornton,
Secretary of State.

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Daniel K. Inouye was duly chosen by the qualified electors of the State of Hawaii a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3rd day of January, 1975.

Witness: His excellency our Acting Governor George R. Ariyoshi, and our seal hereto affixed at Honolulu, Hawaii, this 26th day of November, in the year of our Lord 1974.

By the Acting Governor:

George R. Ariyoshi.

State of New York,
Executive Chamber.

Certificate of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred seventy-four, Jacob K. Javits was duly chosen by the qualified electors of the State of New York a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the third day of January, nineteen hundred seventy-five.

Witness: His excellency our Governor Malcolm Wilson, and our seal hereto affixed at the Capitol in the City of Albany this ninth day of December, in the year of our Lord one thousand nine hundred seventy-four.

By the Governor:

Malcolm Wilson,
Governor.
______ ______,
Secretary of State.

State of Vermont,
Executive Chamber.

Certification of Election for Six-Year Term

To the President of the Senate of the United States:

This is to certify that on the 5th day of November, 1974, Patrick J. Leahy, of Burlington, was duly chosen by the qualified electors of the State of Vermont, a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1975.

In witness whereof His Excellency, Thomas P. Salmon, Governor of the State of Vermont, has hereunto set his hand and affixed the State seal at Montpelier, this 29th day of November, in the year of our Lord, 1974.

Thomas P. Salmon,
Governor.
Richard C. Thomas,
Secretary of State.

State of Louisiana,
Executive Department.

To the President of the Senate of the United States:

This is to certify that on the fifth day of November, nineteen hundred and seventy-four Russell B. Long was duly chosen by the qualified electors of the State of Louisiana a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and seventy-five.

Witness: His excellency, our Governor Edwin M. Edwards, and our Seal hereto affixed, at Baton Rouge, this 13th day of December, in the year of our Lord, nineteen hundred and seventy-four.

By the Governor:

Edwin Edwards,
Governor.
Wade O. Martin, Jr.,
Secretary of State.

STATE OF WASHINGTON,
OFFICE OF THE GOVERNOR,
Olympia.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the fifth day of November, nineteen hundred and seventy-four Warren G. Magnuson was duly chosen by the qualified electors of the State of Washington a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and seventy-five.

In witness whereof, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this thirteenth day of December, A.D. nineteen hundred and seventy-four.

By the Governor:

DANIEL J. EVANS,
Governor of Washington.
———— ————,
Secretary of State.

EXECUTIVE DEPARTMENT,
Annapolis, Md.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 5th day of November, 1974, Charles McC. Mathias, Jr. was duly chosen by the qualified electors of the State a Senator from said State to represent said State in the Senate of the United States for a term of six years, beginning on the 3rd day of January, 1975.

By the Governor:

MARVIN MANDEL.

Witness: His excellency our governor Marvin Mandel, and our seal hereto affixed at the City of Annapolis this 27th day of November, In the Year of Our Lord 1974.

FRED L. WINELAND,
Secretary of State.

STATE OF SOUTH DAKOTA CERTIFICATE OF ELECTION

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 5th day of November, 1974, George McGovern was duly chosen by the qualified electors of the State of South Dakota as Senator from said State for the term of six years, beginning on the 3rd of January, 1975.

Witness: His excellency our Governor Richard F. Kneip, and our seal hereto affixed at Pierre, the capitol, this 3rd day of December, in the year of our Lord 1974.

By the Governor:

R. F. KNEIP,
Governor.
LORNA B. HERSETH,
Secretary of State.

STATE OF NORTH CAROLINA,
GOVERNOR'S OFFICE,
Raleigh, N.C.

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 5th day of November, 1974, Robert Morgan was duly chosen by the qualified electors of the State of North Carolina a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1975.

Witness: His excellency our Governor of North Carolina, and our seal hereto fixed at Raleigh this 26th day of November, in the year of our Lord 1974.

By the Governor:

JAMES E. HOLSHOUSER, JR.,
Governor.
THAD EURE,
Secretary of State.

THE STATE OF WISCONSIN,
EXECUTIVE DEPARTMENT.

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the Fifth day of November, nineteen hundred and seventy-four, Gaylord A. Nelson was duly chosen by the qualified electors of the State of Wisconsin a Senator from said State to represent said State in the Senate of the United States for the term of six years, commencing on the Third day of January, A.D. 1975.

In testimony whereof, I have hereunto set my hand and caused the Great Seal of the State of Wisconsin to be affixed. Done at the Capitol, in the City of Madison, this 4th day of December in the year of our Lord one thousand nine hundred and seventy-four.

By the Governor:

PATRICK J. LUCEY,
Governor.

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

TO THE PRESIDENT OF THE SENATE OF THE UNITED STATES:

This to to certify that on the 5th day of November, 1974, Bob Packwood was duly chosen by the qualified electors of the State of Oregon a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1975.

Witness: His excellency our Governor, Tom McCall, and our Seal hereto affixed at Salem, Oregon this 9th day of December, in the year of our Lord 1974.

By the Governor:

TOM MCCALL,
Governor.

STATE OF CONNECTICUT,
EXECUTIVE DEPARTMENT.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to Certify that on the fifth day of November, nineteen hundred and seventy-four Abraham A. Ribicoff was duly chosen by the qualified electors of the State of Connecticut Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January nineteen hundred and seventy-five.

Witness: His Excellency our Governor, Thomas J. Meskill, and our seal hereto affixed at Hartford, this twenty-seventh day of November, in the year of our Lord nineteen hundred and seventy-four.

THOMAS J. MESKILL,
Governor.
HARRY HAMMER,

COMMONWEALTH OF PENNSYLVANIA,
GOVERNOR'S OFFICE.

I Milton J. Shapp, Governor of the Commonwealth of Pennsylvania, do hereby certify that at the election held on the fifth day of November 1974, Richard S. Schweiker having received one million, eight hundred forty-three thousand, three hundred seventeen votes, was duly elected to the office of United States Senator for the Commonwealth of Pennsylvania.

Given under my hand and the Great Seal of the State, at the City of Harrisburg, this eighth day of January in the year of our Lord one thousand nine hundred and seventy-five and of the Commonwealth the one hundred and ninety-ninth.

MILTON J. SHAPP,
Governor.

STATE OF ILLINOIS,
EXECUTIVE DEPARTMENT,
Springfield, Ill.

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 5th day of November, 1974, Adlai E. Stevenson III was duly chosen by the qualified electors of the State of Illinois a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1975.

Witness: His excellency our governor Daniel Walker, and our seal hereto affixed at Springfield this 26th day of November, in the year of our Lord 1974.

By the governor:

DANIEL WALKER,
Governor.
MICHAEL J. HOWLETT,
Secretary of State.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the fifth day of November, A.D., 1974, Richard (Dick) Stone was duly chosen by the qualified electors of the State of Florida a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, A.D., 1975.

Witness: His excellency our Governor, Reubin O'D. Askew, and our seal hereto affixed at Tallahassee, this Twenty-seventh day of November, in the year of our Lord 1974.

By the Governor:

REUBIN O'D. ASKEW,
Governor.
DOROTHY W. GLISSON,
Secretary of State.

STATE OF GEORGIA,
Atlanta, Ga.

CERTIFICATE OF ELECTION FOR SIX-YEAR TERM

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 5th day of November, 1974, Honorable Herman Eugene Talmadge was duly chosen by the qualified electors of the State of Georgia a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1975.

Witness: His Excellency our Governor, Jimmy Carter, and our Seal hereto affixed at the State Capitol in Atlanta, Georgia, this 9th day of December, in the year of our Lord 1974.

By the Governor:

JIMMY CARTER,
Governor.
BEN W. FORTSON, JR.,
Secretary of State.

STATE OF NORTH DAKOTA,
Executive Office,
Bismarck.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 5th day of November, 1974, Milton R. Young, was duly chosen by the qualified electors of the State of North Dakota a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3d day of January, 1975.

Witness: His excellency our Governor Arthur A. Link, and our seal hereto affixed at Bismarck, North Dakota this 15th day of December, in the year of our Lord 1974.

By the Governor Arthur A. Link:

ARTHUR A. LINK,
Governor.
BEN MUIR,
Secretary of State.

The VICE PRESIDENT. Without objection, the Chair also lays before the Senate a mailgram received from the Governor of Nevada to the effect that Paul D. Laxalt was duly elected a Senator from that State for the 6-year term beginning January 3, 1975, and that a proper certificate is following by mail.

The Chair would like to state at this point that Senators-elect have been sworn in on the basis of telegrams before.

Is there objection? The Chair hears none, and it is so ordered.

Francis R. Valeo,
Secretary, U.S. Senate,
Washington, D.C.

To the President of the Senate of the United States:

This is to certify that on the 5th day of November 1974, Paul D. Laxalt was duly chosen by the qualified electors of the State of Nevada a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the 3rd day of January, 1975, attested certificate of election bearing my signature and that of secretary of state of Nevada will follow by mail.

Mike O'Callaghan,
Governor of Nevada.

The VICE PRESIDENT. If Senators to be sworn will now present themselves at the desk in groups of four as their names are called, in alphabetical order, the Chair will administer the oath of office.

The clerk will call the names.

The legislative clerk called the names of Mr. Allen, Mr. Bayh, Mr. Bellmon, and Mr. Bumpers.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Oklahoma (Mr. Bellmon) be sworn without prejudice.

The VICE PRESIDENT. Without objection, it is so ordered.

These Senators, escorted by Mr. Sparkman, Mr. Hartke, Mr. Bartlett, and Mr. McClellan, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the official oath book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. Church, Mr. Cranston, Mr. Culver, and Mr. Dole.

These Senators escorted by Mr. McClure, Mr. Tunney, Mr. Clark, and Mr. Pearson, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the the Vice President; and they severally subscribed to the oath in the official oath book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. Eagleton, Mr. Ford, Mr. Garn, and Mr. Glenn.

These Senators, escorted by Mr. Symington, Mr. Huddleston, Mr. Moss, and Mr. Taft, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the official oath book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. Goldwater, Mr. Gravel, Mr. Gary W. Hart, and Mr. Hollings.

These Senators, escorted by Mr. Fannin, Mr. Stevens, Mr. Haskell, and Mr. Thurmond, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the official oath book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. Inouye, Mr. Javits, Mr. Laxalt, and Mr. Leahy.

These Senators, escorted by Mr. Fong, Mr. Buckley, Mr. Cannon, and Mr. Stafford, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the official oath book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. Long, Mr. Magnuson, Mr. Mathias, and Mr. McGovern.

These Senators, escorted by Mr. Johnston, Mr. Jackson, Mr. Beall, and Mr. Abourezk, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the official oath book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. Morgan, Mr. Nelson, Mr. Packwood, and Mr. Ribicoff.

These Senators, escorted by Mr. Helms, Mr. Proxmire, Mr. Hatfield, and Mr. Weicker, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the official oath book.

[Applause, Senators rising.]

The legislative clerk called the names of Mr. Schweiker, Mr. Stevenson, Mr. Stone, Mr. Talmadge, and Mr. Young.

These Senators, escorted by Mr. Hugh Scott, Mr. Robert C. Byrd, Mr. Chiles, Mr. Mansfield, and Mr. Burdick, respectively, advanced to the desk of the Vice President; the oath prescribed by law was administered to them by the Vice President; and they severally subscribed to the oath in the official oath book.

[Applause, Senators rising.]

PETITION OF CONTEST WITH RESPECT TO THE OKLAHOMA ELECTION REFERRED TO THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that with respect to the Oklahoma election, a petition of contest and the reply thereto be referred to the Committee on Rules and Administration.

The VICE PRESIDENT. Without objection, it is so ordered.

CALL OF THE ROLL

Mr. MANSFIELD. Mr. President. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 1 Leg.]

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd,
  Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary W.
Hart,
  Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott,
  William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. Bentsen) is necessarily absent.

I further announce that the Senator from Georgia (Mr. Nunn) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. Percy) is absent on official business.

The VICE PRESIDENT. A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. Will the Senators please take their seats.

LIST OF SENATORS BY STATES

Alabama.—John J. Sparkman and James B. Allen.

Alaska.—Theodore F. Stevens and Mike Gravel.

Arizona.—Paul J. Fannin and Barry Goldwater.

Arkansas.—John L. McClellan and Dale Bumpers.

California.—Alan Cranston and John V. Tunney.

Colorado.—Floyd K. Haskell and Gary W. Hart.

Connecticut.—Abraham A. Ribicoff and Lowell P. Weicker, Jr.

Delaware.—William V. Roth, Jr., and Joseph R. Biden, Jr.

Florida.—Lawton Chiles and Richard "Dick" Stone.

Georgia.—Herman E. Talmadge and Sam Nunn.

Hawaii.—Hiram L. Fong and Daniel K. Inouye.

Idaho.—Frank Church and James A. McClure.

Illinois.—Charles H. Percy and Adlai E. Stevenson III.

Indiana.—Vance Hartke and Birch Bayh.

Iowa.—Dick Clark and John C. Culver.

Kansas.—James B. Pearson and Robert Dole.

Kentucky.—Walter "Dee" Huddleston and Wendell H. Ford.

Louisiana.—Russell B. Long and J. Bennett Johnston, Jr.

Maine.—Edmund S. Muskie and William D. Hathaway.

Maryland.—Charles McC. Mathias, Jr., and J. Glenn Beall, Jr.

Massachusetts.—Edward M. Kennedy and Edward W. Brooke.

Michigan.—Philip A. Hart and Robert P. Griffin.

Minnesota.—Walter F. Mondale and Hubert H. Humphrey.

Mississippi.—James O. Eastland and John C. Stennis.

Missouri.—Stuart Symington and Thomas F. Eagleton.

Montana.—Mike Mansfield and Lee Metcalf.

Nebraska.—Roman L. Hruska and Carl T. Curtis.

Nevada.—Howard W. Cannon and Paul Laxalt.

New Hampshire.—Thomas J. McIntyre and [Undecided].

New Jersey.—Clifford P. Case and Harrison A. Williams, Jr.

New Mexico.—Joseph M. Montoya and Peter V. Domenici.

New York.—Jacob K. Javits and James L. Buckley.

North Carolina.—Jesse Helms and Robert Morgan.

North Dakota.—Milton R. Young and Quentin N. Burdick.

Ohio.—Robert Taft, Jr., and John Glenn.

Oklahoma.—Henry Bellmon and Dewey F. Bartlett.

Oregon.—Mark O. Hatfield and Bob Packwood.

Pennsylvania.—Hugh Scott and Richard S. Schweiker.

Rhode Island.—John O. Pastore and Claiborne Pell.

South Carolina.—Strom Thurmond and Ernest F. Hollings.

South Dakota.—George S. McGovern and James Abourezk.

Tennessee.—Howard H. Baker, Jr., and William E. Brock III.

Texas.—John G. Tower and Lloyd M. Bentsen.

Utah.—Frank E. Moss and Jake Garn.

Vermont.—Robert T. Stafford and Patrick J. Leahy.

Virginia.—Harry F. Byrd, Jr., and William Lloyd Scott.

Washington.—Warren G. Magnuson and Henry M. Jackson.

West Virginia.—Jennings Randolph and Robert C. Byrd.

Wisconsin.—William Proxmire and Gaylord Nelson.

Wyoming.—Gale W. McGee and Clifford P. Hansen.

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the credentials of Messrs. Durkin and Wyman be read at this time.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, reserving the right to object, may I inquire, as a parliamentary inquiry, whether a document of rescission executed by the Governor of New Hampshire and the Council dated, December 5, is included as part of the credentials presented by Mr. Durkin?

The VICE PRESIDENT. Not as part of the credentials; it is a separate communication, but it is in the file.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that when the purported credentials of Mr. Durkin are read that the document executed by the Governor and Council of New Hampshire dated December 5, purporting to rescind the certificate, also be read.

The VICE PRESIDENT. Is there objection?

Mr. MANSFIELD. Mr. President, reserving the right to object, I requested that the documents both signed by the Governor of New Hampshire be read at this time.

I withdraw the request, and I move that the credentials of Louis C. Wyman and John A. Durkin and all papers now on file with the Senate relating to the same be referred to the Committee on Rules and Administration for their recommendations thereon.

Mr. HUGH SCOTT. Mr. President, a parliamentary inquiry.

Is that matter debatable?

The VICE PRESIDENT. The credentials must be laid before the Senate before the motion is debatable. The Chair lays the credentials before the Senate and the clerk will read them.

Mr. BROCK. Mr. President, a parliamentary inquiry.

In laying the purported credentials before the Senate, would that include the rescission and how then can they be credentials?

The VICE PRESIDENT. They do not.

Mr. BROCK. Then the only credentials that would be read would be the credentials of the Senator from New Hampshire?

The VICE PRESIDENT. The Chair is simply laying the credentials before the Senate as a ministerial function and a privileged matter.

The clerk will report.

The legislative clerk read as follows:

THE STATE OF NEW HAMPSHIRE,
Executive Department.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the fifth day of November, nineteen hundred and seventy-four John A. Durkin was duly chosen by the qualified electors of the State of New Hampshire a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and seventy-five.

Witness: His Excellency, our Governor Meldrim Thomson, Jr. and our Seal hereto affixed at Concord this twenty-seventh day of November, in the year of our Lord nineteen hundred and seventy-four.

By the Governor, with advice of the Council:

MELDRIM THOMSON, Jr.,
Governor.
ROBERT L. STARK,
Secretary of State.

THE STATE OF NEW HAMPSHIRE,
Executive Department.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the fifth day of November, nineteen hundred and seventy-four Louis C. Wyman was duly chosen by the qualified electors of the State of New Hampshire a Senator from said State to represent said State in the Senate of the United States for the term of six years, beginning on the third day of January, nineteen hundred and seventy-five.

This certifies that the Governor and Executive Council having reviewed and accepted the findings of the New Hampshire Ballot Law Commission that at the biennial election held on November 5, 1974, Louis C. Wyman of Manchester received 110,926 votes; that John A. Durkin of Manchester received 110,924 votes; that Carmen C. Chimento of Brookline received 1,513 votes in the contest for United States Senator, hereby declare Louis C. Wyman elected and do authorize the Governor to issue to him a Certificate of Election reflecting the said certification of the Ballot Law Commission.

Witness: His Excellency, our Governor and our Seal hereto affixed at Concord this twenty-seventh day of December, in the year of our Lord nineteen hundred and seventy-four.

By the Governor, with advice of the Council:

MELDRIM THOMSON, Jr.,
Governor.
ROBERT L. STARK,
Secretary of State.

Mr. MANSFIELD and Mr. HUGH SCOTT addressed the Chair.

The VICE PRESIDENT. The Senator from Montana was on his feet.

Mr. MANSFIELD. Mr. President, I move that the credentials of Louis C. Wyman and John A. Durkin and all papers now on file with the Senate relating to the same be referred to the Committee on Rules and Administration for recommendations thereon.

Mr. HUGH SCOTT. Mr. President, reserving the right to object, and I do that for this purpose, the previous——

The VICE PRESIDENT. A motion is pending before the Senate.

Mr. HUGH SCOTT. The motion is debatable.

The VICE PRESIDENT. The Senator from Pennsylvania has the floor.

Mr. HUGH SCOTT. Mr. President, let me make the point that the request of the distinguished majority leader was that the credentials and all of the papers be read by the clerk and the leader moves also that the credentials be referred to the Rules Committee.

The clerk has not read the additional endorsement of the Governor of New Hampshire to the Wyman credentials. I would like it read.

Mr. MANSFIELD. I did not ask the papers be read. The motion is, I move that the credentials of Louis C. Wyman and John A. Durkin and all papers now on file with the Senate relating to the same be referred to the Committee on Rules and Administration for recommendations thereon.

Mr. HUGH SCOTT. I understand, though, the clerk was directed to read the documents in question. He has not read the entire record here.

Mr. MANSFIELD. He has read the two certificates and that is mandatory, it is privileged, and that is all that is required.

The VICE PRESIDENT. That is correct.

Mr. GRIFFIN. Will the Senator yield for a parliamentary inquiry?

Mr. MANSFIELD. Yes.

Mr. GRIFFIN. I wonder if the credentials having been laid before the Senate and the motion of the Senator from Montana having been made that the credentials and all papers relating thereto be sent to the Rules Committee, if it would now be agreeable to the distinguished majority leader, since the Senate will have to at some point, I take it, vote on the Senator's motion, if I might ask now that the other papers referred to be read?

Mr. ROBERT C. BYRD. Mr. President——

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Reserving the right to object, I hope that the distinguished Senator will not press this request. There are numerous papers involved here, I should think, and it might take an overly long time to conduct a reading of these papers.

Under the distinguished majority leader's motion, all papers will be referred to the Committee on Rules and Administration if the Senate so orders. The distinguished Senator, during the debate on the majority leader's motion, may, if he wishes, read the papers dealing with the rescission, if he so desires, and bring it in its entirety for the attention of the Senate.

I would hope the Senator would not press this particular request.

Mr. HUGH SCOTT. Mr. President——

Mr. MANSFIELD. Reserving the right to object——

Mr. HUGH SCOTT. I have the floor.

Mr. MANSFIELD. May I say, Mr. President, that I would hope that not only the certificates, but all the papers appertaining thereto, would be referred to the Committee on Rules and Administration as expeditiously as possible because what I want to see is action.

I want to see this matter decided and completed, and I want to assure the Senate that as far as the Senate is concerned, and I am sure I speak for the Republicans as well as the Democrats, we want to be fair in appearance and in fact. But we do not want to drag this out.

We want, under the rules of the Senate, the committee charged with responsibility for matters of this sort, and under the Constitution of the United States which vests that power in the Senate of the United States, that this matter should be attended to as quickly as and as fairly as possible, and the only way it can be done is to refer it to the Committee on Rules and Administration and the Senate is prepared to abide by the decision of that committee.

Mr. HUGH SCOTT. Mr. President——

The VICE PRESIDENT. The Senator from Pennsylvania.

Mr. HUGH SCOTT. Mr. President, I agree that what we want is expedition. Of course, the quickest way to do it is to do what has been done in all other cases, and that is to accept the certificate of a sovereign State and seat the Senator.

Mr. MANSFIELD. Which one?

Mr. HUGH SCOTT. The Senator who has the certificate which rescinds the prior certificate.

That is the action of the sovereign State, by a three-judge Federal court.

So we have both the judiciary and the executive who have acted affirmatively in favor of this petition.

But my point now is, I cannot see the objection to reading the rest of the Governor's submission to the credentials of Senator-elect Wyman because, failing to do that, we are depriving this body of the knowledge that in that addendum or attachment to his certificate and made a part of it, the Governor has rescinded the earlier certificate and has stated specifically that this certificate to Senator Wyman is the only valid certificate.

Now, if I cannot get it any other way, I have to get it out in debate.

It is there, it should be read.

Mr. CURTIS. Will the Senator yield?

Mr. HUGH SCOTT. If the majority leader does not want it read, I will state it.

Mr. MANSFIELD. Will the Senator yield?

Mr. HUGH SCOTT. Yes.

Mr. MANSFIELD. May I point out, it will be read in the Committee on Rules and Administration; that committee is the servant, the agent of the Senate; that it will report back to the Senate as a whole and it will become available.

What I am concerned about is the delay which will be caused rather than the expedition which will not be forthcoming if this suggestion of the distinguished assistant Republican leader is adhered to.

Mr. HUGH SCOTT. I would say that the debate is taking longer than it would take to read it. But then we do not do things commonsensibly here all the time. I yield to the Senator from Nebraska.

Mr. CURTIS. I thank my distinguished leader.

I would like to ask this question: Is the communication to which the distinguished leader and assistant leader have referred a communication addressed to the Senate from the Governor of the State of New Hampshire?

Mr. HUGH SCOTT. It is. It is addressed to the President pro tempore of the Senate and, I believe, addresssed also, at least a copy, to the chairman of the Committee on Rules.

Mr. CURTIS. And it is a communication from the Governor?

The VICE PRESIDENT. It is addressed to the Secretary of the Senate.

Mr. HUGH SCOTT. It is addressed to the Secretary of the Senate. It is a communication from the Governor of the sovereign State of New Hampshire, expressing the will of the voters of that State.

Mr. CURTIS. Is it long? Would it delay matters to have it read?

Mr. HUGH SCOTT. It would not delay matters as long as our talking about it delays matters.

Mr. CURTIS. I think it would be preposterous if this Senate would refuse to read a communication addressed to the Senate from the Governor of a sovereign State.

Mr. HUGH SCOTT. I yield to the distinguished majority leader.

The VICE PRESIDENT. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I call attention to the majority leader's motion. He moves that the credentials of both, and all papers now on file with the Senate relating to the same, be referred to the Committee on Rules and Administration.

I would have no objection if the Senator from Michigan wishes to have the Chair read the rescission paper. I think that is really what he is concerned about.

Mr. GRIFFIN. That is correct.

Mr. ROBERT C. BYRD. All of these matters are in the printed hearings for all to see. But I hope he would not press his request that all papers related thereto be read this afternoon by the Chair.

Mr. GRIFFIN. Will the Senator yield to me?

Mr. HUGH SCOTT. I yield.

Mr. GRIFFIN. Let me say that the Senator from West Virginia is correct. It seems to me that in passing on the motion made by the distinguished majority leader in saying that the credentials of two persons be referred, one of the questions that the Senate will be called upon to decide is whether there are credentials for two persons or only one.

In deciding that question, it seems to me that the Senate ought to be aware of the fact that there are two documents that were addressed to the Senate by the Governor of New Hampshire with reference to Mr. Durkin and his possible claim. First of all, a certificate of election, so called, and secondly, a document by the same authority rescinding that certificate of election because of the laws of New Hampshire and certain things that transpired.

So it seems to me that both of those documents, the purported certificate and the document of rescission, should be before the Senate and read before the Senate.

If the distinguished Senator from West Virginia does not object, I will limit my request to that document of rescission.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered. The clerk will read the document.

Does the Senator object?

Mr. HUGH SCOTT. If necessary, I ask to be recognized before the clerk reads it simply to make the point that I am satisfied that the distinguished majority leader's motion would have implied that these two certificates are of equal stature and equal weight.

My desire is to have it shown that one was rescinded in the course of sending the other one, that there is only one valid certificate, and that the Senators should be aware of that before we begin debate on the motion of the distinguished majority leader.

Mr. MANSFIELD. Will the Senator yield?

Mr. HUGH SCOTT. Yes.

Mr. MANSFIELD. The proposal made by the distinguished assistant Republican leader and agreed to by the Senate under unanimous consent is a far different proposal than what I interpreted the original proposal to be.

Mr. HUGH SCOTT. I think we have refined it now.

The VICE PRESIDENT. The clerk will read the document.

Mr. BUCKLEY. Mr. President.

The VICE PRESIDENT. It is in order that the document be read. Does the Senator ask unanimous consent to be recognized?

Mr. BUCKLEY. Yes.

The VICE PRESIDENT. Is there objection? If not, the Senator from New York is recognized.

Mr. BUCKLEY. Mr. President, I rise to make a unanimous-consent request. I ask unanimous consent that Mr. Tom Cole, my administrative assistant, and formerly the administrative assistant of the Senator-designate, Mr. Wyman, be given the privilege of the floor.

Mr. MANSFIELD. Mr. President, I would have to object because Mr. Durkin would not have any representation, indirect though it might be.

I would hope that the distinguished Senator from New York would reconsider his request in view of the delicate situation which exists.

Mr. BUCKLEY. Very well.

The VICE PRESIDENT. Objection is heard.

The clerk will read the communication.

The legislative clerk read as follows:

STATE OF NEW HAMPSHIRE,
SECRETARY OF STATE,
Concord, December 5, 1974.

Hon. FRANCIS R. VALEO,
Secretary of the U.S. Senate,
Washington, D.C.

DEAR MR. VALEO: Enclosed herewith is a resolution unanimously adopted by the Governor and Council on December 5, 1974, rescinding their previous action of November 27, 1974 whereby they certified John A. Durkin as the winner for the office of United States Senator by ten (10) votes.

Very truly yours,

ROBERT L. STARK,
Secretary of State.

STATE OF NEW HAMPSHIRE,
Office of Secretary of State.

I, Robert L. Stark, Secretary of State of the State of New Hampshire, do hereby certify that the following and hereto attached is a true copy of a Resolution unanimously adopted by the Governor and Council on December 5, 1974, on file in this office and held in my custody as Secretary of State.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Seal of the State, at Concord, this 5th day of December A.D. 1974.

ROBERT L. STARK,
Secretary of State.

RESOLUTION

Whereas, the Secretary of State is required by RSA 63:8 and 63:11 to present the figures on the election for office of the United States Senator to the Governor and Executive Council for certification, and;

Whereas, the Secretary of State on 5 December 1974 has advised the Governor and Executive Council that all votes cast for the office of United States Senator were not recounted, and;

Whereas, the Secretary of State has stated that no write-in votes in the balloting machines were tallied on the re-count, and;

Whereas, the Governor and Executive Council have received a notarized statement indicating write-in votes were cast and a notarized statement that write-in votes were counted in the official return of votes for one of the two candidates, and;

Whereas, the Secretary of State has notified the Governor and Executive Council on this date that these same votes were not tallied in the recount, and;

Whereas, on November 27, 1974 Governor and Council did pursuant to Statute certify by by Resolution the count given to it by the Secretary of State, which Resolution reads as follows:

"Resolved that the official recount of the ballots cast in the election for United States Senator having been completed and showing the following results: John A. Durkin, 110,924; Louis C. Wyman, 110,914; Carmen C. Chimento, 1,513. It is resolved that under the provisions of RSA 63:8 and 63:11 the Governor and Council certify John A. Durkin of Manchester as winner of said election, further stating that the Governor and Council make this certification aware of the rights of appeal to the State Ballot Law Commission contained in RSA 68."

Whereas, the text of said Resolution was not included in the certification forwarded to the United States Senate and to the senatorial candidates;

Be it hereby resolved that the Governor and Executive Council rescinds the certification of November 27, and instruct the Secretary of State to forthwith notify the United States Senate and the senatorial candidates of this action.

Meldrim Thomson, Jr., Governor of New Hampshire; Lyle E. Hersom, Executive Councilor; James H. Hayes, Executive Councilor; Robert E. Whalen, Executive Councilor; John F. Bridges, Executive Councilor; Bernard A. Streeter, Jr., Executive Councilor.

The VICE PRESIDENT. The Senator from New York.

Mr. JAVITS. I yield to the majority leader, but I would like to tell him I would like to propound——

Mr. MANSFIELD. How much time does the Senator——

Mr. JAVITS. I just wish to make two inquiries. I yield to the majority leader.

Mr. MANSFIELD. Mr. President, first, I rose with the intention of suggesting the absence of a quorum for the purpose of achieving a live quorum, and also I was going to discuss with the distinguished Republican leader whether it would be possible, without prejudice, to pass the list of the routine resolutions without any vote because they are the usual ones about notifying the President, the Chair, and so forth and so on.

Mr. HUGH SCOTT. Mr. President, if the distinguished majority leader will yield, I hope that can be done. These are routine resolutions, and one of them is to notify the President that Congress is in town. I am afraid he is aware of that. [Laughter.]

However, we are required to do this, and we need the resolution. So I hope the request of the distinguished majority leader will be accepted.

Mr. JAVITS. Mr. President, will the Senator allow me to regain the floor before he does that?

Mr. MANSFIELD. Yes, indeed.

Mr. JAVITS. It will not embarrass what the majority leader seeks.

The first parliamentary inquiry is whether or not the resolution of the majority leader is amendable.

The VICE PRESIDENT. It is privileged, amendable, and debatable.

Mr. JAVITS. My second parliamentary inquiry, Mr. President, is this: We must understand that we have not yet passed that point in the organization of the Senate where we deal with the Senate rules. If I ask the Chair what rules the Chair is applying, this would raise the issue, which I do not think the majority leader wants raised at the moment. Therefore, I hope that in his unanimous-consent request, the majority leader will provide that there be no prejudice to whatever action any Members wish to take on rule XXII.

Mr. MANSFIELD. That would have been done, because the rights of Senators MONDALE and PEARSON and other cosponsors of that rule would have been protected, as would the rights of any other Senator on any other proposal.

Mr. JAVITS. I thank the Senator.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the motion before the Senate be laid aside temporarily and be taken up immediately after the routine, without-debate resolutions are considered.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the rights of all Senators on all proposals be fully protected.

Mr. JAVITS. That is, all proposals to amend the rule?

Mr. MANSFIELD. All proposals to amend the rules, and others as well.

The VICE PRESIDENT. Without objection, it is so ordered.

NOTIFICATION TO THE PRESIDENT

Mr. MANSFIELD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 1) was considered and agreed to, as follows:

S. RES. 1

Resolved, That a committee consisting of two Senators be appointed by the Vice President to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make.

The VICE PRESIDENT. Pursuant to Senate Resolution 1, the Chair, on behalf of the Vice President, appoints the Senator from Montana (Mr. MANSFIELD) and the Senator from Pennsylvania (Mr. HUGH SCOTT) as members of a committee to join the committee of the House of Representatives to wait upon the President of the United States and inform him that a quorum is assembled and that Congress is ready to receive any communication he may be pleased to make.

NOTIFICATION TO THE HOUSE

Mr. HUGH SCOTT. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 2) was considered and agreed to, as follows:

S. RES. 2

Resolved, That the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

HOUR OF DAILY MEETING

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution, and I ask unanimous consent that it be immediately considered.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 3) was considered and agreed to, as follows:

S. Res. 3

Resolved, That the hour of daily meeting of the Senate be 12 o'clock meridian unless otherwise ordered.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

The VICE PRESIDENT. Without objection, it is so ordered.

CALL OF THE ROLL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, and it will be a live quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 2 Leg.]

Abourezk
Allen
Baker
Bartlett
Bayh
Beall
Bellmon
Biden
Brock
Brooke
Buckley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Case
Chiles
Church
Clark
Cranston
Culver
Curtis
Dole
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Garn
Glenn
Goldwater
Gravel
Griffin
Hansen
Hart, Gary W.
Hart, Philip A.
Hartke
Haskell
Hatfield
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Laxalt
Leahy
Long
Magnuson
Mansfield
Mathias
McClellan
McClure
McGee
McGovern
McIntyre
Metcalf
Mondale
Montoya
Morgan
Moss
Muskie
Nelson
Packwood
Pastore
Pearson
Pell
Proxmire
Randolph
Ribicoff
Roth
Schweiker
Scott, Hugh
Scott, William L.
Sparkman
Stafford
Stennis
Stevens
Stevenson
Stone
Symington
Taft
Talmadge
Thurmond
Tower
Tunney
Weicker
Williams
Young

The PRESIDING OFFICER (Mr. Haskell). A quorum is present.

Mr. MANSFIELD. Mr. President, I yield at this time, and I ask that it be considered out of order without any prejudice to the unfinished business, to the distinguished Senator from Minnesota (Mr. Mondale).

RESOLUTION TO AMEND RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. MONDALE. Mr. President, I submit on behalf of myself, the distinguished Senator from Kansas (Mr. Pearson), and a large group of Senators listed on the resolution, a resolution to amend rule XXII of the Standing Rules of the Senate.

The effect of the resolution is to amend rule XXII so as to reduce from two-thirds to three-fifths of the number of Senators present and voting required to limit debate under rule XXII.

Mr. President, in accordance with the provision of rule XL of the Standing Rules, I also send to the desk a notice in writing that I shall hereafter move to amend rule XXII as I have previously stated.

Mr. President, I ask that the resolution and notice be received and printed in the Record and that the resolution go over under rule XL so that it can be taken up on the next legislative day for consideration, consistent with the unanimous-consent order previously requested.

Mr. MANSFIELD. That is contemplated to be Friday.

Mr. MONDALE. I thank the distinguished majority leader.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. THURMOND. Mr. President, as I understand it, the Senator is introducing an amendment to rule XXII at this time? That is the only step he is proceeding with at this moment?

Mr. MONDALE. That is correct. I am filing a notice of intent and asking that the resolution lie over for 1 legislative day, as contemplated by the rules. As I understand the unanimous-consent agreement, the resolution will be called up on Friday.

Mr. MANSFIELD. The Senator is correct.

Mr. MONDALE. Mr. President, I wish to state, as has been traditional at the commencement of efforts to amend rule XXII, that, by operating under the Standing Rules of the Senate the supporters of this resolution do not acquiesce to the applicability of certain of those rules to the effort to amend rule XXII; nor do they waive any rights which they may obtain under the Constitution, the practice of this body, or certain rulings by previous Vice Presidents to amend rule XXII, uninhibited by rules in effect during previous Congresses.

Mr. President, I ask unanimous consent that during the consideration of the amendment to rule XXII, Mr. Robert Barnett of my staff be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, in order to nail down doubly the protection accorded to the Senator and his cosponsors, I ask unanimous consent that, notwithstanding any delay in the consideration of the resolution, all proceedings, rights and privileges concerning the efforts to change rule XXII of the Standing Rules of the Senate be reserved, so that proponents of such a change not be prejudiced in any way in the actual commencement of the consideration of this resolution.

The PRESIDING OFFICER. Without objection, it is so ordered, and the resolution will go over under the rule.

The resolution and notice are as follows:

S. Res. 4

Mr. Mondale (for himself, Mr. Pearson, Mr. Abourezk, Mr. Bayh, Mr. Bentsen, Mr. Biden, Mr. Brooke, Mr. Burdick, Mr. Case, Mr. Clark, Mr. Eagleton, Mr. Glenn, Mr. Hart of Colorado, Mr. Hart of Michigan, Mr. Hartke, Mr. Haskell, Mr. Hatfield, Mr. Huddleston, Mr. Humphrey, Mr. Inouye, Mr. Jackson, Mr. Javits, Mr. Kennedy, Mr. Leahy, Mr. Magnuson, Mr. Mathias, Mr. McGovern, Mr. McIntyre, Mr. Montoya, Mr. Moss, Mr. Muskie, Mr. Nelson, Mr. Packwood, Mr. Pastore, Mr. Pell, Mr. Percy, Mr. Randolph, Mr. Ribicoff, Mr. Schweiker, Mr. Scott of Pennsylvania, Mr. Stafford, Mr. Stevenson, Mr. Symington, Mr. Tunney, and Mr. Williams.

Resolved, That rule XXII of the Standing Rules of the Senate is amended to read as follows:

"1. When a question is pending, no motion shall be received but—

"To adjourn.

"To adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain.

"To take a recess.

"To proceed to the consideration of executive business.

"To lay on the table.

"To postpone indefinitely.

"To postpone to a day certain.

"To commit.

"To amend.

Which several motions shall have precedence as they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table, shall be decided without debate.

"2. Notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by three-fifths of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"3. The provisions of the last paragraph of rule VIII (prohibiting debate on motions made before 2 o'clock) shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate."

Notice of Motion To Amend Certain Senate Rules

In accordance with the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to amend Rule XXII of the Standing Rules in the following particulars:

Resolved, That rule XXII of the Standing Rules of the Senate is amended to read as follows:

"1. When a question is pending, no motion shall be received but—

"To adjourn.

"To adjourn to a day certain, or that when the Senate adjourn it shall be to a day certain.

"To take a recess.

"To proceed to the consideration of executive business.

"To lay on the table.

"To postpone indefinitely.

"To postpone to a day certain.

"To commit.

"To amend.

Which several motions shall have precedence as they stand arranged; and the motions relating to adjournment, to take a recess, to proceed to the consideration of executive business, to lay on the table, shall be decided without debate.

"2. Notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

" 'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by three-fifths of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"3. The provisions of the last paragraph of rule VIII (prohibiting debate on motions made before 2 o'clock) shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate."

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

REPORT OF JOINT COMMITTEE ON NOTIFICATION TO THE PRESIDENT

Mr. MANSFIELD. Mr. President, I report on behalf of the distinguished Republican leader (Mr. HUGH SCOTT) and myself from the committee appointed to join a similar committee from the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and is ready to proceed to business, and that the President has notified us that he proposes to report to the Congress on the state of the Union at an appropriate time, to wit, at 1:15 p.m. tomorrow.

I wish to emphasize what the distinguished assistant majority leader has said—I think I should reiterate—that no morning business will be transacted today. The Senate will start transacting normal business on Friday next.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 3:30 P.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 3:30 this afternoon.

There being no objection, the Senate, at 1:37 p.m., recessed until 3:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BUCKLEY).

The PRESIDING OFFICER (Mr. BUCKLEY). The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that a quorum of the House of Representatives has assembled; that CARL ALBERT, a Representative from the State of Oklahoma, has been elected Speaker; and that W. PAT JENNINGS, a citizen of the Commonwealth of Virginia, Clerk of the House of Representatives of the 94th Congress.

The message also announced that a committee of two Members were appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

Mr. GRIFFIN. Mr. President, it is difficult to say what the Senate may do today with respect to the pending matter, that is the question as to who should be seated as Senator from New Hampshire.

But, in order that the issue before the Senate will be sharply drawn, and after consulting with the distinguished majority whip, I move now as a substitute for the motion offered by the distinguished majority leader that Louis Wyman be seated as the Senator from New Hampshire without prejudice.

This substitute motion, as I understand the parliamentary situation, would be voted on first by the Senate. Accordingly, at some appropriate time, then, the Senate will at least have the opportunity to follow and adhere to the precedents which the Senate itself has established over the years—the precedent of seating a Senator-elect who presents a certificate of election duly issued by the constituted authorities of a sovereign State.

That precedent was followed earlier today when the Senator-elect from Oklahoma (Mr. BELLMON) was seated without prejudice, even though a contest or a challenge concerning his election was filed by a contestant. The procedure filed in that case was the normal procedure.

Indeed, this Senator has found no precedent in the history of the Senate for refusing to seat a Senator-elect, at least on a provisional basis, when he presents a valid certificate of election and there is no allegation or showing of fraud, corruption, or illegality in connection with his election.

I am conscious of the fact that in the other body, within the last 10 years, apparently there was a situation in which the votes of an election to the House were recounted merely because the result was close.

Without trying to judge the procedures of the other body, the fact remains that the U.S. Senate has never seen fit to refuse to seat a Senator-elect with appropriate credentials in a situation merely because he won in a close contest.

If the Senate should elect or decide to break this new ground and to disregard the certificate of the sovereign State of New Hampshire merely because the margin in this case was close, and then proceed to substitute its judgment for the duly-constituted officials of the State of New Hampshire, I think it will be a sad day in the history of this body. It will be a sad day in terms of the relationship between the Federal Government and the sovereign States.

Mr. President, the Senator from West Virginia advises me that the Members of the majority party are caucusing on an important question, and that caucus is likely to continue for some period of time, maybe another 15 or 20 minutes. I am anxious, of course, that Senators who have not had the opportunity to sit through the hearings which were conducted by the Subcommittee on Privileges and Elections those hearings having just been printed and made available to the Senate this afternoon have an opportunity to become familiar with this record, a good record, and to have the opportunity of a full debate which should take place before we come to a vote. And, under those circumstances, and awaiting some later opportunity for participation and discussion, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator withhold his suggestion briefly?

Mr. GRIFFIN. Yes.

Mr. ROBERT C. BYRD. I simply want to state that the democratic conference is presently not debating this question, but is considering some of the questions that have surfaced in connection with the CIA.

Mr. GRIFFIN. Yes.

Mr. ROBERT C. BYRD. It is anticipated that that conference will complete its work very shortly and I would hope that in the meantime we could have the quorum, which the Senator is certainly entitled to request, and that there would be no action taken on this or any other matter and that the quorum not yet go live.

Mr. GRIFFIN. I can assure the Senator of that protection.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, after consultation with the Parliamentarian, I modify my substitute motion and send the modification to the desk to be stated.

The PRESIDING OFFICER. The clerk will report the modified motion.

The assistant legislative clerk read as follows:

> As a substitute for the pending motions of the Senator from Montana, (Mr. Mansfield)
>
> I move that Louis Wyman be seated without prejudice and that the petition of contest and response, other papers and all questions arising thereunder be referred to the Committee on Rules and Administration for recommendations.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that Charles Warren may have the privilege of the floor during the consideration of the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Beall). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, by direction of the majority leader, I shortly shall move that the Senate stand in recess until the hour of 4:45 p.m. today. I hope that both cloakrooms will get the notice out to Senators, asking them to be present at the hour of 4:45 p.m. today, at which time there will be some discussion with respect to the New Hampshire election claimants.

I call attention to the fact that, as all Senators know, there are two motions before the Senate: a motion by Mr. Mansfield which, in effect, would ask both claimants to stand aside and that the matter be referred to the Committee on Rules for its judgment and direction for the recommendation of the Senate; then, there is a substitute motion by Mr. Griffin which would have Mr. Wyman seated without prejudice to the rights of Mr. Durkin.

Tabling motions are in order at any time. There is no agreement on time. Therefore, I suggest that all Senators stay close to the floor and preferably on the floor, at least until we can get some statements made this afternoon and see where we are going before the day is over.

RECESS UNTIL 4:45 P.M.

Mr. ROBERT C. BYRD. I move, Mr. President, that the Senate stand in recess until the hour of 4:45 p.m. today.

The motion was agreed to; and at 4:14 p.m. the Senate recessed until 4:45 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. Allen).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Roth). Without objection, it is so ordered.

The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House has agreed to the concurrent resolution (H. Con. Res. 1) providing for a joint session to receive a mesage from the President, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the joint resolution (H.J. Res. 1) extending the time within which the President may transmit the budget message and the economic report to the Congress, in which it requests the concurrence of the Senate.

JOINT MEETING OF THE TWO HOUSES TO RECEIVE A MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 1.

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 1, which was read as follows:

> *Resolved by the House of Representatives (the Senate concurring)*, That the two Houses of Congress assemble in the Hall of the House of Representatives on January 15, 1975, at one o'clock p.m., for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection to the immedate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 1) was agreed to.

EXTENSION OF TIME FOR TRANSMITTAL OF PRESIDENT'S BUDGET MESSAGE

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 1, and I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The second assistant legislative clerk read as follows:

> H.J. Res. 1, extending the time within which the President may transmit the budget message and the economic report to the Congress.

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the first and second time.

Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 1) was considered, ordered to a third reading, read the third time, and passed.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, it is so ordered.

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

Mr. MANSFIELD. Mr. President, it is my intention, at an appropriate time after the Senate convenes tomorrow, to put in a live quorum call as soon as possible.

Following the message of the President of the United States on the State of the Union, the Senate will return to the Chamber. I ask unanimous consent that at that time there be a limitation of 40 minutes, 20 minutes to the distinguished assistant Republican leader and 20 minutes to the distinguished assistant majority leader, for the purpose of making the opening remarks on the Wyman-Durkin matter.

The PRESIDING OFFICER (Mr. ABOUREZK). Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, when the majority leader says there will be a time limit, he is saying that the Senator from Michigan would be recognized for 20 minutes?

Mr. MANSFIELD. Exactly; that the Senator from Michigan be recognized first, to be followed by the Senator from West Virginia, this to apply only to that particular instance.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at any time that the New Hampshire contested election matter is the pending business before the Senate, the following staff people be given the privilege of the floor: Mr. James Shoener, Mr. James Duffy, Mr. Bill Cochran, Mr. Joe O'Leary, Mr. Tom Hart.

It may be that the distinguished chairman of the Subcommittee on Privileges and Elections would like to add someone, the distinguished chairman of the Committee on Rules may wish to add someone, and the distinguished Republican whip may wish to add someone.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I should like to add the names of Mr. Stephen Wexler and Mr. Thomas Hughes.

The PRESIDING OFFICER. Without objection, it is so ordered.

STANDING ORDER FOR RECOGNITION OF THE MAJORITY AND MINORITY LEADERS EACH DAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, in each daily session throughout the 94th Congress, immediately after the prayer by the Chaplain, the two leaders or their designees may be recognized, each for not to exceed 10 minutes, as was the practice last year.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF MR. STEVENSON, MR. GRIFFIN, AND MR. ROBERT C. BYRD ON FRIDAY, JANUARY 17, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Friday, after the recognition of the two leaders or their designees, Mr. STEVENSON be recognized for not to exceed 15 minutes; that Mr. GRIFFIN then be recognized for not to exceed 15 minutes; and that the junior Senator from West Virginia be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. All Senators will have an opportunity prior to that date to indicate to the respective whips whether or not they want orders for recognition on Friday—that being the first day for speeches.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate shortly will adjourn until the hour of 12 o'clock noon tomorrow. For the information of Senators, no bills will be introduced on tomorrow.

Speeches on matters other than the pending motion and/or substitute motion will not be in order. Introduction of bills and speeches will be in order on Friday.

It is possible that a rollcall vote or votes could occur tomorrow on the New Hampshire matter. It is possible that that matter will go over until Thursday, at which time, a rollcall vote or votes could occur and would likely occur. All Senators should adjust their schedules accordingly, to take into consideration the possibility of rollcall votes tomorrow and the possibility of rollcall votes on Thursday and, additionally, the possibility of rollcall votes on Friday.

The discussion with respect to rule XXII will begin on Friday if, by that time, the Senate has made a disposition of the motion by Mr. GRIFFIN and the motion by Mr. MANSFIELD on the contested New Hampshire election.

At approximately 12:43 p.m. tomorrow, Senators will depart in a body to the House of Representatives to attend the joint session of the two Houses for the President's state of the Union address. Immediately after the President's address, Senators will return to the Chamber, at which time Mr. GRIFFIN will be recognized for not to exceed 20 minutes to discuss the Mansfield motion and Mr. GRIFFIN's substitute motion on the New Hampshire contested election. The junior Senator from West Virginia, Mr. ROBERT C. BYRD, will then be recognized for not to exceed 20 minutes to speak on the two motions. All Senators are urged to be in attendance on the floor during this discussion.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:14 p.m., the Senate adjourned until tomorrow, Wednesday, January 15, 1975, at 12 o'clock noon.

HOUSE OF REPRESENTATIVES—*Tuesday, January 14, 1975*

This being the day fixed by the 20th amendment of the Constitution and Public Law 93-553 of the 93d Congress for the annual meeting of the Congress of the United States, the Members-elect of the House of Representatives of the 94th Congress met in their Hall, and at 12 o'clock noon were called to order by the Clerk of the House of Representatives, Hon. W. Pat Jennings.

The Chaplain, Rev. Edward G. Latch, D.D., prefaced his prayer with these words of Scripture:

Before the mountains were brought forth, or ever Thou hadst formed the Earth and the world, even from everlasting to everlasting, Thou art God—Psalms 90: 2.

O Thou who hast preserved us as a nation and by whose providence we have been brought to this hour, we humbly beseech Thee to make us ever mindful of Thy presence, eager to do Thy will and earnest in our desire to serve our country.

With the dawn of a new year, in a world anxious and troubled about many things, we turn to Thee seeking light and life for our day, faith and freedom for our world, and the triumph of truth for our age.

At this high altar of our national life we pray for our President, our Vice President, our Speaker, every Member of Congress, and all our leaders in government, business, and labor. May they be so strengthened by Thy spirit that they may meet depressing fears with daring faith and discouraging words with encouraging works. Together may they strive for the day when good will shall dwell in the hearts of our citizens, justice shall reign in the relationship of people, and peace shall regulate the affairs of nations.

We pray in the spirit of Him who said: "When you pray, say—*Our Father who art in heaven, hallowed be Thy name. Thy kingdom come. Thy will be done in earth, as it is in heaven. Give us this day our daily bread. And forgive us our trespasses as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil: For Thine is the kingdom, and the power, and the glory, forever.*" Amen.

The CLERK. Representatives-elect to the 94th Congress, this is the day fixed by law for the meeting of the 94th Congress.

This law directs the Clerk of the House to prepare the official roll of the Representatives-elect.

Credentials covering 435 seats in the 94th Congress have been received, and are now on file with the Clerk of the 93d Congress.

The names of those persons whose credentials show they were regularly elected in accordance with the laws of the several States and of the United States will be called; and as the roll is called, following the alphabetical order of the States, beginning with the State of Alabama, Representatives-elect will answer to their names to determine whether or not a quorum is present.

The reading clerk will call the roll.

The Clerk called the roll by States and the following Representatives-elect answered to their names:

[Roll No. 1]

ALABAMA

Edwards, Jack
Dickinson
Bevill
Jones, Robert E.
Buchanan
Flowers

ALASKA

Young, Don (at large)

ARIZONA

Rhodes
Udall
Steiger, Sam
Conlan

ARKANSAS

Alexander
Hammerschmidt
Thornton

CALIFORNIA

Johnson, Harold T.
Clausen, Don H.
Moss
Leggett
Burton, John L.
Burton, Phillip
Miller, George
Dellums
Stark
Edwards, Don
Ryan
McCloskey
Mineta
McFall
Sisk
Talcott
Krebs
Ketchum
Lagomarsino
Goldwater
Corman
Moorhead, Carlos J.
Rees
Waxman
Roybal
Rousselot
Bell
Burke, Yvonne
Hawkins
Danielson
Wilson, Charles H.
Anderson, Glenn
Clawson, Del
Hannaford
Lloyd, Jim
Brown, George E.
Pettis
Patterson
Wiggins
Hinshaw
Wilson, Bob
Van Deerlin
Burgener

COLORADO

Schroeder
Wirth
Evans, Frank E.
Johnson, James P.
Armstrong

CONNECTICUT

Cotter
Dodd
Giaimo
McKinney
Sarasin
Moffett

DELAWARE

du Pont (at large)

FLORIDA

Sikes
Fuqua
Bennett
Chappell
Kelly
Young, C. W. Bill
Gibbons
Haley
Frey
Bafalis
Rogers
Burke, J. Herbert
Lehman
Pepper
Fascell

GEORGIA

Ginn
Brinkley
Levitas
Young, Andrew
Flynt
McDonald, Larry
Stuckey
Landrum
Stephens

HAWAII

Matsunaga
Mink

IDAHO

Symms
Hansen

ILLINOIS

Metcalfe
Murphy, Morgan F.
Russo
Derwinski
Erlenborn
Hall
Anderson, John
O'Brien
Kluczynski
Hyde
Collins, Cardiss
Rostenkowski
Michel
Railsback
Findley
Madigan
Shipley
Yates
Mikva
Annunzio
Crane
McClory
Price
Simon

INDIANA

Madden
Fithian
Brademas
Roush
Hillis
Evans
Myers, John T.
Hayes, Philip H.
Hamilton
Sharp
Jacobs

IOWA

Mezvinsky
Blouin
Grassley
Smith, Neal
Bedell
Harkin

KANSAS

Sebelius
Keys
Winn
Shriver
Skubitz

KENTUCKY

Hubbard
Natcher
Mazzoli
Snyder
Carter
Breckinridge
Perkins

LOUISIANA

Hébert
Boggs
Treen
Waggonner
Passman
Moore
Breaux
Long, Gillis W.

MAINE

Emery
Cohen

MARYLAND

Bauman
Long, Clarence D.
Sarbanes
Holt
Spellman
Byron
Mitchell, Parren J.
Gude

MASSACHUSETTS

Conte
Boland
Early
Drinan
Tsongas
Harrington
Macdonald, Torbert H.
O'Neill
Moakley
Heckler, Margaret M.
Burke, James A.
Studds

MICHIGAN

Conyers
Esch
Brown, Garry
Hutchinson
Vander Veen
Carr
Riegle
Traxler
Vander Jagt
Cederberg
Ruppe
O'Hara
Diggs
Nedzi
Ford, William D.
Dingell
Brodhead
Blanchard
Broomfield

MINNESOTA

Quie
Hagedorn
Frenzel
Karth
Fraser
Nolan
Bergland
Oberstar

MISSISSIPPI

Whitten
Bowen
Montgomery
Cochran
Lott

MISSOURI

Clay
Symington
Sullivan
Randall
Bolling
Litton
Taylor, Gene
Ichord
Hungate
Burlison, Bill D.

MONTANA

Baucus
Melcher

NEBRASKA

Thone
McCollister
Smith, Virginia

NEVADA

Santini (at large)

NEW HAMPSHIRE

D'Amours
Cleveland

NEW JERSEY

Florio
Hughes
Howard
Thompson
Fenwick
Forsythe
Maguire
Roe
Helstoski
Rodino
Minish
Rinaldo
Meyner
Daniels, Dominick V.
Patten

NEW MEXICO

Lujan
Runnels

NEW YORK

Pike
Downey
Ambro
Lent
Wydler
Wolff
Addabbo
Rosenthal
Delaney
Biaggi
Scheuer
Chisholm
Solarz
Richmond
Zeferetti
Holtzman
Murphy, John M.
Koch
Rangel
Abzug
Badillo
Bingham
Peyser
Ottinger
Fish
Gilman
McHugh
Stratton
Pattison
McEwen
Mitchell, Donald J.
Hanley
Walsh
Horton
Conable
LaFalce
Nowak
Kemp
Hastings

NORTH CAROLINA

Jones, Walter B.
Fountain
Henderson
Andrews, Ike
Neal
Preyer
Rose
Hefner
Martin
Broyhill
Taylor, Roy A.

NORTH DAKOTA

Andrews, Mark (at large)

OHIO

Gradison
Clancy
Whalen
Guyer
Latta
Harsha
Brown, Clarence J.
Kindness
Ashley
Miller, Clarence E.
Stanton, J. William
Devine
Mosher
Seiberling
Wylie
Regula
Ashbrook
Hays, Wayne L.
Carney
Stanton, James V.
Stokes
Vanik
Mottl

OKLAHOMA

Jones, James R.
Risenhoover
Albert
Steed
Jarman
English

OREGON

AuCoin
Ullman
Duncan, Robert
Weaver

PENNSYLVANIA

Barrett
Nix
Green
Eilberg
Schulze
Yatron
Edgar
Biester
Shuster
McDade
Flood
Murtha
Coughlin
Moorhead, William S.
Rooney
Eshleman
Schneebeli
Heinz
Goodling
Gaydos
Dent
Morgan
Johnson, Albert W.
Vigorito
Myers, Gary A.

RHODE ISDAND

St Germain
Beard, Edward P.

SOUTH CAROLINA

Davis
Spence
Derrick
Mann
Holland
Jenrette

SOUTH DAKOTA

Pressler
Abdnor

TENNESSEE

Quillen
Duncan, John J.
Lloyd, Marilyn
Evins, Joe L.
Fulton
Beard, Robin L.
Jones, Ed
Ford, Harold E.

TEXAS

Patman
Wilson, Charles
Collins, James M.
Roberts
Steelman
Teague
Archer
Eckhardt
Brooks
Pickle
Poage
Wright
Hightower
Young, John
de la Garza
White
Burleson, Omar
Jordan
Mahon
Gonzalez
Krueger
Casey
Kazen
Milford

UTAH

McKay
Howe

VERMONT

Jeffords (at large)

VIRGINIA

Downing
Whitehurst
Satterfield
Daniel, Robert W., Jr.
Daniel, Dan
Butler
Robinson
Harris
Wampler
Fisher

WASHINGTON

Pritchard
Meeds
Bonker
McCormack
Foley
Hicks
Adams

WEST VIRGINIA

Mollohan
Staggers
Slack
Hechler, Ken

WISCONSIN

Aspin
Kastenmeier
Baldus
Zablocki
Reuss
Steiger, William A.
Obey
Cornell
Kasten

WYOMING

Roncalio (at large)

The Clerk. The rollcall discloses that 432 Representatives-elect have answered to their names.

A quorum is present.

ANNOUNCEMENT BY THE CLERK

The Clerk. The Clerk wishes to state that credentials are on file showing the election of the Honorable Jaime Benitez as Resident Commissioner from the Commonwealth of Puerto Rico, the election of the Honorable Walter E. Fauntroy as Delegate from the District of Columbia, the election of the Honorable Antonio Borja Won Pat as Delegate from Guam, and the election of the Honorable Ron de Lugo as Delegate from the Virgin Islands.

ELECTION OF SPEAKER

The Clerk. The next order of business is the election of a Speaker of the House of Representatives for the 94th Congress.

Nominations are now in order.

The Clerk recognizes the gentleman from California (Mr. Phillip Burton).

Mr. PHILLIP BURTON. Mr. Clerk, as chairman of the Democratic Caucus, I am directed by the unanimous vote of that caucus to present for election to the office of the Speaker of the House of Representatives of the 94th Congress the name of the Honorable Carl Albert, a Representative-elect from the State of Oklahoma.

The Clerk. The Clerk now recognizes the gentleman from Illinois (Mr. Anderson).

Mr. ANDERSON of Illinois. Mr. Speaker, as chairman of the Republican conference and by authority, by direction, and by unanimous vote of the Republican conference, I nominate for Speaker of the House of Representatives the Honorable John J. Rhodes, a Representative-elect from the State of Arizona.

The Clerk. The Honorable Carl Albert, a Representative-elect from the State of Oklahoma, and the Honorable John J. Rhodes, a Representative-elect from the State of Arizona, have been placed in nomination.

Are there further nominations?

There being no further nominations, the Clerk will appoint tellers.

The Clerk appoints the gentleman from Ohio (Mr. Hays), the gentleman from Alabama (Mr. Dickinson), the gentlewoman from Missouri (Mrs. Sullivan), and the gentlewoman from Massachusetts (Mrs. Heckler).

Tellers will come forward and take their seats at the desk in front of the Speaker's rostrum.

The roll will now be called, and those responding to their names will indicate by surname the nominee of their choice.

The reading clerk will call the roll.

The tellers having taken their places, the House proceeded to vote for the Speaker.

The following is the result of the vote:

[Roll No. 2]

ALBERT

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Casey
Chappell
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cotter
D'Amours
Daniel, Dan
Daniels, Dominick V.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey
Downing
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fraser
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Ginn
Gonzalez
Green
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Philip H.
Hays, Wayne L.
Hébert
Hechler, W. Va.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holland
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Kluczynski
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCormack
McDonald
McFall
McHugh
McKay
Macdonald
Madden
Maguire
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patman
Patten
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Poage
Preyer
Price
Randall
Rangel
Rees
Reuss
Richmond
Riegle
Risenhoover
Roberts
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Runnels
Russo
Ryan
St Germain
Santini
Sarbanes
Satterfield
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Stuckey
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Waggonner
Waxman
Weaver
White
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

RHODES

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Biester
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Carter
Cederberg
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Daniel, Robert W., Jr.
Derwinski
Devine
Dickinson
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
Erlenborn
Esch
Eshleman
Fenwick
Findley
Fish
Forsythe
Frenzel
Frey
Gilman
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hastings
Heckler, Mass.
Heinz
Hillis
Hinshaw
Holt
Horton
Hutchinson
Hyde
Jeffords
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Kemp
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McEwen
McKinney
Madigan
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
O'Brien
Pettis
Peyser
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rinaldo
Robinson
Rousselot
Ruppe
Sarasin
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steelman
Steiger, Ariz.
Steiger, Wis.
Symms
Talcott
Taylor, Mo.
Thone
Treen
Vander Jagt
Walsh
Wampler
Whalen
Whitehurst
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

ANSWERED "PRESENT"—2

Albert
Rhodes

The Clerk. The tellers agree on their tallies. The total number of votes cast is 432, of which the Honorable Carl Albert, of Oklahoma, received 287, and the Honorable John J. Rhodes received 143, with two voting "present."

Therefore, the Honorable Carl Albert, of Oklahoma, is the duly elected Speaker of the House of Representatives for the 94th Congress, having received a majority of the votes cast.

The Clerk appoints the following committee to escort the Speaker-elect to the chair: the gentleman from Arizona (Mr. Rhodes), the gentleman from Massachusetts (Mr. O'Neill), the gentleman from Illinois (Mr. Michel), the gentleman from California (Mr. Phillip Burton), and the gentleman from Oklahoma (Mr. Steed).

The Doorkeeper announced the Speaker-elect of the House of Representatives of the 94th Congress, who was escorted to the chair by the committee of escort.

Mr. RHODES. Mr. Speaker, my colleagues, it is a distinct honor for me to introduce our great Speaker.

As you know, nobody enjoys losing an election. I sort of thought I would lose this one, and I did. I thank those who supported me, and I assure those who did not support me that I understand their reasons. But if one has to lose I can think of no one I would rather lose to than my good friend, the Honorable Carl Albert.

Under the leadership of CARL ALBERT the House of Representatives has regained much of the prestige and influence which has been slowly eroded over a period of many years. CARL ALBERT has been not just the leader of the majority. As long as he has occupied the Speaker's chair he has been the leader for all Members of the House. This is the hallmark of a truly great Speaker.

As a result of efforts made in the 93d Congress, we begin our work today with a considerable chance to influence the direction of our troubled Nation. Our challenge will be to marshal that influence along responsible lines so that the truly formidable problems of the Nation can be solved, and solved properly and promptly. The American people have indicated they expect the Congress to take decisive action toward meeting the problems of both inflation and recession. The decisions which we will face in this historic Chamber are going to be tough decisions. Solving our economic problems will require that we make a realistic assessment of where our Government can and should act, and where our great free enterprise system should be left to regain its own momentum without either planning or interference by anyone. It is also going to require that we exercise, on both sides of the aisle, the type of courage that will enable us to resist the temptation to make political advantage in the interest of getting things done.

I would like to take this opportunity to welcome back the many distinguished colleagues with whom it has been my pleasure to serve over the years. I would also like to extend a greeting to all those who are now beginning their first term in the House. To them, I suggest that the job is not an easy one. It has been said that sitting in Congress is the privilege of the few—sitting on Congress is the prerogative of the many.

But I welcome all of you, and I can assure you that, as one who has served in this House for many years, there is no experience that is more rewarding and more wonderful to attain in one's life than this today, when for the first time you become a Member of what I consider to be the greatest deliberative body ever founded on this Earth.

In a Republic the majority rules while the minority tries to show the majority how things really should be done. I can assure you that as minority leader I will speak out as forcefully as I know how whenever I feel that the majority has adopted a direction or a decision that is not well advised. I can also assure you that my Republican colleagues will have many suggestions to make during the 94th Congress. That is how it should be, that is how it has always been, and I hope that it will always be that way.

But I am also determined to work toward the consensus approach to our Nation's problems which I feel is necessary in order for the 94th Congress to take the action that the Nation requires. The House of Representatives, being closest to the people, has an obligation, in my judgment, to be the most responsive body in Government. The people want us to act. They expect us to avoid the stalemate which many have predicted will occur. We can only fulfill their expectations and hopes if we work together, not as Democrats, not as Republicans, but as Americans elected by our peers to be Members of the House of Representatives.

Mr. Speaker, this is a time that calls for good judgment and great care in the kind of legislation we enact. It is a time that requires cooperation between the branches of Government. It is a time for the majority and the minority in this House to join together on the big issues in order to enhance the Nation's economic and political health.

It is my opinion that our chances for success in this endeavor have been substantially advanced as a result of the election this day of you, sir, to be Speaker of the House of Representatives. You have been a Speaker of great honesty and fairness, a champion of the rights and privileges of our membership, and all the Members, and the traditions of this great body. It is with profound honor that I introduce to you, my colleagues of the 94th Congress, a fine American, a dedicated lawmaker, and a distinguished son of the State of Oklahoma, and my friend—past, present, and future—the Speaker of the House of Representatives, the Honorable CARL ALBERT. [Applause, the Members rising.]

Mr. ALBERT. I thank the distinguished gentleman from Arizona (Mr. RHODES) for his kind words. I appreciate what he has so generously said. I accept his congratulations with humility.

My colleagues of the Congress, I come before you not only with a feeling of deep humility, but with a feeling of determination which I have not known or felt before during my years in the Congress. I am humble, because I have been given the honor of picking up, for the third time, the gavel of the House of Representatives in this chamber which, as the gentleman from Arizona (Mr. RHODES) has rightly said, houses the greatest deliberative assembly in all the world.

I am grateful from the bottom of my heart for the honor which my colleagues have bestowed upon me. Many are worthy of this position, just as all of you are worthy of seats in the House of Representatives. Yet, although many of our constituents are desirous of seats in the House of Representatives, it is you, my colleagues, who are in the extraordinary position of being among the relatively few who have been so chosen during the long history of this republic.

I am proud of this House as an institution. I am proud of the record that has been made here by men and women whose lives have left an imprint upon that great phenomenon which we call the history of the United States. Serving in a constant line of membership, from the day the Congress was first elected in 1789, have been men whose influence on our history was attributable to the service they rendered their country in the House of Representatives.

Few Members of this House, during its long and historic span, have held the gavel as Speaker, an honor, and an opportunity for public service solely within the gift of the Members of each Congress as they assemble, freshly chosen every 2 years by the American people. This office is unique in its constitutional roots, and, in my judgment, exceeded in its importance by no other office in the world.

I give you my pledge that I will serve all the Members of the House with an open mind, fairly, and frankly, in the spirit of candor, and irrespecitve of party affiliation. I interpret the duties of the Speaker not only to help advance the progress of the majority party, but also to protect and respect the individual rights of every Member and the rights, under the rules and precedents of the House, of the minority.

To the distinguished minority leader, JOHN RHODES do I especially give my peldge. JOHN said he ran for the office of Speaker; Jerry Ford who also ran for it several times said that all he ever wanted to do in life was to be Speaker, and I think he told the truth. I always beat him, but he leapfrogged the office, and look what he got into.

I congratulate all of my colleagues in this Congress on your election. Have you ever stopped to realize that you are the choice of 213 million Americans? Have you ever stopped to think that you hold the only Federal positions in the United States which may be acquired solely by exercise of the suffrage and in no other manner? This is the place where no one has ever been a Member who was not elected by his peers. We are truly the Representatives of the people.

I welcome the new Members. We have a lot of them this year. I know most of them and I am impressed with them. They come, as I am sure most of us have come, determined that in their time and in their generation they will do their part to fulfill the responsibilities of this body. I recommend to you that you learn the rules of the House of Representatives and that you learn to know the Members of the House of Representatives. Look to the right or look to the left from where you are sitting or standing; until you come to know each other, you cannot have any comprehension of how many of your colleagues have extraordinary talents, extraordinary integrity, and extraordinary devotion to duty. My experience has been that the competence of the men and women here in the House of Representatives has more strongly impressed me than that of any I have encountered elsewhere in my private, public, or school life.

Our solemn task is to legislate for the American people, the people who elected us, and to pass laws, as those old and familiar words went that we learned in childhood, to provide for the common defense, establish justice, promote the general welfare, insure domestic tranquillity, and secure the blessings of liberty to ourselves and our posterity. These are the hallowed words of the American Constitution which we swear, you and I, to uphold. Remember this as long as you are here, and I am sure that you will: These resounding words of our Constitution call us to the performance of our duties. As guides to what we do here, we need no other, because there are no better.

Our people demand of us that we legislate well, that we legislate with dispatch, meeting four-square the complex and varied miseries that afflict our country. Legislate we shall, because legislate we must; the country is looking to us for the measures now so desperately needed.

We shall act in accordance with the clear and direct language of the Constitution's article 1, section 1:

> All legislative powers herein granted shall be vested in a Congress of the United States.

Last month, just before we adjourned after a very long, difficult, and trying year, I appointed a task force to draft an economic recovery program based on a polling of Members, and the help and concurrence of committee chairmen, a program on which we could act quickly. Yesterday we announced the details of that program. The task force report is the most comprehensive statement ever made at the beginning of a new Congress on behalf of the majority party in the House of Representatives. It reinforces our commitment to act immediately to counter our Nation's acute and growing economic problems. The short-term program is aimed directly at the immediate problems facing America today: Rising joblessness, with good people, trained people without work—jobless Americans whose numbers are increasing day by day; eroded consumer purchasing power; the imperative need for some form of energy conservation and the development of new energy supplies, looking toward our independence, at the earliest possible time, from ransom payments for foreign oil. This last problem is no easy one; it is not one for which there can be an overnight solution.

Sooner than the expiration of the 90-day period, before the end of March, I ask the Committee on Ways and Means to report, the Committee on Rules to give a rule, and the House to pass tax relief legislation for millions of low- and middle-income Americans.

I welcome the President's new position that he will now support a tax cut, thus enhancing the chances and likelihood of getting quicker action in this most important area.

The House must act to reverse the devastating upward trend of interest rates, to infuse new life into the Nation's homebuilding industry, to stimulate agricultural production, to develop a comprehensive program of energy conservation, to formulate a workable system for monitoring price increases, and to halt the alarming surge of unemployment, by putting our working people back to work, where they ought to be and where they belong.

Unemployment is causing havoc in our country's economy and anguish among our Nation's citizens. More important, those without jobs cannot provide themselves and their families with the necessities of life. Those with low incomes during this unbearable and unprecedented inflation cannot pay their grocery, rent, and utility bills. Medical costs cannot be met by most Americans without a system of national health insurance. I have assured the chairman of the appropriate committee that a national health insurance bill should be among the first bills considered.

Our country wants us to act. Our country wants us to act quickly; our country wants us to act effectively. Quick and effective action is absolutely necessary in an era beset by the combined scourges of inflation, recession, and energy shortages.

These are not partisan issues, they are national afflictions that require action now, by us. If we are to fulfill our purpose, which is to legislate effectively, the majority and minority must unite whenever and wherever we can, and always in the public interest. This is an American battle; not a Democratic battle, not a Republican battle, not a congressional battle, not an administration battle. We earnestly seek a close and harmonious working relationship with the executive branch. We ask its advice; we solicit its recommendations; we want its cooperation. We must work together for our country, because our country deserves the best of all of us.

I pledge from the bottom of my heart that I will work to the very limits of the ability the Good Lord has given me, that I will be as helpful as I know how, as we strive in this session of the Congress to return the American people to a state of high employment and economic growth. Without that national strength we cannot be free, and without freedom we cannot be the kind of Americans we know ourselves to be.

[Applause, the Members rising.]

I am now ready to take the oath of office.

I ask the dean of the House of Representatives, the Honorable Wright Patman of Texas, to administer the oath of office.

Mr. PATMAN then administered the oath of office to Mr. Albert, of Oklahoma.

SWEARING IN OF MEMBERS

The SPEAKER. According to the precedent, the Chair will swear in all Members of the House at this time.

If the Members will rise, the Chair will now administer the oath of office.

The Members-elect and Delegates-elect and the Resident Commissioner-elect, rose and the Speaker administered the oath of office to them.

The SPEAKER. The gentlemen and gentlewomen are now Members of Congress.

The Chair recognizes the gentleman from California (Mr. Phillip Burton).

MAJORITY LEADER

Mr. PHILLIP BURTON. Mr. Speaker, as chairman of the Democratic Caucus, I have been directed to report to the House that the Democratic Members have selected as majority leader the gentleman from Massachusetts, the Honorable Thomas P. O'Neill, Jr.

The SPEAKER. The Chair now recognizes the gentleman from Illinois (Mr. Anderson).

MINORITY LEADER AND MINORITY WHIP

Mr. ANDERSON of Illinois. Mr. Speaker, as chairman of the Republican conference, I am directed by that conference to officially notify the House that the gentleman from Arizona, the Honorable John J. Rhodes, has been selected as the minority leader of the House; and that effective January 1, 1975, the gentleman from Illinois, the Honorable Robert H. Michel, has succeeded to the office of minority whip.

ELECTION OF CLERK OF THE HOUSE, SERGEANT AT ARMS, DOORKEEPER, POSTMASTER, AND CHAPLAIN

Mr. PHILLIP BURTON. Mr. Speaker, I offer a resolution (H. Res. 1) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

> H. Res. 1
>
> *Resolved*, That W. Pat Jennings, of the Commonwealth of Virginia, be, and he is hereby, chosen Clerk of the House of Representatives;
>
> That Kenneth R. Harding, of the Commonwealth of Virginia, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives;
>
> That James T. Molloy, of the State of New York, be, and he is hereby, chosen Doorkeeper of the House of Representatives;
>
> That Robert V. Rota, of the Commonwealth of Pennsylvania, be, and he is hereby, chosen Postmaster of the House of Representatives;
>
> That Rev. Edward G. Latch, D.D., of the State of Maryland, be, and he is hereby, chosen Chaplain of the House of Representatives.

Mr. ANDERSON of Illinois. Mr. Speaker, I shall offer a substitute for the resolution just offered by the gentleman from California, but before doing so, request that there be a division of the question on the resolution so that we may have a separate vote on the office of the Chaplain.

The SPEAKER. The question is on agreeing to the portion of the resolution providing for the election of the Chaplain.

That portion of the resolution was agreed to.

SUBSTITUTE AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Speaker, I offer a substitute amendment for the remainder of the resolution.

The Clerk read the substitute amendment, as follows:

> Amendment Offered by Mr. Anderson of Illinois as a Substitute for the Remainder of H. Res. 1
>
> H. Res. 1
>
> *Resolved*, That Joe Bartlett, of the State of Ohio, be, and he is hereby, chosen Clerk of the House of Representatives;
>
> That Walter P. Kennedy, of the State of New Jersey, be, and he is hereby, chosen Sergeant at Arms of the House of Representatives;
>
> That William R. Bonsell, of the Commonwealth of Pennsylvania, be, and he is hereby, chosen Doorkeeper of the House of Representatives;

That Tommy Lee Winebrenner, of the State of Indiana, be, and he is hereby, chosen Postmaster of the House of Representatives.

The SPEAKER. The question is on the substitute amendment offered by the gentleman from Illinois (Mr. ANDERSON).

The substitute amendment was rejected.

The SPEAKER. The question is on the resolution offered by the gentleman from California (Mr. PHILLIP BURTON).

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. Will the officers elected present themselves in the well of the House?

The officers-elect presented themselves at the bar of the House and took the oath of office.

NOTIFICATION TO SENATE OF ORGANIZATION OF THE HOUSE

Mr. O'NEILL. Mr. Speaker, I offer a resolution H. Res. 2 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 2

Resolved, That a message be sent to the Senate to inform that body that a quorum of the House of Representatives has assembled; that CARL ALBERT, a Representative from the State of Oklahoma, has been elected Speaker; and W. Pat Jennings, a citizen of the Commonwealth of Virginia, Clerk of the House of Representatives of the Ninety-fourth Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMITTEE TO NOTIFY THE PRESIDENT OF THE UNITED STATES OF THE ASSEMBLY OF THE CONGRESS

Mr. O'NEILL. Mr. Speaker, I offer a resolution (H. Res. 3) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 3

Resolved, That a committee of two Members be appointed by the Speaker on the part of the House of Representatives to join with a committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to join the committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled, and that Congress is ready to receive any communication that he may be pleased to make, the gentleman from Massachusetts (Mr. O'NEILL) and the gentleman from Arizona (Mr. RHODES).

AUTHORIZING THE CLERK TO INFORM THE PRESIDENT OF THE ELECTION OF THE SPEAKER AND THE CLERK OF THE HOUSE OF REPRESENTATIVES

Mr. MAHON. Mr. Speaker, I offer a resolution (H. Res. 4) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 4

Resolved, That the Clerk be instructed to inform the President of the United States that the House of Representatives has elected Carl Albert, a Representative from the State of Oklahoma, Speaker; and W. Pat Jennings, a citizen of the Commonwealth of Virginia, Clerk of the House of Representatives of the Ninety-fourth Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RULES OF THE HOUSE

Mr. O'NEILL. Mr. Speaker, I offer a resolution (H. Res. 5) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 5

Resolved, That the Rules of the House of Representatives of the Ninety-third Congress, together with all applicable provisions of the Legislative Reorganization Act of 1946, as amended, the Legislative Reorganization Act of 1970, as amended, and the Congressional Budget and Impoundment Control Act of 1974, be, and they are hereby adopted as the Rules of the House of Representatives of the Ninety-fourth Congress, with the following amendments as part thereof, to wit:

(1) In Rule I, add the following new clause at the end thereof:

"8. He shall have the authority to designate any Member, officer or employee of the House of Representatives to travel on the business of the House of Representatives, as determined by him, within or without the United States, whether the House is meeting, has recessed or has adjourned, and all expenses for such travel may be paid for from the contingent fund of the House on vouchers solely approved and signed by the Speaker."

(2) In Rule VIII, the first sentence of clause 2 is amended by inserting "by the House or Committee of the Whole" immediately after the first comma.

(3) In Rule X, the first sentence of clause 1 (e) (1) is amended:

(1) by striking out "twenty-three" in the matter preceding subdivision (A) and inserting in lieu thereof "twenty-five"; and

(2) by striking out "eleven" in subdivision (C) and inserting in lieu thereof "thirteen".

(4) In Rule X, clause 1(f) is amended by striking out "Committee on Commerce and Health" and inserting in lieu thereof "Committee on Interstate and Foreign Commerce", by redesignating clause 1(f) as clause 1(l) and by redesignating all subclauses following 1(e) accordingly.

(5) In Rule X, clause 1(k) is amended by adding at the end thereof the following new subclauses:

"14. Measures relating to the raising, reporting and use of campaign contributions for candidates for office of Representative in the House of Representatives and of Resident Commissioner to the United States from Puerto Rico."

"15. Measures relating to the compensation, retirement and other benefits of the Members, officers, and employees of the Congress."

(6) In Rule X, clause 1 is amended:

(1) by striking out paragraph (m), by redesignating paragraphs (n) through (w) as paragraphs (m) through (v), respectively, by striking out the provisions "Except as provided in clause 1(q)(4)" as they appear in clauses 1(k)(4) and (5) of Rule X and inserting "Except as provided in clause 1(p)(4)"; and

(2) by adding at the end of paragraph (m), as so redesignated by this section, the following:

"(19) Communist and other subversive activities affecting the internal security of the United States."

All property and records of the Committee on Internal Security are hereby transferred to the Committee on the Judiciary and shall be available for use by the latter committee to the same extent as if such property and records were originally that of the Committee on the Judiciary.

Such staff members of the Committee on Internal Security as the chairman of that committee for the 93rd Congress may designate after consultation and agreement with the chairman of the Committee on the Judiciary shall, without reduction in compensation, be transferred and appointed to the Committee on the Judiciary as additional members of the staff of the Committee on the Judiciary for the period of the 94th Congress, and shall be paid from the contingent fund of the House."

(7) In Rule X, the last sentence of clause 1(t), relating to the jurisdiction of the Committee on Small Business, is amended to read as follows:

"In addition to its legislative jurisdiction under the preceding provisions of this paragraph (and its general oversight function under clause 2(b)(1)), the committee shall have the special oversight function provided for in clause 3(g) with respect to the problems of small business."

(8) In Rule X, relating to the jurisdiction of the Committee on Standards of Official Conduct, strike out clause 1(u)(4).

(9) In Rule X, the fourth sentence of clause 2 is amended to read as follows:

"Each such committee having more than twenty members shall establish an oversight subcommittee, or require its subcommittees, if any, to conduct oversight in the arena of their respective jurisdiction, to assist in carrying out its responsibilities under this subparagraph."

(10) In Rule X, clause 4(a)(1)(C) is amended to read as follows:

"(C) Hearings pursuant to subdivision (A), or any part thereof, shall be held in open session, except when the committee, in open session and with a quorum present, determines by rollcall vote that the testimony to be taken at that hearing on that day may be related to a matter of national security: Provided, however, that the committee may by the same procedure close one subsequent day of hearing. A transcript of all such hearings shall be printed and a copy thereof furnished to each Member, Delegate, and the Resident Commissioner from Puerto Rico."

(11) In Rule X, clause 4(i) is amended to read as follows:

"Each standing committee of the House which is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process shall promptly make such determinations and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974."

(12) In Rule X, clause 6(c) is amended to read as follows:

"Each standing Committee of the House of

Representatives, except the Committee on the Budget, that has more than twenty members shall establish at least four subcommittees."

(13) In Rule X, strike out clause 6(g) and redesignate clause 6(h) as 6(g).

(14) In Rule XI, clause 2(a)(1) is amended to read as follows:

"(1) shall be adopted in a meeting which is open to the public unless the committee, in open session and with a quorum present, determines by rollcall vote that all or part of the meeting on that day is to be closed to the public."

(15) In Rule XI, clause 2(e) is amended to read as follows:

"Each committee shall keep a complete record of all committee action which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each such rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each Member voting for and each Member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those Members present but not voting."

(16) In Rule XI, clause 2(f) is amended by inserting before the period the following: "unless such committee, by written rule adopted by the committee, permits voting by proxy and requires that the proxy authorization shall be in writing, shall assert that the Member is absent on official business or is otherwise unable to be present at the meeting of the committee, shall designate the person who is to execute the proxy authorization, and shall be limited to a specific measure or matter and any amendments or motions pertaining thereto; except that a member may authorize a general proxy only for motions to recess, adjourn or other procedural matters. Each proxy to be effective shall be signed by the member assigning his or her vote and shall contain the date and time of day that the proxy is signed. Proxies may not be counted for a quorum.

(17) In Rule XI, clause I, clause 2(g) is amended to read as follows:

"(1) Each meeting for the transaction of business, including the markup of legislation, of each standing committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public: *Provided, however,* that no person other than members of the committee and such congressional staff and such departmental representatives as they may authorize shall be present at any business or markup session which has been closed to the public. This paragraph does not apply to open committee hearings which are provided for by clause 4(a)(3) of Rule X or by subparagraph (2) of this paragraph, or to any meeting that relates solely to internal budget or personnel matters.

(2) Each hearing conducted by each committee or subcommittee thereof shall be open to the public except when the committee or subcommittee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of that hearing on that day shall be closed to the public because disclosure of testimony, evidence, or other matters to be considered would endanger the national security or would violate any law or rule of the House of Representatives: Provided, however, that the committee or subcommittee may by the same procedure vote to close one subsequent day of hearing.

(3) Each committee of the House, (except the Committee on Rules) shall make public announcement of the date, place and subject matter of any committee hearing at least one week before the commencement of the hearing. If the committee determines that there is good cause to begin the hearing sooner, it shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest.

(4) Each committee shall, insofar as is practicable, require each witness who is to appear before it to file with the committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation at such appearance to a brief summary of his or her argument.

(5) No point of order shall lie with respect to any measure reported by any committee on the ground that hearings on such measure were not conducted in accordance with the provisions of this clause; except that a point of order on that ground may be made by any member of the committee which reported the measure if, in the committee, such point of order was (A) timely made and (B) improperly overruled or not properly considered.

(6) The preceding provisions of this paragraph do not apply to the committee hearings which are provided for by clause 4(a)(1) of Rule X."

(18) In Rule XI, the first sentence of clause 2(1)(6) is amended to read as follows:

"A measure or matter reported by any committee (except the Committee on Rules in the case of a resolution making in order the consideration of a bill, resolution, or other order of business), shall not be considered in the House until the third calendar day (or the tenth calendar day in the case of a concurrent resolution on the budget), excluding Saturdays, Sundays, and legal holidays following the day on which the report of that committee upon that measure or matter has been available to the Members of the House."

(19) In Rule XI, clause 2(m)(2)(A) is amended to read as follows:

"A subpena may be issued by a committee or subcommittee under subparagraph (1)(B) in the conduct of any investigation or activity or series of investigations or activities, only when authorized by a majority of the members of the committee, and authorized subpenas shall be signed by the chairman of the committee or by any member designated by the committee."

(20) In Rule XI, clause 4(a) is amended to read as follows:

"The following committee shall have leave to report at any time on the matters herein stated, namely: The Committee on Appropriations—on general appropriation bills; the Committee on the Budget—on the matters required to be reported by such committee under Titles III and IV of the Congressional Budget Act of 1974; the Committee on House Administration—on enrolled bills, contested elections, and all matters referred to it of printing for the use of the House or the two Houses, and on all matters of expenditure of the contingent fund of the House; the Committee on Rules—on rules, joint rules, and the order of business; and the Committee on Standards of Official Conduct—on resolutions recommending action by the House of Representatives with respect to an individual Member, officer, or employee of the House of Representatives."

(21) In Rule XI, clause 5 is amended by striking out paragraph (d) and inserting in lieu thereof the following:

"(d) From the funds provided for the appointment of committee staff pursuant to primary and additional expense resolution—

(1) The chairman of each standing subcommittee of a standing committee of the House is authorized to appoint one staff member who shall serve at the pleasure of the subcommittee chairman.

(2) The ranking minority party member of each standing subcommittee on each standing committee of the House is authorized to appoint one staff person who shall serve at the pleasure of the ranking minority party member.

(3) The staff members appointed pursuant to the provisions of subparagraphs (1) and (2) shall be compensated at a rate determined by the subcommittee chairman not to exceed (A) 75 per centum of the maximum established in paragraph (c) of clause 6 or (B) the rate paid the staff member appointed pursuant to subparagraph (1) of this paragraph.

(4) For the purpose of this paragraph, (A) there shall be no more than six standing committees of each standing committee of the House, except for the Committee on Appropriations, and (B) no member shall appoint more than one person pursuant to the above provisions.

"(5) The staff positions made available to the subcommittee chairman and ranking minority party members pursuant to subparagraphs (1) and (2) of this paragraph shall be made available from the staff positions provided under clause 6 of Rule XI unless such staff positions are made available pursuant to a primary or additional expense resolution."

(22) In Rule XI, clause 6(a)(5) is amended to read as follows:

"The foregoing provisions of this paragraph do not apply to the Committee on Appropriations and to the Committee on the Budget."

(23) In Rule XI, clause 6(b)(4) is amended to read as follows:

"The foregoing provisions of this paragraph do not apply to the Committee on Appropriations and to the Committee on the Budget."

(24) In Rule XI, clause 6(d) is amended to read as follows:

"Subject to appropriations hereby authorized, the Committee on Appropriations and the Committee on the Budget may appoint such staff, in addition to the clerk thereof and assistants for the minority, as it determined by majority vote to be necessary, such personnel, other than minority assistants, to possess such qualifications as the committee may prescribe."

(25) In Rule XX, clause 3 is amended to read as follows:

"A report from the Committee on Appropriations accompanying any general appropriation bill making an appropriation for any purpose shall contain a concise statement describing fully the effect of any provision of the accompanying bill which directly or indirectly changes the application of existing law."

(26) In Rule XXVIII, add the following new clause:

"6. Open Conference Meetings

"Each conference committee meeting between the House and Senate shall be open to the public except when the managers of either the House or Senate, in open session, determine by a rollcall vote of a majority of those managers present, that all or part of the remainder of the meeting on the day of the vote shall be closed to the public: Provided that this provision shall not become effective until a similar rule is adopted by the Senate."

(27) In Rule XLIII, paragraph 6 is amended to read as follows:

"A Member of the House of Representatives shall keep his campaign funds separate from his personal funds. Unless specifically provided by law, he shall convert no campaign funds to personal use in excess of reimbursement for legitimate and verifiable prior campaign expenditures and he shall expend no funds from his campaign account not attributable to bona fide campaign purposes."

(28) In Rule XLIII, insert immediately after paragraph 8 the following new paragraph.

"9. A Member, officer or employee of the House of Representatives shall not discharge or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin."

Mr. O'NEILL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution containing the amendments as they are printed be dispensed with.

The SPEAKER. Is there objection to the gentleman from Massachusetts

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Massachusetts can tell us whether or not, in his usual gracious and magnanimous manner, he might allow or at least give us some assurances that the minority will have time to discuss the numerous rule changes that are embodied in this pending resolution.

Mr. O'NEILL. Mr. Speaker, if the gentleman will yield, I have not had any requests for time, but the gentleman can be assured that we will give all the Members sufficient time. I will yield for the purposes of debate only.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, I will be glad to make a request on behalf of the gentleman from Tennessee (Mr. QUILLEN), or I may suggest that he make his own request that the minority may have 30 minutes. Will the gentleman agree to that?

Mr. O'NEILL. Mr. Speaker, I will yield only for the purposes of debate, but I will yield as much time as the other side may wish to have.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, will the gentleman yield 30 minutes to the gentleman from Tennessee in order to protect the minority?

Mr. O'NEILL. Mr. Speaker, that might be considered if that is the way they desire it to be and if it is within the rules.

The answer is: No. I would prefer to yield to Members as they ask me to yield.

Mr. BAUMAN. Then the gentleman will not yield time, a definite amount of time to the minority?

Mr. O'NEILL. No.

Mr. BAUMAN. Then I shall object.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk will proceed with the reading of the resolution.

CALL OF THE HOUSE

Mr. SYMMS. Mr. Speaker, I object to the proceedings on the ground that a quorum is not present, and I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 3]

Archer
Beard, R.I.
Byron
Carney
Cederberg
Collins, Tex.
Diggs
Erlenborn
Evans, Colo.
Fisher
Gaydos
Goldwater
Harkin
Harsha
Hastings
Hughes
Jeffords
Jenrette
Kemp
Landrum
McHugh
Madigan
Michel
Minish
Mollohan
Nix
Oberstar
Patman
Pike
Pressler
Sarbanes
Stephens
Stuckey
Udall
Young, Alaska

The SPEAKER. On this rollcall 396 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

RULES OF THE HOUSE

The SPEAKER. The Chair recognizes the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with.

It is my understanding that copies of the resolution are available and on the floor. I appreciate the fact that while we are operating at the present time under the general parliamentary rules, because the resolution which would take effect is the rules for the 94th Congress, I had been asked earlier if I would yield to the gentleman for half an hour. I did not know at that time if yielding for half an hour meant that I yielded for all purposes. After consultation, it is my understanding that I may yield to any Member at any time, yielding for the purpose of debate only, and if any gentleman on the other side of the aisle wants time from me, I would be happy to yield and yield for purposes of debate only.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, I wonder if the distinguished majority leader would yield to me, and let me yield the time to Members on this side of the aisle?

Mr. O'NEILL. I will yield to the gentleman as much time as the gentleman desires up to 30 minutes. It is my understanding that it is his understanding that it is for the purposes of debate only.

Mr. QUILLEN. For the purposes of debate only.

Mr. O'NEILL. Technically, the gentleman would have to be on his feet, but I would not call a thing like that on him.

Mr. QUILLEN. I appreciate that.

Mr. BAUMAN. Mr. Speaker, I want to thank the distinguished gentleman from Massachusetts for his courtesy. I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The gentleman from Massachusetts (Mr. O'NEILL) is recognized for 1 hour.

Mr. O'NEILL. Mr. Speaker, this resolution, of course, is the resolution of the Rules of the House of the 94th Congress. There are many amendments that are technical and which conform with House Resolution 988, the committee reform bill of last year. Most of the changes, of course, are votes that have been taken in the Democratic caucus. The various changes along the line are as follows:

No. 1 is an amendment which gives the Speaker the authority to permit travel on behalf of the House.

No. 2 permits pairing in the Committee of the Whole. As the Members know, we do have pairing in the House at the present time.

No. 3 increases the size of the Budget Committee by two. We have passed a resolution saying that the committees shall be 2-to-1 plus 1. This is above the party ratio in the House.

Amendment 4 changes back the name of the Committee on Commerce and Health, which we called the committee in the Hansen report, to the Committee on Interstate and Foreign Commerce, and redesignates the subclauses accordingly.

Amendment No. 5 places jurisdiction over campaign contributions back in the Committee on House Administration and give the Committee on House Administration jurisdiction with the Committee on Post Office and Civil Service over the Members' compensation and retirement and also over compensation of the officers and employees of the House.

Amendment No. 6 transfers jurisdiction from the Committee on Internal Security to the Committee on the Judiciary, with conforming changes. It transfers the files and the staff from the Committee on Internal Security to the Committee on the Judiciary.

Amendment No. 7 is a technical change relating to oversight responsibility of the Small Business Committee.

Amendment 8 transfers campaign contributions to the Committee on House Administration.

Amendment 9 changes the Hansen provisions requiring any committee having more than 15 members to establish an oversight subcommittee, to require such subcommittees in committees larger than 20 members.

No. 10 is the Fascell amendment concerning open committee hearings.

No. 11 is a technical change to reflect a printing error in the Hansen resolution in the last Congress. That is a technical change.

Amendment 12, the Hansen resolution required each committee having more than 15 members to have at least four subcommittees. It changes this requirement to committees larger than 20 members.

Amendment 13 is a technical change relating to a printing error in House Resolution 988, the Hansen report, in the last Congress.

Amendment 14 relates to the adoption of committee rules in open session, but permits a committee to close its meeting for that day by rollcall vote only.

No. 15 relates to proxy voting.

No. 16 permits proxies in committees under controlled conditions.

The 17th amendment is the Fascell amendment on open committee hearings, plus technical changes to reinsert material omitted from the Hansen resolution of the last Congress. Paragraphs 3 to 6 were inadvertently omitted last year in the printing.

Amendment 18 is a technical correction to correct a printing error in House Resolution 988 of the last Congress.

Amendment 19 is the same thing, and reinserts a clause that was inadvertently left out of House Resolution 988.

No. 20 is a technical correction to reinsert a phrase omitted in the Hansen bill.

No. 21 is a change in rule XI on staffing, the Brooks amendment in the caucus. It is my understanding that Mr. Brooks and Mr. Thompson have discussed with the Members on the opposite side of the aisle this amendment change.

Numbers 22, 23 and 24 are all technical corrections to the Hansen resolution.

No. 25 is a technical correction relating to changes in existing law in general appropriation bills. It perfects the Dingell amendment adopted on the floor during consideration of H. Res. 988.

No. 26 is the Fascell amendment relating to open conference meetings.

No. 27 makes a minor change in the rule relating to the code of official conduct relating to the use of campaign funds.

No. 28 adds a nondiscrimination clause to the code of conduct rule.

This is a brief résumé of the resolutions. They are in the hands of the leadership on the other side.

Mr. Speaker, for the purpose of debate only I yield as much time as he desires to the gentleman from Tennessee (Mr. Quillen).

Mr. QUILLEN. Mr. Speaker, I thank the distinguished majority leader for yielding.

Mr. Speaker, I yield myself such time as I may consume.

The distinguished Speaker, a moment ago, when he spoke after being sworn in as Speaker of the 94th Congress, indicated we must legislate with all the power of this House. I would like to add that we must legislate, but not hastily, not to the point we overlook what we are about to do today in changing the rules of the House.

The Congress passed last October a massive reorganization act. In that measure, which was passed by the House overwhelmingly, the Committee on Internal Security of the House was to be retained as a standing committee of the House. Under the rules which have been proposed and ably explained by the distinguished majority leader, the Committee on Internal Security would go to the Committee on the Judiciary, and that is against the vote of the overwhelming majority of the House that it be retained, and it should be retained. In transferring internal security to the Committee on the Judiciary today this body does not have an opportunity for a separate vote yea or nay. Again this resolution is a closed rule. We will only have an opportunity to vote down the previous question, and then an opportunity to retain this great committee that has served admirably over the years as a standing committee of the House.

Second, the House in its reorganization vote did away with proxy voting. I think that we should do away with proxy voting. When the chairman of a committee can carry the proxies in his pocket and go to the meetings and vote all the proxies, this is not good government. I think the membership of that committee should be there in person and vote on this matter in person. But under the rule that has been proposed here today, a form of proxy voting would be allowed, in the committees of this Congress, when under the reorganization passed in October it was abolished.

I think we must legislate in the House, not with haste, but with deliberation, giving the matter every consideration.

There are other changes in the rules that I certainly support.

However, I do not think that we should act in haste. The minority party has had no input in the proposed rules.

Under the rules of the House, I think that this House today should adopt the rules of the last Congress, provide that they must go to the Committee on Rules for a period of 30 days, let the minority party have an input in the matter, allow the Committee on Rules to makes its deliberations, and then bring to the floor of the House a measure which we can all support, Republicans and Democrats alike.

So, Mr. Speaker, I think today that it would be well, when we get through with our debate, that we vote down the previous question so that we will have an opportunity to give more careful consideration to the proposed changes.

I think we ought to have careful consideration of proxy voting and the status of the Internal Security Committee. I think we should adopt the rules of the House from the previous Congress and let the Committee on Rules do its job and bring forth a measure for all Americans and for the people of this country, which the distinguished Speaker spoke about a moment ago.

Mr. Speaker, I yield 5 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. Rhodes).

Mr. RHODES. Mr. Speaker, I recognize the fact that it is one of the functions of the majority to promulgate the rules of the legislative body, and there is no doubt but what that authority exists. This is exactly where it should be. The majority has the responsibility of putting forth the legislative program, and as I have often said to my good friends on the majority side, the minority side acts as the faithful and trustworthy anvil upon which they may pound out their legislative program.

However, it would be, I think, very nice and it would facilitate the work of the House tremendously if, when there are to be significant changes in the rules, the minority could be notified prior to the time when we come to the floor of the House.

I recognize also the fact that we have not been back here too long, but nevertheless some of these rules, which are rather sweeping in nature and in their changes, certainly have been thought about. They were certainly not far from inception in the fertile brains of some of the Members of the majority, and it seems to me that perhaps the Members of the minority could and should have been apprised of their existence and of exactly what they would accomplish.

Also I cannot help but feel very strongly about the fact that the provision on proxy voting which we think is so important was sticken from the rules by action of the Democratic Caucus.

Mr. Speaker, I have been on committees in which proxy voting was allowed, and I have been on committees in which proxy voting was not allowed, and, believe me, the members of the committee upon which proxy voting was not allowed paid much more attention to what was going on and the attendance was much better in the committee sessions than it was in the committee sessions where the opposite was the case. I am not in favor of proxy voting except in very unusual circumstances.

It seems to me that it would have been well for the majority, if it indeed desired to make some change in the provision of proxy voting, changes in the Hansen proposal, to have adopted the old rules of the House, with a delegation of authority or of duty to the Committee on Rules to look over that particular part and to report back at some time in the future as to whether or not changes were to be desired.

I also happen to believe in open conferences between the House and the Senate, and I think many of us who have served on conference committees between the House and the Senate will know what I mean when I say that many times in those conferences I was in hopes that somebody other than a Member of either body could have been present to see how irresponsibly some of the Members act and the irresponsible positions which are taken on matters which are of some vital importance. I do not believe that those positions would be taken if indeed the conferences were open and the press could be there to report actions which are not in accordance with the best traditions and the best interests of the country.

Also I will vote in favor of this position, that is, I will actually not vote for the previous question because of the provision regarding the demise of the Committee on Internal Security.

If a standing committee of the House is to be killed, it seems to me that it should occur after a hearing in the Committee on Rules and after the Members who feel strongly one way or another have been heard on the matter. After that, the Committee on Rules could report out a provision either voting the committee up or voting it down and let the Members of the House take their stand on that question and that question alone. That was not done.

It is for these reasons, Mr. Speaker, that I find myself in the position of advocating and, yes, voting against the previous question so that we can offer an amendment to accomplish these things which I have mentioned and to give the Committee on Rules a chance to bring forth a set of rules and regulations after due arbitration, after they have been able to take testimony, and after they have been able to think the matter completely through.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois (Mr. ANDERSON).

Mr. SCHULZE. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Pennsylvania (Mr. SCHULZE).

Mr. SCHULZE. Mr. Speaker, I thank the gentleman from Illinois for yielding.

On this first opportunity to address my colleagues as a Member of Congress, I regret that I am compelled to object to the procedure under which the rules of this great body have come before us for consideration. Copies of this resolution, establishing the procedures under which this people's body will be bound to operate during the next 2 years, have just been made available for examination. The changes to be enacted today are the result of a secret caucus held by the majority party and which none of us on the minority side have had an opportunity to scrutinize. I believe that our respective constituencies are tired of secrecy and subterfuge and that it is only proper that all Members have the opportunity to review the proposed resolution, to hold a free and open debate on its provisions, and to offer pertinent amendments to it.

We are operating under a closed situation today which prevents adequate debate and thwarts the democratic process. It is this very situation which I had hoped to avoid in the future by introducing an amendment to the Rules of the House of Representatives. My amendment would allow for open debate on, and amendment to, all legislation to come before the House except for those bills dealing with revenue. The text of my amendment reads as follows:

> Clause 23 of the Rule XI of the Rules of the House of Representatives is amended by adding at the end thereof the following: "The Committee on Rules shall not report any resolution which provides for an order of business for consideration by the House of any public bill or resolution but which prohibits or otherwise limits the offering of any amendments thereto, except that, with respect to a resolution providing for an order of business for consideration by the House of any public bill or resolution raising, reducing, or otherwise affecting or pertaining to the revenues, the committee may authorize the offering of such number of amendments to such areas of subject matter of such public bill or resolution as the committee shall specify in the resolution which it reports."

There are several reasons which have been cited in the past to justify the use of the closed rule. The first of these is that careful committee consideration, scrutiny, and revision has been given to the bill which generally has been reported with the concurrence of most of the members of a committee. Needless to say, the House of Representatives does legislate substantially through its committees. It is impossible for each Member to become an "instant expert" in every subject, and our committee structure allows for the development by each Member of an expertise in those areas under the jurisdiction of his committee. This does not preclude, however, a Member having substantial background and knowledge of subjects outside the purview of his committee. To prohibit a Member from offering an amendment and bringing up for debate any pertinent matter, simply because he is not a member of the appropriate committee, is to muzzle the majority of those serving in the House of Representatives on both sides of the aisle on any bill subjected to the closed rule. To those who argue that the closed rule prevents the introduction of "frivolous" amendments, I would simply respond that I have a great deal of confidence in the judgment of my colleagues. I do not believe that my colleagues here today would take their responsibilities so lightly. In addition, any amendment may be put to the test by calling for the "yeas" and "nays."

The second justification commonly given for use of the closed rule is that possibility of a national emergency requires a procedure under which bills can be expedited. We saw the enactment of several such "emergency" laws during the depression, a time of economic crisis in the days of the New Deal, and I believe that we are still suffering the effects of these hastily enacted proposals. Would it not be far better to apply ourselves at such a critical time to a free and full scrutiny and discussion of every aspect of a given bill? Only by subjecting legislation to the test of open and thorough debate are we assured of enacting sound law. Certainly, emergency situations call for prompt and decisive action, but this does not preempt thoughtful and painstaking consideration.

Another reason frequently given for use of the closed rule is that revenue bills, because of their integrated and technical nature, cannot be written on the House floor. In the words of the late Everett Dirksen:

> Members of the House, we have brought you an integrated bill. If you are going to kick it around, it will be like taking the mainspring out of a watch. It will not work.

In his book, "The House Rules Committee," (1963), James A. Robinson reported that closed rules "are preserved for revenue measures and occasional other complex bills." You will note upon examination that my amendment, the one I had planned to introduce today, does exempt resolutions "raising, reducing, or otherwise affecting or pertaining to the revenues."

It is also noteworthy, in discussing this procedure as it applies to our situation today, that no use of the closed rule has been found for consideration of matters pertaining to congressional reorganization. During the last Congress, exhaustive debate and amendment was permitted in connection with the committee reform amendments. At a time when a national constituency for congressional reform is materializing, when congressional reform is the subject of so much discussion, it is ironic that the membership of this representative body allows for this high-handed and arrogant procedure in the adoption of its rules. Now is the time for open and public debate to be made a part of the RECORD.

It is also interesting that although the majority party adopted reforms at the outset of the 93d Congress in relation to the closed rule as contained in the Preamble and Rules of the Democratic Caucus, that in May of last year, when the Democratic Caucus voted to permit a modified closed rule on a major bill coming out of Ways and Means, a schism developed in the majority ranks. The first time this reform was put to the test, a number of the Democratic Caucus announced that they would not comply. Would it not be better to bring this subject of the closed rule up for discussion by all Members of the House of Representatives, regardless of party affiliation, and out from behind closed doors for free and public debate?

I suggest that there is time for consideration and reform of the Rules of the House of Representatives in a proper and democratic manner. To subject ourselves to this ridiculous time limit and "gag" rule on the crucial question as to how we are going to conduct the business of this House as the people's representatives over the next 2 years is shortsighted and irresponsible.

Mr. ANDERSON of Illinois. Mr. Speaker, I urge defeat of the previous question on this Democratic Caucus rules resolution so that we might offer instead a resolution readopting the rules of the previous Congress and instructing the Rules Committee to report back additional rules recommendations within 30 days under an open rule. I think it is high time we expose this absurd biennial rules exercise for the constitutional and legislative travesty it represents. This is a one-party, 1-hour, no-amendment resolution and furthermore, it is a double-backtrack on reforms adopted in this body just last October. I am referring, of course, to the proxy vote ban and providing the minority with one-third of investigative staff funds.

Mr. Speaker, until this House adopts its new rules, we are operating under what is called, "general parliamentary law." And, as the annotated Constitution in the front of our rules manual points out—

> The general parliamentary law as understood in the House is founded on Jefferson's Manual.

Jefferson prefaces his manual with a statement on the importance of parliamentary rules, and I quote:

> As it is always in the power of the majority, by their numbers to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding . . . by a strict adherence to which the weaker party can only be protected from those irregulari-

ties and abuses which these forms were intended to check, and which the wantonness of power is but too often apt to suggest to large and successful majorities.

Mr. Speaker, I would submit that if we are now operating under general parliamentary law, the basis of which is Jefferson's Manual, from which I have just quoted, then we are indeed violating its first law by permitting only the majority to dictate those rules which are ostensibly designed to protect the minority.

One would logically think that if our rules are designed to protect the minority against the arbitrary and capricious exercise of power by the majority, the minority should have some say in the formulation of those rules. And yet we have had none and we can have none under this procedure.

It is not simply that we object to certain provisions contained in this resolution—provisions which strip away reforms adopted in the last Congress—but that the minority has certain of its own reform proposals which it would like to offer. These were drafted by our Task Force on Reform under the able chairmanship to the gentleman from Minnesota (Mr. FRENZEL). These include further opening committee meetings, completely banning closed House-Senate conferences and broadcasting House floor sessions. I am sure other Members, on both sides of the aisle, would like to make some input into the rules of procedure under which we will operate for the next 2 years. And yet, under this procedure and this resolution, they will have no such opportunity.

I would remind my colleagues that this procedure not only violates the spirit of general parliamentary law, but of the Constitution as well. Article I, section 5, reads, "Each House may determine the rules of its proceedings." Each House means just that—the full House—and not just the majority of the majority party caucus. Under this 1-hour, closed resolution, the full House is effectively being denied its right to fully and freely determine its own rules.

In conclusion, Mr. Speaker, I make my appeal for defeat of the previous question, not on a partisan basis, but on an institutional basis. For surely the integrity of the proceedings of the full House is being interfered with by this most undemocratic procedure.

We hear much about how the "winds of change" are sweeping the House; of how this is a reform-minded Congress. And yet, I would suggest we have no right to lay claim to the reform mantle if we adopt this resolution which abolishes two reforms and prevents a majority from working its will, freely and openly. If the aim of reform is to democratize and open the House, maximize opportunities for a majority of Members while protecting the rights of the minority, then this resolution is a self-defeating and anti-reform in its approach. If, on the other hand, the previous question is defeated, as I hope it will be, I intend to offer a resolution to re-adopt the rules of the last Congress and instruct the Rules Committee to come back in 30 days with additional recommendations, with adequate opportunity for debate and for amendment. Vote down the previous question and vote up a more democratic and comprehensive reform resolution.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, there are many reasons why I urge a vote against the previous question and against these rules. But most simply stated the reasons boil down to one: The rules do not achieve needed reforms and in fact cancels important reforms noted by this House last year.

As chairman of the Republican House Task Force on Reform and Rule Changes, I have had the opportunity to review the procedures and Rules of the House. My task force made many recommendations for improvement, and, because we supected the retrenchment proposed today, we made a few specific proposals to hold the reforms of last year.

The rules presented today are a good example of the difference between the promises of the majority Members and their delivery on those promises.

Reforms have been promised. The majority has characterized itself as a reform group. But what it has produced is counterreform. There are some good ideas, some meritorious proposals and even some real improvements in these rules, but there are failures of omission in important reform areas, and a backslide on proxy voting and minority staffing.

Reform is desired by all parties. It is achievable only if all Members actually have a chance to participate. Rulemaking by an elite group is not, and cannot be, reform. Even worse, these rules come before us in a manner inconsistent with a fair, open, and democratic process. They were devised in the darkness of a secret Democrat caucus, agreed to under the odious "unit rule" that most Democrats repudiated in 1968, and are presented under a rule of restricted debate without opportunity for amendment. If that is what the winds of reform in the new two-thirds Democratic Congress are blowing up, the country and the House is in for some serious tornado damage.

The reinstatement of proxy voting is the worst feature of the new rules. The House voted out proxies in 1974 by a strong majority. The transfer of a Representative's precious right to vote to another person is abhorrent to the principles of representative government.

The proxy right was described today as "limited." Actually, the rules allow a proxy by any member "unable to attend" the committee meeting. That is pretty uncontrolled as far as I am concerned.

Proxies reinforce the potential for abuse inherent in a system already over-dependent on the absolute powers of committee chairmen, and allow a few highly placed Members to control legislation, without the complete and thorough committee work needed to produce good legislation. They allow, in fact sustain, the double track system of committee assignment. They encourage absence and are subject to abuse, or, just as bad, allegations of abuse. I have to oppose any rules which allow the use of proxy voting. Proxies may be a convenience of the majority party, but so is the seniority system or absolute powers of chairmen or gag rules, and all are conveniences that ought to pass from our scene.

Minority staffing is greatly improved in these rules. We may well be allowed more staff that we really need on some committees. We are pleased with the consideration and happy to accept some crumbs from the Democrat table. Nevertheless, these rules back down from the policy adopted by the Congress in the Reorganization Act of 1970, and again by this House in 1974 in House Resolution 988; that is, that the minority should have one-third of congressional staff.

Last year there were, excepting the House Administration Committee, about 1,000 congressional staff employees of which about 130, or 13 percent, were minority employees. Under these rules, the minority share would rise in 19 committees, to about 204. At the same time majority employees will increase also, and we will still be left with about 20 percent of congressional staff, or less.

So, while proxies and staffing represent two giant steps in reverse from reform, it is also disappointing to see that the proposed rules miss many other reform possibilities like truly open conference committees, control of suspension bills, better scheduling, electronic press coverage of House sessions, and others. The proposed rules would allow the Senate conferees to close any conference committee.

It is true that the rules contain improvements, but these fall far short of expectations. But perhaps most important is that fact that the self-anointed reformers had to bring these rules to us under the no-amendment, limited-debate process, and with a binding unit-rule direction of their caucus.

On this side of the aisle, we believe that rules should be considered carefully in the sunlight of one of our standing committees, and presented on the floor under open rule, with opportunity to amend and time to debate. We believe the democratic processes demand no less.

Those who vote against the previous question and the rules may do so for a variety of reasons, but most will do so because they object to the antireform nature of the rules themselves and to the way in which they are presented. A vote for the rules is a vote for proxy voting, for secret, binding caucus votes, against fair minority staffing, and against other reforms in our rules. This will not be the only vote on these matters, but it should be carefully described here so the difference between promise and delivery, between that that is said and what is done, will be clearly understood.

I urge a vote against the previous question, so all Members, not just the elite, may participate in the consideration of, and vote on, all the rules changes needed to make real improvement in House procedures. To record the chance for reform that has been wasted, I also urge a vote against the rules.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Speaker, if I may have the attention of either the gentleman from Florida or the gentleman from Massachusetts (Mr. O'NEILL), the majority leader, I would state that on page 3 of the drafted resolution that rule X is scheduled for amendment, and it provides in general that hearings will be open except when they are closed by a majority vote. And then it provides that a copy of the transcript of all such hearings will be made available to all Members.

I would ask if my understanding is correct that there is no intention to require the furnishing of copies of transcripts of matters involving national security to be delivered to the Members, and that they would not be so delivered?

Mr. O'NEILL. Mr. Speaker, since the gentleman from California has directed the question to me, let me say that if necessary I will yield additional time to the gentleman from Minnesota, but let met say that the gentleman from Florida (Mr. FASCELL), the author of the amendment, is here, and I am sure that that gentleman will be the proper one to answer the question.

Mr. FASCELL. Mr. Speaker, if the gentleman would yield, I would say that the gentleman from California is absolutely correct. The proviso in this section is a provision which applies only to the first sentence. The last sentence relates to the entire paragraph. I will restate the proposition. It is the same as the gentleman from California has stated. It was not the idea or the purpose of this rule to make transcripts available of a national security matter conducted in a closed hearing. The only purpose of the change is to make a transcript available of all open hearings.

Mr. WIGGINS. Mr. Speaker, I thank the gentleman.

The SPEAKER. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Florida (Mr. FREY).

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

I should like to direct a question to the majority leader or to whomever on the other side might respond. On page 2 of the printed copy of the amendments designated change (5), it appears to me that an attempt is being made to grease the skids for a congressional pay raise. This proposed language gives the Committee on House Administration concurrent jurisdiction with the Committee on Post Office and Civil Service on congressional compensation, retirement, and other benefits of the Members. Previously, Post Office and Civil Service had exclusive power in this area and this gives such jurisdiction to two different committees. I should like to know why two different committees need the same jurisdiction over these goodies and what this is eventually possibly going to cost the taxpayers?

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Massachusetts.

Mr. O'NEILL. I thank the gentleman for yielding.

May I say that this amendment was offered by the gentleman from Texas (Mr. ECKHARDT). I know he will be delighted to respond.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. FREY. I yield to the gentleman from Maryland.

Mr. BAUMAN. The gentleman from California (Mr. PHILLIP BURTON) seems prepared to answer.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. FREY. I yield to the gentleman from California.

Mr. PHILLIP BURTON. I think it was felt desirable to have more than one avenue for the consideration of this type of legislation. We also felt that because the Committee on House Administration does work on the salaries of the Members and staff, they could better coordinate all of these matters by also having jurisdiction along with the Committee on Post Office and Civil Service.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, I think all of us can draw our own conclusions, and I fear the taxpayers are going to suffer as a result.

Mr. FREY. Mr. Speaker, I think the theme of this Congress is probably going to be protestant performance promised by the majority and lacking performance. I think we have seen a good start of it already.

We are debating a rule which was born in silence and born with a gag. Those of us on our side who have worked on reform for a period of time have spent some time on proposals which we think were worthwhile, but we find we are not able to present them because of the way that this rule was presented.

These queer proposals not only do two things which we think are not being done correctly, but also we think we should discuss broadcasting of floor sessions, which I think all of us are interested in and which I think should be discussed, but again we find we are unable to take this up.

I think the Speaker said quick proper action is necessary during this session of Congress, and we agree with him. We also think the word "fairness" should be added. I do not think this rule will give us that. It is sad if we are to start this Congress by adopting rules which are unfair and which are going to limit the things which are good for this country.

I think there are those of us on the other side who feel that there are things which should be discussed which will help us adopt rules which will allow us to look at these matters and permit fairness for both sides and not just one party.

Mr. QUILLEN. Mr. Speaker, I yield to the gentleman from New York (Mr. FISH) such time as he may consume.

Mr. FISH. Mr. Speaker, I am sorry to see that the very first action of the new Congress has been a demonstration of the willful action of "king caucus." To flex their muscle, our colleagues across the aisle have forced the repeal of many provisions of the Committee Reform Amendments of 1974 just passed at the end of the 93d Congress.

Particularly disturbing to me are the amendments regarding minority staffing and proxy voting. The majority has taken away with one hand what it gave with the other.

The Reform Amendments of 1974 guaranteed that the minority would be able to increase their committee staff up to one-third of the total committee staff. This provision represented a great step forward for responsible legislation that would guarantee the representation of all points of view.

In today's action the caucus retained the minority staffing provisions for professional staff but rescinded the guarantee with respect to investigatory staff. This is the second time that the Democratic majority has hypocritically reversed the reform promises it made prior to an election.

In the 1970 Legislative Reorganization Act, the minority was guaranteed one-third of the investigatory funds of each committee. And in 1971, as today, the first action of the Democrats was to rescind their preelection vote.

This should not be a partisan issue in terms of Republicans versus Democrats. Minority representation is an issue at the root of our democratic process. All points of view should be represented in the legislative decisionmaking process.

Mr. Speaker, the inherent evil in proxies has been debated frequently in the Chamber. They operate against accountability, attendance and participation. A proxy cannot compromise or contribute to a committee's deliberation. Each of these evils is magnified when one party has overwhelming control of this body. We acted wisely last fall in outlawing proxies. The action now of the Democratic Caucus is a step backward.

I hope that the chairmen of our committees will have a better disposition toward the necessity of balanced representation and voluntarily abandoning the use of proxies than their caucus does. The chairmen can individually restore what the caucus has so imperiously withdrawn.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. BIESTER).

Mr. BIESTER. Mr. Speaker, these rules in several areas represent not reform but retreat from reform, for example particularly in the area of proxy voting, but if the rules represent some retreat from reform, the process by which they will be adopted is an insult to the whole purpose of reform. On this floor, in this open forum before the American people, no amendments will be allowed, but in a secret forum in which they were passed, the Democratic

Caucus, presumably amendments were permitted. In other words, the real legislative process took place in secret, behind closed doors. Forcing the product of that process upon the minority and all the Members in this House represents the secret abuse of apparently unbridled power.

If we are proud of this House and its open process, we should trust it and show that trust by defeating the previous question and permitting the House to pass these rules. These rules will govern all Members of this House and all the Members should have a full right in helping to pass them.

Mr. QUILLEN. Mr. Speaker, I yield one minute to the distinguished gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Speaker, I was impressed by the remarks of the Speaker concerning the surprising latent talents of our membership. I assure the Speaker every Member's constituency was well aware of his talent and his judgment when he was elected. It is his personal judgment and his talent that each Member is elected for and expected to bring to bear upon each question which comes before him, whether in committee or on the floor.

The judgment of the individual cannot be assigned or delegated. That is why in my judgment proxy voting is totally foreign to the theory of representative government and I will vote against the previous question so that the House may express itself on this question.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I think it is appropriate in this brief time that we consider exactly what we are doing and exactly how we are doing it. The overwhelming majority of this body in the past has voted to continue the work of the Internal Security Committee. Now a secret majority somewhere has ordained that we will abolish the Internal Security Committee but without a direct vote. The very people who supposedly were swept into office on a promise to be open and candid are now going to be in a position to accomplish something indirectly without voting on it.

However, I think the American people will clearly understand that a vote for the previous question is a vote to kill the Internal Security Committee regardless of how you try to paint it at home. A vote against the previous question is a vote to allow the membership at least to vote up or down on that important issue and I urge the Members to vote "no" on the previous question.

As the Members know, there is no opportunity for amendment or debate on this issue unless the previous question is voted down. I urge such a vote.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI). Pending that, I yield to the distinguished gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I join my Republican colleagues, many of whom have served with me on the Republican Task Force on Congressional Reform, in urging a vote against the previous question.

It seems shocking to me that the Democratic leadership who are riding the winds of reform would bring this resolution to the floor under these circumstances. I understand that copies of this resolution were not available until little more than an hour ago and the record should show that it contains at least 28 separate and distinct proposals. My colleagues have already detailed some of the more important steps backward that the resolution embodies.

To me the most serious step backward is the fact that major changes in our previous rules are being repealed and other major steps being taken under a closed rule with no opportunity for amendment or real debate.

Even worse, the resolution is the product of a secret and not very well attended Democratic Caucus. At least one of the reported votes revealed that less than half the members of the caucus were participating. On previous occasions there has been comment about the growing power of the Democratic Caucus—Anderson Special Order, CONGRESSIONAL RECORD, June 19, 1974. In my opinion, the practice of legislating by secret caucus bodes ill for the future of representative government. There is no question that if the caucus is permitted to dominate this Congress, we may have minority rule.

A majority of the House voted against proxies, voted to give the minority a fair break on staffing, and they have consistently voted to sustain the House Committee on Internal Security. All this and other matters are now being undone by this technique of bringing a long, involved resolution with 28 separate sections to a vote under a gag rule with no possibility for amendment unless the previous question is defeated. In view of remarks made earlier on the floor about the serious problems facing this country and the obvious requirements that Congress work on these problems openly and fairly, it seems strange to me to be faced just a few hours later with the parliamentary situation which is presented to us now.

Mr. DERWINSKI. Mr. Speaker, I have a question to direct, if I may, to the distinguished gentleman from California (Mr. PHILLIP BURTON). When the distinguished gentleman from Maryland asked a moment ago about subparagraph 15 of paragraph 5 on page 2 dealing with measures relating to compensation, retirement, and other benefits for Members and so forth, I frankly did not understand the point of the gentleman's response. Would the gentleman clarify for me exactly what the Committee on House Administration will do with compensation benefits for Members?

Mr. PHILLIP BURTON. Of course, I am in no position to anticipate efforts of the House Administration Committee, any more than any of us are, with reference to any other committee.

There is some sentiment that because they have been charged with the responsibility of dealing with the staffs of Members and have developed a thoughtful record in that respect, it might be useful that they be in a position to also be able to coordinate along optional lines with the distinguished Committee on Post Office and Civil Service.

Mr. DERWINSKI. Mr. Speaker, I am the ranking Member of that committee. I have no quarrel at all with the Committee on House Administration having jurisdiction over compensation for officers and employees of the House; but financial compensation of Members of the House is tied to that of Members of the Senate, tied to that of Federal judges, and also tied to Ambassadors. What possible vehicle would the Committee on House Administration be for compensation? Should the House Administration Committee act it would have to be in some way approved by the other body. I just do not understand the possible function of the Committee on House Administration in this area. I wish to record my opposition to this particular development.

Mr. PHILLIP BURTON. Mr. Speaker, it was in this area that the recommendation of the Committee on House Administration was foreclosed with respect to changes in the circumstances of the Members of the House. We do not consider it to be unduly burdensome that this optional committee jurisdiction be conferred upon the Committee on House Administration, in light of their demonstrated experience in this general area.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I would observe that in this matter of expenses that the committee has jurisdiction over could very well be used in lieu of a pay raise.

Mr. Speaker, it is evident to me from the language contained in the proposed amendment to rule X, clause 1(k) that the proposal to create dual jurisdiction over compensation, retirement, and benefits for Members in both the Post Office and Civil Service Committee and the House Administration Committee is a backdoor route to a congressional pay raise. I strongly object to this, particularly at a time when the American people are being asked to make sacrifices as part of the battle to solve our economic problems.

Most of us on the minority side of the aisle had no opportunity to examine these proposed rules changes until we arrived on the floor today. The "pay raise amendment" I have referred to is probably one of the reasons we have been kept in the dark. Prior to my service in Congress, the House abdicated its responsibility and transferred to the House Administration Committee the sole power to increase many of our office and staff benefits without ever having to ask the full House for its approval. It is perhaps conceivable that this new amendment to the rules will allow the House Administration Committee to authorize the payment of a per diem allowance for

House Members in a sum of, say, $100 a day, which would produce in effect, an enormous pay raise. If the committee has such power, as I suspect it might, this would allow Members to avoid all responsibility when they should be subjected to a rollcall vote on such issues.

We have heard a great deal about "confidence in Government" and "openness" in our proceedings from the other side of the aisle and now we are confronted with a new spigot added to the congressional plumbing to further drain away the taxpayers' money. I hope my prediction is wrong, but I suspect that I will be able to say, "I told you so." I will vote against the previous question and the rule because of this pay raise amendment if for no other reason.

COMMITTEE ON INTERNAL SECURITY

Mr. Speaker, I also intend to oppose the previous question and these rules unless we adopt an amendment which will continue the existence of the House Committee on Internal Security. In their fury to adhere to liberal dogma, the Democratic Caucus, behind closed doors, has voted to end this useful legislative forum. It is perhaps a symptom of the myopia of our times that the one committee in the Congress that has consistently fought against communism and other subversive elements is now being rewarded by abolition. The destruction of this committee has long been a primary goal of the Communist Party of the United States. I did not think I would see the day that the House would put its stamp of approval on such a proposal.

It is doubly disturbing to me that we would abolish this committee without permitting the House to have a direct vote on the issue. This permits Members to cloak their stand on this issue in secrecy and avoid facing a rollcall. The American people should understand, and the constituents of each of our districts should understand, that the way a Member votes on the previous question can certainly be interpreted as a stand on the continued existence of the Committee on Internal Security.

I, therefore, seek to defeat the previous question and failing this to oppose the rules.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Speaker, if the past is prolog, then certainly this debate is an exercise in futility. This is the second time that my colleagues to my right in public session of Congress have adopted reforms in open session and then have proceeded in closed session behind closed doors to repeal the reform that they adopted in open session.

It really is very disturbing after having been very impressed with the Speaker's remarks upon his inauguration again as Speaker to find this action taking place. I do not think, if I can suggest to my colleagues on that side of the aisle, that the public, the media, are going to let you persist in procedures which at best are inconsistent and I think, at worst, fraudulent.

The SPEAKER. All time of the gentleman from Tennessee has expired.

Mr. O'NEILL. Mr. Speaker, for purposes of debate only I yield such time as he may consume to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I thank the distinguished majority leader for yielding to me.

Mr. Speaker, as we witness the historic event of the passing of the Committee of the House which never should have been formed, it is important in my judgment to note several of the understandings that emerged in the Democratic Caucus which on January 13, 1975, agreed to the phasing out of the House Internal Security Committee.

In that caucus, I, along with Congressman DON EDWARDS of California, proposed the following resolution:

To amend the Rules of the House of Representatives to transfer the jurisdiction of the Committee on Internal Security to the Committee on the Judiciary

Resolved, That (a) clause 1 of Rule X of the Rules of the House of Representatives is amended—

(1) by striking out paragraph (m) and by redesignating paragraphs (n) through (w) as paragraphs (m) through (v), respectively; and

(2) by striking out "and counterfeiting" in subparagraph (3) of paragraph (m), as redesignated by paragraph (1) of this section, and inserting in lieu thereof "counterfeiting, and sabotage and other overt acts affecting internal security".

(b) Paragraphs (k)(4) and (k)(5) of clause 1 of Rule X of the Rules of the House of Representatives are each amended by striking out "clause 1(q)(4)" and inserting in lieu thereof "paragraph (p)"

SEC. 2. Clause 2 of Rule XIII of the Rules of the House of Representatives is amended by striking out "clause 22" and inserting in lieu thereof "clause 4(a)".

During the discussion of the Drinan-Edwards resolution, Congressman ICHORD proposed the following substitute:

Resolved, That clause 1 of Rule X of the Rules of the House of Representatives is amended

(1) by striking out paragraph (m) and by redesignating paragraphs (m) through (v), respectively; and

(2) by adding at the end of paragraph (m), as so redesignated by this section, the following:

"(19) Communist and other subversive activities affecting the internal security of the United States."

SEC. 2. All property and records of the Committee on Internal Security are hereby transferred to the Committee on the Judiciary and shall be available for use by the latter committee to the same extent as if such property and records were originally that of the Committee on the Judiciary.

SEC. 3. Such staff members of the Committee on Internal Security as the Chairman of that Committee for the 93d Congress may designate in consultation with and with the approval of the chairman of the Committee on the Judiciary shall, without reduction in compensation, be transferred and appointed to the Committee on the Judiciary as additional members of the staff of the Committee on the Judiciary for the period of the 94th Congress, and shall be paid from the contingent fund of the House.

I raised several questions concerning the meaning and import of the Ichord substitute. Among other things, I raised the question of the number of members of the staff of the House Internal Security Committee that Mr. ICHORD might recommend to the House Judiciary Committee to be retained during the course of the 94th Congress. Mr. ICHORD declined to specify any particular number but did mention that the entire staff of House Internal Security Committee ranged from 30 to 40 personnel.

During the discussion on the Ichord substitute an amendment authored by Congressman BOB ECKHARDT, of Texas, was accepted. That amendment made it unequivocally clear that the Ichord substitute did not commit the chairman of the Judiciary Committee to accept even one member of the staff of the House Internal Security Committee for any period of time. The Eckhardt amendment stated clearly that no member of the staff of the House Internal Security Committee will be employed by the House Judiciary Committee unless first there is a clear acceptance on a voluntary basis of such employee by the chairman of the House Judiciary Committee. It is my judgment and I think the judgment of the chairman of the House Judiciary Committee that there is no need for any member of the staff of the House Internal Security Committee to be transferred to the House Judiciary Committee—even for the duration of the 94th Congress.

With the exception of the proposed transfer of personnel from the Internal Security Committee to the House Judiciary Committee, Congressman EDWARDS and I acquiesced in the language and formulation of the substitute offered by Chairman ICHORD. There is, nonetheless, a serious question of the acceptability of the language of the Ichord substitute. That language places within the jurisdiction of the House Judiciary Committee the duty of investigating and legislating with respect to "Communist" activities which are stated to be subversive. This language raises, of course, a fundamental issue of the first amendment in that it places within the Rules of the House of Representatives the conclusion that the "Communist" Party in the United States is "subversive." Such language at best is duplicative and at worst it is in violation of the spirit of the first amendment. The language is duplicative because the entire House, in late 1974, had already accepted that part of the Hansen committee reform proposals which conferred on the House Judiciary Committee jurisdiction over "internal security." That mandate is in the rules of the House for the 94th Congress in section 215, No. 19.

It is also understood in the debate leading to the transfer of the total jurisdiction of the House Internal Security Committee to the House Judiciary Committee that the latter group is under no obligation whatsoever to establish a separate subcommittee to deal with treason, espionage, and problems related to internal security. Indeed, as noted above, it is not certain that the transfer of the jurisdiction of the House Internal Security Committee as ratified by the caucus of the Democratic majority on January 13, 1975, did in fact, add a single thing to that which is already within the jurisdiction of the Judiciary Committee. In view of the fact that the House Judiciary Committee may investigate problems related to internal security only insofar as they relate to overt attacks or to crimes such as treason and espionage, it would seem that the appropriate officials within the House Judiciary Committee could assign any new jurisdiction obtained by the House Judiciary Committee as a result of the Hansen proposal and the transfer of the work of the Internal Security Committee to one or more of the existing subcommittees of the House Judiciary Committee which have crime within their mandate.

Section 2 of the Ichord substitute transfers without any reservation all of the documents and files of the House Internal Security Committee to be the property forever of the House Judiciary Committee. All of these documents remain, of course, as documents of the House of Representatives and under the rules of the House are available for the inspection of any Member.

In due course, it is my judgment that it should be proposed that all of these documents be transferred to the archives where they will be unavailable to the general public for some 50 years. These documents, being the property of the House of Representatives, are not within the mandate of the Freedom of Information Act. Nonetheless, they are always available to Members of the House. Members may in the future, as they have been able to do in the past, obtain for any constituent or any other person, any file maintained by the House Internal Security Committee on this particular individual or any group in which he has an interest.

Theoretically these files could assist the House Judiciary Committee in its new task of conducting investigations which might be necessary to acquire knowledge that would be helpful in the framing of new laws related to espionage or new procedures that would be needed in order to make the enforcement of these laws more efficient. It is my judgment, however, that the material in these files merely duplicates public records and is, moreover, a melange of hearsay, irrelevant events, and misinterpretation of activities in such a way as to imply guilt by association to individuals or to organizations.

Mr. Speaker, no account of the demise of the House Internal Security, formerly known as the House Un-American Activities Committee, would be complete without a notation of the extraordinary work done by the National Committee Against Repressive Legislation—NCARL. The work of this group, headed by Mr. Frank Wilkinson, and many others devoted to the preservation of the civil liberties of Americans, has been uniquely valuable to Members of this Congress who have sought to excise from the dignity and majesty of the House that self-inflicted wound called HUAC-HISC which now after 30 or more years will no longer be an embarrassment and indeed a disgrace to the Congress of the United States.

Mr. O'NEILL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I was glad that I was on the floor to hear the remarks of the gentleman from Michigan (Mr. BROWN).

I had the distinct pleasure of serving in two legislative bodies with Mr. BROWN before we came to Congress. In both those bodies, Republicans had a two to one majority. Perhaps that is why the procedure we are going through here today seems so familiar to both of us.

I am glad to see that the gentleman from Michigan approaches the proceedings today with the same good grace as I did the proceedings in those other bodies.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to my colleague from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, can the gentleman suggest to me one instance—one instance in which the complete turnabout that has occurred on this floor at the start of the last two sessions occurred in the Michigan legislature? One instance?

Mr. FORD of Michigan. There never was a change in the Michigan Legislature. The Republicans wrote the rules for us and told us about them afterwards. That is certainly not the case here today.

Mr. O'NEILL. Mr. Speaker, for purposes of debate only I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I rise in opposition to House Resolution 5, establishing a new set of rules for the 94th Congress. Adopting this package at the very beginning of a new Congress actually represents a major step backward and is contrary to the spirit of reform which should infuse such a new beginning.

As my colleagues will recall, the 93d Congress established a Select Committee on Committees at the beginning of its first session. This select committee was directed to prepare a sweeping package of reforms of the House Rules and the House committee structure so as to make the Congress more responsive to America's needs today and to the desire of the people for a more open legislative process.

The select committee worked for more than a year and a half on the drafting of House Resolution 988, the Committee Reform Amendments, the first major reforms in the House structure in almost 30 years. After considerable delay, House Resolution 988 was considered last October, and though seriously weakened, finally passed the House.

The rules package before us today negates this 2 years of hard work and the majority vote of the 93d Congress on House Resolution 988 by eliminating some of its most important provisions. It recreates the authority for use of the proxy vote in committees and it allows meetings of conference committees to be closed by vote of either the House or the Senate conferees. With one stroke, the great strides forward for responsible government, "Government in the Sunshine," are deleted.

During consideration of House Resolution 988 last year, the House voted 246 to 164 to retain the House Internal Security Committee as constituted. Yet now the House is asked to vote up and down on a rules package today which kills HISC as a separate standing committee, without a separate vote on the committee itself.

Finally, in granting the House Administration Committee concurrent jurisdiction with the Post Office and Civil Service Committee over proposed congressional pay raises, House Resolution 5 could stymie the efforts of those who would block such pay raises. Under the Salary Act of 1967, either House or Senate must enact a resolution of disapproval in order to block congressional or Federal pay raises. Previously, the House Post Office and Civil Service Committee reported such a resolution to the House for an up or down vote. Under House Resolution 5, after the Post Office and Civil Service Committee reports such a resolution, it is referred to the House Administration Committee—where it can languish unconsidered while the new raises go into effect automatically. The old act is bad enough, with its "approval by silence" clause. The new system is even worse—a glorified means of "buckpassing."

All of the foregoing are procedural questions of the greatest importance. Yet the rule on House Resolution 5 prohibits a separate vote on each of these issues, indeed, it even prohibits any amendment of the package. This is an abuse of the "closed rule" of the worst sort. It cancels out 2 years of work by the select committee, it denies a voice to reform efforts, and it says to the American people that this new Congress is unwilling even to adopt the reforms of its predecessors.

As I read the newspapers, listen to the radio, and watch television analyses of the new Congress, I have been overwhelmed by the expectation of reform permeating the Nation. It has been widely anticipated that this will be a "reform Congress," one which will once again take up the reins of leadership for the Nation and work to get the country going again.

Yet here today we have before us a rules package embodying large strides backward: reinstatement of a proxy authority, allowing Members to vote in absentia; closure of all-important conference meetings while legislation affecting the future of the Nation is drafted; under-the-table abolition of a committee which has handily survived every single open vote on its funding and future; and de facto approval of future congressional pay raises.

Mr. Speaker, I submit that this is not reform but regression, and I urge my colleagues to vote "no."

Mr. O'NEILL. Mr. Speaker, for purposes of general debate only I yield 5 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Speaker, the substitute resolution which I introduced and which was adopted by the Democratic Caucus transferring the legislative jurisdiction and investigatory power of the House Committee on Internal Security to the Judiciary Committee is consistent with the position I have maintained throughout the debate over the Hansen committee efforts and the Bolling committee efforts to transfer the jurisdiction to the Judiciary Committee and the Committee on Government Operations, respectively. It has always been my position throughout the perennial battles over the continuation of the Internal Security Committee and its funding that the issue should be "not what committee is to do the work but whether or not the work should be done."

The House Committee on Internal Security when it was established in 1969 by the House was given legislative and investigatory jurisdiction over subversive activities and subversive activities were defined as those activities which would overthrow or undermine the Government of the United States by force, violence, and unlawful means. Mr. Speaker, there are some extremists who see a subversive behind every bush but there are other extremists who are just as foolish, if not more foolish, who refuse to recognize that there are thousands of revolutionaries in our midst and that there are such things as subversive activities.

There are others, equally foolish in my opinion who believe that the Congress has no responsibility in the field of subversion; that the Congress should leave the matter up to FBI, the CIA, and other executive security agencies. Every government has the basic right to take precautionary measures to protect itself and most certainly this free and democratic Government has that right. It is the responsibility of Congress to inform itself, to assess the aims, objectives, and numbers of the 56 organizations in this country that are classified by the FBI as subversive, to pass the necessary and constitutional laws to control the threat, and to see that the executive agencies are duly, fairly, and efficiently enforcing those laws. Americans have the right to change their Government through the free political processes but they do not have the authority to change it through force, violence, treachery, or unlawful means.

This is what occurred in the democratic caucus. The gentleman from California (Mr. EDWARDS) and the gentleman from Massachusetts (Mr. DRINAN) introduced a resolution purporting to transfer the jurisdiction of the House Committee on Internal Security to the House Judiciary Committee. However, the proposal would only have given the House Committee on Judiciary jurisdiction over "overt acts affecting the internal security." It would not have given the Judiciary Committee jurisdiction over conspiratorial acts. It would not have given the committee, for example, jurisdiction over the activities of the Communist Party U.S.A. and the Socialist Workers Party, the Trotskyite Communists, who advocate revolution by force and violence, if necessary, when the time is ripe.

I introduced and the caucus adopted my substitute resolution which gives the House Judiciary Committee specific jurisdiction over Communist and other subversive activities affecting the internal security of the United States. The substitute resolution also provided that the property and records of the House Committee on Internal Security shall be transferred to the Committee on the Judiciary as well as the present staff, as agreed upon by the chairman of the two committees. I would point out to the Members that the language of jurisdiction is the same language that was worked out between me and the members of the Bolling select committee. In effect the language will require the Committee on the Judiciary to establish a Subcommittee on Internal Security.

It is my belief that the language coupled with the political exigencies of the times will assume that the work will be done.

I say to the Members of the House that I am greatly concerned and alarmed at the trend in this country both on the national level and at local levels toward a general degradation of intelligence and security in this area. The last 2 years have seen the abolition of the Internal Security Division in the Department of Justice, the demise of the Subversive Activities Control Board, the elimination of the Attorney General's subversive list, and a general downgrading of capabilities throughout the intelligence community. Intelligence activities of the local police units are under nationwide attack as well as intelligence activities of the FBI and the CIA.

Under the circumstances existing in the country today and the political circumstances existing in this body today, I feel that the Committee on Judiciary is in a position to do as good a job or a better job than is a separate committee. For this reason I intend to continue to support my substitute resolution. The House Judiciary Committee, I would point out, has the legislative jurisdiction, not possessed by the House Committee on Internal Security, to keep subversion under more adequate control. I would admonish the House Committee on Judiciary that it is assuming a tremendous responsibility.

Détente or rather the euphoria of détente is the primary cause of the downgrading of intelligence activities. But détente does not change the fact that we vote almost $90 billion annually for the defense of the United States primarily because of the threat of the foreign policy and the military might of the Soviet Union. It does not change the fact there are several thousand revolutionaries in this country, competent and well-trained, under the discipline and control of the Communist Party Soviet Union. It does not change the fact that there are thousands others, who although not under the discipline and control of the CPSU, do share the same objectives, and are determined to effect revolution, by force and violence if necessary, when the time is opportune. And it does not change the fact that there are approximately 15,000 people scattered throughout some 21 "Revolution Now" groups such as the Symbionese Liberation Army, Venceramous, and others who are under the constant surveillance of the FBI. Several of the bombings and police killings are the work of these groups.

I realize there are many who feel that the House Committee on Judiciary will not do the necessary work because of the more liberal philosophy of that committee. However, I would point out, fortunately in my opinion, that most of the members of the Judiciary Committee do not share the feelings of the gentleman from Massachusetts (Mr. DRINAN). The House Committee on Judiciary by this resolution is mandated to do the work and it is my intention as a Member of this body to do everything in my power to see that this most vital work is continued.

Mr. O'NEILL. Mr. Speaker, I yield 2 minutes, for the purpose of debate only, to the gentleman from Missouri (Mr. RANDALL).

Mr. RANDALL. Mr. Speaker, I take this time to say a word of praise for my fellow Missourian, DICK ICHORD. There have been many battles over the continuation of this committee, during the past several years. But even to the last, I had hoped the committee might not be abolished. I must say it came as a surprise to some of us that the gentleman from Missouri (Mr. ICHORD), offered in caucus his substitute amendment, which transferred staff and files of the Internal Security Committee to the House Judiciary Committee.

Perhaps the case of DICK ICHORD can be likened to a war hero who said on the battlefield he never tried to do the impossible and always had the wisdom to yield to the inevitable. In the caucus debate yesterday, Mr. ICHORD said that he had made an estimate of the vote in caucus and he felt that the votes were simply not there to continue the House Internal Security Committee, and that his best course was to yield to the inevitable. He stated both for the record of the caucus and privately to some of his friends that the best that could be done under the existing circumstances was to try to pass an amendment that would insure that the Judiciary Committee employ some of the staff of the Internal Security Committee who had acquired experience in the investigating of subversives, and also try to preserve some of the files of the committee which were the result of a lot of work in the past.

As my colleague from Missouri leaves the chairmanship, I think all of us who are his fellow members should recognize that he did not have an easy job, but rather one that took a large measure of courage to perform. He was subjected repeatedly to personal abuse. Yet he believed in the importance of the work of his committee. He went on working hard to perform the duties assigned to the committee; and carry on the investigations of subversive activities in the United States.

After the vote yesterday in caucus, one of my colleagues observed in our conversation that the House Internal Security Committee was terminated because it was a relic of the cold war in an era of détente. I promptly corrected his conclusion by saying that while the committee was active during the cold war, there was plenty of work for it or some successor committee to do in these days of so-called détente, which many of us believe is not a genuine détente at all. What we must continue to do is no longer listen to what the Communist world says in its pleasant talk of détente, but look instead to what it does not only in Eastern Europe but in the Middle East and elsewhere in the world.

It was brought out in the debate in caucus yesterday that Chairman ICHORD has protected many witnesses against defamation of their character when they appeared before his committee. DICK ICHORD has been fair; he has been a good chairman.

Mr. Speaker, I shall take at full face value the good intentions of my colleague from Missouri (Mr. ICHORD), and if he votes aye on the previous question, which in effect ratifies the package of action taken yesterday by the Democratic Caucus, I will reluctantly join him in the vote in favor of the previous question. In voting in that manner it should never be construed that there is not yet work to do in the field of internal security, simply because the separate committee has been abolished and the jurisdiction of the committee transferred to what it is hoped will be a subcommittee of the Judiciary Committee. At stake in voting against the previous question, in order to obtain a separate vote on the Internal Security Committee is the possible rejection of a list of House reforms that comes in a package after several days of work by the caucus. Right or wrong, the success of a separate vote would create a parliamentary situation and raise procedural questions which might or could jeopardize such other successes as staffing reform, proxy voting, and the reversal of closed sessions of conference committees, and also other beneficial changes.

Now Mr. Speaker, I hope that, since the ball has now been passed to the Committee on the Judiciary and supposedly a subcommittee created, that the membership of the Judiciary Committee will recognize they have a job to do and proceed to perform the job assigned to them.

For my part I shall watch very carefully the activity of the new Judiciary Subcommittee, or the work of any existing subcommittee to which the jurisdiction and the files of the Internal Security Committee will be transferred. Perhaps the Judiciary Committee does not want the job, but it has it, and there are going to be some of us that are going to raise the issue again and again if it does not do the job that has been done by the House Internal Security Committee. If for some reason the membership of the House Judiciary Committee does not do the job, I predict it will not be very long, just 2 short years, until this issue will be back on the floor of the House, and that there will be reenacted either a House Internal Security Committee or some separate but similar committee, by whatever name it may be called.

As the gentleman from Missouri leaves the chairmanship of the House Internal Security Committee we should salute him and extend to him our highest commendation for his important, dedicated, and effective work during the years he has served as chairman.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. RANDALL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's comments. I think it has been difficult for many of us to fully realize the tremendous amount of pressure the gentleman from Missouri (Mr. ICHORD) and the gentleman from Ohio (Mr. ASHBROOK) have been under during tenure on this committee. As a matter of fact so have all the members of the Committee on Interior Security been unfairly maligned.

The gentleman from Missouri (Mr. ICHORD) mentioned the "Mad Bomber" from Los Angeles, Calif. It is true that the "Mad Bomber" came from a radical group, which incidentally has been properly identified as such by the Committee on Internal Security.

In my judgment, it is a major mistake for the House of Representatives to take action today which would in effect—abolish the Committee on Internal Security. Just last October this body overwhelmingly supported the retention of the House Committee on Internal Security with full and complete debate during consideration of the reorganization act. Today we are not being given an adequate opportunity to discuss the issue because the rule does not permit that discussion. The Democratic Caucus has seen fit to send this proposal to the floor on a muzzled basis.

The House Committee on Internal Security fulfills an important and continuing function on behalf of the Congress and the American people to keep ourselves as Representatives and the American people as a whole totally informed on the activities of radical elements and pressure groups which would try to undermine our free Republic. This parmanent committee has performed the necessary function of recommending legislation which was very much needed for our national security and has participated in improving legislation by adding important amendments to bills recommended by other House committees.

The action here today under this procedure is deceptive and improper. I am, therefore, constrained to vote against the motion on the previous question which would end all debate. Under this rule we have been denied the right of the correct legislative process. If the previous question on this rule is not voted down, I will be further constrained for many reasons to vote against the acceptance of House Resolution 5. First, this action would be extremely detrimental to the position taken by the House last October in supporting the Hansen resolution. Second, I believe that several Members have made an excellent case today that vote by proxy in committees is wholly unacceptable as it is a procedure which has been and will continue to be abused. As Members of Congress we were sent here by the electorate to participate in the legislative process which provides for full debate followed by our presence to vote. This resolution is presented here today in a very hurried manner and encourages the very kind of abuses of our legislative process which many of our new Members here were sent by their voters to improve.

In addition, I am not convinced that the Judiciary Committee can with all its other assignments do the same justice to the whole subject matter of internal security that a separate committee is able to do. The present internal security committee has done an excellent job for many years under the able leadership of my colleagues Mr. ICHORD and Mr. ASHBROOK.

Mr. RANDALL. Mr. Speaker, I thank the gentleman for his remarks.

Mr. ROBINSON. Mr. Speaker, congressional reform suffered a cruel, cynical slap in the face through House action adopting rules for the new Congress restoring proxy voting in committees.

The majority party, in the first significant action on the opening day of the 94th Congress, used its numbers to overturn reform measures instituted by legislative action of the past Congress and to authorize a return to the free-and-easy absenteeism of many committee sessions, with the chairman controlling decisions through the proxies in his pocket.

The public interest was poorly served by the rules action in several other respects, notably the dismantling of the Internal Security Committee and the transfer of its important responsibilities for the oversight of subversive activity in the United States to a virtual orphan status in the Judiciary Committee.

The majority also watered down the staff support of the minority, which had been increased to a level representing an approach to fairness in the congressional reform legislation adopted last year.

The reduction in minority staffs of select and special committees offset the somewhat improved minority staff position on standing committees.

These actions—particularly the return of the faceless proxy voter to the committee rooms—do not contribute to improved management of the public business or to public confidence ir the commitment to reform which the majority leadership has professed so often.

Mr. O'NEILL. Mr. Speaker, may I inquire, does the gentleman on the other side have any further requests for time?

Mr. QUILLEN. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I wish to thank the distinguished majority leader for being so thoughtful in yielding 30 minutes to this side of the aisle.

Mr. O'NEILL. Mr. Speaker, I have no further requests for time on this side. I do hope that the previous question will be ordered.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 172, not voting 12, as follows:

[Roll No. 4]

YEAS—247

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Casey
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, Dominick V.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Eilberg
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Fraser
Fulton
Fuqua
Gaydos
Giaimo
Gibbons
Gonzalez
Green
Haley
Hall
Hamilton
Hanley
Hannaford
Harrington
Harris
Hawkins
Hayes, Philip H.
Hays, Wayne L.
Hébert
Hechler, W. Va.
Helstoski
Hicks
Hightower
Holland
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Keys
Kluczynski
Koch
Krebs
Krueger
LaFalce
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCormack
McFall
McHugh
McKay
Macdonald
Madden
Mahon
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Miller, Calif.
Mineta
Minish
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nedzi
Nix
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patman
Patten
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Pickle
Pike
Poage
Preyer
Price
Randall
Rangell
Rees
Reuss
Richmond
Riegle
Roberts
Rodino
Roe
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
Ryan
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Stokes
Studds
Sullivan
Symington
Thompson
Thornton
Traxler
Tsongas
Udall
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Weaver
White
Whitten
Wilson, Charles, H., Calif.
Wilson, Charles, Tex.
Wirth
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—172

Abdnor
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Bennett
Biester
Bowen
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burleson, Tex.
Butler
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Derwinski
Devine
Dickinson
Downing
du Pont
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erlenborn
Esch
Eshleman
Fenwick
Findley
Fish
Flynt
Forsythe
Fountain
Frenzel
Frey
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Gude
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hastings
Heckler, Mass.
Hefner
Heinz
Henderson
Hillis
Hinshaw
Holt
Horton
Hutchinson
Hyde
Jarman
Jeffords
Johnson, Colo.
Johnson, Pa.
Jones, N.C.
Jones, Okla.
Kasten
Kelly
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McDade
McDonald
McEwen
McKinney
Madigan
Mann
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
O'Brien
Pettis
Peyser
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rogers
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Skubitz
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steed
Steelman
Steiger, Ariz.
Steiger, Wis.
Stratton
Stuckey
Symms
Talcott
Taylor, Mo.
Taylor, N.C.
Teague
Thone
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Whalen
Whitehurst
Wiggins
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—12

Byron
Chisholm
Edgar
Harkin
Karth
Kemp
Landrum
Maguire
Risenhoover
Santini
Stephens
Waxman

So the previous question was ordered.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The question is on the resolution.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 259, nays 150, not voting 22, as follows:

[Roll No. 5]

YEAS—259

Abzug
Adams
Addabbo
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Ashley
Aspin
AuCoin
Badillo
Baldus
Barrett
Baucus
Beard, R.I.
Bedell
Bennett
Bergland
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Brademas
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burke, Calif.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Carney
Carr
Casey
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cotter
D'Amours
Daniels, Dominick V.
Danielson
Davis
de la Garza
Delaney
Dellums
Derrick
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edwards, Calif.
Eilberg
English
Evans, Colo.
Evans, Ind.
Evins, Tenn.
Fascell
Fisher
Fithian
Flood
Florio
Flowers
Foley
Ford, Mich.
Fountain
Fraser
Fulton
Fuqua
Giaimo
Gibbons
Gonzalez
Green
Gude
Haley
Hall
Hamilton
Hanley
Hannaford
Harkin
Harrington
Harris
Hawkins
Hayes, Philip H.
Hays, Wayne L.
Hébert
Hechler, W. Va.
Hefner
Helstoski
Henderson
Hicks
Hightower
Holtzman
Howard
Howe
Hubbard
Hughes
Hungate
Ichord
Jacobs
Jarman
Jenrette
Johnson, Calif.
Jones, Ala.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Karth
Kastenmeier
Kazen
Keys
Kluczynski
Koch
Krebs
Krueger
LaFalce
Landrum
Leggett
Lehman
Levitas
Litton
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
McCormack
McDade
McFall
McHugh
McKay
Macdonald
Madden
Maguire
Mahon
Mann
Matsunaga
Mazzoli
Meeds
Melcher
Metcalfe
Meyner
Mezvinsky
Mikva
Milford
Mineta
Mink
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Morgan
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murtha
Natcher
Neal
Nolan
Nowak
Oberstar
Obey
O'Hara
O'Neill
Ottinger
Passman
Patman
Patten
Patterson, Calif.
Pattison, N.Y.
Pepper
Perkins
Peyser
Pickle
Pike
Poage
Preyer
Price
Randall
Rees
Reuss
Riegle
Risenhoover
Roberts
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Roush
Roybal
Russo
St Germain
Sarbanes
Scheuer
Schroeder
Seiberling
Sharp
Shipley
Sikes
Simon
Sisk
Slack
Smith, Iowa
Solarz
Spellman
Staggers
Stanton, James V.
Stark
Steed
Stephens
Stokes
Stratton
Studds
Sullivan
Symington
Taylor, N.C.
Teague
Thompson
Thornton
Traxler
Tsongas
Ullman
Van Deerlin
Vander Veen
Vanik
Vigorito
Weaver
Whalen
White
Whitten
Wilson, Charles H., Calif.
Wilson, Charles, Tex.
Wolff
Wright
Yates
Yatron
Young, Ga.
Young, Tex.
Zablocki
Zeferetti

NAYS—150

Abdnor
Anderson, Ill.
Andrews, N. Dak.
Archer
Armstrong
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bell
Biester
Bowen
Brinkley
Broomfield
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Butler
Byron
Carter
Cederberg
Chappell
Clancy
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Collins, Tex.
Conable
Conlan
Conte
Coughlin
Crane
Daniel, Dan
Daniel, Robert W., Jr.
Derwinski
Devine
Dickinson
Downing
Duncan, Tenn.
du Pont
Edwards, Ala.
Emery
Erlenborn
Esch
Eshleman
Fenwick
Findley
Fish
Flynt
Forsythe
Frenzel
Frey
Gilman
Ginn
Goldwater
Goodling
Gradison
Grassley
Guyer
Hagedorn
Hammerschmidt
Hansen
Harsha
Hastings
Heckler, Mass.
Heinz
Hillis
Hinshaw
Holt
Horton
Hutchinson
Hyde
Jeffords
Johnson, Colo.
Johnson, Pa.
Kasten
Kelly
Ketchum
Kindness
Lagomarsino
Latta
Lent
Lott
Lujan
McClory
McCloskey
McCollister
McDonald
McEwen
McKinney
Madigan
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Mosher
Myers, Ind.
Myers, Pa.
O'Brien
Pettis
Pressler
Pritchard
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rousselot
Runnels
Ruppe
Sarasin
Satterfield
Schneebeli
Schulze
Sebelius
Shriver
Shuster
Smith, Nebr.
Snyder
Spence
Stanton, J. William
Steiger, Ariz
Steiger, Wis.
Stuckey
Symms

Talcott
Taylor, Mo.
Thone
Treen
Vander Jagt
Waggonner
Walsh
Wampler
Whitehurst
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOT VOTING—22

Annunzio
Dent
Edgar
Ford, Tenn.
Gaydos
Holland
Kemp
Miller, Calif.
Minish
Nedzi
Nix
Rangel
Richmond
Rodino
Ryan
Santini
Skubitz
Steelman
Udall
Waxman
Wiggins
Wirth

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks concerning the resolution concerning the adoption of the rules.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of the clerks, announced that the Senate had passed resolutions of the following titles:

S. Res. 1. Resolution that a committee consisting of two Senators be appointed by the Vice President to join such committee as may be appointed by the House of Representatives to wait upon the President of the United States and inform him that a quorum of each House is assembled and that the Congress is ready to receive any communication he may be pleased to make; and

S. Res. 2. Resolution that the Secretary inform the House of Representatives that a quorum of the Senate is assembled and that the Senate is ready to proceed to business.

COMPENSATION OF CERTAIN MINORITY EMPLOYEES

Mr. RHODES. Mr. Speaker, I offer a resolution (H. Res. 6) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 6

Resolved, That pursuant to the Legislative Pay Act of 1929, as amended, six minority employees authorized therein shall be the following-named persons, effective January 3, 1975, until otherwise ordered by the House, to-wit: Joe Bartlett, Walter P. Kennedy, William R. Bonsell, Tommy Lee Winebrenner and John J. Williams to receive gross compensation of $36,000.000, respectively; and Martha H. Phillips to receive gross compensation of $29,545.60 per annum.

HOUR OF MEETING OF HOUSE OF REPRESENTATIVES

Mr. MADDEN. Mr. Speaker, I offer a resolution (H. Res. 7) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 7

Resolved, That until otherwise ordered, the daily hour of meeting of the House of Representatives shall be at 12 o'clock meridian.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING ADMINISTRATION OF OATH OF OFFICE TO HONORABLE WILBUR D. MILLS

Mr. WAGGONNER. Mr. Speaker, I offer a resolution (H. Res. 8) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 8

Whereas Wilbur D. Mills, a Representative-elect from the State of Arkansas, from the Second District thereof, has been unable from sickness to appear in person to be sworn as a Member of the House, and there being no contest or question as to his election: Therefore be it

Resolved, That the Speaker, or deputy named by him, be, and he is hereby, authorized to administer the oath of office to said Wilbur D. Mills at the Naval Medical Center, Bethesda, Maryland, and that the said oath, when administered as herein authorized, shall be accepted and received by the House as the oath of office of the said Wilbur D. Mills.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the authority of House Resolution 8, 94th Congress, the Chair appoints the gentleman from Louisiana (Mr. WAGGONNER) to administer the oath of office to the Honorable WILBUR D. MILLS.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
December 30, 1974.

Hon. CARL ALBERT,
Speaker, House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 2:52 p.m. on Friday, December 27, 1974, and said to contain a message from the President wherein he transmits the Seventh Special Message to the Congress on the Deferral of Funds, concerning 19 deferral reports.

With kind regards, I am,
Sincerely,
W. PAT JENNINGS,
Clerk, House of Representatives.
By W. Raymond Calley

REPORTS ON DEFERRALS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–10)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Appropriations and ordered to be printed.

To the Congress of the United States:

In accordance with the provisions of Title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344), I am transmitting supplementary reports that revise eleven deferral reports sent to the Congress in September and October of this year. I am also transmitting herewith reports on eight new deferrals for the fiscal year 1975.

Details of these deferrals are contained in the reports attached to this message.

GERALD R. FORD.

THE WHITE HOUSE, *December 27, 1974.*

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., January 2, 1975.

Hon. CARL ALBERT,
The Speaker,
U.S. House of Representatives.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 12:30 P.M. on Tuesday, December 31, 1974 and said to contain a message from the President wherein he transmits the Sixth Annual Report on the National Housing Goal.

With kind regards, I am
Sincerely,
W. PAT JENNINGS,
Clerk, U.S. House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

SIXTH ANNUAL REPORT ON NATIONAL HOUSING GOAL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–18)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking and Currency and ordered to be printed.

To the Congress of the United States:

I herewith transmit the Sixth Annual Report on the National Housing Goal as required by Section 1603 of the Housing and Urban Development Act of 1968.

GERALD R. FORD.

THE WHITE HOUSE, *December 31, 1974.*

COMMUNICATION FROM THE CLERK OF THE HOUSE—SENATOR JAMES L. BUCKLEY, ET AL., VERSUS HON. FRANCIS R. VALEO, SECRETARY, U.S. SENATE, ET AL.

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., January 7, 1975.

Hon. CARL ALBERT,
The Speaker,
U.S. House of Representatives.

DEAR MR. SPEAKER: On this date, both as Clerk of the United States House of Representatives, and as an Ex Officio Member of the Federal Election Commission upon its appointment and qualification, I have been served a Summons and a copy of the Complaint for Declaratory and Injunctive Relief, the Application for a Three-Judge

Court, and the Motion to Reduce Defendants' Time to Answer from Sixty Days to Thirty Days, that was filed in the United States District Court for the District of Columbia. The Complaint, Application and Motion are in connection with the civil action brought by Senator James L. Buckley, former Senator Eugene J. McCarthy, Congressman William A. Steiger, Mr. Stewart Rawlings Mott, the Committee for a Constitutional Presidency, the Conservative Party of the State of New York, the New York Civil Liberties Union, Inc., the American Conservative Union, Human Events, Inc., v. Hon. Francis R. Valeo, Secretary, U.S. Senate, Hon. W. Pat Jennings, Clerk, U.S. House of Representatives, Hon. Elmer B. Staats, Comptroller General of the United States, Hon. William B. Saxbe, Attorney General of the United States, and the Federal Election Commission, c/o Hon. Francis R. Valeo, Ex Officio Member of the Federal Election Commission, and c/o Hon. W. Pat Jennings, Ex Officio Member of the Federal Election Commission, Civil Action No. 75–0001, U.S. District Court for the District of Columbia.

This action was instituted against the Clerk of the House in his capacities under the Federal Election Campaign Act of 1971, Public Law 92–225, 86 Stat. 3, and the Federal Election Campaign Act Amendments of 1974, Public Law 93–443, 88 Stat. 1263, and seeks declaratory and injunctive relief against certain provisions of both the aforementioned statutes.

It is my purpose to inform you that in accordance with House Resolution 12 of January 3, 1973, I intend to make arrangements for my defense as provided for the Officers of the U.S. House of Representatives under 2 U.S.C. 118. Further, upon the appointment and qualification of the Federal Election Commission, I intend to transmit said Summons, Complaint, Application and Motion to the Commission for such action as they deem appropriate. In addition, at this time, because of my dual capacities under the two aforementioned statutes, I am respectfully reserving my right to appoint Special Counsel for my defense as prescribed by Public Law 93–145 of November 1, 1973.

Copies of the Summons, Complaint, Application and Motion under consideration are herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am

Sincerely,

W. Pat Jennings,
Clerk, U.S. House of Representatives.

The SPEAKER. The Clerk will report the subpena.

The Clerk read as follows:

[In the U.S. District Court for the District of Columbia, civil action file No. 75–0001]

Summons in a Civil Action

James L. Buckley, et al., Plaintiffs v. Francis R. Valeo, et al., Defendants.

To the above named Defendant: W. Pat Jennings.

You are hereby summoned and required to serve upon Brice McAdoo Clagett plaintiffs' attorney, whose address is 888 Sixteenth Street, NW., Washington, D.C. 20006, an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

James F. Davey,
Clerk of Court.
———— ————,
Deputy Clerk.

Date: January 2, 1975.

Office of the Clerk,
U.S. House of Representatives,
Washington, D.C., January 7, 1975.

Hon. Earl J. Silbert,
U.S. Attorney for the District of Columbia, U.S. Courthouse, Washington, D.C.

Dear Mr. Silbert: I am enclosing certified copies of the Summonses and Complaint for Declaratory and Injunctive Relief, an Application for a Three-Judge Court, and a Motion to Reduce Defendants' Time to Answer from 60 to 30 days in Civil Action No. 75–0001 filed against me both as Clerk of the U.S. House of Representatives and as Ex Officio Member of the Federal Election Commission, in the United States Court for the District of Columbia and served upon me in my official capacity as Clerk of the House of Representatives by a U.S. Marshall on this date.

In accordance with Title 2, U.S. Code, Sec. 118, I respectfully request that you take appropriate action, as deemed necessary, under the "supervision and direction of the Attorney General" of the United States in defense of this suit against an officer of either House of the Congress of the United States.

Since this action was brought against me as Clerk of the House in my capacity as Supervisory Officer under the Federal Election Campaign Act of 1971, P.L. 92–225, and as Ex Officio Member of the Federal Election Commission under the Federal Election Campaign Act Amendments of 1974, P.L. 93–443. I reserve the right to appoint at any time a co-counsel for my defense under Public Law 93–145 of November 1, 1973.

I am also sending you a copy of the letter that I forwarded this date to the Attorney General of the United States.

With kindest regards, I am

Sincerely,

W. Pat Jennings,
Clerk,
U.S. House of Representatives.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Office of the Clerk,
U.S. Representatives,
Washington, D.C., January 14, 1975.

Hon. Carl Albert,
The Speaker, U.S. House of Representatives.

Dear Mr. Speaker: Under Rule III, Clause 4 (Section 647) of the Rules of the House of Representatives, I herewith designate Mr. W. Raymond Colley, Deputy Clerk, to sign any and all papers and do all other acts for me under the name of the Clerk of the House which he would be authorized to do by virtue of this designation, except such as are provided by statute, in cases of my temporary absence or disability.

If Mr. Colley should not be able to act in my behalf for any reason, then Mr. Benjamin J. Guthrie, Assistant to the Clerk, shall similarly perform such duties under the same conditions as are authorized by this designation.

These designations shall remain in effect for the 94th Congress or until revoked by me.

Sincerely,

W. Pat Jennings,
Clerk,
U.S. House of Representatives.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

Mr. O'NEILL. Mr. Speaker, your committee on the part of the House to join a like committee on the part of the Senate to notify the President of the United States that a quorum of each House has been assembled and is ready to receive any communication that he may be pleased to make has performed that duty. The President asked us to report that he will be pleased to deliver his message at 1 p.m., Wednesday, January 15, 1975, to a joint session of the two Houses.

JOINT SESSION OF CONGRESS—STATE OF THE UNION MESSAGE

Mr. O'NEILL. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 1) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 1

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress assemble in the Hall of the House of Representatives on January 15, 1975 at 1 o'clock p.m. for the purpose of receiving such communication as the President of the United States shall be pleased to make to them.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER TO DECLARE RECESSES TOMORROW

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that on Wednesday, January 15, 1975, the Speaker be authorized to declare recesses subject to the call of the Chair.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make a statement concerning the introduction and reference of bills today.

As Members are aware, they have the privilege today of introducing bills. Heretofore on the opening day of a new Congress, several thousand bills have been introduced. It will be readily apparent to all Members that it may be a physical impossibility for the Speaker to examine each bill for reference today. The Chair will do his best to refer as many bills as possible, but he will ask the indulgence of Members if he is unable to refer all the bills that may be introduced. Those bills which are not referred and do not appear in the Record as of today will be included in the next day's Record and printed with a date as of today.

The Chair has advised all officers and employees of the House that are involved in the processing of bills that every bill, resolution, memorial, petition, or other material that is placed in the hopper must bear the signature of a Member. Where a bill or resolution is jointly sponsored, the signature must be that of the Member first named thereon. The bill clerk is instructed to return to the Member any bill which appears in the hopper without an original signature. This procedure was inaugurated in the 92d Congress. It has worked well, and the Chair thinks that it is essential to continue this practice to insure the integrity of the process by which legislation is introduced in the House.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that on tomorrow, when the Houses meet in joint session to hear an address by the President of the United States, only the doors immediately opposite the Speaker and those on his left and right will be open.

No one will be allowed on the floor of the House who does not have the privilege of the floor of the House.

Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor and the cooperation of all the Members is requested.

PROCEDURES IN RELATION TO THE PRODUCTION OF WITNESSES AND DOCUMENTS IN COURTS OF JUSTICE

Mr. O'NEILL. Mr. Speaker, I offer a resolution (H. Res. 9) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 9

Whereas, by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession except by its permission: Therefore be it

Resolved, That when it appears by the order of any court in the United States or a judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That during any recess or adjournment of the Ninety-fourth Congress, when a subpena or other order for the production or disclosure of information is by the due process of any court in the United States served upon any Member, officer, or employee of the House of Representatives, directing appearance as a witness before the said court at any time and the production of certain and sundry papers in the possession and under the control of the House of Representatives, that any such Member, officer or employee of the House, be authorized to appear before said court at the place and time named in any such subpena or order, but no papers or documents in the possession or under the control of the House of Representatives shall be produced in response thereto; and be it further

Resolved, That when any said court determines upon the materiality and the relevancy of the papers or documents called for in the subpena or other order, then said court, through any of its officers or agents shall have full permission to attend with all proper parties to the proceedings before said court and at a place under the orders and control of the House of Representatives and take copies of the said documents or papers and the Clerk of the House is authorized to supply certified copies of such documents that the court has found to be material and relevant, except that under no circumstances shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied, nor shall the possession of said documents and papers by any Member, officer, or employee of the House be disturbed or removed from their place of file or custody under said Member, officer, or employee; and be it further

Resolved, That a copy of these resolutions be transmitted by the Clerk of the House to any of said courts whenever such writs of subpena or other orders are issued and served as aforesaid.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR THE PAYMENT OR REIMBURSEMENT OF EXPENSES INCURRED BY STAFF PERSONS ACCOMPANYING MEMBERS-ELECT AT ORGANIZATIONAL CAUCUSES AND CONFERENCES

Mr. O'NEILL. Mr. Speaker, I offer a resolution (H. Res. 10) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 10

Resolved, That (a) each Member-elect (other than an incumbent Member reelected to the ensuing Congress) who attends a caucus or conference called under section 202 (a) of House Resolution 988, Ninety-third Congress, and each incumbent Member reelected to the ensuing Congress who attends any such caucus or conference convening after the adjournment sine die of the Congress in the year involved, shall be entitled to designate one staff person to be paid for one round trip between that person's place of residence, provided such place of residence is in the district which the Member-elect or incumbent Member represents, and Washington, District of Columbia, for the purpose of accompanying that Member-elect or incumbent Member to such caucus or conference.

(b) Each Member-elect (other than an incumbent Member reelected to the ensuing Congress) who attends a caucus or conference called under such section 202(a) shall be entitled to designate one staff person who shall in addition be reimbursed on a per diem or other basis for expenses incurred in accompanying the Member-elect at the time of such caucus or conference for a period not to exceed the shorter of the following—

(i) the period beginning with the day before the designated date upon which such caucus or conference is to convene and ending with the day after the date of the final adjournment of such caucus or conference; or

(ii) fourteen days.

Sec. 2. (a) Payments and reimbursements to staff persons under the first section of this resolution shall be made as provided (with respect to staff) in the regulations prescribed by the Committee on House Administration with respect to travel and other expenses of staff. Reimbursements shall be paid on special voucher forms prescribed by the Committee on House Administration.

(b) Additional funds, if any, for staff allowances and office space for use by Members-elect (other than an incumbent Member reelected to the ensuing Congress) shall be authorized by the Committee on House Administration.

The resolution was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBERS OF HOUSE OFFICE BUILDING COMMISSION

The SPEAKER. Pursuant to the provisions of 40 U.S.C. 175 and 176, the Chair appoints the gentleman from Massachusetts, Mr. O'Neill, and the gentleman from Arizona, Mr. Rhodes, as members of the House Office Building Commission to serve with himself.

EXTENDING TIME WITHIN WHICH THE PRESIDENT MAY TRANSMIT BUDGET MESSAGE AND THE ECONOMIC REPORT TO THE CONGRESS

Mr. MAHON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 1) extending the time within which the President may transmit the Budget Message and the Economic Report to the Congress.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BROWN of Michigan. Mr. Speaker, reserving the right to object, I would ask that the gentleman from Texas explain the necessity for this resolution.

Mr. MAHON. The resolution would give the President additional time in which to make his submission of the budget to the Congress. The President has asked for the additional time to submit his budget. Under the law he has to submit it within 15 days, but this will give him a little additional time, until February 3. It is a routine kind of thing that we have often done before.

Mr. BROWN of Michigan. If the gentleman would further respond, Mr. Speaker, the request with respect to the report of the Joint Economic Committee is the same; is that correct?

Mr. MAHON. The gentleman is correct and the date would be extended to February 4.

Mr. BROWN of Michigan. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 1

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That (a) notwithstanding the provisions of section 201 of the Act of June 10, 1922, as amended (31 U.S.C. 11), the President shall transmit to the Congress not later than February 3, 1975, the Budget for the Fiscal Year 1976, and (b) notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. 1022), the President shall transmit to the Congress not later than February 4, 1975, the Economic Report; and (c) notwithstanding the provisions of clause (3) of section 5(b) of the Act of February 20, 1946 (15 U.S.C. 1024(b)), the Joint Economic Committee shall file its report on the President's Economic Report with the House of Representatives and the Senate not later than March 30, 1975.

The **SPEAKER**. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

THE PEOPLE'S CONCERN: THE ECONOMY

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. **DE LA GARZA**. Mr. Speaker, like other Members I have spent most of the past month in my congressional district talking with the people I represent here. I found, as I have no doubt other Members have found, that the people generally are concerned and deeply worried about what the continued downward trend of the economy means to them individually. Their stories reveal the human distress that lies behind the dreary statistics which darken the pages of our newspapers day after day.

The official figures show that the unemployment rate rose in December to its highest point in 13 years—up to 7.1 percent of the total labor force from 6.5 percent in November. The figure is doubtless higher now, for massive layoffs of workers in a wide variety of industries have continued in recent weeks and are still continuing, and very unfortunately it is always higher than the norm in my congressional district.

Fewer workers on the job inevitably result in lower production in our industrial plants. Nearly half of the firms belonging to the National Association of Purchasing Management reported declining output in December—the highest proportion since 1958.

New construction contracts are running 20 percent below those of a year ago. Home building is a disaster area, although millions of our citizens are inadequately housed.

Prices received by farmers dropped 3 percent between the middle of November and the middle of December. Beef cattle producers are having to slaughter calves, because it would cost more to feed them to maturity than the price they would bring on the market.

The fishing industry, also of importance to my South Texas district, is threatened with ruin by a combination of unrealistically low prices and sky-high fuel costs.

Mr. Speaker, without belaboring the point, it is clear that such facts as these give evidence that the country is in a recession of serious proportions.

Its gravity is intensified by the further fact that overall living costs have risen to a painfully high point. At the same time that farmers and cattlemen and fishermen face falling prices for the fruits of their toil, at the same time that millions of men and women are jobless, the cost of the necessities of life places a heavy burden not only on low-income groups but on middle-income groups as well. Most family budgets have been thrown badly out of kilter during the past year.

Action to turn the economy around is essential. And it must come early in this session of Congress.

There is, I feel sure, little or no disagreement among my colleagues about this necessity. No doubt there will be differences of opinion about what steps should be taken and how far they should go. It is my hope and expectation that such differences can be resolved equitably and without delay.

In this connection, I have been disturbed by some predictions appearing in the press of a coming struggle between the Members of Congress and the executive department to gain partisan credit for whatever is done to reverse the downward trend of the economy. I trust that events will prove the inaccuracy of such forecasts. It would be tragic if efforts to end the recession were turned into a contest for political advantage. This is not a time and should not be the subject for competition between the legislative body and the administration, or between the two political parties.

It is our country—the country of all Americans—that is in trouble. Commonsense calls for a determined, cooperative effort to tackle the root causes. Political considerations of any kind must not be permitted to lead to blind opposition or blind support of any seriously proposed legislative measures. Each one should be examined closely to determine if it will help to get the necessary job done.

The President has made known some of his plans to bolster the economy and to take further steps to deal with the energy problem and will present them formally to the Congress tomorrow in his state of the Union message. House leaders have outlined a program of their own. The President's plans and the congressional program are not far apart in some respects. I have no doubt that, in the best traditions of this body, they will receive serious and thoughtful consideration.

Mr. Speaker, all of us here or nearly all are fresh from our constituencies. We know that America is confronted with problems of the utmost urgency in the state of the economy, the energy supply shortage, and the resultant exorbitant prices for fuel, and the agricultural sector. I have briefly reviewed the existing situation not for the purpose of presenting a litany of pessimism, but rather in the hope that a clear view of matters as they are will lead us to take action—and quickly—to make them better. I, for one, believe that this will be done. It is a course that demands top priority in the 94th Congress.

I append as part of my remarks several newspaper articles bearing on this subject:

[From The Washington Post]

WHAT TO EXPECT OF ECONOMY IN 1975

(Here are some of the things you can expect in 1975:)

Unemployment: Rising steadily throughout the first half of the year to a peak of about 8 per cent.

Taxes: A quick tax cut of at least $10 billion, and perhaps $20 billion, to stimulate the recession-ridden economy.

Recession: It will probably "bottom out" by the middle of the year, although the improvement may not set in for some time after that.

Prices: Nearly all forecasters agree that, by historical standards, prices will be rising exhorbitantly—but the 6 to 7 per cent expected increase will be a welcome relief from "double-digit" inflation.

Utilities: Consumers will be getting higher monthly bills for electricity, natural gas and telephones.

Interest Rates: Short-term interest rates will decline steadily throughout the year but long-term rates, such as those charged on home mortgages, will not change very much.

Home Building: Housing construction will remain seriously depressed, but most experts forecast a slight uptrend by the last several months of the year.

Wages: For those in the population who continue to work throughout the recession—most people—wages should rise 10 to 12 per cent.

Oil Prices: No one knows for sure what the oil-producing countries will do, except that no one thinks they will lower their prices. There will be pressure to take controls off domestically-produced oil, as well as off natural gas. Price controls on oil expire the middle of the year.

[From the Washington Star-News, Jan. 12, 1975]

THE 94TH COMES TO TOWN

If ever there was a national legislature needing strong minds, steady hands and a vision of America's destiny, it is the 94th Congress that convenes on Tuesday.

As the 93rd was marked by Watergate, the 94th will be measured by how well or poorly it handles the related problems of energy and the economy. There are many other issues to be dealt with, to be sure, but none so pressing as the need to pull the country out of its economic slump, stem inflation and find a key to the energy crisis.

Unless programs are devised to get production lines moving at a brisker pace and get customers back in the market place in greater numbers—and get it done soon—this country could slide into a depression that could have severe consequences to the nation's and the world's social and political orders.

We have no panaceas; indeed, there are no instant or easy solutions. But we do know that the problems cannot be solved if the White House and the Congress go charging off in separate directions, if presidential politics is allowed to get in the way of the national interest, if parochial concerns rather than the bigger picture dominate the thinking of congressional minds.

To a large extent, the economic problems will require active manipulation of such government strings as taxes, money supply and federal spending. If inflation continues out of hand, it may require government controls. But another important element in combatting the economic malaise is the restoration of public confidence, and that requires a display of leadership. If the people believe that their officials are concerned and are trying, they will feel more secure and the task of recovery will be made easier.

Leadership will be needed no less in the field of energy and, again, the solution to this multi-faceted problem will not rest entirely in statutory restraints on energy use or in federal programs to encourage research and exploration for new sources. Part of it will lie in the ability of federal officials to convince the American people that they must alter their life-style somewhat, that they must adjust to a world in which fuel supplies are growing ever shorter, that they must realize that the national economy cannot stand the continued heavy financial drain from high-priced foreign oil.

Unfortunately, leadership is something that is not always in plentiful supply on Capitol Hill. There are no legislative giants these days who can pull together the divergent views and interests of 435 House members and 100 senators. There is, however, a Democratic party responsibility to see that the members work together for the common good. For the 94th Congress, which was elected in the aftermath of Watergate and during an economic slump, is overwhelmingly Democratic. In this connection, we hope that potential or avowed candidates for the Democratic presidential nomination will curb inclinations to engage in the game of one-upsmanship. Presidential fever exerted a substantial influence on some members in the 93d Congress and the temptation to play to the crowd will be even greater as the 1976 election approaches.

As the 94th Congress will be more Democratic, so will it have a more liberal cast. That does not mean, necessarily, that it will embark on a binge of costly social legislation, for some of the new members who carried the liberal label made specific campaign promises to hold down on new spending schemes. But the temptations and the pressures will be there and it will be up to the members to resist them.

Likewise they must resist the temptation to carve overly large chunks out of the defense budget. The military establishment and its budget have long been a target of the more liberal elements on Capitol Hill and their influence will be enhanced this year. There is some fat in every budget, of course, but it would be irresponsibility of the worst sort to cut the muscle and seriously weaken this nation's defense posture.

And while we are in the area of what members of Congress should resist, we should mention the need to forego excessive attention to the details of conducting foreign policy. We agree with Secretary of State Kissinger that some of the actions of the 93d Congress impaired the flexibility that the executive branch must have in the foreign arena.

Lest we dwell too long on the negative side, there are many problems in addition to the economy and energy that call for positive action. One of them is tax reform. Aside from the probable need of a tax cut to give the economy a shot in the arm, there has been a long-standing need to eliminate loopholes and make the entire tax system more fair.

There also is a need for some kind of national health insurance. If the huge cost of a comprehensive plan is too much of a burden in these unsettled times, the Congress ought at least to enact a program to take care of the cost of catastrophic illnesses.

The new Congress should devise a substitute for the welfare mess. It needs to give attention to the Social Security system that is getting more burdensome on wage earners every year. It must bolster programs for aiding localities in building and operating the mass transit systems that are vitally needed in this time of energy crisis.

There hardly is an end, really, to the tasks that await the 94th Congress. The decisions that are made on Capitol Hill in the months ahead could well determine the fortunes of the United States for decades to come.

[From the New York Times]

A New Congress

When the 94th Congress convenes this week it will continue what has become a modern tradition in American Government—the sharing of power between a President and a Congress of differing philosophical persuasion. The new Congress with its substantially strengthened Democratic majority is considerably more liberal than the President. But that is nothing new.

Since President Franklin D. Roosevelt lost a working majority in Congress for his New Deal program in the midterm election of 1938, there have been only two brief periods in the succeeding 36 years when a Chief Executive and the majority of the House and Senate saw eye to eye on major domestic issues.

This division of power bewilders all but the most sophisticated foreigners and often worries Americans themselves. But in a nation of such size and diversity, this divided authority may represent a reasonable balance among contending viewpoints and interest groups. In any event, history has shown that sharing of power can produce effective government.

Conflict between parties and between philosophies is not only normal but necessary. In a free society, politics is the means by which problems and ideals are articulated, disagreements expressed, and decisions worked out. Those who expect harmony or unity to prevail in Washington are expecting what political democracy cannot—and indeed, should not—provide. As long as the great conversation of self-government stays within the bounds of civility and decisions are reached within a reasonable time, the nation can well afford the din and clash of angry debate and even some self-interested partisanship.

Justice Holmes was fond of remarking: "Conflict is the core of life." Cooperation, however, is also at the center of existence. Otherwise, organized national societies would hardly be viable. In government, as in other spheres of activity, patterns of conflict and cooperation evolve. President and Congress tend to develop their own.

It is not yet clear whether President Ford intends to stress the adversary or the accommodating sides of his relationship with Congress. He begins in a position of weakness. He came into office five months ago without a personal mandate from the electorate. During these months he has suffered the fastest decline in popularity—from 71 per cent in August to 42 per cent in December—ever recorded by the Gallup Poll. His moral prestige was dimmed by the Nixon pardon, while his leadership capacity is now being severely tested by the demands of a deteriorating economy.

Congress cannot by itself govern the country; if it were to attempt to do that, it would have to choose a committee of its leaders to act in its behalf which would be tantamount to parliamentary government in the European manner. But Congress can take major initiatives in formulating national policy. The nation's three basic labor laws—the Wagner Act, the Taft-Hartley Act, and the Landrum-Griffin Act—were drafted on Capitol Hill rather than in the Executive. The Wilderness Act and several other conservation laws were formulated by members of Congress working with public-spirited citizens. Tax laws are usually much more the work of Congress than of the Treasury Department.

Congress and the President can be expected to devote most of their attention to a wide range of measures to cope with the inflation, the recession, and the energy problems. If President Ford falters on economic issues, Congress is sure to substitute its judgment for his. In the lively controversies certain to develop in the next two years, the public can benefit from the competition between the two branches.

The test will be whether the conflict produces ultimate agreement on constructive legislation or dwindles into sterile stalemate. The power is shared by President and Congress; so is the responsibility.

STRENGTHENING VOCATIONAL EDUCATION SYSTEMS

(Mr. PRESSLER asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include extraneous matter.)

Mr. PRESSLER. Mr. Speaker, today is my first day in the Congress. My first effort on the floor of this House is directed toward strengthening our vocational education systems. I do so because I believe so strongly in our Nation's need to fully utilize the talents and resources of our people. For too long we have placed too much emphasis on traditional college-type education. Our society increasingly places prestige and prominence with the white-collar type of employment, while it tends to think less of blue-collar work. We must change that.

In that vein I urge your attention and positive consideration of what I believe will be one of the major pieces of legislation from the 94th Congrses—the vocational education legislation of 1975.

It is a privilege to be a cosponsor of this important legislation with Mr. Perkins of Kentucky and Mr. Quie of Minnesota.

The readjustment of our educational priorities to give greater financial consideration and support to vocational instruction will be invaluable for America for several reasons.

With increasing shortages of natural resources, we must make the best use—and reuse—of all materials and all human skills and talents, which—significantly—are primary purposes of vocational education.

With the present bitter combination of economic problems facing the Nation and its people—and, it seems, the ever-growing welfare rolls—a renewal of the work ethic can be a major factor in restoring our country's fiscal health as well as its morale.

Many persons do not want or need a college education or a liberal arts degree; but they want to be productive, creative members of the community, providing for themselves and their families through their own efforts.

In South Dakota some 25,000 young men and women are getting valuable career preparation to satisfy their personal goals, and, at the same time, contribute to the country's long-range prosperity.

Thanks to more than $1.6 million in Federal funds which help support major vocational education programs in Watertown, Sisseton, Webster, Mitchell, and Sioux Falls, as well as in Lemmon, Sturgis, and Rapid City, this is possible.

This amendment, introduced by Mr. PERKINS, Mr. QUIE, and myself, would extend and expand vocational instruction in South Dakota and across America, providing practical skills and releasing creative talents in our young citizens which will help keep this Nation strong and prosperous.

CONGRESSMAN WHALEN OFFERS PLAN TO FIGHT THE RECESSION AND CURB INFLATION

The SPEAKER pro tempore (Mr. DANIELSON). Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

Mr. WHALEN. Mr. Speaker, I am introducing today a package of bills to carry out part of the program which I urge be adopted to fight the recession and curb inflation. My proposals are:

First, to amend the Internal Revenue Code of 1954 to increase the amount of the personal exemption to $1,000—from $750—to increase the amount of the minimum and maximum standard deductions, to lower by 1 percentage point the tax rates which apply to the brackets up to $28,000, and to increase the amount of the investment tax credit from 4 and 7 percent to 10 percent;

Second, to authorize and require the President to ration gasoline and diesel fuel;

Third, to amend the Internal Revenue Code of 1954 to impose an excise tax on every new passenger automobile with respect to its weight; and

Fourth, to amend the Council on Wage and Price Stability Act to authorize the establishment of wage and price guidelines, to provide the Council with authority to suspend wage and price increases for 90 days, to provide subpena power for the Council, and to permit it to suspend from the Federal bid list for 1 year any firm which violates its guidelines.

I am inserting the statement which I released last Wednesday, January 8, which outlines my response to the economic difficulties now confronting the Nation:

STATEMENT ON THE ECONOMY

(By CHARLES W. WHALEN, JR.)

I. INTRODUCTION

In an October 7, 1974, speech I stated that the jobless rate would reach 7 percent and unemployment would replace inflation as "Public Enemy Number 1". Unfortunately, within the short period of three months both of these predictions have materialized.

My concern about the incipient recession also prompted me the next day (October 8) to reject President Ford's surtax proposal. As I observed at the time, "the President is suiting us up for the wrong game". Or, in the language of academia, in a deepening recession a tax increase runs counter to sound macroeconomic policy.

My October statement contained several recommendations designed to cope with the ills besetting our nation. Several of these already have been implemented by Congress. Others still are worthy of legislative consideration. Yet the swiftness and intensity of the current economic decline calls for stronger anti-recession palliatives than those outlined in my October 7 address.

Yet in dealing with contracting production and increasing unemployment, Congress must not overlook the still serious problem of inflation. In November, 1974, the Consumer Price Index advanced at an annual rate of 12.1 percent. Indeed, the American economy can be compared to a cancer victim who also suffers from heart disease. Each must be diagnosed and treated as a separate illness. But, at the same time, the attending physicians must be careful not to prescribe remedies which, while curing one ailment, unduly aggravate the other.

It is in keeping with the constraints suggested by the foregoing analogy that I update my October 7, 1974, paper by offering the following "prescriptions".

II. RECESSION

A. Cause of growing unemployment

As I indicated on October 7, "due to inflation each citizen, between June 30, 1973, and June 30, 1974, experienced a $102 drop in real per capita income. . . . Consumers simply are less able to buy—by approximately $22.5 billion since last year". (Note: later figures show that between September 30, 1973, and September 30, 1974 real per capita income declined by $110.) There could be only one result: dwindling purchasing power leads to reduced production; a reduced production generates higher unemployment. This sequence is as inevitable as night following day. Thus, it was not surprising when last week the Bureau of Labor Statistics revealed that nationwide unemployment had soared to 7.1 percent of the country's labor force.

B. Suggested actions

1. Increase "Take-Home" Pay

In the light of the preceding facts, it is obvious that, in order to stem the current economic decline, there must be a restoration of the consumer's ability to buy. This can best be done by increasing his take-home pay (most of which, in conformance with the "marginal propensity to consume" theory, will be re-spent). Expanding take-home pay may be accomplished in one of two ways (or a combination of the two).

First, American employees can press for higher wages in 1975. Under present circumstances this approach is deficient in two respects. (a) A portion of the salary increase will be diverted to the federal, state, and local governments in the form of withheld taxes (probably at a higher rate). (b) The increased labor costs precipitated by such wage boosts inevitably will mean higher prices, thus negating the original benefits derived from compensation advances.

Second, personal income tax rates can be trimmed. This is the preferable course today. A federal tax cut will not add directly to the cost of goods and services as would wage hikes. Further, there is considerable slack in the economy. Industry, in the third quarter, 1974, was operating at 79.4 percent of capacity (versus 83.3 percent plant utilization during the same period in 1973). Consequently, with adequate capacity to expand output, the economy can absorb a demand stimulant without a concomitant increase in price levels.

I, therefore, propose a $20 billion reduction in federal income taxes, effective January 1, 1975. Specifically, I suggest that: (a) the personal exemption be lifted from $750 to $1,000 ($9.7 billion); (b) the minimum standard deduction be raised from $1,300 to $2,000 ($3 billion); (c) the maximum standard deduction, now 15 percent or $2,000, be increased to 15 percent or $3,000 ($800 million); and (d) the rate applicable to each taxable income bracket, up to $28,000, be lowered by one percentage point ($4 billion).

Those in the lower and middle-income categories would be the principal beneficiaries of these four revisions. Also these reductions would restore most of the real per capita income lost by 200,000,000 citizens during the past eighteen months.

Jobs, of course, are created only through investment. Increased consumer demand spawned by a tax cut ultimately will result in employee callbacks and, hopefully, will create a need to expand production facilities. The latter will occur, however, only if employers are in a position to retain sufficient receipts to finance the purchase of additional buildings, machinery, and inventory. Thus, I endorse President Ford's October 8, 1974, suggestion that the investment tax credit be increased from 7 to 10 percent for industry and from 4 to 10 percent for utilities. For the coming year this would mean approximately $2.5 billion in tax relief for business organizations. In time, however, this break would disappear as depreciation and equipment "length-of-life" regulations are tightened by the Internal Revenue Service.

2. Tax Reform

As I stated on the House Floor on April 11, 1974, "Tax reform is an idea whose time has come". In my speech I delineated a series of proposals aimed at achieving a more equitable distribution of the tax burden. Unfortunately, the 93d Congress failed to act upon these and similar plans advanced by several of my colleagues.

A "fair" tax code still is essential. Therefore, any tax reduction ultimately must be coupled with tax reform. Enactment of a $20 billion tax cut must be completed within the next sixty days. This is too short a period, however, for Congress to conclude a meaningful tax reform effort. Consequently, any tax reduction adopted by the 94th Congress should contain a December 31, 1975, expiration date. The reduction then can be made permanent when tax equity has been attained.

3. Pinpoint Federal Expenditures

A two-front fiscal attack is needed to counteract the current economic slump. As previously noted, tax policy should be utilized to expand the consumer's ability to buy the stock of goods and services potentially available to him. Expenditure programs also are required to assist those already victimized by the recession. Fortunately, the 93d Congress, during its closing days, acted decisively in this area.

(a) Public employment program

In my October 7 comments I urged that in order to combat growing unemployment, a portion of the federal budget "be allocated to a program of public employment". Ten weeks later, on December 18, Congress approved legislation authorizing $2.5 billion, available through December 31, 1975, for a new emergency public service jobs program. The bill, which the President signed into law on December 31, also provides $500 million to speed-up labor-intensive federal public works projects for areas where the jobless rate is 6.5 percent or higher.

(b) Extension of unemployment benefits

At the same time, unemployment benefits were improved under the above-mentioned bill and through the Emergency Unemployment Compensation Act, which I introduced on November 26. The latter measure extends coverage for up to twenty-six weeks for 12 million workers not presently eligible for unemployment compensation. Availability would be triggered if the adjusted national unemployment rate averaged 6 percent for three consecutive months. Under the former proposal, which the President also signed on December 31, an additional thirteen weeks of assistance would be available to those who have exhausted their regular and extended benefits (thus making them eligible for a total of fifty-two weeks of coverage). This provision becomes effective if the national insured unemployment rate reaches 4.5 percent for three consecutive months or if the state insured unemployment rate remains at 4 percent or more for thirteen weeks.

4. Ease Monetary Policy

The exercise of monetary policy falls outside the purview of Congress. Nevertheless, I reiterate my recommendation of October 7 that Federal Reserve authorities should permit a 6 to 7 percent expansion of the money supply in 1975 (the seasonally adjusted money stock grew at an annual rate of only 4 percent during the last six months). By reverting to a 6–7 percent growth policy (which it pursued during the first six months of 1974) the Federal Reserve Board of Governors will permit further ease in interest rates and will accommodate the increased borrowing requirements of the federal government necessitated by a $20 billion tax reduction. Incidentally, as was proved after the 1964 tax cut, the stimulating effect of the 1975 reduction will permit recovery of this revenue loss within two to three years.

III. INFLATION

From the preceding analysis it is apparent that the price spiral which commenced a decade ago fathered today's recession. I observed last October 7 that "as the disparity between price levels and spendable income grows, the more precipitous the decline in economic activity". Consequently, if Congress' anti-recession tools are to prove effective, the root cause of our economic malaise must not be neglected.

True, as noted by the Morgan Guaranty Trust Company (The Morgan Guaranty Survey, December, 1974), "indications are that the recession has finally halted the acceleration in final goods prices and that price weakness is rapidly becoming the rule rather than exception". Illustrative of this is yesterday's hint by General Motors and Ford that they will reduce new model prices. Congress, however, cannot rely solely upon softening labor and consumer goods markets to solve our inflationary woes. Rather, the cooling effects of contracting demand should be enhanced by initiation of the following five-point legislative package directed toward specific inflationary pressure points.

A. Encourage productivity gains

During the past six quarters output per man-hour has declined. This phenomenon, coupled with escalating hourly wages, has contributed to growing per unit production costs. If labor expenses are to be kept in bounds, worker productivity must be improved. In the long-run plant modernization must play the major role in achieving this objective. This, therefore, is the principal reason why Congress should increase the tax investment credit for manufacturing and utility firms to 10 percent.

B. Reduce energy costs

Quadrupled imported crude oil prices, plus their "pass through" effect upon wages and costs of finished goods and services, accounted for a substantial, but indeterminate, percentage of last year's cost of living advance. Moreover, oil imports added approximately $25 billion to the debit side of 1974's balance of trade ledger.

If we are to dampen one of the embers heating our price structure (and, concurrently, lessen our balance of trade burden), reduction of energy consumption is essential. To this end I advocate the adoption of two new programs.

First, oil and gas rationing should be instituted immediately. Inherent in a fuel allocation effort are three advantages not found in the other energy conservation plans now being considered. (a) Inasmuch as no price increase is mandated, it is not inflationary. (b) It provides *certainty* in terms of quantities consumed. (c) It permits equitable distribution based upon demonstrated need rather than ability to buy.

Conversely, I oppose the suggestion that an additional 10-cent, 20-cent, or 30-cent per gallon gasoline tax be collected at the pump. Such a concept contains three weaknesses. (a) By raising prices, it fans the flames of inflation. (b) Since the demand for oil is substantially less elastic than that of other commodities, a price hike offers no assurance of any significant curtailment of consumption. (c) Ability to buy, rather than need, will determine fuel allocation patterns, thereby contributing to fuel wastage.

These same defects are found in the novel idea recently advanced by Senator Edward M. Brooke (R-Mass.)—a gas tax increase with refunds to those earning less than $15,000 per year. Further, Senator Brooke's plan would create administrative complexities more excessive than those attendant to a rationing system.

Second, effective September 1, 1975, a graduated weight tax should be imposed on all new automobiles. In time this will tend to remove the "gas guzzlers" from American highways.

C. Minimize wage demands

When wages are eroded by accelerating prices, employees, understandably, seek to recapture their lost purchasing power through salary increases. Thus, as mentioned in the Prudential Economic Forecast for 1975, prices continued to move upward last year, due, in part, to the cost-push pressures emanating from the wage "catch-up" process.

As outlined earlier in this statement, a tax reduction would be a less inflationary means of "catching-up" than another round of wage boosts. This fact should be impressed upon United States labor officials by spokesmen for the Executive and Legislative branches of the federal government. In offering to raise employees' take-home pay by means of a tax cut, Administration and Congressional leaders should exact, in return, a promise from union representatives that wage demands in 1975 will be kept to a minimum.

D. Strengthen the Council on Wage and Price Stability

One of the Administration's best kept secrets is the existence of the recently established Council on Wage and Price Stability. This panel has remained in the rear echelon in the "battle" (if that is the appropriate word) against higher wages and prices. The Council should be encouraged and empowered to take a more active anti-inflationary role.

First, as I recommended on October 7, the Council should be permitted to remove from the federal bid list those firms whose price increases substantially exceed established guidelines.

Second, the Council should be authorized to conduct hearings, subpoena witnesses, and subpoena records.

Third, The Council should be granted the power to suspend proposed wage and/or price increases for a period not to exceed ninety days.

E. Restrict the growth of Federal expenditures to antirecession measures

The current wave of inflation began in 1965 when the Congress was led to believe that it could provide both "guns and butter". Today we are engaged in another war—a war against recession. Any new federal expenditure programs, such as those outlined in Section II, should focus on this battle. Adding another layer of "butter" should be avoided. Thus, while socially desirable, a costly $25–$50 billion national health insurance plan may have to be deferred until current antirecession programs are teminated. Further, as I suggested last October, the sheer size of our national defense projects, which account for 29 percent of all federal outlays (including transfer payments) marks them as primary constriction targets.

IV. WAGE AND PRICE CONTROLS?

Should wage and price controls be invoked?

I cannot be counted among those who are unalterably opposed to the imposition of wage and price restraints on the American economy. In fact, I voted on August 15, 1970, to give the President the authority to introduce such controls.

Efficiently administered and vigorously enforced, wage and price controls can be an effective short-term anti-inflation weapon. This was proved by the success of Phases I and II of our most recent wage-price control experiment.

Over longer periods, however, any wage-price control vehicle becomes encumbered with barnacles. It treats the symptoms, not the causes, of inflation, thereby merely deferring the "day of reckoning". It is costly and difficult to administer. It creates dislocations within the economy (although this is true, too, of inflation). The inequities it is bound to breed ultimately destroy citizen confidence and support.

Therefore, wage and price controls should be reserved as a "last resort" measure. With price pressures abating slightly, with Congressional adoption of the aforementioned or similar anti-inflation proposals (including a ninety-day suspension authority), I am reluctant to recommend adoption of wage-price controls at this time. If, by June, it becomes evident that these approaches have not eliminated double-digit inflation, then I would endorse enactment of stand-by wage, price, rent, and profit control legislation.

V. CONCLUSION

Repairing the economy is the first order of business for the 94th Congress. Consequently, on January, 14, the first day of the new session, I shall introduce legislation encompassing the recommendations outlined in this position paper.

The swiftness of the nation's economic decline calls for immediate Congressional response. Yet the need for haste should be tempered with caution. An overdose of anti-recession serum might prove fatal to the patient who also is afflicted with inflationitis.

Whether the twin problems of inflation and unemployment can be mitigated by late 1975 depends upon what Congress does during the next sixty days. I will do all within my power to respond to this momentous challenge.

TAX REFORM—SOCIAL SECURITY EARNINGS TEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of Alabama. Mr. Speaker, today I am introducing a bill for tax reform. I am not speaking of income taxes, but of the earnings test applicable to social security beneficiaries. This provision of the social security law in effect imposes a 50-percent tax on social security beneficaries whose income from employment exceeds $2,520 a year.

This is perhaps the most inequitable provision of the social security law.

It is inequitable, first, because it denies benefits to those who have earned them by paying into social security all their lives. It is a double affront to fairness, that, even as these workers are denied their social security benefits, they must continue to pay social security taxes on their earnings—even though they may never receive any benefits.

Second, it is a very discriminatory tax in that it is imposed only on working beneficiaries, whether employees or self-employed. Persons who retire from their jobs but continue to have high incomes in the form of rents, dividends, interest, sales of property, pension or nonearned income, are not subject to this tax and receive full social security benefits.

Even among workers, the earnings test tax is applied unfairly. Because of the way this earnings test is administered, certain workers are penalized much more than others. Persons such as lawyers, entertainers, and accountants who are able to earn several thousand dollars in a few months and then take off the other months, get their full benefits for the months they do not work. On the other hand, an aged worker who has only the choice of working year around or not at all, begins losing social security benefits every month once he or she earns over $2,520 a year.

Third, this provision encourages workers to retire when our economy needs the output from their labors. These retired workers are then often the object of programs we dream up and fund to help them fill leisure hours with meaningful activities. Is not this a bit contradictory?

In addition to older workers, the earnings test applies to young widowed mothers and students as well as others. Does it make sense to discourage these persons from working? I think not.

I would like to remind you that this is not just a philosophical argument. This provision of law penalizes those who work because they have to, to supplement their incomes. Even with recent improvements in social security, the latest data show that the average social security benefit for a retired worker is only $187 a month or a little over $2,200 a year. This is just above the poverty threshold of 1973 and with inflation it is bound to be below the 1974 poverty level when computed.

My bill would eliminate the earnings test entirely. I believe it is against our American philosophy to penalize and discourage those who want to, and need to work.

CALL FOR LOBBYING REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 10 minutes.

Mr. RAILSBACK. Mr. Speaker, Government policy is not made in a vacuum. The efforts of organized groups to influence Government policy are an inseparable part of the American political process. Today, hundreds of interest groups attempt to make their views known at all levels of government. These groups are commercial, industrial, agricultural, labor, racial, ethnic, religious—virtually every facet of life. Such groups often provide valuable information to public officials which might not otherwise be available. They inform the legislative and executive branches how various Government programs are working, what adjustments need to be made, and what injustices should be remedied.

The Constitution safeguards lobbying by its guarantee of free speech and as an exercise of the right to petition for a redress of grievances. Unfortunately, this constitutionally guaranteed right has in the view of many Americans been perverted into a sordid picture of lobbyists as "sleazy, under-the-table operators." Such descriptions are grossly unfair to the vast majority of lobbyists. But, unless the activities of all lobbyists are brought out into the open, the secrecy which protects the unsavory conduct of a few will condemn the reputation of all.

Even the framers of the Constitution were well aware of the dangers and potential for corruption that accompanied the direct accessibility of diverse interests to Government officials. James Madison, writing in the Federalist, set forth the importance of divergent groups upon Government and the reasons for their development. But he also warned that special interests must never exert such influence as to prevent the development of laws insuring the greatest good for the greatest number.

Madison's concern for the "mischief of faction" has echoed through the years, and the revelations of Watergate pointed out recent corruption in the lobbying process. Lobbyists for ITT tried to influence the Government's prosecution of an antitrust suit against that company with what amounted to secret bribes and deals. Lobbyists for the milk producers engaged in numerous secret illegal activities on behalf of their clients.

Regretfully, such lobbying abuses are not new to the legislative process. Between 1913 and 1946, when the Congress passed the Regulation of Lobbying Act, there were no fewer than 10 congressional investigations of alleged lobbying abuses. Even more disturbing is the fact that since passage of the 1946 act, we have had at least that many investigations of alleged improprieties.

The 1946 Regulation of Lobbying Act—the prime law governing lobbying—was intended originally to "expose to the pitiless light of publicity" the activities of lobbyists. It was rooted in the belief that we must provide an opportunity for representation, but not for manipulation. The legislation was designed to bring lobbying of Congress out in the open. Congressmen would then be able to more adequately evaluate the pressures brought to bear on them, and the public would be able to hold accountable both Congressmen and interest groups responsible for any improprieties in the legislative process. The 1946 law seeks to accomplish this by requiring individuals and groups who lobby Congress to register and file statements regarding their activities and expenditures.

But, as the law is presently construed, large loopholes exist which allow many interests to avoid registering. Under the narrow definitions of the law as set forth by the Supreme Court, numerous organizations do not register as a lobbying group by claiming that lobbying is not the "principal purpose" for which they collect or receive funds.

The 1946 act also does not cover lobbying activities unless the Member of Congress is contacted directly by the lobbyist. Contacts with members of a congressional staff and much of the "grassroots" pressure are thus exempted.

In addition, there is virtually no enforcement of the lobbying law. It does not require the Clerk of the House or the Secretary of the Senate, to whom reports are presently made, to investigate lobby registrations and financial reports for truthfulness; nor can they require individuals or groups to register as lobbyists.

Finally, the 1946 Regulation of Lobbying Act does not cover executive branch lobbying. And yet, as we are all aware, this type of lobbying does exist, and, as the milk fund and ITT cases demonstrate, abuses can and do occur.

It may very well be that the existence of the current law is worse than no law at all. Congressional testimony back in 1970 showed that there is almost unanimous recognition of the failure of the 1946 Act. Representatives of the National Association of Manufacturers, the National Chamber of Commerce, and the District of Columbia Bar Association testified that the law had failed to prevent exploitation of the lobbying process to corrupt extremes.

Reform of the lobby law is desperately needed, and a Common Cause survey has shown that an overwhelming majority of Members of the House presently favor such an effort. In response to a questionnaire distributed to Members of the newly elected 94th Congress, 318 of the 343 responding Congressmen said they favored comprehensive disclosure of lobbying activities directed at both the Congress and the executive branch. Only two of the Members were actually opposed to new lobbying legislation. The rest were merely undecided at the time of the survey.

Also, last year, seven States passed new laws or regulations for lobby disclosure—Arizona, California, Kansas, Minnesota, Oregon, and, for the first time, Idaho and West Virginia.

I believe such developments are most encouraging, and represent the growing consensus on the need for lobby reform.

The legislation I am today introducing with my colleague ROBERT KASTENMEIER will insure that lobbying reform continue in an equitable, comprehensive manner. "The Public Disclosure of Lobbying Act of 1975" is based on the premise that those who seek to influence public policy should, themselves, be open to public scrutiny.

The bill does not in any way prevent or limit legitimate lobbying activities. It does not prescribe what a lobbyist can or cannot do. It does not restrict a lobbyist's activities.

Rather, our intent is to do away with the elements of secrecy that too often dominate lobbying activities. Such secrecy in the policymaking process undermines accountability and contributes to the loss of public confidence in the conduct of government.

The legislation calls for comprehensive disclosure requirements pertaining to the activities and finances of lobbyists, of those who employ lobbyists, and of those who solicit others to lobby.

The bill defines "the policymaking process" as "any action taken by a Federal officer or employee with respect to any bill, resolution, or other measure in Congress, or with respect to any rule, adjudication, or other policy matter in the executive branch." The bill defines a lobbyist as a person who receives income or makes an expenditure of $250 or more for engaging in a lobbying activity. And the bill defines lobbying as "a communication or the solicitation or employment of another to make a communication with a Federal officer or employee in order to influence the policymaking process." Specifically exempted are certain activities such as appearances before congressional committees, and the news media in the conduct of their every day business.

The Public Disclosure of Lobbying Act will remedy two major faults with the present law. The definitions of a lobbyist and lobbying process are broadened, and coverage is extended to include the Executive branch of Government.

The bill calls for registration and reporting requirements not dissimilar from the present law. The present statute, however, has no provision for maintaining or updating the status of a lobbyist. That is, if a person registered as a lobbyist 10 years ago, though he has not registered or made a report since that time, he is considered a "registered" lobbyist according to the 1946 Act. Our bill simply states that a lobbyist who has been inactive for three consecutive quarterly filing periods must file a new notice of representation when he again becomes an active lobbyist.

The bill also requires that lobbyists keep records of how much they spend for lobbying activities and that they make periodic reports of those expenditures.

To administer the law and monitor the activities of lobbyists, the legislation would establish an independent Federal Lobbying Disclosure Commission. The Commission would be responsible for making public the identity of lobbyists and the persons on whose behalf they are acting.

This Commission, as we envision it, is not dissimilar from the Federal Election Commission established when the House passed the Federal Election Campaign Act Amendments of 1974. While that Commission is empowered with similar responsibilities regarding Federal elections, the Federal Lobbying Disclosure Commission will be concerned with an area of policymaking just as vital to honest government.

We also include in our bill a new logging provision. The precedent is already there, and the recordkeeping requirements are limited to the upper level members of the executive branch. However, I am currently working with representatives of Common Cause to determine whether additional coverage of this provision is necessary and desirable.

Finally, our bill provides for sanctions that call for a fine of not more than $5,000 or imprisonment of not more than 2 years, or both, for willful falsification of any notice of representation or any report.

The Public Disclosure of Lobbying Act of 1975 continues the work of the 93d Congress in opening up the system, providing accountability in our activities, and providing needed integrity and confidence in government affairs.

The House recently took bold steps to make our governmental system more accountable and accessible to the public. In the last Congress, we decided to open up our committee meetings. As a result, in 1973, only 10 percent of all House hearings and business meetings were closed to the public—compared to more than 40 percent in 1972.

Also, last session we passed the far-reaching campaign reform law. Surely, we cannot call for explicit reform of the electoral process, and neglect the need for reform in the lobbying process.

Mr. Speaker, it has been nearly 30 years since Congress passed legislation requiring information about lobbying activities. In each of these years, there have been questions raised about the ways certain lobbyists operate, and the present law has proved totally incapable of curbing lobbying abuses. The era of Watergate eroded America's confidence in our system of government, and lobbying activities were partially to blame. Now, in the aftermath, I am convinced Congress can do much to restore public confidence by passing effective and far-reaching legislation, such as the lobbying reform measure Mr. KASTENMEIER and I are introducing this afternoon.

The Public Disclosure of Lobbying Act of 1975 is fully supported by Common Cause, and has, in the past, been sponsored by over 50 House Members. Within the next few days, I will solicit additional cosponsorship, and will also urge that hearings be held on this legislation at once. We need lobby reform.

THE HOMEOWNER'S ENERGY CONSERVATION ACT OF 1975

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 20 minutes.

Mr. COHEN. Mr. Speaker, perhaps the most alarming and shameful fact to emerge from our national energy dialog is that as a society, we waste at least one-third of the total energy we consume. Coincidentally, this figure approximates our degree of dependence on foreign oil imports—imports that have quadrupled in price in the past year or so, greatly exacerbating our inflationary and recessionary problems. Given the fundamental relationship between adequate energy supplies at reasonable prices and the economic, political, and social well-being of the Nation, it is imperative that the central focus of any national energy policy be on paring the fat from our bloated and unbalanced energy budget. In doing so, we can achieve the dual goals of reducing our annual rate of energy growth and lessening our exposure to the arbitrary and irresponsible policies of the OPEC cartel.

The possibilities for achieving a measurable reduction in energy consumption in this country are almost endless, with the greatest opportunities lying in increasing the efficiency of the automobile and the heating and cooling of buildings. Americans have been overheating, overcooling, and overlighting their residences for years, and we are now reaping the legacy of our habit of extravagance. Inefficient residential heating and cooling systems and inadequate insulation practices have played a prominent role in perpetuating these excesses.

As one expert has put it, "most of our homes are heat sieves." Today, a vast amount of heat generated by a home heating plant promptly disappears through the walls, windows, doors and roofs. Although the Federal Housing Administration has stiffened the requirements for insulating new houses, it is nonetheless true that 90 percent of existing homes in this country are seriously deficient with regard to insulation. The average uninsulated house with 1,600 square feet of space wastes about 700 gallons of fuel oil each year; a partially insulated house waste approximately 200 gallons. In addition, home furnaces today are generally designed so that only 70 to 75 percent of the heat of combustion is actually used in heating the home. In operation, however, many home heating systems drop far below that efficiency level to 335–50 percent. Along with better maintenance, the insulation of equipment such as heat exchangers and improved ducting can do a great deal to restore or even increase the efficiency of the heating plant.

According to the recently completed "Project Independence Report,"

> Residential buildings used about 70 percent of the 18.1 quads of the energy consumed by the Household and Commercial Sector in 1972. About 72 percent of the energy consumed in residential buildings (9.0 quads) was used for heating, cooling and ventilation. Assuming the number of residential units continues to grow by about 2 percent per year, energy conservation measures aimed solely at improving the thermal efficiency of new housing would not be effective in reducing overall demand for several years. To reduce current demand, existing housing must conserve more energy through the installation of energy saving devices which improve the thermal efficiency of the residences. This installation, or retrofitting, can be effective in saving about 10 to 20 percent of the energy used in residences.

A recent survey conducted by the Washington Center for Metropolitan Studies is instructive with respect to the integral relationship between residential energy consumption and various socioeconomic factors. Three facts are particularly enlightening:

> Poor families spend roughly 15 percent of their income on natural gas, electricity and gasoline annually, while lower and middle income groups spend 7 percent and 6 percent respectively, and the affluent about 4 percent.

> Almost three-quarters of all American single family homes have some insulation, although over 50% of the single family homes of the poor have no insulation at all. Only 5 percent of the houses of the affluent have no insulation.
>
> Only 31 percent of the poor have storm windows, compared to 63 percent of the "well-to-do."

Given the economic inability of many poor and middle income homeowners to purchase and install insulation devices or improve existing heating systems, it is obvious that the job will only be accomplished if the Federal Government develops incentives to assist these groups.

In an attempt to meet this pressing need and, at the same time, implement the recommendations of many energy experts, I am today introducing two bills to provide the individual and corporate homeowner with the incentive and ability to make energy-saving improvements to his home. The first measure amends the Internal Revenue Code to permit the individual a tax credit for 25 percent of amounts paid or incurred for the installation of more effective insulation and heating equipment in existing residential structures up to $375—$750 in the case of a joint return. The bill would be especially pertinent for relatively minor improvements, such as installing storm windows and doors, which nevertheless can substantially reduce fuel consumption. While the major reward for the homeowner would be a savings in fuel costs, the tax credit would be a limited additional incentive which would also recognize the Nation's interest in and support for his actions. The importance of establishing some positive efforts to encourage reduced energy conservation in the home cannot be overstated, and the cost of this legislation in the long term would be more than offset by the benefits which would accrue to the Nation as a result of decreased energy demand.

My second measure is addressed primarily to the problem of large-scale expenditures which are often necessary to enable efficient heating of older homes or homes that are not well constructed. Fully insulating a house already built or bolstering an existing heating system can easily cost hundreds of dollars. Unfortunately, those living in homes needing these improvements are again usually the ones least able to budget for such a major expense. This second bill, therefore, establishes a low-interest loan program in the Department of Housing and Urban Development to provide Federal assistance for these expenditures. The loans would be for 10 years and would carry a 5-percent annual interest rate. They would enable the homeowner to have the funds at the time of the initial expenditure and the resulting reductions in fuel costs would in most cases more than cover the loan payments. Experts agree that this kind of home improvement generally pays for itself in reduced operating costs in from 5 to 10 years.

In summary, my legislation provides homeowners, particularly those with low or moderate incomes, with both the ability and the incentive to make major energy-saving improvements to their homes. The ultimate cost to the Government would only be the difference between the subsidized and the standard interest rates. In return, the Nation would receive a reduction of up to 4 percent in its national energy consumption. When viewed in this perspective, the investment is a very modest one.

Mr. Speaker, as former Federal Energy Administrator Sawhill observed in a recent speech, "energy conservation is not the latest Federal fad. It is a major national imperative." Specific policy recommendations and legislative proposals for attaining a significant reduction in energy use in the United States must receive the highest priority and the active encouragement of each Member of this body. Accordingly, I hope that my colleagues will join with me in helping the homeowner help himself and the country, by lending their strong support to these badly needed energy conservation measures.

INTRODUCTION OF THE ACCELERATED CAPITAL FORMATION ACT OF 1975

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. **FRENZEL**) is recognized for 30 minutes.

Mr. FRENZEL. Mr. Speaker, I rise today to introduce the Accelerated Capital Formation Act of 1975. This is a refined version of H.R. 8590 which I introduced in the 93d Congress.

During the last session a great deal of progress in advancing the financing method known as ESOP or the employee stock ownership plan was made. A provision for study of the ESOP plan in restructuring the Penn Central and other Northeast and Midwest railroads was included as a vital section of the Railroad Reorganization Act. In the Pension Reform Act, signed into law last Labor Day, the ESOP was given special recognition as a form of employee benefit that could also be used to attract outside financing to meet the capital requirements of an expanding enterprise. In the Trade Reform Act companies utilizing ESOP will be given special preferences in the $1 billion program of federally guaranteed loans to companies expanding or locating in areas adversely affected by foreign competition. There were at least three other major pieces of legislation being considered in the 93d Congress which, though they did not reach the floor, contained ESOP provisions; these were railroad improvement loans, energy development and the Pan Am Assistance Act.

Though a great deal of progress has been made in recent years many people have questioned just what an ESOP does. Essentially, under existing law, the ESOP makes accessible to all corporate employees the techniques of corporate finance. Without any actual cash outlay from corporate employees—as in conventional employee stock purchase programs—and without any deduction in take-home pay or fringe benefits an ESOP builds blocks of corporate shares into employee ownership while providing moneys necessary for capital requirements. It has been used to finance corporate expansion, acquire new assets, accomplish divestitures or spinoffs and finance mergers, et cetera.

A standard ESOP incorporates a deferred compensation trust—technically a qualified stock bonus trust alone or coupled with a money purchase pension trust—into the financing process itself. In one common technique the employees trust borrows funds to invest in the employer corporation. This then allows the affected employees, subject only to the trusts paying off the loan, to become beneficial owners of the companies' stock.

The employer corporation obligates itself to make annual payments into the trust in amounts sufficient to amortize the debt out of tax deductible dollars.

The tax deduction makes it possible for the corporation to build greater capital ownership into the employees than it could otherwise, and the costs of financing its growth is about the same as if it conveniently borrowed and repaid—as to principal—in after-tax dollars. After the employers stock has been paid for in this manner the trust can, if desired, be diversified by tax-free exchanges of stock for other securities, or by a public offering out of trust.

This ESOP method, simply stated, allows greater benefits to the corporation than common expansion and financing techniques and permits the employee to gain a larger share of the organization he serves than conventional profit-sharing methods.

The first known use of ESOP financing, pioneered by Louis Kelso, involved an employee buy-out of a chain of California newspapers that was threatened with takeover by a major chain in 1956. But only in the last few years has the business world at large become aware of this innovation. A number of investment banking firms are pioneering this approach and several major firms have begun to recommend ESOP's to their clients. Over 100 corporations have, largely in the last year, adopted ESOP's including two of our larger electronic manufacturers. Many smaller firms and several major unions have adopted ESOP's.

In order to facilitate the use of the ESOP technique, and thus effectively link daily employee performance with the growth and operation of a business, the bill modifies the Internal Revenue Code as follows:

First, the bill removes the present statutory limitation of 25 percent of covered compensation as the maximum amount an employer can contribute to a qualified employee stock ownership plan when such payments are used to enable the plan to repay stock acquisition debt incurred in connection with meeting the employer's capital requirements. This places the sole limitation on financing contributions on the enterprise's capacity to service the debt out of cash flow. This reform reduces the cost of capital growth and transfers in the ownership of corporate assets, while accelerating the rate at which employees as individuals and as a group can accumulate stock of their employer and other income-yielding assets as a new and noninflationary form of employee benefit. Although treated as a tax deduction, this change would have the same impact as an investment tax credit in terms of encouraging capital spending; however, the investment tax credit increases the concentration of corporate ownership while ESOP contributions correct this economic factor.

This also rechannels corporate profits that would otherwise have gone into the corporate income tax base into productivity increases of the private sector, thus generating lower prices for consumers, expanded private payrolls, and a broadening base of taxable personal incomes and personal estates among productive workers.

Second, the bill provides a tax deduction to corporations for the amount of dividends they distribute either directly as taxable second incomes on stock held in an employee's account or which are used to repay stock acquisition indebtedness of the employees' trust. This provision also converts taxable corporate income into either taxable dividend incomes for employees to supplement their paychecks or their retirement and social security incomes or a more rapid rate of accumulation by employees of individual capital estates for their retirement security.

Third, the bill provides that a qualified employee stock ownership plan and trust shall have the tax characteristics of a charitable organization for purposes of estate, gift, and income taxes. This would encourage affluent taxpayers to make gifts to qualified trusts in order to reconnect the ownership of capital with a broader base of private individuals, namely productive employees some of whom have contributed to the building of the donor's wealth. Allocations to participants of the trust would become an immediate source of taxable second incomes—to the extent dividends are passed through the trusts—and a retirement estate for the employee-beneficiaries and their heirs. On the other hand, Government would lose no tax revenues since such contributions made to charitable organizations are already exempt from taxation, and profits from donated income-producing property are frequently accumulated tax-free within such organizations.

Fourth, the bill establishes a cutoff on further contributions in behalf of any employee when the value of the assets that employee has acquired during his working lifetime through one or more ESOP's exceeds $500,000. Such a safeguard on excessive accumulations acquired through tax deductions would be especially important in highly capital-intensive industries and would help foster more widespread and equitable sharing of ownership among Americans generally.

Fifth, the bill adds to the options of ESOP participants when distributions are made when they retire, die, or are otherwise separated from service. Although profit sharing plans are permitted to make distributions in many forms, the Internal Revenue Service has ruled that distribution from an ESOP must be made exclusively in company stock.

Although enabling employees to accumulate sizable holdings of employer stock has obvious motivational value, when an employee leaves the company and can no longer directly influence the yield on the company stock accumulated in his ESOP account, it is desirable to provide the departing employee and the remaining employees, through their ESOP, to arrange an exchange for his accumulated assets with other income-yielding assets or cash of an equivalent value. This bill would provide ESOP's the same flexibility in making distributions that is now enjoyed by profit sharing plans.

Sixth, the bill permits a repurchase option for plans of enterprises that are wholly owned by their employees, so that stock of departing employees can remain exclusively held within the employee group.

Seventh, the bill exempts lump sum distributions of income-yielding estates derived from an ESOP from any form of taxation, provided the assets are held to produce a taxable second income for the taxpayer or his beneficiaries. However, if the assets are converted into spendable income and not reinvested within 60 days, the uninvested proceeds will be taxed as ordinary income, instead of partially at the lower capital gains rate permitted under present law.

Eighth, the bill enables affected parties to seek advance IRS opinions on valuations on stock or other assets acquired by an ESOP where the parties to a financing transaction which utilizes and ESOP would be subject to serious risks or penalties if the IRS, upon subsequent audit, disagreed with the valuations or other key features of the financing plan. This is similar to the "no action" procedures already instituted by the FTC and SEC.

Ninth, the bill exempts payments to an ESOP made for financing purposes from treatment as a conventional employee benefit for purposes of any wage, salary, deferred compensation, or other employee benefit controls or guidelines that might be established under executive order, regulations, or future economic stabilization laws at the Federal or State levels. Instead, it would be treated as any other form of capital spending that would have a counterinflationary effect. In effect, it offers labor a tradeoff for wage increases where wage ceilings are established.

I hope that the members of this body will carefully consider the legislation. I am hopeful that further progress can be made in this session.

A copy of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE.—This Act may be cited as the "Accelerated Capital Formation Act of 1975."

SEC. 2. PURPOSE.—The purpose of this Act is to provide incentives for accelerated financing of the formation of U.S. corporate capital and to encourage voluntary means for broadly diffusing equity ownership among employees of U.S. enterprises both (a) with respect to existing capital by means consistent with the protection of private property and (b) with respect to newly formed capital by means which extend the logic of conventional business finance to corporate employees.

SEC. 3. AMENDMENT OF INTERNAL REVENUE CODE.—The Internal Revenue Code of 1954 is amended by adding the following new Section 416 at the end of Subpart B of Part I of Subchapter D of Chapter 1:

SEC. 416.—EMPLOYEE STOCK OWNERSHIP PLAN FINANCING.

(a) DEFINITIONS. (1) "Employee stock ownership plans" means a technique of corporate finance described in Section 4975(e)(7) that utilizes stock bonus plans, or stock bonus plans coupled with money purchase pension plans, which satisfy the requirements of Section 401(a) and are designed—

(A) to invest primarily in qualifying employer securities;

(B) to meet general financing requirements of a corporation, including capital growth and transfers in the ownership of corporate stock;

(C) to build into employees beneficial ownership of qualifying employer securities;

(D) to receive loans or other extensions of credit to acquire qualifying employer securities, with such loans and credit secured primarily by a commitment by the employer to make future payments to the plan in amounts sufficient to enable such loans and interest thereon to be repaid; and

(E) to limit the liability of the plan for repayment of any such loan to payments received from the employer and to qualifying employer securities, and dividends thereon, acquired with the proceeds of such loan, to the extent such loan is not yet repaid.

(2) For purposes of this section, the term "employer securities" means securities issued by the employer corporation, or by an affiliate of such employer.

(3) For purposes of this section, the term "qualifying employer securities" means common stock, or securities convertible into common stock, issued by the employer corporation, or by an affiliate of such employer.

(b) Special Deductions. (1) In addition to the deductions provided under section 404(a), there shall be allowed as a deduction to an employer the amount of any dividend paid by such employer during the taxable year with respect to employer securities, provided—

(A) such employer securities were held on the record date for such dividend by an employee stock ownership plan; and

(B) the dividend received by such plan is distributed, not later than 60 days after the close of the plan year in which it is received, to the employees participating in the plan, in accordance with the plan provisions; or

(C) the dividend received by such plan is applied, not later than 60 days after the close of the taxable year, to the payment of acquisition indebtedness (including interest) incurred by the plan for the purchase of qualifying employer securities.

(2) Notwithstanding the limitations of section 404(a), there shall be allowed as a deduction to an employer the amount of any contributions paid on account of a taxable

years (as described in section 404(a)(6)) to an employee stock ownership plan, provided such contributions are applied to the payment of acquisition indebtedness (including interest) incurred by the plan for the purchase of qualifying employer securities.

(3) For purposes of sections 170(b)(1), 642(c), 2055(a), and 2522, a contribution, bequest, or similar transfer of employer securities or other property to an employee stock ownership plan shall be deemed a charitable contribution to an organization described in section 170(b)(1)(A)(vi), provided—

(A) such contribution, bequest, or transfer is allocated, pursuant to the terms of such plan, to the employees participating under the plan in a manner consistent with section 401(a)(4);

(B) no part of such contribution, bequest or transfer is allocated under the plan for the benefit of the taxpayer (or decedent), or any person related to the taxpayer (or decedent) under the provisions of Section 267(b), or any other person who owns more than 25% in value of any class of outstanding employer securities under the provisions of Section 318(a); and

(C) such contribution, bequest or transfer is made only with the express approval of such employee stock ownership plan.

(c) *Treatment of Participants.* (1) Qualifying employer securities acquired by an employee stock ownership plan through acquisition indebtedness incurred by the plan in connection with the financing of capital requirements of the employer corporation or its affiliates must be allocated to the accounts of the participating employees to the extent that contributions and dividends received by the plan are applied to the payment of such acquisition indebtedness (including interest), in accordance with the terms of the plan and in a manner consistent with Section 401(a)(4).

(2) Upon retirement, death or other separation from service, an employee participating under an employee stock ownership plan (or his beneficiary, in the event of death) will be entitled to a distribution of his nonforfeitable interest under the plan in employer securities or other investments allocated to his account, in accordance with the provisions of such plan. If the plan so provides, the employee (or beneficiary) may elect to receive all or a portion of the distribution from the plan in—

(A) employer securities, other than qualifying employer securities;

(B) cash;

(C) a diversified portfolio of securities;

(D) a non-transferable annuity contract; or

(E) any combination of the above.

(3) An employee stock ownership plan may provide for the required repurchase of qualifying employer securities from an individual receiving a distribution thereof if all other of such outstanding employer securities, whether or not acquired through the plan, are subject to repurchase from non-employee shareholders under similar circumstances.

(4) Upon receipt of a lump sum distribution, as described in Section 402(e)(4)(A), from an employee stock ownership plan, an individual may exclude from gross income that part of the distribution which consists of employer securities or other assets, if income producing, held or reinvested within 60 days in income producing assets of equivalent value, for the purpose of providing the individual with dividends or other forms of realized income from such assets. Upon subsequent sale or disposition of any employer securities or other assets distributed by an employee stock ownership plan to the extent that proceeds realized from such sale or disposition are not reinvested within 60 days in income producing assets, the total amount of such proceeds (or the fair market value of any such securities or assets that are transferred without adequate consideration) shall be treated as ordinary income to the individual.

(5) An employee receiving a distribution under paragraph (b)(1)(B) of this Section shall be subject to taxation under Section 402(a)(1), and the provisions of Section 116 shall not apply to such distribution.

(6) A contribution by an employer which is deductible under paragraph (b)(2) of this Section, or a contribution described in paragraph (b)(3) of this Section, shall not be included in the meaning of annual addition under Section 415(c)(2).

(7) No contribution to an employee stock ownership plan may be allocated for the benefit of any participant if the value of the total accumulation of employer securities and other investments under the plan for the benefit of that participant equals or exceeds $500,000, less the amount of any such accumulation for that participant under any other employee stock ownership plans.

(d) *Special Provisions.* (1) The acquisition or holding of qualifying employer securities and the incurring of acquisition indebtedness by an employee stock ownership plan shall be deemed to satisfy the requirements of Section 404(a)(1) of the Employee Retirement Income Security Act of 1974 provided that—

(A) the requirements of Section 408(b)(3) and 408(e) of such Act are satisfied; and

(B) the same standards of prudence and fiduciary responsibility that corporate management must exercise with respect to its shareholders are satisfied.

(2) Upon application by an employee stock ownership plan, the Secretary of the Treasury or his delegate shall issue an advance opinion as to whether a proposed transaction involving that employee stock ownership plan will satisfy all the requirements described in paragraph (1) of this subsection, and any such opinion shall be binding upon the Secretary.

SEC. 4.—*Effect of Economic Stabilization.*—Payments by an employer to an employee stock ownership plan as defined in Section 416(a)(1) of the Internal Revenue Code of 1954, for the purpose of enabling such plan to pay acquisition indebtedness incurred for the purchase of qualifying employer securities or other contributions to such plan shall not be treated as compensation, fringe benefits or deferred compensation payments for the purposes of any laws, executive orders or regulations designed to control, establish guidelines or otherwise stabilize employee compensation or benefits, but shall be treated as the equivalent of debt service payments made in the normal course of financing the capital requirements of that employer.

EXTENDING PROVISIONS OF VOTING RIGHTS ACT OF 1965

The SPEAKER pro tempore (Mr. DANIELSON). Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, this afternoon I rise to introduce legislation which will undoubtedly be among the most important to be considered by the 94th Congress. The legislation proposes to extend for 10 years those temporary provisions of the Voting Rights Act of 1965, which are scheduled to expire in August of this year.

As originally enacted in 1965, the temporary provisions of the act were to be effective for only a 5-year period. However in 1970, the Congress found that the job which those provisions were created to perform had yet to be accomplished and, on the basis of that finding, renewed the temporary provisions until August 1975. I suggest that now in 1975, the accomplishment of that job is still far from complete. There is no question but that those whose rights are protected by the temporary provisions of the act cannot yet be pointed to as full and active participants in this country's precious electoral process. Their need for the special coverage of the act continues, and we cannot ignore that need by allowing those provisions to die.

Many of you will ask "why 10 years, why not 5 or at least some lesser number." My response to those of you is simply this: I believe that the voting problems which the Voting Rights Act of 1965 is designed to eliminate have in the past been tremendously underestimated by the Congress. I believe that our calculations as to the time it would take to bring excluded citizens into full political participation were in many respects unrealistic. The 15th amendment, guaranteeing the right to such full participation, was ratified in 1870, and it is important that we remain cognizant of the fact that, for very many of those nearly 100 years between that ratification and the enactment of the Voting Rights Act, minority citizens in this country were faced with unconstitutional barriers to voting of the severest magnitude. While for the earliest covered jurisdictions this could mean that they will be subject to the act's special provisions for 20 years, it is important that we realize that such a period is certainly not unreasonable when considering the many years of discrimination we are attempting to overcome. Moreover, as I indicate below, the gains yet to be made in those earliest covered jurisdictions are quite substantial.

I also point out to you that section 5, one of the most important temporary provisions of the act, has only actually been implemented since the end of 1971 and even now there is evidence that some jurisdictions have yet to come into compliance with that section. Thus, we are in effect talking about far less than a 20-year period as far as a crucial provision of the act is concerned.

Another very important factor in favor of a 10-year extension is the need for the special protections of the act during the redistricting and reapportionment which will take place subsequent to the 1980 Decennial Census. Since 1971, by virtue of section 5, the Justice Department has objected to at least 57 redistricting plans which have been submitted for review by the covered jurisdictions. Clearly, such objections indicate that section 5 protections, which are described in more detail below, ought to be available through the next period of significant redistricting.

The legislation which I introduce today also establishes a permanent nationwide ban on literacy tests and other similar devices. In 1970, when the Congress extended the temporary provisions of the original 1965 enactment, it also established a temporary nationwide ban on such tests and devices, with that temporary ban also scheduled to expire in August of 1975. Now that we have for all practical purposes come through this experimental 5-year period without any evidence whatsoever that governments have been burdened by the temporary suspension, I urge that we now permanently ban the use of such tests and devices.

At this point, I would like to briefly put into some historical perspective the legislation which I offer today. As many of you may know, the Voting Rights Act of 1965 had been hailed by many to be the most effective civil rights law ever passed. At the time that the act became law, blacks in the South—which is one of the major sections of the country to which the act's temporary provisions apply—were severely disenfranchised. For example, in 1964, only 6.7 percent of the black voting age population of Mississippi was registered, compared to 70.2 percent of the white voting age population.

The Congress was faced with reams and reams of evidence documenting the attempts of State and local election officials to deprive the South's black citizenry of access to the ballot. Although the Congress had attempted to respond to the situation in the Civil Rights Acts of 1957, 1960, and 1964, those responses in fact did not rise to the level of the urgency of the need. Because the voting rights provisions of those acts still placed major reliance on a case-by-case litigation approach, the path to achieving full voting rights continued to be laden with many hours spent in time-consuming litigation, as well as numerous efforts on the part of local governments and officials to create new barriers to voting as old ones were being voided by the courts.

Thus, it was against this backdrop that the 89th Congress was to consider the Voting Rights Act of 1965. However, any look into the past to understand the nature of the circumstances surrounding the enactment of this important piece of legislation would not be complete unless we also focus to some extent on the tragic violence which was perpetrated upon black marchers in Selma, Ala., on March 7, 1965. It was on this day, to which some have referred as "Bloody Sunday," that blacks who were attempting to march from Selma to Montgomery, Ala., in order to dramatize the denial of the right to vote, were viciously attacked by State and local law enforcement officers. Describing the incident, the London Times of March 9, 1965, stated the following:

> At least 67 Negroes were injured, some of them seriously, in Selma yesterday when state and local law enforcement officers waded into them with clubs, bullwhips, and ropes beneath a smoke-screen of tear gas as they set out for the state capitol of Montgomery as a protest over difficulties in registering for the vote.
>
> Mr. John Lewis, the chairman of the student non-violent co-ordinating committee, was in the hospital today with a possible fractured skull, and 17 other Negroes were detained with broken arms or legs or other injuries. One of Selma's doctors said the Good Samaritan Hospital looked last night as though there had been a moderate disaster, and a hospital official was quoted as saying there was a great deal of pain and suffering among the wounded, most of whose injuries appeared to be the result of heavy blows.

President Lyndon Baines Johnson, one week later, on March 14, 1965, made a dramatic appearance before a special session of Congress to urge speedy enactment of voting rights legislation. During that March 1965 appearance, President Johnson told the Congress that—

> The harsh fact is that in many places in this country men and women are kept from voting simply because they are Negroes. No law we now have on the books . . . can ensure the right to vote when local officials are determined to deny it.

Approximately 5 months later, on August 6, 1965, President Johnson signed into law the Voting Rights Act of 1965.

While some may have already been familiar with the events which I have just related, I am certain that others were not. Today, we are embarking upon the consideration of the renewal of a piece of legislation that is both real and symbolic and it is only when one is made to relive the events which led to its enactment that the awesomeness of our task can be fully appreciated.

Before going on to discuss in detail the facts which unquestionably manifest the continued need for the temporary provisions of the Voting Rights Act, I would first like to describe those various provisions of the act and their effect. The Voting Rights Act of 1965 is an intricate piece of legislation which embodies both permanent and temporary provisions. The permanent provisions have general application while the temporary provisions, which are scheduled to expire in August of this year, have special application or special coverage. Among those temporary special coverage provisions is section 4. That section provides for an automatic formula or "trigger" by which certain States or political subdivisions are made subject to special remedies afforded by the act. In addition to establishing the trigger which delineates those jurisdictions which are specially covered, section 4 also establishes one of the special remedies applicable to such jurisdictions; namely, the suspension of literacy tests and similar devices.

Section 5 of the act, another temporary provision applicable to the specially covered jurisdictions, requires that those jurisdictions submit for preclearance to the Attorney General or to the U.S. District Court for the District of Columbia all changes in "any voting qualification, or prerequisite to voting, or standard, practice or procedure with respect to voting." In recent years, section 5 has become one of the most widely used provisions of the act. That section disallows, unless approved by the Attorney General or the U.S. District Court for the District of Columbia, any changes affecting voting in the specially covered jurisdictions. Theoretically, in this way, there could be no change in voting procedures in those jurisdictions unless it has been demonstrated that those changes would not have a discriminatory effect.

Also, again in those jurisdictions which are specially covered, by virtue of sections 6 through 9 of the act, the Attorney General of the United States is authorized to provide for the appointment of Federal registrars and poll watchers. Federal registrars, also known as examiners, may be sent to covered jurisdictions at the Attorney General's direction if the Attorney General has received 20 meritorious written complaints alleging voter discrimination or if the Attorney General believes that the appointment of examiners is needed to enforce 15th amendment rights. It is the duty of Federal registrars, once assigned, to list those persons in the jurisdiction who satisfy State voting qualifications which are consistent with Federal law. That list is sent on a monthly basis to local election officials who are to enter the names of the listed persons on the official registration rolls. Federal observers or poll watchers may also be appointed in those covered jurisdictions which have been designated by the Attorney General for the appointment of Federal examiners. It is also at the request of the Attorney General that Federal observers or poll watchers are appointed. It is the duty of these poll watchers to observe whether all eligible persons are allowed to vote and whether all ballots are accurately counted.

Thus, one can readily observe that those special temporary provisions of the act, which are now in danger of permanent extinction unless Congress acts and acts quickly, provide what actually amounts to an arsenal of readily available and potentially highly effective remedies. The automatic trigger or coverage creates, in certain areas of the country, an automatic ban on the use of literacy tests and, with respect to those same areas, authorizes the Attorney General to review voting changes for potentially discriminatory impact prior to their effectiveness and to direct the appointment of Federal registrars and poll watchers.

I should point out here that if the legislation which I propose today is enacted into law, there will be in effect throughout the entire country a permanent nationwide ban on literacy tests. Therefore, that aspect of the special coverage arsenal of remedies would no longer be of the same significance, since it would no longer be only within the specially covered jurisdictions that such tests would be suspended—since 1970, there has, of course, been a 5-year nationwide suspension of such tests—but instead it would be throughout the entire country that a permanent nationwide ban would go into effect. Thus, the total effect of the extension legislation which I propose would be to create such a permanent nationwide test ban and, with respect to the specially covered jurisdictions, to continue for an additional 10 years—until August 1985—the section 5 preclearance requirement and the Attorney General's authority to direct the appointment of Federal examiners and registrars to those covered jurisdictions.

Having frequently alluded above to what have been termed "covered" or "specially covered" jurisdictions, it is important that I now describe how the special coverage trigger operates and those jurisdictions which it has brought under the act's special coverage. Section 4(b) of the act, as originally adopted in 1965, provided that those States, or political subdivisions within States which would not be covered as a whole, which used a test or device and had less than 50 percent registration or turnout at the time of the Presidential election of 1964 would be covered. Based on that formula, in 1965 and early 1966, the following were found to be specially covered jurisdictions: the entire States of Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, and Virginia; 40 of the 100 counties in North Carolina; 4 of the 14 counties in Arizona; Honolulu County, Hawaii; and Elmore County, Idaho. Taking advantage of the "bailout" suit provisions of section 4(a) of the act, which provide that a jurisdiction can exempt itself from special coverage if, in a request for a declaratory ruling, it can convince the District Court for the District of Columbia that it has not used a test or device in a discriminatory manner for 5—since 1970, 10—years, the State of Alaska; Wake County, N.C.; Elmore County, Idaho; and Navajo, Apache, and Coconino Counties, Ariz., sued for and were granted exemption.

The Voting Rights Act Amendments of 1970 retained special coverage over those jurisdictions listed above which had not been exempted and amended the trigger to also include those jurisdictions which used a test or device and had less than 50 percent registration or turnout at the time of the Presidential election of 1968. Therefore, new jurisdictions brought under special coverage by the 1970 amendments included three boroughs of New York City—namely, Manhattan, Brooklyn, and the Bronx—Campbell County, Wyo.; Monterey and Yuba Counties in California; and five additional counties in Arizona—Cochise, Mohave, Pima, Pinal, and Santa Cruz. Although exempted after 1965, the following counties were recovered in 1970: Elmore County, Idaho, and Apache, Coconino, and Navajo Counties in Arizona. By virtue of facts only recently brought to light, certain New England towns have also been covered as well.

Mr. Speaker, for several reasons I have felt it necessary to describe in some detail the operation of the act's trigger and the jurisdictions which are thereby covered. First, I believe it important for the Members of this body to realize and understand exactly which areas of the country are specially affected by the temporary provisions now slated for expiration; and second, I believe that the extensive listing in which I have just engaged unquestionably counters those who have urged in the past and who will undoubtedly urge again that the special provisions of the Voting Rights Act of 1965 amount to regional legislation. There is no question but that Congress was, indeed, faced with evidence, both during the enactment and the renewal of the act, which focused on problem areas—areas in the South which were brought to our attention as having significant barriers to voting on account of race or color.

However, especially at the time of the 1970 amendments, the coverage has clearly been broadened to include other areas of the country. Therefore, despite their frequent urgings to the contrary, the Southern States do not shoulder the burden alone. Areas in New England, New York City, California, and Arizona are also subject to section 5 preclearance requirements and to Attorney General designation for the appointment of Federal examiners and observers.

The thrust of my remarks thus far has been toward bringing our task into historical perspective and outlining those provisions which will be under consideration and how they operate. It is now time to turn to the crux or heart of the matter—the case for the continued need for the special provisions of the Voting Rights Act of 1965. As I alluded to earlier, the Voting Rights Act has justifiably been termed by many to be the most effective civil rights legislation ever enacted. Even though there are those of us who believe that the gains which have thus far been achieved under that legislation could have been greater, there is no denying that the gains have been great nevertheless.

Between the years 1964 and 1972, more than 1 million new black voters were registered in the seven covered Southern States. This represented a percentage increase from about 29 percent to over 56 percent of eligible blacks registered. Additionally, the number of black elected officials in those areas has skyrocketed. Prior to passage of the Voting Rights Act, there were well under 100 black elected officials in the covered Southern States and as of April 1974, that number had increased to 964. Specifically, we can further observe that the State of Mississippi, which now has 191 black elected officials, has more such officials than all other States except Michigan. In short, the gains under the act have been undeniable and truly significant.

But, Mr. Speaker, I say to you and to the other distinguished Members of this body, that there is also no denying that the job intended to be accomplished by the Voting Rights Act has not yet been done. The goals envisioned at the time of its enactment and renewal have yet to achieve fruition. As Assistant Attorney General J. Stanley Pottinger recently stated, in turning from arguments against extension to those in favor of extension—

> Some of the gains of the past 10 years are more apparent than real.

For example, of the 191 black Mississippi officeholders, most are located in heavily majority black counties or districts and only one of those officeholders serves in the Mississippi Legislature, even though Mississippi has a black voting age population of 31.4 percent.

In fact, when one makes a review of each and every State, comparing the percentage of black elected officials with the percentage of black voting age population, I believe that it is of utmost significance that the seven Southern States covered by the act rank as the highest seven States in terms of having the largest disparity between numbers of black officials and numbers of blacks of voting age. This, essentially, is the breakdown as of April 1974: Alabama had a 23 percent black voting age population, while it had only 3.7 percent black elected officials; Mississippi had a 31.4 percent black voting age population with only 4.0 percent black elected officials; North Carolina had a 19.4 percent black voting age population with 2.9 percent black elected officials; South Carolina had a 26.3 percent black voting age population and had only 3.8 percent black elected officials; and Virginia had a 16.6 percent black voting age population with 1.8 percent black elected officials.

Only one black Representative has been elected to serve in Congress from among the seven covered Southern States. Also, while blacks have, in fact, begun to serve in Southern State legislatures, county commissions, school boards and city councils, in those areas, no blacks hold statewide office.

Additionally, I believe that it is important to note that, with respect to black registration in the seven Southern States covered by the act, that job, too, has yet a way to go before this body can stand by and allow the special provisions of the Voting Rights Act to fade away into extinction. It has been estimated that blacks still lag approximately 15 percentage points behind whites in terms of registration in the South. In 1972, it was estimated that there were well over 2.5 million blacks still unregistered in all of the 11 Southern States. Based on 1971–72 estimates, the gap in Alabama between black and white registration, with the white rate, of course, exceeding that of the black rate, was 23.6 percentage points. Those same estimates indicate that in Louisiana, that gap was 20.9 percent and in North Carolina, that gap was 15.9 percent. Data available through 1974, indicates that in Louisiana, blacks are still trailing 16 percentage points behind whites in terms of registration and in North Carolina, that disparity has, in fact, increased to 17.8 percent since 1972.

I should also point out that in Louisiana, as of 1974, of the 64 parishes in that State, 36 of those parishes had a 15-percent greater disparity between black and white registration, with blacks trailing in that count. In some of those 36 parishes, blacks were as many as 40 percentage points behind whites in registration. In North Carolina, data available in 1974 indicates that of the 39 counties in that State covered by the act, in 20 of these counties, blacks lagged 15 percent or greater behind whites in registration, with that disparity in some counties being more than 30 percent.

As most have undoubtedly observed, in making this analysis of the progress achieved under the Voting Rights Act and our continued need for the act, I have focused on the nature of the gains which have been made in the seven Southern States which are covered by the act. I should note that this has been because it is those States which are the primary areas among those earliest covered. It is those States which have been subject to the special provisions of the act for the longest period of time.

Therefore, when we can observe, as I believe we have, that even in those longest covered areas the need for the act's special provisions and protections yet persists, there can be no doubt that it is now incumbent upon this body to insure that those provisions and protections do not cease.

In concluding, I find that we have essentially come full circle. We began with the tragic violence which marred the 1965 march from Selma to Montgomery and the unbelievable level of disenfranchisement which plagued the black citizens living in the South at that time. We then shared some hope and rejoicing in the passage of the Voting Rights Act and the tremendous gains which it has wrought. But we wind up at a point where a fair and accurate reading of the evidence leaves us no choice but to conclude that too much rejoicing at this juncture would be none other than premature. There are no laurels upon which we can now rest, for large numbers of minority citizens in areas covered by this act have yet to be registered. They have yet to play a part in sending to the national and local halls of government persons representing their districts and regions.

I urge that we all now take time to carefully consider and study the legislation which I bring before you today. It is not the abhorrent monster which unjustifiably plagues and harasses certain regions of the country, as some would have us believe. It is simply a tool which has worked and which hopefully will continue to work to insure that in this great land of ours no artificial barriers to voting will be placed in the paths of our minority citizens. Only where all citizens have fair and equitable access to the ballot, will faith in our governmental institutions endure. By urging the passage of this legislation, I ask only that that faith be allowed to survive.

VOTING RIGHTS EXTENSION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 5 minutes.

Mr. EDWARDS of California. Mr. Speaker, I rise this afternoon to speak as a cosponsor and supporter of the voting rights extension legislation which has just been introduced by the distinguished chairman of the Committee on the Judiciary. Like the chairman, I believe that there is much left to be accomplished by those special temporary provisions of the Voting Rights Act which are now slated for expiration during August of this year.

I was a member of the Committee on the Judiciary when that act first became law in 1965, and in 1970, I served on the subcommittee which considered and held hearings on the Voting Rights Act amendments. At the time those amendments were under consideration, it was felt that the temporary provisions of the act had not actually run their full course in terms of bringing about the full enfranchisement of the Nation's minorities residing in the specially covered jurisdictions. Accordingly, those provisions, then scheduled to expire in August of 1970, were extended until August of 1975. Again, I find that we are still faced with a task that is far from complete.

The paramount importance of this legislation is unquestioned. It focuses on the very heart of what it means to be a citizen in this country. The ballot, the right to vote, is undoubtedly the most precious right which is bestowed upon the American citizenry and, to the extent that there may be any abridgement of that right because of a citizen's race or color, then the very fiber of our democratic process is endangered.

While recently reflecting upon this matter within the context of the many economic ills which have beset us, it became abundantly clear to me that should this body fail to extend the protections afforded by the special provisions of the Voting Rights Act, we would essentially be adding insult to injury where the minority residents of the covered jurisdictions are concerned. While both minority and nonminority residents of those jurisdictions are undoubtedly suffering from the current spiraling rates of unemployment and inflation, we should all be cognizant of the fact that minority citizens as a whole are suffering the greatest.

With total unemployment in this country now at an astounding level of over 7 percent, recent figures indicate that for minorities, that figure is an even more astounding 12.8 percent. I say this only to suggest that these minority citizens, who are now suffering the greatest job exclusion, cannot now be subject to a similar exclusion at the polls. When their very lives and well-being are at stake during this severe economic crunch, we simply cannot snatch away from them the right to choose those who will make the critical economic decisions affecting their lives. I ask only that we keep these factors in mind.

While the chairman has emphasized in this statement the great distance which there is yet to go in terms of achieving full voting rights for those protected by the act's special coverage, I believe it just as important to note the terribly fragile nature of the gains which have in fact already been achieved. The evidence is such that it would certainly appear that if the temporary provisions of the Voting Rights Act are allowed to expire, those gains could be swept away as though by a whirlwind, that whirlwind of course having been helped along by this Congress failure to extend those protections which the act now provides.

One of the most important of the temporary provisions of the Voting Rights Act is section 5. That section requires that in each of the specially covered jurisdictions, before any change affecting voting can take place, the change must be submitted for approval or preclearance to either the Attorney General or the U.S. District Court for the District of Columbia. In proposing the change, the State or subdivision has the burden of demonstrating that its purpose or effect is not the denial or abridgement of the right to vote on account of race or color and, unless that burden is met, the change cannot take place. Clearly, the significance of this provision and its effectiveness in terms of preventing lapses back into the "old ways" under the guise of new practices or laws, cannot be overstated. In short, section 5 is a safeguard against new forms of discrimination.

It is only because of section 5 that many minority citizens have been able to register, to vote, to not suffer dilution of their voting power, and to run for public office. If its protections are now taken away, no longer would an Attorney General objection under that section be able to prevent those changes relating to voting which could destroy those gains. As judicially interpreted and I believe as properly intended by the Congress all voting changes, even those which may on the surface appear to be quite minimal, must be submitted for approval. Therefore, changes to be submitted include such things as changes in districting, registration times and places, polling places, boundaries, and qualifications for office.

The most important thing to note with respect to section 5 is that the Justice Department has in very recent months and years, begun to make extensive use of its objection power under that provision, because it has failed to be convinced that certain changes being proposed by the covered jurisdictions did not have discriminatory purposes or effects. In fact, for the calendar year 1974, up through the period of November 22, 1974, the Justice Department entered 41 objections opposing changes which had been submitted for section 5 review. In 1973, there were 30 such objections; in 1972, 50; and in 1971, 56.

These recent objections have been entered against changes ranging from moves in polling places, which would have placed severe burdens on minority residents, to proposed annexations, which would have had the effect of diluting minority voting strength. The objections entered related to proposed changes which covered the full range of the spectrum and I believe that what we simply cannot afford to overlook is the fact that but for section 5, those potentially discriminatory changes would have gone into effect, and the rights of many voters and potential voters could have thereby been destroyed. It should especially be noted that we are not discussing potentially discriminatory changes which were objected to several years ago but instead, many of the changes involved would have actually gone into effect as recently as 1974.

Section 5 of the Voting Rights Act is still extremely vital. It is still meaningful and up until this very day it is still being called upon, by those charged with its enforcement, to prevent the implementation of unfair voting practices. Those who would suggest that we allow that section "to die a natural death" in August of this year, have thoroughly misread the current state of affairs. That section could only die a natural death if it were in the process of dying, of becoming defunct. However, section 5 now has such vitality that if we were to in fact allow its expiration in August, such an act would amount to nothing less than some form of actionable homicide.

Two other important points should be made with respect to that provision of the Voting Rights Act. First, it was not until 1971 that the Justice Department began applying the proper burden-of-proof standard with respect to section 5 submissions, and it was also not until that year that the Department for the first time adopted regulations for implementing section 5. To allow that provision to expire in August would mean that we would have essentially offered its protections for only 4 of the 10 years which Congress intended as its duration.

Second, it is noted that while section 5 does require the submission of all proposed changes related to voting by the covered jurisdictions, there has been some indication that certain of the covered jurisdictions have made such changes without making the required submissions. Therefore, to the extent that we have been able to point to a great many benefits flowing from section 5, despite the apparent failures of all to comply, there can be no question but that if the act is extended and such failures detected and brought into compliance, those benefits would increase significantly.

I wish further to point out that there has also been a notable amount of recent activity under sections 6 and 8 of the Voting Rights Act. Those provisions authorize the Attorney General to direct the appointment of Federal examiners—registrars—and observers—poll watchers—to the covered jurisdictions. If those jurisdictions are no longer specially covered by virtue of our failure to amend section 4(a) of the act prior to August next, then the Attorney General loses his authority to direct such appointments.

As recently as October 31, 1974, the Attorney General has directed the appointment of Federal examiners or registrars to a county in the State of Alabama. Also, in 1974, counties in Georgia and Mississippi, as well as a parish in Louisiana, were designated for examiners. Data on 1974 activity also indicates that during that year, 234 Federal observers were appointed to serve in Alabama, 64 in Georgia, 56 in Louisiana, and 76 in Mississippi.

Thus, much like the situation with respect to section 5, sections 6 and 8, relative to their special application to covered jurisdictions, are far from defunct. Therefore, we must not allow their special coverage to expire while the continued need for the services of such Federal officers is so readily apparent.

Finally, it is noted that while it would appear that physical violence and threats against blacks who are active in the political process have certainly diminished, such violence and intimidation has not completely disappeared. For example, affidavits on file in currently ongoing Mississippi court proceedings, make serious allegations of telephone threats, harassment, and actual physical violence against black candidates and campaign workers. These allegations relate to incidents occurring in 1970 and after. There are also reports of physical violence having been perpetrated against blacks during the general election in Humphreys County, Miss., on November 2, 1971. A black candidate for supervisor in that election reported that on election day, whites with shotguns were riding around on pick-up trucks. Another individual described the same incident as follows:

> [T]rucks occupied by armed white men hovered about the polls.

It is my belief that such recent occurrences of physical violence and intimidation, fewer in number though they may be, should definitely be considered as we review the possibility of minority losses in those political gains which have thus far been made in the covered jurisdictions. Such events should alert us to what may be a pervasive desire on the part of some residents in those jurisdictions to deprive blacks of the votes and offices which they have attained. While I certainly do not intend to blanketly attribute such ill-will to the many fair-minded residents of those areas, I nevertheless urge that we simply cannot ignore these events as meaningless. For as long as any such incidents are taking place in the covered areas, I believe that it would be utterly reckless for this body to allow the special protections of the Voting Rights Act to expire. To do so would be to risk the many victories and successes of that act to which we now point with pride.

In concluding, Mr. Speaker, I ask only that my colleagues take the time to make a fair appraisal of the legislation which has been introduced today. The issue is actually quite simple. Does the need still exist for the temporary provisions of the Voting Rights Act? I believe that a fair reading of the facts which have been put before you and of others which will unfold as this matter is being considered can only lead one to conclude that the extension proposed today must be passed.

Thank you.

THE YOUNGEST POPULIST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, since 1962 I have had the pleasure of serving with my colleague and dean of the Texas Democratic Delegation in Congress, WRIGHT PATMAN, on the House Banking and Currency Committee. He has been chairman of that committee since 1963.

I have always admired Chairman PATMAN's great wisdom, his perseverance, and his continuing long efforts in behalf of the people, but have never felt that he has quite yet been given the opportunity which he should have.

Therefore, it was very gratifying to read in Sunday's Washington Star-News an article by consumer advocate Ralph Nader which sums up the case for Chairman PATMAN quite well.

I would like to share Mr. Nader's remarks with you:

[From the Washington Star-News, Jan. 12, 1975]

THE YOUNGEST POPULIST

(By Ralph Nader)

That old Texas populist, Wright Patman, has been in Congress for 46 years—longer than anyone else in both Houses. He came to Washington in March 1929—a few months before the stock market crash that launched the depression.

Unlike other progressives of that period, Patman concentrated on money and banks as his specialty in the House of Representatives.

He angered the banks and their powerful congressional supporters almost from the day he was first elected. Imagine a freshman congressman taking on Treasury Secretary Andrew Mellon for practicing like a big banker instead of a public official. The old guard on Capitol Hill didn't like to imagine so they kept Patman off the Banking Committee until the late thirties. This obstruction, in turn, kept him from becoming chairman until 1963.

Now for the first time in his steadfast career, Patman has a sympathetic Banking Committee chairman over in the Senate in Sen. William Proxmire, D-Wis. Over and over again in the past, the wily bank nemesis would be stymied either because bills he got through the House, such as the one last year to have the Federal Reserve audited by the General Accounting Office, would never get through the Senate or because a majority of his own bank-indentured committee members blocked him.

In September 1972, Patman wanted to launch an investigation into the Watergate matter by issuing subpoenas to suspected contributors, campaign committees and banks to trace the money. All the Republicans and five Democrats on his committee joined to block the inquiry. As he has shown so often in his career, Patman was right too soon.

At the mere age of 78, Patman stood on the House floor that memorable day in 1972 to deny Wilbur Mills, for the first time, a request for unanimous consent to ram through that session's outrageous "Christmas tree" of tax-loophole bills.

Only Rep. Les Aspin, D-Wis., had the courage to stand with Patman in a move that began the downfall of Mills' power in the House.

Whether the issue deals with consumer credit, credit unions, bank mergers, the secret power of the Federal Reserve, the bank holding company movement or adequate credit for housing, Patman remains the youngest populist of them all.

With a more consumer minded committee, following the retirement or defeat of several big banking allies last November, Patman will be permitted more leeway to push for fundamental changes in the nation's financial institutions and the reduction of taxpayer subsidies to the banks, which have totaled many billions of dollars.

For decades, the hardworking chairman of the House Banking Committee has warned Americans about the close interlocks between banks and other corporations, and between banks and the federal banking agencies that are supposed to regulate them.

He has made concrete and understandable what he means when he says that the people's money must be used for the people's interests. His audiences understand what banking concentration is, when he says that the nation has just over 14,000 commercial banks, but the 50 largest have more assets and deposits than all the rest.

Ten years ago, Patman arranged for the publication of a "Primer on Money" to educate citizens about money and the banking system in clear language. It was distributed in the tens of thousands and is still available free from his office.

The new Congress provides Patman with the best climate in years for the lengthy menu of hearings and legislative proposals that he and his staff have been preparing. Unlike so many venerable, status quo-type, congressional chairmen, Wright Patman can be permitted to view the current session as possibly his finest hour.

NEW INTERAGENCY COMMITTEE ON RESOURCE RECOVERY IS FORMED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Vanik) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, for some time I have been skeptical that the Federal Government was doing all it could to promote resource recovery practices. Without a genuine commitment to materials conservation on the Federal level, it is difficult to see how resource recovery can, in fact, become a national goal.

Specifically, last March 15 I wrote to the Administrator of the General Services Administration to recommend the establishment of an interagency panel to investigate the problems of the recovery and reuse of waste lubricating oil. In earlier correspondence with the GSA, I discovered that the Agency was unaware of the quantities of waste oil generated by the Federal fleet or even the way in which that oil was disposed. At the same time, various other agencies including the Bureau of Mines in the Department of the Interior, the Defense Supply Agency, the Department of the Army, the Environmental Protection Agency, the Federal Energy Administration in addition to the GSA have been conducting research into the waste oil problem.

In response to my inquiry, an informal meeting was called by GSA to discuss Federal programs on waste oil recovery. As an outgrowth of that meeting, it was agreed that an Interagency Committee on Resource Recovery should be established to investigate disposal problems not only to waste oil but also of other potentially valuable materials, including scrap tires, metals, paper, and other scrap material.

Recently, GSA Administrator Arthur Sampson invited the heads of 14 other Federal agencies to participate in this interagency committee. I am hopeful that the response to this invitation will be enthusiastic. In addition, I am optimistic that the new Interagency Committee will aggressively fulfill its mandate to improve the Federal Government's efforts of recovering valuable resources from waste material.

Thinking my colleagues may be interested, I am submitting copies of my recent correspondence from the GSA for the Record:

General Services Administration,
Washington, D.C., April 5, 1974.

Hon. Charles A. Vanik,
House of Representatives,
Washington, D.C.

Dear Mr. Vanik: Thank you for your letter of March 15, 1974, suggesting that the General Services Administration initiate an inter-agency group to study, evaluate and make recommendations regarding the Government's waste oil problems.

We agree that the Federal Government has an obligation to demonstrate leadership in developing programs for the successful reclamation of waste oil, and we believe that implementing your suggestion to form an inter-agency study group will provide the necessary impetus to launch an effective approach to the problem.

In keeping with your suggestion, the General Services Administration will contact the other agencies working on waste oil recovery and invite them to participate in an inter-agency group which will coordinate the Federal Government's waste oil recovery efforts.

We very much appreciate your interest in this matter, and will keep you advised of our progress.

Sincerely,

Arthur W. Sampson,
Administrator.

General Services Administration,
Washington, D.C., January 10, 1975.

Hon. Charles A. Vanik,
House of Representatives,
Washington, D.C.

Dear Mr. Vanik: We are pleased to advise you that in response to your suggestion that the General Services Administration initiate an interagency group to study, evaluate and make recommendations regarding the Government's waste oil problems, an Interagency Committee on Resource Recovery was established on December 17, 1974.

The enclosed letter was sent to 13 agencies inviting them to participate on the new committee. Following the replies from the agencies, the first meeting of the Committee will take place in the early part of 1975. Subcommittees will then be set up to provide advice regarding recovery of resources from each of several waste materials, such as waste paper, waste oil and scrap tires.

The Federal Government has a responsibility to take a leadership role in the protection of the environment, and we believe the resource recovery activities to be coordinated by the Interagency Committee will make an important contribution to this effort. If you have any questions or if we can be of any other assistance, please let us know.

Sincerely,

Larry F. Roush,
Acting Assistant Administrator.

General Services Administration,
Washington, D.C., December 17, 1974.

Hon. Earl L. Butz,
Secretary of Agriculture,
Washington, D.C.

Dear Mr. Secretary: In response to the growing public and congressional interest in resource recovery, and in recognition of the significant impact which increased resource recovery can have on our national energy conservation and environmental protection efforts, the General Services Administration is establishing an Interagency Committee on Resource Recovery. The Committee will provide advice regarding a concerted Federal effort to improve recovery of resources, including energy, from waste materials. The Committee will coordinate ongoing studies, consider potential areas for joint endeavors, and recommend specific proposals for improving the Federal Government's resource recovery efforts.

On June 13, 1974, an informal meeting was held at GSA to discuss waste oil recovery problems. Representatives from the Federal Energy Administration, Environmental Protection Agency, Defense Supply Agency, Department of the Army, Bureau of Mines, and GSA attended. The consensus was that since waste oil was but one of many disposal problems, an Interagency Committee on Resource Recovery should be established with subcommittees formed to deal with waste oil, scrap tires, metals, paper, and other scrap materials.

Agencies being invited to participate initially in the Interagency Committee are listed on the enclosure. The Committee will be chaired by the Assistant Commissioner, Office of Personal Property Disposal, Federal Supply Service, GSA.

We would appreciate your support and the participation of your agency in this endeavor and invite you to designate a person or persons to represent your agency on the committee.

Sincerely,

Arthur F. Sampson,
Administrator.

Invited Participants: Interagency Committee on Resource Recovery

1. Department of Transportation.
2. Department of the Interior.
3. Department of Health, Education, and Welfare.
4. Department of Defense.
5. Department of Agriculture.
6. Department of Commerce.
7. Environmental Protection Agency.
8. Federal Energy Administration.
9. Federal Trade Commission.
10. National Academy of Sciences.
11. U.S. Postal Service.
12. Water Resources Council.
13. Atomic Energy Commission.
14. General Services Administration.

CANCER AND WOMEN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois (Mrs. Collins) is recognized for 15 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, cancer: The very word strikes terror in the hearts of men, women, and children everywhere. No one is safe from this dread disease. From 1971 through 1974 it is estimated that almost 1.4 million persons died of some form of cancer. The American Cancer Society predicts that in 1975 another 365,000 persons will die because of this disease. We can expect cancer to claim 1,000 persons per day or one person every minute and a half. One out of every six deaths in America is caused by this ubiquitous enemy, cancer.

Until recently, breast and uterine cancer, two of the major killers of women, received little or no congressional attention. In the 93d Congress I introduced legislation (H.R. 12154) to provide a post-mastectomy breast prosthesis as part of the items and services covered by medicare. I am happy to say that Commissioner Cardwell of the Social Security Administration has finally relented and allowed this coverage. Fortunately, there is no longer any need for the reintroduction of H.R. 12154.

Now, uterine cancer demands our attention. One of the tragedies of this type of cancer is that it would not prove fatal if it were only discovered in time. Many years ago, Dr. George Papanicolaou developed a test—the Pap test—from which doctors can readily determine whether a woman has or is developing cancer of the uterus or cervix. Yet, in order to be fully effective in combating cancer, the Pap test must be given at regular intervals.

After much scientific experimentation, the American Cancer Society has been able to determine that certain types of women can be classified as "high risk" for cancer of the uterus or the cervix: They are women who are from low-income backgrounds, who have never had regular check-ups, who have borne children, or who have a history of early sexual intercourse with multiple partners. It is these same women who are economically, educationally, or medically indigent and/or over 65 years of age who are the least likely to have had the Pap test. Thus, many women who are most in need of this test either do not know about it, or cannot afford it.

The American Cancer Society warns that there will be 46,000 new cases of uterine cancer causing 11,000 deaths in 1975. Though the 5-year survival rate for localized uterine cancer is 82 percent, this drops drastically to 44 percent if the cancer has spread beyond the uterus before treatment. The fatality rate will decline if the Pap test is available to all women on a regular basis.

Therefore, today I have introduced legislation which will help provide for the early detection of uterine and cervix cancer by including the Pap test under medicare. This legislation was introduced last year by Congresswoman GRIFFITHS and Senator BAYH and received broad support both in Congress and around the country. The need for such legislation increases greatly every year. I am hopeful that a major effort will be made in the 94th Congress to pass this legislation and bring the Pap test to all women. Many lives are depending on us.

FREEDOM FIGHTERS' MEDICAL CARE LEGISLATION REINTRODUCED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, today, January 14, the 1st day of the 94th Congress, I am reintroducing my bill to provide hospital and medical care to members of the armed forces of Poland and Czechoslovakia who were allied or associated with the United States in World War I and World War II.

During these struggles against totalitarianism, many citizens of Poland and Czechoslovakia fought with great courage against nations at war with the United States. Many of these veterans emigrated to America after the war and became citizens who have enriched our Nation immeasurably through their talent and dedication to the ideals of freedom.

This bill gives the recognition of a grateful nation to these men of bravery in the allied war effort by providing that they be eligible for Veterans Administration medical and hospital benefits on the same terms as war veterans of the U.S Armed Forces. This bill is limited to persons who have been American citizens for at least 10 years and who participated in armed conflict with an enemy of the United States during World War II while serving in the armed forces of Poland and Czechoslovakia. Also, they must not be entitled to equivalent care or services provided by a foreign government or ally of the United States.

Passage of these limited benefits is supported by the Illinois division of the American Legion, the National Council of the Veterans of Foreign Wars, the 82d Airborne Division Association, Inc., the 101st Airborne Division Association, and also by the Combined Veterans Association of Illinois, which embraces the following organizations: AMVETS, the Catholic War Veterans, the Italian-American War Veterans, the Jewish War Veterans, the Marine Corps League, the Navy Club, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Polish Legion of American Veterans, the United Spanish-American War Veterans, the Veterans of Foreign Wars of the United States, and the Veterans of World War I. It is also supported by the Service Employees International Union, and many other groups and individuals.

Mr. Speaker, several Allied countries, including Canada, Britain, Australia, and New Zealand, have granted full veteran privileges to the Polish veterans who settled in their lands. However, the United States has not, despite the fact that we already provide medical and hospital benefits to World War II veterans of the Philippine Armed Forces, even if they are not U.S. citizens. Yet, the heroic sacrifices that were made by the Poles and Czechs who are now American citizens were the same as Philippine nationals.

During the 93d Congress, on August 5, 1974, this legislation was passed overwhelmingly by the House of Representatives by a vote of 341 to 40. The bill was then referred to the Senate Veterans Affairs Committee of which Senator VANCE HARTKE of Indiana is the chairman, and there it lay for almost five solid months, until December 20, when the 93d Congress ended and the bill died.

Mr. Speaker, when we consider this long overdue legislation to provide medical benefits for the few remaining freedom fighters who have not yet been overtaken by the infirmities of old age, we must keep in mind the moral aspect and the spirit of our laws—a spirit which for Americans always has meant recognition for sacrifices made in behalf of the American cause. This is part of the American heritage—and an integral part of the thinking of every American from the earliest days of the founding of our Republic.

It is this same spirit that is reflected in the provisions of my freedom fighters medical care legislation and I, therefore, strongly urge the support of my colleagues for favorable action on this crucial bill early in the 94th Congress in order that these limited benefits may be made available to those men who fought so heroically along with the American and allied forces during two world conflicts for the preservation of our freedoms.

The text of my bill follows:

H.R. —

A bill to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 109 of title 38, United States Code, is amended by adding at the end thereof the following:

"(c)(1) Any person who served during World War I or World War II as a member of any armed force of the Governments of Czechoslovakia or Poland and participated while so serving in armed conflict with an enemy of the United States and has been a citizen of the United States for at least ten years shall, by virtue of such service, and upon satisfactory evidence thereof, be entitled to hospital and domiciliary care and medical services within the United States under chapter 17 of this title to the same extent as if such service had been performed in the Armed Forces of the United States unless such person is entitled to, or would, upon application thereof, be entitled to, payment for equivalent care and services under a program established by the foreign government concerned for persons who served in its armed forces in World War I or World War II.

"(2) In order to assist the Administrator in making a determination of proper service eligibility under this subsection, each applicant for the benefits thereof shall furnish an authenticated certification from the French Ministry of Defense or the British War Office as to records in either such Office which clearly indicate military service of the applicant in the Czechoslovakian or Polish armed forces and subsequent service in or with the armed forces of France or Great Britain during the period of World War I or World War II.".

CONSUMER PRICE INDEX FOR THE ELDERLY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 5 minutes.

Mr. BINGHAM. Mr. Speaker, today I am introducing legislation to create a Consumer Price Index for the elderly to be used in determining social security cost-of-living increases to more accurately meet inflation's impact on social security recipients.

The CPI is the bellwether for increases in social security benefits. Section 215(i)(1)(B) of the Social Security Act provides that automatic increases shall be determined and paid when the CPI exceeds 3 percent of the last computation period.

The need for a CPI for the elderly is compelling. The CPI prepared by the Bureau of Labor Statistics is a statistical measure of the changes in the prices of goods and services bought by urban wage and clerical workers. The index includes food, clothing, housing, transportation, health and recreation, and miscellaneous items.

The problem for senior citizens arises from the fact that they spend a larger proportion of their income than the average person for such items as food, housing, and health, and that it is in these three areas that inflation has run especially rampant. For example, the elderly on the average spend 34 percent of their income on food, as against 22.4 percent for the population as a whole. In the case of health, the percentage is 12 percent for the elderly, or more than double the average.

The bill I am introducing would make two changes in existing law:

First, it would require the Secretary of Labor, through the Bureau of Labor Statistics, to develop a Consumer Price Index for the elderly which would accurately reflect the actual increases in the cost of goods and services purchased by the aged, as opposed to the general CPI which is geared to reflect such increases for urban and clerical workers.

Second, after development, this new CPI for the elderly would be utilized to determine the annual cost-of-living increase in social security benefits. The regular CPI would continue to be computed and in any computation the higher of the CPI or the CPI for the elderly would be used as the guide for determining social security benefit increases.

Only in this way can we reasonably assure social security recipients that cost of living benefit increases accurately reflect added costs of needed goods and services.

STATE OF THE UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 30 minutes.

Mr. ADDABBO. Mr. Speaker, I would like to speak briefly to the Members of the House about my personal views of the state of the Nation as we convene for the 94th Congress.

We shall hear from the President tomorrow and that speech will provide the Congress with the necessary details for its deliberations. But those of us who have been out on the streets of America in recent weeks know only too well that our country has serious problems that must be dealt with as quickly as possible.

Let us make no mistake. The problems of America today are immense and they are complicated beyond belief. There are no easy solutions before us. There is no guarantee that our party has better ideas than their party, or that any of us are wise enough to choose the right path. All we can do, those of us who have been chosen by the people to represent them, is to hope that our best instincts prove correct. We can work ourselves as hard as possible, seek every available bit of information before locking ourselves into a fixed path and we can respect other points of view, because, as we begin, it is just possible that they might be right and we may be wrong.

As we look at the economy, we see respected economists arguing with each other as to the way to correct the malaise. As we watch the unemployment picture deteriorate, we again see the so-called experts fighting amongst themselves as to its cure. As President Ford said last night, our options are very limited.

We who sit in this Chamber are obligated to do the best we can for the people we represent. That is all we can do in the end. We must try our best, using reason rather than passion.

I would hope that as we debate these vital matters in months to come, we can eliminate contentiousness and partisanship as much as possible. Our Nation needs leadership today, not gamesmanship. Now, as to the issues as I see them.

From what I have seen over the holiday recess in my own congressional district, the Nation faces no sterner test in the coming months than coping with the many economic problems that now beset the Nation.

I would hope that the President, when he details in his state of the Union message his proposals for fighting these economic woes, has the gumption to do what is necessary to cure them. No matter how drastic the remedy might be, no matter how greatly all of us must suffer, we, the people of this Nation, can no longer endure not knowing the full extent of our problems. It will be better for all of us if the President offers the Nation a candid and accurate assessment of our problems and realistic means of dealing with them. As the polls would indicate the people of this Nation have no confidence in being fed pap simply because of the bad taste of the medicine. Let us have the worst put out where we can analyze it. Then we shall know how to deal with it.

As the President indicated in his speech last night, the role of Congress will be greatly expanded this year and next. I firmly believe the Congress has the obligation to act boldly and responsibly, whether it be in agreement with, or in opposition to, the proposals set forth by the President. No longer is it a simple case of partisan politics: it can literally become a matter of the Nation's survival as the most important free Nation in the world.

My own views I will present here in capsule form, a preview of legislation I will sponsor and support in the coming year. Some proposals are supported by the Democratic task force; others are not. No matter which, the following proposals are ones I believe are needed to relieve the plight of the people, even if their passage would cause us as citizens some difficulties in continuing life as we have known it up to now.

Our first priority is the question of the oil crisis. Our Nation is being strangled to death by the oil-producing nations and though our options are limited, we must respond immediately.

It would be insane, and self-defeating as well, to contemplate military action against the oil-producing nations. That leaves as our best available option the decision to cut our national dependence on imported oil supplies.

We have adequate supplies of oil within this Nation if we will only cut our annual consumption of oil to live within our means. The Federal Government must see to it that those limitations are not breached and I call upon the President to make that his first priority in the new year.

I propose massive Federal subsidies for all forms of mass transit, including buses, trains, and airplanes, so that fares can be forced downward as an attractive alternative to driving. I urge passage of legislation early this year which would mandate that all future automobiles sold in this Nation get a minimum of 20 miles to the gallon of gasoline.

I recommend that the use of neon signs be strongly curtailed in daytime hours and after 10 p.m. at night. I propose that all exportation of petroleum products be banned until the crisis is over, especially by the military. I propose that a thorough investigation of all utility rates be undertaken by the Federal Government, to be followed by a freeze on further rate hikes, or a reduction in rates if the investigation so deems.

I propose to mandate that the Federal Government use its full power to investigate business and industry to determine unfair and monopolistic practices, and to prosecute where it is needed. I propose forbidding any major exportation of foodstuffs which would have any bearing on increasing domestic food supplies. Along that line, I recommend that all farm subsidies be ended, to be replaced with an agriculture policy which would call for full utilization of every available acre of farmland and provide incentives to farmers to increase their annual yield, particularly of grains. I urge legislation that would require oil companies to divert adequate supplies of raw petroleum products toward fertilizer production to be made available to all farmers at a reasonable cost.

I seek specific legislation from the Congress as early as possible to beef up the money available through the Small Business Administration for the Nation's small businesses so they can expand their operations and work force, rather than let it shrink as most are now doing.

I propose a substantial tax cut and meaningful tax reform in the next few months, each of which it appears Congress will act upon. There is no question that the Congress must end tax loopholes.

I favor legislation to force the Federal Reserve Board to lower interest rates in order to stimulate housing construction, a move that would provide employment and decent shelter for millions of Americans.

I favor passage of a comprehensive national health insurance bill so that no American faces financial disaster due to the catastrophic costs of medical care.

And finally, I favor an exhaustive overview of all Federal programs so that antiquated or unnecessary programs can be eliminated. We must make every dollar count in our Federal spending over the next few years. We must maintain an adequate defense posture and we must provide money for education and social programs which in this day and age are equally as necessary and we must remove from the Federal payroll people with frivolous functions such as studies of the habits of vague insects, or those whose office ceased to effectively function years ago.

We must judiciously cut our military spending and I will say at this time I am not pleased at all with the proposed military budget that will be transmitted to the Congress by the President.

I must also say to the House that this Nation can no longer afford the overwhelming expense of the all-volunteer Army. Singlehandedly, it has shot up cost of the military budget by an alarming figure and it will grow like a cancer each and every year unless we reduce the amenities now provided.

All of this, and more, must be passed by the Congress in months to come. Much of what I have talked about today will be introduced in legislation in my name or by my action. If others come up, within committees on which I serve, with better proposals, or bills that stand a better chance of passing promptly, I will not hesitate to support those measures.

If the President's proposals are adequate to combat our problems, I will gladly support his idea. If they are inadequate, by my sights at least, I will not hesitate to modify them for better, as I see it.

We can no longer afford to sit back as a Congress and wait for the President and his administration to act. We have millions of people unemployed, and public service jobs we have provided can only help so many for so long. We must insure that the Nation's free enterprise system begins to function again as we know it can.

We are not so desperate that we will trade the gains in ecology and consumerism for additional production. We must maintain the strides we have made while providing the means for legitimate businessmen to be able to see a fair and equitable chance of redeeming their investments with a profit. We want businesses to grow so that today's workers and the new crop that comes from our schools each year can find decent and meaningful employment.

We have much to do and little time in which to do it. So I would hope that we will not waste time in meaningless wrangling, but get down to the work that we know has to be done. I am ready to proceed and I know that my colleagues on both sides of the aisle are ready to move, as well. Thank you.

RECOMPUTATION OF MILITARY RETIRED PAY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. ANDERSON) is recognized for 5 minutes.

Mr. ANDERSON of California. Mr. Speaker, I am today reintroducing legislation to provide for the recomputation of military retired pay. I have sponsored recomputation legislation in the three preceding Congresses, and I regret that the House of Representatives has not yet acted on this important issue.

In the past, I have supported full recomputation of military retired pay—a return to the previous system of basing retired pay on active duty pay scales. I still believe in that principle. However, today I have reintroduced a compromise proposal—a one-time recomputation of military retired pay. Such a measure has been adopted by the Senate; and the major military organizations, active duty and retired, have agreed to accept a "one-shot" recomputation as the final resolution of this question.

In brief, this legislation would provide a one-time recomputation of military retired pay, based on the rates of pay in effect on January 1, 1972. Any future increases in retired pay would be based on the Consumer Price Index. There would be immediate recomputation for disability retirees with a rating of 30 percent or more, and for retirees who are 60 years of age or older. For the remaining present retirees, recomputation would occur when they reached age 60, and it would be based on the January 1, 1972, pay scales with any subsequent cost of-living raises. Pre-1949 disability retirees would have the option to remain under the current retirement laws or to come under this legislation, at their actual degree of disability.

The principle of recomputing military retired pay based on active duty pay was incorporated in the American Military Retired Pay System from the time of the Civil War to 1958, with short exceptions. All military personnel who served before June 1, 1958, did so with the expectation that this principle would continue to be followed. It is quite likely that the recomputation feature of the retirement system was largely responsible for the decision of many to make the military a career.

Although there was no signed contract with the U.S. Government promising that this system would be continued after service was completed, there certainly was a moral obligation on the part of the Government not to reduce the entitlement after it was earned.

The hundreds of thousands of retired career personnel, both Regular and Reserve, who served in several wars believed that their Government would continue to honor that obligation by preserving their entitlement to those rights earned under laws existing during their active service. Repeated governmental statements concerning the matter strengthened this belief.

However, in 1958, Congress abandoned the recomputation principle and substituted an across-the-board 6-percent increase for retired personnel. In 1963, Congress offered a one-time recomputation to those who were retired prior to the 1958 changes, or a 5-percent cost-of-living increase, whichever was greater. The cost-of-living system of adjusting retired pay is in effect today.

Although changes have been made in the system in an effort to protect the retiree from the rapid rate of inflation, they have not done so. The average retiree's pay has increased by 93.9 percent since 1958, while active duty pay has increased by 180.3 percent during the same period. A tremendous gap in retired pay has grown between the retirees of the same grade and years of service, depending upon when they retired.

Many of the lower grade retirees who served their country well for 20 or 30 years through two or three wars are in dire straits. They served at times when pay scales were very low and raises few and far between. Their retired pay is small, they pay taxes on it, and end up with less than what many people get who never did anything for their country, who will not work, who pay no taxes, and who live off other people's money.

The many retired military men and women who have served our country, and who have given of their minds, bodies and years—none of which can be replaced—certainly deserve no less than equity in their retired pay. Full recomputation would best provide such equity. But the one-time recomputation I am introducing today would go a long way toward making restitution for the Government's breach of faith in 1958 when the traditional military retirement formula was changed.

THE LATE MARVIN M. KARPATKIN

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RANGEL) is recognized for 5 minutes.

Mr. RANGEL. Mr. Speaker, in the middle of the flurry of activity surrounding the opening of the 94th Congress, I must take this opportunity to announce with deep regret the death of one of the Nation's most prominent civil libertarians. Marvin M. Karpatkin died Monday while jogging outside his home on Riverside Drive in New York.

A graduate of Brooklyn College in 1949 and Yale Law School in 1952, Marvin formed a law firm in New York with his wife. This firm was concerned chiefly with representing those young men who sought legal counsel in their dealings with the Selective Service. He was always willing to represent all those who for whatever reason were conscientiously opposed to participating in military operations. Several times he appeared before the Supreme Court to argue that these young men should be allowed to exercise their constitutional rights with regard to the military.

His concern for seeing that individuals are allowed to freely and without interference exercise their civil liberties extended over the blacks' struggle to achieve equality. In the early 1960's when the civil rights cause needed all the allies it could possibly get, Marvin Karpatkin made the trip to Mississippi to defend the civil liberties of black people in the face of much tension. The assistance he provided in terms of legal expertise and the moral commitment to the cause of justice which his actions demonstrated will long be remembered within the black community.

At a time when lawyers have had to defend their integrity in the light of recent actions taken by other lawyers who were sworn to uphold and enforce the laws, Marvin Karpatkin was a sterling example of what all those lawyers should have been. His presence in and out of the courtroom will be most definitely missed. I take this opportunity to extend my very heartfelt sympathy to his wife, Rhoda, and their three children.

COMPREHENSIVE CHILD DEVELOPMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

Mr. OTTINGER. Mr. Speaker, I am introducing legislation today which is known as the Comprehensive Child Development Act of 1975. Our former colleague and my predecessor, Representative Ogden Reid, labored long and hard for the passage of this bill. Mr. Reid, during the 92d Congress, finally achieved his goal of passage by the Congress, but his efforts were stymied by former President Nixon, who vetoed the Reid bill.

This bill is designed to strengthen family life in America and to insure that parents are entered into a partnership with State, local, and Federal Government in the task of providing quality day care, educational development, and a stimulating and healthy environment for millions of children in the Nation today who need these services.

For those children, only the kind of care and development proposed by day care advocates across the country for years will help the youth of America grow to adulthood as fine citizens of the United States. It is these goals to which my bill addresses itself.

This legislation is of supreme importance, not only to my constituents or to the people of New York State, but to families across the Nation. Nothing is more important to the well-being of America than the strength of the family unit and it is thus my hope that my colleagues will join me in supporting the Comprehensive Child Development Act of 1975.

MALPRACTICE CRISIS AND MEDICARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I have today introduced legislation which would deal with two related problems. The first problem is the rapidly worsening crisis in malpractice insurance as it affects our physicians and hospitals and their patients.

This is a problem which most Americans have probably not yet even heard of, but which nonetheless is beginning to threaten the stability of the entire health care system. The problem of medical malpractice claims and the soaring costs of the medical malpractice insurance that doctors and hospitals must pay if they are to continue to render care is worsening much faster than was thought possible only a few months ago. The vastly increased costs for such insurance ultimately must be met through charges to patients and to medicare and the other programs paying for the costs of health care.

But the problem is even more severe than that. Not only are malpractice insurance premiums rising dramatically, but in addition, doctors in some localities are facing the prospect of being unable to obtain insurance at any price. The companies that provide this insurance consider malpractice a risky, uncertain area. It represents only a small proportion of their business in many cases. Where State insurance commissioners will not allow premiums to rise by the major amounts these companies believe to be needed, they more and more are just saying that they will withdraw from the market. In a number of States—of which a few are California, Michigan, and Maryland—the problem is reaching crisis proportions, and the difficulties are also spreading rapidly to other parts of the Nation.

The threat of malpractice suits hangs over the heads of doctors even where the complete loss of malpractice insurance is not an immediate danger. Doctors consistently report that they feel it necessary to engage in "defensive medicine"—by ordering excessive diagnostic tests, calling in consultants, and practicing in a manner that greatly increases the costs to patients and to insurance programs like medicare. Doctors practice in this expensive, defensive way not for the benefit of patients, but only out of necessity, they believe, to protect themselves against malpractice suits and to aid in their defense if they are sued. These practices increase the cost of health care, including medicare, and need to be solved before we embark on national health insurance.

Unfortunately, nobody really seems to have the solution to the serious and complex problems involved in malpractice.

I am, therefore, proposing an urgent, rapid effort to seek an interim solution through an expert study whose results are to be reported to the Congress no later than July 1 of this year. I would expect early action on these recommendations.

My bill calls for the Office of Technology Assessment to arrange with the National Academy of Sciences for the conduct of such a study that will include recommendations for a course of action aimed at getting us through the crisis period that seems to lie just ahead.

Recent experience has convinced me that the ponderous bureaucracy at HEW simply cannot move swiftly enough to get this study going on the schedule that the urgency of the present situation requires. Therefore, the arrangements for the study would be made by an organization of the Congress—the Office of Technology Assessment.

The bill also calls for the National Academy of Sciences, under contract with OTA, to conduct a more thorough study of the malpractice problem and of alternatives to the present malpractice insurance system and to include recommendations aimed at producing long-range and permanent solutions. In considering possible solutions, the Academy would give special attention to provisions that would encourage "assignment" of medicare claims, for example, by making the availability of Federal help contingent on accepting medicare assignments. This would protect beneficiaries against having to pay doctor bills higher than medicare allowances—a situation which now characterizes more than half of all medicare bills. The report of this more thorough study would be submitted no later than May 1, 1976.

In the past, malpractice insurance has not been viewed as a Federal responsibility. The current crisis, however, is becoming nationwide. The impact it will have on programs such as medicare, and ultimately national health insurance, makes it necessary for the Federal Government to seek solutions and to be prepared to act to bring them about. If the malpractice insurance system collapses and there is no adequate replacement, it will be not just doctors and hospitals who will suffer; it will also be all of us who are or may become patients. We must act now, and vigorously, to seek a solution.

The second problem which my legislation would correct is a situation which results from a technical error in the last social security benefit increase.

From its beginning, part B of medicare—which covers doctor bills and certain other services—has been financed by premium deductions from benefits paid to beneficiaries and from Government contributions out of Federal general revenues.

The premiums were intended to increase automatically each year as costs of the program rose, but even so, beneficiaries would get a bargain because the Government contribution always amounts to at least half the cost of this part of the medicare program.

In 1972, to protect beneficiaries against unduly rapid increases in the part B premium, the law was amended to permit the premium to be raised only if monthly social security benefits had been raised in the past year, and by permitting the premium to rise no higher than the same percentage as the benefit increase. That is what the Congress intended; and on that basis, the current $6.70 premium should be increased as of this coming July 1. Social Security Administration actuaries have estimated that an adequate actuarial rate would be $7.50. Unfortunately, in modifying the provisions for automatic cash benefit increases, Public Law 93-233—passed in December 1973—inadvertently failed to make a needed conforming change in the medicare law and this has prevented such premium increases from taking place. My bill would correct this technical flaw so as to permit this and future increases to take place in accordance with congressional intent.

I realize that there will be concern about permitting a premium increase to take effect at a time when the elderly like other Americans are suffering the effects of inflation.

First, however, it should be remembered that the current situation was not intended by the Congress. Second, it should be kept in mind that the premium could rise by no more than the percentage by which cash social security benefits have gone up. Moreover, the modest increase in the monthly premium that is needed would be much easier for the elderly to bear than the major increases in daily hospital charges that the Administration has proposed the elderly be required to pay, and will be only a small part of the increase in cash benefits which they will get in early July.

Mr. Speaker, I intend to do whatever is necessary to move this legislation through my committee with the dispatch the situation requires and I ask the support of Members in meeting this objective.

UNIVERSAL AND UNCONDITIONAL AMNESTY: THE TIME IS NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, it has now become clear that the "earned reentry" program offered by President Ford to war resisters has done little to reintegrate these young people into our society. Less than 1 percent of those eligible for the program have applied for it—some 800 men out of more than 100,000 eligible.

The Clemency Board feels that this lack of response is due to a misunderstanding of the program. On the contrary, I believe that the war resisters understand it all too well. They know that clemency is only strained mercy and not amnesty, which would wipe the books clean. They know that there are strings attached to this program, such as alternate service—which they could have chosen in the first place. They know that those who apply must reaffirm their loyalty to the country—and they do not feel that they have ever been disloyal. Most of them have already served months or years, either in jail, in exile, in the underground, or in the Armed Forces. Their rejection of the war in Vietnam was a matter of conscience, with which some 80 percent of the American people eventually came to agree. Why should they now pay a further price for having been right too early?

If the United States is to have the contribution that these people can make to a society with a conscience, we must offer them nothing less than universal, unconditional amnesty. The bill I introduce today is an improved version of my earlier bill, H.R. 236. Two ad hoc hearings and one formal hearing before a subcommittee on the Judiciary have been held on this bill. Subsequently the clemency program came—and went. Let us not neglect any longer our responsibility to those who helped us see the light on Vietnam. The Congress has power equal to the Executive, to issue a general amnesty. Let us act upon this question soon.

My bill, H.R. 236, later H.R. 5195, cosponsored by Representatives DELLUMS, CONYERS, and MITCHELL, is the only bill proposing unconditional and universal amnesty. It requires no punitive alternative service, no loyalty oath, no showing of repentance. It would extend not just to draft evaders but to deserters and antiwar demonstrators as well—to those who violated any Federal, State, or local law in the course of essentially nonviolent war protest. It is unfair to grant amnesty to draft resisters while denying it to deserters, who simply developed their moral awareness after entry into the service rather than before. I oppose case-by-case study of deserters, since many of them are less well educated and less well able to articulate their motives, even though they are totally sincere.

Further, the bill grants a thorough restoration of rights to war resisters. Those imprisoned would be released, further prosecution restrained, police records expunged, and other than honorable discharges converted to discharges with no coding or other indication of reasons for discharge. Citizenship would be restored to anyone who renounced it because of the war.

Administration of amnesty would be granted directly and automatically except in cases of violations involving injury or destruction of property. A Presidential commission would review these cases and grant amnesty if the actions were motivated by opposition to the war.

There are minor changes in this new bill. Certain acts considered criminal in the UCMJ but not in civilian life—such as the use of contemptuous words—are also amnestied. The Commission—to be appointed by the President with the advice and consent of the Senate—would include women and members of minority groups. The right of exiles to visit their families would be granted, as well as citizenship for naturalized exiles, if requested.

Nothing less than this will restore these people to productive lives in the United States.

INTRODUCTION OF A BILL ESTABLISHING A JOINT COMMITTEE ON NATIONAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. ZABLOCKI) is recognized for 10 minutes.

Mr. ZABLOCKI. Mr. Speaker, I have reintroduced a bill today which would establish a Joint Congressional Committee on National Security. It is my understanding that this bill, which I originally introduced in the first session of the 93d Congress, will be introduced in the other body by the distinguished gentleman from Minnesota, the Honorable HUBERT HUMPHREY.

This bill is in large measure a result of my efforts over the years in trying to reassert the constitutional rights and responsibilities of Congress in the conduct of our Government's foreign policy.

Along these lines, the 93d Congress had made a great step forward in the enactment of the War Powers Act over a Presidential veto. As you yourself have indicated, Mr. Speaker, the War Powers Act returns to the Congress its constitutionally mandated power to declare war.

It was during the extensive hearings on the war powers resolution by the National Security Policy Subcommittee of the House Foreign Affairs Committee, which I chair, that the desirability of a Joint Committee on National Security was once again made clear.

Noted repeatedly during those hearings was the executive branch's reluctance to share certain information with the legislative branch. The War Powers Act is aimed at correcting that deficiency as well as reestablishing the balance between the legislative and executive branches in the war-making area envisioned by the Founding Fathers in the Constitution. The bill which I am introducing today complements my war powers legislation in that it will allow Congress to address itself in a more comprehensive way to a thorough and ongoing analysis and evaluation of our national security policies and goals.

In addition, Mr. Speaker, the current controversy and allegations of illegal and improper domestic surveillance by the Central Intelligence Agency underscores the urgency of establishing a Joint Congressional Committee on National Security.

It is abundantly clear that the continuing dimunition of Congress' role in foreign policy is a direct result of this communication breakdown. For too many years the Executive has failed to share with Congress the kind of adequate information needed in matters involving national security. In short, there is no proper and adequate forum for a regular and frank exchange between the Congress and the Executive on the vital issues affecting our national security.

The bill which I am introducing today is intended to correct that problem by endowing the proposed joint committee with three main functions:

First, to study and make recommendations on all issues concerning national security. This would include review of the President's report on the state of the world, the defense budget, and foreign assistance programs as they relate to national security goals, and U.S. disarmament policies as a part of our defense considerations.

Second, to study and make recommendations on Government practices of classification and declassification of documents.

Third, to conduct a continuing review of the operations of the Central Intelligence Agency, the Department of Defense and State, and other agencies intimately involved with our foreign policy.

Given those primary functions it should also be pointed out that the Joint Committee on National Security would operate in the national security area in much the same manner which the Joint Economic Committee functions in the economic field.

Another important and distinguishing feature of the Joint Committee on National Security would be the composition of its membership. Reflecting appropriate individual and committee jurisdictions, it would include the following: the Speaker of the House of Representatives, the majority, and minority leaders of both Houses, and the charimen and ranking minority members of the House and Senate Committees on Appropriations, Foreign Affairs, and Foreign Relations, Armed Services, and the Joint Committee on Atomic Energy. Rounding out the 25-member joint committee would be three Members from both the House and Senate appointed respectively by the Speaker of the House and the President of the Senate. As you can see, the bipartisan membership would include the experienced authority of Congress with the majority party having three members more than the minority.

Finally, Mr. Speaker, I think it is important to point out what this proposed Joint Committee on National Security would not do. First and foremost, it would not usurp the legislative or investigative functions of any present committees. Rather, it would supplement and coordinate their efforts in a more comprehensive and effective framework. Nor would this new joint committee in any way usurp the President's historic role as Commander in Chief. Neither would it place the Congress in the position of adversary to the executive branch.

As I said at the outset, the need for greater cooperation between the Congress and the executive in the national security area has been evident for too long. We have not had an adequate mechanism in our national security apparatus for proper and meaningful consultation between the two branches. The aim of this bill is to provide that mechanism and thereby allow for the formulation of a truly representative national security policy.

FEDERAL EMPLOYEES GIFT DISCLOSURE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Koch) is recognized for 5 minutes.

Mr. KOCH. Mr. Speaker, one of the major issues raised in the confirmation hearings of Vice President Nelson Rockefeller was gift giving by public officials. While not necessarily illegal, such gifts and interest free loans from one public official to another cannot help but cause a feeling of obligation to the donor by the recipient. And in Government, this can be especially dangerous.

Today, the first bill I am introducing is one that will require full public disclosure of gifts given and received by appointed and elected public officials. The bill, entitled the Federal Employees Gift Disclosure Act, would require Federal employees to submit annually to the Federal Register a listing of gifts, loans, or contributions to other public officeholders, whether Federal, State or local, where the total value given to an individual during any year is in excess of $500. Likewise the bill would require disclosure of gifts received from any one source exceeding $500. The bill would apply to gifts given or received during the Federal employee's periods of service, the year prior to public service and the year after leaving such service.

Gifts to and from members of an individual's immediate family would be exempt from the reporting requirement. I am including this exemption because I believe that the gifts a Federal official might make to a spouse or child, for instance, would constitute an unwarranted invasion of privacy and would not involve the types of conflict of interest we want to avoid.

Mr. Speaker, while calling for this disclosure, I must confess a certain ambivalence. Since coming to Congress in 1969, I have worked hard to protect individuals' right to privacy. And, I believe that like all Americans, public officeholders are entitled to some privacy. A balance must be struck however, between the privacy rights of these individuals and the public's right to know of private actions by public officeholders that affect public policy. I know that many Members of Congress objected to providing their tax returns to the media because they contained information relating to their private lives, such as medical expenses and alimony payments, which they did not want to disclose. While I made public my tax return, I can understand their feelings. In the instance of a public official's gift, disclosure may intrude on the privacy of some of the gift's recipients who are private citizens. At this point, however, on balance I think full disclosure is necessary.

While Federal legislation cannot force disclosure by State or local employees without unfairly penalizing the State and local agencies by withholding Federal funds, I would hope that State and local jurisdictions would apply regulations and penalties similar to those in the Federal Employees Gift Disclosure Act.

Gifts per se to or from public officials are not evil. But because they are public officials, the public has the right to determine the circumstances surrounding such gifts and whether any impropriety is attached to them.

I urge the support of my colleagues for this important legislation.

THE NATIONAL HEALTH CARE SERVICES REORGANIZATION AND FINANCING ACT—H.R. 1

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the Record, and to include extraneous matter.)

Mr. ULLMAN. Mr. Speaker, I am submitting to the Congress today legislation titled the "National Health Care Services Reorganization and Financing Act." Its aim is to create a better health-care system for the Nation, and it is a new version of a bill I originally introduced in the 92d Congress. The basic principles and philosophy of the bills are identical. The objectives—to reorient our system of health delivery and to bring into being a more equitable system of financing health services for all the population—remain unchanged.

In recent years, the imperatives and pressures for the enactment of such a measure have increased. Economic stringencies and governmental controls over the health-care industry, however temporary, further revealed the gaps and inequities in the present system. For the sake of the immediate future and for generations to come, these serious problems must not be left unattended. I am personally persuaded, as a result of hearings on national health insurance in the Ways and Means Committee during the last two Congresses, and after months of weighing the provisions and implications of my own proposal, that the Congress can no longer postpone major decisions to assure the availability of health services to all persons in the United States.

I continue to regard my proposal, as I would any legislative proposal, to be an invitation to comment and thought, providing a direction and philosophy I firmly believe to be right. I trust that it will draw the attention and interest of the Congress, the health industry, and the general public. It contains an important new concept, an administrative entity known as the health care corporation or HCC. The HCC, as the coordinator of community health resources, represents an exciting new concept of responsible localism. As a member of the Advisory Commission on Intergovernmental Relations, I have been deeply concerned with the strengthening of State and local resources in the administration of Federal programs.

In my opinion, the National Health Care Services Reorganization and Financing Act offers the most realistic solution to health care delivery, regulation and financing among the dozen or so that have been proposed. It is implementable now because the structure it defines is based on existing resources but with the guidelines and incentives for putting an end to the present fragmentation and duplication of services, their uneven distribution, and their lack of accessibility in many rural and urban areas. It provides for considerable expansion of outpatient services and their broader utilization.

None of the other proposals for national health insurance could fulfill this potential. Either they are attempts to resolve the serious problems of health services in a piecemeal fashion, or they would create a monolithic, bureaucratic system which in the end would be prohibitive in cost. Most do not interweave provisions for financing health care with incentives for restructuring the delivery of services. And some, worse still, would only perpetuate existing inadequacies and infuse more money into outmoded mechanisms.

We need desperately to pull it all together, to approach the development of a better health system anew, to resolve the problems of financing and delivery of services interrelatedly. If we fail to bring about this convergence, we will fail to better serve the public interest, and I believe that in the long run we will have wasted human, financial, and material resources.

I am impressed not only with mounting public concern over the cost and delivery of health services, but also with the sincere concern of health professionals and professional organizations. Many are striving for a more effective health services delivery system even though changes and controls would unquestionably impose complications on their activities.

The American Hospital Association has been most helpful in the realistic establishment of goals, concepts and methods, and has provided technical staff assistance in designing the total concept of a coordinated, equitably financed system.

The bill calls for the consolidation of the major Federal health programs and the incorporation of medicare and medicaid within a program of national health insurance. It also provides for a new Department of Health, to be headed by a Secretary for Health responsible to the President. In addition, it includes greater detail and necessary technical information for changes in the financing of health services. It emphasizes the responsibility of the individual for his own health, but provides the framework for better health care and financing for everyone.

Certain principles of the bill I am introducing today deserve special mention, beginning with the recognition of health care as an inherent right of every person. Others, without order of priority, include the following:

Health services and the delivery system, as well as its financing, must be pluralistic, inclusive of both private and public sectors of the health field, and must be predicated on carefully designed Federal incentives and subsidies to assist and assure the cooperation of the various components of the health industry;

The rights of every individual to choose among providers of health services and underwriters of health insurance benefits must be preserved;

The same scope of comprehensive health benefits must be available to all;

The same high level of quality of care must be available to all; and

The Federal Government must assume responsibility for the cost of health care for first, the nonworking poor, second, the elderly, and third, to the extent needed to assure their capability to purchase services, the working poor, but with assurances that the program does not create disincentives to productive employment.

Inherent in each of these principles, whether in terms of use of health services or payment for them, is the principle that every individual has a responsibility for the maintenance of his own health and, to the extent that he is able, to contribute to his share of the cost of care. There are numerous corollary principles, which I shall not describe here, such as those relating to the dignity of the individual, and the relationship of health and the environment.

The health care corporation which would be the coordinating unit of the system at the local level would provide a geographically based system for synthesizing and coordinating local health resources. These corporations would be built upon the existing delivery system, but with mandatory reorganization and reorientation to meet local needs, under the supervision of newly mandated State health commissions.

HCC's would be organized in a variety of ways, determined largely by community needs, custom, and precedent. They would grow out of the community, providing for citizen or consumer representation on their governing boards and being accountable to the public. It is expected that they would primarily be organized by health care providers—hospitals, doctors, dentists, as well as nursing homes and community health organizations—working with the community to establish a more effective, coordinated system.

Every HCC would have to provide, within a State plan administered by the State health commission and approved by the Secretary of the Department of Health, a comprehensive benefit program for all persons in its service area who wished to register. After the first 5 years of operation, it would be required to offer as an option to its registrants, services on a capitation basis of payment, or so much per person per year, a method of payment that requires providers of service to accept a direct responsibility for utilization and cost of services. Among its responsibilities, the HCC would be charged with encouraging the development and use of outpatient services, and for seeing that the most appropriate service would be provided for patients in the most effective, least costly way.

Every employer would be required to purchase for his employees and their families a comprehensive level of benefits as prescribed in the legislation and within regulations issued by the Secretary of Health, paying at least 75 percent of the premium costs. The employees would pay a maximum of 25 percent. For individuals and their families who registered with HCC's, the Federal Government would contribute 10 percent of premium costs to assist the self-employed and small employers in meeting premium payments, my proposal also includes a special tax credit mechanism.

Newly formed independent State health commissions, appointed by State Governors, would approve HCC's for operation and approve charges for service. These same commissions would develop State health plans subject to the approval of the Secretary; control the rates charged by health care providers and health insurance carriers; issue certificates of need and approve health service areas; and review and approve provider budgets. Thus State government would play a central role in the national program, obviating a large bureaucratic operation in Washington.

I should like to emphasize that the legislation provides for multiple sources of financing to assure a basic level of health care benefits for all persons, including catastrophic health insurance benefits. For persons unable to pay, in part or in full, the Federal Government would purchase the specified level of coverage established for all persons through general Federal revenues, with individual contributions scaled inversely to income levels and family size. Health services to the aged would continue to be financed through a combination of the social security tax mechanism and general Federal revenues. Since parts A and B of the medicare program would be merged, premium contributions by individuals for part B would be eliminated. Payroll financing, therefore, would be restricted approximately to its present levels, with additional costs paid through general Federal revenues.

In sum, this bill would meet the following objectives, upon a 5-year implementation of the national program following congressional enactment:

All persons, regardless of age or income, would be entitled to the same broad package of benefits:

Everyone would be insured against the cost of catastrophic illness;

The Federal Government would pay for the health care costs of the poor and the elderly, and part of the costs for all others;

Special benefits for children up to age 12 would be provided—medical, dental, and eye care;

Outpatient care would be emphasized in order to relieve the burden of unnecessary use of costly inpatient care facilities;

Through the capitation method of payment for care, incentives for keeping costs down would be broadly introduced at the community level;

Health education programs, in support of the principle that the individual has a responsibility for the maintenance of his own health, would be available through health care corporations in every geographic service area in the national effort to raise health levels, increase knowledge about nutrition, and bring better understanding of the management of illness in the family.

How such a national program would affect American families is, of course, the most important question. Any legislative proposal can itemize what its author believes needs to be done, but this hardly assures that what is envisioned can take place. However, I believe that this legislation, since its objectives are based on existing resources and on developments in the delivery of health services already in the making, is totally realistic. Health care providers in recent decades have increasingly concerned themselves with how to contain costs yet at the same time keep pace with the numerous advances of medical science and strive for an increasing volume of services of higher quality. They have struggled, against steep odds, and without a coordinated national effort, to plan sensibly so that our legacy to coming generations will neither be a system inadequate to the needs nor one so uncoordinated as to be costly beyond bounds.

From the public's point of view there also are many problems to be faced, the foremost being the increasing cost of health care and the inaccessibility for many to needed services. The public generally finds it anomalous that in a Nation founded on democratic ideals and in which resources are plentiful, there continue to be serious gaps in health care. The public seeks a stronger voice in how health services should be provided. However, it is fair to say, recognizing the lack of a coordinated system is in large part to blame, that public awareness of health is far less than it could be and that a sizable educational program is needed if individuals are to avail themselves of health services in the most timely, effective, and consequently, most economical way. We have by no means put to use all of the health knowledge that is at hand, nor can we claim to have practiced what we know.

To conclude, I wish again to acknowledge the complexity of my proposal, but also to say that it must necessarily be so, for there is no simple solution to the Nation's health problems. Then I would like to draw attention to the legislation's provisions, following enactment, for a 5-year period for the development of State plans, the establishment of HCC's, and the establishment of a department of health. This would be a period of development and experimentation with the various organizational forms of health care corporations, time for the combining of parts A and B of medicare and the incorporation at the Federal level of medicaid.

The legislation I propose would coordinated our health services in a way that would bring improved health care for all Its aim, immediate as well as long range, is the containment of health care costs and the removal of the real possibility that a family's resources can be totally depleted as a result of the cost of serious illness.

I believe that this bill is the most flexible of all of the major health proposals that you will be considering this session. I trust that its flexibility will attract your interest and support, and, above all, your participation in its development.

The following is a section-by-section analysis of the bill:

SECTION-BY-SECTION ANALYSIS—H.R. 1

To establish a new program of health care delivery and comprehensive health care benefits (including catastrophic coverage) to be available to all residents of the United States. The plan will be financed by payroll deductions, employer contributions and tax credits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act divided into titles, parts and sections, may be cited as the "National Health Care Services Reorganization and Financing Act."

FINDINGS AND DECLARATION OF PURPOSE

Section 2(a) states that in recognizing health care as an inherent right of each individual and of all the people of the United States, and that in fulfilling this right each individual shares the responsibility for protecting his or her health and for obtaining care when required, Congress declares that health service must be so organized and financed as to make them readily available to all, without regard to race, creed, color, sex, or age, and without regard to any person's ability to pay; that health services must enhance the dignity of the individual and promote better community life; and that it is a function of government to see that these ends are attained.

(b) states that the Federal Government, acting through a new Department of Health established to deal exclusively with health and related matters, has the responsibility to include financial assistance to the public in obtaining health care services in accordance with these principles:

(1) the Federal Government should require all employers to contribute to the purchase of Comprehensive Health Care Benefits for their employees;

(2) the Federal Government should purchase or subsidize, through tax credits and deductions and other ways, health insurance for those unable to pay for it, in whole or in part;

(3) social insurance should continue to finance health care for the aged;

(4) to encourage participation by individuals in new health delivery and benefit programs, the Federal Government should provide a financial incentive.

(c) Calls for reorganization of the methods of delivery, and methods of financing health services, to be accomplished through a nationwide system of independent Health Care Corporations embodying specific principles.

(1) each corporation must provide through its own resources, or through affiliations with qualified institutional and professional providers, five levels of comprehensive health care: health maintenance services, and primary, specialty, restorative and palliative and terminal care;

(2) through a system of independent corporations, every individual would be provided an opportunity to register and, where possible, to have a choice of Health Care Corporations;

(3) Health Care Corporations should be locally established and operated, but subject to State regulation through State Health Commissions and to national standards of quality and scope of services.

This section also states that with the Federal financial assistance in developing corporations and needed outpatient and home health care program facilities, the system can become operative within five years after enactment of legislation.

(d) Provides that:

(1) in the fifth year following enactment, every person residing in the United States will be eligible to participate in the program;

(2) every individual will be entitled to the services established in the Act if he has registered with a Health Care Corporation and has obtained health benefit coverage from a qualified insurance carrier, or has had it provided on the basis of income or age;

(3) coverage will be provided without cost to persons in the lowest income bracket and at reduced cost to persons in higher income brackets specified in this Act;

(4) coverage will be provided through payroll taxes and general revenues to persons who have attained the age of 65.

(e) Appropriate philanthropic support for health care should be continued and expanded, especially in support of experimental and innovative efforts to improve the health delivery system and access to health care services. Nothing herein is intended to eliminate or limit philanthropic support or incentives for such support for Health Care Corporations and health care institutions.

DEFINITIONS

Section 3 defines the term "Comprehensive Health Care Benefits" as the benefits described in Title I part B; the term "State" as including the District of Columbia, Puerto Rico, the Virgin Islands, and Guam; the term "United States" (when used in a geographical sense) as meaning the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam; the term "Governor" as including the Mayor of the District of Columbia; and the term "Secretary" as the Secretary of Health.

TITLE I—FINANCING OF NATIONAL HEALTH SERVICES

Section 100. Title I may be cited as the "National Health Care Services Financing Act."

PART A—EMPLOYER REQUIREMENTS AND ENTITLEMENT TO BENEFITS

Employer benefit requirements

Section 101(a) amends the Social Security Act to require that employers have an approved health care plan for their employees (and their families). The new Section 232 of Title II of the Social Security Act:

(a) requires every employer within the meaning of this title to provide for each of his employees (and members of their families) coverage equivalent to Title XVIII benefits (both Parts A and B) and Section 125 Catastrophic Expense Benefits during the third and fourth full fiscal years after enactment and to provide Comprehensive Health Care Benefits coverage beginning on the first day of the fifth full fiscal year of enactment.

(b) lists the situations in which the provision of subsection (a) do not apply—

(1) (A) to any employer which is the United States or any agency or instrumentality thereof;

(B) in the case of individuals or members of the same families who have multiple employers, all of the employers except the employer paying the highest total taxes under Section 3111 (a) of the Internal Revenue Code of 1954;

(2) with respect to an employee (or member of an employee's family) who is entitled to health insurance benefits under Title XVIII.

(c) provides that the employer's contributions must be at least the actuarial equivalent of 75 per cent of the premium cost of benefits equivalent to the Medicare coverage during the third and fourth full fiscal years and of the premium cost of Comprehensive Health Care Benefits coverage beginning on the first day of the fifth full fiscal period. This requirement shall in no way prohibit an employee choosing to register with a Health Care Corporation operating in whole or in part on a capitation basis.

(d) provides that low-income or medically indigent persons or family members who make premium contributions in connection with their employment are entitled to refunds to the extent such contributions exceed the amount they would otherwise be required to contribute under section 106 for coverage under section 102.

(e) stipulates that the period of coverage extends from the date of involuntary termination until the employee becomes eligible for unemployment compensation benefits or until the expiration of 14 days from such termination, whichever occurs first.

Section 101(b) amends Title IX of the Social Security Act by adding at the end thereof a new section which requires the Secretary of Labor in accordance with regulations prescribed in consultation with the Secretary of Health to purchase coverage as defined in subsection 101(a) for every individual who is receiving benefits under any federal or state unemployment compensation law for the individual and members of his family.

ENTITLEMENT TO SUBSIDIZED BENEFITS

Section 102(a) specifies that every individual who is a resident of the U.S. including the District of Columbia and Puerto Rico, is eligible for full or partial Federal contribution to the premium cost of qualified Comprehensive Health Care Benefits (CHCB).

(b) obligates the Secretary to contract with carriers for coverage in behalf of the aged, the low-income, and the medically indigent.

(c) allows all others who are eligible for the program, and those (other than the aged) who are eligible but choose not to enroll in an HEW-contracted plan, to obtain a Federal subsidy of 10 per cent of the premium cost incurred for the purchase of qualified CHCB, irrespective of the source of payment, if the individual (and his family) is registered with an approved Health Care Corporation or with any other similar organization that demonstrates it meets standards prescribed by the Secretary. If existing coverage is broader than CHCB, an actuarial equivalent of CHCB will be utilized to determine the amount of the subsidy.

(d) refers to definitions of the low-income and medically indigent income classes.

INCOME CLASSES

Section 103(a) defines a low-income person or family as a single individual (i.e., one who is not a member of a "family" as defined) or a low-income family in income class 1; a medically indigent person or family as a single individual or family in income classes 2, 3, or 4; and the remainder of the population as falling in income class 5.

(b) establishes the following table of income classes for the above-defined categories:

TABLE OF INCOME CLASSES [1]—FAMILY SIZE AND INCOME RANGES

Col. I	Col. II	Col. III	Col. IV	Col. V
Income class	Single individual	Family of 2	Family of 3	Family of 4 or more
1	0 to $2,000	0 to $3,000.	0 to $4,500	0 to $6,000.
2	$2,001 to $3,000	$3,001 to $4,500.	$4,501 to $6,000	$6,001 to $7,500.
3	$3,001 to $4,500	$4,501 to $6,000.	$6,001 to $7,500	$7,501 to $9,000.
4	$4,501 to $6,000	$6,001 to $7,500.	$7,501 to $9,000	$9,001 to $10,500.
5	Above $6,000	Above $7,500.	Above $9,000	Above $10,500.

[1] These amounts are to be adjusted under sec. 104, according to increases in the Consumer Price Index

PERIODIC REVISION OF INCOME CLASSES

Section 104 provides for an increase by the Secretary in the initially fixed dollar amounts of the income class tables, the premium contributions by the medically indigent, the copayments, and the catastrophic expense benefit expenditures limits, whenever in any calendar year the monthly average of the Consumer Price Index for the July-September quarter exceeds by 3 percent or more the monthly average of the CPI for the corresponding quarter of the base year. The increase would be effective for any "coverage year" that begins in the next fiscal year of the United States. (A "coverage year" is defined by section 122 with respect to an individual, as a 12-month period of CHCB coverage of the individual under an insurance contract or prepayment plan that coincides with a 12-month (annually renewable) term of that contract or plan.)

DETERMINATION OF INCOME LEVEL

Section 105(a) provides that for the purposes of this part the rate of an individual's (or family's) income shall be determined on the basis of his adjusted gross income (or the family's combined adjusted gross (income), as defined in accordance with regulations prescribed by the Secretary in consultation with the Secretary of the Treasury, for the calendar year preceding the coverage year, except that the Secretary may by regulation exclude items of income that are not reasonably available for living expenses and include items that are reasonably available for living expenses although not included in adjusted gross income, and may by regulation provide for redetermination of an individual's or family's rate of income on a more current basis when necessary to prevent serious hardship or inequity.

(b) defines the term "family" as (1) a husband and wife and their dependent unmarried children under 19 or (2) an individual and his or her dependent unmarried children under 19, and defines the terms "child" and "dependent" (as applied to a child) as having the same meaning as in sections 151 and 152 of the Internal Revenue Code.

PREMIUM CONTRIBUTIONS FOR FEDERALLY CONTRACTED COVERAGE

Section 106(a) specifies the contributions to premiums for Federally-contracted CHCB coverage to be made by the individuals or families in the 3 income classes of the medically indigent (i.e., income classes 2, 3, and 4), with the amounts rising as income rises. (Section 103(b) contains the table of income classes.) The amounts of contributions initially are $50 for a single individual and $125 for a family in income class 2, $100 and $250 respectively in income class, 3, and $150 and $375 in income class 4. In the case of a family (in any such income class) in which there is only one member under 65, the contribution rate of a single individual applies. The amounts set initially by section 106(a) (as well as the income ranges in the income class table) would be adjusted according to increases in the Consumer Price Index under section 104.

(b) requires that individual or family premium contributions by the medically indigent for Federally-contracted coverage be paid to the carrier in accordance with the Secretary's regulations and that there shall be no recourse against the United States in the event of delinquency or default in the payment of such contributions.

INCOME TAX DEDUCTIONS

Section 107 permits individual taxpayers to deduct 100 percent, without dollar limit, of the amounts paid by them as premiums for insurance contracts or prepayment plans approved by State Health Commissions for CHCB reduced by the amount allowable to the taxpayer as a credit for coverage purchased for himself.

TAX CREDITS

Section 108(a) creates a new Section 42 of the Internal Revenue Code and changes old Section 42 to Section 43. New Section 42 of the Internal Revenue Code:

(a) allows a credit to an employer who pays an average premium for CHCB in excess of 4 percent of the average wages for his employees. The credit is applicable only to a limit of 10 employees.

(b) allows a credit to any resident of the United States who is not covered under either Section 232 of the Social Security Act or Section 102(b). The credit is the excess of the aggregate amount of premiums paid for CHCB coverage for himself and his family over 10 percent of that aggregate amount plus 4 percent of his adjusted gross income.

(c) provides for the Secretary of the Treasury to prescribe necessary regulations.

Section 108(b) provides for the changes needed in the table of sections of the Internal Revenue Code because of the addition of the credit for CHCB coverage provisions.

Section 108(c) changes Section 6401(b) of the Internal Revenue Code to allow for refunds where the credits exceed taxes.

LIMITATION OF MEDICAID TO SUPPLEMENTATION OF UNIFORM HEALTH BENEFITS

Section 109(a) provides that, beginning with the effective date of part A of title I of this bill (creating entitlement to Comprehensive Health Care Benefits coverage), the State plan under Title XIX of the Social Security Act (of a participating State under title II of the bill) shall not be required to cover, and there shall be no Federal matching for expenditures for, services or items that are covered by Comprehensive Health Care Benefits and that are furnished to an individual who is entitled to such coverage under section 102 of the bill and who either is a resident of a service area of the State designated in accordance with section 225 or is in fact registered with a health care corporation that holds a certificate of approval for another service area.

(b) requires the Secretary to prescribe the minimum scope of services to be included in a State plan under title XIX of the Social Security Act (instead of the requirements of section 1903(a)(13) of that Act) on and after the effective date of part A of title I of the bill, with a view to supplementing the coverage of Comprehensive Health Care Benefits.

PART B—CONTENT OF COMPREHENSIVE HEALTH CARE BENEFITS

Payment for comprehensive health care benefits

Section 121(a) stipulates coverage for CHCB entitles the beneficiaries to have payment made by his carrier to his provider for all medically necessary or appropriate services and items at the provider's approved predetermined charges. Providers would receive the full amount of such charges from the carrier; the carrier would bill the beneficiary for the dollar amounts related to copayments, and certain non-covered services (with the residual risk of nonpayment accruing to the provider) as provided in part C of the bill. Special reference to HCC's operating on a capitation basis is made in Sec. 135.

(b) stipulate that copayments that are the obligation of beneficiaries shall be paid to the carrier.

Definition of comprehensive health care benefits

Section 122(a) describes Comprehensive Health Care Benefits as consisting of the following components: outpatient services; inpatient services; and catastrophic expense benefits. The Secretary is authorized to issue from time to time such further regulations to adjust the application of these benefits to best carry out the purposes of this Act.

In addition, this section defines, among other things, the terms coverage year, benefit period and regulations as they relate to CHCB.

(b) states in tabular form the actual benefits to be included in the CHCB package. Emphasis is on outpatient services, including a wide range of health maintenance benefits. Cost sharing (in addition to premium contributions by the medically indigent) would be achieved through copayments and a limitation on the number of inpatient institutional care days and outpatient physician visits. Copayments would be removed through the catastrophic expenses provisions, once the covered individual or family reached the predetermined expenditure limit ceilings. Once the catastrophic expense provisions apply the limitations would be removed on the number of physician visits (except for mental illness in a non-HCC environment), the number of inpatient hospital care days (except for mental illness, alcoholism, and drug dependence in a non-HCC environment) and the number of days under outpatient institutional care programs for mental illness, alcoholism, and drug dependence.

TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS

I. SERVICES AND ITEMS COVERED	II. COPAYMENTS AND LIMITATIONS
A. Outpatient services	
1. Periodic Health Evaluation	No copayment.
a. Screening tests and examinations, as prescribed by regulations under section 126, followed by physical examination by a physician or physicians when indicated by the screening.	Within such limits as may be prescribed by regulation under section 126.
b. All Immunizations	No copayment and no limitation.
c. Well-Baby Care (for infants under age 5)—	No copayment.
(i) during 1st 12 months following birth;	8 visits.
(ii) during next 12 months;	4 visits.
(iii) during next 3 years.	2 visits per coverage year.
d. Dental Services The following professional dental services, including drugs and supplies that are conmmonly furnished, without separate charge, as an incident to such professional services:	Items d (i) and (ii) in column I apply initially only to children born not more than 7 years before the effective date of this subpart. For those initially covered, the benefits extend through age 12.
(i) Oral examination, including (I) prophylaxis (with flurida application at appropriate ages). (II) dental x-rays, and (III) in accordance with regulations, other accepted preventive dental procedures.	No copayment. 1 examination per coverage year.
(ii) To the extent prescribed by regulation under section 126 and not covered under (i), above, dental care other than orthodontia; but including, insofar as the Secretary finds that resources of facilities and personnel make practicable, routine extractions, dental fillings, and appropriate prosthetic appliances.	Copayment 20% of charges.
e. Vision Services (in accordance with regulations under section 126).	For individuals through age 12.
(i) Professional services in routine eye examination, including procedures performed (during the course of an eye examination) to determine the refractive state of the eyes and procedures for furnishing prosthetic lenses, provided either by an opthalmologist or other physician skilled in diseases of the eye or by an optometrist (whichever the patient may select).	No copayment. 1 visit per coverage year (including therein a follow-up verification of conformity of prescribed lenses with a prescription issued during the visit).
(ii) Eyeglasses, with prescription lenses, including the fitting thereof, and including lenses and frames as needed.	Copayment 20% of charges. Initially, one set of eyeglasses (including frame and lenses); thereafter, only newly prescribed lenses (but not frames) as required (but not more often than once a coverage year) because of a change in the condition of the eyes. Standards to be established by regulations promulgated by the Secretary in accordance with section 126.
2. Physicians' Services, and Services of Other Qualified Health Professionals and Allied Health Personnel. Where not otherwise covered under this table—	For physicians' services, a copayment for each visit of two dollars. Copayments under this paragraph for services in facilities involved in clauses c. and d. below apply only to services of attending physician.
a. Physicians' services (including radiotherapy) on an outpatient basis in any appropriate setting (including home calls), and services in any such setting under a physician's supervision by allied health personnel (as defined in regulations).	Limited to 10 visits per coverage year. Except that, in accordance with regulations, no limit on the number of visits shall apply to services preceding or following inpatient care in cases (such as surgery or pregnancy and obstetrical care) in which a single combined approved charge is made by the provider for such outpatient and inpatient services. 20% copayment. Copayment requirement waived for registrants of Health Care Corporations.
b. Diagnostic procedures on an outpatient basis (when not covered under subparagraph a.), including diagnostic tests, prescribed or ordered by a physician in connection with services referred to in paragraph a.	No separate limitation. No separate copayment. No separate limitation.
c. Hospital or outpatient-center services (not included above) rendered to outpatients and incidental to physicians' services covered under paragraph 1.	No separate copayment. No separate limitation.
d. Supplies, materials, and use of facilities and equipment in connection with the foregoing services, including drugs administered or used as a part of services covered in paragraph 1, 2, or 3.	20% copayment.
e. Ambulance services.	Covered only when other methods of transportation are contraindicated by the patient's condition, and only to the extent provided in regulations.
3. Other Outpatient Services	
a. Outpatient Institutional-Care Program for Physical Disability, Mental Illness, Alcoholism, or Drug Abuse and Dependence.	A two dollar copayment, per day, except that copayments may, by regulation, be waived for treatment of drug abuse and drug dependence. (No separate copayment for physicians' services applies under this subparagraph, whether or not such services are charged for separately.)
Such day-care or other part-time services and other items as may be specified in regulations under section 126, furnished to patients, other than inpatients, under a program for the rehabilitation of the physically disabled or the treatment of mental illness, alcoholism, or problems of drug abuse and drug dependence.	Limited to visits or sessions on 3 days under such a program in lieu of each day of inpatient hospital care allowable during a benefit period (under paragraph B.1.a. below) for the treatment of physical disability, mental illness, alcoholism, or drug abuse or drug dependence.
b. Drugs, Prosthetic Devices, and Medical Equipment	
(i) Drugs (other than those covered under paragraph A.1., A.2., or B.1 of this table) dispensed to patients other than inpatients.	For each drug prescription, and each refilling of such a prescription, a one dollar copayment. Covered only if (1) the drug (whether or not it is subject to a prescription requirement under any law other than this title) has in fact been prescribed by a physician and is listed under its established name (as defined in section 502(e) of the Federal Food, Drug, and Cosmetic Act) in a list established for the purposes of this title by the Secretary under section 126(c), and (2) in the case of a drug listed under section 126(c)(2)(B), the disease or

TERMS OF COMPREHENSIVE HEALTH CARE SERVICES—Continued

I. SERVICES AND ITEMS COVERED	II. COPAYMENTS AND LIMITATIONS
	condition for which the drug has been prescribed is one for the treatment of which the drug is designated in that list as appropriate.
(ii) Prosthetic devices (including hearing aids) prescribed by a physician and not otherwise covered in this table.	Copayment 20% of charges. Covered only if listed in, and in accordance with, regulations under section 126.
(iii) In accordance with regulations, durable medical equipment (not otherwise covered) as described in section 1861(s)(6) of the Social Security Act, certified by a physician as being medically required.	Copayment 20% of charges. Covered only if listed in, and in accordance with, regulations under section 126; and subject to criteria for payment prescribed under that section.
c. Home Health Care Services:	For each visit, a two-dollar copayment.
(i) Intensive Home Health Care Services—Services and items defined in section 128(d)(2)(A) furnished to patients who require an intensive level of professionally coordinated medical services that can be provided through a structured home care service in lieu of institutional inpatient care.	Coverage under (i), (ii), or (iii) is limited to a total of 200 days in any benefit period. The certification and recertification requirements of section 1835(a)(2) of the Social Security Act, with such modification (if any) as the Secretary may by regulation prescribe, may be applied by the carrier.
(ii) Intermediate Home Health Care Services—Services and items as are defined by section 128(d)(2)(B) and regulations thereunder.	
(iii) Basic Home Health Care Services—Services and items as are defined by section 128(d)(2)(C) and regulations thereunder.	
B. Inpatient services	
1. Institutional Services:	
a. Inpatient Hospital Care Items and services defined by section 128(e) as "inpatient hospital care."	A five dollar copayment, per day. Coverage is limited to 90 days of inpatient hospital care received in any benefit period.
b. Post-Hospital Extended Care Extended care services (as defined in section 128(b)) furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days. For the purpose of the preceding sentence, the second sentence of section 1861(i) of the Social Security Act shall apply.	A two-dollar-and-fifty-cent copayment, per day. Limited to 30 days of such care received in any benefit period.
c. Nursing Home Care. Nursing home care as defined in section 128.	A two-dollar-and-fifty-cent copayment, per day. Coverage shall be limited to 120 days of such care received in any benefit period.
2. Physicians' Services and Ancillary Health Care. Those physicians' services to inpatients which are not included as "institutional services" under paragraph B.1. a., b., or c.	A two dollar copayment, per visit, of the attending physician only. In accordance with regulations under section 126, in the case of services (such as surgery or pregnancy and obstetrician care) in which a single charge is made by the corporation for the attending physicians' services combined with any preceding or following outpatient services related thereto, a copayment of 10% of such combined charges shall apply. Copayments for physicians' services under this paragraph are in addition to the daily copayments for institutional care. No separate limitations.
C. Catastrophic expense benefits Section 125 defines the conditions under which these benefits become effective in any coverage year with respect to any individual or family. To summarize: In the case of a low-income person or low-income family (class 1), these benefits are effective immediately. In the case of medically indigent persons or families (classes 2–4), they become effective when the person or family has incurred in a coverage year, for premium contribution, copayments, and certain other expenditures combined, a total expenditure equal to an amount determined by applicaton of a table in section 125. In the case of individuals or families in income class 5, these benefits apply when a variable expenditure limit is reached, determined by taking 10% of the individual's or family's income. The dollar figures in the tables and the absolute expenditure limit may be adjusted by the Secretary on an annual basis, whenever the Consumer Price Index is more than 3% above the index for the base period (see sections 104 and 124).	For elimination of certain limits on coverage for Physicians' Services and Inpatient Hospital Services when Catastrophic Expense Benefits take effect in a coverage year, see section 125. Outpatient care for mental illness is limited to those cases in which active medical treatment (as defined in the last sentence of Section 123(a)) is provided.

The definition of institutional services for inpatients includes, for benefit purposes, physicians' services, such as those of radiologists and pathologists, which are held out as generally available to all inpatients of an institution, regardless of the method by which the Health Care Corporation compensates the physicians.

Limitations and exclusions

Section 123(a) lists the limitations and exclusions, including the exclusion of services that are not medically necessary or appropriate; treatment of TB, mental illness, alcoholism, and drug dependence, when these illnesses are not in an acute phase and subject to active medical treatment; purely custodial care; cosmetic surgery (except for prompt repair of accidental injury or improvement of functioning of a malformed member of the body); and certain other services or items.

(b) excludes from CHCB services for which payment is made through workmen's compensation or motor vehicle insurance.

(c) excludes from CHCB (1) charges for items or services (other than emergency services) furnished by a Federal provider, except (under arrangements with the HCC) one that functions as a community institution, or (2) charges by providers for services required to be furnished at public expense by Federal law or contract with the Federal government.

(d) defines the difference between semi-private and private institutional accommodations and excludes carrier payment for charges in excess of the semi-private rate unless the more expensive accommodations were required for medical reasons.

(e) limits carrier payment to approved charges for covered services, or items where the provider has furnished to an individual services, or items in excess of or more expensive than those covered by CHCB. (However, part C permits the HCC, to the extent authorized by the Secretary's regulations, to have the carrier make payment for non-covered services when billed by the provider, subject to refund if the individual does not reimburse the carrier.)

Copayment provisions

Section 124(a) outlines the conditions under which copayments, when indicated in the benefit table, for services or items furnished by the HCC, become the obligation of the registrant for payment to his carrier, or in the instance of an individual not registered with an HCC, by the individual to the provider. Nominal copayments must be paid except by low-income persons or where the out-of-pocket expenditure ceiling has been reached and catastrophic benefits are in effect (see Table of Special Expenditure Limits).

(b) specifies the applicable dollar amounts and refers to the benefit table for the applicable percentage amounts, of copayments related to the various categories of benefits included in the CHCB package. The dollar amounts set initially by this section would be adjusted according to increases in the Consumer Price Index.

Catastrophic expense benefits

Section 125(a) stipulates that all copayments would cease, and that except as noted under sec. 122(b) restrictions on the number of physicians' visits and inpatient hospital care days, and outpatient institutional care days under programs for physical disability, mental illness, alcoholism, and drug dependence (except for extended care and nursing home care days) would become inapplicable when the catastrophic expense benefits provision is in effect.

(b) describes the conditions under which catastrophic expense benefits would take effect. These benefits would be instituted automatically for the low-income persons and families (i.e., those in income class 1), so that no out-of-pocket expenditures would be required to be incurred for this group. As income rises above that category, individuals or families would be required to incur an increasing amount of out-of-pocket expenditures before catastrophic expense benefits take effect, with the actual amounts specified in the Special Expenditure Limit Table.

SPECIAL EXPENDITURE LIMIT TABLE

Income class	Expenditure limit under 65	Expenditure limit 65 and over
2	$250	$125
3	500	250
4	750	375

The dollar amounts initially set for the expenditure limit table would be adjusted according to increases in the Consumer Price Index. For individuals or families in income class 5, the special expenditure limit varies according to level of income, with the exact limit set at 10 percent of income as defined by regulations.

Expenditures creditable toward this ceiling include (1) premiums for CHCB coverage (whether paid by the individual or in his behalf by an employer), (2) copayments related to covered services (including a three-month carry over provision) and (3) expenditures for covered services rendered beyond the specified limits on physician visits (excluding mental illness), on inpatient hospital care days, and on outpatient institutional care days under programs for physical disability, mental illness, alcoholism, or drug dependence.

Regulations for comprehensive health care benefits

Section 126(a) calls for the issuance of regulations by the Secretary to implement the benefit table, in addition to regulations and standards required in other sections of the bill.

(b) provides guidelines for the Secretary in developing regulations relating to health maintenance benefits, in particular, specification of the services that the Secretary may wish to require in the periodic health evaluation portion of CHCB. Special attention through the development of regulations is also given to dental services and vision services, under the expectation that the Secretary shall prescribe the scope of benefits for these services, and allow for future increases, based on the availability of resources.

(c) provides guidance to the Secretary in other key areas of CHCB, including the establishment of the national categories of drugs for outpatient care. The Secretary is directed to list those categories which he finds to be necessary for the treatment of diseases or conditions requiring drug therapy of such duration and cost as commonly to impose substantial financial hardship, and also list the diseases for which drugs are required for treatment, diseases deemed by the Secretary of special importance to the public health, e.g. V.D. With respect to the latter drug categories, ambulatory benefits extend only to categories of drugs for diseases or conditions thus listed with respect to it. This section also requires the Secretary to develop special regulations and standards relating to CHCB categories of "prosthetic devices and medical appliances" and to the special outpatient institutional care programs related to the treatment of physical disability, mental illness, alcoholism and drug dependence.

Phasing of benefits

Section 127 requires the Secretary to submit recommendations for the expansion of benefits after the first five years of the program and to give special consideration to the expansion of dental and vision service benefits.

OTHER DEFINITIONS

Section 128 defines the terms "drugs", "extended care services", "nursing home care", "skilled nursing care", "supervision for palliative or terminal care", "home health care services", "inpatient hospital care", "physician" (by cross reference to section 1861(r) of the Social Security Act) "physicians' services" and "attending physician".

PART C—CARRIERS FOR COMPREHENSIVE HEALTH CARE BENEFITS

Definition of "carrier"

Section 131 broadly defines carriers as nongovernmental organizations that underwrite insurance for the cost of health care, or provide health benefit plans of the service type, in consideration of predetermined premiums. Approved Health Care Corporations qualify under the definition if they charge for covered health care on an annually predetermined capitation basis in accordance with section 246(b).

Determination of qualified carrier; health card

Section 132 establishes qualifications for carriers, essentially that they must be authorized in each State for whose residents they operate health benefit prepayment plans or insurance at group rates, must comply with Section 133, must meet any special Federal standards in the case of a contract with Health and must, with respect to coverage (under other contracts) for which a Federal premium contribution is requested, accord to the Department and its agents the same informational rights and access to records that the Department is entitled to in the case of coverage purchased by the Secretary.

Requirement that carriers participate under State plan

Section 133 requires that a carrier agree to participate in a coverage pool if so required (in accordance with provisions of a State plan pursuant to Section 234(b)(7) in order to qualify for a contract with the Department or for issuance of CHCB coverage eligible for a federal premium subsidy under Section 102(c).

Conditions of approval of carrier contracts or plans for Federal premium subsidy

Section 134 provides that the Secretary shall for the purpose of the Federal premium subsidy under Section 102 approve a carrier prepayment plan or contract only if it is in conformity with applicable State standards and regulations and contains payment provisions and protective provisions (specified in Section 234(b)(7)).

Contracts with health care corporations on capitation basis

Section 135 makes it possible for HEW to enter into a contract with a Health Care Corporation that operates on the basis of predetermined capitation charges to provide Comprehensive Health Care Benefits to which registrants are entitled under Section 102(b). The copayment component of the corporation's capitation charges or any separate copayments charged for by the corporation, would not be paid by the Secretary but collected by the corporation directly from the registrant. Corporations are also required to establish record and payment centers and to issue identical membership cards to all of their registrants to prevent discrimination on account of economic status at the point of service.

Effect of nonpayment

Section 136(a) sets forth requirements for premium contributions and special premiums to be paid in advance to carriers by or on behalf of individuals.

(b) contains provisions for termination of benefit coverage (subject to a grace period) in the event of nonpayment with respect to the above.

Enrollment under contracts with carriers

Section 137(a) vests authority in the Secretary to establish regulations for the enrollment of registrants entitled to Department of Health-purchased Comprehensive Health Care Benefits.

(b) limits the types of enrollment to enrollment by a registrant for himself only or for himself and his spouse and other registrants who are members of his family. The conditions for change in type of enrollment are left to regulations. The individual enrolling for himself and his family is held liable for premium contributions related to family coverage.

(c) specifies that to the optimum extent open enrollment periods under this section and open registration periods for Health Care Corporations shall be coordinated, and than a corporation's registration center shall provide information concerning enrollment.

Reports by, and audits of, carriers

Section 138 states that contracts shall require carriers to make such reports as the Secretary finds necessary, to keep essential records, and to assure the correctness and verification of its reports.

Jurisdiction of courts

Section 139 invests U.S. district courts with original jurisdiction, concurrent with the Court of Claims, of a civil action or claim against the United States concerning this part of the Act.

Prospective regulations

Section 140 specifies that contract regulations, or amendments thereto, or to this title, shall not apply until the next contract year if their applications would increase the obligations or adversely affect the rights of a contracting carrier unless made applicable by the contract itself or by amendment thereto.

TITLE II—REORGANIZATION OF NATIONAL HEALTH SERVICES

SHORT TITLE

Section 200. Title II may be cited as the "National Health Services Reorganization Act."

PART A—FEDERAL ADMINISTRATION

ESTABLISHMENT OF DEPARTMENT OF HEALTH

Section 201 (a) establishes a new executive department to be known as the Department of Health hereafter referred to as the Department. Also provides for the appointment of a Secretary of Health, with the advise and consent of the Senate.

(b) establishes the position of Under Secretary to be appointed by the President with the advise and consent of the Senate.

(c) establishes seven Assistant Secretaries and a General Counsel, appointed by the President with the advise and consent of the Senate.

(d) establishes a Chief Medical Officer, appointed by the President with the advise and consent of the Senate. This appointment shall be without regard to political affiliation, and the term of appointment shall be for six years.

TRANSFERS TO SECRETARY AND CHIEF MEDICAL OFFICER

Section 202. (a) Except as provided in subsection (b), there are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare under the following laws and provisions of law:

(1) The Public Health Service Act.

(2) The Family Planning Services and Population Research Act of 1970.

(3) The Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment, and Rehabilitation Act of 1970.

(4) Section 232 of the National Housing Act (relating to mortgage insurance for nursing homes).

(5) Title XI of the National Housing Act (relating to mortgage insurance for group practice facilities).

(6) The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

(7) Section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

(8) The Controlled Substances Act.

(9) The Act of August 3, 1954 (42 U.S.C. 2001–2004(a)) (relating to hospital and other health facilities for Indians).

(10) The Act of August 16, 1957 (42 U.S.C. 2005–2005(f)) (relating to community hospitals for Indians).

(11) Chapter 175 of title 28 of the United States Code (relating to civil commitment and rehabilitation of narcotic addicts).

(12) Chapter 314 of title 18 of the United States Code (relating to sentencing of narcotic addicts to commitment for treatment).

(13) Title III of the Narcotic Addicts Rehabilitation Act of 1966 (relating to civil commitment of persons not charged with any criminal offense) and section 602 of such Act.

(14) The Federal Cigarette Labeling and Advertising Act.

(15) The Federal Food, Drug, and Cosmetic Act.

(16) The Federal Hazardous Substances Act.

(17) The Poison Prevention Packaging Act of 1970.

(18) The Fair Packaging and Labeling Act.

(19) The Act of March 2, 1897 (21 U.S.C. 41–50) (relating to tea importation).

(20) The Act of March 4, 1923 (21 U.S.C. 61–64) (relating to filled milk).

(21) The Act of February 15, 1927 (21 U.S.C. 141–149) (relating to importation of milk).

(22) The Federal Caustic Poison Act.

(23) The Flammable Fabrics Act.

(24) The Federal Coal Mine Health and Safety Act of 1969 (other than title IV thereof).

(25) The District of Columbia Medical Facilities Construction Act of 1968.

(26) The Occupational Safety and Health Act of 1970.

(27) The Lead-Based Paint Poisoning Prevention Act.

(28) Titles XVIII, XIX, II, and V of the Social Security Act insofar as such titles relate to the provision of health care services.

(29) The District of Columbia Medical and Dental Manpower Act of 1970.

(30) The Drug Abuse Office and Treatment Act of 1972.

(b) The function of the Secretary of Health, Education, and Welfare respecting (1) the commissioned Regular Corps and Reserve Corps of the Public Health Service, (2) the administration of section 329 of the Public Health Service Act (relating to assignment of health personnel of the Public Health Service to critical need areas), and (3) the administration and operation of health care delivery facilities of the Public Health Service shall be exercised by the Chief Medical Officer under the supervision and direction of the Secretary of Health.

(c) Within 180 days, the President may transfer to the Secretary any other function if the Office of Management and Budget determines such functions relate to the above functions, or otherwise relate to health.

REDESIGNATION OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Section 203. (a) States that the Department, Secretary, Undersecretary, Assistant Secretaries, General Counsel, and Assistant Secretary for Administration of HEW, shall respectively be designated as of Education and Welfare.

(b) Provides all references to Department of Health, Education, and Welfare in law, regulation, document, or other record shall be re-designated accordingly.

ADMINISTRATIVE PROVISIONS

Section 204(a) authorizes the Secretary, subject to title 5, U.S.C., to appoint, employ, fix the compensation of and prescribe duties and authority for such personnel as are necessary to carry out the functions of the Department;

(b) the Secretary is authorized by section 3109 of title 5, U.S.C., to obtain services of individuals, but at rates not to exceed the daily equivalent of the rate in effect for grade GS–18 of the General Schedule, unless otherwise specified in an appropriate Act;

(c) the Secretary is authorized to delegate and re-delegate functions and make such rules and regulations as are necessary to carry out his functions;

(d) authorizes the Director of the Office of Management and Budget to transfer positions, personnel, assets, liabilities, contracts, property, records, authorizations, allocations and other funds employed, held, used, arising from available or to be made available in connection with functions transferred in section 202;

(e) personnel transferred under subsection (d) of this section shall be without reduction in classification or compensation for 1 year;

(f) when all functions of any office or agency are transferred, such office or agency shall lapse;

(g) authorizes a capital working fund for administrative operations of the Department, including a central supply service for stationary and equipment; central mail, messenger, telephone and other communication services; document reproduction; office space; graphics and visual aid; and central library services. Authorizes appropriations for this fund;

(h) authorizes approval of a seal of office by the Secretary;

(i) authorizes the Secretary to provide for, construct or maintain for employees and their dependents stationed at remote localities the following: emergency medical services and supplies, food and other subsistence supplies, mess facilities, motion picture equipment and film for recreation and training, and living and working quarters and facilities.

These services shall be at prices reflected reasonable value as determined by the Secretary;

(j) authorizes the Secretary to accept, hold, administer, and utilize gifts and bequests of real or personal property, for the purpose of aiding or facilitating the work of the Department;

(k) authorizes the Secretary to appoint such advisory committee as may be appropriate and provide per diem and travel expenses as provided under Federal law;

(l) authorizes the Secretary to contract for research, and disseminate reports on such research.

ANNUAL REPORT

Section 205 directs the Secretary to submit an annual report on activities of the Department in the preceding fiscal year, to the President for submission to Congress.

SAVINGS PROVISIONS

Section 206 stipulates that all existing and presently effective orders, determinations, rules, regulations, permits, contracts, certificates, licenses and privileges issued prior to transfer of functions shall continue in effect until modified, terminated, superceded, set aside or repealed by the Secretary, the Courts or by operation of the law. This shall not affect pending proceedings, either administrative or judicial, which shall continue to judgment as if this part had not been enacted. The Secretary may need to keep a previously existing office in existence during pending litigation.

CODIFICATION

Section 207 directs the Secretary to submit to Congress within two years a proposed codification of all laws which contain functions transferred to the Secretary.

DEFINITION

Section 208 defines "function" as including power and duty.

CONFORMING AMENDMENTS

Section 209 changes all code references to the Department of Health, Education, and Welfare and inserts appropriate references to the Department of Health.

EFFECTIVE DATE: INITIAL APPOINTMENT OF OFFICERS

Section 210 sets a minimum of 90 days after enactment for effective date. Officers provided for may be appointed at any time after the date of enactment.

Part B—Federal Administration of Health Care Programs

FUNCTIONS AND RESPONSIBILITIES OF THE SECRETARY

Section 211(a) charges the Secretary with responsibility for the planning, administration, operation, coordination, and evaluation of all health care programs under this Act.

(b) specifically charges the Secretary with responsibility for—

(1) continuous review of the activities of State Health Commissions;

(2) liaison with all Federal agencies administering health or health-related programs, and with private national accrediting and other agencies concerned with standards of care and qualifications of health personnel, including the approval and listing of certifying bodies;

(3) responsibility for annual reports, to be transmitted through the Secretary of HEW to the President, first to evaluate the progress of State plans and the development of Health Care Corporations, and thereafter, to evaluate the national program, including recommendations for legislation, if any;

(4) dissemination to State governments, providers of service, and the public, of all pertinent information about the national program; and to State governments, providers of service, and potential sponsors of Health Care Corporations, information concerning the organization and responsibilities of such corporations.

REGULATIONS OF THE SECRETARY

Section 212(a) authorizes the Secretary of Health to prescribe all further regulations that it considers necessary to implement this Act.

(b) further authorizes the Secretary to prescribe by regulation—

(1) standards of accounting, reporting and billing for Health Care Corporations;

(2) the method(s) to be used in determining the financial requirements of institutional health care providers, including operating and capital requirements, and for non-institutional providers, all reasonable fees, salaries, or other compensation for services;

(3) standards of quality and safety, such standards to require as a minimum that hospitals, extended care facilities, and home health agencies meet the applicable requirements contained in title XVIII of the Social Security Act, and that nursing homes meet

such requirements as the Secretary finds appropriate;

(4) standards relating to the qualifications and use of paramedical personnel as assistants to physicians and dentists; and

(5) standards for the determination of qualified carriers under Section 232.

(6) standards of confidentiality of information, permitting disclosure of clinical and financial data only as specified in regulations by the Secretary, but only to extent necessary for administration of the program.

(7) standards for development by State Health Commissions of prospective payment methods.

NATIONAL HEALTH ADVISORY COUNCIL

Section 213(a) establishes a National Health Services Advisory Council, whose Chairman shall be the Secretary of Health, with 20 other members to be appointed by the Secretary.

Members of the Council shall include representatives of health care providers, not less than half of the members shall be representatives of consumers of health care services. Members are to be appointed for four-year staggered terms, with five members appointed each year.

Council members representing providers shall be outstanding in fields related to medical, hospital, and health activities, or be representatives of organizations of professional health personnel. Consumer representatives shall not be engaged in or have financial interest in furnishing health services and shall be persons knowledgeable about health needs and the problems of providing health services.

(b) authorizes the Advisory Council to appoint professional or technical committees; and states that the Council, its members, and its committees may hire staff as authorized by the Secretary. The Council shall meet not less than four times each year and as often as the Secretary deems necessary.

(c) charges the Council with:

(1) advising the Secretary on general policy, and

(2) studying the activities of State Health Commissions, and Health Care Corporations, and other health care providers in order to recommend changes to the Secretary. The Council shall make an annual report to the Secretary which shall be transmitted to Congress with a report by the Secretary on any administrative recommendations of the Council that have not been followed. The Secretary shall report to Congress his views of the Council's recommendations for legislation.

(d) provides that the Council's members and members of its committees shall be compensated for their work at rates fixed by the Secretary but not more than the daily rate for grade GS-18 of the General Schedule; and that they will be reimbursed for travel expenses.

STUDIES OF DELIVERY AND FINANCING OF HEALTH CARE

Section 214(a) requires the Secretary of Health to make a continuing study of the operations under this title, including all of the aspects of services of health care providers, the effectiveness of supervision by State Health Commissions, and the financing of services through insurance. The Secretary further authorized to study alternative methods of furnishing and financing health care services, and methods of improving the delivery of health services.

(b) authorizes the Secretary to conduct the functions under this section through contract and to make grants to public or other nonprofit agencies for this purpose.

(c) requires the Secretary to publish the results of its studies from time to time.

UTILIZATION OF STATE AGENCIES

Section 215(a) authorizes and encourages HEW to make arrangements with State Health Commissions which will enable the commissions:

(1) to contract, as agent and in the name of the Department of Health, with the health insurance carriers approved by the Secretary; and

(2) to perform other functions that the Secretary may deem appropriate.

(b) requires the Department to pay State Health Commissions for their administrative costs pursuant to the arrangements above.

FEDERAL FINANCING RESPONSIBILITIES FOR HEALTH SERVICES

Section 216(a) amends (effective January 1 or July 1, whichever comes first, at least 6 months after the date of enactment of this Act) the Social Security Act to:

(1) make available to all persons eligible for Part A of Title XVIII also eligible for Part B of that Title, and to finance Part B contributions through appropriations from general Federal revenue.

(2) provide for annual appropriations by the Federal government for health insurance benefits that are equal to Title XVIII benefits (with no obligations for copayments or deductibles) for all those eligible under income class 1 as defined in Section 103(a)(1).

(3) provides that no premium or similar amount shall be payable by any individual eligible for benefits under (1) and (2) above.

(b) provides that effective on the first day of the third full fiscal year that begins after this Act is enacted, the Federal government will make annual appropriations in behalf of the program outlined in Title I to meet the following estimated cost for the fiscal year:

(1) expansion of Title XVIII benefits to include Section 125 Catastrophic Expense Benefits for the Aged:

(2) prepaid coverage equivalent to Title XVIII benefits and Section 125 Catastrophic Expense Benefits for persons under 65 who are low income persons or members of low income families and the net cost, after deducting the contribution required of them of this coverage for persons who are under 65 who are medically indigent or members of medically indigent families; and

(3) the cost of providing a 10 per cent premium subsidy for those individuals in Income Class 5 under Section 102(c) who register with Health Care Corporations.

Appropriations are also authorized to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund for additional costs incurred under this subsection.

(c) provides that effective on the first day of the fifth fiscal year that begins after the calendar year in which this act is enacted, the Federal government will make annual appropriations in behalf of the program outline in Title I, to meet the following estimated costs for the fiscal year:

(1) prepaid coverage for Comprehensive Health Care Benefits for persons under 65 who are low-income persons or members of low-income families;

(2) the net cost, after deducting the contribution required of them, of such coverage for persons under 65 who are medically indigent or members of medically indigent families;

(3) the net cost, after deducting the contribution from the Title XVIII Part A trust fund, of such coverage for aged persons; and the added cost of those 65 and over who are either low-income persons or members of low-income families, or are medically indigent persons or members of medically indigent families;

(4) the cost of providing a 10 per cent premium subsidy for those individuals in Income Class 5 (as defined in Section 102(c)) who register with Health Care Corporations;

(5) the cost of health benefits provided to those receiving unemployment compensation benefits under Section 906 of the Social Security Act;

(6) the cost of establishing or maintaining a reserve of 5 per cent of the foregoing costs; and

(7) the cost of administration incurred by HEW in providing the coverages in (1), (2), and (3).

(d) states that the Secretary shall estimate the costs of (a) and (b) and make requests to Congress for necessary annual appropriations.

CONTRACTING AUTHORITY OF THE SECRETARY

Section 217(a)(1) states that the Secretary shall provide prepaid coverage, through contracts with carriers for the benefits to which individuals and their families (i.e., the aged, the low-income, and the medically indigent) are entitled under Section 103.

(2) permits the Secretary to establish qualifying standards for carriers in addition to those set forth in this part of the Act.

(b)(1) permits the Secretary to negotiate and enter into (A) contracts with a carrier or carriers to provide Comprehensive Health Care Benefits for all individuals in the above-mentioned categories; (B) contracts with qualified carriers which have underwritten a prepayment plan for a Health Care Corporation operating wholly or primarily on a predetermined capitation charge basis; and (C) direct contracts with Health Care Corporations under Section 135 if the corporations operate on a predetermined capitation charge basis and as such qualify as carriers.

(2) permits the Secretary to authorize State Health Commissions to act as his agents in contracting with carriers described in (1).

(3) exempts contracts under this part from any provision of law requiring competitive bidding and from such other requirements of law as the Secretary may waive. It requires the Secretary, however, to communicate to all qualified carriers a description of the coverage he desires, the requirements and provisions of this title and regulations, and to invite these carriers to submit proposals. The paragraph lists some of the factors which the Secretary is to consider in negotiating contracts, such as the carriers' experience with group health insurance or prepayment plan coverage. It further provides that the Secretary may require the contracting carrier to reinsure with other carriers, and states that he shall enter into a contract with a combination of carriers only if this does not result in high premium rates and only if it best serves the purposes of this title. The term "combination of carriers" is defined.

FEDERAL RESPONSIBILITY FOR DEVELOPMENTAL GRANTS

Section 218(a) states it to be a responsibility of the Secretary to promote and assist the establishment, as soon as practicable, of the system of comprehensive health care delivery contemplated by this title, this to be accomplished through a variety of means of financial and technical assistance in the planning and development of Health Care Corporations, including the provision of incentives for use of the capitation method of payment for health care and the development and improvement of outpatient care centers, particularly in poverty and rural areas, and for the development of home health care agencies.

(b) authorizes the Secretary to recommend necessary appropriations for each fiscal year to carry out this responsibility.

AUTHORIZATION OF DEVELOPMENTAL FINANCIAL ASSISTANCE

Section 219(a) authorizes the Secretary to:

(1) make grants for planning, organizing, developing, and establishing Health Care Corporations, including their affiliation agreements with providers of health care;

(2) enter into contracts to pay all or part

of the operating deficits of these corporations during their establishment or expansion;

(3) make grants to such corporations or their affiliated public or nonprofit providers for the initial operation of new outpatient care centers or new or expanded services in outpatient care centers or new or expanded home health care agencies; and

(4) make grants for major health maintenance, diagnostic, or therapeutic equipment, data processing systems or equipment, or central service equipment, needed for the initial operation of Health Care Corporations.

(b)(1) requires the Secretary, in making the above grants and/or contracts, to take into consideration existing health care resources and systems, and relative needs of States and areas within States; and requires the Secretary to make equitable distribution of such assistance.

(2) states that not more than 15 percent of the appropriations made for such grants or contracts may be spent in any one State.

(3) states that in awarding such contracts during the first five years for which funds have been appropriated, the Secretary shall give priority to corporations that (a) operate primarily on predetermined capitation charges, or (b) are in the process of converting primarily to that basis, or (c) agree to operate on or convert to primarily that basis if awarded such a contract. After the 5-year period, the Secretary may award contracts only to such corporations.

(4) (a) states that a grant or contract shall not be awarded when there is a State plan approved under this part of the Act, unless the State Health Commission has recommended approval of the application and has certified:

(1) in the case of start-up funds for a Health Care Corporation, that such a corporation is needed in the area involved, consonant with the State plan;

(2) in instances of a contract to meet for a reasonable period operating deficits of a Health Care Corporation, that the corporation applicant satisfies the definition of a Health Care Corporation and has been, or upon approval of the contract by the Secretary will be, approved by the commission;

(3) in the case of grants for the initial operation or equipping of outpatient care centers or for the expansion of such centers, or for major equipment, that the corporation satisfies the requirements referred to in paragraph (2) above, and that the outpatient care center or major equipment involved is needed for the effective discharge of the functions of the respective Health Care Corporation under the State plan.

(c) declares that in a state in which there is not yet an approved State plan but in which a State Health Commission and a State Advisory Council have been established, the Secretary shall not make a grant or contract under the foregoing sections unless the commission, the State planning agency, if any, and the appropriate areawide health planning agency (if it is different from the State planning agency) have had an opportunity to review and comment on the application. This paragraph also defines "appropriate areawide health planning agency" as that agency referred to in Section 314(b) of the Public Health Service Act or, if there is no such agency, another public or nonprofit private agency or organization (if any) performing similar functions.

GRANTS FOR STATE PLANS

Section 220(a) authorizes the Secretary to make grants to State Health Commissions for all or part of the cost of developing State plans, including the expenses of State Advisory Councils, and the cost of dissemination of information about the proposed plan, and of public hearings.

(b) authorizes appropriations for grants under this section for each fiscal year in the period beginning with the fiscal year of enactment and ending with the close of the 3rd full fiscal year.

(c) requires the Secretary to pay to each State with an approved plan a percentage of the expenditures for the administration of the plan, beginning with 90 per cent during fiscal years ending before the effective date of the benefit program of this Act (Section 101 and 102), and diminishing to 85 per cent during the next two fiscal years and to 75 percent thereafter. With respect to Federal functions as agent of the Secretary (see Section 234(b)(10)) the Federal percentage is fixed at 100.

FINANCIAL ASSISTANCE UNDER OTHER PROGRAMS

Section 221(a)(1) states that the Secretary shall, to the optimum extent, use other programs of financial assistance in the field of health care to promote the purposes of this Act.

(2) authorizes the Secretary, notwithstanding any other provision of law, to give highest priority to the needs of Health Care Corporations in the administration of such other programs, particularly in urban or rural poverty areas.

(b)(1) requires the Secretary to develop and disseminate informational materials about the availability of assistance under this part of the Act.

(2) states that the Secretary, on request, may provide advice, counsel, and technical assistance to Health Care Corporations and others named in this part in preparing applications and meeting requirements for grants and contracts.

PENALTIES FOR FRAUD

Section 222(a) provides for any individual, provider of health care, carrier or other person who knowingly or willingly makes or causes to be made any false statement or representation of a material fact in the application of any benefit or any grant or other payment under this Act or makes false statements or fails to disclose or who willingly converts such benefit or payment to any other use or purpose shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year or both.

(b) provides a similar penalty for any provider of health care or other person who furnishes items or services to an individual for which payment is made under this Act for a kick-back or bribe or furnishing of such services or a rebate of any fee or charge.

(c) provides a $2,000 fine or imprisonment for not more than 6 months or both for false statements or misrepresentations of a material fact with respect to the conditions or operation of any organization, institution, or facility in order that it may qualify as a carrier or provider of health care for purposes of this Act.

PART C—STATE FUNCTIONS

General conditions of State participation

Section 231 requires that in order for its residents to participate in the provision of Comprehensive Health Care Benefits that are financed or assisted by Federal funds, a State (1) must accept the provisions of this title and establish a newly-constituted and independent agency to carry out its provisions, this agency to be headed by a governing body to be known as the State Health Commission; (2) must establish a State Advisory Council; and (3) must have the Secretary's approval of a State plan submitted by the State Health Commission under section 234 for carrying out the State's responsibilities. (See also sec. 238 Federal Exercise of State Functions in Cases of Noncompliance by States.)

State health commissions

Section 232(a) establishes the following requirements, among others, for State Health Commissions: a membership of three or five commissioners (depending upon the State law establishing the commission) appointed by the governor, for staggered terms (renewable) of six years. Not more than two members of a three-member commission, nor more than three members of a five-member commission, shall be members of the same political party. The governor shall designate one of the members as chairman.

(b) lists the principal qualifications of and requirements for State health commissioners. It provides that commissioners should be chosen not primarily for their experience in health affairs, but for their ability to bring effective and objective policy direction to the commission's affairs, and it requires that (1) health professionals shall not constitute a majority of the membership of a State Commission; (2) commissioners shall serve full-time and not be engaged in any other business; (3) the chairman and the commissioners shall be salaried at levels comparable to those of heads of State executive departments; (4) commissioners may be subject to removal only for causes listed in this section; and (5) commissioners (and other officers or employees of the commission) may not hold any official or contractual relation with, or have any pecuniary interest in, any Health Care Corporation or provider of health care under the regulatory jurisdiction of the State Health Commission. This regulation is not to bar persons having such a relation or interest from serving as members of the State Advisory Council.

State Advisory Council

Sec. 233 states that members of the State Advisory Council shall consist of (1) persons broadly representative of providers of health care in the State, including but not limited to representatives of Health Care Corporations, other nongovernmental and public organizations, and representatives of schools and institutions concerned with education or training of persons in the health professions and ancillary occupations, and (2) not less than an equal number of persons representative of consumers of health care who are neither providers nor have a financial interest in providing care, are familiar with the State's health care needs, and have knowledge of the problems of providing health care.

State health care plans

Sec. 234(a) states the requirements for State plans: (1) conformity with subsection (b) below; (2) submission of the plan in detail to the Secretary by the State Health Commission; (3) preparation of the plan Council; and (4) in the case of submission of the initial plan to the Secretary, or of a submission for annual renewal of the Secretary's approval after major revision of the plan, prior to reasonable opportunity to the public to express its views of the plan.

(b) itemizes the State plan requirements, including the following:

(1) designation of the State Health Commission as sole administrative agency for the plan;

(2) evidence of the Commission's authority to carry out the plan;

(3) provision for adequate consultation with the State Advisory Council;

(4) statement of qualifications for personnel responsible for administration of the plan;

(5) provision of methods for efficient administration, including personnel merit system standards consistent with those of the Civil Service Commission (but the Secretary shall have no authority with respect to the selection, tenure, and salary of individuals if employed in accordance with the merit system methods); and provision for utilization of qualified professional medical personnel and other professional personnel;

(6) provision for the designation of preferred service areas by applicant Health Care Corporations (in keeping with section 245);

approval for each such area of one or more Health Care Corporations (in accordance with section 235); and inclusion of a program for the completion of these initial designations and approvals (including creation of governmental corporations if necessary to carry out the policy of this Act to provide every individual with an opportunity to register and, when possible, to have a choice of Health Care Corporations) as well as registration of eligible individuals with approved Health Care Corporations, not later than the end of the fourth fiscal year that begins after the calendar year in which the bill is enacted;

(7) provision of State arrangements to assure group coverage for Comprehensive Health Care Benefits at reasonable rates, for themselves or their employees, to all residents not entitled to HEW-purchased coverage, and for effective enforcement of these arrangements (subject to review by the Secretary wtih respect to enforcement of Federal regulations); and provision for regulation of the premium rates of carriers (except under contracts negotiated directly by the Secretary) by the State Health Commission or one to which it delegates that function or alternatively, by the State's insurance department; provision for other regulation and supervision of the carriers by the State Health Commission (including, for Comprehensive Health Care Benefits, a required standard provision for temporary continuation of coverage for the family in the event of the primary insured's death); and provision for hearings, before the Commission, on claims of Health Care Corporations against carriers, and for adjudicating such claims;

(8) provision for optimum use or adaptation of various Federally-aided programs developed for the State and at regional and local levels with respect to comprehensive health planning;

(9) provision that when requested by the Secretary the State Health Commission will, in behalf of the Secretary, contact with qualified carriers for CHCB coverage (other than coverage negotiated and contracted directly by the Secretary) required to be financed by Federal purchase; act as fiscal agent of the Secretary in transactions with carriers;

furnish to the Secretary all information necessary for prospective estimates of government appropriations for implementation of this Act; and review and make recommendations with respect to applications for grants under Part A of this title or for other Federal aid administered by the Secretary;

(10) after consultation with health care providers and consistent with regulations by the Secretary, develop and implement a system or systems of uniform accounting, reporting and billing to be utilized by providers, carriers, and the Commission;

(11) inclusion of a program whereby the State can cooperate with HEW in a nationwide system for the collection of health data;

(12) protection of individual registrants or applicants for registration through safeguards on the use or disclosure of identifying information collected under paragraph (11) above;

(13) evaluation, at least annually, of the effectiveness of the activities of the State Health Commission of Health Care Corporations and other health care providers;

(14) provision that the Commission will make reports of such evaluations of effectiveness, as well as such other reports as the Secretary may require; and

(15) provision that the Commission will review the State plan at least annually and submit modifications to the Secretary.

(c) requires the Secretary to approve a State plan meeting the above-stated requirements, except that the Secretary is directed not to approve a State plan if the plan or other State law, or the practice of a State licensure or regulatory authority—

(1) prevents or limits Health Care Corporations from providing services to registrants through the employment of licensed medical or other health care practitioners by the corporation or other nonprofit providers; or through group practice or other arrangements;

(2) deprives any Health Care Corporation of its rights to designate its preferred service area and of its right of appeal for change in such service area, in accordance with the provisions of this Act;

(3) disqualifies a physician on the staff of an HCC from serving on the governing board of a Health Care Corporation or of an institutional provider thereof;

(4) prevents health care practitioners from employing or arranging with assistants under their supervision to perform health care functions for which they are trained; and

(5) prevents or limits carriers from offering coverage of health care provided in accordance with (1), (2), (3), or (4) above unless the Secretary finds that the State prohibition or restriction is consistent with the purposes of this title.

(d) stipulates that, with certain minor exceptions, the approval of a State plan shall be for one calendar or one fiscal year, whichever the Secretary determines.

Designation of health care areas

Section 235(a) requires each State Health Commission to make a study and survey with a view to approval of service areas for applicant Health Care Corporations and establishes criteria to be considered for that purpose, including the following: size and distribution of population, and patterns of illness among population groups in various parts of the State; existing health care resources, their potential for sponsoring or participating in Health Care Corporations, and their distribution in relation to need for health care; local governmental structures; transportation; patterns of organization for the delivery of care and patterns of use; and requires the Commission, in that connection to set a date for initial applications of Health Care Corporations indicating their preferred service areas (or statements of intention by proposed sponsors of such corporations) to assist the Commission in its study.

(b) require, in addition to (a), that the Commission consult representatives of the general public; of public and private health care institutions or their organizations; or medical and other health care profession (including representatives of group practice): of appropriate State and local government agencies; where appropriate, of State Health Commissions in adjoining States; and other interested groups and individuals.

(c) (1) obligates the Commission to publish, as part of the State plan, its survey findings and the designation of service areas for Health Care Corporations. The Commission is required to conduct public hearings on its proposal and thereupon to issue initial designations.

(2) states that the Commission may, in cooperation with another State, designate jointly a service area or areas that include parts of both States.

(d) permits subsequent amendment of a designated service area under subsection (c) either on the Commission's own initiative or on petition of Health Care Corporations or other concerned parties, but requires that final action on the amendment may be taken only after reasonable notice and opportunity for a fair hearing.

Regulatory functions of State health commissions

Sec. 236(a) requires that a State plan shall, in addition to requirements above—

(1) stimulate the organization of Health Care Corporations through every means available and provide for cooperative arrangements with other State commissions in jointly or reciprocally approving corporations to serve joint or adjoining service areas;

(2) provide for authorizing the incorporation (or admission into the State from another State) of Health Care Corporations, either through the Commission or other appropriate State agency;

(3) provide for the evaluation of the application of any corporation for approval to operate as a Health Care Corporation in a service area or areas approved by the Commission in accordance with Section 235, and describes the procedure for granting approval and issuing a certificate of approval for the service area or areas involved;

(4) provide that in areas, in whole or in part, where more than one Health Care Corporation has been approved the Commission may, if necessary, restrict the number of individuals to be registered by each corporation, residents to be accepted for registration within that number on a first-applied-first-accepted basis;

(5) limit the charges of approved Health Care Corporations and other licensed providers to charges and rates prospectively approved by the Commission; and require that services are not duplicative or excessive, that charges for physicians' service (such as radiologists and pathologists) which are generally available to all inpatients of an institution, be included as part of institutional service charges and not as separate physicians' charges (regardless of the method of payment to the physician), the purpose being to require no additional copayment from the patient for such services; require that the budgets of Health Care Corporations, and other institutional providers be prepared as prescribed by the Secretary; and provide that all providers are entitled to a fair hearing if dissatisfied with a decision of the Commission with respect to its charges;

(6) provide for effective enforcement, by the Commission, of the responsibility of Health Care Corporations and other licensed providers as defined in this Act, assuring that with respect to Health Care Corporations their services be of not less than the scope, quality, and comprehensiveness required by this title, including standards prescribed by the Secretary, and requirements for the provision of services by Health Care Corporations as prescribed in Sections 243 and 244 of this title, and for other providers, requirements for the provision of services similar to those specified in Section 244 as defined by regulations;

(7) prohibit the construction of health care facilities, or changes in major services, or their establishment through rental of major equipment or existing structures, by Health Care Corporations or other providers except when authorized by the Commission on the basis of a finding of need;

(8) authorize the Commission to adjudicate controversies between corporations, affiliated providers, and non-affiliated providers.

(9) provide for a fair hearing, before the Commission, of any individual not accepted for registration by an approved Health Care Corporation of whose service area he claims to be a resident; or with respect to a monetary claim of at least $100 by a registrant against a corporation or carrier; or to any individual who alleges that the corporation has failed to fulfill its obligations under this Act and that the failure is part of a pattern of conduct;

(10) provide for review and approval of peer review systems of approved Health Care Corporations and continued surveillance over their operations; and

(11) provide for implementation of comparable peer review systems for services performed by providers not affiliated with Health Care Corporations.

(b) recognizes that compliance with the procedures set forth in Sections 1863 through 1865 of the Social Security Act are to be employed in establishing compliance with this Act for Health Care Corporations and non-affiliated providers.

(c) (1) authorizes the Commission to take prompt corrective action whenever it determines that a Health Care Corporation has failed to fulfill all of its obligations; and states that the corporation is entitled to opportunity for a hearing with respect to the Commission's decision in this regard, the outcome subject to judicial review as provided by State law. However, initiation of a proceeding for judicial review shall not operate as a stay of the Commission's decision unless so ordered by the court.

(2) states that paragraph (c) (1) notwithstanding, the Commission may give its order immediate effect, subject to reversal or modification following judicial review, if it decides that a corporation's failure to function creates an imminent hazard to the health of its registrants.

(3) empowers the Commission, in addition to its authority for corrective action above, to revoke (following fair hearing) its certificate of approval for operation by the corporation in its service area and to approve for service in that area another Health Care Corporation or corporations, or, in lieu of this, to bring the delinquent corporation into compliance through appointment of a receiver or other effective means. The order of the Commission shall be subject to judicial review in a State court.

(d) authorizes the Commission to take corrective action whenever it determines that any provider not affiliated with a Health Care Corporation has failed to fulfill the obligations set forth in this Act, this action to include suspension of payment for services performed under Comprehensive Health Care Benefits. Appeals procedures outlined in (c) apply to this provision.

Judicial review

Section 237 (a) states that any State dissatisfied with the Secretary's action under section 238 (other than subsection (c) (3)) may obtain judicial review of the action, and establishes requirements for the petitioning of such review.

(b) provides that the findings of fact of the Secretary, if supported by substantial evidence, shall be conclusive on the court, but that the court, for good cause shown may remand the case to the Secretary to take further evidence.

(c) provides that the judgment of the court shall be final, subject to review by the Supreme Court, and that the commencement of proceedings under this section shall not, unless ordered by the court, operate as a stay of the Secretary's action.

Federal exercise of State functions in cases of noncompliance by States

Section 238(a) deals with the authority of the Department of Health in the case of any State which has not established a State Health Commission in conformity with Section 232 and submitted an approvable State plan prior to the third fiscal year beginning after the calendar year of enactment of this Act. It grants authority to the Secretary in such an instance to appoint commissioners, hire staff, and assume all functions of a State commission in compliance with the provisions of this Act, and in that event to utilize for that purpose any Federal funds available for administration of State plans under the Act.

(b) Stipulates that the Secretary shall not refuse approval of a State plan without reasonable notice to the State, and opportunity for hearings; and that, when an application for renewal of approval of the State plan is pending, the Secretary may temporarily postpone expiration of its last approval until it has come to a decision concerning renewal.

(c) (1) describes the instances under which the Secretary may withdraw approval of a State plan which, no longer complies with Section 234(c), and may withhold further payments (or may, in its discretion, suspend approval of parts of a plan and limit payments thereby), until it is satisfied that there will no longer be such a failure to comply.

(2) states that the Secretary may postpone action under (1) to allow necessary time for compliance.

(3) provides that in addition to or in lieu of taking action under (1) the Secretary may request the Attorney General to institute a civil action by the United States against the State to enforce the requirements of this part.

(4) permits the Secretary, when he has withdrawn approval of a State plan, to exercise the functions and use the funds referred to in subsection (a).

Cooperative interstate activities and uniform laws

Section 239(a) states that the Secretary shall:

(1) encourage and assist the States and their State Health Commissions with interstate agreements and approvals with respect to Health Care Corporations, including the establishment of joint health service areas; and

(2) shall assist in the development of model State legislation in the areas covered by this Act.

(b) provides for Congressional consent to any two or more States that wish to enter into agreements as cited above.

Other administrative procedures

Sec. 240 amends section 505(a) (2) of the Social Security Act to require that the State agency required to administer, or supervise the administration, of a State plan under title V of the Social Security Act be the "State Health Commission" (rather than the "State health agency") of the State (in the case of any State that is a participating State under Title I of the bill). (The amendment would not supersede the grandfather clause of section 505(a) (2) which allows the crippled children's service portion of a State plan to continue to be administered (or supervised) by a welfare agency in the case of a State which on July 1, 1967, provided for administration of its crippled children's service plan by that agency.

PART D—HEALTH CARE CORPORATIONS

Incorporation and State approval

Sec. 241. (a) defines a Health Care Corporation as a nonprofit private or governmental corporation organized to furnish services (through its own resources or through affiliation with other providers, nonprofit or for-profit) to registrants, and to engage in education, research, and other activities related to the furnishing of personal health services. The section specifies that the governing board of the Health Care Corporation must have effective and equitable representation of the corporation's registrants and of its affiliated institutional and professional providers.

(b) requires that a Health Care Corporation must be found by the State Health Commission to satisfy the requirements in (a) above and must be approved by the Commission for service in a designated service area or areas of the State (in accordance with Sections 235 and 236) upon a finding that the corporation is well organized under professionally competent management, has adequate resources in facilities and personnel, and has given satisfactory assurance of financial responsibility.

Registration with health care corporations

Section 242(a) specifies that the corporation shall register all residents, within the designated service area for which it has been approved by the State Health Commission, who seek registration during a period of open registration; and that the corporation shall make reasonable effort to register those residents of the area who have failed to apply for registration.

(b) Permits the Health Care Corporation to recruit and register persons outside of its designated service area if its quota of registrants has not been filled;

(c) state that, in accordance with regulations of the Secretary, a registrant may effect registration for his or her spouse and their children under 19;

(d) requires the corporation to disseminate to the public information about its operations and its services, including registration information in detail; that it must disseminate information about benefit coverages; assist individuals in establishing entitlement to coverage purchased by the Secretary and in obtaining other coverage;

(e) sets the registration period at 12 months; permits termination of registration with change in residence or for such cause as may be approved by the State Health Commission.

Undertaking to furnish services

Section 243(a) states that the Health Care Corporation shall provide all of the services for which registrants have Comprehensive Health Care Benefits coverage and which are medically necessary (or, in the case of health maintenance services, medically appropriate).

(b) permits the corporation to contract for services through (an) affiliated provider(s)—hospital(s), skilled nursing facility(ies), nursing home(s), or home health care agency(ies); physicians, dentists, podiatrists, or optometrists, or combinations of these, such as partnerships, clinics, or group practice organizations; or other kinds of providers designated in regulations. Providers may affiliate with more than one Health Care Corporation, but must designate one such affiliation as primary.

(c) permits the provision of drugs, devices, appliances and equipment to ambulatory patients, and ambulance and other emergency transportation services through providers not affiliated with the corporation; it states that medical and other services of a specialized nature, with permission of the State Health Commission, may be provided through arrangements with other Health Care Corporations or with providers that are not affiliated with the Health Care Corporation.

(d) emphasizes health maintenance (including health education) for all registrants, assurance of continuity of care, and to the greatest extent possible, the provision of care on an outpatient basis. Health maintenance services are to be periodically scheduled; outpatient services furnished in centers and in physicians' offices; emergency care, including ambulance service, to be available at all times.

(e) requires that a system of outpatient care centers be developed by the Health Care Corporation, these centers to provide health maintenance services and community-based services such as home care, medical social services, and well-baby clinics and mental health clinics. These centers are to be related to institutional and other providers in order to provide necessary laboratory and other diagnostic services and referral and transfer of patients to facilities providing more comprehensive services.

(f) stipulates that the Health Care Corporation must review services provided for registrants in time of emergency by other corporations or providers and, upon approving the charges, submit them to the carriers responsible for payment. Not included are payments for services rendered to registrants who leave their place of residence expressly to obtain health care, unless by arrangement with the corporation.

(g) stipulates that the corporation shall so far as practicable furnish necessary emergency health services to persons not registered with it and may furnish other services to such persons when it can do so without interference to service to its registrants.

Quality of services

Section 244(a) fixes the responsibility on the Health Care Corporation for the quality of all health services it provides, or had provided in its behalf, including responsibility for compliance with standards of quality and comprehensiveness prescribed by the Secretary. The corporation is made responsible for maintaining controls on utilization of services; for continuing appraisal of the effectiveness of services; and for identifying problems that require planning for additional services. To these ends the corporation is required to have a system of comprehensive peer review by physicians (and dentists in the case of dental services) which covers all services provided by the corporation and its affiliates. The corporation is required to maintain a program of continuing education for its physicians, dentists and nurses.

(b) requires that all medical policies of the corporation be established with the advice of physicians and all dental policies with the advice of dentists; that all medical judgments must be made by or under the supervision of physicians, and dental judgments by or under the supervision of dentists.

(c) encourages participation of physicians in all aspects of policy formulation and operation of the Health Care Corporation.

Participation of professional practitioners

Section 245(a) requires the corporation, so far as practicable, to provide opportunity to all practitioners (physicians, dentists, podiatrists, and optometrists) in its approved service area to furnish services in its behalf. The corporation is required to annually review the scope of services of each practitioner in accordance with his training, experience, and professional competence as determined through peer review. A practitioner must be able to enlarge the scope of his services through in-service training.

(b) stipulates that the corporation may not discriminate in selecting practitioners on any ground unrelated to professional qualifications, but may in initial recruitment give preference to local practitioners as between equally qualified persons.

(c) requires the corporation to permit each practitioner to select, consistent with the requirements for the corporation established by the Act, the form of practice in which he wishes to engage.

Charges by health care corporations and other providers

Sec. 246(a) requires that charges made by a Health Care Corporation be made at rates fixed prospectively and approved by the State Health Commission. These may be revised under circumstances that would create hardship, with Commission approval.

(b) states that charges shall consist of an annual capitation amount per registrant or registrant family, or of itemized charges for separate services or units of service. With approval of the Commission, the corporation may vary its methods of determining charges; capitation charges, except for variations based on size and composition of families, must be uniform for all registrants to whom they are applicable, other than registrants having coverage under government-purchased contracts. After three years of operation, the corporation must submit to the State Health Commission a plan to commence two years thereafter for offering capitation rates to its registrants who choose to purchase coverage directly from the corporation. This plan must be implemented by making this option to all registrants five years after the HCC's incorporation.

(c) specific that the corporation's charges shall meet its financial requirements as determined in accordance with regulations and with systems of accounting as prescribed by the Secretary. This section states that the corporation must justify to the Commission the rates it pays to affiliated providers, and must justify the budgets of any affiliated providers on which these rates are based. In cases where an affiliated provider contracts with more than one Health Care Corporation, the corporation with which it has a primary affiliation becomes responsible for the justification of budgets and rates.

(d) affirms that in reviewing rates the corporation and the Commission must assure that services are provided without unnecessary duplication and that services are not excessively costly.

Continuing personal health records

Section 247(a) requires the maintenance by the Health Care Corporation of a personal health record for each registrant and states that these records must be readily available to the medical and other staff of the corporation and its affiliated providers, and that they must make it possible for the Commission to carry out its statistical responsibilities, including those related to the utilization and cost of health services.

(b) states that the corporation must be equipped to promptly transmit personal health records of registrants to appropriate providers.

(c) requires transfer of personal health records from corporation to corporation when registrants transfer; and transmission of information from personal health records to corporations and providers when they furnish emergency services to the registrant of a Health Care Corporation.

(d) restricts the disclosure of health information without consent of the registrant to purposes necessary to the administration of the corporation, the State plan, or benefit coverage and provides up to a $1,000 penalty or one year of imprisonment or both for violation of this confidential information.

Participation by registrants; health education

Section 248(a) requires corporations to establish methods by which registrants may express their views about the program and performance of the corporation and the health needs of the community, in addition to representation on the corporation's governing board; requires that such opportunity be available to groups of registrants (geographic, economic, or other), and to the extent practicable, to individual registrants; and that advisory committee representation be afforded registrants in general, with subcommittees or separate committees formed for representatives of groups whose interests may differ from those of other registrants.

(b) requires that the corporation undertake a program of continuing health education for its registrants, with special emphasis directed toward low income and medically indigent registrants, affording representation to registrants in the formation of such a program. The section defines the scope of such a program and further requires collaborative efforts in community-wide health education with governmental and private agencies. It also requires the corporation, so far as practicable, to provide assistance to registrants in overcoming language or educational handicaps in obtaining access to health care.

NONDISCRIMINATION; COMPLAINTS

SEC. 249. (a) bars discrimination by the corporation in recruitment, registration, and in provision of services (subject to medically appropriate differentiations, or as specifically authorized in this title), on the ground of race, creed, color, national origin, age, sex, occupation, economic status, or condition of health.

(b) requires the establishment of complaint procedures for registrants or for persons whose applications for registration have been refused. Records of complaints and their disposition must be available for inspection by the Commission.

(c) requires the establishment of procedures for the settlement of disputes with affiliated providers and other providers with whom the corporation has made arrangements for services to its registrants.

Responsibilities for manpower and for research

Section 250(a) requires a corporation to coordinate determination of its manpower needs and those of its affiliated providers; coordinate recruitment and allocation of such personnel; and determine qualification and performance standards for such personnel, to be at least equal to standards of recognized professional organizations, Corporations are required to conduct in-service training programs and to encourage these among affiliated providers and to encourage the use of physician assistants and other supportive technical and nonprofessional personnel under professional supervision.

(b) states that the corporation shall engage in continuing research concerning the health services, and concerning their quality, effectiveness, and cost. Results of such research are to be available to the State Health Commission and the Secretary for their use.

Records and reports

Section 251 specifies that corporations shall keep records with respect to such areas as financing, utilization of services, and the results of peer review, and require that affiliated providers do the same, all such records to meet reporting requirements of the Commission, in accordance with regulations of the Secretary and to be available for inspection by the Commission.

PART E—SPECIAL STUDY OF METHODS FOR MEETING SUPPLEMENTAL CAPITAL NEEDS OF HEALTH CARE CORPORATIONS AND RELATED HEALTH CARE ORGANIZATIONS

Findings and purpose

Section 261 indicates that Congress finds a need for additional sources of supplemental capital and other funding in order to assure a more rational distribution of funds and meet the health care needs of the nation without undue cost to individuals in communities which have the greatest need.

SEC. 262. (a) requires that National Health Services Advisory Council to conduct a full and complete study and investigation of methods for supplying supplemental capital and other funding for Health Care Corporations and related health care organizations, with the objective of developing a national program for supplying such funding, giving special emphasis to areas of high priority health care needs, both rural and urban.

(b) requires the Council to give particular consideration to the utilization of special taxing mechanisms such as a value-added tax, or tax credits, as means of financing comprehensive benefits for beneficiaries of the national program.

(c) The Council shall give particular consideration in this study of developing a program which—

(1) establishes and utilizes, as its basic source of funds, a national trust fund consisting of either a designated portion of the premiums collected for Comprehensive Health Care Benefits Coverage, a tax on such premiums, appropriated funds, or amounts received from other sources, public or private;

(2) provides for the distribution of amounts in the trust fund to State Health Commissions in a manner reflecting population, per capita income, and health needs for allocation by the State Commissions;

(3) recognizies the need for adequate planning for health care services and facilities, and makes such planning a condition of assistance:

(4) encourages and facilitates the continu-

ing provision of funds for these purposes from sources other than the trust fund, and effectively coordinates the utilization of the amounts provided from such other sources with the amounts distributed from the trust fund;

(5) leaves to each State Health Commission the determination of how funds distributed to such commission are to be allocated and utilized;

(6) is subject to such provisions, conditions and limitations as may be necessary or appropriate to assure that the purpose of this part will be effectively carried out.

(d) Requires the Council to submit to the Secretary for transmission to the Congress within one year after the effective date of the Act, a full and complete report of its study together with findings and recommendations and with detailed specifications for any legislation which it finds may be required to carry out such recommendations. The Secretary shall include his own comments and views on the Council's recommendations in the transmission of the report to Congress. This study is independent of studies made by the Secretary in Section 214, and of the annual report of the Council under Section 213(c).

TITLE III—EFFECTIVE DATES

TRANSITIONAL EFFECTIVE DATES

Section 301(a) except as otherwise provided in the section and in section 302 (including any amendments made by it to existing law) shall be effective upon the date of the enactment of this Act.

(b) sections 211, 216(a), 218, 219, 220, and 221 and parts c and d of Title II shall take effect upon the first January 1 or July 1 which occurs 6 months or more after the date of enactment of this Act.

(c) Section 216(b), 238 (with respect to States which have not complied with Sections 232 and 234), and the amendments made by Section 101 shall take effect on the first day of the third fiscal year which begins after the date of enactment of this Act.

FULL OPERATION OF PROGRAM

Section 302. The program under this Act shall be fully in operation, and the benefits of part B of Title I shall be fully effective and available (in lieu of any benefits which would otherwise be available under Title XVIII of the Social Security Act), in accordance with all the provisions of this Act, on and after the first day of the fifth fiscal year which begins after the date of enactment of this Act.

I include a copy of the bill, as follows:

H.R. 1

A bill to establish a new program of comprehensive health care benefits (including catastrophic coverage) and health care delivery to be available to all residents of the United States, financed by payroll deductions, employer contributions, and tax credits, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles, parts, and sections in accordance with the following table of contents, may be cited as the "National Health Care Services Reorganization and Financing Act".

TABLE OF CONTENTS

Sec. 2. Findings and declaration of purpose.
Sec. 3. Definitions.

TITLE I—FINANCING OF NATIONAL HEALTH SERVICES

Sec. 100. Short title.

PART A—EMPLOYER REQUIREMENTS AND ENTITLEMENT TO BENEFITS

Sec. 101. Requirement of Comprehensive Health Care Benefits coverage for employees.
Sec. 102. Entitlement to benefits federally subsidized.
Sec. 103. Income classes.
Sec. 104. Periodic revision of income classes.
Sec. 105. Determination of income level.
Sec. 106. Premium contributions for federally contracted coverage.
Sec. 107. Income tax deductions by individuals.
Sec. 108. Income tax credits for certain payments by employees and self-employed individuals for coverage.
Sec. 109. Limitation of Medicaid to supplementation of Comprehensive Health Care Benefits.

PART B—COMPREHENSIVE HEALTH CARE BENEFITS

Sec. 121. Payment for Comprehensive Health Care Benefits.
Sec. 122. Definition of Comprehensive Health Care Benefits.
Sec. 123. Limitations and exclusions.
Sec. 124. Copayment provisions.
Sec. 125. Catastrophic Expense Benefits.
Sec. 126. Regulations for Comprehensive Health Care Benefits.
Sec. 127. Phasing of additional benefits.
Sec. 128. Other definitions.

PART C—CARRIERS FOR COMPREHENSIVE HEALTH CARE BENEFITS

Sec. 131. Definition of "carrier".
Sec. 132. Determination of qualified carrier.
Sec. 133. Requirement that carriers participate under State plan.
Sec. 134. Conditions of approval of carrier contracts or plans for Federal premium subsidy.
Sec. 135. Contracts with Health Care Corporations on capitation basis.
Sec. 136. Effect of nonpayment of premiums.
Sec. 137. Enrollment under contracts with carriers.
Sec. 138. Reports by and audits of carriers.
Sec. 139. Jurisdiction of courts.
Sec. 140. Prospective regulations.

TITLE II.—REORGANIZATION OF NATIONAL HEALTH SERVICES

Sec. 200. Short title.

PART A—DEPARTMENT OF HEALTH

Sec. 201. Establishment of Department.
Sec. 202. Transfers to Secretary and chief medical officer.
Sec. 203. Redesignation of Department of Health, Education, and Welfare.
Sec. 204. Administrative provisions.
Sec. 205. Annual report.
Sec. 206. Savings provisions.
Sec. 207. Codification.
Sec. 208. Definition.
Sec. 209. Conforming amendments.
Sec. 210. Effective date; initial appointment of officers.

PART B—FEDERAL ADMINISTRATION OF HEALTH CARE PROGRAM

Sec. 211. Functions and responsibilities of Secretary.
Sec. 212. Regulations of the Secretary.
Sec. 213. National Health Services Advisory Council.
Sec. 214. Studies of delivery and financing of health care.
Sec. 215. Utilization of State agencies.
Sec. 216. Federal financing responsibilities for health services.
Sec. 217. Contracting authority of the Secretary.
Sec. 218. Federal responsibility for developmental grants.
Sec. 219. Authorization of developmental financial assistance.
Sec. 220. Grants for State plans.
Sec. 221. Financial assistance under other programs.
Sec. 222. Penalties for fraud.

PART C—STATE FUNCTIONS

Sec. 231. General conditions of State participation.
Sec. 232. State Health Commissions.
Sec. 233. State Advisory Councils.
Sec. 234. State health care plans.
Sec. 235. Designation of health care areas.
Sec. 236. Regulatory functions of State Health Commissions.
Sec. 237. Judicial review.
Sec. 238. Federal exercise of State functions in cases of noncompliance by States.
Sec. 239. Cooperative interstate activities and uniform laws.
Sec. 240. Other administrative procedures.

PART D—HEALTH CARE CORPORATIONS

Sec. 241. Incorporation and State approval.
Sec. 242. Registration with Health Care Corporations.
Sec. 243. Undertaking to furnish services.
Sec. 244. Quality of services.
Sec. 245. Participation of professional practitioners.
Sec. 246. Charges by Health Care Corporations and other providers.
Sec. 247. Continuing personal health record.
Sec. 248. Participation by registrants; health education.
Sec. 249. Non-discrimination; complaints:
Sec. 250. Responsibilities for manpower and for research.
Sec. 251. Records and reports.

PART E—SPECIAL STUDY OF METHODS FOR MEETING SUPPLEMENTAL CAPITAL NEEDS OF HEALTH CARE CORPORATIONS AND RELATED CARE ORGANIZATIONS

Sec. 261. Findings and purpose.
Sec. 262. Special study.

TITLE III—EFFECTIVE DATES

Sec. 301. Transitional effective dates.
Sec. 302. Full operation of program.

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) Recognizing that health care is an inherent right of each individual and of all of the people of the United States, and that in fulfilling this right each individual shares the responsibility for protecting his or her own health and for obtaining health care when required, the Congress finds and declares that health services must be so organized and financed as to make them readily available to all, without regard to race, creed, color, sex, or age, and without regard to any person's ability to pay; that the services must be so provided as to enhance the dignity of the individual and promote better life for all; and that it is a function of Government to assure that these ends are attained.

(b) The Congress finds that the functions of the Federal Government, exercised primarily through a new Department of Health established to deal exclusively with health and related matters, should include financial assistance to members of the public in obtaining health care services in accordance with the principles—

(1) that the Federal Government should require all employers to contribute to the purchase of Comprehensive Health Care Benefits for their employees;

(2) that the Federal Government should assume the cost of purchasing or subsidizing, through tax credits and deductions and in other ways, health insurance for those unable to pay for it, or unable to pay in full;

(3) that social insurance should continue to finance hospital care for the aged; and

(4) that to encourage participation by individuals in new health delivery and benefit programs, the Federal Government should provide a financial incentive.

(c) The Congress further finds that achievement of these purposes requires substantial modification of the organization and methods of delivery of health services and the methods of financing them, and that these purposes will best be served by the creation of a nationwide system of independent Health Care Corporations embodying the principles—

(1) that each corporation should combine,

either in its own structure or by affiliation, institutions and professionals qualified to furnish the entire range of health services, and should provide to its registrants an integrated and comprehensive program of health services, emphasizing preventive and outpatient care and embracing health maintenance services, primary care, specialty care, rehabilitative care, and palliative and terminal care;

(2) that such independent corporations should span the Nation, so that every resident of the country will have the opportunity to register with a corporation and, where practicable, a choice among corporations; and

(3) that such corporations should be locally established and operated, but should be subject to State regulation through State Health Commissions and to national standards of quality and scope of services.

The Congress finds that, with assistance from the Federal Government to members of the public and also in the development of Health Care Corporations and the creation of needed outpatient facilities and home health care programs, such a system of health care delivery and comprehensive benefits can become operative nationwide within five years after the enactment of this Act.

(d) Pursuant to the foregoing findings, and to carry out the foregoing declarations, the Congress by the enactment of this Act declares and provides—

(1) that all persons residing in the United States will be eligible to participate in the program created by this Act, beginning in the fifth year after its enactment;

(2) that each person so participating will be entitled to receive from a Health Care Corporation services as described in this Act, if he has registered with the corporation and has obtained a qualified health benefit coverage from a carrier, or on the basis of his income or his age has been provided with such a coverage;

(3) that such coverage will be provided without cost to persons in the lowest income bracket and at reduced cost to persons in the other income brackets specified in this Act; and

(4) that such coverage will be provided through payroll taxes and general revenues to persons who have attained the age of 65.

(e) It is the intent of the Congress that appropriate philanthropic support for health care be continued and expanded under the program created by this Act, especially in support of experimental and innovative efforts to improve the health care delivery system and access to health care services. Nothing in this Act, therefore, is intended nor may be construed to eliminate or limit philanthropic support or incentives for such support for Health Care Corporations and health care institutions.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "Comprehensive Health Care Benefits" means the benefits described in part B of title I;

(2) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam;

(3) the term "United States", when used in a geographical sense, means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam;

(4) the term "Governor" includes the mayor of the District of Columbia; and

(5) the term "Secretary" means the Secretary of Health.

TITLE I—FINANCING OF NATIONAL HEALTH SERVICES

SHORT TITLE

SEC. 100. This title may be cited as the "National Health Care Services Financing Act".

PART A—EMPLOYER REQUIREMENTS AND ENTITLEMENT TO BENEFITS

REQUIREMENT OF COMPREHENSIVE HEALTH CARE BENEFITS COVERAGE FOR EMPLOYEES

SEC. 101. (a) Title II of the Social Security Act is amended by adding at the end thereof the following new section:

"REQUIREMENT OF COMPREHENSIVE HEALTH CARE BENEFITS COVERAGE FOR EMPLOYEES

"SEC. 232. (a) Under regulations prescribed by the Secretary of Health (subject to subsection (b)), every person who is an employer within the meaning of this title shall be required—

"(1) during the period beginning on the transitional effective date specified in section 301(c) of the National Health Care Services Reorganization and Financing Act and ending on the day before the effective date specified in section 302 of such Act, to provide benefits under such Act equivalent to the hospital insurance benefits available under part A of title XVIII of this Act and the supplementary medical insurance benefits available under part B of such title, and in addition to provide Catastrophic Expense Benefits coverage under and in accordance with section 125 of the National Health Care Services Reorganization and Financing Act, for each of his employees and for the members of the family of each such employee; and

"(2) from and after the effective date specified in section 302 of the National Health Care Services Reorganization and Financing Act, to provide Comprehensive Health Care Benefits coverage (as provided or made available under such Act) to each such employee and for the members of the family of each such employee.

"(b) The provisions of subsection (a) shall not apply—

"(1)(A) with respect to any employer which is the United States or any agency or instrumentality thereof; or

"(B) in any case where the employed member of a family has two or more employers, or where two or more members of the family each have one or more employers, with respect to any such employer other than the one whose total taxes paid under section 3111(a) of the Internal Revenue Code of 1954 on account of the employment of such member or members is greatest; or

"(2) with respect to any employee (or member of an employee's family) who is entitled to health insurance benefits under title XVIII.

"(c) For purposes of this section the employer's contribution must be at least the actuarial equivalent of 75 percent of the premium cost of the coverage provided by him for his employees as required by subsection (a). The requirement for an employer's contribution shall not in any way prohibit the employee from choosing to register with a Health Care Corporation operating in whole or in part on a capitation basis.

"(d) In any case where an individual who is a low-income person or a member of a low-income family, or who is a medically indigent person or a member of a medically indigent family, is provided with Comprehensive Health Care Benefits coverage by an employer under this section, and in connection therewith is required to make a contribution toward the premium cost of such coverage which exceeds the amount of the premium contribution which he would be required to make under section 106 of the National Health Care Services Reorganization and Financing Act if he were entitled to such coverage under section 102 of that Act rather than under this section, such individual shall be entitled, upon application therefor filed at such time and in such manner and form as the Secretary shall by regulations prescribe, to a premium contribution refund in the full amount of such excess.

"(e) The period of coverage of any employee whose employment is involuntarily terminated shall extend from the date of such termination until the employee becomes eligible for unemployment compensation benefits or until the expiration of 14 days from such termination, whichever first occurs."

(b) Title IX of the Social Security Act is amended by adding at the end thereof the following new section:

"REQUIREMENT OF COMPREHENSIVE HEALTH CARE BENEFITS COVERAGE FOR INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION BENEFITS

"SEC. 909. Every individual who is receiving benefits under any Federal or State unemployment compensation law, and the members of his family, shall be entitled under the National Health Care Services Reorganization and Financing Act (while such individual is eligible for and receiving such benefits)—

"(1) during the period beginning on the transitional effective date specified in section 301(b) of the National Health Care Services Reorganization and Financing Act and ending on the day before the effective date specified in section 302 of such Act, to coverage in the form of (A) benefits under such Act equivalent to the hospital insurance benefits available under part A of title XVIII of this Act and the supplementary medical insurance benefits available under part B of such title, and (B) Catastrophic Expense Benefits coverage under and in accordance with section 125 of the National Health Care Services Reorganization and Financing Act; and

"(2) from and after the effective date specified in section 302 of the National Health Care Services Reorganization and Financing Act, to Comprehensive Health Care Benefits coverage as provided or made available under such Act.

The Secretary of Labor, in accordance with regulations prescribed in consultation with the Secretary of Health, Education, and Welfare, shall purchase such coverage for, and determine the methods by which (and the terms and conditions under which) it is to be made available to, such individuals and members. There are authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out this section."

ENTITLEMENT TO BENEFITS FEDERALLY SUBSIDIZED

SEC. 102. (a) Every individual who is a resident of the United States shall, as provided in this section and under the conditions and to the extent otherwise specified in this part, be entitled—

(1) in cases specified in subsection (b), to coverage for Comprehensive Health Care Benefits (as described in this part) contracted for by the Secretary, or

(2) in cases specified in subsection (c), to a Federal contribution to the premium cost of coverage for such benefits under an approved insurance contract or prepayment plan to which the Secretary is not a party.

(b) Such an individual shall be entitled to such coverage contracted for by the Secretary with a carrier under section 217, with respect to any period for which he is not provided with Comprehensive Health Care Benefits coverage by an employer under section 232 of the Social Security Act, if he—

(1) has attained the age of 65, or

(2) is under 65 but is a low-income person or a member of a low-income family, or

(3) is under 65 but is a medically indigent person who complies, or a member of a medically indigent family which complies, with the requirement of section 106 with respect to contributions to premiums for such coverage.

(c)(1) Every other individual referred to in subsection (a) who is registered with an approved Health Care Corporation in a participating State, or with any other organization providing comprehensive health care and services which is engaged in the delivery of such care and services to a defined population group established through open enrollment and has demonstrated such standards as the Secretary may prescribe in order to assure that it will be operated and its services delivered in an effective manner consistent with the purposes and provisions of this Act, shall be entitled to a Federal subsidy of 10 percent of the amount of premium charged by a qualified carrier (as determined under section 132) at an approved group rate for prepaid coverage of the individual for Comprehensive Health Care Benefits under an approved insurance contract or prepayment plan to which the Secretary is not a party. Payments under this subsection shall, upon certification by the Secretary, be made to the carrier.

(2) As used in this subsection, (A) the term "approved group rate" means a group rate prescribed or approved (for the coverage referred to in paragraph (1)) by the State Health Commission (or its delegate agency) under the State plan (approved under part C of title II) of the participating State of which the individual concerned is a resident or, in the case of coverage under an employer plan, the State in which the individual is employed; (B) the term "approved insurance contract or prepayment plan" means an insurance contract or prepayment plan that is approved by the Secretary under section 134; and (C) the term "premium" does not include special premiums payable, in accordance with the provisions referred to in section 134, by a registrant to a carrier to cover the copayment component of capitation charges paid by the carrier to the registrant's Health Care Corporation.

(3) If the coverage of the insurance contract or prepayment plan for an individual (or an individual and his family) entitled to a contribution under paragraph (1) includes Comprehensive Health Care Benefits but also includes benefits greater than those required for Comprehensive Health Care Benefits coverage and a combined premium rate is charged by the carrier for the total coverage, the Federal contribution payable under paragraph (1) shall be based on that portion of the total premium which, in accordance with actuarial principles, is attributable to coverage for Comprehensive Health Care Benefits for that individual (or him and his family) and shall be determined in accordance with regulations of the Secretary.

(4) Entitlement to a contribution under paragraph (1), and the amount thereof, shall be determined without regard to whether the cost of the remainder of the premium is borne (or whether in the absence of that contribution the cost of that portion of the premium which is equal to the contribution would be borne) by the covered individual, by his employer, or by any other person or agency.

(d) For definitions of "low-income person", "low-income family", "medically indigent person", "medically indigent family", and "family", see sections 103 through 105.

INCOME CLASSES

SEC. 103. (a) For purposes of this part—

(1) the terms "low-income person" and "low-income family" mean, respectively, a single individual or family in income class 1;

(2) the terms "medically indigent person" and "medically indigent family" mean, respectively, a single individual or family in income class 2, 3, or 4;

(3) all persons or members of families not in income class 1, 2, 3, or 4 are classified as being in income class 5;

(4) the term "income class", with respect to a single individual or a family, means for any coverage year the individual's or family's income class as determined by application of—

(A) the table set forth in subsection (b) of this section, or

(B) if containing higher dollar amounts, the redetermined income class table promulgated by the Secretary for that year under section 104; and

(5) the term "single individual" means an individual who is not a member of a "family" within the meaning of section 105.

(b)(1) The income class table referred to in subsection (a)(4)(A) is as follows:

TABLE OF INCOME CLASSES

Column I	Column II	Column III	Column IV	Column V
	Family size and income ranges			
Income class	Single individual	Family of 2	Family of 3	Family of 4 or more
1	$0 to $2,000	$0 to $3,000	$0 to $4,500	$0 to $6,000.
2	$2,001 to $3,000	$3,001 to $4,500	$4,501 to $6,000	$6,001 to $7,500.
3	$3,001 to $4,500	$4,501 to $6,000	$6,001 to $7,500	$7,501 to $9,000.
4	$4,501 to $6,000	$6,001 to $7,500	$7,501 to $9,000	$9,001 to $10,500.
5	Above $6,000	Above $7,500	Above $9,000	Above $10,500.

PERIODIC REVISION OF INCOME CLASSES

SEC. 104. (a) Not later than December 31 of each calendar year (after the year in which this Act is enacted), the Secretary shall, in accordance with subsection (b), redetermine and promulgate—

(1) the dollar amounts in the table of income classes under section 103(b);

(2) the amounts of annual premium contributions to be required of medically indigent persons and medically indigent families under section 106;

(3) the dollar amounts of copayments under section 122; and

(4) for Catastrophic Expense Benefits, the dollar amounts for the special-expenditure limits under section 125.

(b) The redetermined amounts shall be the same as the amounts specified in the respective sections cited in subsection (a) unless the average of the Consumer Price Index for the months of July, August, and September of the calendar year in which the redetermination is made exceeds by 3 percent or more the average of that index for the corresponding months of the year in which this Act is enacted. In the latter event, the Secretary shall adjust each of the amounts so specified by increasing it by the same percentage as the percentage increase (referred to in the preceding sentence) in the average of the Consumer Price Index, after rounding the latter percentage to the nearest multiple of 0.1 percent (or to the next higher multiple if the percentage is an odd multiple of 0.05 percent) and rounding each dollar amount so obtained—

(1) for the table of income classes, to the nearest multiple of $100 (or to the next higher multiple if the amount to be rounded is an odd multiple of $50),

(2) for premium contributions to be made by medically indigent persons and medically indigent families, to the nearest multiple of $10 (or to the next higher multiple if the amount to be rounded is an odd multiple of $5),

(3) for copayments, to the nearest multiple of 25 cents (or to the next higher multiple if the amount to be rounded is an odd multiple of 12½ cents), and

(4) for the special-expenditure limits for Catastrophic Expense Benefits, to the nearest multiple of $100 (or to the next higher multiple if the amount to be rounded is an odd multiple of $50).

(c) The amounts as so redetermined and promulgated in any calendar year (whether or not the same as the amounts specified in the sections cited in subsection (a)) shall be effective for any coverage year that begins in the fiscal year beginning in the following calendar year.

(d) As used in this section, the term "Consumer Price Index" means the Consumer Price Index (All Items—United States City Average) published monthly by the Bureau of Labor Standards of the Department of Labor.

DETERMINATION OF INCOME LEVEL

SEC. 105. (a) For the purposes of this part, the rate of income of a single individual or a family shall be determined on the basis of his adjusted gross income (in the case of a single individual) or the family's combined adjusted gross income (in the case of a family), as defined in accordance with regulations prescribed by the Secretary in consultation with the Secretary of the Treasury or his delegate, for the calendar year preceding the coverage year with respect to which the determination is made; except that—

(1) the Secretary may prescribe regulations (A) excluding from the amount thus determined items of income that are not reasonably available for living expenses, and (B) including therein items that are reasonably available for living expenses although not included in adjusted gross income, and

(2) the Secretary may by regulation provide for redetermination of an individual's or family's rate of income on a more current basis when necessary to prevent serious hardship or inequity.

(b) For the purposes of this part—

(1) the term "family" means (A) a husband and wife (not divorced or judicially separated), or (B) such spouses and their dependent unmarried children under 19, or (C) an individual and his or her dependent unmarried children under 19; and

(2) the terms "child" and "dependent" (as applied to a child) have the meanings assigned them in sections 151 and 152 of the Internal Revenue Code of 1954.

PREMIUM CONTRIBUTIONS FOR FEDERALLY CONTRACTED COVERAGE

SEC. 106. (a)(1) In the case of medically indigent persons and members of medically indigent families referred to in section 102(b)(3), entitlement to coverage contracted for by the Secretary shall be subject to the condition that the individual or family concerned, or another person or agency on the individual's or family's behalf, contribute to the carrier's annual premium charge for such coverage.

(2)(A) The annual amount of contribution so required with respect to such an individual or family shall be—

(i) $50 for a single individual, and $125 for a family, in income class 2;

(ii) $100 for a single individual, and $250 for a family, in income calss 3;

(iii) $150 for a single individual, and $375 for a family, in income class 4;

except that in the case of a family (in any such income class) in which only one member is under the age of 65, the amount of contribution required under the foregoing clause applicable to that income class shall be the amount specified in that clause for a single individual, and except that if, by reason of an increase in the Consumer Price Index, higher contribution amounts are promulgated under section 104 by the Secretary with respect to single individuals or families in income class, 2, 3, or 4 for any coverage year, those amounts shall apply for that year.

(B) For determination of income classes, see section 103.

(b) Annual contributions under this section shall be payable, by or on behalf of the individual or family concerned, to the carrier under whose contract with the Secretary the individual or family is enrolled, in such installments and in such manner as may be prescribed by the Secretary by regulation. There shall be no recourse against the United States under this title on account of any delinquency or default in the payment of such contributions. For effect of delinquency or default on coverage, see section 136.

INCOME TAX DEDUCTIONS BY INDIVIDUALS

SEC. 107. Section 213(a)(2) of the Internal Revenue Code of 1954 (relating to individual's deduction for medical insurance expense) is amended to read as follows:

"(2) the sum of—

"(A) an amount (not in excess of $150) equal to one-half of the expenses (other than those deductible under subparagraph (B)) paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents (as defined in section 152), and

"(B) in the case of a taxpayer who at any time during the taxable year is covered under an insurance contract or prepayment plan approved by the appropriate State Health Commission under title II of the National Health Care Services Reorganization and Financing Act, an amount equal to—

"(i) all the expenses paid by the taxpayer during the taxable year for Comprehensive Health Care Benefits coverage (as defined in section 122 of the National Health Care Services Reorganization and Financing Act) for the taxpayer and members of his family, reduced by

"(ii) the amount allowable to the taxpayer as a credit for the taxable year under section 42(b)."

INCOME TAX CREDITS FOR CERTAIN PAYMENTS BY EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS FOR COVERAGE

SEC. 108. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as section 43 and by inserting after section 41 the following new section:

"SEC. 42. EMPLOYER CREDIT FOR NATIONAL HEALTH SERVICES COVERAGE PAYMENTS IN EXCESS OF 4 PERCENT OF WAGES; COMPARABLE CREDIT FOR THE SELF-EMPLOYED

"(a) CREDIT FOR EMPLOYERS.—In the case of any employer to whom section 232(a) of the Social Security Act applies, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to—

"(1) the amount by which (A) such employer's share of the average premiums payable for the coverage for such taxable year of his employees to whom such section 232 (a) applies, exceeds (B) 4 percent of the average wages paid by such employer to employees for such taxable year, multiplied by

"(2) the number of such employees (not in excess of 10).

"(b) CREDIT FOR SELF-EMPLOYED INDIVIDUALS AND CERTAIN OTHER INDIVIDUALS.—

"(1) ALLOWANCE OF CREDIT.—In the case of an individual who—

"(A) is a resident of the United States, and

"(B) is not provided Comprehensive Health Care Benefits coverage either by an employer under section 232 of the Social Security Act or by the Secretary of Health under section 102(b) of the National Health Care Services Reorganization and Financing Act,

there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount determined under paragraph (2).

"(2) AMOUNT OF CREDIT.—The amount of the credit allowable under this subsection to any individual for any taxable year shall be an amount equal to the excess of—

"(A) the aggregate amount of premiums paid by such individual during such taxable year to a qualified carrier (as determined under section 132 of the National Health Care Services Reorganization and Financing Act) at an approved group rate for prepaid coverage of such individual and his family for Comprehensive Health Care Benefits under an approved insurance contract or prepayment plan to which the Secretary of Health is not a party, over

"(B) the sum of—

"(i) 10 percent of the aggregate amount of premiums referred to in subparagraph (A), and

"(ii) 4 percent of the adjusted gross income of such individual for the taxable year.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section. Such regulations shall include, in the case of the credit allowable by subsection (a), rules relating to determining the number of employees of an employer for the taxable year, the wages of the employees, and the premiums payable under the National Health Care Services Reorganization and Financing Act, as well as the method for determining such wages (and the average thereof)."

(b) The table of sections for such subpart A is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

"SEC. 42. Employer credit for National Health Services coverage payments in excess of 4 percent of wages; comparable credit for the self-employed.

"SEC. 43. Overpayments of tax."

(c) Section 6401(b) of such Code (relating to refund where credits exceed tax) is amended—

(1) by striking out "and 667(b)" and inserting in lieu thereof ", 42 (relating to employer credit for National Health Services coverage payments in excess of 4 percent of wages; comparable credit for the self-employed), and 667(b)"; and

(2) by striking out "31 and 39" and inserting in lieu thereof "31, 39, and 42".

LIMITATION OF MEDICAID TO SUPPLEMENTATION OF COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 109. (a) On and after the effective date of entitlement to benefits under this part, a participating State (as defined in section 234(d)(2) shall, notwithstanding any provision of title XIX of the Social Security Act (relating to grants to States for medical assistance programs), not be required to provide in its State plan under that title for paying under that plan for any service or item (set forth in section 122) that is covered by Comprehensive Health Care Benefits and is furnished to an individual who is entitled to such coverage under section 102. Any amount expended by such a participating State for furnishing any such service or item to such an individual on or after that date (whether or not the service or item is in fact covered under that State plan) shall be disregarded in determining the amount of any payment to be made to the State under title XIX of that Act.

(b) The Secretary shall, with a view to supplementing (so far as practicable), through State plans under title XIX of the Social Security Act, the coverage of Comprehensive Health Care Benefits for individuals referred to in subsection (a), prescribe by regulation the minimum scope of services and items that shall (in lieu of the requirements of section 1902(a)(13) of that Act) be included, on and after the date referred to in subsection (a), in a State plan as a condition of approval under title XIX of that Act.

PART B—COMPREHENSIVE HEALTH CARE BENEFITS

PAYMENT FOR COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 121. (a) (1) Except as provided in paragraph (2), coverage of a registrant for Comprehensive Health Care Benefits shall entitle beneficiaries to have the carrier pay, in accordance with section 152(b) but subject to the limitations of this part, the approved predetermined charges of Health Care Corporations and other providers for services and items (set forth in section 122) furnished to him and covered by such benefits, or, in those instances in which subsection (b)(3) applies, the charges (approved and submitted to the carrier in accordance with section 243(f) of another Health Care Corporation or provider that furnished to him covered services or items. Such coverage is subject to the carrier's right (as provided in section 132(b)) to reimbursement from the beneficiary in the amount of the copayments (if any) payable under this part, and subject to the other provisions of this part.

(2) In the case of registrants of an approved Health Care Corporation that operates on a capitation charge basis, coverage for Comprehensive Health Care Benefits shall entitle the registrant to have the covering carrier (or the Secretary where the registrant is enrolled under a contract of the Secretary with the corporation under section 135) make payment of capitation charges (instead of fee-for-service charges) on his behalf in accordance with the applicable provisions of part C of this title. The conditions under which, the manner in which, and the extent to which the amounts of copayments provided for in this part, or the actuarial equivalent of such copayments, is to be paid and collected in such cases, is also governed by part C of this title.

(3) For payment by the carrier to the Health Care Corporation for certain charges not covered by Comprehensive Health Care Benefits, see section 135.

(b) Copayments that are the obligation of beneficiaries shall be paid to the carrier in the amounts specified in the benefit table in section 122, and subject to changes in the sections 104 and 124.

DEFINITION OF COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 122. (a)(1) Comprehensive Health Care Benefits shall, subject to other provisions of this title, consist of benefits for (A) Outpatient Services, (B) Inpatient Services, and (C) Catastrophic Expense Benefits, as described or referred to in the benefit table set forth in subsection (b) and in other provisions of this title. In addition to specific requirements for the issuance of regulations in the table and in other provisions of this part, the Secretary is authorized to issue from time to time such further regulations governing and otherwise adjusting the ap- will best carry out the purposes of this Act. plication of the table as in his judgment

(2) For the purposes of the table and of the subsequent provisions of this part—

(A) the term "coverage year" with respect to an individual means a 12-month period of Comprehensive Health Care Benefits coverage of the individual under a qualified carrier's insurance contract or prepayment plan which coincides with a 12-month (annually renewable) term of that contract or plan; and the Secretary shall by regulation provide for application of the table to an individual whose initial enrollment under such a contract or plan occurs after the beginning of a then current 12-month term of the contract or plan or who is enrolled under a carrier contract with the Secretary that has a shorter initial term;

(B) the term "benefit period" with respect to an individual means a period of consecutive days—

(i) beginning with the first day (not included in a previous benefit period) that occurs during a coverage year and on which he is furnished covered inpatient hospital services, post-hospital extended care services, nursing home care, home health care services, or services under an outpatient institutional-care program for physical disability, mental illness, alcoholism, or drug abuse or drug dependence (as provided in paragraphs A.3.a. and B.1, respectively, of the benefit table), and

(ii) ending with the close of the first period of 60 consecutive days thereafter (whether or not in the same coverage year) on which he is not receiving any of the care or service referred to in clause (i);

(C) the term "regulations" refers to regulations of the Secretary,

(D) the term "outpatient services" means services listed under the heading "Outpatient Services of Health Care Corporations" in the benefit table (including such services to patients confined to the home) and furnished to individuals who are not inpatients covered for services under paragraph B of such table; and

(E, the term "home health care services" means the comprehensive coordinated home care services and the intermediate and basic home health services listed in the benefit table under the heading "Home Health Care Services" and furnished to individuals who are not in-patients covered for services under paragraph B of such table.

For other definitions of terms used in the table, see section 128.

(b) The table referred to in subsection (a) is as follows:

TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS

I—SERVICES AND ITEMS COVERED	II—COPAYMENTS* AND LIMITATIONS
a. outpatient services	
1. Periodic Health Evaluation.	No copayment.
a. Screening tests and examinations, as prescribed by regulations under section 126, followed by physical examination by a physician or physicians when indicated by the screening.	Within such limits as may be prescribed by regulation under section 126.
b. All Immunizations.	No copayment and no limitation.
c. Well-Baby Care (for infants under age 5)—	No copayment.
(i) during 1st 12 month following birth;	8 visits.
(ii) during next 12 months;	4 visits.
(iii) during next 3 years.	2 visits per coverage year.
d. Dental Services The following professional dental services, including drugs and supplies that are commonly furnished, without separate charge, as an incident to such professional services:	Items d (i) and (ii) in column I apply initially only to children born not more than 7 years before the effective date of this subpart. For those initially covered, the benefits extend through age 12.
(i) Oral examination, including (I) prophylaxis (with fluoride application at appropriate ages), (II) dental X-rays, and (III) in accordance with regulations, other accepted preventive dental procedures.	No copayment. 1 examination per coverage year.
(ii) To the extent prescribed by regulation under section 126 and not covered under (i), above, dental care other than orthodontia; but including, insofar as the Secretary finds that resources of facilities and personnel make practicable, routine extractions, dental fillings, and appropriate prosthetic appliances.	Copayment 20% of charges.
e. Vision Services (in accordance with regulations under section 126)	For individuals through age 12.
(i) Professional services in routine eye examination, including procedures performed (during the course of an eye examination) to determine the refractive state of the eyes and procedures for furnishing prosthetic lenses, provided either by an ophthalmologist or other physician skilled in diseases of the eye or by an optometrist (whichever the patient may select).	No copayment. 1 visit per coverage year (including therein a follow-up verification of conformity of prescribed lenses with a prescription issued during the visit).
(ii) Eyeglasses with prescription lenses, including the fitting thereof, and including additional lenses and frames as needed.	Copayment 20% of charges. Initially, one set of eyeglasses (including frame and lenses); thereafter, only newly prescribed lenses and frames as required (but not more often than once a coverage year) because of a change in the condition of the eyes. Standards to be established by regulations promulgated in accordance with section 126.
2. Physicians' Services, and Services of Other Qualified Health Professionals and Allied Health Personnel. When not otherwise covered under this table—	
a. Physicians' services (including radiotherapy) on an outpatient basis in any appropriate institutional or noninstitutional setting (including home calls), and services in any such setting under a physician's supervision by allied health personnel (as defined in regulations).	For physicians' services, a copayment for each visit of two dollars. Copayments under this paragraph for services in facilities involved in clauses c. and d. below apply only to services of attending physician. Limited to 10 visits per coverage year. Except that, in accordance with regulations, no limit on the number of visits shall apply to services preceding or following inpatient care in cases (such as surgery or pregnancy and obstetrical care) in which a single combined approved charge is made by the provided for such outpatient and inpatient services.
b. Diagnostic procedures on an outpatient basis (when not covered under subparagraph a.), including diagnostic tests, prescribed or ordered by a physician in connection with services referred to in paragraph a.	20% copayment. Copayment requirement waived for registrants of Health Care Corporations. No separate limitation.
c. Hospital or outpatient-center services (not included above) rendered to outpatients and incidental to physicians' services covered under paragraph 1.	No separate copayment. No separate limitation.
d. Supplies, materials, and use of facilities and equipment in connection with the foregoing services, including drugs administered or used as a part of services covered in paragraph 1, 2, or 3.	No separate copayment. No separate limitation.
e. Ambulance services.	20% copayment. Covered only when other methods of transportation are contraindicated by the patient's condition, and only to the extent provided in regulations.
3. Other Outpatient Services.	
a. Outpatient Institutional-Care Program for Physical Disability, Mental Illness, Alcoholism, or Drug Abuse and Dependence.	A two-dollar copayment, per day, except that copayments may, by regulation, be waived for treatment of drug abuse and drug dependence. (No separate copayment for physicians' services applies

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Footnote on following page.

TABLE OF COMPREHENSIVE HEALTH CARE BENEFITS—Continued

I—SERVICES AND ITEMS COVERED—Continued	II—COPAYMENTS* AND LIMITATIONS—Continued
	under this subparagraph, whether or not such services are charged for separately.)
Such day-care or other part-time services and other items as may be specified in regulations under section 126, furnished to patients, other than inpatients, under a program for the rehabilitation of the physically disabled or the treatment of mental illness, alcoholism, or problems of drug abuse and drug dependence.	Limited to visits or sessions on 3 days under such a program in lieu of each day of inpatient hospital care allowable during a benefit period (under paragraph B.1.a. below) for the treatment of physical disability, mental illness, alcoholism, or drug abuse or drug dependence.
b. Drugs, Prosthetic Devices, and Medical Equipment	
(i) Drugs (other than those covered under paragraph A.1., A.2., or B.1. of this table) dispensed to patients other than inpatients.	For each drug prescription, and each refilling of such a prescription, a one dollar copayment. Covered only if (1) the drug (whether or not it is subject to a prescription requirement under any law other than this title) has in fact been prescribed by a physician and is listed under its established name (as defined in section 502(c) of the Federal Food, Drug, and Cosmetic Act) in a list established for the purposes of this title by the Secretary under section 126(c), and (2) in the case of a drug listed under section 126(c)(2)(B), the disease or condition for which the drug has been prescribed is one for the treatment of which the drug is designated in that list as appropriate.
(ii) Prosthetic devices (including hearing aids) prescribed by a physician and not otherwise covered in this table.	Copayment 20% of charges. Covered only if listed in, and in accordance with, regulations under section 126.
(iii) In accordance with regulations, durable medical equipment (not otherwise covered) as described in section 1861(s)(6) of the Social Security Act, certified by a physician as being medically required.	Copayment 20% of charges. Covered only if listed in, and in accordance with, regulations under section 126; and subject to criteria for payment prescribed under that section.
c. Home Health Care Services.	For each visit, a two-dollar copayment.
(i) Intensive Home Health Care Services—Services and items defined in section 128(d)(2)(A) furnished to patients who require an intensive level of professionally coordinated medical services that can be provided through a structured home care service in lieu of institutional inpatient care.	Coverage under (i), (ii), or (iii) is limited to a total of 200 days in any benefit period. The certification and recertification requirements of section 1835(a)(2) of the Social Security Act, with such modification (if any) as the Secretary may by regulation prescribe, may be applied by the carrier.
(ii) Intermediate Home Health Care Services—Services and items as are defined by section 128(d)(2)(B) and regulations thereunder.	
(iii) Basic Home Health Care Services—Services and items as are defined by section 128(d)(2)(C) and regulations thereunder.	
B. Inpatient services	
1. Institutional Services	
a. Inpatient Hospital Care Items and services defined by section 128(e) as "inpatient hospital care."	A five-dollar copayment, per day. Coverage is limited to 90 days of inpatient hospital care received in any benefit period.
b. Post-Hospital Extended Care Extended care services (as defined in section 128(b)) furnished an individual after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days. For the purpose of the preceding sentence, the second sentence of section 1861(i) of the Social Security Act shall apply.	A two-dollar-and-fifty-cent copayment, per day. Limited to 30 days of such care received in any benefit period.
c. Nursing Home Care Nursing home care as defined in section 128.	A two-dollar-and-fifty-cent copayment, per day. Coverage shall be limited to 90 days of such care received in any benefit period.
2. Physicians' Services Those physicians' services to inpatients which are not included as "institutional services" under paragraph B.1a., b., or c.	A two-dollar copayment, per visit of the attending physician only. In accordance with regulations under section 126, in the case of services (such as surgery or pregnancy and obstetrical care) in which a single charge is made by the corporation for the attending physicians' services related thereto combined with any preceding or following outpatient services related thereto, a copayment of 10% of such combined charges shall apply. Copayments for physicians' services under this paragraph are in addition to the daily copayments for institutional care. No separate limitations.
C. Catastrophic expense benefits	
Section 125 defines the conditions under which these benefits become effective in any coverage year with respect to any individual or family. To summarize: In the case of a low-income person or low-income family (class 1), these benefits are effective immediately. In the case of medically indigent persons or families (classes 2–4), they become effective when the person or family has incurred in a coverage year, for premium contributions, copayments, and certain other expenditures combined, a total expenditure equal to an amount determined by application of a table in section 125. In the case of individuals or families in income class 5, these benefits apply when a variable expenditure limit is reached, determined by taking 10% of the individual's or family's income. The dollar figures in the tables and the absolute expenditure limit may be adjusted by the Secretary on an annual basis, whenever the Consumer Price Index is more than 3% above the index for the base period (see sections 104 and 124).	For elimination of certain limits on coverage for Physicians' Services and Inpatient Hospital Services when Catastrophic Expense Benefits take effect in a coverage year, see section 125. Outpatient care for mental illness is limited to those cases in which active medical treatment (as defined in the last sentence of section 123(a)) is provided. Psychoanalysis is excluded under catastrophic coverage, except in those cases in which it is utilized for the treatment of severe functional disability for which no feasible alternative modes of therapy exist.

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*The initial amounts of the dollar copayments are subject to changes in the Consumer Price Index as determined under sections 204 and 224.

LIMITATIONS AND EXCLUSIONS

SEC. 123. (a) Notwithstanding any other provision of this title, Comprehensive Health Care Benefits shall not cover charges for—

(1) services or items that are not medically necessary (or, in the case of health maintenance services under paragraph A.1. of the benefit table, medically appropriate), as determined in accordance with regulations and subject to such requirements for certification and recertification by physicians as are specified in this part or in regulations;

(2) inpatient treatment of tuberculosis, mental illness, alcoholism, or problems of drug abuse or drug dependence, unless the condition of the patient is in an acute phase and subject to active medical treatment;

(3) custodial care, other than health-related custodial care;

(4) cosmetic surgery or charges incurred in connection therewith, except as required for the prompt repair of accidental injury or for improvement of the functioning of a malformed body member;

(5) personal comfort items;

(6) drugs not prescribed, except when administered by or under the immediate supervision of a physician; or

(7)(A) treatment of flat-foot conditions and the prescription of supportive devices therefor, or

(B) routine foot care (including the cutting or removal of corns or calluses, the trimming of nails, and other routine hygienic care).

For purposes of paragraph (2), "active treatment" must be (i) characterized by a written and individualized plan that is based on diagnoses; (ii) based on goals relative to arrest, reversal, or amelioration of the disease process or illness and aimed at restoring the individual's adaptive capacity to the maximum extent possible; (iii) based on objectives relating to such goals; (iv) comprised of defined services and activities; (v) specific as to the means to measure the progress or outcome; and (vi) clear as to periodic review and revision of the plan.

(b) Comprehensive Health Care Benefits shall not cover any item or service to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to that item or service under a workman's compensation law or plan of the United States or a State or under a motor vehicle insurance policy or plan. Any payment by the carrier under coverage under this title with respect to any item or service shall be conditioned on reimbursement to the carrier when notice or other information is received that payment for the item or service has been made under such a law, policy, or plan.

(c) Comprehensive Health Care Benefits shall not cover—

(1) charges for items or services (other than emergency services in accordance with section 243(f)) furnished by a Federal provider of services, except a provider of services which the appropriate State Health Commission determines is providing services (by arrangement with a Health Care Corporation or otherwise in accordance with part D of title II) as a community institution or agency; or

(2) charges of a Health Care Corporation or other provider for any item or service which the corporation or provider is obligated by a law of, or contract with, the United States to render at public expense.

(d)(1) If the bed and board furnished as part of inpatient institutional services is in accommodations more expensive than semiprivate accommodations, the amount taken into account for purposes of payment with respect to such care under Comprehensive Health Care Benefits coverage may not exceed an amount equal to the approved charges of the Health Care Corporation or nonaffiliated institutional provider for such services if furnished in semiprivate accommodations unless the more expensive accommodations were required for medical reasons.

(2) If the bed and board furnished as part of inpatient services is in accommodations other than, but not more expensive than, semiprivate accommodations and the use of such other accommodations was neither at the request of the patient nor for a reason consistent with the purposes of this Act (as determined under regulations), the amount of the payment, if any, with respect thereto shall in no event be greater than the corporation's or nonaffiliated provider's approved charge for bed and board in the accommodations furnished.

(3) For purposes of this subsection, the term "semiprivate accommodations" means two-bed, three-bed, or four-bed accommodations.

(e) If, in any other case, items or services are furnished to an individual in excess of, or more expensive than, items or services with respect to which payment may be made under Comprehensive Health Care Benefits coverage, there shall be taken into account, for purposes of payment by the carrier, only the approved charges of the corporation or other provider with respect to which such payment may be made.

COPAYMENT PROVISIONS

SEC. 124. (a) Except to the extent that Health Care Corporations operate on a predetermined capitation charge basis and do not impose separate charges for services and other items covered by Comprehensive Health Care Benefits at the time such services and items are furnished to a covered individual, and except when Catastrophic Expense Benefits are in effect as determined under section 125, coverage for Comprehensive Health Care Benefits is subject to the payment, by the covered individual or on his behalf by another person or agency, of copayments in the case of services or items with respect to which copayments are specified in the benefit table set forth in section 122, but only if the individual is not a low-income person or a member of a low-income family (as defined in section 103). As provided in sections 121 and 132(b), the amount of such copayments shall not be deducted by the carrier from payment to the Health Care Corporations and other providers for covered services and other items but shall be recovered by the carrier as provided in those sections, without recourse against the corporations and providers.

(b) In those cases in which the table in section 122 specifies as the required copayment a stated percentage of charges with respect to a covered service or item, the amount of the copayment shall, subject to section 123, be equal to that percentage of the approved charges of the provider involved for the covered service or item. In those cases in which the copayment in the table is stated as a dollar amount, if, by reason of an increase in the Consumer Price Index, a higher amount is promulgated for any coverage year under section 104 by the Secretary with respect to any copayment item than the amount specified in the table of benefits for that item, the amount so promulgated shall apply with respect to that year.

CATASTROPHIC EXPENSE BENEFITS

SEC. 125. (a) When Catastrophic Expense Benefits are in effect as a part of coverage for Comprehensive Health Care Benefits with respect to a covered individual in a coverage year, (1) copayments that would otherwise be required to be made by or on behalf of that individual shall not be required with respect to services or items furnished in that coverage year on or after the effective date of those benefits, and (2) the benefit limits shown in column II of the benefit table for physicians' services, and services of other qualified health professionals and allied health personnel (paragraph A. 2. a.), for outpatient institutional-care programs for physical disability, mental illness, alcoholism, or drug abuse or drug dependence (paragraph A. 3. a.), for inpatient hospital care (paragraph B. 1. a.), and for home health care services (paragraph A. 3. c.) become inapplicable during that period for those classes of services and care except as otherwise indicated in that column.

(b)(1) In the case of a covered individual who is (or whose family is) in income class 1, with respect to a coverage year, Catastrophic Expense Benefits shall automatically be in effect during the entire year as part of his coverage for Comprehensive Health Care Benefits.

(2) In the case of any covered individual (or his family) in income class 2, 3, or 4, Catastrophic Expense Benefits shall become effective in a coverage year when the sum of creditable expenditures incurred by him, or incurred by him and all other members of his family in the case of an individual who is a member of a family, equals the amount of a special expenditure limit determined as in the table below (or the amount redetermined by the Secretary for that year under section 104).

SPECIAL EXPENDITURE LIMIT TABLE

Income class	Expenditure limit under 65	Expenditure limit 65 and over
2	$250	$125
3	500	250
4	750	375

(3) In the case of an individual and his family who are in income class 5, the special expenditure limit beyond which Catastrophic Expense Benefits are to take effect shall vary according to the level of income, with the exact limit set at 10 percent of the individual's or family's income (as defined in accordance with the regulations prescribed by the Secretary in consultation with the Secretary of the Treasury or his delegate). The income base to which the 10 percent is to be applied shall be rounded to the nearest multiple of $100 (or to the next higher multiple if the amount to be rounded is an odd multiple of $50).

(4) The following expenditures incurred by a covered individual, or incurred by him and other members of his family in the case of an individual who is a member of a family, shall be counted as creditable expenditures in determining under paragraph (2) whether and when Catastrophic Expense Benefits become effective with respect to him in a coverage year:

(A) Expenditures incurred for premiums, or contributions to premiums, for Comprehensive Health Care Benefits coverage (for that year) of that individual, or of him and other members of his family.

(B) Expenditures incurred in that year for copayments under Comprehensive Health Care Benefits coverage, and expenditures for copayments incurred in the last 3 months of the immediately preceding coverage year under such coverage.

(C)(i) Expenditures incurred in the coverage year involved for charges for physicians' services, and services of other qualified health professionals and allied health personnel, described in column I of paragraph A.2. of the benefit table, or for outpatient institutional care for physical disability, mental illness, alcoholism, or drug abuse or drug dependence as described in paragraph A.3.a. in that column, or for inpatient hospital care or physicians' services to inpatients described in paragraph B.1.a. or B.2. in that column, if those charges were excluded from coverage under such paragraph solely because of the applicable limitations in column II of the benefit table on the number of visits per coverage year or on the number of days of care per benefit period, and (ii) like expenditures incurred in the last 3 months of the immediately preceding coverage year and applied toward the applicable expenditure limit or limits under this section for that year.

(5) For the purposes of this section—

(A) expenditures are (whether or not payment is or has been made) deemed to be incurred—

(i) in the case of the individual's contributions to premiums, when payment is due; or

(ii) in the case of copayments, and of charges described in paragraph (4) (C), when the service or item giving rise to the copayment or charge was provided unless payment is sooner made; and

(B) expenditures are deemed to be incurred by a covered individual (unless they are Federal payments) if paid or payable by the covered individual or on his behalf by another person or agency.

REGULATIONS FOR COMPREHENSIVE HEALTH CARE BENEFITS

SEC. 126. (a) In addition to any other regulations and standards with respect to the coverage of Comprehensive Health Care Benefits and the various classes thereof, payment of charges to Health Care Corporations for services and items covered thereby, collection of copayments by carriers as provided in section 121(a), and 132(b) and other matters relating to such benefits, the Secretary shall issue regulations on the matters required by this section. Section 140, relating to regulations affecting the rights and obligations of carriers, shall also apply to regulations under this part.

(b) The Secretary shall issue regulations amplifying the provisions of the benefit table with respect to Health maintenance benefits covered by paragraph A. 1. of the benefit table and in particular shall—

(1) in the light of the special emphasis of this Act on the obligation of Health Care Corporations for health maintenance, prescribe the coverage of Comprehensive Health Care Benefits with respect to periodic health evaluation as comprehensively as resources of facilities and personnel will permit and with a view to keeping in step with modern developments in this field, and in this connection consider—

(A) insofar as the frequency of evaluations for particular age groups is concerned, the provision of one appropriate evaluation per coverage year for individuals aged 65 or older, one every second year for those aged 19 to 64 inclusive, and one every five years for those aged 5 to 18 inclusive; and

(B) insofar as the components of such evaluations are concerned, including in such coverage, as the Secretary may deem medically appropriate and practicable for the different age, sex, and other patient groups, regularly scheduled complete histories, blood tests, serologies, urinalyses, and other appropriate chemical laboratory tests, chest X-rays; electrocardiograms; Papanicolaou smear tests; rectal and proctoscopic examinations; glaucoma tests; and hearing tests; and

(2) issue regulations with respect to the coverage of paragraph A. 1. e. of the benefit table for vision services.

(c) The Secretary shall issue standards and other regulations with respect to coverage under paragraphs A. 2. and A. 3. and paragraph B. of the benefit table, and in particular shall—

(1) define the physicians' and other services, and the drugs and other items, that are to be covered as benefits under paragraph A. 3. a. of the benefit table in outpatient institutional-care programs for physical disability, mental illness, alcoholism, or problems of drug abuse and drug dependence, including considerations of appropriate transportation services for those who are physically disabled, and set forth such criteria for these benefits as will encourage the establishment and use of such programs on a sound basis and lessen the need for inpatient treatment of these conditions; and waive, or provide for the waiver, of copayments in such programs for the treatment of drug abuse and drug dependence to the extent that the Secretary finds that such waiver is desirable in order to encourage the use of these programs by persons who are in need of such treatment;

(2) for the purpose of coverage of drugs under paragraph A. 3. b. (i) of the benefit table, establish and keep current, on the basis of determinations of the Secretary with respect to the safety and efficacy of the drugs involved—

(A) a list of the categories of drugs that the Secretary finds to be appropriate for the treatment of diseases or conditions requiring drug therapy of such duration and cost as commonly to impose financial hardship; and

(B) a list that (i) designates diseases and conditions, requiring intensive drug therapy (with drugs other than those listed under subparagraph (A)), which the Secretary finds to be of especial importance to the public health, and (ii) specifies with respect to each such disease or condition the category of drugs which the Secretary finds to be appropriate for the treatment thereof;

(3) (A) designate prosthetic devices (including such devices not included under section 1861(s) of the Social Security Act and including hearing aids) to be covered under paragraph A. 3. b. (ii) of the benefit table, and (B) prescribe the conditions for coverage of durable medical equipment (as described in section 1861(s) of the Social Security Act) under paragraph A. 3. b. (iii) of that table (including criteria for determining whether payment for expensive purchased equipment shall be made on a rental-equivalent basis);

(4) (A) (i) prescribe regulations for determining what is to be counted as a visit in the case of physicians' services covered under paragraph A. 2. a. of the benefit table and physicians' services covered under paragraph B. 2. of the table; (ii) prescribe regulations (I) exempting from the limits on the number of visits under paragraph A. 2. a. of the table physicians' services preceding or following inpatient care in cases (such as surgery, or pregnancy and obstetrical care) in which a single combined charge is made, by the provider involved, for any outpatient and inpatient services, and (II) providing for copayments in such case in an amount equal to a percentage of the combined coverage charges for outpatient and inpatient physicians' services as specified in column II of paragraph B. 2. of the table; and

(5) prescribe regulations, referred to in column II of paragraph A. 3. c. of the benefit table, with respect to the nature and number of visits to be counted for home health services coverage purposes.

PHASING OF ADDITIONAL BENEFITS

SEC. 127. The Secretary shall submit to Congress recommendations for the expansion of benefits after the program is in operation as specified in section 302. The Secretary shall give special consideration to the expansion of benefits for dental and vision services based on the availability of resources.

OTHER DEFINITIONS

SEC. 128. For the purposes of this Act:

(a) The term "drug" means a drug within the meaning of section 201(g) (1) of the Federal Food, Drug, and Cosmetic Act, as now in force or as hereafter amended, including any product of a kind subject to licensing under section 351 of the Public Health Service Act.

(b) The terms "extended care services" and "nursing home care" mean, respectively, services and items specified as such in regulations of the Secretary (including, in the case of extended care services, the services specified in section 1861(h) of the Social Security Act) for the respective classes of institutions, if the services are—

(1) furnished to patients who require active inpatient treatment but are not in an acute phase of illness and who currently either require primarily convalescent or restorative services or require primarily health-related custodial care;

(2) furnished under arrangements for the transfer of patients among inpatient care facilities as medically appropriate; and

(3) furnished by an institution which (A) meets the requirements of paragraphs (1) through (9) of section 1861(j) of the Social Security Act (defining the term "skilled nursing facility" for purposes of title XVIII of that Act), (B) meets such other conditions relating to the physical facilities or to the safety or quality of care of patients as the Secretary may by regulation prescribe for the respective classes of institutions, and (C) is not an institution primarily for the care and treatment of mental illness or tuberculosis.

(c) The terms "skilled nursing care" and "supervision for palliative or terminal care" means that component of comprehensive health care which—

(1) is furnished to a patient who has a non-curable disease diagnosed by a physician (as defined in section 1861(r) (1) of the Social Security Act) as still requiring medical or nursing care (or both), for palliation or as terminal care, through extended care services or nursing home care or home health care services or physicians' home calls;

(2) has the purpose of maintaining the well-being of that patient to the maximum degree possible; and

(3) involves a patient who either—

(A) is bedridden, or unable to get into and out of bed without assistance, or

(B) requires nursing care procedures (such as complicated dressing, irrigations, or intravenous medications) that cannot be performed by the patient or by nonnursing personnel (such as a family member or companion), or

(C) experiences frequent episodes of sudden acute illness requiring emergency treatment that cannot be controlled by medication (such as uncontrolled diabetes, epilepsy, paroxysmal tachycardia, or fibrillation), or

(D) requires constant physical restraints to prevent injury to himself or others (as in the case of senile patients or patients who suffer from certain mental illnesses).

(d) (1) The term "home health care services" means (subject to paragraph (3)) the three different concentrations of health care services furnished to an individual in his home or place of residence by an affiliated hospital, home health agency, or outpatient center specified in paragraph (2) if—

(A) they are furnished to an individual who is under the care of a physician;

(B) they are furnished by a Health Care Corporation either directly or through the home care department of an affiliated hospital provider or through an affiliated provider that is a "home health agency" as defined in section 1861(o) of the Social Security Act (but not excluding an agency or organization that is primarily for the care and treatment of mental illness);

(C) they are furnished under a plan, established and periodically reviewed by a physician, for furnishing them to the individual; and

(D) they are, except as otherwise provided in paragraph (2), furnished on a visiting basis in a place of residence used as the individual's home.

(2) The different concentrations of home health care services referred to in paragraph (1) are—

(A) intensive home care services, the furnishing of which involves the professional coordination by a registered nurse of a complex of health services, under medical direction, that may include—

(i) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(ii) physical, respiratory, occupational, or speech therapy;

(iii) medical social services by referral of a physician;

(iv) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

(v) diagnostic and therapeutic items or services, furnished by a hospital or outpatient center, which are ordinarily furnished to inpatients of the hospital, to the extent they are medically appropriate and it is feasible to provide them to patients in their homes;

(vi) drugs, medical supplies, appliances, and equipment which are ordinarily furnished by the hospital for the care and treatment of inpatients, to the extent they are necessary to carry out the physician's plan of treatment for the patient and it is feasible to provide them to patients in their homes;

(vii) such physicians' services in the hospital or outpatient center (such as those of radiologists and pathologists) as are held out as generally available to all inpatients of a hospital and which are charged for by the hospital or outpatient center as part of its services;

(viii) medical services provided by an intern or a resident-in-training in a provider institution to a patient in his place of residence or an outpatient center; and

(ix) ambulance or other special transportation services when other methods of transportation are contraindicated by the patient's condition to transport the patient from a provider institution to his place of residence or from his place of residence to a hospital or outpatient center to receive services the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in his place of residence;

(B) intermediate home health care services, including the following items and services provided either directly or through an affiliated home health agency provider as specified in paragraph (1)(B):

(i) part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(ii) physical, occupational, or speech therapy;

(iii) medical social services under the direction of a physician;

(iv) to the extent permitted in regulations, part-time or intermittent services of a home health aide;

(v) medical supplies (other than drugs), and the use of medical appliances and equipment, while under the plan referred to in paragraph (1)(C);

(vi) medical services provided by an intern or resident-in-training in an affiliated home health agency provider; and

(vii) any of the foregoing items and services—

(I) which are provided on an outpatient basis, under arrangements made by the Health Care Corporation or home health agency referred to in paragraph (1)(B), at a hospital, skilled nursing facility, or rehabilitation center, and

(II) the furnishing of which involves the use of equipment of such a nature that the items and services cannot readily be made available to the individual in the place of residence referred to in paragraph (1)(D); or which are furnished at that hospital, facility, or center while he is there to receive any such item or service, but not including transportation of the individual in connection with any such item or service except ambulance service when other methods of transportation are contraindicated by the patient's condition, and only to the extent provided in regulations; and

(C) basic home health services, which are furnished either directly or through an affiliated home health agency provider as specified in paragraph (1)(B) to individuals requiring "palliative and terminal care", including the following:

(i) part-time or intermittent nursing provided by or under the supervision of a registered professional nurse;

(ii) medical social service including counseling;

(iii) part-time or intermittent home health aide services assigned and supervised by a registered professional nurse; and

(iv) medical supplies (other than drugs), and the use of medical appliances and equipment, while under the plan referred to in paragraph (1)(C).

(3) Notwithstanding the provisions of paragraphs (1) and (2), the term "home health care services" does not include any item or service if it would not be included under "inpatient hospital care" (as defined in subsection (e)) if furnished to an inpatient of a hospital.

(e) The term "inpatient hospital care" means the following items and services furnished to an inpatient of a hospital and, except as otherwise specified, by the hospital:

(1) Bed and board.

(2) Such physicians' services in the hospital (such as those of radiologists and pathologists) as are held out as generally available to all inpatients of a hospital and which are charged for by the hospital as part of its services.

(3) Such nursing services and other related services, such use of hospital facilities, and such medical social services as are ordinarily furnished by the hospital for the care and treatment of inpatients, and such drugs, supplies, appliances, and equipment, for use in the hospital, as are ordinarily furnished by the hospital for the care and treatment of inpatients.

(4) Such other diagnostic or therapeutic items or services, furnished by the hospital, as are ordinarily so furnished to inpatients of the hospital.

(f)(1) The term "physician" means, except when otherwise specified, a physician as defined in section 1861(r) of the Social Security Act.

(2) The term "physicians' services" means professional services performed by physicians, including surgery, consultation, and home, office, and institutional calls.

(3) The term "attending physician" means, with respect to a patient, the physician having primary responsibility for the patient's medical care.

PART C—CARRIERS FOR COMPREHENSIVE HEALTH CARE BENEFITS

DEFINITION OF "CARRIER"

SEC. 131. As used in this Act, the term "carrier" means—

(1) a voluntary association, corporation, partnership, or other nongovernmental organization that is engaged in providing, paying for, or reimbursing the cost of, health care under insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of predetermined premiums or other periodic charges payable to the carrier; and

(2) a Health Care Corporation approved by a State Health Commission under a State plan approved by the Secretary under this Act, to the extent that the corporation charges for covered health care on an annually predetermined capitation basis in accordance with section 246(b).

DETERMINATION OF QUALIFIED CARRIER; HEALTH CARD

SEC. 132. A carrier is a qualified carrier for the purposes of this Act if—

(1)(A) the carrier is authorized to operate health benefit prepayment plans or insurance at group rates in each State for whose residents it provides, or proposes to provide, coverage under this Act, is in compliance with section 133, and meets such additional standards as the Secretary may establish, including, in the case of contracts with the Secretary under sections 102 and 106, any special standards established for the purposes of those sections; and

(B) with respect to coverage for which a premium contribution by the Secretary is requested under section 102(c), the carrier agrees to accord to the Secretary and his agents the same rights to information and access to the carrier's records as is required to be accorded to them under section 141; and

(2) the carrier provides, consistent with section 212(b)(6), that—

(A) an account will be established against which a covered individual may charge the cost of obtaining items and services covered under this Act, without regard to the copayment requirements applicable under this Act;

(B) payment for items and services covered under this Act, other than emergency services, will be made only on the basis of charges against that account;

(C) payment will be made on the basis of charges against the account for items and services covered under this Act at the applicable payment rates; and, unless the account is in default, payment will be made to participating providers for all items and services, without reduction on account of the copayment requirements applicable under this Act and the covered individual will be billed the portion of any payment properly chargeable to him on account of those copayment requirements; and

(D) credit will be available with respect to any bill submitted to a covered individual pursuant to subparagraph (C) and interest will accrue on amounts owed on any bill, in accordance with regulations prescribed by the Secretary, with no recovery being made from any individual or entity to whom payment has been made because of the failure of a covered individual to pay any such bill; and an account will not be regarded as in default unless payment of amounts due under the account, or any other such account established with respect to the covered individual pursuant to the requirements of this title, is 90 days in arrears.

REQUIREMENT THAT CARRIERS PARTICIPATE UNDER STATE PLANS

SEC. 133. A carrier shall not be qualified for award of a contract with the Secretary under section 102 or 106 or for issuance of Comprehensive Health Care Benefits coverage eligible for a premium subsidy under section 102(c), unless the carrier agrees, if required by the appropriate State Health Commission (or its delegate agency) of a State, to participate in a coverage pool in accordance with provisions therefor contained in the State plan pursuant to section 234(b)(7), or unless the carrier is in fact such a participant.

CONDITIONS OF APPROVAL OF CARRIER CONTRACTS OR PLANS FOR FEDERAL PREMIUM SUBSIDY

SEC. 134. The Secretary shall, for the purpose of any premium contribution under section 102, approve an insurance contract or prepayment plan of a carrier (including such a contract or plan under State plan provisions referred to in section 234(b)(7) only if the insurance contract or prepayment plan—

(1) is in conformity with applicable regulations and standards prescribed under the State plan (approved under part C of title II) of the appropriate participating State;

(2) provides for 12-month coverage terms;

(3) does not permit any exclusion from, or limitation with regard to, coverage of an

individual because of health status (preexisting, current, or future), economic status, race, sex, occupation, age, or establishment of any other condition inconsistent with regulations of the Secretary, but this paragraph shall not be construed to preclude reasonable classification of risks for premium rate purposes in accordance with actuarial principles; and

(4) contains such provisions as the Secretary may prescribe or approve relating to coordination of the coverage under the insurance contract or prepayment plan involved with overlapping or duplicative coverages under other insurance contracts or prepayment plans.

CONTRACTS WITH HEALTH CARE CORPORATIONS ON CAPITATION BASIS

SEC. 135. In the case of a Health Care Corporation that operates on the basis of predetermined capitation charges (approved by the appropriate State Health Commission), the Secretary may, if satisfied as to the corporation's financial responsibility to qualify as a carrier for itself under this section, provide the coverage for Comprehensive Health Care Benefits under this Act to which registrants of the corporation are entitled under section 102(b), by entering (directly or through the State Health Commission as the Secretary's agent as authorized by section 217(b)(2)) into a contract with the corporation, whereby the Secretary, in consideration of the corporation's undertaking to provide (or, when authorized under part D of title II, pay for) the services and items covered by such benefits, agrees that there shall be paid by the Secretary to the corporation, with respect to those registrants of the corporation who enroll under the contract, the same amounts that a third-party carrier would be required to pay under a contract with the Secretary, except that a contract under this section—

(1) shall authorize the Secretary in the case of a Health Care Corporation that does impose separate charges equivalent to copayments in addition to capitation charges, to deduct, from any capitation payments otherwise payable by the Secretary to the corporation on behalf of an individual enrolled under the contract, the value (as determined on the basis of actuarial principles) of any copayments to which the covered registrants would be subject under part B of this title if the corporation imposed separate charges equivalent to copayments;

(2) shall not, in the case of a Health Care Corporation that imposes separate charges equivalent to copayments in addition to capitation charges, undertake to pay those charges to the corporation;

(3) shall provide that the corporation shall itself collect from a registrant (or from others on his behalf) all copayments and premium contributions (in the form of capitation charges) payable by the registrant, and shall keep for the registrant the record of such copayments and contributions incurred by him (or his family) and notify him when he has reached the applicable expenditure limit under section 125 giving rise to Catastrophic Expense Benefits; and

(4) shall require the corporation to establish, in accordance with regulations or with provisions in the contract, effective procedures (through such means as establishment of a separate record and payment center and issuance of identical membership cards to all its registrants, regardless of whether they have benefit coverage purchased by the Secretary) that will prevent persons who furnish health services or items for the corporation from identifying those registrants who enjoy coverage purchased by the Secretary and discriminating against them on that account.

Any reference in this part to premiums, or contributions to premiums, shall be deemed to include capitation amounts paid by the Secretary, or contributions to capitation charges by registrants, respectively, under contracts made under this section.

EFFECT OF NONPAYMENT OF PREMIUMS

SEC. 136. (a) Premium contributions and special premiums payable pursuant to section 106, by individuals referred to therein who are enrolled under a contract under this title, shall be paid by or on behalf of the registrant to the carrier (from sources other than the Secretary) in periodic installments in advance in a manner and at the time or times prescribed in regulations of the Secretary but not less often than quarterly nor more often than monthly.

(b) In the event of nonpayment of a contribution or special premium installment, when due, to the carrier by or on behalf of an individual, the benefit coverage to which the overdue installment relates shall, upon notice by the carrier in accordance with regulations of the Secretary, end unless payment is made prior to the expiration of a grace period (not in excess of 90 days) prescribed by the regulations, except that (1) the manner and order of termination of coverage of family members in the event of partial delinquency or default in family contribution installments payable under section 106 shall be determined in accordance with regulations, (2) delinquency or default in contribution installments under section 106 shall not affect the coverage of any family member who has attained the age of 65, and (3) delay in payment shall not give rise to termination of coverage if attributable to an act or omission of a Federal officer or employee used as a conduit for transmitting such installments.

ENROLLMENT UNDER CONTRACTS WITH CARRIERS

SEC. 137. (a) The Secretary may by regulations consistent with other provisions of this Act, prescribe the time or times at which, the manner in which, and the conditions under which individuals may (1) enroll, under a contract made under this part, for Comprehensive Health Care Benefits coverage purchased by the Secretary to which under section 102 they are entitled, or (2) change enrollment under one contract to enrollment under another.

(b) The regulations under this section shall permit enrollment by an individual for himself only, or for himself and his spouse and other individuals who are members of his family (as defined in section 105(b)), and shall prescribe the times at which, the manner in which, and the conditions under which a change from one such type of enrollment to another may be made. An individual enrolling for himself and family shall be liable for any premium contributions on which entitlement to family coverage is conditioned.

(c) To the optimum extent, (1) open enrollment periods under this section and open periods for registration with Health Care Corporations approved by State commissions under approved State plans under this Act shall be closely coordinated, to the end that registration and enrollment, and changes therein, may be effected concurrently, and (2) registration centers of Health Care Corporations shall function also as centers at which to apply for, and obtain information concerning, enrollment.

REPORTS BY AND AUDITS OF CARRIERS

SEC. 138. Consistent with section 212(b)(6), each contract with a carrier under this title, including contracts with Health Care Corporations qualifying as carriers and contracting with respect to their registrants, shall require the carrier to make such reports, in such form, and containing such information as the Secretary or his agents may require to carry out their functions under this Act, and to keep such records and afford such access thereto as the Secretary or his agents may find necessary to assure the correctness and verification of the reports and otherwise to carry out its functions under this Act.

JURISDICTION OF COURTS

SEC. 139. The district courts of the United States shall have original jurisdiction, concurrent with the Court of Claims, of a civil action or claim against the United States founded on this part.

PROSPECTIVE REGULATIONS

SEC. 140. Regulations, amendments to regulations, or amendments to this Act, issued or enacted during an annual contract term under this title, shall not, to the extent that their application would increase the obligations or adversely affect the rights of the contracting carrier, apply to that contract until the next contract year unless made applicable by the contract or by amendment thereto.

TITLE II—REORGANIZATION OF NATIONAL HEALTH SERVICES

SHORT TITLE

SEC. 200. This title may be cited as the "National Health Care Services Reorganization Act".

PART A—DEPARTMENT OF HEALTH

ESTABLISHMENT OF DEPARTMENT

SEC. 201. (a) There is established at the seat of government an executive department to be known as the Department of Health (hereinafter in this Act referred to as the "Department"). There shall be at the head of the Department a Secretary of Health (hereinafter in this Act referred to as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary (or, during the absence or disability of the Under Secretary, or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary or the General Counsel, determined according to such order as the Secretary shall prescribe) shall act for, and exercise the powers of, the Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary. The Under Secretary shall perform such functions as the Secretary shall prescribe from time to time.

(c) There shall be in the Department seven Assistant Secretaries and a General Counsel, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall perform such functions as the Secretary shall prescribe from time to time.

(d) There shall be in the Department a Chief Medical Officer who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. The term of office of the Chief Medical Officer shall be six years, except that an individual serving as Chief Medical Officer may upon the expiration of his term of office continue to serve until his successor shall have been appointed and qualified.

TRANSFERS TO SECRETARY AND CHIEF MEDICAL OFFICER

SEC. 202. (a) Except as provided in subsection (b), there are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare under the following laws and provisions of law:

(1) The Public Health Service Act.

(2) The Family Planning Services and Population Research Act of 1970.

(3) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

(4) Section 232 of the National Housing Act (relating to mortgage insurance for nursing homes).

(5) Title XI of the National Housing Act (relating to mortgage insurance for group practice facilities).

(6) The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

(7) Section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

(8) The Controlled Substances Act.

(9) The Act of August 5, 1954 (42 U.S.C. 2001–2004a) (relating to hospital and other health facilities for Indians).

(10) The Act of August 16, 1957 (42 U.S.C. 2005–2005f) (relating to community hospitals for Indians).

(11) Chapter 175 of title 28 of the United States Code (relating to civil commitment and rehabilitation of narcotic addicts).

(12) Chapter 314 of title 18 of the United States Code (relating to sentencing of narcotic addicts to commitment for treatment).

(13) Title III of the Narcotic Addict Rehabilitation Act of 1966 (relating to civil commitment of persons not charged with any criminal offense) and section 602 of such Act.

(14) The Federal Cigarette Labeling and Advertising Act.

(15) The Federal Food, Drug, and Cosmetic Act.

(16) The Federal Hazardous Substances Act.

(17) The Poison Prevention Packaging Act of 1970.

(18) The Fair Packaging and Labeling Act.

(19) The Act of March 2, 1897 (21 U.S.C. 41–50) (relating to tea importation).

(20) The Act of March 4, 1923 (21 U.S.C. 61–64) (relating to filled milk).

(21) The Act of February 15, 1927 (21 U.S.C. 141–149) (relating to importation of milk).

(22) The Federal Caustic Poison Act.

(23) The Flammable Fabrics Act.

(24) The Federal Coal Mine Health and Safety Act of 1969 (other than title IV thereof).

(25) The District of Columbia Medical Facilities Construction Act of 1968.

(26) The Occupational Safety and Health Act of 1970.

(27) The Lead-Based Paint Poisoning Prevention Act.

(28) Titles XVIII, XIX, II, and V of the Social Security Act insofar as such titles relate to the provision of health care services.

(29) The District of Columbia Medical and Dental Manpower Act of 1970.

(30) The Drug Abuse Office and Treatment Act of 1972.

(b) The functions of the Secretary of Health, Education, and Welfare respecting (1) the commissioned Regular Corps and Reserve Corps of the Public Health Service, (2) the administration of section 329 of the Public Health Service Act (relating to assignment of health personnel of the Public Health Service to critical need areas), and (3) the administration and operation of health care delivery facilities of the Public Health Service shall be exercised by the Chief Medical Officer under the supervision and direction of the Secretary of Health.

(c) Within one hundred and eighty days of the effective date of this part the President may transfer to the Secretary any function not transferred to the Secretary by subsection (a) of this section, if the Director of the Office of Management and Budget determines such function (1) relates primarily to functions transferred by such subsection to the Secretary, or (2) otherwise relates to health.

REDESIGNATION OF DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 203. (a) The Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, the Under Secretary of Health, Education, and Welfare, the Assistant Secretaries of Health, Education, and Welfare, the General Counsel of the Department of Health, Education, and Welfare, and the Assistant Secretary of Health, Education, and Welfare for Administration shall on and after the effective date of this part be known and designated as the Department of Education and Welfare, the Secretary of Education and Welfare, the Under Secretary of Education and Welfare, the Assistant Secretaries of Education and Welfare, the General Counsel of the Department of Education and Welfare, and the Assistant Secretary of Education and Welfare for Administration, respectively.

(b) Any reference in a law, regulation, document, or other record of the United States to the Department of Health, Education, and Welfare or an office the title of which is redesignated by subsection (a) of this section shall be held and considered to be a reference to the Department of Education and Welfare or to such office as so redesignated.

ADMINISTRATIVE PROVISIONS

SEC. 204. (a) In addition to the authority contained in any other Act which is transferred to the Secretary, the Secretary is authorized, subject to the provisions of title 5, United States Code, relating to appointments in the competitive service and to classification and General Schedule pay rates, to select, appoint, employ, and fix the compensation of such officers and employees, including investigators, attorneys, and hearing examiners, as are necessary to carry out his functions and to prescribe their authority and duties.

(b) The Secretary may obtain services as authorized by section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the rate in effect for grade GS–18 of the General Schedule, unless otherwise specified in an appropriation Act.

(c) The Secretary may, in addition to the authority to delegate and redelegate contained in any other Act, in the exercise of the functions transferred to the Secretary by this part, delegate any of his functions to such officers and employees of the Department as he may designate, may authorize such successive redelegations of such functions as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions.

(d) So much of the positions, personnel, assets, liabilities, contracts, property, records, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, in connection with the functions transferred by section 202 as the Director of the Office of Management and Budget shall determine shall be transferred to the Secretary. Except as provided in subsection (e), personnel engaged in functions transferred under this part shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(e) The transfer of personnel pursuant to subsection (d) of this section shall be without reduction in classification or compensation for one year after such transfer.

(f) In any case where all of the functions of any office or agency are transferred pursuant to this part, such office or agency shall lapse.

(g) The Secretary is authorized to establish a working capital fund to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such fund shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United State Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund.

(h) The Secretary may approve a seal of office for the Department, and judicial notice shall be taken for such seal.

(i) In addition to the authority contained in any other Act which is transferred to and vested in the Secretary, as necessary, and when not otherwise available, the Secretary is authorized to provide for, construct, or maintain the following for employees and their dependents stationed at remote localities:

(1) Emergency medical services and supplies;

(2) Food and other subsistence supplies;

(3) Messing facilities;

(4) Motion picture equipment and film for recreation and training; and

(5) Living and working quarters and facilities. The furnishing of medical treatment under paragraph (1) and the furnishing of services and supplies under paragraphs (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary, and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(j) The Secretary is authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department.

(k) The Secretary is authorized to appoint, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service, such advisory committees as may be appropriate for the purpose of consultation with and advice to the Department in performance of its functions. Members of such committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or otherwise serving at the request of the Secretary, may be paid compensation at rates not exceeding those authorized for individuals under subsection (b) of this section, and while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(l) (1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or individuals for the conduct of research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary may from time to time disseminate in the form of reports or publications to public or private agencies or organizations, or individuals, such information as he deems pertinent on the research carried out pursuant to this subsection.

(3) Nothing contained in this subsection

is intended to amend, modify, or repeal any provision of law administered by the Department which authorizes the making of contracts for research.

ANNUAL REPORT

SEC. 205. The Secretary shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Department during the preceding fiscal year.

SAVINGS PROVISIONS

SEC. 206. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of any function transferred by this part, and

(2) which are in effect at the time this part takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary, by any court of competent jurisdiction, or by operation of law.

(b) This part shall not affect any proceeding pending at the time this section takes effect before any officer, any function of whom is transferred by this part; but such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Department. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the officer before whom they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this part had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Secretary, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this part shall not affect suits commenced prior to the date this section takes effect, and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this part had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity shall abate by reason of the enactment of this part. Causes of action, suits, actions, or other proceedings may be asserted by or against the United States or such official of the Department as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) If before the date on which this part takes effect any officer in his official capacity is a party to a suit, and under this part any function of such officer is transferred to the Secretary, then such suit shall be continued by the Secretary (except in the case of a suit not involving functions transferred to the Secretary, in which case the suit shall be continued by the officer who was a party to the suit prior to the effective date of this part).

(d) With respect to any function transferred by this part and exercised after the effective date of this part, reference in any other Federal law to any officer, any function of whom is so transferred shall be deemed to mean the officer in whom this title vests such function after such transfer.

(e) Orders and actions of the Secretary in the exercise of functions transferred under this part shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the officer exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this part shall apply to the exercise of such function by the Secretary.

(f) In the exercise of the functions transferred under this part, the Secretary shall have the same authority as that vested in the officer exercising such functions immediately preceding their transfer, and the Secretary's actions in exercising such functions shall have the same force and effect as when exercised by such officer.

CODIFICATION

SEC. 207. The Secretary is directed to submit to the Congress within two years from the effective date of this part a proposed codification of all laws which contain functions transferred to the Secretary by this part.

DEFINITION

SEC. 208. For purposes of this part, the term "function" includes power and duty.

CONFORMING AMENDMENTS

SEC. 209. (a) Section 19(d)(1) of title 3, United States Code, is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education and Welfare", and by inserting before the period at the end thereof the following: ", Secretary of Health".

(b) Section 101 of title 5, United States Code, is amended by striking out "Health, Education," in the antepenultimate paragraph and inserting in lieu thereof "Education" and by inserting below the last paragraph the following:

"The Department of Health".

(c) Subchapter II (relating to executive schedule pay rates) of chapter 53 of title 5 of the United States Code is amended as follows:

(1) Section 5312 is amended by striking out "Health, Education," in paragraph (10) and inserting in lieu thereof "Education", and by adding below paragraph (12) the following:

"(13) Secretary of Health."

(2) Section 5314 is amended by striking out "Health, Education," in paragraph (6) and inserting in lieu thereof "Education", and by adding below paragraph (60) the following:

"(61) Under Secretary of Health."

(3) Section 5315 is amended by striking out "Health, Education," in paragraphs (17) and (41) and inserting in lieu thereof "Education", and by adding after paragraph (104) the following:

"(105) General Counsel, Department of Health.

"(106) Assistant Secretaries of Health (7)."

(4) Section 5316 is amended by striking out "Health, Education," in paragraphs (24), (51), (52), and (53) and inserting in lieu thereof "Education".

(5) Paragraph (43) of section 5316 is amended by striking out ", Education, and Welfare".

(6) Section 5317 is amended by striking out "34" and inserting in lieu thereof "36".

EFFECTIVE DATE; INITIAL APPOINTMENT OF OFFICERS

SEC. 210. (a) This part and the amendments made by this part shall take effect ninety days after its enactment, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this part may (notwithstanding subsection (a)) be appointed in the manner provided for in this part, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the rates authorized by this part. Such compensation and related expenses of their offices shall be paid from funds available for the functions to be transferred to the Department pursuant to this part.

PART B—FEDERAL ADMINISTRATION OF HEALTH CARE PROGRAMS

FUNCTIONS AND RESPONSIBILITIES OF THE SECRETARY

SEC. 211. (a) The Secretary shall be charged with responsibility for the planning, administration, operation, coordination, and evaluation of all programs transferred to him under part A of this title as well as the health care program under this Act.

(b) With respect to the program under this Act, the Secretary shall be specifically charged with responsibility for—

(1) continuous review of the activities of State Health Commissions;

(2) liaison with all Federal agencies administering health or health-related programs, and with private national accrediting and other agencies concerned with standards of care and qualifications of health personnel, including the approval and listing of certifying bodies;

(3) annual reports, to be transmitted through the Secretary to the President, first to evaluate the progress of State plans and the development of health care corporations, and thereafter to evaluate the national program, including recommendations for legislation, if any; and

(4) dissemination to State governments, and to providers of service and the public, of all pertinent information about the national program, and to State governments, providers of service, and potential sponsors of health care corporations of information concerning the organization and responsibilities of such corporations.

REGULATIONS OF THE SECRETARY

SEC. 212. (a) In addition to regulations specifically required or authorized by this title, the Secretary is authorized to prescribe such further regulations, not inconsistent with law, as he deems necessary to the efficient administration of the title. Regulations shall be issued in accordance with the provisions of section 553 of title 5, United States Code.

(b) In addition to authority otherwise conferred by this title, the Secretary is authorized to prescribe by regulation—

(1) standards for systems of accounting that can provide guidance to State Health Commissions in developing such systems adapted to individual State needs, such systems to determine the reasonableness of the budgets and charges of Health Care Corporations and other providers of health care; and standards for a national system or systems of reporting and billing;

(2) the method or methods to be used, and the elements to be considered, in determining, for the purposes of section 246, the financial requirements of Health Care Corporations and other providers, including—

(A) for such corporations and for institutions—

(i) requirements for direct and indirect expenses for patient care services, including such services to indigents with respect to whom payment by or for the patient is waived in whole or in part by the corporation or institution, but reduced by the amount of any grants (including income from endowments) earmarked by the donor or reserved by the governing body of the corporation or institution for payment for such services;

(ii) requirements to defray any deficit of approved education or training programs and of approved research programs;

(iii) requirements for minor remodeling of facilities;

(iv) requirements for current operating needs (working capital) or to meet contingencies;

(v) requirements for allowable interest on funds borrowed;

(vi) requirements to meet other operating expenses required to meet standards imposed under this Act, such as patient's education programs;

(vii) requirements of specific price level depreciation to establish and perpetuate a revolving fund to meet ongoing expenditures for the purchase of major moveable equipment;

(viii) requirements of general price level depreciation on other plant and equipment facilities for the maintenance and preservation of the corporation's or institution's assets;

(ix) requirements for prospective accumulation of funds or current payments for construction, replacements, major modernization, or expansion of plant, equipment, and services, for which a certificate of need has been granted, and debt amortization of these projects in those years when the expenditures for those projects exceed the sum of depreciation payments under clauses (vii) and (viii), provided that the corporation or institution makes assurances to the State health commission that the total payments for these financial requirements over the life of the facilities will not exceed their general price level depreciation charges;

(x) requirements for a return (including but at no less a rate than the interest on debt capital) on total assets employed in the provision of institutional health services, with the Secretary determining annually a reasonable rate after consideration of rates of return on investments of comparable risk, and with such rate of return being included as a factor in developing prospective rates in the case of investor-owned institutions, or serving as a basis for developing amounts that will be included in determining the prospective rate or amount for not-for-profit providers in order to give appropriate recognition to the risk assumed under a prospective payment method;

(xi) provisions to assure that grants, gifts, and income from endowments and income earned on grants, gifts, and income from endowments will not be deducted from operating costs when computing reimbursable costs, except that—

(I) if the grant, gift, or endowment income was designated by the donor for paying or subsidizing specific operating costs, it may be deducted from the particular operating costs specified by the donor; and

(II) if the grant, gift, or endowment income was not restricted as to its use and is comingled with other funds, the income from the investment of the grant, gift, or endowment income may be deducted from the interest expense when computing reimbursable costs, but only to the extent that interest expense is not exceeded; and

(xii) provisions to assure that grants, gifts, and income from endowments and income earned on grants, gifts, and income from endowments will not be utilized for facilities or services which have not been granted a certificate of need as provided for in section 236(a)(7); and

(B) for individual providers or groups of providers, all reasonable fees, salaries, or other compensation for needed professional and related services;

(3) standards of quality and standards of safety for all facilities of, and all services furnished by, Health Care Corporations (including facilities of, and services furnished by, affiliated providers or other providers acting under arrangements with such corporations) and other providers; such standards to require, as a minimum, that hospitals, skilled nursing facilities, and home health agencies (including units of Health Care Corporations performing the functions of any such institutions) meet the applicable statutory requirements, pertaining to quality and safety, contained in title XVIII of the Social Security Act, and that other nursing homes meet such of the foregoing requirements as the Secretary finds appropriate;

(4) standards relating to the use of allied health professionals as assistants to physicians and dentists, and relating to the qualifications of such personnel;

(5) standards for the determination of qualified carriers under section 132;

(6) standards relating to confidentiality of information, including standards protecting the rights of patients to the confidentiality of information concerning their clinical and financial status, and permitting disclosure of such information only as specifically authorized by regulations of the Secretary and then only to the extent needed for purposes directly related to the administration of the program;

(7) consistent with section 212(b)(2) and after consultation with providers of services and organizations of such providers, carriers, and other interested parties and organizations, standards for the development by State Health Commissions of prospective payment methods, including (A) review of the provider's budget and its proposed charges (including review and examination of other data and such inspection as may be deemed appropriate); (B) negotiations between the provider and the appropriate carrier or carriers within the State acting on their own behalf and the Secretary's; (C) a system of target rates for groups of providers; (D) a formula approach based on factors such as cost for admission; and (E) other appropriate methods.

NATIONAL HEALTH SERVICES ADVISORY COUNCIL

SEC. 213. (a) There is hereby established a National Health Services Advisory Council (hereinafter in this section referred to as the "Council"), which shall consist of the Secretary, who shall serve as Chairman of the Council, and twenty members, not otherwise in the employ of the United States, appointed by the Secretary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall include persons who are representative of providers of health services, and of persons (who shall constitute not less than one-half of the Council) who are representative of consumers of such services. Each appointed member shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and (2) the terms of the members first taking office shall expire, as designated by the Secretary at the time of appointment, five at the end of the first year, five at the end of the second year, five at the end of the third year, and five at the end of the fourth year, after the date of the enactment of this Act. Members of the Council who are representative of providers of health care shall be persons who are outstanding in fields related to medical, paramedical, hospital, or other health activities, or who are representative of organizations or associations of professional health personnel; and members who are representative of consumers of such care shall be persons, not engaged in and having no financial interest in the furnishing of health services, who are familiar with the needs of various segments of the population for personal health services and are experienced in dealing with problems associated with the furnishing of such services.

(b) The Council is authorized to appoint such professional or technical committees, from its own members or from other persons or both, as may be useful in carrying out its functions. The Council, its members, and its committees shall be provided with such secretarial, clerical, or other assistance as may be authorized by the Secretary for carrying out their respective functions. The Council shall meet as frequently as the Secretary deems necessary, but not less than four times each year. Upon request by seven or more members it shall be the duty of the Chairman to call a meeting of the Council.

(c) It shall be the function of the Council (1) to advise the Secretary on matters of general policy in the administration of this title and in the formulation of regulations (including prior review of and comment on such regulations, upon their issuance and upon any subsequent changes therein, before the publication of such regulations or changes in the Federal Register), and (2) to study the operation of this title and the activities of State Health Commissions, Health Care Corporations, and other providers, with a view to recommending any changes in the administration of this title or in its provisions which may appear desirable. The Council shall make an annual report to the Secretary on the performance of its functions, and the Secretary shall transmit the report to the Congress, together with a report by the Secretary on any administrative recommendations of the Council which have not been followed, and a report by the Secretary of his views with respect to any legislative recommendations of the Council.

(d) Appointed members of the Council and members of technical or professional committees, while serving on business of the Council (inclusive of travel time), shall receive compensation at rates fixed by the Secretary but not exceeding the daily equivalent of the rate specified at the time of such service for grade GS–18 of the General Schedule; and while so serving away from their places of residence they shall be entitled to receive actual and necessary traveling expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the government service employed intermittently.

STUDIES OF DELIVERY AND FINANCING OF HEALTH CARE

SEC. 214. (a) The Secretary shall make a continuing study of the operation of this title, including the adequacy, quality, and utilization of services furnished by Health Care Corporations and other providers, the effectiveness of peer review and cost controls, the effectiveness of supervision of such corporations by State Health Commissions, the financing of services through insurance and otherwise, and all other aspects of the system of health care created pursuant to this title. The Secretary is authorized, also, to make studies and conduct research in regard to alternative methods of furnishing and financing health care (including methods followed in other countries), and of methods of enhancing, through financial incentives or otherwise, the quality of care and the economy and efficiency of its delivery

(b) The Secretary may carry out his functions under this section directly or through contracts, and he is authorized to make grants to public or other nonprofit agencies or institutions for studies and research which he deems likely to further the purposes of this section.

(c) The Secretary shall from time to time publish the results of studies and research conducted pursuant to this section.

UTILIZATION OF STATE AGENCIES

SEC. 215. (a) The Secretary may, and to the optimum extent determined by him to promote efficient administration of this title shall, make arrangements with State Health Commissions (in accordance with section 234(b)(9)) whereby the commission involved (directly or through arrangements approved by the Secretary with another State agency or agencies) will—

(1) subject to the applicable provisions of part C of title I, contract, as agent and in the name of the Department of Health, with carriers approved by the Secretary, as pro-

vided in paragraphs (1) (B) and (C) of section 217(b); and

(2) from time to time perform such other functions for or on behalf of the Secretary, other than the issuance of Federal regulations and standards, under this title as the Secretary may deem appropriate.

(b) The Secretary shall, in accordance with section 220, pay the State Health Commission the cost of the proper and efficient administration of their functions under arrangements made with them pursuant to subsection (a).

FEDERAL FINANCING RESPONSIBILITIES FOR HEALTH SERVICES

SEC. 216. (a) Notwithstanding any provision to the contrary in title XVIII of the Social Security Act or in any other law, effective with respect to items and services furnished (and periods occurring) on or after the first transitional effective as specified in section 301(b) and before the effective date for full operation of the program under this Act as specified in section 302—

(1) every individual who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act shall be automatically enrolled in the supplementary medical insurance program established by part B of such title (with such coverage period, and subject to such other terms and conditions, as may be prescribed by the Secretary in regulations);

(2) every resident of the United States who is a low-income person or a member of a low-income family (as those terms are defined in section 103(a)(1) of this Act), and who is not otherwise entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act or enrolled in the supplementary medical insurance program established by part B of such title, shall, under regulations prescribed by the Secretary (but without regard to age, insured status, or any other eligibility requirements, or any coinsurance, copayment, or deductible requirements, which might otherwise apply), be provided by the Secretary, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate), with benefits under this Act equivalent to the hospital insurance benefits available under part A of title XVIII of the Social Security Act and the supplementary medical insurance benefits under part B of such title; and

(3) no premium or similar amount shall be payable by any individual for or on account of his enrollment in or coverage under the insurance program established by part B of such title XVIII, or for or on account of the provision to him of benefits under paragraph (2) of this subsection.

There are authorized to be appropriated from time to time to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate) sums equal to (A) the cost of the additional benefits paid from such funds by reason of paragraph (2), and (B) the total premiums which, but for paragraph (3), would be payable by all individuals for or on account of enrollment in or coverage under the insurance program established by part B of such title XVIII or the benefits provided to them under paragraph (2).

(b) Effective with respect to items and services furnished (and periods occurring) on or after the second transitional effective date as specified in section 301(c) and before the effective date for full operation of the program under this Act as specified in section 302—

(1) every individual described in paragraph (1) or (2) of subsection (a) shall be provided by the Secretary (in addition to the benefits provided such individual under subsection (a)) with Catastrophic Expense Benefits coverage under and in accordance with section 125 of this Act;

(2) every resident of the United States who is a medically indigent person or a member of a medically indigent family (as such terms are defined in section 103(a)(2) of this Act), and who is not otherwise entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act or enrolled in the supplementary medical insurance program established by part B of such title, shall, under regulations prescribed by the Secretary (but without regard to age, insured status, or any other eligibility requirements which might otherwise apply), be provided by the Secretary, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate), with benefits under this Act equivalent to the hospital insurance benefits available under part A of title XVIII of the Social Security Act and the supplementary medical insurance benefits available under part B of such title, and in addition shall be provided with Catastrophic Expense Benefits coverage under and in accordance with section 125 of this Act at premium rates determined under section 106; and

(3) any other individual who registers with a Health Care Corporation shall be entitled to the 10-percent premium subsidy under section 102(c).

There are authorized to be appropriated from time to time to the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (as may be appropriate) sums equal to the additional costs incurred by such Funds by reason of benefits under this subsection.

(c) There are authorized to be appropriated for each fiscal year beginning on or after the effective date specified in section 302, for the purpose of financing the program set forth in title I of this Act, an amount sufficient to pay (on the basis of estimates for such fiscal year)—

(1) the cost of providing prepaid coverage for Comprehensive Health Care Benefits to persons who are under the age of 65 and are low-income persons or members of low-income families;

(2) the net cost, after deducting the contribution to be required of them, of providing such coverage to persons who are under the age of 65 and are medically indigent persons or members of medically indigent families;

(3) (i) the added cost, resulting from their low incomes or their medical indigence, of providing such coverage to persons who have attained the age of 65 years and who either are low-income persons or members of low-income families or are medically indigent persons or members of medically indigent families, and (ii) the added cost of Comprehensive Health Care Benefits available to those eligible for benefits under part A of title XVIII of the Social Security Act;

(4) the cost of providing the 10-percent premium subsidy under section 102(c) for all individuals who register with Health Care Corporations and purchase Comprehensive Health Care Benefits privately (or for whom such benefits are purchased by private sources);

(5) the cost of providing the subsidy under section 232(c)(1) of the Social Security Act for employers whose costs under the program exceed those specified in such section;

(6) the cost of health benefits provided for individuals receiving unemployment compensation benefits, and for members of their families, as described in section 906 of the Social Security Act;

(7) the cost of establishing or maintaining a reserve equal to 5 percent of the foregoing costs; and

(8) the cost of administration incurred by the Secretary in providing these coverages.

(d) For each fiscal year the Secretary shall estimate the costs referred to in subsections (a), (b), and (c) by projections based upon the costs in the second preceding fiscal year, or (in the case of the first two fiscal years involved) upon the Secretary's estimate of the costs that would have been incurred in such second preceding fiscal year if this title had been in effect. Each projection shall take account of the then current rate of change in the cost of health services, expected changes in the low-income population and the medically indigent population, trends in the utilization of health services, and other factors which the Secretary finds relevant; and, in projecting aggregate contributions to be made by medically indigent persons and families, shall take account of the then current rate of change in the Consumer Price Index.

CONTRACTING AUTHORITY OF THE SECRETARY

SEC. 217. (a)(1) The Secretary shall, through contracts with carriers, provide the prepaid coverage for the benefits to which aged, low-income, and certain other individuals and their families are entitled under section 102.

(2) In addition to the qualifying requirements for carriers specifically set forth in this title, the Secretary may establish further qualifying standards for carriers (or classes thereof).

(b)(1) The Secretary may negotiate and enter into (A) contracts with a carrier or carriers to administer Comprehensive Health Care Benefits for all individuals entitled to benefits under section 102; (B) contracts with qualified carriers which have underwritten a prepayment plan for a Health Care Corporation operating wholly or primarily on a predetermined capitation charge basis; and (C) direct contracts with Health Care Corporations under section 135 if the corporations operate on a predetermined capitation charge basis and as such qualify as carriers.

(2) The Secretary may authorize State Health Commissions to act as his agent in contracting with carriers as described in paragraph (1).

(3) Contracts under this part are exempted from any provision of law requiring competitive bidding and from such other requirements of law as the Secretary may waive. The Secretary is required, however, to notify all potentially qualified carriers a description of the contract requirements he desires and the requirements and provisions of this title and regulations, and to invite these carriers to submit proposals. Among the factors which the Secretary is required under this title to consider in negotiating and approving contracts shall be the carriers' experience with group health insurance or prepayment plan coverage. The Secretary may require the contracting carrier to subcontract with other carriers, and he shall enter into a contract with a combination of carriers only if this does not result in higher administrative costs and only if it best serves the purposes of this title. The term "combination of carriers" or "combination", as used in this section, means (i) a group of qualified carriers that have entered into a joint venture or other cooperative arrangement for the purpose of administering coverage under a contract under this part, or (ii) a corporation (which itself is a qualified carrier) designated or caused to be created by a group of qualified carriers for the purpose stated in clause (i); and any further reference in this part to a "carrier" shall be deemed to include reference to such a combination.

FEDERAL RESPONSIBILITY FOR DEVELOPMENTAL GRANTS

SEC. 218. (a) It is one of the purposes of this part to establish the responsibility of the Secretary to encourage, promote, and assist the establishment, as soon as practicable, of the comprehensive health care delivery system contemplated by this title, by providing financial and technical assistance for the early planning, development, establishment, and initial operation of Health Care Corporations, including incentives for use of the capitation payment method for health care, for the development and improvement of outpatient care centers, particularly in poverty and rural areas, and for the development of home health care agencies.

(b) There are authorized by the Secretary to be appropriated for each fiscal year, for carrying out the purpose stated in subsection (a), such sums as may be necessary. Sums so appropriated for grants or contracts for any fiscal year shall remain available for obligation until the close of the succeeding fiscal year.

AUTHORIZATION OF DEVELOPMENTAL FINANCIAL ASSISTANCE

SEC. 219. (a) For the purpose stated in section 218, the Secretary is authorized, in accordance with the provisions of this part, to make—

(1) grants for planning, organizing, developing, and establishing Health Care Corporations (or for any one or more of such activities), including affiliation or other arrangements (if any) of such a corporation with providers of health care, in conformity with part D of this title;

(2) contracts, in connection with the establishment or substantial expansion of Health Care Corporations, to pay for a reasonable period all or part of any operating deficits of such corporations;

(3) grants to Health Care Corporations, or to public or nonprofit providers affiliated therewith, for the initial operation of (A) new outpatient care centers, (B) new or expanded services in (or based in) outpatient care centers, or (C) new or expanded home health care agencies; and

(4) grants for major health-maintenance, diagnostic, or therapeutic equipment, data processing systems or equipment, or central-service equipment, needed for initial operating capability of Health Care Corporations.

(b) (1) In making grants and contracts under this part, the Secretary (A) shall take into account existing health care resources and health care delivery systems in the several States, the relative need of the States and areas within the States for such assistance, and their populations, and (B) shall have due regard to the achievement, consistently with the purposes of this title and this part, of an equitable distribution of such assistance.

(2) Not more than 15 percent of the appropriations made for grants or contracts under this part may be expended in any one State.

(3) In making grants and awarding contracts during the first five fiscal years for which funds have been appropriated under this part, the Secretary shall give priority to the applications of corporations that (A) operate primarily on the basis of predetermined capitation charges, or (B) are in the process of converting to primarily that basis, or (C) agree to operate on or convert to primarily that basis if awarded such a grant or contract. After that period, the Secretary may award such grants and contracts only to such corporations.

(4) (A) A grant or contract shall not be made or awarded under the preceding provisions of this part when there is in effect, for the State that includes the area involved in the application for such assistance, a State plan approved under part C, unless the State Health Commission has recommended approval of the application and has certified—

(1) in the case of an application for a grant under subsection (a) (1) of this section, that there is need for a Health Care Corporation in the area involved (or of an additional Health Care Corporation if one approved under part C has already been assigned to the area);

(2) in the case of an application for a contract under subsection (a) (2) of this section or section 221, that the applicant (A) is a Health Care Corporation in conformity with section 241(a), and (B) has been approved, or upon the Secretary's approval of the application for the contract will be approved, by the Commission under part D; or

(3) in the case of an application for a grant under subsection (a) (3) or (a) (4), that (A) the Health Care Corporation which is the applicant or involved in the application is in conformity with section 241(a) and has been, or upon approval of the grant application by the Secretary will be, approved by the Commission under part C; and (B) the outpatient care center or services thereof, the home health care agency, or the equipment or system, for which the grant is sought, is needed for the effective discharge of the corporation's functions under the State plan.

(c) (1) In the case of a State for which there is not yet in effect a State plan approved by the Secretary under part C but in which a State Health Commission and a State Advisory Council have been established in conformity with that part, the Secretary shall not make a grant or contract under the foregoing sections of this part unless the Commission, the State planning agency (if any) designated or established for the State as required under section 314(a) (2) (A) of the Public Health Service Act (if it is a separate agency from the commission), and the appropriate areawide health planning agency (if it is different from the State planning agency) have had an opportunity (in accordance with regulations of the Secretary) to review and comment on the application for the grant or contract.

GRANTS FOR STATE PLANS

SEC. 220. (a) In order to facilitate and expedite the submission of State plans to the Secretary pursuant to section 234, the Secretary is authorized to make grants to State Health Commissions for all or part of the necessary cost of developing and preparing such plans, including (but not limited to) the expenses of their State advisory councils consulted in connection therewith, the cost of disseminating to the public and to others information concerning a proposed plan, and the cost of public hearings thereon.

(b) There are authorized to be appropriated for grants under this section such sums as may be necessary for each fiscal year in the period beginning with the fiscal year in which this Act is enacted and ending with the close of the third full fiscal year after this Act is enacted.

(c) (1) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this title an amount equal to the Federal percentage of the sums expended for the proper and efficient administration of the State plan. Such payments and payments under grants pursuant to this section may be made in installments (not less often than quarterly) and may be made in advance (on the basis of estimates) or by way of reimbursement, with necessary adjustments on account of prior overpayments or underpayments.

(2) The Federal percentage, for the purpose of paragraph (1), shall be 90 percent with respect to sums expended by a State during fiscal years ending prior to the effective date of the benefit program under this Act (as set forth in sections 101 and 102), 85 percent with respect to sums so expended during the next two fiscal years, and 75 percent with respect to sums expended thereafter; except that with respect to sums expended by the State for proper and efficient administration pursuant to provisions of the State plan contained therein in compliance with section 234(b) (10) the Federal percentage shall always be 100 percent.

FINANCIAL ASSISTANCE UNDER OTHER PROGRAMS

SEC. 221. (a) (1) In administering other programs of financial assistance in the field of health care (including construction of facilities for health care) the Secretary and, on recommendation of the Secretary, other Federal agencies shall to the optimum extent utilize those programs to promote the purposes of this Act.

(2) Notwithstanding any other provision of law, the Secretary may, and such other agencies when requested by the Secretary shall, in the administration of such other programs, give (or require agencies and organizations assisted to give) highest priority to the needs of Health Care Corporations, particularly in areas determined by the Secretary to be urban or rural poverty areas.

(b) (1) The Secretary shall prepare and widely disseminate, through publications and otherwise, information concerning the availability of assistance under this part.

(2) The Secretary may upon request provide advice, counsel, and technical assistance to Health Care Corporations and other interested organizations and agencies in preparing applications, and in meeting the requirements of this part and of the Secretary, for grants and contracts authorized by this part.

PENALTIES FOR FRAUD

SEC. 222. (a) Any individual, provider of health care, carrier, or other person who—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit, or any grant or other payment, under this Act,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

(3) having knowledge of the occurrence of any event affecting (A) his or its initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other person in whose behalf he or it has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

(4) having made application to receive any such benefit or payment for a particular use or purpose and having received it, knowingly and willfully converts such benefit or payment or any part thereof to any other use or purpose,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(b) Any provider of health care or other person who furnishes items or services to an individual for which payment is or may be made under this Act and who solicits, offers, or receives any—

(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any organization, institution, or facility in order that it may qualify as a carrier or a provider of health care for purposes of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than 6 months, or both.

PART C—STATE FUNCTIONS

GENERAL CONDITIONS OF STATE PARTICIPATION

SEC. 231. (a) States will be in compliance with this Act if, and only if, in conformity with the requirements of this part, (1) the

State (A) has accepted the provisions of this Act and created, as a newly constituted and independent establishment within the executive branch of the State government, a State agency for carrying out the responsibilities devolving upon the State under this Act headed by a multimember governing body hereinafter in this title referred to as the "State Health Commission" (or as the "State commission" or the "commission"), and (B) has vested in such agency the exclusive authority on behalf of the State to establish and maintain appropriate standards and requirements for all hospitals, nursing facilities, and other institutional health care facilities in the State and to provide for the licensing of such facilities; (2) there has been established in that agency a State Advisory Council; and (3) there is in effect an approval, by the Secretary, of a State plan submitted by the State Health Commission under section 234 for carrying out the State's responsibilities under this title.

(b) For Federal exercise of State functions in cases of noncompliance by States, see section 238.

STATE HEALTH COMMISSIONS

SEC. 232. (a) The State Health Commission of a State shall be composed of three or five members (whichever number may be authorized under the law of its creation) appointed by the Governor of the State for staggered terms, which shall be renewable. Each term shall be for six years, except as necessary in the case of initial appointments to meet the requirement of staggered terms, and except in the case of a member appointed to fill a vacancy occurring before the expiration of the term of his predecessor. Not more than two members of a three-member commission, nor three members of a five-member commission, shall be members of the same political party. The Governor shall designate one of the members of the commission to serve as chairman.

(b)(1) It is the sense of the Congress that the members of a State Health Commission should be chosen, not primarily from the standpoint of specialized experience in the subject-matter fields within the commission's jurisdiction, but rather with a view to their ability to bring to the affairs of the commission broad gaged, highly qualified, effective, and disinterested policy direction. Persons representative of the health care providers shall not constitute a majority of the membership of the commission.

(2) During his term of membership, no member of the commission shall engage in any other business, vocation, or employment.

(3) The chairman and other members of the commission shall receive salaries at levels comparable to the compensation of the head of a principal executive department of the State.

(4) No member of the commission shall during his term of office be subject to removal except for dereliction of duty, corruption, incompetency, or conviction of a crime involving moral turpitude, or for a cause stated in paragraph (5) of this subsection.

(5) Any individual, while in the employ of or holding any official or contractual relation to or affiliation with a Health Care Corporation or any other corporation or provider of health care under the regulatory jurisdiction of the State commission, while in any manner pecuniarily interested in any such corpoartion or provider, shall be disqualified from being a member, officer, or employee of the commission; except that if such disqualification by reason of pecuniary interest arises otherwise than voluntarily while such individual is such a member, officer, or employee, the individual may be permitted to remain in office or employment if within a reasonable time he divests himself of that pecuniary interest. The preceding sentence shall not apply to membership on the State Advisory Council by an individual who discloses his interest in or relation to a corporation or provider, nor shall it apply to any individual solely because he is a registrant of a Health Care Corporation or a beneficiary member of or subscriber to another provider of health care.

STATE ADVISORY COUNCILS

SEC. 233. The Advisory Council to the State Health Commission of a State, which shall consult with the commission in the development and carrying out of the State plan, shall be appointed by the Governor of the State and consist of (1) persons broadly representative of health care providers (including health organizations) in the State (including but not limited to persons representative of Health Care Corporations when organized and approved, hospitals and other health care institutions, other nongovernmental and public organizations, societies and groups of health professionals, and schools and institutions particularly concerned with education or training of persons in the health professions and ancillary occupations), and (2) not less than an equal number of persons who are representative of consumers of health care and (A) neither are providers nor have a pecuniary interest in the provision of such care, (B) are familiar with the needs of the various segments of the State's population for such care, and (C) are experienced in dealing with problems associated with the provision of such care.

STATE HEALTH CARE PLANS

SEC. 234. (a) In order to be approvable under this part of any year the State plan of any State must—

(1) meet the requirements of subsection (b);

(2) have been submitted to the Secretary by the State Health Commission (constituted and operating in conformity with the preceding sections of this part) at such time and presented in such detail, and contain or be accompanied by such information, as the Secretary deems necessary;

(3) have been prepared in consultation with the State Advisory Council; and

(4) have been submitted to the Secretary only after the commission has afforded to the general public of the State a reasonable opportunity for presentation of views on the plan in the case of submission of the plan for initial approval or for annual renewal of approval after major revision of the plan.

(b) The State plan must—

(1) designate the State Health Commission of the submitting State as the sole agency for the administration of the plan, except as otherwise authorized by this part;

(2) contain or be supported by satisfactory evidence that the commission has the authority to carry out the plan in accordance with this part;

(3) provide for adequate consultation with the State Advisory Council in carrying out the plan;

(4) set forth, in such detail as the Secretary may prescribe, the qualifications for personnel having responsibilities in the administration of the plan;

(5) provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient administration of the plan, including (A) methods relating to the establishment and maintenance of personnel standards on a merit basis consistent with such standards as are or may be established by the Civil Service Commission under section 208(a) of the Intergovernmental Personnel Act of 1970 (Public Law 91–648), and (B) provision for utilization of qualified professional medical personnel (particularly in connection with the development or administration of standards of quality and utilization of health care) and of allied health professionals and other qualified professional staff; but the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with the methods relating to personnel standards on a merit basis established and maintained in conformity with this paragraph;

(6)(A) provide for the designation of preferred service areas by applicant Health Care Corporations in accordance with the requirements of section 245 and for approval in each such area of one or more Health Care Corporations in accordance with section 235;

(B) include, with respect to existing and proposed Health Care Corporations, their affiliated providers of health care, and other such providers, (i) provisions incorporating the requirements of part D of this title, and (ii) the provisions required by section 236;

(C) provide, in accordance with sections 235 and 236, for cooperation with other States in the administration of the plan, and in particular authorize cooperative arrangements with adjoining States with respect to (i) joint service areas and (ii) establishment, admission, and approval of Health Care Corporations for service in such joint areas or for serving separate areas in the cooperating States; and

(D) include a program for completing (i) the initial approval of Health Care Corporations for service in designated areas (including, if necessary to carry out the purpose stated in section 2(c)(2), the creation of governmental Health Care Corporations), and (ii) the initial registration of eligible individuals with such approved corporations, not later than the close of the fourth fiscal year that begins after the calendar year in which this Act is enacted;

(7)(A) include such provisions for effective arrangements or procedures as will assure an opportunity to obtain group coverage for Comprehensive Health Care Benefits at reasonable rates, for themselves or their employees, to all residents of the State who are not entitled to coverage of such benefits purchased by the Secretary, and provide for the effective enforcement of these arrangements and procedures by the commission (subject to review by the Secretary with respect to enforcement of Federal regulations);

(B) provide for regulating the premium rates of carriers issuing group health benefit prepayment plans or insurance contracts for residents of the State (except under contracts negotiated and made directly by the Secretary), except that the plan may—

(i) vest in the State agency primarily charged by State law with regulating the business of insurance in the State, or

(ii) authorize the commission to delegate to that or another appropriate State agency, the function of regulating the premium rates for such prepayment plans or insurance contracts charged by carriers (other than Health Care Corporations acting as carriers for their own registrants);

(C) provide, consistently with regulations and standards of the Secretary relating to Comprehensive Health Care Benefits coverage, for the regulation and supervision of such carriers and such plans and contracts by the commission, including in the case of group coverage for Comprehensive Health Care Benefits the establishment, by the commission, of required standard provisions whereby, in the event of interruption or termination (by death or otherwise) of a covered individual's status as a member of the employee or other group that the plan or contract covers, the individual (or covered members of his family in case of his death) will have the privilege of continuing coverage under the plan or contract for a specified period (not less than 30 days) that the commission deems reasonable; and

(D) provide (subject to any regulation by the Secretary or interpretations thereunder with respect to contracts with carriers or otherwise with respect to coverage for Comprehensive Health Care Benefits)—

(i) for granting an opportunity for a fair hearing, before the commission, to any approved Health Care Corporation or nonaffiliated provider whose claim against a carrier for payment of charges for services or items furnished to a registrant of the corporation or a nonregistrant covered by the carrier for Comprehensive Health Care Benefits, or for payment of capitation charges with respect to a thus covered registrant in the case of a Health Care Corporation or other comprehensive health care delivery organization operating on a capitation charge basis, has been denied by the carrier in whole or in part, and

(ii) for adjudicating the claim;

(8) provide effective methods and procedures for (A) optimum utilization or adaptation, in the administration of the plan submitted under this section, of (i) such plans as have been or will be developed for the State pursuant to subsection (a) of section 314 of the Public Health Service Act, (ii) the State plan approved under subsection (d) of that section, (iii) any comprehensive plans developed under subsection (b) of that section for regions, metropolitan areas, or other local areas wholly or partly within the State, and (iv) relevant plans developed under any other programs, and (B) coordination (or at the State's option, consolidation in the case of planning at State level) of planning under the plan submitted under this section with ongoing or projected planning activities under those subsections or programs;

(9) provide that, if and to the extent requested by the Secretary, the commission (directly or through appropriate arrangements, approved by the Secretary, with another appropriate State agency or agencies) will perform, for or on behalf of the Secretary, any or all of the following functions:

(A) as authorized by section 215, contract, as agent of the Secretary, with qualified carriers for Comprehensive Health Care Benefits coverage in the State required under this Act to be financed by Federal purchase of such coverage from a carrier;

(B) act as fiscal agent of the Secretary in transactions with carriers (or classes thereof) in the State, including (if and to the extent that the Secretary assumes this function) the collection or receipt, and transmittal to carriers, of premium contributions by beneficiaries of federally purchased Comprehensive Health Care Benefits coverage (or by others on their behalf) when such contributions are required by or pursuant to this Act;

(C) furnish to the Secretary such timely information and prospective estimates as the Secretary may find necessary for developing its estimates of costs and required Government contributions under section 216;

(D) review, and make recommendations with respect to, applications to the Secretary for grants under appropriate sections of part B of this title, and, when requested, review and make recommendations with respect to applications to the Secretary for grants or contracts under other provisions of law administered by the Secretary, act as agent for the Secretary in investigating and certifying compliance with the terms and conditions of such grants or contracts, and make payments from Federal funds thereunder; and

(E) perform such other functions for or on behalf of the Secretary as he may reasonably request;

(10) develop and implement, after appropriate consultation with health care providers and consistent with the regulations of the Secretary, a system or systems of uniform accounting, reporting, and billing to be utilized by providers, carriers, and the commission within the State;

(11)(A) consistent with section 212(b)(6), in cooperation with the Secretary, and in accordance with such methods as may be recommended for the design and implementation of a nationwide cooperative system for producing comparable and uniform health-related information and statistics, function as a center, for the State, for the collection (from Health Care Corporations and other providers, health benefit prepayment plans and private health insurance companies, and other sources), retrieval, analysis, reporting, and publication of statistical and other information related to health and health care, including data on the fiscal operations of such corporations, plans, and companies and including data of the kinds enumerated in section 305 of the Public Health Service Act, and (B) require such corporations and providers, and such plans and companies doing business in the State, to make statistical and other reports of such information and data to the commission;

(12) consistent with section 212(b)(6), provide safeguards that restrict to purposes directly connected with the administration of the plan the use or disclosure of identifying information concerning (A) individuals with respect to whom information is obtained in carrying out the State plan provisions required by paragraph (11), or (B) individuals who are registrants or applicants for registration under this Act or who claim eligibility for Comprehensive Health Care Benefits coverage by a carrier;

(13) provide, in accordance with methods and procedures prescribed or approved by the Secretary, for the evaluation, at least annually, of the health-related and economic effectiveness of the activities of the commission and of Health Care Corporations (including their affiliated providers) and other providers under the commission's regulatory authority, including a review and comparative evaluation of data on utilization of health care services (including drugs) provided by Health Care Corporations and other providers;

(14) provide that the commission will make such annual and other reports (including reports of evaluations made pursuant to the provisions contained in the plan in accordance with the preceding paragraph) as the Secretary may from time to time reasonably require, and comply with such provisions as the Secretary may find necessary to assure the correctness and verification of such reports; and

(15) provide that the commission will from time to time, and in any event not less often than annually, review the plan and submit to the Secretary any modification thereof which it considers necessary.

(c) The Secretary shall approve any State plan and any modification thereof which complies with subsections (a) and (b); except that he shall not grant such approval if the plan or modification or other State law (statutory or otherwise) or the practice of a State licensure or regulatory authority under color of law—

(1) prevents or limits Health Care Corporations (approved by the commission under the plan) or other health care institutions from undertaking to provide covered health care to registrants (and to others at its election) or patients (A) through direct employment of medical or other licensed health care practitioners by the corporation or other nonprofit providers, or (B) through prepaid group practice (as defined by regulations of the Secretary) or other arrangements by the corporation or other providers with such practitioners or groups thereof (whether such arrangements be on a capitation, fee-for-service, or other basis); or

(2) deprives any Health Care Corporation of its right to designate its preferred service area and of its right of appeal for change in such service areas, in accordance with the provisions of this Act; or

(3) disqualifies from service on the governing board of a Health Care Corporation or institutional provider thereof a physician who is on the staff of the Health Care Corporation or such provider or is an affiliated provider of the Health Care Corporation; or

(4) prevents or limits such practitioners from employing or arranging with appropriately trained assistants under their supervision to perform, consistently with standards of the Secretary prescribed under section 212(b)(4), health care functions commensurate with their qualifications and training; or

(5) prevents or limits carriers from offering coverage of health care provided in accordance with paragraph (1), (2), (3), or (4),

unless the Secretary determines, in accordance with regulations issued by him, that the prohibition or restriction is consistent with the purposes of this title.

(d)(1) An approval of a State plan submitted to the Secretary under this part shall, unless renewed, or unless sooner withdrawn or suspended under this part, be in effect for a period of one calendar or fiscal year, whichever the Secretary determines, except that the initial approval may be for the remainder of the fiscal or calendar year then current or, where deemed appropriate by the Secretary, may be made effective until the end of the succeeding year.

(2) For the purposes of this Act, a State with respect to which there is in effect an approval of a State plan by the Secretary under this part, or with respect to which the Secretary is performing the functions that he is authorized to perform under section 238(a) or (c)(4), is a "participating State".

DESIGNATION OF HEALTH CARE AREAS

SEC. 235. (a) As soon as practicable after its organization, the State Health Commission of each participating State shall conduct a study and survey with a view to the approval of service areas for applicant Health Care Corporations as a basis for the issuance of certificates of approval by the commission (in accordance with section 236(a)(3)), with the objective of affording to all the people in the State equal and ready access to the full range of comprehensive health care of high quality provided for in this title and, where practicable, a choice among Health Care Corporations. In making its study and survey, the commission shall give appropriate consideration to (1) the size and distribution of the State's population and the incidence of illness or disease in population groups in different regional, metropolitan, or other local areas (or parts thereof) of the State, (2) existing health care organizations, institutions, or resources for the provision of health care, their potential for sponsoring or participating in the organization of Health Care Corporations, and their distribution in relation to the need for care, (3) local governmental structures, (4) transportation facilities, (5) patterns of organization for the delivery of health care, (6) patterns of use of health care, and (7) other relevant factors. To assist in its study and survey, and especially in connection with its consideration and evaluation of the factors referred to in clause (2) of the preceding sentence, the commission shall set a date by which shall be filed with it applications by Health Care Corporations for certificates of approval for operation in areas defined in the respective applications (or statements of intention, by proposed sponsors of such corporations, to file such applications). No such certificate shall be granted under section 236 until a final regulation has been issued under the last sentence of subsection (c)(1) of this section.

(b) In addition to making the study and survey referred to by subsection (a), and before approving applications for certificates of approval, the commission shall consult with persons representative of the general public, representatives of public and private hospitals and other health care institutions or their organizations, representatives of the medical and other health care professions, including persons representative of health care practitioners engaged or employed in prepaid group practice, representatives of appropriate State and local governmental agencies, State commissions in adjoining States (where appropriate), and other interested groups and individuals.

(c)(1) After its study, survey, and consultation, the commission shall publish a proposed regulation setting forth its findings and approvals of Health Care Corporations and the service areas proposed, which need not coincide with the areas of existing municipalities or political subdivisions of the State. The commission shall give reasonable public notice of its proposal and of a public hearing or hearings on the proposal and shall, after such hearing or hearings, by final order confirm the regulation or issue a revised regulation.

(2) In carrying out this section the commission may, in accordance with cooperative arrangements referred to in section 234(b) (6)(C), designate jointly with another State or States a service area or areas that include parts or all of such States.

(d) The commission may, either on its own motion or on petition of any interested Health Care Corporation or other interested provider of health care, an interested registrant or organization representing registrants, or any other interested person, amend or repeal a final regulation issued under subsection (c), but final action on a proposal under this subsection may (upon request of an interested person filing objections to the action proposed, specifying with particularity the changes desired, and stating reasonable grounds therefor) be taken only by decision on the record made after reasonable notice and opportunity for a fair hearing.

REGULATORY FUNCTIONS OF STATE HEALTH COMMISSIONS

Sec. 236. (a) For the purposes of part D of this title and of paragraph (6) of section 234(b), a State plan shall, in addition to complying with section 235—

(1) provide for (A) stimulating and encouraging the organization of Health Care Corporations (as defined in section 241(a)) where needed, by (i) giving information and advice to providers of health care and other potential sponsors as to the requirements for organization of such corporations and for commission approval of such corporations for service, (ii) giving technical assistance to sponsors in meeting such requirements, and (iii) in appropriate cases recommending to the Secretary grants or contracts under part A of this title; and (B) in accordance with cooperative arrangements referred to in section 234(b)(6), cooperating with State Health Commission or other States in jointly (or concurrently) or reciprocally admitting and approving Health Care Corporations for service, especially in joint or adjoining service areas of the respective States;

(2) provide for authorizing the incorporation in the State, or admission from other States, of nonprofit corporations and, at the State's option, of governmental corporations that can under the law of the State qualify as Health Care Corporations in accordance with section 241(a), but this function may at the option of the State be vested in an authority of the State other than the State Health Commission if this will not substantially permit the duplication of functions of the commission or impede the objectives of this Act;

(3)(A) provide for evaluation of the application of any corporation (incorporated in or admitted to the State in accordance with paragraph (2)) for approval to operate as a Health Care Corporation in a service area or areas approved by the commission in accordance with section 235;

(B) provide for granting such approval (evidenced by a certificate of approval) if (after reasonable notice and opportunity for hearing to the applicant, to any other corporation which holds or has applied for a certificate of approval for the service area or areas involved, and to the public) the commission finds—

(i) that the applicant qualifies as a Health Care Corporation in conformity with section 241(a) and satisfies the requirements of clauses (2) and (3) of section 241(b),

(ii) that there is need for the facilities and services to be provided by the applicant in the area or areas covered by the certificate,

(iii) if another Health Care Corporation or corporations already holds a certificate of approval for a service area covered by the certificate, that the additional operation of the applicant in that area will be economically feasible and will promote the purpose of giving a choice to registrants as stated in section 2(c)(2), and

(iv) if there is also pending before the commission the application of another Health Care Corporation for approval of its operation in a service area included in the certificate granted to the first-mentioned applicant, that in the review process the two applications have been jointly considered and either (I) that approval is also granted to the other applicant or (II) that for reasons stated in the commission's findings approval to the other applicant is denied; and

(C) provide that any certificate of approval granted by the commission is subject to revocation or amendment in accordance with subsection (c) of this section or upon revision of the approved service area or areas, covered by the certificate, under the provisions included in the State plan in accordance with section 235;

(4) provide, with respect to any service area for which more than one Health Care Corporation is approved and in which the combined capacity of all such corporations is sufficient to serve adequately all residents of the area but in which the separate capacity of one or more (but less than all) of such corporations can serve adequately only a reasonable proportion of the area's residents, for allowing any such corporation (whose capacity is thus limited) to restrict to a number approved by the commission the number of individuals whom it will accept for registration, and requiring the corporation in that event to accept, in such manner as may be required by the commission, residents of the area up to that number for registration on a first-applied first-accepted basis; but the plan shall preclude any action or procedure under this paragraph that does not assure the adequate provision, on a nondiscriminatory basis, of all the benefits of this Act to all the residents of the area who desire to register;

(5)(A) provide for limiting all charges of approved Health Care Corporations and other licensed providers for health services and items to the kinds of charges and the rates that are prospectively approved by the commission. The commission, in accordance with the principles and requirements of sections 212(b)(2), 212(b)(7) and 246, and after consultation with providers of services and organizations of such providers, carriers, and other interested parties and organizations shall develop and make available to providers of services one or more methods of obtaining payment on a prospective basis for services furnished under this Act, with such methods including budget review; negotiated rates; target rates; formula; or any other method consistent with the regulations of the Secretary. Where more than one method is available, providers will have the option of electing to utilize any one of such prospective payment methods. Once a provider elects a particular method, it may not alter its election without prior approval of the commission. Where the commission finds that the number of providers electing a prospective payment method promulgated in accordance with this paragraph is not sufficient to provide an adequate basis for either the operation or evaluation of that method, or that method does not achieve improved results, then the commission shall withdraw that method and allow the electing providers to select another method within 30 days of notice of such withdrawal;

(B) require that the prospective rates established through the methods noted in subparagraph (A) do not (i) make provision for services that are excessive or unnecessarily duplicative, or (ii) take into account any actual or proposed capital expenditures (as defined in regulations of the Secretary) related to construction or rental of health care facilities by or for the provider for which the commission has not granted a certificate of need when required under the plan;

(C) require that charges for physicians' services, such as those of radiologists and pathologists, that are held out as generally available to all inpatients of an institution, be included as part of institutional-service charges and not as separate physicians' services charges (regardless of the method of payment to the physician);

(D) require that the provider's budgets, proposed charges, and other necessary reports be prepared in accordance with accounting principles, consistent with sections 212(b)(1) and 234(b)(10), designed to bring about uniform methods of determining institutional costs and financial requirements; and

(E) provide for granting an opportunity for a fair hearing to any health care provider which is dissatisfied with a decision of the commission with respect to the provider's proposed charges;

(6) provide for effective enforcement, by the commission, of the responsibility of approved Health Care Corporations and other licensed providers to (A) provide the necessary health care and items for which the registrants have Comprehensive Health Care Benefits coverage, (B) assure that such care be of not less than the scope, quality, and comprehensiveness required by this Act, including regulations and standards of the Secretary prescribed under part B of this title, (C) in the instance of Health Care Corporations, perform the functions specified in sections 243 and 244 with respect to services furnished by others to registrants while absent from their place of residence or in emergencies, and (D) in the instance of nonaffiliated providers, perform functions similar to those specified in section 244, as specified in regulations;

(7) prohibit the construction, modernization, or expansion of facilities and services of hospitals, skilled nursing facilities, nursing homes, or other health care facilities, or the establishment of such facilities through rental of major equipment or existing structures, by Health Care Corporations or other providers, except when authorized by a certificate of need by the commission;

(8) authorize the commission in its discretion to adjudicate, at the request of an approved Health Care Corporation or a provider affiliated with it, or a nonaffiliated provider, a controversy between the corporation and the provider with respect to any matter within the regulatory or supervisory authority of the commission;

(9) provide for granting an opportunity for a fair hearing before the commission (A) to any individual who is not accepted for registration by an approved Health Care Corporation of whose approved service area he claims to be a resident; or (B) with respect to a monetary claim by a registrant against a provider or against a carrier under whose prepayment plan the individual is covered for Comprehensive Health Care Benefits, or by a provider or a carrier against the individual relating to the provision of health

care or to such coverage, where the claim has been denied (in whole or part) or is not acted upon with reasonable promptness and the amount in controversy is $100 or more; or (C) to any individual who alleges a substantial failure of the provider with respect to the provider's obligations to provide health care to the individual, and alleges facts showing that the failure is part of a pattern of similar conduct;

(10) provide for review and approval of peer review systems of approved Health Care Corporations and for continuous surveillance over the performance of approved Health Care Corporations in relation to their obligations under this Act, and enforcement of those obligations as provided for in this section; and

(11) provide for review and approval of peer review systems of nonaffiliated providers and for continuous surveillance over the performance of such providers in relation to their obligations under this Act, and enforcement of those obligations as provided in this section.

(b) If a Health Care Corporation or nonaffiliated provider complies with the procedures set forth in sections 1863 through 1865 of the Social Security Act, such provider shall be deemed to meet the standards relating to comparable elements established by this Act and regulations thereunder.

(c)(1)(A) Whenever the State Health Commission determines that there is a failure on the part of an approved Health Care Corporation (whether owing to its own acts or omissions or those of a provider furnishing services on its behalf) to fulfill all obligations assumed by the corporation or placed upon it by this Act, the commission shall by order direct the corporation to take prompt corrective action.

(B) If the corporation, within such reasonable period as may be required by the commission by regulation, requests a hearing on the commission's order and states reasonable grounds for objecting to the decision, the commission shall give the corporation reasonable notice and opportunity for a hearing with respect to the commission's decision and, if a hearing is held, shall on the basis of the record at the hearing render a decision, subject to such judicial review on the record as may be provided by applicable State law. Initiation of a proceeding for judicial review shall not operate as a stay of the commission's decision unless so ordered by the court.

(2) Notwithstanding paragraph (1), where the failure of a Health Care Corporation to comply with its obligations is so gross as in the judgment of the commission to create an imminent hazard to the health of registrants, the commission may give its order immediate effect, subject to later reversal or modification if so determined after hearing or after judicial review.

(3) In addition to the authority of the commission to order corrective action to be taken as above provided, the State plan shall, in the event of a substantial failure of the corporation to fulfill its obligations, empower the commission, after reasonable opportunity for a fair hearing, (A) to revoke its certificate of approval for operation by the corporation and issue for the service area involved a certificate of approval to another Health Care Corporation, or corporations, or (B) in lieu of such revocation, to take effective action (through appointment of a receiver for the corporation or other appropriate means) to bring the corporation into compliance with its obligations and provide its registrants with the health care services to which they are entitled. The order of the commission shall, when final, be subject to judicial review in a State court of competent jurisdiction on the basis of the record before the commission, and the findings of fact of the commission shall, if supported by substantial evidence in the record when considered as a whole, be binding on the court.

(d) The commission is authorized to take corrective action whenever it determines that any provider not affiliated with a Health Care Corporation has failed to fulfill the obligations set forth in this Act, this action to include suspension of payment for services performed under Comprehensive Health Care Benefits. The appeal procedures outlined in subsection (c) shall apply with respect to action taken under this subsection.

JUDICIAL REVIEW

SEC. 237. (a) Any State that is dissatisfied with a final action of the Secretary taken under section 238 (other than subsection (c)(3) thereof) may obtain judicial review of such action by filing, within sixty days after such action, a petition for review with the United States court of appeals for the circuit in which the State is located. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or any officer designated by him for that purpose. The Secretary shall thereupon file in the court the record of the proceedings on which it based its action, as provided in section 2112 of title 28, United States Code. Upon the filing of the petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record the Secretary may modify or set aside its order.

(b) The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

FEDERAL EXERCISE OF STATE FUNCTIONS IN CASES OF NONCOMPLIANCE BY STATES

SEC. 238. (a) In the case of any State which has not established a State Health Commission in conformity with section 232, and submitted to the Secretary an approvable State plan pursuant to section 234, prior to the third fiscal year that begins after the calendar year in which this Act is enacted, the Secretary may, until such a State plan has been submitted to and approved by him under this title, assume and exercise, through the Department of Health, with respect to the area of that State, those functions which would be required or authorized by this title to be exercised by the State Health Commission of that State if there were in effect a State plan approved under this title, and may utilize for that purpose any funds available under this title for payments for the administration of State plans. In any case in which the Secretary invokes the authority contained in the preceding sentence, any State law or practice that under section 234(c) would preclude approval of a State plan under this title shall be inoperative.

(b)(1) The Secretary shall not finally refuse to approve a State plan submitted to it under this title except after according to the State reasonable notice and opportunity for hearing.

(2) If, at the scheduled expiration of the effective period of approval of a State plan, there is pending before the Secretary an application of the State for renewal of the approval, the Secretary may, by order, temporarily postpone the scheduled expiration date until its decision on the application for renewal.

(c)(1) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State Health Commission administering a State plan approved under section 234(c), determines—

(A)(i) that the plan has been so changed that it no longer complies with the provisions of section 234(b), including any provision of this title incorporated therein by reference, or (ii) that in the administration of the plan there is a failure to comply substantially with any such provision;

(B) that there is a failure to comply with any requirement of section 232; or

(C) that the State law or practice is such as, under the provisions of section 234(c), would preclude approval of the plan;

the Secretary shall by order withdraw approval of the plan and withhold further payments under section 220(c) (or, in the Secretary's discretion, suspend approval as to the part or parts of the plan affected by a failure determined under clause (A) or (B) of this paragraph and limit payments to those payable with respect to other parts), until the Secretary is satisfied that there will no longer be any such failure to comply or, in a case described in clause (C), until the plan is approvable under section 234(c), and shall forthwith notify the Commission of the order.

(2) If in the judgment of the Secretary it would better promote the purposes of this title to do so, he may postpone the effective date of his order under paragraph (1) for such reasonable period as he finds appropriate to allow necessary time for compliance with the requirements of this title.

(3) In addition to or in lieu of issuing an order pursuant to paragraph (1), the Secretary may request the Attorney General to institute a civil action by the United States against the State to enforce the requirements of this title.

(4) Whenever the Secretary has withdrawn approval of a State plan pursuant to paragraph (1), he may, with regard to the State involved, exercise the functions and use the funds referred to in subsection (a).

COOPERATIVE INTERSTATE ACTIVITIES AND UNIFORM LAWS

SEC. 239. (a) The Secretary (1) shall encourage and assist the States and their State Health Commissions in carrying out cooperatively with other States their respective functions in accordance with part C, including the making of agreements between States for that purpose with respect to the establishment, admission (into jurisdictions other than those of incorporation), and approval of Health Care Corporations, the establishment of joint health care areas and assignment of such corporations thereto, the exchange of information, and other matters, and (2) shall develop and encourage the enactment of model State legislation in the fields covered by this title.

(b) The consent of the Congress is hereby given to any two or more States to enter into agreements of the kinds referred to in subsection (a), not in conflict with any provision of this Act or regulation of the Secretary thereunder or with any other law or treaty of the United States.

OTHER ADMINISTRATIVE PROCEDURES

SEC. 240. (a) Effective on and after the effective date of part A of title I of this Act, the Secretary is authorized and directed, notwithstanding any provision of title V of the Social Security Act, to provide by regulation for limiting the use (directly or indirectly) of Federal funds under title V of the Social Security Act for personal health services and items (or for reimbursement for expenditures for such services or items) in participating States (as defined in section 234(d)(2) of this Act) in such manner as will avoid to the maximum extent practicable the use of such funds for personal health services or items for individuals to the extent that these individuals are entitled under section 102(b) of this Act to Comprehensive Health Care Benefits coverage for like services and items.

(b)(1) Section 505(a)(2) of the Social Security Act is amended (A) by striking out "State health agency" the first time these words occur and inserting in lieu thereof "State Health Commission (established in accordance with section 231 of the National Health Care Services Reorganization and Financing Act)", and (B) by striking out "State health agency" the second time these words occur and inserting in lieu thereof "State Health Commission".

(2) The amendments made by paragraph (1) shall, with respect to any State, become effective on the date on which the State becomes a participating State (as defined in section 234(d)(2) of this Act).

PART D—HEALTH CARE CORPORATIONS

INCORPORATION AND STATE APPROVAL

SEC. 241. (a) A Health Care Corporation is a nonprofit private or governmental corporation which (1) is organized for the purpose of furnishing (through its own facilities and personnel or through other providers, nonprofit or for-profit comprehensive and coordinated personal health services to persons registered with the corporation, furnishing personal health services to other persons to the extent authorized by this title, and engaging in educational, research, and other activities related or incidental to the furnishing of personal health services; and (2) provides (or will provide after the period of organization and initial registration) effective and equitable representation, on its governing board, of the registrants with the corporation and of the affiliated institutional and professional providers furnishing services on its behalf.

(b) A Health Care Corporation is eligible, for the purposes of this title, to furnish services in a State only if it is approved by the State Health Commission of the State for operation in an approved service area or areas of the State (under the provisions of the State plan in accordance with sections 235 and 236), upon a finding by the commission (1) that the corporation conforms to the provisions of subsection (a), (2) that it has an adequate organization under professionally competent management and adequate resources in facilities and personnel (including resources available to it through contracts with affiliated providers), to meet the requirements of this part and of regulations prescribed thereunder and requirements prescribed by the State Health Commission, and (3) that it has given assurances (including assurances of financial responsibility), satisfactory to the commission, that in operation it will meet all such requirements.

REGISTRATION WITH HEALTH CARE CORPORATIONS

SEC. 242. (a) A Health Care Corporation shall, in accordance with regulations of the State Health Commission—

(1) register with the corporation all persons (or such number of persons as may be required by the commission pursuant to section 236(a)(4)), resident in the service area approved for it by the commission, who apply for such registration during a period of open registration fixed by the commission, or apply therefor after termination of registration with another corporation pursuant to subsection (e);

(2) make all reasonable efforts, on a continuing basis, to procure the registration of persons resident in the area who, having failed to apply for registration, have been assigned by the commission to the corporation for recruitment; and

(3) within its capacity to furnish services, register with the corporation all persons assuming residency in the approved service area after the end of the period of open registration fixed under paragraph (1).

(b) Within its capacity to furnish services and with the approval of the commission, the corporation may recruit and register persons (whether or not residents of the area) whom it is not required by subsection (a) to recruit or register.

(c) In such cases and such manner as may be specified in regulations of the Secretary, a registrant may effect registration on behalf of his or her spouse and children under 19 years of age.

(d) The corporation shall make available, and shall employ all reasonable means to disseminate throughout its approved service area, full information about its operations, including descriptions of the services it furnishes and places where they are furnished, and including information about the methods and times of registration; and information about the benefit coverages (both those purchased by the Secretary and others) available to residents of the area, and the methods of obtaining such coverage. It shall assist registrants and applicants for registration to establish entitlement to coverage purchased by the Secretary under section 102, and to obtain other coverage as appropriate.

(e) Registration with a Health Care Corporation shall be effective for a period of twelve months, except that a registrant may terminate his registration if he changes his place of residence or for such other cause as may be approved by the State Health Commission.

UNDERTAKING TO FURNISH SERVICES

SEC. 243. (a) A Health Care Corporation shall assume responsibility for making available and furnishing to each registrant with the corporation, and to any other person to the extent required by regulations of the Secretary, all services for which he has Comprehensive Health Care Benefits coverage and which are medically necessary (or, in the case of health maintenance services, medically appropriate). The acceptance of a registration shall constitute an obligation of the corporation to the registrant to furnish all such services, either through the facilities and personnel of the corporation, through affiliated providers meeting the requirements of subsection (b), or through other providers in accordance with subsection (c).

(b) Services may be provided through an affiliated provider who, by contract with the Health Care Corporation, has undertaken (1) to furnish on behalf of the corporation a portion of the services for which the corporation is responsible, and (2) to cooperate and (to the extent practicable) participate in discharging all other responsibilities of the corporation under this part. Affiliated providers may be hospitals, skilled nursing facilities, nursing homes, or home health care agencies (hereafter referred to collectively as "institutional providers"); physicians, dentists, podiatrists, or optometrists; combinations of the foregoing, such as partnerships, clinics, or group practice organizations, which may include appropriate allied health professionals and technical or other supporting personnel; or other providers of kinds designated in regulations of the Secretary. The services of an affiliated provider may, but need not, be furnished exclusively on behalf of one Health Care Corporation. A provider may be affiliated with two or more Health Care Corporations, but in the case of an affiliated institutional provider shall designate one affiliation as the provider's primary affiliation for the purpose of maintaining quality of services, control over the utilization of services, and continuing appraisal of the effectiveness of services.

(c) Drugs, devices, appliances, and equipment may be furnished to outpatients and to home health care patients, and ambulance and other emergency transportation services may be furnished, through providers not affiliated with the corporation, under arrangements which the commission finds assure adequate availability of such items and services. Medical and other services of specialized nature, which the commission in accordance with regulations of the Secretary finds cannot practicably be furnished by a Health Care Corporation or its affiliated providers, may be furnished through arrangements with or referral to other Health Care Corporations or other providers.

(d) The organization of the services furnished by or on behalf of the corporation shall emphasize health maintenance (including health education) of registrants, assure continuity of care and referral of patients to such services and at such time as may be medically appropriate, and to the greatest extent possible provide care on an outpatient basis. All services shall be made as readily available as is practicable to all registrants within the approved service area of the corporation, and the corporation shall (in accordance with regulations of the Secretary) maintain a system of scheduling periodic health maintenance services for each registrant and reminding him thereof. Outpatient care shall be furnished in centers and physicians' offices conveniently accessible throughout the area. Emergency care, including ambulance service within the approved service area of the corporation, shall be available at all times.

(e) The corporation shall as rapidly as practicable develop, by affiliation with existing organizations or otherwise, a system of outpatient care centers throughout its approved service area, utilizing hospital medical staffs and other physicians practicing in the area, and staffing the centers with physicians, appropriate allied health professionals, and other ancillary personnel to furnish primary medical care. To the extent practicable, the corporation shall also furnish through or in conjunction with such centers health maintenance services and community-based services such as home care, medical social services, and the services of well-baby clinics and mental health clinics. Centers shall be so related to institutional or other providers as to assure the availability of necessary laboratory and other diagnostic services, and the ready referral and transfer of patients to facilities providing more comprehensive services when medically necessary or appropriate.

(f) Whenever services for which the corporation is responsible under subsection (a) are furnished by another Health Care Corporation to a registrant who is absent from his place of residence, or are furnished in an emergency by any provider (wherever situated) who is not affiliated with the corporation or acting under arrangements with it, the corporation shall review a report of the services rendered and the charge therefor and shall submit it to the carrier responsible for its payment; or, if it is itself the carrier or is otherwise responsible for payment, shall pay the charge. This subsection shall not be applicable in the case of a registrant who, otherwise than pursuant to arrangement by the corporation, has left his place of residence for the purpose of obtaining health services.

(g) The corporation shall so far as practicable furnish necessary emergency health services to persons not registered with it, and may furnish other services to such persons when it can do so without interference with services to its registrants.

QUALITY OF SERVICES

SEC. 244. (a) A Health Care Corporation shall assume responsibility (1) for the quality of all services furnished by it either through its own facilities and personnel or by providers affiliated or acting under arrangements with it, and for compliance with standards of quality and comprehensiveness prescribed by the Secretary, (2) for maintaining controls upon the utilization of all such services, (3) for continuing appraisal, through medical audits and otherwise, of the effectiveness of such services, and (4) for identifying problem areas requiring planning for additional services. For these purposes the corporation shall maintain a system (approved by the commission) of comprehensive peer review by a group or groups of physicians (and a group or groups of dentists in the case of dental services) selected from its staff and from affiliated providers and their staffs, embracing services furnished by affiliated providers as well as services furnished directly by the corporation, and shall require similar review by a staff committee or committees of each hospital and skilled nursing facility affiliated with it. The corporations shall, through an appropriate staff committee or committees, maintain a program of continuing professional education of physicians, dentists, and nurses (and, to the extent the corporation deems desirable, of other professional personnel) furnishing services on its behalf.

(b) All medical policies of the corporation shall be established with the advice of physicians, and all dental policies with the advice of dentists. All medical judgments related to health care shall be made by or under the supervision of physicians, and all dental judgments by or under the supervision of dentists.

(c) The corporation shall encourage the participation of physicians in all aspects of its policy-formulation and operation (including budget review and long-range planning), both in administrative and in advisory capacities.

PARTICIPATION OF PROFESSIONAL PRACTITIONERS

SEC. 245. (a) Within the limits of its need for physicians, dentists, podiatrists, and optometrists (hereafter referred to collectively as "practitioners"), and so far as is consistent with the furnishing of the highest practicable quality of care, a Health Care Corporation shall provide opportunity to all practitioners practicing in its approved service area to furnish services on its behalf, either (at the election of the corporation) as members of its professional staff or as affiliated providers. It shall fix, and review annually, the scope of services which each practitioner may so furnish, in accordance with his training, experience, and professional competence as determined, pursuant to rules of the corporation, through peer review of his credentials and performance. A practitioner who desires to enlarge the scope of services assigned him shall be assisted through in-service training in acquiring added experience and professional competence, and his assigned scope of service shall be reconsidered from time to time.

(b) In selecting practitioners to furnish services on its behalf and in fixing the scope of services which each may furnish, the corporation shall not discriminate on any ground unrelated to professional qualifications; but in carrying out the purpose of subsection (a) in its initial recruitment of practitioners the corporation may give preference, as between equally qualified persons, to those who at the time are practicing in its approved service area.

(c) The corporation shall so organize the services furnished by practitioners on its behalf as to meet the purposes of sections 243 and 244. To the extent consistent with such organization it shall permit each practitioner to elect the form or forms of practice (individual office practice, group practice, or other form of practice) in which he wishes to engage.

CHARGES BY HEALTH CARE CORPORATIONS AND OTHER PROVIDERS

SEC. 246. (a) All charges by a Health Care Corporation or other provider for health services shall be made at rates fixed by the corporation or other provider for a twelve-month period and approved by the commission. Rates applicable to a particular fiscal period may be revised before the end of the period only on the basis of events, occurring subsequent to the approval, which the commission finds (1) could not reasonably have been foreseen at the time of approval, and (2) will, if the rates are not revised, impose severe financial hardship on the corporation or other provider.

(b) Such charges shall consist either of an annual amount for each registrant or registrant family (hereafter referred to as a "capitation amount"), or of itemized charges for separate services or units of service. With the approval of the commission, the corporation or other provider may use one method of determining charges for some services or with respect to some registrants and the other method for other services or with respect to other registrants; except that after three years of operation a Health Care Corporation must submit to the State Health Commission a plan to commence two years thereafter for offering capitation rates to its registrants who choose to purchase coverage directly from the corporation. Except for reasonable variations (in accordance with regulations of the Secretary) based on the size and composition of families, capitation amounts shall be uniform for all registrants to whom they are applicable, other than registrants having coverage under contracts purchased by the Secretary.

(c) Charges of the corporation or other provider, by whichever method determined, shall be at rates estimated to be sufficient for the fiscal period to meet the financial requirements of the corporation or other provider, to enable it to fulfill its responsibilities under this part. The financial requirements shall be determined in accordance with regulations, and with systems of accounting, consistent with sections 212(b) and 234(b) (10).

(d) The corporation and the commission, in developing and reviewing the rates to be paid to providers, shall seek to assure that adequate services are available without unnecessary duplication or other excessively costly or excessive services.

CONTINUING PERSONAL HEALTH RECORD

SEC. 247. (a) In a manner consistent with the requirements relating to confidentiality in subsection (d), a Health Care Corporation shall develop, and keep current, a continuing personal health record for each registrant of the corporation, in such form, consistent with regulations of the Secretary, as may be required by the commission for the purposes (1) of making medical histories and other pertinent data readily available to the medical and other staff of the corporation and its affiliated providers, and (2) of enabling the corporation to meet requirements of the commission for gathering and reporting health care statistics, including statistics on the utilization and cost of health services.

(b) The corporation shall, to the greatest extent practicable, equip its facilities, and assure that facilities of its affiliated providers are equipped, for the prompt transmission, to appropriate members of the staffs of all such facilities, of the personal health records of its registrants.

(c) Whenever a registrant with one Health Care Corporation transfers his registration to another such corporation, his personal health record shall be transferred to the latter corporation. To such extent as may be required by regulations of the Secretary, a Health Care Corporation shall make available to other Health Care Corporations, and other providers (not affiliated with it), who furnish emergency or other health services to its registrants, information from the personal health records of the registrants.

(d) Consistent with section 212(b) (6), personal health records, information contained therein, and other information concerning individual registrants or applicants for registration shall be used or disclosed, without the consent of the individual, only (1) in accordance with this section, or (2) for purposes necessary to the administration of the Health Care Corporation, the State plan, or any benefit coverage pursuant to this title. Any person who violates any provision of this subsection shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.

PARTICIPATION BY REGISTRANTS; HEALTH EDUCATION

SEC. 248. (a) A Health Care Corporation shall establish methods by which (in addition to their representation on its governing board) registrants may express their views with regard to the policies and operation of the corporation, the health needs of the community, and the need for any modification or expansion of the services furnished by the corporation. The corporation shall take all practicable steps to assure that this opportunity is readily available to all substantial groups (geographic, economic, or other) of registrants, and to the extent practicable, to individual registrants. The corporation shall establish an advisory committee representative of registrants in general, and subcommittees or separate committees representative of any groups whose interests may differ materially from those of other registrants. Through such committee or committees, the corporation shall seek a continuing evaluation by its registrants of its program and performance.

(b) In a manner consistent with the purpose of assuring that individuals are responsible for protecting their own health and for learning to utilize the health services available to them in the most effective manner, the corporation shall undertake a program of continuing health education, with special emphasis directed toward low-income and medically indigent registrants. The program shall be designed and conducted with the advice and participation of representatives of the registrants, for the purpose of overcoming lack of information and correcting misinformation on the part of registrants about personal health matters, encouraging their interest in healthful living, proper nutrition, and the avoidance of illness, and enabling them to make more responsible and effective use of health maintenance services and, when illness occurs, of the diagnostic and therapeutic services available to them. Corporations shall provide, to registrants in need thereof, assistance in overcoming language or educational handicaps in obtaining access to health care. In carrying out this subsection the corporation shall collaborate with governmental and private agencies engaged in communitywide health education.

NONDISCRIMINATION; COMPLAINTS

SEC. 249. (a) In recruitment and registration a Health Care Corporation shall not discriminate on the ground of race, creed, color, national origin, age, sex, occupation, economic status, or condition of health. Subject to such differentiations as are medically necessary or appropriate or are specifically authorized by this title, the corporation and other providers shall not discriminate on any of the foregoing grounds in furnishing services on behalf of the corporation.

(b) The corporation shall establish adequate procedures for the receipt and disposition of complaints by registrants with respect to services furnished them, failure to furnish services or to pay for services furnished by others, or the propriety of charges made by the corporation; and complaints by persons whose applications for registration have been refused. The corporation shall, to such extent and in such form as may be required by the commission, maintain records of such complaints and of their disposition, and shall make such records available for inspection by the commission.

(c) The corporation shall establish adequate procedures for the settlement of disputes with affiliated providers, with other providers having arrangements with the corporation for the furnishing of health care to its registrants, and with nonaffiliated providers.

RESPONSIBILITIES FOR MANPOWER AND FOR RESEARCH

SEC. 250. (a) A Health Care Corporation shall coordinate among its own staff and the staffs of its affiliated providers determination of the needs for the several classes of health personnel, and the recruitment and allocation of such personnel; shall set qualification and performance standards for such personnel, which shall at least equal standards established or recommended by recognized professional organizations; and shall conduct within its own organization and encourage in its affiliated providers such programs of inservice training as it finds necessary or useful in meeting manpower needs, improving the quality of care, and promoting upward mobility within the several health professions and occupations. To the extent permitted by the law of the State in accordance with section 234(c)(4), and consistent with regulations of the Secretary and good professional practice, the corporation shall encourage the use of physician assistants, allied health professionals, and other supportive technical and non-professional personnel, under appropriate professional supervision, to increase the productivity of its medical and dental staff and of affiliated providers and their staffs.

(b) The corporation, in addition to a continuing evaluation of its own performance, shall engage or participate in planning for additional services to respond to identified problem areas and in continuing research concerning the organization and methods of delivery of health services, and concerning their quality, effectiveness, and cost. The results of such research shall be made available to the commission and the Secretary for such dissemination as the commission or Secretary may deem proper.

RECORDS AND REPORTS

SEC. 251. Consistent with section 212(b)(6), a Health Care Corporation shall keep such records, and on behalf of itself and its affiliated providers make such reports to the commission, as the commission, in accordance with regulations of the Secretary, shall require with respect to financial matters, the utilization of services, the results of peer review of quality, and other matters; and shall require that its affiliated providers keep such records and furnish it with such information as may be necessary for this purpose. The corporation and its affiliated providers shall make the records required pursuant to this section available for inspection by representatives of the commission when necessary for the purpose of verification of such reports.

PART E—SPECIAL STUDY OF METHODS FOR MEETING SUPPLEMENTAL CAPITAL NEEDS OF HEALTH CARE CORPORATIONS AND RELATED HEALTH CARE ORGANIZATIONS

FINDING AND PURPOSE

SEC. 261. The Congress finds that existing health care institutions in the United States have traditionally obtained their funding for health resource development from a variety of sources, including philanthropy, Federal grants, third-party reimbursement, borrowing, and local bond issues, with the result that the funding of such institutions has been neither adequate, consistent, coordinated, nor equitably distributed. It is the purpose of this part to provide for the development of a more rational approach for supplying the supplemental capital and other funding needed by the health care industry in order to assure a more rational distribution of funds and thereby to meet more effectively the health care needs of the Nation without causing undue cost to individuals in communities which have the greatest health need.

SPECIAL STUDY

SEC. 262. (a) The National Health Services Advisory Council (hereinafter in this section referred to as the "Council"), established by section 213 of this Act, shall conduct a full and complete study and investigation of methods for supplying supplemental capital and other funding for Health Care Corporations and related health care organizations in the United States, with the objective of developing a national program for supplying such funding, giving special emphasis to areas of high priority health care needs both rural and urban which will effectively carry out the purpose of this part.

(b) In conducting its study and investigation under subsection (a), the Council shall give particular consideration to the utilization of special taxing mechanisms such as a value-added tax, or tax credits, as means of financing comprehensive benefits for beneficiaries of the national program.

(c) In conducting its study and investigation under subsection (a), the Council shall also give particular consideration to the development of a program which—

(1) establishes and utilizes, as its basic source of funds, a national trust fund consisting of any or all of the following: (A) a designated portion of the premiums collected for comprehensive health care benefits coverage, (B) a tax on such premiums or on such premiums and all other premiums paid for health insurance coverage, (C) appropriated funds, and (D) amounts received from other sources, public or private;

(2) provides for the distribution of amounts in the trust fund to State health commissions in a manner reflecting population, per capita income, and health care needs, for allocation by such commissions within their respective States to health care corporations and other health care organizations, in the form of grants, loans, or combined grants and loans, on the basis of per capita income, urgency of health care needs in the light of available or potentially available health care resources, and other factors calculated to assure the concentrated expenditure of the available funds in high need areas;

(3) recognizes the need for adequate planning for health care services and facilities, and makes such planning a condition of assistance;

(4) encourages and facilitates the continuing provision of funds for these purposes from sources other than the trust fund, and effectively coordinates the utilization of the amounts provided from such other sources with the amounts distributed from the trust fund;

(5) leaves to each State health commission, under general regulations of the Secretary, the determination of how the funds distributed to such commission are to be allocated and utilized within the State which it represents; and

(6) contains or is subject to such other provisions, conditions, and limitations as may be necessary or appropriate to assure that the purpose of this part will be effectively carried out.

(d)(1) The Council shall submit to the Secretary, for transmission to the Congress no later than one year after the effective date of this Act as specified in section 301(a), a full and complete report of its study and investigation under this section together with its findings and recommendations and with detailed specifications for any legislation which it finds may be required to carry out such recommendations. The Secretary, in transmitting such report to the Congress, shall include his own comments thereon and his views with respect to the Council's legislative recommendations and specifications.

(2) The special study and investigation conducted by the Council under this section shall be independent of the studies made by the Secretary under section 214; and the report of the Council under this section shall be separate and distinct from its annual report under section 213(c).

TITLE III—EFFECTIVE DATES

TRANSITIONAL EFFECTIVE DATES

SEC. 301. (a) Except as otherwise provided in this section and sections 210 and 302, this Act (including any amendments made by it to existing law) shall be effective upon the date of its enactment.

(b) Sections 211, 216(a), 218, 219, 220, and 221, and parts C and D of title II, shall take effect upon the first January 1 or July 1 which occurs six months or more after the date of the enactment of this Act.

(c) Section 216(b), section 238 (with respect to States which have not complied with sections 232 and 234), and the amendments made by section 101 shall take effect on the first day of the third fiscal year which begins after the date of the enactment of this Act.

FULL OPERATION OF PROGRAM

SEC. 302. The program under this Act shall be fully in operation, and the benefits under part B of title I shall be fully effective and available (in lieu of any benefits which would otherwise be available under title XVIII of the Social Security Act), in accordance with all of the provisions of this Act, on and after the first day of the fifth fiscal year which begins after the date of the enactment of this Act.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks on the national health care bill, and to include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

THE TAX AND LOAN ACCOUNT INTEREST ACT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Joint Economic Committee in its recent recommendations for dealing with the economy urged the Federal Government to halt its practice of depositing large amounts of the taxpayers' money in commercial banks without receiving fair compensation. Today, I am introducing a bill for that purpose.

My bill—the Tax and Loan Account Interest Act of 1975—is similar to one I introduced in the first session of the 93d Congress. It would amend the Federal Deposit Insurance Act to terminate the insurance of any bank which fails to pay interest at the Federal funds interest rate on all tax and loan accounts. If enacted, the bill would result in an estimated savings of over $350 million annually to the U.S. Treasury.

Not many people, I imagine, give a second thought to the handling of the social security and income taxes that are withheld from their paychecks. It would come as a shock to many to know that this money does not go directly to the U.S. Treasury, but to "tax and loan accounts" in commercial banks where it sits without earning one cent of interest for the taxpayers until the Government withdraws it. Even more shocking is the fact that the Government allows the banks to invest the taxpayers' money and reap high rates of interest on it, not for the taxpayers but for the banks.

In 1974, the average balance in the accounts amounted to nearly $4 billion, down from previous years—in 1972 it was over $5 billion. If interest had been paid on that amount—minus withholdings for reserve requirements—the U.S. Government would have received between $350 million and $400 million—enough to pay for a year's operation of the Federal Communications Commission, the Securities and Exchange Commission, the Maritime Commission, the Smithsonian Institution, the Secret Service, and the Senate.

At a time when the Federal deficit is running at $23 billion and the acute shortage of mortgage money has compelled Congress to enact a $3 billion emergency home loan bill, the tax and loan account system approaches the outrageous. What the system amounts to is a windfall subsidization of the commercial banking industry in the United States by the Federal Government with the hard-earned money of millions of taxpaying American citizens.

Moreover, the tax and loan account system tends to favor big banks. In 1972, 44 percent of all tax and loan account deposits were held by only 102 of the Nation's approximately 14,000 commercial banks, according to a staff report of the House Subcommittee on Domestic Finance. The study reported that the 50 largest banks held more than one-third of all such deposits, and that $1.7 million was held by 11 American branches of foreign banks.

The study also noted that, despite the concentration of tax and loan account deposits in the 50 largest banks, these banks did not give priority to loans which carry out Federal programs. In the area of lending to small business, for example, the study found that in February 1972, the 50 largest banks had only 3,306 loans outstanding in conjunction with the Small Business Administration, which represents 8 million small businesses throughout the country. These loans totaled only $150 million, and were 90 percent guaranteed by the SBA. The total tax and loan account balance in the 50 banks was over $2 billion.

The primary purpose of the tax and loan account system is to minimize the potentially disruptive effect of Treasury cash operations on the banking system, money markets, and the Nation's economy. It has performed this useful function ever since it was set up in 1917. Ostensibly, the Government has allowed banks to hold the accounts without paying interest to compensate them for various banking services they perform for the Government, including holding the accounts. But the Treasury has no rational method of determining whether the value of the accounts is commensurate with the services provided by the banks. With rising interest rates in recent years, it has become obvious that the banks are being greatly overcompensated.

Last summer, the Treasury Department released the results of a 2-year study of the tax and loan account system which it began in 1972 after years of prodding by the distinguished chairman of the House Banking and Currency Committee, Hon. WRIGHT PATMAN, the GAO and others. The study indicated that the total value of the tax and loan accounts to commercial banks in calendar year 1972 exceeded the value of the services they performed for the Government by over $260 million. At today's higher interest rates, the value of the accounts would be much greater.

Moreover, the Treasury study showed vast discrepancies in the costs reported by banks for performing services for the Government, indicating the lack of a rational relationship between the real value of the services and the costs attributed to them. The costs reported by banks for handling tax and loan accounts, for example, ranged from 1½ cents per transaction to $3.10 per transaction.

This is not a very business-like method for the Government to use in handling the taxpayers' money. The Tax and Loan Account Interest Act would rationalize the system by authorizing the payment of fixed fees for certain banking services, based on a fair assessment of the value of the services. This way, the banks would receive fair compensation for their services while the Government receives fair compensation for the use of its deposits.

Last summer, the Treasury Department promised to send Congress legislation to reform the tax and loan account system, but as yet no such legislation has been received. This is particularly disappointing in view of the current economic situation. Unlike most of the money-saving proposals being debated today, reform of the tax and loan account system seems to be relatively noncontroversial. And we can no longer afford delay in considering measures to improve the Nation's economic health.

I am pleased that the House and Senate Banking Committees are planning to hold hearings on this issue this year, and am hopeful that they will result in a quick end to the tax and loan account boondoggle.

The text of the Tax and Loan Account Interest Act of 1975 follows:

A bill to amend the Federal Deposit Insurance Act to terminate the insurance of any bank which fails to pay a certain rate of interest on all tax and loan accounts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tax and Loan Account Interest Act of 1975."

SEC. 2. The second sentence of section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended by inserting "or fails to pay interest (to the United States) at the Federal funds interest rate on all tax and loan accounts maintained at such bank," immediately before "the Board of Directors shall first give to the Comptroller of the Currency".

SEC. 3. The Secretary of the Treasury may enter into agreements with banks which render banking services to the Federal Government for charges to be made for the banking services which the bank performs on behalf of the Federal Government.

THE NEED FOR A NEW FOOD TECHNOLOGY

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, with the world's population expected to double by the end of the century, many people have begun to wonder whether our existing agricultural resources will be capable of supplying enough food for all of the world's people.

The National Academy of Sciences recently released the results of a 3-year study on this question. The study paints a grim picture for the future unless we embark on the development of new food resources now.

We cannot expect to rely on expanded farm lands or increased fertilizer applications for meeting the food needs of the future, according to the report. There are biological ceilings in nature which will constrict food production based on current food techniques.

The report warned:

> For the long-range future, in addition to such controlling influences as climate, increases in agricultural output will depend largely upon research results not yet in hand.

The NAS findings must not be ignored. We must turn our research efforts toward the development of new food technologies and we must make a national commitment to their utilization in fulfilling our own food needs. This commitment may require drastic changes in our current farm production system and our eating habits.

In the 93d Congress, I introduced the Food Research and Development Act to promote the development of new food techniques designed for the future. The bill would provide funds for agricultural innovations such as single-cell protein made from waste materials, irrigation using salt water, methods of enhancing the nitrogen fixation process in plants, methods of separating protein from inedible fibers in plant leaves, and many others including those mentioned in the NAS report.

I am planning to reintroduce a revised version of the Food Research and Development Act shortly. At a time when we are already seeing millions of people throughout the world suffering from hunger and malnutrition, I do not think we can afford to wait any longer before embarking on a crash R. & D. effort to find new sources of food for the future.

For the benefit of my colleagues, an article from the New York Times on the NAS report follows:

RISE IN FARM OUTPUT SAID TO FALTER AS NEED GROWS

(By William Robbins)

WASHINGTON, Jan. 12.—The National Academy of Sciences warned in a "report to the nation" today that the upward trend of farm production was faltering at a time of increasing international concern over food supplies.

At the same time, it cited a long list of "scientific frontiers" where new breakthroughs to higher yields might be found if enough effort and resources were invested in agricultural research.

Among those, it said, are efforts to produce plants with leaf structures that will make more efficient use of sunlight and carbon-dioxide, successful creation of new varieties of plants by crossing their body cells in test tubes rather than through normal reproductive processes, improvements in animal-breeding and technological progress in irrigation technology.

Although "for the next decade or so we think we perceive that the supply of food will be adequate," said the report, which focuses on the longer term, "there are clouds on the horizon that should be noted."

"The tapering trends are warnings of needs for new patterns of thought and indicate that the future may require drastic changes in our farm production system," it said.

The 199-page report, titled "Agricultural Production Efficiency," is the result of a three-year study by a 15-member committee headed by James G. Horsfall of the Connecticut Agricultural Experiment Station.

"We set out with a very simple premise: We could be living on borrowed time," Sylvan H. Wittwer, the chairman of the academy's board on agriculture and renewable resources, which helped guide the committee's study, said at a news briefing.

Both Dr. Wittwer, the head of the Agricultural Experiment Station at Michigan State University, and Marion Clawson, a committee member, said at the briefing that the study showed "we have been too complacent" about food productivity. Mr. Clawson is head of the Land and Water Division of Resources for the Future, Inc., a research organization.

WE NEED COMMITMENT

"We need a national food policy," Dr. Wittwer said. "We need a national commitment." He added that the country also needed a special project on solar energy.

The study cited a number of warning signals indicating a tapering off in the trend towards greater productivity, which increased farm output by 50 per cent between 1950 and 1971.

In the past, it said, reserves of land kept idle under farm programs had created a sense of complacency. But it noted that such acreage had now been returned to use. Any additional acreage would have to be provided through such means as land clearing and drainage or the farming of marginal acreages.

"The relative quality and availability of additional potentially arable lands need careful evaluation," the report said.

A LEVELING-OFF

Meanwhile, it said, "Department of Agriculture data indicate that both the number of persons supplied per farm worker and the number of persons supported per harvest acre are leveling off."

Many of the gains in the past have resulted from increasing applications of fertilizer, but increases in yields available through further expansion of fertilizer use appear to be slight, the study said.

While yields of corn, the major livestock-feed grain, continue to rise dramatically, the report said, recent improvements have been small for most other crops.

"One must conclude that biological ceilings will, at some future date, constitute a severe if not impenetrable barrier to further increases in yields per acre or meat production per unit of feed," he said.

The report warned: "For the long-range future, in addition to such controlling influences as climate, increases in agricultural output will depend largely upon research results not yet in hand."

But it mentioned a number of promising areas for research projects.

One of those is more efficient plant use of sunlight. The report listed efforts to produce plants with leaf structures that would provide increased exposure to the sun.

Plant growth has also been improved by enrichment of the plant atmosphere with carbon-dioxide, the report noted, and it urged research into breeding of plants that would make more efficient use of the carbon-dioxide that is naturally available.

It also described investigations seeking new ways to enrich soils. Legumes, such as peas and beans, have nitrogen-fixing bacteria associated with their root zones. The report noted that efforts were being made both to improve that process and to extend the process to cereals, and thus to produce natural supplements for commercial fertilizer.

CREATION THROUGH CULTURES

In the efforts to improve plant varieties, the report said, new plants have already been created through cell cultures rather than through normal seed processes.

To improve efficiency in animal agriculture, the report placed major emphasis on efforts to increase reproductive efficiency. Among those are attempts to achieve multiple births in beef cattle.

It also stressed research on disease control and on improving the conversion of livestock feed into meat.

Among promising new technologies, it said, is a system called trickle irrigation. The method brings water directly to the roots of plants rather than irrigating their entire environment. This saves water while increasing plant growth, but it is now too costly for other than high-value crops.

Other areas for research suggested were chemicals for improved herbicides and pesticides, improvements in Western rangelands and their more efficient use, as well as a search for new plants, including studies in the qualities of native weeds that might be developed through breeding and mutations.

REVISION OF THE BANKRUPTCY ACT

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, it was certainly not in anticipation of the dire economic conditions facing our country today, but in a realization that the existing bankruptcy laws of our country were hopelessly outdated and ill fitted to our modern consumer culture that the Congress created a National Commission on the Bankruptcy Laws of the United States. My colleague, Mr. WIGGINS, and I were privileged to serve as the appointed members of that Commission from the House of Representatives.

The Commission was created by Public Law 91–354 on July 24, 1970. The conditions which prompted the creation of the Commission were: First, the increase in the number of bankruptcies by more than 1,000 percent in the preceding 20 years; Second, the widespread feeling among bankruptcy judges, the bar and the bench, that problems of administration required substantial improvement in the act; Third, the impact on the operation of the act of the vast expansion of credit; and Fourth, the limited experience and understanding of the Federal Government and the Nation's commercial community in assessing the operation of the act.

The Commission was charged with considering the basic philosophy of bankruptcy, its causes and possible alternatives to the present system of bankruptcy administration. The Commission was directed to recommend changes in the act which would reflect and adequately meet the demands of present technical, financial, and commercial activities.

After 2½ years of research, study, public hearings and meetings, the final report of the Commission was filed with the Speaker of the House on July 30, 1973. Part II of that report took the form of a draft of a complete revision of the existing act.

I, along with Mr. WIGGINS, introduced this draft of the proposed new act on October 9, 1973.

The introduction of the proposal of the Commission set off an unprecedented round of activity among groups and individuals interested in the administration of our bankruptcy laws.

Thousands of copies of the Commission's report and H.R. 10792 were distributed throughout the country.

Major and prestigious organizations—such as the National Bankruptcy Conference, the National Conference of Bankruptcy Judges, the Commercial Law League and various interested sections of the American Bar Association, just to list a few—have spent the past 2 years studying the Commission's report and are now completing the formulation of their critique and ideas for consideration in the Congress.

The National Conference of Bankruptcy Judges formulated their own versions of a revision of the Bankruptcy Act and that too was introduced in the 93d Congress on September 12, 1974, as H.R. 16643.

As our studies have gone forward these past few years, rising costs and soaring unemployment have led thousands of our citizens to seek relief from that economically destructive duo, inflation and recession, by filing a bankruptcy court for relief.

Our job now becomes acute as well as necessary. The Administrative Office of United States Courts says that if bankruptcy petitions continue at the current rate—and there is every reason to believe they will increase—there will be a record 231,660 in the fiscal year ending June 30, 1975.

During the first 5 months of fiscal year 1975, an average of 19,325 bankruptcy petitions were filed each month. That is 29 percent more than the monthly average of 14,912 petitions in the same period last year. The previous yearly high was in 1967 when 209,329 individuals and businesses filed petitions in U.S. district courts. The intervening years had seen a slight downward trend until the dramatic reversal this year. In some parts of our country, the filing of bankruptcy petitions is up 50 percent over previous highs.

The total liabilities of firms that failed in 1974 will almost certainly approach an historic high of $2.5 billion, already running 52 percent higher than 1973.

The bankruptcy trend is continuing, broadening and deepening, crossing all lines of endeavor and business establishments as well as including an historic high number of individuals.

The city of New York recently received, and not in jest, the advice that it should file a petition in bankruptcy.

It is obvious to even a casual observer of our economic scene that the long overdue overhaul of our bankruptcy laws must now be accelerated in order to cope with the expected drain on the present facilities and outmoded procedural and substantive bankruptcy law.

I am today, along with my colleague, Mr. WIGGINS, reintroducing H.R. 10792 and H.R. 16643. These two bills will be the nucleus of our consideration in the months ahead. We will begin hearings on the revision of the Bankruptcy Act early in February, and we hope to bring to the floor of the House a complete revision of the act, tailored to our modern needs, and one able to cope with the exigencies of our present economic troubles as soon as possible.

CRIMINAL JUSTICE INFORMATION SYSTEMS

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, the beginning of the 94th Congress occasions the reconsideration of those pieces of legislation on which we were unable to reach agreement in the 93d Congress. Some of this legislation demands, by virtue of its inherent value to our constitutional system, our prompt and unqualified attention. One such bill is that which would regulate and control the security and privacy of criminal justice information systems.

This legislation has a long history beginning in the 92d Congress. Over the past 4 years, the Committee on the Judiciary, particularly the Subcommittee on Civil and Constitutional Rights, has laboriously investigated this issue in its search for that fine balance between law enforcement needs and the right of privacy of the individual. Briefly, I will bring you up to date on the history of our work, so that this Congress will be aware of the depth of interest with which this area has been approached in the past.

In the 93d Congress, I introduced H.R. 13315, which dealt with the security and privacy of arrest records as they were disseminated by law enforcement agencies between themselves and with other organizations who have no law enforcement responsibilities.

It came to our attention that these arrest records, which carry notations of a person's arrest but frequently carry no dispositions, were being used to deny people employment, housing, credit and other necessities around which this society revolves. The abuses that were recorded in our hearings were widespread and affect a greater number of citizens than we had originally contemplated. Within the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, a sensitivity to these abuses developed. One needs to keep in mind that, legally, an arrest is not an occurrence of great significance, yet when given weight in future decisions concerning individuals, the practical significance can be enormous.

At the beginning of the 93d Congress, H.R. 13315 was reintroduced as H.R. 188. The subcommittee once again began a series of hearings on the subject of arrest records. During our consideration of this bill, my colleagues and I on the subcommittee had an opportunity to tour the FBI facilities in Washington, D.C. and the National Crime Information Center—NCIC. During this tour, I was struck with the efficiency with which the FBI could disseminate and retrieve information from the many local law enforcement agencies throughout the country. The records, maintained by the FBI, have been and continue to be prepared for the age of computers. The accuracy and completeness of these records is essential. More importantly, being aware of the quickness of response occasioned by computers, I realized that simple control of arrest records was not sufficient to protect the rights of individuals threatened by a massive system of criminal justice information.

As a vehicle of discussion on the regulation of criminal justice information systems, I introduced H.R. 9783 in 1973. A dialog began on the effect of computerization in the criminal justice area. Our investigation started with a scrutinization of the NCIC.

The NCIC, part of a nationwide telecommunications system, is maintained by the FBI. This system operated at first through local law enforcement control terminals—as of early 1972, there were 102 terminals, of which 48 were computerized—that put the FBI in direct touch with approximately 4,000 of the Nation's 45,000 local law enforcement agencies. The NCIC originally maintained records on stolen items and wanted persons. Then the FBI developed the computerized criminal history section—CCH—which maintains active criminal offender records. Since that time, the files of the NCIC have expanded, and continue to do so. By 1974, the Federal Government had already invested over $300 million automating criminal justice files. The FBI plans to develop their files by 1984 to include 8 million CCH files which will be instantaneously available to all participating criminal justice agencies at that time—45,000.

I continue to be shocked that the operation of this massive and most comprehensive national information center is still guided only by a statement of principle promulgated by the FBI's NCIC advisory policy board. Although recently the Board has been expanded to include a few civilian members, it is still controlled by the law enforcement rationale. Often it is stated, as crime statistics continue to burgeon, that crime can be better combated with a larger information base. But unfettered access to all information on an individual can lead to considerable abuses. An ease in obtaining information can lead to an insatiable appetite for more information, relevant or not. It is incumbent on us, the U.S. Congress, to search not for immediate restrictions, but for an honest appraisal of law enforcement necessities so infringement upon individual rights is minimal.

Attitudes toward the issue of privacy in the law enforcement area are changing, as well illustrated in 1974, by the conflict between the Justice Department and the State of Massachusetts. This conflict centered on the State of Massachusetts' refusal to join the NCIC because there were no statutory guidelines providing for the security and privacy of their records. The refusal was based on the State's own stringent privacy requirements legislated by its legislature. The fear was that once the information left the State of Massachusetts, its securiy and privacy could not be guaranteed in the federal system.

Massachusetts had followed the lead of Project SEARCH, a project funded by the Law Enforcement Assistance Administration, which developed model legislation for the security and privacy of criminal justice information. The work of Project SEARCH in this area has been extensive and of great assistance to the development of proposed legislation. The report of its special Committee on Privacy and Security, Technical Report No. 2, was the first comprehensive proposal for adopting privacy rules to the operation of computerized record systems, and therefore has had great influence on subsequent thinking on this subject.

It was in part the work of Project SEARCH that inspired the introduction of H.R. 9783. The subject was now at the center of great discussion. Shortly after the introduction of H.R. 9783, the long-awaited product of Senator Ervin's work was introduced in the Senate. This was accompanied by the introduction of the administration's version. We immediately introduced these bills in the House, H.R. 12574—the administration bill—and H.R. 12575—Senator Ervin's bill—which now became the center of our consideration. Senator Ervin was a stalwart of individual rights. His interest in the constitutional right of privacy is demonstrated by a history of leadership in this area. After attempts for passage of these bills, the 93d Congress was thwarted by the overwhelming weight of current events. The work of my subcommittee was virtually at a standstill because of my committee's attention to the impeachment inquiry of Richard Nixon. Senator Ervin vigorously tried to put together a balanced coalition in the Senate, but also was hampered by current events and an inability to reach a timely agreement.

Although Senator Ervin was unable to pass this legislation in the Senate, he was busily accumulating support for a strong version of his original privacy bill. On the closing days of the Senate, he introduced the final version of his bill on the security and privacy of criminal justice information systems. To this bill he was able to gain the support of Project SEARCH. This is most impressive when one realizes that Project SEARCH has one gubernatorial representative from each State.

Likewise, late in the 93d Congress, the administration, through the Justice Department, introduced its latest version of legislation in this area. Over the years, the Justice Department has become more sensitized to our concerns over the potential and actual abuses of criminal justice information within law enforcement agencies and the dissemination of the information without the agencies. Their most recent bill represents that attempt to ameliorate some of our concerns.

Although neither of these bills perhaps reflects the attitude of the House of Representatives, they demonstrate the beliefs and doubts of many concerned people in the Senate, in the administration and in the House of Representatives. Therefore, today I introduce to this Congress both of these approaches to legislation. They once again will become the subject of intensive investigation so that hopefully within the year, this Congress will have found the balance between these two varying approaches that best represents the conscience of the majority of this Congress and the people they represent.

Our concern has always been to strike that fine balance between the necessity of law enforcement agencies to have access to personal information and the rights of individuals who come in contact with the system. Last year was an unusual year. Above all, it demonstrated just how precious our constitutional rights are and just how tenuous our hold may be on our rights without constant vigilance. The 93d Congress took great strides in the area of privacy, but further work is required. This Congress has a mandate from the American people to respond to the creeping deterioration of our constitutional rights and to legislate in a positive way for their protection. We must be careful not to overreact, but we must react. Even with the passage of a bill in the area of criminal justice information systems, our work has just begun, and it will continue for years to come.

THE TAX EQUITY ACT OF 1975

(Mr. CORMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CORMAN. Mr. Speaker, I am once again introducing a comprehensive tax reform bill, the Tax Equity Act of 1975, H.R. 1040 and a companion bill, H.R. 1041. Forty-six Members of the House have expressed their wish to cosponsor the Tax Equity Act with me. They are: Mr. STARK, Mr. ANDERSON of California, Mr. BADILLO, Mr. BERGLAND, Mr. BOLLING, Mr. BRADEMAS, Mr. BROWN of California, Mrs. BURKE of California, Mr. CARNEY, Mr. CLAY, Mr. CONYERS, Mr. DANIELSON, Mr. DELLUMS, Mr. DIGGS, Mr. DINGELL, Mr. DRINAN, Mr. ECKHARDT, Mr. EDWARDS of California, Mr. EILBERG, Mr. FRASER, Mr. HARRINGTON, Mr. HAWKINS, Mr. HECHLER of West Virginia, Mr. HOWARD, Mr. JOHNSON of California, Mr. KOCH, Mr. MAGUIRE, Mr. MEEDS, Mr. MITCHELL of Maryland, Mr. MOORHEAD of Pennsylvania, Mr. MOSS, Mr. NEDZI, Mr. NIX, Mr. PRICE, Mr. REES, Mr. RODINO, Mr. ROSENTHAL, Mr. ROYBAL, Mr. RYAN, Mr. SEIBERLING, Mrs. SPELLMAN, Mr. STOKES, Mr. STUDDS, Mr. THOMPSON of New Jersey, Mr. CHARLES H. WILSON of California, and Mr. WON PAT.

The Tax Equity Act has four principal objectives: To make the Federal tax structure more equitable so that every individual and corporation pays a fair share in taxes; to reduce the existing biases in the tax law in favor of certain types of saving and investment and against others; to raise new revenues to meet the costs of urgent public needs; and to simplify our baffling tax law. The current problems in the economy make the attainment of these goals more essential now than ever. Unfortunately, there has been no progress in reaching them since I first introduced an omnibus tax reform bill in 1971.

We urgently need to make Federal taxes more equitable. The American people are justifiably outraged by the news that many rich individuals and prosperous industries pay little or no Federal taxes. In 1972, there were over 100 individuals with adjusted gross income—AGI—over $200,000 who paid no Federal income tax. These champion tax-avoiders, moreover, are just the tip of the iceberg, since most tax loopholes have the effect of reducing a person's AGI below his real economic income rather than lowering his tax for a given AGI. While at one time we might have thought that Congress could avoid acting to close the loopholes that permit this tax avoidance without provoking a public outcry, this is clearly no longer true.

To study the extent of tax avoidance among wealthy Americans, the Ways and Means Committee last year examined the tax returns of 20 high-income individuals, whose names were chosen for the most part without prior knowledge about their taxes. These returns showed clearly the injustice of our tax laws. Some of the 20 paid very high tax rates because they did not make excessive use of deductions and exclusions. Most, however, paid very low effective tax rates, and two paid no tax at all on incomes over $500,000. A third tried valiantly to escape all tax by claiming $900,000 in tax shelter losses, and a fourth paid only $25,000 in tax even though his income exceeded $2 million. There was widespread use of tax shelters, percentage depletion, the capital gains deduction and gifts of appreciated property to charity—all of which would be eliminated by H.R. 1040.

Our tax system, without which our Government would collapse, depends on voluntary compliance with the tax laws, since only 2 percent of individual income tax returns are audited. If the public continues to believe that some individuals and industries pay much less than their fair share of taxes, we risk a taxpayers' revolt that could destroy our tax system.

Furthermore, it is clear that to solve our serious social problems—inflation, overreliance on energy imports, pollution, and poverty—many individual Americans are going to have to make sacrifices so that all may be better off. Americans are willing to do this, but only if they feel that everyone is tightening his belt equally. The unpopularity of the administration's surtax proposal of October 1974, resulted from the widespread and correct belief that the tax burden is now so inequitably distributed that a proportional increase in taxes, even one limited to taxes on middle and upper income families, would be unfair. Similarly, it is difficult to make a case for special tax treatment for the oil industry, even that designed to encourage exploration for new sources of energy, in light of the well-publicized and outrageous profits reaped by that industry recently.

The tax loopholes that make the Federal tax system so inequitable also make the economy less efficient. Investment decisions are increasingly being made on the basis of tax considerations rather than economic ones, so that the political power of an industry, rather than its profitability, determine how much capital it is able to attract and how quickly it is able to grow.

The investment tax credit, the asset depreciation range—ADR—system, percentage depletion, the exemption of interest from State and local government bonds, the domestic international sales corporation—DISC—provisions, and the various tax preferences afforded capital gains—these all encourage saving or investment in particular areas relative to others. The result is to intensify the demand for investible funds; but because these tax loopholes do little to increase the aggregate supply of funds, this leads only to higher and higher interest rates. Those industries that receive no tax preferences or even just get less than the average preference, but that must still pay the exorbitant interest rates caused by other industries' loopholes, are starved for capital. H.R. 1040 goes a long way toward abolishing this irrational and largely useless system and, by doing so, will make the economy grow faster.

The inefficiency of allocating investible funds through the tax system is most clear in the case of tax shelters, where the tax incentive is so strong that taxpayers can invest using little or none of their own money. Management and syndication fees eat up a large part of the tax subsidy in these areas. Investors often pay so much attention to the tax effects of their activities that they neglect to make sure that the investments are even being made, much less made profitably and efficiently.

Another major aim of H.R. 1040 is to raise a substantial amount of tax revenue from individuals and corporations that do not pay their fair share of taxes. There are many alternatives uses for this revenue. One is to put an end to persistent deficit financing. In the past 10 fiscal years, the Federal deficit on a unified basis has averaged $10.3 billion per year, and an additional $6.9 billion per year has been borrowed from Government trust funds.

Thus, the Federal Government has borrowed $172 billion over this period that could have been made available for private investment, and this has pushed interest rates to inordinately high levels. This persistent deficit financing must stop, for the private sector needs capital to expand capacity in industries where there are shortages, to house our population, to control pollution and to achieve greater self-sufficiency in energy. Deficits will be needed in some years, like the present, to stimulate the economy, but these should be offset by budget surpluses in other years, so that over the long run the budget is balanced. Greater fiscal responsibility is a far more effective way to deal with a capital shortage than is the enactment of tax subsidies.

Congress must also make funds available to finance new and expanded Government programs either by reducing existing programs or by raising taxes. The public expects the Federal Government, in partnership with industry, to clean up the environment; and this will require a large increase in outlays. It expects better health care and a national health insurance program. Funds are also needed to improve the quality of education and for manpower training programs.

We must also make funds available to relieve the impact of inflation on low- and middle-income families. In 1975, the poverty level for a family of four will exceed $5,400; but such a family must now pay as much as $155 in Federal income tax. This is unconscionable. The provisions in H.R. 1040 that convert the personal exemption and deductions into 24-percent tax credits will remove low-income families from the income tax rolls and reduce the taxes of moderate income families.

Once the tax base is broadened, it is also important to lower rates in the upper brackets. H.R. 1040 does this by reducing the maximum tax rate on all income to 50 percent.

A final objective of H.R. 1040 is to simplify the tax laws. Their complexity, which sends millions of taxpayers to tax return preparers each spring, results largely from the host of special deductions and exclusions that have been put into the law. This bill, by repealing many of these loopholes, will greatly simplify the tax law.

Mr. Speaker, tax reform is the most urgent matter facing the 94th Congress. Nothing bears more directly on as many citizens, nor resists consensus more stubbornly than the question of how the costs of Government should be shared. But rising revenue needs and the ire of taxpayers at the inequities of our taxing system dictate that Congress can wait no longer to make essential reforms.

I urge my colleagues to examine the provisions of H.R. 1040 carefully. A summary of the bill follows. I hope that our tax laws will be reformed along the lines that H.R. 1040 proposes, for only through reforms as provided by this bill can we find our way back to fiscal responsibility and equitable tax treatment for the average American taxpayer—both necessary ingredients for a stable, prosperous and healthy economy, and for a democratic society.

A section-by-section analysis of the Tax Equity Act follows:

SUMMARY OF CONTENTS OF H.R. 1040

Section 1—Short title, etc.

This section provides that the Act may be cited as the Tax Equity Act of 1975, and the section contains a table of contents of the bill.

Section 2—Technical and conforming changes

This section provides that the Secretary of the Treasury shall, within 90 days after the date of the enactment of the Act, submit to the Committee on Ways and Means a draft of any technical and conforming changes in the Internal Revenue Code which should be made to reflect the substantive amendments made by the bill.

Section 3—Treaties

This section provides that every amendment made by the Act shall apply notwithstanding that its application may be contrary to the provisions of some treaty in effect on the date of the enactment of the Act.

TITLE I—CAPITAL GAINS AND LOSSES

Section 101—Repeal of alternative tax on capital gains

This section repeals the alternative tax on capital gains for both individuals and corporations. As a result of this section and other amendments made by title I of the bill, capital gain income (for taxable years beginning after 1975) will not receive preferential treatment and will be taxed as ordinary income. (Section 301 of the bill reduces the maximum rate of tax on individuals from 70% to 50%.)

Section 102—Tax treatment of capital gains

While capital gain income will be taxed as ordinary income under the amendments made by the bill, this section provides for a limited exemption from tax depending on the length of time the property has been held before it is sold. The exemption is granted in deference to the fact that if an asset has been held a long time, the gain measured by dollars is attributable to some extent to the declining value of the dollar and does not represent increased purchasing power for the taxpayer.

This section assumes an inflation rate of 4 percent—and provides, in effect, that in computing the gain on a sale of property, the taxpayer can add to the tax basis of the property 4 percent of the tax basis of the property (at the time of the sale) for each year the property was held after it was held for one year. More precisely, it is provided that the addition to the tax basis shall be one-third of 1 percent of the tax basis for each full month the property was held after it had been held for one year. Thus, if the property is held for less than 13 full months, nothing is added to the tax basis in computing gain. If the property is sold after being held 63 full months (5 years and 3 months) 17 percent of the tax cost (51 months at one-third of 1 percent) would be added to the basis in computing gain.

Under present law, an individual is taxed on only one-half of his capital gain if he holds the property for one day over 6 months. Under the bill, no one day can make a difference of more than one-third of 1 percent, and that percent is of the cost of the property—not the gain on its sale.

This provision for not taxing the gain to the extent attributable to inflation applies not only to capital assets but also to property used in a trade or business, such as a plant, machinery, or other depreciable equipment. It does not apply, of course, to property held for sale to customers in the ordinary course of business.

This section of the bill repeals a number of provisions in the Internal Revenue Code which become deadwood when capital gains are treated as ordinary income. Complicated provisions, such as those dealing with collapsible corporations and the recapture of depreciation deductions on sale of property at a gain, are not needed when preferential treatment of capital gains is eliminated. No greater blow can be struck for the cause of simplification of the income tax laws than to repeal, as the bill does, the preferential income tax treatment of capital gains.

Section 103—Limitation on deduction of capital losses

Under existing law, capital losses are deductible only against capital gains plus, in the case of an individual, $1,000 of other income. This section of the bill provides that capital losses of a corporation are deductible only against gains from the sale of capital assets and property used in a trade or business. In the case of an individual, capital losses will be deductible only against such gains plus $1,000 of other income. Under present law, a long-term capital loss of $2 will offset only $1 of an individual's ordinary income. Under the bill, a capital loss of $1 will offset $1 of ordinary income (subject to the $1,000 limitation). Gains from the sale of property used in a trade or business do not include gains from the sale of property held primarily for sale to customers or gain from the sale of animals.

Section 104—Capital loss carrybacks and carryovers

This provision grants relief to an individual who has an unused capital loss of at least $10,000 by allowing him to carry it back to the 3 preceding taxable years. Cases have arisen where a large capital gain in 1 taxable year is followed by a large capital loss in the following year which may never be deducted even with the unlimited carryforward.

Under present law, if a corporation has an unused capital loss of only a few hundred dollars, this unused loss must be carried back to the 3 preceding taxable years, with resulting refunds if there are net capital gains in any of the 3 years. It cannot be carried forward if it can be used up on a carryback. This section of the bill changes existing law by providing that a corporation (like an individual) cannot carry back an unused capital loss unless it exceeds $10,000.

The bill provides that the carryback is elective with the taxpayer, whether an individual or a corporation. This will make the carryback provision less of an administrative burden on the Internal Revenue Service for in many cases the taxpayer would rather not file a claim for refund of taxes paid in a prior year if the loss can be used on a carryover.

In the case of an individual, the carryover can be used to offset ordinary income up to $1,000 a year, but on a carryback the capital loss can be used only to offset capital gains. In the case of the death of an individual the bill provides that the net capital loss for the year of his death can be carried back even though the loss is less than $10,000.

Under present law, a capital loss of a corporation can be carried over only to 5 taxable years following the year of the loss. Under the bill, a corporation (like an individual) will have an unlimited carryover of a capital loss.

Section 105—Capital gain and capital loss defined

This section amends the Code by striking out the definitions of short-term and long-term capital gains and losses since under the bill no distinction is made between short-term and long-term gains and losses. However, the bill defines the terms "capital gain" and "capital loss" since the deduction of capital losses is limited as explained above. The bill retains the definition in existing law of the term "capital asset".

Section 106—Nontaxed gains; carryover of basis at death

Under present law, on the death of an individual his property receives a new basis for tax purposes—the fair market value used for purposes of the estate tax. Unrealized capital gains are, therefore, not taxed when the executor or the heirs sell any appreciated property held by the decedent. This section of the bill provides for a carryover of the decedent's basis, but the decedent's basis in appreciated property is increased by its proportionate share of Federal and State estate taxes attributable to the amount of the appreciation. This section would apply to decedents dying after June 30, 1975.

Section 107—Tax treatment of gain on certain sales of patents

Since capital losses will continue to be deductible only against capital gains (plus an additional $1,000 in the case of an individual), it is important that ordinary income is not classified as capital gain income. Under existing law, gain on the sale by an individual of a patent is treated as capital gain even though the taxpayer is a professional inventor. This section of the bill repeals this provision, so that the sale of a patent by the person whose personal efforts created the patent will be treated as ordinary income and not capital gain income, just as the sale of a copyright produces ordinary income under existing law.

In addition, this section provides that capital gain treatment will not be granted in any case where the owner (whether a corporation or an individual) of a patent enters into an agreement (whether or not it constitutes a sale, license, or assignment) under which the seller or assignor of the patent receives payments measured by a percentage of the selling price of articles produced by the buyer or transferee of the patent or where the amounts received by the seller or transferor are measured by production, sale, or use by the assignee or licensee. Periodic receipts of this kind with respect to the sale or transfer of a patent are properly treated as royalty income rather than capital gain income.

TITLE II—INCOME DERIVED FROM EXTRACTION OF MINERALS

Section 201—Repeal of percentage depletion

This section of the bill repeals the allowance of percentage depletion for oil and gas and other minerals, effective with taxable years beginning after December 31, 1974. (The Energy Tax and Individual Relief Act reported out by the Ways and Means Committee in 1974 would have repealed percentage depletion on crude oil and unregulated gas.)

Section 202—Deduction of intangible drilling costs and other exploration and development expenditures

This section of the bill liberalizes the deduction of exploration expenditures for oil and gas. Under present law, intangible drilling and development costs are deductible as incurred, but geological and geophysical costs are capital expenditures to be recovered through the depletion allowance (or as a loss upon abandonment). This section provides that all expenses incurred for the exploration and development of all minerals, including oil and gas, are deductible at the election of the taxpayer, so long as the expenditures do not have the effect of sheltering from tax income from nonmineral sources.

To deal with the problem of the tax shelter, this section provides that the aggregate deduction for exploration and development of mineral properties during the taxable year cannot exceed the taxpayer's aggregate taxable income for the year from mineral properties (computed without regard to the deduction for exploration and development). Losses on drilling a dry hole, however, will continue to be deductible without regard to the limitation. Any amount disallowed as a deduction under this limitation will be treated as an amount expended in the following year for the exploration and development of mineral properties. In the normal situation, this limitation will not limit the deduction in the case of the taxpayer who is in the business of operating mineral properties, but it will put a stop to the current practice of peddling drilling funds as tax shelters to taxpayers who are not in the business of operating mineral properties.

Section 203—Repeal of maximum tax on certain sales of oil or gas properties

This section of the bill repeals section 632 of the Internal Revenue Code which provides that the tax imposed on an individual on his sale of an oil or a gas property discovered by him shall not exceed 33 percent of the selling price. (The Ways and Means Committee tentatively agreed to this in 1974).

Section 204—Income from mineral properties located outside the United States

Under existing law, if a taxpayer goes into a foreign country to explore for and develop oil and gas wells or a mine, the deductible costs of exploration and development can be applied against income from sources within the United States. If the venture is successful and the mineral properties produce profits, the credit for foreign income taxes imposed upon those profits will, on the basis of past experience, completely offset the U.S. tax on those profits. The net result is that the United States Treasury loses revenue on account of the exploration and development in foreign countries of mineral properties and receives no revenue (because of the foreign tax credit) when the mineral properties produce profits. Moreover, if there is a loss on account of the expropriation of mineral properties by a foreign government, the deductible loss in the usual case has the effect of reducing the income taxes otherwise payable on income from sources within the United States.

To eliminate the losses to the Treasury on account of the exploration, development, and expropriation of foreign mineral properties, this section of the bill provides—

(1) a taxpayer will not include in his tax return amounts derived from the operation of a mineral property located outside the United States.

(2) no deduction shall be allowed for amounts chargeable to income so excluded from the tax return, or for any amount expended for the exploration or development of any mineral property located outside the United States, and

(3) losses on the sale, abandonment or expropriation of mineral properties located outside the United States shall be allowed only to the extent of gains from the sale of mineral properties located outside the United States.

The exclusion from gross income will not apply to profits derived from processing minerals after reaching the so-called cutoff point used in the past for percentage depletion purposes. Thus, profits from transporting minerals or in producing gasoline or refined metals will not be exempt. In addition, the exclusion from gross income will not apply to royalties received on mineral properties located outside the United States or to dividends on stock of any corporation operating mineral properties outside the United States.

TITLE III—REFORM MEASURES AFFECTING PRIMARILY INDIVIDUALS

Section 301—50-percent maximum rate for individuals

Under present law, the maximum rate of tax on individuals is 70 percent. This section of the bill reduces the maximum rate to 50 percent. This reduction is justified in the light of the other provisions of the bill which broaden the income tax base, particularly the taxation of capital gains as ordinary income, and the elimination of the tax shelters allowed under present law.

Section 302—Credit against tax for personal exemptions and nonbusiness deductions

This section of the bill provides a credit against tax for the personal exemptions and other personal deductions of an individual, including the standard deduction, in lieu of the existing deductions from gross income for such items. Under present law, a deduction of $750 against gross income for a personal exemption is worth $525 to the taxpayer in the highest bracket, but only $105 to a taxpayer in the lowest bracket. This section of the bill provides that each taxpayer will receive the same tax benefit for his personal exemption, and that the Treasury will "contribute" the same amount to all taxpayers with respect to deductible expenditures not connected with a trade or business or for the production of income.

A credit of 24 percent of the aggregate amount of the personal deductions is allowed by this section of the bill. The personal deductions include the deductions for personal exemptions, interest and taxes on nonbusiness indebtedness (such as taxes and interest on the taxpayer's home), deductions for charitable contributions, and deductions for medical expenses. If the taxpayer would have used the standard deduction instead of itemizing his deductions, then the 24-percent credit will be applied to the amount of the standard deduction the taxpayer would have received plus the amount of his personal exemptions. The credit will not be allowable with respect to alimony payments which would continue to be deductible from gross income as under existing law.

A credit of 24 percent of the personal deductions, instead of deducting such amounts from gross income, will reduce the income taxes of taxpayers in the lower brackets. For example, a married couple with two children having an adjusted gross income below $15,300 (and assuming nonbusiness deductions of 10 percent of income) will have a reduction in their income taxes.

A limit is provided on the amount of credit which may be taken on account of interest and taxes paid on an individual's personal residence (or residences). Not more than $10,000 of such interest and taxes will qualify for the 24 percent credit. In the ordinary case this limitation will not come into play unless the residence has a value of more than $100,000 and is heavily mortgaged.

This section provides that the President may increase or decrease the 24-percent rate if he decides that it is in the public interest to do so. If he decides that taxes on individuals should be reduced for a temporary period, he could proclaim an increase in the 24-percent rate, and if he believes that the taxes should be increased for a temporary period, he could proclaim that the 24-percent rate be decreased. The increase or decrease, however, cannot exceed 2 percentage points.

Any increase or decrease in the 24-percent rate by the President would not take effect if either House of the Congress, within a 60-day period after announcement of the proposed change in rate, passes a resolution stating in substance that a change in the 24-percent rate is not favored.

This section of the bill also provides that if the taxpayer is claiming a child as a dependent (and thereby receiving a credit of $180 against tax—24 percent of $750), the parent shall include in his gross income any income received by the child during the year from a trust created by the parent, and also any dividends, interest, or royalties received by the child from any property given to him by the parent. Income which is so taxed to the parent would not be taxed to the child. This provision would not apply if the parent does not choose to claim the child as a dependent.

Section 303—Denial of certain tax preferences to shareholder-employees of closely held corporations

This section of the bill eliminates three kinds of abuses which have arisen when an employee owns the corporation which "employs" him.

A self-employed farmer cannot deduct the cost of maintaining his residence on the farm. Such items as depreciation, repairs, heat, and insurance premiums on his house are not deductible; and he cannot deduct the cost of groceries consumed on the farm by his family. But, apparently all these personal and family expenses can be deducted if he incorporates—even though he elects subchapter S so that the corporation is not subject to tax. The Tax Court recently held that an individual owning all of the stock of a corporation which owned a 35,000-acre ranch in Montana was not taxable on the value of meals and lodging furnished to his family on the ranch by the corporation (and deducted by the corporation) because it was for the convenience of his corporation that he and his wife lived on the ranch and occupied the ranch house. This section of the bill provides that a shareholder-employee of a corporation cannot exclude (under sec. 119 of the Internal Revenue Code) from gross income the value of lodging and meals furnished to him by the corporation. A shareholder-employee is defined as an employee or officer of a corporation who owns 5 percent or more of the stock of the corporation.

If a doctor, lawyer, or other self-employed individual incorporates his business and then adopts a plan for the corporation to pay all medical, dental and hospital bills of any shareholder-employee (including members of his family), under existing law the payments are deductible by the corporation and are excluded from the gross income of the shareholder-employee, even though the plan does not cover employees who own no stock in the corporation. This section of the bill provides that such family expenses paid by the corporation for the benefit of the shareholder-employee will be included in his gross income unless employees who are not shareholder-employees receive 75 percent or more of all such payments made by the corporation during the year.

In the case of any self-employed person, his deduction for pension contributions for his own benefit under an H.R. 10 plan is limited to 15 percent of his earned income, with a maximum deduction of $7,500 a year. But, if the doctor, lawyer, dentist, or other self-employed person incorporates his business, the H.R. 10 limitations do not apply unless the corporation elects to be taxed under subchapter S. This section of the bill extends the rule applicable to a shareholder of a subchapter S corporation, and provides that the shareholder-employee of any corporation must include in his gross income any amount contributed by his corporation for his benefit in exces of the H.R. 10 limits. This rule will not apply, however, if more than 75 percent of the contributions made during the year by the corporation under the pension plan are for the benefit of employees who are not shareholder-employees.

Section 304—Repeal of $100 dividend exclusion

This section repeals the provision in present law that allows an individual to exclude from gross income $100 of dividends received on corporate stocks. (The Ways and Means Committee tentatively agreed to this provision in 1974.)

Section 305—Limitation on deduction of interest on investment indebtedness

Under existing law, if an individual's interest payments on indebtedness incurred to carry property held for investment exceeds the sum of the investment income plus $25,000, one-half of the interest in excess of that sum is disallowed as a deduction. This section reduces the $25,000 figure to $5,000 and provides that all—not just one-half—of the interest in excess of the sum of the investment income plus $5,000 is to be disallowed as a deduction. The amount which is disallowed as a deduction will be treated as investment interest paid in the following taxable year.

Section 306—Disallowance of expense attending convention outside the United States

This section disallows expenses of travel (including meals and lodging) of an individual in connection with attending a convention held outside the United States. As a general rule, such expenses are incurred primarily for pleasure rather than business. Thus, expenses of lawyers attending the American Bar Convention in London in 1971 would have been disallowed if the amendment had been in effect. (The Ways and Means Committee in 1974 tentatively adopted a similar provision.)

Section 307—Deductions for expenses attributable to business use of homes, rental of vacation homes, et cetera

Last year the Tax Court held that a Government employee could deduct part of the rent he paid on his apartment because he did some of his office work at home. The court also allowed a taxpayer who resided in Los Angeles to deduct 90 percent of the cost of maintaining a second home at Palm Springs because he used the Palm Springs home for entertaining clients and prospective clients. In another case, a taxpayer (not engaged in business) was allowed to deduct a portion of the cost of maintaining her home because she prepared her income tax returns at home and kept records at home of her investment income and expenses. We learned from the report on former President Nixon's income tax returns that he deducted 25 percent of the cost of his apartment in New York City while engaged there in the private practice of law, and the deduction was not disallowed by the I.R.S. (The Ways and Means Committee in 1974 tentatively adopted a provision to terminate the allowance of deductions in such cases. H.R. 1040 adopts the statutory amendment prepared for the Committee on this matter.)

In addition, this section of the bill eliminates as tax shelters such items as beach cottages, condominiums at ski resorts, mountain cabins, yachts and the like, which the taxpayer uses for pleasure and rents when he can in order to obtain tax deductions greater than the rentals. The amendment would also apply to the rental of a house which is used by the taxpayer as his principal place of residence.

Under the amendment, deductions for depreciation, repairs, insurance, agent fees in handling rentals, etc., would be allowed as deductions only up to the amount of rentals received during the year reduced by interest and taxes paid (and deducted) on the rental property. The rentals would not be taxed (except in the unusual case where they exceed all expenses) because they would be offset by allowable deductions; but the excess costs for repairs, depreciation, insurance, etc., could not be used to shelter income from other sources.

Section 308—Farm losses

The Tax Reform Act of 1969 provided for an excess deductions account in the case of farm losses in order to eliminate some of the tax shelter afforded by the use of the cash method of accounting in the case of farming. In order to deal more effectively with the problem of farm losses as a tax shelter, this section of the bill provides that farm losses can be deducted against nonfarm income only to the extent of $10,000 a year. Any amount of a farm loss which is disallowed under this provision will be treated as an expense of farming in the following taxable year.

This limitation on the deduction of a farm loss will not apply to a taxpayer whose nonfarm income is less than $20,000.

Section 309—Computation of earnings and profits on a consolidated basis

Some conglomerate companies have been paying dividends which are not fully taxable because the parent company does not have sufficient earnings and profits to cover the distribution although the consolidated group had earnings and profits during the year greater than the amount distributed. This section of the bill provides that the earnings and profits of a parent corporation for a year shall not be less for dividend purposes than the earnings and profits of the consolidated group for the year.

Section 310—Dividend on certain sales of stock

The Tax Court held that if a transaction is described in section 304 of the Code (which can produce dividend income if stock of one controlled corporation is sold to another controlled corporation) and is also described in section 351 (dealing with tax-free exchanges), then section 351 applies and not section 304. This section of the bill changes the rule of the Tax Court case and provides that the tax-free provisions of section 351 do not apply to the extent the application of section 304 produces an amount taxable as a dividend.

Section 311—Termination of stock option provisions

Under present law, an officer of a corporation is not taxed at the time he exercises a qualified stock option granted him for performance of services. If he sells the stock after 3 years, the compensation is taxed only as a capital gain. If he holds the stock until he dies, the compensation is never taxed. This section of the bill provides, in the case of options granted after 1974 that the compensation realized on exercise of a stock option will be taxed at the time of exercise as ordinary income.

The enactment of this amendment will be welcomed by many corporate shareholders. The liberal granting in the past of stock options has diluted, in some cases seriously, the equity ownership of shareholders of the companies who grant stock options. With the demise of tax-free stock options, management will no longer have to explain or contend to shareholders that authority to grant stock options is necessary to attract or keep "key employees". (A similar amendment was tentatively adopted by the Ways and Means Committee in 1974.)

Section 312—Disallowance of certain double deductions

Present law provides that the expenses of administering an estate can be deducted by the executor on either the income tax return or the estate tax return, but not on both. The courts have held that expenses of the executor in selling property can be deducted in the estate tax return and can also be used on the income tax return as an offset against the selling price of the property. This section of the bill provides that such selling expenses cannot be used in the income tax return as an offset to the selling price if they are deducted as an expense of administration on the estate tax return.

Section 313—Treatment of trust income payable to children of grantor

Under present law, a father can, in effect, deduct on his income tax return gifts to his children if he makes a gift out of income from stocks and agrees to do so for at least 10 years. To get that result, the parent need merely transfer stock to himself as trustee and agree to pay out to his children the income from that stock for 10 years, at which time the stock will be returned to him free of the trust. Use of short-term trusts in this manner is commonplace with affluent taxpayers who can afford to give some of their dividend income to their children.

This section of the bill provides that the income of such a trust will be taxed to the grantor (if he has a reversionary interest) so long as the income is payable to a child who is under the age of 21 years or who is attending college and is a dependent of the taxpayer for purposes of the credit for personal exemptions.

Section 314—Deductible losses of limited partner cannot exceed investment

Limited partnership interests in syndicated tax shelters—such as drilling funds and real estate ventures—are being peddled with the sales pitch that the investor will enjoy a deduction on his income tax return of $2 for every dollar he invests in the fund or the venture. It is possible, under existing law, for a limited partner to take income tax deductions (for his share of partnership deductions) in excess of the amount which he has contributed to the capital of the partnership. This results because the existing regulations provide that a limited partner's tax basis will be increased by a portion of any partnership liability for which no partner has personal liability.

This section of the bill provides that a limited partner's share of partnership liabilities cannot exceed the difference between his actual contribution credited to him by the partnership and the total contributions he is obligated to make under the partnership agreement. The effect of this amendment will limit the deductions of a limited partner in any drilling fund or other tax shelter venture to the amount he is actually at risk.

Section 315—Repeal of exemption for earned income from foreign sources

Under present law, citizens of the United States can exclude from gross income certain amounts of income they earn in foreign countries if they are present in the foreign country for 17 out of 18 months or if they become a bona fide resident of the foreign country. The exclusion is $20,000 a year if the taxpayer meets the 17 out of 18 month test and is $25,000 a year if he is a bona fide resident of the foreign country. This section of the bill denies such exclusion from gross income in the case of taxable years beginning after the date of enactment. The foreign tax credit will prevent double taxation of the income if the foreign country also taxes the earned income. (In 1974, the Ways and Means Committee tentatively agreed to phase out this exclusion.)

Section 316—Underpayments of estimated tax

This section provides that an individual cannot base his estimated tax payments on the prior year's tax (or at the current year's rates applied to the prior year's facts) if in any one of the 3 preceding taxable years the tax shown on his return was in excess of $100,000.

Section 317—Partnership to be treated as corporation upon filing registration statement with Securities and Exchange Commission

A key element in the syndication of tax shelters is that the business venture is treated for tax purposes as a limited partnership, so the tax losses can be passed through and be deducted by the limited partners. In a recent year registered filings with the Securities and Exchange Commission of partnership tax shelter offerings in oil drilling funds, real estate programs, cattle feeding, and the like, were in excess of $3.2 billion. Perhaps any partnership which depends primarily on limited partners for the capital of the venture should be treated as a corporation—the limited partner is like the preferred shareholder of a corporation. But at a minimum, any partnership which is required under the securities laws to register its offerings with the Securities and Exchange Commission should be treated as a corporation, and this section of the bill provides that if a registration statement is filed with the SEC after July 1, 1975, and offers units of participation or other interests in a partnership, the partnership shall be treated as a corporation for taxable years ending after the date of the filing of the registration statement. The enactment of this provision would put an end to the interstate sale of large syndicated tax shelters.

TITLE IV—REFORM MEASURES AFFECTING PRIMARILY CORPORATIONS

Section 401—Repeal of investment credit

The investment credit is a massive subsidy to corporations for their purchase of machinery and equipment, nearly all of which would be purchased in the absence of the subsidy. The subsidy granted by the present 7 percent investment credit for the calendar year 1976 will amount to over $6 billion if the credit is not repealed. This section of the bill terminates the investment credit, effective with respect to property placed in service on or after January 1, 1976.

Section 402—Repeal of asset depreciation range system

In 1962, the Treasury issued guidelines specifying the number of years over which different kinds of assets could be depreciated. Through the "reserve ratio test", a direct link was maintained between the depreciation claimed by taxpayers and the actual "wearing out" of equipment. Taxpayers were not allowed to depreciate for tax purposes more rapidly than they were actually replacing the equipment.

In January, 1971, the Treasury announced some major changes. Businessmen were allowed to take guideline lives 20 percent shorter than previously. Thus, an asset which previously had a guideline life of 10 years could now be depreciated over 8 years. In addition, the reserve ratio test was repealed. These changes were given legislative approval in the Revenue Act of 1971.

This section repeals the ADR system and reinstates the reserve ratio test, for taxable years beginning after December 31, 1974.

Section 403—Depreciation deduction not to exceed book depreciation

Under present law, a corporation cannot use the LIFO method of valuing inventories for income tax purposes unless it uses the same method in reporting its earnings to shareholders. The obvious rationale of this rule is that if LIFO is not considered by a corporation as a correct method for reporting earnings to shareholders, then that corporation is not entitled to use the LIFO method in reporting its earnings on the tax return.

For a similar reason, this section of the bill provides that a corporation cannot take depreciation deductions for a taxable year in an aggregate amount in excess of the depreciation taken into account in reporting earnings for the year to shareholders. Thus, if a corporation on its books computes depreciation for equipment on a straight-line basis with a 30-year life, it cannot have a larger deduction on the tax return by using the double declining balance method or a shorter life. Moreover, in the case of a publicly held company whose annual report to shareholders is certified to by independent certified public accountants, it can generally be presumed that the charge for depreciation recorded on the books is a fair and honest estimate of the actual cost of depreciation for the year. If a larger deduction for depreciation is allowed on the tax return, then the depreciation allowance becomes a subsidy and not a reasonable allowance for the exhaustion of machinery and equipment.

In the case of an affiliated group of corporations, regulations will prescribe whether the report by the common parent corporation to its shareholders, rather than the report of subsidiaries to the parent, will be taken into account for purposes of this amendment.

Section 404—Deduction for repairs limited to amount recorded on books

This section of the bill, for the reasons set forth in the preceding section dealing with depreciation, prohibits the deduction by a corporation of an expenditure for repairs if the corporation capitalizes the expenditure on its books for the purpose of reporting to shareholders its earnings and profits for the year.

Section 405—Limitations on dividends received deductions

Subsection (a) of this section of the bill provides that the dividends received deduction cannot exceed 85 percent of taxable income (computed without regard to the net operating loss carryback). The chief effect of this is to change present law which allows a full deduction for 85 percent of dividends received if this deduction will produce or increase a net operating loss for the taxable year. The amendment also provides that any amount disallowed for the taxable year because of the net income limitation shall be allowed as a deduction for the following taxable year if there is sufficient taxable income in that year. This gives the taxpayer a carryover which he does not have under present law.

Subsection (b) provides that dividends received from an unaffiliated corporation shall be reduced (for purposes of the dividends received deduction) by the amount of any interest on indebtedness incurred or continued to purchase or carry the stock of the unaffiliated corporation. An unaffiliated corporation is any corporation except one that is a component member of a controlled group of corporations which includes the taxpayer.

This section of the bill also provides that if the aggregate amount of dividends received during the year from unaffiliated corporations (after first being reduced by any interest paid as provided in the preceding paragraph) exceeds the amount of dividends paid by the corporation during the taxable year, no dividends received deduction shall be allowed with respect to the excess. Thus, if no dividends are paid by the taxpayer, no dividends received deduction can be claimed for dividends received from unaffiliated corporations. However, the amount which is so disallowed shall be treated as a dividend received in the following year for purposes of the dividends received deduction. Moreover, if dividends paid during a taxable year exceed the dividends received during the year from unaffiliated corporations, the amount of the excess will be treated as a dividend paid in the following year for purposes of the dividends received deduction.

Section 406—Use of appreciated property to redeem stock

Under present law, if a corporation redeems stock with appreciated property; gain is recognized except in certain cases. One of the exceptions is where stock or securities are distributed pursuant to a court proceeding under the antitrust laws. This section provides that the stock or securities must have been acquired before January 1, 1970, in order for the exception to apply. It is not believed corporations which have violated the antitrust laws should have a tax benefit not available to other corporations who distribute appreciated securities.

Section 407—Recognition of gain on sales in connection with certain liquidations

If a corporation adopts a plan of complete liquidation and the liquidation is completed within 12 months, under existing law (section 337 of the Internal Revenue Code) the corporation is not taxed on gains realized on the sale of property during the period of liquidation. Gains on sale of inventory, however, are exempt from tax only if the inventory is sold in bulk to one purchaser.

This section makes three amendments to section 337. First, it is provided that section

337 shall apply only if at the time of the adoption of the plan of liquidation the corporation has less than 11 shareholders.

Second, it is provided that gain on the sale of inventory shall be taxable even though section 337 otherwise applies.

The third change deals with the problem which has been presented in some cases where shareholders of the liquidating corporation transferred, after adoption of the plan to liquidate and before the corporation distributes its tax-free gains, some or all of their stock to tax-exempt charities (usually their private foundations). This amendment of section 337 insures that one tax will be imposed in such cases by providing that if tax-exempt organizations receive X percent of the amounts distributed in liquidation, then the same percent of the gains realized by the corporation during the course of the liquidation will be subject to tax at the corporate level.

Section 408—Denial of tax-free exchanges in case of investment companies

In 1966 tax-free exchanges of appreciated stock for shares of mutual funds (so-called swap funds) were brought to an end by an amendment which provided that section 351 of the Code would not apply to transfers to an investment company. That amendment did not complete the job. For years the Massachusetts Investment Trust, and other mutual funds, have been issuing their shares to acquire all of the stock or assets of family held personal holding companies, and these exchanges are treated under section 368 as tax-free reorganizations. This is nothing but swap funding to obtain diversification plus a readily marketable security. The amendment would make such exchanges taxable and it would also make mergers of two investment companies taxable.

Section 409—Certain transactions disqualified as reorganizations

This section of the bill provides that there cannot be a tax-free reorganization if the shareholders of the smaller company involved in the transaction end up with less than 20 percent of the voting stock of the surviving corporation in a merger or of the acquiring corporation in the case of a so-called B reorganization (stock-for-stock) or a so-called C reorganization (stock-for-assets). If a conglomerate company whose stock is listed on the New York Stock Exchange issues less 20 percent of its voting stock to acquire the stock or assets of a company whose stock is not listed, it is more realistic to treat the shareholders of the unlisted company as having sold out for a marketable security rather than having taken part in a reorganization of their company. (A similar provision was contained in the House version of the Internal Revenue Code of 1954.)

Section 410—Repeal of special treatment of bad debt reserves of financial institutions

This section of the bill provides that banks and other financial institutions that now are allowed to take special deductions for reserves for bad debts will, in the case of taxable years beginning after 1975, compute any addition to a reserve for bad debts on the basis of the actual experience of the taxpayer, the rule which is applied to all other corporations.

Section 411—Repeal of deduction for Western Hemisphere trade corporations

This section of the bill repeals the special deduction now allowed domestic corporations who obtain most of their income from foreign countries in the Western Hemisphere. (The Energy Tax and Individual Relief Act reported out by the Ways and Means Committee in 1974 would have phased out the lower tax rate allowed such corporations over a five-year period.)

Section 412—Gain on liquidation of Puerto Rican subsidiary

Under present law a corporation can organize a subsidiary, incorporated in the United States, for the purpose of doing business tax-free in Puerto Rico. Under section 931, the profits will not be taxed by the United States, and under the tax holiday program offered by Puerto Rico, its profits may be exempt from tax by Puerto Rico for a period of 10 or 12 years. At the end of the tax holiday, the subsidiary can be liquidated tax-free under section 332. As a result, the profits earned during the tax holiday period and received by the parent upon the liquidation are not taxed to the subsidiary or the parent by either government. This section of the bill provides that upon the liquidation of the subsidiary, the gain on the liquidation will be taxable to the extent of the earnings and profits of the subsidiary accumulated during the period it was exempt from tax under section 931.

Section 413—Taxation of undistributed profits of foreign corporations

At the present time, American corporations do not have to pay income taxes to the Federal Government on the earnings of their controlled foreign subsidiaries so long as the earnings are undistributed. These earnings, however, are generally taken into account by the parent company in reporting earnings to its shareholders. This tax deferral constitutes an important incentive for U.S. corporations to set up plants in foreign countries. This section of the bill provides for the taxation on a current basis of the undistributed earnings of controlled foreign corporations.

Section 414—Repeal of the tax exemption for a DISC

A U.S. corporation can now set up a paper corporation (known as a DISC) and escape the corporate income tax on one-half of its profits from exports by channeling the sales through the DISC. This section of the bill would repeal the tax exemption for DISC corporations and thereby increase revenues by approximately $1 billion a year.

Section 415—Involuntary conversions

This section provides that if gain on an involuntary conversion of property is not recognized because the taxpayer purchases stock of a corporation owning property of the kind which was converted, the basis of that property in the hands of the corporation shall be reduced by the amount of gain not recognized on account of the purchase of the stock.

Section 416—Computation of underpayments of estimated tax

This section of the bill provides that a corporation cannot compute its estimated income tax payments on the basis of the prior year's tax (or on the basis of the prior year's facts and the current year's rates) if in any one of the 3 preceding taxable years the tax shown on its return was in excess of $300,000.

TITLE V—REFORMS AFFECTING INDIVIDUALS AND CORPORATIONS

Section 501—Minimum tax

This section makes a number of changes in the minimum tax. First, it repeals the provision of existing law that allows regular income taxes to be deducted from the items of tax preference. Second, the $30,000 exemption for tax preferences is reduced by the bill to $12,000.

Third, the following items are added to the list of items which constitute tax preferences:

(1) Deduction of intangible drilling and development costs for oil and gas wells.

(2) Deduction of exploration and development costs in the case of mines.

(3) Tax-exempt interest on State and local bonds (issued before January 1, 1976).

(4) The credit against the United States tax allowed for foreign income taxes.

(5) The amount of amortization for coal mine safety equipment.

Another provision is added to avoid a tax on an item of preference if the taxpayer obtained no tax benefit from the item. This provision will permit a taxpayer to elect to waive a deduction for an item of tax preference, in which case the item would not be taken into account for the minimum tax. However, such waiver can be made only at such time and subject to such terms and conditions as may be set forth in regulations promulgated by the Secretary or his delegate.

Finally, this section of the bill strikes from existing law the provisions which treat tax preferences attributable to foreign sources more favorably than preferences attributable to sources within the United States.

Section 502—Shareholder use of corporate property

Considerable uncertainty exists over the tax treatment of interest-free loans from a corporation to its controlling shareholders and the rent-free use by shareholders of corporate property. The Tax Court has held that an interest-free loan produces no taxable income to the shareholder or the corporation, even though the funds loaned by the corporation were producing taxable income prior to the loan. This section of the bill provides that an interest-free loan or a rent-free use of corporate property by a controlling shareholder shall be treated in the same manner as if the shareholder paid to the corporation a reasonable rate of interest on the loan, or a reasonable rent for use of the property, and as if the corporation then made a cash distribution of a like amount to the shareholder.

Section 503—Deduction for depreciation based on equity in rental real estate

This section provides that in the case of a building which the taxpayer rents to others, the deduction for depreciation cannot exceed the taxpayer's equity in the building and the land. That is, no additional deductions for depreciation will be allowed (including existing buildings) to the extent it would reduce the adjusted basis of the building below the unpaid balance of the mortgage on the land and building (minus the tax cost of the land). However, until the depreciation deductions equal the equity, the depreciation would be computed on the entire cost of the building and not on the amount of the equity. This amendment would not apply to a building if the primary use is by the taxpayer and not the tenants. This amendment would reduce the attractiveness of real estate ventures as tax shelters for investors.

Section 504—Charitable gifts of appreciated property

Under existing law, if capital assets which have appreciated in value are given to a private foundation, the charitable deduction is reduced by one-half of the long-term capital gain the individual would have had if he had sold the property at fair market value. However, in the case of gifts of non-capital assets to any charitable organization, the amount of the charitable deduction is reduced by the amount of the ordinary gain the taxpayer would have received if he had sold the property at fair market value. Since title I of the bill eliminates the preferential treatment of capital gain income, this section of the bill provides that if appreciated property (whether or not a capital asset) is contributed to any charitable organization, the amount of the charitable contribution shall be reduced by the amount of gain which would have been realized if the property contributed had been sold by the taxpayer at its fair market value (determined at the time of such contribution). In computing the amount of such gain, there will be excluded the amount of any gain which is exempt from tax under the provisions of section 1202 of the Code, as amended by section 102 of this bill.

Section 505—Capital expenditures in developing fruit or nut groves or vineyards

Present law requires the capitalization of expenditures incurred during the development stage in planting citrus or almond groves. This section of the bill extends the rule of capitalization of expenses incurred before the time when the productive stage is reached in the case of any other fruit or nut grave or any vineyard planted after June 30, 1975.

Section 506—Interest and taxes during construction of rental property

A major segment of the tax shelter afforded by rental real estate is the allowance under existing law of a deduction for interest and taxes incurred during the construction period of the building. This section of the bill provides that such interest and taxes cannot be deducted, but are to be added to the cost of the building and recovered through depreciation allowances, over the life of the building.

Section 507—Treatment of prepaid interest

A distortion of taxable income can occur when there is a substantial prepayment of interest by a taxpayer who computes his tax under the cash receipts and disbursements method of accounting. (In 1974, the Ways and Means Committee tentatively adopted a provision to require the deduction of prepaid interest only by the accrual method of accounting. H.R. 1040 adopts the statutory language prepared for the Ways and Means Committee on this item.)

Section 508—Repeal of tax exemption for ships under foreign flag

This section of the bill repeals the provisions of existing law which state that a nonresident alien or a foreign corporation (even though 100 percent owned by a U.S. corporation or an American citizen) is not taxable on income derived within the United States from the operation of ships documented under the laws of a foreign country which grants an equivalent exemption to United States citizens or corporations.

Section 509—Limitations on foreign tax credit

The first amendment made by this section of the bill provides that a foreign tax credit shall not be allowed for any foreign tax on income which is excluded from the taxpayer's gross income so far as the Federal income tax is concerned. In addition, any foreign income tax paid on a gain realized by an individual or domestic corporation which is not recognized under the Internal Revenue Code would likewise be a noncreditable tax. The basic rationale for this amendment is that the foreign tax credit is supposed to eliminate double taxation on income. If the United States does not tax the income, there is no reason to give a credit for the foreign tax paid on that income by the taxpayer.

The second amendment made by this section provides that the foreign tax credit shall be subject to both the per country limitation and the overall limitation. This was the applicable rule from 1932 to 1954.

The third amendment made by this section provides two new rules with respect to the treatment of certain gains on the sale of property for foreign tax credit purposes. The first rule is that in computing taxable income for purposes of the per country and overall limitations, there shall be excluded any gain on the sale of a capital asset, or property used in a trade or business, if such gain is treated as income from sources outside the United States unless the gain is taxed by a foreign country. Most gains on sales of such property are not taxed by foreign countries and treating such gains as foreign income for purposes of the limitations can result in a reduction of the tax which the Federal Government collects on income of the taxpayer from U.S. sources.

The second rule added by the amendment is that for purposes of the limitations the U.S. tax (against which credit can be taken) shall be reduced by the U.S. tax on any gain excluded from taxable income under the first rule described above.

TITLE VI—ESTATE TAX AMENDMENTS

Section 601—Integration of estate tax rate with inter vivos gifts

The main defect of the present estate and gift tax system is that it discriminates in favor of those who give away their wealth partly through lifetime gifts and partly at death, as against those who pass on all their wealth at death. In part, this is because both the gift tax and estate tax schedules are progressive. Thus, the man who transfers property both by gift and at death gets to start at the bottom of two separate, progressive rate structures. In practice, as pointed out in the 1968 Treasury *Studies and Proposals,* this is primarily of benefit to the very rich.

Thus, if a decedent made gifts of $2 million during his lifetime and leaves $3 million at his death, the rate of tax on the $3 million starts with the bottom tax brackets and produces a much smaller tax than would be produced if the $3 million were "stacked" on top of the $2 million lifetime gifts. The result is that wealthy individuals can substantially reduce the tax on transfers of property by making substantial gifts during lifetime.

This section of the bill would integrate the estate tax rate with *inter vivos* gifts so that the tax brackets for property transferred at death are determined by the amount of taxable gifts made during the decedent's lifetime (and after 1975). Under this amendment, a tentative tax is first computed on the amount of the taxable estate at death increased by the amount of the taxable lifetime gifts (made after 1975; plus the gift tax paid by the decedent on those gifts. Then, a second tentative estate tax is computed on an amount equal to such gifts plus the gift taxes paid. The difference between the two tentative taxes constitutes the estate tax payable on the property transferred at the time of death.

Section 602—Transfers taking effect at death

Before the enactment of the 1954 Code, if a taxpayer transferred property to a trust which provided that the income should be accumulated during the grantor's life and upon his death the trustee should pay the corpus and accumulated income to his children, such a transfer was included in the decedent's gross estate as a transfer taking effect at death. The 1954 Code provided that such a transfer will be included in the gross estate only if the decedent retained a reversionary interest equal to 5 percent of the value of the property. This section of the bill strikes out the 5-percent reversionary interest test since it is completely a nonsequitur in a statute which imposes an estate tax on a lifetime transfer of an interest which can be possessed or enjoyed only by surviving the transferor. This amendment would apply to transfers made after December 31, 1974.

Section 603—Life insurance included in gross estate

Prior to the 1954 Code, life insurance on a decedent's life was includible in his gross estate to the extent he paid the premiums on the policy. In such a case it was immaterial whether he had given the policy to members of his family before his death. This section of the bill restores the premimum payment test in the case of life insurance, so that the insurance will be included in the insured's gross estate in the ratio that the premiums paid by the decedent on the insurance policy bears to all premiums paid on that policy. In applying this rule the premiums paid by the decedent before January 1, 1975, shall not be included in the numerator of the fraction but would be included in the denominator.

Section 604—Charitable deductions in the case of estate tax

The first amendment made by this section of the bill places a limitation on the charitable deduction for estate tax purposes, similar to what we have for the income tax. Under present law, a decedent can give his entire estate to a private foundation created by his will, and no Federal estate tax will be imposed. This amendment provides that the aggregate charitable deduction shall not exceed 50 percent of the gross estate reduced by the debts of the decedent and the expenses of administration.

The second amendment deals with the interplay of the charitable deduction and the marital deduction for estate tax purposes. The marital deduction cannot exceed 50 percent of the adjusted gross estate (gross estate less debts, losses, and expenses of administration). Cases have arisen where executors have claimed, in order to raise the amount of the adjusted gross estate for purposes of the marital deduction, that transfers made to charities during the decedent's lifetime were includable in the gross estate. Increasing the gross estate for such lifetime transfers produced no estate tax for the charitable deduction was increased by the same amount, but a larger maximum deduction was allowed for bequests to the surviving spouse. This amendment provides that in computing the adjusted gross estate there shall be excluded any transfer made by the decedent during his lifetime if an estate tax charitable deduction is allowed for that transfer.

Section 605—Charitable deduction for gift tax purposes

Since the enactment of the Tax Reform Act of 1969, a gift tax is imposed in certain cases if the donor gives an interest in property to charity but retains for himself an interest in the same property. Thus, if a valuable painting is given to the National Gallery of Art subject to the right of the donor to retain possession of the painting for his lifetime, a charitable deduction is not allowed for either the income tax or the gift tax. While a deduction for income tax purposes in such a case is properly disallowed, it is not believed a gift tax should be imposed on the gift to charity, so long as no third party is given an interest in the painting. This section of the bill amends section 2522 (c) of the Internal Revenue Code of 1954 to allow a charitable deduction for gift tax purposes in such a case. The amendment provides, however, that if the donor, after making such a gift to charity, thereafter transfers the interest he retained to a third party (not a charity), the donor shall then be considered as having made the transfer to charity and the third party at the same time, so that a gift tax would be imposed on the interest transferred to charity.

TITLE VII—STATE AND LOCAL OBLIGATIONS

Section 701—Repeal of exemption for interest on new issues of State and local bonds

This section of the bill provides that interest on State and local bonds issued after December 31, 1975, will not be exempt from Federal income taxation. In the case of interest on State and local obligations issued before January 1, 1976, such interest will continue to be exempt from taxation, but section 501 of the bill provides that such interest will be treated as an item of tax preference for purposes of the minimum tax.

Section 702—United States to pay 40 percent of interest yield on State and local obligations

This section provides that the Federal Government will pay 40 percent of the interest yield on State and local obligations issued after December 31, 1975. A similar provision was in the Tax Reform Act of 1969 as it passed the House. The payment of interest by the Federal Government will not apply in the case of any industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code). This section provides that upon the request of the State or local government, the liability of the United States to pay interest to the holders of the bond shall be handled through the assumption by the United States to pay a separate set of interest coupons issued with the bond. Otherwise, the obligation of the United States to pay 40% of the interest yield will be made directly to the issuer of the obligation.

TITLE VIII—WITHHOLDING OF INCOME TAX ON DIVIDENDS AND INTEREST

Section 801—Withholding of income tax at source on dividends and interest

Income taxes are now deducted and withheld on payments of wages and salaries but not on dividends or interest. In 1962, the Ways and Means Committee decided, as a matter of fairness, that recipients of dividends and interest should pay their taxes no less than those who receive wage and salary income and the tax should be paid just as promptly. The Revenue Bill of 1962, as passed by the House, provided for the withholding of tax on dividends and interest, and this section of H.R. 1040 contains provisions substantially identical to the withholding provisions in the 1962 bill. In 1962, the committee estimated that such withholding of tax would increase annual tax collections by about $650 million. With the great increase since then in the amount of dividend and interest payments, it is believed that the withholding of tax on such income would now increase revenues more than $1 billion annually.

TABLE 1.—FEDERAL INDIVIDUAL INCOME TAX BURDEN IN 1973 UNDER PRESENT LAW AND UNDER A PROPOSAL TO SUBSTITUTE A 24-PERCENT TAX CREDIT FOR THE $750 PERSONAL EXEMPTION AND FOR NONBUSINESS DEDUCTIONS [1]—SINGLE PERSON

Adjusted gross income [2]	Income tax	
	Under present law	Under the proposal
Assuming nonbusiness deductions of 10 percent of income:		
$2,050 [3]	0	0
$2,500	$63	0
$2,958 [4]	131	0
$3,000	138	$8
$3,500	217	103
$4,000	302	198
$5,000	491	408
$7,500	995	978
$8,038 [5]	1,107	1,107
$10,000	1,530	1,550
$12,500	2,059	2,145
$15,000	2,703	2,860
$17,500	3,443	3,680
$20,000	4,255	4,570
$25,000	5,895	6,410
$30,000	7 703	8,490
$40,000	11,915	13,250
$50,000	16,415	18,810
Assuming nonbusiness deductions of 18 percent of income:		
$2,050 [3]	0	0
$2,500	63	0
$2,958 [4]	131	0
$3,000	138	8
$3,500	217	103
$4,000	302	198
$5,000	491	408
$7,500	984	966
$8,165 [5]	1,098	1,098
$10,000	1,458	1,478
$12,500	1,965	2,055
$15,000	2,509	2,692
$17,500	3,094	3,404
$20,000	3,722	4,186
$25,000	5,140	5,930
$30,000	6,730	7,914
$40,000	10,315	12,482
$50,000	14,415	17,850

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[1] These burdens have been computed without use of the optional tax table.

[2] Wages and salaries.

[3] Highest level at which there is no tax under present law.

[4] Highest level at which there is no tax under the proposal.

[5] Level at which tax is the same under present law and under the proposal.

TABLE 2.—FEDERAL INDIVIDUAL INCOME TAX BURDEN IN 1973 UNDER PRESENT LAW AND UNDER A PROPOSAL TO SUBSTITUTE A 24-PERCENT TAX CREDIT FOR THE $750 PERSONAL EXEMPTION AND FOR NONBUSINESS DEDUCTIONS [1]—MARRIED COUPLE WITH NO DEPENDENTS

Adjusted gross income [1]	Income tax	
	Under present law	Under the proposal
Assuming nonbusiness deduction of 10 percent of income:		
$2,800 [3]	0	0
$3,000	$28	0
$3,500	98	0
$4,000	170	0
$4,274 [4]	211	0
$5,000	322	$138
$7,500	753	613
$10,000	1,190	1,100
$12,500	1,528	1,575
$14,333 [5]	2,003	1,003
$15,000	2,150	2,170
$17,500	2,760	2,840
$20,000	3,400	3,540
$25,000	4,700	5,060
$30,000	6,200	6,800
$40,000	9,710	10,820
$50 000	13,820	15,500
Assuming nonbusiness deductions of 18 percent of income:		
$2,800 [3]	0	0
$3,000	28	0
$3,500	98	0
$4,000	170	0
$4,274 [4]	211	0
$5,000	322	138
$7,500	744	601
$10,000	1,133	1,028
$12,500	1,545	1,485
$14,773 [5]	1,955	1,955
$15,000	1,996	2,002
$17,500	2,473	2,564
$20,000	2,985	3,156
$25,000	4,100	4,580
$30,000	5,372	6,224
$40,000	8,387	10,052
$50,000	11,915	14,[illegible]40

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[1] These burdens have been computed without use of the optional tax table

[2] Wages and salaries.

[3] Highest level at which there is no tax under present law

[4] High level at which there is no tax under the proposal.

[5] Level at which tax is the same under present law and under the proposal.

TABLE 3.—FEDERAL INDIVIDUAL INCOME TAX BURDEN IN 1973 UNDER PRESENT LAW AND UNDER A PROPOSAL TO SUBSTITUTE A 24-PERCENT TAX CREDIT FOR THE $750 PERSONAL EXEMPTION AND FOR NONBUSINESS DEDUCTIONS [1]—MARRIED COUPLE WITH 2 DEPENDENTS

Adjusted gross income [2]	Income tax	
	Under present law	Under the proposal
Assuming nonbusiness deductions of 10 percent of income:		
$4,300 [3]	0	0
$5,000	$98	0
$6,168 [4]	270	0
$7,500	484	$253
$10,000	905	740
$12,500	1,309	1,215
$15,000	1,820	1,810
$15,333 [5]	1,893	1,893
$17,500	2,385	2,480
$20,000	3,010	3,180
$25,000	4,240	4,700
$30,000	5,660	6,440
$40,000	9,080	10,460
$50,000	13,100	15,140
Assuming nonbusiness deductions of 18 percent of income:		
$4,300 [3]	0	0
$5,000	98	0
$6,168 [4]	270	0
$7,500	476	241
$10,000	848	668
$12,500	1,238	1,125
$15,000	1,666	1,642
$15,909 [5]	1,830	1,830
$17,500	2,117	2,204
$20,000	2,610	2,796
$25,000	3,680	4,220
$30,000	4,892	5,864
$40,000	7,802	9,692
$50,000	11,240	14,180

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[1] These burdens have been computed without use of the optional tax table.

[2] Wages and salaries.

[3] Highest level at which there is no tax under present law.

[4] Highest level at which there is no tax under the proposal.

[5] Level at which tax is the same under present law and under the proposal.

TABLE 4.—FEDERAL INDIVIDUAL INCOME TAX BURDEN IN 1973 UNDER PRESENT LAW AND UNDER A PROPOSAL TO SUBSTITUTE A 24-PERCENT TAX CREDIT FOR THE $750 PERSONAL EXEMPTION AND FOR NONBUSINESS DEDUCTIONS [1]—MARRIED COUPLE WITH 4 DEPENDENTS

Adjusted gross income [2]	Income tax	
	Under present law	Under the proposal
Assuming nonbusiness deductions of 10 percent of income:		
$5,800 [3]	0	0
$7,500	$245	0
$8,055 [4]	331	0
$10,000	620	$380
$12,500	1,024	855
$15,000	1,490	1,450
$16,167 [5]	1,747	1,747
$17,500	2,040	2,120
$20,000	2,635	2,820
$25,000	3,820	4,340
$30,000	5,180	6,080
$40,000	8,465	10,100
$50,000	12,380	14,780
Assuming nonbusiness deductions of 18 percent of income:		
$5,800 [3]	0	0
$7,500	238	0
$8,258 [4]	334	0
$10,000	569	308
$12,500	953	765
$15,000	1,342	1,282
$16,489 [5]	1,605	1,605
$17,500	1,787	1,844
$20,000	2,238	2,436
$25,000	3,260	3,860
$30,000	4,412	5,504
$40,000	7,217	9,332
$50,000	10,565	13,820

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[1] These burdens have been computed without use of the optional tax table.

[2] Wages and salaries.

[3] Highest level at which there is no tax under present law.

[4] Highest level at which there is no tax under the proposal.

[5] Level at which tax is the same under present law and under the proposal.

THE HEALTH SECURITY ACT OF 1975 (H.R. 21)

(Mr. CORMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CORMAN. Mr. Speaker, the Health Security Act of 1975 that I am introducing today, along with 56 Members of the House of Representatives, represents more than 4 years of intensive study, development, and refinement by the Committee for National Health Insurance. This committee consists of 100 American leaders from many fields, including citizen and church groups, labor and consumer organizations, health professionals and political leaders.

House cosponsors of the Health Security Act of 1975 include at the present time: Mr. GREEN, Mr. HELSTOSKI, Mr. RANGEL, Mr. STARK, Mr. MIKVA, Ms. ABZUG, Mr. ADDABBO, Mr. ANDERSON of California, Mr. ANNUNZIO, Mr. ASHLEY, Mr. BADILLO, Mr. BINGHAM, Mr. BOLLING, Mr. BROWN of California, Mr. CARNEY, Mrs. CHISHOLM, Mr. CLAY, Mr. CONYERS, Mr. DANIELS of New Jersey, Mr. DIGGS, Mr. DRINAN, Mr. ECKHARDT, Mr. EDWARDS of California, Mr. EILBERG, Mr. FAUNTROY, Mr. FORD of Michigan, Mr. FRASER, Mr. HARRINGTON, Mr. HAWKINS, Mr. HECHLER of West Virginia, Ms. HOLTZMAN, Mr. HOWARD, Mr. KOCH, Mr. LEHMAN, Mr. MCCORMACK, Mr. MCFALL, Mr. MACDONALD, Mr. MADDEN, Mr. MEEDS, Mr. MOAKLEY, Mr. MOSS, Mr. MURPHY of New YORK, Mr. NEDZI, Mr. NIX, Mr. OBERSTAR, Mr. PEPPER, Mr. RODINO, Mr. ROSENTHAL, Mr. ROYBAL, Mr. ST GERMAIN, Mr. SEIBERLING, Mr. STOKES, Mr. STUDDS, Mr.

THOMPSON, Mr. UDALL, and Mr. VAN DEERLIN.

This legislation, and the national health insurance program it proposes, reflects two fundamental beliefs and objectives: First, every American should be assured access to comprehensive health care—financial and residential barriers to complete medical needs must be eliminated; and, second, along with eliminating financial and residential barriers to needed health care, a national health insurance program must introduce improvements in the organization, delivery and general quality of health care.

The health security program that this legislation would establish is needed not because we, as families or a nation, need to spend more money than we are already spending to obtain needed health and medical care. We are already spending more per capita and using more of our Nation's resources for health purposes than any other nation in the world. We do not need to spend more—but we desperately need to spend the Nation's and each family's health care dollars more effectively and less wastefully.

In fiscal year 1974, for example, total health costs in the United States were $104 billion, an increase of 10 percent over fiscal year 1973. This was during a period of price controls. Following the lifting of controls on April 30, 1974, health cost inflation accelerated to an annual rate of 18 percent, much faster even than the general inflation.

During the previous 5 years, total health costs for the country increased an average of 12.8 percent a year. The total cost increase during the past 8 years was over $56.1 billion—from $47.9 billion in fiscal year 1967 to $104 billion in fiscal year 1974. Thus, the Nation's total health bill jumped well over 100 percent in 8 years.

We simply can no longer afford the existing methods of getting and paying for health care. Soaring medical costs have outstripped the general economic growth rate and surpassed increases in wages. National health insurance is an issue today because of the rapid and uncontrollable increases in medical costs under the existing arrangements.

Over the long run, by revitalizing the existing health care system and ending the runaway costs of health care, the health security program would be far less expensive than the amount we would spend if the present arrangements were to continue.

Despite the fact that we spend more than any other nation on health care, millions of American families cannot afford or do not have access to needed medical treatment.

After 30 years of trying, private health insurance has failed to come even close to meeting the Nation's need for health protection. At the present time, private insurance pays no more than one-third of the Nation's total health costs. About 40 million Americans have no health insurance. In the next few months they will be joined by additional millions of unemployed workers who will lose their private insurance coverage as a result of recent job layoffs. In other words, because of current economic conditions, millions of families will lose the health protection that was contingent upon their employment. Under health security they would be assured that their health needs would continue to be met, even during times of unemployment, and without a demeaning means test or other conditions.

Thirty years of experience has provided clear indication that a system of private health insurance will not provide universal coverage and cannot effectively contain or direct health expenditures. If the private health insurance industry gave any indication that it could work, or that it could provide an efficient health system assuring all citizens equal access to comprehensive medical care, we would not be discussing national health insurance at the present time.

Despite medicare, medicaid, and other governmental attempts in recent years to help people finance needed medical care, many of the elderly, disabled, and poor in this country are still forced to go without needed medical treatment. Low-income Americans—especially if they are from minority groups—receive less medical care, are less likely to have health insurance coverage, and are generally less healthy than middle- and high-income Americans.

The existing mix of private insurance and Government programs maintains large gaps, in terms of people and medical services covered. The result has produced intolerable inequities in the availability, cost, and quality of health care. National health insurance will be a dismal failure if it does not remove these inequities. A primary objective of health security is to make available to the elderly and poor the same quality of health care that is available to any other American.

Existing private and Government programs provide financial incentives for people to use the most expensive components of our health system, such as hospitalization, while failing to encourage less expensive and more desirable forms of preventive medicine and outpatient care.

There are unnecessary inefficiencies, waste and administrative costs and complexities in the fragmented, disorganized, and inadequately regulated combination of private insurance and Government programs.

The fragmentation of the current system defies attempts to control runaway inflation in health costs or regulate the quality of medical care provided.

Dozens of different health insurance programs have been developed to deal with some or all of these programs. The most prominent of these proposals would guarantee increased profits for all segments of the health care industry, and guarantee a continuation of double-digit inflation in health care costs. They would retain the complexities, inefficiencies, potential for abuse, and undesirable incentives that exist under current private and governmental programs. They would not guarantee that needed health care would be available and obtainable for everyone.

The Health Security Act is the only proposal that would establish a broad system of health care financed and administered by the social security system. The aim of the program is to improve and protect the health of all Americans, while maintaining health expenditures within reasonable limits. A central objective of health security is to stop the rampant inflation in health costs we have experienced in recent years.

National health insurance is needed because many families presently cannot afford or obtain needed health care. Initially, as these families gain access to needed care under health security, some increase in the Nation's total health expenditures can be expected. The increase, however, would not be substantial. The American people would spend approximately the same amount of money, in terms of total dollars spent for health and medical care under health security as they are now spending. Total health costs would be distributed through an equitable and proven national insurance system of shared health costs administered by the Social Security Administration. The health costs of each family under health security would be predictable from year to year. All individuals would be assured access to needed care and would pay for complete medical treatment when they are well and working before illness strikes.

Health security is the only health program that, in the long run, would provide realistic mechanisms for effectively containing and directing the Nation's health expenditures. Through a long-range process that requires hospitals and physicians to set their prices in advance and then stick to them, the Nation's health costs would be effectively regulated and could be directed to meet our changing health needs. By encouraging prepaid health programs, or health maintenance organizations, preventive medical care, early diagnosis and office or outpatient treatment—where possible—it would substantially improve the quality and reduce the cost of the present health delivery system.

In contrast, a program limited to catastrophic coverage would benefit only a few families. It would not reduce existing medical expenses for most families. It would encourage continued inflation in health costs by maintaining the undesirable emphasis on expensive surgery, hospitalization, and crisis intervention. It would not reorient the health system toward less expensive and more effective forms of preventive medicine and health protection.

It has been argued that a system that does not impose deductibles and coinsurance, requiring individuals to pay first-dollar cost out-of-pocket at the time they seek medical care, will result in high rates of unnecessary use of health resources. There is no evidence that this would happen, and in Canada the evidence is to the contrary. Slight increases in utilization occurred under Canada's health system when deductibles were removed, but these soon leveled off. Canada's experience clearly demonstrates that the paper work and costs of administering deductibles results in more waste than savings.

In order to keep deductibles and coinsurance from preventing low-income families from seeking needed medical care, it would be necessary to establish and administer an incomes test. A system of deductibles and coinsurance, plus a means test for low-income families, would result in mind boggling administrative and account-keeping procedures. Somewhere, someone would have to keep an account for every covered individual and family, in order to keep track of the families' yearly income and deductible and coinsurance payments. This would increase the administrative cost of a national health program from $2 to $3 billion annually.

Under health security, because all Americans would be covered for comprehensive health needs, administration would be simplified and efficient. Doctors and hospitals would not have to waste time and money trying to determine and keep track of who is and who is not covered. There would be no deductibles and coinsurance to keep track of, and no $2 to $3 billion demeaning means test to administer. And, doctors would not be allowed to charge the patient more than the reimbursable amount for any covered service.

Health security would not change the basic relationship between the doctor and patient. Care would be provided by physicians, hospitals, and other private providers in much the same way it is done today. What would change is that every family would have the security of knowing that their basic and catastrophic health needs would be met, regardless of the general economic situation or their specific financial and employment circumstances. Patients would continue to be able to go to the doctor of their choice, but all doctors and other providers would be encouraged to emphasize preventive care, or to shift their focus from treating people who are sick, to keeping people well and out of the hospital.

The intent of health security is to make use of all qualified health providers. It would actively encourage more efficient organization of existing health manpower, provide funds for special training of needed physicians, dentists, and other health personnel, and apply financial incentives to stimulate the movement of health manpower to medically deprived areas.

American families want a health system under which they are assured that all their health needs will be met, and where the emphasis is on keeping them well and out of the hospital. They want a system that provides more convenient access to high quality medical treatment. They want to know how much they will spend for their health needs each year, to be assured that they will not be bankrupted by an unexpected serious illness, and to receive a higher return on their health care dollars. They want a health system that protects their freedom to choose their own doctor or other health provider, and which allows them substantial influence in deciding how the Nation's health resources will be used.

The 94th Congress has the opportunity, and I believe the mandate, to enact such a program. I am introducing the Health Security Act on the first day of this new Congress so there will be ample time for us to consider carefully the provisions of this bill in relation to the health needs and concerns of the American public.

I hope the Health Subcommittee of the Ways and Means Committee will begin immediately to consider the issue of national health insurance. I stand ready to work with any and all interested individuals and groups toward the establishment of a universal and comprehensive health program that meets the needs of the American public.

HEALTH SECURITY 1975 (H.R. 21): SUMMARY OF CHANGES FROM THE 1974 HEALTH SECURITY PROPOSAL

The Health Security Act of 1975 (H.R. 21) contains the following improvements in health security bills introduced in previous years:

Grants would be given to local nonprofit agencies to develop and provide social care services to benefit the aged and chronically ill. The Health Security Board which would administer the program is directed to make grants as rapidly as it is satisfied that applicants can provide the services and assure some measure of non-Federal financing.

Ceiling on payroll and individual taxes would be raised from $15,000 to $20,000.

Catastrophic protection would specifically be recognized in the preamble.

Optometrists and podiatrists would be recognized as "physicians" when functioning within board regulations, and they could write prescriptions if permitted by State Law.

Free-standing alcohol, drug abuse, family planning, and rehabilitation centers would be recognized as providers.

An amendment on employment rights in health care institutions would be incorporated.

Otherwise, the health security bill which has been before the Congress since mid-1970 would remain essentially unchanged.

HEALTH SECURITY IN BRIEF

Eligibility: Everyone living in the United States would be eligible for health security benefits.

Benefits: The health security program would pay for nearly the entire range of personal health care services including catastrophic coverage. The covered services would include full physicians' services; inpatient and outpatient hospital services; home health services; optometry and podiatry services, and devices and appliances. It would also cover, at the outset, dental care for children up to age 15 and eventually cover the entire population. And, with limitations, psychiatric services, nursing home care and drugs would be covered. It would establish large pilot projects to determine the feasibility of home maintenance care for the chronically ill or disabled.

Administration: Health security would be administered by a five-member Health Security Board as part of the Department of Health, Education, and Welfare. The Board would establish policy, standards, and regulations for the program.

Financing: The program would be financed from a health security trust fund created by a special tax on employers, employees, and the self-employed, with the entire amount matched by Federal general revenues.

Cost and quality controls: Health security would establish a Quality Control Commission to develop cost control features, including national standards for health care providers.

Payments to providers: Physicians, dentists, hospitals, nursing homes, and other health care providers would be paid in full directly from the Health Security Trust Fund. The patient could not be charged more.

Consumer participation: Health security would assure effective participation of consumers in policy, development and administration of the program on the national, State, and local levels. It would encourage consumer organizations to establish health care plans. Procedures would be built into the entire system to assure public accountability for its operation.

Manpower support: Health security would actively encourage more efficient organization of existing health manpower and provide funds for special training of health professionals and allied personnel.

Resources development fund: To improve the providing of health care, a resources development fund would be established to support innovative health programs, particularly in manpower, education, training, and group practice development.

Incentives: Financial, professional, and other incentives would be built into health security to move the health care delivery system toward organized arrangements for patient care, such as health maintenance organizations and other prepaid group practice plans or professional foundations. It would also establish programs for preventive care, early diagnosis of illness, and medical rehabilitation.

HEALTH SECURITY: DETAILED DESCRIPTION

BENEFITS

Everyone living in the United States would be entitled to have all health care—with few exceptions—paid for by the Health Security Program.

The program would have no exclusions for pre-existing conditions; no limits on preventive medical services; no coinsurance; no deductibles; no waiting periods.

Here are the details of the services which would be available:

Physicians' services: Professional services by physicians, furnished in their offices or elsewhere, would be covered in full. This includes general medical and specialized services.

All major surgery and other specialized care would be covered if performed by qualified specialists.

Psychiatric services would be provided to outpatients if given for active treatment of emotional or mental disorders and if provided by comprehensive mental health organizations. Otherwise, there would be a limit of 20 consultations by a psychiatrist during a benefit period.

Dental services: At the start, health security dental benefits would be limited primarily to children up to age 15, with the coverage including preventive, diagnostic and therapeutic services.

Adults would be entitled initially to certain emergency and rehabilitative services, such as oral surgery to correct accident damage.

The age of eligibility for full dental care would be extended to persons up to age 25 during the first 5 years of the program's operation and the younger people would remain eligible throughout their lives. The increase of coverage could be accelerated if the Health Security Board believes it is feasible.

Institutional services: Health security would provide full payment for hospital services; skilled nursing home care up to 120 days per benefit period or for an unlimited time if the home is owned or managed by a hospital; other approved noncustodial health services; and, home health services.

The program would also include pathology and radiology services and all other necessary services whether furnished by a hospital or other institution or by others under arrangements with such institutions.

The program would also include recognition as providers of authorized free-standing alcohol, drug abuse, family planning and rehabilitation centers.

Drugs: Health security would cover drugs for hospital inpatients and outpatients and for persons enrolled in comprehensive group practice plans and professional foundations as long as the drugs were from an approved list.

For others, drugs would be covered if they were necessary for specified chronic diseases and conditions requiring long or costly drug therapy.

The purpose of the approved drug list—and regular reviews of the list—would be to assure the safety, effectiveness and reasonable cost of the prescribed drugs.

Devices, appliances and equipment: Health security would provide coverage of therapeutic devices, appliances—including eyeglasses, hearing aids and prosthetic devices—and equipment. An approved list of covered items would be prepared and reviewed regularly.

Other professional and supporting services—health security would cover:

First. Professional services of optometrists and podiatrists;

Second. Diagnostic services of independent pathology laboratories;

Third. Diagnostic and therapeutic services of independent radiologists;

Fourth. Mental health day-care services furnished by a health maintenance organization or comprehensive community health center, or 60 days of care furnished, during or following a benefit period, by a hospital or a center affiliated with a hospital;

Fifth. Ambulance services;

Sixth. Other professional services such as psychological counseling, physiotherapy, nutrition, social work and home care or health education when furnished as part of institutional services or through health maintenance organizations;

Seven. Diagnostic and therapeutic services of free-standing alcohol, drug abuse, family planning and rehabilitation centers.

Social care services: Grants would be provided to local nonprofit organizations to develop social care services to aid chronically ill, aged and other homebound patients. Under this section, while some measure of local financing is developed, health security would cover homemaker services, transportation and other social care services as a demonstration of the usefulness of such benefits in reducing unnecessary long-term institutional care.

ADMINISTRATION

Health security would be administered at four levels—national, regional, area and local—with some important functions carried out by States.

National: Overall health security policy and regulation would be established and carried out by a five-member, full-time Health Security Board appointed by the President and under the supervision and direction of the Secretary of Health, Education, and Welfare.

The members normally would be appointed for 5-year terms, with one member serving as chairman and with no more than three members from the same political party. The program would be administered through an Executive Director appointed by the Board.

To assist the Board in carrying out its functions and to advise and recommend various changes or actions, a 21-member National Health Security Advisory Council would be established. A majority of the membership of the Council would be consumers of health services. The Council would be authorized to appoint professional and technical committees to help carry out its functions.

The Secretary, Board and Executive Director would all work to assure effective coordination of health security with existing HEW programs—and with programs in the regions and States—for the development of health facilities and manpower resources, medical research and public and community health services.

The Health Security Board would control expenditures from the health security trust fund, establish national benefit patterns, set standards of participation and develop policy guidelines. The Board would also have the responsibility to assure effective consumer participation and public accountability at all levels.

The Board would also have responsibility for studying systems of paying for services and for planning new developments and improvements for health services.

A Commission on Quality of Health Care would be established and charged with assuring and developing standards for care of high quality.

Regional and health service areas: At the second and third level of administration for the health security program, 10 regional health security offices would be established within the regions of the Department of Health, Education, and Welfare and approximately 100 health service areas would be established paralleling the natural medical delivery patterns in the United States.

The health service areas normally would consist of a State or part of a State. Interstate areas would be established where the Board found that patterns of health service organization and patient flow made an interstate area a more practical unit of administration.

Local: As the fourth level of adminministration, the Health Security Board would establish in each health service area a local Health Security office and any necessary branch offices.

These offices would assist health service consumers and providers and serve an ombudsman function by investigating complaints concerning administration of the program. They would also have informational and other administrative functions.

States. States would participate in health security in a number of ways. They would participate in planning, training, coordination for quality controls and manpower increases, health education, utilization review and the inspection of providers.

The Health Security Board would establish appropriate payment arrangements with the States for the services.

To improve the supply and distribution of health personnel and facilities and the organization of health services, the Board would work with State comprehensive health planning agencies and with regional medical programs.

Existing programs affected: A number of major Federal health programs would be superseded in whole or in part by Health Security.

Medicare: Everyone 65 or over, along with the rest of the population, would be entitled to health security coverage. Because the benefits of health security would be broader than those offered under medicare, the medicare program would be terminated.

Medicaid: Most of the benefits of state medicaid programs would be available under health security. Such benefits would be deleted from medicaid, leaving it as a supplementary program to health security. States would claim partial reimbursement for medicaid services they provided which exceeded those available under health security. This would include long-term nursing home care, drugs for certain purposes, and adult dental care. Providing these services would be at the option of the individual States.

CHAMPUS: Under the civilian health and medical program of the Uniformed Services, the Defense Department reimburses civilian hospitals and private doctors for the health services of servicemen, their dependents, and retirees. Most of CHAMPUS benefits would be available under health security; CHAMPUS would provide only those benefits not covered by health security.

The Department of Defense program for care in military hospitals of servicemen, their dependents, and retirees, would continue unaffected by health security.

Workmen's compensation: Because separation of the health service benefits of workmen's compensation programs

from cash payments would unduly complicate the eligibility determination process, workmen's compensation would continue unaffected by health security.

Other programs: Maternal and child health programs, crippled children programs, Office of Economic Opportunity health programs and medical vocational rehabilitation provide a range of various services to specific groups. In addition to a personal health service component, each program covers other types of health and community service, such as research and vocational training.

Personal health services provided by these programs would be transferred to health security, while all other benefit features would remain with the existing program.

Future plans: In order to broaden the scope and benefits of health security to remove its initial limitations, the program would undertake various studies, including long-term care, coordination of Veterans' Administration health care programs with health security, and the provision of health security benefits to U.S. citizens in other countries.

FINANCING

The financing of health security would be through a health security trust fund, similar to the Social Security Trust Fund.

Fifty percent of the money would come from:

First. A 3.5 percent tax on employer payroll.

Second. A 1 percent tax on the first $20,000 a year in wages and nonearned income.

Third. A 2.5 percent tax on the first $20,000 a year of self-employment income.

The remaining 50 percent would come from Federal general revenues.

If an employer's existing obligations for the purchase of health benefits for his employees are greater than 3.5 percent of payroll, the excess would be applied toward the 1 percent which would otherwise be withheld from an employee's wages.

The first $3,000 income for persons over 60 would be exempt from health security tax.

The total of these taxes and the Government matching funds would be the total available to pay for personal health services in each fiscal year.

After setting aside contingency reserves and money for the development of additional health resources, the remaining money would be divided among the ten regions of the country. This would be done with regard for recent and current use and expenditure patterns for services covered by the program.

Initially, the Health Security Board would look to the latest expenditure figures available before the program starts, making appropriate adjustments among the regions for figures higher or lower than the average. After that, the allocation among regions would be guided by actual expenditures and estimates of what was needed to meet the program's obligations and objectives.

The Board would budget funds for each of the HEW regions in each category of covered service from the total sum allocated to the region. There would be authority for each region to determine its own needs and priorities in support of services.

Operation of the health security trust fund would be taken out of the consolidated budget, except for Government contributions to the trust funds.

COST AND QUALITY CONTROLS

The central cost control feature of the health security program is that the health care system would be anchored to a budget established in advance.

The program's main quality control feature would be the establishment of national standards for participation both for individual and institutional providers.

To develop and enforce such standards, a Commission on the Quality of Health Care would be established. It would be a quasi-independent board reporting to the Health Security Board, but with authority to appeal to the Secretary of Health, Education, and Welfare if it believes the Board has failed to implement or enforce effective quality standards.

Here are the details:

Budgeting: The health security program would establish an advance budgeting procedure for the costs of personal health services.

Each year an advance determination would be made of the total amount to be spent in the various regions on physicians' services, institutional services and other categories of service provided in local communities.

The cost of each kind of service and the overall cost of the program would be allowed to increase only on a controlled and predictable basis.

The program would use the budgetary process not merely to control costs, but also to strengthen local, State, and regional planning, stimulate more efficient institutional administration; and gradually reverse the current undesirable emphasis on inpatient hospital and other institutional services. This would be done by stressing preventive and early curative services and by making alternative levels and forms of care available outside of institutions.

In approving budgets for institutions, the program would consider recommendations and decisions of State and other health planning authorities, administrative efficiency of the institution, scope of care provided and the need to achieve an equitable distribution of resources throughout the region and country.

Wasteful duplication of services and facilities would be gradually eliminated by withdrawal of funding. Institutional budgets would be increased to allow for the provision of services needed for a balanced development of regional resources.

National standards — The national standards for provider participation would be designed to upgrade the quality of care, encourage appropriate use of health manpower and promote orderly planning of facilities.

Physicians, dentists, osteopaths, optometrists and podiatrists licensed to practice in a State when the program begins would be eligible to take part in the program as long as they meet continuing education requirements.

The Health Security Board would be authorized to establish national standards for professional personnel licensed after the program begins and to set requirements for their continuing education.

Hospitals, skilled nursing homes, home health agencies, specified free-standing centers, medical or dental foundations and health maintenance organizations would be eligible to participate if they met national standards established by the Board.

Federal law would supersede State statutes which restrict the development of group practice programs.

Institutions would be required to establish working relationships with other providers of care so that a patient would have continued and appropriate treatment. Institutions which refused to comply with local and regional plans required by the Board would not be eligible to participate in the program.

PAYMENTS TO PROVIDERS

Hospitals, skilled nursing homes, and other types of institutional providers would operate on an approved budget basis rather than being able to charge whatever they decided.

Using the precious year's fiscal experience and taking into account standards of participation, range of desirable services and quality controls required by health security, the institutions would develop proposed budgets for the next fiscal year. They would be assisted by the regional and local offices of health security in preparation of their budget requests. The budgets would be reviewed and given final approval at the regional office level.

Money allocated for payment of individuals, such as physicians, dentists, podiatrists, and so forth, would be distributed to local areas within the region. This would be done on a per capita basis with adjustments for differences in the cost of goods and services. The budgeted per capita amount for each type of covered service would be divided between the categories of providers according to the number of individuals who elected to receive care from those providers.

For example: In a city of 100,000 people, 25,000 may be enrolled in health maintenance organizations. If the amount budgeted for physicians services in that area is $65 per capita, the Board would pay the HMO's $1,625,000—$65 times 25,000—for physicians services. Since the other 75,000 individuals elected to receive care from solo, fee-for-service practitioners, the Board would create a fund of $4,875,000—$65 times 75,000—to pay all fee-for-service bills submitted by physicians in the community.

Other independent providers, such as pathology laboratories, radiology services, pharmacies and providers of appliances, would be paid through methods adapted to their characteristics.

Under health security, providers would have to agree not to charge individuals for all or part of any service provided. Payment in full would be made directly by the program to the provider or to the agency representing him. There would be no billing of the patient or indemnity payment to him.

Health maintenance organizations and

professional foundations accepting responsibility for providing or securing all covered services for a defined population would receive the total amount budgeted and negotiated as payment. They would share also in the savings they helped to achieve by preventing unnecessary hospitalization of their enrollees.

CONSUMER PARTICIPATION

Health security would rely heavily on the development of new, comprehensive care organizations such as health maintenance organization—HMO's—and other forms of prepaid group practice plans to improve consumer opportunities for better health care and provide alternatives for better patient care.

Such organizations will be required to provide or arrange for all covered services except mental and dental services. Professional foundations would be required to provide the same range of services as HMO's and to meet the same strict quality standards.

The manner in which services would be paid for recognizes the added value of the comprehensive care programs as more efficient and higher quality to, and satisfaction of, the consumer.

Consumer organizations would be encouraged to give health care a higher priority in their overall activities and to sponsor and develop comprehensive community-wide health care organizations. Along with health maintenance organizations to be developed by hospitals, physican groups, and combinations of professionals, the programs developed by consumer-sponsored organizations would be supported and recognized by health security.

The Health Security Board would assure effective participation by consumers at all levels of policy formulation and program development. There would be a majority of consumer representatives on the National Advisory Council assisting the Board in its continuing administration of the program, and on regional and local advisory councils. The makeup of the councils would have to reflect the composition of the State or community served. There would be public control of the basic policies governing the program and full public accountability for its finances and operations.

MANPOWER SUPPORT

Health Security would actively encourage more efficient organization of existing health manpower, provide funds for special training of physicians, dentists, and other health personnel, and apply financial incentives to stimulate the movement of health manpower to medically deprived areas.

Health Security would recognize costs incurred by HMO's in supporting the training and appropriate utilization of allied health professionals. It would pay the full cost of employing support personnel, such as nurse practitioners, public health nurses, nutritionists, and community health workers, thus extending the ability of physicians to provide care and giving the consumer access to a wider range of services.

Training funds could be used for the retraining of health workers to enhance or refresh skills or for new positions of greater responsibility.

Money would be available through the resources development fund to stimulate the expansion of training programs for new categories of health professionals, especially those required as members of primary health care teams—such as pediatric nurse practitioners, physicians' assistants, and dental hygienists. Emphasis would be placed upon demonstration programs for the training and placement of allied health workers, and support would be available to institutions for the special costs of educating and training minority group and economically deprived students.

The assured purchasing power of a national health program would help to overcome many of the present barriers to recruiting and holding needed health workers in disadvantaged and remote areas. Substantial efforts would be made to enhance the desirability of practice in such areas by improving local resources and providing money for special communication, transportation, and consultation costs.

In addition, special incentives would be used to increase the attractiveness of practice in rural or deprived areas for health workers and their families. There would be financial disincentives for the disproprionate clustering of physicians and dentists in a few metropolitan or suburban areas and corresponding incentives for their location in other areas.

RESOURCES DEVELOPMENT FUND

A substantial resources development fund—administered by the health security board—would help to increase the resources for services and to bring new organized programs of health service into being and to expand existing ones.

The resources development fund would be formed, first, by appropriations from Federal general revenue for the period between enactment and when benefits began, so that system improvements could get underway promptly; and, subsequently, by taking a percentage of the annual income of the trust fund—2 percent the first year, increasing in regular intervals to a maximum of 5 percent a year.

A priority would be given in grants and loans to stimulate the development and growth of health maintenance organizations. Essentially, the fund would recognize the responsibility of health security to assure the availability of covered health services, and not merely to pay for them. And, it would have concern for the development of services to meet the changing needs of people in the most effective and efficient manner, not merely to build on already overburdened and often wastefully expensive services.

INCENTIVES

Payment for services provided under health security would give special incentives to health maintenance organizations, and medical and dental foundations.

Physicians who became members of primary health care teams and established working relationships with specialists and with such patient-care resources as hospitals, skilled nursing homes, and home health facilities, would be reimbursed for the costs of such linkages and would be encouraged to extend their services through such support arrangements.

Health security would provide support for continuing studies and demonstrations of new and promising methods of organizing health services.

I include the following:

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H.R. 21

A bill to create a national system of health security

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Health Security Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the health of the Nation's people is the foundation of their well-being and of our Nation's strength, productivity, and wealth;

(2) adequate health care for all of our people must now be recognized as a right; and

(3) a national system of health security is the means to implement that right.

(b) The purpose of this Act is—

(1) to create a national system of health security benefits which, through national health insurance will make comprehensive health services available to all residents of the United States, will distribute the cost of health care more equitably in relation to income, and will provide major protection against catastrophic costs, and

(2) through the operation of the system, to effect modifications in the organization and methods of delivery of health services which will increase the availability and continuity of care, will enhance its quality, will emphasize the maintenance of health as well as the treatment of illness and, by improving the efficiency and the utilization of services and by strengthening professional and financial controls, will restrain the mounting costs of care while providing fair and reasonable compensation to those who furnish it.

INITIATION OF HEALTH SECURITY PROGRAM

SEC. 3. Health security taxes will become effective on January 1, and health services will become available on July 1, of the second calendar year after the year in which this Act is enacted. Except for the benefit and related fiscal provisions, title I of this Act is effective upon enactment. Certain federally financed or supported health programs will be terminated or curtailed when health benefits under this Act become available. Effective dates of the several provisions of this Act are set forth in sections 163, 204, 214, 221, 401 to 406 inclusive, and 409.

TABLE OF CONTENTS

Sec. 1. Short title
Sec. 2. Declaration of purpose
Sec. 3. Initiation of health security program

TITLE I—HEALTH SECURITY BENEFITS

PART A—ELIGIBILITY FOR BENEFITS

Sec. 11. Basic Eligibility
Sec. 12. Agreements for eligibility of other persons

PART B—NATURE AND SCOPE OF BENEFITS; COVERED SERVICES

Sec. 21. Entitlement to have payment made for services
Sec. 22. Physician services
Sec. 23. Dental services
Sec. 24. Institutional services
Sec. 25. Pharmaceutical benefits
Sec. 26. Devices, appliances, and equipment
Sec. 27. Other professional and supporting services
Sec. 28. Exclusions from covered services

PART C—PARTICIPATING PROVIDERS OF SERVICES

Sec. 41. In general, agreements with the Board
Sec. 42. Professional practitioners
Sec. 43. General hospitals
Sec. 44. Psychiatric hospitals
Sec. 45. Skilled nursing homes
Sec. 46. Home health service agencies
Sec. 47. Group practice organizations
Sec. 48. Individual practice associations
Sec. 49. Other health service organizations
Sec. 50. Other providers
Sec. 51. Utilization review
Sec. 52. Transfer and affiliation agreements
Sec. 53. Newly constructed facilities
Sec. 54. Limitation on malpractice judgments
Sec. 55. Exclusion: Federal providers of services
Sec. 56. Restrictive State laws inoperative

PART D—TRUST FUND; ALLOCATION OF FUNDS FOR SERVICES

Sec. 61. Health Security Trust Fund
Sec. 62. Annual determination of fund availability
Sec. 63. Health services account, health resources development account, administration account, and general services account
Sec. 64. Regional allocations from health services account
Sec. 65. Division of regional funds by classes of services
Sec. 66. Funds for health service areas
Sec. 67. Modification of fund allotments
Sec. 68. Initial actions under part D

PART E—PAYMENT TO PROVIDERS OF SERVICES

Sec. 81. In general
Sec. 82. Methods and amount of payment to professional practitioners
Sec. 83. Payment to general hospitals
Sec. 84. Payment to psychiatric hospitals

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*Technical Committee Members.

Sec. 85. Payment to skilled nursing homes and to home health service agencies
Sec. 86. Payment for drugs
Sec. 87. Payment to group practice organizations and individual practice associations
Sec. 88. Payment to other providers
Sec. 89. Reduction in payments on account of unnecessary capital expenditures
Sec. 90. Methods and time of payment

PART F—DEVELOPMENT FUND

SUBPART 1—PLANNING; FUNDS TO IMPROVE SERVICES AND TO ALLEVIATE SHORTAGES OF FACILITIES AND PERSONNEL

Sec. 101. Purpose of Subpart 1
Sec. 102. Planning by the Secretary
Sec. 103. General policies and priorities
Sec. 104. Organizations for the care of ambulatory patients
Sec. 105. Recruitment, education, and training of personnel
Sec. 106. Special improvement grants
Sec. 107. Loans under Part F
Sec. 108. Relation of Parts E and F

SUBPART 2—PROGRAMS OF PERSONAL CARE SERVICES

Sec. 111. Purpose of subpart 2
Sec. 112. Grants
Sec. 113. Scope of services and eligibility therefor
Sec. 114. Evaluation
Sec. 115. Recommendations to the Congress

SUBPART 3—AVAILABILITY OF FUNDS

Sec. 120. Authorization of appropriations; expenditures from Trust Fund

PART G—ADMINISTRATION

Sec. 121. Establishment of the Health Security Board
Sec. 122. Duties of the Secretary and the Board
Sec. 123. Executive Director; delegation of authority
Sec. 124. Regions and health service areas
Sec. 125. National Health Security Advisory Council
Sec. 126. Regional and local advisory councils
Sec. 127. Professional and technical advisory committees
Sec. 128. Participation by State agencies
Sec. 129. Technical assistance to skilled nursing homes and home health service agencies
Sec. 130. Dissemination of information; studies and evaluations; systems development; tests and demonstrations
Sec. 131. Guidelines for health manpower education and training
Sec. 132. Determinations; suspension or termination of participation
Sec. 133. Hearings; judicial review
Sec. 134. Directions by the Board for the better organization and coordination of services

PART H—QUALITY OF CARE

Sec. 141. Purpose and general policies
Sec. 142. Continuing professional education
Sec. 143. Major surgery and other specialized services
Sec. 144. Additional requirements for participation
Sec. 145. Professional standards review and similar organizations.
Sec. 146. Findings of commission on medical malpractice

PART I—MISCELLANEOUS PROVISIONS

Sec. 161. Definitions
Sec. 162. Deputy Secretary of Health, Education and Welfare; Under Secretary for Health and Science
Sec. 163. Effective dates of Title I; Authorization of appropriations
Sec. 164. Existing employer-employee health benefit plans.

TITLE II—HEALTH SECURITY TAXES

PART A—EMPLOYMENT TAXES

Sec. 201. Rates and coverage
Sec. 202. Conforming and technical amendments
Sec. 203. Exclusion from gross income
Sec. 204. Effective dates of part A

PART B—TAXES ON SELF-EMPLOYMENT INCOME AND UNEARNED INCOME

Sec. 211. Tax on self-employment income
Sec. 212. Tax on health security unearned income
Sec. 213. Conforming and technical amendments
Sec. 214. Effective dates of part B

PART C—INCOME TAX DEDUCTIONS FOR MEDICAL CARE

Sec. 221. Denial of deductions for services covered by Health Security Act

TITLE III—COMMISSION ON THE QUALITY OF HEALTH CARE

Sec. 301. Statement of purpose
Sec. 302. Amendment of the Public Health Service Act

TITLE IV—REPEAL OR AMENDMENT OF OTHER ACTS

Sec. 401. Repeal of medicare and Federal employee health benefit statutes
Sec. 402. Medicaid statute
Sec. 403. Vocational Rehabilitation Act; maternal and child health and crippled children's services
Sec. 404. Amendment of section 1122 of the Social Security Act
Sec. 405. Repeal of Title XI, Part B, of the Social Security Act
Sec. 406. Transfer and amendment of section 1817, and amendment of section 201(g), of the Social Security Act
Sec. 407. Amendments of Title XV of the Public Health Service Act
Sec. 408. Salary levels
Sec. 409. Amendment of Budget and Accounting Act

TITLE V—STUDIES RELATED TO HEALTH SECURITY

Sec. 501. Study of the provision of health security benefits to United States citizens in other countries
Sec. 502. Study of coordination with other Federal health benefit programs
Sec. 503. General provisions

TITLE I—HEALTH SECURITY BENEFITS

PART A—ELIGIBILITY FOR BENEFITS

BASIC ELIGIBILITY

SEC. 11. Every resident of the United States and every non-resident citizen thereof is eligible, while within the United States, to receive health services under this Act; except that an alien employee (as defined in regulations) of a foreign government, of an instrumentality of a foreign government exempt from the taxes imposed by section 3111 (b) of the Internal Revenue Code of 1954, or of an international organization (as defined in the International Organizations Immunity Act) is eligible only in accordance with an agreement under section 12. An alien admitted as a permanent resident and living within the United States, an alien admitted for employment and employed within the United States, or a refugee lawfully in the United States is for the purposes of this title a resident of the United States.

AGREEMENTS FOR ELIGIBILITY OF OTHER PERSONS

SEC. 12. The Health Security Board (hereafter referred to as the "Board"), with the approval of the Secretary of Health, Education, and Welfare and the Secretary of State, is authorized to enter into agreements with foreign governments, international organizations, or other entities to extend benefits of this title to persons within the United States not otherwise eligible therefor, in consideration of payment to the United States of the estimated cost of furnishing the benefits to such persons, or of an undertaking to furnish in a foreign country similar benefits to citizens of the United States, or of a combination of payment and such an undertaking.

PART B—NATURE AND SCOPE OF BENEFITS: COVERED SERVICES

ENTITLEMENT TO HAVE PAYMENT MADE FOR SERVICES

SEC. 21. Every eligible person is entitled to have payment made by the Board for any covered service furnished within the United States by a participating provider if the service is necessary or appropriate for the maintenance of health or for the diagnosis or treatment of, or rehabilitation following, injury, disability, or disease. Participating providers are providers, described in part C, who meet the conditions stated in section 41. Covered services are services described in sections 22 to 27, inclusive, but are subject to the exclusions stated in section 28 and to limitations prescribed by or pursuant to part H (relating to the quality of care).

PHYSICIAN SERVICES

SEC. 22. (a) Professional services of physicians, furnished in their offices or elsewhere, are covered services. Covered physician services include services and supplies of kinds which are commonly furnished in a physician's office, with or without separate charge, as an incident to his professional services.

(b) Covered physicians' services consist of (1) primary medical services, which are the services (as defined in regulations, but including preventive services) ordinarily furnished by physicians, whether general practitioners or specialists, engaged (as determined in accordance with standards for such practice prescribed in regulations) in general or family practice for adults or for children or for both, and (2) specialized services.

(c) Psychiatric (mental health) service to an outpatient is a covered service (1) only if it constitutes an active preventive, diagnostic, therapeutic, or rehabilitative service with respect to emotional or mental disorders, and (2) only (A) if the service is furnished by a group practice organization, by a hospital, or by a community mental health center or other mental health clinic which furnishes comprehensive mental health services, or (B) if the service is furnished to a patient of a day care service with which the Board has an agreement under section 49(a) (3), or (C) to the extent of twenty consultations during a benefit period (as defined in regulations), if the service is furnished otherwise than in accordance with clause (A) or (B). In any community in which the available psychiatric services furnished otherwise than in accordance with clause (A) or (B) are found by the Board to be insufficient to meet the needs of the community, the Board may limit the coverage of such services by prescribing referral or other nonfinancial conditions in order to give priority of access to the services to those persons most in need of them.

DENTAL SERVICES

SEC. 23. (a) Professional services (described in subsection (c)) of a dentist, furnished in his office or elsewhere, are covered services if they are furnished to a person who, at the time when the services are furnished, is entitled to such services in accordance with subsection (b). Covered services include services, materials, and supplies which are commonly furnished in a dentist's office, without separate charge, as an incident to his professional services.

(b) Persons who, on the effective date of health benefits, are less than fifteen years of age are entitled to covered dental services, and will remain so entitled throughout their lives. On July 1 of each of the five years immediately succeeding the year in which the effective date occurs, the following persons will become (and thereafter remain) entitled to such services: on July 1 of the first succeeding year, persons who are then less than seventeen years of age; on July 1 of then less than nineteen years of age; on the second succeeding year, persons who are July 1 of the third succeeding year, persons who are then less than twenty-one years of age; on July 1 of the fourth succeeding year, persons who are then less than twenty-three years of age; and on July 1 of the fifth succeeding year, persons who are then less than twenty-five years of age.

(c) Covered dental services are preventive services (including personal dental health education), diagnostic services, therapeutic services (exclusive of orthodontic services other than for handicapping malocclusion), and services required for rehabilitation following injury, disability, or disease.

(d) The Board is authorized, if it finds that the availability of funds and of facilities and personnel makes it possible, to provide by regulation for acceleration of the entitlement (by age groups) to covered dental services as set forth in subsection (b). Not later than seven years after the effective date of health benefits, the Board shall by regulation provide that entitlement to dental services shall be extended, over such period of time and by such age or other groupings as it finds calculated to make the best use of available resources and personnel, to all persons not otherwise entitled to such services; and it may thereafter, from time to time, amend such regulations on the basis of further experience in the furnishing of dental services as covered services. In exercising its authority under this subsection the Board shall seek to encourage the furnishing of dental services as a part of comprehensive health services, or the furnishing of them by organizations furnishing comprehensive dental services (which meet requirements set forth in regulations under section 104(a)); and to that end, the Board may limit additional entitlement to dental services, in whole or in part and temporarily or permanently, to services so furnished.

INSTITUTIONAL SERVICES

Sec. 24. (a) Inpatient and outpatient services of a psychiatric or other hospital, the services of a skilled nursing home, and the services of a home health service agency, which are ordinarily furnished by the institution to patients for the purposes stated in section 21, are covered services, subject to the limitations stated in this section. Covered services include services furnished generally to the patients served by an institution, including pathology and radiology services and all other necessary services, whether they are furnished by the institution or by others under arrangement with the institution. To the extent provided in regulations, inpatient services of a Christian Science sanatorium are covered services.

(b) Covered services do not include personal comfort items or, unless required for medical reasons, the additional cost of accommodations more expensive than semi-private accommodations; and do not include domiciliary or custodial care, or institutional care of a person while he is not receiving active medical treatment.

(c) Covered services do not include care in a skilled nursing home for more than one hundred and twenty days during a benefit period (as defined in regulations); except that the Board may, on such conditions as it finds appropriate to assure effective control of utilization, extend the duration of covered services, either for a stated number of days in a benefit period or indefinitely—

(1) in all skilled nursing homes for which consolidated budgets with hospitals have been approved under section 83(f), or

(2) In all participating skilled nursing homes having in effect affiliation agreements under section 52(b),

if the Board finds that adequate funds and resources are available therefor and that such action will not lead to excessive utilization of nursing home services.

(d) Covered services do not include institutional care of a person as a psychiatric patient while the patient is not receiving active treatment for an emotional or mental disorder; and do not include care of a person as a psychiatric patient for more than forty-five inpatient days in either a psychiatric or another hospital during a benefit period (as defined in regulations).

(e) Covered services do not include institutional care of an inpatient unless a physician has certfied to the medical necessity of the patient's admission to the institution, and do not include such care (during a continous stay in the institution) after such period (if any) as may be specified in regulations unless a physician has certified to the continued medical necessity of such care. Regulations may specify the classes of cases in which certification of continued necessity is required, may specify different periods for different classes of cases, and may permit retroactive certification under such circumstances and to such extent as the Board deems appropriate.

(f) Covered services do not include the services of a psychiatric or other hospital or skilled nursing home, during a benefit period (as defined in regulations), after the third day following receipt by the institution and the patient of a finding by a utilization review committee pursuant to section 51(e) that further stay in the hospital or further stay in the nursing home, as the case may be, is not medically necessary.

PHARMACEUTICAL BENEFITS

Sec. 25. (a) The Board shall establish and disseminate (and review at least annually) (1) a list of drugs for use in participating institutions, groups practice organizations, and individual practice associations, and (2) a list (for use outside such institutions, organizations, and associations) of diseases and conditions for the treatment of which drugs may be furnished as a covered service, and a specification of the drugs that may be so furnished for each disease or condition listed. Subject to the provisions of subsections (b) and (c), the furnishing of a drug to an eligible person is a covered service if it is furnished by or on prescription of a participating physician or dentist, or by or on prescription of a physician or dentist acting on behalf of a participating institutional or other provider.

(b) The list of drugs referred to in subsection (a)(1) shall be designed to provide physicians and dentists with an armamentarium necessary and sufficient for rational drug therapy incident to comprehensive medical services or incident to covered dental services. The furnishing of a drug on this list is a covered service if it is furnished to a person who is enrolled in a participating group practice organization or individual practice association, or is administered within a participating hospital to an inpatient or an outpatient or is administered to an inpatient of a participating skilled nursing home operated by a participating hospital or having in effect an affiliation agreement in accordance with section 52(b).

(c) The list of diseases and conditions referred to in subsection (a)(2) shall include those chronic diseases and conditions for which drug therapy, because of its duration and cost, commonly imposes substantial financial hardship; and may include other diseases and conditions for which the Board finds costly drug therapy to be commonly required and effective. To assure proper utilization of drugs for specific diseases or conditions, the Board may require that the physician or dentist furnishing or prescribing a listed drug be a specialist qualified to diagnose and treat that disease or condition. The furnishing of a drug (although not to a person or under circumstances described in subsection (b)) is a covered service if (1) the physician or dentist furnishing or prescribing it identifies the disease or condition for which it is furnished or prescribed, and the disease or condition is one appearing on the Board's list, (2) the physician or dentist meets specialist qualification, if any, required by the Board, and (3) the drug is specified on the Board's list as one available for treatment of the disease or condition identified by the physician or dentist.

(d) The Board shall not list a drug under this section unless (1) the Secretary has found that it is safe and efficacious for the purposes for which it is recommended and (on the list established under subsection (c)) for the treatment of each disease or condition for which it is specified on the list, and (2) the Board finds that it is available at a reasonable cost (considering, among other factors, the existence or absence of competition in the production, distribution, and sale of the drug). Drugs shall be listed by their established names (as defined in section 502(e) of the Federal Food, Drug, and Cosmetic Act) and also, to the extent the Board deems appropriate, by trade names.

(e) In reviewing and revising lists established under this section the Board shall take into consideration (1) current information about the safety and efficacy of listed drugs, and about their cost, (2) the results of review of drug utilization under this title, (3) experience bearing on the determination of what diseases and conditions meet the criteria stated in subsection (c), and (4) such other factors as the Board deems pertinent. Drugs shall be added to or eliminated from the lists as the Board finds best calculated to effectuate the purposes of this section.

DEVICES, APPLIANCES, AND EQUIPMENT

Sec. 26. (a) The Board shall establish and disseminate (and review at least annually) lists of the therapeutic devices, appliances, and equipment (including eyeglasses, hearing aids, and prosthetic appliances), or classes thereof, which it finds are important for the maintenance or restoration of health or of employability or self-management. The Board shall take into consideration the efficacy, reliability, and cost of each item listed, and shall attach to any item such conditions as it deems appropriate with respect to the circumstances under which or the frequency with which the item may be prescribed. In establishing and revising lists under this section the Board shall seek to avoid a rate of expenditure for the furnishing of devices, appliances, and equipment in excess of 2 per centum of the rate of expenditure for all covered services.

(b) The furnishing of a device, appliance, or equipment prescribed by a participating physician or dentist, or by a physician or dentist acting on behalf of a participating institutional or other provider, is a covered service if the item appears on a current list established under subsection (a) and the prescription falls within any conditions attached, on the list, to the prescribing of that item. The furnishing of any other device, appliance, or equipment so prescribed is also a covered service if, in accordance with regulations, the furnishing of it has been approved in advance by the Board. Regulations under this section may list items or classes of items which, because of lack of efficacy or reliability or because of cost, the Board had determined may not be furnished as covered services.

OTHER PROFESSIONAL AND SUPPORTING SERVICES

Sec. 27. (a) To the extent provided in regulations, the following are covered services:

(1) the professional services of optometrists in the examination, diagnosis, and treatment of conditions of the vision system;

(2) the professional services of podiatrists;

(3) the diagnostic services of independent pathology laboratories, and diagnostic and therapeutic radiology furnished by independent radiology services;

(4) the care of a patient in a mental health day care service (A) for not more than sixty full days (or its equivalent) during or following a benefit period (as defined in regulations), when furnished by a hospital or a service affiliated with a hospital, or (B) if furnished by a group practice organization or by a community mental health center or other mental health center which furnishes comprehensive mental health services, or (C) if furnished by a mental health day care service with which the Board has an agreement under section 49(a)(3);

(5) in addition to the services available from hospitals, mental health centers, or other providers, the active treatment of a person with an established diagnosis of alcoholism or drug abuse, as an outpatient, in a free-standing ambulatory center (that is, a center the services of which are not furnished on behalf of another provider) with which the Board has an agreement under section 49(a)(5) for the treatment of persons with such diagnosis;

(6) in addition to the services available from other providers, family planning services furnished by a free-standing family planning center with which the Board has an agreement under section 49(a)(6);

(7) in addition to the services available from other providers, rehabilitation services furnished by a free-standing rehabilitation center with which the Board has an agreement under section 49(a)(7); and

(8) ambulance and other emergency transportation services, and such nonemergency transportation services as the Board finds essential to overcome special difficulty of access to covered services.

(b) Supporting services (such as psychological, physiotherapy, nutrition, social work, or health education services) are covered services when they are furnished on behalf of an institutional provider or when, with the approval of the Board, they are furnished on behalf of a group practice organization or individual practice association, or of an organization, agency, or center with which the Board has an agreement under section 49(a); but only if the persons furnishing the supporting services are compensated on a salary, stipend, or capitation basis by the provider on whose behalf they are furnished.

EXCLUSIONS FROM COVERED SERVICES

SEC. 28. (a) Health Services furnished or paid for under a workmen's compensation law of the United States or a State, or legally required to be so furnished or paid for, are not covered services. Such services, if furnished by a participating provider to an eligible person, shall nevertheless be treated as covered services in accordance with this part unless and until a determination has been made pursuant to the workmen's compensation law that the services are covered by that law, and any resulting overpayment under this title shall, when payment is made under the workmen's compensation law, be recouped in the same manner as other overpayments.

(b) Health services furnished in a primary or secondary school are covered services only to such extent and on such conditions as may be specified in regulations.

(c) Surgery performed solely for cosmetic purposes (as defined in regulations), and hospital or other services incident thereto, are not covered services.

(d) The furnishing of a drug otherwise than in accordance with section 25 is not a covered service. The furnishing of a device, appliance, or equipment otherwise than in accordance with section 26 is not a covered service unless it is furnished, in accordance with section 22(a) or section 23(a), as an incident to professional services.

(e) The Board may by regulation exclude from covered services medical or surgical procedures (and services incident thereto) which it finds both (1) are essentially experimental in character, and (2) because of cost or because of shortage of qualified personnel or facilities cannot practicably be furnished on a nationwide basis.

(f) Except as provided in regulations, services are not covered services if (1) they are furnished by another provider to a person who has enrolled in a participating group practice organization or in a participating individual practice association, and are within the range of services which the organization or association has undertaken to furnish, or (2) they are primary physicians' services or covered dental services and are furnished by another provider to a person who has chosen to be on the list of a physician or a dentist electing to be paid by the capitation method. Regulations under this subsection shall permit termination of the enrollment referred to in clause (1), or of the choice referred to in clause (2), after the enrollment or choice has been in effect for twelve months, or at an earlier time for such reasons as may be specified in the regulations.

(g) The services of a professional practitioner are not covered services if they are furnished in a hospital which is not a participating provider, or are furnished to a psychiatric inpatient of an institution at a time when the institutional services to the patient are, by reason of section 24(d), not covered services.

PART C—PARTICIPATING PROVIDERS OF SERVICES

IN GENERAL: AGREEMENTS WITH THE BOARD

SEC. 41. (a) A person, corporation, or other entity furnishing any covered service is a participating provider if he or it (1) is a qualified provider of that service, as determined in accordance with this part, and meets such requirements as are prescribed by or pursuant to part H (relating to the quality of care), (2) furnishes the service as an independent provider and not (as employee or otherwise) on behalf of another provider entitled under part E to payment for the service, and (3) has filed with the Board an agreement (A) that services to eligible persons will be furnished without discrimination on the ground of race, color, or national origin, (B) that no charge will be made for any covered service other than for payment authorized by this title, (C) that the provider will furnish such information and reports as may be required under this title for the making of payments, or as the Board may reasonably require for utilization review by professional peers or for statistical or other studies of the operation of the title (including information and reports required for the purposes of the Commission on the Quality of Health Care), and will permit such examinations of records as may be necessary for verification of information on which payments are based, and (D) in the case of an institutional provider, a group practice organization, an individual practice association, or other provider specified in regulations of the Board, that it will comply with such requirements as the Board finds necessary to assure to the employees of the provider protection of employment rights and working conditions, including the right to collective bargaining, equal, as nearly as may be, to the protection generally available to industrial employees under Federal law or under the law of the State in which the provider is situated.

(b) Participation of a provider may be suspended or terminated pursuant to section 132 or section 134.

(c) If a provider subject to clause (D) of subsection (a)(3) is merged, consolidated, or otherwise reorganized in a manner affecting the employment or rights of its employees, the Board shall require, as a condition of participation by the merged, consolidated, or reorganized provider, that it undertake to comply with reasonable requirements of the Board for the protection of the pre-existing rights, benefits, and privileges of the employees of the provider or providers involved in the merger, consolidation, or reorganization. If a provider subject to clause (d) which is an agency of a State or local government, is closed, the Board is authorized, for the purpose of this subsection, to treat the closure as a consolidation with such other agency or agencies of the same unit of government as it finds will perform the principal functions of the provider which has been closed.

PROFESSIONAL PRACTITIONERS

SEC. 42. (a) A physician, dentist, optometrist, or podiatrist, legally authorized on the effective date of health security benefits to practice his profession in a State, is a qualified provider of covered services within the State. A practitioner first so authorized by a State after the effective date is a qualified provider in that State if, in addition, he meets national standards established by the Board (taking into consideration the criteria applied by any recognized national testing organization) for the practitioner's profession. A practitioner who is a qualified provider in one State, if he meets the national standards, is also in any other State (in accordance with the provisions of section 56 (a)(1) a qualified provider of services which (1) are covered services to persons entitled thereto under this title, and (2) are of a kind which such other State authorizes to be furnished by practitioners of his profession.

(b) For the purposes of this title—

(1) a doctor of osteopathy legally authorized to practice medicine and surgery in a State is a physician;

(2) a dentist qualified in accordance with subsection (a) is a physician when performing oral surgery or other procedures which, in accordance with generally accepted professional standards, may be performed by either a physician or dentist; and

(3) a doctor of optometry or podiatry qualified in accordance with subsection (a) is a physician when furnishing services which are covered services in accordance with regulations issued under section 27(a) and which helps legally authorized to furnish in the State in which he furnishes them.

GENERAL HOSPITALS

SEC. 43. Subject to the provisions of section 53, a hospital (other than a psychiatric hospital) is a qualified provider if it is an institution which—

(a) is primarily engaged in providing to inpatients (other than mentally ill persons) diagnostic, therapeutic, and rehabilitation services, furnished by or under the supervision of physicians, for medical diagnosis, treatment, care, and rehabilitation of injured, disabled, or sick persons;

(b) maintains adequate clinical records on all patients;

(c) has bylaws in effect with respect to its staff of physicians, and has filed with the Board an agreement that in granting or maintaining medical staff privileges it will not discriminate on any ground unrelated to professional qualifications;

(d) has a requirement that every patient must be under the care of a physician;

(e) provides twenty-four-hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times;

(f) has a pharmacy and drug therapeutics committee which establishes policies for the selection, acquisition and utilization of drugs;

(g) has in effect a hospital utilization review plan which meets the requirements of section 51; and

(h) meets all applicable requirements of the law of the State in which it is situated.

PSYCHIATRIC HOSPITALS

SEC. 44. Subject to the provisions of section 53, a hospital which is primarily engaged in furnishing psychiatric services to inpatients who are mentally ill is a qualified provider if it (or a distinct part of it) is an institution—

(a) in which diagnostic, therapeutic, and rehabilitative services with respect to mental illness are furnished by or under the supervision of physicians;

(b) which satisfies the requirements of subsections (b) through (h) of section 43;

(c) which, on the basis of staffing and other factors it deems pertinent, the Board finds is qualified to furnish active treatment; and

(d) which maintains such records as the Board finds necessary to determine the degree and intensity of the treatment furnished.

SKILLED NURSING HOMES

SEC. 45. Subject to the provisions of sections 52 and 53, a skilled nursing home is a qualified provider if it (or a distinct part of it) is an institution which—

(a) is primarily engaged in providing to inpatients (other than mentally ill persons) skilled nursing care and related services for patients who require medical and nursing services;

(b) has written policies, which are developed (and reviewed from time to time) with the advice of a group of professional personnel, including one or more physicians and one or more registered professional nurses, to govern the services it provides;

(c) has a medical staff, a physician, or a registered professional nurse responsible for the execution of such policies;

(d) unless it is operated by a participating hospital, operates under the supervision of an administrator licensed by the State in which the institution is situated;

(e) has a requirement that the health care of every patient be under the supervision of a physician, and provides for having a physician available to furnish necessary medical care in case of emergency;

(f) maintains adequate clinical records on all patients;

(g) provides twenty-four hour nursing service sufficient to meet nursing needs in accordance with the policies developed as provided in subsection (b), and has at least one registered professional nurse employed full time;

(h) provides appropriate methods and procedures for the dispensing and administering of drugs;

(i) has in effect a utilization review plan which meets the requirements of section 51; and

(j) meets all applicable requirements of the law of the State in which it is situated and, unless the Board finds that such law provides equivalent protection, meets the provisions of the Life Safety Code of the National Fire Protection Association (other than any provision of the code authorizing waiver of its requirements) applicable to nursing homes.

HOME HEALTH SERVICE AGENCIES

SEC. 46. Subject to the provisions of section 52, a home health service agency is a qualified provider if it is a public agency or a nonprofit private organization, or a subdivision of such an agency or organization, which—

(a) is primarily engaged in furnishing, on an intermittent and visting basis in patients' homes, skilled nursing and other therapeutic services to patients (other than mentally ill persons) who are under the care of physicians;

(b) has written policies developed (and reviewed from time to time) by a group of professional personnel associated with the agency or organization, including one or more physicians and one or more registered professional nurses, to govern the services which it furnishes, and provides for supervision of such services by a physician or registered professional nurse;

(c) maintains adequate clinical records on all patients;

(d) meets all applicable requirements of the law of the State in which it furnishes services; and

(e) has written policies and procedures which provide for a systematic evaluation of its total program at appropriate intervals in order to assure the appropriate utilization of services.

GROUP PRACTICE ORGANIZATIONS

SEC. 47. (a) A group practice organization (a type of health maintenance organization) is a qualified provider if—

(1) it is a public or other nonprofit organization which furnishes health services to persons enrolled in the organization;

(2) it provides at least annually an open enrollment period of not less than thirty days, during which all eligible persons living within a defined service area (or living near enough thereto to have reasonably ready access to the services of the organization), up to the capacity of the organization to furnish services, are accepted for enrollment in the order in which they apply, except that priority may be given to persons living within the service area; and it does not terminate any enrollment because of the enrollee's health status or his need or demand for health services, or for any other reason except repeated and serious violation of reasonable rules of the organization;

(3) it undertakes to provide to its enrollees, at its expense and in accordance with paragraphs (4) and (5), all of the covered services described in part B, including such supporting services as the Board may have approved under section 27(b); except that it may exclude some or all mental health services or dental services if it assures referral of its enrollees to providers of such excluded services when medically appropriate and maintains arrangements with such providers for the availability of the services to its enrollees;

(4) all physician services, and dental services if the organization undertakes to provide them, are (except for infrequently used services) furnished by a medical group which meets the following conditions, or by two or more groups each of which meets such conditions—

(A) the group consists of physicians, or of physicians and dentists, with or without other professional health personnel, sufficient in number and possessing among them the necessary qualifications to furnish all covered physician services and the dental service (if any) which the group practice organization undertakes to provide (except infrequently used services); and

(B) the members of the group (i) as their principal professional activity practice their profession as a group responsibility in furnishing services to enrollees of the group practice organization, (ii) pool their income from practice as such members (unless they are compensated by salary or stipend by the group practice organization) and distribute it among themselves in accordance with a prearranged salary, percentage, or similar plan, and (iii) jointly use medical and other records, a substantial part of their major equipment, and the services of professional, technical, and administrative staff (including personnel furnishing supporting services approved under section 27(b));

(5) all services, other than physician services and dental services, which the organization undertakes to provide (except infrequently used services) are furnished through its own staff and facilities (or are furnished by others under contract, if the organization retains control of, and full responsibility for, the availability and quality of the services); except that institutional services may be provided through arrangements with other participating providers (either nonprofit or forprofit) for the availability of services;

(6) the organization encourages health education of its enrollees (including education in the appropriate use of health services) and the development and use of preventive health services, and furnishes and arranges services and (to the extent practicable) arranges its system of medical records in such a manner as to facilitate continuity of care, and to the maximum extent feasible makes all services (including emergency services at all times) readily accessible to enrollees who live in its service area;

(7) it makes available to its enrolees and to the public full information about the services it provides and their availability, and such other information about its operations and the utilization of services as the Board may by regulation require;

(8) it provides an opportunity for representatives of its enrollees to participate effectively in the formulation of policies of the organization and in the evaluation of its operation, and provides fair and effective procedures for resolving disputes between enrollees and the organization or providers with whom it has contracted or has arrangements for the furnishing of service;

(9) it provides that a committee or committees of physicians (with other health professionals where appropriate) associated with the organization promulgate professional standards, oversee the professional aspects of the delivery of care, perform the functions of a pharmacy and drug therapeutics committee, and monitor and review the utilization and quality of all health services (including drugs);

(10) to the extent practicable and consistent with good medical practice, it employs allied health personnel and subprofessional and lay personnel in the furnishing of services;

(11) it assumes the financial responsibility, without benefit of insurance except in accordance with section 87(e), for assuring to its enrollees the services which it has undertaken to provide;

(12) its premiums or other charges for any services not paid for under this title are reasonable; and

(13) it undertakes, to the extent required by regulations with respect to services of the kinds it has undertaken to provide, to arrange for reciprocal out-of-area services by other group practice organizations, or to pay for health services furnished to its enrollees by other participating providers, in emergencies, within or outside the service area of the organization.

(b) A group practice organization, or with its approval a professional practitioner who furnishes services on its behalf, may furnish services to persons who are not enrolled in the organization, Payment for such services, if they are covered services to eligible persons, shall be made by one of the methods provided in part E for payment of independent practitioners, and shall be made to the organization unless the organization requests that it be made to the practitioner who furnishes the services and he is a participating provider.

INDIVIDUAL PRACTICE ASSOCIATIONS

SEC. 48(a) An individual practice association (a type of health maintenance organization) is a qualified provider if—

(1) it is an organization sponsored by a county or other local medical society, with a service area coextensive with the area of its sponsoring society, which meets the conditions set forth in section 47(a) (relating to group practice organizations) other than paragraph (4) thereof;

(2) all physician services, and dental services if the association undertakes to furnish them, are (except for infrequently used serv-

ices) furnished by professional members of the association, who are compensated by whatever method or methods (including fee-for-service) may be agreed upon by the association and its professional members; and

(3) the association permits any physician (or dentist, if the association undertakes to furnish dental services) practicing in its service area, whether or not a member of the sponsoring society, subject only to criteria (approved by the Board) of professional qualifications, to become a professional member of the association to furnish services on its behalf.

(b) A professional member of an association, unless he has agreed otherwise with the association, may furnish services to persons who are not enrolled in the association, and payment for the services, if they are covered services to an eligible person, shall be made by one of the methods provided in part E for payment to independent practitioners. The payment shall be made to the professional member, except that if he is compensated by the association for services to enrollees on a salary, stipend, or capitation basis (or if he is not a participating provider) the payment shall be made to the association.

OTHER HEALTH SERVICE ORGANIZATIONS

SEC. 49. (a) Pursuant to an agreement with the Board containing such terms and conditions, and prescribing such standards, as the Board deems proper, any of the following is a qualified provider of such services as are specified in the agreement—

(1) a public or other nonprofit agency or organization (including a hospital) which furnishes all of the covered services described in part B, including such supporting services as the Board may have approved under section 27(b), except that it may exclude some or all institutional services, mental health services, or dental services if it assures referral of its patients to providers of such services when medically appropriate and maintains arrangements with such providers for the availability of the services to its patients;

(2) a public or other nonprofit center (including a satellite center established by a hospital) which (A) furnishes, as a minimum, the services of two or more physicians engaged in general or family practice, the services of nurses and supporting personnel, and basic laboratory services, which the Board finds sufficient for the primary medical care of a substantial population living in the vicinity of the center, and (B) has arrangements with other providers of services which the Board finds assured to the population served by the center, on a coordinated basis, all components of the covered health services described in part B;

(3) a public or other nonprofit mental health center or mental health day care service;

(4) a State or local public health agency furnishing preventive or diagnostic services, or a public agency furnishing covered health services in a primary or secondary school in accordance with regulations issued under section 28(b);

(5) a free-standing ambulatory treatment center for the treatment of alcoholism or drug abuse, or both;

(6) a free-standing center for the furnishing of family planning services;

(7) a free-standing center for the furnishing of rehabilitation services; or

(8) a medical or dental group practice or clinic, a dental foundation, or another organziation or agency furnishing health services to ambulatory patients.

(b) An agreement under this section shall not, except to the extent that it specifically so provides, preclude a professional practitioner who furnishes services on behalf of the provider from furnishing also; either on behalf of the provider or as a participating independent practitioner, services which are of a kind not within the scope of the agreement or are furnished to persons not within its scope. Unless the agreement provides that payment for covered services furnished to eligible persons shall be made to the provider who has entered into the agreement, payment shall be made to the practitioner by one of the methods provided in part E for payment to independent practitioners.

OTHER PROVIDERS

SEC. 50. (a) An independent pathology laboratory (as defined in regulations) is a qualified provider of diagnostic pathology services if (whether or not it is engaged in transactions in interstate commerce) it meets the requirements established by or pursuant to section 353 of the Public Health Service Act. An independent radiology service (as defined in regulations) is a qualified provider of diagnostic and therapeutic radiology if it meets all applicable requirements of the law of the State in which the services are furnished.

(b) A provider of drugs, devices, appliances, or equipment is a qualified provider if he meets all applicable requirements established by or pursuant to the Federal Food, Drug, and Cosmetic Act and all requirements of the law of the State in which the provider is situated.

(c) A provider of ambulance or other covered transportation services is a qualified provider if he meets all applicable requirements of the law of the State in which the services are furnished.

(d) A Christian Science sanatorium is a qualified provider of services specified in regulations prescribed under section 24(a) if it is operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

UTILIZATION REVIEW

SEC. 51. A utilization review plan of a psychiatric or other hospital or a skilled nursing home shall be considered sufficient if it provides—

(a) for the periodic review on a sample or other basis (and the maintenance of adequate records of such review) of admissions to the institution, the duration of stays, and the professional services (including drugs) furnished, (1) with respect to the medical necessity of the services, and (2) for the purpose of promoting the most efficient use of available health facilities and services; and provides for periodic reports, to the institution and the medical staff (and, when requested, to the Board), of statistical summaries of the review;

(b) in the case of a psychiatric or other hospital, for such review to be made either (1) by a staff committee of the hospital composed of two or more physicians (consulting, with respect to drug utilization, with the pharmacy and drug therapeutics committee), with or without participation of other professional personnel, or (2) by a group outside the hospital which is similarly composed and which, if practicable, is established by the local medical society and hospitals in the locality, or is established in such other manner as may be approved by the Board; but clause (1) of this subsection shall be inapplicable to any hospital where, because of its small size or for such other reason as may be specified in regulations, it is impracticable for the hospital to have a properly functioning staff committee for the purposes of this section;

(c) in the case of a skilled nursing home, for such review to be made by a committee, composed and established as provided in subsection (b), or by a committee so composed which is established by the State or local public health agency pursuant to a contract with the Board, or by the Board; except that if a consolidated budget has been approved for the nursing home and a hospital, under section 83(f), the review shall be made by the utilization review committee of the hospital;

(d) for such review, in each case of inpatient hospital services or skilled nursing home services furnished to a patient during a continuous period of extended duration, as of such days of such period (which may differ for different classes of cases) as may be specified in regulations, with such review to be made as promptly as possible after each day so specified, and in no event later than one week following such day; and

(e) for prompt notification to the institution, the patient, and his attending physician of any finding (made after opportunity for consultation afforded to such attending physician) by the physician members of such committee or group that any admission, further stay, or furnishing of particular services in the institution is not medically necessary.

TRANSFER AND AFFILIATION AGREEMENTS

SEC. 52. (a) A skilled nursing home is a qualified provider only if it has in effect (or there is in effect a finding under subsection (c) temporarily dispensed with) a transfer agreement with at least one participating hospital, providing for the transfer of patients and of medical and other information between the institutions as medically appropriate.

(b) After two years following the effective date of health benefits, a skilled nursing home or a home health service agency will be a qualified provider only if it has in effect (or there is in effect a finding under subsection (c) temporarily dispensing with) an affiliation agreement with a participating hospital or a participating group practice organization, under which the medical staff of the hospital or organization (or a committee thereof) will furnish, or will assume responsibility for, the professional services in the skilled nursing home, or the professional services furnished by the home health agency, as the case may be.

(c) The requirement of a transfer agreement under subsection (a), or of an affiliation agreement under subsection (b), shall not be applicable in any case if there is in effect a finding by the Board that the lack of a suitable hospital or organization within a reasonable distance makes such an agreement impractible, and that the services of the skilled nursing home or the home health agency are essential to avoid a critical shortage of services to eligible persons. Such a finding shall be reviewed periodically, and shall be revoked whenever the Board finds it practicable to do so.

NEWLY CONSTRUCTED FACILITIES

SEC. 53. A psychiatric or other hospital or a skilled nursing home, or a provider operating a facility for ambulatory care, is not a participating provider if construction or substantial enlargement of the facility (whether or not in replacement of another facility) was undertaken (as defined in regulations) after December 31 of the year in which this title is enacted unless (a) the construction or enlargement is in accord with a State certificate of need, or has been found by a State agency designated by the Governor of the State for this purpose, or has been found by the Board, to be needed for the furnishing of adequate services to persons residing in the area to be served by the institution, or (b) in the case of enlargement of an existing facility, the Board has found (regardless of the need for the enlargement) that the facility is needed for that purpose. (For provision relating to reduction in payments in certain cases referred to in clause (b), see section 89.)

LIMITATIONS ON MALPRACTICE JUDGMENTS

SEC. 54. In any litigation in any court of the United States or any State seeking damages for injury caused by negligence or other fault in the furnishing of any service covered by this Act, no damages shall be awarded for the cost of remedial services for which the injured party was or is entitled to have payment made under this Act (or for which he would have been, or would be, entitled to have payment made upon obtaining the services from a participating provider).

EXCLUSION: FEDERAL PROVIDERS OF SERVICES

SEC. 55. No institution of the Department of Defense, no institution of the Veterans' Administration, no institution of the Department of Health, Education, and Welfare engaged in the provision of services to merchant seamen or to Indians or Alaskan natives, and no employee of any of the foregoing acting as employee, is a participating provider. The Board shall, however, reimburse the proper appropriation for any covered services furnished by any such institution or employee to an eligible person who is not, under any Act other than this Act, eligible to receive the service from the institution or employee. The Board shall also reimburse the proper appropriation for any covered services furnished to eligible persons pursuant to section 329 of the Public Health Service Act, such reimbursement to be in lieu of payments required by section 329(b) of that Act.

RESTRICTIVE STATE LAWS INOPERATIVE

SEC. 56. (a) In the furnishing of covered services to eligible persons (any law of a State or political subdivision to the contrary notwithstanding)—

(1) A physician, dentist, optometrist, or podiatrist who is legally authorized by a State to practice his profession and who meets national standards established by the Board pursuant to section 42(a) is hereby authorized to furnish in any other State, either as an independent participating provider or on behalf of an institutional or other participating provider, the services which such other State authorizes to be furnished by practitioners of his profession.

(2) A professional nurse, or a practitioner of another health profession or occupation designated in regulations, who meets national standards established by the Board for his profession or occupation is hereby authorized to furnish in any State, on behalf of participating providers of services, the services which that State authorizes or permits to be furnished by practitioners of his profession or occupation. National standards applicable to professional nursing, or to any other profession or occupation the practice of which is subject in all States to licensure or similar authorization, shall contain a requirement of licensure or authorization by at least one State.

(3) In a participating public or other nonprofit hospital or a participating group practice organization, a practitioner of any health profession other than medicine or dentistry or of any nonprofessional health occupation who meets national standards established by the Board for his profession or occupation, and meets any additional qualifications established by the Board for the performance of particular acts or procedures, is hereby authorized to perform, under the supervision and responsibility of a physician or dentist, such of the acts which might lawfully be performed by the physician or dentist as are specified in regulations.

(4) A participating public or other nonprofit hospital or a participating group practice organization is hereby authorized (whether or not the arrangement may be deemed to constitute corporate practice of a profession) to employ physicians, dentists, or other professional practitioners, or to obtain and compensate their services in any other manner, and the practitioners are authorized to serve such a hospital or organization as employees or in any other manner; but only if the employment or other arrangement is not of a kind which the Board finds is likely to cause lay interference with professional acts or professional judgments.

(b) If the Board finds that a proposed corporation will meet the requirements of section 47(a) for participation as a group practice organization, but that it cannot be incorporated in the State in which it proposes to furnish services because the State law requires that a medical society approve the incorporation of such an organization, or requires that physicians constitute all or a majority of its governing board, or requires that all physicians in the locality be permitted to participate in the services of the organization, or makes any other requirements which the Board finds incompatible with the purposes of this title, the Board may issue a certificate of incorporation to the organization, and it shall thereupon become a body corporate. The powers of the corporation shall be limited to the furnishing of services under this title, and the doing of things reasonably necessary or incident thereto. So far as the Board finds to be compatible with the purposes of this title, the certificate of incorporation shall accord with, and the corporation shall be subject to, provisions of the State law which are applicable to nonprofit corporations generally. The corporation shall not be deemed to be an instrumentality of the United States for purposes of exemption from any Federal or State law.

PART D—TRUST FUND; ALLOCATION OF FUNDS FOR SERVICES

HEALTH SECURITY TRUST FUND

SEC. 61. (For the text of section 61, see section 406, transferring section 1817 of the Social Security Act to this Act, redesignating it as section 61, and amending it.)

ANNUAL DETERMINATION OF FUND AVAILABILITY

SEC. 62. (a) For each fiscal year the Board shall, not later than June 1, next preceding the beginning of the fiscal year, fix the maximum amount which may (except as provided in subsection (c)) be obligated during the fiscal year for expenditure from the Trust Fund. The amount so fixed—

(1) shall not exceed 200 per centum of the expected net receipts during the fiscal year (as estimated by the Secretary of the Treasury) from the taxes imposed by sections 1401(b), 1403, 3101(b), and 3111(b) of the Internal Revenue Code of 1954, and

(2) for any fiscal year (except for the period between the effective date of health benefits and the end of the first fiscal year beginning thereafter), shall not exceed the aggregate obligations, as estimated by the Board, incurred and to be incurred by the Trust Fund during the fiscal year current at the time when the determination is made, adjusted to reflect (A) any estimated change expected in the prices of goods and services which enter into the cost of living, (B) the expected change in the number of eligible persons, (C) any expected change (to the extent that the Board finds it not otherwise adequately reflected) in the number of participating professional providers, or in the number or capacity for the provision of services of institutional or other participating providers, and (D) any change in the cost of administration of this Act indicated in the President's budget estimates pursuant to section 201(g) of the Social Security Act.

(b) In fixing the amount to be available for obligation during a fiscal year, pursuant to subsection (a)—

(1) if and to the extent that (A) the Board estimates that the amount in the Trust Fund at the beginning of the fiscal year will be less than one-quarter of the obligations incurred and to be incurred during the fiscal year current at the time when the determination is made, and (B) the Board finds that restriction of the amount to be available for obligation will not materially impair the adequacy or quality of services to eligible persons, the amount fixed under subsection (a) shall be less than the maximum stated in paragraph (1) of that subsection; and

(2) if and to the extent that the Board finds that improvement in the organization and delivery of services or in the control of their utilization has lessened their aggregate cost (or has lessened an increase in their aggregate cost), the amount fixed under subsection (a) shall be less than the maximum stated in paragraph (2) of that subsection (a), may be modified before or

(c) The amount to be available for obligation during a fiscal year, fixed pursuant to subsection (a), may be modified before or during the fiscal year if the Secretary of the Treasury finds that the tax receipts referred to in subsection (a)(1) will differ from the estimate by 1 per centum or more or if the Board finds that any of the factors of expected change referred to in subsection (a)(2), or action on the budget estimate for the cost of administration, will differ from the estimate by 5 per centum or more; or if an epidemic, disaster, or other occurrence increases the need for health services to an extent which the Board finds requires the expenditure of additional funds. If the amount fixed pursuant to subsection (a) is increased, the Board shall promptly report its action to the Congress with a statement of the reasons therefor.

HEALTH SERVICES ACCOUNT, HEALTH RESOURCES DEVELOPMENT ACCOUNT, ADMINISTRATION ACCOUNT, AND GENERAL ACCOUNT

SEC. 63. (a) There shall be established in the Trust Fund a health services account, a health resources development account, an administration account, and a general account (consisting of all moneys in the Trust Fund which have not been transferred to another account).

(b) For each fiscal year there shall from time to time be transferred from the general account to the health resources development account the following percentage of the amount to be available for obligation during that year (as determined pursuant to section 62(a) and (b)): for the fiscal year beginning on the effective date of health benefits, and for the next succeeding fiscal year, 2 per centum; for each of the next two succeeding fiscal years, 3 per centum; for each of the next two succeeding fiscal years, 4 per centum; and for each fiscal year thereafter, 5 per centum. Funds in the health resources development account shall be used exclusively for the purposes of part F, and shall remain available for such uses until expended.

(c) The remainder of the amount to be available for obligation during the fiscal year, after deducting the amount of the President's budget estimates for the cost of administering this Act, shall from time to time be transferred from the general account to the health services account. Funds in the health services shall be used exclusively for making payments for covered services in accordance with part E, and shall remain available for such payments until expended.

(d) As amounts available for a fiscal year for the administration of this Act are determined by the Congress, the amount available for the administration of the title shall be transferred from the general account to the administration account.

(e) From time to time any necessary adjustments shall be made in the amounts transferred to the several accounts, and in allocations previously made from the health services account.

REGIONAL ALLOCATIONS FROM HEALTH SERVICES ACCOUNT

SEC. 64. (a) For each fiscal year the Board shall, not later than June 1, next preceding the beginning of the fiscal year, make allocations to the regions of the Department from the funds to be available for the fiscal year in the health services account. The allocation to each region shall be equal to the estimated aggregate expenditures in the region for services, described in part B as covered services, in the most recent twelve-month period for which reliable data are available, adjusted to reflect the factors of change referred to in clauses (A), (B), and (C) of section 62(a)(2), and further adjusted in accordance with subsections (b) and (c) of this section.

(b) It shall be the objective of the Board to reduce gradually, and ultimately to eliminate substantially, existing differences among the regions of the Department in the average per capita cost of health services, except as such differences reflect differences in the prices of goods and services which enter into the cost of living for people in the several regions. To this end the Board shall modify the allocations for each fiscal year determined under subsection (a) in order (1) to reduce, or to lessen any increase in, the cost of covered services in regions in which the average per capita cost is higher (to an extent greater than the difference in the estimated weighted average cost of goods and services) than the national average per capita cost, to such an extent as the Board finds practicable without impairing materially the adequacy or quality of services to eligible persons, and (2) to stimulate, to such extent as the Board finds practicable and desirable, increases in the availability and utilization of covered services in regions in which the average per capita cost is lower (to an extent greater than the difference in the estimated weighted average cost of goods and services) than the national average per capita cost. In modifying allocations to the regions, the Board shall take account of regional differences in the composition of populations, in the prevalence and incidence of morbidity indicating need for covered services, in the available and needed resources in personnel or facilities for provision of covered services, in the costs of providing covered services, and in such other factors as the Board may deem pertinent, to the extent that such regional differences are not reflected in allocations under subsection (a) and have not already been taken into account, under this subsection, in modifying these allocations.

(c) The Board shall withhold from allocation to the regions a reserve for contingencies, in an amount not more than 5 per centum of the funds to be available for the fiscal year in the health services account. If the remaining amount to be available for the fiscal year in the account is less than the sum of the regional allocations determined pursuant to subsections (a) and (b), the allocations shall be reduced proportionately.

(d) Allocations under this section may be modified before or during a fiscal year if the amount to be available for obligation is modified pursuant to section 62(c). The contingency reserve shall be available to increase one or more regional allocations, as the Board may find necessary. From the contingency reserve, or from additional funds in the general account made available for obligation, one or more allocations may also be increased if an epidemic, disaster, or other occurrence increases the need for health services to an extent which the Board finds requires the expenditures of additional funds.

DIVISION OF REGIONAL FUNDS BY CLASSES OF SERVICES

SEC. 65. (a) For each fiscal year the Board shall, not later than July 1, next preceding the beginning of the fiscal year, divide the allocation to each region into funds to be available, respectively, to pay the cost within the region of the following classes of services: (1) institutional services, (2) physician services, (3) dental services, (4) the furnishing of drugs, (5) the furnishing of devices, appliances, and equipment, and (6) other professional and miscellaneous services.

(b) The content, for purposes of the division of funds, of each class of services shall be defined in regulations. Within the funds to be available for miscellaneous services, the regulations shall establish subfunds, respectively, for the making of incentive payments not otherwise provided for, for supporting services described in section 27(b), for payments to optometrists, for payments to podiatrists, for payments to independent pathology laboratories, for payments to independent radiology services, and for such other purposes as the Board may determine.

(c) The amounts assigned to the several funds and subfunds in each region shall be determined in accordance with regulations, which shall take into account, in addition to the factors considered in making the regional allocations, trends in utilization of the several services and, to the extent the Board finds it practicable, the creation of incentives to the improved utilization thereof.

FUNDS FOR HEALTH SERVICE AREAS

SEC. 66. (a) For each fiscal year the Board shall, not later than July 1, next preceding the beginning of the fiscal year, allot among the health service areas established in each region under section 124(a), each of the funds established for the region pursuant to section 65 for a class of services. If an interstate health service area lies partly in each of two or more regions, appropriate allotments of funds from each region shall be made to it.

(b) The amount allotted to each health service area from each regional fund shall be equal to the aggregate expenditures in the area for services of the class for which the fund is to be available, as determined (or if necessary, estimated) by the Board for such twelve-month period as may be specified in regulations; modified to take account of the factors considered in making regional allocations and in dividing such allocations by classes of services (including modifications designed to further the objective of equalization within each region, in the manner set forth in section 64(b) with respect to interregional equalization).

(c) Payment for services, in accordance with part E, shall be made to participating providers in each health service area by such officer of the Board as it may designate for the purpose. There shall be established for each area such accounts as the Board may find convenient for making payment to providers of more than one class of services (such as an account for payment to hospitals, or an account for payment to group practice organizations), in which shall be deposited the appropriate portions of the funds for the several classes of services to be furnished by such providers.

MODIFICATION OF FUND ALLOTMENTS

SEC. 67. Before or during a fiscal year the division of funds by classes of services pursuant to section 65, or the allotment of funds to health service areas pursuant to section 66, may be modified if the regional allocations are modified, or if the Board finds that modification is required by events occurring or information acquired after the division and allotment were made.

INITIAL ACTIONS UNDER PART D

SEC. 68. In the determination of fund availability, regional allocations, and all other actions required by this part to be taken on a fiscal year basis, the Board may in its discretion take initial actions either for the three-month period between the effective date of health benefits and the beginning of the next fiscal year, or for the fifteen-month period between such effective date and the end of such fiscal year, making in either case appropriate adjustments in the amounts of such determinations, allocations, or other actions.

PART E—PAYMENT TO PROVIDERS OF SERVICES

IN GENERAL

SEC. 81. Payment shall be made to participating providers, in accordance with this part, for covered services furnished to eligible persons. Payments shall be made from the amounts allocated from the health services account in the Trust Fund, in accordance with part D, for the respective areas and purposes.

METHODS AND AMOUNT OF PAYMENT TO PROFESSIONAL PRACTITIONERS

SEC. 82. (a) Every independent professional practitioner shall be entitled, at his election, to be paid by the fee-for-service method, consisting of the payment of a fee for each separate covered service.

(b) Every physician engaged as an independent practitioner in the general or family practice of medicine (as determined in accordance with regulations under section 22 (b)), and every dentist engaged as an independent practitioner in the furnishing of covered dental services, shall be entitled, at his election, to be paid by the capitation method if he has filed with the Board an agreement (1) to furnish all necessary and appropriate primary medical services (as defined in such regulations) or covered dental services, as the case may be, to persons on a list of persons who have chosen to receive all such services from the practitioner, (2) to maintain arrangements for referral of patients to specialists, institutions, and other providers of covered services; and (3) to maintain such records and make such reports of services furnished as may be required by regulations for purposes of medical audit. A practitioner electing the capitation method is entitled to be paid by the fee-for-service method for services furnished to eligible persons who are not on his list, but not (except as provided in regulations) for specialized services furnished to persons who are on his list.

(c) When the Board deems it necessary in order to assure the availability of services or for other reasons, the Board (1) may pay an independent practitioner a full-time or part-time stipend in lieu of or as a supplement to the foregoing methods of compensation, and it may reimburse a practitioner for special costs of continuing professional education and of maintaining linkages wtih other providers of services (such as costs of communication and of attendance at meetings or consultations), and (2) may pay for specialized medical services a stated amount per session or per case or may utilize a combination of the methods authorized by this section.

(d) The capitation method of payment for a specified kind and scope of covered services consists of the payment to a provider of such services, of an annual capitation amount (determined for a health service area) for each person who has chosen to receive all such services from the provider.

(e) The amounts allotted for a fiscal year pursuant to part D for each health service area for physician services, for dental services, for optometrist services, and for podiatrist services, respectively, shall each be used (1) to provide for payments for professional services (made either directly to practitioners or as reimbursement to hospitals or other providers for the compensation of practitioners) to be made by the Board on a budget or stipend basis or any basis other than capitation, fee-for-service, or per case, and (2) from the remainder, to make available (for each kind of professional services) an equal per capita amount for each person resident in the area who is entitled to such services. In any area in which the Board finds that a substantial volume of services is furnished to nonresidents, it may reduce the per capita amount to such extent as it finds necessary to effect an equitable distribution of funds.

(f) The per capita amount shall constitute the annual capitation amount for purposes of payment to any organization, individual practice association, or other provider furnishing all covered services (described in part B) of the kind for which the allotment is available. Lesser capitation amounts shall be fixed, on the basis of the relative cost of the services, for primary medical services, and, as may be required, for any scope of services, (less than comprehensive) which is furnished by any institutional or other provider. If the Board finds that the population served by a provider requires on the average, because of age distribution or other factor, a volume of services significantly greater or smaller than the average requirement of the population of the local health service area, the Board may, after consultation with the provider, make an appropriate adjustment in the capitation amount payable to him.

(g) For the compensation of professional practitioners who are to be paid by the Board (directly or through a delegation under this subsection) on a fee-for-service or per case basis, there shall be available—

(1) the per capita amount determined under subsection (e), multiplied by the number of residents of the health service area for whom no capitation payment (for services of the kind for which the allotment is available) is to be made under subsection (f),

(2) increased to reflect any excess resulting from a lowering of the per capita amount under subsection (e) on account of services furnished to nonresidents, or from the fixing of lesser capitation amounts under subsection (f) for services less than comprehensive, and

(3) increased or reduced to reflect adjustments under subsection (f), on the ground of age distribution or other factor, in capitation amounts payable to other providers.

The amount of payments under this subsection shall be determined in accordance with relative value scales prescribed by the Board after consultation with representatives of the respective professions in the region, State, or area, and in accordance with unit values prescribed by the Board from time to time. The Board may, on such terms as it deems appropriate, delegate to a professional society or to an agency designated by representatives of a profession in the region, State, or area the payment of fees and per session amounts under this subsection.

(h) The Board may, on an experimental or demonstration basis, enter into an agreement with a statewide or local professional society or other organization representative of independent professional practitioners to substitute another method of compensation for those set forth in this section (either for all such practitioners, for all who have elected the fee-for-service method of payments, or for all who have elected another method), if the Board is satisfied that the substitute method will not increase the cost of services and will not encourage overutilization or underutilization of covered services. The Board shall review from time to time the operation of such an agreement, and shall, after reasonable notice, terminate it if the Board finds it to have led to increased cost or to overutilization or underutilization of covered services.

PAYMENT TO GENERAL HOSPITALS

SEC. 83. (a) A participating hospital (other than a psychiatric hospital) shall be paid its approved operating costs, determined in accordance with regulations, in the furnishing of covered services to eligible persons, as such approved costs for a fiscal year are set forth in a prospective budget approved by the Board. Regulations under this section shall specify the method or methods to be used, and the items to be included, in determining costs, and shall prescribe a nationally uniform system of cost accounting.

(b) The costs recognized in each hospital budget shall be those, determined in accordance with subsection (a), to be incurred in furnishing the covered services ordinarily furnished by the hospital to inpatients or outpatients, and in performing any other function ordinarily performed by the hospital and ordinarily financed from payments by or on behalf of patients (including the clinical aspects of education or training of professional or other health personnel), except as the scope of services or of other functions may be modified (1) by agreement of the Board and the hospital, (2) by application of guidelines for the clinical education or training of health personnel established pursuant to section 131 for the region or State in which the hospital is situated, or (3) by direction of the Board pursuant to section 134. The budget shall recognize any increase or decrease of cost resulting from a modification of the scope of services or of other functions, either by agreement or by direction of the Board.

(c) The costs recognized in the budget shall include the cost of reasonable compensation to (and other costs incident to the services of) pathologists, radiologists, and other physicians and other professional or nonprofessional personnel whose services are held out as generally available to patients of the hospital or to classes of its patients, whatever the method of compensation of such physicians and other personnel, and whether or not they are employees of the hospital.

(d) The Board shall review, through such of its officers or employees or through such boards, and in such manner, as may be provided in regulations, proposed budgets prepared and submitted to it by hospitals, and may provide for participation in such review by representatives of the hospitals in the region or health service area in which the hospital is situated. Each officer of the Board charged with final action on hospital budgets shall receive and consider written justifications of budget proposals, and may provide oral hearings thereon.

(e) A hospital budget approved under this section for a fiscal year may, in such manner as is provided in regulations, be amended before, during, or after the fiscal year if there is a substantial change in any of the factors relevant to budget approval.

(f) If a hospital (other than a psychiatric hospital) operates or has an affiliation agreement (described in section 52(b)) with a participating skilled nursing home, and also operates or has an agreement with a participating home health service agency, the Board may, on request of the institution or institutions and in accordance with regulations designed to reflect the cost of a combined operation, approve a consolidated budget and make all payments thereunder to the hospital.

PAYMENT TO PSYCHIATRIC HOSPITALS

SEC. 84. A participating psychiatric hospital which is primarily engaged in furnishing covered services shall be paid in the same manner as other hospitals. Any other participating psychiatric hospital shall be paid an amount determined in accordance with regulations for each patient day of covered services to an eligible person. Such regulations shall take into account, with respect to any distinct part of the hospital which meets the requirements of section 44, the factors to be considered in the approval of the budgets of hospitals other than psychiatric hospitals, but with such adjustments as are necessary to provide equitable compensation to the psychiatric hospital.

PAYMENT TO SKILLED NURSING HOMES AND TO HOME HEALTH SERVICE AGENCIES

SEC. 85. (a) A participating skilled nursing home or home health service agency shall be paid, in the same manner as a hospital (other than a psychiatric hospital), except as provided in subsection (b) of this section, its approved operating costs in the furnishing to eligible persons of skilled nursing home services or home health services, as the case may be.

(b) Regulations under this section shall, for skilled nursing homes and for home health service agencies, respectively, specify the method or methods to be used, and the items to be included, in determining costs; may, to the extent the Board deems desirable, specify nationally uniform systems of cost accounting; and, taking into account the prevailing practices of such homes or such agencies, may specify services which will be recognized in budgets and services which will not be so recognized.

PAYMENT FOR DRUGS

SEC. 86. (a) For each drug appearing on either of the lists established pursuant to section 25, the Board shall from time to time determine a product price or prices which shall constitute the maximum to be recognized under this title as the cost of the drug to a provider thereof. Product prices shall be so fixed as to encourage the acquisition of drugs in substantial quantities, and differing product prices for a single drug may be established only to reflect regional differences in cost or other factors not related to the quantity purchased.

(b) Payment for a drug furnished by an independent pharmacy shall consist of its cost to the pharmacy (not in excess of the applicable product price) plus a dispensing fee. The Board, after consultation with representatives of the pharmaceutical profession, shall establish (and from time to time review) schedules of dispensing fees, designed to afford reasonable compensation to independent pharmacies after taking into account variations in their cost of operation resulting from regional differences, differences in the volume of drugs dispensed, differences in services provided, and other factors which the Board finds relevant.

PAYMENT TO GROUP PRACTICE ORGANIZATIONS AND INDIVIDUAL PRACTICE ASSOCIATIONS

SEC. 87. (a) Payment to a group practice organization or to an individual practice association for covered services to its eligible enrollees shall consist of basic capitation payments plus additional payments (if any) determined in accordance with subsection (d).

(b) The basic capitation payment shall consist of a basic capitation amount multiplied by the number of eligible persons enrolled in the organization or association. The basic capitation amount shall be the sum of the appropriate capitation amount or amounts for professional services or class of services which it has undertaken to furnish.

(c) Capitation amounts for institutional services shall be based on per diem rates derived from the budgets (approved under this part) of participating institutional providers or, if the services are furnished through institutions operated by the group practice organization or individual practice association (or are furnished by contract with institutions which are not participating providers), derived from budgets prepared and approved in like manner as for participating institutions. Per diem rates shall be determined for each fiscal year, and for that year shall be modified only if the institutional budgets are amended or if modification is necessary to avoid substantial inequities.

(d) If it appears to the satisfaction of the Board (1) that the average utilization of hospital and skilled nursing home services by eligible persons enrolled in the organization or association (in whatever manner such services are provided) has, during a fiscal year, been less than the average utilization of such services under comparable circumstances by comparable population groups not enrolled either in group practice organizations or in individual practice associations, and (2) that the services provided by the organization or association have been of high quality and adequate to the needs of its enrollees, the Board shall make an additional payment to the organization or association equal to 75 per centum of the amount which the Board finds has been saved by such lesser utilization of hospital and skilled nursing home services. The amount of any such additional payment may be used by the organization or association for any of its purposes, including the application of such amounts to the cost of services not covered by this title.

(e) The Board shall, in accordance with regulations, make available to group practice organizations and individual practice associations, in consideration of premiums to be deducted from amounts otherwise payable to them under this section, insurance against (1) the cost, in excess of an amount fixed by the Board (which shall be not less than $5,000), of services furnished during a calendar year to any one enrollee, (2) some or all of the cost of institutional services provided through arrangements with other participating providers in accordance with section 47 (a)(5), and (3) some or all of the cost, for which the organization or association is responsible in accordance with section 47 (a)(13), of services provided by other participating providers. Premium rates for such insurance shall reflect the expected utilization of services by the enrollees of the oragnization or association insured.

(f) In addition to the payments required by this section, the Board may pay to a group practice organization the cost of clinical education or training provided by the organization (otherwise than in a hospital) which the Board finds to be in accordance with guidelines established pursuant to section 131 for the region or State in which the organization is situated.

PAYMENT TO OTHER PROVIDERS

SEC. 88. (a) An agency, organization, or other entity with which the Board has entered into an agreement under section 49(a) shall be paid by such method (other than the fee-for-service method) as, in accordance with regulations, may be set forth in the agreement.

(b) An independent pathology laboratory or an independent radiology service shall be paid on the basis of a budget approved by the Board, or on such other basis as may be specified in regulations.

(c) Payment for devices, appliances, and equipment, payment for ambulance or other covered transportation services, and payment for the services of a Christian Science sanatorium shall be made on such basis as may be specified in regulations.

REDUCTION IN PAYMENTS ON ACCOUNT OF UNNECESSARY CAPITAL EXPENDITURES

SEC. 89. Whenever the Secretary, pursuant to section 1122 of the Social Security Act (relating to reduction in Federal reimbursement in cases of unnecessary capital expenditures) issues a direction to the Board with respect to any health care facility owned or operated by a participating provider, the Board shall reduce accordingly amounts otherwise payable under this part to the provider.

METHODS AND TIME OF PAYMENT

SEC. 90. The Board shall periodically determine the amount which should be paid under this part to each participating provider of services (with adjustment for payments by one participating provider to another), and the provider shall be paid, from the health services account in the Trust Fund, at such time or times as the Board finds appropriate (but not less often than monthly) and prior to audit or settlement by the General Accounting Office, the amount so determined, with adjustments on account of underpayments or overpayments previously made (including appropriate retrospective adjustments following amendment of approved institutional budgets). Payment may be made in advance in such cases and to such extent as the Board finds necessary to supply providers with working funds, on such terms as it finds sufficient to protect the interests of the United States.

PART F—DEVELOPMENT FUND

SUBPART 1—PLANNING; FUNDS TO IMPROVE SERVICES AND TO ALLEVIATE SHORTAGES OF FACILITIES AND PERSONNEL

PURPOSE OF SUBPART 1

SEC. 101. (a) The purpose of this subpart is—

(1) prior to the effective date of health security benefits, to inaugurate a program of strengthening the Nation's resources of health personnel and facilities and its system of delivery of health services, in order to enable the providers of health services better to meet the demands on them when benefits under this title become available, and to that end to provide financial and other assistance (A) in alleviating shortages and maldistributions of health personnel and facilities in order to increase the supply of services, and (B) in improving the organization of health services in order to increase their accessibility and effective delivery; and

(2) after the effective date, to reinforce the operation of the health security program under this title as a mechanism for the continuing improvement of the supply and distribution of health personnel and facilities and the organization of health services, and to that end to assist in meeting those costs of improvement of personnel, facilities, and organization that are not met either through the normal operation of the health security program under this title or from other sources of public or private assistance.

(b) With respect to health facilities and the organization of health services, the Board shall be guided by the national health priorities established by section 1502 of the Public Health Service Act, the guidelines issued by the Secretary under section 1501 thereof, and State health plans which have been developed for the respective States and found by the Secretary to be adequate under title XV of that Act. Pending findings of adequacy of State health plans, the Board shall be guided by planning of the Secretary pursuant to section 102(a) of this Act.

(c) With respect to the education and training of health personnel, the Board shall be guided by planning of the Secretary pursuant to section 102(b) of this Act.

PLANNING BY THE SECRETARY

SEC. 102. (a) Pending findings of adequacy of State health plans, the Secretary shall conduct within the Department studies addressed to identification of the most acute shortages and maldistributions of facilities and the most serious deficiencies in the organization for delivery of services covered under this Act, and of means for the speedy alleviation of these shortcomings. In carrying out this function, the Secretary shall consult with, and utilize the experience and recommendations of, existing State, regional and local health planning agencies, and State and local planning agencies and centers for health planning established pursuant to title XV of the Public Health Service Act.

(b) The Secretary shall have the continuing duty of planning for improvement of the supply and distribution of health personnel. He shall conduct such planning on a national, regional, state, or local basis as he may consider most appropriate for each kind of personnel, and in consultation with planning agencies referred to in subsection (a) to such extent as he deems desirable, and with appropriate professional organizations.

GENERAL POLICIES AND PRIORITIES

SEC. 103. (a) In providing assistance under this subpart, the Board shall give priority to improving and expanding the available resources for, and assuring the accessibility of, services to ambulatory patients which are furnished as part of coordinated systems of comprehensive care. To this end the Board shall encourage and assist (1) the development or expansion of group practice organizations meeting the requirements of section 47(a), (2) the development or expansion of agencies, organizations, and centers described in section 49(a) (1) or (2) to furnish services to persons in urban and rural areas who lack ready access to such services, (3) the recruitment and training of professional personnel to staff such organizations, agencies, and centers, (4) the recruitment and training of subprofessional and nonprofessional personnel (including the development and testing of new kinds of health personnel) to assist in the furnishing of such services, to engage in education for personal health maintenance, and to furnish liaison between such organizations, agencies, or centers and the people they serve, (5) the strengthening of coordination and linkages among institutional services (including linkages with educational institutions), among non-institutional services, and between services of the two kinds, in order to improve the continuity of care and the assurance that patients will be referred to such services and at such times as may be medically appropriate, (6) the strengthening of coordination and cooperation between hospital medical staffs and hospital administrators, and (7) the inclusion of dental services in systems of comprehensive health care.

(b) Funds available to carry out this part shall not be used to replace other Federal financial assistance, or to supplement the appropriations for such other assistance except to meet specific needs of the health security program under this title (such as the training of physicians or medical students for the general or family practice of medicine). In administering other programs of federal financial assistance the Secretary and other officers of the executive branch, on recommendation of the Board, shall to the extent possible utilize those programs to further the objectives of this part. To this end the Board, on such terms as it finds appropriate, may lend to an applicant or grantee not more than 90 per centum of the non-Federal funds required as a condition of assistance under any such program, and may pay all or part of the interest in excess of 3 per centum per annum on any loan made, guaranteed, or insured under any such program.

ORGANIZATIONS FOR THE CARE OF AMBULATORY PATIENTS

SEC. 104 (a) The Board is authorized to assist, in accordance with this section, the establishment, expansion, and operation of (1) group practice organizations which meet or will meet the requirements of section 47(a), (2) public or other non-profit agencies, organizations, and centers described in section 49(a) (1) and (2), and (3) nonprofit organizations furnishing comprehensive dental services, which meet requirements set forth in regulations of the Board.

(b) The Board is authorized to make grants (1) to any public or non-profit agency or organization (whether or not it is a provider of health services), for not more than 90 per centum of the cost (excluding costs of construction) of planning, developing, and establishing an organization or agency described in subsection (a) of this section; or (2) to an existing organization or agency described in subsection (a), for not more than 80 per centum of the cost (excluding costs of construction) of planning and developing an enlargement of the scope of its services or an expansion of its resources to enable it to serve more enrollees or a larger clientele. In addition to grants under this subsection, or in lieu of such grants, the Board is authorized to provide technical assistance for the foregoing purposes.

(c) The Board is authorized to make loans to organizations and agencies described in subsection (a) of this section to assist in meeting the cost of constructing (or otherwise acquiring, or improving or equipping) facilities which the Board finds will be essential to the effective and economical delivery, or to the ready accessibility, of covered services to eligible persons. No loan to a newly established agency or organization shall exceed 90 per centum and no loan to any other agency or organization shall exceed 80 per centum of such cost, or of the non-Federal share if other federal financial assistance in meeting such cost is available.

(d) The Board is authorized to contract with an organization or agency which is described in subsection (a) of this section and which has been either newly established or substantially enlarged, to pay all or a part of any operating deficits, for not more than five years in the case of an organization described in subsection (a)(1), and until not later than the effective date of health security benefits in the case of an agency or organization described in subsection (a)(2) or (a)(3). Any such contract shall condition payments upon the contractor's making all reasonable effort to avoid or minimize operating deficits and (if such deficits exist) making reasonable progress toward becoming self-supporting.

RECRUITMENT, EDUCATION, AND TRAINING OF PERSONNEL

SEC. 105. The Board shall promptly establish (and from time to time review) schedules of priority for the recruitment, education, and training of personnel to meet the most urgent needs of the health security program. The schedules may differ for different parts of the United States.

(b) The Board is authorized to provide, to physicians and medical students, training for the general or family practice of medicine and training in any medical specialty in which the Board finds that there is, for the purpose of this title, a critical shortage of qualified practitioners.

(c) The Board shall provide education or training for those classes of health personnel (professional, subprofessional, or nonprofessional) for whom it finds the greatest need, if other Federal financial assistance is not available for such education or training; and if other assistance is available but the Board deems it inadequate to meet the increased need attributable to the health security program, it may, with the approval of the Secretary, provide such education or training pending action by the Congress on a recommendation promptly made by the Secretary to increase the authorization of appropriations (or, if the authorization is deemed adequate, to increase the appropriations for such other assistance).

(d) The training of personnel authorized by this section includes the development of new kinds of health personnel to assist in the furnishing of comprehensive health services, and also includes the training of persons to provide education for personal health maintenance, to provide liaison between the residents of an area and health organizations and personnel serving them, and to act as consumer representatives and as members of advisory bodies in relation to the operation of this title in the areas in which they reside. The Board may make grants to public or other non-profit health agencies, institutions, or organizations (1) to pay a part or all of the cost of testing the utility of new kinds of health personnel, and (2) until the effective date of health security benefits, to pay a part of the cost of employing persons trained under this subsection who cannot otherwise readily find employment utilizing the skills imparted by such training.

(e) Education and training under this section shall be provided by the Board through contracts with appropriate educational institutions or such other institutions, agencies, or organizations as it finds qualified for this purpose. The Board may provide directly, or through the contractor, for the payment of stipends to students or trainees in amounts not exceeding the stipends payable under comparable Federal education or training programs.

(f) The Board shall undertake to recruit and train professional practitioners who will agree to practice, in urban or rural areas of acute shortage, in group practice organizations or in agencies, organizations, or centers referred to in section 49(a)(1) or (2). A practitioner who agrees to engage in such practice for at least five years and who enters upon practice in the area before the effective date of health benefits may until that date be paid a stipend to supplement his professional earnings, and in an appropriate case the Board may make a commitment to compensate the practitioner after that date in accordance with section 82(c).

(g) The Board shall undertake to recruit physicians to serve hospitals as their medical directors and to train such physicians (among other matters) in advising on and managing the development and implementation of medical policies and procedures and their coordination with planning and operational functions of the hospital, with its financing, and with its program of utilization review.

(h) In administering this section the Board shall seek to encourage the education and training, for the health professionals and other health occupations, of persons disadvantaged by poverty, inadequate education, or membership in ethnic minorities. To this end the Board may, through contracts in accordance with subsection (e), provide to such persons remedial or supplementary education preparatory to or concurrent with education or training for the health professions or occupations, and may (directly or through such contracts) provide to such persons stipends adequate to enable them to avail themselves of such education or training.

(i) Training which the Board is authorized by this Section to provide shall include retaining, either to refresh and enhance skills of trainees for positions they already hold or to equip them for positions of greater responsibility.

SPECIAL IMPROVEMENT GRANTS

SEC. 106. (a) The Board is authorized to make grants to public or other non-profit health agencies, institutions, and organizations to pay part or all of the cost of establishing improved coordination and linkages among institutional services (including linkages with educational institutions), among non-institutional services, and between services of the two kinds.

(b) The Board is authorized to make grants to organizations, agencies, and centers described in section 104(a) **to pay part** or all of the cost of installation of improved utilization review, budget, statistical, or records and information retrieval systems, including the acquisition of equipment therefor, or to pay part or all of the cost of acquisition and installation of diagnostic or therapeutic equipment.

LOANS UNDER PART F

SEC. 107. (a) Loans authorized under this part shall be repayable in not more than twenty years, shall bear interest at the rate of 3 per centum per annum, and (subject to the provisions of subsection (b)) shall be made on such other terms and conditions as the Board deems appropriate. Amounts paid as interest on any such loan or as repayment of principal shall, if the loan was made from funds appropriated pursuant to section 120 (a), be covered into the Treasury as miscellaneous receipts, and if the loan was made from funds in the health resources development account, be deposited in the Trust Fund to the credit of that account.

(b) No loan for the construction or improvement of a facility shall be made under this part unless the borrower undertakes that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or improvement on the project will be paid wages not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis Bacon Act (40 U.S.C. 276a–276a–5). The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix 133z–15) and section 2 of the Act of June 13, 1934, (40 U.S.C. 276c).

RELATIONS OF PARTS E AND F

SEC. 108. Payments by the Board under this subpart pursuant to any grant or loan to, or any contract with, a participating provider of services shall be made in addition to, and not in substitution for, payments to which the provider is entitled under Part E.

SUBPART 2—PROGRAMS OF PERSONAL CARE SERVICES

PURPOSE OF SUBPART 2

SEC. 111. (a) The purpose of this subpart is to encourage and assist in the development of community programs for maintaining in their own homes, by means of comprehensive health and personal care services, persons, who, by reason of disability or other health-related causes, would in the absence of such assistance require in-patient institutional services or might be expected to require such institutional services in the near future.

(b) It is the intent of the Congress that a grant under section 112 be made in any community to an eligible applicant which satisfies the Board that the applicant will be able (1) to develop, reasonably promptly, comprehensive services in accordance with this subpart, and (2) to develop non-Federal sources for the financing thereof to such extent as the Board finds appropriate in light of the economic resources of the community and resources otherwise available to it for this purpose.

GRANTS

SEC. 112. (a) The Board is authorized to make grants, for the development and conduct of programs in accordance with this subpart, to participating public or other nonprofit hospitals or group practice organizations, or to other public or non-profit agencies or organizations which the Board finds qualified to conduct such programs. Each program shall be designed to serve a substantial population, defined in the grant, in either an urban or a rural community.

(b) A grant under this section may be made to pay a part or all of the estimated cost of a program (including start-up cost) for a period of not more than four years, payable in such installments as the Board may determine, and may provide for meeting a decreasing share of the cost over the period of the grant. A grant shall be irrevocable except for nonperformance by the grantee or violation of the terms of this subpart or of the grant, or for other cause which would justify the termination or rescission of a contract. If it appears during the period of the grant that the cost of the program will exceed the estimate, the Board may increase prospectively the amount of the grant.

SCOPE OF SERVICES AND ELIGIBILITY THEREFOR

SEC. 113. (a) The services to be provided shall include, in addition to all covered health services (other than inpatient institutional services) described in part B (which may be provided by arrangement with participating providers), such groups or combinations of services as the Board deems necessary or appropriate to enable persons, found eligible for the services in accordance with subsection (b), to continue to live in their own homes or other noninstitutional places of residence. The personal care services may include homemaker and home help serv-

ices, home maintenance, laundry services, meals-on-wheels and other nutrition services, assistance with transportation and shopping, and such other services as may be appropriate in particular cases. The Board may prescribe different ranges of services in different programs.

(b) For each program the Board shall prescribe criteria (consistent with section 111(a) for the approval of the application for assistance, and such criteria may be different in different programs, but all programs shall be required to assure adequate coordination with all agencies in the community furnishing health or personal care services to beneficiaries of the program. Each grant shall require the grantee to establish, or arrange for the services of, a committee to screen applications for assistance under the program, in accordance with the applicable criteria, and no assistance shall be given until an application has been approved by the committee. The committee shall also maintain a constant review of utilization of the services provided by the program, and assistance to any person shall be terminated whenever the committee finds that he no longer meets the applicable criteria. The composition of the committee shall be subject to approval by the Board, and it shall include at least one physician, one professional nurse, one professional social worker, three representatives of the users of the services, and such other qualified persons as the Board may prescribe.

EVALUATION

SEC. 114. Each grant shall require the grantee to establish procedures for the evaluation of the program, with respect both to the benefits accruing to persons receiving assistance and to the fiscal impact of the program on the health security system. The Board shall also make its own evaluation of each program, and shall include a summary thereof in its annual report to the Congress.

RECOMMENDATIONS TO THE CONGRESS

SEC. 115. Before the end of the third calendar year after the enactment of this Act, the Board shall transmit to the Congress a comprehensive report on the operation of this subpart and the Board's evaluation of such operation, and shall submit its recommendation of (a) methods for the development, as widely and rapidly as practicable, of personal care services in communities lacking programs therefor or lacking adequate programs, to the end that such services in lieu of institutional care be made generally available throughout the United States, and (b) methods for the continuing financial support of such services; together with the Board's recommendations with respect to the proper role of the health security system in providing long-term institutional care and in providing personal care services in lieu thereof.

SUBPART C—AVAILABILITY OF FUNDS

AUTHORIZATION OF APPROPRIATIONS; EXPENDITURES FROM TRUST FUND

SEC. 120. (a) For the purposes of this part there are hereby authorized to be appropriated $200,000,000 for the fiscal year beginning on July 1 of the year in which this title is enacted, and $400,000,000 for the succeeding fiscal year. Funds appropriated under this subsection shall remain available until expended.

(b) For the purposes of this part, the Board is authorized, after the effective date of health benefits, to make expenditures from the health resources development account in the Trust Fund, established pursuant to section 63.

PART G—ADMINISTRATION

ESTABLISHMENT OF THE HEALTH SECURITY BOARD

SEC. 121. (a) There is hereby established in the Department of Health, Education, and Welfare a Health Security Board to be composed of five members to be appointed by the President, by and with the advice and consent of the Senate. During his term of membership on the Board, no member shall engage in any other business, vocation, or employment. Not more than three members of the Board shall be members of the same political party.

(b) Each member of the Board shall hold office for a term of five years, except that (1) a member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and (2) the terms of office of the members first appointed shall expire, as designated by the President at the time of their appointment, at the end of one, two, three, four, and five years, respectively, after the date of enactment of this Act. A member who has served for two consecutive five-year terms shall not be eligible for reappointment until two years after he has ceased to serve.

(c) The President shall designate one of the members of the Board to serve, at the will of the President, as Chairman of the Board.

DUTIES OF THE SECRETARY AND THE BOARD

SEC. 122. (a) The Secretary of Health, Education, and Welfare, and the Board under the supervision and direction of the Secretary, shall perform the duties imposed upon them, respectively, by this title. Regulations authorized by this title shall be issued by the Board with the approval of the Secretary, in accordance with the provisions of section 553 of title 5, United States Code (relating to the publication of, and opportunity to comment on, proposed regulations).

(b) The Board shall have the duty of continuous study of the operation of this Act and of the most effective methods of providing comprehensive personal health services to all persons within the United States and to United States citizens elsewhere, and of making, with the approval of the Secretary, recommendations on legislation and matters of administrative policy with respect thereto. The Board shall make, through the Secretary, an annual report to the Congress on the administration of the functions with which it is charged. The report shall include, for periods prior to the effective date of health benefits, an evaluation by the Board of progress in preparing for the initiation of benefits under this title, and for periods thereafter, an evaluation of the operation of the title, of the adequacy and quality of services furnished under it, of the adequacy of compensation to providers of services, and of the costs of the services and the effectiveness of measures to restrain the costs.

(c) The Board shall from time to time conduct studies of the adequacy and equity of the financing of the national system of health security established by this Act and shall, with the approval of the Secretary, report its findings to the Congress, together with any recommendations for amendment of this Act or of the provisions of the Internal Revenue Code of 1954 pertaining to such financing. The first report under this subsection shall be submitted not later than two years after the effective date of health benefits, and thereafter reports shall be submitted at intervals not greater than four years.

(d) In performing his functions with respect to the Commission on the Quality of Health Care, and his functions with respect to health manpower education and training, health research, environmental health, disability insurance, vocational rehabilitation, the regulation of food and drugs, and all other matters pertaining to health, as well as in supervising and directing the administration of this title by the Board, the Secretary shall direct all activities of the Department toward mutually complementary contributions to the health of the people. He shall include in his annual report to the Congress a report on his discharge of this responsibility.

(e) The Secretary shall make available to the Board all information available to him, from sources within the Department or from other sources, pertaining to the functions of the Board.

(f) The Civil Service Commission, in consultation with the Board, shall to the greatest extent practicable facilitate recruitment, for employment by the Board in the competitive service, of qualified persons experienced in the administration or operation of private health insurance and health payment plans, or experienced in other fields pertinent to the administration of this title.

(g) The Secretary is authorized to establish on the staff of the Board, and to fix the compensation for, not more than fifty positions in the professional, scientific, and executive service, each such position being established to effectuate those research and development activities of the Board which require the services of specially qualified scientific, professional, and administrative personnel. The rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than the minimum rate of grade 16 of the General Schedule of the Classification Act of 1949, as amended, nor more than the highest rate of grade 18 of the General Schedule of such Act, and the rates of compensation for all such positions shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose.

EXECUTIVE DIRECTOR; DELEGATION OF AUTHORITY

SEC. 123. (a) There is hereby established the position of Executive Director of the Health Security Board. The Executive Director shall be appointed by the Board with the approval of the Secretary, and shall serve as secretary to the Board and perform such duties in the administration of this title as the Board may assign to him.

(b) The Board is authorized to delegate to the Executive Director or to any other officer or employee of the Board or, with the approval of the Secretary (and subject to reimbursement of identifiable costs), to any other officer or employee of the Department, any of its functions or duties under this title other than (1) the issuance of regulations, or (2) the determination of the availability of funds and their allocation, under sections 62, 63, and 64.

REGIONS AND HEALTH SERVICE AREAS

SEC. 124. (a) This title shall be administered by the Board through the regions of the Department (as they may be established from time to time) and, within each region, through health service areas. The areas shall be the same as the health service areas established by the Secretary under section 1511 of the Public Health Service Act, except that with the approval of the Secretary of the Board may divide an area established under section 1511 into two or more areas for purposes of this title.

(b) The Board shall establish in each local health service area a local health security office and such branch offices as the Board may find necessary. The local offices and branch office, in addition to such informational and other administrative duties as the Board may assign them, shall have the function of receiving and investigating complaints by eligible persons and by providers of services concerning the administration of this title and of taking or recommending appropriate corrective action.

NATIONAL HEALTH SECURITY ADVISORY COUNCIL

SEC. 125. (a) There is hereby established a National Health Security Advisory Council, which shall consist of the Chairman of the Board, who shall serve as Chairman of the Council, and twenty members, not otherwise in the employ of the United States, appointed by the Secretary on recommendation of the Board, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall include persons who are representative of providers of health services, and of persons (who shall constitute a majority of the Council) who are representative of consumers of such services. Each appointed member shall hold office for a term of four years, except that (1) any member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term, and (2) the terms of members first taking office shall expire, as designated by the Secretary at the time of appointment, five at the end of the first year, five at the end of the second year, five at the end of the third year, and five at the end of the fourth year after the date of enactment of this Act. Members of the Council who are representative of providers of health care shall be persons who are outstanding in fields related to medical, hospital, or other health activities, or who are representative of organizations or associations of professional health personnel; members who are representative of consumers of such care shall be persons, not engaged in and having no financial interest in the furnishing of health services, who are familiar with the needs of various segments of the population for personal health services and are experienced in dealing with problems associated with the furnishing of such services.

(b) The Advisory Council is authorized to appoint such professional or technical committees, from its own members or from other persons or both, as may be useful in carrying out its functions. The Council, its members, and its committees shall be provided with such secretarial, clerical, or other assistance as may be authorized by the Board for carrying out their respective functions. The Council shall meet as frequently as the Board deems necessary, but not less than four times each year. Upon request by seven or more members it shall be the duty of the Chairman to call a meeting of the Council.

(c) It shall be the function of the Advisory Council (1) to advise the Board on matters of general policy in the administration of this title, in the formulation of regulations, and in the performance of the Board's functions under part D, and (2) to study the operation of this title and the utilization of health services under it, with a view to recommending any changes in the administration of the title or in its provisions which may appear desirable. The Council shall make an annual report to the Board on the performance of its functions, including any recommendations it may have with respect thereto, and the Board through the Secretary, shall promptly transmit the report to the Congress, together with a report by the Board on any recommendations of the Council for administrative action which have not been followed, and a report by the Secretary of his views with respect to any legislative recommendations of the Council.

(d) Appointed members of the Advisory Council and members of technical or professional committees, while serving on business of the Council (inclusive of traveltime), shall receive compensation at rates fixed by the Board, but not in excess of the daily rate paid under GS–18 of the general schedule under section 5332 of title 5, United States Code; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

REGIONAL AND LOCAL ADVISORY COUNCILS

SEC. 126. (a) The Board shall appoint for each of the regions of the Administration and for each health service area a regional or local advisory council, consisting of the regional or local representative of the Board as chairman and (in such numbers as the Board may determine) representatives of providers of health services and representatives (who shall constitute a majority of the members of each council) of consumers of such services. So far as possible, representatives of providers shall be so selected as to represent professional, subprofessional, and nonprofessional personnel, and representatives of consumers shall be so selected as to represent the major segments of the population to be served. Each council shall meet as often as its members may decide, but in no event less than four times each year. It shall be the function of each such council to advise the regional or local representative of the Board, as the case may be, on all matters directly relating to the administration of this title in the region or area, including methods and procedures followed in the handling of complaints.

(b) The provisions of section 125(d) shall be applicable to the members of councils appointed under this section.

PROFESSIONAL AND TECHNICAL ADVISORY COMMITTEES

SEC. 127. (a) The Board shall appoint such standing professional and technical committees as it deems necessary to advise it on the administration of this title with respect to the several classes of covered services described in part B. Each such committee shall consist of experts (in such numbers as the Board may determine) drawn from the health professions, from medical schools or other health educational institutions, from providers of services, or from other sources, whom the Board deems best qualified to advise it with respect to the professional and technical aspects of the furnishing and utilization of, the payment for, and the evaluation of, a class of covered services designated by the Board, and with respect to the relationship of that class of services to other services.

(b) The Board is authorized to appoint such experts and consultants (employed in accordance with section 3109 of title 5, United States Code), and to appoint such temporary professional and technical committees, as it deems necessary to advise it on special problems not encompassed in the assignments of standing committees appointed under subsection (a), or to supplement the advice of standing committees.

(c) In connection with its duties under section 122(c), the Board is authorized to appoint such standing or temporary committees of fiscal, actuarial, and other experts as it deems necessary.

(d) Committees appointed under this section shall report from time to time to the Board, and copies of their reports shall be transmitted by the Board to the National Advisory Council.

(e) The provisions of section 125(d) shall be applicable to experts and consultants and to the members of committees appointed under this section.

PARTICIPATION BY STATE AGENCIES

SEC. 128. (a) The Board shall consult from time to time with State health agencies (including agencies established pursuant to title XV of the Public Health Service Act) or other appropriate State agencies in preparing for and in administering health security benefits, with a view to coordinating the administration of this title with State and local activities in the fields of health planning, environmental health, licensure and inspection, education for the health professions and other health careers, and other fields relating to health. Insofar as practicable, the Board shall conduct such consultation through the regional offices of the Administration.

(b) The Board shall make an agreement with any State which is able and willing to do so under which the State health agency or other appropriate State agency will be utilized by the Board in determining whether providers of services meet or continue to meet the qualifications and requirements established by or pursuant to part C or part H. Such an agreement shall fix the frequency of inspection of the several classes of providers, other than professional practitioners, and shall establish the qualifications required of persons making the inspections. Determinations by State agencies based upon inspections made in accordance with such agreements, and determinations with respect to professional practitioners, may be given by the Board the same effect as determinations by the Board.

(c) An agreement under subsection (b) may provide that a State agency, either directly or through local public agencies, will undertake activities, specified in the agreement, directed to the health education of the residents of the State, the maintenance and improvement of the quality of covered services furnished in the State, the maintenance of effective utilization review, or the better coordination of services of different kinds.

(d) The Board shall pay to a State, in advance or otherwise as specified in the agreement, the reasonable cost of services and activities pursuant to an agreement under this section; and may pay a part or all of the cost of training (or may train) State personnel to enable them to meet the qualifications established by the Board for inspectors.

(a) In any State which is unable or unwilling to make inspections in accordance with subsection (b), the Board shall make such inspections either through its own personnel or through contract with an organization or organizations which it finds qualified to perform this function.

(f) Within ninety days after the completion of an inspection of any provider under subsection (b) or subsection (e), the Board shall make public in readily available place and from the findings of such inspection which pertain significantly to compliance with the qualifications and requirements established by or pursuant to part C or part H; except that if the State agency or the Board, on the basis of such inspection, has made a determination respecting compliance by the provider, the publication shall be based on such determination.

TECHNICAL ASSISTANCE TO SKILLED NURSING HOMES AND HOME HEALTH SERVICE AGENCIES

SEC. 129. The Board is authorized, either directly or through agreements with State agencies under section 128, to provide technical assistance to skilled nursing homes and home health service agencies to supplement, in regard to social services, dietetics, and other matters, the skills of the groups referred to in sections 45(b) and 46(b).

DISSEMINATION OF INFORMATION; STUDIES AND EVALUATIONS; SYSTEMS DEVELOPMENT; TESTS AND DEMONSTRATIONS

SEC. 130. (a) The Board shall disseminate, to providers of services and to the public, information concerning the provisions of this title, the persons eligible to receive the benefits of the title, and the nature, scope, and availability of covered services; and to providers of services, information concerning the conditions of participation, methods and amounts of compensation to providers, and other matters relating to their participation. With the approval of the Secretary, the Board may furnish to all professional practitioners information concerning the safety and efficacy of drugs appearing on either of the lists established under section 25, the indications for their use, and contraindications.

(b) The Board shall make, on a continuing basis after the effective date of health security benefits, a study and evaluation of the operation of this title in all its aspects, including study and evaluation of the adequacy and quality of services furnished under the title, analysis of the cost of each kind of services, and evaluation of the effectiveness of measures to restrain the costs.

(c) The Board is authorized, either directly or by contract—

(1) to make statistical and other studies, on a nationwide, regional, State, or local basis, of any aspect of the operation of this title, including studies of the effect of the title upon the health of the people of the United States and the effect of comprehensive health services upon the health of persons receiving such services;

(2) to develop and test, for use by the Board, records and information retrieval systems and budget systems for health services administration, and develop and test model systems for use by providers of services;

(3) to develop and test, for use by providers of services, records and information retrieval systems useful in the furnishing of health services, and equipment (such as equipment for the monitoring of patients' functions, or for multiphasic screening) useful in the furnishing of preventive or diagnostic services;

(4) to develop, in collaboration with the pharmaceutical profession, and test, improved administrative practices or improved methods for the reimbursement of independent pharmacies for the cost of furnishing drugs as a covered service; and

(5) to make such other studies as it may consider necessary or promising for the evaluation, or for the improvement, of the operation of this title.

(d) The Board is authorized to develop, and to test and demonstrate through agreements with providers of services or otherwise, methods designed to achieve, through additional incentives or in any manner, improvement in the coordination of services furnished by providers, improvement in the adequacy, quality, or accessibility of services, or decrease in their cost; methods of peer review and peer control of the utilization of drugs, laboratory services, and other services not subject to utilization review under section 51; and methods of peer review of quality. Agreements with providers for tests or demonstrations may provide for alternative methods of reimbursement in lieu of methods prescribed by part E, but, in the case of independent professional practitioners, only in accordance with section 82(h).

GUIDELINES FOR HEALTH MANPOWER EDUCATION AND TRAINING

SEC. 131. The Board shall make a continuing evaluation of the adequacy of the various classes of professional and health personnel to furnish services under this title and, after consultation with national and other organizations concerned with education and training of such personnel, and with the approval of the Secretary, shall from time to time issue guidelines designed to relate the clinical education and training conducted by providers of services more closely to the relative need for the several classes of such personnel. The guidelines shall seek to further national health manpower objectives, but shall be adapted for each region or State to take account of the capacity of providers to conduct such clinical education or training, and (to the extent the Board deems appropriate) to take account of any special manpower needs within the region or State.

DETERMINATIONS: SUSPENSION OR TERMINATION OF PARTICIPATION

SEC. 132. (a) Determinations of entitlement to benefits under this title, determinations of who are participating providers of services, determinations whether services are covered services, and determinations of amounts to be paid by the Board to participating providers, shall be made by the Board in accordance with regulations. A provider or other person aggrieved by a determination under this subsection shall, in such cases and on such conditions as are specified in regulations, be entitled to an administrative appeal from it.

(b) If the Board finds that a participating provider of services no longer meets the qualifications and requirements established by or pursuant to part C and subpart 1 of part H for services of the kinds furnished by him, or for some classes of such services, or that he has intentionally violated the provisions of this title or of regulations, or that he has failed substantially to carry out the agreement filed by him pursuant to section 41 (a)(3), the Board may issue an order suspending or terminating (absolutely or on such conditions as the Board finds appropriate) the participation of the provider, or suspending or terminating it with respect to particular classes of services.

(c) If the Board has reason to believe that a participating professional practitioner, or a professional practitioner furnishing covered services on behalf of an institution or other participating provider, has in a substantial number of cases—

(1) furnished professional services, or caused the furnishing of institutional or other services, which were not medically necessary but for which payment was claimed under this title,

(2) furnished to eligible persons covered services which were not of a quality meeting professionally recognized standards of care, or

(3) neglected to furnish necessary services to eligible persons who were his patients, under circumstances such that the neglect constituted a breach of his professional obligation,

or has reason to believe that a participating provider other than a professional practitioner has in a substantial number of cases—

(4) furnished services, for which payment was claimed under this title, known to the provider not to be medically necessary, or

(5) furnished to eligible persons covered services which were not of a quality meeting professionally recognized standards of care,

the Board shall submit the evidence in its possession either to an appropriate professional organization or to a committee constituted by the Board after consultation with such an organization (which committee may, when the Board deems it proper, include nonprofessional persons). The Board shall request the organization or committee, with or without further investigation, to recommend what action, if any, should be taken by the Board. Taking into consideration any recommendation so made to it, the Board may issue an order suspending or terminating (absolutely or on such conditions as the Board finds appropriate) the participation of the practitioner or other provider or, in the case of a practitioner furnishing services on behalf of another provider, requiring the other provider, as a condition of continued participation, to suspend or discontinue (absolutely or on conditions) the furnishing of covered services by the practitioner.

(d) The Board shall, either in advance or by way of reimbursement, pay to an organization or committee making a recommendation under subsection (c) its reasonable cost incurred in so doing.

(e) No determination under subsection (a) that a person, previously determined to be eligible for benefits, is not eligible therefor, and (unless the Board finds that eligible persons are endangered) no order under subsection (b) or (c), shall be effective until after the person or provider has been afforded a hearing under section 133 or an opportunity therefor.

HEARINGS: JUDICIAL REVIEW

SEC. 133. (a) A provider of services or other person who is dissatisfied with a determination made or an order issued under section 132 shall, upon request therefor filed in accordance with regulations, be entitled to a hearing before a hearing officer or a hearing panel of the Board. The hearing shall be held as promptly as possible and at a place convenient to the provider or other person requesting the hearing. For the purpose of reviewing the determinations of hearing officers or panels, the Board shall establish appeals tribunals (which may include regional or other intermediate appeals tribunals), and shall by regulation prescribe the jurisdiction of such and procedures for appeal to them. Decision of hearing officers or hearing panels shall, subject to appeals under this subsection, constitute final decisions to the Board.

(b) In any case in which the Board finds (on the basis of the request for hearing and the records of the Board) that a substantial issue of professional practice or conduct, in a health profession specified for this purpose in regulations, will be involved in the hearing, the hearing shall be held either before a person who is qualified in an appropriate health profession or before a panel which includes a person or persons so qualified, and an appeal in such a case shall be heard before an appellate tribunal (or a panel thereof) which includes a person or persons so qualified. In any case in which a single person qualified as a health professional, or a panel composed entirely of persons so qualified, conducts a hearing or hears an appeal, the Board shall assign an attorney to assist in the conduct of the hearing or the appeal and to advise upon the decision of issues of law.

(c)(1) Any provider of services or other person, after any final decision of the Board made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Board may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia. As part of its answer the Board shall file a certified copy of the transcript of the record, including the evidence upon which the findings and decision complained of are based.

(2) The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Board, with or without remanding the cause for a rehearing. The findings of the Board as to any fact, if supported by substantial evidence, shall be conclusive.

(3) Where a claim has been denied by the Board, or a decision is rendered which is adverse to a provider or other person who was a party to the hearing before the Board, because of failure of the claimant or such provider or other person to submit proof in conformity with any regulation prescribed by the Board, the court shall review only the question of conformity with the regulation and the validity of the regulation. The court shall not review a finding by the Board under subsection (b), or a refusal to find, that a substantial issue of professional practice or conduct will be involved in a hearing.

(4) The court shall, on motion of the Board made before it files its answer, remand the case to the Board for further action by

the Board, and may, at any time on good cause shown, order additional evidence to be taken before the Board. The Board shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm its findings of fact or its decision, or both, and shall file with the court any such additional and modified findings of fact and decision and a transcript of the additional record and testimony. Such additional or modified findings of fact and decision shall be reviewable only to the same extent as the original findings of fact and decision.

(5) The judgment of the court shall be final except that it shall be subject to review in the same manner as judgments in other civil actions.

DIRECTIONS BY THE BOARD FOR THE BETTER ORGANIZATION AND COORDINATION OF SERVICES

SEC. 134. (a) The Board is authorized, in accordance with this section, to issue to any participating provider of services (other than an individual professional provider) a direction that the provider shall—

(1) discontinue (for the purposes of payment under part E) one or more services which the provider is currently furnishing;

(2) initiate one or more covered services which the provider is not currently furnishing;

(3) initiate the furnishing of one or more covered services at a place where the provider is not currently furnishing the services; or

(4) enter into arrangements with one or more other providers of services (A) for the transfer of patients and medical records as may be medically appropriate, (B) for making available to one provider the professional and technical skills of another, or (C) for such other coordination or linkage of covered services as the Board finds will best serve the purposes of this title.

A direction under this subsection shall specify a future date on which, if the direction has not been complied with, the provider to whom it is addressed shall cease to be a participating provider.

(b) If the Board finds (1) that the services furnished by a provider of services (other than an individual professional provider) are not necessary to the availability of adequate services under this title and that their continuance as covered services is unreasonably costly, or (2) that the services are furnished inefficiently and at unreasonable cost, that effort at correction has proved unavailing, and that necessary services can be more efficiently furnished by other providers, the Board may issue a direction that on a specified date the provider shall cease to be a participating provider.

(c) No direction shall be issued under this section except on the recommendation of, or after consultation with, the State health planning and development agency (if such an agency has been established pursuant to title XV of the Public Health Security Act) of the State in which the direction will be operative. No direction shall be issued under subsection (a) unless the Board finds that it can practicably be carried out by the provider to whom it is addressed.

(d)(1) No direction shall be issued under this section until the Board has published notice, in the service area of the provider or providers affected, describing in general terms the proposed action, giving a brief statement of the reasons therefor, and inviting written comment thereon. The notice shall be published in at least one newspaper circulating in the area, and the Board shall use such other means as it finds calculated to inform residents of the area of the proposed action.

(2) If objection to the proposal is made by any interested provider of services (other than an individual professional practitioner) or by an interested health planning agency or by a substantial number of interested professional practitioners or of residents of the area, the Board shall call a public hearing before a hearing officer or hearing panel meeting the requirements of section 133(b). At the hearing the Board shall present evidence in support of the proposal, and any interested provider of services or health planning agency or any other interested person shall be entitled to participate in the hearing and to present evidence or argument or both. On the basis of evidence presented at the hearing, the hearing officer or hearing panel shall make recommended findings of fact and a recommended determination either to issue the proposed direction, to modify and issue it, or to withdraw the proposal. The final determination shall be made by the Board or by a special panel designated by it for the purpose, and shall be subject to judicial review in accordance with section 133(c).

PART H—QUALITY OF CARE

PURPOSE AND GENERAL POLICIES

SEC. 141. (a) The Board, with the advice and assistance of the Commission on the Quality of Health Care (established by section 1701 of the Public Health Service Act), shall have the continuing responsibility to maintain and enhance the quality of health care furnished under this Act, and to that end shall:

(1) prior to the effective date of health benefits, issue regulations authorized by this part, (A) to supplement the qualifications required by part C of providers of services as a condition of participation, and (B) to strengthen existing mechanisms for the control and enhancement of quality; and

(2) thereafter continuously review such regulations with a view to (A) upgrading such requirements as rapidly as the Board finds practicable, and (B) developing recommendations to the Congress for amendments of this Act designed further to assure and enhance the quality of care.

(b) In discharging its responsibility under this part, it shall be the objective of the Board to require the highest practicable quality of care that is attainable in substantially all parts of the United States. Exceptions to requirements under this part shall be permitted only when necessary to avoid critical shortages of services, and shall be reviewed from time to time and shall be eliminated whenever, and as soon as, the Board finds it practicable to do so.

(c) The Board shall assist the Commission on the quality of health care in obtaining reports and information required for the purposes of the Commission, and the Commission shall advise the Board in the development and issuance of regulations under this part and in the development of recommendations to the Congress. If the Board fails to adopt, by regulation issue under this part, a standard which the Commission has recommended be so adopted, the matter shall be reported to the Secretary and, unless he directs the Board to follow the recommendations of the Commission, the Board shall publish a statement of the recommendation and of its reasons for failing to adopt the standard.

CONTINUING PROFESSIONAL EDUCATION

SEC. 142. (a) Not later than two years after the effective date of health benefits, the Board shall by regulation establish for physicians, dentists, optometrists, and podiatrists such requirements of continuing education (taking into consideration standards approved by appropriate professional organizations) as it finds reasonable to maintain and enhance the quality of professional services furnished under this Act.

(b) Regulations under this section shall require the filing of such periodic reports as the Board finds necessary to assure that participating practitioners, and practitioners furnishing services on behalf of participating institutional and other providers, are in compliance with requirements established under subsection (a). The Board shall give warning to any particular practitioner whom such reports show to have failed to comply substantially with the requirements, and, before taking action under section 132(b), shall afford him an opportunity to explain or correct the deficiency.

MAJOR SURGERY AND OTHER SPECIALIZED SERVICES

SEC. 143. (a) Major surgery and other specialized services designated in regulations are not covered services unless they are furnished by specialists and, to the extent specified in regulations, are either emergency services or services furnished on referral by a physician engaged in general or family practice (as determined in accordance with regulations under section 22(b)).

(b) A physician is a specialist, for the purposes of subsection (a), only if he holds a certificate from the appropriate national specialty board; except that (1) a physician who possesses the qualifications requisite to such certification may furnish services as a specialist during a period of five years after attaining such qualifications (or, if later, after the effective date of health benefits), and (2) a physician may be authorized by the Board to furnish services as a specialist if (A) prior to the effective date he has engaged in furnishing such services as a specialist or as a substantial part of his medical practice, (B) he meets standards established by the Board, and (C) where appropriate, authorization to him to furnish services as a specialist is recommended by a participating hospital in which he has engaged substantially in furnishing such services.

(c) The Board may by regulation exclude from covered services specified surgical procedures, when not required by life threatening or other acute emergencies, which have not been preceded by consultation with, and recommendation of surgery by, such appropriately qualified specialists as may be required by the regulations. Hospital and other services incident to surgery excluded by regulations under this subsection are not covered services.

(d) With respect to the performance of surgical procedures specified in regulations under subsection (c), including emergency procedures, the Board may require as a condition of payment to the provider that there be submitted to the Board a pathology report on tissue removed and a clinical abstract or discharge report of the case.

ADDITIONAL REQUIREMENTS FOR PARTICIPATION

SEC. 144. (a) No provider on whose behalf one or more physicians, dentists, optometrists, or podiatrists furnish professional services described in section 22 cr section 23 or in regulations issued under section 27(a)(1) or (2) shall be a participating provider unless every practitioner furnishing such services is a qualified provider in accordance with section 42 and meets such requirements, applicable to practitioners of his profession, as are prescribed by or pursuant to this part.

(b) The Board may by regulation establish, as conditions of participation by providers other than independent professional practitioners, requirements (additional to those specified in part C and those otherwise prescribed by or pursuant to this part) which the Board finds necessary in the interest of the quality of care and the safety of eligible persons. In establishing requirements under this subsection, the Board shall take into consideration standards or criteria established or recommended by appropriate professional or other associations or organizations. The Board shall establish such requirements as it finds necessary to assure that participating hospitals and skilled nursing homes meet the requirements prescribed from time to time for accreditation by the Joint Commission on the Accreditation of Hospitals, but the authority of the Board is not limited to the requirements of the Joint Commission. Exceptions to requirements established under this subsection shall be permitted only in accordance with section 141(b).

PROFESSIONAL STANDARDS REVIEW AND SIMILAR ORGANIZATIONS

SEC. 145. On recommendation of the Commission on the Quality Health Care, the Board may contract with a Professional Standards Review Organization heretofore designated or conditionally designated as such by the Secretary, or with an organization performing similar functions hereafter approved for the purpose by the Board, to monitor the quality of some or all institutional and other services furnished under this Act within the area of operation of such organization, and to report to the Board its findings with respect to conformity to the requirements relating to quality prescribed by or pursuant to this Act. Any such contract shall be so designed as to supplement, and not duplicate, inspections by State agencies under section 128(b) or by the Board under section 128(e). The Board shall pay to the organization, in advance or otherwise as specified in the contract, the reasonable cost of services and activities of the organization under the contract.

FINDINGS OF COMMISSION ON MEDICAL MALPRACTICE

SEC. 146. In exercising its authority under this part the Board shall give consideration to the findings, report, and recommendations of the Commission on Medical Malpractice established by the Secretary, and within the authority conferred by this or any other Act shall put into effect such of the recommendations of that Commission and such other measures as in the judgment of the Board will tend to reduce the incidence of malpractice, to lessen the cost or increase the availability of malpractice insurance, or to facilitate the speedy, equitable, and economical adjudication of malpractice claims.

PART I—MISCELLANEOUS PROVISIONS

DEFINITIONS

SEC. 161. When used in this Title—

(a) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(b) The term "United States" when used in a geographical sense means the States, as defined in subsection (a).

(c) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(d) The term "Department", except when the context otherwise requires, means the Department of Health, Education, and Welfare.

(e) The term "Board" means the Health Security Board established by section 121.

DEPUTY SECRETARY OF HEALTH, EDUCATION, AND WELFARE; UNDER SECRETARY FOR HEALTH AND SCIENCE

SEC. 162. (a) There shall be in the Department of Health, Education, and Welfare, in addition to the Assistant Secretaries now provided for by law, a Deputy Secretary of Health, Education, and Welfare and an Under Secretary for Health and Science each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such functions (related to health and science, in the case of such Under Secretary) as the Secretary may prescribe. The provisions of the second sentence of section 2 of Reorganization Plan Numbered 1 of 1953 shall be applicable to such Deputy Secretary to the same extent as they are applicable to the Under Secretary of Health, Education, and Welfare and shall be applicable to the Under Secretary for Health and Science to the same extent as they are applicable to the Assistant Secretaries authorized by that section.

(b)(1) The office of Under Secretary of Health, Education, and Welfare, created by section 2 of Reorganization Plan Numbered 1 of 1953 (67 Stat. 631), is hereby abolished.

(2) The President may authorize the person who immediately prior to the date of enactment of this Act occupies the office of Under Secretary of Health, Education, and Welfare to act as Deputy Secretary of Health, Education, and Welfare until that office is filled by appointment in the manner provided by subsection (a) of this section. While so acting, such person shall receive compensation at the rate now or hereafter provided by law for the Deputy Secretary of Health, Education, and Welfare.

SEC. 163. The effective date of health security benefits under this title shall be July 1 of the second calendar year after the year in which this title is enacted, and no service or item furnished prior to that date shall constitute a covered service. Section 406, transferring and amending section 1817 of the Social Security Act and redesignating it as section 61 of this Act, shall be effective on the effective date of health benefits, and part D (including section 61) shall be effective with respect to fiscal years beginning on or after that date. In all other respects this title shall be effective upon enactment, and appropriations for the purposes of this title (including action pursuant to section 201(g) of the Social Security Act, as amended by section 406 of this Act, to make funds available on and after the effective date of health benefits) are authorized to be made prior to the effective date of health benefits.

EXISTING EMPLOYER-EMPLOYEE HEALTH BENEFIT PLANS

SEC. 164. (a) No provision of this Act other than this section, and no amendment of the Internal Revenue Code of 1954 made by this Act, shall affect or alter any contractual or other non-statutory obligation of an employer to pay for or provide health services to his present and former employees and their dependents and survivors, or to any of such persons, or the amount of any obligation for payment (including any amount payable by an employer for insurance premiums or into a fund to provide for any such payment) toward all or any part of the costs of such services.

(b) Any contractual or other non-statutory obligation of the employer to pay all or part of the cost of the health services referred to in subsection (a) shall continue, and shall apply as an obligation to pay the taxes imposed on his employees by section 3101(b) of the Internal Revenue Code of 1954 (as amended by section 201(a) of this Act), but the sum of the per capita monthly amount involved in the payment of such taxes by the employer on behalf of his employees, and the per capita amount of the liability for taxes imposed on an employer by section 3111(b) of such Code (as amended by section 201(b) of this Act) shall not exceed the per capita monthly amount of the cost to the employer of providing or paying for health services (either through insurance premiums or into a fund) on behalf of persons referred to in subsection (a), for the month prior to the effective date of health security taxes (as defined in section 3121(u) of such Code, added by section 201(c) of this Act.)

(c) At least for the duration of any contractual or other non-statutory obligation of an employer referred to in subsection (a), an employer shall arrange to pay to eligible employees, former employees, and survivors referred to in subsection (a) such amounts of money by which the per capita monthly costs to the employer of providing or paying for health services referred to in subsection (a) in the month immediately preceding the effective date of health security taxes, exceed the sum of the per capita monthly costs to the employer of the taxes imposed by section 3111(b) of such Code (as amended by section 201(b) of this Act), the employer's liability referred to in subsection (b) of this section, and any other employer contributions for health insurance premiums or health benefits or services provided by the employer after the effective date of health security benefits. By agreement between the employer and his employees or their representatives, an employer may provide other benefits of an equivalent monetary value in lieu of such payments.

(d) For purposes of subsections (b) and (c), the per capita amounts and per capita costs for an employer shall be determined by dividing the aggregate amounts and the aggregate costs by the number of eligible employees, former employees, and survivors on the date as of which the determination is made.

TITLE II—HEALTH SECURITY TAXES

PART A—EMPLOYMENT TAXES

RATE AND COVERAGE

SEC. 201. (a) Section 3101(b) of the Internal Revenue Code of 1954 (imposing a hospital insurance tax on employees) is amended to read as follows:

"(b) HEALTH SECURITY.—In addition to the tax imposed by the preceding subsection, there is hereby imposed on the income of every individual a tax equal to 1 percent of the wages (as defined in section 3121(r)) received by him on or after the effective date of health security taxes (as defined in section 3121(u)) with respect to employment (as defined in section 3121(s))."

(b) Section 3111 (b) of such Code (imposing a hospital insurance tax on employers) is amended to read as follows:

"(b) HEALTH SECURITY.—In addition to the tax imposed by the preceding subsection, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, equal to 3.5 percent of the wages (as defined in section 3121(r)) paid by him on or after the effective date of health security taxes (as defined in section 3121(u)) with respect to employment (as defined in section 3121(s))."

(c) Section 3121 of such Code (containing definitions applicable to social security payroll taxes) is amended by adding at the end thereof the following subsections:

"(r) WAGES FOR PURPOSES OF HEALTH SECURITY TAXES.—For the purpose of section 3101(b), and for the purpose of section 1402(b) as applied to section 1401(b), the term 'wages' shall have the meaning set forth in subsection (a) of this section (as that subsection would apply to employment as defined in subsection (s)), except that in applying paragraph (1) of subsection (a) the term 'the health security contribution base (as defined in subsection (t))' shall be substituted for the term 'the contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears therein. For the purpose of section 3111(b), the term 'wages' shall have the same meaning, except that paragraph (1) of subsection (a) shall not be applied.

"(s) EMPLOYMENT FOR PURPOSES OF HEALTH SECURITY TAXES.—For the purposes of sections 3101(b) and 3111(b), the term 'employment' shall have the meaning set forth in subsection (b) of this section except that—

"(1) clause (B) preceding paragraph (1) of subsection (b) shall not be applied to an employee whose principal post of duty is outside the United States;

"(2) the exclusions contained in the following paragraphs of subsection (b) shall not be applied: paragraph (1) (relating to foreign agricultural workers), paragraphs (5) and (6) (relating to employment by the United States or its instrumentalities) other than paragraph (6)(C)(i) (relating to the President, the Vice President, and Members of Congress) and paragraph (6)(C)(iii) through (v) (relating to certain minor employments), paragraph (8) (relating to employment by charitable and similar organizations), paragraph (9) (relating to employment covered by the railroad retirement system), and paragraph (17) (relating to employment by subversive organizations);

"(3) subsection (m) of this section (including services by members of the uniformed services in the term 'employment') shall not be applied; and

"(4) for the purposes of section 3101(b), the exclusion contained in paragraph (7) of subsection (b) of this section (relating to employment by States and their political subdivisions and instrumentalities) shall not be applied, other than paragraph (7)(C) (i) through (iv) (relating to certain minor employments by the District of Columbia).

"(t) Health Security Contribution Base.—The term 'health security contribution base' means, for any calendar year, 150 percent of the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for such calendar year."

"(u) Effective Date of Health Security Taxes.—The term 'effective date of health security taxes' means January 1 of the second calendar year after the year in which the Health Security Act is enacted."

CONFORMING AND TECHNICAL AMENDMENTS

Sec. 202. (a) Section 3121(1) of the Internal Revenue Code of 1954 (relating to coverage of services performed in the employ of foreign subsidiaries of domestic corporations) is amended by striking out "sections 3101 and 3111" in paragraph (1)(A) and inserting in lieu thereof "sections 3101(a) and 3111(a)," and by inserting at the end of the subsection the following paragraph:

"(11) Notwithstanding the provision of any agreement entered into under this subsection, no domestic corporation shall be under any obligation to pay the Secretary, with respect to services covered under the agreement and performed on or after the effective date of health security taxes (as defined in subsection (u) of this section) amounts equivalent to the taxes which would be imposed by sections 3101(b) and 3111(b) if such services constituted employment as defined in subsection (b) or subsection (s)."

(b) Sections 3122 and 3125 of such Code are amended by striking out "section 3111" wherever it appears and inserting in lieu thereof "section 3111(a)."

(c) (1) Section 3201 (relating to tax on railroad employees) and section 3211 (relating to tax employee representatives) of such Code are each amended by striking out "plus the rate imposed by section 3101(b)."

(2) Section 3221(b) of such Code (relating to tax on railroad employers) is amended by striking out "plus the rate imposed by section 3111(b)."

(d)(1) Section 6413(c)(1)(D) of such Code is amended by inserting "(i)" immediately after "(H)", by striking out "section 3101" and inserting "section 3101(a)" in lieu thereof, and by inserting immediately before the period at the end thereof: "; and (ii) during any calendar year beginning on or after the effective date of health security taxes (as defined in section 3121(u)) the wages received by him during such year exceed the health security contribution base (as defined in section 3121(t)) for that year, the employee shall be entitled (subject to the provision of section 31(b)) to a credit or refund of any amount of tax, with respect to such wages, imposed by section 3101(b) and deducted from the employee's wages (whether or not paid to the Secretary or his delegate), which exceeds the tax with respect to an amount of such wages received in such calendar year equal to the health security contribution base for such year."

(2) Section 6413(c)(2)(A) of such Code is amended by striking out "includes for the purposes of this subsection the amount" and inserting in lieu thereof "includes for the purposes of this subsection (i) with respect to the taxes imposed by section 3101(a), the amount"; and by striking out "determined by each such head" and inserting in lieu thereof "and (ii) with respect to the taxes imposed by section 3101(b), the amount for any calendar year equal to the health security contribution base (as defined in section 3121(7)) for such calendar year; each such amount to be determined by each such head".

(e) Section 218 of the Social Security Act (relating to agreements for the coverage of services performed in the employ of States and their political subdivisions and instrumentalities) is amended—

(1)(A) by striking out, in subsection (e)(1)(A), "sections 3101 and 3111" and "section 3121" and inserting in lieu thereof, "sections 3101(a) and 3111(a)" and "section 3121(b)", respectively;

(B) by striking out, in subsection (e)(2)(B), "section 3111" and inserting in lieu thereof, "section 3111(a)"; and

(C) by adding at the end of subsection (e) the following paragraph:

"(3) Notwithstanding the provisions of any agreement entered into under this section, no State shall be under any obligation to pay to the Secretary of the Treasury, with respect to service covered under the agreement and performed on or after the effective date of health security taxes (as defined in section 3121(u) of the Internal Revenue Code of 1954), amounts equivalent to the taxes which would be imposed by sections 3101(b) and 3111(b) of such Code if such service constituted employment as defined in section 3121(b) or section 3121(s) of such Code."; and

(2) by striking out in subsection (h)(1), "and the Federal Hospital Insurance Trust Fund", and striking out in such subsection "subsection (a)(3) of section 201, subsection (b)(1) of such section, and subsection (a)(1) of section 1817, respectively" and inserting in lieu thereof "subsections (a)(3) and (b)(1) of section 201."

EXCLUSION FROM GROSS INCOME

Sec. 203. (a) Section 106 of the Internal Revenue Code of 1954 (excluding from gross income employer contributions to accident and health plans for their employees) is amended by inserting immediately before the period at the end thereof: ", and payments by the employer (without deduction from the remuneration of the employees) of the tax imposed upon his employees by section 3101(b)".

(b) The heading of section 106, and the line referring to that section in the table of contents in subtitle A, chapter 1, subchapter B, part III of such Code, are each amended by adding at the end: "and employer payment of health security taxes".

EFFECTIVE DATES OF PART A

Sec. 204. The amendments made by section 201 of this Act, and the amendments made by subsections (b) and (d) of section 202, shall be effective only with respect to remuneration received, and remuneration paid, on or after the effective date of health security taxes (as defined by section 3121(u) of the Internal Revenue Code of 1954, added by section 201(e) of this Act), and section 3121(s) of such Code shall be applicable only with respect to remuneration for services performed on or after that date. The amendments made by subsections (a), (c), and (e) of section 202 shall be effective only with respect to remuneration for services performed on or after such effective date. The amendments made by section 203 shall apply to taxable years beginning on or after such effective date.

Part B—Taxes on Self-Employment Income and Unearned Income

TAX ON SELF-EMPLOYMENT INCOME

Sec. 211. (a) Section 1401(b) of the Internal Revenue Code of 1954 (imposing a hospital insurance tax on self-employed individuals) is amended to read as follows:

"(b) Health Security.—In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 2.5 percent of the self-employment income for such taxable year."

(b) Section 1402(b) of such Code (defining self-employment income) is amended—

(1) by striking out "except that such term shall not include—" and inserting in lieu thereof "except that—," and by amending so much of clause (1) as precedes subclause (A) to read as follows:

"(1) for the purposes of section 1401(a), such term shall not include that part of the net earnings from self-employment which is in excess of —";

(2) by inserting, immediately after the word "wages" in each of the subclauses of clause (1), "as defined in section 3121(b))";

(3) by striking out "or" at the end of clause (1) and inserting "and" in lieu thereof, and by striking out clause (2) and inserting in lieu thereof the following:

"(2) for the purposes of section 1401(b), such term shall not include that part of the net earnings from self-employment which is in excess of (A) an amount equal to the health security contribution base (as defined in section 3121(t)) for the calendar year in which the taxable year begins, minus (B) the amount of wages (as defined by section 3121(r) for the purposes of section 3101(b)) paid to such individual during the taxable year; and

"(3) for the purposes of both section 1401(a) and section 1401(b), such term shall not include any net earnings from self-employment if such net earnings for the taxable year are less than $400."; and

(4) by striking out "(A)" in the sentence following clause (3), and by changing the comma following the term "section 3121(b)" in that sentence to a period and striking out the remainder of the sentence.

(c) Section 1402(d) of the Code is amended by striking out "and the term 'wages'", and striking out "AND WAGES in the subsection heading.

TAX ON HEALTH SECURITY UNEARNED INCOME

Sec. 212. Section 1403 of the Internal Revenue Code of 1954 is redesignated as section 1404, and the following new section is inserted immediately after section 1402:

"Sec. 1403. Tax on Health Security Unearned Income

"(a) Imposition of Tax.—In addition to other taxes, there shall be imposed for each taxable year beginning on or after the effective date of health security taxes (as defined in section 3121(u)), on the income of every individual residing in the United States whose health security unearned income (as defined in subsection (b) of this section) for the taxable year is $400 or more, a tax equal to 2.5 percent of the amount of such health security unearned income for such taxable year.

"(b) Definition of Health Security Unearned Income.—The term 'health security unearned income' means an amount determined by deducting from the adjusted gross income of an individual for the taxable year any part of such income (whether from wages or any other source) in excess of the amount of the health security contribution base (as defined in section 3121(t)) for the calendar year in which such taxable year begins, and deducting from the remainder any part of the adjusted gross incomes which—

"(1) consists of wages taxable under section 3101(b), or

"(2) consists of self-employment income taxable under section 1401(b), or

"(3) consists of remuneration for services performed in the employ of the United States as President or Vice President of the United States or as a Member, Delegate, or Resident Commissioner of or to the Congress, or as a member of a uniformed service on active duty, or

"(4) consists of remuneration (not taxable under section 3101(b)) for service performed by an alien in the employ of a foreign government, an instrumentality of a foreign government, or an international organization, or

"(5) consists of payments excluded from wages taxable under section 3101(b) by reason of paragraphs (2) through (13) of section 3121(a) as incorporated in section 3121 (r), or

"(6) in the case of a taxpayer who has attained the age of 60 years before or during the taxable year, consists of any other income in an amount not exceeding $5,000."

CONFORMING AND TECHNICAL AMENDMENTS

Sec. 213. (a) The heading and table of contents of chapter 2 of subtitle A of the Internal Revenue Code of 1954 are amended to read as follows:

"Chapter 2—Taxes on Self-Employment Income and Health Security Unearned Income

"Sec. 1401. Rates of tax on self-employment income.

"Sec. 1402. Definitions relating to self-employment income.

"Sec. 1403. Tax on health security unearned income.

"Sec. 1404. Miscellaneous provisions."

(b) Section 1401 of the Code, as amended by section 211(a) of this Act, is further amended by striking out the heading of the section and inserting in lieu thereof:

"Sec. 1401. Rates of Tax on Self-Employment Income"

(c) Section 1404 of the Code (as redesignated by section 212 of this Act) is amended by striking out "Self-Employment Contributions Act of 1954" and inserting in lieu thereof, "Self-Employment and Health Security Contributions Act."

(d) Section 6015 of the Code (relating to declarations of estimated income by individuals) is amended by striking out in subsection (c)(2) "the amount of the self-employment tax imposed by chapter 2" and inserting in lieu thereof "the amount of the taxes imposed by chapter 2".

(e) Section 6017 of the Code is amended—

(1) by striking out the heading of the section and inserting in lieu thereof,

"Sec. 6107. Self-Employment and Health Security Tax Returns.";

(2) by inserting, immediately after the first sentence of the section, the following sentence: "Every individual residing in the United States and having health security unearned income of $400 or more for the taxable year shall make a return with respect to the health security unearned income tax imposed by chapter 2."; and

(3) by striking out "the tax" in the sentence immediately following the insertion made by paragraph (2) and inserting in lieu thereof "the taxes", and by inserting immediately before the period at the end of that sentence, "or on the separate health security unearned income of each spouse, as the case may be".

EFFECTIVE DATES OF PART B

Sec. 214. The amendments made by sections 211, 212, and section 213 (d) and (e) (other than section 213(e)(1)) shall be effective with respect to taxable years beginning on or after the effective date of health security taxes (as defined by section 312(u) of the Internal Revenue Code of 1954, added by section 201(c) of this Act). The amendments made by section 213 (a), (b), (c), and (e)(1) shall be effective on such effective date.

Part C—Income Tax Deductions for Medical Care

DENIAL OF DEDUCTIONS FOR SERVICES COVERED BY HEALTH SECURITY ACT

Sec. 221. (a) Section 213 of the Internal Revenue Code of 1954 (relating to income tax deductions by individuals for the cost of medical care) is amended—

(1) by inserting, immediately after the words "for medical care" in paragraph (1) of subsection (a), "(other than any amount paid for medical care covered by the Health Security Act)";

(2) by striking out, in subsection (e)(1) (C), "(including amounts paid as premiums under part B of Title XVIII of the Social Security Act, relating to supplementary medical insurance for the aged)"; and

(3) by adding at the end of subsection (e) the following paragraph:

"(5) The term 'medical care covered by the Health Security Act' means health services for which the individual receiving medical care was entitled to have payment made under title I of the Health Security Act (or for which he would have been entitled to have payment made upon obtaining the services from a participating provider of services under such Act), including the costs of insurance against expenses incurred for any such services."

(b) Section 162 of such Code (relating to income tax deduction for trade or business expenses) is amended by redesignating subsection (f) as subsection (g), and inserting immediately after subsection (e) the following subsection:

"(f) No deduction shall be allowed for the cost of medical care covered by the Health Security Act (as defined in section 213(e) (5))."

(c) The amendments made by subsections (a) and (b) shall be applied with respect to medical care received on or after the effective date of health security benefits, as set forth in section 163 of the Health Security Act

TITLE III—COMMISSION ON THE QUALITY OF HEALTH CARE

STATEMENT OF PURPOSE

Sec. 301. It is the purpose of this title to improve the quality of health care in the United States by establishing a Commission on the Quality of Health Care to develop parameters and standards for care of high quality, and to promote the application of such parameters and standards in assessing and enhancing the quality of care furnished under the Health Security Act.

AMENDMENT OF THE PUBLIC HEALTH SERVICE ACT

Sec. 302. The Public Health Service Act is amended by inserting after Title XVI the following new title:

"TITLE XVII—COMMISSION ON THE QUALITY OF HEALTH CARE

"ESTABLISHMENT OF THE COMMISSION

"Sec. 1701. (a) There is hereby established in the Department of Health, Education, and Welfare a Commission on the Quality of Health Care (hereinafter in this title referred to as the 'Commission'), consisting of eleven members to be appointed by the Secretary after consultation with the Health Security Board, which shall perform the functions set forth in sections 1702 and 1703.

"(b) The Commission shall consist of persons who are especially qualified by education and experience to perform the functions of the Commission, including seven persons who are representatives of providers of health services or representatives of non-governmental organizations engaged in developing standards pertaining to the quality of health care, and four persons who are representatives of consumers of health care (who shall be persons not engaged in, and having no financial interest in, the furnishing of health services). Each member shall hold office for a term of five years, except that (1) any member appointed to fill a vacancy occurring during the term for which his predecessor was appointed shall be appointed for the remainder of that term and (2) the terms of the members first taking office shall expire, as designated by the Secretary at the time of appointment, three at the end of the first year, two at the end of the second year, two at the end of the third year, and two at the end of the fourth year after the appointment and qualification of at least six members of the Commission. A majority of the members who have been appointed and qualified shall constitute a quorum for the transaction of business.

"(c) The Secretary shall designate one of the members of the Commission to serve, at the will of the Secretary, as Chairman of the Commission.

"(d) Subject to general policies established by the Secretary, and to the availability of funds, the Commission is authorized to employ such personnel as it finds necessary, including experts and consultants employed in accordance with section 3109 of title 5, United States Code, and to appoint one or more advisory committees (including a committee on the preparation and analysis of statistics) which may include officers or employees of the United States or of State or local governments. Members of committees who are not otherwise in the full-time employ of the United States, and experts and consultants employed pursuant to this subsection, while serving on business of the Commission (inclusive of travel time), shall receive compensation at rates fixed by the Commission, but not in excess of the daily rate paid under GS–18 of the General Schedule under section 5332 of title 5, United States Code; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"FUNCTIONS OF THE COMMISSION

"Sec. 1702. (a) The primary responsibility of the Commission shall be the initiation and continuing development of methods of assessing the quality of health care furnished under the Health Security Act and methods of utilizing such assessments for the maintenance and improvement of quality, and the submission to the Secretary and the Health Security Board of its findings and recommendations. In discharging this responsibility the Commission shall—

"(1) undertake the systematization and nationwide collection of data bearing on (A) the qualifications of health personnel and the adequacy of health facilities to furnish care of high quality, (B) the patterns of medical and other health practice in actual episodes of care, (C) the patterns of utilization of the components of the health care system, and (D) the health of patients during and at the conclusion of episodes of health care, and the relation of the foregoing elements of health care thereto;

"(2) develop from such date (on a national or regional basis, for particular population groups, or otherwise, as the Commission may deem most useful) statistical norms and ranges with respect to aspects of health care which are comprised by each of the four elements listed in paragraph (1);

"(3) develop, on the basis of these norms and ranges, such standards (together with acceptable deviations therefrom) as will afford useful gages of the quality of care and useful instruments for the control and improvement of quality; and

"(4) make recommendations to the Secretary and the Health Security Board for the use of standards developed under paragraph (3) in the exercise by the Board of its authority under title I, part H, of the Health Security Act, or for their use in the development of recommendations to the Congress for amendment of the Health Security Act. In carrying out its duties under this subsection, the Commission shall emphasize, and give first consideration to, care furnished for those illnesses and conditions which have relatively high incidence in the population and which are relatively amendable to medical or other care.

"(b) The Commission shall, through its staff or by contract (or both), conduct a program of research with the objectives of—

"(1) improving the technology of assessing the quality of health care, with regard for both the service input and the end result of such care;

"(2) comparing the quality of health care furnished under different systems of delivery and methods of payment;

"(3) analyzing the effects of consumer health education, and of utilization of preventive health services;

"(4) continuing the studies made by the Secretary's Commission on Medical Malpractice, and appraising the effect of measures taken by the Health Security Board pursuant to section 146 of the Health Security Act; and

"(5) obtaining other information which the Commission believes will be useful in effectuating the purpose of this title and of title I, part H, of the Health Security Act.

"(c) The Commission is authorized to provide technical assistance to participating providers of health services under title I of the Health Security Act (1) in furnishing to the Health Security Board information required for purposes of the Commission, and (2) in developing and carrying out programs of quality control.

"ADVICE TO HEALTH SECURITY BOARD PENDING DEVELOPMENT OF STANDARDS

"SEC. 1703. Pending the development of standards and recommendations pursuant to section 1702(a), the Commission shall, both before and after the effective date of health benefits under title I of the Health Security Act, on the basis of such knowledge as is available from time to time, furnish advice and recommendations to the Health Security Board on the issuance of regulations under part H of such title.

"SEC. 1704. The Secretary is authorized to establish on the staff of the Commission, and to fix compensation for, not more than twenty-five positions in the professional, scientific, and executive service, each such position being established to effectuate those research and development activities of the Commission which require the services of specially qualified scientific, professional, and administrative personnel. The rates of compensation for positions established pursuant to the provisions of this subsection shall not be less than the minimum rate of grade 16 of the General Schedule of the Classification Act of 1949, as amended, nor more than the highest rate of grade 18 of the General Schedule of such Act; and the rates of compensation for all such positions shall be subject to the approval of the Civil Service Commission. Positions created pursuant to this subsection shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose."

TITLE IV—REPEAL ON AMENDMENT OF OTHER ACTS REPEAL OF MEDICARE AND FEDERAL EMPLOYEE HEALTH BENEFIT STATUTES

SEC. 401. (a) Effective on the effective date of health security benefits (set forth in section 163)—

(1) Title XVIII of the Social Security Act, except section 1817 thereof, is repealed.

(2) The Act of September 28, 1959 (5 U.S.C. ch. 89), and Public Law 86-724 are repealed.

(b) Subsection (a) shall not affect any right or obligation arising out of any matter occurring before the effective date of health security benefits or any administrative or judicial proceeding (whether or not initiated before that date) for the adjudication or enforcement of any such right or obligation.

MEDICAID STATUTE

SEC. 402. After the effective date of health security benefits no State (as defined in section 1101(a)(1) of the Social Security Act) shall be required, as a condition of approval of its State plan under title XIX of that Act, to furnish any service which constitutes a covered service under Title I of this Act, and any amount expended for the furnishing of any such service to a person eligible for services under title I of this Act shall be disregarded in determining the amount of any payment to a State under such title XIX. The Secretary of Health, Education, and Welfare shall by regulation prescribe the minimum scope of services required (in lieu of the requirements of section 1902(a)(13) of the Social Security Act) as a condition of approval, after the effective date of health security benefits, of a State plan under such title XIX. Such minimum scope of services shall, to the extent the Secretary finds practicable, supplement the benefits available under title I of this Act, including supplementation with respect to the duration of skilled nursing home services during the benefit period and with respect to the furnishing of dental services and of drugs (appearing on the list established under section 25(b) of this Act) to persons not entitled to such services, or not entitled to such drugs, under title I of this Act.

VOCATIONAL REHABILITATION ACT; MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

SEC. 403. Funds made available under the Vocational Rehabilitation Act or under Title V of the Social Security Act shall not be used, after the effective date of health security benefits, to pay for personal health services available under title I of this Act, but they may, in accordance with regulations of the Secretary of Health, Education, and Welfare, be used (a) to pay for institutional services which are either more extensive or more intensive than the services recognized in institutional budgets approved under title I of this Act, or (b) to pay for special medical or other procedures peculiar to vocational rehabilitation, or peculiar to the correction or amelioration of defects or chronic conditions of crippled children, as the case may be.

AMENDMENT OF SECTION 1122 OF THE SOCIAL SECURITY ACT

SEC. 404. (a) Section 1122 of the Social Security Act is amended—

(1) by striking out the words "titles V, XVIII, and XIX" whenever they appear in the section and inserting in lieu thereof "titles V and XIX of this Act and title I of the Health Security Act", and striking out "title V, XVIII or XIX" in subsection (d)(2) and inserting in lieu thereof "title V or XIX of this Act or title I of the Health Security Act";

(2) by striking out the words "in determining the Federal payments" wherever they appear in subsections (d)(1) and (e) and inserting in lieu thereof "for the purpose of determining the Federal payments";

(3) by striking out in subsection (d)(1) "not include any amount" and "exclude an amount" and inserting in lieu thereof, respectively, "not include, and shall direct the Health Security Board not to include, any amount" and "exclude, and shall direct the Health Security Board to exclude, an amount";

(4) by striking out in subsection (i)(2) "the Health Insurance Benefits Advisory Council" and insert in lieu thereof "the National Health Security Advisory Council".

(b) The amendments made by subsection (a) shall be effective upon the effective date of health security benefits except that prior to that date the Secretary of Health, Education, and Welfare may issue to the Health Security Board directions for reductions in payments to be made on and after the effective date.

REPEAL OF TITLE XI, PART B, OF THE SOCIAL SECURITY ACT

SEC. 405. Part B of title XI of the Social Security Act (relating to Professional Standards Review), and section 249F of the Social Security Amendments of 1972 (which added that part to the Act) are repealed, effective on the effective date of health security benefits.

TRANSFER AND AMENDMENT OF SECTION 1817, AND AMENDMENT OF SECTION 201(g), OF THE SOCIAL SECURITY ACT

SEC. 406. (a) Section 1817 of the Social Security Act (creating the Federal Hospital Insurance Trust Fund and appropriating to the fund the proceeds of the hospital insurance payroll taxes and the hospital insurance self-employment tax) is redesignated as section 61 and is transferred to this Act, to appear under the heading "HEALTH SECURITY TRUST FUND" as the first section of part D of title I; and is amended—

(1) by striking out the section heading, and by striking out the name of the trust fund appearing in subsection (a) and inserting in lieu thereof, "Health Security Trust Fund";

(2) by striking out paragraph (2) of subsection (a) (appropriating to the Trust Fund the proceeds of the self-employment tax for hospital insurance) and inserting in lieu thereof:

"(2) the taxes imposed by section 1401(b) of the Internal Revenue Code of 1954 with respect to self-employment income, and by section 1403 of the Code with respect to unearned income, reported to the Secretary of the Treasury or his delegate on tax returns under subtitle F of such Code."

(3) by striking out subsections (g) and (h), and inserting in lieu thereof:

"(g) On the effective date of health benefits, there shall be transferred to the Trust Fund all of the assets and liabilities of the Federal Supplementary Medical Insurance Trust Fund. The Health Security Trust Fund shall remain subject to the liabilities of the Federal Hospital Insurance Trust Fund existing immediately prior to such effective date.

"(h) In addition to the sums appropriated by subsection (a), there are authorized to be appropriated to the Trust Fund from time to time, out of any moneys in the Treasury not otherwise appropriated, a Governmental contribution equal to 100 per centum of the sums appropriated by subsection (a). There shall be deposited in the Trust Fund all recoveries of overpayments, and all receipts under loans or other agreements entered into, under this title.

"(i) The managing trustee shall pay from time to time from the Trust Fund such amounts as the Board certifies are necessary to make payments provided for by this title, and the payments with respect to administrative expenses in accordance with section 201(g) of the Social Security Act."

(b) Section 201(g) of the Social Security Act (providing for annual authorization by the Congress of payment, from the respective trust funds, of the cost of administering the several national systems of social insurance) is amended—

(1) by striking out in paragraph (1)(A) "the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund" and inserting in lieu thereof: "the Health Security Trust Fund";

(2) by striking out the words "title XVIII" wherever they appear in the subsection and inserting in lieu thereof: "title I of the Health Security Act"; and

(3) by striking out the words "for which the Secretary of Health, Education, and Welfare is responsible" wherever they appear in paragraph (1)(A), and inserting in lieu thereof, "for which the Secretary of Health, Education, and Welfare and the Health Security Board are responsible".

(c) All references to the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund, appearing in any Act other than this Act or the Social Security Act, shall be deemed to refer to the Health Security Trust Fund.

(d) For the effective date of subsections (a) and (b), see section 163. Subsection (c) shall be effective on and after the effective date of health benefits.

AMENDMENT OF TITLE XV OF THE PUBLIC HEALTH SERVICE ACT

SEC. 407. (a) Section 1501(a) of the Public Health Service Act is amended by striking out "within eighteen months" and inserting in lieu thereof "within twelve months".

(b) Section 1501(b) of such Act is amended by adding after paragraph (2) thereof the following sentence: "Such guidelines shall emphasize the need for prompt action to enable providers of health services better to meet the demands upon them when benefits under title I of the Health Security Act become available."

(c) Section 1503(b) of such Act is amended by striking out "and the Assistant Secretary of Health of the Department of Health, Education, and Welfare" and inserting in lieu thereof, "the Under Secretary for Health and Science of the Department of Health, Education, and Welfare, and the Chairman of the Health Security Board".

(d) Section 1513(d) of such Act is amended by striking out paragraph (1) thereof and redesignating paragraphs (2), (3) and (4) as paragraphs (1), (2) and (3), respectively.

(e) (1) Section 1413(e)(1) of such Act is amended by inserting, immediately after "1970", as comma and the following: "or made available under part F of title I of the Health Security Act,".

(2) Section 1513(e)(2) of such Act is amended by striking out "the Secretary" in the first and second sentences thereof, and inserting in lieu thereof in each instance "the Secretary or the Health Security Board"; by striking out "he" in the second sentence and inserting "the Secretary" in lieu thereof; and by inserting after "may make" in the fourth sentence "(or authorize the Health Security Board to make)".

(f) Section 1526 of such Act is repealed.

SALARY LEVELS

SEC. 408. (a) Section 5313, title 5, United States Code (relating to executive pay rates for positions at level II) is amended by adding at the end thereof the following new clause:

"(23) Deputy Secretary of Health, Education, and Welfare."

(b) Section 5314, title 5, United States Code (relating to executive pay rates for positions at level III) is amended by striking out clause (7) and inserting in lieu thereof:

"(7) Under Secretary for Health and Science, Department of Health, Education, and Welfare."; and by adding at the end thereof the following new clause:

"(61) Chairman, Health Security Board, Department of Health, Education, and Welfare."

(c) Section 5315, title 5, United States Code (relating to executive pay rates for positions at level IV), is amended by adding at the end thereof the following new clauses:

"(105) Members (other than the Chairman), Health Security Board, Department of Health, Education, and Welfare (4)."

"(106) Members, Commission on the Quality of Health Care, Department of Health, Education, and Welfare (11)."

(d) Section 5316, title 5, United States Code (relating to executive pay rates for positions at level V) is amended by adding at the end thereof the following new clause:

"(137) Executive Director, Health Security Board, Department of Health, Education, and Welfare."

AMENDMENT OF BUDGET AND ACCOUNTING ACT

SEC. 409. (a) Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended—

(1) by striking out "The Budget" in the second sentence of subsection (a) and inserting in lieu thereof "Except as provided in subsection (d), the Budget"; and

(2) by adding at the end thereof the following new subsection:

"(d) The Budget shall set forth the items referred to in paragraphs (4), (5), (6), (7), (8), (9), and (12) of subsection (a) which are attributable to receipts of and expenditures from the Health Security Trust Fund, and shall set forth separately such items (commonly referred to as the 'administrative budget') attributable to all other operations of the Government."

(b) The amendments made by subsection (a) shall be effective with respect to the fiscal year beginning in the first calendar year after the calendar year in which this Act is enacted, and to all subsequent fiscal years.

TITLE V—STUDIES RELATED TO HEALTH SECURITY STUDY OF THE PROVISION OF HEALTH SECURITY BENEFITS TO UNITED STATES CITIZENS IN OTHER COUNTRIES

SEC. 501. The Secretary of Health, Education, and Welfare, in consultation with the Secretary of State and the Secretary of the Treasury, shall study (a) the practicability and the means of making prepaid health services (or prepaid indemnification for the cost of health services) available, more widely than can be done under section 12 of this Act, to citizens of the United States who are resident in other countries or are temporarily visiting such countries, by supplementing the authority for reciprocal arrangements under section 12 with authority for payments from the Health Security Trust Fund, and (b) means of equitably financing such services (or indemnification) through the extension of health security taxes; and not later than five years after the enactment of this Act shall report to the Congress his findings and recommendations.

STUDY OF COORDINATION WITH OTHER FEDERAL HEALTH BENEFIT PROGRAMS

SEC. 502. (a) The Secretary of Health, Education, and Welfare shall conduct studies of the most satisfactory means of coordinating the program for the health care of merchant seamen, the program for the health care of Indians and Alaskan natives, or both, with the system of health security benefits created by this Act; the Administrator of Veterans' Affairs and the Secretary shall conduct a joint study of the most satisfactory means of coordinating with that system some or all of the programs for the health care of veterans; and the Secretary of Defense and the Secretary of Health, Education, and Welfare shall conduct a like joint study with respect to the programs of health benefits furnished by civilian facilities and personnel to dependents of members of the Armed Forces. Reports of these studies, and legislative recommendations to achieve improved coordination, shall be submitted to the Congress not later than three years after the enactment of this Act.

(b) In conducting the studies required by this section, the Secretaries and the Administrator, as appropriate, shall consult with representatives of the respective beneficiary groups, and shall include in their reports to the Congress summaries of the views of such representatives.

GENERAL PROVISIONS

SEC. 503. (a) There are hereby authorized to be appropriated such sums as may be necessary for the conduct of the studies authorized by this title.

(b) In conducting such studies the Secretary of Health, Education, and Welfare, the Secretary of Defense, and the Administrator of Veterans' Affairs are each authorized (1) to appoint such experts and consultants (employed in accordance with section 3109 of title 5, United States Code) and such advisory committees as they may deem necessary; and (2) to enter into contracts with public or private agencies or organizations for the collection of information, the conduct of research, or other purposes related to the respective studies. Experts and consultants and members of advisory committees appointed under this subsection, while serving on business related to the studies (inclusive of travel-time), shall receive compensation at rates not in excess of the daily rate paid under GS-18 of the General Schedule under Section 5332 of title 5, United States Code; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

SECTION-BY-SECTION ANALYSIS OF THE HEALTH SECURITY ACT—H.R. 21

TITLE I—HEALTH SECURITY BENEFITS

Part A—Eligibility for benefits

(Sections 11–12). Every resident of the U.S. (and every non-resident citizen when in the U.S.) will be eligible for covered services. Reciprocal and "buy in" agreements will permit the coverage of groups of non-resident aliens, and in some cases benefits to U.S. residents when visiting in other countries.

Part B—Nature and scope of benefits: Covered services

(Section 21.) Every eligible person is entitled to have payments made by the Board for covered services provided within the United States by a participating provider.

(Section 22.) All necessary professional services of physicians (including preventive care) are covered wherever furnished, with one quantitative limitation. Psychiatric services to an ambulatory patient are covered without limit if the patient seeks care in the organized setting of a group practice organization, a hospital out-patient clinic, or other comprehensive mental health clinic. In these kinds of organized settings, peer review and budgetary controls can be expected to curtail unnecessary utilization.

If the patient is consulting a solo practitioner, however, there is a limit of 20 consultations per benefit period. In communities where psychiatric services are in especially short supply, the Board may prescribe referral or other non-financial conditions to give persons most in need of services a priority of access to solo practitioners.

(Section 23.) Comprehensive dental services (exclusive of most orthodontia) are covererd for children under age 15, with the covered age group increasing by two years each year until all those under age 25 are covered. (Persons once covered remain covered for the rest of their lives). This benefit is limited initially because, even with full use of dental auxiliaries, there is insufficient manpower to provide dental benefits to the entire population. However, the Board is authorized to expand the benefits more rapidly if availability of resources warrants, and the Board is required within seven years of the effective date of the legislation, to establish a timetable for phasing in benefits for the entire population. To encourage the development of groupes which provide comprehensive medical and dental services or comprehensive dental services, the Board is authorized to phase in full dental benefits more rapidly for the enrollees of those groups than for the general population.

(Section 24.) In-patient and out-patient hospital services and services of a home health agency are covered for the duration of the services, and skilled nursing home services are covered for limited periods. Pathology and radiology services are specifically included as parts of institutional services, thus reversing the practice of Medicare. Domiciliary or custodial care is specifically excluded in any institution, thus necessitating the two important restrictions on payments for institutional care:

(1) Payment for skilled nursing home care is limited to 120 days per benefit period, except that this limit may be increased either when the nursing home is owned or managed by a hospital and payment for care is made through the hospital's budget, or for all nursing homes affiliated with hospitals. It is not practical to assume that the majority of nursing homes and extended care facilities in the country will be able to implement effective utilization review and control plans in the first years of Health Security. The demand for essentially domiciliary or custodial care in nursing homes is so overwhelming that an initial arbitrary limit on days of coverage is necessary. Extension of the benefit is authorized when this becomes feasible.

(2) Many state hospitals do not provide optimal active treatment to their psychiatric patients but rather maintain them in a custodial setting. If Health Security provides unlimited coverage for patients in these hospitals, it might tend to freeze the level of care instead of stimulating these institutions to upgrade their medical care performance. Therefore, the psychiatric hospital benefit is limited to 45 days of active treatment during a benefit period.

(Section 25.) The bill provides coverage for two categories of drug use: prescribed medicines administered to in-patients or outpatients within participating hospitals or to enrollees of comprehensive health service organizations, and drugs necessary for the treatment of specified chronic illnesses or conditions requiring long or expensive drug therapy. This will provide coverage of most drug costs for individuals who require costly drug therapy.

The bill requires the Board and the Secretary of HEW to establish two lists of approved drugs. There will be a broad list of approved medicines available for use in institutions and by comprehensive health service organizations and a more restricted list which is available for use outside such organized settings. The restricted list shall stipulate which drugs on it shall be available for treatment of each of the specified chronic diseases. No such restrictions shall be placed upon drug therapy within an institutional setting.

Use of the restricted list will meet the most costly needs for drug therapy while restraining unnecessary utilization. The benefit is more liberal where adequate control mechanisms exist.

(Section 26.) The appliances benefit is similar in concept and operation to the drug benefit, subject to a limitation on aggregate cost. The Board shall prepare lists of approved devices, appliances or equipment which it finds are important for the maintenance or restoration of health, employability or self-management (taking into consideration the reliability and cost of each item). The Board will also specify the circumstances or the frequency with which the item may be prescribed at the cost of the Health Security program.

(Section 27.) The professional services of optometrists and podiatrists are covered, subject to regulations, as are diagnostic or therapeutic services furnished by independent pathology laboratories and radiology services. The care of a psychiatric patient in a mental health day care service is covered for up to 60 days (day care benefits are unlimited if furnished by a group practice organization, by a comprehensive mental health center, or by an approved mental health day care service). Ambulance and other emergency transportation services are covered, as well as non-emergency services where (as in some sparsely settled areas) transportation is essential to overcome special difficulty of access to covered services.

Supporting services such as psychological, physiotherapy, nutrition, social work and health education are covered if they are part of institutional services or are furnished by a group practice organization, individual practice association or certain public or non-profit organizations. This establishes the important principle that these and other supporting services should be provided as part of a coordinated program of health maintenance and care. Psychologists, physical therapists, social workers, etc. will not be permitted to establish independent practices and bill the program on a fee-for-service basis. This is intended to assure that whenever services of this nature are provided they are part of an organized plan of treatment and are germane to the overall care of the patient.

In addition to services available from hospitals, mental health centers or other providers, free-standing alcohol, drug abuse, family planning and rehabilitation centers would be recognized as providers if such centers have an agreement with the Board under section 49(a) (5), (6) and (7).

(Section 28.) Health services furnished or paid for under a workmen's compensation law are not covered. Reimbursement for loss of earnings is so closely interlocked with the health services aspects of workmen's compensation that absorption of the health services portion of workmen's compensation by Health Security could have the effect of delaying findings of eligibility for income payments.

School health services are covered only to the extent provided in regulations.

The Board may exclude from coverage medical or surgical procedures which are essentially experimental in nature. Individuals who enroll in a comprehensive health service organization or enroll themselves with a primary practitioner accepting capitation payments are not entitled to seek covered services from other providers of services (except as specified in regulations). Surgery primarily for cosmetic purposes is excluded from coverage.

The services of a professional practitioner are not covered if they are furnished in a hospital which is not a participating provider. This is intended to discourage physicians from admitting patients to hospitals which cannot or will not meet standards for participation in the program.

Part C—Participating providers of services

(Section 41(a).) Participating providers are required to meet standards established in this title or by the Board under Part H relating to quality of care. In addition, they must agree to comply with such requirements as the Board finds necessary, to assure to their employees, employment rights and working conditions similar to the guarantees of other workers. In addition, they must agree to provide services without discrimination, to make no charge to the patient for any covered service, and to furnish data necessary for utilization review by professional peers, statistical studies by the Board and by the Commission on the quality of the care and verification of information for payments.

(b) A provider's participation may be terminated under procedures described in part G of the bill.

(c) If a provider is merged, consolidated or reorganized, pre-existing employment rights shall be subject to reasonable requirements by the Board for protection or employees' rights.

(Section 42 (a).) Professional practitioners licensed when the program begins are eligible to practice in the State where they are licensed. All newly licensed applicants for participation must meet national standards established by the Board in addition to those required by his State. While stopping short of creating a Federal licensure system for health professionals, this will guarantee minimum national standards. A state-licensed practitioner who meets national standards will be qualified to provide Health Security covered services in any other state. (See also Section 56(a) (1)).

(b) For purposes of this title a doctor of osteopathy is a physician, as is a dentist when performing procedures which, in generally accepted medical practice, may be performed by either a physician or a dentist.

A doctor of optometry or podiatry qualified in accordance with subsection (a) is a physician when furnishing services which are covered services in accordance with regulations issued under Section 27(a) and which he is legally qualified to furnish in the state in which he furnished them.

(Section 43.) This section establishes conditions of participation for general hospitals similar to those required by Medicare. Two requirements not found in the Medicare program are: (1) that the hospital must not discriminate in granting staff privileges on any grounds unrelated to professional qualifications; (2) that the hospital establish a pharmacy and drug therapeutics committee for supervision of hospital drug therapy. Medicare allows any hospital accredited by the Joint Commission on the Accreditation of Hospitals (if it provides utilization review) to participate in the program, thus in effect delegating to the Commission the determination whether the standards are met. This title requires all participating hospitals to meet standards established by the Board.

(Section 44.) Psychiatric hospitals will be eligible to participate only if the Board finds that the hospital (or a distinct part of the hospital) is engaged in furnishing active diagnostic, therapeutic and rehabilitative services to mentally ill patients. Psychiatric hospitals are required to meet the same standards as those prescribed for general hospitals in Section 43, and such other conditions as the Board finds necessary to demonstrate that the institution is providing active treatment to its patients. These standards will exclude costs incurred by state mental institutions to the extent they serve domiciliary or custodial functions.

(Sections 45 and 46.) Section 45 establishes conditions of participation for skilled nursing homes similar to those established for extended care facilities under Medicare. Important differences, however, are the requirement for affiliation with a participating hospital or group practice organization (see Section 51(b)) and changes in the requirements for utilization review (see Section 50). Under Section 46 participation by home health agencies will be limited to public agencies and non-profit private organizations—proprietary home health agencies are specifically excluded.

(Section 47.) Subsection (a) describes a group practice organization (one type of health maintenance organization) which undertakes to provide an enrolled population either with complete health care or, at the least, with complete Health Security services (other than mental health or dental services) for the maintenance of health and the care of ambulatory patients. The bill, in its aim to improve the methods of delivery of health services, places much emphasis on the development of new organizations of this kind and the enlargement of old ones.

Other requirements are spelled out in this section: The organization must furnish medical services (and dental services if they are included) through prepaid group practice. Other services must be furnished by staff of the organization or by contractors for whom the organization assumes responsibility, except that institutional services may be provided by arrangements with other participating providers at the expense of the group practice organization. The organization must be non-profit, but it may utilize proprietary providers in fulfilling its responsibilities.

All persons living in or near a specified service area will be eligible to enroll during an annual open enrollment period, subject to the capacity of the organization to furnish care. Services must be reasonably accessible to persons living within the specified service area. Periodic consultation with representatives of enrollees is required, and they must be given opportunity to participate in policy formulation and in evaluation of operation. Professional policies and their effectuation, including monitoring the quality of services and their utilization, are to be the responsibility of a committee or committees of physicians (and other health professionals where appropriate). Health education and the use of preventive services must be stressed, and lay persons are to be employed so far as is consistent with good medical practice. Charges for any services not covered by Health Security must be reasonable. Finally, the organization must agree to pay for services furnished by other providers in emergencies, either within the service area of the organization or elsewhere, but may meet this requirement to the extent feasible through reciprocal service arrangements with other organizations of like kind.

Subsection (b) makes clear that the organization, or professionals furnishing services for it, may also serve non-enrollees, with payment to be made to the organization, or, at its request, to such professionals.

(Section 48.) An individual practice association (another type of health maintenance organization) must be a nonprofit organization, sponsored by a county or other local medical society, which meets all the conditions for participation by a group practice organization other than the requirement of group practice. All physicians practicing in the area (and all dentists if dental services are furnished) must be permitted to become professional members, subject only to criteria, approved by the Board, relating to professional qualifications. For professional services to enrollees, professional members may be compensated by the foundation by whatever method, including fee-for-service, may be agreed upon by it and its members.

Subsection (b) provides that a professional member may furnish services to persons not enrolled in the association and receive payment from the Board on the same basis as independent practitioners, except that if he is paid by capitation, salary, or stipend by the association, the payment for services to non-enrollees is to be made to the association.

(Section 49.) This section deals with several classes of health organizations that vary widely, even within a single class, in their structure and in the scope of the services which they offer. Because statutory specifications cannot well be tailored to so many variables, the section sets forth only a general statement of the kinds of organizations to which it relates and leaves participation of each organization to a case-by-case decision of the Board on such terms as the Board deems proper.

Subsection 49(a)(1) permits the participation of community health centers or the like which, though furnishing a broad range of ambulatory services, do not serve an enrolled or otherwise predetermined population and may not meet some other requirements of section 47(a). Subsection (a)(2) authorizes the Board to deal separately with the primary care portion of a system of comprehensive care where it is necessary to rely on arrangements with other providers, rather than on a unified structure, to round out the other elements of the system. Where organizations meeting the extensive requirements of section 47(a) or 48(a) are not available, these two paragraphs of section 49(a) will give the Board flexibility in furthering one of the bill's prime objectives, the development and broad availability of comprehensive services furnished on a coordinated basis.

Because of the extent to which mental health services are separated from other health care, subsection (a)(3) permits the Board to contract directly with public or other non-profit mental health centers and mental health and day care services.

If a state or local public health agency is providing preventive or diagnostic services, such as immunization or laboratory tests, the Board may under subsection (a)(4) contract with it for the continuance of these services.

In accordance with regulations, the Board may contract with free standing ambulatory treatment centers for alcoholism and/or drug abuse; for family planning services; and for rehabilitation services.

In the field of private practice, physicians or dentists or other practitioners may group themselves in a clinic, nonprofit or proprietary, or in any number of other ways, and it may be more convenient both to them and to the Board to regard them as an entity than to deal with each practitioner separately. Subsection (a)(8) permits this. The Board will have wide discretion in contracting with such entities subject only to the limitation that, like other organizations described in section 49(a), the entity may not (under section 88(a)) be paid on a fee-for-service basis. Practitioners who elect that method of payment may of course pool their bills for submission to the Board, but there is no reason to contract with a unit for the payment of fees to it.

Subsection (b) makes clear that agreements with the Board under this section shall not (unless expressly so stipulated) preclude practitioners furnishing services under the agreements from furnishing other services as independent providers.

(Section 50.) This section specifies the broad and general conditions under which independent pathology laboratories, independent radiological services, providers of drugs, devices, appliances, equipment, or ambulance services may qualify as providers under Health Security. As under Medicare, a Christian Science Sanatorium qualifies if operated, or listed and certified, by the First Church of Christ, Scientist, Boston.

(Section 51.) The requirements of utilization review in hospitals and skilled nursing homes are in the main similar to those which Medicare has, since 1966, imposed with respect to services to aged patients. In Health Security the requirements will of course apply to the entire population. As in Medicare, the review is designed to serve a dual purpose: identification of certain specific misuses of the institutional services with a view to their termination, and a focusing of continuing attention and concern of the medical staff on the necessity for efficient utilization of institutional resources. Section 51(a) strengthens the educational aspect of the process by requiring specifically that records of reviews be maintained and statistical summaries of them be reported periodically to the institution and its medical staff (and, on request, to the Board). As under Medicare, the review committee will consist of two or more physicians, with or without other professional participation; and in the case of hospitals, will normally be drawn from the medical staff unless for some reason an outside group is required. For skilled nursing homes, on the other hand, section 51(c) departs from Medicare by permitting as an alternative that the Committee be established by the State or local public health agency under contract with the Board, or failing that, by the Board. If the nursing home operates under a consolidated budget with a hospital, the review will be made by the hospital committee. Like Medicare, Section 51 (d) and (e) call for review of specific long-stay cases as required by regulations, and notification to the institution, the attending physician, and the patient when a decision adverse to further institutional services is made.

(Section 52.) Subsection (a) of Section 52 is also like Medicare in requiring a participating skilled nursing home to have in effect an agreement with at least one participating hospital for the transfer of patients and medical and other information as medically appropriate. Subsection (b) introduces a requirement, applicable two years after the effective date of health benefits to both skilled nursing homes and home health service agencies, of affiliation with a participating hospital or group practice organization. Unless the medical staff of the hospital or organization undertakes to furnish the professional services in the nursing home or the professional services of the home health service agency, that medical staff or a committee of it must assume responsibility for these services. Subsection (c) allows the Board to waive the application of either of these requirements to a skilled nursing home or a home health agency which the Board finds essential to the provision of adequate services, if (but only for as long as) lack of a suitable hospital or organization within a reasonable distance makes a transfer or an affiliation agreement impracticable.

(Section 53.) If the construction or substantial enlargement of a hospital, skilled nursing home, or ambulatory care facility has been undertaken after December 31 of the year of enactment, without either a State certificate of need or a prior approval by a planning agency designated by the governor of the State or the Board, section 53 precludes the institution from participating in the Health Security program, except that in case of enlargement, the Board may permit participation subject to reduction in reimbursement for services. This should greatly strengthen state and local planning authorities.

(Section 54.) This section prohibits double recovery in malpractice litigation by stipulating that no damages will be awarded to the injured party for remedial services which are available without cost under the Health Security program.

(Section 55.) Institutions of the Department of Defense and the Veterans' Administration, and institutions of the Department of Health, Education, and Welfare serving merchant seamen or Indians or Alaskan natives, are excluded by section 55 from serving as participating providers, as is also any employee of these institutions when he is acting as an employee. The Board will, however, provide reimbursement for any services furnished (in emergencies, for example) by these institutions or agencies to eligible persons who are not a part of their normal clientele. It will also provide reimbursement for services furnished by the Public Health Service under the Emergency Health Personnel Act of 1970.

(Section 56.) This section overrides, for purposes of the Health Security Program, State laws of several kinds which inhibit the utilization or the mobility of health personel, cloud the legality of so-called "corporate practice" of health professions, or restrict the creation of group practice organizations. The authority of Congress to do this, in conjunction with a program of Federal expenditure to provide for the general welfare, flows from the Supremacy Clause of the Constitution and seems now to be clearly established. *Ivanhoe Irrigation District v. McCracken*, 357 U.S. 275 (1958); *King v. Smith*, 392 U.S. 309 (1968).

The first three paragraphs of subsection (a), while stopping short of creating a system of Federal licensure for health personnel, will greatly facilitate both the interstate mobility of State licensees and the effective use of ancillary personnel in the furnishing of health care. The dispensations contained in these paragraphs will be available to persons who meet national standards established by the Board.

Paragraph (1) permits a physician, dentist, optometrist, or podiatrist, licensed in one State and meeting the national standards, to furnish Health Security benefits in any other state, the scope of his permissible practice being governed by the law of the State in which he is practicing. This paragraph obviates the difficulty and cost which a practitioner may encounter, especially where reciprocity of licensure is not available, in taking up practice in a State in which he has not been licensed.

Paragraph (2) grants a similar authority to other health professional and non-professional personnel. For occupations such as pharmacy and professional nursing, which are subject to licensure in all States, a person can avail himself of this paragraph only if he is licensed in one State and meets the national standards; in other cases, where licensure is not universally required, compliance with national standards is sufficient. Here again, impediments to mobility created by existing licensure laws will be removed.

The restrictions which many professional practice acts impose on the use of lay assistants, and the legal uncertainties which often deter such use, discourage practices that can increase greatly, without sacrifice of safety, the volume of services which professionals can render. Accordingly, paragraph (3) of subsection (a) enables the Board to permit physicians and dentists, participating in public or non-profit hospitals and group practice organizations, to use ancillary health personnel, acting under professional supervision and responsibility, to assist in furnishing Health Security benefits. Such assistants may do only things which the Board has specified, and may be used only in the context of an organized medical staff or medical group. Persons employed as assistants must not only meet national standards for their respective occupations, but must also satisfy special qualifications that the Board may set for particular acts or procedures.

In the interest of encouraging salaried practice and the integration of professional practitioners into well-structured organizations for the delivery of health services, paragraph (4) of subsection (a) does away with the "corporate practice" rule insofar as it concerns participating public or other non-profit hospitals and group practice organizations. These institutions may employ physicians or make other arrangements for their services, unless in the unlikely event that the lay interference with professional acts or judgments should be threatened. No conflict of interest results from such arrangements; in the non-profit setting loyalty to employer and loyalty to patient run parallel.

Some state laws place restrictions of one kind or another on the incorporation of group practice organizations. When these restrictions prevent the State incorporation of an organization meeting the strict requirements of the Health Security Act, section 56(b) empowers the Secretary to incorporate it for purposes of the Act. Except for the special restrictions, State law will govern the corporation.

PART D—TRUST FUND; ALLOCATION OF FUNDS FOR SERVICES

(Section 61.) By section 406(a) of the present bill, section 1817 of the Social Security Act, creating the Federal Hospital Insurance Trust Fund, is amended and transferred to become section 61 of the Health Security Act. The fund will thus become the Health Security Trust Fund, succeeding to the assets and liabilities of both Medicare trust funds, and receiving the proceeds of the health security taxes imposed by title II of the Health Security Act and the authorized appropriations from general revenues equal to 100 percent of those tax receipts.

The Fund will also receive recoveries of overpayments, and receipts from loans and other agreements. To implement the role of the Trust Fund, the Managing Trustee (the Secretary of the Treasury) will make payments from the Trust Fund provided for under Title I, as the Board certifies, and with respect to administrative expenses as authorized annually by the Congress.

(Section 62.) The Health Security program is intended to operate on a budget basis overall. Accordingly, subsection (a) requires the Board to determine for each fiscal year the maximum amount which may be available for obligation from the Trust Fund. The amount so determined in advance (by March 1 preceding each fiscal year) shall not exceed the smaller of two stated limitations. The first limit is fixed on 200% of the expected net receipts from all the Health Security taxes (i.e., the tax receipts augmented by 100% thereof, to be appropriated into the Fund from general revenues of the Government.) The second limit, applicable to each fiscal year after the first full fiscal year of benefit operation (i.e., after fifteen months' availability of covered services), is an amount equal to the estimated obligations of the current year (within which the estimate is being made), subject to certain adjustments. Such adjustments will reflect change expected in: (A) the price of goods and services; (B) the number of eligible persons; (C) the number of participating professional providers, or the number or capacity of institutional or other participating providers so far as such changes are not already adequately reflected; and (D) the expected cost of program administration.

In the interest of prudent fiscal management, subsection (b) requires the Board to restrict its estimate of the amount available for obligation in the next fiscal year (inaccordance with subsection (a)) if the Board estimates that the amount in the Trust Fund at the beginning of the next fiscal year will be less than one-quarter of the total obligations to be incurred for the current year, and that such restriction will not impair the adequacy or quality of the services to be provided. Also, the Board is required to reduce its alternative estimate of the maximum amount to be available if it finds that the aggregate cost to be expected has been reduced (or an expected increase has been lessened) through improvement in organization and delivery of service or through utilization control.

Subsection (c) provides against various other contingencies which may result in increase or decrease in the estimate of the maximum amount to be available for obligation in a next fiscal year. The amount may be modified before or during the fiscal year: if the Secretary of the Treasury finds that the expected Health Security tax receipts will differ by 1 percent or more from the estimate used under subsection (a); or if the Board finds that either its factors of expected change or the cost of administration is expected to differ from the estimate by 5 percent or more; or if an epidemic, disaster or other occurrence compels higher expenditure than had been expected. If, as a result, the maximum estimate has to be increased (rather than being decreased), the Board (through the Secretary) shall promptly report its action to the Congress with its reasons.

(Section 63.) Subsection (a) provides that separate accounts shall be established in the Health Security Trust Fund—a Health Services Account, a Health Resources Development Account, and an Administration Account, as well as a residual General Account. Subsection (b) provides that in each of the first two years of program operation, 2 percent of the Trust Fund shall be set aside for the Health Resources Development Fund; and the allocation shall increase by 1 percent at two-year intervals to 5 percent within the next 6 years. The money in this account will be used exclusively for the planning and system improvement purposes described in part F.

(c) (d) After deducting the amount approved by Congress and transferred to the Administration Account, the remainder of the monies shall be allocated to the Health Services Account, and shall be used exclusively for making payment for services in accordance with part E.

(Section 64.) This section provides for allocation of the Health Services Account among the regions of the country. (a) The allocation to each region shall be based on the aggregate sum expended during the most recent 12-month period for covered services (with appropriate modification for estimated changes in the price of goods and services, the expected number of eligible beneficiaries, and the number of participating providers). (b) In allocating funds to the regions the Board shall seek to reduce, and over the years gradually eliminate, existing differences among the regions in the average per capita amount expended upon covered health services (except when these reflect differences in the price of goods and services). To accomplish this, the Board will curtail increases in allocations to high expenditure regions and stimulate an increase in the availability and utilization of services in regions in which the per capita cost is lower than the national average. (c) A contingency reserve of up to 5% may be withheld from allocation. If the remaining funds available are inadequate, allocations will be reduced pro rata. (d) Allocations may be modified before or during a fiscal year if the Board finds this is necessary.

(Section 65.) The Board will divide the allocation to each region into funds available to pay for: institutional services; physician services; dental services; furnishing of drugs; furnishing of devices, appliances and equipment; and other professional and supporting services, including subfunds for optometrists, podiatrists, independent pathology laboratories, independent radiology services, and other items. The percent allocated to each category of service may vary from region to region. In determining allocation to these funds they will be guided by the previous years' expenditures for each category of service but also take into account trends in the utilization of services and the desirability of stimulating improved utilization of resources. It will encourage a shift from heavy reliance on institutional care to better utilization of preventive and ambulatory services.

(Section 66.) These regional funds will be sub-divided among the health services areas in each region, primarily upon the basis of the previous years' expenditure for each kind of service. Again, the Board will gradually attempt to achieve the equalization of services within each region by restraining the increase of expenditures in high cost areas and channeling funds into health service areas with a low level of expenditures.

(Section 67.) Before or during a fiscal year, the division of regional funds by classes of service or the allotments to health service areas may be modified if necessary or if indicated by newly acquired information.

(Section 68) By the time Health Security benefits become available, the Government will be operating on a fiscal year beginning on October 1, instead of July 1 as at present. This section accordingly allows the Board to make the initial determinations and allocations under this part either for the three-month period from the effective date of benefits on July 1 until the beginning of the next fiscal year or for the fifteen-month period which includes the next fiscal year.

PART E—PAYMENT TO PROVIDERS OF SERVICES

(Section 81.) Payments for covered services provided to eligible persons by participating providers will be made from the Health Services Account in the Trust Fund.

(Section 82.) This section delineates methods of paying professional practitioners. Every independent practitioner (physician, dentist, podiatrist, or optometrist) shall be entitled to be paid by the fee-for-service method (subsection (a)), the amounts paid being in accordance with relative value scales prescribed after consultation with the professions (subsection (g)). Each physician engaged in general or family practice of medicine in independent practice may elect to be paid by the capitation method if he agrees to furnish individuals enrolled on his list with all necessary and appropriate primary services, make arrangements for referral of patients to specialists or institutions when necessary, and maintain records required for medical audit; and independent dentist practitioners may elect the capitation method of payment similarly (subsection (b)).

These requirements in connection with capitation payments are intended to assure that the physician (or dentist) provides to his patients all professional services within the range of his undertaking and secures other needed services by referral. Through regular medical audits, the Board will monitor the level and quality of care provided.

When necessary to assure the availability of services in a given area, subsection (c) permits paying an independent practitioner a full-time or part-time stipend in lieu of or as a supplement to other methods of compensation. This method of payment will be used selectively by the Board, mainly to encourage the location of practitioners in remote or deprived areas. Practitioners may also be reimbursed for the special costs of continuing education required by the Board and for maintaining linkages with other providers—for example, communication costs. Incentives operative under this provision will encourage physicians to improve the quality and continuity of patient care, even if the physician does not participate in a group practice. The Board may pay for specialized medical services on a per session or per case basis, or may use a combination of methods authorized by this section.

Subsection (d) defines the capitation method of payment.

Subsections (e), (f), (g). These subsections describe the method to be used in applying, as between practitioners electing the various methods of payments, the monies available in each health service area for payment to each category of professional providers. From the amount allocated to each service area, the Board will earmark funds sufficient to pay practitioners receiving stipends and for the professional services component of institutional budgets, such as hospitals. The remainder of the money will be divided to compute the per capita amount available for each category of service (i.e., physicians, dentists, podiatrists, optometrists) to the residents of the area. This per capita amount in each category will fix the capitation payments to organizations that undertake to provide the full range of services in that category to enrolled individuals. Lesser amounts will be fixed for more limited services. For example, if the per capita amounts available for physician and dental services are $65 and $25, respectively, primary physicians accepting capitation payments will receive the percentage of that $65 which is allocated for primary services, a medical society-sponsored individual practice association would receive the entire $65 for physician services, dentists furnishing all covered services would receive the $25 allocated for dental services, and organizations which undertake to provide all physician and dental services to enrolled individuals will receive $90 for each enrolled individual.

The budget per capita amount for each type of covered service (physician, dental, etc.) will be divided between the categories of providers of service according to the number of individuals who elect to receive care from those providers. For example, in a city of 100,000 people, 25,000 may enroll in a group practice organization. Using the figures cited in the example above, the Board will pay the group practice organization $1,625,000 ($65 × 25,000) for physician services. The other 75,000 individuals elect to receive their physician services from solo, fee-for-service practitioners. The Board will create a fund of $4,875,000 ($65 × 75,000) to pay all fee-for-service bills submitted by physicians in that community, in accordance with relative value scales and unit values fixed by the Board. The fund for fee payments will be augmented to the extent that some capitation payments have been lowered because they cover only primary services, and may be augmented further where a substantial volume of services is furnished, on a fee basis, to non-residents of the area.

Subsection (h) authorizes the Board to experiment with other methods of reimbursement so long as the experimental method does not increase the cost of service or lead to overutilization or underutilization of services.

(Section 83.) Hospitals will be paid on the basis of a predetermined annual budget covering their approved costs. To facilitate review of these budgets, the Board will institute a national uniform accounting system. Subsection (b) stipulates that the costs recognized for purposes of the budget will be those incurred in furnishing the normal services of the institution except as changed by agreement, or by order of the Board under section 134. This will enable the Board, on the basis of State and local planning, to eliminate, gradually, wasteful or duplicative services, and also to provide for an orderly expansion of hospital services where needed.

Physicians and other professional practitioners whose services are held out as available to patients generally (such as pathologists and radiologists) will be compensated through the institutional budget, whatever the method of compensation of such practitioners and whether or not they are employees of the hospital. This departs from the practice in Medicare which allows independent billing by such physicians. The institution's budget may also be increased to reflect the cost of owning or operating an affiliated skilled nursing home, or home health service agency. Hospital budgets will be reviewed by the Board, locally or regionally, which may permit participation by representatives of the hospitals in each region. Budgets may be modified before, during, or after the fiscal year if changes occur which make modification necessary.

(Section 84.) If an entire psychiatric hospital is found by the Board to be providing active treatment to its patients, and the institution is therefore primarily engaged in providing covered services to eligible beneficiaries, it will be paid on the same basis as a general hospital (on the basis of an approved annual budget). Otherwise the Board will negotiate a patient-day rate to be paid for each day of covered service provided to an eligible beneficiary.

(Section 85.) This section provides that skilled nursing homes and home health agencies will be paid in the same manner as a general hospital (on an approved annual budget basis). The Board may specify use of nationally uniform systems of accounting and may prescribe by regulation the items to be used in determining approved costs and the services which will be recognized in budgets.

(Section 86.) Reimbursement for drugs will be made to the dispensing agent on the basis of an official "product price" for each drug on the approved list, plus a dispensing fee in the case of an independent pharmacist. The official product price will be set at a level which will encourage the pharmacy to purchase substantial quantities of the drug (this should result in significant reductions in the unit cost of each drug). The official price may be modified regionally to reflect differences in cost of acquiring drugs. The Board will establish dispensing fee schedules for reimbursing independent pharmacies. These schedules will take into account regional differences in costs of operation, differences in volume, level of services provided and other factors.

(Section 87.) Subsections (a) and (b) provide that a group practice organization or individual practice association will be paid a basc capitation rate multiplied by the number of elgible enrollees. The amount of the capitation rate will be determined by the per capita amounts available for the several professional services in the area, and a rate fixed by the Board as the average reasonable and necessary cost per enrollee for other covered services.

Subsection (c) fixes capitation amounts for institutional services based on per diem rates derived from the budgets of participating institutional providers or institutions with which the organization or association may have a contractual agreement. The organization or association will be entitled to share in up to 75% of any savings which are achievd by lesser utilization of institutional services by its enrollees. Entitlement to such savings is conditional upon a finding by the Board that the services of the organization or association have been of high quality and adequate to the needs of its enrollees, and that the average utilization of hospital or skilled nursing services by the enrollees of the organization or association is less than the use of such services by comparable population groups not so enrolled but under otherwise comparable circumstances. This money may be used by the organization or association for any of its purposes, including the provision of services which are not covered under the Health Security program.

Subsection (e) directs the Board to allow organizations and associations to reinsure with the Board against catastrophic costs incurred on behalf of any one enrollee, against some or all of the costs of institutional acre which it contracts out, and against some or all of the costs of out-of-area services.

Subsection (f) permits the Board to make an additional payment to group practice organization for the cost of clinical education or training provided by the organization.

(Section 88.) Subsection (a) provides that an organization or agencies with which the Board has entered into an agreement under section 49 (such as a neighborhood health center, a non-profit mental health center, or local public health agency furnishing preventive or diagnostic services) may be paid by any method agreed upon other than fee-for-service.

Subsection (b) provides that independent pathology or radiology services may be paid on the basis of an approved budget or such other methods as may be specified in regulations.

Subsection (c) leaves the method of payment for other types of supporting services to be specified in regulations.

(Section 89.) This section provides that the Board will reduce payments to institutional providers in accordance with findings by the Secretary that a facility or any part of a facility has not been built in compliance with the area health plan.

(Section 90.) All participating providers will be paid from the Health Services Account in the Trust Fund at such time or times as the Board finds appropriate (but not less often than monthly). The Board may make advance payment to supply providers with working funds when it deems advisable.

Part F—Development Fund

SUBPART 1—PLANNING: FUNDS TO IMPROVE SERVICES AND TO ALLEVIATE SHORTAGES OF FACILITIES AND PERSONNEL

(Section 101.) This section sets forth the general purposes of subpart 1 of Part F. The subpart enables the Board, through selective financial assistance, to stimulate and assist in the development of comprehensive services, the education and training of health personnel who are in especially short supply, and the betterment of the organization and efficiency of the health delivery system. In carrying out these functions, the Board is to be guided by the planning with respect to health facilities and the organization of services which will be conducted under the recently enacted title XV of the Public Health Services Act, when and as the new processes become operative. In the meantime it will be guided by such planning as is conducted by the Secretary under section 102. With respect to the supply and distribution of health personnel, the Board will also rely on planning conducted by the Secretary.

(Section 102.) Subsection (a) directs the Secretary, in effect, to fill in the gap in facility and services planning until the new processes can begin to produce results, addressing himself immediately to the most acute shortages and maldistribution of facilities and the most serious deficiencies in organization. He is directed to consult with, and utilize the experience and recommendations of, both existing State and local health planning agencies and the new agencies as they emerge.

Subsection (b) places on the Secretary a continuing duty to plan for improvement of the supply and distribution of health personnel, and to do this in consultation both with the health planning agencies and with appropriate professional organizations.

Thus, the bill takes advantage of the new legislation strengthening State planning agencies, focusing in them eventally the responsibility, visualized in the "Partnership-for-Health" legislation but in many States not realized as an operating reality, for pulling together all health planning efforts within their territories. Recognizing, however, that it will take time to make the new arrangements effective, the bill charges the Secretary with bringing all available experience and skills to bear on the immediate need to identify the most pressing requirements in preparation for the availability of Health Security benefits. These tasks will not be easy, but they are lent new urgency by the Health Security Program.

(Section 103.) In administering subpart 1, this section stipulates, the Board will give priority to improving comprehensive health services for ambulatory patients through the development or expansion of group practice organizations and community health centers, and primary care centers (where full service organizations are impractical), the recruitment and training of personnel, and the strengthening of coordination among providers of services. Funds will not be used to replace other Federal financial assistance, and may supplement other assistance only to meet specific needs of the Health Security program. Other Federal assistance programs are to be administered when possible to further the objectives of Part F, and the Board may provide loans or interest subsidies to help the beneficiaries of other programs to meet the requirements for non-Federal funds.

(Section 104.) Help of several kinds will be available under this section for the creation or the enlargement of group practice organizations to serve an enrolled population on a capitation basis, agencies such as neighborhood health centers which need not require enrollment in advance, primary care centers, or organizations furnishing comprehensive dental services. Grants may be made to any public or other non-profit organization (which need not be a health organization) to help meet the cost, other than construction cost, of establishing such organizations, and to existing organizations to help meet the cost of expansion: the maximum grants being, in the former case 90 percent of the cost, in the latter 80 percent. The Board may also provide technical assistance for these purposes. Loans may be made for the cost of necessary construction, subject to the same 90 and 80 percent limitations on amount. Finally, start-up costs of operation of these organizations may be underwritten, for five years in the case of organizations which must build up an enrollment to assure operating income, and in other cases until the Health Security program begins payment for services in the first year of entitlement to benefits. The effect of these several provisions is to reduce sharply, if not eliminate, the financial obstacles which have heretofore impeded the growth of group practice and similar organizations.

(Section 105.) This section contains a series of provisions to assist in the recruitment, education, and training of health personnel. The Board will establish priorities to meet the most urgent needs of the Health Security system, but the priorities will be flexible both as between different regions and from time to time. Professional practitioners will be recruited for service in shortage areas, both urban and rural, and in group practice organizations, and such practitioners may be given income guarantees. Other Federal assistance for health education and training will be availed of, but the Board may supplement the other assistance if the Board believes it inadequate to the needs, until Congress has had opportunity to review its adequacy. The training authorized includes retraining. It also includes the development of new kinds of health personnel to assist in furnishing comprehensive services, and the training of area residents to participate in personal health education and to serve liaison functions and serve as representatives of the community in dealing with health organizations. Grants may be made to test the utility of such personnel, and to assist in their employment before the effective date of health benefits. Education and training are to be carried out through contracts with appropriate institutions and agencies, and suitable stipends to students and trainees are authorized. Physicians will be recruited and trained to serve as hospital medical directors. Finally, special assistance may be given, both to intitutions and to students, to meet the additional cost of training persons disadvantaged by poverty, membership in minority groups, or other cause.

(Section 106.) This section authorizes special improvement grants: first, to any public or other nonprofit health agency or institution to establish improved coordination and linkages with other providers of services; and, second, to the organizations described in section 104 to improve their utilization review, budget, statistical, or records and information retrieval systems, to acquire equipment needed for those purposes, or to acquire equipment useful for mass screening or for other diagnostic or therapeutic purposes.

(Section 107.) This section provides that loans under part F are to bear 3 percent interest and to be repayable in not more than 20 years. Other terms and conditions are discretionary with the Board, except for required compliance with the Davis-Bacon Act. Repayment of loans made from general appropriations will go to the general fund of the Treasury; repayment of later loans will revert to the Health Resources Development Account in the Trust Fund.

(Section 108.) This section specifies that payments under part F shall be in addition to, and not in lieu of, payments to providers under part E.

SUBPART 2—PROGRAMS OF PERSONAL CARE SERVICES

(Section 111.) The purpose of this subpart is stated in this section, to encourage and assist in the development of community programs of maintaining in their own homes, by means of comprehensive health and personal care services, disabled or chronically ill persons who otherwise require or are likely to require institutional care. It is intended that a grant be made in any community that can develop a satisfactory program and such non-Federal financing as the Board finds appropriate.

(Section 112.) This section authorizes grants to public or nonprofit agencies for this purpose, each program being designed to serve a substantial urban or rural population. Grants may be made for up to four years, and shall be irrevocable except for cause.

(Section 113.) The services to be provided include, in addition to covered health services, combinations of personal care services (such as homemaker and home maintenance services, laundry, meals-on-wheels and other dietary services, help with transportation and shopping, and other appropriate services). Different services may be provided in different programs. Full coordination with existing community health or personal care programs is required. Committees are to be established, consisting of professionals and representatives of users of the services, to screen applications for assistance and monitor utilization.

(Section 114.) Grantees must evaluate their programs with respect both to benefits to users of the services and to the fiscal impact on the Health Security system. The Board is also to evaluate each program and summarize its conclusions in its annual reports to Congress.

(Section 115.) Within three years the Board is to make a comprehensive report to Congress on this program with an evaluation of its operation. The Board is to submit also its recommendations of methods of developing, as widely and rapidly as practicable, personal care services where they are then lacking, with a view to making such services generally available throughout the United States; its recommendations with respect to the continuing financial support of such programs; and its recommendations on the proper role of the Health Security program in providing long-term institutional care and in providing personal care services in lieu thereof.

SUBPART 3—AVAILABILITY OF FUNDS

(Section 120.) For the two-year "tooling-up" period, appropriations of $200 and $400 million are authorized for financial assistance. Beginning with the effective date of health benefits, percentages of the Trust Fund expenditures will be earmarked for such assistance (section 63). From that date on, the leverage of these expending funds will supplement and reinforce the incentives, which are built into the normal operation of the Health Security program, for improvement of the organization and method of delivery of health services.

PART G—ADMINISTRATION

This part of the bill creates an administrative structure within the Department of Health, Education and Welfare with responsibility for administration of the Health Security program. Program policy will be made by a five-member Board, under the supervision of the Secretary of HEW. The Board will be assisted by a National Health Security Advisory Council which will recommend policy and evaluate operation of the program, and an Executive Director who will serve as Secretary to the Board and chief administrative officer for the program. Administration of the program will be greatly decentralized among the HEW Regional Offices. Regional and local health services advisory councils will advise on all aspects of the program in their regions and local areas. The Board may also appoint such professional or technical committees as it may deem necessary.

(Section 121.) This section establishes a five-member full-time Health Security Board serving under the Secretary of Health, Education, and Welfare. Board members will be appointed by the President with the advice and consent of the Senate, for five-year overlapping terms. Not more than three of the five appointees may be members of the same political party. A member who has served two consecutive terms will not be eligible for reappointment until two years after the expiration of his second term. One member of the Board shall serve as chairman at the pleasure of the President.

(Section 122.) This section charges the Secretary of HEW and the Board with responsibility for performing the duties imposed by this title. The Board shall issue regulations with the approval of the Secretary. It is required to engage in the continuous study of operation of the Health Security program; and, with the approval of the Secretary, to make recommendations on legislation and matters of administrative policy, and to report to the Congress annually on administration and operations of the program. The report will include an evaluation of adequacy and quality of services, costs of services and the effectiveness of measures to restrain the costs. The Secretary of HEW is instructed to coordinate the administration of other health-related programs under his jurisdiction with the administration of Health Security, and to include in his annual report to the Congress a report on his discharge of this responsibility.

The Civil Service Commission is instructed to make every effort to facilitate recruitment and employment, to work in the Health Security Administration, of persons experienced in private health insurance administration and other pertinent fields.

Subsection (g) authorizes the Board to establish fifty positions, carrying salaries in the GS–16 to GS–18 range, in the professional, scientific, and executive service, to meet the need for highly qualified personnel both in research and development activities and in administration. It is expected that about half of these positions would be used for high-level administrative assignments, and the other half for the most responsible professional and scientific work of the Board.

(Section 123.) This section creates the position of an Executive Director, appointed by the Board with the approval of the Secretary. The Executive Director will serve as secretary to the Board and shall perform such duties in administration of the program as the Board assigns to him. The Board is authorized to delegate to the Executive Director or other employees of HEW any of its functions or duties except the issuance of regulations and the determination of the availability of funds and their allocations to the regions.

(Section 124.) This section provides that the program will be administered through the regional offices of the Health Security Board. It also directs the Board to establish local health service areas which shall be the same as the health service areas under the new title XV of the Public Health Service Act, except that with the approval of the Secretary the Board may divide such an area into two or more areas for the purposes of the health security program. These areas are to serve as local administrative units, with a local office in each, and perhaps suboffices. One of the responsibilities of these offices will be to investigate complaints about the administration of the program.

(Section 125.) Subsection (a) establishes a National Health Security Advisory Council, with the Chairman of the Board serving as the Council's Chairman and 20 additional members not in the employ of the Federal Government. A majority of the appointed members will be consumers who are not engaged in providing and have no financial interest in the provision of health services. Members of the Council representing providers of care will be persons who are outstanding in fields related to medical, hospital or other health activities or who are representatives of organizations or professional associations. Members will be appointed to four-year over-lapping terms by the Secretary upon recommendation by the Board.

Subsection (b) authorizes the Advisory Council to appoint professional or technical committees to assist in its functions. The Board will make available to the Council all necessary secretarial and clerical assistance. The Council will meet as frequently as the Board deems necessary, or whenever requested by seven or more members, but not less than four times each year.

Subsection (c) provides that the Advisory Council will advise the Board on matters of general policy in the administration of the program, the formulation of regulations and the allocation of funds for services. The Council is charged with responsibility for studying the operation of the program, and utilization of services under it, with a view to recommending changes in administration or in statutory provisions. They are to report annually to the Board on the performance of their functions. The Board, through the Secretary, will transmit the Council's report to the Congress together with a report by the Board on any administrative recommendations of the Council which have not been followed, and a report by the Secretary of his views with respect to any legislative recommendations of the Council.

(Section 126.) To further provide for participation of the community, the Board will appoint an advisory council for each region and local area. Each such Council would have a composition parallel to that of the National Council; and each will have the function of advising the regional or local representative of the Board on all matters directly relating to the administration of the program.

(Section 127.) The Board is authorized to appoint standing committees to advise on the professional and technical aspects of administration with respect to services, payments, evaluations, etc. These committees will consist of experts drawn from the health professions, medical schools or other health educational institutions, providers of services, etc. The Board is also authorized to appoint temporary committees to advise on special problems. The committees will report to the Board, and copies of their reports are to be made available to the National Advisory Council.

(Section 128.) Subsection (a) requires the Board to consult with appropriate State health and other agencies to assure the coordination of the Health Security program with State and local activities in the fields of environmental health, licensure and inspection, health education, etc.

Subsection (b) requires the Board, whenever possible, to contract with States to survey and certify providers (other than professional practitioners) for participation in the program. This is similar to Medicare except that the Board is given authority to establish the qualifications required of persons making the inspections.

Subsection (c) authorizes the Board to contract with State agencies to undertake health education activities, supervision of utilization review programs, and programs to improve the quality and coordination of available services in that State.

Subsection (d) requires the Board to reimburse States for the reasonable cost of performing such contract activities and authorizes the Board to pay all or part of the cost of training State inspectors to meet the qualifications established by the Board.

Subsection (e) directs the Board to make inspections if a State is unable or unwilling to do so.

Subsection (f) calls for the publication of the results of the inspections.

(Section 129.) The Board is authorized to provide technical assistance either directly or through contract with a State to skilled nursing home and home health service agencies to supplement the skills of their permanent staff in regard to social services, dietetics, etc.

(Section 130.) Subsection (a) charges the Board with responsibility for informing the public and providers about the administration and operation of the Health Security program. This will include informing the public about entitlement to benefits and the nature, scope, and availability of services. Providers would be informed of the conditions of participation, methods and amounts of compensation, and administrative policies. In support of the program's effort to improve drug therapy, the Board is authorized with the approval of the Secretary, to furnish all professional practitioners with information concerning the safety and efficacy of drugs appearing on either of the approved lists (Section 25), indications for their use and contraindications. Information of this nature is not now always available to practitioners.

Subsection (b) requires the Board to make a continuing study and evaluation of the program, including adequacy, quality and costs of services. Subsection (c) authorizes the Board directly or by contract to make detailed statistical and other studies on a national, regional, or local basis of any aspect of the title, to develop and test incentive systems for improving quality of care, methods of peer review of drug utilization and of other service performances, systems of information retrieval, budget programs, instrumentation for multiphasic screening of patient services, reimbursement systems for drugs, and other studies which it considers would improve the quality of services or administration of the program.

Subsection (d) authorizes the Board to enter into agreements with providers to experiment with alternative methods of reimbursement which offer promises of improving the coordination of services, their quality or accessibility.

(Section 131.) Severe discrepancies exist today between the national need for various kinds of health manpower and the availability of clinical facilities to train such personnel. Certain specialties (such as surgery), in which there is a surplus of manpower, monopolize clinical training facilities to the disadvantage of specialties in short supply (such as primary or family practice), thus perpetuating the imbalance between supply and demand. This section gives the Board authority to bring the availability of clinical training facilities into balance with national or regional manpower needs by issuing training priorities for institutional providers participating in the program.

(Section 132.) This section grants authority to the Board, in accordance with regulations, to make determinations of who are participating providers of service, determinations of eligibility, of whether services are covered, and the amount to be paid to providers. The Board is granted authority to terminate participation of a provider who is not in compliance with qualifying requirements, agreements, or regulations. But unless the safety of eligibile individuals is endangered, the provider shall be entitled to a hearing before the termination becomes effective.

(Section 133.) This section establishes procedures for hearings and for judicial review, similar to those under the Social Security Act.

(Section 134.) This section has one of the bill's most important provisions with respect to achieving improvement in coordination availability, and quality of services. It greatly strengthens state and local planning agencies and gives the Board authority to curtail inefficient administration of participating institutional providers.

The Board is authorized to issue a direction to any participating provider (other than an individual professional practitioner) that, as a condition of participation, the provider add or discontinue one or more covered services. For example, if two community hospitals are operating maternity wards at low occupancy rates, the Board may require that one hospital cease to provide such service. A provider may be required to provide services in a new location, enter into arrangements for the transfer of patients and medical records, or establish such other coordination or linkages of covered services as the Board finds appropriate.

In addition, if the Board finds that services furnished by a provider are not necessary to the availability of adequate services under this title and that their continuance is unreasonably costly, or that the services are furnished inefficiently (and that efforts to correct such inefficiency have proved unavailing) the Board may terminate participation of the provider.

No direction shall be issued under this section except upon the recommendation of, or after consultation with, the appropriate state health planning agency. And no direction shall be issued under this section unless the Board finds that it can be practicably carried out by the provider to whom it is addressed. The Board is required to give due notice and to establish and observe appropriate procedures for hearings and appeals, and judicial review is provided.

PART H—QUALITY OF CARE

This part authorizes the Board, and charges it with the duty, to maintain and enhance the quality of care furnished under the Act. Section 141(a) sets forth this authority and this duty, to be discharged with the advice and assistance of, and in close collaboration with, the Commission on the Quality of Health Care created by an amendment of the Public Health Service Act contained in title III of the present bill. Regulations under the part are to be issued before health security benefits become effective, and thereafter to be upgraded as rapidly as is practicable. Subsection (b) states as the objective the highest quality of care attainable throughout the nation, with exceptions to quality requirements only when, and as long as, they are necessary to avoid acute shortages of services. Subsection (c) calls for collaboration with the Commission, and stipulates that any failure to follow its recommendations shall be submitted to the Secretary and that, unless he directs the Board to adopt the recommended regulations, the reasons for not doing so must be published by the Board.

(Section 142). The Board is to issue regulations requiring continuing professional education for physicians, dentists, optometrists, podiatrists. Reports of compliance with the regulations will be required and, after warning, practitioners may be disciplined for failure to comply.

(Section 143). Subsection (a) provides that major surgery, and other procedures specified in regulations, are not covered services unless they are performed by a specialist, and (except in emergencies) are, to the extent prescribed in regulations, performed on referral by a physician engaged in general practice. Specialists, according to subsection (b) are those certified by the appropriate national specialty boards, with a five-year period allowed board-eligible physicians to obtain certification, and with a "grandfather" exception for certain physicians practicing when health security benefits go into effect.

Subsection (c) authorizes the Board to require, except in acute emergencies, consultation with an appropriate specialist, as a prerequisite to specified surgical procedures; in such cases subsection (d) enables the Board to require pathology reports and clinical abstracts or discharge reports.

(Section 144.) Subsection (a) requires that practitioners furnishing services on behalf of institutional or other providers meet the same qualifications that are demanded of independent practitioners. Subsection (b) authorizes the Board to make additional requirements, in the interest of the quality care and of safety of patients, for all providers other than professional practitioners. This is like the authority given the Secretary under the Medicare law, but with the notable difference that standards of the Joint Commission on the Accreditation of Hospitals constitute a minimum for Board requirements, rather than a maximum as under Medicare. Exceptions are permitted only, as stated in section 141, to avoid acute shortages of services.

(Section 145.) Although the provisions relating to professional standard review organizations, recently added to the Social Security Act, are repealed by section 405 of the present bill, the Board is authorized, on recommendation of the Commission on the Quality of Health Care, to use organizations previously designated by the Secretary for the purposes of monitoring the quality of services, either institutional or noninstitutional. The Board may also use for this purpose similar organizations approved by it in the future.

(Section 146.) In exercising its authority under part H the Board is directed to take into account the findings of the Secretary's Commission on Medical Malpractice, and to seek to reduce the incidence of malpractice and to improve the availability of malpractice insurance.

PART I—MISCELLANEOUS PROVISIONS

(Section 161.) This section contains definitions of certain terms used in the title.

(Section 162.) This section creates the offices of Deputy Secretary of Health, Education and Welfare and an Under Secretary for Health and Science in the Department of Health, Education and Welfare, and abolishes the office of Under Secretary of Health, Education and Welfare.

(Section 163.) This section stipulates that the effective date for entitlement for benefits will be July 1, of the second calendar year following enactment.

(Section 164.) Subsection (a) provides that an employer will not be relieved, by the enactment of the Health Security Act, of any existing contractual or other nonstatutory obligation to provide or pay for health services to his present or former employees and their families. An employer whose cost under such a contract, immediately before health security taxes go into effect, exceeds the cost to him of paying these taxes is required by subsection (b) to apply the excess, during the remaining life of the contract, first to the payment of health security taxes on behalf of his employees. If an excess still remains after meeting this obligation, and after an allowance for the cost of any continuing obligation to pay for health services not covered by Health Security, subsection (c) requires the employer to pay the amount of this remaining excess to those employees, former employees, and survivors who are beneficiaries of the pre-existing contract; but by agreement with the employees or their representatives, these funds may be applied to other employee benefits. Computations of the amounts involved are to be made on a per capita basis, as defined in subsection (d).

TITLE II—HEALTH SECURITY TAXES

Part A—Employment taxes

(Section 201.) Effective on January 1 of the second year after enactment, subsections (a) and (b) convert the existing Medicare hospital insurance payroll taxes into Health Security taxes and raise the rates to 1 percent on employees and 3.5 percent on employers. Subsection (c) sets the wage base for the employment tax at 150 percent of the Social Security wage base (or a tax base at present of $21,150 in conformity with the recent automatic increase of the Social Security tax base). This subsection also defines covered employment to include all substantial groups now excluded from social security tax coverage, except that State and local governments are excluded from the tax on employers.

(Section 202.) This section makes a number of conforming and technical amendments. Chief among these are provision for refund of excess taxes collected from an employee, who has held two or more jobs, on wages aggregating in a year more than the amount of the new wage base; exclusion of Health Security contributions from agreements with State governments for the social security coverage of State and Municipal employees (since these employees will contribute to Health Security through payroll taxes); and exclusion of Health Security contributions from agreements for the coverage of United States citizens employed by foreign subsidiaries of United States corporations (since these employees will not benefit materially from Health Security in its present form).

(Section 203.) This section excludes from the gross income of employees, for income tax purposes, payment by their employers of part or all of the Health Security taxes on the employees.

(Section 204.) This section spells out the effective dates of the new payroll tax provisions.

Part B—Taxes on self-employment income and unearned income

(Section 211.) Effective at the beginning of the second calendar year after enactment, this section converts the existing Medicare self-employment tax into a Health Security self-employment tax, sets the rate at 2.5 percent, and sets the maximum taxable self-employment income at $23,500 (with the same upward adjustment as in the employee tax for subsequent rises in average wage levels).

(Section 212.) Effective on the same date, this section adds a new 2½ percent Health Security tax on unearned income (unless such income is less than $400 a year), subject to the same maximum on taxable income as is applicable to the employee and self-employment taxes. Taxable unearned income is adjusted gross income up to the stated maximum, minus wages and self-employment income already taxed for Health Security purposes (excluding certain items of income (notably social security benefits) specifically excluded from the other taxes and excluding $5,000 in unearned income for persons over age 60.)

(Section 213.) This section makes appropriate changes in nomenclature and in the requirements of tax returns, including reports of estimated tax liability under the new tax on unearned income.

(Section 214.) This section details the specific effective dates of the taxes imposed by this part.

Part C—Income tax deductions for medical care

(Section 221.) This section amends the Internal Revenue Code so that no medical deductions shall be allowed for the cost of medical care which is covered by the Health Security Act on or after the effective date of health security benefits.

TITLE III—COMMISSION ON THE QUALITY OF HEALTH CARE

(Section 301.) The purpose of Title III is to create a Commission on the Quality of Health Care in order to improve health care in the United States. The Commission's function is:

To develop methods of measuring health care;

To develop standards for promoting health care of high quality;

To encourage the use of such measurements and standards under the provisions of the Health Security Act.

(Section 302.) This section adds to the Public Health Service Act a new Title XVII, entitled "Commission on the Quality of Health Care."

(Section 1701, Public Health Service Act.) Subsection (a) establishes a Commission on the Quality of Health Care within the Department of Health, Education and Welfare. The Commission will consist of eleven members who are to be appointed by the Secretary after consultation with the Health Security Board. The Commission is required to carry out the functions set forth under new sections 1702 and 1703.

Subsection (b) describes the requirements for the membership of the Commission. Seven of the members appointed must be representatives of health service providers or representatives of non-governmental organizations that are engaged in the process of developing standards relating to the quality of health care. Four members must be representatives of consumers who are not engaged in and have no financial interest in the delivery of health care services. Commission members will be appointed to serve five year overlapping terms. Subsection (c) requires the Secretary to designate the Chairman of the Commission, who serves at the pleasure of the Secretary. Subsection (d) authorizes the Commission to employ needed personnel and appoint advisory committees. It also stipulates the conditions of employment and rates and terms of compensation.

(Section 1702, Public Health Service Act.) Subsection (a) defines the primary responsibilities of the Commission. The Commission is directed to initiate and continuously develop methods to assess the quality of health care delivered under the provisions of the Health Security Act; and to initiate and develop ways to use such assessments in order to maintain and improve the quality of health care delivered under the Act. The Commission is required to submit its findings and recommendations to the Secretary and the Health Security Board.

Specifically, the Commission is required to:

(1) collect data on a systematic and nationwide basis that will provide information on the (A) qualifications of health personnel and the adequacy and ability of health care facilities to provide quality health care; (B) the patterns of health care practices in actual episodes of care; (C) the utilization patterns for components of the health care system; and (D) the health of patients during and at the end of actual episodes of care and the relationship of the various factors outlined above to the health of such patients;

(2) use the data it collects to develop statistical norms and ranges to describe the factors outlined in paragraph (1). Such norms and ranges may be developed on a national or regional basis, for particular population groups, or on any other basis deemed most useful by the Commission;

(3) use such statistical norms and ranges as a basis for developing standards (and acceptable deviation from such standards) that will be useful in measuring, controlling, and improving the quality of health care; and

(4) make recommendations to the Secretary and the Health Security Board on the proper use of standards developed under the provisions of paragraph (3) in connection with the Board's continuing responsibility for the maintenance and improvement of the quality of the health care delivered under the Health Security Act. Such recommendations may also be used by the Secretary or the Board when developing proposals to amend the Health Security Act.

When carrying out its duties under the provisions of this subsection, the Commission is directed to give first priority to the quality of care delivered for those illnesses or conditions which have high incidence of occurrence within the population and which are responsive to medical or other treatment.

Subsection (b) requires the Commission to conduct a broad health care research program. Specifically, the objectives of the program are to:

(1) improve technologies for assessing health care quality;

(2) compare the quality of health care under alternative health delivery systems and methods of payment;

(3) analyze the effects of consumer health education and preventive health services;

(4) continue the studies made by the Secretary's Commission on Medical Malpractice. In this respect, the Commission is also required to evaluate any of the recommendations of the Secretary's Commission which the Health Security Board has put into effect or any other measures that the Board has established, which pertain to the incidence of malpractice, malpractice insurance, or malpractice claims;

(5) obtain other information that will be useful in order to accomplish the purposes of this new title of the Public Health Service Act and title I, part H, of the Health Security Act (concerning the maintenance and improvement of the quality of health care delivered under the Health Security Act).

Subsection (c) authorizes the Commission to provide technical assistance to enable participating providers to furnish the Board with information required by it for purposes of the Commission. The Commission is also authorized to provide technical assistance to participating providers who are developing and carrying out quality control programs.

(Section 1703, Public Service Act.) This section directs the Commission, even before it has developed standards under the preceding provisions, to give advice recommendations to the Health Security Board concerning quality health care regulations.

(Section 1704, Public Health Service Act.) This section authorizes the Secretary to establish twenty-five positions on the staff of the Commission, carrying salaries in the GS–16 to GS–18 range, in the professional, scientific, and executive service, to meet the need for highly qualified personnel in the research and development activities of the Commission.

TITLE IV—REPEAL OR AMENDMENT OF OTHER ACTS

(Section 401.) This section repeals the Medicare and Federal Employee Health Benefit statutes on the date Health Security Benefits become effective, but stipulates that this shall not affect any right or obligation incurred prior to that date.

(Section 402.) This section requires that after the effective date of benefits, no State shall be required to furnish any service covered under Health Security as a part of its State plan for participation under Medicaid, and that the Federal government will have no responsibility to reimburse any State for the cost of providing a service which is covered under Health Security. After the effective date of benefits, the Secretary of HEW shall prescribe by regulation the new minimum scope of services required as a condition of State participation under Title XIX. To the extent the Secretary finds practicable, the new minimum benefits will be designed to supplement Health Security—especially with respect to skilled nursing home services, dental services and the furnishing of drugs.

(Section 403.) This section provides that funds available under the Vocational Rehabilitation Act or the Maternal and Child Health title of the Social Security Act shall not be used to pay for personal health services after the effective date of benefits, except (to the extent prescribed in regulations by the Secretary of HEW) to pay for services which are more extensive than those covered under Health Security.

(Section 404.) This section makes applicable to Health Security the provisions recently added to the Social Security Act requiring reduction in reimbursement for care in facilities which have made substantial capital expenditures found by a State planning agency to be inconsistent with standards developed pursuant to the Public Health Service Act. Because the provision will continue to apply to the residual programs under titles V and XIX of the Social Security Act, the reductions will continue to be determined by the Secretary and his determinations are made binding on the Board, as provided in section 89 of the bill.

(Section 405.) This section repeals the provisions recently added to the Social Security Act relating to professional standards review organizations. Section 145 of the bill permits the use of such organizations already designated by the Secretary, and approval by the Board and use of similar organizations in the future.

(Section 406.) Subsection (a) amends section 1817 of the Social Security Act, creating the Federal Hospital Insurance Trust Fund, and transfers it to become section 61 of the Health Security Act under the title "Health Security Trust Fund". The effect of this transfer is summarized in the description of title I, part D, of the present bill. Subsection (b) extends to the Health Security system the provisions of section 201(g) of the Social Security Act, authorizing annual Congressional determination of amounts to be available from the respective trust funds for the administration of the several national systems of social insurance. Subsections (c) and (d) contain conforming and technical provisions.

(Section 407.) This section makes a number of changes in title XV of the Public Health Service Act, which is the planning portion of the recently passed National Health Planning and Resources Development Act of 1974. Subsections (a) and (b) provide that the Secretary's guidelines on national health planning policy should be issued in twelve, rather than eighteen, months, and that they must emphasize the need for prompt action to meet the demands of the health security program. Under subsection (c) the DHEW Under Secretary for health and science replaces the Assistant Secretary on the National Council on Health Planning and Development, and the Chairman of the Health Security Board is added to the Council. Subsection (d) strikes out a requirement of coordination with Professional Standards Review Organizations, in view of the repeal of the PSRO provisions of the Social Security Act. Review and approval or disapproval of Federal grants and contracts by health systems agencies (subject to final decision by the Secretary) is extended, by subsection (e), to include Health Security Board grants and contracts under Part F of title I. Finally, section 1526 providing for grants for State demonstrations in rate regulation is repealed, since the Health Security Board will be fixing the amount of payments to participating providers of services.

(Section 408). This section establishes the salary levels for the Deputy Secretary and the Under Secretary for Health and Science, Department of Health, Education, and Welfare, the Chairman of the Health Security Board, members of the Health Security Board and members of the Commission on the Quality of Health Care, and the Executive Director of the Health Security Board.

(Section 409.) This section removes the operations of the Health Security Trust Fund from the administrative budget of the United States, and directs that these operations be reported and projected in a separate statement, as was done with the Social Security trust funds until recently. The Government contribution to the Health Security system will continue to be shown as an expenditure in the administrative budget.

TITLE V—STUDIES RELATED TO HEALTH SECURITY

(Section 501.) This section directs the Secretary of Health, Education, and Welfare in consultation with the Secretary of State and the Secretary of the Treasury to study the coverage of health services for United States residents in other countries.

(Section 502.) Subsection (a) directs the Secretary of HEW to study means of coordinating the federal health care programs for merchant seamen, and for Indians and Alaskan natives, with the Health Security benefits program. The Secretary and the Administrator of Veterans' Affairs shall conduct a similar joint study of the means of coordinating veterans health care programs with the Health Security benefits program. A similar study is to be conducted jointly with the Secretary of Defense, relating to the program of care, in civilian facilities, of the dependents of military personnel. Reports to the Congress and any legislative recommendations arising from the studies are required within three years after the enactment of the Health Security Act.

Subsection (b) requires the respective Secretaries and the Administrator to consult with representatives of the affected beneficiary groups, and to include a summary of their views in the reports to Congress.

With respect to the joint study to determine the most effective method of coordinating the Veterans' Administration Health Program with the Health Security program established under this bill, it is important to understand that there is no intention to require either the integration of the VA program into the Health Security Program, or even the consideration of such integration. Rather, the section recognizes that any national health security or health insurance program would be so pervasive as to require other federal health programs such as those of the Veterans' Administration to be effectively coordinated with them. Through such coordination, needless duplication and expenditures should be avoided.

(Section 503.) This section authorizes the appropriation of money needed for conducting the studies authorized in this title, and the use of experts and consultants and advisory committees, and of contracts for the collection of information or the conduct of research.

PER DIEM AND MILEAGE ALLOWANCE LEGISLATION

(Mr. BROOKS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BROOKS. Mr. Speaker, during the 93d Congress, both the House and the Senate passed legislation to increase the per diem and mileage allowances for Government employees while traveling on official business.

The President vetoed this bill, S. 3341, because of a provision that would have given disabled veterans traveling to and from veterans hospitals, who were already entitled to per diem and mileage reimbursement, the same equitable rates to which Government employees would be entitled when traveling on official business.

It is unfortunate that the President did not recognize that this legislation simply provided the equitable reimbursement for official Government travel be equally available to all, including DOD employees, Treasury employees, White House staff, and disabled veterans.

I worked for many months to get a bill that was reasonable, fair, and just. This bill met those requirements without being inflationary. It had the support of the GSA, the OMB, and the employee unions. It passed the House and Senate unanimously. There is no question the veto would have been overridden had we had the opportunity.

I am today introducing legislation virtually identical to that passed by the 93d Congress. The basic provisions of the bill are:

First. Per diem rates would be set by regulation by GSA up to $35 per day.

Second. Per diem rates for travel outside the continental United States would be set by the President.

Third. When domestic travel expenses exceed the per diem allowances, reimbursement could go to $50 per day in high cost geographic areas.

Fourth. When foreign travel expense exceeds the per diem allowance, a supplement up to $21 could be applicable.

Fifth. Mileage reimbursement would be within the following range, the exact amount to be set by periodic regulations:

Eight to eleven cents for motorcycles.

Fifteen to twenty cents for automobiles.

Eighteen to twenty-four cents for airplanes.

Sixth. Per diem and mileage reimbursements for disabled veterans entitled to such would be at the same rates as those set for Government employees.

Seventh. There would be an annual adjustment if the cost factors indicate adjustment is necessary.

Eighth. The General Services Administration would be established as the agency to set uniform per diem and mileage rates.

Mr. Speaker, the President's veto on January 3 of this long overdue legislation was ill-advised and misdirected. According to his memorandum of disapproval, the bill was vetoed because it contained a provision which would remove present flexibility for reimbursing certain disabled veterans for authorized travel in connection with their treatment. That is not correct. Under present law, certain disabled veterans are entitled to the "actual necessary expense of travel—including lodging and subsistence—or in lieu thereof an allowance based upon mileage travel—to or from a Veterans' Administration facility or other place in connection with vocational rehabilitation."

This bill simply ought to correct the injustices of the past under which disabled veterans are presently being reimbursed at the rate of 6 cents per mile. No administration witness appearing before my committee suggested that 6 cents a mile even approached the actual expenses of operating an automobile today. I am no more anxious to increase expenditures than is the President or anyone else. But, we cannot ignore the facts; and, if Government employees and disabled veterans are entitled to reimbursement for their costs, we must establish a realistic rate of reimbursement.

I hope that the 94th Congress will act quickly to correct these inequities so that the Government employees and disabled veterans will no longer have to subsidize out of their own pockets official Government travel.

PRESIDENTIAL PROTECTION ASSISTANCE ACT OF 1975

(Mr. BROOKS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BROOKS. Mr. Speaker, I have today introduced legislation to limit the amount of public financial support the Government may provide in the protection of private Presidential properties.

An investigation by the Government Activities Subcommittee in the last Congress found that more than $17 million in Federal funds had been spent on private properties owned or utilized by former President Nixon at San Clemente, Calif., Key Biscayne, Fla., and the Bahama Islands. These expenditures were in addition to millions of dollars paid out by the taxpayers on the White House and Camp David.

Expenditures on Mr. Nixon's private properties were devoted to improvements, maintenance, administrative support, communications facilities, and personnel. The investigation by the subcommittee uncovered the fact that $66,000 of public funds had been spent for a fence around the Key Biscayne compound designed as a replica of the fence around the White House. This fence was then concealed by a hedge which cost about $4,800. A new shuffleboard was installed at a cost of $2,000. A helipad was constructed for $412,000 and over $20,000 was spent on a shark net.

In San Clemente, a new heating system was installed in Mr. Nixon's home for $13,500; and a new sewer line for about $4,000. Landscape and landscape maintenance costs exceeded $150,000.

Thousands upon thousands of additional dollars were spent on numerous other common household items which the average homeowner would have to assume out of his own pocket.

In attempting to determine why such expenditures were made, the subcommittee discovered that Federal managerial responsibility over these expenditures was practically nonexistent. Every indication pointed to the fact that the White House had converted the Secret Service, General Services Administration, and other agencies, to the personal benefit of the former President.

In May 1974, the House Government Operations Committee voted 36 to 0 with two abstentions for a report which proposed a number of recommendations to avoid a repetition of the abuses uncovered. Several recommendations contained proposals for legislation. To implement those recommendations, I introduced legislation which, after extensive hearings and debate, passed the House on December 1974. Time did not permit its consideration by the Senate.

The bill I am introducing today is almost identical to that passed by the House with only a few minor technical changes.

Basically, the bill provides that—

The Secret Service may provide permanent security for each person or family under its protection at only one non-government-owned location at a time.

Expenditures for permanent installations at other privately owned properties are to be limited to $10,000 each.

Procurements are to be made by Government personnel acting on written requests and with reimbursement from the Secret Service.

Permanent improvements will have to be removed if economically feasible or if requested by the owner; if the owner does not request the removal and if they are not removed, the private owner will have to reimburse the Government in an amount equal to the increase in fair market value of his property.

Mr. Speaker, the need for this legislation has not changed. The Secret Service and the agencies which assist it need these guidelines. In drafting these guidelines, two principles have been followed which, should make this bill supportable by every Member. One, the bill does not restrict the Secret Service in carrying out its legitimate activities in protecting the security of the President to the utmost of its ability. Two, the bill does not restrict the mobility of a President other than to limit the number of permanent private homes on which public funds will be spent.

Mr. Speaker, I hope that the 94th Congress will speedily enact this legislation.

TRIBUTE TO JACK BENNY

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. McCLORY. Mr. Speaker, America mourns the loss of a national institution. Upon the death on December 27, 1974, of Jack Benny, one of the greatest comedians in history has been taken from our midst. The Nation's outpouring has been that which flows only to those few persons whom the country lovingly draws to itself.

As Jack Benny occupies an especially fond place in our memories, so did he have a special place in his heart for his hometown, Waukegan, and it for him. His loss is poignantly felt there. Jack Benny and Waukegan, which is the largest city in my congressional district, have shared a unique, lifelong love affair. To Americans, they have become virtually synonymous. His loyalty to Waukegan never waivered.

Despite the national reputation and fame which came to him, Jack Benny continued his affection and attachment for his hometown. Jack Benny's career began in the Waukegan area where he played his violin in the Waukegan High School orchestra and where he joined with other classmates from Waukegan in developing a similar orchestra which played throughout the Waukegan and Lake County areas.

Jack Benny was an excellent violinist and it was not until some years after he began a career as a professional musician that his unique talents as a comedian came to light. For 6½ years he helped entertain people with his violin, never opening his mouth on the stage. Then suddenly the informal, natural wit which he had been expressing offstage became part of his act—and the violin became more of a prop than an instrument upon which to perform professionally. Nevertheless, in my opinion, Jack Benny remained an excellent violinist. He played benefit performances with the Waukegan Symphony Orchestra to help raise funds for that musical group. I heard him play a benefit program with the National Symphony Orchestra at Constitution Hall several years ago. His talents on the violin would do credit to any great musician. Still, his purpose was to benefit others, including the National Symphony Orchestra. After the performance I met him backstage—and received a warm welcome as his representative from Waukegan, Ill.

The tributes which supplement these remarks reflect a world which is sadder without Jack Benny, but which also is grateful for its memory of his uniquely magnificent humor and charity. The legacy of this pretended tightwad, who actually gave unstintingly of his time and money to so many worthy causes, has become legendary and a part of one of our Nation's greatest treasures—its humor.

This was movingly expressed in a tribute by Charles Kuralt of CBS:

And now, 72 years after Meyer Kubelsky gave his son, Benny, a $50 violin, the violin is still. Jack Benny said that playing the violin with the Philharmonic was like being alone on a desert island with Zsa Zsa Gabor and her boyfriend—you feel you're not needed. Well, we need him all right. Everything is not going well with us, and we need him, holding his hands and staring that way, showing us the humor in the human condition. Everybody's voice has become so loud. He knew the uses of silence. The times have grown so harsh, and he was so gentle. We need him. Of course, all of us with a memory still have him.

Mr. Speaker, I am inserting the following articles and eloquent tributes to Jack Benny, which exemplify those which have appeared in newspapers across the country, in the Record:

[From the Waukegan (Ill.) News-Sun, Dec. 27, 1974]

WAUKEGAN'S FAVORITE SON DIES; CANCER FATAL TO BENNY

(By Joe Manning)

Waukegan's favorite son, who for more than 72 years of his life entertained people, died early today,.

Jack Benny was 39.

His wife, Mary Livingston, was at his side when he succumbed in their Holmby Hills, Los Angeles, home. Before death he was visited by Johnny Carson, George Burns, Danny Kaye, Danny Thomas, Bob Hope, Frank Sinatra, Merle Oberon and Gov. Ronald Reagan.

Word of his stomach cancer and his terminal illness spread rapidly throughout the world Thursday night when announced by his manager. Benny, 80, chose to die at home.

Born Benjamin Kubelsky on Valentine's Day, 1894, he was the son of a Polish immigrant who had peddled wares from a pack on his back in and around Chicago. After marrying Emma Sachs, he opened a Genesee Street furniture store.

Benny was born in a Chicago hospital and grew up in Waukegan. He left this city when he was 17. His father, Meyer, gave Benny a $50 violin and, by the time he was eight years old, he was giving solo performances in the Barrison Theater in Waukegan. He also sold tickets and worked as an usher. He played the violin throughout grade school and high school.

In his eighth-grade graduation class were former City Clerk Edward Holmberg, former Police Chief Bart Tyrrell, businessman William Kyndburg, teacher Miss Emily Tonigan and many others who became well known locally.

By the time Benny was 16, he was a skilled violinist and a member of the orchestra at Waukegan High School. In the orchestra with him were young musicians Nathan Blumberg, Ben Schwartz, Nellie Smith, Lampe Johnson, Marie Street, Winifred Gifford, Nathan Rosenblum, Cedrick Smith and Marvey Miltimore.

He left school without receiving his diploma when he and Cora Salisbury, with whom he had become acquainted at the Barrison Theater, decided to form a vaudeville duo. She was a pianist and played in the pit orchestra. Benny was only 16.

The team of Kubelsky and Salisbury became a feature of the vaudeville circuit in a radius of 200 to 300 miles of Waukegan. When the duo broke up, Benny teamed with Lyman Woods and traveled coast to coast.

The story of how Benny got started in comedy has a number of variations, one of them told by Benny himself. The stories all agree on one point: that Benny was volunteering to perform for a benefit, something he was to do throughout his career, raising an estimated $6 million for worthy causes.

As it goes, Benny enlisted in the Navy at the beginning of World War I and was stationed at Great Lakes Naval Training Center. He volunteered for a Naval Relief Society show, the Great Lakes Review. Benny said he was told to read a few lines. He was funny and, by the time the show opened, he had a comedy part.

Another version goes that Benny was on stage when the lights went out and he carried the tense moment with his wit. Another, that the show's writer heard Benny offering quips for the entertainment of fellow cast members and put one of the lines in the show.

In any event, Benny said himself: "Up until then, for six and a half years I'd never opened my mouth on stage. I'd been a violinist. People thought my violin was a gag. I went along with the gag."

In 1932, Benny appeared on the Ed Sullivan radio show. Benny was on Broadway in Earl Carroll's "Vanities." The first of millions of words he spoke over the airwaves were: "Hello folks. This is Jack Benny. There will be a slight pause for everyone to say, 'Who cares?'"

The name Jack Benny was a process of evolution. Originally he was known as Ben K. Benny, then Ben Benny. He changed it to Jack Benny because many people thought Ben Benny was Ben Bernie, a popular orchestra leader.

After the war Benny played as a comedian and master of ceremonies and gained renown as a Broadway performer in Earl Carroll and Schubert musicals. He played the Palace Theater, the summit in those days.

With the musical "Great Temptations," he went to Los Angeles in 1926 where he met a pretty sales girl, Sayde Marks. They were married in 1927 in the Clayton Hotel in Waukegan where a long-time friend of Benny's, Julias Simykin, lived. The Bennys adopted a daughter, Joan.

In 1929 he made his first movie, "Hollywood Party."

After apearing on the Sullivan show, Benny was given a radio contract in the summer of 1932. In 1942 NBC gave the popular show and Benny a lifetime option to the 7-to-7:30 p.m. spot on Sunday evenings. In 1947, he was earning $25,000 a week for the show. He always kept his jokes clean, stating: "I think there is much more humor in clean jokes."

He toured with the USO during World War II. On July 4, 1945, Benny, Ingrid Bergman, Larry Adler and Martha Tilton played before 20,000 troops in Hitler's former Sportspalast. Benny broadcast from Paris on V-J Day.

Throughout Benny's fame, and even while he capitalized on being from some place called Waukegan, he never forgot Waukegan and made frequent visits here.

In 1937, Waukegan citizens jammed the high school auditorium to greet him. There were brass bands, marching high school cadets, and special newspaper editions. When the high school principal brought up Benny's academic career, Jack couldn't resist the gag. He slipped off his chair and crawled off stage on his hands an knees.

But, he did get his high school diploma from the Waukegan school system. In October of 1961, he appeared in a special television show commemorating the naming of Waukegan's third junior high school in his honor. Benny thought it funny that some of the children in the school didn't know who he was or why a school was being named after him. The honor overwhelmed him, and he often mentioned it when making appearances on television.

Benny's last of many visits here was in April when he performed in a benefit concert for the new Waukegan Symphony Orchestra. The appearance raised $15,550 for the orchestra, the Waukegan public school music program and his beloved junior high school.

Some of Benny's movies were "Transalantic Marry-Go-Round," "Broadway Melody," "The Big Broadcast of 1936," "The Big Broadcast of 1937," "College Holiday," "Artists and Models Abroad," "Man About Town," "Buck Benny Rides Again."

With Fred Allen, he made "Love Thy Neighbor." Other movies were "Charley's Aunt," "The Meanest Man in the World," "To Be Or Not to Be," "George Washington Slept Here" and "The Horn Blows at Midnight."

On his radio show and television series, Benny was credited with being the first comedian to good-naturedly kid the commercial plugs of his sponsors. He also was the first comedian to play straight man for other people and guests on his show. Some of those included his wife, Mary, Don Wilson, Rochester, Dennis Day, Phil Harris, Bob Crosby, Andy Devine, Sam "Schlepperman" Hearn, Mel Blanc, Artie "Mr. Kitzel" Auerbach.

Many people liked Benny more on television than on radio. He could get more laughs with a roll of his eyes and his flat, dry, goofy, deadpan expression than most comics get out of 15 minutes of fast gags.

Accompanied by his 1729 Stradivarius, Benny presented the character of the perennial fall guy, the smart aleck, the fellow who had trouble finding girlfriends, the timid man trying to be a hero. All these made him laughable and human and he took the falls and let others on his show heckle him.

Other gags were his graying, thinning hair, his pretended stinginess, his make-believe feud with Fred Allen and his sputtering, museum piece automobile.

After the cancellation of the television show in 1954, Benny continued to appear in specials and guest appearances. His next appearance was to have been an NBC special, his second retirement program, next Jan. 23.

The indefatigable comedian began playing benefit concerts in 1956 to raise money to save Carnegie Hall. When asked by violinist and friend Isaac Stern to play his own violin with the New York Philharmonic Symphony, Benny objected that the soloist should be Jascha Heifetz.

Stern replied: "But neither Heifetz nor I can draw an audience paying $100 a ticket. You can."

Benny's honors would fill pages. He won the Laurel Leaf Award of the American Composers Alliance, the March of Dimes Humanitarian Award and a Special Academy of Television Arts and Sciences Award for the best continuing performances by a male entertainer.

The Jack Benny Show won an Emmy in 1959 as the best comedy series on television. Prior to that, honors had been heaped on him for his radio show.

Benny regretted not having practiced more on the violin, for he often said that if he had stuck with it, he could have been a concert musician.

His last public appearance was Dec. 8 before the Hollywood Women's Press Club to receive its annual Louella Parsons Award for service to the film community. Already gravely ill, he was in too much pain to remain longer than a few minutes. The award was accepted by his long-time friend, George Burns.

Benny never really retired.

"You must never lose the excitement of life," he said, adding. "I don't indulge in nostalgia. To hell with the past. It's gone. Thinking about it makes you older quicker than anything. I'm only concerned with how good my last show was and how good my next two will be."

Millions cared about Jack Benny. Anyone can hum his theme song, "Love in Bloom." After 27 years on radio and 14 years in a weekly television, Jack Benny will live forever.

Death Shocks Waukegan

Waukegan was shocked this morning to awaken to the news that Jack Benny is dead.

Mayor Robert Sabonjian, a long-time friend, said the community had not been prepared for the news.

"We all thought he was in good health," Sabonjian said. "We knew he had been ill, but we thought he had gotten over that."

Sabonjian ordered flags flown at half-staff for the man who quipped about Waukegan but never forgot his hometown.

A funeral service will be Sunday in California at the Hillside Memorial Cemetery in Culver City.

Sabonjian said he will attend the service. "I think the people of Waukegan would want me to attend, to show that Waukegan is not a myth, that it does exist and that it has a heart.

The mayor said Waukegan will hold its own memorial service, but plans had not yet been firmed up.

Edwin Glenn, principal of Jack Benny Junior High School, said it might be possible to hold some sort of ceremony at the school named in Benny's honor. He said there definitely would be a service for students Jan. 6 when school reopens after the holidays.

Glenn said he met Benny the six or seven times he visited the school. He remembers well one time that Benny arrived unannounced to students. Glenn said Benny spent the lunch hour with the students in the cafeteria, talking, joking, and eating with them.

"It was a delightful time and he had a nice time," Glenn said.

The school was dedicated in 1961 and Benny attended the ceremonies with famous members of his television show. The school at 1401 Montesano St. has 850 students.

Mayor Sabonjian said Benny's contributions to Waukegan will be remembered.

"We already gave our memorial to him, Jack Benny High School, he loved it," Sabonjian said.

Benny's sister, Mrs. Florence Fenchel, lives in Chicago.

Bill Morris, one of the founding fathers of the Waukegan Symphony Orchestra, said the group was considering naming the orchestra after Jack Benny, but Benny would not hear of it even though he performed a benefit concert for it here last April.

"We owe the orchestra to Benny. It couldn't have happened without him," Morris said. Benny insisted that the orchestra be named after Waukegan, because, Waukegan was more important than Benny was, Morris said.

Benny's appearance here in April for the benefit now takes on a greater significance because it was his latest benefit for an orchestra and musicians, Morris said. Benny raised more than $6 million for musicians in his lifetime.

"Jack Benny laughed about our community," said Morris, "but he had respect for Waukegan."

Mrs. Clifford Gordon, also known as "Sudie", was related to Benny through her late husband, who was a first cousin, and through her father who was related to Benny's mother.

She knew Benny when he was just beginning in show business.

She said he wasn't expected to die so suddenly. The cancer was only just discovered and it was inoperative. His sister was with him at the time of death, she said.

The Gordon family owned the Gordon Furniture Store on 10th Street.

Mrs. Gordon said, "He was a very nice person, very, very sweet. Everybody loved him. He was a beautiful person."

[From the New York Times, Dec. 28, 1974]

Jack Benny, 80, Dies of Cancer on Coast

(By Richard F. Shepard)

Jack Benny, whose brilliant gift for self-deprecating caricature brought laughter to the nation for 40 years, died at his home in Beverely Hills, Calif., early yesterday morning. He was 80 years old.

Irving Fein, Mr. Benny's manager and associate for many years, said that the comedian died of cancer of the pancreas at 2:32 A.M., New York time. The cancer was not discovered until it appeared on X-rays last Friday. Mr. Fein said that Mr. Benny's physician had said the case was inoperable.

Gov. Ronald Reagan, Frank Sinatra, Bob Hope, Danny Kaye and George Burns, who was Mr. Benny's friend for 50 years, visited the Benny home.

Funeral services have been scheduled for noon tomorrow at Hillside Memorial Cemetery in Culver City, Calif. A special tribute to Mr. Benny will be televised by CBS tomorrow from 7:30 to 8:30 P.M.

In a telegram to the comedian's widow, President Ford said, "If laughter is the music of the soul, Jack and his violin and his good humor have made life better for all men."

Jack Benny's very special talent for the comic was, according to his own analysis, an ability to mirror the failings people recognized in themselves or their acquaintances. Decades of insistence on the air that he was only 39 years old made the joke better rather than cornier; it was one of show business' most durable bits.

Other comedians told funnier jokes. Other comedians projected their own personalities into stage situations that made an audience laugh. Other comedians were much more effective in displaying their own and lib wit. Where Mr. Benny told one joke, Bob Hope or Milton Berle could tell three in the same time.

Yet Mr. Benny was perhaps the most constantly funny of America's funny men. He was adored by the public and even the most sophisticated critics appreciated him as an outstanding comedian. The late President Kennedy once recalled that his father used to herd the family into their home's library every Sunday night to hear the Jack Benny show on radio. No one was ever excused from listening. So it was with much of America.

A PERMANENT PROP

A masterly sense of timing, worthy of the violin virtuoso he realized he would never be, made him the only performer who could evoke laughter from intervals of silence. He carefully developed a performing character as a tight-fisted, somewhat pompous fellow who walked with a mincing, almost effeminate gait, and often expressed exasperation merely by resting his chin in his hand and making his blue eyes stare, martyrlike, at his viewers. His violin became his most permanent prop, and he performed nicely for fund-raising with Isaac Stern, President Truman and the New York Philharmonic.

Just as Charlie Chaplin represented the "little fellow," Mr. Benny also caught the frustrations of the average man, maybe a middle-class American, whose aspirations always being leveled by family, friends and others.

One of his most famous bits had him being held up by a bandit who demanded "your money or your life." Silence. More silence. Silence punctuated with laughter from the audience. Then, desperately, "I'm thinking, I'm thinking."

PHILOSOPHY OF HUMOR

It was not so much in his lines and in his delivery that he scored successes. His philosophy of humor shed little light on the art but it told something about the man.

It was not the words that brought the house down. It was the peerless execution of little things that became perpetually funny clichés, such as his piqued utterance of "Human," or his fussy, angered riposte to jibbing "Now cut that out!"

"Never laugh at the other fellow; let him laugh at you," he said. "I try to make my character encompass about everything that is wrong with everybody. On the air, I have everybody's faults. All listeners know someone or have a relative who is a tightwad, show-off or something of that sort. Then in their minds I become a real character."

As a result, he was often the butt of his second bananas, who devastated him with their barbs. Eddie Anderson, as Rochester, his valet, lacked a shred of servility but always complained to the boss, man to man, about the Benny thrift. Mary Livingston, his wife, and Phil Harris, the orchestra leader, also shared in the laugh tunes. But Mr. Benny somehow came out ahead. Mel Blanc, the zany of many voices, among them "Mr. Kitzel," and Sheldon Leonard had choice supporting parts.

METICULOUS IN PREPARATION

Mr. Benny was meticulous in preparation. Although it was widely known that he possessed a ready wit and a wonderful humor, which he often demonstrated in off-the-cuff observations on off-the-air occasions, he never—well, almost never—deviated from the script his highly paid writers had created for him.

"There is no tranquilizer like a prepared script," he once explained. For years he kept a good-humored "feud" running with Fred Allen, the humorist noted for his quick wit. Once when Mr. Allen had demolished him with a line, Mr. Benny blurted out that if his scriptwriters had been there, Mr. Allen would never have gotten away with that.

He was absolutely serious about his work, in a way that many other comedians were not. At rehearsal, Mr. Benny would be soberfaced and worried about details. He was not a monster—it has always been impossible to find a colleague or even a former colleague to speak ill of him—but he was an earnest, hard-working funny man.

This was an attitude born of experience.

"TIMING THE KEY"

"I soon discovered that telling jokes was not a breeze, after all," he reminisced. "Sometimes you could throw a punch line away. Other times you had to ride it hard. A pause could set up a joke—or bury it. Timing was the key."

And there was, indeed, a sort of lucky timing that determined the course of the life of this comedian out the midwest, a timing found him at the right age in the right age, an age of broadcasting that made reputations overnight, as against the age of vaudeville, when it took years.

Jack Benny was named Benjamin Kubelsky when he was born in Chicago on Valentine's day, 1894. He grew up in Waukegan, Ill., where his father, Meyer, had a store, and Mr. Benny often, for laughs, used to say that this was the town where he was born.

GOT VIOLIN AT 8

Meyer Kubelsky, a Jewish immigrant from Russia, loved music, and when his son was 8 the father gave him a $50 violin. The boy was soon giving concerts at the Town's Barrison Theater.

The young violinist quit school in the ninth grade and, at the age of 18, went into vaudeville. He worked with a woman pianist, Cora Salisbury, and soon teamed up with Lyman Woods, also a pianist. It was during an appearance with her that Mr. Benny, who then called himself Ben K. Benny, told a joke.

"The audience laughed," he later recalled. "The sound intoxicated me. That laughter ended my days as a musician, for I never again put the violin back where it belonged except as a gag."

Life became the customary round of one-night stands in the Midwest, and the young performer was not, at least not yet, the man to startle the vaudeville bookers. When World War I came along, he joined the Navy and was assigned to "The Great Lakes Review," a sailors' road show. Here his comic genius made an impression, and his decision to renounce music became irrevocable.

After the war, he embarked on the highly competitive career of the ad libber, where his greatest asset soon proved to be his instinct for proper timing. His silence was eloquent and his double-takes were the envy of his profession. By 1926, he had a part in a Broadway musical, "The Great Temptations."

LED POPULARITY POLLS

This led to the most coveted assignment of all: master of ceremonies at the Palace Theater, citadel of the two-a-day. Soon he went on to Hollywood, and in 1932, he found his most durable niche: radio. It started with a guest shot on Ed Sullivan's radio show and before the year was out, he had his own program on the National Broadcasting Company network.

From 1934 through 1936 he was the champion of the radio popularity polls, and for many years he was always among the top 10 programs. His wife, Sadie Marks, whom he married in 1927, became Mary Livingstone, the wife of the radio Jack Benny, as he had been calling himself for a number of years.

He still sawed away at his violin, and his never-completed rendition of "Love in Bloom" became a hallmark of the show. His writers alone received a total of $250,000 a year. In 1948, Mr. Benny took his show from NBC to CBS. As part of the move, CBS paid $2,260,000 for Mr. Benny's Amusement Enterprises organization, as part of a capital gains deal. He got $1,356,000 of this.

"THE BEST FORMAT"

CBS kept the radio show until 1955, when, 23 years after Mr. Benny had done his first program, it went off the air. Even earlier, however, he had made the acquaintance of the new medium, television. He had been a bit wary of the tube and his fears seemed to be substantiated by the critical reception for that first telecast, on October 28, 1950.

The critics said the show had little visual attraction, that it relied too heavily on the radio tradition. But Mr. Benny made the grade with his third telecast the next April when he drastically altered his old routines and caused one critic to observe, "Mr. Benny has the best format, no format at all."

He stepped up his television schedule from irrgeularly scheduled shows, to semiweekly programs to weekly telecasts, which lasted from 1960 to 1965. When he "retired," he found himself almost as busy as ever on television and in personal appearances. He appeared in many special telecasts. The last one, last Jan. 24, was billed as "Jack Benny's Second Farewell," because it came not many months after the first.

He began, more than ever, to play nightclubs, the Sahara in Las Vegas, the Waldorf-Astoria's Empire Room here. He worked in the Palladium. He was tireless in performing at benefit concerts on behalf of musical causes, whether to save Carnegie Hall or to keep an orchestra afloat. In 1970, it was estimated that he had raised $5-million in 14 years.

MADE MANY FILMS

Viewers of late show or midday movies occasionally glimpse Mr. Benny in many of the films he made. Among them were "Hollywood Revue of 1929" (his first), "Chasing Rainbows," "The Medicine Man," "It's in the Air," "College Holiday," "Artists and Models," "Transatlantic Merry-Go-Round," "Buck Benny Rides Again," "Charley's Aunt," "To Be or Not to Be," "George Washington Slept Here," "The Meanest Man in the World," and "The Horn Blows at Midnight."

Several years ago, when an interviewer asked him why he was making television commercials, Mr. Benny replied: "Show business has changed. I'm changing with it. There's no more class in show business today. You do everything and anything."

But he had already done everything and done it well.

He is survived by his widow, an adopted daughter, Joan Blumoff, and several grandchildren.

[From the Waukegan News-Sun, Dec. 30, 1974]

TEARS AND JOKES AT JACK BENNY FUNERAL

(By Vernon Scott)

CULVER CITY, CALIF.—His fellows said goodbye to Jack Benny Sunday with tears and gentle jokes he would have liked. Men and women who came the route he did—from vaudeville circuits to national entertainment institutions—buried the comedian on a brilliantly sunny Sunday afternoon in a cemetery packed with celebrities, fans and emotion.

George Burns, Benny's best friend, broke down in sobs three sentences into his eulogy and could not finish. Bob Hope, who met Benny on Broadway 45 years ago, carried on, mixing gentle humor with his tributes.

"He was stingy to the end," Hope said. "He was only with us 80 years, and it wasn't enough."

Burns, who with his wife Gracie Allen, was one of Benny's fellow giants of the golden days of network radio in the 1930s and 1940s, said beforehand that he did not know if he could go through with his part of the eulogy. "I told that to Mary (Livingston, Benny's widow), and she asked me to try."

"What can I tell you about Jack? I've known him 55 years . . ." Burns broke. "I can't imagine my life without him," he sobbed and returned to his seat.

Police several times had to push back the crowd of 2,000 who came to see Benny buried at Hillside Memorial Cemetery.

Pallbearers included Frank Sinatra, Gregory Peck, Milton Berle and director Billy Wilder. Mourners included a roster of the most famous names in show business and politics, including Gov. Ronald Reagan and former Sen. George Murphy, both former entertainers.

Also there was the old cast of Benny's radio show—Eddie "Rochester" Anderson, who played the gravel-voiced butler, singer Dennis Day, musician Phil Harris, announcer Don Wilson and man-of-many-voices Mel Blanc, who did the "Anaheim, Azusa and Cucamonga" railroad announcer.

Mrs. Benny, his longtime comedy partner and wife of 47 years, left the chapel but returned by the time the service began, sitting in her car to compose herself with their daughter, Joan, 30. She had said earlier, after Benny died Thursday night of a surprise cancer attack at 80, "In all the years we were together, he never gave me one bad day. not one bad moment."

Hope said Benny was revered as a genius by other comedians for his flawless sense of timing, but that Benny finally made a mistake. "His timing was all wrong. He left us all too soon."

Hope said that "If there's a Mt. Rushmore for humanitarians, the first stone face might easily resemble him. And if a stone could talk, it would say 'Well,'" a reference to Benny's ability to draw huge laughs with a silent pause and then that one exasperated word.

"How do you say goodbye to a man who was not just a good friend but a national treasure?" Hope asked.

"No one will ever replace Jack Benny."

[From the Waukegan News-Sun, Dec. 30, 1974]

Jack Benny Was More to Waukegan Than Laughs

Jack Benny, the king of wit who gave so much of himself to help others despite his self-proclaimed frugality, died Thursday. His violin is stilled forever.

This comet who flashed across airwaves and into the hearts of millions was born 80 years ago, but most of his fans will always believe he was only 39 as he insisted.

He was always 39 in heart, however, and he never really retired. Benny was always thrilled with what he called the excitement of life right up to the end when cancer killed him.

We hope Jack will forgive us for looking back although he said that he didn't indulge in nostalgia, summing up his feelings with: "To hell with the past. It's gone."

Born in Chicago on Valentine's Day, 1894, Jack grew up in Waukegan. He began his long show business career in the Barrison Theater in Waukegan where he started playing the violin when he was only 8.

He played in the Waukegan High School orchestra but before he received his diploma he started out on his long and illustrious career making people laugh. In his chosen field he was one of the few geniuses.

He could spark laughter by just putting one hand to his mouth and cocking his eyebrows as he stared at his audience. When he added the punch-line, "Well," he had his listeners in the palm of his hand.

He had a ball making people laugh, but he said often that he received the most joy performing for benefits around the country. He raised an estimated $6 million for worthy causes, some of it in the town he put on the map of the world. Waukegan townspeople reciprocated by opening their hearts to him whenever he came to town and named a junior high school after him.

He appeared on radio and TV for many years but many thousands of World War II veterans remember him, best for his appearances in the field almost within sound of the big guns.

Jack won many accolades during his lifetime—the Laurel Leaf Award of the American Composers Alliance, the March of Dimes Humanitarian Award and a special Academy of Television Arts and Science Award—but his love affair with those of us who wanted to forget the cares of the world for a few minutes through his humor is his most enduring monument.

Jack never forgot his hometown, and we, and the world, will always remember him for his clean and gentle wit.

[From the Waukegan News-Sun, Jan. 11, 1975]

Mr. Benny: A Final Encore

(By Joe Manning)

The one incontrovertible truth about humor is that it is a great mystery. What causes the Pukapukans to shriek with laughter may leave the Kokomokans cold.

Yet, somehow, humor has a universal appeal and purpose.

Laughter is probably not learned but people learn very early in their lives in what situations and when it is appropriate to laugh.

Jack Benny knew the secret of putting people in those situations.

Here is part of a television special filmed at Jack Benny Junior High School in August of 1968.

Benny comes on stage:

"Thank you, thank you very, very much, ladies and gentlemen and all of my friends. I want to say first of all I am very, very happy to be back here for this occasion. And you know I was hoping they would have a fourth junior high school here called the Abraham Lincoln School because you see, when I was here in school studying history Abraham Lincoln was my favorite president. Because, I figure that any man that will walk 12 miles barefoot in the snow and return a library book to save three cents is my kind of a guy.

Enters Mayor Robert Sabonjian: "Jack, as the mayor of this city, I want you to know that we certainly appreciate all that you have done for Waukegan and I think that it's only fitting that we spent over $1,250,000 to build this monument to honor you with concrete, lumber and steel."

Benny: "Well, I want to say that I am very, very proud of that and I have relatives here who are happy about it too because, you see they are still in business here."

Sabonjian: "Really? What business are they in?"

Benny: "Concrete, lumber and steel."

Enters a Lt. Brown from Great Lakes Naval Base. He asks Benny to verify his service number and Benny does.

Lt. Brown: "Well, Mr. Benny, in checking our records we find that you have never been discharged from the Navy."

(That Benny look and pause) "What?"

Lt. Brown: "No one ever signed your discharge papers."

Benny: "What discharge papers? The war was over so I went home. It's as simple as that."

Lt. Brown: "I know, and you have been AWOL for 59 years."

Benny: (Pausing and looking) "What are you talking about?"

Lt. Brown: "I'm sorry Mr. Benny, you're going to have to serve your term."

Enter Shore Patrol which commences to take Benny away.

Benny raving: "Serve my term: Wait a minute. You're taking me back to Great Lakes? Well, this is ridiculous. At my age? No, lookit. And anyway, my name was Benny Kubelsky then. It wasn't Jack Benny. Now cut that out."

[From the Chicago Tribune, Dec. 28, 1974]

Jack Benny, 39

The flat midwest accent is gone, the face with the slightly startled and petulant expression that brought laughter to millions is gone, Jack Benny is gone. His death came 41 years after his last acknowledged birthday, which was his 39th.

But the timbre of the drawling voice and the long drawn out, may-Heaven-preserve-us look of that put-upon man will remain in our minds for a long time. For in the minds of two generations of Americans, Jack Benny was a friend, one who came calling weekly by radio and later television. This feeling was so strong that those who later met him personally were taken aback that he regarded the meeting as an introduction rather than a reunion. They knew him so well; why in the world didn't he know them?

This closeness developed because Jack Benny was not a conventional standup comedian (altho he could deliver a monolog with enchanting grace]; he was a being whose feigned flaws and foibles endeared him to audiences and made him seem real.

The Jack Benny character—a creature of penury, of small vanities involving age and appearance, and of an inescapable tendency to be the butt of others' jokes—brought him close to home for all of us.

Jack Benny was born in Chicago and raised in Waukegan, and it is hard to know whether to say he grew up with the American entertainment industry or vice versa. It is best to say that they grew together in the 63 years since he quit school in 9th grade to take a job in the pit of a theater. He became familiar everywhere from the White House to the foxholes of World War II, and as he neared 80 he continued to appear in concerts with his violin and on TV talk shows with his delightful reminiscences.

Even as he learned that death was imminent, because of stomach cancer, he was making plans for further appearances. He always liked to pretend that he never went beyond the age of 39. And because of his eternally youthful vigor and humor, we shall think of him forever as 39.

[From the Chicago Sun-Times, Dec. 28, 1974]

Jack Benny—1894–1974

One of the things that made Jack Benny a great comic artist was his self-created style. It was a style so much his own that it was impossible to borrow from it without appearing to be a cheap imitator. Only Jack Benny could be funny the way Jack Benny was funny. His arms are crossed. His fingertips rest on his cheek. He composes his face, turns his head slowly, and announces abruptly and in mock outrage, "Well!" No one but Benny could do that.

Like other artists, Jack Benny was a master of timing. Benny, the celebrated tightwad, waits to answer the holdup man who repeatedly demands his money or his life. Finally—and at the exact monent—he replies, "I'm thinking! I'm thinking!" He was a perpetual and defiant 39. He played the violin horribly. He was vain and timid. He told his tormentors, "Now cut that out!" He kept his money in a subterranean vault.

In private life, he was a modest and generous man—generous to his wife and daughter, to his professional colleagues, and to millions of his listeners, all of whom mourn his death.

[From the Chicago Daily News, Dec. 28, 1974]

A Nation Laughed With Him

Jack Benny quite likely might never have made it if he had started in today's world—and the world would have been vastly the poorer.

As Jack himself said, he came up in a time when if you couldn't make it in Peoria you could polish up the act and try again in Muncie and go on and up from there. "Now they throw you to the wolves, which is television. If you're bad, you're out."

Benny also grew up with the radio industry, which was made to order for the family kind of humor that became his specialty. He never did make it big in the movies, and in television—another part of the forest entirely—he made it to some extent on his momentum as the nation's top radio star.

Yet it is hard for those who weren't there through the 1930s to grasp the size of Jack Benny's talent or the stature he achieved as an institution in the entertainment world. Week after week he brought the whole nation huddling around its Atwater-Kents and Stromberg-Carlsons to hear him wage his losing verbal jousts with Don Wilson, Phil Harris, Fred Allen, Rochester, Dennis Day and his patient wife, Mary Livingston.

How did he do it? The formula was simple. Jack Benny was Everyman—especially, every little fellow, mosying and stumbling through a bewildering world. "Straight man for the whole world," Steve Allen called him, and it is not a bad line.

But he was something more and rarer than that—a born clown in the grandest sense of the word, with the shadow of sadness enhancing every funny situation and line. The real Jack Benny bore this out. He never ceased to wonder, even at the peak of his magnificient success, why and how it all came to happen to him, Benny Kubelsky of Waukegan, Ill. That it did happen to him was a fact of great benefit to a nation that, then as now, needed laughter to make the gloom bearable.

[From the Washington Post, Dec. 29, 1974]

Jack Benny

Jack Benny, who died on Thursday at the age of 80, was one of the great American entertainers. He began his career early—as a violinist, what else?—in a Waukegan theater, having dropped out of high school, and soon was off on a vaudeville tour. To the end of his life he remained a showman, one of the few of the radio stars of the 1930s and '40s whose style and expression were congenial to the medium of television. The raised eyebrows, the look of pain (upon hearing the price of almost anything)—these turned out to be, visually, on television just what one had imagined them to be on radio: funny, utterly engaging.

Yet it was, in our view, as a giant in the age of radio that Jack Benny reached his ultimate achievement. That uniquely demanding medium was only for those sufficiently skilled craftsmen who could conjure up a whole living, visual world in the listener's imagination by means of word and sound—and silence, we would add, since the affronted pause was one of the mainstays of Mr. Benny's comic art.

That the world he conjured up remains vivid and memorable strikes us with particular force at this time of year: this was the reason (as people of a certain age will know) when Jack Benny made his annual "visit to the vault" where his savings were allegedly held under guard by an ancient retainer who didn't see him from year to year. We can hear the creaking and groaning of the hinges on the seldom opened doors now, that sound effect that signaled the passage to the vault. And we can hear too the strains of "Love in Bloom," execrably rendered by Mr. Benny, whose comic sense always told him just when to strike the first screechingly wrong note.

Jack Benny was an American institution, and the jokes with which he entertained Americans for years have passed into the folklore. In taking note of his extraordinary career and of the pleasure he gave so many people, we would add only this: His humor was without malice; it had no claws; its object of fun was himself In the world of comedy and comedians, to reach the top that way is no means achievement.

[From the New York Times, Dec. 28, 1974]

A National Institution: To Millions in the 1930's and 1940's, Sunday Night at 7 Jack Benny and Gang

(By John J. O'Connor)

Although he was successful on television, in nightclub and even on the stage in "one-man" shows, Jack Benny was perhaps the most enduring and astonishingly shrewd creation of radio, For anyone growing up in the nineteen-thirties and forties, Sunday night at 7 o'clock meant Jack Benny and "the gang."

Week after week, the cast regulars went through a series of thoroughly predictable routines. Week after week, listeners at home laughed along with the studio audience. The brilliantly calculated Benny persona, offering magnanimous displays of the hilariously petty, was being fixed securely in the public's affection.

His radio years began in the Depression. Radio was concentrating on entertainment. There were very few regular news formats in those days. Not surprisingly, the center of the entertainment spotlight was held by veterans of vaudeville. In addition to Jack Benny, there were Eddie Cantor, George Burns and Gracie Allen, Al Jolson, Ed Wynn, and Phil Baker.

A NATIONAL CHARACTER

By 1937, Jack Benny had edged out Eddie Cantor for top position in the "Hooper-ratings." In 1950, a couple of years before the television explosion, he was still No. 1 in the ratings. Meanwhile, he had used radio to develop a national character of rare longevity.

The vehicle consisted of nothing but sound and, with the Benny sense of faultless timing, silence. The old Maxwell auto sputtered and coughed. The endless series of locks protecting the cellar bank vault squeaked and clanked. The pay telephone and cigarette machine in the living room noisily consumed coins. The immediately recognizable Benny family was created by a group of performers standing in front of microphones.

The effect was a combination of intimacy and elusiveness, a combination still unique to radio. The disembodied voices became personal friends, perhaps vaguely linked to faces in press photographs. The contexts and settings were constructed in the imaginations of the listener. The very lack of visual literalness expanded the possibilities for radio.

All of that changed, of course, with television. The new medium proved considerably more devouring than the old. Seeing the old Maxwell was not quite as funny as hearing it. Seeing it a second time was not nearly so funny as hearing it for the 100th time. The quality of elusiveness was lost.

BLOCKBUSTER SUCCESSES

The Benny program and other radio farmats did have respectable runs on television, but the medium was bestowing its "blockbuster" successes on more "visual" material—Milton Berle's muggin, Sid Caesar's skits, The pandemonium of "Laugh-In." But the blockbusters, too, were eventually devoured. None were as long-lived as the old-time radio favorites.

The Benny persona, however, survived. It did not depend on one-line jokes or energetic physical routines. He could still show up on his own specials or as a guest star getting incredible mileage out of his penny-pinching routines or deadpan silences.

On one of his last television appearances, in an Anne Bancroft special called "Annie and the Hoods," he played a psychiatrist listening to the silly prattle of a patient. He didn't utter one word. He didn't have to. The radio character had become a national institution.

[From the Washington Post, Dec. 29, 1974]

Thinking Back on Benny: The Image and the Man

(By Goodman Ace)

The curtain slowly descended last week on a man I first met, and fell in love with, many years ago. Even several years before he was really 39: Jack Benny.

As drama critic of the Kansas City Post, I had watched this young, unheralded man wander casually on stage in the next-to-closing spot of a vaudeville bill at the Orpheum Theater. There was a smattering of applause as he stood stage center, his violin dangling loosely at his side, he smoothed his necktie, tugged at his pocket handkerchief, looked calmly about, and then spoke softly to the orchestra leader:

"How's the show been up till now?" he asked.

"Fine," said the man in the pit.

There was a slight pause—Jack's renowned timing—and he finally said: "Well, I'll put a stop to that."

Then he went into this monologue, saying he was always glad to come to Kansas City because the girls were so beautiful. He had met one last night, he said, and they had driven around town in his car, and she suggested they stop for a midnight snack at the Muehlebach Hotel, which was Kansas City's version of the high-priced Waldorf Astoria in New York.

Another pause—that look of stark anguish—and then he said, "So I sold the car . . ." It got the big laugh that was to echo down the aisles of theaters, and over the channels of radio and television in the years ahead.

And so was born the image of his tight-fisted adulation of money, which, as we now know, he later developed into a multi-million dollar career. When I went backstage to meet him, I soon learned he was the antithesis of penurious. Throughout his life he gave freely of his time and money to help others.

The "cheap" image paid off. It paid off big, for instance, after a long radio run when Jack appeared as an unannounced guest on the Ed Sullivan variety little spot, in which Sullivan came downstage with a dollar bill in his hand.

"One of the ushers found this dollar bill in the aisle. Will the owner please come up here and . . ."

That's as far as he got, Jack Benny came down the aisle. The laugh it garnered could have ended the bit there. But there was more.

"Are you sure this is your dollar?" asked Ed.

"Yes, sir. You see, I came here a couple days ago from Los Angeles, and I had $7 in my pocket. Now I have only six."

"Well, can you call off the serial numbers?" asked Ed.

"Yes, sir," said Jack. The numbers are B58703170A," Jack recited.

Sullivan examined the bill and handed it to Jack, who left the stage to houseful of applause. When it had quieted down, Sullivan said to the audience, "He wasn't even close to the numbers, but how else can you get a guest to come on this show for a dollar? They don't call him Buck Benny for nothing."

My friendship with Jack ripened and warmed during the early years of Jack's life. I refrain from calling those the years of his struggle to acclaim. I don't recall Jack's ever struggling. He was patient and unruffled, snug and complacent, in his next-to-closing spots in vaudeville theaters across the country. With every performance he learned a little more, took out jokes that were weak, edited those that he thought were better than the response they got. As I say, patient, unruffled, knowing deep down, though he never said it, that he would make stardom.

He was one of the few comedians who knew the art of putting himself down, on stage and in public life. In an era when comics were bragging about how they killed them in Peoria, Jack was quietly polishing and refurbishing his act. He bought and paid for—paid well for—material furnished him by Al Boasberg, the most sought-after one-liner of that time.

In our leisure moments together he never talked shop. He never envied other comedians, never put down any of them, and was quick to praise those he admired, always able to find something fairly good about even the most mediocre. When asked how he had done at a certain performance, it was always "all right."

He never forgot his beginnings. When he spoke about them, the joke was always on him. For instance, the story he told me about his first trip back to Waukegan, Ill. after he had been away on the road for two years. It's possibly apocryphal, but it bears telling because it demonstrates his lack of ego, and the ability to laugh at himself.

He was walking from the railroad station to his father's place when he met a long-time friend, who saw Jack with suitcase in his hand. "Hello Jack," said the man, "leaving town?"

My admiration for Jack as a performer, as well as a friend, led me now and then to concoct jokes suitable to his impeccable style. Though I was never a member of his talented regular staff, there were times when he needed a line or two at a benefit—and he played many of them—when he lived in New York.

I remember the first joke I ever wrote for him. I was still at my job on the paper in Kansas City when I got a telegram from him in the East. It said that he was about to get his first big time break as master of ceremonies at the Palace Theater on Broadway, and he could use an opening line for the occasion?

I had never been to the Palace Theater, but I knew that the master of ceremonies came on after the opening act. I looked through Variety to see what the acts were to be on that bill, and found that Long Tack Sam, Chinese magician, would open. And so, in an era when ethnic jokes were commonplace, I sent Jack this line to say when the act was over: "Vaudeville has certainly changed. It used to take Japs or better to open."

I didn't hear from Jack immediately, and I was about to ring up no sale on my first professional joke, when Walter Winchell's column appeared in our paper and he mentioned the line. Also, Variety, in a glowing review of Jack's entire performance, quoted the line.

Then I got a letter from Jack: "Enclosed find check for $50. Your joke got lots of laughs, if you have any more send them."

Well, as much as I needed the money, I telegraphed it back with a message: "Your check got lots of laughs. If you have any more, send them."

I just didn't want to lose my amateur standing. Not with such a friend.

The last joke I wrote for him was some few years ago when he was coming to New York to appear in his one man show. He phoned me from Canada, asked me about the newspaper strike New York was having, wanted to know if any papers were being printed. I told him no, but that New Yorkers were reading a paper that was published out of town—the Christian Science Monitor. He asked if I could write a joke about the newspaper strike.

I said, "Yes, see what you think of this. You can say: 'Since I got to town I've been reading the Christian Science Monitor. The news in the Christian Science Monitor is just as bad as it is in the other papers, but you think it's better. He had me repeat it, as he carefully placed the right words in the exact sequence.

Jack was without a doubt the most appreciative and the best paying comedian a writer could work for. He sat in at every writing session, editing, contributing, suggesting. The writers were his friends, and he was their gracious employer. He was so unlike most comedians who nourish a feeling that writers are their enemies when some jokes don't go over. So unlike a comedian who once asked me. "Who are you writing against this season?"

And yet, because Jack couldn't have been there to edit, the long list of pallbearers and honorary pallbearers at his funeral today did not mention the names of his family of writers, which included Milton Josephson, John Tackaberry, Sam Perrin, George Balzar, Bill Morrow, High Wedlock and Harry Conn. He would have wanted you to know.

Although the newspaper obits say Jack Benny was 80, you have my word that his spirit was 39.

To Jack Benny, who would have been 81 next Feb. 14, and to his Mary, this, then, is my small valentine bouquet.

(Jack Benny, who will be buried today at Hillside Memorial Cemetery in Culver City, Calif., died late Thursday in his Beverly Hills home of cancer of the pancreas. Goodman Ace, a contributing editor of Saturday Review Magazine, was for many years a radio and television writer. For 18 years, in the 1930s and 1940s, he and his late wife, Jane, starred in the "Easy Aces" radio show.)

Mr. Speaker, on behalf of the distinguished mayor of Waukegan, Robert Sabonjian, members of the Waukegan City Council, and all public officials in my 13th District—particularly from Lake County—I take this occasion to convey the heartfelt respect and honor which has been expressed through thoughts and words in these recent days toward Jack Benny and his family.

Mr. Speaker, throughout his career Jack Benny has always been a decent and wholesome man who respected the interest of all regardless of race, religion, sex, or other individual characteristics. He was beloved by young and old and by those from all walks of life.

Mr. Speaker, it is most appropriate that we honor this great American today through this tribute. At the same time, let us convey to his widow and devoted wife of some 47 years, Mary Livingston, our deepest sympathy, and to express to other members of the family and his close friends our great affection and respect for the unique and youthful gentleman from Waukegan—Jack Benny—who, after completing his 39th year of life, passed from our midst on Friday, December 27, 1974, at 80 years of age.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Young of Florida) to revise and extend their remarks and include extraneous material:)

Mr. Whalen, for 10 minutes, today.

Mr. Edwards of Alabama, for 5 minutes, today.

Mr. Railsback, for 10 minutes, today.

Mr. Cohen, for 20 minutes, today.

Mr. Frenzel, for 30 minutes, today.

Mr. Goldwater, for 30 minutes, today.

Mr. Cochran, for 10 minutes, today.

(The following Members (at the request of Mr. Sharp) to revise and extend their remarks and include extraneous material:)

Mr. Rodino, for 5 minutes, today.

Mr. Edwards of California, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Ms. Holtzman, for 10 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mrs. Collins of Illinois, for 15 minutes, today.

Mr. Fraser, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Bingham, for 5 minutes, today.

Mr. Addabbo, for 30 minutes, today.

Mr. Anderson of California, for 5 minutes, today.

Mr. Dan Daniel, for 5 minutes, today.

Mr. Rangel, for 5 minutes, today.

Mr. Ottinger, for 5 minutes, today.

Mr. Rostenkowski, for 5 minutes, today.

Mr. Kastenmeier, for 5 minutes, today.

Ms. Abzug, for 10 minutes, today.

Mr. Zablocki, for 10 minutes, today.

Mr. Koch, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Nedzi.

Mr. Ullman, in the body of the Record, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $6,255.

Mr. Corman and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $9,035.

Mr. Corman and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $2,293.50.

Mr. McClory and to include extraneous matter notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,390.

(The following Members (at the request of Mr. Young of Florida) and to include extraneous material:)

Mr. Heinz in three instances.

Mr. Hagedorn in five instances.

Mr. Young of Florida in five instances.

Mr. Lent in three instances.

Mr. Ketchum.

Mr. Ashbrook in three instances.

Mr. McClory in two instances.

Mr. Pressler.

Mr. Horton in two instances.

Mr. Moorhead of California.

Mr. McCloskey.

Mr. COHEN in three instances.

Mr. CRANE.

Mr. BEARD of Tennessee.

(The following Members (at the request of Mr. SHARP), and to include extraneous material:)

Mr. SISK in two instances.

Mr. GONZALEZ in three instances.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in five instances.

Mr. FRASER in 10 instances.

Mr. STUCKEY in 10 instances.

Mr. EILBERG in 10 instances.

Mr. VANIK in three instances.

Mr. ROSENTHAL in 10 instances.

Mr. REUSS in five instances.

Mr. BINGHAM in 10 instances.

Mrs. SULLIVAN.

Mr. BOLAND.

Mr. UDALL in five instances.

Mr. BENNETT.

Mr. RANGEL.

Mr. DAN DANIEL.

Mr. HUNGATE in two instances.

Mr. DOMINICK V. DANIELS in five instances.

Mr. GAYDOS in 10 instances.

Mr. SEIBERLING in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. REES.

Mr. OBEY in six instances.

Ms. ABZUG in 10 instances.

Mr. KOCH in three instances.

Mr. ZABLOCKI in two instances.

Mr. MCFALL.

Mr. MOAKLEY in 10 instances.

Mr. ASHLEY.

Mrs. CHISHOLM.

ADJOURNMENT

Mr. SHARP. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 15 minutes p.m.), the House adjourned until tomorrow, Wednesday, January 15, 1975, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the President of the United States, transmitting notice of actions proposed to be taken under the Trade Act of 1974 (H. Doc. No. 94–8); to the Committee on Ways and Means and ordered to be printed.

2. A letter from the President of the United States, transmitting notice of his intention to exercise the authority granted in section 506(a) of the Foreign Assistance Act of 1961, as amended, to order defense articles and services for military assistance to Cambodia, pursuant to section 652 of the act; to the Committee on Foreign Affairs.

3. A letter from the Deputy Assistant Secretary of Agriculture, transmitting the annual report of the Cooperative State Research Service for fiscal year 1974, pursuant to section 10 of Public Law 88–74; to the Committee on Agriculture.

4. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority for fiscal year 1975 as of January 1, 1975, pursuant to section 1014(e) of Public Law 93–344 (H. Doc. No. 94–10); to the Committee on Appropriations and ordered to be printed.

5. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Department of Health, Education, and Welfare for "Indian Health Services" for fiscal year 1975, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to section 3679 (e)(2) of the Revised Statutes; to the Committee on Appropriations.

6. A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Veterans Administration for "Medical Care" for fiscal year 1975, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to section 3679(e)(2) of the Revised Statutes; to the Committee on Appropriations.

7. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting a report of a violation of the Antideficiency Act, pursuant to section 3679 (i)(2) of the Revised Statutes; to the Committee on Appropriations.

8. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting a supplemental report on a violation of the Antideficiency Act during fiscal year 1974 by the Commission, pursuant to 31 U.S.C. 665(i)(2); to the Committee on Appropriations.

9. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting a copy of a letter to the Office of Management and Budget concerning a fiscal year 1975 supplemental appropriation for the Commission, pursuant to section 27 (k)(1) of Public Law 92–573; to the Committee on Appropriations.

10. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting a report on military construction projects placed under contract in fiscal year 1974 in which it was necessary to exceed the amount authorized for the project by Congress by more than 25 percent or to reduce the project scope in order to award within the authorization, pursuant to section 603(d) of Public Law 93–166; to the Committee on Armed Services.

11. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting a report on former military and civilian officials and current Department of Defense employees who have filed reports pertaining to employment by defense contractors, covering fiscal year 1974, pursuant to section 410(d) of Public Law 91–121; to the Committee on Armed Services.

12. A letter from the Under Secretary of the Army, transmitting the annual report of the U.S. Soldiers' and Airmen's Home for fiscal year 1973, pursuant to the act approved March 3, 1883, as amended [24 U.S.C. 59]; to the Committee on Armed Services.

13. A letter from the Chairman, Defense Manpower Commission, transmitting a report on activities of the Commission; to the Committee on Armed Services.

14. A letter from the Board of Governors of the Federal Reserve System, transmitting the sixth annual report of the Board of Governors on truth in lending, covering 1974, pursuant to section 114 of the Truth in Lending Act [15 U.S.C. 1613]; to the Committee on Banking, Currency and Housing.

15. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions to Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland during October 1974; to the Committee on Banking, Currency, and Housing.

16. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting a report on the safe level of lead in residential paint, pursuant to section 3 of Public Law 93–151; to the Committee on Banking, Currency and Housing.

17. A letter from the Acting Executive Director, National Commission on Productivity and Work Quality, transmitting a report on activities of the Commission; to the Committee on Banking, Currency and Housing.

18. A letter from the Chairman, Cost Accounting Standards Board, transmitting a proposed cost accounting standard entitled "Part 408—Accounting for Costs of Compensated Personal Absence," pursuant to section 719(h)(3) of the Defense Production Act of 1950, as amended by Public Law 91–379; to the Committee on Banking, Currency and Housing.

19. A letter from the Chairman, The District of Columbia City Council, transmitting the annual report concerning the District of Columbia Council's functions during the period July 1, 1973 through June 30, 1974, pursuant to section 402(10) of Reorganization Plan No. 3 of 1967 (1 DCC 238); to the Committee on The District of Columbia.

20. A letter from the Executive Secretary, Public Service Commission of the District of Columbia, transmitting the 61st annual report of the Commission, covering calendar year 1973, pursuant to section 8 of the act of March 4, 1913; to the Committee on the District of Columbia.

21. A letter from the Vice President and General Manager, Chesapeake and Potomac Telephone Co., transmitting a report of receipts and expenditures for the year 1974, pursuant to 33 Stat. 376; to the Committee on the District of Columbia.

22. A letter from the Secretary of Health, Education, and Welfare, transmitting the report of the National Center for Deaf-Blind Youths and Adults, covering calendar year 1972, pursuant to section 16(c)(2) of the Vocational Rehabilitation Act [29 U.S.C. 42(a)(2)]; to the Committee on Education and Labor.

23. A letter from the Executive Secretary, Department of Health, Education, and Welfare, transmitting notice of proposed rulemaking for the Family Educational Rights and Privacy Act of 1974, pursuant to section 431(d) of the General Educational Provisions Act, as amended by section 509(a)(1) of Public Law 93–380; to the Committee on Education and Labor.

24. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed rulemaking for the Ethnic Heritage Studies program, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended [20 U.S.C. 1232 (d)(1)]; to the Committee on Education and Labor.

25. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed rulemaking for Financial Assistance for Supplementary Centers and Services, Guidance, Counseling and Testing programs, pursuant to section 431(d) of the General Education Provisions Act, as amended by section 509(a)(1) of Public Law 93–380 [H.R. 69]; to the Committee on Education and Labor.

26. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed regulations for Exemplary Projects in Vocational Education, Additional Criteria for Selection of Applicants in fiscal year 1975, pursuant to section 431(d) of the General Education Provisions Act, as amended by section 509(a)(1) of Public Law 93–380 [H.R. 69]; to the Committee on Education and Labor.

27. A letter from the Under Secretary of Health, Education, and Welfare, transmitting notice of proposed amendments to regulations governing the Veterans' Cost-of-Instruction Payments program, pursuant to section 431(d) of the General Education Provisions Act, as amended by section 509 (a)(1) of Public Law 93–380 [H.R. 69]; to the Committee on Education and Labor.

28. A letter from the Under Secretary of Health, Education, and Welfare, transmitting a report concerning regulations governing Financial Assistance for Strengthening Instruction in Academic Subjects in Public Schools, pursuant to section 431(d) of the General Education Provisions Act, as amended by section 509(a)(1) of Public Law 93-380 [H.R. 69]; to the Committee on Education and Labor.

29. A letter from the Commissioner on Aging, Department of Health, Education, and Welfare, transmitting a report on the state of the art of transportation for the elderly, pursuant to section 412(a) of the Older Americans Act of 1965, as amended; to the Committee on Education and Labor.

30. A letter from the Chairman, National Commission on Libraries and Information Science, transmitting the third annual report of the Commission, pursuant to section 5(a)(7) of Public Law 91-345, as amended; to the Committee on Education and Labor.

31. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the intention of the Department of State to consent to a request by the Government of Iran for permission to transfer certain aircraft to a friendly government, pursuant to section 3(a) of the Foreign Military Sales Act, as amended; to the Committee on Foreign Affairs.

32. A letter from the Assistant Secretary of Defense (Legislative Affairs), transmitting a report on the effectiveness of U.S. military aid to Israel in the Arab-Israeli war of 1973, pursuant to section 5 of Public Law 93-199; to the Committee on Foreign Affairs.

33. A letter from the Secretary of Commerce, transmitting a report on export administration for the second quarter of 1974, pursuant to the Export Administration Act of 1969, as amended [50 U.S.C. App. 2409]; to the Committee on Foreign Affairs.

34. A letter from the Comptroller, Defense Security Assistance Agency, transmitting a quarterly report foreign military sales letters of offer, pursuant to section 36(a)(1) and (2) of the Foreign Military Sales Act, as amended [22 U.S.C. 2776(a)]; to the Committee on Foreign Affairs.

35. A letter from the Comptroller, Defense Security Assistance Agency, transmitting a statement of the intention of the Department of the Air Force to sell certain defense articles to the Government of Iran, pursuant to section 36(b) of the Foreign Military Sales Act, as amended by section 45(a)(5) of Public Law 93-559; to the Committee on Foreign Affairs.

36. A letter from the Acting Comptroller, Defense Security Assistance Agency, transmitting a report on sales to less developed countries, pursuant to section 35(b) of the Foreign Military Sales Act of 1968 [22 U.S.C. 2775(b)]; to the Committee on Foreign Affairs.

37. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

38. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

39. A letter from the Secretary of the Treasury, transmitting the combined statement of receipts, expenditures, and balances of the U.S. Government for fiscal year 1974, pursuant to 31 U.S.C. 66b and 1029; to the Committee on Government Operations.

40. A letter from the Chairman, Committee for Purchase from the Blind and Other Severely Handicapped, transmitting the annual report of the activities of the committee for fiscal year 1974, pursuant to section 1(i) of Public Law 92-28; to the Committee on Government Operations.

41. A letter from the Clerk, U.S. House of Representatives, transmitting a list of reports which it is the duty of any officer or department to make to Congress, pursuant to rules III, clause 2, of the Rules of the House of Representatives (H. Doc. No. 94-7); to the Committee on House Administration and ordered to be printed.

42. A letter from the Sergeant at Arms, U.S. House of Representatives, transmitting his annual report of funds drawn by him, the application and disbursement of the sums, and balances remaining in his hands as of January 10, 1975, pursuant to 2 U.S.C. 84; to the Committee on House Administration.

43. A letter from the Secretary of the Interior, transmitting the ninth annual report on the minerals exploration assistance program, pursuant to Public Law 85-701, as amended [30 U.S.C. 645]; to the Committee on Interior and Insular Affairs.

44. A letter from the Acting Secretary of the Interior, transmitting a plan for the assumption of the assets of Menominee Enterprises, Inc., pursuant to the requirements of section 6 of the Act of December 22, 1973, [Public Law 93-197]; to the Committee on Interior and Insular Affairs.

45. A letter from the Assistant Secretary of the Interior, transmitting descriptions of four projects tentatively selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms, pursuant to section 200(b) of the Water Resources Research Act of 1964 [42 U.S.C. 1961b(b)]; to the Committee on Interior and Insular Affairs.

46. A letter from the Deputy Assistant Secretary of the Interior, transmitting a proposed contract with Foster-Miller Associates, Inc., Waltham, Mass., for a research project entitled "Development of Conical Stabilizers for Pilot Hole Drilling", pursuant to Public Law 89-672; to the Committee on Interior and Insular Affairs.

47. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of the receipt of three project proposals under the Small Reclamation Projects Act of 1956, pursuant to section 10 of the act [43 U.S.C. 422j]; to the Committee on Interior and Insular Affairs.

48. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 95, the Sac and Fox Tribe of Indians of Oklahoma, the Sac and Fox Tribe of Missouri, the Sac and Fox Tribe of Mississippi in Iowa, et al., plaintiffs versus The United States of America, defendant, pursuant to 25 U.S.C. 70t; to the Committee on Interior and Insular Affairs.

49. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 326-G, Gila River Pimea-Maricopa Indian Community, et al., plaintiff versus The United States of America, defendant, pursuant to 25 U.S.C. 70t; to the Committee on Interior and Insular Affairs.

50. A letter from the Chairman, Indian Claims Commission, transmitting the final determination of the Commission in docket No. 350-B, The three affiliated tribes of the Fort Berthold Reservation, plaintiffs, versus The United States of America, defendant, pursuant to 25 U.S.C. 70t; to the Committee on Interior and Insular Affairs.

51. A letter from the Secretary of Commerce transmitting the 62d annual report of the Secretary of Commerce for the fiscal year ended June 30, 1974, pursuant to 15 U.S.C. 1519; to the Committee on Interstate and Foreign Commerce.

52. A letter from the Secretary of Health, Education, and Welfare, transmitting the second annual report of the National Health Service Corps, covering calendar year 1973, pursuant to Public Law 92-585; to the Committee on Interstate and Foreign Commerce.

53. A letter from the Chairman, Federal Power Commission, transmitting the report on permits and licenses issued for hydroelectric projects, together with financial statements and names and compensation of employees of the Commission, for fiscal year 1974, pursuant to section 4(d) of the Federal Power Act [16 U.S.C. 797(d)]; to the Committee on Interstate and Foreign Commerce.

54. A letter from the Chairman, Consumer Product Safety Commission, transmitting technical schedules for the Commission's fiscal year 1976 budget, pursuant to section 27(k)(1) of Public Law 92-573; to the Committee on Interstate and Foreign Commerce.

55. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting a copy of a report from the Commission to the Office of Management and Budget on salaries and expenses for the Commission's health-related programs, pursuant to section 27(k)(1) of Public Law 92-573; to the Committee on Interstate and Foreign Commerce.

56. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting a copy of a letter from the Commission to the Office of Management and Budget proposing legislative changes required to implement the shift to the new fiscal year, pursuant to section 27(k)(2) of Public Law 92-573; to the Committee on Interstate and Foreign Commerce.

57. A letter from the Vice President for Government and Public Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of September 1974, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Interstate and Foreign Commerce.

58. A letter from the Vice President for Government and Public Affairs, National Railroad Passenger Corporation, transmitting a report on the number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, for the month of November 1974, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended, to the Committee on Interstate & Foreign Commerce.

59. A letter from the Director, Federal Bureau of Investigation, U.S. Department of Justice, transmitting the 1974 annual report of the Bureau; to the Committee on the Judiciary.

60. A letter from the Administrator, Law Enforcement Assistance Administration, U.S. Department of Justice, transmitting the sixth annual report of the Law Enforcement Assistance Administration, covering fiscal year 1974, pursuant to section 519 of Public Law 90-351, as amended by Public Law 93-83; to the Committee on the Judiciary.

61. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

62. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders entered in the case of certain aliens found admissible to the United States, pursuant to section 212(a)(28)(I)(ii) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(28)(I)(ii)(b)]; to the Committee on the Judiciary.

63. A letter from the Commissioner, Im-

migration and Naturalization Service, Department of Justice, transmitting copies of orders entered in cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of certain aliens, pursuant to section 212(d)(6) of the act [8 U.S.C. 1182 (d)(6)]; to the Committee on the Judiciary.

64. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies or orders entered in the cases of certain aliens under the authority contained in section 13(b) of the act of September 11, 1957, pursuant to section 13(c) of the act [8 U.S.C. 1255b(c)]; to the Committee on the Judiciary.

65. A letter from the National Executive Director, American Veterans of World War II, Korea, and Vietnam, transmitting the financial statement of AMVETS as of August 31, 1974; to the Committee on the Judiciary.

66. A letter from the Chairman, Board of Directors, Future Farmers of America, transmitting the audit of the accounts of the Future Farmers of America for the fiscal year ending June 30, 1974, pursuant to section 2 and 3 of Public Law 88-504; to the Committee on the Judiciary.

67. A letter from the National Director of Administration and Services, Marine Corps League, transmitting the annual report of the league; to the Committee on the Judiciary.

68. A letter from the Secretary, Smithsonian Institution, transmitting a report on endangered and threatened plant species of the United States, pursuant to section 12 of Public Law 93-205; to the Committee on Merchant Marine and Fisheries.

69. A letter from the Director, Fish and Wildlife Service, Department of the Interior, transmitting a report on Federal and State sport fish production policies; to the Committee on Merchant Marine and Fisheries.

70. A letter from the Secretary of the Treasury, transmitting a report on the experience of Federal agencies under the program for self-insuring fidelity losses of Federal personnel, covering fiscal year 1974, pursuant to section 103 of the act of June 6, 1972 [31 U.S.C. 1203]; to the Committee on Post Office and Civil Service.

71. A letter from the Director of Personnel, Department of Commerce, transmitting a report of scientific and professional positions established in the Department as of December 1974, pursuant to 5 U.S.C. 3104(c); to the Committee on Post Office and Civil Service.

72. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a report on a change in a GS-17 position allocated to the Office, pursuant to 5 U.S.C. 5114(a); to the Committee on Post Office and Civil Service.

73. A letter from the Acting Assistant Secretary of Commerce for Economic Development, transmitting the annual report of the Economic Development Administration for fiscal year 1974, pursuant to 42 U.S.C. 3217; to the Committee on Public Works and Transportation.

74. A letter from the Secretary of Transportation, transmitting the annual report on railroad-highway demonstration projects, pursuant to section 163(j) of the Federal-Aid Highway Act of 1973 (Public Law 93-87) (H. Doc. No. 94-11); to the Committee on Public Works and Transportation and ordered to be printed with illustrations.

75. A letter from the Secretary of Transportation, transmitting the annual report for fiscal year 1974 on the Urban Area Traffic Operations Improvement (TOPICS) program, pursuant to 23 U.S.C. 135(d); to the Committee on Public Works and Transportation.

76. A letter from the Secretary of Transportation, transmitting the fourth annual report of the Special Bridge Replacement Program, pursuant to section 204 of Public Law 91-605 [23 U.S.C. 144(h)] to the Committee on Public Works and Transportation.

77. A letter from the Board of Directors of the Tennessee Valley Authority, transmitting the 41st Annual Report of the Tennessee Valley Authority, covering fiscal year 1974, pursuant to 16 U.S.C. 831h; to the Committee on Public Works and Transportation.

78. A letter from the Acting Chairman, Civil Aeronautics Board, transmitting a copy of the annual report of the Board covering fiscal year 1973; to the Committee on Public Works and Transportation.

79. A letter from the Administrator of General Services, transmitting a prospectus which proposes construction of a courthouse and Federal Office Building and a parking facility in East St. Louis, Ill., pursuant to Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

80. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a list of the present and former NASA employees who have filed reports pertaining to their NASA and aerospace-related industry employment for fiscal year 1974, pursuant to section 6 of Public Law 91-119, as amended; to the Committee on Science and Technology.

81. A letter from the Secretary of Housing and Urban Development and the Administrator, National Aeronautics and Space Administration, transmitting a preliminary program plan for development and demonstration of solar heating and combined solar heating and cooling systems for residences, pursuant to section 12(d) Public Law 93-409; to the Committee on Science and Technology.

82. A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting a report on Department of Defense procurement from small and other business firms for July-October, 1974, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

83. A letter from the Secretary of the Treasury, transmitting the annual report on the state of the finances of the U.S. Government for fiscal year 1974, pursuant to 31 U.S.C. 1027; to the Committee on Ways and Means and ordered to be printed with illustrations.

84. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report on public advisory committees, pursuant to section 1114(f) of the Social Security Act; to the Committee on Ways and Means.

85. A letter from the Chairman, United States Tariff Commission, transmitting the annual report of the Commission on the operation of the trade agreements program, covering the calendar year 1973, pursuant to section 402(b) of the Trade Expansion Act of 1962; to the Committee on Ways and Means.

86. A letter from the Chairman, Atomic Energy Commission, transmitting proposed additional amounts of special nuclear material and periods of time during which such amounts may be distributed to the European Atomic Energy Community (Euratom), pursuant to section 54(a) of the Atomic Energy Act of 1954, as amended; to the Joint Committee on Atomic Energy.

87. A letter from the Chairman, Atomic Energy Commission, transmitting proposed additional amounts of special nuclear material and periods of time during which such amounts may be distributed to the International Atomic Energy Agency, pursuant to section 54(a) of the Atomic Energy Act of 1954, as amended; to the Joint Committee on Atomic Energy.

88. A letter from the Secretary of the Interior, transmitting the annual report of the Office of Coal Research, pursuant to 30 U.S.C. 667 (Public Law 86-599, Sec. 7); jointly, to the Committees on Interior and Insular Affairs and Science and Technology.

89. A letter from the Chairman, Interstate Commerce Commission, transmitting the 88th Annual Report of the Commission for the Fiscal Year 1974, pursuant to the Interstate Commerce Act (49 U.S.C. 21); jointly, to the Committee on Interstate and Foreign Commerce and Public Works and Transportation.

RECEIVED FROM THE COMPTROLLER GENERAL

90. A letter from the Comptroller General of the United States, transmitting a supplemental report on a proposed rescission of budget authority transmitted as a deferral (No. D75-48) by the President on October 4, 1974, pursuant to section 1015(b) of Public Law 93-344 (H. Doc. No. 94-14); to the Committee on Appropriations and ordered to be printed.

91. A letter from the Acting Comptroller General of the United States, transmitting his review of the proposed rescission and deferral actions contained in the message from the President dated November 26, 1974, pursuant to section 1014 (b) and (c) of Public Law 93-344 (H. Doc. No. 94-15); to the Committee on Appropriations and ordered to be printed.

92. A letter from the Comptroller General of the United States, transmitting his opinion of the legal authority for each of the deferrals of budget authority proposed by the President in his first four special messages to Congress under the Impoundment Control Act of 1974, pursuant to section 1014(b)(2)(B) of the act (H. Doc. No. 94-16); to the Committee on Appropriations and ordered to be printed.

93. A letter from the Comptroller General of the United States, transmitting a report on achievements, problems, and uncertainties in isolating high-level radioactive waste from the environment by the Atomic Energy Commission; to the Committee on Government Operations.

94. A letter from the Comptroller General of the United States, transmitting a report on the need to improve the long-term impact of the Law Enforcement Assistance Administration grant program; to the Committee on Government Operations.

95. A letter from the Comptroller General of the United States, transmitting a report on the progress and problems of Federal library support programs; to the Committee on Government Operations.

96. A letter from the Comptroller General of the United States, transmitting a report on life cycle cost estimating—its status and potential use in major weapon system acquisitions by the Department of Defense; to the Committee on Government Operations.

97. A letter from the Comptroller General of the United States, transmitting a report on efforts to stop narcotics and dangerous drugs coming from and through Mexico and Central America; to the Committee on Government Operations.

98. A letter from the Comptroller General of the United States, transmitting a report on the role of Federal assistance for vocational education; to the Committee on Government Operations.

99. A letter from the Comptroller General of the United States, transmitting a report on how management of Federal Supply Service procurement programs can be improved by the General Services Administration; to the Committee on Government Operations.

100. A letter from the Comptroller General of the United States, transmitting a report on national rural development efforts and the impact of Federal programs on a 12-county rural area in South Dakota; to the Committee on Government Operations.

101. A letter from the Comptroller General of the United States, transmitting a report on the need for a uniform method for paying interest on Government trust funds; to the Committee on Government Operations.

102. A letter from the Comptroller General of the United States, transmitting a report on the substantial staff and cost reductions possible at military telecommunications centers through use of uniform staffing standards; to the Committee on Government Operations.

103. A letter from the Comptroller General of the United States, transmitting an analysis of the Department of the Navy's comments on the recommendations of the Comptroller General for improving the management and reducing the cost of the ship transfer program; jointly, to the Committees on Government Operations and Armed Services.

104. A letter from the Comptroller General of the United States, transmitting a report on improvements needed to seed implementation of medicaid's early and periodic screening, diagnosis, and treatment program; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Submitted Jan. 2, 1975*]

Mr. RODINO: Committee on the Judiciary. Report on the activities of the Committee on the Judiciary during the 93d Congress (Rept. No. 93-1667). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN:

H.R. 1. A bill to establish a new program of comprehensive health care benefits (including catastrophic coverage) and health care delivery to be available to all residents of the United States, financed by payroll deductions, employer contributions, and tax credits, and for other purposes; to the Committee on Ways and Means.

By Mr. FLYNT:

H.R. 2. A bill to establish a Department of Education; to the Committee on Government Operations.

By Mrs. SULLIVAN:

H.R. 3. A bill to authorize appropriations for the fiscal year 1975 for certain maritime programs of the Department of Commerce; to the Committee on Merchant Marine and Fisheries.

By Mr. TEAGUE:

H.R. 4. A bill to establish university coal research laboratories and to establish energy resource fellowships, and for other purposes; to the Committee on Science and Technology.

By Mr. BURKE of Massachusetts:

H.R. 5. A bill to amend the Internal Revenue Code of 1954 to encourage higher edueation, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

By Mr. BROOKS:

H.R. 6. A bill to revise certain provisions relating to per diem and mileage expenses of Government employees and disabled veterans, and for other purposes; to the Committee on Government Operations.

By Mr. PERKINS:

H.R. 7. A bill to revise the black lung benefit program to transfer the residual liability for the payment of benefits under such program from the Federal Government to the coal industry, and for other purposes; to the Committee on Education and Labor.

By Mr. DENT (for himself, Mr. Perkins, Mr. Flood, Mr. Carney, Mr. Shipley, Mr. Bevill, Mr. McDade, and Mr. Mollohan):

H.R. 8. A bill to revise the black lung benefits program to transfer the residual liability for the payment of benefits under such program from the Federal Government to the industry, and for other purposes; to the Committee on Education and Labor.

By Mr. RODINO:

H.R. 9. A bill to regulate and foster commerce among the States by providing a system for the taxation of interstate commerce; to the Committee on the Judiciary.

By Mr. MOSS (for himself, Mr. Staggers, Mr. Dingell, Mr. Van Deerlin, Mr. Rooney, Mr. Stuckey, Mr. Eckhardt, Mr. Carney, Mr. Metcalfe, Mr. Moffett, and Mr. Eilberg):

H.R. 10. A bill to amend the Securities Exchange Act of 1934 to remove barriers to competition, to foster the development of a national securities market system and a national clearance and settlement system, to make uniform the Securities and Exchange Commission's authority over securities industry regulatory organizations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. McCOLLISTER:

H.R. 11. A bill to amend the Federal Trade Commission Act to provide indemnification in certain instances by business firms to sales representatives for the unjustified termination of their jobs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. JONES of Alabama (for himself, Mr. Harsha, and Ms. Abzug):

H.R. 12. A bill to amend title 3, United States Code, to provide for the protection of foreign diplomatic missions, to increase the size of the Executive Protective Service, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. NIX:

H.R. 13. A bill to provide for improved labor-management relations in the Federal service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. SULLIVAN:

H.R. 14. A bill to establish a Consumer Savings Disclosure Act in order to provide for uniform and full disclosure of information with respect to the computation and payment of earnings on certain savings deposits; to the Committee on Banking, Currency, and Housing.

By Mr. RAILSBACK (for himself and Mr. Kastenmeier):

H.R. 15. A bill to regulate lobbying and related activities; jointly, to the Committee on the Judiciary and Standards of Official Conduct.

By Mr. PERKINS:

H.R. 16. A bill to assist the States and local educational agencies in providing educational programs of high quality in elementary and secondary schools and to assist the States in equalizing educational opportunity, and for other purposes; to the Committee on Education and Labor.

By Mr. BENNETT:

H.R. 17. A bill to authorize the establishment of the Revolution's Southernmost Battlefields National Park; to the Committee on Interior and Insular Affairs.

H.R. 18. A bill to provide for disclosures by lobbyists, and for other purposes; to the Committee on Standards of Official Conduct.

By Mr. PERKINS (for himself, Mr. Quie, Mr. Meeds, Mr. Bell, Mr. Thompson, Mr. Esch, Mr. Dent, Mr. Eshleman, Mr. Brademas, Mr. Peyser, Mr. O'Hara, Mr. Sarasin, Mr. Hawkins, Mr. Pressler, Mr. Ford of Michigan, Mrs. Mink, Mr. Phillip Burton, Mr. Gaydos, Mr. Clay, Mr. Andrews of North Carolina, Mr. Lehman, Mr. Benitez, Mr. Blouin, Mr. Risenhoover, and Mr. Simon):

H.R. 19. A bill to amend the Vocational Education Act of 1963; to the Committee on Education and Labor.

By Mr. PERKINS (for himself, Mr. Quie, Mr. Cornell, Mr. Zeferetti, Mr. Mottl, and Mr. Hall):

H.R. 20. A bill to amend the Vocational Education Act of 1963; to the Committee on Education and Labor.

By Mr. CORMAN (for himself, Mr. Green, Mr. Helstoski, Mr. Rangel, Mr. Stark, Mr. Mikva, Mr. Anderson of California, Mr. Bolling, Mr. Brown of California, Mr. Eckhardt, Mr. Edwards of California, Mr. Fraser, Mr. Hawkins, Mr. Hechler of West Virginia, Mr. McFall, Mr. Macdonald of Massachusetts, Mr. Madden, Mr. Meeds, Mr. Moss, Mr. Pepper, Mr. Rodino, Mr. Roybal, Mr. Thompson, Mr. Udall, and Mr. Van Deerlin):

H.R. 21. A bill to create a national system of health security; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Ms. Abzug, Mr. Addabbo, Mr. Annunzio, Mr. Ashley, Mr. Badillo, Mr. Bingham, Mr. Carney, Mrs. Chisholm, Mr. Clay, Mr. Conyers, Mr. Dominick V. Daniels, Mr. Eilberg, Mr. Fauntroy, Mr. Ford of Michigan, Mr. Harrington, and Ms. Holtzman):

H.R. 22. A bill to create a national system of health security; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. Diggs, Mr. Drinan, Mr. Howard, Mr. Moakley, Mr. Koch, Mr. Lehman, Mr. McCormack, Mr. Murphy of New York, Mr. Nedzi, Mr. Nix, Mr. Oberstar, Mr. Rosenthal, Mr. St Germain, Mr. Seiberling, Mr. Stokes, and Mr. Studds):

H.R. 23. A bill to create a national system of health security; to the Committee on Ways and Means.

By Mr. BOLAND:

H.R. 24. A bill to preserve and promote the resources of the Connecticut River Valley, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself, Mrs. Mink, Mr. Hays of Ohio, Mr. Melcher, Mr. Roncalio, Mr. Seiberling, Mr. Vigorito, Mr. Bingham, Mr. Phillip Burton, Mr. de Lugo, Mr. Eckhardt, Mr. Kastenmeier, Mr. Meeds, Mr. Regula, Mr. Steelman, Mr. Taylor of North Carolina, Mr. Tsongas, Mr. Ashley, Mr. Badillo, Mr. Brodhead, Mrs. Collins of Illinois, Mr. Corman, Mr. Dominick V. Daniels, Mr. Edwards of California, and Mr. Fraser):

H.R. 25. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself, Mrs. Mink, Mr. Gude, Mr. Helstoski, Mr. Hicks, Mr. Holland, Mr. Horton, Mr. Krebs, Mr. Long of Maryland, Mr. Mazzoli, Mrs. Meyner, Mr. Nix, Mr. Nowak, Mr. Pepper, Mr. Perkins, Mr. Rees, Mr. Reuss, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Roush, Mr. Ryan, Mr. Sarbanes, and Mr. Scheuer):

H.R. 26. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself, Mrs. Mink, Ms. Abzug, Mr. Adams, Mr. Ambro, Mr. AuCoin, Mr. Brademas, Mrs. Burke of California, Mr. Carney, Mr. Danielson, Mr. Eilberg, Mr. Downey, Mr. Evans of Colorado, Mr. Ford of Michigan, Mr. Harkin, Mr. Harrington, Miss Holtzman, Mr. Karth, Mr. Koch, Mr. Miller of California, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Morgan, Mr. Obey, and Mr. O'Hara):

H.R. 27. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations and the acquisition and reclamation of abandoned mines, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself, Mrs. Mink, Mr. Anderson of California, Mr. Dodd, Mr. Ottinger, Mr. Price, Mrs. Spellman, Mr. Rangel, Mr. Smith of Iowa, Mr. Stark, Mr. Thompson, Mr. Van Deerlin, Mr. Weaver, Mr. Young of Georgia, and Mr. Zeferetti):

H.R. 28. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes; to the Commtitee on Interior and Insular Affairs.

By Mr. REUSS:

H.R. 29. A bill to provide for greater homeownership opportunities for middle-income families and to encourage more efficient use of land and energy resources; to the Committee on Banking, Currency, and Housing.

By Mr. ULLMAN (for himself, Mr. Taylor of North Carolina, Mr. Meeds, Mr. Adams, Mr. AuCoin, Mr. Bingham, Mr. Don H. Clausen, Mr. de Lugo, Mr. Duncan of Oregon, Mr. Hicks, Mr. Jones of Oklahoma, Mr. Kastenmeier, Mr. McCormack, Mr. Miller of California, Mrs. Mink, Mr. Pritchard, Mr. Seiberling, Mr. Steelman, Mr. Stephens, Mr. Udall, Mr. Weaver, and Mr. Won Pat):

H.R. 30. A bill to establish the Hells Canyon National Recreation Area in the States of Oregon, Idaho, and Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. EDWARDS of California (for himself and Mr. Wiggins):

H.R. 31. A bill to establish a uniform law on the subject of bankruptcies; to the Committee on the Judiciary.

H.R. 32. A bill to establish a uniform law on the subject of bankruptcies; to the Committee on the Judiciary.

By Mr. BURKE of Massachusetts:

H.R. 33. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs; to the Committee on Ways and Means.

By Mr. ASHLEY:

H.R. 34. A bill to authorize temporary assistance to help defray mortgage payments on homes owned by persons who are temporarily unemployed or whose incomes have been significantly reduced as the result of adverse economic conditions; to the Committee on Banking, Currency and Housing.

By Mr. TEAGUE:

H.R. 35. A bill to amend the National Environmental Policy Act of 1969 in order to encourage the establishment of, and to assist, State and regional environmental research centers; to the Committee on Science and Technology.

H.R. 36. A bill to regulate commerce and improve the efficiency of energy utilization by consumers by establishing the Energy Conservation Research and Development Corporation, and for other purposes; to the Committee on Science and Technology.

By Mr. TEAGUE (for himself, Mr. Mosher, and Mr. Symington):

H.R. 37. A bill to authorize appropriations to carry out the Standard Reference Data Act; to the Committee on Science and Technology.

By Mr. RODINO:

H.R. 38. A bill to permit the attorneys general of the several States to secure redress to the citizens and political subdivisions of their States for damages and injuries sustained by reason of unlawful restraints and monopolies; to the Committee on the Judiciary.

By Mr. RODINO (for himself and Mr. Hutchinson):

H.R. 39. A bill to amend the Antitrust Civil Process Act to increase the effectiveness of discovery in civil antitrust investigations, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 40. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, antique collectors, and pistol clubs; to the Committee on the Judiciary.

By Mr. THOMPSON (for himself, Mr. Anderson of Illinois, Mr. Annunzio, Mr. Ashbrook, Mr. Bell, Mrs. Boggs, Mr. Brademas, Mr. Diggs, Mr. Eckhardt, Mr. Fulton, Mr. Jones of Alabama, Mr. Miller of Ohio, Mrs. Mink, Mr. Nedzi, Mr. Perkins, Mr. Quie, Mr. Roybal, Mr. Udall, and Mr. Wampler):

H.R. 41. A bill to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

By Mr. ROSENTHAL (for himself, Ms. Abzug, Mr. Addabbo, Mr. Brodhead, Mr. Brown of California, Mr. Carr, Ms. Collins of Illinois, Mr. Corman, Mr. Dominick V. Daniels, Mr. de Lugo, Mr. Downey, Mr. Drinan, Mr. Eckhardt, Mr. Edwards of California, Mr. Fascell, Mr. Fish, Mr. Fraser, Mr. Gilman, and Mr. Gude):

H.R. 42. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act and to otherwise require the labels on foods and food products to disclose all of their ingredients and any changes in their ingredients, their nutritional content, accurate weight data, storage information, their manufacturers, packers, and distributors, and their unit prices and to provide for uniform product grading and prohibit misleading brand names; to the Committee on Interstate and Foreign Commerce.

By Mr. HENDERSON:

H.R. 43. A bill to amend section 1006 of title 39, United States Code, relating to the eligibility of U.S. Postal Service employees for transfer to other positions in the executive branch, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PRICE of Illinois:

H.R. 44. A bill to provide for disclosures designed to inform the Congress with respect to legislative measures, and for other purposes; to the Committee on Standards of Official Conduct.

By Mr. LUJAN:

H.R. 45. A bill relating to lands in the Middle Rio Grande Conservancy District, N. Mex.; to the Committee on Interior and Insular Affairs.

By Mr. DOMINICK V. DANIELS (for himself, Mr. Esch, Mr. Peyser, Mr. Perkins, Mr. Quie, Mr. Gaydos, Mr. Meeds, Mr. Dent, Mr. Badillo, Mr. Sarasin, Mr. Thompson, Mr. Hawkins, Mr. Ford of Michigan, Ms. Mink, Mr. Clay, Mr. Biaggi, Mr. Lehman, Mr. Benitez, Mr. Rodino, Mr. Eilberg, Mr. Helstoski, Mr. McKinney, Mr. Metcalfe, Mr. Rosenthal, and Mr. Nix):

H.R. 46. A bill to provide for the development and implementation of programs for youth camp safety; to the Committee on Education and Labor.

By Mr. DOMINICK V. DANIELS (for himself, Mr. Esch, Mr. Peyser, Mrs. Collins of Illinois, Mr. Sarbanes, Mr. Johnson of Pennsylvania, Mr. Riegle, Ms. Abzug, Mr. Davis, Mr. Rees, Mr. Brown of California, Mr. Anderson of California, Mr. Addabbo, Mr. Ottinger, Mr. de Lugo, Mr. Howard, Mr. Tsongas, Mr. Miller of California, Mr. Solarz, Mr. Nowak, Mrs. Meyner, Mr. Florio, Mr. Coughlin, Mr. Lent, and Mr. Hall):

H.R. 47. A bill to provide for the development and implementation of programs for youth camp safety; to the Committee on Education and Labor.

By Mr. MELCHER (for himself, Mr. Alexander, Mr. Andrews of North Dakota, Mr. Baldus, Mr. Baucus, Mr. Bedell, Mr. Bergland, Mr. Duncan of Tennessee, Mr. Hawkins, Mr. Jones of Tennessee, Mr. Litton, Mr. Nolan, Mr. Obey, Mr. Rodino, Mr. Sebelius, Mr. Thone, and Mr. Weaver):

H.R. 48. A bill to provide for the purchase of animals and animal food products for use in foreign and domestic food relief programs, and for other purposes; to the Committee on Agriculture.

By Mr. MELCHER:

H.R. 49. A bill to authorize the Secretary of the Interior to establish on certain public lands of the United States national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HAWKINS (for himself and Mr. Reuss):

H.R. 50. A bill to establish a national policy and nationwide machinery for guaranteeing to all adult Americans able and willing to work the availability of equal opportunities for useful and rewarding employment; to the Committee on Education and Labor.

By Mr. BENNETT:

H.R. 51. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain amounts received by members of certain firefighting and rescue units; to the Committee on Ways and Means.

By Mr. BENNETT (for himself, Mr. Bob Wilson, Mr. Steiger of Wisconsin, and Mr. Matsunaga):

H.R. 52. A bill to amend title 10, United States Code, to regulate the issuance of discharge certificates to members of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. BENNETT:

H.R. 53. A bill to provide Federal grants to assist elementary and secondary schools to carry on programs to teach the principles of ethics and citizenship; to the Committee on Education and Labor.

By Mr. ZABLOCKI:

H.R. 54. A bill to establish a Joint Committee on National Security; to the Committee on Rules.

By Mr. CHARLES H. WILSON of California:

H.R. 55. A bill to amend title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the U.S. Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 56. A bill to amend the Postal Reorganization Act of 1970, title 39, United States Code, to provide for uniformity in labor relations; to the Committee on Post Office and Civil Service.

H.R. 57. A bill to establish an arbitration board to settle disputes between supervisory organizations and the U.S. Postal Service; to the Committee on Post Office and Civil Service.

H.R. 58. A bill to amend title 10 of the United States Code in order to prohibit the exclusion, solely on the basis of sex, of women members of the armed forces from duty involving combat; to the Committee on Armed Services.

H.R. 59. A bill to prohibit discrimination by any party to a federally related mortgage transaction on the basis of sex or marital status, and to require all parties to any such transaction to submit appropriate reports thereon for public inspection; to the Committee on Banking, Currency and Housing.

By Mr. PERKINS (for himself and Mr. Hall):

H.R. 60. A bill to establish an Executive Department to be known as the Department of Education and for other purposes; to the Committee on Government Operations.

By Mr. EDWARDS of California:

H.R. 61. A bill to provide for the security, accuracy and confidentiality of criminal justice information and to protect the privacy of individuals to whom such information relates, and for other purposes; to the Committee on the Judiciary.

H.R. 62. A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information and criminal justice intelligence information and for other purposes; to the Committee on the Judiciary.

H.R. 63. A bill to carry out the recommendations of the Presidential Task Force on Women's Rights and Responsibilities, and for other purposes; to the Committee on the Judiciary.

By Mr. ANDERSON of California:

H.R. 64. A bill to amend the Public Health Service Act to provide for the screening and counseling of Americans with respect to Tay-Sachs disease; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN:

H.R. 65. A bill to limit the right of a State to reduce its supplementation of SSI benefits payable under title XVI of the Social Security Act as a consequence of Federal increases in such benefits (whether such increases are made under the cost-of-living adjustment provisions of such title or otherwise), and to prohibit reductions in Federal hold-harmless payments to States as a consequence of such increases; to the Committee on Ways and Means.

By Mr. ANDERSON of California:

H.R. 66. A bill to discourage the use of painful devices in the trapping of animals and birds; to the Committee on Merchant Marine and Fisheries.

H.R. 67. A bill to establish in the State of California the Madrona Marsh National Wildlife Refuge; to the Committee on Merchant Marine and Fisheries.

By Mr. BENNETT:

H.R. 68. A bill to provide for competitive bidding on Federal contracts and federally funded contracts; to the Committee on the Judiciary.

H.R. 69. A bill to amend the Internal Revenue Code of 1954 to provide that no individual shall pay an income tax of less than 10 percent of his net income which exceeds $30,000 for any taxable year; to the Committee on Ways and Means.

By Mr. DINGELL (for himself, and Mr. Forsythe, Mr. Breaux, Mr. Whitehurst, and Mr. McCloskey):

H.R. 70. A bill to establish a Federal Zoo Accreditation Board in order to insure that zoos and other animal display facilities maintain minimum standards of care for animal inventories, to provide technical and financial assistance to zoos, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ANNUNZIO (for himself, and Mr. Biaggi, Mr. Bingham, Mr. Brown of California, Mrs. Chisholm, Mr. Cohen, Mr. Dominick V. Daniels, Mr. Dent, Mr. Derwinski, Mr. Dingell, Mr. Eilberg, Mr. Gaydos, Mr. Gilman, Mr. Hawkins, Mr. Helstoski, Mr. Kemp, Mr. Kluczynski, Mr. Madden, Mr. Metcalfe, Mr. Moakley, Mr. Morgan, Mr. Murphy of Illinois, Mr. Murtha, Mr. Nedzi, and Mr. O'Brien):

H.R. 71. A bill to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II; to the Committee on Veterans' Affairs.

By Mr. ANNUNZIO (for himself, Mr. Price, Mr. Roe, Mr. Rostenkowski, Mr. Sarbanes, Mr. James V. Stanton, Mr. Stratton, Mr. Vander Veen, Mr. Walsh, and Mr. Zablocki):

H.R. 72. A bill to amend title 38, United States Code, to provide hospital and medical care to certain members of the armed forces of nations allied or associated with the United States in World War I or World War II; to the Committee on Veterans' Affairs.

By Mr. DOMINICK V. DANIELS:

H.R. 73. A bill to increase the contribution by the Federal Government to the costs of employees' group life and health benefits insurance; to the Committee on Post Office and Civil Service.

By Mr. DERWINSKI:

H.R. 74. A bill to authorize the Secretary of the Interior to establish national parks or national recreation areas in those States which presently do not have a national park or national recreation area; to the Committee on Interior and Insular Affairs.

By Mr. DINGELL:

H.R. 75. A bill to amend the National Environmental Policy Act of 1969 to fund and establish a nonprofit National Environmental Policy Institute, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FORD of Michigan (for himself, Mr. Brademas, Mr. Brown of California, Mr. Clay, Mr. Conyers, Mr. Dent, Mr. Diggs, Mr. Dingell, Mr. Drinan, Mr. Edwards of California, Mr. Fraser, Mr. Harrington, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Meeds, Mrs. Mink, Mr. Nedzi, Mr. Stark, Mr. Seiberling, Mr. Thompson, Mr. Traxler, Mr. Vander Veen, and Mr. Charles H. Wilson of California.):

H.R. 76. A bill to amend the Fair Labor Standards Act of 1938, to require prenotification to affected employees and communities of dislocation of business concerns, to provide assistance (including retraining) to employees who suffer employment loss through the dislocation of business concerns, to business concerns threatened with dislocation, and to affected communities, to prevent Federal support for unjustified dislocation, and for other purposes; to the Committee on Education and Labor.

By Mr. THOMPSON:

H.R. 77. A bill to provide that employees of States and political subdivisions thereof shall be subject to the provisions of the National Labor Relations Act; to the Committee on Education and Labor.

By Mr. BENNETT:

H.J. Res. 2. Joint resolution proposing an amendment to the Constitution of the United States to prohibit compelling attendance in schools other than the one nearest the residence and to insure equal educational opportunities for all students wherever located; to the Committee on the Judiciary.

H.J. Res. 3. Joint resolution proposing an amendment to the Constitution to provide for the direct election of the President and the Vice President and to authorize Congress to establish procedures relating to the nomination of Presidential and Vice-Presidential candidates; to the Committee on the Judiciary.

H.J. Res. 4. Joint resolution to establish a Court of Ethics to hear complaints of unethical conduct in Government service; to the Committee on the Judiciary.

By Mr. BAFALIS (for himself and Mr. Abdnor, Mr. Armstrong, Mr. Burgener, Mr. Collins of Texas, Mr. Conlan, Mr. Crane, Mr. Derwinski, Mr. Haley, Mr. Lott, Mr. Lujan, Mr. Mann, Mr. Moorhead of California, Mr. Rousselot, Mr. Robinson, Mr. Symms, Mr. Treen, Mr. Walsh, and Mr. Ketchum):

H.J. Res. 5. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. FRENZEL:

H.J. Res. 6. Joint resolution proposing an amendment to the Constitution of the United States to provide an age limit and a single 6-year term for the President; to the Committee on the Judiciary.

By Mr. de la GARZA:

H.J. Res. 7. Joint resolution proposing an amendment to the Constitution of the United States to provide an age limit and a single 6-year term for the President; to the Committee on the Judiciary.

H.J. Res. 8. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

H.J. Res. 9. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations shall not exceed revenues of the United States, except in time of war or national emergency; to the Committee on the Judiciary.

By Mr. HILLIS:

H.J. Res. 10. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

By Mr. RANDALL:

H.J. Res. 11. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans Day; to the Committee on Post Office and Civil Service.

By Mr. GUDE:

H.J. Res. 12. Joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress; to the Committee on the Judiciary.

H.J. Res. 13. Joint resolution to require the Watergate Special Prosecution Force to make available to the public a report on all information it has concerning Richard M. Nixon in offenses against the United States; to the Committee on the Judiciary.

By Mr. HECHLER of West Virginia:

H.J. Res. 14. Joint resolution to prevent surface mining operations on public lands, and deep mining in national forests; to the Committee on Interior and Insular Affairs.

H.J. Res. 15. Joint resolution proposing an amendment to the Constitution of the United States lowering the age requirements for membership in the Houses of Congress; to the Committee on the Judiciary.

By Mr. ROBINSON:

H.J. Res. 16. Joint resolution proposing an amendment to the Constitution relating to the continuance in office of judges of the Supreme Court and of inferior courts; to the Committee on the Judiciary.

By Mr. SHRIVER:

H.J. Res. 17. Joint resolution to create a select joint committee to conduct an investigation and study into methods of significantly simplifying Federal income tax return forms; to the Committee on Rules.

By Mr. SMITH of Iowa:

H.J. Res. 18. Joint resolution proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the offices of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. TREEN (for himself, Mr. COLLINS of Texas, and Mr. MOORE):

H.J. Res. 19. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; to the Committee on the Judiciary.

By Mr. YOUNG of Florida:

H.J. Res. 20. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

H.J. Res. 21. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans Day; to the Committee on Post Office and Civil Service.

By Mr. ULLMAN:

H.J. Res. 22. Joint resolution proposing an amendment to the Constitution of the United States regarding the election of the President and Vice President and the nomination of candidates for the Presidency; to the Committee on the Judiciary.

By Mr. ROUSSELOT (for himself, Mr. MCDONALD of Georgia, and Mr. SYMMS):

H.J. Res. 23. Joint resolution proposing amendment to the Constitution of the United States relative to abolishing personal income, estate, and gift taxes and prohibiting the U.S. Government from engaging in business in competition with its citizens; to the Committee on the Judiciary.

By Mr. WAGGONNER:

H.J. Res. 24. Joint resolution proposing an amendment to the Constitution of the United States relating to the busing or involuntary assignment of students; to the Committee on the Judiciary.

H.J. Res. 25. Joint resolution proposing an amendment to the Constitution of the United States with respect to participation in voluntary prayer or meditation in public buildings; to the Committee on the Judiciary.

H.J. Res. 26. Joint resolution proposing an amendment to the Constitution of the United States providing that no public school student shall, because of his race, creed, or color, be assigned to or required to attend a particular school; to the Committee on the Judiciary.

H.J. Res. 27. Joint resolution authorizing the President to proclaim the week beginning on the last Monday in September each year as Youth Appreciation Week; to the Committee on Post Office and Civil Service.

By Mr. YATES:

H.J. Res. 28. Joint resolution prescribing model regulations governing implementation of the provisions of the Social Security Act relating to the administration of social service programs; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

1. By the **SPEAKER**: Memorial of the Legislature of the Territory of Guam, relative to air service by Trans World Airlines to Guam; to the Committee on Public Works and Transportation.

2. Also, memorial of the Legislature of the Virgin Islands, relative to the application of the Internal Revenue Code in the Virgin Islands; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1. By the **SPEAKER**: Petition of the city council of the city of Renton, Wash., relative to imposing price, wage and profit controls; to the Committee on Banking, Currency, and Housing.

2. Also, petition of Statewide Committees Opposing Regional Plan Areas, Powell Butte, Oreg., relative to the Advisory Commission on Intergovernmental Relations; to the Committee on Government Operations.

3. Also, petition of the Grand River Band of Ottawas Descendents Committee, Muskegon, Mich., relative to the plan for the use and distribution of judgment funds awarded in docket 40-K before the Indian Claims Commission; to the Committee on Interior and Insular Affairs.

4. Also, petition of the Swinomish Tribal Community, LaConner, Wash., relative to the plan for distribution of judgment funds awarded in docket No. 294 by the U.S. Court of Claims; to the Committee on Interior and Insular Affairs.

5. Also, petition of the New Mexico Philatelic Association, Albuquerque, N. Mex., relative to misleading advertising of philatelic supplies; to the Committee on Interstate and Foreign Commerce.

6. Also, petition of Gaymond E. Milligan, Houston, Tex., relative to redress of grievances; to the Committee on the Judiciary.

7. Also, petition of Clifford Barrister, New York, N.Y., relative to redress of grievances; to the Committee on the Judiciary.

8. Also, petition of the annual meeting of the Southern Division of the American Fisheries Society, White Sulphur Springs, W. Va., relative to the Anadromous Fish Conservation Act; to the Committee on Merchant Marine and Fisheries.

9. Also, petition of the Farmers Co-Operative Association, Alva, Okla., relative to Federal estate taxes; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

RX FOR CONSUMER PROTECTION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. ROSENTHAL. Mr. Speaker, American consumers are forced to pay over $1 billion annually in unnecessary prescription costs because of prohibitions on retail drug price advertising, overprotective patent laws, exorbitant promotional expenditures by industry, and unreasonable markups.

These are among the findings of an 18-month study conducted by my staff in New York and in Washington.

Americans are spending some $7 billion annually on prescription drugs—about $33 for each man, woman, and child—and the evidence is strong that they are being overcharged, on the average, by at least 25 percent.

One reason for this, we found is a callous disregard for the financial plight of consumers, especially the elderly, on the part of drug manufacturers, retail pharmacists, and State pharmacy boards.

The report also documents the huge disparity in the prices for identical prescriptions at different pharmacies in the same community. We surveyed over 120 pharmacies in Queens and in the Washington, D.C., area to compare retail prescription prices under a variety of conditions. The survey revealed markups generally averaged in excess of 200 percent. Pricing was grossly inconsistent, even among stores of the same chain for the same prescription.

Price advertising of drugs, extensively used on the wholesale level, is banned on the retail level in about two-thirds of the States, including New York State. This double standard results in a wide disparity of prices for identical drugs, from store to store and, in some instances even from customer to customer at the same store. The drug retailer is able to benefit from manufacturers' vigorous price competition, but he denies that same right to the consumer.

To correct some of the glaring abuses uncovered by the study, I am introducing the following legislation:

The Prescription Drug Freshness Act, which requires the open dating of all perishable prescription drugs, showing clearly on the dispensed product's label the date beyond which the potency is diminished or the chemical composition altered by age;

The Prescription Drug Labeling Act, which requires the labeling and advertising of prescription drugs by their established—generic—name and an end to all laws prohibiting generic substitution by pharmacists;

The Prescription Drug Price Information Act, which would end all State prohibitions on retail prescription drug price advertising and require the posting of prices for the 100 most commonly prescribed drugs; and

The Prescription Drug Patent Licensing Act, which would make compulsory the licensing of new prescription drugs during the 17-year patent period.

Joining me in sponsoring these bills today are:

LIST OF COSPONSORS

Bella Abzug, Joseph P. Addabbo, George E. Brown, Jr., Cardiss Collins, James Corman, Dominick V. Daniels, Ron de Lugo, Thomas Downey, Robert Drinan, Bob Eckhardt.

Don Edwards, Dante B. Fascell, Benjamin Gilman, Ken Hechler, Robert Kastenmeier, Edward I. Koch, William Lehman, Clarence D. Long, John Melcher, Ron Mottl.

Richard Nolan, Charles Rangel, Donald Riegle, Patricia Schroeder, John Seiberling, Stephen Solarz, Fortney H. Stark, Gerry E. Studds, Frank Thompson, Lionel Van Deerlin.

THE FUTURE OF FORMOSA-TAIWAN

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. FRASER. Mr. Speaker, for several years I have been concerned about the future of Formosa-Taiwan.

The national security of the United States does not require that the United States try to determine who governs each nation of the world or what geographic area should or should not be sovereign.

But international harmony depends, I believe, upon people having a voice in determining their future. And today the people of Formosa do not.

The New York Times printed an editorial on this point Saturday, January 4, 1975. The final paragraph opens with this sentence:

> Before the political deliverance of Taiwan to China is accomplished with the acquiescence of the United States—which for the past quarter-century has for better or for worse had deep responsibilities in Taiwan—it might be appropriate to consider the genuine wishes of the island's whole population.

I concur in this sentiment although I believe I would use stronger language: the wishes of those now resident in Formosa must be determined and honored if the United States is to be a party to the political solution of the problem of Formosa.

The Times editorial follows:

THE FUTURE OF TAIWAN

Twenty-five years ago last month the demoralized Nationalist Chinese leaders under Generalissimo Chiang Kai-shek sought refuge on the offshore island of Formosa, proclaiming themselves sovereign over not only ten million residents of the island but over the whole of the mainland from which they had just been routed. Some two million military and civilian refugees from the mainland lent strength to the claim. The anniversary passed unmarked and largely unnoticed in Taiwan.

The Chinese province of Taiwan fell under the sovereignty of Imperial Japan in 1895. From that day to this, and despite its ancient heritage, Taiwan has lived apart from the mainland. For their different reasons, the governments in Peking and Taipei cling to their common claim that Taiwan remains an integral province of China whatever may have been its fate during the past eighty years of separation. For still different reasons, most other governments of the world find it convenient to their own interests to echo this formula.

The problem now is that Peking seems to be pressing for an end to the contrived ambiguity which has been tolerated over Taiwan's status for the past three years, ever since former President Nixon's landmark visit to the mainland early in 1972. The continuance of a defense treaty with the United States and the maintenance of an American Embassy in Taipei are the central issues up for resolution during President Ford's scheduled visit to Paking later this year.

For the sake of smoother relations between two superpowers, an independent society which has developed a life, an economy, and perhaps a nationality of its own over many decades is in danger of being abandoned. No one seems interested in finding out whether the fourteen million people now resident in Taiwan, 85 percent of them native to the island, want to become another province in what, despite their indubitable cultural, linguistic and historic ties, has become a largely alien society on the mainland.

Before the political deliverance of Taiwan to China is accomplished with the acquiescence of the United States—which for the past quarter-century has for better or for worse had deep responsibilities in Taiwan—it might be appropriate to consider the genuine wishes of the island's whole population. Perhaps the generation of Taiwanese who chose to overlook the anniversary of the Nationalists' arrival would freely decide to associate themselves with the powerful mainland, with which they share a cultural heritage; perhaps they would not. By rights, the decision should be theirs alone, and neither that of Generalissimo Chiang Kai-shek or his followers, nor that of the Chinese rulers in Peking.

FEDERAL EMPLOYEE RETIREMENT

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. DOMINICK V. DANIELS. Mr. Speaker, early in the 91st Congress, I introduced H.R. 768, the "Rule of 80" retirement bill. I reintroduced an identical bill, H.R. 1266, in the 92d Congress. The latter measure was approved by the retirement subcommittee, with amendments, cosponsored in the form of H.R. 11255 by members of the subcommittee, and reported to the House by the Full Committee on Post Office and Civil Service. No further action was taken thereon in the 92d Congress.

At the beginning of the 93d Congress, I again reintroduced the legislation, H.R. 437, which is substantially identical to the bill I am submitting today. The primary purpose of this legislation is to permit a Federal employee to retire voluntarily when his attained age plus length of service aggregates at least 80 years, with the annuity reduced by the equivalent of 1 percent for each year the retiree is under age 55 at time of retirement.

Mr. Speaker, over the years Federal employee organizations have advocated the adoption of a provision to allow employees to retire optionally after 30 years of service, regardless of age and with unreduced annuity benefits. Their representatives have contended that such a provision would make it more economically practicable for employees with partial disabilities, or with declining capacities or interests, to withdraw from the active Federal work force at some additional cost to the retirement program, but with an overall saving in agency personnel costs and gain in Government's efficiency.

On the other hand, many civil service employees argue that 30 years is a full career, justifying retirement at any age, without penalty. Others claim that the existing provisions of the retirement law discriminate against those who entered Federal employment at early ages. A further contention is that opportunities for earlier retirement will ease, to an extent, our country's unemployment problem by making room for new hires.

I feel that there is merit in the various proposals to ease retirement opportunities for partially disabled workers and employees with substantial periods of service. I believe that there would probably be mutual advantage, also, in facilitating the retirement of long-term employees whose skills are supplanted by new technologies, or have simply lost interest in their work.

While my bill would apply to some employees having less than 30 years of service, it has the flexibility of accommodating to the cases of those between ages 55 and 60 who presently need 30 years of service in order to retire on immediate annuity.

MISSOURI STATE SENATE AGAINST MOVING AIR FORCE BASE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. HUNGATE. Mr. Speaker, on December 18, 1974, the Senate of the State of Missouri adopted a resolution urging the Department of Defense to reconsider its plan to relocate Richards-Gebaur Air Force Base from the State of Missouri.

For the information of my colleagues, the full text of the resolution adopted by the Missouri State Senate is set out below:

RESOLUTION

Whereas, the Senate of the Seventy-seventh General Assembly of the State of Missouri has learned of the proposed relocation of the Richards-Gebaur Air Force Base from the State of Missouri by the Defense Department; and

Whereas, the community surrounding the Richards-Gebaur Air Force Base has experienced an excellent relationship with the Air Force Base; and

Whereas, the Secretary of the Defense Department has indicated his awareness in the past of the excellent relationship which exists between the community and the Air Force Base; and

Whereas, the community has derived socioeconomic benefits from its relationship with Richards-Gebaur Air Force Base which are irreplaceable; and

Whereas, the citizens of the community have provided a highly trained labor force vital to the performance of the Air Force Base; and

Whereas, the proposed relocation of Richards-Gebaur Air Force Base will create hardships for the residents of Jackson County and will have a deleterious effect on the economy of the area as well as the State of Missouri; and

Whereas, substantial amounts of tax dollars have been expended to upgrade Richards-Gebaur Air Force Base to its present potential; and

Whereas, relocation would result in needless expense to the United States Government; now, therefore, be it

Resolved, that the Senate urges the Defense Department to reconsider its plan to relocate Richards-Gebaur Air Force; and be it further

Resolved, that a copy of this Resolution be forwarded to the President of the United States, the Secretary of the Defense Department, the Secretary of the Air Force, the United States Senators from Missouri, and the Missouri Congressional Delegation.

CHILE—THE STRUGGLE CONTINUES

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. BROWN of California. Mr. Speaker, it is a commonly known, but not always commendable, fact that the passage of time diminishes emotional and intellectual reactions to any given event. This very human response often aids one in coping with an unalterable circumstance, but it can also be a detriment when one is dealing with a situation that can and needs to be changed.

My distinguished colleagues, I am referring to the continuing objectionable lack of human rights in Chile, a complete lack that has existed since September, 1973. In the last session of Congress many of us worked on this problem, which resulted, I believe, in a slackening of the rigid totalitarian control and systematic arrests and torture of the Chilean people by the military junta. But the problem still exists. Cases of disappearances in the night, arrests, and detention without trial are being brought to my attention without cease.

The University of California has deemed it necessary to temporarily suspend its faculty exchange program with Chile due to such a situation. The following article, from the Los Angeles Times of January 9, 1975, explains this new development:

UC SEVERS LINK WITH CHILE OVER MISSING TEACHER

(By Don Speich)

The University of California has suspended its nine-year-old faculty exchange program with the University of Chile because of concern over the disappearance of a Chilean physics professor connected with the program.

Boris Chornik, a Chilean national who as a member of the exchange program received a Ph.D from UC Berkeley in 1971, disappeared from the University of Chile in Santiago late last month, UCLA Asst. Chancellor Elwin V. Svenson said Wednesday. Chornik, a physicist and head of the university's laboratory of magnetic nuclear resonance, has not been heard from since, Svenson said.

There are reports indicating Chornik was arrested by the security arm of the military junta which seized control in Chile a year ago.

United Press International in Santiago quoted Chornik's father as saying his son was picked up in a downtown Santiago apartment on Sunday, Dec. 15, by military intelligence agents.

Friends of Chornik, UPI said, report he is being held in a Santiago detention camp, Tres Alamos, for interrogation regarding a friend who was arrested for allegedly having two machine guns in her possession.

Last Thursday, upon hearing of Chornik's disappearance, UCLA Chancellor Charles E. Young, who heads the universitywide policy committee which supervises the exchange program, wired the University of Chile for information concerning Chornik's whereabouts. A reply to the query was demanded by Monday.

"We believe this situation (Chornik's disappearance) constitutes a threat to (the) continued ability to obtain and maintain well-qualified professionals with the University of Chile," the Young telegram read in part.

"Conditions are such that if this information cannot be supplied by the requested date, it will be necessary for me to suspend all (exchange program) operations . . . until such time as appropriate responses to the above concerns are received."

Under the suspension, Svenson said, no new Chilean faculty members will be admitted to the program. However, he said, the approximately 40 Chilean instructors currently studying at UC campuses will be allowed to complete their graduate work.

Currently there are no UC faculty members at the University of Chile. But, Svenson noted, one was expected to depart for Santiago Friday and others in the near future. All, added Svenson, have been informed that their departure dates have been "postponed."

The exchange program, which has been under fire for some time because of complaints that UC should not cooperate with the junta-run Chilean government, is largely funded by a $1 million annual grant from the Ford Foundation. It trains present and prospective University of Chile faculty members by exposing them to UC graduate instruction and research.

Members of the program currently are enrolled on all UC campuses. The program also involves Chilean students. But the suspension—at least at this point—affects only that part of the program involving faculty members.

There are indications, however, that the suspension might extend to the entire program because of reported attempts by the Chilean government to recall one of its students now enrolled at one of UC's Southern California campuses.

The student, whose name UC has requested not be published because of fear of possible political repercussions, recently was ordered back to Chile within two days to appear at a hearing, according to a letter from Young to members of the exchange program policy committee.

"When he requested a postponement, (the student) received a second notice, this time notifying him of charges against him for not returning to the country to resume his academic duties (at the University of Chile)," the letter states.

On Monday, Dec. 30, the letter continues, the student's dean at the UC campus notified the student that the dean "had been visited by two officials of the Chilean military intelligence who said that they had well-founded information that (the student) had made defamatory statements about the government of Chile."

The student is still at the UC campus and negotiations between UC and University of Chile officials aimed at resolving the situation reportedly are underway.

Attempts by The Times to reach Chilean Embassy officials in Washington who would comment on Chornik's disappearance and the student matter were not immediately successful. A representative of the Chilean consulate in Los Angeles told The Times: "We don't have any official information about this case.'"

Since last September the exchange program has been under criticism by some UC faculty members and student groups who argue that the arrangement appears to sanction the military junta.

I draw this to your attention, my fellow Representatives, with the hope that the Chilean people will not be forgotten in this new Congress. "A large part of history is replete with the struggle for human rights, an eternal struggle in which a final victory can never be won. But to tire in that struggle would mean the ruin of society." (Albert Einstein, Feb. 20, 1954.)

URGES GOVERNMENT TO STOP SPENDING

HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. KETCHUM. Mr. Speaker, one of my first acts in the 93d Congress was to join in sponsoring a constitutional amendment to require a balanced budget. Had such a measure been enacted by Congress at that time, and swiftly ratified by the States, our national economy would be in far better condition today.

I have just introduced a similar bill, the first piece of legislation I present in the 94th Congress. I earnestly hope that we can pass this amendment and restore fiscal sanity to these halls of Congress.

The American people are demanding action from their Representatives on ending inflation. But, as I and many of my colleagues have pointed out, there can be no end to inflation until the Nation's budget is brought into balance. Overspending by the Federal Government is the chief cause of inflation. The policy of deficit spending causes the Government to compete for cash in the money market and drives up interest rates. By pouring more and more money into the economy, the Federal Government drives up the price of goods and services. This reckless spending over the decades has resulted in intolerable double-digit inflation. It has saddled us and our descendents with an astronomical $505.5 billion debt, the interest on which alone costs the American taxpayer $55,000 per minute.

I am deeply concerned that in an effort to combat unemployment and the economic slowdown, Congress will deal with every problem but the paramount one of inflation. We would make a grave error indeed were we to embark on a course of massive Federal spending to combat recession and thus insure an ever-increasing rate of inflation.

What we must do instead is beat inflation by refusing to spend more money than we have, and insuring that our budget will always remain in balance. At the same time we must begin to repay our national debt and remove this burden from our children and grandchildren.

This Congress can make a new start and put our fiscal house in order. I shall do my best to achieve a balanced budget and to defeat bills that can only add to the inflation which so cruelly attacks our citizens.

REGULATORY AGENCY AUTHORIZATION BILL

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. BROYHILL. Mr. Speaker, today I am introducing legislation to provide a 3-year authorization of funds for the following Federal regulatory agencies: Federal Power Commission, Federal Communications Commission, Interstate Commerce Commission, Federal Aviation Administration, Civil Aeronautics Board, Securities and Exchange Commission, and the Food and Drug Administration.

This bill is similar to legislation I introduced at the beginning of the 93d Congress. That bill also included a 3-year authorization for the Federal Trade Commission, a provision which was included in the recently enacted Consumer Product Warranties-Federal Trade Commission Improvement Act.

I have grown increasingly concerned with the failure of the Congress to exercise its legislative oversight authority in a number of areas. The various regulatory agencies come readily to mind as examples of congressional abnegation of authority.

These agencies were established by Congress as independent bodies charged with regulating various aspects of trade and commerce. In reality, however, there has been very little congressional overview of the job these agencies are doing, the way their authority is exercised, or the direction in which they are moving in the issuance of far-reaching regulations.

Some of the issues which Congress should explore when reviewing regulatory agencies are whether regulated industries are being treated fairly, whether consumer interests are being protected, whether the public interest is being served, and whether these agencies are following the intent of Congress in their day-to-day activities. In this overview, needed amendments to the enabling acts should also be considered.

My bills, which would authorize funds for fiscal years 1976, 1977, and 1978 for the above-mentioned agencies, would insure a greater degree of congressional oversight by controlling the budgets of these agencies. Under present procedures, these agencies present their budgets directly to the House Appropriations Committee. The committees with legislative authority over the activities of the regulatory agencies seldom take the opportunity to review their operations. At present, our only legislative contact with these agencies is to amend the enabling legislation to provide them with greater authority than they now possess.

By establishing a 3-year authorization of funds, my bills would permit Congress to conduct an in-depth study of each regulatory agency every 3 years. The authorizations provided under these bills are based on agency appropriations for fiscal year 1975, with moderate increases for succeeding years

An example of the procedure I am recommending is contained in the act establishing the Consumer Product Safety Commission, which was enacted in the 92d Congress. Under that legislation, which I had a large part in drafting, the Consumer Product Safety Commission received a 3-year authorization. This authorization expires this year and the Commission must come before the Interstate and Foreign Commerce Committee to request an extension of the act. It is the firm intent of the committee to review the Commission's activities at that time.

As I mentioned earlier, my 3-year authorization amendment was adopted as part of the Consumer Product Warranties-Federal Trade Commission Improvement Act. This same 3-year authorization provision is also contained in the recently enacted Commodity Futures Trading Commission Act. I offered this amendment to the bill on the House floor.

I also offered the 3-year authorization amendment in the 93d Congress to H.R. 5050, the Securities Exchange Act Amendments. The amendment was adopted as part of the legislation which was reported from the Interstate and Foreign Commerce Committee, but never acted upon by the House.

I am convinced that there is a definite desire on the part of the Congress to reassert its oversight authority, to make all Federal agencies more responsive to the interests of the businesses, industries, and consumers they were created to regulate and represent.

It is quite possible that this legislation will need polishing and perfecting before it is enacted into law. I want to state my strong intentions of pursuing this goal in the 94th Congress, and I welcome the help and support of my colleagues in the House of Representatives.

TRIBUTE TO NICK BETANCOURT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. ANDERSON of California. Mr. Speaker, the rich inheritance which constantly seeks the justice, liberty, prosperity, and independence bequeathed by our fathers will not endure in perpetuity unless we, as individuals, are willing to pay the price, bear the burden, and shape both our destiny and the destiny of our descendants.

In each generations, in each community, leaders come forward to change those institutions, conditions, values, and codes which hamper humanity or which would improve the quality of existence.

All too often, however, those individuals who are committed in both word and deed to preserving and extending the legacy and the ideals of this Nation are rewarded only with a good conscience and the knowledge of doing their very best for mankind.

The California Democratic Central Committee in the 32d Congressional District is changing this by saluting, on February 18, those people who have played a particularly important role in shaping both the present and the future of mankind. One of those who is being singled out for his especially significant contributions to our society is Mr. Nick Betancourt.

Nick has long been a leader in Mexican-American and Democratic Party organizations in the Harbor Area, where he has lived since 1931.

In addition to working in all the Democratic campaigns, Nick Betancourt has been an active and influential member of the Wilmington Democratic Club and the Harbor Area Ethnic Political Coalition.

During the 1974 general election, Nick was cochairperson of the California Democratic Committee's headquarters in the 32d Congressional District. As such he was responsible for keeping the headquarters in operation 7 days a week, at least 10 hours a day, from August 25 through the election—a monumental task which he performed with the greatest dependability.

However, a man cannot work as hard as Nick Betancourt, and volunteer as many hours, without the understanding and cooperation of a devoted wife. Therefore, we all extend our thanks to Clementine Betancourt as well.

Mr. Speaker, as I stated above, we are often negligent in expressing our appreciation to those who work so hard outside the public spotlight to preserve the ideals on which this country was founded. I am pleased, therefore, to have this opportunity to say "thank you" to one such individual, Nick Betancourt.

SOCIAL SECURITY AND THE COST OF LIVING

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. ROSENTHAL. Mr. Speaker, the 1971 White House Conference on Aging called for the prompt enactment of a minimum floor of income for the elderly, and to set that minimum in accordance with the intermediate level budget established by the Bureau of Labor Statistics. The conference's recommendations are more valid than ever today in the face of rapidly rising inflation and growing unemployment which has served to reduce job opportunities for elderly workers and erode the purchasing power of fixed incomes.

To assure that all older Americans are able to enjoy a decent standard of living and to correct the regional inadequacy in social security benefits, I am today introducing legislation to establish assured minimum annual income benefits for the aged.

My bill would:

First. Establish a minimum standard of income for elderly Americans of $3,850 a year for an individual and $5,200 for a couple.

Second. Adjust this sum annually to reflect changes in the intermediate budget level cost of living as determined by the BLS.

Third. Increase benefits for those living in large metropolitan areas where the cost of living exceeds the national average.

This legislation would be financed by a combination of payments from the social security system and appropriations from general tax revenues.

The erosion of the purchasing power of fixed incomes is a relative problem. For $2,053.24 a year an elderly person living in a nonmetropolitan area of the South can have all the goods and services and enjoy the same standard of living that would cost him $2,425.08 in New York City. Yet, regardless of where he lives and what it costs to live there, his social security check is the same—$2,244 a year, for the average retired worker.

For the person living in the lowest cost areas, this means social security benefits cover the costs of his minimum needs. But this is not the case for a New Yorker, where the cost of living is much higher. Obviously, it is time that the differences in costs of living be accounted for in fixed income programs. My bill would do that by increasing benefits for those living in metropolitan areas where the cost of living exceeds the national average.

Beyond this, in raising the minimum income to the intermediate budget level, my bill would increase benefits by about $1,260 a year per recipient. This allotment would insure that each elderly individual could live on more than a subsistence budget.

I recognize that some Members would be reluctant to support a measure which would appear, on the surface, to give their constituents slightly less money than it would to social security recipients in certain other areas. However, I am confident that after close study of this proposal, you will see the justice in this measure. While the dollar total of benefits may differ from area to area, this bill would equalize the real dollar buying power of social security recipients throughout the Nation, regardless of where they live.

AMBASSADOR YOST ON THE UNITED NATIONS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. FRASER. Mr. Speaker, Charles W. Yost, former U.S. Ambassador to the United Nations and one of our country's wisest elder statesmen, has written a compelling piece on the United Nations for the December 28 issue of the New Republic. His message is one we should all heed: That the need for an effective United Nations is too urgent to allow the organization to fall apart over intemperate actions arising from bloc rivalries. In making this point, he criticizes the recent attitudes of both the numerical majority of developing Third World countries and the practical majority of developed countries on whose material support the success of U.N. programs depends.

Ambassador Yost urges restraint on both majorities, offering a piece of advice from Talleyrand—"Above all, not too much passion." During the 1974 U.N. General Assembly, there was such hostile divisiveness between the have and have-not nations that if this pattern is not altered in the future, the United Nations may be rendered incapable of meeting the challenges of the great global issues of the coming years. Ambassador Yost says in regard to these issues that—

> It is indeed in this economic area of urgent international concern that the future indispensibility of the United Nations most probably lies . . . Survival of organized and civilized human society . . . depends on controlling population growth, assuring adequate and accessible supplies of food, fuel and fertilizer, developing and modernizing the underdeveloped two-thirds of mankind, rationalizing and stabilizing our trade and financial systems, protecting our threatened environment.

Indeed, the United Nations presently is not capable of dealing effectively with these problems, but since the problems affect all nations they must be confronted in a broad multilateral forum where almost all nations are represented, and that is the United Nations.

I include Ambassador Yost's article in the RECORD at this point:

CLASH OF THE "TWO MAJORITIES": WHOSE UNITED NATIONS?

(By Charles W. Yost)

In an address to the United Nations General Assembly in December the US representative John Scali spoke bitterly of the "tyranny of the majority," noted that "every majority must recognize that its authority does not extend beyond the point where the minority becomes so outraged that it is no longer willing to maintain the covenant which binds them," and concluded that in consequence of recent majority behavior in the Assembly, American support of the United Nations "is eroding—in our Congress and among our people."

Somewhat similar speeches were made on the same day by representatives of France, Britain, West Germany, Italy, Sweden and Belgium.

What occasioned this concerted outburst of indignation by the developed countries? Their frustrations have been building up for some time but were confirmed this year by actions of the majority on these subjects: international economic relations, South Africa and the Palestinians.

As to the first, the assembly adopted by a vote of 120 to 6 a "Charter of Economic Rights and Duties of States" proposed by the President of Mexico. Among the handful of negative votes were those of the US, West Germany and Britain, and among the few abstainers Japan, France and Canada. In other words this is a charter that asserts the rights of the less developed countries and the duties of the developed but does not, in the view of the latter, adequately protect their rights or the interests of their private investors. As Ambassador Scali said: "the minority which is so often offended may in fact be a practical majority, in terms of its capacity to support this organization and implement its decisions."

On the second subject, a proposal to expel South Africa from the United Nations under procedures laid down in the UN charter was vetoed in the Security Council by the US, France and Britain. The Assembly majority thereupon proceeded to deny the South African delegate his seat in the current Assembly on very dubious procedural grounds.

Finally, and this action was the most provocative, the Assembly majority voted that, for the first time in the history of the organization, a spokesman not representing a member government might participate in an Assembly debate. This spokesman, moreover, Yasir Arafat, leader of the Palestine Liberation Organization, was accorded the honors not merely of a delegate but of a chief of state. To add insult to injury the Israeli representative, who wished to rebut seriatim his numerous adversaries in the debate, was prevented from doing so by a ruling of the Algerian Assembly president, which when challenged was upheld by the majority.

Coincidentally the same majority in UNESCO, the UN Educational, Scientific and Cultural Organization, which is supposedly nonpolitical, cut off support for regional programs in Israel on the grounds that Israel, in defiance of UN injunctions, is altering the physical and cultural character of Jerusalem.

These were the actions that the Western ambassadors so rigorously attacked and that provoked such angry reactions among press and public in several countries. For example Switzerland reduced its contribution to UNESCO by 10 percent, and on December 10, 71 US senators joined in declaring the PLO a "direct threat" to the foreign policy of the United States.

Were these strong reactions justified? To some extent they certainly were. But in fairness to the Third World majority their intemperate actions, rather than being matched by equally intemperate Western responses, should be examined dispassionately and with some perspective. In order to do so one needs to cast a glance at recent history.

First, as Ambassador Scali reminded his audience, the UN Assembly is not a legislative body. It cannot enact laws. Except in regard to internal procedural and budgetary matters, its resolutions are not binding on member states. What they are is a public expression of the opinions of a majority of member governments, in many though not in all cases representing a large majority of mankind. As Dag Hammarskjold used to say, the Assembly is "a reflection of the world as it is," not as we might like it to be. In that sense it is worth listening to, if we wish not to deceive ourselves about the state of the real world. Adlai Stevenson once remarked in this connection that what the United States needs most is a hearing aid.

Second, we should not forget that from 1945 to 1960 the overwhelming majority in the United Nations consisted of Western Europeans and Latin Americans. Those were the days when the Soviet Union and the few nonaligned member states repeatedly protested "the tyranny of the majority." But we had then no qualms about passing resolutions over their strong objections. Now the shce is on the other foot, and we are crying foul.

The history of the three issues that have provoked the present excitement also needs to be kept in mind.

Ever since the less developed countries became the majority they have been passing resolutions calling on the rich to assist much more substantially in their development, to improve the terms of trade that have until recently been heavily in their disfavor, and to police multinational corporations, which they believe have in many cases exploited them. The fact that there has been only a very modest response to these repeated appeals accounts in substantial part for the recent quadrupling of oil prices by OPEC, for the wave of nationalizations of foreign properties, particularly in Latin America, and for the one-sided resolutions on these subjects adopted by the UN Assembly.

As to South Africa, it should be recalled that the Assembly and the Security Council have for many years been passing resolutions, which the US has almost always supported and only two or three states have opposed, calling on South Africa to abandon its policy of apartheid or racial segregation.

Yet practically nothing has happened. Apartheid remains as firmly entrenched as ever. Efforts to impose sanctions on South Africa or to expel it legally are blocked by vetoes in the Security Council. The procedural device adopted to deprive South Africa's degelate of his seat in the present Assembly was, therefore, while legally improper and politically unwise, a symbolic expression of long pent-up frustration on an issue that deeply affronts the human dignity of all the non-white members of the United Nations.

The questions revolving around the Palestine Liberation Organization likewise raise issues carrying an enormous emotional charge; there is no doubt that, just as much of the world community experienced a deep sense of guilt for having failed to prevent the holocaust of the Jews, so have many, particularly in the Third World, felt a growing sense of guilt for having allowed two generations of Palestine refugees to pass their lives in economic squalor and a political vacuum. A very large majority of UN members now clearly feels that, just as Israel is entitled to self-determination, independence and secure sovereignty, so too are the Palestinians.

Had this problem been squarely faced and decisively dealt with some years ago, it might have been resolved within the framework of the Jordanian state. Having been neglected too long, the initiative passed, as has been the case in many other emerging nations, into the hands of ultra-nationalists and revolutionaries willing to use terror to achieve "liberation." Outrageous as terrorism is, we must not forget that it has been used in similar struggles by French revolutionaries, Russians, Yugoslavs, Israelis, Algerians and many others, and is even now a daily practice among both Catholics and Protestants in Northern Ireland. This does not excuse it but helps explain why it is tolerated. To the great majority of UN members, Arafat is the fighting leader of an oppressed people, and it was in that capacity that he was recognized and honored.

Even the many who do not consider these explanations and parallels sufficient excuse for "irresponsible" behavior by the General Assembly would do well to recall the not insignificant accomplishments of the United Nations, not those of the distant past but those of 1974.

Valuable UN peacekeeping capabilities have again been demonstrated in the Middle East by the establishment of multinational forces in the Sinai and on the Golan Heights, forces that now play an important part in maintaining the fragile peace in the area and that, if there is to be a political settlement, will no doubt be an indispensible element in it. Moreover the Soviet Union has in this case for the first time joined in creating and paying for such a force and is co-chairing the UN-sponsored Geneva Conference. Through the UN, it is thus deeply and usefully involved in the peacemaking process. A similar UN force in Cyprus was helpful in preventing last summer's conflict from doing even more harm than it did and remains a partial barrier to further hostilities.

Even the General Assembly, so bitterly reproached for one-sidedness, has during the past month upheld the US position by narrow margins on two critical Asian issues: the representation of Cambodia and the maintenance of a UN command in Korea.

Of far more long-range signficance were three UN conferences held this year on matters of profoundest import: the law of the sea conference in Caracas, the population conference in Bucharest and the food conference in Rome. It is true that none of these did more than begin to resolve these problems—by defining their magnitude, by proposing and debating means of dealing with them, and by exposing clearly the disastrous consequences of failing to cope. But had the United Nations and its family of economic agencies not existed, it is doubtful that even this beginning would have been made.

It is indeed in this economic area of urgent international concern that the future indispensibility of the United Nations most probably lies, even more than in its traditional peacekeeping role. It is becoming ever clearer that the survival of organized and civilized human society into the 21st century depends on controlling population growth, assuring adequate and accessible supplies of food, fuel and fertilizer, developing and modernizing the underdeveloped two-thirds of mankind, rationalizing and stabilizing our trade and financial systems, protecting our threatened environment.

All of these are problems that affect all nations and their solution will, in this age of accelerating interdependence, require the active cooperation of most of them. The focus of such cooperation can best be international organizations in which almost all nations are present. To quote Hammarskjold again, if the UN did not exist we would have to invent it. It will be simpler to preserve and improve it than to reinvent it. But it cannot be improved without patience, restraint, mutual accommodation and shared leadership on the part of all concerned.

These qualities will be required both from the numerical majority of Third World countries and what Ambassador Scali called the "practical majority" of those countries on whose economic, political or military power usually depends whether UN resolutions are mere empty gestures or lead to consequential action.

Rather than trying to reserve decision-making on these critical issues for a "rich man's club" of affluent states, the "practical majority" must, if it wishes the decisions to be carried out, submit them at an early stage to a forum of all concerned. To the same end the "numerical majority" must forego the symbolic "triumphs" that so provoke and alienate their powerful partners, must be less compliant to the small coterie of radical activists within their group, and must engage systematically in a far more persistent search for consensus among the two "majorities."

Finally, however, let it be clearly remembered what the General Assembly is and what it is not. It is a sounding board, a spectacular global opinion poll, a "face the world" talk show. It is not a parliament to pass laws or coerce its members. When *decisions* need to be taken by the United Nations they will be taken, in regard to the maintenance of peace, by the Security Council, where the US and four others have a veto, and in regard to the critical issues of economic interdependence, in the specialized agencies and conferences, few of whose decisions can in fact be implemented without the support of those possessing, in each case, the relevant economic resources.

My concluding piece of advice to both "majorities" would be that of Talleyrand to diplomats: *"Surtout, pas trop de zele"*—above all, not too much passion. The United Nations belongs to everyone, that is, everyone willing to live in peace with his neighbors.

LEGISLATION LISTED

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. KOCH. Mr. Speaker, today on the opening day of the Congress I am filing 52 bills. Fifty-one of these bills are those that I had introduced in the 93d Congress, with some of them dating back to the 91st Congress when I first came to the House of Representatives. Most of these bills are ones that I have drafted and which have yet to become law and which I intend to pursue in the 94th Congress. Finally, the bill to require disclosure of gifts and loans to or from Federal employees, is a bill which I am introducing for the first time.

In the coming weeks and months I will be sending letters to our colleagues explaining the bills in detail and asking for cosponsorship.

Of the approximately 20,000 bills introduced in the House every Congress, nearly 6 percent receive hearings and are reported from committee, about 5 percent are passed, and 3 percent made public law. In the last Congress eight bills which I initiated became law either as separate bills or as part of more comprehensive legislation. Obviously not all of the bills that I am reintroducing at this time or those I will be adding to the list will become law in the 94th Congress but I hope that some will, and I shall do my best to make that come about.

The following is a brief description of the bills I am introducing today:

LIST OF LEGISLATION

NEW LEGISLATION

1. A bill to require the disclosure of gifts and loans to or from Federal employees.

MUSEUMS AND ARTISTS

2. To provide for the Secretary of the Department of Health, Education, and Welfare to assist in the improvement and operation of museums.

3. To amend the Internal Revenue Code of 1954 to provide that the 4% excise tax on the net investment income of a private foundation shall not apply to a privately-endowed foundation organized and operated exclusively as a library or museum open to the public.

4. To modify the restrictions in section 170(e) of the Internal Revenue Code in the case of certain contributions of literary, musical or artistic composition by the artists.

PRIVACY

5. To protect and preserve the confidential relationship between fiduciary institutions and their customers.

6. To protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph for certain purposes.

7. To require the destruction of political dossiers maintained by the Federal Bureau of Investigation with respect to Members of Congress.

8. To protect confidential sources of the news media.

The Koch-Goldwater bill to establish privacy safeguards for private organizations and State and local governments.

CREDIT AND EMPLOYMENT

9. To strengthen the Consumer Credit Protection Act, to advise consumers of the contents of reports made on them and to provide that the information is as accurate as possible.

10. To provide a remedy for sex discrimination by the insurance business with respect to the availability and scope of insurance coverage for women.

11. To provide increased employment opportunity by executive agencies of the United States Government for persons unable to work standard working hours.

12. To amend title 5, United States Code, to permit Federal officers and employees to

take an active part in political management and in political campaigns.

CRIME AND DRUGS

13. To amend certain provisions of the Controlled Substances Act relating to the decriminalization of marijuana.

14. To amend the Elementary and Secondary Education Act of 1965 to assist school districts to carry out locally approved school security plans to reduce crime against children, employees, and facilities of their schools.

15. To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting.

16. To amend the Agricultural Act of 1956 to allow for the donation of certain surplus commodities by the Commodity Credit Corporation to State and local penal institutions.

17. To amend section 201 of title 18, United States Code, to provide that the bribery of State and local officials shall be a Federal crime.

FOREIGN AFFAIRS

18. To amend the Immigration and Nationality Act with respect to the waiver of certain grounds for exclusion and deportation.

19. To amend chapter 3 of title 3, United States Code, to provide for the protection of foreign diplomatic missions by the Executive Protection Service.

20. To grant an alien child adopted by an unmarried United States citizen the same immigrant status as an alien child adopted by a United States citizen and his spouse.

ENVIRONMENT

21. To establish a program of direct Federal employment to improve the quality of the environment, the public lands, Indian reservations, and commonly owned and shared resources through a program of recreational development, reforestation, and conservation management.

22. To provide for loans for the establishment and/or construction of municipal, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats.

23. To impose additional standards with respect to the construction, conversion and operation of oil tankers in order to prevent the pollution of the marine environment.

HOUSING

24. To authorize the Administrator of General Services to transfer certain airspace for use for housing purposes at less than market value.

VETERANS AND MILITARY MATTERS

25. To amend title 10 of the United States Code to establish independent boards to review the discharges and dismissals of servicemen who served during the Vietnam era.

26. To amend title 38 of the United States Code to make more equitable the procedures for determining eligibility for benefits under the laws administered by the Veterans' Administration.

27. To provide that members of the Armed Forces may be separated or discharged from active service only by an honorable discharge, a general discharge, or discharge by court martial.

28. To amend title 38 of the United States Code in order to permit veterans to transfer all or part of their educational assistance under chapter 34 of such title to their spouses, and to provide educational assistance at the secondary school level to widows, widowers, and spouses eligible for educational assistance under chapter 35 of such title.

29. To amend title 38 of the United States Code in order to provide veterans' educational assistance and home loan benefits to individuals who fulfill their obligation to perform alternative civilian service under the selective service laws.

30. To amend title 38 of the United States Code in order to eliminate the time limitation on the provision of educational assistance to veterans who served on active duty at any time during the Vietnam era or thereafter.

31. To amend the Military Selective Service Act to clarify the definition of conscientious objector so as to specifically include conscientious opposition to military service in a particular war, and to provide to certain individuals the opportunity to claim exemption from military service as selective conscientious objectors irrespective of their existing selective service status.

32. To clarify the definition of conscientious objector so as to specifically include conscientious opposition to military service in a particular war.

HEALTH

33. To amend the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to prescribe radiation standards for, and conduct regular inspections of, diagnostic and other X-ray systems.

34. To amend the Public Health Services Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation.

35. To amend the Internal Revenue Code of 1954 to increase the excise tax on cigarettes for cancer research.

36. To establish research programs and treatment centers for the study and treatment of problems respecting human fertility and sterility and the human reproductive process.

37. To require federally related health care facilities to test infants for certain diseases.

38. To amend the Education of the Handicapped Act to provide for comprehensive education programs for severely and profoundly retarded children.

39. To establish in the Public Health Service an institute for research on dysautonomia.

40. To provide for regulation of prescription drug promotions, to establish a Center for Clinical Pharmacology, to require submission of data relating to the therapeutic equivalence of drugs, to provide additional drug information to consumers and to provide for the recall of adulterated or misbranded foods, drugs, and cosmetics.

TAX CODE CHANGES

41. To amend the Internal Revenue Code of 1954 to provide that blood donations shall be considered as charitable contributions deductible from gross income.

42. To extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed.

43. Single taxpayer bill, to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns.

44. To amend title II of the Social Security Act to provide that the remarriage of a widow, widower, or parent shall not terminate his or her entitlement to widow's, widower's, or parent's insurance benefits or reduce the amount thereof.

45. To amend the Internal Revenue Code of 1954 to provide that in the case of a dependent 62 or more years of age the support test shall be satisfied if the taxpayer contributes $1,500 or more to the support of such dependent.

46. To amend the Internal Revenue Code of 1954 to allow a deduction to tenants of houses or apartments for their proportionate share of the taxes and interest paid by their landlords.

47. To amend section 216 of the Internal Revenue Code of 1954 to include corporations and others within the definition of the term "tenant-stockholder" for purposes of the provisions relating to cooperative housing corporations.

48. To amend the Internal Revenue Code of 1954 and title II of the Social Security Act to provide a full exemption (through credit or refund) from the employees' tax under the Federal Insurance Contributions Act, and an equivalent reduction in the self-employment tax, in the case of individuals who have attained age 65.

49. To amend title II of the Social Security Act to permit an individual receiving benefits thereunder to earn outside income without losing any of such benefits.

50. To amend the Social Security Act to provide that the Secretary of Health, Education, and Welfare (in the case of the old-age, survivors, disability insurance program or the medicare program) or the appropriate State agency (in the case of any of the public assistance or medicaid programs) shall be liable for attorney's fees incurred by an individual in successfully challenging a decision which denies him the benefits or assistance, or reduces or limits the benefits or assistance, to which he is entitled under such program.

51. To amend title XIX of the Social Security Act to waive the existing requirement that all medicaid patients be given free choice in the selection of treatment facilities in cases where the services involved are being effectively provided through locally operated public health centers, or where such services may be most effectively obtained in designated specialized medical centers.

52. To amend the Internal Revenue Code of 1954 to increase to $1,500 the personal income tax exemptions of a taxpayer (including the exemption for a spouse, the exemptions for dependents, and the additional exemptions for old age and blindness).

MEMBERS AFTER 70

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. BEARD of Tennessee. Mr. Speaker, I am today introducing legislation which will, if enacted, prohibit Members to chair any committee of the House after they reach their 70th birthday.

I am understandably reluctant to take this step. I know that there are many individuals both in Congress and elsewhere, who will see this measure as both disrespectful and punitive. Mr. Speaker, it is neither. I have the greatest respect for Members who have toiled long and hard in the public arena; further I do not view this resolution as containing a punishment for some, but rather opening up our committee system and our seniority system for all.

Mr. Speaker, these are difficult times, and the future appears none too bright. Now is the time for fresh ideas and new solutions. I feel that if we require our chairmen to open the way for younger men and women that we will encourage and foster fresh and new ideas.

Further, I do not feel this is an arbitrary piece of legislation in that it does not require any chairman to step down on reaching 70; rather, he or she can continue to serve until the end of the Congress in which the 70th birthday is reached. This allows a continuity which we all know is necessary, without permitting a Member to continue to chair a committee into advanced age and declining capabilities.

Mr. Speaker, I will welcome the support of all Members, young and not-so-young freshmen and seniors alike; I hope we can see quick action on this resolution.

DEBUNKING THE ADMINISTRATION'S IMPORT TAX ON OIL

HON. JOHN J. McFALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. McFALL. Mr. Speaker, Hobart Rowen, the respected economics editor of the Washington Post, has written an incisive column on President Ford's proposal to relieve the gasoline shortages and high gasoline prices by driving the prices higher still.

The column is especially appropriate today, since the President has announced that he will place a $3-a-barrel tax on imported oil and then come to Congress for a more comprehensive program of energy taxes. In his column, Mr. Rowen points out that "it defies all logic" to try to cure high gasoline prices by adding a new tax that will drive prices at the pump even higher.

This is still true, Mr. Rowen notes, even if such a price increase is accompanied by a Rube Goldberg mechanism for returning the tax revenues to the economy.

What these energy taxes really mean is rich man's rationing. Mr. Rowen's column makes sound good sense. I include it in the RECORD, so that all Members may have the opportunity to see it.

DO YOU CURE AN OIL CRISIS BY PUSHING PRICES HIGHER?

(By Hobart Rowen)

For a year now, administration officials have loudly complained that the four-fold increase in the price of petroleum by the Arab-led cartel has devastated the economies of the Western world, creating at the one time both recession and inflation.

The only solution to the problem, they have said repeatedly, is a substantial reduction in the price of oil—the single most important commodity in world trade.

So what does the administration now propose to do, in an effort to deal with the energy crisis? It plans to do just what the cartel has done—raise the price of petroleum by imposing a tax ranging from $1 to $3 a barrel.

Moreover, if the U.S. decides that the "right" price for crude oil is $3 higher than at present, it is not beyond expectations that the cartel will boost its own price by the same amount, touching off yet another shock wave.

The administration's so-called "market approach" to the energy problem presumably would begin with a tariff on imported oil, which could be established by presidential order. Later, an equal excise tax could be put on domestic crude, with all price controls on oil and natural gas scrapped, allowing them to rise to the levels dictated by the cartel.

Despite any system of windfall or excess profits taxes, the result and the intent of the "market approach" is to force all retail prices higher. But the question that the Ford economists should be asking themselves is:

How do you cure the ills of excessively high oil and oil-product prices by making them even higher?

It defies all logic, even if combined with a Rube Goldberg device for rebating some of the tax to consumers. As a doctor friend observes, a new tax on crude oil is comparable to the now abandoned medical practice of attaching leeches to a bleeding patient.

The crude oil tax, of course, is the Ford administration's answer to the boss' irrational opposition to a retail tax on gasoline at the pump where—if oil has to be taxed further—it might do some good in cutting consumption.

Matthew J. Kerbec, an Arlington engineer who has done some outstanding work in showing the ripple effects of high energy prices, says that a $3 tax would have a devastating impact throughout the economy.

A $3 tax per barrel on all crude oil (a 40 per cent increase over the current average price of $7.50 for imported and domestic crude combined) would total $15 billion.

But this is only the beginning. Higher crude oil prices will work their way through gasoline, and ultimately through farming, food processing, and all forms of transportation.

The non-gasoline portion of each barrel, converted to industrial fuels as well as feedstocks for the plastic industries and other chemical products, will also move up. So will competitive fuels—gas and coal.

Home heating and industrial oils are likely to be hit harder than gasoline prices—although everyone agrees that the major wastage of energy is on the highways.

The Joint Economic Committee of Congress recently pointed out that a tax on crude would allow refineries to decide how to apportion it among various products. "To avoid losing sales," the committee said, "refiners would have an incentive to pass the tax through disproportionately on the most essential products with the least price elasticity of demand.

"If this were done, it would maximize the price inflation and consumer hardship from the tax and minimize the oil savings."

All in all, Kerbec estimates that the new $15 billion bite in crude oil prices will result "in at least a $40 billion increase in prices at the consumer level after all price amplification effects due to markups." Some economists think that number may be high, but few dispute the thrust of Kerbec's argument.

The sensible way to deal with the energy problem is to reduce imports sharply by establishing quotas, and then instituting an allocation or rationing system, perhaps combined with a gasoline tax, to force a meaningful cut in gasoline consumption. This has been recommended to President Ford by his principal advisers, but he has some sort of fixation against it.

His stubborn stand is clearly political: He fears that the public would bitterly resent a sizable gasoline tax. If so, that represents an administration failure to communicate to the citizens of this country the serious nature of the energy crisis. It is not too much to say that the survival of Western civilization may ultimately depend on the willingness and ability of people here and abroad to change and adapt their lifestyles to the reduced use of energy.

But crude oil tax is the worst of all solutions. It would provide a new inflationary impetus to the whole economy, worsen the recession and carry no assurance the gasoline consumption would be significantly diminished.

JET NOISE CURFEW

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. ROSENTHAL. Mr. Speaker, noise pollution is one of the major environmental problems facing this country today. Aircraft are prime contributors, not just in urban districts, but in suburban and most rural areas as well. This is a national problem, not a regional one.

I am today introducing a bill to create a nine-member commission to investigate the establishment of curfews on aircraft operations during normal sleeping hours. A curfew on aircraft operations is not the ultimate solution to the noise pollution problem, but it is a viable short-term answer that will provide immediate relief to millions of persons plagued by the whine, roar, and soot of low-flying planes.

The cost of a curfew is minimal, there is no question of compromising safety, and no new technology is needed. Curfews may mean some inconvenience for the airlines and an extremely small number of passengers—because most flights during normal sleeping hours contain freight—but that must be weighed against the public's right to domestic tranquillity and a decent night's sleep.

The noise impact of a jetliner taking off or landing is 10 times more disturbing during sleeping hours, when it is much more difficult to assimilate sounds, than during the day, according to acoustics experts.

The Commission proposed by this bill would report its findings and recommendations to the Congress within 6 months of creation. It would be composed of the Administrators of the Environmental Protection Agency and the Federal Aviation Administration, two representatives of the aviation industry, and five public members.

Nighttime curfews already are in effect here at Washington National Airport as well as at Tokyo, London, Geneva, and Zurich; Fresno, Los Angeles, and Newport Beach, Calif; and Boise, Idaho.

MAN AND THE OCCUPATIONAL ENVIRONMENT: LIMITS TO ADAPTATION

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. DOMINICK V. DANIELS. Mr. Speaker, one of the perplexing dilemmas of our modern age is that rising affluence has been accompanied by a deterioration in the quality of life. All around us we see the indirect effects of economic growth, such as air and water pollution, the increasing incidence of environmentally induced diseases, and a lengthening list of animal species threatened with extinction.

There have been many who have claimed that these environmental tradeoffs for economic growth were necessary. This school of thought would have us believe that a certain level of economic well-being is the ultimate in human attainment, and if our land, water, and air have to be despoiled in the process, so be it.

However, in recent years there have been a growing number of advocates on the other side of the issue, who claim that environmental quality should not be relegated to the nebulous area of aesthetics. Indeed, many of these advocates have presented compelling evidence that deteriorating environmental quality poses a threat to the continued survival of mankind. Their theories are already being proven in the living laboratories that comprise the American industrial sector. The rising incidence of occupational disease not only extracts a cruel human cost, but inflicts damage on our economic well-being.

There is now a growing accumulation of evidence that contaminants in the occupational environment have now escaped the confines of the factory and threaten a public health crisis of monumental proportions.

René Dubos, professor emeritus of the Rockefeller University, recently addressed this complex problem and its larger societal implications in an eloquent speech before the Society for Occupational and Environmental Health.

I ask unanimous consent that Dr. Dubos' compelling message, "Man Adapting to Working Conditions," be included at the conclusion of my remarks. I know my colleagues will benefit greatly from Dr. Dubos' enlightened perception on this important challenge to our society.

The message follows:

MAN ADAPTING TO WORKING CONDITIONS

(By René Dubos)

I see no evidence that modern man is less resistant to environmental stresses than his Stone Age ancestors. In our century, millions of normal human beings have survived the frightful ordeals of combat in the trenches of the First World War or among the devilish electronic weapons of more recent conflicts. Many have survived for years under the bestial conditions of concentration camps. All over the world men and women now spend much of their adult years working in the noisy and traumatic environments, either of industrial plants contaminated with chemical fumes or of offices clouded with tobacco smoke. Spectacular increases of populations are occurring in areas where living and working conditions are detestable from all points of view. And even though most human beings suffer in the modern urban environment, the most polluted and congested agglomerations have great appeal for people of all races and ages.

Mankind is thus displaying now, as it has always displayed in the past, a startling ability to survive and function in environments which are highly unnatural and hostile to its biological and psychological nature—including the environments created by scientific technology and urban complexity. The long-range cost of this adaptability however is the emergence of new disease patterns and an impoverishment of emotional life. The theme of this essay is that modern man is not on his way to extinction, but that the quality of his life will undergo progressive degradation if he does not design environments better suited than the present ones to his unchangeable biological and psychological nature. I shall emphasize the effects of working conditions on physical and mental health.

Concern for a better environment is widespread in all technological countries, but surprisingly little attention is given to the fact that factories and offices commonly expose workers to working conditions which are not only unpleasant but also potentially dangerous. There is of course much information concerning the workers who are killed on the job or made obviously sick by their professional activities but this represents only a very small part of the influence of working life on health and disease. Toxic materials, noise and other stimuli, stresses or monotony, may not cause obvious disturbances at the time they are experienced. In many cases, however, conditions which appear tolerable exert deleterious effects that do not become manifest until long after the initial exposure. A large percentage of the chronic diseases that now plague our society—the so-called diseases of civilization—can probably be traced to the fact that modern man has made some form of adaptation to environments which are fundamentally objectionable, although they are tolerable. I have emphasized the word adaptation because its misuse is at the origin of many medical and behavioral problems. I shall first illustrate this statement with examples not necessarily related to working conditions.

A few years ago, an American medical journal carried an article entitled "Villagers adapting to their arsenic-filled water". According to this article, the underground water of a certain Mexican village is so heavily contaminated with arsenic that two-thirds of the inhabitants exhibit skin lesions, blood protein abnormalities, neurological disorders and other signs and symptoms of chronic arsenic poisoning. Yet, most of the villagers so affected are able to work and go about the usual activities of Mexican life. The author of the article used the word adapting in the title to convey the notion that, in his words, the villagers "appeared well accustomed to their disorder." What he really meant of course was that they had come to accept chronic arsenic poisoning as an inescapable fact of life.

Tolerance of environments that are deleterious is a common occurrence. Since the beginning of the Industrial Revolution, for example, the air in many parts of Northern Europe has been contaminated with a variety of pollutants from coal smoke and chemical fumes. These pollutants are made even more unpleasant and dangerous by the inclemency of the Atlantic climate. On the whole, however, the inhabitants of industrial Northern Europe have "adapted" to their dismal atmosphere; they have multiplied, produced great economic wealth and contributed to knowledge. The price has been that, as a consequence of exposure to air pollution, a large percentage of North Europeans suffer from chronic pulmonary disease—which they tend to accept as a matter of course much as the Mexican villagers mentioned above accept chronic arsenic poisoning. The various forms of chronic pulmonary disease are increasing also in North America and in all other parts of the world which are heavily industrialized.

Similarly, most people become "adapted" to loud noises. In this case, "adaptation" is achieved through a decrease in the ability to perceive certain sounds by impairment of the hearing apparatus and therefore at the cost of the enjoyment of music and of the finer qualities of the human voice. People also become "adapted" to working and living in crowded and confused environments; this kind of adaptation means in reality developing protective attitudes and behavioral patterns of which the ultimate outcome is to restrict pleasurable social contacts and to impoverish human relationships.

Countless other examples could be provided to illustrate that the word adaptation, as commonly used, denotes processes that have some initial protective value against environmental insults but that commonly result in long-range deleterious effects. In most cases, the exposed person is not even aware of these long-range dangers because the physiological or psychological insult is of a low level, and the protective response is sufficiently effective to mask the effects of the initial exposure.

The recognition of environmental insults is especially difficult when these cannot be perceived by the senses, as is increasingly common in the world of modern technology. We still function anatomically and physiologically with the equipment of our Stone Age ancestors and our evolutionary past has not provided us with any biological mechanisms to warn us of the dangers lurking in an invisible beam of radiation or in an odorless kind of vapor. Neither instinct nor biological experience can make us detect the environmental threats that cannot be perceived by our senses and that do not produce immediate deleterious effects readily linked to their cause.

The following substances are among those generally regarded as constituting major health hazards in the modern environment: carbon monoxide, sulfur oxides, nitrogen oxides, nitrates and nitrites, DDT and related pesticides, polychlorinated biphenyls (PCB), mercury, manganese, lead, asbestos, vinyl chloride mycotoxins—and of course ionizing radiations. All the items in this list are associated with industrial or agricultural operations, and since most of them escape detection by the senses they present difficult problems for the protection of the workers.

A further difficulty in the identification of environmental stresses is that substances and situations that exert no apparent ill-effect under normal conditions may become dangerous under stress. For example, lead stored in the bones can be suddenly released into the general circulation during episodes of pneumonia. Many toxic or carcinogenic compounds are stored in a harmless state in the liver by conjunction with glucoruonic acid; however, the process of detoxification can be impaired by liver disease, it can be swamped by overload with other ligands and it can be reversed by glucuronidase. DDT, dieldrin, and other halogenated pesticides which do not cause obvious damage when stored away in body fats can generate gross and even fatal pathologies when they are suddenly released into the general circulation. Release can occur in various forms of physiological stress such as pregnancy, lactation, food deprivation, intoxication or acute infection, or even as a result of emotional disturbances. Synergistic effects have been described in several other situations—for example in experimental systems involving a polychlorinated biphenyl hydrocarbon (PDB) and the duck hepatitis virus. Thus, many different kinds of physiological or infectious stresses can act as triggers to activate potential toxicities that would otherwise remain unmanifested under usual conditions.

Environmental insults of a physico-chemical nature have been the ones most extensively studied, in part because they have probably been the most important etiological agents of disease in industrial work until a few decades ago and also because methods for their control can be formulated at least within economic limitations. Under modern conditions of industrial and office work, however, environmental insults of psychological character are becoming increasingly important.

It has long been known that most sudden changes are stressful. When Hippocrates wrote, "It is changes that are chiefly responsible for diseases, especially . . . the violent alterations" he was referring to seasonal changes. However, this statement applied also to other kinds of changes as suggested by the passage in the same text that "gradual changes of any regimen" are safer than abrupt changes.

Experience has in fact repeatedly confirmed that sudden changes in working conditions or life situations are likely to be stressful; they do not allow for the orderly emergence of the progressive adaptive mechanisms required for a satisfactory adjustment to new conditions. An example of physiological disturbances caused by abrupt changes in the routine of life has been recently provided by Dr. Lennart Levi in his studies of the effect of piece work on the urine flow and hormonal balance of healthy Swedish women. When extraneous stimuli of physical or psychosocial nature were introduced into their lives, these women experienced subjective disturbances such as fatigue and discomfort and also objective measurable changes in their urine flow and in their excretion of epinephrine, norepinephrine and creatinine.

While sudden changes and overstimulation commonly have a variety of traumatic effects, paradoxically deprivation of stimuli seems to be becoming a more common cause of pathology under modern conditions of work. The reason is that a certain amount of diversity is essential for mental well-being and probably also for physical health.

In the course of evolution, human beings have been exposed to a large variety of stimuli, in part because their physical environment was complex and changeable and more importantly because their own activities constantly modified their relationships to the external world. It will suffice to mention here that while the human species emerged in a semi-tropical savanna kind of country, it has now colonized all types of climatic and topographical zones on earth. Since environmental stimuli have affected all aspects of human evolutionary development, it can be expected that some forms of stimulation are essential for the normal performance of physiological and psychological processes. This evolutionary conditioning is reflected in the fact that in animals and man a constant bombardment by a variety of stimuli is essential for successful development and function.

There is much empirical experience concerning the effects of restricted stimulation on adults. For example, mental aberrations are common among prisoners in solitary confinement, or among people who are isolated during long periods of time, either for accidental or for professional reasons. People who are completely isolated are likely to experience abnormalities in feeling states, deterioration of ability to think, perceptual distortions, even hallucinations and delusions. Empirical findings of this nature have been confirmed and extended by studies of sensory deprivation in experimental animals. Such experiments have revealed for example that both the development and the maintenance of nervous tissue are dependent on metabolic phenomena conditioned by a proper intensity of stimulation. The atrophic changes caused by removal of stimuli can be reversed if the stimulation is resumed soon enough, but they can become permanent if deprivation is prolonged. In human beings objective evidence of the damage done by sensory deprivation has been provided by electro encephalographic studies—showing a decrease in the alpha range of brain waves—and also by physiological studies—revealing disturbances of epinephrine and norepinephrine excretion.

Needless to say, the physiological and psychological effects of sensory deprivation have their counterpart in the disturbances associated with the monotony of automated work and dial-watching tasks. It is possible and indeed probable that workers can become "adapted" to such monotonous working conditions, in the sense that they tolerate them to earn better wages. As in the case of exposure to low levels of environmental pollutants, however, such tolerance has long-range deleterious effects. The various forms of assembly line work are objectionable not only because monotonous activity is boring but perhaps even more because monotony can generate physiological and behavioral disorders. Diversity is not only the salt of life; it is an essential element of physical and mental health.

I have focused my remarks on certain types of working environments that appear almost innocuous and the pathological effests of which are delayed and indirect. Under such conditions, it is extremely difficult if not impossible to demonstrate convincingly a link between cause and effect. Asbestos, lead, pesticides, and countless other potentially toxic and mutagenic substances are absorbed by the tissues without the exposed person being aware of their presence in his environment. Dial-watching or repetitive tasks appear only boring to the operator who is usually unaware of the fact that continued monotony may generate physiological and behavioral disturbances.

The classical mechanisms of protective organismic response to injury do not operate in such situations. A truly adaptive response is one which brings into action metabolic, hormonal and mental processes which correct the disturbing effects of outside forces on the body and the mind, thus reestablishing the equilibrium state. This is the process W. B. Cannon called homeostasis in his book *The Wisdom of the Body*. Such responses were developed in the course of evolution to deal with the environmental insults that primitive man encountered in his daily life. The human body, however, has no "wisdom" for the new kinds of insults created by modern technology, because there was no counterpart for most of them in the evolutionary experience of the human species. Even when the response to an insult of the technological environment has some protective value at the time it occurs, commonly it has delayed consequences that are deleterious. With regard to the technological world, the wisdom of the body is at best shortsighted. Air pollution elicits from the lungs an overproduction of mucus which at first protects its tissues against the pollutants but this eventually results in emphysema and chronic bronchitis; and similar misdirected compensatory processes are elicited by the new physical and psychical insults of the modern environment. These insults rarely destroy life outright, but they spoil its later years.

Furthermore, there is no chance for a genetic adaptation to the threats of the modern technological environment. Since they usually do not have marked effects on health until a long period after exposure, they do not interfere with reproductive ability and therefore provide no chance for genetic selection against them. For example, if a certain environmental factor is a cause of cancer, the chances are very great that the person so affected will produce children long before being incapacitated by the disease. In consequence, these children will not be better adapted than their parents to the undesirable environmental conditions which produced the cancer. In any case, adaptive changes resulting from alteration of the genetic apparatus are extremely slow, and would require many generations before making a significant difference. Even if it were true that we can become adapted to industrial fumes, to the noises of jackhammers, or to the traumatic experiences of rat race and competitive life, it would take more than 10 generations before the genes making for adaptation to these insults become established in society as a whole.

The widespread acceptance of the phrase "The wisdom of the body" among pathologists and of "Nature knows best" among ecologists is the expression of the polyanna attitude in which we have been raised and which makes us expect that good is the normal state of affairs, whereas in reality any kind of change implies danger. It is not pessimism to believe that there cannot be any lasting security; it is simple realism. Modern industrial and office work requires eternal vigilance, but the individual worker cannot possibly take the responsibility for his own health in a complex world which he cannot comprehend and which the experts themselves do not fully understand.

The time has therefore come to devote as much thought and research to the health hazards of working conditions as is devoted to engineering design, purchase specifications or sales policies. It must be emphasized, however, that the usual methods of medical research and practice are not well suited to this type of pathological problem. In many cases, the victim does not perceive the threat to which he is exposed, the epidemiologist has no simple way of detecting exposure, and the physician can recognize the signs and symptoms only when the pathological process is far advanced.

It is unrealistic furthermore to hope that safety measures and other improvements in working conditions could completely prevent industrial and office pathology even if they were based on much greater knowledge than we now have. New substances and new working techniques are constantly being introduced so rapidly that there is no chance to evaluate their potential health dangers before they have affected large numbers of people. The only way to deal with this unfortunate but inevitable state of affairs is to carry out systematically a great variety of tests on samples of the working population, in the hope of detecting evidences of pathological changes as early as possible. This approach, which could be regarded as a form of prospective epidemiology or as a medical alarm system, would of course be cumbersome and costly, but the inconvenience would be small compared with the medical load now being created by the chronic disabilities resulting from undesirable working conditions. In a truly civilized society, protection of the health of the worker should be regarded—both for humanitarian and economic reasons—as the most essential and irreducible aspect of production cost.

There is more to the problems of health and disease than the physical and psychological quality of working conditions. Emotional, esthetic and other values should also be considered when judging the working environment. In the final analysis, the human environment means everything that is experienced by man and it is the total nature of this experience that determines the quality of life. Since I do not have the necessary background to discuss these problems from the point of view of environmental quality in factories and offices, I shall briefly illustrate with other aspects of life that faulty adaption can occur with regard to perceptual quality, as it does with problems of health.

I spent my school years in Paris at a time when the historical buildings of the city were covered with a layer of soot and dirt deposited by domestic and industrial smoke. It used to be thought that the prevailing greyness gave a distinguished and refined quality to the Parisian atmosphere. Indeed, there was an outcry of anger when André Malraux ordered that the buildings be washed. Then a miracle happened. When the grey layer was removed from the monuments, their surfaces revealed the golden hue of the stone work, as subtle as that of young human flesh. For more than a century Parisians and the rest of the world had become accustomed—"adapted"—to the somber tonality created by the soot and the dirt of the Industrial Revolution. Perceptual life had thus been impoverished by a century of unconscious conditioning—of so-called adaptation—to an environmental defect. Instructed by this experience, I now feel sorrow and indignation at seeing people in American cities being everywhere exposed to noise, ugliness and garbage in the street. By "adapting" to this kind of environment, the American public progessively accepts messiness and squalor as the normal state of affairs—in factories and offices as well as in the street.

Fortunately, there are reasons not to end on such a gloomy note. Many people in all age and social groups are refusing to "adapt" to undesirable conditions. The campaign for a better environment is gaining momentum and it is not limited to the health aspects of the environmental problem; it has begun to encompass emotional and esthetic qualities. Sooner or later, the environmental crusade will spread to working conditions in factories and offices. In fact labor unions are beginning to take an active part in this campaign both inside and outside working places. For example, labor unions in Australia have recently put a "green ban" on the construction of some industrial plants until the proper steps had been taken to provide adequate pollution controls. They even refused to build a certain parking lot near the new Sydney Opera House because this would have required the cutting down of three magnificent fig trees that had an emotional value for the local citizens.

Many people, I know, believe that concern for the quality of the environment is just a fad that will vanish when the economic cost and inconveniences of effective control measures become apparent. But there is a new factor in the situation. A large part of the public has come to regard a good environment as a natural right of man—just as civil rights, the right to education, the right to medical care are natural rights. And it is obvious that a good environment will have to include healthy and pleasant working conditions. The environmental movement cannot be merely a fad, because history shows that there has never been a lasting retreat from the recognition of a natural right of man.

TRIBUTE TO ED FONTES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. ANDERSON of California. Mr. Speaker, involvement—political involvement—by earnest, sincere individuals who are interested in righting the wrongs of our society and in preserving the unique nature of our country is what our Founding Fathers had in mind when they conceived this democracy.

The political system which we inherited affords us free speech, free elections, and freedom to participate in deciding the future policies and directions of our Nation. Certainly, there are imperfections in our policies; certainly mistakes are made; but, as de Tocqueville said:

> The greatness of America lies not in being more enlightened than any other nation but rather in her ability to repair her faults.

And to "repair her faults," we must depend on ourselves and our abilities. Our Nation has been especially fortunate to have people of great ability, who are sincerely motivated to help their fellow human beings and who are willing to devote both time and effort to bring about the necessary changes in our society.

One such individual is Ed Fontes, who is being honored by the California Democratic Central Committee in the 32d Congressional District for his many efforts on behalf of the people of the area I am privileged to represent.

Ed Fontes has been active in elected capacities, and as chairman and member of numerous committees in community and political organizations since 1953. Among his civic activities, Ed is well known for his hard work in beautification programs for the harbor area communities of San Pedro, Wilmington, and Harbor City.

Ed is also vitally concerned about the youth of our area. He has spent many hours working with the East Los Angeles CYO; the Boys Clubs of San Pedro and East Los Angeles; and programs to assist Vietnam veterans, among others.

In the political arena, Ed Fontes is a member of the 32d Congressional District Democratic Council and the Democratic Caucus Steering Committee. In addition he has played an active role in the Harbor Area Ethnic Political Coalition.

Mr. Speaker, I have only touched on the many interests and accomplishments of Ed Fontes. He is truly an unselfish and dedicated individual. And working by his side and supporting his efforts through these years has been his lovely wife, Bonnie.

All too often we take people like Ed Fontes for granted—we come to expect the long hours of hard work they give to their community, and ultimately to the preservation of our democracy. I am pleased, therefore, that we in the 32d Congressional District are taking this opportunity to honor Ed Fontes and to express our deep gratitude to him.

DEMOCRATIC PARTY CONFERENCE

HON. WILLIAM L. HUNGATE

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. HUNGATE. Mr. Speaker, at their midterm conference in Kansas City, Mo., on December 6–8, 1974, delegates of the Democratic Party met to consider a permanent party charter.

The Missouri House of Representatives, on December 12, adopted a resolution expressing opposition to article 2 of the draft charter and urging that it be rejected.

I thought my colleagues might be interested in the complete text of the resolution which follows:

RESOLUTION

Whereas, the members of the House of Representatives of the Seventy-seventh Missouri General Assembly take notice that the Democratic Party of the United States has called a convention to be held on December 6, 7, and 8, 1974, in the city of Kansas City, Missouri; and

Whereas, the members of the Missouri House of Representatives take notice that the convention will consider and adopt a permanent charter for the Democratic Party of the United States; and

Whereas, throughout the history of the Democratic Party, citizens of the State of Missouri have distinguished themselves and their state as loyal and devoted Democrats; and

Whereas, the Missouri House of Representatives notes with alarm, the provisions of Article Two of the Draft Charter beginning with line 72 permitting the National Convention to disregard the very law of Missouri, present or future, and to determine who shall represent Missouri at the convention and concluding with line 78, if adopted, would surely mean the usurpation of power and control of the basic and essential right of Missouri Democrats to choose their own delegation and a myriad of other essential decisions undeniably belonging to the Democrats of Missouri alone, and further presents an awesomely clear and present danger to the Democratic people of Missouri of the failure of any such delegation to truly be representative of themselves, their policies and attitudes, and most certainly would not reflect the true and accurate position of the Missouri Democrat; and

Whereas, the Missouri House of Representatives unhesitatingly rises to defend the right of the citizens of Missouri, without regard to that citizen's particular political affiliation, to govern themselves through their state legislature, founded on local elections so essential to our basic American freedom, and insist that the law of Missouri as enacted by the legislature shall not be usurped by any other person or body politic;

Now, therefore, be it resolved by the members of the Missouri House of Representatives, Seventy-seventh General Assembly, Second Extraordinary Session, that the Democratic National Committee and the delegates to the 1974 Conference on Democratic Policy and Organization be advised of the intolerable nature of Article Two of the Draft Charter and demand the most careful and diligent consideration of its obvious threat to that most basic freedom of a people to exercise their right to democratic representative government under the United States Constitution; and

Be it further resolved that the members of the Missouri House of Representatives urge the delegates to that 1974 Conference to reject the majority position on Article Two of the Draft Charter and to adopt the minority report; and

Be it further resolved that copies of this resolution be forwarded to Chairman Robert Strauss and the Democratic National Committee; Chairman Terry Sanford and the Democratic Charter Commission; Democratic State Chairman Jim Spain, the Chairman of the Missouri Delegation, and to each of the Democratic Senators and Representatives of the National Congress from the State of Missouri.

Offered by Representative Vernon King.

HOW TO MAKE AMERICA MORE HONEST

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. BENNETT. Mr. Speaker, I recently read a stimulating and inspiring book: "How To Make America More Honest." I recommend it for reading by all who want to be a part in strengthening our beloved country.

The January 6 edition of U.S. News & World Report comments on the book and on the inspiring work of American Viewpoint, Inc., in the following editorial by Howard Flieger:

HONESTY ON HOLIDAY?

Here is something unsettling to contemplate in this holiday season—

A highly respected, nonpartisan, nonsectarian, nonprofit organization is in the midst of a saturation campaign to popularize the concept that it pays to do right.

In other words:

Honesty is the best policy.

Well, now! Isn't that one of the verities? Have things reached a point in America where people have to be "sold" on *that?*

Could be. A recent public-opinion poll by the Sindlinger organization asked people to rate in importance the problems we face. Morality got no votes.

Ivan Hill, the President of American Viewpoint, Inc., which is sparking the crusade mentioned above, recently wrote in "NAM Reports," a publication of the National Association of Manufacturers:

"We want to develop a massive mass media campaign to debunk dishonesty. . . . We wish to make honesty socially and culturally 'all right,' the smart thing, maybe even fairly fashionable. . . ."

President Hill and his associates aren't kidding. They are conducting tests to determine public response to the idea that "it is not stupid or nuts to be honest. Especially do we wish the youth of America to learn that you can be professionally and financially successful—even rich—and be honest."

Right now the organization is immersed in research to develop new teaching materials on ethics and values that can be used in all schooling, from kindergarten right up through graduate school.

At the same time, it has a program to persuade business, professional and trade associations, and labor unions to "develop or update their own codes of ethics. We should like for such groups to take their codes of ethics out of the frames on the walls, read them, practice them, and enforce them."

American Viewpoint, Inc., plans to set up an Ethical Resources Center at Chapel Hill, N.C., to which any school, local government, union, business or professional association can write and obtain sample codes of ethics with suggestion for making them work.

The organization has just published a book, "How To Make America More Honest."

All this activity brings up a question: Is endemic dishonesty a side effect of inflation, or is it the other way around? American Viewpoint, Inc., is convinced there is a relationship between the two. Mr. Hill says:

"Although economic historians may not agree on which comes first, a severe decline in a society's honesty and morality or a severe inflationary spiral, the two do seem to go together. Some already have started asking: Can a free society survive a long and severe period of inflation? The prime basis for this question is the unequal burden of inflation. Those who cannot keep pace in the inflation race will condemn the whole track meet."

As waning morality spreads, many scholars and just plain citizens tend to blame government, arguing that any political system can only be as good as its leaders.

There's where they and Mr. Hill's organization part company. He contends:

"What the leaders believe actually reflects society or they would not be leaders. It's up to the individual participants in a society to develop their own standards."

Has life really come to such a pass that all of us have to be re-educated to the truth that liars and cheaters are both dishonest and alien to our culture?

If so, it is a sad thought to ponder at this particular time of the year—or any time of year, for that matter.

The January 2 edition of the Wall Street Journal pertinently printed the following editorial:

Moral Education

Watergate provided the final push, but other social problems from drug use to rising crime have spurred U.S. public schools to pay more attention to questions of moral and ethical development. A Christian Science Monitor survey found widespread enthusiasm in schools for courses in "moral development," "character education" and "value clarification."

In a certain sense this represents a turnabout in the direction of American education. In the early years schools placed great stress on moral and ethical development along with the three Rs. Whatever their other defects, William McGuffey's "Eclectic Readers" and similar primers sought to impart an ethical consciousness. But directed efforts to impart standards lessened as American society became more complex and pluralistic.

The revised effort to teach moral principles in schools is, however, not a particularly radical change, even in modern terms. It would be hard for good teachers not to convey a set of ethical and moral principles to their students through their words and example and through their interpretations of literature, science and other academic subjects. By this process, there can be little doubt that schools always have tended to reflect the ethical or moral framework of the society that surrounds them.

We would admit to some concerns over efforts to formalize this process and to make it a conscious and directed part of the school curriculum. In a pluralistic society, specific standards of belief are better set by such bodies as the church, where membership is voluntary, or in the home than by state-directed schools.

There is always the danger that the state efforts will come into conflict with personal and private beliefs or that they will attempt to foster an allegiance to selective, and not altogether wholesome values. Militarists in pre-war Japan, for example, seized upon moral instruction in the schools (shu-shin) to forge a doctrine of blind obedience to the emperor. This sort of thing may make for a more orderly society but it carries risks for a democratic, free nation.

Having said that, however, we have little doubt that there are generally accepted ethical and moral verities that have had a place in almost every society and religion down through time. The simple principle of "do unto others as you would have, etc.," is a prescription for ethical conduct, for example, that is hard to improve upon, whatever sophists might try to make of it.

We would hope that the ethical revival the Monitor sees would reaffirm doubt that some youngsters in our society receive no worthwhile ethical guidelines, from either church or family. And too many modern adults, in the schools, churches and households, are reluctant to exercise moral authority, perhaps because of a confusion in their own beliefs. If the latest movement restores the notion that adults can and should provide moral leadership, it will be welcome indeed.

The December 23 edition of the Christian Science Monitor published the following article by Clayton Jones:

Can Schools Teach Ethics?—More Add "Value" Courses; Students Seem To Like Them

An alarm bell is ringing among U.S. educators that public schools need to do more to shape the moral behavior of tomorrow's citizens.

As shock waves from the Watergate scandal subside and the nation's crime rate climbs even higher, these educators find themselves grappling anew with deep and difficult questions about teaching young people the difference between right and wrong.

A Monitor survey indicates:

Many schools are placing "moral development," "value clarification," and "character education" at the top of their lists for classroom subjects—allowing children to conduct their own moral reasoning on such simple values as justice, honesty, and respect for property.

The number of curriculum packages on moral education has more than doubled in the past two years, according to the Social Science Education Consortium in Boulder, Colo. Many publishers of educational materials report booming markets for moral education training across the country.

The number of graduate school dissertations written on moral education has averaged 150 a year since 1970—a significant jump from a total of 80 such dissertations written between 1940 and 1969.

A nationwide survey of parents, students, teachers and school administrators by the American Institute for Character Education indicates high enthusiasm for the teaching of morals, values, and ethics in the classroom. The institute sought reaction on its curriculum package being tested in 29 states.

The Valley Vista Elementary School in Chula Vista, Calif., for instance, began a "character" education curriculum in 1971 and discovered its vandalism bill dropped from $400 to $10 a year—with no additional security, says assistant superintendent Douglas E. Giles.

In Newton, Mass., a fourth-grade class discusses a television documentary which reenacts the White House Watergate transcripts. A class in Cambridge, Mass., public schools, meanwhile, discusses the moral implications of Hiroshima.

Or, 50 children in Chicago's Falconer Public Elementary School visit retirement homes this Christmas, singing carols for residents as part of a program to teach children unselfishness and concern for the elderly.

Educators agree that teaching morality is subtle and can be controversial. They point to angry parent reaction over textbooks selected by schools in Kanawha County, W. Va., recently.

But educators—aware that this generation of schoolchildren is not the first on the planet to be taught their do's and don'ts—are selling a new message.

"Students today want to walk with us as we make our moral choices, not meet us at the gate to receive the distilled wisdom of our experience," says Wilson Riles, California's Superintendent of Public Instruction.

"Society is fearful of what it believes is moral disintegration. Schools can have an impact by creating a climate where a child will experience and practice in learning moral choice," said Mr. Riles.

Most educators cite Watergate as the final catalyst giving moral education an open door to the classroom. Also, increased drug use, rising crime, and a "general moral decline" have caused educators to think there should be more to school than reading, writing, and arithmetic.

Richard Grahmn, director of Harvard University's Center for Moral Development, sees another reason: "Parents feel they don't know how to teach morality, that they are no longer in control."

Urgent demands by parents that schools buttress home efforts to help children develop a sense of values is met with a warning from educators: Parents should be consulted regularly on which textbooks to use and which values to teach.

For instance, a two-year-old California law, one of the most stringent in the country, forces teacher-parent cooperation by hinging it with state funding. A plan devised by the American Institute for Character Education calls for a home study course for both parents and children on family relationships.

To be safe from parental charges that they are teaching the wrong values, teachers are beginning to turn to the educational theories of Lawrence Kohlberg, professor of moral development at Harvard University. Educators point to other theories in use, but say Professor Kohlberg's ideas are catching on the fastest.

Essentially, Professor Kohlberg advises teachers to use everyday classroom behavior as a social system with hidden services to help children learn right and wrong behavior. The class discusses the "real moral dilemmas" that often crop up between children, teachers, and the school. By exposing children to their peers' or the teachers' moral reasonings, children naturally rise up a scale of improved morality, Professor Kohlberg explains.

Weaving morality directly in classroom behavior relieves teachers of sermonizing on a "bag of virtues," as Professor Kohlberg calls it, better stimulates a child's moral development, and often avoids direct conflict with parents.

Contributing to this survey: Monitor correspondents Fred Moritz in San Francisco, Judith Frutig in Chicago, John Dillin in Atlanta, George Moneyhun in New York, Florence Mouckley in Boston, and Curt Sitomer in Los Angeles.

Finally, I would like to call attention to the article "Honesty and Freedom" by Ivan Hill, printed in the December 2 edition of N.A.M. Reports:

HONESTY AND FREEDOM

I wish to describe what American Viewpoint, Inc. is doing to help *make America honest enough to stay free*. Last December American Viewpoint announced a program to extend economic and political freedom in the United States by improving our ethics. We bought a full page in the Wall Street Journal to outline our three-phase program.

First, we want to develop a massive mass media campaign to debunk dishonesty. We wish to make honesty socially and culturally "all right," the smart thing, maybe even fairly fashionable. The campaign should be handled on a public interest basis by the media, such as is done for the American Cancer Society, the Heart Association and other groups attacking killer diseases.

We believe that dishonesty, sleazy ethics and crime are highly deadly diseases and can kill the diminishing chances we have of remaining a free society. And certainly these evils are already destroying the quality of our lives.

Although economic historians may not agree on which comes first, a severe decline in a society's honesty and morality or a severe inflationary spiral, the two do seem to go together. Some already have started asking: Can a free society survive a long and severe period of inflation? The prime basis for this question is the unequal burden of inflation. Those who cannot keep pace in the inflation race will condemn the whole track meet.

Our ethics programs are not based on any efforts to change the nature of man. We simply wish to lessen the team-spirit pressure, the duress of team play, on the corporate vice president who wants to tell the truth, just as we wish to lessen the peer-group pressure on the kid in the class who doesn't approve of cheating. Fear of exclusion from the group keeps too many people flexible in their integrity. We must make a liar as alien to our society as a card cheat.

We shall soon start a test campaign in three markets to determine public response to our efforts to demonstrate that it is not stupid or nuts to be honest. Especially do we wish the youth of America to learn that you can be professionally and financially successful, even rich, and be honest. Of course, one may have to work a little harder and know a lot more. Honesty is really not a lazy person's game.

For too long we have failed to recognize that the public, that is every individual citizen, is responsible for maintaining a free society—is responsible for crime, for dishonesty, for dishonest politics. So it is absolutely urgent that we take our challenge to improve our ethics directly to the public through massive mass media efforts. It is too late to wait for another generation to come along and do it. If we don't act to strengthen the ethical underpinnings of our free society, the next generation may not be free to do so.

In reference to our high rate of crime, isn't it reasonable to expect crime to be bred in a bed of pervasive dishonesty? Isn't it true that quickness and certainty of punishment are great deterrents to crime? Isn't it likely that if all elements in our enforcement procedures were fully honest we might greatly increase the speed and sureness of punishment? But for all this we need the sanction of an honest and responsible citizenry.

The second part of our ethics program is to research and develop new and more relevant teaching materials on ethics and values for use in the public schools—from kindergarten through graduate schools. Some good materials are now being used in public schools. We wish to study and assess such materials as well as to develop new approaches. Good ethics is basic to all good religions and there are no justifiable reasons for public schools to neglect the teaching of values.

The third phase of our program is to encourage all professional and trade associations, corporations and labor unions, to develop or update their own codes of ethics. We would like for such groups to take their codes of ethics out of the frames on the walls, read them, practice them, and enforce them.

In carrying out these programs we hope to establish an Ethical Resources Center at Chapel Hill, N.C., for all the Western world to use—a center where any school could write in for data on teaching values at whatever grade level, any municipality could write in for sample municipal codes of ethics and information about how they worked, a center where any trade or professional association could write in for material that might be used to up-date their codes of ethics.

We have just published a paperback book on "How To Make America More Honest." Our book sells for $1.50 a copy and all the sales revenue goes to finance our ethics program.

In recent weeks it appears that a lot of Americans are beginning to share our belief that this job of restigmatizing dishonesty needs to be done—must be done and soon.* * *

Now, as to the relationship of ethics and profits, we should first keep in mind that the ultimate goal of ethics is the moral and spiritual perfection of individuals, while the ultimate goal of business is to help provide the opportunity, the means, for man to achieve his ethical goals. For what other purpose should humans live, should any institution exist? The profit system just happens to be the one that has worked best to achieve these goals. (But young people, particularly, rightly decry putting materialism ahead of all other goals. As a primary goal materialism is destructive. As a secondary goal in life it is enormously beneficial and makes all the more possible man's ability to achieve his human potentials.)

In order that we may be thinking together, let's define profits as the favorable result of business operations—the excess of income over expenditures. It's the incentive of an elastic profit that gives vitality to a free enterprise system. If there were no profit in America, it is doubtful that there would be much, if any, political freedom. Profits are still the best measure of the efficiency and beneficial service performance of business in an honestly competitive economy. Thus the making of profits is a highly ethical goal of business.

When we accept profit as a good motive, we should identify it with freedom and responsibility. The American public must understand, before it's too late, that profits and individual freedom go together. And business must understand that destroying competition is suicide for freedom. To maximize either profits or wages under less than honestly competitive conditions, we engage in an expedient, short-range program that has no service feature or ethical base in its strategy. Excessive profit, usually obtained under less than honestly competitive conditions, destroys itself just as excessive wages destroys itself under the same type of non-competitive conditions.

Unfortunately, some of those who have risen to the defense of American capitalism and the free enterprise system do more harm than good. For private property is not a God-ordained institution. It has been created by society, which grants us the right to hold this property in return for the performance of socially desirable ends. But I cannot overemphasize that when one talks about a free-market economy, one must recognize that the very essence of such an economy is honesty in method and policy.

The main source of criticism of our system today is not that it is not the best, but that it is operated too dishonestly. And we may be surprised that the source of much of this criticism is neither from the far left nor from the far right. It is from independent business and professional people who are the very prototypes of free enterprise, but whose honesty and courage will not permit them to tolerate injustice, unfairness and discrimination from big business, big labor or big government.

In a highly complex interdependent society with an ever increasing technology that binds us all together, the tolerance that allows for irresponsibility and dishonesty in any segment of society becomes narrower and closer. More than those of us now living could have ever imagined, the ethic needed for one to an acre is very different from the ethic needed for one thousand to an acre. We didn't need a population conference to tell us this, but I wish they had done a better job of telling this to the world. The ethic of a world of nations that blackmails one another for food or oil, all in the presence of nuclear power roaming the seas and air and starvation resting in the hills and on the deserts, would have been beyond our understanding. It is even more beyond our understanding now. If technology, rather than ethics or morality, enforces cooperation in order that we may survive, then an imposed centralized authority becomes inevitable.

For the benefit and glory of all Americans, young and old, I hope you will join with us in a crusade against two of America's greatest evils—hypocrisy and dishonesty. That is the road to more efficient business, as well as more efficient and far less government. The cathartic effect of simple honesty can have an extraordinary effect on the moral confusion and so-called alienation in our society.

It can have, too, an enormous benefit on profits and productivity. It may be our single most effective move against inflation. Perhaps a great and unifying improvement in our ethics and basic honesty will so heighten our morale, build our inner strengths, that other nations will respect us all the more for our example and for our determination to uphold the principles of freedom. And if the United States cannot make it up to the next level of civilization, if we cannot survive with a high degree of economic and political freedom, what nation can or will?

Mr. Speaker, I have introduced a bill which I hope can be passed in this session. It reads as follows:

H.R. —

A bill to provide Federal grants to assist elementary and secondary schools to carry on programs to teach the principles of ethics and citizenship

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section:

"GRANTS FOR TEACHING THE PRINCIPLES OF ETHICS AND CITIZENSHIP

"SEC. 813. (a) The Commissioner shall make grants to State educational agencies to assist them in establishing and carrying out programs under which students attending public elementary and secondary schools will be provided instruction in the principles of ethics and citizenship. The content and nature of such instruction shall conform to general standards prescribed by such State agencies.

"(b) For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1975, and each of the two succeeding fiscal years."

SEC. 2. Section 422 of the General Education Provisions Act is amended by inserting after "the Elementary and Secondary Education Act of 1965" the following: "(other than section 813)".

CONSUMER FOOD LABELING ACT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. ROSENTHAL. Mr. Speaker, more than 80 million Americans must be careful of what they eat because of allergies, dietary problems, religious considerations, and other reasons. Everyone has an undeniable right and need to know what is in the food he eats, who made it, how much it really costs, and more.

That is why I am today introducing the Consumer Food Labeling Act. This bill would require the labels on foods and food products to disclose all ingredients; nutritional content; accurate weight data; storage information; true identity of the manufacturer, packer, and distributor; uniform product grades; unit prices; ingredient changes, and it would bar the use of misleading brand names.

It is aimed at closing the still widening gap between the ability of Government to protect consumers and the ability of some segments of the business community to abuse them.

The following is a title-by-title description of the provisions of this legislation:

CONSUMER FOOD LABELING ACT

TITLE I. TRUTH IN FOOD LABELING

Requires food makers to show on their labels all ingredients by percentage, including all additives and preservatives, and by their common or usual names. As many as 80 million Americans must be aware of the food they are eating because of allergies, dietary problems, religious considerations and other reasons. It is presently impossible, thanks to a maze of regulatory exemptions, to tell from a label what is in a food product. The American consumer has an undeniable right and need to know what is in the food he eats.

TITLE II. NUTRITIONAL LABELING

Requires that any packaged consumer food product be labeled by the producer with the following information: (1) nutritional statements including fat content, vitamin and protein value, fats and fatty acids, calories and other nutritional data; (2) the net weight and drained weight of canned or frozen products packed in a liquid medium; (3) the major ingredients by percentage weight of any combination food item. We have been called "a nation of nutritional illiterates." Food labels currently provide little or no information on the nutritional value of the product although this is vital to the consumer's health. Many of the foods Americans eat do not have the nutritional value expected of them. Moreover, existing food labels fail to show the exact proportion of one ingredient to another. Some brands of combination food items contain more of the major ingredients than others (e.g., some brands of beef stew contain more meat, vegetables, etc. than others).

TITLE III. OPEN DATING PERISHABLE FOOD

Requires that all packaged perishable and semi-perishable foods be prominently labeled to show clearly the date beyond which it should not be sold and the optimum storage conditions at home. It also provides that overage products can be sold but only if they are safe, separated from other items and clearly identified as being beyond the expiration date. There is growing evidence that a significant number of perishable food products offered for sale to the American consumer are overage and may be unwholesome. Open dating information gives consumers personal policing powers over the sale of packaged foods and helps in storing these products at home.

TITLE IV. CONSUMER FOOD GRADING

Requires a uniform system of retail quality grade designations for consumer food products based upon quality, condition and nutritional value. There is currently no consistent and uniform system for determining and labeling the grades of food products. For example, one product may be graded A, B, C, and D, while another is AAAA, AAA and A; hence the two "A" grades are opposites, not equals, but there is no way for the consumer to know.

TITLE V. MARKETING PRACTICES DISCLOSURE

Requires labels on foods, drugs and cosmetics to contain the name and place of business of the true manufacturer, packer and distributor. Its value is two-fold: Most importantly it would aid government, industry and consumers in event of a recall by permitting quick and easy identification. This is now difficult because hundreds of private labels and private brand products on the market do not bear this information. (Bon Vivant vichyssoise was packed under more than 30 different private labels without Bon Vivant's name ever appearing on one of them—a fact which hindered that extensive recall.) Secondly, it would aid consumers in selecting products because they would know who really made the product under the private label. Private label products often tend to be priced lower than their nationally advertised counterparts, although there is frequently no difference between them.

TITLE VI. UNIT PRICING

Requires disclosure by retailers of the unit price of packaged consumer commodities. Individual retail businesses with sales below $250,000 a year are exempted. The myriad of package sizes makes it extremely difficult for consumers to compare the price of two or more package sizes of the identical product to determine the real cost and the best buy. Recent studies indicate that unit pricing provides valuable, objective price data which can save consumers around 8% on their food bills. Some stores now have unit price information but uniformity and comprehensiveness are lacking.

TITLE VII. NEW INGREDIENT NOTIFICATION

Requires manufacturers to print notices on all food labels that will alert consumers to ingredient changes.

TITLE VIII. MISLEADING BRAND NAMES

Prohibits the use of misleading product brand names. Advertising such names would violate the Federal Trade Commission Act unless the manufacturer can demonstrate that the product lives up to its name.

The following Members are also sponsoring this bill:

LIST OF COSPONSORS

Bella S. Abzug, Joseph P. Addabbo, William M. Brodhead, George E. Brown, Jr., Bob Carr, Cardiss Collins, James C. Corman, Dominick V. Daniels, Ron de Lugo, Thomas Downey.

Robert Drinan, Bob Eckhardt, Don Edwards, Dante B. Fascell, Hamilton Fish, Don Fraser, Benjamin Gilman, Gilbert Gude.

Robert Kastenmeier, Edward I. Koch, Clarence D. Long, Ray Madden, George Miller, Richard Nolan, Charles B. Rangel, Thomas Rees, Donald Riegle, Peter Rodino.

Paul Sarbanes, Patricia Schroeder, Stephen Solarz, Fortney H. Stark, Gerry Studds, Frank Thompson, Paul Tsongas, and Antonio Borja Won Pat.

A TRIBUTE TO JOE SINAY

HON. THOMAS M. REES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. REES. Mr. Speaker, it is with much pleasure that I take this opportunity to say a few words in tribute to a great American and a personal friend, Mr. Joe Sinay of Los Angeles, who served from 1973 to 1974 as chief barker—president—of the Variety Club of Southern California Tent 25. He was honored by a great number of his friends at a luncheon on Wednesday, January 8, 1975, at the Beverly Hilton Hotel, a luncheon I was honored to attend.

Joe Sinay has accomplished much during his 2-year tenure as chief barker. He inaugurated the Variety Club's first telethon on station KTLA in Los Angeles, an effort which raised more than $300,000. Moreover, he was instrumental in establishing the electro-limb program for children at the University of California at Los Angeles, under which children who are missing limbs at birth or by accident may receive new ones.

Under Joe Sinay's administration, Tent 25 has raised over $500,000 for various charitable organizations and activities for the benefit of handicapped and underprivileged children around the world, regardless of race, religion, or national origin.

The Variety Club, under Joe Sinay's leadership, continued some of the outstanding charitable programs it has instituted. The club has established a heart clinic at UCLA; it has set up a "Sunshine Coach" program under which van-sized vehicles are donated to hospitals, schools, and other organizations, which serve children, to transport youngsters. At a hugely successful dinner honoring Dr. Billy Graham and his 25th year in the ministry, Tent 25, working in conjunction with Variety Club International, managed to raise enough money to donate 28 Sunshine Coaches to children all around the world.

Tent 25 has established and supports a Variety Boys Club on the East side of Los Angeles which serves over 3,000 boys from ages 6 to 19. Each year it sends seven of these young men off to college with full scholarships.

It is truly remarkable that Joe Sinay has managed to devote so much energy to Tent 25 of the Variety Club of Southern California and at the same time fulfill other demanding commitments. He is a member of the board of directors of the Friends of Hebrew University, and a member of the board of directors of the Idylwild School of Music and Arts. And, of course, he has a full-time business of his own.

Tent 25 of the Variety Club is without question among the most effective and dedicated charitable organizations in California, and has accomplished much for which we all should be grateful. Under Joe Sinay's guidance and with his unflagging commitment, Tent 25 has again demonstrated how much can be done when people believe in what they are doing and are willing to work very hard for others. Joe Sinay is a truly great man, and I am honored to count him among my friends.

TRIBUTE TO ANTHONY BARAJAS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. ANDERSON of California. Mr. Speaker, the future of our country belongs to those who can blend passion, reason, and courage in a personal commitment to the ideals of our society. And in our democratic society, we are consistently confronted with an ever-changing challenge to new goals to meet the needs of each succeeding generation.

Those individuals, however, who are content with today, apathetic toward problems and their fellow human beings alike, and fearful in the face of new ideas and bold projects, do not serve the future, but, instead, serve the past.

Our Nation has been exceedingly fortunate to have been blessed with individuals who are not satisfied with the present, who seek better conditions for their children and their children's children, and who are committed to improving our society.

The California Democratic Central Committee in the 32d Congressional District, on January 18, is honoring those individuals who have made contributions and who have dedicated themselves to meeting the challenges that confront our country. Mr. Tony Barajas is among those few persons who will be commended for their outstanding efforts in working to bring the dreams of the future into reality today.

Mr. Barajas has long been a leader in community affairs in the Harbor Area, and is especially active in the political arena. He has been a member of the influential Mexican-American Democratic Club for 15 years, and ably served as its president for four terms. In addition, Tony has shared his expertise in this area as vice president of the Harbor Area Ethnic Political Coalition.

While he has been active in all Democratic campaigns, Anthony Barajas is being honored for the outstanding work he did in operating the headquarters for the Democratic State Central Committee in the 32d Congressional District during the 1974 election. As cochairperson of the headquarters, Tony volunteered many hours of hard work needed to make things run smoothly and effectively.

Mr. Speaker, I am pleased to have this opportunity to join the many friends of Anthony Barajas in thanking him for a job well done.

A SUMMARY OF GOVERNOR REAGAN'S ACCOMPLISHMENTS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. MOORHEAD of California. Mr. Speaker, over the past 8 years, California has been fortunate enough to have one of the most outstanding leaders in America serving as Governor of our State. His notable accomplishments are presently being reviewed by the editors of California's leading newspapers. One of the most outstanding summaries appeared in the Los Angeles Herald Examiner on Thursday, January 2, 1975. I wish to incorporate these remarks into the CONGRESSIONAL RECORD.

REAGAN'S RECORD

Gov. Ronald Reagan will turn over the reigns of government to his elected successor next Monday, and become once again Citizen Reagan, a role he has not played since 1966.

To his distinguished career of college student-body president, radio sports announcer, film producer, and narrator for the U.S. Armed Forces, movie actor, film industry official, television host, and articulate spokesman for conservative candidates and causes, Reagan has added 8 illustrious years as California's chief executive.

Rather than retire to his Pacific Palisades home or to his ranch north of Santa Barbara, however, he will immerse himself in activities designed to spread nationwide the admirable gospel of limited government and bureaucratic fiscal restraint.

No one is more capable of propagating these sermons than is Ronald Reagan, and no messages are more imperative to curb greater inflation or relieve business and industrial stagnation.

When he took office as Governor in 1967, Reagan discovered that California was tottering on the brink of insolvency, spending a million dollars more every day than it was collecting in taxes. Through various reforms, he was able to reverse the suicidal spending tide and put the State on a relatively sound, businesslike basis.

His welfare reform measures reversed the pattern of additional thousands of citizens being added each month to the State's welfare rolls. Today there are nearly 400,000 fewer Californians on State welfare, yet the truly needy are receiving a 40-percent increase in benefits. Overall, according to authoritative estimates, the State welfare burden already has diminished by well over a billion dollars.

Reagan's refusal to knuckle under to the threats and demands of riotous anarchists on the State's campuses helped restore order to our institutions of higher learning.

His law enforcement task force recommended some 100 anticrime reforms—a few major ones, such as the reinstatement of capital punishment for specific major crimes, fortunately were adopted.

California property owners received some needed relief as a result of Reagan's tax reforms.

State assistance to public schools was doubled to assure a basic quality education for every pupil enrolled in public schools throughout the State, no matter how poor his school district.

In a memorable 1964 speech, candidate Reagan told a nationwide television audience:

> If we fail, at least let our children and our children's children say of us we justified our brief moment here. We did all that could be done.

The Governor's two terms at the State's helm have been more than justified. In personally doing all that could be done, often against hostile, partisan opposition, Reagan at least partially realized his dream of having California set a standard of economy and efficiency that few contemporary American governments have realized.

Whatever the future holds for him, Reagan's brand of responsible leadership was a fresh breath in an era when profligate government spending was and is a widespread, pathological obsession. His integrity, dynamic personal appeal, clear thinking, and scrupulous courage have been both beneficial and inspiring.

Citizen Reagan has our sincere best wishes for continued good fortune in his future endeavors, wherever the path may lead. His rare and outstanding personal qualities will be genuinely missed from the ranks of responsible helmsmanship.

THE EMERGENCY JOBS AND UNEMPLOYMENT ASSISTANCE ACT OF 1974: HOPE FOR THE UNEMPLOYED

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. DOMINICK V. DANIELS. Mr. Speaker, in today's gloomy headlines about the depressed state of the Nation's economy, one bright note can be found in the immediate success of the emergency jobs program in alleviating the misery of unemployment for thousands of jobless American workers.

I was privileged to introduce the legislation creating the emergency jobs program, and I am thankful for the overwhelming support that my colleagues in the 93d Congress extended to this proposal.

When I introduced the Emergency Jobs Act on September 11, 1974, I noted in my introductory remarks that:

> Unemployment statistics are faceless entities to economists; they are a cold reality to an unemployed father struggling to keep his family together after he has been laid off his job or cannot find work through no fault of his own.

The January 11 edition of the New York Times contained a heartwarming article that did, in fact, put a human face on one unemployment statistic. The benefits of the emergency jobs program for one family in West Islip, N.Y., have been translated into very human terms, and I am sure my colleagues will be as deeply touched, as I was, by the account of how hope and pride has been restored to this fine American family as a result of the Emergency Jobs and Unemployment Assistance Act of 1974. I will insert the article from the New York Times at the conclusion of my remarks.

Although Congress can be justifiably proud of the work it has done to relieve the misery of unemployment, it is apparent that much more work remains to be done. The same edition of the New York Times contained another article that described an incident in Atlanta, Ga., in which 3,000 unemployed job applicants broke down the doors of of Atlantic Civic Center to apply for 225 newly created public service jobs. I ask unanimous consent to have this second article included at the conclusion of my remarks.

The account of the Atlanta incident is compelling evidence of the need for the Appropriations Committee to act quickly on fully funding the emergency jobs program. Of the $2.5 billion authorized by the legislation, $875 million has been appropriated. I hope that my colleagues on the Appropriations Committee will agree that the remainder of the authorization needs to be appropriated as quickly as possible to create these much-needed public service jobs.

When the 93d Congress acted on the Emergency Jobs and Unemployment Assistance Act of 1974 it took a very important first step to confront the growing problem of unemployment. Now that this first step has been taken, it is up to the 94th Congress to take up the banner on behalf of jobless Americans. I hope that this Congress will study the emergency jobs program with a view to possible expansion of the program, and also to determine whether this program should be transformed into a permanent program to aid the Nation's unemployed.

The articles follow:

LAID-OFF FOREMAN ON L.I. IS "SAVED" BY U.S. JOB ACT

(By Pranay Gupte)

WEST ISLIP, L.I., Jan. 10.—Sixty-six days after he was laid off as a $16,000-a-year factory foreman, Joe Guerrera happily, but nervously, went back to work today—as a $7,700-a-year security guard in the school his children attend.

"This job has saved me," Mr. Guerrera said as he drove to West Islip High School here. "It will help pay our bills."

Although he was eager to get to the school, Mr. Guerrera drove slowly because, he said, he could not afford a traffic ticket.

The 46-year-old father of three was among 125 men and women hired this morning by Suffolk County with funds made available under the new Federal Emergency Jobs and Unemployment Assistance Act.

The $875-million national program went into effect today, and Suffolk County, with $10.3 million, received one of the largest grants of any suburban county in the country to put unemployed persons in public-service jobs.

According to Federal officials in Washington, Suffolk's contingent of 125 persons is the biggest group to become public employed under the new program, which President Ford signed into law last Saturday. Nassau County today hired 30 unemployed people, while New York City has just started interviewing prospective employees.

The emergency-jobs program supplements the Comprehensive Employment and Training Act, which Congress adopted in December, 1973. Thus far $875-million has been appropriated for a temporary emergency public-service-employment program of 13 months' duration so that jobs in communities with a population of more than 200,000, and with an unemployment rate of at least 6 per cent can be generated swiftly.

The new program becomes Title VI of the 1973 act, which was the first special revenue-sharing bill passed by Congress that in effect gave local governments power to act to fight unemployment.

"NIGHT OF AGONY" ENDS

The day started early for Mr. Guerrera and ended, as he put it, a "two-month-old night of agony." His wife, Mary, wanted to fix him a good breakfast, but he wanted only a cup of coffee.

"He's been so depressed," Mrs. Guerrera told a visitor. "He's held a job continuously since he was 17 and he really could not believe that they would fire him. All of a sudden his world came crashing down."

For nearly 20 years, Mr. Guerrera worked with the Dellwood Milk Company at its factory in Jamaica, Queens—the same company at which his father had worked for 42 years. Sixty-six days ago, he was laid off and the plant was shut, reportedly because of a Federal Government decision that Dellwood, which made Sealtest ice cream engaged in monopolistic practices.

At 8:45 A.M., Mr. Guerrera showed up at the Suffolk County Center in Hauppauge, where, with the 124 other new employes, he participated in an orientation seminar given by Lou V. Tempera, the county's Commissioner of Labor.

"At a time when thousands are being put out of work on account of bad economic conditions, we are putting you back to work," Mr. Tempera told his audience, reminding it that, for every person selected 15 to 20 had been interviewed earlier this week by his staff. "Suffolk is suffering economically in a bad way, but we want you to know that government here is committed to fighting unemployment. This is only a start."

Suffolk, with a population of 1.25 million, was until last year, one of the fastest-growing counties in the country. But the national economic down-swing has hurt it and now it has more than 27,000 people listed as unemployed—a county record, according to John V. N. Klein, the County Executive. With the new Federal grants 1,200 people will receive public service jobs by spring.

They are being placed in clerical and security jobs and in professional positions, Mr. Klein said, and salaries will range from $5,500 to $10,000 a year. Arthur Bergmann, Suffolk's chief deputy county executive, said jobs were being offered with state and county agencies as well as school districts.

HARD TIMES AT CHRISTMAS

"We have given priority in our hiring to those who have exhausted their unemployment insurance benefits and others in great hardship," Mr. Klein said. "This is the most significant employment program in Suffolk's history."

Mr. Guerrera listened carefully. After he had filled in various forms about his background, he set off for West Islip High School.

"What can you say about a nightmare" he said. "I did not mind so much not being able to get things for myself. But it really hurt me that at Christmas I couldn't get my wife and children the things I'd wanted to get for them. It was a bleak holiday season."

At the school, Mr. Guerrera went to see William Gerek, the administrative assistant, who explained to him his new job—Monday through Friday, 3 P.M. to 12 midnight. Mr. Guerrera's paychecks, Mr. Gerek told him, would come from the county under the employment program. "Welcome," Mr. Gerek said.

For the first time in the day, Mr. Guerrera grinned.

3,000 SEEKS JOBS IN ATLANTA MELEE

(By B. Drummond Ayres, Jr.)

ATLANTA, Jan. 10—Several persons were bruised and cut here early today when 3,000 unemployed men and women, most of them young blacks, surged into the Atlanta Civic Center to apply for 225 newly created public service jobs.

Extra policemen and Mayor Maynard Jackson were summoned to help restore calm. Some people in the crowd had been standing in a chill rain all night in hopes of finding work in a city that is in the full squeeze of the recession.

"What's happening here," the Mayor said as order was restored, "is what's happening all over the country—a desperation for jobs."

Over-all unemployment in the Atlanta area has risen to 7.5 per cent. But unemployment among blacks, who make up more than half the downtown population, now stands at 9.2 per cent.

Among Atlanta's black teen-agers, one of every four is unemployed.

Nationally, the over-all unemployment was 7.1 per cent as of Dec. 1. The rate for blacks over-all was 12.2 per cent. The rate for teen-agers nationally was 18.3 per cent.

FEDERAL ASSISTANCE

The 225 jobs offered today were created with the help of funds made available by the Federal Comprehensive Employment and Training Act. The work offered was mainly in construction and general maintenance, with wage ranging from $114 to $174 a week. Similar public service work programs are being established in a number of other cities in the United States.

Rain was still pouring, and the crowd of unemployed, at least 95 per cent youthful blacks, was thoroughly soaked and chilled when the doors to the civic center were opened at 8:30 this morning.

There was an immediate surge. Plate glass door panels gave way. At least three persons were cut, one seriously enough to require emergency room treatment. Others in the crowd were bruised in the crush.

"What's happening? I'm a veteran!" one job-seeker cried out. His leg had been cut.

Under the terms of the employment act, hiring priority must be given veterans and persons out of work more than 30 days.

DOUBTFUL JOB-SEEKER

Another job-seeker, 23-year-old Willie Reed, told newsmen that he had lost his warehouse job six months ago and was doubtful that he would be one of the 225 persons awarded jobs once officials had studied all the applications.

"But I had to come," he added "We've got to eat. Yesterday, I went to 10 different places looking for a job."

Sherrie Stroud, 21, another applicant, said she had been out of work for more than three months.

"I never expected to see this many people down here," she added. "I kind of doubt my chances now."

Mayor Jackson urged the job-seekers to write their Congressmen to let them know that Atlanta needs more jobs."

"Im sorry if any of you got caught in the door," he said, "but please bear with us. We're doing our dead-level best."

MEMBERS' OFFICE ALLOWANCES AND FISCAL ACCOUNTABILITY

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. COHEN. Mr. Speaker, I rise to introduce legislation to provide for full House review and debate on any future increases in Members' allowances.

In 1973 and 1974, Members of the House of Representatives received increases in several of the allowances they are given for the operation of their Washington and district offices. These included accounts for stationery, telephones and district office space rentals. Many Members, particularly new Members such as myself, may not have been aware of these increases or how they had come about. Some may have assumed that they had been voted on in the previous Congress. Actually, however, that Congress had passed legislation placing the full responsibility for reviewing and authorizing such increases on a small portion of their Members, the House Administration Committee. When the increases were approved, the remainder of the House membership was simply notified through the CONGRESSIONAL RECORD.

These accounts, of course, are used to communicate with and provide services to congressional constituents and increases may indeed have been needed in order to maintain the level of services. The fact remains, however, that while much was being said about controlling and cutting Federal spending, we were resorting to a "back door" method of increasing our own demands on the Federal tax dollar. While the programs and budgets of executive agencies were being carefully scrutinized on the House floor, we were sidestepping responsibility for our own costs.

We should hardly be surprised therefore at the public anger and cynicism which has greeted the disclosure in the media of how increases in accounts were obtained. The people's confidence has been severely tested by Watergate, the energy crisis, and the worsening economic situation. They are looking desperately to their elected officials for open and responsible leadership and they have a right to be disappointed when they find it lacking.

During the 93d Congress we enacted the Budget Control and Impoundment Act to enable the Congress to reassume and exercise proper authority over the fiscal policies of this Nation. However, simply gaining the means of handling these responsibilities is not enough. We must also show the American people that we have the will to shoulder the burdens. And I can think of no better place to begin than in the area of our own expenses. In this difficult economic period, there should be no increases in either the legislative appropriations or any other segment of the Federal budget without full justification and debate. If increases in Members' allowances are indeed necessary, then we should let the American people know why and should fully and openly accept the responsibility for them.

As Members of Congress today, we hold far more than a public office; we hold a public trust. In my opinion it is imperative for us to do all in our power to restore and maintain that trust and that is the reason I am introducing legislation today to return the decisionmaking power on Members' allowances to the full House membership where it belongs and to assure in the future full debate on any increases. The legislation follows, and I hope that my colleagues will join in sponsoring and supporting it.

MARITIME AUTHORIZATION BILL VETO

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mrs. SULLIVAN. Mr. Speaker, on January 4, 1975, the President vetoed H.R. 13296, a bill to authorize appropriations for the Maritime Administration. This is the first time that I can remember in all these years that the Maritime Administration authorization bill has been vetoed. The President vetoed it because he found unacceptable the amendment insisted upon by the Senate which would require the Federal Government to reimburse U.S.-flag fishing vessel owners for damage to their equipment by foreign-flag vessels. This amendment, of course, is nongermane and was not supported by any hearing record.

The House passed H.R. 13296 on June 5, 1974. For reasons unknown to me, the Senate withheld action on the bill until the closing moments of the 93d Congress and sent the bill back to the House festooned with nongermane amendments which had not been subject to the hearing process. Two of these three amendments were clearly nongermane, the other amendment was arguably germane. Thus, we found ourselves in conference the last week of the session, at which time we reluctantly agreed to the arguable germane amendment and the so-called fishing gear amendment. The Senate was adamant on this fishing gear amendment so we accepted it with several modifications. The other nongermane amendment was dropped.

The House conferees argued vigorously against the practice of encumbering simple bills with nongermane amendments unsupported by hearing records. However, the Senate was adamant on this fishing gear amendment. As a consequence, I found myself on the floor of the House, in practically the closing hour of the 93d Congress, explaining and arguing in favor of this nongermane amendment. This whole practice of encumbering our bills with nongermane amendments puts the House Members in a very difficult position, especially in the closing days of a Congress. It seems to me that this is the type of congressional legislative practice which is in crying need of reform. In this case, the addition of this nongermane amendment resulted in a Presidential veto, which means that both the House and Senate have to push the fiscal year 1975 authorization for maritime programs through the entire legislative process once again.

At the time of the consideration of the conference report on H.R. 13296, I discussed this matter at some length. My remarks in this regard are set out below:

STATEMENT OF THE CONFERENCE REPORT ON H.R. 13296, AFTER ALL NONGERMANE ISSUES HAVE BEEN RESOLVED

Mrs. SULLIVAN. Mr. Speaker, I urge approval of the conference report on H.R. 13296.

On June 4, 1974, the House passed H.R. 13296, to authorize appropriations for the fiscal year 1975 for certain maritime programs of the Department of Commerce. The bill has long since been approved by the House of Representatives and these maritime authorization items are meritorious, so I will not attempt to justify them again now.

Mr. Speaker, I would like to raise one very important point concerning this whole process which I think at least needs comment. The House sent H.R. 13296 to the Senate on June 4, 1974. For whatever reasons, the Senate did not act on this until last week, when it was then sent back to us on Friday last. This simple authorization of appropriations bill was festooned with three amendments by the Senate—two were clearly nongermane and the third was at least arguably germane. This latter amendment also was valid on its merits. The other two amendments raised many questions in our minds with respect to their substance—and mind you, Mr. Speaker, there was no hearing record to support any of these three amendments.

As a consequence, I was forced to ask for a conference with the Senate—so we found ourselves the last several days of the Congress sitting down trying to puzzle out the substantive merits of several of these amendments with no hearing record to aid us. Naturally, the Senators resented our questioning their amendments, and we resented being faced with these issues at the very end of the Congress—and being faced with the further embarrassment of probably being called to task on the House Floor when we presented the conference report with nongermane amendments.

In conference, the Senate finally agreed to recede from one nongermane amendment; we agreed with their amendment which we considered to be germane; and we modified the substance of the other amendment.

I would only say, Mr. Speaker, that I consider this whole procedure a very poor way to legislate. This whole authorization process should have been completed and enacted at least by July. Hopefully, under the new budget procedures, this will be so. The House was in ferment for almost the entire 93d Congress with respect to House reform, and never once did any of the reformers, or the House itself, address itself to such important matters as this. This whole business of holding bills and draping them with nongermane amendments which create problems over here, is in crying need of reform. I would hope that we can address ourselves to this very poor procedural process in hopes of improving it.

As I just mentioned, the authorization bill itself is meritorious and the amendment to establish a Great Lakes regional office, and the amendment to provide loans for recompensing fishing gear damaged by foreign vessels is meritorious. Thus, I strongly urge the House to support the conference report on H.R. 13296.

U.S. GUARANTEES IN THE MIDDLE EAST

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. BINGHAM. Mr. Speaker, almost a decade ago I suggested that consideration might be given to providing Israel with a formal treaty guarantee of Israel's borders by the United States, possibly within the framework of the North Atlantic Treaty Organization. Israel's spectacular successes in the 1967 war rendered any discussion of such U.S. treaty obligations unrealistic because there was no way to answer the question of what Israeli borders the United States would be guaranteeing.

Recently there has been renewed discussion of the possibility of American security guarantees in the Middle East. In a Time magazine interview President Ford was quoted as saying that such a commitment could not be seriously considered unless there was some further progress toward peace. For this statement he was criticized in some quarters. Other observers recognized the fact that Israel has made no request for such a guarantee and that the question is therefore not a live one.

Nonetheless, the question of whether a treaty relationship between the United States and Israel might at some point be a major factor in assuring peace in the Middle East will continue to arise. A most intelligent and interesting discussion of this question appears in today's Washington Post, written by Dr. John Lawrence Hargrove, director of studies of the American Society of International Law. The article follows:

GUARANTEEING ISRAEL'S BORDERS

(By John Lawrence Hargrove)

Three years ago, Sen. Fulbright proposed a U.S. security guarantee for Israel. Over a year ago, Secretary Kissinger was willing to entertain the possibility of a formal treaty for this purpose. Thereafter this newspaper endorsed the idea of a U.S. guarantee. It has been the subject of congressional hearings, and is now under public discussion again. It is an idea with an honored place in the history of talk about a Mideast settlement.

The question is: could a U.S. guarantee of Israel's borders have any useful role to play in a settlement itself? And could we afford the cost?

The answer, in my view, is "yes, if"—with the stress on both syllables: if we know what kind of guarantee we are talking about, the conditions under which it would be given, what we would be getting ourselves into, and what the Israelis would be getting out of it. The country is in no mood or position to return to the glory days when, as it now somewhat inaccurately seems, we went about the world passing out military commitments like Hershey bars.

In the overall scheme of a settlement, the intended role of any U.S. guarantee of Israel's borders is clear: to enable Israel to give up Arab territory without giving up military security. Instead of the forcible occupation of Arab lands which Israel has been using since 1967 in an effort to protect her own territory and compel a settlement, the idea would be to substitute a "collective self-defense" arrangement with the United States. Now, to many Israelis it is not clear that such a substitution would, in fact, render them any more secure than the present arrangement, despite the latter's terrible dangers. "So," they ask, "why take the risk?"

The answer at bottom is that "collective self-defense" against armed attack is a concept sanctified by the U.N. Charter and in principle legally and politically unassailable, even if now somewhat unfashionable. The Charter was seen by its framers as an effort to apply lessons learned from the catastrophic territorial aggressions of the inter-war period and World War II. By the same token, governments (whatever may be their own conduct records) and almost unanimously profess to regard the Charter as having ruled out seizure of the other fellow's territory as a means of settling even the gravest of disputes.

It is true that governments (as distinguished from government speech writers) are not thought to be really much moved on matters like the Middle East by such high flown considerations of legal rights and wrongs. Yet the widespread *perception* of Israel as on the wrong side of this fundamental issue of principle—territorial integrity—has been an important catalyst in the steady decline of her global political position as the years since 1967 dragged by without settlement. This deterioration was well-advanced, among developing countries even before the threat of a cutoff of Arab oil in 1973 made latter-day true believers in the Charter out of some of the Europeans. And it continued despite the fact that Security Council Resolution 242 (a 1967 achievement of American diplomacy which could hardly be duplicated today) makes Israel's obligation to withdraw conditional upon Arab respect for her sovereignty and territory. This same *perception* of Israel, as in continuing violation of literally the basic ground-rule of international life, has been used to great political advantage by the Soviet Union since 1967, notwithstanding its own brutal invasion of a small and weak neighbor during the same period. And it was an axiom of the anti-Israel, pro-PLO advocacy in the recent U.N. General Assembly which, along with the Arab deliberations at Rabat, produced a further erosion of Israel's political position.

So there is every reason why we as Israel's chief protagonist should be thinking harder about ways to place Israel's security on a legally and politically, as well as militarily, more tenable footing—even without our own addiction to oil and the twin spectres of Soviet aggrandizement and possible great-power confrontation to goad us toward a settlement. For this purpose a U.S.-Israel security guarantee may indeed be useful.

But an American guarantee must be of the right kind.

First, since the *sine qua non* is inducing Israel to withdraw, it must give Israel reliable assurance of physical security. This means that it must commit the United States to act alone if necessary, without either the approval or participation of other countries, if any, that might join in the guarantee. It means also that the guarantee must be in the form of a treaty obligation, for any legally weaker undertaking on our part would not be sufficiently attractive to the Israelis. Israel has had enough experience with tough-talking but non-binding multilateral declarations to know not to trust them any farther than she can throw the Egyptian army. The United States and a number of Europeans made such a declaration in 1957, in the aftermath of the Suez crisis, with respect to maintaining freedom of passage through the Straits of Tiran and the Gulf of Aqaba. Nasser's ineffectually challenged closure of the Straits 10 years later precipitated the June War.

Further, a U.S.-Israel treaty must be precisely tailored to the job at hand: protecting Israel against armed attack. A commitment to intervene militarily to enforce aspects of a Middle East settlement not directly related to territorial security from external threat—such as agreed arrangements respecting the Palestinian population, or obligations to refrain from bellicose propaganda—would be legally wrong and politically foolish. The British learned this lesson in the 1960 London-Zurich agreements setting up an independent Cyprus, which appeared (to Turkey at least) to give the latter a right to use force to maintain internal constitutional arrangements regulating relations between the Turkish minority and the Greek majority on the island. Those arrangements broke down, and Turkey's lonely assertion of a right of forcible intervention was an important component of the recurrent Cyprus crises of the ensuing period. It culminated in last year's Turkish invasion and a major debacle for U.S. policy.

Nevertheless, the treaty should be concluded only as part of a comprehensive peace settlement, not as an interim measure. This is mainly because we must know in precise geographic terms what we are committed to defend—and there will be no accepted definition of borders for Israel except as a part of a settlement. It is unthinkable that the United States would agree now to assist Israel in defending against an attack on her forces wherever they may be, making us a co-participant in the occupation. And to agree, in advance of a settlement, to defend Israel behind the pre-June-War lines established in 1949 would be equally untenable. For one thing, this would amount to throwing away a major chip in the bargaining for a settlement. More fundamentally, it would commit the United States to involvement in an anti-guerrilla operation in the Middle East, since it is only through a general settlement that the underlying causes of the sporadic acts of paramilitary violence that Israel has suffered since 1949 will be dealt with, if at all. We should know by now—and Israel presumably does know—that for some time to come we would be hard put to sustain another open-ended limited war to defend someone else's territory.

Moreover, we should insist, if we are to become involved in guaranteeing a settlement, that it be put in effect under the aegis of the United Nations and that it wisely exploit the resources of that surprisingly resilient organization. For thereby a measurably greater likelihood of stability can be achieved: Through Security Council enactment a settlement can be raised to the level of an obligation under the U.N. Charter, less easily reneged on than a mere contract between Israel and the Arabs. It can be guaranteed by U.N. forces such as those now patrolling the cease-fire. By these and other measures, responsibility for the settlement can to some degree be distributed among the world community rather than the superpowers alone. And at the same time, Security Council enactment of a settlement provides the most acceptable vehicle for joint participation by the U.S. and the U.S.S.R. in a settlement guarantee, which is by no means inconsistent with a bi-lateral U.S.-Israel treaty.

Finally, a guarantee treaty should not contribute to setting in concrete any U.S.-Soviet polarity in the Middle East. Even after a peace settlement, the area may tend to become carved up between two complexes of military alliances—one involving Israel and the United States, the other the Soviet Union and some of Israel's Arab neighbors. An outright U.S.-Israel mutual defense treaty might tempt the Soviets, for example, with their traditional dream of permanent establishment in the Middle East, to look for a propitious moment to press for escalation of their present vague "treaty of friendship and cooperation" with Egypt to the same level. Accordingly, an American guarantee to Israel might well be accompanied by a declaration of intention to defend the territory of her

Arab neighbors against the unlawful use of force, at their request, and an offer to conclude treaties with them to that effect.

In sum, a U.S.-Israel security treaty should be seriously considered as a useful component of a Middle East peace. But the wrong treaty could well be worse than no treaty at all.

A CHEERFUL NOTE

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. DAN DANIEL. Mr. Speaker, in these times when there is so little good news, it was refreshing to read the editorial "A Cheerful Note" in the Danville Register on January 3.

The points covered in the editorial are self-explanatory, but the prospects to which it refers are encouraging to those who recognize the tremendous problems involved in feeding not only our people, but those in other nations of the world.

I commend the reading of this editorial to the Members of the House.

The editorial follows:

A CHEERFUL NOTE

Looking for some good news amid too much that is bad? Well, take a look at the crop report for winter wheat planting. It's up six per cent to 55 million acres, the most since 1953.

The Crop Reporting Board of the U.S. Department of Agriculture said in December that this planting could produce a record 1.6 billion bushels, which would be an increase of 15 per cent over the 1974 peak of 1.3 billion bushels.

Winter wheat accounts for about three-fourths of the U.S. bread grain. If it is planted in the fall, lies mostly dormant in winter and then matures for harvesting in the spring and summer. It grows mostly in the Great Plains area and give that part of the country the name of America's breadbasket.

The total wheat crop has not been estimated. The 1974 production of spring wheat—the kind grown in our part of the country—was about 402 million bushels. Thus, if the 1975 crop holds about the same, total wheat production this year would be about two billion bushels.

Official estimates of the harvest forecast an average 28.8 bushels an acre, compared to 26.5 bushels an acre for the 1974 crop.

The significance—and the good news—in the prospects for the wheat crop this year—is that the harvest will enable the U.S. to rebuild its reserves to a safe margin to see us over the rough spots in meeting domestic needs and filling current commitments abroad.

American grain has been one of our major exports. It has helped our economy, even though sales and giveaways abroad raised the price of bread too fast and too high to suit consumers.

Those sales to the Soviet Union were far from the only drain on our grain crops. It is worth noting that the U.S. provided 84 per cent of all food contributed to needy nations and peoples over the past 8 years.

Since India shot Bangladesh out of Pakistan in 1972, our own nation has provided a third of the food sent in to avert famine. And another 250,000 tons of wheat and rice were committed to Bangladesh last year.

India, sometimes scornful of U.S. assistance, has received more help from us than from any other nation since it became independent. India still looks to the U.S. for donations of grain and other supplies to the amount of nearly $100 million a year.

Along with our grains and other foods, the American people and their government have given vast quantities of fertilizer where most needed. In the crop year that will end with the mid-year, the U.S. will have given 329,000 tons of fertilizer to help grow crops in food-short nations even while experiencing shortages of certain fertilizers in our own corn belt.

Our grain crops and our record of helping food-short nations even when they bite the hand that feeds them is one that will stand unchallenged by any other nation on earth. It is and should be a source of some satisfaction and a justification for confidence in ourselves and the future.

THE UNITED NATIONS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. FRASER. Mr. Speaker in recent weeks the New York Times has printed two very thoughtful letters concerning the United Nations. The first appeared December 28, 1974, and was written by Roger N. Baldwin. The letter was headed "The U.N. Approaches Its Goal," and Mr. Baldwin points out that:

> The Assembly was never intended to have other but the moral force of its recommendations; they are deliberately unenforceable, and should be if such a world forum is to operate freely with nobody compelled to follow its advice. . . . It can fairly be asserted that only by satisfying the claims of national identity can the United Nations function as a universal agency for mankind. For the first time the General Assembly is close to that goal; it is stronger for it. Any hope for disarmament, the surrender of sovereignty for common services and law to settle conflicts or assure human rights depends on the freedom of states and their sense of security. Only as the smaller states get that sense will they make common cause with the powers who with their allies so long controlled them.

The second letter, authored by Edward Ramberg, Secretary of the U.N. Subcommittee of the Friends Peace Committee appeared in the Times January 6, 1975. He, too, commented on Ambassador Scali's December 6 U.N. speech critical of General Assembly action. Mr. Ramberg's letter is printed below, immediately after the text of Mr. Baldwin's letter:

THE U.N. APPROACHES ITS GOAL

TO THE EDITOR: Your editorial of Dec. 13 on the erosion of the United Nations by the "irresponsible behavior" in the General Assembly of an "automatic majority" of the new African-Asian states, assisted by the Communist bloc, suggests its survival is at stake.

Permit an old hand around the United Nations, since its origin to dissent. I submit that the new "automatic majority" far better fits the concept of what the U.N. was intended to be than its previous character when the Western states played so dominant a role in half the present membership and with racist tones of white supremacy. Human rights in the U.N., however defined, rest on equality.

What should the General Assembly be unless an association of equal sovereign states now for the first time representing the whole world? How else can it function except by majority vote? The Assembly was never intended to have other but the moral force of its recommendations; they are deliberately unenforceable, and should be if such a world forum is to operate freely with nobody compelled to follow its advice.

Of course it was wrong for the "automatic majority" to limit debate and suspend South Africa; but good sense does not prevail over such passions as our nationalist era arouses. Recognition of the Palestine Liberation Organization as the voice of the stateless Palestinians, however lawless its character, was inescapable after its recognition by every Arab state. It was the U.N. itself that created a Palestinian state which the Arab states blocked by their war on Israel. Was the Assembly irresponsible?

It can fairly be asserted that only by satisfying the claims of national identity can the United Nations function as a universal agency for mankind. For the first time the General Assembly is close to that goal; it is stronger for it. Any hope for disarmament, the surrender of sovereignty for common services and law to settle conflicts or assure human rights depends on the freedom of states and their sense of security. Only as the smaller states get that sense will they make common cause with the powers who with their allies so long controlled them.

Mark Twain once observed that few things in history happen at the right time. Plainly it has been the wrong time for a dis-United Nations to unite the world in the face of an unchecked arms race, a divisive cold war, a colonial revolution and fear for national security. It is a miracle we have got so far.

ROGER N. BALDWIN,
New York, Dec. 18, 1974.

THE U.N.: MORE REPRESENTATIVE TODAY

TO THE EDITOR: The address of Mr. Scali, the chief United States delegate to the U.N., on Dec. 6 to the General Assembly of the U.N. criticized what he deems ill-considered and one-sided actions by the voting majority of the General Assembly, made up primarily by the developing nations. He would rather—and who would not?—have the statements issuing from the General Assembly represent true expressions of consensus of the entire world.

This would demand, however, a degree of restraint by the present majority which, Mr. Scali chooses to forget, the United States failed to exercise when it controlled a majority of United Nations votes. When we regret actions excluding South Africa from effective participation, we must remember the decades during which the United States successfully maneuvered to exclude the most populous country in the world, mainland China, from the U.N. When we object to unilateral actions by the present Assembly, can we forget that, in 1950, the United Nations were made a party to the war against North Korea, clearly in direct opposition to the Soviet Union and its partners?

Mr. Scali regrets particularly that the present unilateral actions tend to erode the support for the United Nations in the United States. While this is true, it is even more true that the unfortunate emphasis placed in the American press on his criticism is likely to serve as justification for a further withdrawal of support.

This would be most regrettable. The United Nations today is far more representative of the world's people than it was when it could be counted on to do the bidding of the United States Government. As the British delegate pointed out in the Assembly debate, the majorities which backed the actions of the Assembly arousing Mr. Scali's displeasure are in fact enormous. They do represent large majorities, of populations as well as of states, and it is proper and desirable that we should listen to these majorities. Our great comparative wealth must not delude us that we can make "Projects Independence" viable in the field of food and environmental conservation any more than in the field of energy, even if we disregard the ethical demands which the brotherhood of mankind makes on us.

All of us are, in effect, interdependent inhabitants of a common spaceship, and must be prepared to adjust our wants and needs to those of our fellow travelers. Furthermore, as believers in democracy at home we should be ready to recognize the extensive rights which democracy yields to the majority at the global level. If we can achieve this degree of objectivity we shall support the U.N. and utilize its great potential in dealing with the major problems faced by the world.

EDWARD RAMBERG.

PHILADELPHIA, *December 18, 1974.*

SUGGESTIONS FOR CONSERVING FUEL

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. EILBERG. Mr. Speaker, the Nation's energy problems are a source of concern to all of us in Government and in private lives and we have heard many suggestions for dealing with this situation.

I recently received letters from young people in my district which contain their suggestions for solving the energy problem and at this time I enter into the RECORD four of them:

DEAR HONORABLE SIR: I am writing this letter to you because we were assigned by Social Studies teacher to write our Congressman a letter.

I am thinking about a suggestion about the energy crisis. I think that if you have a check like every month on how much people use up of their electricity, heat, gas, etc. . . . and find out like who goes over their limit of gas, etc. . . . and let them know that they have done a bad thing. You can also maybe start an ad in the paper and have their name in the paper under "energy wasters."

Sincerely yours,

GWEN ROSEMAN.

DEAR CONGRESSMAN: In relation to the oil-gas shortage, I think we should start rationing gasoline. After all there are other ways of transportation. We have buses or should I say trolleys that are run with electricity, and there are now nuclear power plants to make the electricity.

I think it is time we stop letting the Arabs get away with so much before they "have us over a barrel."

Yours truly,

MIKE ANGERT.

DEAR SIR: I am writing to you for a homework assignment. The assignment is to write to my Congressman about any issue pertinent to present day.

I have decided to make a suggestion about the energy crisis. Find, every month, the people who have exceeded a certain amount of gas, electricity, etc. and print their names in one or more newspapers labeling them as "energy hogs."

Incidentally thank you for the flag that flew over the Capitol Building that you presented to my Scout Troop 53.

Sincerely yours,

JIMMY MCHALE.

DEAR HONORABLE SIR: I am an eighth grade student at Fel's Junior High School. In Social Studies we had an assignment to write a letter to our Congressman, Senator or President, and to write about a problem that we don't like. I chose the problem about the government complaining about conserving energy when they are letting stores open on Sunday. Stores use a lot of electricity and open 7 days a week isn't helping the matter. I would like to know your opinion on this subject if you have time. I would really appreciate it. So thank you for reading this letter.

Sincerely yours,

CAROL SAMPSON.

TRIBUTE TO AMBASSADOR R. DOUGLAS STUART

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. McCLORY. Mr. Speaker, one of the Nation's most respected citizens, my constituent, R. Douglas Stuart, passed on recently in Lake Forest, Ill., at the age of 88.

Doug Stuart's business career was with the Quaker Oats Co., where he served during his younger years as a laborer and in many training positions, later rising to become chairman of this large and public-oriented company.

In addition to his highly successful business career, Doug Stuart participated in the civic, political, and public life of our Nation. His special interest in young people resulted in outstanding service to the Boy Scouts of America, where he served on the national executive committee and as president of its Chicago council.

Doug Stuart participated actively in the Republican Party at virtually all levels, and his political activity culminated in service as Treasurer of the Republican National Committee from 1948 to 1953.

Mr. Speaker, R. Douglas Stuart attained his most honored role in our Nation as our U.S. Ambassador to Canada following his appointment by President Eisenhower in 1953, and continuing until he resigned the post in 1956.

Mr. Speaker, in addition to Ambassador Stuart's great public, civic, and business attainments, he was most importantly an exemplary citizen of our great Nation. He set a standard which all Americans admire—and which many will strive to emulate.

Faithful and devoted to his wife, Harriet, to whom he was married for more than 50 years, Doug Stuart loved and nurtured his son and daughters. The effect of this attention to home and family is evidenced by the successful careers of his children: his son, Robert D. Stuart, Jr., now serves as chairman and chief executive officer of the Quaker Oats Co., and until recently represented the State of Illinois on the Republican National Committee; his daughter, Margaret—Mrs. Augustin S. Hart, Jr.—of Lake Forest, serves as president of the Lake County Republican Federation; his daughter, Anne—Mrs. C. B. Batchelder—of Omaha, Nebr., has been Republican national committeewoman for the State of Nebraska, and was recently the unsuccessful Republican candidate for lieutenant governor. His daughter, Harriet, of Minneapolis, Minn., is the wife of Edson W. Spencer, president and chief executive officer of Honeywell, Inc.

Mr. Speaker, in addition to his children, Ambassador Stuart leaves 17 grandchildren and 5 great-grandchildren, all of whom contribute to the prestige of the Stuart family.

Mr. Speaker, it is good to know that in addition to his long and successful life, R. Douglas Stuart continued in an active physical role and enjoyed excellent health until the final hours of his earthly life.

At the funeral services held in the First Presbyterian Church of Lake Forest on Tuesday, January 7, 1975, there were gathered together many of the leading figures of our national, political and economic life. I was privileged to attend the services as a friend of Doug Stuart and his family, as well as his Representative in the U.S. Congress. Also present were our former Congresswoman Marguerite Stitt Church and representatives from Canada and several other foreign nations.

Mr. Speaker, it is entirely appropriate that we should pause at this period and pay due honor to one of our Nation's great citizens, Ambassador R. Douglas Stuart, and to extend our respect and sympathy to his widow, Harriet, and to all members of his family.

FEDERAL GOVERNMENT'S CONTRIBUTION TO FEDERAL EMPLOYEES HEALTH AND LIFE INSURANCE PROGRAMS

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. DOMINICK V. DANIELS. Mr. Speaker, in the 93d Congress, the House approved legislation which would have gradually increased the Government's share of contributions to premium charges under the Federal employees health benefits program to 75 percent In conference with the Senate, such contributions were reduced to the current 60 percent level.

I am today introducing legislation to accomplish the objective of the original House bill. My bill proposes to increase the Government's contribution to 65 percent in January 1976, to 70 percent in January 1977, and to 75 percent in January 1978.

In addition, the bill also proposes to increase the Government's contributions to premium charges under the Federal employees group life insurance program which has remained unchanged since the insurance law's inception 20 years ago. It proposes to increase the employer's share of premium from one-third to one-half of the charges, thereby sharing equally with the employee the costs of his group life insurance coverage.

I am hopeful that the Committee on Post Office and Civil Service will consider the relative merits of this legislation at the earliest practicable date.

INTRODUCTION OF EMERGENCY HOMEOWNERS' RELIEF ACT

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. ASHLEY. Mr. Speaker, I rise to introduce today a proposed Emergency Homeowners, Relief Act of 1975. Basically, this legislation would authorize the Secretary of Housing and Urban Development to enter into assistance agreements with homeowners having difficulty making their mortgage payments under current economic conditions due either to recent unemployment or to a reduction or shift in employment which results in a serious drop in income.

I believe that a review of the following facts will demonstrate that there is a need to activate such an emergency program as soon as possible.

GNP declined by an estimated 2 percent in 1974 compared with 1973—in dollars of constant purchasing power. The economy is now in a recession of unpredictable depth and duration. The unemployment rate has already risen from its 1973 low point of 4.5 to 7.1 percent in December 1974, and it is expected to rise to higher levels as we feel the adverse effects of sharp declines in residential construction, automobile manufacturing, and other activities.

Mortgage payments are relatively high in relation to income and savings for millions of homeowner families. This burden is felt particularly by young workers who acquired their homes in recent years at high prices with mortgages at high interest rates. Unemployment rates among this group will be above average, and their savings are too small to permit them to keep up their mortgage payments for any extended period of unempoyment. Heating and other utility costs rose by 19 percent in the Consumer Price Index between November 1973 and November 1974, further adding to the burden of moderate-income homeowners.

For millions of homeowners of all ages the equity in their homes represents their greatest asset. Furthermore, many of them would have to pay more for housing at today's inflated prices and rents if they were forced to live elsewhere. Although many mortgages are insured today, they are insured to protect the lender-mortgagee against loss, not the homeowner mortgagor.

In addition, to the losses incurred by individual homeowners if massive foreclosures take place, you must add the losses to lenders and to the entire economy which are likely if an attempt is made to liquidate literally hundreds of thousands of mortgages in the current depressed housing market.

There are some 45 million owner-occupied homes, including about 35 million on which mortgage loans are outstanding. The mortgage foreclosure rate on all properties for the first three-quarters of 1974 was only about 0.4 of 1 percent, according to a quarterly index published by the Federal Home Loan Bank Board. This rate was essentially unchanged from 1973. The delinquency rate on 1-to-4 family properties, which indicates the movement of further foreclosure rates, however, rose significantly in the third quarter of 1974. It increased from 4.01 percent on June 30 to 4.23 percent on September 30.

The rate for seriously delinquent loans, those with two or more payments past due, was at a near-record high of 1.2 percent. The number of seriously delinquent loans in September 1974 was approximately 420,000. Since delinquency rate increases tend to lag behind unemployment increases by one to two quarters, a big jump can be expected by mid-1975. If the rate rises to 1.5 percent, about 525,000 families would be in peril of losing their homes.

The mortgage foreclosure rate published quarterly by the Federal Home Loan Bank Board reflects foreclosures of all types of mortgaged properties, but is bound to reflect the movement of 1-to-4 family residential property foreclosures, since such properties represent by far the majority of mortgaged properties. Starting with 1970, the FHLBB foreclosure rate has been as follows:

Foreclosure rate in percent of mortgaged properties

Period:	
1970	0.344
1971	0.380
1972	0.411
1973	0.405
1974, 1st quarter	0.397
1974, 2d quarter	0.421
1974, 3d quarter (preliminary)	0.400

If the percentage should rise to 0.5 percent, as it is likely to do if current trends continue unabated, it would probably reflect 175,000 foreclosures of homes. A strong case then can be made for providing an emergency program to counteract this trend toward an increasing number of foreclosed property sales in an already depressed housing market.

The text of the bill is attached:

H.R. —

A bill to authorize temporary assistance to help defray mortgage payments on homes owned by persons who are temporarily unemployed or whose incomes have been significantly reduced as the result of adverse economic conditions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Homeowners' Relief Act."

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the Nation is in a severe recession and that the sharp downturn in economic activity has driven large numbers of workers into unemployment and has reduced the incomes of many others;

(2) as a result of these adverse economic conditions the capacity of many homeowners to continue to make mortgage payments has deteriorated and the delinquency rate on home mortgages is increasing rapidly; and

(3) many of these homeowners can retain their homes with temporary financial assistance until economic conditions improve.

(b) It is the purpose of this Act to prevent widespread mortgage defaults and the distress-sale of homes resulting from the temporary loss of employment and income by authorizing emergency advances to distressed homeowners to defray mortgage expenses.

EMERGENCY MORTGAGE RELIEF PAYMENTS

SEC. 3. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized and directed to make repayable emergency mortgage relief payments on behalf of distressed homeowners in accordance with the provisions of this Act when he determines that such action is necessary to avoid foreclosure and that there is a reasonable prospect that the homeowner, with the assistance authorized under this Act, will be able to make the adjustments necessary for a full resumption of mortgage payments. Mortgage relief payments on behalf of any homeowner may be in an amount up to the amount of the principal, interest, taxes, hazard insurance, and mortgage insurance premiums due under a mortgage or mortgages covering a dwelling owned and occupied by the homeowner as his principal residence, but such payments shall not exceed $375 per month. Mortgage relief payments may be applied toward any unpaid amounts due under the mortgage or mortgages and may be paid in a lump sum, applying the restrictions in the preceding sentence to each month's unpaid amount.

(b) As used in this Act the term "distressed home owner" means one or more individuals who own and occupy a dwelling as a principal residence and whose income has declined by more than 20 per centum because of unemployment or other adverse economic conditions.

(c) Mortgage relief payments may be made by the Secretary for a period not exceeding two years, but may be terminated by the Secretary at any time if he determines that the homeowner can resume making mortgage payments in full. The amount of the payments to any distressed homeowner may be increased or decreased during this period to the extent deemed appropriate by the Secretary, subject to the limitations prescribed in subsection (a).

(d) Mortgage relief payments made under this Act shall be repayable by the homeowner upon such terms and conditions as the Secretary shall determine and the Secretary may require such security for such repayment as he deems appropriate.

ADMINISTRATION

SEC. 4. (a) The Secretary may delegate any of his functions under this Act to such other federal agencies, public bodies or agencies, and private entities as he deems appropriate to ensure prompt and efficient implementation of the assistance program authorized by this Act. The Secretary may make payments to cover the administrative costs incurred by any such delegees and by mortgagees holding mortgages with respect to which mortgage relief payments are made. The Secretary may waive any of the requirements and limitations of this Act in cases of extreme hardship.

(b) The Secretary is authorized to establish a revolving fund to provide for (1) mortgage relief payments authorized under this Act; (2) payment of obligations issued to the Secretary of the Treasury under subsection (c) of this section; and (3) any other program expenditures, including administrative and nonadministrative expenses. Such revolving fund shall be comprised of (1) repayments, interest income, and any other receipts obtained in connection with mortgage relief payments made under this Act; (2) recoveries under security, subrogation, and other rights; (3) proceeds of the obligations issued to the Secretary of the Treasury pursuant to subsection (c) of this section; and (4) such sums, which are hereby authorized to be appropriated, as may be needed from time to time for the payment of the obligations issued to the Secretary of the Treasury. Money in the revolving fund not currently needed for the purpose of this Act shall be kept in cash on hand or on deposit, or invested in obligations of the United States or any agency thereof or guaranteed thereby.

(c) The Secretary may issue to the Secretary of the Treasury his obligations in an amount outstanding at any one time sufficient to enable the Secretary to carry out his functions under this Act. Each such obligation shall mature at such time and be redeemable at the option of the Secretary in such manner as may be determined by the Secretary, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Secretary. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this Act, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Secretary's obligations hereunder.

(d) The Secretary shall issue guidelines for the implementation of this Act which will facilitate the making of an expeditious determination as to the eligibility of a homeowner and the amount of mortgage relief payments to be made.

EXPIRATION DATE

SEC. 5. Mortgage relief payments shall not be made after July 1, 1976, except to homeowners receiving payments on such date.

FORD TRYING TO BRING BUDGET UNDER CONTROL

HON PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. CRANE. Mr. Speaker, the current economic difficulties facing the Nation make it imperative that Government spending reflect the fact that funds are not unlimited and that a policy of continuing to spend more money than is produced by tax revenues simply fuels an inflation rate which is already out of real control. For Members of Congress and others to discuss grandiose spending plans such as national health insurance at a time when we are unable to pay for programs already in existence is the height of fiscal irresponsibility.

Given the state of our economy, it is essential that President Ford be supported in his efforts to cut nonessential spending from this year's budget and, as a result, lower the Federal deficit. There are those who criticize every cut in domestic spending, while urging cuts only in spending for national defense. Such a view ignores the fact that it is domestic spending which is the major culprit in our mounting deficits.

Spending on domestic social and economic programs already accounts for more than 25 percent of the gross national product and is growing at a rate of 13.1 percent per year. Outlays in nondefense areas have skyrocketed from $72.8 billion in 1968 to $194.6 billion in 1976 at the Federal level alone. Defense spending, to the contrary, is now allocated at slightly less than 5.9 percent of the GNP.

Discussing the plans for budget cuts of the Ford administration, columnist John D. Lofton, Jr., notes that:

What President Ford is trying to do is bring into line a federal budget that is out of control. The present budget of about $300 billion, in a stack of $1 bills, would make a pile 20,360 miles high . . . what President Ford is attempting to do in reducing federal spending for social programs, is decrease government spending in those areas in which it has risen most rapidly.

I wish to share Mr. Lofton's column as it appeared in the Orlando, Fla., Sentinel, with my colleagues and insert it into the RECORD at this time:

FORD TRYING TO BRING BUDGET UNDER CONTROL

(By John D. Lofton, Jr.)

WASHINGTON.—President Ford's decision to include certain social programs in his recommended $4.6 billion cut in the federal budget, has predictably drawn screams of anguish and howls of outrage.

Nelson Cruikshank, head of the National Council of Senior Citizens, has accused the President of using "political chicanery" to "rob the sick and old." And Sen. Hubert Humphrey—who once said that between the platforms of Santa Claus and Scrooge he would "stick with Jolly Santa"—has likewise blasted Mr. Ford for "pennypinching short cuts" which take money out of the pockets of veterans, the elderly and the poor.

Humphrey says he finds the President's budget cuts "incomprehensible," and does not understand why, when military spending accounts for about a third of the budget, we can't significantly delay or even cancel some of our weapons systems.

Now, the reality of the situation is that over the years the social program portion of the federal budget has steadily increased while the defense budget has decreased.

And evidence to back up this assertion is all over the place.

Writing in the November issue of "Government Executive," C. W. Borklund says that defense spending is no longer, or at least shouldn't be, the central issue in government fiscal problems.

What should be, he says, is the almost uncontrolled growth in spending on domestic social and economic programs, already more than 25 per cent of the GNP in federal moneys alone and growing at a rate of 13.1 per cent per year.

Outlays in this nondefense area have skyrocketed from $72.8 billion in 1968 to $194.6 billion by 1976 just at the federal level alone.

As for defense spending, it is now allocated at slightly less than 5.9 percent of the GNP and its buying power is somewhere between its previous low since World War II in President Truman's pre-Korea days and its next lowest, in the immediate post-Korean war era of President Eisenhower. Compared to the 5.9 percent of the GNP going to defense, 5.8 percent of the GNP goes for Social Security.

In other words, we are spending almost as much for Social Security as for national security.

"The fact is," says Borklund, "defense critics, out of design or ignorance, have perpetuated a myth. Since 1968, when their attack on military spending first gained notable force, defense outlays have shown an average annual increase of 2 per cent."

In another article on this same subject in the fall issue of the publication "Foreign Policy," Philip Odeen points out that defense "has a smaller impact on U.S. economic performance today than it has had at any time since the 1940s." Odeen cites such things as the following:

The Pentagon uses only about 3 per cent of goods and services produced by the private sector of our economy, whereas defense accounted for twice this amount in the 1960s.

During the 1950s, half of this country's research and development effort was defense-related. In the early '60s, that percentage dropped to 40 per cent, and today is only about 25 per cent.

Defense-related employment comprises only 5.3 per cent of today's labor force, compared to 7.9 per cent 10 years ago and more than 10 per cent in the 1950s.

What President Ford is trying to do is bring into line a federal budget that is out of control. The present budget of about $300 billion, in a stack of 1 dollar bills, would make a pile 20,360 miles high. Laid end to end, the bills would stretch 29.1 million miles, enough to circle the earth 1,170 times.

To store this much dough in 1 dollar bills would require a warehouse two miles long 20 feet high and 37 feet wide.

If you started spending the present budget at the rate of $10,000 a minute from the time you were born, you would be 57 years old before it was gone.

So, what President Ford is attempting to do in reducing federal spending for social programs, is decrease government spending in those areas in which it has risen most rapidly. This is some simile and seems so fundamentally correct that it ought to be comprehensible even to Hubert Humphrey.

POLITICIANS AND EDUCATORS

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Ms. CHISHOLM. Mr. Speaker, unfortunately, communication between politicians and educators is often frustrated by deep-seated animosities on both sides. The following article by Samuel Halperin, director of the Institute for Educational Leadership, which appeared in the Phi Delta Kappan in November, presents a basis for better understanding.

Mr. Halperin was deputy assistant secretary for legislation in HEW from 1966 to 1969. Prior to that he was assistant U.S. Commissioner for legislation in the Office of Education. As you can see, Mr. Halperin knows whereof he speaks.

The article follows:

POLITICIANS AND EDUCATORS: TWO WORLD VIEWS

For over five years George Washington University's Educational Staff Seminar (and, more recently, related programs in the Institute for Educational Leadership) has been building bridges of communication and understanding between educators and political decision makers. Through a variety of educational formats—field trips, seminars, dinner/discussion meetings, etc.—we have brought these two groups of professionals together. We have done so in the belief that better educational policies for the nation hinge upon the ability of politicians to comprehend and to utilize the expertise of educational practitioners, while at the same time all kinds of educators must understand the political context in which major educational decisions are shaped.

We soon discovered that effective communication and understanding were generally frustrated by deep-seated animosities on both sides of the professional Mason-Dixon line.*

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* There is probably nothing unique here to the field of education. I believe similar gulfs exist between politicians and other professional groups—scientists, physicians, etc.—and the language of their discord is not too dissimilar to that reported here.

While this finding is hardly novel, what did prove surprising was the intensity of feeling and the variety of allegations surrounding these animosities.

What follows is an attempt to detail the varied perceptions which are held by educators and politicians. Rather than report that "they don't think too much of each other," let us look at the actual language they employ to justify their shared disdain. The quotations which follow are composites I have experienced in various encounters with educators and politicians. Studying them, putting ourselves in "the other guy's shoes," and modifying our respective behavior patterns may help narrow the chasm between these key actors, whose fullest talents are necessary in order for our educational system to operate with a reasonable expectation of success.

THE EDUCATOR'S VIEW OF POLITICIANS

Here are the most commonly expressed complaints of educators:

1. Politicians have a short-term view of the world. They seldom deal with the broader picture, the longer range, the sophisticated interplay of social forces. Moreover, politicians are too pragmatic and too quick to compromise issues of great importance when they ought to stand on principle. They shoot from the hip when they ought to take time for careful analysis and reflection. Their narrow vision doesn't let them see the implications of their acts nor the interdependence of their decisions. Such behavior isn't unethical, but it certainly is unwise and, often, disastrous for education.

2. There's also an unethical or, at least, less ethical side to politicians' involvement with education. Politicians politicize everything they touch and view education only in terms of political fortunes and outcomes. They won't help education because it's right to do so, but only if they can get some political advantage out of it.

3. The politicians' primary interest is in their own constituencies and their narrow sectional, ethnic, regional, or economic interests. When do they consider the welfare of all the people in this country?

4. Politicians are poorly informed on educational issues. They seldom take the trouble to master the complex issues we have to deal with. Some of them think that just because they went to school themselves or have kids in school, they automatically possess educational expertise.

5. There isn't any continuity in the political process. Legislators pass a law and proclaim a policy. But we educators can't count on it because, in another year, the legislature forgets about last year's favored programs and passes on to new fads. Or else legislators don't fund the programs they've enacted. Or they move off the education committees to more attractive committee assignments. Or the understandings we reached with members and committee chairmen are forgotten when the new legislature convenes. Whatever the case, dealing with legislatures lacking an institutional memory or substantive commitment is like building a castle with dry sand.

6. Politicians tend to be arrogant and often show contempt for anyone who is not a political peer. Instead of acting as if public office is a public trust, to be exercised with humility, politicians seem to delight in throwing their weight around and in humiliating educators. Indeed, many politicians go out of their way to make us feel that we educators are the enemy of education.

THE POLITICIAN'S VIEW OF EDUCATORS

1. Educators are seen by many politicians as arrogant and, worse yet, sanctimonious. Educators act as if they are the only ones who have high standards and any sincere commitment to decent public service. They act as if educators have all the answers and frequently treat us as petty creatures, not very bright, not very honest. Educators see themselves as responsible professionals but view us as political hacks.

2. In order to frame social policy, we need facts, not generalities. We also need practical responses to immediate problems. Yet rarely do educators have the information we need to make sound policy. Sometimes we suspect that they withhold information we are entitled to.

3. Educators ought to know how to communicate, but there are few groups that speak less clearly, less concisely, and with more obfuscation. Instead of precise, comprehensible, here-and-now language, what we get is usually too olympian, too utopian, too abstract, or too fuzzy to be helpful. The other side of this talking over our heads in jargon and verbiage is a tendency of many educators to talk down to us. In either case, real understanding is seldom advanced by the way educators communicate with us.

4. Particularly at the federal level, there is practically no continuity among the educational policy makers with whom we have to deal. Most of us on the congressional education committees have been around 10 to 15 years; in that time we have seen a new commissioner of education and a new secretary of Health, Education, and Welfare every two years or less. Under such circumstances it is hard to take them or their promises very seriously.

5. Educators have little understanding of the legitimacy and importance of the political process. This ignorance is expressed in many ways:

Educators view our difficult work of negotiating, compromising, balancing interests, and refining or fine tuning public policies as dirty, underhanded, or even immoral. If we don't give educators everything they want when they want it, they act as if incrementalism is evil, show little appreciation for the progress made, and damn us for letting the kids of America down.

Educators also run counter to sound political practice by splitting, that is, by playing off their part of education (higher, elementary/secondary, libraries, etc.) against other educational interests. Instead of a united educational front, we are faced with warring factions, a situation in which almost everyone loses.

If politicians suggest that educators build coalitions with powerful noneducator groups, educators respond with righteous indignation that they are above politics. The fact is that some of the most effective lobbyists for education are not educators but groups like organized labor, civil rights and church groups, and general citizens associations, depending on the issue.

Educators often play up to the executive branch bureaucrats and policy makers and even take sides against the legislatures. They seem oblivious to the fact that our various constitutions provide for coequal branches of government with basic policy supposedly being forged in the legislative bodies.

6. Educators only want more money. They seldom consider how to raise public revenues nor do they recognize that we live in a tough world with many competing priorities.

7. Educators give lip service to accountability but fail to do anything to bring it about. They are afraid to tell the taxpaying public what it gets for its huge investments in education. They agree with the need for accountability, but then they tell us they are professional people and that we don't have to worry about their acting in a responsible manner.

8. Educators refuse to admit that, just like other groups, they are promoting their own interests, economic and professional. Sometimes it is hard for politicians to know whether what educators propose is good for education or merely good for them. They spend so much energy talking about the profession—when was the last time you heard them talk about what was good for kids?

A START TOWARD BRIDGE BUILDING

As we have seen, the grievances and gulfs separating educators and politicians are many. While it is neither feasible nor desirable to work things out by enrolling all of these combatants in encounter groups and other forms of interpersonal therapy, a start can be made if sincere attention is given to the troublesome world views which prevail today. Reaching out with some understanding of how "the other side" might view the meeting can't hurt. It might even help to forge a much-needed bridge over the troubled waters of contemporary educational policymaking.

DIRECTIONS FOR THE NEW YEAR

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. BROWN of California. Mr. Speaker, during my years in public office I have attempted to address fundamental questions and contribute to the social changes that I perceived were necessary for enhancing the quality of life.

As the world population has grown, and the demands of our modern, technological society have increased, I have gradually shifted my attention to global environmental problems. The limits to growth, which we all know exist, are rapidly being reached. There are no technological fixes that will eliminate the need to change our life-styles. We must shift from a worship of the god of economic growth to an acceptance of the limits of the natural system.

The San Bernardino Sun-Telegram, which is one of the newspapers in my congressional district, addressed this important issue in an unusual New Years Day editorial. This paper should be commended for its thoughtful and courageous presentation of the issue of destructive, short-term, economic growth.

I strongly urge my colleagues to review this editorial, which I will place in the CONGRESSIONAL RECORD at this time:

The editorial follows:

REFLECTIONS FOR NEW YEAR

Having drunk so deep and so long the promises of technology finds us today in a state of inebriation. The inevitable hangover, if not already being suffered, may not be far off in coming.

We have committed ourselves to economic growth at all costs. In our euphoric intoxication with the belief that technology can solve everything and meet all wants, the cry for true social progress has not been heard.

In this commitment to economic growth, we have allowed ourselves little time to reflect upon the kind of a world in which we best can happily survive.

Do we need to live in overpopulated cities? Do we need to soar between continents in supersonic aircraft? Do we need to rob the earth of its finite resources? Do we need to continually search for new ways to dispose of our wastes?

For how many more years can our oceans and rivers, earth, and atmosphere absorb the pollutants with which we are poisoning them?

In his long progress through history man has suffered much. But he has never suffered because he did not wear a digital watch on his wrist, own a television set, drive a car that can go 90 miles an hour or possess a shirt-pocket calculator.

A car, for example, is good for three things: to go to and from work and shopping, to visit relatives and friends or take a vacation, or to show off.

All these amenities of civilization and manifestations of economic growth are fine and pleasant. But they solve no basic human problems, contribute nothing to a grand plan for survival.

So far, technology has been frequently justified on grounds that it can eliminate poverty. Yet it has not. Even in our own country, the richest in the world, 21 million remain officially classified as poor.

And we are aware that poverty elsewhere, particularly in the developing nations, defies elimination despite attempts through the application of technology.

Where no public transport is available, two or three cars to a family are often considered a necessity, and lack of them a form of deprivation, This reflects a saying that economic growth does not eliminate poverty, it merely modernizes it.

Unemployment resists solution. In the U.S. it is growing more severe daily. Technology systematically has reduced the number of jobs which can be provided, although farsighted firms do not fire but retain workers for other jobs. And the development of new technology and the manufacturing of new products do not appear able to absorb all persons in or entering the job market.

Prospects of achieving a balance are dim. One solution is either to replace machines by men or employ simpler machines which do not replace so many workers. Perhaps other solutions may be advanced.

Then we have crime, mostly absent in traditional older societies. Many of us can remember when, in smaller communities, no one thought of locking the house.

Disintegration of the family, slum cores of cities, the turning to drugs amid the pressures of urban living, poverty, simple greed—these spawn crime. Conventional solutions have not been effective. The crime rate has followed economic growth rate; in fact, it has surpassed it.

While there has been a massive investment in health services in our country and throughout the world, disease has not been conquered. In addition, we have a new set of so-called "diseases of civilization": cancer, heart disease, diabetes, mental illnesses, to name a few.

These are largely unknown in primitive civilizations and reflect the stresses on our bodies and minds by an environment far different than that to which we had become adapted through the years of evolution.

We are not physically equipped to breathe polluted air, eat chemical foods, live a sedentary life, drink contaminated or chemically treated water, mass together in cities.

In short, we are maladjusted to the world that technology, industrialization and ever faster economic growth have created. If all signs are correct, at some point the commitment to growth could bring us to collapse of the industrial society.

The most ominous predictions are that this could be at the end of the century.

To cure all these ills, a long-term "Blueprint For Survival" has been proposed. It appeared in January 1972 in the London magazine, "Ecologist."

It suggests de-industrialization and decentralization of society to attain a "stable society." Says the "Blueprint":

"A society made up of decentralized, self-sufficient communities, in which people work near their homes, have the responsibility of governing themselves, of running their schools, hospitals and welfare services, in fact of constituting real communities, should, we feel, be a much happier place.

"Its members . . . would tend once more to find an aim in life, develop a set of values, and take pride in their achievements as well as in those of their communities."

Many ecologists and environmentalists and sociologists are thinking such possibilities today, and they merit attention. Perhaps we again can reach an accommodation with the natural world which we have been destroying through worshiping the god of economic growth, and still provide ourselves with the good, the essential things of life.

At least we should be keeping this in mind as we search for answers to what should be the ultimate goal of existence for ourselves and all humanity in the years before us.

WILLIAM J. HYLAND ON WOMAN SUFFRAGE

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. LENT. Mr. Speaker, a gracious friend from Freeport, N.Y., Mr. William Hyland, has been thoughtful enough to send me a copy of a poem written by his father, William J. Hyland, at the turn of the century. The poem is dated January 10, 1900, and eloquently reflects on the state of the woman suffrage movement as it stood at that time.

As early as 1878, a constitutional amendment was introduced in the Senate guaranteeing women's right to vote and was designated as the "16th amendment" by Miss Susan B. Anthony and Mrs. Elizabeth Cady Stanton, the authors of the amendment. Due to an unfavorable report by the Committee on Privileges and Elections, women in this Nation had to wait another 40 years and 6 months for favorable congressional action.

It was about midway in this long, fallow period that William J. Hyland took time to consider this dilemma and to record his thoughts on the inequity of the situation.

I submit his poem for the attention of my colleagues. I feel it appropriate at the beginning of this 94th Congress to reflect on where we have been and how much work still needs to be accomplished:

THE WOMAN

See the Woman, Lovely Woman
  She's a college graduate,
She can translate Greek and Latin
  She can make a speech that's great
She can bake bread like your Mother
  Used to make in olden days,
She in fact has won distinction
  In a dozen different ways:
She has studied law, and though she
  Has a kind of girlish face
She can hold her own and more when
  She's arguing a case
She has brains and she's respected
  She is sweet and she is fair
And no trust has ever suffered
  That's been put into her care
She's earths most lovely creature
  But kind reader, please to note
That the Senate has decided
  That she isn't fit to vote

THE MAN

See the poor old ragged loafer,
  With his poor old heels run down,
See the poor old nose upon him
  It's the reddest nose in town
He would sell his soul for whiskey
  He would do the deepest crime,
If he happened to be thirsty
  For the small sum of a dime.
He is ignorant of Statecraft
  And if he ever went to school
It was not for gaining knowledge,
  He's as learned as a mule.
He was never known to pay a
  cent of taxes in his life.
And the neighbors have suspicions
  that he beats his luck-less wife
He could hardly gain the friendship
  of a selfrespecting goat.
But he still enjoys the sacred right
  To boldly cast his vote

—WILLIAM J. HYLAND.

January 10, 1900

PRESIDENT AND THE NATION'S ECONOMIC TROUBLES

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. BOLAND. Mr. Speaker, the President has finally taken some firm and resourceful steps toward facing up to the Nation's economic troubles. Moreover, he has done it in a style that is courageous and unquestionably his own. It was so refreshing to see the White House Library as a backdrop behind Mr. Ford, when we all have such unpleasant memories of the things that were said by his predecessor from the oval office. Last night it was so much easier for Americans to believe their President and to take heart as they did so.

Mr. Ford's tax package is the most encouraging part of his program. It closely resembles that introduced by the Democratic leadership in Congress earlier yesterday. I myself favor a larger overall tax rebate, but I am encouraged by Mr. Ford's proposal to lower tax rates in 1975. I feel that the Congress and he can reach accommodation in this area.

It goes without saying that my opposition to the oil tax which the President will impose is total. In addition, speaking as cochairman of the New England Congressional Caucus, I can say that this sentiment is shared by my fellow Members of the New England Delegation. Mr. Ford himself admitted in his speech that this tax will impinge most heavily on New Englanders. Our near total reliance on imported residual and heating oil is going to cost us dearly. And clearly, no amount of adjustment that this administration can offer will undo the harm that an oil excise tax will create.

This tax will also increase the cost of gasoline at the pumps. As I and others have pointed out only too often, this will mean a greater hardship for those least able to bear it. More expensive oil will not only mean higher heating and power bills, it will also greatly affect our fuel consumptive leisure and tourist industries.

I will oppose this tax on imported oil. If the Congress cannot revise it, then immediate and significant relief for New Englanders must be obtained. I am hopeful a special oil rebate or additional oil entitlements can be extended so as to put our region on an even par with other parts of the country less dependent on refined petroleum products.

The last principal element of the President's speech proposes an absolute ceiling on increased spending for the next fiscal year. While such a goal may be necessary, I can foresee significant rearrangement among new and existing programs that may change the focus of Government spending yet stay under Mr. Ford's limit. Thus, the Nation can look forward to some sort of national health insurance, which admittedly will be costly, but its costs can largely be absorbed by cuts in other areas, notably in defense spending. For, though Mr. Ford did not say so, it is nonetheless true that his priorities remain the same, a call for a halt on spending notwithstanding.

The Congress also has its priorities—ones which it received from the voters this past November. Their mandate—mine also—is for human resource needs. I intend to insist on these changes, and to retain programs Mr. Ford would cut, it is here that the Congress differences with the President will express themselves mostly, where economic reality and the needs of citizens meet the administration's hopeful plans for a solution to recession, unemployment and inflation.

YOUTH CAMP SAFETY ACT

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. DOMINICK V. DANIELS. Mr. Speaker, once again, it is time for parents to choose a summer camp for their children. An estimated 10,000,000 children will attend camp this summer.

Millions of parents must decide, based on inadequate information, which camps their children should attend. In many instances, camps are located far from the family home, in other States, making thorough parental inspection impractical or impossible. Even when a camp inspection is possible there are many latent dangers which are impossible to identify on a trip to a camp.

Only 7 States, New York, California, Colorado, Connecticut, Michigan, Texas and my own State of New Jersey, have comprehensive youth camp safety laws. Only 28 States currently have some regulations dealing with youth camp safety.

The HEW study of last year showed that 45 States have no regulations applicable to camp personnel; 17 States have no regulations pertaining to program safety; 24 States have no regulations concerning personal health, first aid and medical services; 45 States have no regulations applicable to the transportation of children while in summer camp; 39 States have no regulations over out-of-camp trips and primitive outpost camping; 35 States do not regulate day camping; and 46 States have no regulations over travel camps.

This HEW report, inadequate as it was, showed that 25 deaths, 1,223 "serious" illnesses, and 1,448 injuries were associated with camping in 1972. And while these figures are bad enough, they hardly show the full picture. To attain these figures HEW attempted nothing more than a literature search and a mail questionnaire to camp operators. Only 3,343 of the 7,861 camps queried even bothered to reply to the questionnaires.

It is also ironic that we have Federal laws to protect animals used in research, laws, to protect our wildlife and yet no Federal law is on the books to protect our children in summer camps.

The Select Subcommittee on Labor has held hearings in the 90th, 91st, 92d, and 93d Congresses on youth camp safety. During these hearings we have heard of so many shocking incidents, tragedies which never should have happened.

Among the appalling stories we heard were:

In California one camp operator rented an open flatbed tractor trailer truck for 1 day, 200-mile round trip to the beach. It overturned on an eight-lane high-speed expressway, killing 8 and injuring 62 children and 8 counselors.

A group of children were led on a canoe trip on rough waters with no life jackets, one child drowned.

Three Boy Scouts and their leader were drowned after being warned not to go out on Yellowstone Lake.

In another instance, a counselor ignored warning that their craft were too small and fragile for Desolation Canyon of the Green River in Utah. One camper drowned.

We have a responsibility to the children of America and for that reason I have long been a supporter of youth camp safety legislation.

Critics of the legislation have maintained that this is a State matter and that there should be no Federal intervention. I am not in disagreement with that idea. Three years ago, I wrote to every Governor pointing out the need for action and offering them technical assistance and any information which they might need to enact a youth camp safety law. Not only did I receive only a small amount of replies, today there are still only seven States with adequate legislation in existence.

I propose that States shall continue to enforce their own laws provided they are as effective as the Federal law. This bill rewards States which have exemplary comprehensive programs or States which have every intention of adopting their own youth camp safety programs.

Today, with many cosponsors from both sides of the aisle, I am introducing the Youth Camp Safety Act of 1975. This bill will establish minimum mandatory Federal standards for the safe operation of youth camps. It would provide Federal assistance to the State for developing and implementing their own youth camp safety programs.

This legislation has the support of the Girl Scouts, Boy Scouts, American Camping Association, National Park and Recreation Association, the National Safety Council and many other camping organizations. These organizations have long operated safe camps under their own high standards for health and safety; however, they recognize the real need for health standards to govern the hundreds of thousands of camps that operate independently without any standards requirements.

Specifically, this bill provides that the Secretary of Health, Education, and Welfare appoint a director of youth camp safety who will promulgate minimum standards in consultation with representatives of organized camping and other interested groups. Standards shall be effective in those States which do not submit plans meeting the requirements established by the Director. States which wish to administer their own plans must designate an agency responsible for the plan and develop and enforce standards at least as effective as the minimum Federal standards.

In addition, this bill provides for a "general duty" and procedures to counteract imminent dangers modeled after other health and safety legislation.

It also provides consultative services to camps. This is not a punitive bill. There are no penalties for a first offense. If serious violations are found and subsequent notifications given, a reasonable period of time will be allowed for camps to come into compliance. There are, however, civil penalties for serious, repeated and willful violations. The bill also affords due process by establishing hearing procedures and court appeal.

This legislation authorizes $7½ million annually for its purpose—primarily to encourage the States themselves through grants of Federal money and technical assistance to draft and implement strong youth camp safety programs.

A more detailed section-by-section analysis follows:

SECTION-BY-SECTION ANALYSIS

THE YOUTH CAMP SAFETY ACT OF 1975

Short title.—The first section provides that the Act may be cited as the "Youth Camp Safety Act."

Section 2. Statement of purpose.—Section 2 states that it is the purpose of the Act to protect and safeguard the health and well-being of youth attending day camps, residential camps, troop camps, travel camps, trip camps, primitive or outpost camps, and Federal recreational youth camps by providing for Federal standards for safe operation of such camps; to provide financial and technical assistance to the States in order to encourage them to implement youth camp safety standards; and to provide for Federal implementation of youth camp safety standards in States which do not implement such standards and in Federal recreational youth camps.

Section 3. General duty.—Section 3 requires each youth camp operator to provide each camper safe and healthful conditions, facilities, and equipment which are free from recognized hazards which cause or are likely to cause death, serious illness, or serious physical harm, and adequate and qualified instruction and supervision of youth camp activities at all times, with due consideration of conditions existing in nature.

Section 4. Director of Youth Camp Safety.—Section 4 establishes in the office of the Secretary of Health, Education, and Welfare an office of youth camp safety to be headed by a Director of Youth Camp Safety, who shall be appointed by the Secretary. Under this section, the Director is required to make an annual report to the President and to the Congress.

Section 5. Promulgation of youth camp safety standards.—Section 5 provides that the Director shall develop, with the approval of the Secretary of Health, Education, and Welfare, and promulgate youth camp safety standards. In so doing, the Director is to consult with the Advisory Council on Youth Camp safety established under section 13 of the Act, with State officials, and with representatives of appropriate organizations, and is to consider existing State or private regulations and standards applicable to youth camp safety. The youth camp safety standards promulgated under this section shall make suitable distinctions in order to recognize differences in conditions and operations between the various types of camps covered by the Act. The Director must promulgate standards under this section within six months after enactment of the Act. In order to allow States time to develop their own youth camp safety plan, such standards take effect one year after promulgation thereof.

Section 6. State jurisdiction and State plans.—Section 6 provides that any State may at any time assume responsibility for developing and enforcing comprehensive youth camp safety standards by submitting a State plan for such development and enforcement to the Director, who shall approve such plan if it conforms with certain requirements. These requirements are that the State plan designate a State agency to administer the plan, provide that each youth camp operator shall have the same general duty under State law as under section 3 of the Act, provide for the development and enforcement of comprehensive youth camp safety standards at least as effective as the Federal standards, provide that where penalties are not employed as a method of enforcement, there is a system of certification which is as effective as penalties, and provide for the enforcement of the standards in all youth camps operated by the State. These requirements also include requirements that the State plan provide for consultative services to youth camps, provide for inspection of each youth camp at least once a year, provide for an advisory committee which is representative of public and private agencies, organizations, or groups concerned with camping, experienced campers, and members of the public having a special interest in youth camps, provide for right of entry and inspection as effective as that provided in section 9 of the Act, provide for coordination of inspection efforts so as to avoid undue burdens on camp operators, provide that reports be made to the Director, and contain certain assurances related to administration and enforcement of youth camp safety standards and to administration of funds.

Section 6 also provides for a hearing for the State agency before final disapproval of any State plan, or any modification thereof, provides that the Director shall annually review each approved State plan, and provides that where the Director withdraws approval of a State plan and withholds payments to the State under the Act, the State may obtain review of the decision in the United States court of appeals for the circuit in which the State is located.

Under section 6, the Secretary of Health, Education, and Welfare is authorized to make personnel from the Department available to the States to assist in developing State plans in training State youth camp safety personnel, and the Director is directed to call upon the expertise of national organized camping groups in order to provide such assistance to Federal and State personnel.

Section 7. Grants to States.—Section 7 provides for grants to States which have approved State plans in effect, which shall be based on objective criteria established under regulations of the Secretary in order to achieve equitable distribution.

Section 8. Consultative Services and Enforcement.—Subsection (a) of section 8 directs the Director to provide consultative services to youth camps in States which do not have an approved State plan. No citation shall be issued, nor shall any civil penalties (except those for repeated violations) be proposed upon any inspection or visit at which consultative services are rendered. If an apparent serious violation is discovered during such inspection or visit, a notice shall be issued specifying the violation and the action which must be taken within a specified reasonable time in order to abate such violation. If such abatement does not take place, citations may be issued or civil penalties assessed.

Subsection (b) of section 8 provides that the Director shall provide for issuing citations to youth camp operators, in States which do not have an approved plan in effect, for violations of the Act, and provides that notices in lieu of citations may be issued for minor violations having no direct or immediate or serious relationship to safety or health.

Subsection (c) of section 8 provides for a hearing for any youth camp director issued a citation under subsection (b) or subject to penalties under the Act, and for review of the decision of the Director after such hearing in the United States court of appeals for the circuit in which the youth camp is located or in which the youth camp director has his principal office.

Section 9. Inspections, Investigations, and Records.—Subsection (a) of section 9 gives the Director the right to enter and inspect any youth camp and its records, question employees, and investigate facts, conditions, practices, or matters to the extent he deems necessary or appropriate to carry out his duties under the Act.

Subsection (b) of section 9 gives the Director the power to require the attendance and testimony of witnesses and the production of evidence under oath, and gives any district court of the United States jurisdiction to order, in cases of failure to obey such an order of the Director, such witness to appear to produce evidence and give testimony relating to the matter under investigation. Failure to obey such order of the court may be punished by such court as a contempt of such court.

Subsection (c) of section 9 requires that camps subject to the provisions of the Act shall report annually all accidents resulting in death, injury, and serious illness, except those which result in minor injuries. If a camp operates in a State which has an approved plan in effect, such report shall be filed with that State, which shall forward such reports to the Director. All other such camps shall file their reports to the Director, who shall compile the statistics so reported and include summaries thereof in his annual report to the President and to the Congress.

Section 10. Penalties.—Section 10 provides for civil penalties for violations of the Act, which may be recovered in a civil action in the name of the United States brought in the United States district court for the district in which the violation is alleged to have occurred or in which the operator has his principal office. The penalty for a violation for which a citation or notice has been issued and which has not been corrected within the period permitted is not more than $500 for each day during which such failure or violation continues, until the camp closes in the normal course of business. The penalty for willfully or repeatedly violating the Act is up to $1,000 for each day during which such violation continues, until such closing of the camp.

Section 11. Procedures to Counteract Imminent Dangers.—Section 11 gives United States district courts jurisdiction, on petition of the Director, to restrain conditions or practices in youth camps or in places where youth camp activities are conducted which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by the Act. If an inspector concludes that such conditions or practices exist, he shall inform the affected camp owners, campers, and camp supervisory personnel of the danger, and that he is recommending to the Director that relief be sought.

Section 12. Variations.—Section 12 provides that the Director may, upon application showing extraordinary circumstances or undue hardship, and if inspection shows that the conditions, practices, or activities proposed to be used are as healthful and safe as those which would prevail if the standard were complied with, exempt a camp or activity from a specific requirement of the Act. If such an exemption is made, appropriate notice of such exemption shall be given to parents or other relatives of affected campers, at least annually.

Section 13. Advisory Council on Youth Camp Safety.—Section 13 directs that the Director shall establish an Advisory Council on Youth Camp Safety to advise and consult on policy matters relating to youth camp safety. Such Council shall consist of the Director, and 15 members appointed by him from specially qualified persons, who shall include one representative from each of the Departments of the Interior, Health, Education, and Welfare, Agriculture, and Labor, respectively, and who shall include at least 8, but no more than 8 members from appropriate associations representing organized camping.

Section 14. Administration.—Section 14 authorizes the Director to request directly from any department or agency of the Federal Government information, suggestions, estimates, and statistics to assist him in carrying out his functions under the Act, and authorizes such department or agency to furnish such assistance directly to the Director.

Section 15. Noninterference.—Section 15 provides that nothing in the Act or regulations under the Act authorizes the Director, a State agency, or any official acting under the Act to restrict, determine, or influence the curriculum, program, or ministry of any youth camp, and provides that nothing in the Act authorizes or requires medical examination, immunization, or treatment for those who object on religious grounds, except where necessary for the protection of the health or safety of others.

Section 16. Authorization.—This section authorizes appropriations to carry out the Act of $7,500,000 for fiscal year 1976 and for each of the fiscal years thereafter.

Section 17. Definitions.—This section contains definitions for certain terms used for purposes of the Act.

CONSUMER LEGISLATION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. ROSENTHAL. Mr. Speaker, I am introducing at this time six separate consumer bills designed to end certain abuses in the marketplace, fight inflation and expand State and local consumer protection programs.

The American consumer is lost in a commercial jungle without weapons and without a guide. He faces the slickest combination of technology and Madison Avenue ingenuity. He is matched against whirling computers and motivational experts.

The free enterprise system with its give and take in the marketplace is essentially healthy and constructive. But it sometimes appears to me that businessemen at all levels—from producers to retailers—are involved in a gigantic bait and switch scheme; today's typical consumer is tempted into the marketplace by promises of product perfection. But the system that produces, promotes, sells, and services that product is characterized by planned obsolescence and poor quality control; by the fanciful, frivolous, or deceptive advertising it permits; by the withholding of unfavorable performance data from the public; by the absence of meaningful and understandable warranties and guarantees, by the use of irrelevant product endorsements; by the existence of underpaid and underinformed salesmen on the showroom floor; by the omnipresence of unreliable auto, TV, or appliance repairmen.

The result is that the great free enterprise promise too often proves an illusion.

The American consumer is without the kind of help he needs and deserves from his Government. If this administration, and this Congress, really intend to stop inflation, we had better become concerned about proper consumer representation in Washington because that is where many price increases either begin or fail to be halted.

Following are the bills I am introducing today, along with a brief explanation of the purpose and need for each:

First. Intergovernmental Consumer Assistance Act. This legislation would provide Federal grants and technical assistance for the establishment and strengthening of State and local consumer protection offices. Consumer protection must be a joint effort at all levels of government. Some excellent work is being done by State and local consumer offices, but funds and technical assistance are desperately needed—was H.R. 1672, 1673, 3714, 12086 in the last Congress.

Second. Meat import quota repeal. This repeals the Meat Import Quota Act of 1964 in order to increase the supply and reduce the price of lower cost meats, such as hamburgers, hot dogs, and cold cuts. Retail meat prices may presently be under their recent record levels but they still are too high. The quotas were suspended in 1972, but President Ford is known to be considering reimposition. A permanent repeal would help foreign suppliers plan better to meet American market needs and the competition would help fight our raging domestic inflation—was H.R. 1664, 1665, 3710, 12088.

Third. Consumer Price Information Act. Retailers would be required to post in their stores a box score of recent price increases for all their products. This detailed point-of-sale information will help consumers keep track of and judge the reasonableness of price increases on an item-by-item basis. Exemptions are made for small businessmen and most perishables—was H.R. 14665.

Fourth. Performance Life Disclosure Act. This bill requires manufacturers of durable consumer products, including appliances and electronic items, to disclose on a label or tag affixed to each item sold at retail, the performance life, under normal operating conditions, of each product or its major components. It also requires that such products as film and batteries be labeled with the date beyond which they should not be sold because of significant loss of performance life—was H.R. 1666, 1667, 3711, 12087.

Fifth. Appliance Dating Act. It requires that any appliance, TV or other durable product whose design is changed or performance capabilities altered on a periodic basis shall have its date of manufacture permanently affixed to the product. This will prevent the sale of older models as "new," something now done with relative ease because the consumer does not have an effective method of checking model data for himself prior to purchase—was H.R. 1668, 1669, 3712, 12092.

Sixth. Sales Promotion Game Act. This legislation prohibits manufacturers, producers or distributors from requiring or encouraging any retail seller to participate in promotional games; it also prohibits a retailer from engaging on his own in a promotional game in connection with the sale of any item. Sales promotional games perform no useful function in the marketplace. Instead, they serve to entice the consumer into basing his purchases on the contest with the most lucrative prize rather than on the more relevant concerns of the best price and the best quality. Moreover, the cost of such games is passed on to the consumer whether he enters the contest or not—was H.R. 1670, 1671, 3713.

NATIONAL ENDOWMENT FOR THE HUMANITIES OFFERS SEMINARS FOR COLLEGE TEACHERS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. FRASER. Mr. Speaker, in order to offer opportunities for faculty members of undergraduate and 2-year colleges to work with distinguished scholars in their fields at institutions across the country, the National Endowment for the Humanities will offer 62 seminars for college teachers during the summer of 1975.

Twelve teachers will be selected for each seminar, each receiving a stipend of $2,000 for the 2-month period and an additional housing and travel allowance of $250. Applications must be submitted by February 18, 1975. Information concerning seminar directors, locations, and topics can be obtained from the Division of Fellowships, National Endowment for the Humanities, 806 15th Street N.W., Washington, D.C. 20506.

HOUSE OF REPRESENTATIVES—*Wednesday, January 15, 1975*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Be strong in the Lord and in the power of His might.—Ephesians 6:10.

Eternal God, whose mercies are new every morning and fresh every day, through sleep and darkness we have been brought safely to this hour restored to life and power and thought.

Remove from within us all pride and prejudice, all bitterness that blights our beings and all resentments that ruin our relationship with others. Give us a willingness to walk worthily, strength to lift the fallen, confidence to seek peace and pursue it, courage to face life steadily and to see it whole, and a desire to labor faithfully for the good of all.

Make us as a people strong in Thee and in the power of Thy might that our Nation, renewed in mind and spirit, may be a channel for love and truth in our world.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint and concurrent resolution of the House of the following titles:

H.J. Res. 1. Joint resolution extending the time within which the President may transmit the budget message and the economic report to the Congress; and

H. Con. Res. 1. Concurrent resolution providing for a joint session to receive a message from the President.

RECESS

The SPEAKER. The House will stand in recess until approximately 12:50 p.m. this afternoon.

Accordingly (at 12 o'clock and 2 minutes p.m.) the House stood in recess until approximately 12 o'clock and 50 minutes p.m.).

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 o'clock and 50 minutes p.m.

JOINT SESSION OF THE HOUSE AND SENATE HELD PURSUANT TO THE PROVISIONS OF HOUSE CONCURRENT RESOLUTION 1 TO HEAR AN ADDRESS BY THE PRESIDENT OF THE UNITED STATES

The Speaker of the House presided.

The Doorkeeper (Hon. James T. Molloy) announced the Vice President and

Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort the President of the United States into the Chamber the gentleman from Massachusetts (Mr. O'Neill), the gentleman from California (Mr. McFall), the gentleman from California (Mr. Phillip Burton), the gentleman from Arizona (Mr. Rhodes), and the gentleman from Illinois (Mr. Michel).

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators to escort the President of the United States into the House Chamber: James O. Eastland, of Mississippi; Mike Mansfield, of Montana; Robert C. Byrd, of West Virginia; Frank E. Moss, of Utah; Patrick J. Leahy, of Vermont; Milton R. Young, of North Dakota; Hugh Scott, of Pennsylvania; Robert P. Griffin, of Michigan; Carl T. Curtis, of Nebraska; John G. Tower, of Texas; and Robert T. Stafford, of Vermont.

The Doorkeeper announced the ambassadors, ministers, and chargés d'affaires of foreign governments.

The ambassadors, ministers, and chargés d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 1 o'clock and 5 minutes p.m. the Doorkeeper announced the President of the United States.

The President of the United States, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk.

[Applause, the Members rising.]

The SPEAKER. My colleagues of the Congress, I have the distinct privilege and the high personal honor of presenting to you the President of the United States.

[Applause, the Members rising.]

THE STATE OF THE UNION—ADDRESS BY THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94–3)

The PRESIDENT. Mr. Speaker, Mr. Vice President, Members of the 94th Congress and distinguished guests:

Twenty-six years ago a freshman Congressman, a young fellow, with lots of idealism who was out to change the world, stood before Sam Rayburn in the well of the House and solemnly swore to the same oath that all of you took yesterday, an unforgettable experience, and I congratulate you all.

Two days later, that same freshman stood at the back of this great Chamber, over there some place, as President Truman, all charged up by his single-handed election victory, reported, as the Constitution requires, on the state of the Union.

When the bipartisan applause stopped, President Truman said:

> I am happy to report to the 81st Congress that the state of the Union is good. Our Nation is better able than ever before to meet the needs of the American people and to give them their fair chance in the pursuit of happiness. It is foremost among the nations of the world in the search for peace.

Today, that freshman Member from Michigan stands where Mr. Truman stood, and I must say to you that the state of the Union is not good.

Millions of Americans are out of work. Recession and inflation are eroding the money of millions more. Prices are too high and sales are too slow.

This year's Federal deficit will be about $30 billion; next year's probably $45 billion. The national debt will rise to over $500 billion.

Our plant capacity and productivity are not increasing fast enough. We depend on others for essential energy.

Some people question their Government's ability to make hard decisions and stick with them. They expect Washington politics as usual.

Yet, what President Truman said on January 5, 1949, is even more true in 1975.

We are better able to meet our peoples' needs.

All Americans do have a fairer chance to pursue happiness. Not only are we still the foremost Nation in the pursuit of peace, but today's prospects of attaining it are infinitely brighter.

There were 59 million Americans employed at the start of 1949, now there are more than 85 million Americans who have jobs. In comparable dollars the average income of the American family has doubled during the past 26 years.

Now I want to speak very bluntly. I have bad news, and I don't expect much, if any, applause. The American people want action and it will take both the Congress and the President to give them what they want.

Progress and solutions can be achieved. And they will be achieved.

My message today is not intended to address all of the complex needs of America. I will send separate messages making specific recommendations for domestic legislation such as the extension of General Revenue Sharing and the Voting Rights Act.

The moment has come to move in a new direction. We can do this by fashioning a new partnership between the Congress on the one hand, the White House on the other and the people we both represent.

Let us mobilize the most powerful and most creative industrial nation that ever existed on this earth to put all our people to work. The emphasis on our economic efforts must now shift from inflation to jobs.

To bolster business and industry and to create new jobs I propose a 1-year tax reduction of $16 billion. Three-quarters would go to individuals and one-quarter to promote business investment.

This cash rebate to individuals amounts to 12 percent of 1974 tax payments—a total cut of $12 billion, with a maximum of $1,000 per return.

I call on the Congress to act by April 1. If you do, and I hope you will, the Treasury can send the first checks for half the rebate in May and the second by September.

The other one-fourth of the cut, about $4 billion, will go to business, including farms, to promote expansion and to create more jobs. The one year reduction for businesses would be in the form of a liberalized investment tax credit, increasing the rate to 12 percent for all business.

This tax cut does not include the more fundamental reforms needed in our tax system but it points us in the right direction, allowing taxpayers rather than the Government to spend their pay.

Cutting taxes, now, is essential if we are to turn the economy around. A tax cut offers the best hope of creating more jobs. Unfortunately it will increase the size of the budget deficit. Therefore, it is more important than ever that we take steps to control the growth of Federal expenditures.

Part of our trouble is that we have been self-indulgent. For decades, we have been voting ever-increasing levels of Government benefits, and now the bill has come due. We have been adding so many new programs that the size and the growth of the Federal budget has taken on a life of its own.

One characteristic of these programs is that their cost increases automatically every year because the number of people eligible for most of the benefits increases every year. When these programs were enacted there was no dollar amount set. No one knows what they will cost. All we know is that whatever they cost last year they will cost more next year.

It is a question of simple arithmetic. Unless we check the excessive growth of Federal expenditures or impose on ourselves matching increases in taxes, we will continue to run huge inflationary deficits in the Federal budget.

If we project the current built-in momentum of Federal spending through the next 15 years, State, Federal, and local government expenditures could easily comprise half of our gross national product. This compares with less than a third in 1975.

I have just concluded the process of preparing the budget submissions for fiscal year 1976. In that budget I will propose legislation to restrain the growth of a number of existing programs. I have also concluded that no new spending programs can be initiated this year, except for energy. Further, I will not hesitate to veto any new spending programs adopted by the Congress.

As an additional step toward putting the Federal Government's house in order, I recommend a 5-percent limit on Federal pay increases in 1975. In all Government programs tied to the Consumer Price Index—including social security, civil service, and military retirement pay, and food stamps—I also propose a 1-year maximum increase of 5 percent.

None of these recommended ceiling limitations over which Congress has final authority are easy to propose, because in most cases they involve anticipated payments to many, many deserving people.

Nonetheless, it must be done. I must emphasize that I am not asking to eliminate, to reduce, to freeze, these payments. I am merely recommending that we slow down the rate at which these payments increase and these programs grow.

Only a reduction in the growth of spending can keep Federal borrowing down and reduce the damage to the private sector from high interest rates. Only a reduction in spending can make it possible for the Federal Reserve System to avoid an inflationary growth in the money supply and thus restore balance to our economy. A major reduction in the growth of Federal spending can help dispel the uncertainty that so many feel about our economy, and put us on the way to curing our economic ills.

If we do not act to slow down the rate of increase in Federal spending, the United States Treasury will be legally obligated to spend more than $360 billion in fiscal year 1976—even if no new programs are enacted. These are not matters of conjecture or prediction, but again a matter of simple arithmetic. The size of these numbers and their implications for our everyday life and the health of our economic system are shocking.

I submitted to the last Congress a list of budget deferrals and rescissions. There will be more cuts recommended in the budget that I will submit. Even so, the level of outlays for fiscal year 1976 is still much, much too high. Not only is it too high for this year, but the decisions we make now will inevitably have a major and growing impact on expenditure levels in future years. I think this is a very fundamental issue that we, the Congress and I, must jointly solve.

Economic disruptions we and others are experiencing stem in part from the fact that the world price of petroleum has quadrupled in the last year. But, in all honesty, we cannot put all of the blame on the oil-exporting nations. We, the United States, are not blameless. Our growing dependence upon foreign sources has been adding to our vulnerability for years and years and we did nothing to prepare ourselves for such an event as the embargo of 1973.

During the 1960's, this country had a surplus capacity of crude oil, which we were able to make available to our trading partners whenever there was a disruption of supply. This surplus capacity enabled us to influence both supplies and prices of crude oil throughout the world. Our excess capacity neutralized any effort at establishing an effective cartel, and thus the rest of the world was assured of adequate supplies of oil at reasonable prices.

By 1970, our surplus capacity had vanished and as a consequence, the latent power of the oil cartel could emerge in full force. Europe and Japan, both heavily dependent on imported oil, now struggle to keep their economies in balance. Even the United States, our country, which is far more self-sufficient than most other industrial countries, has been put under serious pressure.

I am proposing a program which will begin to restore our country's surplus capacity in total energy. In this way, we will be able to assure ourselves reliable and adequate energy and help foster a new world energy stability for other major consuming nations.

But this Nation and, in fact, the world must face the prospect of energy difficulties between now and 1985. This program will impose burdens on all of us with the aim of reducing our consumption of energy and increasing our production. Great attention has been paid to the considerations of fairness and I can assure you that the burdens will not fall more harshly on those less able to bear them.

I am recommending a plan to make us invulnerable to cutoffs of foreign oil. It will require sacrifices. But—and this is most important—it will work.

I have set the following national energy goals to assure that our future is as secure and as productive as our past:

First, we must reduce oil imports by 1 million barrels per day by the end of this year and by 2 million barrels per day by the end of 1977.

Second, we must end vulnerability to economic disruption by foreign suppliers by 1985.

Third, we must develop our energy technology and resources so that the United States has the ability to supply a significant share of the energy needs of the free world by the end of this century.

To attain these objectives, we need immediate action to cut imports. Unfortunately, in the short term there are only a limited number of actions which can increase domestic supply. I will press for all of them.

I urge quick action on the necessary legislation to allow commercial production at the Elk Hills, Calif., Naval Petroleum Reserve. In order that we make greater use of domestic coal resources, I am submitting amendments to the Energy Supply and Environmental Coordination Act which will greatly increase the number of powerplants that can be promptly converted to coal.

Obviously, voluntary conservation continues to be essential, but tougher programs are needed—and needed now. Therefore, I am using Presidential powers to raise the fee on all imported crude oil and petroleum products. Crude oil fee levels will be increased $1 per barrel on February 1, by $2 per barrel on March 1 and by $3 per barrel on April 1. I will take action to reduce undue hardship on any geographical region. The foregoing are interim administrative actions. They will be rescinded when the broader but necessary legislation is enacted.

To that end, I am requesting the Congress to act within 90 days on a more comprehensive energy tax program. It includes:

Excise taxes and import fees totaling $2 per barrel on product imports and on all crude oil.

Deregulation of new natural gas and enactment of a natural gas excise tax.

I plan to take Presidential initiative to decontrol the price of domestic crude oil on April 1. I urge the Congress to enact a windfall profits tax by that date to insure that oil producers do not profit unduly.

The sooner Congress acts, the more effective the oil conservation program will be and the quicker the Federal revenues can be returned to our people.

I am prepared to use Presidential authority to limit imports, as necessary, to guarantee success.

I want you to know that before deciding on my energy conservation program, I considered rationing and higher gasoline taxes as alternatives. In my judgment, neither would achieve the desired results and both would produce unacceptable inequities.

A massive program must be initiated to increase energy supply, to cut demand and provide new standby emergency programs to achieve the independence we want by 1985.

The largest part of increased oil production must come from new frontier areas on the Outer Continental Shelf and from the Naval Petroleum Reserve No. 4 in Alaska. It is the intent of this administration to move ahead with exploration, leasing and production on those frontier areas of the Outer Continental Shelf where the environmental risks are acceptable.

Use of our most abundant domestic resource—coal—is severely limited. We must strike a reasonable compromise on environmental concerns with coal. I am submitting Clean Air Act amendments which will allow greater coal use without sacrificing clean air goals.

I vetoed the strip mining legislation passed by the last Congress. With appropriate changes, I will sign a revised version when it comes to the White House.

I am proposing a number of actions to energize our nuclear power program. I will submit legislation to expedite nuclear licensing and the rapid selection of sites.

In recent months, utilities have canceled or postponed over 60 percent of planned nuclear expansion and 30 percent of planned additions to nonnuclear capacity. Financing problems for that industry are worsening. I am therefore recommending that the 1-year investment tax credit of 12 percent be extended for an additional 2 years to specifically speed the construction of powerplants that do not use natural gas or oil. I am also submitting proposals for selective reform of State utility commission regulations.

To provide the critical stability for our domestic energy production in the face of world price uncertainty, I will request legislation to authorize and require tariffs, import quotas or price floors to protect our energy prices at levels which will achieve energy independence.

Increasing energy supplies is not enough. We must take additional steps to cut long-term consumption. I therefore propose to the Congress:

—legislation to make thermal efficiency standards mandatory for all new buildings in the United States.

—a new tax credit of up to $150 for those home owners who install insulation equipment.

—the establishment of an energy conservation program to help low income families purchase insulation supplies.

—legislation to modify and defer automotive pollution standards for 5 years which will enable us to improve new automobile gas mileage by 40 percent by 1980.

These proposals and actions, cumulatively, can reduce our dependence on foreign energy supplies to 3 to 5 million barrels per day by 1985. To make the United States invulnerable to foreign disruption, I propose standby emergency legislation and a strategic storage program of 1 billion barrels of oil for domestic needs and 300 million barrels for national defense purposes.

I will ask for the funds needed for energy research and development activities. I have established a goal of 1 million barrels of synthetic fuels and shale oil production per day by 1985, together with an incentive program to achieve it.

I have a very deep belief in America's capabilities. Within the next 10 years, my program envisions:

—200 major nuclear power plants,
—250 major new coal mines,
—150 major coal-fired power plants,
—30 major new oil refineries,
—20 major new synthetic fuel plants,
—the drilling of many thousands of new oil wells,
—the insulation of 18 million homes,
—and the manufacture and sale of millions of new automobiles, trucks and buses, that use much less fuel.

I happen to believe that we can do it. In another crisis—the one in 1942—President Franklin D. Roosevelt said this country would build 60,000 military aircraft. By 1943, production in that program had reached 125,000 aircraft annually. They did it then; we can do it now.

If the Congress and the American people will work with me to attain these targets, they will be achieved and will be surpassed.

From adversity, let us seize opportunity. Revenues of some $30 billion from higher energy taxes designed to encourage conservation must be refunded to the American people in a manner which corrects distortions in our tax system wrought by inflation.

People have been pushed into higher tax brackets by inflation with a consequent reduction in their actual spending power. Business taxes are similarly distorted because inflation exaggerates reported profits resulting in excessive taxes.

Accordingly, I propose that future individual income taxes be reduced by $16½ billion. This will be done by raising the low income allowance and reducing the tax rates. This continuing tax cut will primarily benefit lower and middle income taxpayers.

For example, a typical family of four with a gross income of $5,600 now pays $185 in Federal income taxes. Under this tax cut plan, they would pay nothing. A family of four with a gross income of $12,000 now pays $1,260 in Federal taxes. My proposal reduces that total by $300. Families grossing $20,000 would receive a reduction of $210.

Those with the very lowest incomes who can least afford higher costs must also be compensated. I propose a payment of $80 to every person 18 years of age and older in that very limited category.

State and local governments will receive $2 billion in additional revenue sharing to offset their increased energy costs.

To offset inflationary distortions and to generate more economic activity, the corporate tax rate will be reduced from 48 percent to 42 percent.

Now let me turn, if I might, to the international dimension of the present crisis. At no time in our peacetime history has the state of the Nation depended more heavily on the state of the world. And seldom, if ever, has the state of the world depended more heavily on the state of our Nation.

The economic distress is global. We will not solve it at home unless we help to remedy the profound economic dislocation abroad. World trade and monetary structure provide markets, energy, food, and vital raw materials—for all nations. This international system is now in jeopardy.

This Nation can be proud of significant achievements in recent years in solving problems and crises. The Berlin agreement, the SALT agreements, our new relationship with China, the unprecedented efforts in the Middle East are immensely encouraging.

But the world is not free from crisis. In a world of 150 nations, where nuclear technology is proliferating and regional conflicts continue, international security cannot be taken for granted.

So let there be no mistake about it: International cooperation is a vital factor of our lives today. This is not a moment for the American people to turn inward. More than ever before, our own well-being depends on America's determination and America's leadership in the whole wide world.

We are a great Nation—spiritually, politically, militarily, diplomatically, and economically. America's commitment to international security has sustained the safety of allies and friends in many areas—in the Middle East, in Europe, in Asia. Our turning away would unleash new instabilities, new dangers around the globe which in turn would threaten our own security.

At the end of World War II, we turned a similar challenge into a historic opportunity; and, I might add, a historic achievement. An old order was in disarray; political and economic institutions were shattered. In that period this Nation and its partners built new institutions, new mechanisms of mutual support and cooperation. Today, as then, we face a historic opportunity. If we act imaginatively and boldly, as we acted then, this period will in retrospect be seen as one of the great creative moments of our Nation's history.

The whole world is watching to see how we respond.

A resurgent American economy would do more to restore the confidence of the world in its own future than anything else we can do. The program that this Congress passes can demonstrate to the world that we have started to put our own house in order. If we can show that this Nation is able and willing to help other nations meet the common challenge, it can demonstrate that the United States will fulfill its responsibility as the leader among nations.

Quite frankly, at stake is the future of industrialized democracies which have perceived their destiny in common and sustained it in common for 30 years. The developing nations are also at a turning point. The poorest nations see their hopes of feeding their hungry and developing their societies shattered by the economic crisis. The long-term economic future for the producers of raw materials also depends on cooperative solutions. Our relations with the Communist countries are a basic factor of the world environment. We must seek to build a long-term basis for coexistence. We will stand by our principles, we will stand by our interests; we will act firmly when challenged. The kind of world we want depends on a broad policy of creating mutual incentives for restraint and for cooperation.

As we move forward to meet our global challenges and opportunities, we must have the tools to do the job.

Our military forces are strong and ready. This military strength deters aggression against our allies, stabilizes our relations with former adversaries, and protects our homeland. Fully adequate conventional and strategic forces cost many, many billions. But these dollars are sound insurance for our safety and for a more peaceful world.

Military strength alone is not sufficient. Effective diplomacy is also essential in preventing conflict in building world understanding. The Vladivostok negotiations with the Soviet Union represent a major step in moderating strategic arms competition. My recent discussions with the leaders of the Atlantic Community, Japan, and South Korea have contributed to meeting the common challenge.

But we have serious problems before us that require cooperation between the President and the Congress. By the Constitution and tradition, the execution of foreign policy is the responsibility of the President.

In recent years, under the stress of the Vietnam War, legislative restrictions on the President's ability to execute foreign policy and military decisions have proliferated. As a Member of the Congress. I opposed some and I approved others. As President, I welcome the advice and cooperation of the House and the Senate.

But, if our foreign policy is to be successful we cannot rigidly restrict in legislation the ability of the President to act. The conduct of negotiations is ill suited to such limitations. Legislative restrictions intended for the best motives and purposes can have the opposite results, as we have seen most recently in our trade relations with the Soviet Union. For my part, I pledge this administration will act in the closest consultations with the Congress as we face delicate situations and troubled times throughout the globe.

When I became President only 5 months ago, I promised the last Congress a policy of communication, conciliation, compromise, and cooperation. I renew that pledge to the new Members of this Congress.

Let me sum it up:

America needs a new direction which I have sought to chart here today—a change of course which will:

—put the unemployed back to work;
—increase real income and production;
—restrain the growth of Federal Government spending;
—achieve energy independence; and
—advance the cause of world understanding.

We have the ability. We have the know-how. In partnership with the American people, we will achieve these objectives.

As our 200th anniversary approaches, we owe it to ourselves, and to posterity, to rebuild our political and economic strength. Let us make America, once again, and for centuries more to come, what it has so long been—a stronghold and a beacon-light of liberty for the whole world.

Thank you.

[Applause, the Members rising.]

At 1 o'clock and 48 minutes p.m., the President, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The ambassadors, ministers, and chargés d'affaires of foreign governments.

JOINT SESSION DISSOLVED

The SPEAKER. The Chair declares the joint session of the two Houses now dissolved.

Accordingly (at 1 o'clock and 50 minutes p.m.), the joint session of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

RECESS

The SPEAKER. The Chair declares a recess until 2:15 p.m.

Accordingly (at 1 o'clock and 50 minutes p.m.), the House stood in recess until 2:15 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 2 o'clock and 15 minutes p.m.

REFERENCE OF PRESIDENT'S MESSAGE

Mr. McFALL. Mr. Speaker, I move that the message of the President be referred to the Committee of the Whole House on the State of the Union and ordered printed.

The motion was agreed to.

A motion to reconsider was laid on the table.

ADMINISTRATION OF OATH OF OFFICE TO REPRESENTATIVE-ELECT HON. WILBUR D. MILLS, SECOND DISTRICT OF ARKANSAS

Mr. WAGGONNER. Mr. Speaker, in accordance with your designation of me, pursuant to House Resolution 8, 94th Congress, adopted by the House of Representatives, to administer the oath of office to Representative-elect WILBUR D. MILLS, of the Second District of Arkansas, I have the honor to report that on Tuesday, January 14, 1975, at the Naval Medical Center, Bethesda, Md., I administered the oath of office to Mr. MILLS, form prescribed by section 1757 of the revised statutes of the United States, being the form of oath administered to Members of the House of Representatives, to which Mr. MILLS subscribed.

HON. DAWSON MATHIS

The SPEAKER. Will the gentleman from Georgia (Mr. MATHIS) present himself in the well of the House for the purpose of taking the oath of office?

Mr. MATHIS appeared at the bar of the House and took the oath of office.

A MAN CALLED KING

(Mr. DELLUMS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, I wish to join today in commemorating the 46th anniversary of the birth of Dr. Martin Luther King, Jr., a man whose struggle for justice for all people will long be remembered by all Americans. His life ended tragically nearly 7 years ago, but his "dream" survived and grew. His death marked the rededication on the part of many less-fortunate individuals to achieve the ideals of love, peace, and justice.

This man called King traveled a very long distance in a very short period of time. He traveled from Montgomery to Memphis, from manhood to martyrdom, from the depths of misery to the top of the mountain, where truth and love reign supreme. It seems to me that if he could go that long distance in that short period of time, then everyone can come together to take America on a journey, a desperately needed journey, from its madness to humanity, from exploitation to equality, from racism to freedom and from war to peace. I urge my colleagues today, as we pay tribute to this great man, to join in that effort.

Let Dr. King's birthday serve as a reminder not only to black people, but to all people that the struggle for justice and individual rights is eternal. Today, nearly 7 years after his death, his words continue to echo throughout America stirring the national conscience:

> When we let freedom ring, we let it ring from every village and every hamlet, from every state and every city, we will be able to speed up that day when all of God's children, black people and white people, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words, "Free at last! Free at last! Thank God almighty, we are free at last!"

LET'S FIGHT BACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. COCHRAN) is recognized for 10 minutes.

Mr. COCHRAN. Mr. Speaker, the United States is in danger of becoming a second-rate world power. It has been put in this danger not by any malevolent foreign power or internal conspiracy, but by the excessive use of our good will and patience, and by our failure to apply the needed caution in our dealings with other nations. We export coal and other energy sources when we do not have adequate supplies at home. We export grain to the Soviet Union in the name of détente and thereby drive the price of a loaf of bread beyond the budgets of many of our own people. We sell arms to countries that are aggressors against our allies, and through world monetary organizations we loan money to oil and currency rich nations that are openly hostile to us. There are many more examples of how the United States, by its courtesy, naivete or pure stupidity has put its very existence in jeopardy by failing to look out for its own self-interests.

The recent attempts at détente with Russia are good in that they decrease the chances of armed conflict with them. However, in our headlong rush to cement agreements with them, we have gotten the short end of the deal. We have loaned them money to purchase our grain and have taken food out of the mouths of our own people. We have agreed to cut many of our military programs without receiving from them arms reductions of an equal magnitude. We have sold to them our American-developed technology in exchange for raw or processed materials from them. Our technology will continue to benefit their country long after we have exhausted the materials we received from them. We have not been very tough bargainers at the international market.

We have allowed a dozen half-developed nations to cow us completely with their threats of cutting off our oil supplies and we have meekly acquiesced to their horrendous and unjustified price rises. Wasteful energy practices, a lack of foresight and the almost total inaction on the part of the Federal Government has nearly put us at their mercy. Already Arabian countries who make up the majority of the Organization of Petroleum Exporting Countries—OPEC—are dictating foreign and internal policies in many European countries who depend on these countries for 80 to 90 percent of their petroleum. A good example of this is in the Netherlands, long an ardent supporter of Israel. Since the oil embargo of 1973, Dutch support for Israel has been almost totally nonexistent. Other subtle changes in policies have taken place. We must not allow that to happen here. We would respond with force to any other country's attempts to control our affairs by military force. We must recognize that it matters little whether an aggressor conquers another by taking it militarily or economically.

Even if we prevent the OPEC countries from controlling or influencing us politically through their economic pressures, they have another perfectly legal avenue which they are pursuing vigorously. They are investing their billions of surplus dollars in our property and corporations. Through these purchases, they can literally buy large segments of our economy and through the purchases control them. And since large companies have varying degrees of influence in the country, the effect is obvious. According to estimates by economists, Saudi Arabia alone could buy IBM with 143 days of its currency surpluses accumulated from oil sales to us and other Western nations. Using the same yardstick that country could purchase every company on the New York Stock Exchange in 9 years or Exxon Corp. in 79 days. In the past we have seen the malignant influence these OPEC countries have had on the decisions in several of the multinational oil companies. We have no reason to suspect they would be any more benevolent if they were to gain complete control of the New York Stock Exchange. Indeed, their recent attempts to gain control of Lockheed Aircraft, one of our largest defense contractors, should be a lesson to us.

Unfortunately, many investment companies and the economic development arms of many State governments are apparently oblivious to these dangers for they are continuing to court and woo the Arab interests. Great Britain did this and as a result would be liable to near total collapse of its economy should Arab investors pull out their money; as they have threatened to do should that country take actions that would have a drastic effect on OPEC.

Other so-called Third World countries have attempted to form other cartels to embargo or raise the price of resources such as copper, iron ore, tin, and phosphates. These cartels are nothing more than alliances to fight an economic war of aggression against the Western world. We and our allies must recognize this threat for what it has become and take measures to combat it.

An organization of grain exporting countries might be a logical first step. The United States, Canada, Australia, and France are the principal grain exporters in the world. They are also four countries who have been hit hard by the OPEC oil policies and would be hurt by other resource cartels.

The organization of grain exporting countries could increase by five or six times the price of grain to countries who are harming us with their natural resource cartels. Since there is a worldwide grain shortage, our export trade is not likely to be diminished by the increased price. The increased price paid for the grain would improve our balance of payments situation. Of course, there must be provisions for waiving the cartel prices for those countries who are not guilty of economic aggression against us. The cartel would also have the additional benefit of helping to weaken other cartels.

Cartels, historically, are unstable and usually short-lived affairs. They are an artificial system of pricing that have no relationship to supply and demand. Any system such as this has a limited life unless artificially supported. A grain cartel would, I feel, have a destabilizing effect on OPEC and other similar organizations. I do not favor indefinite participation by the United States in such cartels, but we may find that this limited action is preferable to the inaction that allows us to be trod upon worldwide.

The United States must wake up to realize that no one respects a patsy. Although it did the United States no good, I have to respect the decision a few weeks ago by Canada's Prime Minister Pierre Trudeau to shut off their petroleum exports to the United States. His reasons were simple: even though they are our allies, their own self-interest and predicted shortfalls of energy dictated that they cease exporting that which they did not have in sufficient supply. It is time for the United States to start looking out for its own self-interests. We must, of course, cooperate with our allies and search for solutions to the shortages and animosities that have spawned the cartels. We must use more caution in our dealings with other countries and make sure that our benefits are commensurate with those received by the other side. We must develop the sorts of alternate energy sources and natural resource stockpiles that grant us the highest degree of independence from the influences of Third World cartels and other foreign powers. We must erect safeguards to limit foreign investments whose presence and threat of withdrawal offers the specter of outside hegemony. In short, we must make the sacrifices and take the actions that will assure that the United States of America will not slide into the depths of mediocrity on a board greased with Arabian oil.

INTRODUCTION OF A BILL TO CREATE A JOINT COMMITTEE ON INTELLIGENCE OVERSIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 15 minutes.

Mr. FRENZEL. I rise on behalf of myself and Representative STEELMAN of Texas. Recently there has been a growing concern, both here and in the other body, with the obvious lack of oversight which we in the Congress have over the various Federal intelligence-oriented agencies.

It is our own fault that the present situation exists. For too many years Congress has been extremely reluctant to ask the kind of questions which could insure policy supervision and accountability for actions taken by the CIA, FBI, Secret Service, Defense Intelligence Agency, the National Security Agency, and several others which we are only now learning about.

To correct some of the abuses which we have seen and to strengthen congressional oversight, Congressman STEELMAN and I are today reintroducing legislation to establish a Joint Committee on Intelligence Oversight. It will be provided with broad powers to authorize, investigate, and legislate on matters related to the specific intelligence agencies as well as other intelligence matters considered throughout the federal system.

The Joint Committee, would be composed of 14 members, 7 from each body, chosen by the leadership. We intend that it shall have primary legislative jurisdiction and fiscal authority over all intelligence activities.

To this end the bill states that the directors of these agencies shall—

> Keep the Joint Committee fully and currently informed with respect to all the activities of their respective organizations, and the heads of all other departments and agencies of the Federal Government conducting intelligence activities or operations or the surveillance of persons, shall keep the Joint Committee fully and currently informed of all intelligence and surveillance activities and operations carried out by their respective departments and agencies.

The committee will be empowered to require periodic written reports, from any department or agency, regarding any activities or operations within its jurisdiction. In this effort the committee shall have full subpena powers.

Additionally—

> No funds may be appropriated for the purpose of carrying out any intelligence or surveillance act or operations by any office or any department or agency of the Federal Government unless such funds for such activity or operation have been specifically authorized by legislation enacted after the date of the enactment of this act.

In this we intend to prohibit the concealment of secret agency moneys from the Congress and the people in defense appropriation bills and blanket authorizations.

In pursuing its obligation to supervise intelligence activities while not endangering national security goals, the committee is empowered to take any and all necessary security precautions. This could include some additional congressional expense for security personnel or office and equipment modification.

It is not our purpose, however, to deprive committees with current oversight jurisdiction, such as armed services, foreign relations, appropriations, et cetera, from discharging their duties or to limit their ability to monitor the total of activities within their fields. But our bill simply provides that no legislation, or provision contained in any legislation, regarding matters within the purview of the Joint Committee can be considered by either House unless it has been submitted by the Joint Committee or is a floor amendment to such legislation.

The litany of offenses committed in the name of national security is too long to list. It has been well documented both here on the floor and in the national media. Something must be done. The initiative's taken by the President is creating the Commission on CIA Activities and launching other executive investigations are an excellent beginning. So is this House's action in creating a select committee. But as much as we applaud these actions, however, Congress must follow up, regardless of the immediate effects of these efforts, with long-term supervision and control through a joint committee of both Houses. It is a responsibility which we can no longer ignore.

This bill is not the only congressional suggestion which will be heard in the coming months, but, regardless of what is finally enacted, this body must assume responsibility for the actions of U.S. security agencies and the moneys which they utilize.

A copy of the bill follows:

H.R. —

A bill to establish a Joint Committee on Intelligence Oversight

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Joint Committee on Intelligence Oversight Act of 1974".

ESTABLISHMENT OF JOINT COMMITTEE ON INTELLIGENCE OVERSIGHT

SEC. 2. (a) There is hereby established a Joint Committee on Intelligence Oversight (hereinafter referred to as the "joint committee") which shall be composed of fourteen members appointed as follows:

(1) seven members of the Senate, four to be appointed by the majority leader of the Senate and three to be appointed by the minority leader of the Senate; and

(2) seven members of the House of Representatives, four to be appointed by the majority leader of the House of Representatives and three to be appointed by the minority leader of the House of Representatives.

(b) The joint committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship and the vice chairmanship shall alternate between the Senate and the House of Representatives with each Congress. The chairman during each even-numbered Congress shall be selected by the Members of the House of Representatives on the joint committee from among their number and the chairman during each odd-numbered Congress shall be selected by the Members of the Senate on the joint committee from among their number. The vice chairman during each Congress shall be chosen in the same manner from that House of Congress other than the House of Congress of which the chairman is a Member.

(c) A majority of the members of the joint committee shall constitute a quorum for the transaction of business, except that the joint committee may fix a lesser number as a quorum for the purpose of taking testimony. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

(d) Service of a Senator as a member or as chairman of the joint committee shall not be taken into account for the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate.

DUTIES OF THE JOINT COMMITTEE

SEC. 3. (a) It shall be the duty of the joint committee to conduct a continuing study and investigation of the activities and operations of (1) the Central Intelligence Agency, (2) the Federal Bureau of Investigation, Department of Justice, (3) the United States Secret Service, (4) the Defense Intelligence Agency, Department of Defense, (5) the National Security Agency, and (6) all other departments and agencies of the Federal Government insofar as the activities and operations of such other departments and agencies pertain to intelligence gathering or surveillance of persons; and to consider proposals for the improvement and reorganization of agencies and departments of the Federal Government within the jurisdiction of the joint committee.

(b) The Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Director of the Secret Service, the Director of the Defense Intelligence Agency, and the Director of the National Security Agency shall keep the joint committee fully and currently informed with respect to all of the activities of their respective organizations, and the heads of all other departments and agencies of the Federal Government conducting intelligence activities or operations or the surveillance of persons shall keep the joint committee fully and currently informed of all intelligence and surveillance activities and operations carried out by their respective departments and agencies. The joint committee shall have authority to require from any department or agency of the Federal Government periodic written reports regarding activities and operations within the jurisdiction of the joint committee.

(c)(1) All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the functions of the Central Intelligence Agency, the Federal Bureau of Investigation, the United States Secret Service, the Defense Intelligence Agency, the National Security Agency, or to intelligence or surveillance activities or operations of any other department or agency of the Federal Government shall be referred to the joint committee.

(2) No funds may be appropriated for the purpose of carrying out any intelligence or surveillance activity or operation by any office, or any department or agency of the Federal Government, unless such funds for such activity or operation have been specifically authorized by legislation enacted after the date of enactment of this Act.

(3) No bill or resolution, and no amendment to any bill or resolution, and no matter contained in any bill or resolution in either House, dealing with any matter which is within the jurisdiction of the joint committee shall be considered in that House unless it is a bill or resolution which has been reported by the joint committee of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution. Nothing in this subsection shall be construed to deprive any committee of either House from exercising legislative oversight with respect to intelligence and surveillance activities and operations related to the jurisdiction of such committee.

(4) Members of the joint committee who are Members of the Senate shall from time to time report to the Senate, and members of the joint committee who are Members of the House of Representatives shall from time to time report to the House, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses and which are referred to the joint committee or otherwise within the jurisdiction of the joint committee.

ADMINISTRATIVE POWERS

SEC. 4. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion: to make expenditures; to employ personnel; to adopt rules respecting its organization and procedures; to hold hearings; to sit and act at any time or place; to subpena witnesses and documents; with the prior consent of the Federal department or agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency; to procure printing and binding; to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946; and to take depositions and other testimony.

(b) Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or the joint committee, and may be served by such person as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses. The provisions of sections 102 to 104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this subsection.

CLASSIFICATION OF INFORMATION

SEC. 5. The joint committee may classify information originating within the committee in accordance with standards used generally by the executive branch for classifying restricted data or defense information.

RECORDS OF JOINT COMMITTEE

SEC. 6. The joint committee shall keep a complete record of all joint committee actions, including a record of the votes on any question on which a record vote is demanded. All records, data, charts, and files of the joint committee shall be the property of the joint committee and shall be kept in the offices of the joint committee or such other places as the joint committee may direct.

EXPENSES OF JOINT COMMITTEE

SEC. 7. The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon vouchers signed by the chairman of the joint committee or by any member of the joint committee authorized by the chairman.

HOUSE COMMITTEE ON INTERNAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 5 minutes.

Mr. BAUMAN. Mr. Speaker, yesterday the House, in an extremely unfortunate decision, decided to abolish the House Committee on Internal Security. The crucial vote came on the previous question on the new House rules and the vote was 247 in favor of abolishing the committee and 172 against. On this vote, the House accomplished what the committee's enemies including the Communist Party have been trying to do for more than thirty years; to destroy one of the most effective arms anticommunism has had in this Nation.

I have no doubt in my mind that if a separate roll call vote on abolishing the committee had been allowed, the majority would have favored its continuance. Unfortunately, the Democratic Caucus voted in secret on this matter and because of the parliamentary situation members were not forced, as they should have been, to vote directly on this issue.

In past sessions of the Congress a majority has voted consistently to retain this committee—most recently on October 2, 1974, when the vote was 246 in favor and 164 opposed. As was pointed out in yesterday's debate, the Committee on Internal Security has been the only standing committee in the House charged with conducting continuing investigations in order to inform the House concerning subversion. At a time when our democratic institutions are threatened, both within and without our borders, by international revolutionary forces, this House has voted to weaken the internal security of our Nation.

During the Republican Conference which was held yesterday, I offered a motion that the Republican Party in the House go on record in support of the continuation of the House Committee on Internal Security. This motion was adopted on a standing vote of 68 to 26 which demonstrates the overwhelming support the committee has amongst our Republican members. I am proud that my party was willing to take this stand and was also willing to go on record on this issue.

I intend to join others in the House in an effort to renew the mandate of this committee and its existence because I believe it is a vital part of our national interest in fighting subversion.

COMPREHENSIVE RIGHT TO PRIVACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 30 minutes.

Mr. GOLDWATER. Mr. Speaker, it gives me a great deal of pleasure to announce to the House that the bipartisan coalition of Congressman ED KOCH and myself on the issue of comprehensive privacy legislation will continue in the 94th Congress. Today, we are introducing a revised Koch-Goldwater Comprehensive Right to Privacy Act.

Because of the successful passage of privacy legislation in the closing days of the last Congress, and because that legislation applied solely to the Federal Government, the new Koch-Goldwater legislation will contain provisions that apply only to the States and localities, to private enterprise and to nonprofit organizations. A brief description of the legislation and the text, as introduced, will follow my remarks.

Congressman KOCH and myself intend to offer this legislation for cosponsorship and a "Dear Colleague" soliciting your support will be sent out in a few days. Both of us encourage each of our colleagues to consider our proposal carefully. We believe that you will find the simplicity, clarity, and flexibility of our proposal worthy of your support.

Our legislation contains the following provisions:

RIGHT TO PRIVACY ACT: SUMMARY OF NEW LEGISLATION

FINDINGS AND DECLARATION OF PURPOSE

An individual's personal privacy is affected by the extensiveness of collection, use, and disclosure of information about him.

Organizations keeping personal information should allow individuals the right to know files exist, to inspect them, and correct inaccurate statements.

The increasing use of computers and sophisticated information technology has greatly magnified the harm that can occur from misuse of personal information.

Personal information includes anything that describes an individual, such as his education, financial transactions, medical or employment records, and lifestyle.

SAFEGUARD REQUIREMENTS FOR PERSONAL INFORMATION SYSTEMS

All State and local governments and business organizations and nonprofit organizations must comply with these requirements, whether having manual or computer based information systems.

Information collected should be appropriate to needs of the organization seeking it, maintained completely and competently, and personal information must not be given to third parties without the individual's consent.

When information is collected, the individual must be told if the request is mandatory or voluntary and what penalty or loss of benefit will result for noncompliance.

Several categories of privileged, sensitive information should be established by organizations and particular requirements set before the information is disseminated.

Information about Americans cannot be transferred to a foreign country unless the provisions of the act are extended by any receiving country.

Persons involved in handling personal information must act under a code of professional secrecy and be subject to penalties for any breaches.

Anyone wishing to stop receiving mail because his name is on a mailing list can do so.

Individuals cannot be required to give their social security number for any purpose not related to their social security account.

PUBLIC NOTICE AND INDIVIDUAL RIGHTS

Organizations using personal information must give annual public notice describing their information systems.

An individual may receive at reasonable cost a copy of his file including investigative reports, which must contain its uses and transfers to third parties, be able to challenge inaccurate or undocumented information, and have his position in a dispute added to his file.

Individuals must be notified that information is being maintained about them.

EXCEPTIONS

Criminal law enforcement, press files, and certain administrative information systems are excluded if specifically exempted by statute or Executive order where Congress is duly informed.

FEDERAL PRIVACY BOARD

Establish a five-member Federal Privacy Board serving on a full-time basis, appointed by the President with Senate confirmation, having 3-year terms.

The Board will collect and publish information on personal information systems, issue regulations, conduct research on improving standards, inspect systems when noncompliance is suspected, hear requests for exceptions, and transmit annual reports to Congress and the President.

Only Congress can grant exemptions or exclusions from this act. States and localities will be encouraged to establish privacy authorities to have the same duties as the Federal Board.

PENALTIES

There are civil and criminal penalties to be assessed by the courts, at the request of individuals or the Board.

Injunctions can be sought by the Attorney General to stop practices violating the act.

LOCAL GOVERNMENT TAX IMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. MCKAY) is recognized for 5 minutes.

Mr. McKAY. Mr. Speaker, I join today with my colleague from Utah, Mr. HOWE, in introducing a bill to provide an equitable system of compensation to local governments for the tax immunity of Federal lands within their boundaries. Under the terms of this legislation, Federal land would be appraised at a rate comparable to the applicable tax rate for private lands. County governments would then, at their option, receive payments from the Federal Government based on the actual value of the Federal lands within their boundaries or continue to receive the Federal revenues that normally flow from those lands under other Federal programs.

The bill is relatively simple in concept, uncomplicated to administer, and it offers a solution to a number of serious problems associated with Federal land ownership.

In the Western States, where much of the land is publicly owned, the impact of the Federal presence is highly visible. But anywhere that the Federal Government owns land, there is an impact, and reason dictates that there should be an orderly and logical way to deal with that impact. In Utah, with over 70 percent of the land owned by the Federal Government, the impact of public lands on adjacent communities is of real concern to us. We enjoy benefits from Federal land, but the Federal presence generates certain responsibilities and certain difficulties that are being met only haphazardly.

There are a number of programs under which local governments are compensated in part for Federal land holdings. However, none of these programs is tied to the actual impact of Federal land, nor do they assure the localities that the costs generated by the Federal presence will be met in Federal revenues.

Life in rural America traditionally has been complicated by some unique problems. The many services taken for granted in our towns and cities, such as electricity, water, telephones, health services, and law enforcement, are scarce, high priced, or even nonexistent. One major cause for this situation is the lack of a strong property tax base to finance services. In more densely populated areas of the Nation, local governments have come under increasing pressure as they try to reconcile rising expectations for services with inflation that eats into budgets and increase prices beyond the scope of affordability. Rural governments suffer these burdens, as well as the added problems of low tax bases and greater per capita expenses. And the problem is compounded where the presence of Federal lands generate a need for governmental services, while denying the corresponding tax base to finance those services.

Installations located on Federal land, mineral development and recreational use of Federal land—all attract population to adjacent areas. This population requires many services and services cost the State and local governments money. Yet the tax base to finance these services is absent, in part, due to the fact that Federal land is nontaxable. The injustice of this situation has been recognized in law by the compensation of local governments where Federal installations have depleted the property tax for schools while causing an influx of population. But, as yet, there is no uniform, fair, and logical way to provide compensation to local governments for the taxes lost to them and the added burdens placed upon their treasuries by the presence of Federal land. Under a system of payments in lieu of taxes, fairness would be instituted and the Government would provide a logical share of the costs associated with the impact of Federal lands.

This idea is not new. It was recommended by the Public Land Law Review Commission of 1970. Hearings on the proposal were held last year in my district. We need this legislation more than ever. With unprecedented demands for energy and the recognition that we must move to develop the mineral resources on Federal lands, we need a system of compensation that will meet the needs of the times. This bill will give to local governments the flexibility they must have to meet the rapid influx of population associated problems of resource development.

I urge my colleagues to join me in support of this measure.

LOCAL GOVERNMENT TAX IMMUNITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah (Mr. Howe) is recognized for 5 minutes.

Mr. HOWE. Mr. Speaker, many of our Western States have substantial portions of their land areas in Federal ownership. Unlike most other States, these lands have never passed through the historical process of grant and homestead to private ownership. While realizing the ultimate goal would be the private ownership of these lands, the bill offered, today, addresses the more exigent demand for tax equity and economic development. The Federal ownership of these lands creates substantial revenue inequities for these States by depriving their counties of any right to levy taxes on these lands.

An artificial expedient has been attempted through the return of royalty payments and grazing fees to the counties affected. In my own State of Utah, these fees uniformally fall far short of what the individual counties would receive in property tax revenues if these lands were privately owned. On Forest Service lands, for example, these counties get an average return from the Federal Government of 4 cents per acre. In contrast to this temporizing solution now in effect, both reason and equity would dictate the Federal Government should be treated as the land owner which it has become. The Federal Government would, then, be required to make a fair payment in lieu of those taxes which such counties would otherwise receive.

To underscore the disparity currently existing, the testimony of Vernon L. Holman, chairman of the Utah State Tax Commission—before the House Environmental Subcommittee on September 13, 1974 at Salt Lake City, Utah, indicated an in lieu tax bill would increase Federal revenue in the four counties surveyed: Emery, Garfield, Kane, and Wayne. The increase in Wayne County, alone, would be 720 percent. The dollar amount of Federal revenue associated with land fees in 1973 would have risen from $36,463 to $285,735 under the in lieu tax proposal.

The aggregate tax loss to the Western States has been estimated at approximately $100 million. The increase in revenue cost would be more than returned in benefits from economic development, employment, and ultimate tax revenues in these areas.

The justification is not, however, premised solely upon a demand for income, but upon the strong demands for equity, and as an equalization for the process of private ownership which has somehow stopped short of many of the Western States. In a larger sense the issue is not one of income but of equity and sovereignty. It is my hope my colleagues in the House will join with me in support of this much belated proposal.

THE NEED IS CLEAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Cotter) is recognized for 15 minutes.

Mr. COTTER. Mr. Speaker, in the January 6 issue of Newsweek, a good friend and learned businessman, Frazar B. Wilde, chairman emeritus of Connecticut General Life Insurance Co., wrote an intriguing article about the need to reestablish the Reconstruction Finance Corporation.

For the benefit of my colleagues and readers of the Congressional Record, I insert the article:

The Need Is Clear

(By Frazar B. Wilde)

We have developed a consensus in respect to one fundamental aspect of our economic situation—we are in a recession. There is, however, wide divergence in estimating whether the present recession will deteriorate further, even reaching a depression. There is little, if any, consensus as to the proper governmental action to take from this point on.

What cannot be denied is crystal-clear: namely, that hundreds of business and financial companies are in grave difficulty. The large air transport companies are outstanding current illustrations, but there are hundreds of other businesses throughout the country—running from automobile companies and shipbuilding companies to basically sound real-estate developments—which may be liquidated. The solution, in my view, is to revive a successor in modern form to the Reconstruction Finance Corp., which proved so successful in saving so many companies during the Depression of the 1930s.

An easy monetary policy on the part of the Federal Reserve cannot and should not be expected to rescue the many corporations that are basically sound but are suffering from lack of cash. The required financing can best be supplied from an institution set up for the specific purpose of reevaluating their individual situations and furnishing funds that will carry them long enough to reestablish their credit and overcome their lack of adequate working capital.

The RFC evolved through a bipartisan effort that started under President Hoover and was completed under President Roosevelt. The organization's great virtue was its ability to make an individual analysis of any type of business which applied to it for relief. The staff it developed and the skill of its chairman, Jesse Jones, enabled the RFC to make a value judgment of an appropriate financial program, including equity money. The result was that hundreds of businesses and thousands of people employed by those businesses were saved. This not only helped the morale of the country, but it also preserved for better times businesses that deserved to be saved but which, to repeat, because of their financial problems would otherwise have failed and eventually would have been closed out.

REVIVAL

Regardless of when the present recession is turned around, much time must pass. The sober facts of life are that we will lose many good businesses unless we revive and implement a modern RFC. We cannot and should not go to the Congress for specific legislation to handle the problems of specific companies; nor is it the business of the Federal Reserve. It is the business of a special institution set up for the express purpose of rescuing the many worthy businesses that will fail in the next year or two unless we take appropriate action. The appropriate action is to revive the RFC under a broad, flexible legislative mandate.

What is the reason that a new form of RFC is not being expedited? Evidently in our long tradition, and among businessmen particularly, there is a strong philosophical objection to Washington participation in the business world in a direct way. This is a good philosophy, and one I subscribe to. But practice and tradition have to yield to the real world, as happened in the Great Depression. We have already seen exceptions today (Lockheed and the Penn Central attempted rescue). The dimensions of the national energy problem and the enormous dimensions of the rescue mission which is obviously going to be required as the result of the present recession compel us to try and find a pragmatic solution.

We cannot afford to be slaves to the tradition that the least government is the best government when our economic system has produced losses and potential losses beyond the capacity of the market to absorb.

We can introduce a new RFC that can participate with business but not remain as a permanent government bureaucratic institution, and it can be done with the right leadership at a cost to the taxpayer which is far less than the loss if we permit good businesses to go down the drain.

A natural question is: what was the net cost to the country of the RFC? Some of the figures available suggest that the operation in total exceeded $50 billion, but a strictly statistical measurement in dollars is not a necessary or proper value judgment.

DIVERSITY

The stated purposes of the RFC were to deal with emergency situations and to aid in attaining broad economic goals. Among specific financial aids were loans to railroads; the purchase of capital stock in Federal Home Loan banks; loans for repairing damage from earthquake, fire, tornado or cyclone, and a long list of financing of RFC wartime subsidiaries and agricultural programs. Loans and aids in the financial world (banks, trust companies, insurance companies, etc.) were substantial. Aid to the industrial world included such diversity as mining, milling and smelting of ores.

To say that the operation was ineffective denies the record. The RFC's performance was spectacular. The idea has been mentioned in Congress and in the press. It is not novel. What is required is action. And the time for action is now.

BIRTHDAY OF DR. MARTIN LUTHER KING, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, for more than 6 years we have suffered the loss of a man who today would celebrate his 46th birthday, were it not for the act of an assassin who stilled his powerful voice when it was most sorely needed. That man, Dr. Martin Luther King, Jr., in the short span of his lifetime, helped change the course of our history. He lived as he preached—nonviolent, compassionate, and totally involved with the oppressed.

Today, as we reflect on the state of our Union at present, we can put in perspective the historical impact Martin Luther King, Jr. had on our lives and the lives of our children. We can see his work in every field of social and political action, opening new vistas of opportunity.

Martin Luther King was not only a devoted family man; he was not only a committed community activist; he was also a nationally and internationally recognized leader for the rights of all men and women. His legacy of love and concern is perhaps best described by Dr. King himself, who, less than two months before his death in 1968, said:

> Every now and then I guess we all think realistically about that day when we will be victimized with what is life's final common denominator—that something we call death. We all think about it. And every now and then I think about my own death, and I think about my own funeral. And I don't think of it in a morbid sense. Every now and then I ask myself, "What is it that I would want said?" And I leave the word to you this morning.
>
> If any of you are around when I have to meet my day. I don't want a long funeral. And if you get somebody to deliver the eulogy, tell them not to talk too long. Every now and then I wonder what I want them to say. Tell them not to mention that I have a Nobel Peace Prize, that isn't important. Tell them not to mention that I have three or four hundred other awards, that's not important. Tell them not to mention where I went to school.
>
> I'd like somebody to mention that day, that . . . "Martin Luther King, Jr., tried to give his life serving others." I'd like for somebody to say that day, that . . . "Martin Luther King, Jr., tried to love somebody." I want you to say that day, that . . . "I tried to be right on the war question." I want you to be able to say that day, that . . . "I did try to feed the hungry." And I want you to be able to say that day, that . . . "I did try, in my life, to clothe those who were naked." I want you to say, on that day, that . . . "I did try, in my life, to visit those who were in prison." I want you to say that . . . "I tried to love and serve humanity."
>
> Yes, if you want to say that I was a drum major, say that I was a drum major for justice; say that I was a drum major for peace; I was a drum major for righteousness. And all of the other shallow things will not matter. I won't have any money to leave behind. I won't have the fine and luxurious things of life to leave behind. But I just want to leave a committed life behind.
>
> And that's all I want to say . . . if I can help somebody as I pass along, if I can cheer somebody with a word or song, if I can show somebody he's traveling wrong, then my living will not be in vain. If I can do my duty as a Christian ought, if I can bring salvation to a world once wrought, if I can spread the message as the master taught, then my living will not be in vain.

Mr. Speaker, I have joined today with my colleagues in the Congressional Black Caucus in reintroducing a bill to commemorate this date, January 15, each year as a national holiday in celebration of the birth of Dr. Martin Luther King, Jr. I strongly urge all Members of the House to join us in recognizing the greatness of this man and in honoring his memory in the years to come.

DR. MARTIN LUTHER KING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

Mr. DRINAN. Mr. Speaker, a few weeks ago, I had occasion to appear with Mrs. Coretta King at a rally in support of the Federal court order desegregating the Boston public schools. The anguish which that decision has aroused brings to mind many similar events in the 1960's. During that period, I had the privilege to serve as chairman of the Massachusetts State Advisory Committee to the U.S. Commission on Civil Rights.

In 1966 we held hearings in the black ghettos of Boston. The problems of housing, employment, and education were all too painfully clear. Our recommendations regarding the schools went unheeded. Seeing and hearing Mrs. King evoked the memory of Martin Luther King, who had identified these difficulties years ago and argued forcefully for their immediate resolution.

Had Dr. King lived, he would have been 46 years old today. At age 39, an assassin's bullet cut short his efforts to advance the rights of the disadvantaged and to further the cause of social justice. However young he died, his achievements, in that short span of life, were enormous.

I recall Dr. King's insistence that the civil rights movement was destined to improve the lives of all Americans, not just the blacks who were its immediate beneficiaries. He perceived that an increased number of black voters would help turn out northern and southern "reactionaries," to use his word, who were then dominating the National Legislature.

Dr. King observed in "Why We Can't Wait":

> [T]hese unrepresentative legislators have crippled the country by blocking urgently needed action. Only with the growth of an enlightened electorate, white and Negro together, can we put a quick end to this century-old stranglehold of a minority on the nation's legislative processes.

That combination of black and white voters has already affected congressional elections, and is beginning to alter the structure of the Congress itself.

In the past few weeks we have witnessed major changes in the manner in which this body conducts its business. Only yesterday we eliminated the Internal Security Committee, which had become the symbol of minority oppression. That step, as well as other reforms, is an advance which resulted in large measure from the work begun by Dr. King and the civil rights movement. I fully expect that process to continue so that the National Legislature is truly the representative body contemplated by the Constitution.

When the full force of Dr. King's efforts is finally realized, we will surely have a more just America. At that time we will have gone far to remove the ancient scourges of poverty, racism, political disenfranchisement, and economic oppression. Each of us will then join with Martin Luther King in recognizing that "the civil-rights movement will have contributed infinitely more to the Nation than the eradication of racial injustice. It will have enlarged the concept of brotherhood to a vision of total interrelatedness." It is that unity of the human spirit, articulated and advanced by Dr. King, which will forever stand as a memorial to his work.

INTRODUCING LEGISLATION TO BROADEN AND EXPAND REHABILITATION AND BETTERMENT ACT OF 1949

(Mr. JOHNSON of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. JOHNSON of California. Mr. Speaker, yesterday I introduced, for appropriate reference, legislation to broaden and expand the Rehabilitation and Betterment Act of 1949—commonly known as the R. & B. Act.

This statute provides a procedure whereby operators of federally constructed irrigation systems may borrow additional sums from the Federal Government for rehabilitating and improving their irrigation systems.

It has recently come to my attention that the Solicitor of the Department of the Interior has ruled that agencies operating projects constructed under the Small Reclamation Projects Act are ineligible for rehabilitation and betterment loans. I am at a complete loss to understand the logic of a situation in which one class of projects can benefit while essentially identical projects are denied from participation.

The legislation which I have introduced will provide that any publicly financed irrigation program can participate in the rehabilitation and betterment program. Without my legislation project operators would be obliged to seek specific legislation to qualify them for assistance. Congress could be expected to receive numerous such legislative requests. Thus, my bill will expedite and streamline program administration at a time when our potential for agriculture production needs every stimulation which we can give it.

A CONSTITUENT'S TRIBUTE

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, some time ago, Mrs. Pepper and I were deeply touched by a warm tribute to me at a meeting held in my district. I would like to share with my distinguished and esteemed colleagues the thoughts composed by Mr. Eugene Griener, a dear friend and a great American. I am proud of my district and the fine people I represent in it, and I think it atypical of all of us who have this awesome responsibility to fairly and decently make laws to improve the lot of the people and keep America the great land that it is, and so I would like to share Mr. Griener's thoughts with you for I think it applies to us all:

Honorable Claude Pepper

A man of principle and pride,
A fighter fighting for our side;
Whose open mind contains no wall,
He listens to the pleads of all.

For Black or White he's always fair,
He finds his strength in daily prayer
To do what's right, what he thinks best;
The years he's served he's passed all tests.

No man has served more faithfully
His people and his great country;
And to the few who don't agree
Will find the truth in history.

To you my friend, my Congressman,
You are a true American
Who give and gives and never asks
For praise or thanks for heartfelt tasks.

THE SYMBOL OF HELP

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, I am privileged to bring to the attention of our colleagues the remarks of an outstanding member of our Miami community Dr. Manolo Reyes, Latin American affairs editor of television station WTVJ, on the occasion of the presentation of Eagle Scout awards to two excellent young men at the Eagle Court of Honor of St. John Bosco Church, January 3, 1975:

Tonight two Scouts will reach the golden dream of becoming Eagle Scouts. But this is not the end. Let us say . . . this is the beginning.

It is correct to make a pause now and think into the past how many efforts have you put in this task to become Eagle Scouts. It is also correct to analyze that only a few through the Scout movement and the United States of America have achieved this great honor. But this is the past. And the past is a prologue. The true task starts now.

Today you receive the honor given by the Scout movement. Tomorrow, let us hope that by applying what you have learned up to now, the outside world will render its honor to all and each of you for what you will do for your country and your fellowman.

When I was a member of the Eagle Scout Board of Examination I always asked the applicants . . . what are going to do now. And most of them answered me that they will stay working with the Scout movement. They wanted to help other scouts to go on the same road they have successfully finished. In fact . . . by doing this you will be fulfilling the true reason of life: help your neighbor. As simple as it sounds, there is no better pleasure in life than trying to fill the needs of others. By doing this you will become a symbol. And never forget: the Eagle Scout is a symbol of help.

LIGHT ON A DARKLING PLAIN

(Mr. PEPPER asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PEPPER. Mr. Speaker, during the recess following the 93d Congress I had an opportunity to read again the remarks my good friend Joe Robbie, owner of the Miami Dolphins, to the 1974 graduates of Florida Memorial College. I would like to share his thoughts with our colleagues and, in doing so, endorse his concept of education as a great source of light on this "darkling plain" on which we live.

Florida Memorial College is a valuable source of higher education in our area and is especially noteworthy for its service to minority students.

I commend Mr. Robbie's remarks to all those who read this Record:

Commencement Address, Joseph Robbie, Florida Memorial College, May 19, 1974

Commencement is a moment of transit in the lives of graduates and parents alike—a moment of mutual pride and a sense of parting—a moment of gratitude for the past and a moment of challenge for the future to the students receiving diplomas.

In this spirit I congratulate and commend the achievement of the graduates and the sacrifice and support of their fathers and mothers and of the faculty and benefactors of Florida Memorial College.

Mathew Arnold, a century ago in England, described the earth which we inhabit as a "darkling plain . . . swept with confused alarms of struggle and flight . . . where ignorant armies fight by night."

A century later this earth is still a darkling plain. We still struggle with poverty, disease, ignorance, bigotry, injustice, inequality and all of the blights of the soul and of the spirit which disturbed Mathew Arnold one hundred years ago.

The condition of life for the third of a nation which was "ill-housed, ill-fed and ill-clothed" in the words of Franklin Delano Roosevelt at the pit of depression four decades ago is scarcely improved despite increased abundance which has created the most affluent society in recorded history for the more fortunate.

The seeds of revolution are more frequently sown by great disparity between the rich and the poor—the fortunate and the unfortunate—than by poverty itself.

Terrorism exists in brush fires at the outer reaches of society and can penetrate the inner regions of civilization if unanswered by freedom, justice, equality, opportunity and hope.

Terrorism unchecked leads inexorably to anarchy.

Ignorant armies still fight by night, many times for less reason than in past centuries. War, itself, is insufferable and indefensible, when fought for reasons people accept. When wars are fought for reasons unexplained and are not understood, even on the basis of national security, public rebellion can turn international misadventure into civil strife.

A principal achievement during the past century is in the field of education where the schools and colleges have given greater access to the poor and to the underprivileged.

Yet unfortunately this has proved as much as anything else that education alone is not the answer but only a highly necessary approach.

For with more scientists in the laboratories now than the gross total in all the centuries of recorded history, the added creature comforts are dwarfed by the danger that we will destroy ourselves with the weapons of our own productive genius and that this civilization, too, shall pass . . . unless we accept the philosophical cynicism: "Why worry about civilization? It may never come."

And the quality of today's education does not yet meet the constitutional standard of equal rights under the law.

If education alone is not enough to improve the human condition on a basis of equality and justice, then where else can we turn except to the family and to religion to improve the human heart and the human spirit in balance with the human mind.

For this reason, the private college, which teaches human and spiritual values without unnecessary emphasis on questioning every virtue and every institution to which we attach ourselves and anchor our lives, is important and its survival is imperative. This dual system comprised of public and private education provides a freedom of choice to the student and a competition in educational product that buttresses academic freedom and stimulates society.

With all of this review of our dreary past, we must recognize that hope has always survived and the human spirit remains undefeated.

When Mathew Arnold described this earth as a "darkling plain," he nevertheless expressed the eternal vision in the first lines of *Dover Beach*:

"Ah, love, let us be true to one another;
For the world, which seems to lie before us
like a land of dreams,
so various, so beautiful, so new . . ."

This is how each of us sees the world as we first become aware of our surroundings. It is only in the later reality of injustice that the world has "neither joy, nor love, nor light."

Let the challenge to the graduates of 1974 be: enlist as the new troops in the eternal struggle for economic, racial, social and political justice. Then the world can become "various . . . beautiful . . . new."

And let us join at Commencement at this dedicated institution of learning . . . as we overcome immorality, vulgarity and ethical myopia at the center of our national political life . . . in the prayerful poem of Dr. Josiah Gilbert Holland:

"God give us men!
A time like this demands
Strong minds, great hearts,
True faith and ready hands;
Men whom the lust of office cannot kill,
Men whom the spoils of office cannot buy;
Men who have honor,
Men who will not lie,
For while the rabble with its thumb worn
creeds,
Its large professions and its little deeds,
Mingle in selfish strife,
Lo, freedom weeps, wrong rules the land
And waiting justice sleeps."

THE ENERGY INFORMATION ACT

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the Record).

Mr. DOMINICK V. DANIELS. Mr. Speaker, every American energy consumer will soon feel the economic impact of increased taxes and prices on energy products proposed by the Ford administration.

The President maintains that these higher energy costs are necessary to: First, curb national energy consumption and thus partially relieve our dependence on imported oil products; and second, to provide economic incentives for increased domestic production of fossil fuels.

American citizens will be underwriting the cost of Project Independence through these increased costs. As such, they become shareholders in America's energy future. And as shareholders, they are entitled to full information on our national energy resources, as well as the production costs and profit structure of the domestic energy industry.

Heretofore, this type of information has been withheld from the public by the energy industry, which claims that such data is proprietary information. However, the American public is now fully involved in the development of our national energy goals. Americans need this information not only to make prudent energy consumption choices, but to also retain their confidence in our national energy policies.

The Government, the private sector, and the American public are now full partners in a joint effort to improve our national energy self-sufficiency. If the public is going to help pay the bills for this venture, they deserve nothing less than the straight facts on our energy deployment capability and on corporate operations involving national energy resources.

The bill I am introducing today will provide for the improved collection, organization, standardization, coordination, and dissemination of energy information by a National Energy Information System. The bill will additionally provide for a regular, uniform reporting by all significant corporations operating in the energy industries of certain information on their operations and on the mineral fuel reserves and natural energy resources they control. Under the terms of the act, the Secretary of the Interior will be charged with collecting and reporting information on mineral fuel reserves located on public lands, including submerged lands of the Outer Continental Shelf.

The energy information data base that will be created by this act will facilitate the achievement of our national energy goals by providing policymakers, public regulators, law enforcement officials, industry, and the general public with information that will aid in the development of sound national energy policies; that will encourage wise management of national energy resources; and that will encourage a positive response in all sectors to the Nation's energy challenge.

SURVIVING SPOUSE ANNUITIES

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the RECORD.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I am today introducing legislation which was approved by the House by a 2-to-1 margin in the 93d Congress, but which was not favorably considered in the Senate. It provides for an automatic annuity to the surviving spouse of a civil service retiree without any reduction in the retiree's annuity benefit.

The civil service retirement law provides two types of annuity upon a married employee's retirement: a single life benefit or a reduced benefit with a survivor annuity payable to the spouse. The law automatically grants the retiring employee a reduced annuity with survivor benefit unless he elects to receive the full, single life rate without an annuity for the surviving spouse.

While the survivorship option originally required a full actuarial reduction in annuity, it has been amended over the years to decrease the annuity reduction cost to the retiring employee. The present reduction formula, which has been in effect for the past 12 years, is 2½ percent of the annuity which does not exceed $3,600, plus 10 percent. The same reduction factors apply in the case of an employee who chooses to use only a portion of his full annuity upon which to base a survivor benefit.

The primary purpose of this legislation is to repeal: First, the existing requirement of reducing a retiree's annuity in order to provide a benefit for the surviving spouse; second, the authority whereby the retiree may provide a survivor benefit less than that predicated upon his full rate of annuity; and third, the provision whereby he may deny this spouse any benefit whatsoever.

This legislation also provides that the annuity of a person already retired and receiving a reduced benefit for survivor purposes will be recomputed to eliminate the penalty imposed at the time of his retirement. His annuity would be recomputed, as of the date of enactment, to restore the full, single life rate, together with any applicable cost-of-living adjustment and statutory increases authorized heretofore. Thus, the bill would extend to those persons presently on the retirement rolls the same treatment accorded by the bill to those who retire subsequent to its effective date.

In addition, while the bill does not change the current provisions of law which grants the surviving spouse a benefit equal to 55 percent of the retiree's single life rate of annuity, it does provide for increasing to the same 55-percent level the benefit of the survivor annuity whose basic annuity is less than 55 percent of the retiree's single life rate. Irrespective of the law in effect at the time of the employee's retirement, the survivor's basic annuity will be redetermined, if necessary, and paid in an amount equaling 55 percent of the single life rate of the deceased employee's or retiree's annuity, plus the applicable intervening percentage adjustment. Thus, all surviving spouses' benefits will be paid on a uniform percentage basis, in a manner similar to that proposed by the bill for future survivor annuitants.

One final significant provision of the bill is a provision which vests entitlement of spouses who presently have no potential annuity eligibility. These are the spouses of individuals who retired a number of years ago—before October 1, 1956, in particular when the law either prohibited them from providing survivor protection or when the reduction costs were so substantial as to make it economically impractical for them to provide survivor protection. However, such new survivor rights would be restricted to the spouses or retirees who die subsequent to the date of enactment of the bill.

The merits of this legislation were demonstrated by the bipartisan support it received while under consideration by this body last year. I trust that it will receive prompt and favorable consideration in the 94th Congress, not only by the House, but by the Senate Committee on Post Office and Civil Service.

BILL INTRODUCED TO RESTORE INTERNAL SECURITY COMMITTEE

(Mr. ASHBROOK asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, today I am introducing a bill that will restore the Internal Security Committee as a standing committee of the House.

The action taken yesterday was unworthy of this legislative body. In the past the overwhelming majority of Congressmen have supported the work of the Internal Security Committee. Only 3 months ago the House voted 246 to 164 to retain it as a separate committee.

The committee has also enjoyed widespread popular support. During the past week my office has received over 3,000 letters as well as hundreds of telegrams and phone calls urging retention of the committee.

The Democratic House leadership, however, has seen fit to abolish the Internal Security Committee by a parliamentary sleight-of-hand. Rather than allowing a direct vote on the issue, it has concealed its actions under the guise of adopting the rules. Apparently almost all of the Democratic Members were afraid to show their constituents where they stood on this issue. Those who were elected on a promise to be open and candid have resorted to closed door tactics.

I urge the Rules Committee to report out immediately my bill restoring the Internal Security Committee as a standing committee of the House. Every Member should have the opportunity of voting on this important issue. The American people have a right to expect no less.

THE EMERGENCY JOBS AND UNEMPLOYMENT ASSISTANCE ACT OF 1974

(Mr. BROYHILL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BROYHILL. Mr. Speaker, during the last Congress, I strongly supported the Emergency Jobs and Unemployment Assistance Act. Obviously this is a stopgap measure to deal with an emergency situation. I believe that the Congress should move quickly to develop a broad-based and long-range plan to deal with rising unemployment high prices and our energy problems.

I am pleased that as a result of the Emergency Jobs and Unemployment Act several thousand people throughout North Carolina are being put to work immediately. These job recipients will be some of the people who have been out of work or without a source of income the longest.

I know there are a number of questions about this bill and I am inserting in the RECORD a brief summary of this legislation prepared by the Library of Congress. I hope that this explanation will be helpful to local officials.

THE EMERGENCY JOBS AND UNEMPLOYMENT ASSISTANCE ACT OF 1974: A BRIEF SUMMARY

The Emergency Jobs and Unemployment Assistance Act consists of three titles: Title I authorizes a $2.5 billion public service employment program for fiscal year 1975; title II establishes for calendar year 1975 a new program of Federally-funded unemployment assistance benefits to workers whose jobs were not covered by state unemployment insurance laws; and title III authorizes $500 million for fiscal year 1975 to finance programs or projects that will generate jobs for the unemployed in areas of high unemployment.

TITLE I PUBLIC SERVICE EMPLOYMENT

This title adds a new title VI called "Emergency Jobs Program" to the Comprehensive Employment and Training Act (CETA) of 1973, makes a number of other amendments to that act, contains provisions relating to veterans, and authorizes the National Advisory Council on Vocational Education to accept gifts.

A. Title VI of CETA "emergency job program"

$2.5 billion is authorized for this title for FY 1975, any amounts appropriated to remain available for obligation unitl the end of calendar 1975. The managers' statement makes plain that this authorization is in addition to the open-ended authorizations available under CETA.

The program authorized under the new title is governed by the provisions of title II of CETA with the following exceptions:

1. *Allotment formula.* 90% of the funds appropriated are distributed among eligible applicants (prime sponsors qualified under Title I of CETA and Indian tribes) as follows:

50% of the funds subject to the formula are distributed in the ratio that the number of unemployed in the applicant's area bears to the number of unemployed in the areas of all applicants;

25% is distributed in the ratio that the number of unemployed in the applicant's area in excess of 4.5% of the labor force bears to the number of unemployed in excess of 4.5% in the areas of all eligible applicants with unemployment rates in excess of 4.5%; (In the case of a "balance of State" prime sponsor, the number of unemployed in excess of 4.5% in areas qualifying for assistance under Title II may be counted if that yields a larger number);

25% is distributed in the ratio that the number of unemployed residing in areas qualifying for assistance under Title II of CETA (i.e. with unemployment of 6.5% or more) within the jurisdiction of the applicant bears to the number residing in all areas qualifying under Title II.

The funds not subject to the formula are to be distributed in the Secretary of Labor's discretion, taking into account changes in the rates of unemployment.

2. *Special Provisions.* The title contains a number of provisions designed both to expand the types of jobs for which persons can be hired and to waive certain provisions of title II.

Any eligible applicant who certifies to the Secretary that it is necessary to provide sufficient job opportunities may use the funds under the title to fund the following publicly operated programs: summer Neighborhood Youth Corps (NYC), Mainstream, New Careers, and special services to older workers unemployed due to plant closings (as defined in sections 304(a)(3)–(6) of CETA).

Prime sponsors who (a) have unemployment rates over 7%, (b) were designated because of special circumstances under section 102(a)(4), (c) are rural concentrated employment program grantees, or (d) are "balance of State" prime sponsors but only with respect to title II areas, are subject to special provisions if they certify, and give public notice thereof, that the application of these provisions is necessary in order to provide sufficient job opportunities.

These prime sponsors may use funds (1) for public service employment programs without regard to a number of provisions relating to "transitional" employment and upward mobility that are required in the regular title II program; (2) to hire persons who have been unemployed for 15 days (rather than the 30 days required under title II) but only if the applicant certifies that the hiring does not violate the provision of section 205(c)(8) which prohibits hiring of a person under the Act to fill a vacancy caused by laying off a person in anticipation of funding the job under this Act; (3) for paying wages on publicly operated capital improvement projects which, in communities with population of 10,000 or less located outside Standard Metropolitan Statistical Areas, may include the construction of water and waste disposal facilities.

3. *Miscellaneous.* Funds under the title are available for projects or activities lasting 12 months from when they begin. The Secretary is authorized to reallocate funds among eligible applicants within a State if he determines, after 30 days notice to the applicant and the Governor, that the funds cannot be used within a reasonable time.

B. Other amendments to CETA

1. *Placement Goals.* Title II is amended to prohibit the Secretary of Labor from establishing any requirement that an applicant place a specified number or percentage of employees in unsubsidized employment but it does authorize him to establish placement goals. Applicants may request waiver of these placement goals where they are not feasible.

2. *Average Wage.* Title II is amended to authorize the Secretary to make general recommendations to prime sponsors with the aim of maintaining a nationwide average wage of $7,800 in public service jobs.

3. *Age Discrimination.* Age discrimination in all programs under CETA is prohibited. The Managers' Statement says that this is not intended to preclude age classifications in programs such as Job Corps and Mainstream.

C Veterans

The Director of the Veterans' Employment Service is given certain authority with respect to all of the Department of Labor's programs relating to veterans. The Secretary of Labor, in consultation with VA and HEW, is to establish a public information and outreach program which includes maximum efforts to produce jobs and training opportunities for veterans discharged no more than 4 years before their date of application for the training opportunity.

TITLE II SPECIAL UNEMPLOYMENT ASSISTANCE PROGRAM

1. *Duration of program.* This new program of unemployment assistance is in effect only while the national rate of unemployment remains at 6% or more (most recent three-month average). If the rate recedes below that level, the program remains in effect in any area (that is eligible to be a prime sponsor under CETA) with an unemployment rate of 6.5% or more. In any event, no new claim for benefits may be filed after December 31, 1975 and no person (who was eligible before that date) may receive benefits after March 31, 1976.

2. *Eligibility for Benefits.* Benefits are payable to any person who is not eligible for benefits under any State or Federal unemployment benefits law and who, in the 52 weeks before filing his claim, had sufficient employment experience to qualify him for benefits under the State law—had that law provided coverage for his occupation or job. In determining whether the person had sufficient employment, all employment is counted even though it was not covered employment under the State law. (However, any employment which was counted for the purpose of paying benefits under State or Federal law is not counted again for purposes of qualifying for benefits under this title.)

3. *Amount and Duration of Benefits.* Eligible persons receive the same weekly benefit amount, and for the same number of weeks of benefits, as they would have received if their employment had been subject to the State unemployment insurance law. However, no person may receive more than 26 weeks of benefits.

4. *Administration.* The program will be administered by the State agency administering the State's unemployment insurance law under agreement with the Secretary of Labor. Administrative expenses as well as benefits are 100% Federally funded.

TITLE III JOB OPPORTUNITIES PROGRAM

This title adds a new Title X to the Public Works and Economic Development Act.

The new title authorizes $500 million for fiscal year 1975, to remain available for obligation through December 31, 1975, for providing financial assistance to areas of high unemployment for projects or activities with high job generating potential. No funds may be obligated if the national rate of unemployment falls below 6.5% (3 month average).

1. *Eligible areas.* Any area with an unemployment rate of 6.5% or more and areas designated as redevelopment areas under the Public Works and Economic Development Act.

2. *Eligible Activities.* Funds may be used to fund projects or activities under any Federal assistance program that meet the criteria for selection. Funds under this act will be transferred to the agency administering the Federal assistance program and will be subject to the requirements of the law authorizing the assistance except for (1) any allocation requirement, (2) maximum limit of assistance, or (3) non-Federal share requirement.

3. *Method and Criteria for Selection.* All Federal agencies and regional commissions are to review their budget plans and evaluate the job creation effectiveness of all programs and projects for which funds will be obligated in FY 1975 and those which could be financed with funds available under this title. They must then, within 45 days of enactment, submit recommendations to the Secretaries of Commerce and Labor for programs and projects which have job creation potential for unemployed persons in eligible areas. Within 30 days thereafter, the two Secretaries shall make allocations of funds in accordance with the following criteria. Priority consideration shall be given based on the severity of unemployment and appropriateness in relation to the number and needs of the unemployed. Programs or projects may only be funded if the two Secretaries jointly determine that they (1) will contribute significantly to the reduction of unemployment in the area, (2) can be initiated promptly and substantially completed within 12 months, (3) are not inconsistent with local plans, and (4) are the most labor intensive.

4. *Use of Funds*. 50% of the funds appropriated are available only for projects in which not more than 25% of the funds will be spent for non-labor costs.

According to the manager's statement, funds under this title are available for joint funding of projects authorized by the new title VI of CETA. In such jointly funded projects, funds under this title may be used to pay non-labor costs in excess of the 10% limitation that is applicable under CETA but the conferees intend that not more than 25% of the funds under this title that are used for such jointly funded programs shall be used for these excess non-labor costs.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Hansen) to revise and extend their remarks and include extraneous matter:)

Mr. Frenzel, for 15 minutes, today.

Mr. Bauman, for 5 minutes, today.

(The following Members (at the request of Mr. AuCoin) to revise and extend their remarks and include extraneous matter:)

Mr. McKay, for 5 minutes, today.

Mr. Howe, for 5 minutes, today.

Mr. Gonzalez, for 5 minutes, today.

Mr. Fraser, for 5 minutes, today.

Mr. Cotter, for 15 minutes, today.

Mr. Diggs, for 5 minutes, today.

Mr. Drinan, for 5 minutes, today.

Mr. Flood, for 60 minutes, on January 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Duncan of Oregon, to revise and extend his remarks following those of Mr. Ullman on the Hell's Canyon bill yesterday, January 14, 1975.

(The following Members (at the request of Mr. Hansen), and to include extraneous matter:)

Mr. McCloskey.

Mr. Carter.

Mr. Gilman.

Mr. Fish.

(The following Members (at the request of Mr. AuCoin) and to include extraneous material:)

Mr. Stuckey in five instances.

Mr. Moakley.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. McCormack.

Mr. Charles H. Wilson of California in 10 instances.

Mr. Hamilton.

Mr. Long of Maryland in 10 instances.

Mr. Obey.

Mr. Downey in five instances.

Mr. Moss in two instances.

Mr. Mazzoli in two instances.

Mr. Solarz in three instances.

Mr. Drinan in 10 instances.

Mr. Roncalio in five instances.

ENROLLED JOINT RESOLUTION SIGNED

Mr. WAYNE L. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 1. Joint resolution extending the time within which the President may transmit the Budget Message and the Economic Report to the Congress.

ADJOURNMENT

Mr. AuCoin. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 21 minutes p.m.), the House adjourned until tomorrow, Thursday, January 16, 1975, at 12 o'clock noon.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*Submitted Jan. 14, 1975*]

By Mr. McFALL:

H.R. 78. A bill to amend the Small Business Investment Act of 1958 to create a pollution control financing program for small businesses; to the Committee on Small Business.

By Mr. FORSYTHE (for himself, Mr. Roe, and Mrs. Fenwick):

H.R. 79. A bill to provide for improved labor-management relations in the Federal service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DINGELL (for himself, Mr. Forsythe, Mr. Bennett, Mr. Breaux, Mr. du Pont, Mr. Young of Alaska, Mr. Studds, Mr. McCloskey, and Mr. Pritchard):

H.R. 80. A bill to amend the Fishermen's Protective Act of 1967 in order to strengthen the import restrictions which may be imposed to deter foreign countries from conducting fishing operations which adversely affect international fishery conservation programs; to the Committee on Merchant Marine and Fisheries.

By Mr. ULLMAN:

H.R. 81. A bill to provide for the selection of candidates for President of the United States in a national presidential primary election, and for the election of a President and a Vice President by direct vote of the people, and for other purposes; to the Committee on House Administration.

H.R. 82. A bill to afford the people of the United States a sufficient time to vote in presidential elections; to the Committee on House Administration.

H.R. 83. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income gains from the condemnation of certain forest lands held in trust for the Klamath Indian Tribe; to the Committee on Ways and Means.

H.R. 84. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to conduct a study with respect to the feasibility of establishing the Desert Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

By Mr. ULLMAN (for himself and Mr. McCormack):

H.R. 85. A bill to amend the Geothermal Steam Act of 1970 to establish preferred status for public utilities with respect to bidding for lands to be leased under the provisions of such act; to the Committee on Interior and Insular Affairs.

By Mr. ULLMAN:

H.R. 86. A bill to provide for the establishment of the Oregon Trail National Historic Site in the State of Oregon, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 87. A bill to authorize the enrollment of qualified Klamath minors in Bureau of Indian Affairs residential schools, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 88. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to require the establishment of standards related to rear-mounted lighting systems; to the Committee on Interstate and Foreign Commerce.

H.R. 89. A bill to amend section 5042(a) (2) of the Internal Revenue Code of 1954 to permit individuals who are not heads of families to produce wine for personal consumption; to the Committee on Ways and Means.

By Mr. BROOMFIELD:

H.R. 90. A bill to amend the Internal Revenue Code of 1954 to repeal the excise tax on trucks, buses, and tractors and parts and accessories for such vehicles; to the Committee on Ways and Means.

By Mr. BENNETT:

H.R. 91. A bill to amend chapter 47 (Uniform Code of Military Justice) of title 10, United States Code, to make certain improvements therein; to the Committee on Armed Services.

H.R. 92. A bill to establish the U.S. Agency for World Peace within the Department of State; to the Committee on Foreign Affairs.

H.R. 93. A bill to amend the Social Security Act to provide for medical and hospital care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups and in part for others through the issuance of redeemable certificates; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Interstate and Foreign Commerce.

By Mr. DINGELL:

H.R. 94. A bill to provide a program of national health insurance, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BENNETT:

H.R. 95. A bill to protect the constitutional rights of those subject to the military justice system, to revise the Uniform Code of Military Justice, and for other purposes; to the Committee on Armed Services.

By Mr. MONTGOMERY (for himself, Ms. Holt, Mr. Mitchell of New York, Mr. Sikes, Mr. Cochran, Mr. Lott, and Mr. Myers of Indiana);

H.R. 96. A bill to amend title 10, United States Code to authorize a tuition assistance program for enlisted members of the National Guard and the Selected Reserve of the Ready Reserve; to the Committee on Armed Services.

By Mr. MONTGOMERY (for himself, Ms. Holt, Mr. Mitchell of New York, Mr. Nichols, Mr. Sikes, Mr. Lott, and Mr. Myers of Indiana):

H.R. 97. A bill to amend section 1448 of title 10, United States Code, to provide survivor benefits in case of death of certain members or former members of the Armed Forces who die before becoming entitled to retired pay for nonregular service, and for other purposes; to the Committee on Armed Services.

By Mr MONTGOMERY (for himself, Ms. Holt, Mr. Mitchell of New York.

Mr. Sikes, Mr. Myers of Indiana, and Mr. Lott):

H.R. 98. A bill to amend section 1333 of title 10, United States Code, relating to retirees point credit for nonregular service; to the Committee on Armed Services.

By Mr. MONTGOMERY (for himself, Ms. Holt, Mr. Mitchell of New York, Mr. Nichols, Mr. Sikes, Mr. Lott, and Mr. Myers of Indiana):

H.R. 99. A bill to amend chapter 67 of title 10, United States Code (relating to retired pay for nonregular service), to authorize payment to persons otherwise eligible, at age 55, and in reduced amounts to such persons who are at least 50 but less than 55 years of age; to the Committee on Armed Services.

By Mr. MONTGOMERY (for himself, Ms. Holt, Mr. Mitchell of New York, Mr. Nichols, Mr. Sikes, Mr. Myers of Indiana, Mr. Lott, and Mr. Cochran):

H.R. 100. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BENNETT:

H.R. 101. A bill to provide an incentive plan for participation in the Ready Reserve; to the Committee on Armed Services.

H.R. 102. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes; to the Committee on Armed Services.

H.R. 103. A bill to amend title 10, United States Code, to permit the recomputation of retired pay of certain members and former members of the Armed Forces; to the Committee on Armed Services.

H.R. 104. A bill to amend chapter 73 of title 10, United States Code, in order to provide that no further reduction be made in the retired or retainer pay of any person who elects to provide annuities under the survivor benefit plan if all beneficiaries of the annuities predecease such person; to the Committee on Armed Services.

H.R. 105. A bill to make eligible for annuities payable under section 4 of Public Law 92-425 (relating to the Armed Forces Survivor Benefit Plan) persons who became widows during the 18-month period following the effective date of such law; to the Committee on Armed Services.

H.R. 106. A bill to amend titles 10 and 37, United States Code, to include foster children within the definition of dependent, and for other purposes; to the Committee on Armed Services.

H.R. 107. A bill to amend title 10 of the United States Code in order to eliminate or reduce certain deductible payments by patients for treatment under the uniformed services health benefits program, and to repeal the provision of law prohibiting CHAMPUS benefits to persons entitled to medicare benefits; to the Committee on Armed Services.

H.R. 108. A bill to amend the Bank Holding Company Act of 1956 to eliminate the existing exemption for labor, agricultural, and horticultural organizations; to the Committee on Banking, Currency, and Housing.

H.R. 109. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

By Mr. KASTENMEIER:

H.R. 110. A bill requiring personal financial disclosure, and promoting public confidence in the legislative, executive, and judicial branches of the Government of the United States; jointly, to the Committees on the Judiciary and Standards of Official Conduct.

By Mr. BENNETT:

H.R. 111. A bill to amend title III of the Federal Election Campaign Act of 1971 to require that political committees and candidates report all political contributions and expenditures regardless of amount; to the Committee on House Administration.

H.R. 112. A bill to coordinate State-preferential primary elections for the nomination of candidates for the office of President, and for other purposes; to the Committee on House Administration.

H.R. 113. A bill to amend title 18, United States Code, to provide that any parent who kidnaps his minor child shall be fined not more than $1,000, or imprisoned for not more than 1 year, or both; to the Committee on the Judiciary.

H.R. 114. A bill to permit honorably discharged veterans of the Armed Forces of the United States to render the military salute when the flag is hoisted, lowered, or is passing in a parade or review; when the national anthem is played; and when the pledge of allegiance to the flag is given; and to clarify the rules governing patriotic conduct at such times; to the Committee on the Judiciary.

H.R. 115. A bill to amend section 207 of title 18, United States Code, in order to prohibit former Federal employees who participated in a contract formulation from being employed, for a period of 2 years, by anyone who has a direct interest in the contract; to the Committee on the Judiciary.

H.R. 116. A bill to assist in combating crime by reducing the incidence of recidivism, providing improved Federal, State, and local correctional facilities and services, strengthening administration of Federal corrections, strengthening control over probationers, parolees, and persons found not guilty by reason of insanity, and for other purposes; to the Committee on the Judiciary.

H.R. 117. A bill to subject certain nationals or citizens of the United States to the jurisdiction of the U.S. district courts for their crimes committed outside the United States and to provide for the apprehension, restraint, removal, and delivery of such persons; to the Committee on the Judiciary.

H.R. 118. A bill to amend chapter 313 of title 18 of the United States Code to improve the system dealing with mental defectives charged with offenses against the United States; to the Committee on the Judiciary.

H.R. 119. A bill to amend title 5 of the United States Code with respect to the observance of Memorial Day and Veterans Day; to the Committee on Post Office and Civil Service.

H.R. 120. A bill to amend title 23, United States Code, to insure that no State will be apportioned less than 80 percent of its tax contribution to the Highway Trust Fund; to the Committee on Public Works and Transportation.

H.R. 121. A bill to authorize the Architect of the Capitol to accept gifts of money for the enhancement of the Capitol Building or Grounds; to the Committee on Public Works and Transportation.

H.R. 122. A bill to provide for a Veterans' Administration general medical and surgical hospital at Jacksonville, Fla., and to achieve cooperation with the University of Florida College of Medicine in its activities in Jacksonville; to the Committee on Veterans' Affairs.

H.R. 123. A bill to provide for a national cemetery in Duval County, Fla.; to the Committee on Veterans' Affairs.

H.R. 124. A bill to amend section 232 of the Trade Expansion Act of 1962 in order to prohibit the imposition under the authority of that section of duties, taxes, or fees on the importation of petroleum and petroleum products, and for other purposes; to the Commitee on Ways and Means.

H.R. 125. A bill to amend titles II and XVIII of the Social Security Act to remove the earnings limitation, to permit benefit payments to a widower, parent, or child despite his or her marriage if such marriage is annulled, to allow an individual to have military service excluded in the computation of his benefits in order to use such service for a civil service retirement annuity, to provide coverage for certain teachers, to provide for payment of prorated benefits for the month in which a beneficiary (or the insured individual) dies, to permit State supplementary medical insurance coverage for certain services furnished an individual at his home by a medical technician or registered nurse; to the Committee on Ways and Means.

H.R. 126. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

By Mr. BROOMFIELD:

H.R. 127. A bill to terminate all price-support programs for tobacco beginning with the 1974 crop of tobacco; to the Committee on Agriculture.

H.R. 128. A bill to provide authority for the President to reduce amounts appropriated pursuant to an appropriation act by an amount equal to not more than 5 percent of the aggregate amount appropriated by such act; to the Committee on Appropriations.

H.R. 129. A bill to authorize the release of 1,553,500 pounds of cadmium from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

H.R. 130. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

H.R. 131. A bill to repeal the Occupational Safety and Health Act; to the Committee on Education and Labor.

H.R. 132. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 133. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 134. A bill to discourage the use of leg-hold or steel jaw traps on animals in the United States; to the Committee on Interstate and Foreign Commerce.

H.R. 135. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

H.R. 136. A bill to amend the Immigration and Nationality Act to eliminate the procedures for voluntary departure with respect to certain aliens illegally in the United States and to increase the penalties for the illegal entry of aliens, and for other purposes; to the Committee on the Judiciary.

H.R. 137. A bill to amend the Immigration and Nationality Act to require the Attorney General to employ additional personnel to patrol the borders of the United States, and for other purposes; to the Committee on the Judiciary.

H.R. 138. A bill to make it a crime to move or travel in interstate or foreign commerce to avoid compliance with certain support orders, and for other purposes; to the Committee on the Judiciary.

H.R. 139. A bill to prohibit the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.R. 140. A bill to prohibit different types of foreign assistance to any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment; internment or imprisonment for political purposes; or other flagrant denials of the right to life, liberty, and the security of the person; to the Committee on Foreign Affairs.

H.R. 141. A bill to amend title 18, United States Code, with respect to surveillance practices and procedures; to the Committee on the Judiciary.

H.R. 142. A bill to enforce the first amendment and fourth amendment to the Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States or any member of the Armed Forces of the United States from using the Armed Forces of the United States to exercise surveillance of civilians or to execute the civil laws, and for other purposes; to the Committee on the Judiciary.

H.R. 143. A bill to provide price support for milk at not less than 90 percent of the parity price therefor; to the Committee on Agriculture.

By Mr. GRASSLEY:

H.R. 144. A bill to provide that Federal expenditures shall not exceed Federal revenues, except in time of war or grave national emergency declared by the Congress, and to provide the systematic reduction of the public debt; to the Committee on Ways and Means.

By Mr. BROOMFIELD:

H.R. 145. A bill to amend title 13, United States Code, to provide for a mid-decade census of population in 1985 and every 10 years thereafter, to prescribe February 1 as the census date for the 1985 and later censuses of population, to limit the categories of questions to be answered in mid-decade censuses, to provide for census recounts of population and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 146. A bill to allow a deduction for income tax purposes of certain expenses incurred by the taxpayer for the education of a dependent; to the Committee on Ways and Means.

H.R. 147. A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for depreciation on capital expenditures incurred in connecting residential sewer lines to municipal sewage systems; to the Committee on Ways and Means.

H.R. 148. A bill to amend the Internal Revenue Code of 1954 to provide reasonable and necessary income tax incentives to encourage the utilization of recycled solid waste materials and to offset existing income tax advantages which promote depletion of virgin natural resources; to the Committee on Ways and Means.

H.R. 149. A bill to amend the Internal Revenue Code of 1954 to provide tax relief for homeowners; to the Committee on Ways and Means.

H.R. 150. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 151. A bill to exclude from gross income the first $1,000 of interest received from savings account deposits in home lending institutions; to the Committee on Ways and Means.

H.R. 152. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 153. A bill to provide property tax relief to low-income elderly homeowners through direct reimbursements; to the Committee on Ways and Means.

By Ms. ABZUG:

H.R. 154. A bill to prohibit discrimination on the basis of sex and marital status, and for other purposes; to the Committee on the Judiciary.

H.R. 155. A bill to provide a comprehensive child development program in the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

H.R. 156. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record, to eliminate the special dependency requirement for entitlement to husband's or widower's benefits, to provide for the payment of benefits to widowed fathers with minor children, and to make the retirement test inapplicable to individuals with minor children who are entitled to mother's or father's benefits; to the Committee on Ways and Means.

H.R. 157. A bill to amend the Internal Revenue Code of 1954 in relation to deduction for business expenses for care of certain dependents; to the Committee on Ways and Means.

H.R. 158. A bill to provide a remedy for sex and marital status discrimination by the insurance business with respect to the availability and scope of insurance coverage for women; to the Committee on Interstate and Foreign Commerce.

H.R. 159. A bill to amend title II of the Social Security Act to reduce from 20 to 5 years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for wife's or widow's benefits on his wage record; to the Committee on Ways and Means.

H.R. 160. A bill to prohibit any instrumentality of the United States from using as a prefix to the name of any person any title which indicates marital status, and for other purposes; to the Committee on Government Operations.

H.R. 161. A bill to grant child care centers status as educational institutions, and to assist such centers in raising capital by permitting donations of surplus Federal property for their use; to the Committee on Government Operations.

H.R. 162. A bill to amend the Crime Control Act of 1973 to establish a National Center for the Prevention and Control of Rape, and for other purposes; to the Committee on the Judiciary.

H.R. 163. A bill to establish the Sewall-Belmont House National Historic Site, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 164. A bill to amend title 10 of the United States Code to provide that family planning services, supplies, and counseling be provided in facilities of the uniformed services, and for other purposes; to the Committee on Armed Services.

H.R. 165. A bill to amend title XVI of the Social Security Act to provide for emergency assistance grants to recipients of supplemental security income benefits, to authorize cost-of-living increases in such benefits and in State supplementary payments, to prevent reductions in such benefits because of social security benefit increases, to provide reimbursement to States for home relief payments to disabled applicants prior to determination of their disability, to permit payment of such benefits directly to drug addicts and alcoholics (without a third-party payee) in certain cases, to continue on a permanent basis the provision making supplemental security income recipients eligible for food stamps, and for other purposes; to the Committee on Ways and Means.

By Ms. ABZUG (for herself, Mr. JOHN L. BURTON, Mr. KOCH, Mr. MCCLOSKEY, and Mr. NIX):

H.R. 166. A bill to prohibit discrimination on the basis of affectional or sexual preference, and for other purposes; to the Committee on the Judiciary.

By Ms. ABZUG:

H.R. 167. A bill to prohibit the United States from engaging in weather modification activities for military purposes; to the Committee on Armed Services.

H.R. 168. A bill to provide for a final termination of U.S. military involvement in Indochina and the termination of all U.S. military assistance to the nations of Indochina, and for other purposes; to the Committee on Foreign Affairs.

H.R. 169. A bill to amend the Privacy Act of 1974; to the Committee on Government Operations.

H.R. 170. A bill to make it an unfair practice for any retailer to increase the price of certain consumer commodities once he marks the price on any such consumer commodity, and to permit the Federal Trade Commission to order any such retailer to refund any amounts of money obtained by so increasing the price of such consumer commodity; to the Committee on Interstate and Foreign Commerce.

H.R. 171. A bill to amend title 18 of the United States Code to prohibit the interception of certain communications unless all parties to the intercepted communication consent; to the Committee on the Judiciary.

H.R. 172. A bill to protect confidential sources of the news media; to the Committee on the Judiciary.

H.R. 173. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes; to the Committee on the Judiciary.

H.R. 174. A bill to amend chapter 17 of title 38, United States Code, to direct the Administrator of Veterans' Affairs to initiate and carry out a special psychiatric, psychological, and counseling program for veterans of the Vietnam era, especially former prisoners of war, and their dependents who are experiencing psychological problems as the result of the military service performed by such veterans; to the Committee on Veterans' Affairs.

H.R. 175. A bill to amend title XVIII of the Social Security Act to eliminate all the deductibles, coinsurance, and time limitations presently applicable to benefits thereunder, to eliminate medicare taxes as the method of financing hospital insurance benefits and premium payments as the method of financing supplementary medical insurance benefits (so that all benefits under such title will be financed from general revenues), and to provide payment for eye care, dental care, hearing aids, prescription drugs, prosthetics, and certain other items not now covered; to the Committee on Ways and Means.

H.R. 176. A bill to establish a Department of the Elderly, and for other purposes; to the Committee on Government Operations.

H.R. 177. A bill to amend title XIX of the Social Security Act to prohibit the imposition of any deduction, cost sharing, coinsurance, enrollment fee, premium, or similar charge with respect to individuals receiving services under a State plan for medical assistance; to the Committee on Ways and Means.

H.R. 178. A bill to make certain that recipients of aid or assistance under the various Federal-State public assistance and other aid programs will not have the amount of such aid or assistance reduced because of increases in monthly social security benefits; to the Committee on Ways and Means.

H.R. 179. A bill to provide relief to certain individuals 62 years of age and over who own or rent their homes, through income tax credits and refunds; to the Committee on Ways and Means.

H.R. 180. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

H.R. 181. A bill to amend the Food Stamp Act of 1964, to insure that the charge to a household for its coupon allotment shall not exceed the level established as of January 1, 1975; to provide that this charge shall in no event exceed 25 percent of the household's income; to guarantee food stamps to recipients of Supplemental Security Income; and for other purposes; to the Committee on Ways and Means.

By Mr. ANDERSON of California (for himself, Mr. Matsunaga, and Mr. Mineta):

H.R. 182. A bill to establish the Cabinet Committee for Asian American Affairs, and for other purposes; to the Committee on Government Operations.

By Mr. ANNUNZIO:

H.R. 183. A bill to establish the Federal Savings and Loan Insurance Corporation as an independent corporate instrumentality of the United States; to the Committee on Banking, Currency and Housing.

H.R. 184. A bill to amend the Labor-Management Reporting and Disclosure Act of 1959 with respect to the terms of office of officers of local labor organizations; to the Committee on Education and Labor.

By Mr. ANNUNZIO (for himself, Mr. Carney, and Mr. Dent):

H.R. 185. A bill to amend the Act of March 2, 1931, to provide that certain proceedings of the Italian American War Veterans of the United States, Inc., shall be printed as a House document, and for other purposes; to the Committee on House Administration.

By Mr. ANNUNZIO:

H.R. 186. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 187. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes; to the Committee on the Judiciary.

H.R. 188. A bill to authorize the Attorney General to make grants to certain law enforcement officers in reimbursement for costs incurred by such officers in certain legal actions arising out of the performance of official duties; to the Committee on the Judiciary.

H.R. 189. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a Federal minimum death and dismemberment benefit to public safety officers or their surviving dependents; to the Committee on the Judiciary.

H.R. 190. A bill to amend the Immigration and Nationality Act to facilitate the entry of foreign tourists into the United States, and for other purposes; to the Committee on the Judiciary.

H.R. 191. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans Affairs.

H.R. 192. A bill to amend chapter 59 of title 38, United States Code, to provide for the recognition of representatives of the Italian American War Veterans of the United States, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 193. A bill to amend the Internal Revenue Code of 1954 to allow a deduction, for income tax purposes, based on expenses incurred by the taxpayer for the higher education of his children; to the Committee on Ways and Means.

H.R. 194. A bill to amend the Internal Revenue Code of 1954, to provide a basic $5,000 exemption from income tax, in the case of an individual or a married couple, for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

H.R. 195. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN:

H.R. 196. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. LENT:

H.R. 197. A bill to establish a contiguous fishery zone (200-mile limit) beyond the territorial sea of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. FLOOD:

H.R. 198. A bill to provide for the increase of capacity and the improvement of operations of the Panama Canal, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 199. A bill to provide for construction of certain bridges, approaches, and roads in the Panama Canal Zone, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS (for himself, Mr. Don H. Clausen, Mr. Ashley, Mr. Downing, Mr. Rooney, Mr. Sarbanes, Mr. Bowen, Mr. de Lugo, Mr. Bonker, Mr. D'Amours, Mr. Young of Alaska, Mr. Lagomarsino, Mr. Emery, Mr. Burke of Massachusetts, Mr. Cohen, Mr. Coughlin, Mr. Dominick V. Daniels, Mr. Davis, Mr. Harrington, Mr. Hicks, Mr. Miller of California, Mr. Rodino, Mr. Rose, Mr. Solarz, and Mr. Stark):

H.R. 200. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ALEXANDER:

H.R. 201. A bill to establish improved programs for the benefit of producers and consumers of rice; to the Committee on Agriculture.

H.R. 202. A bill to amend title 10, United States Code, to restore the system of recomputation of retired pay for certain members and former members of the Armed Forces; to the Committee on Armed Services.

H.R. 203. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Educational and Labor.

H.R. 204. A bill to incorporate the National River Academy of the United States of America; to the Committee on the Judiciary.

H.R. 205. A bill to amend the Federal Aviation Act of 1958 and the Interstate Commerce Act to authorize reduced fare transportation on a space-available basis for persons who are 65 years of age or older; to the Committee on Public Works and Transportation.

H.R. 206. A bill to prohibit common carriers in interstate commerce from charging elderly people more than half fare for their transportation during nonpeak periods of travel, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 207. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 208. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

H.R. 209. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

H.R. 210. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 211. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

By Mr. REUSS:

H.R. 212. A bill to lower interest rates by maintaining an adequate supply and an improved allocation of credit; to the Committee on Banking, Currency, and Housing.

By Ms. JORDAN:

H.R. 213. A bill to authorize in certain cases the appointment of a special judicial prosecutor and investigators to assist grand juries in the exercise of their powers; to the Committee on the Judiciary.

By Mr. MOSHER:

H.R. 214. A bill to require in all cases court orders for the interception of communcations by electronic and other devices, for the entering of any residence, for the opening of any mail, for the inspection or procurement of certain records, and for other purposes; to the Committee on the Judiciary.

By Mr. KASTENMEIER (for himself, Mr. Railsback, and Mr. Cohen):

H.R. 215. A bill to protect news sources and information from compulsory disclosure by newsmen; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 216. A bill to amend the Federal Food, Drug, and Cosmetic Act requiring the public dissemination of information related to seizures and recalls made under the act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 217. A bill to direct the Secretary of State to undertake negotiations with the Federal Republic of Germany for certain payments to the Government of the United States, to authorize ex gratia payments to certain citizens of the United States who fought for the Allied cause in World War II as members of the Royal Army of Yugoslavia and were imprisoned by the German Government, and for other purposes; to the Committee on Foreign Affairs.

H.R. 218. A bill to amend the Internal Revenue Code of 1954 (as amended) to permit charitable contributions to the United Nations to be deductible for income tax purposes; to the Committee on Ways and Means.

H.R. 219. A bill to make requirements with respect to the disclosure of marital status the same for men and women in matters relating to voting qualifications in Federal elections; to the Committee on House Administration.

H.R. 220. A bill for the relief of certain residents of Northern Ireland; to the Committee on the Judiciary.

H.R. 221. A bill to improve museum services; to the Committee on Education and Labor.

H.R. 222. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the licensing of food manufacturers and processors, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 223. A bill to amend the Immigration and Nationality Act with respect to the waiver of certain grounds for exclusion and deportation; to the Committee on the Judiciary.

H.R. 224. A bill to amend the Immigration and Nationality Act, to make it unlawful to knowingly hire an alien not lawfully admitted into the United States, and for other purposes; to the Committee on the Judiciary.

H.R. 225. A bill to amend the Urban Mass Transportation Act of 1964 to insure that transportation facilities built and rolling stock purchased with Federal funds are designed and constructed to be accessible to the physically handicapped and the elderly; to the Committee on Public Works and Transportation.

H.R. 226. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

H.R. 227. A bill to amend the Internal Revenue Code of 1954 to provide, in the case of an individual, a credit (not to exceed $200) or a deduction (not to exceed $800) for public transit fare expenditures incurred in traveling to and from work; and in the case of a handicapped individual unable to use public transportation, a credit (not to exceed $750) or a deduction (not to exceed $3,000) for reasonable transportation expenses incurred in traveling to and from work; to the Committee on Ways and Means.

By Ms. COLLINS of Illinois:

H.R. 228. A bill to protect purchasers and prospective purchasers of condominium housing units, and residents of multifamily structures being converted to condominium units, by providing for the establishment of national minimum standards for condominiums (to be administered by a newly created Assistant Secretary in the Department of Housing and Urban Development), to encourage the States to establish similar standards, and for other purposes; to the Committee on Banking, Currency, and Housing.

H.R. 229. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of medicare for routine Papanicolaou tests for the diagnosis of uterine cancer; to the Committee on Ways and Means.

By Mr. CONTE (for himself and Mr. Dingell):

H.R. 230. A bill authorizing the Secretary of the Interior to issue certain obligations and to utilize the revenues therefrom to acquire additional wetlands; to the Committee on Merchant Marine and Fisheries.

By Mr. COUGHLIN (for himself, Mr. Crane, Mr. Devine, Mr. Flowers, Mr. Hechler of West Virginia, and Mr. Moakley):

H.R. 231. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

By Mr. de la GARZA:

H.R. 232. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

H.R. 233. A bill to provide a mechanism to improve health care in rural areas through the establishment of the Office of Rural Health Care in the Department of Health, Education, and Welfare, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 234. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 235. A bill to provide that, after January 1, 1975, Memorial Day be observed on May 30 of each year and Veterans Day be observed on the 11th of November of each year; to the Committee on Post Office and Civil Service.

H.R. 236. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

H.R. 237. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. DENT:

H.R. 238. A bill to amend title 38 of the United States Code to provide that veterans' pension and compensation will not be reduced as a result of certain increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 239. A bill to provide an income tax credit for savings for the payment of postsecondary educational expenses; to the Committee on Ways and Means.

By Mr. DOWNING:

H.R. 240. A bill to amend title 10, United States Code, to provide severance pay for regular enlisted members of the U.S. Armed Forces; to the Committee on Armed Services.

H.R. 241. A bill to amend the act of September 21, 1965, as amended, providing for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 242. A bill to amend the Public Health Service Act to encourage physicians, dentists, optometrists, and other medical personnel to practice in areas where shortages of such personnel exist, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 243. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 244 A bill to amend the Communications Act of 1934 to provide for loan assistance to certain cable television systems; to the Committee on Interstate and Foreign Commerce.

H.R. 245. A bill to amend section 2254 of title 28, United States Code, with respect to Federal habeas corpus; to the Committee on the Judiciary.

H.R. 246. A bill to amend the Merchant Marine Act, 1920, in order to permit cargo vessels to carry more than 16 passengers when emergency situations arise; to the Committee on Merchant Marine and Fisheries.

H.R. 247. A bill to amend the Merchant Marine Act, 1936, as amended, by inserting a new title X to authorize aid in developing, constructing, and operating privately owned nuclear-powered merchant ships; to the Committee on Merchant Marine and Fisheries.

H.R. 248. A bill to amend title 5, United States Code, to correct inequities in the determination of rates of basic pay in conversions to the General Schedule of employees and positions subject to prevailing rate pay schedules; to the Committee on Post Office and Civil Service.

H.R. 249. A bill to amend title 5, United States Code, to authorize election of health benefits coverage by employees and annuitants for themselves and their spouses at a special rate based on coverage of two persons, and for other persons; to the Committee on Post Office and Civil Service.

H.R. 250. A bill to amend title 38 of the United States Code in order to exclude certain social security payments in determining annual income for purposes of paying non-service-connected disability pension to veterans; to the Committee on Veterans' Affairs.

H.R. 251. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

H.R. 252. A bill to amend section 228 of the Social Security Act to provide that an uninsured individual who is permanently and totally disabled (and has attained age 72) may become entitled to monthly benefits thereunder at any time, without regard to coverage and without any reduction for governmental pensions; to the Committee on Ways and Means.

H.R. 253. A bill to amend title II of the Social Security Act to eliminate the requirement that the 20 quarters of coverage which a fully insured individual generally needs in order to qualify for disability insurance benefits and the disability freeze must have been earned during a specified 40-quarter period; to the Committee on Ways and Means.

By Mr. TEAGUE (for himself, Mr. Mosher, and Mr. Symington):

H.R. 254. A bill to declare a national policy of converting to the metric system in the United States, and to establish a National Metric Conversion Board to coordinate the voluntary conversion to the metric system over a period of 10 years; to the Committee on Science and Technology.

By Mr. BELL:

H.R. 255. A bill to authorize the Secretary of the Interior to designate the Mulholland National Scenic Parkway in the State of California, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BELL (for himself, Mr. Treen, and Mr. Koch):

H.R. 256. A bill to authorize the Secretary of the Treasury to reimburse State and local law enforcement agencies for assistance provided at the request of the U.S. Secret Service; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.R. 257. A bill to amend the Immigration and Nationality Act to provide penalties for certain persons who employ, or who refer for employment, aliens who are in the United States illegally, and for other purposes; to the Committee on the Judiciary.

By Mr. BIESTER:

H.R. 258. A bill to extend volunteer fire companies and volunteer ambulance and rescue companies the rates of postage on second-class and third-class bulk mailings applicable to certain nonprofit organizations; to the Committee on Post Office and Civil Service.

H.R. 259. A bill to amend title 38 of the United States Code in order to remove all limitations on the aggregate period for which a person may receive assistance under two or more of the veterans' educational assistance laws; to the Committee on Veterans' Affairs.

H.R. 260. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. BIESTER (for himself and Mr. Anderson of Illinois):

H.R. 261. A bill to create a Joint Committee on Intelligence Operations; to the Committee on Rules.

By Mr. BOLAND:

H.R. 262. A bill to require that discharge certificates issued to members of the Armed Forces not indicate the conditions or reasons for discharge, to limit the separation of enlisted members under conditions other than honorable, and to improve the procedures for the review of discharges and dismissals; to the Committee on Armed Services.

H.R. 263. A bill to direct the Comptroller General of the United States to conduct a study of the burden of reporting requirements of Federal regulatory programs on independent business establishments, and for other purposes; to the Committee on Government Operations.

H.R. 264. A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease; to the Committee on Interstate and Foreign Commerce.

H.R. 265. A bill to provide for the establishment of a national advisory commission to develop a national plan for the control of epilepsy and its consequences; to the Committee on Interstate and Foreign Commerce.

H.R. 266. A bill to enforce the first amendment and fourth amendment to the Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States or any member of the Armed Forces of the United States from using the Armed Forces of the United States to exercise surveillance of civilians or to execute the civil laws, and for other purposes; to the Committee on the Judiciary.

H.R. 267. A bill to prohibit the sale of "Saturday Night Special" handguns in the United States; to the Committee on the Judiciary.

H.R. 268. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 269. A bill to amend the Internal Revenue Code of 1954 to provide an exemption from the income tax for any amounts received under a State or local retirement system; to the Committee on Ways and Means.

H.R. 270. A bill to amend the Internal Revenue Code of 1954 to provide that pensions paid to retired policemen or firemen or their dependents, or to the widows or other survivors of deceased policemen or firemen, shall not be subject to the income tax; to the Committee on Ways and Means.

H.R. 271. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

H.R. 272. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 273. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

H.R. 274. A bill to amend the Internal Revenue Code of 1954 to provide an additional tax exemption for a taxpayer supporting a dependent who is mentally retarded; to the Committee on Ways and Means.

H.R. 275. A bill to amend title II of the Society Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 276. A bill to amend title XVI of the Social Security Act to provide for emergency Federal assistance grants to aged, blind, or disabled individuals whose supplemental security income checks (or the proceeds thereof) are lost, stolen, or undelivered; to the Committee on Ways and Means.

By Mr. BROYHILL:

H.R. 277. A bill to amend section 1402(a) of title 10, United States Code, to revise the rule for entitlement to retired or retainer pay to reflect later active duty; to the Committee on Armed Services.

H.R. 278. A bill to provide for the establishment of an American Folklife Center in the Library of Congress, and for other purposes; to the Committee on House Administration.

H.R. 279. A bill to impose a tax on windfall profits by producers of crude oil; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts:

H.R. 280. A bill to authorize the Secretary of Agriculture to distribute seeds and plants for use in home gardens, to the Committee on Agriculture.

H.R. 281. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

H.R. 282. A bill to amend the Internal Revenue Code of 1954 to provide income tax incentive to improve the economics of recycling waste paper; to the Committee on Ways and Means.

H.R. 283. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs; to the Committee on Ways and Means.

By Mr. CARNEY:

H.R. 284. A bill to establish uniform dates for the holding of Federal primary elections; to the Committee on House Administration.

H.R. 285. A bill to require no-fault motor vehicle insurance as a condition precedent to using the public streets, roads, and highways in order to promote and regulate interstate commerce; to the Committee on Interstate and Foreign Commerce.

H.R. 286. A bill to provide a penalty for the robbery or attempted robbery of any narcotic drug from any pharmacy; to the Committee on the Judiciary.

H.R. 287. A bill to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes; to the Committee on the Judiciary.

H.R. 288. A bill to provide for posting information in post offices with respect to registration, voting, and communicating with lawmakers; to the Committee on Post Office and Civil Service.

H.R. 289. A bill to amend title 5 of the United States Code to make election day a national holiday; to the Committee on Post Office and Civil Service.

H.R. 290. A bill to abolish the U.S. Postal Service, to repeal the Postal Reorganization Act, to reenact the former provisions of title 39, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 291. A bill to amend title 39, United States Code, to provide that the postmark on mail matter shall disclose the name of the city or community in which the mail matter is actually mailed, the assigned ZIP code, and the date and time of mailing, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 292. A bill to provide for the issuance of a commemorative stamp in honor of the approximately 6 million Jews killed by Nazi Germany during World War II; to the Committee on Post Office and Civil Service.

H.R. 293. A bill to amend title 38 of the United States Code in order to entitle veterans to 45 months of educational assistance for undergraduate or any other authorized programs of education; to the Committee on Veterans' Affairs.

H.R. 294. A bill to establish an independent commission to administer the internal revenue laws; to the Committee on Ways and Means.

H.R. 295. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

H.R. 296. A bill to amend the Internal Revenue Code of 1954 to provide a basic $5,000 exemption from income tax, in the case of an individual or a married couple, for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

H.R. 297. A bill to amend title XVI of the Social Security Act to increase supplemental security income benefits to $200 a month for individuals and $275 a month for couples; to the Committee on Ways and Means.

H.R. 298. A bill to amend title II of the Social Security Act to provide that full old-age, survivors, and disability insurance benefits (when based upon the attainment of retirement age), and medicare benefits, will be payable at age 60 (with such insurance benefits being payable in reduced amounts at age 57), to provide a minimum primary benefit of $100 a month, and to liberalize the earnings test; to the Committee on Ways and Means.

H.R. 299. A bill to regulate lobbying and related activities; jointly to the Committees on the Judiciary and Standards of Official Conduct.

By Mr. CHAPPELL:

H.R. 300. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Florida; to the Committee on Interior and Insular Affairs.

By Mr. COHEN:

H.R. 301. A bill to establish in the Department of Housing and Urban Development a direct low-interest loan program to assist homeowners and other owners of residential structures in purchasing and installing more effective insulation and heating equipment; to the Committee on Banking, Currency, and Housing.

H.R. 302. A bill to amend the Internal Revenue Code of 1954 to encourage greater conservation of energy in home heating and cooling by allowing individuals a credit for 25 percent of amounts paid or incurred for the installation of more effective insulation and heating equipment in existing residential structures; to the Committee on Ways and Means.

By Mr. COHEN (for himself and Mr. CLEVELAND):

H.R. 303. A bill to repeal the provisions of H. Res. 457 of the 92d Congress as enacted into law by the Supplemental Appropriations Act, 1972 (relating to allowances of Members, officers, and committees of the

House of Representatives); to the Committee on House Administration.

By Mr. COHEN (for himself and Mr. STUDDS):

H.R. 304. A bill to establish a Marine Fisheries Conservation and Development Fund; to the Committee on Merchant Marine and Fisheries.

H.R. 305. A bill to amend the Fish and Wildlife Act of 1956 in order to authorize the Secretary of Commerce to make loans to U.S. fishermen to cover the costs of damages to their vessels and gear by foreign vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. CONTE:

H.R. 306. A bill to authorize the disposal of silver from the national stockpile; to the Committee on Armed Services.

H.R. 307. A bill to establish in the Department of Housing and Urban Development a direct low-interest loan program to assist homeowners and other owners of residential structures in purchasing and installing more effective insulation and heating equipment; to the Committee on Banking, Currency, and Housing.

H.R. 308. A bill to extend the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

H.R. 309. A bill to amend the Interstate Commerce Act to provide that no pipeline company engaged in the transportation of oil may transport oil through its pipelines if that company has an interest in such oil; to the Committee on Interstate and Foreign Commerce.

H.R. 310. A bill to divorce the businesses of production, refining, and transporting of petroleum products from that of marketing petroleum products; to the Committee on the Judiciary.

H.R. 311. A bill to establish a National Corrections Academy for the purpose of providing Federal, State, and local corrections personnel with vocational training and continuing education and guidance on methods of treatment and rehabilitation of criminal offenders; to the Committee on the Judiciary.

H.R. 312. A bill to require that new forms and reports, and revisions of existing forms, resulting from legislation be contained in reports of committees reporting the legislation; to the Committee on Rules.

H.R. 313. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 314. A bill to amend title 38, United States Code, to eliminate the time period in which a veteran has to use his educational benefits and to extend the months of eligibility from 36 to 45 months; to the Committee on Veterans' Affairs.

H.R. 315. A bill to require congressional approval of tariffs on petroleum imports; to the Committee on Ways and Means.

H.R. 316. A bill to amend section 167 of the Internal Revenue Code of 1954 to encourage landlords to meet minimal housing standards by disallowing the depreciation deduction to a landlord who has been convicted of violating a housing code; to the Committee on Ways and Means.

H.R. 317. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

H.R. 318. A bill to amend title II of the Social Security Act to provide that any individual may qualify for disability insurance benefits and the disability freeze if he has 20 quarters of coverage (and meets the other conditions of eligibility therefore), regardless of when such quarters were earned; to the Committee on Ways and Means.

By Mr. DANIELSON:

H.R. 319. A bill to provide for the conservation of petroleum and other natural resources by imposing an excise tax on the sale of certain gasoline-powered automobiles according to the rate at which such automobiles consume fuel, and for other purposes; to the Committee on Ways and Means.

By Mr. DELANEY:

H.R. 320. A bill to authorize a 2-year program of financial assistance for all elementary and secondary school children in all of the States; to the Committee on Education and Labor.

H.R. 321. A bill to amend section 620 of the Foreign Assistance Act of 1961 to suspend, in whole or in part, economic and military assistance and certain sales to any country which fails to take appropriate steps to prevent narcotic drugs produced in such country from entering the United States unlawfully; to the Committee on Foreign Affairs.

H.R. 322. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the labels on all foods to disclose each of their ingredients; to the Committee on Interstate and Foreign Commerce.

H.R. 323. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 324. A bill to ban the usage of diethylstilbestrol (DES) as a growth promotant; to the Committee on Interstate and Foreign Commerce.

H.R. 325. A bill to make any alien who becomes a public charge within 24 months of his arrival in the United States subject to deportation, and for other purposes; to the Committee on the Judiciary.

H.R. 326. A bill to amend title 18 of the United States Code to make it a Federal crime to carry out any research activity on a human fetus or to intentionally take any action to kill or hasten the death of a human fetus in any federally supported facility or activity; to the Committee on the Judiciary.

H.R. 327. A bill to amend title 18, United States Code, to strengthen and clarify the law prohibiting the introduction, or manufacture for introduction, of switchblade knives into interstate commerce; to the Commerce on the Judiciary.

H.R. 328. A bill to eliminate racketeering in the sale and distribution of cigarettes and to assist State and local governments in the enforcement of cigarette taxes; to the Committee on the Judiciary.

H.R. 329. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

H.R. 330. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

H.R. 331. A bill to amend title 38 of the United States Code to provide that any social security benefit increases provided for by Public Law 92–336 be disregarded in determining eligibility for pension or compensation under such title; to the Committee on Veterans' Affairs.

H.R. 332. A bill to facilitate the completion of the New York Harbor collection and removal of drift project; to the Committee on Public Works and Transportation.

By Mr. KASTENMEIER (for himself, Mr. EDWARDS of California, Mr. EILBERG, and Mr. MIKVA):

H.R. 333. A bill to revise title 18 of the United States Code; to the Committee on the Judiciary.

By Mr. DELANEY:

H.R. 334. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for tuition expenses incurred in providing private nonprofit elementary and secondary education; to the Committee on Ways and Means.

H.R. 335. A bill to amend the Internal Revenue Code of 1954 to provide for an increase in the amount of the personal exemptions for taxable years beginning after December 31, 1973; to the Committee on Ways and Means.

H.R. 336. A bill to amend the Internal Revenue Code of 1954 to provide a basic $5,000 exemption from income tax for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

H.R. 337. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 338. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

H.R. 339. A bill to amend the Internal Revenue Code of 1954 to provide a basic $5,000 exemption from income tax for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

H.R. 340. A bill to amend title II of the Social Security Act to increase to $3,000 [subject to further increases under the automatic adjustment provisions] the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 341. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

H.R. 342. A bill to amend title II of the Social Security Act to eliminate the earnings test and reduce the age of eligibility for benefits under the old-age, survivors, and disability insurance program, and to amend title XVIII of such act to eliminate all deductibles and coinsurance and provide coverage for drugs, eyeglasses, dentures, hearing aids, and other items under the medicare program; to the Committee on Ways and Means.

By Mr. DELLUMS:

H.R. 343. A bill to amend the National Security Act of 1947 and the Central Intelligence Agency Act of 1949 in order to prohibit certain activities by the Central Intelligence Agency and to limit certain other activities by such Agency, and for other purposes; to the Committee on Armed Services.

H.R. 344. A bill to amend the National Housing Act to authorize the insurance of loans to defray mortgage payments on homes owned by persons who are temporarily unemployed; to the Committee on Banking, Currency, and Housing.

H.R. 345. A bill to amend the Civil Rights Act of 1964 to eliminate employment discrimination on the basis of military discharge status; to the Committee on Education and Labor.

H.R. 346. A bill to amend the Age Discrimination in Employment Act of 1967 to extend the protection of that act to employees of States and their political subdivisions; to the Committee on Education and Labor.

H.R. 347. A bill to provide the protection of the safety and health standards under the Occupational Safety and Health Act of 1970 for individuals participating in athletic contests between secondary schools or between institutions of higher education; to the Committee on Education and Labor.

H.R. 348. A bill to require educational institutions engaged in interscholastic athletic competition to employ certified athletic trainers; to the Committee on Education and Labor.

H.R. 349. A bill to authorize grants to the Deganawidah-Quetzalcoatl University; to the Committee on Education and Labor.

H.R. 350. A bill to prohibit the renewal of U.S. military involvement in Indochina, to encourage compliance with the peace agreement concluded for Indochina, and to prohibit the U.S. funding of police or prison systems in certain foreign countries; to the Committee on Foreign Affairs.

H.R. 351. A bill to amend the Budget and Accounting Act of 1921 to provide for investigations and expenditure analyses of the use of public funds; to the Committee on Government Operations.

H.R. 352. A bill to ban from commerce toys which are copies of or resemble firearms or destructive devices; to the Committee on Interstate and Foreign Commerce.

H.R. 353. A bill to exonerate and to provide for a general and unconditional amnesty for certain persons who have violated or are alleged to have violated laws in the course of protest against the involvement of the United States in Indochina, and for other purposes; to the Committee on the Judiciary.

H.R. 354. A bill to prevent lawless and irresponsible use of firearms, by requiring national registration of firearms, by establishing minimum standards for licensing possession of firearms, and to prohibit the importation, manufacture, sale, purchase, transfer, receipt, possession, or transportation of handguns; to the Committee on the Judiciary.

H.R. 355. A bill to provide for the receipt of testimony and information from executive agencies and bodies; to the Committee on the Judiciary.

By Mr. DOWNING:

H.R. 356. A bill to limit U.S. contributions to the United Nations; to the Committee on Foreign Affairs.

H.R. 357. A bill to have the President appoint the Director of the Federal Bureau of Investigation to a single term of 15 years; to the Committee on the Judiciary.

H.R. 358. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 359. A bill to promote safety in the operation of submersible vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. DOWNING (for himself, Mr. MOSHER, Mr. MURPHY of New York, and Mr. WOLFF):

H.R. 360. A bill to amend the Merchant Marine Act, 1936, to expand the mission of the U.S. Merchant Marine Academy and to change the name of the Academy to reflect the expanded mission; to the Committee on Merchant Marine and Fisheries.

By Mr. DOWNING:

H.R. 361. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

H.R. 362. A bill to amend title II of the Social Security Act to provide that the surviving spouse of an insured worker may authorize direct payment of the worker's lump-sum death payment to the funeral home for his burial expenses; to the Committee on Ways and Means.

H.R. 363. A bill to amend the Social Security Act to provide for medical, hospital, and dental care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Mr. EDWARDS of Alabama:

H.R. 364. A bill to repeal the earnings limitation of the Social Security Act; to the Committee on Ways and Means.

By Mr. EILBERG:

H.R. 365. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain firefighters who die in the performance of duty; to the Committee on the Judiciary.

H.R. 366. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty; to the Committee on the Judiciary.

H.R. 367. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

H.R. 368. A bill to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes; to the Committee on the Judiciary.

By Ms. ABZUG:

H.J. Res. 29. Joint resolution repealing the Military Selective Service Act of 1967; to the Committee on Armed Services.

H.J. Res. 30. Joint resolution designating August 26 of each year as Women's Equality Day; to the Committee on Post Office and Civil Service.

By Mr BELL (for himself, Mr. CORMAN, and Mr. CONTE):

H.J. Res. 31. Joint resolution to authorize the Secretary of the Interior to establish on certain public lands of the U.S. national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BELL:

H.J. Res. 32. Joint resolution to protect whales and certain other living marine sources by amending the Fishermen's Protective Act of 1967 to strengthen the import restrictions which may be imposed to deter foreign countries from conducting fishing operations which adversely affect international fishery conservation programs, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BINGHAM:

H.J. Res. 33. Joint resolution proposing an amendment to the Constitution of the United States relating to the eligibility of a citizen to hold the Office of President; to the Committee on the Judiciary.

By Mr. BROOMFIELD:

H.J. Res. 34. Joint resolution regarding the status of negotiations with foreign governments in relation to debts owed the United States, and for other purposes; to the Committee on Foreign Affairs.

By Mr. CARNEY:

H.J. Res. 35. Joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the popular election of the President and Vice President; to the Committee on the Judiciary.

By Mr. CHAPPELL:

H.J. Res. 36. Joint resolution proposing an amendment to the Constitution of the United States relative to the balancing of the budget; to the Committee on the Judiciary.

By Mr. CONTE:

H.J. Res. 37. Joint resolution proposing an amendment to the Constitution of the United States relating to the nomination of individuals for election to the Offices of the President and Vice President of the United States; to the Committee on the Judiciary.

H.J. Res. 38. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

H.J. Res. 39. Joint resolution proposing an amendment to the Constitution of the United States to vest the Congress with the power to disapprove reprieves and pardons granted by the President; to the Committee on the Judiciary.

By Mr. DELANEY:

H.J. Res. 40. Joint resolution regarding the status of negotiations with foreign governments in relation to debts owed the United States, and for other purposes; to the Committee on Foreign Affairs.

H.J. Res. 41. Joint resolution proposing an amendment to the Constitution of the United States to insure that due process and equal protection are afforded to an individual from the moment of conception; to the Committee on the Judiciary.

By Mr. DOWNING:

H.J. Res. 42. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

H.J. Res. 43. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

H.J. Res. 44. Joint resolution proposing an amendment to the Constitution of the United States with respect to the reconfirmation of judges after a term of 8 years; to the Committee on the Judiciary.

H.J. Res. 45. Joint resolution restoring citizenship posthumously to Gen. Robert E. Lee; to the Committee on the Judiciary.

By Mr. EILBERG:

H.J. Res. 46. Joint resolution proposing an amendment to the Constitution of the United States with respect to grand juries; to the Committee on the Judiciary.

By Mr. FISH:

H.J. Res. 47. Joint resolution authorizing increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes; to the Committee on Armed Services.

H.J. Res. 48. Joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States; to the Committee on Education and Labor.

H.J. Res. 49. Joint resolution to prohibit the Bureau of Labor Statistics from instituting any revision in the method of calculating the Consumer Price Index until such revision has been approved by resolution by either the Senate or the House of Representatives of the United States of America; to the Committee on Education and Labor.

H.J. Res. 50. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

H.J. Res. 51. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans Day; to the Committee on Post Office and Civil Service.

H.J. Res. 52. Joint resolution authorizing the President to proclaim January 17 of each year as National Volunteer Firemen Day; to the Committee on Post Office and Civil Service.

H.J. Res. 53. Joint resolution to provide for the designation of February 20 of each year as Postal Employees Day; to the Committee on Post Office and Civil Service.

H.J. Res. 54. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as National Arthritis Month; to the Committee on Post Office and Civil Service.

By Mr. FLYNT:

H.J. Res. 55. Joint resolution proposing an amendment to the Constitution of the United States relating to powers reserved to the States; to the Committee on the Judiciary.

H.J. Res. 56. Joint resolution proposing an amendment to the Constitution of the United States to permit voluntary participation in prayer in public schools; to the Committee on the Judiciary.

H.J. Res. 57. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans' Day; to the Committee on Post Office and Civil Service.

By Mr. FUQUA:

H.J. Res. 58. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mrs. HOLT:

H.J. Res. 59. Joint resolution proposing an amendment to the Constitution of the United States relative to neighborhood schools to the Committee on the Judiciary.

H.J. Res. 60. Joint resolution granting consent of the Congress that the State of Maryland, the State of Delaware, and the Commonwealth of Virginia, and other States, negotiate and enter into a compact providing for joint participation in the more efficient use of the waters of the Chesapeake Bay and its tributaries; to the Committee on the Judiciary.

By Mr. ICHORD:

H.J. Res. 61. Joint resolution proposing an amendment to the Constitution to permit the States to regulate or forbid abortion; to the Committe on the Judiciary.

By Mr. KASTENMEIER:

H.J. Res. 62. Joint resolution proposing an amendment to the Constitution of the United States relating to the election of the President and Vice President; to the Committee on the Judiciary.

By Mr. KETCHUM:

H.J. Res. 63. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. JOHNSON of Pennsylvania:

H.J. Res. 64. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

H.J. Res. 65. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans Day; to the Committee on Post Office and Civil Service.

By Mr. MEEDS:

H.J. Res. 66. Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. MILFORD:

H.J. Res. 67. Joint resolution proposing an amendment to the Constitution of the United States relating to the busing or involuntary assignment of students; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.J. Res. 68. Joint resolution to express the sense of Congress that a White House Conference on the Handicapped be called by the President of the United States; to the Committee on Education and Labor.

H.J. Res. 69. Joint resolution to direct the Federal Communications Commission to conduct a comprehensive study and investigation of the effects of the display of violence in television programs, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.J. Res. 70. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

H.J. Res. 71. Joint resolution amending the Fishermen's Protective Act of 1967 to insure the safety of U.S. commercial fishing vessels, crews, and equipment against illegal harassment and seizure; to the Committee on Merchant Marine and Fisheries.

H.J. Res. 72. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as National Family Week; to the Committee on Post Office and Civil Service.

H.J. Res. 73. Joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday of November of each year as National Grandparents' Day; to the Committee on Post Office and Civil Service.

H.J. Res. 74. Joint resolution to provide for the designation of February 20 of each year as Postal Employees Day; to the Committee on Post Office and Civil Service.

By Mr. PETTIS:

H.J. Res. 75. Joint resolution proposing an amendment to the Constitution of the United States with respect to the flag of the United States; to the Committee on the Judiciary.

By Mr. PEYSER:

H.J. Res. 76, a resolution authorizing the President to proclaim the first Sunday of June of each year as American Youth Day; to the Committee on Post Office and Civil Service.

By Mr. RANDALL:

H.J. Res. 77. Joint resolution proposing an amendment to the Constitution of the United States with respect to the offering of prayer in public buildings; to the Committee on the Judiciary.

H.J. Res. 78. Joint resolution proposing an amendment to the Constitution of the United States relative to neighborhood schools; to the Committee on the Judiciary.

By Mr. ROE:

H.J. Res. 79. Joint resolution to provide for a study by the Secretary of Transportation of the feasibility of Government acquisition, operation, and maintenance of railroad tracks, rights-of-way, signal systems, and other fixed facilities (as a separate activity or as a part of a coordinated Federal transportation program); to the Committee on Interstate and Foreign Commerce.

H.J. Res. 80. Joint resolution to prevent the abandonment of railroad lines; to the Committee on Interstate and Foreign Commerce.

H.J. Res. 81. Joint resolution proposing an amendment to the Constitution of the United States lowering the age requirements for membership in the Houses of Congress; to the Committee on the Judiciary.

By Mr. SATTERFIELD:

H.J. Res. 82. Joint resolution proposing an amendment to the Constitution of the United States relative to freedom from forced assignment to schools or jobs because of race, creed, or color; to the Committee on the Judiciary.

By Mr. TEAGUE:

H.J. Res. 83. Joint resolution to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac; to the Committee on Interior and Insular Affairs.

H.J. Res. 84. Joint resolution proposing an amendment to the Constitution of the United States to require the concurrence of not less than two-thirds of the Supreme Court for the purpose of deciding whether an act of Congress or an act of a State legislature is unconstitutional; to the Committee on the Judiciary.

H.J. Res. 85. Joint resolution proposing an amendment to the Constitution of the United States to modify the method of appointment and terms of office of the Federal judiciary; to the Committee on the Judiciary.

H.J. Res. 86. Joint resolution proposing an amendment to the Constitution of the United States relating to the qualifications and tenure in office of Federal judges; to the Committee on the Judiciary.

H.J. Res. 87. Joint resolution proposing an amendment to the Constitution of the United States providing for the reconfirmation by popular vote of certain Federal judges; to the Committee on the Judiciary.

H.J. Res. 88. Joint resolution proposing an amendment to the Constitution of the United States providing for the reconfirmation by popular vote of certain Federal judges; to the Committee on the Judiciary.

By Mr. WHITEHURST:

H.J. Res. 89. Joint resolution calling for an immediate moratorium on the killing of the eastern timber wolf; to the Committee on Foreign Affairs.

By Mr. YOUNG of Florida:

H.J. Res. 90. Joint resolution regarding the status of negotiations with foreign governments in relation to debts owed the United States, and for other purposes; to the Committee on Foreign Affairs.

H.J. Res. 91. Joint resolution proposing an amendment to the Constitution of the United States with respect to the attendance of Senators and Representatives at sessions of the Congress; to the Committee on the Judiciary.

By Mr. ROYBAL (for himself, and Ms. SCHROEDER):

H.J. Res. 92. Joint resolution relating to the publication of economic and social statistics for Americans of Spanish origin or descent; to the Committee on Post Office and Civil Service.

By Mr. ANNUNZIO:

H. Con. Res. 2. Concurrent resolution expressing the sense of the Congress with respect to the incorporation of Latvia, Lithuania, and Estonia into the Union of Soviet Socialist Republics; to the Committee on Foreign Affairs.

H. Con. Res. 3. Concurrent resolution expressing the sense of Congress concerning recognition by the European Security Conference of the Soviet Union's occupation of Estonia, Latvia, and Lithuania; to the Committee on Foreign Affairs.

H. Con. Res. 4. Concurrent resolution expressing the sense of the Congress that the President, acting through the U.S. Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization; to the Committee on Foreign Affairs.

H. Con. Res. 5. Concurrent resolution authorizing the placement of a statue of Christopher Columbus in the Capitol; to the Committee on House Administration.

H. Con. Res. 6. Concurrent resolution expressing the sense of Congress relating to films and broadcasts which defame, stereotype, ridicule, demean, or degrade ethnic, racial, and religious groups; to the Committee on Interstate and Foreign Commerce.

By Mrs. COLLINS of Illinois:

H. Con. Res. 7. Concurrent resolution expressing the sense of Congress concerning unclaimed bonds that are being kept by the Department of the Treasury for veterans; to the Committee on Banking, Currency, and Housing.

H. Con. Res. 8. Concurrent resolution expressing the sense of Congress concerning the administration of a provision of the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

By Mr. CONLAN:

H. Con. Res. 9. Concurrent resolution to provide an opportunity for an orderly and cohesive policy toward inflation control and economic stability by declaring a 36-month moratorium on all foreign aid appropriations for economic development; to the Committee on Foreign Affairs.

H. Con. Res. 10. Concurrent resolution to provide an opportunity for an orderly and cohesive policy toward reducing the rate of inflation; to the Committee on Government Operations.

By Mr. DERWINSKI:

H. Con. Res. 11. Concurrent resolution expressing the sense of Congress concerning recognition by the European Security Conference of the Soviet Union's occupation of Estonia, Latvia, and Lithuania; to the Committee on Foreign Affairs.

By Mr. FISH:

H. Con. Res. 12. Concurrent resolution to collect overdue debts; to the Committee on Foreign Affairs.

H. Con. Res. 13. Concurrent resolution authorizing a bust or statue of Martin Luther King, Jr., to be placed in the Capitol; to the Committee on House Administration.

By Mr. FUQUA:

H. Con. Res. 14. Concurrent resolution to collect overdue debts; to the Committee on Foreign Affairs.

H. Con. Res. 15. Concurrent resolution requesting the President to proclaim the 7-day period of July 16 through 22 of each year as United States Space Week; to the Committee on Post Office and Civil Service.

By Mr. HECHLER of West Virginia:

H. Con. Res. 16. Concurrent resolution authorizing a bust or statue of Martin Luther King, Jr., to be placed in the Capitol; to the Committee on House Administration.

By Mrs. HOLT:

H. Con. Res. 17. Concurrent resolution to collect overdue debts; to the Committee on Foreign Affairs.

By Mr. KASTENMEIER:

H. Con. Res. 18. Concurrent resolution to establish a Joint Committee on Central Intelligence; to the Committee on Rules.

By Mr. MURPHY of New York:

H. Con. Res. 19. Concurrent resolution expressing the sense of the Congress regarding the free emigration and expression of ideas by citizens of the Soviet Union; to the Committee on Foreign Affairs.

H. Con. Res. 20. Concurrent resolution providing for continued close relations with the Republic of China; to the Committee on Foreign Affairs.

H. Con. Res. 21. Concurrent resolution authorizing a bust or statue of Martin Luther King, Jr., to be placed in the Capitol; to the Committee on House Administration.

H. Con. Res. 22. Concurrent resolution providing recognition for Columbus; to the Committee on House Administration.

H. Con. Res. 23. Concurrent resolution to provide for the printing of copies of the Constitution of the United States in Spanish; to the Committee on House Administration.

H. Con. Res. 24. Concurrent resolution expressing the sense of Congress relating to films and broadcasts which defame, stereotype, ridicule, demean, or degrade ethnic, racial, and religious groups; to the Committee on Interstate and Foreign Commerce.

H. Con. Res. 25. Concurrent resolution expressing the sense of Congress with respect to a bill of rights for Vietnam veterans; to the Committee on Veterans' Affairs.

H. Con. Res. 26. Concurrent resolution to request the Internal Revenue Service to reevaluate the present tax deduction for the business use of automobiles; to the Committee on Ways and Means.

By Mr. PATMAN (for himself and Mr. Barrett):

H. Con. Res. 27. Concurrent resolution to provide additional copies of housing compilation; to the Committee on House Administration.

By Mr. PETTIS:

H. Con. Res. 28. Concurrent resolution calling a convention to propose amendments to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. PEYSER:

H. Con. Res. 29. Concurrent resolution to relieve the suppression of Soviet Jewry; to the Committee on Foreign Affairs.

By Mr. ROE:

H. Con. Res. 30. Concurrent resolution expressing the sense of Congress that the Holy Crown of Saint Stephen should remain in the safekeeping of the U.S. Government until Hungary once again functions as a constitutional government established by the Hungarian people through free choice; to the Committee on Foreign Affairs.

H. Con. Res. 31. Concurrent resolution expressing the sense of the Congress that the President, acting through the U.S. Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization; to the Committee on Foreign Affairs.

H. Con. Res. 32. Concurrent resolution to provide for the printing of copies of the Constitution of the United States in Spanish; to the Committee on House Administration.

H. Con. Res. 33. Concurrent resolution to establish a joint committee to conduct an investigation of the U.S. Postal Service; to the Committee on Rules.

By Mrs. SULLIVAN:

H. Con. Res. 34. Concurrent resolution requesting the President to use his powers under the Credit Control Act to control inflation and allocate credit; to the Committee on Banking, Currency, and Housing.

By Mr. BROOMFIELD:

H. Con. Res. 35. Concurrent resolution to collect overdue debts; to the Committee on Foreign Affairs.

By Mr. CONLAN:

H. Con. Res. 36. Concurrent resolution to provide an opportunity for an orderly and cohesive policy toward inflation control and economic stability by declaring a reduction in all appropriations for fiscal year 1976; to the Committee on Appropriations.

By Mr. DELANEY:

H. Con. Res. 37. Concurrent resolution for negotiations on the Turkish opium ban; to the Committee on Foreign Affairs.

By Mr. MURPHY of New York:

H. Con. Res. 38. Concurrent resolution expressing the sense of the Congress with respect to possible curtailment of oil supplies from Arab producers; to the Committee on Ways and Means.

By Mr. PEYSER:

H. Con. Res. 39. Concurrent resolution to collect overdue debts; to the Committee on Foreign Affairs.

By Mr. YOUNG of Florida:

H. Con. Res. 40. Concurrent resolution to collect overdue debts; to the Committee on Foreign Affairs.

By Mr. DELANEY:

H. Con. Res. 41. Concurrent resolution requesting release of two Ukrainian intellectuals; to the Committee on Foreign Affairs.

By Mr. WHITEHURST:

H. Con. Res. 42. Concurrent resolution pertaining to the methods used on animals in research; to the Committee on Science and Technology.

By Ms. ABZUG:

H. Res. 11. Resolution relating to nuclear first-strike declaration; to the Committee on Foreign Affairs.

H. Res. 12. Resolution relating to reduction of nuclear weapons in the agreement between the United States and the Soviet Union; to the Committee on Foreign Affairs.

H. Res. 13. Resolution supporting comprehensive nuclear test ban treaty; to the Committee on Foreign Affairs.

By Mr. ANNUNZIO:

H. Res. 14. Resolution designating January 22 of each year as "Ukrainian Independence Day;" to the Committee on Post Office and Civil Service.

H. Res. 15. Resolution establishing a Special Committee on the Captive Nations; to the Committee on Rules.

By Mr. BIESTER (for himself and Mr. Bingham):

H. Res. 16. Resolution to establish a John W. McCormack senior intern program; to the Committee on House Administration.

By Mr. BENNETT:

H. Res. 17. Resolution to amend the Rules of the House of Representatives to provide that no roll call or quorum call shall be conducted by electronic device after the House has entered into special orders after the conclusion of the legislative program and business on any day; to the Committee on Rules.

H. Res. 18. Resolution amending clause 6 of rule X of the Rules of the House of Representatives with respect to the election of the chairmen of standing committees of the House; to the Committee on Rules.

By Mr. BROOMFIELD:

H. Res. 19. Resolution concerning the safety and freedom of Valentyn Moroz, Ukrainian historian; to the Committee on Foreign Affairs.

By Mr. BROYHILL:

H. Res. 20. Resolution to require that the fixing or adjusting of certain allowances of Members of the House of Representatives be approved by the House of Representatives; to the Committee on House Administration.

By Mr. DELANEY:

H. Res. 21. Resolution expressing the sense of the House of Representatives concerning the rights and civil liberties of the Irish minority in Northern Ireland; to the Committee on Foreign Affairs.

By Mr. FISH:

H. Res. 22. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on the Environment; to the Committee on Rules.

By Mr. FLOOD:

H. Res. 23. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. FLYNT:

H. Res. 24. Resolution to express the sense of the House of Representatives that the United States maintain its sovereignty and jurisdiction over the Panama Canal Zone; to the Committee on Foreign Affairs.

H. Res. 25. Resolution amending the Rules of the House of Representatives to expedite the enactment of general appropriation measures, to facilitate the making of appropriations for subsequent fiscal years, and for other purposes; to the Committee on Rules.

By Mr. FUQUA:

H. Res. 26. Resolution expressing the sense of the House of Representatives concerning the need for immediate and substantial public investments in agriculture research and technology for the express purpose of increasing food production; to the Committee on Agriculture.

By Mr. GUDE:

H. Res. 27. Resolution to authorize the voluntary withholding of Maryland, Virginia, and District of Columbia income taxes in the case of Members of the House of Representatives and certain legislative employees, pursuant to agreements subject to review by the Committee on House Administration of the House of Representatives; to the Committee on House Administration.

By Mr. GUDE (for himself, Mr. Fraser, Ms. Abzug, Mr. Addabbo, Mr. Badillo, Mr. Brown of California, Mr. Conyers, Mr. Corman, Mr. Coughlin, Mr. Dellums, Mr. Drinan, Mr. Eckhardt, Mr. Edwards of California, Mr. Eilberg, Mr. Fauntroy, Mr. Harrington, Mr. Helstoski, Mr. Howard, Mr. McCloskey, Mr. Matsunaga, Mr. Mitchell of Maryland, Mr. Nix, Mr. Riegle, Mr. Rodino, and Mr. Sarbanes):

H. Res. 28. Resolution expressing the sense of the House that the U.S. Government should seek agreement with other members of the United Nations on prohibition of weather modification activity as a mean weapon of war; to the Committee on Foreign Affairs.

By Mr. HARRINGTON:

H. Res. 29. Resolution creating a Select Committee on Foreign Intelligence of the House of Representatives to study the relationship between the Congress and the intelligence community; to the Committee on Rules.

By Mr. HILLIS:

H. Res. 30. Resolution for the creation of congressional senior citizen internships; to the Committee on House Administration.

H. Res. 31. Resolution creating a select committee to conduct a full and complete investigation and study of shortages of materials and natural resources affecting the United States; to the Committee on Rules.

By Mrs. HOLT:

H. Res. 32. Resolution creating a select committee to study the impact and ramifications of the Supreme Court decisions on abortion; to the Committee on Rules.

H. Res. 33. Resolution amending rule XIII of the rules of the House to require reports accompanying each bill or joint resolution of a public character (except revenue measures) reported by a committee to contain estimates of the costs, to both public and nonpublic sectors, of carrying out the measure reported; to the Committee on Rules.

By Ms. HOLTZMAN:

H. Res. 34. Resolution to amend rule XXII of the Rules of the House of Representatives to require that any private bill relating to immigration or naturalization be accompanied by a statement that the Member introducing such bill shall receive no compensation with respect to his introduction of such bill; to the Committee on Rules.

By Ms. JORDAN:

H. Res. 35. Resolution providing for the creation of congressional senior citizen internships; to the Committee on House Administration.

By Mr. LITTON:

H. Res. 36. Resolution expressing the sense of the House of Representatives concerning the need for immediate and substantial public investments in agriculture research and technology for the express purpose of increasing food production; to the Committee on Agriculture.

By Mr. LONG of Maryland:

H. Res. 37. Resolution to amend rule X of the Rules of the House of Representatives to establish a permanent Select Committee on Energy; to the Committee on Rules.

By Mr. METCALFE:

H. Res. 38. Resolution expressing the sense of the House of Representatives concerning the serious problem of malnutrition which exists in certain areas of the world; to the Committee on Foreign Affairs.

By Mr. MURPHY of New York:

H. Res. 39. Resolution expressing the sense of the House of Representatives concerning the need for immediate and substantial public investments in agriculture research and technology for the express purpose of increasing food production; to the Committee on Agriculture.

H. Res. 40. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. PEYSER (for himself, Mr. Dominick V. Daniels, Mr. Mezvinsky, Mr. Gonzalez, Mr. Corman, Mr. Sisk, Mr. Pritchard, Mr. Mosher, Mr. Breaux, Mr. de Lugo, Mr. Harrington, Mr. Ashley, Mr. Roybal, Mr. Mitchell of Maryland, Mr. James V. Stanton, and Mr. Lehman):

H. Res. 41. Resolution, sense of the House that the Secretary of Agriculture should rescind the food stamp regulations proposed on December 6, 1974; to the Committee on Agriculture.

By Mr. PEYSER (for himself, Mr. Nix, Mr. Conyers, Mr. Preyer, Mr. Evans of Colorado, Mr. Hicks, Mr. Clay, Mr. Brown of California, Mr. Sarbanes, Mr. Anderson of California, and Mr. Pepper):

H. Res. 42. Resolution, sense of the House that the Secretary of Agriculture should rescind the food stamp regulations proposed on December 6, 1974; to the Committee on Agriculture.

By Mr. PEYSER (for himself, Mr. Koch, Mr. Bergland, Mr. Fraser, and Mr. Heinz):

H. Res. 43. Resolution, sense of the House that the Secretary of Agriculture should rescind the food stamp regulations proposed on December 6, 1974; to the Committee on Agriculture.

By Mr. PEYSER (for himself, Mr. Macdonald, Mr. Rodino, Ms. Schroeder, Mr. Gude, Mr. Randall, Mr. Meeds, Mr. Biaggi, Mr. Abdnor, Mr. McDade, Mr. Hawkins, Mr. Matsunaga, Mr. Drinan, and Mrs. Boggs):

H. Res. 44. Resolution, sense of the House that the Secretary of Agriculture should rescind the food stamp regulations proposed on December 6, 1974; to the Committee on Agriculture.

By Mr. PEYSER (for himself, Mr. Addabbo, Mr. Won Pat, Mr. Eilberg, Mr. Roe, Mr. Hechler of West Virginia, Mr. Reuss, Mr. Rangel, Mr. Thompson, Mr. Ford of Michigan, Mr. Van Deerlin, Mr. Coughlin, Mr. Edwards of Califorina, Mr. Dellums, Mrs. Mink, and Mrs. Collins of Illinois):

H. Res. 45. Resolution, sense of the House that the Secretary of Agriculture should rescind the food stamp regulations proposed on December 6, 1974; to the Committee on Agriculture.

By Mr. PRICE:

H. Res. 46. Resolution to amend the Code of Official Conduct of the Rules of the House of Representatives; to the Committee on Standards of Official Conduct.

By Mr. RANDALL:

H. Res. 47. Resolution to create a Select Committee on Aging; to the Committee on Rules.

By Mr. ROE:

H. Res. 48. Resolution concerning the safety and freedom of Valentyn Moroz, Ukranian historian; to the Committee on Foreign Affairs.

H. Res. 49. Resolution disapproving proposed deferral of budget authority numbered D75–9, relating to construction of waste treatment plants, as transmitted to the Congress in the President's message of September 23, 1974; to the Committee on Public Works and Transportation.

H. Res. 50. Resolution amending rule XIII of the rules of the House to require reports accompanying each bill or joint resolution of a public character (except revenue measures) reported by a committee to contain estimates of the costs, to both public and nonpublic sectors, of carrying out the measure reported; to the Committee on Rules.

H. Res. 51. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on the Central Intelligence Agency, and for other purposes; to the Committee on Rules.

H. Res. 52. Resolution creating a select committee to study the impact and ramifications of the Supreme Court decisions on abortion; to the Committee on Rules.

By Mr. ROONEY:

H. Res. 53. Resolution amending rule XI of the Rules of the House of Representatives; to the Committee on Rules.

By Mr. SHRIVER:

H. Res. 54. Resolution to create a Committee on the Environment; to the Committee on Rules.

By Mr. STARK (for himself, Mr. Helstoski, Mr. Moakley, Mr. Conyers, Mr. Drinan, Mr. White, Mr. Rees, Mr. Mitchell of Maryland, Mr. Madigan, Mr. Eilberg, Mr. Hungate, Ms. Holtzman, Mr. Thompson, Mr. Pritchard, Mr. Bingham, Mr. Harrington, Mr. O'Brien, Mr. Murphy of New York, Mr. Biaggi, Mr. Edwards of California, Mr. Lehman, Mr. Fraser, Mr. Burke of Massachusetts, Mr. Moorhead of Pennsylvania, and Mr. Mezvinsky):

H. Res. 55. Resolution disapproving the deferral of budget authority relating to comprehensive planning grants (deferral numbered D75–107) which is proposed by the President in his special message of November 26, 1974, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. STARK (for himself, Ms. Schroeder, Mr. Patten, Mr. Brown of California, Mr. Chappell, Mr. Diggs, Mr. Rodino, Mr. Studds, Mr. Riegle, Mr. Ashley, Mr. Brodhead, Mr. Roe, Ms. Abzug, Mr. Steelman, Mr. Ottinger, Mr. Sisk, Mr. Cotter, Mr. Mineta, Mr. Nolan, Mr. Horton, Ms. Collins of Illinois, Mr. Nix, Mr. Downey, Mr. Benitez, and Mr. Fisher):

H. Res. 56. Resolution disapproving the deferral of budget authority relating to comprehensive planning grants (deferral numbered D75–107) which is proposed by the President in his special message of November 26, 1974, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. STARK (for himself and Mr. Corman, Mr. Sarbanes, Mr. Zeferetti, Mr. Whitehurst, Mr. Abdnor, Mr. McKinney, Mrs. Spellman, and Mr. Miller of California):

H. Res. 57. Resolution disapproving the deferral of budget authority relating to comprehensive planning grants (deferral numbered D75–107) which is proposed by the President in his special message of November 26, 1974, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. TEAGUE:

H. Res. 58. Resolution for primary expenses, 94th Congress, 1st session, for Committee on Science and Technology; to the Committee on House Administration.

H. Res. 59. Resolution to instruct the Judiciary Committee to make a continuing study of the fitness of Federal judges for their offices; to the Committee on Rules.

By Mr. THONE (for himself and Mr. Rhodes):

H. Res. 60. Resolution to require approval by the House of Representatives with respect to the fixing or adjustment of certain allowances for Members of the House; to the Committee on House Administration.

By Mr. YOUNG of Florida:

H. Res. 61. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. BEARD of Tennessee:

H. Res. 62. Resolution to amend rule X of the Rules of the House of Representatives to provide that no Member who is 70 years of age or older may be elected to be the chairman of a standing committee; to the Committee on Rules.

By Mr. CHAPPELL:

H. Res. 63. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. DENT (for himself, Mr. Murtha, Mr. Rooney, and Mr. Dominick V. Daniels):

H. Res. 64. Resolution, impact of imports on unemployment investigation; to the Committee on Education and Labor.

By Ms. HOLTZMAN (for herself and Mr. John L. Burton):

H. Res. 65. Resolution directing the President to provide to the Committee on the Judiciary of the House of Representatives information relating to certain activities of the Central Intelligence Agency; to the Committee on the Judiciary.

SENATE—*Wednesday, January 15, 1975*

The Senate met at 12 o'clock meridian and was called to order by the Vice President.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, bless, we pray Thee, our country, its leaders and all the people. Grant Thy special grace to Thy servant, the President of the United States. Be his counselor, his defense, his source of strength and wisdom. Grant him courage, good health, and patience to bear the burdens of his office. And by Thy grace keep the Congress high in purpose, sound in judgment, and unswerving in duty. Grant us ears to hear and minds to comprehend with courtesy, fairness, and discrimination. May all who hold high office concert their best endeavors for prompt solutions to pressing needs, for enduring measures which enhance the common good, for the recovery of national purpose, and for the establishment of peace and justice according to Thy will and in fulfillment of Thy kingdom.

In the Redeemer's name we pray. Amen.

THE JOURNAL

Mr. MOSS. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, January 14, 1975, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MOSS. Mr. President, I do not have any comments to make on the majority side, and I therefore yield to the Senator from Pennsylvania.

A YEAR OF PLAGUE

Mr. HUGH SCOTT. Mr. President, on the 31st of December, in the year of our Lord 1666, the following statement was made, which I think has specific applicability to the late year of our Lord 1974:

> Thus ends this year of publick wonder and mischief to this nation, and, therefore, generally wished by all people to have an end.

That was a notation in the diary of Samuel Pepys for the last day of that unfortunate year of the black plague.

In view of the fact that last year was a plague of problems, we are all glad to see the end of it.

A TIME FOR COOPERATION

Mr. HUGH SCOTT. Mr. President, with respect to the state of the Union message, many judgments have been made without reading it. I hope that the more mature judgments will be made after reading it and after listening to it.

We have a greater responsibility in Congress than one-upmanship. Our responsibility, as the distinguished majority leader has often said, is to cooperate with the President, to seek good legislation, to seek it responsibly, effectively, and expeditiously, and I agree with him.

It has been indicated that the President will ask that the emergency part of his proposed legislation be passed, if at all possible, within the next 90 days. The next 90 days expire approximately April 12, which is the date of the birthday of the great American and great Virginian, Mr. Thomas Jefferson, the patron saint of the Democratic Party. Therefore, they have a good date to look forward to, a good milestone to keep in front of them. We will cooperate on this side of the aisle.

I believe that it would be wiser for Congress to consider the economic legislation and the energy legislation at this time, because if, as reported, the other body intends to take up the economic legislation first and the energy legislation later, I do not see how Congress can act effectively on the energy legislation for a number of months to come. That would be highly unfortunate, particularly in such matters as standby authority for gasoline rationing, which is apparently an objective of both the Executive and the legislature.

I have said that Congress either should accept the President's proposals—there will be many, and they will be specific, and they offer clear plans of action—or, if Congress is otherwise minded, in view of the massive majorities on the other side of the aisle in both bodies, the other side should then enact its own program and ask us to cooperate on this side, which we will do.

The finest possible solution would be continued bipartisan cooperation between legislature and Executive, to work out a mix which will be effective to the people.

I think we must resist one great temptation, and that is to favor all the good things in the message and to favor giving back to the people money so that they can buy things with it or save it, to favor all the tax rebates and refunds, to favor all the things which are politically nutritious, and then to turn around and oppose the means of raising the revenue.

When the matter of increasing the public debt limit comes up, the amount of that limitation next time is going to be so horrendous as to startle the American people, and it ought to startle Congress after these many years of unchecked expenditures.

More than 75 percent of the budget represents moneys which Congress has mandated be spent by the Executive. So we only have approximately 25 percent of the money which could be used to turn around. Hence, the differences.

So I hope that we will all act responsibly. If we are going to provide goodies for the people, we had better be ready to bite the bullet and go for the baddies, which is the means of raising the revenue.

Mr. MOSS. Mr. President, the Senator from Pennsylvania, in making his usual comments, recalled once again that the spending is largely mandated in the budget, and then he gave all the credit of mandating that to Congress.

I just want to recall one fact: No bill becomes law unless it is signed by the President of the United States. Therefore, if there is a mandate that puts us in that problem, more than one department of government is involved.

BIRTHDAY OF DR. MARTIN LUTHER KING, JR.

Mr. HUGH SCOTT. Mr. President, today the late Rev. Dr. Martin Luther King, Jr., would have been 46 years old. Even as the national memory still grieves over his death, it is cheered by the lasting vision of his good works. He was a man for all our times because he espoused brotherhood among peoples and peace, and he worked diligently for his just cause.

Just this week, at the invitation of Mrs. King, I was to participate in a seminar at the Ebenezer Baptist Church in Atlanta to discuss the Voting Rights Act. Most regrettably I was unable to attend because of urgent legislative business.

But I have assured Mrs. King of my personal support of a 5-year extension of the Voting Rights Act. I believe no other single law has had such a direct, immediate and beneficial impact on our democratic process than this one. It stands as a living testimonial to the great work of Dr. King. I personally asked the President to endorse publicly another extension of this law, because his support is vital to Dr. King's—and our—cause, and I am pleased he has done so.

I hope Congress will act to declare this day henceforth a national holiday in memory of Dr. King, so that each year at this time we will reaffirm, through all the days of our years that we can practice that faith, and bring closer that time he foresaw when we shall overcome. I am cosponsoring legislation to this end and hope the Congress will act speedily and positively on this measure.

REMARKS OF SENATOR MANSFIELD AT SENATE DEMOCRATIC CONFERENCE ON TUESDAY, JANUARY 14, 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD remarks which I made at the Democratic Conference on Tuesday, January 14, 1975.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR MANSFIELD

Gentlemen, as the first order of business, no task could be more pleasant for me than to greet our Senate Democratic colleagues, in the aftermath of the 1974 elections. Not a single incumbent of our party failed of reelection in the November elections. My congratulations go to those who having already served with distinction were returned to office. These Senators include Inouye of Hawaii (applause), Cranston of California (applause), Ribicoff of Connecticut (applause), Allen of Alabama (applause), Long of Louisiana (applause), Church of Idaho (applause), Stevenson of Illinois (applause), Talmadge of Georgia (applause), and Gravel of Alaska (applause), Eagleton of Missouri (applause), Magnuson of Washington (applause), Hollings of South Carolina (applause), McGovern of South Dakota (applause), and Bayh of Indiana (applause).

Of equal pleasure is the welcoming of newly elected Democrats. Before doing so, let me note that their predecessors were Americans of exemplary dedication to the service of this country—Senators the likes of an Ervin, a Fulbright, a Bible, and an Aiken, as well as others. They will be missed, but, in their place have come others who, I am confident, will serve with equal and perhaps even greater distinction.

It gives me great pleasure to introduce them now: Senator Leahy of Vermont (applause), Senator Morgan of North Carolina (applause), Culver of Iowa (applause), Stone of Florida (applause)—he is going to have to attend some of our meetings—Glenn of Ohio (applause), Ford of Kentucky (applause), Hart of Colorado (applause), Bumpers of Arkansas (applause), and, hopefully, subject to clarification under our constitutional processes, Durkin of New Hampshire (applause).

For the Nation as a whole, 1974 was a year of frustration and tragedy. Energy and inflation, Watergate and recession—they tell much of the story. The legacy left to us places new meaning on the expression "national challenge." The Senate of the 94th Congress meets today to accept that challenge.

We convene at a moment of great national stress. It is not the first period of crisis which the Nation has known, nor will it be the last. Nevertheless, we will do well to face the fact that the tragic war in Southeast Asia has strained our institutions as never before. Its cost and waste have done much to snuff out the illusion of omnipotent power. What we now know is that there are limits to what this Nation or any nation can do with the sum of its collective will and strength. We now know that we must decide what is more and what is less beneficial to this Nation. We must make the hard choices between what is more and what is less important. In this connection, we now have the Budget Control and Impoundment Act which set up the Budget Committees of the Senate and the House—a facility designed to provide effective guidance on these most difficult choices. Its first concurrent resolution providing a yardstick for the Congress to determine the economic model for the current year will be brought to the Senate by April 15, 1975.

As for the public's view of the Federal Government, it seems to me that there is more awareness, now, of the part Congress should and must play in the functioning of a constitutional system of divided powers. The people have come to expect more from Congress in the way of discernment and leadership. It is up to us, all of us, to see that they are forthcoming.

Insofar as the majority leadership is concerned, there are no panaceas for the Nation's ill. A little fine tuning here or there of the intricate machinery of the American system is not enough. What has now become apparent is that a multitude of the components of this economy are out of whack. We are a complex nation with a vast complex of problems.

Vietnam and Indochina set the stage for inflation. In addition, wasteful usage of petroleum has placed unbearable demands on our own resources, and required massive imports. The manipulated prices of these imports, in turn, have created international monetary imbalances and brought havoc into our domestic economy especially in terms of prices and employment.

As these problems become more pervasive, they intensify the urgency of maintaining in the Senate a broad perspective of our national requirements. I would hope, therefore, that this Conference and its Policy Committee—and the Policy Committee is the creature and the servant of this Conference—could be used more fully for overall discussions of national issues. This practice, as you know, has been growing in the past several years. Its intensification, together with more frequent exchanges between the majority leadership of both houses, can help us as Congressional Democrats to do our best to move the work of government.

As for the agenda of business for the first session of the 94th Congress, it will be dominated by energy and other problems of the economy. In the wake of last November's elections there are great responsibilities imposed upon the Congress, and especially on Democrats. Let me emphasize that there are also limits on what any Senate can do under the Constitution. We will not be able to work miracles. The Senate constitutes but one part of one branch of a government of divided powers. We cannot presume to discharge the functions of the House or of the Executive Branch or the courts. Watergate should have taught all of us the tragedy and the folly of any such presumption on the part of any one branch.

Within these Constitutional limitations, however, Senate Democrats in cooperation with our Republican colleagues must do our share, our full share, in righting what has gone wrong in the nation.

For the benefit of our new members, let me stress the equality of all Senators—of all new colleagues—as an aspect of this undertaking. Each of us by virtue of the trust of our respective electorates has an equal obligation and right to participate fully in the work of the Senate. There are no first or second class Senators. This is a body of equals. This is a body of peers. That has been the policy of the leadership ever since the Senate Democratic Conference first elected me. That will be the policy of the Leadership as long as I remain Majority Leader. So to the recently elected members, let me say this: speak up and participate fully. Do not take a back seat. Give the Senate the benefit of your fresh insights.

There are no barons as far as chairmen of committees are concerned in this body and there will not be any unless you allow it to happen.

During the past two years, the members of the House and Senate have constituted the only part of the Federal Government which owes its powers to election of the people. No member of the Executive Branch is in the same situation. In so noting, I do not wish to detract in any way from either the President or the Vice President nor the Constitutional process by which they were selected. I only wish to emphasize the burden of the responsibility which falls on the 94th Congress, collectively, to interpret the needs and wishes of the people of the nation.

In this regard it was a major achievement of the 93rd—a responsible and constructive Congress—that it prepared the way for the 94th to approach the dominant issues of concern to the American people. The 93rd, for example, enacted a broad public service employment program along with expanded workmen's compensation benefits which will help to offset the rising tide of unemployment. In the face of a national jobless rate edging towards 8%, however, these measures are only a beginning. As the recession deepens, additional actions of this nature will have to be considered.

Prior to the adjournment last year Senate Democrats also pledged to provide tax cuts as a way to curb the recession and stimulate the economy. As we move in this direction, it should be kept in mind that a budget severely out of balance will not by itself provide stimulus. That will be the case particularly if the imbalance is caused in major part by revenue short-falls due to lost taxes from failing businesses.

Therefore, the Democratic Conference, last year, also pledged a search for some way to reconstitute the Reconstruction Finance Corporation, or something approximating it, as a way of dealing with the host of businesses and institutions that are expected to fail or collapse in the weeks and months ahead. I would urge the appropriate legislative Committee to look into this possibility without delay.

The Democratic Conference during 1974 agreed that credit should be allocated on a priority basis in the light of the Nation's most critical needs, notably in the areas of housing and energy. That question, too, needs prompt examination by the appropriate committees.

As the recession now dominates our national life, wage-price-rent and profit movements must be closely watched. To that end it was the position of the Conference, last year, that, as needed, the concept of controls should come into play. The time to examine this need very closely in terms of possible legislation, it seems to me, is close at hand.

Before the last adjournment, the Democratic Conference urged that a beginning be made in allocations, rationing or other effective means to reduce consumption of energy and other scarce materials. If we are going to cope effectively with exorbitant and arbitrary prices for petroleum, in my judgment, a reduction of consumption equal to at least two million barrels per day, and preferably more, must be achieved. Savings of that kind cannot be made without a stringent conservation system. It is time for enforcement of speed laws, encouragement of a more rapid phase-in of efficient automobiles and a reduction of the wastage of fossil fuels by public utilities and other industries as well as in the home.

I have just recently returned from China, a country of 800 million people where production of petroleum is a fraction of our domestic output. Yet, after meeting all of its domestic needs, that country is still able to export crude. I am not inferring by any means that the situations in the two countries are the same. What I am suggesting is that the energy crisis has two sides. Only one deals with availability of supply. The other is the wisdom of usage. A recent Ford Foundation study—and one by Senator Gaylord Nelson and his committee, and by others—pointed to an energy wastage rate of about 40% in this nation. To me that strongly suggests that the root of our problem is not so much one of supply but rather of a great lack of wisdom in usage. Unless we put an end to the superfluous and extravagant, supplies, no matter how great, will never be sufficient.

One final word on energy. A spectre of confrontation and war in the Mideast was raised recently as a result of interpretations given to an interview by the Secretary of

State. In my judgment, self-sufficiency and negotiations, not confrontation, must form the basis of this nation's policies on energy. The less talk of war in the Middle East in order to bring out petroleum or whatever, the better for all concerned.

May I say that I think insofar as petroleum is concerned, we place too much emphasis on the Middle East, because approximately 28 percent of our imports come from Venezuela; another 18 percent from Canada, though half of that is Venezuelan oil refined, about 9.5 percent from Nigeria; about 9.5 or 10 percent from Iran, which is not considered a Middle East country in the ordinary sense; and 4 or 5 percent from other parts of the world, Indonesia and elsewhere.

So what we have as far as the Middle East is concerned is approximately a third of our imports, and I think we ought to keep that in mind.

What is suggested by the proposals which were put forward last year by the Senate Democrats for dealing with recession and inflation and by the House Leadership in recent days is that the nation's economy runs badly without foresight and without direction. Orderly management of our economic affairs is far better than the endless instability which results from following a hands-off policy interspersed with stop and start crash economic remedies. That policy has already induced a drastic recession on top of spiraling inflation.

In this connection, I would once again point out that under P.L. 93-426 an Executive-Legislative-private Commission has been authorized to study ways of dealing in an integrated long-range fashion with the nation's shortages and supplies and with other fundamental economic questions. Congressional appointments have already been made to this Commission and additional recommendations have been made to the President. The Administration, however, has yet to act to bring this Commission into being.

Beyond economic questions, there will be other issues of pressing importance before the 94th Congress. The implications of Watergate, for example, are not yet behind us. Nor will they be put to rest until there has been translated into law an effective method to reveal and to prevent future abuses of that kind.

It will be recalled that when the 93rd Congress convened in January, 1973, there appeared to be a need to investigate the irregularities that occurred during the political campaign of 1972. It was clear that several regular Senate Committees shared a concern in the matter but that the Senate's responsibility was paramount. On the recommendation of this Conference, therefore, the Senate decided that a special Committee should be empaneled to investigate Watergate and related matters. That was the beginning of Watergate. The wisdom of that course, I believe, was underscored by subsequent developments. The Ervin Committee became the sole locus of the Watergate investigation. It operated in a non-partisan fashion and with telling effectiveness.

On a matter that bears close resemblance to Watergate, there is a similar need for investigation. Intelligence-gathering as it has been pursued at home and abroad by the C.I.A. has raised serious questions concerning possible dangers to Constitutional freedoms. Therefore, the practices which are being pursued under legislation enacted a quarter of a century ago need to be fully tested against the imperatives of today. The Senate can no longer evade its responsibility for being conversant with the mechanisms of intelligence-gathering which have been set up and which operate largely in secrecy. To confront that responsibility, an arm of the Senate must explore deeply. It must be asked how the 1947 National Security Act works today to balance methods employed abroad against effects at home that may serve to weaken and erode the basic precepts of the Constitution. And if I may add another dimension to this question, it needs to ask too: What has been the effect of the operations under this law on the good name of the United States of America in the world—on the reputation which once was this nation's among all peoples, for decency, integrity, honest dealing and compassionate human concern.

I do not know whether we are best advised to proceed in this matter precisely as we did in the Watergate affair. What I do know is that any investigation of the C.I.A. should be undertaken, as was the case in Watergate, by one Senate group and not by many. The investigation, moreover, should be pursued by a membership which provides a wider perspective than that afforded by any one Committee and one which reflects the general character of the Senate in the 94th Congress.

In that respect, I should report to you that I have been informed by Senator Stennis that it is his intention to hold hearings under the auspices of the Armed Services Committee, that he has been in touch with Senator McClellan and Senator Young of the Appropriations Committee and, at my suggestion, that any investigating Committee should be broadened, he indicated that he would also get in touch with Senator Sparkman of the Foreign Relations Committee—and he has—and Senator Muskie of the Government Operations Committee. He also informed me that the Majority and Minority Leaders would be included in any such inquiry by his Committee. Furthermore, he assured me that insofar as it would be possible, the hearings would be open.

I am sure that this will be a matter for discussion late in the Conference. It is my desire only that this issue be brought to your attention at this time. The advice and guidance of the Caucus on an appropriate course is welcomed. May I add, that the existence of a Presidential Commission of inquiry in no way abrogates or reduces the Senate's responsibility in this matter.

If the questions posed by the C.I.A. present us with troublesome issues, there are others which will also arise, involving national health insurance, protection for consumers, and revamping the criminal laws with special attention for victims. There is old business as well. Specifically, there is the question of surface mining protection, and I would expect that the Congress will move quickly to retest the veto of this vital legislation.

Let me conclude this brief introduction to the work of the 94th Congress by noting that nothing in my political preference for Democrats and particularly for the Democratic members of the Senate is meant to suggest that our party has cornered the market on ideas, talent, experience or dedication. I have a deep respect and affection for the President, the Vice President and members of the Executive Branch. Neither the Senate Democratic Majority, the Democratic controlled Congress, nor the Republican-controlled Executive Branch will be able to do much to confront the questions which deeply concern the people of the nation unless all are prepared to work together.

Insofar as the Senate majority leadership is concerned, we will address the agenda for action in the 94th Congress in a spirit of cooperation and unity with the Congressional minority under the leadership of Senator Scott, who has been an excellent working partner, a man of understanding and tolerance, and the President. Together we can do, and we must do, a great deal to meet the needs of the people of the United States. That is our collective responsibility, and we cannot and must not evade it. To shirk our responsibilities would be demeaning. The welfare of the Republic must always come first. As far as we as Democrats are concerned, it will.

ORDER THAT NO BILLS BE INTRODUCED UNTIL AFTER THE PRESIDENT'S STATE OF THE UNION ADDRESS

Mr. MOSS. Mr. President, it is traditional that the Senate does not conduct business or introduce bills prior to the state of the Union message. Therefore, I ask unanimous consent that there be no morning business or business conducted in the sense of the introduction of bills until the President has delivered his state of the Union address.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MOSS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

Mr. GRIFFIN. Mr. President, what is the pending question before the Senate?

The VICE PRESIDENT. The pending question is on agreeing to the motion of the Senator from Michigan, as modified, in the nature of a substitute for the motion of the Senator from Montana.

Mr. GRIFFIN. Mr. President, I withdraw that motion, and I want to indicate to the Senate that that is a temporary action on my part; I intend to offer it again later.

The VICE PRESIDENT. The motion is withdrawn.

Mr. GRIFFIN. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOSS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

RECESS

Mr. MOSS. Mr. President I move that the Senate stand in recess until the hour of 12:40 p.m. today.

The motion was agreed to; and at 12:24 p.m. the Senate took a recess until the hour of 12:40 p.m.

At 12:40 p.m. the Senate reassembled, when called to order by the Presiding Officer (Mr. Moss).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will please come to order.

The Senator from Montana.

PRIVILEGE OF THE FLOOR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Messrs. Durkin and Wyman have the privilege of the floor for today.

Mr. HUGH SCOTT. Without prejudice.

Mr. MANSFIELD. Without prejudice.

Mr. HUGH SCOTT. I have no objection.

The VICE PRESIDENT. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the conclusion of the President's state of the Union address.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senate will now stand in recess subject to the call of the Chair, for the purpose of attending a joint session with the House of Representatives to hear the address by the President of the United States.

At 12:46 p.m., the Senate took a recess subject to the call of the Chair.

Thereupon, the Senate, preceded by the Sergeant at Arms, William H. Wannall; the Assistant Secretary of the Senate, Darrell St. Claire; the Vice President; and the President pro tempore of the Senate (Mr. JAMES O. EASTLAND), proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, Gerald R. Ford.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress appears in the proceedings of the House of Represenatives in today's RECORD.)

(At 1:56 p.m., on the expiration of the recess, the Senate, having returned to its Chamber, reassembled, and was called to order by the Presiding Officer (Mr. CHILES in the chair).

ORDER FOR PERMISSION TO FILE BILLS AND RESOLUTIONS UNTIL MIDNIGHT TONIGHT

Mr. MANSFIELD. Mr. President, first, I ask unanimous consent that all Senators may have until midnight tonight to introduce bills and submit resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEATH OF FORMER SENATOR BURTON K. WHEELER

Mr. MANSFIELD. Mr. President, I wish to express my deep sorrow and a sense of sadness at the passing of former Senator Burton K. Wheeler, of the State of Montana.

Senator Wheeler was a controversial, independent figure who made his mark in my State and certainly made his mark in the Senate of the United States.

He lived to be 92. He carried on actively until his passing. He participated in the work of his law firm, and he was active, both mentally and physically.

On behalf of the citizens of the State of Montana, I ask unanimous consent that there be printed in the RECORD a number of articles on Senator Burton K. Wheeler which were published in the Washington Post, the Washington Star-News, and various Montana papers.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Great Falls (Mont.) Tribune, Jan. 9, 1975]

BURTON K. WHEELER

Burton K. Wheeler, the distinguished and colorful political maverick who represented Montana in the U.S. Senate for 24 hectic years, loved Montana, life and a rousing fight.

The 92-year-old attorney who died in Washington, D.C., Tuesday, especially enjoyed his vacations at his summer home at scenic Lake McDonald.

A vigorous and powerful senator who acquired an international reputation during his career, Wheeler liked to talk to Montana friends about the news behind the news of the many history-shaping events in which he was involved. He wanted Montanans to remember that he got President Roosevelt to authorize $75 million for construction of Fort Peck dam during a 15-minute meeting. He was proud of the role he played in getting an air base established at Great Falls, for getting approval of Hungry Horse dam and for forcing the Montana Power Co. to pay rent to Flathead Indians for Kerr Dam.

Wheeler's alert blue eyes twinkled with Christmas tree brightness when he reminisced about the dramatic fight he directed against the Supreme Court packing plan of President Franklin D. Roosevelt or his investigation of events that helped expose the Teapot Dome scandal of President Harding's administration.

Wheeler would grin happily during interviews with Montana newsmen when asked about his early political career when he was dubbed "Bolshevik Burt." He said he didn't mind taking abuse for being courageous and intelligent enough to resist mob hysteria. He made a name for himself in World War I when he objected to anti-German hysteria. He like to recall the time an angry mob expelled him from Dillon for his anti-war sentiments.

A consistent opponent of U.S. involvement in foreign wars, Wheeler lost his Senate seat in a primary election campaign in 1946, largely because of the unpopularity of his opposition to our World War II.

Wheeler's forceful positions won him the affection of friends and the hatred of enemies but friends and foes knew who he was and what he thought. Burton K. Wheeler carved his name in U.S. and Montana history—in prominent letters.

[From the Helena (Mont.) Independent Record, Jan. 7, 1975]

MONTANA LOSES HER "RADICAL" EX-SENATOR

BUTTE, MONT.—Burton K. Wheeler, a 24-year veteran of service in the U.S. Senate from Montana, died Monday night in his Washington, D.C., home.

A relative said the death occurred at 10:15 p.m. Eastern Daylight Time.

Wheeler, 92, one of the best-known Senators in Montana's 85 years of statehood, helped expose the Teapot Dome scandal during the Harding Administration. The former Butte lawyer served in the Senate from 1923 until 1947.

His wife, the former Lulu M. White of Albany, Ill., died in 1962.

Wheeler, a native of Hudson, Mass., came to Butte in 1905. According to the legend which grew around the individualistic, salty New Englander, he got off a train at Butte to stretch his legs and decided he liked the city after losing several hundred dollars in a poker game.

He later established a law practice which carried him from obscurity to national renown.

Although he served in the Senate as a Democrat and was given credit for securing funding for such public-works projects as the Fort Peck Dam, Wheeler endorsed the 1966 gubernatorial candidacy of Republican Tim Babcock with the words that "Montana and other Western states have a tradition of sending men of independent thought and action to the Senate."

Of Babcock, he said the GOP candidate had been "a good friend of mine since those Democratic candidates fought against me in 1946."

Wheeler lost a fifth-term election bid in 1946. Observers said his earlier stand against American entry into what was to become World War II may have cost him his seat.

Wheeler himself was twice looked upon as timber for a higher office.

In 1924, he was drafted as a vice presidential candidate for the LaFollette Party, which rebelled against platforms of the established parties.

He also was considered as a presidential candidate in 1940 until the Democratic convention landslide of Franklin D. Roosevelt.

Wheeler entered public life early, winning election to the first of two terms in the U.S. House of Representatives in 1910. He served as U.S. district attorney in Montana from 1912 to 1918.

He won attention during the first of his four senate terms when he participated in the investigation that exposed the Teapot Dome scandal—the 1920s equivalent of Watergate.

The investigation indicated that the secretary of interior had leased oil reserves to private oil firms and allegedly received $400,000 for it.

In the backlash, Wheeler was charged with taking $2,000 to get some federal oil leases. He was brought to trial and acquitted.

His six-year terms in Washington followed an unsuccessful attempt to wrest the Montana governorship from Joseph M. Dixon. Wheeler lost in a Republican landslide in what was to be his last political defeat for 26 years.

Wheeler was born Feb. 27, 1882, the youngest of 10 children of Asa Leonard and Mary Tyler Wheeler. He attended Hudson High School, worked in Boston and attended law school at the University of Michigan in Ann Arbor.

He waited on tables at a dormitory and did stenographic work for faculty members to earn his law-school tuition.

When he set up his law practice in Butte, Wheeler went to work with Billy Meyer, a veteran attorney of the Mining City.

After about a year of practice, his fortunes had improved enough that he was able to return to Albany, Ill., to marry his college sweetheart. He had met Lulu M. White while he was working his way through school selling books.

Wheeler and his wife were among the best-known happily married couples in Washington. He often referred to her affectionately as "Pardner" or "the Side Kick."

Wheeler served in the Montana Legislature for one term—1910–1912. He was appointed a federal district attorney in 1912 at the age of 30, reputedly one of the youngest ever.

Wheeler's support of Agriculture and labor unions gathered strength about him throughout the summer of his political career. The bitter gubernatorial campaign of 1920 saw him carry only two counties—Silver Bow and Missoula—but come back to win his first senatorial election two years later by a wide majority.

Wheeler's political force carried him through an indictment by a federal grand jury in Great Falls over the Teapot Dome investigation.

The charge was that Wheeler had accepted fees from a Montana oil man after he became a member of the Senate. After a 10-day trial, a jury acquitted him in 30 minutes.

On the day of his acquittal, Wheeler was informed of the birth of his youngest daughter. He named her Marion Montana Wheeler, a tribute to his adopted state.

Wheeler and his wife had five other children and kept homes in Washington, Butte and at Lake McDonald in Glacier National Park.

Wheeler said he considered Sen. Robert LaFollette of Wisconsin the greatest senator in American history. He gave the same accolade to Franklin Roosevelt among presidents.

[From the Washington Post, Jan. 8, 1975]

Senator Burton Wheeler, Ardent New Dealer, Dies

(By Edward A. O'Neill)

In his autobiography, former Sen. Burton Kendall Wheeler (D-Mont.), who died at the age of 92 after an apparent stroke Monday at his home in Washington, wrote what well might be his epitaph:

"Controversy has sparked my public life from start to finish. My opponents have ranged from the giant Anaconda Copper Company to the leaders of both my own Democratic Party and the Republican Party. The names I have been called run the gamut from Communist to Fascist to include a great many other derogatory terms besides. I have been accused of almost everything but timidity."

During his lifetime, he was threatened with lynching while running for governor of Montana. He was threatened with criminal charges by the Department of Justice when he was bringing down U.S. Attorney General Harry M. Daugherty of Teapot Dome notoriety. He successfully fought President Franklin D. Roosevelt's attempt to "pack" the Supreme Court.

And when the United States edged toward involvement in World War II, he became a leading spokesman for the America First movement, a position that brought obloquy down on him and led to his defeat in a primary election in 1946 after four terms in the Senate.

Sen. Wheeler was of a breed rare in these days. He was an American original who believed that what he thought mattered and, by heaven, would try to make it stick. Many times he did.

His stern, moralistic attitudes bore the mark of his Massachusetts forebears—Quakers, Pilgrims and Puritans—who had settled there in the early 1600s. These attitudes were overlaid with stern demands developed during years of fighting the Anaconda Copper Company in his adopted state of Montana, where he accidentally settled as a fledgling lawyer at age 23.

He was, too, a man of large size on the political scene. Before Roosevelt decided to run for an unprecedented third term, Sen. Wheeler was among the most prominent of the names proposed as FDR's successor.

During his 24 years in the Senate, he engaged in many memorable battles. Three stand out: his opposition to America's growing involvement in World War II; the court-packing proposal, and his successful campaign against Harding's and Coolidge's Attorney General, Daugherty.

Sen. Wheeler was an ardent New Dealer—a radical, people thought, when he came to the Senate in the early 1920s. But he was no follower. He shared with many other western congressmen of his day a deep distrust of Britain and an abhorrence of foreign involvements. He had opposed U.S. entry into World War I, and as the U.S. attorney for Montana during that conflict, was accused of pro-Germanism when he refused to bow to the extraordinary war hysteria that swept his state.

When Roosevelt in 1940 began "measures short of war" to assist Britain and the Allies, Sen. Wheeler at first raised only minor objections. But on July 1, 1940, he was the principal speaker at the Keep America Out of the War Congress in Chicago.

This was two weeks before the Democratic Convention met in Chicago to nominate FDR for a third-term and bury whatever hope Sen. Wheeler might have held of ever becoming his party's nominee. In 1940, Sen. Wheeler voted for Norman Thomas for President.

In the beginning months of 1941, Sen. Wheeler opposed passage of the lend-lease bill. On a radio panel show, he spoke his mind in harsh terms: "The lend-lease-aid program is the New Deal's other foreign policy. It will * * * * * * every fourth American * * *"

President Roosevelt's rejoinder was as harsh. He called Sen. Wheeler's statement "the rottenest thing that has been said in public life in my generation."

Just before Pearl Harbor, Sen. Wheeler participated in a sensational exposure of American war plans. According to his account, an Army Air Corps captain gave him a bundle of official documents wrapped in brown paper that were, in Sen. Wheeler's words, "a prospectus" for American participation in the worldwide conflict.

The senator gave them to Chesly Manly, a Washington correspondent for the Chicago Tribune, where Manly's story was published December 4, 1941, three days before the Japanese attack. The story also was published in the old Washington Times-Herald.

The furor over publication of the plans, which were authentic, was quickly overcome by the beginning of the war. When the Pearl Harbor attack occured, Sen. Wheeler said, "Let's lick the hell out of them."

Despite their disagreements, Sen. Wheeler and President Roosevelt kept communicating in person with one another during the war years, with the senator warning FDR, and later President Harry S. Truman, against trusting the Soviet Union. But these years were to be the end of Sen. Wheeler's public life, even though Mr. Truman supported him in his 1946 primary election campaign.

The court-packing battle was a different story.

When President Roosevelt, riding high after his 1936 landslide victory and frustrated by adverse Supreme Court decisions of the "Nine Old Men," decided to add three members to the Court for the ostensible reason that it could not handle its work load and to require retirement at age 70, Sen. Wheeler became the leader of the opposition.

The battle lasted from February into July, 1937. On March 21, Sen. Wheeler rose in the Senate and pulled a letter from his pocket. It was from Chief Justice Charles Evans Hughes, a letter also signed by Sen. Wheeler's close friend, Justice Louis D. Brandeis, and Justice Willis Van Devanter, that said that the Court did not need additional justices to carry on its duties.

The letter caused a sensation and brought support to the relatively small group that Sen. Wheeler then was heading. When a vote was taken on the legislation in July it was beaten by a vote of 70 to 20.

Sen. Wheeler's earlier battle with Attorney General Daugherty began when the senator had been in Washington for less than a year. On Feb. 20, 1924, he made a speech in the Senate accusing Daugherty of failing to investigate adequately the Teapot Dome scandal that the Senate had uncovered the year before.

Senator Wheeler was made chairman of a small subcommittee to investigate what he regarded as dilatory efforts by Daugherty and the Justice Department on Teapot Dome. He also became a one-man "enemies list." The FBI, he later said, "stationed men at my house, surrounded my office, watched persons who went in and came out, constantly shadowed me, shadowed my house, and shadowed my wife."

He was indicted by a federal grand jury in Montana a few months after making the Senate speech on the charge of having used influence to obtain an oil lease for a client. At his trial a year later, he was acquitted. In the interim, a special Senate committee investigated the charges and the full Senate by a vote of 56 to 5, adopted a resolution clearing him.

Daugherty himself was later indicted for various charges of misconduct arising out of Sen. Wheeler's investigations and those of his fellow Montanan, Sen. Thomas J. Walsh. Daugherty was tried twice but acquitted each time. However, other government functionaries in the case did go to jail.

After his defeat in 1946, Sen. Wheeler talked for a time of returning to Montana but was persuaded by a son, Edward, to stay in Washington and join him in the practice of law. Father and son built up a lucrative practice, largely before government regulatory agencies. The elder Wheeler, even after his 90th birthday, went regularly to his office in the Southern Building every work day he was in Washington.

Sen. Wheeler was born on Feb. 27, 1882, in Hudson, Mass., a manufacturing town 23 miles west of Boston. After graduation from Hudson High School in 1900, he worked as a bookkeeper and stenographer in the Boston area for two years, then went to Ann Arbor, Mich., where a cousin lived, to attend the University of Michigan law school. He graduated in 1905, and went west looking for a job.

In Butte, Mont., in October, 1905, card sharks cleaned him of all the money he had in a stud poker game. He decided to stay in Butte, where a lawyer hired him.

Montana in the early 1900s was a virtual company town of the Anaconda Copper Company. Anaconda ran both political parties and the elected officials. In 1911, Sen. Wheeler, by then a lawyer of prominence, was elected to the state legislature.

State legislatures in those days elected U.S. senators. Sen. Wheeler supported Thomas J. Walsh, a foe of "The Company," for 79 ballots before a compromise candidate was chosen.

Walsh, after the Constitution was amended to permit popular choice of senators, was then elected. He persuaded President Wilson to make Sen. Wheeler U.S. attorney for Montana. He took to the job with a zeal that caused consternation throughout the state.

He was castigated as much for what he did not do as what he did do in prosecuting official and nonofficial wrongdoers. Before and during World War I, he refused to prosecute a number of pacifists and members of the International Workers of the World (the Wobblies) in labor disputes.

In 1920, he ran for governor on the ticket of the Nonpartisan League, a largely populist farmers' organization. On the Wheeler slate were a Negro and a Blackfoot Indian. He was beaten badly.

Two years later, with Montana suffering acutely from a postwar depression, he ran as a Democrat for the Senate and won.

Sen. Wheeler once said, "What is a radical? A radical is a progressive who knows what he wants, and believes in the things he advocates."

In Washington, Sen. Wheeler resided at 4930 Loughboro Rd. NW, with Simeon Arboleda, his manservant-companion since 1927. The senator's wife, Lulu, died in 1962.

Survivors include three sons, Edward K., his law partner, of Chevy Chase, John L., of Bethesda, and Richard B., of Denver, and two daughters, Elizabeth Colman of Pine Lake, Wis., and Marion Scott, of Bethesda.

A funeral service is scheduled Thursday, 11 a.m., at Wesley United Methodist Church at Connecticut Avenue and Jocelyn Street NW, with burial in Rock Creek Cemetery. The family suggests memorials in the form of donations to the Greater Montana Foundation in Butte or the University of Montana Scholarship Fund in Missoula.

[From the Washington News-Star]

Ex-Senator Wheeler, 92, Dies; Maverick From Montana

(By Richard Slusser)

Former Sen. Burton K. Wheeler, 92, a maverick Montana Democrat during his 24 years in the Senate, died last night after an apparent stroke at his home here.

Wheeler was one of the most outspoken isolationists in the Senate before World War II.

There was little of major importance in which he was not immersed—from the Teapot Dome investigation chaired by his senior colleague from Montana, Sen. Thomas J. Walsh, to the heady days of the New Deal which saw him firmly opposed to President Roosevelt's court-packing plan.

Historian Jonathan Daniels called Wheeler a "brass knuckler battler," but he also received many less complimentary, and often contradictory, descriptions—radical, Communist, pro-German, conservative and isolationist.

"They said I was an isolationist," Wheeler said to a reporter last year, "but only to the extent that I wanted to keep out of the war. When Japan attacked, I was one of the first to say we had to lick the hell out of them.

"I felt that if we hadn't gotten into it Hitler and Stalin would have fought it out until one was in the hospital and the other in the coffin."

Wheeler was an early supporter of Franklin D. Roosevelt for the presidential nomination in 1932 and helped get Roosevelt nominated and elected.

He had returned to the Democratic party after bolting in 1924 to run as a candidate for vice president on the Progressive party ticket with Robert LaFollette of Wisconsin. They carried only the state of Wisconsin in the election won by Republican Coolidge.

Wheeler went right along with the New Deal but always retained the independence which he showed when Roosevelt announced the Supreme Court packing bill.

Wheeler was chosen by his more conservative Senate colleagues to lead the fight against the bill and to read to the Senate a devastating letter written by Chief Justice Charles Evans Hughes.

Despite his disagreements with Roosevelt, Wheeler rated him as the most outstanding of modern presidents.

Wheeler attracted national attention during his first term as a participant in the investigation that exposed the Teapot Dome scandal. The investigation indicated the secretary of the Interior leased oil reserves to private oil firms and allegedly received $400,000 for it.

In a backlash from that, Wheeler was accused of taking $2,000 to obtain some federal oil leases. "The jury had two quick votes," he once explained. "One was to go to dinner at government expense and the other was to acquit me."

In 1946, Wheeler failed to win renomination for the Senate. He then began practicing law here and would be in his office of Wheeler & Wheeler daily except for the several months he spent in Montana each year.

Wheeler said that this country's entry into World War II would "make the world safe for communism." He also was one of the few in 1923 who said that the United States ought to recognize Russia. "One paper said I should be deported," he recalled, but added, "where to, back to Massachusetts?"

In a Senate speech disputing Roosevelt on entering the war, Wheeler said: "I've been called an appeaser, a pro-Nazi, a pro-Communist and I don't know what else. I'm not anything but pro-American, and I'm not going to be intimidated by the war-mongers, the President and the FBI, nor anyone else."

When he first was elected to the Senate in 1922 people called Wheeler a radical. "We were the progressives who wanted to correct abuses by corporations and others," he said two years ago. "Now it would seem that some ultraliberals want to tear down the government and that would lead to dictators. It happened in Italy, Germany and Russia."

Wheeler was never pessimistic about the United States, but he said, "I've felt we've made mistakes, a good many, but by comparison with other countries I feel we're ahead and will continue to be ahead."

"But I must confess that I'm a little more worried about conditions in the country than heretofore," he told a reporter for the Star-News a year ago, "particularly the economic situation. This country and no other country can afford to be as reckless in expenditures and government spending as we've been."

He was in the tradition of the progressive fighters from Montana that began with election of Sen. Walsh in 1912 and continues today with Senate Majority Leader Mike Mansfield.

Wheeler called himself "Yankee from the West"—also the title of his autobiography—because he was born in Hudson, Mass., near Boston. He drifted across the continent through the University of Michigan Law School to Butte, Mont. Wheeler, like thousands of young easterns then, had the Pacific Coast as his goal.

However, one day while he was waiting for a train in Butte he joined a poker game near the depot and soon was broken, the victim of a couple of Butte card sharks. He began his career as an attorney in Butte.

Although he intended to stay out of politics, he became involved when he was appointed a U.S. district attorney, an appointment aided by the influence of Sen. Walsh.

In five years he won acclaim for his ability as a prosecutor but resigned the office to help get Walsh reelected to the Senate. He served two terms in the Montana legislature.

His next political move was to run for governor as a candidate of the Non-Partisan League, but he was defeated. However, in 1922 he was nominated and elected to the Senate as a Democrat.

To Wheeler, once called the most dangerous radical in Congress, the Watergate actions in the 1972 election were "child's play."

"When somebody says this business today is worse than Teapot Dome or the Ohio Gang, they don't know what the hell they're talking about."

His wife, the former Lulu White, died in 1962.

He leaves three sons, John L., of Bethesda, Edward K., of Chevy Chase—his law partner—and Richard B., of Denver, and two daughters, Mrs. Elizabeth Colman of Pine Lake Wis., and Mrs. Marion Scott of Bethesda.

Burton Wheeler Is Dead at 92

WASHINGTON.—Burton K. Wheeler, a battler for early New Deal legislation who later broke with Franklin D. Roosevelt and became a militant isolationist in the Senate, has died at the age of 92.

Wheeler served four terms in the Senate but was defeated in 1946, largely because of his persistent criticism of U.S. policies in World War II.

The Montana Democrat remained in Washington as a partner with his son in a law firm; he was in his office the day he died. His son said Wheeler died at his home Monday night after an apparent stroke.

Family members said services will be Thursday morning in the Wesley Methodist Church with burial later in Rock Creek Cemetery.

Wheeler, a native of Hudson, Mass., served 24 years as Democratic senator from his adopted state of Montana. He was an early supporter of Roosevelt's New Deal policies, but later bucked him on efforts to "pack" the Supreme Court and on the U.S. entry into World War II.

Roosevelt is said to have once termed him "the most dangerous radical in Congress." Other descriptions of his political bent ranged from Communist to conservative to isolationist.

Wheeler backed Roosevelt for the presidency as early as 1929 and backed much New Deal legislation after Roosevelt became president in 1933, particularly the utility holding company act.

He and Roosevelt were close personal friends, but Wheeler broke with the president over Roosevelt's 1937 proposal to reorganize the Supreme Court which had overturned key New Deal legislation. The court-packing plan, as it was widely called, was rejected by the Senate, 70 to 20.

With the outbreak of war in Europe, Wheeler opposed Roosevelt's lend-lease assistance in Britain, calling it dictatorial and asinine.

"In the name of defense we have started shooting on the seven seas," he said. "In the name of democracy we have established one-man government. And in the name of peace, the United States has been dragged to the brink of war."

Administration officials, including the President, called Wheeler unpatriotic, pro-Nazi, near treasonous.

"I thought I was right then and I still do," Wheeler said in an interview two years ago. "I said that if we got into war we'll make the world safe for the Communists, and that's what we're doing.

"I felt that if we hadn't gotten into it, Hitler and Stalin would have fought it out until one was in the hospital and the other was in the coffin."

Wheeler spearheaded an investigation of the Teapot Dome scandal and the activities of Atty. Gen. Harry M. Daughtery and his "Ohio Gang." Daughtery retaliated by prosecuting Wheeler on influence charges

"I was never worried," Wheeler said in an interview.

"The jury stayed out just long enough to take two votes—one to go to dinner at government expense and the other to acquit me."

Asked at one time to compare that scandal with Watergate, Wheeler said: "When somebody says this business today is worse than Teapot Dome or the Ohio Gang, they don't know what the hell they're talking about."

Like many politicians before him, he became more conservative in later years and voted for Richard M. Nixon for re-election in 1972, although he remained a Democrat. He said he knew that George McGovern could not be elected because he went "to extremes."

He likened the Nixon-McGovern race to his own defeat by Dixon in 1920, saying, "A lot of people didn't like Dixon, but they hated me more, so they voted for him."

While he opposed sending American forces to Korea and Vietnam, he supported Nixon's handling of the Vietnam war. He said it was "Kennedy and particularly Johnson who escalated the war."

Although as a former senator he had floor privileges in the Senate, he rarely visited the Senate in recent years. He said, "I didn't ever want to lobby my former colleagues on the floor."

Wheeler was in Billings when the Japanese attack on Pearl Harbor brought the United States into World War II. In an interview at the home of the late B. R. Albin, a personal friend and supporter, the former isolationist Wheeler issued a statement that marked the sudden unity of American feelings. "The only thing left to do now is to give them hell," he said.

THE PRESIDENT'S STATE OF THE UNION MESSAGE

Mr. MANSFIELD. Mr. President, commenting on the President's state of the Union speech, I would like to make a few remarks.

First, let me say that I appreciate the candor with which he laid before the Congress and the American people the grim situation which confronts this Republic today.

Second, I want to say, coupled with his remarks last Monday night when he addressed the Nation, it appears to me that he is facing up to the situation which confronts the Nation at this time; that he is showing leadership; that he is advancing proposals.

While there is room for disagreement here and there, I commend the President for what he has done this week, and I look forward to the proposals which he will send to Congress in the near future.

Furthermore, in line with the President's own statements and thinking, I want to say that, as far as the Senate is concerned, we are prepared to cooperate with him.

We recognize the fact that this is not a Republican or a Democratic question. It is a matter which affects all Americans of all strata, and the only way it can be solved is through cooperation. The President has been most cooperative in his dealings with Congress.

Again, I want to say that, so far as the Senate is concerned, and speaking for the majority—and, I am certain, for the minority as well—we will give him the greatest possible cooperation, to the end that this common set of problems can be solved and the Republic once again put on a path which will lead to prosperity, peace, and contentment.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. PASTORE. Mr. President, I agree with the majority leader that the President's address this afternoon indicates that we are going off dead center. But I was a little stunned and shocked with reference to his suggestion of a $3 a barrel tax on imported oil.

When we consider that we in New England, and particularly in Rhode Island, are 85 percent dependent on our oil being imported, when we realize the effect of this $3 tax, together with the decontrol of domestic oil, again with the deregulation of natural gas, what it all amounts to is that you are going to eat up the rebate.

I cannot see how you are giving the people of Rhode Island any satisfaction at all when you impose a tax on the fuel we must use and you are going to decontrol domestic oil and you are going to deregulate natural gas.

Talk about arithmetic, you do not even have to be a grammar school graduate to understand that the price is going to go up. They are going to give you a couple of dollars in your left pocket and take it out of your right pocket.

I do not think that is the way to give the relief we need at this time, and I hope the President will reconsider that suggestion.

Mr. MANSFIELD. Mr. President, may I say that I indicated that there were points of differences which are apparent. But I would also state that, in my opinion, those differences can be compromised, can be ironed out.

We will do our best to see that areas such as New England and Florida—which I am sure the President had in mind when he spoke in the Hall of the House of Representatives—will be given every consideration by him before he sends his messages down, and certainly by the appropriate committees of Congress which will hold hearings on his proposals.

Mr. PASTORE. I hope he does it before we freeze to death. [Laughter.]

ORDER FOR A SEGMENT OF THE RECORD TO BE SET ASIDE FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a segment of the RECORD be set aside for routine morning business today, so as to accommodate Senators who wish to introduce bills and to insert speeches.

The PRESIDING OFFICER (Mr. GARN). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time taken by the Senate thus far not come out of the time allotted under the order to Mr. GRIFFIN and to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

(Routine morning business transacted by the Senate today is printed at this point in the RECORD by unanimous consent.)

MESSAGES FROM THE PRESIDENT RECEIVED AFTER ADJOURNMENT

The following messages from the President of the United States were received after the adjournment of the Congress, under the authority of the order of December 20, 1974.

DISAPPROVAL OF THE HEALTH REVENUE SHARING AND HEALTH SERVICES ACT OF 1974

December 23, 1974:

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 14214, the "Health Revenue Sharing and Health Services Act of 1974."

H.R. 14214 conflicts with my strong commitment to the American taxpayers to hold Federal spending to essential purposes. The bill authorizes appropriations of more than $1 billion over my recommendations and I cannot, in good conscience, approve it. These appropriation authorizations are almost double the funding levels I have recommended for Fiscal Year 1975 and almost triple the levels I believe would be appropriate for 1976.

As part of my effort to see that the burden upon our taxpayers does not increase, I requested the Congress last month to exercise restraint in expanding existing Federal responsibilities, and to resist adding new Federal programs to our already overloaded and limited Federal resources. These recommendations reflect my concern with both the need to hold down the Federal budget and the need to limit the Federal role to those activities which can make the most necessary and significant contributions.

In H.R. 14214, the Congress not only excessively increased authorizations for existing programs but also created several new ones that would result in an unjustified expenditure of Federal taxpayers' funds. Although the purposes of many of the programs authorized in this bill are certainly worthy, I just cannot approve this legislation because of its effect upon the economy through increased unwarranted Federal spending.

Finally, it should be pointed out that the Federal Government will spend almost $20 billion in 1975 through Medicare and Medicaid for the financing of health services for priority recipients—aged and low-income persons. These services are provided on the basis of national eligibility standards in Medicare and State eligibility standards in Medicaid and therefore are available to individuals in a more equitable and less restrictive manner than many of the programs authorized in H.R. 14214.

GERALD R. FORD.

THE WHITE HOUSE, *December 21, 1974.*

DISAPPROVAL OF AMENDMENT OF THE TENNESSEE VALLEY AUTHORITY ACT

December 23, 1974:

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 11929, "To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments."

This bill would permit TVA to defer or offset its repayment obligations to the United States Treasury about $85 million per year for 5 years because of expenditures required to install pollution control equipment—and thereby enable TVA to postpone some rate increases otherwise required.

The people who are provided with electric power by the Tennessee Valley Authority have been subjected to substantial increases in power rates in recent months. I must point out, however, that consumers of electricity throughout the Nation have experienced similar rate increases for essentially the same reasons—the rising prices of fuel and materials, the cost of installing air pollution control equipment, and the rising cost of labor.

Nevertheless, TVA customers still pay among the lowest power rates of any region in the Nation—about 30 percent of rates in New York, 64 percent of Chicago, and 78 percent of Louisville, Kentucky.

No one likes to pay higher electric bills. But we must not allow this simple fact to result in new legislation which violates the fundamental principle that electricity should be priced to reflect its cost of production, including the cost of pollution abatement and control. My environmental advisers as well as my economic advisers agree with me that this principle must be upheld.

I see no basis in equity or in logic for departing from this principle in the case of the TVA, and for asking the general taxpayer to make up the difference in TVA power rates. To do so would be unfair to power consumers elsewhere in the Nation who do not have the benefit of Tennessee Valley Authority power facilities and who are required to bear the costs attributed to pollution control in their power bills.

GERALD R. FORD.

THE WHITE HOUSE, *December 23, 1974.*

DISAPPROVAL OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1974

December 30, 1974:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 425, the Surface Mining Control and Reclamation Act of 1974.

S. 425 would establish Federal standards for the environmental protection and reclamation of surface coal mining operations, including the reclamation of orphaned lands. Under a complex procedural framework, the bill would encourage the States to implement and enforce a program for the regulation of surface coal mining with substitution of a federally administered program if the States do not act.

The Executive Branch submitted to both the 92nd and 93rd Congresses legislation that would have established reasonable and effective reclamation and environmental protection requirements for mining activities. Throughout this period, the Administration made every effort in working with the Congress to produce a bill that would strike the delicate balance between our desire for reclamation and environmental protection and our need to increase coal production in the United States.

Unfortunately, S. 425, as enrolled, would have an adverse impact on our domestic coal production which is unacceptable. By 1977, the first year after the Act would take full effect, the Federal Energy Administration has estimated that coal production losses would range from a minimum of 48 million tons to a maximum of 141 million tons. In addition, further losses which cannot be quantified could result from ambiguities in the bill, forcing protracted regulatory disputes and litigation. In my judgment, the most significant reasons why such coal losses cannot be accepted are as follows:

1. Coal is the one abundant energy source over which the United States has total control. We should not unduly impair our ability to use it properly.

2. We are engaged in a major review of national energy policies. Unnecessary restrictions on coal production would limit our Nation's freedom to adopt the best energy options.

3. The United States uses the equivalent of 4 barrels of expensive foreign oil for every ton of unproduced domestic coal—a situation which cannot long be tolerated without continued, serious economic consequences. This bill would exacerbate this problem.

4. Unemployment would increase in both the coal fields and in those industries unable to obtain alternative fuel.

In addition, S. 425 provides for excessive Federal expenditures and would clearly have an inflationary impact on the economy. Moreover, it contains numerous other deficiencies which have recently been addressed in Executive Branch communications to the Congress concerning this legislation.

In sum, I find that the adverse impact of this bill on our domestic coal production is unacceptable at a time when the Nation can ill afford significant losses from this critical energy resource. It would also further complicate our battle against inflation. Accordingly, I am withholding my approval from S. 425.

In doing so, I am truly disappointed and sympathetic with those in Congress who have labored so hard to come up with a good bill. We must continue to strive diligently to ensure that laws and regulations are in effect which establish environmental protection and reclamation requirements appropriately balanced against the Nation's need for increased coal production. This will continue to be my Administration's goal in the new year.

GERALD R. FORD.

THE WHITE HOUSE, *December 30, 1974.*

DISAPPROVAL OF THE ENERGY TRANSPORTATION SECURITY ACT OF 1974

December 30, 1974:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 8193, the Energy Transportation Security Act of 1974.

The bill would initially require that 20 percent of the oil imported into the United States be carried on U.S. flag tankers. The percentage would increase to 30 percent after June 30, 1977.

This bill would have the most serious consequences. It would have an adverse impact on the United States economy and on our foreign relations. It would create serious inflationary pressures by increasing the cost of oil and raising the prices of all products and services which depend on oil. It would further stimulate inflation in the ship construction industry and cut into the industry's ability to meet ship construction for the U.S. Navy.

In addition, the bill would serve as a precedent for other countries to increase protection of their industries, resulting in a serious deterioration in beneficial international competition and trade. This is directly contrary to the objectives of the trade bill which the Congress has just passed. In addition, it would violate a large number of our treaties of Friendship, Commerce, and Navigation.

Although this bill would undoubtedly benefit a limited group of our working population, such benefit would entail disproportionate costs and produce undesirable effects which could extend into other areas and industries. The waiver provisions which the Congress included in an effort to meet a few of my concerns fail to overcome the serious objections I have to the legislation.

Accordingly, I am not approving this bill because of the substantial adverse effect on the Nation's economy and international interests.

I wish to take this opportunity to reiterate my commitment to maintaining a strong U.S. Merchant Marine. I believe we can and will do this under our existing statutes and programs such as those administered by the Maritime Administration in the Department of Commerce.

GERALD R. FORD.

THE WHITE HOUSE, *December 30, 1974.*

DISAPPROVAL OF AMENDMENT OF THE PUBLIC HEALTH SERVICE ACT

January 3, 1975:

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 17085, a bill that would amend Title VIII of the Public Health Service Act to provide support for the training of nurses.

This measure would authorize excessive appropriations levels—more than $650 million over the three fiscal years covered by the bill. Such high Federal spending for nursing education would be intolerable at a time when even high priority activities are being pressed to justify their existence.

I believe nurses have played and will continue to play an invaluable role in the delivery of health services. The Federal taxpayer can and should selectively assist nursing schools to achieve educational reforms and innovations in support of that objective. The Administration's 1976 budget request will include funds for this purpose. Furthermore, I intend to urge the 94th Congress to enact comprehensive health personnel training legislation that will permit support of nurse training initiatives to meet the new problems of the 1970's.

This act inappropriately proposes large amounts of student and construction support for schools of nursing. Without any additional Federal stimulation, we expect that the number of active duty registered nurses will increase by over 50 percent during this decade.

Such an increase suggests that our incentives for expansion have been successful, and that continuation of the current Federal program is likely to be of less benefit to the Nation than using these scarce resources in other ways. One result of this expansion has been scattered but persistent reports of registered nurse unemployment particularly among graduates of associate degree training programs.

Today's very different outlook is not reflected in this bill. We must concentrate Federal efforts on the shortage of certain nurse specialists, and persistent geographic maldistribution. However, this proposal would allocate less than one-third of its total authorization to these problems. Moreover, it fails to come to grips with the problem of geographic maldistribution.

Support for innovative projects—involving the health professions, nursing, allied health, and public health—should be contained in a single piece of legislation to assure that decisions made in one sector relate to decisions made in another, and to advance the concept of an integrated health service delivery team. By separating out nursing from other health personnel categories, this bill would perpetuate what has in the past been a fragmented approach.

The enrolled bill would also extend various special nursing student assistance provisions of current law. Nursing students are overwhelmingly undergraduates, and as such should be—and are—entitled to the same types of student assistance available generally under the Office of Education's programs for post secondary education. These include, in particular, guaranteed loans and basic educational opportunity grants for financially hard-pressed students. Categorical nursing student assistance activities are not appropriate and should be phased out, as the Administration has proposed.

GERALD R. FORD.

THE WHITE HOUSE, *January 2, 1975:*

PRICE SUPPORT FOR MILK

January 3, 1975:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 4206, entitled "an act to provide price support for milk at not less than 85 percentum of the parity price therefor, and for other purposes."

This bill would require an immediate increase of $1.12 per hundredweight in the support price for milk, to a record high $7.69. Thereafter, through March 31, 1976, further upward adjustments would be required every three months as necessary to reflect changes in the parity index and parity price for milk.

Such large increases in milk prices to producers would be highly inflationary to consumers and unnecessary. The initial increase alone would raise fluid milk prices to consumers by about 6 cents per half gallon of milk and require increasing CCC's purchase price for cheese, and subsequently market prices, 11 or 12 cents per pound. Correspondingly large increases in the support purchase prices for butter and nonfat dry milk also would be required to carry out the higher support price for milk.

These significantly higher prices would be inconsistent with the Administration's continued and concerted efforts to combat inflation and its serious effects on the Nation's economy. Moreover, such prices would ultimately be damaging to the dairy industry and milk producers.

Consumers are resisting prices they must now pay for milk and other dairy products. To artificially force prices still higher, as this legislation would do, would result in further declines in consumption and be a strong stimulus to excess milk production.

To further reduce the demand for milk and dairy products by the increased prices provided in this legislation would be detrimental to the dairy industry. A dairy farmer cannot be well served by Government action that prices his product out of the market. It also would be detrimental since the Government would be required to buy the large surpluses of manufactured dairy products which this legislation would generate. This would cost taxpayers more than $400 million during the life of the bill.

It is clearly in the best interest of producers, consumers, taxpayers, and the Government that this legislation not be signed into law.

GERALD R. FORD.

THE WHITE HOUSE, *January 3, 1975.*

DISAPPROVAL OF EXTENSION OF TIME FOR USE OF FUNDS APPROPRIATED FOR THE RURAL ENVIRONMENTAL ASSISTANCE PROGRAM

January 4, 1975:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 3943, a bill "to extend the time for using funds appropriated to carry out the 1973 Rural Environmental Assistance Program and the 1974 Rural Environmental Conservation Program."

The bill would extend from December 31, 1974, to December 31, 1975, the time within which farmers may request and receive approval of cost-sharing assistance under the 1973 Rural Environmental Assistance Program (REAP) and the 1974 Rural Environmental Conservation Program (RECP). In total, this bill would make $125,000,000 available to farmers for water and soil conservation practices which would otherwise not be available beyond December 31, 1974.

In my judgment, this bill is not necessary because sufficient cost-share funds have been made available for producers to finance sound conservation practices. Those producers interested in these programs have had adequate time to request and receive approval of these cost-share funds by the end of December 1974. I understand that those farmers, who have started approved conservation practices during the allotted time and were unable to complete them because of weather or other uncontrollable circumstances, will be permitted to complete these practices and receive cost-sharing assistance during 1975.

This Administration shares the view that REAP and RECP have made important contributions to conservation and the rural environment. However, the programs have long ago achieved their objectives. These programs were initiated in the 1930's to supplement farmers' incomes and provide incentives to farmers to install soil and water conservation practices. They were successful in demonstrating the value of conservation as a good farming practice. Many of the practices supported by the programs are profitable without Federal assistance and the supplementary income from this source has diminished in importance at a time when net farm income is near an all-time high.

It is, therefore, my earnest opinion that this bill is both unnecessary and unjustified, and on that basis I withhold my approval.

GERALD R. FORD.

THE WHITE HOUSE, *January 3, 1975.*

DISAPPROVAL OF AMENDMENT OF THE AGRICULTURAL MARKETING AGREEMENT ACT

January 4, 1975:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 2933, a bill which would amend the Agricultural Marketing Agreement Act to make existing grade and quality restrictions on certain imported commodities applicable to imported filberts.

In my judgment, the bill would be unfair to the American consumer and the American farmer, as well as prejudicial to the interests of American trade policy.

H.R. 2933 would be unfair to the consumer because it could unnecessarily increase prices for filbert products. Existing law already requires all imported foodstuffs to meet health standards prescribed under the Food and Drug Act.

The bill could also produce unfair consequences for the farmer by causing the loss of some of his important markets abroad. It could result at best in comparatively limited benefits for domestic producers while risking retaliation from abroad against the larger volume of other products exported by our farmers.

Finally, the bill would be prejudical to our trade policy because it would be inconsistent with our obligations under the General Agreements on Tariffs and Trade. It would erect a non-tariff trade barrier at a time when we are trying to persuade other nations to dismantle theirs.

Although there are other commodities which are subject to the same statutory restrictions that H.R. 2933 would impose on filberts, no new commodities have been included in that list since January of 1971. I cannot in good conscience support the addition of a new commodity just after signing into law the new Trade Act which has a major aim of eliminating non-tariff trade barriers.

For the foregoing reasons, I am compelled to withhold my approval from H.R. 2933.

GERALD R. FORD.

THE WHITE HOUSE, *January 3, 1975.*

DISAPPROVAL OF DESIGNATION OF THE PRESIDENT GERALD R. FORD FEDERAL OFFICE BUILDING

January 4, 1975:

MEMORANDUM OF DISAPPROVAL

I have today vetoed H.R. 11897, a bill which would name the United States Courthouse and Federal Office Building in Grand Rapids, Michigan, the "President Gerald R. Ford Federal Office Building."

Although I appreciate the honor expressed by the Congress in enacting this legislation, I intend to continue the policy of past Administrations that the executive branch not endorse the naming of Federal office buildings. Generally, the executive branch has deferred to the desires of the Congress on such matters.

However, I know of no Federal office buildings that have been named for a President while still in office. This legislation might begin a precedent I believe it best not to establish.

The proposed naming of this facility for me in my home community is a great honor, and one for which I am deeply grateful; however, for the reasons I have assigned above I feel I cannot sign H.R. 11897.

GERALD R. FORD.

THE WHITE HOUSE, *January 4, 1975.*

DISAPPROVAL OF AUTHORIZATION OF APPROPRIATIONS FOR THE MARITIME ADMINISTRATION

January 4, 1975:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 13296, a bill to authorize appropriations for the Maritime Administration.

This is the annual appropriations authorization bill for certain activities of the Maritime Administration in the Department of Commerce. I would be pleased to approve the measure if it were limited to those authorizations.

Unfortunately, the Congress added an unacceptable amendment which would require the Federal Government to reimburse U.S. flag fishing vessel owners for damage to their equipment by foreign flag ships.

The amendment would require the Secretary of Commerce to provide interest free loans to fishermen to cover the property and the value of produce lost as a result of damage caused by foreign vessels operating in the area of the U.S. Continental Shelf. If an ensuing investigation proved the loss was caused soley by a foreign ship, the loan repayment would be cancelled and the United States would attempt to recover claims from the government of the foreign national involved. The program would be retroactive to January 1, 1972, for claims already filed.

This idemnity program would pose serious problems of administration because it would be difficult to establish responsibility for any damage caused. Futhermore, since the bill provides no basis for advance review of the recipient's financial ability to repay a loan, the Commerce Department could find itself in the position of holding a group of bad debts. At the same time, claims for damage would be difficult to validate and the result would essentially be a grant program with few effective restraints.

Moreover, this program sets a precedent for the Federal relief of private parties from the actions of foreign nationals. Currently, relief is extended only to fishermen whose vessels are the victims of actions by foreign governments beyond recognized territorial limits. International procedures now exist through which claims against foreign nationals can be asserted and adjudicated and these should be used in preference to a Federal indemnity program.

I urge the Congress to pass once again the appropriations authorizations provisions of the bill early in the next session. Meanwhile, the programs covered by these authorizations and funded by appropriations already enacted can be continued under the continuing resolution which runs through February 28, 1975.

GERALD R. FORD.

THE WHITE HOUSE, *January 4, 1975.*

DISAPPROVAL OF THE TRAVEL EXPENSES AMENDMENTS ACT OF 1974

January 6, 1975:

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from S. 3341, the "Travel Expenses Amendments Act of 1974."

This bill would raise the maximum per diem allowance and mileage rates for civilian Government employees traveling on official business. I endorse this proposal. Unfortunately, a provision was added to the bill which would establish a rigid system of mileage reimbursement to the disabled veteran—with no discretionary authority for payment of a lesser amount where justified when the veteran was authorized to travel for treatment.

This provision assumes that there are great similarities in the travel situations of Veterans Administration beneficiaries and Federal employees who are away from home on Government business. This is not the case, however. Generally, a short span of time and distance is involved in VA beneficiary travel to a facility for vocational rehabilitation, counseling and health care, while Government employees may be traveling for days or weeks at a time. The employee per diem is designed to pay for necessary living expenses during this period, including those of lodging and meals.

Under this bill, Government employees using their privately owned vehicles may be reimbursed at the minimum 15¢ per mile, or at a rate comparable to the cost to the Government if the employee used a Government-owned vehicle. This flexibility would be continued for Government employee travel under the bill passed by the Congress. However, such management flexibility would not be applicable to travel of VA beneficiaries. The result would be the required payment of unwarranted mileage rates that would add an estimated $25 million a year to the VA budget.

The Administration will ask the 94th Congress for a new bill to raise the maximum per diem and mileage rates for Federal employees which have been inadequate for some time. Many Federal employees who are required to travel in connection with their work have suffered considerable out-of-pocket expenses in recent years. This should be rectified as soon as possible.

GERALD R. FORD.

THE WHITE HOUSE, *December 31, 1974.*

APPROVAL OF BILLS AND JOINT RESOLUTIONS

On January 8, 1975, a message from the President of the United States was received stating that he had approved and signed the following bills and joint resolutions:

December 18, 1974

S. 1353, An Act to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials.

S. 3906, An Act to amend title 10, United States Code, by repealing the requirement that only certain officers with aeronautical ratings may command flying units of the Air Force.

December 19, 1974

S. 4016, An Act to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes.

December 21, 1974

S. 782, An Act to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the Expediting Act as it pertains to Appellate Review.

S. 4040, An Act to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes.

December 22, 1974

S. 2193, An Act to provide for increased participation by the United States in the Asian Development Bank.

S. 2363, An Act to amend chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

S. 3164, An Act to further the national housing goal of encouraging homeownership by regulating certain lending practices and closing and settlement procedures in federally related mortgage transactions to the end that unnecessary costs and difficulties of purchasing housing are minimized, and for other purposes.

December 26, 1974

S.J. Res. 234, Joint Resolution transferring to the State of Alaska certain archives and records in the custody of the National Archives of the United States.

S.J. Res. 263, Joint Resolution amending the National Housing Act to clarify the authority of the Federal Savings and Loan Insurance Corporation with respect to the insurance of public deposits, and for other purposes.

S. 2343, An Act to authorize the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands in Coeur d'Alene, Idaho, in order to eliminate a cloud on the title to such lands.

December 27, 1974

S.J. Res. 260, Joint Resolution relative to the convening of the first session of the Ninety-fourth Congress.

S. 3397, An Act for the relief of Jose Ismarnardo Reyes-Morelos.

S. 3578, An Act for the relief of Anita Tomasi.

S. 4013, An Act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.

December 30, 1974

S.J. Res. 224, Joint Resolution to authorize and request the President to issue a proclamation designating January, 1975, as "March of Dimes Birth Defects Prevention Month."

S. 939, An Act to amend the Admission Act for the State of Idaho to permit that State to exchange public lands, and for other purposes.

S. 3191, An Act to amend title 10, United States Code, to provide that commissioned officers of the Army in regular grades below major may be involuntarily discharged whenever there is a reduction in force.

S. 3394, An Act to amend the Foreign Assistance Act of 1961, and for other purposes.

December 31, 1974

S.J. Res. 40, Joint Resolution to authorize and request the President to call a White House Conference on Library and Information Services not later than 1978, and for other purposes.

S. 184, An Act to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union.

S. 194, An Act to authorize the Secretary of the Interior to convey to the city of Anchorage, Alaska, interests of the United States in certain lands.

S. 1283, An Act to establish a national program for research and development in nonnuclear energy sources.

S. 1357, An Act for the relief of Mary Red Head.

S. 2125, An Act to amend the Act of June 9, 1906, entitled "An Act granting land to the city of Albuquerque for public purposes" (34 Stat. 227), as amended.

S. 2594, An Act for the relief of Jan Sejna.

S. 2838, An Act for the relief of Michael D. Manemann.

S. 3418, An Act to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records, to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, to establish a Privacy Protection Study Commission, and for other purposes.

S. 3489, An Act to authorize exchange of lands adjacent to the Teton National Forest in Wyoming, and for other purposes.

S. 3518, An Act to remove the cloud on title with respect to certain lands in the State of Nevada.

S. 3574, An Act to relinquish and disclaim any title to certain lands and to authorize the Secretary of the Interior to convey certain lands situated in Yuma County, Arizona.

S. 3615, An Act to authorize the Secretary of the Interior to transfer certain lands in the State of Colorado to the Secretary of Agriculture for inclusion in the boundaries of the Arapaho National Forest, Colorado.

S. 3976, An Act to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes.

January 2, 1975

S. J. Res. 133, Joint Resolution to provide for the establishment of the American Indian Policy Review Commission.

S.J. Res. 262, Joint Resolution authorizing the Architect of the Capitol to permit certain temporary and permanent construction work on the Capitol Grounds in connection with the erection of an addition to a building on privately owned property adjacent to the Capitol Grounds.

S. 251, An Act to declare that certain land of the United States is held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma.

S. 544, An Act to amend title 18 of the United States Code to permit the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries authorized by law and conducted by a State, and for other purposes.

S. 663, An Act to improve judicial machinery by amending title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes.

S. 1418, An Act to recognize the fifty years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions of the Organization of the Executive Branch, and his service as thirty-first President of the United States, and in commemoration of the one hundredth anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution, and Peace.

S. 2149, An Act to amend title 10, United States Code, to provide certain benefits to members of the Coast Guard Reserve, and for other purposes.

S. 2446, An Act for the relief of Charles William Thomas, deceased.

S. 2807. An Act to name the Federal building, United States post office, United States courthouse, in Brunswick, Georgia, as the "Frank M. Scarlett Federal Building".

S. 2888, An Act to convey certain land of the United States to the Inter-Tribal Council, Incorporated, Miami, Oklahoma.

S. 3289, An Act to amend the Act of August 10, 1939 (53 Stat. 1347), and for other purposes.

S. 3358, An Act to authorize the conveyance of certain lands to the United States in trust for the Absentee Shawnee Tribe of Indians of Oklahoma.

S. 3359, An Act to authorize the conveyance of certain lands to the United States in trust for the Citizen Band of Pottawatomie Indians.

S. 4073, An Act to extend certain authorizations under the Federal Water Pollution Control Act, as amended, and for other purposes.

January 3, 1975

S. 251, An Act for the relief of Frank P. Muto, Alphonso A. Muto, Arthur E. Scott, F. Clyde Wilkinson, Arthur D. O'Neill, Joseph H. Avery, Junior, Joshua Cosden, Keith Jewell, Bertha Seelmeyer, Thomas Dennis O'Neill, Robert H. Brockhurst, Michael Senko, Salvatore La Capria, C. J. Moore III, and Ann C. Siegal.

S. 754, An Act to assist in reducing crime and the danger of recidivism by requiring speedy trials and by strengthening the supervision over persons released pending trial, and for other purposes.

S. 1296. An Act to further protect the outstanding scenic, natural, and scientific values of the Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for other purposes.

S. 3022, An Act to amend the Wild and Scenic Rivers Act (82 Stat. 906), as amended, to designate segments of certain rivers for possible inclusion in the national wild and scenic rivers system; to amend the Lower Saint Croix River Act of 1972 (86 State 1174), and for other purposes.

S. 3433. An Act to further the purposes of the Wilderness Act by designating certain acquired lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes.

S. 3481, An Act to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes.

January 4, 1975

S. 356, An Act to provide minimum disclosure standards for written consumer product warranties; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

S. 1017, An Act to provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes.

S. 1083, An Act to amend certain provisions of Federal law relating to explosives.

S. 2854, An Act to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2994, An Act to amend the Public Health Service Act to assure the development of a national health policy and of effective State and area health planning and resources development programs, and for other purposes.

S. 3548. An Act to establish the Harry S Truman memorial scholarships, and for other purposes.

S. 3934, An Act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

MESSAGE FROM THE PRESIDENT

Under the authority of the order of December 20, 1974, a message from the President of the United States was received on December 31, 1974, during the adjournment of the Senate, transmitting the Sixth Annual Report on the National Housing Goal. The message is as follows:

To the Congress of the United States:

I herewith transmit the Sixth Annual Report on the National Housing Goal as required by section 1603 of the Housing and Urban Development Act of 1968.

GERALD R. FORD.

THE WHITE HOUSE, *December 31, 1974.*

MESSAGE FROM THE HOUSE

Under authority of the order of December 20, 1974, a message from the House of Representatives was received on December 20, 1974, after the adjournment of the Senate, which stated that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill

(H.R. 14449) to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs.

APPOINTMENT DURING SINE DIE ADJOURNMENT

On January 13, 1975, during the sine die adjournment, the President pro tempore, pursuant to Public Law 92–489, appointed the Senator from Hawaii (Mr. Fong) to the Commission on Revision of the Federal Court Appellate System, in lieu of the Senator from Florida (Mr. Gurney), retired.

MESSAGE FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 12:10 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the enrolled joint resolution (H.J. Res. 1) extending the time within which the President may transmit the Budget Message and the Economic Report to the Congress.

The enrolled joint resolution was subsequently signed by the Vice President.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the VICE PRESIDENT:

A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Commerce:

Resolution No. 323

Relative to requesting that the Civil Aeronautics Board disapprove any application or filing which would reduce or suspend service by Trans World Airlines to the territory of Guam.

Be it resolved by the Legislature of the Territory of Guam:

Whereas, Trans World Airlines has contributed greatly to the territory of Guam's economic growth and development during the period of time it has served the residents of the territory of Guam as Trans World Airlines employs many local residents whose wages are returned to the local economy and recycled again and again as a result of the multiplier effect; and

Whereas, in addition to its employment of local residents, Trans World Airlines transports many visitors and tourists to the territory of Guam thereby contributing greatly to Guam's present enviable status as a major tourist attraction; and

Whereas, it has come to the attention of the Twelfth Guam Legislature that there is, presently pending before the Civil Aeronautics Board, an application which would have the effect, if approved, of suspending service presently provided by Trans World Airlines thereby drastically reducing competition between airlines serving Guam; and

Whereas, it is imperative that the territory of Guam, which is so dependent upon air traffic to and from the mainland, be assured of continuous service so that its most vital link with the mainland can be preserved; and

Whereas, for many years Guam experienced monopolistic practices with respect to airline service and as a result the people of the territory of Guam were greatly inconvenienced as evidenced by the fact that during the peak months it became impossible for many people to vacation and conduct business on the mainland; and

Whereas, the people of the territory of Guam through the adoption of Resolution No. 316 have respectfully requested Congress to lend every assistance to Pan American World Airways so that it can overcome its present economic crisis this being concrete evidence that the people of the territory of Guam are opposed to any action which would reduce competition or suspend the present level of airline services afforded this vital United States territory; now therefore be it

Resolved, that the Twelfth Guam Legislature does hereby on behalf of the people of Guam respectfully request that the Civil Aeronautics Board disapprove any action, application or filing which would suspend or reduce the present level of service by Trans-World Airlines to the territory of Guam; and be it further

Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the Honorable Howard W. Cannon, Chairman of the Subcommittee on Aviation of the Senate Commerce Committee, to the Honorable John Jarman, Chairman of the Subcommittee on Transportation and Aeronautics of the House Interstate and Foreign Commerce Committee, to Congressman A. B. Won Pat, to Robert D. Timm, Chairman, Civil Aeronautics Board, to Graham Hollenbeck, Trans World Airlines' General Manager on Guam, and to the Governor of Guam.

Duly and regularly adopted on the 4th day of December, 1974.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

Report of the National Aeronautics and Space Administration

A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a list of present and former NASA employees who have filed reports pertaining to their NASA and aerospace-related industry employment for the fiscal year ended June 30, 1974 (with an accompanying list); to the Committee on Aeronautical and Space Sciences.

Report of the National Forest Reservation Commission

A letter from the Acting Secretary of the Army transmitting, pursuant to law, the report of the National Forest Reservation Commission for the fiscal year ended June 30, 1974 (with an accompanying report); to the Committee on Agriculture and Forestry.

Report on Appropriation for Medical Care to the Veterans' Administration

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation to the Veterans' Administration for medical care for the fiscal year 1975, indicating the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

Report on Appropriation for Readjustment Benefits to the Veterans' Administration

A letter from the Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation for readjustment benefits to the Veterans' Administration has been apportioned on a basis indicating the need for a supplemental estimate of appropriation; to the Committee on Appropriations.

Final Determination of the Indian Claims Commission in the Case of the Sac and Fox Tribe of Indians of Oklahoma, et al.

A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, its final determination in the case of the Sac and Fox Tribe of Indians of Oklahoma, et al. against the United States; to the Committee on Appropriations.

Report on Deficiency by the Equal Employment Opportunity Commission

A letter from the Chairman of the Equal Employment Opportunity Commission reporting, pursuant to law, on a violation constituting a deficiency in account for salaries and expenses totaling $800,000; to the Committee on Appropriations.

Reports on Military Construction Projects

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, reports of military construction projects placed under contract in fiscal year 1974 exceeding the amount authorized for such project by more than 25 percent (with accompanying papers); to the Committee on Armed Services.

Military Personnel Policy

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a list of present or former officers or employees filing reports for the fiscal year 1974 (with accompanying papers); to the Committee on Armed Services.

Report on Export Administration

A letter from the Secretary of Commerce transmitting, pursuant to law, the quarterly report on export administration covering the second quarter of 1974 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

Loan, Guarantee, and Insurance Transactions Supported by Eximbank

A letter from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee, and insurance transactions supported by Eximbank of Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland during October 1974; to the Committee on Banking, Housing and Urban Affairs.

Annual Report on Truth in Lending, 1974

A letter from the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the sixth annual report of the Board of Governors of the Federal Reserve System on truth in lending (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

Report of the Secretary of Commerce

A letter from the Secretary of Commerce, transmitting, pursuant to law, the 62d Annual Report of the Secretary of Commerce for the fiscal year ended June 30, 1974 (with an accompanying report); to the Committee on Commerce.

Report of the Interstate Commerce Commission

A letter from the Chairman, Interstate Commerce Commission, transmitting, pursuant to law, the 88th Annual Report of the Interstate Commerce Commission for the 1974 fiscal year (with an accompanying report); to the Committee on Commerce.

Report of the National Railroad Passenger Corporation, November 1974

A letter from the Vice President, Government and Public Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad (with an accompanying report); to the Committee on Commerce.

Report of the Federal Power Commission

A letter from the Chairman, Federal Power Commission, transmitting, pursuant to law, a report showing information on the permits and licenses for hydroelectric projects issued by the Federal Power Commission during the fiscal year ended June 30, 1974; financial statements of proceeds derived from licenses issued by authority of the Federal Power Act; and the names and compensation of persons employed by the Commission during that period (with an accompanying report); to the Committee on Commerce.

Report of the District of Columbia City Council

A letter from the Chairman, Government of the District of Columbia City Council, transmitting, pursuant to law, the Sixth Annual Report of the District of Columbia City Council, July 1, 1973–June 30, 1974 (with an accompanying report); to the Committee on the District of Columbia.

Progress Report of Action on the Report by the Commission on the Organization of the Government of the District of Columbia

A letter from the Mayor-Commissioner, The District of Columbia, transmitting, pursuant to law, a progress report of action on the report by the Commission on the Organization of the Government of the District of Columbia (with an accompanying report); to the Committee on the District of Columbia.

Annual Report of the Public Service Commission of the District of Columbia

A letter from the Executive Secretary, Public Service Commission of the District of Columbia, transmitting, pursuant to law, the 61st Annual Report of the Public Service Commission of the District of Columbia for the calendar year 1973 (with an accompanying report); to the Committee on the District of Columbia.

Report of the Chesapeake & Potomac Telephone Co.

A letter from the vice president and general manager, The Chesapeake & Potomac Telephone Co., transmitting, pursuant to law, a report of The Chesapeake & Potomac Telephone Co. for the year 1974 (with an accompanying report); to the Committee on the District of Columbia.

Report of the Secretary of the Treasury

A letter from the Secretary of the Treasury transmitting, pursuant to law, the annual report on the state of the finances of the United States Government for the fiscal year ending June 30, 1974 (with an accompanying report); to the Committee on Finance.

Financial Statement of the Secretary of the Treasury

A letter from the Secretary of the Treasury transmitting, pursuant to law, the combined statement of receipts, expenditures, and balances of the United States Government for the fiscal year ended June 30, 1974 (accompanying report); to the Committee on Finance.

Report of the Secretary of Health, Education, and Welfare

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the committees which advise and consult with him or his designees in carrying out his functions under the Social Security Act (with an accompanying report); to the Committee on Finance.

Report on the Operation of the Trade Agreements Program, 1973

A letter from the Chairman, United States Tariff Commission, transmitting, pursuant to law, the 25th report of the United States Tariff Commission on the operation of the trade agreements program, covering calendar year 1973 (with an accompanying report); to the Committee on Finance.

International Agreements Entered Into by the United States

Two letters from the Assistant Legal Adviser for Treaty Affairs, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof (with accompany papers); to the Committee on Foreign Relations.

Report on Excess Defense Articles Delivered to Foreign Countries

A letter from the Assistant Secretary for Congressional Relations, Department of State, reporting, pursuant to law, on excess defense articles delivered to foreign countries (with accompanying papers); to the Committee on Foreign Relations.

Report on Inventory of Nonpurchased Foreign Currencies as of June 30, 1974

A letter from the Fiscal Assistant Secretary, the Department of the Treasury, transmitting, pursuant to law, a report on Inventory of Nonpurchased Foreign Currencies as of June 30, 1974 (with an accompanying report); to the Committee on Foreign Relations.

Report on Private Grievances and Redress, the Federal Energy Administration

A letter from the Administrator, Federal Energy Administration, transmitting, pursuant to law, a report on private grievances and redress of the Federal Energy Administration (with an accompanying report); to the Committee on Government Operations.

Disposition of Foreign Excess Personal Property

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, the annual report of the Department of Defense relative to its disposition of foreign excess personal property located in areas outside of the United States, Puerto Rico and the Virgin Islands (with an accompanying report); to the Committee on Government Operations.

Reports of the Comptroller General

A letter from the Comptroller General of the United States regarding a report to the Congress entitled "How Ship Transfers to Other Countries Are Financed" (with accompanying papers); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office, December 1974 (with an accompanying list); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on achievements, problems, and uncertainties in isolating high-level radioactive waste from the environment by the Atomic Energy Commission (with an accompanying report); to the Committee on Government Operations.

A letter from the Comtproller General of the United States, transmitting, pursuant to law, a report on observations of the Special Supplemental Food Program administered by the Food and Nutrition Service, Department of Agriculture (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need to improve the long-term impact of the Law Enforcement Administration grant program, Law Enforcement Assistant Administration, Department of Justice (with an accompanying report): to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on life cycle cost estimating—its status and potential use in major weapon system acquisitions by the Department of Defense (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the progress and problems of Federal library support programs, Office of Education, Department of Health, Education, and Welfare (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled, "Efforts to Stop Narcotics and Dangerous Drugs Coming From and Through Mexico and Central America," Drug Enforcement Administration, Department of Justice, Department of State (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on how management of Federal Supply Service procurement programs can be improved by the General Services Administration (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need for a uniform method for paying interest on Government trust funds (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report pointing out that a reduction in Federal expenditures is possible through Commodity Credit Corporation's assumption of insured warehousing risks, Department of Agriculture (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the role of Federal assistance for vocational education, Office of Education, Department of Health, Education, and Welfare (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the substantial staff and cost reductions possible at military telecommunications centers through use of uniform staffing standards, Department of Defense (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improvements needed to speed implementation of Medicaid's Early and Periodic Screening, Diagnosis, and Treatment program, Social and Rehabilitation Service, Department of Health, Education, and Welfare (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on housing for the elderly—factors which should be evaluated before deciding on low- or high-rise construction, Department of Housing and Urban Development (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on national rural development efforts and the impact of Federal programs on a 12-county rural area in South Dakota, Department of Agriculture and other Federal agencies (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report concerning the progress being made on United States-Soviet Union cooperative programs (with an accompanying report); to the Committee on Government Operations.

Project Proposals Under the Small Reclamation Projects Act

A letter from the Deputy Assistant Secretary of the Interior reporting, pursuant to law, on the receipt of project proposals under the provisions of the Small Reclamation Projects Act of 1956; to the Committee on Interior and Insular Affairs.

Proposed Distribution of Cheyenne River Sioux Judgment Funds

A letter from the Acting Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use and distribution of Cheyenne River Sioux judgment funds awarded before the Indian Claims Commission; to the Committe on Interior and Insular Affairs.

Amendment To Proposed Plan for Distribution of Chiricahua Apache Judgment Funds

A letter from the Secretary of the Interior transmitting, pursuant to law, an amendment to the proposed plan for the use and distribution of Chiricahua Apache judgment funds awarded by the Indian Claims Commission; to the Committee on Interior and Insular Affairs.

Report of the Department of the Interior

A letter from the Secretary of the Interior transmitting, pursuant to law, the 1974–75 Annual Report on the coal conversion program (with an accompanying report); to the Committee on Interior and Insular Affairs.

Plan for Assumption of Assets of Menominee Enterprises, Inc.

A letter from the Acting Secretary of the Interior transmitting, pursuant to law, a plan for the assumption of the assets of Menominee Enterprises, Inc. (with an accompanying report); to the Committee on Interior and Insular Affairs.

Report on Minerals Exploration Assistance Program

A letter from the Secretary of the Interior transmitting, pursuant to law, the annual report on the Minerals Exploration Assistance Program (with an accompanying report); to the Committee on Interior and Insular Affairs.

Concession Permit for Marine Services for Glen Canyon National Recreation Area

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a concession permit under which Hite Marine, Inc., is authorized to continue to provide marine services for the public visiting Glen Canyon National Recreation Area for a term of five years from January 1, 1974 through December 31, 1978 (with accompanying papers); to the Committee on Interior and Insular Affairs.

Proposed Contract for Research Project Entitled "Development of Conical Stabilizers for Pilot Hole Drilling"

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Foster-Miller Associates, Inc., Waltham, Massachusetts, for a research project entitled "Development of Conical Stabilizers for Pilot Hole Drilling" (with accompanying papers); to the Committee on Interior and Insular Affairs.

Proposed Potomac Heritage Trail Act of 1974

A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the National Trails System Act by designating the Potomac Heritage Trail located in portions of Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia, as a component of the National Trails System (with accompanying papers); to the Committee on Interior and Insular Affairs.

Additional Projects Tentatively Selected for Funding Under the Water Resources Research Act of 1964

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, descriptions of four additional projects tentatively selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms, as authorized by section 200(a) of the Water Resources Research Act of 1964 (with accompanying papers); to the Committee on Interior and Insular Affairs.

Report on Comprehensive Program Plan for Developing Geothermal Energy Resources

A letter from the Associate Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, an interim report on a comprehensive program plan for developing geothermal energy resources (with an accompanying report); to the Committee on Interior and Insular Affairs.

Research Plan for Compensatory Education Study

A letter from the Acting Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, the National Institute of Education's research plan for the study of compensatory education (with an accompanying document); referred to the Committee on Labor and Public Welfare.

State Student Incentive Grant Program—Notice of Proposed Rulemaking

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a notice of proposed rulemaking in state student incentive grant program (with accompanying papers); to the Committee on Labor and Public Welfare.

Report on Lead Based Paint Poisoning

A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, a report of findings and recommendations with respect to the safe level of lead in residential paints (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of the National Health Service Corps

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the second annual report for calendar year 1973 of the National Health Service Corps (with an accompanying report); to the Committee on Labor and Public Welfare.

Notice of Proposed Rulemaking for the Ethnic Heritage Studies Program

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, notice of proposed rulemaking for the Ethnic Heritage Studies Program (with accompanying papers); to the Committee on Labor and Public Welfare.

Proposed Regulations for Exemplary Projects in Vocational Education

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, proposed regulations for Exemplary Projects in Vocational Education (with accompanying papers); to the Committee on Labor and Public Welfare.

Right To Read State Grants—Notice of Proposed Rulemaking

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, notice of proposed rulemaking in Right to Read Program (with accompanying papers); to the Committee on Labor and Public Welfare.

Report on the State of the Art of Transportation for the Elderly

A letter from the Commissioner on Aging, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on "The State of the Art of Transportation for the Elderly" (with an accompanying report); to the Committee on Labor and Public Welfare.

Regulations Governing Financial Assistance for Strengthening Instruction in Academic Subjects in Public Schools

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, regulations governing financial assistance for strengthening instruction in academic subjects in public shools (with accompanying papers); to the Committee on Labor and Public Welfare.

Report of the Secretary of the Treasury

A letter from the Secretary of the Treasury transmitting, pursuant to law, a report on the experience of Federal agencies under the program for self-insuring fidelity losses of Federal personnel for the fiscal year ended June 30, 1974 (with an accompanying report); to the Committee on Post Office and Civil Service.

Report of the Postmaster General

A letter from the Chairman of the Board of Governors of the U.S. Postal Service transmitting, pursuant to law, the annual report of the Postmaster General for the fiscal year 1974 (with an accompanying report); to the Committee on Post Office and Civil Service.

Report of the Administrative Office of the U.S. Courts

A letter from the Director of the Administrative Office of the United States Courts transmitting, pursuant to law, a report on changes regarding the four grade GS–17 positions allocated to the Administrative Office of the United States Courts (with accompanying papers); to the Committee on Post Office and Civil Service.

Proposed Construction of a Courthouse in East St. Louis, Ill.

A letter from the Administrator of General Services transmitting, pursuant to law, a prospectus or proposed construction of a courthouse and Federal office building and parking facility in East St. Louis, Illinois (with accompanying papers); to the Committee on Public Works.

Report of the Secretary of Transportation

A letter from the Secretary of Transportation transmitting, pursuant to law, a report on the Special Bridge Replacement Program (with an accompanying report); to the Committee on Public Works.

Report of the Secretary of Transportation

A letter from the Secretary of Transportation transmitting, pursuant to law, a report on urban area traffic operations improvement programs (with an accompanying report); to the Committee on Public Works.

Report of the Department of Transportation

A letter from the Federal Highway Administrator transmitting, pursuant to law, an amended report entitled "An Assessment of the Feasibility of Developing a National Scenic Highway System" (with an accompanying report); to the Committee on Public Works.

REPORT OF THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting, pursuant to law, a report of the activities of the Secretary of Transportation under the Federal Aid Highway Act of 1973 (with an accompanying report); to the Committee on Public Works.

REPORT OF THE TENNESSEE VALLEY AUTHORITY

A letter from the Board of Directors of the Tennessee Valley Authority transmitting, pursuant to law, the annual report of the activities of the TVA during the fiscal year ending June 30, 1974 (with an accompanying report); to the Committee on Public Works.

PROPOSED AMENDMENTS TO REGULATIONS GOVERNING THE VETERAN'S COST-OF-INSTRUCTION PAYMENTS PROGRAM

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, proposed amendments to regulations governing the Veteran's Cost-of-Instruction Payments Program (with accompanying papers); to the Committee on Labor and Public Welfare.

NOTICE OF PROPOSED RULEMAKING FOR FINANCIAL ASSISTANCE FOR SUPPLEMENTARY CENTERS AND SERVICES, GUIDANCE, COUNSELING, AND TESTING PROGRAMS UNDER TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, notice of proposed rulemaking for financial assistance for supplementary centers and services, guidance, counseling, and testing programs under title III of the Elementary and Secondary Education Act (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT OF SCIENTIFIC AND PROFESSIONAL POSITIONS ESTABLISHED IN THE DEPARTMENT OF COMMERCE

A letter from the Director of Personnel, U.S. Department of Commerce, transmitting, pursuant to law, a report of scientific and professional positions which are established in the Department of Commerce (with accompanying papers); to the Committee on Post Office and Civil Service.

PROPOSED CONTRACT FOR RESEARCH PROJECT ENTITLED "DESIGN, FABRICATION, AND DEMONSTRATION OF A RAISE/BORING SHOTCRETE SUPPORT SYSTEM"

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Foster-Miller Associates, Inc., Waltham, Mass., for a research project entitled "Design, Fabrication, and Demonstration of a Raise/Boring Shotcrete Support System" (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED ADDITIONAL AMOUNTS OF SPECIAL NUCLEAR MATERIAL TO THE INTERNATIONAL ATOMIC ENERGY AGENCY

A letter from the Chairman, U.S. Atomic Energy Commission, transmitting, pursuant to notice, proposed additional amounts of special nuclear material and periods of time during which such amounts may be distributed to the International Atomic Energy Agency; to the Joint Committee on Atomic Energy.

PROPOSED ADDITIONAL AMOUNTS OF SPECIAL NUCLEAR MATERIAL TO THE EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM)

A letter from the Chairman, U.S. Atomic Energy Commission, transmitting, pursuant to notice, proposed additional amounts of special nuclear material and periods of time during which such amounts may be distributed to the European Atomic Energy Community (Euratom) (with accompanying papers); to the Joint Committee on Atomic Energy.

AUDIT REPORT OF AMVETS

A letter from the National Executive Director, American Veterans of World War II—Korea and Viet Nam, transmitting, pursuant to law, audit report of AMVETS (with an accompanying report); to the Committee on the Judiciary.

REPORT ON THE ADMINISTRATION OF THE FOREIGN AGENTS REGISTRATION ACT OF 1937, AS AMENDED

A letter from the Attorney General, transmitting, pursuant to law, a report of the Attorney General on the administration of the Foreign Agents Registration Act of 1937, as amended, Calendar Year 1973 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

A letter from the Chairman, Administrative Conference of the United States, transmitting, pursuant to law, the 1973–74 report of the Administrative Conference of the United States (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, FISCAL YEAR 1974

A letter from the Administrator, Law Enforcement Assistance Administration, United States Department of Justice, transmitting, pursuant to law, the sixth annual report of the Law Enforcement Assistance Administration, Fiscal Year 1974 (with an accompanying report); to the Committee on the Judiciary.

ORDERS ENTERED IN THE CASES OF ALIENS FOUND ADMISSIBLE TO THE UNITED STATES

Three letters from the Commissioner, Immigration and Naturalization Service, United States Department of Justice, transmitting, pursuant to law, orders entered in the cases of aliens who have been found admissible to the United States under the Immigration and Nationality Act (with accompanying papers); to the Committee on the Judiciary.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, United States Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens (with accompanying papers); to the Committee on the Judiciary.

ATTENDANCE OF A SENATOR

Hon. LLOYD BENTSEN, a Senator from the State of Texas, attended the session of the Senate today.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. McCLELLAN (for himself, Mr. HRUSKA, Mr. BAYH, Mr. EASTLAND, Mr. FONG, Mr. GRIFFIN, Mr. MANSFIELD, Mr. MOSS, Mr. HUGH SCOTT, Mr. TAFT, and Mr. TOWER):

S. 1. A bill to codify, revise, and reform title 18 of the United States Code; to make appropriate amendments to the Federal Rules of Criminal Procedure; to make conforming amendments to criminal provisions of other titles of the United States Code; and for other purposes. Referred to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 2. A bill to amend the Communications Act of 1934 in order to recognize and confirm the applicability of and to strengthen and further the objectives of the first amendment to radio and television broadcasting stations. Referred to the Committee on Commerce.

By Mr. KENNEDY (for himself and Mr. JAVITS):

S. 3. A bill to create a national system of health security. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 4. A bill to provide a program to systematically reduce imports of crude oil, residual fuel oil and petroleum products and to provide for a report to accompany such program, and for other purposes. Referred to the Committee on Finance.

By Mr. CHILES (for himself, Mr. BAYH, Mr. BEALL, Mr. BIDEN, Mr. BROCK, Mr. CLARK, Mr. CRANSTON, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. MATHIAS, Mr. McGOVERN, Mr. METCALF, Mr. MONDALE, Mr. PACKWOOD, Mr. PERCY, Mr. PROXMIRE, Mr. ROTH, Mr. STAFFORD, Mr. WEICKER, Mr. STONE, Mr. GARY W. HART, Mr. NELSON, Mr. PHILIP A. HART, and Mr. HASKELL):

S. 5. A bill to provide that meetings of Government agencies and of congressional committees shall be open to the public, and for other purposes. Referred to the Committee on Government Operations.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. MAGNUSON, Mr. BENTSEN, Mr. BROOKE, Mr. CANNON, Mr. CHILES, Mr. PHILIP A. HART, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. McGEE, Mr. MONDALE, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENS, Mr. McGOVERN, Mr. PERCY, Mr. CRANSTON, Mr. CLARK, and Mr. CULVER):

S. 6. A bill to provide financial assistance to the States for improved educational services for handicapped children. Referred to the Committee on Labor and Public Welfare.

By Mr. JACKSON (for himself, Mr. METCALF, Mr. CHURCH, Mr. HASKELL, Mr. JOHNSTON, Mr. MOSS, and Mr. NELSON):

S. 7. A bill entitled the Surface Mining Control and Reclamation Act of 1975. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOLE:

S. 8. A bill to designate November 11 of each as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

S. 9. A bill to extend the State and Local Fiscal Assistance Act of 1972 for 5 years. Referred to the Committee on Finance.

By Mr. RIBICOFF (for himself and Mr. WEICKER):

S. 10. A bill to amend section 5(a) of the Wild and Scenic Rivers Act. Referred to the Committee on Interior and Insular Affairs.

By Mr. BROCK (for himself, Mr. BAKER, Mr. BEALL, Mr. DOMENICI, Mr. GARN, Mr. HANSEN, Mr. PACKWOOD, Mr. PERCY, and Mr. HUGH SCOTT):

S. 11. A bill to amend the State and Local Fiscal Assistance Act of 1972 to make Federal revenue sharing a permanent program to provide for periodic increases in the dollar amounts of revenue returned to the States under that act to offset the effects of inflation, and to eliminate certain restrictions on the purposes for which local governments may use funds obtained under the act. Referred to the Committee on Finance.

My Mr. McCLELLAN:

S. 12. A bill to improve judicial machinery by providing benefits for survivors of Federal judges comparable to benefits received by survivors of Members of Congress, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. McGOVERN (for himself, Mr. Humphrey, Mr. Mansfield, Mr. Hugh Scott, Mr. Magnuson, Mr. Jackson, Mr. Williams, Mr. Randolph, Mr. Cranston, Mr. Church, Mr. Weicker, Mr. Culver, Mr. Stafford, Mr. Hatfield, Mr. Abourezk, Mr. Bayh, Mr. Burdick, Mr. Clark, Mr. Philip A. Hart, Mr. Gary W. Hart, Mr. Leahy, Mr. Case, Mr. Brooke, Mr. Schweiker, Mr. Mathias, Mr. Haskell, Mr. Hathaway, Mr. Inouye, Mr. Kennedy, Mr. McGee, Mr. McIntyre, Mr. Mondale, Mr. Pastore, Mr. Pell, Mr. Ribicoff, Mr. Muskie, Mr. Moss, Mr. Javits, Mr. Hartke, Mr. Hollings, Mr. Metcalf, and Mr. Montoya):

S. 13. A bill to amend the Food Stamp Act of 1964. Referred to the Committee on Agriculture and Forestry.

By Mr. McCLELLAN:

S. 14. A bill to provide cost-of-living adjustments in retirement pay of certain Federal judges. Referred to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. Taft, Mr. Buckley, Mr. Fannin, Mr. Thurmond, and Mr. Hansen):

S. 15. A bill to amend the Congressional Budget Act of 1974 to require the Congressional Budget Office to prepare inflationary impact statements in connection with legislation reported by Senate and House committees. Referred to the Committee on Government Operations.

By Mr. DOLE:

S. 16. A bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes. Referred to the Committee on Agriculture and Forestry.

S. 17. A bill to exempt highway motor vehicles used exclusively in soil and water conservation work from the highway use tax. Referred to the Committee on Finance.

By Mr. DOLE (for himself, Mr. Case, Mr. Domenici, Mr. Fong, Mr. McGee, Mr. Taft, and Mr. Williams):

S. 18. A bill to amend the Act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. DOLE (for himself, Mr. Curtis, and Mr. Javits):

S. 19. A bill to amend title XVI of the Social Security Act so as to provide for the referral, for appropriate services provided by other State agencies, of blind or disabled children who are receiving supplemental security income benefits. Referred to the Committee on Finance.

By Mr. HANSEN (for himself, Mr. McGee, Mr. Humphrey, Mr. Hugh Scott, and Mr. Stevenson):

S. 20. A bill to amend section 206 of the Federal Water Pollution Control Act in order to authorize reimbursement for the construction of certain sewage treatment works. Referred to the Committee on Public Works.

By Mr. SPARKMAN:

S. 21. A bill to establish a National Development Bank to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full employment economy both in urban and rural America by providing loans for the establishment of new businesses and industries and the expansion and improvement of existing businesses and industries, for the construction of low and moderate income housing projects, and to provide job training for unskilled and semiskilled unemployed and underemployed workers. Referred to the Committee on Banking, Housing and Urban Affairs.

Br. Mr. McCLELLAN:

S. 22. A bill for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

S. 23. A bill for the general revision of the Patent Laws, title 35 of the United States Code, and for other purposes. Referred to the Committe on the Judiciary.

S. 24. A bill to carry into effect certain provisions of the Patent Cooperation Treaty, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 25. A bill to provide for the establishment of the Great Salt Lake National Monument, in the State of Utah, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS (for himself and Mr. Hansen):

S. 26. A bill to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the act of December 31, 1970, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

S. 27. A bill to establish a Department of Natural Resources and Environment. Referred to the Committee on Government Operations.

By Mr. MOSS (for himself and Mr. Cranston):

S. 28. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax, or in the alternative a deduction, for energy conserving residential expenditures. Referred to the Committee on Finance.

By Mr. MOSS:

S. 29. A bill to establish the Lone Peak Wilderness Area in the State of Utah; and

S. 30. A bill to amend the Mineral Leasing Act of February 25, 1920, as amended. Referred to the Committee on Interior and Insular Affairs.

By Mr. McCLELLAN (for himself and Mr. Hugh Scott):

S. 31. A bill to amend the Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. Magnuson, Mr. Moss, Mr. Tunney, Mr. Bentsen, Mr. Brooke, Mr. Cannon, Mr. Case, Mr. Cranston, Mr. Culver, Mr. Philip A. Hart, Mr. Hatfield, Mr. Humphrey, Mr. Inouye, Mr. Javits, Mr. Johnston, Mr. Leahy, Mr. Mansfield, Mr. McGee, Mr. McGovern, Mr. Mondale, Mr. Montoya, Mr. Pell, Mr. Randolph, Mr. Sparkman, Mr. Stafford, Mr. Weicker, and Mr. Williams):

S. 32. A bill to establish a framework for the formulation of national policy and priorities for science and technology, and for other purposes. Referred, by unanimous consent, jointly to the Committees on Labor and Public Welfare; Aeronautical and Space Sciences; and Commerce.

By Mr. McGEE:

S. 33. A bill to establish a moratorium on Federal coal leasing. Referred to the Committee on Interior and Insular Affairs.

By Mr. HATHAWAY (for himself and Mr. Muskie):

S. 34. A bill to further insect and disease control programs of the Forest Service, Department of Agriculture. Referred to the Committee on Agriculture and Forestry.

By Mr. McGOVERN:

S. 35. A bill to maintain the nutritional adequacy of the Food Stamp Program. Referred to the Committee on Agriculture and Forestry.

By Mr. INOUYE:

S. 36. A bill for the relief of Lucilo Mejia Bolaoen;

S. 37. A bill for the relief of Mrs. Etsuko Kogachi Bowman;

S. 38. A bill for the relief of Marlene Valerie Carter;

S. 39. A bill for the relief of Graciela Castillo;

S. 40. A bill for the relief of Mrs. Eufemia Clemente;

S. 41. A bill for the relief of Mr. Angelo B. Cortes;

S. 42. A bill for the relief of Liberato Divina;

S. 43. A bill for the relief of Jose Figueredo;

S. 44. A bill for the relief of Sung Soon Hong;

S. 45. A bill for the relief of Kuen Bae Kim;

S. 46. A bill for the relief of Mrs. Kim-Van Le-Thi;

S. 47. A bill for the relief of Mr. Christopher Pin-Wah Lo;

S. 48. A bill for the relief of Mr. and Mrs. B. William Magallanes; and

S. 49. A bill for the relief of Benjamin N. Mascarenas. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. Kennedy, Mr. Philip A. Hart, Mr. Hathaway, Mr. Javits, and Mr. Schweiker):

S. 50. A bill to establish a national policy and nationwide machinery for guaranteeing to all adult Americans able and willing to work the availability of equal opportunities for useful and rewarding employment. Referred to the Committee on Labor and Public Welfare.

By Mr. INOUYE:

S. 51. A bill for the relief of Mr. Andres B. Pasion;

S. 52. A bill for the relief of Miss Rosario Y. Quijano, Walter York Quijano, Ramon York Quijano, Tarcisus York Quijano, Denis York Quijano, and Paul York Quijano;

S. 53. A bill for the relief of Miss Evelyn R. Rey;

S. 54. A bill for the relief of Mr. and Mrs. Venkateswara Rao Yellapragada; and

S. 55. A bill for the relief of Dino Mendoza Pascua. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN:

S. 56. A bill for the relief of Miss Patricia J. Basbas. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT (for himself, Mr. Humphrey, Mr. Kennedy, and Mr. Schweiker):

S. 57. A bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUGH SCOTT:

S. 58. A bill concerning compensation and other emoluments attached to the Office of the Attorney General. Referred to the Committee on Post Office and Civil Service.

By Mr. McCLELLAN (for himself and Mr. Bumpers):

S. 59. A bill to provide an additional permanent district judgeship in Arkansas. Referred to the Committee on the Judiciary.

By Mr. McCLELLAN:

S. 60. A bill for the relief of Raul Arriaza, his wife, Maria Marquart Schubert Arriaza, and their children, Andres Arriaza and Daniel Aivouich Arriaza. Referred to the Committee on the Judiciary.

By Mr. PEARSON:

S. 61. A bill to establish a Commission to study and appraise the organization and operation of the Executive Branch of the Federal Government. Referred to the Committee on Government Operations.

By Mr. HUGH SCOTT (for himself, Mr. Bayh, Mr. Bellmon, Mr. Fannin, Mr. Huddleston, Mr. Metcalf, Mr. Moss, Mr. Schweiker, Mr. Taft, Mr. Tunney, and Mr. Young):

S. 62. A bill to establish university coal research laboratories and to establish energy resource fellowships, and for other purposes.

Referred to the Committee on Interior and Insular Affairs.

By Mr. BEALL (for himself, Mr. Mathias, Mr. Fong, and Mr. Stevenson):

S. 63. A bill to amend the Internal Revenue Code of 1954 to provide an exemption from income taxation for certain income of condominium housing associations, homeowner associations, and cooperative housing corporations. Referred to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. Fong, Mr. Gravel, and Mr. Inouye):

S. 64. A bill to provide for the addition of the names of the States of Alaska and Hawaii to the list of the forty-eight States inscribed upon the walls of the Lincoln National Memorial. Referred to the Committee on Interior and Insular Affairs.

By Mr. PROXMIRE (for himself, Mr. Dole, Mr. Hansen, Mr. McClure, Mr. McGovern, Mr. Muskie, Mr. Nelson, Mr. Pell, Mr. Percy, Mr. Stafford, Mr. Symington, Mr. Tower, and Mr. Hatfield):

S. 65. A bill to amend the Congressional Budget Act of 1974 to require the Congressional Office of the Budget to prepare fiscal notes for bills and joint resolutions. Referred to the Committee on Government Operations.

By Mr. KENNEDY (for himself, Mr. Javits, Mr. Williams, Mr. Randolph, Mr. Pell, Mr. Nelson, Mr. Mondale, Mr. Cranston, Mr. Hathaway, Mr. Schweiker, and Mr. Stafford):

S. 66. A bill to amend title VIII of the Public Health Service Act to revise and extend the programs of assistance under that title for nurse training and to revise and extend programs of health revenue sharing and health services. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY (for himself and Mr. Brooke):

S. 67. A bill to establish the Nantucket Sound Islands Trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONTOYA:

S. 68. A bill to establish a temporary special commission on Guadalupe-Hildago land rights. Referred to the Committee on the Judiciary.

By Mr. BIDEN:

S. 69. A bill to amend the Internal Revenue Code of 1954 to provide for a credit of $50 against the Federal income tax imposed for taxable year 1974. Referred to the Committee on Finance.

By Mr. CRANSTON (for himself and Mr. Tunney):

S. 70. A bill to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 71. A bill to establish the California Desert National Conservation Area;

S. 72. A bill to designate certain lands in the Pinnacles National Monument in California as wilderness;

S. 73. A bill to designate certain lands in San Luis Obispo County, California, as the "Santa Lucia Wilderness";

S. 74. A bill to designate certain lands in the Angeles and San Bernardino National Forests as the "Sheep Mountain Wilderness"; and

S. 75. A bill to study certain lands in the Sierra National Forest, California, for possible inclusion in the National Wilderness Preservation System. Referred to the Committee on Interior and Insular Affairs.

By Mr. CRANSTON:

S. 76. A bill for the relief of Rose Gipson. Referred to the Committee on the Judiciary.

By Mr. BROOKE:

S. 77. A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its weight, and for other purposes; and

S. 78. A bill to increase the Federal excise tax on gasoline, to terminate the Highway Trust Fund, and to provide a refundable tax credit with respect to the increased tax paid on not more than 700 gallons of gasoline purchased each year. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 79. A bill to establish the United States Science and Technology Board. Referred to the Committee on Government Operations.

By Mr. MATHIAS (for himself, Mr. Beall, Mr. Humphrey, Mr. Javits, Mr. McIntyre, and Mr. Thurmond):

S. 80. A bill to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land (rather than at its fair market value), and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes at its value for its existing use, and to provide for the revocation of such lower valuation and recapture of unpaid tax with interest in appropriate circumstances. Referred to the Committee on Finance.

By Mr. MATHIAS (for himself, Mr. Brooke, Mr. Cranston, Mr. Kennedy, and Mr. Hollings):

S. 81. A bill to provide the Governors of Coastal States with a delay mechanism so as to protect coastal states from adverse environmental or economic impacts and other damages associated with the development of oil and gas deposits in the Outer Continental Shelf and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS (for himself and Mr. Beall):

S. 82. A bill to repeal certain provisions of the Act entitled "An Act to provide for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes", approved September 21, 1965, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS:

S. 83. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education. Referred to the Committee on Finance.

By Mr. MATHIAS (for himself, Mr. Tunney, and Mr. Bayh):

S. 84. A bill to enforce the first amendment and fourth amendment to the Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States or any member of the Armed Forces of the United States from using the Armed Forces of the United States to exercise surveillance of civilians or to execute the civil laws, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MATHIAS (for himself and Mr. Beall):

S. 85. A bill to reimburse the city of Frederick, Maryland, for money paid saving harmless valuable military and hospital supplies. Referred to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 86. A bill to establish a Conference on the Antitrust Laws. Referred to the Committee on the Judiciary.

S. 87. A bill for the posthumous promotion of Lieutenant Commander Hubert Montgomery Hayter, U.S. Navy. Referred to the Committee on Armed Services.

S. 88. A bill to amend the Internal Revenue Code of 1954 to provide for an 8-percent reduction in the amount of income tax withholding. Referred to the Committee on Finance.

By Mr. MATHIAS (for himself, Mr. Beall, Mr. Tunney, and Mr. Cranston):

S. 89. A bill to provide that income from entertainment activities held in conjunction with a public fair conducted by an organization described in section 501(c), (3) and (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organization. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 90. A bill to amend title 5, United States Code, to provide that certain services be considered as creditable service for purposes of civil service retirement. Referred to the Committee on Post Office and Civil Service.

By Mr. MATHIAS (for himself and Mr. Beall):

S. 91. A bill to provide for the expansion of the Antietam National Battlefield Site in the State of Maryland and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS:

S. 92. A bill for the relief of Victor Henrique Carlos Gibson. Referred to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. Beall, and Mr. Javits):

S. 93. A bill to amend the Internal Revenue Code of 1954 to provide that a married individual who files a separate return shall be taxed on his or her earned income at the same rate as an unmarried individual. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 94. A bill to amend title 5, United States Code, to provide for grade retention benefits for certain Federal employees whose positions are reduced in grade, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. MATHIAS (for himself, Mr. Pell, Mr. Goldwater, Mr. Bayh, Mr. Brock, and Mr. Roth):

S. 95. A bill to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States. Referred to the Committee on Rules and Administration.

By Mr. MATHIAS:

S. 96. A bill for the relief of Robert M. Johnston. Referred to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. Tunney):

S. 97. A bill to designate certain lands in the Yosemite National Park in California as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. STEVENS (for himself, Mr. Gravel, Mr. Jackson, and Mr. Magnuson):

S. 98. A bill to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUMPHREY:

S. 99. A bill to establish a Joint Committee on National Security. Referred to the Committee on Armed Services.

By Mr. PELL (for himself and Mr. Inouye):

S. 100. A bill to provide a national program in order to make the international metric system the predominant but not exclusive system of measurement in the United States and to provide for converting to the general use of such system within 10 years. Referred to the Committee on Commerce.

By Mr. DOLE:

S. 101. A bill to direct the Secretary of the Interior to convey certain lands in Geary County, Kansas, to Margaret G. More. Referred to the Committee on Interior and Insular Affairs.

S. 102. A bill to provide price support for milk at not less than 85 per centum of the parity price therefor, and for other purposes. Referred to the Committee on Agriculture and Forestry.

S. 103. A bill to provide for reimbursement of extraordinary transportation expenses incurred by certain disabled individuals in the production of their income. Referred to the Committee on Labor and Public Welfare.

By Mr. INOUYE:

S. 104. A bill to amend the Social Security Act to provide for inclusion of the services of licensed registered nurses under medicare and medicaid. Referred to the Committee on Finance.

S. 105. A bill to authorize the Secretary of the Army to make available to the State of Hawaii or through it to the Queen's Medical Center physical facilities not needed by the Army at Fort DeRussy, Hawaii, for the purpose of establishing a mental health clinic in such facilities. Referred to the Committee on Armed Services.

S. 106. A bill to amend the Internal Revenue Code of 1954 to provide credit against income tax for an employer who employs older persons in his trade or business.

By Mr. INOUYE (for himself, Mr. ABOUREZK, Mr. MCINTYRE, Mr. PASTORE, and Mr. RANDOLPH):

S. 107. A bill to allow an additional income exemption for a taxpayer or his spouse who is deaf or deaf-blind; and

S. 108. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer. Referred to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. KENNEDY, Mr. RANDOLPH, Mr. STAFFORD, and Mr. STEVENS):

S. 109. A bill to amend chapter 55 of title 10, United States Code, to require the armed forces to continue to provide certain special educational services to handicapped dependents. Referred to the Committee on Armed Services.

By Mr. INOUYE:

S. 110. A bill to amend chapter 13 of title 38, United States Code, to make eligible for dependency and indemnity compensation widows of veterans who die of non-service-connected causes but who were at the time of death totally disabled as a result of one or more service-connected disabilities;

S. 111. A bill to authorize the widows of certain former members of the armed forces of the United States to use the services and facilities of post exchanges and commissaries;

S. 112. A bill to amend section 1003 of title 38, United States Code, relating to memorial areas and appropriate memorials to honor the memory of certain deceased members of the Armed Forces whose remains were buried at sea, have not been identified, or were nonrecoverable; and

S. 113. A bill to amend section 1002 of title 38, United States Code, to authorize the burial in a national cemetery of the parents of certain members of the Armed Forces who die in active service. Referred to the Committee on Veterans' Affairs.

S. 114. A bill to amend the Social Security Act to provide that certain persons, who have innocently entered into a legally defective marriage to an insured individual and have lived with such individual as his husband or wife for at least five years, shall be treated, for benefit purposes, as if such marriage had been legally valid. Referred to the Committee on Finance.

S. 115. A bill to amend section 17 of the Airport and Airway Development Act of 1970 in order to change the United States share of development costs for certain airports. Referred to the Committee on Commerce.

S. 116. A bill to provide for the conveyance of the island of Kahoolawe to the State of Hawaii, and for other purposes; and

S. 117. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes. Referred to the Committee on Armed Services.

S. 118. A bill to incorporate the Pearl Harbor Survivors Association. Referred to the Committee on the Judiciary.

S. 119. A bill to amend the Tariff Schedules of the United States to accord to the Trust Territory of the Pacific Islands the same tariff treatment as is provided for insular possessions of the United States. Referred to the Committee on Finance.

S. 120. A bill to authorize reduced postage rates for certain mail matter sent to Members of Congress. Referred to the Committee on Post Office and Civil Service.

S. 121. A bill to restore the wartime recognition of certain Filipino veterans of World War II and to entitle them to those benefits, rights, and privileges which result from such recognition. Referred to the Committee on Veterans' Affairs.

S. 122. A bill to amend title 39 of the United States Code to provide that Federal income tax returns may be mailed free of postage. Referred to the Committee on Post Office and Civil Service.

S. 123. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain clinical psychologists' services under the supplementary medical insurance benefits program established by part B of such title. Referred to the Committee on Finance.

S. 124. A bill to amend the Public Health Services Act to provide for financial grants to states in order to insure the delivery of high quality health services for persons who have recently immigrated to the United States. Referred to the Committee on Labor and Public Welfare.

S. 125. A bill to establish an Economic Adjustment Corporation to provide financing to business enterprises, financial institutions, and public agencies which are unable to obtain essential financing on reasonable terms from other sources. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CRANSTON:

S. 126. A bill for the relief of Antonia Rieta Victa;

S. 127. A bill for the relief of Young Hae Lee Jameson; and

S. 128. A bill for the relief of Lenora Lopez. Referred to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 129. A bill to authorize construction of the Devil Canyon and Denali units of the Upper Susitna River Basin project and related transmission facilities. Referred to the Committee on Interior and Insular Affairs.

By Mr. STEVENS:

S. 130. A bill to authorize certain revenues from leases on the Outer Continental Shelf to be made available to coastal and other States; and

S. 131. A bill to authorize the Secretary of the Interior to enroll certain Alaskan Natives for benefits under the Alaska Native Claims Settlement Act and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 132. A bill to amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as retired employees continue to reside in Alaska, and for other purposes. Referred to the Committee on Post Office and Civil Service.

S. 133. A bill to amend the Internal Revenue Code of 1954 to permit a deduction from gross income based upon the cost of living in certain States;

S. 134. A bill to amend the Internal Revenue Code of 1954 to exempt from tax a portion of the income of individuals not employed by the Federal Government who live in a State in which Federal employees receive an allowance based on living costs and conditions of environment; and

S. 135. A bill to amend title II of the Social Security Act to adjust the earnings exemption, applicable to recipients of monthly benefits thereunder, for individuals in Alaska or Hawaii so as to take into account the higher cost of living in such States. Referred to the Committee on Finance.

By Mr. MONTOYA (for himself and Mr. WEICKER):

S. 136. A bill to amend the Internal Revenue Code of 1954 to require the establishment of formal procedures and criteria for the selection of individual income tax returns for audit, to inform individuals of the reasons why their returns were selected for audit, and for other purposes. Referred to the Committee on Finance.

By Mr. MONTOYA:

S. 137. A bill to amend the Internal Revenue Code of 1954 to require judicial confirmation of the need for a jeopardy assessment;

S. 138. A bill to amend the Internal Revenue Code of 1954 to revise the provisions relating to property exempt from seizure for collection of taxes; and

S. 139. A bill to amend section 7802 of the Internal Revenue Code of 1954 to define the term of the Commissioner of Internal Revenue. Referred to the Committee on Finance.

By Mr. PELL:

S. 140. A bill to require Congressional approval of oil import fees. Referred to the Committee on Finance.

By Mr. MCCLURE (for himself, Mr. FANNIN, and Mr. GARN):

S. 141. A bill to repeal the Gun Control Act of 1968; and

S. 142. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from twenty-one years to eighteen, and to eliminate certain recordkeeping provisions with respect to ammunition. Referred to the Committee on the Judiciary.

By Mr. MCCLURE:

S. 143. A bill to prohibit the Consumer Product Safety Commission from restricting the sale or manufacture of firearms or ammunition. Referred to the Committee on Commerce.

S. 144. A bill to prohibit the banning of lead shot for hunting. Referred to the Committee on Commerce.

By Mr. PACKWOOD:

S. 145. A bill to amend the Fish and Wildlife Act of 1956 in order to authorize the Secretary of Commerce to make loans and grants to United States fishermen in certain cases to cover the costs of damages to their vessels and gear by foreign vessels. Referred to the Committee on Commerce.

S. 146. A bill to further the purposes of the Wilderness Act by incorporating French Pete Creek and adjacent roadless lands in the Three Sisters Wilderness, Oregon, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 147. A bill to improve the quality of unshelled filberts and shelled filberts for marketing in the United States. Referred to the Committee on Agriculture and Forestry.

S. 148. A bill to amend the Internal Revenue Code of 1954 to provide for the adjustment of the individual income tax tables, the standard deduction, and the personal exemption deduction when necessary to reflect inflation. Referred to the Committee on Finance.

S. 149. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns. Referred to the Committee on Finance.

By Mr. HANSEN (for himself and Mr. McGee):

S. 150. A bill to construct an Indian Art and Cultural Center in Riverton, Wyoming, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 151. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Polecat Bench area of the Shoshone extension unit, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HANSEN:

S. 152. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Wyoming. Referred to the Committee on Interior and Insular Affairs.

By Mr. HANSEN (for himself and Mr. Hartke):

S. 153. A bill to amend part B of title XI of the Social Security Act, Professional Standards Review, to provide for the review of dental services by dentists. Referred to the Committee on Finance.

By Mr. HANSEN:

S. 154. A bill to authorize the granting of mineral rights to certain homestead patentees who were wrongfully deprived of such rights. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAYH (for himself, Mr. Abourezk, Mr. Baker, Mr. Beall, Mr. Bellmon, Mr. Brooke, Mr. Burdick, Mr. Church, Mr. Clark, Mr. Cranston, Mr. Dole, Mr. Ford, Mr. Glenn, Mr. Gravel, Mr. Griffin, Mr. Gary W. Hart, Mr. Philip A. Hart, Mr. Hartke, Mr. Hatfield, Mr. Hathaway, Mr. Haskell, Mr. Huddleston, Mr. Humphrey, Mr. Inouye, Mr. Jackson, Mr. Javits, Mr. Kennedy, Mr. Magnuson, Mr. Mansfield, Mr. Mathias, Mr. McGovern, Mr. McIntyre, Mr. Mondale, Mr. Montoya, Mr. Moss, Mr. Nelson, Mr. Packwood, Mr. Pastore, Mr. Pearson, Mr. Pell, Mr. Proxmire, Mr. Randolph, Mr. Ribicoff, Mr. Schweiker, Mr. Stafford, Mr. Stevenson, Mr. Tunney, and Mr. Williams):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and the Vice President of the United States. Referred to the Committee on the Judiciary.

By Mr. BROOKE (for himself, Mr. Burdick, Mr. Bentsen, Mr. Case, Mr. Clark, Mr. Cranston, Mr. Fong, Mr. Glenn, Mr. Hansen, Mr. Gary W. Hart, Mr. Philip A. Hart, Mr. Hartke, Mr. Haskell, Mr. Hatfield, Mr. Humphrey, Mr. Javits, Mr. Kennedy, Mr. McGovern, Mr. Mondale, Mr. Montoya, Mr. Muskie, Mr. Pell, Mr. Percy, Mr. Ribicoff, Mr. Hugh Scott, Mr. Stafford, Mr. Stevens, Mr. Schweiker, Mr. Stevenson, Mr. Tunney, Mr. Weicker, and Mr. Williams):

S.J. Res. 2. A joint resolution designating January 15 of each year as "Martin Luther King Day". Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. Chiles, Mr. McIntyre, Mr. Hathaway, Mr. Pell, Mr. Pastore, Mr. Ribicoff, Mr. Brooke, Mr. Muskie, Mr. Hollings, and Mr. Leahy):

S.J. Res. 3. A joint resolution to require the submission and approval by the Congress of fees on oil imports. Referred to the Committee on Finance.

By Mr. INOUYE:

S.J. Res. 4. A joint resolution to authorize and request the President of the United States to issue a proclamation designating September 17 as "Constitution Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLELLAN (for himself, Mr. Hruska, Mr. Bayh, Mr. Eastland, Mr. Fong, Mr. Griffin, Mr. Mansfield, Mr. Moss, Mr. Hugh Scott, Mr. Taft, and Mr. Tower):

S. 1. A bill to codify, revise, and reform title 18 of the United States Code; to make appropriate amendments to the Federal Rules of Criminal Procedure; to make conforming amendments to criminal provisions of other titles of the United States Code; and for other purposes. Referred to the Committee on the Judiciary.

CRIMINAL JUSTICE REFORM ACT OF 1975

Mr. McCLELLAN. Mr. President, today I introduce for myself and the distinguished Senators from Nebraska (Mr. Hruska), Michigan (Mr. Griffin), Montana (Mr. Mansfield), Utah (Mr. Moss), Pennsylvania (Mr. Scott), Ohio (Mr. Taft), Texas (Mr. Tower), and Indiana (Mr. Bayh), S. 1, the Criminal Justice Reform Act of 1975.

I am very please to introduce this bill today, Mr. President, because it marks what I hope is a long forward step in attaining an important and historic goal toward which I and many others have been working for almost 10 years. For, with the enactment of this bill, the United States will have, for the first time in its 200-year history, a true criminal code—a clear, concise, and complete statement of the criminal law carefully balanced to safeguard the public welfare while fully preserving individual freedoms. It will be a modern code designed to meet the needs of today's society by retaining the best features of current law, amending others, and eliminating antiquated, unnecessary provisions still technically in effect.

The statement that the enactment of this bill will result in the first true Federal criminal code will no doubt surprise some. But unlike some of the States and most of the other countries of the world, the United States has never had what could accurately be called a criminal code. Since the end of the Revolutionary War, the Congress has, of course, enacted many criminal statutes. And these statutes have been cumulated, reordered, and technically revised on three previous occasions. But, despite these revisions, the Federal criminal law has always remained a consolidation rather than a code—a compilation of individual statutes drafted at different times by different draftsmen to deal with individual problems as they arose. Until today, no attempt has ever been undertaken to achieve unity or consistency or to clearly and systematically state all the rules applicable in the area of the criminal law.

This historical development of our criminal laws, while perhaps not resulting in a system of justice that was inadequate to its task, has inevitably created a system with many outdated provisions, provisions that are sometimes inconsistent, provisions that overlap others, and provisions that provide widely disparate treatment of related subject matters without reason.

The bill I introduce today has been drafted to correct these deficiencies, defects that seriously impede the rendition of justice. By encompassing and reenacting the entire body of Federal criminal law as a unit, it is able to eliminate the outmoded and inconsistent provisions, incorporating current social attitudes toward the question of what conduct should be criminalized, and provide unified and consistent treatment of such conduct in a modern context.

S. 1, then, truly represents a great breakthrough in our approach to criminal law.

I have stated that I and many others have been working toward the goal represented by this bill for more than 10 years. But the bill itself has a history that goes far beyond that and that it is important to understand. For it will make clear at the outset the most fundamental point that I hope to make to the Senators today. That point is that this legislation is in no way a partisan measure, a "political" bill, and should not be regarded as such. Over its long history, those who have given of their time and energy have never looked upon the proposed criminal code as a political matter. Their sole motivation has been to bring about the creation of a statement of the criminal law that would meet the legitimate needs of society and serve as an example that others could follow in the future.

In attempting to reach that goal, many controversial issues had to be resolved. Those resolutions did not always satisfy all those concerned, including myself. But the goal of the code and its great importance to our system of criminal justice were always rightly recognized as superseding disagreements on individual issues. It was in that spirit that S. 1 was brought about, and it is that same spirit that I would urge upon my colleagues. For if the code is to be held hostage because individual issues are resolved in a manner unfavorable to some or because this bill is looked upon as a political measure, it will not survive. Any legislationof this magnitude is too broad in scope to please everyone in all respects. Every effort has been made and will continue to made during the processing of the bill to come to a fair resolution on the important issues presented by it. But, when this bill ultimately comes before the Senate for final passage, hopefully during this session of the Congress, if a Senator still feels that he disagrees with certain provisions, I would urge that he carefully consider the many benefits that will result from codification of the criminal law before he votes. Prior to that time, I will welcome any suggestions any Senator might have as to how the bill can be improved in order that as many issues as possible might be resolved in committee.

Mr. President, in a very real sense, S. 1 is the product of over 20 years of hard work and careful thought by literally hundreds of distinguished and concerned people—academicians, private attorneys, Government officials, legislators, and private citizens. Indeed, it is an excellent example of the legislative process at its best, working through the cooperation of private and public bodies and individuals.

The bill's modern starting point came in 1952, when the American Law Institute first began work on the planning and drafting of a "Model Penal Code" and its Chief Reporter, Prof. Herbert Wechsler, published the substance of the plan in an article for the Harvard Law Review. In March of the next year, the Council of tht American Law Institute met to consider "Tentative Draft No. 1" of the proposed model code. In commenting on those early beginnings, Professor Wechsler had this to say to the Subcommittee on Criminal Laws and Procedures about the state of the criminal law in this country:

> Preliminary studies left no doubt to us that the central challenge of the penal law inhered in the state of our penal legislation. Viewing the country as a whole, criminal law consisted of an uneasy mixture of fragmentary and uneven and fortuitous statutory articulation, common law concepts of uncertain scope and a miscellany of modern enactments passed on an *ad hoc* basis and frequently producing gross disparities in liability or sentence.

That description and that challenge are appropriate today.

The Institute labored over its task for 10 years and, in 1962, published its "Proposed Official Draft" of a Model Penal Code. It is difficult to overstate the significance of this accomplishment, for the Model Penal Code has served as a basis for most of the work of codification that has since followed in this country.

Without in any way overlooking the significance of the enactment of the first modern American criminal code by the State of Louisiana in 1942 or the criminal codes passed simultaneously with the development of the Model Penal Code in Wisconsin, Illinois, Minnesota, and New Mexico, the next major step toward the introduction of S. 1 was the creation in New York State in 1961 of a "Temporary Commission on Revision of the Penal Law and Criminal Code."

The New York Commission prepared a code that differs from and in some ways is better attuned to the needs of society than the Model Penal Code but which clearly derives from the Institute's brilliant work. In signing the New York Revised Penal Law, then-Governor Rockefeller observed:

> [The Code] reorganizes and modernizes penal provisions proscribing conduct which has traditionally been considered criminal in Anglo-Saxon jurisprudence. Related crimes are grouped together in logically related titles, definitions are more clearly prescribed, and a new scheme of sentencing is provided affording ample scope for both the rehabilitation of offenders and the protection of society. In line with the Commission's objective, a system of penal sanction is achieved which protects society against transgressors, balanced with safeguards for persons charged with crime.

That same comment could be used to describe this bill.

Congress itself took the next step in the development of S. 1 in 1966 by enacting Public Law 89-801. That law created the "National Commission on Reform of Federal Criminal Laws"—the "Brown Commission," so-named after its very able and distinguished Chairman, former Governor Edmund G. "Pat" Brown of California. The Congress charged the Commission to:

> [M]ake a full and complete review and study of the statutory and case law of the United States which constitute the Federal system of criminal justice for the purpose of formulating and recommending to the Congress legislation which would improve the Federal system of criminal justice. It shall be the further duty of the Commission to make recommendations for revision and recodification of the criminal laws of the United States, including the repeal of unnecessary or undesirable statutes and such changes in the penalty structure as the Commission may feel will better serve the ends of justice.

The Commission, on which Senator HRUSKA and I were privileged to serve, together with our distinguished former colleague from North Carolina, Senator Ervin, labored for nearly 3 years, with its advisory committee, consultants, and staff, before submitting its recommendations to the Congress and the President on January 7, 1971, in the form of a final report. That report, some 364 pages in length, was submitted as a work basis for consideration by the Congress. In fact, it served as just that and more. The Commission's Final Report was the subject of intensive and extensive hearings and study throughout the 92d Congress by the Subcommittee on Criminal Laws and Procedures, which I am privileged to chair. These hearings resulted in the introduction of bill S. 1 of the 93d Congress, a "study" bill designated to serve as the next step toward the ultimate enactment of a Federal Criminal Code.

While the subcommittee was proceeding with its analysis, the Department of Justice was conducting its own study of the final report. That study led to the drafting and introduction of bill S. 1400 of the 93d Congress, designed to accomplish the same goals as S. 1 and the Model Penal Code before it.

Together S. 1 and S. 1400 of the last Congress served as the basis for still further hearings and development by the Subcommittee on Criminal Laws and Procedures with a view toward analyzing and distilling the best features of each into a single bill. The product of that effort is the bill that I introduce today.

In order to make clear the extent of the legislative effort that has gone into the production of this bill, I would like to highlight very briefly the work done by the subcommittee in this regard.

In February 1971, the subcommittee began its hearings and studies on the final report of the Brown Commission. Those hearings and studies continued throughout the 92d Congress. During that Congress, 13 days of public hearings were held on the work of the Commission, State experience with criminal law revision, and the various policy questions presented by the Commission's draft code. Sixty-four witnesses appeared before the subcommittee, with many other persons and organizations submitting prepared statements. Staff studies on a number of issues were undertaken. In all, over 4,000 pages of testimony, statements, and exhibits were received by the subcommittee on the issues raised by the Brown Commission report alone.

The subcommittee continued its study of the feasibility of a Federal criminal code during the 93d Congress through its analysis of S. 1 and S. 1400. Twenty more days of hearings were held on these bills, and approximately 80 additional witnesses heard, again with many more submitting prepared statements and position papers. Approximately 4,000 additional pages of testimony, statements, and exhibits were received on these two bills. When finally printed, then, the record of the subcommittee's work on the reform of the Federal criminal law will total over 8,000 pages contained in 11 volumes.

But numbers alone cannot do credit to the tremendous amount or quality of the study, discussion, and preparation that went into the presentations of the many individuals and organizations testifying. Particular note must be made of the contributions of such organizations as the Association of the Bar of the City of New York and its Special Committee on the Proposed New Federal Criminal Code, the American Civil Liberties Union, the National Legal Aid and Defender Association, the National Council on Crime and Delinquency, the New York County Lawyers Association, the National District Attorneys Association, the NAACP Legal Defense and Education Fund, the Federal Bar Association, the Administrative Office of U.S. Courts, the Department of Justice, and the American Bar Association, particularly its sections on taxation, antitrust, corporation, banking, and business law, and the Special Committee on Reform of Federal Criminal Laws of the Section on Criminal Law. Without their effort and assistance and that of others too numerous to mention, the introduction of this bill today would not have been possible.

Mr. President, while I am acknowledging the assistance of the many people who participated in bringing about S. 1, I feel that it is most appropriate that I also acknowledge the assistance of the members of the Subcommittee on Criminal Laws and Procedures, who have been unsparing of their time and effort over the last 4 years in the processing of this legislation. In this regard, however, special credit must be given to the distinguished Senator from Nebraska. As all the Senators know, the demands on each Senator's time are great and inevitably result in scheduling conflicts. When my responsibilities as chairman of the Appropriations Committee or other official business has necessitated my absence from the subcommittee's hearings, the Senator from Nebraska has been unselfish in giving of his time and talent so that the work of the subcommittee might continue. His interest in the Federal criminal code and his expertise are well-known, and it is in no small measure due to his efforts that this bill is introduced today.

Mr. President, I have discussed at some length the history of the proposed Federal criminal code—how it came to be. But I have only briefly alluded to the reason why it came to be when I referred to the defects existing in the law today as a result of its statute-by-statute development. I think a few additional words are in order to explain why a Federal criminal code is so important and why the time is ripe for its enactment.

First, in several significant areas of the criminal law, the Federal rule today is simply unclear. Doubt has arisen both as to the nature of the conduct prescribed and the scope of available defenses. This situation has resulted in disagreements among the Nation's courts of appeals in these areas and the consequent enforcement of a different Federal law in different parts of the country. An excellent example of this problem involves the articulation of the Federal insanity defense. Because the Supreme Court has not yet ruled on the matter, the courts of appeals have been required to formulate their own tests to determine whether or not the defense exists. This has led to the development of at least 5 different formulas in the 11 circuits and created a situation where the Federal Government appears to apply different standards to people accused of crime in different places.

Surely there can be no greater injustice than to apply the law differently to people who have committed the same act. Yet, similar illustrations can be found in other areas.

This uncertainty in the Federal criminal law is not limited to cases where the courts interpret the same provision in different ways, however. It also arises where the same language is used in different provisions enacted at different times. The word "willful", for example, appears throughout present title 18 of the United States Code. Depending upon where it is used, it has been construed to encompass an act done with a specific intent to violate the law and an act done stubbornly—and various types of actions in between. The result has been that the identical word used in different statutes has been construed to create different requisite mental elements depending upon where it appears.

But perhaps nothing has so distorted Federal criminal law as the practice of defining Federal crimes so as to make jurisdictional requirements elements of the offense. This legislative approach confuses the act that is to be criminalized with the right of the Federal Government to prohibit the conduct in question and has resulted in a proliferation of statutes proscribing essentially the same activity and differing only in the reason for which the Federal Government chooses to intervene. Under present law, for example, there are over 70 theft offenses basically varying only in their jurisdictional aspect. This drafting technique also leads inevitably to the question whether the requisite mental element involved in the offense applies to the jurisdictional element as well as the prohibited conduct, whether, for example, an accused had to "know" that the instrumentality he was using in committing his crime had been transported in interstate commerce, and frequently results in a distortion of Congressional intent in this regard.

The inadequacies of the present Federal criminal law are not limited to problems of statutory formulation. As with the insanity defense, many important areas of the law, such as the law of defenses and the substantive law of conspiracy, have never been fully articulated by the Congress but have been left for definition by the courts. The abdication of responsibility by the Congress in these areas has rendered understanding of the law more difficult and, as in the case of the insanity defense, the law itself inconsistent in different parts of the country.

Finally, the sentencing structure of the present Federal law is also seriously in need of repair. In title 18 alone, there are no fewer than 17 different maximum terms of imprisonment and 14 different fine levels. There appears to be little rationality or consistency in their application. Greatly disparate sentences are often applied to essentially the same conduct. And rarely do the imposable fines bear any relation to the amount of injury inflicted or gain realized by the offender.

Mr. President, these deficiencies in the penal law are serious ones and have impaired the ability of our judicial system to fulfill its goal of rendering justice to those who appear before it. But the deficiencies can be corrected. I feel that they are corrected in large part in the bill I introduce today.

By treating the entire body of criminal statutory and case law as a single entity and restating it in terms of the demands of our modern society, the bill is able to eliminate many outmoded provisions of the law no longer relevant to today's need. This restatement and reform is accomplished through the use of common English with every effort being made to avoid overly technical language. Where words recur throughout the code that might give rise to litigation as to their meaning—such as the term "willful" and the other terms of culpability—they are defined to provide clarity and consistency. The drafting of offenses in simple and precise terms will inevitably remove much of the uncertainty that we now experience and make the criminal code more understandable to everyone.

Much of the Federal decisional law, the basis for much of the uncertainty today, is codified for the first time in this bill. No longer will individuals be required to interpret possibly conflicting court decisions in order to determine the Federal rule on such issues as the insanity defense because the Congress has failed to act. Through the vehicle of the code, the Congress will finally work its will in areas such as the law of defenses, presumptions, and the substantive law of conspiracy.

By redefining the various Federal offenses, the bill is able to separate the circumstances that give rise to Federal jurisdiction from the conduct that actually constitutes the criminal offense. The jurisdictional bases for the various offenses are stated in a subsection separate from that defining the prohibited conduct. This approach permits the consolidation of several hundred previously distinct offenses into a much smaller number and makes it clear that the requisite mental elements for the crime apply to the substantive conduct and not the jurisdictional circumstances.

This treatment of the jurisdictional bases has also permitted a reexamination of the rationale behind the inclusion and exclusion of various offenses as Federal crimes.

Where a determination was made that the current scope of Federal jurisdiction was broader than necessary in a particular area or, in a small number of cases, too narrow, it permitted the drafters of the Code to selectively narrow or expand jurisdiction as appropriate without doing violence to the proper role of the Federal and State governments in the criminal law area.

Finally, the sentencing system presently existing is completely reformed. The disparate system of grading is eliminated, and the multiplicity of penalties is replaced by a new approach under which all offenses are classified into nine categories for sentencing purposes. This new classification has permitted a reexamination of all Federal crimes to reflect the contemporary attitudes of our society toward the seriousness of such offenses as those involving drugs, organized crime, and white collar crime.

Mr. President, I have spoken at some length about this bill, its purpose and its history. It is a bill of great magnitude, not merely in terms of its size, but also in terms of its scope. As with any attempt of such proportions, no one will be completely satisfied with it; no one will agree with all that it contains. I myself do not. There are some provisions that I would prefer were not included; indeed, some that I may seek to amend in committee. But that fact does not at all make me hesitate to introduce the bill.

As I have already stated, the benefits to be achieved from the creation of a Federal criminal code, from the improvements that it will mean for our system of criminal justice, far outweigh the consequences that might result from the provisions with which I might disagree. It is the goal of codification that is important—not the wording of any one provision.

I would strongly urge the Senators to consider S. 1 in this light. To attempt to judge the bill in terms of any single issue would be wrong and would be to overlook its purpose. This does not mean that I am urging my colleagues to overlook any provisions they might oppose or refrain from attempting to change them. To the contrary, debate on such issues is not only to be expected but to be welcomed. For it is only through the examination of diverse views ably stated that we may reach sound decisions. I would merely state that too much is at stake and too great is the need for reform to run the risk of losing it all because one believes that some issues were wrongly decided. If such an approach is adopted, the years of effort of many people will have been in vain.

Mr. HRUSKA. Mr. President, with the introduction of this bill, the Senate is presented with the opportunity to provide the United States with a modern, comprehensive, and workable Federal Criminal Code—a code that will replace the often inadequate, clumsy and outmoded penal provisions scattered throughout the 50 titles of our Federal laws with a rational, integrated code of criminal laws that is both workable and responsive to the demands of a modern nation. I take great pleasure in joining the distinguished chairman of the Subcommittee on Criminal Laws in sponsoring this bill.

At the outset, Mr. President, as the ranking minority member of the Subcommittee on Criminal Laws and Procedures, I want to take this opportunity to salute our distinguished chairman, the senior Senator from Arkansas (Mr. McCLELLAN) on his excellent presentation of the need for and background of this bill.

His interest, like mine, in the enactment of a Federal criminal code spans nearly a decade. From 1966 to 1971, he served, along with Senator Ervin and myself, on the National Commission on the Reform of Federal Criminal Laws. For the past 4 years, he has held extensive hearings to examine and consider the basic issues underlying the modernization of Federal penal law. In short, the fact that we are at this stage in the enactment of a Federal Criminal Code is in no small measure a tribute to the commitment and effort of our distinguished chairman.

Mr. President, the value of a rational set of criminal laws to our society cannot be overstated. Criminal law structures our relationships with our fellow man. It serves as the common denominator for society, protecting the order of the community and fostering the security of the individual.

In his discussion of the need for penal code reform throughout the Nation, Prof. Herbert Wechsler has aptly expressed the profound impact that the penal law has on our daily lives:

> Whatever view one holds about the penal law, no one will question its importance in society. This is the law on which men place their ultimate reliance for protection against all the deepest injuries that human conduct can inflict on individuals and institutions. By the same token, penal law governs the strongest force that we permit official agencies to bring to bear on individuals. Its promise as an instrument of safety is matched only by its power to destroy. If penal law is weak or ineffective, basic human interests are in jeopardy. If it is harsh or arbitrary in its impact, it works a gross injustice on those caught within its toils. The law that carries such responsibilities should surely be as rational and just as law can be. Nowhere in the entire legal field is more at stake for the community, for the individual.

Our system of justice does not, of course, rest on the substantive criminal law alone. The producers by which our criminal laws are enforced and the individuals who deal with the administration of the law are important elements. In this respect, the subject bill contains nearly a hundred pages on criminal procedure. And each of those elements is highly dependent on the other. But without rationally conceived and clearly formulated criminal laws, neither the administrator nor the individual citizen can know precisely, let alone respect, what society expects of him. It is the criminal law that determines whether the Government and social order deserve credence and respect.

NEED FOR REFORM

Mr. President, despite this fundamental role that criminal law plays in our society, this Nation since its beginning has never adopted a uniformly drafted, consistently organized code. Present statutory criminal law on the Federal level is often composed of conflicting, imprecise, and awkward laws passed in an ad hoc fashion to deal with problems as they arose. Many of these statutes, by and large, were enacted with little relevance to each other or to the state of the criminal law as a whole.

The failure to revise and reform our criminal laws has posed a number of acute problems both to the lawyer and to the citizen. Chief among these problems is uncertainty in the law that has developed. Conflicts and imprecisions in our laws stem from the fact that many of the important areas in our criminal laws are not codified. Many extremely sensitive areas have been left by Congress for the Federal judiciary to grapple with on a case by case basis. An example is the insanity defense. Where it is possible to discern the type of insanity test applied, at least five different formulas have been identified for the 11 circuits. As a result, whether a defendant is adjudged guilty or not guilty by reason of insanity can rest on the irrelevant issue of which circuit the indictment was brought in.

Imprecision and contradictions in our law do not end with a consideration of nonstatutory law. For example, we have some 79 statutes dealing with theft sprinkled throughout our laws. Although they basically prohibit the same kind of conduct, it is rare to find two that read alike. As a result, the Federal judiciary is confronted with differing statutory definitions of the same underlying offense and must make a determination whether the use of different words manifests the Congress intent to require proof of different elements. Not surprisingly, this quandary results in conflicting court interpretations.

Loopholes and technicalities abound from the present hodgepodge of our criminal laws. Currently our laws define an offense in terms of the jurisdiction. Crimes are created and jurisdictional pegs written into the offense to satisfy a then perceived need. This approach leaves irrational gaps and inconsistencies in the application of Federal criminal laws. For example, conviction for the commission of a fraudulent scheme may depend on whether the mail or the telephone is used.

The sentencing scheme of our current laws is erratic. Only occasionally—as if by accident—are fines related to the amount of injury inflicted or gain realized by the offender, and then the ratio of fine to amount involved may be 1 to 1, 2 to 1, or 3 to 1. Similar conduct is often treated with disparity. For example, robbery of a bank carries a sentence of 20 years while robbery of a post office carries 10 years.

In short, the Federal penal law reflects neglect. Because of its lack of clarity, consistency, and comprehensiveness, it tends to undermine the very system of justice of which it is the foundation.

The need, then, to revise our criminal laws is patent. The myriad of laws with which we are saddled must be replaced with a logical, integrated code.

It is necessary to codify for the first time in our history those important and sensitive areas of the law such as the law of defenses, accomplice liability, and conspiracy that have hitherto been left to case-by-case development.

It is necessary to simplify the law. The definitions of a crime should be stated in common English, without convoluted sentences, verbose, or technical language.

It is necessary to eliminate imprecision and inconsistency in the interpretation of our criminal laws. We propose a common dictionary in the code so that it is clear that where a word recurs throughout our criminal laws, it carries a precise, and identical, meaning.

It is necessary to divorce the question of what is criminal conduct from the question of what criminal behavior triggers Federal jurisdiction. Punishment should be imposed for the underlying misconduct which is within Federal jurisdiction rather than for the interference with the jurisdictional factor itself. In creating a crime, it is necessary to determine whether there is the authority and the need for the Federal Government to prohibit certain conduct. But the power of the Federal Government should not be confused with what conduct is proscribed. This approach has several material advantages, not the least of which are clarity of drafting and consolidation of offenses into fewer offenses with several jurisdictional bases. For example, under this approach, the approximately 70 statutes dealing with theft—each written in a different fashion to cover the taking of various kinds of property in different jurisdictional situations—can be replaced with a single section.

It is necessary to eliminate obsolete statutes that clutter up the law such as those making it a Federal offense to operate a pirate ship on behalf of a foreign prince (18 U.S.C. 1651), to detain a U.S. carrier pigeon (18 U.S.C. 45), or to seduce a female steamship passenger (18 U.S.C. 2198.)

Finally, it is necessary to adopt a consistent and integrated system of sentencing.

S. 1 is intended to satisfy all these needs. It embodies, I believe, a systematic, sensible, and comprehensive penal policy for the United States that is both workable and responsive to the demands of our highly complex 20th century society.

REVISION AND REFORM

Mr. President, since my appointment to the National Commission, I have spent a great deal of time considering the proper form Federal criminal law should take in this Nation. This is a compelling issue that touches the lives of most citizens in one way or another, and the lives of some citizens to an overwhelming degree. During the deliberations of the

Commission and later the Subcommittee on Criminal Laws, we have been exposed to some remarkable new thinking in this field some of which has been incorporated into both the final report of the Commission and now S. 1. Many of these ideas have much merit. Their adoption will result in a more fair, a more compassionate, a more effective, a more balanced, and a more workable criminal justice system. This should be our ultimate goal.

This code, for the first time since 1790, puts the definition of all Federal felonies in one place. Where existing law has proved satisfactory, and where existing statutory language has received favorable case law interpretation, the law and the operative language have been retained. But, for the most part, a number of reforms as well as revisions have been introduced, both with respect to existing offenses and newly created offenses. I want to discuss at this point some of these reforms in substantive criminal law.

First. Scope of Federal jurisdiction. One of the most widespread and sustained criticisms directed toward the report of the National Commisson on the reform of Federal criminal laws involved its approach to jurisdiction. The National Commission adopted the so-called piggy-back jurisdiction concept. Piggyback jurisdiction is what its name implies. If there is Federal jurisdiction over one offense, the Federal Government can prosecute any other offense that may have been committed, at that same time by the defendant. For example, if a defendant robbed a local store, killed the local storekeeper and, in fleeing, stole a car taking it across State lines, the Federal Government could prosecute not only the violation of the Dyer Act—stealing a car—but also the murder and robbery and any other offense that could have been committed. The Dyer Act would, for jurisdictional purposes, carry on its back all of the other offenses, even though they were local in nature and local in interest.

This approach was criticized on the ground that it would result in the Federal Government usurping the role of the States in prosecuting local crime by expanding greatly Federal jurisdiction. In other words, that this was a step toward national policing. I believe the criticism was well founded.

The proposed code rejects general piggy-back jurisdiction. It allows the Federal Government to assert ancillary jurisdiction over only a very limited number of serious offenses. As a result, the role of the States in criminal matters is not usurped by the Federal Government under this code. Their role remains instrumental. By this restriction of jurisdiction, I believe the proposed code reflects the proper role of the States as viable components of the criminal justice system.

Second. White collar offenses. In order to combat white collar crime, several innovations are employed. A new offense is created to allow more effective prosecution of pyramid sales schemes, for example. The mail fraud statute is revised to insure that consumer fraud on the national scale is subject to Federal prosecution.

Third. Campaign offenses. A new offense is created to prohibit sabotage of political campaigns. The offense basically has two points. First, it confers Federal jurisdiction over a crime if it occurs during a Federal campaign with the intent to influence the outcome of the Federal election. Federal jurisdiction over the break-in of the Democratic headquarters in the Watergate Hotel was purely fortuitous. There was Federal jurisdiction because the hotel is in the District of Columbia. If the same breakin for the same purposes had occurred in another State—for instance in Miami Beach during the Democratic National Convention—the Federal Government would not have had jurisdiction. The proposed code cures this defect by vesting jurisdiction in the Federal Government over any felony relating to a Federal election.

Second, the political sabotage offense makes it illegal to distribute campaign literature without accurately identifying the sponsor. This part of the offense is directed at the "dirty tricks" aspect of the 1972 Presidential campaign, where some individuals distributed campaign literature ostensibly sponsored by a candidate which falsely accused some individuals of engaging in illicit activities. This type of activity has no place in our campaigns and should be prohibited.

Fourth. Racketeering—Two new offenses have been created in the organized crime area. The first makes it unlawful to operate a racketeering syndicate, that is, to lead organized crime. In this way, those who are the leaders of organized crime will subject themselves to criminal liability by that very fact.

The second new offense in this area is called "Washing Racketeering Proceeds." It makes it an offense to "launder" the proceedings of organized crime by investing the gains of organized crime in legitimate businesses. All too often, the phrase, "crime does not pay" is belied by organized criminals. Through their racketeering activities they mulct funds from their victims and then launder these proceeds. By prohibiting this conduct, this offense is designed to strip away the financial fabric and profit of organized crime.

Fifth. Victim's Compensation—A new, and somewhat novel, provision adopted by the code is a victim's compensation provision. Under this proposal, an innocent victim of a Federal crime of violence can be compensated for the personal injuries he sustained.

The compensatory fund will be financed from fines, dividends from the sale of goods by the Federal Prisons Industries and private contributions. This provision insures that consideration is given to the victim as well as punishment meted out to the criminal.

Sixth. The sentencing system—The reforms wrought by the jurisdictional and the substantive offense provisions would have little practical significance if they were unaccompanied by a realistic approach to the myriad problems which arise once a person has been convicted of a Federal offense. The sentencing part of the code therefore replaces existing anomalies with a rational system distinguishing the degrees of crime while insuring uniformity.

Two significant changes are made with respect to organizations that engage in criminal activity. While an organization is treated as a person in other areas of the law, this fictional treatment breaks down when it comes to sentencing an organization. Quite simply, the organization cannot be sent to jail. The question is what type of sentence will deter organizations from engaging in criminal conduct and properly reflect society's sense of retribution.

The code makes two significant changes in this respect. First, it increases the fine levels for organizations to reflect the greater capacity to pay. All too often, current fines amount to a slap on the wrist to the corporation or labor union. The second change is the creation of a new sanction—the "notice sanction." The sanction requires an organization that has defrauded a number of people to give notice of the conviction to those innocent victims who may be entitled to file civil claims for damages. Here again, the code pays some attention to the victim of the crime.

A concept that this Senator has endorsed for many years is also incorporated in the code—appellate review of sentencing. The United States is the only modern nation that does not afford the defendant a way to appeal his sentence on the ground that it was excessive, or unduly harsh. Every aspect of a criminal trial can be appealed to a higher authority, save the sentence imposed on the defendant. The lack of authority and machinery to review unreasonable sentences has troubled me for many years. How we can justify a sentence of probation in one case and a sentence of a long period of imprisonment in a nearly identical case? In my view, the appellate review concept is necessary to reduce the unwarranted disparities in sentencing that belabor our criminal justice system.

Mr. President, at this point I should caution that by listing some of the reforms in this bill, I do not intend to emphasize them at the expense of other reforms or, what concerns me more, to suggest that these are the only major reforms. This list of reforms is far from exhaustive. Nor do I want to minimize the importance of revising our existing laws. Where present law has proved satisfactory, and where existing statutory language has received favorable case law interpretation, the law and the operative language have been retained. I point to these ideas incorporated in S. 1 only to show that the bill draws together the best of past experience and the best of innovation into a workable, comprehensive, and scholarly code.

BACKGROUND OF THE CODE

Mr. President, the recasting of our Federal criminal law has clearly recognized as a long-term project that would require strong bipartisan support and a healthy spirit of reconciliation, good will and accommodation. Much remains to be done if we are to enact for this Nation its first Federal Criminal Code. But much has already been accomplished.

As the distinguished Senator from Arkansas has pointed out, S. 1 is the product of many years of hard work and careful thought by a large number of distinguished and concerned citizens. Nearly a decade of study is embodied in this bill.

In 1966, Congress passed a bill creating a National Commission on Reform of Federal Criminal Laws. After nearly 3 years of hearings and deliberations, that Commission, popularly referred to as the Brown Commission after its distinguished chairman, former Governor "Pat" Brown of California, published a study draft in June 1970 in order to secure the benefit of public criticism before the Commission made its decisions. The many comments submitted in response to the circulation of 5,000 copies of the study draft greatly aided the numbers of the Commission as they met again and again to determine the final shape and scope of the Report. The final report was submitted to the President and to the 92d Congress on January 7, 1971, "as a work basis upon which, the Congress may undertake the necessary reform of the substantive criminal laws."

During the 92d Congress, the Subcommittee on Criminal Laws and Procedures held hearings and conducted studies of the final report, further adding to the knowledge and options available in the field of criminal law codification.

Using the Commission final report as the "working basis" and in light of the 2 years of hearings, the Criminal Laws Subcommittee drafted S. 1 which Senator MCCLELLAN introduced early in the 93d Congress and which Senator Ervin and I cosponsored.

During the same two years following the submission of the Commission's final report, the Attorney General at the direction of the President, established a special unit of experienced attorneys in the Department of Justice to evaluate the final report and to prepare and submit appropriate legislation encompassing comprehensive reform of our Federal Criminal Laws. S. 1400 which was introduced by this Senator and cosponsored by the distinguished Senator from Arkansas was the result of this effort.

Both S. 1 and S. 1400 then served as the vehicles during the last Congress for further hearings and study by the Subcommittee on Criminal Laws. While there were a number of differences between S. 1 and S. 1400, they had a basic similarity of concept and approach, springing as they both did from the National Commission's final report.

The bill introduced today builds upon all the work accomplished over these past years. It is drafted in the light of the many and detailed comments and criticisms that have arisen during the more than 4 years of hearings and more than 4 years of study by the National Commission.

Intended to be a composite of the best features of S. 1, S. 1400 and the final report, the bill introduced today has also been the subject of detailed comments. A committee print of this new bill was published on October 15, 1974 and sent to every witness who appeared before the subcommittee and to all the agencies of the Federal Government. All of the comments received were carefully evaluated and weighed and amendments to the committee print made in response thereto.

Consistent with the importance of this undertaking, Mr. President, this brief recital of the history of this bill should manifest the great care and deliberation with which this proposed code has been treated.

CONCLUSION

Mr. President, the revision, reform and codification of the Federal criminal law is widely conceded to be imperative. For too long now our efforts to protect life and property, human rights and domestic tranquility have been hobbled by the most fundamental element of the criminal justice system, the law itself.

The processing of this bill is one of the most important tasks that confronts this Congress. As Senator MCCLELLAN has pointed out, the enactment of a Federal Criminal Code must be approached with a healthy spirit of compromise. The bill that we will eventually bring forward will have provisions to which we may object or about which we may not be enthusiastic, and that will certainly be true as to each member of the subcommittee and the full Judiciary Committee. But if we are to bring about this reform, there must be compromise. We will have to make up our minds that we are not going to vote against the whole program because it contains one provision of law or one feature of a bill that we do not like. Ransom has never been an honorable means to achieve an end.

S. 1 offers Congress the opportunity to restructure Federal criminal law so as to better serve the ends of justice in its broadest sense—justice to the individual and justice to society as a whole. While it is unrealistic to assume that every facet of the bill will be viewed with equal favor by all observers, I think it is not too much to hope that the task of translating the proposals they embody into reality will be approached with quiet reason and in a spirit of true bipartisanship.

The monumental importance of the undertaking demands no less.

Mr. TAFT. Mr. President, I am pleased today to cosponsor S. 1, a bill to codify, revise, and reform title 18 of the United States Code.

In my view, reform of title 18 is necessary and long overdue. This bill represents a culmination of 4 years of effort by the Senate Subcommitee on Criminal Laws and Procedures and by a special professional staff unit of the U.S. Department of Justice. The arduous work of these bodies followed 3 years of extensive work by a National Commission on Reform of Federal Criminal Laws, known as the Brown Commission, which followed more than 20 years of work by State commissions, State legislative committees, and the American Law Institute. I am gratified that we have finally reached the state where we may go forward in this Congress with legislation.

It is clearly evident from the 4 years of hearings which have been held that our criminal justice system cries out for extensive reform. I agree with the Judiciary Committee that the time has come to create for the first time since the founding of our Nation, a systematic, consistent, and comprehensive Federal Criminal Code to replace the hodgepodge which now exists. I also recognize that in attempting a task of this magnitude, it is obvious that the final bill cannot possibly satisfy everyone in every respect, but the present state of the law does not accomplish this either. Dealing with literally hundreds of provisions, it is inevitable that some will disagree with certain sections. I, myself, cannot agree with all of the bill's provisions, however, looking at the entire bill, it represents a good legislative effort and a vehicle by which Congress may work its will in promulgating the necessary reform. It is a well reasoned, logical approach which is both workable and responsive to the demands of our society. At a time when crime is increasing at alarming rates, it is in the best interests of our country that we have a systematic, sensible, and comprehensive Federal criminal code which will hopefully alleviate this growing problem which threatens and undermines our American way of life.

Mr. BAYH. Mr. President, I am pleased to join with the distinguished chairman of the Subcommittee on Criminal Laws, Mr. MCCLELLAN, in cosponsoring S. 1, the bill to codify and revise our Federal criminal laws. There is no question, Mr. President, but that this legislation is needed and indeed long overdue. Senator MCCLELLAN and the distinguished Senator from Nebraska, Mr. HRUSKA, have devoted their energies to this massive and important effort for some years. In the course of their work, they have refined the various legislative proposals to the point where the legislation is now ready for action by the Judiciary Committee and the full Senate.

Congress and the American people are very much in their debt for the time and attention they have given to the project.

In any piece of legislation of this scope and size, there will invariably be specific provisions on which reasonable men may differ. In cosponsoring S. 1, I wish to indicate that I am not thereby endorsing each and every one of the statutory provisions it contains. I have examined the current draft of the bill and find I can support its basic structure and outline. When this bill is considered by the Judiciary Committee, I will initiate or support amendments to certain of its specific provisions.

Once again, I wish to commend my distinguished colleagues, Mr. MCCLELLAN and Mr. HRUSKA for the time and effort they have devoted to this important legislation. I look forward to continuing to work with them in fashioning the final version of this important bill.

By Mr. PROXMIRE:

S. 2. A bill to amend the Communications Act of 1934 in order to recognize and confirm the applicability of and to strengthen and further the objectives of the first amendment to radio and television broadcasting stations. Referred to the Committee on Commerce.

FIRST AMENDMENT CLARIFICATION ACT OF 1975

Mr. PROXMIRE. Mr. President, today I am introducing the First Amendment Clarification Act of 1975, which is designed to give the people of the United

States the full benefit of a free press—electronic as well as printed.

For nearly a half century the broadcasters of this country have been subjected to regulation by a Federal agency. It generally is accepted that this regulation is founded on the principle of public ownership of the electromagnetic spectrum. But no such declaration of ownership exists in law.

Even if there were a direct statement of public ownership in the United States Code—and there is not—governmental control over broadcasting content by the Federal Communications Commission could not be justified under the first amendment to the Constitution.

The reason is simple: radio and television broadcasting is part of the free press. It goes beyond free speech.

Free speech can be limited. The best example is the famous admonition of Oliver Wendell Holmes concerning shouting "fire" in a crowded theater.

WATCHDOG OR LAP DOG

But freedom of the press cannot be limited. The press was the only industry, the only business, given special treatment by the authors of the first amendment. It is there because of a fear of excessive power being exercised by Government. Hugo Black said that the first amendment gave the press freedom so that it might "serve the governed, not the governors."

The press, recognized by the Constitution, is the watchdog of the Government. If the Government holds the leash, the watchdog is a lap dog.

The Supreme Court has done its job well in protecting the freedom of the print media. Only last year it struck down a Florida law that required newspapers to permit political candidates to reply to critical editorials.

There was no public outcry about fairness being dealt a death blow, for the principle of a free press is generally—if not universally—accepted in this country. And, it might be pointed out, the United States is nearly unique in having a free press. Even the United Kingdom cannot boast that.

The ironic point about the unconstitutional Florida law is that it parallels the personal attack rule under the Federal Communication Commission's so-called fairness doctrine.

TERM IS MISNOMER

But the term fairness doctrine—a misnomer if there ever was one—is hailed by many persons in this country, even the Supreme Court which has held in the Red Lion case that it "enhances" the first amendment.

It is difficult to understand how a prohibition against Congress passing laws abridging, that is, diminishing, the freedom of the press can be enhanced. A prohibition is a negative, a zero. And zero multiplied by any factor is still zero.

But the argument adopted by the Supreme Court was that there is a scarcity of space on the electromagnetic spectrum, that there can be only a limited number of broadcasters, and that anyone can publish a newspaper or print a handbill.

The answer to that, of course, is that in every large- and medium-sized city—and in almost every small city—there are more television signals available than daily newspapers. And if radio stations are counted, as they must be, general audience broadcasting stations far outnumber general circulation newspapers.

And further, economic pressures make it nearly impossible to found a daily newspaper in a community where one already exists.

But what about that public ownership of the airwaves argument? Is not that a good one?

TO INDULGE IN FANTASY

A Minnesota law school professor wrote this in 1967:

> To say that the airways or spectrum can be owned by anyone is simply to indulge in fantasy.

That professor, Glen O. Robinson, is now a Federal Communications Commissioner.

He, of course, is sworn to uphold the Communications Act of 1934, so his personal opinions do not affect the performance of his professional duties.

Yet, it is interesting to remember how Federal regulation of the spectrum developed. It was not the result of a declaration of the public interest in broadcasting. On the contrary, pioneer broadcasters and other users of the spectrum realized that one radio transmitter could interfere with the signal of another. They voluntarily tried to parcel out the spectrum so as not to interfere with each other. But, as one might guess, that did not work, so they sought Government regulation. The result was the Radio Act of 1927.

The Federal Communications Commission was established as the successor to the old Radio Commission and with greater powers in 1934.

In a series of internal decisions, the fairness doctrine was developed. It was, and remains, a series of administrative law rulings, although the FCC last year did issue a restatement called the Fairness Report.

CONGRESS KEPT SILENT

In 1959, the fairness doctrine was recognized by the Congress. I must confess, that it was an amendment I offered that led to that statutory recognition. The Supreme Court in its Red Lion decision upholding the constitutionality of the fairness doctrine noted that fact.

But, also, the Supreme Court noted in that case that since then, the Congress has kept silent by refusing to overturn the construction of the fairness doctrine.

I now consider the fairness doctrine to be the "unfairness doctrine."

One of the reasons I have adopted that position is that when Government imposes its regulations, regardless of its good intentions, it naturally seeks more and more power. In this case, it has gradually but successfully rewritten the first amendment. Gradual? Yes; even the FCC traces the beginnings of the fairness doctrine back to the old Radio Commission.

The tragedy is that nearly a half century of gradualism has eroded the guarantee of a free press—a free electronic press.

A FOURTH INSTITUTION

Mr. Justice Potter Stewart in an address at the Yale Law School last November made a telling point about the press. He said that in guaranteeing a free press, the authors meant "to create a fourth institution outside the Government as an additional check on the three official branches."

It is necessary to point out an obvious fact at this point: Radio and television did not exist when the first amendment was drafted. We can only assume that had these electronic media existed then, the first amendment would have included them along with newspapers, magazines, books, pamphlets, and the like. We can make that assumption because many authorities writing on the subject of a free press make no distinction between one medium of communication and another. Mr. Justice Stewart did not in his speech at Yale.

Reason dictates that there should be no differentiation between the same information or opinion delivered by different media. Should the President be more credible when he is seen and heard on television than when his words are printed in a newspaper? I think not.

Should an opinion on a Presidential speech be more believable because it is delivered to the listener and viewer by an electronic tube than by a printing press and paper? Marshall McLuhan is confusing on that. The fact is, each individual brings to his or her reading and viewing his or her own personal background of knowledge, intellect and emotion. The individual person makes up his or her own mind.

BASIS OF GOVERNMENT

To deny that, denies the basis of our form of representative government.

Even if the spectrum were publicly owned, there is no reason to believe that radio waves are more persuasive or influential than any other means of communication. To assert that they do so does not square with the psychological literature, which can be summed up by saying that television at worst tends to reinforce opinions already held.

The FCC, when considering a complaint against a broadcaster, operates as if that broadcaster and the material broadcast were completely influential—that everything heard or seen on the station would be accepted and acted upon by the listener or viewer. Those who think know that is not true.

What is more, the FCC ignores the fact that the listener or viewer of that particular broadcaster has access to other sources of information and opinion. There are other broadcast stations, newspapers, magazines, books available to the listener or viewer. The FCC rarely takes that fact into consideration.

The Commission acts as if a broadcaster were some sort of pied piper leading his audience like so many dumb animals.

We are not rats. We are rational human beings, capable of thinking for ourselves.

DIVERSITY IS NEEDED

We have all sorts of sources of information and opinion. We make up our minds in diverse ways.

Diversity is what we need to keep our form of government viable. That is what the free marketplace of ideas is all about.

But the FCC, backed by the Supreme Court in the Red Lion case, claims that only through the Government controlling the fairness of broadcasters can that free marketplace be maintained.

That seems incongruent to me. It just does not fit together.

This incongruity arises because broadcasting is treated differently than publishing, even by the highest court in the land.

In the Miami Herald case, to which I referred earlier, Chief Justice Burger wrote:

> The choice of material to go into a newspaper and the decisions made as to limitations on the size of the paper, and content, and treatment of public issues and public officials—whether fair or unfair—constitute the exercise of editorial control and judgment. It has yet to be demonstrated how governmental regulation of this crucial process can be exercised consistent with First Amendment guarantees of a free press.

STIFLING RESTRAINT

Intervening in that case with a joint brief were the publishers of the Wall Street Journal and the New York Times. They argued that if the Florida law were upheld to permit political candidates to have the right to reply to editorials critical of them that would restrict the airing of political views. Their brief said:

> Every page one story about legislators or other elected officials may carry with it the possibility the legislator or official will be the author of a portion of a future front page. It is painfully clear that those conditions will lead not to debate but to a stifling degree of restraint in political reporting by newspapers.

The same could be said of radio and television.

And that is the danger of the FCC's fairness doctrine and the Communications Act's equal time rule.

These regulate through Government power what and who can be put on the air. While the intent is to promote fairness, the opposite can be the effect.

Broadcasters find it easier to go along, to avoid controversy, and thus lessen diversity of ideas.

FOR BENEFIT OF CITIZENS

We need diversity of ideas, especially in these times when newspapers are finding it difficult to stay in business against tough economic competition. Ask the employees of the Washington Star-News. Ask the people in Morristown, Tenn., who have lost the Monday edition of the Gazette-Mail because of increases in the cost of newsprint, ink, and other items.

Now is the time to make broadcasters fully equal to publishers so that the people of this country can have diversity in the news media.

Freedom of the press was designed for the benefit of all American citizens, not for the benefit of the disseminators of news and opinion.

If the most popular of the disseminators, television and radio, are tied down by governmental controls, those who suffer will be the people of this country.

All we need do is look at those countries where there is no freedom of the press.

Mr. President, that is why I am offering this legislation.

DEFINES PURPOSE

The first section of my bill defines its purpose: to recognize and confirm the applicability of the first amendment to broadcasting and to strengthen and further the objectives of the first amendment. That can be accomplished by removing the statutory and regulatory restrictions placed on broadcasters who operate under the Communications Act of 1934.

Section 2 of my bill deals with the definition of "public interest, convenience and necessity" under which broadcasters operate. Right now, that phrase in the Communications Act is used to make broadcasters accountable to the FCC after the fact for everything they put on the air, everything from opinions on controversial subjects of public interest, regardless who voices them, to whether a station programs classical or rock music. It is true that the FCC cannot censor what goes out on the air, and the FCC will point to that when it conveniences them, but broadcasters are required to answer to the FCC later. Obviously, that cannot help but influence broadcasters.

STOP "RAISED EYEBROWS"

My bill will make it clear that the term "public interest, convenience, and necessity" cannot be construed to give the FCC jurisdiction to require that any person be provided broadcast time, or to require that any viewpoint be given broadcast time. It further makes clear that the FCC cannot exercise any power, supervision, or control over the content or scheduling of any program or other material broadcast, and the FCC cannot comment on or review any of those items. The last provision of my bill is to stop what has been called the "raised eyebrow" effect used by the FCC to indirectly control and regulate broadcasters.

There is an exception in my bill. The last phrase in section 2—"except where the broadcast of such material is otherwise prohibited by law"—means that other Federal laws against the broadcasting of obscenities and lottery information would remain in effect even though my bill became law.

Section 2 is also written in such a way that the FCC would retain its power to decide which applicants would receive licenses under the Communications Act. To me, there are some constitutional questions about the fact of licensing, but it is a fact of physics that only one broadcaster may use a channel at one time. Therefore, there does have to be a traffic cop. The intent of my bill is to permit the FCC to recognize the existence of minority groups that might wish to apply for broadcasting licenses. All technical data being equal, the FCC could decide to award those licenses to the minority group.

REPEALS SECTION 315

Section 3 of my bill repeals that part of the Communications Act that permits the FCC to revoke the license of any station that willfully refuses or fails to allow a candidate for Federal office to buy reasonable amounts of broadcast time. The reason for that section of my bill is to make it consistent with the next section.

Section 4 repeals section 315 of the Communications Act of 1934. Section 315 contains both the equal time rule and the authorization for the FCC's fairness doctrine.

The equal time rules requires that when a candidate for a public office is given or sold time any other candidate for that same office must be given an equal opportunity.

Like the Boy Scout oath, that sounds great. Unlike the Boy Scout oath, the equal time rule is an abridgment of the first amendment. It is a governmental control over a part of the free press.

But there is a practical reason for doing away with the equal time rule, too. The best example is to cite the congressional action that temporarily rescinded the equal time to permit the famous debates between John Kennedy and Richard Nixon in 1960. Most persons will agree that those debates were useful to the electorate. Yet, they could not have been held with section 315 in force.

CATCH 22 CITED

Similarly, that section of the Communications Act now bars similarly programing concerned with any election, local, State, or Federal right now, including Presidential elections. Eliminating the section can bring meaningful coverage of candidates views in special programing.

The fairness doctrine of the FCC requires that broadcasters afford reasonable opportunities for the presentation of contrasting viewpoints on controversial issues of public importance. And that is incorporated into law through section 315.

The administration of the fairness doctrine has been a catch 22.

Unlike the equal time requirement, the fairness doctrine does not call for each viewpoint to receive the same amount of air time, neither does it require that the other viewpoints be given in the same program. That sounds fine. But the trouble is, even if it were constitutional, the fairness doctrine is applied case by case with only the particulars of past cases to use in judging its application.

Right now in the courts, NBC is facing a fairness doctrine fight over its documentary, "Pensions: The Broken Promise." NBC claimed in defending itself that the subject of private pension plans was not controversial because as far as it knew the subject had not been dealt with previously on network television. Accuracy in Media, Inc., complained that contrasting viewpoints were not aired on the program. NBC said that it had done a fair job and had no intention to giving the subject more air time.

"UNFAIRNESS" DOCTRINE

Now here is where catch 22 comes in: Had NBC devoted more time to the issue, giving additional viewpoints, there would have been no issue before the FCC. So in order to prove its point, to test the matter in the courts, NBC could air no more shows on the subject without making its case moot.

A three-judge appeals court panel

ruled in favor of NBC, saying that this country needs investigative reporting. In April, the entire appeals court will rehear the case.

That is just one example of how the "unfairness" doctrine works.

In repealing section 315, I would also knock out its other provisions, which include the best time rates for political advertisers. That seems totally unfair as a matter for law.

The next part of my bill, section 5, gets at the heart of the first amendment question. This amends section 326 of the present law that states that there shall be no censorship by the FCC and that the FCC shall not interfere with the right of free speech. That is fine as far as it goes. I add the right of free press. That is the key to putting broadcasters and publishers on equal footing regarding first amendment rights.

FCC A FACTOR

And again, this is for the benefit of the people of the United States.

Because censorship, by definition, means prior restraint section 326 has protected broadcasters from having programs kept off the air at scheduled broadcast time. There have been cases where broadcasters themselves have stopped personalities from going on the air with particular programs, but that has not been governmental censorship. In those cases where programs already taped have been held off the air, the Government has not been involved directly. But there is no doubt that the existence of the FCC has been a factor. Think not? Ask Dick Cavett.

Further new language in section 326 will make it clear that broadcasters will have the right to determine the scheduling and the content of their programs and who shall appear on them so that the chilling effect of the existence of the FCC will not be a factor.

Finally, section 6 of my bill repeals the prohibition of political editorializing by noncommercial educational broadcasting stations. This section of the current law, aimed at licensees, is clearly unconstitutional, although it has not been tested.

ONE HUNDRED AND EIGHTY DEGREES OPPOSED

At this point, I would like to add that I have not amended other sections of the law dealing with publicly supported broadcasting. An argument can be made that if broadcasting is supported by tax dollars, the taxpayers have a right to say how their tax dollars should be used. For example, it would be wrong for the Government Printing Office to publish a daily newspaper. Such a newspaper could not please all of the taxpayers.

This bill is 180 degrees opposed to the position of many critics of the present system who believe that more governmental regulation of broadcasting is needed.

Some persons and groups believe that there should be public access to the airwaves. Some of them, I am sure, believe the same is true for newspapers despite the Miami Herald decision.

The rebuttal to those seeking air time for good purposes—and I do not doubt their sincerity—is twofold:

First. More and better professionalism has been demonstrated in recent years in broadcast journalism. There is not enough yet, true. But there is a definite movement in that direction. Professionalism means that there should be no bias in news coverage and that contrasting opinions should be aired when it comes to editorializing, and that the two should be clearly separated. Many would say, "Yes, but that is what the fairness doctrine seeks." And my answer to that is: It has not worked that way. The fairness doctrine has stifled professionalism.

COMMUNICATIONS TOTALITY

Second. There are many, many viewpoints seeking to be heard and only 24 hours in each day. Broadcasting has time restraints. But as a practical matter, I challenge anyone to name a topic that has not been covered by radio and television. I think there are none. But if there are some left uncovered, other media must be considered. The totality of communications must be remembered. Often I get letters complaining that broadcasters or publishers have neglected certain facts, which are then cited. But I wonder, where did these people learn those facts? Obviously, they did not do their own investigations; they learned of them through the competitive news media.

Let me sum up these two points this way: Mr. Justice Stewart said this in his Yale speech about newspapers, but he could have said it about broadcasters:

> If a newspaper wants to serve as a neutral marketplace for debate, that is an objective that it is free to choose. And within limits, that choice is probably necessary to commercially successful journalism.

In other words, the public still controls the cash drawer for newspapers and broadcasting stations. Even without "Big Brother" FCC looking over their shoulders, most broadcasters will heed the public. They must in order to survive over the long haul. Yet, they will still be free to be forthright when need be.

PUBLIC SERVICE

What about public service announcements?

Newspapers do not forget public service; neither will broadcasters. The National Advertising Council is not controlled by the FCC, but it is there to help promote good causes. And it will still be there in a free broadcasting situation. One official has told me that even when his network was leading the pack in revenue, it was giving more public service announcements than its competitors—and it did not have to do so.

What about minority job opportunities?

There is the Equal Employment Opportunities Commission to handle that. If it does not do its job, the Congress knows where to crack down.

What about false and misleading advertising?

We have the Federal Trade Commission for that job. No need to dilute enforcement with the FCC.

What about monopolies?

We already have the Justice Department for that task.

What about libel?

That is and has been a matter for States and the common law. The last Federal libel legislation, the Alien and Sedition Acts, died a natural death. It is generally accepted that the Supreme Court would have held that law unconstitutional.

Mr. President, it is impossible to cover and counter all arguments against first amendment rights for broadcasters in one speech. So since last July I have made a number of speeches on this floor on the subject. Today's speech, however, does attempt to cover the major points. And I intend to speak some more.

Also, I know, the first amendment and related topics will be fully discussed when this bill is given a public hearing.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND STATEMENT OF PURPOSE

SECTION 1. (a) This Act may be cited as the "First Amendment Clarification Act of 1975".

(b) It is the purpose of this Act to recognize and confirm the applicability of and to strengthen and further the objectives of the first amendment of the Constitution of the United States by removing statutory and regulatory restrictions on broadcasters operating under the Communications Act of 1934.

DEFINITION OF PUBLIC INTEREST, CONVENIENCE, AND NECESSITY

SEC. 2. Section 309 of the Communications Act of 1934 is amended by inserting at the end thereof the following:

"(i) Notwithstanding any other provision of this part, effective on and after the date of the enactment of this subsection for the purposes of this part, the term 'public interest, convenience, and necessity' shall not be construed to give the commission jurisdiction to require the provision of broadcast time to any person or persons or for the expression of any viewpoint or viewpoints or otherwise to exercise any power, supervision, control, influence, comment or review, either directly or indirectly, over the content or schedule of any program or any other material broadcast by licensees, except where the broadcast of such material is otherwise prohibited by law."

REPEAL OF LICENSE OR CONSTRUCTION PERMIT REVOCATION POWER RELATING TO FACILITIES FOR CANDIDATES FOR FEDERAL PUBLIC OFFICE

SEC. 3. Section 312(a) of the Communications Act of 1934 is amended by inserting "or" at the end of clause (5), striking out the semicolon and "or" at the end of clause (6) and inserting in lieu thereof a period, and striking out clause (7).

REPEAL OF SECTION 315 RELATING TO FACILITIES FOR CANDIDATES FOR PUBLIC OFFICE

SEC. 4. Section 315 of the Communications Act of 1934 is repealed.

RECOGNITION OF APPLICATION OF RIGHT OF FREE PRESS

SEC. 5. Section 326 of the Communications Act of 1934 is amended by inserting after "speech" the following: "or the right of free press" and by striking the period after "communication" and inserting in lieu thereof a comma and "including the right of a radio station to determine the schedule of its programs and the content of its programs. Nothing in this Act shall be construed to require the provision of broadcasting time to any person or persons."

REPEAL OF PROHIBITION OF POLITICAL EDITORIALS

SEC. 6. Section 399 of the Communications Act of 1934 is repealed.

By Mr. KENNEDY (for himself and Mr. JAVITS):

S. 3. A bill to create a national system of health security. Referred to the Committee on Finance.

Mr. KENNEDY. I am today introducing in this body, S. 3, the Health Security Act of 1975. In several weeks I will submit to the Senate a list of cosponsors who I believe will constitute a coalition for national health insurance sufficient to enact legislation in this Congress. I am anxious, however, that this bill be brought before the American people on this, the 1st day of the 94th Congress.

This bill proposes to establish a program that will assure health security to all Americans even as legislation of the 1930's assured them social security. The bill would cover every resident of this Nation with health insurance for the vast majority of essential health services. This insurance coverage would be provided regardless of where a person lives, where he works, his medical history, his income, the size of his family, or any other factor.

Moreover, he would pay for this insurance according to his ability to pay. Contrary to present insurance practice, he would not pay a flat premium regardless of income. He would not pay more if he or his family have a history of medical problems. He would not pay more if he has a dangerous job—or lives in a bad neighborhood.

This proposed legislation is the answer to providing good health insurance to every American on an equitable basis. It is also the answer to controlling the skyrocketing costs of health care and to assuring that quality health services are available and nearby when we need them, and to organizing health services in ways that help us to find the right doctor or the right service to fit our particular need.

This legislation, in other words, not only seeks to provide every American with enough insurance to enable him to purchase whatever health care he needs—it seeks also to assure that good health services are actually made available to each of us where and when we need them, and in a form that we can understand and use.

In accomplishing these goals the bill protects the rights of both doctor and patient—both provider and consumer of services. It assures that services are available by offering providers the resources and incentives to make them available. Indeed, the bill would usher in a new era of opportunity for provider and consumer alike.

THE LESSONS OF MEDICARE AND MEDICAID

This is the only national health insurance legislation before Congress which extends insurance coverage to all Americans on so equitable a basis, and couples this with so serious an effort to reform our health care system to assure that good services are actually available. The history of medicare and medicaid has taught us that attempts to offer health insurance on a piecemeal basis to segments of our population—without major efforts to expand and reform our health care system—result in increased inflation which robs Americans of much of the benefit of the new insurance. Medicare today covers less than half of the health care costs of the elderly, due in part to rising health care costs stimulated by passage of the medicare program. Many elderly Americans today, in fact, pay more for health care under medicare than they paid before the program was passed.

This legislation which I introduce today, the health security program, does not make this same mistake. It couples increased purchasing power through improved insurance with expanded and improved services. Moreover, it establishes budgeting mechanisms designed to bring the cost of health services in America under reasonable control.

This program will ultimately assure every American of the good health care he needs at a cost he can afford—and it will do this for less cost to our Nation than our present system, or any other pending health insurance proposal.

THE HEALTH CARE CRISIS

We are in the midst of a crisis in health care in America. There are many aspects to this crisis. But the aspect known best by every American is the crisis in costs.

THE CRISIS IN COSTS

Hospital costs have risen. Doctor bills have risen. And insurance premiums have risen to keep pace. Every American family feels the pressure of this inflation. The average wage earner works 1 month a year just to pay his health care and health insurance bills.

And there is no limit in sight. There is nothing at present built into our health care system that will assure an end to this inflation. Unless our Nation takes action to slow this progress, health care will cost Americans more and more each year.

The answer to this problem is not to cut back on benefits, to raise insurance premiums even more, or to simply offer more insurance to more Americans. The answer is to reform our health care system and bring these costs under control.

THE COST OF HEALTH SECURITY

There has been a great deal of debate about the costs of national health insurance. Opponents of the health security program which I introduce today have argued the program will cost too much—as if "cost" means what appears in the Federal budget.

Well, it is true that under the health security program more money will pass through the Federal budget than under other proposals. But, that is because the Federal Government under this proposal becomes the health insurance agent for the Nation. The billions of dollars that are currently paid to insurance companies would be paid to the Federal Government under the program. Likewise, since this program covers all essential health services without deductibles, coinsurance, or limitations, billions of dollars that Americans currently pay to doctors, hospitals, laboratories, dentists, drugstores, and other providers would also be paid to the Government.

The Government would collect these funds and serve as Americans' agent in paying these bills. Yes, the funds would flow through the Federal budget in this process. But, cost is not what appears in the Federal budget. Any American family will tell you that cost is what comes out of his paycheck—or out of his pocketbook.

Under the Health Security Act Americans will pay no more health insurance premiums, little or no doctor bills, little or no hospital bills, fewer dental bills, fewer drug bills, and less of many other health care costs.

Instead, Americans will pay taxes geared to their income. The average family, in the early years of the program, will pay the Government roughly the same amount for health care that it is currently paying the insurance companies, the doctors and others. The difference is, the average family will have a far better insurance policy and will get broader services for their money. Moreover, as the cost controls in the health security program take hold, the health security program will cost less than our present system would cost, even with its poorer services.

This cost saving is effected through strong budget controls over the health care system—and through such efficiencies as have been demonstrated in health maintenance organizations. A GAO study of health facility construction costs said:

> Various studies have shown that prepaid group practice members compared with traditional insurance plan members (1) have substantially lower hospital use rates, generally at least 20 percent less, (2) have lower surgery rates, and (3) compare favorably on other measures of health care.

The same study indicated these organizations reduce the need for hospital beds by 20 percent.

By offering incentives to providers to form health maintenance organizations, the health security program will save millions of dollars on expensive hospital care. Organizations, through these savings, can offer good care to Americans at far lower cost than under the current system.

The fact is that the health security program will cost far less out of the workingman's paycheck and pocketbook. It will cost far less to our Nation in terms of gross expenditures for health care. These are the real costs that both the average family and this Government need to come to terms with and face up to. These are the costs that will be brought under control by the health security program.

COMMUNITIES WITHOUT DOCTORS

But the health care crisis in America is not a matter of inflation and rising costs alone. The crisis is also evident to the 5,000 American communities that have no doctor, and to patients who wait in city hospital emergency rooms 6 or 8 hours for help because they have no doctor or because they cannot reach him after hours. This legislation sets aside funds, establishes planning procedures, and creates incentives to attract health professionals and build facilities accessible to every community—and to allow imaginative professionals to offer health care in new ways designed to meet the special needs of these rural and urban communities.

THE CRISIS OF DISORGANIZATION

The crisis is also evident to patients who spend hours waiting at the doctor's office only to be sent to a laboratory for tests, then waiting at a specialist's office perhaps only to be sent to yet another laboratory for more tests, then perhaps back to the first doctor or to a hospital or a drugstore. Each stop involves waiting, some involve traveling across town and back, and some involve making appointments way in advance. All in all, it can take days or weeks to complete the process; it can cost extra dollars for repeated tests and duplicate records, and worst of all, it can discourage the elderly, the infirm, or the poor from completing the course.

And the whole process is geared more to responding to the patient for a specific disease, than to viewing the patient as a whole with the intention of preventing diseases and keeping him well.

The health security legislation encourages health professionals to reorient their efforts toward preventative care, and to offer more tightly organized forms of health care to Americans who choose it. It does this by building in long-term economic incentives to professionals who start health maintenance organizations, foundations, and other new forms of care—as well as offering the resources needed to underwrite the startup and initial operating losses of some organizations.

THE CRISIS IN QUALITY OF CARE

The crisis is evident, too, to Americans who suffer needlessly because they cannot get to the skilled services or facilities they need, or because they receive less than the best quality care. The fact is that the quality of health care varies greatly in America. There is too much unnecessary or ill-advised surgery performed. There are too many missed diagnoses. It is not necessarily due to greed, to incompetence, or to carelessness. It is simply that our Nation is trying to offer sophisticated 20th century medical care through 19th century organizations.

We have created scores of new and interrelated specialties but continue to think the physician can operate on his own with no close formal relations to other physicians of other specialties. Most physicians practice solo or in groups of the same specialty. The patient medical records, like his physicians, are scattered all over town, and sometimes it is the patient who decides what specialist he needs for a given problem. It seems clear that, in this fragmented system, a patient is likely to be treated by the specialist he chooses from the perspective of that specialty. A surgeon, for example, is more likely to pursue a surgical solution to a problem than would an internist, if other approaches are possible—especially if consultation between the specialists is cumbersome and there is no real incentive to explore all possible solutions. The delay and clumsiness of referral and consultation can also lead to missed diagnoses—as can the absence of a complete medical record to the doctor who is making the diagnosis.

Moreover, we have for the most part continued to license health professionals on a once and for all basis, while medical knowledge has literally exploded during recent decades. We have not required continuing education of physicians whose training was completed decades ago—and more importantly, we have made minimal efforts to establish continuing programs to meet these physicians' particular needs and problems.

This health security program establishes national licensure and continuing education requirements—as well as the resources for conducting these programs. It also establishes a National Quality of Care Commission in the Department of Health, Education, and Welfare to gather statistics, establish guidelines, and set standards of quality based on the advice of health professionals and it strengthens local peer review organizations to review services in their area in the light of these standards. The program further establishes referral requirements that assure a variety of treatments are considered before a patient is subjected to lengthy or costly procedures. All of these features are aimed at providing the incentives and resources to health professionals to reorganize health care in a way consistent with the enormous complexity of modern medicine—and assuring every American that he is getting the best health care possible whenever he encounters our health care system.

THE CRISIS OF INADEQUATE HEALTH INSURANCE

But perhaps the crisis in health care is most obvious to Americans whose health insurance has run out, who cannot get insurance because of their medical history, or who simply cannot afford to buy good insurance. Many Americans of all incomes have been bankrupted by health care costs which continue after their insurance runs out. They then join the ranks of Americans whose medical history makes it impossible to buy good insurance at all, and millions of other Americans of low income who are not eligible for group plans and cannot afford decent insurance.

For these Americans who have no decent insurance every illness can turn into a financial disaster. Since every penny comes out of an already limited income, they weigh every decision as to whether or not to seek a doctor—and sometimes they wait too long and suffer needless pain.

There is no way to tell how many children grow up in America with needlessly twisted limbs, dulled minds, or other handicaps simply because fear of the cost kept his parents away from the doctor for too long. There is no way to tell how many Americans suffer needless pain and even early death simply because good health costs too much. It is clear, however, that these things can and do happen all too often for a country as advanced as America.

The problem is our hopelessly fragmented health insurance system which encourages insurance companies in the name of profit to exclude Americans who need care the most, or to limit their policies to the most profitable benefits that they can market. This crazy-quilt system also frustrates the providers of care. Doctors and hospitals are faced with providing expensive services to millions of Americans whose insurance may or may not pay—knowing frequently that if the insurance does not come through there is little hope of the patient being able to pay the bill.

The provider deserves a fair fee for his services. The answer to our health insurance dilemma is not to require the provider to offer free care—it is to create an insurance system that assures that every American is covered for basic health care. If we insist that health professionals should offer help to everyone who needs it, and Americans do insist on that, then we should make sure that every American is covered by an insurance policy that will pay the provider a fair fee for his service.

Nor should insurance coverage influence the provider's method of treatment. Too often providers are encouraged to hospitalize a patient in order that insurance will cover the cost. Insurance should be comprehensive enough to cover whatever course of treatment the physician considers medically appropriate.

The health security program assures this by covering all Americans with comprehensive health insurance coverage from the Federal Government. When this legislation is passed—

No American family will be bankrupted by the cost of care;

No American will be kept from needed care for fear of the cost;

Doctors and hospitals will not be forced to write off bills or hire bill collectors. They will bill one source on one form and know in advance that they will be paid; and

Providers will be freed to offer care in the most medically accepted way, without regard to insurance coverage.

This program will free the patient to seek health care, and it will free the provider to be a physician and healer rather than an accountant.

THE FEDERAL GOVERNMENT AS INSURANCE CARRIER

The health security program makes the Federal Government the insurance agent for all Americans. This is essential to the program. It is essential in order to assure that all Americans have the same comprehensive insurance coverage at a cost they can afford. It is essential also to bringing about reform in our health care system, because this role as the insurance carrier is the lever we need to control costs and improve the way health care is organized and delivered in our Nation. I say "we," because I conceive of this lever as an instrument that providers and customers of health care alike will use to establish the incentives and set aside the resources necessary to bring about change. This national program will be shaped by the best thinking and in the best interests of both providers and consumers.

I believe that the private health insurance industry has failed us. It fails to control costs. It fails to control quality. It provides partial benefits, not comprehensive benefits; acute care, not preventive care. It ignores the poor and the medically indigent.

Despite the fact that private health insurance is a giant $20 billion industry, despite more than three decades of enormous growth, despite massive sales of health insurance by thousands of private companies competing with each other for the health dollar of millions of citizens, health insurance benefits today pay only 40 percent of the total cost of individuals covered by private health care, leaving 60 percent to be paid out of pocket by the patient at the time of illness or as a debt thereafter, at the very time when he can least afford it.

Nearly all private health insurance is partial and limited. For most citizens, their health insurance coverage is more loophole than protection.

Too often, private carriers pay only the cost of hospital care. They force doctors and patients alike to resort to wasteful and inefficient use of hospital facilities, thereby giving further impetus to the already soaring cost of hospital care and unnecessary strains on health manpower.

Valuable hospital beds are used for routine tests and examinations which, under any rational health care system, would be conducted on an outpatient basis.

Unnecessary hospitalization and unnecessarily extended hospital care are encouraged for patients for whom any rational system would provide treatment in other, less elaborate facilities.

There is no way we can use the private health insurance industry to offer all Americans the protection they need. There is no way the Nation can use this industry as a lever to encourage change and reform in the health care system.

It is for these reasons that this legislation proposes to make the Federal Government the health insurance agent in a national program of health security.

GUARANTEES TO THE NATION'S DOCTORS AND OTHER PROVIDERS

America's health professionals are the backbone of health care in the Nation. Without their strong and creative efforts, we will never solve any of our health care problems in America. I intend to protect the rights of America's providers, and assure them their rightful leadership role in any efforts Congress makes to improve our health care system.

The health care crisis in our Nation is as apparent to providers as to the patient. Providers are concerned with disorganization of services, with quality of care, with inadequate and fragmented insurance coverages, and with the shortage and maldistribution of health professionals and facilities. These problems frustrate providers' attempts to serve the people who need care the most. They involve them in a tangle of cumbersome referrals and cross-referrals. They occasionally have him without proper facilities and associates. And the insurance redtape frequently turns the physician into a bookkeeper.

The health security program does not aim at taking responsibility for reform away from the providers. Rather, it offers providers the incentives and resources they need to bring about the reform both they and their patients so badly need. Indeed, the program creates a lever which I hope providers will help to use responsibly to bring about change.

The program's intent is to in fact free providers of some of the constraints that limit them. For example,

The Health Security Act allows all varieties of medical practice—whether solo, fee-for-service practice; or prepaid group practice; or anything in between. It is not the program's intent to stifle any form of practice. Instead, we want to encourage all forms of practice that improve efficiency and quality.

Let me offer a series of guarantees to protect the fundamental principles important to American physicians.

The first guarantee is that the Federal Government in this Nation must not own the hospitals or employ the physicians. I do not want to build a British health care system in the United States. I do not want socialized medicine in America.

I believe in maintaining the free enterprise system in this country and in American medicine. In fact, I would like to see even more variety, and more competition in the health care system between different forms of health care. I look forward to a day when physicians can practice in solo practice, in HMO's, in medical foundations, in large groups, or in any other way that is efficient and beneficial to the patients and doctors, too. I believe we can create a uniquely American health care system that will preserve free enterprise for the doctors, and still offer your patients the financial support and adequate care they need.

The second guarantee is that Americans must not be assigned as patients to one physician or another, or to one organization or another for their health care. I want Americans to have maximum choice in this regard. Only in this way can we produce a system that is fair to doctors and patients alike.

My third guarantee is that the Federal Government must not make medical judgments or interfere in the clinical decisions between a doctor and his patient. What we must do is encourage physicians to take the actions necessary to assure Americans that they are receiving the finest possible care that American medicine can offer.

My fourth guarantee is that we must not create an overarching Federal agency in Washington, telling every area and community in this Nation exactly how they must offer health care. What we must do is to set national guidelines and standards, within which local agencies can develop the best possible health care programs for the doctors and patients in their areas.

I subscribe completely to these guarantees, and I am confident that they will be at the heart of any national health care legislation which Congress may enact.

COMPARISONS WITH OTHER NATIONS

The know-how exists to create a better organized system of health care in America. Other nations have in fact gone ahead of us in this regard. The United States is the only major industrial nation in the world without a system of national health insurance or a national health service. While none of these systems seem suited to America's values and society, they have, in fact, succeeded in moving their nations ahead of our country in many important areas.

In infant mortality, among the major industrial nations of the world, the United States today trails behind 19 other countries, including all the Scandinavian nations, most of the British Commonwealth, Japan, and East Germany. Half of these nations were behind us in the early 1950's.

We trail six other nations in the percentage of mothers who die in childbirth. In the early 1950's, we had the lowest rate of any industrial nation.

Tragically, the infant mortality rate for nonwhites in the United States is nearly twice the rate for whites. And nearly five times as many nonwhite mothers die in childbirth as whites—shameful evidence of the ineffective prenatal and postnatal care our minority groups receive.

The story told by other health indicators is equally dismal. The United States trails 27 other nations in life expectancy for males at age 45, and 11 other nations in life expectancy for females.

In fact, our Nation has the potential for higher levels of health than any of these nations because of our far vaster health care resources, and the brilliant record of American medical research. I believe the health security program is a uniquely American approach to organizing health care that will capitalize on these strengths and preserve the basic values of doctor and patient alike.

THE DEVELOPMENT OF THE HEALTH SECURITY PROGRAM

Walter Reuther, the late president of the United Auto Workers, was among the first to see that financing programs like medicare and medicaid or extensions of private health insurance could not resolve the crisis of disorganization and the spiraling cost of health care. Walter Reuther understood that the Nation needed to take a bold step forward. In November 1968, he announced the formation of the Committee of One Hundred for National Health Insurance. As he said, in establishing the mandate of the committee:

> I do not propose that we borrow a national health insurance system from any other nation. No nation has a system that will meet the peculiar needs of America. I am confident that we have in America the ingenuity and the social inventiveness needed to create a system of national health insurance that will be uniquely American—one that will harmonize and make compatible the best features of the present system, with maximum freedom of choice, within the economic framework and social structure of a national health insurance system.

Joining Walter Reuther on that committee were Dr. Michael E. deBakey, president of Baylor College of Medicine; Mrs. Mary Lasker, president of the Albert and Mary Lasker Foundation; Mr. Whitney M. Young, Jr., executive director of the National Urban League; and other outstanding citizens from the fields of medicine, public health, industry, agriculture, labor, education, the social services, youth, civil rights, religious organizations, and consumer groups. I have had the honor of serving on that committee, along with my former Senate colleagues, Ralph Yarborough, John Sherman Cooper, and William Saxbe.

In its efforts over the past 4 years, the committee has worked to develop a sound program for improving the organization, financing and delivery of health services to the American people. The committee's deliberations were based upon the premise that progress toward a more rational health system should be orderly and evolutionary. The members of the committee felt that a better system of health care for America should rest upon the positive motivations and interests of both consumers and providers of health services. They believed that no system could succeed if it were imposed by fiat through rigid legislation and administrative regulations.

Throughout its deliberations, the committee has been guided by the work of its distinguished technical subcommittee, chaired by Dr. I. S. Falk, professor emeritus of public health of Yale University and the most eminent authority in the field of health economics in the Nation. The committee consulted extensively with representatives of professional associations, consumer organizations, labor unions, business groups, and many other interested organizations. The health security program is the result of these efforts, and it gives careful consideration to the recommendations of all of these groups.

In August 1970, Senators Cooper, Saxbe, Yarborough, and I, together with 11 other Senators, introduced the original version of the health security program as S. 4297 in the 91st Congress.

At the time the bill was originally introduced, Congresswoman Martha Griffiths of Michigan had already introduced legislation in the House of Representatives to create a national health insurance program similar in overall concept to the health security program, and her bill had received the strong endorsement of the AFL–CIO, under the leadership of President George Meany.

These two bills were combined into a strong new Health Security Act of 1971, which was introduced in the 92d Congress as S. 3 and H.R. 22.

THE HEALTH SECURITY ACT OF 1975

The revised Health Security Act of 1975 is the product of this long and arduous process of refinement. Improvements have been made in the areas of care in the home. Other refinements increase the equity of the tax support for the program by increasing the limit on the wage base for the social security tax from $15,000 to $20,000. Essentially, however, this new bill retains the basic principles of the bill first introduced in the 92d Congress.

The 94th Congress faces the greatest need in decades for a program of comprehensive national health insurance. Inflation is driving health care costs to prohibitive levels for more and more Americans, and unemployment will leave millions more without health insurance coverage.

The health security program, S. 3, goes further than any other proposal to control health care costs and assure every American family the health care it needs as a matter of right. Since its design by the Committee of One Hundred, health security has become the standard by which all national health insurance proposals are judged. The proposal has been further improved for the 94th Congress by the Committee for National Health Insurance and the leadership of America's trade union movement.

Health security's principles can unite the Nation better than any other bill. The concept of comprehensive care for all Americans under social security as a matter of right enjoys the broadest popular support of any national health insurance proposal.

I believe it is imperative that we begin our discussion of national health insurance in the 94th Congress with the high standard set by health security. During the last Congress, I introduced a bill designed to implement as much of the health security program as was possible in the 93d Congress. I believe the 94th Congress can do much more, and I hope my colleagues will join me in supporting health security as their legislative goal.

For my colleagues' benefit, I ask unanimous consent to have printed in the Record a description of the major provisions of the bill and a section-by-section analysis.

There being no objection, the material was ordered to be printed in the Record, as follows:

A Complete Plan of Health Care for All Americans

The Health Security Program results from more than four years of intensive study and development by the Committee for National Health Insurance—a group of 100 American leaders from many fields—citizen groups, church groups, labor, consumers, and health professionals.

The formulation of the program has been guided by two basic beliefs:

1. A national program of health security benefits should be created as part of the Social Security system to provide comprehensive health care for everyone living in the United States.

2. The program should be developed to bring about major improvements in the organization, financing and the providing of health care.

INTRODUCTION

National health insurance for the United States is an issue today because our methods of getting and paying for health care are dangerously near total collapse. The evidence is all around us.

We're spending too much for care. The quality of care is not what it should be. The care is not available to many who need it most. Present health insurance pays less than one-third of the health bill for those covered. Millions are not covered.

The best indicator of our overspending is that today the average American spends one month's pay for his health care, a considerably higher total than is spent by the average citizen of any other industrial country.

One major reason for the overspending results from the nation's failure to control runaway costs. In fiscal year 1974, for example, total health costs in the United States were $104 billion, an increase of 10 percent over FY 1973. This was during a period of price controls. Following the lifting of controls on April 30, 1974, health cost inflation accelerated at an annual rate of 18 percent, much faster even than the general inflation.

During the previous five years, total health costs for the country increased an average of 12.8 percent a year. The total cost increase during the past eight years was over $56.1 billion—from $47.9 billion in fiscal year 1967 to $104 billion in fiscal year 1974. Thus, the nation's total health bill jumped well over 100 percent in eight years.

The lack of quality in our health care is indicated by our failure to keep up with other industrial countries in such important health care indices as infant mortality, maternal mortality, and life expectancy. By all these measurements, the United States ranks further behind other industrial countries than it did 15 or 20 years ago.

The questionable quality of our health care is further indicated from various studies showing a very high percentage of today's surgery is unnecessary.

The evidence for the failure of our health care to reach many who need it most is found in these widely accepted statistics: The poor have twice as much illness; four times as much chronic illness; three times the heart disease; five times the eye defects; five times as much mental retardation.

After more than 30 years of trying, private health insurance has failed to come even close to meeting the nation's need for adequate coverage. In fact, private health insurance pays less than one-third of the health costs. The rest comes either out of our own pockets or is paid by the Government.

After 30 years of trying, private health insurance has failed to provide universal coverage. About 40 million Americans have no health insurance. Millions of additional working people and their families do *not* have the security of knowing their hospital and medical costs will be paid during layoffs and periods of unemployment.

Can this country afford to wait for solutions that the private health insurance industry is incapable of providing?

These are the reasons why Health Security is being proposed.

HEALTH SECURITY PHILOSOPHY

The basic purpose of the Health Security program would be to establish a broad system for health care in the United States, not just set up a method of paying the bills for doctors, hospitals and other health services.

It would be equally concerned with making sure health services are available to all Americans, improving the quality of care and holding the costs of the care within reasonable limits.

The program would be a working partnership between the public and private elements of our society concerned with health care. Care would be provided by physicians, hospitals and other private providers in much the same way it is done today, but it would be financed and administered through the Government.

The Health Security program does not envisage a national health service in which the Government owns the facilities, employs the personnel and manages all the finances of the health care system.

Under the program, the funds made available would finance and budget the essential costs of good health care for all Americans. These funds would also build a new capacity to bring adequate, efficient and reliable health care to all.

Over the long run, by revitalizing the existing health care system and ending the runaway costs of health care, the Health Security Program would be far less expensive than the amount we would spend if the present arrangements were to continue.

From the day the Health Security Program begins, it would guarantee a substantial reduction in overall health cost. Even in the first year, the comprehensive services of the program would cost no more than is now paid for partial and inefficient services.

HEALTH SECURITY IN BRIEF

Eligibility.—Everyone living in the United States would be eligible for Health Security benefits.

Benefits.—The Health Security Program

would pay for nearly the entire range of personal health care services including catastrophic coverage. The covered services would include full physicians' services; inpatient and outpatient hospital services; home health services; optometry and podiatry services, and devices and appliances. It would also cover, at the outset, dental care for children up to age 15 and eventually cover the entire population. And, with limitations, psychiatric services, nursing home care and drugs would be covered. It would establish large pilot projects to determine the feasibility of home maintenance care for the chronically ill or disabled.

Administration.—Health Security would be administered by a five-member Health Security Board as part of the Department of Health, Education and Welfare. The Board would establish policy, standards and regulations for the program.

Financing.—The program would be financed from a Health Security Trust Fund created by a special tax on employers, employees and the self-employed, with the entire amount matched by Federal general revenues.

Cost and Quality Controls.—Health Security would establish a Quality Control Commission to develop cost control features, including national standards for health care providers.

Payments to Providers.—Physicians, dentists, hospitals, nursing homes and other health care providers would be paid in full directly from the Health Security Trust Fund. The patient could not be charged more.

Consumer Participation.—Health Security would assure effective participation of consumers in policy, development and administration of the program on the national, state and local levels. It would encourage consumer organizations to establish health care plans. Procedures would be built into the entire system to assure public accountability for its operation.

Manpower Support.—Health Security would actively encourage more efficient organization of existing health manpower and provide funds for special training of health professionals and allied personnel.

Resources Development Fund.—To improve the providing of health care, a Resources Development Fund would be established to support innovative health programs, particularly in manpower, education, training and group practice development.

Incentives.—Financial, professional and other incentives would be built into Health Security to move the health care delivery system toward organized arrangements for patient care, such as health maintenance organizations and other prepaid group practice plans or professional foundations. It would also establish programs for preventive care, early diagnosis of illness and medical rehabilitation.

BENEFITS

Everyone living in the United States would be entitled to have all health care—with few exceptions—paid for by the Health Security Program.

The Program would have no exclusions for pre-existing conditions; no limits on preventive medical services; no co-insurance; no deductibles; no waiting periods.

Here are the details of the services which would be available:

Physicians Services.—Professional services by physicians, furnished in their offices or elsewhere, would be covered in full. This includes general medical and specialized services.

All major surgery and other specialized care would be covered if performed by qualified specialists.

Psychiatric services would be provided to outpatients if given for active treatment of emotional or mental disorders and if provided by comprehensive mental health organizations. Otherwise, there would be a limit of 20 consultations by a psychiatrist during a benefit period.

Dental Services.—At the start, Health Security dental benefits would be limited primarily to children up to age 15, with the coverage including preventive, diagnostic and therapeutic services.

Adults would be entitled initially to certain emergency and rehabilitative services, such as oral surgery to correct accident damage.

The age of eligibility for full dental care would be extended to persons up to age 25 during the first five years of the program's operation and the younger people would remain eligible throughout their lives. The increase of coverage could be accelerated if the Health Security Board believes it is feasible.

Institutional Services.—Health Security would provide full payment for hospital services; skilled nursing home care up to 120 days per benefit period or for an unlimited time if the home is owned or managed by a hospital; other approved non-custodial health services; and, home health services.

The program would also include pathology and radiology services and all other necessary services whether furnished by a hospital or other institution or by others under arrangements with such institutions.

The program would also include recognition as providers of authorized free-standing alcohol, drug abuse, family planning and rehabilitation centers.

Drugs.—Health Security would cover drugs for hospital inpatients and outpatients and for persons enrolled in comprehensive group practice plans and professional foundations as long as the drugs were from an approved list.

For others, drugs would be covered if they were necessary for specified chronic diseases and conditions requiring long or costly drug therapy.

The purpose of the approved drug list—and regular reviews of the list—would be to assure the safety, effectiveness and reasonable cost of the prescribed drugs.

Devices, Appliances and Equipment.—Health Security would provide coverage of therapeutic devices, appliances—including eyeglasses, hearing aids and prosthetic devices—and equipment. An approved list of covered items would be prepared and reviewed regularly.

Other Professional and Supporting Services.—Health Security would cover:

1. Professional services of optometrists and podiatrists;

2. Diagnostic services of independent pathology laboratories;

3. Diagnostic and therapeutic services of independent radiologists;

4. Mental health day care services furnished by a health maintenance organization or comprehensive community health center, or 60 days of care furnished, during or following a benefit period, by a hospital or a center affiliated with a hospital;

5. Ambulance services;

6. Other professional services such as psychological counseling, physiotherapy, nutrition, social work and home care or health education when furnished as part of institutional services or through health maintenance organizations;

7. Diagnostic and therapeutic services of free-standing alcohol, drug abuse, family planning and rehabilitation centers.

Social Care Services.—Grants would be provided to local nonprofit organizations to develop social care services to aid chronically ill, aged and other homebound patients. Under this section, while some measure of local financing is developed, Health Security would cover homemaker services, transportation and other social care services as a demonstration of the usefulness of such benefits in reducing unnecessary long-term institutional care.

ADMINISTRATION

Health Security would be administered at four levels—national, regional, area and local—with some important functions carried out by States.

National.—Overall Health Security policy and regulation would be established and carried out by a five-member, full-time Health Security Board appointed by the President and under the supervision and direction of the Secretary of Health, Education and Welfare.

The members normally would be appointed for five-year terms, with one member serving as chairman and with no more than three members from the same political party. The program would be administered through an Executive Director appointed by the Board.

To assist the Board in carrying out its functions and to advise and recommend various changes or actions, a 21-member National Health Security Advisory Council would be established. A majority of the membership of the Council would be consumers of health services. The Council would be authorized to appoint professional and technical committees to help carry out its functions.

The Secretary, Board and Executive Director would all work to assure effective coordination of Health Security with existing HEW programs—and with programs in the regions and States—for the development of health facilities and manpower resources, medical research and public and community health services.

The Health Security Board would control expenditures from the Health Security Trust Fund, establish national benefit patterns, set standards of participation and develop policy guidelines. The Board would also have the responsibility to assure effective consumer participation and public accountability at all levels.

The Board would also have responsibility for studying systems of paying for services and for planning new developments and improvements for health services.

A Commission on Quality of Health Care would be established and charged with assuring and developing standards for care of high quality.

Regional and Health Service Areas.—At the second and third level of administration for the Health Security Program, 10 regional Health Security offices would be established within the regions of the Department of Health, Education and Welfare and approximately 100 health service areas would be established paralleling the natural medical delivery patterns in the United States.

The health service areas normally would consist of a State or part of a State. Interstate areas would be established where the Board found that patterns of health service organization and patient flow made an interstate area a more practical unit of administration.

Local.—As the fourth level of administration, the Health Security Board would establish in each health service area a local Health Security office and any necessary branch offices.

These offices would assist health service consumers and providers and serve an ombudsman function by investigating complaints concerning administration of the program. They would also have informational and other administrative functions.

States.—States would participate in Health Security in a number of ways. They would participate in planning, training, coordination for quality controls and manpower increases, health education, utilization review and the inspection of providers.

The Health Security Board would establish appropriate payment arrangements with the States for the services.

To improve the supply and distribution of health personnel and facilities and the organization of health services, the Board would work with State comprehensive health planning agencies and with regional medical programs.

Existing Programs Affected.—A number of major Federal health programs would be superseded in whole or in part by Health Security.

Medicare.—Everyone 65 or over, along with the rest of the population, would be entitled to Health Security coverage. Because the benefits of Health Security would be broader than those offered under Medicare, the Medicare program would be terminated.

Medicaid.—Most of the benefits of State Medicaid programs would be available under Health Security. Such benefits would be deleted from Medicaid, leaving it as a supplementary program to Health Security. States would claim partial reimbursement for Medicaid services they provided which exceeded those available under Health Security. This would include long-term nursing home care, drugs for certain purposes and adult dental care. Providing these services would be at the option of the individual States.

CHAMPUS.—Under the Civilian Health and Medical Program of the Uniformed Services, the Defense Department reimburses civilian hospitals and private doctors for the health services of servicemen, their dependents and retirees. Most of CHAMPUS benefits would be available under Health Security; CHAMPUS would provide only those benefits not covered by Health Security.

The Department of Defense program for care in military hospitals of servicemen, their dependents and retirees, would continue unaffected by Health Security.

Workmen's Compensation.—Because separation of the health service benefits of Workmen's Compensation programs from cash payments would unduly complicate the eligibility determination process, Workmen's Compensation would continue unaffected by Health Security.

Other Programs.—Maternal and Child Health Programs, Crippled Children Programs, Office of Economic Opportunity Health Programs and Medical Vocational Rehabilitation provide a range of various services to specific groups. In addition to a personal health service component, each program covers other types of health and community service, such as research and vocational training.

Personal health services provided by these programs would be transferred to Health Security, while all other benefit features would remain with the existing program.

Future Plans.—In order to broaden the scope and benefits of Health Security to remove its initial limitations, the program would undertake various studies, including long-term care, coordination of Veterans Administration health care programs with Health Security, and the provisions of Health Security benefits to United States citizens in other countries.

FINANCING

The financing of Health Security would be through a Health Security Trust Fund, similar to the Social Security Trust Fund.

Fifty percent of the money would come from:

1. A 3.5 percent tax on employer payroll.
2. A 1 percent tax on the first $20,000 a year in wages and non-earned income.
3. A 2.5 percent tax on the first $20,000 a year of self-employment income.

The remaining 50 percent would come from Federal general revenues.

If an employer's existing obligations for the purchase of health benefits for his employees are greater than 3.5 percent of payroll, the excess would be applied toward the 1 percent which would otherwise be withheld from an employee's wages.

The first $3,000 income for persons over 60 would be exempt from Health Security tax.

The total of these taxes and the Government matching funds would be the total available to pay for personal health services in each fiscal year.

After setting aside contingency reserves and money for the development of additional health resources, the remaining money would be divided among the ten regions of the country. This would be done with regard for recent and current use and expenditure patterns for services covered by the program.

Initially, the Health Security Board would look to the latest expenditure, figures available before the program starts, making appropriate adjustments among the regions for figures higher or lower than the average. After that, the allocation among regions would be guided by actual expenditures and estimates of what was needed to meet the program's obligations and objectives.

The Board would budget funds for each of the HEW regions in each category of covered service from the total sum allocated to the region. There would be authority for each region to determine its own needs and priorities in support of services.

Operation of the Health Security Trust fund would be taken out of the consolidated budget, except for Government contributions to the trust funds.

COST AND QUALITY CONTROLS

The central cost control feature of the Health Security program is that the health care system would be anchored to a budget established in advance.

The program's main quality control feature would be the establishment of national standards for participation both for individual and institutional providers.

To develop and enforce such standards, a Commission on the Quality of Health Care would be established. It would be a quasi-independent board reporting to the Health Security Board, but with authority to appeal to the Secretary of Health, Education, and Welfare if it believes the Board has failed to implement or enforce effective quality standards.

Here are the details:

Budgeting.—The Health Security Program would establish an advance budgeting procedure for the costs of personal health services.

Each year an advance determination would be made of the total amount to be spent in the various regions on physicians' services, institutional services and other categories of services provided in local communities.

The cost of each kind of service and the overall cost of the program would be allowed to increase only on a controlled and predictable basis.

The program would use the budgetary process not merely to control costs, but also to strengthen local, State and regional planning, stimulate more efficient institutional administration; and gradually reverse the current undesirable emphasis on inpatient hospital and other institutional services. This would be done by stressing preventive and early curative services and by making alternative levels and forms of care available outside of institutions.

In approving budgets for institutions, the program would consider recommendations and decisions of State and other health planning authorities, administrative efficiency of the institution, scope of care provided and the need to achieve an equitable distribution of resources throughout the region and country.

Wasteful duplication of services and facilities would be gradually eliminated by withdrawal of funding. Institutional budgets would be increased to allow for the provision of services needed for a balanced development of regional resources.

National Standards.—The national standards for provider participation would be designed to upgrade the quality of care, encourage appropriate use of health manpower and promote orderly planning of facilities.

Physicians, dentists, osteopaths, optometrists and podiatrists licensed to practice in a state when the program begins would be eligible to take part in the program as long as they met continuing education requirements.

The Health Security Board would be authorized to establish national standards for professional personnel licensed after the program begins and to set requirements for their continuing education.

Hospitals, skilled nursing homes, home health agencies, specified free-standing centers, medical or dental foundations and health maintenance organizations would be eligible to participate if they met national standards established by the Board.

Federal law would supersede state statutes which restrict the development of group practice programs.

Institutions would be required to establish working relationships with other providers of care so that a patient would have continued and appropriate treatment. Institutions which refused to comply with local and regional plans required by the Board would not be eligible to participate in the program.

PAYMENTS TO PROVIDERS

Hospitals, skilled nursing homes and other types of institutional providers would operate on an approved budget basis rather than being able to charge whatever they decided.

Using the precious year's fiscal experience and taking into account standards of participation, range of desirable services and quality controls required by Health Security, the institutions would develop proposed budgets for the next fiscal year. They would be assisted by the regional and local offices of Health Security in preparation of their budget requests. The budgets would be reviewed and given final approval at the regional office level.

Money allocated for payment of individuals, such as physicians, dentists, podiatrists, etc., would be distributed to local areas within the region. This would be done on a per capita basis with adjustments for differences in the cost of goods and services. The budgeted per capita amount for each type of covered service would be divided between the categories of providers according to the number of individuals who elected to receive care from those providers.

For example: In a city of 100,000 people, 25,000 may be enrolled in health maintenance organizations. If the amount budgeted for physicians services in that area is $65 per capita, the Board would pay the HMOs $1,625,000—$65 × 25,000—for physicians services. Since the other 75,000 individuals elected to receive care from solo, fee-for-service practitioners, the Board would create a fund of $4,875,000—$65 × 75,000—to pay all fee-for-service bills submitted by physicians in the community.

Other independent providers, such as pathology laboratories, radiology services, pharmacies and providers of appliances, would be paid through methods adapted to their characteristics.

Under Health Security, providers would have to agree not to charge individuals for all or part of any service provided. Payment in full would be made directly by the program to the provider or to the agency representing him. There would be no billing of the patient or indemnity payment to him.

Health maintenance organizations and professional foundations accepting responsibility for providing or securing all covered services for a defined population would receive the total amount budgeted and negotiated as payment. They would share also in the savings they helped to achieve by preventing unnecessary hospitalization of their enrollees.

CONSUMER PARTICIPATION

Health Security would rely heavily on the development of new, comprehensive care organizations such as health maintenance organizations (HMOs) and other forms of prepaid group practice plans to improve consumer opportunities for better health care and provide alternatives for better patient care.

Such organizations will be required to provide or arrange for all covered services except mental and dental services. Professional foundations would be required to provide the same range of services as HMOs and to meet the same strict quality standards.

The manner in which services would be paid for recognizes the added value of the comprehensive care programs as more efficient and higher quality to, and satisfaction of, the consumer.

Consumer organizations would be encouraged to give health care a high priority in their overall activities and to sponsor and develop comprehensive community-wide health care organizations. Along with health maintenance organizations to be developed by hospitals, physician groups and combinations of professionals, the programs developed by consumer-sponsored organizations would be supported and recognized by Health Security.

The Health Security Board would assure effective participation by consumers at all levels of policy formulation and program development. There would be a majority of consumer representatives on the National Advisory Council assisting the Board in its continuing administration of the program, and on regional and local advisory councils. The makeup of the councils would have to reflect the composition of the state or community served. There would be public control of the basic policies governing the program and full public accountability for its finances and operations.

MANPOWER SUPPORT

Health Security would actively encourage more efficient organization of existing health manpower, provide funds for special training of physicians, dentists and other health personnel, and apply financial incentives to stimulate the movement of health manpower to medically deprived areas.

Health Security would recognize costs incurred by HMOs in supporting the training and appropriate utilization of allied health professionals. It would pay the full cost of employing support personnel, such as nurse practitioners, public health nurses, nutritionists and community health workers, thus extending the ability of physicians to provide care and giving the consumer access to a wider range of services.

Training funds could be used for the retraining of health workers to enhance or refresh skills or for new positions of greater responsibility.

Money would be available through the Resources Development Fund to stimulate the expansion of training programs for new categories of health professionals, especially those required as members of primary health care teams—such as pediatric nurse practitioners, physicians' assistants and dental hygienists. Emphasis would be placed upon demonstration programs for the training and placement of allied health workers, and support would be available to institutions for the special costs of educating and training minority group and economically deprived students.

The assured purchasing power of a national health program would help to overcome many of the present barriers to recruiting and holding needed health workers in disadvantaged and remote areas. Substantial efforts would be made to enhance the desirability of practice in such areas by improving local resources and providing money for special communication, transportation and consultation costs.

In addition, special incentives would be used to increase the attractiveness of practice in rural or deprived areas for health workers and their families. There would be financial disincentives for the disproportionate clustering of physicians and dentists in a few metropolitan or suburban areas and corresponding incentives for their location in other areas.

RESOURCES DEVELOPMENT FUND

A substantial Resources Development Fund—Administered by the Health Security Board—would help to increase the resources for services and to bring new organized programs of health service into being and to expand existing ones.

The Resources Development Fund would be formed, first, by appropriations from Federal general revenue for the period between enactment and when benefits began, so that system improvements could get underway promptly; and, subsequently, by taking a percentage of the annual income of the Trust Fund (2 percent the first year, increasing in regular intervals to a maximum of 5 percent a year).

A priority would be given in grants and loans to stimulate the development and growth of health maintenance organizations. Essentially, the fund would recognize the responsibility of Health Security to assure the availability of covered health services, and not merely to pay for them. And, it would have concern for the development of services to meet the changing needs of people in the most effective and efficient manner, not merely to build on already overburdened and aften wastefully expensive services.

INCENTIVES

Payment for services provided under Health Security would give special incentives to health maintenance organizations, and medical or dental foundations.

Physicians who became members of primary health care teams and established working relationships with specialists and with such patient-care resources as hospitals, skilled nursing homes and home health facilities, would be reimbursed for the costs of such linkages and would be encouraged to extend their services through such support arrangements.

Health Security would provide support for continuing studies and demonstrations of new and promising methods of organizing health services.

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SECTION-BY-SECTION ANALYSIS OF THE HEALTH SECURITY ACT

TITLE I—HEALTH SECURITY BENEFITS

Part A—Eligibility for benefits

(Sections 11-12.) Every resident of the U.S. (and every non-resident citizen when in the U.S.) will be eligible for covered services. Reciprocal and "buy in" agreements will permit the coverage of groups of non-resident aliens, and in some cases benefits to U.S. residents when visiting in other countries.

Part B—Nature and scope of benefits: Covered services

(Section 21.) Every eligible person is entitled to have payments made by the Board for covered services provided within the United States by a participating provider.

(Section 22.) All necessary professional services of physicians (including preventive care) are covered wherever furnished, with one quantitative limitation. Psychiatric services to an ambulatory patient are covered without limit if the patient seeks care in the organized setting of a group practice organization, a hospital out-patient clinic, or other comprehensive mental health clinic. In these kinds of organized settings, peer review and budgetary controls can be expected to curtail unnecessary utilization.

If the patient is consulting a solo practitioner, however, there is a limit of 20 consultations per benefit period. In communities where psychiatric services are in especially short supply, the Board may prescribe referral or other nonfinancial conditions to give persons most in need of services a priority of access to solo practioners.

(Section 23.) Comprehensive dental services (exclusive of most orthodontia) are covered for children under age 15, with the covered age group increasing by two years each year until all those under age 25 are covered. (Persons once covered remain covered for the rest of their lives). This benefit is limited initially because, even with full use of dental auxiliaries, there is insufficient manpower to provide dental benefits to the entire population. However, the Board is authorized to expand the benefits more rapidly if availability of resources warrants, and the Board is required within seven years of the effective date of the legislation, to establish a timetable for phasing in benefits for the entire population. To encourage the development of groups which provide comprehensive medical and dental services or comprehensive dental services, the Board is authorized to phase in full dental benefits more rapily for the enrollees of those groups than for the general population.

(Section 24.) In-patient and out-patient hospital services and services of a home health agency are covered for the duration of the services, and skilled nursing home services are covered for limited periods. Pathology and radiology services are specifically included as parts of institutional services, thus reversing the practice of Medicare. Domiciliary or custodial care is specifically excluded in any institution, thus necessitating the two important restrictions on payments for institutional care:

(1) Payment for skilled nursing home care is limited to 120 days per benefit period, except that this limit may be increased either when the nursing home is owned or managed by a hospital and payment for care is made through the hospital's budget, or for all nursing homes affiliated with hospitals. It is not practical to assume that the majority of nursing homes and extended care facilities in the country will be able to implement effective utilization review and control plans in the first years of Health Security. The demand for essentially domiciliary or custodial care in nursing homes is so overwhelming that an initial arbitrary limit on days of coverage is necessary. Extension of the benefit is authorized when this becomes feasible.

(2) Many state hospitals do not provide optimal active treatment to their psychiatric patients but rather maintain them in a custodial setting. If Health Security provides unlimited coverage for patients in these hospitals, it might tend to freeze the level of care instead of stimulating these institutions to upgrade their medical care performance. Therefore, the psychiatric hospital benefit is limited to 45 days of *active treatment* during a benefit period.

(Section 25.) The bill provides coverage for two categories of drug use: prescribed medicines administered to in-patients or out-patients within participating hospitals or to enrollees of comprehensive health service organizations, and drugs necessary for the treatment of specified chronic illnesses or conditions requiring long or expensive drug therapy. This will provide coverage of most drug costs for individuals who require costly drug therapy.

The bill requires the Board and the Secretary of HEW to establish two lists of approved drugs. There will be a broad list of approved medicines available for use in institutions and by comprehensive health service organizations and a more restricted list which is available for use outside such organized settings. The restricted list shall stipulate which drugs on it shall be available for treatment of each of the specified chronic diseases. No such restrictions shall be placed upon drug therapy within an institutional setting.

Use of the restricted list will meet the most costly needs for drug therapy while restraining unnecessary utilization. The benefit is more liberal where adequate control mechanisms exist.

(Section 26.) The appliances benefit is similar in concept and operation to the drug benefit, subject to a limitation on aggregate cost. The Board shall prepare lists of approved devices, appliances or equipment which it finds are important for the maintenance or restoration of health, employability or self-management (taking into consideration the reliability and cost of each item). The Board will also specify the circumstances or the frequency with which the item may be prescribed at the cost of the Health Security program.

(Section 27.) The professional services of optometrists and podiatrists are covered, subject to regulations, as are diagnostic or therapeutic services furnished by independent pathology laboratories and radiology services. The care of a psychiatric patient in a mental health day care service is covered for up to 60 days (day care benefits are unlimited if furnished by a group practice organization, by a comprehensive mental health center, or by an approved mental health day care service). Ambulance and other emergency transportation services are covered, as well as non-emergency services where (as in some sparsely settled areas) transportation is essential to overcome special difficulty of access to covered services.

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* Technical Committee Members.

Supporting services such as psychological, physiotherapy, nutrition, social work and health education are covered if they are part of institutional services or are furnished by a group practice organization, individual practice association or certain public or non-profit organizations. This establishes the important principle that these and other supporting services should be provided as part of a coordinated program of health maintenance and care. Psychologists, physical therapists, social workers, etc. will not be permitted to establish independent practices and bill the program on a fee-for-service basis. This is intended to assure that whenever services of this nature are provided they are part of an organized plan of treatment and are germane to the overall care of the patient.

In addition to services available from hospitals, mental health centers or other providers, free-standing alcohol, drug abuse, family planning and rehabilitation centers would be recognized as providers if such centers have an agreement with the Board under section 49(a)(5), (6) and (7).

(Section 28.) Health services furnished or paid for under a workmen's compensation law are not covered. Reimbursement for loss of earnings is so closely interlocked with the health services aspects of workmen's compensation that absorption of the health services portion of workmen's compensation by Health Security could have the effect of delaying findings of eligibility for income payments.

School health services are covered only to the extent provided in regulations.

The Board may exclude from coverage medical or surgical procedures which are essentially experimental in nature. Individuals who enroll in a comprehensive health service organization or enroll themselves with a primary practitioner accepting capitation payments are not entitled to seek covered services from other providers of services (except as specified in regulations). Surgery primarily for cosmetic purposes is excluded from coverage.

The services of a professional practitioner are not covered if they are furnished in a hospital which is not a participating provider. This is intended to discourage physicians from admitting patients to hospitals which cannot or will not meet standards for participation in the program.

Part C—Participating providers of services

(Section 41(a).) Participating providers are required to meet standards established in this title or by the Board under Part H relating to quality of care. In addition, they must agree to comply with such requirements as the Board finds necessary, to assure to their employees, employment rights and working conditions similar to the guarantees of other workers. In addition, they must agree to provide services without discrimination, to make no charge to the patient for any covered service, and to furnish data necessary for utilization review by professional peers, statistical studies by the Board and by the Commission on the quality of the care and verification of information for payments.

(b) A provider's participation may be terminated under procedures described in part G of the bill.

(c) If a provider is merged, consolidated or reorganized, pre-existing employment rights shall be subject to reasonable requirements by the Board for protection of employees' rights.

(Section 42 (a).) Professional practitioners licensed when the program begins are eligible to practice in the State where they are licensed. All newly licensed applicants for participation must meet national standards established by the Board in addition to those required by his State. While stopping short of creating a Federal licensure system for health professionals, this will guarantee minimum national standards. A state-licensed practitioner who meets national standards will be qualified to provide Health Security covered services in any other state. (See also Section 56(a)(1).)

(b) For purposes of this title a doctor of osteopathy is a physician, as is a dentist when performing procedures which, in generally accepted medical practice, may be performed by either a physician or a dentist.

A doctor of optometry or podiatry qualified in accordance with subsection (a) is a physician when furnishing services which are covered services in accordance with regulations issued under Section 27(a) and which he is legally qualified to furnish in the state in which he furnished them.

(Section 43.) This section establishes conditions of participation for general hospitals similar to those required by Medicare. Two requirements not found in the Medicare program are: (1) that the hospital must not discriminate in granting staff privileges on any grounds unrelated to professional qualifications; (2) that the hospital establish a pharmacy and drug therapeutics committee for supervision of hospital drug therapy. Medicare allows any hospital accredited by the Joint Commission on the Accreditation of Hospitals (if it provides utilization review) to participate in the program, thus in effect delegating to the Commission the determination whether the standards are met. This title requires all participating hospitals to meet standards established by the Board.

(Section 44.) Psychiatric hospitals will be eligible to participate only if the Board finds that the hospital (or a distinct part of the hospital) is engaged in furnishing *active* diagnostic, therapeutic and rehabilitative services to mentally ill patients. Psychiatric hospitals are required to meet the same standards as those prescribed for general hospitals in Section 43, and such other conditions as the Board finds necessary to demonstrate that the institution is providing active treatment to its patients. These standards will exclude costs incurred by state mental institutions to the extent they serve domiciliary or custodial functions.

(Sections 45 and 46.) Section 45 establishes conditions of participation for skilled nursing homes similar to those established for extended care facilities under Medicare. Important differences, however, are the requirement for affiliation with a participating hospital or group practice organization (see Section 51(b)) and changes in the requirements for utilization review (see Section 50). Under Section 46 participation by home health agencies will be limited to public agencies and non-profit private organizations—proprietary home health agencies are specifically excluded.

(Section 47.) Subsection (a) describes a group practice organization (one type of health maintenance organization) which undertakes to provide an enrolled population either with complete health care or, at the least, with complete Health Security services (other than mental health or dental services) for the maintenance of health and the care of ambulatory patients. The bill, in its aim to improve the methods of delivery of health services, places much emphasis on the development of new organizations of this kind and the enlargement of old ones.

Other requirements are spelled out in this section: The organization must furnish medical services (and dental services if they are included) through prepaid group practice. Other services must be furnished by staff of the organization or by contractors for whom the organization assumes responsibility, except that institutional services may be provided by arrangements with other participating providers at the expense of the group practice organization. The organization must be non-profit, but it may utilize proprietary providers in fulfilling its responsibilities.

All persons living in or near a specified service area will be eligible to enroll during an annual open enrolment period, subject to the capacity of the organization to furnish care. Services must be reasonably accessible to persons living within the specified service area. Periodic consultation with representatives of enrollees is required, and they must be given opportunity to participate in policy formulation and in evaluation of operation. Professional policies and their effectuation, including monitoring the quality of services and their utilization, are to be the responsibility of a committee or committees of physicians (and other health professionals where appropriate). Health education and the use of preventive services must be stressed, and lay persons are to be employed so far as is consistent with good medical practice. Charges for any services not covered by Health Security must be reasonable. Finally, the organization must agree to pay for services furnished by other providers in emergencies, either within the service area of the organization or elsewhere, but may meet this requirement to the extent feasible through reciprocal service arrangements with other organizations of like kind.

Subsection (b) makes clear that the organization, or professionals furnishing services for it, may also serve non-enrollees, with payment to be made to the organization, or, at its request, to such professionals.

(Section 48.) An individual practice association (another type of health maintenance organization, sponsored by a county or other local medical society, which meets all the conditions for participation by a group practice organization other than the requirement of group practice. All physicians practicing in the area (and all dentists if dental services are furnished) must be permitted to become professional members, subject only to criteria, approved by the Board, relating to professional qualifications. For professional services to enrollees, professional members may be compensated by the foundation by whatever method, including fee-for-service, may be agreed upon by it and its members.

Subsection (b) provides that a professional member may furnish services to persons not enrolled in the association and receive payment from the Board on the same basis as independent practitioners, except that if he is paid by capitation, salary, or stipend by the association, the payment for services to non-enrollees is to be made to the association.

(Section 49.) This section deals with several classes of health organizations that vary widely, even within a single class, in their structure and in the scope of the services which they offer. Because statutory specifications cannot well be tailored to so many variables, the section sets forth only a general statement of the kinds of organizations to which it relates and leaves participation of each organization to a case-by-case decision of the Board on such terms as the Board deems proper.

Subsection 49(a)(1) permits the participation of community health centers or the like which, though furnishing a broad range of ambulatory services, do not serve an enrolled or otherwise predetermined population and may not meet some other requirements of section 47(a). Subsection (a)(2) authorizes the Board to deal separately with the primary care portion of a system of comprehensive care where it is necessary to rely on arrangements with other providers, rather than on a unified structure, to round out the other elements of the system. Where organizations meeting the extensive requirements of section 47(a) or 48(a) are not available, these two paragraphs of section 49(a) will give the Board flexibility in furthering one of the bill's prime objectives, the development and broad availability of comprehensive services furnished on a coordinated basis.

Because of the extent to which mental health services are separated from other health care, subsection (a)(3) permits the Board to contract directly with public or other nonprofit mental health centers and mental health and day care services.

If a state or local public health agency is providing preventive or diagnostic services, such as immunization or laboratory tests, the Board may under subsection (a)(4) contract with it for the continuance of these services.

In accordance with regulations, the Board may contract with free standing ambulatory treatment centers for alcoholism and/or drug abuse; for family planning services; and for rehabilitation services.

In the field of private practice, physicians or dentists or other practitioners may group themselves in a clinic, nonprofit or proprietary, or in any number of other ways, and it may be more convenient both to them and to the Board to regard them as an entity than to deal with each practitioner separately. Subsection (a)(8) permits this. The Board will have wide discretion in contracting with such entities subject only to the limitation that, like other organizations described in section 49(a), the entity may not (under section 88(a)) be paid on a fee-for-service basis. Practitioners who elect that method of payment may of course pool their bills for submission to the Board, but there is no reason to contract with a unit for the payment of fees to it.

Subsection (b) makes clear that agreements with the Board under this section shall not (unless expressly so stipulated) preclude practitioners furnishing services under the agreements from furnishing other services as independent providers.

(Section 50.) This section specifies the broad and general conditions under which independent pathology laboratories, independent radiological services, providers of drugs, devices, appliances, equipment, or ambulance services may qualify as providers under Health Security. As under Medicare, a Christian Science Sanatorium qualifies if operated, or listed and certified, by the First Church of Christ, Scientist, Boston.

(Section 51.) The requirements of utilization review in hospitals and skilled nursing homes are in the main similar to those which Medicare has, since 1966, imposed with respect to services to aged patients. In Health Security the requirements will of course apply to the entire population. As in Medicare, the review is designed to serve a dual purpose: identification of certain specific misuses of the institutional services with a view to their termination, and a focusing of continuing attention and concern of the medical staff on the necessity for efficient utilization of institutional resources. Section 51(a) strengthens the educational aspect of the process by requiring specifically that records of reviews be maintained and statistical summaries of them be reported periodically to the institution and its medical staff (and, on request, to the Board). As under Medicare, the review committee will consist of two or more physicians, with or without other professional participation; and in the case of hospitals, will normally be drawn from the medical staff unless for some reason an outside group is required. For skilled nursing homes, on the other hand, section 51(c) departs from Medicare by permitting as an alternative that the Committee be established by the State or local public health agency under contract with the Board, or failing that, by the Board. If the nursing home operates under a consolidated budget with a hospital, the review will be made by the hospital committee. Like Medicare, Section 51(d) and (e) call for review of specific long-stay cases as required by regulations, and notification to the institution, the attending physician, and the patient when a decision adverse to further institutional services is made.

(Section 52.) Subsection (a) of Section 52 is also like Medicare in requiring a participating skilled nursing home to have in effect an agreement with at least one participating hospital for the transfer of patients and medical and other information as medically appropriate. Subsection (b) introduces a requirement, applicable two years after the effective date of health benefits to both skilled nursing homes and home health service agencies, of affiliation with a participating hospital or group practice organization. Unless the medical staff of the hospital or organization undertakes to furnish the professional services in the nursing home or the professional services of the home health service agency, that medical staff or a committee of it must assume responsibility for these services. Subsection (c) allows the Board to waive the application of either of these requirements to a skilled nursing home or a home health agency which the Board finds essential to the provision of adequate services, if (but only for as long as) lack of a suitable hospital or organization within a reasonable distance makes a transfer or an affiliation agreement impracticable.

(Section 53.) If the construction or substantial enlargement of a hospital, skilled nursing home, or ambulatory care facility has been undertaken after December 31 of the year of enactment, without either a State certificate of need or a prior approval by a planning agency designated by the governor of the State or the Board, section 53 precludes the institution from participating in the Health Security program, except that in case of enlargement, the Board may permit participation subject to reduction in reimbursement for services. This should greatly strengthen state and local planning authorities.

(Section 54.) This section prohibits double recovery in malpractice litigation by stipulating that no damages will be awarded to the injured party for remedial services which are available without cost under the Health Security program.

(Section 55.) Institutions of the Department of Defense and the Veterans' Administration, and institutions of the Department of Health, Education, and Welfare serving merchant seamen or Indians or Alaskan natives, are excluded by section 55 from serving as participating providers, as is also any employee of these institutions when he is acting as an employee. The Board will, however, provide reimbursement for any services furnished (in emergencies, for example) by these institutions or agencies to eligible persons who are not a part of their normal clientele. It will also provide reimbursement for services furnished by the Public Health Service under the Emergency Health Personnel Act of 1970.

(Section 56.) This section overrides, for purposes of the Health Security Program, State laws of several kinds which inhibit the utilization or the mobility of health personnel, cloud the legality of so-called "corporate practice" of health professions, or restrict the creation of group practice organizations. The authority of Congress to do this, in conjunction with a program of Federal expenditure to provide for the general welfare, flows from the Supremacy Clause of the Constitution and seems now to be clearly established. *Ivanhoe Irrigation District v. McCracken*, 357 U.S. 275 (1958); *King v. Smith*, 392 U.S. 309 (1968).

The first three paragraphs of subsection (a), while stopping short of creating a system of Federal licensure for health personnel, will greatly facilitate both the interstate mobility of State licensees and the effective use of ancillary personnel in the furnishing of health care. The dispensations contained in these paragraphs will be available to persons who meet national standards established by the Board.

Paragraph (1) permits a physician, dentist, optometrist, or podiatrist, licensed in one State and meeting the national standards, to furnish Health Security benefits in any other State, the scope of his permissible practice being governed by the law of the State in which he is practicing. This paragraph obviates the difficulty and cost which a practitioner may encounter, especially where reciprocity of licensure is not available, in taking up practice in a State in which he has not been licensed.

Paragraph (2) grants a similar authority to other health professional and non-professional personnel. For occupations such as pharmacy and professional nursing, which are subject to licensure in all States, a person can avail himself of this paragraph only if he is licensed in one State and meets the national standards; in other cases, where licensure is not universally required, compliance with national standards is sufficient. Here again, impediments to mobility created by existing licensure laws will be removed.

The restrictions which many professional practice acts impose on the use of lay assistants, and the legal uncertainties which often deter such use, discourage practices that can increase greatly, without sacrifice of safety, the volume of services which professionals can render. Accordingly, paragraph (3) of subsection (a) enables the Board to permit physicians and dentists, participating in public or non-profit hospitals and group practice organizations, to use ancillary health personnel, acting under professional supervision and responsibility, to assist in furnishing Health Security benefits. Such assistants may do only things which the Board has specified, and may be used only in the context of an organized medical staff or medical group. Persons employed as assistants must not only meet national standards for their respective occupations, but must also satisfy special qualifications that the Board may set for particular acts or procedures.

In the interest of encouraging salaried practice and the integration of professional practitioners into well-structured organizations for the delivery of health services, paragraph (4) of subsection (a) does away with the "corporate practice" rule insofar as it concerns participating public or other non-profit hospitals and group practice organizations. These institutions may employ physicians or make other arrangements for their services, unless in the unlikely event that the lay interference with professional acts or judgments should be threatened. No conflict of interest results from such arrangements; in the non-profit setting loyalty to employer and loyalty to patient run parallel.

Some State laws place restrictions of one kind or another on the incorporation of group practice organizations. When these restrictions prevent the State incorporation of an organization meeting the strict requirements of the Health Security Act, section 56(b) empowers the Secretary to incorporate it for purposes of the Act. Except for the special restrictions, State law will govern the corporation.

Part D—Trust fund; allocation of funds for services

(Section 61.) By section 406(a) of the present bill, section 1817 of the Social Security Act, creating the Federal Hospital Insurance Trust Fund, is amended and transferred to become section 61 of the Health

Security Act. The fund will thus become the Health Security Trust Fund, succeeding to the assets and liabilities of both medicare trust funds, and receiving the proceeds of the health security taxes imposed by title II of the Health Security Act and the authorized appropriations from general revenues equal to 100 percent of those tax receipts.

The Fund will also receive recoveries of overpayments, and receipts from loans and other agreements. To implement the role of the Trust Fund, the Managing Trustee (the Secretary of the Treasury) will make payments from the Trust Fund provided for under Title I, as the Board certifies, and with respect to administrative expenses as authorized annually by the Congress.

(Section 62.) The Health Security program is intended to operate on a budget basis overall. Accordingly, subsection (a) requires the Board to determine for each fiscal year the maximum amount which may be available for obligation from the Trust Fund. The amount so determined in advance (by March 1 preceding each fiscal year) shall not exceed the smaller of two stated limitations. The first limit is fixed on 200% of the expected net receipts from all the Health Security taxes (i.e., the tax receipts augmented by 100% thereof, to be appropriated into the Fund from general revenues of the Government.) The second limit, applicable to each fiscal year after the first full fiscal year of benefit operation (i.e., after fifteen months' availability of covered services), is an amount equal to the estimated obligations of the current year (within which the estimate is being made), subject to certain adjustments. Such adjustments will reflect change expected in: (A) the price of goods and services; (B) the number of eligible persons; (C) the number of participating professional providers, or the number or capacity of institutional or other participating providers so far as such changes are not already adequately reflected; and (D) the expected cost of program administration.

In the interest of prudent fiscal management, subsection (b) requires the Board to restrict its estimate of the amount available for obligation in the next fiscal year (in accordance with subsection (a)) if the Board estimates that the amount in the Trust Fund at the beginning of the next fiscal year will be less than one-quarter of the total obligations to be incurred for the current year, and that such restriction will not impair the adequacy or quality of the services to be provided. Also, the Board is required to reduce its alternative estimate of the maximum amount to be available if it finds that the aggregate cost to be expected has been reduced (or an expected increase has been lessened) through improvement in organization and delivery of service or through utilization control.

Subsection (c) provides against various other contingencies which may result in increase or decrease in the estimate of the maximum amount to be available for obligation in a next fiscal year. The amount may be modified before or during the fiscal year: if the Secretary of the Treasury finds that the expected Health Security tax receipts will differ by 1 percent or more from the estimate used under subsection (a); or if the Board finds that either its factors of expected change or the cost of administration is expected to differ from the estimate by 5 percent or more; or if an epidemic, disaster or other occurrence compels higher expenditure than had been expected. If, as a result, the maximum estimate has to be increased (rather than being decreased), the Board (through the Secretary) shall promptly report its action to the Congress with its reasons.

(Section 63.) Subsection (a) provides that separate accounts shall be established in the Health Security Trust Fund—a Health Services Account, a Health Resources Development Account, and an Administration Account, as well as a residual General Account. Subsection (b) provides that in each of the first two years of program operation, 2 percent of the Trust Fund shall be set aside for the Health Resources Development Fund; and the allocation shall increase by 1 percent at two-year intervals to 5 percent within the next 6 years. The money in this account will be used exclusively for the planning and system improvement purposes described in part F.

(c) (d) After deducting the amount approved by Congress and transferred to the Administration Account, the remainder of the monies shall be allocated to the Health Services Account, and shall be used exclusively for making payment for services in accordance with part E.

(Section 64.) This section provides for allocation of the Health Services Account among the regions of the country. (a) The allocation to each region shall be based on the aggregate sum expended during the most recent 12-month period for covered services (with appropriate modification for estimated changes in the price of goods and services, the expected number of eligible beneficiaries, and the number of participating providers). (b) In allocating funds to the regions the Board shall seek to reduce, and over the years gradually eliminate, existing differences among the regions in the average per capita amount expended upon covered health services (except when these reflect differences in the price of goods and services). To accomplish this, the Board will curtail increases in allocations to high expenditure regions and stimulate an increase in the availability and utilization of services in regions in which the per capita cost is lower than the national average. (c) A contingency reserve of up to 5% may be withheld from allocation. If the remaining funds available are inadequate, allocations will be reduced pro rata. (d) Allocations may be modified before or during a fiscal year if the Board finds this is necessary.

(Section 65.) The Board will divide the allocation to each region into funds available to pay for: institutional services; physician services; dental services; furnishing of drugs; furnishing of devices, appliances and equipment; and other professional and supporting services, including subfunds for optometrists, podiatrists, independent pathology laboratories, independent radiology services, and other items. The percent allocated to each category of service may vary from region to region. In determining allocation to these funds they will be guided by the previous years' expenditures for each category of service but also take into account trends in the utilization of services and the desirability of stimulating improved utilization of resources. It will encourage a shift from heavy reliance on institutional care to better utilization of preventive and ambulatory services.

(Section 66.) These regional funds will be sub-divided among the health service areas in each region, primarily upon the basis of the previous years' expenditure for each kind of service. Again, the Board will gradually attempt to achieve the equalization of services within each region by restraining the increase of expenditures in high cost areas and channeling funds into health service areas with a low level of expenditures.

(Section 67.) Before or during a fiscal year, the division of regional funds by classes of service or the allotments to health service areas may be modified if necessary or if indicated by newly acquired information.

(Section 68.) By the time Health Security benefits become available, the Government will be operating on a fiscal year beginning on October 1, instead of July 1 as at present. This section accordingly allows the Board to make the initial determinations and allocations under this part either for the three-month period from the effective date of benefits on July 1 until the beginning of the next fiscal year or for the fifteen-month period which includes the next fiscal year.

Part E—Payment to providers of services

(Section 81.) Payments for covered services provided to eligible persons by participating providers will be made from the Health Services Account in the Trust Fund.

(Section 82.) This section delineates methods of paying professional practitioners. Every independent practitioner (physician, dentist, podiatrist, or optometrist) shall be entitled to be paid by the fee-for-service method (subsection (a)), the amounts paid being in accordance with relative value scales prescribed after consultation with the professions (subsection (g)). Each physician engaged in general or family practice of medicine in independent practice may elect to be paid by the capitation method if he agrees to furnish individuals enrolled on his list with all necessary and appropriate primary services, make arrangements for referral of patients to specialists or institutions when necessary, and maintain records required for medical audit; and independent dentist practitioners may elect the capitation method of payment similarly (subsection (b)).

These requirements in connection with capitation payments are intended to assure that the physician (or dentist) provides to his patients all professional services within the range of his undertaking and secures other needed services by referral. Through regular medical audits, the Board will monitor the level and quality of care provided.

When necessary to assure the availability of services in a given area, subsection (c) permits paying an independent practitioner a full-time or part-time stipend in lieu of or as a supplement to other methods of compensation. This method of payment will be used selectively by the Board, mainly to encourage the location of practitioners in remote or deprived areas. Practitioners may also be reimbursed for the special costs of continuing education required by the Board and for maintaining linkages with other providers—for example, communication costs. Incentives operative under this provision will encourage physicians to improve the quality and continuity of patient care, even if the physician does not participate in a group practice. The Board may pay for specialized medical services on a per session or per case basis, or may use a combination of methods authorized by this section.

Subsection (d) defines the capitation method of payment.

Subsections (e), (f), (g). These subsections describe the method to be used in applying, as between practitioners electing the various methods of payments, the monies available in each health service area for payment to each category of professional providers. From the amount allocated to each service area, the Board will earmark funds sufficient to pay practitioners receiving stipends and for the professional services component of institutional budgets, such as hospitals. The remainder of the money will be divided to compute the per capita amount available for each category of service (i.e., physicians, dentists, podiatrists, optometrists) to the residents of the area. This per capita amount in each category will fix the capitation payments to organizations that undertake to provide the full range of services in that category to enrolled individuals. Lesser amounts will be fixed for more limited services. For example, if the per capita amounts available for physician and dental services are $65 and $25, respectively, primary physicians accepting capitation payments will receive the percentage of that $65 which is allocated for primary services, a medical society-sponsored individual practice association would receive the entire $65 for physician services, dentists furnishing all covered services would receive the $25 allocated for dental services, and organizations which undertake to provide all physician and dental services to enrolled individuals will receive $90 for each enrolled individual.

The budget per capita amount for each type of covered service (physician, dental, etc.) will be divided between the categories of providers of service according to the number of individuals who elect to receive care from those providers. For example, in a city of 100,000 people, 25,000 may enroll in a group practice organization. Using the figures cited in the example above, the Board will pay the group practice organization $1,625,000 ($65 × 25,000) for physician services. The other 75,000 individuals elect to receive their physician services from solo, fee-for-service practitioners. The Board will create a fund of $4,875,000 ($65 × 75,000) to pay all fee-for-service bills submitted by physicians in that community, in accordance with relative value scales and unit values fixed by the Board. The fund for fee payments will be augmented to the extent that some capitation payments have been lowered because they cover only primary services, and may be augmented further where a substantial volume of services is furnished, on a fee basis, to non-residents of the area.

Subsection (h) authorizes the Board to experiment with other methods of reimbursement so long as the experimental method does not increase the cost of service or lead to overutilization or underutilization of services.

(Section 83.) Hospitals will be paid on the basis of a predetermined annual budget covering their approved costs. To facilitate review of these budgets, the Board will institute a national uniform accounting system. Subsection (b) stipulates that the costs recognized for purposes of the budget will be those incurred in furnishing the normal services of the institution except as changed by agreement, or by order of the Board under section 134. This will enable the Board, on the basis of State and local planning, to eliminate, gradually, wasteful or duplicative services, and also to provide for an orderly expansion of hospital services where needed.

Physicians and other professional practitioners whose services are held out as available to patients generally (such as pathologists and radiologists) will be compensated through the institutional budget, whatever the method of compensation of such practitioners and whether or not they are employees of the hospital. This departs from the practice in Medicare which allows independent billing by such physicians. The institution's budget may also be increased to reflect the cost of owning or operating an affiliated skilled nursing home, or home health service agency. Hospital budgets will be reviewed by the Board, locally or regionally, which may permit participation by representatives of the hospitals in each region. Budgets may be modified before, during, or after the fiscal year if changes occur which make modification necessary.

(Section 84.) If an entire psychiatric hospital is found by the Board to be providing active treatment to its patients, and the institution is therefore primarily engaged in providing covered services to eligible beneficiaries, it will be paid on the same basis as a general hospital (on the basis of an approved annual budget). Otherwise the Board will negotiate a patient-day rate to be paid for each day of covered service provided to an eligible beneficiary.

(Section 85.) This section provides that skilled nursing homes and home health agencies will be paid in the same manner as a general hospital (on an approved annual budget basis). The Board may specify use of nationally uniform systems of accounting and may prescribe by regulation the items to be used in determining approved costs and the services which will be recognized in budgets.

(Section 86.) Reimbursement for drugs will be made to the dispensing agent on the basis of an official "product price" for each drug on the approved list, plus a dispensing fee in the case of an independent pharmacist. The official product price will be set at a level which will encourage the pharmacy to purchase substantial quantities of the drug (this should result in significant reductions in the unit cost of each drug). The official price may be modified regionally to reflect differences in cost of acquiring drugs. The Board will establish dispensing fee schedules for reimbursing independent pharmacies. These schedules will take into account regional differences in costs of operation, differences in volume, level of services provided and other factors.

(Section 87.) Subsections (a) and (b) provide that a group practice organization or individual practice association will be paid a basic capitation rate multiplied by the number of eligible enrollees. The amount of the capitation rate will be determined by the per capita amounts available for the several professional services in the area, and a rate fixed by the Board as the average reasonable and necessary cost per enrollee for other covered services.

Subsection (c) fixes capitation amounts for institutional services based on per diem rates derived from the budgets of participating institutional providers or institutions with which the organization or association may have a contractual agreement. The organization or association will be entitled to share in up to 75% of any savings which are achieved by lesser utilization of institutional services by its enrollees. Entitlement to such savings is conditional upon a finding by the Board that the services of the organization or association have been of high quality and adequate to the needs of its enrollees, and that the average utilization of hospital or skilled nursing services by the enrollees of the organization or association is less than the use of such services by comparable population groups not so enrolled but under otherwise comparable circumstances. This money may be used by the organization or association for any of its purposes, including the provision of services which are not covered under the Health Security program.

Subsection (e) directs the Board to allow organizations and associations to reinsure with the Board against catastrophic costs incurred on behalf of any one enrollee, against some or all of the costs of institutional care which it contracts out, and against some or all of the costs of out-of-area services.

Subsection (f) permits the Board to make an additional payment to group practice organization for the cost of clinical education or training provided by the organization.

(Section 88.) Subsection (a) provides that an organization or agencies with which the Board has entered into an agreement under section 49 (such as a neighborhood health center, a non-profit mental health center, or local public health agency furnishing preventive or diagnostic services) may be paid by any method agreed upon other than fee-for-service.

Subsection (b) provides that independent pathology or radiology services may be paid on the basis of an approved budget or such other methods as may be specified in regulations.

Subsection (c) leaves the method of payment for other types of supporting services to be specified in regulations.

(Section 89.) This section provides that the Board will reduce payments to institutional providers in accordance with findings by the Secretary that a facility or any part of a facility has not been built in compliance with the area health plan.

(Section 90.) All participating providers will be paid from the Health Services Account in the Trust Fund at such time or times as the Board finds appropriate (but not less often than monthly). The Board may make advance payment to supply providers with working funds when it deems advisable.

Part F—Development Fund

Subpart 1—Planning: Funds To Improve Services and To Alleviate Shortages of Facilities and Personnel

(Section 101.) This section sets forth the general purposes of subpart 1 of Part F. The subpart enables the Board, through selective financial assistance, to stimulate and assist in the development of comprehensive services, the education and training of health personnel who are in especially short supply, and the betterment of the organization and efficiency of the health delivery system. In carrying out these functions, the Board is to be guided by the planning with respect to health facilities and the organization of services which will be conducted under the recently enacted title XV of the Public Health Services Act, when and as the new processes become operative. In the meantime it will be guided by such planning as is conducted by the Secretary under section 102. With respect to the supply and distribution of health personnel, the Board will also rely on planning conducted by the Secretary.

(Section 102.) Subsection (a) directs the Secretary, in effect, to fill in the gap in facility and services planning until the new processes can begin to produce results, addressing himself immediately to the most acute shortages and maldistributions of facilities and the most serious deficiencies in organization. He is directed to consult with, and utilize the experience and recommendations of, both existing State and local health planning agencies and the new agencies as they emerge.

Subsection (b) places on the Secretary a continuing duty to plan for improvement of the supply and distribution of health personnel, and to do this in consultation both with the health planning agencies and with appropriate professional organizations.

Thus, the bill takes advantage of the new legislation strengthening State planning agencies, focusing in them eventually the responsibility, visualized in the "Partnership-for-Health" legislation but in many States not realized as an operating reality, for pulling together all health planning efforts within their territories. Recognizing, however, that it will take time to make new arrangements effective, the bill charges the Secretary with bringing all available experience and skills to bear on the immediate need to identify the most pressing requirements in preparation for the availability of Health Security benefits. These tasks will not be easy, but they are lent new urgency by the Health Security Program.

(Section 103.) In administering subpart 1, this section stipulates, the Board will give priority to improving comprehensive health services for ambulatory patients through the development or expansion of group practice organizations and community health centers, and primary care centers (where full service organizations are impractical), the recruitment and training of personnel, and the strengthening of coordination among providers of services. Funds will not be used to replace other Federal financial assistance, and may supplement other assitance only to meet specific needs of the Health Security program. Other Federal assistance programs are to be administered when possible to further the objective of Part F, and the Board may provide loans or interest subsidies to help the beneficiaries of other programs to meet the requirements for non-Federal funds.

(Section 104.) Help of several kinds will be available under this section for the creation or the enlargement of group practice organizations to serve an enrolled population on a capitation basis, agencies such as neighborhood health centers which need not require enrollment in advance, primary care centers, or organizations furnishing comprehensive dental services.

Grants may be made to any public or other non-profit organization (which need not be a health organization) to help meet the cost, other than construction cost, of establishing such organizations, and to existing organizations to help meet the cost of expansion: the maximum grants being, in the former case 90 percent of the cost, in the latter 80 percent. The Board may also provide technical assistance for these purposes. Loans may be made for the cost of necessary construction, subject to the same 90 and 80 percent limitation on amount. Finally, start-up costs of operation of these organizations may be underwritten, for five years in the case of organizations which must build up an enrollment to assure operating income, and in other cases until the Health Security program begins payment for services in the first year of entitlement to benefits. The effect of these several provisions is to reduce sharply, if not eliminate, the financial obstacles which have heretofore impeded the growth of group practice and similar organizations.

(Section 105.) This section contains a series of provisions to assist in the recruitment, education, and training of health personnel. The Board will establish priorities to meet the most urgent needs of the Health Security system, but the priorities will be flexible both as between different regions and from time to time. Professional practitioners will be recruited for service in shortage areas, both urban and rural, and in group practice organizations, and such practitioners may be given income guarantees. Other Federal assistance for health education and training will be availed of, but the Board may supplement the other assistance if the Board believes it inadequate to the needs, until Congress has had opportunity to review its adequacy. The training authorized includes retraining. It also includes the development of new kinds of health personnel to assist in furnishing comprehensive services, and the training of area residents to participate in personal health education and to serve liaison functions and serve as representatives of the community in dealing with health organizations. Grants may be made to test the utility of such personnel, and to assist in their employment before the effective date of health benefits. Education and training are to be carried out through contracts with appropriate institutions and agencies, and suitable stipends to students and trainees are authorized. Physicians will be recruited and trained to serve as hospital medical directors.

Finally, special assistance may be given, both to institutions and to students, to meet the additional costs of training persons disadvantaged by poverty, membership in minority groups, or other cause.

(Section 106.) This section authorizes special improvement grants: first, to any public or other nonprofit health agency or institution to establish improved coordination and linkages with other providers of services; and, second, to the organizations described in section 104 to improve their utilization review, budget, statistical, or records and information retrieval systems, to acquire equipment needed for those purposes, or to acquire equipment useful for mass screening or for other diagnostic or therapeutic purposes.

(Section 107.) This section provides that loans under part F are to bear 3 percent interest and to be repayable in not more than 20 years. Other terms and conditions are discretionary with the Board, except for required compliance with the Davis-Bacon Act. Repayment of loans made from general appropriations will go to the general fund of the Treasury; repayment of later loans will revert to the Health Resources Development Account in the Trust Fund.

(Section 108.) This section specifies that payments under part F shall be in addition to, and not in lieu of, payments to providers under part E.

Subpart 2—Programs of Personal Care Services.

(Section 111.) The purpose of this subpart is stated in this section, to encourage and assist in the development of community programs of maintaining in their own homes, by means of comprehensive health and personal care services, disabled or chronically ill persons who otherwise require or are likely to require institutional care. It is intended that a grant be made in any community that can develop a satisfactory program and such non-Federal financing as the Board finds appropriate.

(Section 112.) This section authorizes grants to public or nonprofit agencies for this purpose, each program being designed to serve a substantial urban or rural population. Grants may be made for up to four years, and shall be irrevocable except for cause.

(Section 113.) The services to be provided include, in addition to covered health services, combinations of personal care services (such as homemaker and home maintenance services, laundry, meals-on-wheels and other dietary services, help with transportation and shopping, and other appropriate services). Different services may be provided in different programs. Full coordination with existing community health or personal care programs is required. Committees are to be established, consisting of professionals and representatives of users of the services, to screen applications for assistance and monitor utilization.

(Section 114.) Grantees must evaluate their programs with respect both to benefits to users of the services and to the fiscal impact on the Health Security system. The Board is also to evaluate each program and summarize its conclusions in its annual reports to Congress.

(Section 115.) Within three years the Board is to make a comprehensive report to Congress on this program with an evaluation of its operation. The Board is to submit also its recommendations of methods of developing, as widely and rapidly as practicable, personal care services where they are then lacking, with a view to making such services generally available throughout the United States; its recommendations with respect to the continuing financial support of such programs; and its recommendations on the proper role of the Health Security program in providing long-term institutional care and in providing personal care services in lieu thereof.

Subpart 3—Availability of funds

(Section 120.) For the two-year "tooling-up" period, appropriations of $200 and $400 million are authorized for financial assistance. Beginning with the effective date of health benefits, percentages of the Trust Fund expenditures will be earmarked for such assistance (section 63). From that date on, the leverage of these expanding funds will supplement and reinforce the incentives, which are built into the normal operation of the Health Security program, for improvement of the organization and methods of delivery of health services.

Part G—Administration

This part of the bill creates an administrative structure within the Department of Health, Education, and Welfare with responsibility for administration of the Health Security program. Program policy will be made by a five-member Board, under the supervision of the Secretary of HEW. The Board will be assisted by a National Health Security Advisory Council which will recommend policy and evaluate operation of the program, and an Executive Director who will serve as Secretary to the Board and chief administrative officer for the program. Administration of the program will be greatly decentralized among the HEW Regional Offices. Regional and local health services advisory councils will advise on all aspects of the program in their regions and local areas. The Board may also appoint such professional or technical committees as it may deem necessary.

(Section 121.) This section establishes a five-member full-time Health Security Board serving under the Secretary of Health, Education, and Welfare. Board members will be appointed by the President with the advice and consent of the Senate, for five-year overlapping terms. Not more than three of the five appointees may be members of the same political party. A member who has served two consecutive terms will not be eligible for reappointment until two years after the expiration of his second term. One member of the Board shall serve as chairman at the pleasure of the President.

(Section 122.) This section charges the Secretary of HEW and the Board with responsibility for performing the duties imposed by this title. The Board shall issue regulations with the approval of the Secretary. It is required to engage in the continuous study of operation of the Health Security program; and, with the approval of the Secretary, to make recommendations on legislation and matters of administrative policy, and to report to the Congress annually on administration and operations of the program. The report will include an evaluation of adequacy and quality of services, costs of services and the effectiveness of measures to restrain the costs. The Secretary of HEW is instructed to coordinate the administration of other health-related programs under his jurisdiction with the administration of Health Security, and to include in his annual report to the Congress a report on his discharge of this responsibility.

The Civil Service Commission is instructed to make every effort to facilitate recruitment and employment, to work in the Health Security Administration, of persons experienced in private health insurance administration and other pertinent fields.

Subsection (g) authorizes the Board to establish fifty positions, carrying salaries in the GS–16 to GC–18 range, in the professional, scientific, and executive service, to meet the need for highly qualified personnel both in research and development activities and in administration. It is expected that about half of these positions would be used for high-level administrative assignments, and the other half for the most responsible professional and scientific work of the Board.

(Section 123.) This section creates the position of an Executive Director, appointed by the Board with the approval of the Secretary. The Executive Director will serve as secretary to the Board and shall perform such duties in administration of the program as the Board assigns to him. The Board is authorized to delegate to the Executive Director or other employees of HEW any of its functions or duties except the issuance of regulations and the determination of the availability of funds and their allocations to the regions.

Sec. 124. This section provides that the program will be administered through the regional offices of the Health Security Board. It also directs the Board to establish local health service areas which shall be the same as the health service areas under the new title XV of the Public Health Service Act, except that with the approval of the Secretary the Board may divide such an area into two or more areas for the purposes of the health security program. These areas are to serve as local administrative units, with a local office in each, and perhaps suboffices. One of the responsibilities of these offices will be to investigate complaints about the administration of the program.

(Section 125) Subsection (a) establishes a National Health Security Advisory Council, with the Chairman of the Board serving as the Council's Chairman and 20 additional members not in the employ of the Federal Government. A majority of the appointed members will be consumers who are not engaged in providing and have no financial interest in the provision of health services. Members of the Council representing providers of care will be persons who are outstanding in fields related to medical, hospital or other health activities or who are representatives of organizations or professional associations. Members will be appointed to four-year over-lapping terms by the Secretary upon recommendation by the Board.

Subsection (b) authorizes the Advisory Council to appoint professional or technical committees to assist in its functions. The Board will make available to the Council all necessary secretarial and clerical assistance. The Council will meet as frequently as the Board deems necessary, or whenever requested by seven or more members, but not less than four times each year.

Subsection (c) provides that the Advisory Council will advise the Board on matters of general policy in the administration of the program, the formulation of regulations and the allocation of funds for services. The Council is charged with responsibility for studying the operation of the program, and utilization of services under it, with a view to recommending changes in administration or in statutory provisions. They are to report annually to the Board on the performance of their functions. The Board, through the Secretary, will transmit the Council's report to the Congress together with a report by the Board on any administrative recommendations of the Council which have not been followed, and a report by the Secretary of his views with respect to any legislative recommendations of the Council.

(Section 126) To further provide for participation of the community, the Board will appoint an advisory council for each region and local area. Each such Council would have a composition parallel to that of the National Council; and each will have the function of advising the regional or local representative of the Board on all matters directly relating to the administration of the program.

(Section 127) The Board is authorized to appoint standing committees to advise on the professional and technical aspects of administration with respect to services, payments, evaluations, etc. These committees will consist of experts drawn from the health professions, medical schools or other health educational institutions, providers of services, etc. The Board is also authorized to appoint temporary committees to advise on special problems. The committees will report to the Board, and copies of their reports are to be made available to the National Advisory Council.

(Section 128) Subsection (a) requires the Board to consult with appropriate State health and other agencies to assure the coordination of the Health Security program with State and local activities in the fields of environmental health, licensure and inspection, health education, etc.

Susection (b) requires the Board, whenever possible, to contract with States to survey and certify providers (other than professional practitioners) for participation in the program. This is similar to Medicare except that the Board is given authority to establish the qualifications required of persons making the inspections.

Subsection (c) authorizes the Board to contract with State agencies to undertake health education activities, supervision of utilization review programs, and programs to improve the quality and coordination of available services in that State.

Subsection (d) requires the Board to reimburse States for the reasonable cost of performing such contract activities and authorizes the Board to pay all or part of the cost of training State inspectors to meet the qualifications established by the Board.

Subsection (e) directs the Board to make inspections if a State is unable or unwilling to do so.

Subsection (f) calls for the publication of the results of the inspections.

(Section 129.) The Board is authorized to provide technical assistance either directly or through contract with a State to skilled nursing home and home health service agencies to supplement the skills of their permanent staff in regard to social services, dietetics, etc.

(Section 130.) Subsection (a) charges the Board with responsibility for informing the public and providers about the administration and operation of the Health Security program. This will include informing the public about entitlement to benefits and the nature, scope, and availability of services. Providers would be informed of the conditions of participation, methods and amounts of compensation, and administrative policies. In support of the program's effort to improve drug therapy, the Board is authorized with the approval of the Secretary, to furnish all professional practitioners with information concerning the safety and efficacy of drugs appearing on either of the approved lists (Section 25), indications for their use and contraindications. Information of this nature is not now always available to practitioners.

Subsection (b) requires the Board to make a continuing study and evaluation of the program, including adequacy, quality and costs of services. Subsection (c) authorizes the Board directly or by contract to make detailed statistical and other studies on a national, regional, or local basis of any aspect of the title, to develop and test incentive systems for improving quality of care, methods of peer review of drug utilization and of other service performances, systems of information retrieval, budget programs, instrumentation for multiphasic screening or patient services, reimbursement systems for drugs, and other studies which it considers would improve the quality of services or administration of the program.

Subsection (d) authorizes the Board to enter into agreements with providers to experiment with alternative methods of reimbursement which offer promises of improving the coordination of services, their quality or accessibility.

(Section 131.) Severe discrepancies exist today between the national need for various kinds of health manpower and the availability of clinical facilities to train such personnel. Certain specialties (such as surgery), in which there is a surplus of manpower, monopolize clinical training facilities to the disadvantage of specialties in short supply (such as primary or family practice), thus perpetuating the imbalance between supply and demand. This section gives the Board authority to bring the availability of clinical training facilities into balance with national or regional manpower needs by issuing training priorities for institutional providers participating in the program.

(Section 132.) This section grants authority to the Board, in accordance with regulations, to make determinations of who are participating providers of service, determinations of eligibility, of whether services are covered, and the amount to be paid to providers. The Board is granted authority to terminate participation of a provider who is not in compliance with qualifying requirements, agreements, or regulations. But unless the safety of eligible individuals is endangered, the provider shall be entitled to a hearing before the termination becomes effective.

(Section 133.) This section establishes procedures for hearings and for judicial review, similar to those under the Social Security Act.

(Section 134.) This section has one of the bill's most important provisions with respect to achieving improvement in coordination availability, and quality of services. It greatly strengthens state and local planning agencies and gives the Board authority to curtail inefficient administration of participating institutional providers.

The Board is authorized to issue a direction to any participating provider (other than an individual professional practitioner) that, as a condition of participation, the provider add or discontinue one or more covered services. For example, if two community hospitals are operating maternity wards at low occupancy rates, the Board may require that one hospital cease to provide such service. A provider may be required to provide services in a new location, enter into arrangements for the transfer of patients and medical records, or establish such other coordination or linkages of covered services as the Board finds appropriate.

In addition, if the Board finds that services furnished by a provider are not necessary to the availability of adequate services under this title and that their continuance is unreasonably costly, or that the services are furnished inefficiently (and that efforts to correct such inefficiency have proved unavailing) the Board may terminate participation of the provider.

No direction shall be issued under this section except upon the recommendation of, or after consultation with, the appropriate state health planning agency. And no direction shall be issued under this section unless the Board finds that it can be practicably carried out by the provider to whom it is addressed. The Board is required to give due notice and to establish and observe appropriate procedures for hearings and appeals, and judicial review is provided.

Part H—Quality of care

This part authorizes the Board, and charges it with the duty, to maintain and enhance the quality of care furnished under the Act. Section 141(a) sets forth this authority and this day, to be discharged with the advice and assistance of, and in close collaboration with, the Commission on the Quality of Health Care created by an amendment of the Public Health Service Act contained in title III of the present bill.

Regulations under the part are to be issued before health security benefits become effective, and thereafter to be upgraded as rapidly as is practicable. Subsection (b) states as the objective the highest quality of care attainable throughout the nation, with exceptions to quality requirements only when, and as long as, they are necessary to avoid acute shortages of services. Subsection (c) calls for collaboration with the Commission, and stipulates that any failure to follow its recommendations shall be submitted to the Secretary and that, unless he directs the Board to adopt the recommended regulations, the reasons for not doing so must be published by the Board.

(Section 142.) The Board is to issue regulations requiring continuing professional education for physicians, dentists, optometrists, podiatrists. Reports of compliance with the regulations will be required and, after warning, practitioners may be disciplined for failure to comply.

(Section 143.) Subsection (a) provides that major surgery, and other procedures specified in regulations, are not covered services unless they are performed by a specialist, and (except in emergencies) are, to the extent prescribed in regulations, performed on referral by a physician engaged in general practice. Specialists, according to subsection (b) are those certified by the appropriate national specialty boards, with a five-year period allowed board-eligible physicians to obtain certification, and with a "grandfather" exception for certain physicians practicing when health security benefits go into effect.

Subsection (c) authorizes the Board to require, except in acute emergencies, consultation with an appropriate specialist, as a prerequisite to specified surgical procedures; in such cases subsection (d) enables the Board to require pathology reports and clinical abstracts or discharge reports.

(Section 144.) Subsection (a) requires that practitioners furnishing services on behalf of institutional or other providers meet the same qualifications that are demanded of independent practitioners. Subsection (b) authorizes the Board to make additional requirements, in the interest of the quality care and of safety of patients, for all providers other than professional practitioners. This is like the authority given the Secretary under the Medicare law, but with the notable difference that standards of the Joint Commission on the Accreditation of Hospitals constitute a minimum for Board requirements, rather than a maximum as under Medicare. Exceptions are permitted only, as stated in section 141, to avoid acute shortages of services.

(Section 145.) Although the provisions relating to professional standard review organizations, recently added to the Social Security Act, are repealed by section 405 of the present bill, the Board is authorized, on recommendation of the Commission on the Quality of Health Care, to use organizations previously designated by the Secretary for the purposes of monitoring the quality of services, either institutional or noninstitutional. The Board may also use for this purpose similar organizations approved by it in the future.

(Section 146.) In exercising its authority under part H the Board is directed to take into account the findings of the Secretary's Commission on Medical Malpractice, and to seek to reduce the incidence of malpractice and to improve the availability of malpractice insurance.

Part I—Miscellaneous provisions

(Section 161.) This section contains definitions of certain terms used in the title.

(Section 162.) This section creates the offices of Deputy Secretary of Health, Education and Welfare and an Under Secretary for Health and Science in the Department of Health, Education and Welfare, and abolishes the office of Under Secretary of Health, Education and Welfare.

(Section 163.) This section stipulates that the effective date for entitlement for benefits will be July 1, of the second calendar year following enactment.

(Section 164.) Subsection (a) provides that an employer will not be relieved, by the enactment of the Health Security Act, of any existing contractual or other non-statutory obligation to provide or pay for health services to his present or former employees and their families. An employer whose cost under such a contract, immediately before health security taxes go into effect, exceeds the cost to him of paying those taxes is required by subsection (b) to apply the excess, during the remaining life of the contract, first to the payment of health security taxes on behalf of his employees. If an excess still remains after meeting this obligation, and after an allowance for the cost of any continuing obligation to pay for health services not covered by Health Security, subsection (c) requires the employer to pay the amount of this remaining excess to those employees, former employees, and survivors who are beneficiaries of the pre-existing contract; but by agreement with the employees or their representatives, these funds may be applied to other employee benefits. Computations of the amounts involved are to be made on a per capita basis, as defined in subsection (d).

TITLE II—HEALTH SECURITY TAXES

Part A—Employment taxes

(Section 201.) Effective on January 1 of the second year after enactment, subsections (a) and (b) convert the existing Medicare hospital insurance payroll taxes into Health Security taxes and raise the rates to 1 percent on employees and 3.5 percent on employers. Subsection (c) sets the wage base for the employment tax at 150 percent of the Social Security wage base (or a tax base at present of $21,150 in conformity with the recent automatic increase of the Social Security tax base). This subsection also defines covered employment to include all substantial groups now excluded from social security tax coverage, except that State and local governments are excluded from the tax on employers.

(Section 202.) This section makes a number of conforming and technical amendments. Chief among these are provisions for refund of excess taxes collected from an employee, who has held two or more jobs, on wages aggregating in a year more than the amount of the new wage base; exclusions of Health Security contributions from agreements with State governments for the social security coverage of State and Municipal employees (since these employees will contribute to Health Security through payroll taxes); and exclusions of Health Security contributions from agreements for the coverage of United States citizens employed by foreign subsidiaries of United States corporations (since these employees will not benefit materially from Health Security in its present form).

(Section 203.) This section excludes from the gross income of employees, for income tax purposes, payment by their employers of part or all of the Health Security taxes on the employees.

(Section 204.) This section spells out the effective dates of the new payroll tax provisions.

Part B—Taxes on self-employment income and unearned income

(Section 211.) Effective at the beginning of the second calendar year after enactment, this section converts the existing Medicare self-employment tax into a Health Security self-employment tax, sets the rate at 2.5 percent, and sets the maximum taxable self-employment income at $23,500 (with the same upward adjustment as in the employee tax for subsequent rises in average wage levels).

(Section 212.) Effective on the same date, this section adds a new 2½ percent Health Security tax on unearned income (unless such income is less than $400 a year), subject to the same maximum on taxable income as is applicable to the employee and self-employment taxes.

Taxable unearned income is adjusted gross income up to the stated maximum, minus wages and self-employment income already taxed for Health Security purposes (excluding certain items of income (notably social security benefits) specifically excluded from the other taxes and excluding $5,000 in unearned income for persons over age 60.)

(Section 213.) This section makes appropriate changes in nomenclature and in the requirements of tax returns, including reports of estimated tax liability under the new tax on unearned income.

(Section 214.) This section details the specific effective dates of the taxes imposed by this part.

Part C—Income Tax Deductions for Medical Care

(Section 221.) This section amends the Internal Revenue Code so that no medical deductions shall be allowed for the cost of medical care which is covered by the Health Security Act on or after the effective date of health security benefits.

TITLE III—COMMISSION ON THE QUALITY OF HEALTH CARE

(Section 301.) The purpose of Title III is to create a Commission on the Quality of Health Care in order to improve health care in the United States. The Commission's function is:

To develop methods of measuring health care;

To develop standards for promoting health care of high quality;

To encourage the use of such measurements and standards under the provisions of the Health Security Act.

(Section 302.) This section adds to the Public Health Service Act a new Title XVII, entitled "Commission on the Quality of Health Care."

(Section 1701, Public Health Service Act.) Subsection (a) establishes a Commission on the Quality of Health Care within the Department of Health, Education and Welfare. The Commission will consist of eleven members who are to be appointed by the Secretary after consultation with the Health Security Board. The Commission is required to carry out the functions set forth under sections 1702 and 1703.

Subsection (b) describes the requirements for the membership of the Commission. Seven of the members appointed must be representatives of health service providers or representatives of non-governmental organizations that are engaged in the process of developing standards relating to the quality of health care. Four members must be representatives of consumers who are not engaged in and have no financial interest in the delivery of health care services. Commission members will be appointed to serve five-year overlapping terms. Subsection (c) requires the Secretary to designate the Chairman of the Commission, who serves at the pleasure of the Secretary. Subsection (d) authorizes the Commission to employ needed personnel and appoint advisory committees. It also stipulates the conditions of employment and rates and terms of compensation.

(Section 1702, Public Health Service Act.) Subsection (a) defines the primary responsibilities of the Commission. The Commission is directed to initiate and continuously develop methods to assess the quality of health care delivered under the provisions of the Health Security Act; and to initiate and develop ways to use such assessments in order to maintain and improve the quality of health care delivered under the Act. The Commission is required to submit its findings and recommendations to the Secretary and the Health Security Board.

Specifically, the Commission is required to:

(1) collect data on a systematic and nationwide basis that will provide information on the (A) qualifications of health personnel and the adequacy and ability of health care facilities to provide quality health care; (B) the patterns of health care practices in actual episodes of care; (C) the utilization patterns for components of the health care system; and (D) the health of patients during and at the end of actual episodes of care and the relationship of the various factors outlined above to the health of such patients;

(2) use the data it collects to develop statistical norms and ranges to describe the factors outlined in paragraph (1). Such norms and ranges may be developed on a national or regional basis, for particular population groups, or on any other basis deemed most useful by the Commission;

(3) use such statistical norms and ranges as a basis for developing standards (and acceptable deviation from such standards) that will be useful in measuring, controlling, and improving the quality of health care; and

(4) make recommendations to the Secretary and the Health Security Board on the

proper use of standards developed under the provisions of paragraph (3) in connection with the Board's continuing responsibility for the maintenance and improvement of the quality of the health care delivered under the Health Security Act. Such recommendations may also be used by the Secretary or the Board when developing proposals to amend the Health Security Act.

When carrying out its duties under the provisions of this subsection, the Commission is directed to give first priority to the quality of care delivered for those illnesses or conditions which have high incidence of occurrence within the population and which are responsive to medical or other treatment.

Subsection (b) requires the Commission to conduct a broad health care research program. Specifically, the objectives of the program are to:

(1) improve technologies for assessing health care quality;

(2) compare the quality of health care under alternative health delivery systems and methods of payment;

(3) analyze the effects of consumer health education and preventive health services;

(4) continue the studies made by the Secretary's Commission on Medical Malpractice. In this respect, the Commission is also required to evaluate any of the recommendations of the Secretary's Commission which the Health Security Board has put into effect or any other measures that the Board has established, which pertain to the incidence of malpractice, malpractice insurance, or malpractice claims;

(5) obtain other information that will be useful in order to accomplish the purposes of this new title of the Public Health Service Act and title I, part H, of the Health Security Act (concerning the maintenance and improvement of the quality of health care delivered under the Health Security Act).

Subsection (c) authorizes the Commission to provide technical assistance to enable participating providers to furnish the Board with information required by it for purposes of the Commission. The Commission is also authorized to provide technical assistance to participating providers who are developing and carrying out quality control programs.

(Section 1703, Public Health Service Act.) This section directs the Commission, even before it has developed standards under the preceding provisions, to give advice recommendations to the Health Security Board concerning quality health care regulations.

(Section 1704, Public Health Service Act.) This section authorizes the Secretary to establish twenty-five positions on the staff of the Commission, carrying salaries in the GS-16 to GS-18 range, in the professional, scientific, and executive service, to meet the need for highly qualified personnel in the research and development activities of the Commission.

TITLE V—REPEAL OR AMENDMENT OF OTHER ACTS

(Section 401.) This section repeals the Medicare and Federal Employee Health Benefit statutes on the date Health Security benefits become effective, but stipulates that this shall not affect any right or obligation incurred prior to that date.

(Section 402.) This section requires that after the effective date of benefits, no State shall be required to furnish any service covered under Health Security as a part of its State plan for participation under Medicaid, and that the Federal government will have no responsibility to reimburse any State for the cost of providing a service which is covered under Health Security. After the effective date of benefits, the Secretary of HEW shall prescribe by regulation the new minimum scope of services required as a condition of State participation under Title XIX. To the extent the Secretary finds practicable, the new minimum benefits will be designed to supplement Health Security—especially with respect to skilled nursing home services, dental services and the furnishing of drugs.

(Section 403.) This section provides that funds available under the Vocational Rehabilitation Act or the Maternal and Child Health title of the Social Security Act shall not be used to pay for personal health services after the effective date of benefits, except (to the extent prescribed in regulations by the Secretary of HEW) to pay for services which are more extensive than those covered under Health Security.

(Section 404.) This section makes applicable to Health Security the provisions recently added to the Social Security Act requiring reduction in reimbursement for care in facilities which have made substantial capital expenditures found by a State planning agency to be inconsistent with standards developed pursuant to the Public Health Service Act. Because the provision will continue to apply to the residual programs under titles V and XIX of the Social Security Act, the reductions will continue to be determined by the Secretary and his determinations are made binding on the Board, as provided in section 89 of the bill.

(Section 405.) This section repeals the provisions recently added to the Social Security Act relating to professional standards review organizations. Section 145 of the bill permits the use of such organizations already designated by the Secretary, and approval by the Board and use of similar organizations in the future.

(Section 406.) Subsection (a) amends section 1817 of the Social Security Act, creating the Federal Hospital Insurance Trust Fund, and transfers it to become section 61 of the Health Security Act under the title "Health Security Trust Fund". The effect of this transfer is summarized in the description of title I, part D, of the present bill. Subsection (b) extends to the Health Security system the provisions of section 201(g) of the Social Security Act, authorizing annual Congressional determination of amounts to be available from the respective trust funds for the administration of the several national systems of social insurance. Subsections (c) and (d) contain conforming and technical provisions.

(Section 407.) This section makes a number of changes in title XV of the Public Health Service Act, which is the planning portion of the recently passed National Health Planning and Resources Development Act of 1974. Subsections (a) and (b) provide that the Secretary's guidelines on national health planning policy should be issued in twelve, rather than eighteen, months, and that they must emphasize the need for prompt action to meet the demands of the health security program. Under subsection (c), the DHEW Under Secretary for health and science replaces the Assistant Secretary on the National Council on Health Planning and Development, and the Chairman of the Health Security Board is added to the Council. Subsection (d) strikes out a requirement of coordination with Professional Standards Review Organizations, in view of the repeal of the PSRO provisions of the Social Security Act. Review and approval or disapproval of Federal grants and contracts by health systems agencies (subject to final decision by the Secretary) is extended, by subsection (e), to include Health Security Board grants and contracts under Part F of title I. Finally, section 1526 providing for grants for State demonstrations in rate regulation is repealed, since the Health Security Board will be fixing the amount of payments to participating providers of services.

(Section 408.) This section establishes the salary levels for the Deputy Secretary and the Under Secretary for Health and Science, Department of Health, Education, and Welfare, the Chairman of the Health Security Board, members of the Health Security Board and members of the Commission on the Quality of Health Care, and the Executive Director of the Health Security Board.

(Section 409.) This section removes the operations of the Health Security Trust from the administrative budget of the United States, and directs that these operations be reported and projected in a separate statement, as was done with the Social Security trust until recently. The Government contribution to the Health Security system will continue to be shown as an expenditure in the administrative budget.

TITLE V—STUDIES RELATED TO HEALTH SECURITY

(Section 501.) This section directs the Secretary of Health, Education and Welfare in consultation with the Secretary of State and the Secretary of the Treasury to study the coverage of health services for United States residents in other countries.

(Section 502.) Subsection (a) directs the Secretary of HEW to study means of coordinating the federal health care programs for merchant seamen, and for Indians and Alaskan natives, with the Health Security benefits program. The Secretary and the Administrator of Veterans' Affairs shall conduct a similar joint study of the means of coordinating veterans health care programs with the Health Security benefits program. A similar study is to be conducted, jointly with the Secretary of Defense, relating to the program of care, in civilian facilities, of the dependents of military personnel. Reports to the Congress and any legislative recommendations arising from the studies are required within three years after the enactment of the Health Security Act.

Subsection (b) requires the respective Secretaries and the Administrator to consult with representatives of the affected beneficiary groups, and to include a summary of their views in the reports to Congress.

With respect to the joint study to determine the most effective method of coordinating the Veterans' Administration Health Program with the Health Security program established under this bill, it is important to understand that there is no intention to require either the integration of the VA program into the Health Security Program, or even the consideration of such integration. Rather, the section recognizes that any national health security or health insurance program would be so pervasive as to require other federal health programs such as those of the Veterans' Administration to be effectively coordinated with them. Through such coordination, needless duplication and expenditures should be avoided.

(Section 503). This section authorizes the appropriation of money needed for conducting the studies authorized in this title, and the use of experts and consultants and advisory committees, and of contracts for the collection of information or the conduct of research.

By Mr. MATHIAS:

S. 4. A bill to provide a program to systematically reduce imports of crude oil, residual fuel oil and petroleum products and to provide for a report to accompany such program, and for other purposes. Referred to the Committee on Finance.

Mr. MATHIAS. Mr. President, approximately 1 year ago the oil embargo began to be fully felt in this country. It became clear to the executive and to the Congress that the President should be given additional authority to cope with oil-related problems such as shortages and high prices.

Our circumstances are, indeed, drastically changed from 1 year ago. Acute energy supply problems prevailed last winter. But now we have an adequate supply of all forms of energy with the exception of natural gas. In the absence of another foreign oil embargo, stockpiles are sufficient to carry us through this winter. It is appropriate, then, to ask why we are concerned. We are concerned because even though our immediate supply needs for the winter are met, we are now faced with extremely high prices for energy; prices which the Western consuming nations as a group can ill afford to pay. The gravity of the present situation is well illustrated when we consider that:

The industrial nations now face a collective payments deficit of $40 billion:

Developing nations face a collective yearly deficit of $20 billion; half due to rising oil prices; and

Oil producers now have a surplus of $60 billion, which is far more than can be dissipated through payments to other countries, development needs, or reinvestment in industrial countries.

President Ford, in discussing the state of the economy and in special energy messages to the Congress and to the American people, has pointed out the necessity for reducing our energy consumption and increasing domestic supply so as to in turn decrease imports.

A program of conservation and alternative supply in concert with other consuming nations must be the cornerstone of our future efforts. The OPEC countries have learned a lesson from the past practices of industrialized nations. Cartel arrangements have long existed as between industrialized countries as they have sought favorable trade relations with less developed parts of the world. The strength of the multinational petroleum companies was also founded on a cartel arrangement. In short, the members of OPEC have had history to guide them as they have turned the tables on consuming nations.

It is only prudent to assume that the present course of the oil exporting nations is undertaken with a full understanding of its ramifications and with the clear purpose of gaining economic and political advantage over the industrialized countries; limited only by what the traffic can bear. Under these circumstances, the United States and others similarly situated are presented with a clear challenge.

Our response must include a strong program to conserve energy and augment supply, coupled with every effort to persuade producing countries of their great stake in the continued vitality of industrial economies. But we should not suffer under any illusion that simple persuasion will suffice to lower prices. We must realize that it will be politically difficult if not impossible for any of these exporting countries to accept lower prices. In fact, if demand for OPEC oil grows, normal market forces may make it impossible to eliminate staggering monetary surpluses regardless of willpower.

The industrialized countries now import two-thirds of their oil, which supplies one-third of their total energy need. At a minimum, present import bills must be reduced if the international monetary system is to be stabilized. This is a difficult, but not impossible task. It will appreciably strengthen consuming nations to respond to producer cartel price increases and supply interruption should they again occur.

As demand on world markets dampens through conservation and increased supply and as other countries such as Mexico, Peru, China, and Malaysia become net exporters of energy, the hold on the market of the OPEC cartel may be more difficult to maintain. With little or no market expansion, OPEC members would realize only half of present income by the end of the decade.

It is in our national interest to reduce imports of oil. Import quotas are an appropriate response. Such restrictions would reduce our balance-of-payments deficit significantly; would dampen world oil prices, and so lessen the strain on other consuming nations; serve as an impetus for domestic conservation efforts; and finally, signal U.S. leadership to the world in implementing international sharing agreements such as the International Energy Agency.

Quotas should be implemented in an atmosphere of cooperation with producing countries. We seek to protect no single domestic industry, but rather to protect the continued vitality of entire industrialized economies. This is a goal which producing countries must necessarily share since their stake in those economies is so great.

If the world price of oil can be reduced somewhat then serious discussion of the proposal by the Shah of Iran to index the price of oil to world commodities or manufactured goods should take place. Only through such an arrangement can we have long-term price stability. But to index now would not be in anyone's long-term best interest, as it could bankrupt industrial economies.

West German Chancellor Schmidt pointed out in his recent visit to the United States that this country has advanced many useful ideas as to how to deal with the high cost of energy and resulting inflation. But while the Chancellor welcomed U.S. proposals, he rightfully chided us for not following through—for not setting an example. It will require leadership from both the executive, and the Congress. The Senate now has an opportunity through my proposal, to provide meaningful leadership not only to the American people, but to all people in energy conservation.

We can no longer tell the world of the need for energy conservation and self-restraint and at the same time fail to take the necessary steps to implement strategies for meaningful conservation. It is time that we gave substance to our platform. We must lead by example, not by rhetoric.

Therefore, it is my purpose to provide a positive and definitive plan for limiting imports not only of crude oil but particularly of refined petroleum products. We can do more than broadly charge the President to go out and formulate a report to the Congress as the National Energy Authorities Act of the last Congress would have provided. We have had many well documented reports, yet we continue to drift.

Most recently, the Project Independence blueprint was assembled and published for review. Extensive hearings have been held by a number of congressional committees with testimony from every sector of the economy in order to determine the ramifications of our current energy problem. While consensus is often difficult to reach, almost every responsible economist views the current balance-of-payments deficits, which is primarily oil related, as an international timebomb.

We have had many innovative proposals to work within the framework of high oil prices and continued high import volumes. Most of these proposals involve recycling revenues. They are undoubtedly useful as short-term measures since many of the consuming nations would be bankrupt within months should recycling not take place. But we must recognize that any recycling proposal eventually imposes severe hardships on the debtor nation, or leaves others out in the cold. At the present time most of the surplus money has gone into the short-term loan market primarily Eurodollars. This flow of money does not in any sense equate with individual countries' foreign exchange needs. Nor can we expect improvement in the future as the credit worthiness of individual countries will be the primary criterion for the flow of funds; a standard which will exclude many needy developed and developing countries. Not only will debt service over a period of years become increasingly onerous, and eventually impossible for some countries, but also the volume and direction of petrodollars may be in the hands of a very few countries and the implications of this are profoundly disturbing.

A small group of countries, quite possibly with unstable leadership, could have the power to dictate the availability of capital in various parts of the Western World. Recently we have had an example of the gravity of this situation. When certain oil producing countries announced on December 11 that sterling would not be acceptable in payment for petroleum, the pound was severely damaged on international exchange markets and the British stockmarket, adjusted for inflation, sank to its lowest level ever; a stark illustration of the power possessed by a very few. My bill addressed the tremendous outflow of money that we have experienced in the last year and which we will continue to experience in the years ahead unless programs are fashioned to reduce imports.

The President called upon the American people to voluntarly conserve energy Many sectors of the economy are unlikely to voluntarily conserve energy in a meaningful way. Unfortunately, this is true of some of the larger energy-using sectors, particularly transportation. It is simply human nature to resist self-denial as long as there is suspicion that one's neighbor, or a stranger, is not making similar sacrifices. The reports are coming in and it is clear that voluntary conservation will not be enough.

Mandatory programs are called for and I believe that the American people will respond positively to mandatory programs as long as they are convinced that sacrifices are not in vain and that they are shared equitably by all Americans. In that regard I agree with the President that the people of our Nation are capable of great sacrifice, if only they can see a clear goal worthy of the effort.

My bill requires that the President file a schedule with the Congress within 60 days of the enactment of this legislation which sets forth maximum import levels through 1985 and that from the date of such report, imports not exceed 5,500,000 barrels per day for the remainder of 1975, and that there be further reductions over the next 4 years so that in 1980 petroleum imports do not exceed 3,000,000 barrels per day, and in 1985 2,000,000 barrels per day. Imports which are specifically committed by the President to establishing and augmenting a National Strategic Energy Reserve System would not be counted for the purposes of my amendment.

At this point I would invite discussion of the implementation of any restriction on imports. We must consider in detail the different effects on our domestic economy of importing refined products while excluding crude oil and vice versa. We must not only look for a Band-Aid to cover our current painful problem, but seek long-range solutions that relate to both our energy needs and to our fiscal future. It may well be that imported product has a greater adverse impact than imported crude. The mix between product and crude will have important ramifications for independent and major oil companies; for the siting of domestic refiners; for conversion of utilities to coal and for our balance-of-payments deficit. I believe imported crude should be favored over imported product.

It would be a contradiction in terms to create greater dependence on foreign technologies as we implement Project Independence. The ration of crude to refined imports is a complex decision that should be thoroughly aired and thoroughly understood.

Let me detail the kinds of reductions that are proposed in my amendment. The American Petroleum Institute tabulated aggregate U.S. crude imports in the 4 weeks ended November 22, 1974 at 3,858,000 barrels per day, up from 3,541,000 barrels in the same period a year earlier. Aggregate product imports were 3,034,000 barrels per day in the 1974 period versus 2,005,000 barrels per day a year earlier. We are up substantially over last year in both categories. From this data we can estimate that total imports for refined product and crude oil range between 6,500,000 barrels and 7,000,000 barrels per day. My amendment would require a reduction of slightly less than 22 percent to 5,500,000 barrels; a reduction of slightly over a million barrels per day for calendar year 1975. This represents only an 8-percent reduction in our petroleum use and just over a 3.5-percent reduction in total energy use.

The President would then have the discretion to set import levels at this 1975 level or below until 1980 when the ceiling would drop to 3,000,000 barrels per day. I would envision the President using these 4 years to make a staged reduction in imports as energy conservation measures in this country improve in sophistication and begin to yield meaningful results and additional domestic supplies are brought on line. The next target would be in order. In the immediate future we take no precipitous action, but only do what is necessary to provide leadership and reduce balance-of-payments deficits.

As the Senate well knows, it would not be enough to simply slash imports without at the same time implementing strategies for reducing domestic consumption and bringing on additional supply. The Congress passed the Petroleum Allocation Act and that machinery is still in place to determine who is entitled to what level of imported crude and product. That Allocation Act also can serve to distribute energy within the borders of the United States.

It cannot, however, determine energy supply at the retail level. We have had experience with oil conservation through inconvenience and it is clear that a more orderly and equitable system is required. The Allocation Act will create burdensome lines if implemented at a retail level.

The transportation sector of our economy is the most fruitful area for energy conservation for two reasons. First, we find a very high percentage of energy consumption in this sector. Second, wasteful consumption is significant and can be drastically reduced without creating unemployment or other great hardship.

As we fashion a mandatory conservation program, a number of goals must be kept in mind. Such a program must reduce gasoline consumption; not discriminate against people on the basis of wealth; not create black markets, hoarding or artificial shortages, and finally, not strengthen present recessionary or inflationary pressures in the economy, but rather weaken such pressures.

Proposals may be grouped in two general categories; rationing or taxing. Rationing can be of the World War II type where nontransferrable coupons are issued. I reject this approach because I believe a black market would be soon created in coupons. I suspect that sanctions for dealing in the black market would meet with widespread apathy and that consequently the force of law would be weakened. Another drawback would be the administrative costs associated with establishing this system. Transferrable coupons would eliminate the possibility of a black market, but in my opinion once transfer of coupons is permitted, we have created a mixture of tax and subsidy. Those who desire gas beyond their quota will incur additional costs imposed by the rationing system and those who use less than their quota can exchange extra entitlements for money. There may be a more sophisticated method through our tax system. If we can rebate gas tax revenues on a weekly, monthly, or yearly basis under our existing tax system; we can work equity for all our people at every income level. Those who are not reached by the tax can receive a rebate through various subsidy mechanisms. A further advantage to a tax system is that funds not rebated are available to find solutions to the energy problem.

I have dealt at some length with how we should reduce domestic consumption of energy because my bill will signal the necessity for such efforts and should trigger a debate, not only in Congress, but also in the country. It states in the clearest terms that we will protect ourselves from bankruptcy through self-indulgence; that we are prepared for sacrifice. Winston Churchill in "The Gathering Storm" recites some lines from an unknown author:

> "Who is in charge of the clattering train?
> The axles creak and the couples strain;
> And the pace is hot and the points are near,
> And sleep has deadened the driver's ear;
> And the signals flash through the night in vain,
> For death is in charge of the clattering train."

Certainly there are many differences between 1974 and the late 1930's, but one aspect is similar. Just as the democracies could have best opposed German rearmament at the first instance of violated treaties, so consuming nations can best respond to the OPEC oil cartel now rather than later. There is a tendency for institutions, particularly democratic institutions, to shrink from complex problems. Not only is our energy problem complex, but it is remote. People are aroused by shortage and their leaders respond. But we have no shortage, rather we have an increasing debt and this is not yet so immediately threatening as to arouse broad public concern, unified leadership, and effective action. We drift on in the hope of better times. This is a vain hope because better times will only come through immediate efforts to conserve fuel and generate alternative supply. We cannot be hypnotized into inaction.

By Mr. CHILES (for himself, Mr. BAYH, Mr. BEALL, Mr. BIDEN, Mr. BROCK, Mr. CLARK, Mr. CRANSTON, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. MATHIAS, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. PACKWOOD, Mr. PERCY, Mr. PROXMIRE, Mr. ROTH, Mr. STAFFORD, Mr. WEICKER, Mr. STONE, Mr. GARY W. HART, Mr. NELSON, Mr. PHILIP A. HART, and Mr. HASKELL):

S. 5. A bill to provide that meetings of Government agencies and of congressional committees shall be open to the public, and for other purposes. Referred to the Committee on Government Operations.

Mr. CHILES. Mr President, in January 1973, I introduced S. 260, the Federal Government in the Sunshine Act. The purpose of this bill is to provide for more public access to the work of the legislative and executive branches of Government by making most meetings of congressional committees and Federal agencies open to all interested persons.

Since the introduction of the bill, we have had a conference cosponsored by Common Cause and two rounds of hearings at which a number of agency officials and Members of Congress testified. After each discussion on the bill, we considered the many thoughtful suggestions and made revisions to reflect the most discerning of them.

The bill that I am reintroducing today as S. 5, is, therefore, a much more refined bill, a bill which has been carefully examined by many of the people who will be affected by its passage.

Support for the bill within the Senate has been encouraging. The concept of opening up congressional markup sessions and conferences has been overwhelmingly accepted by the Democratic conference. Last Congress, we had 26 cosponsors for the bill. This Congress we hope to have even more.

Secrecy in Government has become synonymous, in the public's mind, with deception by the Government. While some matters must be discussed in closed session, these are few and are specifically provided for in the bill, to insure that the bill itself will not become a shield behind which Government can hide its deliberations from the people.

The experience we have had with open meetings in the 93d session shows that committees can work as effectively or more effectively in the public. For the past 2 years the Government Operations Committee, the Banking, Housing, and Urban Affairs Committee, and the Interior Committee have held open markup sessions. They have dealt effectively and openly with such important, and often controversial, legislation as the Congressional Budget and Impoundment Control Act of 1973, the Energy Reorganization Act of 1973, Federal Regulation of Lobbying Amendments, the Housing and Community Development Act of 1974, control of export-import banking, energy allocation, land use policy, Executive privilege, consumer protection, surface mining, and mineral leasing.

I hope that the Senate will act on the bill this Congress. With the public so keenly aware these days of the things that can go wrong in the governmental decisionmaking process, it is incumbent upon the Senate to show them that we are willing to eliminate the practices which foster wrong decisions.

Mr. President, I ask for unanimous consent to have the bill printed in full at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 5

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Government in the Sunshine Act".

SEC. 2. DECLARATION OF POLICY.—It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government.

SEC. 3. DEFINITIONS.—For purposes of this Act—

(1) "National defense" means—

(A) the protection of the United States and its military forces against actual or potential military attack by a foreign power;

(B) the obtaining of foreign intelligence information deemed essential to the military defense of the United States or its forces;

(C) the protection of information essential to the military defense of the United States or its forces against foreign intelligence activities; or

(D) the protection, to the extent specifically found necessary by the President in writing, of the United States against overthrow of the Government by force; and

(2) "Person" includes an individual, partnership, corporation, associated governmental authority, or public or private organization.

TITLE I—CONGRESSIONAL PROCEDURES

SEC. 101. SENATE COMMITTEE HEARING PROCEDURE.—(a) The Legislative Reorganization Act of 1946 is amended—

(1) by striking out the third sentence of section 133(b);

(2) by striking out subsections (a), (b), and (f) of section 133A;

(3) by adding after section 133B the following:

"OPEN SENATE COMMITTEE MEETINGS

"SEC. 133C. (a) Each meeting of each standing, select, or special committee of the Senate, or subcommittee thereof, including meetings to conduct hearings, shall be open to the public: *Provided*, That a portion or portions of such meetings may be closed to the public if the committee or subcommittee, as the case may be, determines by a vote of a majority of a quorum of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the necessarily confidential conduct of the foreign policy of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or administration;

"(3) will tend to charge with crime or misconduct, or to disgrace any person, or will represent a clearly unwarranted invasion of the privacy of any individual: *Provided*, That this paragraph shall not apply to any Government officer or employee with respect to his official duties or employment: *And provided further*, That as applied to a witness at a meeting, this paragraph shall not apply unless the witness requests in writing that the hearing be closed to the public;

"(4) will disclose information pertaining to any investigation conducted for law enforcement purposes, but only to the extent that the disclosure would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (D) disclose investigative techniques and procedures, or (E) endanger the life or physical safety of law enforcement personnel; or

"(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person where—

"(A) a Federal statute requires the information to be kept confidential by Government officers and employees; or

"(B) the information has been obtained by the Federal Government on a confidential basis other than through an application by such person for a specific Government financial or other benefit, and the information must be kept secret in order to prevent grave and irreparable injury to the competitive position of such person.

A separate vote of the committee shall be taken with respect to each committee or subcommittee meeting a portion or portions of which are proposed to be closed to the public pursuant to this subsection. The vote of each committee member participating in each such vote shall be recorded and no proxies shall be allowed. Within one day of such vote, the committeee shall make publicly available a written copy of such vote and, if a meeting or portion thereof is closed to the public, a full written explanation of its action.

"(b) Each standing, select, or special committee of the Senate, or subcommittee thereof, shall make public announcement of the date, place, and subject matter of each meeting at least one week before such meeting unless the committee or subcommittee determines by a vote of a majority of a quorum of the committee or subcommittee present that committee business requires that such meeting be called at an earlier date, in which case the committee shall make public announcement of the date, place, and subject matter of such meeting at the earliest practicable opportunity.

"(c) A complete transcript shall be made of each meeting of each standing, select, or special committee or subcommittee (whether open or closed to the public). Except as provided in subsection (d) of this section, a copy of each such transcript shall be made available for public inspection within seven days of each such meeting, and additional copies of any transcript shall be furnished to any person at the actual cost of duplication. Notwithstanding the provisions of subsection (d), in the case of meetings closed to the public, the portion of such transcript made available for public inspection shall include a list of all persons attending and their affiliation, except for any portion of such list which would disclose the identity of a confidential source, or endanger the life or physical safety of law enforcement personnel.

"(d) In the case of meetings closed to the public pursuant to subsection (a) of this section, the committee or subcommittee may delete from the copies of transcripts that are required to be made available or furnished to the public pursuant to subsection (c) of this section, those portions which it determines by vote of the majority of a quorum of the committee or subcommittee consist of materials specified in paragraph (1), (2), (3), (4), or (5) of subsection (a) of this section. A separate vote of the committee or subcommittee shall be taken with respect to the transcript of each such meeting. The vote of each committee or subcommittee member participating in each such vote shall be recorded and published and no proxies shall be allowed. In place of each portion deleted from copies of the transcript made available to the public, the committee or subcommittee shall supply a full written explanation of why such portion was deleted, and a summary of the substance of the deleted portion that does not itself disclose information specified in paragraph (1), (2), (3), (4), or (5) of subsection (a). The committee or subcommittee shall maintain a complete copy of the transcript of each meeting (including those portions deleted from copies made available to the public), for a period of at least one year after such meeting, or until the Congress following the one in which such meeting was held is assembled, whichever occurs later.

"(e) A point of order may be raised in the Senate against any committee or subcommittee vote to close a meeting to the public pursuant to subsection (a) of this section, or against any committee or subcommittee vote to delete from the publicly available copy a portion of a meeting transcript pursuant to subsection (d) of this section, by committee or subcommittee members comprising one-fourth or more of the total number of members of such committee or subcommittee present and voting for or against such action. Any such point of order shall be raised in the Senate within two calendar days after the vote against which the point of order is raised, and such point of order shall be a matter of highest personal privilege. Each such point of order shall immediately be referred to a Select Committee on Meetings consisting of the President pro tempore, the leader of the majority party, and the leader of the minority party. The select committee shall examine the complete verbatim transcript of the meeting in question and shall rule whether the vote to close the meeting was in accordance with subsection (a) of this section, or whether the vote to delete a portion or portions from publicly available copies of the meeting transcript was in accordance with subsection (d) of this section, as the case may be. The select committee shall report to the Senate within five calendar days (excluding days where the Senate is not in session) a resolution containing its findings. If the Senate adopts a resolution finding that the committee vote in question was not in accordance with the relevant subsection, it shall direct that there be made publicly available the entire transcript of the meeting improperly closed to the public or the portion or portions of any meeting transcript improperly deleted from the publicly available copy, as the case may be.

"(f) The Select Committee on Meetings shall not be subject to the provisions of subsection (a), (b), (c), or (d) of this section."

(b) Subsection (a) of subsection 242 of the Legislative Reorganization Act of 1970 is repealed.

(c) Paragraph 7(b) of Rule XXV of the Standing Rules of the Senate is repealed.

(d) Title I of the table of contents of the Legislative Reorganization Act of 1946 is amended by inserting immediately below item 133B the following:

"133C. Open Senate committee meetings.".

SEC. 102. Clause 27(f)(2) of Rule XI of the Rules of the House of Representatives is amended to read as follows:

"(2)(A) Each meeting of each standing, select, or special committee or subcommittee, including meetings to conduct hearings, shall be open to the public: *Provided*, That a portion or portions of such meetings may be closed to the public if the committee or subcommittee, as the case may be, determines by vote of a majority of a quorum of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

"(i) will disclose matters necessary to be kept secret in the interests of national defense or the necessarily confidential conduct of the foreign policy of the United States;

"(ii) will relate solely to matters of committee staff personnel or internal staff management or administration;

"(iii) will tend to charge with crime or misconduct, or to disgrace any person, or will represent a clearly unwarranted invasion of the privacy of any individual: *Provided*, That this paragraph shall not apply to any Government officer or employee with respect to his official duties or employment: *And provided further*, That as applied to a witness at a meeting, this paragraph shall not apply unless the witness requests in writing that the hearing be closed to the public;

"(iv) will disclose information pertaining to any investigation conducted for law enforcement purposes, but only to the extent that the disclosure would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (D) disclose investigative techniques and procedures, or (E) endanger the life or physical safety of law enforcement personnel; or

"(v) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person where—

"(I) a Federal statute requires the information to be kept confidential by Government officers and employees; or

"(II) the information has been obtained by the Federal Government on a confidential basis other than through an application by such person for a specific Government financial or other benefit, and the information must be kept secret in order to prevent grave and irreparable injury to the competitive position of such person.

A separate vote of the committee shall be taken with respect to each committee or subcommittee meeting a portion or portions of which are proposed to be closed to the public pursuant to this subsection. The vote of each committee member participating in each such vote shall be recorded and no proxies shall be allowed. Within one day of such vote, the committee shall make publicly available a written copy of such vote and, if a meeting or portion thereof is closed to the public, a full written explanation of its action.

"(B) Each standing, select, or special committee or subcommittee shall make public announcement of the date, place, and subject matter of each meeting at least one week before such meeting unless the committee or subcommittee determines by a vote of a majority of a quorum of the committee or subcommittee present that committee business requires that such meeting be called at an earlier date, in which case the committee shall make public announcement of the date, place, and subject matter of such meeting at the earliest practicable opportunity.

"(C) A complete transcript shall be made of each meeting of each standing, select, or special committee or subcommittee (whether open or closed to the public). Except as provided in paragraph (D), a copy of each such transcript shall be made available for public inspection within seven days of each such meeting, and additional copies of any transcript shall be furnished to any person at the actual cost of duplication. Notwithstanding the provisions of paragraph (D), in the case of meetings closed to the public, the portion of such transcript made available for public inspection shall include a list of all persons attending and their affiliation, except for any portion of such list which would disclose the identity of a confidential source, or endanger the life or physical safety of law enforcement personnel.

"(D) In the case of meetings closed to the public pursuant to subparagraph (A), the committee or subcommittee may delete from the copies of transcripts that are required to be made available or furnished to the public pursuant to subparagraph (C), portions which it determines by vote of the majority of a quorum of the committee or subcommittee consist of material specified in subsection (i), (ii), (iii), (iv), or (v) of subparagraph (A). A separate vote of the committee or subcommittee shall be taken with respect to the transcript of such meeting. The vote of each committee or subcommittee member participating in each such vote shall be recorded and published, and no proxies shall be allowed. In place of each portion deleted from copies of the transcript made available to the public, the committee or subcommittee shall supply a full written explanation of why such portion was deleted and a summary of the substance of the deleted portion that does not itself disclose information specified in subsection (i), (ii), (iii), (iv), or (v) of subparagraph (A). The committee or subcommittee shall maintain a complete copy of the transcript of each meeting (including those portions deleted from copies made available to the public), for a period of at least one year after such meeting, or until the Congress following the one in which such meeting was held is assembled, whichever occurs later.

"(E) A point of order may be raised against any committee or subcommittee vote to close a meeting to the public pursuant to subparagraph (A), or against any committee or subcommittee vote to delete from the publicly available copy a portion of a meeting transcript pursuant to subparagraph (D), by committee or subcommittee members comprising one-fourth or more of the total number of the members of such committee or subcommittee present and voting for or against such action. Any such point of order must be raised before the entire House within two calendar days after the vote against which the point of order is raised, and such point of order shall be a matter of highest personal privilege. Each such point of order shall immediately be referred to a Select Committee on Meetings consisting of the Speaker of the House of Representatives, the majority leader, and the minority leader. The select committee shall report to the House within five calendar days (excluding days where the House is not in session) a resolution finding that the committee vote in question was not in accordance with the relevant subsection, it shall direct that there be made publicly available the entire transcript of the meeting improperly closed to the public or the portion or portions of any meeting transcript improperly deleted from the publicly available copy.

"(F) The Select Committee on Meetings shall not be subject to the provisions of subparagraph (A), (B), (C), or (D) of this section."

SEC. 103. (a) JOINT AND CONFERENCE COMMITTEES.—The Legislative Reorganization Act of 1946 is amended by inserting after section 133C, as added by section 101(3) of this Act, the following new section:

"OPEN JOINT AND CONFERENCE COMMITTEE MEETINGS

"SEC. 133D. (a) Each meeting of each joint committee and each subcommittee thereof, and each committee of conference shall be open to the public: *Provided*, That a portion or portions of such meetings may be closed to the public if the committee determines by vote of a majority of a quorum of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the necessarily confidential conduct of the foreign policy of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or administration;

"(3) will tend to charge with crime or misconduct, or to disgrace any person, or will represent a clearly unwarranted invasion of the privacy of any individual: *Provided*, That this paragraph shall not apply to any Government officer or employee with respect to his official duties or employment: *And provided further*, That as applied to a witness at a meeting, this paragraph shall not apply unless the witness requests in writing that the hearing be closed to the public;

"(4) will disclose information pertaining to any investigation conducted for law enforcement purposes, but only to the extent that the disclosure would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (D) disclose investigative techniques and procedures, or (E) endanger the life or physical safety of law enforcement personnel; or

"(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person where—

"(A) a Federal statute requires the information to be kept confidential by Government officers and employees; or

"(B) the information has been obtained by the Federal Government on a confidential basis other than through an application by such person for a specific Government financial or other benefit, and the information must be kept secret in order to prevent grave and irreparable injury to the competitive position of such person.

A separate vote of the committee shall be taken with respect to each committee or subcommittee meeting a portion or portions of which are proposed to be closed to the public pursuant to this subsection. The vote of each committee member participating in each such vote shall be recorded and no proxies shall be allowed. Within one day of such vote, the committee shall make publicly available a written copy of such vote and, if a meeting or portion thereof is closed to the public, a full written explanation of its action.

"(b) Each joint committee, subcommittee, and committee of conference shall make public announcement of the date, place, and subject matter of each meeting at least one week before such meeting unless the committee or subcommittee determines by a vote of a majority of a quorum of the committee or subcommittee present that committee business requires that such meeting be called at an earlier date, in which case the committee shall make public announcement of the date, place, and subject matter of such meeting at the earliest practicable opportunity.

"(c) A complete transcript shall be made of each meeting of each joint committee, subcommittee, and committee of conference (whether open or closed to the public). Except as provided in subsection (d) of this section, a copy of each such transcript shall be made available for public inspection within seven days of each such meeting, and additional copies of any transcript shall be furnished to any person at the actual cost of duplication. Notwithstanding the provisions of subsection (d), in the case of meetings closed to the public, the portion of such transcript made available for public inspection shall include a list of all persons attending and their affiliation, except for any portion of such list which would disclose the identity of a confidential source, or endanger the life or physical safety of law enforcement personnel.

"(d) In the case of meetings closed to the public pursuant to subsection (a) of this section, the joint committee, subcommittee, or committee of conference may delete from the copies of transcripts that are required to be made available or furnished to the public pursuant to subsection (c) of this section, those portions which it determines by vote of the majority of a quorum of the committee or subcommittee consist of materials specified in paragraph (1), (2), (3), (4), or (5) of subsection (a) of this section. A separate vote of the committee or subcommittee shall be taken with respect to the transcript of such meeting. The vote of each committee or subcommittee member participating in each such vote shall be recorded and published, and no proxies shall be allowed. In place of each portion deleted from copies of the transcript made available to the public, the committee or subcommittee shall supply a full written explanation of why such portion was deleted, and a summary of the substance of the deleted portion that does not itself disclose information specified in paragraph (1), (2), (3), (4), or (5) of subsection (a) of this section. The committee or subcommittee shall maintain a complete copy of the transcript of each meeting (including those portions deleted from copies made available to the public), for a period of at least one year after such meeting, or until the Congress following the one in which such meeting was held is assembled, whichever occurs later.

"(e) A point of order may be raised against any committee vote of a joint committee, subcommittee, or committee of conference to close a meeting to the public pursuant to subsection (a) of this section, or any committee or subcommittee vote to delete from the publicly available copy a portion of a meeting transcript pursuant to subsection (d) of this section by committee or subcommittee members comprising one-fourth or more of the total number of the members of such committee or subcommittee present and voting for or against such action. Any such point of order shall be raised in either House within two calendar days after the vote against which the point of order is raised, and such point of order shall be a matter of highest personal privilege. Each such point of order shall immediately be referred to a Select Joint Committee on Meetings consisting of the President pro tempore of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders from each House. The select committee shall examine the complete verbatim transcript of the meeting in question and shall rule whether the vote to close the meeting was in accordance with subsection (a) of this section, or whether the vote to delete a portion or portions from publicly available copies of the meeting transcript was in accordance with subsection (d) of this section, as the case may be. The select committee shall report to both Houses a concurrent resolution within five calendar days (excluding days where either House is not in session) containing its findings. If both Houses adopt such a resolution finding that the committee vote in question was not in accordance with the relevant subsection, they shall direct that there be made publicly available the entire transcript of the meeting improperly closed to the public, or the portion or portions of any meeting transcript improperly deleted from the publicly available copy, as the case may be.

"(f) The Select Joint Committee on Meetings shall not be subject to the provisions of subsection (a), (b), (c), or (d) of this section."

(b) Title I of the table of contents of the Legislative Reorganization Act of 1946 is amended by inserting immediately below item 133C, as added by section 101(c) of this Act, the following:

"133D. Open joint and conference committee meetings.".

SEC. 104. EXERCISE OF RULEMAKING POWERS.—The provisions of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE II—AGENCY PROCEDURES

SEC. 201. (a) This section applies, according to the provisions thereof, to any agency, as defined in section 551(1) of title 5, United States Code, where the body comprising the agency consists of two or more members. Except as provided in subsection (b), all meetings (including meetings to conduct hearings) of such agencies, or a subdivision thereof authorized to take action on behalf of the agency, shall be open to the public. For purposes of this section, a meeting consists of any procedure by which official agency business is considered or discussed by at least the number of agency members (or of members of a subdivision of the agency authorized to take action on behalf of the agency), required to take action on behalf of the agency.

(b) Subsection (a) shall not apply to any portion or portions of an agency meeting where the agency determines by a vote of a majority of its entire membership, or, in the case of a subdivision thereof authorized to take action on behalf of the agency, a majority of the membership of such subdivision, that such portion or portions of the meeting—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the necessarily confidential conduct of the foreign policy the United States;

(2) will relate solely to individual agency personnel or to internal agency office management and administration or financial auditing;

(3) will tend to charge with crime or misconduct, or to disgrace any person, or will represent a clearly unwarranted invasion of the privacy of any individual: *Provided,* That this paragraph shall not apply to any Government officer or employee with respect to his official duties or employment: *And provided further,* That as applied to a witness at a meeting this paragraph shall not apply unless the witness requests in writing that the meeting be closed to the public;

(4) will disclose information pertaining to any investigation conducted for law enforcement purposes, but only to the extent that the disclosure would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (D) disclose investigative techniques and procedures, (E) endanger the life or physical safety of law enforcement personnel; or (F) in the case of an agency authorized to regulate the issuance or trading of securities, disclose information concerning such securities, or the markets in which they are traded, when such information must be kept confidential in order to avoid premature speculation in the trading of such securities; or

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person where—

(A) a Federal statute requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Federal Government on a confidential basis other than through an application by such person for a specific Government financial or other benefit and the information must be kept secret in order to prevent grave and irreparable injury to the competitive position of such person;

(6) will relate to the conduct or disposition (but not the initiation) of a case of adjudication governed by the provisions of the first paragraph of section 554(a) of title 5, United States Code, or of subsection (1), (2), (4), (5), or (6) thereof.

A separate vote of the agency members, or the members of a subdivision thereof authorized to take action on behalf of the agency, shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to this subsection. The vote of each agency member participating in such vote shall be recorded and no proxies shall be allowed. Within one day of such vote, the agency shall make publicly available a written copy of such vote and, if a meeting or portion thereof is closed to the public, a full written explanation of its action.

(c) Each agency shall make public announcement of the date, place, and subject matter of each meeting, and whether open or closed to the public, at least one week before each meeting. Such announcement shall be made unless the agency determines by a vote of the majority of its members, or in the case of a subdivision thereof authorized to take action on behalf of the agency, a majority of the members of the subdivision, that agency business requires that such meetings be called at an earlier date, in which case the agency shall make public announcement of the date, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable opportunity.

(d) A complete transcript or electronic recording adequate to fully record the proceedings shall be made of each meeting of each agency (whether open or closed to the public). Except as provided in subsection (e) of this section a copy of the transcript or electronic recording of each such meeting, together with any official minutes of such meeting, shall be made available to the public for inspection, and additional copies of any such transcript, minutes, or recording (or a copy of a transcription of the electronic recording), shall be furnished to any person at the actual cost of duplication or transcription. Notwithstanding the provisions of subsection (e), in the case of meetings closed to the public, the portion of such transcript made available for public inspection or electronic recording shall include a list of all persons attending and their affiliation, except for any portion of such list which would disclose the identity of a confidental source, or endanger the life or physical safety of law enforcement personnel.

(e) In the case of meetings closed to the public pursuant to subsection (b) of this section, the agency may delete from the copies of transcripts, electronic recordings, and minutes made available or furnished to the public pursuant to subsection (d) of this section, those portions which the agency determines by vote of a majority of its membership consist of materials specified in paragraph (1), (2), (3), (4), (5), or (6) of subsection (b) of this section. A separate vote of the agency shall be taken with respect to each transcript, electronic recording, or minutes. The vote of each agency member participating in such vote shall be recorded and published, and no proxies shall be allowed. In place of each portion deleted from copies of the meeting transcript, electronic recording, and minutes made available to the public, the agency shall supply a full written explanation of why such portion was deleted and a summary of the substance of the deleted portion that does not itself disclose information specified in paragraph (1), (2), (3), (4), (5), or (6) of subsection (b). The agency shall maintain a complete verbatim copy of the transcript, or a complete electronic recording of each meeting (including those portions deleted from copies made available to the public), for a period of at least two years after such meeting, or until one year after the conclusion of any proceeding with respect to which the meeting, or a portion thereof, was held, whichever occurs later.

(f) Each agency subject to the requirements of this section shall, within three hundred and sixty days after the enactment of this Act, following consultation with the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment by any persons, promulgate regulations to implement the requirements of subsections (a) through (e) inclusive of this section. Such regulations must, prior to final promulgation, receive the approval in writing of the Assistant Attorney General, office of Legal Counsel, certifying that in his opinion the regulations are in accord with the requirements of this section. Any citizen or person resident in the United States may bring a proceeding in the United States Court of Appeals for the District of Columbia Circuit—

(1) to require an agency to promulgate such regulations if such agency has not promulgated such regulations within the time period specified herein; or

(2) to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of subsections (a) through (e) inclusive of this section, and to require the promulgation of regulations that are in accord with such subsections.

(g) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (a) through (e) inclusive of this section by declaratory judgment, injunctive relief, or otherwise. Such actions shall be brought within sixty days after the meeting whose closing is challenged as a violation of this section: *Provided*, That if public notice of such meeting was not provided by the agency in accordance with the requirements of this section, such action shall be brought within sixty days of such meeting or such public announcement, whichever is the later. Such actions shall be brought against an agency and its members by any citizen or person resident in the United States. Such actions may be brought in the district wherein the plaintiff resides, or has his principal place of business, or where the agency in question has its headquarters. In such actions a defendant shall serve his answer within twenty days after the service of the complaint. The burden is on the agency to sustain its action. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned a hearing and trial at the earliest practicable date and expedited in every way. In deciding such cases the court may examine any portion of a meeting transcript or electronic recording that was deleted from the publicly available copy and may take such additional evidence as it deems necessary. Among other forms of equitable relief, including the granting of an injunction against future violations of this section, the court may require that any portion of a meeting transcript or electronic recording improperly deleted from the publicly available copy be made publicly available for inspection and copying, and, having due regard for orderly administration and the public interest, may set aside any agency action taken or discussed at an agency meeting improperly closed to the public. The jurisdiction of the district courts under this subsection shall be concurrent with that of any other court otherwise authorized by law to review agency action. Any such court may, at the application of any person otherwise properly a party to a proceeding before such court to review an agency action, inquire into asserted violations by the agency of the requirements of this section and afford the relief authorized by this section in the case of proceedings by district courts.

(h) In any action brought pursuant to subsection (f) or (g) of this section, the reasonable costs of litigation (including reasonable fees for attorneys and expert witnesses) may be apportioned to the original parties or their successors in interest whenever the court determines such award is appropriate. In the case of apportionment of costs against an agency or its members, the costs may be assessed by the court against the United States.

(i) The agencies subject to the requirements of this section shall annually report to Congress regarding their compliance with such requirements, including a tabulation of the total number of agency meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section.

SEC. 202. Title 5 of the United States Code is amended by adding after section 557 the following:

"EX PARTE COMMUNICATIONS IN AGENCY PROCEEDING

"SEC. 557A. (a) DEFINITIONS.—For purposes of this section—

"(1) 'Ex parte communication' means a communication relevant to an on-the-record agency proceeding where such communication is not made on the record, or openly at a scheduled hearing session in such proceeding, and reasonable notice thereof is not given to all parties to, or intervenors in, such proceedings.

"(2) 'Interested person' means any person (including a member or employee of any Government agency or authority) other than a member or employee of the agency before which the on-the-record proceeding is pending who communicates with an agency member or employee with respect to any such on-the-record agency proceeding.

"(3) 'On-the-record agency proceeding' means any proceedings before any agency where the agency action, or a portion thereof, is required by law to be determined on the record after an opportunity for an agency hearing.

"(b) This section applies to any on-the-record agency proceeding.

"(c) In any agency proceeding which is subject to subsection (b) of this section—

"(1) no interested person shall make or cause to be made to any member of the agency in question, administrative judge, or employee who is or may be involved in the decisional process of the proceeding any ex parte communication;

"(2) no member of the agency in question, administrative judge, or employee who is or may be involved in the decisional process of the proceeding shall make or cause to be made to an interested person any ex parte communication;

"(3) a member of the agency in question, administrative judge, or employee who is or may be involved in the decisional process of the proceeding, who receives a communication in violation of this subsection, shall place in the public record of the proceeding—

"(A) any written material submitted in violation of this subsection; and

"(B) a memorandum stating the substance of each oral communication submitted in violation of this subsection; and

"(C) responses, if any, to the materials described in subparagraphs (A) and (B) of this subsection;

"(4) upon obtaining knowledge of a communication in violation of this subsection prompted by or from a party or intervenors to any proceeding to which this section applies, the agency members or member, the administrative judge, or employee presiding at the hearings may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party or intervenors to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected by virtue of such violation.

"(d) The prohibitions of this section shall not apply—

"(1) to any proceeding to the extent required for the disposition of ex parte matters as authorized by law;

"(2) to any written communication from persons who are neither parties or intervenors to the proceeding, nor government officials acting in their official capacity, where such communications are promptly placed in the public docket file of the proceedings.

"(e) The prohibitions of this section shall apply at such time as the agency shall designate, having due regard for the public interest in open decisionmaking by agencies, but in no case shall they apply later than the time at which a proceeding is noticed for hearing. If the person responsible for the communication has knowledge that the proceeding will be noticed, the prohibitions of this section shall apply at the time of his acquisition of such knowledge. In the case of any person who files with an agency any application, petition, or other form of request for agency action, the prohibitions of this section shall apply, with respect to communications with such person, commencing at the time of such filing or at the time otherwise provided by this subsection, whichever occurs first.

"(f) Every agency notice of an opportunity for participation by interested persons in a hearing shall contain a statement as follows:

"(1) if such notice relates to an on-the-record agency proceeding, it shall state that the proceeding is subject to the provisions of this section with respect to ex parte communications;

"(2) if such notice relates to an agency proceeding not on-the-record, it shall state that the proceeding is not subject to the provisions of this section with respect to ex parte communications.

If a notice of hearing with respect to any proceeding before an agency fails to comply with this section, the proceeding shall be deemed to be an on-the-record agency proceeding for purposes of ex parte communications.

"(g) Each agency subject to the requirements of this section shall, within three hundred and sixty days after the enactment of this section, following consultation with the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment, promulgate regulations to implement the requirements of this section. Any citizen or person resident in the United States may bring a proceeding in the United States Court of Appeals for the District of Columbia Circuit—

"(1) to require any agency to promulgate regulations if the agency has not promulgated such regulations within the time period specified; or

"(2) to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of this section, and to require the promulgation of regulations that are in accord with this section.

"(h) Nothing in this section shall be construed to permit any communication which is prohibited by any other provision of law, or to prohibit any agency from adopting, by rule or otherwise, prohibitions or regulations governing ex parte communications which are additional to, or more stringent than, the requirements of this section.

"(i) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (c) and (e) of this section by declaratory judgment, injunctive relief, or otherwise. The action may be brought by any citizen of or person resident in the United States. The action shall be brought in the district wherein the plaintiff resides or has his principal place of business, or where the agency in question has its headquarters. Where a person other than an agency, agency member, administrative judge, or employee is alleged to have participated in a violation of the requirements of this section, such person may, but need not, be joined as a party defendant; for purposes of joining such person as a party defendant, service may be had on such person in any district. Among other forms of equitable relief, the court may require that any ex parte communication made or received in violation of the requirements of this section be published, and, having due regard for orderly administration and the public interest, may set aside any agency action taken in a proceeding where the violation occured. The jurisdiction of the district courts under this subsection shall be concurrent with that of any other court otherwise authorized by law to review agency action. Any such court may, at the application of any person otherwise properly a party to a proceeding before such court to review an agency action, inquire into asserted violations by the agency of the requirements of this section, and afford the relief authorized by this section in the case of proceedings by district courts.

"(j) In any action brought pursuant to subsection (g) and (i) of this section, cost of litigation (including reasonable fees for attorneys and expert witnesses) may be apportioned to the original parties or their successors in interest whenever the court determines such award is appropriate."

Sec. 203. This title and the amendments made by this title do not authorize withholding of information or limit the availability of records to the public except as provided in this title. This title does not authorize any information to be withheld from Congress.

By Mr. WILLIAMS (for himself, Mr. Randolph, Mr. Magnuson, Mr. Bentsen, Mr. Brooke, Mr. Cannon, Mr. Chiles, Mr. Philip A. Hart, Mr. Hollings, Mr. Humphrey, Mr. Javits, Mr. Kennedy, Mr. McGee, Mr. Mondale, Mr. Moss, Mr. Pastore, Mr. Pell, Mr. Schweiker, Mr. Stafford, Mr. Stevens, Mr. McGovern, Mr. Percy, Mr. Cranston, Mr. Clark, and Mr. Culver):

S. 6. A bill to provide financial assistance to the States for improved educational services for handicapped children. Referred to the Committee on Labor and Public Welfare.

THE EDUCATION OF ALL HANDICAPPED CHILDREN ACT

Mr. WILLIAMS. Mr. President, with Senators Randolph and Magnuson, I am reintroducing a bill entitled "The Education for All Handicapped Children Act." The bill was introduced at the beginning of the 93d Congress, and throughout that Congress the Committee on Labor and Public Welfare, through our Subcommittee on the Handicapped, conducted extensive hearings both in Washington and throughout the United States. As originally introduced, this bill followed on the record of a series of landmark court cases establishing in law the right to education for all handicapped children. Since those initial decrees in 1971 and 1972, the progress toward establishing the right and the remedy for handicapped children has continued, leaving clear today that this right is no longer questioned. Response by numerous States through the courts or through the legislatures has moved us far beyond where we originally stood when this legislation was first introduced.

Furthermore, steps taken by the 93d Congress have brought us much closer to achieving the implementation of the right of all handicapped children to go to school with their peers. These provisions, adopted as part of the Education Amendments of 1974, laid the basis for comprehensive planning, the delivery of additional financial assistance to the States, and the protection of the rights of parents and their children in receiving educational services from the schools of this Nation. These provisions—

Mandated the States to prepare and submit to the Commissioner a comprehensive planning document, establishing a goal of full educational opportunity for each handicapped child within the State and requiring a detailed timetable for accomplishing this goal. This document is due on August 21, 1975, and must be submitted in order for the State to receive funds after June 30;

Established a priority in the use of Federal funds under that program for children not presently receiving an education program;

Changed the State grant program into an entitlement program based on the number of children in average daily attendance and thus vastly increased the funding available to the States for fiscal year 1975;

Mandated a plan for the provision of full due process guarantees to all handicapped children and their parents;

Mandated the States to submit in detail a plan demonstrating how children will be educated in the least restrictive environment;

Mandated a plan from the States demonstrating how they will prohibit the classification of children in a racially or culturally discriminatory manner; and

Underscored the mandate for a least restrictive environment by providing an incentive under title I for the return of children now served by State agencies to their local educational agency.

The culmination of this action has been increased appropriations under the supplemental appropriations bill passed by the 93d Congress and signed by the President, making available to the States $100 million for fiscal year 1975 and $100 million for fiscal year 1976, or slightly more than double the appropriations available in the previous fiscal year. While there are few Senators in this Chamber who agree that this level of funding is sufficient, it does represent a vitally needed increase of funds which will be well used by the States.

The bill I am introducing builds on that important record and on the hearings held throughout the 93d Congress. It amends part B of the Education of the Handicapped Act to provide an entitlement to States of 75 percent of the excess costs involved in educating handicapped children for fiscal years 1976 through 1980, and to lay in place a reorganization of that part of existing law which I believe will revitalize and make clear the responsibilities of State and local educational agencies in delivering services to handicapped children. In brief, this bill—

Mandates the States to have in effect a policy which assures the right to a free appropriate public education for each handicapped child;

On the basis of the planning document submitted pursuant to Public Law 93–380, requires the States to submit a plan demonstrating how a free appropriate public education will be available for all handicapped children within the State within 2 years from date of enactment;

Requires the States to establish a priority for providing a free appropriate public education to handicapped children who are unserved and to those with the most severe handicaps;

Requires each local educational agency within a State to maintain an individualized written education program for each handicapped child, to review this program at least annually and to revise the provisions of this program. This program will be developed and agreed upon jointly by the parents of the child, the child when appropriate, the teacher and the local educational agency;

Requires, as does existing law, due process guarantees for parents of handicapped children and their child in all decision affecting the identification, evaluation and educational placement; procedures to assure that the child will be served in the least restrictive environment; and procedures to prohibit the classification of children in a culturally or racially restrictive manner;

Requires that any materials or procedures utilized for evaluation and placement will be administered in the primary home language or communication, and that no single procedure shall be the sole criterion for determining appropriate educational programing for the child;

Requires that the State educational agency shall be the sole agency for carrying out the act and that all education programs including those administered by another State agency will be supervised by persons in the State educational agency responsible for the education of handicapped children;

Requires the State to have a planning and advisory panel to prescribe general policies for determining priorities within the State;

Requires the State to set forth procedures by which all Federal funds for the education of handicapped children including those under title I, title III of the Elementary and the Secondary Education Act and the Vocational Education Act received by the State or any of its political subdivisions will be utilized only in a manner consistent with the requirement of a free appropriate public education for all handicapped children within 2 years from date of enactment;

Requires the State to establish procedures for the development and implementation of a comprehensive system of personnel development which includes the in-service training of general and special educational personnel;

Requires the State to establish procedures which assure that handicapped children in private schools will be provided special education and related services at no cost to their parents if such children have been referred to such schools or facilities as a means of carrying out the provisions of this act or other law requiring the right to education for each handicapped child, and to assure that each child has all the benefits and rights they would have if served in a public educational agency;

Requires the U.S. Commissioner of Education to evaluate the impact and effectiveness of all State efforts to assure the free appropriate public education of all handicapped children, and to provide for the collection and annual reporting of information with respect to State programs, numbers of children served and not served;

Requires the Secretary of the Department of Health, Education, and Welfare to insure that each recipient of assistance under the act shall take affirmative action to employ and advance in employment qualified handicapped individuals; and

Establishes a new grant program to assist any State or local educational agency in removing architectural barriers within existing school buildings.

In recognizing, as the 93d Congress did and as this bill does, the need for increased financial assistance for the education of handicapped children, I believe that it is time for us to also be very clear about the primary responsibility that the States have in carrying out and assuring to each child within their State the guarantees of the Constitution. We have moved beyond the time when the excuses of lack of expertise or gradual improvement are sufficient to absolve these responsibilities. Until the day that each of us, as representatives of individual States, can stop trying to deal with these guarantees on a case-by-case basis, and until each parent within each State and each child has an educational program which allows him or her to grow, we will not have dealt with the constitutional birthrights of these children in a manner befiting the United States of America. This bill, I believe, makes many important improvements and will start us on a road to true accountability of the educational system.

The Subcommittee on the Handicapped in the last Congress established a hearing record which makes clear the need for these provisions. It is time for the Congress to pass this legislation, and I see no reason why this will not be done in the early months of this session.

I ask unanimous consent, Mr. President, that the text of S. 6 be printed immediately following the text of my remarks, and ask further that documents setting forth the legal mandates within the States—exhibit A, and the status of State programs to assure the right to education for handicapped children—exhibit B—be printed immediately following the text of the bill.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 6

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education for All Handicapped Children Act".

Sec. 2. (a)(1) Section 601 of the Education of the Handicapped Act and all references thereto are redesignated as section 600.

(2) Part A of such Act is amended by adding after section 600 (as redesignated by this section) the following new section:

"STATEMENT OF PURPOSE

"Sec. 601. (a) The Congress finds that—

"(1) there are more than seven million handicapped children in the United States today;

"(2) the special educational needs of such children are being fully met in only a few school systems;

"(3) more than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

"(4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

"(5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;

"(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expenses;

"(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special educational programs and related services to meet the needs of handicapped children;

"(8) State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and

"(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the laws; therefore,

"(b) It is the purpose of this title to insure that all handicapped children have available to them not later than 1978 special education and related services designed to meet their unique needs, to insure that the rights of handicapped children and their parents or guardians are protected, to relieve the fiscal burden placed upon the States and localities when they provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.".

(b) Section 602 of the Act is amended to read as follows:

"DEFINITIONS

"Sec. 602. As used in this title—

"(1) 'handicapped children' means mentally retarded, hard-of-hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health-impaired children, or children with specific learning disabilities who by reason thereof require special education and related services;

"(2) 'Advisory Committee' means the National Advisory Committee on Handicapped Children;

"(3) 'construction', except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under this title; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with the activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing;

"(4) 'children with specific learning disabilities' means those children who have a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic handicaps;

"(5) 'Commissioner' means the Commissioner of Education;

"(6) 'elementary school' means a day or residential school which provides elementary education, as determined under State law;

"(7) 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials;

"(8) 'free appropriate public education' means special education, and related services which shall be provided at public expense, under public supervision and direction and without charge, and meeting the standards of the State educational agency, which shall include an appropriate preschool, elementary, or secondary school education in the applicable State and which is provided in conference with an individualized written education program required by this Act;

"(9) 'individualized written education program' means a written educational plan for each child developed and agreed upon jointly by the local educational agency, the teacher, the parents or guardians of the child and the child when appropriate, which includes (A) a statement of the child's present levels of educational performance, (B) statements of the instructional objectives to be achieved, (C) a statement of the specific educational services to be provided to such child, and the extent of integration into the regular classroom, (D) the projected date for initiation and anticipated duration of such services, and (E) objective criteria and evaluation procedures and schedule for determining whether instructional objectives are being achieved;

"(10) 'institution of higher education' means an educational institution in any State which—

"(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(B) is legally authorized within such State to provide a program of education beyond high school;

"(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, 'or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards.

For the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

"(11) 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or countries as are recognized in a State as an administrative agency for its public elementary or secondary schools, and such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

"(12) 'nonprofit' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(13) 'per pupil expenditure for all other children' means, for any State, the aggregate current expenditure for personnel, materials, equipment, and transportation services provided comparable to personnel, materials, equipment, and transportation services provided pursuant to sections 613(a) (4) and (5), during the fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in that State, plus any direct current expenditure by the State for operation of the schools of any such agency for all other children not included in the determination made under paragraph (14) of this section, divided by the aggregate number of children other than the children described in paragraph (14) children in daily attendance to whom such agency has provided free appropriate public education, and such expenditure shall not include any financial assistance received under the Elementary and Secondary Education Act of 1965, or any other Federal financial assistance;

"(14) 'per pupil expenditure for handicapped children' means, for any State, the aggregate current expenditure for personnel, materials, equipment, and transportation services provided pursuant to sections 613 (a) (4) and (5), during the fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in that State, plus any direct current expenditure by the State for the operation of the schools of any such agency for handicapped children, divided by the aggregate number of handicapped children in daily attendance to whom such agency has provided free appropriate public education, and such expenditure shall not include any financial assistance received under any other part of the Education of the Handicapped Act, under the Elementary and Secondary Education Act of 1965, or any other Federal financial assistance;

"(15) 'public educational agency' means any State educational agency, any local educational agency, and any other public agency approved by the State educational agency to provide special education and related services to handicapped children within the State;

"(16) 'related services' means transportation and developmental, corrective, and other supportive services (including, but not limited to, speech pathology and audiology, psychology, physical and occupational therapy, physical education and recreation, and medical services and social work) as required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children and provision of services to such children;

"(17) 'research and related purposes' means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, including (but without limitation) experimental schools;

"(18) 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12;

"(19) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(20) 'special education' means specially designed instruction at no cost to parents or guardians to meet the unique needs of a handicapped child as set forth in each child's individualized written education program, including classroom instruction, home instruction and instruction in hospitals and institutions;

"(21) 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(22) 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law; and

"(23) the term 'home instruction' means special education and related services in the home or institutional setting which is provided in conformance with an individualized written education program to children who are determined by the State educational agency and reassessed periodically as temporarily unable to attend school because of a medical condition that presupposes the child's absence from school in excess of four weeks, except that the child's handicapping condition that requires special education and related services shall not be the reason for the provision of home instruction instead of free appropriate public education in the regular educational environment, or alternative special programs in a class or school setting.".

SEC. 3. Part B of the Education of the Handicapped Act is amended to read as follows:

"DURATION OF ASSISTANCE

"SEC. 611. During the period beginning July 1, 1975, and ending September 30, 1980, the Commissioner shall, in accordance with provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under this part for the purpose of assisting such States in providing full educational opportunity to all handicapped children.

"ENTITLEMENT

SEC. 612. (a) Each State which meets the eligibility requirements of section 613(a) is entitled under this part to an amount which is equal to the Federal percentage (established pursuant to subsection (d)) of the amount by which the per pupil expenditure for handicapped twenty-one years of age or younger exceeds the per pupil expenditure for all other children, aged five to seventeen years, inclusive, in the public elementary and secondary schools in that State, multiplied by the number of handicapped children twenty-one years of age or younger for which the State is, in the academic year preceding the fiscal year for which the determination is made, providing free appropriate public education.

"(b) Funds so allotted shall be used by the State to initiate, expand, and improve special education and related services for handicapped children in accordance with the provisions of this part.

"(c) The per pupil expenditure for handicapped children, from birth to twenty-one years, inclusive, and the per pupil expenditure for all other children, aged five to seventeen years, inclusive, in any State shall be determined by the Commissioner on the basis of the most recent data available to him.

"(d) For the purpose of this section, the 'Federal percentage' shall, for each fiscal year, be 75 percent.

"ELIGIBILITY

"SEC. 613. (a) In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Commissioner that the following conditions are met:

"(1) The State has in effect a policy that assures all handicapped children the right to a free appropriate public education.

"SEC. 613. (a) In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Commissioner that the following conditions are met:

"(1) The State has in effect a policy that assures all handicapped children the right to a free appropriate public education.

"(2) The State has developed a plan pursuant to section 613(b) of this Act in effect prior to the enactment of the Education for All Handicapped Children Act which will be submitted not later than August 21, 1975 and will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

"(A) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

"(B) a free appropriate public education will be available for all handicapped children within the State not later than 2 years from the effective date of the Education for All Handicapped Children Act;

"(C) all children residing in the State who are handicapped regardless of the severity of their handicap and who are in need of special education and related services are identified, located, and evaluated, including a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

"(D) the policies and procedures are established in accordance with detailed criteria prescribed by the Commissioner to protect the confidentiality of such data and information by the State; and

"(E) the amendment to the plan submitted by the State required by this subsection shall be available to parents and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commissioner.

The amendment made by section 3 relating to paragraph (2) of section 613(a) of the Education of the Handicapped Act shall take effect on and after August 21, 1975.

"(3) The State has established priorities for providing a free appropriate public education to handicapped children with the most severe handicaps or who are unserved, and has made adequate progress in meeting the timetable of the plan, developed pursuant to paragraph (2) of this subsection.

"(4) Each local educational agency in the State will maintain an individualized written education program for each handicapped child and review at least annually and revise its provisions when appropriate with the agreement of the parents or guardian of the handicapped child.

"(5) The State has established procedures to insure that handicapped children and their parents or guardians are guaranteed procedural safeguards in decisions regarding identification, evaluation, and educational placement of handicapped children including, but not limited to (A)(i) prior notice to parents or guardian of the child when the local or State educational agency proposes to change the educational placement of the child, (ii) an opportunity for the parents or guardian to obtain an impartial due process hearing, examine all relevant records with respect to the classification or educational placement of the child, and obtain an independent educational evaluation of the child, (iii) procedures to protect the rights of the child when the parents or guardian are not known, unavailable or the child is a ward of the State including the assignment of an individual (not to be an employee of the State or local educational agency involved in the education or care of children) to act as a surrogate for the parents or guardian, and (iv) provision to insure that the decisions rendered in the impartial due process hearing required by this paragraph shall be binding on all parties subject only to appropriate administrative or judicial appeal; and (B) procedures to insure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and (C) procedures to insure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Any such materials or procedures shall be provided and administered in the child's primary home language or communication, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

"(6) The State educational agency will be the sole agency for carrying out the requirements of this part and that all educational programs for handicapped children within the State, including all such programs administered by any other State agency will be supervised by the persons responsible for educational programs for handicapped children in the State educational agency and shall meet education standards of the State educational agency.

"(7) The State has a planning and advisory panel, appointed by the Governor, composed of individuals involved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents, or guardians of handicapped children, State and local education officials, and administrators of programs for handicapped children, which (A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) prescribes general policies under which the State educational agency will determine priorities within the State for educational services for handicapped children, (C) reviews the State plan and reports to the State educational agency, the public, and the Commissioner on the progress made in the implementation of the plan and recommends needed amendments to the plan, (D) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this title, and (E) assists the State in developing, conducting, and reporting the evaluation procedures required under section 617 of this title.

"(b) The Commissioner is authorized to establish specific criteria prescribing the manner in which the requirements of subsection (a) of this section are to be met.

"APPLICATION

"SEC. 614. (a) Any State meeting the eligibility requirements set forth in section 613 (a) and desiring to participate in the program under this part shall submit to the Commissioner an annual application at such time, in such manner, and containing or accompanied by such information as he deems necessary. Each such application shall—

"(1) set forth programs and procedures for the expenditure of funds paid to the State agency in the fiscal year for which such application is made which are consistent with section 613(a)(2) of this part, and which insure that priority in the expenditure of funds under such application shall be given to the provision of special education and related services to children with the most severe handicaps or who are presently unserved;

"(2) set forth programs and procedures by which funds received by the State or any of its political subdivisions under other Federal programs (including, but not limited to, part A of title I of the Elementary and Secondary Education Act; title III of the Elementary and Secondary Education Act, or its successor authority; Public Law 89-313; and the Vocational Education Act of 1968 which provide assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all handicapped within two years from the date of enactment of this Act;

"(3) set forth programs and procedures for the development and implementation of a comprehensive system of personnel development which shall include the in-service training of general and special educational instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, and that effective procedures for acquiring and disseminating to teachers of, and administrators of programs for, handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

"(4)(A) set forth programs and procedures to assure that to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this part; and

"(B) that handicapped children in private schools and facilities will be provided special education and related services at no cost to their parents, if such children are placed in or referred to such schools or facilities as the means of carrying out the requirements of this title or other applicable law requiring the provision of special education and related services to all handicapped children within such State and that in all such instances the State education agency shall assure that such schools and facilities meet standards that apply to public educational agencies and that children so served have all the rights they would have if served in public educational agencies;

"(5) set forth policies and procedures which assure that distribution of funds under this part reflects the excess cost of serving handicapped children in each local educational agency and the number of children so served by each local educational agency;

"(6) provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

"(7) provide for (A) making such reports in such form and containing such information as the Commissioner may require to carry out his functions under this part, including reports of the objective measurements required by paragraph (9) of this section, and (B) keeping such records and affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this Act;

"(8) provide satisfactory assurance that Federal funds made available under this part will be so used as to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case supplant such State and local funds; except that, where the State provides clear and convicting evidence, certified by its advisory panel required by section 613, that all handicapped children have available to them appropriate special education and related services, the Commissioner may waive in part the requirement of this clause if he determines that the certification is correct;

"(9) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this Act to the State, including any such funds paid by the State to local educational agencies; and

"(10) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children, in accordance with such criteria that the Commissioner shall prescribe pursuant to section 617.

"(b)(1) The Commissioner shall approve any State annual application and any modification thereof which—

(1) is submitted by a State eligible under in accordance with section 613 of this Act, and,

(2) meets the requirements of subsection (a) of this section. The Commissioner shall disapprove any application which does not meet the requirements of the preceding sentence, but shall not finally disapprove a State application except after reasonable notice and opportunity for a hearing to the State.

"WITHHOLDING AND JUDICIAL REVIEW

"SEC. 615. (a)(1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there has been a failure to comply substantially with any provision of sections 613 or 614, the Commissioner shall notify the agency that payments will not be made to the State under this part (or, in his discretion, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions or omissions caused or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no payments shall be made to the State under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"(2) Whenever the State planning and advisory panel finds that there has been substantial failure to carry out the requirements of any provision of this act, it shall notify the chief executive officer of the State and the Commissioner who may provide notice, conduct a hearing and, if he finds a failure described in paragraph (1), withhold payments pursuant to this subsection.

"(b)(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State application submitted under section 614, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Commissioner, if supported by substantial evidence shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"ADMINISTRATION

"SEC. 616. (a)(1) In carrying out his duties under this part, the Commissioner shall—

"(A) cooperate with, and render all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of handicapped children and the execution of the provisions of this part;

"(B) provide such short-term training programs and institutes as are necessary; and

"(C) disseminate information, and otherwise promote the education of all handicapped children within the States.

"(2) As soon as practicable after the enactment of this Act, the Commissioner shall prescribe uniform categories and accounting procedures to be utilized by State agencies in submitting an application for assistance under this part in order to assure equity among the States.

"(b) There are authorized to be included for each fiscal year in the appropriation for the Department of Health, Education, and Welfare such sums as are necessary to administer the provisions of this part.

"EVALUATION

"SEC. 617. (a) The Commissioner shall measure and evaluate the impact of the program authorized under this part and the effectiveness of State efforts to assure the free appropriate public education of all handicapped children.

"(b) In carrying out his responsibilities under this part, the Commissioner shall conduct directly, or by grant or contract such studies, investigations, and evaluations as are necessary to assure effective implementation of this part and (1) shall provide for the collection and annual reporting of programmatic information concerning programs and projects carried out with financial assistance under this part and other Federal programs supporting the education of handicapped children, and such information from State and local educational agencies and other appropriate sources necessary for the implementation of this part, including such information as (A) the numbers of handicapped children participating in programs supported under this part, (B) the types of handicaps and the numbers of persons with such handicaps participating in such programs, (C) the numbers of persons needing such services, (D) the amount of Federal, State, and local expenditures specifically used to provide such special educational programs and (2) provide for the evaluation of such programs through (A) the development of effective methods and procedures for evaluation methods and procedures, and (C) conducting actual evaluation studies designed to test the effectiveness of activities supported by financial assistance under this Act.

"(c)(1) Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall submit to the appropriate committees of the Congress a report on the progress being made toward the provision of free appropriate public education to all handicapped children, including a full report of all evaluation activities conducted under subsection (b).

"(2) Such report shall include a detailed evaluation of the education programs provided in accordance with individualized written education programs, and shall include an evaluation of the degree to which State and local educational agencies meet instructional objectives and have complied with the projected timetable for delivery of services.

"(3) The Commissioner shall also include in the report required under this subsection an analysis, and evaluation of the effectiveness, of the procedures undertaken by the States to assure that handicapped children receive special education and related services in the least restrictive environment commensurate with their needs and to assure compliance with section 613(a)(6)(B) and improve programs of instruction for handicapped children in day or residential facilities. Such analysis shall include any recommendations for change in provisions of this part, or other Federal law providing support for the education of handicapped children. In order to carry out such an evaluation, the Commissioner is authorized to conduct a statistically valid survey for assessing the effectiveness of the individualized written education program, and such sums as are necessary are hereby authorized to be appropriated to carry out such survey.

"(d) The Commissioner is authorized to hire personnel necessary to conduct data collection and evaluation activities required by subsection (b) without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time.

"(f) There are authorized to be appropriated for carrying out the responsibilities of this section $2,500,000 for fiscal year 1976, $3,500,000 for fiscal year 1977, $5 million for fiscal year 1978, and $7,500,000 each for fiscal year 1979 and fiscal year 1980.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

"SEC. 618. As a condition of providing financial assistance under this Act, the Secretary shall insure that each recipient of such assistance shall take affirmative action to employ and advance in employment qualified handicapped individuals covered under, and on the same terms and conditions as set forth in, the applicable provisions of the Rehabilitation Act of 1973 (87 Stat. 355) relating to employment of handicapped individuals by State rehabilitation agencies and rehabilitation facilities and under Federal contracts and subcontracts.

"PAYMENTS

"SEC. 619. (a) The Commissioner shall, subject to the provisions of section 613, relating to eligibility, pay to each State the amount which that State is eligible to receive under this part.

"(b)(1) The Commissioner is authorized to pay to each State amounts equal to the amounts expended for the proper and efficient performance of its duties under this part which may include regional, interstate and intrastate technical assistance, and dissemination of necessary materials.

"(2) The total of such payments in any fiscal year shall not exceed—

"(A) one and one-half per centum of the total of the amounts of the grants paid under this Act for that year to the State educational agency; or

"(B) $75,000, or $25,000 in the cases of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, whichever is greater.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(c) Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Commissioner may determine necessary."

GRANTS FOR THE REMOVAL OF ARCHITECTURAL BARRIERS

SEC. 4. (a) Upon application by any State or local educational agency the Commissioner of Education is authorized to make grants to pay part or all of the cost of altering existing buildings and equipment in the same manner and to the same extent as authorized by an Act approved August 12, 1968 (Public Law 90-480), relating to architectural barriers.

(b) For the purposes of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.

EFFECTIVE DATE

SEC. 5. The amendments made by sections 2 and 3 of this Act shall take effect on and after July 1, 1975.

STATE LAWS AND OTHER LEGAL REQUIREMENTS RELATING TO THE EDUCATION OF HANDICAPPED CHILDREN

State	Type of mandation	Date of implementation	Date of passage	Ages of eligibility	Categories excluded
Alaska	Full planning and programing	1977		6 to 21	
Arizona	Conditional (5 or more exceptional children in district).	1965	1965	5 to 19	
Arizona	Selective planning and programing	1976		5 to 21	Gifted and emotionally handicapped.
Arkansas [1]	Full planning and programing	1979-80		6 to 21	
California	Mandatory			3 to 21	Emotionally handicapped.
Colorado [2]	Full planning and programing	1976		2, 5 to 21	
Connecticut	Mandatory	1973		5 to 21	
Delaware	do	AG opinion		4 to 21	
District of Columbia	No statute (Mills vs. board of education mandatory).	1972	1971	School age	
Florida	Mandatory		1973	(13 yr guaranteed 3-mo maximum)	
Georgia	Full planning and programing	1976		3 to 18	
Hawaii	Mandatory		1949	5 to 20 (except under early admission plan)	
Idaho	do		1972	Birth to 21	
Illinois	do		1961	3 to 21	
Indiana	do		1973	Deaf-6 mos-6-18	
Iowa	Selective mandate		1970	Birth to 21 (to 24 if necessary)	Deaf, blind, or severely handicapped may be educated in State schools.
Kansas	[3] Selective planning and programing DD only.	1974		Birth to 21	
Kentucky	Planning and programing	1974		do	
Louisiana	Mandate by petition (5 or more)			3 to 21	
Maine	Mandatory		1973	5 to 21 (speech handicapped-birth to 21)	
Maryland	Planning and programing	1974		Birth to 18	
Massachusetts	do	1974	1973	3 to 21	
Michigan	do	1973		Birth to 25	
Minnesota	Mandatory		1972	Deaf, blind, (R or S1-4 to 21) MR 5 to 21, ED 6 to 21.	
Mississippi	Mandate by petition (5+)			Birth to 21	
Missouri	Mandatory	1974		5 to 21	
Montana [5]	(a) Selective (conditional)—(at least to EMR, TMR or PH).			PH-birth-25 TMR-birth-21 EMR-legal school age.	
Nebraska	Mandatory	1976	1973	5 to 18	
Nevada	do		do	[6] 5 to 21	
New Hampshire	do		1965	5 to 21 Deaf 4 to 21 PH 5 to 31	
New Jersey	do			5 to 21	
New Mexico	Planning and programing	1977		(By Jan. 1) 6 to 21	
New York court order	Mandatory		1973	5 to 21	
North Carolina	do		1974	Birth-adulthood deaf 18 or 21 if need exist.	
North Dakota	do			6 to 21	
Ohio	Petition (8 or more crippled or EMR)			5 to 21	
Pennsylvania court order	EMR		1971	From 5 yr. of age	
Oklahoma	Mandatory		1970	4 to 21 (until 25 if necessary)	
Oregon	do		1973	Birth to 21 EMR 6 to 21	
Rhode Island	Mandatory		1971	3 to 21	
South Carolina	Planning and programing	1977		6 to 21, HI 3 to 21	
South Dakota	Mandatory		1969	Birth to 21	
Tennessee	Planning and programing	September 1974		4 to 21	
Texas	Petition			3 to 21	
Utah	Mandatory		1973	5 to 21	
Vermont	do		1968	Birth to 21	
Virginia	Planning	1976-77 [7]	1973	2 to 21	
Washington	Mandatory		1971	Legal school age	
West Virginia	do	July 1, 1977	1974	5 to 23	
Wisconsin	do		1973	Birth to 21	
Wyoming	do		1969	Legal school age	

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[1] Current statute is conditional; or 5 or more similarly handicapped children in district. AG opinion says new law effective July 1973.

[2] Except PH-3 to 21.

[3] DD means retardation, cerebral palsy or epilepsy.

[4] Court order suggests present r ghts.

[5] Petition-(at least 4 EMR, TMR, or PH).

[6] Aurally handicapped, 3-21.

[7] Established by regulation.

Definition of the kinds of mandatory legislation used by states:

Full Program Mandate: Such laws require that programs must be programs where children meet the criteria defining the exceptionality.

Planning and Programming Mandate: This form includes required planning prior to required programming.

Planning Mandate: This kind of law mandates only a requirement for planning.

Conditional Mandate: This kind of law requires that certain conditions must be met in or by the local education district before mandation takes effect (this usually means that a certain number of children with like handicaps must reside in a district before the district is obliged to provide for them).

Mandate by Petition: This kind of law places the burden of responsibility for program development on the community in terms of parents and interested agencies who may petition school districts to provide programs.

Selective Mandate: In this case, not all disabilities are treated equally. Education is provided (mandated) for some, but not all categories of disabilities.

STATUS OF STATE EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

(Compiled by the Council for Exceptional Children)

ALABAMA

At present, there are in Alabama, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Alabama State Department of Education indicates that out of a total of 111,149 handicapped children, only 22,384, about a fifth, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 6,000 handicapped would be served there would still be over 80,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Alabama mandating that all eligible handicapped children be provided with an appropriate education by 1977.

ALASKA

At present, there are in Alaska a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Alaska Department of Education indicates that out of a total of 5,050 handicapped children, only 1,875, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 125 handicapped children would be served there would still be over 1,700 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Alaska mandating that all eligible handicapped children be provided with an appropriate education.

ARIZONA

At present, there are in Arizona a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Arizona Department of Education indicated that 27,381 handicapped children, out of a total of 40,059, close to 70 percent were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 4,000 handicapped would be served there would still be over 23,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Arizona mandating that all eligible handicapped children be provided with an appropriate education by 1976. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $2.5 million from 1971–72 to $5.6 million for the 1973–74 school year.

ARKANSAS

At present, there are in Arkansas a great many handicapped children who are not receiving an appropriate education. Data collected from the Arkansas State Department of Education indicates that, as of the past school year, only 22.8 percent of the handicapped school age population were being served. 53,118 additional handicapped children need the opportunity to receive a meaningful public education. As indicated in its annual report to the Governor, the State Department of Education estimates that 3,700 additional teaching units costing approximately $10,000 per unit are required to meet this need. Although it is anticipated that some additional funds may be forthcoming from the state, it will represent a relatively small contribution to the overall necessity for 37 million additional dollars. In considering this situation, it must be emphasized that law is presently in force in Arkansas mandating that all eligible handicapped children be provided with an appropriate education by the 1979–80 school year.

CALIFORNIA

At present, there are in California a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the California Department of Education indicates that out of a total of 1,141,080 handicapped children, only 321,760 children, significantly less than half, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in California mandating that all eligible handicapped children be provided with an appropriate education. The educational dilemma facing California's handicapped children and their families had been considered sufficiently serious to lead to the filing of at least four right to education lawsuits.

COLORADO

At present, there are in Colorado a great many handicapped children who are not receiving an appropriate public education. Statistics gathered by the Colorado Department of Education for the school year 1972–73 showed that of the 91,060 handicapped children in the state only 34,388, or slightly more than one-third, were receiving needed special educational services. In considering this situation, it must be emphasized that with the passage of H.B. 1164 by the legislature, Colorado has mandated that appropriate public education services must be provided to all eligible handicapped children by September, 1976. The educational dilemma facing Colorado's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit in the Federal District Court in Denver, *Colorado Association for Retarded Children* v. *Colorado* (Civil No. C–4620 D. Colo., Filed Dec. 22, 1972).

CONNECTICUT

At present, there are in Connecticut a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Connecticut State Department of Education indicates that out of a total of 89,866 handicapped children, only 35,544, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 4,000 handicapped would be served, there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Connecticut mandating that all eligible handicapped children be provided with an appropriate education.

DELAWARE

At present, there are in Delaware a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Delaware Department of Public Instruction indicates that out of a total of 15,722 handicapped children, only 8,351, slightly over half, were receiving a public education designed to meet their needs. While projections done by the Department for the 1972–73 school year predicted an additional 2,000 children would be served, there would still be over 5,000 handicapped children waiting for their opportunity to receive a meaningful public education. The educational dilemma facing these children has been so severe that in 1971, Catholic Social Services, Inc. of Delaware filed an administrative action against the State Board of Education to obtain an education for three handicapped children excluded from school (filed August 24, 1971). Since that time discussion has been occurring throughout the state about the possibility of filing a class action right to education lawsuit against the state.

FLORIDA

At present, there are in Florida, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Florida State Department of Education indicates that over 34,000 out of a total of 139,903 handicapped children were not receiving an education designed to meet their needs. Projections done by the State Department of Education for the 1972–73 school year indicated little change from the 1971–72 school year. In considering this situation, it must be emphasized that law is presently in force mandating that all handicapped children be provided with a public education. Of importance also is that in the just concluded session of the legislature, this mandate was extended to include profoundly retarded children.

GEORGIA

At present, there are in Georgia a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Georgia Department of Education indicates that out of a total 127,864 handicapped children, only 65,061, about half, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 11,000 handicapped would be served there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Georgia mandating that all eligible handicapped children be provided with an education.

HAWAII

At present, there are in Hawaii a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Hawaii Department of Education indicates that only 9,106 handicapped children, out of a total of 19,590 children, less than half, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Hawaii mandating that all eligible handicapped children be provided with an appropriate education. The educational dilemma facing Hawaii's handicapped children has been considered sufficiently serious to lead to the filing of a class action right to education lawsuit in Hawaii (*Kekahana* v. *Burns*, Civil No. 72–3799, D. Hawaii).

IDAHO

At present, there are in Idaho a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Idaho State Department of Education indicates that out of a total of 36,561 handicapped children, only 8,395 about a fifth, were receiving a public education designed to meet their needs. While projections done by the Department for the 1972–73 school year predicted that an additional 1700 children would be served, there still would be over 25,000 handicapped children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Idaho mandating that all handicapped children be provided with a public education.

ILLINOIS

At present, there are in Illinois a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Office of the Superintendent of Public Instruction indicates that 74,504 handicapped children, out of a total of 183,381 children, about 40 percent were not receiving a public education designed to meet their needs. In considering this situation, it must be emphasized that law is presently in force in Illinois mandating that all eligible handicapped children be provided with an appropriate education. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $16.4 million from 1971–72 to $73.3 million for the 1973–74 school year.

INDIANA

At present, there are in Indiana a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Public Instruction indicates that 58.492 handicapped children, out of a total of 145,091 children, were not receiving needed special education services. Projections done by the Department for the 1972–73 school year predicted that the total number of children to be served would be little different from the 1971–72 school year. In considering this situation, it must be emphasized that state law presently in force in Indiana mandates that an appropriate public education must be provided to all eligible handicapped children.

IOWA

At present, there are in Iowa a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Iowa Department of Public Instruction indicates that out of a total of 94,731 handicapped children, only 36,521, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 7,000 handicapped would be served, there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Iowa mandating that all eligible handicapped children be provided with an appropriate education. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $3.7 million from 1971–72 to $7.2 million for the 1973–74 school year.

KANSAS

At present, there are in Kansas a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Kansas State Department of Education indicates that 26,853 handicapped children, out of a total of 54,566 children, about half were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 2,000 handicapped would be served, there would still be close to 25,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Kansas mandating that all eligible handicapped children be provided with an appropriate education by 1979. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $2.4 million from 1971–72 to $6.1 million for the 1973–74 school year.

KENTUCKY

At present, there are in Kentucky a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the State Department of Education indicates that only 24,336 children out of a total of 78,386 handicapped children, less than a third, were receiving an education to meet their needs. Projections done by the Department for the 1972–73 school year suggest that close to 40,000 handicapped children, about half, would receive specially designed services. In considering this situation, it must be emphasized that law is presently in force in Kentucky which requires that all handicapped children be educated by September, 1974. The educational dilemma facing Kentucky's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit in the federal district court in Frankfort, *Kentucky Association for Retarded Children, et al.* v. *Kentucky State Board of Education* (Civil Action No. 435, E. D. Ky., filed Sept. 6, 1973).

LOUISIANA

At present, there are in Louisiana a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Louisiana State Department of Education indicates that out of a total of 122,344 handicapped children, only 45,056, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 5,500 handicapped would be served, there would still be over 70,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Louisiana mandating that all eligible handicapped children be provded with an appropriate education. You will be interested to know that the educational dilemma facing Orleans Parish mentally retarded children and their families was considered sufficiently serious to lead to the filing of a successful class action right to education lawsuit, *Lebanks* v. *Spears*, (60 F.R.D. 155, E.D. La. 1973) on behalf of all the Parish's mentally retarded children. Despite the large number of children still needing service, state appropriations for the education of handicapped increased only $8 million from 1971–72 to $20 million for the 1973–74 school year.

MAINE

At present, there are in Maine a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Maine Department of Education and Cultural Services indicates that only 6,758 handicapped children, out of a total of 30,743 children, less than a fourth, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the 1971–72 level of service would be extended to only an additional 3,000 children still leaving about 20,000 handicapped children waiting for their opportunity to obtain a public school education. In considering this situation, it must be emphasized that law is presently in force in Maine mandating that appropriate educational services be provided to every eligible handicapped child. You should also know that the amount of state appropriations available for the education of the handicapped for the 1973–74 school year was $1.5 million, an increase of only $200,000 since the 1971–72 school year.

MARYLAND

At present, there are in Maryland a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Maryland Department of Education indicates that 57,380 handicapped children, out of a total of 123,639 children, close to half, were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different than the 1971–72 school year level of service. In considering this situation, it must be emphasized that Maryland presently has law in force mandating that all eligible handicapped children must be provided with an appropriate public education by 1979. That date, however, has been set aside as a result of a decision in a class action right to education lawsuit, *Maryland Association for Retarded Children* v. *State of Maryland* (Equity No. 100/182/77676, Circuit Ct. Baltimore City, Maryland, May 3, 1974), in which the court proclaimed that all children have the right to an education which must be provided by September, 1975.

MASSACHUSETTS

At present, there are in Massachusetts, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Education indicates that 45,152 children out of a total of 108,612 handicapped, less than half, were receiving an education to meet their needs. Projections done by the Department for the 1972–73 school year suggested little change from the 1971–72 school year. In considering this situation, it must be emphasized that with the passage of Chapter 766, partially motivated by a class action right to education lawsuit, the Massachusetts legislature mandated that all handicapped children be educated by September, 1974. While state appropriations to implement the act have been increased to approximately $60 million, it has been estimated that an additional $40 to $50 million is still needed to achieve full compliance.

MICHIGAN

At present, there are in Michigan a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Michigan Department of Education indicates that 123,279 handicapped children, out of a total of 288,297 children, did not receive a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children that would receive services would be little different from the 1971–72 level of service. In considering this situation it must be emphasized that with the passage by the Michigan legislature of Public Act 198 in 1971, the state mandated that appropriate public education services must be provided to all handicapped children by September, 1973. The importance of this Act was emphasized by Judge Charles Joiner of the Eastern District of Michigan Federal District Court when he ruled in *Harrison* v. *State of Michigan* (350 F. Supp. 846, E.D. Mich. 1972) that "this law is a whole new attack on the problem of special education. For the first time, the legislature has directed in unequivocal terms the state and other educational districts to face up to the problem of providing educational programs and services designed to develop the maximum potential of every handicapped person."

MINNESOTA

At present, there are in Minnesota a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the

Minnesota Department of Education indicates that 52,242 handicapped children, out of a total of 122,665 children, were not receiving an education to meet their needs. More recent data, reported by the Department in March, 1974 for the 1973–74 school year, indicated that although substantial progress has been made, there are still over 17,000 children waiting for their opportunity to receive special education. In considering this situation, it is important to note that Minnesota law requires that these children be educated.

MISSISSIPPI

At present, there are in Mississippi a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Mississippi Department of Education indicates that out of a total of 116,066 handicapped children, only 16,587, less than 15 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only about an additional 4,500 handicapped children would be served, leaving the vast majority of these children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Mississippi mandating that all eligible handicapped children be provided with an appropriate education. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $7.1 million for 1973–74, an increase of only $1.7 million from 1972–73.

MISSOURI

At present, there are in Missouri a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Missouri Department of Elementary and Secondary Education indicates that only 65,110 handicapped children, out of a total of 221,578 children, less than a third, are receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that with the passage of H.R. 474, the Missouri legislature placed in force a mandate that all eligible handicapped children must be provided with an appropriate public education. The statute also provides that this level of service must be provided by September, 1974. Despite the large number of children still needing service, state appropriations for the education of handicapped children increased only $4.5 million from 1971–72 to $18.5 million for the 1973–74 school year. The educational dilemma facing Missouri's handicapped children has been considered sufficiently serious to lead to the filing of a class action right to education lawsuit, *Radley* v. *Missouri* (Civil No. 73C556(3), E.D. Mo., November 1, 1973). The suit was dismissed in February, 1974 with the court holding that the presence of the statute rendered the issues moot in that the court could not improve on the implementation schedule or approach to the problem mandated by H.B. 474.

MONTANA

At present, there are in Montana a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Montana Office of Public Instruction indicates that out of a total of 23,480 handicapped children, only 5,358, less than a quarter, were receiving a public education designed to meet their needs. Projections done by the Office of Public Instruction for the 1972–73 school year predicted that only about an additional 3,000 would be served, still leaving 15,000 handicapped children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Montana mandating that all eligible handicapped children be provided with an appropriate education by 1979. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $10.5 million for 1973–74, an increase of only $3.3 million from 1972–73.

NEBRASKA

At present, there are in Nebraska a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Nebraska Department of Education indicates that out of a total of 93,568 handicapped children, only 23,734, about a fourth, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 5,000 handicapped children would be served, there would still be about 65,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Nebraska mandating that all eligible handicapped children be provided with an appropriate education by 1976. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $4.7 million for 1973–74, an increase of only $1.1 million from 1971–72.

NEVADA

At present, there are in Nevada a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Nevada Department of Education indicates that out of a total of 13,640 handicapped children, only 6,300, about half, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Nevada mandating that all eligible handicapped children be provided with an appropriate education. The educational dilemma facing Nevada's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit, *Brandt* v. *Nevada* (Civil No. R–2779, D. Nev., Filed Dec. 22, 1972), on behalf of all of Nevada's handicapped children.

NEW HAMPSHIRE

At present, there are in New Hampshire a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the New Hampshire State Department of Education indicates that out of a total of 19,374 handicapped children, only 6,070, about 31 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 4,300 handicapped children would be served, there would still be about 9,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in New Hampshire mandating that all eligible handicapped children be provided with an appropriate education.

NEW JERSEY

At present, there are in New Jersey a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the New Jersey Department of Education indicates that 131,866 children, out of a total of 231,055 handicapped children, more than half, were not receiving an education to meet their needs. Projections done by the Department for the 1972–73 school year indicated that although another 50,000 children were expected to be served, there still remained about 80,000 handicapped children for whom special programs were not planned to be available. In considering this situation, it must be emphasized that law is presently in force in New Jersey mandating that all eligible handicapped children be provided with an appropriate public education.

NEW MEXICO

At present, there are in New Mexico a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the New Mexico Department of Education indicates that out of a total of 53,126 handicapped children, only 8,655, approximately 16 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only about an additional 1,500 children would be served, leaving over 40,000 handicapped children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in New Mexico mandating that all eligible handicapped children be provided with an appropriate education by 1977. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $8 million for 1973–74, an increase of only $3.5 million from 1971–72.

NEW YORK

At present, there are in New York a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Education indicates that 151,592 handicapped children, out of a total of 372,811 children, were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only about an additional 15,000 handicapped children would receive service leaving about 135,000 handicapped children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in New York mandating that all eligible handicapped children be provided with an appropriate public education. The intent and responsibility of the state has been reinforced by New York Education Commissioner Nyquist when he ordered New York City in *Reid* v. *Board of Education of the City of New York* (No. 8742, Commissioner of Education of New York, Nov. 26, 1973), a class action right to education suit, to provide publicly supported, suitable education programs for all handicapped children. The New York City public schools estimate that it will immediately cost them $60 million to implement the decision.

NORTH CAROLINA

At present, there are in North Carolina a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the North Carolina Department of Education indicates that out of a total of 172,580 handicapped children, only 73,739, less than half, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 10,000 handicapped would be served, there would still be about 90,000 children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in North Carolina mandating that all eligible handicapped children be provided with an appropriate education. Specifically, the legislature in its last session adopted law that declared "that the policy of the state is to ensure every child a fair and full opportunity to reach his full potential. . . ." (CH 1293, 1973). The educational dilemma facing North Carolina's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit, *North Carolina Association for Retarded Children* v. *North Carolina* (Civil No. 3050, E.D.N.C. filed May 18, 1973), on behalf of all North Carolina's mentally retarded children. You should also know that the amount of state appropriations available for the education of the handicapped for the 1973–74 school year was $39 million, an increase of only $9 million since the 1971–72 school year.

NORTH DAKOTA

At present, there are in North Dakota a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the North Dakota Department of Public Instruction indicates that out of a total of 47,215 handicapped children, only 8,947, less than a fifth, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in North Dakota mandating that all eligible handicapped children be provided with an appropriate education by 1980. The educational dilemma facing North Dakota's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right-to-education lawsuit, *North Dakota Association for Retarded Children* v. *Peterson* (Civil No. 1196, D.N.D., Filed Nov. 28, 1972), on behalf of all North Dakota's handicapped children. You should also know that in another recently concluded individual action the North Dakota Supreme Court held that the plaintiff physically handicapped child "is entitled to an equal educational opportunity under the constitution of North Dakota, and that depriving her of that opportunity would be an unconstitutional denial of equal protection under the Federal and State constitutions and of the Due Process and Privileges and Immunities Clauses of the North Dakota Constitution," (*in the interest of G.H., a child* v. *G.H., B.H., F.H., Williston School District, et al.* (Civil No. 8930, N.D.S.C., April 30, 1974). Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $3 million for 1973–75 biennium, an increase of only $1.6 million from 1971–73 biennium.

OHIO

At present, there are in Ohio a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Ohio Department of Education indicates that out of a total of 335,898 handicapped children, slightly over half, 175,300 children were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only an additional 16,000 handicapped children would be provided with a special education, leaving approximately 144,000 children waiting for their opportunity. It is clear that even though state appropriations have increased from $65.5 million in 1971–72 to $90.4 million for 1973–74, an increase of 38 percent, 45 percent of the handicapped children still remain unserved. The educational dilemma facing Ohio's handicapped children has been considered sufficiently serious to lead to the recent filing of a pending class action right-to-education lawsuit, *The Cuyahoga County Association for Retarded Children and Adults, et al.* v. *Martin Essex, et al.* (Civil Action No. C74–587 N.D. Ohio, filed June 28, 1974).

OKLAHOMA

At present, there are in Oklahoma a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Oklahoma State Department of Education indicates that out of a total of 144,586 handicapped children, only 23,746, about 16 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 10,000 handicapped children would be served, there would still be over 110,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Oklahoma mandating that all eligible handicapped children be provided with an appropriate education.

OREGON

At present, there are in Oregon a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Oregon Board of Education indicates that 26,274 handicapped children, out of a total of 48,044 children, were not receiving a public education designed to meet their needs. Projections done by the Board for the 1972–73 school year predicted that while an additional 3,500 handicapped children would be served there would still be over 18,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Oregon mandating that all eligible handicapped children be provided with an appropriate education.

PENNSYLVANIA

At present, there are in Pennsylvania a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Pennsylvania Department of Education indicates that 108,619 handicapped children out of a total of 265,449 children were not receiving a public education designed to meet their needs. Statistics produced by the Department based on December, 1972 enrollments were that despite service expansion to an additional 60,000 children since the 1971–72 school year, there still remain close to 50,000 handicapped children who are waiting for their opportunity to receive a public education. In considering this situation, it must be emphasized that law is presently in force in Pennsylvania mandating that appropriate educational services be provided to every eligible handicapped child. This mandate was specifically reinforced for all mentally retarded children by the landmark right-to-education order achieved in the class action *PARC* v. *Commonwealth of Pennsylvania* (334 F. Supp. 1257, E.D. Pennsylvania 1971 and 343 F. Supp. E.D. Pennsylvania 1972) lawsuit.

RHODE ISLAND

At present, there are in Rhode Island a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Rhode Island Department of Education indicates that only 13,475 handicapped children, out of a total of 39,475 children, about a third, were receiving an education designed to meet their needs. Projections done by the Department for the 1972-73 school year predicted that only about 6,000 additional handicapped children would receive the educational services they need, leaving about 20,000 handicapped children still waiting for their opportunity to receive a public education. In considering this situation, it must be emphasized that law is presently in force in Rhode Island mandating that appropriate educational services be provided to every eligible handicapped child. The educational dilemma facing Rhode Island's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit, *Rhode Island Society for Autistic Children* v. *Reisman*, (C.A. No. 5081, D.R.I., Filed Dec., 1972) on behalf of all Rhode Island's handicapped children by the Rhode Island Society for Autistic Children.

SOUTH CAROLINA

At present, there are in South Carolina a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the South Carolina State Department of Education indicates that out of a total of 106,505 handicapped children, only 38,275, about 36 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 15,275 handicapped children would be served there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in South Carolina mandating that all eligible handicapped children be provided with an appropriate education by 1977. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $16.5 million for 1973–74, an increase of only $6.5 million from 1971–72.

SOUTH DAKOTA

At present, there are in South Dakota, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the South Dakota Department of Public Instruction indicates that out of a total of 17,795 handicapped children, only 4,414, about one-fourth, were receiving public education designed to meet their needs. While projections done by the Department for the 1972–73 school year predicted that an additional 7,500 children would be served there would still be over 5,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in South Dakota mandating that all handicapped children be provided with a public education.

TENNESSEE

At present, there are in Tennessee a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Tennessee State Department of Education indicates that out of a total of 131,903 handicapped children, only 49,173, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Tennessee mandating that all eligible handicapped children be provided with an appropriate education as of September, 1974. The educational dilemma facing Tennessee's handicapped children and their families has been considered sufficiently serious to lead to the filing of a class action right to education lawsuit, *Rainey* v. *Tennessee Department of Education* (No. A–3100 Chancery Court of Davidson County, Tenn., Filed Nov. 6, 1973), on behalf of all of Tennessee's handicapped children. The suit was concluded in July, 1974 with a consent order that again requires that all eligible handicapped children be provided with an appropriate education.

TEXAS

At present, there are in Texas a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Texas Education Agency indicates that out of a total of 777,731 handicapped children, only 175,662, less than a fourth, were receiving a public education designed to meet their needs. Projections done by the Agency for the 1972–73 school year predicted that while an additional 21,000 handicapped would be served there would still be over 580,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Texas mandating that all eligible handicapped children be provided with an appropriate education.

UTAH

At present, there are in Utah a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Utah State Department of Public Instruction indicated that 17,100 handicapped children, out of a total of 44,179 children, were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Utah mandating that all eligible handicapped children be provided with an appropriate education.

VERMONT

At present, there are in Vermont a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Vermont Department of Education indicates that only 4,612 handicapped children, out of a total of 20,631 children, less than a fourth, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Vermont mandating that appropriate educational services be provided to every eligible handicapped child.

VIRGINIA

At present, there are in Virginia a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Virginia State Department of Education indicates that out of a total of 146,748 handicapped children, only 44,768, about 30 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 3,000 handicapped would be served, there would still be about 98,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Virginia mandating that all eligible handicapped children be provided with an appropriate education. A target date for compliance by 1976–77 has been established by the Department through regulations. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased by $4 million from 1971–72 to $12.6 million for the 1973–74 school year.

WASHINGTON

At present, there are in Washington many handicapped children who are not receiving an appropriate public education. Data collected by the Department of Public Instruction indicates that 10,702 handicapped children, which includes the learning disabled category of exceptionality, are presently unserved and for whom the Department desires to serve with an appropriate education during the 1975–77 biennium. There are, in addition, another 12,000 unserved learning disabled handicapped children for whom the state plans to provide programs after the 1975–77 biennium. In order to provide children the services required and planned for the 1975–77 biennium, an additional 36 million dollars is needed, excluding any inflationary factors. While the state has continued to expand services, additional funds are not expected to surpass 16 million dollars and may, in fact, fall short of expectations. Therefore, funding will fall at least 20 million dollars short of the level required to implement the state's plan. In considering this situation it must be emphasized that law is presently in force in the state of Washington which mandates that all handicapped children be provided with an appropriate education.

WEST VIRGINIA

At present, there are in West Virginia a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the West Virginia Department of Education indicates that only 15,161 handicapped children, out of a total of 80,561 children, less than a fifth, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that with the passage by the state legislature of H.B. 1271, West Virginia has mandated that appropriate public education must be provided to all eligible handicapped children. The legislature also by this Act ordered compliance with the mandate in September of this school year.

WISCONSIN

At present, there are in Wisconsin, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Public Instruction indicates that only 66,230 children out of a total of 155,813 handicapped children, considerably less than half, were receiving an education to meet their needs. Statistics for the 1972–73 school year show that the total number to be served is 55 percent, little different from the 1971–72 level of service. In considering this situation, it must be emphasized that with the passage by the legislature of Chapter 89, Wisconsin has mandated that appropriate public education must be provided to all eligible handicapped children. This mandate requiring that these services must be made available beginning with the 1974–75 school year was reinforced and cited in a District Court decision in *Panitch* v. *Wisconsin* (No. 72–C–461 D. Wis.), a class action right to education lawsuit.

WYOMING

At present, there are in Wyoming a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Wyoming State Department of Education indicates that out of a total of 18,475 handicapped children, only 5,665, less than a third, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of services and that over 12,000 handicapped children would still be waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Wyoming mandating that all eligible handicapped children be provided with an appropriate education.

By Mr. JACKSON (for himself, Mr. METCALF, Mr. CHURCH, Mr. HASKELL, Mr. JOHNSTON, Mr. MOSS, and Mr. NELSON):

S. 7. A bill entitled the Surface Mining Control and Reclamation Act of 1975. Referred to the Committee on Interior and Insular Affairs.

Mr. METCALF. Mr. President, I am joining the junior Senator from Washington (Mr. JACKSON) the Chairman of the Senate Interior Committee, and other cosponsors in introducing the Surface Mining Control Act of 1975. The bill we are introducing today is identical to the bill which President Ford pocket-vetoed last month after the 93d Congress had adjourned.

Federal legislation to regulate surface coal mining is long overdue. Enactment of the Surface Mining Control and Reclamation Act will enable the coal industry to proceed with development of our Nation's vast coal resources in a manner which will assure that the other natural resources of our country will not be unnecessarily damaged.

Congress has been actively considering surface coal mining legislation for the past 4 years. During the 93d Congress the Senate passed a bill in October of 1973 by a vote of 82 to 8. The House passed its amendment to the Senate bill in July of 1974 by a vote of 291 to 81. The conference committee met almost 30 times for over 100 hours to resolve the differences between the Senate and House versions of the bill. Unfortunately, the end product of all this intensive study and debate did not become law because the President did not sign it.

I deeply regret that President Ford vetoed the bill. I particularly regret the fact that he did not give the Congress a chance to override his veto and thus permit the industry to get on with the business of mining coal.

It is worth recalling today that industry has in the past fought strip mining bills far less stringent than the legislation before Congress today. The delay in enacting legislation, caused largely by industry's opposition, has brought the nature and scope of the strip mining problem more sharply into focus. The need for strong regulation of strip mining practices is more apparent—to more people—than ever before.

Despite this the President of the National Coal Association, who has always claimed to support Federal legislation, now indicates that none is needed. Those who believe that the existence of an urgent need for coal will somehow forestall effective regulation of strip mining are whistling in the dark.

On numerous occasions, including the recent amendments to the Clean Air Act, Congress has shown that it understands the need for careful tradeoffs between energy needs and environmental concerns. But Congress is not prepared to sacrifice legitimate environmental goals.

Mr. President, Chairman JACKSON and I have agreed to make the Surface Mining Control and Reclamation Act of 1975 the first priority of the Committee on Interior and Insular Affairs during the 94th Congress. We intend to seek committee approval of the bill without amendment and report it back to the Senate as soon as possible. We will then seek its approval without amendment by the Senate. We see no need for hearings or intensive debate since this issue has been debated so long and so vigorously for the past 4 years, and it was only a month ago that the Senate approved the conference report and sent the bill to the President.

The leaders in the House committee, Representatives UDALL and MINK, have agreed to this approach so that Congress can once again place before the President a strong but balanced bill which hopefully he will approve. If he does not, the Congress will then have the opportunity to override his veto which we were regrettably denied last month.

Mr. President, I ask unanimous consent that a brief summary of the significant features of the bill together with a list of those organizations which support the conference report last year be included at the end of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRIEF SUMMARY OF SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

(1) *Environmental Standards.* The bill establishes the basic standard that lands may not be surface mined unless they can be reclaimed. It includes the following environmental protection standards: prevention of dumping spoil and overburden downslope in mountainous areas; a requirement that mine sites be regarded to approximate original contour, including backfilling the final cut to eliminate highwalls; revegetation measures to assure land stability and long-term productivity; and water protection standards directed at protection of water quantity and quality. The latter will be particularly significant in maintaining the delicate hydrologic relationships in the West and preventing acid mine drainage in the East. The environmental performance standards are not inflexible, however, as the bill provides for variances from these standards in order to allow certain planned postmining land uses.

(2) *State Responsibility.* The bill gives the principal responsibility for surface mining regulation to the States. The States are given thirty months to prepare adequate regulatory programs to meet the minimum standards in the Act. Federal funding is available to help the States prepare and enforce such programs.

(3) *Surface Impacts of Underground Mines.* The bill also treats surface impacts of underground mines such as those resulting from mine waste disposal. In particular, mine waste embankments are covered by rigorous engineering requirements, in order to prevent failures such as occurred at Buffalo Creek, where an embankment gave way resulting in the death of 125 persons.

(4) *Reclamation of Orphan Lands.* The bill establishes a reclamation program to repair past damages from both surface and underground coal mines in all regions of the country. In addition, assistance is provided for the construction of public facilities in order to ameliorate the impact of rapid coal development. For ten years, a reclamation fee of 35¢ per ton for surface mined coal and 25¢ per ton for underground mined coal, or 10% of the value of such coal, whichever is less, is assessed in order to provide for the reclamation program. At the present rate of production this amounts to approximately $165 million per year. One half of this money must be spent in the state in which it is collected.

(5) *State Mineral Institutes.* The bill also authorizes the Secretary of the Interior to establish state mining and mineral resources research institutes at State or other eligible universities. These institutes will perform research on mineral extraction and processing technologies, and train engineers and scientists to serve the needs of the nation's mining industry. This program should help to avoid future materials and personnel shortages.

(6) *Surface Owner Protection.* Special problems arise where coal deposits have been reserved to the United States but title to the surface has been conveyed to private individuals. The bill establishes as Federal coal leasing policy a requirement that the Secretary of the Interior not lease for surface mining without the consent of the surface owner, Federal coal deposits underlying land owned by a person who has his principal place of residence on the land, or personally farms or ranches the land affected by the mining operation, or receives directly a "significant portion" of his income from such farming. By so defining "surface owner", the bill should prevent speculators purchasing land only in the hope of reaping a windfall profit simply because Federal coal deposits lie underneath the land.

At the same time, so that there will not be any undue locking up of Federal coal, generous compensation is guaranteed to the surface owner, based not only upon the market value of the property of the land, but also the costs of dislocation and relocation, loss of income and other values and damages.

The procedure for obtaining surface owner consent is intended to assure that the surface owner will be dealing solely with the Secretary of the Interior in deciding whether or not to give his consent to surface coal mining. Penalties would be assessed to discourage the making of "side deals" in order to circumvent the provisions of the bill.

ORGANIZATIONS WHICH SUPPORTED CONFERENCE REPORT ON SURFACE MINING

AFL–CIO.
American League of Anglers.
Appalachian Coalition.
Consumer Federation of America.
Environmental Action.
Environmental Policy Center.
Friends of the Earth.
Izaak Walton League of America.
League of Women Voters.
National Association of Conservation Districts.
National Association of Wheatgrowers.
National Audubon Society.
National Farmers Organization.
National Farmers Union.
National Grange.
National Rural Electric Cooperative Association.
National Wildlife Federation.
Northern Plains Resource Council, Montana.
Powder River Basin Resource Council, Wyoming.
Public Citizens' Congress Watch.
Sierra Club.
Wilderness Society.
United Auto Workers.
United Mine Workers.

Mr. JACKSON. Mr. President, I am delighted to be the principal sponsor of the Surface Mining Control and Reclamation Act of 1975 (S. 7) introduced today.

Federal legislation to regulate surface coal mining is long overdue. The coal industry can afford the cost of reclaiming surface mined land. What it cannot afford is the continuing uncertainty created by failure to resolve this issue.

Last month, after 4 years of intensive congressional debate, Congress believed that it had resolved the surface mining issue by sending to the President a bill identical to S. 7. Unfortunately, the President vetoed that bill without even giving the Congress a chance to override the veto by returning it before adjournment.

As the junior Senator from Montana has already indicated, he and I intend to seek rapid enactment of S. 7. It achieves a balance between the need to protect the environment and the need to develop our coal resources to meet our national energy needs. We do not wish to reopen debate on the bill because this would almost inevitably lead to prolonged delay and could result in a substantially modified bill.

I was pleased that the President's State of the Union speech this afternoon indicated that the administration may be taking a more reasonable position now. President Ford indicated that with appropriate changes he would sign the bill. I look forward to seeing just what changes the administration feels are appropriate. I will make a judgment at that time as to whether any changes should be made in S. 7 or whether the Congress should simply enact it and override a Presidential veto if one is forthcoming.

The White House memorandum of disapproval of the bill overwhelmingly passed by the 93d Congress was not at all convincing. It relied heavily on highly questionable estimates of coal production losses.

In this regard, I would remind the Senate and the administration of the pledge I made to the President last December 17 to correct any unanticipated problems which may arise in implementation of the bill during the 2½-year period after its enactment before it comes into full force and effect. I will not be a party to weakening the bill because of vague fears about possible impacts at some time in the future.

By Mr. DOLE:

S. 8. A bill to designate November 11 of each year as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

VETERANS DAY

Mr. DOLE. Mr. President, I am introducing legislation to restore the special day for veterans to November 11. For many years, this tribute was paid on November 11, a day which is both unique in history and appropriate for honoring the Americans who have served in our armed services in defense of freedom around the world.

In the 93d Congress, I introduced this same bill and the Senate voted to return Veterans Day to its traditional date. The House did not act. This year, I hope we can pass this measure in ample time for the House to act.

November 11 was originally selected as Veterans Day because that date has special significance, not only for Americans but also for all citizens of the world, for it was on this day in 1918 that the armistice was signed which ended World War I.

In 1971, the designation of Veterans Day was changed so that the legal holiday would fall on the fourth Monday of October. The date of November 11 was thus stripped of its officially sanctioned recognition and the celebration of Veterans Day lost significance in the eyes of many Americans.

The change in the legal designation cannot erase the significance of this date, nor can an extra 3-day weekend justify a reduction in this Nation's tribute and homage to the men and women who have given so much in their quest for world peace and freedom.

The original measure to establish Veterans Day was introduced by the Honorable Edward Rees of Emporia, Kans., who served the Fourth District of Kansas for 24 years in the Congress. In view of the distinguished service of Congressman Rees, the celebration of Veterans Day on November 11 has a special meaning and importance to the former servicemen of Kansas.

Since we in the Congress have taken the action to set aside a day in honor of veterans, we have the responsibility to be attentive to the preferences of veterans as to when their day should be celebrated.

STATE ACTIONS INDICATIVE

Currently, there are 41 States which celebrate Veterans Day on November 11. It is significant that 40 of these States have returned to the traditional date after a period of celebrating it on the fourth Monday of October in response to the Federal change as established by the Congress in 1968.

In the remaining 9 States which have not returned to the traditional date, there are several moves in progress to accomplish this. These efforts range from bills in State legislatures to memorial resolutions to the Congress.

So the preference of the vast majority of State governments has been made clear. I think this is mandate enough for the Congress to return Veterans Day to November 11.

VETERANS PREFERENCE

But the mandate is even stronger. The veterans population in the States celebrating on November 11 amounts to over 85 percent of the total living U.S. veterans. It is their actions which have caused 41 States to use the traditional date for honoring veterans. So the preference of the vast majority of veterans is clear, and we in the Senate should be responsive to this.

SENATE SUPPORTS

It is significant that six bills including my own were introduced in the 93d Congress to change Veterans Day back to November 11. I was pleased to see that almost the entire Veterans' Affairs Committee came out in support of a bill to accomplish this action.

ADMINISTRATION SUPPORT

There is also recognition and support from the Administration. When Mr. Richard Roudebush, who is now Administrator of the Veterans Administration, was still in the U.S. Congress, he offered an amendment to exempt Veterans Day from the "Monday holiday" law, and I supported that effort.

All of this support—from the States, veterans, and Senators—clearly shows the desire of the Nation. I think our actions here in the Senate should reflect that mandate.

Working men and women have chosen a day of their own—Labor Day. By the same token, veterans—who have given so much to preserve the things we cherish in this country—should have the same opportunity.

With these thoughts in mind, I urge that every effort be made to pass this legislation to reinstate the date of November 11 as Veterans Day. Passage of this legislation will again establish a legal holiday which represents American tradition and provides a unique and fitting day of recognition for American veterans.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 8

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective January 1, 1977, section 6103(a) of title 5, United States Code, is amended by striking out—

"Veterans Day, the fourth Monday in October." and inserting in lieu thereof—

"Veterans Day, November 11.".

By Mr. DOLE:

S. 9. A bill to extend the State and Local Fiscal Assistance Act of 1972 for 5 years. Referred to the Committee on Finance.

EXTENSION OF REVENUE SHARING ACT

Mr. DOLE. Mr. President, it is obvious that revenue sharing is a very successful, a very beneficial, and a very popular program. Because of the benefits, I introduce today this bill to extend the State and Local Fiscal Assistance Act, commonly known as the Revenue Sharing Act.

BALANCE OF GOVERNMENT

Revenue sharing has provided the beginning for a healthy trend toward a return of State and local governments to their more traditional roles in the solution of State and local problems. By so doing, revenue sharing helps keep our Federal spending in closer touch with reality. Rather than arbitrarily—and sometimes incorrectly—passing out Federal funds from a gigantic bureaucracy in Washington, the revenue sharing method of Federal funding permits local governments to determine how funds should be spent and to decide which projects need funding and which do not.

The exclusion of State and local officials from many programs usurped by Federal agencies has helped assure that priorities for funding were sometimes established in a vacuum. It has been wasteful and often counterproductive. Under revenue sharing local officials have had great flexibility and far greater input in determining which projects in their communities shall receive an allocation of our limited fiscal resources.

ANTI-INFLATIONARY

This bill, if enacted, will be useful in holding down inflation. By giving local government a greater hand in Federal spending, the people will have a better opportunity to hold down Government spending and to fight inflation. Revenue sharing takes expenditures out of the hands of Washington bureaucrats and puts them in the hands of local government, where they should be, so that ordinary people will have a better opportunity to take action in holding down inflationary Government spending.

It is significant that Governors, mayors, and elected officials in Kansas and many other States as well have heartily endorsed revenue sharing.

FACILITATE PLANNING

Another important asset of the Revenue Sharing Act has been that it facilitates forward planning by State and local governments on the funding available to them. It is precisely for this reason—the need for future planning—that I introduce this bill today. My bill would extend the Revenue Sharing Act for 5 years beyond its present expiration date of December 31, 1976. If we extend the Revenue Sharing Act for 5 years now, the long-range planning capabilities of State and local officials would be greatly enhanced.

At the same time, this extension would not be for such a long time that we might become locked in on a particular level of appropriation. My bill increases the level of appropriation for revenue sharing by $150 million for each fiscal year. At the end of 5 years, this level of appropriation could be modified as might be needed.

IMPROVEMENTS IMPORTANT

Numerous refinements and technical improvements have been proposed for the Revenue Sharing Act. My introduction of this bill in this form, ought not to imply that certain improvements are not needed or desirable. On the contrary, I feel that several improvements in the allocation formula and perhaps elsewhere, could be made and should be considered. But these changes would not represent essential modification of the program. They would be more in the nature of "fine-tuning" efforts.

Since the revenue-sharing formula is very complex, I would suggest that hearings and study are needed before any such changes are proposed. I believe that as the committee considers this extension proposal, it could at the same time study the recommendations that I, and many of my colleagues might propose to accomplish this "fine-tuning" I spoke of.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 9

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 105(b)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by striking out "and" at the end of subparagraph (F), and by striking out subparagraph

(G) and inserting in lieu thereof the following:

"(G) for the period beginning July 1, 1976, and ending September 30, 1976, $1,662,500,000;

"(H) for the fiscal year beginning October 1, 1976, $6,650,000,000;

"(I) for the fiscal year beginning October 1, 1977, $6,800,000,000;

"(J) for the fiscal year beginning October 1, 1978, $6,950,000,000;

"(K) for the fiscal year beginning October 1, 1979, $7,100,000,000;

"(L) for the fiscal year beginning October 1, 1980, $7,250,000,000; and

"(M) for the period beginning October 1, 1981, and ending December 31, 1981, $1,850,000,000.".

(b) Section 105(b)(2) of such Act is amended by striking out "and" at the end of subparagraph (D), and by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) for the period beginning July 1, 1976, and ending September 30, 1976, $1,105,000;
195,000;

"(F) for each of the fiscal years beginning October 1, 1976, October 1, 1977, October 1, 1978, October 1, 1979, and October 1, 1980, $4,780,000; and

"(G) for the period beginning October 1, 1981, and ending December 31, 1981. $1,195,000.".

SEC. 2. (a) Section 104(c) of the State and Local Fiscal Assistance Act of 1972 is amended by inserting after "6 months" the following: ", or one-fourth of such net revenues, in the case of an entitlement period of 3 months".

(b) Section 107(b)(5) of such Act is amended to read as follows:

"(5) SPECIAL RULE FOR PERIODS BEGINNING JULY 1, 1976, AND OCTOBER 1, 1981.—In the case of the entitlement periods beginning July 1, 1976, and ending September 30, 1976, and beginning October 1, 1981, and ending December 31, 1981, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be one-fourth of the amounts which (but for this paragraph) would be taken into account."

(c) Section 108(c)(1)(C) of such Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1981".

(d) Section 141(b) of such Act is amended—

(1) by striking out "December 31, 1976" in paragraph (5) and inserting in lieu thereof "September 30, 1976"; and

(2) by adding at the end thereof the following:

"(6) The one-year periods beginning on October 1 of 1976, 1977, 1978, 1979, and 1980.

"(7) The period beginning October 1, 1981, and ending December 31, 1981.".

By Mr. RIBICOFF (for himself and Mr. WEICKER):

S. 10. A bill to amend section 5(a) of the Wild and Scenic Rivers Act. Referred to the Committee on Interior and Insular Affairs.

THE HOUSATONIC RIVER VALLEY

Mr. RIBICOFF. Mr. President, the Housatonic River Valley must be saved.

Many demographers and land use planners predict that Connecticut, now composed of urban, suburban, and rural areas, may be the first State to become one large city from border to border.

If this predicted growth is allowed to occur without sufficient controls, most of Connecticut's natural resources will disappear. In an attempt to avoid the destruction of the cultural and physical environment of the Connecticut River Valley, in 1969 I introduced legislation to create a Connecticut Historic Riverway. This measure has twice passed the Senate unanimously.

When no action was taken in the House of Representatives, a similar bill was introduced in, and passed by, the Connecticut General Assembly. As a result the towns in the lower Connecticut River Valley are working together to preserve and protect their historic and natural heritage.

During the last Congress I worked with citizens of the Shepaug River Valley—a tributary of the Housatonic River—on legislation to add it to the study list of the Wild and Scenic Rivers System. Because of strong public interest and overwhelming local support for the proposal, it was passed by the Congress and is now a public law.

The Connecticut and Shepaug Rivers are not the only rivers in my State in need of protection.

The Housatonic River, which flows from Massachusetts along the western edge of Connecticut, to Long Island Sound, is also seriously threatened by pollution and uncontrolled development. If we do not begin to reverse these destructive trends, in a short time the important natural resources of the Housatonic will be lost.

The towns along the upper Housatonic River Valley are living reminders of Connecticut's and the Nation's early years and should be preserved for future generations to enjoy. Beginning with a settlement by a group of Puritans at the river's mouth in 1639, a number of small towns developed along the valley. Within a few years settlements spread up the valley. In 1642 a trading post was established at the junction of the Housatonic and Naugatuck Rivers. New Milford was founded in 1707 and by the start of the Revolutionary War, Litchfield County was dotted with small villages and farms.

The first half of the 19th century saw a substantial increase in manufacturing activity in the valley. By 1842 trains were running all the way to Canaan on the Massachusetts border.

This initial burst of activity quickly changed direction. After the Civil War, industry began withdrawing from the upper valley and expanded in the lower valley. As a result of this and a steady decline in population, many villages and towns and much of the upper river's shoreline remain close to the condition which existed 100 years ago. Now is the time to begin to protect this entire area.

In some sections of America, preservation is a relatively easy task. In the Far West, for example, the land is lightly populated and often Government owned. The opposite situation prevails in New England. There most of the land is privately owned, often by descendants of the original settlers, and the local traditions are well established.

Because the Housatonic River flows across State lines and through many municipalities, no concerted effort has ever been made to preserve it. In fact, 11 towns share jurisdiction over the stretch of the river between the Massachusetts border and its confluence with the Shepaug River. These are Salisbury, North Canaan, Canaan, Sharon, Cornwall, Kent, Sherman, New Milford, Bridgewater, Brookfield, and Newton.

The State of Connecticut has established State parks and State forests in some sections, but has been unable to preserve the entire riverway. The Federal and State governments can serve as the catalyst for bringing all the diverse elements of the region together for one common purpose—the preservation of the cultural and physical environment of the upper Housatonic River Valley.

While developing my Connecticut historic riverway and Shepaug wild and scenic rivers legislation, I followed three basic rules. They are equally applicable to the Housatonic River Valley. First, do not rely solely on established Federal programs. Any new preservation effort should be geared to the nature of the resource to be preserved. It must reflect the needs and concerns of the local people themselves. Otherwise, progress is not possible. Second, insure that the local citizens have equal powers with Federal Government over the design, development, and operation of any program. Third, recognize that preservation takes time and that no program can or should be rushed through immediately.

I am today introducing legislation to add the Housatonic River between the Massachusetts border and the Shepaug River to the Wild and Scenic Rivers Act—Public Law 90-542. This act was designed to preserve close to their existing state certain rivers which possess remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or similar values.

Under the Wild and Scenic Rivers Act, the river itself is protected by a prohibition against the construction of power dams and other encroachments. The land alongside the river is protected in three possible ways: first, complete public ownership; second, partial public ownership through acquisition of scenic or other easements, or third, local zoning ordinances.

When the legislation was passed in 1968, eight rivers were designated for immediate inclusion in the system and others were chosen for further study for possible future designation. This bill would add this section of the Housatonic River to those now being studied.

If approved by Congress, the Department of the Interior will then make a survey of the river to determine whether it should be designated for permanent inclusion in the wild and scenic rivers system.

Time is running out on many of our great natural resources, including the Housatonic River Valley. But those interested in preserving the valley, which lies on the edge of a rapidly urbanizing area, simply cannot wall out all future development.

What is needed is a vehicle to channel the inevitable forces of development in such a way as to protect the cultural and natural resources without disrupting the local economy and the residents' lifestyles.

I hope that in the months ahead Government officials, environmental organizations, and private citizens in northwestern Connecticut will study and comment on these proposals. We must begin a dialog directed toward saving this area before it is polluted by uncontrolled development.

I ask unanimous consent that the following be printed at this point in the RECORD:

One. The Text of S. 10;

Two. Public Law 90-542, the Wild and Scenic River Act;

Three. Guidelines for evaluating potential wild and scenic rivers; and

Four. A citizens' guide to the Wild and Scenic Rivers Act prepared by the Housatonic Valley Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 10

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housatonic River Act of 1975."

Section 5(a) of the Wild and Scenic Rivers Act is amended by adding at the end thereof the following:

"Housatonic, Connecticut—The segment between the Massachusetts-Connecticut boundary and the confluence of Shepaug River."

[Public Law 90-542, 90th Congress, S. 119, Oct. 2, 1968]

An act to provide for a National Wild and Scenic Rivers System, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Wild and Scenic Rivers Act".

(b) It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

(c) The purpose of this Act is to implement this policy by instituting a national wild and scenic rivers system, by designating the initial components of that system, and by prescribing the methods by which and standards according to which additional components may be added to the system from time to time.

SEC. 2. (a) The national wild and scenic rivers system shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned without expense to the United States, that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this Act and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system, including, upon application of the Governor of the State concerned, the Allagash Wilderness Waterway, Maine, and the segment of the Wolf River, Wisconsin, which flows through Langlade County.

(b) A wild, scenic or recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in section 1, subsection (b) of this Act. Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated, and administered as one of the following:

(1) Wild river areas—Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

(2) Scenic river areas—Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(3) Recreational river areas—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

SEC. 3 (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(1) CLEARWATER, MIDDLE FORK, IDAHO.—

(2) ELEVEN POINT, MISSOURI.—

(3) FEATHER, CALIFORNIA.—

(4) RIO GRANDE, NEW MEXICO.—The segment extending from the Colorado State line downstream to the State Highway 96 crossing, and the lower four miles of the Red River, to be administered by the Secretary of the Interior.

(5) ROGUE, OREGON.—The segment of the river extending from the mouth of the Applegate River downstream to the Lobster Creek Bridge; to be administered by agencies of the Departments of the Interior or Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President.

(6) SAINT CROIX, MINNESOTA AND WISCONSIN.—The segment between the dam near Taylors Falls, Minnesota, and the dam near Gordon, Wisconsin, and its tributary, the Namekagon from Lake Namekagon downstream to its confluence with the Saint Croix; to be administered by the Secretary of the Interior: *Provided,* That except as may be required in connection with items (a) and (b) of this paragraph, no funds available to carry out the provisions of this Act may be expended for the acquisition or development of lands in connection with, or for administration under this Act of, that portion of the Saint Croix River between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, until sixty days after the date on which the Secretary has transmitted to the President of the Senate and Speaker of the House of Representatives a proposed cooperative agreement between the Northern States Power Company and the United States (a) whereby the company agrees to convey to the United States, without charge, appropriate interests in certain of its lands between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, including the company's right, title, and interest to approximately one hundred acres per mile, and (b) providing for the use and development of other lands and interests in land retained by the company between said points adjacent to the river in a manner which shall complement and not be inconsistent with the purposes for which the lands and interests in land donated by the company and administered under this Act. Said agreement may also include provision for State or local governmental participation as authorized under subsection (e) of section 10 of this Act.

(7) SALMON, MIDDLE FORK, IDAHO.—From its origin to its confluence with the main Salmon River, to be administered by the Secretary of Agriculture.

(8) WOLF, WISCONSIN.—From the Langlade-Menominee County line downstream to Keshena Falls; to be administered by the Secretary of the Interior.

(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of this Act, establish detailed boundaries therefor (which boundaries shall include an average of not more than three hundred and twenty acres per mile on both sides of the river); determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments; and prepare a plan for necessary developments in connection with its administration in accordance with such classification. Said boundaries, classification, and development plans shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

SEC. 4. (a) The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and from time to time submit to the President and the Congress proposals for the addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system; which, in his or their judgment, fall within one or more of the classes set out in section 2, subsection (b), of this Act; and which are proposed to be administered, wholly or partially, by an agency of the United States. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 et seq.).

Each proposal shall be accompanied by a report, including maps and illustrations, showing among other things the area included within the proposal; the characteristics which make the area a worthy addition to the system; the current status of landownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area be administered; the extent to which it is proposed that administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interstate in land and of administering the areas as a component of the system. Each such report shall be printed as a Senate or House document.

(b) Before submitting any such report to the President and the Congress, copies of the proposed report shall, unless it was prepared jointly by the Secretary of the Interior and the Secretary of Agriculture, be submitted by the Secretary of the Interior to the Secretary of Agriculture or by the Secretary of Agriculture to the Secretary of the Interior, as the case may be, and to the Secretary of the Army, the Chairman of the Federal Power Commission, the head of any other affected Federal department or agency and, unless the lands proposed to be included in the area are already owned by the United States or have already been authorized for acquisition by Act of Congress, the Governor of the State or States in which they are located or an officer designated by the Governor to receive the same. Any recommendations or comments on the proposal which the said officials furnish the Secretary or Secretaries who prepared the report within ninety days of the date on which the report is submitted to them, together with the Secretary's or Secretaries' comments thereon, shall be included with the transmittal to the President and the Congress. No river or portion of any river shall be added to the national wild and scenic rivers system subsequent to enactment of this Act until the close of the next full session of the State legislature, or legislatures in case more than one State is involved, which begins following the submission of any recommendation to the President with respect to such addition as herein provided.

(c) Before approving or disapproving for inclusion in the national wild and scenic rivers system any river designated as a wild, scenic or recreational river by or pursuant to an act of a State legislature, the Secretary of the Interior shall submit the proposal to the Secretary of Agriculture, the Secretary of the Army, the Chairman of the Federal Power Commission, and the head of any other affected Federal department or agency and shall evaluate and give due weight to any recommendations or comments which the said officials furnish him within ninety days of the date on which it is submitted to them. If he approves the proposed inclusion, he shall publish notice thereof in the Federal Register.

SEC. 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

(1) Allegheny, Pennsylvania: The segment from its mouth to the town of East Brady, Pennsylvania.

(2) Bruneau, Idaho: The entire main stem.

(3) Buffalo, Tennessee: The entire river.

(4) Chattooga, North Carolina, South Carolina, and Georgia: The entire river.

(5) Clarion, Pennsylvania: The segment between Ridgway and its confluence with the Allegheny River.

(6) Delaware, Pennsylvania and New York: The segment from Hancock, New York, to Matamoras, Pennsylvania.

(7) Flathead, Montana: The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir.

(8) Gasconada, Missouri: The entire river.

(9) Illinois, Oregon: The entire river.

(10) Little Beaver, Ohio: The segment of the North and Middle Forks of the Little Beaver River in Columbiana County from a point in the vicinity of Negly and Elkton, Ohio, downstream to a point in the vicinty of East Liverpool, Ohio.

(11) Little Miami, Ohio: That segment of the main stem of the river, exclusive of its tributaries from a point at the Warren-Clermont County line at Loveland, Ohio, upstream to the sources of Little Miami including North Fork.

(12) Maumee, Ohio and Indiana: The main stem from Perrysburg, Ohio, to Fort Wayne, Indiana, exclusive of its tributaries in Ohio and inclusive of its tributaries in Indiana.

(13) Missouri, Montana: The segment between Fort Benton and Ryan Island.

(14) Moyie, Idaho: The segment from the Canadian border to its confluence with the Kootenai River.

(15) Obed, Tennessee: The entire river and its tributaries, Clear Creek and Daddys Creek.

(16) Penobscot, Maine: Its east and west branches.

(17) Pere Marquette, Michigan: The entire river.

(18) Pine Creek, Pennsylvania: The segment from Ansonia to Waterville.

(19) Prise, Idaho: The entire main stem.

(20) Rio Grande, Texas: The portion of the river between the west boundary of Hudspeth County and the east boundary of Terrell County on the United States side of the river: *Provided*, That before undertaking any study of this potential scenic river, the Secretary of the Interior shall determine, through the channels of appropriate executive agencies, that Mexico has no objection to its being included among the studies authorized by this Act.

(21) Saint Croix, Minnesota and Wisconsin: The segment between the dam near Taylors Falls and its confluence with the Mississippi River.

(22) Saint Joe, Idaho: The entire main stem.

(23) Salmon, Idaho: The segment from the town of North Fork to its confluence with the Snake River.

(24) Skagit, Washington: The segment from the town of Mount Vernon to and including the mouth of Bacon Creek; the Cascade River between its mouth and the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the Glacier Peak Wilderness Area boundary at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the Glacier Peak Wilderness Area boundary.

(25) Suwannee, Georgia and Florida: The entire river from its source in the Okefenokee Swamp in Georgia to the gulf and the outlying Ichetucknee Springs, Florida.

(26) Upper Iowa, Iowa: The entire river.

(27) Youghiogheny, Maryland and Pennsylvania: The segment from Oakland, Maryland, to the Youghiogheny Reservoir, and from the Youghiogheny Dam downstream to the town of Connellsville, Pennsylvania.

(b) The Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, shall proceed as expeditiously as possible to study each of the rivers named in subsection (a) of this section in order to determine whether it should be included in the national wild and scenic rivers system. Such studies shall be completed and reports made thereon to the President and the Congress, as provided in section 4 of this Act, within ten years from the date of this Act: *Provided, however*, That with respect to the Suwannee River, Georgia and Florida, and the Upper Iowa River, Iowa, such study shall be completed and reports made thereon to the President and the Congress, as provided in section 4 of this Act, within two years from the date of enactment of this Act. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers with respect to which there is the greatest likelihood of developments which, if undertaken, would render them unsuitable for inclusion in the national wild and scenic rivers system.

(c) The study of any of said rivers shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the State, and shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

(d) In all planning for the use and development of water and related land resources, consideration shall be given by all Federal agencies involved to potential national wild, scenic and recreational river areas, and all river basin and project plan reports submitted to the Congress shall consider and discuss any such potentials. The Secretary of the Interior and the Secretary of Agriculture shall make specific studies and investigations to determine which additional wild, scenic and recreational river areas within the United States shall be evaluated in planning reports by all Federal agencies as potential alternative uses of the water and related land resources involved.

SEC. 6. (a) The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interests in land within the authorized boundaries of any component of the national wild and scenic rivers system designated in section 3 of this Act, or hereafter designated for inclusion in the system by Act of Congress, which is administered by him, but he shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river. Lands owned by a State may be acquired only by donation, and lands owned by an Indian tribe or a political subdivision of a State may not be required without the consent of the appropriate governing body thereof as long as the Indian tribe or political subdivision is following a plan for management and protection of the lands which the Secretary finds protects the land and assures its use for purposes consistent with this Act. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to the use of appropriations from other sources, be available to Federal departments and agencies for the acquisition of property for the purposes of this Act.

(b) If 50 per centum or more of the entire acreage within a federally administered wild, scenic or recreational river area is owned by the United States, by the State or States within which it lies, or by political subdivision of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this Act. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof.

(c) Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic or recreational river area, if such lands are located within any incorporated city, village, or borough which has in force and applicable to such lands a duly adopted, valid zoning ordinance that conforms with the purposes of this Act. In order to carry out the provisions of this subsection the appropriate Secretary shall issue guidelines, specifying standards for local zoning ordinances, which are consistent with the purposes of this Act. The standards specified in such guidelines shall have the object of (A) prohibiting new commercial or industrial uses other than commercial or industrial uses which are consistent with the purposes of this act, and (B) the protection of the bank lands by means of acreage, frontage, and setback requirements on development.

(d) The appropriate Secretary is authorized to accept title to non-Federal property within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress and, in exchange therefor, convey to the grantor any federally owned property which is under his jurisdiction within the State in which the component lies and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(e) The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress is authorized to transfer to the appropriate secretary jurisdiction over such lands for administration in accordance with the provisions of this Act. Lands acquired by or transferred to the Secretary of Agriculture for the purposes of this Act within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

(f) The appropriate Secretary is authorized to accept donations of lands and interests in lands, funds, and other property for use in connection with his administration of the national wild and scenic rivers system.

(g)(1) Any owner or owners (hereinafter in this subsection referred to as "owner") of improved property on the date of its acquisition, may retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, or the death of either or both of them. The owner shall elect the term to be reserved. The appropriate Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained pursuant to this subsection shall be subject to termination whenever the appropriate Secretary is given reasonable cause to find that such use and occupancy is being exercised in a manner which conflicts with the purposes of this Act. In the event of such a finding, the Secretary shall tender to the holder of that right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination. Such right of use or occupancy shall terminate by operation of law upon tender of the fair market price.

(3) The term "improved property", as used in this Act, means a detached, one-family dwelling (hereinafter referred to as "dwelling"), the construction of which was begun before, January 1, 1967, together with so much of the land on which the dwelling is situated, and said land being in the same ownership as the dwelling, as the appropriate Secretary shall designate to be reasonable necessary for the enjoyment of the dwelling for the sale purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

SEC. 7. (a) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of approval of this Act. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purpose of this Act and would affect the component and the values to be protected by it under this Act.

(b) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting any river which is listed in section 5, subsection (a), of this Act, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

(i) during the five-year period following enactment of this Act unless, prior to the expiration of said period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, conclude that such river should not be included in the national wild and scenic rivers system and publish notice to that effect in the Federal Register, and

(ii) during such additional period thereafter, as, in the case of any river which is recommended to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior for inclusion in the national wild and scenic rivers system under section (2)(a)(ii) of this Act, is necessary for the Secretary's consideration thereof, which additional period, however, shall not exceed three years in the first case and one year in the second.

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area on the date of approval of this Act. No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

(c) The Federal Power Commission and all other Federal agencies shall, promptly upon enactment of this Act, inform the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, of any proceedings, studies, or other activities within their jurisdiction which are now in progress and whch affect or may affect any of the rivers specified in section 5, subsection (a), of this Act. They shall likewise inform him of any such proceedings, studies, or other activities which are hereafter commenced or resumed before they are commenced or resumed.

(d) Nothing in this section with respect to the making of a loan or grant shall apply to grants made under the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-5 et seq.).

SEC. 8. (a) All public lands within the authorized boundaries of any components of the national wild and scenic rivers system which is designated in section 3 of this Act or which is hereafter designated for inclusion in that system are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States.

(b) All public lands which constitute the bed or bank, or are within one-quarter mile of the bank, of any river which is listed in section 5, subsection (a), of this Act are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 7, subsection (b), of this Act.

SEC. 9. (a) Nothing in this Act shall affect the applicability of the United States mining and mineral leasing laws within components of the national wild and scenic rivers system except that—

(i) all prospecting, mining operations, and other activities on mining claims which, in the case of a component of the system designated in section 3 of this Act, have not heretofore been perfected or which, in the case of a component hereafter designated pursuant to this Act or any other Act of Congress, are not perfected before its inclusion in the system and all mining operations and other activities under a mineral lease, license, or permit issued or renewed after inclusion of a component in the system shall be subject to such regulations as the Secretary of the Interior or, in the case of national forest lands, the Secretary of Agriculture may prescribe to effectuate the purposes of this Act;

(ii) subject to valid existing rights, the perfection of, or issuance of a patent to, any mining claim affecting lands within the system shall confer or convey a right or title only to the mineral deposits and such rights only to the use of the surface and the surface resources as are reasonably required to carrying on prospecting or mining operations and are consistent with such regulations as may be prescribed by the Secretary of the Interior or in the case of national forest lands, by the Secretary of Agriculture, and

(iii) subject to valid existing rights, the minerals in Federal lands which are part of the system and constitute the bed or bank or are situated within one-quarter mile of the bank of any river designated a wild river under this Act or any subsequent Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.

Regulations issued pursuant to paragraphs (i) and (ii) of this subsection shall, among other things, provide safeguards against pollution of the river involved and unnecessary impairment of the scenery within the component in question.

(b) The minerals in any Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank of any river which is listed in section 5, subsection (a) of this Act are hereby withdrawn from all forms of appropriation under the mining laws during the periods specified in section 7, subsection (b) of this Act. Nothing contained in this subsection shall be construed to forbid prospecting or the issuance or leases, licenses, and permits under the mineral leasing laws subject to such conditions as the Secretary of the Interior and, in the case of national forest lands, the Secretary of Agriculture find appropriate to safeguard the area in the event it is subsequently included in the system.

Sec. 10. (a) Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area.

(b) Any portion of a component of the national wild and scenic rivers system that is within the national wilderness preservation system, as established by or pursuant to the Act of September 3, 1964 (78 Stat. 890; 16 U.S.C., ch. 23), shall be subject to the provisions of both the Wilderness Act and this Act with respect to preservation of such river and its immediate environment, and in case of conflict between the provisions of these Acts the more restrictive provisions shall apply.

(c) Any component of the national wild and scenic rivers system that is administered by the Secretary of the Interior through the National Park Service shall become a part of the national park system, and any such component that is administered by the Secretary through the Fish and Wildlife Service shall become a part of the national wildlife refuge system. The lands involved shall be subject to the provisions of this Act and the Acts under which the national park system or national wildlife system, as the case may be is administered, and in case of conflict between the provisions of these Acts, the more restrictive provisions shall apply. The Secretary of the Interior in his administration of any component of the national wild and scenic rivers system, may utilize such general statutory authorities relating to areas of the national park system and such general statutory authorities otherwise available to him for recreation and preservation purposes and for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this Act.

(d) The Secretary of Agriculture, in his administration of any component of the national wild and scenic rivers system area, may utilize the general statutory authorities relating to the national forests in such manner as he deems appropriate to carry out the purposes of this Act.

(e) The Federal agency charged with the administration of any component of the national wild and scenic rivers system may enter into written cooperative agreements with the Governor of a State, the head of any State agency, or the appropriate official of a political subdivision of a State for State or local governmental participation in the administration of the component. The States and their political subdivisions shall be encouraged to cooperate in the planning and administration of components of the system which include or adjoin State- or county-owned lands.

Sec. 11. (a) The Secretary of the Interior shall encourage and assist the States to consider, in formulating and carrying out their comprehensive statewide outdoor recreation plans and proposals for financing assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), needs and opportunities for establishing State and local wild, scenic and recreational river areas. He shall also, in accordance with the authority contained in the Act of May 28, 1963 (77 Stat. 49), provide technical assistance and advice to, and cooperate with, States, political subdivisions, and private interests, including nonprofit organizations, with respect to establishing such wild, scenic and recreational river areas.

(b) The Secretaries of Agriculture and of Health, Education, and Welfare shall likewise in accordance with the authority vested in them, assist, advise, and cooperate with State and local agencies and private interests with respect to establishing such wild, scenic and recreational river areas.

Sec. 12. (a) The Secretary of the Interior, the Secretary of Agriculture and heads of other Federal agencies shall review administrative and management policies, regulations, contracts, and plans affecting lands under their respective jurisdictions which include, border upon, or are adjacent to the rivers listed in subsection (a) of section 5 of this Act in order to determine what actions should be taken to protect such rivers during the period they are being considered for potential addition to the national wild and scenic rivers system. Particular attention shall be given to scheduled timber harvesting, road construction, and similar activities which might be contrary to the purposes of this Act.

(b) Nothing in this section shall be construed to abrogate any existing rights, privileges, or contracts affecting Federal lands held by any private party without the consent of said party.

(c) The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the Secretary of the Interior and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.

Sec. 13. (a) Nothing in this Act shall affect the jurisdiction or responsibilities of the States with respect to fish and wildlife. Hunting and fishing shall be permitted on lands and waters administered as parts of the system under applicable State and Federal laws and regulations unless, in the case of hunting, those lands or waters are within a national park or monument. The administering Secretary may, however, designate zones where, and establish periods when, no hunting is permitted for reasons of public safety, administration, or public use and enjoyment and shall issue appropriate regulations after consultation with the wildlife agency of the State or States affected.

(b) The jurisdiction of the States and the United States over waters of any stream included in a national wild, scenic or recreational river area shall be determined by established principles of law. Under the provisions of this Act, any taking by the United States of a water right which is vested under either State or Federal law at the time such river is included in the national wild and scenic rivers system shall entitle the owner thereof to just compensation. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(c) Designation of any stream or portion thereof as a national wild, scenic or recreational river area shall not be construed as a reservation of the waters of such streams for purposes other than those specified in this Act, or in quantities greater than necessary to accomplish these purposes.

(d) The jurisdiction of the States over waters of any stream included in a national wild, scenic or recreational river area shall be unaffected by this Act to the extent that such jurisdiction may be exercised without impairing the purposes of this Act or its administration.

(e) Nothing contained in this Act shall be construed to alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States which contain any portion of the national wild and scenic rivers system.

(f) Nothing in this Act shall affect existing rights of any State, including the right of access, with respect to the beds of navigable streams, tributaries, or rivers (or segments thereof) located in a national wild, scenic or recreational river area.

(g) The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may grant easements and rights-of-way upon, over, under, across, or through any component of the national wild and scenic rivers system in accordance with the laws applicable to the national park system and the national forest system, respectively: *Provided,* That any conditions precedent to granting such easements and rights-of-way shall be related to the policy and purpose of this Act.

Sec. 14. The claim and allowance of the value of an easement as a charitable contribution under section 170 of title 26, United States Code, or as a gift under section 2522 of said title shall constitute an agreement by the donor on behalf of himself, his heirs, and assigns that, if the terms of the instrument creating the easement are violated, the donee or the United States may acquire the servient estate at its fair market value as of the time the easement was donated minus the value of the easement claimed and allowed as a charitable contribution or gift.

Sec. 15. As used in this Act, the term—

(a) "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(b) "Free-flowing", as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided,* That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system.

(c) "Scenic easement" means the right to control the use of land (including the air space above such land) for the purpose of protecting the scenic view from the river, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement.

Sec. 16. There are hereby authorized to be appropriated such sums as may be necessary, but not more than $17,000,000, for the acquisition of lands and interests in land under the provisions of this Act.

Approved October 2, 1968.

Guidelines for Evaluating Wild, Scenic and Recreational River Areas Proposed for Inclusion in the National Wild and Scenic Rivers System Under Section 2, Public Law 90-542

February 1970.

PURPOSE

The following criteria supplement those listed in Section 2 of the Wild and Scenic Rivers Act, which states that rivers included in the National Wild and Scenic Rivers System shall be free-flowing streams which possess outstandingly remarkable scenic, recreational, geological, fish and wildlife, historic, cultural and other similar values.

These guidelines are intended to define minimum criteria for the classification and management of free-flowing river areas proposed for inclusion in the national system by the Secretary of the Interior or the Secretary of Agriculture, and for State rivers included in the system by the Secretary of the Interior.

In reading these guidelines and in applying them to real situations of land and water it is important to bear one important qualification in mind. There is no way for these statements of criteria to be written so as to mechanically or automatically indicate which rivers are eligible and what class they must be. It is important to understand each criterion; but it is perhaps even more important to understand their *collective* intent. The investigator has to exercise his judgment, not only on the specific criteria as they apply to a particular river, but on the river as a whole, and on their relative weights. For this reason, these guidelines are not absolutes. There may be extenuating circumstances which would lead the appropriate Secretary to recommend, or approve pursuant to Section 2 (a) (ii), a river area for inclusion in the system because it is exceptional in character and outstandingly remarkable even though it does not meet each of the criteria set forth in these guidelines. However, exceptions to these criteria should be recognized only in rare instances and for compelling reasons.

The three classes of river areas described in Section 2(b) of the Wild and Scenic Rivers Act are as follows:

"(1) Wild river areas—Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

"(2) Scenic river areas—Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

"(3) Recreational river areas—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past."

GENERAL CHARACTERISTICS

The Wild and Scenic Rivers Act, Section 10(a), states that, "Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area."

In order to qualify for inclusion in the national system, a State free-flowing river area must be designated as a wild, scenic, or recreational river by act of the State legislature, with land areas wholly and permanently administered in a manner consistent with the designation by any agency or political subdivision of the State at no cost to the Federal Government, and be approved by the Secretary of the Interior as meeting the criteria established by the Wild and Scenic Rivers Act and the guidelines contained herein. A river or related lands owned by an Indian tribe cannot be added to the national system without the consent of the appropriate governing body.

In evaluating a river for possible inclusion in the system or for determining its classification, the river and its immediate land area should be considered as a unit, with primary emphasis upon the quality of the experience and *overall* impressions of the recreationist using the river or the adjacent riverbank. Although a free-flowing river or river unit frequently will have more than one classified area, each wild, scenic, or recreational area must be long enough to provide a meaningful experience. The number of different classified areas within a unit should be kept to a minimum.

Any activity, use, or development which is acceptable for a wild river is also acceptable for scenic and recreational river areas, and that which is acceptable for a scenic river is acceptable for a recreation river area. Activity and development limitations discussed below should not necessarily be interpreted as the desired level to which development or management activity should be planned. Hunting and fishing will be permitted, subject to appropriate State and Federal laws.

The Wild and Scenic Rivers Act provides condition, i.e., flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes which are without impoundment, diversion, straightening, rip-rapping or other modification of the waterway. However, low dams, diversion works, and other minor structures will not automatically preclude the river unit from being included in the National Wild and Scenic Rivers System, providing such structures do not unreasonably diminish the free-flowing nature of the stream and the scenic, scientific, geological, historical, cultural, recreational, and fish and wildlife values present in the area.

The river or river unit must be long enough to provide a meaningful experience. Generally, any unit included in the system should be at least 25 miles long. However, a shorter river or segment that possesses outstanding qualifications may be included in the system.

There should be sufficient volume of water during normal years to permit, during the recreation season, full enjoyment of water-related outdoor recreation activities generally associated with comparable rivers. In the event the existing supply of water is inadequate, it would be necessary to show that additional water can be provided reasonably and economically without unreasonably diminishing the scenic, recreational, and fish and wildlife values of the area.

The river and its environment should be outstandingly remarkable and, although they may reflect substantial evidence of man's activity should be generally pleasing to the eye.

The river should be of high quality water or susceptible of restoration to that condition. A concept of nondegradation whereby existing high water quality will be maintained to the maximum extent feasible will be followed in all river areas included in the national system.

All rivers included in the national system should meet the "Aesthetics—General Criteria" as defined by the National Technical Advisory Committee on Water Quality in the Federal Water Pollution Control Administration's *Water Quality Criteria,* April 1, 1968. Water quality should meet the criteria for fish, other aquatic life, and wildlife, as defined in that document, so as to support the propagation of those forms of life which normally would be adapted to the habitat of the stream. Where no standards exist or where existing standards will not meet the objectives of these criteria, standards should be developed or raised to achieve those objectives. Wild river areas can be included in the national system only if they also meet the minimum criteria for primary contact recreation, except as these criteria might be exceeded by natural background conditions. Scenic or recreation river areas which qualify for inclusion in the system in all respects except for water quality may be added to the system provided adequate and reasonable assurance is given by the appropriate Federal or State authority that the water quality can and will be upgraded to the prescribed level for the desired types of recreation, and support aquatic life which normally would be adapted to the habitat of the stream at the prescribed level of water quality. At such time as water quality fully meets the criteria, it may be desirable to change the classification of a river.

New public utility transmission lines, gas lines, water lines, etc., in river areas being considered for inclusion in the national system are discouraged. However, where no reasonable alternative exists, additional or new facilities should be restricted to existing rights-of-way. Where new rights-of-way are indicated, the scenic, recreational, and fish and wildlife values must be evaluated in the selection of the site in accordance with the general guidelines described in the Report of the Working Committee on Utilities prepared for the President's Council on Recreation and Natural Beauty, December 1968.

Mineral activity subject to regulations under the Act must be conducted in a manner that minimizes surface disturbance, sedimentation and pollution, and visual impairment. Specific controls will be developed as a part of each management plan.

CRITERIA FOR RIVER DESIGNATION

The following criteria for classification, designation, and administration of river areas are prescribed by the Act. These criteria are not absolutes, nor can they readily be defined quantitatively. In a given river, a departure from these standards might be more than compensated by other qualities. However, if several "exceptions" are necessary in order for a river to be classified as wild, it probably should be classified as scenic. If several "exceptions" are necessary in order for a river to be classified as scenic, it probably should be classified as recreational.

Wild River Areas

The Wild and Scenic Rivers Act states that "these represent vestiges of primitive America," and they possess these attributes:

1. "Free of impoundments"
2. "Generally inaccessible except by trail"
3. "Watersheds or shorelines essentially primitive"
4. "Waters unpolluted"

Classification criteria.

Despite some obvious similarities, the "wildness" associated with a wild river is not synonymous with the "wildness" involved in wilderness classification under the Wilderness Act of 1964. One major distinction, in contrast to wilderness, is that a wild river area also may contain recreation facilities for the convenience of the user in keeping with the primitive setting.

1. An "impoundment" is a slack water pool formed by any man-made structure. Except in rare instances in which esthetic and recreational characteristics are of such outstanding quality as to counterbalance the disruptive nature of an impoundment, such features will not be allowed on wild river areas. Future construction of such structures that would have a direct and adverse effect on the values for which that river area was included in the national system, as determined by the Secretary charged with the administration of the area, would not be permitted. In the case of rivers added to the national system pursuant to Sec. 2(a) (ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system.

2. "Generally inaccessible" means there are no roads or other provisions for overland motorized travel within a narrow, incised river valley, or if the river valley is broad,

within ¼ mile of the riverbank. The presence, however, of one or two inconspicuous roads leading to the river area will not necessarily bar wild river classification.

3. "Essentially primitive" means the shorelines are free of habitation and other substantial evidence of man's intrusion. This would include such things as diversions, straightening, rip-rapping, and other modifications of the waterway. These would not be permitted except in instances where such developments would not have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area. In the case of rivers added to the national system pursuant to Section 2(a) (ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system. With respect to watersheds, "essentially primitive" means that the portion of the watershed within the boundaries has a natural-like appearance. As with shorelines, developments within the boundaries should emphasize a natural-like appearance so that the entire river area remains a vestige of primitive America. For the purposes of this Act, a limited amount of domestic livestock grazing and pasture land and cropland devoted to the production of hay may be considered "essentially primitive." One or two inconspicuous dwellings need not necessarily bar wild river classification.

4. "Unpolluted" means the water quality of the river at least meets the minimum criteria for primary contact recreation, except where exceeded by natural background conditions, and esthetics as interpreted in the Federal Water Pollution Control Administration's Water Quality Criteria, April 1, 1968. In addition, the water presently must be capable of supporting the propagation of aquatic life, including fish, which normally would be adapted to the habitat of the stream. Where no standards exist or where existing standards will not meet the objectives of these criteria, standards should be developed or raised to achieve those objectives.

Management objectives.

The administration of a wild river area shall give primary emphasis to protecting the values which make it outstandingly remarkable while providing river-related outdoor recreation opportunities in a primitive setting.

To achieve these objectives in wild river areas, it will be necessary to;

1. Restrict or prohibit motorized land travel, except where such uses are not in conflict with the purposes of the Act.

2. Acquire and remove detracting habitations and other nonharmonious improvements.

3. Locate major public-use areas, such as large campgrounds, interpretive centers or administrative headquarters, outside the wild river area. Simple comfort and convenience facilities, such as fireplace, shelters, and toilets, may be provided for recreation users as necessary to provide an enjoyable experience, protect popular sites, and meet the management objectives, such facilities will be of a design and location which harmonize with the surroundings.

4. Prohibit improvements or have structures unless they are clearly in keeping with the overall objectives of the wild river area classification and management. The design for any permitted construction must be in confirmation with the approved management plan for that area. Additional habitations or substantial additions to existing habitations will not be permitted.

5. Implement management practices which might include construction of minor structures for such purposes as improvement of fish and game habitat; grazing, protection from fire; insects, or disease; rehabilitation or stabilization of damaged resources, provided the area will remain natural appearing and the practices or structures will harmonize with the environment. Such things as trail bridges, an occasional fence, natural-appearing water diversions, ditches, flow measurement or other water management devices, and similar facilities may be permitted if they are unobstructive and do not have a significant direct and adverse effect on the natural character of the area.

Scenic River Areas

The Wild and Scenic Rivers Act states that scenic rivers:

1. Are "free of impoundments".
2. Are "accessible in places by road".
3. Have "shorelines or watersheds still largely primitive and shorelines largely undeveloped".

Classification criteria.

1. An "impoundment" is a slack water pool formed by any manmade structure. Except in rare instances in which esthetic and recreational characteristics are of such outstanding quality as to counterbalance the disruptive nature of an impoundment, such features will not be allowed on scenic river areas. Future construction of such structures that would have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area, would not be permitted. In the case of rivers added to the national system pursuant to Section 2(a) (ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system.

2. "Accessible in places by road" means the roads may occasionally bridge the river area. Scenic river areas will not include long stretches of conspicuous and well-traveled roads closely paralleling the riverbank. The presence, however, of short stretches of conspicuous or longer stretches of inconspicuous and well-screened roads or screened railroads will not necessarily preclude scenic river designation. In addition to the physical and scenic relationship of the free-flowing river area to roads, consideration should be given to the type of use for which such roads were constructed and the type of use which would occur within the proposed scenic river area.

3. "Largely primitive" means that the shorelines and the immediate river environment still present an overall natural character, but that in places, land may be developed for agricultural purposes. A modest amount of diversion, straightening, rip-rapping, and other modification of the waterway would not preclude a river from being considered for classification as a scenic river. Future construction of such structures would not be permitted except in instances where such developments would not have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area.

In the case of rivers added to the national system pursuant to Section 2(a) (ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system. "Largely primitive" with respect to watersheds means that the portion of the watershed within the boundaries of the scenic river area should be scenic, with a minimum of easily discernible development. Row crops would be considered as meeting the test of "largely primitive," as would timber harvest and other resource use, providing such activity is accomplished without a substantially adverse effect on the natural-like appearance of the river or its immediate environment.

4. "Largely undeveloped" means that small communities or any concentration of habitations must be limited to relatively short reaches of the total area under consideration for designation as a scenic river area.

Management objectives.

A scenic river area should be managed so as to maintain and provide outdoor recreation opportunities in a near natural setting. The basic distinctions between a "wild" and a "scenic" river area are degree of development, type of land use, and road accessibility. In general, a wide range of agricultural, water management, silvicultural and other practices could be compatible with the primary objectives of a scenic river area, providing such practices are carried on in such a way that there is no substantial adverse effect on the river and its immediate environment.

The same considerations enumerated for wild river areas should be considered, except that motorized vehicle use may in some cases be appropriate and that development of larger scale public-use facilities within the river areas, such as moderate size campgrounds, public information centers, and administrative headquarters, would be compatible if such structures were screened from the river.

Modest facilities, such as unobtrusive marinas, also would be possible if such structures were consistent with the management plans for that area.

Recreational River Areas

The Wild and Scenic Rivers Act states that recreational rivers:

1. Are "readily accessible by road or railroad";
2. "May have some development along their shoreline";
3. May have "undergone some impoundment or diversion in the past."

Classification criteria.

1. "Really accessible" means the likelihood of paralleling roads or railroads on one or both banks of the river, with the possibility of several bridge crossings and numerous river access points.

2. "Some development along their shorelines" means that lands may be developed for the full range of agricultural uses and could include small communities as well as dispersed or cluster residential developments.

3. "Undergone some impoundment or diversion in the past" means that there may be water resources developments and diversions having an environmental impact greater than that described for wild and scenic river areas. However, the degree of such development should not be to the extent that the water has the characteristics of an impoundment for any significant distance.

Future construction of impoundments, diversions, straightening, rip-rapping, and other modification of the waterway or adjacent lands would not be permitted except in instances where such developments would not have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area. In the case of rivers added to the national system pursuant to Section 2(a) (ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system.

Management objectives.

Management of recreational river areas should be designed to protect and enhance existing recreational values. The primary objectives will be to provide opportunities for engaging in recreation activities dependent on or enhanced by the largely free-flowing nature of the river.

Campgrounds and picnic areas may be established in close proximity to the river, although recreational river classification does not require extensive recreational developments. Recreational facilities may still be kept to a minimum, with visitor services provided outside the river area.

Adopted:

HARRISON LOESCH,
Department of the Interior.
EDWARD P. CLIFF,
Department of Agriculture.

SUMMARY[1]

Attributes and management objectives of the three river classifications for inclusion in the National Wild and Scenic River System FEBRUARY 1970.

Attributes

Wild

1. Free-flowing. Low dams, diversion works or other minor structures which do not inundate the natural riverbank may not bar consideration as wild. Future construction restricted.

2. Generally inaccessible by road. One or two inconspicuous roads to the area may be permissible.

3. Shorelines essentially primitive. One or two inconspicuous dwellings and land devoted to production of hay may be permitted. Watershed natural-like in appearance.

4. Water quality meets minimum criteria for primary contact recreation except where such criteria would be exceeded by natural background conditions and esthetics[2] and capable of supporting propagation of aquatic life normally adapted to habitat of the stream.

Scenic

1. Free-flowing. Low dams, diversion works or other minor structures which do not inundate the natural riverbank may not bar consideration. Future construction restricted.

2. Accessible by roads which may occasionally bridge the river area. Short stretches of conspicuous or longer stretches of inconspicuous and well-screened roads or railroads paralleling river area may be permitted.

3. Shoreline largely primitive. Small communities limited to short reaches of total area. Agricultural practices which do not adversely affect river area may be permitted.

4. Water quality should meet minimum criteria for desired types of recreation except where such criteria would be exceeded by natural background conditions and esthetics[2] and capable of supporting propagation of aquatic life normally adapted to habitat of the stream, or is capable of and is being restored to that quality.

Recreation

1. May have undergone some impoundment or diversion in the past. Water should not have characteristics of an impoundment for any significant distance. Future construction restricted.

2. Readily accessible, with likelihood of paralleling roads or railroads along riverbanks and bridge crossings.

3. Shoreline may be extensively developed.

4. Water quality should meet minimum criteria for desired types of recreation except where such criteria would be exceeded by natural background conditions and esthetics[2] and capable of supporting propagation of aquatic life normally adapted to habitat of the stream or is capable of and is being restored to that quality.

Management objectives

Wild

1. Limited motorized land travel in area.

2. No unharmonious or new habitations or improvements permitted.

3. Only primitive-type public use provided.

4. New structures and improvement of old ones prohibited if not in keeping with overall objectives.

5. Unobtrusive fences, gauging stations and other management facilities may be permitted if no significant adverse effect on natural character of area.

6. Limited range of agriculture and other resource uses permitted.

Scenic

1. Motorized vehicles allowed on land area.

2. No unharmonious improvements and few habitations permitted.

3. Limited modern screened public use facilities permitted, i.e., campgrounds, visitor centers, etc.

4. Some new facilities allowed, such as unobtrusive marinas.

5. Unobtrusive fences, gauging stations and other management facilities may be permitted if no significant adverse effect on natural character of area.

6. Wide range of agriculture and other resource uses may be permitted.

Recreation

1. Optimum accessibility by motorized vehicle.

2. May be densely settled in places.

3. Public use areas may be in close proximity to river.

4. New structures allowed for both habitation and for intensive recreation use.

5. Management practice facilities permitted.

6. Full range of agricultural and other resource uses may be permitted.

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[1] To be used only in conjunction with the text.

[2] Federal Water Pollution Control Administration's Water Quality Criteria, April 1, 1968.

HOUSATONIC VALLEY ASSOCIATION, INC.,
Kent, Conn.

Citizens Guide To Wild & Scenic Rivers Act

Q: 1. *What is the Wild & Scenic Rivers Act?*

A: An Act (P.L. 90-542) designed to preserve rivers which possess remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or similar values for the benefit of present as well as future generations. Section 1(b).

Q: 2. *What rivers or streams qualify for protection under the act?*

A: The Act (P.L. 90-542) defines a "river" as a "free-flowing body of water (or estuary) or a section or portion or tributary thereof". Such flowing bodies include rivers, streams, creeks, runs, kills, rills and even small lakes. Sec. 15(a). Furthermore, every wild, scenic or recreational river in its freeflowing condition is eligible for inclusion in the "system" if it possesses one or more of the values described in the answer to Q. 1. (See Sec. 1(b) of P.L. 90-542). Sec. 2(b).

Q: 3. *How does a river become included in the national "Wild & Scenic Rivers Systems"?*

A: Congress must first pass an Act designating the river as a potential addition to the "system" (i.e. amend Section 5(a) of the Act). Then the Secretary of the Interior must conduct a *study* of the river in cooperation with the State and local government. Based on this study, a report is prepared and transmitted to the President and Congress for final authorization.

Otherwise, a river must be designated wild, scenic or recreational by or pursuant to state legislation and subsequently found suitable and approved by the Secretary for inclusion. Sec. 2(a).

Q: 4. *Are all rivers included within the "system" classified, designated and administered in the same manner?*

A: No. The Act (P.L. 90-542) establishes three distinct and separate classifications. They are (1) wild river areas; (2) scenic river areas; and (3) recreational river areas. Sec. 2(b). Each shall be administered in such a manner consistent with the Act so as to protect and enhance its values without limiting other non-conflicting uses. Sec. 10(a).

Q. 5. *What are these three classes?*

A: A "wild" river is:

(a) free of impoundments,
(b) generally inaccessible by trial,
(c) with watersheds or shorelines essentially primitive and
(d) waters unpolluted
(These represent vestiges of primitive America). Sec. 2(b)(1).

A "scenic" river is:

(a) free of impoundments,
(b) with shorelines or watersheds still largely primitive and shorelines largely undeveloped,
(c) but accessible in places by road. Sec. 2(b)(2).

A "recreational" river is:

(a) readily accessible by road or railroad,
(b) may have some development along its shorelines, and
(c) may have undergone some impoundments or diversion in the past. Sec. 2(b)(3).

Q: 6. *If impoundments or diversions exist is a river ineligible for consideration?*

A: No. Low dams, diversion works and other minor structures do not automatically bar its consideration for inclusion.

Q: 7. *Which classification best fits the Housatonic River between the Massachusetts border and its confluence with the Shepaug?*

A: The classification "scenic" river best fits the Housatonic River, or this portion of it, Sec. 2(b)(2) and guidelines pp. 8–10.

Q: 8. *Once included in the system, how is the river protected?*

A: The Act (P.L. 90-542) prohibits the construction of dams and other encroachments. Thus, the River is protected from project(s) which impair its natural qualities and impede its "freeflowing condition." Section 7(a) and Sec. 7(b).

Moreover, the river's immediate environment, the land alongside the river, is also protected by three possible management techniques:

1) complete public owenrship—Sec. 6(a),
2) partial public ownership (easements) Sec. 6(a) or (b) or
3) local zoning ordinances. Sec. 6(c).

Q: 9. *How will this affect ownership of private property along the river?*

A: If the town has in force and applicable to such property a duly adopted, valid zoning ordinance that conforms or is amended to conform to the purposes of the Act, it cannot be acquired by condemnation. If 50% of the acreage of the entire protected area is owned by federal, state or local government, property may not be acquired by condemnation. Thus, two significant restrictions exist on the government's power to take private property.

Furthermore, if a river is designated as a wild, scenic or recreational river, the boundaries of the protected area are limited to an average of *not more than* 320 acres per mile on both sides of the river (roughly ¼ mile from the river bank). Within this corridor, acquisition of private property is limited to 100 acres per mile on both sides. Scenic easements may be acquired on the remaining acreage.

Q: 10. *Won't designation prevent landowners from using their land as in the past?*

A: No. If the river qualifies for inclusion, it is because of the care exercised by owners of the land as well as their refusal to allow the area to be overrun by incompatible and intensive residential, commercial and industrial development. The Act requires that the river area be administered so as to emphasize its "esthetic, scenic, historic, archaelogic, and scientific features," thus protecting and enhancing the values which caused it to be included in the system. If the government does purchase a scenic easement, in a way it will be a financial reward for the stewardship and conservation practiced. Nonetheless, any regular use (e.g. farming) exercised prior to the acquisition of the easement will *not* be affected. Sec. 6 & 15(c).

(NOTE.—In buying a scenic easement the

government only buys the right to develop the land in a way which would adversely affect its scenic value.)

Q: 11. *What is the first step needed to protect the Housatonic River?*

A: Your Senator and Congressman must resubmit the bill to include the Housatonic River on the study list (Sec. 5(a)) to determine whether it should be designated wild, scenic or recreational and included in the national "system". An alternative method would be for the state legislature to establish its own wild & scenic rivers system. At least 23 states have done just that. Connecticut has not.

By Mr. BROCK (for himself, Mr. Baker, Mr. Beall, Mr. Domenici, Mr. Garn, Mr. Hansen, Mr. Hruska, Mr. Laxalt, Mr. Packwood, Mr. Percy, and Mr. Hugh Scott):

S. 11. A bill to amend the State and Local Fiscal Assistance Act of 1972 to make Federal revenue sharing a permanent program to provide for periodic increases in the dollar amounts of revenue returned to the States under that act to offset the effects of inflation, and to eliminate certain restrictions on the purposes for which local governments may use funds obtained under the act. Referred to the Committee on Finance.

STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1975

Mr. BROCK. Mr. President, I am pleased to introduce a piece of legislation that should properly be the first order of business for the 94th Congress. I am particularly delighted to have so many distinguished cosponsors, and I hope that this bodes well for our effort to extend and expand revenue sharing which is so crucial to our Federal system.

Why should this be one of the first priorities of Congress? There are several reasons: First, the act must be extended by the end of 1976, or else this important piece of legislation will die. But, perhaps more important than for immediacy purposes is the fact that our State and local governments must know the status of this bill by the end of 1975 in order for them to prepare their budgets. Some States will be planning their fiscal year 1977 budgets as early as this summer.

Second, with this Congress to face so many complex problems, such as inflation/recession legislation, health care, energy problems, and the like, we should try to swiftly pass such items as revenue sharing, that have been adequately pilot tested and proven effective.

Mr. President, the bill my colleagues and I have introduced is essentially a simple extension of the original legislation. We do not intend to make dramatic changes, such as with distribution formulas. However, there are three changes of significance that I would like to point out.

First, this extension bill will make revenue sharing permanent, as it should be under our federalist system of government. Second, revenue sharing will be made inflation proof, especially in this year of double-digit inflation, and third, the annoying and rather useless redtape of the program has been minimized.

Let me take a minute to elaborate on these changes.

Making the fund permanent: Most of the original advocates of the revenue sharing concept have envisioned this as a permanent fund. One early advocate, Dr. Walter W. Heller, former Chairman of the President's Council on Economic Advisers during the Kennedy-Johnson administration, envisioned a trust fund that would make funds available to States "as a matter of right, free from the uncertainties and hazards of the annual appropriations process." Senator Howard Baker, a prime mover in revenue sharing legislation in both the 91st and 92d Congresses, originally envisioned a permanent program. Although I, too, originally wanted a permanent fund, Congress in its wisdom properly placed a 5-year pilot testing period in the original bill. But that test is coming to a successful end, so any new act should now be made permanent.

The new Budget Act (Public Law 93-344), designed to give Congress more control over the total budget, recognized this need for permanent funding of revenue sharing. While the Budget Act places close scrutiny on most spending authority, it states that this "shall not apply to new authority which is an amendment to or extension of the State and Local Fiscal Act of 1972 * * *"—section 401 (d)(2).

Making the fund inflation proof: The present annual funding increase for revenue sharing works out to approximately 2.5 percent a year, which, as we all know, does not adequately reflect our present inflation rate. Therefore, revenue sharing must be tied into an automatic escalator indicator that properly reflects our economy. Particularly since S. 11 will make revenue sharing permanent, we must find some easily determinable index so that the fund level can be adjusted automatically without Congress having to continually authorize new levels.

The Advisory Commission on Intergovernmental Relations—ACIR—a group made up of Members of Congress, Governors, mayors, State legislative leaders, elected county officials, and private citizens, has studied various funding methods. They have finally recommended that funding be put at a constant percentage of the Federal personal income tax base, the adjusted gross income—AGI, and we have taken their recommendation. Federal income tax collections are a true indicator of our citizens' capacity to pay for programs, and thus a proper base to use for a program whose purpose is to return responsibility to the appropriate local level.

Easing restrictions on local governments: Under the present act, local governments must restrict their expenditures for certain high priority items. There are two reasons for doing away with these restrictions. First, the whole purpose of revenue sharing is to return funds to local governments, in other words, to those who truly know local problems. This was to be done with a minimum of bureaucratic redtape. Imposing restrictions or even priorities is the antithesis of this concept. Why is it that we in Congress always feel we have the answers, when, in reality, there is no single programmatic solution for the thousands of different local communities, each with separate and distinct problems?

Although there may be philosophical differences on this point, as a practical matter, such limitations or restrictions simply become time-consuming redtape, due to the fungibility of funds. In short, the various governments put revenue sharing money into these priority items and put their own money, that would have gone into these programs, into other programs they deem necessary. Why not eliminate this redtape and redundancy?

These three changes will make an already very successful program even more successful.

Mr. President, there are, of course, reasons why people do not support revenue sharing. Some feel that revenue sharing divorces taxation from spending, that there are more pressing needs, that revenue sharing funds are not adequately used to eliminate discrimination, that they reduce Federal budgetary flexibility, and so on. Like most criticisms, there are grains of truth in all these points. But when you fully investigate each argument, the benefits overwhelmingly outweigh any real or presumed liabilities in revenue sharing. In fact, I hope that some of my colleagues in the Senate who have objections will also air their views, so that debate can be adequately aired and a response made or improvements achieved.

Whatever the objections to revenue sharing, the advantages so outweigh the disadvantages that this program should be passed. It is a program that has been adequately pilot tested, it is a program that has broad bipartisan support, it is a program that returns power to the local governments, it is a program that allows local officials the funds to take care of problems that only they can see and that could never be considered if we had thousands of categorical grants. In short, Mr. President, it is a program that works.

I ask unanimous support that the State and Local Fiscal Assistance Act of 1975, S. 11, be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 11

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State and Local Fiscal Assistance Act of 1975".

Sec. 2. (a) Section 103 of the State and Local Fiscal Assistance Act of 1972 is repealed.

(b) Section 105(b)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (F), and

(2) by striking out subparagraph (G) and inserting in lieu thereof the following:

"(G) for the fiscal year beginning July 1, 1976, $6,650,000,000,

"(H) for the period beginning July 1, 1977, and ending September 30, 1977, $1,700,000,000; and

"(I) for fiscal years beginning after September 30, 1977, an amount equal to seven-tenths of 1 percent of the Federal adjusted gross income (as defined in section 141(d)) for taxable years ending with or within the preceding calendar year.".

(c) Section 105(b)(2) of such Act is amended—

(1) by striking out "and July 1, 1975," in

subparagraph (D) and inserting in lieu thereof: "July 1, 1975, and July 1, 1976,", and

(2) striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) for the period beginning July 1, 1977, and ending September 30, 1977, $1,195,000; and

"(F) for fiscal years beginning after September 30, 1977, an amount equal to the sum of—

"(i) $4,780,000, plus

"(ii) an amount equal to the amount determined by multiplying $4,780,000 by a percentage equal to the percentage by which the amount appropriated under section 105(k)(1) for any such fiscal year exceeds $6,650,000,000.".

(d) Section 141 of such Act is amended by adding at the end thereof the following new subsection:

"(d) Federal Adjusted Gross Income.—For purposes of this title, the term 'Federal adjusted gross income' means the sum of the amounts reported by individuals as adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1954) for taxable years ending within or with a calendar year, determined on the same basis as such adjusted gross income is determined for such period by the Internal Revenue Service for general statistical purposes.".

Sec. 3. (a) Section 107(b) of such Act is amended by striking out paragraph (5) thereof and by redesignating paragraphs (6) and (7) as (5) and (6), respectively.

(b) Section 123(a) of such Act is amended—

(1) by striking out paragraph (3),

(2) by redesignating paragraphs (4), (5), (6), (7), and (8), as (3), (4), (5), (6), and (7), respectively, and

(3) by striking out "Paragraph (7)" in the last sentence thereof and inserting in lieu thereof "Paragraph (6)".

(c) Section 141(b) is amended—

(1) by striking out "and 1975" in paragraph (4) and inserting in lieu thereof "1975, and 1976",

(2) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The period beginning July 1, 1977, and ending September 30, 1977.

"(6) The one-year periods beginning on October 1 of 1977 and all subsequent years.

Sec. 4. Pursuant to the provisions of subsection (d)(2) of section 401 of the Congressional Budget Act of 1974, neither the provisions of subsection (a) nor the provisions of subsection (b) of such section apply to the new spending authority (as defined in subsection (c) of such Act) contained in the first section of this Act.

Sec. 5. The amendments made by this Act take effect on the date of enactment of this Act, and the amendment made by subsection (a) of the first section of this Act applied with respect to funds received by units of local government under subtitle A of title I of the State and Local Financial Assistance Act of 1972 which are unexpended on such date of enactment regardless of the date on which such funds were transferred to such units.

Mr. HUGH SCOTT. Mr. President, as an original sponsor of the State and Local Fiscal Assistance Act of 1973, I am pleased to join in the effort which would permanently establish revenue sharing now scheduled to expire at the end of the 94th Congress.

Revenue sharing is one of the most significant and responsive programs that Congress has ever enacted. During a period when fiscal responsibility is uppermost in congressional minds, it is imperative that this Congress begin with programs which have proven records of returning tax dollars to taxpayers. Revenue sharing puts the money where the problems are. Putting it simply—it works.

The legislation we offer you today would basically conform to the existing law. Three significant improvements have been proposed which would allow for the long-term continuation of revenue sharing without annual Federal alterations or interruptions.

The current contradiction in terms which prohibits the overall usage of this Federal money slows the revenue sharing process and complicates what should be an easy flow of Federal assistance to worthy local governments. This legislation amends the current law to assure a smooth budget process.

In my own Commonwealth of Pennsylvania, I can cite the revenue sharing endorsements of numerous local governments and Pennsylvania organizations including the Pennsylvania League of Cities, the Pennsylvania State Mayors' Association, and the Pennsylvania State Association of County Commissioners.

I urge my colleagues to support this legislation and work for its swift enactment so that self-determination can be established and faithfully enforced assuring a more efficient use of our tax dollars.

By Mr. McGOVERN (for himself, Mr. Humphrey, Mr. Mansfield, Mr. Hugh Scott, Mr. Magnuson, Mr. Jackson, Mr. Williams, Mr. Randolph, Mr. Cranston, Mr. Church, Mr. Weicker, Mr. Culver, Mr. Stafford, Mr. Hatfield, Mr. Abourezk, Mr. Bayh, Mr. Burdick, Mr. Clark, Mr. Philip A. Hart, Mr. Gary W. Hart, Mr. Leahy, Mr. Case, Mr. Brooke, Mr. Schweiker, Mr. Mathias, Mr. Haskell, Mr. Hathaway, Mr. Inouye, Mr. Kennedy, Mr. McGee, Mr. McIntyre, Mr. Mondale, Mr. Pastore, Mr. Pell, Mr. Ribicoff, Mr. Muskie, Mr. Moss, Mr. Javits, Mr. Hartke, Mr. Hollings, Mr. Metcalf, and Mr. Montoya):

S. 13. A bill to amend the Food Stamp Act of 1964. Referred to the Committee on Agriculture and Forestry.

THE FOOD STAMP PROGRAM

Mr. McGOVERN. Mr. President, I would like to introduce on this first day of the new session food stamp amendments of the utmost importance.

President Ford has recently proposed regulation changes increasing the cost of food stamps to millions of Americans. If the Congress allows this action to become effective March 1, it will be the first major step backward in this country's commitment to "put an end to hunger in America for all time."

Under the President's proposal, all recipients would be required to pay 30 percent of their income for food stamps. Currently the poorest recipients pay as little as 5 percent of their meager incomes. These people stand to have a 500-percent increase in the cost of food stamps on March 1. The average food stamp recipient who pays 23 percent of his income for stamps will have a 30-percent increase in the cost of stamps; 95 percent of the 15 million food stamp participants will have to pay more for their food. This coupled with inflation, recession, and rising unemployment will place an impossible burden on the ability of the poor to obtain an adequate diet.

There are many ways to fight inflation in this country that make economic and social sense. But cutting the food stamp program now and risking increased hunger in thousands of American families make no sense at all.

It makes even less sense when you look at who will be hurt the most by these cuts. The proposal to cut the food stamps by $325 million in 4 months and $650 million in fiscal year 1976 hits hardest those least capable of coping with inflation—the elderly, and the poorest of the poor.

The President said at his press conference announcing the proposal that some Americans will have to pay "slightly more" for food stamps. But the facts show that 95 percent of the 15 million Americans now using the stamps will have to pay 30 percent more, causing many to drop out of the program.

A more detailed analysis of the impact of President Ford's proposal, done by the Community Nutrition Institute, follows.

The legislation which I am today proposing would amend the Food Stamp Act to prevent this regulation change from going into effect. The amendment continues the concept that the cost of food stamps should represent a reasonable investment on the part of the household but provides that in no event can that investment be more than the percentum charged under the current schedule.

The amendment would also reduce the maximum charge from 30 percent of net food income to 25 percent. In other words, those recipients now paying 10 percent and 20 percent of their incomes for stamps would continue to pay that amount, while those paying 26 percent to 30 percent would have the price reduced to 25 percent.

The estimated cost of this provision at current participation levels is $450 million.

While this is a substantial figure. I do not believe it is too much to devote to the poorest sector of the country at a time when the President has recommended a tax cut of $16 billion to stimulate the economy generally. We are in a recession. Alan Greenspan expects unemployment to reach 8 percent. I think that is a conservative figure. Simultaneously, inflation is expected to decline to 6–7 percent by summer. In this context, reducing the cost of food for the Nation's poor to 25 percent of their income is dictated both by conscience and economics. Indeed, the December 23, 1974, report of the Joint Economic Committee, achieving price stability through economic growth, recommends precisely this action.

The bill also addresses the question of food stamps for SSI recipients.

The current temporary provision under which supplemental security income recipients in 45 States may automatically participate in the food stamp program, and the recipients in New York, Massachusetts, California, Nevada, and Wisconsin are cashed out, will expire on June 30, 1974. On July 1, the complicated and costly provisions of Public Law 93–86 will become effective.

In an attempt to finally lay to rest this perennial labyrinth, this legislation provides that all SSI recipients in all States would be automatically eligible for food stamps. The bonus, of course, would still depend on the household's income.

It is estimated that at least 90 percent of the SSI recipients do in fact have net food stamp income below the national guidelines. The administrative expense of investigating the 4 million SSI participants, to weed out the few ineligibles, would in all probability be greater than certifying for a minimum bonus the few SSI recipients slightly above the cutoff line.

Public assistance recipients (AFDC) are now automatically eligible under food stamp regulations. This amendment would extend that system to SSI recipients on a permanent basis and elevate the regulation to law.

I ask unanimous consent that the accompanying bill, section-by-section analysis, Community Nutrition Institute report, and a portion of the Joint Economic Committee print be printed in the Record at this point.

There being no objection, the bill and material were ordered to be printed in the Record, as follows:

S. 13

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Section 7(b) of the Food Stamp Act of 1964, as amended, is amended, by deleting: "but in no event more than 30 per centum of the household's income" and inserting in lieu thereof the following: "but in no event more than the lesser of (1) the per centum charged a household with the same income January 1, 1975, or (2) 25 per centum of the household's income".

Sec. 2. Section 3(e) of the Food Stamp Act of 1964, as amended is amended by deleting the following: "related individuals (including legally adopted children and legally assigned foster children) or nonrelated individuals over age 60" and insert in lieu thereof the word: "individuals".

Sec. 3. Section 5(b) of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"(b) The Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall establish uniform national standards of eligibility for participation by households in the food stamp program and no plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary. The standards established by the Secretary, at a minimum, shall prescribe the amounts of household income and other financial resources, including both liquid and non-liquid assets, to be used as criteria of eligibility. The Secretary may also establish temporary emergency standards of eligibility for the duration of the duration of the emergency without regard to income and other financial resources, for households that are victims of a mechanical disaster which disrupts the distribution of coupons, and for households that are in need of temporary food assistance, and that commercial channels of food distribution have again become available to meet the temporary food needs of such households: *Provided,* That the Secretary shall in the case of Puerto Rico, Guam, and the Virgin Islands, establish special standards of eligibility and coupon allotment schedules which reflect the average per capita income and cost of obtaining a nutritionally adequate diet in Puerto Rico and the respective territories, except that in no event shall the standards of eligibility or coupon allotment schedules so used exceed those in the fifty States."

Sec. 4. Section 10 of the Food Stamp Act of 1964, as amended, is amended as follows:

Subsection (e) is amended by inserting in clause (7), after the word "law", the following: ", and at the option of the State agency,".

Sec. 5. The Food Stamp Act of 1964, as amended, is amended by a. deleting in section 3(e) the following:

"No individual who receives suppemental security income benefits under title XVI of the Social Security Act shall be considered to be a member of a household or an elderly person for any purpose of this Act for any month if such person receives for such month, as part of his supplemental security income benefits or payments described in section 1616(a) of the Social Security Act (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI, as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92–603, as amended. The Secretary of Health, Education, and Welfare shall issue regulations for the implementation of the foregoing sentence after consultation with the Secretary of Agriculture."

b. adding a new subsection 5(e) as follows: "(e) Effective July 1, 1975, households in which all members receive supplemental security income benefits under Title XVI of the Social Security Act, or households in which all members are included in a federally aided public assistance or general assistance grant shall be certified for participation in the food stamp program under this Act. Certification of all other households shall be based on the uniform national standards established pursuant to subsection (b)."

Sec. 6. Section 10(h) of the Food Stamp Act of 1964, as amended, is amended by deleting the first two sentences and inserting in lieu thereof the following: "Subject to such terms and conditions as may be prescribed by the Secretary in the regulations issued pursuant to this Act, household members or persons who are housebound, feeble, physically handicapped, or otherwise disabled, to the extent that they are unable to adequately prepare all of their meals, may use coupons issued to them to purchase meals prepared for and delivered to them by a political subdivision or by a private nonprofit organization which: (1) is not receiving federally donated foods from the United States Department of Agriculture for use in the preparation of such meals; and (2) is operated in a manner consistent with the purposes of this Act; and (3) is recognized as a tax exempt organization by the Internal Revenue Service. Meals served pursuant to this subsection shall be deemed "food" for the purposes of this Act."

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section one would amend the food stamp act to prevent the recently announced regulation change increasing the cost of food stamps to 30% for all participants from going into effect. The amendment continues the concept that the cost of food stamps should represent a reasonable investment on the part of a household but provides that in no event can that investment be more than the *per centum* charged a household with the same income under the current schedule.

The amendment would also reduce the maximum charge from 30% of net food stamp income to 25%. In other words, those recipients now paying 10% and 20% of their incomes for stamps would continue to pay that amount while those paying 26–30% would have the price reduced to 25%.

The estimated cost of this provision at current participation levels is $450 million.

SECTION 2

This section of the bill amends Section 3 of the Food Stamp Act of 1964, as amended, which defines the terms used in the Act.

Subsection (e) which defines the term "household" is amended to delete the requirement that household members under age 60 be related in order to qualify for the food stamp program. This requirement was ruled unconstitutional by the Supreme Court in its decision in the case of *Moreno v. USDA*, 413 U.S. 528. The amendment will bring the Act into conformance with the Supreme Court decision.

This provision was introduced at the request of the administration in the 93d Congress, but no action was taken.

SECTION 3

This section of the bill revises subsection 5(b).

Subsection 5(b) retains the concept that the food stamp program shall be limited to households whose income and resources are substantial limiting factors in the attainment of a nutritionally adequate diet. However, it excludes the housing payment in kind from the standards of eligibility. The inclusion of housing payments in kind not in excess of $25 is most unpopular among the States. To determine the value of in kind income, State agencies must develop expertise in estimating the value of housing or obtain guidance on the matter through other agencies or organizations. In either case, any possible savings to the program are more than offset by the complexities, if not impossibilities, of effectively administering this provision. Further, this provision would permit housing payments in kind to be disregarded for purposes of income, and thus be treated consistently with the way in which other payments in kind are handled under the food stamp and other welfare-type programs.

The revision of Subsection 5(b) further deletes the provision prohibiting the participation of certain tax dependents in the food stamp program. In its decision in the case of *Murry v. USDA*, 413 U.S. 508, the Supreme Court ruled that the "tax dependency" provision of the Act is unconstitutional. Thus, the *"tax dependency"* provision in the current Act is not enforceable.

This provision was introduced at the request of the administration in the 93d Congress, but no action was taken.

SECTION 4

This section of the bill revises Section 10 (e)(7) of the Act.

Subsection (e)(7) is revised to give a State agency an option to establish a system under which a food stamp household may elect to have its charge for the coupon allotment withheld from its public assistance check. The Act now mandates a State agency to offer such a system. This service is costly and of questionable value. An optional system would permit a State to operate the system in an area where it would be helpful, such as rural localities lacking adequate transportation. The State would not be required to bear the cost of administering such a system in larger metropolitan areas where public assistance withholding is not only of minimal usefulness but also subject to abuse. Giving the States this option could serve to gain their increased cooperation in other areas of greater program importance.

This provision was introduced at the request of the administration in 93rd Congress, but no action was taken.

SECTION 5

This amendment deletes from the household definition, Section 3(e), the language on eligibility of supplemental security income recipients. The current temporary provision under which supplemental security income recipients may automatically participate in the program will expire on June 30, 1975. On July 1, 1975, the complicated and costly provisions of Public Law 93-86 will become effective.

Subsection (b) of this section therefore contains a new provision governing the eligibility for food stamps of supplemental security income recipients. It would become effective July 1st.

Under the provision all SSI recipients in all states would be automatically eligible for food stamps. It is estimated that at least 90% of the SSI recipients do in fact have net food stamp income below the national guidelines. The administrative expense of investigating the 1 million SSI participants, to weed out the few ineligibles, would in all probability be greater than certifying for minimum bonus the few SSI recipients slightly above the cut-off line.

Public assistance recipients (AFDC) are automatically eligible under food stamp regulations. This amendment would extend that system to SSI recipients on a permanent basis and elevate the regulation to law.

SECTION 6

Section 6 removes the requirement that food stamp recipients who are housebound, feeble, physically handicapped, or otherwise disabled must be over 60 years of age to use stamps for meals-on-wheels.

Without this section, many incapacitated persons under 60 who receive meals-on-wheels have to pay cash for the meals even though they have food stamps. Purchase of delivered meals with food stamps would still be limited to incapacitated persons.

ACHIEVING PRICE STABILITY THROUGH ECONOMIC GROWTH

(Report of the Joint Economic Committee, Congress of the United States, together with supplementary and minority views, December 23, 1974.)

RELIEF MEASURES FOR THE POOR AND THE ELDERLY

The Poor.—The poor have been the hardest hit by changing economic conditions in 1974. The combination of inflation, recession, and rising unemployment has been catastrophic for the poor and near-poor. While the poor may not suffer a proportionately greater decline in dollar incomes than other groups, the decline in their purchasing power is from a level that is at best marginally adequate. Price increases in recent years have caused a greater loss of purchasing power for the poor than for higher income groups.

In all of the previous inflationary periods since World War II, the poor benefited because of accompanying tighter labor markets. But the economy is now in the midst of a serious recession. Also contributing to the poor's loss of purchasing power is the general tendency for the wages of low-skilled workers to adjust less to inflation than average wage rates, primarily because they lack the bargaining power of better-paid and more highly unionized workers. Prices of the basic purchases made by the poor have been rising faster than the Consumer Price Index. For example, food price inflation of the past 18 months has added twice as much to the cost of living of the poor as to the average urban worker's cost of living.[1] The poor cannot "substitute down" as the more affluent can to less expensive foods. Dried beans and rice, which are common items in the diets of the poor, increased in price from December 1970 to March 1974 by 256 percent and 124.3 percent, respectively.

What can be done to reduce the burdens imposed on the poor by the present combination of recession and inflation? Most public assistance is channeled to the poor through the many income support programs which have been established in the United States since the depression more than 45 years ago. These programs, established at different times and with varying objectives, have combined to produce an overall income transfer system riddled with conflicts and inequities, operated at huge cost, and delivering inadequate benefits to millions of needy persons.

A comprehensive program for reform of our income maintenance program was presented earlier this month in a report issued by the Subcommittee on Fiscal Policy of this Committee, under the leadership of Congresswoman Martha Griffiths. The recommended program consists of two parts: Tax relief for low- and moderate-income workers and modest cash grants related to income for the poorest in our society. Tax relief would occur through the substitution of rebatable tax credits, which are deducted from tax liability, for the personal exemptions now in effect. Excess credits would be paid to the individual(s) filing the tax return.

This comprehensive system of credits and allowances is more efficient and equitable than the food stamp and AFDC programs which it would replace. This program breaks sharply with the traditional welfare structure in that it avoids the penalties on work, marriage, and family responsibility that the old programs perpetuate. We commend the full 260 page report to anyone seriously interested in the Federal income transfer system, the problems under which it currently operates and some of the possibilities of reform.

We recommend that the program for income maintenance reform contained in the report of the Subcommittee on Fiscal Policy and the legislation that would enact this program be given the most immediate consideration.

While endorsing this welfare reform package and agreeing fully with the points it raises concerning the serious deficiencies in the current welfare programs, we also recognize that some immediate improvements are needed in the income support programs to help compensate the many poorer Americans who have suffered greatly from this year's severe inflation and developing recession. The Subcommittee on Fiscal Policy realizes, and states in its report, that its recommended program could not be in effect until 1977. In the light of this time lag, extension under existing statutes of the food stamp and Aid for Dependent Children (AFDC) programs is required to provide immediate relief to the poor.

The food stamp program should be emphasized since it is the income support program reaching the greatest number of people, it focuses on the necessity which has risen most rapidly in price, and is a program that can be made more effective with a few simple administrative changes. Currently, there are 14.3 million recipients of food stamps out of a total eligible population estimated to be between 30 to 35 million. The cost has escalated in the past three years from $1.6 billion to $4.0 billion. Many economists view this expansion of the program as a healthy development in that they see many advantages to food stamps as an income support program. More people benefit at a far lower per capita cost than in the government's two other major welfare programs, Medicare and AFDC. Also, the Food Stamp Program is mandatory, is nation-wide, is based on minimum food needs tied to national standards and most important, is designed to help all the needy. Thus, it includes the working poor, who are usually not covered by other income support measures.

Despite these laudable advantages, the program as it is currently operating suffers from some serious shortcomings. Perhaps the most significant is that the amount of food stamp allotments (currently $150 per month for a family of four) is simply not enough to provide for a nutritionally balanced diet. In many cases, this deficient payment affects the health of prenatal infants, nursing mothers, the elderly, and the unemployed. As things now stand, a family with a low income receiving food stamps may have to spend more than 40 percent of its income to obtain a minimum required diet.

The monthly bonus amount is based on the Economy Food Plan of the USDA, which currently provides allotments allowing less than 40 cents per person per meal. According to a food consumption survey by the USDA, less than 10 percent of those who eat at the cost level of the Economy Food Plan obtain the full recommended dietary allowances. For this reason, the USDA's Low Cost Food Plan should become the basis for food stamp allotments.

An equally significant defect of the present program is that the maximum purchase price, 30 percent of net household income, is too high. In fact, this ties in with the low level of participation in the program, since the high cost of purchasing food stamps is the most important reason for non-participation by many households. Thus, the maximum purchase price should be set at 25 percent of net household income, which would not only increase the value of the stamps for those currently using them (particularly benefitting the elderly poor), but would also attract many more people into the program, especially those poor people who felt they simply could not afford the current purchase price. These changes would raise the annual cost of the program by approximately $420 million.

It should be noted that this 25 percent maximum and preservation of the existing sliding scale up to that maximum, is in conflict with the President's recent amendment to the food stamp regulations. This amendment would require, as of March 1, 1975 *all* food stamp recipients to pay a flat 30 percent of net income for their food stamp allotment. This is a most ill-advised administrative change; it would increase the already severe burden that the poor and near-poor are bearing. Specifically, households with one or two persons would be hurt the most. Of these 50 percent are over 60 years of age. An elderly individual receiving the current Supplemental Security Income (SSI) payment of $146.00 a month now pays $30 to receive $46 in food stamps, a $16 bonus. The President's amendment would increase the purchase price to $43.80, reducing the bonus to $2.20, a virtually negligible amount. Among food stamp recipients of all ages, those with the lowest incomes will experience the greatest percentage increases in purchase prices. The ultimate effect, therefore, will be a strong inducement for many to drop from the program.

The participation problem is already a

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[1] Loraine Donaldson, "The Poor Pay More—of the Food Inflation Tax," unpublished paper, Georgia State University, 1974. Food costs, which according to the Bureau of Labor Statistics have risen about three times as fast as other major budget components, generally account for a higher proportion of the poor's expenditures than of higher income groups.

serious one. Only 40 to 48 percent of those eligible actually use food stamps. Even this low rate overstates the participation of the elderly, blind, and disabled, which is currently 28 percent. Legislation to alleviate much of this problem has already been passed by Congress in July specifying that the Federal Government should cover 50 percent of administrative costs, as compared to the present level of 28 percent. Additional funds to cover administrative costs should enable states to hire more certification workers.

Another major problem is that the semi-annual increase in the food stamp allotment lags four to twelve months behind the increases in cost of the Economy Food Plan. For example, the Food Stamp allotment during this month (December 1974) is based on the Economy Food Plan established in February. Costs are probably 10 to 15 percent higher now.

To increase the value of the food stamps, for current participants, the President's administrative decision earlier this year should be reversed and the maximum purchase price should be reduced from 30 percent to 25 percent of net household income. The present sliding payment scale up to the maximum should be retained. Furthermore, the U.S. Department of Agriculture should expand participation in the program, particularly by implementing the provisions of P.L. 93-347 that enable the Federal Government to provide 50 percent of the administrative costs of the program. The payment scales of the Food Stamp Program should be adjusted every four instead of every six months.

The Impact of the Ford Administration's Proposal To Raise Food Stamp Prices

(By the Community Nutrition Institute)

ABOUT THE COMMUNITY NUTRITION INSTITUTE

The Community Nutrition Institute is a private non-profit organization in Washington, D.C. specializing in research, advocacy, training, and technical assistance in the areas of federal food assistance programs and federal programs for the aging. Since 1970, CNI has been known for its publication of CNI Weekly Report, a weekly newsletter covering the food and nutrition field. In the food stamp area, CNI has also recently published an outreach manual, "Publicizing Food Stamps: A Guide for Local Food Stamp Campaigns," and has available flyers explaining how recipients of the Supplemental Security Income program can qualify for food stamps.

On November 26, the Ford Administration unveiled a plan to make changes in the food stamp program that would result in a serious economic blow to millions of poor families across the United States. The new plan would require these families to pay more—in many cases, significantly more—for their food stamps.

The food stamp program, which now aids about 15 million persons each month, has in the past five years become one of the most important assistance programs available to low income persons in this country. The program provides stamps to eligible households, who use the food stamps at grocery stores just as if they were cash. The amount of food stamps a household gets depends on the size of the household, and is supposed to be sufficient to provide the household with a nutritionally adequate diet.[1] Most households pay a monthly charge for their food stamps, with the amount that each household pays for its stamps being determined by its income.

The Ford Administration's new plan, formally published in the Federal Register for December 6, 1974, would require all but the most destitute households to pay 30 percent of their net income to purchase their stamps each month, starting in March, 1975. For many households, this would represent a sharp increase over the price now paid for stamps. Yet there would be no increase at all in the amount of food stamps that would be provided for this increased price.

The U.S. Department of Agriculture (USDA), which administers the food stamp program, says that the average household now pays 23 percent of its net income for food stamps. This means that the Administration's plan would require the average family to pay nearly one third more for its food stamps than it now pays. According to USDA, this translates into an additional charge to the average family of four of $14 a month, or $168 a year, for the same amount of stamps.[2]

Nationwide, over 95 percent of all food stamp recipients—or over 14 million persons—would have to pay more for food stamps under the Administration's plan (see Appendix B). USDA's official estimate is that these recipients will have to pay $650 million more each year to buy food stamps if the new plan is put into effect.

THE ADMINISTRATION'S PLAN AND THE ELDERLY

The new plan would hit hardest at food stamp recipients living in one and two person households, the majority of whom are elderly. Most single persons would be hit with increases of 35 to 100 percent in the price of their food stamps. For a few individuals and couples the increase would run as high as 800 percent. Nearly one out of every four food stamp recipients lives in a one or two person household.[3]

The plan would be harshest on those individuals whose net income is between $154 and $194 a month. All such persons—who are now eligible for a $10–$13 food stamp benefit each month—would be eliminated entirely from the food stamp program.

These individuals would be eliminated under the new plan because they would be required to pay more in cash to participate in the food stamp program each month than they would receive back in the form of food stamps. At present, one person households in this income range can pay $33–$36 each month and receive $46 in food stamps. Under the new plan, however, they would have to pay $46–$58, and still get only $46 in food stamps.

This aspect of the new food stamp plan would mean that some persons living below the poverty line (now $194 a month for persons living alone) would be unable to get food stamp aid for the first time in a number of years.

The elimination from the food stamp program of individuals with incomes between $154 and $194 a month would affect recipients of the Supplemental Security Income (SSI) program—the federal government's new assistance program for the aged, blind, and disabled poor—with particular severity. (In Michigan and Wisconsin, the current income eligibility limit for one person households wishing to participate in the food stamp program is $210 a month, rather than $194 a month as elsewhere. Therefore, all single persons in these two states with net incomes between $154 and $210 a month would be dropped from the program.)

There are now 18 states in which combined federal and state payments to aged, blind and disabled individuals enrolled in the SSI program total $154 a month or more. Consequently, individual SSI recipients in these states will be dropped from the food stamp program unless they can qualify for large enough income deductions. The states involved are Colorado, Connecticut, Idaho, Illinois, Kansas, Maine, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, and Washington. Blind individuals in Iowa who receive SSI benefits would also be affected in this manner.[4]

Some SSI recipients in other states would also be forced out of the food stamp program. The SSI program provides a basic federal income guarantee of $146 a month to individuals and $219 a month to couples, and allows states to supplement these amounts. Even in states that do not provide supplementary payments, individuals and couples who receive Social Security or other unearned income as well as SSI are allowed to have $20 additional in total income—or $166 a month for individuals and $239 for couples. This means that in all states, single persons who receive both Social Security and SSI will have an income of at least $166 a month, and will consequently be eliminated from the food stamp program under the Administration's new plan, unless they qualify for income deductions.[5] The most recent figures from the Social Security Administration show that two thirds of all elderly SSI recipients do receive Social Security.

SSI recipients who do not receive Social Security or other income, and who live in a state that does not provide supplementary payments, now have incomes of $146 a month and will technically remain able to participate in the food stamp program if the new plan is implemented. However, a person with net income of $146 a month would have to pay $43.80 for $46 of food stamps each month, under the new plan. Presently, such persons pay $30 for their $46 in stamps. It seems safe to predict that few if any aged, blind, or disabled SSI recipients will continue to go through the time-consuming processes involved in applying for and using food stamps to receive a $2.20 monthly benefit.

SSI recipients and other individuals who are able to take significant income deductions would get larger food stamp benefits, but would still have to pay far more than they do currently. An SSI recipient with net income after deductions of $105 a month, for example, would have to pay $31.50 for food stamps, instead of $18 as at present.

Elderly couples—especially those who are SSI recipients—would also be harshly affected.[6] A couple with $270 net monthly income would have to pay $81 for $84 in food stamps, rather than $64 for $84 in stamps as at present. A couple with $239 net income (the basic federal SSI payment of $219 plus $20 in Social Security) would pay $71.70, instead of $62, for its $84 in food stamps (and would see its food stamp benefit nearly cut in half from $22 to $12.30).

The overall effect of the new USDA plan on SSI recipients would thus be to eliminate most of them from the program by substantially reducing (or eliminating altogether) their food stamp benefits. Although the Congress acted on three occasions—in August 1973, December 1973, and July 1974 (P.L. 93–86, P.L. 93–233, and P.L. 93–335)—to keep SSI recipients in the food stamp program, the Administration's new food stamp plan would effectively end their participation in large numbers. One USDA food stamp official told the Community Nutrition Institute that he expected about half of the elderly individuals and couples who now get food stamps to leave the program as a result of this new plan. USDA statistics show that if this estimate is correct, implementation of this plan would mean that nearly one million elderly poor would stop getting food stamp benefits.

	Household of 1		Household of 2	
	Price paid for $46 of stamps each month		Price paid for $84 of stamps each month	
Net monthly income	Current price	Price under new plan	Current price	Price under new plan
$25	$1	$7.50	$1	$7.50
$35	4	10.50	4	10.50
$45	6	13.50	7	13.50
$65	10	19.50	12	19.50

Footnote at end of table.

Footnotes at end of article.

Net monthly income	Household of 1 Price paid for $46 of stamps each month Current price	 Price under new plan	Household of 2 Price paid for $84 of stamps each month Current price	 Price under new plan
$85	$14	$25.50	$18	$25.50
$105	18	31.50	23	31.50
$125	24	37.50	29	37.50
$145	30	43.50	35	43.50
$165	33	[1] 49.50	38	49.50
$185	36	[1] 55.50	44	55.50
$205			50	61.50
$225			56	67.40
$245			62	73.50
$265			64	79.50
$275			64	82.50

[1] All individuals with net monthly income of $154 and above would have to pay more for food stamps than they would receive, and would hence be removed from the program.

Implementation of the plan would be doubly harsh on many SSI recipients because it would come at a time when inflation has been eating up the value of their SSI benefits. The SSI benefits paid to aged individuals in 19 states are now lower, when adjusted for inflation, than comparable state old age assistance payments were in January, 1972 (before the SSI program came into existence). Payments to aged couples, when adjusted for inflation, have declined since January, 1972 in 21 states. The declines range as high as 25 percent for individuals in some states, and 20 percent for couples.[7]

FAMILIES WITH VERY LOW INCOMES

The new plan would also prove very severe on larger families that have very low incomes, such as net income under $100 a month. These families, which have oriented their subsistence spending patterns for three years around the prices currently charged for stamps, would receive a devastating jolt by having their food stamp prices rise by up to 200 percent at a time when rent, heat, and other costs are rising as well. The following chart shows the current food stamp prices and the prices that would be charged to a very poor family of four under the new plan:

	Current price	Price under new plan
Net monthly income:		
$37.50	$4	$11.25
47.50	7	14.25
57.50	10	17.25
67.50	13	20.25
77.50	16	23.25

Also hard hit by the new plan would be higher income households earning within $100 of the maximum food stamp income eligibility limits. Households in these income categories would see their food stamp benefits disappear almost entirely. A household of two with $270 net monthly income would pay $81 for $84 in stamps, an increase of $17 in price. A family of four with $500 income would pay $150 for $154 in stamps, up 20. A family of six with $680 monthly income would pay $204 for $210 in stamps, an increase of $26.

MANY FAMILIES WOULD BE FORCED TO LEAVE THE PROGRAM

One immediate effect of the new plan would be to drive large numbers of the poor—especially the elderly—out of the food stamp program. Considering that large numbers of SSI recipients would leave or be removed from the program—and that many non-SSI one and two person households as well as many families near the top of the income scale would also drop out—an overall drop-out rate of 10 percent seems a conservative estimation. A 10 percent drop-out rate would mean that 1.5 million persons were either elimniated or felt compelled to leave the food stamp program.

(An important point to remember is that food stamp participation is already quite low—about 15 million persons out of 37 million estimated to be eligible by an HEW Department computer analysis conducted in early 1974.[8] The high prices already charged for food stamps have long been said by a number of nutritionists and anti-hunger advocates to be the single greatest obstale to increased participation.[9]

If 10 percent of those in the program do drop out, about $325–$335 million a year in benefits going to the poor would disappear, in addition to the $650 million in benefits that would be wiped out by having recipients pay more for their stamps.

This would make the total withdrawal of benefits, due to the Administration's new plan, close to $1 billion a year. (See Appendix A). Since the entire food stamp program now provides less than 4 billion a year in benefits, the new plan would cut food stamp aid going to the nation's poor by about 25 percent. This would make the new food stamp plan one of the largest cutbacks in income assistance for the poor in U.S. history, and perhaps the largest cutback during any period of economic crisis.

THE ADMINISTRATION'S JUSTIFICATIONS FOR THE PLAN

No strong arguments have been advanced to defend the new plan. Two principal arguments—that the plan is necessary as a budget cutting device and that the plan would make the food stamp program more equitable—do not stand up under close scrutiny.

1 *Budgetary Considerations:* Administration spokesmen frequently cite the rising costs of the food stamp program as the main reason for the new cutbacks. The food stamp program is rapidly growing and is out of control, they say, contending that costs have risen from $2.2 billion in fiscal year 1973 to $4 billion in fiscal 1975.[10]

This analysis is misleading on several accounts. In FY 1973, several hundred counties ran the commodity distribution program instead of a food stamp program, at a cost to the federal government of about a quarter of a billion dollars. These counties have now transferred to the food stamp program, as required by Congress in Public Law 93–86. The cost of the commodity program in FY 1973 is not included in the $2.2 billion figure given for FY 1973, but the cost of running food stamp programs in these counties is included in the $4 billion figure for FY 1975.

Even more important, the increase in the numbers of persons in the food stamp program in recent years simply reflects those persons who entered the program when their counties switched from the commodity program to the food stamp program. In December 1971, 14.9 million persons participated in either the food stamp or commodity programs. In September 1974, the number of participants stood at 15.0 million. *The number of persons in these programs has not changed in nearly 3 years despite massive inflation and high unemployment. The food stamp program is not growing rapidly. It is not out of control. The entire increase in the cost of the program is due to the transfer of counties from commodities to food stamps, and to the federal government's inability to control food price inflation.* If inflation were brought under control, so would be the costs of the food stamp program.

A further point is that Congress and USDA are making other food stamp changes to cut food stamp program costs. Congress has enacted a ban on food stamps for students claimed as tax dependents by households not themselves eligible for food stamps; USDA has announced that quality control and work registration procedures will be intensified. USDA says that an additional $110 million will be saved in the latter part of FY 1975 alone through these alterations in the program.

Finally, to make the massive program cuts envisioned by the new plan would not only be disastrous to the elderly and to other poor families but would also contribute to further unemployment and recession by removing needed federal food stamp dollars from local economies. These dollars are "high velocity" dollars that circulate widely throughout local economies and have a significant economic "multiplier effect." Their removal from local economies at this time could be especially damaging economically in areas of high food stamp usage (See Appendix A for the effect on each state).

It is especially inappropriate for Administration spokesmen to defend this draconian food stamp measure while at the same time suggesting the possibility of a tax cut in 1975 to stimulate the economy. A tax cut, of course, will not help the elderly poor and the majority of food stamp recipients who pay little or no income tax. To cut taxes and raise food stamp prices would thus be an exercise in redistributing income from the elderly and the poor to those who already have more income.

2. *Equitability Considerations:* Stephen Hiemstra, an assistant to Edward J. Hekman, the administrator of USDA's Food and Nutrition Service, was quoted in the New York Times as saying that the Administration's new plan would make the food stamp program more equitable because it would require all families to pay 30 percent of net income for food stamps, the amount now required of many large families. Hiemstra similarly told the Washington Post that 25 percent of all food stamp recipients would not be affected by the new plan, because many people already pay the full 30 percent.[11]

These statements are based upon an incorrect mathematical analysis, as Dr. Hiemstra now acknowledges. USDA food stamp profiles show that persons in households already paying 30 percent of income comprise less than one-tenth of one percent of the entire food stamp caseload (See Appendix B). The "many large families" already paying a full 30 percent of income turn out not to exist.

The only persons who will not be affected by the new plan are destitute households who will continue to get food stamps free (one or two person households with income below $20 a month; larger households with income below $30 a month), and an infinitesimal fraction of participants who do already pay 30 percent of income for food stamps. These two groups, taken together, comprise only about 4 percent of all food stamp participants. The remaining 96 percent of recipients, numbering over 14 million people, will have to pay more than before.

In a phone conversation with the Community Nutrition Institute on December 5, Dr. Hiemstra acknowledged USDA's error and said that it appeared that over 90 percent of those getting food stamps would, indeed, have to pay more under the new plan.

Simple logic should indicate that making virtually everyone in a group of people worse off than before is not an effective exercise in making matters more equitable for this group.

Moreover, there has always been some logic in charging differing percentages of income to different categories of food stamp recipients. A single person making $170 a month now pays $36 for $46 in food stamps. A family of four making $170 a month net income pays $47 for $154 in food stamps. The family of four does pay a larger percentage of income, but it also gets a much greater benefit. If the single person had to pay $47, such a person would actually be paying the gov-

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Footnotes at end of article.

ernment $1 more than the value of the food stamps he or she would be receiving. Yet it is exactly this type of absurd arrangement that the Administration's new plan would bring into being, under the guise of "equitability."

The Community Nutrition Institute believes that the elderly and the poor deserve better than the new plan. These are people who need special help in a time of economic distress, people who are living on fixed incomes but watching heat, electric, and other bills rise every month. Their Social Security checks, SSI checks, and food stamp allotments are regularly adjusted to keep pace with inflation, but the adjustments are usually out of date before they are even implemented. The food stamp allotment for a family of four, supposedly based on the meager USDA "economy food plan," will be $154 a month from January 1, 1975 until June 30, 1975. But by September, 1974, the cost of the economy plan had already hit $155.10 and showed no signs of stopping.

The attempt to make the poor pay more for their food stamps would thus squeeze them from both ends—while inflation is decreasing the "real value" of their food stamps and of other benefits, the government is asking them to pay more than ever for these "devalued" stamps. The result can only be more hunger and malnutrition—and consequently, higher government expenditures for public assistance and medical assistance in the years to come.

Already the poor have been harder hit by the inflation than has any other segment of the population. A recent study by the HEW Department, "The Impacts of Inflation and Higher Unemployment: With Emphasis on the Lower Income Population" found that the current inflationary period has been 20 percent worse for the poor than for middle income families (unlike inflationary periods in the 1960's when the impact of rising prices was distributed relatively evenly among income groups.) [12]

The study also found that unemployment rates for those with the lowest incomes—the aged, blacks and teenagers—have risen faster than the average; and that despite food stamps, unemployment compensation, and other government programs, some of the unemployed have suffered income losses of as much as 40 percent after losing their jobs.

In a comment that could be applied directly to the Administration's new food stamp plan, the study observed that "the statistics presented in this paper, while accurate, fail, as all such presentations must, to convey the hardship that a 10 percent income loss means to a family that begins with a $3,000 income. The poor have little or no flexibility to adjust to job and real income losses."

In spite of what the HEW study has found, the Administration is proposing with its new food stamp plan to mete out a further 7 percent income loss to the average poor family in the program, and to inflict an even greater income loss on most of the elderly. To paraphrase the HEW paper, no analysis can convey the hardship that this will bring.

At the very least, prices for food stamps should be maintained at current levels, the same levels that have been in effect for three years. (If anything, it is already harder for a low income family to pay the same percentage of income for food stamps that it paid three years ago, since the cost of all other family necessities has risen so sharply during this period.)

FOOTNOTES

[1] In fact, the amount of food stamps a household gets each month is tied to the "economy food plan," USDA's cheapest and least nutritious food plan. A number of medical experts, and even nutritionists within USDA, have termed the economy food plan nutritionally inadequate over anything but short periods of time. This evidence is collected in papers filed in Rodway v. United States Department of Agriculture, Civil Action No. 2553–71. Among the exhibits in this lawsuit are USDA studies showing that in USDA's last Food Consumption Survey, conducted in 1965–6, only 10 percent of the families studied who were spending at the level of the economy food plan were obtaining an adequate diet—defined as 100 percent of the Recommended Daily Allowance (RDA) of seven basic nutrients—and that less than 50 percent of the families studied who were spending at this level were getting even ⅔ of the RDA's of these nutrients. A summary of some of this evidence can be found in CNI Weekly Report, Vol. III:41.

[2] USDA's statement that the average household now pays 23 percent of its income for food stamps was first quoted in "Food Aid Cut Would Hurt Elderly Poor", *Washington Post*, December 4, 1974. USDA's statement that the average family of four will have to pay $14 more each month for its stamps first appeared in "Ford Criticized on Food-Stamp Plan," *New York Times*, December 4, 1974. Both statements were confirmed by P. Royal Shipp, USDA food stamp director, in a conversation with CNI on December 10.

[3] USDA's food stamp profile shows that 23 percent of food stamp recipients live in one and two person households, and USDA officials have cited this statistic in recent weeks. USDA's statement that over half of those in one and two person households are elderly was cited in the *Washington Post*, December 4, 1974.

[4] Current SSI benefit levels in each state are listed in "Supplemental Security Income for the Aged Blind, and Disabled: Summary of State Supplementation and Medicaid Decisions," a publication of the Department of Health, Education, and Welfare.

[5] The number of single person households who will be eliminated from the food stamp program cannot be estimated from the USDA food stamp profile. The most recent profile is based on data collected in June, 1973, over half a year before the SSI program began. The SSI program has resulted in some increase in income to many individuals and couples in many states.

[6] The food stamp profile shows 23 percent of all recipients, or about 3.5 million persons, in one and two person households. USDA has said that over half of these people, or at least 1.75 million, are elderly. If half of the elderly individuals and couples leave the program, at least 875,000 elderly persons will no longer be getting food stamps.

[7] From an unpublished analysis by Dr. Gary Bickel, Bureau of Social Science Research, Washington, D.C.

[8] The HEW computer analysis is cited in "Studies in Public Welfare, Paper No. 14: Public Welfare and Work Incentives: Theory and Practice," a publication of the Subcommittee on Fiscal Policy of the Joint Economic Committee of the U.S. Congress. Charles Seagraves, an HEW official, confirmed the results of the computer run in a conversation with CNI in April, 1974.

[9] See especially "Hunger USA Revisited: A Report by the Citizen's Board of Inquiry into Hunger and Malnutrition in the United States," October 1972: "Report and Recommendations of the Panel on Nutrition and Other Special Groups," Hearings before the Select Committee on Nutrition and Human Needs of the United States Senate, June 19, 1974; and an unpublished study of food stamp participation in two North Dakota counties by the EFMS Community Action Project, Devil's Lake, North Dakota, 1971.

[10] These figures appear in papers prepared by the HEW Department and subsequently cited in "Welfare Report/HEW wants welfare programs replaced by negative income tax," *National Journal Reports*, October 19, 1974, and in several articles in the *Washington Post*.

[11] *New York Times*, December 4, 1974: *Washington Post*, December 4, 1974.

[12] "Technical Analysis Paper No. 2: The Impetus of Inflation and Higher Unemployment: With Emphasis on the Lower Income Population," HEW Department, October 1974.

APPENDIX A: THE EFFECT OF THE NEW PLAN ON STATE ECONOMIES

Implementation of the Administration's food stamp plan would have a considerable effect on the economies of a large number of states. The table shown below lists the amount of federal food stamp dollars that will be lost to state economies annually if the plan is put into effect. The first column gives the USDA figure for the number of food stamp recipients in each state in September 1974, the latest month for which such data is available. The second column shows the loss to each state if the price increase took effect but if no one left the food stamp program as a result. The third column shows the loss if 10 percent of the food stamp participants in each state left the program, a conservative estimation.

It should be remembered that food stamp dollars are "high velocity" dollars that circulate a number of times in a local economy and have a significant economic "multiplier" effect. Therefore, the actual loss to state economies will be several times the dollar figures shown in this chart.

HOW THE FIGURES WERE COMPILED

USDA estimates that the new plan will cut food stamp benefits by $3.50 per participant per month. Consequently the figures in the second column were derived by multiplying the number of food stamp recipients in each state by $42 ($3.50/mo. × 12 months). The figures for most states are probably low, because September is traditionally one of the months of lowest food stamp participation (food stamp participation peaks each March).

The figures in the third column were derived by:

(1) taking the USDA figure for the average person food stamp bonus for each state in September, 1974.

(2) adding 60 cents to this figures to reflect the increase in food stamp bonuses that will occur on January 1, 1974 when new food stamp tables take effect. (The new tables increase the food stamp allotment about $1 per person; in the past, each $1 increase in the allotment per person has resulted in a 70 cent increase in the average monthly bonus. Since one person households will not get any allotment increase on January 1, however, the increase has been estimated here at only 60 cents. USDA officials regard this estimate as conservative.)

(3) subtracting $3.50 from the figure derived in step (2), to reflect the decrease in the bonus that USDA says will occur if the new plan is implemented.

(4) multiplying this figure by 10 percent of the number of recipients in each state in October, 1974 to find the monthly loss in federal bonus dollars that will occur if 10 percent of the participants in each state leave the program.

(5) multiplying this figure by 12 to annualize it.

(6) adding this figure to the figure in column 2 to find the total annual dollar loss to each state if the prices are increased on March 1 and if 10 percent of the recipients leave the program.

The figures in this column are also low because they are based on September participation data.

State	Food stamp recipients	Dollar loss to economy from new plan if no one leaves the program	Dollar loss to economy if 10 percent of recipients leave the program
Alabama	338,507	$14,217,294	$22,264,282
Alaska	14,205	596,610	1,035,033
Arizona	[1] 110,400	[1] 4,636,800	[1] 7,314,220

State	Food stamp recipients	Dollar loss to economy from new plan if no one leaves the program	Dollar loss to economy if 10 percent of recipients leave the program
Arkansas	245,940	10,329,580	10,181,868
California	1,343,373	56,421,666	83,987,679
Colorado	131,151	5,508,342	8,747,247
Connecticut	139,532	5,860,344	8,435,546
Delaware	21,214	$890,988	$1,274,876
District of Columbia	116,392	4,888,464	7,395,547
Florida	514,847	21,623,574	35,586,224
Georgia	424,830	17,842,860	26,835,661
Hawaii	71,540	3,004,680	4,802,337
Idaho	31,695	1,331,190	2,044,327
Illinois	840,900	35,317,800	53,299,605
Indiana	194,036	8,149,512	12,338,361
Iowa	105,645	4,437,090	6,672,115
Kansas	53,107	2,230,494	3,149,457
Kentucky	400,655	16,827,510	27,366,339
Louisiana	502,279	21,095,718	33,933,969
Maine	96,133	4,037,586	5,808,355
Maryland	245,101	10,294,242	16,626,671
Massachusetts	87,774	3,686,508	5,013,650
Michigan	567,791	23,847,222	32,670,694
Minnesota	[1] 165,930	[1] 6,969,060	[1] 9,953,808
Mississippi	348,321	14,629,482	23,026,804
Missouri	288,353	12,110,826	18,820,223
Montana	[1] 32,821	[1] 1,378,482	[1] 2,181,546
Nebraska	44,332	1,861,944	2,654,068
Nevada	27,168	1,141,056	1,940,447
New Hampshire	30,277	1,271,634	1,793,730
New Jersey	435,187	18,277,854	27,333,325
New Mexico	149,831	6,292,902	10,133,370
New York	1,195,785	50,222,970	65,175,065
North Carolina	[1] 341,397	[1] 14,338,674	[1] 21,553,075
North Dakota	[1] 18,361	[1] 771,162	[1] 1,137,133
Ohio	750,774	31,532,508	50,722,291
Oklahoma	155,463	6,529,446	9,337,107
Oregon	163,617	6,871,914	10,694,661
Pennsylvania	744,896	31,285,632	43,487,028
Rhode Island	77,881	3,271,002	4,621,458
South Carolina	354,484	14,888,328	23,982,969
South Dakota	[1] 30,273	[1] 1,271,466	[1] 1,874,867
Tennessee	329,456	13,837,152	21,842,932
Texas	1,057,976	44,434,992	69,902,590
Utah	39,829	1,672,818	2,519,263
Vermont	38,165	1,602,930	2,241,812
Virginia	215,338	9,044,196	13,238,118
Washington	[1] 228,898	[1] 9,613,716	[1] 14,991,903
West Virginia	213,774	8,978,508	12,964,965
Wisconsin	129,403	5,434,926	7,421,003
Wyoming	9,272	389,424	589,142
Guam	1,194	50,148	81,812
Puerto Rico	[2] 816,403	34,288,926	57,899,300
Virgin Islands	[3] 17,396	730,632	1,310,545
Total	15,049,302	632,070,684	958,210,323

FOOTNOTES

[1] The totals for these states do not reflect about 77,000 residents of Indian reservations who are still enrolled in the commodity program rather than the food stamp program. All reservations must switch to the food stamp program by July 1, 1977, however, and so the eventual economic effect of the cutback in these states would be larger than this chart indicates.

[2] The total for Puerto Rice includes 352,000 persons estimated by USDA to have participated in the food stamp program in October, 1974, plus 464,403 additional persons reported as having participated in the commodity program in October. Since all commodity areas of Puerto Rico transferred to food stamps on November 1, these 464,403 persons are presumably now food stamp recipients and were counted as such in the above chart. Preliminary figures for October have been used (rather than September data) because some parts of Puerto Rico scheduled to implement the food stamp program on September 1 were late in certifying large numbers of eligible households. In addition, far more persons are eligible for food stamps in Puerto Rico than have been eligible for commodities, and the October figures should be closer to the eventual size of the food stamp program.

[3] October preliminary data used in the Virgin Islands since the food stamp program was implemented here on October 1.

NOTE.—The dollar loss to state economies in the above chart totals $632 million rather than $650 million. USDA's official estimate, because the above chart is based on food stamp participation by 15 million persons, which USDA estimates that participation will soon average closer to 15.5 million persons. Considering that participation usually peaks in March and dips over the summer, and that Puerto Rico is expected to witness major expansion of the food stamp program in coming months, USDA's projection seems reasonable. This higher average participation figure would bring the total dollar loss to state economies if the new plan is implemented and if 10 percent of food stamp recipients leave the program to about $980–$985 million a year. If 10 percent proves to be an underestimation of the dropout rate, then the total dollar loss to state economies if the new plan is implemented will surpass $1 billion a year.

APPENDIX B: THE NUMBER OF RECIPIENTS AFFECTED BY THE NEW FOOD STAMP PLAN, AS INDICATED BY USDA'S FOOD STAMP PROFILE

This appendix is based on the U.S. Department of Agriculture's most recent profile of recipients in the food stamp program. The profile which is reprinted on page 24 shows that the Ford Administration's new food stamp plan will require over 95 percent of all food stamp recipients to pay more for their food stamps.

HOW MANY PEOPLE WILL HAVE TO PAY MORE?

Under the Administration's new food stamp plan, everyone will have to pay more for food stamps except two groups: those who have been receiving and who will continue to receive food stamps free of charge, and those who already pay 30 percent of net income for food stamps.

1. *Those receiving food stamps free of charge:* To receive food stamps for free, one and two persons households must have net income less than $20 a month, and larger households must have net income less than $30 a month. The USDA profile shows that 4.1 percent of all recipients have net monthly income less than $30. We shall therefore use this figure as the percentage of persons receiving free food stamps, recognizing that it may be a slight over-estimation because households of one and two with incomes between $20 and $30 a month can not actually get free food stamps.

2. *Persons already paying 30 percent of income for food stamps:* To find those households already paying 30 percent of net income for food stamps we must examine the food stamp tables now in use (see table at end). These tables are divided into income brackets of $10, $20, and $30. All households of the same size and within the same income bracket pay the same amount for food stamps. At present, there are a small number of income brackets in which the price for food stamps is actually set at 30 percent of the lowest dollar figure in the income bracket. For example, all households of eight with net monthly income in the bracket running from $360 to $389.99 pay $108 for food stamps, and $108 is equal to 30 percent of $360, the lowest dollar figure in the bracket.

The only income brackets where any households pay 30 percent for food stamps are those brackets consisting of households of eight or more with incomes of $110 a month or more. Those households whose net incomes actually fall right on the bottom dollar of one of these income brackets (or up to 3 cents over the lowest dollar of the bracket) are already paying precisely 30 percent of income for food stamps and will not be affected by the new food stamp plan. On the other hand, households of eight or more whose incomes are not right at the bottom of an income bracket *will* have to pay more for food stamps under the new plan. A household of eight with net income of $385, for example, would have to pay $115.50 for food stamps, rather than $108 as at present.

To find the number of persons who are already paying 30 percent of income and who consequently will not be affected by the new plan, we must therefore find the number of persons in households of eight and above, with incomes of $110 and up, whose net incomes fall within the bottom four cents of one of the income brackets.

To calculate this figure, we will take 4/1000 of the percentage of persons in households of eight or more, with incomes of $110 or more, whose incomes place them in an income bracket $10 wide (since the probability is 4 out of 1,000 that their income will be in the bottom four cents of the bracket). We then take 4/2000 of the percentage of persons in those income brackets that are $20 wide, and 4/3000 of the percentage of recipients in income brackets that are $30 wide. The total will give us a reasonable estimate of the percentage of households already paying 30 percent of net income for food stamps.

HOUSEHOLDS OF EIGHT

The food stamp profile shows that 4.6 percent of those in eight person households are in the $100 to $149.99 ranges, which is made up of $10 income brackets: 4.6% × .004 = .0184%.

43.5 percent of those in eight person households are in the $150–$249.99 range or the $250–$359.99 range, which is made up almost entirely of $20 brackets: 43.5% × .002 = .0870%.

45.7 percent of those in eight person households are in the income range of $360 and up, which is made up of $30 income brackets: 45.7% × .00133 = .0608%.

So the total percentage of persons in eight person households already paying 30 percent of income for food stamps is: .0184% + .0870% + .0608% = .1662% of all persons in eight person households.

Since 6.3 percent of all recipients are in eight person households, the percentage of all recipients who are in eight person households and who already pay 30 percent of income is: 6.3% × .1662% = .0105% of all food stamp recipients.

Now we repeat the same procedure for households of nine and households of 10 and above.

HOUSEHOLDS OF NINE

1. Income in the $100–$149.99 range; 4.2% × .004 = .0168%.
2. Income in the $150–$359.99 range; 42.9% × .002 = .0858%.
3. Income $360 and up: 47.5% × .00133 = .0632%.
4. The total percentage of all persons in nine person households who pay 30 percent of net income for food stamps is: .0168% + .0858% + .0632% = .1658% of all persons in nine person households.
5. Since 4.1 percent of all recipients are in nine person households: 4.1% × .1658% = .0068% of all food stamp recipients.

HOUSEHOLDS OF 10 OR MORE

1. Income in the $100–$149.99 range; 4.4% × .004 = .0176%.
2. Income in the $150–$359.99 range; 38.0% × .002 = .0760%.
3. Income $360 and up: 51.3% × .00133 = .0682%.
4. The total percentage of all persons in households of ten or more who pay 30 percent of income for food stamps is: .0176% + .0760% + .0682% = .1618% of all persons in households of ten or more.
5. Since 7.6 percent of all recipients are in households of ten or more: 7.6% × .1618% = .0123% of all food stamp recipients.

Total: The total percentage of all recipients who now pay 30 percent of income for food stamps is the total of the percentages for eight person households, nine person households, and households of ten or more: .0105% + .0068 + .0123% = .0296% percent of all food stamp recipients.

So, .0296 percent of all recipients currently pay 30 percent of income to purchase food stamps. (If anything, the estimate of .0296 percent as the percentage of recipients already paying 30 percent of income for food stamps should be slightly higher, principally because the number of welfare families of large size has declined since June 1973, the month on which the USDA food stamp profile is based. Since this month, the number of families in the Aid to Families with Dependent Children program has decreased by several hundred thousand, but the number of families in the program has edged slightly upward. This means that the size of the average welfare family has declined. Most AFDC families are eligible for food stamps, and a majority of these families participate in the food stamp program. If the percentage of food stamp recipients in families of eight or more is lower today than in June 1973, which seems inevitable because of the AFDC statistics, then the number of persons already paying 30 percent of income for food stamps would also be lower than has been calculated here.)

PERCENTAGE OF RECIPIENTS NOT AFFECTED BY THE NEW PLAN

The percentage of recipients not affected by the new plan is the total of those receiving food stamps free of charge (4.1%) and those already paying 30 percent of income for stamps (.0296%). Consequently, about 4.13 percent of all food stamp recipients will not be affected adversely by the Administration's plan to raise food stamp prices, and about 95.87 percent of all recipients will be affected adversely. Since there are now about 15 million recipients in the program, between 14 and 14.5 million persons will have to pay more for their food stamps if the new plan is implemented.

1973 TOTAL UNITED STATES PROFILE OF FOOD STAMP PROGRAM PARTICIPANTS FOR ALL PERSONS BY HOUSEHOLD SIZE, BY INCOME RANGE FOR THE MONTH OF JUNE

PROFILE A

[In percent]

Monthly income	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons	9 persons	10 or more persons	Total
0 to $29.99	6.1	5.4	4.5	4.5	3.7	3.4	3.3	2.2	1.7	2.8	4.1
$30 to $39.99	2.3	1.6	1.2	.7	.4	.3	.6	.3	.4	.2	.9
$40 to $49.99	3.5	2.0	1.4	.9	.4	.2	.2	.6	.3	.3	1.1
$50 to $69.99	10.7	5.1	4.2	2.3	1.7	1.2	1.4	.8	.7	1.2	3.3
$70 to $99.99	21.1	13.6	7.7	6.1	3.9	2.6	2.2	2.3	2.3	1.8	7.1
$100 to $149.99	55.9	30.6	21.4	13.3	11.2	8.4	7.6	4.6	4.2	4.4	18.0
$150 to $249.99	.4	41.7	52.4	40.7	31.6	26.7	22.8	20.1	21.6	16.7	30.6
$250 to $359.99			7.2	26.3	31.0	30.5	27.1	23.4	21.3	21.3	17.9
$360 to $419.99				5.2	11.7	11.9	14.2	12.0	11.9	9.2	6.5
$420 to $479.99					4.4	11.0	12.6	14.0	12.0	8.6	4.7
$480 to $539.99						3.8	4.1	12.3	7.1	7.5	2.4
$540 and up							3.9	7.4	16.5	26.4	3.4
Percent by household size	9.6	13.3	14.1	14.4	12.3	10.2	8.1	6.3	4.1	7.6	100.0

FOOD STAMP ALLOTMENTS AND PURCHASE REQUIREMENTS (EFFECTIVE JAN. 1)

	Number of persons in household							
48 States and District of Columbia	1	2	3	4	5	6	7	8
Monthly coupon allotment	$46	$84	$122	$154	$182	$210	$238	$266
Monthly net income and monthly purchase requirement:								
$0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	36	44	46	47	48	49	50	51
$190 to $209.99	36	50	52	53	54	55	56	57
$210 to $229.99		56	58	59	60	61	62	63
$230 to $249.99		62	64	65	66	67	68	69
$250 to $269.99		64	70	71	72	73	74	75
$270 to $289.99		$64	$76	$77	$78	$79	$80	$81
$290 to $309.99			82	83	84	85	86	87
$310 to $329.99			88	89	90	91	92	93
$330 to $359.99			94	95	96	97	98	99
$360 to $389.99			100	104	105	106	107	108
$390 to $419.99			104	113	114	115	116	117
$420 to $449.99				122	123	124	125	126
$450 to $479.99				130	132	133	134	135
$480 to $509.99				130	141	142	143	144
$510 to $539.99				130	150	151	152	153
$540 to $569.99					154	160	161	162
$570 to $599.99					154	169	170	171
$600 to $629.99					154	178	179	180
$630 to $659.99						178	188	189
$660 to $689.99						178	197	198
$690 to $719.99						178	202	207
$720 to $749.99							202	216
$750 to $779.99							202	225
$780 to $809.99							202	226
$810 to $839.99								226
$840 to $869.99								226
$870 to $899.99								226

Note: For each additional household member over 8 add $22 to the 8-person allotment.

Source: The table of food stamp benefits that the administration's plan would replace reprinted from: "Food and Nutrition," the newsletter of the Food and Nutrition Service, U.S. Department of Agriculture, Nov. 22, 1974.

THE ADMINISTRATION'S FOOD STAMP PLAN

Reprinted below is the Administration's food stamp plan as it appeared in the December 6 Federal Register. The new plan would do away with the traditional food stamp table, and have the price of each household's food stamps determined by taking 30 percent of the household's net income. The price would not be rounded downward to the nearest dollar. The reprint follows:

[Food and Nutrition Service—FSP No. 1975–1.2; Amdt. No. 45]

FOOD STAMP PROGRAM

PURCHASE REQUIREMENTS

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (78 Stat. 703, as amended; 7 U.S.C. 2011–2026), notice is hereby given that the Food and Nutrition Service, Department of Agriculture proposes to amend Notice FSP No. 1975–1.1 which prescribes maximum monthly allowable income standards and basis of coupon issuance for the 48 States and the District of Columbia, issued pursuant to Part 271 of the regulations governing the operation of the Food Stamp Program, 7 CFR 271. Notices FSP 1975–2.1 for Alaska; 1975–3.1 for Hawaii; 1975–4.1 for Puerto Rico; 1975–5.1 for the Virgin Islands; and 1975–6.1 for Guam will also be amended accordingly.

Notice FSP No. 1975–1.1 provides that the percentage of income represented by the purchase requirements reflect historical differentials which show a wide variation of the percentage of income by household size and income. Additionally, there are further distortions due to the use of income intervals which result in varying percentages of income within these intervals.

Under the proposed amendment, the amount that each household will pay for its coupon allotment will be 30 percent of adjusted net monthly income; i.e., income after all allowable deductions have been made, except that one- and two-person households with net monthly income of less than $20 and all other households with net monthly income of less than $30 shall continue to receive their coupon allotments without paying anything.

Thus, under the proposed amendment, the differentials and distortions in the Notice FSP No. 1975–1.1 will be removed as every household with the same income will pay the same purchase requirement.

Interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to P. Royal Shipp, Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 not later than December 27, 1974. All comments, suggestions, or objections received by this date will be considered before the final notice is issued.

Comments, suggestions, or objections will be open to public inspection pursuant to 7 CFR 1.27(b) at the Office of the Director during regular business hours (8:30 a.m.–5:00 p.m.) at 500 12th Street, SW, Washington, D.C., Room 650.

The proposed revision is:

Notice FSP No. 1975–1.1 for the 48 States and the District of Columbia, issued pursuant to a part of Subchapter C—Food Stamp Program, under Title 7, Chapter II, Code of Federal Regulations, is amended and superseded, by this Notice FSP No. 1975–1.2 to read as follows:

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: 48 STATES AND DISTRICT OF COLUMBIA

Households in which all members are included in the federally-aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally-aided public assistance, general assistance, or supplemental security income benefit, in any State other than Alaska or Hawaii or in the District of Columbia, shall be the higher of:

(1) The maximum allowable monthly income standards for each household size which were in effect in such States or the District of Columbia, prior to July 29, 1971, or

(2) The following maximum allowable monthly income standards:

Maximum allowable monthly income standards

[48 States and District of Columbia]

One	[1] $194
Two	280
Three	406
Four	513
Five	606
Six	700
Seven	793
Eight	886
Each additional member	+73

[1] Poverty guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulation.

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food published by the Bureau of Labor Statistics.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the economy food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in food prices through August 1973. A similar procedure was used for the July 1, 1974 adjustment and for the January 1, 1975 adjustment in the value of the coupon allotment which is based on the cost of the economy food plan in August 1974.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their total coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirements for such allotments.

Pursuant to section 7(a) of the Food Stamp Act, as amended (7 U.S.C. 2016 Pub L. 91–671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program in the 48 States and the District of Columbia is as follows:

Monthly coupon allotments

[48 States and District of Columbia]

Household size:	
1	$46
2	84
3	122
4	154
5	182
6	210
7	238
8	266
Each additional person	+22

PURCHASE REQUIREMENTS

Pursuant to section 7(b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91–671), the amount that each household shall be required to pay for its total coupon allotment shall be 30 percent of adjusted net monthly income; i.e., income after all allowable deductions have made; except that:

1. One- and two-person households with adjusted net income of less than $20 per month shall continue to receive their coupon allotments without paying anything; and

2. Households of three or more persons with adjusted net income of less than $30 per month shall continue to receive their coupon allotments without paying anything.

(78 Stat. 703, as amended; 7 U.S.C. 2011–2026)

(Catalog of Federal Domestic Assistance Programs, No. 10.551, National Archives Reference Services)

RICHARD L. FELTNER,
Assistant Secretary.

DECEMBER 3, 1974.

STOPPING THE FOOD STAMP CUTBACK

Mr. CHURCH. Mr. President, I am a sponsor of the legislation to be introduced today by Senator MCGOVERN and Senator SCOTT and 28 other Senators to prevent the Ford administration from raising food stamp prices.

Part of my concern is general. I believe that the administration has acted in shortsighted and arbitrary fashion. The regulations formally published in the Federal Register on December 6, 1974, allowed only 20 days for comment. They were offered as Congress was in the midst of important end-of-session business. They paid little heed to the impact that the regulations would have on most of the 15 million persons who now receive food stamp assistance.

By requiring all but the most destitute households to pay 30 percent of net income to purchase stamps from March on, the administration was playing fast and loose with a program enacted by the Congress for specific, important purposes. Surely, the U.S. Department of Agriculture must have known that the average household pays 23 percent of net income for stamps; the administration plan would disqualify millions of persons, or make the food stamp saving so insignificant as to be worthless.

Deep as my overall concern is, I am especially appalled by the fact that the administration plan would hit hardest at food stamp recipients living in 1- and 2-person households, most of whom are elderly.

As chairman of the Senate Special Committee on Aging, I must resist any effort that would pull the rug out from under so many older Americans so ruthlessly and so suddenly.

According to the Community Nutrition Institute, the administration food stamp program would:

First. Increase the cost of food stamps by 35 to 100 percent for most single persons. For a few individuals and couples the increase would run as high as 800 percent;

Second. Hit hardest at individuals whose net income is between $154 and $194. These persons now are eligible for a stamp benefit of from $10 to $13 a month, but they would be eliminated under the new plan because they would be required to pay more in cash to participate in the food stamp program each month than they would receive back in food stamps; and

Third. Adversely affect recipients of supplemental security income benefits in 18 States because combined Federal-State payments total $154 a month or more. My own State of Idaho is in this category, and I see no reason to penalize SSI recipients there with loss of food stamps simply because the State has seen fit to supplement SSI.

Mr. President, the administration proposal is shortsighted and cruel and unfortunately typical of several recent efforts by the administration to withdraw or gut programs which are even more urgently needed in this period of high living costs and recession. An article in today's Washington Post by Joseph Kraft sums up the situation admirably and pays special attention to the elderly. I ask unanimous consent that it be printed in the RECORD at the end of these remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 15, 1975]

CRIPPLING THE FOOD STAMP PROGRAM

(By William Chapman)

Someone once said that the last unexplored territory of the United States is the Department of Agriculture. The phrase comes to mind as one attempts to unravel the Department's proposal to dismantle a very large part of the food-stamp program and to understand why it was made at this particular time. This has nothing to do with the recent rule which deprives middle-class college students of their food stamps; it has to do with the order, soon to be promulgated, which will take them away from a very large number of those who need them most, the elderly and the poorest of the poor.

The cut-back was first announced by President Ford who seems to have had no firm grasp on the details of what he was proposing. Mr. Ford said, at a news conference, that this venture in budget-cutting would affect only "certain individuals" who would have to pay only "slightly more" in cash to obtain the stamps. This estimate was soon contradicted by the Department of Agriculture, which acknowledged that 95 per cent of the recipients would be affected to some extent and that the cost to the average user would increase by nearly one-third.

The fact, insofar as an outsider can comprehend it, is that the food stamp program is an unwanted stepchild which the Ford Administration inherited from the 1960s and which the current Secretary of Agriculture, Earl L. Butz, would just as soon disinherit. The scenario ran something like this: The President demanded that several billion dollars be cut from the budget this fiscal year. Each department was required to offer up some sacrifice. Butz looked over his columns, passing quickly by the farm subsidy system and the county agents, and came upon food stamps. He has said several times that this is a *welfare* program which, if permitted to exist at all, should be operated by some other part of the government. It was only natural, then, that the sacrifice the Secretary chose to offer was this odd-ball poverty scheme hatched by, of all persons, Sen. George McGovern (D–S.D.) and somehow allowed to nest in his Department of Agriculture.

The Butz plan to save $650 million a year had a superficial ring of equity: Every food-stamp purchaser would be required to pay a flat 30 per cent of his adjusted income, for whatever amount of stamps he used each month. Under current law, he pays according to a sliding scale, based on his adjusted income. The hitch, outsiders quickly noted, was that this simple formula would mean a substantial added cost for almost everyone in the program The average purchaser today pays only 23 per cent of his income. So this average person, come March, will find his food-stamp budget increased by nearly one-third.

That would be serious enough, given the low incomes of all food-stamp users, but it is calamitous for the people on whom it falls most heavily. These are the elderly poor, those least capable of defending themselves against such levies. They have been accustomed to patching out their meager budgets with food stamps that cost only 10–20 per cent of their incomes. An elderly couple with, say, $270 in adjusted monthly income can now pay $64 and receive food stamps worth $84. It is a bonus of $20. Under the Butz plan, they will be required to put up $81 to receive that same $84 worth of stamps—a bonus of $3.

It is not difficult to see what lies ahead for persons in such circumstances. They will simply drop out. Who will stand in long lines, fill out a 6-page form to become certified, and, once in the supermarket with his stamps, laboriously separate his hamburger from non-qualifying purchases, all for the sake of a $3 savings? It is asking too much, even of those for whom $3 is a not inconsiderable sum. The Department of Agriculture declined to estimate how many of the 15 million persons currently using food stamps might withdraw from the program. The best guess is that of the Community Nutrition Institute, which figures that about 10 per cent, or 1.5 million persons, would find the benefits of food stamps to be so small that they would abandon them completely.

It is the simple-minded miserliness of this proposition that is most offensive but beyond that, Mr. Ford should think ahead to the damaging political consequences of his Secretary's peculiar choice. The food stamp program no longer is an unwanted orphan dependent for its existence on a few earnest do-gooders in Congress: It happens to be the most popular and defensible social welfare program this side of Social Security. Congress is very likely to rewrite the law and take away the President's unilateral authority to raise the amount that food stamp recipients must pay. Mr. Ford will then be in the position of deciding whether or not to veto an early act of the new Congress in order to support his Secretary's instinctive aversion to welfare programs.

By Mr. DOLE (for himself, Mr. Taft, Mr. Buckley, Mr. Fannin, Mr. Thurmond, and Mr. Hansen):

S. 15. A bill to amend the Congressional Budget Act of 1974 to require the Congressional Budget Office to prepare inflationary impact statements in connection with legislation reported by Senate and House committees. Referred to the Committee on Government Operations.

Mr. DOLE. Mr. President, for many years it has been recognized that Government programs and expenditures directly and indirectly affect the economic health of our Nation. It is now apparent that these effects on the economy can be adverse as well as beneficial.

The American people blame U.S. Government officials for our current problems of inflation, and they are entirely justified in pointing their fingers in the past have been major contributors to inflation. If action is not taken, Congress will continue to enact legislation and adopt programs which will give added impetus to inflation in the future.

It is sad, but true, that Congress has never really known the future impact of its programs. We have adopted new measures without ever analyzing and projecting their probable economic consequences. Therefore, I am introducing legislation today which will require that a statement regarding the inflationary impact of legislation reported to either House of Congress be prepared by the Congressional Budget Office.

The requirement for such a statement would end this blind legislative process. Congress could know in advance what the inflationary impact of proposed programs and expenditures would be.

Government programs and expenditures can be inflationary in two ways. First, direct expenditures by the Government add to the demand for a good or service. If our economy is already producing a particular product at capacity, the added demand created by Government will not result in an increase in usability, but merely in higher prices. With the inflationary impact statement, Members of Congress would be able to evaluate the proposed expenditure in terms of increased usability—and correspondingly increased well being of Americans—versus higher prices.

Second, Government programs can cause prices to increase. In recent years a variety of programs have been enacted which have resulted in added costs for U.S. businesses. Inevitably, these added costs have been passed on to the American consumer.

In most cases, the goals and objectives of these programs have been laudable. Unfortunately, however, we have not always considered their true cost in terms of secondary impacts and ultimate price increases to the public. As a result, they have frequently added to the prices of products purchased by American consumers. It is now time to consider whether or not the benefits of future programs will justify the higher prices they may create.

The inflationary impact statement would provide Members of Congress with the information needed to evaluate proposed Government programs and expenditures. It would shed light on the effect which programs would ultimately have on the prices paid by Americans. And Congress would be in a position to better evaluate the true cost of proposed programs and to represent the interests of the American people.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 15

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Short Title.

That this Act may be cited as the "Inflationary Impact Statement Act of 1975."

Sec. 2. Findings

The Congress finds that—

(1) inflation is one of the principal economic problems facing Americans;

(2) Federal programs and expenditures which Congress authorize have a significant impact on the economy and can play a major role in contributing to inflation;

(3) it is imperative that Congress, in keeping with its unique responsibility for balancing the possible adverse effects of programs it considers against the beneficial aspects of the same, be informed in advance of the impact on inflation of any legislative proposal to come before it for action.

Sec. 3. Inflationary Impact Statements.

(a) Section 403 of the Congressional Budget Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and";

(3) by inserting after paragraph (2) the following new paragraph:

"(3) an inflationary impact statement relative to such bill or resolution covering the fiscal year in which it is to become effective and each of the four fiscal years following such fiscal year. As used in this paragraph, the term 'inflationary impact statement' means an estimate, to the extent practicable, of the probable impact of a particular bill or resolution on the aggregate rate of inflation and the cost of goods and services to be affected by its enactment. Such estimate shall be based on the amount of new budget authority contained in such bill or resolution, as well as the new budget authority at specified projected levels assumed to be authorized by subsequent legislation, unless, with respect to any fiscal year for which an estimate is required, the Director determines that it is improbable that outlays will occur."; and

(4) by striking out "estimate and comparison" in the last sentence and inserting in lieu thereof "estimate, comparison, and statement".

(b) The provisions of subsection (a) are enacted by the Congress as an exercise of its rulemaking power as provided by section 904 (a) of the Congressional Budget Act of 1974.

Mr. TAFT. Mr. President, I am pleased to join the Senator from Kansas (Mr. Dole) in introducing S. 15, the Inflationary Impact Statement Act of 1974.

This legislation is a combination of separate bills which the Senator from Kansas and I introduced in the last Congress. We have combined our efforts and those of the bills' cosponsors to introduce this bill on the first legislative day of the 94th Congress, because it is crucial that Congress evaluate the total cost rather than simply the budget cost of legislative proposals. This bill will foster those types of evaluations.

Basically, S. 15 would require the new Congressional Budget Office to supply the Congress with an estimate of the impact on the aggregate rate of inflation and the cost of goods and services affected, for 5 fiscal years, of any legislation which is reported by congressional committees for further congressional consideration. In my view, the enactment of this requirement would be a great advance over the important step forward the 93d Congress took when it imposed a similar reporting requirement for projected actual Federal budget costs of legislative proposals, in the Congressional Budget Act of 1974.

In last year's economic summits and debate on the inflation problem, it has been emphasized that Government programs are often considerably more costly to consumers than their direct cost in terms of Government funding. For example, the expense of just completing required paperwork for the Government has been estimated to be $50 billion per year. Government safety and antipollution standards have added $320 to the cost of a new car over the last 4 years; mileage requirements which would bring about a 30 to 40 percent improvement in miles per gallon would add another $200 to $400 to the price of a new car by 1980. The use of tariffs and import quotas to protect domestic industries costs consumers $10 billion per year in higher prices. When the medicare and medicaid programs were put into effect, the additional pressure on hospital services helped increase the inflation rate from about 8 percent per year to around 12 to 15 percent.

All too often, these types of Government-induced inflation escape adequate legislative attention because they do not show up in the Federal budget. Congress clearly should decide whether such programs or requirements are worthwhile only after facing up to their total inflationary impact.

In recognition of this problem, President Ford recently announced that future new Government regulations would carry an inflation impact statement. However, the imposition of that requirement at the regulation stage is only part of the battle. It is probably even more important that overall impact on inflation be considered fully at the time the Congress shapes the basic legislation which determines the structure of the Government's programs. Thus, I feel that President Ford was on target when he urged Congress several months ago to pass legislation such as this bill promptly. I am hopeful that the 94th Congress will fulfill that responsibility.

By Mr. DOLE:

S. 16. A bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. DOLE. Mr. President, during the 92d Congress the Senate passed a bill providing for the mandatory inspection of rabbits slaughtered for human food. The House was unable to act on that legislation although it had received committee approval and appeared assured of passage.

Again in the 93d Congress the Senate passed this legislation. However, it did not make it through the House due to some confusion regarding the proper jurisdiction for the required inspections.

Today I would like to introduce this legislation once again with the expectation we can now resolve the problems, and I urge prompt action to enable the same privilege to rabbit producers and processors that other meat and poultry producers and processors enjoy.

Mr. President, rural America is facing economic crisis. Even with our Government farm programs, farm population continues to decline. These people are leaving the farm for one reason—they cannot make an equitable income with the increasing cost of farming and the declining prices they receive for their production.

PREFER RURAL LIFE

My State of Kansas is no exception. The Kansas economy is based on agriculture. Grain production and livestock are the two biggest industries in the State. Several generations have succeeded in farming the same lands. These people do not want to leave the farm community and migrate to the urban centers and their concentration of problems.

This economic concern is exhibited in the efforts of a northwest Kansas community in and around Hill City, Graham County, Kans.

Several years ago, citizens of that community banded together with citizens of several counties in that area. There were community leaders, farmers, bankers, and low-income laborers—all joined together to create an economic development group to try to improve their future.

ADDITIONAL INCOME

The result of this alliance was the formation and inauguration of Kansas Food Products, Inc., a plant to slaughter and process rabbits. The farmers of the surrounding area produce the domestic rabbits—sell them to the plant—which slaughters and processes them. Under contract, the plant produces rabbits for domestic use, and contracts to sell other portions of the rabbit carcass to research facilities. This plant has been operating for several years and is expanding rapidly. It has greatly enhanced the community it serves, provides employment for some citizens, and a supplemental crop for farmers to improve their income.

INSPECTION COSTLY

The management chose wisely to build the plant to comply with USDA meat and poultry inspection specifications, so the consumer would be assured of wholesome meat. Their USDA inspection is strictly a voluntary action, in order to protect the consumer, and this plant is forced to pay over $12,000 per year for this inspection service. Plants slaughtering other meat animals or poultry receive this inspection service at no charge as a means to fulfill the Wholesome Meat and Poultry Acts.

Today, I introduce a bill that would provide for the same USDA inspection service to slaughtering and processing plants for rabbits that is provided processors of other animals prepared for consumer food. As a cosponsor of the Wholesome Meat and Poultry Acts, I feel it was the intention of these acts to provide such service, and it is with this purpose that I introduce this bill again in this Congress and urge prompt action to insure sufficient time for the House to also act.

By Mr. DOLE:

S. 17. A bill to exempt highway motor vehicles used exclusively in soil and water conservation work from the highway use tax. Referred to the Committee on Finance.

CONSERVATION VEHICLE USE TAX EXEMPTION

Mr. DOLE. Mr. President, soil and water conservation contractors in Kansas and other States as well play an important part in keeping the cost of food production low and in maintaining our soil, water, and food producing resources for future years. Yet these contractors pay a very unfair Federal highway use tax under present law. The bill I introduce today would provide an exemption for the vehicles used by these contractors.

SOIL CONSERVATION VITAL

We are faced today in this country with an ever growing demand to produce more and more food and fiber for our own people and for millions of hungry people all over the world. We must do so with increasing efficiency if we are to hold down inflationary rises in the cost of living. As we produce more, the need for proper conservation of our soil and water resources becomes ever more critical. Erosion carries away millions of tons of topsoil a year, and improper drainage and poor land management techniques undermine the pureness of our water resources.

To be sure, the U.S. Department of Agriculture—through programs of the Soil Conservation Service—SCS—and the Agricultural Stabilization and Conservation Service—ASCS—is committed to halting this unnecessary waste of vital resources. In this battle they rely on private conservation contractors to get the actual work done. The bill I offer today is designed to attract more private operators to help in this important task. It provides relief from Federal highway use taxes for vehicles used solely in conservation work and which are not for hire.

IMPORTANT SMALL BUSINESSMEN

By and large, the local conservation contractor is a small businessman with limited operating capital. The average company employs only 11 people and grosses under $100,000 a year. And it is primarily engaged in work for SCS, ASCS, and local farmers—constructing farm ponds, waterways, terraces, diversion dams, floodwater retaining structures, and steam bank stabilization projects. To accommodate such a broad range of activities, equipment such as trucks, bulldozers, scrapers and draglines must be maintained. This equipment must be transported to conservation job sites, and so, State and Federal highway use taxes must be paid on the transporting trucks. The Federal highway use tax for a tractor-trailer to transport such equipment ranges up to several hundred dollars, and State taxes into the thousands. A conservation contractor can pay taxes of $1,000 a year on a tractor-trailer that carries a bulldozer from field to field, logging under 1,000 miles a year. Many of these vehicles never travel on a Federal highway. The equivalent tax in such a case is in excess of $1 per mile. Hence, highway use tax outlays can be significant to the small operator—and he is using these vehicles solely in conservation work which will prevent floods, save valuable wetlands, conserve soil, and reduce food costs. It feels the highway use tax in this instance is counterproductive to the best interests of the Nation. We cannot ignore the fact that every factor which increases the cost of producing food further fuels the dangerous inflationary spiral in which we find ourselves.

ENCOURAGE CONSERVATION

The shortage of private contractors has long plagued SCS. Existing conditions have driven and continue to drive many qualified contractors into other contracting fields or force them to reduce their operations. SCS often has difficulty finding sufficient contractors to do the work under programs approved by Congress.

State highway use taxes have been a great problem for conservation contractors also. Individual States have recognized the problems. States already making some exemption for conservation vehicles include Kansas, South Dakota, Nebraska, Illinois, and Texas.

But the Federal Government must take the lead in exempting bona fide conservation vehicles from Federal highway use taxes. Such an initiative, in turn, would encourage other States to follow suit on their own use taxes, and thus significantly increase the incentives to attract and hold new contractors for conservation work.

The typical vehicle used to transport conservation equipment travels an average of only 5,000 miles a year on all roads, and about 2,000 miles a year on the Federal Interstate System—for those that even use that system. Approximately two-thirds of such vehicles are never driven on the Interstate System. There are some 20,000 potential conservation contractors in the United States operating approximately 20,000 eligible vehicles, meaning that the total lost revenue to the highway trust fund would not currently be more than $3.5 million. Such an amount is minuscule in comparison to the potential benefits to every American which can be derived through this incentive.

In view of the importance of conservation contractors for the preservation of our vital food producing resources and the economic impact Federal highway use taxes have on these contractors, it seems appropriate that changes in these tax regulations be made without further delay. I encourage every Senator to support this legislation, and hope we can move expeditiously to provide this needed incentive.

I request unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 17

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4483 of the Internal Revenue Code of 1954 (relating to exemptions from the highway use tax) is amended by adding at the end thereof the following new subsection:

"(d) Vehicles Used for Soil and Water Conservation.—Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed by section 4481 on the use of any highway motor vehicle which is not for hire and is used exclusively in soil and water conservation work and in the transportation of equipment used for soil and water conservation."

(b) The amendment made by subsection (a) shall take effect on the first day of the first month which begins after the date of the enactment of this Act.

By Mr. DOLE (for himself, Mr. CASE, Mr. DOMENICI, Mr. FONG, Mr. MCGEE, Mr. TAFT, and Mr. WILLIAMS):

S. 18. A bill to amend the act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes. Referred to the Committee on Agriculture and Forestry.

THE AFRICAN HONEYBEE

Mr. DOLE. Mr. President, the African honeybee represents a serious threat to our beekeeping industry and to an important part of American agriculture. Under existing law, we have inadequate protection from this threat. This is why I am introducing legislation today to strengthen protective measures by the Department of Agriculture to prevent the spread of the African honeybee into this country.

THREAT TO U.S. FOOD PRODUCTION

The spread of the African honeybee, also known as the Brazilian honeybee, could lead to a multibillion-dollar disaster for American agriculture. The African honeybee could destroy the beekeeping industry in this country, as we know it, and the impact could be not only a severe reduction of honey production, but a sharp decline in the supply of fruits, vegetables, and seed crops.

One of the most important roles of the beekeeping industry in U.S. agriculture is its part in the pollination of crops. About 90 crops are dependent upon bees for pollination. The value of farm commodities directly dependent upon insects for pollination has been estimated by the Department of Agriculture at $1 billion. Honeybees have a primary part in this pollination since present day farming operations have largely eliminated wild insect pollinators. The destruction of our honeybee population, which the African honeybee could cause, would cripple some of our most important fruit, vegetable, and seed industries. These commodities include alfalfa and onion seed production, tangerines, tangeloes, mandarin oranges, all melon and cucumber crops, apples, cherries, and other tree fruits. Crops valued at $6 billion are greatly improved by bee pollination, although they are not directly dependent upon it. It has been shown that the output of such crops as long-staple cotton are greatly enhanced by bee pollination. The loss of bee pollination could result in a decline in the level of production from these crops.

HONEY SUPPLY IN DANGER

The production of honey is also at stake with the beekeeping industry. While honey and beeswax production has a lower economic significance than the pollination role of honeybees, the sales of honey and beeswax represent a primary source of income for the beekeeping industry. Revenues from these sales have been estimated at nearly $150 million. And production levels are normally over 220 million pounds of honey and 4 million pounds of beeswax annually.

Honey has traditionally been recognized as a nutritious and delightfully tasty food. In recent years, there has been a new appreciation of honey as a "natural food." The African honeybee represents a threat to the continued production of this commodity. We could deprive ourselves of an adequate supply of honey by not taking steps to protect our honey industry. This legislation is designed to provide the additional necessary protective measures.

AFRICAN HONEYBEE TRAITS

In 1971 and 1972, a special committee, appointed by the National Research Council and the National Academy of Sciences, studied the African or Brazilian honeybee and the impact it could have in the United States. I am proud to say that Dr. Charles D. Michener, department of entomology of the University of Kansas, was chairman of this committee. The findings of the committee were that this exceptionally aggressive and ferocious strain of bees could migrate to North America and become a serious public nuisance and a major problem to the beekeeping industry.

The African honeybee was accidentally introduced into Brazil in 1957; hence the secondary name of Brazilian honeybee. The bee has since moved throughout most of South America. Although the strain has mixed with other breeds of honeybees, it has not lost its extremely aggressive traits.

DESTROY OTHER BEES

The African honeybee threatens the existence of domestic honeybees. It forages so aggressively that other strains kept by commercial beekeepers cannot compete, and in South America, domestic bees have disappeared in areas where the aggressive strain has appeared. Occasionally, the African bees completely take over the hives of other bees.

The African bee also leaves managed hives readily to migrate long distances and establish itself in new areas. This represents a dual threat to beekeepers. The African or Brazilian strain, having taken over the local bee colony, may suddenly depart, leaving the beekeeper without any producing bees, and leaving the crops in the area without a pollinating agent.

The wide-ranging and rapid-spreading traits of the African bee make it a double liability to beekeepers. It is known to spread at a rate of about 200 miles a year so that within a few years virtually all beekeepers in this country could be vulnerable to it, especially in the Southern parts of the United States.

It is especially significant that Southern beekeepers are the most exposed to the African bee because of the warmer climate and the closer geographical proximity to South America. Southern beekeepers do a great deal of breeding and development in bees. Stocks of bees produced in the South are transported to the Northern part of the country in the spring. Although it is thought that the African bee could not live in the colder temperatures in the Northern United States, it could still have a major impact on Northern beekeepers because of the restocking patterns in the trade.

DANGEROUS TO PEOPLE

The African bee is especially known for its vicious attacks on animals and people. In its tour to Brazil, the special committee noted several reports of people being stung to death by this strain of bees. The bee readily attacks any human or animal which intrudes into its area. Swarms of the African or Brazilian bee in flight are especially ferocious and when more than one swarm are united, they are reported to be dangerous. The aggressive bees will follow their "victims" up to about 100 meters whereas domestic bees normally follow only about 10 meters.

The aggressive traits of the African bee could make it difficult for beekeepers to maintain the colonies. Should the African bee become dominant in this country, communities would probably begin to object to the presence of beehives in the area. Because of their sting, African honeybees as pollinating insects could become such a liability as to be unacceptable for this purpose.

PREVENT SPREAD

My bill basically strengthens two approaches to preventing introduction of the undesirable strain. Officials in the Department of Agriculture are aware of the African honeybee threat and are working to prevent its introduction. However, I believe more comprehensive action should be taken. This bill has been drawn up in consultation with the Department.

The first part of this legislation would strengthen existing law by prohibiting importation of the African or Brazilian honeybee in all its stages, from germ plasm to the adult. Presently, the law only prohibits introduction of the adult stage. This amendment will allow the USDA to take steps against introduction of all life stages including the eggs, larvae, and pupae.

RESEARCH NEEDED

An exception is made for research purposes and I hope the Department will initiate further study on this strain, if it has not already done so. In addition to its aggressiveness, the African bee is known to be extremely hard working. It flies further and for longer periods to find honey than the strains it replaces. It also works in a wider range of weather conditions. Many beekeepers say that the African bee produces more honey.

So further research is needed for two reasons. First, development of genetic strains to counter the African bee's aggressiveness is needed. Second, genetic research may allow the development of the productive traits of this strain in other bees. I hope the Department will be successful along this line.

COOPERATION WITH OTHER GOVERNMENTS

The second aspect of this legislation authorizes a program of eradiction and control with the Governments of Canada, Mexico, and Central America. This type of cooperation already exists for other natural pestilence and for diseases. It makes sense to stop the spread of the African honeybee before it reaches our own borders and I hope the provisions of this bill will allow that to be accomplished. Programs which may be established under this bill should supplement cooperative activities between the United States and the countries of South America where the bee already exists.

Mr. President, I hope that my colleagues in the Senate will support this legislation. It is potentially beneficial to beekeepers in every State. The threat of the African bee to our honey producing industry is serious and since this bill would help reduce that threat, I hope it will receive early consideration.

I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 18

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 31, 1922, as amended (42 Stat. 833; 76 Stat. 169; 7 U.S.C. 281), is amended to read as follows:

"(a) In order to prevent the introduction and spread of diseases and parasites harmful to honeybees, and the introduction of genetically undesirable germ plasm of honeybees, the importation into the United States of all honeybees is prohibited, except that honeybees may be imported into the United States—

"(1) by the United States Department of Agriculture for experimental or scientific purposes, or

"(2) from countries determined by the Secretary of Agriculture—

"(A) to be free of diseases or parasites harmful to honeybees, and undesirable species or subspecies of honeybees; and

"(B) to have in operation precautions adequate to prevent the importation of honeybees from other countries where harmful diseases or parasites, or undesirable species or subspecies, of honeybees exist.

Honeybees imported pursuant to paragraph (2) of this subsection shall be imported under such rules and regulations as the Secretary of Agriculture and the Secretary of the Treasury shall prescribe.

"(b) Except with respect to honeybees imported pursuant to paragraph (1) or (2) of subsection (a) of this section, all honeybees offered for import or intercepted entering the United States shall be destroyed or immediately exported.

"(c) As used in this Act, the term 'honeybee' means all life stages and the germ plasm of honeybees of the genus Apis.".

Sec. 2. Section 2 of the Act of August 31, 1922 (42 Stat. 834; 7 U.S.C. 282), is amended to read as follows:

"Sec. 2. Any person who violates any provision of section 1 of this Act or any regulation issued under it is guilty of an offense against the United States and shall, upon conviction, be fined not more than $1,000, or imprisoned for not more than one year, or both.".

Sec. 3. The Act of August 31, 1922, is further amended by adding the following new sections:

"Sec. 3. The Secretary of Agriculture is authorized to cooperate with the Governments of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia, or the local authorities thereof, in carrying out necessary research, surveys, and control operations in those countries in connection with the eradication, suppression, control, and prevention or retardation of the spread of undesirable species and subspecies of honeybees, including but not limited to Apis mellifera adansonii, commonly known as the African or Brazilian honeybee. In performing the operations or measures authorized in this Act, the governments of such countries shall be responsible for the authority necessary to carry out such operations or measures on all lands and properties therein and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary. The measure and character of cooperation carried out under this Act on the part of the United States and on the part of the governments of such countries, including the expenditure or use of funds appropriated pursuant to this Act, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by this Act shall be made through and in consultation with the Secretary of State.

"Sec. 4. Funds appropriated to carry out the provisions of this Act may also be used for printing and binding without regard to section 501 of title 44, United States Code, for employment, by contract or otherwise, of civilian nationals of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia for services abroad, and for the construction and operation of research laboratories, quarantine stations, and other buildings and facilities.

"Sec. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.".

By Mr. DOLE (for himself, Mr. Curtis, and Mr. Javits):

S. 19. A bill to amend title XVI of the Social Security Act so as to provide for the referral, for appropriate services provided by other State agencies, of blind or disabled children who are receiving supplemental security income benefits. Referred to the Committee on Finance.

REFERRAL OF HANDICAPPED CHILDREN

Mr. DOLE. Mr. President, today many parents are applying for Federal assistance for their handicapped children under the supplemental security income program. The SSI law, as it presently stands, requires that each handicapped individual applying for assistance shall be referred to the State vocational rehabilitation agency. Clearly, children are not candidates for vocational rehabilitation and it is my understanding that in the actual execution of the program, children younger than 13 are simply not being referred.

However, the application for SSI for disabled children represents an opportunity which has not existed previously to refer these individuals at an early stage to an appropriate State or local agency which can provide them treatment and assistance for their particular disability. Today, I introduce this bill to provide that disabled children under the age of 13 shall be referred to the appropriate health, social, or educational agency. This bill provides flexibility for children between the ages of 13 and 18 so that they may be referred to the vocational rehabilitation agency or the proper alternate agency as appropriate. In many cases, specialized agencies may be needed to provide adequate treatment and this measure provides flexibility for referral to those organizations.

This measure should not be controversial. The additional cost of this change in the program should be negligible if there is any at all. It does provide an improved service to our handicapped children and provides for better utilization of the funds we are spending to help handicapped people under the SSI program.

OVERSIGHT IN SSI LAW

In 1972, the Congress established that handicapped people would be referred to vocational rehabilitation agencies under the SSI program. It was apparently an oversight in the drafting of this legislation that no consideration was given for the referral of children who are not eligible for vocational rehabilitation.

At present, all an intake officer is required to do is review medical and related records to determine eligibility. Even if that same review clearly indicates a desperate need for medical or other intervention, and the intervention might lead to a diminution of the disability, the employee has no authority to do anything. This gap in the program must be filled with regard to children from birth to 13 years and in certain cases from 13 to 18 years.

Early intervention has long since been established by the medical profession and experts in the field of child development as the best, if not the only, way to preclude the possibility of a childhood disability from developing into a lifelong and irreversible handicap.

For example, an HEW-funded study by the Rand Corp. entitled "Services for Handicapped Youth: A Program Overview" found that "for handicapped children, age 6 is past the optimal time to start the child" in programs designed to reverse the disability.

A study by the Oregon State Board of Education of the impact of title VI—services to the aged, blind, or disabled—programs upon emotionally disturbed, learning disabled, mentally retarded, and physically handicapped children found that "there is increasing evidence of the value" of early intervention for handicapped children.

In a study by Robert Chamberlin and Phillip Nader, published in the American Journal of Orthopsychiatry, the disfunctions of nursery school children were found to be "significantly related to later school function" and clearly, "early intervention appeared warranted" to prevent those disfunctions from irreversible development.

Take the case of a deaf child, or one with a severe hearing impairment. In the past, such a child was destined to live the life of a deaf-mute. Since speech either develops early or not at all, early intervention here, using all of the many methodological rehabilitative devices developed in recent years, has made the difference between an adult who is a "freak" and one who has developed the ability to lead a self-sufficient and normal life.

Or look briefly at the child with a mental disorder. Diagnoses of mental disorders are difficult at best. Emotionally disturbed children are frequently believed, especially by their parents, to be suffering from a physical ailment. And a child with an undiagnosed physical disorder frequently suffers not only from the physical ailment, but also develops emotional hang-ups which, unless early treated, result in later years in an adult without the capacity to attain self-sufficiency.

SUPPORT BY HEW

The regulations developed by the Department of Health, Education, and Welfare for implementation of the SSI program, published not long ago in the Federal Register, make what is perhaps the strongest argument for early intervention. Those regulations make the following points:

1. Vocational rehabilitation is mandated where the disabling impairment, with rehabilitative services, will restore the recipient to "productive activity."

2. Vocational rehabilitation is mandated in cases where, without the services, the disabling effect would "result in continued eligibility."

3. They are mandated where such services "will enable the individual to engage in productive activity."

4. They are mandated where the "predictable period of productive work activity" will "offset payments which would otherwise be made."

In other words, vocational rehabilitation services are designed to render a disabled individual self-sufficient and get him off the payments and out of the SSI program as quickly as possible. It is, therefore, obvious that if a child's disability is prevented from ever developing into the kind of handicap that precludes future employment as an adult, the test of SSI will have been met, since that child will never need the income payments of adult rehabilitative services available through the SSI program in the first place.

In view of all the foregoing, the law should be amended to provide for the referral of all eligible children to the appropriate local or State agency for services. With such a mandate, for example, the intake officer making an SSI eligibility determination would then be required, with appropriate consent forms having been formulated and signed by the parent, to refer the parent, the disabled child and all pertinent records to the State or local agency or agencies offering services that best meet the child's needs. At present, no matter how severe or obvious the disability of a child may be, there is no obligation whatever to do more than establish the fact of eligibility of the disabled child, even in a case where, clearly, the mildest intervention could well prevent further development of that disability.

Since the children who would thereafter receive medical or rehabilitative services are in any event medicaid eligible, a refined system of referral, evaluation—by the appropriate agency—and actual service could readily be offered by programs already in existence. The services offered by those programs are, of course, available to the potential recipient even without the referral—but in many instances they are not used simply because the client does not know that they exist, or know which service or services he needs, or even that he is eligible for them. A mandated referral, therefore, not only solves that problem, but also guarantees the child in need of early entry into a comprehensive health services system.

So again, I believe this measure is a much needed and noncontroversial change to the SSI law. During a period when we are especially concerned about inflation, this modification of the program should enable us to get more complete assistance for handicapped children while not increasing Federal expenditures.

In support of this proposed amendment, I have been contacted by numerous persons and organizations associated with handicapped citizens. The following organizations have written to me to indicate their support: American Foundation for the Blind; National Association for Retarded Citizens; National Congress of Parents and Teachers; the Council for Exceptional Children; and the American Academy of Pediatrics. I ask unanimous consent that their letters be inserted at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN FOUNDATION FOR THE BLIND, INC.,
Washington, D.C., December 17, 1974.

Re S. 4164, referral of handicapped children.

Hon. ROBERT DOLE,
U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR SENATOR DOLE: The American Foundation for the Blind is appreciatively aware of your introduction, on November 19, 1974, of the above legislation, "to amend Title XVI of the Social Security Act so as to provide for the referral, for appropriate services provided by other State agencies, of blind or disabled children who are receiving supplemental security income benefits."

Enactment of this legislation would, we feel, focus professional attention on the unmet needs of handicapped children enrolled in the SSI program. By amending Section 1615 of the Social Security Act to include SSI enrollees under age 18, and in certain cases under age 13, mandatory referral "for appropriate health, social, or educational services" enhances the likelihood of early intervention and treatment of conditions which, unattended until adulthood, could well condemn the child to a lifetime of dependency, through permanent disability.

Please accept our thanks for your continuing concern for all handicapped Americans.

Sincerely,
Barbara D. McGarry,
Specialist in Governmental Relations.

National Association for
Retarded Citizens,
December 18, 1974.

Hon. Robert Dole,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Dole: The National Association for Retarded Citizens is most supportive of your efforts to amend Title XVI of the Social Security Act to provide for appropriate referral for services to SSI recipients who are below age 18. Our organization has been working closely with officials in the Social Security Administration on the implementation of the SSI program.

There is no doubt that one of the major weaknesses of the SSI program since its start one year ago has been the non-utilization of available SSI benefits by children. Applications from children are much lower than original projections. Those that do apply and qualify for SSI benefits are usually not referred for any services as are adult recipients.

Your bill, S. 4164, which mandates referral to appropriate health, social or educational agencies will facilitate disabled children to secure needed services to ameliorate their handicapping conditions. We urge you to seek rapid enactment of this provision.

If there is anything specific we can do to assist you in securing passage of this legislation, please do not hesitate to contact our Washington office (785–3888).

Sincerely,
Marion P. Smith,
President.

National Congress of
Parents and Teachers,
December 4, 1974.

Hon. Robert Dole,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senator Dole: This letter is in support of S. 4164 to amend Title XVI of the Social Security Act so as to mandate the referral of blind or disabled children under the age of 13 who are receiving supplementary security income benefits to appropriate health, social, or educational services provided by a state or local agency.

Comprehensive health services for such children is of paramount importance, not only for their physical rehabilitation, but equally important, as a means of prevention of additional emotional and social problems. The amendment you have proposed would assure that these children gain early entry into a comprehensive health system.

Since its founding in 1897, the 8-million member National PTA has had sound health as one of its guiding principles. We believe that the concept of health as physical, mental, emotional, and social well-being is vital to the welfare of the individual citizen, the community, and the nation.

We would urge the Congress to enact S. 4164.

Sincerely,
Grace C. Baisinger,
Coordinator of Legislative Activity.

The Council for Exceptional Children,
December 18, 1974.

Senator Robert Dole,
New Senate Office Building,
Washington, D.C.

Dear Senator Dole: We observe with immense pleasure, and we most heartily endorse, the provision which you intend to offer shortly to remedy a major omission in the delivery structure of the Supplemental Security Income pragram.

We refer specifically to your bill, S. 4164, which would amend Title XVI of the Social Security Act to provide appropriate referral for children under the age of thirteen in order that they also may receive the services to which they are rightfully entitled under the SSI program, as well as provide appropriate referral for young Americans between thirteen and eighteen. We applaud your compassion and your continuing concern that these children have the right and the opportunity to develop to their full potential.

We would simply make one further recommendation, which could perhaps be dealt with in your Chamber colloquy during deliberations on your excellent proposal. We fully support your intent that these children have entrance into a full range of services, i.e. health, social, diagnostic, consultative, and habilitative, through the SSI mechanism.

Specific referral will, of course, depend upon the individual needs of each child, and will be determined on a case by case basis. We would strongly recommend, however, that referral to the appropriate educational agency occur as a minimum for all children under SSI. A child may require, or not require, any number of services under that broad constellation already discussed by you in your introductory remarks. However, all children require an education, and indeed have the right to an education, as squarely affirmed in recent years by the courts, state legislatures, and the United States Congress (P.L. 93–380, Education Amendments of 1974). Undoubtedly, many parents and guardians of the children eligible for SSI can be expected to have not made effective entry into the educational system. Your proposal could act as an important safeguard in rectifying these omissions.

In your introductory remarks of November 19, you placed heavy emphasis upon the earliest possible intervention into the lives of handicapped children. We heartily concur and would simply add the footnote that most of the states now either require or encourage the early childhood education of handicapped children. In fact, the number of states without any legal provisions in this area has dropped to five. Moreover, you and your colleagues in the Congress recently took a step forward in that direction by ordering that all children aged *three to twenty-one* would be counted for purposes of determining each state's entitlement under the basic aid-to-the-states program for education of the handicapped (ESEA Title VI–B of 1969 as amended by P.L. 93–380, August 21, 1974).

We would make one further modest, but vital recommendation: that the legislative history make it clear that—in the development of Executive Branch policies, regulations, and guidelines relative to this referral mandate—The Bureau of Education for the Handicapped within the U.S. Office of Education be actively involved. This will guarantee the presence of special education expertise during important deliberations on implementation.

Permit us to conclude by simply reiterating our endorsement of your proposal, with the strong hope that you will give thoughtful consideration to the minimum educational referral mechanism just discussed.

We stand ready to make the resources of the Council available to you in this, and all other of your worthy endeavors on behalf of exceptional children.

Sincerely yours,
Frederick J. Weintraub,
Assistant Executive Director for Governmental Relations.

American Academy of Pediatrics,
Arlington, Va., December 19, 1974.

Hon. Robert J. Dole,
U.S. Senate,
Washington, D.C.

Dear Senator Dole: The American Academy of Pediatrics is interested in rectifying the apparent oversight in the Supplemental Security Income legislation wherein no consideration was given to the referral of children who are not eligible or suited for vocational rehabilitation. As P.L. 92–603 is written, no provisions were made with regard to children from birth to age 13. Children are thus denied the benefits of appropriate services, which seems shortsighted and insensitive.

The importance of early intervention in childhood disabilities cannot be overemphasized. Referral to the appropriate diagnostic and therapeutic services at the earliest possible stage of development can make the difference between a productive adulthood and one of permanent disability and dependency.

The American Academy of Pediatrics recommends that the Supplemental Security Income program should have the added objective of assuring disabled children are referred for appropriate health services. S. 4164 is an important step in providing for the referral of eligible disabled children into a comprehensive system of health services so that their health and medical needs might be addressed. The Academy would urge positive action by the Congress on this bill.

Sincerely yours,
Robert G. Frazier, M.D.,
Executive Director.

Mr. DOLE. Mr. President, I hope this bill can be acted on expeditiously in order that our handicapped children can start receiving the help they need at the earliest possible moment. I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 19

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1615 of the Social Security Amendments of 1972 is amended to read as follows:

"(a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title, the Secretary shall make provision for referral—

"(3) in case such individual has attained age 18 (and, in appropriate cases, when the individual has not attained such age but has attained age 13), of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitation services made available to him under such plan, and

"(4) in case such individual has not attained age 13 (and, in appropriate cases, when the individual has attained such age but has not attained age 18), to the State or local agency which provides health, social, or educational services appropriate to the needs of such individual."

By Mr. HANSEN (for himself, Mr. McGee, Mr. Humphrey, Mr. Hugh Scott, and Mr. Stevenson):

S. 20. A bill to amend section 206 of the Federal Water Pollution Control Act in order to authorize reimbursement for the construction of certain sewage treatment works. Referred to the Committee on Public Works.

Mr. HANSEN. Mr. President, late in the last session of Congress, I introduced legislation which would allow many qualified municipalities to receive Federal participation intended under the Federal Water Polluton Control Act Amendments of 1972. Today, I am reintroducing this legislation.

I ask unanimous consent that my RECORD statement when I introduced this bill last session, a list of those municipalities which will receive assistance under this bill, and the bill itself be printed at this point in the RECORD.

There being no objection, the statement and bill were ordered to be printed in the RECORD, as follows:

By Mr. HANSEN:

S. 20. A bill to amend section 206 of the Federal Water Pollution Control Act in order to authorize reimbursement for the construction of certain sewage treatment works. Referred to the Committee on Public Works.

Mr. HANSEN. Mr. President, I am introducing today an amendment to the Federal Water Pollution Control Act Amendments of 1972. When Congress passed the 1972 amendments, it intended that waste treatment projects initiated after June 30, 1966, were to receive not less than 50 percent and as high as 75 percent Federal participation. Despite this intent, many qualified projects have not and will not receive this intended Federal assistance.

Mr. President, I ask unanimous consent that the computer printout I received from the Environmental Protection Agency listing those qualified projects failing to receive the full intended Federal participation be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HANSEN. Mr. President, to better understand my amendment, I would like to take this opportunity to review the Federal participation provisions for waste treatment plants, and explain why, despite the clear intent of Congress, certain projects have not received the full intended Federal participation.

Section 8(c) of the Federal Water Pollution Control Act as amended, the legislation that preceded the 1972 amendments, provided that States and municipalities were to receive Federal assistance for waste treatment projects. Many projects received assistance under this act. However, because adequate funds were not authorized, many qualified projects did not receive the total amount allowable under the act. As a consequence, Congress, in the 1972 amendments, sought to assure that those previously constructed qualified projects would receive the previously stipulated Federal assistance and, second, that more recently constructed projects would receive increased Federal participation.

In significant part, the 1972 amendments provide as follows:

Section 206(b) provides that projects constructed between June 30, 1956, and June 30, 1966, are to receive the 30 percent Federal participation authorized under the earlier act.

Section 206(a) provides that projects constructed between July 1, 1966, and June 30, 1972, are to receive 50 percent Federal participation.

Section 202(a) provides that projects that receive funds authorized for any fiscal year beginning July 1, 1971, are to receive 75 percent Federal participation.

Section 202(b) also provides 75 percent Federal participation, but is not pertinent to our discussion here, and is mentioned only because it might tend to confuse. The section is not pertinent here because it was directed at assisting only a very narrow special category of projects, principally, if not exclusively, several Long Island, N.Y., projects (see H. Rept. 92–911, p. 89–90).

The congressional intent of the 1972 amendments was to provide a full, consistent, and graduated program of Federal assistance to qualified projects. However, this congressional policy has not been fully implemented.

Projects which received initial limited participation prior to October 1, 1971, under the original legislation, and were not under construction prior to July 1, 1972, have, despite the intent of Congress, failed to qualify for any Federal assistance.

It is my understanding that this hiatus has, in part, occurred because the Environmental Protection Agency did not commence allocating fiscal 1972 project funds until sometime after October 1, 1971. The effect of this action has resulted in many projects, on which construction was initiated after July 1, 1972, but which did not receive postfiscal 1971 funds, to fail to qualify for Federal participation. These projects do not qualify for participation under section 202(a) since they did not receive postfiscal 1971 funds, and they do not qualify for section 206(a) assistance because construction was not initiated until after June 30, 1972. Thus, these projects are caught in hiatus between the funding provisions of sections 202(a) and 206(a).

A factor that has amplified this unintended hiatus has resulted from EPA's adoption of a narrower definition of the term "construction" than provided by the act. Under section 212(1) of the 1972 amendments, "construction" is defined to include any preliminary activity to construction, including planning and feasibility studies. The definition in section 212(1) of the act reads as follows:

"The term 'construction' means one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items."

The EPA has, however, narrowed the definition of "construction" when prefaced by the term "initiated," which is not defined by the act, to require "the issuance of a notice to proceed" or the "execution of a construction contract." (40 Code of Federal Regulations, chapter I, subpart E, section 35.905–3). The effect of this action has increased the hiatus between section 202(a) and 206(a).

Specifically, under section 206(a), Congress provided 50 percent Federal participation for projects on which construction was initiated during fiscal 1967 through 1972. As defined by the amendment, "construction" would be initiated whenever any preliminary activity to the actual construction commenced. Accordingly the amendments envisioned that any project failing to qualify for section 206(a) assistance because construction was not initiated before July 1, 1972, would be receiving fiscal 1972 funds, thus qualifying for section 202 (a) assistance. Under this anticipated procedure, there would exist no hiatus period between section 206(a) and section 202(a). If a project was funded prior to fiscal 1972, construction would necessarily have been initiated during the same period, and accordingly, the project would qualify for 50 percent funding under section 206(a). If a project was funded after fiscal 1972, it would qualify for 75 percent participation under section 202(a), regardless when construction was initiated. Thus, as Congress envisioned, there would be no period during which a qualified project would fail to receive Federal participation under both section 202(a) and section 206 (a), as has in fact occurred.

My bill will remedy this situation by closing the unfortunate hiatus between section 206(a) and section 202(a). My bill provides that qualified projects are to receive 50 percent Federal participation under section 206(a) not only if, as the 1972 amendments now provide, construction was initiated during fiscal 1967 through 1972, but, additionally, if the project was funded from authorizations from fiscal years 1967 through 1971. With this added language, the hiatus between sections 202(a) and 206(a) will be closed, and all qualified projects will fall within one of the two sections. Accordingly, the construction of these two sections will be as Congress originally intended.

EXHIBIT 1

EPA MUNICIPAL WASTEWATER TREATMENT GRANTS AWARDED BEFORE OCT. 1, 1971, NOT UNDER CONSTRUCTION JULY 1, 1972

State and applicant	Project No.	Grant date	Construction date	Eligible cost	EPA grant	Grant percent
Alabama:						
Clayton, town of	020701	1/71		$20,000	$6,000	30.00
Warrior, city of	021401	9/71		208,500	68,800	32.99
Total				228,500	74,800	62.99
Arizona:						
Navajo Tribal Utility A	011401	9/71		1,857,000	557,100	30.00
Do	010801	9/70	10/72	462,500	152,620	32.99
Do	010101	12/69	11/72	411,100	135,662	32.99
Cold River Jt SS	010301	3/10	1/73	1,657,729	547,050	32.99
Total				4,388,329	1,392,432	128.97
Arkansas: Yellville, city of	028301	4/70	8/72	$336,000	$100,830	30.00
California: Stockton, city of	045401	1/71		178,682	58,965	32.99
Colorado: Denver Metro SDD No. 1	025501	3/71		64,500	21,280	32.99
Connecticut: Conn. Dept. Mental Health	014501	6/71	4/73	227,600	5,000	2.18
Delaware: New Castle County	005001	7/71	8/72	4,406,000	1,193,545	27.09
Florida:						
Rivera Beach, City of	032801	5/71		1,030,000	339,900	33.99
Dunedin, city of	032201	6/71	8/72	1,600,000	528,000	33.00
South Bay, city of	029501	11/70	8/72	586,700	193,610	32.00
Green Cove Springs	020101	6/71	9/72	655,300	216,240	32.99

EXHIBIT 1—Continued

EPA MUNICIPAL WASTEWATER TREATMENT GRANTS AWARDED BEFORE OCT. 1, 1971, NOT UNDER CONSTRUCTION JULY 1, 1972—Continued

State and applicant	Project No.	Grant date	Construction date	Eligible cost	EPA grant	Grant percent
Florida—continued						
Hollywood, city of	033301	12/70	10/72	$7,250,000	$2,392,500	33.00
Sebring, city of	028901	6/71	11/72	1,212,000	363,600	30.00
Manatee County	033701	4/71	12/72	8,936,000	2,948,880	33.00
Jasper, city of	020201	6/71	1/73	264,790	79,430	29.99
Total				21,534,790	7,062,160	257.97
Georgia:						
Lumpkin, city of	021201	4/71		101,000	33,330	33.00
Homerville, city of	020901	10/70		116,000	38,280	33.00
St. Marys, city of	020801	7/70		495,000	163,350	33.00
Commerce, city of	020401	6/70		810,000	243,000	30.00
Ringgold, city of	020301	6/70		497,000	149,100	30.00
Darien, city of	020201	10/70		176,000	58,080	33.00
Watkinsville, town of	030201	2/71		239,000	78,870	33.00
Kingston, city of	029901	2/71		94,000	31,020	33.00
Milan, city of	029801	2/71		197,000	65,010	33.00
Waycross, city of	029601	6/71		2,344,000	773,520	33.00
Hamilton, city of	029501	2/71		98,000	32,340	33.00
Georgetown, city of	029301	2/71		128,000	42,240	33.00
Whitesburg, town of	029201	2/71		114,000	34,200	30.00
Senoia, city of	029101	2/71		178,000	53,400	30.00
Loganville, city of	029001	2/71		318,000	104,940	33.00
Lexington, city of	028901	2/71		111,000	36,630	33.00
Glennville, city of	028401	1/71		282,000	93,060	33.00
Ailey, city of	028101	1/71		78,000	25,740	33.00
Abbeville, city of	028001	1/71		153,000	50,490	33.00
Talbotton, city of	027901	1/71		166,000	49,800	30.00
Helen, city of	027501	2/71		117,000	38,610	33.00
Bartlow County	027401	4/71		322,000	106,260	33.00
Colbert, city of	026701	12/70		103,000	33,990	33.00
Pulaski, town of	026101	1/71		31,000	10,230	33.00
Lincolntown, town of	025601	12/70		537,970	177,530	32.99
Dallas, city of	025401	12/70		250,000	75,000	30.00
Menlo, city of	025201	12/70		137,000	45,210	33.00
Woodstock, city of	025101	1/71		139,000	45,870	33.00
Smithville, city of	024501	11/70		54,000	16,200	30.00
Alpharetta, city of	024401	3/71		258,000	77,400	30.00
Ball Ground, city of	024101	11/70		117,000	35,100	30.00
Willacoochee, city of	024001	4/71		104,000	34,320	33.00
Eastman, city of	023901	9/70		812,500	268,120	32.99
Newton, city of	023701	9/70		120,000	39,600	33.00
Donalsonville, city of	023601	11/70		397,000	131,010	33.00
Rentz, town of	023501	9/70		23,200	6,700	28.87
Snellville, town of	023301	4/71		477,000	143,100	30.00
Centerville, city of	022701	12/70		304,000	100,320	33.00
Greenville, city of	022501	2/71		247,000	62,400	25.26
Valdosta, city of	022401	12/70		247,000	81,510	33.00
Shellman, city of	022301	3/71		47,000	15,510	33.00
Fort Oglethorpe, city of	020101	6/70	8/72	1,667,000	550,000	32.99
Grantville, city of	021001	10/70	8/72	342,668	113,080	32.99
Augusta, city of	025001	12/70	9/72	2,479,406	818,200	32.99
Hazlehurst, city of	028301	3/71	9/72	385,721	127,280	32.99
Covington, city of	028801	3/71	9/72	1,449,000	478,170	33.00
Warner Robins, city of	028701	4/71	9/72	3,290,440	1,085,840	32.99
Bibb County W. & S.A	025901	1/71	10/72	474,120	156,450	32.99
Fulton County	025701	3/71	11/72	5,983,306	1,974,490	32.99
Conyers, city of	030001	3/71	11/72	1,287,000	424,710	33.00
Macon, city of	030101	3/71	11/72	4,063,200	1,340,850	32.99
Port Wentworth, city of	019201	10/69	11/72	272,317	89,860	32.99
Garden City, city of	019301	10/69	12/72	793,385	261,810	32.99
McDonough, city of	021701	8/70	12/72	535,000	160,500	30.00
Sandersville, city of	029701	2/71	12/72	1,021,621	337,130	32.99
Colquitt, city of	026301	12/70	1/73	374,938	123,720	32.99
Reidsville, city of	028501	2/71	2/73	141,000	46,530	33.00
Thomaston, city of	022201	4/71	2/73	573,000	189,090	33.00
Cairo, city of	021901	9/70	2/73	636,850	210,160	32.99
Brunswick, city of	020001	11/70	2/73	1,911,000	630,630	33.00
Statesboro, city of	028601	3/71	4/73	1,386,000	415,800	30.00
Floyd County	027201	2/71	4/73	422,000	139,260	33.00
Edison, city of	027601	1/71	4/73	97,000	32,010	33.00
East Dublin, town of	029401	5/71	6/73	258,480	85,290	32.99
Total				41,384,122	13,491,250	2,063.97
Illinois: Gt Chicago Metro San D	093501	3/71	1/73	4,096,000	1,676,510	40.93
Indiana:						
Cedar Lake, town of	021101	10/65	8/72	1,853,000	637,200	34.38
Grandview, town of	029201	5/71	9/72	221,200	79,090	35.75
Ellettsville, town of	042001	6/71	3/73	404,300	174,000	43.03
Total				2,478,500	890,290	113.16
Kentucky:						
Nicholasville, city of	028101	9/70		58,300	19,230	32.98
Worthington, city of	028801	1/71		30,013	9,904	32.99
Perry County San D No. 1	028501	1/71		297,500	98,170	32.99
Somerset, city of	029101	3/71	8/72	1,780,000	587,400	33.00
Russell Springs, city of	023201	4/67	5/73	598,000	179,400	30.00
Total				2,763,813	894,104	161.96
Louisiana:						
Shreveport, city of	024001	12/69		3,636,000	1,199,880	33.00
New Orleans S. & W. Bd	025601	12/70		1,044,200	344,580	32.99
Franklin, town of	024301	12/70		27,773	8,330	29.99
Total				4,707,973	1,552,790	95.98
Maine: Bangor, city of	007101	3/71	7/72	2,156,100	539,020	24 99
Maryland: Anne Arundel County	019101	12/68	5/73	3,560,300	1,570,360	44.10
Massachusetts: Fitchburg, city of	026801			476,800		0
Minnesota: Redwood Falls, city of	051701	1/68		$355,505	$106,651	29.99
Mississippi:						
Sherman, town of	019301	2/67		78,600	23,580	30.00
Quitman, town of	020901	5/67	9/72	590,000	241,000	40.84
Prentiss, town of	029001	4/70	10/72	601,000	210,010	34.94
Senatobia, city of	028101	11/69	10/72	465,000	153,450	33.00
Shelby, city of	029901	6/70	10/72	171,000	56,430	33.00
Waveland, town of	018001	9/65	2/73	1,838,000	877,260	47.72
Biloxi, city of	023901	12/67	6/73	3,986,000	1,722,900	43.22
Total				7,729,600	3,284,630	262.72
Montana:						
Crow Ind Develop Comm	014401	12/69		439,400	79,950	18.19
Havre, City of	014601	2/70	9/72	850,000	326,800	38.44
Total				1,289,400	406,750	56.63
New Mexico: Bernalillo, town of	015701	6/70		82,600	27,250	32.99
North Carolina: Lake Waccamaw, town of	026801	12/69	11/72	528,872	194,140	36.70
North Dakota: Standing Rock Sioux Trb	023501	3/71		71,800	21,540	30.00
Ohio:						
Seneca County	053101	9/71		36,700	11,010	30.00
Sugarcreek, village of	046001	9/71	9/72	683,300	185,610	29.07
Wayne County	048301	9/70	10/72	146,800	48,440	32.99
Allen County	044901	10/70	10/72	2,118,400	565,090	26.67
Knox County	053901	9/71	10/72	1,008,400	258,900	25.67
Cleveland, city of	055101	9/71	12/72	40,600,000	13,398,000	33.00
Marietta, city of	055401	9/71	1/73	503,800	113,220	22.47
Athens County	038601	3/71	2/73	664,100	229,020	34.48
North Royalton, city of	029001	5/66	6/73	298,700	133,720	44.76
Total				46,015,200	14,943,010	279.11
Oklahoma:						
Heavener, U. A	042301	7/68		10,000	3,300	33.00
Bartlesville, city of	046501	9/70		50,000	16,500	33.00
Chickasha, M.A	046801	8/70		99,600	29,880	30.00
Oklahoma City, city of	050401	2/71	9/72	28,695,900	9,469,640	32.99
Total				28,855,500	9,519,320	128.99
Oregon:						
Wheeler, city of	024301	6/71		278,500	83,550	30.00
Echo, city of	031801	6/71		137,000	41,100	30.00
Astoria, city of	029101	3/71	9/72	8,730,000	2,880,900	33.00
Wallowa, city of	025901	2/70	11/72	212,000	63,600	30.00
Total				9,357,500	3,069,150	123.00
Pennsylvania:						
New Eagle, boro of	028201			476,041		0
McDonald, boro of	030201			548,400		0
Smithon, boro of	034901	8/68		235,000	11,710	4.98
Zelienople, boro of	043301	5/70		190,000	17,530	9.22
Keating, twp of	042301	9/69		68,400	5,270	7.70
Center Twp S.A	041101	8/69		1,643,300	82,100	4.99
Brookhaven Boro	038701	1/69		250,000	11,330	4.53
Allentown A	046201	7/70		136,876	65,730	48.02
Saegertown San D	045201	3/71		502,600	221,140	43.99
Ambridge, Boro of	044701	8/70		624,000	249,600	40.00
Dalton, Boro of	044001	1/70		860,000	175,160	20.36
Cooperstown, M.A	050601	3/71		195,000	78,000	40,00
Bucks County W. & S.A	051401	6/71		500,000	107,250	21.45
Herndon M.A	046701	8/70		169,400	67,760	40.00
Bethlehem A	053701	6/71		6,543,300	2,879,050	43.99
Delaware Twp M.A	053501	6/71		100,000	40,000	40.00
Lower Saucon Twp A	053101	6/71		1,343,300	591,050	43.99
Coopersburg Boro M.A	050701	4/71	7/72	176,400	77,610	43.99
Berlin, Boro of	049101	4/71	8/72	620,900	220,000	35.43
South Fayette, Twp of	043701	6/70	8/72	2,181,000	602,800	27.63
Lemoyne, Boro of	053801	7/71	8/72	3,687,000	1,063,420	28.84
Orbisonia-Rock Hill M.A	029601	3/68	10/72	416,500	183,260	44.00
Cambridge Springs, Boro	052901	6/71	11/72	667,700	287,500	43.05
Carrolltown, Boro of	048901	2/71	1/73	652,800	196,060	30.03
Bucks County W.S.A	051701	6/71	1/73	4,952,000	1,801,800	36.38
Chartiers Twp S.A	030301	9/68	1/73	162,600	6,910	4.24
Upper Allen Twp A	051801	4/71	5/73	3,145,400	793,050	25.21
Manheim Boro A	050301	4/71	6/73	336,000	134,400	40.00
Total				31,383,917	9,969,490	772.02
South Carolina:						
Moncks Corner, town of	021901	4/71		393,600	129,880	32.99
Lamar, town of	019301	3/70	8/72	155,400	51,280	32.99
Myrtle Beach, city of	025201	9/71	10/72	800,000	264,000	33.00
St. George, town of	019201	1/69	2/73	338,000	145,760	43.12
Clinton, city of	023301	9/71	2/73	294,500	124,110	42.14
Branchville, town of	025001	9/71	3/73	73,712	30,560	41.45
Mullins, city of	023201	4/71	5/73	972,000	241,820	24.87
St. Stephen, town of	017601	2/68	5/73	205,000	61,500	30.00
Total				3,232,212	1,048,910	280.56
South Dakota:						
Yankton Sioux Tribe	020201	6/71	8/72	122,000	36,600	30.00
Columbia, city of	020101	8/71	11/72	26,200	5,430	20.72
Total				148,200	42,030	50.72
Tennessee: Roane County	027601			761,000		0

State and applicant	Project No.	Grant date	Construction date	Eligible cost	EPA grant	Grant percent
Texas:						
Granger, city of	059901	4/71		$42,400	$12,720	30.00
Celeste, city of	065101	3/71		22,900	7,550	32.96
Deer Park, city of	078701	7/71	1/73	93,800	30,950	32.99
Total				159,100	51,220	95.95
Utah: Moroni City Corp	012001	3/71	3/73	1,305,100	391,530	30.00
Virginia:						
Weber City, town of	023701			519,900		.00
Wakefield, town of	029601	3/71	7/72	132,700	60,000	45.21
Total				652,600	60,000	45.21
Washington:						
Washtucna, town of	034801	1/71		43,000	12,900	30.00
Milton, town of	034101	11/70	7/72	822,600	271,450	32.99
Pierce County	033801	1/71	7/72	670,700	221,331	33.00
Kelso, city of	033101	12/70	7/72	271,900	89,720	32.99
Concrete, town of	014601	5/70	10/72	290,335	95,810	32.99
North Lake Washington S.D	031601	6/70	12/72	$1,915,000	$631,950	33.00
Sedro Woolley, city of	031701	6/70	12/72	1,118,600	369,138	33.00
Total				5,132,135	1,692,299	227.97
West Virginia:						
Gassaway, Town of	012601	3/66		391,000	117,300	30.00
Union, town of	016601	4/71		376,500	112,950	30.00
W. Va. Bd. of Education	014501			100,000		.00
Mannington, city of	013401	3/67		1,032,000	340,560	33.00
Moorefield, town of	015101	2/69		139,400	41,820	30.00
Grantsville town of	015201	3/69	1/73	387,100	145,590	37.61
Raleigh County Auport A	016801	6/71	1/73	312,000	93,600	30.00
Greenbrier P.S.C. No. 1	015501	7/69	3/73	1,063,000	313,590	29.50
Total				3,801,000	1,165,410	220.11
Wyoming: Gillette, city of	008401	5/71	10/72	835,900	275,840	32.99
Puerto Rico: P.R. Aqueduct Sewer Auth	007601	6/71		791,200	343,750	43.44
Grand total				235,476,350	77,136,256	5,899.37

Note: 190 records totaled.

S. 20

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 206 (a) of the Federal Water Pollution Control Act is amended by inserting after "1972," the following: "or constructed with financial assistance appropriated pursuant to the provisions of this Act for any fiscal year beginning July 1, 1966, and ending June 30, 1971,".

By Mr. SPARKMAN:

S. 21. A bill to establish a National Development Bank to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full employment economy both in urban and rural America by providing loans for the establishment of new businesses and industries and the expansion and improvement of existing businesses and industries, for the construction of low and moderate income housing projects, and to provide job training for unskilled and semiskilled unemployed and underemployed workers. Referred to the Committee on Banking, Housing and Urban Affairs.

NATIONAL DEVELOPMENT ACT OF 1975

Mr. SPARKMAN. Mr. President, I introduce a bill to establish a National Development Bank to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full employment economy both in urban and rural America by providing loans for the establishment of new businesses and industries and the expansion and improvement of existing businesses and industries for the construction of low and moderate income housing projects, and to provide job training for unskilled and semiskilled unemployed and underemployed workers.

I will not take the time of the Senate to review in detail the economic plight which this Nation is presently facing. We all know unemployment is increasing. We know that any number of States, counties, and large and small towns find themselves in critical situations—they are having to cut down or eliminate all types of facilities and services urgently needed by the people. We know large and small businesses and industries are in deep slumps, and if they can continue to exist at all, many of them are having to cut back in employment, which simply adds to greater unemployment rolls already the highest in many years. The housing industry is almost at a dead standstill. Housing starts are way below normal—yet many, many of our low and moderate income families desperately need safe, decent, and adequate housing. Housing which is on the market is beyond reach for those who need housing badly.

We are suffering through one of the tightest money periods we have ever experienced and needed capital is just not available to local government to finance thos things needed by the people; money is just not available to both small and large businesses or to individuals and corporations to establish new or expand existing businesses. Money, particularly mortgage credit, is almost nonexistent to public agencies and private nonprofit and limited dividend corporations for the construction of housing.

Mr. President, the bill I send to the desk would establish a Federal banking facility to make loans at reasonable interest rates in all the areas of which I can speak. My bill would establish a National Development Bank with a capitalization of $5 billion. The capital for the bank would be raised by the Federal Financing Bank, and would permit the bank to make loans up to 20 times the paid-in capital stock of the Bank.

Mr. President, except for minor modifications, the bill I introduce today is the same bill I introduced in the 1st session of the 92d Congress. Since that time a number of Senators have introduced similar measures. Off hand, one might think that my bill is the reestablishment of a Federal instrument like the old Reconstruction Finance Corporation. To some degree, that is correct. However, rather than limiting loans to business and industry, as was the case under the RFC, my bill would make Federal financing available to a broad spectrum of borrowers—small and big business and industry to be sure but also to public bodies and agencies as well.

The events of the time and the introduction of similar bills by others have convinced me we need the type of financing facility which my bill would provide.

I sincerely hope the Banking, Housing and Urban Affairs Committee will give very early consideration to my bill, as well as any other measures introduced which are similar to it, as early as possible.

I ask unanimous consent to insert a section-by-section analysis of the bill following my remarks.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

NATIONAL DEVELOPMENT ACT OF 1975—SECTION-BY-SECTION SUMMARY OF BILL S. 21

Sec. 1.—Short Title—"National Development Act of 1975"

Sec. 2.—Findings and Declaration of Purpose

Sec. 3.—Creation of National Development Bank as instrumentality of U.S. with succession until dissolved by Congress to make long-term low interest rate loans to (1) State and local governments for public works and facilities, (2) individuals and corporations to expand or otherwise improve existing businesses and industries, and (3) public agencies, private nonprofit and limited dividend corporations for construction of low and moderate income housing.

Sec. 4.—Technical Definitions

Sec. 5.—Provides that Board of Directors shall consist of the Secretaries of Treasury, Commerce, Housing and Urban Development, Agriculture, and Labor plus ten other persons appointed by the President and confirmed by Senate from State and local governments, private enterprises, organized labor, and rural organizations dealing with economic and social problems of depressed areas. Provides a two-year term for those appointed by the President.

Sec. 6.—Administrative—Provides for appointment of President, other officers, and employees as may be needed to carry out functions of bank and political activities.

Sec. 7.—Conflict of interest and prohibition

Sec. 8.—Technical—General Corporate Powers

Sec. 9.—Provides for principal office of Bank to be in Washington, D.C. with branches or agencies in any city of the U.S.

Sec. 10.—Provides that Bank shall have a capital stock of $5 billion and authorizes Federal Financing Bank to purchase such stocks.

Sec. 11.—Sets the outstanding indebtedness of Bank at any time not to exceed 20 times the paid-in capital stock of Bank at the time.

Sec. 12.—Authorizes purchase of any asset of Bank by Federal Financing Bank at such price as may be agreed upon by the Bank and F.F.B.

Sec. 13.—Permits Federal Reserve Banks, Federal Reserve Open Market Committee, and any federally chartered or regulated commercial bank, savings and loan association or mutual savings bank to purchase obligation of Bank.

Sec. 14.—Establishes obligations of Bank as lawful investments as securities for all fiduciary trust and public funds.

Sec. 15.—Authorizes the Bank to make or guarantee loans for the purchase of real or personal property, and for the working capital necessary to locate a new business or industry to improve or expand an existing business if (1) the borrower agrees to provide job opportunities to the unemployed or underemployed, (2) the borrower agrees to provide training courses for the unemployed or underemployed, and (3) other such requirements as may be imposed by the Bank.

Sec. 16.—Authorizes the Bank to make or guarantee loans to finance capital expenditures for public works and community facilities.

Sec. 17.—Authorizes the Bank to make or guarantee loans to public agencies, nonprofit cooperatives, limited dividend corporations, and others to provide dwellings for low and moderate income families.

Sec. 18.—Technical

Sec. 19.—Authorizes Bank Directors to make whatever arrangements they consider adequate to secure loans made by the Bank.

Sec. 20.—Authorizes Board of Directors to set the maturity of loans made by the Bank; however, requires Bank to refinance loan with another lender whenever in the judgment of the Board refinancing is possible and feasible.

Sec. 21.—Authorizes Bank to guarantee any loan made by any bank, savings bank, trust company, building and loan or saving and loan association, insurance company, mortgage loan company or credit union if such loans are made for the purpose of carrying out this Act, and the effective interest rate for such loans is not more than 1½ percentum above the Federal Reserve discount rate.

Sec. 22.—Authorizes the Bank to make direct loans for the purpose of carrying out this Act at interest rates not to exceed a rate equal to the average yield on all marketable bonds of the U.S. maturing in more than six but not less than twelve years plus one-half of one percent.

Sec. 23.—Exempts all holdings of the Bank from all Federal taxation. Permits Federal, State, and local taxation of real property and tangible personal property held by Bank, and permits taxation of principal and interest of Bank obligation the same as obligation of private corporations are taxed.

Sec. 24.—Authorizes GAO to audit financial transactions of the Bank.

Sec. 25.—Authorizes to be appropriated without fiscal year limitation the sum of $5 billion to the Federal Financing Bank to finance the purchase of Bank stock.

By Mr. McCLELLAN:

S. 22. A bill for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

COPYRIGHT LAW REVISION

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks and Copyrights, I introduce, for appropriate reference, a bill for the genral revision of the copyright law, title 17 of the United States Code, and for other purposes. Title I of this legislation provides for the general revision of the copyright law. Title II provides for the protection of ornamental designs of useful articles.

Other than for necessary technical and perfecting amendments, and changes required by the enactment of Public Law 93-573, the interim copyright bill, the text of this bill is identical to that passed by the Senate on September 9, 1974. No new issues have arisen since that action and, therefore, it is anticipated that the Subcommitee on Patents, Trademarks and Copyrights will report a copyright revision bill at an early date in this session. I am hopeful that the 94th Congress will finally produce a modern U.S. copyright statute.

By Mr. McCLELLAN:

S. 23. A bill for the general revision of the patent laws, title 35 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

PATENT LAW REVISION

Mr. McCLELLAN. Mr. President, I introduce, for appropriate reference, a bill for the general revision of the patent laws, title 35 of the United States Code, and for other purposes.

The subject of patent revision legislation has occupied the attention of Congress, the executive branch, the organized bar, industry, and the inventive community for a number of years. A series of patent research studies were prepared for the Subcommittee on Patents, Trademarks, and Copyrights. President Johnson established the President's Commission on the Patent System, and President Nixon transmitted to the Congress in 1973 a special message on patent reform. I have introduced general patent revision bills in several Congresses, and during the 93d Congress patent revision bills were introduced by several Members of the Senate.

I believe that the bill which I am introducing today makes useful and necessary improvements in the patent system, while preserving and strengthening the incentive provided by the patent system. I invite study of this bill by all interested parties and would welcome any comments or proposed amendments.

By Mr. McCLELLAN:

S. 24. A bill to carry into effect certain provisions of the Patent Cooperation Treaty, and for other purposes. Referred to the Committee on the Judiciary.

ON IMPLEMENTATION OF THE PATENT COOPERATION TREATY

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks and Copyrights, I introduce a bill to carry into effect certain provisions of the Patent Cooperation Treaty and for other purposes.

The United States and 34 other countries are signatories of the Patent Cooperation Treaty. On September 12, 1972, the President submitted the treaty to the Senate for its advice and consent, and the Senate gave its advice and consent on October 30, 1973. The treaty is not self-executing in this country and the purpose of the bill which I am introducing is to provide the necessary statutory authority for implementing the treaty. At the request of the Department of Commerce I introduced a substantially similar bill, S. 2469, in the 93d Congress. That bill was reported favorably by the Patent Subcommittee, but it was not possible to complete action on that legislation prior to the adjournment of the Congress.

This bill would amend certain sections of title 35, United States Code, to provide applicants filing applications for patents only in the United States, with the flexibility afforded to applicants filing under the treaty. I have long advocated efforts to promote greater international cooperation in patent matters, subject only to the qualification that such undertakings should not weaken the American patent system or contribute to an erosion of industrial and intellectual property rights. I believe that the Patent Cooperation Treaty meets that test. By providing among other things, centralized filing procedures and a standardized application format, the treaty will offer many advantages to U.S. applicants who seek patent protection abroad.

By Mr. MOSS:

S. 25. A bill to provide for the establishment of the Great Salt Lake National Monument, in the State of Utah, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

GREAT SALT LAKE NATIONAL MONUMENT

Mr. MOSS. Mr. President, I am introducing today a bill which would establish a Great Salt Lake National Monument on Antelope Island in Utah's unique inland sea.

The national monument would occupy all of the island except for 2,000 acres at the northern end which the State of Utah has been developing as a State park.

When I first came to Congress in 1959, I set as one of my goals the proper utilization of the Great Salt Lake—preservation of its scenic, scientific, and historic values, with accessibility for visitors, along with continued commercial development of the brines and minerals of the Lake. Beginning with the 86th Congress, and in each succeeding Congress, I have introduced either national park or national monument legislation, on which extensive hearings have been held in both Utah and Washington. In the 90th Congress my Great Salt Lake monument bill passed the Senate, but died in the House.

Along the way Congress has legislated on the relicted land problem on the shore, to resolve the objective of commercial development. It has yet to legislate, however, on the scenic and recreational uses of the lake. But, the hearings held on my bills reawakened interest in Utah and in development of Great Salt Lake. Residents of the State want something to be done to make available to Utahans and to out-of-State visitors the remarkable scientific, historical, and recreational potential of the lake.

In 1963, the Utah Legislature established a Great Salt Lake Authority to recommend usage of the lake and its shores and islands. Later, in the absence of Federal development, the State Park and Recreation Department secured a lease on the northern 2,000 acres of the island and started to develop a State park. Substantial progress has been made. Last year the State legislature provided $5.5 million for development of the park. The funds are being used to restore and to upgrade a 7-mile causeway from a graveled roadway to hard surface; water and sewer facilities are being developed, as well as a small campground and a marina. The park is to be open year-round. In 1972 it was visited by approximately 200,000 people.

The development of the State park, including the road and recreation facilities, is fully compatible with, and of equal standards to, a national monument established by the Federal Government. Thus, passage of my bill would bring about development of the island as a unified whole. Its full potential would be reached at long last.

Antelope Island is truly worthy of national monument designation. It offers a superb platform from which to see and interpret this unique and scenic lake and its physical history.

The wave-carved terraces from different stages of ancient Lake Bonneville are visible. In addition there are magnificent views of Great Salt Lake and the other islands and promontories and mountain ranges that stand in and around the basin. The restricted but fascinating lake life, including reeflike algae deposits, and the products of evaporation can readily be interpreted from the island base.

It is also easy to visualize, from the island, the effect of Great Salt Lake, both as a barrier and as a magnet for fur trappers, explorers, Mormon pioneers, and the railroad builders, all major features of the story of America's westward expansion. Promontory Range can be seen. This is the place on which the golden spike was driven in 1869, linking the east and west coasts by transcontinental railroad. Built on the island in 1849, stands the oldest house in Utah still used for its original purpose as a ranchhouse. It nestles in a grassy grove of trees near the island's largest spring.

Let me quote to you the Department of the Interior's conclusion as to scientific significance:

> Scientific significance is the hallmark of the National Monument caliber for any feature, site or area. On this basis, Antelope Island merits National Monument status in its own right. The island as a whole comprises a complete topographic unit and it is the record of the drama of earth history which circumscribes the island from its present shoreline to the crests and promontories standing as much as 2,400 feet above the surface of Great Salt Lake. These are factors which contribute to the scientific significance of Antelope Island. It is doubtful whether any other location surpasses Antelope Island as a scientific exhibit of the story of Great Salt Lake and its ancestral lakes and as a place for its observation, study and enjoyment by visitors.

The State now leases 2,000 acres from the owner of the island which is nearly all in single ownership. The establishment of the monument would require acquisition of the entire island along with relicted land left exposed by the receding waters and extending to a band of water around the island.

Mr. President, the Advisory Board on National Parks, Historic Sites, Buildings and Monuments recommended in 1963 that Antelope Island, or a portion of it, be authorized for establishment in the national park system.

I send to the desk, for appropriate reference, a bill to provide for the establishment of the Great Salt Lake National Monument in the State of Utah, and for other purposes.

By Mr. MOSS (for himself and Mr. HANSEN):

S. 26. A bill to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the act of December 31, 1970, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

MINING AND MINERALS RESOURCES RESEARCH ACT OF 1975

Mr. MOSS. Mr. President, in order to solve many of our environmental problems we need Federal Government participation, in the form of grants and appropriations, to aid in research and development of new environmental technologies, including new energy sources and better mined land reclamation techniques.

The Nation has become painfully aware of the environmental deterioration caused by some past mining practices. The mining industry is also aware of the environmental problems associated with the extraction of minerals, and has, in many instances, developed practical solutions for dealing with them. But, as further environmental improvement is sought, the technical difficulties and the cost of gaining each new increment of quality greatly increase the costs of operation, and may make the difference between feasibility and infeasibility in a mine's economic picture. Senate Report No. 91–390 on the National Mining and Minerals Policy Act (Public Law 91–631) stated:

> Research can be particularly beneficial in assisting the mining industry to cope with the many new requirements that our increased concern over environmental quality placed upon mine operators. The Federal Government should engage in long-range research programs which will provide the technology necessary for private industry to implement practices designed to improve the quality of our environment. It should establish and maintain policies and programs which supply the needed trained specialists, and publish and disseminate data and technical information relevant to environmental quality matters.

A bill embodying these concepts and providing funds to tax-supported schools throughout the country for science and engineering research was introduced by the distinguished Senator from Colorado, GORDON ALLOTT, in the 92d Congress as S. 635. After a lengthy conference, the conference report was accepted by both bodies in October of 1972. The bill unfortunately was pocket vetoed by the President.

Senator HANSEN and I introduced in the 93d Congress a similar bill, S. 263, which was incorporated into the surface mining bill vetoed by the President.

I introduced on behalf of myself and my good friend from Wyoming, Senator HANSEN, a new bill to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, and to supplement the act of December 31, 1970.

By Mr. MOSS:

S. 27. A bill to establish a Department of Natural Resources and Environment. Referred to the Committee on Government Operations.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT ACT

Mr. MOSS. Mr. President, I introduced my first bill to create a Department of Natural Resources in 1965. I have refined and updated the bill and reintroduced it in each session of Congress since that time, joined in more recent years by a number of my colleagues.

The shifts in organizational emphasis in the Department of Natural Resources bills have paralleled the shift in emphasis on our resource problems. My original bill grew out of conflicts I had witnessed mainly in the conservation and management of our water and land and mineral resources at home, and which I had seen on a larger scale through my work in the Senate Interior Committee.

It was apparent again and again that overlapping of jurisdictions between agencies working in the same field, but located in different departments and seeing their missions in different ways, contributed to the difficulty in finding solutions to resource problems. Had the functions been in the same department, under the same umbrella, I was convinced we could work more easily and efficiently and with less waste and delay. So my first Department of Natural Resources bill emphasized reorganization of our water and land functions.

Then came the mushrooming interest in the protection of our environment, and my bill was redrafted to reflect the need for greater coordination between conservation agencies, including not only the protective and management functions, but the regulatory functions, and was renamed the Department of Natural Resources and Environment.

Last year the energy crisis exploded upon our consciousness. Suddenly, we became acutely aware of the needs to curtail our consumption of energy altogether, to open new supplies of vital fuels like coal and oil, and to develop the technology of production and use of new sources of energy. Indeed, so fast did these issues emerge that within one session of the Congress we created two entirely new energy agencies and reorganized others in the process.

Each of the shifts in emphasis has only served to emphasize the widespread nature of our natural resources problems and the urgency of enacting legislation to streamline and make efficient the organizational machinery by which all resource programs are administered and to end, once and for all, fragmentation of policy formulation, decision making and program implementation.

There are a number of ways in which a department could be structured—I am not here to argue details down to the last bureau or agency. This I would leave to the good judgment of the committee.

I would like mainly here this morning to explain the philosophy and reasoning behind some of the choices I made in drafting S. 27.

My bill would establish a Department of Natural Resources and Environment, with a Secretary, a Deputy Secretary, and then an Under Secretary of Natural Resources and Environment for Water, an Under Secretary of Natural Reources and Environment for Lands, and an Undersecretary of Natural Resources and Environment for Energy.

Functions would be transferred to it from the Department of the Interior, the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Transportation, the Energy Research and Development Administration, the Federal Energy Administration, the Nuclear Regulatory Commission, the Federal Power Commission, and the Environmental Protection Agency, and some other agencies.

Among the land and recreation agencies which would go into the new department are the Bureau of Outdoor Recreation, the Bureau of Sport Fisheries and Wildlife, the National Park Service, the Bureau of Land Management—all from Interior—the Forest Service, and the Soil and Water Conservation Research Division of the Agriculture Research Service from the Department of Agriculture.

Among water development agencies would come the following functions: from the Department of the Interior—the Bureau of Reclamation, the Office of Saline Water, the Office of Water Resources Research, and the hydro power marketing agencies; from the Department of Agriculture—the Soil Conservation Service. From the Department of the Army's Corps of Engineers would come the planning, project evaluation, policy formulation and budgeting responsibilities relating to the civil functions of the Corps. The functions of the Water Resource Council would also be transferred to the new department. Our heightened need for greater agricultural production, brought on by our food shortages, underlines the importance of water and land reorganization.

As I indicated, there have been great changes in the energy field since the bill I introduced 2 years ago. I will have some comments to make on the reorganization of the energy agencies later on. But briefly, all of the functions of the new Federal Energy Administration, the Energy Research and Development Administration, and the Nuclear Regulatory Commission would be transferred to the Department of Natural Resources and Environment.

The major scientific and technological components of the new department would be established by transferring the functions of the Geological Survey from the Department of the Interior and those of the National Oceanic and Atmospheric Administration of the Department of Commerce to the new department.

My proposed Department is called the Department of Natural Resources and Environment and would include the components of the Environmental Protection Agency—the Water Quality Office, Solid Waste Office, Air Pollution Control Office, Pesticides Office, and Radiation Office. The administration proposal retains the EPA as a separate agency.

WHY THIS CONCEPT?

Let me give you an example of why I decided to pursue this concept.

A number of generating plants have been constructed in the Four Corners area of the Southwest. Requests for licenses to build others are pending. The plants are designed to utilize the plentiful coal of the region and the water from the Colorado River system.

Most of the plants which have been built have come under heavy attack by environmental groups because of the discharge of pollutants into the air, because of the impact of plant construction on sites, because of the disposal of coal wastes, or for other reasons.

The Department of the Interior granted licenses on the basis that the energy the plants would produce was needed, but the environmental impact problems were never settled before the plants were built, since the EPA law had not been enacted. Had there been the machinery, within a single department, to check out both the economic and environmental impact of the plants at the same time, many of the present difficulties could have been avoided.

An even more specific example is the proposed Kaiparowits plant in southern Utah. The request for a license to build this plant was recently denied by the Secretary of the Interior on the basis of environmental degradation. The several private utility companies, who wish to build the plant, have now selected a new site and revised their plans, and a new environmental impact statement is being drafted. If the new statement is accepted by the Department, then it will still have to run the gamut of the Council on Environmental Quality and the Environmental Protection Agency, with more time prescribed for consideration and comment, and the construction of this much needed source of energy will be delayed and delayed again.

I feel that the Council on Environmental Quality should remain outside the Department, but I can see no reason why agencies which have jurisdiction on other problems should not be coordinated within a single Department and their comments made internally. These include agencies which decide on the impact of plant construction on sites, the discharge of pollutants into the air, the disposal of coal waste, the acceptability of a mining plan and the location of power lines and the return of water to a river system to mention a few.

The most excruciating example of delay in getting environmental clearance on an important project because of divided departmental responsibility is that of the Bonneville unit of the Central Utah project.

After months of study, an environmental impact statement on the Bonneville unit was finally completed in Utah. It was sent to the Bureau of Reclamation in Washington, returned to the field several times for revisions, sent back to the Bureau and then finally cleared by the Department of the Interior after considerable inter-bureau discussion within the Department. It then went to the Council on Environmental Quality for 30 days, and then back to the Department for comment by the Forest Service and other interested agencies.

During the time while the impact statement was slowly circulating, construction on the Bonneville unit has come to a grinding halt. No new contracts could be advertised until the impact statement cleared. One of the major purposes of the Bonneville unit is to construct a collection and distribution system which will bring high mountain water for municipal and industrial use in the Great Basin including the Salt Lake Valley, where water is short, and where a dry year or two would result in water rationing. The delay is edging toward disaster each day it continues. The State becomes more and more alarmed. This delay could all have been prevented had the agencies which are required to comment on the environmental impact statement been located in one department, with one deadline for comment, and with compromise, not competition, as the goal.

Mr. President, we must simplify the way in which we analyze resource projects. And we must find ways to build them so that we can have both development and conservation. I believe that the technological and political genius of the American people can be harnessed to do this—and do it well.

I am concerned about the interaction between protection and development because I recognize that both are essential. In this matter, our Nation is cast on the horns of a dilemma. Like a hero of Greek tragedy, we find only two courses of action open, either of which could be fatal: if we put the brakes on production, we face a sinking standard of living; if we press full steam ahead on production, we may—through pollution—destroy our life-giving environment.

To accomplish this dual task of resource development and environmental protection, I believe we need a Department of Natural Resources and Environment exercising comprehensive authority. It must have the responsibility and the capability of keeping the environment clean while developing sufficient resources to maintain an acceptable standard of living. It must lead the Nation into the new paths that must be found and marked—paths that will permit an advanced industrial society to continue and living conditions to improve. That most difficult accommodation must be made in constructive reciprocity; not by check and countercheck which halts development or spews pollution. Stalement is no solution to the problem. Dynamic accommodation is the answer.

OVERSIGHT AGENCIES

Although I propose only one executive department for the natural resources, I do not intend it to be the sole monitor of environmental conditions. I would retain the Council on Environmental Quality, as I have indicated, and I have long advocated passage of legislation to create in the Congress a Joint Committee on the Environment. In brief, this would result in the following arrangement:

First, the Department of Natural Resources and Environment would exercise the operating responsibilities of the Federal Government relating to natural resources development and protection.

Second, the Council on Environmental Quality would exercise present responsibilities which include evaluating the state of the environment as well as the operation of the Natural Resources and Environment Department. The Council would also continue to prepare annually the official Environmental Quality Report of the President.

Third, the congressional Joint Committee would have the responsibility of holding public hearings on the report and of recommending to the legislative committees of the Congress such action as it deemed necessary.

In short, we would have a manager—the department; a watchdog—the Council; and a legislative investigator—the Joint Committee.

Such an arrangement, I believe would constitute a rational solution to the problem of organizing the Federal resource management effort to provide most effectively both protection and development.

THE ENERGY AGENCIES

The way of life in our Nation is dependent upon the management, regulation, research and development of our energy resources. Our energy agencies must be reorganized to establish a total program which will meet the enormous demands facing us, and to deal with the increasingly complex and critical problem of meeting our energy needs. We must have organization with initiative, flexibility, and concentration of purpose.

We still have not achieved a satisfactory arrangement. The Federal Energy Administration was given authority to coordinate and manage federal energy policy. The Energy Research and Development Administration was given responsibility for planning, managing, and conducting the government's energy research and development programs and for working with industry in developing new technologies. The truncated Nuclear Regulatory Commission was left as an independent agency to carry on the regulatory and licensing functions of the AEC.

We have consolidated some Federal energy activities but in separate agencies where those conflicts can go on forever. One group of bureaucrats flexes its muscles against another group, and the group or industry or mission which has the most powerful backing or the most obdurate administrative hierarchy succeeds in achieving its objectives. That is a sure guarantee that policy decisions if made at all rather than by default, will be fragmented, based on narrow interests and limited vision.

We have not, in other words, provided any overall direction and command short of the Natural Resources Council or the White House, perhaps the most disturbing development of all. The present arrangement will tend to concentrate more power in the White House—and we have had enough of that—and further insulate the policymakers from congressional scrutiny.

My philosophy is to place resource development, management, and regulation under one roof in the same department. Only where both of these missions are in one department can conflicts be settled by compromises worked out in the best interests of the public and the concerned parties. Someone must have the authority to insist that a decision be reached, and the Secretary of a Cabinet department can so insist when all of those in disagreement are under his jurisdiction. He then has the authority and power to make a reasoned and final judgment, with all the facts at hand and a broad perspective on the effect the decision will have on overall energy and natural resource policy.

Let me give one example of an energy problem requiring that decisions be made in a single Department of Energy and Natural Resources for its proper resolution: The problem of ordering powerplants to convert from oil to coal. The energy agencies of the Department would have to determine the extent to which such conversions were necessary in order to lessen demand for oil.

The environment agencies would have to determine how much environmental degradation would result, give an opinion on the acceptability of the environmental harm, and furthermore how to distribute geographically the plants covered in order to minimize any degradation. The natural resource agencies would have to determine if measures would be required to increase coal production in order to meet the additional demand for coal. Each of the above inputs would then have to be weighed against the benefits of alternative measures for conserving oil. The coordination of such an analysis and the resolution of the multiple conflicts inherent in the problem, require the work of a single manager, the Secretary of the Department, with the responsibility and the power to oversee the entire process.

CONCLUSION

In conclusion, let me say that while the exact structure of a new Department of Natural Resources and Environment or Department of Energy and Natural Resources—whatever it is called—may be subject to discussion, and some of the constituent demands of such a department may be open to question, there can be no doubt that such reorganization is long past due, and should be undertaken at once. The Congress should work concurrently with the administration in this task.

Now is the time to air the problems and the differences, and to harmonize our efforts to establish a singe Federal department capable of effective resource management.

Now is the time to designate a single administrator to head one operation in which all agencies would work cooperatively, rather than competitively, toward the preservation of our natural resources and the protection of our environment. We must delay no longer. Necessary management of our resources and our environment is really impossible with our present administrative machinery.

By Mr. MOSS (for himself and Mr. CRANSTON):

S. 28. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax, or in the alternative a deduction, for energy-conserving residential expenditures. Referred to the Committee on Finance.

TAX DEDUCTION FOR RESIDENTIAL INSULATION IMPROVEMENTS (S. 28)

Mr. MOSS. Mr. President, I am introducing for appropriate reference a bill to provide a tax deduction or an alternative tax credit for energy-conserving residential improvement expenses. This bill is similar to one I introduced 2 years ago, and to an amendment that Senator CRANSTON and I offered in the 93d Congress to the first Emergency Energy Act, and which the Senate then adopted.

The purpose of my bill is to encourage homeowners to make repairs or improvements which will reduce heat loss in winter and heat gain in summer, by installing in their homes such things as ceiling insulation, storm windows, weatherstripping, and solar heating and cooling devices. The bill limits the amount of the deduction allowed to $1,000 for any taxable year, with an option to take instead a tax credit equal to 25 percent of the allowable expense, and further limits these benefits to expenses paid in connection with the taxpayer's principal residence.

The potential energy savings in the residential sector are enormous. For example, the Ford Foundation's Energy Policy Project calculated that in 1985, insulation against heat loss and gain alone could save 1.3 quadrillion (10^{15}) Btu's. That is a little more than a third of the energy which the Alaska pipeline will provide annually. Further savings can be achieved through the use of heat pumps instead of electric resistance heaters, and solar space-heating and water-cooling units.

Energy conservation is as important to our energy future as increasing our supply. High prices and market forces will act as strong incentives to conserve energy, but they alone will not be sufficient. We need to provide additional incentives so that people can afford and will undertake the capital expenditures required to make end uses of energy more efficient. This bill provides an incentive in one important area of energy conservation, and I urge its favorable consideration by the Senate.

By Mr. MOSS:

S. 29. A bill to establish the Lone Peak Wilderness Area in the State of Utah. Referred to the Committee on Interior and Insular Affairs.

LONE PEAK WILDERNESS AREA

Mr. MOSS. Mr. President, the bill I am introducing today would set aside 24,320 acres in the Wasatch and Uinta National Forests as an addition to the national wilderness system. The bill is similar to the one I introduced in the 92d and 93d Congresses, but its boundaries have been redrawn to exclude White Pine Canyon and some areas included in my prior bills which are not of wilderness quality.

A bill providing for a study of this area was passed by the Senate in the closing days of the 92d Congress, but it died in the House.

The Lone Peak area is one of the few in the country which is close enough to a large city to provide almost "suburban wilderness." It is located to the east and south of Salt Lake City, and is only a few minutes drive from its outskirts. The peak is one of the most beautiful in the rugged mountain range which towers over the city, and the area surrounding it is still wild and primitive. Evergreens abound, and the streams are clear and unpolluted. Within an hour or so of leaving the city, one can have hiked or backpacked or ridden by horse into a fresh new world.

Legislation to establish a Lone Peak Wilderness Area has the support of the Salt Lake County Commission, of most of the Utah press, many outdoor and environmental groups in the State, and the public generally.

By Mr. MOSS:

S. 30. A bill to amend the Mineral Leasing Act of February 25, 1920, as amended. Referred to the Committee on Interior and Insular Affairs.

DEVELOPMENT OF TAR SANDS

Mr. MOSS. Mr. President, I am introducing today a bill to make possible the development of deposits of bituminous sands, popularly known as tar sands, which are an important potential source of additional supplies of domestic oil. The Utah Geological Survey and the U.S. Geological Survey have estimated that Utah's tar sands, which contain the vast bulk of known U.S. deposits, contain approximately 29 billion barrels of oil.

For years I have been trying to bring to fruition the development of this resource. In 1960 I participated in working out the extensive amendments to the Mineral Leasing Act that were enacted that year, which included a tar sands amendment authorizing the Secretary of Interior to lease such deposits. A further amendment provided that under certain circumstances a tar sands lease could issue under the multiple use principle notwithstanding the existence of a prior conventional oil and gas lease on the same tract. In operation, however, problems arose over the potentially conflicting rights of the oil and gas lessee and those of the bituminous sands lessee.

The central problem has been whether the bituminous sands lessee, whose right to mine the sands and extract the oil is clear, has a right to extract oil from the sands by in situ methods, or whether that right belongs to the oil and gas lessee, who traditionally has had the right to introduce pressure maintenance, fire flooding, and other methods of increasing recovery from an oil well.

In 1966, in answer to my request, the Department of Interior rendered an opinion that the bituminous sands lessee could develop a deposit by in situ methods. However, because of the possible legal complications arising from this problem, the Department of Interior ceased issuing bituminous sands leases. I ask unanimous consent to have printed at this point in the RECORD a letter from the Oil Development Co. of Utah describing the difficulty of obtaining of a tar sands project.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OIL DEVELOPMENT CO. OF UTAH,
Washington, D.C., December 19, 1974.

Hon. FRANK MOSS,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: I wish to thank you for your efforts on behalf of my company and our proposed thermal oil project, Gordon Flats, Wayne County, Utah. With the current interest on improving the national energy output, I thought your letter of October 29, 1974, to Secretary of the Interior Morton would provide a positive reaction from the Department and allow us to receive the approval needed to start the subject project, but apparently no reply means that the government machine is not working on such a small matter. As you know, the Triangle Area has been given more than a billion barrels in reserves, and we expect to recover several hundred million barrels from the Unit Area alone. Whatever has caused the delay, it is untimely with this increased demand for energy, and disturbing that a private company cannot proceed in oil development on public lands; lands that are continuing to require Federal lease rental payments and are faced with advancing expiration dates. It is unfortunate that we have reached this point on such an extensive heavy oil reserve, ". . . one of the largest remaining unexploited hydrocarbon energy resources in the United States. This triangle is included in the Glen Canyon Recreation Area; rather than in Canyonlands National Park so the multiple-use principle can apply in this case and encouragement can be given to private firms endeavoring to develop this promising resource." It is a shame that your interest cannot be carried through to completion in light of my company's desire to develop these resources and our country's need to build a secure energy base.

The attached timetable indicates what we have been through in trying to get the project approved and what we are facing all over again at the Washington level. I can understand the need to protect the Department of the Interior from law suits, but at this rate the needed energy resource will never come on stream or if it does, it will be so far in the future that current leaseholders will have lost out because of expiring leases. If this is the eventual outcome it is not fair to those companies who have invested in Federal leases and have been waiting for the price of oil to increase where an economic project can be developed. This level was reached almost a year ago, but we have been blocked by other factors thus preventing the return on our investment.

The investment for Oil Development Company of Utah to date on the Gordon Flats project is approximately $250,000 in lease acquisition and core drilling, with another $225,000 committed for equipment to drill and operate the project over its pilot life. In addition to this amount, we are faced with approximately $23,000 per year on lease rentals on land we cannot even receive an approval to operate. Once the project is approved, we are prepared to spend approximately $1,000,000 to drill and operate the pilot project just to prove the technique of fireflooding in these heavy oil sands.

With a successful pilot we are prepared to spend many times this amount for the total development in the Unit Area. This development could bring some 7,000 to 10,000 barrels a day into the energy system and ultimately provide several hundred million barrels to the national supply. I would say that this planned investment indicates our desire to develop the heavy oil reserves in the right way, but unfortunately the Department of the Interior may never allow us to do so because of their indecision on this matter.

The company has done everything possible in trying to work this project through the Federal System. We have worked closely with all the USGS Field Offices reporting to Denver and have followed their recommendations to Washington. Upon reaching the Washington level, we held meetings with the USGS at Reston to review the project and try to again expedite their decision for any early start of the project.

At this point it appears that the whole project is to be restudied as there are three issues which seem to be blocking the forward motion: 1) the extention of Federal leases in light of the long delay that has been created by the government; 2) the Solicitors Office has the opinion that comment made in the Trans Delta case also indicates a suspension of all oil and gas activities in the Glen Canyon Recreational Area until the completion of a master plan being prepared by the National Park Service; 3) the controversy has again arose as to whether the deposit is tar or heavy oil and therefore can the project be operated under a conventional oil and gas lease. The USGS at Denver has made a decision that we can go ahead with the project as the oil is mobil and therefore producible as a heavy oil. This apparently did not satisfy the Reston office and we have again submitted proof of oil mobility in place.

We held another meeting with the USGS in November to obtain some form of timetable on their decision. No date was given as they are concerned that this is not their decision to make but that the Department of Interior should make a policy decision on the matter. In talking with Deputy Under Secretary of the Interior Lyons, he feels that the Department should not make the decision but the USGS should, and the Secretary then approve it. At this point we have both sides indicating the other should make the decision, and consequently neither one is. We were advised that our next step should be to write a letter to the Secretary of the Interior and request a meeting at that level, which will hopefully bring about a decision and an early startup of the Gordon Flats heavy oil project.

As a matter of interest, I would like to point out the state of confusion our energy picture is in. I have gone at great length here to indicate the position we have reached with the Interior Department. Yet, on the other hand the Bureau of Mines has developed a new program to supply funds for various R&D efforts to increase the nation's oil production. One of these proposals, to cover an in situ recovery project in Utah heavy oil sands, is due in early January, and if approved the Bureau of Mines would support our project by as much as 40% of the total cost. The ironic point to be made here is that the project must be totally approved before we can receive funds from the Bureau of Mines. We have pointed this problem out to both agencies and received only sympathy and comments from the Mines that they hope we can have our project approved by the time their contracts are issued.

Thank you again for your help on this project and I am sure we will be calling on you for more support in the near future, as I cannot see early approval of a project on Federal lands in Utah.

Yours very truly,

CARL J. BERRY,
Assistant Vice President.

Mr. MOSS. Mr. President, I introduced legislation in the 90th Congress, and in each succeeding Congress, to remove the legal uncertainties which have prevented tar sands development. The bill I am introducing today grows out of those measures, and embodies an approach consistent with the findings of the Public Land Law Review Commission.

Development of U.S. tar sands and the questions surrounding such development received some attention in the 93d Congress. I ask unanimous consent to have printed at this point in the RECORD portions of "Report on Development of the U.S. Tar Sands," prepared by Paul F. Rothberg, a science and technology analyst with the Congressional Research Service.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM REPORT ON DEVELOPMENT OF THE U.S. TAR SANDS

VI. TAR SANDS DEVELOPMENT ON FEDERAL LANDS

Considerable attention in the 93d Congress has focused on minerals development on federal lands. Increasingly, Members of Congress are becoming aware that the United States has large quantities of mineral resources on federally-owned lands which can be used as needed energy materials. For example, 50 percent of our total known coal reserves are on Federal lands, as are 72 percent of the Nation's oil shale reserves, and 56 percent of known geothermal areas. Over 60% of the tar sands deposits are largely on federally-owned lands. The Tar Sand Triangle and Circle Cliffs, giant sand deposits in Utah, are federally-owned.

The Subcommittee on Minerals, Materials, and Fuels of the Senate Committee on Interior and Insular Affairs has examined a variety of legislative proposals designed to change existing laws related to development of minerals on Federal lands. Congressional responsibility for minerals development and the importance of the Subcommittee's hearings were summarized by Senator Lee Metcalf when he stated:

"Public land mineral development must take place within the context of the wide variety of demands being made on Federal lands. This requires accommodations among conflicting uses. We need to be sure that our policies and procedures assure that mineral development is as compatible as possible with other uses and values of Federal lands.

"Under our Constitution the Congress has a special responsibility for the Federal lands. Congress must establish policies and standards to assure that mineral resource development on Federal lands is consistent with the basic policy that the Federal lands are vital national resource reserves held in trust by the Federal Government for all the people." [1]

During these hearings the legislative agenda considered by the Subcommittee consisted of three principal bills:

1. S. 1040, the Mineral Leasing Act of 1973 which is the Administration's proposal to repeal the Mining Law of 1872, the Mineral Leasing Act of 1920, the Materials Act of 1955, and other stautes, and substitute for them a single leasing system for federally-owned minerals on all Federal lands;
2. S. 3085, the Hardrock Mineral Development Act of 1974, which would repeal the 1872 Mining Law and establish a leasing system for hardrock minerals; and
3. S. 3086, the Minerals Development Act of 1974, which was drafted by the American Mining Congress.

The first of these bills has special bearing on development of the federally-owned tar sands deposits. For this legislation defines the term "oil and gas" to mean all hydrocarbon substances except coal or oil shale. Under this definition no distinction is drawn between conventional oil and oil extracted from tar sands. Accordingly, legal problems resulting from issuance of two leases—one for oil from tar sands and another for conventional oil—issued on the same tract of land would not occur, because only a single "oil and gas" lease need be issued for all hydrocarbon substances except coal or oil shale. Such a leasing policy would be similar to the existing policy in Utah.

Institution of a leasing policy which would define oil from tar sands under an "umbrella" definition of all hydrocarbon substances except coal and oil shale would allow for legal ownership of tar sands oil produced with *in situ* techniques, and thus would remove a major roadblock to development of the federally-owned tar sands deposits.

VII. TAR SANDS DEVELOPMENT AND SETTING NATIONAL PRIORITIES

Over the next ten years, the impacts of the energy crisis, initially experienced from late 1973 to early 1974, will probably be reflected in the national budget. Increased allocations to achieve the goals of Project Independence will be required for energy technologies, energy conservation, and possibly a variety of governmental incentives to stimulate production of new energy at coal gasification and liquefaction plants and at oil shale processing sites.

Any new program requiring expenditures of public funds must be considered within the framework of existing constraints on the budget. For example, allocation of funds for research and development of new sources of energy might affect financial resources available for national health or educational programs. Accordingly, decisions on federal research and development and leasing of tar sands in the United States become more complicated and require evaluations related to other national objectives and to alternative sources of energy. Questions which are raised include:

1. What priority should development of the U.S. tar sands resources receive?
2. In the realm of international diplomacy, what level of influence, if any, should the United States exert on foreign countries to develop their tar sands resources?
3. What role or strategy should the Department of the Interior assume in the development of tar sands processing technologies?
4. What should be the distribution of costs and benefits with respect to development of the federally-owned tar sands deposits?
5. Should private industry or should an agency of the Federal Government develop the federally-owned tar sands?

The answer to these policy questions are not easily obtained. Environmental issues, policy decisions, and energy needs must be considered. Effects on local and state governments must be evaluated. International ramifications must be reviewed, especially the possible transfer of technology to assist Canadians in development of their huge Alberta tar sands deposits. [Should successful *in situ* processes for tar sands be demonstrated, the Canadians may be more willing to expedite development of their tar sands resources.]

In their study, Setting National Priorities: the 1974 Budget, Fried, Rivilin, Schultze and Teeters have defined some of the problems involved in the allocation of resources to meet national priorities; they maintain that:

"These choices interact and influence each other. How much is devoted to any governmental program is influenced by judgments about how large total government expenditures should be, which in turn are influenced by the urgency of the problems with which governmental programs deal. Questions of distribution affect the allocation of budgetary resources among roles or strategies, and vice versa." [2]

With respect to research and development programs for tar sands, allocations for utilization of this resource cannot be made without consideration of a multitude of associated factors. Perhaps, policy makers in the executive branch and in the Congress will decide current programs to stimulate exploitation of tar sands are adequate.

VII. LEGISLATIVE ASPECTS OF TAR SANDS DEVELOPMENT

If the Congress decides that legislative actions are necessary to stimulate directly or indirectly development of the federally-owned tar sands deposits, possible considerations might include:

1. A clearly defined national policy for tar sands development which contains a workable leasing policy for the federally-owned tar sands deposits;
2. Tax policies to expedite development of this alternative energy resource;
3. Increased allocations for research and development related to tar sands processing; and
4. Increased allocations to obtain needed geological information on the U.S. tar sands resource base.

Because of the known and unknown consequences of tar sands processing, congressional actions seeking to stimulate development of tar sands will have to be balanced by cautious concern for the environmental integrity of the tar sands lands.

With respect to either administrative or congressional actions, the establishment of a workable tar sands leasing policy may prove to be the optimum means of expediting the development of the federally-owned tar sands deposits. This could be accomplished by the Congress with passage of a bill similar to H.R. 16201 or S. 3375 or by a broad legislative concept as outlined in S. 1040. Alternatively, there is the possibility that the Department of the Interior could issue new regulations which specifically addressed the problems of *in situ* processing of tar sands. These regulations would provide that if a developer uses *in situ* means to extract oil from the ground, he is entitled to the legal ownership of any hydrocarbon material regardless whether it is tar sands oil or conventional oil. Whether or not it is possible for the Department of the Interior to remove all legal problems associated with leasing of federally-owned tar sands would have to be explored.

Mr. MOSS. Mr. President, there is no excuse for further delay in the development of this resource. I urge the Senate to act swiftly on my proposal.

By Mr. McCLELLAN (for himself and Mr. HUGH SCOTT):

S. 31. A bill to amend the act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes. Referred to the Committee on the Judiciary.

UNFAIR COMPETITION ACT OF 1975

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks and Copyrights, I introduce, for appropriate reference, on behalf of myself and Mr. SCOTT of Pennsylvania, a bill to amend the act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes. This legislation is known as the proposed Unfair Competition Act of 1975.

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[1] U.S. Congress. Senate. Committee on Interior and Insular Affairs. Subcommittee on Minerals, Materials, and Fuels. Hearings on Mineral Development on Federal Lands. 93d Congress. Second Session, (Washington, U.S. Govt. Print. Off.), 1974. p. 1.

[2] E. R. Fried, A. M. Rivlin, C. L. Schultze, and N. H. Teeters. Setting National Priorities: The 1974 Budget, Brookings Institution. Washington, D.C. 1973, p. 4.

The bill would establish a uniform body of Federal unfair competition law by creating a Federal statutory tort of unfair competition affecting interstate commerce, and by establishing Federal jurisdiction over such tort claims within the framework of the Trademark Act of 1964 The crux of the bill proposes a new section 43(a) of the Trademark Act including in three subsections those torts generally acknowledged to give rise to the major part of the law of unfair competition. In a fourth subsection, provision is made for the Federal courts to deal with other acts which constitute unfair competition because of misrepresentation or misappropriation of goods or services.

The bill provides that all of the remedies set forth in the Trademark Act for infringement of trademarks would be available in respect to acts of unfair competition. However, the bill would not affect remedies which are otherwise unavailable or preempt the jurisdiction of any State in cases of unfair competition.

Other than a technical amendment, this legislation is identical to S. 1362 of the 93d Congress.

By Mr. KENNEDY (for himself Mr. MAGNUSON, Mr. MOSS, Mr. TUNNEY, Mr. BENTSEN, Mr. BROOKE, Mr. CANNON, Mr. CASE, Mr. CRANSTON, Mr. CULVER, Mr. PHILIP A. HART, Mr. HATFIELD, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. JOHNSTON, Mr. LEAHY, Mr. MANSFIELD, Mr. MCGEE, Mr. MCGOVERN, Mr. MONDALE, Mr. MONTOYA, Mr. PELL, Mr. RANDOLPH, Mr. SPARKMAN, Mr STAFFORD, Mr. WEICKER, and Mr. WILLIAMS):

S. 32. A bill to establish a framework for the formulation of national policy and priorities for science and technology, and for other purposes. Referred, by unanimous consent, jointly to the Committees on Labor and Public Welfare; Aeronautical and Space Sciences; and Commerce.

Mr. KENNEDY. Mr. President, the National Policy and Priorities for Science and Technology Act of 1975, which I am introducing today, is designed to meet this Nation's need for cohesive national policies for science and technology. Our experience in recent years, during which planning for the future in this critical area has too often been set aside, has resulted in a situation in which the United States has shortchanged its resources for science and technology, while the problems to which those resources must be applied have multiplied by leaps and bounds.

The abolition of the White House Office of Science and Technology left a void in science policy formulation which has not yet been filled. I know that the Director of the National Science Foundation, who also serves as science adviser to the executive branch, has done his best to fill the gap. But the consensus of informed opinion in the scientific community is that it is not possible for the heat of one Government agency to discharge the coordinating, and oversight role over other agencies which a White House office could accomplish. Similarly we do not have strong science and technology programs at the State, regional, and local levels, where the real problems of our citizens must be confronted and solved.

The National Science Foundation has been trying to make a contribution in these areas in recent years, with the encouragement of the Special Subcommittee on the National Science Foundation which I chair. In short, although the NSF has tried to do the job, with its limited resources and leverage, the time has now come for Congress to enact legislation which can provide the Nation with the institutions needed to formulate effective national policy and priorities for science and technology.

The importance of this issue was recognized by the Senate during the 93d Congress. S. 32, which I introduced in 1973, was unanimously approved by the Senate last October. Three committees of the Senate, the Committee on Labor and Public Welfare, the Committee on Commerce, and the Committee on Aeronautical and Space Sciences considered its provisions. During extensive hearings it was demonstrated clearly that providing the President and the Congress with the best possible scientific and technological advice at the highest levels of Government was of priority importance. Unfortunately, the House of Representatives was unable to complete its own consideration of this issue prior to adjournment.

Therefore, Mr. President, at a time when our Nation is facing critical problems of inflation, unemployment, environmental degradation, resource depletion, and food shortfalls, I am reintroducing the National Policy and Priorities for Science and Technology Act, together with Senators MAGNUSON, MOSS, TUNNEY, and 24 other cosponsors. The provisions of the bill will give the Nation an effective framework for the establishment of national policy and priorities for science and technology, so that the Nation's scientific and technical manpower and resources can be applied to the solution of the Nation's problems. The policy provisions of the bill, and the institutional mechanisms to carry out that policy, will significantly improve this Nation's ability to cope with its massive problems in an age of technology.

Witness after witness during hearings on this legislation last year, testified to the need for new mechanisms to bring the best possible scientific and technical advice to the highest levels of our Government. This is not now the case, and we find that important decisions are too often being made without consideration of these critical components. We also need to maintain an environment hospitable to creative scientific work, and to encourage the advancement of science technology. Moreover, we need creative institutional innovations, both in the public and private sector, to manage and encourage our scientific and technological enterprise.

Mr. President, I also want to take note of recent indications that the administration is also concerned about the problems which this bill is designed to remedy. One of the first assignments which President Ford gave to Vice President ROCKEFELLER was to look into the adequacy of the present science advisory mechanism within the executive branch and to report back to him on how that mechanism could be improved. I have contacted the Vice President to indicate to him our willingness to work together on this issue, an effort which I hope will result in priority consideration by both the administration and the Congress of an issue which is of the utmost importance to the well-being of our citizens today and for generations to come.

Mr. President, I ask unanimous consent that the legislation I have introduced today be jointly referred to the Senate Committee on Labor and Public Welfare, the Senate Committee on Commerce, and the Senate Committee on Aeronautical and Space Sciences. I also ask unanimous consent that the attached newspaper article, a summary of the provisions of the National Policy and Priorities for Science and Technology Act of 1975, and the full text of the bill appear at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From The New York Times, Oct. 11, 1974]

CALLING ALL SCIENTISTS

(By James Reston)

WASHINGTON.—If ever there was a time when the President of the United States needed the help of the best objective scientific minds to help him grapple with the problems of food, fuel, transportation, housing and many other things, it is now; but he is a little short-handed.

Early in 1973, President Nixon abolished the post of Presidential science adviser at the White House, and disbanded the Government's Office of Science and Technology. It was decided then that men like James Killian and Jerry Wiesner of the Massachusetts Institute of Technology, who had helped guide the country through the mysteries of nuclear energy and space, among many other things, were no longer essential on the White House staff.

Roy L. Ash, director of the Office of Management and Budget, explained the reasons. During the Eisenhower Administration, he said, when the Russians pushed ahead into space with their Sputnik, "there was a need to bring science right to the top of the White House."

But after that, he added, science and scientific points of view were represented throughout the Government, so "there isn't a need to bring the scientific point of view directly into the President's office. It gets there every day."

Well, maybe so. There is, however, another view that Mr. Nixon didn't like the advice he was getting from the scientists about some of his programs, like the development of the supersonic planes, and the dangers of modern technology on the environment of the human race. And there was another conflict. Mr. Nixon sensed, quite accurately, that his official scientists were not very enthusiastic about his chances of winning the Vietnam war. They were not part of "the Nixon team," but had become sort of a "special interest" group or scientific lobby within the White House family, with strong political views hostile to his own.

Maybe he was right about this and maybe

he was wrong, but the fact is that he wiped them out, and transferred the responsibility for scientific advice to the director of the National Science Foundation, H. Guyford Stever, an able and talented man, who is not at the center of policy-making at a time when science is central to the problem of the nation's and the world's problems.

Roy Ash is probably right that "science and scientific points of view are now represented throughout the Government," but he is probably wrong in thinking that their information about present problems and their suggestions about what might be done about increasing the food and the fuel of the world get to the White House "every day" or even on time to influence President Ford's decisions.

The truth is, as Roy Ash indicated, that the Federal Government has a remarkable reservoir of scientific knowledge in Washington, scattered through the departments and agencies—on atomic and solar energy, on increasing the production of food by seeding and desalting the waters of the world, on geologic surveys of new sources of petroleum—one of which is now coming to the fore in Mexico—but all of this information is dispersed in the departments of the Government and in the universities and laboratories of America.

It is not brought together, with all its potentialities for the future, and put before the President as a vision of the possible and the basis of his policies, which is too bad, because we now have a President who is listening.

It is fortunate, and accidental, that Nelson Rockefeller, Mr. Ford's nominee for Vice President, has spent the last few months presiding over a study of the "critical choices" before America—many of them on precisely this question about what science can contribute to the solution of our national and world problems.

One of the studies in the Rockefeller analysis, for example, has to do with the role of scientific research and development on the world's economic problems. It indicates that a bold investment of $40 billion in fertilizer plants could produce within a few years enough additional food to maintain many millions of the world's increasing population.

George Woods, former head of the World Bank, is working on a plan to bring the Arabs—the new capitalists of the world—the United Nations, and the banking and technological skills of the Western world together to build and distribute this new fertilizer capacity.

Likewise, Rockefeller money and other foundation money is going to exploit new and cheaper means of producing essential raw materials to manufacture aluminum, to find food in the seas, to restore the ancient granaries of the Middle East, and to find new and cheaper engines of transportation.

For the moment, the pessimism and shortages of the world are dominating the possibilities and dampening the natural optimism of America, and this is the frustration of the scientists in Washington, in the universities, and in the laboratories.

They are dispersed and many of them feel abandoned. They are a great natural resource of America, and know much about the unused resources of the world. But they have to be given a chance to help the nation, and only the President can call them all back together.

[From the Washington Post, Dec. 28, 1974]

Ford Is Urged To Form Unit on Science

(By Victor Cohn)

Charging that President Ford is not getting the best scientific advice on crises of the economy, energy environment, food and weapons, the Federation of American Scientists urged him yesterday to create a new White House Council on Science and Technology.

"The United States is entering a time more critical than any since World War II" because of such problems, and lack of scientific and technological input is "standing in the way" of solutions, said Dr. Philip Morrison, federation president.

The 6,500-member federation thus joined in a growing outpouring of calls for such a White House body—a three-member, presidentially appointed advisory group like the Council of Economic Advisers and the Council on Environmental Quality.

Other such recommendations have come recently from the National Academy of Sciences, a committee of Scientific Society Presidents (32 officials assembled by Dr. Alan Nixon of the American Chemical Society) and a similar Association for Cooperation in Engineering.

The Senate this year passed a bill proposed by Sen. Edward M. Kennedy (D-Mass.) to create such a council, and some House members have predicted that the House will consider such a bill next session.

President Ford Saturday asked Vice President Rockefeller to study whether or not the position of White House science adviser should be reinstituted.

Such a post—with a White House Office of Science and Technology (OST) and a President's Science Advisory Committee—was created in the wake of Sputnik, Russia's first space satellite. They advised Presidents Eisenhower, Kennedy, Johnson and, for a time, Nixon.

Some of the advice became unpopular, like recommendations against the anti-ballistic missile and supersonic transport. Presidents Johnson and Nixon soured on the entire apparatus and largely ignored OST and advisory committee warnings of environmental energy and food crisis.

Two years ago Nixon abolished the entire White House science structure. He gave its duties to National Science Foundation, a small federal agency until then mainly concerned with supporting basic science.

Then, under criticism, he named Dr. H. Guyford Stever, the foundation's head, his science adviser, but told Stever to report to Nixon's subordinates.

What this has meant, charged the scientists' federation, is that "we are not heard."

For example, said federation director Jeremy Stone, scientists' former role in commenting on defense has been given the National Security Council, "so there is no way to tell the President about military boondoggles, which always exist."

Stone said a mail poll of 100,000 scientists yielded a "large, for direct mail", response of 798 favoring a new White House advisory council, 732 favoring a body working with the Office of Management and Budget, and 640 a Cabinet-level science department.

But both the federation's governing council and its 60 sponsors, including half the nation's Nobel Prize-winners in science, overwhelmingly favored the council idea. The federation fears, said Stone, that the President may merely give science a "public relations role" by naming a scientific council to OMB.

If he does something like this, the federation said, "his decision will be widely denounced by scientific groups, and his standing with scientists will never recover."

Stone also criticized Stever for "betraying" scientists' "virtually unanimous" desires by his own "totally unwarranted" neutrality before Mr. Ford on the science advice issue.

Stever told a reporter that he too has urged the President "to strengthen science in his administration," including "some national defense matters on why science should be heard," but only a President can decide how or whether he wants new advice.

Fact Sheet: S. 32, National Policy and Priorities for Science and Technology Act of 1975

GENERAL

This Act establishes a framework for the formulation of national policy and priorities for science and technology.

DECLARATION OF POLICY

This Act establishes as national policy that: (1) there must be a continuing Federal investment in science and technology which is annually set as to overall level and allocation among priority areas; (2) scientists, engineers, and technicians must have continuing opportunities for socially useful employment in positions commensurate with their professional, technical capabilities; and (3) national capabilities for technological planning and policy formulation must be strengthened.

COUNCIL OF ADVISERS ON SCIENCE AND TECHNOLOGY

A White House Council of Advisers on Science and Technology is established to advise the President with respect to Federal policies, plans, and programs in science and technology. The Council will annually make recommendations to the President and Congress regarding the level of Federal investment in science and technology and the priorities for allocating that investment among major program areas.

COMPREHENSIVE STUDY OF FEDERAL ORGANIZATION FOR SCIENCE AND TECHNOLOGY

The Council will contract with the National Academy of Sciences for a comprehensive, eighteen-month study of the Federal organization for civilian science and technology. The study will take account of the impact of Federal science and technology programs on the economy, the environment, and individuals and groups that may be affected by such programs, as well as on the Nation's strength in science and technology and its application to the resolution of our social problems.

FEDERAL COORDINATING COMMITTEE FOR SCIENCE AND TECHNOLOGY

This Act redesignates the Federal Council for Science and Technology as the Federal Coordinating Committee for Science and Technology, and gives it the statutory authority to coodinate Federal plans and programs in science and technology. The Chairman of the Council is designated as Chairman of this Committee.

NATIONAL SCIENCE FOUNDATION

The National Science Foundation Act is amended to: (1) require that the Foundation aid in the development of national policies to foster the application of scientific and technical knowledge to the solution of national problems; and (2) clarify the policy-making role of the National Science Board and broaden the membership of the National Science Board to emphasize more industrial, technical, and public membership. The Foundation is authorized to provide information and assistance to the Council. The Foundation is also required to develop an educational program of continuing education in science and engineering to enable scientists and engineers to render more valuable contributions to the Nation. The program will include the development of special curriculums and educational techniques, as well as the award of fellowships.

STATE AND REGIONAL SCIENCE AND TECHNOLOGY PROGRAMS

This Act establishes an Intergovernmental Science and Technology Advisory Committee to advise the Foundation and the States on the application of science and technology throughout the Nation. The Foundation will make grants of up to $100,000 to any State to enable it to establish a State Office of Science and Technology.

APPROPRIATIONS

This Act authorizes $8 million in fiscal year 1976 and $14 million in fiscal year 1977. In FY 1975, $2.5 million is for the Council, $1.5 million for the Academy study, $1.5 million for Continuing Education, and $2.5 million for the State Science Program. In FY 1977, $5 million is for the Council, $3.5 million for Continuing Education, and $5.5 million for the State Science Program.

S. 32

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Policy and Priorities for Science and Technology Act of 1975".

STATEMENT OF FINDINGS AND DECLARATION OF POLICY

SEC. 2. (2) The Congress, recognizing the profound impact of science and technology on society, and the interrelations of scientific, technological, economic, social, political, and institutional factors, hereby finds that—

(1) Federal funding for science and technology represents an investment in the future, which is indispensable to sustained national progress;

(2) the manpower pool of scientists and engineers constitutes an invaluable national resource which should be utilized to the maximum extent possible at all times;

(3) the scientific and technological capabilities within the United States, if properly applied and directed, could effectively assist in improving the quality of life and in anticipating and resolving many critical and emerging national problems;

(4) strong participation by State and local governments is essential to the successful solution of many civilian problems, and in developing programs for the application of science and technology to civilian needs and to setting civilian research and development activities priorities;

(5) the maintenance and strengthening of diversified scientific and technological capabilities in government, industry and the universities, and the encouragement of independent initiatives based on such capabilities, are essential to the most effective use of science and technology in resolving critical and emerging national problems;

(6) a more systematic approach is needed to identify critical and emerging national problems and to analyze, plan, and coordinate Federal science and technology programs, policies, and activities intended to contribute to the resolution of such problems; and

(7) the effectiveness of scientific and technological contributions to improvements in the quality of life and the resolution of critical and emerging national problems depends on the maintenance of a strong base of knowledge in science and advanced technology together with a resource of highly qualified scientists and engineers.

(b) The Congress declares that it is the continuing policy and responsibility of the Federal Government to take appropriate measures directed toward achieving the following goals—

(1) there must be a continuing Federal investment in science and technology adequate to the needs of the Nation;

(2) the level of this investment must be adjusted annually with regard to particular needs and opportunities and the prevalent economic situation;

(3) the Federal investment in science and technology must be allocated annually among the priority needs of the Nation, including the need to maintain the Nation's strength in basic research and education in science and engineering;

(4) scientists, engineers, and technicians must have continuing opportunities for socially useful employment in positions commensurate with their professional, technical capabilities; and

(5) the National capabilities for technological planning and policy formulation must be strengthened.

(c) Therefore, it is declared to be the purpose of this Act to promote the effective application of science and technology to the furtherance of national goals by—

(1) establishing a Council of Advisers on Science and Technology in the Executive Office of the President to provide a source of scientific and technological analysis and judgment to the President;

(2) establishing an Intergovernmental Science and Technology Advisory Committee to foster the application of science and technology to State and regional needs;

(3) establishing an Interagency Federal Coordinating Committee on Science and Technology to coordinate agency research and development efforts; and

(4) having the President submit an annual Science and Technology Report to the Congress.

TITLE I—COUNCIL OF ADVISERS ON SCIENCE AND TECHNOLOGY

ESTABLISHMENT OF COUNCIL

SEC. 101. (a) There is established in the Executive Office of the President a Council of Advisers on Science and Technology (hereinafter referred to as the "Council"). The Council shall be composed of three Members who shall be appointed by the President, by and with the advice and consent of the Senate from among individuals who, by reason of their training, experience, and attainments, are exceptionally qualified to analyze and interpret scientific and technological developments; to appraise and recommend programs, policies, and activities of the Federal Government in the light of the policy declared in section 2; and are sensitive to the economic, social, esthetic, and cultural needs and interests of the Nation.

(b) The President shall designate one of the members of the Council as Chairman and one as Vice Chairman, who shall act as Chairman in the absence of the Chairman.

(c) Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule (5. U.S.C. 5315).

(d) The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(e) The Council shall have the authority, within the limits of available appropriations, to enter into contracts or other arrangements for the carrying out by organizations or individuals, including other Government agencies, of such activities as the Council deems necessary to carry out the purposes of this Act.

FEDERAL INVESTMENT IN SCIENCE AND TECHNOLOGY

SEC. 102. (a) The Council shall annually appraise progress in science and technology in relation to the needs of the Nation and, taking account of the state of the economy through consultation with the Council of Economic Advisers, shall determine the desired level of Federal investment in science and technology for the fiscal year immediately following the fiscal year in which such determination is made.

(b) On the basis of such determination, the Council shall make appropriate recommendations to the President and the Congress regarding the desired level of Federal investment in science and technology for the fiscal year immediately following the fiscal year in which such recommendations are made.

SCIENCE AND TECHNOLOGY PRIORITIES

SEC. 103. (a) The Council shall annually assess alternative uses of Federal funds for science and technology in relation to scientific and technical opportunities and national needs, and on the basis thereof shall determine a set of priorities for allocating Federal funds among major expenditure areas in science and technology, which pertain to the fiscal year immediately following the fiscal year in which such determination is made.

(b) On the basis of such determination, the Council shall make appropriate recommendations to the President and the Congress regarding such priorities.

SCIENCE AND TECHNOLOGY POLICY ANALYSIS AND PLANNING

SEC. 104. (a) The Council shall serve as a source of scientific and technological analysis and judgment for the President with respect to major policies, plans, and programs of science and technology of the Federal Government. In carrying out this function, the Council shall—

(1) seek to define a coherent approach for applying science and technology to critical and emerging national problems and for coordinating the scientific and technological responsibilities and programs of the Federal departments and agencies in the resolution of such problems;

(2) assist and advise the President in the preparation of the Science and Technology Report, in accordance with section 108 of this title;

(3) gather timely and authoritative information concerning significant developments and trends in science, technology, and in national priorities, both current and prospective, to analyze and interpret such information for the purpose of determining whether such developments and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in section 2 of this Act;

(4) initiate studies and analyses, including systems analyses and technology assessments of alternatives available for the resolution of critical and emerging national problems amenable to the contributions of science and technology and, insofar as possible, determine and compare probable costs, benefits, and impacts of these alternatives;

(5) review and appraise the various programs, policies, and activities of the Federal Government in the light of the policy set forth in section 2 of this Act for the purpose of determining the extent to which such programs, policies, and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(6) report at least once each year to the President on the overall activities and accomplishments of the Council, pursuant to section 108 of this title; and

(7) perform other duties and functions and make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

FUNCTIONS OF THE CHAIRMAN

SEC. 105. The Chairman of the Council shall, in addition to the other duties and functions set forth in this title—

(1) serve as the Science and Technology Adviser to the President;

(2) serve as Chairman of the Federal Coordinating Committee for Science and Technology established under title II of this Act;

(3) appoint, assign the duties, and fix the compensation of personnel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the

provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, at rates not in excess of the rate prescribed for GS-18 of the General Schedule under section 5332 of such title; and

(4) perform such other duties and functions as the President may request.

COORDINATION WITH OTHER ORGANIZATIONS

SEC. 106. (a) In exercising its powers, functions, and duties under this title, the Council shall—

(1) work in close consultation and cooperation with the heads of the Federal departments and agencies;

(2) utilize the services of consultants, establish such advisory committees, and, to the extent practicable, consult with the State and local governmental agencies, with appropriate professional groups, and with such representatives of industry, the universities, agriculture, labor consumers, conservation organizations, and other groups, organizations and individuals as it may deem advisable;

(3) hold such hearings in various parts of the Nation as the Council deems necessary, to determine the views of such agencies, groups, and organizations referred to in paragraph (2) of this subsection and of the general public, concerning trends in science and technology; and

(4) utilize to the fullest extent possible the existing services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including any independent agency, is authorized to furnish the Council such information as the Council deems necessary to carry out its function under this title.

(c) Upon request, the Administrator of the National Aeronautics and Space Administration is authorized to assist the Council with respect to carrying out its activities conducted under paragraph (4) of subsection 104(a) of this title.

STUDY OF FEDERAL ORGANIZATION FOR SCIENCE AND TECHNOLOGY

SEC. 157. (a) Not later than ninety days following appointment of the Council members, the Council shall contract with the National Academy of Sciences to conduct a study in order to recommend improvements in the Federal organization for civilian science and technology.

(b) Such contract shall contain provisions to assure that the study takes adequate account of the impact of Federal scientific and technical programs on—

(1) the generation of scientific and technical knowledge;

(2) the utilization of such knowledge in dealing with economic and social problems and opportunities;

(3) the utilization and enhancement of the Nation's scientific and technical manpower and resources;

(4) the strength of the economy, both domestically and internationally;

(5) the quality of the environment; and

(6) the interests of individuals and groups that may be affected by Federal scientific and technical programs.

(c) The study shall include, without being limited to—

(1) examination and appraisal of the existing Federal organization for civilian science and technology;

(2) consideration of possible improvements in such organization; and

(3) consideration of the establishment of such new departments, agencies, offices, or other organizations as may serve to strengthen the Nation's scientific and technical enterprise and increase the effectiveness of its applications to the solution of national problems.

(d) In conducting its study, the Academy shall make maximum feasible use of related investigations and studies conducted by public and private agencies, including congressional hearings and reports.

(e) The Academy shall transmit to the Council not later than eighteen months after the starting date of the contract, a final report, containing detailed statements of the findings and conclusions of the Academy, together with its recommendations for improvements in the Federal organization for civilian science and technology.

SCIENCE AND TECHNOLOGY REPORT

SEC. 108. (a) The President shall transmit annually to the Congress, beginning October 15, 1976, a Science and Technology Report (hereinafter referred to as the "Report") which shall set forth—

(1) a review of developments of national significance in science and technology, including, but not limited to, the mathematical, physical, social, and life sciences, and civil, chemical, electrical, and mechanical engineering, and other technologies;

(2) the significant effects of current and foreseeable trends in science and technology on the social, economic, and other requirements of the Nation;

(3) a review and appraisal of selected science and technology-related programs, policies, and activities of the Federal Government;

(4) an inventory and projection of critical and emerging national problems the resolution of which might be substantially assisted by the application of science and technology;

(5) the identification and assessment of scientific and technological measures that can contribute to the resolution of such problems, in light of the related social, economic, political, and institutional considerations;

(6) the existing and projected scientific and technological resources, including specialized manpower, that could contribute to the resolution of such problems;

(7) recommendations for legislation on science and technology-related programs and policies that will contribute to the resolution of such problems,

(8) recommendations with regard to Federal investment level and priorities in science and technology, as made by the Council pursuant to sections 102 and 103 of this title.

(b) The Council shall insure that the report is printed and made available as a public document.

(c) If the recommendations in the report regarding Federal investment level and priorities in science and technology are substantially different from those submitted by the Council to the President, then the report shall include an appendix containing the original recommendations of the Council to the President, along with the Council's supporting justification and the reasons why the President did not accept the recommendations as submitted.

TITLE II—FEDERAL COORDINATING COMMITTEE FOR SCIENCE AND TECHNOLOGY

ESTABLISHMENT AND FUNCTIONS OF FEDERAL COORDINATING COMMITTEE FOR SCIENCE AND TECHNOLOGY

SEC. 201. (a) There is established the Federal Coordinating Committee for Science and Technology (hereinafter referred to as the "Committee").

(b) The Committee shall be composed of the Chairman of the Council of Advisers on Science and Technology and one representative of each of the following: Department of Agriculture, Department of Commerce, Department of Defense, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of State, Department of Transportation, Veterans Administration, Atomic Energy Commission, National Aeronautics and Space Administration, National Science Foundation, Environmental Protection Agency, and Energy Research and Development Agency. Each such representative shall be an official of policy rank designated by the head of the Federal agency concerned.

(c) The Chairman of the Council of Advisers on Science and Technology shall serve as Chairman of the Committee. The Chairman may make provision for another member of the Council, to act temporarily as Chairman of the Committee.

(d) The Chairman (1) may request the head of any Federal agency not named in subsection (b) of this section to designate a representative to participate in meetings or parts of meetings of the Committee concerned with matters of substantial interest to such agency, and (2) may invite other persons to attend meetings of the Committee.

(e) The Committee shall consider problems and developments in the fields of science and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures—

(1) to provide more effective planning and administration of Federal scientific and technological programs,

(2) to identify research needs including areas of research requiring additional emphasis,

(3) to achieve more effective utilization of the scientific and technological resources and facilities of Federal agencies, including the elimination of unnecessary duplication, and

(4) to further international cooperation in science and technology.

(f) The Committee shall perform such other related duties as shall be assigned, consonant with law, by the President or by the Chairman.

(g) For the purpose of effectuating this section, each Federal agency represented on the Committee shall furnish necessary assistance to the Committee in accordance with section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691). Such assistance may include—

(1) detailing employees to the Committee to perform such functions, consistent with the purposes of this section, as the Chairman may assign to them, and

(2) undertaking, upon request of the Chairman, such special studies for the Committee as come within the functions herein assigned to the Committee.

(h) For the purpose of conducting studies and making reports as directed by the Chairman, standing subcommittees and panels of the Committee may be established in consonance with the provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691).

ABOLITION OF FEDERAL COUNCIL FOR SCIENCE AND TECHNOLOGY

SEC. 202. The Federal Council for Science and Technology established pursuant to Executive Order 10807, dated March 13, 1959, as amended by Executive Order 11381, dated November 8, 1967, is hereby abolished.

TITLE III—NATIONAL SCIENCE FOUNDATION

NATIONAL SCIENCE POLICY

SEC. 301. Section 3(d) of the National Science Foundation Act of 1950 is amended to read as follows:

"(d) The foundation shall recommend and encourage the pursuit of national policies designed to foster research and education in science and engineering, and the application of scientific and technical knowledge to the solution of national problems."

NATIONAL SCIENCE BOARD

SEC. 302. Section 4 of the National Science Foundation Act of 1950 is amended—

(1) by inserting before the period at the

end of subsection (a) a comma and the following: "within the framework of applicable national policies as set forth by the President and the Congress" and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of science, social science, engineering, agriculture, industry, education, or public affairs, (2) shall be selected solely on the basis of established records of distinguished service, and (3) shall be so selected as to provide representation of the views of leaders from a diversity of fields from all areas of the Nation. The President is requested, in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Academy of Engineering, the National Association of State Universities and Land-Grant Colleges, the Sea Grant Association, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities, or by other scientific, technical, public interest or educational associations."

ASSISTANCE TO COUNCIL

SEC. 303. In order to carry out the purposes of this Act, the National Science Foundation is authorized to—

(1) gather and analyze information regarding Federal expenditures for research and engineering activities, and the employment and availability of scientific, engineering, and technical manpower, which the Foundation has assembled pursuant to paragraphs (1), (5), (6), and (7) of section 3(a) of the National Science Foundation Act of 1950 in order to appraise the implementation of the policies set forth in section 2 of this Act;

(2) provide such information and appraisals to the Council of Advisers on Science and Technology; and

(3) provide such additional information and staff assistance to the Council of Advisers on Science and Technology as the Council may request.

CONTINUING EDUCATION IN SCIENCE AND ENGINEERING

SEC. 304. (a) Not later than ninety days following enactment of this Act, the National Science Foundation shall initiate an educational program of continuing education in science and engineering in order to enable scientists and engineers who have been engaged in their careers for at least five years to pursue courses of study designed to—

(1) provide them with new knowledge, techniques, and skills in their special fields; or

(2) acquire new knowledge, techniques, and skills in other fields which will enable them to render more valuable contributions to the Nation.

(b) The program developed under this section shall include, but not be limited to—

(1) the development of special curriculums and educational techniques for continuing education in science and technology; and

(2) the award of fellowships to scientists and engineers to enable them to pursue courses of study which provide continuing education in science and engineering.

(c) From funds available pursuant to section 502, the Foundation is authorized to make grants to, and to enter into contracts with, institutions of higher education and other academic institutions, nonprofit institutes and organizations, and private business firms, for the purpose of developing courses and curriculums specially designed for continuing education in science and technology under this section.

(d)(1) From funds available pursuant to section 502 the Foundation is authorized to award continuing education fellowships to scientists and engineers to enable them to pursue appropriate courses of study.

(2) The Foundation shall allocate fellowships under this subsection in such manner, insofar as practicable, as will—

(A) attract highly qualified applicants; and

(B) provide an equitable distribution of such fellowships throughout the United States.

(3) The Foundation shall pay to persons awarded fellowships under this section such stipends (including such allowances for subsistence, health insurance, relocation expenses, and other expenses for such persons and their dependents) as it may prescribe by regulation designed to accomplish the purposes of this Act.

(4) Fellowships shall be awarded under this section upon application made at such times and containing such information as the Foundation shall by regulation require.

TITLE IV—STATE AND REGIONAL SCIENCE AND TECHNOLOGY PROGRAMS

ESTABLISHMENT OF INTERGOVERNMENTAL SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE

SEC. 401. (a) There is established in the National Science Foundation an Intergovernmental Science and Technology Advisory Committee.

(b) The Committee shall be composed of twenty-two members to be appointed as follows:

(1) Twenty members, two from each of the standard Federal regions, shall be appointed by the President, by and with the advice and consent of the Senate;

(2) A member of the Council selected by the Chairman of the Council; and

(3) The Director of the Foundation.

In making appointments under clause (1) of this subsection, the President is requested to consider the appointment of individuals who, by reason of education, experience, or interest, are especially qualified to serve on the Committee and to give due consideration to nominations received from the Council of State Governments, National Governors' Conference, National Conference of State Legislatures, International City Management Association, National League of Cities/United States Conference of Mayors, National Association of County Officials, and other public interest organizations.

(c) The term of office of each member of the Committee appointed under clause (1) of subsection (b) shall be three years; except that—

(1) the members first taking office shall serve as designated by the President, six for a term of one year, eight for a term of two years, and six for a term of three years; and

(2) any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of such term.

(3) Each appointed member of the Committee shall, while serving on business of the Committee, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, and while so serving away from his home or regular place of business he may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in Government service employed intermittently.

FUNCTIONS OF THE COMMITTEE

SEC. 402. (a) The Committee shall advise and assist the Foundation in—

(1) identifying and defining civilian problems at the State, regional, and local levels and the environment in which solutions to these problems ought to be provided;

(2) identifying areas of highest priority for study, assessment, and development of policy alternatives by the Foundation under this title; and

(3) identifying and fostering ways to facilitate the transfer and utilization of results of civilian research and development activities so as to maximize the application of science and technology to civilian needs.

(b) The Committee is authorized to—

(1) assist the Director of the Foundation, as appropriate, in taking account of State and regional needs and opportunities in the formulation of the Foundation's plans and programs;

(2) assist the States, including the furnishing of technical assistance, in establishing State science advisory programs pursuant to section 404;

(3) develop and furnish to the States, at their request, advisory guidelines for the formulation of civilian research and development priorities within each State and within each standard Federal region;

(4) review and evaluate the effectiveness of programs and activities assisted under this title; and

(5) prepare and furnish to the Director of the Foundation for incorporation into the annual report of the Foundation to the Congress, a report of the activities of the Committee under this title, together with such recommendations, including recommendations for additional legislation, as the Committee deems appropriate.

(c)(1) The Committee shall annually elect a Chairman from among its regional members.

(2) The Committee shall meet at the call of the Chairman, but not less than four times a year.

(3) The Foundation shall make available to the Committee such information and assistance as may be required to carry out its functions under this section.

ADMINISTRATIVE PROVISIONS

SEC. 403. (a) Subject to such rules and regulations as may be adopted by the Committee, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 United States Code.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Committee, upon request made by the Chairman or Vice Chairman, such information as the Committee deems necessary to carry out its functions under this title.

GRANTS FOR STATE SCIENCE AND TECHNOLOGY PROGRAMS

SEC. 404. (a) The Director of the National Science Foundation, after consultation with the Intergovernmental Science and Technology Advisory Committee, is authorized to make grants of not to exceed $100,000 to any State to pay a part of the cost of establishing an Office of State Science and Techology.

(b) No grant may be made under this section unless an application is submitted at such time in such manner and containing or accompanied by such information as the Director after consultation with the Committee requires. Each such application shall contain provisions to assure that—

(1) the office for which assistance is sought under the application will (A) be headed by an official who by reason of education and experience is qualified to advise the chief executive of the State and other State and local public officials on the application of science and technology to civilian needs relating to that State or locality and (B) have sufficient authority consistent with State law to carry out any functions assigned to that office pursuant to this title; and

(2) the State will assume the cost of the office established pursuant to this title no later than two years after the year in which the application is made.

(c) The Director shall approve any application which meets the requirements of subsection (b), and shall not disapprove any application without affording an opportunity for a hearing.

TITLE V—GENERAL PROVISIONS

DEFINITIONS

SEC. 501. As used in this Act:

(1) The term "Council" means the Council of Advisers on Science and Technology.

(2) The term "Foundation" means the National Science Foundation.

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(4) The term "standard Federal region" means each of the following regions:

(A) Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

(B) Region II: the Commonwealth of Puerto Rico, New Jersey, New York, and the Virgin Islands.

(C) Region III: Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

(D) Region IV: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(E) Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

(F) Region VI: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

(G) Region VII: Iowa, Kansas, Missouri, and Nebraska.

(H) Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

(I) Region IX: Arizona, California, Hawaii, and Nevada.

(J) Region X: Alaska, Idaho, Oregon, and Washington.

AUTHORIZATION OF APPROPRIATIONS

SEC. 502. (a) There are authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1976, of which $1,500,000 shall be available to carry out the provisions of section 107 of title I, $2,500,000 shall be available to carry out the other provisions of title I, $1,500,000 shall be available to carry out the provisions of title III, and $2,500,000 shall be available to carry out the provisions of title IV; and $14,000,000 for the fiscal year ending June 30, 1977, of which $5,000,000 shall be available to carry out the provisions of title I, $3,500,000 shall be available to carry out the provisions of title III, and $5,500,000 shall be available to carry out the provisions of title IV.

(b) Funds appropriated pursuant to subsection (a) of this section shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

Mr. PELL subsequently said: Mr. President, I ask unanimous consent that S. 32, introduced earlier today, be referred jointly to the Labor, Commerce, and Space Committees of the Senate.

Mr. GRIFFIN. Mr. President, reserving the right to object, I understand this has been cleared with the ranking Republican members on the several committees?

Mr. PELL. This is what I was informed by the staff.

Mr. GRIFFIN. I have no objection, Mr. President.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

By Mr. McGEE:

S. 33. A bill to establish a moratorium on Federal coal leasing. Referred to the Committee on Interior and Insular Affairs.

Mr. McGEE. Mr. President, I introduce today a bill that would suspend the discretionary powers granted to the Secretary of the Interior under the Mineral Leasing Act of 1920 and impose in its stead a moratorium on all Federal coal leasing until such time as the Congress and the President of the United States can reach agreement upon a suitable law for the regulation of surface mining. As some of my colleagues will remember, I first proposed this moratorium during final floor consideration of the conference report on S. 425, the surface mining bill, last December 16. At that time, I feared what has since proved to be true—that President Ford would veto this measure and again throw into doubt the fate of western coal lands.

The legislation I am introducing today is similar to that contemplated by the Senate conferees on the strip mining bill as a temporary stopgap in anticipation of a deadlocked conference. This stalemate, since broken, has shifted to a new and far more serious deadlock between the President and the Congress. The need for this measure has, I believe, been reestablished.

Not long ago, the White House began quoting the advice of Thomas Jefferson to George Washington made in 1792: "Delay is preferable to error," to explain its relative inaction in meeting the economic crisis. If there be wisdom in this, then I think its application is even more apparent in the case of western coal.

Recent events have shown that our ability to produce sufficient quantities of food is falling short of demand. We attempt to sell on world markets which prompts food shortages and in turn this results in increased demand and higher prices in our own Nation. Concomitantly, each year thousands of acres of arable land are irredeemably lost to urbanization and development. The President seems intent on committing thousands of acres of western agricultural lands to the mining of coal, without even the slightest effort or attempt to protect such lands.

In many ways, the results of this bill will be meager. Already some 22 billion tons of Federal coal are under lease and have hardly begun to be developed. Moreover, these leases represent in the coal-rich formations of Wyoming, Montana, and North Dakota, less than 12 percent of the coal currently under lease. But our circumstances are desperate, and I believe every effort we can make to protect the public trust must be undertaken. I urge the expeditious consideration of this proposal by the Interior Committee for reasons which are only too clear to them by their long experience with the problems of surface mining.

Mr. President, I respectfully request that my remarks of December 16 be inserted at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

Mr. McGEE. Mr. President, I am deeply concerned by recent reports that President Ford intends to veto the strip mining bill on which we are about to act. It has been suggested by White House sources that the President believes this bill subversive to his energy program and that he feels it would ultimately result in a delay of our need to develop the Nation's coal resources.

It is my belief that should this bill be vetoed, we immediately proceed to the consideration of a coal leasing moratorium on Federal lands, similar to that contemplated by Senate conferees on the strip mining bill as a stopgap measure in anticipation of a deadlock conference. This moratorium must continue until we can formulate an acceptable surface mining law.

While I do not question the President's sincere desire to provide a solution to the energy crisis, I am fearful that this action on his part may result in the sacrifice of the Western States. If we are to get on with the job of providing the coal that America needs then let us also get on with the job of protecting the lands that will be used.

While we in Wyoming are more than willing to do our share in seeking a solution to the Nation's problems, I do not intend to recklessly venture upon a course of action, the mistakes of which we will have to live with the rest of our lives. I am not willing to call upon my State or any other State to make this supreme sacrifice.

At a time when food production is becoming an increasingly critical issue, the President would risk the food-producing lands of America. He fails to realize that the first and most essential energy requirement for mankind is the food he eats. Does he realize that he risks aggravating one problem—an ultimately greater problem—in his hasty search for a solution to the energy crisis? Wyoming's lands have long been agriculturally productive. With the passage of this legislation, I believe they can remain so. The President's action, on the other hand, will render the lands of the Western States sterile and unproductive, seriously threatening America's ability to feed herself.

We must make it clear to the President that our only recourse in the face of his veto is to place a moratorium on Federal coal leasing. We must show him that his option will result in an even greater delay than that which he fears. We must show him that our concern for a productive economy and a livable environment will prevail over his immediate, and I believe ill-considered, search for a hasty conclusion to the energy crisis.

Mr. President, I therefore urge Senate approval of the conference report on S. 425, the Surface Mining and Reclamation Act of 1974. Indeed, if the coal resources of this country are to help us meet the energy crisis of this Nation, it is imperative that this legislation become law. Only then can we proceed in a sound way, socially and environmentally, to supply the Nation with adequate amounts of coal.

By Mr. HUMPHREY (for himself, Mr. Kennedy, Mr. Philip A. Hart, Mr. Hathaway, Mr. Javits, and Mr. Schweiker):

S. 50. A bill to establish a national policy and nationwide machinery for guaranteeing to all adult Americans able and willing to work the availability of equal opportunities for useful and rewarding employment. Referred to the Committee on Labor and Public Welfare.

THE EQUAL OPPORTUNITY AND FULL EMPLOYMENT ACT OF 1975

Mr. HUMPHREY. Mr. President, today millions of Americans, who are both able and willing to work, find themselves without jobs and unable to find them.

In December, 6.5 million Americans, 7.1 percent of the labor force, were "officially" counted as unemployed. Of course, for members of minority groups conditions were much worse.

In the last 12 months "official" unemployment among blacks rose 50 percent, from 888,000 to 1.3 million people. Unemployment among black workers was 12.8 percent in December, 5.7 percentage points above the national figure. For black teenagers unemployment is at a socially disastrous level of 37.8 percent.

Yet, this is simply the tip of the iceberg. There is no question that a significant number of people are simply excluded from the "official" unemployment figures by a statistical "sleight of hand" that seriously understates the real numbers of the Nation's jobless.

It is particularly upsetting to consider this massive failure to keep our citizens at work, when one recalls all of the promises to do so.

In 1948, the "right to work" was clearly established in the Universal Declaration of Human Rights adopted by the United Nations. This reinforced a similar commitment made to all Americans in the Employment Act of 1946 and restated by every President since Franklin Roosevelt.

Despite the official declarations and the generally well-intentioned policy pronouncements, we have failed dismally to provide "jobs for all." Large segments of our population, especially women, the young, the old, the poorly educated, and ethnic minorities, have had their "right to work" ignored and, in many cases, the fact of their unemployment swept under the rug and conveniently out of sight by "official" statistics.

Mr. President, it is time to fulfill this promise of "jobs for all," a promise that far too long has gone unmet. We must guarantee an equal opportunity to work at fair wages to every person in our Nation who is able and willing to work.

Social justice demands and economic necessity requires that every American who is willing and able be provided with a job. Failure to provide "jobs for all" has not only had a tragic social cost on the unfortunate victims of unemployment, but it has also cost our Nation trillions of dollars in income, goods, and services.

At a time when extraordinary price increases are resulting from production bottlenecks and inadequate supply, the need to put every available hand into our Nation's production effort is most obvious.

Mr. President, today I am introducing for myself and Senators Kennedy, Hart, Hathaway, Javits, and Schweiker the Equal Opportunity and Full Employment Act of 1975. This bill would make the "right to work" a fact of life for every American.

The personal right of every adult American to guaranteed employment, provided in this bill, is protected by eight major provisions:

First, a clear definition of full employment as useful and rewarding employment for all adult Americans able and willing to work, at a fair rate of compensation;

Second, the creation of local reservoirs of public service and private employment projects, developed by local planning councils in cooperation with community job boards. These are to be developed by local planning councils under the auspices of local governments, as provided for in the Comprehensive Employment and Training Act of 1973;

Third, the creation of a Job Guarantee Office able to fund public and private work projects developed through the local reservoirs;

Fourth, a standby Job Corps in which qualified job seekers may be temporarily placed, if no other suitable job opportunities are available;

Fifth, a requirement that the President annually submit to the Congress a nationwide full employment and production program to assure an adequate demand for labor;

Sixth, an expanded role for the congressional Joint Economic Committee in reviewing the full employment and production program of the President, or in initiating its own program;

Seventh, a newly formed National Commission for Full Employment Policy Studies, to study and evaluate full employment machinery in order to promote the maintenance of genuine full employment; and

Eighth, the opportunity for an appeal to the appropriate U.S. district court by any person who feels deprived of his or her job rights.

Mr. President, the Equal Opportunity and Full Employment Act of 1975, which we have introduced in the Senate today, has also been introduced in the House today by Congressmen Hawkins, Reuss, and a large number of their colleagues. None of us would claim that this proposal is ready for the President's pen this afternoon, but we do believe it is an extremely important proposal and warrants careful analysis and discussion in the Congress, in the executive branch, and among the public. I do not claim that this bill is perfect. Rather, I expect that modifications will be needed. I also believe that such a measure must be coupled with a tough, comprehensive anti-inflation policy.

However, I do believe that Congress should take up this legislation promptly, begin the debate and examination, and aim toward enactment of a "true" full and equal employment law by 1976. This proposal compliments S. 1693—the Full Employment and Job Development Act of 1973, a bill which I will again join Senator Javits in offering in this Congress. Enactment of this proposal will be an important first step toward our full employment objective.

I can think of no greater monument to the spirit of 1776, no greater proof that the American Revolution is continuing, and no greater renewal of our Nation's commitment to economic and social justice, than to enact legislation by 1976 that will guarantee every American a decent job.

Mr. President, I ask unanimous consent that a section-by-section analysis of this bill be printed at this point in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

Equal Opportunity and Full Employment Act of 1975—Section-by-Section Analysis

SECTION 1.—SHORT TITLE

Entitles this Act the "Equal Opportunity and Full Employment Act of 1975."

SECTION 2.—DECLARATION OF POLICY

(a) Declares that all adult Americans able and willing to work have the right to equal opportunities for useful paid employment.

(b) The right to full employment by all Americans is in the interest of the economy, the Nation, society and individuals.

(c) Only under full employment, can society's inequities be eliminated.

(d) Without full employment the country is deprived of goods, services, and tax revenues thus adding to inflationary pressures, reducing job security, and weakening individual freedoms and family strengths.

(e) The Federal Government is responsible for guaranteeing the right to equal opportunity for useful paid employment and for ensuring that national full employment is attained and maintained.

(f) Other national economic goals shall be pursued without limiting the rights established by this act.

SECTION 3.—THE FULL EMPLOYMENT AND PRODUCTION PROGRAM

(a) Requires that the President annually report to the Congress his or her full employment and production program including the estimated volume of goods and services necessary to meet human and national needs; the estimated level of employment necessary to meet that volume of goods and services; the estimated level of expenditures necessary to provide that level of employment the modifications in employment and expenditure patterns necessary to meet necessary conversions in military and industrial activities; a review of administrative and legislative action taken or contemplated; and a review of related economic considerations.

(b) Requires that the annual manpower reports of the President be renamed the Labor Reports of the President and provide detailed attention to the changing volume and composition of the American labor supply; the loss of productive labor power resulting from discrimination; the need for greater part-time employment opportunities; the implications of continuing full employment for increases in voluntary leisure time arrangements; the associated problems of the nature, environment and conditions of work; and the implications of the reservoir of public service and private employment projects developed by local planning councils.

SECTION 4.—LOCAL PLANNING COUNCILS

(a) Congress recognizes that local needs can best be identified by localities, and that to meet its functions, officials and agencies of the Federal Government need the continued involvement of local individuals, organizations, and governments.

(b) Amends the Comprehensive Employment and Training Act of 1973 by adding to the functions and responsibilities of the local Planning Councils, as part of local governments, the requirement to identify additional local public and private employment opportunities and to assist in the monitoring and evaluation of programs conducted under this act.

(c) Requires each Local Planning Council, under the regulations of the Secretary of Labor, to provide for the establishment of community job boards which would supply public service job opportunities at the community level through the creation of community public service work reservoirs and the establishment of the Standby Job Corps.

SECTION 5.—UNITED STATES FULL EMPLOYMENT SERVICE

(a) The U.S. Employment Service is renamed the U.S. Full Employment Service.

(b) Assigns to the U.S. Full Employment Service responsibility for assisting local planning councils in the establishment of the reservoir of public service and private employment projects.

(c) Creates a Job Guarantee Office within the U.S. Full Employment Service whose responsibilities it is to provide useful employment to all adult Americans willing and able to work.

(d) Requires that the Job Guarantee Office, in planning employment projects, ensure that adequate consideration be given to individuals and groups who have encountered special obstacles in finding and holding useful and rewarding employment.

(e) In order to draw upon the reservoir of public service and private employment projects, authorizes the Job Guarantee Office to enter into grants and contracts with public and private agencies and organizations, operating on a profit, nonprofit or limited profit basis; establishes certain conditions which must be met by agencies or organizations entering into such agreements.

(f) Requires that the Job Guarantee Office ensure suitable job opportunities, comparable to those afforded job seekers registered in the Standby Job Corps, for any persons willing and able to work and requires certain referral and registration procedures and regulations to ensure such action.

(g) States that any person who presents him or herself in person at the Full Employment Office shall be considered "willing and able" to work, regardless of physical or mental handicap; requires that regulations provide for an initial determination of a job seeker's ability to work; requires compliance with the Civil Rights Act of 1964; establishes administrative appeal procedures; and for termination of appeal procedure within 30 days; and it requires the placement of job seekers in Standby Job Corps despite any pending appeal or judicial reviews which may be made under these procedures.

(h) Requires that the Federal district courts have jurisdiction over actions which seek relief pursuant to this act.

SECTION 6.—STANDBY JOB CORPS

(a) Establishes a Standby Job Corps as part of responsibility of Job Guarantee Office to ensure suitable job opportunities for registered job seekers, who shall perform public service work upon projects that are part of community public service work reservoirs.

(b) Requires the Secretary of Labor to issue regulations which provide the means by which Corps members may maintain a status of good standing by, among other things, performance and attendance; to establish a system of compensation which meets certain provisions including pay relative to training and ability; to provide local planning and control, to the fullest extent possible, of local Standby Job Corps programs; to develop and enforce antidiscrimination provisions; to exercise reasonable oversight of Standby Job Corps projects; and to ensure that activities undertaken shall not adversely affect prevailing local wage rates.

SECTION 7.—CONGRESSIONAL JOINT ECONOMIC COMMITTEE

(a) Requires that the Joint Economic Committee shall review the activities of the executive branch in meeting the provisions of this act; conduct public hearings in as many local labor markets as feasible; and annually report upon the development and administration of the provisions of this act.

(b) Requires that, within 30 days of submission to Congress of the biyearly full employment and production program of the President, the Committee review the report and submit its proposed modifications, with comments to each House of the Congress; submit recommendations to the Congress on the sums necessary to finance such programs; that the President's report with the modifications, comments and recommendations of the Joint Economic Committee be forwarded to the Appropriations Committees of the respective Houses of Congress. It also specifies that after 30 days a motion for immediate consideration of the Joint Economic Committee's employment deficit recommendation shall be highly privileged; that after such a motion, it shall be in order to consider the employment deficit recommendation together with changes proposed by the Appropriations Committees; and that 3 days afterwards a vote on final passage shall be ordered.

SECTION 8.—STAGES OF IMPLEMENTATION

(a) Congress recognizes that the full objectives of this act cannot be immediately achieved; that considerable time will be needed for its full implementation; and that the act must therefore be implemented in stages.

(b) Requires that the President provide for the full implementation of this act within no more than 5 years after its enactment.

(c) Establishes as Federal policy that the objectives of this act be reached within 5 years of its enactment and that the annual Full Employment and Production Programs Report of the President, include targets for these objectives and that local job councils shall do likewise in their respective geographical areas.

SECTION 9.—NATIONAL INSTITUTE FOR FULL EMPLOYMENT

(a) Congress recognizes many Federal activities are based on a presumption of a lack of suitable employment opportunities for many people willing and able to work; that these Federal officials and agencies responsible for the implementation of this act need the benefit of studies of the changes necessary for Federal programs to more closely relate to and support the objectives of this act.

(b) Establishes a National Institute of Full Employment within the Department of Labor, headed by a Director.

(c) Provides that the Director shall serve for a term of 3 years; that compensation shall be at the rate of GS-18; that a Deputy Director shall be appointed; and that for a period of up to 3 years technical and professional employees may be appointed without regard to competitive civil service regulations but their numbers shall not exceed one-fifth of all regular full-time employees of the Institute.

(d) Creates a National Commission for Full Employment Policy Studies which shall be composed of broadly representative public and private members, provided with necessary staff, meet quarterly; select officers; advise and consult with the Director of the Institute, consult with the Council of Economic Advisors and perform other related functions.

(e) Authorizes and directs the Institute to make grants and enter into contracts with individuals and public and private agencies and organizations to study such subjects as activities to reduce inflationary pressures resulting from full employment; the identification of hidden human potentials, education and training programs necessary to help persons take advantage of employment opportunities; policies and programs necessary to eliminate substandard working conditions; measures to improve the quality of public and private employment; activities necessary to assist independent and small businesses to benefit from this act; alternative forms and organizations of local planning councils; criteria by which councils would monitor and evaluate programs under this act; special problems of priority individuals and groups; integration of existing human service programs; improved methods for conducting studies in all such areas; full employment and comprehensive programs for social and economic indicators for monitoring economic and social groups in American society.

(f) Requires the Institute to encourage divergent approaches to each area of policy study, to regularly consult with local planning councils, and to publicize research findings.

SECTION 10—GENERAL PROVISIONS

(a) Prohibits discrimination under any program or activity made possible by this act.

(b) Requires that all laborers and mechanics employed under this act be compensated at wages comparable to prevailing localities in accordance with the Davis-Bacon Act, as amended; requires that the Job Guarantee Office ensure that all agreements provide appropriate health and safety standards, workmen's compensation protection and protection of employed workers against displacement.

SECTION 11—DEFINITIONS

Defines the terms used in this act.

SECTION 12—AUTHORIZATIONS

Authorizes such sums as are needed to carry out the provisions of this act.

Mr. HUMPHREY. Mr. President, I also ask unanimous consent that the text of my testimony on this proposal before the Subcommittee on Equal Opportunities of the House Committee on Education and Labor on October 8, 1974, be printed at this point in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR HUBERT H. HUMPHREY, MINNESOTA, BEFORE THE SUBCOMMITTEE ON EQUAL OPPORTUNITIES OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR, OCTOBER 8, 1974

As Senate sponsor of the proposed "Equal Opportunity and Full Employment Act of 1976," let me commend this Subcommittee, and you Chairman Hawkins, for taking the initiative in considering this timely and far-reaching measure.

Since these are preliminary hearings, my testimony will be brief. I shall merely make a few introductory remarks on—

The essentially human nature of this economic measure,

Its relation to other legislation,

How much unemployment and employment actually exists, and

The kind of questions that might be explored during more intensive hearings.

The heart of this measure is the clear statement that *"All adult Americans able and willing to work have the right to equal opportunities for useful paid employment at fair rates of compensation."*

The present proposal, in fact may be regarded as a restatement of the right to job opportunities as set forth by Franklin Roosevelt in his 1944 Economic Bill of Rights, by the original version of the Full Employment Act and by the United Nation's 1948 Declaration of Human Rights.

But, the new bill is based on much more than the high idealism of a previous era. It is based on almost 30 years of experience under the Employment Act of 1946. It is based on thirty or more years of struggle—sometimes bitter and fruitless struggle—for equal job opportunities for women, older people, younger people and racial, ethnic, national and religious minorities.

Above all, this is the first time that the Congress has ever had the opportunity to consider a legislative measure that not only sets forth in unmistakable terms every adult American's right to useful job opportunities at fair rates of compensation, but also *backs up those rights by explicit executive, legislative and judicial machinery*. I believe the bill expresses some of the deepest yearnings of the overwhelming majority of the American people.

This bill is not just another measure dealing with employment, unemployment, non-employment and sub-employment. It is not just another bill dealing with "manpower" policies or public service employment—important though these subjects are. Like the Employment Act of 1946, it provides machinery for integrating *all* the many measures, policies and programs that bear directly or indirectly on the level and quality of employment. And like the Employment Act, it is oriented not merely toward employment but also to the quantity and quality of the many kinds of goods and services that are produced through employment.

The proposed bill provides much more than abstract, formal machinery for democratic, nation-wide and decentralized planning. *It is a job guarantee measure.* It is this element of guarantee—which parallels the many Federal guarantees on the operations of banks and corporations—that can make the right to job opportunities a reality instead of a vague ideal.

The human meaning of a true job guarantee is illustrated in a recent article by Andrew Levinson in the *New Yorker* of September 2, 1974:

"Until progressives deal seriously with the idea of full employment and government-guaranteed jobs, black representation in skilled jobs will remain a question of throwing a white carpenter out of work in order to employ a black, or making a Pole with seniority continue to tend the coke ovens while a black moves up to a better job." ("The Working Class Majority," p. 36–61)

Let me add, however, that this is not a problem of progressives alone. Conservatives also should deal seriously with the idea of guaranteed full employment. Otherwise, one may wonder how concerned they are with an American future in which the work ethic is to be conserved rather than undermined by the lack of useful work opportunities at fair wages or salaries.

Let me also point out that unless we all take guaranteed job opportunities seriously, proper jobs for *women* could mean throwing *men* out of work, suitable jobs for *older* people could deny jobs to *younger* people, and enough jobs for *younger* people could put *older* people on the shelf. Without a new departure along the lines suggested by the many sponsors of this bill, I fear that many of the government's so-called *affirmative* action programs will turn out to be negative.

In time, both progressives and conservatives, will realize that action along these lines transcends mere economics. By dealing with one of the most fundamental human rights, a guaranteed job program goes to the very heart of America's most complex social problem: the hopelessness and alienation, even drug addiction and crime, that often arise when human beings—no matter what their sex, age or ethnic background—are told that they are not needed.

THE RELATION TO OTHER LEGISLATION

There are two major dangers involved in the consideration of this proposal—and of the many variants of it that are bound to be suggested.

The first is that advocacy of job guarantee legislation may be regarded as downgrading the significance of legislation that is already on the books—namely, the Employment Act of 1946.

Second, some people may get the false impression that if the new bill is enacted in proper form no other legislation will be needed to prevent recession and assure genuine full employment without inflation.

A few comments to clarify each of these points is needed.

First of all, my sponsorship of the "Equal Opportunity and Full Employment Act of 1976" does not diminish one iota my conviction that the mandate of the 1946 law should be complied with by the President. Under section 2574 of title 42 of the United States Code, the President is instructed to develop every year and present to the Congress a program of "maximum employment, production and purchasing power."

In recent years this has not been done. Instead of maximum employment, we have had creeping unemployment and underemployment. Instead of maximum production, we have had recession in many sectors—and an actual depression in the crucial area of home building. Instead of maximum purchasing power, we have had an unprecedented inflation that has eaten into the pocketbooks and curtailed the savings of all low and middle income groups in the country.

This inflation has been fueled by 11 to 12 percent interest rates that push up the costs of almost everything that consumers and investors must buy. And now throughout the Administration we hear a chorus chanting the familiar dirge of the "old time economic religion" that the only way to bring prices down is to continue to permit increased unemployment. I believe that I can speak for all the sponsors of the pending measure when I say, as I did in my summation at the Economic Summit Conference, that all this adds up to the open violation of the Employment Act of 1946 by the Administration and the continuation of "old time sin."

Second, the new "Equal opportunity and Full Employment Act" is designed as a framework, not a substitute, for other legislation. The President's Full Employment and Production Program, required in Section 3, would most certainly have to include proposals for additional legislation.

I see a number of fields in which new legislation is needed, legislation which can be regarded a necessary accompaniment—or as indispensable companion measures—to the Equal Opportunity and Full Employment Act of 1976.

First and foremost is tough anti-inflation and price stability legislation which will serve as permanent protection against any and all inflationary outbursts such as we are now experiencing—whether they come from uncontrollable international or natural events, profiteering and speculation, price fixing by oligopolistic corporations, or credit policies that finance speculation, oligopoly and anti-competitive mergers.

Second, I see the need for a whole series of major measures in critical sectors of the economy—food, energy, transportation, housing, and regional development, to name a few. Today, we have no national food policy, no serious energy policy, no genuine transportation program, no meaningful housing program, no program of regional development, only token programs for the expansion of needed public services, and no concerted policy and program for the promotion of our fabulous potential for progress in civilian science and technology. New legislation is needed in all these fields.

Third, major legislative action is also required throughout the field of human services. Health legislation, of course, is one of the most obvious areas. Just as overdue, however, is genuine action to provide proper day-care facilities for younger children at both the nursery and kindergarten levels. This is one of the keys not only to allowing welfare mothers to get off the welfare rolls but, more broadly speaking, to release the great potentialities of the many millions of women who would thereby be available for full-time or part-time paid employment.

Fourth, there is the broad area of social insurance, retirement, pensions, unemployment compensation and welfare. In the past, many of these programs have been conceived of as crutches to help compensate for the lack of full employment. As we develop a genuine full employment program, many of these measures can at long last be humanized. Thus recipients of old age and survivors insurance could be allowed to work as much as they wanted and earn as much as they are able—with no pressure on them to retire from the labor market. And, at long last, the welfare rolls could be substantially reduced by the only measure that makes any economic sense—namely, the provision of suitable work opportunities at fair compensation. With this drastic reduction in the number of recipients of welfare and unemployment compensation, it would be possible to legislate much more generous benefits and less onerous eligibility requirements.

Fifth, there is the entire area of taxation and monetary and fiscal policy. Since this is a huge area, I shall merely make two points. One is that tax reform should be conceived of as an essential part of a genuine program of full employment without inflation. It is not something that we can afford to postpone year after year. The second is that the Federal Reserve Board should be clearly subject to the full employment policies legislated by the Congress.

Finally, the policy set forth in the "Equal Opportunity and Full Employment Act" imposes major burdens on the existing structure of government. To carry these burdens, new or improved planning instrumentalities may be needed. Many proposals are now pending before various Congressional committees for new planning machinery in the Executive Office of the President and for improved planning machinery by the States and local governments, including my Balanced National Growth and Development Act—S. 3050. Perhaps some of these measures could be considered as additions to this bill. Many of them, however, will have to be regarded as companion measures to build the kind to administrative structure that will facilitate speed and efficiency in attaining the objectives of this Act.

HOW MUCH UNEMPLOYMENT AND UNDEREMPLOYMENT?

On August 22nd of this year, when I introduced the "Equal Opportunity and Full Employment Act" in the Senate, I pointed out that the 5.4 million people officially reported as unemployed in June of this year were "just the tip of the iceberg."

Let me now expand on that comment.

First of all, most discussions of officially reported unemployment deal with the simple total and tell little, if anything, about the various groups that make up the total. Thus the August total, which appears in *Economic Indicators* of September 1974 shows unemployment for August of this year at a seasonally adjusted level of 4.9 million people—or 5.4 percent of the officially defined "labor force."

As you know, Mr. Chairman, that figure rose sharply and dangerously to 5.8 percent in September and many expect it to rise to 6.5 percent or even higher in the very near future. In response to this imminent threat to the economic future of millions of American families, I offered a $1 billion public service jobs amendment last Friday to the Supplemental Appropriations Bill soon to come to the Senate floor. No new authority is needed, it's all on the books right now. Passage of my amendment this week can mean paychecks for 167,000 families from now until next July. I see no reason why it should not be enacted now.

But these total figures obscure the blunt fact that for many groups in the population unemployment has long been far higher than 6 percent. This is illustrated by the table entitled "Official Unemployment by Selected Categories, 1973," as prepared for me by the Urban Affairs Department of Hunter College, which is attached to my testimony. To avoid getting into seasonal variations, this table deals with 1973, the last full year for which such data is available.

Thus when official unemployment as a whole was 4.9 percent, female unemployment had already reached 6 percent. For single women the figure was 9.4 and for female teenagers 16–17, 17.7 percent.

Racial breakdowns show a still more disconcerting picture. When total unemployment was officially 4.9, the figure for non-whites was 8.9—four percentage points higher. And for non-white teen-agers the unemployment figures rose to the socially disastrous twenties and thirties.

All of these figures, moreover, are merely the official reports for a so-called "average day," based on the number of reported job seekers on twelve such days throughout the year. They do not provide information on the total number of people who may have been unemployed at some time during the entire year. That figure is given in line 11 of the companion table entitled "Varying Estimates of Aggregate Unemployment, 1973," which is also attached to my testimony. *The total number of people officially unemployed at some time during 1973 was three and a half times higher—namely, 15.3 million people for the year as compared with 4.3 million people for the "average month," and 15.4 percent of the labor force as compared with only 4.9 percent.*

The way we are now going, with the official monthly figure already averaging about 5.3 percent and rising (or four points higher than the 1973 total), it seems likely that the total number of people unemployed at some time during the present year may well reach a staggering 18.6 million. While many of these would be single people, it is nonetheless obvious that many family members will be affected. If the ratio of unemployed to other family members is only one-to-one (which is a very conservative estimate), then it would seem that *more than 37 million people are likely to be directly touched by unemployment during the current year*. It is time that the American people and their leaders became aware of this convenient "shell game." It is time to stop pretending. It's time to stop sweeping millions of people "under the rug" through statistical sleight of hand.

Thus far, however, I have been discussing only those who are officially reported as unemployed. This leaves out of consideration the large number of adults who are not officially in the narrowly defined "labor force," which is composed of those reported as working for pay on either a part-time or a full-time basis and those reported as actively seeking work.

Unfortunately, there has never been a serious and continuing survey of the American labor supply—this is, of all adult Americans able and willing to work. If we are not to close our eyes to this huge labor reserve, we must make do for the time being with rough estimates, spot surveys and studies that merely scratch the surface. The results of some of these rough estimates are shown in the table "Varying Estimates of Aggregate Unemployment, 1973." The largest and most shocking figures are obtained when one concentrates upon the poverty areas of our big cities, estimates unofficial unemployment and then includes the number of people working at poverty level wages. This has been done in the "subemployment" estimates of the Senate Subcommittee on Employment, Manpower and Poverty under the chairmanship of Senator Gaylord Nelson. And under pressure from his committee the U.S. Census rather reluctantly included a calculation of this type in the 1970 Census. The results, which the Census Bureau has not been eager to advertise, show that in 60 poverty areas of 51 cities 30.5 percent of the measured labor supply were "subemployed", in 1970—that is, either unemployed or working at jobs that paid less than $4,000 a year.

Under this legislation, for the first time in our history, the statisticians would be directed to measure the changing volume and composition of the entire American labor supply.

SOME BASIS QUESTIONS

In conclusion, let me urge that the intensive hearings on this measure escape the narrow confines of technical economics.

If there are social, political and ethical issues in this measure—and I believe there are—they should be brought into the open and dealt with directly.

Naturally, this legislation raises extremely complex questions of an essentially economic nature. *How* genuine full employment could best be sustained without inflation? *What* the implications of genuine full employment might be for wage levels, business profitability and the distribution of income and wealth? *How* a full employment economy can best be managed so as to protect and conserve the physical environment? *What* the contribution of a fully employed America would be to the world economy?

But, the social aspects of full employment should receive at least as much attention. In recent years, as we have become accustomed to large amounts of hidden unemployment, we have tended to overlook the social costs of unemployment. People who have suggested there may be a connection between crime and youth unemployment have been accused of being "soft on crime." But during the past five years, as the New York Times pointed out in an editorial of September 26, 1974, which I ask to be made part of your hearing Record, there has been a 47 percent increase in officially reported violent crimes. "The long-term statistics," states the editorial, "leave little doubt that the most serious single factor in crimes of violence and against property is the dismally high rate of unemployment among youths, particularly minorities. Between one third and one half of the cities' post-adolescent black youths are out of school and out of work."

Political questions must also be raised. Many of our sharpest economic and social debates revolve around questions of political power. Just what would be the implications of this measure, when enacted, on the structure of political power in this country? Would it lead to undue concentration of power in Washington? I think not. But the question should be openly faced.

Finally, there are the most important questions of all—the questions of ethics, morality and religion. This is not a matter of rhetoric or glowing general ties. It is a matter of right and wrong.

Exactly thirty years ago, in his *Full Employment in Free Society,* Sir William Beveridge made an important distinction concerning employers and employees:

"A person who has difficulties in buying the labor he wants suffers inconveniences or reduction of profit. A person who cannot sell his labor is in effect told that he is of no use."

Today in our great Nation millions of men and women, young and old, black and white, are being told that they are now or may soon become of no use. Can we not build an America in which people, all our people, can find challenging and fulfilling opportunities to be useful? Is not this the kind of America in which our citizens—employers and employees alike—can best prosper?

In 1976 America will celebrate the 200th anniversary of its independence. And in February 1976, the Joint Economic Committee will commemorate the 30th anniversary of the Employment Act of 1946. By that time, let us hope that the Equal Opportunity and Full Employment Act—in improved and strengthened form—will be the law of the land and we shall be preparing ourselves for the various stages of its implementation. The enactment of this legislation by that time would be the best way of celebrating the commitment of the Founding Fathers to the "unalienable rights" of human beings. It would be the best way to prepare America for the challenges of the last quarter of this century.

Mr. Chairman, again I commend you for the farsighted leadership you are demonstrating by your initiative on this absolutely vital proposal. I thank you for the opportunity to testify on this legislation today and to work with you in the days ahead to make "full employment" not an unfulfilled promise of law, but a fact of life for every American.

(Attachments to testimony: table on selected categories of official unemployment, 1973; table on varying estimates of aggregate unemployment, 1973; with notes and sources; editorial from New York Times, September 26, 1974.)

Official unemployment, by selected categories, 1973

[Percent of officially defined labor force]

Male, 35–44	2.0
Male, married, wife present	2.3
Government workers	2.7
White Collar workers	2.9
Female, 35–44	3.9
Male	4.1
White	4.3
Female, married, husband present	4.6
Aggregate	4.9
Blue collar workers	5.3
Service workers	5.7
Female	6.0
Male Negro and other	7.6
Nonfarm laborers	8.4
Construction workers	8.8
Negro and other	8.9
Female, single	9.4
Male, single	10.4
Female Negro and other	10.5
Male, white 16–17	15.1
Male, 16–17	17.0
Female, 16–17	17.7
Male Negro and other, 18–19	22.1
Female Negro and other, 18–19	33.3
Male Negro and other, 16–17	34.4
Female Negro and other, 16–17	36.5

NOTE.—All these figures relate to officially reported unemployment calculated on the basis of an annual average of twelve monthly reports. While the aggregate average was 4.3 million unemployed in 1973, an estimated 15.2 million—more than three times as many—were reported as unemployed at some time during the same year. Therefore, all the above figures would have to be substantially increased to reflect the total number of people in each group unemployed at some time during the year.

Source: Manpower Report of the President, April 1974. Prepared by: Gross and Moses, Hunter College, September 1974.

VERYING ESTIMATES OF AGGREGATE UNEMPLOYMENT 1973

	Number (thousands)	Percent of labor force
1. Unemployment severity index		2.5
2. Recipients of unemployment compensation, weekly	1,783	2.7
3. Variable unemployment, monthly	4,304	4.3
4. Official unemployment, monthly	4,304	4.9
5. 4 above, plus "discouraged workers"	4,983	5.6
6. Recipients of unemployment compensation, annual total	6,200	8.5
7. "Alternative unemployment measure," 1st quarter, 1972	6,541	7.6
8. 5 above, plus part-time workers wanting fulltime work	7,502	8.5
9. 8 above, plus labor force drop outs, December 1970	8,100	19.4
10. Unemployment and earnings inadequacy, 1972	9,842	11.5
11. Official unemployment, annual	15,287	15.4
12. Real unemployment	25,600	24.6
13. Labor reserve of experienced unemployed, 1970 census	26,500	
14. Subemployment, lower level income, 1970 census		30.5
15. Subemployment, higher level income, 1970 census		61.2

NOTES

a. The percentages relate to different concepts of total labor force.

b. Estimates by sex, race and age not included.

c. Dates vary because estimates 7, 9, 10 and 13–15 have not been updated.

d. A few estimates, such as 6, may include a little double counting.

e. A small, but unknown, portion of the "unemployed" is engaged in illegal work.

SOURCES

1. Geoffrey Moore, *How Full Is Full Employment?* Washington, D.C.: American Enterprise Institute, 1973. Measures the number of days of unemployment per person in officially-defined labor force.

2. *Economic Indicators*, Sept. 1974, p. 12.

3. *Economic Report of the President*, 1974, p. 58–62. Also Geoffrey Moore, 1 above, p. 28–29. Adjusts official unemployment to changes in sex and age composition of labor force since 1955.

4. *Economic Indicators*, Sept. 1974, p. 10. Reported number of active jobseekers.

5. *Manpower Report of the President*, April 1974, p. 263. "Discouraged workers" is defined as jobwanters not in labor force because "they think they cannot get a job."

6. Gross-Moses estimate, to be revised.

7. William J. Abraham and A. J. Jaffee, "A Note on Alternative Measures of Unemployment and the Shortfall in Employment, 1970–72," *New York Statistician*, May-June 1972, p. 2–5. Adds to official unemployment an estimate of those who would seek jobs if full employment existed.

8. *Manpower Report of the President*, April 1974, p. 285.

9. Paul M. Sweeney and Harry Magdoff, *The Dynamics of U.S. Capitalism*, New York: Monthly Review Press, 1972, p. 45–49.

10. Sam A. Levitan and Robert Taggert, "Unemployment and Earnings Inadequacy: A New Social Indicator," *Challenge*, Jan.-Feb. 1974; 5 above, less over-65, 16–21 and currently unemployed with above-average income for year, plus the currently unemployed below a "poverty threshold."

11. *Manpower Report of the President*, April 1974, p. 310. Total persons experiencing some unemployment (as defined in 4 above) during year.

12. Bertram M. Gross and Stanley Moses, "How Many Jobs For Whom?", in Alan Gartner, et al., eds. *Public Service Employment*, New York: Praeger, 1973, p. 28–36. Includes rough estimates of jobwanters among so-called "Unemployables," housepersons, men 25–54, older people, students and manpower trainees.

13. U.S. Bureau of the Census, Census of Population, 1970: *Detailed Characteristics: U.S. Summary*, 1973, p. 706. Persons not in labor force who worked for pay in last 10 years.

14. Senate Labor Subcommittee on Employment, Manpower and Poverty, *Sub-employment Index*, November, 1972. 9 above, plus currently employed at less than 4,000 a year, 60 poverty areas in 51 cities.

15. Same as 14 for workers earning less than $7,000 a year.

[From the New York Times, Sept. 26, 1974]

THE REAL WAR ON CRIME

By any yardstick of reporting and bookkeeping, the 47 per cent rise in violent crime in the past five years constitutes an appalling record. The Nixon Administration's much-touted war on crime and the obedient legislative response by a "get-tough" Congress can now be put down as predictable failures. "No-knock" powers of police search and other authoritarian measures that were to unfetter the law in rooting out criminals did more to undermine the liberties of the innocent than to curb the illegal acts of the guilty.

There is small consolation in the fact that crime last year rose only slightly in the big cities—violent crime in New York actually registered a minuscule decline—while suburban and rural America bore the brunt of the year's jump. Yet the long-term statistics leave little doubt that the most serious single factor in crimes of violence and against property is the dismally high rate of unemployment among youths, particularly minorities. Between one-third and one-half of the cities' post-adolescent black youths are out of school and out of work.

A decade ago, Dr. James B. Conant warned that rising joblessness in that same group constituted nothing short of "social dynamite." The public and legislative response was a brief spasm of intensive effort to seek educational and economic remedies, largely as a means of heading off civil disorder. Similar conditions of despair today evoke little public action.

Attorney General Saxbe told the nation's big-city police chiefs that the need for more effective law-enforcement must run parallel with efforts to bring idle youths out of poverty and into society's mainstream. In terms reminiscent of Dr. Conant's warning in the early sixties, Mr. Saxbe invoked more extensive education and employment as combined strategies essential to eliminate a major breeding ground of violent crime.

These recommendations are more persuasive than the Attorney General's subsequent impromptu outburst against "bleeding hearts" who stress the need for the rehabilitation of criminals. A problem of such complexity ought not to be beclouded by simplistic political rhetoric. At the same time, as Mr. Saxbe said, a criminal justice system that fails to convict many who have been arrested for the commission of violent crimes must be improved. Without action on all fronts, recurrent political pledges of wars on crime will remain empty rhetoric.

By Mr. HUGH SCOTT (for himself, Mr. HUMPHREY, Mr. KENNEDY, and Mr. SCHWEIKER):

S. 57. A bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters. Referred to the Committee on Interior and Insular Affairs.

Mr. HUGH SCOTT. Mr. President, I salute President Ford's state of the Union message and his blueprint for a plan of action to secure the future of our Nation.

I believe the Congress must move forward with two kinds of legislative initiatives for energy—methods to conserve and allocate present reserves and means of finding new energy sources. At this time, I wish to put forward two specific bills to deal with energy problems.

Today I will introduce along with nine of my colleagues in the Senate the Coal Research Laboratory and Energy Research Fellowship Act. The bill would establish coal research laboratories at selected universities to do much needed research into the characterization of coal. As our greatest source of national energy, coal must be more fully understood and these laboratories will help to produce that research. In addition, it will fund graduate fellowships for students who intend to go into the energy field. What we need now are more trained specialists to work with our multitude of energy problems. Increased emphasis on graduate level training of students who desire a place with private industry and government in the energy field must receive proper emphasis. In my introductory speech I will more fully outline the details of this proposal.

I would now like to propose a bill to provide relief for another area of the energy situation. This bill would effectively combat problems which arise during an energy shortage or emergency. It is entitled the Energy Disaster Assistance Act and I am delighted Senators KENNEDY and HUMPHREY have joined with me in sponsoring the legislation.

In the past Congress has been able to fashion an effective instrument to deal with natural disasters. The Federal Disaster Assistance Agency and its complements throughout the Government are now capable of dealing with any natural disaster. We have all learned a great deal from the worst of natural disasters which struck the Wilkes-Barre area in Pennsylvania just a few years ago.

I feel this kind of contingency planning and Federal coordination must exist in a period of an energy emergency or energy disaster. The events of the last 18 months have brought to a focus our great dependency on energy sources. We have begun to realize exactly how serious a lack or a shortage of energy can be for even a short period of time.

Lack of adequate statutory provisions in time of an energy disaster or emergency was brought to my attention only recently. During the early summer I was advised of the fact that there might be a shortage of over 250,000 tons of anthracite coal in northeastern Pennsylvania during this coming winter. This has been occasioned by a number of factors including the closing of the largest anthracite coal production facility in this area. I began immediately to try to rectify this situation, and I was amazed to learn that the Federal Government did not have the authority to deal directly with this potentially serious situation.

Fortunately, I was able to bring together members of the Pennsylvania delegation, the State government, and the Federal Energy Administration with other Government agencies to work on a voluntary solution to the problem. We were successful and it looks like there will be no serious shortages of anthracite coal in Pennsylvania this winter. This situation did convince me, though, that special legislation was needed so we can effectively deal with energy problems in the future.

The bill I am introducing today defines two different kinds of potential problems; an energy emergency and an energy disaster. An energy emergency would be defined as a shortage of or a price level of energy supplies which the President or an appropriate agency determines has caused an inability to meet essential energy demands of a geographic area. An energy disaster would be a situation, as determined by the President, which exceeded in severity an energy emergency. An energy disaster would potentially cause immediate danger to public health or safety in any geographic area.

The bill's main thrust is to provide for Federal assistance in either an energy emergency or disaster when State or local efforts have been unsuccessful. A Governor of a State will, when he determines there is an energy emergency or disaster, approach the President of the United States or a Federal agency designated by the President for the purpose of this act. Once the President has determined that a serious energy problem does in fact exist, certain Federal powers will be available.

Immediately upon designation of an energy problem the Federal Government will dispatch to the local area a Federal coordinator who will be in charge of centralizing all the Federal efforts in that area and dealing with the Governor or his representative. The President will have the power to direct any Federal agency with or without reimbursement to utilize Federal personnel, equipment, supplies, facilities, and any other resources including technical service to support State and local energy disaster or emergency efforts.

In an energy emergency the appropriate agency is authorized to exercise any of the powers outlined in section 6 of this bill. This would include redirection of energy supplies from other areas, specific allocation of supplies among distributors to end users, energy conservation programs, emergency loans to individuals and families who cannot financially afford essential energy needs, and furnishing technical assistance and loans to reestablish disrupted sources of energy supplies. The bill later describes how these loans will be paid back and the method by which certain loans may be canceled or forgiven in designated circumstances.

In the case of an energy disaster, besides the powers enumerated in section 6 of the bill, there are additional powers which may be tapped. They are outlined under section 7 of this legislation. It should be noted that these powers include a number of the regulations presently exercised by the Federal Government under the Disaster Relief Act of 1974 for natural disasters.

I firmly believe this legislation is essential if we are to act in a responsive manner on potential future disruptions of our energy sources. This can come from any number of circumstances either foreseen or unforeseen at the present time. I hope we are never in a situation where the legislation has to be invoked. However, an energy problem, like natural disasters, can occur and we must be ready to cope with it in the most effective method possible.

In the near future I intend to introduce several legislative initiatives dealing with the energy crisis. One is called Project Search. It is a proposal conceveid by several renowned physical scientists who wish to catalog the total mineral resources within the Earth's crust in the United States. They feel it is impossible to plan our future energy needs and demands in a logical manner without knowing what resources this Nation possesses. Therefore, they advance a project to divide the United States into 20 mile by 20 mile grids and to drill 3-mile-deep exploratory holes at each point where the grids intersect. By studying those core samples, scientists would have a clear picture of any undiscovered resources and the extent of those now known to exist. My bill would only fund a study program and one test drilling project to examine the feasibility of such a nationwide undertaking.

A second bill I will introduce in the future will require registration of foreign individuals or groups who invest in the United States. Additionally, on a quarterly basis they will be required to report how much they invested, in what industries, and the percentage of the company's stock or interest held. I hope for good congressional response on both of these ideas. Each deals with a separate aspect of the total energy picture. Also, I plan to put forth several legislative proposals dealing with the full utilization of our Nation's most valuable energy resource: coal.

I believe Congress should look in the coming months at energy consumption and study methods to offer incentives for its most efficient use. Last month I outlined my thoughts on the need to explore a method of taxing automobiles by weight and horsepower. This would certainly act as an incentive for Americans to purchase and use automobiles that most efficiently burn petroleum products.

Natural gas supplies are another problem the Congress must reevaluate. The Commonwealth of Pennsylvania is today experiencing severe curtailments in its traditional supplies of natural gas. Last week I wrote to the Federal Power Commission, which regulates supplies and prices of natural gas, demanding it insure equitable distribution of existing reserves to all States. Pennsylvania and other States in the Northeast should not be grasping for any available natural gas while it is in abundant supply elsewhere. Ultimately, the exploration for natural gas must increase before the level of supply begins to approximate demand. Deregulation of price control on natural gas is certainly one possible way to encourage increased production. Whatever solution Congress finally reaches, we must be additionally concerned that these supplies of newly discovered natural gas be efficiently put to use. From an energy efficiency standpoint, gas used to fire boilers and generate electricity is energy wasted. Since the amount of gas Eavailable will always be finite, the more efficient end uses must be encouraged and wasteful methods be discarded.

I have been reviewing a proposal to determine the most efficient uses to which natural gas and other forms of energy can be applied in order to conserve gas and avoid wasteful uses. For more efficient uses the price would be lower than for other functions tending to be less efficient. Another proposal would grant each individual a certain basic energy allotment. If the amount of energy consumed was less than the allotment per person, the price of the energy would remain low. With excesses over the proportional allotment, costs would rise at an accelerating rate. I do not propose either of these approaches at this point. The ideas require more study and work before they approach the legislative forum. The crucial point is, though, no matter how much new energy we develop, we must conscientiously direct it to the best end conversion. For example, coal is more efficient in firing steam boilers than natural gas for a number of reasons. Therefore, by a system of incentives those who need steam boilers should be encouraged to use coal rather than natural gas as a fuel product.

I am continuing to work with the top energy officials of our Government on more short run problems. While we are developing a national energy policy, industry and the public should not be inconvenienced with unnecessary burdens. At a time when one of our national priorities is to increase output and capital expenditure, I will continue to work with all Government agencies to foster real growth of our gross national product.

Finally, I am hopeful actions of the 94th Congress will soon result in positive steps toward new energy alternatives. The Energy Research and Development Agency, ERDA, being set up now will be accelerating national energy research efforts. In addition, many solar, geothermal, sea thermal, and other energy projects are past the investigative stage. We must now move ahead on the construction of full scale prototype facilities. Atomic energy, for example, may well generate over half of our electrical capacity within 15 years. Coal gasification and liquefication plants are coming on line to utilize our tremendous domestic coal capacity.

I look forward to the future with optimism. If we continue to advance in the areas of current and potential energy resources with proper emphasis and funding, this Nation can reasonably expect to approach the goal of independence in the energy field. In fact, we have the potential to one day become a net exporter of energy to the world while still meeting all domestic requirements. I believe the coal research laboratory legislation and the Energy Disaster Assistance Act I am introducing today are two important steps.

By Mr. PEARSON:

S. 61. A bill to establish a Commission to study and appraise the organization and operation of the executive branch of the Federal Government. Referred to the Committee on Government Operations.

Mr. PEARSON. Mr. President, I introduce today for appropriate reference a bill to establish a Commission on the Operation of the Executive Branch. The purpose of this legislation is to gain the recommendations of a bipartisan panel on steps which might be taken to improve the administration and organization of the Federal Government. My bill closely parallels laws which created the highly successful Hoover Commissions of the 1940's and 1950's. It is similar to proposals which I have offered in the past and which have received widespread support.

In the last Congress, legislation was approved creating a Commission on Federal Paperwork. This legislation, which I supported, should go a long way toward helping define areas of Federal policy which contribute toward the accumulation of unnecessary or duplicative reporting procedures.

The recommendations of this Commission to bring reform in this area will be an important first step in government reorganization. But I believe we must go further in examining the impact of government on our lives. It is no secret that Americans are becoming more critical of their Government. It is not uncommon to hear citizens express less confidence in the capacity of Government to deal effectively with the many serious and potentially calamitous problems confronting this Nation and the world. And it is not a new charge that Government has become remote and unresponsive to the citizens it is meant to serve.

To determine whether these beliefs are based in fact is the purpose of the legislation I am offering today.

Mr. President, I believe that much support would be given to the establishment of such a Commission. Included among the reasons for such support are the concerns all thoughtful Americans have regarding Government spending, a troubled economy, and a Federal Government that has expanded since 1955 without a coherent, rational framework.

Some facts can be presented to substantiate these contentions. Since 1955, when the second Hoover Commission finished its work, Federal civilian employment in the executive branch has increased from 2.4 to 2.9 million workers, a rise of 17 percent. At the same time, payroll costs for this group have increased by almost 350 percent, from $8 to $27 billion annually. In the past two decades, hundreds of new programs and many executive agencies have been established, creating new layers of duplication and an uncoordinated bureaucracy. Since 1955, the Federal budget has increased from $70 to over $300 billion. Since 1969 alone, more than 70 new executive agencies have been established by acts of Congress, reorganization plans, executive orders, or executive directives.

The specter of Watergate also provides supporting arguments for the establishment of a new Commission. The first and second Hoover Commissions studied civil service law and regulations, conflicts of interest, and corrupt practices to upgrade the professional, nonpartisan, merit system principles often regarded as the underpinnings of honest, well managed government agencies. Past Hoover Commission recommendations contributed to the professionalization and removal from political influence of the Internal Revenue Service. A new Commission might consider proposals for strengthening and extending the civil service laws and other relevant statutes in that agency, as well as such key agencies as the Justice Department and the Executive Office of the President. Furthermore, such a study by a new Commission might aid in the successful enactment of some of the legislative proposals offered during the 93d Congress by the Senate Watergate Committee.

HISTORY OF GOVERNMENT REORGANIZATION

Mr. President, virtually every President since William McKinley has had a temporary working body of some form to study the organization of the executive branch of the Federal Government. Such bodies have also been charged with recommending structural and operational changes which could reduce the cost and increase the efficiency of the bureaucracy in the provision of services and activities.

These working bodies have been established by law or executive action. The findings and recommendations of the first and second Hoover Commissions are highly regarded by many political observers and students of public administration for their success in providing savings to the taxpayer and a more responsive Federal bureaucracy.

The first Hoover Commission emphasized in its studies the structural organization of Federal departments and agencies and their interrelated functions. Of the 273 recommendations offered by this Commission, over 200—or 75 percent—were implemented by legislative, administrative, or executive action. It has been estimated that the adoption of these recommendations has saved the U.S. taxpayer as much as $5 billion annually. The Commission operated for 2 years with appropriations totaling under $2 million. Its results demonstrate an excellent return on the taxpayer's investment.

The second Hoover Commission was more concerned with operating procedures and policy questions in the Federal agencies and bureaucracy, a reflection of the wider authority in the enabling legislation and expressions of congressional intent. Of the 314 recommendations offered by this Commission, some 225 of the total—or over 70 percent—have been implemented by legislative or executive action. It has been estimated that the adoption of these recommendations has saved the U.S. taxpayer as much as $4 billion annually and that the adoption of the remaining recommendations could yield an additional $3 billion annual savings. The second Hoover Commission received appropriations totaling $2,848,534 over a 2-year period, of which $83,527 of this amount was returned to the U.S. Treasury. Once again, this type of Commission proved to be an excellent investment of taxpayer dollars.

The success of these commissions—both of which were congressionally created, bipartisan, and highly visible—stands in stark contrast to the so-called "advisory committees, councils, or task forces on executive reorganization" which have been created solely by executive order to continue the work of the Hoover studies. Presidents Kennedy, Johnson, and Nixon have each sought to supplement the work of the Hoover Commissions in this manner. However, each President has had limited or no success in implementing recommendations which have been forwarded by such groups. President Kennedy created two bodies, one on Federal regulatory structures and another on executive departments, to study Federal organization and make attendant recommendations. The latter body established by President Kennedy, commonly known as the price reorganization task force or group, reported confidentially in 1964 to President Johnson. The price task force reportedly recommended a reorganization of the domestic cabinet departments into new Departments of Transportation, DOT, Education, Natural Resources, Economic Development, and Housing and Urban Development, HUD. HUD and DOT were subsequently established by Congress.

President Johnson established another task force, which reexamined the work of the price body and reported confidentially to the President in 1967. This so-called Heineman study recommended, in part, the establishment of Departments of Natural Resources, Social Services, and Economic Development. In 1967, President Johnson proposed that Congress establish a Department of Business and Labor, essentially a merger of the Departments of Labor and Commerce. This proposal closely paralleled the framework of a "department of economic development," a recommendation of the Heineman body. The proposal was coolly received in Congress and was subsequently deleted from the list of legislative goals of the administration.

Soon after becoming President, Mr. Nixon established his own study group, formally designated the President's Advisory Council on Executive Organization and popularly referred to as the Ash Council. In 1969 and 1970, the Ash Council submitted numerous confidential memoranda to the President recommending sweeping reorganizations of the executive branch, including the regulatory framework. Only three documents from the total work of the Ash Council were ever made public by the President.

Utilizing the Ash Council recommendations, President Nixon proposed that the 93d Congress establish four super-Cabinet departments, organized from the programs and components of the Departments of Agriculture, Commerce, HUD, Labor, Interior, Transportation, and HEW. These new departments were to be named the Departments of Community Development, Human Resources, Natural Resources, and Economic Development. The President and his advisers claimed that this reorganization, if approved by Congress, would provide better service delivery, give coherence and goal orientation to uncoordinated, duplicated Federal programs, and reduce the Federal budget by at least $5 billion annually. However, congressional reaction to these proposals was less than enthusiastic. None have been brought to the floor of either House for approval.

The Price, Heineman, and Ash studies have several common aspects: They made major departmental reorganization recommendations; they were not established by Congress; they provided for little or no congressional and public input; their reports and supporting documents were never made available to Congress or to the public for analysis and comment; and the recommendations of these studies were not enthusiastically received by Congress.

In marked contrast, Mr. President, the Hoover Commissions' recommendations have succeeded both legislatively and operationally. This success is due in large part to the following factors: Both Commissions were established by acts of Congress; Members of Congress, the Executive, and the public served on the Commissions, with bipartisan membership mandated by law; the Commissions encouraged participation from persons, groups, universities, and other interested bodies inside and outside of the Federal Government; Commission reports and supporting documents were either published or made available for analysis and commentary by Congress, the public, and all concerned parties; and the Commissions were chaired by a nationally known figure—former President Herbert Hoover—who had recognized experience in both national governmental and industrial management.

A NEW HOOVER COMMISSION

The mandate contained in the bill I am introducing is similar in most respects to the enabling legislation of the first and second Hoover Commissions. The bill establishes a commission of bipartisan membership to assist the Congress in the promotion of economy, efficiency, and improved services in the executive branch of the Federal Government. It requires that the Commission investigate the present organization and operation of all executive entities and report findings and recommendations intended to:

First. Reduce expenditures to the lowest amount consistent with the efficient performance of essential services, activities and functions;

Second. Eliminate duplication and overlapping of services, activities, and functions;

Third. Consolidate services, activities, and functions of a similar nature;

Fourth. Abolish services, activities, and functions not necessary to the efficient conduct of government;

Fifth. Define responsibilities of officials;

Sixth. Eliminate nonessential services, functions, and activities which are competitive with private enterprise;

Seventh. Relocate agencies now responsible directly to the President in departments or other agencies if it can be shown greater efficiency would result; and

Eighth. Improve the means by which intergovernmental relations between the Federal Government and the State and local governments are administered.

Mr. President, I have noted previously that this bill is similar in many respects to legislation I introduced in the 92d Congress. Although Congress did not approve that bill, comments were solicited from various agencies with the intent of improving the language of the proposal. Some of these agencies responded with what I believe are sound suggestions, and they have been incorporated in the bill.

It is my hope that the Senate will move expeditiously with this proposal. The times demand action which can make Government more responsive, more open, and more efficient. We must begin to cope with these problems, and I believe the approach outlined in my bill is a sound way in which to proceed.

Mr. President, I ask unanimous consent that my bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 61

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

DECLARATION OF POLICY

Section 1. It is hereby declared to be the policy of Congress to promote economy, efficiency, and improved service in the transaction of the public business in the departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the executive branch of the Government by—

(1) recommending methods and procedures for reducing expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions;

(2) eliminating duplication and overlapping of services, activities, and functions;

(3) consolidating services, activities, and functions of a similar nature;

(4) abolishing services, activities, and functions not necessary to the efficient conduct of government;

(5) defining responsibilities of officials;

(6) eliminating nonessential services, functions, and activities which are competitive with private enterprise;

(7) relocating agencies now responsible directly to the President in departments or other agencies if it can be shown to be more efficient as a result; and

(8) improving the means by which intergovernmental relations between the federal government and the state and local governments are administered.

ESTABLISHMENT OF THE COMMISSION ON THE OPERATION OF THE EXECUTIVE BRANCH

Sec. 2. (a) For the purpose of carrying out the policy set forth in Section 1 of this Act, there is hereby established a commission to be known as the Commission on the Operation of the Executive Branch (hereinafter referred to as the "Commission").

(b) Service of an individual as a member of the Commission or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of chapter 11 of title 18 of the United States Code.

DUTIES OF THE COMMISSION

Sec. 3. (a) Investigation.—The Commission shall study and investigate the present organization and methods of operation of all departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the Government except the judiciary, the Congress of the United States, and the independent regulatory agencies, to determine what changes therein are necessary in their opinion to accomplish the purposes set forth in section 1 of this Act.

(b) Report.—The Commission shall submit an interim report to the Congress ninety days after the first day of the first calendar month which begins after the date of enactment of this Act and an interim report ten days after the end of each succeeding ninety-day period. The Commission shall make its final report of findings and recommendations to the Congress not later than two years after the date of enactment of this Act, at which date the Commission shall cease to exist. The final report of the Commission may propose such constitutional amendments, legislative enactments, and administrative actions as in its judgment are necessary to carry out its recommendations.

MEMBERSHIP OF THE COMMISSION

Sec. 4. (a) Number and Appointment.—The Commission shall be composed of ten members as follows:

(1) Two appointed by the President of the United States from private life;

(2) Four appointed by the President of the Senate, two from the Senate and two from private life; and

(3) Four appointed by the Speaker of the House of Representatives, two from the House of Representatives and two from private life.

(b) Political Affiliation.—Members of the Commission appointed from private life shall represent equally the majority and minority parties. With respect to members of the Commission appointed from the House of Representatives and the Senate there shall be a Representative and a Senator from the majority party and one each from the minority party.

(c) Vacancies.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

Sec. 5. The Commission shall elect a Chairman and a Vice Chairman from among its members.

QUORUM

Sec. 6. Six members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

Sec. 7. Members of the Commission who are members of Congress shall receive no compensation for their services as such, but shall be allowed necessary travel expenses (or in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence not to exceed the rates prescribed in 5 U.S.C. 5702, 5704), and other necessary expenses incurred by them in the performance of duties vested in the Commission, without regard to the provisions of subchapter I, Chapter 57 of title 5 of the United States Code, the Standardized Government Travel Regulations, or 5 U.S.C. 5731. Members of the Commission appointed from outside the Federal Government shall each receive compensation at the rate of $100 for each day such member is engaged in the actual duties vested in the Commission in addition to reimbursement for travel, subsistence, and other necessary expenses in accordance with the provisions of the preceding sentence.

STAFF OF THE COMMISSION

Sec. 8. (a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) The Commission may procure temporary and intermittent services of experts and consultants to the same extent as is authorized for the departments by section 3109 of title 5, United States Code, but at rates not to exceed $100 per diem for individuals.

POWERS OF THE COMMISSION

SEC. 9. (a) HEARINGS AND SESSIONS.—The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpoenas may be issued under the signature of the Chairman of the Commission, of such subcommittee, or any duly designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 102 to 104, inclusive, of the Revised Statutes (U.S.C., title 2, secs. 192–194), shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section

(b) OBTAINING OFFICIAL DATA.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this Act; and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

(c) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

APPROPRIATIONS

SEC. 10. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act, except that such appropriations shall not exceed $2,500,000 for each fiscal year the Commission is in existence.

By Mr. HUGH SCOTT (for himself, Mr. BAYH, Mr. BELLMON, Mr. FANNIN, Mr. HUDDLESTON, Mr. METCALF, Mr. MOSS, Mr. SCHWEIKER, Mr. TAFT, Mr. TUNNEY, and Mr. YOUNG):

S. 62. A bill to establish university coal research laboratories and to establish energy resource fellowships, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

COAL RESEARCH LABORATORY AND ENERGY RESEARCH FELLOWSHIP ACT

Mr. HUGH SCOTT. Mr. President, I am delighted to introduce legislation today along with 10 of my colleagues to foster development of this Nation's most abundant energy resource—coal. Even though the United States possesses close to one-half of the world's reserves, it is not our primary energy source. In fact, coal plays a disproportionately small role in the overall energy picture.

A number of factors have contributed to the underutilization of our coal resources. To a large extent, the relatively easy access to cheaper and cleaner forms of energy like petroleum and natural gas has tended to lead to less reliance on coal. It goes without saying that events of the last year have changed this drastically. Petroleum and natural gas are no longer available in unlimited quantities or at inexpensive rates. This Nation must return to coal as a major source for our energy demands that continue to grow geometrically.

One of the most interesting aspects of coal is its unknown properties. Although man has used coal for thousands of years, we probably know less about its potential than we do of oil or natural gas. Gasification and liquefaction of coal is slowly, much too slowly, becoming an economic reality. There are essential components in the makeup of coal which scientists still cannot identify or evaluate. Therefore, coal may have valuable uses for our economy which we presently do not understand.

For these reasons, I am today introducing a bill to do two things. First, it would establish coal research laboratories at selected universities for research in coal characterization and development. And second, the bill would provide energy resource graduate fellowships for graduate students to learn skills which will enable them to enter the energy field as experts in the private sector. The fellowship programs would fund study in all areas of the energy field—a field which now lacks manpower with the proper expertise in industry to find practical approaches to the undiminished energy crisis.

I would like to point out that the Congress in the past has encouraged energy research. In my Commonwealth of Pennsylvania for example, there was a federally created and funded Anthracite Research Center at Schuylkill Haven until 1966. For almost 25 years this center did extremely valuable work on development of new uses, markets, and outlets for anthracite coal. Under the authority of the Department of the Interior the center carried out a broad and extensive mandate. The idea was conceived and helped through Congress by former Congressman Ivor D. Fenton of Mahanoy City, Pa. Congressman Fenton realized as early as 1939 that this country must somehow tap our abundant coal reserves. His observations continue to be accurate more than 30 years later. Unfortunately, on the recommendation of former Secretary of the Interior, Stewart Udall, the research center at Schukylkill Haven was discontinued in 1966.

My proposal for coal research laboratories would revitalize and continue the studies of anthracite started by Congressman Fenton. Moreover, it would go much farther by embracing bituminous coal research.

Presently, there is a Government policy encouraging power generation systems now utilizing fuel oil to switch to coal. A basic problem is that much of the coal which might be put to this purpose is not environmentally acceptable under standards set by the Congress and the Environmental Protection Agency. One proposed solution is to decrease these standards so all coal will qualify. This may be satisfactory as a very temporary measure, but it certainly will not meet this country's realistic desire for both clean air standards and adequate energy availability. The coal research laboratories established by this bill would be mandated to develop methods by which high sulfur coal could be made environmentally acceptable.

Mr. President, I ask unanimous consent to place in the RECORD at the end of my remarks a more detailed analysis of this bill. It will specifically outline how the bill would fund five coal research laboratories for in-depth coal research and would establish graduate fellowships to train professionals to work in industry on our general energy problem.

I hope additional Senators will join with me and the other sponsors of this legislation.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

FACT SHEET

The bill has two titles. Title I establishes University Coal Research Laboratories, and Title II authorizes Energy Resource Graduate Fellowships.

The Director of the National Science Foundation after consultation will designate five institutions of higher education at which the Laboratories will be established. The bill outlines the steps required for an institution in application for designation. In designating, the Director of the NSF must consider the following criteria: The institution of higher education shall be located in a state with abundant coal reserves, the institution of higher education shall have previous experience in coal research and currently active programs in this area, and the institution must have the capacity and resources to operate a coal laboratory assisted by the bill.

The bill would authorize the Director of the NSF to pay the Federal share of the cost of establishing (including the construction of such facilities as may be necessary) and maintaining a coal laboratory. No institution may receive more than $4,000,000 for construction of its coal laboratory, including initially installed fixed equipment. It would not be allowed more than $1,500,000 for initially installed movable equipment and no more than $500,000 for new program start-up expenses. Each year for a minimum of five years the Federal government would provide no more than $1,500,000 per laboratory for operating expenses. The institution of higher education would have to insure matching amounts each year for operating expenses from non-federal sources.

Under Title I an Advisory Council on Coal Research would be established. Membership is outlined in section 105. The Council would provide advice on the general administration of the laboratories.

Title II outlines the Energy Resource Graduate Fellowships. The fellowships would be awarded by the Director of the NSF for periods designated not to exceed two years. They would be for graduate study and research in those areas of applied science and engineering that are related to the production, conservation and utilization of fuels and energy. To apply for a fellowship an individual must have been accepted by an institute of higher education for graduate study leading to an advanced degree or for a professional degree and the individual must plan a career in the field of energy resources, production or utilization. The Director of the NSF should provide for equitable distribution of such fellowships throughout the nation. However, special attention should be given to research centers, archives, libraries, or institutes of higher education that have a demonstrated capacity for research or courses of study in the fields of energy resources, conservation, conversion and related disciplines.

The fellowships for individuals shall be stipends of $4,000 for each academic year of study plus an additional $500 for each dependent. The institution will be given 100% the amount paid to the fellowship holder less the amount paid on account of such person's dependents, less any amount charged such person for tuition.

The Coal Research Laboratories and the fellowships shall be funded by the legislation for a five year period. The Director of the NSF will be empowered to award up to 1500 fellowships per year.

By Mr. BEALL (for himself, Mr. MATHIAS, Mr. FONG, and Mr. STEVENSON):

S. 63. A bill to amend the Internal Revenue Code of 1954 to provide an exemption from income taxation for certain income of condominium housing associations, homeowner associations, and cooperative housing corporations. Referred to the Committee on Finance.

Mr. BEALL. Mr. President, I am today introducing legislation designed to exempt from income taxation the membership contributions in reserve funds accumulated by condominium housing associations, homeowner associations, and cooperative housing corporations in order to defray future, high-cost maintenance and repair bills. This measure is cosponsored by Senators MATHIAS, FONG, and STEVENSON.

This legislation, if enacted by the Congress, would overcome recent Internal Revenue Service rulings which held that condominiums and housing associations are in fact corporations under the law, and thus can be taxed at corporate levels. The practical effect of these rulings, if allowed to stand by the Congress, would be to severely hamper the development of such housing concepts by placing heavy tax penalties on the accumulation of reserve funds, and thus require associations to make heavy assessments on homeowners whenever extensive repairs must be made.

Mr. President, condominium and cooperative home ownership has become a most attractive—and often the only—way for many Americans to own a home. In urban areas, and other areas of dense population, such as resorts, condominiums, and cooperatives offer an efficient method of housing large numbers of people in a relatively small area.

A recent survey of 25 metropolitan areas revealed that half of all new housing units in these areas in 1973 were condominium units. At a time when this Nation is facing severe housing problems, particularly for low- and moderate-income persons, it seems to me highly unwise to lay tax barriers before the development of this promising concept.

In this period of spiraling inflation, especially in the housing market, single family homes are simply out of the reach of many Americans. In the Washington area an average existing home now sells at about $49,700, a 9.5 percent increase over 1973, and the average new home sells for $48,900, an 8.4 percent increase over the same period. Obviously, for young families, for retirees, for moderate-income people, such prices are completely out of reach. The condominium and cooperative concepts offer them the chance to be a homeowner. Congress has throughout our tax laws recognized the social good of homeownership, and has encouraged its development by allowing deductions for such things as mortgage interest and property tax payments. To permit these latest IRS decisions to stand would fly in the face of our effort to assist Americans in owning their home.

Let us look at what a condominium really is. A condominium is simply a plan of ownership which permits individuals to own directly a portion of the building in which they live, as well as part of the land underneath it. It provides for the separate ownership by each owner of a unit or apartment in the building and for the common ownership of the underlying land and public or commonly used improvements.

Owners typically are responsible for the maintenance of the interior of their units. But to meet the maintenance needs of commonly held areas, they form associations to handle these chores. Usually, this ownership management association takes the form of a corporation, in order to protect owners from unlimited liability.

Homeowner associations, usually found in planned unit developments, and cooperatives also make use of this vehicle to accomplish needed maintenance.

Unit owners then pay, usually in monthly installments, a sum to the management organization or the association to meet these maintenance costs. The bulk of the monthly assessment will be used for utilities, current maintenance and repairs, and capital replacement and repairs. However, a smaller portion of this fee will be set aside in a reserve for future capital replacement and repairs, such as for major repairs to roofs, sidewalks, heating and air conditioning equipment, and recreational facilities. Of particular note is that most lenders and private mortgage insurers require reserves. The same is true of secondary purchasers of mortgages such as the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

It is these reserve funds which will bear the burden of this capricious and unfair IRS decision. The amount of this tax involved could well be as high as 48 percent at the Federal level, in addition to any State corporation tax.

There are over 20,000 "community associations," which include condominiums, home associations in planned unit developments and townhouse communities, in the country today, a number I might add that is growing at a rate of about 4,000 associations per year. To allow these rulings to stand would be to force each and every owner to pay the high tax assessments on this reserve fund, an amount which is often in the tens of thousands of dollars.

And is it fair? I do not believe so. To prove my point, take this example:

If citizen A and citizen B decide to establish a joint bank account to pay for future repairs to their driveway, they will not be penalized for their thrift by having those deposited funds taxed.

Yet, when a condominium, homeowner, or cooperative housing association pools its resources, essentially for the same reason, it is taxed at corporate levels.

Additionally, such a tax is, in my judgment, double taxation on these residents. The owner has already paid income taxes on the money deposited with the association for maintenance, but he must in effect pay another higher tax when that money goes into the reserve.

So what we have, in fact, is a situation whereby Government and private lenders are requiring the maintenance of a reserve as a good, sound financial procedure, but another Government agency—the IRS—has decided, in effect, to preclude the development of such a viable fund by taxing it to death.

Some of my colleagues are probably asking themselves, "How did these associations get into this position?"

On January 15, 1974, the Internal Revenue Service, in Revenue Ruling 74-17, ruled that organizations—

> Formed by the unit owners of a condominium housing project to provide for the management maintenance and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the code.

This decision reversed the traditional IRS interpretation which stated that organizations which are operated primarily for the purpose of bringing about civic betterment and social improvement, such as condominiums, were tax-exempt.

On March 6, 1974, much of the substance of Revenue Ruling 74-17 was applied to homeowners associations although not in such an all-inclusive order, as was the case with condominiums. In Revenue Ruling 74-99, a homeowners' association may qualify for exemption under section 502(c)(4) of the code, if, first, it serves a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental; second, does not conduct activities directed to the exterior maintenance of private residences; and third, offers the common areas or facilities it owns for the use of the general public.

Thus, although some homeowner associations will still be tax-exempt, most will no longer receive the exemption they also have previously enjoyed.

Cooperatives also face these same heavy tax burdens when they accumulate excess assessments. In *Park Place, Inc.* v. *Commissioner of Internal Revenue,* (57 T.C. 767 (1972)) the court found that excess assessments from members, over and above, those amounts used for current operating expenses, were taxable. Thus, this ruling also prohibits cooperatives from accumulating reserves necessary for the accomplishment of long-term or costly maintenance tasks.

Mr. President, the individual homeowner does not have to pay a tax on the money he saves and expends for maintenance. But because of these rulings, the condominium, cooperative, and planned unit development homeowner does. In effect, the Internal Revenue Service has made the performance of these services much more costly to these homeowners than to other homeowners. The discrimination could not be clearer.

Mr. President, my bill seeks to end that discrimination. It would exempt from corporate taxes the income derived by condominium homeowners and cooperative housing associations from owner assessments for the purpose of maintaining, repairing, and replacing common property items. The measure requires that such corporation be operated exclusively for the preservation, maintenance, management, operation, and repair of the common buildings, grounds, and facilities of the association, and does not allow such associations to engage in any profitmaking ventures not connected with the performance of services for the benefit of individual members of the association.

Additionally, membership in these associations for the purposes of the bill, would be limited to owners or occupants of residential units in the condominium, housing development, or cooperative housing corporation. Thus, by inclusion of this standard, we are precluding the use of this exemption by commercial operations who might seek such favorable tax treatment.

Finally, to make absolutely certain that this new section will not be subject to abuse, my proposal includes a special rule applicable to such organizations as I have described which makes it unmistakeably clear that only membership income—that income derived from assessments, fees, or charges received from members of the association for maintenance and management of the development—is exempt, and that other income, from whatever source, including interest, is still subject to taxation.

In short, all this legislation does is exempt from tax those reserve funds accumulated by housing associations through membership assessments for the purpose of maintaining the common buildings, grounds and facilities of condominium, cooperative or homeowner associations.

Mr. President, condominiums, cooperatives, and homeowner associations are not organized for profit. They are organized for the mutual benefit of the association members, and for the community at large. A well-run, properly maintained condominium development improves the area in which it is located, as well as providing possibly the only opportunity for potentially millions of Americans to own a home.

My bill merely seeks to return things to the way they were prior to the time these two discriminatory tax rulings were made.

I do not believe Congress wants to place disincentives before potential homeowners, and thus I urge the Senate to rectify this situation by acting favorably on this legislation.

By Mr. STEVENS (for himself, Mr. Fong, Mr. Gravel, and Mr. Inouye):

S. 64. A bill to provide for the addition of the names of the States of Alaska and Hawaii to the list of the 48 States inscribed upon the walls of the Lincoln National Memorial. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, as one of those deeply involved and committed to the cause of statehood for Alaska and Hawaii, I remember with pride the moment when Alaska became the 49th State in our Union. I remember a feeling of deep emotion as our flag was raised over Fort McHenry on July 4, 1959, and included in that flag was the 49th star representing my State.

As Alaska entered into statehood, Alaskans assumed the burdens and duties of citizenship along with its advantages. Alaskans are proud to be full citizens of the United States and proud of the heritage this country affords.

Part of that heritage is the dignity, courage, and grace of Abraham Lincoln. More than any other person, he was responsible for the preservation and perpetuation of the Union of our States. The names of the 36 States which were in the Union at the time of Lincoln's death are carved on the lintels in the memorial which bears his name. Above them are inscribed the names of 48 States of our Union. Missing are the names of the States of Alaska and Hawaii.

Accordingly I am introducing today a bill for myself, Mr. Gravel, Mr. Fong, and Mr. Inouye which authorizes and directs the Secretary of the Interior to take such actions as may be necessary to inscribe on the Lincoln Memorial, at an approximate place and in a manner and style consistent with the existing inscription of the names of the 49th and 50th States, Alaska and Hawaii.

I ask unanimous consent that the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 64

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of adding the names of Alaska and Hawaii to the existing list of names of the forty-eight States inscribed on the walls of the Lincoln National Memorial, the Secretary of the Interior is authorized and directed to take such action as may be necessary to inscribe on the walls of such memorial, at an appropriate place and in a manner and style consistent with the existing inscriptions of the names of the forty-eight States, the names of the States of Alaska and Hawaii.

By Mr. KENNEDY (for himself, Mr. Javits, Mr. Williams, Mr. Randolph, Mr. Pell, Mr. Nelson, Mr. Mondale, Mr. Cranston, Mr. Hathaway, Mr. Schweiker, and Mr. Stafford):

S. 66. A bill to amend title VII of the Public Health Service Act to revise and extend the programs of assistance under that title for nurse training and to revise and extend programs of health revenue sharing and health services. Referred to the Committee on Labor and Public Welfare.

NURSE TRAINING AND HEALTH REVENUE SHARING AND HEALTH SERVICES ACT OF 1975

Mr. KENNEDY. Mr. President, I am introducing today a bill which reflects over a year's deliberation by the Senate and the House of Representatives. It is identical to the House/Senate conference agreement on H.R. 14214, and on H.R. 17085. Both conference reports were accepted by the Senate and the House and sent to the President during the waning days of the 93d Congress. The bill I introduce today changes the terms and provisions of this legislation in no way, except to combine the two measures into one bill.

I am reintroducing the bills without change because I believe the Congress has a right to challenge the President's vetoes of these measures.

H.R. 14214, the Health Revenue Sharing and Health Services Act of 1974, was sent to the White House on December 11. By exercising his prerogative to 10 days for consideration of a bill, the President was able to out wait the 93d Congress by 24 hours. By using this narrow margin, the President was able to veto the bill after the 93d Congress had adjourned, and deprive us of the opportunity to challenge that veto. With respect to the Nurse Training Act, H.R. 17085, the margin was wider, but the principle is the same. Both of these pieces of legislation reflect the best judgment of the 93d Congress and deserve more than this preemptory treatment by the White House.

The measure I am introducing today, which embodies both the Nurse Training Act and Health Revenue Sharing and Health Services Act passed by the 93d Congress, is cosponsored by the vast majority of the members of the Committee on Labor and Public Welfare. I propose to ask the chairman of this committee to poll this bill out of committee for consideration by the Senate at the earliest possible date, based on the extensive record established on this legislation by the last Congress. I am hopeful that the Congress will pass this measure overwhelmingly. And I certainly hope the President will find it possible to enact it into law.

I do not believe the Senate should roll over and play dead before the barrage of vetoes which the President has hurled at important legislative actions in the last month. To accept the preemptory treatment he has given these two health bills would be to encourage further such actions and to deprive the Congress ultimately of its prerogative to challenge the President on vetoes.

Frankly, as a chairman of a subcommittee which handles an enormous amount of legislation, and requires endless hours from my colleagues on the Committee on Labor and Public Welfare, I am appalled that the White House seems to view our legislative activity as a giant game, and to seize on a margin of 24 hours to deprive Congress of the opportunity to challenge a veto of a measure into which legislators have poured innumerable hours in the public interest. The bill that was vetoed is the best judgment of the House and Senate on what our Nation needs in the area of nurse training and health services. It was our best judgment on December 10. And the judgment is equally well founded on January 14.

Let me briefly describe the nurse training and health revenue sharing and health services provisions in the bill.

NURSE TRAINING

Mr. President, I now want to briefly describe title 1 of this bill.

CONSTRUCTION GRANTS

This provision remains essentially the same and authorized $25 million for fiscal year 1975 and for each of the 2 succeeding years. Priority in funding is established for expanding the capacity of schools to provide for the major expansion required if enrollments of nurses for advanced training are to be adequately expanded.

CAPITATION GRANTS

There are several significant changes from existing law in this section. For the first time there is a different amount designated for different types of nursing schools. The reason for this is to reflect the differences in costs as determined by the institute of medicine cost study. Capitation grants are restricted to undergraduate programs as there is a special section of this bill to fund advanced training.

Baccalaureate degree programs are eligible for $400 per student enrolled in the last 2 years of the program.

Associate degree programs—community or junior colleges—are eligible for $275 per student enrolled in the last year of the program.

Diploma hospital based schools are eligible for $250 per full-time student enrolled for each year of the program.

Authorizations for appropriations for capitation are $45 million in fiscal year 1975, $50 million for fiscal year 1976, and $55 million for fiscal year 1977. Provision is made for funds to be appropriated to continue payment for "enrollment bonus students" for students enrolled as first-year students in such schools for school years beginning before June 30, 1975.

FINANCIAL DISTRESS GRANTS

This program is continued to provide special assistance to schools of nursing that are in serious financial straits to meet operational costs required to maintain quality educational programs or which have special need for financial assistance to meet accreditation requirements.

The Secretary of the Health, Education, and Welfare must consult with the National Advisory Council on Nurse Training before approving or disapproving an application for a financial distress grant.

The authorization is $5 million for each of the 3 years 1975–77.

SPECIAL GRANTS AND CONTRACTS

This section has provided funds to schools and health agencies to try out better methods of teaching to better utilize faculty, increase enrollment and several other types of projects. The new provision makes some modifications providing funds for:

Mergers between hospital training programs or between hospital training programs and academic institutions, or

Other cooperative arrangements among hospitals and academic institutions leading to the establishment of nurse training programs;

Plan, develop, or establish new nurse training programs or programs of research in nursing education, significantly improve curriculums of schools of nursing, or modify existing programs of nursing education;

Increase nursing education opportunities for individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, by:

Identifying, recruiting, and selecting such individuals.

Facilitating entry of such individuals into schools of nursing.

Providing counseling or other services designed to assist such individuals to complete successfully their nursing education, and

Providing, for a period prior to the entry of such individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education.

Paying such stipends—including allowance for travel and dependents—as the Secretary may determine for such individuals for any period of nursing education, and

Publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools;

Provide continuing education for nurses,

Provide appropriate retraining opportunities for nurses who—after period of professional inactivity—desire again actively to engage in the nursing professions; or

Help to increase the supply or improve the distribution by geographic area or by specialty group of adequately trained nursing personnel needed to meet the health needs of the Nation, including the need to increase the availability of personal health services and the need to promote preventive health care.

Again the National Advisory Council on Nurse Training must review all applications for these project grants.

ADVANCED NURSE TRAINING

This section provides funds for graduate programs and other advanced training programs to meet the costs of projects to plan, develop, operate, significantly expand enrollments and maintain existing programs, for the advanced training of professional nurses to teach, to serve as administrators of nursing services, or to practice in nursing specialties including nurse clinicians of various types determined by the Secretary to require advanced training. Authorizations are $20 million for fiscal year 1975, $25 million for fiscal year 1976, and $30 million for fiscal year 1977.

We have great hopes that the size of grants made to schools under this section will be adequate to provide for a very significant increase in those categories mentioned above by 1978.

NURSE PRACTITIONER PROGRAMS

The nurse practitioner and nurse clinician movements hold great potential for improving primary care to the American public. The early programs have ruled out appropriate teaching methods and have demonstrated the effectiveness of the care provided. The field is now ready for an increase in the number of nurse faculty prepared to teach in these special programs and for a major increase in the number of practitioners to be prepared, the time for these increases is now. I am gratified at the progress being made in this regard but there is a long way to go. The quality of these educational programs is important. We want only well-prepared nurses functioning as nurse practitioners. We want first-class health care provided by expert nurses working in cooperative relationships with physicians.

Just teaching by physicians and nurses needs to be provided first. Funds for such purposes are provided in this section of the bill.

Grants can be made to plan, develop, operate, significantly expand, or to maintain existing programs for training nurse practitioners.

Authorizations for this section are $20 million for fiscal year 1975, $20 million for fiscal year 1976, and $30 million for fiscal year 1977.

ASSISTANCE TO NURSING STUDENTS

There are currently some 26,000 nursing students receiving loans under the Nurse Training Act. Only 20,000 are now receiving scholarship aid since the President's budget eliminated any new awards. Some 3,800 R.N.'s are receiving traineeships for advanced training.

Authorizations for traineeships in H.R. 17085 are $20 million for the first year, $25 million for the second, and $30 million for the final year included in the bill.

Student loan authorizations are $30 million in fiscal 1975, $35 million in 1976 and $40 million in 1977.

The scholarship program has an open-ended authorization to cover the formula which is based on the number of students.

The total authorization for this title of the bill is $187 million as compared to $254.5 million for fiscal year 1974.

Last year, Mr. President, we made several important amendments to the Nurse Training Act in the Senate. And I want to specifically draw the attention of the Senate to them.

The House-passed nurse training bill contained a wholly new program to encourage the training of nurse practitioners. This is a most welcome development because there is reason to believe that increased numbers of high-quality nurse practitioners will be of assistance in providing more primary health care to the American people. Five of the amendments propose changes for this new program. First of all we propose to increase the range of eligible applicants from just collegiate schools of nursing to all schools of nursing as well as schools of public health and medicine and public or nonprofit private hospitals.

Second, the amendment proposes to include pediatric and geriatric nurses within the scope of the program.

In addition the amendment liberalizes two provisions concerning the nurse practitioner course of study. It requires that not less than eight students be enrolled in an approved program and that the minimum course of study be 1 academic year of which at least 4 months must be classroom instruction.

And finally the amendment broadens the professional and educational groups with which the Secretary of HEW must consult in the development of guidelines for the program to include appropriate educational and medical organizations.

Mr. President, the Senate amendment also adds an additional program to the special project authority contained in the bill. This new authority is specifically designed to enhance professional mobility within the nursing profession by providing support for programs to upgrade nursing skills.

In addition the amendment adds authority in the special projects program to emphasize increasing the supply of nursing personnel who are bilingual.

Finally with regard to the special projects programs the amendment earmarks not less than 10 percent of the funds appropriated be reserved for programs to encourage the full utilization of educational talent in the nursing profession.

To insure that the level of support available for programs for the recruitment and retention of prospective students who are disadvantaged due to socioeconomic factors is maintained at least at the level of previous years, no less than 10 percent of the funds appropriated for special projects under the authority of the new subsection 820(d) are earmarked for this purpose.

The amendment finally proposed two technical and conforming changes to the Health Revenue Sharing and Service Act of 1974, H.R. 14214, which is now contained in title II of this bill.

HEALTH REVENUE SHARING AND HEALTH SERVICES

The bill includes 2-year extensions of three major existing health service authorities: the migrant health centers program, section 310 of the Public Health Service Act; the community health centers program, section 314(e) of the Public Health Service Act; and the community mental health centers program, authorized by the Community Mental Health Centers Act. All three of these programs have demonstrated their ability to respond to critical health service needs in our population. The migrant program reaches out to agricultural workers in our country who without this program might find it impossible to get decent health care. The community health center program has fostered the establishment of health centers in both inner-city areas and radically rural areas where it has proven almost impossible, without Federal assistance, to obtain the doctors, nurses, and facilities needed to supply health care. The community mental health center program, since its inception, has started 500 of the proposed 1,500 centers needed to make mental health services available in every community. When this bill was originally passed by the Congress, the objective of reaching every American community was clearly articulated. The program has performed well, and has even been praised by this administration which proposes to shut it down.

Each of these three centers programs has been subjected to careful scrutiny in the House and Senate committees. The measure which was sent to the White House on December 10, and which is contained in the bill I am introducing today, strengthens and improves the programs even further. The bill, for example, requires centers to improve their administrative efficiency and to collect every possible dollar of reimbursement for their services from insurance companies, from medicare and medicaid, and from individual patients on a fee schedule basis adjusted to family income. It also requires States to maintain their support of the centers. In other words, the bill goes as far as possible toward honoring the administration's insistence that service programs should be self-sufficient.

The bill also defines clearly, for the first time in legislation, what services these centers must offer and establishes conditions aimed at assuring these services are of the highest quality. During the early years of these three centers program there has been a good deal of experimenting with a variety of service packages and styles of operation. We have reached the point where we can define what services should be offered and standardize centers' operations so that both the Congress and the center itself understand the nature of the public investment.

Basically, the extension of these centers' programs aims at perfecting these institutions as health care providers, making them as self-sufficient as possible, and underwriting only those costs of operation which they have no reasonable chance of collecting from any source but the Federal Government. Existence of these uncollectable costs is a testimony to weaknesses in our health insurance coverages in this country and especially to the problems encountered by low-income Americans in obtaining health insurance.

The Congress is actively considering national health insurance proposals which would vastly improve these coverages. For example, most national health insurance proposals, including the administration's, would cover 92 percent of the average mental health center's costs of operation. We propose to continue these proven programs until that coverage is available. It would be foolish to allow centers to die or to cut back on their services at this time. Regardless of what national health insurance proposal ultimately passes the Congress, we will need all of the health services capacity we can muster, especially in rural and inner-city areas, and in the area of mental health.

The health services provisions of this bill would extend these center programs for 2 years. At that time the Senate can review the outlook for these programs and for national health insurance.

Ninety-eight percent of the $1,951,000 in authorizations in this bill are involved with the three centers' programs, plus family planning and the health revenue sharing program described below. The administration has proposed that the migrant health centers program be allowed to expire, and that these centers, along with family planning and neighborhood health centers be funded out of the very general authority for health services under section 314(e) of the Public Health Service Act. With respect to mental health centers, the administration has proposed to terminate any support of new mental health centers, and not to extend support for existing centers beyond the current 8-year limit.

The Health Subcommittee has considered these approaches, and find they simply do not reflect the original intent of these programs, nor do they allow the Congress to specify in sufficient detail the nature of the programs it wishes to be funded. The record of debate on the mental health center program establishes clearly that Congress intended to start up enough centers to serve every community in the Nation. We are one-third of the way to that goal. The administration agrees that the mental health center model has been successful and that the program has successfully started 500 centers across the country. This success argues in the committee's judgment for continuing this program until the goal is reached, rather than stopping the program and hoping that some other source of funds will appear to complete the job. The committee also believes that existing centers must be supported beyond the current eight-year limit. When the community mental health centers program was passed, the Congress expected that insurance coverages might expand sufficiently to allow these centers to become self-sufficient. That has simply not taken place. The committee believes it would be foolhardy to force centers to cut back on services or die for lack of a few more years of interim support when national health insurance is around the corner.

Neighborhood health centers and migrant health centers have taken a vast variety of forms since the programs were created. The committee feels it is time to define what the Congress looks for in such a center in terms of the type of services to be offered and the type of management and operation that is best for providing health care. Section 314(e) of the Public Health Service Act, under which the administration wishes to fund these centers, simply does not supply any of this specificity. Indeed, the Department of Health, Education, and Welfare has used this authority to start programs never intended by Congress—and even began making grants to health maintenance organizations under the authority while health maintenance legislation was under active review in this body. The committee insists on its prerogative to define the nature of this program and believes that even within the more definitive structure of this bill, an enormous of flexibility is left to the Secretary of the Department to work with communities and neighborhood health centers. The committee also believes it is necessary to continue a separate migrant health program for fear that these already underserved and frequently forgotten Americans will once again be lost in the competition for funds for health services. Moreover, there are requirements associated with providing health services to migrants that require separate and specific definitions in the law.

I would argue, and I believe the Health Subcommittee and the Committee on Labor and Public Welfare would support me, that these centers' programs must be extended and that the programs we have sent to the President are a fair and thoughtful response to his priorities, as well as a legitimate representation of the interests of the Congress in defining these programs.

The health services portion of the bill I am introducing today also extends the authority to provide funds to States for public health services. The authority is increased from $90,000,000 to $160,000,000 because of the impact of inflation on the State public health budgets, and in order to initiate a hypertension screening and control program at the State level. 22 percent of the authorization is earmarked for hypertension programs. These vital programs offer an opportunity to bring to hundreds of thousands of Americans the benefits of advances in our medical technology with respect to heart disease. The program is retained in the bill I introduce today in exactly the form in which it was sent to the President on December 10.

The health services bill also contains a number of small but vital new programs aimed at investing very limited Federal dollars in areas of high demand more as an expression of intent and future direction than as a full scale program of support. For example, the bill calls for studies of Huntington's disease and epilepsy by the Department of Health, Education, and Welfare and of the mental health problems of the elderly in order that future Congresses can outline a meaningful program of support in these areas. Frankly, were the budget not so strained, more might have been done in these areas now based on existing knowledge.

The bill also contains a 1-year program of support for demonstration of home health agencies, a 2-year program of support for rape prevention and control programs in the National Institutes of Mental Health, and a 2-year program of support for blood fractionation and diagnostic centers for hemophilia. All three of these programs together involve barely $50 million over the period of the bill. I believe these programs are so modest that by eliminating them we would do little to change the cost of the bill, but would set back work in these vital areas of health care several years.

Finally, Mr. President, I want to reemphasize the fact that both of these bills were vetoed by the President after the 93d Congress had adjourned. I believe the Congress must have the opportunity to express its judgment on that action by the President. And that is what the introduction of this bill is all about.

Mr. JAVITS. Mr. President, I am pleased to introduce today with Senator Kennedy the Nurse Training and Health Revenue Sharing and Health Services Act of 1975 (S. 66). The measure is identical to the conference substitute on H.R. 14214, Health Revenue Sharing and Health Services Act of 1974 and on H.R. 17085, Nurse Training Act of 1974, but combines them into a single bill.

Each of the bills combined into the measure introduced today expresses more than a year's careful legislative consideration in preparing each measure, and also was passed by the Senate and House in the 93d Congress—but pocket-vetoed by the President. Thus Congress did not have the opportunity to challenge the veto.

The White House memorandum of disapproval for each of the bills provided no new factor not previously considered by the Congress when it passed each bill. Therefore, I believe it appropriate for this Congress to consider the legislation as soon as possible—based on the legislative record established by the 93d Congress and the President's individual memorandum of disapproval when he pocket-vetoed each bill, which I ask unanimous consent be included in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. Mr. President, I am pleased to note that the course of procedure for prompt Senate action on the measure introduced today—polling the bill from committee to expedite prompt Senate consideration—which I support and detailed in Senator Kennedy's introductory remarks—also has the support of the cosponsors of this bill, Senators Williams, Schweiker, Stafford, Randolph, Pell, Nelson, Mondale, Cranston, and Hathaway.

Mr. President—with respect to nursing education and health service programs—I will not detail the provisions of each of the titles of the omnibus bill Senator Kennedy and I today introduce, since he has described them in his introductory remarks. Rather, I will focus on why I believe, as previously stated, there is no new rationale in the President's disapproval memo with respect to either health service programs or nursing education which was not previously considered when these respective measures were first introduced; deliberated upon by the Committee on Labor and Public Welfare when ordered favorably reported; reflected upon when each bill was passed by the Senate and House; and carefully considered once again when the conference substitute was agreed to and adopted by the Senate and House.

NURSING EDUCATION

In regard to nursing education the thrust of the disapproval memo is opposition to categorical nursing student assistance and institutional support through capitation grants to nursing schools. This theme was at the heart of the administration position in 1971 and rejected by the Congress then, and culminated in the enactment into law of Public Law 92–158. The administration sought to frustrate the law through zero budget requests for capitation support but was overturned regularly by congressional annual appropriations of approximately $38,000,000 to carry out the purpose of the law, to provide nursing schools a stable source of financial support.

I believe the nursing education title of this bill is essential to meet the health needs of the American people. Health systems cannot operate, and quality programs of care cannot be developed, unless an adequate supply of this critical human resource is assured. As we consider national health insurance and pass other measures to improve health care, we must also act to insure that adequate numbers of nurses will be available to carry out our plans. Without the support of the nurse training provisions in this bill, the number of nursing students will decrease, even in the face of growing health care demands.

Last year, our committee studied in detail the current nursing crisis and heard expert witnesses forecast an even greater shortage in the coming years. At present, the Nation requires 150,000 additional nurses; by 1980, it is expected, there will be a need for over 1 million.

We need these nurses because their services are crucial to all medical care. Their work is focussed upon care of patients and upon assessment of patients' individual health needs. Their responsibilities include clinical services and also health counseling, public education, disease detection, and a variety of vital activities in the area of preventive medicine and general health promotion.

In performing these tasks, nurses work in physicians' offices and in patients' homes, in schools and in industry, in emergency rooms, and in chronic care centers. In each setting, they bring medical skill and personal attention to the population at large.

Nurses, in increasing numbers, are moving to fill our health care gaps. Already, they are bringing needed health services to people in remote rural communities and underdeveloped urban locations. Our committee knows of a number of exciting projects throughout the Nation, where nurse-practitioners are now caring for persons in desperate need of medical care and health education, and the bill responds to this need.

Our Nation faces a problem of specialty maldistribution, as well. Again, the nursing profession has assumed a leadership role in meeting this critical health need. Today, there are specialists in psychiatric nursing, family nursing, maternal, child and geriatric nursing. These nurses provide continuity of patient care, whether this be a preventive, curative or rehabilitative service.

Thus, the nursing profession has broadened its traditional role in a way which directly meets our most urgent health problems. But nurses can, and must, do more.

As our population increases and as

medical knowledge and technology expand, there develop new strains upon our medical resources. The demand for skilled nurses is increasing, and those nurses who are practicing are assuming new responsibilities. Medical care is becoming increasingly complex, and there is a special need for nurses trained in the management of medical programs. Most important, skilled nurses are needed to provide the personal link between the health care establishment and the people in need of care.

This bill provides basis Federal assistance to nursing health services, by promoting and supporting the growth of quality nursing care. It authorizes construction, startup, capitation, and special assistance grants which will encourage the expansion of nurse training enrollments, and facilitate the development of innovative curriculums. These and other grants provide educational assistance to upgrade the skills of nurses and paraprofessionals, and to train more nurses in the fields of greatest need. In addition, there are provisions in this bill to identify, and then support, students who are financially, culturally, or educationally needy and who show special potential for nursing.

I believe that this title of the bill represents our commitment to nursing education and our recognition that the nursing profession plays a vital role in providing health care to the American people.

HEALTH SERVICES PROGRAMS

In regard to the health revenue sharing and health services, the thrust of the disapproval memo is opposition to the carefully articulated categorical programs which Congress has chosen to support, as contrasted to the administration proposal to consolidate funding support for health service programs under broad generic authority, as for example at one time available under section 314(e) of the Public Health Services Act; and administration insistence that the community mental health center program is a demonstration program that has proven itself.

With regard to the community mental health center program, I believe in initiating the CMHC program in 1963, the Federal Government made a firm commitment to all Americans—that a nationwide system of community care, provided through approximately 2,000 community mental health centers which offer fully comprehensive services, would be in place by 1980. This commitment is clearly laid out in the legislative history of the CMHC Act and has encouraged communities in every State to apply for CMHC funding under the Federal program.

The Federal Government cannot and should not withdraw from its commitment, particularly where in the federally funded CMHC program we have a system of health delivery which can provide patients all the mental health services which they need within their own community at a cost they can reasonably afford.

I would remind my colleagues of the position of Congress summarized in National Council of Community Mental Health Centers against Weinberger:

> The Act was never viewed by Congress as a demonstration program to get communities to follow the examples of others and start their own centers, but rather a national effort to redress the present wholly inadequate measures being taken to meet increasing mental health treatment needs.

The disapproval memo fails to recognize that 98 percent of the $1,951,000,000 in authorizations in this bill are involved with the three centers' programs—strengthened and improved neighborhood health centers, migrant health centers, and community mental health centers—plus family planning and the health revenue sharing program hereinafter discussed. The administration has proposed that such centers programs—exclusive of its view to terminate any support of new mental health centers, and not to extend support for existing centers beyond the current 8-year limit, be allowed to expire—along with family planning and other programs, be funded out of the very general authority for health services under section 314(e) of the Public Health Service Act.

The Congress has considered these approaches and they do not allow the Congress to specify in sufficient detail the nature of the programs it wishes to be funded.

Neighborhood health centers and migrant health centers have taken a vast variety of forms since the programs were created. The Congress should define what the Congress looks for in such a center in terms of the type of services to be offered and the type of management and operation that is best for providing health care. Section 314(e) of the Public Health Service Act, under which the administration wishes to consolidate funding, does not provide this specificity. Indeed, the Department of Health, Education, and Welfare has used this authority to start programs never authorized by Congress.

I believe the Congress should insist on its prerogatives to define the programs it wishes to see supported. At the same time I believe it is necessary to continue a separate migrant health program lest these already underserved and frequently forgotten Americans will once again be lost in the competition for funds for health services. Moreover, there are requirements associated with providing health services to migrants that require separate and specific definitions in the law.

I believe the centers' programs must be extended and there should be a legitimate representation of the interests of the Congress in defining these programs.

The bill also extends the authority to provide funds to States for public health services. The authority is increased from $90,000,000 to $160,000,000 because of the impact of inflation on the State public health budgets, and in order to initiate hypertension screening, diagnosis, treatment, and control programs at the State level pursuant to provisions I authored in this regard.

Mr. President, hypertension is a silent killer and it is urgent that, as provided in this bill, we focus our Federal resources and launch the appropriate national attack on this disease which afflicts 23 million Americans.

The depth and breadth of the hypertension problem was set forth in a recent Time magazine cover story which I ask unanimous consent to be printed at this point of my remarks in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONQUERING THE QUIET KILLER

(Fayore Curry, 47, a Chicago mental health worker whose unlined face and trim figure belie her age, knew from her first pregnancy at age 21 that she had high blood pressure. But it was not until two years ago that she realized what it meant. One day, a friend told her that she was slurring her words; her friend noticed that she was limping; she herself found that she could not comb her hair. She then drove to a hospital, where she learned that she had suffered a stroke.

(John Wilson, 57, a black construction worker from Katy, Tex., enjoyed vigorous good health until 1971, when he suddenly began complaining about feeling weak. A visit to his doctor quickly revealed why: his blood pressure was dangerously high, and unless it was brought down quickly, Wilson risked death from a stroke or heart attack.

(Ann Naan, 60, a secretary for the American Heart Association in New York City, learned from her doctor during a postoperative checkup that her blood pressure was slightly elevated. About a year later she began to be short of breath, and a screening of A.H.A. staffers revealed that her blood pressure had risen dangerously.)

Curry, Wilson and Naan, are all victims of hypertension, a medical term that seems to suggest nervous disorder but really means high blood pressure. They are more fortunate than most of the 23 million people in the U.S. alone estimated by the A.H.A. to be suffering from the disease. They know about their condition and are under treatment. Most hypertensives are not even aware that they are being stalked by a quiet killer that often produces no symptoms until its too late. The A.H.A. believes that less than half of all hypertensives know that they have high blood pressure. Even worse, according to the A.H.A., only half the hypertensives who are aware of their illness are under treatment to control their blood pressure, and of these, only half are getting the proper therapy.

For the remainder, the consequences can be fatal. The damage produced by hypertension may well be the nation's leading cause of death. Heart attacks and strokes kill more Americans than the other leading causes of death combined: cancer and accidents. High blood pressure alone is listed as the primary cause of only 60,000 deaths a year. But hypertension, which rarely appears on death certificates, is the underlying cause of hundreds of thousands of other deaths. Heart disease will claim an estimated 600,000 Americans in 1975, and hypertension is the major contributor to heart disease. Strokes will hit an estimated 2 million Americans and kill some 200,000 this year; hypertension is the leading cause of stroke. Kidney disease may account for as many as 60,000 deaths in 1975; hypertension is the major contributor to kidney disease. An untreated hypertensive is four times as likely to have a heart attack or a stroke as someone with normal blood pressure and twice as likely to develop kidney disease. Thousands of Americans will have their eyesight impaired, suffer from internal hemorrhages or miss work because of hypertension.

High blood pressure is no respecter of age or sex; men and women are almost equally susceptible to the disorder. It strikes the powerful as well as the poor. King Charles II of England and his mistress Nell Gwynn both died from the complications of severe hypertension; so did such modern-day statesmen as Woodrow Wilson, Franklin Roosevelt, and Joseph Stalin. Hypertension hits the young as well as the middle-aged; doctors have found a surprising number of cases of high blood pressure among teen-agers and "swinging singles" and have even detected the disease in young children.

It is no surprise that for the nation's life insurance companies, measurement of blood pressure is the most important factor used in predicting life expectancy. Actuarial charts are based on figures that offer grim testimony to the effects of hypertension: at any given age, the higher the blood pressure, the shorter the life expectancy.

The irony is that many of the deaths that can be traced to high blood pressure are, in fact, avoidable. Doctors may not be able to cure cancer or the common cold, but modern medicine can now treat virtually every case of hypertension, from the mildest to the most severe, effectively and relatively inexpensively.

Much of the credit for this successful treatment belongs to a perky professor of medicine named John Henry Laragh. Best known for untangling the hormonal relationships that control blood pressure, Laragh, 50, pioneered in the treatment of high blood pressure by founding the nation's first hypertension center, at Manhattan's Columbia Presbyterian Medical Center in 1971. Now he is expanding both his research and clinical interests into new fields. Last week he left Presbyterian Hospital, where he was vice chairman of the board of trustees for professional and scientific affairs, to assume an endowed professorship at The New York Hospital-Cornell Medical Center. There he will intensify his assault on hypertension and other circulatory disorders as director of a new cardiovascular center that has been organized to study and treat the entire circulatory system.

Laragh's move comes at an appropriate time. Medicine is better equipped than it has ever been to handle hypertension. Yet the disease remains perhaps the most neglected of health problems. Many physicians, in fact, still believe that moderately elevated blood pressure need not be treated. Laragh is determined to change all that. "Hypertension does not have to be the single leading factor in disability and death in the U.S. today," he insists. "We have the means to control it. What we have to do is use them. We're ready for an all-out attack."

That attack has been a long time coming, for high blood pressure has been an enemy of man throughout recorded history. A Chinese medical text dating back to 2600 B.C. noted that a diet high in salt (now known to affect blood pressure) could cause changes in pulse and complexion. The Bible contains several accounts of paralysis and apparent stroke that may well have been the results of hypertension. But it was not until the 17th century that the great English anatomist William Harvey provided the foundation for the understanding of blood pressure by mapping the human circulatory system. And not until the beginning of the 20th century did physicians develop a practical means of measuring the pressure that pushes blood through the body: the sphygmomanomter. The link between high blood pressure and fatal illness was not documented until 1929, when a Harvard physician, Dr. Samuel Albert Levine, noted that of 145 heart attack patients, 60% had been hypertensive.

Until Levine's discovery, many doctors believed that elevated blood pressure was actually necessary to help force blood through aging arteries. Since then, they have become considerably more sophisticated about both blood pressure and its effects on the body.

The audit human body has some 60,000 miles of blood vessels. As the body's blood (five quarts or more in the average adult) is driven through a network of arteries, capillaries and veins by the pumping action of the heart, it exerts force on the walls of these vessels. Without the pressure generated by the heart, oxygen-carrying blood could not be forced up to the brain or out to the muscles; the blood could not be returned to the lungs for reoxygenation or passed through the membranes of the kidneys for filtration and excretion of wastes.

To function properly, the body must carefully control blood pressure through a number of complex mechanisms. Baroreceptors—clusters of pressure-sensitive cells scattered throughout the arterial system—respond to changes in pressure and signal the nervous system to make the necessary adjustments. The nervous system in turn helps lower or raise pressure by 1) expanding or dilating arterioles, the smallest branches of arteries, or 2) returning or speeding up the heart's beat and changing its force of contraction.

When these systems function normally, the circulatory system has few problems. Blood pressure rises during exercise or excitement, falls during sleep or relaxation. Like pipes in a plumbing system, the arteries can tolerate high pressure for brief "surges." But when the pressure persists, damage is likely.

One area where hypertension is particularly hazardous is the brain. High blood pressure can cause a rupture or blowout of an artery feeding the brain. When it does, part of the brain is deprived of its blood supply and thus its oxygen. The resulting damage is called a stroke. High blood pressure also forces the heart to work harder, for it must pump against increased resistance. The overworked organ may enlarge, demanding more oxygen than the system can provide, the chest pains of angina pectoris or even damage to irreplaceable heart muscle may soon follow. Or the enlarged heart may be unable to empty itself against the pressure of blood in the arteries, causing fluid to accumulate behind the heart, in the lungs and extremities. In either case, the result will be the same: a heart attack that can cripple or kill its victim. In a chicken-and-egg situation, high blood pressure can also trigger complex mechanisms that will reduce blood flow to the kidneys. That, in turn, reduces the capacity of the kidneys to help rid the body of its waste material, and the kidneys themselves may eventually fail.

For all their increasing ability to control high blood pressure, doctors are still not sure what causes it. Some cases of hypertension stem from kidney disease. Others can be traced to a condition called coarctation or pinching of the aorta, the main artery leading from the heart. A handful of cases have been attributed to pheochromocytomas and other tumors on the adrenal glands that cause overproduction of certain hormones involved in blood-pressure control. But all these conditions together probably do not account for more than 5% of hypertension victims. Most cases are described by doctors as "essential" —medical jargon meaning not that the condition is necessary or indispensable, only that its cause cannot be identified.

Nonetheless, researchers have discovered several factors that are almost surely involved in essential hypertension. Among them:

OBESITY

Excess weight, whether it is only a few extra pounds or many, may bring an increase in blood pressure. It takes a mile of capillaries to nourish each extra pound of fatty tissue. With each extra pound, there is a corresponding increase in blood volume. This means that the heart must work harder to pump more blood through a more extensive circulatory system.

HEREDITY

No researchers will go so far as to say that hypertension is inherited like, say, blue eyes or an aquiline nose. But most feel that heredity plays some role in high blood pressure. Those whose parents are hypertensive are far more likely to have high blood pressure than those whose parents have normal blood pressure.

DIET

Modern studies have strengthened the connection between salt intake and pulse changes. Tribesmen in Africa, who eat almost no salt, rarely if ever develop high blood pressure. But in northern Japan, where people eat around 50 grams of salt a day, half the population dies of strokes, a common complication of high blood pressure.

To Laragh, the explanation is obvious. "Salt is the hydraulic agent of life," he explains. "It is salt that holds the water in humans, causes swelling and a high fluid volume. This means an increased blood pressure." It does indeed. Doctors have known since 1900 that lowering salt intake drops a patient's blood pressure, and most doctors agree that Americans eat too much salt. One of the first things a doctor tells, or should tell, a hypertensive patient is to throw away his salt shaker.

RACE

For reasons that remain to be fully determined, blacks are particularly prone to hypertension. According to the A.H.A., one out of every four adult black Americans has high blood pressure, compared with one out of seven adult whites. Some scientists theorize that blacks are genetically incapable of handling the large amounts of salt that are found in a diet rich in pork and highly seasoned soul food. Others suggest that the pressures of being black in America are enough to cause the disease. Indeed, a common joke among blacks is "If you're black and you ain't paranoid or suffering from hypertension, you don't know what's going on."

STRESS

Though many of those with apparently complete control over their emotions have high blood pressure, researchers have found that there is a relationship between stress and hypertension. Blood pressure normally rises with excitement or alarm. In most people, the pressure drops when the excitement is over. But according to one theory, in many the level drops by smaller increments, eventually stabilizing at a higher level than before. Significant increases in blood pressure were recorded among Russians who survived the siege of Leningrad and Texans who survived the Galveston Harbor holocaust in 1970. Similar increases might well be found among people concerned by the current economic situation. A study has revealed that men facing the loss of their jobs experienced increases in blood pressure that lasted through the period of unemployment and did not drop until they found work again.

Until the end of World War II, doctors treated hypertensives, if they treated them at all, mainly by diet. Patients with high blood pressure were told to take off weight and lower their salt intakes. Some patients were put on an almost totally salt-free diet so unappealing that most of them abandoned it as soon as they left the hospital and medical supervision. A handful of doctors even tried surgery to depress blood pressure. The operation was called a sympathectomy; it cut certain nerves leading to the organs of the chest and abdomen on the theory that this would relax the arterioles. It did only temporarily; the arterioles soon responded to hormonal signals to constrict.

Today doctors treating hypertension rarely resort to surgery; drugs are the therapy of choice. One of the first of the new drugs in the medical armory was discovered by Dr. Edward Freis, a researcher with the Veterans

Administration. He had noted from test reports that large doses of an antimalarial drug called pentaquine dramatically lowered the blood pressures of normal men. Figuring that it might do the same for hypertensives, Freis administered it to a patient with severely elevated blood pressure. It worked, and although the patient eventually died of kidney failure (the organ had been badly damaged by his hypertension), his case demonstrated the practicality of drug treatment.

Since then, a host of other antihypertensive drugs have been introduced. Some, such as hexamethonium and chlorisondamine, are blocking agents. They work by interfering with the nerve signals and chemical reactions that cause blood vessels to constrict and raise blood pressure. Others, like hydralazine, are relaxers that seem to act directly on the muscle walls of the blood vessels, causing them to dilate and thus decrease pressure. Still others, such as guanethidine and reserpine—a drug extracted and purified from the Indian plant *Rauwolfia serpentina*—achieve the same effect by reducing the action of norepinephrine, the body chemical that causes blood vessels to constrict. Another class of drugs has proved equally useful. Diuretics decrease the kidneys' retention of salt. This in turn decreases the amount of fluid retained by the body. The volume of blood is lowered and blood pressure drops.

Used singly or in various combinations, these drugs have enabled physicians to offer the hypertensive something better and more certain than diet or surgery to control his disease. But they do not solve all the difficulties of dealing with high blood pressure. Many of the antihypertensive drugs can, and frequently do, produce undesirable side effects, such as impotence, dizziness and drowsiness. Doctors have learned to lessen these reactions by adjusting dosages or switching from one drug to another. Another problem was less easy to solve. Doctors had known for years that there are many forms of hypertension that affect different patients in a vast variety of ways. Some respond to one kind of treatment, others to something completely different. It remained for Dr. Laragh to show how to predict an individual patient's response to a particular drug.

In many ways, Laragh was an ideal man for the job. A native of Yonkers, N.Y. (his grandfather was mayor), Laragh had always admired his family physician and the seeming miracles he could perform. He soon found himself exposed even more closely to medicine; he and a younger sister were orphaned when they were in their teens and went to live with a physician uncle.

It semed only natural for Laragh himself to go into medicine. After Cornell University and Cornell University Medical College, he moved to Presbyterian Hospital for his internship. There he came under the tutelage of Dr. Robert Loeb, a great physician who co-edited what has since become one of medicine's standard texts: Cecil & Loeb's Textbok *of Medicine*. The association was a fortunate one for Laragh. "Loeb recalls. "He was fair benevolent one," Laragh recalls. "He was fair but demanding, and his standards were the highest." Loeb was also a first-rate teacher who did not believe in spoiling his pupils by assigning laboratory technicians to help them. "I had to do every experiment myself," says Laragh. "But it was worth it. I really learned about research."

After his internship, Laragh combined research with clinical practice ("You learn more from patients than you do from samples in a laboratory"). As a cardiologist, he concentrated most of his efforts on the workings—and failings—of the heart. But he also looked elsewhere in the circulatory system, and in 1955 he made an important discovery: he learned that increases in the blood levels of potassium can stimulate the production of aldosterone, an adrenal hormone that raises blood pressure by causing the kidneys to retain salt.

In the years that followed, Laragh made even more spectacular findings, which like so many other achievements in science, were serendipitous. Doctors had been aware of the role of aldosterone for some time. But they had been puzzled by the part played by renin,[1] a kidney hormone produced in response to a drop in blood pressure. Laragh solved the puzzle. In 1958 he and his colleagues began treating a man with malignant hypertension, a rare form of the disease that is characterized by kidney damage and usually kills its victims within a year. Tests showed that the man was, to their surprise, producing far more than the normal amount of aldosterone. This finding led to another series of tests that proved even more revealing. They showed that high aldosterone was probably due to increased secretion of renin.

Usually renin production ceases when blood pressure reaches the proper level. In this case, the cutoff mechanism had failed. The man's renin was triggering the production of excess aldosterone, which in turn was increasing the body's tendency to retain salt. The process caused fatally high blood pressure.

Laragh's discoveries, which won him a share in the $50,000 Stouffer Prize in 1969, explained the hormonal controls of blood pressure for the first time. They also permitted the development of a renin profile—a computer-aided analysis of the patient's hormonal output. There are patients with low renin levels who nonetheless have high blood pressure; excess of fluid is probably at the root of their problem. Diuretics counteract this tendency to store salt and fluids, thus lowering the blood pressure. Those with high renin levels can be best helped with renin inhibitors that will slow or even shut off production of the hormone. "Until we figured out just what renin did," says Laragh, "therapy was conducted on a hit-or-miss basis. You'd try a drug, see if it worked, and if it didn't, switch to something else. Now you know in advance what to try."

Laragh's finding also cleared up another of the mysteries surrounding hypertension. Many hypertensives dismiss the seriousness of their conditions by citing the case of a relative who lived to be 80 despite a blood pressure that nearly popped the mercury out of the doctor's sphygmomanometer. Laragh's work indicates that these exceptions, which seemingly violate the rule that high blood pressure is dangerous, were probably low-renin hypertensives. Patients with this condition are less likely to suffer strokes and heart attacks than high-renin types. But they do not escape hypertension's hazards, the damage merely takes longer.

Some physicians still challenge Laragh's theories. But many doctors now do, or plan to do, renin profiling on all their hypertension patients. Most physicians already follow Laragh's lead in another area. In 1967 Laragh discovered and reported a link between oral contraceptives and high blood pressure. Other researchers confirmed the connection, but it remained for Laragh to explain it: the Pill's estrogen-like substances stimulate the renin system, which in turn causes increased aldosterone production. The result in about 25% of all women who use the Pill: high blood pressure. Laragh and his colleagues now routinely recommend that victims of Pill hypertension try another method of birth control.

A quiet, modest man, Laragh credits his accomplishments to an open mind ("You have to consider every possibility") and painstaking research. "You learn more by studying a few patients in great depth than you do by studying thousands superficially," he says. "If your methods are good and your experiments carefully conceived, it doesn't matter whether you study a handful or a multitude; the results should be the same."

Laragh, like his mentor, also believes in hard work. He gets to his office by 7 o'clock most mornings and shuttles between there, the Hypertension Center and his laboratory until hunger, exhaustion or Jean Sealey—a biochemist and his bride of four months—forces him to stop. "We haven't even had a honeymoon yet," complains Jean in a soft burr that attests to her origins in Glasgow, Scotland. "The day after we were married we went off to a hypertension meeting in Milan." But Laragh, who has two sons by a previous marriage that ended in divorce, does find time to relax. His golf game is good enough (in the low 80s) to allow him to pair up occasionally with an acquaintance named Jack Nicklaus.

Many of Laragh's colleagues and coworkers at Columbia Presbyterian plan to follow him in the 100-block move to The New York Hospital because they like what one calls "the atmosphere of scientific ferment" that surrounds their leader. One female lab technician has another reason for tagging along with Laragh. "It's those Irish eyes," she says. Laragh's reason for taking his new post: "It's a chance to do more."

Whatever the reason, Laragh's move should come as good news for most victims of hypertension. The new cardiovascular center will not only treat but study hypertensives and all the problems caused by their disease; it should help to focus more attention on a controllable illness that has suffered from professional neglect for too many years.

Elsewhere, doctors, health officials and concerned citizens are also making a concerted effort to identify and treat as many victims of high blood pressure as they can find. Stanford University has been working through its Heart Disease Prevention program to acquaint people in three northern California cities with the dangers of high blood pressure. Baylor College of Medicine in Houston has just begun a massive education effort. Hospitals in some 20 cities are participating in the federally funded "Mr. Fit" program designed to prevent heart attacks in a test group of men between 35 and 57. It aims at identifying probable heart attack victims and helping them to reduce their risks by giving up smoking, losing weight, reducing cholesterol and bringing their blood pressure under control. The Chicago board of health has a mobile blood-pressure unit cruising the streets of the city giving free hypertension tests to all. Local health organizations are setting up sphygmomanometers in supermarkets to test shoppers; in some states dentists and dental technicians are taking their patients' pressures. The A.H.A. is urging both patients and their physicians to take blood pressure seriously. Do you have high blood pressure? asks an A.H.A. poster. Only your doctor can tell.

For those who have high blood pressure, the outlook is bright. Exercise and diet groups to help hypertensives shape up are in operation in most major cities and many smaller communities. Researchers at Rockefeller University and other institutions are experimenting with biofeedback[2] to teach hypertensives to dialate their arteries and lower their blood pressures slightly. A Boston physician, Dr. Herbert Benson, has taught some of his patients to reduce their blood pressure by means of what he calls "relaxation response," a sort of transcendental-meditation technique.

Drug treatments for hypertension continue to improve. Propranolol, a British-developed drug licensed in the U.S. for use in heart problems other than hypertension, is nonetheless widely and successfully used to control high blood pressure. Other potential valuable drugs, though widely used in Britain, have not yet been approved by the Food and Drug Administration for use in this country. Reserpine remains an effective antihypertensive despite reports linking it with a slightly increased incidence of breast cancer in some women (TIME, Oct. 7).

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[1] Not to be confused with rennin, an enzme or chemical catalyst used, among other things, in the manufacture of cheese.

[2] A technique that employs electronic monitoring devices to help patients learn how to control autonomic nervous system functions such as heartbeat and blood circulation.

Despite these encouraging advances, many hypertensives still fail to get treatment. Either their condition is not diagnosed, or their doctors do not realize the importance of mildly elevated blood pressure. Others, bored by the drug regimen and lulled into a sense of false security by a lack of symptoms, drop out of treatment programs. Such lapses can be lethal. Dr. Freis once treated a young, dangerously hypertensive law student by putting him on diuretics but could not induce him to continue with the medication. The patient died of a stroke at 29. Other dropouts have been more fortunate. Helga Brown, 46, of San Francisco, followed her doctor's orders carefully for a year after a fainting episode revealed that she had high blood pressure; then she dropped both the drugs and her diet. She suffered a recurrence of dizziness and was hospitalized. She recovered and now takes her medication faithfully.

Treatment for hypertension, whether by diet or drugs, cannot undo the damage that has already been done, but it can unquestionably prevent the disorder from getting worse. In a now classic study, Freis compared death rates from stroke, heart disease and other hypertension-related ailments among treated and untreated patients at 17 Veterans Administration hospitals. His findings showed that treatment can reduce the death rate from hypertension by half.

The lesson is one that should not be lost on anyone suffering from high blood pressure. Laragh and his colleagues have given medicine the weapons for conquering the quiet killer. All its potential victims must do is arm themselves.

Mr. JAVITS. Mr. President, the bill's provisions which I authored provide that 22 percent of the appropriations is set aside by each State for hypertension screening, treatment and diagnosis programs. Thus, we offer an opportunity to bring to hundreds of thousands of Americans the benefits of advances in our medical technology with respect to heart disease. The program is retained in the bill in exactly the form in which it was sent to the President on December 10.

Also, there are a number of small but vital new programs aimed at investing very limited Federal dollars in areas of high demand as expressions of future direction not as full-scale programs of support. For example, the bill calls for studies of Huntington's disease and epilepsy by HEW in order that future Congresses can outline a meaningful program of support in these areas.

The bill also provides a 1-year program of support for demonstration of home health agencies, a 2-year program of support for vitally needed rape prevention and control programs, as authored by Senator MATHIAS.

Rape is a problem of increasing significance. FBI statistics indicate that the number of reported rapes are increasing more than 10 percent a year, and the FBI adds that this is a markedly underreported problem. The woman who is a victim of rape may experience both physical and mental trauma, yet has problems acquiring adequate treatment. I believe that now is the time to begin to develop a nationwide response to this problem.

There is also a 2-year program of support for blood fractionation and diagnostic centers for hemophilia, all these programs involving approximately $50 million over the life of the bill.

Mr. President, I believe that the provisions of this bill can make an important contribution to the health of all Americans, and I urge its support.

EXHIBIT 1

THE WHITE HOUSE: MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 17085, a bill that would amend Title VIII of the Public Health Service Act to provide support for the training of nurses.

This measure would authorize excessive appropriations levels—more than $650 million over the three fiscal years covered by the bill. Such high Federal spending for nursing education would be intolerable at a time when even high priority activities are being pressed to justify their existence.

I believe nurses have played and will continue to play an invaluable role in the delivery of health services. The Federal taxpayer can and should selectively assist nursing schools to achieve educational reforms and innovations in support of that objective. The Administration's 1976 budget request will include funds for this purpose. Furthermore, I intend to urge the 94th Congress to enact comprehensive health personnel training legislation that will permit support of nurse training initiatives to meet the new problems of the 1970's.

This act inappropriately proposes large amounts of students and construction support for schools of nursing. Without any additional Federal stimulation, we expect that the number of active duty registered nurses will increase by over 50 percent during this decade.

Such an increase suggests that our incentives for expansion have been successful, and that continuation of the current Federal program is likely to be of less benefit to the Nation than using these scarce resources in other ways. One result of this expansion has been scattered but persistent reports of registered nurse unemployment particularly among graduates of associate degree training programs.

Today's very different outlook is not reflected in this bill. We must concentrate Federal efforts on the shortage of certain nurse specialists, and persistent geographic maldistribution. However, this proposal would allocate less than one-third of its total authorization to these problems. Moreover, it fails to come to grips with the problem of geographic maldistribution.

Support for innovative projects—involving the health professions, nursing, allied health, and public health—should be contained in a single piece of legislation to assure that decisions made in one sector relate to decisions made in another, and to advance the concept of an integrated health service delivery team. By separating out nursing from other health personnel categories, this bill would perpetuate what has in the past been a fragmented approach.

The enrolled bill would also extend various special nursing student assistance provisions of current law. Nursing students are overwhelmingly undergraduates, and as such should be—and are—entitled to the same types of student assistance available generally under the Office of Education's programs for post secondary education. These include, in particular, guaranteed loans and basic educational opportunity grants for financially hard-pressed students. Categorical nursing student assistance activities are not appropriate and should be phased out, as the Administration has proposed.

GERALD R. FORD.

THE WHITE HOUSE, *January 2, 1974.*

THE WHITE HOUSE: MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 14214, the "Health Revenue Sharing and Health Services Act of 1974."

H.R. 14214 conflicts with my strong commitment to the American taxpayers to hold Federal spending to essential purposes. The bill authorizes appropriations of more than $1 billion over my recommendations and I cannot, in good conscience, approve it. These appropriation authorizations are almost double the funding levels I have recommended for Fiscal Year 1975 and almost triple the levels I believe would be appropriate for 1976.

As part of my effort to see that the burden upon our taxpayers does not increase, I requested the Congress last month to exercise restraint in expanding existing Federal responsibilities, and to resist adding new Federal programs to our already overloaded and limited Federal resources. These recommendations reflect my concern with both the need to hold down the Federal budget and the need to limit the Federal role to those activities which can make the most necessary and significant contributions.

In H.R. 14214, the Congress not only excessively increased authorizations for existing programs but also created several new ones that would result in an unjustified expenditure of Federal taxpayers' funds. Although the purposes of many of the programs authorized in this bill are certainly worthy, I just cannot approve this legislation because of its effect upon the economy through increased unwarranted Federal spending.

Finally, it should be pointed out that the Federal Government will spend almost $20 billion in 1975 through Medicare and Medicaid for the financing of health services for priority recipients—aged and low-income persons. These services are provided on the basis of national eligibility standards in Medicare and State eligibility standards in Medicaid and therefore are available to individuals in a more equitable and less restrictive manner than many of the programs authorized in H.R. 14214.

GERALD R. FORD.

THE WHITE HOUSE, *December 23, 1974.*

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 67. A bill to establish the Nantucket Sound Islands Trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

NANTUCKET SOUND ISLANDS TRUST

Mr. KENNEDY. Mr. President, I am introducing today for myself and Senator BROOKE legislation to establish the Nantucket Sound Islands Trust. The bill we introduce is the fourth version of legislation to preserve and protect a unique area of the United States and represents the work of the residents of the Cape Cod Islands, the extensive efforts of the Senate Interior Subcommittee on Parks and Recreation, and the testimony of concerned groups and citizens from the islands and from across this Nation who are expert in the problems of preservation.

As I made clear when the legislation was first introduced on April 11, 1972, we have engaged in a process of change and refinement resulting in the bill we introduce today. It was clear from the outset that any plan or program to protect from overdevelopment an area comprising several islands, with several local government bodies, with problems unique to each locality would be necessarily complex in order to be comprehensive. The refinement process would be long and require a great deal of effort from the citizens involved. We have come a long way since April 1972 and the program outlined in the present legislation is the product of that long refinement process.

What we look forward to early in this session is a commitment by the Congress to underline the commitment by the residents of Nantucket and Martha's Vineyard and the Elizabeths to assure that to the next generation these islands will not look like every suburb in this Nation. The residents of the Vineyard were successful in carrying that message to the State legislature; and as a result a new State law is in effect and a new commission has begun its work to provide sensible land use planning for the Vineyard. On Nantucket, the residents voted in a referendum in November to support a Federal role in the protection and preservation of that island. And we are all familiar with the leadership of the residents of the Elizabeth Islands to make those islands one of the most beautiful areas of the country.

All of these efforts at the local level and at the level of State government do not mean that a role for the Federal Government is not needed or desirable. All of these efforts demand recognition by the Congress that there is a major effort required by the Federal Government if the job is to be completed. The former Governor of the Commonwealth pointed out in his testimony before the Senate Subcommittee on Parks and Recreation last August that there can be no real preservation without legislation at the Federal level.

Mr. President, I would like to say a word at this point about the work of the Senate Interior Committee and its Subcommittee on Parks and Recreation under the leadership of Senator JACKSON and Senator Bible who retired last month. Without the assistance and counsel of these distinguished Senators and their staffs, we would have been unable to develop the legislation we introduce today. Through hearings here in Washington and a trip to the islands to listen to the concerns of the residents, we have been able to refine and perfect this bill to reflect those concerns. Senator Bible and Senator JOHNSTON came to Nantucket and Martha's Vineyard and traveled to the islands to see firsthand the potential in protecting a rare and beautiful area; and we all learned from the residents how best to accomplish this.

There are two major myths involved in the consideration of Federal assistance to protect populated areas from overdevelopment. The first is that unless there is a large wilderness area which can be acquired and set aside by the Government for preservation the problems of dealing with local government and local concerns in a populated area are overwhelming. This is untrue.

Preserving and protecting the values of areas where generations have made their homes simply requires a more tailored solution designed to take into account the unique resources of the area. There is no place in this country in greater need of preservation areas than the East where the greatest numbers of families live, where the largest cities preclude adequate open spaces, where urban life without relief can be stifling. And without the expertise and experience of those in the Federal Government who have dealt with all these problems, we cannot expect to be successful in saving any part of the east coast from becoming one long megalopolis.

A second myth suggests that there is no national interest in orderly growth for communities across this Nation which happen to be situated in areas of dwindling and fragile resources. The residents of these special areas have been the caretakers of these resources for generations; and they face overwhelming development from interests who care little about the future of the area or the direction or pace of its growth. There is a national interest in halting the kinds of disorderly and unchecked growth that strangles communities who do not have the legal or statutory tools to plan their own destiny. There is a national interest in providing that those areas of this Nation which possess rare historical, cultural, and natural resources will not be propelled into the same senseless overdevelopment which plagues so many towns and cities in this country. There is a national interest in preserving the notion that local communities should be able to decide their own futures.

Congress has recognized these values in the national interest by establishing the Cape Code National Seashore and the Point Reyes National Seashore and the Grand Teton National Park. In the legislation we introduce today, the Congress will have the opportunity to consider an innovative and imaginative approach developed essentially by the residents of the Nantucket Sound Islands to protect the islands from overdevelopment. It sets up a partnership between Federal, State, and local governments to work together to solve problems at minimum costs at every level of government. It sets up a new decisionmaking process which allows local residents to play the major role in developing programs for orderly growth and conservation of resources. It removes the necessity of Federal Government day-to-day management responsibilities while at the same time taking advantage of Federal Government expertise in preservation.

During these opening weeks of the Congress, we will continue to work with the committee and the Department of Interior to perfect the language of this legislation so that the full Senate may have the opportunity at a very early date to consider this legislation which means a great deal to the residents of the Nantucket Sound Islands and could signal a renewed commitment by the Congress to assist our most vulnerable areas by listening to the concerns of those who live there.

I ask unanimous consent that the full text of the bill be printed at the conclusion of my remarks and Senator BROOKE's remarks.

Mr. BROOKE. Mr. President, I am pleased to introduce, together with Senator KENNEDY, a bill to preserve and protect the beautiful, historic Nantucket Sound Islands. This legislation is the product of years of effort to arrive at a means of protecting these lovely islands in a manner consistent with the rights of local citizens to govern themselves.

The Nantucket Sound islands, created nearly 50,000 years ago in the wake of giant glaciers form veritable jewels off the southern coast of Cape Cod in southeastern Massachusetts. Like so many coastal islands, they harbor a relatively small permanent population only to have that population swell dramatically with the coming of each new summer. Martha's Vineyard, for instance, has only 6,000 year-round residents but an astounding 40,000 to 50,000 summer residents. And as happens all too often in similar summer retreats the sheer numbers of people coming to these islands have posed a grave threat to the very things these people seek: the islands' natural beauty, serenity, and fragile ecology. Indeed burgeoning development now mortally threatens these once tranquil islands, development orchestrated by large developers who possess no sense of place with these islands, only a sense of profit.

The legislation we introduce today is part of a coherent, Federal-State-local response to this identifiable threat. And while it has taken years to iron out all the difficulties attendant to this kind of endeavor, I think we are very close to what will be the best possible solution.

Spearheading this effort has been an enthusiastic, inexhaustible local citizenry. Indeed, I can think of few issues where concerned citizens played as active a role in actually shaping State and Federal legislation. The State government has been equally admirable as it moved quite quickly to enact a State land use planning measure for the island of Martha's Vineyard.

Not only did this act open the door for even more meaningful citizen participation in the planning of the island's future, but more importantly it became the catalyst for the unique Federal-State-local partnership which we hope will inform the actions taken to preserve and protect these islands. While pleased with this State and local action, I can only add that I hope similar State land use measures can be enacted for Nantucket and the Elizabeth Islands.

The legislation we offer today is the capstone of the unique partnership which I have mentioned. It is so intended. Its basic intent is to afford islanders the needed tools with which to develop and implement a sound planning and preservation program. In contrast to previous legislative efforts, major responsibility in both the development and the implementation of these programs lies with the local citizenry. In short, this bill helps islanders help themselves.

As I have said before, this bill is not so much a remedy as it is a challenge. And it is a challenge to which I am confident the residents of Martha's Vineyard, Nantucket, and the Elizabeth Islands can and will rise. For it is only through the efforts of these tireless citizens that Senator Kennedy and I can introduce this legislation today. And it will be because of their dedication and enthusiasm that this bill will achieve its goals.

Mr. President, I have no doubt that the bill we offer today will be the subject of further scrutiny. For instance the Department of Interior has been quite active in helping us devise a proper Federal role in this matter. We welcome their efforts for they will no doubt lead to further strengthening of our initiative. But, I believe that the bill which we introduce today sets forth the format by which we can best insure the Nantucket Sound Islands' preservation and protection from the kind of unchecked development which threatens so many of our Nation's scenic and historic islands. I look forward to its early enactment.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 67

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND STATEMENTS OF POLICY

SECTION 1. The Congress finds and declares—

(a) that the Nantucket Sound Islands in the Commonwealth of Massachusetts, known generally as the Islands of Nantucket, Tuckernuck, Muskeget, Martha's Vineyard, Noman's Land, and the group of islands known collectively as the Elizabeth Islands, possess unique natural, scenic, ecological, scientific, cultural, historic, and other values;

(b) that there is a national interest in preserving and conserving these unique values for the present and future well-being of the Nation and for present and future generations;

(c) that in some portions of the Nantucket Sound Islands these unique values are being irretrievably damaged and lost through ill-planned development, and that such development threatens heretofore successful local government and private voluntary preservation and conservation efforts;

(d) that the present State, regional, and local powers and authorities for controlling land and water uses are inadequate to preserve and conserve the unique values of the said islands;

(e) that the key to more effective preservation and conservation of the unique values of the Nantucket Sound Islands is a program encouraging coordinated action by Federal and State Governments to assist local governments, in partnership with private individuals, groups, organizations, and associations, to administer sound acquisition and management policies regulating ill-planned development;

(f) that such a program can protect the natural character and cultural and historic heritage of the Nantucket Sound Islands consistent with maintenance of sound local economies and private property values, thus preserving and conserving their unique values; and

(g) that because expanded access to the said islands would seriously impair their unique values and be in contravention to the purposes of this Act, it shall be national policy that no bridge, causeway, tunnel, or other direct vehicular access be constructed from the mainland to the islands.

NANTUCKET SOUND ISLANDS TRUST

SEC. 2. (a) In order to provide for the preservation and conservation in the national interest of the unique natural, scenic, ecological, scientific, cultural, historic, and other values of the Nantucket Sound Islands, there is established in the Commonwealth of Massachusetts the Nantucket Sound Islands Trust (hereinafter referred to as the "trust"), comprising the area described in section 4 herein.

(b) Guidelines contained in this Act shall be the basis for programs and policies to preserve and conserve the unique values of the trust area, and when such programs and policies have been adopted by the islands trust commissions as hereinafter provided, they shall be administered by those commissions. Such policies and programs shall protect the unique values of the trust area through land use controls designed to encourage wise and prudent stewardship of land and water resources consistent with maintenance of sound local economies.

NANTUCKET SOUND ISLANDS TRUST COMMISSIONS

SEC. 3. (a) There are hereby established the Nantucket Trust Commission, the Martha's Vineyard Trust Commission, and the Elizabeth Islands Trust Commission, to be known collectively as the Nantucket Sound Islands Trust Commissions (hereinafter referred to as the "commissions").

(b) NANTUCKET TRUST COMMISSION.—The Nantucket Trust Commission shall have the responsibilities as established herein over the lands and waters in Nantucket County, and shall be composed of seven members serving three-year staggered terms which shall commence on the first Monday in April. Members shall be selected as follows:

(1) a member appointed by the Secretary of the Interior (hereinafter referred to as the "Secretary");

(2) a member appointed by the Governor of the Commonwealth of Massachusetts (hereinafter referred to as the "Governor");

(3) two members appointed by the Board of Selectmen of the Town of Nantucket within two weeks after the annual town meeting, one of whom shall be a seasonal resident property owner;

(4) two members who shall be qualified voters of the town and shall be elected at the annual election which is a part of the annual town meeting; and

(5) a member appointed by the Nantucket Planning Board within two weeks after the annual town meeting, who shall be a qualified voter of said town. Not more than one member of the commission may serve simultaneously in any elective town or county office.

(c) MARTHA'S VINEYARD TRUST COMMISSION.—The Martha's Vineyard Trust Commission shall have the responsibilities as established herein over the lands and waters in Dukes County, excepting the Elizabeth Islands, and shall be composed of twenty-two members serving two-year staggered terms which shall commence on January 1 of each year. Members shall be selected as follows:

(1) a member appointed by the Secretary;

(2) a member appointed by the Governor;

(3) a member appointed by the board of selectmen of each town on Martha's Vineyard who may be a selectman, a member of a planning board, or of any other municipal agency board, department, or office of that town;

(4) a member appointed by the Dukes County commissioners, who may or may not be a Dukes County commissioner;

(5) nine members elected at large in an islandwide election, with not less than one member nor more than two members to be elected from any one town on Martha's Vineyard; elections held subsequent to the initial election of members shall be held concurrent with the biannual elections for State and county offices;

(6) four members whose principal residence is not on Martha's Vineyard but who pay taxes on property owned by them on Martha's Vineyard, two of such members to be appointed by the Secretary and two by the Governor: *Provided*, That such members shall have voice but no vote in deciding matters before the commission. Only the members selected under paragraphs (3) and (4) of this subsection may hold elective town or county office during their terms of office as commission members.

In the event that the laws of the Commonwealth of Massachusetts either before or after enactment of this Act provide for a new regional agency with planning or regulatory responsibilities for all or a part of trust lands and waters on Martha's Vineyard, such agency will, upon a majority vote of its members, serve as the Martha's Vineyard Commission herein established.

(d) ELIZABETH ISLANDS TRUST COMMISSION.—The Elizabeth Islands Trust Commission shall have the responsibilities as established herein over the lands and waters of the Elizabeth Islands, and shall be composed of seven members serving three-year staggered terms which shall commence on the first Monday in April. Members shall be selected as follows:

(1) a member appointed by the Secretary;

(2) a member appointed by the Governor;

(3) a member elected at the annual election which is a part of the annual town meeting;

(4) two members appointed by the board of selectmen to represent the island of Cuttyhunk, one of whom shall be a permanent resident of Cuttyhunk and one of whom shall be a seasonal resident of Cuttyhunk; and

(5) two members appointed by the board of selectmen to represent the other islands in the Elizabeth Islands, one of whom shall be a permanent resident of one of such other islands, and one of whom shall be a seasonal resident of one of such other islands.

(a) GENERAL PROVISIONS APPLICABLE TO COMMISSIONS.—(1) Each commission shall have a chairman. The chairmen of the commissions shall each be elected by the membership thereof for a term of not to exceed two years. Any vacancy in the commissions shall be filled in the same manner in which the original selection was made, except that interim appointments may be made by the remaining members of the commission.

(2) All members of the commission shall be paid at the rate of $50 per diem when actually serving. The Secretary is authorized to pay the expenses reasonably incurred by the commissions in carrying out their responsibilities under this Act on the presentation of vouchers signed by the chairmen.

(3) The commissions shall publish and make available to the Secretary and to the public an annual report reviewing matters relating to the trust, including acquisition of lands, progress toward accomplishment of the purposes of this Act, and administration, and shall make such recommendations thereto as they deem appropriate to the Secretary, Governor, and the towns.

(4) The commissions may employ such permanent or part-time professional, clerical, or other personnel as they find are required, and may engage such other professional services as they may reasonably require. Each commission shall have an office and a mailing address at a central location in the area of its jurisdiction, and such office shall be where its ordinary business is conducted and its maps and records kept.

(5) The commissions shall each have the authority to appoint commission advisory committees in their own discretion. Each

commission shall designate three members to serve on a coordinating committee with members of the other commissions to treat matters of common concern.

(6) At its first meeting each commission shall adopt bylaws and rules of procedure, which may include dates of meetings, public distribution of information relating to commission activities, disclosure of ownership interest in trust lands by commission members, and any other matters normal to the operation of such bodies and consistent with the purposes of this Act. The commissions shall comply with the provisions of the Massachusetts Open Meetings Law, and they shall be deemed to be "boards" within the meaning of said law. In exercising their management and administrative responsibilities under this Act the commissions shall not adopt regulations which are less restrictive than regulations in force and effect in the Commonwealth of Massachusetts or the respective towns within the trust area.

TRUST AREA

SEC. 4. (a) The area comprising the trust shall encompass the following lands and waters in the Commonwealth of Massachusetts:

(1) Nantucket Island, and the islands to westward called variously Smith's Island or Esther Island;

(2) Tuckernuck Island;

(3) Muskeget Island;

(4) Martha's Vineyard Island, and various islands appurtenant to it;

(5) Norman's Land Island;

(6) the Elizabeth Islands, including but not limited to the islands of Cuttyhunk, Nonamasset, Naushon, Pasque, Nashawena, Uncatena, Penikese, and the Weepeckets; and

(7) any other lands and waters in Nantucket County and Dukes County in the Commonwealth of Massachusetts.

(b) The area included in the trust may be changed only by an amendment to this Act, and only after petition therefor by the commissions with the concurrence of—

(1) the town or towns affected expressed by vote of a town meeting or meetings;

(2) the Governor; and

(3) the Secretary.

(c) NOMAN'S LAND.—The lands and waters of Noman's Land Island are hereby declared part of the National Wildlife Refuge System and the Secretary is directed to prepare and execute forthwith the necessary documentation to give effect to such declaration. The Secretary and the Secretary of Defense shall, within twelve months after the date of enactment of this Act, survey Noman's Land Island and the surrounding waters for unexplored military ordnance and render such ordnance, wherever it may be found, harmless; and thereafter, Noman's Land Island shall be administered pursuant to the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd).

CLASSIFICATION OF TRUST LANDS

SEC. 5. (a) Lands and waters within the trust area shall all be assigned to the classifications established in subsection (b) of this section. Upon the date of enactment of this Act, such lands and waters shall be assigned to classifications as set forth in section 6 and section 17 of this Act.

(b) CLASSIFICATIONS OF TRUST LANDS.—

(1) CLASS A: OPEN LANDS.—Lands and waters so classified shall remain forever free of improvements, as defined hereinafter, of any kind except as provided herein. If improvements exist on any lands so classified on the date of enactment of this Act, then there shall be permitted a right of use and occupancy to the legal or beneficial owner or owners thereof, or their successors or assigns, for so long as such successors or assigns are members of the same family or families as the legal or beneficial owner or owners. If, however, the legal or beneficial owner or owners seek to sell or otherwise convey the improvement with or without the land thereunder to others than legal or beneficial owners or members of the same family or families as the legal or beneficial owner or owners, then the commissions and the Secretary shall have an exclusive option to purchase said improvement with or without the land thereunder at full and fair market value, which shall be promptly determined, and such option shall exist for sixty days after such determination. If such option is exercised, then the improvement may be moved or removed; if such option is not exercised, then the sale or other conveyance may proceed in the ordinary course. For the purposes of this paragraph, family shall mean siblings of a legal or beneficial owner or owners, lineal descendants natural or adopted, or relatives by marriage. Any change in access to and/or use of lands classified as "Class A: Open Lands" must first be approved by the commissions and the Secretary, except that uses shall be in a manner not less restrictive than permitted by general purpose local ordinances, bylaws, and regulations from time to time in effect. Owners of improvements may make necessary repairs, and may make replacements or extensions thereto which shall not alter the basic character of the lands, with the approval of the commissions and the applicable local government agency.

(2) CLASS B: RESOURCE MANAGEMENT LANDS.—Lands and waters so classified shall not be developed beyond their present intensity of use, except as provided in this paragraph. Owners of such lands, or of improvements thereon, or of both, may transfer, sell, assign, or demise such land or improvements, or both. Reasonable replacement and extension of improvements shall be permitted, under regulations issued by the commissions. Development on lands so classified beyond their present intensity of use shall be permitted only under regulations consistent with the following guidelines:

(i) the overall intensity must take into account the capability of the land for such development, which shall include consideration of existing land use, intensity of uses in the immediate vicinity, area-wide water quality and quantity, soil conditions, roadway utilization, and visual and topographic conditions;

(ii) the overall intensity guideline shall not be translated into uniform lot sizes and applied to the land so classified, but shall be applied with flexibility to encourage sound land use planning respecting the varying natural values of the different geographical areas of land; and

(iii) the area upon which intensity is calculated shall not include bodies of water or wetlands classified as such under Massachusetts Wetlands Protection Act (131 M.G.L. 40).

Regulations consistent with these guidelines shall be issued by each commission within three months, and shall become effective only after a public hearing or hearings thereon to be held within thirty days of issuance and after approval by the Governor and the Secretary. After such regulations have become effective, the provisions of section 16 herein as they apply to the lands covered by the regulations shall no longer apply; and construction of improvements on such lands shall thereafter be permitted so long as the appropriate commission has issued a permit therefor indicating satisfaction of the conditions of this paragraph.

(3) CLASS C: TOWN LAND.—Lands and waters so classified shall remain under the jurisdiction of the town in which located for purposes of planning and zoning ordinances and other land use regulations: *Provided*, That such planning and zoning ordinances and other land use regulations shall be reviewed and commented upon by the commissions and the Secretary as to consistency with the purposes of this Act prior to the adoption of such ordinances or regulations or amendments thereto: *And provided further*, That the commissions may review and comment upon variances proposed to be granted pursuant to any local zoning ordinance.

ASSIGNMENT OF TRUST LANDS

SEC. 6. (a) Assignment of lands and waters within the trust area to the classifications established by section 5 of this Act shall be as depicted on official Nantucket County and Dukes County Nantucket Sound Island Trust maps on file and available for public inspection in—

(1) the offices of the selectmen of the towns within the trust area;

(2) the offices of the commissions;

(3) the offices of the Massachusetts Secretary of Communities and Development; and

(4) the offices of the National Park Service, Department of the Interior.

(b) Changes to the maps indicating changes in such assignments to classifications shall be made after the date of enactment of this Act as follows—

(1) minor corrective adjustments in the location of boundary lines due to technical or clerical errors may be made within one hundred and eighty days after the first official meeting of a commission by vote of such commission and with the concurrence of the board of selectmen of the town affected;

(2) other changes in the location of boundary lines between classifications may be made by a commission acting pursuant to an affirmative vote thereon by a town meeting or meetings of the town or towns affected, with the concurrence of the Governor and the Secretary: *Provided*, That should either the Governor or the Secretary, or both, not concur, then such change shall become effective upon a subsequent two-thirds vote by the commission: *And provided further*, That no vote upon a proposed change shall be made at a town meeting until after a public hearing on such change has been held.

(c) Any changes to the maps changing the location of boundary lines between classifications shall be recorded on the official maps within seven days after such changes become effective, by the officials responsible for posting said maps.

ACQUISITION OF LANDS

SEC. 7. (a) GENERAL AUTHORITY.—(1) Within the area of the trust, the Secretary is authorized to acquire lands and waters and interests therein at fair market value for the purpose of this Act (i) by donation or transfer from any Federal agency, (ii) by purchase with donated or appropriated funds or transfer funds, or (iii) by exchange: *Provided*, That after the date of enactment of this Act, the Secretary may not purchase any lands or waters or interests therein without being authorized to do so by the majority affirmative vote thereon by the commission within whose jurisdiction the lands or waters or interests therein are located. In exercising his authority to acquire property under the terms of this Act, the Secretary shall conform to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601). Any voting member of a commission may recommend an area for purchase, and at a regular meeting of the commission shall be able to obtain a record vote on such recommendation.

(2) Any lands or waters or interests therein, owned by the Commonwealth of Massachusetts or any political subdivision thereof, may be acquired only by donation. Notwithstanding any other provision of law, any property owned by the United States of America on the date of enactment of this

Act, located within the trust area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out this Act pursuant to its provisions.

(3) In exercising authority to acquire property under the terms of this Act, the commissions and the Secretary shall give immediate and special consideration to any offer made by an owner or owners of unimproved Class A: Open Lands or Class B: Resource Management Lands within the trust area to sell such lands to the Secretary. An owner or owners may notify the commissions and the Secretary that the continued ownership of those lands would result in hardship to such owner or owners, and the commissions shall immediately consider such evidence; and the Secretary shall, within six months following the majority affirmative vote thereon by the appropriate commission, and subject to the then current availability of funds, purchase the lands offered at the fair market value prior to April 11, 1972.

(4) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and upon the majority affirmative vote of the appropriate commission, may convey to the grantor of such property any federally owned property held as in trust by the commission and the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided*, That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(b) TRANSFER TO COMMISSIONS.—(1) Upon acquisition by him of any lands or waters or interests therein, the Secretary shall concurrently or as soon as is practicable thereafter transfer without consideration an undivided one-half interest in such acquisition to the commission within whose jurisdiction the lands or waters or interests therein are located.

(2) Thereafter, such lands or waters or interests shall be held jointly by the appropriate commmission and the Secretary as in a public trust.

(3) The lands or waters or interests therein so held as in trust shall be administered as described in this Act, and the Secretary and the commissions may exchange any such lands or interests so held as in trust pursuant to the provisions of this section.

(c) TAXATION.—(1) Nothing in this Act shall be construed to exempt any real property or interest therein held by the commissions and the Secretary under this Act from taxation by the Commonwealth of Massachusetts or any political subdivision thereof to the same extent, according to its value, as other real property is taxed.

(2) Nothing contained in this Act shall be construed as prohibiting any governmental jurisdiction in the Commonwealth of Massachusetts from assessing taxes upon any interest in real estate retained under the provisions of this Act to the nonexempt owner or owners of such interest, nor from establishing and collecting fees in lieu of taxes upon any nongovernmental use of lands acquired pursuant to this Act.

LIMITATIONS AND DEFINITIONS

SEC. 8. (a) Not later than one hundred and eighty days after the enactment of this Act, the commissions and the Secretary shall notify an owner or owners of Class B: Resource Management Lands, other than property designated for fee acquisition, of the minimum regulations on use and development of such property under which such property may be retained in a manner compatible with the purpose for which the trust was established. If the owner or owners of any such lands agree to the use and development of the property in accordance with such regulations, the Secretary may not acquire, without the consent of such owner or owners, such property or interests therein for so long as the property affected is used in accordance with such regulations, unless the commissions determine that such property, or any part thereof, is needed for other purposes as described in this Act. Such lands shall be included in the area upon which intensity is calculated for purposes of section 5(b)(2) herein.

(b) With respect to that property which the Secretary is authorized by the commissions to acquire without the consent of the owner under the terms of this Act, the Secretary shall initiate no proceedings therefor until after he has made every reasonable effort to acquire such property or interest therein by negotiation and purchase at the fair market value prior to April 11, 1972. The certificate of the determination by the Secretary or his designated representative (which may be the commissions) that there has been compliance with the provisions of this paragraph shall be prima facie evidence of such compliance: *Provided*, That nothing in this Act shall be construed to prohibit the use of eminent domain as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(c) The commissions and the Secretary shall furnish to any interested person requesting the same a certificate indicating, with respect to any property, which the Secretary has been prohibited from acquiring without the consent to the owner in accordance with the provisions of this Act, that such authority is prohibited and the reasons therefor.

(d) DEFINITIONS.—As used in this Act, the term "improvement" means a detached, residential one-family dwelling, construction of which was begun before April 11, 1972, or such a dwelling for which a certificate of need was voted pursuant to section 16(a) herein, together with—

(1) so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the commissions and Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling and land for noncommercial residential or agricultural purposes, and

(2) any structures accessory to the dwelling which are situated on such land.

The amount of the land subject to such designation in Class A: Open Lands and Class B: Resource Management Lands shall in every case be at least three acres in area, or all of such lesser acreage as may be held in the same ownership as the dwelling. In making such designations, the commissions and the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided*, That the commissions and the Secretary may exclude from the land so designated any beach lands, together with so much of the land adjoining such beach lands, as they may deem necessary for public access thereto. If they make such exclusion, an appropriate buffer zone shall be provided between any dwelling and the public access or beach.

(e) As used in this Act, the terms "development" and "developed" shall mean the construction of an improvement.

(f) Should a commercial use in existence prior to April 11, 1972, be included as part of such a dwelling, it shall be considered a nonconforming use.

(g) The commissions shall establish regulations consistent with the purposes of this Act governing the status of boathouses, camps, piers, and other nonresidential structures.

EROSION CONTROL AND POLLUTION

SEC. 9. (a) The commissions, together with the Secretary, the Governor, and the Secretary of the Army, shall cooperate in a study and shall formulate plans for beach and shoreline erosion control and restoration projects on the Nantucket Sound Islands, especially in those areas most immediately threatened. Any protective works, including water resource developments and navigation improvements, for such control undertaken by the Department of the Army shall be carried out only in accordance with a plan that is mutually acceptable to the commissions, the Governor, and the Secretary, and is consistent with both the purposes of this Act and the purposes of existing statutes dealing with water and related resource development.

(b) The commissions together with the Governor and the Secretary shall undertake a program of dune and headland erosion control, beginning with those dunes and headlands most immediately threatened and in need thereof. Such dune and headland erosion may be that caused by natural wind and water action, by motor vehicle passage, or by other factors, and such programs may have the purposes of restoring past and present damage and of preventing further damage.

(c) The commissions, together with the Governor and the Secretary, shall cooperate with the appropriate Federal, State, and local agencies to provide safeguards against pollution of the waters in and around trust lands. Such safeguards shall include an immediate survey of the quality of ground water conditions in all or any part of the area of the trust, and the necessary funds therefor may be drawn from the appropriations authorized by section 20 herein.

BEACHES

SEC. 10. (a) All beach lands within the trust area, with the exception of beach lands classified as "Class C: Town Lands", shall be classified as "Class A: Open Lands", notwithstanding that such beach lands may be classified as "Class B. Resource Management Lands" by other provisions of this Act.

(b) As used in this Act, the term "beach lands" shall mean the wet and dry sand area lying between the mean low water line and the base of the headlands, or the visible line of upland vegetation, whichever shall be closer to the mean low water line, and shall include dunes, rock beaches, wetlands, marshes, and estuarine areas adjoining tidal waters.

(c) There is herewith established a nonvehicular right of passage—

(1) in "Class A: Open Lands", at the high water line of sufficient width for a person to pass and repass; and

(2) in "Class C: Town Lands", at the high water line of sufficient width for a person to pass and repass, but only in those specified areas which each commission shall, within six months after its first meeting, establish as right of passage beach lands.

The rights of owners of residential improvements on beach lands as of April 11, 1972, shall be respected; and the commissions shall not permit the right of passage created in paragraphs (1) and (2) of this subsection where such right would interfere with the use and enjoyment of such improvements by the owners thereof.

(d) Upon agreement therefor by the commissions and the Secretary, the Secretary may acquire in any manner authorized by this Act lands and waters and interests therein in the trust area for the purposes of—

(1) establishing public beaches open to public use and enjoyment; and

(2) establishing access to such beaches. Such public beaches may or may not be enlargements of existing public beaches, but in any case shall to as great an extent as

possible be located so as to be consistent with the conservation and preservation purposes of this Act. Access to such public beaches shall respect the rights of private property owners in the immediate vicinity, and shall be designed to protect the natural features of the land. The commissions shall establish limitations on the number of vehicles to be parked at public beach areas. Within twelve months after its first meeting, the Martha's Vineyard Commission shall designate two new public beaches on the southern or southwestern shoreline of Martha's Vineyard; neither of such new areas shall, however, be enlargements of existing beaches open to public use.

(e) Six months after the first meeting of each commission, motor vehicles, open fires, and camping shall be prohibited from beach lands within the area of its jurisdiction: *Provided,* That each commission may designate beach land areas open to such uses, and shall adopt regulations specifying the conditions of use within six months after its first meeting: *And provided further,* That until such regulations are adopted use of beach lands shall be as determined by existing State and local laws.

(f) The commission shall, within thirty days, develop plans for protection and litter prevention on beach areas. These plans will be implemented by funds as provided in section 20 of this Act.

ADMINISTRATIVE PROVISIONS

SEC. 11. (a) As to the responsibilities assigned to the Secretary by this Act, the same shall be administered in accordance with the provisions of this Act and the Act of August 25, 1916 (16 U.S.C. 1 et seq.), as amended and supplemented, except that the Secretary may utilize any other statutory authority available to him for the conservation, preservation, and management of natural resources to the extent he files such authority will further the purposes of this Act.

(b) The Secretary is authorized to provide technical assistance to the commissions and the towns and regional governmental entities, and to provide the same to private organizations and associations, for the purposes of establishing sound land use planning and zoning bylaws and other ordinances and regulations to carry out the purposes of this Act. Such assistance may include payments for professional services.

TRANSPORTATION AND GENERAL USES

SEC. 12. (a) The commissions, together with the Governor and the Secretary, shall make an immediate survey of public and private water and air access to lands in the trust area, including that by the Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority, and by other public and private water and air carriers, and shall make such recommendations to the appropriate body or bodies for legislative or administrative action as they deem consistent with the preservation and conservation purposes of this Act. Such recommendations shall include specific measures to limit the number of motor vehicles and passengers such carriers might otherwise transport to the Nantucket Sound Islands. Thereafter, regular and frequent surveys of such access shall be conducted, and such recommendations shall be made as are deemed appropriate to maintain the unique values of lands and waters in the trust area. Such recommendations may include intra-island transportation programs and policies.

(b) No development of plan for the convenience of visitors to trust lands or waters shall be undertaken which would be incompatible with the preservation and conservation of the unique values thereof: *Provided,* That the commissions, the Governor, and the Secretary may jointly provide for the public enjoyment and understanding of the values of the Nantucket Sound Islands by establishing such public transportation systems, trails, bicycle paths, observation points, and exhibits, and by providing such services as they may deem desirable for such public enjoyment and understanding, consistent with the preservation and conservation of such values.

(c) In any such provision for public enjoyment or understanding, the commissions, the Governor, and the Secretary shall not unreasonably diminish for its owners or occupants the value or enjoyment of any improved property within the trust lands.

PRIVATE NONPROFIT ORGANIZATIONS

SEC. 13. (a) In order to encourage and provide an opportunity for the establishment of natural and scenic preserves by voluntary private action of owners of lands and waters in the trust area, and notwithstanding any provision in this Act or in any other provision of law, the authority established by this Act to acquire lands or interests therein without the consent of the owner shall be suspended when—

(i) lands or waters or interests therein which are designated as being presently or from time to time needed to carry out the purposes of this Act are irrevocably in the ownership of private nonprofit conservation, preservation, historic, or other organizations or associations, and the restrictions against the development of such lands meet the standards referred to herein; or

(ii) lands or waters or interests therein which are designated as being presently or from time to time needed to carry out the purposes of this Act are, to the satisfaction of the commissions, the Governor, and the Secretary and within twenty-four months after enactment of this Act, irrevocably committed to be sold, donated, demised, or otherwise transferred to such organizations or associations.

(b) Section 19 of this Act shall be suspended with respect to those lands and waters and interests to which subsection (a) of this section applies; and section 10 of this Act shall be similarly suspended whenever in the judgment of the commissions its applicability will contravene the purposes of this Act or any provision of law of the Commonwealth of Massachusetts.

(c) The provisions of this section shall be applied only to those organizations and associations which are determined to be bona fide and general purpose.

(d) All of the provisions of this Act, except sections 1, 2, and 3, shall be suspended with respect to any lands, waters, or interests therein so long as such lands, waters, or interests therein are within twenty-four months of the enactment of this Act irrevocably subject to a conservation restriction created, approved, and recorded under section 31 through 33 of chapter 184 of the General Laws of Massachusetts, which forbids, or in the judgment of the commissions, and the Secretary, as evidenced by their written approval of such restriction, substantially limits all or a majority of the land uses referred to in clauses (a) through (g) of the first paragraph of said section 31. Such conservation restriction shall be irrevocable unless notice of the intention to revoke is given to the commissions and the Secretary not less than twelve months prior to the proposed effective date of the revocation or unless the lands, waters, or interests therein are in whole or in part made subject to a taking by eminent domain.

COMPENSABLE LAND USE REGULATIONS

SEC. 14. The Secretary, after consultation with the commissions and the Governor and within six months after the date of enactment of this Act, shall issue proposed compensable land use regulations applicable to the trust, and after due notice shall cause public hearings to be held on such regulations. Thereafter, he shall issue compensable land use regulations applicable to the trust which shall—

(a) establish the manner in which the fair market value of lands or waters affected by the classification established in sections 5(b)(1) and 5(b)(2) and by the right of passage in section 10(c) shall be calculated where such classifications have caused a decrease in such value, and where the provisions of section 7(a)(3), 8(a), or 13(a) do not apply; and

(b) set forth the manner by which an owner or owners may pursue a right of action in any court of competent jurisdiction.

NEW EMPLOYMENT OPPORTUNITIES

SEC. 15. (a) The commissions are authorized and directed to examine the lands and waters and other resources of the trust area forthwith for the purposes of identifying and developing new employment opportunities of any kind for residents of the trust area appropriate to the purposes of this Act.

(b) As part of such examination, the commissions shall survey the lands and waters of the trust area for opportunities to experiment with and to encourage the development of aquaculture of all kinds, including but not limited to fish and shellfish and other associated activities.

(c) As soon as practicable but in no case later than six months after the date of enactment of this Act, each commission shall prepare a plan for the development of new employment opportunities which shall be adopted or amended only after public hearings have been held on the proposed plan or amendment. Such plan shall include—

(1) an identification of industries which should be established or enlarged to provide employment opportunities and of any training or retraining or public employment programs which should be established to further the goal of a sound local economy and the other purposes of this Act; and

(2) a schedule of specific activities to be undertaken to implement the goals included in the plan.

(d) The Secretary of the Interior, the Secretary of Commerce, and the Secretary of Labor are hereby authorized and directed to cooperate with the commissions in the implementation of the plans adopted in accordance with subsection (c) and in their other activities pursuant to the provisions of this section, and to provide technical assistance at the request of a commission, and are authorized to make available to the commissions for the purposes of this Act any funds appropriated to their respective departments under the authority of this or any other law without restriction.

(e) Any other provision of law to the contrary notwithstanding, the Nantucket Trust Commission, the Martha's Vineyard Trust Commission, and the Elizabeth Islands Trust Commission are hereby declared to be eligible applicants for any grant program administered by the Department of the Interior, the Department of Commerce, or the Department of Labor, for which applicants other than States are eligible; and the commissions may either carry out the activities under such grants themselves or arrange for activities under such grants to be carried out by the other entities in the trust area.

(f) The commissions shall to as great an extent as possible in the development of any regulations pursuant to this Act encourage the maintenance and commencement of agricultural uses of lands within the trust area.

FREEZE DATE

SEC. 16. (a) Beginning on April 11, 1972, no construction of any improvement, whether for residential, commercial, industrial, or any other purpose, shall be permitted to commence on any lands classified herein as "Class A: Open Lands". Construction of improvements shall be permitted on any lands classified as "Class C: Town Lands", only upon the granting of specific approval therefor by the board of selectmen of the particular town, after a showing of the need therefor. Construction of improvements shall be permitted on any lands classified as "Class B: Resource Management Lands", only upon the granting of specific approval therefor by the board of selectmen of the particular town, after a showing of the need therefor. Approvals granted by a vote of board of selectmen pursuant to a finding of need therefor and pursuant to a statement of justification therefor, shall subsequently be deemed valid by the commissions, the Governor, and the Secretary.

(b) In the case of any hardship caused by the provisions of subsection (a) of this section, the commissions and the Secretary shall, on the basis of rules and regulations issued by the commissions and the Secretary, make a valuation thereof and shall award fair recompense to any individual for whom hardship is demonstrated.

INDIAN COMMON LANDS

SEC. 17. (a) The Martha's Vineyard Commission is directed to establish forthwith an orderly program for determining the precise extent of Indian Common Lands on Martha's Vineyard. The program shall include a survey or surveys, and such other research or field work as may be necessary to establish the boundaries of the Common Lands belonging to the Wampanoag Tribe of Indians and known generally as the Cranberry Bogs, the Clay Cliffs, and Herring Creek. The commission is further directed to determine the location, boundaries, and owners of record title of the monuments and burial grounds of the Wampanoag Tribe of Indians on Martha's Vineyard. Funds to carry out the program may be drawn from those authorized to be appropriated by section 20.

(b) Upon completion of the program described in subsection (a) of this section, lands determined to be Indian Common Lands shall be acknowledged as an Indian reservation owned by the Wampanoag Tribe of Indians, pursuant to confirmed Indian title and entitled to the full protection of Federal laws pertaining to Indian lands: *Provided,* That the provisions of section 5(b)(2) of this Act shall apply to such Indian reservation land, subject however to the sole administration and control of the Wampanoag Tribal Council of Gay Head. Lands determined to be Indian monuments or burial grounds which are found to be in private ownership shall be classified as "Class A: Open Lands", and such lands found to be in public ownership shall be transferred to the ownership of the Wampanoag Tribe of Indians and classified as "Class A: Open Lands".

(c) Nothing contained in this Act shall be construed to prejudice or limit any claims which the Wampanoag Tribe of Indians, or any member of that tribe, may have for past violations of their rights as Indians, including but not limited to claims arising under the Indian Trade and Intercourse Act (25 U.S.C. 177).

RESIDENT HOMESITES

SEC. 18. (a) Upon petition therefor by any town, acting pursuant to a vote of a town meeting, the appropriate commission shall, with the advice and assistance of the Governor and the Secretary and the Secretary of Housing and Urban Development, prepare a resident homesite plan.

(b) A resident homesite plan shall—

(1) state the reasons for the establishment of the plan;

(2) delineate the land area or land areas in the town intended to be utilized for carrying out the plan;

(3) define the criteria by which town residents may avail themselves of the plan;

(4) project the total number of sites envisioned by the plan; and

(5) establish the fair purchase value of such sites for qualified residents.

(c) Upon approval of a resident homesite plan by the appropriate town, and by the Governor and the Secretary, the Secretary is authorized to acquire for fair market value the land area or land areas specified in the plan by any manner authorized by this Act. The Secretary and the appropriate commission shall thereafter make resident homesites available for sale to qualified residents at the fair purchase value established in the plan. The difference between the fair market value and the fair purchase value shall be borne by the Secretary out of funds appropriated pursuant to section 20 of this Act.

(d) Any resident homesite sold under the authority of this section shall be subject to a right of first refusal in the Secretary and the appropriate commission.

(e) For the purposes of this section, the term "qualified residents" shall mean year-round residents who qualify for the plan under criteria established by the appropriate commission; and the terms "fair market value" and "fair purchase value" shall be determined by the criteria set forth by the appropriate commission.

HUNTING AND FISHING

SEC. 19. Hunting, fishing, and trapping on lands and waters within the trust area shall be permitted in accordance with the applicable laws of towns in the trust area, the Commonwealth of Massachusetts, and the United States, except that the commissions, the Governor, and the Secretary may designate zones where, and establish periods when, no hunting, no fishing, and no trapping shall be permitted for reasons of public health, public safety, fish or wildlife management, administration, or public use and enjoyment. Except in emergencies, any regulations prescribing any such restrictions shall be issued only after consultation with the appropriate agency of said Commonwealth and any political subdivision thereof which has jurisdiction over such activities.

APPROPRIATIONS

SEC. 20. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act; not to exceed, however, $20,000,000 for the acquisition of lands and interests therein, and not to exceed $5,000,000 for development both in April 1972 prices, for the first three years of the operation of the trust, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein: *Provided,* That there shall, within the total amounts authorized to be appropriated, be made available $300,000 for the development of the shellfish industry pursuant to section 15 of this Act, $500,000 for studies conducted pursuant to section 9(c) of this Act, and $1,000,000 for resident homesites programs pursuant to section 18 of this Act, and $100,000 for the implementation of plans to protect and provide litter prevention for all beach areas.

SEVERABILITY CLAUSE

SEC. 21. The provisions of this Act are hereby declared to be severable, and if any of its provisions are held to be invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

By Mr. MONTOYA:

S. 68. A bill to establish a temporary special commission on Guadalupe-Hidalgo land rights. Referred to the Committee on the Judiciary.

Mr. MONTOYA. Mr. President, I am today introducing legislation to establish a temporary special commission to study and report on the land rights of descendants of land holders in the territories ceded to the United States by Mexico under the Treaty of Guadalupe-Hidalgo of 1848.

The controversy over these rights is not new. However, the deeply rooted feelings of bitterness and resentment among the approximately 11 million persons of Mexican-American descent is part of a growing disenchantment being expressed openly in many parts of the Nation, particularly in the Southwest. This is clearly manifest in the emergence of protest groups making demands upon State and Federal governments and upon "Anglo" communities.

The Government of the United States has been insensitive to this problem for many years. I think it is time for us to rethink the position of the Federal Government in this situation, and to search out the history and the record. If an injustice has been done, it is important that we right the wrong.

I would like to take this opportunity, Mr. President, to touch upon some of the history of the area concerned, and to explain to my colleagues the cultural and historical reasons for the resentment which so many Mexican Americans feel.

For the Spanish and the Indian peoples who settled originally on the land which is now the Southwestern part of the United States, the land itself was of great importance. Land, for these people, was more than just a commodity to be bought and sold. It was truly a part of the individual and the family, a part of the culture and the life, and a part of the tradition which had grown for centuries in importance. When this land was taken away from them, these people felt that life and tradition had also been taken away. With the land loss came poverty and a loss of pride and family honor.

The Treaty of Guadalupe-Hidalgo, signed in 1848, and ratified that same year by the Congress, guaranteed the property and civil rights of the people who lived on the land ceded to the United States. Despite this commitment by the Federal Government, the privilege of community landgrant ownership was denied to these people, and in many cases their rights were abrogated. Injustices did occur. It was a period of rapid expansion, of many misunderstandings, and of discrimination against the Spanish-speaking people of the Southwestern States.

Certainly, lack of land ownership is not the only problem of the Mexican American. Spanish-speaking citizens of the United States have historically been the victims of discrimination in almost every facet of their lives: in education, employment, housing, economic opportunities, and in the administration of justice. The confidence of these citizens in the fairness of our institutions is shaken. They doubt the sincerity of Government. Resentment and cynicism pervade their thinking.

In the last 10 years there has been a strong movement to eliminate discrimination for many groups in this Nation. The 1964 Civil Rights Act was designed to protect minorities and women from the kind of discrimination which has tragically been a part of their lives for many years.

Great progress has been made in education, in employment, and in many other aspects of discrimination. However, nothing has ever been done to answer the questions which many Mexican Americans have pertaining to the rightful ownership of community land grants. The record is filled with case after case of gross abuse of the uneducated Spanish-speaking community by unscrupulous land grabbers. In some cases, sadly, the land grabber involved has been the Government.

Every attempt by the Spanish-speaking community to receive judicial or legislative review has failed. No attempt has ever been made to study the problem thoroughly.

Mr. President, if we are to fully restore the confidence of the Mexican-American citizen in the existence of equal justice under the law in the United States, we must take responsible action now. If certain lands have been wrongfully taken from these people, we must make amends.

The legislation I am introducing today would establish a Special Commission on Guadalupe-Hidalgo Land Rights. The commission would analyze specific provisions of the treaty to determine, among other things:

First, what property rights of land holders, their heirs and descendents, were protected by the treaty;

Second, whether those rights have been properly protected by the United States since 1848; and

Third, the most equitable means for settling claims for these land grant rights.

The commission will be asked to make interim reports to the Congress and the President, and to make a final report at the end of 18 months.

The purpose of this bill is not to dispossess those current legal landowners involved. Certainly those who have valid title to their property should not be concerned that the results of this study endanger their ownership or the value of their land.

However, approximately 100 million acres of the land in question is presently public land, mainly that of the Federal Government. It is possible that some restitution could be made where public land is concerned. The recommendations of the Commission would undoubtedly speak to the question of alternate compensation for those who are judged to have been wrongfully deprived of their rights under this treaty. That compensation would do much to restore confidence in the system to those in the Mexican-American community who feel themselves to be ignored today.

We must breathe new life into the concept of justice under law for the citizens of the United States who question its reality. We must find a way to prove to the Mexican-American citizen that his voice can be heard in an appeal to Government.

A public hearing on this question would allow the Nation to be fully informed about the position of all parties to this dispute and would allow the members of the Commission to question members of the Mexican-American community face to face.

This is a national problem, Mr. President. It is a national disgrace that we have so long ignored the feelings of the second largest minority in this country.

I urge the support of my colleagues for this bill. I ask unanimous consent that the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 68

A bill to establish a temporary special commission on Guadalupe-Hidalgo land rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

ESTABLISHMENT OF COMMISSION

SECTION 1. There is established a temporary commission to be known as the Special Commission on Guadalupe-Hidalgo Land Rights (hereafter referred to in this Act as the "Commission").

FINDINGS AND PURPOSE

SEC. 2. The Congress finds and declares that the property rights of persons living in territories ceded to the United States by Mexico pursuant to the Treaty of Guadalupe-Hidalgo, signed February 2, 1848, and the property rights of the heirs of such persons, are unclear. It shall be the purpose of the Commission to determine the nature and extent of such rights.

FUNCTIONS OF THE COMMISSION

SEC. 3. (a) The Commission shall make a comprehensive study and analysis of the provisions of the Treaty of Guadalupe-Hidalgo and shall determine—

(1) what property rights were vested by the treaty in private land holders and their heirs;

(2) whether those rights have been properly protected by the United States since 1848; and

(3) if the Commission finds that such rights have not been properly protected, the most equitable means of settling claims it deems meritorious.

(b) The Commission shall submit to the Congress and the President such interim reports as it deems advisable. Not later than eighteen months after the date of enactment of this Act, the Commission shall submit to the Congress and the President a final report, together with such recommendations, as it deems advisable.

(c) The Commission shall cease to exist sixty days after the submission of its final report.

MEMBERSHIP OF COMMISSION

SEC. 4. (a) The Commission shall be composed of five members appointed by the President, at least one of whom shall be an heir or descendant of a Mexican citizen whose property rights were affected by the Treaty of Guadalupe-Hidalgo.

(b) Three members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman shall be selected by a majority of the members of the Commission.

(c) Members of the Commission shall, while serving on the business of the Commission, be entitled to receive compensation at a rate fixed by the Director of the Office of Management and Budget but not in excess of $125 per day, including traveltime; and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code.

(d) All officers and employees of the Commission shall be subject to the provisions of sections 7324 through 7327 of title 5, United States Code, notwithstanding any exemption contained in such subsection.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out the provisions of this Act, hold hearings, administer oaths for the purpose of taking evidence in any such hearings, take testimony, and receive documents and other matter. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before a Commission, or any subcommittee thereof.

(b) Each department, agency, and instrumentality of the executive branch of the Federal Government shall furnish to the Commission, upon request made by the Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) The Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, shall have the power—

(1) to appoint and fix the compensation of such personnel as it deems necessary;

(2) to procure the services of experts and consultants in accordance with section 3109 of such title; and

(3) to adopt such rules and regulations as it deems necessary to carry out this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of this Act.

By Mr. BIDEN:

S. 69. A bill to amend the Internal Revenue Code of 1954 to provide for a credit of $50 against the Federal income tax imposed for taxable year 1974. Referred to the Committee on Finance.

Mr. BIDEN. Mr. President, as we begin a new Congress, I think we all realize that there is an urgent need to take action on the economy. Every day we read of some economic indicator setting some sort of record—and it is always bad news. Unemployment is more than 7 percent and threatening to go to 8 or 9; retail sales have slipped drastically; bankruptcies, both personal and corporate are on the rise—yet so are food prices. We must take some steps to increase the purchasing power of the average American—and we must take those steps now.

Throughout the holiday season, we heard a lot of talk about a tax cut as a way to begin pulling us out of this recession. Now it is time to get down to specifics—if we are going to cut taxes, what is the best way to do it?

I feel that the legislation I am introducing represents the best approach to the problem. The bill simply provides that every individual taxpayer will receive a credit of $50 on his or her tax return for taxable year 1974—$100 for a joint return. If the return has already been filed, the taxpayer may simply file for a refund. If he has not filed, he may claim the credit when he does file. If the taxpayer paid less than $50 in taxes—$100 on a joint return—he could only claim enough credit to reduce his tax to zero.

This bill seems superior to those measures calling for a permanent tax credit option or a permanent reduction in the withholding rates. Both the chairman of the House Ways and Means Committee and the Chairman of the Senate Finance Committee have indicated their desire to enact a substantive tax reform measure this year. I concur in their sentiments wholeheartedly. Since the prospects for tax reform are good, we should be tampering as little as possible with our system now. There is no point in rushing through a permanent change in our law if we are going to change it again shortly.

Representative ULLMAN, chairman of the House Ways and Means Committee has also indicated that he favors a short-term approach. We should provide tax relief now, then tax reform.

Proposals for a 1-year tax cut have centered around tax returns listing 1975 earnings. My proposal, on the other hand, deals with the return for 1974, the year just past.

Theoretically, by promising a tax credit on income a person is earning now will induce him or her to spend money in anticipation of the credit on income next year. The withholding reduction will probably not be noticeable. I question whether these psychological ploys will cause people to spend money.

Furthermore, what about the people who are unemployed? Since they pay no tax, they are not helped by the proposals on 1975 returns. A tax cut on the return for 1974, on the other hand, provides the taxpayer with an immediate cash payment. He or she need only file an amended tax return listing the amount of tax paid and the credit to be claimed. This benefit stretches to the person who was laid off in October, November or December of 1974. He or she probably worked most of the year, earning enough money to pay taxes and therefore eligible for the credit.

Although this proposal extends a credit to all taxpayers, the impact will clearly be felt most by those who earn the least. For instance, of the 77.7 million tax returns filed in 1973, 70.9 million listed income under $20,000. A $50 credit will not mean much to the person earning $100,000 a year, but will be very helpful to the person who earned $9 or $10 thousand before being laid off.

This proposal would increase the purchasing power of Americans by an estimated $5 billion. Some would argue that the figure is too low and that we should be providing relief in the neighborhood of $10 or $15 billion. It should be remembered that those proposals cover an entire year, while the $5 billion figure concentrates tax relief in the first quarter of this year, when we need it most. Additionally, I would remind my colleagues that we may already be facing a budget deficit of $30 billion and should be extremely wary of proposals which will push that deficit to $40 or $50 billion.

To summarize, Mr. President, the proposal I am offering provides immediate short-term relief to the American taxpayer, supplies needed purchasing power to increase demand and stimulate business and acts to help both the employed and unemployed. Additionally, by concentrating on providing cash in the first quarter of this year, it accomplishes the dual purpose of providing relief with fiscal stability—a goal which we must achieve.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 69

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credit allowable) is amended by redesignating section 42 as 43, and by inserting after section 41 the following new section:

"SEC. 42. BONUS CREDIT FOR TAXABLE YEAR 1974.

"There is allowed as a credit against the tax imposed by this chapter for the taxable year ending with or within calendar year 1974 an amount equal to $50 ($100 in the case of a joint return under section 6013).".

(b) The table of sections for such subpart A is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

SEC. 42. Bonus credit for taxable year 1974.
SEC. 43. Overpayments of tax.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 70. A bill to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

DESERT PUPFISH NATIONAL MONUMENT

Mr. CRANSTON. Mr. President, I introduce, on behalf of myself and Senator TUNNEY a bill to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada. This bill is identical to measures I introduced in the 92d Congress (S. 2141) and the 93d Congress (S. 62) to set aside a 35,000-acre area to protect the few remaining desert pupfish.

The Ash Meadows area has been the home of the several species of pupfish for 20,000 years. During this time, the pupfish have adapted from the cold-water, postglacial lakes which covered the Western United States following the last ice age to a totally different and inhospitable environment, which is typified by Devils Hole—where the water is high in mineral content, low in oxygen, and 92° in temperature.

Yet the pumping of water by a local ranching operation has caused the water level in Devils Hole to drop to a dangerously low level. The desert pupfish may not survive another year unless steps are taken to preserve their unique habitat.

Saving the remaining species and subspecies of this endangered fish, along with the protection of their habitat, is of importance not only for the maintenance of nature's diversity, but because of their tremendous value for studies of genetic evolution. Already man's needless indifference has permitted the extinction of several subspecies, and two which live in the Ash Meadows area are on the brink of extinction.

In addition to the unique desert pupfish found in the Ash Meadows area, botanical research conducted by Dr. Janice C. Beatley of the laboratory of nuclear medicine and radiation biology of the University of California at Los Angeles, Assistant Professor of Botany James L. Reveal, of the University of Maryland, and others, has revealed unique species of plants growing in the Ash Meadows area—plants that are found in no other place in the world.

Some of these plants were restricted by evolution to this single area; most of them are entirely different from plants in surrounding areas of Nevada and California. If a Desert Pupfish National Monument were established, not only would the desert pupfish be rescued from extinction but these unique species of plants would be preserved. As Professor Reveal states—

> We are fighting time. No advanced technology will ever replace an extinct species.

The desert region which I propose as the site of the Desert Pupfish National Monument, is a 40-acre parcel of hillside which is part of Death Valley National Monument, but separated by almost 20 miles of desert from the main body of the monument. The 40 acres was included in the national monument in 1952, because of a deep limestone chasm in the side of the hill at the bottom of which is a small warm water spring. It is called Devils Hole, and is surrounded by two chain link fences.

Outside of the fences the Park Service has erected a sign which reads as follows:

> DEVILS HOLE
>
> In the small pool at the bottom of this limestone cavern lives the entire population of *Cyprinodon diabolis*, one type of desert pupfish. These fish live in what is probably the most restricted environment of any animal in the world.

If the pupfish becomes extinct, it will be because of man's activities. On the southern slope below Devils Hole a ranching operation has been pumping to irrigate about 3,000 acres of land to grow fodder for 2,500 head of cattle. The land is not very productive—the fields are pockmarked with alkaline sections where nothing grows—and the cattle must rely on imported feed to supplement the Ash Meadows crop. Yet it is to provide some feed for these few head of cattle that we are on the brink of destroying the Devils Hole pupfish.

Mr. President, the little pupfish stands as both a concrete example of a living species about to become extinct as a result of man's reckless activities and as a symbol of what the environmental fight is all about. Few of us have ever seen a pupfish; unlike other fish, pupfish cannot be eaten; and most would, in considering my proposal, find a question on the tip of their tongues: "What good are they? Why should we worry?"

The answer to that question is that we cannot afford not to worry about the unforeseen future consequences of allowing the desert pupfish to die out as a living species on the planet Earth. Much of the environmental crisis today is the result of man's failure to see far enough ahead of his own nose to avoid some of the frightening consequences with which all of us are now faced. Not only are we faced with a tremendously costly cleanup job, but we are faced with a struggle over our own future survival.

I sincerely hope that my colleagues will join with me in this effort to save the tiny desert pupfish from total extinction.

Mr. President, I ask unanimous consent that the full text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 70

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and protect several species of desert pupfish, and to interpret their evolution in areas of their natural environment, for the benefit and education of the people of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Desert Pupfish National Monument (hereinafter referred to as the "national monument") in the State of California and Nevada. The boundary of the national monument shall be as generally depicted on the drawing entitled "Desert Pupfish National Monument," numbered NM–DP–91,000, and dated January 1971, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. Within the boundary of the national monument, the Secretary may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Lands, waters, and interests therein owned by the States of California or Nevada, or any political subdivision thereof, may be acquired only with the consent of such owner. When the Secretary determines that lands, waters, and interests therein have been acquired sufficient to constitute an efficiently administrable unit for the purposes of this Act, he shall establish the national monument by publication of notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer the lands, waters, and interests therein within the boundary of the national monument in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.).

SEC. 3. Effective upon establishment of the national monument pursuant to section 2, the Devil's Hole portion of Death Valley National Monument, which was added to the Death Valley National Monument by Proclamation numbered 2961 of January 17, 1952 (66 Stat. c 18), is abolished, as such, and the lands, waters, and interests therein are made a part of the national monument established pursuant to this Act. Any funds available for the Devil's Hole portion of Death Valley National Monument on the date of such establishment shall be available for the purposes of the national monument established pursuant to this Act.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 71. A bill to establish the California Desert National Conservation Area;

S. 72. A bill to designate certain lands in the Pinnacles National Monument in California as wilderness;

S. 73. A bill to designate certain lands in San Luis Obispo County, Calif., as the "Santa Lucia Wilderness";

S. 74. A bill to designate certain lands in the Angeles and San Bernardino National Forests as the "Sheep Mountain Wilderness"; and

S. 75. A bill to study certain lands in the Sierra National Forest, Calif., for possible inclusion in the National Wilderness Preservation System. Referred to the Committee on Interior and Insular Affairs.

CALIFORNIA DESERT NATIONAL CONSERVATION AREA

Mr. CRANSTON. Mr. President, I rise to introduce for appropriate reference a bill to establish the California Desert National Conservation Area.

This bill is nearly identical to legislation I have introduced in both the 92d and 93d Congresses to preserve, protect, and properly manage the California desert. Last year, the California desert bill (S. 63) was incorporated into the more comprehensive National Resource Lands Management Act (S. 424), a bill to provide for better management of our public domain lands. Unfortunately, while the Senate passed S. 424, the House failed to approve it before the end of the 93d Congress. Thus, no final action was taken on the California Desert National Conservation Area.

Because of the pressing need to act to protect the California desert and its precious resources, I am today reintroducing my California desert legislation. Senator TUNNEY has joined me as a cosponsor of this legislation.

Spreading from the Sierra Nevada and Death Valley south 240 miles to the Mexican border and from the San Bernardino and San Jacinto Mountain Ranges east to the Colorado River and adjacent watersheds, the 16-million-acre California Desert is one of America's most scenic, yet fragile natural resources.

This vast desert is an area of tremendous ecological diversity and rich in historical, scenic, archeological, environmental, biological, cultural, scientific, and educational resources. Physically, the California Desert ranges from snow-capped mountains to plateaus, basins, dry lake beds, rivers and washes. The desert has more than 700 species of flowering plants, of which 217 are found nowhere else in the world.

It contains rare and endangered species of wildlife and fishes such as the bighorn sheep and the desert pupfish that are unique to the California Desert. The California Desert is a total, complex ecosystem.

The fact that the California Desert lies so near the rapidly growing major population centers of southern California makes it an important recreational and educational resource. The California Desert is literally within minutes of 10 million people. Yet it is precisely this unique proximity to 10 million people which calls for the special protections which my bill would provide. Without protections, the recreational and educational resources will be short-lived.

From 1968 to 1972, the use of the California Desert by the American public doubled. The Bureau of Land Management anticipates that the California desert will receive close to 10 million visitor days this year. This figure is expected to reach 50 million by the year 2000.

The California Desert is so big, so vast, that it seems that there would be space for everyone and every activity. In fact, its resources are limited. Moreover, the desert's total ecosystem is extremely fragile, easily scarred and slowly healed. Today excessive and uncontrolled off-road vehicle use, improper grazing practices, careless mining operations, unplanned construction and road-building, and the pressures of growing recreational use are altering and destroying the fragile ecology of the California Desert.

If we are to preserve the unique and irreplaceable resources of the California Desert, man's activities will have to be limited to those which do not disturb the natural setting, destroy the scenic beauty, or upset the fragile ecology of the California Desert. It is not too late to save this beautiful area. But we must make decisions now to determine how we will use these lands and resources so that they will remain intact, not only for us, but also for future generations. If we fail to seize this opportunity and let present patterns of haphazard development and unwise recreational use continue, we may desecrate and irreversibly destroy the open space values of the California Desert.

The bill I am introducing today will establish the California Desert National Conservation Area and will direct the Secretary of the Interior to develop a comprehensive, long-range plan for the management, use and protection of the California Desert. The legislation provides $40 million for the next 5 years to complete this task.

Equally important, the bill establishes a citizens advisory committee to provide the public with a better opportunity to participate in the planning and development of the California Desert plan. The bill requires the Secretary to take into consideration the recommendations of the advisory committee. This committee is to be composed of representatives of all groups having an interest in the desert—Federal, State, and local governmental units administering lands in the desert, residents of the area, environmentalists, and those who use the desert for study and play, including offroad vehicle users and rock hounds.

In addition, the bill provides the Secretary with some new authorities to enable more effective implementation of the desert planning and management. The bill gives the Secretary the authority to acquire, through purchases or exchange, additional lands for more economical and efficient management of the California Desert. It also provides for greater control over surface mining activities on the California Desert. Finally, the bill provides enforcement authority through the establishment of a uniformed ranger patrol and cooperation with local law enforcement agencies. This enforcement provision would be repealed upon future enactment of the National Resource Lands Management Act, providing such authorities generally.

Mr. President, I introduce for appropriate reference five bills to preserve five additional areas in California as wilderness. I am delighted that my colleague from California, Mr. TUNNEY, is joining me as cosponsor of all five bills. All five areas are entirely within the State of California. Two—Pinnacles and Yosemite—are within our national park system and three—Santa Lucia Sheep Mountain, and Kaiser—belong to the national forest.

Our wilderness areas are unique resources which Americans have long desired to protect. As early as the 19th century Americans recognized the need to set aside certain lands for public use and enjoyment when Yellowstone was made our first national park in 1872. More recently, a few farsighted men in the Forest Service, notably Aldo Leopold, conceived and implemented the idea of preserving our wilderness resources for future generations, and stimulated the public debate that resulted in the enactment of the 1964 Wilderness Act.

The overriding purpose of the Wilderness Act is to insure an enduring resource of wilderness for the Nation, not only for this, but also for future generations, so that they too may know what our land was like before man began to modify and alter his environment. As we continue to build roads and dams, cut trees, and pollute our air and streams, there is an increasing urgency to preserve what little wilderness remains, before their unique and unspoiled qualities are lost forever.

To date, Congress has set aside 21 wilderness areas in California, totaling 1,831,189 acres. The legislation I am introducing today would immediately add another 778,750 acres to the national wilderness preservation system and 28,000 acres to the wilderness study category.

There are other areas in California worthy of wilderness designation and for which Senator TUNNEY and I are considering additional legislation.

The Pinnacles wilderness bill was first introduced in the 90th Congress by my distinguished predecessor, Senator Thomas Kuchel. He had proposed five wilderness areas in California which had not been acted on when he left the Senate. Four have been established since 1969. The approval of the Pinnacles wilderness bill will complete Congressional action on all of Senator Kuchel's wilderness proposals. I hope this Congress will act quickly on the bill not only because it will preserve a unique and beautiful area in California, but also as a tribute to an outstanding Californian who served his State and Nation with distinction in the U.S. Senate.

The Pinnacles wilderness is within Pinnacles National Monument about 125 miles south of the San Francisco Bay area in one of the coastal mountain ranges, the Gabilan Mountains. Noted for its tall pinnacle rock structures, the monument was once the site of an ancient volcano which rose to the height of 8,000 feet. Wind and water erosion, combined with the movements of two large faults, carved the unique spires and created the narrow canyons which contain two talus caves. The semi-arid land is covered primarily by the dry, leathery chaparral which has been relatively untouched. Within the monument exist the habitats of many species of wildlife, including the endangered peregrine falcon and the golden eagle.

The legislation specifies the designation of 13,000 acres as the Pinnacles wilderness. However, I am reserving judgment on the acreage and proposed boundaries.

The Yosemite wilderness is located within Yosemite National Park.

Known as one of the most beautiful and scenic units of our national park system, Yosemite National Park in recent years has experienced tremendous increases in visitor usage resulting in congestion, intolerable crowding, and confusion around the campsites on the valley floor. Although Yosemite National Park is located in the central portion of the Sierra Nevada Mountains, in portions of Tuolumne, Mariposa, and Madera Counties, it draws visitors from Los Angeles and San Francisco, as well as from the rest of the State and the Nation.

Yet in areas away from the campsites, solitude and natural serenity is still possible in the valley. There are outstanding geological, biological, and scenic resources—exceptional glaciated topography, sheer massive granite walls, magnificent waterfalls, virgin conifer forests, mountain lakes, streams, and meadows. The park provides a home for mule deer, black bear, wildcat, and the rare mountain lion.

To insure that this rich resource is not endangered further, I am proposing the designation of two wilderness areas, to be known as Yosemite South and Yosemite North, totaling 692,500 acres,

The Santa Lucia wilderness lies within and adjacent to the Los Padres National Forest in San Luis Obispo County, along the central coast of California. The area of 22,250 acres is basically a wild, rough highland with numerous outcroppings of rock. Except for three flat, fern-covered valleys, the area is mostly covered with pine and oak and chaparral.

The late Dr. Robert F. Hoover, a former professor of botany at California State Polytechnic College, noted that the Santa Lucia area contains the only stand of knobcone pine between Monterey and the San Bernardino Mountains, one of the most extensive stands of bigcone pine in existence, extensive stands of two species of manzanita, especially fine groves of canyon oak, tan oak, maple, and sycamore, and at least 12 species of ferns—more than half the entire number known to exist in the country.

Dr. Hoover once described the delicate character of the Santa Lucia wilderness:

> In the upper end of the canyon, and probably in some of the tributaries, magnificent natural gardens including Woodwardia ferns, Aralia, maidenhair ferns, leopard lilies and wild orchids can be found. Accessibility of the area to large numbers of people could only lead to the destruction of this priceless and irreplaceable heritage.

A former regional forester of the Department of Agriculture has stated that Lopez Canyon "is by far the most attractive area between two existing wildernesses, the San Rafael and Ventana."

In the Senate Interior Committee hearings held in the 92d Congress on an earlier Santa Lucia wilderness bill, then called Lopez Canyon, there were some criticisms voiced about manmade imperfections, in particular a 70-kilovolt power transmission line within the boundaries I then proposed. I have revised my bill to exclude the powerline at the present time, but to provide that the area automatically receive wilderness designation when the transmission line is removed. The powerlines is a temporary easement granted for 50 years, ending in 1991. I also have revised the boundaries to exclude all roads which are now open to public vehicles. I am hopeful that with these changes we can move ahead and designate this unique and beautiful wilderness which is only 12 miles from the growing urban center of the city of San Luis Obispo.

The 52,000-acre Sheep Mountain wilderness in the Angeles and San Bernardino National Forest is one of the last remaining unprotected wilderness areas near urban southern California. Situated at the back of the Los Angeles Basin, contiguous to the existing Cucamonga wilderness, the Sheep Mountain area is within an hour's drive of 10 million people. It is a rugged, precipitous country. Five peaks dominate the area—Mount San Antonio, Dawson Peak, Pine Mountain, Mount Baden-Powell, and Sheep Mountain. There are beautiful waterfalls, and deep pools provide a habitat for substantial numbers of rainbow trout. Some of the canyons, in particular the Fish Fork of the San Gabriel River, are almost inaccessible and support perhaps the best wild trout fishery in southern California. The Sheep Mountain area also features unique alpine flora, including ancient limber pines.

In addition, the Sheep Mountain area serves as an important habitat for the Nelson bighorn sheep, now listed as an endangered species. Approximately 400 of these wild animals are making a list stand on the higher slopes of the mountains within the boundaries of the Sheep Mountain wilderness. These sheep have been isolated from others of their species and are now a stockier animal. However, they need wilderness for their survival. In order to provide adequate protection for the bighorn herds, I'm proposing wilderness boundaries which, according to available documents, coincide with the boundaries of the actual range of the bighorn sheep.

Although the Forest Service presently is studying the possibility of wilderness status for some 32,000 acres as the Sheep Mountain wilderness, I am hopeful that with this legislation we can move forward to protect the entire 52,000-acre Sheep Mountain wilderness.

The Kaiser Area proposed for study comprises approximately 28,000 acres of roadless Sierra National Forest land. It is an area of high quality scenic beauty, with small lakes, grassy meadows, a glacial ridge, and snowcapped crest. The majority of the Kaiser Area is covered with a mixed conifer forest with vegetation varying from pine at the lower elevations to true fir at the higher elevations.

This wilderness environment is just 2 hours from Fresno and 5 hours from San Francisco and Los Angeles. More specifically, the Kaiser Area lies adjacent to the developed vacation community on the north shore of Huntington Lake—an area which annually serves 20,000 campers, 400 cabin owners and their families, and visitors to a Boy Scout camp, a religious retreat and several other organizational camps.

Because of its beauty and proximity to urban areas of California, the Kaiser Area has long been popular with hikers, backpackers, fishermen, and hunters. In addition, the accessibility from the Huntington Lake Basin development affords an excellent high Sierra wilderness experience for many who are unable to reach more remote forest lands. Here even an elderly person could spend an afternoon or an hour in the solitude of a virgin forest.

However, the future of this pristine region is in question. The Forest Service presently proposes two timber sales in the Kaiser Area—the north shore of Huntington Lake sales and the Aspen-Horsethief timber sales. If the logging takes place, long-term damage might well be done to the area and the opportunity for wilderness classification will be lost forever.

While wilderness designation was one of the alternatives considered by the Forest Service in the environmental impact statements on the proposed timber sales, many have expressed concern that this consideration was given only after a policy decision had been made to log large portions of the Kaiser roadless area.

Again, when the Forest Service inventoried national forest lands as part of its preliminary wilderness review, the Kaiser Area was not recommended for inclusion among the new study areas, in a large part because of the interest in the commercial timber in the area.

Given the strong local support for preservation of the Kaiser Area as wilderness, I believe the wilderness potential of the entire 28,000-acre area should be carefully and thoroughly studied, separate of any other contemplated action. The bill I am introducing today would provide for the study, on the basis of which we can more accurately determine the value of designating the Kaiser Area as wilderness.

Mr. President, I ask unanimous consent that the texts of the five bills be printed at this point in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follow:

S. 71

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, and educational resources that are unique and irreplaceable;

(2) the desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use;

(4) because of the proximity of the California desert to the rapidly growing population centers of Southern California, these threats are certain to intensify.

(5) the Secretary of the Interior has initiated a comprehensive planning process and established an interim mangement program for the desert; and

(6) to insure further study of the relationship of man and the desert environment and preserve the unique and irreplaceable resources of the California desert, the public must provide with a better opportunity to participate in such planning and management, and additional maangement authority must be provided to the Secretary of the Interior to enable effect implementation of such planning and management.

SEC. 2. As used in this Act:

(a) "The Secretary" means the Secretary of the Interior.

(b) "National resource lands" means all lands and interests in lands (including the renewable and nonrenewable resources thereof) now or hereafter administered by the Secretary through the Bureau of Land Management, in the California Desert National Conservation Area established pursuant to section 3 of this Act.

(c) "Multiple use" means the management of the national resource lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; a combination of resources used that take into account the long-term needs of future generations for recreation, scenic values and nonrenewable resources and the achievement of diversity and balance for renewable resources; and harmonious and coordinated management of the various resources without permanent impairment of the quality of the land or the environment, with consideration being given to the relative values of the resources and to the ecological relationships involved and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

SEC. 3. (a) In order to carry out the purposes of this Act, the area generally depicted on a map entitled "California Desert National Conservation Area—Proposed", dated April 1974 is hereby established as the California Desert National Conservation Area (hereinafter referred to as the "conservation area").

(b) As soon as practicable after this Act takes effect, the Secretary shall file a map and a legal description of the conservation area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made. To the extent practicable, the Secretary shall make such legal description and map available to the public upon request.

SEC. 4. (a) The Secretary shall prepare and implement a comprehensive, long-range plan for the management, use, and protection of the national resource lands within the conservation area in accordance with the principles of multiple use and maintenance of environmental quality.

(b) In the development and maintenance of the plan, the Secretary shall:

(1) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and social sciences;

(2) consider all present and potential uses of the lands;

(3) consider the relative scarcity of the values involved and the availability of alternatives means (including recycling) and sites for realization of those values;

(4) weigh long-term public benefits, including those of outdoor recreation and scenic values, against short-term local and individual benefits;

(5) consider the requirements of applicable pollution control laws including State and Federal air or water quality standards, noise standards, and implementation plans; and

(6) take into consideration the proposals of the Advisory Committee, established pursuant to section 5 of this Act, and proposals of other Federal agencies and the State of California (or any political subdivision thereof) including recommendations from studies that have already been completed or are currently being prepared.

(c) The plan shall be completed and reported to Congress by June 30, 1979. In no event shall such plan become effective until after the expiration of the sixty-day period following the date of its submission to the Congress.

(d) During the period on the date of enactment of this Act and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage and protect the conservation area resources now in danger of destruction, to provide for the public use of the area in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

SEC. 5. (a) The Secretary, within sixty days of enactment of this Act, shall establish a California Desert National Conservation Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of the Federal Advisory Committee Act (86 Stat. 770).

(b) It shall be the functions of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under section 4 of this Act.

(c) The advisory committee shall terminate upon the expiration of sixty days following the date of the submission to the Congress of such plan.

SEC. 6. (a) The Secretary is authorized to acquire, by purchase, exchange, or donation, lands or interests therein where necessary for proper management of the conservation area: *Provided,* That interests in land may be acquired pursuant to this Act by eminent domain only if necessary in order to secure access to national resource lands in the conservation area: *And provided further,* That such lands acquired by eminent domain shall be confined to as narrow a corridor as is necessary to serve such purpose.

(b) In exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal land or interests therein and in exchange therefor he may convey to the grantor of such land or interests any national resource lands or interests therein which he classifies as suitable for exchange or other disposal. The values of the lands so exchanged either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary, as the circumstances require.

(c) Lands and interest in lands acquired pursuant to this section shall, upon acceptance of title, become national resource lands, and a part of the conservation area, subject to all the laws applicable thereto.

(d) Except where the Secretary finds that (a) there are no mineral values in the land or (b) reservation of the mineral rights in the United States would interfere with or preclude the appropriate development of the land and that such development is a more beneficial use of the land than mineral development, all conveyances of title issued by the Secretary under this section shall reserve to the United States all mineral deposits in the lands, together with the right to prospect for, explore for and remove the mineral deposits under applicable Federal law and such regulations as the Secretary may prescribe.

(e) The Secretary shall insert in any patent or other document of conveyance he issues under this title such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use, environmental integrity, and protection of the public interest.

SEC. 7. The Secretaries of Agriculture and Defense shall manage lands within their respective jurisdictions located in or adjacent to the conservation area, wherever practicable and in accordance with the laws relating to such lands, in a manner consonant with the purpose of this Act. The Secretaries of the Interior, Agriculture and Defense are authorized and encouraged to consult among themselves and take cooperative actions to carry out this section.

SEC. 8. The use, occupancy, or development of any portion of the national resource lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

SEC. 9. (a) Any violation of regulations which the Secretary issues with respect to the management, protection, development, acquisition, and conveying of the national resource lands and property located thereon and which the Secretary identifies as being subject to this section shall be punishable by a fine of not more than $1,000 or imprisonment for not more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from using the national resource lands in violation of laws or regulations relating to lands or resources managed by the Secretary.

(c) For the specific purpose of enforcing any law or regulation relating to lands or resources managed by the Secretary, the Secretary may designate any employee to (i) carry firearms; (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (iii) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the preson to be arrested has committed or is committing such felony; (iv) search without warrant or process any person, place, or conveyance as provided by law; and (v) seize without warrant or process any evidentiary item as provided by law.

SEC. 10. In connection with administration and regulation of the use and occupancy of the national resource lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of national resource lands.

SEC. 11. The Secretary shall report to the Congress no later than two years after the enactment of this Act and biannually thereafter on the progress in, and any problems concerning, the implementation of this Act, together with any recommendations for legislation which he may deem necessary.

SEC. 12. The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purpose and provisions of this Act. The promulgation of such rules and regulations shall be governed by the Administrative Procedure Act (5 U.S.C. 553).

SEC. 13. There is authorized to be appropriated not to exceed $40,000,000 for the purpose of this Act, such amount to remain available until expended.

SEC. 14. The provisions of sections 9 and 10 shall be repealed upon the taking effect of any law providing similar authority to the Secretary concerning all national resource lands, including such lands located within the conservation area.

S. 72

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890), certain lands in the Pinnacles National Monument, California, which comprise about thirteen thousand acres and which are generally depicted on a map entitled "Pinnacles Wilderness—Proposed" and dated April 1968, are hereby designated as wilderness.

SEC. 2. As soon as practicable after this Act takes effect, a map and legal description of the wilderness area designated by and pursuant to this Act shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The wilderness area designated by this Act shall be known as the "Pinnacles Wilderness" and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

S. 73

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in furtherance of the purposes of the Wilderness Act (78 Stat. 890) certain lands in and adjacent to the Los Padres National Forest, San Luis Obispo County, California, which comprise about twenty-one thousand two hundred and fifty acres and which are generally depicted on a map entitled "Santa Lucia Wilderness—Proposed" and dated January 1973, are hereby designated as wilderness; *Provided, however,* That the tract identified on said map as "Wilderness Reserve" is designated as wilderness, subject only to the removal of the existing and temporary nonconforming improvement, at which time the Secretary of Agriculture is directed to publish notice thereof in the Federal Register. Pending such notice, and subject only to the maintenance of the existing nonconforming improvement, said tract shall be managed as wilderness in accordance with section 3 of the Act.

SEC. 2. As soon as practicable after this Act takes effect, a map and a legal description of the wilderness area designated by and pursuant to this Act shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. (a) The wilderness area designated by and pursuant to this Act shall be known as the "Santa Lucia Wilderness" and shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that portion outside the boundary of the Los Padres National Forest shall be so administered by the Secretary of the Interior.

(b) Notwithstanding the provisions of section 5 of the Wilderness Act, the Secretary of Agriculture, and, within the portion of such area outside the boundary of the Los Padres National Forest, the Secretary of Interior, are authorized to acquire by donation, purchase with donated or appropriated funds, exchange or otherwise any non-Federal lands located within the area designated as wilderness by this Act as the appropriate Secretary may determine necessary or desirable for the purposes of this Act and the Wilderness Act.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 74

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890), certain lands in the Angeles and San Bernardino National Forests which comprise about fifty-two thousand acres and which are generally depicted on a map entitled "Sheep Mountain Wilderness—Proposed", and dated February 1974, are hereby designated as wilderness.

SEC. 2. As soon as practicable after this Act takes effect, a map and legal description of the wilderness area designated by and pursuant to this Act shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The wilderness area designated by this Act shall be known as the "Sheep Mountain Wilderness" and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.

S. 75

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act (78 Stat. 890, 892), relating to public notice, public hearings, and review by State and other agencies, shall review, as to its suitability or nonsuitability for preservation as wilderness, certain lands in the Sierra National Forest, California, which comprise approximately twenty-eight thousand acres, and which are generally depicted on a map entitled "Kaiser Wilderness Study Area", dated February 1974. The Secretary shall report his findings to the President on or before the expiration of the two-year period following the date of the enactment of this Act. The President shall submit promptly thereafter to the United States Senate and House of Representatives his recommendations with respect to the designation of such area or portion thereof as wilderness. Any recommendation of the President that such area or portion thereof shall be designated as wilderness and, therefore, as a component of the National Wilderness Preservation System shall become effective only if so provided by an Act of Congress.

SEC. 2. During the review period provided by this Act and for a period of four years after the recommendations of the President are submitted to the Congress, the Secretary of Agriculture shall manage and protect the resources of the lands depicted on such map in such a manner as to assure that their suitability for potential wilderness designation is not impaired.

SEC. 3. The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act.

SEC. 4. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act.

By Mr. BROOKE:

S. 77. A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its weight, and for other purposes; and

S. 78. A bill to increase the Federal excise tax on gasoline, to terminate the Highway Trust Fund, and to provide a refundable tax credit with respect to the increased tax paid on not more than 700 gallons of gasoline purchased each year. Referred to the Committee on Finance.

MANDATORY ENERGY CONSERVATION INITIATIVES

Mr. BROOKE. Mr. President, today I reintroduce the mandatory energy conservation legislation which I first proposed in the last months of the 93d Congress. This legislation would raise by 20 cents a gallon the Federal tax on gasoline; provide for a tax credit of up to $280 (1,400 gallons) for a household earning up to $15,000; end the Highway Trust Fund; and levy a progressively stringent tax on the weight of all new automobiles beginning in 1976.

It is with no joy that I reintroduce these initiatives for they entail hardship, sacrifice, and dislocation. But there is no alternative to this kind of tough, mandatory action if we are to come to grips with the grave threat posed by our energy situation.

This situation is critical and it worsens with each passing day. Future energy supplies are plagued with long lead times, skyrocketing costs, and complex environmental and social obstacles, and therefore cannot be readily increased. Existing energy supplies continue to dwindle. The result is a frightening reliance on foreign nations for this country's life blood.

The situation clearly compels conservation. We must conserve our present energy sources until more bountiful supplies can be unlocked and—hopefully—brought into the marketplace at a reasonable price. And since we are a "country that runs on oil," it is primarily oil that must be conserved.

Presently we rely upon oil to meet 50 percent of our energy requirements. Each day we consume some 17 million barrels. But our weathered domestic oil industry can only deliver 63 percent of this amount; hence, we are forced to contract abroad for the remaining 37 percent.

As my colleagues well remember, there was a time when foreign oil was a boon to this country—particularly for those of us in New England. Cheaper than domestic oil, it offered our fledgling independent network of oilmen the ways and means to compete with the domestic giants. But what once was a bargain is now a burden. Foreign oil costs as much as twice the U.S. equivalent. And this is raising havoc with our consumers, with our balance of payments, and indeed with the entire economic structure of the developed nations.

The perils that belie continuing reliance on high-priced foreign oil are, I think, perfectly clear to all Americans. What we need now is a candid, forthright policy to relieve us from this reliance. The legislation I offer today is intended as an important first step toward such a policy. It offers what I believe to be the most sensible, equitable approach to curing our current paralysis and forging a rational, long-term energy policy.

Any such policy must focus on ways to immediately reduce our oil consumption. And we cannot reduce this consumption without dealing squarely with our enormous gasoline consumption. Gasoline is all but a national opiate. Of the 17 million barrels of oil we consume each day, nearly 7 million wind up as gasoline.

This enormous consumptive level is necessary to satiate the needs of our private automobile. In 1972 alone nearly 75 billion gallons were required to fulfill the needs of over 100 million cars traveling over 1.2 trillion miles. Even more astounding is the fact that most of this travel was done alone as a means to get either to work or retail outlets.

Left to itself, the situation will only worsen. Currently 8 of every 10 American households own at least one car; 3 in 10 own at least 2 cars, and 1 in 10 own 3 cars or more. Moreover, some 10,000 new drivers are licensed each day just as a net total of 10,000 cars are added to our environment.

We are hooked on the automobile and the habit spreads despite the many problems it now represents for our society.

It is nearly impossible to overstate America's love affair with the automobile. It has so dominated our society that, as the distinguished scholar and former Ambassador George Kennan pointed out, it has lent a "terrible element of fragility to our civilization, placing us in a situation where our life would break down completely if anything ever interferred with the oil supply."

But it may just be that the luxuries offered by the private automobile are something we can no longer afford. As our oil resources dwindle, a social question arises as to whether we should squander them on the extravagance of a private transportation system. Oil after all can be used to make anything from food to fertilizer. Do we want to waste such a precious resource on our huge armada of autos?

The brief against the auto is telling. Only the airplane is a less efficient user of energy. Yet the auto accounts for 85 percent of all intercity travel and a whopping 95 percent of all intracity transportation. Rail and bus service, while four times as efficient, represent a meager 4 percent of intercity transport, and we all know the state of intracity mass transit. Here in this city there are some 1.2 million vehicle trips each day across this District's boundaries. Such is our attachment to this mode of transport.

The time has come to face the music. The automobile is the prime manifestation of waste and neglect which has dragged this Nation into its present energy crisis. If we are to recover our energy balance, then we must take swift, mandatory action to curb the waste incurred through its use.

Increasing the Federal tax on gasoline is the necessary first step in this effort. It has several advantages. It would cut our oil demand in the short-run by 600,000 to 1,000,000 barrels a day. This would improve our balance of payments picture by as much as $3.6 billion per year. It would reduce our long-run demand for gasoline by as much as 22 percent. And it would add some $17 billion to the Treasury's General Fund, much of which could—and should—be returned to those of us less able to endure the necessary sacrifices.

In addition to these crucial energy and economic benefits, there will be attendant environmental and social benefits of less automobile driving. When one remembers that as many as 4,000 deaths and 4,000,000 illness-restricted days per year might be attributed to automobile emissions, these attendant benefits are by no means irrelevant.

But, as with any new direction in social policy, there are several specific difficulties. We already know that 81 percent of the American people would prefer that the gas tax be left untouched. This in-and-of itself poses a very great problem. But I am confident that the Congress can provide the leadership necessary to inform the public on the merits of this case and thus turn this large percentage completely around.

Second, the tax will inevitably cause the Consumer Price Index to rise, even if every penny of the increased revenues could be redistributed evenly. This then will put further pressures on future wage demands. But such pressure will pale when compared to similar pressures arising from the imposition of oil tariffs and crude oil taxes.

Third, there is the very grave problem

of unemployment in the auto industry. There can be no doubt that a further increase in the price of gasoline would hit Detroit hard at a time when the industry is already reeling from its worst recession in 15 years. But I submit that the same difficulties will be visited upon the industry if alternative conservation plans are adopted or, conversely if nothing at all is adopted! I would also point out that the distinguished chairmen of the boards of Ford and General Motors have spoken favorably of a gas tax.

Finally, and most troublesome, is the possible regressive tendency of the tax. This has caused me a great deal of anxiety, for I know only too well of the burden which both inflation and recession now place upon our citizenry. To add unnecessarily to this burden would be both cruel and unconscionable. But I feel secure in the knowledge that sufficient mechanisms exist to combat any latent regressiveness. I would not consider reintroducing this bill if I felt otherwise.

Careful review of the evidence suggests that the tax is far less regressive than many assume. I would ask my colleagues to consider, for example, the fact that gasoline purchases represent 2.4 percent of a family budget of $10,941 whereas similar purchases are only 2 percent of a family budget of $7,214. Or the fact that the poor in this country spend roughly $101 per year on gasoline or 26 percent of their energy budget whereas wealthier families spend $533 per year or 38 percent of their energy budget. Or the fact that miles driven to work increase as income increases. Or the fact that while 50 percent of the Nation's poor own no car at all, 79 percent of the Nation's well-to-do own 2 cars or more. Or the fact that the poor account for only 9 percent of all cars owned in this Nation and only 5 percent of all gasoline purchases despite the fact that they account for 17 percent of all households. Or the fact that only one-third of all driving is to and from work. The facts are clear: the more money one has, the more he or she is likely to drive.

The following charts should give my colleagues a rough idea of the effect of a 20-cent increase in the gasoline tax. Table I indicates the burden borne by each income group while table II indicates the estimated amount of tax paid by the average household.

Table I

Adjusted Gross Income ($ thousands)	*20-cent tax increase* ($ billions)
0–3	0.5
3–5	.6
5–7	1.1
7–10	1.8
10–15	2.9
15–20	2.4
20–50	2.5
50–100	.2

Table II

Money Income:	*20-cent tax increase*
$5,000	$126
7,500	194
10,000	231
15,000	253
25,000	293

Despite the empirical evidence to suggest that the tax may not be as regressive as some fear, there is no denying that it will cause sacrifice among all Americans. That is its design. But to help those less able to endure these sacrifices, I have coupled the tax increase with a mechanism to compensate, through tax credits, those individuals who earn up to $12,000 per year, and those families who earn up to $15,000 per year.

The way this system works is really quite simple. Each individual taxpayer who earns $12,000 or less will be allowed a 20-cent per gallon credit on all gasoline purchases up to $140. In the case of a married couple filing jointly, the figure would be $280 and the income level would be raised to $15,000. This exempts some 700 gallons per person, or using 13 miles-per-gallon as the average auto efficiency rate, 9,100 miles of driving.

At the $15,000 level, the average American household is expected to balance increased expenditures with the credit. It is estimated that the increased expenditures will be $280, which would be offset by the accompanying credit. Below that level, the credit will be more than adequate to compensate for increased gasoline costs. The only requirement would be that a citizen itemize the gallonage consumed so that the appropriate amount can be credited to his tax.

Now, there are two problems. The first concerns the men and women who, like the travelling salesman, rely heavily on the automobile for a living. Under my proposal a choice will have to be made between utilizing available business deductions or filing for the tax credit. For those who do not qualify, the existing business deductions will have to suffice.

The second problem relates to those outside the reach of the income tax system. This is admittedly a terribly difficult problem. To deal with it I propose that the Treasury initiate a program to extend the credit to those who otherwise would not file an income tax form. Under this plan, people would go to the appropriate office and, with the help of Internal Revenue Service personnel, file an abbreviated 1040 Form which will have a provision for the tax credit. Upon filling out the form and producing proper proof of vehicle ownership, those entitled to credit will receive the appropriate amount in check form from the Treasury. Certainly much will depend on the success of the Treasury and the IRS in publicizing the availability of this credit to eligible citizens, but I believe that the system can and will work fairly and equitably.

Mr. President, I firmly believe that the relative merits as I have discussed them argue persuasively for an increased gasoline tax. And the case is further strengthened by the lack of suitable alternatives. Earlier this week the President unveiled one such alternative: his proposal to implement import tariffs and domestic excise taxes on all crude oil and oil products. The tariffs and taxes are designed to raise the price of all oil products to such a point that citizens would have no choice but to conserve. But the fallacy of this approach is best revealed by a quick glance at the facts concerning New England's oil situation. We in New England have already cut back our home heating oil consumption by 20 percent, a figure nearly three times above the national average. In addition, we have reduced residual oil consumption by nearly 13 percent which is nearly twice the national figure. That there is further room for conservation of these critical fuels is possible but not probable.

Yet it is precisely these fuels which will bear the brunt of the increased costs incurred through tariffs and taxes. That this will come to pass has been pointed out by several economists and our own Joint Economic Committee, all of whom have indicated that the increased costs to oil companies stemming from the tariffs will be attached to those products which have a more or less fixed demand. Residual and heating oils are just such fuels, and regions of the country like New England and the east coast will pay dearly for these products since they use them in far greater proportion than any other regions of the country. Hence the net effect of the President's proposal will not be to conserve oil but rather to inflate oil prices. And this will be particularly burdensome to those citizens with low and fixed incomes.

Interestingly enough, gasoline—the one oil product which is consumed in roughly proportional quantities throughout this Nation—is left relatively unscathed. Yet it is the one oil product whose use is significantly discretionary and it is the one oil product most in need of conservation, as I have indicated above. I understand that the President's program will raise the cost of gasoline by 7 cents per gallon, but this is clearly not enough to stimulate the kind of conservation that is so desperately required of this fuel.

We have got to face the fact that you cannot talk about oil conservation without talking about gasoline conservation. After all, half of every barrel of crude oil is made into this fuel. And I think the American public, if given the option of steep increases in gasoline prices or substantial price increases in all oil products, will opt for the former—especially since the former is equally proficient, if not more so, at reaching the needed goal of reduced oil imports.

Another proposal which has received attention in recent weeks is gasoline rationing. But it, too, suffers from a number of drawbacks. It will be difficult to establish and manage. It is easily susceptible to political pressures which in themselves could lead to gross inequities. It possesses some of the regressive tendencies of the gasoline tax in that it will cut into the leisure travel of low-income citizens and hurt those with large cars—and this without any of the attendant economic benefits supplied by the gas tax.

But most importantly rationing is nothing more than a short-term solution to what is definitely a long-term problem. It betrays its affinity to the kind of crisis/solution syndrome which has transfixed so much of our current politics. If ever we are to free ourselves from this debilitating, haphazard approach to public policy, now is the time. The situation clearly dictates a long-term solution through a long-term energy policy. A permanent increase in the gasoline tax offers an appropriate first step in such a policy.

However, more is needed. And today I have included two additional initiatives which are necessary if we are to forge a meaningful conservation policy.

First, I advocate an end to the Highway Trust Fund. Not only is this desirable from a procedural standpoint since all revenues generated by gasoline taxes must now go directly into the Fund; but, from the even more important standpoint of social policy, the proliferation of highway construction is contrary to the needs manifested by our energy problems. Highway construction is simply no longer a high priority item for this country. If future moneys are needed for highway construction—and I assume they will be—then I say let the case be made before the Public Works and Appropriations Committees and let them compete actively with other social programs such as health care, defense, education, veterans' benefits, and mass transit to name but a few.

Second, I advocate a progressively stringent tax on automobile weight to be borne by that auto's manufacturer or importer. Such a step is necessary to insure that the growing trend toward producing smaller cars becomes the norm among all auto manufacturers. For it is time to see our large cars—the very symbols of our voracious energy appetite—for what they truly are: a cost too expensive for this Nation to bear.

In discussing the correlation between fuel economy and automobile weight, the Environmental Protection Agency has stated that "vehicle weight is the single most important factor affecting passenger car fuel economy." A 5,000-pound car, reports EPA, "demonstrates 50 percent lower fuel economy than a 2,500-pound vehicle." If energy conservation is our goal, then clearly production and purchase of the large auto must be discouraged. And here again, I believe the tax mechanism offers the best method of achieving this goal. The tax I propose should, when coupled with the gas tax, provide automakers with sufficient incentive to produce lighter, more effective automobiles. It would be administered in two phases. The first phase—from July 1, 1976 to June 30, 1980—would leave untaxed automobiles weighing less than 2,500 pounds while levying progressively stiffer taxes on all higher weight classes. The second phase—from July 1, 1980 onward—would again leave the smallest cars untaxed while increasing the severity of all other taxes. For instance, after 1980 any car weighing more than 5,000 pounds would be subject to a tax of $1,200.

Mr. President, rhetoric is a politician's stock in trade. But no amount of rhetoric can bring home the need for tough, mandatory energy conservation steps. Our energy, economic, and environmental policies cry out for them.

The Congress, paralyzed by opinion polls, has steadfastly refused to act. But now, in the 11th hour, it must rise to the challenge. The President has stepped forward with his proposal for energy action. Yet I have serious doubts as to its adequacy and its impact upon inflation.

The legislation I propose today is offered as an alternative. It will jar; it will jolt; it will inconvenience.

It will not be popular. Nothing will that burdens an already burdened citizenry. But we simply cannot afford to wait any longer. We must act. And this legislation offers what I believe to be the most propitious action we can take

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By Mr. MATHIAS:

S. 79. A bill to establish the U.S. Science and Technology Board. Referred to the Committee on Government Operations.

SCIENCE AND TECHNOLOGY BOARD

Mr. MATHIAS. Mr. President, in the latter days of the 93d Congress, the Senate passed S. 32, the Science and Technology Board bill. That bill provided, inter alia, for the establishment of a scientific advisory capability at the highest level of Government, a proposal which I had also made in the introduction of my bill, S. 3980. S. 32 did not receive action in the House before the close of the 93d Congress. We, therefore, have another opportunity to consider this problem and to take action of a kind which will be responsive to the pressing needs of this particular time.

For that reason, I am resubmitting the legislation I proposed in the 93d Congress. I hope that this legislation will be considered in conjunction with the version of S. 32 that I anticipate will be introduced again in this Congress by Senator KENNEDY.

As we address ourselves to the task of formulating sound science policy, Mr. President, I hope that we shall have a dialog which will reflect the deeper issues involved. That dialog should include not only those of us in the Congress, but should include commentary by interested parties of all persuasions. In that vein, Mr. President, I ask unanimous consent that an excellent article on this subject, written by Sanford A. Lakoff entitled "Congress and National Science Policy," and appearing in the fall, 1974, issue of Political Science Quarterly, be inserted in the RECORD at the close of these remarks. I think that some of the considerations raised by Mr. Lakoff are met by my legislation and will have to be dealt with in any final bill that we pass.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. Mr. President, it is 17 years since sputnik shocked the Nation into an awareness of the challenges posed to our national security, to our role in outer space, and to our position of scientific leadership among the family of nations.

Our response caused the mobilization of technological resources and resulted in a miracle of global communications as man set foot for the first time on the Moon.

In meeting this early challenge, actions were taken in order to improve the bonds between the Executive and the Nation's scientists. President Eisenhower created the post of special assistant to the President for science and technology and named Dr. James R. Killian to fill it. He also created the President's Science Advisory Committee to which he appointed leading nongovernmental scientists. Several years later, President Kennedy established the Office of Science and Technology—OST—in the Executive Office of the President.

These new mechanisms were responsible for inducing changes which encouraged scientific creatively and technical inventiveness. NASA was created as a civilian space effort. Major advances were made in the long range ballistic missile program and their warning capabilities. Other studies led to the atmospheric test ban treaty. A comprehensive report on the environment was initiated and later became a guide for policy decisions and legislation. World planning was triggered, because major studies on the use of the sea's resources and the world food crop were completed. These and other major developments were mobilized by a group which seldom exceeded 25 full-time professionals, operating on a budget that rarely became greater than $2 million annually.

In 1966, the American method of managing and supporting science was considered the best in the world and reached a standard emulated by all. Over the past few years, however, the national science and technology thrust has been critically weakened. President Nixon abolished the PSAC and the OST and replaced the special assistant with a science advisor remote from the White House in the National Science Foundation. The fiscal 1975 Federal research and development effort involving $20 billion lacks effective central leadership.

These and a spate of related developments have raised serious questions about our commitment—and our capacity—to meet pressing problems. And they occur at a time when we face new challenges that are no less formidable and infinitely more complex to solve. The future and quality of life of our society is at stake. Our actions are also of major concern to people everywhere who are dependent on what we do.

These challenges include the spectrum of widespread famine, the deterioration of our environment, the growing scarcity of raw materials, and the need to find new energy sources. National health, the decay of the cities, and the modernization of transportation are also involved. Our ability to overcome these challenges and others depends a great deal on the revived life of our science and technology efforts.

Yet, last fall 23 presidents of scientific societies met and concurred that "without more top level coordination of Federal efforts in science and technology, solving problems such as energy and food shortages will be difficult."

Robert Sarnoff, chairman of the board of the RCA Corp., recently noted a major decline in Government support for science and technology in the last 9 years, from more than 12 percent of the budget to less than 6 percent in 1974.

Dr. Edward David, Jr., the last Director of OST, warns:

> Governments are inevitably tempted to concern themselves with short run returns rather than the long term strength of scientific and educational institutes.

Dr. Philip Handler, president of the National Academy of Sciences, has pointed out:

> There is no capability within the White House for evaluating technical programs posed by the agencies . . . no place where individuals with technical expertise may be expected to integrate the multifaceted technical problems of our time and thus avoid fragmented and possibly counter-productive approaches . . .

Dr. Sanford A. Lakoff, chairman of the political science department at the University of California, San Diego, stated, in the article mentioned above:

> That there has been a failure to develop and maintain a continuous, comprehensive, and internally consistent approach to the variety of elements that make up science policy.

These observations—and they are only a sampling—would seem to bear out Mr. Sarnoff's observation that "matters affecting the organization, staffing, financing, and direction of the Nation's efforts in science and technology are still being treated piecemeal and by improvisation."

I hope that the Congress will agree that in light of the challenges, the effort we are now making is not good enough. We are going to have to do more, and better, and with better planning.

The bill I am introducing would create a U.S. Science and Technology Board as an independent mechanism of the executive branch. The Chairman, appointed by the President with the advice and consent of the Senate together with 10 other Board members, would serve as science and technology adviser to the President, and also would be available to the Congress for advice and consultation.

The functions of the Board basically would be as follows:

First. To determine the major problems likely to confront the United States in the next 25 years and to establish priorities for their solution.

Second. To determine whether and to what degree such problems can be resolved or ameliorated through science and technology.

Third. To ascertain what nontechnological factors could affect or be affected by any of the technological solutions.

Fourth. To review, coordinate, and authorize all federally financed nondefense research and development programs in light of the priorities.

Fifth. To stimulate new research and development where they are needed and where no existing operation, Government or private, can undertake the task.

Sixth. To recommend to the Congress special incentives to private enterprise to undertake needed research and development, and to encourage private industry to put the results to swift practical use.

Seventh. To help coordinate research and development in and out of Government, and to review the coordination of domestic and foreign programs where they are international in character.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 79

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Science and Technology Board Act".

STATEMENT OF PURPOSE

SEC. 2. (a) It is the purpose of this Act to establish a United States Science and Technology Board for the purpose of consolidating in one governmental unit responsibility for—

(1) determining the most critical long-range problems facing the Nation, including but not limited to, the social, economic, health, education, environmental and resources areas;

(2) evaluating the potential contributions of science and technology to the solution of such long-range problems;

(3) measuring the probable scope, intensity, and duration of such problems and establishing time scales and priorities for coping with them;

(4) establishing optimum levels of funding of all federally financed nondefense research and development programs in the context of the time scales and priorities established;

(5) reviewing and authorizing all federally financed nondefense research and development programs; and

(6) insuring the coordination of scientific and technological efforts in the United States and with the scientific and technological efforts of other nations.

THE ESTABLISHMENT OF THE BOARD

SEC. 3. (a) There is established as an independent establishment of the executive branch of the Government, the United States Science and Technology Board (hereinafter in this Act referred to as the "Board") which shall be composed of eleven members who shall be appointed by the President, by and with the advice and consent of the Senate, from among distinguished individuals in government, industry, and the academic community who are experienced in the practice and management of basic science, biomedical and clinical research, applied research, the principal engineering disciplines, educational research, and such social sciences as economics and sociology. The membership of the Board should reflect the broadest possible balance of experience in these fields. Not more than six members of the Board shall be members of the same political party. The President shall select one of the members to serve as chairman of the Board, and the member so selected shall serve as chairman for the duration of his term of appointment as a member.

(b) The Chairman of the Board shall serve as science and technology adviser to the President, shall be a member of the Domestic Council and shall be available to Congress for advice and consultation.

(c) Members of the Board shall serve for terms of four years, except that—

(1) the members first taking office shall serve as designated by the President at the time of appointment, three for a term of four years, three for a term of three years, three for a term of two years, and two for a term of one year; and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

(d) Each member of the Board shall be compensated at the rate provided for GS-18 under section 5332 of title 5 of the United States Code.

(e) Vacancies in membership of the Board as long as there are six members in office shall not impair the powers of the Board to execute the purposes, functions, and powers of the Board. Six members of the Board shall constitute a quorum for the transaction of business.

(f) Vacancies in membership of the Board shall be filled in the same manner in which the original appointment was made.

(g) Members of the Board shall have no other employment, public or private, during their tenure as members.

FUNCTIONS

SEC. 4. (a) It shall be the function of the Board—

(1) to determine by measurement and analysis the major problems likely to confront the United States, including, but not limited to, the social, economic, health, education, environmental, and resources areas, in the year of enactment of this Act and the twenty-five years thereafter, and to establish priorities for the solution of such problems;

(2) to review and update annually the analysis of each such problem;

(3) based on the analysis of such problems, to determine whether, and to what degree, such problems are susceptible to solution or amelioration through the application of science and technology;

(4) to ascertain which federally funded programs already in existence contribute to the solution of such problems;

(5) to keep informed of research and development programs related to the national defense which are of potential value to the civilian sector and to encourage, consistent with national security, civilian application of any such developments;

(6) to initiate systems studies to determine the nontechnological factors that may affect or would be affected by any proposed technological or scientific solution to any such problem;

(7) to review all federally financed nondefense research and development programs and to approve or disapprove the inclusion of each such program in the appropriate section authorization;

(8) to establish optimum levels of funding for research and development programs for the purpose of establishing a balanced approach to solving such problems based on the priorities established by the Board, and to advise the appropriate Government authorities on allocation of such funds;

(9) to stimulate, where appropriate, the initiation of research and development programs and, when the Board determines that no existing public or private research operation is capable of developing and operating a major research and development program, to recommend the establishment of a special organization for such purpose;

(10) to recommend to the Congress, through the President, special incentives to encourage private industry to enter into needed research and development activities and to encourage private industry to put into use important technological developments as quickly and widely as possible.

(11) to determine the degree of coordination of the research and development efforts among the various departments and agencies of the Government, private industry, and academic institutions and to foster coordination of such efforts; and

(12) to foster and review the coordination of domestic and foreign research and development efforts relating to problems of an international character.

POWERS OF THE BOARD

SEC. 5. (a) The Board may delegate any of its functions to officers and employees of the Board as the Board may designate, may authorize such successive redelegations of such functions as it may deem desirable, and may make such rules and regulations as may be necessary to carry out its functions.

(b) Subject to such rules and regulations as may be adopted by the Board, the Board shall have the power—

(1) to appoint and fix the compensation of an executive director and such additional personnel as it deems necessary; and

(2) to procure temporary and intermittent services to the same extent as is authorized in section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(c) The Board is authorized—

(1) to accept donations of services;

(2) to utilize on a reimbursable basis the services, equipment, personnel, and facilities of any other department or agency of the United States; and

(3) to take such other action as may be necessary to carry out the functions of the Board.

(d) The head of each department, agency, and independent instrumentality of the United States shall cooperate with the Board to the fullest extent consistent with the law in the carrying out of its functions under this Act.

REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS

SEC. 6. (a) Within six months after the designation of long-term problems facing the United States and the establishment of priorities for dealing with such problems by the Board under this Act, the head of each department, agency, and independent instrumentality of the United States having authority to support research and development activities shall submit to the Board for its review and approval all federally financed nondefense research and development programs. Notwithstanding any other provision of law, no such program shall be included by any such authority in its allocation of funds or its budget requests after such date unless the Board has reviewed each program and made a determination thereon.

REPORTS

SEC. 7. (a) In addition to any report required to be prepared by the Board, the Board shall prepare and submit to the President and the Congress not later than January 1, 1977, and annually thereafter, a report on the technological state of the Nation.

(b) The Board may issue such special and supplementary reports as it deems necessary to describe the nature and status of the long-range problems facing the Nation and recommend appropriate measures for Government and private action.

COMPENSATION OF EXECUTIVE DIRECTOR

SEC. 8. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(132) Executive Director, United States Science and Technology Board.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

EXHIBIT 1

CONGRESS AND NATIONAL SCIENCE POLICY

(By Sanford A. Lakoff)

The recent efforts by Congress to reassert some of its constitutional prerogatives, which began with the reaction against involvement in Vietam and continues in the wake of the Watergate affair, have made the role of the legislative branch a more lively issue than it has been at perhaps any other time in this century. The degree of legislative involvement affects many areas of government policy, including the complex of issues and activities that together make up "science policy." The role of Congress in setting and maintaining science policy has never been very well defined or delimited. Congressional influence has often been felt in specific cases, such as the development of atomic energy, the Apollo project, and controversial and expensive weapons systems. In general, however, the pattern and direction of federally supported research and development has been set in the executive branch and embodied in the budget presented annually to Congress.

As the deployment of scientific resources becomes a critical instrument of government in virtually every area of public concern, science policy has come to be regarded as one of the vital levers of social action. For this reason, it is entirely possible that Congress may take advantage of the present climate of political uncertainty to try to assert more authority in this area of public policy than it has had either the will or the opportunity to do since the end of World War II.

OPPORTUNITIES FOR INCREASED CONGRESSIONAL INFLUENCE

In at least two respects, conditions for improvement are propitious. First, the executive apparatus for setting science policy, laboriously built up since the sputnik crisis of 1957, has been dislodged and dismembered, though not destroyed. In the aftermath of that crisis, President Eisenhower made two moves aimed at improving the links between the White House and the nation's scientists. At the suggestion of James R. Killian, Jr., he created the post of special assistant to the president for science and technology. Along with it, he created the President's Science Advisory Committee (PSAC), to which he appointed leading nongovernment scientists, mainly from the universities. In time, a third element was put in place when the staff which served both the special assistant and PSAC was converted by a reorganization plan into the Office of Science and Technology (OST). In 1973, however, President Nixon decided to abolish both PSAC and OST and to replace the special assistant with a science adviser located in the National Science Foundation (NSF) rather than in the White House. In place of OST, a new Science and Technology Policy Office (STPO) has been created within the NSF.

The relocation of the science-policy apparatus not only deprives its directors of a relatively exalted place in the executive hierarchy but also of whatever small degree their predecessors could claim of that precious quality known in Washington as political "clout." In theory, the special assistant and PSAC had direct access to the president, and in practice the staff offices of OST were located in the Executive Office Building along with the president's other advisers and the Office of Management and Budget (OMB). The new STPO reports only indirectly to the president, is housed with the other offices of the NSF, and must attempt to influence the activities of other agencies of government from a notch in the bureaucratic hierarchy considerably lower than that occupied by OST.

The termination of PSAC cuts even the tenuous connection to the presidency previously enjoyed by the leaders of the scientific community. For the past several years, moreover, many of these same leaders have found Congress more receptive than the executive on such matters as arms control and the ABM issue. In a limited but significant sense, therefore, a power vacuum has been created in science policy. It is conceivable that Congress may now seek to enter that vacuum, as part of a larger effort to challenge the expansion of executive power and to recover some of the ground the legislative branch had lost.

The second reason for anticipating an increase of congressional concern with science policy has to do with the well-known sensitivity of members of the legislative branch to shifts in public opinion. A few years ago, when there was considerable popular frustration over some of the uses to which science had been put, as well as the unforeseen social and environmental problems brought about by the introduction of new technology, congressmen were apt to be sympathetic to the charge that science was more a part of the problem than of the solution. Now, however, with the energy shortage causing hardships, and with the association between research and the so-called military-industrial complex somewhat attenuated, there is reason to think that congressmen and their constituents will once again seek counsel and practical help from scientists and engineers.

Several signs clearly indicate serious congressional interest in asserting more control over science policy. In both houses, proposals have appeared calling for the declaration of a statutory national science policy, coupled with appropriate administrative machinery. [One of these proposals, Senate Bill 32, passed the Senate by a margin of 70 to 8 late in 1972, but failed to reach the floor of the House. Nevertheless, this particular bill may have served its purpose—to warn the administration to do something about the deteriorating state of nonmilitary research or else Congress would take the initiative.] In its proposed 1975 budget, the administration recommended an increase in appropriations for civil research of 20 percent over the previous year's expenditures. This will probably be enough to appease the present Congress, but it is not out of the question, if the November elections should produce a harvest of new Democratic seats, that S. 32 will be revived and passed, given the proclivity of liberal Democrats for declared commitments and positive action by the federal government.

Congress has already taken one potentially important step, which in itself could well be considered positive action, in creating a congressional Office of Technology Assessment (OTA). Technology assessment, in the words of the first director of the new agency, former Congressman Emilio Q. Daddario, is supposed to provied an "early warning system to protect man against his own inventions." The new office was established after many congressmen had come to feel a need for expert guidance in considering such new departures as the proposal to subsidize development of a supersonic civilian airliner. OTA presumably would identify likely new technological opportunities and investigate them to determine both benefits and costs, including the external costs that usually are neglected by their promoters but in the end must be borne by the public.[1]

Other developments may also affect the ability of Congress to pronounce on matters of science policy. These include the reorganization proposals which have now been tabled by a Select Committee on Committees in the House and the recently adopted Budget Reform Act of 1974 designed to enhance congressional influence over the budgetary process, even to the extent of creating a new legislative office to serve as a counterpart of the executive's budget agency.

Are these developments likely to coalesce to the extent that they will enable Congress to define and develop a lasting role in science policy? To answer this question we need to consider what role Congress has actually played in relation to science policy and then to consider whether, in view of the formidable obstacles to the reversal of the recent tendency toward the accretion of executive power, these new opportunities are likely to prove meaningful or largely illusory.

CONGRESS' PAST RECORD

Since the turn of the century, when the United States first began to assume a role as a world power, the presidency has become the focal point of popular demands for ac-

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tion in one area after another. To be able to respond to these demands, the president had to be provided with the capacity to control his own expanding administration. Minimally, this required that the president be in a position to set the legislative agenda, submit a budget reflecting his view of national priorities, and use his appointive power to assure compliance with his policies. Congress became the instrument, however reluctantly, through which much of the president's control was established and maintained. On the whole, the activities of Congress with respect to science policy serve to illustrate this general tendency.

Indeed, an unsympathetic critic reviewing the performance of Congress in connection with science policy might well decide that in this area as in others, Congress has been suffering from a kind of constitutional amnesia. In fairness, it should be noted that at least one disinterested appraisal does not reach such a negative conclusion. In its 1968 review of the American effort to cope with the challenges posed by advances in science and technology, the Organization for Economic Cooperation and Development (OECD) found reason to praise the achievements of the legislative branch. Congress, the OECD report declared, "has gone further than any other parliament in seeking to respond to these challenges by equipping itself with a new set of bodies, most of which have brilliantly performed the role assigned to them by taking advantage of the instruments made available to them by Congressional institutions." In particular, the report singled out the accomplishments of the Joint Congressional Committee on Atomic Energy, citing an American study rating it as "probably the most powerful Congressional Committee in the history of the nation." [2]

In 1966, when the OECD examiners made their inquiry, the American way of managing and supporting science was still considered the best in the world. The "American model" had become a standard for worldwide emulation. Because the United States was devoting 3 percent of its gross national product to research and development, this became a target figure everywhere else. The high ratio of support allotted to development in the United States was thought to be responsible for America's ever-increasing lead in high-technology industry, and more often than not, the fact that the bulk of this expenditure had only indirect and sometimes distorting effects on the civilian sector of the economy went unnoticed.[3] The key to America's success was thought to be its political, economic, and institutional pluralism, which encouraged a wholesome competition in scientific creativity and technical inventiveness, as opposed to the stultification that plagued more highly centralized systems. The American legislature, standing free of the executive, and organized internally so as to allow for a decentralized examination of the particular aspects of science policy, seemed a perfect illustration of this dynamic pluralism at work.

The role of Congress must have seemed all the more impressive when contrasted to the role of parliaments in systems of government where the separation of powers is not the constitutional norm. Set alongside the inherently limited role open to parliamentary bodies in which the center of gravity is anchored firmly in the cabinet and the leadership of the party in power, the performance by Congress of even a modest proportion of its potential constitutional authority was bound to seem relatively significant.

The OECD appraisal points up one of the fundamental dilemmas in any assessment of the role of Congress in general, and with respect to science policy in particular. Congress actually is assigned two different and sometimes contradictory roles in the American scheme of government. One of these is to share in the setting of public policy, a function which it performs by exercising its power to legislate and appropriate. The other is to check the executive by seeing that the president and the agencies for which he is responsible follow the legislative mandate of Congress and do not administer the laws in an arbitrary, partial, or corrupt way. Congress does this by invoking its authority to interrogate administrators and to investigate allegations of wrongdoing and partiality. To appraise the performance of Congress in terms of its role in the American system, rather than in comparison with the role played by other legislative bodies operating according to a completely different constitutional principle, it is necessary to ask how well both of these functions actually are performed

The case of the Joint Congressional Committee on Atomic Energy is a good example of how an overemphasis of one function can lead to an atrophy of the other, but the problem it illustrates is widespread. It is a common tendency for congressional committees to develop close relationships with the executive agencies they are supposed to oversee. The Joint Committee is so closely involved in the day-to-day management of the Atomic Energy Commission that Congressman Melvin Price, the present committee chairman, once described it as a kind of board of directors for the AEC.[4] Even in the early years of the committee's existence, Senator Henry M. Jackson went still further, observing that in the field of atomic energy, "the Committee made the decisions, with the advice and consent of the executive branch." [5]

Behind the pluralistic facade, in other words, lies the reality of an arrangement whereby members of the legislature have been virtually co-opted into the executive. This arrangement has enabled the committee to exert very strong, even determining influence in the development of atomic weapons and atomic power, and it has also made it a target of criticism from opponents of AEC policies who point out that the intimacy of the committee and the commission makes the former less the AEC's congressional watchdog than its "Siamese twin," as Ralph Nader has called it.[6] The result, the critics contend, is that instead of reviewing and monitoring the AEC's behavior, the committee is always ready to defend it from attack, whether against those who find its standards for radiation safety inadequate or those who question its encouragement of duopoly in the industrial development of atomic power.[7]

Critics of the way Congress works have often complained that such relationships vitiate the intention behind the separation of powers. The committees acquire an overly protective interest in the agencies and so long as the administrators take care to mend their fences on Capitol Hill, they can expect to be defended against any drastic budget cuts the president may seek to impose and against reorganization efforts which could weaken or eliminate the agency. The more narrow the jurisdiction of the committee, or the more its role is to supervise a particularly important agency, the more threatening such assaults are likely to be viewed by the members of the committee, for they come to feel that their own status and power are tied to the fortunes of the agencies they supervise. In the postwar struggle over unification of the military services, for example, the House and Senate Naval Affairs Committees were as protective of the organizational position of the navy in the proposed unified Defense Department structure as were the admirals and the Navy Department civilian officials such as Secretary James Forrestal.[8] On the other hand, it is easier for a committee to influence policy if it develops the kind of specialized expertise the members of the Joint Committee have acquired because of their unique access to the AEC.

Nor is this the only difficulty the committee system poses for the ability of Congress as a whole to fulfill its two major functions. Another problem is that the very diffusion of responsibilities among the committees and their powerful chairmen, which appears to have so impressed the OECD examiners, hinders Congress from performing a role as a corporate body, whether as partner or critic of the executive. The fragmentation of responsibility among committees and subcommittees results in such a wide distribution of the law-making and overseeing functions that the strings cannot be drawn together very easily.

With respect to science policy, the result is that Congress has taken no position whatever, either constructive or critical, except insofar as it is called upon to endorse the work of the committees. Since concern for science and technology is parceled out to the committees—and is in most cases only an incidental concern—there is no practical way for Congress as a body to make comparative judgments or to become involved with imbalances. Instead, some projects flourish while others languish, and in general the fate of particular projects requiring large-scale support is determined not in some comprehensive assessment but in accordance with the specific policy concerns of the committees and of powerful individual members of Congress. The fact that the United States had not even begun to pursue a broad program of research on energy until it was seized by an "energy crisis" is due not simply to a general lack of foresight in government; it also is due partially to the fact that the only committee assigned a primary concern for energy is the one devoted to a particular kind of energy, the Joint Congressional Committee on Atomic Energy. Nor is it wholly in response to the "felt needs" of the electorate that Congress should authorize billions for a space shuttle but only a pittance for mass transit. There is a Committee on Science and Astronautics in the House and on Aeronautical and Space Sciences in the Senate, but none with a comprehensive responsibility for all transportation technologies.

CONGRESSIONAL INITIATIVES: THE PROBLEM OF PARTICULARISM

It would not be correct to conclude that Congress has taken no initiatives in science policy; however, the initiatives that have been taken usually have been in isolated cases rather than in some broad comparative context. Certain highlights stand out in the record. In the immediate post-war period, Congress did not simply put into law the proposals for the control of atomic energy advanced by the president. Under the leadership of Senator Brian McMahon, Congress made its own inquiry, listened to the views of the scientists who had been associated with the Manhattan Project and wrote its independent conclusions into the Atomic Energy Act. Years of debate and deadlock preceded the creation in 1950 of the National Science Foundation, which also bore the stamp of congressional scrutiny and compromise, not to mention congressional hostility and suspicion. During the cold war paranoia of the 1950s, Congress may not have exercised a particularly benevolent role with respect to science and scientists, but it certainly made its views felt on the subjects of loyalty and security in government-sponsored research, ignoring the scientists' complaint that an obsession with negative security was counter-productive because it undermined the positive security that could come only from the encouragement of researchers. But the same Congresses which demoralized and alienated some scientists encouraged and supported others, notably by endorsing Edward Teller's crash program to develop the hydrogen bomb and Admiral Hyman Rickover's preference for nuclear-powered submarines over conventional naval vessels.

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The record is replete with other examples of specific initiatives. In certain areas of health research, especially in connection with diseases likely to affect people of their own age, congressmen have been known to vote more financial support than the agencies have requested. During the "sputnik crisis," it was Congress, under the leadership of then Senator Lyndon Johnson, which took the initiative in creating the space program at a time when the administration was more anxious to balance the budget than to compete with the Russians in a contest that one official derided as a "celestial basketball game." The Space Act, as George Reedy has observed, "was one of the few examples in the last forty years of a major statute originating on the Hill rather than in the White House."[9] The role of a bipartisan group of mid-western congressmen in overcoming President Johnson's reluctance to approve plans for the 200-BEV accelerator, now located in Illinois, is well documented.[10] More recently, Congress has played an important role in the debate over the antiballistic-missile program and in the rejection of the proposal to subsidize development of the supersonic airliner. In adopting the Mansfield Amendment to the Military Procurement Act of 1970 (which prohibits the military services from supporting research unless it is directly relevant to a "service mission"), Congress responded to the objections of academic critics to the channeling of funds for basic research through the defense agencies. Typically, however, Congress did not at the same time direct that these funds be reassigned to the NSF and other nonmilitary agencies. The result was that in answering one need it created another.

COMPENSATING FOR STRUCTURAL WEAKNESSES

No one reviewing this record would be justified in concluding that Congress has been entirely subservient to the executive in matters involving science and technology. Clearly, the weakness in congressional efforts has been the failure to develop and maintain a continuous, comprehensive, and internally consistent approach to the variety of elements that make up science policy. Because the Congress is a far less unified branch than the executive, which is itself fragmented to no small extent, it cannot easily develop such a comprehensive perspective. The difficulties that confront a president in developing and imposing a single set of national policies are easier to overcome than those facing Congress. The president can formulate his objectives and take steps to assure that they are observed by the agencies his appointees direct. With the considerable help of the Office of Management and Budget, he can expect to maintain a reasonable degree of control and integration, especially by the level of funding he assigns to different programs in his annual budget. Since he is usually in office for a fixed term, and possibly for as long as two terms, the president can set relatively long-range objectives. Because he and his staff have direct access to information from the agencies, they need not be handicapped by ignorance of the real conditions as the agencies perceive them.

Congress, on the other hand, has no effective way of integrating the work of its committees. The legislation and appropriations arrived at during the legislative session are inevitably the work of many hands. In effect, the results seal the bargains among interests, regions, and powerful legislators. Unlike the policies set down by the executive, they do not reflect a single point of view or a single source of responsibility. To be sure, interest groups often exert pressure on the executive as well, and there is a certain amount of "horse trading" among the agencies, but at least the presidency provides a single focus of authority—from which ultimate decisions can emanate, and to which appeals can be carried. There is no such single focus in either house of Congress. Budgetary responsibility is divided among the appropriations committees and the authorization committees, and is split off from the legislative authority of the substantive committees. Although powerful appropriations committees in each house must assemble the budget, either of them can give it the detailed and informed scrutiny the OMB imposes in reviewing agency submissions.

The only committee with a general responsibility for examining expenditures is the Joint Committee on the Economic Report, but it is not authorized to exercise any controlling influence over the powerful appropriations committees in both houses. In contrast to the ability of the executive to conceive of long-term program objectives, Congress is virtually a prisoner of the annual budget cycle. This is particularly unfortunate in the case of research projects, which usually require long-term commitments and are sensitive to sharp fluctuations in funding. As Philip Handler, president of the National Academy of Sciences, has rightly pointed out, "There is no relation between the useful life of a laboratory or scientific project and the time required for the Earth to complete one orbit around the sun."[11] Far from having the easy access of the executive to information, Congress has to pry information loose whenever the agencies suspect it may be used against them. When the president cloaks the activities of his staff with the mantle of executive privilege, inquisitive congressmen must rely on informal briefings or leaks that may or may not yield genuine information.

There are also other reasons why it is virtually impossible for congressmen to devote themselves to the determination of any broad national interest in the fullest and most objective sense. Congressmen are bound to be especially sensitive to the interests and needs of their particular constituencies. Not only does this color their perception of the public welfare, but it also forces them to spend a good deal of their time providing services to constituents.

No group is more aware of all these difficulties than congressmen themselves. Some seem to have concluded that the best way they can influence the framing of public policy is not so much by making policy as by improving the decision-making system in the executive branch. This tendency was expressed with rare clarity as it pertains to science policy in an exchange between Congressman Ken Hechler and the last director of OST, Edward David, Jr., during a hearing to consider the president's reorganization plan abolishing the office. Dr. David warned that governments are inevitably tempted to concern themselves with short-run returns rather than with the long-term strength of scientific and educational institutions. Congress, he added, ought to be apprehensive about what might happen to these long-term considerations now that the functions of OST were to be transferred to the STPO in the NSF. Congress, and in particular the committee before which he was testifying, might well wish to monitor the activities of the new office, he said, to make sure that these interests were well served. Congressman Hechler responded:

"You are very charitable in using the word "monitor." We have the power of suggesting, occasionally, and we pass legislation, which results frequently in impoundments when there's a philosophic difference with what we do. I think you're attributing a great deal of power of this committee when you say we are to monitor this situation. *What the committee wants to do is to try to see that the structure is sound in the first place so that we don't have to spend all our time monitoring it.*"[12]

The idea that the best way for Congress to influence the executive is by concerning itself with organization has the endorsement of at least one leading student of Congress. James A. Robinson even urges that Congress "concentrate on finding oganizational devices to encourage the Executive to plan ahead in such a way as to represent the kind of values Congress favors."[13]

Critics of the "imperial presidency" may consider this advice a counsel of abdication, but they might bear in mind that Congress has found it difficult thus far to do even this much. In practice, Congress has deferred to the wishes of the president at every stage in the organization and reorganization of the administrative structure for science policy. By presidential decision, the post of Special Assistant to the President for Science and Technology was established within the executive branch in 1957, followed shortly afterward by the appointment of the President's Science Advisory Committee (PSAC). Congress had no direct role in either decision. In 1962, in what was described at the time as a move designed to give more permanent status to the role of the science adviser and his staff, the Office of Science and Technology was established within the executive branch. Although this was done at least partly in deference to the congressional desire to be able to summon the science advisor to testify, it was accomplished by a presidential reorganization plan. In 1973, in accordance wtih the principle that what the president can create he can also destroy, the office was abolished by another reorganization plan. The use of this device is another of the techniques developed by presidents to bypass Congress, or at least to reverse the ordinary legislative process. In using this procedure, as Michael Reagan has pointed out, the president "does not just *propose* a statutory change in administrative organization, but he *declares* that the change and his decision become law without further legislative approval. Only if Congress (currently, a majority of either house of Congress) disapproves and vetoes the President's action does it fail to become law. Thus the burden of proof is shifted. . . ."[14]

Venturesome committees which have shown a serious interest in fundamental issues of science policy have not been taken altogether seriously by their congressional colleagues, as is illustrated by the fate of the Subcommittee on Government Research of the Senate Committee on Government Organization. Chaired by Senator Fred Harris, this subcommittee was appointed in 1966 and spent a busy three years reviewing and analyzing some of the most important questions affecting the government's programs in science and technology. Valuable reports were produced on a number of issues, including the payment of indirect costs in sponsored research, the usefulness of social indicators, and the future of biomedical research. The subcommittee deliberately "chose to serve as a forum of debate and to encourage the discussion of high level policy issues with profound moral and social implications. . . . The main intention was to discuss the long-term implications of scientific research with those who came before the Committee." In 1969, this subcommittee was disbanded, ostensibly as a result of a decision to economize, but also because the Senate had lost interest in science policy,[15] and because Senator Harris had become unpopular with the senatorial establishment. Alternatively, we may explain its demise as a result of the inability or unwillingness of either its parent committee, or Congress as a whole, to make use of its findings.

Another case in point is provided by the experience of the Subcommittee on Science, Research, and Development of the House Science and Astronautics Committee. Under the leadership of Representative Daddario,

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this equally active subcommittee produced a series of major proposals in 1971.[16] The subcommittee recommended that Congress formally enact a National Science Policy, to be drafted by a special task force, as a matter of statutory law. In addition, the subcommittee proposed that OST be upgraded so that it would no longer serve merely as the staff for the science adviser, PSAC, and the Federal Council for Science and Technology (FCST). Instead it was to be given the responsibility for formulating science policy, under the broad terms of the new statute, and of monitoring the activities of the federal agencies in all appropriate areas. It was also to prepare an annual report on the scientific state of the nation. In the same report, the subcommittee endorsed the proposal, which had been approved after much detailed consideration, for a National Institute for Research and Advanced Studies (NIRAS) to encompass the NSF. None of these proposals was acted upon, in part because Congressman Daddario vacated his seat in the House, but also because the committee's recommendations do not carry great weight compared to proposals from other more powerful committees.

Significantly, the one recommendation which has come to fruition is the proposal for a congressional Office of Technology Assessment. Congress, it would seem, cannot foist a scheme of executive organization on an unwilling president, but it can reorganize itself to improve its own ability to contend with executive policy proposals. The same motive led earlier to the establishment of the Science Policy Research Division in the Congressional Reference Service (CRS), which was created to answer the common complaint of congressmen and their staffs that they were unable to cope with many of the technical issues that came before them. Both the CRS and the General Accounting Office (GAO), the other external arm of the legislature, have been specifically requested to provide not only information but "policy analysis" as well. Congress has also called upon the help of the National Academies of Science and Engineering, a development which, if expanded, could vastly improve the congressional capacity to act with more confidence in areas requiring scientific expertise. The new Office of Technology Assessment will add another important resource. The preamble of the act establishing OTA stresses the need for Congress to obtain "timely and unbiased" information from a source "independent" of the executive agencies; [17] it is clear from the language that the intention behind the establishment of OTA is to reduce the need for congressmen to rely upon the administrators and industrial lobbyists, who are usually more anxious to stress the benefits than the costs of the innovations they are promoting, for information on new technologies. It remains to be seen whether the new agency will be permitted to tackle highly controversial issues or whether, as skeptics anticipate, it will be compelled, in order to survive, to perform studies which will not risk offending powerful interests or competing with the investigative jurisdictions already well staked out by congressional committees.

Internal reorganization may soon be taken still further in the House, where consideration will shortly be given to a set of reorganization proposals drafted by a Select Committee on Committees, chaired by Representative Richard Bolling.[18] The draft report contains four recommendations which could enhance the ability of the lower chamber to deal with issues of science policy. One of the proposals would transform the present Committee on Science and Astronautics into a Committee on Science and Technology, presumably to signify a reduced concern for the space program and an increased concern for the general state of science and technology, including, for the first time, the military applications, which have previously been the exclusive preserve of the Armed Services Committee. A second element is contained in the proposal to reorganize several other committees. Thus, the Interior Committee would become the Committee on Energy and Environment, the Committee on Public Works would become the Committee on Public Works and Transportation, the Committee on Interstate and Foreign Commerce would become the Committee on Commerce and Health. A third element is that each House committee would be required to create a subcommittee on "oversight and forward planning," the second function to enable the committee to undertake "on a continuing basis, futures research and forecasting. . . ." [19] The fourth relevant innovation is the proposal for a new Budget Committee designed to serve the function of comprehensive policy planning which, as previously noted, has been the major weakness in the organization and operation of Congress as a legislature. This new committee would be expected to "develop criteria of choice among alternative uses of Federal funds in terms of collective policy preferences and priorities. . . ." [20] Specifically, the committee would be charged with reviewing the five-year projections that must be presented by the president, in accordance with a provision of the 1970 Legislative Reorganization Act, with every request for funds to create or expand a program. The Bolling Committee explicitly urges appointment of such a committee as a way of increasing the ability of Congress to share in the setting of general national policy by undertaking "periodic assessment of national goals, priorities, and future program costs." [21]

FUTURE PROSPECTS: THE CAMPAIGN FOR A STATUTORY NATIONAL SCIENCE POLICY

Some of those keenly concerned with the federal government's science policies, having failed to persuade the current administration of the wisdom of declaring a national commitment to the support of science and technology, are turning to Congress in the hope that in its current mood of self-assertion, it will impose such a formal commitment upon the executive. This campaign has had an initial, if as yet incomplete, success with the passage by the Senate of the bill (S. 32) introduced by Senator Edward Kennedy, "The National Science Policy and Priorities Act of 1972." The Kennedy bill had three key provisions.[22] One of these would have declared a statutory national science policy providing that expenditures for nonmilitary research and development should grow at the same rate as the GNP and that they should reach a level of parity with expenditures for military research and development. The second would have greatly expanded the traditional emphasis of the NSF on the support of basic research, especially in the nonbiomedical areas, to make the foundation responsible for establishing priorities in nonmilitary research and development and for devising programs to assist industries in converting to high-priority activities. The third key provision calls for the creation of a "Civil Science Systems Administration" to be located in the NSF. This new agency would be charged with promoting the development of technology aimed at meeting public needs in such areas as transportation, health care, and sanitation.

The Kennedy bill was introduced in response to a belief fairly widespread within the scientific community that the nation's scientific capabilities had been so heavily committed to military programs and to space exploration that other vital public needs were being neglected. The bill evoked considerable support, largely because of concern over the acute unemployment among scientists and engineers caused by cutbacks in government contracting with the aerospace and other defense-related industries. An analysis prepared for the Kennedy subcommittee projected the creation of 200,000 new jobs through programs to be fostered by passage of the bill. (Whatever the exact figure, there can be no doubt that if the key provisions of the bill were to be adopted, there would indeed be a great expansion in nonmilitary research and development. Even in fiscal 1974, the budget for military research and development is estimated at $9.3 billion, whereas nonmilitary programs, excluding space, are estimated at $5.8 billion.)

Objections to the Kennedy bill were lodged by sixteen federal agencies whose representatives complained that NSF was being asked to take on responsibilities already assigned to them. The president's science adviser, Dr. David, argued that the setting of priorities should be done at a higher level than that of the NSF, and that the administration was already taking steps to give greater emphasis to civilian research and development. The director of the NSF, H. Guyford Stever, expressed misgivings over the broadening of the foundation's responsibilities, lest it be diverted from its primary role as the overseer and supporter of basic research.

Supporters of the bill responded that too little had been done by the administration to redirect scientific capabilities to civilian needs. They pointed out that the budget for research and development had declined from 2.6 percent of the total federal budget in 1963 to 1.6 percent in 1971. If the bill had been in force, the percentage decline would have been lower and funds saved because of cutbacks in the space budget would have been transferred to other types of research. The bill's major draftsman, Ellis Mottur, of Senator Kennedy's staff, defended the call for parity between military and nonmilitary research funding as a "symbol . . . of the necessity for reordering national priorities." [23]

The campaign for the declaration of a single coherent national science policy, to which the Kennedy bill was a response, has been led by many of the leading spokesmen for the scientific community and institutions of higher education. They began to urge this course even when research budgets were expanding, both because they knew that the day would come when the budgets would have to level off and perhaps even decline, and also because they thought it was a bad idea to allow priorities in science and technology to be determined in response to particular pressures or dramatic and popular needs. Now that there is more intense competition for smaller allocations, it is said to be even more imperative that the government adopt a declared and carefully constructed national science policy. A Washington magazine writer recently concluded an article on the unhappy relations between scientists and the federal government by summarizing what he had learned after interviewing a number of leading scientists: "Most of all, the federal government must for the first time in history frame an overall policy that eliminates crash-basis science, erratic funding, and submission to faddish enthusiasms, and that substitutes consistency, continuity, balance between research and application, and long-range planning relating science/technology to national needs and goals." [24]

Because this campaign for a national science policy is now being directed almost exclusively at Congress, and has a reasonable chance of success, it is appropriate to ask whether this should be thought of as a logical next step in the extension of congressional authority over science policy. We have already noted that Congress is not well organized to make comparative and comprehensive judgments in this or other areas of

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policy. This remains a serious objection which would not be vitiated simply by the passage of a bill declaring such a policy to be in existence. The policy would still need to be put into effect by a fragmented and unequally powerful set of committees. Would the Senate Labor and Public Welfare Committee, the parent of the Kennedy subcommittee, prove willing and able to enforce the legislation it has sponsored? Would it have the power to secure the cooperation of the appropriations committees in both houses to undertake the rather massive shifts of funding the policy would require? And if an administration opposed in principle to such legislation chose not to apply it with utmost diligence, would Congress be ready to compel stricter compliance? It can be argued that in this case as in others to pass legislation which risks being treated as an empty gesture is no way to reassert congressional authority.

There are other objections to the very concept of a single coherent national science policy which Congress would do well to ponder. The belief that such a policy would provide an answer to the shortcomings of the present ad hoc approach can arouse excessive expectations which almost surely would not be fulfilled. It is not possible by declaring a fixed set of priorities to remove science and technology once and for all from the continuing struggle to determine these priorities that is after all the essence of democratic politics. Even those who have advocated such a policy do not generally harbor ecstatic visions of what it could accomplish. Most of these advocates do not couple their support of the principle with a preference for a highly centralized method for assigning research priorities and for managing the government's extremely diversified system for supporting and performing research. Very few have declared support for a cabinet-level Department of Science and Technology; even those who do support this proposal acknowledge that many important scientific programs are best left to be managed by the mission-oriented agencies they now serve. They are well aware that the present system, despite the criticisms it has received, enables scientists to appeal to a variety of agencies for support and to exercise a certain degree of control over the pattern of allocations by serving as advisers to the agencies and in some cases by supervising the distribution of grants through peer-review panels. A system which would centralize control over allocations and reduce the role that specialists in particular fields now play therefore holds no great appeal for the scientists, especially since a single agency would be highly vulnerable to "political accidents and personalities in the administration or the Congress."[25] Paradoxically, therefore, many of the same scientists who would prefer to see the declaration of a national science policy are not enthusiastic about the appointment of a single scientific czar or a single committee of national science policymakers. They seem to want to retain the pluralistic system at the same time as they decry the fragmentary, ad hoc character of the policy that results from the operation of this system.

There is little if anything to be gained by belaboring the inconsistency in this tendency to argue for a national science policy but against the machinery to create and enforce it. A few of the advocates do hold with both the principle and the practice. The others might explain that it is not necessarily inconsistent to believe in the development of a single national science policy by means of a diversified system of decision making and admistration. It is not so much the discrepancy between theory and practice which is a cause for concern as the validity of the theory taken in its own terms. Some of the difficulties with it have frequently been pointed out, if not always in testimony before congressional committees. Several years ago, the secretary-general of the OECD convened a group of leading scientific administrators for the purpose of reconsidering the meaning of science policy in the light of experience. Their report admits candidly that "some observers have even questioned whether it makes sense to conceive of a science policy as a distinct and separate area of policy."[26] Especially in recent years, they observe, it has become increasingly hard to divorce policy for science from public policy generally. For better or worse, public support of research and development is shaped by the public perception of social needs. Since science and technology have become instruments of public policy, science policy must be thought of not as an independent, but as a dependent, variable of other public policy."

The OECD conferees do not concede that it is altogether meaningless to think of science policy as an autonomous issue. Science and technology, they contend, need to be considered "in their entirety as a set of means to other goals, having some coherence within itself across the functions that it serves."[27] This redefinition considerably narrows both the scope and the significance of the concept of science policy. If it is to be understood as a means rather than an end, there is no justification for assigning it a fixed level of support or for making level proportional to the size of the GNP. The level might as well approach zero or rise considerably higher, depending upon social objectives. Nor does it make sense to set an ideal ratio for the division of funds into such categories as basic research, applied research, and development, or between military research and all the varieties of nonmilitary research. Ideally, "big science" projects in different fields would not be compared with each other but with other program elements in the sector of social need which they are designed to serve.

The resulting disaggregation of science policy into a set of instrumental sectoral policies rests on the recognition that science and technology are too pervasive and too differential to be treated as a single coherent entity. The result, as Herbert E. Carter, chairman of the National Science Board, has candidly admitted, is that a national science policy becomes "at best an umbrella that covers a wide variety of policies, all of which affect the course of scientific activities, but many of which are directed to quite different ends."[28]

In an effort to meet such objections, a distinction has often been drawn between two aspects of science policy, usually referred to as "policy for science" and "science in policy." The first refers to the effort to develop and maintain a set of capacities in science and technology; the second refers to the effort to make use of this capacity in achieving social objectives. The trouble with this distinction is that the two aspects are often so intimately related as to make it impossible to treat one in isolation from the other. It is not easy to launch a grand national program aimed at improving health care—which would be one example of "science in policy"—if the medical schools have not previously been enabled—by "policy for science"—to produce enough doctors. Conversely, the funds made available for socially useful projects will influence and to some extent determine the directions pursued by researchers and the careers chosen by students. This relationship has been most dramatically evident in the important fields of engineering, mathematics, and the physical sciences known collectively as "EMP." As Harvey Brooks has pointed out, the expansion of university enrollments and staffs in EMP in the 1960s was influenced strongly by the employment opportunities and the availability of research support reflecting the high priority established by the federal government for military and space technology. Now that the size of the commitment has been significantly reduced and EMP faces a "glum future," the universities have found themselves overextended in these fields.[29] If science were an undifferentiated entity to be mobilized for a given set of purposes one year and a completely different set the next, the distinction between the two aspects of science policy would be a helpful one, but as this is hardly the case, it cannot rescue the concept of a single coherent science policy from its critics.

In view of its difficulties, the suspicion is bound to arise that the main reason this distinction has been introduced is to support the proposition that the needs of basic research and higher education should be provided for on a continuing and stable basis, while practical projects are treated more flexibly. The distinction then, serves to narrow the effective meaning of the call for a national science policy to a concern for a "policy for science"—a policy that makes basic research and the education of scientists safe from the budget cutters. Even if we agree that the objective is desirable, we cannot conclude that such a conception of science policy is what it claims to be—namely, a better-balanced and more rational way of ordering the ensemble of activities in science and technology than short-sighted, pragmatic politicians are inclined to follow. Still worse, it will almost surely antagonize industrial researchers who are likely to see it, with reason, as a device for promoting the special interests of university scientists to the detriment of a genuinely balanced national program.

ALTERNATIVE ROLES FOR CONGRESS

If, for all these reasons, it would not be advisable for Congress to embrace the campaign for a declared national science policy, there are alternatives open to congressmen anxious to meet some of the serious concerns that have inspired this campaign. One such alternative would be to recognize that the call for a national science policy is perhaps better understood as a plea for an improved system of establishing the social priorities which science and technology are thought to serve. No single institutional device will satisfy this need, but it would be helpful if the executive were to create an office—preferably one that would be independent of the OMB, and possibly one that would serve as a kind of common staff and unifying agent for the existing councils—which would serve a general policy planning function. The purpose of such a general policy planning staff, which has been proposed before,[30] would be to undertake fairly long-term planning so as to complement the necessarily more immediate focus of the OMB. Congress could perform a useful service by persuading the executive of the need for such an office, which might be thought of as a broadened Office of Science and Technology to serve at the level of the executive office. Such an office would be staffed by people in a variety of disciplines. Like the Office of Technology Assessment, it could seek outside assistance. OST, despite the best efforts of its staff, may have been too narrowly construed to serve such a general purpose. Similarly, PSAC could be reconstructed with a broader membership to restore communication between the academy and the executive and to provide the president with relatively disinterested counsel on the technical merits of proposals advanced by the executive departments and agencies.

On a more continuing and less institutional level, congressmen might also consider that they perform an essential and unique func-

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tion in the American system simply by serving as the national platform for the debate of public issues concerning science and technology. Congress, precisely because it is designed more for deliberation than for action, and because it is a cockpit for contentious and ambitious politicians, is ideally suited to serve, as John Stuart Mill put it in describing the role of legislatures, as a "congress of opinions." The success of Congress in performing precisely such a function in the ABM debate and in the inquiry that led to the rejection of the SST could serve as a valuable precedent. The executive is almost bound to enlist experts who share its ruling perspectives. Congress, on the other hand, ought to aim at regularizing and institutionalizing the adversary process. As more and more issues require resolution in the light of the best technical advice rather than by compromise among interested groups, the effort to publicize and to come to terms with the conflicting views of experts becomes more and more imperative. Congress offers an ideal forum for the exposure of public issues involving conflicting expertise.

At present, as in the recent past, most such debates are likely to revolve around the role of science and technology in relation to the two key concerns of national policy: defense and the economy. In these areas, it is expected that the executive will exercise initiative and Congress will serve as consultant and critic. By encouraging thoughtful debate on new technologies, Congress performs an essential democratic function. And if we take seriously the predictions of those who argue that the preoccupation with national security and economic growth is being superseded by a concern for the quality of life, then it may well follow that the role of Congress will become even more significant in the life of the nation than it has been in recent years. If the issues of national security and economic management are debatable, as they surely are, the issues that arise in defining what is meant by the quality of life are even more debatable. Defense and the economy, moreover, are areas of policy which involve vital international issues in very complex ways—ways which may elude the grasp of congressmen whose careers are mainly dependent on their attention to domestic needs. The quality of life, however, is far more amenable to treatment in the light of domestic values and needs than these other issues.

The role of Congress in science policy has to be seen in the light of the larger role of Congress in the American political system and in the light of the critical importance of science and technology to the achievement of social objectives in virtually every area of public policy. The case for a larger role for Congress rests on the essential principle that decisions concerning the uses of science and technology are so vital to the citizenry that they should not be made in secret or bureaucratically or by the executive alone. The fact that this principle has been so egregiously violated in recent years should spur rather than deter congressional efforts to subject major policy issues to informed legislative scrutiny. Scientists should not expect Congress to take on a responsibility for leadership that is best exercised by the executive,[31] but they ought to insist that Congress improve its performance as a representative assembly and watchdog of the executive.[32]

FOOTNOTES

[1] Anne H. Cahn and Joel Primack, "Technological Foresight for Congress," *Technology Review* (March/April 1973), 41.

[2] OECD, *Reviews of National Science Policy: United States* (Paris, 1968), pp. 86–87. The comment on the JCCAE is from Harold P. Green and Alan Rosenthal, *Government of the Atom* (New York, 1936), p. 226.

[3] For a fuller discussion of the impact of the American model, see Sanford A. Lakoff, "The Vicissitudes of American Science Policy at Home and Abroad," *Minerva*, XI, no. 2, (April 1973), 175–190.

[4] Subcommittee on Science, Research, and Development, House Committee on Science and Astronautics, 91st Congress, second session, *Toward a Science Policy for the United States* (Washington, D.C., 1970), p. 109 n.

[5] Henry M. Jackson, "Congress and the Atom," *Annals of the American Academy of Political and Social Science* (November 1953), 76. Cited in Harold Orlans, *Contracting for Atoms* (Washington, D.C., 1967), p. 161.

[6] Testimony before the Joint Congressional Committee on Atomic Energy, Washington, D.C., January 28, 1974.

[7] For such criticism see H. Peter Metzger, *The Atomic Establishment* (New York, 1972); and Richard S. Lewis, *The Nuclear Power Rebellion* (New York, 1972).

[8] See Demetrios Caraley, *The Politics of Military Unification* (New York, 1966), especially chap. 7.

[9] George Reedy, *The Twilight of the Presidency* (New York, 1970), p. 54.

[10] See Daniel S. Greenberg, *The Politics of Pure Research* (New York, 1967), pp. 207–265; and Allan Rosenbaum, "Decisionmaking, Expertise, and the Processes of Federal Policy Formation: The Atomic Energy Commission, Congress and the National Accelerator Laboratory," forthcoming in Sage Professional Papers in Policy and Administration.

[11] Quoted in *Toward a Science Policy for the United States*, p. 37.

[12] House Committee on Science and Astronautics, Hearings, *Federal Policy, Plans, and Organization for Science and Technology* (Washington, D.C., 1973), p. 143. Emphasis added.

[13] James A. Robinson, "Decision Making in Congress," in Alfred de Grazia (ed.), *Congress: The First Branch* (Washington, D.C., 1966), p. 292.

[14] Michael D. Reagan, "Toward Improving Presidential Level Planning," reprinted in Thomas E. Cronin and Stanford D. Greenberg (eds.), *The Presidential Advisory System* (New York, 1969), p. 267.

[15] Dennis W. Brezina, "Rise and Demise of the Senate Subcommittee on Government Research," *Federation Proceedings*, 29, no. 5 (September–October 1970), 1829.

[16] *Toward a National Science Policy.*

[17] Technology Assessment Act of 1972 (Public Law 92–484); see especially preamble, "Findings and Declaration of Purpose." Reprinted in Senate Committee on Rules and Administration, *Technology Assessment for the Congress* (Washington, D.C., 1972), p. 44.

[18] House Select Committee on Committees, *Committee Structure and Procedures of the House of Representatives*, Committee Print (Washington, D.C., 1973).

[19] Ibid., p. 7.

[20] Ibid., p. 89.

[21] Ibid.

[22] In this and the ensuing discussion I have drawn on the valuable report by Claude E. Barfield, "Congress Moves to Reset Priorities in Federal Research and Development," *National Journal*, 4, no. 40 (September 30, 1972), 1524–1533.

[23] Ibid., p. 1529.

[24] Vernon Pizer, "Who Unplugged America's Science Machine?" *Washingtonian* (February 1974), 108.

[25] Harvey Brooks, "The Physical Sciences: Bellwether of Science Policy," in James A. Shannon (ed.), *Science and the Evolution of Public Policy* (New York, 1973), p. 129. The view cited is that of the dissenting minority on the National Science Board commenting on the recommendation for a National Institution for Research and Advanced Studies.

[26] The Secretary-General's Ad Hoc Group on New Concepts of Science Policy, *Science, Growth and Society* (Paris, 1971), p. 37.

[27] Ibid., p. 38.

[28] Quoted in *Toward a Science Policy for the United States*, p. 27.

[29] Brooks, "The Physical Sciences," p. 111.

[30] Among a number of such proposals is one calling for a presidential office for "strategic policy assessments" which emerged out of discussions in a Government Policy Forum at the Woodrow Wilson International Center for Scholars, Washington, D.C., in 1973. For a similar proposal, see also the report of an ad hoc committee appointed by the National Academy of Sciences, "Science and Technology in Presidential Policymaking: A Proposal" (Washington, D.C., June 1974) pp. 34–35.

[31] G. B. Kistiakowsky, "Presidential Science Advising," *Science*, 184, no. 4132 (April 5, 1974), 40.

[32] An earlier version of this article was presented at the annual meeting of the American Association for the Advancement of Science in San Francisco, February 27, 1974. For research support, the author is indebted to the University of Toronto, the Canada Council, and the Woodrow Wilson International Center for Scholars. Colleagues at the center, John Logsdon in particular, make helpful comments on an earlier draft.

By Mr. MATHIAS (for himself, Mr. BEALL, Mr. HUMPHREY, Mr. JAVITS, Mr. MCINTYRE, and Mr. THURMOND):

S. 80. A bill to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land (rather than at its fair market value), and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes at its value for its existing use, and to provide for the revocation of such lower valuation and recapture of unpaid tax with interest in appropriate circumstances. Referred to the Committee on Finance.

SAVING FARMLAND AND HISTORIC SITES

Mr. MATHIAS. Mr. President, wise land use has become a central focus for those who care deeply about environmental quality. The Senate has passed and the House is now considering strong measures designed to foster a more rational land use policy. While I support these efforts to improve our regulatory mechanisms, I most strongly urge Congress to examine not only how the States and counties have managed their land, but also what impact Federal laws have on land use. The starting point for such an examination should be the Federal Tax Code. In this regard, I firmly believe that the Federal estate tax actually compels the elimination of many thousands of acres of agricultural land annually throughout the United States. If Senators are committed to halting unplanned, urban sprawl, then a serious effort to revamp the estate tax laws is in order.

Existing estate tax laws require valuation of farmland, woodland, and open space at its market value for estate tax purposes. This means that when a farmer dies, his land—that may be assessed at $500 an acre for agricultural purposes—will automatically be increased to a commercial market value of $2,000 to $3,000 or more per acre, if the land is close enough to a metropolitan area to be affected by speculative values. The farmers' heirs are forced to sell off the property to pay the taxes, even though they may wish to keep the land in agricultural production.

The very same problem exists for historical properties. This at a time when it is the stated Federal purpose through the National Register of Historic Places and other programs to preserve such valuable landmarks. Historic houses in cities, for instance, are destroyed because of appraisals for Federal estate tax purposes on the lot's value for highrise apartments.

The following, entirely realistic example, illustrates the impact of the estate tax on farmland, woodland, open space, or historical property: Farmer Jones, a widower, dies, leaving his estate equally to his two sons, who wish to continue living on and farming the land. Farmer Jones' estate consists of his farm—300 acres—and farm equipment and other personal property valued at $50,000. Used as a farm, the land is worth $500 an acre. If the Federal estate tax were based on an assessment for that use, Jones' estate would be valued at $200,000 and the tax payable would be $32,700—a very large sum for the Joneses, but one which the family might be able to pay and still retain at least most of the farm. However, the farm is within 25 miles of a large city, and speculators and developers have driven up the current price of land in farmer Jones' area to $2,000 per acre. Such prices, of course, assume conversion of the land to nonfarm use—a conversion which the Jones boys have no desire to see happen. Nonetheless, the Internal Revenue Service under existing law assesses the farm at $2,000 an acre. The result is a valuation of Jones' estate at $650,000, and a Federal tax payable of $117,200.

Obviously, the family is compelled to sell the farm, probably to a speculator or developer, in order to pay the tax. The result is federally compelled destruction of farmland and open space in a critical environmental area on the border of a metropolitan region, and the acceleration of urban or suburban sprawl with no thought for proper land-use planning. If farmer Jones' house is a historic one, the result is the federally compelled destruction of a historic house, or at least of its surroundings—the very thing the Federal Government is supposedly trying to prevent through its National Register and other programs. And the result for the individual family is the gross injustice of being forced off their farm and being compelled to pay an estate tax amounting to a confiscatory 89 percent of the value of what the estate is worth to them for the purpose to which they wish to put it.

On December 18, 1973, I introduced S. 2822 and on May 28, 1974, I introduced with 10 other Senators S. 2541, which represented a refinement of S. 2822. I today introduce with a number of other Senators a similar measure. It only changes the approach of S. 3541 by providing a new method for computing interest that will make the recapture provisions of the bill more equitable.

It provides that should a farmer's family wish to continue the farming operation they would have the option of having the decedent's interest in farmland, woodland, or open space determined by its fair market value, as at present, or by its value as farmland, woodland, or open space.

In order to qualify for this option, the property must have been devoted to one of these above-named uses for a period of 5 years preceding the death of the decedent. Obviously, qualifying for and electing to take the lower valuation will result in a significant tax saving and for so long as the land remains as qualified farmland, woodland, or open space, the tax saving will continue. But should any of the land be converted to a nonqualifying use or zoning be requested by the owner to permit a nonqualifying use, the tax saving will be recaptured by the Government. If all the land is converted or requested rezoned, then the entire tax saving will be recaptured by the Government. If only a portion of the land is involved, then only a portion of the tax savings will be owing to the Government. Determinations as to the extent of recapture in individual cases will be made in the same fashion as such determinations are made for capital gains.

Historic property will be treated in a similar fashion. If the property is listed on the National Register of Historic Places then an election can be made to value the property at its value for historical purposes and not at its market value. The tax saving will continue for so long as the property remains on the National Register. If the property is delisted the tax will fall due.

Should the heirs make a bona fide sale of the property or a portion thereof the tax savings may or may not be partially or totally recaptured depending on the sale price. If the price is below or equal to the low valuation in the original estate then there will be no recapture. If the sale price is equal to or greater than the fair market valuation then there is total recapture of the tax savings. Sale prices falling between the high and low valuations in the original estate will result in partial recapture. In such a case, the tax due at the time of the sale shall be that part of the tax saving which is proportional to the gain realized on the sale. For this purpose, the gain realized shall be expressed as a fraction, the numerator of which is the amount by which the actual sale price exceeded the land's original valuation as farmland and the denominator of which is the amount by which the fair market value of the land exceeded its value as farmland at the time of the original valuation. In no case, however, shall this fraction exceed the value 1.

In all cases where recapture takes place, interest on the tax saving is also due. Such interest is at 9 percent running from the filing date when the election of the lower valuation takes place for a period of 10 years or until revocation takes place. The tax saving and the interest thereon constitute a lien on the property and can be discharged at any time by payment in full.

At a time of world food shortages and environmental destruction it is critical that we structure our tax laws to encourage good husbandry, agricultural and conservation practices. This measure offers hope of preserving not only our valuable farmland and the farming way of life, but our heritage as well. I am afraid that America is an increasingly rootless society and therefore it has never been more important to safeguard the landmarks of our past. These landmarks nourish the human spirit in countless ways.

There is a strong incentive for compliance in this bill. It affords no tax relief to the undeserving. The fairness of this proposal is clear. It has been recognized in other forms throughout our country. I hope we can act now to solve this problem.

Mr. President, I ask unanimous consent that a number of articles detailing the scope and severity of this problem be included in the RECORD at this point. The first article is by David A. Adelman in the New York Times of May 14, 1972. The second appeared in the Wall Street Journal of May 15, 1974, and was written by Gail Bronson. The third article is by Michael Burns and appeared in the Baltimore Sun of May 19, 1974. The fourth article was written by Isaac Rehert for the Baltimore Sun of February 19, 1974. The final article is by Steven Norwitz and is from the Baltimore News American. I also ask unanimous consent that the bill be printed immediately following these articles in the RECORD.

There being no objection, the bill and material was ordered to be printed in the RECORD, as follows:

S. 80

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2031 of the Internal Revenue Code of 1954 (relating to definition of gross estate) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE VALUATION OF CERTAIN REAL PROPERTY.—

"(1) IN GENERAL.—If the executor of an estate so elects, the value of any qualified real property included in the estate shall be determined by its value for the use under which it qualifies, under paragraph (2), as qualified real property.

"(2) DEFINITION OF QUALIFIED REAL PROPERTY.—For purposes of this subsection, the term 'qualified real property' means real property substantially all of which is, and, for the 60 months preceding to the date of death of the decedent, has been, devoted to—

"(A) farming (including the production of agricultural commodities and the raising of livestock),

"(B) woodland (including land used for the commercial production of trees and land used for scenic and recreational purposes),

"(C) open space, or

"(D) any use, provided that the property is listed in the National Register of Historic Places, either separately or as part of a district so listed.

Such real property shall include residential buildings and related improvements occupied on a regular basis by the owner or lessee of such property or by persons employed by such owner or lessee for the purpose of operating or maintaining the real property and improvements described in this paragraph (2), and roads, buildings, and other structures and improvements functionally related to the uses listed in this paragraph (2).

"(3) Election requirements.—An election under this subsection shall be filed with the Secretary or his delegate at such time and in such form and manner as he may prescribe and shall contain, in addition to any other matter, the name, address, and taxpayer identification number of the person or persons to whom any interest in the property passes under the terms of the decedent's will or by operation of law.

"(4) Definition of owner.—For purposes of this subsection, the term 'owner' means those persons identified in paragraph (3).

"(5) Revocation of election upon conversion, rezoning, or removal from national register.—Upon the occurrence of an event described in paragraph (6), there shall be imposed on the owner a tax equal to:

"(A) the excess of—

"(i) the estate tax computed in accordance with section 2001 with respect to the decedent's taxable estate based on a valuation of the decedent's gross estate made as if the election provided in paragraph (1) had not been made with respect to such portion of the real property as is subject to an event described in paragraph (6), over

"(ii) the estate tax computed in accordance with section 2001 with respect to the decedent's taxable estate but based on a valuation of decedent's gross estate made after taking into account the election provided in paragraph (1) with respect to such real property; plus

"(B) interest on such amount at 9 percent running from the filing date prescribed in section 6075 with respect to the return from the decedent's estate (taking into account any extension of time granted pursuant to law for the filing of the return) for a period of 10 years or until a revocation of election occurs pursuant to paragraphs 6 or 7.

"(6) Events causing revocation of elections.—The tax described in paragraph (5) shall be imposed upon the occurrence of any of the following events:

"(A) the conversion by the owner of the real property with respect to which the election provided in paragraph (1) was made, or any portion thereof, to a use other than one or more of the qualified uses described in paragraph (2); or

"(B) the rezoning of such property to permit a use other than one or more of the qualified uses described in paragraph (2), if such rezoning occurs at the request of the owner; or

"(C) if such property qualified for the election only pursuant to paragraph (2)(d), removal of such property from the National Register of Historic Places.

"(7) Revocation of election upon sale.—If the owner sells an interest in real property with respect to which the election provided in paragraph (1) was made, there shall be imposed on such owner a tax equal to:

"(A) the excess of—

"(i) the estate tax computed in accordance with section 2001 with respect to the decedent's taxable estate based on a valuation of the decedent's gross estate made as if (a) the election provided in paragraph (1) had not been made, or (b) such real property had been valued at an amount equal to the price for which the property is sold, whichever valuation is lower, over

"(ii) the estate tax computed in accordance with section 2001 with respect to the decedent's taxable estate but based on a valuation of decedent's gross estate made after taking into account the election provided in paragraph (1) with respect to such real property; plus

"(B) interest computed as provided in paragraph (5)(B).

"(8) Duty to file return.—Prior to or upon the occurence of an event described in paragraph (6) or a sale described in paragraph (7), the owner subject to the tax imposed by paragraph (5) or paragraph (7) shall file a return with respect to such tax. Such return shall be made within 30 days after the end of the calendar quarter in which such event occurs.

"(9) Lien to secure tax.—If the executor of an estate makes the election provided by paragraph (1), there shall be a lien on the real property with respect to which such election was made in the amount of the tax saving realized by the estate by virtue of such election. Such lien shall be extinguished upon payment of all taxes which become due pursuant to paragraph (5) or paragraph (7) or at such time at which the possibility that any such taxes shall become due terminates, whichever time is later."

"(b) Section 1014(a) of such Code (relating to basis of property acquired from a decedent) is amended by inserting before the period at the end thereof a comma and the following: 'or in the case of an election under section 2131(c) (relating to alternate valuation of certain real property), the value thereof as determined under such section for the applicable valuation date, including any increased value on which a tax is paid as required by paragraph (5) or (7) of that subsection'."

"(c) The Amendments made by this Act shall apply with respect to the estates of decedents dying after the date of enactment of this Act.

[From the New York Times, May 14, 1972]

Estate Taxes Drive Farmers Off Land

(By David A. Andelman)

Thousands of American farmers are being driven off their lands—forced to sell their farms to real estate speculators, some of them say, because of the method used by the Internal Revenue Service to assess inheritance taxes.

Such taxes are assessed on what the land could be sold for, rather than what it is worth as farmland. Thus, many people who have inherited farms have had to sell them to developers simply to pay the taxes.

As a result, the revenue service is being termed partly responsible for destroying a segment of American agriculture and, at the same time, accelerating the spread of the suburbs to the rural areas of the United States.

Over the last decade, the value of agricultural lands in wide sections of the nation within easy access to metropolitan areas has skyrocketed as land speculators have bought up every available piece of property. The value of this land for agriculture, however, has largely remained constant or has declined.

The Internal Revenue Service insists on assessing all agricultural land at the "price at which property would change hands between a willing buyer and a willing seller."

The result has been that farmers holding property whose value for development is five to 10 times its agricultural worth have been forced to sell their property to the waiting speculators simply to pay their inheritance taxes, which run as high as 25 per cent. Children who would have remained on the land are being forced off.

Most of this pressure has been focused on the spreading areas on the fringes of the suburbs where metropolitan America is pushing out to meet rural America—areas such as the farther reaches of Suffolk County, L.I.; suburban Phoenix, Ariz.; the extreme northwestern part of Cook County in Illinois, and the Sierra Foothills region of California.

"Once farmland is given to the speculators, that's the final step as far as agriculture is concerned," said James E. Cross, a farmer in semirural Cutchogue, L.I. "You're taking land that took 25,000 years to develop, an amazing land that is rich and fertile, and overnight you bring in bulldozers and sock houses on it. We all pay for it in the long run."

Another Cutchogue farmer, John Wickham, cited the situation of a neighbor with a 60-acre farm in one of the best potato-producing areas in the United States.

The neighbor, who had asked not to be identified by name, inherited the farm from his mother two years ago upon her death. The farm was worth about $800 an acre if used for agriculture. But the revenue service valued it at $3,500 an acre, which Mr. Wickham noted "is the fair development value," and the tax alone came to about $1,200 an acre.

CALLS SALE "FORCED"

"This means that this chap is a very good farmer," he added, "but he had to take out a tremendous mortgage to pay the inheritance taxes, a mortgage with 9 or 10 per cent interest, and he simply can't pay it off—not with today's price of potatoes. So he has to sell it. In actuality, they [the Federal Government] forced its sale, very simply."

In Barrington, Inn., Xaver Schmid, a 72-year-old farmer who is worried about the problem that will arise when he dies, cited the case of a 90-year-old neighbor who died and left a 500-acre farm to his wife.

"They haven't sold the farm yet," Mr. Schmid said, "as the estate is still in probate. But his wife is nearly 90, and when she dies taxes will be levied all over again and the sons will have to sell the farm for sure to pay taxes."

That the situation became most acute very recently is largely attributable to the newly developing pattern of change in suburban America.

GROWTH ON FAR FRINGE

The 1970 census revealed that the fastest growing segment of the United States was the suburbs and the fastest shrinking was the rural areas. But of even greater significance was the evidence that the fastest growing segment of the suburban population was in the so-called "exurban areas"—those counties on the far fringe of the suburbs, between suburbs and countryside.

It is here that the real estate speculators are most busily at work and where the pressures on the remaining farmers are the strongest.

There are no statistics to show how many farms are going to speculators. Many are quietly sold but continue to be farmed for several years, even decades, under "lease-back" arrangements, until the land becomes so valuable that the speculator finally moves in and puts a halt to the farming.

NEED FOR LEGISLATION SEEN

A spokesman for the Internal Revenue Service, Edward Work, said, "We've been aware of the problem really for several years and, of course, what it boils down to is that under the law we have no alternative but to set the tax on the value the land sells for rather than on the value the property would be used for.

"It would take legislation to change the practice."

The legislation on which the current revenue service practices are based dates to the Revenue Code of 1916. Section 203.1, of which says that property must be valued at its fair market value. A service spokesman said, "It has been applied consistently since that date."

There have been numerous attempts at reform. Representative Graham Purcell of Texas, sixth-ranking Democrat on the House Agriculture Committee, has introduced each year for the last four years a bill providing for a change of the valuation criteria.

At last count, there were six bills before the House Ways and Means Committee and one in the Senate, all waiting for action that their sponsors generally believe will probably never come.

"Each year they get buried in the hearings on general tax reform," Mr. Purcell said in a recent interview. "Ways and Means just happens to like the extra revenue the law pulls in the way it stands."

The extent of the problem and the concern it has aroused in agricultural America is indicated by the search for the methods to circumvent the revenue regulations.

In the Dade County area surrounding Miami, almost all farms have by now been incorporated. The corporate farmer is able each year to transfer a small amount of stock—up to $3,000 apiece is tax-exempt under gift tax statutes—to his children as gifts, easing the final impact of inheritance taxes when he dies.

A few states, including New Jersey, California and Maryland, have either set up or given serious consideration to establishing agricultural land use districts. They require farmland under regulation to remain in farming for a certain period of years, usually at least 10, or indefinitely. But in many areas, the revenue service has not chosen to recognize these districts for estate tax purposes.

ACCEPTED BY GOVERNMENT

In California, the Land Conservation Act of 1965 enables a farmer to contract with the county government not to put farmland up for sale for at least 10 years, enabling the state to assess the land at agricultural rates. And, state officials said, the Federal Government has accepted the state assessments for Federal purposes.

But a new and more recent law may change this. It provides that if not enough of this restricted land is sold in an area, the county assessor may use the income of the land as a means of determining its value for assessment purposes.

Joseph A. Janelli, governmental affairs specialist of the California Farm Bureau Federation, is concerned that "the I.R.S. just might say this new law is a temporary expedient and we do not have the right to do it this way."

ARRANGEMENTS ARE URGED

Mr. York, the revenue service spokesman, said "there is a possibility" that an agricultural land use district "could affect the valuation—in effect discounting the valuation in some situations." But he said, even so, the value would never reach the agricultural value.

So, the California federation has begun to advise members to make their proper arrangements well in advance of death—giving land or corporate shares in land to their children over the years to take advantage of the gift tax exemption.

"All this is fine," said Mr. Wickham, the Long Island farmer. "But I can't do this. I need cash loans on my property each year in order to operate. If I go to a bank and say I've given shares to my children, that I don't have clear title, they'll throw me right out."

Dean F. Tuthill, a professor of agricultural economics at the University of Maryland, said that there were only a handful of states that had been able to figure out any method of easing the burden of estate taxes for their farmers.

COAST LAW CITED

Most special agricultural taxing districts set up to help farmers are applied only to local property taxes and not to federally administered estate taxes.

Professor Tuthill cited, as one attempt to ease Federal taxes, California's statute, which he said was a prototype for other methods of "preventing intensive development of farmland," including a bill in Maryland last year that would have allowed farmers to sell their development rights to the local county, farming it themselves but paying considerably lower taxes.

Systems such as this or one newly instituted in Suffolk County, L.I.—where the county plans to purchase, at the start, some 3,000 acres of prime farmland at speculative prices from the farmers, then lease it back to the owners—are other solutions proposed by agricultural economists in place of changes in the revenue law.

"There are so few ways open to preserve this valuable resource," Mr. Wickham concluded. "If the I.R.S. continues to follow this policy, it will put all agriculture out of business on Long Island within a generation. And who knows what will happen everywhere else in this country?"

[From the Wall Street Journal, May 15, 1974]

THE 251-YEAR-OLD MANSION PROVIDES FEELING OF "ROOTS" BUT DOMINATES THEIR LIVES

(By Gail Bronson)

SHIRLEY PLANTATION, Va.—To walk inside the venerable brick mansion here with its paneled rooms and its oil portraits of long-dead ancestors, is to enter into the measured pace of the 18th Century.

It is easy, in the shadowy half-light of a fading afternoon, to envision a style of life two centuries removed from the busy world outside—to imagine squires with powdered wigs gathered around the Chippendale dining table, drinking sherry from graceful crystal glasses. Thomas Jefferson dined at Shirley. Robert E. Lee's mother was born here.

But C. Hill Carter, the 20th Century owner of Shirley, is not a squire, and he doesn't have a powdered wig. He has a crew cut, and should you visit his 251-year-old mansion 25 miles east of Richmond in the Virginia tidewater country, you may find him in paint-spattered shoes and baggy overalls, touching up an outbuilding. He often does such work himself—to save money.

Nor do Mr. Carter, his wife, Helle (rhymes with Nellie), and their three children dine very often at that splendid table of polished mahogany on the main floor. They usually eat at a picnic-type table in the basement, seated on folding chairs beneath the bare pipes that service their 1910 sink. They eat in the basement because they want to maintain the main floor in all its 18th Century elegance, full of valuable antique furniture and American art.

RUINOUS TAXES

That is the commitment that has shaped the lives of Hill and Helle Carter—a commitment to maintain and preserve an 18th Century mansion on a 20th Century income. More than that, they are committed, despite rising expenses and the threat of ruinous taxes to pass Shirley on to their children and their children's children. They intend to keep Shirley in the Carter family, where it has remained for nine generations.

"In our society nobody has any roots," Mr. Carter drawls. "Everybody's mobile. When people come here and tell me how lucky I am to own Shirley, I'm right proud. We're determined to stay and keep these things."

Plenty of folks come to see Shirley. To help offset expenses, Mr. Carter opened Shirley to tourists some years back, posting a billboard near Williamsburg and distributing brochures locally. Last year, more than 10,000 people visited the plantation, often getting a guided tour by Mr. Carter himself, who clearly relishes the opportunity to take time off from endless odd jobs around the plantation to recall his family history and the glories of the past.

The white porticoed mansion dates back to 1723, but Shirley Plantation itself is even older. It was founded in 1613, only six years after the colonists arrived at Jamestown. While the land belonged to tobacco farmer Edward Hill, the Shirley mansion wasn't built until his daughter Elizabeth married John Carter, the son of a giant in colonial Virginia, William Robert (King) Carter.

RANDOLPHS, LEES, AND BYRDS

Contemporaries called him King because he owned a huge chunk of what is now the state of Virginia. King Carter amassed his wealth by deeding defaulted land to himself as land agent for Lord Fairfax and England. He lived quite comfortably on another plantation, cultivating tobacco with the help of 1,000 slaves. Over the years, his descendants intermarried with such leading Virginia families as the Randolphs, Lees and Byrds.

By comparison, King Carter's ninth-generation descendant has come down in the world—although, on paper at least, Hill Carter is a wealthy man.

"I reckon I'm worth $1.5 million," he mutters bashfully. "But I still feel like I'm scrambling to pay the grocery bills." Despite his assets, Hill Carter barely nets $15,000 a year, mainly from his tourist trade and some land he rents to a gravel company. To convert his assets to spendable cash he'd have to do the one thing he is committed not to do: sell Shirley Plantation.

The problem of maintaining a large estate isn't unique to the Carters. Many families find the financial burden too much or the way of life unappealing; usually, they sell their property for development or for some sort of institutional or foundation use. In Britain, the National Trust accepts country estates from owners who provide endowments to maintain the property in perpetuity for public access. In return the family may live there rent-free. The National Trust for Historical Preservation in the United States accepts property gifts with endowments, and Colonial Williamsburg buys land for the tourist trade. But Hill Carter wouldn't consider passing Shirley out of strict family control.

As a result, Hill and Helle struggle hard to keep Shirley both livable for the family and attractive to tourist. For Hill, life is a

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walls that need spackling and plumbing that needs fixing; currently, he's trying to complete some formal gardens around the house and build a driveway to the main highway. Helle opened a gift shop last year in one of the outbuildings and also hopes to start a small restaurant operation in another building.

Shirley Plantation mirrors much of Southern history in its evolution from tobacco plantation to wheat farms to the homestead that Hill Carter inherited. "My grandfather was wounded at Chancelorsville and was forced to quit working around 1884," says Hill, "so my dad started farming when he was 16. He never got an education, and financial things weren't easy for him. He spent all his time farming just to feed his family through the Depression."

Hill inherited the estate in 1952 through an elaborate plan to keep Shirley in the family; soon, the farmland was leased to others, a gravel mining company had leased several hundred other acres, and the Carters were seeking to build up tourist traffic to the house itself. "When other people are out on Sunday drives, I'm showing people around the house," says Hill.

Still, life at Shirley has its compensations. Hill and Helle enjoy sitting out back watching the historic James River roll by; many evenings are spent entertaining friends in Shirley's stately and ornate dining and drawing rooms. Though the family usually eats in the basement, the children, Charles, 11, Randy, 10, and Harriet, 9, are allowed the run of the house and property. "I don't want to turn this place into just a museum," says Helle.

Whether Hill Carter will succeed in his

ambition to keep Shirley intact for his children—and whether they will want to stay at Shirley—is open to question. Hill figures the inheritance tax alone on Shirley would be about $650,000 at present rates.

But Hill and Helle figure it's worth the effort. "If money was the only thing in the world, I'd leave," says Hill. "But it's not. Most of the important things in the world can't be bought and sold," Helle adds. "It's gratifying when people come and appreciate this as part of their heritage."

[From the Baltimore Sun, May 19, 1974]

Disappearing Farms

(By Michael K. Burns)

In the years of agriculture abundance, not so long ago, United States farm policy was aimed at moving land out of production. That policy did not seem to work so well then but its effects are being felt today when the nation is realizing it might be better off with more farms and farmers.

Rising prices at the supermarket reflect the world's demand for more food. And the environmental movement has inculcated a reverence for open space and a revulsion against the devastation of suburban sprawl. Expansion of the domestic farm system seems to answer these non-farmer needs of society.

Forces are at work to create a coalition between the farmer and the environmentalist to preserve farmland as a privately held public heritage. But the alliance is still in the formative stage. Farmers distrust the conservationist who would freeze the value of his land under land-use laws, and chafe at his efforts to restrict uses of chemical and pesticides. Conservationists and consumers are wary of the producers of ever-more-expensive food and the owners of large spreads of high-priced rural real estate.

Land speculators have perhaps been the key element in the forging of the common interest. Population pressures and the ever-growing highway system created new fortunes for property holders who stood in the path of progress. Farmers did not create the boom, but they were quick to appreciate its possibilities for a windfall. A glut of reckless, shotgun speculation in farms throughout the state followed. And those farmers who sold out made it even harder for their neighbors to resist.

Some 2.7 million acres in the state, or 40 per cent of the land, are in farm production. By one estimate, that amount will dwindle to 1 million acres by the year 2000. Recognizing this undesirable trend, the Maryland Senate last year ordered the Secretary of Agriculture, Y. D. Hance, to make a study of means to preserve farmland. Mr. Hance appointed an 18-member commission with Frank L. Bentz, Jr., University of Maryland vice president for agricultural affairs, as chairman.

The commission has set as a goal the preservation of 2.5 million acres of agricultural land. Members are uncertain how fast farmland will be eaten up in the future: one subcommittee suggests 35,000 acres a year, another 62,000 acres. But they seem to agree that speculation, or investment, is a greater factor than the immediate demand for housing or commercial development. "Agricultural and commercial forest land acreage will decrease more than three times as much as urban-related land commitments will increase" by 2000, the group said in an interim report. Some of that land will be granted a temporary reprieve, as speculators rent it to farmers, but its fate is sealed. This despite the fact that there will be 50 per cent more people living on an acre of Maryland in 26 years than there are today.

As a commission subcommittee noted, preserving agricultural land can only be based in part on the actual demands of future population growth. Unrelated economic factors influence a number of individual decisions to give up farming and to take advantage of the speculator's offer. Farm prices are expected to increase and provide a return of about 15 percent on capital (exclusive of land), the commission reported. But a shortage of labor, heavy indebtedness and taxes may encourage all but the dedicated to give up.

Farm prices have shot up all over the state with little relationship to productivity and food prices. Farms that sold for $200 an acre in Frederick county 15 years ago are now worth $30,000 an acre by the new shopping mall. Even residential lots, minus sewer and water, are selling at $4,500 an acre.

In Anne Arundel county, developers are paying $3,000 an acre for average farmland as they leapfrog over sewer-connection bans in Montgomery and Prince Georges counties.

Partially influenced by the expanding Black & Decker power-tool plant, land in the Hempstead area of carroll county is selling for an unheard of $7,000 an acre. "A couple of years ago, $1,000 was high for land in this area," recalled Paul R. Albaugh, a dairy farmer. "Now, I don't know of any land sold that's going to other farmers . . . they can't afford it."

"I don't think you can talk to a farmer who hasn't lost ground over the last five years," said Carroll Leister, whose grandfather bought the land he farms today. The small parcels of land a farmer rents for $15 to $20 an acre are sold off each year as land values rise, he explains. "The by-pass is going through 25 acres of our land and that will bring more houses," Mr. Leister said. "I guess in five years after the road is built we'll be out of here."

Developers and farmers covet the same type of land, Mr. Leister added. "That's the thing that hurts: they're buying good flat, cleared land, not the woods or the hilly areas," he said. According to the state, more than 20 per cent of Maryland's "prime" farmland has been lost to urban use.

The commission headed by Dr. Bentz is to make final recommendations on legislation to Mr. Hance next month. So far, the group has explored several possibilities which have been discussed at a series of hearings in the state. The revision of federal estate taxes and state inheritance tax is one promising idea. Senator Charles McC. Mathias Jr., (R., Md.) and Representative Goodloe E. Byron (R., 6th) have introduced bills to change the estate tax, so that heirs are taxed on the agricultural value of farmland instead of on "fair market value." The lower valuation would make it easier for heirs to pay the taxes without selling the farm; if they did or if they developed the land, they would be subject to a retroactive higher levy. The chairman of the Maryland Environmental Trust and the Maryland Historical Trust support the measure as a valuable open-space tool.

The loss of farmland due to the estate tax valuation has not been extensive. Many heirs are all too willing to sell and farmers do the same thing to create heir retirement annuity. But it does help to keep farms in the hands of those families who want to continue at it, and they are becoming more rare. Herbert and John Wisner of Mt. Zion worked their father's farm since they were children, but had to form a corporation to save the land with a mortgage when it was inherited as an estate. "They should have done something to help the farmer in a situation like this," Herbert Wisner said.

Other plans considered by the agricultural land preservation commission include variations on programs in New York and New Jersey. New York permits farmers to create agricultural districts with powers to prohibit certain local ordinances that interfere with farming, to bar the use of public funds for utilities installation and to receive favorable tax assessment treatment.

The New Jersey plan, which is only a proposal made to the governor, calls for each municipality to set aside a certain percentage of prime farmland for preservation. A state tax on real-estate transfers would pay farmers for the loss of their development rights by having the land use frozen in preserves. Under the New Jersey plan, farmland owners could claim their development-right payment today, or wait on the chance that their rights will appreciate in the future. Speculation could continue in these rights or easements and investors could become richer. But the public would not be the poorer.

Maryland was the first state to pass a preferential farm property tax assessment law, taxing farmland at a lower rate than residential or commercial property. Economists claim the law has helped to keep land in production, though the evidence is tenuous. There is a tax recapture provision penalty if the use is changed, but that is a weak restraint against development.

This year the legislature enacted a law permitting farmers to give the development rights to the state. In exchange for freezing the use of his land in farming, the owner would reduce his local property taxes and reduce the value of his estate for federal taxes upon his death. Without any purchase agreement, however, its chances of success are slim.

From this mix of interests, and of economic incentives, the attrition of farms and farmers may be stemmed. The benefits of open space will be shared by all. Phillip Alampi, New Jersey's agriculture secretary, recently explained how self-interest can work constructively in this field. "Farmers have a selfish interest in preserving open space," he said. "Without it, they will go out of business. Urban and suburban people have a selfish interest in preserving open space. Without it, they may exist, but they will not live."

[From the Baltimore Sun, Feb. 19, 1974]

Endangered Label on East Coast Farms

(By Isaac Rehert)

The East Coast farmer has been changing to a rare and endangered species just when a crowded congested society has come to need him most.

For decades, while built-up concrete areas have been growing around big cities like warts, farmers, caught in the crunch of fast-rising costs and shrinking profits, have been abandoning agriculture.

The old-timers are carrying on, expanding and consolidating their holding, but with the increased capitalization, it becomes almost impossible for a youngster to break in unless he inherits. And increased valuation of land for development purposes is a continuing temptation to the farmer simply to sell his holdings for the building of supermarkets and retire from the field.

As if crowding by urban areas, skyrocketing capitalization and the cost-price squeeze were not enough, certain government tax policies have also tended to pressure farmers into getting out; and now, land-use legislation, one version of which has already been introduced into the Maryland General Assembly, has farmers worried. They fear that by legislative fiat, their equity, their security, their retirement bank account that they keep deposited in land, may be wiped out.

The extinction of the East Coast farmer, like the extermination of other rare and endangered breeds, is more a problem for the public than it is for the breed. Quite aside from the production of food (which for the first time in memory is becoming increasingly critical), quite apart from nostalgia for "old time rural values" and a way of life that keeps looking better the further we pass from it, farms—at least green open spaces—are essential to ecology, to keeping a balanced environment, to maintaining an esthetic harmony.

Whereas in other areas real estate taxes are based on the highest market value of land—which usually would be its speculative value for development—in Maryland, farm land is taxed as farm land—which means lower rates, commensurate with its lower earning ability when used for growing crops.

But the federal government has not seen fit to follow a similar practice. There are no federal real estate taxes, but there is a federal estate inheritance tax, and the Internal Revenue Service insists on assessing all agriculture land at the "price at which property would change hands between a willing buyer and a willing seller."

Any land within easy access to metropolitan areas can attract numerous willing buyers eager to acquire all they can for speculative purposes. The result has been that in some areas, land values have skyrocketed to five to ten times what they would be for agricultural land.

And so, when parents die and their children inherit the land, they find themselves billed for a federal inheritance tax—which may run as high as 25 per cent—that is so high they are forced to sell the land to speculators in order to pay it.

In one instance, land that was worth $800 an acre for agricultural purposes was valued by the IRS at $3,500 an acre, which was its "fair development value." The tax alone came to about $1,200 an acre, and the farmer had no choice but to sell it for development in order to pay. In fact, the federal tax laws had simply forced the farmer off the farm and the land out of farm production.

It is not merely IRS administrative policy but explicit legislation that says that property must be valued at its fair market value, and so it will take new legislation to make a change.

This year, Senator Charles McC. Mathias, Jr., (R., Md.) introduced a bill that would change the practice, bringing it into line with that used in Maryland and other states, so that the IRS, in considering the value of land for tax purposes, would use its value as an actual earning resource rather than its market value.

In a Senate statement, Mr. Mathias pointed out that without such legislation, every time a farm passed to an heir, the heir would be paying most or all of the income he could earn from his farm land just to pay the taxes. The situation is impossible, and "the effect of this (IRS) policy is to force many farm families to sell their farms in order to pay the estate tax—regardless of their attachment to the land or to the occupation of farming. And the result of such forced sales is, in the end, a grave and immeasurable cost to the community."

His bill includes safeguards that prevent land held by speculators from qualifying at the lower rate of tax, namely that the property must have been used as farm, wood or open scenic land for at least five years prior to and must continue to be used that way for five years after the estate tax return is filed.

One of the interesting developments in the farm land picture is that because of the world-wide food shortage and the energy and fertilizer shortages, farm commodities have been increasing in value so rapidly that with next year's harvest the value of farm land may nearly equal its value for development.

From the public's point of view, at least one aspect of the situation has become perfectly clear. Despite the name "agribusiness," farms are not merely business; they are a natural and esthetic resource of the entire community, and the East Coast farmer, who is their steward, as a rare and endangered species, needs some help to be saved.

[From the Baltimore News American]

Federal Tax Grab Countered: State Acts To Save Farms

(By Steven Norwitz)

In upper Harford County, John Brown (not his real name) tills a 650-acre farm he'd like to turn over to his children when he dies.

But farmer Brown estimates that when he passes on, his family will face a federal estate (inheritance) tax of $400,000.

As a result, the Brown family will be forced to do what the Johnson family did with their 100-acre farm in Havre de Grace a few years back—sell it to developers.

The federal estate inheritance tax, which often amounts to a third of the development value of a farmer's land, is one reason why Maryland loses an estimated 35,000 acres of farmland a year to development, according to the state Department of Agriculture.

In 1969, the latest year for which figures are available, 44 percent of Maryland's land areas, or about three million acres, was devoted to agricultural use.

It is projected that the amount of farmland in the state will drop to 2.4 million acres, or 38 percent of the state's land area, by 1986.

To help slow the trend, the Maryland legislature this year passed a bill designed to aid the farming family that wants to pass its farm down from one generation to the next.

For farmers who agree to permanently turn over the development rights of their land to the state, the bill provides that the farms would be assessed at their agricultural value, about $600 an acre, instead of potential development value, now ranging from $2,000 to $3,000 an acre.

The aim is to significantly cut the federal estate tax on the property, enabling the family to keep the land for its agricultural use.

"This would help people who have had farms that have been in the family for generations and want them to be kept in the family," says T. Allan Stradley, president of the Maryland Farm Bureau.

The state, meanwhile, would preserve some of its open spaces and maintain a $425 million a year industry.

While the bill is considered a good concept, its effective implementation hinges on two unknowns.

"First," says state Sen. James Clark, Jr., D-Howard, a co-sponsor of the bill, "we're not absolutely certain the IRS (Internal Revenue Service) will recognize this."

The federal government does its own assessing of property when calculating the estate inheritance tax.

"Second," Clark adds, "if you give up the development rights to your property and the property all around you is turned into subdivisions, the plan won't work."

If these roadblocks are worked out, however, Clark feels "there are a good many people who will go for it." Clark himself would be one of them.

The senator runs a 500-acre farm on Rt. 108 across the road from Columbia. "The estate tax on this would definitely cause us to lose the land," he says.

"But I wouldn't hesitate a minute (to give up the development rights to the property) if I was assured I wouldn't have development all around me. Agriculture is all we've ever done; that's all we want to do."

While many farmers will be leery of giving away the huge profit potential of their property. Sen. William S. James, D-Harford, co-sponsor of the bill and president of the Maryland Senate, says the bill is "just a start" in the state's effort to preserve its agricultural land.

Eventually, James notes, Maryland may adopt a plan similar to one in New Jersey which authorizes the state to purchase outright the development rights to a farmer's land.

"The New Jersey green acres program," James says, "has permanently preserved one million acres (of its 1.4 million acres of farmland) by this approach."

This summer a state Commission on the Preservation of Agricultural Land is to offer sweeping recommendations on steps the state should take to accomplish this purpose.

By Mr. MATHIAS (for himself, Mr. Brooke, Mr. Cranston, Mr. Kennedy, and Mr. Hollings):

S. 81. A bill to provide the Governors of coastal States with a delay mechanism so as to protect coastal States from adverse environmental or economic impacts and other damages associated with the development of oil and gas deposits in the Outer Continental Shelf and for other purposes. Referred to the Committee on Interior and Insular Affairs.

COASTAL STATES OFFSHORE ENERGY ACT

Mr. MATHIAS. Mr. President, there is much discussion in the administration of leasing vast new areas of the Outer Continental Shelf for oil exploration and development. In the Last Congress comprehensive legislation was offered to govern the OCS and I offered an amendment to that legislation. It is critical that we establish a coherent national policy with regard to our resources on the Outer Continental Shelf. As we define a national policy in these waters, we must be ever mindful of the protection of our valuable coastal zone.

I now introduce for myself and Senators Brooke, Cranston, Kennedy, and Hollings, my amendment in the form of a bill.

It is entirely possible to work toward energy self-sufficiency and at the same time harmonize those efforts with ongoing State programs, specifically the coastal zone management program, so that the many difficult problems which are associated with oil and gas development can be solved rather than exacerbated.

Our bill will greatly strengthen present coordination procedures. Our bill will allow the Governor of a coastal State, following the announcement of a lease sale in waters adjacent to that State, to request a postponement of up to 3 years of the Secretary of the Interior should the Governor feel that such a sale and the anticipated and actual oil and gas production would have an adverse environmental or economic impact, or cause other damage to the State.

Some of the coastal States are in the very formative stages of providing coastal zone management programs. Others are now exploring the possibility of enacting powerplant and refinery-citing legislation. Others are just now exploring the question of what the proper standards of liability for environmental damage should be.

In short, there are States with individual circumstances which need additional periods of time to determine how best to plan for offshore oil and gas production.

In hearings before the National Ocean

Policy Study, of which I am a member, on offshore drilling, there has been testimony that if proper planning and precautionary measures are not implemented prior to exploration and development of these resources, severe adverse environmental and economic impacts can be experienced. But just as we can predict with certainty the severe effects of improper planning of oil rigs, pipelines, docking facilities, refineries, and all the other activities that take place when oil and gas is produced, transported, and refined, I think we can also look forward to demonstrations of sound planning where every safeguard is utilized and a situation where the economic and environmental well-being of the adjacent coastal State has been fully protected.

Our proposal will insure that the Governor has the proper opportunity and forum for presenting his views as to when lease sales should occur in waters adjacent to the State. Under our bill the Governor may request up to a 3-year delay in any lease sale in waters within 300 miles of his State's jurisdiction if in the Governor's opinion such a lease sale could adversely impact his State. The Secretary must act within 30 days to either grant this request in full, provide a shorter period of time should he feel that such is adequate for study and provision to ameliorate any adverse economic or environmental effects or deny the Governor's request for postponement if he finds that the State is already adequately protected.

Should the Secretary fail to grant the Governor's request, the Governor may appeal within 30 days to the National Coastal Resources Appeals Board which is established by our amendment. This Board shall include the Vice President, who shall be Chairman of the Board, the Secretary of the Interior, the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency and the Chairman of the Council on Environmental Quality. They shall hear the appeal within 30 days and render a decision after an adjudicatory proceeding within 90 days. That decision shall be reported in detail to the Congress.

There is precedent for this Board. I refer Senators to the report of the Senate Committee on Commerce on S. 3507, the National Coastal Zone Management Act of 1972. S. 3507, as passed by the Senate, would have established in section 311(a) a new National Coastal Resources Board within the Executive Office of the President.

The Board was designed to provide an effective coordination mechanism between programs of Federal agencies within the coastal zone, to be a forum for the resolution of serious disagreement between any Federal agency and the coastal State regarding the development of a coastal zone management program, and finally to hear appeals by an aggrieved areawide entity or unit or local government from a decision or action of the Secretary, or an areawide planning entity. It was a good idea then, and it is an even better idea now.

Basically, we have taken the proposal which was passed by the Senate, but dropped in conference with the House, and tailored it to the situation we find ourselves in with regard to offshore oil development. We have included only those members of the old National Coastal Resources Board on our National Coastal Resources Appeals Board as are necessary for the proper hearing of these appeals. We have included the Vice President, as Chairman, because of his important functions in the dynamic relationship between the States and the Federal Government.

We have included the Secretary of the Interior, who has prime management responsibilities for land on the Outer Continental Shelf. We have included the Administrator of the National Oceanic and Atmospheric Administration who oversees the coastal zone management program, which is severely impacted by activities in the Outer Continental Shelf. The Administrator of NOAA will be of great assistance in evaluating the States' coastal zone management program and determining whether it is adequate to deal with the impacts of off-shore drilling.

The Administrator of the Environmental Protection Agency would also be a member of the Board because of his important responsibilities for water and air quality. Oil and gas production, transport, and refining raise important questions of water and air quality and the Administrator must play an important part in any decision that is made.

Finally, the Chairman of the Council on Environmental Quality will be a member of the Board. As a member of the national ocean policy study, I have been most impressed by the work done at CEQ on offshore drilling. Their study of potential leasing areas in the Atlantic and in the Gulf of Alaska at the request of the President represents some of the finest work that has been done in this field. We very much need CEQ to translate that study into meaningful decisions and bring to bear their expertise in evaluating the adequacy of environmental impact statements.

Our legislation creates a mechanism which does not permit unnecessary or unsubstantiated postponement. The final decision as to whether the lease sale will take place is still in the hands of the agencies of the Federal Government which have primary responsibility in this area. The bill provides a forum for the Governor to make his case. It brings together in one forum all the agencies which have responsibility for OCS activities. It provides a broad review with congressional oversight to produce a comprehensive result.

As the national ocean policy study has grappled with the question of State participation in what is primarily a Federal decision, we have examined a number of alternative ways of providing this participation. Our amendment steers a middle course. It rejects giving the Governor of a coastal State a veto over OCS development. It also rejects vague urgings that the Federal Government coordinate with the States. The first would be disruptive; the second inadequate. Our amendment is a compromise that should be supported by not only Senators who represent coastal States, but by all Senators who recognize that more needs to be done to provide a working relationship between the States and the Federal Government.

The offshore leasing program will only be considered a success if all parties are adequately protected in the timing of lease sales. Not all wisdom is found in the Nation's Capital so let us provide a mechanism for State participation in these important decisions.

Mr. President, I ask unanimous consent that the bill appear at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 81

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 8 of the Outer Continental Shelf Lands Act of 1953 is amended by adding a new subsection to read as follows: "(k)(1) The Secretary shall give notice of the sale of each lease pursuant to this Act to the Governor of any coastal state, the lands of which state are within 300 statute miles of the land to be leased. At any time prior to such sale the Governor so notified may request the Secretary to postpone such sale for a period of not to exceed 3 years following the date proposed in such notice if he determines that such sale will result in adverse environmental or economic impact or other damage to the State or the residents thereof. In the event of any such request, the Secretary shall postpone the sale until proceedings under this subsection are completed.

"(2) The Secretary shall, not later than 30 days from the receipt of such request:

"(A) grant the request for postponement;

"(B) provide for a shorter postponement than requested provided that such period of time is adequate for study and provisions to ameliorate any adverse economic or environmental effects or other damage and for controlling secondary social or economic impact associated with the development of Federal energy resources in, or on, the Outer Continental Shelf adjacent to the submerged lands of such State; or

"(C) deny the request for postponement if he finds that the State is in fact adequately protected from potential adverse environmental and economic impacts and other potential damages.

"(3) The Governor of a State aggrieved by the action of the Secretary shall have 10 days to appeal directly to the National Coastal Resources Appeals Board established pursuant to paragraph (4) of this subsection. Such Board shall hear the appeal within 15 days of its receipt and shall render a final decision within 45 days of such hearing. The Board shall overrule the action of the Secretary if it finds that the Secretary's action does not adequately protect the State from potential adverse environmental and economic impacts and other damages.

"(4)(a) There is hereby established, in the Executive Office of the President, the National Coastal Resources Appeals Board (hereinafter called the "Board"), which shall be composed of the following, or their designees—the Vice President, who shall be Chairman of the Board, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality.

"(b) The Board shall:

"(1) transmit a written report to the appropriate committee of Congress as to the basis for any decision rendered; and

"(2) conduct such hearings pursuant to Section 554 of Title 5, U.S.C.

"(3) For the purposes of this section, an aggrieved State is defined as being one which has requested a postponement of a lease sale but has been denied such postponement or provided a shorter period of time than requested in which to ameliorate adverse impacts associated with development of the Outer Continental Shelf and the Governor has determined that such period of time is not adequate.

By Mr. MATHIAS (for himself and Mr. BEALL):

S. 82. A bill to repeal certain provisions of the act entitled "An act to provide for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes," approved September 21, 1965, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

AMENDMENT OF ASSATEAGUE ISLAND NATIONAL SEASHORE ACT

Mr. MATHIAS. Mr. President, on behalf of Senator BEALL, I introduce a bill to protect the Assateague Island National Seashore from development and to compensate Worcester County, Md., for the loss of tax revenues, which this development might have provided. Assateague is a barrier island of breathtaking beauty, great expanses of beach, dunes, and sheltered marshes. It dominates the Maryland Atlantic shoreline and provides needed sanctuary for many species of wildlife. The barrier island shelters Chincoteague and Sinepuxent Bays, which together support an irreplaceable, seafood resource. Assateague is vital to migratory waterfowl, marsh birds, and shorebirds which depend on east coast wetlands for food, rest, and protection during their period away from normal breeding grounds.

The national seashore was created by the Congress in 1965. That was a farsighted act on the part of the Congress, for Assateague is a fragile resource, which must be protected from development. But all legislation should be periodically reviewed to determine whether its purposes have been accomplished. Sometimes in hindsight, certain provisions may seem impractical or unwise. This is true of Publc Law 89–195, which created the Assateague Island National Seashore. Section 7 of that act provides as follows:

SEC. 7. (a) In order that suitable overnight and other public accommodations on Assateague Island will be provided for visitors to the seashore, the Secretary shall select and set aside one or more parcels of land in Maryland having a suitable elevation in the area south of the island terminus of the Sandy Point-Assateague Island Bridge, the total of which shall not exceed six hundred acres, and the public use area on the Chincoteague National Wildlife Refuge now operated by the Chincoteague-Assateague Bridge and Beach Authority of the Commonwealth of Virginia, and shall provide or allow the provision of such land fill within the area selected as he deems necessary to permit and protect permanent construction work thereon: *Provided*, That the United States shall not be liable for any damage that may be incurred by persons interested therein by reason of the inadequacy of the fill for the structures erected thereon.

(b) Within the areas designated under subsection (a) of this section the Secretary shall permit the construction by private persons of suitable overnight and other public accommodations for visitors to the seashore under such terms and conditions as he deems necessary in the public interest and in accordance with the laws relating to concessions within the national park system.

(c) The site of any facility constructed under authority of this section shall remain the property of the United States. Each privately constructed concession facility, whether within or outside an area designated under subsection (a) of this section, shall be mortgageable, taxable, and subject to foreclosure proceedings, all in accordance with the laws of the State in which it is located and the political subdivisions thereof.

(d) The Secretary shall make such rules and regulations as may be necessary to carry out this section.

(e) Nothing in this section shall be deemed to restrict or limit any other authority of the Secretary relating to the administration of the seashore.

The Congress was correct in providing that Worcester County could tax the accommodations to be located on Federal land. Reference to section 7 indicates how this was to be accomplished. A number of events and changing attitudes toward the propriety of developing Assateague have combined to make this approach now seem misguided.

In March of 1972 the Joint Executive-Legislative Committee on Assateague Island reported to the Governor of Maryland. Their recommendation was that section 7, providing for overnight and other public accommodations, be deleted from the act. They stated in connection with this recommendation that compensation should be provided. Senator BEALL and I support those recommendations. I have also been informed by Maryland officials that Worcester County might be unable to realize tax revenues from development on Assateague Island, because of existing provisions in the State law. While it was clearly that intent of the Federal legislation that these improvements be taxable as if they were on private land, the Maryland law casts considerable doubt on whether the State of Maryland or any of its counties has the power to exact such a tax.

The combination of these two factors create a totally unsatisfactory condition. If indeed the Assateague Island National Seashore Act and Maryland law work at cross purposes, we will have created a tax-free haven for environmentally destructive development. This was not the purpose of the Congress.

The bill which Senator BEALL and I propose will eliminate section 7 and provide for an orderly and expeditious procedure for determining what compensation should be paid to the county.

Section 9 of the enabling act provides as follows:

SEC. 9. (a) The Secretary of the Interior is authorized and directed to construct and maintain a road from the Chincoteague-Assateague Island Bridge to the area in the wildlife refuge that he deems appropriate for recreation purposes.

(b) The Secretary of the Interior is authorized and directed to construct a road, and to acquire the necessary land and rights-of-way therefor, from the Chincoteague-Assateague Island Bridge to the Sandy Point-Assateague Bridge in such manner and in such location as he may select, giving proper consideration to the purpose for which the wildlife refuge was established and the other purposes intended to be accomplished by this Act.

Most people have come to realize in the years since 1965 that construction of a major roadway on such a fragile, shifting island would be an environmental disaster. Under these circumstances, it is entirely appropriate that section 9 be stricken from the act. Since the road was never proposed as compensation to Worcester County, its deletion does not in any way affect the compensation procedures provided in our bill.

Maryland is a coastal State. We have a great and bounteous estuary, but we have little land abutting the Atlantic. Ocean City has grown rapidly to become a major resort community. With only 32 miles of Atlantic shoreline, we must be very careful to create a proper mix of recreational and commercial activity. Such a mix must include significant, unspoiled areas. Assateague is such an area and it deserves our constant care and protection. We must preserve the island for future generations. I have heard it said that to some "Assateague Island is a barren place swept by wind and sun, its solitude broken only by the shrill cry of wheeling gulls and the metronome boom of the surf." To others, who take the time to look, listen, and understand, the island pulses with a rhythm of life and change at a place where the demanding ocean meets a determined strip of sand.

Senator BEALL and I today introduce a bill which has broad public support in the State of Maryland. It has been recommended by a committee composed of distinguished Maryland public officials in both the executive and legislative branches of Government. Under these circumstances, we are hopeful that our proposal will receive speedy and favorable consideration. I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 82

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 7 and 9 of the Act entitled "An Act to provide for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes", approved September 21, 1965, are hereby repealed.

SEC. 2. (a) The Secretary of the Interior is authorized to receive, consider, hold public hearings, and act upon any claim filed by the County of Worcester, Maryland, within the twelve-month peroid following the date of the enactment of this Act for compensation for damages or other losses incurred by such County arising out of or in connections with the repeal of section 7 of the Act of September 21, 1965, relating to the authority to establish suitable overnight and other public accommodations within the Assateague Island National Seashore.

(b) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, such sum as may be certified to him by the Secretary of Interior on the basis of any claim filed pursuant to subsection (a).

By Mr. MATHIAS (for himself, Mr. TUNNEY, and Mr. BAYH):

S. 84. A bill to enforce the first amendment and fourth amendment to the Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States or any member of the Armed Forces of the United States from using the Armed Forces of the United States to exercise surveillance of civilians or to execute the civil laws, and for other purposes. Referred to the Committee on the Judiciary.

FREEDOM FROM MILITARY SURVEILLANCE ACT OF 1975

Mr. MATHIAS. Mr. President, I am introducing today, along with my distinguished colleagues, Senators TUNNEY and BAYH, a bill to impose statutory sanctions against surveillance of civilian political activity. The version we introduce today represents the refinement and strengthening of two earlier bills and the culmination of more than 4 years of unceasing effort on the part of former Senator Sam Ervin, and the Subcommittee on Constitutional Rights to insure that each and every citizen of this Nation can exercise his first amendment right of expression without fear of harassment and without fear of reprisal. The right of peaceful dissent is such an integral part of our democracy that to attempt to subtly impose official restraints upon it is to tamper very seriously with the very fabric of our free government.

Senator Ervin has now retired from this body. While here, he accomplished much in the area of civil liberties and protection of American citizens. But, some of his work remains undone and my colleagues and I, who have worked with him on this particular facet of the Ervin legacy, wish to see these accomplishments continue.

Disclosures by the Secretary of the Army over this past weekend have only added to the urgency for this legislation. In 1971, as a result of hearings held by the Subcommittee on Constitutional Rights, the Department of the Army announced the formulation of regulations prohibiting the involvement of military personnel in any surveillance of civilian activity. In addition, the Army authorized the destruction of all information which had been amassed as a result of prior surveillance activity. I trust that this pledge was made in good faith. It has, however, come to light that certain of the information contained in now-destroyed files had been placed on microfilm and that this microfilm is still in existence. While I commend the Secretary of the Army for his immediate public acknowledgement of this fact, we must not lose sight of the fact that had legislation such as that I propose been in effect, more careful and complete procedures might have been utilized to insure that all information was destroyed.

During the late 1960's and early 1970's, our Nation faced a questioning and reevaluating process perhaps unprecedented since our earliest days. Social values and public policies were changing and a wide spectrum of the population was actively calling for more and more change. Whether it was the urgency of the call or the variety of sources from which the call emanated, it is clear that our Government's reaction was one of fear—fear of disorder, perhaps fear of revolution, certainly fear of change.

We now know that during this period, the Army engaged over 1,500 agents throughout the United States to monitor and record the political activities of countless civilians and civilian organizations. Their observations were stored in numerous data centers at Army installations around the country. In addition, the information recorded was ambiguous, often unsubstantiated, full of irrelevant personal information, and bore little relationship to the claim that it was being recorded in preparedness for possible civil disturbances. Those individuals and organizations who were the target of this surveillance included educators:

Jerome B. Wiesner, president of the Massachusetts Institute of Technology, testified:

> I know that many, many students are afraid to participate in political activities of various kinds ... it might possibly cost them a job or at least make their clearance for a job more difficult to obtain ... I might add here that I am not referring to confrontations or planned violence, but participation in seminars, political study groups, etc., that were seriously questioning governmental and social arrangements or policies.

MINISTERS

The Reverend Jesse Jackson testified:

> Our organization's success, its life, is directly related to the confidence that the people have in us ... and for them to assume that we are surveyed by the Army, gives them the impression that we are engaging in subversive activity.

LAWYERS

Jay Miller, executive director of the Illinois American Civil Liberties Union testified:

> I think it's (military surveillance) demoralizing to our staff ... and then, finally, I think there is a phenomenon that goes on (in the public's mind) where there's smoke there's fire.

LEGISLATORS

Abner J. Mikva, former Representative from Illinois and a subject of surveillance testified:

> Even the possibility of surveillance raises the specter of subtle political interference ... Fear or suspicion that one's speech is being monitored by a stranger ... can have a seriously inhibiting effect upon the willingness to voice critical and constructive ideas.

Mr. President, on January 14, 1784, the Congress of the United States met to ratify the Treaty of Paris recognizing this Nation's independence from Great Britain. On January 14, 1975, as we convene the 94th session of that Congress, I would urge that we reflect upon the ideals and goals of our infant days. It is essential that we continue to believe in the right to free expression for all citizens, but especially for those whose expression finds itself at odds with existing theories of government and social order. Our Nation cannot afford the loss of growth and creativity that springs from such peaceful dissent. In a famous court case, Robert H. Jackson observed:

> Freedom to differ is not limited to things that do not matter. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.

The test is now before us; history will record our answer.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 84

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Freedom From Military Surveillance Act of 1975".

SEC. 2. (a) Chapter 67 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1386. Use of the Armed Forces of the United States for surveillance prohibited

"(a) Except as provided in subsection (b) of this section or otherwise required by statute, whoever being a civil officer of the United States or a member of the Armed Forces of the United States willfully causes any part of the Armed Forces of the United States to conduct investigations into, maintain surveillance over, or maintain records regarding the beliefs, associations, political activities, or private affairs of any citizen of the United States who is not a member of the Armed Forces, or regarding the beliefs, membership, or political activities of any group or organization of such citizens, shall be fined not more than $10,000, or imprisoned not more than two years, or both.

"(b) Nothing contained in the provisions of this section shall be deemed either to limit or to enlarge such legal authority of the Armed Forces of the United States as may exist to:

"(1) collect, receive, or maintain information relevant to a criminal investigation, the conduct of which has been lawfully charged to the Armed Forces of the United States;

"(2) collect, receive, or maintain information relevant to lawful investigations of persons who are applicants for employment with the Armed Forces of the United States, who are employees of the Armed Forces of the United States, or who are contractors, or prospective contractors, with the Armed Forces of the United States;

"(3) collect, receive, or maintain information necessary and proper to the restoration of public order once the Armed Forces of the United States have been deployed under the provisions of title 10, United States Code, sections 331, 332, 333, and 334: *Provided, however,* That such information shall be destroyed no later than sixty days after the withdrawal of such Armed Forces.

"(c) As used in this section the term—

"(1) 'civil officer of the United States' means any civilian employee of the United States;

"(2) 'Armed Forces of the United States' means the Army, Navy, Air Force, Marine Corps, Coast Guard, and the militia of any State when in Federal service;

"(3) 'militia' has the same meaning as that set forth in section 311, title 10, United States Code;

"(4) 'investigations' means any oral or written inquiry directed to any person, organization, or agency of Government;

"(5) 'surveillance' means any monitoring of persons, places, or events by means of electronic interception, overt and covert infiltration, overt and covert observation, photography, and the use of informants;

"(6) 'records' means records resulting from any investigation or surveillance conducted by the Armed Forces of the United States, or resulting from any investigation or surveillance conducted by any governmental agency of the United States or any State;

"(7) 'private affairs' means the financial, medical, sexual, marital, or familial affairs of an individual."

(b) The analysis of chapter 67 of such title is further amended by adding at the end thereof the following new item:

"1386. Use of Armed Forces of the United States for surveillance prohibited.".

Sec. 3. (a) Title 28, United States Code, is amended by adding after chapter 171 the following new chapter:

"Chapter 172. ILLEGAL SURVEILLANCE

"Sec.

"2691. Civil actions generally; illegal surveillance.

"2692. Special class actions; illegal surveillance.

"2693. Venue; jurisdictional amount.

"§ 2691. Civil action, generally; illegal surveillance

"(a) Except as provided in subsection (b) of section 1386, title 18, United States Code, or otherwise required by statute, whoever being a civil officer of the United States or a member of the Armed Forces of the United States causes any part of the Armed Forces of the United States to conduct investigations into, maintain surveillance over, or maintain records regarding the beliefs, associations, political activities, or private affairs of any citizen of the United States who is not a member of the Armed Forces, or regarding the beliefs, membership, or political activities of any group or organization of such citizens shall be liable for damages to any person, group, or organization that has been the subject of a prohibited investigation, surveillance, or recordkeeping in an amount equal to the sum of—

"(1) any actual damages suffered by plaintiff, but not less than liquidated damages at the rate of $100 per day for each day the prohibited activity was conducted;

"(2) such punitive damages as the court may allow, but not in excess of $1,000; and

"(3) the costs of any successful action, including reasonable attorneys; fees.

"(b) Any person, group, or organization that has been the subject of any investigation, surveillance, or record-keeping in violation of subsection (a) of this section may bring a civil action against the United States for such equitable relief as the court determines appropriate to enjoin and redress such violation.

"§ 2692. Special class actions; illegal surveillance

"Any person, group, or organization that has been the subject of an investigation, surveillance, or record-keeping in violation of subsection (a) of section 2691 of this chapter, may bring a class action against the United States on behalf of himself and others similarly situated for such equitable relief as the court determines appropriate to enjoin and redress such violations.

"§ 2693. Venue; jurisdictional amount

"(a) A person may bring a civil action under this chapter in any district court of the United States for the district in which the violation occurs, or in any district court of the United States for the district in which such person resides or conducts business, or has his principal place of business, or in the District Court of the United States for the District of Columbia.

"(b) Any Federal court in which a civil action under this chapter is brought pursuant to subsection (a) shall have jurisdiction over such action regardless of the pecuniary amount in controversy."

(b) The analysis of part VI of such title 28 is amended by adding immediately after item 171 the following new item:

"172. Illegal surveillance............ 2691".

(c) Section 1343 of title 28, United States Code, is amended by redesignating paragraph (4) as paragraph (5) and by inserting immediately after paragraph (3) the following new paragraph:

"(4) To recover damages or to secure equitable or other relief under chapter 172 of this title;"

Sec. 4. The civil actions provided by the amendments to title 28, United States Code, made by this Act shall apply only with respect to violations of subsection 2691(a) of title 28, United States Code, as added by this Act, arising on or after the date of enactment of this Act.

Sec. 5(a) Section 1385 of title 18, United States Code, is amended by striking out "the Army or the Air Force" and inserting in lieu thereof the following: "the Armed Forces of the United States".

(b)(1) The section heading 1385 of such title is amended to read as follows:

"§1385. Use of Armed Forces of the United States as posse comitatus"

(2) Item 1385 of the analysis of chapter 67 is amended to read as follows:

"1385. Use of Armed Forces of the United States as posse comitatus".

By Mr. MATHIAS (for himself and Mr. Beall):

S. 85. A bill to reimburse the city of Frederick, Md., for money paid saving harmless valuable military and hospital supplies. Referred to the Committee on the Judiciary.

FREDERICK REPARATIONS BILL

Mr. MATHIAS. Mr. President, early on the morning of July 9, 1864, Gen. Jubal A. Early rode into the city of Frederick, Md., from his Confederate headquarters at the city perimeter, his thousands of troops being deployed to the north and the south of the area for the engagement with Union forces at the Monocacy River. On this day, the following demand was presented to the mayor of Frederick:

> By order of the Lt. General Cm'd'g, we require of the mayor and town authorities of Frederick City Two Hundred Thousand Dollars ($200,000) in current money for the use of this Army.

Frederick met this demand, and as a result, supplies vital to the Union cause were not confiscated.

On October 1, 1951, only 14 years ago, the last of the debt incurred by the city because it paid the money demanded by Confederate General Early was finally liquidated by the citizens of Frederick.

These two occurrences, separated by the passage of time, are the events which outline the creation of a just and equitable claim by the people of Frederick against their Federal Government, a claim which has gone unfulfilled, a claim which is a blemish on the record of justice we value as a nation.

The people of Frederick saw the possible adverse consequences to the causes, maintaining their loyalty to the Federal Government, they saved these vital Union supplies. This act of patriotism was costly to the people of Frederick. With a town tax revenue of only $8,000 per year at the time, they nevertheless pledged the ransom in order that Government supplies valued between $1 million and $1.5 million remain unmolested by the Confederacy. The city of Frederick carried the financial burden of the Government supply ransom for 87 years and the cost to the city of the forced debt entailed deprivation of municipal services except through higher taxes and borrowed money. I know of no other city, North or South, which can make this claim.

The time has come for the Federal Government to reimburse Frederick. The Federal Government should pay Frederick value for the value it received as a result of the patriotic acts of this city. The bill I introduce today will allow such payment and right this long overdue injustice.

Mr. President, Frederick is not making a claim for the value of private property damaged or destroyed by the enemy, although the Congress has enacted bills on numerous occasions authorizing the claims of private citizens for the value of their private property destroyed by the enemy. Frederick protected and saved very valuable Government property.

The Congress has for many years recognized the merits of claims by the American Indian that arise from colonial days and has reimbursed owners of fishing vessels for fines which had to be paid for the violation of fishing area limitations of various South American countries.

Frederick is justly entitled to reimbursement for the actual costs of the following items:

One. Bonds and certificates issued to the five banks from which the General Early money was obtained as security for the loan to the city on July 9, 1864, held by banks 1868–88.

Two. Interest paid at 6-percent per annum by the city upon the bonds and certificates to the banks, 1868–88, such interest being derived from taxes imposed by the city.

Three. Interest on the tax loss to pay interest 1868–88, at 4 percent per year.

Fourth. Tax exemption granted five banks from general special tax levy of 20 cents per $100 on capital stock, 1868–88.

Fifth. Interest at 4 percent on tax loss in granting exemption to banks, 1868–88.

Sixth. Interest at 4 percent per annum on above costs to city to repay five banks for their respective loans, the bank loans having been made to the city 1864, and compromise settlement agreement on debt payment of $125,225.21 of above bonds and certificates accepted July 1, 1868, paid July 1, 1888, by refunding debt, 1888–1970.

Seventh. Interest paid by city on 24 percent of refunding bond issues of 1888 in amount of $512,500 at 4 percent interest, bank bonds refunded in amount of $123,000, 1888–1917.

Tax loss to pay interest on 24 percent at 4 percent, 1888–1917.

Eighth. Interest at 4 percent per annum on tax loss to pay 24 percent of interest 1888–1917, bonds having been partially amortized, 1888–1917.

Ninth. Interest at 4 percent on interest paid on bonds and on tax loss incurred to pay interest, 1917–70.

Tenth. Interest paid on 24 percent of refunding bond issue of October 1, 1917, at 4½ percent, attributable to refunded bank bonds, of issue of $380,000, October 1, 1917, to October 1951.

Tax loss to pay interest on 24 percent at 4½ percent, 1917–51.

Twelfth. Interest at 4 percent on interest paid on bonds and on tax loss incurred to pay interest, 1951–70.

History records that many cities were destroyed during the Civil War, yet few of them incurred such a prodigious debt as that of Frederick in its attempt to protect supplies for which there was a dire need. Frederick sacrificed money which it did not have in order to defend Federal supplies at a time when President Lincoln indicated to Union generals the critical need of clothing and supplies for Union troops engaged in defensive deployment.

The bill I propose will terminate the financial obligation for the genuine service to the country by the city of Frederick. Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 85

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the city of Frederick, Maryland, a sum not to exceed the actual cost to the city, including interest thereon when incurred, to make the payment as hereinafter stated, on the debt incurred until October 1, 1951, and simple interest at the rate of 4 per centum per annum on the cost to the city to liquidate the debt as incurred, until reimbursement is paid of the amount determined by the Secretary of the Treasury to be due as defined herein, as of the date of payment in full satisfaction of the claim of the city against the United States for reimbursement for the money paid by the city on July 9, 1864, upon demand of Lieutenant General Jubal A. Early (commanding general of the Confederate Armed Forces of over twenty thousand troops then surrounding the city) and under rumored threats that all property in the city would be destroyed;—the demand having specified $200,000, and in the alternative medical supplies of $50,000 at current prices, commissary supplies to the same amount, ordnance supplies with the same, and quartermaster's supplies of a like amount (all of such being the property of the United States Government as part of the supply depot and hospital of the command headquarters of the Union Armed Forces in Frederick for the deployment of Union troops at strategic points along the Maryland shores of the Potomac River in western Maryland as a defense against invasion by Confederate troops across the Potomac and in defense of Washington from attack through Maryland, and to supply Union troops moved through the command area during the war; none of such demanded supplies being the property of Frederick)—and with all Federal troops, (including advance guard and their mobility supplies) having evacuated the city to be deployed for the imminent battle of the Monocacy, the city and the Government supply depot being left defenseless; after pleading negotiations throughout the day with the Confederate command, which failed, and under stress of the rumored threats of destruction, the city demanded the money required of the banks of the city to be delivered to the Confederate general, the city promising the lending banks that the citizens of the city would be taxed to reimburse the banks, and taxes were imposed over a long period by the city to amortize the debt and through a series of refunding bond issues of the city, finally liquidated in the year 1951, at rates of interest of 6 per centum, 4 per centum, and 4½ per centum and upon delivery of the money by the banks to the city and delivered to the Confederate general late in the day, by orders of the Confederate general none of the Government property was destroyed nor molested and not only was Government property saved harmless, but the daylong negotiations, between city officials and Confederate officers, gave time for better strategic deployment of the limited Union Armed Forces at the Monocacy and the arrival of some reinforcements, and most importantly the relatively short battle of Monocacy, together with the stubborn resistance and difficulty of Frederick in raising the $200,000 demanded, lost a day in the march upon Washington by the Confederate Armed Forces and gave time for the successful reinforcement of the Union defense of Washington—thus the claim of Frederick is for action taken not only to save United States Government property from being destroyed, but also, at great financial cost to the citizens of Frederick to carry the debt, which contributed greatly in saving Washington from direct attack by over twenty thousand of the Confederate Armed Forces and allowed time for arrival of reinforcements for the Union Armed Forces for the defense of Washington.

By Mr. MATHIAS:

S. 86. A bill to establish a Conference on the Antitrust Laws. Referred to the Committee on the Judiciary.

Mr. MATHIAS. Mr. President, there has been a rebirth of interest in antitrust law. This is welcome, although the economic difficulties of our Nation which brought it about are hardly to be desired.

But, Mr. President, I fear that we are ill prepared for this new period. I fear that our understanding of antitrust theory and the operation of our economy has not kept pace with events. I fear that our purpose has become confused over the years, if indeed it was ever clear. I believe that through exception and compromise, the antitrust statutes have become riddled with uncertainty and ambiguity. I believe that inadequate attention has been paid to the possibilities of State enforcement and other means of enforcement.

For instance, in the last few years, we have vacillated between widely varying degrees of control of prices and wages under the apparent delusion that freely competitive prices and wages are not acceptable to the American people. This erosion of the basic assumptions behind our antitrust laws has gone largely undiscussed, although there has been much attention-calling to the inconsistency between the antitrust laws and most of our Federal regulation of transportation and other public utilities.

These are some of my views. In this regard, I am like almost every other person who has had some experience with the antitrust laws. All have views about what needs to be done and sometimes these conflict.

In any case, I believe that we need to attempt to provide some answers and to reach some decisions about how to proceed. For that reason, I am today reintroducing legislation which I introduced in the 93d Congress (S. 2659) and which I have introduced in previous Congresses, including those in which I served as a Member of the House of Representatives.

In introducing this bill calling for a conference on the antitrust laws, I submit that it is high time that we create the mechanism for a thorough thoughtful review by an expert but sufficiently broadbased body as to give to the Congress some real help in evaluating the adequacy of our present statutes and their administration.

Work of the conference would be directed by a council composed of 12 members, 6 from various branches of the Government and 6 from private life. General membership of the conference would include, in addition to members of the council, at least 61 additional members whose knowledge and experience would qualify them to assist the conference in a thorough and objective analysis and evaluation of our existing antitrust statutes and their enforcement. These statutes, passed by the Congress in 1890, 1914 1936, and 1950, are said by some to contain inconsistencies. There are also those who argue that the conditions of our basic economy and of the world economy in which U.S. businesses must compete have so changed that some of these laws are now out of date.

It is also suggested that these laws, because of inherent weaknesses and alleged lack of vigorous enforcement, have failed to prevent increasing concentration of control of U.S. industry and have permitted the development of conditions in a number of so-called oligopoly industries in which competition does not now adequately serve the interests of the consumers, taxpayers, businessmen, or of the Nation as a whole. And it is suggested that they work different results depending upon the form of business to which they are applied. Our system is further being tested in competition with other economic systems with different approaches to control of monopoly. These are matters of great controversy among economists, politicians and lawyers inside and outside the Government.

It is also true that, whether justified or not, much of the reporting in the press of principal antitrust cases in recent years has been such as not to inspire confidence in the public that the welfare of the Nation is truly being served.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 86

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a Conference on the Antitrust Laws of the United States (in this Act referred to as the "Conference"), composed of a general membership and a Council constituted in the manner hereinafter provided.

PURPOSE OF THE CONFERENCE

SEC. 2. The purpose of the Conference shall be to—

(a) study the operation of existing antitrust statutes, as interpreted by judicial, executive, and administrative decisions, and their effect upon competition, price levels, employment, profits, production, consumption, and the capability of the economy to best sustain the Nation at home and abroad;

(b) study the enforcement procedures of the Department of Justice, the Federal Trade Commission, and other agencies of Government as they relate to the antitrust laws; and

(c) make recommendations for improvement in the statutory framework as well as in enforcement administration and procedures wherever appropriate.

MEMBERSHIP OF THE COUNCIL

SEC. 3. (a) NUMBER AND APPOINTMENT.—The Council shall be composed of twelve members as follows:

(1) Four appointed by the President of the United States, two from the executive branch of the Government, and two from private life.

(2) Four appointed by the President of the Senate, two from the Senate, and two from private life.

(3) Four appointed by the Speaker of the House of Representatives, two from the House of Representatives, and two from private life.

(b) POLITICAL AFFILIATION.—Of each class of two members mentioned in subsection (a), no two shall be from the same political party.

(c) VACANCIES.—Vacancies in the Council shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(d) The Council shall elect a Chairman and a Vice Chairman from among its members.

MEMBERSHIP OF CONFERENCE

SEC. 4. The general membership of the Conference shall consist of members of the Council, and at least sixty-one additional members of the public, including businessmen, lawyers, both government and private, scholars, and others specially informed by knowledge and experience with respect to antitrust laws and the economy. The composition of the membership and its total number shall be determined from time to time by the Council.

COMPENSATION OF MEMBERS OF THE CONFERENCE

SEC. 5. (a) MEMBERS OF CONGRESS.—Members of Congress, who are members of the Conference, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Conference.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—Any member of the Conference who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Conference, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $36,000; and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Conference.

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall each receive not exceeding $200 per diem when engaged in the performance of duties vested in the Conference, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

STAFF OF THE CONFERENCE

SEC. 6. Subject to such rules and regulations as may be adopted by the Conference, the Chairman shall have the power to—

(a) appoint and fix the compensation of an executive director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(b) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

EXPENSES OF THE CONFERENCE

SEC. 7. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

EXPIRATION OF THE CONFERENCE

SEC. 8. Sixty days after the submission to Congress of the report provided for in section 9, the Conference shall cease to exist.

DUTY OF THE CONFERENCE TO REPORT

SEC. 9. The Conference shall transmit to the Congress not later than two years after the first meeting of the Council a final report containing a detailed statement of the findings and conclusions of the Conference, together with such recommendations as it deems advisable. The Conference may also submit interim reports prior to submission of its final report.

By Mr. MATHIAS:

S. 88. A bill to amend the Internal Revenue Code of 1954 to provide for an 8-percent reduction in the amount of income tax withholding. Referred to the Committee on Finance.

STIMULATING THE ECONOMY

Mr. MATHIAS. Mr. President, last night President Ford explained to the American people the need for stimulating the economy by means of a recession-fighting tax cut. I believe the President was correct in his recognition that the Federal Government must take an active role in insuring that production and jobs in America go up.

I do regret, however, that action of a more limited nature could not have been taken earlier so that this huge drain in revenues would be unnecessary today. Last March, I proposed that we change the withholding tables attached to the Federal income tax to eliminate the massive overwithholding that has occurred in recent years. This change would have meant that a large part of the refunds that millions of taxpayers normally receive in April would have been retained by the taxpayers during each pay period throughout the year. The economic effect, as explained by economists at CRS and using the facilities of Data Resources, Inc., would have been to increase GNP, produce almost 200,000 new jobs, and reduce the real Federal deficit because of the added revenues spawned by the more active economy. This proposal would also have reduced inflation by insuring a more adequate supply of goods.

The Congress, in its wisdom, did not act on my proposal or on any significant tax measures. Thus today, we are told we need an immediate and large, tax cut. We are told that this tax cut should be retroactive and limited to 1974 income. This may well be the case, but it behooves us, I believe, to insure that this type of unnecessary overwithholding, which has been such a fiscal drag, is not continued in the future.

For that reason, I introduce again today a bill to cut withholding rates by 8 percent. Such a reduction would free approximately $10 billion a year to flow through our economy producing jobs, goods and services. This proposal deserves to be enacted forthwith. The problem of excessive, and unnecessary, overwithholding on a massive scale must be attended to by us in any tax bill which is enacted this year. It is my intention to insure that as we make any tax adjustment we also adjust the corresponding withholding tables.

Last year, an estimated $22.2 billion had to be refunded to American taxpayers at the end of the tax year. This is close to one-fourth of the total Federal income tax owned by American citizens. This pattern has been prevalent for years. It is a situation which was exacerbated by changes made as part of the 1971 Revenue Act which were designed at the time to solve limited cases of underwithholding, but resulted in increasing overwithholding by approximately $8 to $10 billion.

Accordingly, last year almost 80 percent of American taxpayers received refunds. The average refund in recent years has been close to $350. Many taxpayers prefer a system which results in overwithholding. They would rather that Uncle Sam owe them in April than they owe Uncle Sam. The size and number of the refunds due each April, however, suggests that withholding could be modestly reduced without resulting in underwithholding for most Americans. In other words, the average American would still overwithhold, but not as much as now. I believe it is hard to justify any system which withholds from taxpayers more money than the Government is ultimately entitled to.

I was pleased last year that George Schultz, who was then Secretary of the Treasury, indicated his support for a reform such as I have proposed. I would hope similar support would be forthcoming from both the administration and the Congress.

Mr. President, I ask that an additional analysis of this proposal which was prepared by the Congressional Research Service last spring be printed in the RECORD. I have asked CRS to update this study, and I will share this additional information with my colleagues as soon as it is available. I also ask unanimous consent that a copy of the bill I am introducing be printed in the RECORD following the CRS study.

There being no objection, the study and bill were ordered to be printed in the RECORD, as follows:

ECONOMIC EFFECT OF CORRECTING THE OVERWITHHOLDING IN THE INDIVIDUAL INCOME TAX

What would be the economic impact of the Federal government's collecting 10 billion dollars less annually in withheld taxes, while not changing the tax liability? In other words, personal tax withholding would decrease, but income tax refunds would decrease also by the same amount. Would this temporary increase in spendable income help the economy avoid the 1974 slump that is now being predicted?

In order to analyze the effects of this change, the Data Resources Inc. Quarterly model of the economy was used. The model solution (called "Control 1/30") assumes for 1974 as 1 percent annual rate of growth of real Gross National Product (real GNP), an increase in the Consumer Price Index of 8.9 percent and a three-month curtailment of oil imports. The solution of Control 1/30 and a new solution, "overwithholding," which shows the effect of the withholding schedule change, are compared in Table 2.

In 1972 the tax laws were changed, allowing larger personal exemptions. At the same time, however, the withholding schedules were changed to correct for previous underwithholding. (Table 1 shows the percentage change between the old withholding schedules and the 1972 withholding schedules.) That is, effective tax rates were lowered at the same time that withholding rates were increased. The amount of overwithholding that resulted far exceeded anyone's expectation. The intended stimulation of the economy from the tax cuts was more than offset by the change in the withholding schedules. Income tax refunds for 1972 increased 10 billion dollars—from 14 billion dollars in the spring, 1972, to 24 billion dollars in the spring of 1973.

The withholding schedule of 1972 is still in effect, resulting in an annual overwithholding of 10 billion (in today's dollars). If withholding rates were changed back to pre-1972 levels, a 10 billion dollar annual cut in withholding could be achieved. The economic effect would be that of a temporary tax cut, while the budgetary effect would be, at the worst, null, since tax liabilities would not decrease as they would if an actual tax cut were made.

A permanent change in the withholding schedules will only create a temporary "tax cut" effect. In 1974, taxes would appear lower, reflecting the lower withholding rates. Since taxpayers would have more income in 1974, they would presumably spend more. The economy would then expand to meet this demand; GNP would rise and more jobs would be created. But in 1975, the 1974 income tax refunds will also be lower. Thus, the effect of the continued lower withholding in 1975 is cancelled out by the decrease in income tax refunds from the previous year. This economic "tax cut" will stimulate the economy in the first year, but not in subsequent years. It will have the effect of a tax cut in 1974 only.

PERCENTAGE CHANGE IN AMOUNT OF INDIVIDUAL INCOME TAXES WITHHELD, BY SELECTED ANNUAL WAGES, MARITAL STATUS, AND FAMILY SIZE, 1971–72

Annual wages	Single person	No children	2 children
$3,600	14.8	23.0	(1)
$6,000	6.0	3.8	−0.9
$8,400	7.7	2.4	−1.1
$10,000	6.2	1.8	−.9
$14,400	5.6	7.1	2.0
$20,400	15.9	12.7	9.0

[1] Withholding was increased from zero to $0.60 a month.

Sources: Commerce Clearing House, "New Federal Graduated Withholding Tax Tables Effective Jan. 16, 1972" (CCH, 1971), pp. 14, 15, 24, 25; CCH, "New 1971 Federal Graduated Withholding Tax Tables Effective Jan. 1, 1971" (CCH, 1970), pp. 14, 15, 24, 25.

The economic impact can be measured by adding the assumption of a temporary "tax cut" to the economic assumptions of the DRI model. However, because it's too late for this withholding schedule's change to be made in the first quarter of 1974, it was assumed that the new schedules would go into effect the second quarter of 1974, resulting in a decrease in taxes withheld in 1974 of 7.5 billion dollars, or three-quarters of the 10 billion dollar decrease (at annual rates) in withholding. In other words, personal taxes would be $2.5 billion lower in each of the last three quarters of 1974. In 1975, $10 billion fewer taxes would be withheld, $2.5 billion in each quarter of 1975. However, because the refunds from 1974, received in 1975, had been decreased by $7.5 billion, the net effect in 1975 would be only a $2.5 billion decrease in individual taxes withheld. In 1976, the full $10 billion decrease in 1975 tax refunds would completely cancel the economic effect of the new withholding rates. The above "tax cuts" were substituted in the DRI model, and a new prediction for 1974 and 1975 simulated.

As is seen from the accompanying tables, the cut in withholding results in an immediate rise in real GNP for 1974. It should be noted that the DRI forecast, "Control-1/30", differs somewhat from the official administration forecast. Because the DRI forecast is less optimistic than the administration's, the "overwithholding" solution, which shows a much better economic climate than "Control 1/30", may not look very different from the administration's forecast. However, "overwithholding" is based on the DRI assumptions. The important thing to look at is not the *level* of GNP, unemployment, etc., in the "overwithholding", but the difference between "overwithholding" and the DRI forecast. For example, what is important is that GNP is $5.8 billion higher in 1974 in the "overwithholding" solution (assuming the change in the withholding schedules) than it is in the DRI control solution, as is shown in Table 2. The price level, measured by the GNP deflator, is about the same for both solutions.

The "tax cut" directly affects disposable income, since it lowers taxes. Personal income is also, higher, however. This is not caused directly by the change in taxes; it is caused by the overall stimulation of the economy, which raises GNP and lowers the unemployment rate. This "multiplier" effect raises disposable income $9.4 billion above the control solution in 1974 while the tax cut accounts for only $7.5 million of this difference.

This stimulation of the economy feeds back to increased tax receipts. Total federal tax receipts appear to decrease in 1974 not by the $7.5 billion but by $5.8 billion. Because the $7.5 "cut" is not a cut in personal tax liability, the net effect is to increase revenues by $1.7 billion. This increase in revenues is caused by higher corporate profits and higher personal income, providing a higher tax base.

The effects of the change in overwithholding in 1975 are smaller and in 1976 no significant difference is found between the control solution and the overwithholding solution.

In effect, a permanent change in the overwithholding will provide a temporary stimulus to the economy at a time when a recession is being predicted.

TABLE 2

	1974	1975
Gross national product (GNP):		
Overwithholding	1,398.6	1,533.6
Control Jan. 30	1,392.7	1,532.1
Difference	5.8	1.6
Percent difference	.42	.10
GNP in 1958 dollars (real GNP):		
Overwithholding	849.6	882.9
Control Jan. 30	845.5	881.6
Difference	4.1	1.3
Percent difference	.48	.14
GNP deflator (1958=1.00):		
Overwithholding	1.646	1.737
Control Jan. 30	1.647	1.737
Difference	−.001	−.001
Percent difference	−.07	−.04
Unemployment rate:		
Overwithholding	5.6	5.6
Control Jan. 30	5.7	5.7
Difference	−0.1	−0.1
Percent difference	−1.91	−1.77
Personal income:		
Overwithholding	1,140.8	1,241.0
Control Jan. 30	1,138.3	1,240.5
Difference	2.4	0.6
Percent difference	.21	.05
Disposable income (personal income minus taxes):		
Overwithholding	978.0	1,056.0
Control Jan. 30	968.6	1,052.7
Difference	9.4	3.3
Percent difference	.97	.31
Consumption (personal consumption expenditures):		
Overwithholding	880.1	957.6
Control Jan. 30	874.5	955.4
Difference	5.6	2.2
Percent difference	.64	.23
Total Federal tax receipts:		
Overwithholding	280.2	313.8
Control Jan. 30	286.0	316.5
Difference	−5.8	−2.6
Percent difference	−2.03	−0.83
Federal personal taxes:		
Overwithholding	118.1	133.2
Control Jan. 30	125.3	136.1
Difference	−7.2	−2.9
Percent difference	−5.72	−2.13
Federal corporate profits taxes:		
Overwithholding	48.0	52.2
Control Jan. 30	47.0	52.1
Difference	1.0	.2
Percent difference	2.05	.35

S. 88

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source) is amended by striking out "The amount of income tax to be withheld shall be:" in each of the tables contained therein and inserting in lieu thereof "The amount of income tax to be withheld is 92 percent of:".

(b) The amendment made by subsection (a) shall apply with respect to wages paid on or after the thirtieth day after the date of the enactment of this Act.

By Mr. MATHIAS (for himself, Mr. BEALL, Mr. TUNNEY, and Mr. CRANSTON):

S. 89. A bill to provide that income from entertainment activities held in conjunction with a public fair conducted by an organization described in section 501(c), (3) and (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organization. Referred to the Committee on Finance.

SAVING STATE AND COUNTY FAIRS

Mr. MATHIAS. Mr. President, on behalf of Senators BEALL and TUNNEY, I am today introducing a bill to continue the Federal income tax policies which have traditionally applied to State and local fairs. I am also introducing this bill as an amendment to the pending legislation, which concerns the debt ceiling limit.

The purpose of this bill is to insure the continued financial viability of these fairs—which are so much a part of our history and culture, and which are today threatened by a cloud raised by the Internal Revenue Service. The IRS has, on its own volition, recently changed its traditional policy that income from entertainment activities during a State fair are within the ambit of the tax exemption which has been accorded these fairs under the Internal Revenue Code. The bill which I send to the desk would provide that income from such entertainment activities would continue to be tax exempt.

This bill is designed to be narrow in scope. Its purpose is to cover activities that are an integral part of the fair. It would not extend to activities that do not occur during the fair. Our goal is to insure that these fairs, which are attended by many millions of Americans, are not taxed out of operation.

State and county fairs in almost every State in our country will be protected by this legislation.

I ask unanimous consent that there be printed in the RECORD at this point a copy of the bill which we are introducing today, a brief summary of the current problem, and the prepared testimony of Jacques T. Schlenger, Esq., of Maryland, before the House Committee on Ways and Means in support of similar legislation introduced in that chamber, and a listing of some of the largest fairs in the United States.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 89

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 513 of the Internal Revenue Code of 1954 (relating to the definition of an unrelated trade or business) is amended by adding the following subsection 513(d):

"(d) SPECIAL RULE FOR FAIRS AND EXPOSITIONS.—The term 'unrelated trade or business' shall not include the operation of a public entertainment activity in conjunction with a National, State, local, regional, or international fair or exposition conducted by an organization described in section 501 (c), (3) and (5); nor shall the operation of any such public entertainment activity prevent, or cause the denial of, the exemption of such organization otherwise exempt under section 501(c), (3) and (5).".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to taxable years beginning after December 31, 1959.

FACT SHEET ON TAXATION OF MARYLAND STATE FAIRS AND OTHER STATE FAIRS

I. Brief Statements of Legislative History of the Unrelated Trade or Business Tax as Applied to State and County Fairs and Expositions:

State Fairs and other agricultural and charitable organizations have been exempt from taxation since the inception of the Federal income tax in 1913. Entertainment income integrally related to the operations of such organizations has also historically been exempt.

II. Facts about Maryland State Fair:

The Maryland State Fair has been conducted for over 80 years in substantially the same manner. Benefits to agricultural and related fields in the State of Maryland have been significant. The State of Maryland itself subsidizes the Fair, and the horse racing activities and income therefrom are authorized by State statutes and regulated by State agencies.

III. Facts Relating to Other Fairs and Expositions:

Over 300 state and county fairs are conducted in at least 46 states. Almost all have some form of entertainment revenue.

IV. Current Internal Revenue Service Position:

The Internal Revenue Service, despite losing in Court in its case against Maryland State Fair, is actively attempting to tax entertainment income integrally related to fairs.

V. Effect of Successful Maintaining of Internal Revenue Service Position Without Remedial Legislation:

If the IRS is successful in its attempts to tax entertainment revenue of fairs, especially without permitting an offsetting deduction for other aspects of fair operations conducted at a loss, the effect will certainly be to eliminate the existence of fairs in their present form.

VI. Solution:

Specific legislation is required to state that such income shall not be subject to taxation and shall not affect the exempt status of fairs.

STATEMENT BY JACQUES T. SCHLENGER, ESQ., ON BEHALF OF MARYLAND STATE FAIR AND AGRICULTURAL SOCIETY, INC., IN SUPPORT OF PROPOSED ADDITION OF SECTION 513(d) TO INTERNAL REVENUE CODE OF 1954, AS AMENDED

PROPOSED SECTION 513(d)

"(d) SPECIAL RULE FOR FAIRS AND EXPOSITIONS.—The term 'unrelated trade or business' shall not include the operation of a public entertainment activity in conjunction with a national, state, local, regional or international fair or exposition conducted by an organization described in Secton 501(c) (3) or (5); nor shall the operation of any such public entertainment activity prevent, or cause the denial of, the exemption of such organization otherwise exempt under either Section 501(c)(3) or 501(c)(5)."

I. Brief Statement of Legislative History of the Unrelated Trade or Business Tax as Applied to State and County Fairs and Expositions:

Section 501(c)(3) grants income tax exemption to, among others, corporations organized and operated exclusively for charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 501(c)(5) grants income tax exemption to labor, agricultural or horticultural organizations.

The Revenue Act of 1913 provided for the exemption from taxation of labor, agricultural and horticultural organizations. Also made exempt were charitable and educational organizations, although their exemption, as distinguished from agricultural, etc., organizations, was conditional on the filing with the Collector of Internal Revenue of an affidavit setting out the character and purposes of the organization, showing that no part of income inured to the benefit of any private stockholder or individual and that such income was used exclusively for the promotion of the purposes for which it was organized. See Section 11G(a)[2][a] and [f], and Regulations No. 33, Articles 67 and 68, issued in 1918 under the Revenue Act of 1916.

Regulations 45, Article 512, issued in 1921 under the Revenue Act of 1918, provided as follows:

"Agricultural and horticultural organizations.—Agricultural or horticultural organizations exempt from tax do not include corporations engaged in growing agricultural or horticultural products or raising livestock or similar products for profit, but include only those organizations which, having no net income inuring to the benefit of their members, are educational or instructive in character and have for their purpose the betterment of the conditions of those engaged in these pursuits, the improvement of the grade of their products, and the encouragement and promotion of these industries to a higher degree of efficiency. Included in this class as exempt are organizations such as county fairs and like associations of a quasi-public character, which through a system of awards, prizes, or premiums are designed to encourage the production of better livestock, better agricultural and horticultural products, and whose income, derived from gate receipts, entry fees, donations, etc., is used exclusively to meet the necessary expenses of upkeep and operation. Societies or associations which have for their purpose the holding of annual or periodical race meets, from which profits inure or may inure to the benefit of the members or stockholders, do not come within the terms of this exemption. A corporation engaged in the business of raising stock or poultry, or growing grain, fruits, or other products of this character, as a means of livelihood and for the purpose of gain, is an agricultural or horticultural society only in the sense that its name indicates the kind of business in which it is engaged, and it is not exempt from tax."

These regulations were continued in substantially identical form until 1958, when the Internal Revenue Service adopted regulations under the corresponding provision of the 1954 Code, which regulations were substantially abbreviated and eliminated all references to racing.

An unrelated business income tax on exempt organizations was first proposed by the Treasury Department in 1942, and was again recommended in 1950, when legislation was passed.

Section 511(a) imposes a tax on the "unrelated business income" of most exempt organizations, including those described in Sections 501(c)(3) and (5).

The legislation was intended to apply to income derived from a trade or business "regularly carried on" by a tax exempt organization if the business is not "substantially related" to the performance of the functions upon which the organization's exemption is based. See H.R. 2319, 81st Cong., 2d Sess., 1950–2 Cum. Bull. 380, 409 and S. Rep. No. 2375, 81st Cong., 2d Sess., 1950–2 Cum. Bull. 483, 505.

II. Facts about Maryland State Fair:

The Maryland State Fair (sometimes also refered to as Timonium) has been conducted in Baltimore County at the same location (Timonium) in substantially the same manner in every year since 1878, except for the years 1941 through 1945, when the fair grounds were turned over to the United States Army. The Fair is held for ten or eleven days each summer. A Catalogue and Daily Program is published for each fair, which contains over 200 pages listing the events and participants. The Maryland State Fair also publishes annually over 10,000 copies of a 200-page "premium list", describing the contests, judging criteria, and prizes to be offered that year, which is distributed throughout the State of Maryland and to other states.

* * * * *

On each day of the fair, the number of people attending the fair far exceeds the number of people attending the races. A substantial number of the patrons who attend the racing also attend the fair, and in fact, all of the persons attending the racing events must purchase a ticket to the fair.

In addition to the activities carried on during the fair itself, the fair's facilities are made available for a wide variety of activities throughout the year, including the meetings of the Association of Maryland Horse Shows, the Maryland-Delaware Brown Swiss Sale, meetings of the State Fair Board, Maryland Conservation Council, Maryland Agricultural Extension Service, Maryland Swine Producers, the McDonogh School Fair, Maryland Horse and Pony Measuring Show, 4–H meetings and fair, Girl and Boy Scout meetings, etc.

The Maryland State Fair receives an appropriation of State funds, which has been approximating $100,000 for the past several years. This grant has been necessary for the fair to maintain and improve its facilities and to continue to conduct the fair in the manner in which it has been conducted since 1878.

The operations of the State Fair are governed by a Board of 31 Directors, almost all of whom are farmers or engage in related businesses. For example, of the 31 members of the Board during 1966, no less than 20 (including former Senator Brewster) owned and operated farms in the State of Maryland. The Board includes the Dean of the School of Agriculture of the University of Maryland, the Master of the State Grange, the President and Vice President of the Esskay Meat Company (a large beef consumer), several horse breeders, nurserymen, and representatives from the legal, medical, banking, journalism and political fields.

The conduct of thoroughbred horse racing at the fair serves two purposes: as an attraction to encourage greater attendance at the State Fair, and as a part of the Maryland horse breeding industry. The integral role played by the racing has been described by many leading authorities, an example being the statement made by Dr. Gordon M. Cairns, Dean of the School of Agriculture of the University of Maryland, testifying at a trial involving a local real property tax assessment on the track area, which was held to be improper by the highest court of the State of Maryland because the racing area was found to be an integral part of the fair:

"Any fair exists primarily for an educational function and purpose. This is to acquaint the people of the area through demonstrations, through exhibits, displays and the like. Secondly, the competitions that are held there are the basis for the development of the various aspects of our livestock and agricultural industry.

* * * * *

"Basically all fairs are created with the objective—with two objectives. The one is education and the other is how to get the people there to show them what is educational and they have to have the traditional, shall we say, entertainment features associated therewith to help draw the crowds to those attractions.

* * * * *

"In fact, you take Illinois, Indiana, Ohio, New York, all of those would have trotting races there rather than running races, but the amusement feature is there in the same pattern."

* * * * *

Horse racing at county fairs in Maryland is under the supervision of the Maryland Racing Commission. In contrast with commercial racing at the mile tracks, the Commission has long recognized that the racing conducted at Timonium is an integral part of the fair itself; since the Racing Commission's inception in 1920, Timonium's racing license has by State Statute been conditional upon the maintenance of a bona fide fair, featuring agricultural exhibits and competition. See Art. 78B, § 15(a), Annotated Code of Maryland (Repl. Vol. 1965). Thus, the Commission's 1921 report noted that:

"Twelve County Fairs [including Timonium] were granted licenses . . . *the main purpose of which was,* in the judgment of the Commission, *the encouragement of agriculture . . .*". (Emphasis added.)

Again, in 1924, the Racing Commission reported that:

"The County Fairs, which have become a valuable asset to the State, enjoyed a successful season, and each year are *doing more and more to benefit and promote the agriculture and breeding industries of the State. Racing constitutes an important event at each of the fairs,* and the Commission is constantly seeking to improve the conditions under which it is conducted." (Emphasis added.)

In keeping with these statements, the Racing Commission has been alert to maintain its policy that "[t]hese associations should not conduct racing as their primary attraction, but racing should be secondary to the real purpose for their existence." [1946 Report.] That Timonium has more than adequately met this standard is seen from the following year's report:

"The Commission is trying to emphasize and give effect to the requirement that the half-mile tracks must have a bona-fide, well organized and well-supported agricultural fair as a condition of a license to hold a race meet. . . . The agricultural exhibits and activities held in connection with the fair at Timonium were outstanding and have *won Timonium recognition as one of the best country fairs in the country.*" (1947 Report, emphasis added.)

In the early 1960's, another Maryland county fair was unable to conduct its racing and the State Racing Commission urgently requested Timonium to conduct such racing at its facilities for the other fair. To assist the State with its revenue needs, Timonium reluctantly agreed. The Maryland State Fair voluntarily paid Federal and state income taxes on the profits of such additional twelve racing days. These additional racing days are not involved in the present legislative proposal on unrelated business income.

It is obvious, but merits emphasis, that no part of the net profits of the Maryland State Fair insures to any individual. All funds go to support and improve the fair.

III. Facts Relating to Other Fairs and Expositions:

* * * * *

IV. Current Internal Revenue Service Position:

In 1955, the Internal Revenue Service compelled the Maryland State Fair to litigate in the United States District Court for the District of Maryland to obtain a decision that income from its horse racing was an integral part of the fair and not subject to the unrelated business income tax. The decision in favor of the Maryland State Fair is reported in 48 AFTR 1725. This decision did not end the question, however, since the Internal Revenue Service has continued to attempt to tax this income in subsequent years, and has even gone so far as to propose the revocation of the exemption of the entire fair. This case is, and has been for a considerable time, pending in the National Office of the Internal Revenue Service, presumably along with similar problems of other fairs.

This latest Revenue Agent promulgated this report on September 9, 1966, and the Maryland State Fair then attempted to preserve what the District Court had decided by appealing to the National Office Internal Revenue Service. After eight years of considering the matter, apparently in some detail, the National Office proclaimed that Maryland State Fair's tax exemption remained intact but that all of its income from horse racing was subject to unrelated business income tax. This matter continues like *Jarndyce v. Jarndyce* before the appellate division of the Internal Revenue Service and in future decades litigation looms. The Los Angeles County Fair has during the same period of time been subjected to the same attack by the Internal Revenue Service, and settlement efforts having failed, the Los Angeles Fair has been compelled to litigate the issue before the United States District Court in California, the decision of which the parties are awaiting.

In 1968, the Internal Revenue Service issued regulations intended to clarify the meaning of "related" activities of an exempt organization. Treas. Regs. § 1.513–1(d)(2) states that a business is considered "related" if its conduct—

"Has casual relationship to the achievement of exempt purposes . . .; and is 'substantially related', for purposes of section 513, only if the causal relationship is a substantial one."

Based on the long history of the relationship between the racing activities as an integral part of the fair, it might be imagined that the Internal Revenue Service would accept such a relationship under the language of this regulation. In October, 1968, however, the Internal Revenue Service issued Rev. Rul. 68–505, 1968 IRB–38, 16, which takes the position that income from the operation of racing in conjunction with a fair is unrelated business income subject to Federal income tax. The reasons given in this ruling are:

(1) That the races are carried on in a manner similar to commercial race tracks;

(2) That the conduct of the races is not related to the organization's exempt purpose because it does not contribute importantly to the educational objectives of the fair; and

(3) The races are not a type of recreational activity that is intended to attract the public to the fair's educational features.

This ruling involved an organization stated to be exempt as an educational organization under Section 501(c)(3), such as the Internal Revenue Service alleged Timonium to be. The ruling does not reach the question of whether the racing activities are related to the agricultural purposes of an organization such as Timonium except under Section 501(c)(5). Presumably, the Internal Revenue Service would take a similar position. In all events, why some fairs have been granted exemption under Section 501(c)(3) and others, under Section 501(c)(5) is an administrative mystery. Timonium applied for an exemption under Section 501(c)(5), but the Internal Revenue Service insisted on an exemption under Section 501(c)(3)! As noted above, the Internal Revenue Service now proposes no exemption.

Anyone who attends the races at a state fair can easily see the difference between the races conducted at the fair and races conducted by profit making organizations. Tracks operated as part of the fair are generally smaller, the horses are not nearly as advanced, the bettors generally bet only $2.00 per race, and the entire atmosphere is different. The races do attract people to the fair, as is borne out by attendance records maintained by the Maryland State Fair. Finally, the exempt purposes of the fair, i.e., agricultural and educational activities, are substantially advanced because of the conduct of racing activities.

Even though the finally adopted amendments to Section 513(c), included in the 1969 Tax Reform Act, rejected the attempted inclusion by the Treasury of the "conduct of horse races at a fair" within the designated activities constituting an unrelated trade or business, the Treasury is attempting to turn history around to match its intention by claiming that this is exactly what the legislation did. The Conference substitute specifically rejected that attempt to designate such activity as an unrelated trade or business, so leaving the Treasury's position bereft of fact or truth.

V. Effect of Successful Maintaining of Internal Revenue Service Position Without Remedial Legislation:

The managers of various fairs across the country are in agreement that if fairs are held liable for Federal income taxes, they will no longer be able to operate, and an important segment of United States economy and history will be eliminated. Significantly, the Internal Revenue Service position, when tax exemption is not denied, is to tax racing and other entertainment income without even permitting any offset for losses realized on the operation of other aspects of the fair. Generally, the only profitable part of the operation of the fair is the horse races or other entertainment activity, whereas the other activities of the fair will operate at a loss. To simply segregate the profitable part of the fair and attempt to tax it is wholly unjust and would have disastrous results. Even if the tax exemption of fairs were eliminated altogether, so that the income on the profitable operations could be offset by the loss operations, it is extremely doubtful that the majority of fairs would be able to continue in the present form, because, instead of using net profits of the fair for maintaining quality and improving the fair, such funds would have to be used to pay income taxes.

VI. Solution:

The position of the Internal Revenue Service, allegedly taken under existing law, would, if sustained, mark the end of fairs throughout the nation, or at the least, require resort to local governmental financing, which in today's straightened circumstances cannot be realistically anticipated. Since administrative judgment has been so misdirected, the only feasible solution is remedial legislation not subject to administrative whim. The Maryland State Fair has learned that even successful litigation will not deter the Internal Revenue Service.

Accordingly, the Maryland State Fair, on behalf of itself and the hundreds of fairs, throughout the nation, respectfully urges the enactment of the suggested amendment to Section 513(d). In the proposed legislation, the term "public entertainment activity" is intended to cover the entertainment activities of fairs, be they midway rides, plays, vocalists or horse racing.

In order to eliminate current and costly disputes between the fairs and the Internal Revenue Service, it is required that the new Section 513(d) be effective for all tax years beginning on or after January 1, 1960.

SUMMARY DATA FOR CERTAIN LARGE FAIRS

[Prepared from data furnished by the respective fairs]

Location and name of fair	Midway	Name shows	Other entertainment	Estimated percentage of gross revenue from entertainment	Legal organization
Arkansas:					
Fort Smith: Arkansas-Oklahoma Livestock Exposition District Free Fair.	Yes	Grand Ole Opry	Rodeo, thrill shows	25.0	Chamber of Commerce.
Little Rock: Arkansas Livestock Exposition.	Yes—Royal American Shows		Rodeo, grandstand shows		Nonprofit corporation; State subsidized.
California:					
Pomona: Los Angeles County Fair	Yes	None	Horseracing, rodeo, circus	50.0	Nonprofit corporation.
Santa Rosa: Sonoma County Fair	Yes		Rodeo, horseracing, teen show, custom auto show, destruction derby.	82.7	Subsidized county agency.
Stockton: San Joaquin County Fair	Yes	Yes	Rodeo, horseracing	9.0	State agency.
Colorado: Pueblo: Colorado State Fair	Yes	Rex Allen	Rodeo, horseracing, Mexican rodeo.	21.0	Subsidized State agency.
Connecticut: Danbury: Great Danbury State Fair.	Yes	Yes	Thrill shows, animal and horse shows.	10.0	Taxable corporation.
Florida:					
Orlando: Central Florida Fair	Yes	None			Corporation.
West Palm Beach: South Florida Fair and Exposition.	Yes		Autoracing thrill show	23.0	Nonprofit corporation.
Georgia:					
Columbus: Chattahoochee Valley Fair	Yes—Goodling's Million Dollar Midway.	The Charlies, The Great Erick, The Gutis Family, The Claytons, Welde's Bears. The Sensational Leighs.			Private nonprofit corporation. Operate on city property.
Macon: Georgia State Fair	Yes—Carnival	None	None	None	Operated by chamber of commerce through agent association.
Illinois:					
DuQuoin: DuQuoin State Fair	Yes—Olsen Shows	Eddie Arnold, Bob Hope, Perry Como, Red Skelton, Ernie Ford, Andy Williams, Nat King Cole, Steve Lawrence and Edye Gorme.	Harness racing (Hambletonian), auto racing.	80.0	Corporation; § 501(c)(5) exemption.
Peoria: Heart of Illinois Fair	Yes—Century 21 Shows	Pat Boone, Allen and Rossi, Eddy Arnold.	Pony show, horse show, antique auto show, "dancing waters," "Skipper the porpoise."	20.0	Nonprofit corporation.
Springfield: Illinois State Fair	Yes—Olson Shows	Herb Alpert and Tijuana Brass, Bob Hope, Paul Revere and the Raiders, Eddy Arnold, Grand Ole Opry.	Harness racing, rodeo, auto and stock car racing, quarter horse racing, Indian show, fireworks.		Subsidized State agency.
Indiana: Indianapolis: Indiana State Fair	Yes—Gooding's Million Dollar Midway.	Lawrence Welk, Eddy Arnold, Herman's Hermits, Tijuana Brass	Horseracing, rodeo, auto racing, thrill show.	20.0	Do.
Iowa:					
Davenport: Great Mississippi Valley Fair	Yes—Bluegrass Midway	Yes	Quarter horse racing, auto racing, horse shows, thrill shows.		Nonprofit corporation; State and local support.
Des Moines: Iowa State Fair	Yes—Century 21 Shows	Ernie Ford, Andy Williams, Lawrence Welk.	Rodeo, harness racing, auto racing, thrill show, horse shows.	32.0	Subsidized State agency.
Spencer: Clay County Fair	Yes—Thomas Shows	Pat Boone, Kids Next Door	Rodeo, harness racing, midget and big car auto racing, chuckwagon races, destruction derby.	40.0	Corporation; nominal State and local support.
Waterloo: National Dairy Cattle Congress	Yes	Arthur Godfrey	Rodeo, dogracing, midget auto racing, horse pulling.	20–25.0	Corporation.
Kansas: Hutchinson: Kansas State Fair	Yes—Royal American Midway	Morey Amsterdam, New Christy Minstrels, Grand Ole Opry.	Autoracing	28.0	Subsidized State agency.
Kentucky: Louisville: Kentucky State Fair	Yes—Deggeller	Eddy Arnold, New Vaudeville Band, Pat Boone, Skitch Henderson, Lassie, Dale Robertson.	Country and Western music show, rodeo, circus.		Corporation.
Maryland: Baltimore: Maryland State Fair	Yes	Yes	Music shows, horse shows, horseracing.	75.0	Nonprofit corporation.
Massachusetts:					
Marshfield: Marshfield Fair	Yes—Playtime Shows	Adams and Soper stage shows	Horseracing	50.0	Corporation.
Topsfield: Topsfield Fair	Yes—Dean and Flynn Midway	Sam Howard's Water Show	Dogracing	Substantial	Nonprofit corporation; State support.
West Springfield: Eastern States Exposition	Yes	Supremes, Victor Borge, Hollywood Palace.	Rodeo, autoracing, horse show	17.0	Corporation.
Dighton: Rehoboth Fair	Yes		Dog racing, stage shows	Substantial	Do.
Northampton: Three County Fair	Yes	Dennis Day, Buddy Rich	Horseracing, thrill show	80.0	Corporation; § 591(c)(5) exemption.

Location and name of fair	Midway	Name shows	Other entertainment	Estimated percentage of gross revenue from entertainment	Legal organization
Michigan:					
Detroit: Michigan State Fair	Yes—W. G. Wade Show	Supremes, Brasil '66, Sandpipers.	Circus, music shows	5.4	Self-supporting State agency.
Saginaw: Saginaw County Fair	Yes	No		15.0	Corporation.
Minnesota: St. Paul: Minnesota State Fair	Yes	Yes	Rodeo, autoracing, youth center	35.0	Self-supporting State agency.
Mississippi: Tupelo: Mississippi Alabama Fair	Yes—Olson Shows	Yes	Rodeo, livestock show	15.0	Nonprofit corporation.
Missouri: Springfield: Ozark Empire Fair	Yes—Century 21 Shows	Sonny James, Bobby Vinton, Brenda Lee.	Autoracing	25.0	Nonprofit corporation; some State and local support.
Montana:					
Billings: Midland Empire State Fair and Rodeo.	Yes—Frazier's World Fair Shows—Carnival.	Wayne Newton, Jimmy Dean, Jodie Gray.	Rodeo, horseracing	29.8	Self-supporting State agency.
Great Falls: (Montana) State Fair	Yes	Lawrence Welk, Ernie Ford	do	55.0	Subsidized county agency.
Nebraska: Lincoln: Nebraska State Fair	Yes	Ernie Ford, Lawrence Welk	Horseracing, autoracing, circus	30.0	State-sponsored association.
New Jersey: Succasunna: Morris County Fair	Yes—Amusements of America	Harris & Jaeger	Stage shows and concerts		Nonprofit corporation.
New Mexico: Albuquerque: New Mexico State Fair.	Yes	Dale Robertson, Ernie Ford, Marty Robbins, The Frontiersman, The Harmonicats.	Horseracing, rodeo	75.0	State-affiliated corporation §501 (c)(5) exemption.
New York: Syracuse: New York State Fair	Yes		Autoracing		Subsidized State agency.
North Carolina:					
Raleigh: North Carolina State Fair	Yes—James E. Strates Show	Jimmy Dean	Rodeo, autoracing, thrill show	NA	Self-supporting State agency.
Winston-Salem: Dixie Classic Fair	Yes		Auto thrill show		Trust of private foundation.
North Dakota: Minot: North Dakota State Fair	Yes	Country and Western Stars	Autoracing, destruction derby, thrill show, tractor pulling.	25.0	Subsidized State agency.
Ohio: Columbus: Ohio State Fair	Yes	Bob Hope, Andy Williams, Ernie Ford, Tijuana Brass, Herman's Hermits, Supremes, New Vaudeville, Band, Sonny and Cher, Sandpipers.	Horseracing, autoracing, horse shows.		Do.
Oklahoma: Oklahoma City: State Fair of Oklahoma.	Yes—Royal American Show	Ice Capades, Grand Ole Opry	Rodeo, motorcycle races, auto races, midget auto races, thrill show.	35.0	Nonprofit corporation.
Oregon: Salem: Oregon State Fair	Yes—West Coast Shows	Jimmy Rodgers	Rodeo, horseracing, skydivers, animal village.	.5	Self-supporting State agency.
Pennsylvania;					
Clearfield: Clearfield County Fair	Yes—James E. Strates Show	Al Hirt, Little Jimmy Dickers, Hip Nelson, Hardy Family, The Electric Prunes.	Harness racing, auto thrill show	30.0	Corporation; nominal State and local support.
Meadville: Crawford County Fair	Yes	Chitwood Thrill Show, Ken-Penn Amusement.	Harness racing, stock car racing	25.0	Nonprofit corporation.
South Carolina: Columbia: South Carolina State Fair	Yes—Gooding's Million Dollar Midway.	None	None	38.0	Eleemosynary Corporation.
South Dakota: Huron: South Dakota State Fair	Yes	Kids Next Door, Baja Marimaba Band, George Kirby.	Rodeo, harness and running horseracing, autoracing, thrill show destruction derby.	38.0	Subsidized State agency.
Vermont: Rutland: Rutland State Fair	Yes—Gooding's Million Dollar Midway.	Grand Ole Opry, James Nelson, Howard Harris.	Rodeo,, harness racing, thrill show, auto racing, vaudeville.		Nonprofit corporation; State supported.
Washington:					
Spokane: Spokane Interstate Fair			Horseracing, autoracing, stage show.	1.0	Municipal corporation.
Yakima: Central Washington Fair	Yes—Meeker shows	Rex Allen, Nitty Gritty Dirt Band, Fossettes, The Wheelers, Sonny Moore's Roustabouts.	Rodeo, variety show	17.0	Corporation.
Wisconsin:					
Milwaukee: Wisconsin State Fair	Yes—Royal American Shows	Herb Alpert, Jack Benny, King Family, Art Linkletter.	Autoracing, grandstand shows	25.0	Self-supporting State agency.
Chippewa Falls: North Wisconsin State Fair.	Yes—C-21 Show		Autoracing		Separate corporation.

Note: Other large fairs not responding but believed to hэve substantial entertainment gross receipts: California State Fair, Sacramento, Cзlif.; Florida State Fair, Tampa, Fla.; Southeastern Fair, Atlanta, Ga.; State Fair of Louisiana, Shreveport, La.

By Mr. MATHIAS:

S. 90. A bill to amend title 5, United States Code, to provide that certain service be considered as creditable service for purposes of civil service retirement. Referred to the Committee on Post Office and Civil Service.

CIVIL SERVICE RETIREMENT AMENDMENT

Mr. MATHIAS. Mr. President, I am introducing a measure today which would amend the Civil Service Code regarding the computation of years of Government service toward retirement, in order to give fair consideration to all U.S. citizens who served their country during World War II.

Currently, Civil Service regulations allow all years of employment in the U.S. military to be counted toward Government retirement. Therefore, all Americans who fought in World War II, and then worked for the Federal Government, were able to include those years toward Civil Service retirement—all, that is, except one narrow category of American citizen.

This inequity, which I wish to correct with this legislation, was brought to my attention by one of my constituents, who appears to be a simple victim of circumstances. At the outbreak of World War II, he volunteered for service in the American Armed Forces, but was refused on the grounds of possible physical deficiency. Then, in the true spirit of concern for the defense of his country and with the permission of the U.S. Government, he subsequently served honorably in the forces of an allied nation who would accept him for service.

For patriotic citizens in circumstances such as these, I do not think it would be too much to ask that they be allowed to count their time of service in the allied effort of World War I or II as creditable service for purposes of Civil Service retirement just as if they had served in the U.S. Armed Forces. That is the basic thrust of the legislation I am introducing today. In this small way, we may contribute some small measure of recognition to those Americans who served the allied effort in the only way their circumstances would permit.

Mr. President, I ask unanimous consent that the full text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 90

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding immediately below paragraph (9) the following:

"(10) subject to sections 8334(c) and 8339(i) of this title, service in the armed forces of a country allied with the Government during World War I or II, if the employee (A) was rejected for military service in any of the uniformed services of the Government, (B) was a citizen of the United States at the time of rejection, (C) performed at least 2 years of service with such an armed forces, and (D) was separated from that service under honorable conditions."

SEC. 2. Any period of service which is creditable as the result of the amendment made by the first section of this Act shall be included in the computation of the annuity of an employee or annuitant, or the survivor of the employee or annuitant, only with respect to any month commencing on or after the date of enactment of this Act with respect to which a monthly installment of annuity is to be paid.

By Mr. MATHIAS (for himself and Mr. BEALL):

S. 91. A bill to provide for the expansion of the Antietam National Battlefield Site in the State of Maryland, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. MATHIAS. Mr. President, I am pleased today to introduce, on behalf of myself and Senator BEALL, revised legislation for the expansion and protection of the Antietam Battlefield in the State of Maryland.

This bill is substantially similar to legislation we have introduced in the 92d and 93d Congress.

This measure will authorize the expansion of the national battlefield, now about 1,100 acres, to a total of 3,260 acres. This would include the 1,440-acre site of the actual battle, as well as an environmental protection zone of 1,820 acres, so as to preserve the present, largely rural scenery around the battlefield and along lower Antietam Creek to its junction with the Chesapeake and Ohio Canal National Historical Park.

The history of this legislation reaches back several years, and I believe the revised bill we are introducing today is worthy of strong congressional support. Senator BEALL and I first introduced such legislation on September 18, 1969, on the 107th anniversary of the historic battle. We revised and reintroduced it on April 15, 1971, in the 1st session of the 92d Congress.

Thereafter, an Antietam National Battlefield Advisory Committee was formed at my request, to discuss and evaluate the legislation, and to offer recommendations for refinement and improvement of the original proposals. The committee was appointed by the Washington County Commissioners and chaired by Commissioner Rome Schwagel.

I would like to take this opportunity to offer some well-deserved praise to Commissioner Schwagel and all the members of the advisory committee for their dedicated efforts over a span of 3 years in considering and recommending improvements in this legislation. The committee met and consulted with a broad range of local citizens and landowners interested in and affected by the proposed legislation, and carefully examined all the property in the area on a parcel-by-parcel basis. Every single owner of affected land was notified and given an opportunity to meet with the committee to discuss the best disposition of his or her property—an opportunity of which the majority of landowners took full advantage. Representatives of the National Park Service were also in attendance at every committee meeting and have thus had a full opportunity to offer their own suggestions and gain a clear understanding of all the local issues which might arise. The Park Service has indicated that this has been the most desirable approach yet developed for park land acquisition. I thoroughly concur.

Indeed, the committee's role serves as a model which I hope may be followed for the development of any other legislation which seeks to preserve and protect our precious national heritage through park land acquisition.

In May of 1972, the committee issued its basic report of findings and recommendations, which I inserted in the CONGRESSIONAL RECORD on May 22, 1972. The thrust of these suggestions, and others which have been offered since that time, are incorporated in the legislation we introduce today.

Under this bill, owners of residential or agricultural properties within the expanded area would, in most cases, have the option of retaining the rights of use and occupancy of their properties for purposes compatible with the project. If a scenic easement is recommended on a parcel of property by the Advisory Committee in its report, however, and the property owner wishes to sell his land to the Park Service with no residual rights, the new bill will grant any such landowner the option of a fee simple acquisition or scenic easement.

Another recommendation of the Advisory Committee which we have made part of the present legislation involves the appointment of two nonvoting members to the permanent advisory commission which the bill establishes, in addition to the seven voting members.

These two nonvoting appointees will serve in 1-year terms and will be appointed by the Board of Commissioners of Washington County for the specific purpose of advising the National Park Service on the administration of scenic easements.

A third recommendation of the committee which we have adopted in this legislation, is a provision which would transfer 549 acres of land at Fort Ritchie, Md., from the Department of Defense to the Interior Department. This land would then be available for exchange for Antietam property to be acquired from private landowners, or for sale to any member of the public. This will help to maintain privately owned property on the local tax rolls.

Mr. President, because this legislation incorporates the recommendations and enjoys the support of the broad range of public officials, historical societies and concerned citizens in western Maryland, I believe that it merits wide support here in Congress, and we will press for its enactment at the earliest possible time. It is becoming increasingly clear that the survival of the Antietam Battlefield in the face of encroaching development can no longer be entrusted purely to chance or private action.

In this regard, however, I am encouraged by the creation of a new nonprofit corporation, Antietam Battlefield Protectors, Inc., which has been formed by local citizens to help buy land to protect Antietam from commercial encroachment. Their efforts demonstrate clear local support for the principle of preserving Antietam, and the lands thus purchased may later be donated to the National Park Service upon enactment of the legislation we are introducing today.

In concluding, Mr. President, I would simply like to point out that the beautiful Antietam area has attracted well over a million visitors in the past 3 years alone. Many of the historical sites they have come to see, such as Dunkard Church, the Sunken Road, and the fields southeast of Sharpsburg, where A. P. Hill's men rebuffed the advance of Union troops to end the battle, are outside of the current Federal property. The need to encompass these historical portraits in an enhancing and protective frame is apparent to all who visit Antietam. I therefore, hope that we will be able to obtain approval of this important bill in the coming year.

Mr. President, I ask unanimous consent that the full text of this legislation, S. 3876, be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 91

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in furtherance of the purposes of the Act entitled "An Act to provide for the protection and preservation of the Antietam Battlefield in the State of Maryland" approved April 22, 1960 (74 Stat. 79), and other Acts relative thereto, and additionally to provide for the protection and preservation of the historic field hospital site where Clara Barton, founder of the American Red Cross, served, the Secretary of the Interior is hereby authorized to acquire, by purchase, exchange, or donation, additional lands and interests therein over and above the limitations as previously authorized: *Provided,* That the total of lands previously acquired and currently included within the Antietam National Battlefield Site and Antietam National Cemetery, plus such lands as may be acquired under authority of this Act, shall together not exceed three thousand two hundred and sixty acres: *Provided further,* That, within the total acreage as herein authorized, one thousand four hundred and forty acres shall be identified by the Secretary of the Interior as comprising the historic battlefield scene and the same shall be protected and preserved as such for the cultural benefit and inspiration of the public through the acquisition of fee simple title thereto; and the remaining one thousand eight hundred and twenty acres shall be contiguous to the historic battlefield and shall provide environmental protection thereto through the acquisition of less-than-fee interests therein. Notwithstanding the foregoing limitation, the Secretary may acquire the fee simple title to any property in lieu of a less-than-fee interest upon the request of the owner.

(b) The Antietam National Battlefield site established pursuant to such Act of April 22, 1960, including lands acquired by the Secretary pursuant to subsection (a) of this section, is hereby redesignated the Antietam National Battlefield Park".

SEC. 2. (a) With the exception of property that the Secretary of the Interior determines is necessary for purposes of administration, preservation, or public use, any owner or owners (hereinafter in this section referred to as "owner") of improved property on the date of its acquisition by the Secretary may retain the right of use and occupancy of the improved property for noncommercial residential or agricultural purposes as hereinafter provided, for a term, as the owner may elect, ending either (1) upon the death of the owner or owner's spouse, whichever occurs later, or (2) not more than twenty-five years from the date of acquisition. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the interest in such property retained by the owner. Such right (1) shall be subject to such terms and conditions as the Secretary deems appropriate to assure that the property is used in a manner compatible with the purposes of this Act, (2) may be transferred or assigned, and (3) may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential or agricultural purposes, and upon tender to the holder of the right of an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of the termination.

(b) As used in this section, the term "improved property" means (1) a detached year-round dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before January 1, 1971, together with so much of the land on which the dwelling is situated, the said land belonging in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, and (2) any property that is used exclusively for agricultural purposes and continues in such use, including housing directly incident thereto: *Provided*, That the Secretary, in consultation with the Commission as hereinafter authorized to be established, may exclude from any improved property any waters or land fronting thereon, together with so much of the land adjoining such waters or land as he deems necessary for public access thereto.

SEC. 3. The Secretary of the Interior is hereby authorized to undertake such research as is necessary to define those lands actually comprising the historic Antietam Battlefield scene and to identify them as such for protection and preservation within the purposes of this Act; to undertake research, including archeological investigations, as necessary to identify the actual site of the historic Clara Barton field hospital for purpose of acquisition and protection and preservation as provided herein; and to enter into such agreements with affected property owners as may be necessary to carry out such research and field studies.

SEC. 4. The administration, protection, preservation, and such minimal development as is necessary to provide for public use and enjoyment of the Antietam National Battlefield Park shall be exercised by the Secretary of the Interior in accordance with provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 5. To carry out the purposes of this Act, those lands situated in Washington County, Maryland, and identified as "Fort Ritchie—Site B" as indicated on county tax maps numbered 67 and 72 and currently under the jurisdiction of the Department of Defense and administered by the commanding officer at Fort Ritchie, Maryland, containing approximately five hundred and forty-nine acres, are hereby transferred to the jurisdiction of the Secretary of the Interior, and shall be utilized in acquisition of lands as authorized by this Act, either through exchange upon the basis of equal value, or sold under sealed bid at not less than a fair market value as shall be determined through appraisal, with monetary proceeds therefrom to be applied directly toward purchase of land as herein authorized.

SEC. 6. (a) In carrying out the purposes of this Act, including historic preservation and restoration, environmental protection, and historical interpretation for the benefit and enlightenment of the public, the Secretary of the Interior is hereby authorized and directed to consult at least semiannually with the advisory commission established under subsection (b) of this section, and also to consult and cooperate with appropriate agencies and officials of the State of Maryland, Washington County, Maryland, and interested local governments, and with interested organizations, groups, and individuals.

(b) (1) There is hereby established an Antietam National Battlefield Park Advisory Commission (hereinafter referred to as the "Commission") to assist the Secretary in developing policies and programs pursuant to this Act, and to promote the coordination of those policies and programs with relevant Federal, State, local, and private efforts in historic preservation and interpretation, environmental protection, and related fields.

(2) The Commission shall be composed of seven voting members and two nonvoting members. The voting members shall be appointed by the Secretary for terms of five years, as follows:

(A) Two members to be appointed from recommendations submitted by the Board of County Commissioners of Washington County, Maryland;

(B) Two members to be appointed from recommendations submitted by the Governor of the State of Maryland; and

(C) Three members to be appointed by the Secretary, one of whom shall be designated Chairman of the Commission, and at least two of whom shall be members of regularly constituted historical or environmental organizations.

(3) The nonvoting members shall be appointed by the Board of County Commissioners of Washington County, Maryland, for terms of one year and shall act in an advisory capacity with the National Park Service in administration of the scenic easement.

(4) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(5) Members of the Commission shall serve without compensation, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this Act.

(6) The Commission shall act and advise by affirmative vote of a majority of the members thereof.

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. MATHIAS (for himself, Mr. BEALL, and Mr. JAVITS):

S. 93. A bill to amend the Internal Revenue Code of 1954 to provide that a married individual who files a separate return shall be taxed on his or her earned income at the same rate as an unmarried individual. Referred to the Committee on Finance.

FAIR TAX TREATMENT FOR MARRIED WORKERS

Mr. MATHIAS. Mr. President, 6 years ago, as today, the attention of the Congress and the Nation was focused on the need for tax reform. It was, and is, our desire to further equalize our growing tax burden, thereby creating a more equitable system in which each individual will pay his fair share.

The culmination of this widespread concern over tax equity was the Tax Reform Act of 1969, legislation which proved to be a big step forward in providing much-needed relief for overburdened American workers. One of the objectives of the Reform Act was the reduction of tax rates applied to single wage earners, a burden considered too heavy when compared to that imposed on married couples earning similar incomes who enjoy the tax benefits of income splitting.

An unfortunate byproduct of these efforts to lessen the tax load of single individuals was, in effect, the creation of a "tax on marriage." As a result of the Reform Act, married couples in which both parties earn similar incomes are taxed at a rate substantially higher than are two single individuals earning comparable incomes.

The "marriage tax" can be severe, even at low incomes. For example, if one spouse earns $2,000 a year and the other earns $3,000, together they will pay $184 more in Federal income taxes than they would if they were single. This is equivalent to 60 percent of their total tax liability. Married individuals earning salaries in the $12,000 to $26,000 range are taxed at a rate that is 7½ to 19 percent higher than that applied to single individuals. Two persons, each of whom earns $12,000 a year, would owe up to $1,000 less tax if they were single than if they were married.

Part of the original rationale for lowering the tax rate for single individuals was that single persons have higher living costs than married couples. If this were true at some time in the past, it does not seem to be necessarily true today.

Moreover, the current tax laws may even be interpreted as a symbolic, or even real, policy declaration by the Congress that marriage is to be discouraged. We all know that an increasing number of young couples live together today without becoming married. We may or may not approve of this trend, but I see no reason for the Congress to subsidize it.

The bill which I am introducing today, for myself and Senator BEALL, will help to equalize tax burdens. It will not increase the taxes paid by single persons, or any other taxpayers; it will bring about more justice in our tax laws and our society.

I ask that unanimous consent be given that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(c) EQUALIZATION RATE FOR WORKING SPOUSES.—If for any taxable year two taxpayers are eligible to make a single return jointly under section 6013 and each has earned income, and the total tax payable by the two without regard to this section is greater than the total of the taxes that each would pay if each filed as a single individual, then (unless the taxpayers have chosen the benefits of part I, subchapter Q, relating to income averaging) there shall be subtracted from the total tax otherwise payable by such taxpayers an amount computed as follows:

"(1) There shall first be computed the lower of the total tax payable by such taxpayers without regard to this section on the basis of either a joint return or separate returns, excluding all income other than earned income;

"(2) There shall then be computed the total tax payable by such taxpayers if each had been entitled to file a return as a single individual, but excluding all income other than earned income. In making such computation, either itemized deductions must be claimed on both returns or the standard deduction or low income allowance shall be subject to the restrictions imposed under section 141 in the case of a separate return by a married individual;

"(3) The result of the computation provided in (2) shall be subtracted from the result of the computation provided in (1), and the difference shall reduce the total tax otherwise payable under this chapter.

In any case where earned income is community income under community property laws applicable to such income, the amount of such income which is considered the earned income of a taxpayer for purposes of the computations under this subsection shall be the amount of such income which would be the earned income of that taxpayer if such income did not constitute community property."

SEC. 2. The amendment made by section 1 of this Act shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. MATHIAS:

S. 94. A bill to amend title 5, United States Code, to provide for grade retention benefits for certain Federal employees whose positions are reduced in grade, and for other purposes. Referred to the Committee on Post Office and Civil Service.

JUSTICE FOR FEDERAL EMPLOYEES

Mr. MATHIAS. Mr. President, I am pleased today to reintroduce a bill which would bring about a long-overdue reform in our current civil service system. The provisions of this legislation are essentially identical to those of the bill I introduced in the 93d Congress, S. 3693. By reintroducing it today, early in this session, I hope to underscore my conviction that the new Congress must give a high priority to the consideration of a bill which would clearly recognize the legitimate need for security and justice among Government employees who are performing their jobs with distinction and diligence.

In my communications with Federal employees throughout my own State of Maryland, I have been frequently struck by the thought that these past few years must have been a most difficult time to be a Federal civil servant. For all too long, the uncertainties we came to know as "Watergate" hung like a cloud, paralyzing the highest councils of our Government and often making thoughtful policy direction almost impossible. During this time, public respect and personal pride in working for the Federal Government were probably at a low ebb.

More recently, the transition to an entirely new administration—which is a complex enough process when it takes place at the natural end of a President's term of office, but is even more so under circumstances such as we have experienced in the past year—posed yet another challenge to the stability of our Federal workforce. Nevertheless, our career civil servants have carried on admirably throughout this difficult period.

Indeed, that the Government has functioned so well in these troubled and hectic times is an eloquent tribute to the dedication and loyalty of the millions of nonpartisan Federal employees, who have been simply doing their jobs and doing them well, providing much-needed consistency and continuity at a time when public attention was fastened on the more glamorous issues of the day.

It is even more crucial now, therefore, that we in Congress recognize their unique contribution to the public interest and spare no effort to assure that our Federal employees are treated like human beings, and not simply abstract digits on a balance sheet.

PERILS OF DOWNGRADING

The bill I am introducing today would severely limit the effects of the practice of arbitrary downgrading on our Government employees. This is the practice whereby a worker finds his job downgraded, not because he or she is not doing it well, but because some job classifier decides the job description really belongs at a different level.

This practice clearly undermines the dignity and security of any worker who falls victim to it—to say nothing of other workers who live in fear that theirs will be the next job to be downgraded through no fault of their own.

Downgrading is defended, of course, as an aspect of the merit system—a device to protect the principle of equal pay for equal work, whenever a job description is found to have been "mistakenly" classified at too high a level.

If such "mistakes" can thus be "corrected" at any time during a worker's career, however, an employee is never safe in the knowledge that his job is secure, no matter how well the employee is performing the job, and no matter how long. He or she will never know when the downgrading ax is going to fall. I am sure my colleagues can well imagine the debilitating effect that this can have on the morale of the Federal work force.

Furthermore, at a time of acknowledged budgetary stress, the suspicion has been expressed by some that downgrading has been used, not merely to correct a classification error in order to maintain the merit system, but also as a simple budget trimming device.

OMB, for example, often gives agencies actual target quotas for grade reductions in an effort to reduce Federal expenditures. To the degree that these quotas cannot be met by attrition or retirement, some agencies may find it quite tempting to use the practice of downgrading instead—as if any number of misclassifications could simply be discovered upon demand.

If so, this would represent an end-run around the very civil service protections which we have written into law. Federal employees cannot and must not be permitted to be singled out to pay for a given agency's poor planning, mismanagement, or maladministration.

Hearings before the House Subcommittee on Manpower and Civil Service on this issue in the last Congress revealed a number of typical instances of arbitrary downgrading which should be of concern to us all. For example, it appears that a new Civil Service Commission standard for machinists has threatened to bring about the downgrading of more than 2,000 Federal employees across the country, many of whom have occupied their positions for as long as 10 to 15 years. They now face the prospect of a one or two grade reduction, not because they are performing fewer duties, not because of incompetence, but because somebody in Washington made an "error" or changed his mind.

I know this problem is particularly acute at a number of Federal installations in Maryland. My office is already looking into the effects of a substantial number of downgradings of employees at the General Services Administration in Baltimore, at Fort George C. Meade, and at the Aberdeen Proving Ground, among others.

For example, I recently received a petition signed by 26 highly skilled technical employees at Aberdeen who are facing imminent downgrading. They represent a total of 675 years of experience in their field, and several of them have already satisfactorily served in excess of 15 years in grade. It is difficult for me to imagine what considerations of efficiency or equity could justify the downgrading of those Government workers.

Under the bill I am introducing today, an agency would have up to 3 full years to discover an improper classification and downgrade a given job. After that time, if an error is discovered, an incumbent jobholder would be protected from downgrading as long as he or she remains in that job. The job could then be downgraded only after the employee left or was promoted. Nothing in this legislation, of course, would in any way limit the Government's existing ability to demote an employee for cause or in a reduction in force.

The procedure embodied in this legislation will thus provide ample opportunity to discover and correct genuinely mistaken job classifications, without subjecting Federal employees to a lifetime of uncertainty as to when the other shoe is going to fall.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 94

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter VI of chapter 53 of title 5, United States Code, is amended by adding at the end of such subchapter the following new section:

"§ 5366. Retained grade of employee on grade reduction of his position

"Under regulations prescribed by the Civil Service Commission, an employee as defined by section 5102 of this title, or a prevailing rate employee as defined by section 5342(a)(2) of this title, who holds a career or a career-conditional appointment in the competitive service or an appointment of equivalent tenure in the expected service and whose position is reduced in grade on or after the date of enactment of this section, shall retain the grade which he held immediately before the reduction in grade of such position so long as he—

"(1) continues in the same agency, including an agency to which he is transferred in a transfer of function, without a break in service of one workday or more;

"(2) is not reassigned or promoted; and

"(3) is not demoted (A) for personal cause, (B) at his request, or (C) in a reduction in force.

The provisions of this section shall apply only to a position that has been classified at the grade from which the position was reduced for a continuous period of at least three years immediately prior to the reduction of such position to a lower grade.".

(b) The table of section of subchapter VI of chapter 53 of title 5, United States Code, at the beginning of such chapter 53, is amended by adding, immediately below the item relating to section 5365 thereof, the following new item:

"5366. Retained grade of employee on grade reduction of his position.".

By Mr. MATHIAS (for himself, Mr. Pell, Mr. Goldwater, Mr. Bayh, Mr. Brock, and Mr. Roth):

S. 95. A bill to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States. Referred to the Committee on Rules and Administration.

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1975

Mr. MATHIAS. Mr. President, I introduce, with my distinguished colleagues Senators Pell, Goldwater, Bayh, Roth, and Brock, a bill to extend effectively the Federal franchise to American citizens overseas.

At this point, I ask unanimous consent to insert the text of this bill in the Record following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. Mr. President, the Senate, in the 93d Congress, passed by unanimous consent S. 2102, a bill similar to the one we are introducing today. The bill had been reported without opposition by the Rules and Administration Committee, under the chairmanship of my distinguished colleague from Nevada, Senator Cannon. The Privileges and Elections Subcommittee of that committee, under Senator Pell, held extensive hearings on S. 2102, and the bill had been reported out by his committee without opposition.

Although S. 2102 was reported (as H.R. 16817) by the House Administration Committee in the last Congress, the bill was one of several meritorious Senate bills on which the House was not able to act at the end of last year because of the Rockefeller nomination, the trade bill and other urgent measures.

We reintroduce the Overseas Citizens Voting Rights Act today because some 750,000 American civilians residing abroad still are barred from participating in Presidential or congressional elections. These civilians include thousands of businessmen, as well as church officials, teachers, lawyers, accountants, engineers, and other professional people serving the interests of their country abroad and subject to U.S. tax laws and the other obligations of American citizenship.

The legislation we propose today would allow the American citizen residing outside the United States to vote in Federal elections in the State in which the citizen was last domiciled prior to his departure from the United States, as long as (a) he has complied with all applicable State absentee ballot qualifications and requirements (other than those inconsistent with this legislation); (b) he intends to retain that State as his voting residence and voting domicile for purposes of voting in Federal elections; (c) he does not maintain a domicile, and is not seek-to vote, in any other State, territory, or possession of the United States and (d) he has a valid U.S. passport or card of identity and registration issued by the Secretary of State.

At present, a typical American citizen residing overseas in a nongovernmental capacity finds it difficult and confusing, if not impossible, to vote in Federal elections in his prior State of domicile; that is, the State in which he last resided. The reason is that many of the States impose rules which require a voter's actual presence, or maintenance of a home or other abode in the State, or raise doubts of voting eligibility of the overseas citizen when the date of his return is uncertain; or which have confusing absentee registration and voting forms that appear to require maintenance of a home or other abode in the State.

I have recently been given the following illustration of a typical disenfranchised American residing overseas:

A qualified voting resident left the State a number of years ago to work overseas in a business or professional capacity. His former home in the State has been sold and he now only has a physical residence in a foreign country. He looks upon this as temporary and intends eventually to return to the United States, although he does not know to which State he will return. He may be working overseas for as many as 5 or 10 years. He considers that his last residence before his departure from the State remains his bona fide residence for voting in Federal elections, even though he has no present place of abode within the State and is unable to state an intent to return to the State.

What are his chances for voting in Federal elections back home?

First, it would appear that, in every State and the District of Columbia, the typical American citizen overseas would not be able to register and vote absentee in Federal elections unless he specifically declared, and could prove, an intent to return to the State. If the citizen did not have such an intent to return to the State, he could not make this declaration without committing perjury. There is, in effect, a legal presumption that such a citizen does not retain the State as his voting domicile unless he can prove otherwise.

Second, even if such a citizen could honestly declare an intent to return to the State of his last residence, his chance for voting in Federal elections would be improved in only about half of the States. These 29 States—including the District of Columbia—appear to have statutes which expressly allow absentee registration and voting in Federal elections for "citizens temporarily residing abroad," that is, citizens residing overseas for a short time who can declare an intent to return to the State. Even in some of these States, however, the absentee registration for such citizens may be ambiguous.

Third, 12 States appear to have statutes which generally allow absentee registration and voting in Federal elections, but which do not have specific provisions governing nongovernmental overseas voters. Many of these 12 States impose burdensome residency requirements, including in some cases maintenance of a home or abode in the State.

Fourth, eight States appear to have statutes which allow absentee voting, but not absentee registration, by nongovernmental overseas voters in Federal elections. Many of these States also have burdensome residency requirements.

Fifth, two States require that all nongovernmental overseas voters register and vote in person.

The situation with respect to Presidential elections has been ameliorated somewhat as the result of the efforts of Senators Goldwater and Pell, during the debate on the Voting Rights Act Amendments of 1970. However, it appears that in the 1972 election only a few States specifically allowed an overseas citizen to vote for President solely on the basis of the Goldwater-Pell legislative history. Even these few States required the voter to be able to prove a definite intent to return to the State.

The figures I have given on voting in Federal elections by U.S. citizens overseas are based primarily on the most recent report of the Federal Voting Assistance Task Force in the Department of Defense. These figures have also been reviewed by the Bipartisan Committee on Absentee Voting, an organization of distinguished business, professional, and religious leaders who have been seeking the enfranchisement of American citizens residing overseas.

It should be noted that virtually all States have statutes expressly allowing military personnel, and often other U.S. Government employees, and their dependents, to register and vote absentee from overseas. In the case of these Government personnel, the legal presumption is that the voter does intend to retain his prior State of residence as his voting domicile unless he specifically adopts another State residence for that purpose. This presumption in favor of the Government employee operates even where the chances that the employee will be reassigned back to his prior State of residence are remote. The result is continuing discrimination in favor of Government personnel and against private citizens overseas who are seeking access to the Federal franchise. Such discrimination certainly appears questionable as a matter of public policy, and may very well be suspect under the equal protection clause of the 14th amendment.

The need for specific new legislation to enfranchise overseas Americans was pointed out before the last Presidential elections in an opinion letter sent by the Department of Justice to the Bipartisan Committee on Absentee Voting. In brief, the Department concludes that a State may still require maintenance of an abode or other address as a requirement for voting in Presidential elections "in the absence of clear and unequivocal language" in the statute. It is the purpose of our legislation to provide this clear and unequivocal statutory language for congressional as well as Presidential elections. At this point, I ask unanimous consent to insert this opinion letter from the Justice Department in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MATHIAS. Mr. President, the U.S. District Court for the Southern District of New York also considered the question, in *Hardy* v. *Lomenzo*, 349 F. Supp. 617 (S.D.N.Y. 1972), whether the 1970 amendments could limit a State's statutory standards of bona fide residence, such as the New York State requirement that the overseas nongovernmental voter maintain a fixed, permanent and principal home in the State. The court rejected the legislative history developed by Senators GOLDWATER and PELL and held that "the remedy lies with the legislature and not in judicial elision." At this point, I ask unanimous consent to insert the text of the Hardy against Lomenzo opinion in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. MATHIAS. Mr. President, our bill would also establish as Federal law, in clear and unequivocal statutory language, the principle that the exercise of the right to register and vote in Federal elections by a U.S. citizen abroad, and the retention by him of any State as his voting residence or voting domicile solely for this purpose, should not affect the determination of his place of residence or domicile for purposes of any tax imposed under Federal, State, or local law. This provision would enact existing Internal Revenue Service interpretations into law for Federal income tax purposes and would assure that the States would not make an inconsistent interpretation of their own tax laws. The provision is not meant to create any new tax exemption for the overseas citizen. It is designed only to assure that he will not be subjected to any Federal or State tax liability solely by exercising his right to vote absentee in Federal elections under this legislation.

I ask unanimous consent at this time to have printed in the RECORD following my remarks, an August 28, 1972, letter from the Internal Revenue Service to Senator GOLDWATER ruling that the exercise of absentee registration and voting rights will not jeopardize the nonresident Federal income tax exclusions currently available to a U.S. citizen residing abroad.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. MATHIAS. Mr. President, strong enforcement provisions are contained in the bill to guard against fraudulent voting. I might add, however, that the potential of voting fraud in the implementation of this legislation is remote and speculative. The Federal Voting Assistance Task Force has not reported a single case of overseas voting fraud in the entire 19 years in which that task force has surveyed the situation.

It is evident, I think, that if someone wanted to commit voting fraud, the mechanisms provided by this bill would hardly be the way to do it. Many of the States require notarization by a U.S. official of at least one of the voting documents. As I have stated, the overseas citizens seeking to vote under the bill must have a valid U.S. passport or other official State Department card of identity.

Distinguished constitutional authorities have already given the Subcommittee on Privileges and Elections their opinion that if the pending legislation were subjected to challenge after enactment, the Supreme Court would have an appropriate constitutional basis on which to uphold the legislation.

My distinguished friend from Arizona, Senator GOLDWATER, has submitted a detailed and scholarly memorandum of law confirming the congressional power to protect the vote of U.S. citizens overseas in Federal elections.

This legislation, as adopted by the Senate last year, has generated tremendous enthusiasm and support from American citizens residing in all parts of the world. Hundreds of these citizens have sent letters and returned questionnaires stating their support of the legislation and detailing their individual voting problems. We have also received many communications in support of the legislation from friends, relatives, and colleagues of these citizens in the various States. The large number of business, civic, professional, and religious organizations represented at the Privileges and Elections Subcommittee hearings gives further indication of the desire for this legislation.

I am pleased at the progress made in Maryland and other States, and the good work of the Federal Voting Assistance Task Force, in encouraging the enfranchisement of U.S. citizens overseas. And I know that all Americans residing abroad are enormously grateful to Senator GOLDWATER and Senator PELL for their efforts in connection with the Federal Voting Rights Act Amendments of 1970. It is apparent, however, that much more needs to be done until we reach the time when every American citizen residing abroad may actively participate in the election process at the congressional as well as the Presidential level. We hope that the legislation being introduced today will be a helpful step in that direction.

EXHIBIT 1

S. 95

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Overseas Citizens Voting Rights Act of 1975."

CONGRESSIONAL FINDINGS AND DECLARATIONS

SEC. 2. (a) The Congress hereby finds that in the case of United States citizens outside the United States—

(1) State and local residency and domicile requirements are applied so as to restrict or precondition the right of such citizens to vote in Federal elections;

(2) State and local election laws are applied to such citizens so as to deny them sufficient opportunities for absentee registration and balloting in Federal elections;

(3) State and local election laws are applied in Federal elections so as to discriminate against such citizens who are not employees of a Federal or State Government agency, or who are not dependents of such employees; and

(4) Federal, State and local tax laws are applied in some cases so as to give rise to Federal, State and local tax liability for such citizens solely on the basis of their voting in Federal elections in a State, thereby discouraging such citizens from exercising the right to vote in Federal elections;

(b) The Congress further finds that the foregoing conditions—

(1) deny or abridge the inherent constitutional right of citizens to vote in Federal elections;

(2) deny or abridge the inherent constitutional right of citizens to enjoy their free movement to and from the United States;

(3) deny or abridge the privileges and immunities guaranteed under the Constitution to citizens of the United States and to the citizens of each State;

(4) in some instances have the impermissible purpose or effect of denying citizens the right to vote in Federal elections because of the method in which they may vote;

(5) have the effect of denying to citizens the equality of civil rights and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment to the Constitution; and

(6) do not bear a reasonable relationship to any compelling State interest in the conduct of Federal elections.

(c) Upon the basis of these findings, Congress declares that in order to secure, protect, and enforce the constitutional rights of citizens outside the United States it is necessary—

(1) to require the uniform application of

State and local residency and domicile requirements in a manner that is plainly adapted to secure, protect, and enforce the right of such citizens to vote in Federal elections;

(2) to establish uniform standards for absentee registration and balloting by such citizens in Federal elections;

(3) to eliminate discrimination, in voting in Federal elections, against such citizens who are not employees of a Federal or State Government agency, and who are not dependents of such employees; and

(4) to require that Federal, State and local tax laws be applied so as not to give rise to Federal, State and local tax liability for such citizens solely on the basis of their voting in Federal elections in a State.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Resident Commissioner of the Commonwealth of Puerto Rico, Delegate from Guam, or Delegate from the Virgin Islands;

(2) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam and the Virgin Islands;

(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States; and

(4) "citizen outside the United States" means a citizen of the United States residing outside the United States whose intent to return to his State and election district of last domicile may be uncertain, but who does intend to retain such State and election district as his voting residence and domicile for purposes of voting in Federal elections and has not established a domicile in any other State or any other territory or possession of the United States, and who has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State.

RIGHT OF CITIZENS RESIDING OVERSEAS TO VOTE IN FEDERAL ELECTIONS

SEC. 4. No citizen outside the United States shall be denied the right to register for, and to vote by, an absentee ballot in any State, or election district of a State, in any Federal election solely because at the time of such election he does not have a place of abode or other address in such State or district, and his intent to return to such State or district may be uncertain, if—

(1) he was last domiciled in such State or district prior to his departure from the United States;

(2) he has complied with all applicable State or district qualifications and requirements and concerning registration for, and voting by, absentee ballots (other than any qualification or requirement which is inconsistent with this Act);

(3) he intends to retain such State or district as his voting residence and voting domicile for purposes of voting in Federal elections;

(4) he does not maintain a domicile, and is not registered to vote and is not voting in any other State or election district of a State or territory or in any territory or possession of the United States; and

(5) he has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State.

ABSENTEE BALLOTS FOR FEDERAL ELECTIONS

SEC. 5. (a) Each State shall provide by law for the registration or other means of qualification of all citizens outside the United States and entitled to vote in a Federal election in such State pursuant to section 4 who apply, not later than thirty days immediately prior to any such election, to vote in such election.

(b) Each State shall provide by law for the casting of absentee ballots for Federal elections by all citizens outside the United States who—

(1) are entitled to vote in such State pursuant to section 4;

(2) have registered or otherwise qualified to vote under section 5(a);

(3) have submitted properly completed applications for such ballots not later than seven days immediately prior to such election; and

(4) have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(c) In the case of any such properly completed application for an absentee ballot received by a State or election district, the appropriate election official of such State or district shall as promptly as possible, and in any event, no later than—

(1) seven days after receipt of such a properly completed application, or

(2) seven days after the date the absentee ballots for such election have become available to such official,

whichever date is later, mail the following by airmail to such citizen:

(A) an absentee ballot;

(B) instructions concerning voting procedures; and

(C) an airmail envelope for the mailing of such ballot.

(d) Such absentee ballots, envelopes, and voting instructions provided pursuant to this Act and transmitted to citizens outside the United States, whether individually or in bulk, shall be free of postage to the sender including airmail postage, in the United States mail.

(e) Ballots executed by citizens outside the United States shall be returned by priority airmail wherever practicable, and such mail may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postal Service for this purpose.

ENFORCEMENT

SEC. 6. (a) Whenever the Attorney General has reason to believe that a State or election district undertakes to deny the right to register or vote in any election in violation of section 4 or fails to take any action required by section 5, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate.

(b) Whoever shall deprive or attempt to deprive any person of any right secured by this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence for the purpose of establishing his eligibility to register, qualify, or vote under this Act, or conspires with another individual for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register, qualify, or vote under this Act, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000, or imprisoned not more than five years, or both.

SEVERABILITY

SEC. 7. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected.

EFFECT ON CERTAIN OTHER LAWS

SEC. 8. (a) Nothing in this Act shall—

(1) be deemed to require registration in any State or election district in which registration is not required as a precondition to voting in any Federal election, or

(2) prevent any State or election district from adopting or following any voting practice which is less restrictive than the practices prescribed by this Act.

(b) The exercise of any right to register or vote in Federal elections by any citizen outside the United States, and the retention by him of any State or district as his voting residence or voting domicile solely for this purpose, shall not affect the determination of his place of residence or domicile for purposes of any tax imposed under Federal, State, or local law.

AUTHORIZATION OF APPROPRIATIONS

(a) Section 2401(c) of title 39, United States Code (relating to appropriations for the Postal Service) is amended—

(1) by inserting after "title" a comma and the following: "the Overseas Citizens Voting Rights Act of 1975,"; and

(2) by striking out "Act." at the end and inserting in lieu thereof "Acts.".

(b) Section 3627 of Title 39, United States Code (relating to adjustment of Postal Service rates) is amended by striking out "or under the Federal Voting Assistance Act of 1955" and inserting in lieu thereof "under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975,".

EFFECTIVE DATE

SEC. 10. The provisions of this Act shall take effect with respect to any Federal election held on or after January 1, 1976.

EXHIBIT 2

DEPARTMENT OF JUSTICE,
Washington, D.C., March 13, 1973.

J. EUGENE MARANS, Esq.,
CLEARY, GOTTLIEB, STEEN & HAMILTON,
Washington, D.C.

DEAR MR. MARANS: This is in response to your discussion with members of my staff on February 1, 1972, and your letter of February 3, 1972, concerning the Voting Rights Act Amendments of 1970, 42 U.S.C. 1973aa–1, particularly the provisions of Sections 202(d) and (f) pertaining to absentee registration and absentee balloting in presidential elections. As counsel for the Bipartisan Committee on Absentee Voting, you have asked whether, in our judgment, the 1970 Amendments require a state to provide absentee registration procedures and absentee ballots to former residents of that state now temporarily residing abroad.

In brief, our conclusions are (1) that the 1970 Amendments do not *per se* preclude a state from applying a requirement of residency to those seeking to register within that state and (2) that the question of whether a person outside a state is a resident of that state for voting purposes is, at least in the first instance, a question of that state's law.

The United States Constitution reserves to the federal government the power to regulate the time and manner of federal elections (Article 1, section 2; Article I, section 4; Article II, section 1) while reserving to the states the power to determine voter qualification. (*Beachman* v. *Braterman*, 300 F. Supp. 182 (S.D. Fla.), affirmed 396 U.S. 12 (1969); *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45, 50–51 (1959)). Traditionally, this right has included the power to determine bona fide residency. (*Hall* v. *Beals*, 396 U.S. 45, 53 (1969) (Marshall, J., dissenting); *Carrington* v. *Rash,* 380 U.S. 89 (1965)). The Congress and the states acting together have, through amendment process, placed additional restrictions on the powers of the states so that they may not now establish procedures violative of the equal protection clause nor deny or abridge the right to vote on account of race, color, or sex or age if the age is eighteen or more. Legislation passed by Congress to implement the equal protection clause and voting amendments, such as the suspension of literacy tests, has placed additional limitations on the powers of the state. It is with this constitutional scheme in mind that we must look to the 1970 Amendments to determine what, if any, limitations Congress placed upon the traditional right of the states to determine voter qualifications.

At the beginning, it is necessary to distinguish between two general types of voter qualifications, durational residency requirements and bona fide residency. The former require an individual to have resided in a certain state or political subdivision for a specified length of time before he can be qualified to vote, while the latter is a determination of whether an individual is a bona fide resident of the state or political subdivision regardless of the length of his residency.

Congress expressly dealt with durational residency requirements in Section 202(c) of the 1970 Amendments (hereafter cited by section only) by prohibiting a state from imposing such a requirement to deny or abridge the right of a citizen otherwise qualified to vote in a presidential election. The Amendments provide that applications for registration or other means of qualification must be accepted up to the 30th day before the presidential election. (Section (d)). The limitation of this section, however, does not supersede the power of the states to require a citizen to be a bona fide resident of that particular state as a qualification for registration and voting in that particular state.

Section (e) is, to a limited extent, a restriction on the power of the states to require bona fide residency as a condition to obtaining a ballot. Under that Section, when a citizen moves from one state or political subdivision to a new state or political subdivision within 30 days of a presidential election and is unable to register at his new residence because the registration deadline has passed, he must be allowed to vote, either in person or absentee, in the place of his former residence. Section (e) did not expand or qualify the concept of bona fide residency in any other manner.

With regard to the absentee provisions, Section (c) provides that if a citizen of the United States has complied with the requirements of state law providing for the casting of absentee ballots, no state may deny such citizen the right to vote in a presidential election because of his failure to be physically present in such state or political subdivision at the time of such election. A state is, accordingly, prohibited from restricting the availability of absentee ballots to persons or classes absent for particualr purposes, but this language does not appear to preclude a state from establishing bona fide residency as a requirement for obtaining an absentee ballot in that state.

Sections (d) and (f) establish standards for absentee registration and the casting of absentee ballots. Under Section (f) each citizen "who is otherwise qualified to vote by absentee ballot in any State or political subdivision" in an election for electors for President or Vice-President must be given the opportunity, if registration or other qualification is necessary, to register or qualify absentee. The provision applicable to absentee balloting, Section (d), requires each state to provide procedures for the casting of absentee ballots by "all duly qualified residents of such state" who will be absent from the state on election day and who have applied for an absentee ballot not later than seven days prior to a presidential election and return the ballot up to the time of the closing of the polls.

Since anyone who is qualified to vote absentee may also register absentee, we must look to Section (d) to determine which citizens are covered by the absentee provisions of the Amendments. This Section requires the state to provide absentee ballots to each "duly qualified resident of such state." While Sections (c) and (e), by prohibiting durational residency requirements, as discussed above, expressly limit the power of the states in certain situations, there is no language in Section (d) placing additional limitations on the right of the states to ascertain the residency of an individual. Since there is no language in Section (d) restricting the states' right to determine bona fide residency, we must, under this Section, follow the constitutional scheme of reserving to the states the power to determine which citizens are "duly qualified residents" according to state law.

From our reading of the legislative history of the 1970 Amendments, it appears that Senator Goldwater was, among other things, concerned with instances in which states did not accord civilians the same absentee registration and voting privileges they gave military personnel. However, in light of the general reservation of power to the states to determine voting qualifications, we do not consider it appropriate to assume Congressional intent to preclude the states from having a requirement of bona fide residency, or enact a federal standard for measuring bona fide residency, in the absence of clear and unequivocal language. While a state may not conclusively presume that a certain class of citizens may never be considered bona fide residents, each state must determine, on a case-by-case basis, the true intent and residency of the individual requesting to register absentee or obtain an absentee ballot. (See *Carrington* v. *Rash, supra*). Under Sections (c), (d) and (f) a state may not deny absentee registration procedures and absentee ballots to individuals outside the country if such person has been determined by the state or local officials to be a "duly qualified resident of such state."

Sincerely,

David L. Norman,
Assistant Attorney General,
Civil Rights Division.

Exhibit 3

Hardy v. Lomenzo

(Cite as 349 F.Supp. 617 (1972))

(Jack G. Hardy and Ralph S. Von Kollorn on Behalf of Each and on Behalf of All Others Similarly Situated, Plaintiffs, *v.* John P. Lomenzo, Secretary of State of the State of New York, et al., Defendants, No. 72 Civ. 3965, United States District Court, S.D. New York, Oct. 2, 1972, on reargument Oct. 18, 1972.)

Action was brought for declaratory relief in regard to the plaintiffs' right to participate in the presidential election. The District Court, Cannella, J., held that the Voting Rights Act of 1970 while abolishing durational residency requirements in no sense abrogates the rights of the several states to enact bona fide residence requirements, that the word "deemed," in the New York Election Law provision relating to qualifications of voters and requiring state residency creates a presumption only, which is effective only on presentation of suitable evidence of continued residence, and that the statute did not abridge the plaintiffs' constitutional rights.

Complaint dismissed.

New York Civil Liberties Union, by Burt Neuborne, New York City, for plaintiffs.

Louis J. Lefkowitz, Atty. Gen., of the State of New York, by A. Seth Greenwald, Asst. Atty. Gen., New York City, for defendants Rockefeller and Lomenzo and pro se.

John J. S. Mead, Westchester County Atty., by John J. Sherlock, Senior Asst. County Atty., White Plains, N.Y., for defendants Van Wart and Hayduk, Commissioners of the Westchester County Board of Elections.

Cannella, District Judge.

This matter came originally before the Court on motion of plaintiffs for an order, pursuant to Title 28 U.S. Code Section 2281 and 2284, convening a statutory three judge court to hear and determine this action or in the alternative for appropriate relief declaring plaintiffs' rights and the defendants' responsibilities herein. On the hearing plaintiffs withdrew the request for a three judge court, and submitted the case to this court with the stipulation that declaratory as opposed to injunctive relief is sought.

The plaintiff's claims are that defendants' refusal, under color of Sections 150 and 151 (b) of the New York Election Law, McKinney's Consol. Laws, c. 100, to permit plaintiffs to participate in the November 7, 1972 Presidential election is violative of plaintiffs' rights under the First and Fourteenth Amendments to the Constitution of the United States; and that defendants' refusal, under color of Section 151(b) of the New York Election Law to permit plaintiffs to participate in the Presidential election abridges their right to participate in the electoral process in violation of the Voting Rights Act of 1970 (42 U.S.C. § 1973aa–1).

Defendants Rockefeller and Lomenzo and the New York Attorney General, on their part, move for an order pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure, dismissing the complaint upon the grounds that the court lacks jurisdiction, and further that the complaint fails to state a claim upon which relief may be granted and that the complaint is banned by laches.

The motion addressed to the court's jurisdiction is without substantiation and is denied. The motion based on laches although of some merit also is denied. That part of the defendants' motion which is addressed to the sufficiency of the complaint is granted for reasons hereafter discussed.

The facts as taken from the submitted papers are as follows: Plaintiff, Von Kohorn resided in Westchester County, New York, from 1938 to 1963 when he moved from Westchester County to New Zealand where apparently he has since remained, except for a visit to the Westchester County Board of Elections on or about April 11, 1972 where he submitted an application for absentee registration which was on the same day rejected. He abides in New Zealand and his future domiciliary plans are uncertain but he does wish to vote in the 1972 Presidential election.

Plaintiff, Hardy, resided in Scarsdale, Westchester County, New York, until December 1964 when he moved to Brazil because of business obligations. He intends to return to Westchester County upon completion of his business obligations but has no nexus with New York or the county except that he maintains a telephone listing at his mother's home in Westchester. His request for absentee registration to vote in the 1972 Presidential election was rejected by the Westchester County Board of Elections early in 1972.

[1] The claim of Von Kohorn may be disposed of summarily. After a temporary residence in Westchester County, New York, he moved to Wellington, New Zealand. The reason for his move is not assigned and he evinces no intention ever to return to New York, or, indeed, to the United States. His

expressed desire to vote in the 1972 Presidential election gives him no grievance against the defendants or any of them. He is for the purposes of the present record a resident in Wellington and so far as known intends so to remain.

Hardy's claim requires an examination of the statutes here involved. New York Election Law Section 151(b) provides as to residence for the purpose of registering and voting:

"(b) As used in this article, the word 'residence' shall be deemed to mean that place where a person maintains a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return."

[2] The question first to be considered is whether or not the Voting Rights Act of 1970, 42 U.S.C. § 1973aa–1, is preemptive of that definition. The avowed purpose of the Voting Rights Act is to abolish durational residency requirements as a precondition to voting for the offices of President and Vice President and to prescribe uniform opportunities for absentee registration and absentee balloting in presidential elections. 42 U.S.C. § 1973aa–1 (a), (b); Oregon v. Mitchell, 400 U.S. 112, 134, 236, 286, 287 (1970). The rationale is that the imposition of parochial durational residency requirements unreasonably burdens the privilege of taking up residence in another state. It seems clear, however, that the Voting Rights Act did not intend to abrogate the power of the several states to define residence so as to insure that voting be limited to bona fide residents. The sole exception is found in 42 U.S.C. § 1973aa–1, Subd. (e) which permits persons moving within 30 days prior to election to vote in the State of prior residence.

Thus, with particular reference to the present case the Voting Rights Act, 42 U.S.C. § 1973aa–1(c), provides:

". . . nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, *if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.* (Emphasis supplied).

Similarly, subdivision (d) provides:

"For the purposes of this section, each State shall provide by law for the registration or other means of qualification *of all duly qualified residents of such State* . . .; and each State shall provide by law for the casting of absentee ballots . . . *by all duly qualified residents of such State* who may be absent . . .". (Emphasis supplied).

Plaintiffs urge that the emphasized phrases of the Act should be ignored in its construction, but the court cannot take the view that this recurrent language was inserted into the Act without meaning. If, as suggested the language is inadvertent, the remedy lies with the legislature and not in judicial elision.

The court finds that the Voting Rights Act of 1970 while abolishing durational residency requirements, in no sense abrogates the rights of the several states to enact bona fide residence requirements. The distinction is clearly recognized in Dunn v. Blumstein, 405 U.S. 330 at 343, 92 S.Ct. 995 at 1003–1004, 31 L.Ed.2d 274 (1972).

". . . We emphasize again the difference between bona fide residence requirements and durational residence requirements. We have in the past noted approvingly that the States have the power to require that voters be bona fide residents of the relevant political subdivision. E.g. Evans v. Corman, 398 U.S. 419, at 422, 90 S.Ct. 1752, 26 L.Ed.2d 370; Karmer v. Union Free School District, *supra*, 395 U.S. 625, 89 S.Ct. 1886, 23 L.Ed.2d 583; Carrington v. Rash, 380 U.S. 89, at 91, 85 S.Ct. 775, 13 L.Ed.2d 675; Pope v. Williams, 193 U.S. 621, 24 S.Ct. 573, 48 L.Ed. 817 (1904). An appropriately defined and uniformly applied requirement of bona fide residence may be necessary to preserve the basic conception of a political community, and therefore could withstand close constitutional scrutiny. But *durational* residence requirements, representing a separate voting qualification imposed on bona fide residents, must be separately tested by the stringent standard. Cf. Shapiro v. Thompson, *supra*, 394 U.S. 618, at 636, S.Ct. 1322, 22 L.Ed.2d 600 (Emphasis in original).

[3] The court finds that the defendants' refusal under Section 151(b) of the New York Election Law, to permit plaintiffs to participate in the 1972 Presidential election does not abridge the plaintiffs' rights under the Voting Rights Act of 1970.

This conclusion requires consideration of plaintiffs' remaining claims namely, that defendants' refusal under color of Sections 150 and 151(b) of New York Election Law, to permit plaintiffs to participate in the November 7, 1972 Presidential election denies them equal protection of the laws and abridge their privileges and immunities in violation of the Fourteenth Amendment of the United States Constitution and abridges their right to participate in the electoral process in violation of the First Amendment.

New York Election Law, Section 150, relates to qualifications of voters requiring among other things residency of the State. The definition of "residence" is set forth in Section 151(b) and is quoted above. Plaintiffs' memorandum makes clear, however, that the claim of unconstitutionality derives from New York Election Law, Section 151(b), which provides, in part, as follows:

"(a) For the purpose of registering and voting no person shall be *deemed* to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any institution of learning; nor while kept at any welfare institution, asylum or other institution wholly or partly supported at public expense or by charity; nor while confined in any public prison . . .". (Emphasis Supplied).

[4, 5] The argument in that "no rational basis exists for such an arbitrary discrimination which acts to disenfranchise Americans residing abroad simply because they are employed in a private rather than a governmental capacity". In the opinion of the court, however, no such arbitrary discrimination is made. The word "deemed", given proper cognizance, creates a presumption only and the further provisions of the quoted subdivision make it clear that the presumption is effective only upon presentation of suitable evidence of continued residence. Thus:

" . . Any person applying for registration who claims to belong to any class of persons mentioned in this section shall file with the board taking his registration a written statement showing where he actually resides and where he claims to be legally domiciled, his business or occupation, his business address, and to which class he claims to belong . . .".

The court finds that the New York statutory requirements serve a legitimate purpose in seeking to ensure that voters be bona fide residents and do not discriminate against or abridge the plaintiffs' rights under the Constitution of the United States. The complaint, accordingly is dismissed.

So ordered.

ON REARGUMENT

The motion to reargue is granted and on reargument the court adheres to its opinion of October 2, 1972. For the purposes of reargument, the court by order of October 12, 1972, on consent granted the application of United States Senator Barry Goldwater to intervene *amicus curiae* in behalf of plaintiffs and has considered the brief submitted in his behalf, as well as the brief and affidavits of plaintiffs and the opposing brief of defendants Lomenzo and Rockefeller.

The basis of submission of this action to the court is set forth in the court's original opinion. On reargument plaintiffs address themselves specifically to the Equal Protection clause of the Fourteenth Amendment. (Petitioner's memorandum of law, p. 2). The intervenor asks review of all aspects of the case as originally submitted.

[6] It is noted that with plaintiff's memorandum plaintiff, Von Kohorn, has submitted an affidavit stating, among other things, "I intend to reestablish a domicile in White Plains although my future domiciliary plans are still uncertain." This differs little from Von Kohorn's original position and is utterly lacking of that element of present intent required to establish voting residence. See Ramey v. Rockefeller, 348 F.Supp. 80 (E.D. N.Y. 1972).

[7] Recognizing fully the intervenor's position that the legislative history of the Voting Rights Act Amendments of 1970, and his personal purpose show a clear intent to provide the broadest possible opportunity to citizens to register to vote in a Presidential election, the court finds no reason to alter its original opinion that this objective, by the terms of the Act, does not transcend the power of the States to require that voters be bona fide residents. See Dunn v. Blumstein, 405 U.S. 330, 343, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972).

On October 3, 1972, the day following this court's opinion of October 2, 1972, a statutory three judge court convened for the United States District Court for the Eastern District of New York, handed down an opinion in which Sections 151(a) and 151(b) of the New York Election Law are considered learnedly and at length. Ramey v. Rockefeller, 348 F.Supp. 780 (E.D.N.Y. 1972). These are the sections of the New York Law here under assault on constitutional grounds. The case arose in different context (dormitory students physically present in New York), but it is noted the court found no inconsistency between the sections and no reason to declare the New York statutes unconstitutional.

Relevant to the claim of the plaintiff Hardy is the following, taken from *Ramey:* "The objective is to determine the place which is the center of the individual's life now, the locus of his primary concern. The determination must be based on all relevant factors; . . . *the state may insist on other indicia* . . .". (Emphasis supplied). Hardy moved from New York to Brazil in 1964. In the years intervening, until his present application never has he offered to vote in New York. His professed intention to return at some indeterminate time is bolstered only by a telephone listing at his mother's home. The court is of the opinion that under section 151(b), even as modified in *Ramey*, New York is entitled to stronger evidence of allegiance than that here presented.

The court does not consider this a class action. For evident reasons each application to register to vote is distinct and requires separate consideration.

The court having granted and considered the motion to reargue adheres to its opinion of October 2, 1972.

EXHIBIT 4

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., August 28, 1972.

Hon. BARRY GOLDWATER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GOLDWATER: This is in reply to your letter dated August 16, 1972, regarding the possible effect that voting by absentee ballot by United States citizens residing abroad may have on their claiming the exclusion from gross income provided by section 911(a)(1) of the Internal Revenue Code of 1954.

Section 911(a)(1) of the Code provides, in relevant part, that the following items shall not be included in gross income and shall be exempt from Federal income taxation. In the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary or his delegate that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such uninterrupted period.

You forwarded with your letter a copy of a report prepared by the American Chamber of Commerce of Venezuela. That report and your letter indicate concern that if a United States citizen residing abroad signs an application for registration to vote in one of the States and represents in such application no more than that he intends to return to that State as his domicile, he may thereby jeopardize or forfeit his entitlement to the section 911 exclusion from gross income based on his claim of bona fide residence in a foreign country. You are referring in particular to Internal Revenue Service Publication 54(10–71) *Tax Guide for U.S. Citizens Abroad,* 1972 Edition, which provides on page 4:

"A U.S. citizen living abroad may vote by absentee ballot in elections held in the United States (national, State, and local) without jeopardizing his eligibility for tax exemption as a bona fide resident of a foreign country. Such voting will not of itself, nullify the taxpayer's status.

"However, where a U.S. citizen makes a representation to the local election official regarding the nature and length of his stay abroad that is inconsistent with his representation for purposes of the tax exclusion, the fact that he made the representation in connection with absentee voting will be considered in determining his status for the exclusion, but will not necessarily be conclusive."

You are concerned that the "inconsistent representation" language of the above-quoted material might be interpreted to mean that a representation by a taxpayer of domicile in a State and of an intent to ultimately return there is not compatible with the taxpayer's claim of bona fide residence in a foreign country for purposes of section 911 of the Code. The Service has held in a recently published ruling, Revenue Ruling 71–101, C.B. 1971–1, 214:

"[G]enerally the excercise by a citizen of the United States of his right to vote in National, state, or local elections in the United States by absentee ballot is not an action that would affect the length or nature of his stay outside the United States and consequently would not jeopardize the exemption under section 911(a)(1) of the Code. However, where absentee voting in the United States involves a representation to the local election official regarding the nature and length of the taxpayers' stay abroad that is inconsistent with the taxpayer's representation of intention for purposes of section 911 of the Code, the fact that he made the representation in connection with absentee voting will be taken into account in determining his status under section 911 of the Code, *but will not necessarily be conclusive.*" (Emphasis added.)

It is our conclusion that "inconsistent representation" as referred to in the above cited publications does not refer to a mere statement by a taxpayer that he considers himself a voting resident of a State and ultimately intends to return to that State as his domicile. Such a statement is not incompatible with a taxpayer's claim of bona fide residence in a foreign country. Instead, "inconsistent representations" refer to other representations which the taxpayer may have made to the Service regarding the *specific* nature and length of his stay in a foreign country. If a taxpayer in support of his claim to the section 911 exclusion from gross income makes certain *specific* representations as to the purpose, nature, and intended length of his stay in the foreign country, and in an application for absentee voting makes other statements which appear inconsistent with those specific representations, the Service must take such inconsistent statements into account *in determining the true facts* upon which the taxpayer bases his claim to bona fide residence in a foreign country. Further, as stated in Revenue Ruling 71–101, even such inconsistent statements will not necessarily be conclusive.

However, the mere representation by a taxpayer made in support of an application for absentee voting that he considers himself a voting resident of a particular State and that he intends to ultimately return to that State, will not by itself in any way affect his claim to the section 911 exclusion from gross income based on bona fide residence in a foreign country.

We hope that this letter will clarify any ambiguities that may have existed with respect to this situation. We hope that no United States citizen living abroad will hesitate to exercise his voting right out of concern that this action may jeopardize his claim to the section 911 exclusion from gross income.

Sincerely yours,

F. Feibel,
Acting Chief, Corporation Tax Branch.

By Mr. STEVENS (for himself, Mr. Gravel, Mr. Jackson, and Mr. Magnuson):

S. 98. A bill to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, on behalf of myself, my colleague from Alaska, (Mr. Gravel), and the distinguished Senators from Washington (Mr. Magnuson and Mr. Jackson), I am introducing today legislation to create a Klondike Gold Rush National Historical Park. This is a uniqe concept. Portions of the park will be in Alaska and other portions will be in the State of Washington. It is eventually hoped that portions of the park will become international and will cross into Canada from Alaska.

This bill is a joint effort by the Alaska and Washington delegations in the Senate and the House. It will mean a great deal to both States and will also affect British Columbia and the Yukon Territory in Canada. Hopefully, it will provide a much needed influx of tourists into the Pacific Northwest. It will provide an on-the-spot education to people from all over the world who are interested in the Klondike gold rush of 1893.

Mr. President, last Congress the Alaska and Washington delegations strongly supported the Klondike Gold Rush National Historical Park. Shortly before adjournment a favorable report was received from the Department of the Interior. The bill this year is identical except the changes suggested by the Department of the Interior have been incorporated into the bill. Mr. President, I am hopeful that this important measure will receive prompt consideration by Congress this session.

I request unanimous consent that a summary of the legislation be printed in the Congressional Record at this point.

There being no objection, the summary was ordered to be printed in the Record, as follows:

SUMMARY OF PROPOSED KLONDIKE GOLD RUSH NATIONAL HISTORIC PARK

The proposed Klondike Gold Rush National Historical Park will consist of a Seattle Unit, located in the Pioneer Square Historic District in Seattle, Washington; a Skagway Unit, located in Skagway, Alaska; a White Pass Trail Unit, located near Skagway on the upper reaches of the Skagway River; and a Chilkoot Trail Unit, located near Skagway in the Taiya River Valley. The total area of the four units combined is less than 13,300 acres.

SEATTLE UNIT

The Seattle Unit will consist of a site located in the Pioneer Square Historic District. The square is entered on the National Register of Historic Places and is specially zoned as a historic district under a municipal ordinance. The site will be selected by the Secretary of the Interior after the proposed park is authorized by Congress. The site will be in leased space within one of the historical buildings in the district. It will have approximately 3,000 square feet and will contain an exhibit room, a small theater, and administrative quarters. The exhibits will consist of photographic murals and other photographic displays, artifacts, models and other materials illustrating the effect of the gold rush on Seattle and the outside and illustrating the story of transportation to and from the North. The theater will be used for films and slide shows about the gold rush and about the historical park. It will also be used from time to time for live performances of the historic period.

The Park Service plans to enter into a lease agreement for five years, renewable for another five. Under the lease, the lessor will rehabilitate the leased space for occupancy and recover his costs over the period of the lease. In this way, no substantial Federal investment is required to initiate the project. Costs will be handled out of annual operating programs.

SKAGWAY UNIT

The Skagway Unit is located in Skagway, Alaska, and includes 55 wooden, one- and two-story houses and residences, some partially vacated, which are the remaining evidence of the goldrush town of Skagway. The unit is located along Broadway and its side streets between First and Seventh Avenues, largely coinciding with the Skagway Historical District (city ordinance adopted in October 1972). The unit is the focal point of the Skagway business district, is a major tourist attraction, and is listed in the National Register of Historic Places.

The purpose of the Skagway Unit is to preserve and, where necessary, restore historic structures and to provide interpretation and interpretive displays therein so as to provide a comprehensive living history program. To achieve this purpose, up to 22 structures would be acquired for renovation and adaptive restoration. Insofar as private capital is utilized for the same purpose, the Federal program would be reduced proportionately. Most of the refurbished structures will be sold or leased back for private businesses, which will serve resident and visitor uses. For interpretive programs, up to eight of the structures would be retained by the government. However, if cooperative agreements can be reached with private parties to achieve the same purpose, several of these structures would also be sold or leased back. At least one structure, and perhaps two, would have to be retained to provide a visitor center, museum, and theater.

Restoration work undertaken at Skagway will be accomplished by Park Service employees. It is not feasible to contract for this work. It will be done over a period of years and will not require large appropriations in any single year for acquisition and development. The construction of modest maintenance and shop facilities will probably be by contract.

CHILKOOT TRAIL UNIT

The Chilkoot Trail Unit consists of a corridor of park land approximately one mile in width and 16 miles in length paralleling the entire length of the Chilkoot Trail within the United States. It lies principally in a north-south direction, with the south boundary including the historic townsite of Dyea about three miles (eight, by road) northwest of Skagway. The park unit includes the "slide" cemetery, the Chilkoot Trail and all related historic sites and artifacts found along the trail. The north boundary of the corridor is Chilkoot Pass on the international boundary.

The National Park Service intends to restore the Chilkoot Trail to its most representative location, protect structural ruins along the trail, record and protect all artifacts in the corridor, and provide modest camping facilities for the public hiking the trail. Interpretation of this portion of the gold rush story will primarily be through graphics. A trail and two log shelters already exist in the corridor.

Almost all of the work to be undertaken in the Chilkoot Trail Unit will be accomplished by Park Service employees. Full development of modest camping and attendant facilities in the Dyea vicinity in the future will be by contract. The costs in any single year should be relatively small.

WHITE PASS TRAIL UNIT

The White Pass Trail Unit consists of a corridor of park land approximately one mile in width and five miles in length paralleling important remnants of the White Pass Trail. The unit lies in a north-south direction, the south boundary beginning eight miles northeast of Skagway. It includes remnants of the White Pass Trail and the ruins of White Pass City. The north boundary of the unit is White Pass on the international boundary.

The National Park Service intends to restore a portion of the White Pass Trail, stabilize ruins, record and protect all artifacts within the park, and provide modest camping facilities for the public as needed. Interpretation of the White Pass Trail will be accomplished through means of signs along the trail, overlooks beside the Skagway-Carcross Highway, and interpretive talks on the White Pass and Yukon Route. The White Pass is listed in the National Register of Historic Places.

All of the work to be undertaken in the White Pass Trail Unit during the first five to ten years will be by Park Service employees. The annual costs should be modest. At some time in the future, an overnight facility in the vicinity of the White Pass could be developed if demand warrants. Such a facility would require contracting.

INTERNATIONAL HISTORIC PARK

In British Columbia and the Yukon, the National and Historic Parks Branch of Canada is planning park units based on the Klondike Gold Rush similar to the proposed American park. Preliminary arrangements have been made for the two proposed parks to be designated as the Klondike Gold Rush International Historic Park. Because the respective Chilkoot Trail Units join together and hikers will travel through both countries, preliminary arrangements have been made for integrated management of the Chilkoot Trail. Preliminary arrangements have also been made for developing an integrated interpretive program so that interpretation at the units in each country will complement that in the other.

Canadian preservation and restoration work is already underway. Substantial funds have already been invested in restoration of historic buildings in Dawson and additional work is underway and programmed at Dawson, on the Klondike, and on the Chilkoot Trail.

INTERGOVERNMENTAL COOPERATION

The National Park Service and the National and Historic Parks Branch have developed the park plans in cooperation with the State, Provincial, Territorial, and municipal governments involved. An international working committee composed of officials from the United States, Canada, Alaska, British Columbia, and the Yukon Territory oversees the planning and develops arrangements for international and intergovernmental cooperation. Additionally, the National Park Service had made preliminary arrangements for cooperative management agreements with Skagway, the State of Alaska, and the Forest Service in relation to the park units in and near Skagway.

By Mr. HUMPHREY:

S. 99. A bill to establish a Joint Committee on National Security. Referred to the Committee on Armed Services.

Mr. HUMPHREY. Mr. President, I am introducing a bill today which would establish a permanent Joint Congressional Committee on National Security.

I believe this committee will enable Congress to address itself in a more comprehensive way than ever before to a thorough and ongoing analysis and evaluation of our national security policies and goals.

If the 94th Congress has one important objective, it should be to redress the imbalance between the executive and legislative branches relating to both domestic and foreign policy.

I propose that the committee have these main functions:

First, to study and make recommendations on all issues concerning national security. This would include review of the President's report on the state of the world, the defense budget, and foreign assistance programs as they relate to national security goals, and U.S. disarmament policies as a part of our defense considerations.

Second, to conduct a thorough and timely study and analysis of the intelligence agencies in order to determine whether their charters, organization and operations are consistent with national security needs. Many of our intelligence agencies were created at the height of the cold war nearly 30 years ago. It is important that we review their functions in light of our needs for the remainder of this century.

Third, to study and make recommendations on Government practices of classification and declassification of documents.

For too many years, the Congress has had inadequate information on matters concerning national security. We in the Congress have had to accept partial information, often in limited context, and as a result have been unable to weigh the total picture.

The consequence of this situation has been a continuing dimunition in the foreign policy role of the Congress.

It is often difficult for Congress to obtain adequate disclosure of Government documents. On several important occasions heads of the Defense and State Departments and members of the National Security Council have claimed executive privilege and have refused to answer congressional inquiries on matters concerning our national security.

While the President and key Government officials meet occasionally with the leaders of the Senate and the House of Representatives on an informal basis, there is no forum for a regular and frank exchange between the Congress and the executive branches on the vital issues affecting our national security. I am particularly sensitive to this missing link, having had the special experience of serving as a U.S. Senator for 20 years and as Vice President for 4 years.

The Joint Committee on National Security would provide that link.

It would function in the national security field in a manner comparable to the Joint Economic Committee, which conducts a systematic review and analysis of the President's annual economic report.

Its unique feature would be the composition of its membership. It would have representation from committees that have primary responsibility in defense and foreign relations matters and from the congressional leadership.

It would include the President pro tempore of the Senate; the Speaker of the House; the majority and minority leaders of both Houses, and the chairmen and ranking minority members of the Committees on Appropriations, Foreign Relations, and Armed Services, and the Joint Committee on Atomic Energy.

It would not usurp the legislative or investigative functions of any present committees, but supplement and coordinate their efforts in a more comprehensive framework.

I want to emphasize this last point. The proposed Joint Committee on National Security is not being created as a competing force with the Armed Services Committee or the Foreign Relations Committee on which I am proud to serve. It will be a way to coordinate the information which the Congress so desperately needs to carry out its oversight responsibilities of the executive branch in the field of national security.

Nor is it designed to usurp the President's historic role as Commander in Chief, or to put the Congress in an adversary relationship with the executive branch.

It is, rather, a new body, to be composed of members of both parties and both Houses of Congress, that will make possible closer consultation and cooperation between the President and the Congress.

In recent years, we have seen a gradual isolation and insulation of power within the executive branch. The Constitution, I suggest, intended something quite different when it called for a separation of powers.

We have not had the mechanism in our national security apparatus for adequate consultation between the two branches in the formulation of national security policy.

As one observer of the foreign policy process observed, "national security is too important to be left to the national security apparatus." I concur with this view. The President and his national security advisers have a duty and constitutional obligation to relinquish some part of the initiative which they now command in the conduct of American foreign policy.

There are reasons for the concentration of power which has developed within the executive branch which are quite understandable considering our experience in World War II and afterward. But times change, and so must our institutions and responses.

In an article in Foreign Affairs, July 1959, I expressed my concern over this development. I noted that the Congress "with its power of the purse, and through the right to investigate, to criticize, and to advocate—does exert a significant influence on the quality and direction of U.S. foreign policy."

I found that the Congress must have its own vehicle for educating itself and expressing ideas on this question and the more general issue of national security. I wrote:

> Such independent expertise is absolutely necessary if the House and Senate are to fulfill their Constitutional responsibility of surveillance and initiative. Without competent independent sources of fact and wisdom they cannot make discriminating judgments between alternative programs and proposals.

I, therefore, suggested that "the Congress prompt the executive to put its house in order by itself creating a Joint Committee on National Strategy, to include the chairman and ranking minority members of the major committees of the House and the Senate."

Such a committee's purpose would be to look at our total national strategy—military, political, economic, and ideological. This committee would not usurp the functions of any of the present committees, but supplement them by endowing their work with a larger frame of reference. As I said in 1959:

> The Chairmen of the Committees represented would come away from the meeting of the new Joint Committee with a greater appreciation, for instance, of the relationship between fiscal policy and national productivity and how both factors relate to our defense posture and our negotiating position. Responsible statesmanship consists precisely in the capacity to see complex relationships in a perspective as broad as the national purpose itself.

Mr. President, I made that proposal in 1959. Had it been adopted, perhaps the history of the past 16 years might have been different. I cannot help but believe that if we had shared more fully in momentous decisions, like those in Vietnam, we would be less divided as a Nation by the bitterness and hatreds that confront us today.

But I submit, Mr. President, that now is not the time for regrets. It is a time for careful and responsible decision; it is a time to adapt our institutions to change; above all, it is a time to act.

It is not enough for the Congress to insist upon its prerogatives if it is not prepared to cope with its responsibilities.

The executive branch, recognizing the deep interrelationships between issues of foreign affairs, military policy, and some crucial domestic issues, prepared itself to fulfill its responsibilities to the Constitution by forming a National Security Council.

It is fitting, therefore, that the Congress adopt a similar, parallel and counterpart mechanism: a Joint Congressional Committee on National Security, which could draw on the experience and expertise of legislative leaders in various national security areas.

Our existing congressional committees lack coordination. The joint committee would not, under my proposal, usurp any of the functions of these committees of the two Houses, but would address itself to the broad-gaged issues that overlap their jurisdictions and thereby assist the congressional and executive decision-making process.

Issues of defense, arms control, oversight of intelligence agencies, foreign development and security assistance, national priorities, foreign policies, the development of a global concept for our national interests, and a simultaneous evaluation of our security interests, classification and declassification procedures—all these and many more issues require coordination and a broad focus.

The joint committee I am proposing would concentrate on these and other topics. Let me summarize why I believe such a committee is desirable:

First, it would provide for a total analysis and evaluation of national security jointly by both Houses of Congress.

Second, it would permit closer consultation and cooperation in national security planning with the executive branch than is now possible. This, I believe, would help restore the intended balance of power between the two branches and strengthen the decision-making process.

Third, it would conduct an exhaustive review of all the intelligence agencies and departments to determine whether significant reorganization is needed.

Fourth, the committee will have the power to review and simplify classification procedures and to declassify documents whose contents should not be withheld from the public. Thus, we can achieve greater understanding, support, and public participation in the establishment of our objectives and policies.

The composition of the joint committee can be summarized as the following:

First, there will be 25 members with fully bipartisan representation. The majority party will have three members more than the minority party.

Second, the experienced authority of the Congress would be fully represented on the joint committee.

Third, each House also would have the opportunity to be represented by outstanding members who are not chairmen or elected leaders, through the provision for membership of two majority and one minority member from each House.

Mr. President, I ask unanimous consent that the text of the bill to establish a Joint Committee on National Security be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 99

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress declares that—

(1) it has been vested with responsibility under the Constitution to assist in the formulation of the foreign, domestic, and military policies of the United States.

(2) such policies are directly related to the security of the United States;

(3) the integration of such policies promotes our national security; and

(4) the National Security Council was established by the National Security Act of 1947 as a means of integrating such policies and furthering the national security.

The Congress further declares that the integration of such policies and furthering the national security also require oversight and monitoring by the Congress of activities of the intelligence agencies of the United States.

SEC. 2. (a) In order to enable the Congress to more effectively carry out its constitutional responsibility in the formulation of foreign, domestic, and military policies of the United States and in order to provide the Congress with an improved means for formulating legislation and providing for the integration of such policies which will further promote the security of the United States, there is established a joint committee of the Congress which shall be known as the Joint Committee on National Security, hereafter referred to as the "joint committee." The joint committee shall be composed of twenty-six Members of Congress as follows:

(1) the Speaker of the House of Representatives;

(2) the President pro Tempore of the Senate;

(3) the majority and minority leaders of the Senate and the House of Representatives;

(4) the chairmen and ranking minority members of the Senate Committee on Appropriations, the Senate Committee on Armed Services, the Senate Committee on Foreign Relations, and the Joint Committee on Atomic Energy;

(5) the chairmen and ranking minority members of the House Appropriations Committee, the House Armed Services Committee, and the House Foreign Affairs Committee;

(6) three Members of the Senate appointed by the President of the Senate, two of whom shall be members of the majority party and one of whom shall be a member of the minority party;

(7) three Members of the House of Representatives appointed by the Speaker, two of whom shall be members of the majority party and one of whom shall be a member of the minority party.

(b) The joint committee shall select a chairman and a vice chairman from among its members.

(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

SEC. 3. (a) The joint committee shall have the following functions:

(1) to make a continuing study of the foreign, domestic, and military policies of the United States with a view to determining whether and the extent to which such poli-

cies are being appropriately integrated in furtherance of the national security;

(2) to conduct in a timely fashion a thorough review and analysis of activities of the intelligence agencies of the United States in order to determine whether their charters, organization and operations are consistent with the national security needs of the Government;

(3) to make a continuing study of the recommendations and actions of the National Security Council relating to such policies and activities, with particular emphasis upon reviewing the goals, strategies, and alternatives of such foreign policy considered by the Council; and

(4) to make a continuing study of Government practices and recommendations with respect to the classification and declassification of documents, and to recommend certain procedures to be implemented for the classification and declassification of such material.

(b) The joint committee shall make reports from time to time (but not less than once each year) to the Senate and House of Representatives with respect to its studies. The reports shall contain such findings, statements, and recommendations as the joint committee considers appropriate.

SEC. 4. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the joint committee under clause (3) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the joint committee then holding office.

(b) Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or the joint committee, and may be served by such person as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses. The provisions of sections 102–104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

(c) With the consent of any standing, select, or special committee of the Senate or House, or any subcommittee, the joint committee may utilize the services of any staff member of such House or Senate committee or subcommittee whenever the chairman of the joint committee determines that such services are necessary and appropriate.

(d) The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon vouchers signed by the chairman of the joint committee or by any member of the joint committee authorized by the chairman.

(e) Members of the joint committee, and its personnel, experts, and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses if an itemized statement of such expenses is attached to the voucher.

By Mr. PELL (for himself and Mr. INOUYE):

S. 100. A bill to provide a national program in order to make the international metric system the predominant but not exclusive system of measurement in the United States and to provide for converting to the general use of such system within 10 years. Referred to the Committee on Commerce.

METRIC CONVERSION ACT OF 1975

Mr. PELL. Mr. President, I am introducing today, for myself and the distinguished junior Senator from Hawaii (Mr. INOUYE), a bill to make the metric system of weights and measures the predominant system of measurement within the United States.

It has become increasingly clear that the United States is moving, inexorably and inevitably, along the road of conversion to the metric system of weights and measures.

Indeed, it is today an accepted conclusion that the United States will become a Nation in which the metric system will be the predominant system of measurements.

The real question is not whether the United States will become a metric nation, but how we will manage the conversion. Will the change to metric measurements be conducted in an orderly, planned, and efficient manner, or will the Congress, by inaction, simply permit the change to take place. In my view, the choice is between a coordinated, efficient conversion and a chaotic, confusing, and costly conversion to metric measurements.

During the past several years, the country has been drifting toward greater use of the metric system. That drift has now become a strong national current, evident in industry, consumer goods, in government, and in our educational systems.

What is now needed is an explicit national policy of metric conversion and a coordinated national plan of metric conversion to guide the strong national movement, already underway, toward predominant use of metric measurements.

The Congress, under the Constitution, has the express power to establish a system of weights and measures. The Congress, accordingly, also has a constitutional responsibility for our national system of weights and measures. I believe the Congress will be delinquent in its responsibilities if it does not recognize the realities of metric conversion and provide the national policy and guidance needed to implement the conversion in the most efficient manner possible.

The history of the movement in the United States toward use of the metric system goes back more than 150 years. It was Thomas Jefferson who first proposed that Congress fulfill its constitutional responsibility for establishing weights and measures by considering the metric system.

During the past decade, however, great progress has been made toward metric conversion. When I came to the Senate 14 years ago, one of the first legislative proposals I introduced was a metric conversion bill. Seven years ago, in 1967, the Congress enacted a bill, sponsored by former Representative George P. Miller of California and myself, requiring the Department of Commerce to undertake a broad study of advantages and disadvantages of the United States converting to a predominantly metric system.

In August of 1971, at the conclusion of that comprehensive study, the Secretary of Commerce transmitted to the Congress a report entitled: "Metric America: A Decision Whose Time Has Come."

In summary, the conclusions of that study were as follows:

First, that an increased use of the metric system in the United States is inevitable;

Second, that a carefully planned transition on a national basis would achieve maximum efficiency while minimizing economic dislocation;

Third, that a changeover period of 10 years to a predominantly metric system was the most desirable;

Fourth, that a broadly representative body should be established to plan and coordinate the changeover.

Based on those recommendations, I introduced in 1971, a metric conversion bill designed to implement those recommendations, and in 1972, the administration sent to the Congress its own recommendations for metric conversion legislation. Late in the final session of the 92d Congress in 1972, the Senate passed my metric conversion bill with amendments taking into account the Administration's proposals.

In the 93d Congress, I reintroduced the metric conversion bill, and there were strong hopes for congressional action, but in the House of Representatives, the metric conversion legislation became enmeshed in procedural controversy.

I am hopeful that this 94th Congress will be the Congress which finally will provide the direction and guidance needed for a planned conversion to the metric system of measurements.

While the Congress has been considering the issue, industry, and other Government institutions have been moving ahead as best they can without Federal Government coordination.

In industry, such major corporations as General Motors, Caterpillar Tractor, Honeywell, International Harvester, IBM, Ford, and Sears, Roebuck & Co. have metrication programs underway and are supporting metric conversion. At least two States, Maryland and California, have adopted plans for teaching the metric system in their State education systems. Four States now include metric measurements on their highway signs.

In the Federal Government, the Treasury Department recently announced a phased program requiring wines to be packaged in metric sizes, and the Agriculture Department has begun to present agricultural statistics in metric measurements.

I am happy to say that the Congress has given some recognition to the accelerating shift to metric measurements by adopting, as part of the Education Amendments of 1974, my proposal for a metric education program to be administered through the U.S. Office of Education.

The United States is moving toward metric measurements none too soon, for the movement toward metric measurements is worldwide, and the United States stands in some danger of finding itself isolated as the only non-metric industrialized nation.

During the past decade, at least 25 nations have decided to convert to the metric system. Indeed, the only nations, other than the United States, that have not adopted the metric system are Brunei, Burma, Liberia, the Yemen Arab Republic, and the Yemen People's Democratic Republic.

During the past several years, on the other hand, the nations that have decided to convert to metric measurements and are in various stages of conversion include Great Britain, Australia, South Africa, Canada, New Zealand, and Zambia.

No report on the movement toward metrication would be complete without a mention of the American National Metric Council, established by the American National Standards Institute, which, in the absence of a coordinated, congressionally mandated conversion program, has done an excellent job in providing guidance and information to industries and institutions interested in moving on their own initiative toward metrication.

Mr. President, the bill I am introducing today (S. 100) is identical to the legislation I presented in the 93d Congress, except that I have deleted from the bill provisions for a metric informational and educational program in recognition of the adoption of similar provisions in the Education Amendments of 1974.

There are four basic purposes of the legislation: First, the conversion to the metric system within a period of 10 years; second, the creation of a National Metric Conversion Board to plan and implement metric conversion; third, the requirement that the conversion plan include provisions for an appropriate appeals process to grant exemptions from the use of metric units and standards in cases of unforeseen hardship; fourth, the provision of financial assistance to small businesses and individuals severely effected by metric conversion.

The National Metric Conversion Board would consist of nine members appointed by the President and in addition one member each from the House of Representatives and the Senate. The Board would have the responsibility initially to submit within 18 months for the approval of Congress a comprehensive plan for moving the United States to a predominantly metric system of weights and measures.

In the development of the plan the Board would be required to consult with all sectors of the American economy including small business, science, engineering, labor, education, consumer organizations, Government agencies at all levels, as well as recognized standards developing and coordinating organizations and individuals or groups as are considered appropriate by the Board.

To stimulate industry to metric conversion and to encourage the purchase of new American-made machinery, my bill provides for businesses which purchase new equipment for purposes of metric conversion to be allowed a double rate of depreciation for tax purposes on that machinery.

Depending on the pace of metric conversion, machinists and automobile repairmen may have to purchase new sets of tools. The costs of tools to these tradesmen sometime reach nearly $2,000 a person. My bill would allow the Small Business Administration to provide grants up to that amount to any individual whose trade would be severely affected by metric conversion. The bill also provides for loans to be made to small businesses similarly hurt by metric conversion.

Mr. President, most of the controversy over conversion to the metric system is behind us. I think it is time to leave behind us, for once and for all, the awkward and archaic system of English weights and measures. It is time to discard the inch-by-inch movement toward metric conversion and move forward with a full-metered stride, in step with the rest of the world.

Mr. President, I ask unanimous consent that the text of the bill, the Metric Conversion Act of 1975, be printed in full at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Metric Conversion Act of 1975".

FINDINGS

SEC. 2. The Congress finds that—

(1) the United States is the only industrially developed nation which has not established a national policy committing itself to and facilitating conversion to the metric system; and

(2) as a result of the study to determine the advantages and disadvantages of increased use of the metric system in the United States authorized by Public Law 90-472 (82 Stat. 693), the Secretary of Commerce has found that increased use of the metric system in the United States is inevitable, and has concluded that a national program to achieve a metric changeover is desirable; that maximum efficiency will result and minimum costs to effect the conversion will be incurred if the conversion is carried out pursuant to a national plan; that the changeover period be ten years, at the end of which the Nation would be predominantly, although not exclusively, metric; that a central planning and coordinating body be established and assigned to plan and coordinate the changeover in cooperation with all sectors of our society; and that immediate attention be given to education of the public and to effective United States participation in international standards making;

(3) the adoption of the metric system would result in new jobs in the United States;

(4) the adoption of such system would enhance our position in world trade markets;

(5) the benefits of conversion would offset the cost of conversion;

(6) conversion to such system would be a stimulus to the economy and to new investment in plant equipment;

(7) the language and tools of our scientific community are already using such system;

(8) a common system of measurement would improve international communication;

(9) the Nation is already heading toward such system slowly and haphazardly;

(10) such system is based on fundamental relationships and is easily understood and would be an aid to our educational system;

(11) small business and self-employed craftsmen would benefit from a coordinated conversion program;

(12) new international standards are currently being developed into such system and the United States is not fully participating in such development;

(13) the use of the metric system of weights and measures in the United States was authorized by the Act of July 28, 1866 (14 Stat. 339);

(14) the United States was one of the original signatories to the Convention of the Meter (20 Stat. 709), which established the General Conference of Weights and Measures, the International Committee of Weights and Measures, and the International Bureau of Weights and Measures; and

(15) the metric measurement standards recognized and developed by the International Bureau of Weights and Measures have been adopted as the fundamental measurement standards of the United States and the customary units of weights and measures used in the United States have been since 1893 based upon such metric measurement standards.

SEC. 3. (a) It is therefore declared that the policy of the United States shall be—

(1) to establish the metric system of measurement as the sole language of measurement in the United States within ten years from the date of the enactment of this Act except for exemptions granted pursuant to the provisions of this Act:

(2) as part of the plan establishing such system, to provide a method of appeal under which exemptions may be granted to persons and businesses upon proof of excessive costs substantially outweighing benefits to the Nation, custom and tradition as a member of a class outweighing such benefits, or other factors determined as part of such plan;

(3) to facilitate and encourage the substitution of metric measurement units for customary measurement units in education, trade, commerce, and all other sectors of the economy of the United States with a view to making metric units the predominant, although not exclusive, language of measurement with respect to transactions occurring after ten years from the date of the enactment of this Act;

(4) to facilitate and encourage the development as rapidly as practicable of new or revised engineering standards based on metric measurement units in those specific fields or areas in the United States where such standards will result in rationalization or simplification of relationships, improvements of design, or increases in economy;

(5) to facilitate and encourage the retention in new metric language standards of those United States engineering designs, practices, and conventions that are internationally accepted or embody superior technology;

(6) to cooperate with foreign governments and public and private international organizations which are or become concerned with the encouragement and coordination of in-

creased use of metric measurements units or engineering standards based on such units, or both, with a view to gaining international recognition for metric standards proposed by the United States;

(7) to assist the public through information and educational programs to become familiar with the meaning and applicability of metric terms and measures in daily life, including—

(A) public information programs conducted by the Board through the use of newspapers, magazines, radio, television, other media, and through talks before appropriate citizens groups and public organizations;

(B) counseling and consultation by the Secretary of Health, Education, and Welfare and the Director, National Science Foundation with educational associations and groups so as to assure that the metric system of measurement is made a part of the curriculum of the Nation's educational institutions and that teachers and other appropriate personnel are properly trained to teach the metric system of measurement;

(C) consultation by the Secretary of Commerce with the National Conference of Weights and Measures so as to assure that the State and local weights and measures officials are appropriately informed of the intended metric changeover and are thus assisted in their efforts to bring about timely amendments to weights and measures laws; and

(D) such other public information programs by any Federal agency in support of this Act which relate to the mission of the agency;

(8) to accomplish a changeover to the greatest practical extent within ten years by Federal agencies to the metric system of measurement pursuant to the comprehensive plan developed by the Board; and

(9) to utilize Federal procurement activities to encourage the general use of the metric system of measurement.

(b) It is the purpose of this Act—

(1) to provide for the formulation and initial effectuation of a plan for conversion to the metric system;

(2) to establish a National Metric Conversion Board to develop and implement a metric conversion plan for the United States;

(3) to provide limited assistance to businesses and individuals, substantially effected by metric conversion, in bearing the cost of such conversion; and

(4) to provide for the establishment of a national information program about metric conversion.

DEFINITIONS

SEC. 4. For the purpose of this Act—

(a) The term "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

(b) The term "engineering standard" means a standard which prescribes a concise set of conditions and requirements to be satisfied by a material, product, process, procedure, convention, test method, and the physical, functional, performance and/or conformance characteristics thereof.

(c) The term "changeover period" means the length of time for the United States to become predominantly, although not exclusively, metric.

ESTABLISHMENT OF NATIONAL METRIC CONVERSION BOARD

SEC. 5. There is hereby established a National Metric Conversion Board (herein referred to as the "Board") to implement the policy set out in this Act.

COMPOSITION OF BOARD

SEC. 6. The composition of the Board shall be as follows:

(a) Nine members shall be appointed by the President, with the advice and consent of the Senate, from among those persons with experience and competence in the following areas: business, labor, education, consumer protection, science, and technology. The President shall designate one member appointed by him to serve as Chairman. The members first appointed under this section shall continue in office for terms of 1, 2, 3, 4, or 5 years, from the date this section takes effect, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of the expiration of the term which his predecessor was appointed. No more than five of the members shall be appointed from the same political party;

(b) One Member of the Senate shall be appointed by the President of the Senate; and

(c) One Member of the House of Representatives, who shall not be a member of the same political party as the Member of the Senate, shall be appointed by the Speaker of the House of Representatives.

VACANCIES AND VICE CHAIRMAN

SEC. 7. No vacancy on the Board shall impair the right of the remaining members to exercise all the powers of the Board. Six members of the Board shall constitute a quorum for the transaction of business. The Board shall annually elect a Vice Chairman to act in case of the absence or disability of the Chairman or in case of the vacancy in the Office of the Chairman.

PLAN

SEC. 8. (a) Within eighteen months after funds have been appropriated to carry out the provisions of this Act the Board shall, in furtherance and in support of the policy expressed in section 3 of this Act, develop and submit to the President and the Congress a comprehensive plan to accomplish a changeover to the metric system of measurement in the United States. Such a plan may include recommendations for legislation deemed necessary and appropriate. Such a plan shall include proposed Executive orders or other directives, which the President is authorized to promulgate and make effective, requiring such conversion activities of the Federal Government, including procurement, in accordance with an appropriate time schedule and pursuant to the comprehensive plan. In developing this plan the Board shall—

(1) consult with and take into account the interests and views of the United States commerce and industry, including small business; science; engineering; labor; education; consumers; government agencies at the Federal, State, and local level; nationally recognized standards developing and coordinating organizations; and such other individuals or groups as are considered appropriate by the Board to carry out the purposes of this section;

(2) consult, to the extent deemed appropriate, with foreign governments, public international organizations and, through appropriate member organizations, private international standards organizations. Contact with foreign governments and intergovernmental organizations shall be accomplished in consultation with the Department of State.

(b) Any amendment to the plan shall be submitted by the Board to the President and the Congress under the provisions set out in subsection (a) of this section and section 9 of this Act.

IMPLEMENTATION

SEC. 9. (a) The Board shall begin implementation of the plan at the end of the first period of sixty calendar days that Congress is in continuous session after the date on which the plan is transmitted to it and to the President unless between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that it does not favor the plan or the President disapproves the plan and gives his reasons therefor.

(b) For the purpose of subsection (a) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

POWERS

SEC. 10. In carrying out its duties, the Board is authorized to:

(a) enter into contracts in accordance with the Federal Property and Administrative Services Act of 1949, as amended, with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties;

(b) conduct hearings at such times and places as it deems appropriate;

(c) establish such committees and advisory panels as it deems necessary to work with the various sectors of the American economy and governmental agencies in the development and implementation of detailed changeover plans for those sectors; and

(d) perform such other acts as may be necessary to carry out the duties prescribed by this Act.

COMPENSATION OF BOARD

SEC. 11. Members of the Board who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be entitled to receive compensation at a rate of $100 per day, including traveltime, and, while so serving on the business of the Board away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service. Payments under this section shall not render members of the Board employees or officials of the United States for any purpose.

DIRECTOR AND CONSULTANTS

SEC. 12. (a) The Board is authorized to appoint an Executive Director who shall serve full time and receive basic pay at a rate not to exceed the rate provided for GS–18 in section 5332 of title 5, United States Code, and to appoint and fix the compensation of such staff personnel as may be necessary to carry out the provisions of this Act.

(b) The Board is authorized to employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, compensate individuals so employed at rates not in excess of the rate prescribed for grade 18 of the General Schedule under section 5332 of such title, including traveltime, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of said title 5 for persons in the Government service employed: *Provided, however,* That contracts for such employment may be renewed annually.

STAFF SERVICES

SEC. 13. Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) and such other staff services as may be requested by the Board shall be provided the Board by the Secretary of Commerce, for which payment shall be made in advance, or by reimbursement, from funds of the Board in such amounts as may be agreed upon by the Chairman of the Board and the Secretary of Commerce. In performing these functions for the Board, the Secretary is authorized to obtain such information and assistance from other Federal agencies as may be necessary.

GIFTS

SEC. 14. (a) The Board is hereby authorized to accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, and personal services, for the purpose of aiding or facilitating the work of the Board. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Board.

(b) For the purpose of Federal income, estate, and gift taxes, property accepted under subsection (a) of this section shall be considered as a gift or bequest to or for the use of the United States.

(c) Upon the request of the Board, the Secretary of the Treasury may invest and reinvest in securities of the United States any moneys contained in the fund herein authorized. Income accruing from such securities, and from any other property accepted to the credit of the fund authorized herein, shall be disbursed upon the order of the Board.

ANNUAL REPORT

SEC. 15. The Board shall submit annual reports of its activities to the President and the Congress with respect to (1) progress being made under such plans; (2) tangible costs and benefits being incurred thereunder; and (3) any additional legislation needed to carry out the policy stated in this Act.

AUTHORIZATION

SEC. 16. There are hereby authorized to be appropriated, for the preceding sections, not to exceed $3,000,000 for the fiscal year beginning July 1, 1973, not to exceed $4,000,000 for the fiscal year beginning July 1, 1974, and for each of the following three fiscal years not to exceed $4,500,000. Appropriations to carry out those provisions may remain available for obligation and expenditure for such period or periods as may be specified in the Acts making such appropriations.

TAX ASSISTANCE

SEC. 17. (a) Section 167 of the Internal Revenue Code of 1954 (relating to depreciation) is amended by redesignating subsection (m) as (n) and by inserting after subsection (l) the following new subsection:

"(n) PROPERTY NECESSARY FOR METRIC CONVERSION.—

"(1) USEFUL LIFE.—At the election of the taxpayer, the useful life of property described in paragraph (2) shall, for purposes of this section other than for purposes of subsection (c), be one-half of the useful life determined without regard to this subsection.

"(2) PROPERTY TO WHICH APPLICABLE.—Paragraph (1) shall apply only to personal property which is—

"(A) manufactured in the United States and substantially all of the component parts of which are manufactured in the United States, and

"(B) placed in service in replacement of other property in order to carry out the requirements of the national plan for metric conversion submitted under the Metric Conversion Act of 1975.

"(3) ELECTION.—An election under paragraph (1) with respect to any property shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

"(4) REGULATIONS.—The Secretary or his delegate shall, after consultation with the Secretary of Commerce, prescribe regulations to carry out the purposes of this subsection."

(b) As soon as practicable after the submission of the national plan for metric conversion under this Act the Secretary of the Treasury shall submit to the Congress recommendations for additional changes in the Federal income tax laws which he considers necessary to assist in carrying out the national plan. Before submitting recommendations under this subsection the Secretary of the Treasury shall consult with the Secretary of Commerce and the Secretary of Labor, and with such other officers of the United States and such private individuals and organizations as he deems desirable.

CONVERSION ASSISTANCE TO BUSINESS AND INDIVIDUALS

SEC. 18. (a) Section 7(b) of the Small Business Act is amended by adding after paragraph (7) a new paragraph as follows:

"(8) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration, in consultation with the Secretary of Commerce, determines to be necessary or appropriate to assist any business concern to make changes in its equipment, facilities, or methods of operation to conform to the national plan of metric conversion submitted under the Metric Conversion Act of 1973, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b)(1) The Administrator of the Small Business Administration is authorized, under terms and conditions prescribed by him, to make grants to individuals to defray nonreimbursable expenses which must be incurred by them for the purpose of acquiring tools or instruments which are necessary to their continued employment in a trade or business and are required as the result of the implementation of the national plan of metric conversion submitted under the Metric Conversion Act of 1975. The amount of any such grant to any individual shall not exceed $2,000.

(2) There are authorized to be appropriated to the Small Business Administration such sums as may be necessary to carry out this subsection.

By Mr. DOLE:

S. 102. A bill to provide price support for milk at not less than 85 per centum of the parity price therefor, and for other purposes. Referred to the Committee on Agriculture and Forestry.

PRICE SUPPORTS

Mr. DOLE. Mr. President, last year, the Senate passed a bill to increase dairy price supports to 85 percent of parity on a voice vote and the House of Representatives passed the same measure overwhelmingly by a vote of 205 to 58. I suggested the level of 85 percent of parity in the Agriculture Committee before we reported the bill and I feel that this level of price support is noncontroversial.

Dairy producers still have the same high cost of production they had last month when we passed the previous bill. I believe that 85 percent of parity is greatly needed and is more appropriate to the situation than 80 percent.

With the rate of inflation as high as it is today, the price support declines at a rate of about 1 percent per quarter. We have included in this measure a provision to readjust the price support quarterly so that dairy farmers will receive the level of parity Congress intended and not something substantially lower.

Dairy farmers work 365 days a year. They have to. A dairy cow has to be milked every day, 7 days a week, twice a day. They have to be milked in rain, snow, and shine. They must be taken care of in hot weather or in freezing weather. Dairy farmers face a rigorous day-in day-out schedule.

They have faced rising expenses and declining market prices for many months. Many Kansas dairy farmers have contacted me to indicate that they are and have been operating at a deficit. Many of them are facing bankruptcy.

It is my feeling that that we should do something to insure that consumers have a continuous, steady supply of milk and other dairy products. We can do that by raising price supports to 85 percent of parity.

REALISTIC LEVEL

It is my feeling that this level of price support is not excessive. It is a realistic figure that would benefit dairy farmers. It is not so high that it would result in a tremendous increase in expenditure of Federal tax funds.

The trend in milk prices indicates that an increase in price supports is greatly needed. The manufacturing milk price declined by more than $1 per hundredweight between December 1973 and December 1974. At the same time, the expenses of dairy farmers have risen sharply. The simple economic fact is that dairy income does not match dairy costs. The only possible result is for dairy farmers to go out of business.

DAIRY FARMERS DECREASING

Recent figures from the Department of Agriculture show that the number of dairy farmers is declining. In 1974, about 50,000 dairy farmers went out of business. That is more than 13 percent of the total number of dairy farmers in business in 1973. Between 1972 and 1973, an even larger number of approximately 57,000 dairy farmers went out of the business.

These figures are sobering, but the most critical fact is not shown by the figures. That is the number of dairy farmers who are on the verge of going out of business right at this point. With dairy farmers losing money all over the country, it seems highly possible that dairy farmers could begin going out of business en masse. The result would be smaller supplies of dairy products, leading to possible shortages for consumers.

Another aspect of the declining number of dairy farmers is that smaller farmers and family farmers are being replaced by large corporate operations. Family farmers have always kept a competitive element in the market. In the interest of keeping dairy prices competitive, we should give family farmers and smaller operators an opportunity to stay in business. The increase in dairy price supports to 85 percent of parity would help many of them survive this crisis.

Until recently, the price support level was about 73 percent of parity. Although the President recently took action raising the support level to about 80 percent, I believe a further increase to 85 percent is still warranted. Expenses for dairy farmers have risen very sharply in the past year. On April 1, 1974, the U.S. Department of Agriculture established dairy price supports at the level of 80 percent of parity, but by the end of the year, these rising costs had brought the price support protection effectively down to the equivalent of about 73 percent.

This kind of discrepancy between the actual level and what is required by law would be resolved by this measure. This bill provides for a readjustment of price supports on a quarterly basis, instead of the annual basis that is presently provided in the law. This provision would be of great benefit to dairy farmers and would insure that the intent of the law is more consistently carried out.

MULTIFACETED PROBLEM

The difficulties facing dairy farmers are complex. For example, they have sought relief from dairy imports for many months and the Congress has done nothing to relieve their difficulties. Under the threat of countervailing duties, the European economic community lifted their dairy export subsidies a few months ago. It is my understanding that dairy imports are presently declining substantially. This should benefit the domestic industry. But when a dairy farmer is facing bankruptcy, it is hard for him to understand why our Government is permitting any dairy imports at all.

I understand this concern and feel that it is justified. I have attempted to get legislation passed to halt or limit dairy imports. The Senate has not been responsive to my proposals, but it is my feeling that the legislation I am introducing today could reduce the difficulties being faced by dairy farmers.

Mr. President, dairy farmers need a meaningful program to help them get through the crisis they are presently facing. The price support at 85 percent of parity would give some meaningful assistance, and I hope this measure will receive prompt and favorable consideration by the Senate.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembeld, That section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446), as amended, is further amended by adding at the end thereof a new subsection as follows:

"(d) Notwithstanding the foregoing provisions of this section, effective for the period beginning with the date of enactment of this subsection and ending on March 31, 1976, the price of milk shall be supported at not less than 85 per centum of the parity price therefor. The parity price for milk shall be adjusted by the Secretary at the beginning of each quarter, beginning with the second quarter of the calendar year 1975, to reflect any change during the immediately preceding quarter in the index of prices paid by dairy farmers for production items, interest, taxes, and wages rates.".

By Mr. DOLE:

S. 103. A bill to provide for reimbursement of extraordinary transportation expenses incurred by certain disabled individuals in the production of their income. Referred to the Committee on Labor and Public Welfare.

THE DISABLED WORKERS TRANSPORTATION ASSISTANCE ACT

Mr. DOLE. Mr. President, I introduce today legislation to help solve one of the most difficult problems faced by many disabled Americans. The problem to which I refer is the extraordinary transportation expenses incurred by certain handicapped individuals as they attempt to pursue gainful employment to support themselves and their families.

Transportation has always been a very critical problem for the handicapped. Many efforts have been made to improve the accessibility and availability of transportation for them. These efforts have been conducted on private and public levels. And many who otherwise would be deprived of vital mobility have been served and are now able to move about their cities and towns and enjoy a more normal existence at work or at leisure.

These programs have been invaluable to many, but they have not been able to serve the group of employed or employable handicapped whose disabilities prevent them from using public transportation. These individuals require personalized services or facilities which simply cannot be provided by mass public transportation. They must, therefore, try to make private transportation arrangements. Where this is possible, it often costs as much as $50 to $75 a week. This is a significant impact for anyone and particularly for most of the handicapped workers who are unable to use public transportation and whose wages are generally quite low.

Clearly, this is a deplorable situation. Here are men and women who want to work, who are in fact able to work, but their ability to earn and to contribute to their support and to the self-esteem which comes from being a contributing member of society is stifled or severely restricted by the cost and practicality of getting to and from jobs. This situation is one of the most disturbing wastes of human resources of which I am aware, and it demands prompt and strong action to provide a remedy. This bill is a step toward that remedy by alleviating the financial impact of their special transportation expenses.

TRANSPORTATION REIMBURSEMENTS

Cash reimbursements would be provided to certain disabled persons who incur extraordinary transportation expenses in the production of their income solely because of the limitations imposed by their disability. Reimbursements would not exceed 50 percent of the handicapped person's gross income, or $50 per week, or $2,500 per year, whichever is less. Payments would be made either quarterly or in advance, if proper application based on estimated expenses is submitted.

This measure directs the Secretary of Health, Education, and Welfare to prescribe standards for the submission of applications and to set up provisions for the renewal of applications. The Secretary would utilize the facilities and services of State vocational rehabilitation agencies to process and verify statements made by applicants.

I believe this legislation will pay priceless dividends. It will enable individuals who want to work to travel to and from their jobs. It will enhance the incomes of persons whose unique needs demand special expenditures over and above those incurred by most individuals—even those with handicaps. It will supply a significant measure of self-respect and self-confidence to the lives of the people it will benefit. And it will end the continuing waste of these precious human resources and potentials.

MAKING WAY FOR FULL POTENTIAL

It would seem to me that there is no more valuable action that Congress can take than to remove impediments to the realization of our citizens' potentials and inner worth—whether in the field of civil rights, equality of the sexes, or, as here, the handicapped. This is what America is all about—the freedom for everyone to live up to his God-given abilities. Neither race nor sex nor frailty of body or mind should be allowed to stand as an impediment to that fundamental fulfillment. This bill is a step toward removing one barrier. I ask unanimous consent that the text of this bill be printed at the conclusion of my remarks and invite my colleagues to join in support of this important measure.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Disaabled Workers Transportation Assistance Act".

PURPOSE

SEC. 2. It is the purpose of this Act to provide for cash reimbursement to certain disabled workers who incur extraordinary transportation expenses in the production of their income solely because of the limitations imposed on them by their disability.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "transportation-handicapped worker" means an individual with a physical or mental disability, as defined by the Secretary, who—

(A) is employed part or full time in a gainful occupation:

(B) because of his disability, has only limited ability to use available mass public transportation facilities with reasonable ease or safety for the journey-to-work;

(C) because of his disability, is expected to be static or to be only slowly progressive in acquiring the ability to use available mass public transportation facilities with reasonable ease or safety; and

(D) because of his disability, training or practice is not expected to improve significantly his ability to use available mass public transportation facilities.

(2) The term "employed" means being engaged in a gainful occupation which is remunerated in cash or in kind of services rendered.

(3) The term "journey-to-work" means the total amount of travel from the place of residence to the place of employment and return therefrom.

(4) The term "mass public transportation facility" means regularly scheduled services provided by bus or rail, or similar vehicle, which are available to the public at large under an established schedule of fares.

(5) The term "extraordinary transportation expenses" means the total expense (including expenses for personal assistance when

required) incurred by any individual in his journey-to-work that is in excess of 3 percent of such individual's adjusted gross income (as defined in the Internal Revenue Code of 1954), reduced by—

(A) the amount of any deductions claimed under section 212 or 214 of the Internal Revenue Code of 1954; and

(B) any amount received as reimbursement for or subsidy of such transportation expenses.

Reimbursement shall not be made for extraordinary transportation expenses which exceed actual expenses incurred, or an amount that is in excess of 50 percent of such individual's gross income (as defined in the Internal Revenue Code of 1954), or $50 per week, or $2,500 per year, whichever is less.

(6) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(7) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

REIMBURSEMENT

SEC. 4. (a) The Secretary shall reimburse each transportation-handicapped worker for extraordinary transportation expenses incurred by him upon a declaration by such worker that he is entitled to such reimbursement under the provisions of this Act.

(b) Reimbursement payments under this Act shall be made quarterly and may be made in advance upon application therefor, except that—

(1) in the case of any transportation related expenses which cannot be attributed entirely to the journey-to-work, reimbursement shall be made only to the extent that such expenses are directly attributable to the journey-to-work; and

(2) any transportation expenses incurred by an individual who uses, unassisted, available mass transportation facilities as his sole mode of transportation in his journey-to-work shall not be reimbursable under this Act.

(c) Application for reimbursement under this section shall be made in such manner and contain such information as the Secretary shall by regulation require, including in the case of advance payments, an estimate of expenses to be incurred during the period for which such advance payments are requested. The Secretary shall prescribe standards for the submission of applications and periods for renewal of such applications.

(d) The Secretary is authorized to cooperate with and utilize the facilities and services of appropriate State vocational rehabilitation agencies to process applications and verify, on a continuing basis, the statements made by any applicant for reimbursement payments under this Act.

INCOME DISREGARD

SEC. 5. (a) In order for any State to receive any payment or other benefit under any title of the Social Security Act, with respect to expenditures for any quarter beginning on or after the date on which this Act becomes effective, such State must have in effect an agreement with the Secretary under which it will (1) disregard any amount received by an individual under this Act in determining eligibility for or the amount of any benefit paid under any public assistance program, and (2) disregard any amount received by an individual under this Act in determining the amount of such individual's income for the purpose of computing State income tax liability if such State imposes a tax on personal income.

(b) Any amount received by an individual under this Act shall be disregarded in determining eligibility for or the amount of any benefit paid under any Federal assistance or aid program and in determining the amount of such individual's income for the purpose of computing his liability for personal income tax under the Internal Revenue Code of 1954.

EVALUATION AND REPORT

SEC. 6. The Secretary, or his delegate, shall conduct a thorough and complete study of the impact of the cash reimbursement program provided for under this Act on the rehabilitation of disabled individuals to determine the program's merits and cost-effectiveness as compared to other possible approaches to the problem of the transportation-handicapped worker and shall report his findings and recommendations to the Congress not later than January 1, 1978.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1975, and for each of the next succeeding four fiscal years such sums as may be necessary to carry out the purposes of this Act.

By Mr. INOUYE:

S. 104. A bill to amend the Social Security Act to provide for inclusion of the services of licensed registered nurses under medicare and medicaid. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, nurses and midwives have played a vital role in the delivery of health services during the early stages of our country's medical history. There have been numerous tales of these valiant women who brave natural and manmade dangers to assist in the delivery of health services. Florence Nightingale and Clara Barton have become part of our folk history.

In remote areas of our country, where a shortage of doctors exists, nurses continue to perform those services which were historically performed by midwives. These services include prenatal and postnatal care, the treatment of many childhood illnesses, preventive health care, and many home health services which are now unavailable from most highly complex medical centers.

Unfortunately, during these days of advanced technical knowledge and highly specialized training, in places where these complex medical centers abound, the nurses have been relegated to the very minor roles of caretakers and administrators. Despite their increased knowledge and training, these highly skilled professionals are allowed to perform very few services without the direct supervision of a medical doctor. In addition, many nurses spend more hours per week in administrative or clerical roles than in direct patient care. This results in an underutilization of many qualified professionals with an accompanying overdemand of medical doctors. With doctors performing so many services which could readily be performed by trained nurses, the cost of medicine has skyrocketed.

In view of the high cost of medical care throughout our Nation, I propose that we now release the nursing professionals from the bondage of the direct supervision of medical doctors and allow them to perform those services for which they have been trained and have proven themselves fully capable of performing. By allowing the nurses to participate more fully in the delivery of home health care and preventive services, the scope of available health care will greatly expand, yet the total cost of these services would be greatly reduced.

In addition to the reduced cost and the expanded services, the all-important personal contact with the patient would greatly increase. This resulting morale boost would decrease recovery time and improve the image of the entire health profession.

To encourage this change toward a less expensive and more effective health care system, I am introducing this bill to amend the Social Security Act to provide for inclusion of the services of licensed registered nurses under medicare and medicaid. I hope my colleagues will join me in recognizing the importance and far-reaching implications of this trend in health care and will act to secure an early consideration and passage of this bill.

By Mr. INOUYE:

S. 105. A bill to authorize the Secretary of the Army to make available to the State of Hawaii or through it to the Queen's Medical Center physical facilities not needed by the Army at Fort DeRussy, Hawaii, for the purpose of establishing a mental health clinic in such facilities. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, the Division of Mental Health of the State of Hawaii operated a clinic in the Waikiki area of Honolulu. This location was ideal for reaching the many visitors to Waikiki as well as those who reside in the area, for, unfortunately, the reality of Waikiki does not equal the Utopian dreams which many have of this area. One of the unhappy truths of Waikiki is the high cost of living or operating a business there. These expenses forced the mental health clinic to close its doors.

In the heart of Waikiki is an Army post, Fort DeRussy, which would be an ideal location for a new mental health clinic. I have been informed that the Department of the Army has no objection to the use of certain office space on this installation by the State of Hawaii for the mental health clinic. The only obstacle to the clinic is a provision in the law that restricts the use of Fort DeRussy. I am, therefore, introducing a bill to authorize the Secretary of the Army to make available to the State of Hawaii certain physical facilities not needed by the Army at Fort DeRussy for the purpose of establishing a mental health clinic.

This clinic is a much needed facility which will greatly expand the services by the Department of Health to the people and visitors of Hawaii. I hope my colleagues will act with all due consideration to approve this measure.

By Mr. INOUYE:

S. 106. A bill to amend the Internal Revenue Code of 1954 to provide credit against income tax for an employer who employs older persons in his trade or business. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, the role of the elderly in American society has been drastically altered over past years. For many of our older citizens, retirement from our work force has not met the promise that had been made of comfort and dignity in the twilight of their years.

While most of the Nation has been enjoying a rising prosperity even into the beginning of our current recession, the aged have remained a pocket of poverty with little means of helping themselves. The economic growth and industrial expansion of past decades have not solved the basic economic problems of the retired aged; instead, these problems have been aggravated. The rising tide of inflation has diminished severely the purchasing power of social security and pension payments.

The economic difficulties facing our elderly population are often accompanied by emotional, psychological and physical problems. Our system of mandatory retirement can result in ill health, increasing medical needs and other problems which have caused the aged to grow apart from much of the rest of society. These people who have a lifetime of valuable knowledge and experiences to share are being pushed into isolation. This isolation can be a wrenching and profound shock as families may fail to keep in touch, as no one seeks their advice or counsel, and as the few friends who do maintain a relationship begin to die off.

The tragedy of this isolation is, in my view, shared by our entire society. The skills, insights, moral force and cultural heritage which the aged are so qualified to pass on are lost forever.

The rapidly rising numbers of unemployed which includes thousands of elderly men and women do not reflect the rising number of forced retirements that normally accompany an economic downturn.

The legislation I am introducing today is designed to provide businesses with the economic incentives required to keep those older employees on the job who might otherwise be put out of work and when possible to hire these experienced aged persons whose potential productivity is quite high. I believe that such an incentive is justified. The fiscal impact of this measure will be minimal in that the Federal dollars that are expended will be offset by decreased welfare and economic assistance outlays which would otherwise be necessary. Also, government revenues would be increased as the gainfully employed individuals pay their fair share of taxes. By providing an economic initiative to businesses, they need not displace younger workers in order to employ the elderly.

I believe this measure can serve to stimulate necessary employment in our economy by putting to work elderly men and women who have a great deal to contribute and to do this in a fiscally responsible manner. We have instituted policies to stimulate capital investment by our Nation's businesses many times. It is time to stimulate their investment in programs to utilize the tremendous skills and experience of older workers who have many more productive years to give to our economy. We cannot allow these scarce resources to be wasted by forcing these men and women into disuse and isolation.

I urged speedy consideration of this measure as we put together a comprehensive and coherent economic package to restore stability and growth to our industry and businesses.

By Mr. INOUYE (for himself, Mr. ABOUREZK, Mr. MCINTYRE, Mr. PASTORE, and Mr. RANDOLPH):

S. 107. A bill to allow an additional income exemption for a taxpayer or his spouse who is deaf or deaf-blind. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, on November 15, 1973, I introduced S. 2711, a bill to provide an additional exemption for a taxpayer or his spouse who is deaf or deaf-blind. This bill was introduced after I realized that the Internal Revenue Service provides an additional exemption for blind taxpayers and their spouses, but that Hawaii is the only State to provide this same exemption for the deaf.

Despite the support that members of the deaf community have shown for this bill, it has remained in the Committee on Finance without receiving any action.

I am now reintroducing this bill because I believe that it will be quite beneficial in alleviating some of the economic discrimination with which the deaf are faced. This includes the exorbitantly high costs of hearing aids, the extra high costs of automobile insurance which many insurance companies require of their deaf customers, and the higher costs of education. Combine these expenses with the fact that most deaf individuals are underemployed given their abilities and education.

In addition, I believe that there is no cause for a fear that this will result in a great amount of lost revenue for the U.S. Treasury. There are approximately 450,000 profoundly deaf persons in this country. This number is only slightly less than the 470,000 legally blind persons. Of this 470,000, only 145,000 persons claimed the additional exemption in 1971. It is reasonable to assume that approximately the same proportion of the deaf would claim the deduction.

Mr. President, I hope that my colleagues will give early and favorable consideration to this humanitarian measure.

By Mr. INOUYE:

S. 108. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing a bill which would allow a taxpayer who adopts a child to receive a deduction from gross income for the medical, legal, and other expenses incurred in the adoption process. As you are aware, natural parents are permitted to deduct the medical expenses incurred in the birth of their child. Since their expenses are often substantial, the natural parents of a child often receive a sizable deduction. The costs of adopting a child have risen steadily and according to recent figures, its is not unlikely that these costs are becoming prohibitive and discouraging many from the adoption of a child. Since parents are permitted to deduct the medical costs related to the birth of their child, I believe that adoptive parents should be given equal treatment to that afforded natural parents. Therefore, this measure would permit a maximum deduction of $1,000 for expenses incurred in the adoption of a child.

I believe that the passage of this measure will facilitate the placement of homeless children in adoptive homes. Not only is there a need for a child to have a home of his own, but the costs of raising a child in foster homes and in State and local government institutions are steadily rising. This measure will partially help to accelerate the placement process for homeless children and reduce some costs incurred by State and local government agencies.

This bill has received the endorsement of numerous adoption agencies throughout the Nation. I hope that Congress gives this bill serious study and favorable consideration in this session.

By Mr. INOUYE (for himself, Mr. KENNEDY, Mr. RANDOLPH, Mr. STAFFORD, and Mr. STEVENS):

S. 109. A bill to amend chapter 55 of title 10, United States Code, to require the armed forces to continue to provide certain special educational services to handicapped dependents. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, in August 1973, the Office of the Civilian Health and Medical Program of the Uniformed Services announced that it would discontinue the funding of special educational services to military dependents. Effective immediately, no further applications for special educational services were to be accepted, and those applications which had been approved would be provided funds only until December 31, 1973.

Upon inquiry, I learned that this change in service was not due to the cost of these services, but because there was no legal basis which required CHAMPUS to provide such services. In fact, CHAMPUS was unable to provide me with any figures on the cost or on the number of children who were affected by this change in policy. As of December 13, 1973, CHAMPUS did not know who would be losing benefits a mere 3 weeks later. I need not tell you of the financial hardship that was thrust upon the affected families with so little warning.

In addition to the burden that was placed upon the families which were involved is the burden placed upon the States to absorb these students in the middle of the school year and the fiscal year.

This problem is acute in my own home State of Hawaii. To cite one example, there is a private school located on Pearl Harbor which has been providing special education for military dependents with learning disabilities. This school, the Armed Services Special Education and Training School, known as ASSETS, has been under serious financial strain since virtually every one of their students received aid from CHAMPUS.

If these students at ASSETS and other special students elsewhere throughout the country are forced to discontinue their education prematurely, or if they are placed in an average public school classroom which does not provide them with the special services which their diabilities require, it will result in a rapid regression of their condition.

CHAMPUS claims that these services are strictly educational in nature, and not medical. I personally believe, and it can be documented by professionals in the field, that no such clear distinction is possible.

My colleagues who are joining me as cosponsors of this bill and I see a great need to continue this service for the dependent children of active duty military personnel, and we urge rapid passage of this bill.

By Mr. INOUYE:

S. 110. A bill to amend chapter 13 of title 38, United States Code, to make eligible for dependency and indemnity compensation widows of veterans who die of non-service-connected causes but who were at the time of death totally disabled as a result of one or more service-connected disabilities; and

S. 111. A bill to authorize the widows of certain former members of the Armed Forces of the United States to use the services and facilities of post exchanges and commissaries. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, over the past several years I have come across several situations where laws, which were written with the best of intentions, often contained inherent weaknesses which were unfair to those covered by the law. This is especially true when one reviews the law regulating the benefits for veterans with 100-percent service-connected disabilities and their families. Both the totally disabled veteran and the wife or widow of such a veteran, whose whole life was changed due to her husband's handicap and who also pays a very high personal price indirectly in service to her country through caring for her disabled husband, often find that Government assistance fails to provide adequate support. This is brought about because the law is broadly written and the personal lives and situations of disabled families are specific and individual by nature. Thus, in certain cases where the law should apply, it does not, and for some families of disabled veterans the results of service to their country is economic hardship and bureaucratic confusion. This should not be so. A few examples of such unfortunate situations will well illustrate my point.

A widow of a serviceman on active duty who died as a result of a service-connected cause is not entitled to exchange and commissary privileges. However, if the serviceman had lived long enough to have been honorably discharged with a 100-percent disability as a result of his injury, and then died, the widow would be entitled to unlimited exchange and commissary privileges. In these times of higher prices and shrinking buying power for fixed incomes, access to military exchanges and commissaries aften marks the difference between economic survival or relegation to substandard living.

In another situation the widow of a 100-percent disabled veteran who died of his service-connected injuries is eligible to receive death compensation or dependence and indemnity compensation. Unfortunately, in the case of a 100-percent disabled veteran who dies of a cause unrelated to his service disability and who during his life-time is unable to be gainfully employed, the widow finds that she is not eligible for compensation.

To alleviate the obvious unfairness in such situations, I am introducing two bills. The first will authorize the widows of certain former members of the Armed Forces to use the services and facilities of post exchanges and commissaries. The second bill will make eligible for dependency and indemnity compensation the widows of veterans who die of non-service-connected causes, but who were at the time of their death officially 100 percent disabled as the result of one or more service-connected disabilities. In many cases the actual cause of death is directly or indirectly connected with the disability, but it may not always be.

These measures will help only a small number of people. But it is this very group which has paid such an extraordinarily high price on behalf of their country, and whose lives thereafter have been dictated by their disabilities. In their national service these veterans gave literally all that they had and became 100 percent disabled. Due to these disabilities these men could no longer properly care for their families or themselves. Their wives usually spend much of their lives tending and caring for their broken husbands and find it difficult if not impossible to work outside the home. Therefore, they cannot build up their social security credits which for most older Americans is vitally important for self-sufficiency. For these widows and families, it is a vicious circle which must not be allowed to continue. I, therefore, ask that my colleagues give their full support to these two bills.

By Mr. INOUYE:

S. 112. A bill to amend section 1003 of title 38, United States Code, relating to memorial areas and appropriate memorials to honor the memory of certain deceased members of the Armed Forces whose remains were buried at sea, have not been identified, or were nonrecoverable. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, it has long been our tradition to honor those who have served our Nation in time of war. We now have many cemeteries throughout the world where many of these men and women now lie in rest. For those whose bodies were never recovered, we have required that all national cemeteries have certain special areas which contain memorial plaques to honor the memory of these gallant men and women.

It has recently come to my attention; however, that there are certain veterans who have every right to be honored by burial in a national cemetery, but who are presently ineligible to receive the honor which they deserve. I am referring to those veterans who are eligible to be buried in a national cemetery, but who continue to serve our Nation and humanity even after their deaths, by donating their bodies for use in medical research or training. I believe that the Congress of the United States should act to give them the recognition and honor which they deserve, and by right is theirs. I am introducing at this time a bill to amend section 1003 of title 38, United States Code, relating to memorial areas and appropriate memorials to honor the memory of certain deceased members of the Armed Forces whose remains were buried at sea, have not been identified or were not recoverable.

I hope that my colleagues will recognize the justice of allowing these veterans the honor of memorial plaques in their memory, and will act with favor upon this bill.

By Mr. INOUYE:

S. 113. A bill to amend section 1002 of title 38, United States Code, to authorize the burial in a national cemetery of the parents of certain members of the Armed Forces who die in active service. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, the United States has established national cemeteries around the world to honor those who have defended our Nation. The spouse and children of these veterans have been permitted to join their sponsors in their final resting places. Unfortunately, I have found that these provisions often do not include those who were closest to the veterans.

I have been acquainted with several situations in which the veteran was an only child who died in the service of his country. Quite often, the bereaved parents wish to lie at rest near the body of their child. The present regulations do not permit these parents to be granted their final wish.

I am now introducing a bill to amend that section of the United States Code on veterans benefits to authorize the burial in a national cemetery of the parents of a veteran who is an only child, in such cases where the veteran died while serving on active duty, provided that his death precedes the death of his parents. I hope my colleagues will assist me in fulfilling this last wish of the parents of some of our veterans by supporting this bill.

By Mr. INOUYE:

S. 114. A bill to amend the Social Security Act to provide that certain persons, who have innocently entered into a legally defective marriage to an insured individual and have lived with such individual as his husband or wife for at least 5 years, shall be treated, for benefit purposes, as if such marriage had been legally valid. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing a bill to amend the Social Security Act to provide that an individual who has innocently entered into a legally defective marriage to an insured individual, and who has lived with such individual as husband or wife for at least 5 years, shall be treated, for purposes of qualifying for benefits, as if such marriage had been legally valid.

This legislation was promoted by a problem which faces a constituent of mine. Mrs. X had lived with her husband for over 25 years, and then found that she was ineligible for social security benefits even though all agree that she had acted in good faith. To quote the Social Security Administration:

> I would like to say at the outset that Mrs. X's case merits sympathy. . . . It would appear that she may have been grossly deceived in 1943, and was, in consequence, inveigled into an invalid marriage by deliberate misrepresentation. . . . Since it was determined in February, 1969, that Y is the legal wife of X, only she could be paid wife's benefits for months thereafter.

Thus, after living with her husband for over 25 years, Mrs. X found herself ineligible for social security benefits because she was not legally married.

Mr. President, in reviewing this bill, you will note that both wives will be treated as if their marriage were, in fact, valid. Accordingly, benefits paid to one would not affect the eligibility status or extent of coverage which the other is entitled to receive. Further, a clause is included which would penalize the individual responsible for his deception by reducing his old-age benefit by an amount equal to that paid to his "second" wife.

Mr. President, I hope you will recognize the need which is felt by those who would benefit by this legislation, and will assist in its speedy passage.

By Mr. INOUYE:

S. 115. A bill to amend section 17 of the Airport and Airway Development Act of 1970 in order to change the U.S. share of development costs for certain airports. Referred to the Committee on Commerce.

Mr. INOUYE. Mr. President, today I am introducing legislation to modify the Airport and Airway Development Act of 1970 so as to make its implementation more consistent with the actual intent of Congress.

During the past session, the Congress passed the Airport Development Acceleration Act of 1973 because we felt that it was the Federal Government's responsibility to assist the States and local communities in developing viable air transportation networks. Further, because large airports tend to be financially self-sufficient, wording was developed such that the Federal Government's share of allowable projects costs "may not exceed 50 percent for sponsors whose airports enplane not less than 1 per centum of the total annual passengers enplaned by air carriers certified by the Civil Aeronautics Board." This is in contrast to a 75-percent maximum of those sponsors who enplane less than 1 per centum.

Hawaii, being a small island State, has recognized for many years the great advantage in having an integrated transportation facilities system and has organized its Department of Transportation to foster this goal. At the present time, there are 14 existing airports and one heliport located throughout the State with plans for developing three additional airports in the making. Honolulu International Airport is the only one which enplanes more than the 1 per centum noted in the law.

Yet, since we have an integrated system with the State being the primary sponsor, all of Hawaii's airport construction is limited by the 50 percent ceiling. Thus, Hawaii has been penalized for having the foresight to plan an integrated system. Yet, I am confident that this state of affairs was not the intent of Congress, and I am hopeful that my colleagues will concur in the desirability and propriety of a bill which seeks to rectify this undue penalty.

I would like to further emphasize that my State faces an unusual and disproportionate share of our Nation's airport expenses in having to provide Federal border clearance agency facilities for the third largest number of foreign arrival passengers in the Nation, a $75,000,000 reef runway for the military as well as commercial aircraft, and agriculture inspections for the Southwestern States. As these circumstances have necessarily imposed some unusual burdens on the State of Hawaii and its air transportation system, I hope the Congress shall see fit to lift the unnecessary and unintential burden that my bill seeks to eliminate.

At this time, I ask unanimous consent to enter in the RECORD a report prepared by the State which delineates Hawaii's airport system in more detail.

There being no objection, the report was ordered to be printed in the RECORD as follows:

THE HAWAII STATE AIRPORTS SYSTEM

The Hawaii Revised Statutes provide that the Department of Transportation of the State of Hawaii shall establish, maintain and operate transportation facilities of the State including highways, airports, harbors and such other transportation facilities and activities as may be authorized by law. The Department is headed by a single executive known as the Director of Transportation.

The activities of the Department of Transportation are carried out through three divisions: Airports, Highways and Harbors. Through the Airports Division, the Department exercises jurisdiction over and control of all State airways and all State airports and air navigation facilities, except those under military jurisdiction and control, and has general supervision over aeronautics within the State of Hawaii.

The Department is authorized by statute to receive federal-aid for airports within its jurisdiction and is the sponsor for all public airports in the State of Hawaii.

The Airports Division operates and maintains fourteen existing airports and one heliport located throughout the State and has plans for three other airports in the State. The existing airports and heliport are shown on the attached map.

The two principal existing airports which provide commercial facilities for long-distance overseas flights (i.e., other than inter-island within Hawaii) are Honolulu International Airport on the Island on Oahu and General Lyman Field at Hilo on the Island of Hawaii.

The other existing airports in the airports system are Lihue and Port Allen Airports on the Island of Kauai; Ala Wai Heliport, Dillingham Field, and Ford Island (the latter two are U.S. Air Force and U.S. Navy properties, but the State has an arrangement whereby civilian light planes may use the runways) on the Island of Oahu; Kahului and Hana Airports on the Island of Maui; Ke-ahole, Waimea-Kohala and Upolu Airports on the Island of Hawaii; Lanai Airport on the Island of Lanai, and Molokai and Kalaupapa Airports on the Island of Molokai. All these facilities are utilized by certificated scheduled and non-scheduled operators, general aviation operators, and military, with the exception of the Ala Wai Heliport, Dillingham Field, Ford Island, Kalaupapa, Port Allen, and Upolu Airports which are used principally by general aviation and occasionally by military aircraft.

Honolulu International Airport is located approximately five miles by highway from the metropolitan area of Honolulu. Its principal runway (12,380 feet) is one of the Nation's longest and occupies land at both Honolulu International Airport and Hickam Air Force Base which is adjacent to the airport. Serving both the inter-island and the overseas air traffic, Honolulu International Airport is the most important in the statewide system. It serves all foreign commercial flights to and from Hawaii and provides border inspection facilities at no cost to the Federal Government.

The following twenty airlines are authorized to serve Hawaii with scheduled overseas flights: Air Micronesia, Air New Zealand, Air Siam, American Airlines, Braniff International Airlines, British Overseas Airways Corporation, Canadian Pacific, China Airlines, Continental Airlines, Japan Air Lines, Korean Air Lines. Northwest Airlines, Pan American World Airways, Philippine Air-Lines, Qantas Airways, Trans World Airlines Union de Transports Aeriens, United Air Lines, Varig Airlines, and Western Airlines. Interisland service is provided by Aloha Airlines, Hawaiian Airlines and several air-taxi and commuter airlines.

During calendar year 1972, the following numbers of passengers were enplaned at the air carrier airports:

Honolulu Intenational Airport, 3,994,255.
General Lyman Field, 587,082.
Kahului Airport, 827,158
Lihue Airport, 758,655.
Ke-ahole Airport, 307,058.
Waimea-Kohala Airport, 43,768.
Molokai Airport, 74,076.
Lanai Airport, 19,094.

Honolulu International Airport is the only airport in the State of Hawaii which enplanes more than one per centum of the total annual passengers enplaned by air carriers certificated by the Civil Aeronautics Board and is classified as a large hub airport by the Federal Aviation Administration in the 1972 National Airport System Plan.

For the short-range period of 0 to 5 years, the FAA 1972 National Airport System Plan for Hawaii, Volume APC Pacific Region, recommends the following sums for improvements which are eligible for Federal-aid under the Airport Development Aid Program:

Honolulu International Airport	$71, 544, 000
General Lyman Field	10, 128, 000
Kahului Airport	4, 471, 000
Lihue Airport	6, 562, 000
Ke-ahole Airport	1, 006, 000
Waimea-Kohala Airport	4, 833, 000
Molokai Airport	6, 303, 000
Lanai Airport	2, 490, 000
General Aviation and Reliever Airports	6, 496, 000
Total	113, 829, 000

Under the provisions of the Airport Acceleration Development Act of 1973, Hawaii is eligible for not more than 50 percent Federal participation and the State's share in the projects would be $56,914,500.

If the airports in Hawaii were sponsored by the local community served by the airport, the sponsor's share in project costs would be $46,343,250.

During the fiscal year ending June 30, 1973, the total revenues of the Airports Division was $30,105,830. Of this amount $26,151,473 was generated at Honolulu International Airport. Revenues collected at airports other than Honolulu International Airport are insufficient to meet the operating and maintenance expenses of these airports.

By Mr. INOUYE:

S. 116. A bill to provide for the conveyance of the island of Kahoolawe to the State of Hawaii, and for other purposes. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, I am today introducing a bill which I have previously introduced in both the 92d and 93d Congresses to effect the transfer of the island of Kahoolawe from the U.S. Government to the State of Hawaii. It is my hope that this Congress shall see fit to take the action which the people of Hawaii have so long awaited.

Kahoolawe is the smallest island of the eight major Hawaiian Islands. It is approximately 45 miles square and is located approximately 8 miles off the coast of the island of Maui.

Kahoolawe is also the site of an aerial bombing target and a shore bombardment area. In fact, as a result of the activities conducted by the Navy, Kahoolawe has the dubious distinction of being one of the most bombed islands in the Pacific.

While it is true that there are other areas within the territorial boundaries of the United States used for similar purposes, Kahoolawe is different from these locales. The State of Hawaii retains residential rights over Kahoolawe since it had formerly owned the island, subject only to "temporary" military exigencies enumerated in the Executive order reserving use of the island to the U.S. Government. Furthermore, Kahoolawe is located near populated areas on the island of Maui, and the people of Maui have long complained of the effects of aerial and shore bombardment. Finally, Kahoolawe was once usable for other purposes. It is now rapidly being destroyed and rendered unfit for human habitation. This erosion is an unforgivable waste of resources in a State where land is at a premium.

The island of Kahoolawe is an integral part of the Hawaiian Archipelago and has always been considered so in the past. Unlike the other major islands, Kahoolawe is presently uninhabited. As a result of naval and air bombardment, the State of Hawaii is currently deprived of Kahoolawe's scenic resources and agricultural space.

However, Kahoolawe has uses other than as a target for aerial and naval bombardment. There still is potential for development as a resort area, with its beaches, valleys, cliffs, and ravines. It was previously used for ranching, and there is reason to believe that the island can again be used for this purpose with proper care. It has also been proposed that Kahoolawe be utilized as a site for a central thermonuclear powerplant and aqua agricultural development. At least one company has expressed great interest in conducting a salvage operation on the island to recover casings and unexploded ordnance.

Mr. President, I am reviewing these facts at length in response to the often-made Navy allegation that the island is a "hell hole," unfit for any use except for target practice. It is true that it is becoming unfit for anything except bombardment unless we reverse Navy policies of neglect and destruction.

Kahoolawe was not always the victim of defense demands. Through most of our history as a territory, Kahoolawe was owned by the territorial government and leased to private parties for grazing. In 1919 and again in 1933, the territory leased most of the island to a private ranch. In 1940, the Navy obtained a sublease to the island. Then in 1952 the original lease was canceled by the territory. In 1953 the area that was not being used for a lighthouse, which was already Federal property, was taken by the United States under the controversial Presidential Executive Order 10436.

Under the terms of the Executive order, when the Navy decided that the area was no longer needed, the island would be rendered reasonably safe for human habitation without cost to Hawaii and returned to the latter's jurisdiction. Moreover, the Navy was to either eradicate all goats from the island or strictly control their number. Finally, the Navy was to permit the then territory to enter and inspect the island and take appropriate measures to conduct a program of soil conservation.

What has happened in the years since the Navy secured control of the island? Kahoolawe is rapidly deteriorating between the Navy's bombardment and the animals that are stripping away the natural covering. In an era of environmental concern, Kahoolawe stands as mute testimony to the failure of the Federal Government to practice what it preaches. Soon, between the animals and the Navy, Hawaii will be left with nothing except outcroppings of rock from the Pacific.

Kahoolawe was and remains an integral part of Hawaii. Under the terms of the Admission Act, all lands reserved to the United States remained Federal property. However, the Executive Order reserved only use, and the order's drafters clearly foresaw eventual return to the State. Thus title remains vested in Hawaii, which has granted the Federal Government use of the island.

The people of Hawaii have shown remarkably good faith and tolerance for the Navy's activities. We have recognized the fact that security requirements can demand a sacrifice on our part. However, the limits of our tolerance have long been exceeded, and the Navy has failed to prove that our defense posture will be undermined by the cessation of the bombardment of Kahoolawe.

Aside from the actual physical ruin of Kahoolawe itself, which is proceeding apace, the bombing constitutes a serious danger to the people of Maui. In September 1969 unexploded ordnance was discovered buried in the pasture of the mayor of the county of Maui. After an investigation, the Navy determined that the bomb had been dropped in 1966 but was in no danger of detonating.

However, this has not been the only incident. Residents have often complained about the noise from aircraft utilizing Kahoolawe. Because the population of Maui is expanding and the use of Kahoolawe is very heavy, the odds of an accidental bombing of Maui are very high. In the interest of the safety and comfort of the citizens of Maui, the policies of the Navy must be reserved.

For several years I have been concerned about the dangers presented by the Navy's bombing of Kahoolawe. I have made several discreet inquiries with the Navy to reach an accommodation that would insure the safety of Hawaii's citizens while meeting any national security needs. Unfortunately, these efforts have been fruitless.

In a letter to me dated December 11, 1969, Rear Adm. D. C. Davis, Commander, Hawaiian Sea Frontier, reached the following conclusions: First, he stated that the Navy has taken and will take all possible precautions to prevent undue harassment of the citizens of Maui because of the bombardment.

Second, he alleged that—

> The ravages of over a quarter of a century of air and surface bombardment have probably irrevocably eliminated the possibility of future safe, domestic use of the island.

He continued:

> This element has not been realistically faced in years past.

In his response to my inquiry, Admiral Davis added—

> The time has come to inform the local public that Kahoolawe should remain for the indefinite future an uninhabited monument to the requirements of our national security.

Admiral Davis should be commended for his frankness in stating that Navy utilization has rendered Kahoolawe barren and useless, but this candor was long overdue. I cannot believe that this discovery was suddenly made in 1969 only at my urging. Where was this candor during the previous 29 years of Navy use?

The Navy has claimed that there are no alternate sites available, but no one in the civilian sector really knows what efforts have been made to locate a less objectionable location. In fact, the Navy already uses the uninhabited island of Kaula, which is farther away from population centers and which is totally useless for any future development.

Furthermore, Mr. President, what are the people of Hawaii to make of the Executive order which promised to return Kahoolawe to the State after it was no longer required and to provide conservation programs for the island? The Navy Department obviously is saying in effect that it may some day return this ravaged "uninhabited monument" after it renders it sterile, but there is no indication when, if ever, we can expect this action.

We hear much about the credibility gap, and it is precisely this kind of callous disregard for the safety of civilians that contributes to the growing alienation of civilians from the Armed Forces. Regrettably this is not the only instance or example of indifference which the Navy has exhibited toward the interests of the citizens of Hawaii. Prior to dropping its lease in 1970, it also insisted on using the South Kona bombing range, which lies adjacent to the fishing village of Milolii, off the island of Hawaii. Even if we were to assume—which I am not—that Kahoolawe were absolutely necessary to the defense requirements of our country, the Navy should have consolidated its training by restricting aerial bombardment to Kahoolawe. However, it obstinately refused to take this sensible step.

Throughout this entire episode, the Navy has been extremely evasive in facing its responsibilities to the people of Hawaii. Nothing has contributed more to the deteriorating confidence in the Navy than its stubbornness. Indeed, some of Hawaii's citizens feel that its response has been the "height of arrogance."

Therefore, I am again moved to introduce this bill which would require the Department of the Navy to convey the island of Kahoolawe to the State of Hawaii by the end of the current calendar year. The bill also authorizes the expenditure of necessary funds in fiscal year 1976 to help clear the island surface of an estimated 10,000 tons of unexploded ordnance.

Mr. President, the people of Hawaii have been patient with the Navy's use of Kahoolawe for 35 years but that patience has worn thin. I believe that we are entitled to a return of this land, which is so greatly limited in Hawaii, and to security in our homes. I strongly urge that Congress pass this bill as soon as possible.

By Mr. INOUYE:

S. 117. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, the present regulations governing retirement pay to reservists do not allow a member of a Reserve unit who did not serve on active duty prior to August 16, 1945, to receive benefits. This was intended to prevent those reservists who failed to serve their country during its time of greatest need from enjoying the benefits which were provided to those who fought to protect their homeland.

A number of situations have come to my attention in which an individual was a member of the Reserves, but through no fault of his own, he did not serve on active duty during World War II, but he did serve during the Berlin crisis, the Vietnam war, or for an extended period of time since the end of World War II.

On April 1, 1974, I introduced S. 3283, to amend chapter 67 of title 10, United States Code, to grant eligibility to certain reservists who did not perform active duty before August 16, 1945, and for other purposes. S. 3283 was designed to make this law more equitable. The Department of Defense gave its approval to this bill. The Office of Management and Budget also had no objections as it would require no additional appropriations.

On the basis of this support, the Senate Armed Services Committee acted favorably on S. 3283 and it was reported to the Senate with amendments on December 12, 1974. The Senate passed S. 3283 by unanimous consent on December 14, 1974, after first agreeing to the amendments recommended by the committee. Unfortunately, there was insufficient time remaining in the 93d Congress for action to be taken by the House of Representatives prior to adjournment sine die.

In view of the unanimous action taken by the Senate on S. 3283, I wish to urge my colleagues to give early and favorable consideration to this bill which I am now introducing which is identical to that bill which passed last month.

By Mr. INOUYE:

S. 118. A bill to incorporate the Pearl Harbor Survivors Association. Referred to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, today I have introduced a bill to incorporate the Pearl Harbor Survivors Association. This measure would bestow Federal recognition on this private nonprofit association but would not affect its legal, corporate, or other status.

The association is comprised of men and women who defended our Nation against the historic Japanese attack on the U.S. Pacific Fleet and bases around Pearl Harbor on December 7, 1941. Since 1941, survivors of the Pearl Harbor attack have formed many local and regional groups, and there are now 101 active chapters located in almost every State. Their national organization, the Pearl Harbor Survivors Association, was incorporated in Missouri in 1958.

An estimated 12,500 surviving members of the U.S. Armed Forces served at Pearl Harbor and in the area of Oahu Island during the December 7 attack. Of that number, the Pearl Harbor Survivors Association has an active membership of 5,259 men and women. Anyone who was a member of the Armed Forces on Oahu or who was stationed aboard a ship located within 3 miles of the island on December 7, 1941, is eligible to join. Members must either have been honorably discharged or still be a member of our Armed Forces. The association conducts regular chapter, district, and State meetings, and a biennial national convention.

The motto of the organization is "Keep America Alert," which the association seeks to accomplish by: First, preserving historical mementos and chronicles of the Pearl Harbor attack; Second, protecting graves of Pearl Harbor victims; and Third, stimulating Americans to take a more active interest in the affairs and future of the United States. The association has been particularly active in veterans causes and national preparedness.

The association is unique because it will exist only as long as there are Pearl Harbor survivors. In order for the association to be more effective, it is imperative that it be recognized through the granting of a Federal charter. I believe the association fulfills all of the necessary requirements.

I am proud to sponsor this legislation. I ask unanimous consent to insert in the RECORD a statement by the Pearl Harbor Survivors Association. I believe it best summarized the purpose of the organization.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMEMBER PEARL HARBOR

On that peaceful Sunday morning, December 7th, 1941, an enemy attack force hit Pearl Harbor with all its fury of death and destruction. In only thirty short minutes the attackers accomplished their most important mission; they had wrecked the battle force of the United States Pacific Fleet. We also lost half of the military aircraft on the island. We accounted for ourselves as military, by fighting back, not yet aware that history had been thrust upon us. Pearl Harbor was the actual beginning of the great war which was to change the entire political structure of the world. We Americans who were there demonstrated that we were prepared to give our lives, and did give them when necessary. Our sacrifices at Pearl Harbor united the nation and gave rise to a determination to protect and keep the American freedom. Our sacrifice alerted a relaxed nation, brought it to its feet and caused it to win World War. II. The lesson we learned by our sacrifice will not be easily forgotten. Many of us are no longer of use as sailors, soldiers, marines and airmen. We must make ourselves useful at home, by dedicating ourselves to the principles of freedom; by doing everything within our power to bring about a commitment of patriotism. We survivors who are still alive, for those who did not survive, can never permit ourselves to become vulnerable again.

By Mr. INOUYE:

S. 119. A bill to amend the Tariff Schedules of the United States to accord to the Trust Territory of the Pacific Islands the same tariff treatment as is provided for insular possessions of the United States. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, although I was pleased to join with the overwhelming majority in securing passage of the Trade Reform Act during the final hours of the historic 93d Congress, my enthusiasm was tempered by certain inadequacies in that legislation. Among my chief disappointments was the lack of recognition of our responsibilities to the citizens of the Trust Territory of the Pacific Islands.

We have a special obligation to the inhabitants of the Trust Territory of the Pacific. Under a United Nations mandate, we are responsible for the welfare of the people there. Many, if not most, Americans are probably unaware that the United States even has a trusteeship for this vast area. Fewer still know that we have not fulfilled our fiduciary responsibilities in a manner that befits the wealthiest and most powerful nation in the world. The economy of the scattered islands is poorly developed, as are educational and sanitation facilities.

As a first step to remedy that situation, I am today again introducing legislation to exempt most goods of the trust territory from the tariffs and duties now imposed on such goods entering the United States from this area. American Samoa, Guam, and the Virgin Islands currently enjoy tariff preferences for the entry of their goods into the United States. When the Senate Finance Committee put together the Trade Reform Act, it had before it legislation identical to that I am now introducing. Unfortunately, it chose not to include these provisions in that important bill. Equal treatment for the people of the trust territory is long overdue, and I urge expeditious consideration of this bill.

The trust territory has few duties, and these apply only to specific commodities such as tobacco, liquors, and petroleum. Of the $13,572,052 imported into the trust territory in fiscal year 1968, the American share was approximately .50 percent. Trade is not a one-way street, and reciprocal treatment of trust territory products is only just.

Concern in the past has been expressed about the possibility that tariff preference areas will become an assembly point for foreign produced goods, thereby giving them an advantageous position in the American market. To prevent this, the bill would provide for a 50-percent foreign materials limitation on the duty-free goods imported into the United States. Similar restrictions exist on goods imported from Guam and the Virgin Islands.

We can demonstrate our intent to fulfill our obligation to the people of these islands and to end the neglect which has marred our past relationship. The time to act is now.

By Mr. INOUYE:

S. 120. A bill to authorize reduced postage rates for certain mail matter sent to Members of Congress. Referred to the Committee on Post Office and Civil Service.

Mr. INOUYE. Mr. President, I rise today to introduce a bill to provide for the issuance of a special 1-cent postage stamp to be used for correspondence with Members of Congress.

The introduction of this legislation emanates from my firm belief that the essence of our democratic system is the continuing operation of a two-way communication system between the people of this country and their elected representatives.

Each Member of Congress is directly responsible to those people in his State or district which he represents. He must not only keep communication channels open, but more importantly, he must be responsive to the opinions he receives through these channels. The most practical means of transmitting these signals is through the mail. It is most difficult for many of us to imagine ourselves in a situation where the desire to express an opinion is frustrated because we must think twice about spending money on a postage stamp. Unfortunately, we must face the fact that many of our Nation's citizens are forced to consider the purchase of postage stamps for the purpose of expressing a grievance to their representatives as something beyond their means.

The issuance of a 1-cent stamp for this purpose would effectively remove this prohibition and allow any citizen to advise their representatives of their individual opinions on the issues facing our Nation. I cannot overestimate the importance of this concept of individual expression. Every citizen has the right and the responsibility to participate in the democratic system through both the ballot box and the use of correspondence. This measure would amend the Postal Reform Act of 1970 to provide for the issuance of these 1-cent stamps to be sold only at U.S. Post Offices. The bill also authorizes appropriations necessary to account for the difference in postal revenue resulting from the sale of 1-cent stamps as opposed to prevailing postage rates for mail matter addressed to Congressmen, which does not exceed 4 ounces in weight. In view of the franking privileges available to Members of Congress, this measure would effectively equalize the treatment of mail from both the Congress and its constituency.

By Mr. INOUYE:

S. 121. A bill to restore the wartime recognition of certain Filipino veterans of World War II and to entitle them to those benefits, rights, and privileges which result from such recognition. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, the legislation I introduce today would restore the wartime recognition of certain Filipino veterans of World War II and entitle them to those benefits, rights and privileges which result from such recognition.

This legislation is long overdue; 27 years is a rather long time for men who risked their lives on our behalf to wait for proper recognition. I find it rather baffling that the question of the recognition of Filipino veterans has yet to be resolved. Since our Government struck out thousands of names from official U.S. Army records in 1948, numerous efforts were made to restore some names that were incorrectly stricken out. We now have available a systematically reconstructed list of veterans who have not been given their proper rights and privileges.

This legislation would permit these veterans to submit their claims to the appropriate authorities for resolution on a case-by-case basis. Upon the submission of reliable documentation of service with the U.S. Army or guerrilla forces, these veterans would be duly recognized and become eligible for assistance from the U.S. Government.

The removal of their names from Army records was a travesty of justice. For those who have since died, this bill is too late. Its enactment would serve, however belated, to confirm our commitment to these men, who fought so hard so that we might remain free.

By Mr. INOUYE:

S. 122. A bill to amend title 39 of the United States Code to provide that Federal income tax returns may be mailed free of postage. Referred to the Committee on Post Office and Civil Service.

Mr. INOUYE. Mr. President, over the years, such literary giants as Daniel DeFoe and Benjamin Franklin have agreed only two things in life are inevitable. One is death. And the other, as most Americans realize this time of year, is taxes.

The Internal Revenue Service estimates that between now and April 15, some 83 million Americans will file personal income tax returns. Payments on these returns, the Treasury Department tells us, will generate $125 billion, over three-fourths of the money the Federal Government expects to collect from income taxes this year.

Since most other revenue comes to the Government earmarked for a specific program or trust fund, such as social security, personal income taxes provide the bulk of funds available to the Government for ongoing operations and new programs. The payments of 83 million citizens help the United States maintain its defenses, feed its hungry, and clean up its environment. Those payments finance a system of agencies, bureaus, and regulators that enforce standards for everything from meat to auto emissions.

Since individual taxpayers play such a large role in maintaining the financial solvency of the Federal Government, Congress has an obligation to make it as easy as possible for Americans to pay their taxes. And over the years, Congress has done this. We have simplified the return itself. We have financed the establishment of IRS field offices throughout the country, making it easy and free for people to get expert tax advice. A toll-free telephone service gives persons additional access to free advice.

Continuing in this vein, I propose Congress amend chapter 34, title 39 of the United States Code to permit postage-free mailing of Federal income tax returns. This would permit people to meet —their legal obligation without the ever-rising cost of a stamp. Making tax returns postage-free would recognize the vital role individual taxpayers play in financing their Government and, in this light, might be seen as a small token of appreciation from that Government.

Over the years, we in Congress have enjoyed franking privileges that allow us to mail free of charge. The taxes of our constituents pay for this privilege. It seems only fair to me that we extend our constituents the opportunity once a year to share the privilege their taxes allow us to enjoy year-round.

By Mr. INOUYE:

S. 123. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain clinical psychologists' services under the supplementary medical insurance benefits program established by part B of such title. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing legislation which would amend the Social Security Act of 1972 by authorizing payment for therapeutic services provided by a licensed or certified clinical psychologist.

There presently is a growing consensus that we will soon pass a comprehensive national health insurance bill. I fully support this important development, but to be honest, I have been distressed to note that nearly every one of the proposed bills have limited the scope of their mental health coverage to only those services provided under the supervision of a physician. In taking this position, we have not provided our citizens with a true "freedom of choice" to chose the practitioner that they might desire. I would further point out that in recently amending the Federal employee health benefits program by passing Public Law 93-363, the Congress clearly indicated that we saw no need for physician supervision of psychological services. Yet, under the present medicare legislation, a psychologist can only be reimbursed if he is directly supervised by a physician.

In the mental health field, psychologists have long possessed recognized expertise. Members of that profession hold positions of major administrative and clinical responsibility including the chief of a State mental health division, heads of hospital units, and chiefs of comprehensive community health centers. As a profession they also serve as expert witnesses and on the sanity commissions of our courts. In 47 States and the District of Columbia, psychologists are licensed or certified under statute. In their daily functioning, they simply do not require physician supervision.

In my State of Hawaii, our largest insurance company has recognized psychologists as independent practitioners for the past 3 years. Combining their coverage and that of the Department of Defense's CHAMPUS program, approximately 80 percent of our State population has ready access to psychological services. Personally, I have been very impressed by the harmony that exists between our psychological community and its medical counterparts.

We are all aware of the staggering costs of health care in our Nation today. In calendar year 1973, our health expenditures grew to $94.1 billion or 7.7 percent of our gross national product. This represented an 11-percent increase over the previous year. The most recent employment figures available further indicate that in 1971, over 4.4 million people were employed in health occupations; this was 5 percent of our civilian labor force and made the health industry the third largest in the Nation. There is no question that today health is a major concern for all of us and I feel it is now time to look much more closely at exactly how we have been utilizing our precious and very expensive health resources.

However, the most important benefit to be derived from this legislation will be the effect on our elderly. It is a sad commentary to note that although our senior citizens today constitute approximately 10 percent of our population, in the past they have received only 2 percent of the total outpatient mental health services, but at the same time make up 30 percent of the resident population of our mental health facilities. Further, the Department of Health, Education, and Welfare recently testified that 50 percent of the elderly in nonpsychiatric institutions have significant mental disabilities and that approximately 3 million noninstitutionalized elderly suffer from moderate to severe psychiatric disorder. Thus, in the twilight of their lives, when they have frequently lost their best friends and their most cherished possessions and when one would logically assume that our mental health experts could be most helpful, these services are simply not available.

Accordingly, I would strongly urge my colleagues to give their most serious consideration to the merits of this legislation.

By Mr. INOUYE:

S. 124. A bill to amend the Public Health Services Act to provide for financial grants to States in order to insure the delivery of high quality health services for persons who have recently immigrated to the United States. Referred to the Committee on Labor and Public Welfare.

Mr. INOUYE. Mr. President, today I am introducing legislation entitled "The New Americans Health Service Act of 1975."

The lack of adequate public health care for the approximately 4 million aliens residing in the United States concerns all Americans.

Immigrants often come from regions where exposure to communicable diseases—some of them rare in this country—is universal. For them, life in the United States, a new country, is made up of emotional and economic stress that complicates their health problems.

Unaccustomed to preventive health services, and painfully aware of the high costs of medical care, many immigrants do not seek aid until health problems have reached crisis proportions. This situation is not only a threat to the immigrants, but also inflict harm on uncounted thousands of Americans.

I am well aware of the problems arising from inadequate health care for these people. Resident aliens account for well over 6 percent of the population in my State of Hawaii. The rate of immigration in Hawaii as a percent of the population is more than twice as high as any other State.

Moreover, the immigrants and American Samoans represent the highest percentage of residents in Hawaii treated for leprosy, tuberculosis, pediculosis, underweight children, mental health, and congenital malformation.

As you may know, over 70 percent of our immigrants reside in six States. Thus, we have a situation in which a few States are being asked to bear a disproportionate share of a national responsibility.

Mr. President, the bill I am proposing is long overdue. It will bridge the gap that has arisen between the awesome health problems of recent immigrants, and the insufficient health care provided. It will provide health services, and links to those services, for people who desperately need them. And, by helping them, we help those who are more fortunate to have been here since birth, by maintaining a more healthy general environment.

It is our national policy to allow immigrants into this country. We should not desert them. I hope my colleagues will join me in recognizing the importance of this bill and will act to secure its early consideration and passage.

By Mr. INOUYE:

S. 125. A bill to establish an Economic Adjustment Corporation to provide financing to business enterprises, financial institutions, and public agencies which are unable to obtain essential financing on reasonable terms from other sources. Referred to the Committee on Banking, Housing and Urban Affairs.

ECONOMIC ADJUSTMENT CORPORATION ACT OF 1974

Mr. INOUYE. Mr. President, last month, in his year-end statement, Henry Ford II, chairman of the board of Ford Motor Co., made the observation that—

> We have never before faced such confusion over the appropriate directions of economic policy or such uncertainty that we can find out a way out.

The truth of this statement has come home to all of us with varying degrees of impact in the past year. Striding inflation in some sectors of our economy has left most Americans with sharply reduced buying power; severe recession in other sectors has left many other Americans with the prospect of having no buying power at all. At the same time that we concern ourselves with the multiplicity of factors which have contributed to our present high prices—from the omnipresent energy shortage to the unchallenged sway of market monopolies—we receive daily reminders of an increasingly severe recession, as seen in our declining national product, massive layoffs in major industries, and a falloff in aggregate investment.

It is an understatement to say that we find ourselves in an uncommon economic situation, and it is my feeling that an uncommonly bold solution is indicated. In the hope of contributing to such a solution, I am today introducing legislation which would create a Federal corporation empowered to extend credit to commercial, agricultural, and public enterprises for the purpose of remedying some of our economic troubles. The proposed corporation, which would be known as the Economic Adjustment Corporation, would have the means and the flexibility to make fine-tuned credit adjustments on a case-by-case basis, something which Congress cannot and, in my opinion, should not attempt to do on its own. Moreover, it would have the ability by virtue of its lending authority to make loans which might appear to carry some moderate risk but which in fact are essentially sound—loans which lending institutions are loath to underwrite in this period of accentuated credit squeeze.

In the same year-end statement, Mr. Ford emphasized the need for precisely this sort of a Federal corporation. It's purpose, he stated.

> Would be to make large amounts of capital available to industrial firms, utilities and banks which are unable to obtain badly needed financing today, even though their business is in sound condition, because of the collapse of equity markets and shortages of loan funds.

As enumerated in my bill, loans would be issued for that purpose and for the purposes of helping to increase productivity, increase employment levels, reduce energy consumption, create a favorable balance of payments, promote competition, prevent major dislocations in sectors of our economy, or otherwise help achieve and maintain a stable, productive economy. In short, the EAC would take both a long- and short-term approach to problem areas while remaining sensitive to the particular inflationary or recessionary bases of those problems.

As the Senate will note, the EAC is similar in function to the Reconstruction Finance Corporation which our distinguished majority leader recently proposed to revive. Senator MANSFIELD has come forward with a timely and promising legislative proposal, and I wish to congratulate him for it. As he has pointed out with particular reference to Pan American Airways, there is need for an institution which can assist companies in financial distress, and the RFC is well-tailored to meet that need.

It is my desire, however, to add to the mandate of such an institution, and I am hopeful that the EAC authorization would do so. Thus, in addition to making loans which would enable businesses to weather these difficult times, the EAC would be enjoined to make loans which would positively contribute to the long-term health of the economy by treating the causes and symptoms of inflation and recession. My bill does not explicitly set up any system of priority loans, such as loans to increase grain production or loans to convert factories to alternate energy sources; it was not my wish to set up any such rigid categories. But it is my wish that the EAC legislation be generally directed toward encouraging just those sorts of loan requests; that is why I have chosen in this bill to emphasize the loan purposes that I enumerated earlier.

Mr. President, I am hopeful that the administration and our colleagues will concur on the need for this legislation. The past months have demonstrated that our economic woes cannot be handled facilely, but they must be handled nonetheless. It behooves us now to give forthright and serious consideration to that task.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 129. A bill to authorize construction of the Devil Canyon and Denali units of the Upper Susitna River Basin project and related transmission facilities. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, I am today introducing a bill that would authorize construction of the Devil Canyon and Denali units of the Upper Susitna River Basin hydroelectric project and related transmission facilities.

The Susitna River Basin hydroelectric project is situated midway between Anchorage and Fairbanks; Alaska's two major population centers. It will entail the construction of four dams on the Susitna River in several stages. Devil Canyon Dam and Denali Dam are seen as a logical first stage development for the project, with possible future additions of two more dams, identified by the 1961 U.S. Bureau of Reclamation project feasibility study as the Vee and Watona projects.

The major features of the Devil Canyon project include the Devil Canyon Dam and powerplant, with installed generating capacity of 600 megawatts; the upstream Denali Dam which is needed primarily for storage and electric power transmission facilities to Fairbanks, Anchorage, and other Railbelt Centers.

Geographically, the Devil Canyon Dam would be located at mile 134 on the Susitna River, approximately 14.5 miles upstream from the Gold Creek Station on the Alaska Railroad. The Denali Dam would be located at river mile 249, a few miles downstream from the Denali highway crossing of the Susitna River.

Mr. President, it is imperative that construction of this project be initiated as soon as possible. At present, most of the power in the railbelt area is generated by fossil fuels. With the immense potential for hydroelectric power in Alaska, this is an unnecessary use of critically short fossil fuels.

The Devil Canyon project has the best potential for hydro development and would maximize benefits for the bulk of the population of the State of Alaska. It does not have the serious detrimental environmental-ecological problems associated with fossil fuel plants or other potential hydro projects. The project is designed for stage development in substantial increments beneficial to total energy marketing. It is designed to be wholly utilized between the interior south-central regions. Access to the site and interconnecting facilities is provided by both road and railroad. Projected delivered costs to the interior would allow present fossil fuel stations to go on reserve-standby basis. This would allow the fuel currently used for power generation to be used in areas where fossil fuels are the only feasible forms of fuel.

In addition to saving fossil fuels which would be otherwise used for electrical generation, the Devil Canyon project would provide power for the possible electrification of the trans-Alaskan pipeline pumping stations as well as the Alaska railroad. This would result in additional savings of petroleum.

Not only will the Devil Canyon project represent a substantial savings in fossil fuels, it is critical if the future needs of Alaska's railbelt are going to be met. The regional studies for the Alaska power survey indicate 1972 railbelt energy requirements of about 2 billion kilowatt hours. This amounts to approximately 77 percent of Alaska's energy requirements for 1972, including utility, national defense, and industrial loads. Midrange estimates from the power survey indicate annual requirements of 5 billion kilowatt hours by 1980, and nearly 10 billion kilowatt hours by 1990. The Devil Canyon project would provide 2.9 billion kilowatt hours per year, and the completed Upper Susitna River system would provide 7 billion kilowatt hours per year—or nearly all the 1990 projected railbelt requirement.

The benefits to Alaska include improved access to the river area, new recreation opportunities, plus environmental benefits at the load center. There has been much public support voiced for the project in Alaska.

Mr. President, the language of this bill is fairly simple and includes straightforward assignments of construction authority to the Corps of Engineers and assignment of operation, maintenance, and power marketing responsibilities to the Department of the Interior.

Section 1 of the bill states its purpose, makes assignment of the responsibilities, describes the features of the project, and asks the Secretary of the Interior to make a determination on necessary and feasible transmission facilities.

Sections 2 and 3 relate to power marketing authorization, and the general authorizations to the two Departments to insure capability to complete the project.

Section 4 is added to indicate the need to complete an environmental impact statement and to finalize transmission plans prior to the actual start of construction.

Mr. President, I urge quick action on this bill. The Devil Canyon project including the Denali storage portion could probably be completed before 1985, and full development of the Upper Susitna project could be accomplished by 1990. The sooner the project is started, the sooner we are going to realize the savings in fossil fuels that this project will bring.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Devil Canyon Authorization Act".

SECTION 1. In order to provide essential power and a backbone transmission grid for south-central and interior Alaska, and to develop and utilize available renewable energy resources to assist in meeting long-range national objectives for conservation of petroleum and natural gas supplies, and for other purposes, the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct and the Secretary of the Interior is authorized to operate and maintain the Devil Canyon and Denali units of the Upper Susitna River Basin project, substantially in accordance with the plans presented in the March 1961 project report of the Commissioner of Reclamation. Project works shall consist of the Devil Canyon Dam, Reservoir, and powerplant, the Denali Dam and Reservoir, and related facilities, and transmission facilities which are determined by the Secretary of the Interior to be necessary and feasible to distribute and market project power to the Anchorage and Fairbanks areas and other power market areas of south-central and interior Alaska. Federal investment in these facilities is estimated at $750 million on the basis of January 1973 price levels.

SEC. 2. Electric power and energy generated at the Upper Susitna River Basin project, except that portion required for Project Operation, shall be disposed of by the Secretary of the Interior in such a manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles. Rate schedules shall be drawn having regard to the recovery of the costs of producing and transmitting the power and energy, including the amortization of the capital investment over a reasonable period of years, with interest at the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term securities outstanding on the date of this Act and adjusted to the nearest one-eighth of 1 per centum. In the sale of such power and energy, preference shall be given to Federal agencies, public bodies, and cooperatives. It shall be a condition of every contract made under this Act for the sale of power and energy that the purchaser, if it be a purchaser for resale, will deliver power and energy to Federal agencies or facilities thereof within its transmission facilities. All receipts from the transmission and sale of electric power and energy generated at said division shall be covered into the Treasury of the United States to the credit of miscellaneous receipts.

Sec. 3. The appropriate Secretary is authorized to perform any and all acts and enter into such agreements as may be appropriate for the purpose of carrying the provisions of this Act into full force and effect, including the acquisition of rights and property, and the Secretary of the Army, when an appropriation shall have been made for the commencement of construction, or the Secretary of the Interior in the case of operation and maintenance of said division, may, in connection with the construction or operation and maintenance of such division, enter into contracts for miscellaneous services for materials and supplies, as well as for construction, which may cover such periods of time as the appropriate Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made therefor.

Sec. 4. The Secretary of the Army is directed to proceed with preparation of project designs and an environment impact statement in accordance with the National Environmental Policy Act, and the Secretary of the Interior is directed to proceed with a determination of necessary and feasible electric power transmission facilities and power marketing studies. The environmental impact statement and the determination of necessary electric power transmission facilities are to be completed within not more than two years of the date of this Act and transmitted to the Congress prior to appropriation of funds for construction of project works. The sum of $1,000,000 is authorized to be appropriated for the environmental and other studies required by this section.

By Mr. STEVENS:

S. 130. A bill to authorize certain revenues from leases on the Outer Continental Shelf to be made available to coastal and other States.

Mr. STEVENS. Mr. President, I am introducing a bill today to provide for revenue sharing from Outer Continental Shelf leases of oil, gas, and other minerals.

This bill will distribute the royalties from Outer Continental Shelf lands to the adjacent coastal State, 25 percent; the other States, 25 percent; and the U.S. Treasury, 50 percent.

Federal public lands producing royalty revenues already require royalty revenue distribution to the State on which the lands are located. (See 30 United States Code, section 191.)

For a number of years, the various States have sought a royalty revenue distribution from Outer Continental Shelf lands. In the 93d Congress, for example, several bills were introduced on this subject in the House of Representatives.

Mr. President, although these minerals are located within Federal lands—the Outer Continental Shelf—the adjacent State provides considerable governmental services to the industries and people engaged in exploration and production. Such State governments must incur substantial expenses in connection with these activities. But they receive no share of the royalties. This is particularly unfair in view of the fact that States on which royalty producing Federal public lands are located share in such royalties.

Mineral exploration, whether it be from Federal public lands or Outer Continental Shelf lands, is really a cooperative venture with private industry, State, and local governments, and the Federal Government all lending a hand. Because Federal royalties now are deposited in the General Treasury, the adjacent coastal States must bear and unfair burden.

The funds involved are not inconsiderable. The total Outer Continental Shelf revenues, including royalties, bonuses, and rentals for 1973 totaled almost $3½ billion. In 1971, the figure was over $2½ billion. These figures do not reflect the very considerable royalties that will accrue after oil and gas production begins on the Outer Continental Shelf in other areas. The Council on Environmental Quality in their April report to the President estimated that the Gulf of Alaska has a higher potential yield of oil and gas than any of the other areas studied. The report also noted the environmental, social, and economic problems that would confront Alaska, if and when these vast resources in the Gulf of Alaska are developed.

My bill will, for the first time, provide that royalties will be shared directly with the other nonadjacent States—inland as well as coastal. It provides a fair revenue sharing formula and will be easily administrable. I also noted that the Review Committee of the National Academy of Sciences and the National Academy of Engineering while analyzing the recent report of the Council on Environmental Quality noted the need for some form of revenue sharing from development of the Outer Continental Shelf. The committee opined:

> . . . [t]hat royalties and/or bonuses, whichever are applicable, should be distributed as benefits to those by whom the costs are borne. Because many of the costs of environmental protection and degradation are incurred locally, some portion of the dollar royalty benefits of OCS development should be returned by the Federal Government to these locales to offset coastal planning, regulatory, and other associated costs.

I urge the Senate to consider this concept as soon as possible and avert needless litigation and delay.

I ask unanimous consent that the bill itself be printed in the Record at this point, along with a table of Outer Continental Shelf receipts for fiscal years 1953–73.

There being no objection, the bill and table were ordered to be printed in the Record, as follows:

S. 130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Congress hereby finds and declares that—

(1) all States which contain public lands of the United States within their boundaries receive certain revenues produced from bonuses, royalties, and rentals of such lands in accordance with the Mineral Leasing Act of 1920 (30 U.S.C. 191);

(2) such sharing of revenues is based on the equitable consideration that these States furnish governmental services to the industries and people engaged in the exploration and production of minerals from such lands and accordingly such States are entitled to be reimbursed for such services;

(3) coastal States perform identical governmental services to the industries and people engaged in the exploration and production of minerals from the portion of the seabed, which adjoins each coastal State but to which such States do not have title, yet these States now receive no share of the revenue produced;

(4) coastal States in addition to providing governmental services, are subject to other burdens not financially measurable, such as the risk and the actuality of oil spills, movement of population of low coastal areas where hurricane dangers are greatest, and modification of coastal ecology;

(5) basic justice requires that coastal States should share revenues from the aforesaid portion of the seabed at least on the same equitable grounds on which States with Federal lands within their boundaries now share such revenues with the Federal Government, and

(6) the bonuses, royalties, and rentals of public lands can provide a practical way in which Federal revenue sharing with all States can be accomplished.

Sec. 2. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"Sec. 9. Disposition of Revenues—(a) All rentals, royalties, or other sums paid to the Secretary or the Secretary of the Navy under or in connection with any lease on the Outer Continental Shelf for the period beginning June 5, 1950, and ending with the day preceding the date of the enactment of this subsection shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b) All rentals, royalties, or other sums paid to the Secretary or the Secretary of the Navy under or in connection with any lease on the Outer Continental Shelf on and after the date of the enactment of this subsection shall be deposited in the Treasury of the United States; and of the amount of the revenues so deposited in each fiscal year which are attributable to the portion of the Outer Continental Shelf adjacent to any State—

"(1) 25 per centum shall be paid by the Secretary of the Treasury to such adjacent State;

"(2) 25 per centum shall be paid by the Secretary, in equal amounts, to each of the several States other than such adjacent State; and

"(3) 50 per centum shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(c) Any moneys paid to the Secretary or the Secretary of the Navy under or in connection with a lease but held in escrow pending the determination of a controversy as to whether the lands on account of which such moneys are paid constitute part of the Outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the Outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a) if paid before the date of the enactment of this subsection, and

"(2) in accordance with subsection (b) if paid on or after the date of the enactment of this subsection.".

Sec. 3. (a) Nothing contained in this Act or in the amendments made by this Act shall be construed to alter, limit, or modify in any manner any right, claim, or interest of any State in any funds received before the date of the enactment of this Act, or of any funds held in escrow pending the determination of any controversy as to whether the submerged lands on account of which such funds were received constitute a part of the Outer Continental Shelf.

(b) Nothing contained in this Act or in the amendments made by this Act shall be construed to alter, limit, or modify any claim of any State to any right, title, or interest in, or jurisdiction over, any submerged lands.

OUTER CONTINENTAL SHELF REVENUE AND PRODUCTION VALUE—PERCENTAGE CUMULATIVE REVENUE OF CUMULATIVE PRODUCTION VALUE, CALENDAR YEARS 1953–73

Year	Royalties	Total revenue
All States:		
1953	$967, 892	$2, 358, 172
1954	2, 748, 977	147, 660, 265
1955	5, 140, 006	117, 197, 082
1956	7, 629, 383	11, 715, 526
1957	11, 391, 245	14, 840, 216
1958	17, 423, 878	20, 150, 076
1959	26, 539, 977	118, 828, 715
1960	37, 095, 301	232, 781, 831
1961	47, 920, 332	51, 345, 414
1962	66, 096, 334	564, 569, 574
1963	76, 999, 225	98, 963, 285
1964	88, 400, 230	194, 939, 272
1965	102, 862, 540	146, 445, 376
1966	136, 987, 537	354, 465, 657
1967	157, 607, 609	675, 859, 202
1968	201, 136, 931	1, 558, 052, 293
1969	240, 090, 666	362, 029, 240
1970	283, 494, 568	1, 237, 527, 860
1971	350, 042, 488	456, 012, 307
1972	363, 556, 339	2, 624, 957, 875
1973	401, 126, 114	3, 494, 981, 440
Total, all States	[1] 2, 625, 000, 000	[1] 12, 577, 000, 000

[1] Rounded off to nearest million.

By Mr. STEVENS:

S. 131. A bill to authorize the Secretary of the Interior to enroll certain Alaskan Natives for benefits under the Alaska Native Claims Settlement Act and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, it is estimated that approximately 1,000 Native people who should be enrolled for benefits under the Alaska Native Claims Settlement Act have not been included in the final role because they missed the March 30, 1973, deadline. I have had correspondence with the Bureau of Indian Affairs to determine what action could be taken on behalf of these people.

In a letter to me Commissioner of Indian Affairs Morris Thompson stated that the Bureau was aware of the fact "that there are a number of otherwise eligible Natives who filed late applications, or did not file at all." The Bureau's position on this matter is that it would be inequitable to those who did file on time to reopen the roles. In my opinion, it is only fair and equitable to insure that all Alaskan Natives share in the benefits of the land claims settlement regardless of a failure to meet a technical deadline imposed on submission of applications.

Originally when I introduce a similar bill in the 93d Congress, it primarily focused on the issue of Native enrollment. During consideration of this measure the Interior Committee added several provisions dealing with other matters still unsettled for the Native villages and corporations and the bill in this modified form passed the Senate.

I have kept the bill in the modified form except that there is no reference to the 13th Regional Corporation. This matter is currently in the courts and I do not feel that it would be appropriate to address the issue in this legislation.

Besides extending the time frame in which otherwise qualified Natives could enroll under the Alaska Native Claims Settlement Act, this bill would: First, direct the Secretary of the Interior to establish an escrow fund for revenues received by the Department for activities on Federal lands subsequently patented to Natives; second, insure that payments under the Claims Act are disregarded when determining the eligibility of any household to participate in the food stamp program; and third, exempt Native corporations from the Investment Company Act of 1940 through December 31, 1976.

Mr. President, I ask unanimous consent that news articles on this subject be printed in the RECORD immediately following my remarks and that the text of my bill be printed at this point in the RECORD.

There being no objection, the articles and bill were ordered to be printed in the RECORD, as follows:

NATIVES VOW FIGHT OVER LATE CLAIM DEADLINE

(By Donn Liston)

The Department of Interior has ruled tardy Natives will not receive their land claims, and Alaska Federation of Natives leaders say they will continue to fight.

On December 18, 1973, Interior certified 75,853 Alaska Natives for settlement under the claims act. About 8,000 persons were deemed eligible and another 828 were enrolled between Dec. 17 and March 30, 1973.

But late last week Secretary Morton's office notified enrollment officials those 828 late filers would not be qualified under the land claims act.

"It's Interior's responsibility to enroll all Natives, not Natives' responsibility to find Interior," said John Shively, AFN executive vice president of Alaska Federation of Natives, and "They're saying because you missed an arbitrary deadline, you aren't Native."

Deadline for final roll was changed to June 1, allowing the enrollment office to correct any mistakes and deal with a change in policy regarding Natives living outside Alaska.

"The Secretary says the number of affected is less than one per cent," added Shively. "But that isn't the issue. If someone is entitled to settlement then he should be able to enroll."

Although the Alaska Native Land Claims Act allows two years for enrollment, much of that time was spent establishing an agency to do the work. Within 11 months, the enrollment office took 95,000 applications. Native regional corporations were contacted to carry out enrollment in specific areas.

"It's a (expletive deleted) decision based on no consultation with either the regional corporations or the individuals involved," said Roger Lang, AFN president. "Again it will cost us money to prove Interior wrong in court."

Lang said AFN was concerned; if so much as one Native was "denied his heritage—it's enough to go to battle."

If approved the roll would have been delayed for confirmations, hindering the next payment due in July. Any newly accepted individuals would be identified by respective villages within another 30-day period. If declared ineligible by their claimed village, applicants would have 45 days to protest. The village would then have another 30 days to appeal any decision by the enrollment office to override a village rejection.

Now Native leaders say the process will be necessary anyway—after another Natives vs. Interior court battle.

WHOSE FAULT?

Natives have a good point when they argue that it's the Interior Department's responsibility to enroll all Natives, not the Natives' responsibility to find Interior, if the land claims settlement is to work fairly.

A minor controversy with major possibilities has erupted over the deadline for filing individual claims. Interior Secretary Rogers C. B. Morton has ruled that 828 persons who filed after the December 1972 deadline will not be eligible under the claims act.

It is unfortunate because the 828 Natives are qualified for claims act benefits; they simply missed a prescribed date.

John Shively, Alaska Federation of Natives executive vice president commented: "They're saying because you missed an arbitrary deadline, you aren't Native."

Surely, if Interior followed the spirit of the claims act, this enrollment problem could be rectified.

Moreover Congress allowed two years for the Natives to enroll for claims, yet much of that precious time—13 months—ticked away as Interior established the framework to accomplish the enrollment work. Even now, Interior has established a June 1 deadline to deal with mistakes in the final rule. Why couldn't the late filings be considered "mistakes?"

The Natives have vowed to fight Interior's decision. Unfortunately, the court battles between Native organizations and the federal bureaucracy are becoming more and more frequent as implementation of the land claims settlement progresses. It is a costly and devisive trend that shouldn't be.

S. 131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to review those applications submitted within one year from the date of enactment of this Act by applicants who failed to meet the March 30, 1973, deadline for enrollment established by subsection (a) of section 5 of the Alaska Native Claims Settlement Act, 85 Stat. 688, (hereinafter referred to as the "Settlement Act"), and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met: Provided, That Natives enrolled under this Act shall be issued stock under the Settlement Act together with distributions from Corporations adjusted so as to make distributions to such Natives equal to distributions to Natives originally enrolled under the Settlement Act: Provided further, That land entitlement of any Native village, Native group, Village Corporation, Regional Corporation, or Corporation organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in said Act, shall not be affected by any enrollment pursuant to this Act, and that on tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native Village" as defined in said Act, shall become eligible for land or other benefits as a Native village because of any enrollment pursuant to this Act: *Provided further*, that no tribe, band, clan, village, community, or village association not otherwise eligible for land or other benefits as a "Native group" as defined in said Act, shall become eligible for land or other benefits as a Native group because of any enrollment pursuant to this Act: And, provided further, That any "Native group" as defined in said Act, shall not lose its status as a Native group because of any enrollment pursuant to this Act.

SEC. 2. (a) From and after the date of enactment of this Act, any and all proceeds derived from contracts, leases, permits, rights-of-way, or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting corporation or individual entitled to receive benefits under said Act. As such withdrawn or formerly reserved lands are conveyed, the Secretary shall pay from such account the proceeds which derive from contracts, leases, permits, rights-of-way, or easements, pertaining to the lands or resources of such lands, to the appropriate corporation or individual entitled to receive benefits under the Settlement Act together with interest. The proceeds derived from contracts, leases, permits, rights-of-way, or easements, pertaining to lands withdrawn or reserved, but not selected or elected pursuant to said Act shall, upon the expiration of the selection or election rights of the corporations and individuals for whose benefit such lands were withdrawn or reserved, be deposited in the Treasury of the United States or paid as required by law were it not for the provisions of this Act.

(b) The Secretary is authorized to deposit in the Treasury of the United States such escrow account proceeds referred to in subsection (a) of this section and the United States shall pay interest thereon semiannually, from the date of deposit to bear simple interest at the rate as may be determined by the Secretary of the Treasury: Provided, however, That the Secretary in his discretion may withdraw from the United States Treasury such proceeds received by him under this Act and reinvest such proceeds in the same manner provided for by section 162a of title 25, of the United States Code: Provided further, That this section shall not be construed to create any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

SEC. 3. Any and all proceeds from public easements reserved pursuant to paragraph (3) of subsection 17(b) of the Settlement Act shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share.

SEC. 4. Any and all income on all earnings from contracts, leases, permits, rights-of-way, or easements issued for the surface or minerals covered under a conveyance prior to the issuance of such conveyance under the Settlement Act, shall be paid to the grantee of such conveyance on that portion of the lands conveyed pro-rated from the date of enactment of this Act, or from the date of conveyance under the Settlement Act, whichever occurs first.

SEC. 5. Any distribution of funds from the Alaska Native Fund pursuant to subsection (c) of section 6 of the Settlement Act made by the Secretary or his delegate prior to enactment of this Act on the basis of the final roll certified on December 18, 1973, shall not be affected by the provisions of this Act. Immediately upon certification of the amended final roll pursuant to this Act, the Secretary shall make any necessary adjustments in future distributions of funds pursuant to subsection (c) of section 6 of the Settlement Act to accommodate the changes in the final roll made by the amended final roll: *Provided*, That such adjustments shall not take effect until the next regularly scheduled distribution period following certification of the amended final roll.

SEC. 6. The Settlement Act is amended by adding a new section 28, to read as follows:

"SECTION 28. Any corporation organized pursuant to this Act shall through December 31, 1976, be exempt from the provisions of the Investment Company Act of 1940 (54 State 789), as amended. Nothing in this section shall, however, be construed to mean that any such corporation shall or shall not after such date be subject to the provisions of the Investment Company Act of 1940."

SEC. 7. The Settlement Act is further amended by adding a new section 29 to read as follows:

"SECTION 29. (a) The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Notwithstanding subsection 5(a) and any other provision of the Food Stamp Act of 1964 (78 Stat. 703), as amended, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefit received by any member of such household under the Settlement Act, in connection with an aboriginal land claim of such person, shall be disregarded."

SEC. 8. Except as specifically provided in this Act, (i) the provisions of the Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

By Mr. STEVENS:

S. 132. A bill to amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as retired employees continue to reside in Alaska, and for other purposes. Referred to the Committee on Post Office and Civil Service.

Mr. STEVENS. Mr. President, I wish to introduce today a bill to extend cost-of-living adjustments in civil service retirement annuities to certain retired employees residing in Alaska.

Mr. President, under this bill the annuity of each retired employee, who has already performed 10 years of service in Alaska prior to separation, and, after commencing his annuity continues to reside in Alaska, shall be increased by 25 percent so long as he continues to reside in Alaska. Survivors are similarly covered. Persons previously retired are covered, but annuities are not retroactive.

Civil Service Commission records show as of February 31, 1974, there were about 2,802,589 Federal employees in the United States, of which approximately 14,500 were stationed in Alaska. Additionally, on July 1, 1974, there were 2,469 employee annuitants and survivors residing in Alaska and are receiving monthly annuities totaling approximately $833,024. The additional 25 percent cost of living for these needed recipient allowances would thus total about $208,256 monthly.

This increased retirement annuity is a just increase and is needed by Alaskans. The United States has granted Alaska a cost-of-living pay increase of 25 percent for Government employees, yet has not followed through and considered that the same high cost of living exists in their retirement.

Based on an average U.S. cost-of-living index of 100 for an intermediate budget family of 4, the index in Anchorage in the autumn of 1973 was 131, more than 25 percent above the average. With a lower budget family, the cost of living in Anchorage is almost 1½ times the national average, at 147, more than 25 points above any other State in the Union.

In most areas of the United States, as one moves away from the urban areas, the cost-of-living decreases. However, in Alaska, the exact opposite is true; Anchorage is one of the less expensive places to live in the State while other sections have a cost of living two to three times the national average.

Thus, Mr. President, an inequality presently exists in our Nation. Alaskans who have rendered a great service to our Government are forced to retire on minimum wages while the cost of living in Alaska continues to leap upward at a much faster rate than in the rest of the Nation. This bill will dissolve this inequality; it is a bill that will provide a long overdue justice to Alaskans, and I ask that it be considered as such in this session of Congress.

Mr. President, I ask unanimous consent that the bill be printed in its entirety in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) Notwithstanding any other provisions of this subchapter and in addition to the amount of annuity to which he otherwise is entitled under this subchapter, the annuity of each retired employee who has performed ten years of service in Alaska prior to separation and who, after the commencing date of his annuity, continues to reside in Alaska, without break in time after his separation, shall be increased by 25 per centum so long as he continues to reside in Alaska. This annuity differential is applicable to the annuity of any survivor of such retired employee."

SEC. 2. The amendment made by this Act shall apply to persons retiring or retired prior to, on, or after the date of enactment of this Act, and their survivors; but no annuity differential shall be payable by reason of such amendment for any period prior to the first day of the first month which begins after the date of the enactment of this Act.

By Mr. STEVENS:

S. 133. A bill to amend the Internal Revenue Code of 1954 to permit a deduction from gross income based upon the cost of living in certain States; and

S. 134. A bill to amend the Internal Revenue Code of 1954 to exempt from tax a portion of the income of individuals not employed by the Federal Government who live in a State in which Federal employees receive an allowance based on living costs and conditions of environment. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, today I am introducing legislation to allow a taxpayer a deduction from gross income based upon the cost of living in certain States and an additional bill to exempt from Federal taxation a portion of the income of non-Federal employees living in a State in which Federal employees receive an allowance based on living costs and other conditions.

The taxpayers of Alaska and other States where living costs are significantly above the national average, have been unreasonably burdened by virtue of their residences. The first bill would allow an individual to deduct a percentage of the total amount of personal exemption equal to the percentage by which the cost of living in his State exceeds the average national cost of living for that taxable year. The deduction would be limited to the percentage of time during which the taxpayer resided within the State on which he bases the deduction. The Secretary of the Treasury would be delegated the authority of determining whether a particular State's cost of living significantly exceeds the national average.

The most current Bureau of Labor statistics reveal that Alaska and Hawaii rank as the areas in which it costs the most to live and maintain a family at any income level. Anchorage, Alaska, ranks as the most expensive city in the entire Nation in which to live. Honolulu, Hawaii, ranks second in this regard with all other cities significantly below these top two. The Alaskan price structure, which is largely due to the tremendous costs incurred in transporting goods and material to Alaska, has imposed a hardship on citizens with fixed incomes and deters prospective residents and business concerns from settling within the State.

Now with the trans-Alaska oil pipeline under construction, the prices for shelter, food, and essential services are rising at a faster rate in Alaska than the rest of the country.

My alternative bill providing tax equality between Federal and non-Federal employees would rectify a long-standing inequity in States with high living costs. At present, the Federal Government provides a 25-percent cost-of-living adjustment to civil service employees who reside in Alaska. This nontaxable adjustment is added to the base pay of Federal employees, but is not available to non-Federal employees. Therefore, the tax burden upon workers in the private sector is inequitably repressive and relief is required to equalize their tax responsibility with those federally employed. Both bills which I have introduced in this regard contain limitations upon Federal employees who receive a nontaxable cost-of-living allowance.

I believe that the combination of these two bills will provide much needed Federal tax relief to the beleaguered taxpayer of my State and certain other States where the cost of living is significantly above the national average. Moreover, these bills should help to accelerate the economic and social progress of these States by stimulating business relocation therein and not discouraging prospective residents from moving thereto. Accordingly I urge the careful consideration of this legislation.

I ask unanimous consent that these bills be printed at this point in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revnue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 218 as 219, and inserting after section 217 the following new section:

"Sec. 218. Cost-of-living deduction.

"(a) Allowance of Deduction.—In the case of an individual, there shall be allowed as a deduction a percentage of the total amount of the personal exemptions to which he is entitled equal to the percentage (determined by the Secretary or his delegate under subsection (c)) by which the cost of living in the State in which he resides during the taxable year exceeds the average cost of living in the United States for that year.

"(b) Limitations.—The amount of the deduction allowable under subsection (a) shall be adjusted appropriately for any period of time during a taxable year during which the taxpayer was not residing in the State on which he bases his deduction under such subsection. In the case of a taxpayer who, during any taxable year, resides in more than one State which qualified him for such deduction, the amount of the deduction shall reflect the proportionate periods of time during which he resided in such State. In the case of a taxpayer whose taxable year is not the calendar year, the amount of the deduction shall reflect proportionately the calendar years which fall within his taxable year.

"(1) Federal Employees.—The provisions of subsection (a) shall not apply to amounts received by an employee of the Government of the United States as pay and allowances from the Government.

"(c) Determinations by the Secretary.—On or before December 1 of each year, the Secretary or his delegate shall determine with respect to each State whether the cost of living in such State is greater than the average cost of living in the United States. If the Secretary or his delegate determines that the cost of living in any State is greater than the average cost of living in the United States, he shall determine and make available the percentage (rounding off to the nearest whole percent) by which the cost of living in such State exceeds the average cost of living in the United States. The determination shall be made for each year on the basis of indices and other information available from all departments and agencies of the Government covering the first 9 months of such year, and the determination of the cost of living in each State shall be made on the basis of such indices and information applicable to the 3 largest cities or metropolitan areas in such State.

"(d) Finality of Determinations.—Determinations by the Secretary or his delegate under subsection (c) shall be final and shall not be subject to review by any other officer of the United States or by any court.

"(e) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) The table of sections for such part VII is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 218. Cost-of-living deduction.
"Sec. 219. Cross references."

Sec. 2. Section 62 of such Code (relating to the definition of adjusted gross income) is amended by inserting after paragraph (9) the following new paragraph:

"(10) Cost-of-Living Deduction.—The deduction allowed by section 218."

Sec. 3. The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1974.

S. 134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125, and inserting after section 123 the following new section:

"Sec. 124. Partial Exclusion of Income of Individuals Residing in Certain States.

"(a) General Rule.—In the case of an individual who resides and is employed in a State in which employees of the Government of the United States receive an allowance under section 5941 of title 5, United States Code, gross income does not include a percentage of income received during the taxable year as compensation for personal services (including fees, commissions, and similar items) equal to the percentage of basic pay received by employees of the Government of the United States as an allowance under such section.

"(b) Limitations.—

"(1) Federal Employees.—The provisions of subsection (a) shall not apply to amounts received by an employee of the Government of the United States as pay and allowances from the Government.

"(2) Residents for Less Than a Taxable Year.—If an individual does not reside in such a State for the entire taxable year, the provisions of subsection (a) shall apply only to compensation attributable to the period during which such individual resides in such State.

"(c) Regulations.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such part III is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 124. Partial exclusion of income of individuals residing in certain States.

"Sec. 125. Cross references to other Acts."

Sec. 2. The amendments made by this Act shall apply to taxable years beginning after December 31, 1974.

By Mr. STEVENS:

S. 135. A bill to amend title II of the Social Security Act to adjust the earnings exemption, applicable to recipients of monthly benefits thereunder, for individuals in Alaska or Hawaii so as to take into accounnt the higher cost of living in such States. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, in the past few years the Congress has become increasingly sensitive to the needs of our senior citizens. Legislation has been introduced to increase benefits to these citizens and to increase the opportunities for them to provide their services in businesses and community organizations throughout the country.

I like to think that the retired people in Alaska are a unique breed of individuals. Their intense desire for self-sufficiency and self-reliance has been conditioned by a lifetime spent in a very rugged and demanding area. The bill which I am introducing is a step toward allowing them to maintain this self-reliance. The bill provides for an increase in the exempt earnings under the social security law in proportion to the salary adjustments currently made for Federal employees.

We are asking that our senior citizens be given an opportunity to engage in satisfying work experiences which contribute to the economy of the country.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(9) For special provisions applicable to individuals in Alaska or Hawaii, see subsection (m)."

(b) Section 203(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) For special provisions applicable to individuals in Alaska or Hawaii, see subsection (m)."

(c) Section 203 of such Act is further amended by adding at the end thereof the following new subsection:

"SPECIAL RULE APPLICABLE TO INDIVIDUALS IN ALASKA OR HAWAII

"(m) In applying the provisions of subsections (f) and (h) to any individual with respect to any period (consisting of one or more complete calendar months) for all of which he is physically present in Alaska or Hawaii, the figure "$200" and the term "exempt amount" (as referred to in paragraphs (1), (3), and (4)(B) of subsection (f), and in paragraph (1)(A) of subsection (h)) shall be deemed to be such figure, or such exempt amount, as the case may be, plus a per centum thereof equal to the per centum applicable, as of the beginning of such period, in determining the amount of the allowance payable under section 5941 of title 5, United States Code, to Federal employees serving in such State."

By Mr. MONTOYA:

S. 137. A bill to amend the Internal Revenue Code of 1954 to require judicial confirmation of the need for a jeopardy assessment. Referred to the Committee on Finance.

JUDICIAL OVERSIGHT OF INTERNAL REVENUE SERVICE JEOPARDY ASSESSMENTS

Mr. MONTOYA. Mr. President, today I am introducing a bill to amend the Internal Revenue Code of 1954 to require judicial confirmation of the need for jeopardy assessment. This bill, along with several others which I will introduce, is the result of 2 years of hearings into taxpayer service procedures and practices. It will provide a much needed correction in the tax laws.

The jeopardy assessment power of the IRS is an unusual governmental power—a special power, given to the Secretary of the Treasury or his delegate, to protect the Government against loss of revenue. The IRS is given the power to take immediate action through assessment if it is believed that revenue will be jeopardized by delay. When the legislation was originally written it was the intention of Congress that this power be used in only the most extreme circumstances, when the IRS believed the taxpayer was preparing to flee the country to avoid payment of taxes or that the taxpayer was divesting himself or herself, or a business, of assets in order to avoid payment of taxes.

In order to prevent jeopardy to revenue, therefore, the Secretary of the Treasury, or his delegate—in actual fact, of course, the Commissioner of IRS or his deputy, an IRS agent—is given the authority to assess an immediate deficiency, seize assets, and demand payment. He is authorized to do these things solely on his own "belief" that refraining from taking this action would cause loss to the Government. The power is not limited by any need for judicial review, and has been called "a weapon with atomic potentialities in the arsenal of the tax gatherer" by Chief Judge John R. Brown of the Fifth Circuit Court of Appeals.

There have been repeated questions raised in the past about the constitutionality of this section of law, and although the Supreme Court has upheld the law as written where the question of due process is concerned, there seem to be serious questions which could be raised in connection with equal protection guarantees and concerning the discretionary power given to the Secretary. The American Law Division of the Library of Congress has researched this question, and I ask unanimous consent that the report of Howard Zaritsky, Legislative Attorney for the Law Division, be entered in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MONTOYA. Mr. President, certainly there is no attempt in the legislation I am proposing today to remove from IRS a tool which they consider to be important in the successful completion of their work. Jeopardy assessment is, as the Supreme Court has noted (House report No. 2, 70th Congress, First session, December 7, 1927, pp 31–32):

> A very effective and necessary method of stopping tax evasion through the various favorite methods recognized by everyone.

The legislation introduced today seeks to amend the code by providing necessary protection for the civil rights of taxpayers while at the same time preserving the jeopardy assessment tool for the tax gatherer.

Specifically, this legislation would:

First. Require the IRS to file a petition in U.S. District Court within 5 days after an assessment for approval of the assessment, setting forth the reasons for making it.

Second. Allow the taxpayer against whom an assessment has been made to file with the appropriate district court a request for a hearing, to be held within 5 days following such request.

Third. Require that the court approve the reasonableness of both the basis of need for the assessment and the amount of the assessment.

Fourth. Require IRS to notify the taxpayer on the day of the filing of the petition—within 5 days after assessment—of the provisions of the law and to provide a form for requesting a hearing if he/she so desires.

These provisions do not weaken the power of the IRS to act promptly and effectively in cases of jeopardy. They do protect the taxpayer against arbitrary or capricious decisions made by agents in the field. They do reinforce the civil rights of taxpayers by returning due process to them in this kind of case. They do provide taxpayers with recourse in case of a wrongfully made decision—and recourse which is timely, so that financial loss is not permanent or irreparable.

There have been numerous cases reported to my committee of jeopardy assessments made without normal consideration for the rights of taxpayers or without normal presumption of innocence until proven guilty. In many cases—too many, in recent years—the assessment made is far more than the tax which might eventually be proven to be due. Witnesses before my committee have testified that in some cases the amount of the assessment is made purely on the basis of total assets of the taxpayer, being always set slightly higher than any possible bond which could be obtained by such taxpayer. This kind of action was never the intent of Congress, of course, and has no justification. A very pertinent column was written for the Wall Street Journal on September 25, 1974, concerning this kind of jeopard assessment. I ask consent that the article be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. MONTOYA. Mr. President, the Supreme Court has stated the heart of the problem in a finding concerning the relative interests of personal property and the Federal Government's interest in securing revenues:

> Where only property rights are involved, mere postponement of the judicial enquiry is not a denial of due process if the opportunity given for the ultimate determination is adequate . . . (283 U.S. at 596–597)

The key words in that finding are "if the opportunity given for the ultimate determination is adequate." As the law now stands, the taxpayer is afforded little protection against an error in judgment by the agent of the Commissioner of IRS, acting as delegate of the Secretary of the Treasury. The provisions of the amendment I am offering today would provide that protection without in any way damaging the legimate power of the IRS to take immediate action to protect the Government against revenue loss. It in no way endangers the powers of a public servant to be required to explain his actions, or to promptly notify citizens of action taken against them and their rights under the law.

I urge the support of the Senate for this portion of the corrective legislation I am introducing today, and request that the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part II of subchapter A of chapter 70 of the Internal Revenue Code of 1954 (relating to jeopardy assessments) is amended by renumbering section 6864 as 6865, and by inserting after section 6863 the following new section:

"SEC. 6864. JUDICIAL OVERSIGHT OF JEOPARDY ASSESSMENT.

"(a) PETITION FOR APPROVAL.—Within 5 days after an assessment is made under section 6861, the Secretary or his delegate shall file in a United States district court a petition for approval of such assessment, which shall set forth the reasons for making such assessment. Such petition may be filed in any United States district court in which the taxpayer against whom such assessment is made may bring a suit for refund of any amount collected under such assessment. If the petition is not filed within such 5-day period the assessment under section 6861 shall immediately be abated.

"(b) REQUEST FOR HEARING.—Upon the filing of a petition under subsection (a) the taxpayer against whom the assessment is made, or the Secretary or his delegate, may file with the appropriate district court a written request for a hearing on such petition. Within 5 days after the filing of such request, the court shall hold a hearing on such application and, if a hearing is not held within such 5-day period, the assessment shall immediately be abated.

"(c) BURDEN OF PROOF.—No petition filed under subsection (a) may be approved by the court unless the Secretary or his delegate establishes to the satisfaction of the court—

"(1) that the belief of the Secretary or his delegate that the collection of the deficiency or tax involved will be jeopardized by delay is reasonable in light of the factual basis for such belief, and

"(2) that the amount of such assessment is reasonable in light of the factual basis for assessing such amount.

If a court disapproves a petition filed under subsection (a), the assessment under section 6861 shall immediately be abated. The district courts of the United States shall have jurisdiction over petitions filed under subsection (a) and shall, in the case of each petition, approve or disapprove such petition within 5 days after it is filed. Each such decision of the court shall include a finding with respect to paragraphs (1) and (2) of this subsection.

"(d) NOTICE TO TAXPAYERS.—On the same day on which a petition is filed under subsection (a) with respect to an assessment under section 6861, the Secretary or his delegate shall furnish to the taxpayer against whom such assessment is made written notice of the provisions of this section and a form for requesting a hearing under subsection (b).".

(b) The table of sections for such sections for such part is amended by striking out the last item thereof and inserting in lieu thereof the following:

"Sec. 6864. Judicial oversight of jeopardy assessment.

"Sec. 6865. Termination of extended period for payment in case of carryback."

SEC. 2. The amendments made by this Act shall take effect on the first day of the third month which commences after the date of enactment of this Act.

EXHIBIT 1

CONSTITUTIONAL QUESTIONS RAISED BY THE JEOPARDY ASSESSMENT PROCEDURES

The Secretary of the Treasury is vested by Congress with the authority to end a taxpayer's taxable year, assess an immediate deficiency and demand payment, under Internal Revenue Code of 1954, as amended to date [hereinafter the Code] sections 6851 and 6861. 26 U.S.C. §§ 6851 and 6861. It may be thought that such procedures raise constitutional questions of due process and, perhaps, equal protection, and these contentions have been the subject of a number of judicial opinions. Because, however, all the opinions subsequent to 1931 which deal with the constitutional questions raised by the jeopardy assessment, rely substantially upon the Supreme Court's decision in *Phillips* v. *Commissioner*, 283 U.S. 589 (1931), it is this primary Supreme Court case which will be discussed in full herein. See *Continental Products Corp.* v. *Commissioner*, 66 F.2d 434 (Cir. 1, 1933); *Harvey* v. *Early*, 160 F.2d 836 (Cir. 4, 1947); *Dyer* v. *Gallagher*, 203 F.2d 477 (Cir 6. 1953); *Lloyd* v. *Patterson*, 242 F.2d 742 (Cir. 5, 1957); *Homan Manufacturing Co.* v. *Long*, 242 F.2d 645 (Cir. 7, 1957); *Ginsburg* v. *United States*, 278 F.2d 470 (Cir. 1, 1960) cert. den. 364 U.S. 878.

In *Phillips* the taxpayer was the successor-in-interest to a corporation, Coombe Garment Company, which had dissolved in 1919. Pursuant to section 280(a)(1) of the Revenue Act of 1926, c.27, 44 Stat. 9, 61 the stockholders who had received assets of a corporation during its dissolution were subjected to an assessment for the unpaid corporate taxes. The procedures under section 280(a)(1) were essentially summary processes not very distinct from the jeopardy assessment of today. Section 280(a)(1) stated only that these procedures applied to the case of an individual successor-by-dissolution of a corporate taxpayer.

Taxpayer, in *Phillips*, raised the argument that the summary procedures practiced under the Revenue Act violated the due process clause of the 5th amendment to the United States Constitution. The Court noted:

"The contention mainly urged is that the summary procedure permitted by the section violates the Constitution because it does not provide for a judicial determination of the transferee's liability at the outset. The argument is that such liability (except where a lien had attached before the transfer) is dependent upon questions of law and fact which have heretofore been adjudicated by the courts; that to confer upon the Commissioner power to determine these questions in the first instance, offends against the principle of the separation of the powers; and that the inherent denial of due process is not saved by the provisions for deferred review in a suit to recover taxes paid, or, in the alternative, for an immediate appeal to the Board of Tax Appeals [today, the Tax Court] with the right to review its determination in the courts because there are limitations and conditions in either method of judicial review." 283 U.S. at 593–594.

The Court disagreed.

Speaking through Mr. Justice Brandeis, the Supreme Court first reviewed the Congressional declaration of purpose behind the statute. It quoted from the House Report, H. Rept. No. 2, 70th Cong., 1st Sess., December 7, 1927, pp. 31–32, issued one year after the statute's enactment, which stated:

"Section 280 of the 1926 Act has proved a very effective and necessary method of stopping tax evasion through the various favorite methods recognized by everyone prior to the 1926 Act. The enforcement of the liability through court process had been ineffective and the amount of revenue lost through mala fide transfers or through corporate distributions of assets was admittedly large."

Furthermore, the Court quoted from the Conference Report on the enactment of the 1926 act, H. Rep. No. 356, 69th Cong., 1st Sess., February 22, 1956, p. 44, which stated:

"[The section] makes the procedure for the collection of the amount of the liability of transferees conform to the procedure for the collection of taxes . . . for procedural purposes the transferee is treated as a taxpayer would be treated."

After analyzing the legislative intent behind the provision the Court affirmed Congress's authority to utilize summary procedures for the collection of taxes. Citing a series of cases and Federal taxing acts dating to 1815, the Court stated that:

"The right of the United States to collect its internal revenue by summary administrative proceedings has long been settled. Where, as here, adequate opportunity is afforded for a later judicial determination of the legal rights, summary proceedings to secure prompt performance of pecuniary obligations to the government have been consistently sustained. . . . Property rights must yield to governmental need. Thus, while protection of life and liberty from administrative action alleged to be illegal may be obtained promptly by the writ of habeas corpus (citations omitted) the statutory prohibition of any "suit for the purpose of restraining the assessment or collection of any tax" postpones redress for the alleged invasion of property rights if the exaction is made under color of their offices by revenue officers charged with the general authority to assess and collect the revenue. . . . This prohibition of injunctive relief is applicable in the case of summary proceedings against a transferee." 283 U.S. at 596–597.

The Court weighed the relativity of personal property interests with the Federal government's interest in securing revenues promptly and found that:

"Where only property rights are involved, mere postponement of the judicial inquiry is not a denial of due process, if the opportunity given for the ultimate determination is adequate." 283 U.S. at 596–597.

Examining the procedures of the Revenue Act of 1926 in light of this standard for post-payment resolution of the liability, the Court noted that:

"The procedure provided in § 280(a)(1) satisfies the requirements of due process because two alternative methods of eventual judicial review are available to the transferee. He may contest his liability by bringing an action, either against the United States or the Collector, to recover the amount paid. This remedy is available where the transferee does not appeal from the determination of the Commissioner, and the latter makes an assessment and enforces payment by distraint; or where the transferee voluntarily pays the tax and is thereafter denied administrative relief. . . . Or the transferee may avail himself of the provisions for immediate redetermination of the liability by the Board of Tax Appeals, since all provisions governing this mode of review are made applicable by § 280." 283 U.S. at 587–588.

The taxpayer noted that one could only get to the Board of Tax Appeals by filing a bond equal to the amount of the tax liability, but the Court determined that the government's requirement of immediate payment was paramount to the taxpayer's requirement of retention of assets prior to suit:

"The privilege of delaying payment pending immediate judicial review, by filing a bond, was granted by the sovereign as a matter of grace solely for the convenience of the taxpayer." 283 U.S. at 599–600.

The opinion of the Court in *Phillips* has been cited as controlling as recently as 1960, in *Ginsbury* v. *United States*, 278 F.2d 470 (Cir. 1, 1960) cert. den. 364 U.S. 878. However, the Supreme Court does not appear to have decided another case on the *Phillips* problem of constitutionality of jeopardy assessments since that determination in 1931, and no cases decided by the Court appear to undermine the current validity of the 1931 holding. Consequently, arguments raised against the constitutionality of the jeopardy assessment provisions of 26 U.S.C. §§ 6851 and 6861 would, while possibly arguable, face a large obstacle to success where predicated upon denial of due process guaranteed by the Fifth Amendment to the United States Constitution.

Other than the due process arguments which appear to lack supportable precedents in light of the Court's ruling in *Phillips*, discussed heretofore, arguments against the jeopardy assessment procedures and laws would appear appropriate when couched in terms of the equal protection guaranty of the Constitution. The applicable code provisions give the Secretary of the Treasury broad discretion in determining when a jeopardy assessment may be made and, while the courts have been reluctant to review this discretion, there is authority to believe than an argument might be made that a specific jeopardy assessment could be in abuse of such discretion.

The only equal protection clause in the Constitution is contained in the 14th Amendment, which is not applicable to the Federal government; however, the courts have held that the basic prohibition against discriminatory action is incorporated into the due process clause of the Fifth Amendment of the Constitution, and thereby applies to the Federal government. *Bolling* v. *Sharpe*, 347 U.S. 497, 500 (1954). Therefore, where a specific determination to issue a jeopardy assessment is found to be arbitrary or capricious, it may be argued to deny the equal protection of the laws so embodied in the due process clause of the Fifth Amendment. This would appear relevant in spite of some courts' refusal to review the jeopardy determination as an absolute discretion of the Secretary or his delegate. *Publishers New Press, Inc.* v. *Moysey*, 141 F. Supp. 340 (D.C.N.Y., 1956) dism'd 2d Cir; *Brown-Wheeler Co.*, 21 BTA 755; *Estate of W. S. Tyler*, 9 BTA 255; *California Association Raisin Co.*, 1 BTA 1251. It should be noted, however, that a number of courts which have upheld the determination by the Commissioner or Secretary have found that there were specific grounds for the jeopardy, thereby implying that failure to find such grounds may give rise to a finding or arbitrary or capricious invalidity of the assessment. *Veeder* v. *Commissioner*, 36 F.2d 342 (4 Cir. 1933); *Foundation Co.* v. *United States*, 15 F. Supp 229 (Ct. Cl. 1936); *James Couzens*, 11 BTA 1040. Therefore, it would not appear wrong to argue that a specific determination of the Secretary or his delegate that jeopardy should attach was unconstitutional as violative of equal protection of the laws. However, it should be noted that this would only strike a specific assessment and not the process as a whole.

These two bases for argument would appear to hold the essential grounds for a constitutionality challenge to the jeopardy assessment provisions of 26 U.S.S. §§ 6851 and 6861.

HOWARD ZARITSKY,
Legislative Attorney.

EXHIBIT 2

TAX REPORT: A SPECIAL SUMMARY AND FORECAST OF FEDERAL AND STATE TAX DEVELOPMENTS

Another circuit rules against the IRS on tax seizures in drug cases.

The Fifth Circuit appeals court has joined the Sixth Circuit in overturning the IRS position, while the Second and Seventh have sustained it. With appeals pending in the Third, Fourth and Ninth circuits, the issue seems destined for the Supreme Court. The sharp controversy involves so-called "jeopardy assessments" against narcotics suspects. The IRS terminates their tax year, declares a huge sum in taxes immediately due, and seizes their assets.

One main issue concerns whether the IRS must then promptly issue a "deficiency notice." The notice is required before a taxpayer may appeal to the Tax Court, the only forum where one may contest a tax before paying it. The IRS has argued the notice isn't due until the drug suspect's regular tax year ends and he files a return. In a lengthy opinion by Chief Judge John R. Brown, however, the Fifth Circuit cited "clear congressional intent" that taxpayers be able to contest taxes prior to payment. The court didn't see how any legitimate government interest would be hurt by requiring prompt notice.

One big factor in the decision was the drastic impact of a jeopardy assessment. Judge Brown called it "a weapon with atomic potentialities in the arsenal of the tax gatherer."

Jeopardy assessments often seem entirely arbitrary, the Fifth Circuit says.

Somehow the tax assessments seem to total whatever funds are available for seizure. In a companion case (see preceding item), the Fifth Circuit ruled in favor of a Mexican trucker who was arrested as he crossed into Laredo, Texas, with $11,270 in cash (to buy auto parts, he said). The IRS promptly hit him for $12,774 in taxes, seized the cash and sold the truck, then refused to say how it figured he owed that much.

"A non-resident alien," Judge Brown recited, "has money and truck taken preemptorily from him with no more than a vague suggestion that the government 'suspected' these strangers were trafficking in drugs. Adding to the mystery of that 'suspicion' is the total—the word is total—lack of any basis for computing the tax to be $12,774—almost the precise total of the money and the value of the truck—a pattern followed often in contemporary (IRS) practice," the judge declared.

By Mr. MONTOYA:

S. 138. A bill to amend the Internal Revenue Code of 1954 to revise the provisions relating to property exempt from seizure for collection of taxes. Referred to the Committee on Finance.

NEW AMOUNTS EXEMPT FROM LEVY BY IRS

Mr. MONTOYA. Mr. President, the final amendment I am offering today to correct what I perceive to be problems in our Internal Revenue Code concerns the amount exempted from levy by the IRS on any taxpayer.

In the hearings held before my committee, Mr. Alex J. Soled, representing the American Bar Associatioin, made a most persuasive statement concerning this matter and submitted a copy of the recommendations of the committee on collections and limitations of the tax section of the American Bar Association, which also recommended action.

The legislation I am offering would do the following things:

First. Create a schedule of income exempt from levy based on the number of dependents in a taxpayer household.

Second. Keys the schedule to the Consumer Price Index, so that changes resulting from inflation will be reflected in the income exempted.

Third. Increases the dollar value of fuel, provisions, furniture, and personal effects from $500 to $1,000 in value which will be exempt from levy.

Fourth. Makes other technical and minor adjustments in the exemption section of the tax code.

The purpose of the exemption from levy, of course, is to assure that no taxpayer is deprived of basic essentials for life for himself or his family. To quote the Bar Association report:

> In an era where a succession of laws has been enacted providing for support and subsidy payments by governments to low income individuals and families who are living at poverty or bare subsistence levels, it is anachronistic for the Treasury to levy on a taxpayer's total earnings where to do so would take all funds even if committed to other creditors, and could leave such a taxpayer living at a sub-subsistence level.

Clearly the maximum exemption levels presently in the law were put there when inflation had not yet changed the value or our dollar or the dollar value of our goods. The exemption level presently on the books is simply inadequate to provide the protection to the taxpayer which it was intended to do.

Mr. President, I ask that the statement of Mr. Soled be printed in the RECORD at the close of my remarks, and that the bill be printed in the RECORD at the same time.

I urge the support of my colleagues for this and the other three bills which I have presented today as a package. It is essential that we immediately move to make these very necessary changes in our tax procedures.

There being no objection, the statement and bill were ordered to be printed in the RECORD, as follows:

STATEMENT OF ALEX J. SOLED, AMERICAN BAR ASSOCIATION, BALTIMORE, MD.

I am an attorney practicing in Baltimore, Maryland with the law firm of Smith, Somerville & Case. My area of practice is now confined to Estate Planning and for almost 15 years has been limited (with minor exceptions) to Federal and State Taxation as well as Estate Planning. At the present time I am Chairman of the Committee on Collections and Limitations of the Section of Taxation, American Bar Association.

I appear here today officially on behalf of the Section of Taxation of the American Bar Association with respect to two specific Legislative Recommendations proposed by the Section and approved as official policy of the Association.

In connection with what culminated as the Federal Tax Lien Act of 1966, the American Bar Association appointed a special committee under the name of the Committee on Federal Liens. While this Committee confined its studies to the area of priorities, obligations and procedural rights of third parties who become enmeshed with federal tax liens, the Committee did call attention to, among other items, questions relating to the coverage of the federal tax lien. 84 A.B.A. Rep. 680–684 (1959). This call for attention to other questions was repeated by William T. Plumb, Jr., Esq., of Washington, D.C. (who was one of the members of the special committee) in his now famous three part article in 77 Yale Law Journal (1968).

Before we reach these questions, it will undoubtedly be helpful to restate that a lien for Federal taxes arises when a taxpayer's liability is assessed and he neglects or refuses to pay the same after demand, which lien attaches to all of the property and rights to property he then owns or subsequently acquires. One of the strongest means available to collect the tax is by levy upon such property which includes the power of distraint and seizure by any means. A judgment or other court order is not required before levy action is taken.

One of the questions raised, noted that while wages are subject to levy there is no minimum exemption for subsistence. The property that is exempt from levy for federal taxes is set forth in § 6334 of the Internal Revenue Code of 1954 and is extremely limited. For example, the statute provides, at subsection (a) (3) thereof, that there shall be exempt so many of the books and tools necessary for the trade, business or profession of the taxpayer as do not exceed in the aggregate $250 in value. Obviously a lawyer, medical doctor or dentist, practicing privately for his own account, cannot earn a living when the excess of such items above $250 are sold pursuant to levy.

At any rate, § 6334 further goes on to provide that no other property not there listed should be exempt from levy; even if other federal laws provide exemptions. Thus, old age assistance, disability insurance proceeds, veterans' benefits and other rights otherwise commonly exempted from execution, are subject to levy for federal taxes.

In 1971, the Committee on Collections and Limitations, whose chairman was then Douglas L. Barnes, Esq., of Chicago, Illinois, addressed itself to a study of the extremely limited nature of the exemptions from levy as it affected wages.

The Committee found that while Congress enacted a liberal statute exempting earnings from garnishment for debt (15 U.S.C.A. § 1671, et seq.) the statute specially excepted from such provisions any debt due for any Federal tax. The Committee determined that "[i]n an era where a succession of laws has been enacted providing for support and subsidy payments by governments to low income individuals and families who are living at poverty or bare subsistence levels, it is anachronistic for the Treasury to levy on a taxpayer's total earnings where to do so would take all funds even if committed to other creditors, and could leave such a taxpayer living at a sub-subsistence level. It is believed that no public necessity can be demonstrated whereby the fisc should be so favored."

By reason of its study the American Bar Association has now approved and recommended to the Congress Tax Section Recommendation No. 1972–1, a copy of which is annexed hereto, which would provide a new minimum exemption from each Federal tax levy on earnings, including disability and retirements. The amount proposed to be exempt from each levy is, in general, $100 per week for up to four weeks, net of all amounts withheld from such earnings under various tax laws and any required support payments for minor children.

Nothing has happened since the date when the American Bar Association approved this proposal in August of 1972 which should cause this honorable body pause in urging the entire Congress to enact the substance of such proposal. To the contrary, recent developments indicate that concern about the problem causing its adoption of the proposal was not misguided.

One of the elements in the entire picture which cause the Committee to question the necessity for such legislation was the salutary and enlightened position of the Internal Revenue Service as set forth by Commissioner Thrower in 1969. As stated by him [(see 24 Tax Lawyer 218 1971)], the Internal Revenue Service, administratively, exempts "salaries and wages in definite hardship cases" and as a general rule they "do not serve successive levies on wages".* In the Committee's deliberations, while it appreciated and recognized the commendable position of then Commissioner Thrower, it was the Committee's position that his policy was his administration's position which was subject to change with a change in administrations, and that even if such position was not to change it did not provide ascertainable and published standards for the guidance of I.R.S. collection officers, taxpayers and their representatives. Considered in light of the standards set forth in the present Internal Revenue Manual, the Committee's opinion can be considered to be prescient. In pertinent part, the Manual provides:

"The levy authority is far reaching. It permits attaching the total wage or salary payment due the taxpayer at the time of service of a notice of levy and the seizure and sale of all of his assets except certain property that is specifically exempt by law."

§ 5312.1 (2)

"Except for . . ., no other property or rights to property are exempt from levy. No provision of State law can exempt property or rights to property from levy for the collection of Federal taxes. The fact that property is exempt from execution under State personal or homestead exemption laws does not exempt the property from Federal levy."

§ 5313.1 (3)

We occasionally hear reports of an I.R.S. collection officer who has been censured for failure to take appropriate levy action. While these probably do not always involve wage levies, I do call to your attention that under the Manual it is a collection officer's duty to level on the "total wage or salary payment due the taxpayer" and he might therefore be subject to censure for failure to carry out that literal requirement.

Many other instances of wage levy action taken by the I.R.S. have been reported to me where such action created for the taxpayer a genuine hardship. While such reports are not documented, I am of the opinion that the reporters are sufficiently authoritative as to bring such matters to this honorable body's attention.

In 1971 Congress introduced into the Internal Revenue Code § 6331(d) which required the Secretary, before levying on a taxpayer's salary or wages, to give such taxpayer a ten day notice of such proposed action. While this enactment and the enactment of restrictions on garnishments as provided by 15 U.S.C.A. § 1671, et seq., evidences Congress' concern about such levies it should further implement such concern by enlarging the exemptions from levy in accord with the American Bar Association's referred to proposal.

I should like to bring to the attention of this honorable body one other matter involving I.R.S. collection procedures which deserve your consideration. This involves the situation where I.R.S., inadvertently to be sure, levies on property which it believes belongs to the taxpayer but in fact does not. Where this has occurred the wronged party frequently sustains damages for which there is no relief available to him; his remedy being limited by the provisions of § 7426 of the Internal Revenue Code. In substance this section limits such relief to the return of the property if still in the Government's possession and the amount received on the sale if sold. Since the property may have been lost or destroyed or its value depreciated while in the Government's possession, the price at which it was sold may not have realized its true fair value (having been sold under distress conditions), consequential damages may have been sustained by reason of the withholding of such property, and expenses may have been incurred for lawyers, accountants and expert witnesses to enable the true owner (the non-taxpayer) to secure redress, the relief accorded by § 7426 was considered by the Committee to be inadequate. To secure to such wronged party adequate relief, in 1973 the Committee, whose chairman was then Phillip L. Mann, Esq., then of Houston, Texas, now of Washington, D.C., recommended amending § 7426 to provide for the relief referred to in the next preceding sentence. This proposal, contained in Tax Section Recommendation No. 1973–1, a copy of which is annexed hereto, has received the approval of the American Bar Association's Section of Taxation as well as the American Bar Association. Its recommendation by this honorable body and its enactment by the Congress is urged.

Finally, I wish to thank this Subcommittee and its Chairman, Senator Joseph M. Montoya, for their interest in this subject and giving me the opportunity to present these views.

S. 138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6334 (a) of the Internal Revenue Code of 1954 (relating to property exempt from levy) is amended to read as follows:

"(a) Exempt Property.—

"(1) General exemption—The following items are exempt from levy:

"(A) Wearing apparel and school books.—Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of his family.

"(B) Fuel, provisions, furniture, and personal effects.—If the taxpayer is the head of the family, so much of the fuel, provisions, furniture, and personal effects in his household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed $1,000 in value.

"(C) Books and tools of a trade, business, or profession.—The books and tools necessary for the trade, business, or profession of the taxpayer.

"(D) Undelivered and Unopened Mail.—Mail addressed to any person, which has not been delivered to the addressee.

"(2) Exemptions related to income.—

"(A) General rule.—There is exempt from levy so much of the income of the taxpayer as does not exceed the amount determined under the following table:

"(B) Exemption table.—

If the number of the taxpayer's dependents is—	The amount of the exemption for the year is—
0 or 1	$4,000
2	5,000
3	7,000
4	9,100
5	10,200
6	12,000
More than 6	To be determined

The amount of the exemption computed on a monthly, weekly, or other basis, and the amount of the annual exemption for a taxpayer with more than 6 dependents shall be determine by the Secretary or his delegate by regulation. In applying the table, the Secretary or his delegate shall take into account the taxpayer's rate if income at the time of the levy as well as amounts of income received prior to levy during the taxable year during which levy is made.

"(C) Definition of income.—For purposes of this paragraph the term 'income' includes—

"(i) any amount payable to the taxpayer with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico,

"(ii) annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension benefits received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard medal of honor role (38 U.S.C. 562), and annuity payments based on retired or retainer pay under chapter 73 of title 10, United States Code,

"(iii) any amount payable to the taxpayer as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico, and

"(iv) salary, wages, and other income of a taxpayer (other than so much of the taxpayer's salary, wages, or other income as is necessary to comply with a judgment of a court of competent jurisdiction entered prior to the date of levy, against the taxpayer under which he is required to contribute to the support of his minor children).

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*A statement of this policy now appears in I.R.S. Publication 586 (January 1974), at page 5 thereof.

"(D) Cost of Living Increases.—At the beginning of each fiscal year (commencing with the fiscal year beginning on October 1, 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Secretary of the Treasury or his delegate, and publish in the Federal Register, the percent difference between the price index for the 12 months preceding the beginning of such fiscal year and the price index for the base period. Each dollar amount contained in the table in subparagraph (C), and in regulations promulgated by the Secretary or his delegate under such subparagraph and in effect prior to October 1, 1976, shall be increased by such percent difference. Each amount so increased shall be the amount in effect for the calendar year which begins during such fiscal year. For purposes of this subparagraph—

"(i) the term 'price index' means the average over the 12 month period commencing on October 1 of each year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics, and

"(ii) the term 'base period' means the 12 month period commencing on October 1, 1974.".

Sec. 2. The amendments made by this section apply to any levy made more than 30 days after the date of enactment of this Act..

By Mr. MONTOYA:

S. 139. A bill to amend section 7802 of the Internal Revenue Code of 1954 to define the term of the Commissioner of Internal Revenue. Referred to the Committee on Finance.

ESTABLISHMENT OF A 5-YEAR TERM FOR COMMISSIONER OF INTERNAL REVENUE

Mr. MONTOYA. Mr. President, as a part of the package of bills I am introducing today to revise the Internal Revenue Code, I am introducing an amendment which would set a term of 5 years for the Commissioner of Internal Revenue.

This legislation will "depoliticize" the top official of our tax collection system, and will insulate him against political pressure from any source. In addition, the establishment of a definite term of service for this very important office will provide a more orderly and professional administration, with the Commissioner having the opportunity to develop and maintain procedures and policy within a definite time frame. The Internal Revenue Service is a complex and complicated part of our Government and certainly should be administered without any fear that unexpected or unwarranted personnel changes at the top level could disrupt the steady and businesslike work of the Service.

Unfortunately, in recent years, we have seen a serious effort made to bring partisan politics into the IRS. The Watergate investigations may have made no more important contribution than that of alerting us to the possibility of partisan pressure being put on the Commissioner of Internal Revenue or on his agents.

In book VIII, Internal Revenue Service, a report of the Committee on the Judiciary hearings of the House of Representatives, it is significant to note that clear evidence is presented of the effort to use the IRS for partisan political purposes. Former Commissioner Randolph Thrower has stated, as reported in book VIII, that he had to threaten to resign in order to prevent White House interference. When Commissioner Thrower did resign in 1971 he attempted to express to the President his concern that political influence into the IRS would be very damaging to the revenue system.

In spite of the warnings of Commissioner Thrower, however, the House Judiciary Committee report makes clear that pressure was put on the IRS to act in what was clearly an unethical and unfair manner. Tax returns were examined and their contents used for political information. For example: a memorandum from John Caulfield to John Dean, dated October 6, 1971, lists charitable contributions from a tax return. Caulfield sent another memorandum to Dean on September 30, 1971, reporting on tax audit information about Rev. Billy Graham. In these and other cases cited before the House committee, there was clear evidence of individual income tax return information being released improperly.

Former Commissioner of Internal Revenue Johnnie Walters, who followed Commissioner Thrower in this difficult job, resigned in April of 1973. In an affidavit dated June 10, 1974, he stated that in 1972 he was asked to check on the tax return of Lawrence O'Brien. Because of the very revealing statements made in his affidavit, I ask unanimous consent that Commissioner Walters' affidavit be printed in the Record at this point.

There being no objection, the affidavit was ordered to be printed in the Record, as follows:

AFFIDAVIT

Johnnie M. Walters, being duly sworn, deposes and says:

1. This statement is made upon my best recollection of the facts as they occurred, without my having had the benefit of reference to files and other materials in the possession of the Internal Revenue Service (IRS) which might permit a more precise statement.

2. I served as Commissioner of Internal Revenue from August 6, 1971 through April 30, 1973.

3. Beginning late in 1971 or early in 1972 the IRS began an intensive investigation of the Howard Hughes organizations and operations. During the course of that investigation, IRS learned that some fairly substantial amounts of money had been paid by the Hughes organization to Lawrence O'Brien and his associates. Sensitive case reports with respect to the Hughes investigation reflected the O'Brien payments. (Sensitive case reports are sent to the Commissioner from the field each month to keep him and the Secretary of the Treasury advised of IRS investigations or proceedings relating to prominent persons or sensitive matters.) A Special Assistant to the Commissioner (during my tenure as Commissioner, Roger Barth) regularly delivered to the Secretary of the Treasury the monthly sensitive case reports.

4. During the summer of 1972, Secretary Shultz informed me that someone in the White House (subsequently identified as John Ehrlichman) had information that Mr. O'Brien had received large amounts of income which might not have been reported properly. The Secretary asked whether IRS could check on the matter, and I advised that IRS could.

5. I thereupon requested Assistant Commissioner Hanlon (Compliance) to determine whether Mr. O'Brien had filed returns which reflected substantial amounts of income. After a few days, he reported orally that Mr. O'Brien had filed returns which reported large amounts of income during the preceding years, that IRS had examined the returns for 1970 and 1971, that Mr. O'Brien had paid a small deficiency for one year, and that the examinations were closed. I reported this to Secretary Shultz.

6. Thereafter, from Secretary Shultz I learned that Mr. Ehrlichman was not satisfied with the report on the status of Mr. O'Brien's returns. I informed Secretary Shultz that Mr. O'Brien would be interviewed in connection with the Hughes investigation. I do not recall specifically whether scheduling of the interview of Mr. O'Brien originated in the Field investigation independently of Secretary Shultz's inquiries or as a result of Secretary Shultz's inquiries, but, in any case, IRS needed the interview and would have scheduled it. During 1972, however, it was IRS policy to postpone investigations involving sensitive cases, to the extent possible without loss of position or revenue, until after the election. In line with that policy, IRS probably would not have interviewed Mr. O'Brien prior to the election; however, because of the indicated inquiries, IRS did interview Mr. O'Brien during the summer of 1972.

7. To the best of my recollection, the IRS field personnel had some difficulty in scheduling an interview with Mr. O'Brien and at one point they agreed to interview his son instead (who had informed the IRS agents that he had information about his father's financial matters). Before that interview took place, however, I was informed by Secretary Shultz that Mr. Ehrlichman thought IRS should interview Mr. O'Brien, not his son. I agreed with that and directed that IRS interview Mr. O'Brien rather than his son. I do not know how Mr. Ehrlichman learned of some of the details of which he had knowledge.

8. IRS interviewed Mr. O'Brien on or about August 17, 1972. Mr. O'Brien was cooperative although the interview was limited timewise, and Mr. O'Brien suggested that any further interview be postponed until after the election. My recollection is that IRS furnished a copy of the Conference Report to Secretary Shultz. A short time thereafter, Secretary Shultz informed me that Mr. Ehrlichman was not satisfied and that he needed further information about the matter. I advised the Secretary that IRS had checked the filing of returns and the examination status of those returns (closed) and that there was nothing else IRS could do.

9. On or about August 29, 1972, at the request of Secretary Shultz, I went to his office with Roger Barth so that we could conclude review of the O'Brien matter and dispose of it. Secretary Shultz, Mr. Barth and I discussed the matter and agreed that IRS could do no more. We then jointly telephoned Mr. Ehrlichman. Secretary Shultz informed Mr. Ehrlichman of that; I stated that IRS had verified that Mr. O'Brien had filed returns, that those returns reflected large amounts of income, that IRS already had examined and closed the returns, and that we (Shultz, Walters and Barth) all agreed that there was nothing further for IRS to do. Mr. Ehrlichman indicated disappointment, and said to me "I'm goddamn tired of your foot dragging tactics." I was offended and very upset but decided to make no response to that statement. Following the telephone conversation, I told Secretary Shultz that he could have my job any time he wanted it.

10. The meeting with the Secretary and telephone conversation with Mr. Ehrlichman stand out in my recollections as the final incidents in the O'Brien matter, however, in concluding the matter, I may have furnished some data with respect to Mr. O'Brien's re-

turns to Secretary Shultz shortly after (5 or 6 days) that encounter (some questions posed seem to indicate this).

Mr. MONTOYA. Mr. President, the legislation I am introducing today may not completely protect future Commissioners from pressure. However, it will change their status, as it now exists, of serving at the pleasure of the White House. It is an important first step in providing insulation against pressure. It will remove temptation from those who find the tax information held under the control of the Commissioner irresistible for political use.

Nothing is more important in a nation which supports government through voluntary self-assessment of taxes than trust in the tax collector—in his integrity, in his decency, in his fairness. We have been fortunate, indeed, to have men who refused to go along, in most cases, with the pressure from political operators. However, we may not always be that fortunate—and the very existence of that pressure mandates a protection for the men whom we ask to accept the responsibility of running our internal revenue system.

I ask unanimous consent that the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 7802 of the Internal Revenue Code of 1954 (relating to Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE"

"(a) Establishment.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of Internal Revenue shall have such duties and powers as may be prescribed by the Secretary.

"(b) Term of Office.—The Commissioner of Internal Revenue shall serve for a term of 5 years.

"(c) Vacancies.—An individual appointed to complete any term of the Commissioner of Internal Revenue shall be appointed only to complete the unexpired portion of such term. If such vacancy should be for a period of less than six (6) months, the Deputy Commissioner, or, if the position of Deputy Commissioner be vacant, that person holding the highest, non-appointed official position in the Internal Revenue Service shall act during the unexpired portion of such term, and no Commissioner shall be appointed. No person may serve as Commissioner of Internal Revenue for a period of time in excess of 5 years.

"(d) Removal.—An individual who is the Commissioner of Internal Revenue may be removed from such office only for malfeasance in office.

(b) The amendments made by this Act shall take effect on the date of enactment of this Act.

(c) Notwithstanding the provisions of section 7802 of the Internal Revenue Code of 1954, as amended by this Act, any individual who holds the office of Commissioner of Internal Revenue on the day before the date of enactment of this Act and who has been appointed by and with the advice and consent of the Senate may continue to hold such office without regard to such section as amended by this Act.

By Mr. PELL:

S. 140. A bill to require congressional approval of oil import fees. Referred to the Committee on Finance.

Mr. PELL. Mr. President, I am deeply cognizant of the grave energy situation which confronts our Nation. I appreciate the fact that there are no easy solutions, and that the President in presenting his program had to make difficult choices.

I believe the Congress should give careful and expeditious consideration to the broad program which the President has outlined in his state of the Union address.

But I am very deeply troubled at the President's announced intention to move forward with extremely important portions of his energy program, under emergency Executive authorities, and without congressional approval.

The President announced that he will impose higher import fees on oil beginning February 1 and will decontrol domestic oil prices as of April 1.

Mr. President, these policies, if they are desirable at all, can only work equitably as part of an overall energy program. If these changes are instituted alone, the result will be a harsh, discriminatory, and unjust burden on oil consumers, industry, and homeowners in New England, which is not only most heavily dependent on oil as an energy source, but most heavily dependent on imported oil.

The entire question of whether excise and import taxes on oil is the best way to reduce energy consumption is debatable. And it is a question of such importance, with such profound implications for our entire economy that I believe this policy should not be pursued without the explicit and expressed approval of the Congress of the United States.

For that reason, I am today introducing legislation to prohibit any increase in oil import fees until and unless those increases are approved by the Congress.

As I said at the outset, I believe the Congress should give full, fair, and prompt consideration to the entire energy program proposed by the President. But I do not believe that isolated and highly important parts of that program should be instituted, unilaterally, by the executive branch.

New England stands to suffer more than any other region of the Nation under the President's program. I cannot and will not stand by and permit the price of oil for every Rhode Island homeowner and buisnessman to be boosted by simple Presidential decree.

Any energy program enacted must be fair and just and must impose no unfair or disproportionate burdens on any one region of the Nation or on any one class of people. The only way to guarantee that the burdens of energy conservation are fairly distributed is to consider the program as a whole.

Congress must be given that opportunity. Indeed, Congress has a responsibility to consider the oil conservation program in its entirety. It is to preserve that opportunity, to permit the Congress to fulfill its responsibility, and to protect the economy of New England from a Presidentially imposed disaster that I introduce this legislation.

Mr. President, I ask unanimous consent that the text of my bill, prohibiting increases in oil import fees without the expressed approval of the Congress, be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

The provisions of Section 232 of the Trade Expansion Act of 1962 notwithstanding, import fees and import license fees on crude oil or petroleum products in effect on January 15, 1975, shall remain in effect until increased, reduced or eliminated by an act of the Congress.

By Mr. McCLURE (for himself, Mr. FANNIN, and Mr. GARN):

S. 141. A bill to repeal the Gun Control Act of 1968; and

S. 142. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain recordkeeping provisions with respect to ammunition. Referred to the Committee on the Judiciary.

Mr. McCLURE. Mr. President, on many occasions I have addressed this body regarding the ever-continuing erosion of individual liberties which is taking place in this country. I have often brought to attention the ever-increasing intervention of the Federal Government into the lives of our citizens through the expansion of bureaucracies and the thousands of regulations which they promulgate as a result of the many laws passed here in Congress. One such law which has done nothing but further harass millions of Americans—the Gun Control Act of 1968—remains on the books as an example of a dangerous threat to the basic constitutional right of every American—the right to bear arms. The Gun Control Act of 1968, a law passed at a moment of national hysteria, has proved to have no adverse affect on anyone other than the law-abiding citizen while the crime statistics continue to rapidly rise. Today I am reintroducing a bill to repeal this Gun Control Act.

To possess and use firearms is historically, legally, and constitutionally recognized in this Nation. The second amendment clearly proclaims "the right of the people to keep and bear arms shall not be infringed." I observe with interest that rarely does anyone argue with the inviolability of the first amendment guaranteeing freedom of speech and the press but yet many times those same champions of the first amendment are often the first to recommend restrictive legislation which moves to disregard those guarantees of the second amendment. Our major television networks all push for more gun controls and even recommend confiscation at times. An FCC Commissioner recently stated that he was convinced of the correlation between violence on the tube and violence in the streets. He was not denying or suggesting to deny the broadcast of such programing but just pointing out a correlation that might well exist and perhaps should be dealt with.

I agree with his observation for it points out that there may be other points to attack in attempts to solve our crime problem than just the firearm. As John R. McClory recently stated in an article on gun control in "Shooting Times":

> You are treating the symptom, not the cause, by attempting to reduce crime by focusing upon one of the many instruments which may be used to commit a crime. The answer to violent crimes, if one exists, is a change in the attitude of the population—the elimination or sublimation of the desire in any man to injure or kill another.

Mr. McClory points out that Switzerland "makes every male citizen above the age of 16 a member of the militia and requires that each keep a firearm and ammunition in his home. Yet the incidence of the use of firearms in the commission of crimes in that country is almost nil. The difference is not the availability of weapons but the general sociological attitude toward crime."

Gun control advocates conveniently forget that crime flourishes when courts are lenient and when controls on police officers hamper effective law enforcement. All of the firearm laws in the world are not going to deter crime until there is a change in attitude toward the role of law enforcement and a rekindling of a universal respect for the laws of the land. I do not minimize for a moment the seriousness of the crime situation in this country. Neither do I minimize the danger of the 1968 gun control laws on our personal liberties or the threat further firearms control can bring as an effort by those who want to disarm the private citizen. I feel it is a myth that no guns means no crime.

The Gun Control Act of 1968 has not worked. It is ineffective in preventing crime as witnessed by the staggering increase in the crime rate that has taken place within the 7 years this law has been on the books. Crime statistics clearly indicate that it is the cities, not the hunting areas where the misuse of firearms occurs. For example, the FBI reports that in 1973 two-thirds of all robberies occurred in the big cities. These statistics also show that our less densely populated areas have the lowest homicide rate. Coincidentally, these areas usually have the least restrictive laws on the possession of firearms. It is unnecessary to penalize the outdoorsman for the crime-in-the-streets problem that exists elsewhere. Further, it has been proven in many cities that restrictive gun legislation has not solved their problem. John McClory in his article concludes and I agree, that "national firearms legislation that may appear to be a solution to a problem in one part of the country may have no practical application in another." I am convinced, as are many of my fellow Idahoans, that legislation curbing the purchase of guns will neither prevent a man bent on committing a crime from doing so, nor promote safety by disarming the law-abiding citizen.

The laws against ownership of weapons by law-abiding citizens do not reach criminals. Instead, restrictions on ownership and use of firearms discriminate against honest citizens. Often they actually aid the criminal by disarming his victim. So the strongest argument against gun laws is their utter futility in reducing armed crimes. In this country today we do not have a gun problem; we have a crime problem. The FBI in its reports on crime reserve pages upon pages for the explanation of the many ingredients and motivations behind criminal activity—"size, composition and relative stability of the population, climate, education, recreation, religions, characteristics, effective strength and standards of police force, policies of the prosecuting officials and courts, public attitude toward law enforcement problems," to name a few.

One further point of importance is reflected in the cost to the taxpayers of the Gun Control Act of 1968. The Citizens Committee for the Right To Keep and Bear Arms very adeptly pointed this factor out in a letter to the New York Times recently.

In that letter it was pointed out that a repeal of the 1968 Gun Control Act would reduce the financial burden on the taxpayer. This makes commonsense for the tax dollars used in administering an ineffective law during times of great economic stress might be more effectively used elsewhere in the fight against crime.

We in Congress need to take a more practical approach to crime in which a gun is used. The most effective method of deterring crime is to deal swiftly and sternly with criminals. In this light, I am today also reintroducing a bill which provides that the use of a firearm in the commission of any Federal crime is a separate Federal offense. A mandatory sentence of from 5 to 10 years imprisonment would be imposed upon criminals convicted of using a gun while committing a Federal felony. A second conviction would result in a mandatory 10-years-to-life sentence. Courts would neither suspend the sentence nor allow it to run concurrently with any other sentence. In addition, the bill removes registration requirements from certain ammunition. I fully believe that this legislation if enacted will operate as a more effective deterrent to the use of firearms by criminals than all the rules and regulations which have emanated from the Gun Control Act of 1968.

Idaho led the fight against gun controls back in 1968, and time has proven us right. Existing laws are little more than harassment of honest citizens. Crime statistics, where a gun is involved, are no lower. It is time to shift this burden from the shoulders of the lawful to the criminal.

By Mr. McCLURE:

S. 144. A bill to prohibit the banning of lead shot for hunting. Referred to the Committee on Commerce.

Mr. McCLURE. Mr. President, for nearly a year now, the Bureau of Sport Fisheries and Wildlife has been attempting to give reason to a decision to ban the use of lead shot in waterfowl hunting—a proposal the Bureau threatens will become the rule in the late spring. But for all its efforts, the proposal ban, which would be absolute in the Eastern United States—in the Atlantic and Mississippi flyways—would apply to a large number of States where the problem it is intended to cure simply does not exist. In short, the proposed action is both precipitous and unjustified. For all the effort, it cannot be justified by science, by fact, or by simple commonsense.

There is indeed a problem associated with lead shot in waterfowl hunting. But that problem—which involves the poisoning of waterfowl when birds ingest shot pellets—can only exist or be of serious consequence when a wide range of physical, biological, and ecological conditions exist in concert. Those special conditions and factors range from the diets of birds, to hunting pressure, to species, to water depth, and marsh bottom composition.

Among biologists, there is little argument over the existence of the problem in some specific areas of the Nation. But there is a raging controversy over the extent, magnitude, and most importantly, over the drastic nature of the Bureau's proposed ban—which is offered without reasonable alternative, and again, without a firm basis in fact.

None of the Nation's four flyway councils, which represent individual State fish and game department interest in waterfowl management, has endorsed the Bureau's action. The Pacific and Atlantic Flyway Councils, in fact, have flatly opposed any Federal action. Those flyways, under the ban proposal would be covered only on a partial "hot-spot" basis. The Atlantic Flyway Council, which represents the Eastern States, has opposed the imposition of the proposed ban. And the Mississippi Flyway Council says any complete ban should be put off until 1980—so that the data necessary to locate and measure areas where poisoning indeed exists can be collected, and so that a suitable alternative to lead can be found and substituted only in those locations where there is justification.

And, in that last point, lies the scientific and commonsense rub. The Bureau scientists by their own admission, say the problem has not grown in the past 25 years. The scientists cannot and will not say at all or with any conviction what the extent, magnitude, and nature of the lead poisoning problem is. They just do not have the information. Yet the politicians in the Bureau are forging ahead with a crisis answer to a problem which is by no means a crisis—and all this is rationalized with worst and most irresponsible rhetoric. The ban could have hunters risk danger mandating the substitution of steel shot for lead. Steel is damaging to shotgun barrels and potentially dangerous, and for the sake of saving waterfowl is so ballistically inferior as to raise the very real possibility of inflicting losses to the resource that would far outweight any gains over poisoning losses.

In fact, the danger to hunters and the damage inflicted to shotguns—while dismissed as inconsequential in the proposed environmental impact statement filed last year—was stressed in experiments over the use of steel shot conducted by the Bureau this past season. Top Bureau officials admit that hunters given the steel shot during the tests were warned not to use it in any double barrel guns. Doubles and expensive shotguns especially are subject to severe stress with steel loads.

In light of the shoddy justification put forth by the Bureau, I am today introducing a simple measure that, in essence, gives the Bureau an opportunity to go to the drawing boards—not go back, because they have never been at them—and come up with a solution that will be acceptable to State fish and game departments, to waterfowl hunters, and which will be assured to help heal the problem where it indeed exists. The problem has not grown in 25 years, according to the Bureau, and it will not grow in the next 4 years. But our knowledge of that problem, our ability to find a nondangerous and effective alternative to steel shot as a replacement for lead where it is called for, and our ability to provide other means of dealing with the problem will certainly grow.

The Nation's waterfowl hunters are already dues payers when it comes to preservation and conservation of the wildlife resource. Through Federal duck stamps, through the purchases of firearms and ammunition, they pay for key wildlife projects. Hunters have asked to be taxed, so that the resource will be preserved.

And on this issue, hunters have proven that they are willing to forgo use of lead shot where it can be justified. But only where it can be justified.

In one area of Oregon, for example, lead shot has been banned. The ban was accepted readily, because there was a need for it. But hunters will not begin to accept this proposed national ban. Those hunters from States where there is little or no evidence of any lead poisoning problems will never accept a harsh cure for a malady which does not exist. And that is commonsense.

We must, here in the Congress, prevent a terrible misjudgment from being inflicted, and we must mandate that reason, science, and commonsense prevail. If after all, a ban of lead shot is justified, with a suitable alternative available, then I will support it. But today, none of the scientists in the Bureau of Sport Fisheries and Wildlife will say with any amount of certainty that they have the answer to any of the key questions. No segment of our society can match the record of hunters in efforts to promote wise management of our wildlife resources. I believe we in the Congress have an opportunity to help solve this problem. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior or any other officer or employee of the United States is hereby expressly prohibited, at anytime prior to January 1, 1980, from issuing, promulgating, publishing, or carrying out any order banning the use of lead shot for the otherwise lawful hunting of waterfowl.

By Mr. PACKWOOD:

S. 146. A bill to further the purposes of the Wilderness Act by incorporating French Pete Creek and adjacent roadless lands in the Three Sisters Wilderness, Oreg., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. PACKWOOD. Mr. President, today I am introducing legislation to protect the unique scenic and wilderness values of the French Pete Creek and adjacent roadless forest lands of Rebel, Walker, and Mosquito Creek drainage basins located within the Blue River District and lying 60 miles east of Eugene, Oreg. Under my legislation, these areas would be protected and preserved for the enjoyment of present and future generations. In the 91st and 92d Congresses, I introduced similar legislation which would have created the French Pete Creek Intermediate Recreation Area. In both instances, however, the legislation died with the adjournment of those Congresses. During the 93d Congress, I introduced legislation providing for the designation of French Pete Creek and the three aforementioned drainages as wilderness, adjoining the Three Sisters Wilderness Area. Unfortunately, this legislation also died with the adjournment of Congress and it is with a reaffirmation of this area's pristine qualities that I am again introducing legislation to provide for the preservation of these unique Oregon Cascade lands, so highly prized by thousands of Oregonians.

The areas which I have proposed for wilderness designation are currently being studied as part of the land-use plan for the entire Willamette National Forest. The draft environmental impact statement for the management alternatives will be made public around April of this year.

Despite the fact that the French Pete drainage itself contains only 1 percent of the timber in the Willamette National Forest, efforts by hundreds of dedicated citizens have not succeeded in gaining an enduring preservation status for the area's esthetic magnificence. No other place in the Central Oregon Cascades offers the solitary visitor a sweeping view of the lush, unbroken canopy covering the valley, and I am earnestly opposed to those who would deprive the public of such a wonderful experience in this natural country, country which would otherwise be lost to the ravages of timber harvest.

I am vividly reminded of the numerous attempts which have been made to draw the attention of the Forest Service to the invaluable qualities of these lands which I seek to protect. In the 91st Congress, I introduced legislation to protect the 19,200-acre French Pete drainage. When no legislative action was taken, people responded emphatically and expressed their concern over the disposition of the area through thousands of handwritten, individually conceived letters and cards. Oregon's youth became actively involved and some 500 University of Oregon students rallied to dramatize the critical issue at stake. National headlines were inspired by this youthful grassroots support for the preservation of French Pete, a relatively small Oregon watershed. Public sentiment grew rapidly, and continues to favor preservation of the 39 square miles of unlogged, virgin Oregon wilderness named after a shepherd who grazed his sheep in the rich valley, a common endeavor until about 1914.

Although the area is presently being studied as an unofficial roadless area by the Forest Service in preparing the land-use plan for the Willamette National Forest, I cannot help but recall the urgings from growing numbers of citizens who wanted French Pete preserved as Wilderness and received not so much as a perfunctory glance from the Forest Service in 1973.

Ideally, French Pete and Walker, Rebel, and Mosquito Creek drainage basins should be incorporated as part of the Three Sisters wilderness—all of which were once protected as part of the old Three Sisters Primitive Area. My legislation will accomplish this, by setting aside these areas in their natural condition, as wilderness, while much of the land surrounding the area which is already roaded and logged is still used to provide timber.

I would certainly hate to look back a few years from now and see that what is now so inspiring in its simple magnificence, had been terribly and irretrievably lost to the need for a short-term revenue. As many have demonstrated before, the amount of timber which could be cut in French Pete is insignificant when compared with all the available, harvestable timber in Oregon. This is why I would be in adamant disagreement with a Forest Service decision to even manage the area for limited harvest and am introducing legislation to establish the area as a wilderness. The public has already shown firm support for preserving these wild lands, both in Oregon's active environmental groups as well as the informed rank and file Oregonian.

This measure should receive full hearings, after which it would be my urgent hope that we in Congress might provide the honest, open debate which is so necessary in decisions of this nature. Mr. President, I ask unanimous consent to have the entire text of my bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in furtherance of the purposes of the Wilderness Act (78 Stat. 890), certain lands in the Willamette National Forest, Oregon, which comprise about forty-two thousand acres and which are generally depicted on a map entitled "French Pete Creek and Other Proposed Additions, Three Sisters Wilderness", and dated January 1975, **are hereby designated** as wilderness. The map referenced in this section shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 2. As soon as practicable after this Act takes effect, a map and a legal description of the Three Sisters Wilderness incorporating the addition thereto designated by this Act shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description and map may be made.

Sec. 3. (a) The lands designated as wilderness by this Act are hereby incorporated in, and shall be deemed to be a part of, the Three Sisters Wilderness as designated by subsection 3 (a) of the Wilderness Act and, except as otherwise provided by this Act, shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas.

(b) Notwithstanding the provisions of paragraphs (2) and (3) of subsection 4 (d) of the Wilderness Act and subject to valid existing rights, federally owned lands within the Three Sisters Wilderness, including the addition thereto designated by this Act, or hereafter acquired within the boundaries of such area are hereby withdrawn from all forms of appropriation under the mining laws, and from disposition under all laws pertaining to mineral leasing, and all amendments thereto.

(c) Notwithstanding the provisions of section 5 of the Wilderness Act, the Secretary of Agriculture may acquire, by purchase with donated or appropriated funds, by gift, exchange, condemnation, or otherwise, such lands or interests therein within the boundaries of the Three Sisters Wilderness, including the addition thereto designated by this Act, as he determines necessary or desirable for the purpose of this Act and the Wilderness Act.

By Mr. MONTOYA (for himself and Mr. Weicker):

S. 136. A bill to amend the Internal Revenue Code of 1954 to require the establishment of formal procedures and criteria for the selection of individual income tax returns for audit, to inform individuals of the reasons why their returns were selected for audit, and for other purposes. Referred to the Committee on Finance.

TAXPAYER AUDIT DISCLOSURE ACT OF 1975

Mr. MONTOYA. Mr. President, on December 12 of last year Senator Lowell Weicker, my distinguished colleague from Connecticut, introduced a Taxpayer Audit Disclosure Act with my support. Because of the pressure of other legislation, no action was taken on this measure during the final days of the 93d Congress.

Today, Senator Weicker and I are introducing this legislation again, with the firm conviction that this Congress will act upon it with dispatch. The abuses we seek to correct are clear and well known to the public.

During oversight hearings on IRS taxpayer services in the past 2 years, my committee uncovered the need for legislation which would: First, require better procedures and regulations within IRS itself for the selection of returns for audit; second, require IRS to disclose fully to taxpayers the reasons for audit; and third, require IRS to furnish publication 556 (Audit of Returns, Appeal Rights and Claims for Refunds) or a similar publication, to the taxpayer 2 weeks before an audit so that he is properly informed of his rights at the time he needs the information. Surely, Mr. President, the American taxpayer is entitled to this minimum assistance at the earliest possible time, and should not have to request it as is now the case. Too often the taxpayer is not even aware of the existence of publication 556 until it is too late to help.

The legislation proposed today will provide these two changes. In addition it requires the continued public disclosure of IRS audit statistics in a publication called "The Audit Story" and it requires that IRS report to the tax committees of the Congress concerning its audit selection, criteria, and the post audit revenue level changes. These last two requirements were repeatedly emphasized as necessary during the hearings we held, and I concur with those who testified to their importance for tax experts and for the Members of Congress in assessing IRS accomplishments.

I would like to note that I have repeatedly told Commissioner Alexander and IRS audit officials that I have not and will not consider increased audit-generated revenue as justification for agency appropriations. To do so would be to insure abuse of taxpayers. On the other hand, it is necessary for the Congress to know precisely how the audit process is working. We must therefore possess current data showing what kind of taxpayers are being audited, and the amount of change in their taxes after audit. Such information will not encourage tax evasion, but rather will demonstrate that the audit program is being properly administered.

Secrecy in the area of tax procedures and regulations is unwarranted and inexcusable. No national security danger is present when either the American citizen or the American Congress is informed fully about the operating procedures of the tax system of the United States. On the contrary, as the Freedom of Information Act already makes clear, it is to the advantage of government to operate in the open as often as possible. It is only through this kind of openness and candor that we can ever hope to restore complete faith in government to the people of this Nation—the taxpayer of this Nation.

In addition to the concern which all of us have for open government wherever practical and possible, our experience with the use of an "enemies list" by personnel in the White House and IRS itself in the past few years ought to lend us to provide real protection to the taxpayer against discriminate selection of tax returns for audit. The audit power is, in itself, awesome. It should be carefully circumscribed so that no misuse is possible. This can only be done through vigorous pursuit of oversight responsibility by the Congress.

The legislation proposed today will assure that the Congress has the power to oversee the criteria for selection of returns for audit. The public will be better informed about actual audit methods, and reassured that Congress is keeping a close watch on the IRS audit program.

I want to take this opportunity to thank Senator Weicker for the excellent work he has done in this area. He was a leader in exposing IRS abuses during our hearings before the Senate Select Committee on Presidential Campaign Activities, and he initiated investigations of his own which uncovered much of the material leading to public awareness of the need for corrective legislation.

Taxpayers deserve to be heard, to be listened to, and to be protected against abuses. When we have the opportunity to take such definite steps toward rebuilding trust in government through adjustments in our tax service laws. I believe we must not delay in taking action. No taxpayer should ever again feel either frustrated or frightened by the tax agency of the Government he supports through his voluntary self-assessment and trust.

I urge full and immediate support of the Senate for this essential piece of tax service legislation. I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Taxpayer Audit Disclosure Act of 1974".

Sec. 2. (a) Section 7602 of the Internal Revenue Code of 1954 (relating to examination of books and witnesses) is amended—

(1) by inserting immediately before the first sentence thereof the following: "(a) In General.—"; and

(2) by adding at the end thereof the following new subsections:

"(b) Selection of Individual Returns for Audits.—

"(1) Criteria.—The Secretary or his delegate shall report to the Joint Committee on Internal Revenue Taxation the specific criteria by which the Internal Revenue Service selects returns of tax made by individuals with respect to taxes imposed under subtitle A for audit. For purposes of this paragraph, the term 'specific criteria' means nature of employment or occupation, dollar amounts of gross and taxable income, dollar amounts and types of deductions, random probability, and all other factors which are used to select returns for audit.

"(2) Procedures.—The Secretary or his delegate shall report to the subcommittees on Treasury, United States Postal Service, and General Government of the Committees on Appropriations of the House of Representatives and the Senate (and shall publish such report, and any supplements thereto, in the Federal Register) the procedures followed by employees of the Internal Revenue Service with respect to individual returns of tax during the period beginning with the time such Service receives such return from the taxpayer and ending with the time such taxpayer is contacted for the purpose of an audit or other disposition is made of the return.

"(c) Written Notice of Reasons for Audit.—Before taking action under paragraph (1), (2), or (3) of subsection (a) for the purpose of determining the liability for tax of any individual under subtitle A, the Secretary or his delegate shall provide such individual a written notice which clearly specifies the reasons for, and manner in which, the return of such individual was selected for audit.

"(d) Furnishing of Publications.—At least 14 days before taking action under paragraph (1), (2), or (3) of subsection (a) for the purpose of determining the liability for tax of any individual under subtitle A, the Secretary or his delegate shall furnish to such individual a written explanation (such as publication 556) which describes the audit procedure, the rights which a taxpayer may exercise during such procedure, the right of the taxpayer to make an administrative or judicial appeal from an adverse decision at the end of such procedure, and the right of the taxpayer to claim a refund.".

(b) The reports required by the amendments made by subsection (a) shall be made within 90 days after the date of enactment of this Act. Additional reports shall be made within 10 days after any change occurs in the criteria referred to in section 7602(b)(1) of the Internal Revenue Code of 1954 (as added by subsection (a) of this section) and after any change in the procedures referred to in section 7602(b)(2) of such Code (as added by such subsection (a)). The requirements of subsections (c) and (d) of section 7602 of such Code, as added by subsection (a) of this section, apply to actions taken under subsection (a) of such section 7602 more than 90 days after the date of enactment of this Act.

SEC. 3. The Secretary of the Treasury or his delegate shall publish a publication containing the subject matter previously contained in the publication entitled "The Audit Story". The Secretary of the Treasury or his delegate shall make such publication available to the public and shall revise such publication whenever necessary and make such revised publication available to the public.

SEC. 4. The Secretary of the Treasury or his delegate shall submit to the Joint Committee on Internal Revenue Taxation, before September 30 of each year, a report setting forth—

(1) the number of individuals whose returns were selected for audit during the previous 12-month period,

(2) a classification of individuals whose returns were audited during the previous 12-month period by, among other factors, income levels, geographic distribution, and profession,

(3) the number of individuals audited during the previous 12-month period who were found to have made underpayments or overpayments of tax, together with summary statistics reflecting the percentage of such number, by income category, who made underpayments or overpayments of certain ranges of amounts (to be determined by the Secretary or his delegate), and

(4) such other information as may be requested by the joint committee in accordance with the purposes of this Act.

By Mr. HANSEN (for himself and Mr. McGEE):

S. 151. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Polecat Bench area of the Shoshone extension unit, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HANSEN. Mr. President, today I am introducing a bill for myself and my distinguished colleague, Mr. McGEE, to provide for the authorization of the Polecat Bench Reclamation Project. The project is a physical extension of the existing Shoshone project which was planned originally in 1904. The Shoshone Extension unit was authorized for construction as a part of the comprehensive plan for the Missouri River Basin by the Flood Control Acts of 1944 and 1946. Construction of the unit was not initiated before 1964, however, and reauthorization is therefore necessary under the provisions of the act of August 14, 1964.

Feasibility studies have been conducted for the project and the results appear quite promising. The Polecat Bench area would be supplied water from the Shoshone River through joint use of Buffalo Bill Reservoir, Shoshone Canyon Conduit, and Heart Mountain Canal, which are existing facilities of that project and have surplus capacities. Heart Mountain Canal, after minor modification, would deliver water to the proposed Polecat Canal, which would terminate in and deliver water to the proposed offstream Holden Reservoir near midpoint on Polecat Bench, capacity 9,900 acre-feet, and this would be followed by Holden Canal. Other features would include two small pumping plants, laterals, drains, and recreational facilities at Holden Reservoir. Drains on Polecat Bench would be arranged to capture virtually all return flows and surface runoff for reuse within the project area, reducing the demand on the Shoshone River. In addition to water service for 19,200 irrigable acres of grazing land, a new fish and wildlife resource would be engendered and recreational opportunities provided, primarily at Holden Reservoir. Under the bill which I am introducing today, the city of Powell, Wyo., will receive municipal water from the project, which will increase the cost-benefit ratio of the project.

This project envisions the addition of about 80 new farm units to this area. There is no doubt the project will provide new and increased farm production, stimulate increased business activities in the area, increase gross and net incomes, provide new employment opportunities on the farms and in surrounding towns and cities and with an expanded tax base, provide for new and improved community facilities, such as schools, roads, medical facilities, public utilities, recreational facilities, and other benefits. In short, this project will increase productivity and employment, which this Nation so urgently needs at this time. It is with this in mind that I would hope this project is authorized early in the coming session, so its construction might begin.

By Mr. HANSEN (for himself and Mr. HARTKE):

S. 153. A bill to amend part B of title XI of the Social Security Act, professional standards review, to provide for the review of dental services by dentists. Referred to the Committee on Finance.

Mr. HANSEN. Mr. President, the American Dental Association has a rightful interest in the professional standards review organizations procedures under terms of the Social Security Act.

Because of that interest and concern, I am introducing legislation today addressed to that problem.

Representatives of the American Dental Association testified before the Senate Finance Committee, that while the law establishing professional standards review organizations applies to "health care services for which payment may be made, in whole or in part," under the Social Security Act, it excludes members of the dental profession from any meaningful participation in the program.

The concern of the association is serious and substantive since a significant number of its members are providing several hundreds of million dollars in dental services under titles V, XIX, and XVIII.

With respect to institutional services, inpatient hospital admissions for dental care are well over a million per year.

Additionally, as my colleagues know, the law contemplates and permits expansion of PSRO's to ambulatory services which eventually will involve all of the Nation's 100,000 practicing dentists in the PSRO program.

The direct effect upon the dental profession would increase manyfold if any of the major pending national health insurance bills should be enacted since all of them have a tie-in with the PSRO provisions of title XI.

It does not seem reasonable or sensible that the dental profession should be subjected to this highly complicated and exacting "peer" review system without having any representation in its development, operation and adjudicatory functions.

The report of the Senate Finance Committee on the original PSRO bill clearly indicates an intent that only dentists should review the work of dentists, but unfortunately this was not carried over into the language of the law.

In order to remedy this problem, the ADA has proposed a suggested amendment which would provide: First, that in order to be approved a PSRO would be required to have a formal arrangement with dentists in a given area that is coextensive in all respects with the requirements relating to medical services; second, that dentists be appointed to the statewide councils and the national council; and third, that dentists be included in the limitation of liability section of the law.

Mr. President, I am introducing the proposed amendment because it is essential if dentists are to be required to meet the requirements of the law.

I am pleased to introduce this proposed amendment to PSRO language to provide for the review of dental services by dentists and I urge its timely consideration.

By Mr. HANSEN:

S. 154. A bill to authorize the granting of mineral rights to certain homestead patentees who were wrongfully deprived of such rights. Referred to the Committee on Interior and Insular Affairs.

Mr. HANSEN. Mr. President, I send to the desk for appropriate reference a bill to enable certain homesteaders or their successors in title to obtain equity from their Government.

The bill would accomplish this purpose by authorizing a homestead titleholder who has been wrongfully deprived by the Government of the minerals in his land to apply to the Secretary of the Interior for conveyance to him of those minerals. The homesteader shall submit proof that the withholding of the minerals was the result of error, whether intentional or not, or that he was unduly pressured into waiving his mineral rights through ignorance or fear; or that there was some other wrongful or mistaken act on the part of the Federal officials involved in the issuance of the homestead patent.

If the homestead titleholder's proof is accepted, the Secretary is to convey the minerals to the surface owner. The burden of proof is on the homesteader. All existing rights of all persons, whether under the mining laws or under the mineral leasing laws, are fully protected.

As was pointed out in the recent report of the Public Land Law Review Commission, a great many laws were enacted in years gone by under which a citizen could go out on vacant, unappropriated public lands, make an "entry," and by performing certain work and complying with specific procedures, he could get title to a given tract, the size of which might vary from 160 acres to 640 acres.

Under certain of these homestead laws, title to the minerals passed with the surface to the homesteader, provided the land had not been classified as having known mineral values. Under other laws, the Government was required to reserve coal, oil, and gas deposits whether or not there was any reason to believe such deposits did in fact exist.

The variety of laws, procedures, and situations led to a great deal of confusion and there were instances in which a homesteader did not get the minerals in his land to which he was rightfully entitled under the law and facts at the time he acquired title to the surface. On occasion, Congress has passed and the President has signed private laws for the relief of individual homesteaders or for specified groups, such as the Kenai homesteaders in Alaska.

The bill I am introducing today is for a general law to provide for rectification of this situation and enable homestead titleholders to obtain equity if they were wrongfully deprived of the minerals in their lands. No existing rights acquired by others, such as those of a Federal lessee on the land or a claimant under the mining laws, would in any way be interfered with or invalidated.

By Mr. BAYH (for himself, Mr. ABOUREZK, Mr. BAKER, Mr. BEALL, Mr. BELLMON, Mr. BROOKE, Mr. BURDICK, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DOLE, Mr. FORD, Mr. GLENN, Mr. GRAVEL, Mr. GRIFFIN, Mr. GARY W. HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HATHAWAY, Mr. HASKELL, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MATHIAS, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, and Mr. WILLIAMS):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and the Vice President of the United States. Referred to the Committee on the Judiciary.

A PROPOSAL FOR DIRECT POPULAR ELECTION OF THE PRESIDENT

Mr. BAYH. Mr. President, nothing is more important to the confidence of the American people and to the permanence and stability of our Government than the just and equitable selection of the President and Vice President. For more than 9 years I have fought for enactment of a constitutional amendment allowing direct popular election of the President and Vice President. And in the 94th Congress I am introducing my proposal for electoral reform once again.

As in previous years, the proposal is based on the fundamental principle of election directly by the people, the only system that is truly democratic, truly equitable, and truly reflective of the will of the majority.

But this proposal again eliminates the feature of direct election which provoked the most vocal and repeated criticism—the runoff election. Instead, in the unlikely event that no candidate receives 40 percent of the popular vote, the President and Vice President would be selected in the alternative manner originally suggested by Senators GRIFFIN and TYDINGS.

Arthur Krock wryly commented more than 20 years ago:

> The road to reform in the method of choosing the President and Vice President of the United States is littered with the wrecks of previous attempts.

For more than a century and a half, Mr. President, we have recognized the perils of a system that leaves the choice of President to a group of independent electors—electors whose freedom to disregard the will of the people is presently guaranteed by the Constitution. We have recognized the inequities in a scheme that allocates all of a State's electoral votes to the candidate who wins a popular vote plurality in that State, regardless of whether that plurality is one vote or 1 million votes—a scheme I should add, that is nowhere to be found in the Constitution itself. We have recognized the grave risks that the popular will of the people can easily be thwarted, either by the strange arithmetic of the electoral system or by the mischievous deeds of a handful of power brokers.

Having long recognized these obvious inadequacies, we have yet to correct them. Why? Because repeatedly in the past we have failed to achieve agreement as to the most desirable route to reform.

For that matter, there has always been near unanimous agreement as to the need for reform, but never before has there been a national consensus as to what specific type of reform was needed.

Today we have that elusive national consensus. That is why now is the best time to reform.

In February 1966, Mr. President, the American Bar Association established a special commission on electoral reform. As some Members of this body will recall, the American Bar Association, with a similar commission, was very helpful to us in preparing the groundwork for the consideration of the 25th amendment, and I thought it would be helpful, and indeed it has proved to be very helpful, for the bar association to appoint another such commission to help us with this different constitutional problem.

The commission was composed of distinguished political scientists, lawyers, legal scholars, public officials, and other leaders from every section of the country and reflecting various political views. It studied the present electoral system and considered all of the various proposals for reform. After an extensive 10-month study, the commission concluded that:

The existing electoral system is archaic, undemocratic, complex, ambiguous, indirect, and dangerous.

The bar association's blue ribbon commission further concluded that—

> While there may be no perfect method of electing a President, we believe that direct, nationwide popular vote is the best of all possible methods. It offers the most direct and democratic way of electing a President and would more accurately reflect the will of the people than any other system.

In urging the abolition of the present electoral system and replacing it with direct popular election, the commission foreshadowed an emerging national consensus on the question of electoral reform.

The Harris and Gallup polls have shown, for example, that 78 percent and 81 percent of the American people, respectively, favor direct popular election. The extent of this feeling, it is important to note—is nationwide—and fairly evenly distributed throughout the country. To quote excerpts from one of Mr. Gallup's polls, the figures reveal that 82 percent of the people in the East, 81 percent in the Midwest, 76 percent in the South, and 81 percent in the West think direct popular election is both desirable and necessary.

In addition, direct popular election has been publicly endorsed by a unique and formidable array of national organizations, among them the American Bar Association, the Chamber of Commerce, the AFL–CIO, the United Auto Workers, the National Federation of Independent Business, the National Small Business Association, and the League of Women Voters—indeed a rather prestigious group of organizations representing broad philosophical and nationwide support.

For years, one of the arguments often raised against direct popular election was that it could not be ratified by the legislatures of three-fourths of the States. In fact, even a few direct popular election supporters, including the late Senator Estes Kefauver and Senator Henry Cabot Lodge, were deterred from pushing it because of their doubts as to whether direct election could be ratified.

Several years ago, the distinguished Senator from North Dakota (Mr. BURDICK) dramatically refuted this argument by polling 8,000 State legislators and finding that of the 2,500 who responded, nearly 60 percent favored direct election. The results, once again, revealed very little variation from State to State. Senator GRIFFIN also polled 4,000 legislators from the 27 States thought most likely to oppose direct election—and 64 percent of those responding endorsed direct election.

In September 1969 the House of Representatives reflected this national consensus by approving a constitutional amendment for direct election by an overwhelming 339-to-70 vote. And during Senate debate on Senate Joint Resolution 1 in 1970—which was cosponsored by 43 Members of the Senate—we came within a handful of votes of breaking the filibuster which denied the American people even a vote on this crucial issue. I believe that only the extreme time pressure at the end of the session kept us from coming to a vote. I believe that in this Congress, now that we have the pressure of the Presidential campaign behind us, we can break the filibuster and gain the support to get final passage of this important reform. The people of the United States will not put up with the electoral roulette of the present system. They want reform. They want direct popular election of the President. Now is the time for reform. Now is the time for direct popular election.

We must take an ounce of prevention now, before the antiquated electoral college backfires, and it is too late for the proverbial pound of cure.

I am sure that some of our colleagues not only will express reservations with respect to certain sections dealing with technicalities and how the mechanics of this proposal are to operate, but also will express broad philosophical disagreement with the right of the people to vote directly on a one-man, one-vote basis for the President.

I think there is room for difference of opinion in this body. But today, perhaps more than ever before in the history of our counrty—at least, since the great War Between the States—the ability of our system to respond and to be a viable system of governing 200 million people is being tested. Some very critical questions are being asked now that were not asked 20 years ago. Hopefully, they will not be asked 20 years from now. But they are being asked today.

Mr. President, what I should like to do now, if I may, is to touch on and briefly review some of the obvious defects and deficiencies of the electoral college that make it such a clear and ever-present danger.

DEFICITS AND DEFICIENCIES IN THE ELECTORAL COLLEGE

There is no need for me to dwell on the historical accidents that led the Framers to compromise on the hybrid electoral college system, but it is interesting to note what a makeshift arrangement the Framers were forced to devise.

The appearance of political party candidates as early as 1800, for example, meant Alexander Hamilton's original design of a select assembly of independent electors already had lost its purpose only a decade after its embodiment in the Constitution. Alexander Hamilton was one of the original Founding Fathers and he wanted to create electors to be an elite group that had complete freedom of choice. He made no apologies for this. But 10 years after the measure was put on the books, parties developed that had not been anticipated by the Founding Fathers. When the party system did develop, Alexander Hamilton's idea of a select assembly went out the window. A Senate report published in 1826 caustically noted that—

> The free and independent electors had degenerated into mere agents in a case which requires no agency and where the agent must be useless if he is faithful and dangerous if he is not.

But today, more than 160 years later, the elector still retains his constitutionally guaranteed independence.

The elector is to the body politic what the appendix is to the human body. As Henry Cabot Lodge said:

> While it does no good and ordinarily causes no trouble, it continually exposes the body to the danger of political peritonitis.

The prospect of unknown electors auctioning off the Presidency to the highest bidder remain all too real. That is the lesson of 1968, when the present electoral system brought us to the brink of constitutional crisis. With a shift of only 42,000 popular votes in three States no one would have had an electoral majority on election day. It would have given Wallace, with his 46 electoral votes, the balance of power.

Let me add there that a recent study showed that a change of less than 1½ percent of the vote in one State alone—in California—would have produced the same outcome.

Of course, we could avoid this danger simply by eliminating the independence of the elector. But eliminating the independent role of the elector is not a cure-all for what ails our present electoral machinery. The elector, in fact, is merely a symptom of more fundamental flaws in our system of electing the President. We desperately need basic and complete reform of this system.

Among other things, the present system can elect a President who has fewer votes than his opponent and thus is not the first choice of the voters. The present system awards all of a State's electoral votes to the winner of the State popular vote, whether his margin is 1 vote of 1 million votes. It cancels out all of the popular votes cast for the losing candidates in a State and casts these votes for the winner; it assigns to each State a minimum of three electoral votes regardless of population and voter turnout; and provides for a patently undemocratic method for choosing a President in the event no candidate receives an electoral majority. How can we possibly justify the continued use of such a patchwork of inequity and chance?

One of the major difficulties of the present electoral system is the unit rule, which is not even a constitutional provision. I wonder whether all our colleagues realize that this is the way we operate and have been operating for some time. The State of Maine made a change quite recently. How permanent that will be we do not know, but prior to that time all of the States operated on the winner-take-all unit system, although it is not provided for in the Constitution.

In effect, millions of voters are disenfranchised if they vote for the losing candidate in their State because the full voting power of the State—its electoral vote—is awarded to the candidate they opposed. The obvious injustice of this was pointed out by Thomas Hart Benton—a former U.S. Senator—over a century ago. He said:

> To lose their votes is the fate of all minorities, and it is their duty to submit; but this is not a case of votes lost, but of votes taken away, added to those of the majority and given to a person to whom the minority is opposed.

One practical consequence of this disenfranchisement is that it discourages the minority party in traditionally one-party States. Simply stated, where there is no hope of carrying the statewide popular vote, the size of the voter turnout for the likely loser is meaningless. This necessarily leads to the atrophying of the party structure in many States. By the same token, the prospective winner has little incentive to turn out his vote because the margin of victory likewise is meaningless. In sum, the unit rule has the unhealthy political effect of both maintaining a weak second party and discouraging voting. This is reflected most clearly in the poor vote turnout in the U.S. Presidential elections in comparison to most other democratic nations.

Another byproduct of the unit rule is the distortions it produces in the value of individual popular votes. The unit tends to inflate the voting power of a small number of well-organized voters in the handful of large, closely contested States where blocks of electoral votes can be won on the basis of narrow popular vote margins. A candidate, for example, could win an electoral majority by capturing slim statewide pluralities in the 11 largest States—even if he did not receive a single popular vote in all of the other States. This means, in effect, that under the present system 25 percent of the popular vote could have elected a President. For these reasons, some of those opposed to direct election urge that the present system be retained because it represents the only effective hold on power that the urban population centers have in the Federal Government today.

On the other hand, some spokesmen for rural America have suggested that the present electoral vote formula should be preserved because it enhances the voting power of citizens of the less populous States. This argument has, I admit, a certain theoretical appeal. The ratio of electoral votes to population indicates that the smaller States would have a voting advantage, because each State is entitled to at least three electoral votes regardless of its size. On this basis, it would appear that a voter in Alaska has five times the power of a voter in California. This argument, however, completely ignores the practical advantage of the unit rule. A careful analysis will show that because of the unit rule an individual voter in a more populous State has greater voting power than his small State neighbor, since his vote could swing a much larger number of electoral votes.

But even if one could conclude—as some apparently have—that the present system favors one citizen over another, one region over another, or one group over another, that would not be the end of the question. There is something more important at stake in the debate over electoral reform—a fundamental question of national fairness. The President represents every American, regardless of region or State, and he should be elected by all Americans, fairly and equitably. Every vote should count the same, urban or rural, black or white, rich or poor, north, south, east or west. Any system which favors one citizen over another or one State over another is inherently inconsistent with the most fundamental concept of a democratic society.

But despite the seriousness of these defects in the electoral college system, they are not so dangerous as the most fundamental flaw: The fact that the present system cannot guarantee that the candidate with the most popular votes will be elected. This dangerous prospect, more than anything else, condemns the present system as a faulty device for recording the sentiment of American voters. In 1824, 1876, and again in 1888, this system produced Presidents who were not the popular choices of the voters. On seven other occasions in this century, a shift of less than 1 percent of the popular vote would have produced an electoral majority for the candidate who received fewer popular votes.

To give an example of how extreme this can be, in 1948, a shift of less than 30,000 popular votes in three States would have given Governor Dewey an electoral vote majority—despite President Truman's 2 million-plus popular vote margin. I suggest to my colleagues that is the type of malfunctioning which would bring our Nation to its knees.

Good fortune, not design, has produced Presidents who were the popular choices of the people. A glance at past elections reveals that there have been very few elections where the candidates' percentage of the electoral vote reasonably resembled their percentage of the popular vote.

In runaway elections, like that of 1972, any system will produce an electoral victory for the popular vote winner. It is the accuracy of the results produced in closely contested elections, however, that determines the true soundness of an electoral system. Based on this criterion, the present system is clearly defective. A recent computer study of Presidential elections over the last 50 years revealed, for example, that in elections as close as 1960 the present system offered only a 50-to-50 chance that the electoral result would agree with the popular vote. For an election as close as 1968, where some 500,000 popular votes separated the candidates, there was one chance in three that the electoral vote winner would not be the popular vote winner as well. According to the evidence, the danger of an electoral backfire is clear and present. And as former President Nixon said during the 1968 campaign:

> If the man who wins the popular vote is denied the Presidency, the man who gets the Presidency would have very great difficulty in governing.

The tests of an equitable modern electoral system are threefold. First, it must insure that the man who receives the most votes is elected President. Second, it must count every vote equally. Third, it must provide the people themselves with the right to make the choice directly. Only direct popular election meets all three tests.

DESCRIPTION OF SENATE JOINT RESOLUTION 1

Senate Joint Resolution 1 proposes an amendment to the Constitution of the United States to abolish the antiquated electoral college system and undemocratic unit vote system and substitute direct popular election of the President and Vice President. The proposed amendment contains several major features worthy of discussion at this time.

First, the amendment requires the winning candidate to obtain at least 40 percent of the total popular vote. During the last few years, questions have been raised as to what percentage of the popular vote, if any, should be required for election. On the one hand it is necessary to establish a reasonable plurality requirement indicating a legitimate mandate to govern. On the other hand, such a requirement should not be set so high that it would disrupt the stability of our political system.

Requiring a majority of the popular vote for election might too easily proliferate the party system and needlessly trigger the runoff. Historically, 15 Presidents have been elected with less than 50 percent of the popular vote. But only once in our history has no candidate for President received 40 percent of the popular vote: In 1860, Lincoln received 39.79 percent of the vote, although his name did not appear on the ballot in 10 States.

Mr. President, I believe that a 40 percent plurality requirement would assure a reasonable mandate to govern, while not unnecessarily triggering the alternative election procedures. It is extremely unlikely that neither major party candidate would receive a 40 percent plurality—even with a third-party candidate in the race. In 1968, for example, the most significant third-party bid since 1924 could only produce 13.5 percent of the popular vote for George Wallace.

Even more to the point, in 1912, in the face of challenges by an incumbent President and a popular former President, Woodrow Wilson still received more than 40 percent of the popular vote. It should be pointed out that in 1912, 1 million votes went to the Socialist candidate, Eugene V. Debs. Yet the winner, Woodrow Wilson, had more than the 40-percent mark provided in Senate Joint Resolution 1. The four-way race in 1948, involving Truman, Dewey, Thurmond, and former Vice President Wallace, likewise produced a candidate with well over 40 percent of the popular vote. The likelihood of a major party candidate receiving the required plurality, therefore, is not confined merely to three-party races but to multiparty contests as well.

The 40-percent requirement, in short, is a prudent cutoff point because it avoids the likelihood of frequent standoffs, places reasonable limits on the growth of third parties, and provides a sufficient mandate to govern.

Since a 40-percent plurality requirement was established, a contingent election procedure was necessary in the unlikely event that no candidate received the requisite 40 percent. During the debate in 1970 it became clear that there was considerable opposition to the runoff originally provided for in Senate Joint Resolution 1. Some people talked of the mechanical problems of staging a second national election on very short notice, although I am convinced that the experience of many individual States—and several foreign countries—demonstrates that this would not be a problem. Other opponents made the claim that the possibility of a runoff election would convince more candidates to join the race on the assumption that they could keep any candidate from gaining 40 percent of the vote. These opponents argued that the runoff would lead to the growth of third parties and the destruction of our two-party system. I believe that this theory has no merit. The overwhelming weight of the evidence we obtained from political scientists and others about the experiences of individual States and foreign countries leads me to conclude that the runoff would not in any way have weakened—but would in the long run have served to strengthen—the growth of a responsive two-party system.

However, I realize that in trying to get final passage of any important piece of legislation—and most especially when dealing with a constitutional amendment—those of us in the Congress have a duty not to let our personal views predominate. Instead we must seek out and develop a broad national consensus of support for the best plan which both achieves the necessary reform and which can be adopted.

I for one do not plan to allow the cause of electoral reform to flounder because of disagreement over relatively minor details.

Therefore, the runoff provision has been eliminated, and the alternative plan first introduced by Senator GRIFFIN which gathered wide bipartisan support during the Senate debate, has been substituted in its place. Under this plan, if a pair of candidates joined together and running for President and Vice President obtains at least 40 percent of the votes cast, they will be elected President and Vice President.

If no pair of candidates is selected under either of these alternatives, the final selection would be made by the new Congress, meeting in special session for this and only this purpose. Each Member of both Houses would choose between the two pairs of candidates with the largest numbers of popular votes. Allowing the selection to be made in this way by the newly elected Congress would both insure that the popular will of the majority of the voters would be taken into account and also make sure that the President who was elected would be one who was able to work with the new Congress.

The proposed amendment strikes a necessary balance between traditional State authority and compelling Federal interests in the conduct of Presidential elections. I believe such a balance is workable and sound. The proposed amendment empowers the States to establish voter qualifications and election machinery similar to the responsibilities the States now exercise for the election of Senators, Representatives, and for electors of the President and Vice President. Senate Joint Resolution 1 provides that the qualifications for voting in Presidential elections are to be prescribed by State law and shall be the same as those voting for members of the most numerous branch of the State legislature. These provisions are identical to the present constitutional requirements spelled out in article I, section 2 and the 17th amendment relating to the qualifications for voting for Members of Congress.

The States are further authorized to prescribe less restrictive residence requirements. This authorization is necessary in order to prevent invalidation of relaxed residence requirements already or hereafter adopted by the States for voting in Presidential elections. The Congress is also empowered to establish uniform residence qualifications. This provision does not modify or limit in any way existing constitutional powers of the Congress to legislate on the subject of voting qualifications. This authority would in no way alter the provisions dealing with residence requirements in Presidential elections adopted as part of the Voting Rights Act of 1970. The Voting Rights Act abolished residence requirements for voting in Presidential elections and established nationwide, uniform standards relating to registration, absentee registration, and absentee voting in Presidential elections.

The mechanical details of providing for a direct popular election are left to Congress to legislate.

Prescribing the times, places, and manner of holding such elections and provision for inclusion on the ballot remain the primary responsibility of the States. The Congress, however, is given a reserve power to make or alter such regulations. In the event a State attempts to exclude the name of a major party candidate from the ballot, for example, the Congress would have the authority to prevent such arbitrary action. Furthermore, such action appears unlikely in view of the Supreme Court's decision in *Williams* v. *Rhodes*, 393 U.S. 23 (1968), holding that the equal protection clause of the 14th amendment and the right of assembly guaranteed by the first amendment impose limitations upon a State's freedom to restrict parties in their access to the ballot.

Mr. President, we must face up to the fact that the State legislatures and the Congress should be given a 2-year period after ratification to pass the legislation necessary to implement direct popular election. Thus we cannot realistically proceed on the assumption that direct election will govern immediately upon ratification. It is for this reason that I am proposing a 2-year period for the passage of implementing legislation.

Mr. President, as the chairman of the Senate Subcommittee on Constitutional Amendments, I have been engaged in a thorough study of our electoral system for more than 9 years. As a result of that study, I have concluded that direct popular election is the only authentic reform proposal, the only proposal that guarantees the election of the popular choice, counts every vote equally, and works in the manner in which most Americans expect the electoral process to work directly and democratically.

ALTERNATIVE PLANS

There can be no disagreement that direct popular election would produce these results though some may disagree as to the desirability of such a basic reform. Over the years, several other major plans have been offered. I would like to discuss the drawbacks in these other proposals.

THE DISTRICT PLAN

The district plan would retain the electoral vote, with electors chosen from single-member districts within each State and two electors running at large statewide.

The district plan, like the present electoral system is based on the winner-take-all principle—merely shifting its application from the State level to the district level. As a result, the district plan would continue to produce significant disparities between the popular vote and the electoral vote. A number of comments have been expressed suggesting that the district plan might even produce a popular vote loser or a minority vote winner. We can play all sorts of games with figures. The best example I found of the disparity which can be produced in any one election was brought to our attention in the 1964 election. To cite just one example of the consequences of the district plan, compare the returns for the 1st and 15th Illinois Congressional Districts in 1964. These were adjoining congressional districts. President Johnson carried the first district by 167,458 votes. Senator GOLDWATER, in contrast, won the 15th District by only 71 votes. Under the district plan, each candidate would have received one electoral vote. The unit rule operating at the district level would have wasted a net popular vote margin of 167,387 votes for President Johnson. By wasting large numbers of popular votes, the district system can easily elect a President who is not the popular choice of the voters.

As in the case of the present system, the district plan would discourage the minority party's voters within each electoral district, thus reducing the incentive to work. The district plan, in fact, would operate even more effectively to discourage voters because a larger proportion of congressional districts are safely controlled by one party than are States. Defining a "safe" State or district as one carried by 60 percent of the vote or more, for example, 32 percent of the districts were safe in 1960 and only 10 percent of the States.

Furthermore, despite the specific requirement of the district plan that electoral districts be compact, contiguous, and nearly equal in population, it still would be possible for partisan State legislatures to gerrymander electoral units. The impracticality of enforcing this vague constitutional standard is another major obstacle to the district plan.

THE PROPORTIONAL PLAN

The proportional plan would retain the electoral vote, but replace the unit rule with a proportional division of a State's electoral vote on the basis of the popular vote in that State.

Had the proportional system been in effect in 1969, it would have produced the following distortions in two States having the identical number of electoral votes:

First, President Nixon captured 43 percent of the popular vote in Virginia and under the proportional plan this would have produced 5.2 electoral votes. Vice President HUMPHREY's 43 percent of the popular vote in Missouri likewise would have produced 5.2 electoral votes. President Nixon, however, only required 590,315 popular votes, whereas HUMPHREY had to poll 791,444 votes in order to produce 5.2 electoral votes—a startling difference of 201,129 popular votes.

A similar distortion can be found in both Idaho and Utah, which have four electoral votes. In both States, Nixon captured 56 percent of the statewide popular vote, and this would have entitled him to 2.2 electoral votes under the proportional plan. The interesting point is that it required 238,728 popular votes in Utah to produce the same number of electoral votes as 165,369 popular votes in Idaho.

The practical political consequence of the proportional plan is that it enhances the political influence of the safe States, which traditionally have had poor voter turnouts. Simply, a popular vote in a State where the voter turnout is poor is worth more than a vote in a State of equal size with heavy voter turnout.

States sharing marked sectional interests, moreover, would have a great incentive to maximize their electoral influence by encouraging one-partyism. As a result, regional third party challenges are likely to be encouraged. In 1948, for example, the States Rights Party polled only 2.4 percent of the total popular vote, but under a proportional plan, it would have received more than three times that percentage of the electoral vote.

Under certain political conditions, the proportional plan would produce a President who was not the popular choice of the voters. If one candidate won handily in most of the States where the turnout was poor and the results in the remaining States were almost evenly divided, it is likely that the electoral winner would have been the popular vote loser. A perfect example of this division occurred in the election of 1896. Bryan captured 46.7 percent of the popular vote and McKinley won 51.1 percent. McKinley's majority of the popular vote under the present system produced 61 percent of the electoral vote. Under a proportional plan, however, Bryan would have won a six-vote victory—despite being a popular vote loser.

A recent computer study presented to the committee examined the electoral results produced under a proportional system in close popular election. The random survey, based on several thousand two-candidate races with a popular vote distribution varying from a wide 60-to-40 split to a 50-to-50 division, revealed that with a plurality of less than 1 million votes, there was a 14 percent chance of an electoral mishap. In an election as close as 1968, moreover, there was a 25 percent chance—1 in 4 of electing the popular vote loser.

AUTOMATIC PLAN

The automatic plan would write into the Constitution for the first time the major defect of the present system—the unit rule. It would leave the election of the President to the strange arithmetic of the unit rule and perpetuate the other inequities in the present system—including the distortions in voting power, the built-in advantage for low voter turnout, and above all, the great risk of electing a candidate who is not the first choice of the voters. The adoption of the automatic plan would not only write into the Constitution the evils of the winner-take-all rule, but also would be likely to preclude meaningful reform indefinitely.

THE FEDERAL SYSTEM PLAN

The Federal system plan would provide that in order for a candidate to be elected he would have to receive at least 40 percent of the popular vote and have confirmed his mandate by achieving a plurality of the votes in more than one-half of the States or in States having at least one-half of the total number of voters. If no candidate received such a plurality, the decision would be made on the basis of the distribution of the popular vote in accordance with the present electoral college system. If none of the candidates received a majority of the electoral vote under this proposal, the electoral votes received by candidates other than the two receiving the greatest number of popular votes would be divided among the first two candidates in accordance with the proportion of the popular vote these two candidates received in the State.

This would be an extremely complicated and confusing method of electing the President and Vice President. Moreover, the plan might tend to fragment the Presidential election process, with one candidate hoping to confirm his victory by concentrating on the most populous States and the other by concentrating on the smaller States. Such divisiveness should be minimized, not magnified, by the system of selecting our President. Finally, and above all, the plan does not correct the fundamental flaw in the electoral system. It would not prevent the possibility of electing a President and Vice President who had not received the most popular votes.

CONCLUSION

Mr. President, these are the alternative plans. None of them has the slightest possibility of securing passage by a vote of two-thirds of the Members of the Senate and the House. None of them would be ratified by three-fourths of the States.

Indeed, Mr. President, if one of these plans were somehow to be adopted, it would in my opinion foreclose all possibility of reform in this Congress—perhaps in this generation.

These are reforms that the Nation desperately needs. We have stalled too long, we have talked too long, we have fought too long. Now is the time to revise our electoral system for 1976, and for generations of Americans to come.

Mr. President, I ask unanimous consent to print in the RECORD the complete text of the proposed amendment and a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 1

Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The people of the several States and the District constituting the seat of government of the United States shall elect the President and Vice President. Each elector shall cast a single vote for two persons who shall have consented to the joining of their names as candidates for the offices of President and Vice President. No candidate shall consent to the joinder of his name with that of more than one other person.

"SEC. 2. The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that for electors of President and Vice President, the legislature of any State may prescribe less restrictive residence qualifications and for electors of President and Vice President the Congress may establish uniform residence qualifications.

"SEC. 3. The persons joined as candidates for President and Vice President having the greatest number of votes shall be elected President and Vice President, if such number be at least 40 per centum of the total number of votes cast.

"If, after any such election, none of the persons joined as candidates for President and Vice President is elected pursuant to the preceding paragraph, the Congress shall assemble in special session, in such manner as the Congress shall prescribe by law, on the thirty-fourth day after the date on which the election occurred. The Congress so assembled in special session shall be composed of those persons who are qualified to serve as Members of the Senate and the House of Representatives for the regular session beginning in the year next following the year in which the election occurred. In that special session the Senate and the House of Representatives so constituted sitting in joint session, each Member having one vote, shall choose immediately, from the two pairs of persons joined as candidates for President and Vice President who received the highest numbers of votes cast in the election, one such pair by ballot. For that purpose a quorum shall consist of three-fourths of the whole number of Senators and Representatives. The vote of each Member of each House shall be publicly announced and recorded. The pair of persons joined as candidates for President and Vice President receiving the greater number of votes shall be elected President and Vice President. Immediately after such choosing, the special session shall be adjourned sine die.

"No business other than the choosing of a President and Vice President shall be transacted in any special session in which the Congress is assembled under this section. A regular session of the Congress shall be adjourned during the period of any such special session, but may be continued after the adjournment of such special session. The assembly of the Congress in special session under this section shall not affect the term of office for which a Member of the Congress theretofore has been elected or appointed, and this section shall not impair the powers of any Member of the Congress with respect to any matter other than proceedings conducted in special session under this section.

"SEC. 4. The times, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations. The days for such elections shall be determined by Congress and shall be uniform throughout the United States. The Congress shall prescribe by law the times, places, and manner in which the results of such elections shall be ascertained and declared. No such election shall be held later than the first Tuesday after the first Monday in November, and the results thereof shall be declared no later than the thirtieth day after the date on which the election occurs.

"SEC. 5. The Congress may by law provide for the case of the death, inability, or withdrawal of any candidate for President or Vice President before a President and Vice President have been elected, and for the case of the death of both the President-elect and Vice President-elect.

"SEC. 6. Sections 1 through 4 of this article shall take effect two years after the ratification of this article.

"SEC. 7. The Congress shall have power to enforce this article by appropriate legislation."

SECTION-BY-SECTION ANALYSIS OF THE RESOLUTION

The resolution contains the customary provisions that the proposed new article to the Constitution shall be valid as part of the Constitution only if ratified by the legislatures of three-fourths of the State within 7 years after it has been submitted to them by the Congress.

Section 1 of the proposed article would abolish the electoral college system of electing the President and Vice President of the United States and provide for their election by direct popular vote. The people of every State and the District of Columbia would vote directly for President and Vice President. This section prevents a candidate for either office from being paired with more than one other person. Candidates must consent to run jointly.

Section 2 provides that voters for President and Vice President in each State must meet the qualification for voting for the most numerous branch of the State legislature in that State. The term "electors" is retained, but instead of referring to the electoral college, the term hence forth means qualified voters, as it does in existing provisions dealing with popular election of Members of Congress. This clause also permits the legislature of any State to prescribe less restrictive residence requirements and is necessary in order to prevent invalidation of relaxed residence requirements already or hereafter adopted by the States for voting in presidential elections.

The Congress is also empowered to establish uniform residence qualifications. This authority would in no way affect the provisions dealing with residency requirements in presidential elections adopted as part of the Voting Rights Act of 1970. The Voting Rights Act abolished residency requirements for voting in presidential elections and establishes nationwide, uniform standards relating to absentee registration and absentee voting in presidential elections. The provision, moreover, does not modify or limit in any way existing constitutional powers of the Congress to legislate on the subject of voting qualifications, nor in anyway limit the Supreme Court's decision in *Dunn* v. *Blumstein*, 92 Sup. Ct. 995 (1972) which held State residency requirements in excess of 30 days to be unconstitutional. The District of Columbia is not referred to in section 2 because Congress now possesses the legislative power to establish voting qualifications for the District under Article I, section 8, clauses 17 and 18.

Section 2 is modeled after the provisions of article I, section 2, and the 17th amendment to the Constitution regarding the qualifications of those voting for Members of Congress. As a result, general uniformity within each State regarding the qualifications for voting for all elected Federal officials is retained. Use of the expression "electors of the most numerous branch of the State legislature" does not nullify by implication or intent the provisions of the 24th amendment that bar payment of a poll tax or any other tax as a requisite for voting in Federal elections. The Supreme Court, moreover, has held that a poll tax may not be enacted as a requisite for voting in State elections as well, *Harper* v. *Board of Supervisors*, 383 U.S. 663 (1966).

Section 3 requires that candidates obtain at least 40 percent of the whole number of votes cast to be elected President and Vice President. The expression "whole number of votes cast" refers to all valid votes counted in the final tally. The term "whole number" is consistent with prior expressions in the Constitution, as in the 12th amendment. Section 3 further provides that if no pair of candidates receives at least 40 percent of the whole number of votes cast for President and Vice-President, then the selection will be made by a joint Session of the newly elected Congress meeting only for this purpose thirty-four days after the election. They shall choose the President and Vice-President from among those two pair of candidates which received the largest popular vote total.

Section 4 embodies provisions imposing duties upon the Congress and the States in regard to the conduct of elections. The first part of this section requires the State legislatures to prescribe the times, places, and manner of holding presidential elections and entitlement to inclusion on the ballot—subject to a reserve power in Congress to make or alter such regulations. This provision is modeled after similar provisions in article I and the 17th amendment dealing with elections of members of Congress. States will continue to have the primary responsibility for regulating the ballot. However, if a State sought to exclude a major party candidate from appearing on the ballot—as happened in 1948 and 1964—the Congress would be empowered to deal with such a situation.

Section 4 also requires that Congress shall establish the date for the regular election, that such date will be uniform throughout the country, and that in no event shall such an election be held later than the first Tuesday after the first Monday in November. This conforms to the present constitutional requirement for electoral voting (Article II, section 1), to which Congress has responded by establishing a uniform day for the election of electors. (3 USC 1)

Section 4 further requires Congress to prescribe the time, place, and manner in which the results of such election shall be ascertained and declared. The mandatory language is comparable to the mandatory duties imposed upon the States to provide popular election machinery for Members of Congress. In implementing this section, Congress may choose to accept State certifications of the popular vote as it now accepts electoral vote certifications under the provisions of 3 U.S.C. 15. Federal enabling legislation will be required to provide the specific legislative details contemplated in the broad constitutional language of the amendment.

Section 5 empowers Congress to provide by legislation for the death, inability, or withdrawal of any candidate for President and Vice President before a President or Vice President has been elected. Once a President and Vice President have been elected, existing constitutional provisions would apply. Thus, the death of the President-elect would be governed by the 20th amendment and the death of the Vice President-elect would be governed by the procedure for filling a Vice Presidential vacancy contained in the 25th amendment. Section 5 also empowers the Congress to provide by legislation for the case of the death of both the President-elect and Vice President-elect.

Section 6 provides that the article shall take effect 1 year after ratification. The committee was of the opinion that since legislation will be necessary to fully implement and effectuate the purposes of the proposed amendment, a reasonable period of time should be provided between the date of ratification and the date on which the amendment is to take effect. The committee believes that this provision affords both the Congress and the States an adequate opportunity to legislate, but does not foreclose the possibility of securing ratification in time for the proposed article to be in effect before the 1976 Presidential election.

Section 7 confers on Congress the power to enforce this article by appropriate legislation. The power conferred upon Congress by this section parallels the reserve power granted to the Congress by numerous amendments to the Constitution. Any exercise of power under this section must not only be "appropriate" to the effectuation of the article but must also be consistent with the Constitution.

By Mr. BROOKE (for himself, Mr. Burdick, Mr. Bentsen, Mr. Case, Mr. Clark, Mr. Cranston, Mr. Fong, Mr. Glenn, Mr. Hansen, Mr. Gary W. Hart, Mr. Philip A. Hart, Mr. Hartke, Mr. Haskell, Mr. Hatfield, Mr. Humphrey, Mr. Javits, Mr. Kennedy, Mr. McGovern, Mr. Mondale, Mr. Montoya, Mr. Muskie, Mr. Pell, Mr. Percy, Mr. Ribicoff, Mr. Hugh Scott, Mr. Stafford, Mr. Stevens, Mr. Schweiker, Mr. Stevenson, Mr. Tunney, Mr. Weicker, and Mr. Williams):

S.J. Res. 2. A joint resolution designating January 15 of each year as "Martin Luther King Day." Referred to the Committee on the Judiciary.

MARTIN LUTHER KING DAY

Mr. BROOKE. Mr. President, today, January 15, marks the 46th anniversary of the birth of Dr. Martin Luther King, Jr. It is a most appropriate time to honor this great man and the dream he articulated for all Americans.

1968, the year of his death, seems very far behind us today. In large part, passions have cooled and the flames of anguish, bitterness and frustration that consumed the Nation in that tumultuous year have died away. What is left to us, in the perspective of history and of our image of ourselves as a Nation and a people, is the vision that Martin Luther King lived for, the dream for which he died.

That vision was not just for black Americans, or for oppressed minorities, or even just for the poor. It embraced all Americans in the quest to bring to full fruition our fundamental principles, that "all men are created equal," and with an equal right to "life, liberty, and the pursuit of happiness." Dr. King's vision was an America purged of racial prejudice, hatred, and fear; at peace with itself and united by new bonds of Christian brotherhood and reconciliation.

In the face of every threat to his life and safety, and those of his friends and family, and despite all the violence and humiliation to which he and his followers were subjected, Dr. King held to his belief in nonviolence.

Some have said that Dr. King had a naive optimism in nonviolence. But his militant nonviolence accomplished more in his short lifetime than all the violence of the racists, black or white. He set the civil rights movement on a new course in the United States, and it will yet prevail. He helped to unify the races by showing what one man could do by believing in brotherhood. Others are continuing, and will continue, his work. The dream of true equality of rights and opportunities without regard to race is nearer because of Martin Luther King.

In this Bicentennial era, I can think of no man whose life better symbolizes the principles on which this Nation was founded—the principles of freedom for which generations of Americans have fought and died—for which Martin Luther King fought and died.

Today, Mr. President, as one way of insuring renewed dedication to his goals of freedom and equality, I would like to introduce, as I did in 1968, 1969, 1971, and 1973, a resolution making the birthday of Martin Luther King, Jr., January 15, a national day of commemoration. This day of commemoration will always remind us of how we must respect and understand one another if we are ever to realize the principles upon which this Nation was established.

I urge my colleagues to join me in the swift enactment of this legislation.

I ask unanimous consent that the text of this resolution be printed at this point in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 2

Whereas the United States of America was deeply grieved by the vicious and senseless act which ended the life of the Reverend Martin Luther King, Junior, this country's apostle of non-violence;

Whereas the United States of America, and its Senators and Representatives in Congress, recognize and appreciate the immense contribution and sacrifice of this dedicated American;

Whereas the American people are determined that the life and works of this great man shall not be obscured by violence and anger, but rather that they shall remain a shining symbol of the Nation's non-violent struggle for social progress;

Whereas it is incumbent upon us to recognize that violence, hatred, and national division do no honor to the man who has been taken from us;

Whereas mutual respect and a firm commitment to the ideals of non-violence for which he labored will be the most lasting memorial to the life of the Reverend Doctor Martin Luther King, Junior;

Whereas it is fervently hoped that his death may serve to reconcile those among us who have harbored hatred and resentment for their fellow Americans, to the end that our country may at last realize the ideal of equality set forth in our Constitution: Therefore, it is hereby

Resolved by the Senate and House of Representatives of the United States of America *in Congress assembled*, That, in honor of the Reverend Doctor Martin Luther King, Junior, who was born on January 15, 1929, January 15 of each year is hereby designated as "Martin Luther King Day". The President is authorized and requested to issue a proclamation each year calling upon the people of the United States to commemorate the life and the service to his country and its citizens of the Reverend Doctor Martin Luther King, Junior, and to observe that day with appropriate honors, ceremonies, and prayers.

By Mr. KENNEDY (for himself, Mr. CHILES, Mr. MCINTYRE, Mr. HATHAWAY, Mr. PELL, Mr. PASTORE, Mr. RIBICOFF, Mr. BROOKE, Mr. MUSKIE, Mr. HOLLINGS, and Mr. LEAHY):

S.J. Res. 3. A joint resolution to require the submission and approval by the Congress of fees on oil imports. Referred to the Committee on Finance.

Mr. KENNEDY. Mr. President, although I support the main goals of the President on the economy and energy, the specific proposals are seriously flawed in many basic respects.

The proposal for an immediate tax cut is a welcome about-face in the administration's original position, but the amount of the cut is too small, its two-stake timing is unwise, and the distribution of the benefits is excessively generous to the rich.

Although I support many of the details of the energy package, I am adamantly opposed to the exorbitant new taxes proposed on domestic and foreign oil, and I am today introducing legislation to block any such action by the President without the approval of Congress. The President is tragically wrong in asking the country to accept $30 billion in higher prices for gasoline and fuel and he is wrong in giving the oil companies such a major role to play in the vital energy decisions that must be made.

The President's energy tax program is both inflationary and recessionary. Not only will it drive prices up by $30 billion, but it will also drain $30 billion from other areas of the economy. It is wishful thinking to believe the administration can devise a tax rebate policy to cushion the enormous and unfair burden that will be imposed on millions of individuals.

Especially harsh is the proposal to limit the increase in social security benefits to 5 percent this year. Why does the President single out the Nation's 25 million elderly for special hardship in the fight against inflation. The President spoke not a single word about price and wage restraint in the private sector. And, among Federal spending programs, why is social security the first to feel the knife? What about the fat in the defense budget? What about all the other sacred cows of the special interests?

Sadly, the social security moratorium is a clear symbol of the over-all proposals—windfalls for the well off, but heavy new hardships for everyone else.

Overall, the program is unfair—unfair to the elderly, unfair to the poor, unfair to workers, unfair to New England, and unfair to two hundred million average American citizens.

It is up to Congress now to act. We have a mandate of our own to bring the economy back to health. We are ready to meet the challenge and we shall meet it in a way that is both more effective for the country and fairer to the average citizen than the program we heard today.

By Mr. INOUYE:

S.J. Res. 4. A joint resolution to authorize and request the President of the United States to issue a proclamation designating September 17 as "Constitution Day." Referred to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, today I am introducing a resolution that will proclaim each September 17 as "Constitution Day."

The Declaration of Independence which was signed on July 4, 1779, by the 56 members of the Continental Congress marks the birth of our Nation and sets forth the basic philosophical beliefs upon which this country was founded. It is the Constitution of the United States, however, which was signed on September 17, 1787, by 39 delegates to the Constitutional Convention that inaugurated the birth of our Government by providing the legal framework for all its operations. The Constitution defines our National Government's form and functions and specifies the duties of and restrictions on the Federal Union and the individual States.

Each July 4 this Nation marks the day it became a free Nation. And in 1976 a nationwide bicentennial celebration will take place commemorating the Declaration of Independence and the historical significance of our breaking free from the chains of British suppression.

I believe the Constitution deserves similar national recognition. Gladstone, the eminent English jurist, believed our Constitution to be "the most wonderful work ever struck off at a given time by the brain and purpose of man." The Founding Fathers who drafted the Constitution included George Washington, Benjamin Franklin, James Madison, James Wilson, Edmund Randolph, and John Rutledge. Thomas Jefferson referred to these men as "an assembly of demigods." And it is the genius of their work that has served this Nation in times of war and peace, economic hardship and prosperity, political chicanery and virtue, governmental crisis and fortune. For almost 200 years of rapid, revolutionary, and unpredictable change in American society those few thousand words have directed the growth of this Nation toward greatness as the world's leader and champion of freedom.

In 1966, when Constitution Week was proclaimed by the late President Lyndon B. Johnson, he eloquently noted the historical and intellectual threads that were woven into the fabric of our governmental charter by those wise and learned men who met in Philadelphia during the hot summer of 1787. President Johnson stated:

> Our Constitution did not spring forth in a single moment of inspiration. Rather, it was the culmination of man's long struggle for freedom, justice, equality, and recognition of the dignity of man. It reflects the wisdom of the Old and New Testaments, the democratic principles of ancient Greece, the justness of the Roman law, the concept of constitutional liberty as guaranteed to Englishmen by the Magna Carta, and the dedication that caused our Founding Fathers to forsake the security of civilization to seek liberty, justice, and opportunity in the wilderness of the New World.

In recent years, however, there has been growing concern and a widespread belief that our Government has been undergoing a constitutional crisis. The form and functions which the Constitution defined for the various branches and levels of government have been criticized. The constitutional concepts of supreme law of the land, popular sovereignty, checks and balances, separation of powers, judicial supremacy, freedom of the press, and rights of free speech and assembly have all been challenged by various public officials, group spokesmen, and women and private citizens.

This crisis is reflected in a diminishing respect for our entire governmental and political system. Recent public opinion surveys show a large majority of Americans give our Government fair or poor marks for honesty, fairness, justice, efficiency, consideration, and responsiveness. One-third of the public have no or not very much trust or confidence in local government, 31 percent lack faith in State government, 30 percent give little or no credence to the Congress, 25 percent express doubts about the functioning of the Federal judiciary, and almost one-fourth of the public lacks trust in the executive branch.

In this atmosphere of alienation and frustration, the Constitution has too often been ignored or distorted rather than used as a guide for resolving our differences. Public officials have been denied their constitutional rights of free speech by bellowing hecklers. In return, public officials have attempted to deny or curtail protestors' constitutional rights of peaceable assembly. The free press has been assailed at the highest levels of government. And many citizens seem willing to see the "bearers of bad tidings" punished as if newsmen are responsible for the events they report.

The decrees of the Supreme Court have been decried, disregarded, or defied by private citizens and elected representatives alike. Constitutionally guaranteed civil rights and liberties have come under attack by advocates of law and order, while constitutional law and civil order have been ridiculed by proponents of anarchy.

The growth of Executive power has also become an issue of great concern over the past two decades in the Halls of Congress and across the Nation. The constitutional concepts of checks and balances and separation of powers have been weakened with the acquiescence of the Congress as successive administrations have sought more power. The much noted conflicts over Executive privilege, impoundments, the war powers, and the power of the purse are not new—they are a natural outgrowth of the history of congressional-Executive relations since the years of the New Deal. Even the triumph of our constitutional processes during the Watergate tragedies has not dissolved the concern of many citizens.

Leaders of both major political parties

and various academic and journalistic analysts have argued the need for a strong President in the present technological age. The structural inability of Congress to respond quickly and effectively to momentary crises has been called the "deadlock of democracy." Congress has been identified as "an obstacle to modern policymaking," and the Presidency has been labeled "as near perfection as can be achieved in an imperfect world." As Republican and Democratic Presidents have made successsive incursions into the constitutional domain of the Congress, rationales have been provided by liberal and conservation commentators and by members of both parties.

The separation of powers was carefully designed by the delegates to the Constitutional Convention. The members of that assembly had two unhappy recollections which made real the theoretical teachings of Montesquieu and Blackstone that—

> In any government the powers of the legislative, executive and judicial departments should be separate so that the whole could be kept in order by a system of checks and balances.

The first recollection was the tyanny and repression that the colonists suffered under the excess of authority practiced by King George of England. The second recollection was the anarchic deficiencies in governmental power experienced under the Articles of Confederation.

So the separation of powers made each branch of the government interdependent and not independent. This interdependence was felt necessary to insure majority rule without tyranny over the minority. As President Kennedy remarked, the separate branches should not be "rivals for power, but partners for progress."

Daniel Webster said:

> It is the people's Constitution, the people's government, made for the people, made by the people, and answerable to the people.

Any American who finds fault with our governmental system should understand the provisions for amending the Constitution. George Washington warned:

> If in the opinion of the people the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument for the good, it is the customary weapon by which free governments are destroyed.

Likewise, each judicial officer, legislator, or government executive should understand that to war against the Constitution violates his or her solemn oath to support it.

None of us can maintain "what I like is constitutional, what I dislike is unconstitutional." Down that path lies tyranny or anarchy.

In making formal recognition of September 17 as "Constitution Day" the people of the United States and those elected and appointed officials who hold office under constitutional aegis should turn our thoughts to the important lessons of that document.

"Constitution Day" should become a day, not necessarily a holiday, but a day where each American may take a few minutes out to read over the Constitution and to think about what it means in our everyday life. By reading the Federalist papers, which Chief Justice John Marshall called "a complete commentary on our Constitution" we can understand the thoughts and ideas that form the foundation of "the most revolutionary document ever written." By considering the basic governmental framework of modern day life, we can realize how relevant those concepts still are today and we can begin to think through ways in which government's operations can be reformed in keeping with constitutional precepts, yet cognizant of technological advancement. Justice Learned Hand called the Constitution "the best political document ever made." Each American should understand and reflect on the wisdom of that statement.

The 84th Congress by a similar joint resolution designated the week of September 17 as "Constitution Week." My resolution would replace "Constitution Week" with "Constitution Day." I believe this change is desirable in that a single day will provide for a more concentrated observance of the importance of that epochal document. I am afraid that the spreading of previous ceremonies and activities over a period of several days has served to diffuse the impact upon our people that such a celebration should entail. "Constitution Day," for reasons of history and tradition, may never stand in the minds of our citizens on a par with July Fourth. I should, however, receive the recognition of those officials who hold their authority under its mandate. We should reflect on its purpose "to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty."

I hope that my congressional colleagues will consent to proclaim September 17, 1975, and each September 17 thereafter as "Constitution Day," so that appropriate ceremonies and activities may be observed.

On that date in 1787, as George Washington directed his fellow delegates to place their signatures on the parchment which presented the Constitution to the American public, Benjamin Franklin noted a painting of the Sun hanging on the Philadelphia State House wall, just over General Washington's shoulder. Mr. Franklin expressed his hope that "it is a rising and not a setting Sun." If each American, especially those of us in position of public trust, will rededicate ourselves to "preserve, protect, and defend the Constitution of the United States," perhaps we can feel more certain that the Sun will continue to rise.

SENATE RESOLUTION 5—SUBMISSION OF A RESOLUTION FOR THE RELIEF OF COMDR. EDWARD W. RAWLINS

(Referred to the Committee on the Judiciary.)

Mr. MATHIAS submitted the following resolution:

S. Res. 5

Resolved,

Whereas S. 881, Ninety-first Congress, for the relief of Commander Edward White Rawlins, United States Navy (Retired), was referred to the Chief Commissioner of the U.S. Court of Claims by Senate Resolution No. 96 of the same Congress, approved by the Senate on September 3, 1969; and

Whereas the Chief Commissioner, pursuant to said S. Res. 96, and following detailed, adversary proceedings, reported favorably to the Senate on February 24, 1972, "that Commander Edward White Rawlins, the plaintiff, has an equitable—but not a legal—claim against the United States," and that "there is equitably due the plaintiff a retroactive promotion to the grade of captain on the active list of the Regular Navy as of July 1, 1947, and a retroactive retirement in that grade as of" (a date yet finally to be determined by currently pending litigation still before the Chief Commissioner); and

Whereas Commander Rawlins' advancing age—seventy-two years—clearly warrants some immediate remedial action without further aggravating the injustice of delay: Now, therefore, be it

Resolved, That as an interim measure in the name of partial equity and justice, and pending a final determination by the Chief Commissioner of the full and final remedies warranted in the case, it is the sense of the Senate that by executive appointment of the President the said Commander Rawlins should be deemed to have been advanced to the grade of captain on the active list of the Regular Navy for all purposes effective from July 1, 1947; and be it further

Resolved, that this action shall in no way prejudice full retroactive, compensatory determinations yet to be made by the Chief Commissioner.

SENATE RESOLUTION 6—SUBMISSION OF A RESOLUTION TO ESTABLISH A SELECT COMMITTEE TO CONDUCT A STUDY OF INTELLIGENCE OPERATIONS

(Referred to the Committee on Armed Services.)

Mr. SCHWEIKER. Mr. President, on behalf of myself and Mr. PROXMIRE, I send to the desk for appropriate reference a resolution to create a select committee of the Senate to investigate the activities of the intelligence community of the Federal Government, to evaluate the charter of the Central Intelligence Agency, and to request the appointment of a special prosecutor by the President of the United States to act on any violations of existing Federal statutes by persons acting for, or on behalf of, the intelligence community.

I am particularly pleased that my good friend and distinguished colleague from Wisconsin, Mr. PROXMIRE, has joined me as the primary cosponsor of this measure. Senator PROXMIRE has established a reputation for speaking frankly, forcefully, and intelligently on issues facing the Senate and the country; he was among the first to raise serious questions concerning the composition of the so-called "blue ribbon commission" named to investigate the CIA, and he has consistently fought to improve civilian control over intelligence operations. I am delighted to be joined by Senator PROXMIRE in introducing this important measure.

It is clear that something is wrong at the Central Intelligence Agency. We have learned of the CIA involvement in overthrowing the Chilean Government, the CIA involvement in Watergate, the apparent CIA involvement in domestic surveillance, and, most recently, the CIA involvement in industrial espionage against our closest NATO allies which I disclosed last week. So something is wrong, Mr. President—it seems to me the CIA has either become a runaway bureaucracy, or it has, at the request of other Government agencies or officials, become a sort of shadow government engaged in nonintelligence activities solely to expedite action or minimize congressional oversight.

The CIA, however, is only a small part of the entire intelligence community of the Federal Government. It employs fulltime less than 15 percent of the persons employed fulltime in intelligence activities by the Federal Government, and its budget, by best estimates, is slightly more than 10 percent of the entire Federal intelligence community budget. So it does not make sense to examine the CIA in a vacuum, and the resolution we introduce today will permit the Senate to study the entire Federal intelligence community.

Equally important, our resolution requests that the President appoint a special prosecutor to investigate and to act on any violations of law which have occurred in the Federal intelligence community. A free nation must have an effective intelligence service, and effective intelligence may involve some actions which are repugnant to a free society. But if such actions are necessary, they must be conducted within precisely defined statutory limits—and the integrity of our institutions requires that any violations of these statutory limits be vigorously prosecuted.

Moreover, it is clear that a special prosecutor, from outside of Government is required because of the repeated allegations that other agencies of Government, including the Justice Department, have been involved in CIA excesses. Only last week, it was reported that the Justice Department supplied the CIA with names of domestic dissidents for surveillance overseas; it was also charged that the CIA surveillance was not confined to overseas. So we believe a special prosecutor, guaranteed to have the independence which marked the Watergate prosecutor's office, is required.

Mr. President, I ask unanimous consent that this resolution be printed in full at this point in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S. Res. 6

Resolved, That (a) there is established a select committee of the Senate, to be known as the Select Committee on Intelligence Operations and Activities (hereinafter referred to as the "select committee"), to conduct a study and investigation of the intelligence operations and activities carried out by, under the direction or supervision of, or on behalf of the intelligence community of the Federal Government with a view to determining whether, and to what extent, illegal, improper, or unethical actions, have been engaged in by any persons, acting either individually or in combination with others, while carrying out intelligence operations or activities or while acting under the guise of carrying out such operations or activities.

(b) The select committee shall be composed of eight members of the Senate, four to be appointed by the majority leader of the Senate and four to be appointed by the minority leader of the Senate, but not more than two members of the select committee may be members of subcommittees having permanent jurisdiction over Central Intelligence Agency authorizations or appropriations.

(c) The select committee shall select a chairman from among its members from the majority party and a co-chairman from the minority party. A majority of the members of the select committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

(d) For the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the select committee shall not be taken into account.

Sec. 2. (a) The select committee is authorized and directed to do everything necessary or appropriate to carry out the study and investigation specified in the first section of this resolution.

(b) Without limiting the foregoing, it shall also be the function of the select committee to conduct a study and investigation with respect to the charter of the Central Intelligence Agency, including, but not limited to, a consideration of the following matters:

(1) The extent to which the statutory authority of the Central Intelligence Agency has been modified, expanded, or diminished by Executive Orders, by National Security Council actions, decrees, or directives, or by other means.

(2) The effectiveness of civilian control of, and Congressional oversight over, the intelligence community of the Federal Government, in insuring its operation within existing statutory guidelines, and the impact which any modifications of authority described in paragraph (1) of this section may have had on such control and oversight.

(3) The effectiveness of the existing charter in guaranteeing individual constitutional rights and the integrity of democratic institutions, consistent with the requirements of national security.

(4) The nature and extent of any Central Intelligence Agency activities performed on behalf of, or at the request of, other government departments, agencies, or officials.

(5) The extent to which the Central Intelligence Agency activities duplicate or supersede the non-classified activities of other government departments or agencies.

(6) The effectiveness of existing charter provisions in maximizing legitimate intelligence coordination and evaluation, while minimizing covert operations.

(7) The extent of any involvement by the intelligence community of the Federal Government in the private sector of the domestic economy, and the effectiveness of existing statutes in defining such involvement consistent with the national interest.

(c) As used in this resolution, the term "intelligence community of the Federal Government" includes—

(1) United States Intelligence Board;

(2) The Central Intelligency Agency;

(3) The Defense Intelligency Agency;

(4) The Intelligence and Reports Bureau of the Department of State;

(5) The National Security Agency;

(6) The intelligence components of the Army, Navy, and Air Force;

(7) The Atomic Energy Commission;

(8) The Federal Bureau of Investigation;

(9) The Department of the Treasury; and

(10) Any other department, agency, bureau, or office engaged in or responsible for intelligence operations or activities for or on behalf of the Federal Government.

Sec. 3. (a) To enable the select committee to make the investigation and study authorized and directed by this resolution, such committee is authorized (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpena or otherwise the attendance as witnesses of any persons who the select committee believes have knowledge or information concerning any of the matters or questions it is authorized to investigate and study; (5) to require by subpena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm, or corporation, or any officer or former officer or employee of any firm or corporation employed by the United States to conduct any intelligence operations or activities for the United States, to produce for the consideration of the select committee or for use as evidence in its investigation and study any books, checks, canceled checks, coorespondence, communications, documents, financial records, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to study and investigate which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to appear before it in obedience to a subpena or order, or in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it, or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm, or corporation, or any officer or former officer or employee of any firm or corporation employed by the United States to conduct any intelligence operations or activities for the United States, to produce before the committee any books, checks, canceled checks, correspondence, communications, documents financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience in any subpena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202 (i) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any other of the Senate committees or the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to make the investigation and study authorized and directed by this resolution; (11) to have access to any data, evidence, information, report, analysis, or document or papers relating to any of the matters or questions which it is authorized and directed to investigate and study in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government having the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States which will aid the select committee to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by the Senate to perform the duties and exercise the powers conferred upon it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpoenas may be issued by the select committee acting through either of the cochairmen or any other member designated by either of them, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. Either the chairman of the select committee, or any other member, thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

Sec. 4. The select committee shall have authority to recommend the enactment of any new legislation relating to the intelligence operations or activities of the Federal Government which the select committee considers necessary or desirable as the result of its study and investigation.

Sec. 5. The select committee shall make an interim report of its findings not later than six months after the date this resolution is agreed to, and a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations for any new legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than February 28, 1976. The select committee may also submit to the Senate such additional interim reports as it considers appropriate. After submission of its final report, the select committee shall have 90 days to close its affairs, and on the expiration of such 90 days shall cease to exist.

Sec. 6. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by either of the two cochairmen of the select committee.

Sec. 7. (a) It is the sense of the Senate that the President immediately designate an individual of the highest character and integrity from outside the Executive Branch to serve as special prosecutor for the Government of the United States in any and all criminal investigations, indictments, and actions arising from any violations of the National Security Act of 1947 or the Central Intelligence Act of 1949 by any person acting individually or in combination with others.

(b) It is further the sense of the Senate that the President should grant such special prosecutor all authority necessary and proper to the effective performance of his duties and should submit the name of such designee to the Senate, requesting a resolution of approval of such designee.

SENATE RESOLUTION 7—SUBMISSION OF A RESOLUTION CONCERNING SALARY INCREASES IN THE FEDERAL GOVERNMENT

(Referred to the Committee on Post Office and Civil Service.)

Mr. HANSEN. Mr. President, today, we find the Nation confronted with a number of serious and complex economic problems. The economic woes of the Nation have affected almost every individual in our great country.

The President has recognized these problems and has made recommendations to the Congress to ease and, hopefully, put an end to our present economic difficulties.

Both the President and the Congress recognize there will be no immediate relief, but rather hope for steady economic recovery. During this recovery period, Americans are being asked to sacrifice and conserve.

At a time when the President and the Congress are asking Americans to sacrifice, it seems completely ridiculous that serious consideration be given to a congressional pay raise. It would be clearly irresponsible for the Congress to raise salaries of its Members while concurrently asking the rest of the Nation to carry the burden of the present economic difficulties.

Mr. President, last year this same Senate voted against such a pay raise. Today, the economic plight of the country is worse than last year at this time. Accordingly, this year the need is even greater for the Senate to go on record opposing a pay raise.

It is in this context I introduce my resolution expressing the sense of the Senate that, first, the President should not recommend a pay raise for the Congress and other high-level Government officials, and, second, if the President should make such a recommendation, the recommendation should be disapproved.

Adoption of this resolution is necessary to express to the American people that the Congress, in time of economic difficulty, is holding the lid on unnecessary spending, and more importantly, will not consider raising salaries of its Members while asking those who elected them to sacrifice during these troubled economic times.

Mr. President, I ask unanimous consent that my resolution be printed at this point in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S. Res. 7

Resolved, That it is the sense of the Senate that (1) the President should recommend, with respect to his recommendations to be transmitted to Congress during calendar year 1975 under section 225 of the Federal Salary Act of 1967, that salaries of positions referred to in such section not be increased, and (2) if recommendations are made during calendar year 1975 for increases in salaries, those recommendations should be disapproved.

SENATE RESOLUTION 8—SUBMISSION OF A RESOLUTION CONCERNING PROPOSED BUDGETARY RESCISSIONS

(Ordered held at the desk, by unanimous consent.)

Mr. CANNON. Mr. President, today I have introduced a resolution which if passed will in spirit disapprove a proposal by the President of the United States to rescind $1.3 million previously appropriated by the Immigration and Naturalization Service for detention and deportation of illegal aliens. It is imperative that we act on this resolution with great speed, to set the record and to inform the President that the U.S. Senate will not approve rescissions where the integrity of the law enforcement system is put in jeopardy.

Recently, in my home State of Nevada, the supervisory immigration officer for the Immigration Service sent letters to every local law enforcement agency requesting that they no longer arrest and detain illegal aliens. He cited the reason as a reduction of the immigration budget to detain and remove illegal entrants. This individual also announced this fact in the newspapers and over the broadcast media. The reduction he spoke of obviously is the $1.3 million proposed by President Ford for rescission.

I ask unanimous consent that the letters to which I have referred be printed at this point in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

Immigration and
Naturalization Service,
Las Vegas, Nev., December 31, 1974.

Hon. Michael O'Callaghan,
State of Nevada, State Capitol, Carson City, Nev.

Dear Governor O'Callaghan: Attached is a copy of a letter that I had to write to all local police departments today. This was necessitated by a two-thirds reduction in funds to detain and remove illegal aliens as of January 1, 1975.

Because of your recent interest and support I felt that you might prefer to be made aware of the situation before it was brought to your attention from other sources.

Sincerely,

James E. Walsh,
Supervisory Immigration Officer.

Immigration and
Naturalization Service,
Las Vegas, Nev., December 31, 1974.

Dear Sir: This is to advise that I have just received notification that the Immigration Services budget to detain and remove illegal aliens from the U.S. have been drastically reduced as of January 1, 1975. Regretfully I must ask that your officers do not apprehend or place in detention any illegal alien in violation of Title 8 United States Code 1325 (Illegal Entry) until such time that the budget of the Immigration Service is increased. Hopefully, an additional appropriation will be approved by Congress in the near future which will allow the Immigration Service to return to normal operations.

I wish to also take this opportunity to thank you and your officers for the splendid cooperation received in the past. Please be assured of our continued interest and that we are available to assist your personnel in any way possible but that for the present and until further notice we cannot accept custody of an alien where detention and transportation costs are involved.

Sincerely yours,

James E. Walsh,
Supervisory Immigration Officer.

Mr. CANNON. Current estimates are that there are more than 10,000 illegal aliens in Nevada alone. Mr. President, this figure increases to 4 to 7 million nationwide. Many illegal aliens are collecting welfare benefits, but all are taking advantage of the many social benefits that we, as taxpayers, are paying for. A substantial number of those who are employed, estimated at more than 1 million, are sending their earnings out of the country, not to mention the fact that they are filling jobs desperately needed by the growing numbers of unemployed Americans. These people are not performing only menial tasks, but many hold highly skilled industrial jobs, their skills having been learned while working on the job.

Attorney General Saxbe is more than aware of the problem. In fact, he has pointed it out very well in several addresses. He has said that a goal of the Service is to open up 1 million jobs during 1975. The action of President Ford can only do a disservice to this goal, and at a time when the President himself deems it necessary to create public service jobs. The President can advance his own goal, and the common goal of myself and my colleagues, of reducing our high unemployment by enforcing the laws already established to protect our citizenry in their jobs.

Under the Impoundment Control Act of 1974 we are empowered to rescind the budget authority as requested by the President. Further, we are empowered to disapprove his proposal by failing to pass a rescission bill within the 45-day period subsequent to the President's proposal. However, during the 45-day period the President need not spend the money Congress already has appropriated. In the case of the Immigration Service, that means that for at least 45 days illegal aliens have almost complete freedom to enter the United States, knowing they will not be deported. By then the harm will be done. The Congress cannot sit idly by and allow this. Therefore, I ask my colleagues to join me in this effort to assure equitable but consistent enforcement of our laws.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD at this time.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION 8

Resolved, That it is the sense of the Senate that funds appropriated for the lawful detention and deportation functions of the Immigration and Naturalization Service will not be rescinded;

That funds proposed for rescission and labeled funds for detention and deportation should be allowed for such expenditure without delay or deferral;

That Title 8 United States Code 1325 (illegal entry) should be strongly enforced without interruption.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the resolution submitted earlier today by the distinguished Senator from Nevada (Mr. CANNON) concerning proposed budgetary rescissions be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 9—SUBMISSION OF A RESOLUTION AMENDING THE RULES OF THE SENATE RELATING TO COMMITTEE MEETINGS

(Referred to the Committee on Rules and Administration.)

Mr. CHILES (for himself, Mr. ROTH, Mr. BIDEN, Mr. BROCK, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. JAVITS, Mr. JOHNSTON, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. MUSKIE, Mr. PACKWOOD, Mr. PERCY, Mr. PROXMIRE, Mr. STAFFORD, Mr. STEVENSON, Mr. TAFT, Mr. WEICKER, Mr. BUMPERS, Mr. STONE, Mr. CULVER, Mr. FORD, Mr. GARY W. HART, Mr. LAXALT, Mr. NELSON, and Mr. HASKELL) submitted the following resolution:

S. RES. 9

Resolved, That paragraph 7(b) of rule XXV of the Standing Rules of the Senate is amended to read as follows:

"(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

"(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

"(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

"(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

"(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

"(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt."

SEC. 2. Section 133A(b) of the Legislative Reorganization Act of 1946, section 242(a) of the Legislative Reorganization Act of 1970, and sections 102 (d) and (e) of the Congressional Budget Act of 1974 are repealed.

Mr. CHILES. Mr. President, 2 years ago I introduced S. 260, the Federal Government in the Sunshine Act. The first part of that bill changes the Senate standing rules to require open meetings of all standing, select, or special committees and subcommittees of the Senate, subject to certain exceptions. While work has been progressing on the bill similar attempts have been made by other means to make the Senate more responsive to the growing public sentiment that the workings of the National Government should be open to scrutiny.

Just today, the Senate Democratic conference unanimously approved the proposed rule change to open up all Senate committee meetings including markup sessions, except for a few specific exceptions contained in the resolution. Also, the Democratic conference voted to endorse an additional rules change, which Senator ROTH and I are introducing, which would open up conference committee meetings between the House and Senate unless a majority of either House votes to close.

I am also hopeful that the Republican conference will follow suit this afternoon.

In March of 1974, the Senate adopted my amendment by a vote of 55 to 26, to add an open meeting provision to the Congressional Budget Act of 1973. This was a step in the right direction. I am introducing this resolution with Senator ROTH and others which is based on the same language that the Senate approved in the Congressional Budget Act, but applying it to all standing, select, and special committees, as another step toward the goal set out in the Federal Government in the Sunshine Act on which work will continue this Congress. If the Senate adopts this resolution, I am sure that the Senators will come to the same conclusion that many Members of the House have come to, that Government works as smoothly out in the open as it does behind closed doors, and there is the added benefit of a more knowledgeable and trusting public. Once this has happened, the passage of the Federal Government in the Sunshine Act will be an easier task.

SENATE RESOLUTION 10—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE SPECIAL COMMITTEE ON NATIONAL EMERGENCIES AND DELEGATED EMERGENCY POWERS

(Referred to the Committee on Foreign Relations.)

Mr. CHURCH (for himself and Mr. MATHIAS) submitted the following resolution:

S. RES. 10

Resolved, That the Special Committee on National Emergencies and Delegated Emergency Powers, established by Senate Resolution 9, Ninety-third Congress, agreed to January 6, 1973, as continued and supplemented by Senate Resolution 242, Ninety-third Congress, agreed to March 1, 1974, is continued through February 28, 1976.

Sec. 2. In carrying out such function, the special committee is authorized from March 1, 1975, through February 28, 1976, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amended, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 3. For the period from March 1, 1975, through February 28, 1976, the expenses of the special committee under this resolution shall not exceed $151,000, of which amount not to exceed $25,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended.

Sec. 4. The special committee shall make the final report required by section 5 of that Senate Resolution 9, Ninety-third Congress, and modified by Senate Resolution 242, Ninety-third Congress, not later than February 28, 1976, instead of February 28, 1975.

Sec. 5. Expenses of the special committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the two cochairman of the special committee.

SENATE RESOLUTION 11—SUBMISSION OF A RESOLUTION CONCERNING TARIFF ON IMPORTED OIL

(Referred to the Committee on Finance.)

Mr. CHILES. Mr. President, I submit on behalf of myself and Senators McGovern, Kennedy, Abourezk, Roth, Pell, Hathaway, Stone and Leahy, a sense of the Senate resolution calling on the President to reconsider his announced intention of imposing under Presidential powers a tariff of up to $3 a barrel on all imported oil and to permit the Congress to fully consider this proposal in conjunction with the other energy measures put forth by the President.

There can be no question that such a tariff will have a far-reaching impact and it is imperative that the Congress participate in determining whether this is a workable approach for dealing with the ills of excessively high oil and oil product prices. Further, the Congress must have the opportunity to insure fair and equitable treatment among all regions of the Nation.

In the past year the price of foreign petroleum products has skyrocketed. In certain areas of the country, most notably New England, the Eastern Seaboard and Florida, which are largely dependent upon imported petroleum products for electrical generation and home heating, this dramatic increase has impacted severely and disproportionately. Energy costs for residents and business concerns in these areas are now at the point of being a serious economic burden. Efforts to persuade the administration to revise the allocation program and provide for more equitable distribution and pricing among all regions have brought little meaningful relief. This experience hardly serves to encourage the hope that an adequate equalization program would accompany the imposition of the import tariff.

As the President has indicated, the time for real sacrifices is upon us. Not to expect this is simply to ignore the realities of our present dilemma. However, it is not justifiable that some regions should make greater sacrifices than others, because of traditional market patterns that involve a reliance on imported petroleum. Equal treatment must be the rule in our energy policy.

The question of levying a tariff on imported crude oil and petroleum products is clearly a matter that the Congress must fully consider in helping to develop this Nation's energy conservation and development program. I urge my colleagues to join in requesting the President to allow Congress the opportunity to act on this most important question.

Mr. President, I ask unanimous consent that the text of the resolution be printed at this point in the Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S. Res. 11

Whereas the President has announced that he will impose a gradually increasing tariff up to $3.00 a barrel on all imported oil;

Whereas this action is to be based upon Presidential emergency powers without congressional consideration or approval;

Whereas a tariff on imported oil would have a significant economic impact on certain regions of the country dependent on imported petroleum products for electrical generation and home heating;

Whereas those areas of the Nation which import large quantities of petroleum products have suffered a severe and disproportionate economic burden as a result of skyrocketing foreign oil prices;

Whereas the potential far-reaching effects of this tariff warrant careful deliberation by the Congress in conjunction with its consideration of other energy proposals put forth by the President: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President submit to the Congress his proposal for a tariff on imported oil for appropriate congressional study and action.

ADDITIONAL STATEMENTS

DEATH OF FORMER SENATOR BURTON K. WHEELER

Mr. YOUNG. Mr. President, since I first came to the Senate nearly 30 years ago, it has been my good fortune to have served with some of the alltime great Members of the U.S. Senate. One great Member was Senator Burton K. Wheeler of Montana, who passed away just recently.

Mr. President, I share the feelings expressed by Mr. John Hjelle, editor of the Bismarck Tribune, Bismarck, N. Dak., in a recent editorial entitled: "B. K. Wheeler, Senate Giant." Probably one of the reasons why, like editor Hjelle, I was impressed with Senator Wheeler is that we, too, were some kind of isolationists previous to World War II. Shortly after I came to the Senate Mr. Hjelle became my administrative assistant, and he was a very good one.

Mr. President, I think this editorial very appropriately and effectively points out the truly fine qualities of Senator Wheeler. I ask unanimous consent to have it printed in the Record as a part of my remarks.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Bismarck (N. Dak.) Tribune, Jan. 10, 1975]

B. K. WHEELER, SENATE GIANT

Over the years the state of Montana has sent some notable people to Washington, but none has shown with the luster that Burton K. Wheeler, who died this week, brought to the U.S. Senate for many years.

It is a bit ironic that most obituaries which followed his death emphasized the isolationist aspect of his political career. As isolationist he was, if being opposed to American entry into World War II prior to Pearl Harbor made him that, but he was one of the real giants of the Senate long before he earned that label.

A native of Massachusetts, Wheeler moved to Montana and began law practice there as a young man in 1905. Quickly he became a fighter for what then were regarded as "liberal" policies, including opposition to what was called "the copper trust" control of the political and economic structure of Montana, Montana was then "company state" counterpart of the "company town."

In 1923 he moved to the Senate and there quickly became one of the most respected—and often feared—members that body has had. His mind was lightning quick and there was acid on his tongue. Unswervingly he championed the cause of the working man and the farmer, honesty in government and non-intervention in American foreign policy.

He probably lost as many, if not more battles than he won, but even in losing he gained prestige in Washington and influenced the course of major governmental decisions.

This, plus his superior power of eloquence, is what made Wheeler notable: His total intellectual integrity, an integrity that made him take up causes he believed needed champions whether they were popular and carried a chance of success or not. Right or wrong, when he believed in something he fought for it, and it was never for a selfish motive.

In passing, it might be observed that Montana has a worthy successor to Wheeler today in the person of Sen. Mike Mansfield, insofar as his dedication to the supra-political interests of the country are concerned. Even as majority leader, Mansfield has seemed most of the time to place the country's welfare ahead of political advantage, which is something it would be nice to see from more lawmakers on the state as well as the national level. But Mansfield would be the first to admit that he is no Burton K. Wheeler, and probably also that no one now in the Senate begins to measure to those proportions.

RATIFICATION OF THE GENOCIDE CONVENTION ESSENTIAL THIS YEAR

Mr. PROXMIRE. Mr. President, gross violations of human rights still persist in every corner of the globe. And the forms it takes are always ugly. The most abhorrent violations include summary execution, torture and denial of due process to political dissidents, apartheid, racial discrimination, and denial of self-determination. Even genocide, the massacre of racial, religious, national, or ethnic groups, persists as the tragic conflict in Biafra so poignantly demonstrated.

In the early days of the United Nations, the U.S. delegates helped to marshall world opinion behind the Universal Declaration of Human Rights. This remarkable document was meant to establish "a common standard of achievement for all peoples and all nations" and sets forth the entire range of political, economic, social, and cultural rights.

Since its adoption, there have been 23 conventions and 13 declarations to implement these noble ideals. Yet the U.S. Senate has failed to ratify 29 of these 36 documents. Even the alleged inconsistencies between provisions of the conventions and our Constitution would not warrant outright rejection because we have the authority to add reservations to objectionable portions of these treaties.

The most startling example of Senate inaction is the Genocide Convention. This was the first human rights treaty adopted by the United Nations and our delegates were instrumental in its drafting and were among its first signatories. Yet this treaty has languished before the Senate for over 25 years. In the 93d Congress, a vote on the merits of the treaty was thwarted by a filibuster even though a clear majority of the Senate—55 Members—favored its consideration.

Mr. President, in the 94th Congress we have the best chance ever to reverse our appalling record. I appeal to my colleagues, particularly the new Members who are here today, to join me in the effort to ratify the Genocide Convention.

RETIREMENT OF MR. CLARENCE JOHNSON, VICE PRESIDENT OF LOCKHEED AIRCRAFT CORP.

Mr. GOLDWATER. Mr. President, a man who has done probably as much as any other single individual to advance aviation in America and the world and to have placed America in the preeminent position of the world's No. 1 airpower is retiring as vice president of Lockheed Aircraft Corp. He is Mr. Clarence Johnson, but to those of us to which aviation has meant so much, he will always be known as Kelly.

It has been my honor, my privilege, and my pleasure to have known most of the leaders of American aviation during the 45 years I have been an active pilot, but I know of none of these that I hold in higher esteem than I do Kelly. Not because I have flown practically every airplane he has built, but because I have had the opportunity of watching how this genius works, how he takes on problems that others have said could not be solved and clears them up. I have watched the very successful way he has worked with our minorities in his famous "Skunk Works," and has made of these people excellent mechanics.

I also have known of his frustrations as he has attempted to explain advancements he has designed in flight, advancements which originally were turned down but which ultimately were accepted by all knowledgeable people in aerodynamics. U.S. aviation and the world's aviation will miss this genius, but I know in the years ahead he will never be a retired man, he will always have his hand in wherever new advances in the science of flight are developed.

I ask unanimous consent that an article appearing in the Washington Post of November 8, 1974, and a release from the corporate headquarters of Lockheed be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 8, 1974]

LOCKHEED'S JOHNSON RETIRES; RENOWNED AIRCRAFT DESIGNER

(By Michael Getler)

Clarence L. (Kelly) Johnson—the most renowned and imaginative aircraft designer in the United States, and perhaps the world—yesterday announced his plans to retire as senior vice president of Lockheed Aircraft Corp.

A quiet, private man little known to the public, Johnson is responsible for a half-dozen of the most critically important breakthroughs in the history of aviation—ranging from his design of the fabled P-38 "Lightning" fighter of World War II to the equally famous U–2 spy plane and its successor, the 2,000-mile-per-hour SR-71.

In between those projects and over the course of 43 years with Lockheed, Johnson, now 64, personally contributed to the design of some 40 aircraft. About half of them were his original design. Included were the P–80, the first mass-produced jet fighter in U.S. history; the Constellation series of airliners; the F–104, the first double-sonic U.S. fighter; and the versatile C–130 transport plane.

Johnson's designs were usually spawned in a secret location that became known as the "Skunk Works," after the Li'l Abner comic strip.

He designed the first all-pressurized cabin for high-altitude flight in the XC–35; he put wing-tip fuel tanks for the first time on the P–80, making jets able to stay in the air longer; he put three tails on the famous Constellation airliner and came up with the first 500-plus m.p.h. commercial transport; he sharply reduced the wing area of all previous jets with the tiny F–104 Starfighter to help push it to close to 100,000-foot altitudes and 1,400 m.p.h. speeds.

Johnson's most secret and undoubtedly most famous project was the U–2, a glider-like plane that flew too high to see and too quietly to hear, carrying cameras that for the first time gave U.S. intelligence officials a look inside the Soviet Union, its airfields and missile bases.

The U–2, built in just eight months, was an example of the knack Johnson had for turning out radically new designs fast when they were needed.

It was that same knack for speed that first drew attention to Johnson's talents. In 1937, he went to England to interest the Royal Air Force in the new Hudson bomber. He virtually redrew the plans overnight to meet new RAF requirements.

After a U–2 piloted by Francis Gary Powers was downed by a Soviet high-altitude missile in 1960, its value as a top-secret reconnaissance plane was lost. Within four years another even more secret plane, the SR–71, was operating at even higher altitudes and greater speeds than the U–2.

After the SR–71 became public knowledge, President Johnson in 1964 awarded Kelly Johnson the National Medal of Science for his accomplishments "and the products of his famous Skunk Works . . . as both incomparable and virtually incredible."

Johnson's retirement will become effective in mid-January, and he will continue to serve the firm as an adviser.

His job as chief of Lockheed's famous advanced development projects will go to Ben R. Rich, 49, who led the propulsion development team for the SR–71 project.

[From the Corporate Headquarters, Lockheed, Burbank]

CLARENCE L. "KELLY" JOHNSON, SENIOR VICE PRESIDENT, LOCKHEED AIRCRAFT CORP.

Clarence L. (Kelly) Johnson was advanced to senior vice president at Lockheed Aircraft Corporation in 1969 from the position he had held since 1958 as vice president-advanced development projects. He was elected a member of the board of directors in 1964.

Johnson has played a leading role in the design of 40 of the world's finest aircraft—among them the F–80, America's first production jet, the high-altitude U–2, the double-sonic F–104 Starfighter, and the spectacular 2,000-m.p.h. YF–12A and SR–71.

Creation of the F–80 Shooting Star, which first flew in 1944, set a pattern for Johnson and his Lockheed co-workers: Be quick. Be quiet. Be on time.

His is a technique that is mirrored nowhere else in the aerospace industry. It is to set goals never before attained, assign the best talent available to increments of the problem, combine the solutions, and refine the over-all efforts—on a tight but practical schedule.

Some of Johnson's design achievements are among the best-known airplanes in the world—the Hudson bomber, Constellation and Super Constellation transports, P–38, T–33 trainer, F–90 JetStar, U–2, Warning Star, YF–12A, and SR–71.

A native of Michigan, Johnson was born in Ishpeming on Feb. 27, 1910. He later moved to Flint, was graduated from Flint Junior College, and completed his education at the University of Michigan, where he received his bachelor of science degree in 1932 and his master of science degree in aeronautical engineering in 1933.

While in college, he worked as a consultant on several projects, one of which was the aerodynamic design of cars slated for the annual Indianapolis race.

Johnson joined Lockheed in 1933 as a tool designer. After assignments as flight test engineer, stress analyst, aerodynamicist, weight engineer, and wind tunnel engineer, he became chief research engineer in 1938.

In 1952, Johnson was named chief engineer at Lockheed's Burbank, Calif., plant, now the Lockheed-California Company. When the office of corporate vice president-research and development was established in 1956, he was chosen for the post. In 1958 he became vice president-advanced development projects.

Many honors have come to him for his unique contributions to aerospace developments through the years, and to the defense of the United States and the Free World. (These are listed, chronologically, on attached sheets.)

Johnson is an honorary fellow of the American Institute of Aeronautics and Astronautics, a fellow of the Royal Aeronautical Society, and a member of the Society of Automotive Engineers and Tau Beta Pi and Sigma Xi engineering fraternities.

Mr. Johnson is married to the former Maryellen Elberta Meade of New York State and they live in Encino, Calif. They spend weekends working on their ranch near Santa Barbara, Calif.

HONORS AND AWARDS

1937: Lawrence Sperry Award, presented by the Institute of Aeronautical Science (now the American Institute of Aeronautics and Astronautics) for "important improvements of aeronautical design of high speed commercial aircraft."

1941: The Wright Brothers Medal, presented by the Society of Automotive Engineers for work on control problems of four-engine airplanes.

1956: The Sylvanus Albert Reed Award, presented by the Institute of Aeronautical Sciences, for "design and rapid development of high-performance subsonic and supersonic aircraft."

1959: Co-recipient of the Collier Trophy as designer of the airframe of the F–104 Starfighter, sharing the honor with General Electric (engine) and U.S. Air Force (flight records). The F–104 was designated the previous year's "greatest achievement in aviation in America."

1960: The General Hap Arnold Gold Medal, presented by the Veterans of Foreign Wars for design of the U–2 high altitude research plane.

1963: The Theodore Von Karman Award, presented by the Air Force Association for designing and directing development of the U–2, "thus providing the Free World with one of its most valuable instruments in the defense of freedom."

1964: The Medal of Freedom, presented by President Lyndon B. Johnson in ceremonies at the White House. The highest civil honor the President can bestow, this recognizes "significant contributions to the quality of American life." Johnson was cited for his advancement of aeronautics.

1964: The Award of Achievement, presented by the National Aviation Club of Washington, D.C., for "outstanding achievement in airplane design and development over many years, including such models as the Constellation, P–80, F–104, JetStar, the U–2, and climaxed by the metallurgical and performance breakthroughs of the A–11 (YF–12A).

1964: The Collier Trophy (his second), following his work on the 2,000-m.p.h. YF–12A interceptor. His achievement for the previous year was called the greatest in American aviation.

1964: The Theodore Von Karman Award (his second), presented by the Air Force Association for his work with the A–11 (YF–12A) interceptor.

1964: Honorary degree of doctor of engineering, University of Michigan.

1964: Honorary degree of doctor of science, University of Southern California.

1964: Honorary degree of doctor of laws, University of California at Los Angeles.

1965: San Fernando Valley Engineer of the Year, so designated by the San Fernando, Calif., Valley Engineers' Council.

1965: Elected a member of the National Academy of Engineering.

1964: Elected a member of the National Academy of Sciences.

1966: The Sylvanus Albert Reed Award (his second), given by the American Institute of Aeronautics and Astronautics "in recognition of notable contributions to the aerospace sciences resulting from experimental or theoretical investigations."

1966: National Medal of Science, presented by President Lyndon B. Johnson at the White House.

1966: The Thomas D. White National Defense Award, presented by the U.S. Air Force Academy in Colorado Springs, Colorado.

1967: Elected Honorary Fellow of American Institute of Aeronautics and Astronautics.

EDITORIALS BACK FIRST AMENDMENT

Mr. PROXMIRE. Mr. President, Wisconsin television stations WEAU–TV and WMTV have editorially endorsed legislation to eliminate the equal time rule and fairness doctrine that control this Nation's broadcasters.

I ask unanimous consent that the editorials of WEAU–TV, Eau Claire, and WMTV, Madison, be printed in the Record.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

WEAU–TV, Eau Claire, Wis., Editorial, January 2, 1975

(Announcer Ed Hutchings)

Wisconsin Senator William Proxmire says he is going to try to eliminate the equal time rule for broadcasts by political candidates, and the FCC's fairness doctrine. We strongly support his goal and we think you should, too. Under current equal time laws, it is often not possible to broadcast meaningful political debates. Witness the recent attempt by the Wisconsin Educational TV Network to present all the gubernatorial candidates together. It failed because of the number and diversity of candidates and parties. Senator Proxmire says the fairness doctrine, which requires radio and TV stations to air opposing views on controversial subjects, often leads broadcasters to either avoid public issues, or pull their punches to avoid complaints and jeopardize their licenses. We think the public is entitled to the protections of the first amendment, including freedom of speech and the press, and we support Senator Proxmire's upcoming legislation in this regard.

WMTV, Madison, Wis., Editorial, January 1, 1975

(Presented by: Don Schmitt, News Director)

A major issue to be introduced in the U.S. Senate early in the new year will seek to untie the binds which restrict the nation's broadcasters in presenting bona fide political candidates.

Senator William Proxmire has vigorously turned around from defending the Fairness Doctrine to criticizing it as unconstitutional and really not fair at all. The Senator from Wisconsin is right in saying the fairness doctrine is a misnomer . . . that instead of promoting conflicting viewpoints on controversial matters it discourages them from being aired.

It's no small matter when the medium that most people depend on for their primary source of news is government regulated to the extent of actually limiting public enlightenment.

Senator Proxmire deserves enthusiastic support in his effort to realistically relax restrictions which make it difficult for the broadcasting industry to effectively do its job keeping the public as fully informed as possible.

JACK BENNY

Mr. TUNNEY. Mr. President, the world of entertainment and the Nation lost a great man at the turn of the year—Jack Benny.

I was privileged to be an honorary pall bearer at the funeral of this wise and gentle man in Los Angeles. Hundreds of those who loved him were there, many of them weeping, to pay their final respects.

The career of Jack Benny, who claimed to be a perpetual 39, spanned six decades of the 20th century, during which he brought laughter, relaxation, and sheer joy to millions of people.

He was a comedy genius. He created a character that delighted audiences across the Nation and around the world—the pinch-penny skinflint, the clumsy violinist, the hapless victim of the times.

The real Jack Benny, of course, was none of these things.

Those who knew him well knew him to be the most generous of men, generous of his time and his talents and resources.

He could always be counted upon for benefit performances for a variety of worthy causes. He was generous with sound advice to young performers. And he was generous in spirit, trusting and tolerant, a devoted family man.

He also was a much more accomplished violinist than his audiences knew and might well have become a concert performer had he not decided on a comedy career.

Jack Benny survived all the fads in humor. His brand of comedy was consistently appealing because it had a universality that bridged generations and nationalities. He also survived the fast-paced technological changes in the entertainment industry, moving smoothly from stage to radio to film and television with ease and bringing delight to the millions who saw and heard him.

He made the Nation laugh in good times and bad. Through the dark days of the Great Depression and World War II, during Korea and Vietnam, he relaxed a tense nation and gave us the perspective and balance to endure our difficulties and meet our problems.

Jack Benny was a great man. We miss him very much.

INTERVIEW WITH SENATOR PROXMIRE

Mr. HATFIELD. Mr President, one of our most distinguished colleagues, Senator Proxmire, is often the subject of press interviews for the simple reason that he is intelligent, informative, and refreshingly forthright. A recent interview that well conveys that impression is in the winter 1974 issue of Lithopinion, the quarterly journal of the Amalgamated Lithographers of America and lithographic employers represented by the Metropolitan Lithographers Association.

David Gelber's conversation with Senator Proxmire ranges over his favorite areas of interest in this body: banking, housing, consumer protection, Federal spending, and the military. The Senator's remarks are particularly interesting in view of his assuming the chairmanship of the Banking, Housing, and Urban Affairs Committee. I ask unanimous consent that the interview be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATFIELD. Mr. President, I would also commend the journal itself to my colleagues' attention. Lithopinion is devoted to the presentation and discussion of social, cultural, and political change and experimentation in the graphic arts. It does a fine job in all these areas.

Exhibit 1

Lithopinion, Winter 1974

The Conscience That Moves the U.S. Senate—William Proxmire—Maverick

(A profile-interview By David Gelber)

I had heard about Senator William Proxmire's devotion to his daily, several-mile jog; and since I, too, run each day, I asked him on a visit to Washington if I might accompany him. He turned me down. "I'm really too competitive to run with anyone," he said, "and besides, I like to run alone."

For 16 years, this lean, 58-year-old Wisconsin Democrat has been doing just that—running alone, in the United States Senate. And he's been doing it pretty well. Former Senator Paul Douglas once declared, "A liberal need not be a wastrel." For Proxmire, Douglas' aphorism carries the force of holy writ. Long ago he established himself as an expert in the areas of housing and finance and of defense spending, and he has waged a constant and often lonely campaign to restore competition to the "free enterprise" system by withdrawing subsidies from the rich and the powerful.

"The idea has been that every time the Federal government spends another 10 or 20 thousand dollars it creates another job. The fact that that is not true should be apparent to anyone who can add. In the past five years the Federal budget has exploded from $184 billion to more than $305 billion. That colossal increase in spending should have resulted in a corresponding expansion in jobs and a reduction in unemployment. Did it?

"It is true the work force increased and employment in the economy grew. But far less than it should have. Unemployment grew much more in proportion than jobs did. Indeed after a break-neck expansion of government spending we find unemployment which was 3.4 per cent five years ago, now at 5.3 per cent.

"I predict that if we reduce the rate of increase in Federal spending, and do it in the right areas—being sensitive to the employment consequences of our action—that unemployment will not worsen as a result of the slower rate of growth in Federal spending."—Sen. Proxmire, Aug 22, 1974.

Many people once put down Proxmire as simply an eccentric who couldn't resist a losing battle (he was even brazen enough to challenge the Senate leadership of Lyndon Johnson). While he may still be regarded in some quarters as a maverick, now, in his new post as chairman of the Senate Banking, Housing and Urban Affairs Committee—and with the state of the economy uppermost in everyone's mind—William Proxmire is a maverick whose time has come.

Proxmire's liberalism developed somewhat late in life, although he recalls that as a child growing up in a comfortable Chicago suburb he held a more optimistic view of human nature than did his father, a conservative Republican physician. But his personal discipline as well as his aversion to wastefulness apparently derive from his father's belief in working 14 hours a day, seven days a week.

He is in the office at 8:15 every morning after a 4.7-mile jog from home and a shower in the Senate locker room. He eats breakfast over the morning papers, and doesn't stop until 6:30 P.M. when he goes home and reads up on the next day's work. One of the Senator's aides, now one of Washington's best antitrust lawyers, told me that Proxmire's major fault is that "he works too damn hard." Once elected "class grind" by his prep-school classmates, Proxmire is the least platitudinous of Senators. He can cram more detailed information into a 60-second television news spot than any politician in the Capitol.

An article in today's New York Times by respected reporter John W. Finney indicates that Defense Department officials are complaining that the $82.5 billion defense budget is not enough.

"Apparently they are saying that the Pentagon needs about $11.5 billion more to fund major weapon programs.

"This will undoubtedly come as a surprise to many in Congress. After having spent eight months examining the defense budget in great detail by four committees of Congress, all of a sudden we find that the ante has been raised by another $11.5 billion. . . .

"If a supplemental is requested, it would mean that the Congress would be called upon to fund three major DOD bills this one calendar year. We first had the fiscal year 1974 supplemental request of $6.2 billion, subsequently reduced slightly. Then came the major DOD bill of some $92.5 billion in budget authority. And now there is the possibility of yet another major bill of up to $11.5 billion."—Sen. Proxmire, Sep. 19, 1974.

Proxmire was headed for a business career—he had studied at Harvard Business School—as a trainee at J.P. Morgan Inc., which must give pause to his foes on Wall Street these days. World War II interrupted that, however, and a stint in the Army's Counter Intelligence Corps (the CIC, which was sometimes referred to as "Christ I'm Confused," says the Senator), left Proxmire with a sense of the military's limitations and a determination to enter public life.

After the war Proxmire worked as an investigative reporter for a newspaper in Madison, Wis. He got involved with organizing a union there and was eventually fired.

Wisconsin politics were at that time dominated by the spirit and personality of Senator Joseph McCarthy. The Democratic Party was a political basket case in need of the kind of energy Proxmire could provide. He was elected to the state assembly in 1950, ran for Governor two years later and then again in 1954 and 1956, losing each time. A Wisconsin newsman has calculated that Proxmire has shaken more than 2.5 million hands in his political career, and all that manual exercise finally paid off for him in 1957 when he won a special election held after the death of Joe McCarthy.

Philosophically, Proxmire is less a New Deal Democrat than old-fashioned capitalist with a distaste for anything that restraints or contaminates free trade. When Pan American Airways came around begging for a taxpayers' subsidy, Proxmire emerged as perhaps the key Congressional opponent—as he was of the Lockheed loan and the SST.

"When President Ford decided not to assist Pan Am with a bailout of $10.2 million a month, he reaffirmed belief in the free market system. We have had too many bailout precedents in recent years. It was beginning to appear that every major corporation in financial difficulty looked first to the Federal government for a handout.

Now that chain has been broken, and I hope, for good.

It must be admitted that many of Pan Am's problems were not of its own making. But that is not to overlook those critical financial factors that were caused by Pan Am's management.

With unprofitable routes, high overhead, rapid changes in top management and simple bad forecasting, Pan Arm must share the burden of responsibility with the uncontrollable element of fuel prices."—Sen. Proxmire, Sept. 19, 1974.

Besides a strong distaste for unnecessary government spending, Proxmire was an early advocate of consultant protection—especially in the areas of banking and finance. In his new committee chairmanship role, he is expected to try to make banking more competitive, especially in areas like California, where one bank dominates the entire banking industry of the state.

"The Agency for Consumer Advocacy will be the one Federal agency whose mission will be to stop many unjustified price increases. How? Here is how: It is obvious that the Agency for Consumer Advocacy will be a potent force for bringing down prices of goods and services for the American consumer. . . .

"We need the same kind of representation before the Federal Communications Commission, which sets telephone rates, before the ICC, which sets freight rates that add to the cost of food and other goods, and before a host of other Federal agencies, which influence the prices paid by all of us consumers, whether we are aware of this or not.

"One of the points made at one of the first summit conferences held at the White House was the point made by witness after witness that if the government would do its job, a good part of this inflationary problem would be solved. A part of that job is to see that excessive, unjustified price increases under regulated industries are not approved; but they are approved. Why? Because we have not adequate regulatory procedure. The point that the consumers are being exploited simply is not made, and that is what this agency would do."—Sen. Proxmire, Sept. 19, 1974.

Another one of Proxmire's aims will probably be to increase the flow of capital for housing starts and for mortgage loans. The skyrocketing interest rate—it has risen from six per cent to more than nine per cent today—has, since 1966, priced at least 10 million families out of the housing market, and Proxmire aides estimate that roughly two-thirds of all American families cannot afford a new home because interest rates are so high. Proxmire believes that careful pruning of the Federal budget would free funds for housing, which is always nearly last in line in the scramble for investment capital.

"If we cut spending by $10 million and balance the budget, the Federal government will not borrow that additional sum, and interest rates will begin to move down.

"Will that provide more jobs? Yes indeed. How?

"Because the housing market—that is now in a serious depression because high interest rates make it almost impossible for millions of Americans to buy homes—will fall. This could make a difference of as many as 500,000 more housing starts this year. And that number of housing starts means one million additional direct jobs and probably two million indirect jobs." —Sen. Proxmire, Aug. 22, 1974.

Proxmire's juiciest target, however, has always been the military budget. Although he stoutly insists that nothing he proposes would weaken the nation's legitimate defense posture, the Senate helped to publicize the battle—and subsequent firing—of Ernest Fitzgerald, the Pentagon cost-analyst who fought a lonely fight against military cost overruns—until he lost his job. Proxmire insisted that Fitzgerald was just doing his duty honestly, and as a result Fitzgerald was vindicated and the Air Force exposed for trying to cover up its own inefficiency.

Proxmire's cost estimates of weapons systems have time and again turned out to be more reliable than the military's. On this score, a Republican colleague has said of the Senator, "I thought he was just another wild-eyed, simple-minded spender who resented the Pentagon because of its money.

But, he's done his homework—and he helps us understand these weapons."

"A further example that spending per se is not necessarily good is seen in the example of the space shuttle. What will it do? What benefits will we be getting for the massive spending of $6.5 billion?

"I addressed a letter to the head of the space program and asked for the justification for the space shuttle. Specifically I asked what tangible benefits we could expect from the program. Here is the key justification in the reply: "The basic premise leading to the conclusion that this nation should proceed with the development of a space shuttle system is that the U.S. should and will continue to have an active space program from now on." In simple words, the main rationale for the shuttle is that it will keep the space program going. But it also means a steady drain on the U.S. Treasury.

"The agency also asserted, without proof, that the program would save costs. The space program now uses exceedingly costly, expendable boosters. Obviously, a reusable shuttle will be cheaper than expendable boosters if enough trips are made. But a study by the Rand Corporation prepared for the Air Force demonstrated that the shuttle would have to carry more than $141 billion in traffic over its 13-year lifetime before it would become cost effective. But what are the payloads for? What is a space transportation system going to carry? Is Congress going to have to appropriate $141 billion over the shuttle's lifetime in order to make worthwhile the shuttle's $6.5-billion development costs?"—SEN. PROXMIRE, 1972.

Proxmire does have detractors who aren't bankers and generals. Some colleagues think he is a publicity hound. A House Democrat who, along with Proxmire, is a member of the Joint Economic Committee, told reporter Martin Nolan, "I resent the perversion of this committee into a personal vehicle for one of the cheapest demagogues in the United States. I've never seen the public interest interfere with the direct personal interest of Bill Proxmire." Most observers, however, would regard this estimate as petulant in the extreme.

If Proxmire is publicity-minded, he is anything but pretentious. While jogging to work in the early morning hours, he has been harassed on several occasions by would-be muggers. The Senator, who was a welterweight boxing champ at Yale, foiled one such attempt by beating off his attackers. He then called the police and was truly amazed when squad cars full of captains and lieutenants materialized in no time at all. "These Metropolitan Police are really efficient," Proxmire later told an aide. "Do you think it might have something to do with your being a senator?" the aide asked a little cynically. "Gee, I never thought of that," said Proxmire.

Another assailant fell victim to the Senator's unconventional department. This time the mugger carried a gun. "Go ahead and shoot me—I'm going to die of cancer soon anyway," the Senator said. The baffled gunman just walked off.

"Under our free press system, a publisher has the right to print what he pleases. It is the competition of the market-place of ideas that insures the public's right to be informed. Any governmental control of ideas, even though those ideas were universally accepted as truth, would lead eventually to a bland homogeneity of thought that would rob our society of its dynamism. Of course, there is no guarantee at all that government will be omniscient. History proves that. History proves that governmental control is dangerous to a free society. In other words, the free press carries with it the right to be wrong as well as to be right."—SEN. PROXMIRE, Sept. 17, 1974.

Proxmire says he is not going to run for President, and there is little doubt that he is a far more dedicated senator than some of his upward-bound colleagues. Possibly Proxmire would lose some of his fearlessness if he had to worry about running for President, but one former aide thinks he would make a terrific chief executive. "But I'm just not sure," he said, "that the country would stand for a guy who actually carries out his beliefs."

While Senator Proxmire did not let me jog along with him on his morning home-to-office "constitutional," I did get a chance to talk to him last summer—a brief interview sandwiched in between the filming of a news spot for a Chicago TV station and a meeting of the Joint Economic Committee. We started off talking about one of the Senator's favorite subjects—the current state of American banking, the government's relationship to it, and its down-to-earth effects on you and me. The Senator said, "The Federal Government and large corporations have diversified their holdings. They're investing far more in corporations, large and small, and to the extent that banks now reach into every village and town in America, they have to encourage a more personal relationship between the banker and the people who borrow money.

"The FHA used to draw a red line around the inner sectors of the big cities and said they would not insure loans in those areas. This meant that even if a person was a very good credit risk with a steady job, he couldn't borrow because he lived in the ghetto. Of course, this was racist and discriminatory, and it was sure to result in continuing deteriorating conditions in the inner city. I fought hard and got an amendment which repealed the FHA restriction.

"There still is a kind of economic red-lining, of course. Banks don't want to make loans in areas that are likely to result in a loss of their investment. But we're trying our best to get them to appreciate the fact that the only way the inner city can be developed is to make private capital available on a far more extensive basis than has been done in the past. We have to encourage banks to take a little risk, to provide counseling and assistance to people who borrow money. We've made some progress, but there still is more negative thinking—failure to act—than there are positive efforts on the part of bankers to provide these funds.

"And there's still a racist factor, of course. The trouble is that it's hard to get eight or 10 or even 100 cases together against a bank that won't make loans in deteriorating areas. They can always argue that there are particular reasons why they made this or that judgment, and the Federal government shouldn't be second-guessing them. What we must do is to insist that they show a steadily improving record of making loans.

"I also think the Federal government has the major responsibility of making it possible for people with modest incomes to buy homes. The fundamental problem is that two-thirds of the people in this country cannot afford to buy a new home. Now that is a shocking fact. It's probably the greatest percentage we've ever had. Right now, the cost of a home is about the same in relation to annual income as it was 30 years ago. Costs and incomes have both gone up greatly, but the carrying charges—the interest rates—are so much higher than ever before that you just knock two-thirds of the population out of the market.

"Now what are you going to do with those two-thirds? Some of those people can buy used housing, which isn't very widely available. The housing stock is low, the vacancy rate is very low and the houses are deteriorating all the time. We need some kind of program that will build housing. Since January 1973, the Administration had had a moratorium on all government-assisted housing. This really aggravates the situation when mortgage money is so short. Because of the credit shortage, loans are going to be made only to people who are top-flight borrowers, and people who are not in that category simply won't be able to borrow money to buy a new home.

"Right now the average working person doesn't have a chance—or very little chance—of buying a new house. With interest rates over nine per cent on mortgages, people are spending about 36 per cent of their income on housing costs. That is extraordinary. The usual estimates suggest that people spend no more than 25 per cent of their income on housing. This means they're going to have to cut cruelly into their food budgets, clothing budgets and so on. They'll have no entertainment, no vacations, none of the amenities that most people live for. It's a very rocky, tough situation. Most people who already have their homes are not affected. In fact, they have it pretty good. But it has a sad, even tragic effect on family after family trying to get homes. This includes young, newly formed families who often have to live with relatives or in mobile homes—and that can mean crowding and tension within families. There is a transient feeling, a sense of not belonging. You're a rolling stone outside of the mainstream of community life.

"Of course, I have nothing against people who want to live that way, and I'm sure some do prefer it. Some of the mobile home parks are beautiful, but a lot more are not, and the atmosphere for children can be very bad in some of the poorer mobile homes. I think we also have to recognize that the mobile home interest rate is much higher than the rate on a conventional home. It's not a permanent investment like a conventional house is. So the crowded quality, the fact that it's not a real investment in the long run, the transient atmosphere, the feeling that you don't belong to a settled community—all of these are tremendous problems, although I'd hate to think where we'd be without mobile homes right now."

I showed the Senator a copy of the LITHOPINION editorial "Beware of Socialists Wearing Vests," in which Edward Swayduck argued that the Administration's supposed remedy for inflation, high interest rates, is not a very effective inflation fighter and is, at the same time, harmful to the vast majority of Americans—and asked him what he thought about it. He replied, "Well, he's right. An increase in interest rates does tend to discourage borrowing and therefore spending by home buyers, small businessmen, farmers and state and local government.

"In this way it reduces demand and eases pressure of prices. But big business and big government is not interest-rate sensitive. So what's the result? The little man is hurt. The big man is helped. And the easing of demand pressure on prices is reduced by the increased cost pressure from higher interest rates.

"For these reasons, Mr. Swayduck's conclusions make considerable sense."

We then got onto the topic of military spending. This is what he said as he tightened up his tie, gathered up some papers from his desk and headed for the door: "We have to cut Federal spending, or else the Federal government's demand for funds, which is so very great, will increase interest rates and increase prices.

"The big, vulnerable area for reduction, of course, is military spending. The military budget is fat and wasteful, and we can cut it without reducing the strength of our military force. I loved what Admiral Rickover said on this score. He pointed out that we'd have a stronger Navy if we fired half the Admirals. We've got more Admirals now than we had at the height of the Second World War, when we had six times as many people in the Navy. The same thing is true of the Army and the Air Force. Every Admiral has a staff. If you fire the Admiral, you also fire his staff and the civilian component as well.

"In addition, there's no reason why we need more aircraft carriers. We have 16 aircraft carriers, and the Soviet Union has how many? None. Zero. So we're not competing with them in aircraft carriers. Or take long-range bombers: We're building B-1 bombers at an eventual cost of $20 billion. What do we need long-range bombers for? We already have four times as many as the Soviet Union, and the missiles are much better than the long-range bombers anyway. Here's another strange one: What are we doing with 300,000 troops in Europe 30 years after World War II? How long are those troops going to stay there? It seems to me that we could cut those troops in half. We're spending $30 billion on our troops scattered all over the world—far greater than any empire in history—and they are not serving the purpose of defending this country effectively. I think we could cut that back. I'm not saying cut it out, but we could cut it back. And if we did, we could save billions of dollars.

"In addition to that, I'd certainly cut back for this year the space program. There's no urgency in the space shuttle. We're not going to Mars next year or the year after, but we're spending hundreds of millions of dollars in that area.

"I think the notion of building the highways of this country at such a rapid pace is another area where we might call a moratorium and hold down spending.

"These are the basic areas where we could easily cut $10 billion. As a matter of fact, a group of former top defense officials—Admirals and Generals—agreed that we could cut $14 billion out of the military alone, and still have a stronger military force than anyone else.

"One other area I might mention is foreign military assistance. What in the world are we doing providing ammunition, tanks and planes to other countries so they can fight each other? We're doing that with the Middle Eastern countries, and if they use them, they'll use them against each other. We're providing them for Pakistan and India so they can fight each other. This isn't only financially wrong. It's morally mischievous, and we ought to stop it."

A BREAKTHROUGH IN UNITED STATES-EUROPEAN COOPERATION

Mr. McINTYRE. Mr. President, January 9, 1975, marks an historic event in cooperation between the United States and its European allies. A major weapon system, the short-range air defense system, or SHORADS, developed by European companies, has been selected on a competitive basis with European and American systems for adoption by the U.S. Army. In the broadest context this is a major milestone in United States and European cooperation, and opens the door wide on the cooperative development and production of military equipment.

Congratulations are in order for Hughes and Boeing, the winning American team of contractors, as well as to Aerospatiale of France and Messerschmidt-Boelkow-Blohm of Germany, who jointly developed the winning Roland short-range air defense system, and who will build the system with American labor under license. I am primarily interested, however, in the fact that a European-developed system has been selected and less concerned with which of the three competing European systems won the competition.

My long term interest in fostering greater cooperation with our European allies in the development and production of military equipment is a matter of record, and has been the subject of numerous statements I have made on the floor of the Senate in recent years. Also, I have been successful in encouraging the Senate Armed Services Committee to support such cooperation in its actions on the annual military procurement authorization request. These cooperative efforts result in substantial savings to the U.S. taxpayer by avoiding unnecessary duplication of development while providing American industry and American labor with work by building the equipment in the United States. They also provide additional benefits to the United States by encouraging our allies to procure military hardware developed and produced either completely or in part in the United States for use by their military forces.

The Department of Defense has stated on numerous occasions that unwarranted duplication of research and development has wasted literally billions of dollars over the years, which could have been saved if real cooperation had been accomplished in the past.

Mr. President, the selection of Roland is a real step in the direction of standardizing military equipment deployed in Europe. However, there is a real challenge to standardization which I must emphasize and which in my mind is a matter of great concern. Even though a common system is adopted initially by several countries, there is a strong tendency for each country to change that system to meet its own needs. Carried to extremes, this would upset the very objectives and economies of standardization, and ultimately result in completely different equipment winding up in the hands of the military forces of each country. There must be a consciousness of this danger, and there must be a concerted, deliberate, and continuing effort made to resist this tendency. I will strongly emphasize this danger at every opportunity and, with respect to U.S. participation in such programs, do my utmost to prevent it.

I am satisfied that the integrity of the source selection process employed by the Department of Defense has been maintained in the choice of Roland. I must assume that Roland was selected entirely on the basis of its merits and reflects an objective and deliberate procedure. In fact, the competition was wide open. Twenty-one companies were invited to bid and four proposals were submitted, three of which were European developments.

Mr. President, this decision and the continuing interest of the Research and Development Subcommittee, which I chair, should encourage the Department of Defense to consider all candidate weapon systems, including those of European manufacture. This is a clear signal to our European allies that Congress and our Department of Defense does not have a parochial view in this matter and fully supports the objective of buying the best equipment available at the least cost and within the time period required. This was the important message I conveyed to our European partners, not only in statements in the RECORD, but as a personal message delivered by a member of the staff of the Armed Services Committee who, at my direction, visited various European countries both in 1973 and 1974. I think it worth mentioning that on both occasions he reported back that great emphasis was placed by the various European countries on the fact that they considered this program to be the real test of U.S. cooperation and would prove our willingness to adopt a European-developed system. The selection of Roland is a direct answer and will leave no doubt in their minds of U.S. intentions in the future.

I look forward with great hopes for a broadening of cooperation with our European allies to our mutual benefit, and for the maximum attainment of standardization in military hardware wherever possible. Our eroding economy demands that such measures be vigorously pursued.

RURAL DEVELOPMENT HEARING SCHEDULED FOR JANUARY 22, 1975

Mr. CLARK. Mr. President, the Subcommittee on Rural Development intends to hold an oversight hearing at 10 a.m., Wednesday, January 22, in room 324 of the Russell Senate Office Building.

While no public witnesses have been invited to testify, interested citizens can submit testimony for the record before January 22.

The hearing will examine the condition of rural America in recession and the effectiveness of Federal programs in combatting the impact of that recession. We have asked four administration witnesses to testify, and we have solicited written reports from a number of other agencies.

Of course, the subcommittee's principal responsibility will be to examine the implementation of the Rural Development Act of 1972, as well as other programs of the Department of Agriculture as they relate to rural development.

The first witness, therefore, will be Assistant Secretary of Agriculture for Rural Development William Erwin, along with supporting staff from UDSA.

The second witness will be from the Department of Housing and Urban Development. We intend to discuss a number of matters, including the proposed deferral of $50 million in 701 planning funds.

We also will discuss with the HUD representative the implications for nonmetropolitan areas of the Housing and Community Development Act of 1974. In this regard, we hope to hear how the Department intends to coordinate the housing and community development for people living in rural areas as provided for in section 603(b) of the Rural Development Act. Finally, we will cover the recent statements by officials of that agency on the desirability of more intensive development and their impact on HUD's attitudes and policies toward rural people.

The third witness will be Mr. Roger Strelow, Assistant Administrator for Air and Waste Management of the Environmental Protection Agency.

We will discuss with Mr. Strelow the possible impact on rural land use and development of the recently approved regulations to prevent significant deterioration of air quality in areas where the air is already cleaner than required by Federal standards. Further, we will want to discuss with the EPA witness his perceptions about the role of EPA in rural development, particularly in regard to the effect of the agency's new responsibilities on development.

The final witnesses will be the Deputy Director of the Bureau of the Census, Mr. Robert L. Hagan, and the Associate Director for Demographic Fields, Mr. Daniel B. Levine.

One of the major problems facing rural developers is a lack of adequate economic and social data for rural areas, especially current data on employment and housing. The Bureau of the Census is working with other agencies including the Department of Agriculture, in this area, and we would like to know what data is available and what additional information is needed to facilitate implementation of rural programs.

In addition to these witnesses, we have asked for written reports:

From the Secretary of Labor on the rural applications of the Concentrated Employment and Training Act as well as the new emergency public service employment legislation.

From the Secretary of Commerce on how he intends to coordinate the activities in forest fire control and community fire protection.

From Assistant Secretary of Health, Education, and Welfare, Stanley B. Thomas, Jr., on the progress he has made in realizing the potential of the HEW Office of Rural Development.

From the Secretary of Transportation on the rural highway public transportation program; the developmental highway program; and the findings and conclusions of recent department research in the field of rural transportation.

CRIPPLING THE FOOD STAMP PROGRAM

Mr. McINTYRE. Mr. President, in the January 15, 1975, issue of the Washington Post, Mr. William Chapman has written an article which I think deserves special note. I have been concerned for some time over the proposed increase in eligibility requirements for the food stamp program which the current administration has introduced. That is why I joined with many of my colleagues in voicing my concern through a letter to the Department of Agriculture over this issue. Recent mail from my constituents in New Hampshire has confirmed my early fear about this increase, since it clearly will effect those who are most ravaged by the duel pressures of inflation and recession.

Mr. President, proposals such as this are false economy. We must use our food stamp program to cushion the impact of our economic troubles on the less fortunate. I would hope that many of my colleagues would review this article and reflect upon the devastating impact the proposed cut back would have.

Mr. President, I ask unanimous consent that the text of the article by Mr. Chapman be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CRIPPLING THE FOOD STAMP PROGRAM

(By William Chapman)

Someone once said that the last unexplored territory of the United States is the Department of Agriculture. The phrase comes to mind as one attempts to unravel the Department's proposal to dismantle a very large part of the food-stamp program and to understand why it was made at this particular time. This has nothing to do with the recent rule which deprives middle-class college students of their food stamps; it has to do with the order, soon to be promulgated, which will take them away from a very large number of those who need them most, the elderly and the poorest of the poor.

The cut-back was first announced by President Ford who seems to have had no firm grasp on the details of what he was proposing. Mr. Ford said, at a news conference, that this venture in budget-cutting would affect only "certain individuals" who would have to pay only "slightly more" in cash to obtain the stamps. This estimate was soon contradicted by the Department of Agriculture, which acknowledged that 95 per cent of the recipients would be affected to some extent and that the cost to the average user would increase by nearly one-third.

The fact, insofar as an outsider can comprehend it, is that the food stamp program is an unwanted stepchild which the Ford Administration inherited from the 1960s and which the current Secretary of Agriculture, Earl L. Butz, would just as soon disinherit. The scenario ran something like this: The President demanded that several billion dollars be cut from the budget this fiscal year. Each department was required to offer up some sacrifice. Butz looked over his columns, passing quickly by the farm subsidy system and the county agents, and came upon food stamps. He has said several times that this is a *welfare* program which, if permitted to exist at all, should be operated by some other part of the government. It was only natural, then, that the sacrifice the Secretary chose to offer was this odd-ball poverty scheme hatched by, of all persons, Sen. George McGovern (D-S.D.) and somehow allowed to nest in his Department of Agriculture.

The Butz plan to save $650 million a year had a superficial ring of equity: Every food-stamp purchaser would be required to pay a flat 30 per cent of his adjusted income, for whatever amount of stamps he used each month. Under current law, he pays according to a sliding scale, based on his adjusted income. The hitch, outsiders quickly noted, was that this simple formula would mean a substantial added cost for almost everyone in the program. The average purchaser today pays only 23 percent of his income. So this average person, come March, will find his food-stamp budget increased by nearly one-third.

That would be serious enough, given the low incomes of all food-stamp users, but it is calamitous for the people on whom it falls most heavily. These are the elderly poor, those least capable of defending themselves against such levies. They have been accustomed to patching out their meager budgets with food stamps that cost only 10-20 per cent of their incomes. An elderly couple with, say, $270 in adjusted monthly income can now pay $64 and receive food stamps worth $84. It is a bonus of $20. Under the Butz plan, they will be required to put up $81 to receive the same $84 worth of stamps—a bonus of $3.

It is not difficult to see what lies ahead for for persons in such circumstances. They will simply drop out. Who will stand in long lines, fill out a 6-page form to become certified, and, once in the supermarket with his stamps laboriously separate his hamburger from non-qualifying purchases, all for the sake of a $3 savings? It is asking too much, even of those for whom $3 is not an inconsiderable sum. The Department of Agriculture declined to estimate how many of the 15 million persons currently using food stamps might withdraw from the program. The best guess is that of the Community Nutrition Institute, which figures that about 10 per cent, or 1.5 million persons, would find the benefits of food stamps to be so small that they would abandon them completely.

It is the simple-minded miserliness of this proposition that is most offensive but beyond that, Mr. Ford should think ahead to the damaging political consequences of his Secretary's peculiar choice. The food stamp program no longer is an unwanted orphan dependent for its existence on a few earnest do-gooders in Congress: It happens to be the most popular and defensible social welfare program this side of Social Security. Congress is very likely to rewrite the law and take away the President's unilateral authority to raise the amount that food stamp recipients must pay. Mr. Ford will then be in the position of deciding whether or not to veto an early act of the new Congress in order to support his Secretary's instinctive aversion to welfare programs.

NOMINATION OF BILL COLEMAN TO BE SECRETARY OF TRANSPORTATION

Mr. HUGH SCOTT. Mr. President, yesterday the Senate received the nomination of my good friend Bill Coleman to be Secretary of Transportation. This is a nomination I heartily applaud and strongly support. His qualifications and credentials for this job are impeccable. An article in the Philadelphia Inquirer discusses this nomination. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD. as follows:

WILLIAM COLEMAN WOULD BE AN EXEMPLARY APPOINTMENT

In Washington, the word came out over the weekend that President Ford has chosen William T. Coleman Jr. to be his new secretary of transportation. If that is a trial balloon we hope it flies.

On the face of his record of accomplishments, Mr. Coleman is remarkably qualified for the post. At 54, he has a biography of brilliance and of unstinting hard work going back to his graduation with honors from the University of Pennsylvania and then as head of his Harvard Law School class and editor of its law review.

He was a clerk to Supreme Court Justice Felix Frankfurter. On entering the private practice of law, he methodically accumulated a record of good—and hard—works that defies cataloguing.

Importantly in terms of Mr. Coleman's

promise as a member of the President's cabinet, the record represents an astonishing breadth of experience in public affairs: Among other tasks have been service as a member of the U.S. delegation to the United Nations, of President Nixon's National Commission on Productivity, of the Federal Price Commission, as consultant to the Arms Control and Disarmament Agency, and as an assistant counsel to the Warren Commission.

But of perhaps the greatest significance in the almost endless list is Mr. Coleman's experience in the area of public transportation. From 1952 through 1963 he was special counsel for the city of Philadelphia for transit matters. From then on he has served as special counsel to Southeastern Pennsylvania Transportation Authority and has been a member of SEPTA's board.

Because of all that, it seems to us that it is quite irrelevant that Mr. Coleman has black skin. His race has no bearing—as is entirely proper—on his qualifications.

But there is a significance—symbolic though it is, in the fact that if he is appointed and confirmed Mr. Coleman would be only the second person of his race to serve in the cabinet of an American President.

Through all the years that he was accumulating the impressive credentials we briefly cited, Mr. Coleman also was working indefatigibly and courageously for the rights and opportunities of black Americans.

Eleven years ago, he said to an audience of 1,000 in a Germantown church: "Achievement and desire are universal, not national or racial. All people, regardless of race, color or creed, suffer, are warm, have desire, ambitions, want to achieve, and want to inspire their youth . . . Running a foot race or playing football isn't easy and nobody wins the race of life by taking it easy."

William Coleman has not taken it easy. But he has run a lot of races, and run well. For that, we believe he would make an exemplary and effective secretary of transportation.

SCHOOL BUSING

Mr. BIDEN. Mr. President, busing of public school pupils in Boston has generated considerable violence during the last few months. At one point, two high schools were closed.

William Raspberry, columnist for the Washington Post, has written a perceptive column about schoolbusing in general and specifically suggesting a great difference exists between school busing in Little Rock, Ark., and in Boston, Mass. Mr. Raspberry, a black himself, suggests that if the logic applied to public-school busing to achieve racial integration were applied to housing, then we'd be able to understand such a difference—one between busing to defeat segregation and busing to achieve integration.

Mr. President, I ask unanimous consent that the Raspberry column I have referred to be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE DIFFERENCES BETWEEN LITTLE ROCK AND BOSTON

(By William Raspberry)

Those who thought the North was different must be astonished at the similarities between what went on in the Deep South two decades ago and what is going on in Boston today.

There on each evening's television news is the open, curled-lip hatred, the vicious race baiting, the bitter defiance of the law, the demagoguery, the venomous racial epithets—all the old familiar themes from the South of 20 years ago.

There are also the demonstrations, the marches, the chants, the strong-willed determination to follow through on a chosen course even at the risk of jail—all the old familiar trappings of the black movement.

It looks like Little Rock gone North.

But the similarities between North and South over race and education have already occasioned a good deal of commentary. What goes largely unremarked are the *differences* between Little Rock and Boston.

To begin with, what the plaintiffs asked and what the courts ordered in Little Rock is really quite different than what was sought and achieved in Boston. Little Rock was firmly rooted in the *Brown* decision that said a school system may not maintain schools open only to whites or to blacks; that children—the Little Rock Nine—could not be required to attend the traditionally black high school when Central High was nearer where they lived.

The Boston plaintiffs argued, as many of the recent Northern suits have argued, that it is not enough to maintain a unitary school system, that it is also unlawful and wrong to have schools that are identifiably white or black on the basis that a large proportion of the children who attend them are of the same race.

The two notions are really quite different, even though they are both termed "desegregation."

An analogy to black and white neighborhoods makes the point. The principle of the *Brown* decision applied to housing would hold that no person could lawfully be denied access to housing he could afford on the basis of his race. It is a principle widely endorsed, even though it is obvious that racial steering, *sub rosa* agreements and plain lying still are used to keep black people from moving into "white" neighborhoods. At least occasionally, people get caught and brought to justice for these racist efforts.

The point here is while neighborhood segregation and public school segregation are very much of a piece, springing from the same sources, no one has seriously proposed for neighborhoods the same second step that is commonly demanded for schools: Integration by any feasible means.

We count desegregation as accomplished when it is possible for blacks to buy or rent anywhere their money will let them, and if some neighborhoods remain identifiably white or black (as some Washington neighborhoods clearly are) no one alleges racial segregation.

But with schools, the prevailing view is that it isn't enough to stop setting aside schools for white and black pupils; the school must be integrated. If assignment by home address does not result in integrated schools, then other means must be employed to achieve that result.

If someone made a similar proposal for ending racially identifiable neighborhoods, he'd be carted off to the looney bin.

It's one thing to take a real estate operator's license, or even to send him to jail, for refusing to show black home-seekers houses in "white" neighborhoods. It is another to hold Wesley Heights out of compliance until more black families can be brought to live there, whether they particularly want to or not.

There is another interesting difference between Little Rock and Boston. In Little Rock, it was clear what the black plaintiffs were after. Central and the other white schools had better facilities, more resources and better educational programs than the neglected black schools.

But it is hard to see what anybody hopes to gain by busing his children into South Boston High. If Southie is significantly better off than Roxbury—culturally, economically or educationally—it isn't very obvious to me. The area apparently has a highly developed sense of community, but that doesn't seem to be what Boston blacks are after.

The only thing South Boston has in obvious abundance is whiteness, and someone seems to have decided that proximity to whiteness is in and of itself a worthy goal for black people. I missed the meeting when they explained why.

Boston, it must be emphasized, did not wind up with its black residents concentrated in certain neighborhoods, and in certain schools, by accident. The evidence is that decisions on where to locate new schools and where to draw attendance boundaries, among others, have been made in ways calculated to minimize racial integration.

It may be that these racist actions should be punished. But it is hard to see how using black children as instruments of that punishment does very much for the children. Or for anyone else.

PROF. ALEXANDER BICKEL

Mr. MATHIAS. Mr. President, the year 1974 saw the passing of one of the great constitutional scholars of our time, a rare academic who had received public recogntion, as well as the recognition of his peers and his profession. That man was Prof. Alexander Bickel of the Yale Law School. His public recognition was due to the central role played in recent history by the basic principles of the Constitution to which Professor Bickel had devoted himself. Whether the issue was Watergate or school desegregation; impoundment or excessive privilege. Professor Bickel was indeed one of the men of the hour of our recent times.

Professor Bickel was a consultant for the Subcommittee on Separation of Powers, on which I have had the pleasure of serving. His contributions to that subcommittee were many.

Known to his students as an advocate of judicial restraint, Professor Bickel's views ran counter to the times during the years of the Warren Court, which were years of judicial activism. His book which provided the major statement of this thesis of judicial restraint was entitled "The Least Dangerous Branch." Some feel that this was his conclusion about even a most activist judiciary.

Mr. President, on December 27, 1974, George F. Will in a column in the Washington Post discussed the relationship of the Bickel philosophy to Watergate. I ask unanimous consent that this column be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE ROOTS OF WATERGATE

(By George F. Wills)

In 1969 Prof. Alexander Bickel of the Yale Law School was invited to address a gathering of Yale alumni on the subject "What is happening to morality today?" He said: "It threatens to engulf us."

He meant that we are living in "an age of assaultive politics." The legal order is battered by "a prodigality of moral causes," each of which is immoderately righteous, and gifted at rationalizing disobedience of the law and disregard of the traditions of civility. Bickel returned to this theme in the January 1974 issue of Commentary magazine, in the most brilliant political essay of the year, "Watergate and the Legal Order."

He argued "that much of what happened to the legal and social order in the fifteen years or so before Watergate was prologue." In those years three distinct groups—white southern militants, the civil rights movement, the white middle class anti-war movement—preached disobedience to law, and practiced what they preached.

Watergate, Bickel said, was not a radical departure from the course of our recent history. Rather, it was a manifestation of the radicalism that, for 15 years, in various guises, had been challenging "the premise of our legal order," the idea that the complicated arrangements of the legal order are themselves "more important than any momentary objective."

Bickel's most acute—and acutely resented—perception was this: The impatient, righteous, anti-institutional impulse that helped produce Watergate had been much in evidence—and much applauded—in government itself, since the mid-fifties:

"The assault upon the legal order by moral imperatives wasn't only, or perhaps even the most effectively, an assault from the outside. It came as well from within, in the Supreme Court headed for fifteen years by Earl Warren . . . More than once, and in some of its most important actions, the Warren Court got over doctrinal difficulties or issues of the allocation of competences among various institutions by asking what it viewed as a decisive, practical question: If the Court did not take a certain action which was *right* and *good*, would other institutions do so, given political realities? The Warren Court took the greatest pride in cutting through legal technicalities, in piercing through procedure to substance. But legal technicalities are the stuff of law, and piercing through a particular substance to get to procedures suitable to many substances is in fact what the task of law most often is."

Thus the "derogators of procedure and of technicalities, and other anti-institutional forces, rode high, on the bench as well as off." In a democracy the derogation of concrete institutions inevitably becomes a populist celebration of an abstraction—"the people." Thus, as Bickel noted, it was "utterly inevitable that such a populist fixation should tend toward the concentration of power in that single institution which has the most immediate link to the largest constituency"—the U.S. presidency.

So, Bickel said, we wound up with "a Galluist presidency . . . needing no excuse for aggregating power to itself beside the excuse that it could do more effectively what other institutions particularly Congress, did not do very rapidly or very well, or under particular political circumstances would not do at all. This was a leaf from the Warren Court's book . . . I don't know when Mr. Nixon caught the liberals bathing, but he did walk off with their clothes, and stood forth wearing the plebiscitary presidency . . "

The truth that Bickel wanted us to see before it is too late, is that Watergate was an episode in what is becoming a tradition. It was an eruption, in a new form, of a familiar anti-institutional righteousness, the assaultive politics of the populist impulse. Thus Watergate, although past, is prologue, part of the engulfing stream of moral righteousness.

But the truth Bickel wanted us to see is unwelcomed, and hence an unheeded, truth in this year-end atmosphere of national self-congratulation about "surviving" Watergate.

Hell, Hobbes said, is truth seen too late. Republics—at least fortunate republics—can be saved from damnation by a few constitutionalists like Bickel. But threats to republics are many and constant. Great constitutionalists are few and moral. Alexander Bickel, the keenest public philosopher of our time, died of cancer late in this, his forty-ninth, year.

TWIN INFLATION-RECESSION ECONOMIC PROBLEMS

Mr. MONTOYA. Mr. President, it is becoming more clear every day that the Congress will be called upon to provide the decisive action which must be taken to combat our twin problems of inflation and recession. I believe that we must act quickly, and I agree that the place to begin is not with a greater tax burden on middle-income families.

Last November the President offered a program which he believed will attack the inflation and cure the recession. Unfortunately, the program he offers does very little more than has been done unsuccessfully for the past 5 years. His anti-inflation efforts are intended to counteract inflation through tight money, high interest rates, and cuts in Government spending.

These cures might work if the inflation we were experiencing were the result of demand-pull factors or of increased Government spending. However, our inflation today is the result of several other very strong influences: The cost-push factor of arbitrary and rapidly increasing oil prices by OPEC, a rapidly expanding world demand for fuel, food, and other basic resources, shortages in food crops due to bad weather, oil-related world shortages of fertilizer, and other world phenomena over which we have little control. In addition, we have seen a strong inflationary impact through the "administered" pricing policies of certain large corporations with almost total control of a single industry, and through the development of a strong inflationary psychology.

The administration's cures ignore these various inflationary influences and concentrate on creating recessionary pressures in an effort to force prices back down. It is as though they are saying "Let me break your arm—and then I will see what I can do about setting it." The other half of the President's program offers a public service employment program which would only go into effect after the national level of unemployment had been at 6 percent for 3 months. some interim aid to the housing industry through increased mortgage assistance, and a voluntary program of tightening belts.

The Congressional Research Service, using the Data Resources, Inc., econometric model, found that putting the whole Ford economic program into effect would not decrease inflation appreciably, would not slow the recession, and would not help those who have been hurt by either unemployment or inflation. Its overall impact on the Nation's economy appears to be neutral as it affects inflation, unemployment and gross national product.

If the President's program is not the right way to attack our twin inflation-recession economic problems, what is? Each of us has his own list of possible programs. My own suggestions and recommendations include the following:

EMERGENCY ASSISTANCE TO THOSE MOST IN NEED

First. A limited system of "indexing" for private pensions, similar to the partial indexing already provided for social security and Federal workers. Such a system should not be enacted permanently but should expire after 3 years so as not to build a permanent inflationary factor into the economy.

Second. Indexing of the lowest tax categories to prevent the escalation into higher tax brackets of lower income workers when their incomes are failing to keep up with inflation. Again, this provision should be temporary.

Third. Expanded use of the EDA public works impact program, as proposed by me in S. 4115. By using the EDA as a vehicle for an immediate emergency public service employment program and by tieing it to local unemployment rates, it will be possible to create jobs programs at the local level where they are needed, without waiting for national unemployment levels to reach and stay at a high level. By using the existing EDA machinery, we will not have to wait for a new program to "tool up." This was partially accomplished by the emergency legislation passed at the end of the 93d Congress.

Fourth. Further legislation for a permanent public service employment program similar to the Equal Opportunity and Full Employment Act of 1976, as introduced in S. 3947 by Senator HUBERT HUMPHREY. Senator HUMPHREY's bill is a well thought out and complete program to guarantee work opportunity to every adult. This kind of long-range planning makes sense. Public service employment has a good history in this Nation, and will always be preferable to welfare or unemployment payments. Useful and rewarding work for those who need it and want it can provide needed services to the Nation and at the same time improve our total economic picture.

Fifth. Immediate assistance to the housing and construction industry, which now has an unemployment rate of more than 15 percent. My bill to make the income tax deducation for interest on home mortgages a credit instead of a deduction, thus widely increasing the number of families who have sufficient after-tax income to qualify for a mortgage loan, would help achieve this goal. I will reintroduce an amended version of this bill in the next few weeks. Senator TUNNEY's legislation to provide a tax credit for interest earned on increased savings accounts in order to provide money which would be needed for a rapid increase in home mortgage applications is also important. These two bills would give the housing industry a much needed boost, and would at the same time assist lower and middle income families to acquire a home.

Sixth. The private sector may also require assistance. Among other measures, I recommend a more generous investment tax credit.

ACTION TO COUNTER DOMESTIC INFLATION

First. Vigorous antitrust enforcement. One of the most serious inflationary pressures is clearly the rise in after-tax profits which is now equal to 21 percent of equity—compared to 12 percent of equity in the 1960's. This is at least partly a reflection of "administered" prices—in other words, unfair and uncompetitive price fixing. One cure for this kind of inflationary pressure is vigorous antitrust enforcement and more activism by the regulatory agencies, especially the Federal Trade Commission. If agencies are unable to control this kind of economic greed, I believe Congress must consider abolishing the agency concerned and reconstituting it with new members and more clearly defined responsibilities.

Second. Standby wage and price controls which would include the proviso that this time controls must be across the board on wages, prices, profits, rents, and interest rates. To be effective. controls must be complete. Therefore, firms which must rely on imported and uncontrolled raw material should be granted Federal subsidies to equalize the difference between a U.S. price and the actual world price. This will allow them to maintain the prices they charge to consumers without being unfairly pinched by rising prices.

ACTION TO ADJUST TO WORLD INFLATION AND SHORTAGES

First. Full implementation of research and development programs for energy already passed by the Congress. We must proceed at as rapid a rate as is possible to replace oil as our primary fuel for energy.

Second. Encouragement of conservation of energy in every sector of our economy—not simply by consumers. This means requiring industry to change to conservation-oriented energy use. requiring better home heating and cooling systems in all Federal buildings, encouraging better mass transit systems where they are needed. and requiring that automobiles be gasoline-efficient so that they get at least 20 miles to the gallon.

Third. Immediate creation of a food reserve program for American use, and protections for the American farmer so that international commodity buyers will not be able to keep our farmers on a price rollercoaster as has been done in the last few years. We must provide short-term emergency help to those in the world who need our aid, while at the same time making sure that our long-term planning includes reserves and farmer protections which are the only real hedge we have against the world food famines of the future.

Fourth. A monitoring system for exports in order to prevent massive and hidden sales to any one country, as happened in the 1972 Russian wheat deal or more recently in the hidden sugar sales to the same country.

Fifth. Allocation of fuel to provide sufficient fertilizer and equipment for farmers in order to protect our vitally important food production industry.

All of the above proposals will attack our problems of inflation and recession on a realistic basis. They include both immediate emergency help for those American families who are most concerned. They also include an acceptance of the fact that there are some international pressures which we cannot control and which we will have to accept while planning for alternatives to the demands made upon us. The oil conservation programs which will help us through the time until we develop other sources of energy are an example of these latter plans.

We are in a period when world shortages of raw materials and a growing consumer market in the developing countries, combined with quadrupled world oil prices and crop failures in many places have all helped to push the world price for essentials higher. We must adjust to these factors. Volunteerism is not adequate to handle the conservation measures which are necessary in many of these areas.

At the same time our own inflationary pressures must be controlled and it does not make sense to continue to try to control inflation with decreased production, unemployment, and tight money. It is possible to stabilize our economy, protect our workers, and provide the kind of inflation controls which will bring us back into balance. The sensible way for Congress to do this is through long-range planning which will provide protections for tomorrow as well as today.

I have no hesitation in stating that I believe Congress can accomplish the necessary legislative action to do the job. As it becomes clear to the public that we are doing just that, I am confident that we will see a return of confidence and a heartening surge of our normal American "can-do" approach to economic problems.

GEORGE L. RADCLIFFE

Mr. MATHIAS. Mr. President, the Senate was particularly fortunate between 1935 and 1947 in numbering among its Members George L. Radcliffe, of Maryland. Senator Radcliffe, who died July 29, 1974, at the age of 96, was one of the most unusual of Senators He was an agriculturalist and an academician as well as a lawyer and a legislator, a historian, and a humanist.

A brief biography of Senator Radcliffe has been prepared by Samuel Hopkins, his successor as president of the Maryland Historical Society, and by Engemia Holland, of the society. I know it will be of particular interest to Senators, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

GEORGE L. RADCLIFFE, 1877–1974

(U.S. Senator from Maryland, 1935–47; member of the Maryland Historical Society, 1908–74; Secretary, 1911–31; President, 1931–65; Chairman, 1965–74)

For ninety-seven years from birth at Spocott Farm near Lloyds in Dorchester County on August 22, 1877 until death came in Baltimore on July 29, 1974, Senator George L. Radcliffe enriched the lives of others with warm friendship as he followed a strong urge to use his boundless energy and wide range of interests and abilities. Throughout his life the Senator's old associations grew richer. As his activities and usefulness widened with each passing year he increasingly cherished his family, neighbors and growing new friendships. He particularly enjoyed returning home to the Eastern Shore on every possible week end. For sixty-nine years he happily attended each annual meeting of the Baltimore City College Class of 1905. They had named him their favorite teacher and dedicated the 1905 "Greenbag" and its supplement 40 years later to him.

In describing his early years, in a speech at Pocomoke on May 25, 1946, the Senator said, "I was born within a hundred feet of salt water. My early experiences were in my father's shipyard, on his farms, working in our canning factory mingling with the farmers, fishermen and oystermen who were our neighbors and good friends. The lives of those who toil on farms, on the oyster bars, are open to me." Referring to his view of his service as a United States Senator, he said, "My duty, my pleasure and my ambition is to turn out a good, sincere, unostentatious, successful record of service to my constituents, whether they earn their living with a pen, a hoe or a pinmall. They all look alike to me." In the same year Judge Samuel K. Dennis, the Senator's long-time friend and former Chief Judge of the Supreme Bench of Baltimore said of the Senator," . . . nor is he partisan. He has an idea his services belong to anyone, everyone. Hence men of high and low degree, of all political affiliations, in business and in office alike find him approachable, amiable, infinitely kind and obliging."

Senator Radcliffe thoroughly liked people. He was at ease with others regardless of place, background or differences. He made them feel comfortable and enjoy being with him. A person full of innate goodness and blessed with ability and good judgment, the Senator was instinctively turned to by people when they wanted a man in whom they could place their trust and from whom they would receive fair and wise help or advice. Individuals and groups, often those with conflicting views, turned to him for help in resolving their differences or accomplishing a task. He was a man of patience, quick to forgive and who just could not harbor a grudge. His very nature rebelled at man's cruelty to man. It was never for him to cause pain or mortification to others.

From early childhood the Senator carried with him and constantly renewed warm memories of Christmas and the happy time his mother made for her family at Christmas. In school Christmas was his favourite subject for compositions. Later he collected over 2,000 books and 500 articles about Christmas. It was the subject of his first address to the United States Senate. The Christmas spirit represented to the Senator the happy bringing together of family and friends, generous impulses and kindly deeds to others. These things appealed to his deeply ingrained sense of love of people, equality, goodness and justice in dealing with others.

Beginning early in life, Senator Radcliffe was deeply influenced by his father's emphasis on independence and work, and his mother's love for reading and literature. Following graduation from the Cambridge High School and pursuing his desire for work and education, he received degrees from the Johns Hopkins University, A.B. 1897, in history and political science and PhD., 1900, in history. His doctoral thesis, "Governor Thomas Hicks of Maryland and the Civil War" was published by the Johns Hopkins Press in 1901. A lifelong source of satisfaction to the Senator was that those who read his work were unable to determine whether his sympathies were with the Union or the Confederacy.

While at "Hopkins" the Senator was a member of the one-mile relay team which won that event at the University of Pennsylvania Relay Carnival at Philadelphia in 1898. The gold watch awarded him became his favourite possession and a constant reminder of this happy occasion. An active and appreciative alumnus, Senator Radcliffe served as President of the "Hopkins" Alumni Association (1913–1920) and Chairman of the successful 1919 campaign to raise funds to build the "Alumni Memorial Dormitory."

Among the Senator's happiest memories were those of his service as principal of the Cambridge High School (1900–1901) and Professor of History at the Baltimore City College (1901–1903). During the years 1902–1903 he attended the University of Maryland School of Law from which he received an LL.B degree in 1903. In later years he received honorary degrees from Washington College (LL.D, 1934) and the University of Maryland (LL.D, 1943).

In 1903 Senator Radcliffe began his seventy-one-year business association with the American Bonding Company of Baltimore and the Fidelity and Deposit Company of Maryland. His responsibilities in various capacities included Head of the Legal Department, Vice President, Chairman of the Executive Committee and member of the Board of Directors. Judge Samuel K. Dennis, a fellow Director, in referring to the Senator as a businessman said, "He became valuable to his Company, not as a master of routine, but in stronger fields as a 'trouble shooter,' idea man, pioneer thinker, policy maker, diplomat." J. Harry Schisler, a business colleague for most of the Senator's career, describes him as "the man to handle serious things" and "an accomplished negotiator." Senator Radcliffe's other business interests included membership on the Board of Directors of the Fidelity Trust Company and Baltimore Contractors (1951–1974).

Senator Radcliffe and Miss Mary McKim Marriott of Baltimore were married on June 6, 1906. Among the Senator's greatest joys were his own home and family. After his wife's death he derived special joy from knowing that his son George, his daughter-in-law Augusta and their children shared his love for Spocott Farm.

In 1908 Senator Radcliffe became a member of the Maryland Historical Society, and for sixty-six years contributed immensely to its growth in size and usefulness. For sixty-four years he served as an officer—Secretary (1911–1931), President (1931–1965) and Chairman (1965–1974). The Senator often said that the Society was not work but a place to which he could turn for a restful change of pace and recreation.

The highlights of the Senator's service as President included an address to the Society by his close friend, then Vice President Harry S. Truman, soon to succeed as President another close friend, President Franklin D. Roosevelt. The subject, "Maryland and Tolerance" was one dear to the Senator's heart. Speaking of intolerance that evening, March 16, 1945, Vice President Truman said, "There is no lasting cure except that found in the impartial recording of history." Turning to history again, Vice President Truman spoke words dear to the Senator. "The pages of history remain open for all to read. They stand as an eternal warning against the tragic disasters of the past . . . of course, every generation must meet new problems in light of new developments, but surely they must profit by the experience of the past."

Developments at the Maryland Historical Society which meant much to Senator Radcliffe would include the Keyser Memorial, including the gift of the Enoch Pratt House, the gift of Francis Scott Key's original manuscript of "The Star-Spangled Banner," the Thomas and Hugg Memorial Building and endowment, the Jacob and Annita France Auditorium and the Jacob France Endowment Fund, the Darnall Young People's Museum of Maryland History, and the 1973 decision to rename an expanded maritime museum "The George L. Radcliffe Maritime Museum."

The Senator supplemented his devotion to the Maryland Historical Society by accepting other responsibilities related to Maryland history. These included: Chairman of the 1924 Baltimore City Commission which saved the "Shot Tower"; Chairman of the Star-Spangled Banner Committee (1939); Maryland War Records (1942); Chairman of the celebration of the 300th anniversary of the Religious Toleration Act in Maryland (1949); Chairman of the Committee on Historical Markers in Maryland (1954). The Senator's long-time encouragement to local historical societies played a major role in their growth to the point where at least one is now in being in every Maryland county.

When interviewed and recorded on tape last summer by his friend Walter Finch as part of the Society's Oral History project, the Senator responded to a question about his first introduction to politics by saying, "According to tradition the first thing an Eastern Shore baby does is look west to Annapolis." His early public service included appointments by his former Cambridge High School principal, Governor Harrington, to membership on the Baltimore City Liquor License Board (1916–1919) and Secretary of State (Maryland) (1919–1923). Senator Radcliffe served as chairman of four Gubernatorial Inauguration committees—Governor Ritchie, 1923, 1926, 1930; and Governor Lane, 1947.

In 1932 his friend Franklin Delano Roosevelt, who had been a Vice President of the Fidelity and Deposit Company before becoming Governor of New York State, named Senator Radcliffe as Maryland Chairman of his successful campaign for election as President of the United States. To help President Roosevelt in that difficult period Senator Radcliffe accepted an appointment in 1933 as Regional Director of the Public Works Administration. In 1934 Senator Radcliffe was elected to the first of two terms in the United States Senate. His Senate committee assignments included Finance and Maritime. As Chairman of a Maritime Subcommittee Senator Radcliffe was the chief architect and author of the Merchant Marine Act of 1936. This basic legislation has been described as "the keystone and foundation upon which our maritime laws and our merchant marine function." Just as had been his way in business, the Senator thrived in the United States Senate on work and problems. Never one to set people against each other, he had no sympathy for legislation and programs which advantaged individuals and groups at the expense of others.

The Democratic State Central Committee for Maryland chose Senator Radcliffe as its Chairman for the Presidential Campaign year 1936. He later served as Maryland Chairman of his close friend President Harry S. Truman's successful 1948 re-election campaign. In 1952 Senator Radcliffe served as Chairman of the Chesapeake Bay Bridge dedication.

The Senator's additional interests and contribution to Maryland were many. His ability to enlist people in getting jobs done was reflected in his being called on as just the right man for many responsibilities. One of these responsibilities which meant much to the Senator was leadership for thirty years of the March of Dimes (Infantile Paralysis Programs) in Maryland. A quick project the Senator often recalled was the construction of a horse-drawn coach within forty-eight hours by Victor Frenkil and Baltimore Contractors for the Oriole's 1954 Homecoming Celebration. Other opportunities for service the Senator responded to were the presidencies of the English-Speaking Union, the University Club and the Eastern Shore Society.

Perhaps closest to Senator Radcliffe's heart were the parts he played in projects related to the Eastern Shore. These would include the Dorchester County Historical Society, Grace Foundation of Taylors Island, the restoration of historic Old Trinity Church and the Chapel of Ease.

One of the happiest occasions of the Senator's life took place on his ninety-fifth birthday. On that day he realized a childhood hope for the reconstruction of Spocott Windmill, which was originally built by his father, used for grinding grain into flour, and blew down in the blizzard of 1888. His vigorous address and the appreciation he expressed on the dedication day for the reconstructed mill will always be remembered by those present.

The Senator steadfastly looked to the future with hope. Each of us who know and study his life will find in his example strength for our own futures. At every stage of life he lived as though he were entering a new career. Those who are fifty-nine will see great possibilities for their futures as they realize they are the same age as the Senator when he began a twelve-year career in the United States Senate. At any age until ninety-six they can look forward with success, as the Senator did, to the realization of his childhood dream that "the old mill would come back." Each of us can, as was true of the Senator, continuously re-live the joy of Christmas and share with the Senator the lifelong happiness and inspiration he found in the Chirstmas spirit of goodness to all men.

It is an inspiration to look back on the life of Senator George L. Radcliffe. He lived a life in which a sense of the past was linked so beautifully with the realities of the present and an optimistic view for the future.—SAMUEL HOPKINS, October 1974.

POSTMASTER GENERAL E. T. KLASSEN

Mr. McGEE. Mr. President, I wish to pay tribute today to the service rendered since early 1969 by Postmaster General Elmer T. Klassen, who has announced his retirement from that position in a month's time after serving as Deputy Postmaster General, as a member of the Board of Governors and finally as Postmaster General.

Ted Klassen, who has served the past 3 years as the chief executive officer of the Postal Service, as the second PMG under reorganization, and as the Nation's 59th Postmaster General, is a man of boundless enthusiasm for the job at hand and one who believes in and practices a direct approach. In announcing his plans to step down Mr. Klassen allowed that his only reservation "is that it may appear I am yielding the battle to the critics of the Postal Service."

As he said, that would be a totally unjustified assumption. I seriously doubt that Ted Klassen has run from a battle since November 6, 1908, the day he was born in Hillsborough, Kans.

The Postal Service and the Postmaster General, needless to say, have critics aplenty in the Congress, the press, and in the public at large. Ted Klassen, with a remarkable background in private industry, learned to understand the nature of the criticism and the inevitability of it. He was straightforward, telling the

Post Office and Civil Service Committee in March of 1973 that—

> We (the Postal Service) made some damn bad mistakes.

Despite the criticism, all is far from bad with the U.S. Postal Service. Ted Klassen himself put it well in an address to the eighth annual Postal Forum last September when he said:

> Few countries in the world today provide less expensive mail service—none provides better.

While some of the Service's problems in the few short years of its existence have been self-made, many of the more severe ones have been inherited or are inherent in a service-oriented organization doing business in today's economy. We know that the United Kingdom has recently announced an increase in first-class mail rates to the equivalent of 16 cents. And, while there may be those who would quarrel with the designation of the U.S. Postal Service as the world's best, there is no denying that it has a mammoth task—the movement of about half of the world's total mail volume. In fiscal year 1974 that meant more than 90 billion pieces.

One of the first-class aspects of Ted Klassen's tenure as Postmaster General has been his ability to endure the criticism aimed his way and persist in the development of a Postal Service adequate to the present and future needs of the country. He worked at his job and worked hard, in the day of a man who rose from office boy to President of a large industrial firm during a 40-year career. One hallmark of his generalship has been a steady improvement in the pay and working conditions of the Postal Service's more than 700,000 employees.

Those employees, who render a very basic essential service to all Americans, know who is in charge: Ted Klassen. They know there has been considerable progress made these past 3 years and, as Mr. Klassen enters his final month as Postmater General, I know they will want to join in acknowledging the accomplishments and progress of the service.

All is not perfect with the Postal Service by a long shot, as is all too evident. In the days ahead, the Post Office and Civil Service Committee will be delving deeper into these problems of the Postal Service in order to correct what must be corrected. It is our hope that Ted Klassen will, in his candid way, give us the benefit of his experience and insight into the great American institution he has directed with spirit and tenacity.

On a personal note, I want to wish Ted Klassen well in this last month of his service and express my wish that he and his wife Marie will have an opportunity to relax and enjoy life away from the daily demands of the Postmaster General's office.

DR. BALSAM'S REMEDIES

Mr. MATHIAS. Mr. President, the present position in which we find ourselves is, as has frequently been remarked, a perilous one. Like a fighter reeling from repeated blows and without an opportunity to gather his senses, we have been hit with, in succession, the fruits of guns and butter policy in Vietnam, a quadrupling of world oil prices, and a shortage of food both at home and abroad.

On previous occasions, I have suggested that some of the answers to these immense problems will come through dialog. By that I mean the discussions that we have here in Congress. But I also mean the discussions which take place in the country at large: among business and union leaders, in universities, and in the media.

It is as a part of that dialog that I offer today for the Record a copy of an article written by Josiah Lee Auspitz, entitled "Dr. Balsam's Remedies," which appeared in the January 1975 issue of Harpers. Mr. Auspitz is completing his doctoral dissertation at Harvard on concepts of practical reasoning in politics. He served in 1969 with the President's commission on the restructuring of the executive branch. He is known to some of my colleagues as a former President of the Ripon Society, a moderate Republican organization.

There is humor in the approach that Mr. Auspitz takes to the current world crisis. But there is also hard-headed, if controversial, analysis and for that reason I believe it should be widely read.

I ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Dr. Balsam's Remedies: How I Came to Terms With the World Crisis

(By Josiah Lee Auspitz)

Every seven years or so I get depressed by the international situation and seek help at Dr. Balsam's townhouse on the Rue Talleyrand, just a few hundred yards from the tomb of Napoleon at Les Invalides. Balsam maintains a leisurely practice, refusing to see any of his patients more than once or twice a decade. If you must see him, you merely arrive at teatime. Castlereagh Muhammed, Balsam's Moorish amanuensis, ushers you into the eighteenth-century calm of the good doctor's library.

There are, of course, no newspapers or periodicals in the room, and the latticed cabinets contain only a handful of books published in this century. Portraits of the men Balsam calls his "ancestors" adorn the walls. On the right-hand wall, those who have dealt with conflict as it is: Machiavelli, Hobbes, Talleyrand, Metternich, and Clausewitz; on the left, those who have had a vision of how things might be changed: Grotius, Montesquieu, Kant, Florence Nightingale, and Woodrow Wilson.

The only concession to modernity is the large, egg-shaped plastic chair for Balsam's patients. It was one of the last and best designs of the Bauhaus, especially created for Balsam's library. Sitting in it, enveloped on all sides by antiseptic white, one feels as if one were in a time capsule returning to the age of ballet wars and balance of power.

Balsam greeted me warmly and offered me tea and Armagnac, which I accepted, and snuff, which I did not. "Well, well, well," he said. "What is about to convulse the world this time, that you have come to me, my dear friend? On your last visit, almost exactly seven years ago, you were expecting a world financial crisis and an expansion of the Vietnam war into China, as I recall."

"And I was very nearly right," I reminded him.

"So you were. So you were. And perhaps it would have been better to have had a really proper crisis then. After all, *crisis* is merely the Greek word for decision. As I was telling poor, distraught David Rockefeller when he came here a few months ago, sometimes postponing decisions takes a greater toll than making them. Don't you think that is good advice?"

I nodded. It was one of Balsam's delightful traits that he had no scruples about discussing one patient's problems with another. It made one feel part of an elect community of sufferers.

"I suppose you, too, think that Western capitalism is about to collapse," he said.

I leaned forward in the egg in agitation. "Yes! And also that the economic weakness in the West will embolden the Russians into a great power confrontation, involving the triangular relation Nixon set up."

"Ah, so you have added Russia to China this time."

"Yes," I said. "The logic of the situation seems to require that any crisis . . ."

Balsam interrupted. "Say 'decision' or 'judgment' instead of 'crisis.' It is much more relaxing."

". . . that any decision involving two of the great powers will involve three."

"Well said," Balsam responded. "You have wisely left out Europe. Europe, as you are doubtless aware, doesn't count. Europe lost the Middle Eastern War."

"I had not thought of it in that light," I confessed.

"Well, Henry saw it immediately, and so did Nixon. I remember Henry's visit late last fall—it has been an unusually busy year for me. He was in quite a dither, poor man. No one seemed willing to trust him, and small wonder, really. He had disappointed Brezhnev by letting the Israelis surround the Egyptian Third Army. He had scared everybody by his perfectly sensible precaution of a nuclear alert to check the Russians from any thought of ejecting the Israelis. And he had accused the Europeans of inconstancy and panic, which was accurate and therefore deeply resented by them. And then his old enemesis Brzezinski started attacking him in the newspapers, saying the United States had lost the October war.

"I said to him at the time: 'Henry, all your flexibility is necessary in these fluid times, but you need to reassure people. Travel with your children. Marry that lovely energetic Maginnes woman before you both get too old and cynical to enjoy it. Do a few homey, human things. Your image as a swinger served you well when you were a gnome in the White House—it stopped all the Dr. Strangelove talk. But now you are a public man. You must radiate stability. Remember, you need only get people to rely on your word, and you shall succeed, until it becomes necessary to have another Near East crisis. After all, the logic of the situation is on your side.' "

"The logic of the situation is on no one's side!" I blurted out. "The logic of the situation is that no one can pay for oil. Italy is sinking fast. Britain will be next. Then France will come to her knees. Banks will fail. The West will suffer crushing balance of payments problems trying to pay the Arabs. There will be a worldwide depression! The Russians, immune from all this, will seize the advantage to reverse the currently unfavorable factional situation in China. The United States has humiliated them in the Middle East. Their military planners look ridiculous. In their own counsels this must be as bad as the Cuban confrontation a decade ago. They have spent the past decade building up to parity. God knows what this new insult will encourage in their military!"

"Is that, briefly, your problem?" asked Balsam with an air of genuine concern.

"Very briefly," I replied in a weary tone. Our session had been held before Nixon's resignation, but I had not even mentioned Watergate, drought, and inflation.

"It is very mature of you," Balsam said, "not to mention American politics, drought, inflation, and other ephemeral disturbances. That, I might believe, is the reason Castlereagh Muhammed holds you in such high regard, as do I, notwithstanding that you write in periodicals and even newspapers from time to time."

I averted my eyes.

Well, then"—the doctor put on his professional manner—"let us treat the oil problem which you seem to see as the first of the dominoes to be set right. It may comfort you to know that you are not the only one worried about this. King Faisal came to me in February to say that his oil was giving him a nervous breakdown. 'Protector of the Holy Places,' I told him, 'for a nervous breakdown one does not come to Paris, unless one wants it treated by acupuncture. Go to Manhattan. That is where you will find people to talk with you about nervous breakdowns.'

"But the King insisted," Balsam continued, "that his case was diplomatically induced, and so I heard his anguished tale. He had, he said, always made friendship for America the cornerstone of his foreign policy. Indeed, he had no other foreign policy to speak of. He had all he wanted right at home: his Holy Places, his oil, his air conditioning, and a kingdom still uncorrupted by Egyptian schoolteachers. But first the Shah of Iran had begun stockpiling arms and bragging that the Aryans had always ruled the Semites. And then all the young officials in Riyadh began huffing and puffing about high diplomacy and high finance. They wanted an alliance with Egypt, Faisal said, so that they would have an excuse to visit Cairo. They wanted him to bluff, posture, bargain, and flatter like the unmanly Egyptians. And then he was supposed to blackmail America on behalf of the Palestinians. How could he, a devout Bedouin, give a fig for the Palestinians? he confided. All that concerned him were the Holy Places in Jerusalem. He did not begrudge the Israelis the traffic and sewage problems, if they wanted to administer them. And it did give him some satisfaction that the slimy little Hashemite, as he called Hussein, had been ejected from the city. But to have the Jews occupying the tomb of the father of Ishmael was too much to bear. Faisal had vowed to pay a last pilgrimage to Jerusalem before his death. All in all, the world was becoming just too great a strain for him."

"What was your prescription?" I asked.

"Let me have the blackamoor read it to you, since it is he who is able to write these things down for me." Balsam pulled a bell cord and Castlereagh Muhammed entered, positioned himself in front of the globe, and read the prescription in the clipped drawl of an old Salopian. Balsam took snuff.

"Rx for Faisal, King of Saudi Arabia: recite the following six points three times daily facing west.

"1. America is the only country which can ship Saudi oil. Therefore, America is Saudi Arabia's best friend.

"2. America is the only country which can occupy Saudi soil. Therefore, America is Saudi Arabia's best friend.

"3. America is the only country to benefit from keeping oil prices high for a while. Therefore, America is Saudi Arabia's best friend."

I interrupted. "How does America benefit from high oil prices?"

Muhammed took this up matter-of-factly, as a point of information. "The higher the price of oil, the more incentive to tap the domestic oil and coal supply. The greater the use of domestic supply, the lower the import bill. The lower the import bill, the better the balance of payments. The better the American balance of payments, the greater the competitive edge over Europe and Japan, who have no domestic supply. The greater the European disadvantage, the more attractive the American economy. The short-term result: everybody but the Americans will be giving the Arabs more money for oil. The Arabs will be using the money to buy American goods and securities. And the Americans will lend it back so that the Europeans and Japanese can buy oil."

"But what good does this do when America's own balance sheet turns red and the whole international economy collapses?" I asked.

There was a long pause while Balsam sneezed out his snuff. Then he said, with a benign smile, "Read him the remaining three points, Muhammed."

"4. If the Americans think the time is ripe, be prepared to break the cartel and lower your oil prices.

"5. If the Americans think the time is ripe, be prepared to become a Protector of the Holy Places in Jerusalem.

"6. If the Americans think the time is ripe, be prepared to join Israel and Egypt in an international consortium for the economic development of the Sinai and the new Palestinian entity."

I reflected in silent admiration on the full import of this prescription. Balsam was preparing Faisal, in the event the Americans stumbled upon the right proposals, to seize those levers that would preserve his entente with the United States, give him his pious heart's desire in Jerusalem, enable his young men to visit Cairo, toss half a fig to the Palestinians, and undercut the Shah of Iran by breaking the oil cartel. Saudi Arabia could prosper at any price level, but Iran, with its higher cost per barrel, needed an extortionate price to maintain the Shah's ambitious plans for development and repression. Moreover, Balsam's points would be acceptable to the United States, since they would stabilize the Middle East without forcing the U.S. Treasury to prop things up with billions in food for the Palestinians, arms for the Israelis and Jordanians, and aid for the Egyptians. But as I turned these points over in my mind, I began to see clearly the full enormity of point 4.

"Dr. Balsam," I cried, "you are providing the blueprint for extortion! The Americans and Saudis allow the price of oil to bankrupt Europe and then lower it to undercut the Shah and rescue the world economy from total collapse. This would prolong an economic hegemony that America has ceased to earn by its productivity, its gold reserves, or the stability of its currency. It would perpetuate the Cold War lines of influence by the rigging of oil prices and the specter of gunboat diplomacy. This is conspiracy."

Balsam feigned shock. "I am truly surprised to hear you, a citizen of the United States, putting the matter in so Machiavellian a way. Your description is uncharitable. It is unfair. It is un-American. It is French. It is the way I would expect a spokesman for the Elysée Palace to put it to me, someone like Giscard d'Estaing. In fact, it is almost exactly the way Valéry did put it to me just a few months ago. Allow me to give you the answer I gave him. First, this is a question not of conspiracy but of timing. The Americans cannot plan far enough ahead to conspire about such matters. But at some point, you know, they must break the oil cartel to save the international economy. One cannot expect them to apply their full influence until they themselves begin to feel disadvantaged. This will take a while, as they can use a bit of hardship to teach their younger, postwar generation that prosperity cannot be taken for granted. Furthermore, they are so moralistic, these Americans, that they always need to work themselves into a rage before taking action. Just as it took Pearl Harbor to get them into the last European war, it may require nothing less than the total collapse of credit in Italy to convince them to do even some minor thing, like having their CIA reshuffle the Cabinet of one of the fragile governments touching the Persion Gulf. Or perhaps, since they are now full of contempt for gentle, covert measures, they will even wait for a renewal of Near Eastern fighting before taking up their role as defender of the interests of NATO and Japan. In any case, by the time the Americans are ready to sneeze, major financial institutions in Europe will be dying of pneumonia.

"Second, as for their position being unearned, have not the Americans invested in the most important kinds of capital goods, namely, miltary hardware? And have not their firms invested in the second most valuable capital, namely, shipping capacity for fuel? The simple fact is that this is one of those decades in which defense is more important than productivity. Hence the Americans and the Russians, who have had the foresight to invest in armaments, are in a position to dole out raw materials to their European friends. As for France, if you cannot ship oil and cannot seize it, I advise you to become less haughty toward those who can. You should, for example, begin to take NATO more seriously, along with any other transnational groupings that the Americans may use."

"Was this before or after Giscard became President that you spoke to him so?" I inquired.

"The very day after the election," Balsam said. "He was so full of campaign rhetoric that he required harsh language to bring him down to earth. It was not pleasant for me. Valery is so clever and self-possessed that he is able to talk himself into believing his own speeches. It took some very brutal truths to convince him of the modesty of his position. And despite my best efforts he still gets an embattled glint in his eye when he is asked about America, as if France, which he calls the natural leader of a united Europe, could turn the tables tomorrow. I do believe, however, that I may have succeeded in making him a bit more humble, at least on the surface.

"And I hope also, my dear friend, that my words to him have given you some consolation. At least you have seen that your first domino, the oil problem, can be set right whenever the Americans choose to exert themselves, and that their doing so slowly is not a form of economic blackmail but merely the fair and largely unanticipated return to them for all these years of moralism and military preparedness."

"Thank you. I do indeed feel much better," I said.

"Well, do not become too complacent," Balsam continued. "There is no necessary link among the various developments that worry you. Many of them can occur regardless of the disposition of oil."

I clutched the armrests of the plastic egg. "You mean there may still be a cataclysmic World Crisis?"

Balsam's response was to motion Muhammed over to the secretary, where a quill and parchment were already prepared. "I think in the coming years until we next meet you will benefit from the prescription that my amanuensis is writing for you."

The Moor knew Balsam's mind so well that he never needed to be told what to write. After a very short time at the desk, he handed me a small parchment scroll. On it, in his exquisite calligraphy, was my prescription:

"Rx for Josiah Lee Auspitz, to be recited twice daily, before reading the morning newspaper and before watching the evening news:

"Crisis is merely the Greek word for decision."

BILL PROXMIRE—A "MAVERICK" WITH GOOD SENSE

Mr. MONTOYA. Mr. President, in recent years it has sometimes been difficult for the public to distinguish one Member of Congress from another. Some commentators have gone so far as to suggest that our whole society was becoming conformist: both undistinguished and indistinguishable.

It is not true, of course, and never was. Both the Nation and the Congress have always had variety and diversity. Individualism is a matter of pride for most Americans, and certainly we all see it displayed in this Chamber daily.

However, one Member of the Senate is proof-positive that the American freedom of spirit and integrity of mind is still alive and well in Washington, D.C. That man is Senator William Proxmire, my neighbor in the office building, and my friend.

Recently the Public Affairs Journal Lithopinion 36 published a profile interview with Senator Proxmire, pointing out that he is a "maverick," and noting that he is often called the conscience of the Senate.

The article is especially pertinent to us in these difficult economic times. It notes Senator Proxmire's old-fashioned attitude toward Government waste—an anger which sometimes surprises those who believe that "big spender" is another name for all legislators who put the interests of consumers and the public above those of the bureaucracy or the giant corporations and lobbies.

Bill Proxmire listens to all sides—and then makes up his own mind about what is right or wrong. He examines every angle of a problem, keeping the opinions of experts "on tap," as he has told us here in the Senate, but never "on top." In the end, he makes his decisions with commonsense and a firm faith in his own ability to think and to act.

Mr. President, I think this article illustrates the very special qualities which Bill Proxmire brings to his job. They are qualities we all admire, and they are qualities his constituents are proud to have detected and approved with their votes. Certainly, the people of Wisconsin should be proud to have this very able and individual man representing them in the U.S. Senate.

I ask unanimous consent that the interview be printed in the Record.

There being no objection, the interview was ordered to be printed in the Record, as follows:

THE CONSCIENCE THAT MOVES THE U.S. SENATE—WILLIAM PROXMIRE—MAVERICK

(A profile-interview by David Gelber)

I had heard about Senator William Proxmire's devotion to his daily, several-mile jog; and since I, too, run each day, I asked him on a visit to Washington if I might accompany him. He turned me down. "I'm really too competitive to run with anyone," he said, "and besides, I like to run alone."

For 16 years, this lean, 58-year-old Wisconsin Democrat has been doing just that—running alone, in the United States Senate. And he's been doing it pretty well. Former Senator Paul Douglas once declared, "A liberal need not be a wastrel." For Proxmire, Douglas' aphorism carries the force of holy writ. Long ago he established himself as an expert in the areas of housing and finance and of defense spending, and he has waged a constant and often lonely campaign to restore competition to the "free enterprise" system by withdrawing subsidies from the rich and the powerful.

"The idea has been that every time the Federal government spends another 10 or 20 thousand dollars it creates another job. The fact that that is not true should be apparent to anyone who can add. In the past five years the Federal budget has exploded from $184 billion to more than $305 billion. That colossal increase in spending should have resulted in a corresponding expansion in jobs and a reduction in unemployment. Did it?

"It is true the work force increased and employment in the economy grew. But far less than it should have. Unemployment grew much more in proportion than jobs did. Indeed after a break-neck expansion of government spending we find unemployment which was 3.4 percent five years ago, now at 5.3 percent.

"I predict that if we reduce the rate of increase in Federal spending, and do it in the right areas—being sensitive to the employment consequences of our action—that unemployment will not worsen as a result of the slower rate of growth in Federal spending."—Sen. Proxmire, Aug. 22, 1974.

Many people once put down Proxmire as simply an eccentric who couldn't resist a losing battle (he was even brazen enough to challenge the Senate leadership of Lyndon Johnson). While he may still be regarded in some quarters as a maverick, now, in his new post as chairman of the Senate Banking, Housing and Urban Affairs Committee—and with the state of the economy uppermost in everyone's mind—William Proxmire is a maverick whose time has come.

Proxmire's liberalism developed somewhat late in life, although he recalls that as a child growing up in a comfortable Chicago suburb he held a more optimistic view of human nature than did his father, a conservative Republican physician. But his personal discipline as well as his aversion to wastefulness apparently derive from his father's belief in working 14 hours a day, seven days a week.

He is in the office at 8:15 every morning after a 4.7-mile jog from home and a shower in the Senate locker room. He eats breakfast over the morning papers, and doesn't stop until 6:30 P.M. when he goes home and reads up on the next day's work. One of the Senator's aides, now one of Washington's best antitrust lawyers, told me that Proxmire's major fault is that "he works too damn hard." Once elected "class grind" by his prep-school classmates, Proxmire is the least platitudinous of Senators. He can cram more detailed information into a 60-second television news spot than any politician in the Capitol.

"An article in today's New York Times by respected reporter John W. Finney indicates that Defense Department officials are complaining that the $82.5 billion defense budget is not enough.

"Apparently they are saying that the Pentagon needs about $11.5 billion more to fund major weapon programs.

"This will undoubtedly come as a surprise to many in Congress. After having spent eight months examining the defense budget in great detail by four committees of Congress, all of a sudden we find that the ante has been raised by another $11.5 billion. . . .

"If a supplemental is requested, it would mean that the Congress would be called upon to fund three major DOD bills this one calendar year. We first had the fiscal year 1974 supplemental request of $6.2 billion, subsequently reduced slightly. Then came the major DOD bill of some $92.5 billion in budget authority. And now there is the possibility of yet another major bill of up to $11.5 billion."—Sen. Proxmire, Sep. 19, 1974.

Proxmire was headed for a business career—he had studied at Harvard Business School—as a trainee at J. P. Morgan Inc., which must give pause to his foes on Wall Street these days. World War II interrupted that, however, and a stint in the Army's Counter Intelligence Corps (the CIC, which was sometimes referred to as "Christ I'm Confused," says the Senator), left Proxmire with a sense of the military's limitations and a determination to enter public life.

After the war Proxmire worked as an investigative reporter for a newspaper in Madison, Wis. He got involved with organizing a union there and was eventually fired.

Wisconsin politics were at that time dominated by the spirit and personality of Senator Joseph McCarthy. The Democratic Party was a political basket case in need of the kind of energy Proxmire could provide. He was elected to the state assembly in 1950, ran for Governor two years later and then again in 1954 and 1956, losing each time. A Wisconsin newsman has calculated that Proxmire has shaken more than 2.5 million hands in his political career, and all that manual exercise finally paid off for him in 1957 when he won a special election held after the death of Joe McCarthy.

Philosophically, Proxmire is less a New Deal Democrat than old-fashioned capitalist with a distaste for anything that restrains or contaminates free trade. When Pan American Airways came around begging for a taxpayers' subsidy, Proxmire emerged as perhaps the key Congressional opponent—as he was of the Lockheed loan and the SST.

"When President Ford decided not to assist Pan Am with a bailout of $10.2 million a month, he reaffirmed belief in the free market system. We have had too many bailout precedents in recent years. It was beginning to appear that every major corporation in financial difficulty looked first to the Federal government for a handout.

"Now that chain has been broken, and I hope, for good.

"It must be admitted that many of Pan Am's problems were not of its own making. But that is not to overlook those critical financial factors that were caused by Pan Am's management.

"With unprofitable routes, high overhead, rapid changes in top management and simple bad forecasting, Pan Am must share the burden of responsibility with the uncontrollable element of fuel prices."—Sen. Proxmire, September 19, 1974.

Besides a strong distaste for unnecessary government spending, Proxmire was an early advocate of consumer protection—especially in the areas of banking and finance. In his new committee chairmanship role, he is expected to try to make banking more competitive, especially in areas like California, where one bank dominates the entire banking industry of the state.

"The Agency for Consumer Advocacy will be the one Federal agency whose mission will be to stop many unjustified price increases. How? Here is how: It is obvious that the Agency for Consumer Advocacy will be a potent force for bringing down prices of goods and services for the American consumer.

"We need the same kind of representation before the Federal Communications Commission, which sets telephone rates, before the ICC, which sets freight rates that add to the cost of food and other goods, and before a host of other Federal agencies, which influence the prices paid by all of us consumers, whether we are aware of this or not.

"One of the points made at one of the first summit conferences held at the White

House was the point made by witness after witness that if the government would do its job, a good part of this inflationary problem would be solved. A part of that job is to see that excessive, unjustified price increases under regulated industries are not approved; but they are approved. Why? Because we have no adequate regulatory procedure. The point that the consumers are being exploited simply is not made, and that is what this agency would do."—SEN. PROXMIRE, September 19, 1974.

Another of Proxmire's aims will probably be to increase the flow of capital for housing starts and for mortgage loans. The skyrocketing interest rate—it has risen from six per cent to more than nine per cent today—has, since 1966, priced at least 10 million families out of the housing market, and Proxmire aides estimate that roughly two-thirds of all American families cannot afford a new home because interest rates are so high. Proxmire believes that careful pruning of the Federal budget would free funds for housing, which is always nearly last in line in the scramble for investment capital.

"If we cut spending by $10 million and balance the budget, the Federal government will not borrow that additional sum, and interest rates will begin to move down.

"Will that provide more jobs? Yes indeed. How?

"Because the housing market—that is now in a serious depression because high interest rates make it almost impossible for millions of Americans to buy homes—will fall. This could make a difference of as many as 500,000 more housing starts this year. And that number of housing starts means one million additional direct jobs and probably two million indirect jobs."—SEN. PROXMIRE, Aug. 22, 1974.

Proxmire's juiciest target, however, has always been the military budget. Although he stoutly insists that nothing he proposes would weaken the nation's legitimate defense posture, the Senator helped to publicize the battle—and subsequent firing—of Ernest Fitzgerald, the Pentagon cost-analyst who fought a lonely fight against military cost overruns—until he lost his job. Proxmire insisted that Fitzgerald was just doing his duty honestly, and as a result Fitzgerald was vindicated and the Air Force exposed for trying to cover up its own inefficiency.

Proxmire's cost estimates of weapons systems have time and again turned out to be more reliable than the military's. On this score, a Republican colleague has said of the Senator, "I thought he was just another wild eyed, simple-minded spender who resented the Pentagon because of its money. But, he's done his homework—and he helps us understand these weapons."

"A further example that spending per se is not necessarily good is seen in the example of the space shuttle. What will it do? What benefits will we be getting for the massive spending of $6.5 billion?

"I addressed a letter to the head of the space program and asked for the justification for the space shuttle. Specifically I asked what tangible benefits we could expect from the program. Here is the key justification in the reply: "The basic premise leading to the conclusion that this nation should proceed with the development of a space shuttle system is that the U.S. should and will continue to have an active space program from now on." In simple words, the main rationale for the shuttle is that it will keep the space program going. But it also means a steady drain on the U.S. Treasury.

"The agency also asserted, without proof, that the program would save costs. The space program now uses exceedingly costly, expendable boosters. Obviously, a reusable shuttle will be cheaper than expendable boosters if enough trips are made. But a study by the Rand Corporation prepared for the Air Force demonstrated that the shuttle would have to carry more than $141 billion in traffic over its 13-year lifetime before it would become cost effective. But what are the payloads for? What is a space transportation system going to carry? Is Congress going to have to appropriate $141 billion over the shuttle's lifetime in order to make worthwhile the shuttle's $6.5-billion development cost?"—SEN. PROXMIRE, 1972.

Proxmire does have detractors who aren't bankers and generals. Some colleagues think he is a publicity hound. A House Democrat who, along with Proxmire, is a member of the Joint Economic Committee, told reporter Martin Nolan, "I resent the perversion of this committee into a personal vehicle for one of the cheapest demagogues in the United States. I've never seen the public interest interfere with the direct personal interest of Bill Proxmire." Most observers, however, would regard this estimate as petulant in the extreme.

If Proxmire is publicity-minded, he is anything but pretentious. While jogging to work in the early morning hours, he has been harassed on several occasions by would-be muggers. The Senator, who was a welterweight boxing champ at Yale, foiled one such attempt by beating off his attackers. He then called the police and was truly amazed when squad cars full of captains and lieutenants materialized in no time at all. "These Metropolitan Police are real efficient," Proxmire later told an aide. "Do you think it might have something to do with your being a senator?" the aide asked a little cynically. "Gee, I never thought of that," said Proxmire.

Another assailant fell victim to the Senator's unconventional deportment. This time the mugger carried a gun. "Go ahead and shoot me—I'm going to die of cancer soon anyway," the Senator said. The baffled gunman just walked off.

"Under our free press system, a publisher has the right to print what he pleases. It is the competition of the marketplace of ideas that insures the public's right to be informed. Any governmental control of ideas, even though those ideas were universally accepted as truth, would lead eventually to a bland homogeneity of thought that would rob our society of its dynamism. Of course, there is no guarantee at all that government will be omniscient. History proves that. History proves that governmental control is dangerous to a free society. In other words, the free press carries with it the right to be wrong as well as to be right."—Sen. PROXMIRE, Sep. 17, 1974.

Proxmire says he is not going to run for President, and there is little doubt that he is a far more dedicated senator than some of his upward-bound colleagues. Possibly Proxmire would lose some of his fearlessness if he had to worry about running for President, but one former aide thinks he would make a terrific chief executive. "But I'm just not sure," he said, "that the country would stand for a guy who actually carries out his beliefs."

While Senator Proxmire did not let me jog along with him on his morning home-to-office "constitutional," I did get a chance to talk to him last summer—a brief interview sandwiched in between the filming of a news spot for a Chicago TV station and a meeting of the Joint Economic Committee. We started off talking about one of the Senator's favorite subjects—the current state of American banking, the government's relationship to it, and its down-to-earth effects on you and me. The Senator said, "The Federal Government and large corporations have diversified their holdings. They're investing far more in corporations, large and small, and to the extent that banks now reach into every village and town in America, they have to encourage a more personal relationship between the banker and the people who borrow money.

The FHA used to draw a red line around the inner sectors of the big cities and said they would not insure loans in those areas. This meant that even if a person was a very good credit risk with a steady job, he couldn't borrow because he lived in the ghetto. Of course, this was racist and discriminatory, and it was sure to result in continuing deteriorating conditions in the inner city. I fought hard and got an amendment which repealed the FHA restriction.

"There still is a kind of economic red-lining, of course. Banks don't want to make loans in areas that are likely to result in a loss of their investment. But we're trying our best to get them to appreciate the fact that the only way the inner city can be developed is to make private capital available on a far more extensive basis than has been done in the past. We have to encourage banks to take a little risk, to provide counseling and assistance to people who borrow money. We've made some progress, but there still is more negative thinking—failure to act—than there are positive efforts on the part of bankers to provide these funds.

"And there's still a racist factor, of course. The trouble is that it's hard to get eight or 10 or even 100 cases together against a bank that won't make loans in deteriorating areas. They can always argue that there are particular reasons why they made this or that judgment, and the Federal government shouldn't be second-guessing them. What we must do is to insist that they show a steadily improving record of making loans.

"I also think the Federal government has the major responsibility of making it possible for people with modest incomes to buy homes. The fundamental problem is that two-thirds of the people in this country cannot afford to buy a new home. Now that is a shocking fact. It's probably the greatest percentage we've ever had. Right now, the cost of a home is about the same in relation to annual income as it was 30 years ago. Costs and incomes have both gone up greatly, but the carrying charges—the interest rates—are so much higher than ever before that you just knock two-thirds of the population out of the market.

"Now what are you going to do with those two-thirds? Some of those people can buy used housing, which isn't very widely available. The housing stock is low, the vacancy rate is very low and the houses are deteriorating all the time. We need some kind of program that will build housing. Since January 1973, the Administration has had a moratorium on all government-assisted housing. This really aggravates the situation when mortgage money is so short. Because of the credit shortage, loans are going to be made only to people who are top-flight borrowers, and people who are not in that category simply won't be able to borrow money to buy a new home.

"Right now the average working person doesn't have a chance—or very little chance—of buying a new house. With interest rates over nine per cent on mortgages, people are spending about 36 per cent of their income on housing costs. That is extraordinary. The usual estimates suggest that people spend no more than 25 per cent of their income on housing. This means they're going to have to cut cruelly into their food budgets, clothing budgets and so on. They'll have no entertainment, no vacations, none of the amenities that most people live for. It's a very rocky, tough situation. Most people who already have their homes are not affected. In fact, they have it pretty good. But it has a sad, even tragic effect on family after family trying to get homes. This includes young, newly formed families who often have to live with relatives or in mobile homes—and that can mean crowding and tension within families. There is a transient feeling, a sense of not belonging. You're a rolling stone outside of the mainstream of community life.

"Of course, I have nothing against people who want to live that way, and I'm sure some do prefer it. Some of the mobile home parks are beautiful, but a lot more are not, and the atmosphere for children can be very bad in some of the poorer mobile homes. I think we also have to recognize that the mobile home interest rate is much higher than the rate on a conventional home. It's not a permanent investment like a conventional house is. So the crowded quality, the fact that it's not a real investment in the long run, the transient atmosphere, the feeling that you don't belong to a settled community—all of these are tremendous problems, although I'd hate to think where we'd be without mobile homes right now."

I showed the Senator a copy of the Lithopinion editorial "Beware of Socialists Wearing Vests," in which Edward Swayduck argued that the Administration's supposed remedy for inflation, high interest rates, is not a very effective inflation fighter and is, at the same time, harmful to the vast majority of Americans—and asked him what he thought about it. He replied, "Well, he's right. An increase in interest rates does tend to discourage borrowing and therefore spending by home buyers, small businessmen, farmers and state and local government.

"In this way it reduces demand and eases pressure of prices. But big business and big government is not interest-rate sensitive. So what's the result? The litle man is hurt. The big man is helped. And the easing of demand pressure on prices is reduced by the increased cost pressure from higher interest rates.

"For these reasons, Mr. Swayduck's conclusions make considerable sense."

We then got onto the topic of military spending. This is what he said as he tightened up his tie, gathered up some papers from his desk and headed for the door: "We have to cut Federal spending or else the Federal government's demand for funds, which is so very great, will increase interest rates and increase prices.

"The big, vulnerable area for reduction, of course, is military spending. The military budget is fat and wasteful, and we can cut it without reducing the strength of our military force. I loved what Admiral Rickover said on this score. He pointed out that we'd have a stronger Navy if we fired half the Admirals. We've got more Admirals now than we had at the height of the Second World War, when we had six times as many people in the Navy. The same thing is true of the Army and the Air Force. Every Admiral has a staff. If you fire the Admiral, you also fire his staff and the civilian component as well.

"In addition, there's no reason why we need more aircraft carriers. We have 16 aircraft carriers, and the Soviet Union has how many? None. Zero. So we're not competing with them in aircraft carriers. Or take long-range bombers: We're building B-1 bombers at an eventual cost of $20 billion. What do we need long-range bombers for? We already have four times as many as the Soviet Union, and the missiles are much better than the long-range bombers anyway. Here's another strange one: What are we doing with 300,000 troops in Europe 30 years after World War II? How long are those troops going to stay there? It seems to me that we could cut those troops in half. We're spending $30 billion on our troops scattered all over the world—far greater than any empire in history—and they are not serving the purpose of defending this country effectively. I think we could cut that back. I'm not saying cut it out, but we could cut it back. And if we did, we could save billions of dollars.

"In addition to that, I'd certainly cut back for this year the space program. There's no urgency in the space shuttle. We're not going to Mars next year or the year after, but we're spending hundreds of millions of dollars in that area.

"I think the notion of building the highways of this country at such a rapid pace is another area where we might call a moratorium and hold down spending.

"These are the basic areas where we could easily cut $10 billion. As a matter of fact, a group of former top defense officials—Admirals and Generals—agreed that we could cut $14 billion out of the military alone, and still have a stronger military force than anyone else.

"One other area I might mention is foreign military assistance. What in the world are we doing providing ammunition, tanks and planes to other countries so they can fight each other? We're doing that with the Middle Eastern countries, and if they use them, they'll use them against each other. We're providing them for Pakistan and India so they can fight each other. This isn't only financially wrong. It's morally mischievous, and we ought to stop it."

REMARKS ON FTC ENERGY STUDY

Mr. PHILIP A. HART. Mr. President, there is a popular conception—not without some basis in fact—that the last thing a public servant would do is admit his work was worthless.

It is a very human trait but it does seem to be magnified in some of us.

This made the testimony in June of last year of Dr. H. Michael Mann, director of the Bureau of Economics for the Federal Trade Commission, dramatic.

Dr. Mann, a man with proven and impressive credentials in the academic field, told the Senate Antitrust Subcommittee he was publishing the FTC's study of concentration in energy because he wanted everyone to see how bad it was.

The study was undertaken, at my request, by the FTC in late 1970.

The report was inadequate, Dr. Mann said, because the FTC had to work from published data—meaning they were attempting to figure concentration now and in the future based on contemporary production figures. What was needed, he explained, was information, directly from the companies, on ownership of reserves in all forms of energy.

That information was barred, he said, by the requirement that any FTC questionnaire for more than nine companies had to go through the Executive's Office of Management and Budget. There it would run into the Business Advisory Council—which historically has cut up or held up other questionnaires.

So, in effect, the FTC could not get the information it needed in time to be useful.

Dr. Mann put the situation better. He said that:

> On coming to the FTC I was appalled by the kind of data with which the Federal Trade Commission has to try to make its important decisions in the antitrust and consumer protection areas.

Fortunately, Congress responded to the problem. And, in amendments to the Alaska Pipeline bill, Congress removed questionnaires of all independent agencies from the OMB review.

So, although Dr. Mann is no longer with the FTC, the Federal Trade Commission is at long last issuing significant questionnaires directly to industry. The responses should provide not only data to figure concentration ratios in coal and natural gas reserves, but which will give us—for the first time—up-to-date and accurate information on what we really have in coal and natural gas reserves and the extent to which the same companies control more than one fuel. I understand that similar information on oil and uranium ownership is being compiled.

It is the type of information sorely needed if we are to conceive a responsible energy policy, and I hope the study will be completed before the end of this year.

WORLD MILITARY AND SOCIAL EXPENDITURES

Mr. PROXMIRE. Mr. President, a very important analysis of world military and social expenditures has been prepared by Ruth Leger Sivard and published under the auspices of the Institute for World Order.

The author of the report is the former chief of the Economics Division of the U.S. Arms Control and Disarmament Agency. Among her accomplishments in 12 years' service with the Agency was the inauguration of annual reports on world military expenditures and world arms trade. Unfortunately neither of these reports has been issued by the Agency for 2 years.

As a result of renewed congressional interest, ACDA is now committed to resuming annual reporting, but it will no longer provide comparisons of social expenditures with military. Social data, reflecting both budgetary progress and the unmet needs of society in such fields as education, health, and welfare, are critical for an evaluation of our relative priorities.

World Military and Social Expenditures contains annual data for 132 countries. Some of the data, particularly for Communist countries, have been drawn from studies prepared by or for the Joint Economic Committee.

Mr. President, I ask unanimous consent that certain sections of this report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WORLD MILITARY AND SOCIAL EXPENDITURES

OVERVIEW

One of the most concise and revealing means of measuring national priorities is the allocation of public resources through government budgets. By this standard, the expenditure of public funds in the world today shows a preoccupation with national military power which dominates all other concerns of government.

Neither the spirit of detente nor increasing evidence of a burgeoning economic-social crisis succeeded in slowing the arms race in 1973. In a period relatively free of major wars, the nations of the world were spending upwards of $240 billion a year on "defense"—each presumably in anticipation of military attack by some other member of the world community. An estimated $40–50 billion of this annual outlay was for nuclear arsenals which, if used, would mean global devastation.

Valued in U.S. dollars in constant prices, the military budgets of the world were more than five times as large as they had been prior to World War II. Even if spending goes no higher than at present (an optimistic assumption not warranted by the record of the past), world military outlays in the 1960's and 1970's will have exceeded the staggering sum of $4,000 billion, at 1972 values, or more precisely, $4,329,000,000,000.

The economic scale of this unprecedented investment in military power is difficult to grasp. Some comparisons give it perspective. A total of $4,329 billion exceeds the value of all goods and services produced in 1973, that is, it is more than the entire product of one year's labor by all the world's people. In a single year, world military expenditures are larger than the annual value of the combined GNP of the one-third of the world's population living in Africa, the Middle East, and South Asia.

The crushing burden of the arms race on society at large is also measurable in terms of other needs which are in competition for the resources absorbed by military programs. In ways critical to the well-being and to the survival of society, the search for military security is pursued at the expense of other goals. These represent the "opportunity costs" of military expenditures. They are numerous. This report covers a few which can be quantified on a worldwide basis.

In contrast to the build-up of military power, progress in meeting the basic needs of a growing population is in many respects disturbingly slow. In the early 1970's, annual public expenditures worldwide for all forms of education, including the education of more than one billion children of school age, were still appreciably less than world military expenditures. A large proportion of school-age children (in developing countries, over one-third) were not enrolled in schools. Although the public funds going to education had increased significantly since 1960, as had the number of teachers, the gain was apparently not large enough, or sufficiently widespread, to stem a steady rise in the number of illiterates in the world. Out of an adult world population of two and one-half billion, more than 700 million were unable to read and write.

Relatively few countries devoted as much public revenue to the protection of the public from disease, illness, and injury, as from military attack. Worldwide, government's expenditures on health care were only half as large as military expenditures. In the developing nations, where poverty and disease were closely correlated, annual public outlays for health care averaged under $3 per person, about one-fourth of military expenditures. In these countries, there was one physician to 4,000 people. In many, the average life span was under 45 years. Infant mortality at the rate of 20 per cent was not uncommon.

World food scarcity, with the threat of growing starvation, became a grave issue in 1972 and 1973, and continued increasingly so in 1974. Acute food shortages were reportedly more widespread than at any time in recorded history. In the developing world, an estimated 460 million people were suffering from severe malnutrition; up to half of the deaths of children under 5 years were attributed to food deficiencies. Although the food crisis produced new efforts toward cooperative international action, an increase in food aid and financial aid was slow in developing. As the shortage became more pronounced, the volume of food aid available for developing countries, rather than increasing, diminished to half the average level of the preceding 10 years.

The total of official foreign economic aid extended to poorer countries continued to grow in nominal terms, although at a rate which was less than the inflation of prices, and far short of targets set by intergovernmental agreement. In 1972, over thirty countries were recorded as donors of economic aid. The value of their economic assistance, loans as well as grants, was equivalent to less than 6 per cent of their military budgets.

A lag in development assistance, combined with food shortages and sharply higher prices for fuel, contributed to a bleak outlook for many developing nations, especially those dependent on food imports. The gap in income between the richer and poorer nations, and between the more and less affluent of the developing nations, was stretching wider, revealing an increasing number of people living in dire poverty.

If in 1972–74 famine sharpened the contrasts between the developed and developing worlds, it may also have clarified, for smaller as well as major military powers, the opportunity costs of defense spending—the costs to society in terms of opportunities lost. With evidence mounting that the backlog of unfilled social needs had swollen to serious proportions, there was also growing awareness of limits on the resources of even the richer countries. The competition between military and social needs was plainer.

To meet the social deficit there was one rich source of resources as yet untapped, the world military budget. Whether the urgency of other needs and public demand would bring about some shift of priorities and revenue away from the arms race was not yet clear. At midpoint in the decade which the United Nations had hopefully named the Decade of Disarmament and the Second Development Decade, there was still no evidence that two alternatives to the build-up of national military power, which could free materials, money, and manpower urgently needed in constructive activities elsewhere, were being vigorously pursued.

One alternative, internationally-agreed disarmament, had been under negotiation since 1962 but so far had produced no agreements of a kind which actually reduced arms or military expenditures. The agreements which had been made attempted to control the arms by limiting nuclear proliferation (NPT), new technology (LTB), or numbers of strategic weapons (SALT). They may have prevented some expenditures, but they did not achieve a reduction.

Another alternative to the arms race, the strengthening of international peacekeeping mechanisms, continued to face stringent financial limitations. The world's budgetary commitment to this alternative still had a long way to go. The total annual investment in international peacekeeping in 1973 was 0.03 per cent of global expenditures on national military establishments. Or, put another way, for every $100 that went for the build-up of national armed forces less than 3 cents was spent on international peacekeeping.

MILITARY

Dimensions

The militarization of the world economy is one of its most prominent features today. "Defense" buys more of the most advanced industrial products than any other single customer of industry. In military and civilian functions it employs an estimated 50 to 60 million people, and it accounts for close to 6 per cent of the global product. In a world of multi-billion-dollar corporations, defense as producer, buyer, and employer, remains the biggest business of all.

Available data on the military sector of the world economy tend to understate its true dimensions and impact. Defense budgets are often incomplete as indicators of fiscal burden. They do not include such costs as veterans' benefits, or interest charges on national debts resulting from past wars. Nor do they provide any measure of the many related but unwritten costs, to individuals or the public treasury, such as the loss of income by young people serving in the armed forces at less than market wages or the loss of tax revenues on properties used for military purposes.

The armed forces are also an inadequate measure of manpower used for military purposes. To the regular armed forces, as recorded in the tables in this report, can be added armed border guards, gendarmerie, and other paramilitary forces, which would raise the military total to nearly 30 million individuals world-wide. This would not include reservists who in peacetime serve for a short period in the year and are the major part of the forces of countries such as Switzerland and Israel. Civilians employed by defense ministries or in industries supplying them represent another significant but unmeasured addition to the armed forces. They could easily raise the overall figure to 50–60 million, indicating that the labor force engaged in military-related activities is as large as the total population of the United Kingdom.

Neither budgets nor aggregate manpower figures adequately measure the quality of economic resources absorbed by the military. The technological sophistication of the modern military force, created by a heavy investment in research and development (R&D), has no counterpart in the provision of services available to the public. As the largest single buyer of new technology, the military sector of the economy takes a commanding role in R&D. Its use of the world's best scientific manpower and facilities is far out of proportion to its place in the overall economy. While defense represents 6 per cent of world GNP, it engages an estimated 25 percent of the world's scientific talent and accounts for about 40 per cent of public and private expenditures for R&D.

How this significant segment of the world economy affects the health of the rest of it is something about which surprisingly little is known. The direct competition between military and cvilian needs for public resources is relatively clear, but the implications of large military expenditures for the pace and direction of overall economic-social development are only dimly perceived, as are the relationships of the arms race to current economic problems, the developing economic depression and exploding price inflation. The arms race adds to pressure on prices by absorbing enormous quantities of goods and services which then do not reach the market for civilian purchase. Because the economic-social effects of this diversion of resources have not been adequately assessed, it has been possible, for political purposes, to ascribe to military budgets positive effects on the economy, to hold reductions in those budgets responsible for economic setbacks, and even to use military budgets as economic tools.

The GNP Fallacy

Budgets which presumably have the sole purpose of protecting the national security have developed a curious tie to economic growth. The ratio of military spending to GNP was first a convenient reference to use in indicating relative burden on the economy. Going a step further, the GNP ratio at times has also served as a target in planning a feasible level for a defense budget. What the economy can afford, apparently based on what it accepted in the past, becomes the guideline for the next budget. If the ratio is somewhat lower than in past years, or at least no higher, military expenditures are described as declining or levelling off, even if the actual trend in dollars may be quite different.

Linking defense budgets to the trend in GNP in effect establishes a military claim on society's expanding resource base. The GNP link ensures a continually rising budget; beyond that, the logic for it is dubious. A constant ratio to GNP would imply that the military threat to the security of a nation inevitably grows in proportion to its economic development. There is no evidence that this is so. Nor can it be assumed that military establishments need to expand with population, and accordingly have, like social welfare and population-related needs, a natural claim to a share of world growth.

As an indicator of the trend of military expenditures, a ratio to GNP clearly has limitations. During most of the 1960's the ratio of world military expenditures to GNP stayed within a narrow range, generally between 6.5 and 7.5 per cent; in the early 1970's it gradually dropped below 6 per cent. But the actual trend of military expenditures and forces during the period was quite different Expenditures, even after adjustment for inflation, moved up sharply. A pause in the upward climb at the end of the Vietnam War proved to be of brief duration. Looking only at the ratio to GNP, one could have missed the fact that a declining ratio produced the most formidable arms race in history.

MAJOR MILITARY POWERS AND THEIR RANK IN SOCIAL INDICATORS, 1972

Comparisons of the military and social ranking of countries indicate that for most of the biggest military powers armed strength has been achieved at the sacrifice of the social welfare. With few exceptions, major powers stand lower, in the ranking of nations, in social indicators than in military.

			Rank among 132 countries [1]							
	Military expenditures		Education			Health care			International peacekeeping	Foreign economic aid
Country [2]	Million US$	Rank	Public expenditures per capita	School-age population per teacher	Illiteracy	Public expenditures per capita	Population per physician	Infant mortality per 1000	Public expenditures per capita	Public expenditures per capita
United States	77,638	1	4	12	1	5	17	13	5	12
USSR	65,000	2	14	36	1	16	2	25	42	20
Germany, West	9,018	3	10	23	1	2	10	24	19	14
China	9,000	4	88	51	22	97	89	80	---	25
United Kingdom	8,186	5	15	9	19	12	26	13	8	16
France	7,286	6	18	12	1	8	23	9	23	4
Italy	3,675	7	23	12	26	33	9	31	20	20
Japan	2,628	8	21	20	1	54	30	4	27	15
Canada	2,258	9	2	6	25	4	15	13	4	3
India	2,112	10	109	64	83	97	78	93	56	---
Poland	1,945	11	28	35	21	21	14	31	56	---
Germany, East	1,906	12	22	17	13	17	11	13	---	---
Iran	1,637	13	64	92	81	57	68	102	42	---
Netherlands	1,552	14	5	38	1	6	25	1	7	6
Czechoslovakia	1,543	15	23	28	13	10	4	23	42	---
Spain	1,515	16	42	41	24	47	23	33	56	25
Israel	1,490	17	19	9	40	32	1	20	32	23
Sweden	1,451	18	1	3	1	1	22	1	1	5
Austrailia	1,411	19	13	9	29	19	32	11	10	9
Brazil	1,256	20	63	31	61	86	51	76	25	---
Egypt	1,136	22	73	91	90	67	48	85	38	---
Belgium	1,015	21	8	1	13	11	13	20	14	8

[1] From table III, pp. 22–27. The rank order number is repeated if more than 1 country has the same figure.

[2] All countries with military expenditures above $1 billion in 1972.

EDUCATION

From 1960 to 1972 the world's school-age population (ages 5-19) grew at an annual rate of 2.3 per cent, somewhat faster than the total population. This growth rate meant that every year there were 25 million additional children who were prospective students.

Public funds for general education and for the literacy and training programs which governments have instituted, have continued to be smaller than the funds provided for national military forces despite the rapid rise in population. In 1972, both developed and developing countries as a group gave education lower priority in public fundng than military programs, although there were many countries in both groups where the commitment to education was the higher.

On average, developing countries spent an estimated $8 per capita in public funds for education, against $11 for military forces, while developed countries spent $188 per capita for education and $193 for military. Ironically, it was in the poorer countries, where education needs are the greatest, that the spread between military and education funds was the wider.

The contrast between government's financial commitment to military forces and to education shows most sharply when investment is put on a "user" basis. National military outlays per soldier (person in the armed forces) give an indication of the relative sophistication and quality of national forces. Education expenditures per child are also indicative of the comparative development of school systems. By the same token, a comparison between the two reflects, in a rough way, the contrasts in both the amount and quality of the resources made available to them. In 1972 world military expenditures averaged out to $10,405 per soldier; public education expenditures to the equivalent of $168 for each school-age child in the world. The contrast betwen them is a commentary on society's present order of priorities.

HEALTH CARE

One of the most direct measures of the quality of resources for health care is the infant mortality rate. The rate measures the deaths of infants under 1 year of age per 1000 live births. The most recent figures indicated an average of 18 per 1000 in developed and 102 per 1000 in developing countries. Between the Scandinavian nations, which had the best record in infant mortality (11 deaths in 1000) and those African and South Asian nations which had the least satisfactory (up to 184 deaths in 1000) was a gap which reflected the inadequacy not only of medical care but also of education, and of the most basic necessity of all, food.

On a world-wide average, governments spent half as much on health care as on the military. The spread was widest in the developing countries, where health expenditures by governments totalled less than one-fourth military outlays. The contrast was especially sharp in these poorer countries because the trend in public spending was upward for military but down for health.

Indicative of the disparity in resources, world-wide there were 2.5 million physicians, as compared with 21.3 million in the armed forces. On a per capita basis, the ratio indicated a striking difference in the size of society's investment for protection against military attack as compared with protection against disease and ill health. Again the difference was most extreme in economically deprived areas. In developed countries there was an average of one soldier per 100 inhabitants, one physician per 570. In developing countries, the ratio moved up to one soldier per 240 people but escalated to one physician per 3,930 people.

INTERNATIONAL SECURITY

The energy crisis in 1973, with a global food shortage and accelerating inflation, combined to make the world more conscious of interdependence. There were some encouraging signs of an effective resort to international cooperation, but the dimensions of the economic upheaval were so large as to make general social prograss uncertain. Under these circumstances, two aspects of international security became ever more important.

Economic assistance

The new economic shock waves hit hardest at developing countries. The oil and mineral exporting countries among them enjoyed increased revenues from sharply higher prices, but for the poorest countries the additional costs of fuel, as well as fertilizer and food, represented a serious setback to fragile economies. Without a major effort by the international community, the World Bank warned in mid-1974, 800 million of the poorest in the world can expect almost no improvement in their conditions of life for the rest of the decade.

Based on past import needs, the price rise in fuel alone will cost the developing countries more than their total receipts of official foreign aid. To maintain moderately acceptable rates of growth, a substantial increase in the flow of external resources was indicated. But on this score, neither the past record of foreign economic assistance, nor the growing depression in the industrialized countries, held out encouraging prospects for the future. Net flows of official development aid have been rising in nominal terms, but declining in real terms (after allowance for inflation). The decline has occurred when the needs are growing.

In setting goals for the Second Development Decade, the United Nations called for a 6 per cent growth rate in the GNP of the developing nations, or approximately 3.5 per cent per capita. It should be noted that even if this rate were achieved (and it represents a significant increase over actual progress since 1960), the result in terms of average per capita income in the developing world would still be under $300 at the end of the decade. But to achieve such a growth rate, it was estimated that developed nations would have to increase official development assistance to 0.7 per cent of their GNP.

So far such assistance has fallen below the target. For the donors, official aid amounts to 0.35 per cent of their GNP, half the amount needed to begin reducing the income gap between the two parts of the world. The aid total of $13 billion in 1972, including estimates of aid provided by China and oil-rich developing countries, was equivalent to 6 per cent of the donors' military expenditures.[1]

International peacekeeping

Since 1960, the period covered by this report, eight international peacekeeping and peace observation missions have been undertaken under the sponsorship of the United Nations and one under the Organization of American States. The geographical scope of the operations is broad. They have been located in Egypt, Israel, Congo, Yemen, Indonesia, Cyprus, India, Pakistan, and the Dominican Republic. Even more extensive is the record of voluntary participation by the 50 or more states which have provided personnel and equipment for the operations, some at their own expense.

With the exception of Vietnam, the international conflicts during this period were essentially local conflicts, in which the major military powers were not involved. The international peacekeeping actions served to observe armistice lines, to prevent or halt fighting, restore order and maintain a truce. They were not enforcement actions in the sense of having power to impose a settlement by force, but in many situations they served a most important function of defusing conflicts and insulating them from superpower confrontation.

Compared with the financial and manpower investment involved, the contribution of the multilateral approach to conflict control is the more remarkable. Except for the Congo operation, which involved approximately 20,000 troops, the maximum force has been about 6,000 since 1960. Total costs to the world community, both cash and in-kind contributions, add up to $800,000,000. This contrasts with $2,400,000,000 spent between 1960 and 1973 for national military forces. A ratio of 3000 to 1. No monetary estimate has been made of the savings to the world in destruction prevented.

CONCLUSION

The dimensions of world spending for national military forces defy adequate assessment except in terms of the social deficit. When hundreds of millions of the globe's inhabitants lack basic necessities of life, the nonproductive use of resources amounting to more than $240 billion annually represents a burden on humanity of tragic proportions.

Statistics can provide only a superficial account of the unfinished business in the world today. Yet they may help to make more visible the neglected priorities of an interdependent community of nations and to give a sense of proportion to the common purpose.

A selection of unmet needs for which cost estimates have been made by international authorities gives at least some hint of relative values. The following are illustrative of global objectives which could be fulfilled if resources were available. Costs are on an annual basis.

	billion
Eliminate illiteracy over a 5-year period	$1.5
Provide universal family planning services	2.0
Double world spending for medical research	4.0
Provide special feeding programs for the world's 200 million undernourished children	4.0
Treble external aid for the development of food production in the poorer countries	3.5
Establish a permanent international peacekeeping force of 100,000	1.5

A program of such scope, designed to attack at one time the ills of illiteracy, overpopulation, starvation, and disease, and to build a firm structure for peacekeeping, has not been proposed and if it were it would surely be labeled unrealistic. Yet all of the elements above total less than $17 billion, not quite 7 per cent of present global military expenditures. As an alternative investment in security, they hold greater promise than more weapons.

PITTSBURGH STEELERS WIN NFL CHAMPIONSHIP

Mr. HUGH SCOTT. Mr. President, we are very proud of the Pittsburgh Steelers' outstanding performance in the Super Bowl on Sunday. They exhibited both skill and fury, defeating the Minnesota Vikings 16 to 6. At last, after much waiting, hoping, and praying in Pittsburgh, we have a national football champion.

I ask unanimous consent that two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Philadelphia (Pa.) Inquirer, Jan. 15, 1975]

PITTSBURGH, YOU'RE SUPER!

Philadelphia, having experienced the delirium of a super-emotional victory celebration last spring when the Flyers won the Stanley Cup for the first time, can identify strongly with Pittsburgh and the state of frenzy prevailing there.

Our heartiest congratulations go to the Steelers for becoming the first Super Bowl champions from Pennsylvania and for winning in persuasive fashion over the Minnesota Vikings with a combination of superior defense and offense. Franco Harris, Mean Joe Greene, Terry Bradshaw and the rest of the Pittsburgh team lived up to their reputations for ferocity and tenacity.

For Coach Chuck Noll, who turned perennial losers into spectacular winners, it was an especially glorious triumph. And for Pittsburgh fans, who waited 42 years for their first National Football League championship, there is no more "waiting until next year."

The Eagles, by comparison, were NFL champs as recently as 1960 and on two earlier occasions. And maybe next year . . .

[From the Pittsburgh Post-Gazette, Jan. 13, 1975]

STEELERS: AMAZING AND DESERVING

Oh, what a lovely morning this is. It's a fine morning to be in Pittsburgh, a proud morning to be a Steeler fan. Yesterday, Super Bowl Sunday, was even finer, especially for the Steeler team, for its coach, Chuck Noll, and for its owner, Art Rooney.

They quenched four decades of thirst for victory here by winning a national glory in professional football unprecedented in Pittsburgh. The Steelers' 16-6 victory over the Minnesota Vikings yesterday meant the first National League Football championship in the 42-year history of the franchise here.

Pittsburghers can take satisfaction in knowing that Mr. Rooney's sons, Dan and Artie, in all but taking over completely from their father the top management of the club have worked hard and astutely to help boost the Steelers to professional football preeminence.

Area fans can rejoice with Art Rooney for his having eschewed the past practice of choosing Steeler coaches on the basis of friendship. In 1969, he chose Chuck Noll for his ability and then stuck with him.

The area can rejoice with Mr. Noll, who retained his belief that he could build the club into a championship team. In his first season here, the Steelers turned in for him 13 straight losses.

From then he built a team that is as deserving of yesterday's bowl victory as any club ever was, a team that developed defensive strengths and offensive rushing abilities that made it one of the most exciting clubs to watch and one of the most feared by other teams.

That was the team that yesterday formally became the champions we and they knew they were—not only amazing champions but also deserving ones. To them goes the glory in which their fans, after long years of waiting, now deservedly bask.

A lovely Monday morning, Steelers. Thanks.

SENATOR GARN'S BASIC GOALS AND OBJECTIVES

Mr. GARN. Mr. President, I consider it a great honor and privilege to join this distinguished body of lawmakers today in the commencement of the efforts the 94th Congress will make to resolve the serious issues and address the critical problems that face our Nation and the world.

I fully recognize that the job before us is not an easy one; I recognize that the issues will be complex and the available alternatives many and varied. But life is always that way, and so I have always established basic goals and objectives for myself and used them as a foundation for my actions. I intend to continue that practice here in the Senate of the United States. I have also made it a practice to follow through on commitments and to remain consistent on a path I have once chosen to follow. For these reasons, I wish to begin now to make a matter of record the basic goals and objectives that will guide me in the days ahead.

No single theme bore more repetition during my campaign for the U.S. Senate than that of the decentralization of the Federal Government. As a mayor of a large western city, and an officer in the National League of Cities, I saw the infantry of government at work—the men and women in the trenches, close to the action, where they developed a true appreciation for the problems of this Nation, born of vivid experience and sometimes bitter frustration at their inability to do what they could see needed desperately to be done; an inability that did not come from lack of competence or effort, but from being hamstrung by guidelines and caught up in redtape and bureaucratic mumble-jumble, from being forced to accept a predetermined bag of solutions and then to find the problems to fit the solutions, rather than the other way around.

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[1] How world economic aid compares, overall, with military aid, this study has been unable to establish. Official secrecy has so far made it difficult to estimate national programs. In the U.S. where such public accounting is more accessible, foreign military aid recently has exceeded economic, by a ratio of $5.5 (military) to $3.5 billion (economic) in fiscal year 1973 and $5.2 to $4.0 billion in fiscal 1974.

The "size 42" solutions too often proliferated by the Federal Government and by the Congress do not fit every situation any more than a size 42 suit fits every man. Locally elected officials need flexibility. They need alternatives and the freedom to develop initiatives in meeting the problems of an increasingly complex society, without Big Brother looking over their shoulder, second-guessing and disallowing and obstructing their progress toward real and lasting solutions.

I do not believe that I am guilty of misplaced faith when I suggest that the grassroots level, locally elected public officials of this country can effectively meet most of the problems facing their citizens if we only give them the chance. I intend to support and to introduce legislation that will give them that chance in the upcoming weeks and months of the 94th Congress—and throughout my term in the Senate.

I am therefore cosponsoring early in this session legislation which will extend and improve the General Revenue Sharing Act and a resolution disapproving the proposed deferral of HUD section 701 comprehensive planning funds for this fiscal year. I will work actively for the passage of these two measures early in the 94th Congress to help give local governments the chance they need.

BILLY VESSELS INDUCTED INTO FOOTBALL HALL OF FAME

Mr. DOLE. Mr. President, at ceremonies in New York shortly before Christmas, the National Football Hall of Fame honored excellence by inducting former Oklahoma University star running back and all-around-everything, Billy Dale "Curly" Vessels.

A native of Cleveland, Okla., and therefore a neighbor of my home State of Kansas, Billy Vessels was one of the premier collegiate football players of his era. Though a preeminent runner, his talents were not limited to offensive play. He was one of the most aggressive—in the words of his coach, Bud Wilkinson, "the toughest"—players in college football of the early fifties, and could play equally on offense and defense.

Now a successful business executive in Florida, Vessels still displays the same aggressiveness, and the same determination and ability to succeed that distinguished him on the field 20 years ago.

Though he no longer commands the press attention he received as winner of the Heisman Trophy and other national player of the year awards, I can not help but think that sometimes he, and others like him, should.

For, while we may not all have the athletic talents of a Billy Vessels, or the business sense, we all have some talents and, in this country, the same freedom to maximize them as he does. If we all determined to do so with the same drive and pride Billy Vessels possesses, the problems of this country, and the business of this 94th Congress would be that much less.

Mr. President, I ask unanimous consent that a clipping from the December 8, 1974, Tulsa Daily World, describing some of Billy Vessels accomplishments on and off the field, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Tulsa Daily World, Dec. 8, 1974]

VESSELS: MOST DECORATED SOONER—AND BEST?

(By Bill Connors)

("Vessels was the first player I ever saw who was both the fastest and toughest player on the field."—BUD WILKINSON)

Billy Dale (Curly) Vessels could, and did, turn football games around with a run, or a pass, or a reception, or a kick return, or a block or a tackle.

He played when (1950–52) the collegiate sport was in the twilight years of its first romance with two-platoon rules; but he possessed such defensive skills that Bud Wilkinson used him in the secondary in crucial situations.

He played when there were no artificial turfs or exotic formations to benefit runners; but he ran wild, and had his best games against the best competition—Notre Dame, Bear Bryant, Texas, Nebraska.

He was the first Oklahoman to win the Heisman Trophy and the Maxwell Trophy, and be selected national player of the year by The Associated Press and the Cleveland Touchdown Club. He harvested all of these honors in 1952. He was the University of Oklahoma's most decorated back.

He probably was the best football player OU ever had.

Tuesday night, in ceremonies in New York, Vessels will be inducted into the National Football Hall of Fame.

In all probability, several other Sooner backs, some of whom have already eclipsed Vessels' records, will follow Vessels into the Hall of Fame. But unless one-platoon rules are returned, or an extraordinary player arrives under extraordinary circumstances, Oklahoma is not apt to see the likes of Vessels again.

This is not to say OU has not since had, or will not have, backs who could do what Vessels did—though it could be argued. It's just that none of those who might be compared to Vessels ever had to be so versatile. Those who were versatile did not match Vessels' excellence.

Steve Owens, OU's other Heisman winner, may have been stronger. Greg Pruitt, who was a Heisman runnerup, may have been faster. Joe Washington, who might win it next year, may be more elusive. Tommy McDonald, who won the Maxwell, may have thrown and caught the ball better and been as fast.

But Vessels was a back for all seasons. He could have played in any formation—split-T, winged-T, single-wing, I-formation or wishbone and been equally outstanding. That cannot be said of the others. Prior to Vessels' junior season, Bud Wilkinson said, "We probably should use the single-wing and let Vessels have the ball on every play."

Those who played with Vessels remember him as much for his toughness as for his speed. He loved contact. It was said he relished one-on-one drills so much he was impatient to wait in line for his next turn and would use the time to take practice licks against unfortunate teammates who happened to be in line next to him.

He was a deadly tackler. As a freshman, Vessels started on defense. He proved too valuable on offense and two-platoon rules spared opponents from seeing a lot of Vessels' defending. But when opponents threatened, Vessels played defense—and made an impact.

In 1950, halfback Charley Hoag and Kansas had No. 1 ranked OU and its 28-game winning streak on the ropes, 13–0, in the third quarter, when Vessels made a headon tackle that put Hoag out of the game. (OU won, 33–13). He injured a William and Mary player seriously in 1951. In the classic '52 game at Notre Dame, Vessels preserved OU's 14–7 halftime lead by intercepting a pass in the end zone.

PEAKED AGAINST NOTRE DAME

But backs don't win the Heisman and go to the Hall of Fame on defense. They go on offense, and that is how Vessels is best remembered. Vessels' virtuoso game was at Notre Dame in '52, when he scored all of OU's touchdowns in a 21–27 defeat.

He ran 28 yards with a pass from Eddie Crowder for the first touchdown, and sprinted with handoffs from scrimmage for 62 and 47 yards. He gained 195 yards on 17 carries. No visiting back has ever had such a day at South Bend.

Vessels' best day at Norman was against Nebraska in the 1950 battle for a Big Seven Conference championship. Bobby Reynolds at Nebraska was spectacular for a half and his team led briefly. But Vessels rushed for 208 yards and scored three touchdowns and passed for a fourth in a 49–35 victory.

Bear Bryant's Kentucky team broke OU's 31-game winning streak in the 1951 Sugar Bowl, 13–7, but through no fault of Vessels. He averaged over five yards a carry, had a 51-yard run nullified by a game-turning penalty and passed 17 yards to Merrill Green for a touchdown.

Wilkinson thinks Vessels' best run was not of the home run variety. It was an 11-yard smash for the winning touchdown against Texas (14–13) in what amounted to a battle for the 1950 national championship, Vessels ran over Texas' last defender at the five-yard line as though he were a paper doll. "I'd never seen such a demonstration of determined running," Wilkinson said.

Vessels followed his 1952 collegiate heroics by leading Edmonton to the 1953 Canadian professional championship and being Canada's player of the year. He entered the Army in '54 and led his team to a championship and was named Army player of the year.

SCORES IN FLORIDA BUSINESS

Upon his discharge in '56 the Baltimore Colts, who drafted him No. 1 in '52, signed him. Injuries kept him on the bench for much of the season but he ran as advertised in late season. However, he became disillisioned with coach Weeb Ewbank and ended his professional career after only one year. Thus, he missed a chance for more fame with a team that was about to follow Johnny Unitas to the NFL summit.

Instead, Vessels made his mark in Florida, as a rising executive with the millionnaire Mackle brothers' Deltona Corporation. Deltona owns hotels, banks, land and housing. Vessels' title is assistant to the president. He lives in Coral Gables.

He and his wife have a 19-year-old daughter and two sons, 16 and 13. One of his upcoming duties will be arranging for Notre Dame to use an island belonging to the Mackles for the Irish's Orange Bowl practices.

"I think of the irony," Vessels chuckled. "My most bitter memory at OU is of losing to Notre Dame. Now, I am getting ready to help them."

At 43, Vessels is near his playing weight of 185 and the epitome of class and poise. His refinement and modesty give no hint of the tough reputation he acquired as a schoolboy at Cleveland, Okla. He follows OU with typical alumnus pride, assisted in the recruiting of Elvis Peacock, serves on the Orange Bowl committee and looks forward to the Sooners being off probation "and getting down here next year."

LEAKE MADE HIM HUMBLE

Vessels, Buck McPhail, Buddy Leake and Merrill Green plus Wilkinson attended a surprise testimonial in Denver three months ago for Crowder. He attended OU's opener with Baylor and raved about Washington. He thinks modern day players are superior and says "if I am humble I got that way in 1951 when I was hurt (broken leg at Texas) and Buddy Leake, who was just a freshman replaced me and they won every game and didn't miss me. That will make you humble."

There is a sincere ring in his voice when he speaks of his gratitude for friends in Cleveland, and Wilkinson.

"No one ever had more fun playing football than me," Vessels said. "And no one ever benefitted more from associations made possible by Bud."

Wilkinson and OU athletic director Wade Walker will attend the ceremonies Tuesday night (OU's Randy Hughes will be among 11 scholar-athletes honored at the same event). Bob Hope is scheduled to attend. President Ford will be there if his schedule permits.

"When I think about it," Vessels said, "I get goose bumps. That is pretty fast company."

That is also where Vessels belongs.

IN MEMORY OF DR. MARTIN LUTHER KING

Mr. BENTSEN. Mr. President, today is the birthday of a man who helped make the world a better place. He is the late Dr. Martin Luther King, Jr., a clergyman and civil rights leader who was born in Atlanta, Ga., January 15, 1929, and died on April 4, 1968, in Memphis, Tenn.

He was the son and grandson of Baptist ministers. His father, Martin Luther King, Sr., christened him Michael Luther, but Dr. King, Jr., later changed it to Martin in honor of the great Protestant reformer.

He entered Morehouse College at the age of 15, and in 1947, he was ordained into the ministry. He received his B.D. from Crozer Theological Seminary in 1951 and a Ph. D. from Boston University in 1955.

Dr. King, while he was in school, developed a fascination and deep respect for Mahatma Gandi, whose life and teachings were ultimately to influence his own destiny as a leading apostle of passive resistance.

In 1964, King was recognized for his efforts to bring peaceful change to America; he received the Nobel Prize, becoming, at the age of 35, the youngest person so honored.

He was in great demand as a speaker, yet he found time to publish several books about his work, including "Stride Toward Freedom, Why We Can't Wait," and "Where Do We Go From Here: Chaos or Community?"

Early in 1968, Dr. King announced a "Poor People's Campaign" to be held in Washington. He helped to dramatize the plight of America's poor of all races. As plans were being made final, King flew to Memphis to lead a demonstration of striking sanitation workers. On April 4, as King talked with his staff on a balcony of the Lorraine Motel, he was shot and killed by an assassin.

The world lost a great man.

Mr. President, I believe Martin Luther King embodied that which is best in the American people. He dedicated his life to making the ideal of the brotherhood of all men a reality. In essence, Dr. King asked that we judge our fellow men not on the basis of their race, religion, or creed, but on what all of us really are, human beings with unique abilities and common needs and that all men be treated with the decency and respect they deserve.

Despite what must have often appeared to be insurmountable opposition, Dr. King never forsook his commitment to nonviolence. He was not willing to use any means to get to the top of the mountain, and I believe Americans today respect that dedication to one's convictions more than ever before.

As a result of his efforts, meaningful social change has occurred in America, and America has become a better place in which to live for all of our people.

Mr. President, many observances have been planned and are taking place throughout this Nation to observe Dr. King's birth. I believe we should join those Americans who remember him this day, and I hope my fellow Members of the Senate will join me in commemorating the birth of this man by observing a 60-second period of silence during the course of the day.

THE CAUSES OF INFLATION

Mr. PACKWOOD. Mr. President, recently I had occasion to read an excellent article on the causes of this Nation's economic distress by Prof. Barry Siegel. Professor Siegel is associated with the College of Business Administration at the University of Oregon. His article provides a clear and concise review of the causes of our inflation. I heartily commend this article to my colleagues. The few minutes required to read it will be well spent.

I ask unanimous consent that the text of the article, "A Brief Essay on Inflation," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A BRIEF ESSAY ON INFLATION

(By Barry N. Siegel)

Each year, the First National City Bank publishes a survey of world price developments. The news this year is very bad. In industrialized countries, price levels for the first half of 1974 averaged 11.1 per cent higher than in 1973. In less developed countries, the corresponding figure was 18.7 per cent! These figures reflect an acceleration of the inflation which has plagued the world for almost ten years.

A number of governments, including our own, have finally installed a set of restrictive monetary and fiscal policies in an attempt to reduce the rate of inflation. The current recession in the United States and in a number of other countries is directly traceable to these policies. For the United States, we do not yet know how long it will take for the restrictive policies to moderate inflation, or how much unemployment and lost production the country will have to suffer. We are treading upon relatively new ground. Previous experience in 1969–71, when the Nixon administration did battle with a milder inflation with essentially the same policy tools being used today, suggests that the fight will be long and hard. In that period, unemployment rose to about six per cent of the labor force, and the economy remained sluggish even after the bottom of the 1969–70 recession. Nixon abandoned the policy of restraint in the second half of 1971, mainly, I believe, so that he could have the economy close to full employment by the November 1972 elections. In so doing, he helped to rekindle the inflationary fires we are trying to put out today. The fires are now much hotter and more widespread than they were in 1969–71. It is going to take a much longer time to put them out. In the meantime, unemployment and reduced production will get much worse, and the political pressures to do something about the recession will become more intense. As 1976 draws nearer, the temptation will grow to abandon the present monetary policy of moderate restraint.

What has caused the inflation? All serious inflations have their origins in excessive increases in the money supply. By "excessive" I mean a growth of money which exceeds the maximum potential growth of production. In the United States, the maximum potential growth rate of output is about four per cent a year. For the last eight years, the growth rate of the money stock has been far higher. In the three-year period beginning in early 1966 and ending in late 1968, money grew at an average rate of seven-and-one-half per cent a year.

After a brief respite during the 1969–70 recession, the rapid growth in the money stock was resumed: from mid-1970 to mid-1973 it averaged seven per cent per year, and during the last year and a half of that period, it actually reached the rate of eight-and-one-half per cent per year! Even though the Federal Reserve System has finally brought the money supply growth rate down to a "respectable" five per cent over the last year, we are still living with the consequences of the earlier prolonged binge.

Many experts predict that even if we hold to the present course of monetary growth, it will take at least two more years before the delayed effects of previous inflation upon wages and other costs finally work themselves out. The recent tentative settlement in the coal mines, which allows for a 64 per cent increase in miners' wages over the next three years, is an example of the continued pressure we may expect on price levels during the next few years. My own guess is that if present monetary trends continue, the rate of inflation will be about six per cent per year by the middle of next year. That is still high by historical standards, even though it is much better than the current annual rate of ten per cent.

How did the money supply get out of hand? Most analysts blame the excessive growth of the money stock on the growth of federal government expenditures. It is hard to disagree, especially since federal expenditures have increased at an average annual rate of ten per cent since 1965. Nevertheless, it should be understood that federal budgetary growth is neither a necessary nor sufficient cause of monetary growth. When federal expenditures are financed with taxes, or with money borrowed from private individuals in the form of sales of treasury bills and government bonds, there is no money creation. However, when the Federal Reserve System purchases government bonds, a strong link is forged between growth of government spending and the growth of money. The "Fed" is our central bank, and each time it buys a government bond, it does so with newly created money. The new money ends up in the hands of the public in the form of currency and in the private banking system in the form of reserves. Banks use the extra reserves to expand their loans and deposits. Deposits are also money; hence, every dollar of new money issued by the Fed provides the basis for additional "deposit dollars" to be created by the private banking system. At present, each new dollar created by the Fed adds an additional two-and-one-half dollars to the money supply.

In the last ten years, federal budgetary deficits have totalled $103 billion. In the same period, the Fed has purchased $41 billion of government bonds. Add another 63 billion to represent the secondary monetary expansion stimulated by the Fed's purchases. The total comes to $104 billion, which accounts for a large chunk of the $116 billion increase in the nation's money stock since 1965.

Why did the Fed do it? The men who run the Fed are not stupid. Why, then, have they permitted the money supply to grow so fast? The answer is that the Fed, like everyone else, is caught up in the draft created by the rise in deficit financed government spending. When the government borrows, it competes with private business, consumers, and homebuyers for loanable funds. When federal deficits are large, as they were during the Vietnam war and in the 1971–73 period (during which Treasury borrowed almost 60 billion from the private sector), the government puts enormous pressure on interest rates and credit availability to private borrowers. The Federal Reserve System, as our central bank, has traditionally been concerned with the stability of interest rates and the "viability" of financial markets. Therefore, when large batches of newly issued government bonds hit the markets, it tries to offset their impact by purchasing them with newly created money. This temporarily keeps interest rates from rising and allows private borrowers to get funds without being shouldered out by the U.S. Treasury.

Now, the Fed knows that its attempts to stabilize interest rates cause the money supply to grow. Nonetheless, it also believes that unstable financial markets can cause the economy to go into a tailspin. As a result, it is caught between its duty to stabilize the economy and its duty to stabilize the price level. Unfortunately, to accomplish the first goal, it has had to give up the second. The irony is that, in the long run, the failure to keep inflation in bounds has itself caused extremely high interest rates, and the security markets are more demoralized than they have been for the last four decades.

Energy, food, and other causes of inflation. I have blamed the inflation of the past 8 years on federal spending and monetary policies. Clearly, the jump in energy prices, the Russian wheat deal, bad crops, and a host of other special factors have also been at work. Nonetheless, I would argue that these factors, in and of themselves, are not the cause of the inflationary trends of our times. When the price of gasoline goes up, people who insist on consuming the same amount, or slightly less than before, have less money to spend on other things. The same is true when the price of food goes up. Eventually, production falls and sellers attempt to liquidate their stocks by reducing prices. The reduction in prices of these other things eventually offsets the inflationary impact of the rise in prices of fuel or food.

Until recently, this mechanism has been obscured or cut off by the inflationary effects of excessive money creation. In the last six months, however, the Fed has slowed the money growth rate to a crawl, and the predictable effects are beginning to show. Stocks of unsold inventories of automobiles are filling the empty lots in Detroit, and the unit volume of retail sales is well below that of last year.

The Wall Street Journal recently reported on the unusual volume of pre-Christmas sales going on in retail stores throughout the country. In sharp contrast to the shortages earlier this year, the country now seems to be saturated with unsold goods.

A policy cycle? Economists used to speak of the *business cycle*. The term implies that the ups and downs of economic activity were caused by decisions in the business sector of the economy. Today, it may be more proper to speak of the *policy cycle*. Government now accounts for almost one-quarter of gross national product, and what it does or does not do has profound effects on the rest of the economy. Today's woes began with the failure to finance the Vietnam War with new taxes. That led to deficits and rapid money growth. In order to stop inflation in 1969–70, the Fed and the rest of the government deliberately reduced the growth of spending and the growth of the money supply. That caused a recession. To get the economy moving again, the government used highly expansionary policies during the next three years, all the while artificially repressing their inflationary efforts with price and wage controls. When the controls were lifted in 1973, there occurred the extraordinary burst of prices we are presently experiencing. To cope with this "new" inflation, the government has set in motion a set of deflationary policies, the effects of which are obvious to to even the most casual newspaper reader.

If we expect to get things back in hand, we must somehow learn to use governmental powers more efficiently. We must have more sensible monetary and fiscal policies. We cannot continue to allow federal deficits to govern the growth of the money supply. The latter should be a matter decided by the Fed solely on the grounds of what is best for economic stability. It may be that the Fed will not always act wisely; but, unless Congress learns to raise taxes as easily as it raises government spending, the Fed will continue to be a major partner in the process which has produced the modern substitute for business cycles.

"TODAY SHOW" INTERVIEW

Mr. ROBERT C. BYRD. Mr. President, on Thursday, January 2, I was interviewed on NBC's "Today Show" by correspondent Douglas Kiker.

I ask unanimous consent that the transcript of the interview be printed in the Record.

There being no objection, the transcript was ordered to be printed in the Record, as follows:

The Today Show

Douglas Kiker. Thank you, Ed. Senator Byrd, thank you for being with us this morning. As Ed said, we are going to talk about what the 93rd did or didn't do, and what the 94th might be expected to do. But first, as you know the Watergate trial is now over—the major trial. John Ehrlichman says that he can't get a fair trial in the District of Columbia, that the trial is incomplete, and that there is a lot more tapes to be released and that President Nixon's lack of testimony hurt his case. I just want to know if you can give your general opinion about the trial and its conclusion?

Senator Byrd. Well, these are matters that will have to be settled on appeal, of course, and I don't think I should attempt to discuss the merits of what Mr. Ehrlichman has said. I would say this, the jury ought to be highly complimented for its diligence and for what appears to be an objectivity, in view of the fact that it did differentiate between Parkinson's case and the cases of the other four, in that it acquitted Mr. Parkinson. I think this would indicate that the jurors attempted to be fair and objective. It would seem to me, in view of the fact that the jury was sequestered, and that a considerable amount of time has elapsed since the last active chapter of Watergate was written, that some of these questions would certainly be debatable.

Kiker. Then in other words, you don't think that pre-trial publicity hurt the defendant's cases?

Byrd. Well, I think that sufficient time has elapsed that it did not, and the jury was sequestered as I say, and they showed their objectivity by differentiating between the cases.

Kiker. Let's turn to Congress now. How would you rate the 93rd in its accomplishments and in its failures?

Byrd. It was an historic Congress. Never before in the history of this country has a Congress been faced with the problems that confronted this Congress—in having a President who abused his powers and who insisted on playing down the Congress. I think that the Congress reacted in a commendable way. It forced the President to appoint a special prosecutor; it proceeded with hearings and articles of impeachment which made impeachment virtually certain—even before the Supreme Court of the United States handed down its decision forcing the President to turn over self-incriminating tapes. So, I think that the greatest thing that can be said about his Congress was that it preserved constitutional government and reasserted its authority under the constitution.

Kiker. A lot of people thought that there had come to exist a dangerous imbalance of power between the legislative and judicial branches of government, and that Watergate served to restore Congress's proper share of power. Do you think that is true? Or if another strong President came along, could the same thing happen?

Byrd. Two things I would say, in answer to that. Congress was on the way to reasserting its constitutional authority—even aside from Watergate. The President, after the election of 1972 had indicated an arrogance of power, had indicated that he was going to act without consulting Congress too much, and that he was going to impound monies, and was going to exert the doctrine of executive privilege to the point that it would be abused. So the two were already on a collision course. Now, the second thing I would say is that, while Congress reasserted its authority, the forefathers meant that there should be a balance between the legislative and executive branches. So I think that we want to be careful that, even though the 93rd Congress was a historic Congress in that it did preserve this constitutional balance, we want to be careful in the future that we don't go too far in that direction and have a Congress that can abuse its powers.

Kiker. Senator Byrd, I agree with you that the 93rd was a historic Congress. Now that you have got your power back, I suppose what I am saying is what are you going to do with it? For example, the 93rd Congress failed to act forceably on an energy program, it failed to act forceably to do anything about the worsening economic crisis, it kept the health bill bottled up—there are lots of things that the 93rd failed to do.

Byrd. However, there are lot of things that it did. It enacted a trade bill, pension reform, campaign reform, budget reform; it enacted the war powers legislation which inhibits future Presidents from waging undeclared wars; it stopped the bombing in Indochina; it stopped the war in Indochina by cutting off the appropriations for military operations there; so it did a great many things. And it did do some things with respect to energy. It passed one massive energy emergency bill that the President vetoed. It also did some things about the recession. In the very closing days, it extended unemployment compensation, it expanded unemployment compensation, and provided public service jobs. So it has a good record in many ways. Now as to the future—

Kiker. I was about to say the New Congress—everybody says it's going to be more liberal, younger, more independent, more likely to override Presidential vetoes.

Byrd. I think we have to wait and see. A good many of the new members ran on programs that were to be considered to be middle-of-the-road programs. Take Mr. Hart, for example, in Colorado, I think most people would agree that he moved toward the middle, and so we may or may not see a more liberal Congress, but be that as it may, I think it will be a progressive one, and I think that we will have a very responsible leadership in both houses.

KIKER. What do you think will be the major legislative proposals to be taken up right away by the new Congress?

BYRD. Health insurance, tax reform, I think there must be a tax cut. If we are to deal with both inflation and recession there must be a tax cut—especially for the lower and middle income people.

KIKER. Is that the number one order of business—tax cut?

BYRD. Well, it certainly should be, because the recession is worsening.

KIKER. Do you think the Congress will approve a tax cut?

BYRD. I think it will.

KIKER. What about the national health insurance, does that have a chance to pass?

BYRD. Yes, I think that in the next Congress there will be a national health insurance. There must be some energy conservation programs, but the President already has authority to implement some of these, if he will act.

KIKER. And how is the President going to get along with the new Congress?

BYRD. Well, the Congress will cooperate with him, but he is going to have to demonstrate leadership, and he is going to have to do it quickly.

KIKER. In what manner would you suggest?

BYRD. Well, he has already demonstrated that voluntarism won't work, and this country is living dangerously—especially with respect to imports of oil. We are depending upon an oil supply that is unpredictable, and the financial drain on our payments is jeopardizing our financial situation.

KIKER. Thank you very much Senator Robert Byrd, who is the Senate Majority Whip.

NATIONAL ENERGY PROBLEM

Mr. MATHIAS. Mr. President, Congress has just received the President's assessment of the state of the Union and in the President's opinion, it is not good. I share the President's belief that we suffer severe economic problems, both domestic and international, and that the world price of petroleum is a significant factor in this crisis. George C. McGhee, former U.S. Ambassador to West Germany, provided us with an exceptionally thoughtful discussion of the relationship the world oil price bears to our current economic difficulties in an article for the December 30 Washington Post.

Mr. McGhee discusses in detail and with great clarity our present circumstance and the options that are presented to this country and other industrialized democracies. He correctly identifies areas of common interest that industrialized democracies share with oil producers and makes a strong and rational argument as to why oil prices cannot remain at current levels.

I have shared Mr. McGhee's concern for some time and it was for this reason that I introduced an amendment to the National Energy Authorities Act in the last Congress which would have reduced imports of crude oil and refined products by one million barrels in 1975 with further stage reductions through 1985. I am introducing that measure in the form of a bill in the 94th Congress.

I want to afford Mr. McGhee's article entitled "The Price of Oil: Achilles Heel" as wide readership as possible because of its value to the debate which Congress must now undertake. I think it argues strongly for mandatory measures to limit the flow of imported oil into this country and by so doing correct our balance-of-payments difficulty.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PRICE OF OIL: ACHILLES HEEL

(By George C. McGhee)

Because of the high OPEC oil price, the free (i.e., non-Communist) world, without really appearing to know what is happening to it, is starting a long, slow descent into economic catastrophe. Many commentators have correctly analyzed the seriousness of the problem, however, no one has yet reached what I consider to be the unavoidable conclusion as to what must be done. This is not a problem for the international oil companies. They are helpless. It can only be resolved by governments. Yet world leaders seem mesmerized—hoping the problem will go away. Our foreign ministries and oil experts busily elaborate small schemes around the periphery of the problem. It is seemingly not understood that there is *no way* in which the problem can be solved by market forces. President Ford and President of France Giscard d'Estaing agreed recently at Martinique to a meeting between oil consuming and producing states. This is in itself a welcome development. However, I believe I can demonstrate that such a meeting holds no hope for a solution unless it leads to a reduction in the price of oil.

Let's look at the alternative solutions held out by conventional wisdom, focusing on the next five years.

1. *Reduction of demand*. Percentage possibilities are small. The U.S. goal of reducing 1 million barrels a day, which is not being met, is only 6%. This will be more than offset by natural decline in U.S. production and announced denial of Canadian supplies. The oil needs of Europe and Japan are mainly for industry, those of the developing world for agriculture and essential energy, and therefore less elastic than ours. The current Japanese goal is a 3% reduction. The Common Market hopes only to limit increases in oil demand over the next 10 years to 3.5% a year.

2. *New oil and other energy sources*. Substantial new non-OPEC oil, from the North Slope, North Sea and offshore U.S., is 4–5 years away—new energy sources 10–15 years. This timing can not be appreciably altered by increased prices. All will be high cost. At no time in the foreseeable future will the world need less OPEC oil than we now consume.

3. *Recycling the OPEC surplus*. The present deficit of the consuming countries with OPEC arising out of their 100 billion a year oil bill is $60 billion, $40 billion for the developed countries and $20 for the undeveloped. No one holds out hope that these deficits can be decreased appreciably over the next five years by increased exports to OPEC. Free world fiscal institutions simply can't stand the strain of recycling the estimated $450 billion OPEC surplus over the next five years. A basic problem with all recycling schemes is that the money doesn't go to the poorer countries who need it to buy oil unless someone guarantees repayment. To the extent that the producing countries do not extend credit directly to the deficit countries, the burden falls on the U.S. and Germany, who alone are in a position to pay. This we couldn't afford to do even if we wanted to.

Even if everything is done that Secretary Kissinger proposed in his Chicago speech of November 14th, and there is no reduction in the oil price, the problem will remain with all of its grim aspects. Italy will still go bankrupt because it can't pay its oil bill and will probably turn either to a Communist or a rightist government. Former German Chancellor Willy Brandt recently proposed that the Common Market relegate England and Italy, because of financial difficulties caused principally by their oil deficits, to second-class status. This would be the beginning of the end for the Market. Brazil falters in its economic climb because of oil costs. Starvation in India and Bangladesh, largely a result of a shortage of funds for fertilizer and food because of the oil price, proceeds apace. Because of our high oil bill, the U.S. appears to be "locked into" a recession which would otherwise "bottom out" much sooner.

The world must have its 30-million barrels a day of OPEC oil but cannot find the means to pay the deficit that was created, literally overnight, by the increase in oil prices. No matter how justified it may have been on theoretical economic grounds, the increase simply created too great a hiatus in the world's trade and payments to be assimilated. The international trade in petroleum at current prices equals that of all minerals and foods combined. The price increase levied an onerous tax on every oil consumer. It reduced correspondingly means of payment and hence world demand for other goods and services creating the present world depression, including an estimated 1.2 million of the U.S. unemployed.

Combined action to lower the price is made more difficult because the consuming countries are divided. They look at the same problem from different vantage points.

Some, like Italy and the South Asian countries, are paralyzed into inaction by fear of having their oil cut off.

Others, like France and Japan, seem to have just enough confidence to think they can bluff it through alone—with special deals on oil prices and compensating sales of goods.

Germany and the U.S., the strongest exporters and least dependent on foreign energy, are relatively immune. We could both, if we were on our own, survive the oil price. This makes it even more difficult for our leaders to assume responsibility for those sacrifices required to save the rest of the world before their disaster engulfs us too.

A solution is also made more difficult by the general confusion surrounding the problem—its highly technical nature and the misinformation provided by the self-seeking. There is much sympathy, particularly in the undeveloped world, for the producing countries that have until recently been denied the benefits from their own natural heritage. However, just because the world in recent years paid only $1.50 a barrel for Middle East oil when the U.S. domestic price was close to $3—doesn't mean that we can all now afford to pay between $10 and $11. England, Italy, France and Japan are, as a result, running deficits in their balance of payments of between $7–$10 billion a year. A $10 billion deficit for Italy is, per capita, the rough equivalent of $40 billion for the U.S. Only Germany, of all the leading industrial countries, shows a positive payments balance. The U.S. balance turned negative last month, largely because of the $24 billion that we must now pay for imported oil.

Some tend to accept the oil price because it is a "market" price, overlooking the fact that it results for an arbitrary quadrupling of the price by a producers' cartel. Others muse that what goes up must come down—that surpluses and deficits go in cycles. There is a complacent theory that inflation in the non-producing countries will level the oil price. Inflation can, like death, solve any problem, but only in the cruelest possible way—by increasing the price of all the needs of the deficit countries. The OPEC countries, moreover, have continued to edge their price along as fast as inflation (35¢ a barrel at their last meeting). Despite their promised 9-months standstill, they are unlikely to permit much price slippage. Some believe that everything will come out all right if we will just be patient and let the Arabs invest their oil profits in our land and stock market.

But the problem will not "just go away." It goes on inexorably—day and night. It will continue into the future as far as we can see—well beyond the limit of the "time bomb" now ticking away under the free world's economy. The debts arising out of the oil price are cumulative and irreversible. The interest cost on oil debts alone, and the interest on unpaid interest, will "snowball" until it becomes intolerable. The threat posed by the possible withdrawal of recycled funds from our banks and stock markets increases daily, particularly in the U.K. and other weaker countries. A proposal has been made by a knowledgeable group that the producing countries accept half the oil price from deficit countries in local currencies under soft loan conditions. Such a plan should be welcomed if it is the only way a beginning can be made. I regret to say, however, that even if acceptable to the OPEC countries, I believe it will ultimately end in defaults and recriminations.

The plain fact is that there is no real alternative to lowering the OPEC oil price. And this means lowering it substantially—to something between $6–$7 a barrel. Since most OPEC producing costs are negligible, this price will still give the countries collectively more income than they can currently spend internally, with a surplus for investment. This is also just about our present average domestic price, which we should stick with as an example. Such a reduction would save all consuming countries together $45–$55 billion a year in their deficits with OPEC, leaving a balance which could be handled. And this is a solution—the only solution.

Because this way out is not seen clearly, extremists leap over it and propose more drastic military solutions—the landing of marines and the seizure of the oil fields. This is sheer fantasy. I very much hope that the rumored contingency planning in the Pentagon for such a course has no official status. There are a dozen reasons, apart from the expected Soviet reaction, why military action would not work—why it would result in another Abadan withdrawal-Suez invasion-Vietnam intervention fiasco for the Western powers. None of us nor any combination of us can control and run by force the oil fields of the world. Most importantly—it is not necessary.

The oil states are living in an unreal world. Most of the countries to whom they sell their oil will never be able to repay the loans they are of necessity making. When their credit is exhausted and they can no longer obtain oil, they will turn against the oil producers, who will not be able to withstand the aroused force of world opinion. The rulers of the oil states are vulnerable. There are many rivals for their new wealth. They are not as strong or united as they appear. Although gratitude has never been a redeemable currency in international relations, our record of past support for the key OPEC rulers—and their countries—entitles us to a hearing in behalf of a beleaguered world.

In this situation only the United States can provide leadership. Only we have the major cards to play. We must in such an endeavor have the backing of Germany, Japan, England and, after Martinique, hopefully, also France. For once developed and developing countries have a basis for a common cause. We must use persuasion, the exertion of moral force in appealing to the reason and higher instincts of the OPEC leaders to cooperate in averting a world crisis by lowering the oil price. We must provide assurances for their countries' security, which would be imperiled by a world depression and economic collapse that could be exploited by the international communism. We must guarantee protection against price inflation in their future purchases from us. We must offer a new regime between producing and consuming countries that will be fair to both and with which both can live. The planned meetings between consumer and producer countries, and among consumer countries, can assist in this process. I believe that the OPEC leaders can be made to see that it is in their interest as well as the interest of the world's peoples that a supportable price level for oil be set.

But if this approach fails, the consuming countries must proceed to use every political and economic means that we have—which are more powerful than we think—to bring about the necessary price reduction. At the appropriate time it will not be difficult for those responsible to write the scenario as to how this can be accomplished with minimum disruptive effect. The producing countries are totally dependent on the free world industrial states and our companies for the technical and managerial basis for their oil production and ambitious development plans. They need our banks and markets to preserve the value of their surplus funds and to earn a high return. They need our transportation and other international facilities. The Communist block cannot provide similar resources. Indeed, the key producing countries live in a part of the world that has over the centuries been the prime target of Russian expansion. They need our arms, which they are now purchasing on a large scale, and the continued support of our military establishment. They need our political support.

What we otherwise make available gladly, we must be prepared where necessary to withhold—if the alternative is the demise of the free world institutions. There are risks involved and possible unpleasantness, but this must be accepted. If all else fails the "crunch" must come. And if it comes I am convinced that the interests of the free world as a whole will prevail—without war—and that the price of oil will come down. Because it *must* come down. There is no other way to avert disaster for us all, producers and consumers alike.

THE NATIONAL ACADEMY OF SCIENCES REPORT ON FOOD SUPPLIES IN THE FUTURE

Mr. BENTSEN. Mr. President, I would like to call to the attention of the Senate a recent New York Times article entitled "Rise in Farm Output Said To Falter As Need Grows." The article is a brief explanation of a National Academy of Sciences report on the future of our food supply. The report, "Agricultural Production Efficiency," is the result of a 3-year study and warns that the upward trend of farm production may be faltering even in the face of increasing concern over food supplies.

Through I have not yet studied the report, I can well understand the reasons behind its warning. The agricultural research effort of this country, in terms of real dollars and manpower, is still operating at the levels of 1960. This is not the fault of our agricultural scientists, but rather the tragic mistake of our Government. This Government has allowed the emphasis on farm research to decline, and this decline must be turned around.

American consumers are concerned, even outraged, because of rising food prices. Farmers are frustrated by escalating costs of production. Increased productivity is an answer to both these problems and agricultural research is a proven generator of increased productivity. Farm output in this country increased by 50 percent between 1950 and 1971 and it was without a doubt, the research gains of our scientific centers that originated the greater part of this productivity increase.

The National Academy of Sciences report warns:

> For the long-range future, . . . increases in agricultural output will depend largely on research results not yet in hand.

This is a timely warning, and indicates that we must increase our emphasis of agricultural research if we are to increase our food supplies.

With this in mind, I ask unanimous consent that the Times article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Jan. 13, 1975]

Rise in Farm Output Said To Falter as Need Grows

(By William Robbins)

Washington, January 12.—The National Academy of Sciences warned in a "report to the nation" today that the upward trend of farm production was faltering at a time of increasing international concern over food supplies.

At the same time, it cited a long list of "scientific frontiers" where new breakthroughs to higher yields might be found if enough effort and resources were invested in agricultural research.

Among those, it said, are efforts to produce plants with leaf structures that will make more efficient use of sunlight and carbon-dioxide, successful creation of new varieties of plants by crossing their body cells in test tubes rather than through normal reproductive processes, improvements in animal-breeding and technological progress in irrigation technology.

Although "for the next decade or so we think we perceive that the supply of food will be adequate," said the report, which focuses on the longer term, "there are clouds on the horizon that should be noted."

"The tapering trends are warnings of needs for new patterns of thought and indicate that the future may require drastic changes in our farm production system," it said.

The 199-page report, titled "Agricultural Production Efficiency," is the result of a three-year study by a 15-member committee headed by James G. Horsfall of the Connecticut Agricultural Experiment Station.

"We set out with a very simple premise: We could be living on borrowed time," Sylvan H. Wittwer, the chairman of the academy's board on agriculture and renewable resources, which helped guide the committee's study, said at a news briefing.

Both Dr. Wittwer, the head of the Agricultural Experiment Station at Michigan State University, and Marion Clawson, a committee member, said at the briefing that the study showed "we have been too complacent" about food productivity. Mr. Clawson is head of the Land and Water Division of Resources for the Future, Inc., a research organization.

"WE NEED COMMITMENT

"We need a national food policy," Dr. Wittwer said. "We need a national commitment." He added that the country also needed a special project on solar energy.

The study cited a number of warning signals indicating a tapering off in the trend towards greater productivity, which increased farm output by 50 percent between 1950 and 1971.

In the past, it said, reserves of land kept idle under farm programs had created a sense of complacency. But it noted that such acreage had now been returned to use. Any additional acreage would have to be provided through such means as land clearing and drainage or the farming of marginal acreages.

"The relative quality and availability of additional potentially arable lands need careful evaluation," the report said.

A LEVELING-OFF

Meanwhile, it said, "Department of Agriculture data indicate that both the number of persons supplied per farm worker and the number of persons supported per harvest acre are leveling off."

Many of the gains in the past have resulted from increasing applications of fertilizer, but increases in yields available through further expansion of fertilizer use appear to be slight, the study said.

While yields of corn, the major livestock-feed grain, continue to rise dramatically, the report said, recent improvements have been small for most other crops.

"One must conclude that biological ceilings will, at some future date, constitute a severe if not impenetrable barrier to further increases in yields per acre or meat production per unit of feed," it said.

The report warned: "For the long-range future, in addition to such controlling influences as climate, increases in agricultural output will depend largely upon research results not yet in hand."

But it mentioned a number of promising areas for research projects.

One of those is more efficient plant use of sunlight. The report listed efforts to produce plants with leaf structures that would provide increased exposure to the sun.

Plant growth has also been improved by enrichment of the plant atmosphere with carbon-dioxide, the report noted, and it urged research into breeding of plants that would make more efficient use of the carbon-dioxide that is naturally available.

It also described investigations seeking new ways to enrich soils. Legumes, such as peas and beans, have nitrogen-fixing bacteria associated with their root zones. The report noted that efforts were being made both to improve that process and to extend the process to cereals, and thus to produce natural supplements for commercial fertilizer.

CREATION THROUGH CULTURES

In the efforts to improve plant varieties, the report said, new plants have already been created through cell cultures rather than through normal seed processes.

To improve efficiency in animal agriculture, the report placed major emphasis on efforts to increase reproductive efficiency. Among those are attempts to achieve multiple births in beef cattle.

It also stressed research on disease control and on improving the conversion of livestock feed into meat.

Among promising new technologies, it said, is a system called trickle irrigation. The method brings water directly to the roots of plants rather than irrigating their entire environment. This saves water while increasing plant growth, but it is now too costly for other than high-value crops.

Other areas for research suggested were chemicals for improved herbicides and pesticides, improvements in Western rangelands and their more efficient use, as well as a search for new plants, including studies in the qualities of native weeds that might be developed through breeding and mutations.

ROBERT E. L. EATON

Mr. MATHIAS. Mr. President, as we begin this new session of Congress, I would like to take this opportunity to offer a much deserved tribute to a fellow Marylander whose unstinting dedication to the cause of providing adequate educational benefits for Vietnam veterans left an unmistakable imprint on the legislation we enacted in the closing weeks of the last session to boost those benefits—the immediate past commander of the American Legion, Robert E. L. Eaton.

Having had the privilege of calling Bob Eaton my friend for many years, I can state with certainty and pride that without his personal and direct involvement in the effort to enact last year's G.I. bill improvements, that effort would have been considerably less successful.

In the session that we begin this week, I hope and trust that Congress will again turn toward the enactment of some of the unfinished business for which Bob Eaton has been fighting long and hard over the past several years—such as direct tuition grants for Vietnam veterans, which was overwhelmingly approved by the Senate last year but dropped in the final conference agreement.

But for the present, I believe Commander Eaton can be justly proud of the legislative achievement for Vietnam veterans he has already helped bring about. In recognition of these achievements, General Eaton has recently been named "Veteran of the Year" by the Joint Veterans Committee of Maryland. I would like to commend to my colleagues' attention two articles which appear in the current issue of the Free State Warrior announcing this award and outlining but a few of the reasons why this award can only be described as richly deserved. I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BOB EATON, VETERAN OF YEAR

The Joint Veterans Committee of Maryland chose American Legion Past National Commander Robert E. L. Eaton as Veteran of the year. The award will be presented to Bob at a banquet to be held at Blue Crest North on February 20th beginning with cocktails at 6 p.m. The banquet will start at 7 p.m.

Tickets for this affair, which promises to be an outstanding one to be remembered for all time, are available from Maryland American Legion Department Headquarters.

In an unexpected move Chairman John Jarosinski announced that he has been able to hold the line against inflation and the tickets for this outstanding affair will cost only $10 per person.

We look forward to seeing a capacity crowd at the affair. Be sure to send in your order as soon as possible. It is probable that we'll be sold out early.

GI BILL VETO OVERRIDDEN; THE NEW VIETNAM VETERAN GI BILL

If any one man can be called the "Uncle" of the new G.I. Bill it has to be Past National Commander Robert E. L. Eaton. As previously reported in this newspaper, it was Bob Eaton, working closely with U.S. Senator Mac Mathias, who never gave up and refused to compromise on the Bill. This was true even when our our National Legislative Director told Bob that the Bill could not pass with the expanded benefits and then advised Bob to compromise in the closing days of his term as National Commander.

To Bob Eaton's everlasting credit he refused to compromise in any way and joined the fray with hands and feet swinging. His hard charging, even after he left office as National Commander, finally paid off when the Vietnam G.I. Bill passed over the President's veto the first week in December.

WE ARE GRATEFUL

We are grateful to the entire Maryland Delegation in the Congress, both of our Senators and the eight Representatives, who voted to override President Ford's veto of the G.I. Bill. It was a great victory and positively will not make our inflation any worse. These moneys are not going to be spent for frills, or even staples. The dollars will go into education, where Heaven knows we surely need it.

Experience has proved that the additional income earned by the veterans who graduate from college, and the extra income tax thus charged, will pay for the G.I. Bill, eventually at no cost to taxpayers, the veterans included.

WARRIOR SALUTE

It was a great victory, therefore we present *The Free State Warrior* right hand salute of respect and admiration to Past National Commander Robert E. L. Eaton and to U.S. Senator Charles Mathias for their superb devotion to duty and the rights of the Vietnam Veteran.

NATIONAL RETAILERS ASSOCIATION SPEECH

Mr. ROBERT C. BYRD. Mr. President, on Wednesday, January 8, I spoke to the annual meeting of the National Retailers Association in New York.

I ask unanimous consent that the speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH TO NATIONAL RETAILERS ASSOCIATION

(By Senator ROBERT C. BYRD)

Mr. Chairman, Ladies and Gentlemen:

I am grateful to you for inviting me to be with the members of the National Retail Merchants Association, and to talk with you in general terms about matters which interest all of us who have the privilege to be citizens of this great Republic.

I would also like to say a special word of greeting to my fellow West Virginian, Sidney Good of Wheeling, who is a member of your executive committee. That the National Retail Merchants Association would elect a West Virginian to the executive committee proves not only the good judgment of the Association, but also the high caliber of the committee.

I believe that there is a certain similarity in the functions of retailers and members of Congress, inasmuch as you are the contacts between the people and the large manufacturers who produce the consumer goods that you sell. We, on the other hand, have as part of our function the bridging of the gap between the federal establishment, and the people we represent.

As a former small groceryman, I think I know something about the problems of retailers, and I am in a position to say also that many of your problems are like many of the problems that confront the United States Senate—they just won't go away. Likewise, there are many differences in our respective functions. One of the big differences, I suppose, is that if your customers are not satisfied with the merchandise you sell to them, they can bring it back and complain immediately. With us they can only make their complaints stick, every two or six years.

But again, I would like at the outset to express my pleasure and real appreciation for this opportunity to address your gathering today. You will understand, I am sure, that my enthusiasm for the topics of these remarks is somewhat more cautious and qualified. The past two years have witnessed a challenge to both the private American economy—and the public institutions which guide our national life—that is yet far from being successfully met.

A train of extraordinary developments from crop failures on a massive, worldwide scale, to the newly effective foreign cartel in petroleum, have upset the delicate balances by which western economies have prospered in the post-World War II era. These events have in turn bred "double digit" inflation and a continuing downward spiral in commercial activity, forcing upon our own government increasingly difficult decisions in economic policy. And it hardly needs saying that the government which must make these difficult and possibly unpopular choices is itself laboring under diminished trust and a lack of confidence on the part of those it must govern.

None of these disturbing considerations should foster despair in our long term prospects, but they do argue that the economic crisis of 1974–75 is indeed a crisis in that word's most fundamental sense: a turning point in the conduct of our society which will try each of us sorely. For it poses not only new problems of economic management but requires renewed attention to some solid, and still unresolved, difficulties.

The background against which the new Congress will attempt to face these challenges is a gloomy one. The fourth quarter of 1974, according to virtually every estimate, will turn out to be among the worst of recent recessionary periods. The rapid climb of unemployment rates to 7.1 percent in December with projections of above 8 percent idled for the coming year, underscores both the severity of the business decline and the victims of its harshest suffering. The nation's real product has been slipping for four consecutive quarters and there is little prospect that this slide will be reversed before the second half of 1975—if then. Even this grim scenario is considered a risky one by many observers as our financial system continues under the twin pressures of volatile petrodollar accounts and unstable price levels.

For the past several months there have occurred serious warnings of the peril to our entire industrial economy if some arrangement cannot be made with the oil producing countries to reduce their prices to reasonable levels. The threat or eventual collapse of the economic and industrial structure of the western world is constantly before us unless such price reductions in oil can be effected. As retailers, the price of oil has to be a vital factor in your daily lives. It has an impact on every dollar that goes through your cash registers, every dollar in the profits and losses you incur, every dollar you pay your employees.

It affects your heating bills, your electric bills, the cost of the automobile that comes to you from the factory, and the cost of operating that car. Even the plastic fountain pen you are carrying right now in your pocket is an oil derivative.

As the price of oil increases, it kicks up the price of petrochemicals, synthetic textiles, and fertilizers—which, in turn, increases the price of agriculture products. The rippling effect is endless.

As retailers you are also vitally affected by the traumatic shifts in international foreign exchange being caused by skyrocketing oil prices.

In 1975, the tiny country of Saudi Arabia will surpass the United States and Japan in accumulated cash reserves and will be second in solvency in the world only to West Germany. It is indeed ironic that Saudi Arabia—a small country in which still linger centuries-old sociological and political systems—will soon be ahead of the United States in terms of monetary reserves.

Never before, in the history of international commerce, has any group of countries possessed the power potential to destroy utterly the economic and fiscal systems of the remainder of the world. And that, whether we like it or not, is precisely the kind of power possessed by the thirteen nations that form the Organization of Petroleum Exporting Countries.

Let us take but one of these OPEC nations—Saudi Arabia, to which I referred a moment ago—and consider that in F.Y. 1974, that tiny sheikdom in the Persian Gulf accumulated $23 billion in cash reserves—a potentially unsettling force in global finance.

Together, the OPEC nations accumulated **a $60 billion surplus in fiscal 1974.**

At this rate of accumulation, the 13 OPEC countries could buy out all companies (at present quotations) on the world's major stock exchanges in 15½ years; they could buy out all companies on the New York Stock Exchange in 9 years; they could buy up all of the central banks' gold (at $179 an ounce) in 3 years; and all U.S. direct investments abroad in 2 years. Even now, they could purchase all IBM stock with the surpluses accumulated in just 143 days; all Exxon stock in 79 days; and the entire Rockefeller family's wealth in 6 days.

We are witnessing the swiftest transfer of money in history. This sudden shift of money has shaken the whole fragile structure of the international financial system and severely weakened the economy of oil-consuming nations. To meet its trade deficit, for example, Italy has borrowed more than $13 billion, incuring interest payments of nearly $1 billion annually.

OPEC nations stand to accumulate payment surpluses of from $250–325 billion by 1980, in which event the other 137 nations outside the cartel would run up that much of a deficit. And you know what this means. Deficits lead to recessions, devaluations, and decline.

This is, indeed, a critical situation to contemplate, and the only way to deal with such a grave problem is to develop policies that will recognize, without any political obfuscation, that the problem is there, and that hard, realistic actions must be taken to solve it. The economic realities may well be unpalatable, but both the executive branch and the Congress must be prepared to act on behalf of the national well being.

There should be no question in anybody's mind that the fourfold increase in the price of foreign oil in the past 12 months is a major contributing factor to both inflation and the current recession. This enormously inflated price will come down to manageable levels only by successful negotiations with the oil producing nations to reduce it, or by a sharp reduction in demand for oil by the oil-consuming nations of the western world.

Up till now, negotiations have proved fruitless. There is no indication that the OPEC countries will in the immediate future voluntarily reduce their prices. They have a good thing going; they know it; and they will play their hand to the hilt. A second alternative—development of new sources of conventional energy and the production of exotic forms of energy—will take time. These are 30 to 50 years away or even more.

The third alternative—reduction in demand to force the prices down—can only be achieved by hard-nosed sacrifice by the user countries and their citizens. I am in no position to speak for the people of Japan, France, Holland, West Germany, or the British Isles. But I can express my thoughts about our own country, and I refer to the deplorable waste in gasoline use that has characterized life in America for too many years.

Former President Nixon laid out an energy program two years ago that called for energy self-sufficiency by 1980. That was political rhetoric, and never had a chance of coming to reality. More recently, President Ford has made tentative suggestions toward a program that would reduce our oil imports by one million barrels a day by next year. Though he may tell us in his State of the Union message 12 days from now exactly how this cutback is to be achieved, nothing definite has so far been outlined.

Nevertheless, whether the Administration's proposed oil import plans call for a one million, two million, or three million barrels a day cutback, it is essential that some means be found to reduce America's profligacy in the use of gasoline, as an inescapable first step toward a reduction in the costs of importing oil, and as a major contribution toward forcing foreign oil prices downwards. OPEC oil prices have to come down in the not too distant future if the free world economy is to survive. And the free world economy inescapably includes the United States.

I do not claim for a moment that the sacrifice of a second car for each of thousands of American families, or an organized national car pooling system, or a vast increase in the use of public transportation as an alternative to private automobiling, would cause our oil imports deficit to disappear. But these measures would help in a practical way, and, even more importantly they would be proof to the doubters that the American people still possess the strength and the will to unite for the common good in the face of adversity and would be an invaluable example to the rest of the world that the people of the most powerful and even now, most prosperous nation are still capable of a commonality of purpose when the wellbeing of the nation is threatened by forces and influences beyond our shores.

Beyond any question, the United States is the leader of the free world, and we must exert that leadership to martial a combined effort on the part of oil-consuming countries in order to present a united front and create more leverage in dealings with oil-producing nations. We have waited too long already, a year having passed since the Arab embargo awakened us to the energy crisis. But first of all, we must show the world that strong leadership exists in our own country. The developed and the underdeveloped countries that look to America for leadership are not going to be impressed by, or be willing to co-operate with, an America that fails to exhibit effective leadership in its own domestic energy and economic affairs.

No other national government is going to attempt to impose on their people the necessary stringency toward achieving a balancing of their energy needs if the country to which they all look for leadership does not set the example. And no oil producing nation is going to believe that we are serious in our efforts to force oil prices down, unless America, by our own determination and sacrifice, proves beyond doubt that we are serious. This proof will not be provided by voluntarism or by the appeals of political rhetoric. It will be done only by firm policies that distribute the sacrifices as equitably as is possible, and that are carried out resolutely by the leadership of this country.

We in Congress are currently awaiting the Administration's recommendations for action against this and other economic problems and hoping that their troubling shape is sufficiently understood by the Administration. But over the next months, we, too, in the legislative branch may have to form our own approaches to the problems. Stimulation of a sagging economy by tax cuts or other means is a necessary check on further economic deterioration; restoration of Americans' respect for the institutions that govern them will only come from these institutions working far more effectively to serve the people's interests.

Let us not make the mistake, however, of thinking that the responsibility for effecting an upturn in our Nation's economic fortunes lies solely in the hands of our national executive and legislative leaders. It is the duty of all of us to whatever lies in our power as citizens to help the cause.

If this means that we will have to sacrifice some of the perquisites that life in America has meant for many years, then we must be prepared to accept these sacrifices until the crisis has passed. This is a great and good country. We must not risk jeopardizing its future and the future of our children by failing to act to overcome the exigencies of the present.

HORACE M. "BUCK" ALEXANDER

Mr. MATHIAS. Mr. President, the State of Maryland and Frederick County in particular lost one of their most distinguished citizens when Horace M. "Buck" Alexander died December 13. A former sheriff and former member of the Maryland House of Delegates, Mr. Alexander gave a lifetime to public service and active involvement in community affairs. He was my friend and is sorely missed. Mr. President, the Frederick Post, on December 16, contained an article reporting Mr. Alexander's death, and and editorial of tribute to him. I ask unanimous consent that these items be printed in the RECORD.

There being no objection, the article and editorial were ordered to be printed in the RECORD, as follows:

FORMER COUNTY SHERIFF, "BUCK" ALEXANDER, DIES

Mr. Horace M. (Buck) Alexander, well-known resident of Frederick, former sheriff and former member of the House of Delegates, died suddenly Friday, Dec. 13 at his residence in Buckeystown.

Born Jan. 6, 1913 in Woodsboro, Mr. Alexander was a son of the late Lewis Hamilton and Sylvia Anders Alexander. He was a graduate of West Carrollton High School in West Carrollton, Ohio, and a graduate of Manchester College, North Manchester, Ind.

Mr. Alexander began his employment in Frederick County with the Anders Transfer Co., later becoming associated with the Frederick County Products and life insurance and Real Estate business with the Emmert R. Bowlus firm.

An ardent Republican, Mr. Alexander served 7 years in the Maryland House of Delegates and served Frederick County as sheriff for 19 years. He also completed terms of two former sheriffs after their deaths. He also served as a deputy sheriff and was a former member of the Frederick City Police Department. Mr. Alexander became familiar with many residents both far and near as he had served for many years as a public sale clerk.

He resigned his position as treasurer of the Frederick County Agricultural Society in 1973 after serving in that capacity for 17 years. Long interested in ecology and wildlife preservation, Mr. Alexander was a past president and active member of the Frederick County Fish and Game Protective Assn. and had served on its Board of Directors.

He was also a member of All Saints Episcopal Church, The Frederick Elks Lodge 684, Loyal Order of Moose 371, Fishing Creek Club, National Sheriff's Assn., and the Maryland Sheriff's Assn.

For the past seven years Mr. Alexander had been employed by the M. J. Grove Division of Flintkote.

Surviving are his wife, Mrs. Kathryn R. Tinney Alexander; one son, H. Markwood Alexander Jr., Frederick; three grandchildren, Mark Lewis, Scott Matthew, and John Patrick; and two brothers, Cleon H. Alexander, Ijamsville and Kenneth L. Alexander of Hagerstown, one sister, Mrs. Mary L. Beall, Middletown.

Friends may call at the Smith, Fadeley, Keeney and Basford Funeral Home (formerly Etchison's), 106 East Church St., on Monday from 7 to 9 p.m. Funeral services will be conducted from the All Saints Episcopal Church on West Church Street on Tuesday, Dec. 17 at 11 a.m. by his pastor the Rev. A. D. Salmon. Interment will be in Mt. Olivet Cemetery.

In lieu of flowers, the family suggests memorial contributions in memory of Mr. Alexander be made to the Frederick County Heart Assn.

"BUCK" ALEXANDER

Horace M. (Buck) Alexander was more than a successful politician—he was a man who loved his native Frederick County—a man who was, in turn, well liked by his fellow citizens.

"Buck" Alexander, who served this county almost 20 years as sheriff, died unexpectedly Friday, the 13th of December, at his home in Buckeystown. He would have been 62 on Jan. 6. He had been associated the past 7 years with the M. J. Grove Division of Flintkote in its sale department.

One of Frederick County's most popular elected officials, having also served 7 years in the Maryland House of Delegates, Mr. Alexander was a leading figure in Republican politics for many years. It mattered little in his efforts to serve Frederick County that his final bid for reelection 8 years ago was unsuccessful.

He proudly stepped out of the political spotlight, like the man he was, and though he still remained an ardent party worker and adviser, he diverted his major efforts to his "other love," namely the Great Frederick Fair and its sponsoring Frederick County Agricultural Society.

"Buck" Alexander served the Agricultural Society 17 years, choosing to retire from his position of treasurer and financial clerk last year, along with his long-time friend and associate, Wade Hursey, who was secretary, also 17 years.

Mr. Alexander was an avid promoter of the fair and its contribution to farm and home-life in the community and openly boasted that "the Great Frederick Fair is the greatest in the East."

Mr. Alexander was born in Woodsboro Jan. 6, 1913, a son of the late Lewis Hamilton Alexander and Sylvia Anders Alexander. He left the county in his early years and was schooled in Ohio, returning here in 1931. Upon his return, "Buck" Alexander joined the Frederick City Police Department. He was a graduate of West Carrollton (Ohio) High School; and later graduated from Manchester (Ind.) College. He also served as a deputy sheriff, and his service as sheriff included fulfilling the terms of two other sheriffs who died in office.

The name "Buck" Alexander became a real "household word" in Frederick County as this hearty, vigorous man, who enjoyed a rare love of people, engaged in numerous volunteer efforts and jobs that kept him among the people.

He was associated with the Anders Transfer Co., his first job here, then later with Frederick County Products. He tried his hand in the insurance business and was associated in real estate with the Emmert R. Bowlus firm. He also served for many years as a public sale clerk.

He had a pioneering interest in wildlife preservation and environmental protection, and environmental protection, and served in this field as president of the Frederick County Fish & Game Protective Association and was a member of its board of directors for many years. He was also a member of the Fishing Creek Club.

The Maryland Sheriff's Association and National Sheriff's Association were among many memberships in career organizations. He was a member of Frederick Elks Lodge 684, Loyal Order of Moose Lodge 371, and was a member of All Saints Episcopal Church.

Mr. Alexander leaves his loving wife, Mrs. Kathryn R. Tinney Alexander; and one son, H. Markwood Alexander Jr. of Frederick. Also, three grandchildren survive, Mark Lewis, Scott Matthew, and John Patrick Alexander; two brothers, Cleon H. Alexander of Ijamsville and Kenneth L. Alexander of Hagerstown, and one sister, Mrs. Mary L. Beall of Middletown.

The family requests that memorials be made to the Frederick County Heart Fund in Mr. Alexander's name.

Funeral services for Mr. Alexander will be at 11 a.m. Tuesday, Dec. 17, from All Saints Episcopal Church, with the Rev. A. D. Salmon officiating. Interment will be in Mt. Olivet Cemetery. Friends are being received this evening from 7 to 9 p.m. at Smith, Fadeley, Keeney and Basford Funeral Home.

Frederick County has this year lost some of its finest citizens—such is the reward of time—men and women whose lives were marked not only by business success, but more especially by their contributions to a civic cause of making this a better county. Each was known in his or her own way. But the untimely death of Horace M. (Buck) Alexander stirs in those who knew him, worked with him, politicked with, for or against him, memories of a man—a man in every sense of the word—memories that will not soon fade.

This community will always be a little greater because a man named "Buck" Alexander chose to come back to his native Frederick County and serve it until the day he died.

RENOMINATION OF JAMES DAY AS DIRECTOR OF THE MINING ENFORCEMENT SAFETY ADMINISTRATION OPPOSED

Mr. BENTSEN. Mr. President, President Ford has resubmitted the nomination of James Day as Director of the Mining Enforcement Safety Administration. Mr. Day's nomination has met strong opposition from members of the Senate Labor and Public Welfare Committee, Representative JOHN H. DENT, originator of the Coal Mine Health and Safety Act of 1969, the United Mine Workers of America, and others who have a deep and vital interest in the responsibilities of this office. I am opposed to the renomination of Mr. Day.

Mr. Day has served as interim director to MESA from January of 1974 and in that time has failed to exhibit the required concern for the safety and welfare of mine workers. The United Mine Workers charge Mr. Day with the development of policies and procedures that have weakened the intended effect of the Coal Mine Health and Safety Act of 1969. The original nomination by the Nixon administration was held in committee for an investigation into allegations regarding Mr. Day's qualifications for the post. According to Chairman

Harrison A. Williams, Jr., of the Senate Committee on Labor and Public Welfare, the objections to the nomination were not without substance.

James M. Day's record shows no expertise or interest in the mining industry generally or in mine health and safety in particular, and his career has involved in law and party politics almost exclusively. A recent article in the New York Times magazine entitled "Notes From a Coal Mine" by Meade Arble, January 12, 1975, contains a brutal description of the hard life and constant dangers facing the coal miner. The article presents a compelling case for demanding a director of MESA whose knowledge and concern for the safety of coal miner's is extensive and persuasive. James M. Day lacks this first and most important qualification. I urge the President to reconsider the nomination to this crucial office and to withdraw James Day as his choice.

I ask unanimous consent that the article referred to be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

"Almost All Miners Are a Mess Inside": Notes From a Coal Mine

(By Meade Arble)

We touched down at Kennedy Airport in mid-June after almost four years in Spain. Tucked under my arm in a bulging manila envelope was the first draft of a novel completed while at the University of Seville under the G.I. bill. We stood on the curb at the airport waiting for a ride to my in-laws' house, and I explained to my wife Grada how simple life would be.

"We'll go to Pennsylvania for a few months, and I'll work in the mines. We'll pay our debts and save some money and then come back to New York, where I'll find a nice public relations job. We'll settle down in a suburb, buy a house, raise the kids in a wholesome setting. . . ."

Grada shook her head. She was pregnant with our third child, due in September. The past few years had been fun. Memories of my childhood in Carrolltown, a mining town of 1,500 about 30 miles north of Johnstown, always held a nostalgic charm for me, though no one in my family had worked in the mines. She could only picture grieving widows and grimy clapboard houses.

"It's not like that any more," I insisted. "You've read the papers. Mines are paying $42 to $50 a day, and they're crying for workers. It's all automated now. You probably couldn't even find a pick and shovel down there."

She remained unconvinced, so I spent the next few days canvassing Manhattan for a job. We had heard that things were bad, but I found that a 33-year-old freelance and fiction writer with house organ experience was received with the enthusiasm accorded a rat carrying the plague. I presented the prospects to Grada from a different angle.

"Look, we're in trouble. There are no jobs. We owe a lot of money. Master Charge is already our company store, and you're due to add to our troubles in a few months. We need an income now. We leave in two days."

I bought a car and a roof rack for $200 and we moved to Carrolltown. At the personnel office of Barnes & Tucker they were hiring, but experienced miners and those with relatives inside came first. Then it was who you knew, and, as anywhere else, how much pull they had.

It was not until Sept. 16 that I started work in 24D after using all the influence I could find. It was not as easy to get into the mines as I had thought. Other mistaken suppositions are evident in the diary of a miner's first four months underground.

SEPTEMBER 16

Arose at 5 a.m. for the day shift, 7 a.m. to 3 p.m. Very nervous about the first day. In the early light the tipple's silhouette looked like a giant insect waiting over a hole for something to emerge.

The washhouse where we dress for work was hot. Large heaters blew hot air to dry the filthy, wet clothes of earlier shifts that hung in wire baskets hoisted to the ceiling. Long underwear, heavy socks, rubber boots, canvas trousers, workshirt, gloves, orange helmet to show that I was a newcomer—by the time I had put them on, I was drenched with sweat. I went into the hall where we wait for the night shift to come up. Not much conversation. Most men sat stolidly looking at the walls, lips puffed with snuff.

The cage came up and the night shift filed out, faces black, eyes glazed. We replaced them and dropped 400 feet into the ground. There was a little conversation about sports and hunting in the "man trip," four open rail cars with electric motors at each end that carry us on the first leg of the journey to the work sites. The men stuffed themselves with candy bars. I can't imagine how the candy mixed with snuff. When we rumbled out, I kept my head down to dodge the rails that formed the roof supports.

I was assigned to George, the timber man, a big, paternal old-timer. When we climbed out of the man trip, he told me to pick up a small piece of wood to walk with. We went into the shaft, and suddenly the roof was about a yard high. He moved right along, using a hammer as a third leg. I hobbled with crablike lurches, continually smashing my head against the overhead timbers and rails. My lamp—an electric light fixed to my helmet with a metal bracket and attached to a battery on my belt by a long cord—fell off a couple of times. Finally George stopped and dented the metal bracket on the helmet. That fixed it. I couldn't catch my breath. My leg muscles had knotted, and sharp pains shot through my lower back. George pointed to a pile of logs about 6 feet long and 18 inches around and said, "We'll have to drag these. We got a three-wheel cart on the other side of the trap door, though. Won't be too bad."

I decided it must be some weird initiation stunt. Then he tied a wire around one and dragged it away. If he can do it I can do it, I thought, and I tied a wire around the next one. It wouldn't move. I put everything into it and it slowly began to plow along after me. I had to stop every 20 feet or so to rest. When I reached the trap door, set in a cinder block wall, George was waiting patiently.

"Wind's kinda strong when you open this door; better hold your hat," he said.

He pulled up the trap door and air screamed through the blackness. My legs were quivering and I was still panting.

"Go ahead!" he yelled, holding up the door.

I lowered my head, shut my eyes and plunged through the hole. The wind whipped my helmet off. I opened my eyes and got a load of coal dust in each. I bolted ahead madly, not realizing my lamp cord was caught on the door until the light pulled off the helmet and cracked me on the nose. George released the cord, climbed easily through the door, lowered it and, magically, there was no more wind.

"This was the easy part," he said mildly. "It's a little tight up ahead."

With George doing most of the work, we dragged the timbers while we crawled to the work area, an open spot about seven feet high. The rest of the day I watched him set timbers under fractured rocks, slabs that might have weighed half a ton each. I learned that I was there in case one fell on him, so that after I made my way back to the main shaft in a week, I could tell somebody about it.

SEPTEMBER 19

When I woke up this morning, I couldn't move. It took half an hour to dress, and I had to skip breakfast. I was sitting on the bench in the hot, dusty waiting room, off the washhouse, when the boss came by and put me with the crew on a part of the coal face called Main C. My companions were Tom, a short, stocky man, and his helper, Bill, a thin farm kid. I sat with them on the man trip, and no one spoke during the entire half-hour ride. It's a cold, windy, bouncy ride and cold water streams from the roof in many places. When we climbed out of the car, everybody wolfed a sandwich before we unloaded supplies, throwing them onto a nearby belt. The belts—yard-wide, trough-shaped rubber strips that bump along over rollers—are the basic transportation system in the mine. Their main function is to carry coal out at 500 feet per minute, but at the beginning of each shift, they are reversed and slowed to half that speed to carry men and supplies in to work areas. "Get in the car and lift some of those rails out," Tom told me. I climbed into the car and grabbed a rail, 17 feet, 510 pounds. I couldn't move it. "Here, look out," said Bill. I moved aside and he picked up one end and threw it on the edge of the car. I tried the next one, but it wouldn't budge. I tried jerking it as he had. I bent my legs and straightened my back as shown in the diagram on the safety bulletin board and lifted with everything I had. The rail might as well have been welded to the car. Bill motioned me aside and threw the ends of four more rails onto the edge of the car. Then he and Tom slid them out. Each took an end and tossed them on the belt. It must require a tricky sort of leverage that I haven't learned yet. After the supplies were on, we got onto the belt. I kept my head down while we sped along, and tried to keep from rolling off when the belt slanted sharply.

Tom operates the Lee Norris miner, a monstrous, 30-foot digging machine with two cleated heads that spin and oscillate into the coal face and two mechanical arms that scoop the coal onto a chain belt that runs beneath the machine and out its tail. Bill runs the buggy, a 25-foot machine that sits behind the Lee Norris filling up with the coal coming out of its conveyor tail. When the buggy is full, Bill runs the load of coal to the belt.

My job was to keep electric cables away from the machines. All of the machinery in the mine runs on electricity broken down to usable current from 12,000 volts. If either Bill or Tom runs over one of the power cables, it can explode. I sit in the darkness, heat and dust listening for the warning whine of the buggy over the roar of the miner, ready to pull the cable back if Tom reverses, pull it up if he moves ahead. The buggy slams right into the back of the miner, and Bill doesn't watch for me. He has only two feet clearance on each side, and if he knocks out a prop holding a roof-supporting rail, it will crash down on the machine and slide back, perhaps cutting his head off. In fact, that had happened not too long ago to a man who had been running the buggy for 23 years, Tom said.

Tom shut off the miner while Bill ran the buggy to the belt. He slumped against the controls wheezing into his respirator—a face mask with a filter—until the buggy whined back toward us. Then he hit the row of levers in front of him and the miner jolted to life, heads spinning and shaking. One of the two arms that scoop the coal was broken. That meant I had to take over, shoveling wet coal from the side to the center of the machine. I did my best, kneeling in the water and throwing shovelfuls of coal, but I fell behind, and Tom would have to leap off the machine, take my shovel, and throw the coal over himself. He could shovel what seemed like half a ton in about five minutes.

The cable was heavy. By the end of the shift I was so exhausted I actually didn't care if it did explode. The machine shifts violently, reverses, slams against one wall or another, and I was supposed to grab the cable and haul it backward as fast as the miner chased it, meanwhile listening for the buggy so I didn't get run over, trying not to trip over props and bags of rock dust (powdered limestone thrown against the sides and roof of the shaft to keep down coal dust and improve visibility). All of this in a space that varied between a yard and 48 inches high. My back was striped with long gashes. The safety visor on my helmet made a callus on my forehead.

A massive slab of rock crashed down on the miner. I was sitting behind the machine half asleep when Tom slammed it into reverse. I dragged the cable with my last bit of strength as he backed out. I was supposed to break up the rock on the machine with a sledge. How do you break a rock with a 6-inch clearance? Finally Tom grabbed the hammer and slammed it against the rock a few times, and it fell apart.

"You think you're gonna like the mines, buddy?" Tom asked me later. It was the third time I had been asked that question, always in the same laconic tone—that of a condemned man asking a new arrival how he thinks he'll like it. Tom is 32. He's been in the mines for 10 years. One day he pulled the previous operator off the machine after a rock had spilled his brains over the seat. Tom was in the seat the next day, and he's been there since. I asked him why he doesn't find some other work.

"Your lungs go after five years in this place. Nobody wants you after that. I just got my house sided. Where else can I make $12,000 a year?"

SEPTEMBER 27

This was my last night of the hoot-owl shift, 11 P.M. to 7 A.M. Before we went down, we met with the safety inspector. He said we knew mining was the most hazardous work in the U.S., but did we know that we were in one of the most dangerous mines in the entire country? No, I didn't know that.

On top of that, I was sent to the long wall, the most dangerous place in one of the most dangerous mines in the country.

The long wall is the main coal producer. It is about 470 feet long and four feet high, a bank of solid coal mined by a heavy cleated wheel the height of the seam. The wheel spins along the face of the seam and dumps the coal onto a pan line, a metal conveyor belt, behind it. The roof above the pan line is supported by a row of hydraulic jacks called chocks. About 150 chocks are connected by metal shafts to the pan line, and as the wheel mines the face, the chocks are rammed forward and the roof behind is left to collapse. I was sent to the tailgate, one end of the pan line, with a 20-year-old kid named Henry. His job was to blast off the end of the wall with dynamite so the wheel could move in to begin another pass.

Henry's lunch pail carried a sandwich and a bottle of Pepto Bismol. He has ulcers, hemorrhoids, nervous disorders and assorted other maladies. Almost all miners, especially the older ones, are a mess inside.

I had to kneel in a foot of icy water to shovel onto the pan line the coal Henry had dynamited off the wall. The coal had to be removed so that the chocks could push the tailgate forward on solid bottom. I helped Henry drill the holes and pack the dynamite. He estimated the amount of dynamite in a very off-hand manner.

He sent me about 30 yards down the pan line while he blasted one section. When I came back he was frantically digging through the debris. He had forgotten to move the lunch pails and the blast had buried them. Luckily, mine was intact, but his was blown apart, so he had no food or water for the rest of the night.

The machine that operates the big wheel breaks down often. Once while it was down I asked a new young fellow who was working with the chocks why the long wall was the most dangerous place in the mine. He said he didn't know. Later one of the advancing chocks closed over his foot and removed three toes.

My knees ache terribly. Strange thoughts flood my mind. I snap at my wife, spank the kids, beat the dog. When I got home this morning and was trying to stay awake long enough not to fall face first into the fried eggs, we talked it over.

"Why can't you take it?" Grada asked. "Everybody has to be broken in. There are 120,000 other men taking it."

"Everybody has been hurt. I don't want to be maimed. I get so tired I can't be careful."

"Well, what are we going to do? Three kids in a mobile home and a stack of bills kind of limit your upward mobility."

"I'll take a job sweeping streets. Anything.

"They're all out of work. Besides, you can't support a family on that. We barely get by on what you make now."

An accident list is posted every week on the bulletin board. After each is a notation by the safety inspector on how it might have been prevented. Recently two men were working on a power box moderating 12,000 volts. One of them tested it with a screwdriver. They are both in the hospital, one in serious condition in the Pittsburgh Burn Center. Suggestion: *Turn off current before working on power box.*

A rock fell on a man's hand and crushed it. *Test roof and sides before entering area.*

A kid that started with me had a finger smashed last night while they were throwing crib blocks, wood block six inches square and a yard long. *Better communication among workers.*

At first it was reassuring to see how many oldtimers looked uninjured. That was before the lunch-hour conversations, when I discovered that most of them have had broken backs, smashed bones and hundreds of narrow escapes. No wonder their stomachs are a mess. Bill, a face boss, told us about his buddy who was operating the Lee Norris miner when the power went off. He decided to use the time to change some of the bits on the digging heads. While he was at it, the power came back on. He had forgotten to shut off the machine. A bit caught his pant leg. It pulled him under and the machine ate him alive.

Another man was riding the belt at high speed. The belts run at 500 feet a minute when coal is loaded. They are supposed to be slowed to 250 feet a minute when supplies or men are on them, but a lot of people ignore that. Anyhow, there was a cave-in ahead that permitted the belt to pass, but not a rider. He slammed into it head first and was ground away.

And coal mines are safer than ever. It's so much better that the turnover rate is only 16 per cent a year in the four mines managed by my employer, and they are expanding the present 1,200-man work force by 22 percent a year.

OCTOBER 21

Last night some jerk ran over my hand with the pinner, a machine the size of a jeep used to drive bolts into the roof for additional support. Nothing was broken because my hand was on soft coal, but a patch of skin is missing. It was not so serious that I had to come out; it didn't bleed much. Later a small rock fell and hit me in the mouth—I was lucky again; no teeth were broken. How long can I get away with it? There are about 10 injuries a month among the 300 workers at this mine. Fatalities cause the most talk, but they obscure the other accidents that sever fingers or break bones. No wonder everybody seems to have ulcers.

I've watched the men in the hall when we wait for the shift to change. They know they'll be here six days a week, changing shifts every week, until their lungs go or they're seriously maimed. The best they can hope for is to reach pension age and collect $150 a month while wheezing with black lung.

The union guarantees us a rising income, but we don't know what to do with it. Snowmobiles, aluminum siding on the house, guns, boats—all that changes nothing. Still our lives are dominated by the pits, eight hours out of every 24, six days every week.

I had an easy shift working in the main shaft. Clem, the boss, stopped by with another old guy. They were kidding each other about how worthless they were to have spent their lives in the pits. They saw by my orange helmet that I was new, and had a lot of fun talking about how worthless I must be to have ended up in the mine. The old guy whose basket hangs next to mine in the dressing room bitches while we suit up about how company profits are up more than 100 per cent while we blacken our lungs and risk our lives. An old miner's life out of the pits is spent on a couch watching television and seeing all the things he'll never have. He can't figure out how he ended up in the pits when life was supposed to be fun.

OCTOBER 25

I worked with a kersey runner tonight. A kersey runner is a long, low electric jeep that pulls a cart loaded with supplies to the face, a trip of about 25 minutes. We made a few detours because Jim had noticed cracks along the roof in some sections.

We surprised a couple of rats in a crosscut, but they got away. Lunch pails have to be hung on props to keep them away from the rats. The kersey has a very bright headlight, and it cast sparkling reflections off the fungi that grow over the beams across the roof and the posts on the sides. The fungi grow in all colors and shades. Against the white walls and roof some of it was translucent. It was like riding into a glass paperweight with a fairyland inside.

Loading the kersey is hard work. Perhaps 60 bags of rock dust (50 lbs. each), six rails (about 500 lbs. each), six planks (awkward, full of splinters) must be loaded, but the ride is a rest. The machine has no shocks, and I had to keep my mouth open so I wouldn't crack a tooth.

I waited alone while Jim went ahead to discuss something with the boss in another section. The shaft was silent as a tomb. I sat on an oil can and played my light through the dripping fungi on the props and timbers. I began noticing shapes farther down the passage that seemed to float along the edge of the light and dissolve when I turned the light on them. They looked like classic ghost forms. Although they weren't threatening, it made me nervous to think I was hallucinating. I tried a few experiments, turning the lamp off, keeping it fixed on one spot—but in the end, I was convinced there are apparitions there. What the hell, we're disturbing an area several million years old. No telling what graves are desecrated. I didn't mention it to anyone in the interest of job security.

NOVEMBER 1

It was cold and dark at 5 A.M. The car barely started and my breath kept fogging the windshield. In the washhouse someone had stolen my helmet liner. Miners are the world's biggest thieves. I had to steal someone else's. After suiting up, still bleary-eyed, I went into the hall and looked at the list of accidents on the bulletin board. More smashed fingers, crushed limbs, strained backs. I looked around the hot, dusty hall at the men staring vacantly around at the walls. I thought, Christ, six days a week down this hole to work in water under a bad roof, cold, changing shifts each week, all to move out of the trailer park into a house and buy a boat or a snowmobile. It occurred to me that these men have the same look I saw once in New York on a man who had just been hit by a car. He knew he was dying, but his face didn't show the pain. He just looked confused, as though he couldn't imagine what he had done to deserve it.

DECEMBER 8

When I went to work in the mine, my net pay was about $400 every two weeks. We work six days a week with Saturday time-and-a-half, and I claim four dependents. I haven't been able to work the full two-week period yet without taking at least one day off, usually during hoot owl after a night on the long wall.

We have moved into a 2-bedroom mobile home in a trailer camp inhabited by coal miners outside of town. Some own their trailers, but our situations are all fairly equal.

Our rent is $135 a month plus about $10 for fuel, $10 for cooking gas, $4 for garbage pick-up, $5 for cable TV (reception is impossible without it), about $10 for electricity and $6 for the telephone. Total $180. Add another $300 a month for food and $100 for other expenses, including gas for the 25-mile round trip to work, and our basic living costs $580. Actually, we spend about $800 a month, but I've never been able to find where the other money goes.

On Nov. 9 we went on strike, three days early, because of a procedural foul-up. We lost a paid holiday, a time-and-a-half Saturday and a Friday. This morning there was a union meeting.

The meeting was so crowded I had to wait to get into the long, low, green cinder block union hall. Past the sign reading No Fighting—Automatic Suspension, men on the wide stairs to the dance floor jostled to see inside. At the far end, three officers sat behind a table on a small stage. The dance floor was surrounded by tables and chairs. Every seat was taken.

"How come I never see you guys except when you wonder if you're goin' back to work?" said the local president. He was a tall, thin man with white hair and a plaid tie; he sat in the middle. He rapped the gavel and a few more men straggled in. It was hot and smoky. Curtains covered the glass brick windows and most of the light came from a few neon tubes across the ceiling.

Somebody suggested that men might show up more often if meetings were held in the afternoon instead of Sunday mornings. That brought a laugh. Even in the morning there is a constant flow to and from the bar near the dance floor.

After scolding us for not attending meetings and complaining about the loss of solidarity among the brothers, the local president talked about the contract. Our local had turned it down, 377, yes to 391, no.

Our local president was unhappy with the contract. He didn't think it was enough, although it amounts to a 50 per cent raise in wages and benefits over the next three years. The biggest gains were in benefits. The old contract paid $150 a month pension. Under the new contract pensions will go to at least $200 immediately and at least $300 a month to miners retiring in 1976 at the minimum age of 55 with 30 years in. What interested young miners most was wages, and they showed the smallest increases. An immediate 9 per cent raise the first year and 3 per cent in each of the next two years will boost the average daily wage from $45 in the old contract to $54 at the beginning of the third year of the new contract. I figure with overtime most miners around here will probably earn between $14,000 and $16,000 in the coming year. A cost-of-living allowance could add as much as $24 a week over the next three years, something the auto and steel industries have had all along.

Other benefits include five days' sick leave versus none in the old contract, three more paid holidays, for a total of 12, and a new $75-a-year clothing allowance.

I hung around after the meeting and had a few beers with some of the older men. Paul had raised eight kids during the hard years of the fifties and Harry, a squat, fast-talking old-timer, had returned to the mines two years ago after trying to make it as a salesman. Both men had close to 30 years underground.

"They talk about solidarity," Paul said. "Hell, we won't ever see that again. These kids don't remember hard times. They don't know what to do with their money."

He was slumped in his chair. Suddenly he became angry. "My kids make the same as I do, and I been there almost 30 years. We do the same work, but I made it easy for them. You know what I mean?"

"The Arabs did that," said Harry. "Now the brothers don't mean nothing to each other because with the union and the Arabs and the economy, nobody has to worry anymore."

We talked about football for a while and then just sat there and drank. Finally Paul said, "I'll tell you one thing. I never have to wear a watch now. I can tell you when it's two hours to quitting time right on the nose. My legs give out. They knot up behind the knees. One of these days there'll be a fire drill, and we'll have to walk out. I won't make it. It gets me worse every week."

Then word came in from the bar that there was no work. The construction workers and truckers hadn't settled yet, and we don't cross their picket lines. Christmas was around the corner and we had been out for a month with no income. No one knew when things would be settled and we would go back to work, but suddenly people were buying shots with their beers and a festive mood swept through the hall.

DECEMBER 21

Our district finally went back to work today, the last miners in the country to return. The construction workers have settled and the truckers have called a two-month moratorium.

On the way to work in a snowstorm, I slid my car into a tree. Total loss. I climbed into a pickup with three men going to the same mine and continued to work, then called the garage from the mine and had the car towed.

The superintendent held a short meeting before we went down. Take it easy, check every part of every machine before energizing; check the roof and sides; don't take chances. On the man trip now, we have icicles to dodge along with low rails. The icicles don't hurt, but if you aren't watching, the sharp crack against your helmet shakes you up.

I worked with a supply man. Every so often through the night his leg would cramp and he would howl and hop along the shaft. Most of us have put on weight and lost the muscle tone needed for low work. I ate lunch with a belt worker who said he had been battling rats in the old mechanic's shanty. "Poor little fellers had starved for six weeks," he said. "No wonder they were eager."

There is a bone-chilling bite in the wind that sweeps through the shaft that wasn't there when we went out on strike. It penetrates deep into my ears. After work, my head aches. At home I told Grada about the car and she cried.

DECEMBER 25

I borrowed an old car from a friend. It doesn't start very well, but it will work until I can find another $150 heap. I tried to explain to the kids that Christmas is a spirit within us, but I couldn't compete with the skill of Mad Ave. Still, it was a nice Christmas. Grada says if we have no more bad luck we can pay off our debts and save $500 by the end of March.

PRESIDENT FORD RECOGNIZES THE IMPORTANCE OF COAL IN MEETING ENERGY REQUIREMENTS—SENATOR RANDOLPH ENCOURAGED BY STATE OF THE UNION MESSAGE—HIS LETTER TO CHIEF EXECUTIVE EMPHASIZES NEED FOR POSITIVE AND PROMPT ENERGY PROGRAM

Mr. RANDOLPH. Mr. President, in his state of the Union message today President Ford placed highest priority on prompt action in the administration and by the Congress. His earnest appeal was characterized by a seriousness which was not present in statements made as recently as 1 month ago.

It is my conviction that the American people will respond to fair and equitable programs and that they have a right to expect executive and legislative leadership in solving the economic and energy problems which have weakened America.

I am encouraged by the emphasis placed on the development and use of coal by the President in his state of the Union message.

I am convinced that coal must be the cornerstone to our energy self-sufficiency. It is gratifying that the President now recognizes the vital need for the use of coal to fulfill the Nation's energy requirements.

It was my privilege to author legislation in 1973 for the conversion of powerplants from oil to coal and this measure became law in June of 1974. However, it has not been implemented by the administration. It is, therefore, reassuring that the President has now stressed the need for coal conversion and the increased production of coal.

I shall work to insure that these commitments, contained in the message, are implemented.

Mr. President, on yesterday, by hand delivered letter, I urged the President to undertake major initiatives to strengthen our national coal supply system. I ask unanimous consent that my communication be printed in the Record.

There being no objection, the communication was ordered to be printed in the Record, as follows:

January 14, 1975.

Hon. Gerald R. Ford,
The President,
The White House.

Dear Mr. President: I fully support your efforts to formulate a definitive, aggressive, and comprehensive national energy program to cope with our country's economic and energy problems; however, I am disturbed over some of the options under consideration and the apparent lack of emphasis on initiatives to strengthen our national coal supply system. Your statement last night and press reports portray a Federal program that perpetuates present biases toward the preferential use of petroleum and natural gas over coal. The fallacy of such a national energy posture from both economic and national security perspectives has been cogently demonstrated in recent times.

The capability for the United States to approach energy self-sufficiency will not materialize solely from economic initiatives: indeed, under such policies, at present rates of growth in consumption, we can expect to experience continuing energy supply deficits at least on a regional basis. Therefore I would urge you to advocate greater regional energy supply independence, in addition to increased national energy self-sufficiency. Each region must bear an equitable share of the social, economic, and environmental implications of energy supply development and use. For example, promotion of the development of Western coal resources to satisfy Eastern energy demands, when regional alternatives such as Appalachian coal are available, is counter-productive to a national posture to foster energy conservation.

Present oil prices, without in position of a tariff on imported crude oil and petroleum prdoucts, place coal in a competitive position with oil even when environmental requirements also are met. The energy program you summarized emphasizes higher priced domestic petroleum supplies to reduce consumption in preference to increased coal production to satisfy existing energy demands. Reason dictates that if energy self-sufficiency is to be even approached, in the future coal—not oil—must serve as a cornerstone for a National Energy Policy. The United States has four times more energy available in domestic coal resources than the Middle East has in oil—one-half of the world's known coal reserves. This is enough to satisfy our energy needs for about 500 years.

At stake is the capability for coal to perform a greater role than previously envisioned in the United States energy supply system. Coal production is a complex, machine-oriented mining technology with attendant safety, engineering, and geological restrictions. As such, coal mining no longer lends itself to rapid expansion. New technologies must be developed from the mine-face to the point of end-use. Present coal supplies, however, are constrained by economic uncertainty and are thus producer or supply limited. This situation must now be reversed so that coal assumes a demand limited posture. Initiatives to foster this essential economic climate were not addressed in the summary of your energy program. The whole coal delivery system must be streamlined and upgraded; however, current programs focus attention only on utilization—where just a fraction of industry's problems can be seen.

Mr. President, I support your position on coal conversion but few national benefits will be realized if the coal delivery system is incapable of meeting the resultant increased demands. Under the Energy Supply and Environmental Coordination Act of 1974, the Federal Energy Administration now has authority to order the conversion of some oil and gas fired electric power plants and major industrial users to coal with minimum compromise of compliance schedules for clean air requirements. Thus I am disturbed by reports that additional authority will be sought to ease environmental rules, when this Act has yet to be implemented. National policies to protect public health, as contained in the Clean Air Act, must not be compromised although our country is faced with energy supply problems.

I am encouraged by your decision to support early enactment of surface mining legislation provided it is "more precise"; however, the Surface Mining Control and Reclamation Act of 1974 represented four years of deliberations by the Congress. In my judgment the measure achieved a reasoned and equitable balance between future needs for secure energy supplies and national concerns for environmental quality. The legislation set forth a definitive Federal policy governing the reclamation of surface mined lands, predicated on implementation by reasonable government officials.

As you stated, energy conservation must become integral to the American way of life; however, economic incentives alone will be insufficient. National interest requires that we optimize the efficient use of our nonrenewable resources—environmental as well as energy resources. Therefore, as I did publicly on September 27, 1974, I again urge you to proclaim a National Energy Conservation Crusade.

Reports of your support for strict thermal efficiency standards for all new construction as well as a 15 percent investment tax credit—up to $1,000—for homeowners who improve their homes by adding insulation and other energy savings devices is encouraging. During the 93d Congress the Federal Construction Energy Conservation Act of 1973, which I authored, was opposed by the Executive Branch. It is essential that the potential energy savings in buildings—some 40 percent for new construction and some 25 percent for existing facilities—be realized. I look forward to working with your Administration toward early enactment of appropriate legislation.

If the American people—industry, government, and the consumer alike—are to cope with the energy problems facing our country, it is requisite that the Executive and the Legislative branches of our government jointly formulate a comprehensive National Fuels and Energy Policy that fosters regional as well as national energy self-sufficiency. I so advocated by legislation in 1969 that this be done. The Administration opposed this plan.

At issue, Mr. President, is our capacity to work cooperatively toward simultaneous achievement of national environmental and energy goals—for both are now being jeopardized. The solutions will come hard; long-term policies for the reconciliation of energy and environmental interests will be difficult to formulate. Toward this end I pledge complete cooperation.

With personal and official esteem, I am,

Truly,

JENNINGS RANDOLPH,
Chairman.

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 20 minutes.

Mr. GRIFFIN. Mr. President, the Senate turns now to the question of the seating of a Senator from New Hampshire, following the election on November 5.

The issue before the Senate, I suggest, is a simple issue, and it should not be difficult to decide. As Senators consider the question, I think they should ask themselves what would be the result if Mr. Durkin instead of Mr. Wyman had ended up two votes ahead and if Mr. Durkin instead of Mr. Wyman had the duly issued certificate of election from the authorities of the State of New Hampshire.

I hope and trust that partisan considerations will not determine the judgment of the Senate on this issue. I do not think I am naive; I hope not. I still have confidence that Senators will vote this matter in an objective light, that they will put the institutional interests of the Senate ahead of any short-term, partisan political advantage.

Mr. President, the credentials of only one Senator-elect are before the U.S. Senate. Accordingly, there are not two sets, as the motion of the distinguished majority leader suggests, to refer to the Committee on Rules and Administration. If there were two sets of credentials of equal standing before the Senate, we would indeed have a different question to decide. But there is only one outstanding certificate of election, issued by the duly-constituted authorities of the State of New Hampshire, and that was issued to Louis C. Wyman. His election was confirmed unanimously by the bipartisan New Hampshire Ballot Law Commission, following an exacting and exhaustive recount procedure in accordance with the statutes of that sovereign State.

It would be ludicrous, I think, to argue that Mr. Durkin has presented credentials of election entitling him to be seated in the U.S. Senate. Indeed, it is interesting and revealing, I suggest, that no one is moving that Mr. Durkin should be seated. I think that would be ridiculous on its face.

No, the best the supporters dare to do for Mr. Durkin is to move that neither be seated; and this implicitly acknowledges the weakness and inadequacy of Mr. Durkin's position. But, Mr. President, it unfairly fails to recognize the validity of the credentials of Mr. Wyman and his entitlement to be seated, at least provisionally, to represent the people of the State of New Hampshire, if the Senate wishes to refer the contest to the Committee on Rules and Administration.

Consider carefully these facts. As a result of the official canvass of votes cast in the November 5 election for U.S. Senator, Louis Wyman was declared the winner by a plurality of 355 votes. As is widely known, Mr. Durkin then exercised his right, as the loser, to call for a recount. Under New Hampshire statutes, the recount is a two-tier proceeding. First, there is a re-tally of ballots by the Secretary of State; second, if appeal is taken, protested ballots are then reviewed by a bipartisan Ballot Law Commission.

At the end of the first stage of the recount proceeding, the New Hampshire Secretary of State declared Mr. Durkin to be ahead by 10 votes. Thereupon, the Governor and Counsel of the State of New Hampshire prematurely issued a certificate of election to Mr. Durkin on November 27. An accompanying resolution which authorized the so-called Durkin certificate of election specifically recited that it was subject to rights of appeal to the Ballot Law Commission.

Thereafter, after Mr. Wyman did exercise his right of appeal to the Ballot Law Commission, and after it had been clearly shown that certain ballots which should have been recounted had not actually been recounted by the Secretary of State, the Governor and Council of New Hampshire, on December 5, executed a document rescinding the certificate earlier issued to Mr. Durkin. A copy of that document was forwarded to and received by the Secretary of the Senate, and, on yesterday, it was read to the Senate.

Particularly in view of the fact that there had been no intervening action of any kind by the Senate, there surely could be no doubt that the same authorities of New Hampshire which issued the

Durkin certificate in the first instance could legally and did in fact revoke and rescind the so-called certificate.

Furthermore, Mr. President, I think that it is particularly noteworthy that Mr. Durkin himself recognized that the certificate upon which he now seeks to be seated had in fact been revoked. On December 4, he filed a petition in the Federal court asking that no one be allowed to change the certificate and asking the Federal court to order the Governor and Council to reissue the revoked certificate.

A three-judge Federal court, two of whom, incidentally, are acknowledged to be Democrats, unanimously held that Mr. Durkin was not entitled to the relief he sought.

The decision of that three-judge Federal court, I think is very significant. I should like to read from it.

The court said in part:

> We are satisfied that the statutory proceedings in progress before the Ballot Law Commission are an integral part of the New Hampshire electoral process and are within the ambit of the broad powers delegated to the state by Article I, Section 4.

At another point, the court said:

> We find no encroachment upon the Senate's power and no occasion to enjoin or otherwise interfere with the proceedings before the New Hampshire Ballot Law Commission.

The court said at still another point:

> We turn next to the plaintiff's request—

That is Mr. Durkin's request—

> that we order the Governor and Council to reissue to him the certicate that they later revoked.

I wish to state that again. This is a three-judge Federal court, two of whom are Democrats, in their opinion acknowledging, as Mr. Durkin acknowledged, that the certificate presented to the Senate had been revoked.

Turning to the plaintiff's request that the court order the Governor and council to reissue the certificate that they had revoked, the court said:

> It would make little sense to order issuance of a certificate which can at most have meaning only after the Ballot Law Commission completes its work.

This court proceeding took place and its opinion was handed down in the course of the recount proceeding and before the ballot law commission had completed its work. So the court was acknowledging and deciding that the only time that a valid certificate of election could be issued under New Hampshire law was at the conclusion of the ballot law proceedings, if appeal were taken to the ballot law commission, as it was by Mr. Wyman.

In light of that decision by the three-judge Federal court which Mr. Durkin did not appeal, and in light of Mr. Durkin's own recognition, by bringing the suit, that his certificate had been revoked, it is very hard to understand how anyone could contend now that Mr. Durkin has presented credentials to the U.S. Senate which are worthy of consideration.

Furthermore, Mr. President, Senators have received from Robert L. Stark, secretary of state of the State of New Hampshire, a telegram which reads as follows:

> Respectfully advise that Senator-elect Wyman holds the only certificate of election issued by the State of New Hampshire pursuant to state law which has been upheld by a three-judge Federal court.

That is a telegram that the secretary of state of the State of New Hampshire has sent within recent days, not only to the junior Senator from Michigan, but to other Senators as well.

What further evidence or argument can possibly be required to establish that Mr. Durkin has no credentials and that Mr. Wyman does have valid credentials, the only certificate of election outstanding, issued by the duly constituted officials of the sovereign State of New Hampshire.

Mr. President, may I ask how much time remains of the time allotted to me?

The PRESIDING OFFICER. The Senator has 6 minutes plus.

Mr. GRIFFIN. I thank the Chair.

One of the questions that naturally arises, I suppose, is the question of the processes in the State of New Hampshire, how the recount was conducted, what kind of people were involved. And particularly, I think, the question probably focuses on the three-man ballot law commission which reviewed some 400 ballots and ended up declaring unanimously that Mr. Wyman had won the election by a two-vote margin. Indeed, as I understand it, the ballot law commission determined that Mr. Wyman having won, even though by two votes, a number of other questions were not necessary to be reviewed.

The chairman of the ballot law commission was a Mr. Snow, an attorney from Concord, N.H., who testified that until the recount proceedings began, he had never before in his life met Mr. Louis Wyman.

A second member of the three-man ballot commission was Mr. Rudman, the duly elected attorney general of the State of New Hampshire, a distinguished lawyer and public servant who happens to be the president of the National Association of Attorneys General in the United States. The third member of the three-member bipartisan Ballot Law Commission was Mr. Crowley, a retired naval officer, who in 1970 and in 1972 was a candidate of the Democratic Party for Governor of the State of New Hampshire and the titular head of the Democratic Party in the State of New Hampshire.

These proceedings were viewed and observed, I think it should be noted, not only by the press and the public, but by official observers representing the Senate. The majority counsel of the Privileges and Elections Subcommittee and the minority counsel of the Privileges and Elections Subcommittee went to New Hampshire and personally observed almost all of the recount proceedings.

At various times, on specific judgment calls, the ballot law commission divided, sometimes voting 2-to-1 one way or 2-to-1 another way. They were not unanimous in every decision made. But when their part of the proceedings was completed, the three-member bipartisan Ballot Law Commission decided unanimously that Mr. Wyman had won the election. And then, under the laws of the State of New Hampshire, a certificate of election was properly issued by the Governor and council of that State. That certificate, now before the Senate, is the only outstanding certificate issued by the officials in the State of New Hampshire.

Mr. President, I know that the Senate does not always follow precedent. We sometimes take the rulings of the Chair on questions rather lightly—too lightly, I think. We sometimes appeal from the rulings of the Chair, and we sometimes overturn precedents without a great deal of consideration or thought.

I have been interested, in studying this case and looking back into the precedents of the Senate in contested election situations, to find that the Senate, over the years, has been a little bit more considerate of precedents particularly in contested election cases. There have been some exceptions, but I think the Senate has tended to bow to follow precedent, recognizing the human temptations that otherwise are upon us to exercise, perhaps, our judgment only on a partisan political basis.

There has been no fraud alleged in this case. There has been no fraud shown in this case. No corruption, no illegality, is charged or shown. The only thing that is charged in this case is that the election was close. That is all. It was a close election, and therefore, because it was close, some contend that the Senate should substitute its judgment for the judgment of the duly constituted officials of the State of New Hampshire.

That would be a very, very dangerous precedent to establish. If we are going to do it in the case of a 2-vote margin, what about a 20-vote margin? What about a 30-vote margin? What about a 200-vote margin? Where are we going to draw the line?

Reviewing the election itself is certainly within the power and the authority of the Senate under the Constitution, this Senator would not contend that it is not. What is unprecedented, Mr. President, is not to seat, at least provisionally——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, apparently the Senate is not troubled with the problem of time today. I ask unanimous consent that the Senator from Michigan may proceed for not to exceed an additional 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I call attention to the fact that a quorum should have been called before the Senator began to speak, because the staff members of the Committee on Rules and Administration were alerted that there would be a quorum call, and they could come to the floor, and some of them are not here, apparently awaiting that quorum call.

Mr. GRIFFIN. Does the Senator wish——

Mr. ROBERT C. BYRD. I wish to have no interruption of the record.

Mr. GRIFFIN. Does the Senator wish to have a quorum call at this time?

Mr. ROBERT C. BYRD. I have been informed and understand now that the reason why Mr. Duffy is not here is because he will soon be passing out cigars.

Mr. GRIFFIN. I see.

Mr. ROBERT C. BYRD. In commemoration of a very important and blessed event.

Mr. GRIFFIN. Mr. President, I was saying that while there is no question that the Senate, under the Constitution, is the judge of the election of its Members, what would be unprecedented would be for the U.S. Senate to refuse to seat, at least provisionally, a Senator-elect who presents a valid certificate from his State, merely because it was a close election.

Mr. President, it is not only unprecedented, it would set a new precedent which, I think, we would all live to regret.

What has happened to States' rights? Have they completely disappeared? Are they completely gone?

Here is a sovereign State. The people of that State, under the 17th amendment, have a constitutional right also. They have a right to elect and be represented by a Senator in the U.S. Senate. They cast their ballots. The officials of the State of New Hampshire counted them. They recounted them under the statutes of the State of New Hampshire.

They certified and sent to the Senate the credentials of Senator-elect Wyman. There is no allegation of fraud, no allegation of corruption, no allegation of illegality, and yet it is suggested that this Senator-elect should stand aside and not be seated even provisionally. I cannot believe that the Senate is going to make that kind of a decision. I have more confidence in the Senate of the United States than that.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. GRIFFIN. Yes, I would be glad to yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I too share the discomfort of the minority whip when we think that the majority can upset the will of any of our States.

Now, I will address this question to my friend the Senator from Michigan: If the Democrat majority, a substantial majority in this body today, that has a fair chance of remaining substantial in the years ahead, can upset the will of the people of New Hampshire because of a two-vote difference, is there anything to prevent them from upsetting the will, say, of the State of Michigan because there is a 50,000-vote difference?

Mr. GRIFFIN. Well, I think that I would answer the distinguished Senator's question in this way: I suppose theoretically what the Senator suggests could happen, and that the only check would be some check that the U.S. Supreme Court might provide. And would it not be unfortunate indeed if the Senate on a partisan political basis should create a situation where due process and the rights of the people of a State have been denied so flagrantly and arbitrarily as to open the door to the Supreme Court to inject itself again, as it did in another case not too long ago, in terms of the decisions made by a House of this Congress? I think that would be a very sad thing. I do not know what the Supreme Court would do, but obviously there are conflicts that arise in terms of constitutional rights if the Senate should arbitrarily proceed along the course as the Senator from Arizona has said it could possibly follow.

I think that Senators need to keep in mind not only the provision of the Constitution that says the Senate shall be the judge of the election returns of its Members. Of course, that is in the Constitution, but there are some other provisions in the Constitution that also must be observed.

There is the due process provision. It is not just Mr. Durkin who is entitled to due process in the State of New Hampshire and in the U.S. Senate, but Mr. Wyman is entitled to due process and the people of New Hampshire are entitled to due process. The 17th amendment guarantees them the right, not the Senate, to elect and be represented by a Senator in the U.S. Senate.

Mr. GOLDWATER. I join my friend from Michigan in saying that I cannot possibly believe that the Democrat majority would ever sink to that low level, I just cannot accept that as a fact, so I will make no changes unless they are foolish enough to do it. I cannot believe that any party in this country would ever so disrupt the intent of the Constitution as to go through with what we suspicion they might go through. I hope it is only a suspicion. But I think the gentlemen, both gentlemen from New Hampshire, are entitled to procedures by this body, whatever they might be. I have never, in my experience, known of a man to come to this body with a certificate of election that was not honored by this body. I have known some very close elections, very close friends of mine who have won seats in this Senate, with less than 100 votes and nobody ever dared to stand up and say "We can deny this man a seat because it is the power of the Senate to do it. We will recognize that." But I might suggest that it is the intent of that power of the Senate to judge the Members not upon the vote by the people in the State they represent, but by charges that might be leveled against them at which time it becomes the responsibility of the proper committees and subcommittees of the Senate to investigate these charges, at which time the Senator can be denied his seat or admitted to a seat, and this has happened in the experience of many of us in this body.

So I join my friend the Senator from Michigan in praying that the majority does not abuse the majority privileges to the end that we destroy a little more of the constitutional government we have lived under. We have destroyed a lot of that in the last 40 or 50 years, and one more step is about all we can stand.

Mr. GRIFFIN. The Senator from Arizona was referring to the fact that there had been other close elections in the history of the Senate and, indeed, there have been. I seem to recall, for example, the Senator from the State of Texas was elected by the landslide margin of 88 votes, and later became the President of the United States.

Mr. TOWER. Will the Senator yield? Actually, it was 87 votes.

Mr. GRIFFIN. Eighty-seven.

Mr. TOWER. I think in terms of percentages it probably equals out to a two-vote margin in New Hampshire, and I might note that that gentleman was not only seated but elected majority leader of the U.S. Senate before he was elected Vice President and he gave up his seat.

Mr. GRIFFIN. And the Senate did not review that election despite the fact it was close, which is a very good precedent which I think ought to be duly noted.

I yield to the distinguished Republican leader.

Mr. HUGH SCOTT. The Supreme Court was invoked then, and a Justice of the Supreme Court participated, in an action which led to the inability of anybody else to pursue the action in the Texas case.

Now, I have heard it said that you can not get this case into the Supreme Court, I have heard it said it is not justiciable and if it goes there the judgment is not enforceable.

I would like to point out that there is more than one section of the Constitution, and will the Senator comment on what I am about to say, that namely, while there is a provision that each House shall be the judge of the qualifications of its own Members, there is the most sacred guarantee of all in the entire Constitution, stemming all the way back from Magna Carta, of due process. If the Senate could deny a Senator's seat because he won by two votes, it could deny his seat if he won by 2,000 or 200,000. Therefore, if the Senate ignores the decision of the Governor and officials of the sovereign State of New Hampshire, if the Senate ignores the action of a one-judge and finally a three-judge Federal court, if the Senate ignores all of these things and seeks to substitute its judgment for the judgment of the people and the officials of the sovereign State of New Hampshire, then it seems to me that the person who loses this verdict here could go to the courts and end up in the Supreme Court on the prime issue of lack of observation of due process. If that is the case, does the Senate want the Supreme Court interfering into its decisions?

The only way they can avoid that, as I see it, is to do justice and to see that justice is done. Is that not a fact?

Mr. GRIFFIN. I certainly agree with the distinguished minority leader, and I appreciate his contribution very much.

Mr. HUGH SCOTT. I would like to suggest a way by which, if the Senate were, one might say, evilly disposed toward one candidate—and I mean evilly disposed in the strict legal sense of the word there, with malice prepense, were to decide, determined to decide, this case adversely to the Senator with the certificate, they could do it by saying, "Well, there are some ballots there, that the ballot law commission acted upon, but we do not know whether they know how to define what is a valid ballot or what is not. We will count the 400 ballots and they will find a few where there might be a judgmental issue according to your partisanship, of which none of us is entirely free, and they could count them for one candidate or another," and then a 2-vote majority on one side is overtly switched to a 12-vote or—I am trying to guess the result—12 or 13 or an 18-vote majority on the other, and let us see how close I come, and then the committee would come to the Senate floor and say, "Well, we have done our duty. We have deprived a Senator for the first time in the history of the Senate of his seat. But we did it legally and the Supreme Court cannot do anything about it because we are the sole judge of the qualifications of our own Members."

I say that shocks the conscience. I cannot believe that the Senate would do it, I cannot believe that the Rules Committee would do it. Yet I have to raise these questions because we have already been sufficiently shocked to see that for the first time in the long history of this honored body, the Senate has turned its back on the certificate of the Governor of a sovereign State and said in this case, "We will not honor that certificate," although in the case immediately before that in the same committee they said, being presented with the only valid certificate in that case as well, "We will seat the Senator who holds the certificate," as, indeed, they should have done.

Mr. GRIFFIN. May I urge the minority leader not to assume the Senate has already decided not to seat Mr. Wyman.

Mr. HUGH SCOTT. Oh, no.

Mr. GRIFFIN. There will be a motion presented to give the Senate the opportunity to do that. They have not yet refused to do it, and I fervently hope and trust and pray that they are going to support and adopt a motion that will allow him to be seated, at least provisionally, while the Rules Committee looks into the matter.

Mr. HUGH SCOTT. The Senator is quite right. I was merely addressing myself to the distinguished Senator from Arizona (Mr. GOLDWATER), and these are lively fears. But I was also making the point that I support the motion of the Senator from Michigan that there really is nothing before the Senate except the question, does Senator Wyman have a valid legal certificate? The answer is, yes, he does.

Therefore, if murder is to be done, I want the murder to be performed in such an open fashion as to shock the conscience of the Senate, the Congress, the people of New Hampshire and the people of the country. Then we will take that issue in the next election to the people of this country and see whether or not professions of honor and professions of fairness—which I expect to be adhered to and I pray will be adhered to—will be the future course of conduct of the most powerful body in the world.

Mr. GRIFFIN. I yield now to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I would like to join with the distinguished minority whip in the comments that he is making, and commend him on his efforts to see that a certificate of election from a sovereign State is honored and respected by this body.

But listening to the Senator from Pennsylvania and his comments about the results of partisan show on behalf of our Democratic colleagues calls to mind a personal experience that helped me get elected to the Congress in the first instance.

I was elected to the Senate of Virginia, 1 year before I was elected to Congress, by a majority of 35 votes on election day. Well, that just did not happen to be enough for a Republican in Virginia at that time, so we had a recount of the votes.

Six and one-half weeks later—they had been in the custody of the Democratic Party during the interim and I am not suggesting that there was any unfairness in either the first count or the second count, but some believe the same ballots were not counted on both occasions.

So the next year I was elected to the House of Representatives.

I would hope that an error like this might not be repeated in this body this year.

A certificate of election has been issued, a valid certificate of election, and only one valid certificate of election is before us. I would hope it would be honored.

Mr. GRIFFIN. In this case, of course, Mr. Wyman was not only elected on election day, there was a recount proceeding involving two stages and at the end of the recount proceeding he was still the winner, although by a smaller margin.

Now, what I take it is being asked for the Senate to do, without any allegation, suggestion, or showing of fraud, corruption, or illegality, is that the Senate should recount the recount in some fashion.

Mr. McCLURE. Will the Senator from Michigan yield?

Mr. GRIFFIN. I am glad to yield to the Senator.

Mr. McCLURE. Would it not be correct in stating that at least one basic fact can be agreed upon within this body: that there is only one final action of the State of New Hampshire evidenced by their certificate of election here today, that is this final action after the ballot commission had ruled in effect saying that Louis Wyman won the election even though by a very narrow margin?

Mr. GRIFFIN. I would agree, that certainly should be clear on the face of the record that is before the Senate.

The PRESIDING OFFICER. The Senator from Michigan's time has expired.

Mr. ROBERT C. BYRD. I yield the Senator 5 minutes.

Mr. GRIFFIN. I thank the Senator.

I think it might be acknowledged in passing that in some earlier days following the Civil War when States were being reorganized within the Union and there were questions about which body of men were the duly constituted legislature at the time, or duly constituted officials at the time, there have been a couple of situations where two certificates issued by different authorities were before the Senate at the same time.

But let it be recognized that in this instance the same authorities, the same Governor, the same Council that prematurely issued the so-called Durkin certificate in the first instance, without any intervening action on the part of the Senate, officially revoked and rescinded that certificate, the document of rescission being a part of the records before the Senate. Then the same authority, the same Governor, the same Council, in accordance with the laws of the State of New Hampshire, issued the certificate to Mr. Wyman, which is the only outstanding certificate of election from the authorities of the State of New Hampshire before the Senate.

Mr. McCLURE. And do not the documents also indicate that the actions by the State of New Hampshire officials were questioned and challenged in the Federal courts?

Mr. GRIFFIN. That is correct.

Mr. McCLURE. And the Federal courts in each instance preserved to the State officials the authority to act under State law, to do precisely what they have done in the final certification as it happens in favor of——

Mr. GRIFFIN. Indeed, by bringing the suit in Federal court, Mr. Durkin himself acknowledged that a certificate had been revoked and he called upon the Federal court to require the Governor to reinstate him, which the Federal court refused to do.

Mr. McCLURE. So if that be the case, then the only real question before the Senate is whether or not that action of the State officials is supported by the factual evidence which was before them in the various proceedings and petitions which were filed before the appropriate State officials?

Mr. GRIFFIN. I thank the Senator, and that is correct.

Mr. President, I conclude my remarks by saying again that I have not given up hope. I do not share the view of cynics that this is going to be decided on a partisan basis. I still believe and trust in the decency, the integrity, the honor of this great body, and I am confident that the decision will be made on the basis of what is going to be just and what is going to be right and in accordance with the kind of precedents we want to follow in the future.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I would ask the distinguished Republican whip whether or not he intends to reintroduce his motion as a substitute to the Mansfield motion?

Mr. GRIFFIN. My response to the distinguished majority whip is that I do plan to do that, yes.

Mr. ROBERT C. BYRD. Would the Senator indicate when he plans to do that?

Mr. GRIFFIN. At an appropriate time when Senators on both sides feel, I believe, that adequate time has been allowed to fully debate and discuss this very, very important question. At some point then I would renew my motion and expect to give the Senate an opportunity to seat Mr. Wyman provisionally, with the reference of the contest to the Committee on Rules and Administration for its consideration and recommendation.

Mr. ROBERT C. BYRD. Why does not the Senator introduce his motion now? That would not shut off debate. Senators could debate that motion. Senators could then have both motions before the Senate to which to address their remarks.

Mr. GRIFFIN. I would respectfully say to the distinguished majority whip that the only reservation that I would have about it at the present time is that it might possibly be made the subject of a motion to table by some Senator. I would hope not. But I do not think that this question, which would be presented by my motion, should be decided on a tabling motion. Perhaps I should not have those concerns, but, in any event, the Senator from Michigan is protected in a parliamentary way at least by not making the motion at this point.

Mr. ROBERT C. BYRD. The Senator from Michigan is not thereby protected. I could introduce the same motion myself and then move to table it.

Mr. GRIFFIN. Of course, I am sure the Senator from West Virginia would not do that.

Mr. ROBERT C. BYRD. I am not so sure.

May I say to the distinguished Senator, I did not say that facetiously. I am a little bit put out by all of this talk about the need for due process, when somebody is apparently stalling around here. Why do we not have a vote? I am willing to vote today, within 5 minutes from now, on the Senator's motion, if he will offer it, and I am willing to enter into an agreement that no tabling motion be in order with respect to a motion by the distinguished Senator from Michigan to the effect that the claimant from New Hampshire, Mr. Wyman, be allowed to take his seat without prejudice. We could have voted on that motion yesterday. The Senator from Michigan introduced such a motion yesterday as a substitute for the Mansfield motion. Today he exercised his right and withdrew that motion. Why do we not vote? I have heard so much this afternoon about the need for due process for Mr. Wyman, for Mr. Durkin, and for the people of New Hampshire. It seems to me that expeditious action by this Senate on one or the other or both of these motions is the best way to assure due process to all parties.

What is the holdup? I am perfectly willing to offer the motion to have Mr. Wyman seated without prejudice to Mr. Durkin, and move immediately to table my own motion and get a vote soon. If the Senator hesitates to offer the motion, why not vote today on the Mansfield motion if we want due process?

I think there is a little something going on here. Why not enter into a unanimous-consent agreement now for a time limitation on this motion by Mr. MANSFIELD, and a motion by Mr. GRIFFIN as a substitute, and vote at the end of that time? That is about the best way to indicate to this country that we want to do due process to these two claimants.

I hear that someone on the other side does not want to vote on this matter until tomorrow. Why delay? It is perfectly all right with me if the Senate wishes to reject the Mansfield motion. It is perfectly all right with me, if it is the will of this Senate, to seat Mr. Wyman without prejudice to Mr. Durkin. I will not vote for that, but if that is the will of the Senate, then that is the will of the Senate. Let us get it over with.

I will not yield the floor until I complete my statement, at which time I will ask if we can get a unanimous-consent agreement on this matter. I will also withhold my right—and I alert all Senators to the fact that I may utilize my right—to offer a motion to seat Mr. Wyman, with Mr. Durkin's rights reserved, and then move to table my own motion.

Mr. PASTORE. Will the Senator yield for an observation without losing the right to the floor?

Mr. ROBERT C. BYRD. Yes.

Mr. PASTORE. I would hope that we would begin to expect a little bit of confidence, respect, and fairness among ourselves without regard to politics in this particular case. I have known Mr. Wyman now for a long time. I have had the honor to participate with him in several conferences between the House and the Senate. I always found him to be a fair man. I hardly think Mr. Wyman wants to take his seat unless the people of New Hampshire elected him to the office. On the other hand, Mr. Wyman may rest assured that I doubt that there is any Democrat on this side who would have the audacity of seating Mr. Durkin unless he legitimately won the election.

I think the question here is expedition if we would only get down to doing what we have to do under our responsibility under the Constitution, because we do have before us two certificates of election. It is true that the second petition sought to rescind the previous petition, but the fact still remains that the Governor or the State did declare Mr. Durkin the winner. After that there was an appeal taken, as I understand it, to a ballot review board that reviewed it and gave the victory to Mr. Wyman by two votes. This is a very extraordinary situation. We did not invoke this procedure with reference to the Bellmon situation. We recognized there that Mr. BELLMON should have been seated without prejudice, and we did it. As a matter of fact, we had no particular reason to favor Mr. BELLMON over Mr. Wyman. But Mr. Wyman does present a very sensitive situation that really gnaws at the soul, the integrity, and the prestige of the Senate of the United States, because if we become partisan, if we become political, and we begin to stack this side of the Senate which somebody who did not win the election by the free choice of his people, then I do not want to be any part of my party, and I do not want to be any part of the Senate.

I say that if Mr. Durkin did not win it, then we should stand up and say, "You did not win it" and seat Mr. Wyman.

On the other hand, if Mr. Wyman did not win it, I think we owe it to Mr. Durkin, I think we owe it to the people of New Hampshire, and we owe it to this Senate to declare the facts exactly the way they are. That is all this amounts to.

The sooner we get down to the business the better. I understand there are 400 votes that are in controversy. Out of the 400 votes, I understand that only about 50 are very sensitive. That job is only going to take maybe a day or it might take a week; it might take 10 days. But it strikes me that we should get down to getting ourselves to understand what the situation is.

The Senator from Michigan, who is a dear friend of mine and I have the deepest respect for him, said today:

> I wonder what the Democrats would have done if Mr. Durkin was in the position of the two votes.

I say to him, I wonder what he would have done if he were the majority leader and it went the other way.

But that is not the question. The question is the integrity of the Senate. The question here is the responsibilities of the Senate. I want to say that I will disown my friendship with any member of the Democratic Party who has the privilege of sitting in the Senate of the United States if they pull a fast one on Mr. Wyman. I do not think they are prepared to do it.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I have the floor.

Mr. GRIFFIN. Mr. President, will the Senator allow me to engage in a colloquy with the Senator from Rhode Island?

Mr. PASTORE. I would love it. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, I have not proceeded to state the case in this matter yet.

The PRESIDING OFFICER. The occupants of the gallery are here as guests of the Senate. The rules of the Senate expressly prohibit any demonstration of approval or disapproval on the part of the occupants of the gallery. The Senate would appreciate it if the visitors in the gallery would not express approval or disapproval.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 10 minutes.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Rhode Island (Mr. PASTORE) such time within my 10 minutes as he may require, in order to answer the questions of the distinguished Senator from Michigan, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from Rhode Island. He is appealing for fairness and nonpartisanship. I join him in the hope that all of us will view this matter in a nonpartisan, objective way and that it will not be decided on a partisan basis.

In order to help assure that that will be the case, we should take enough time to be fully familiar with this very complex case and the record of the hearings, which was just made available yesterday. There is no desire here for inordinate delay. I know that the Senator from Rhode Island would agree with this—because he is a former Governor of a great State—that it would be a very dangerous precedent if the Senate should, by a majority vote, refuse to seat, even provisionally, a Senator-elect who has been certified by the Governor of his State after an election, in accordance with the laws of that State, without any charge of fraud, corruption, or illegality, but only because the result was close.

Mr. PASTORE. Oh, no, no, no, that is not it. That is not it at all. We have a situation here where there was a previous certification that Durkin had won it by 10 votes.

Mr. GRIFFIN. Which the Governor revoked.

Mr. PASTORE. I know, but he is a Republican.

[Laughter.]

I am saying here that we intend to be a little fairer in the Senate of the United States. We are presented with two certificates.

Let me ask this of the Senator from Michigan: What if the shoe were on the other foot and he were standing here like the Senator from West Virginia and he had the majority that was Republican and they had certified a Democrat by two votes? What would the Senator from Michigan be doing?

Mr. GRIFFIN. I hope I would follow the action that I am recommending to the Senate in this case.

Mr. PASTORE. I hope the Senator would but I doubt it.

Let me say this to the Senator from Michigan: He says that he wants a study of the hearing. Then, what is his desire on setting the vote? The longer he waits, the longer Mr. Wyman is going to be off the payroll if he won, and the longer the Senator from Michigan waits, the longer Mr. Durkin is going to be off the payroll if he won. Why does the Senator not say when he would like to have a vote on this matter? If he wants it next month, it is all right with me, but let us have a vote, and we will have to get along with 99 Members, and I think the country will survive.

Mr. GRIFFIN. I thank the Senator from West Virginia.

Mr. PASTORE. I thank the Senator from Michigan and I thank the Senator from West Virginia.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield, without losing my right to the floor.

Mr. CANNON. Mr. President, the distinguished Senator from Michigan has said several times that there is no precedent where there has been no allegation of fraud, corruption, or illegality. There are precedents for not seating a man who has been certified by the Governor, whether it has been based on those charges or others. So it is not a case of there not being any precedent for having both of the parties step aside in this instance.

I simply point out to the Senator that under the New Hampshire law, the review contemplated after an appearance before the ballot law commission is then an appeal to the appropriate legislative body, and that is substantiated by the petition of Dondero, a New Hampshire case, which was referred to in a very recent case, in the State of New Hampshire, on this very point—the case of Wyman versus Durkin, Robert L. Stark, secretary of state, and Carmen C. Chimento, on January 6 of this year.

So the appeal, the petition, from the ballot law commission is to this body, which has the constitutional responsibility to make a determination.

The Senator has said there is no allegation of fraud or corruption. There is an allegation of miscounting of ballots. That is in the petition we have before us. If we are going to say that we cannot do it because no fraud was alleged, all one has to do is not allege fraud and just say ballots were counted for another man that should have been counted for him, and you have no case. You have to allege fraud, according to the Senator's statement.

This is part of the petition before the Senate: that the New Hampshire Ballot Law Commission erred in overruling the Secretary of State and increasing Wyman's votes or decreasing Durkin's votes on at least 40 ballots. That is an allegation of error that it is up to us to review and determine.

In addition, the ballot law commission erred in failing to count at least 20 votes for Durkin which he was entitled to and erred in counting at least 20 votes for Wyman which he was not entitled to.

Either of those allegations would change the result of the vote that is before us by a two-vote margin.

Another one: in making the errors described in parargaphs (a) and (b), the ballot law commission ignored or failed properly to follow the established principle that, wherever possible, the intent of the voter should be determined from the surrounding circumstances.

That always has been the principle followed by this body in contested elections, to determine the intent of the voter and give weight to the voter's intent wherever possible. This is all we are trying to do here.

I submit to the Senator that the Senator from Michigan is simply saying that because there is no allegation of fraud, we should go ahead and seat the other gentleman and not proceed as the distinguished majority leader has suggested, because there is clearly an error, a mistake of a miscounting of the votes, and it is clear that if that charge is true, the result would be different here. That is what we have to determine.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. CANNON. I do not have the floor. The distinugished Senator from West Virginia yielded to me for these comments.

I would say that I completely agree with him. We would like to get on with our work. This is vested in the U.S. Senate, and the authorities are legion on that point.

The other day I referred to William S. Care, a Pennsylvania case, in which the Senate refused to seat either of the parties who were contestants. The matter went back for a new election, and a third man, a different man entirely, was elected to fill the seat, so that neither of the contestants in the first instance was elected.

This matter is vested in this body at this time by authority of that precedent and many others.

It is now up to us to make the determination as to who won that election, if we can. If we cannot, then in my judgment it would devolve upon us to declare that seat vacant and let it proceed under New Hampshire law.

Mr. GRIFFIN. Mr. President, will the Senator yield for a brief response to the distinguished chairman of the Rules Committee?

Mr. ROBERT C. BYRD. I yield for not more than 2 minutes.

Mr. GRIFFIN. The distinguished chairman of the Committee on Rules and Administration has pointed out that the Senate has jurisdiction, that there is a right of appeal to the U.S. Senate, and no one is questioning that fact. There is no question that the Senate can look into this allegation, can determine whether or not mistakes were made, and can review the election.

The point I made earlier, and which I want to repeat, is that, in the absence of any allegation of fraud, corruption, or illegality, the tradition and the practice of the U.S. Senate is to recognize the certificate of election of the duly constituted authorities of a State, at least to the extent of seating that Senator-elect provisionally, while the committee proceeds with its review of the election.

If I may just continue for a moment.

Mr. ROBERT C. BYRD. Very well.

Mr. GRIFFIN. The situation in Oklahoma——

Mr. ROBERT C. BYRD. I just wanted to correct the Senator in a respectful way.

Mr. GRIFFIN. All right.

Mr. ROBERT C. BYRD. He says that there is no precedent——

Mr. GRIFFIN. In the U.S. Senate.

Mr. ROBERT C. BYRD (continuing). In the U.S. Senate for never seating a claimant with a certification of election where there was no fraud alleged. Is that a fair statement?

Mr. GRIFFIN. It is my understanding that in the absence of an allegation of fraud, corruption or illegality, the Senate's practice and tradition has been to seat a Senator-elect, at least provisionally, which is what we did for the Senator from Oklahoma (Mr. BELLMON) even though questions relating to an election voting machine are to be reviewed. Matters of that kind conceivably could change the result of the election. In any event, we recognize the validity of the certificate of the Governor of the State and give the people of that State representation in the U.S. Senate while we proceed. That is what we are asking for in this case.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, do I have the floor?

The PRESIDING OFFICER. You have the floor.

Mr. ROBERT C. BYRD. All right, Mr. President. We are proceeding now on the basis of no time——

The PRESIDING OFFICER. The Senator's time is now unlimited.

Mr. ROBERT C. BYRD. Mr. President, in the year 1887, two claimants presented themselves at the bar of this Senate from the State of West Virginia. One had been appointed by the Governor of the State. The other had been elected by the legislature of the State. There was no charge of fraud. There was no charge of corruption. Here were two men, prior to the adoption of the 17th amendment, who stood here in the bar of the Senate, each with credentials. Neither claimant was seated. Mr. Faulkner, after 9 days, was seated by the Senate, based on the report of the appropriate committee.

In the year 1941, two claimants presented themselves to the bar of this Senate from the State of West Virginia, one claimant having been appointed by Governor Holt, the outgoing Governor; the other claimant having been appointed by Governor Neely, who had resigned his seat in the Senate to become Governor. There was no charge of fraud. There was no charge of corruption. There were two men, each with certificates of appointment who presented themselves to the bar of this Senate. Neither claimant was seated until the Senate had rendered a judgment—which came 3½ months later.

So let it not be said that the Senate has never, never refused to seat a claimant who held a certificate of election or appointment where no fraud or corruption was alleged.

In the Pennsylvania case, 1926, of William S. Vare, to which allusion has been made here, the claimant was not permitted to take his seat. The claimant with the certificate of election was not permitted to take his seat until the Senate rendered its judgment on the matter. The distinguished Senator from Nevada (Mr. CANNON) has stated, as it turned out, that neither claimant was ever sworn.

I am as strong an advocate of following precedents as is any Senator in this body. I inherited that philosophy from the late Senator Richard B. Russell.

A precedent is one thing that has no parent. It has no predecessor. And none of these cases will stand on all fours, one with the other. There has been new ground plowed in each contested case that has come before this Senate. There have been new precedents made from time to time. So if one wishes to look at the Mansfield motion as setting a new precedent, then let it be a new precedent. The case is unlike any prior case. The Constitution of the United States places in this body the responsibility of being the sole judge of the election, returns, and qualifications of its own members. Article 1, section 5, does not say that the Senate may be the judge; it says the Senate shall be the judge.

So we hear all of this claptrap about the Senate substituting its judgment for the will of the people of New Hampshire. The Constitution vested in this body not only the power but the duty to judge, when there is a challenged election result involving the office of U.S. Senator.

The State of New Hampshire had no appellate procedures beyond the ballot law commission. If it had had additional appeals procedures, I am sure those appeals procedures would have been utilized. But all of the appeals procedures provided by the statutes of New Hampshire were invoked. Then where do claimants go for redress? He could only come to the bar of this Senate for its judgment.

I do not want this job. I do not want to have to recount these ballots. I do the work of two men now. I do not want this additional job. But in 57 years, I have never run away from my duty.

Mr. GRIFFIN. Would the Senator from West Virginia——

Mr. ROBERT C. BYRD. Not yet, and I say that respectfully. I will yield to the Senator when I have finished.

The Senate has to make a decision here. If the ballot commission had rendered a judgment saying that there was an absolute tie in this case, then under the statute of New Hampshire, the people of New Hampshire would have had an opportunity for a new election. That question was taken to the Supreme Court of New Hampshire. On December 10 of last year, that body was asked by the Governor and the executive council for an opinion as to whether or not the people of New Hampshire were entitled to a runoff election in the case of a virtual tie. But that court rendered an opinion to the effect that in the case of a virtual tie, there was no authority for a new election and that only in the case of an absolute tie could there be a new election.

So all of this excitment about the Senate's stepping in, imposing its will and substituting its judgment, is mere political window dressing. Both claimants followed the appeals procedures as far as they could go. The petitioner has no place other than the U.S. Senate now to which to retire for a final appeal.

I would like to have seen the people of New Hampshire send a Democrat to the Senate in the November 5 election. I would be less than honest and candid if I did not say that. And I say that without any reflection upon Mr. Wyman, with whom I have served in conference time and time again. I have a high regard and respect for Mr. Wyman.

But in the November 5 election, by their vote—which first gave Mr. Wyman a majority of 355 ballots, and then was reversed by recount giving Mr. Durkin a majority of 10 votes, which then was reviewed and reversed by the ballot law commission, giving Mr. Wyman a two-vote margin, and which, with the switch of a single vote by the ballot law commission, would have meant a tie vote, making this the most unique Senate race as far as the outcome was concerned in the history of the United States, the closest vote ever recorded—the people of New Hampshire spoke their will.

We have heard it said that their will was write Wyman. The Secretary of State then, after a recount, said their preference was Durkin. The ballot law commission said, no, it was Wyman.

Somewhere in that bloc of ballots—God knows where—the truth lies and waits to be revealed.

The claimant, Mr. Durkin, has presented a petition of contest, asking the Senate to determine where the truth lies. It is our responsibility and our duty, in my judgment, to respond. As I say, I wish we could send this back to the people of New Hampshire, wash our hands of it, and let them decide. But I say we would be shirking our duty if we did that. That would be a copout. To do that, we would have to declare the seat vacant, or we would have to declare a tie.

It is our duty to take the time, if the Mansfield motion is agreed to, and determine where the truth lies.

If Mr. GRIFFIN will offer his motion—or any other Senator on that side of the aisle, or if any Senator on this side of the aisle will offer a motion to seat Mr. Wyman without prejudice to Mr. Durkin, or to seat Mr. Wyman, period, we can get a vote, if they will let us vote. On a motion to table, we can get a vote quickly.

Mr. President, if this matter is to be decided by the Rules Committee, I would gladly stand aside and let other Senators sweat over those ballots and determine the outcome. But if the duty falls upon me to assist in that matter, I will do my duty. I will do it impartially, and I will do it objectively—as objectively as I am humanly able to do it. I will do it fairly, and if the count is in favor of Mr. Wyman, then that will be my vote. If the count is in favor of Mr. Durkin, that will be my vote.

I am often partisan, but if it is incumbent upon the Senate Rules Committee to decide this matter and report back to the Senate, it will not be my duty to be partisan—it will be my duty to be fair, objective, impartial, and nonpartisan. Otherwise, I will cast a reflection on myself and on the Senate, and I am not willing to stultify myself or to stultify the Senate to get an additional Democrat here. We do not have to steal any election, as has been implied. We do not have to pull any power plays. We already have 61 Senators on our side of the aisle. We want to be fair, and we will be fair.

I have heard the buildup here today, regrettably, for a later charge that a decision by the Senate was partisan. I heard the same buildup all through the Rules Committee hearings on the Rockefeller nomination. Those of us who were diligently, earnestly, sincerely trying to probe and fulfill our responsibilities as members of that committee and as representatives of 140 million voters in this country—to stand in their place in fulfilling our responsibility under the 25th amendment—we heard the taunt time and time and time again about partisanship.

But we did our duty. I voted for Mr. ROCKEFELLER, and up to this moment I do not regret it. Now, we have heard here all of this flak from the other side of the aisle that indicates that the Senate is going to be accused of partisanship. I detest that. I reject it out of hand. If we cannot have a little confidence in one another here, without attributing to every action an ulterior partisan motive, then I say, as a Senator of the United States, that we are a failure.

I am going to support the motion by Mr. MANSFIELD that neither Senator be seated, and I will tell you why. If there is a motion to seat Mr. Wyman without prejudice to Mr. Durkin, I say to you gentlemen that there is no way under heaven that he can be seated without prejudice—with only a two-vote majority. If the majority were 3,000 votes, 5,000, 10,000, or 20,000, I could feel that there would be a possibility that a claimant could be seated without prejudice. But if the committee should determine that the recount ends in a tie vote, it would mean that the matter would be sent back to the State of New Hampshire and there would be a new election. And what Senator is there here who is willing to stand and say that the seated incumbent in that situation would not have the advantage over the other man? It would be impossible to seat the one without prejudice to the other.

Senators may say that the chances are not likely that the vote would end in a tie and that the people of New Hampshire would not have a new election, but that the matter will in all likelihood be decided by the committee and in the Senate, and thus there could not be any prejudice to Mr. Durkin in seating Mr. Wyman, because there would not likely be any new election because of a tie. I call attention to an Iowa case, a 1926 contested case, Speck against Brookhart.

In that instance, one of the points that was decided by the Senate was the following point: "In determining issues in a contested election, all cases of doubt were resolved in favor of the incumbent."

Now, we say we pay great deference to precedents in the Senate, and that is as it should be. I say to you that if this matter is taken to the Rules Committee or any select committee of the Senate, if issues arise in the course of that review that are very, very close issues, this precedent will be pointed to by we lovers of precedents and it will be said that the issue should be decided in favor of the incumbent. If either Mr. Wyman or Mr. Durkin is now seated, that man would be the incumbent.

So I close my remarks at this time by saying it is impossible to seat either of these men at this time without prejudice to the other man.

Now, if we want due process, let us have a vote. If the Senate wants to seat Mr. Wyman, I will be one of his best friends in the Senate and I will work with him and cooperate with him just as I work and cooperate with any other Member on that side of the aisle. And I do not think there is any Member on that side of the aisle who to this day will say that I am not fair or that I do not cooperate and work with him, as does my majority leader. So, let the Senate speak and let us get away from all of this talk about partisanship.

If the Senate directs us, I am willing to get down to business in the subcommittee, if it is the will of the Senate, and spend as much time as I can give it, to keep our noses to the grindstone, and it would seem to me that within a couple of weeks we ought to be able to report back to the Senate.

Now, there were 222,000 or 225,000 votes cast in this election. During the hearing that was conducted—and I want to compliment the chairman, Mr. PELL, on his efforts to prepare the Senate for this travail, so that the Senate could exercise its will. During that hearing, it was indicated that there was a bloc of something like 3,500 ballots which were timely protested in accordance with the law of the State of New Hampshire—3,500, give or take, ballots in connection with each of which there was a timely protest entered by one or the other of the two principal contestants. The ballot commission felt that under the statutes, it was limited—Mr. President, may we have order in the Senate?

Mr. MANSFIELD. Mr. President, I insist we have order and that Senators be asked to take their seats.

The PRESIDING OFFICER. The Senate will be in order. Will the Senators please be seated?

The Senator may proceed.

Mr. MANSFIELD. Mr. President, I still want order in the Senate.

The PRESIDING OFFICER. There will be order in the Senate, and the Senators will please take their seats.

Mr. ROBERT C. BYRD. I thank the majority leader, and I thank the Chair, and I thank all Senators.

In the course of that hearing the ballot commission indicated that it confined its actions, for the most part, to about 3,500 ballots, the reason being that under New Hampshire law the commission felt that it could only review those ballots in connection with which a timely protest had been entered during the recount, by one of the contestants. Those ballots on which protests had been entered during the recount numbered something like 3,500 ballots. The ballot commission laid before the attorneys representing both parties those 3,500 protested ballots, and the attorneys for both parties, after looking at the protested ballots, agreed that the ballot commission need only review about 400 ballots, reserving in each case—Mr. Durkin and Mr. Wyman—reserving their rights, with respect to the remaining 3,100 ballots.

So there were 400 ballots to which some reference has been made, which the commission reviewed.

As far as I am concerned, I think that the truth lies within that block of 400 ballots. But I am perfectly willing to look at the 3,500 ballots and, in any event, I will be guided by the judgment of the subcommittee or the full committee.

So I am not tightjawed about sticking to 400 ballots. If it is 3,500, fine. But it seems to me we ought to be able to reach a reasonable compromise between both of the parties as to the number of ballots to be reviewed, so that we can expedite this matter, render the judgment of the Senate, and get it behind us. It is a privileged matter and, therefore, it takes priority.

Now, may I ask the distinguished assistant Republican leader, is he willing to enter into a unanimous-consent agreement allowing, say, 6 hours of debate on his own motion as a substitute to Mr. MANSFIELD's motion and on the Mansfield motion—which would be 6 hours in its entirety—the time to be equally divided and controlled between himself, Mr. GRIFFIN, and Mr. MANSFIELD, with the understanding that a tabling motion would not be in order, thus protecting his right to have an up or down vote on his motion, and that immediately thereafter the Senate vote on the Mansfield motion.

Mr. GRIFFIN. Well, I will respond to the distinguished Senator from West Virginia, the majority whip, and then I hope that perhaps he will give me a brief period when I can respond to some of the points that he has made.

Insofar as this Senator is concerned, the suggestion that the Senator from West Virginia has made is perfectly fair and I personally would not object to it. I want to make it clear, however, that I am only speaking for myself, and obviously a unanimous-consent agreement of the Senate requires unanimous consent of all Senators who have any interest, and I am not in a position to speak for all the Senators on my side at this time in entering into such an agreement. That is about the best answer that I can give at this time.

Mr. ROBERT C. BYRD. Very well.

Then, Mr. President, if we were to have a live quorum and get Senators to the floor, perhaps that would give us an opportunity to present such a request. Will the Senator be willing to enter into an agreement with all Senators having responded to a live quorum?

Mr. WEICKER. Well, Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. There is no request.

Mr. WEICKER. There is no request?

Mr. ROBERT C. BYRD. I am merely asking a question.

Mr. GRIFFIN. I think the matter of having a live quorum and getting Senators over is perfectly valid.

Mr. ROBERT C. BYRD. I do not want to do it if it will be a worthless and futile gesture.

Mr. McCLURE. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. The Senator from West Virginia has presented the proposition as though it were fact, and it may well be fact, although I do not know so, that there is some attempt to delay here, some conspiracy, some underlying current of which I am unaware, and the reason I mention it is that it seems to me that maybe the best way to expedite the business is to permit the debate to go forward without the interposition of a live quorum. I see no disposition on the part of any Members that I have talked to other than a desire to discuss the issue which is currently before the Senate, not the question of whether or not Mr. Wyman won the election, not the parameters of the review by the committee, if it should be referred to the committee, but the preliminary issue which at this time, in my mind at least, is whether or not the duly certified winner of the election in New Hampshire, Mr. Wyman, is entitled to be seated pending the rest of the proceedings.

To me, that is the only issue that we are debating at this time. We are not really debating the issue of the election, per se, or the count of the ballots, the authority of the ballot commission or the Governor, and I think that very narrow issue should be debated by the Members of the Senate prior to the time we are called upon to vote upon either the motion of the Senator from Montana or a motion which might be offered by the Senator from Michigan.

Mr. ROBERT C. BYRD. Well, Mr. President, I suggested that we take 6 hours for debate, I would be willing to make it 10 hours.

Mr. McCLURE. Will the Senator yield further?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. My expectations from the discussions I have had with other Members on this side of the aisle would be that if we are permitted to debate, rather than arguing about whether we are being permitted to debate, it will take less than that.

Mr. ROBERT C. BYRD. Then the Senator would have no objection to a request for 10 hours?

Mr. McCLURE. I personally have no such objection except I think all of this talk about how much time is only delaying the time.

Mr. ROBERT C. BYRD. I agree.

Mr. President, I ask unanimous consent that there be a time limitation on the Mansfield motion of 3 hours to be equally divided between Mr. MANSFIELD and the distinguished Republican leader, that Mr. GRIFFIN be authorized to present a substitute motion to the Mansfield motion and that there be a time limitation on the substitute motion, if it is offered, of not to exceed 5 hours, to be equally divided between Mr. GRIFFIN and Mr. MANSFIELD; that no tabling motion be in order to either the Mansfield motion or the Griffin motion; and that when all time has been consumed or yielded back the Senate vote up or down on the Griffin motion, and that upon the disposition of that motion the Senate immediately vote on the Mansfield motion, with the understanding that these two back-to-back votes will occur beginning no later than 6 o'clock tomorrow afternoon.

Mr. GRIFFIN. Mr. President, reserving the right to object, I suggest the absence of a quorum, and this will be a live quorum.

The PRESIDING OFFICER. It will take unanimous consent for the Senator to do both, reserve the right to object and then——

Mr. GRIFFIN. Then even though I personally do not object to this request, I shall object in order that I will be in a position to suggest the absence of a quorum.

Mr. WEICKER. Mr. President——

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

QUORUM CALL

Mr. GRIFFIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 3 Leg.]

Allen
Bartlett
Bellmon
Brock
Buckley
Bumpers
Byrd, Robert C.
Cannon
Case
Culver
Curtis
Dole
Garn
Glenn
Griffin
Hansen
Hart, Gary W.
Hart, Philip A.
Hatfield
Laxalt
Leahy
McClure
McIntyre
Montoya
Morgan
Pell
Schweiker
Scott, Hugh
Stennis
Stevens
Stone
Taft
Talmadge
Tower
Weicker
Young

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Abourezk
Bayh
Beall
Biden
Brooke
Burdick
Byrd, Harry F., Jr.
Chiles
Church
Clark
Cranston
Domenici
Eagleton
Eastland
Fannin
Fong
Ford
Goldwater
Gravel
Hartke
Haskell
Hathaway
Helms
Hollings
Hruska
Huddleston
Humphrey
Inouye
Jackson
Javits
Johnston
Kennedy
Long
Magnuson
Mansfield
Mathias
McClellan
McGee
McGovern
Metcalf
Mondale
Moss
Nelson
Packwood
Pastore
Pearson
Proxmire
Randolph
Ribicoff
Roth
Scott, William L.
Sparkman
Stafford
Stevenson
Symington
Tunney
Williams

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN) and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Georgia (Mr. NUNN) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

I also announce that the Senator from Illinois (Mr. PERCY) and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

The PRESIDING OFFICER. A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Was there objection lodged to my unanimous-consent request?

The PRESIDING OFFICER. Yes. The Senator from Michigan objected to the unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished Senator from Michigan, without losing my right to the floor, as to whether or not, in his opinion, we can reach an agreement as to a time limitation on the Mansfield motion and on a motion by Mr. GRIFFIN, with an indication as to the outside time when a final vote would occur?

Mr. GRIFFIN. As I indicated earlier to the distinguished majority whip, insofar as this Senator is concerned I personally have no objection, but I think one of the values of having a live quorum is to give other Senators who have a particular interest in this matter an opportunity to come to the Chamber. I would respectfully refer that question to others who are in the Chamber at the present time.

Mr. WEICKER. Will the distinguished Senator from West Virginia yield without losing his right to the floor?

Mr. ROBERT C. BYRD. Yes.

Mr. WEICKER. It would be my intention to object. I feel this on two counts: No. 1, the necessity for having a full exposition of this matter. It is not something that should be limited in time. But it is also true, and I do not attempt to fly under any false colors insofar as the distinguished Senator is concerned, that my argument throughout this debate will be that the matter should be resolved by the people of New Hampshire, and that as a part of that process of resolution we are all well aware that the New Hampshire legislature, elected by the people of New Hampshire, is discussing this matter at this very time.

Very frankly, I think it would be premature for us to enter into any votes on this matter until they have spoken their piece.

So both for the reason of making sure all the facts are known, and pursuing my particular point, which is that these are matters not to be resolved in the back rooms of Washington, D.C., but by the people who are the ones who voted in this election, I would object to any time limitation.

Mr. ROBERT C. BYRD. Mr. President, will the Senator agree to a time limitation which specifically allows him, the Senator from Connecticut, a specified amount of time, so that he may fully illuminate the Senate as to his viewpoint in this matter? That could be arranged.

I am not attempting to say that we have to vote tonight, or that we have to vote tomorrow night. I do think that we ought to attempt to work out an agreement whereby all Senators would know how much time we are going to debate this matter, and when a final vote will be reached.

Any Senator can make a substitute motion, and any Senator can, of course, move to table that motion and get an immediate vote. But this is a highly-privileged matter, and I think it should be determined one way or the other as soon as Senators wishing to do so, can make an adequate exposition of their viewpoints. I do not think each of the

99 presently sworn Senators will wish to take the floor, but, of course, every Senator has a right to speak if he wishes.

It seems to me that we ought to be able to reach an agreement soon for a final vote on this matter, so that if the Senate refers it to the Committee on Rules and Administration or to a special committee—I assume, however, it will be the Committee on Rules and Administration—the Senate committee then could begin its review of the matter, thus expediting the whole matter as soon as is reasonably possible.

Mr. WEICKER. Again, in response to the distinguished Senator from West Virginia, on almost all matters I would say we can arrive at agreements here, because they are matters that affects us and the legislation we pass upon. The difficulty I find is in agreeing away the rights of the people of New Hampshire. That is a little different. That is my difficulty.

I feel quite strongly about the point that this is not something with which we should be dealing. It is something that should be dealt with by the constituency itself. So it is not a question of how much time I want. I am frank to admit to the Senator—I am not portraying the picture other than this—that I want to wait and see what action is taken by the New Hampshire State legislature, and I am sure they are being as nonpartisan up there as indeed the assistant majority leader has indicated we are being down here.

In any event, it certainly would form a part of the final picture, which picture can only be determined by the people themselves. That is my difficulty with the problem. Normally, I would be more than delighted to agree with the assistant majority leader; there would be no difficulty at all. But there is this added element which makes it somewhat separate and distinct from the usual things we negotiate on the floor of the Senate.

Mr. ROBERT C. BYRD. The Senator is always most cooperative, and I am glad that he has candidly stated that what we are really waiting on here is a decision of the New Hampshire Legislature.

Mr. WEICKER. I speak only for myself.

Mr. ROBERT C. BYRD. I understand that.

Mr. President, we are not taking anything away from the people of New Hampshire. The people of New Hampshire, through their own legislature, provided no review beyond that of the ballot law commission. Consequently, any claimant to a Senate seat has only the Senate thereafter to which he may retire for final review.

At the time of the November 5 election, the New York Hampshire statutes provided for a runoff election only in the case of an absolute tie vote. There was not an absolute tie vote between Mr. Wyman and Mr. Durkin. There was only a virtual tie, and the New Hampshire Supreme Court ruled that it being only a virtual tie, there was no authority for a runoff election. So the people of New Hampshire, through their own duly constituted legislative body, had made no provision for a runoff election, except in the case of an absolute tie.

That was the situation created by the existing laws of New Hampshire at the time of the November 5 election; and I say that the Senate is the only court now to which either of these contestants can apply for redress. So we are not taking anything away from the people of New Hampshire. We are abiding by the Constitution and in accordance with the statutes of New Hampshire as they existed at the time of the November 5 election.

Mr. President, I do not think it is necessary to prolong this effort to secure a unanimous-consent agreement. I will make two further efforts.

I ask unanimous consent that there be a time limitation of 6 hours on the motion by Mr. MANSFIELD; that Mr. GRIFFIN be authorized to offer a substitute motion on which there be a time limitation of not to exceed 10 hours, the time to be equally divided, in the first case, between Mr. MANSFIELD and the distinguished Republican leader or his designee, and in the second instance, the time to be equally divided between Mr. GRIFFIN and Mr. MANSFIELD; that no tabling motion be in order; that no later than 2 o'clock Friday afternoon, the Senate proceed to vote, up or down, on the motion by Mr. GRIFFIN; and that if that motion fails, the Senate immediately proceed to vote on the motion by Mr. MANSFIELD.

Mr. WEICKER. Mr. President, reserving the right to object, the difficulty I have—and it gets back to some of the comments made earlier by the distinguished Senator from West Virginia—is that the people of New Hampshire have spoken; and indeed, by the laws of New Hampshire, the people of New Hampshire have spoken. That is the difficulty here.

Let us set things straight. The people of New Hampshire have spoken. Louis Wyman has been elected a U.S. Senator from New Hampshire, by virtue of the laws of New Hampshire. Yet, he is willing to go ahead and say, "All right, in a day and age when equity should prevail and there is confusion in this situation, let us have equity." He is perfectly willing to have the people decide. We are making an attempt to resolve this matter according to the old political style within the confines of this Chamber.

Mr. CURTIS. Mr. President, reserving the right to object——

Mr. WEICKER. All I am saying is, let us have a full discussion. If we are going to do something behind doors, let us at least talk about it. In any event, I find nothing underhanded in trying to pursue a course whereby the eventual decision will be made by the people of New Hampshire. That is the reason why I am going to talk; I am frank to admit it. It is their decision. They are now trying to go ahead, as every Member of this Chamber knows, through the legal processes, to so construct the law that will give that chance to the people of New Hampshire—not to their legislature, not to their Senate, not to their House, not to the Governor, but to the people.

Quite frankly, I intend to do my utmost to see that the people of New Hampshire have that opportunity. It is as simple as that. That is the difficulty I have with any agreement to limit time on this matter.

Mr. ROBERT C. BYRD. Mr. President, does the Senator object?

Mr. CURTIS. Mr. President, reserving the right to object, so far as this Senator is concerned, I find no particular fault with the number of hours allocated for debate. I will object if there is to be a vote on Friday. I do not think we should be ready to vote by that time. It is true that Senators have a responsibility to be here every day of the week.

Many people, in making arrangements in weeks gone by, could not anticipate this contest coming before us, but they had every reason, from a practical standpoint, to be of the opinion that on Friday of the first week, there would be no legislation reached. Consequently, there have been some arrangements made and I for one shall object to a vote on Friday.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I now make the final request. Before making it, may I say to the distinguished Senator from Connecticut that the people of New Hampshire rendered a decision on November 5. Under the statutes of New Hampshire, there was no provision for a runoff election in a U.S. Senate race except in the case of an absolute tie. The Supreme Court of New Hampshire rendered an opinion, that a runoff election could not be had in the case of a virtual tie.

The ballot commission has rendered its judgment, its judgment being that Mr. Wyman has a majority of two votes. Consequently, there is no statute in the State of New Hampshire and was none prior to the invoking of the Senate's authority that would provide for a runoff election in this case.

Now, the Legislature of New Hampshire may wish to pass another statute, but in any event, the authority of this Senate was invoked when John Durkin and Mr. Wyman both presented themselves to this Senate with credentials and asked to be given the full right of membership based on those credentials. This Senate's authority, under article 1, section 5 of the U.S. Constitution, was invoked then and there and its power to make a decision then vested. Nothing the State of New Hampshire can do now will remove that power from this Senate unless it be the will of this Senate. Therefore, I say to you, Mr. President, that there is no point in waiting to see what the New Hampshire Legislature will now do.

If the Senate should eventually declare the matter to be a tie, and declare the seat vacant, then the State of New Hampshire could follow whatever procedures its State legislature wishes to follow. The Governor could appoint someone to fill the vacancy and the people could have a new election. But the appeal procedures provided heretofore by the duly-elected representatives of the people of New Hampshire, sitting in their legislature, were exhausted by Mr. Durkin and Mr. Wyman. The matter is here now. The authority of this Senate, under article 1, section 5, of the U.S. Constitution, has vested and the decision is ours, and the authority of the Senate cannot now be divested except by the will of this Senate.

If the Senator from Connecticut wishes to talk until the legislature of New Hampshire passes a new statute, that is perfectly all right; he has that right. But that will not divest this Senate of that with which it has now become vested.

I will make this final request and then I am done. I ask unanimous consent that a vote occur at no later than 5 p.m. on Monday next on a motion in the nature of a substitute by the distinguished assistant Republican leader, he being the minority member of the Subcommittee on Privileges and Elections; that no tabling motion be in order; that immediately upon the disposition of such substitute motion, if he wishes to offer it, a vote occur on the Mansfield motion; that in the alternative, if the distinguished Senator from Michigan, or any Senator on that side of the aisle, does not offer a substitute motion to the Mansfield motion, a vote occur on the Mansfield motion on Monday at no later than the hour of 5 p.m.; that the time between now and that time be equally divided for debate between the two distinguished leaders—the majority leader and the Republican leader.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object, I shall only make one last comment and I think there are others who might possibly be inclined to object.

I have always found it rather disagreeable for people to be messing around in other people's elections. I am not standing here speaking for the Republican side of the aisle or for the Republican leadership. I am just speaking as a neighbor, as another New Englander. The fact is that the people of New Hampshire did speak.

Yes, the distinguished assistant majority leader is correct: in the case of a tie vote, and under no other set of circumstances, there is a provision for a runoff. But there was no tie vote here. There was a winner, albeit only by two votes. There was a winner.

Certainly you would have every right to object, not only by virtue of law but by virtue of equity, if the loser were sitting here—if it was Mr. Wyman, the loser, sitting here and engaging in stalling tactics and trying to get an ex post facto law passed which would put the decision back in the hands of the people of the State of New Hampshire.

Mr. ROBERT C. BYRD. On that point, will the Senator yield?

Mr. WEICKER. No, I will not yield. I have the floor.

Mr. ROBERT C. BYRD. I am sorry he will not yield. He used the personal pronoun, "you." I suppose he was addressing me.

Mr. WEICKER. Do I have the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. ROBERT C. BYRD. Yes, the Senator has the floor.

Will the Senator yield? I will take less than 30 seconds.

Mr. WEICKER. I yield.

Mr. ROBERT C. BYRD. The State of New Hampshire has no authority or power under Heaven by which it can pass an ex post facto law and divest this Senate of that with which it has now become vested under the authority of the U.S. Constitution.

Mr. WEICKER. And this Senate has no right in equity, ex post facto, to take the election away from the man who was declared the winner under the law of the State of New Hampshire.

Mr. ROBERT C. BYRD. Then let the Senator offer a constitutional amendment replacing article 1, section 5, of the Constitution of the United States.

Mr. WEICKER. Mr. President, this point is exactly the point that I was making as between what is going on in New Hampshire and what we have here. May I suggest that the politicians get the dickens out of the arena and allow the people to decide in the fair American way?

I will object, although I shall be glad to hold back on my objection if there are others who have comments.

Mr. BUCKLEY. Mr. President.

The PRESIDING OFFICER. The Senator from New York.

Mr. ROBERT C. BYRD. If the Senator from Connecticut will object, then I am done.

Mr. WEICKER. I am still trying to make up my mind.

Mr. BUCKLEY. Mr. President, I sympathize with the Senator from Connecticut, but I have very different reasons for being reluctant to see a premature vote taken on something that is of great importance constitutionally to this country. We are dealing with an unprecedented proposal. We are dealing with a proposal that would, in a single year, within a single committee, establish two different precedents. It seems to me that, given these circumstances, we need to make sure that not only does every Member of this body fully understand what the facts are, but, more important, in an age where people are increasingly cynical about the political process, to make sure that the people of the United States understand what the facts are.

We saw the seating of the Senator from Oklahoma (Mr. BELLMON) although his election has been contested. Why? Because he had the only valid certificate. I believe that an examination of the record before the Committee on Rules will establish beyond any rational doubt that there is in existence today only one valid certificate of election, and that is the one held by the designate, Louis Wyman.

I believe that if we were to ignore that certificate, if we were to toss things to the Committee on Rules, we would find a wave of cynicism, rightly or wrongly, that would suggest that purely partisan consideraions have been allowed to throw in jeopardy the right of the people of New Hampshire to have sitting now—not at some future date—the person that the authorities of that State, duly constituted, have determined to be the winner.

I agree with the distinguished assistant majority leader that it is within the power of this body, notwithstanding that certification, to come to an independent conclusion that the election as certified was not correct, and to reverse it. We have that power, but I believe we should be extraordinarily reluctant about exercising that power until we know that everyone is apprised as to the facts. I do not believe we want to add to the criticism we have in this body, and it is for that reason that, while still reserving my right to object, I will probably exercise that right until I feel satisfied that the people out there, through the press, understand what we are up to in this body.

Mr. WEICKER. I yield to the distinguished assistant majority leader.

Mr. HUGH SCOTT. Mr. President, I thank the distinguished——

Mr. WEICKER. Or to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I do not mind his having the floor, but he has had the floor.

Mr. HUGH SCOTT. Well, reserving the right to object——

Mr. WEICKER. I gladly yield to my distinguished colleague.

Mr. HUGH SCOTT. There are many ways to get the floor. The question is, what do we do with it when we get it?

Mr. ROBERT C. BYRD. The Senate is waiting.

Mr. HUGH SCOTT. I hope the Senator is not waiting with bated breath, and knows how to spell "bated."

Mr. ROBERT C. BYRD. Not with bated breath.

Mr. HUGH SCOTT. And, to Senators waiting, bated or unabated, I wanted to make a point, and the point is this: The distinguished assistant majority leader has spoken in highly legalistic terms of the unshakeable and unbreakable right of the Senate to do as it will. I would like to say one more time that the reason the Senate, or some Members of the Senate, are anxious to work their will is because of the two-vote majority.

Does anyone seriously think, and perhaps they do, that if we had here a Senator elected by a 200,000 vote majority, that notwithstanding the right of the Senate as the sole judge of the qualifications of its own Members, in the absence of fraud or of any other situation which would tend to delegate the actions of the Senator's State, would anyone believe that if the Senate decides to unseat that Member and deprive him of his seat, the Member would not be entitled to go to the courts and cite another part of the Constitution which I have heretofore heard referred to as its most sacred premise, and that is the right to due process?

I am not moved, myself, by the argument that the Senate is vested with the sole power to make a decision, if that decision is wrong. I do not believe there is anything sacred in the Constitution that guarantees to the U.S. Senate the right to take an election away unless they can take it away in such a fashion as will satisfy the requirements of the law.

Well, the law here has been established by the presence of the certificate, by the judgment of the Ballot Commission, by the judgment of a three-judge Federal court, and by a precedent set by this Rules Committee in this 94th Congress seating another Senator, and quite correctly, on the issue stated in the committee, at my request and my suggestion, that he was seated because he had the only valid certificate.

Now, we can indulge in all kinds of legalisms, or we can indulge in what is legal, as I sought to do, or we can concern ourselves with what is moral. There is a saying that there is a certain kind of snapping turtle that, once it grabs hold, never lets go until it thunders; and it may be that the issue here is similar to that; that the Rules Committee, or those who disagree with this point of view, are determined not to let go because the two-vote margin is infinitely attractive.

Therefore, I hope that it will thunder. I hope the sovereign State of New Hampshire will thunder, and if the Senate chooses to ignore its views, let us all make that clear to the public. I hope that public opinion will thunder, as indeed has happened with the Washington Star of January 13, for example, where the point is made and I do not see how the majority gets around this:

> The Senate appears to have only two reasonable choices in the controversy over the election of a senator in New Hampshire. It either can seat the man who has the only valid state certificate of election—Republican Louis C. Wyman—or it can declare the seat vacant and ask for a new election.

The article has been heard before. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HUGH SCOTT. But the editorial concludes:

> If the Senate can't see its way clear to seat Wyman, it would seem best for everyone concerned to let the voters of New Hampshire decide the issue, particularly since the legally certified winner is willing.

We are not arguing that point yet. We are not arguing the certificate itself. But I do not see any moral ground or objection to recognizing the certificate. There is no precedent in this body to the contrary. It has never been done before. The proposal to do it is not grounded on law or right or morality; it is grounded on a legalistic concept alone that we have the right to do it.

Well, good God Almighty, Mr. President, have we not just gone through 2 years where all of us have been found to be, in one way or another, the victims of the misuse of executive authority? Let us say it. Now, are we going to go through another year of misuse of legislative authority because the power exists, if the right and the morality of it is wrong?

I submit that we should not let the Senate be put in that position, and it will not be unless we do it ourselves. It seems to me that that is the strongest case that we could make. The certificate is here. It is valid. The Senate has accepted a similar certificate. The Senate would not have this debate today if this margin had been 2,000.

Now, at what point does the Senate have to debate? 1,800, 1,300, 700, 500, 13, or 2? After all, as the famous story goes, and there is not a Senator here who does not understand it, it ends with the bottom line, "We have settled that; the only issue now is the issue of price."

The only issue here is the issue of two votes. Not 2,000 or 200,000. The issue is the temptation, which hangs like ripe fruit on the vine of evil, to grab something if you can get it and to run.

This is wrong, Mr. President. It is morally wrong. It is contrary to the precedents. It is contrary to the intent of the Constitution and its due process, and it ought not to prevail. And if it is necessary to explain this a while, I hope we will continue to explain it.

EXHIBIT 1

[From the Washington Star, Jan. 13. 1975]

THE NEW HAMPSHIRE CONTEST

The Senate appears to have only two reasonable choices in the controversy over the election of a senator in New Hampshire. It either can seat the man who has the only valid state certificate of election—Republican Louis C. Wyman—or it can declare the seat vacant and ask for a new election.

To seat the challenger, Democrat John A. Durkin—either by simply ignoring Wyman's state certificate or by declaring Durkin the winner following a limited recount of ballots—would be unconscionable. The Senate would be within its rights to do that, but it would be a blatant and unwise display of partisan politics by the Democratic majority.

The background of the controversy is this: Wyman at first appeared to win the election by 355 votes. Durkin demanded a recount and came out 10 votes ahead and he was declared the winner by the New Hampshire secretary of state. Wyman appealed the recount result to the state Ballot Law Commission. After reviewing some 400 contested ballots, the commission officially certified Wyman as the winner. Durkin appealed to the Senate, which under the Constitution has the final voice on qualifications of members.

Since there have been no accusations of illegality or fraud by either side, it seems to us hardly proper for the Senate to order a recount that would merely substitute its judgment on what constitutes a valid ballot for the judgment of a legally constituted state body. It would be a great temptation for Senate Democrats who would examine the ballots to decipher the markings on the paper ballots in question in favor of the Democratic candidate.

Wyman, a former member of the House, has said from the beginning that he does not consider a two-vote victory a mandate and that he stands ready to participate in a re-run of the election. The problem is that there presently is no legal machinery in New Hampshire for a re-run. However, the state legislature is rushing through a new law that will make it possible.

If the Senate can't see its way clear to seat Wyman, it would seem best for everyone concerned to let the voters of New Hampshire decide the issue, particularly since the legally certified winner is willing.

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. I object.

The PRESIDING OFFICER. There is objection.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I see nothing unmoral or immoral in attempting to reach a vote on the pending motion by Mr. MANSFIELD today or tomorrow or Friday or Saturday or Monday next.

The distinguished Republican leader has referred to the Rules Committee as being determined "not to let this go." The Rules Committee did not ask for this assignment. The Senate, if it wishes, can establish a special committee. The Senate can seat Mr. Wyman without prejudice. The Senate can seat Mr. Wyman, period, if it will just vote.

Now, who is determined not to let go? Why not have a vote? Why not enter into a unanimous-consent agreement? It may be the will of the Senate to seat Mr. Wyman without prejudice but, in any event, let the Senate speak. There is nothing immoral or unmoral about that.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. CANNON. I wonder, as long as the distinguished Minority Leader has attempted to make this a trial by press release and by editorials, I wonder if I might ask unanimous consent that the Washington Post's article on the Wyman-Durkin race, dated Monday, January 13, be made a part of the record to immediately follow the submission of the distinguished Senator from Pennsylvania.

Mr. ROBERT C. BYRD. Mr. President, I yield for that purpose.

Mr. HUGH SCOTT. Having reserved the right to object, I will not object. That is the editorial, is it not, in which the newspaper makes the point that if you go to count the ballots on one side you ought to count them on the other. Is that not right?

Mr. CANNON. That is the editorial that makes the point that neither of these gentlemen should be seated and that the Senate should proceed with its responsibilities of determining the intent of the voters of New Hampshire in deciding who was the winner of the election.

I thank the Senator for yielding.

Mr. ROBERT C. BYRD. Mr. President, I continue to yield.

Mr. HUGH SCOTT. I thank the Senator.

Still reserving the right to object, because the Senator did not answer my question, and my question—and I will answer it myself—the question is, Did not that editorial say if the Senate is going to count the ballots of one contestant, it should count the ballots of another? Answer: Yes.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 13, 1975]

THE WYMAN-DURKIN RACE

It is easy to understand why many Senators are not sure what to do about the New Hampshire Senate election in which, according to the final state recount, Republican ex-Rep. Louis C. Wyman defeated Democrat John A. Durkin by two votes. Mr. Durkin claims that the state ballot law commission made numerous errors in its recount; he has asked the Senate, as the constitutional forum of last resort, to recount some 400 ballots.

Mr. Wyman, on the other hand, maintains that the commission's judgments and his resulting two-vote victory should be allowed to stand. The situation has no precedent. Unlike most elections appealed to the Senate, this case does not involve allegations of fraud or other illegal practices. Instead, the problem has arisen because the race was close, so uncommonly close that its outcome could turn on any one of several hundred judgment calls about contested ballots—including some ballots whose intent is not obvious at all. In short, the Senate has been called on to referee a virtual deadlock and determine, if possible, whom the 22,000 voters in New Hampshire really wanted to elect as their junior senator.

The Senate Rules Committee, which meets today, will be considering several possible courses. Most of them would be wrong. It would be cavalier, for instance, to brush aside Mr. Durkin's protest and seat Mr. Wyman summarily. The race is too close for that. It would be even more reckless for the Senate's 61 other Democrats to execute a partisan power play and seat Mr. Durkin without thorough examination of the case. Mr. Wyman apparently fears such a coup. Fortunately, Majority Whip Robert C. Byrd (D.-W. Va) and others seem to recognize that, because of their numerical strength, they have a special obligation to be careful, judicious and fair, even if that means eventually adding one more Republican to the Senate on the merits of the case.

Mr. Wyman has proposed that, if the Senate is unwilling to seat him, a new election should be held. New Hampshire Republicans are now trying to whisk through a state law authorizing this, and the idea does have a certain superficial appeal. Another go-round at the polls would almost have to produce a clearer result and might even give the victor a discernable mandate of some sort. But this approach is premature at best. Elections, after all, do not have to produce mandates to be acceptable; having a winner is enough. Occasionally an election may have to be re-run if it ends in an absolute, verified tie, or if the outcome is hopelessly infected by illegality or error. One Louisiana House race has just been re-run for that reason. But in the New Hampshire case, the final body of review—the Senate—has not yet determined that no winner can be named with certainty. To set the election aside under such circumstances, because it is too close to call with ease, would be to set off down a very slippery and dangerous path.

All in all, the only responsible course for the Senate is to seat no one until the Rules Committee has examined all the ballots contested by either man. Some Republicans have complained that, by recounting the ballots themselves, the committee members would be substituting their own judgment for that of state officials. That is true, and it is a good reason to proceed with care. But there is no other way for senators even to find out whether the judgments made by state officers were consistent and reasonable ones—much less whether any specific decisions should be changed. To reduce the possibility of partisan intrigue, the Rules Committee could create a panel of disinterested election experts from outside the Senate to assist in the review. That would be helpful. But the most important thing is for the Senate to accept its constitutional responsibility and work out this unprecedented, difficult case in such a way that the people of New Hampshire will have a junior senator whose legitimacy in office is generally accepted—however tiny his margin of victory may turn out to be.

Mr. ROBERT C. BYRD. Mr. President, the implication in the statement by the distinguished Republican leader is that somebody on this side of the aisle wishes to count only the ballots that are in favor of one contestant and not count the ballots favoring the other.

I think there will be a fair determination at some point in time, in the event the Senate refers this matter to the Rules Committee there will be a determination as to how large a bloc of ballots should be reviewed; and to cast a reflection at this point on that committee, I think, is unfair. The Senator himself, the distinguished Republican leader, is a member of that committee and he will be there to protect the rights of either claimant; and if there is a recount, if there is a review, each claimant will be represented by attorney during every minute throughout that recount, so the interest of each claimant will be fully protected. All of this hogwash and window dressing about partisanship, and all of the looking down the road and anticipating that the Rules Committee is going to only count one bloc of votes for one claimant and not count ballots for the other, is empty talk. I hope that we do not get carried away with such talk.

Mr. HUGH SCOTT. Will the distinguished Senator yield?

Mr. ROBERT C. BYRD. I hope we do not get carried away by that kind of an argument. All I am asking is that the Senate vote so that the Rules Committee will know whether or not it is going to have to proceed in this matter.

Mr. HUGH SCOTT. Will the Senator yield for clarification?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. I am afraid I got my idea from the distinguished Senator from West Virginia. I saw him on the program Issues and Answers and I thought that I heard him say, and I paraphrase closely, "We will count the 400 ballots" and those were the 400 ballots which one contestant offered to have counted.

Now, I could be wrong, but there was a reference, "We will count the ballots at issue," or "We will count the 400 ballots."

Mr. ROBERT C. BYRD. Did I say, "We will count the 400 ballots?"

Mr. HUGH SCOTT. Something like that.

Mr. ROBERT C. BYRD. Let us see what the Senator from West Virginia said.

Mr. HUGH SCOTT. The Senator has a good memory, which is better than mine, because he is a good performer.

Mr. ROBERT C. BYRD. I am sure the Senator from West Virginia never has said that, "We will confine ourselves to the 400 ballots." Never.

Mr. HUGH SCOTT. Well, the impression I gained, and I raised it the first time I was permitted to talk, which was at the full committee meeting, I then raised the question of the Senator's apparent intention to restrict this counting to some 400 ballots. We had a great deal of discussion about it and the Senator then was willing to go up mathematically to 3,500. I do not know why we say 3,500 or why we say 400. I think the Star says there are two honorable ways to do this. The Post says if you are going to do it a different way, at least count both sides. In other words, do not put a restriction on one side that you do not put on the other.

Now, I did not say that the Rules Committee was unfair or I believe as the distinguished Senator from West Virginia said I was implying that the Rules Committee was unfair. I serve on that committee. I did not make such an allegation. I did say, in somewhat florid, rather senatorial language, something about the temptation of a ripe fruit on the tree of evil, but I did not impute this particular arboreal lure to any special locality.

Mr. ROBERT C. BYRD. Well, the Senator from Pennsylvania made some reference to a count of ballots for one claimant without counting ballots for the other, as I understood him. I simply attempted to respond to the implication in his statement.

Now, during the Rules Subcommittee hearing, chaired by Mr. PELL, I stated in the presence of both claimants, and publicly, that it was my viewpoint at that time that, if there were a review by the Senate committee, it should be limited to the 400 ballots which were reviewed by the State Ballot Law Commission in New Hampshire.

Mr. HUGH SCOTT. Page 278, if that is helpful.

Mr. ROBERT C. BYRD. Do not be concerned about being helpful to me as to the page number.

I also indicated—and the Senator can, if he wishes, find the page number for this—that my mind was open to persuasion.

Mr. HUGH SCOTT. Page 277.

Mr. ROBERT C. BYRD. I thank the Senator. [Laughter.] Let me see if he is correct.

Mr. HUGH SCOTT. Bottom of the page.

[Laughter.]

The PRESIDING OFFICER. Occupants of the gallery will refrain from any approval or disapproval of what goes on, on the floor.

Mr. ROBERT C. BYRD. Now, thanks to the distinguished Senator from Pennsylvania, I shall read verbatim:

> Senator BYRD. May I say to the gentleman that I am open to persuasion that a larger bloc of votes should be examined.

Mr. HUGH SCOTT. Will the Senator continue to read on page 278?

Mr. ROBERT C. BYRD. Of course. I would be delighted.

Mr. HUGH SCOTT. I want him to adumbrate the further colloquy.

Mr. ROBERT C. BYRD. Yes, which I have already indicated:

> My questions would rightly indicate, I think, that at this point it would seem to me that the appropriate area to examine would be the bloc of 400 votes.

What does that prove on behalf of the Senator's argument? A moment ago, I stated that it was my feeling during the hearing that the bloc of 400 votes constituted the ballots to which we should address ourselves, but I also said that I was open to persuasion that a larger number should be examined, and I still am.

Mr. HUGH SCOTT. Well, perhaps if we can agree before the matter is resolved on the floor, and prior to any action by the Rules Committee, as to how many ballots are to be counted or what ballots should be counted, we might make some progress. I do not want to give up anybody else's rights, and here I would seem to be giving up those of the Senator from Michigan (Mr. GRIFFIN), but I only throw it out as a possibility.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to insert in the RECORD a copy of the transcript of the interview on ABC's Issues and Answers—which occurred on Sunday, January 12—by ABC correspondents Bob Clark and Edward P. Morgan.

There being no objection, the transcript of issues and answers was ordered to be printed in the RECORD, as follows:

The ANNOUNCER. Senator Robert Byrd, Democratic Whip of the Senate, here are the issues:

How fast will the new Congress move to reduce taxes and how big will the tax cut be?

Can the energy crisis be solved without gas rationing?

Will Congressional investigations of the CIA be a whitewash?

Mr. MORGAN. Senator Byrd, President Ford apparently is going to recommend at least a ten per cent tax cut. Will you support it or what would your recipe be to fight recession?

Senator BYRD. I would support a tax cut. What the amount will be or what the per cent will be, I think will have to await study. I think it is absolutely necessary that there be a tax cut. I believe all the economists, practically speaking, agree to this. A tax cut is needed to stimulate the economy and at the same time to relieve pressure for wage increases and in that way it would help inflation.

Mr. MORGAN. Do you think that the jockeying for position between a Democratic Congress and a Republican White House over 1976 could cancel out the possibility of a sound government program to lick the inflation-recession situation we are in?

Senator BYRD. I don't think there is going to be a jockeying for position. I think there needs to be action. The President apparently is being pulled in this direction and the Congress recognizes that there must be action, and it will act.

Mr. CLARK. With the need to move very quickly, Senator, to provide a stimulus to the economy, there has been a good deal of talk in the last two or three days about some form of rebate. This has been known to have been under consideration by the President, whether indeed it is a part of the final tax proposal. Would you favor a rebate system that might give those people who are going to get a tax cut a check almost immediately, at least as soon as they have filled out their 1974 tax returns?

Senator BYRD. Well, I think what we are seeing right now has been a number of trial balloons that have been coming out of the White House. Nobody knows precisely what the details are, at least nobody on the outside.

I think I would favor a rebate because this would provide a quick stimulus to the economy, a quick catch-up for the worker whose wages have not kept pace with prices. So I think that is probably all right.

Mr. CLARK. There has been a good deal of confusion in the last few days too and I think the press has been responsible for some of it. There is a widespread expectation there is going to be an across-the-board cut of ten per cent. Now you, as a member of Congress, and being much more knowledgeable about tax matters than the average member of the American public, I suspect you know there is not going to be any such thing as a flat across-the-board ten per cent tax cut?

Senator BYRD. I would seriously doubt that. Take myself for example. I would like to have a tax cut but I can do without it. I think we have to think in terms of what the national interests are. People in my category don't need a tax cut. I, therefore, would be against an across-the-board tax cut. I think it has to apply in such a way that it will help the middle and the lower income people who have been bearing the brunt of the burden all along. These are the people who need help.

Mr. CLARK. And how would you assure that? Would you have a cutoff point somewhere on income that tax cuts only went to people making $18,000 a year—

Senator BYRD. I think it ought to apply to people in the $25,000-down level. These are the people who have been hurting.

Mr. MORGAN. Senator, you and I lived through the great depression. We now have unemployment above seven per cent and many think it is going to go about eight shortly. Do you fear that regardless of what the government does we are headed for another depression?

Senator BYRD. I doubt that we are headed for the kind of depression that you and I lived through. We have too many built-in cushions now: Unemployment compensation, Social Security, etc., etc., and in those days we had a 25 per cent unemployment figure. 12.8 million people were out of work, but I am concerned about the direction in which we are headed. I think the basic problem here is the energy problem and I think that within 12 to 18 months we could see the industrialized countries of the world really on their knees because of the energy problem.

Mr. MORGAN. You have brought up a subject that I was going to bring up: How would you crack the energy nut as far as the Americans are concerned? A lot of people, perhaps including yourself, don't think that we have done things in government to make it look as if we were meaning business. Would you invoke a gas rationing situation?

Senator BYRD. I don't think it revolves to the point where it is just an American problem. I think what we need to see is a display of leadership on the part of the President of the United States which will increase confidence not only among Americans but also among the other countries of the world. Now we have got to convince people that they are no longer living in an era of cheap energy. They are going to have to be convinced that their life styles are going to change. Americans are going to have to be convinced of that. They are going to have to adapt themselves to a different kind of world and it takes leadership to do this. We just cannot continue to undergo the kind of financial strain that is being put on this country by an outflow of $25 billion a year for oil imports. I don't think that a tariff on imports of oil will conserve the kind of gasoline that we are talking about here. I think that eventually we are going to have to go to gasoline rationing, as much as I dislike it, and I think the sooner we do it, the sooner we will get a grip on this whole problem.

Mr. CLARK. Senator, you say you don't think a tariff will accomplish it. It seems to be well established at this point that one part of the President's program that he will unveil in his State of the Union Message on Wednesday will be a proposal for a $3 a barrel tariff duty on all imported oil, and the last stories I have seen said that that same tax would be applied to domestic oil also. Are you saying, first, that you don't think this would do the job, and second, that you would be opposed to that?

Senator BYRD. I don't know what the job is that they are talking about.

Mr. CLARK. The point would be to reduce oil consumption.

Senator BYRD. If it is to raise revenues, it apparently is not going to do this because they are just going to swap money. They are going to take it out of one pocket and put it back in the other pocket with a tax reduction.

Mr. MORGAN. Isn't this robbing Peter to pay Paul, to coin a phrase?

Senator BYRD. It might be, but it will not bring about the conservation of gasoline in this country that is absolutely necessary if we continue to be a viable nation. For example in the—well, let's put it this way: We had the oil embargo and in the last 15 months since October of 1973, our inventories in this country, of oil, have only increased by five days. Now gasoline prices at the pump have gone up 16, 20, 25 cents, and yet we don't see any decrease in the driving on the highways. We are using the same amount of gasoline as we were using a year ago. Now, in terms of annual growth the increase was perhaps five percent and we haven't increased in that regard, so we may have gained five percent in the use of gasoline in terms of annual growth, but if that kind of an increase in cost per gallon will not stop people from driving on the highways, then a seven and a half cent per gallon increase, which is contemplated from the tariff of $3 per barrel, will certainly not cause people not to drive their cars. They may cut down on food, they may cut down on going to the movies, going to the theater, on clothing, but they will not cut down on their driving.

Mr. MORGAN. Senator, do you share the fear of some that the oil-producing states will use their new-found billions to try to "control the world"?

Senator BYRD. I think what we are seeing here is an economic war and I think that we ought to have some kind of a monitoring board that would monitor the foreign investments and be in a position to make recommendations so that the controlling interest in a strategic industry could not be taken over by those countries.

Mr. CLARK. Secretary Kissinger touched off a little storm recently when he suggested delicately that the time might come where military action might have to be taken against the Arab States to prevent the economic collapse of the Western World. What do you think of that?

Senator BYRD. I think it is unfortunate that he made the statement. I think it has been widely misunderstood. I think we ought to look at what he actually said.

He was talking about the gravest emergency, the strangulation of the industrialized world and I don't find too much fault with the statement as he said it precisely. The trouble is it has been distorted and that is unfortunate.

Mr. CLARK. Senator, on gas rationing, you said the sooner the better on gas rationing.

A year or so ago, when the energy crisis first struck, the Administration printed up some hundreds of millions of gas stamps. They are ready to go. Would you literally like to see gas rationing just as fast as those stamps could be put into distribution?

Senator BYRD. I don't want to see gasoline rationing, period. It is a great inconvenience upon me, upon the American people, but we are going to have to put the national interest above inconveniences to any of us and I think that we ought to have a gasoline rationing program in being and it ought to be implemented as soon as possible.

Mr. CLARK. Do you mean now?

Senator BYRD. Yes, and it must take into consideration, however, the inequities that can accrue from rationing. Coal miners have to drive 25, 50 miles a day to work. The small businessman has to deliver groceries. There must be some compensating factor in that rationing program to allow for those situations.

Mr. MORGAN. You emphasized—correctly, of course, Senator Byrd—that Secretary Kissinger indicated military action only in extremest strangulation of Western economies. In the light of that, or even apart from that, do you think it is logical for us to sell nearly a billion dollars worth of war goods to Saudi Arabia?

Senator BYRD. No, I don't think we should continue to do that, but I think what we ought to do, we should take action so that we don't get into that "gravest emergency" which is, I believe, the way Mr. Kissinger termed it. We ought to take action to avoid that situation.

Mr. MORGAN. What action?

Senator BYRD. Well, gasoline rationing, as I say, as much as I dislike it, but we have got to cut down on gasoline. We cannot continue to have this outflow of monetary reserves. We are witnessing the swiftest transfer of monetary reserves that ever has occurred in the history of the world. OPEC countries accumulated $60 billion in monetary reserves last year. If they continue to do this, they could buy out all of the companies on the major world stock exchanges in 15.5 years, all of the companies on the New York Stock Exchange in 9 years, all of the gold in the central banks at $170 an ounce in 3 years; they could buy out Exxon stocks in 79 days, IBM stocks in 143 days and the Rockefeller fortune in 6 days.

Now, we just can't continue to see that kind of shift in monetary reserves go on and we have got to demonstrate leadership in this country so the other countries of the world can see that we can demonstrate the discipline to control our problems and they, I hope, would follow suit.

(Announcements.)

Mr. CLARK. Senator, I wanted to ask you one more question about the energy crisis. I was surprised to discover recently in a year-end review of how little has been done to deal with the energy crisis, that the figures for the total year show that both oil production and coal production were actually down.

I am talking about domestic, American production. Coal, because of the strike, but oil had also dropped a couple of percentage points. What can or should be done about that?

Senator BYRD. A number of things. I think that we have to consider the need for exploration on the part of oil companies, for additional oil and gas supplies and we just have to keep this in the forefront. We can't discover new oil sources unless it is profitable.

As for coal, for too long we have been negligent. I am talking about the overall government operations. We have been negligent in providing enough funding for coal research.

In 1961 the Office of Coal Research was funded with $1 million. That was the first year.

As recently as five years ago, the Office of Coal Research was given only $11 million. This past year, 1975, the one we are in, the funds have amounted to $260 million. But this is penny wise and pound foolish.

I think that we have the coal reserves in this country to last for 735 years at the rate of use this past year and certainly coal gasification, coal liquefaction, the development of a low sulphur content fuel oil, these are things that are within our reach and we certainly ought to have a crash program that will develop them in order to help not only our own country but the other industrialized countries in meeting the energy crisis.

Mr. CLARK. We want to move on now, Senator, and talk to you about the CIA.

There are several committees in Congress who are planning to conduct investigations of the CIA. Senator Stennis, who heads the Oversight Subcommittee that has had responsibility for some years for keeping an eye on the CIA, is going to start hearings this week and some of the witnesses will be public, as many as possible.

Is that going to be enough? There has been a lot of criticism in Congress of people who just don't trust the establishment in Congress to investigate the CIA, and by the "establishment" they mean the Chairman of the Armed Services Committee, John Stennis, or the Appropriations Committee, or the Foreign Relations Committee.

Is that going to be enough to assure an in-depth investigation of the CIA?

Senator BYRD. I would be concerned if there were to be an investigation carried on by a multitude of committees. I think there should be an investigation into these alleged violations of law by the CIA. I think it should be an investigation of the domestic surveillance operations that we hear occurred.

I think we ought to be very careful, however, that there not be an unraveling of covert foreign intelligence operation. I am afraid if every committee gets into the act and we have this game of one upsmanship, then we are going to have a threat to the CIA which is an absolute necessity for this country.

I don't think that this country, being a major country, can afford the luxury of not having a foreign intelligence and counterintelligence operation. So, while we must examine this area to see if there have been violations, we must at the same time be very careful that we don't destroy the CIA and that we don't get into the covert foreign intelligence gathering operations.

Now, in order to avoid that, I should think there ought to be one committee. I would personally like to see one joint committee of the Congress designated to do this job and do it well, but I think before we did that even, we ought to hear Senator Stennis and see what he proposes to do. I have confidence in him.

Mr. MORGAN. What sort of congressional overview would you like to see flowing out of that investigation? Obviously, or maybe not obviously, but certainly many people have criticized the lack of proper congressional overview of the CIA so far.

Senator BYRD. In the first place, we probably have enough laws on the books. Apparently those laws have been violated if the reports are true, but we need to find out if the reports are true as alleged. There may be additional laws needed, but there ought to be continuing CIA oversight and it ought to be perhaps stronger than we have had in the past.

Mr. CLARK. To deal with the present problem you are proposing, to get this straight, a select committee similar to the Watergate Committee, except it would be joint, both Senate and the House, who would address itself to the particular problem of the investigation of the CIA's activities in domestic surveillance.

Senator BYRD. That is what I would like to see.

Mr. MORGAN. May I change the subject to the inevitable one of presidential politics? You once said in effect—and I am not quoting you directly—that Gerald Ford was a fine man but a weak President. If that is still more or less your assessment, do you see a possibility that not he but Nelson Rockefeller, would head the Republican ticket in 1976?

Senator BYRD. I think that is too far down the road. I do say this, that unless Mr. Ford seizes the initiative quickly in dealing with the economy and dealing with the energy problem, provides real leadership, decisive leadership, then he is going to run the risk of being on the defensive for the next two years.

There will be action taken by the Congress, and I believe we see Mr. Ford at least moving in the direction, but we have seen so much indecisiveness—I think this has hurt the President.

Mr. MORGAN. There have been murmurs in the past that you possibly would be interested in the presidency. What would impel you to seek the Democratic nomination?

Senator BYRD. I think it is too early to think in those terms. It seems to me we have a job to do now and we ought to put first things first and the first thing we need to do is for me and other Senators to do their job in the Congress of trying to deal with inflation, stagnation of the economy and the energy crisis.

Mr. CLARK. Senator, you have replied for the last two or three months to questions about presidential ambitions by saying that you are not uninterested and I know you feel strongly that you have to devote at least most of this next year to your job as Assistant Democratic leader of the Senate, but could a time come when you would make the decision to mount an organized campaign for the nomination, to enter primaries? Could that come after you get through some of this critical work that is ahead of you now?

Senator BYRD. I don't foresee that today.

Mr. CLARK. But you are not foreclosing that possibility?

Senator BYRD. There is already a gaggle of avowed Democratic aspirants in the field. Yesterday Eugene McCarthy announced he was going to be a candidate as an independent observing in his inimitable fashion that the Democratic situation and the Democratic picture was so fractured, there was so much internesciene warfare with the party that it would be hopeless for the party to agree on a candidate. What do you say to that?

Senator BYRD. I don't agree with that. I think what we have to agree on is that we must not let presidential politics get in the way of the national interest.

Mr. CLARK. Senator, one of the thorny issues that this Democratic-controlled Congress is going to have to deal with quickly, in this case the Senate, you have one hotly contested Senate race in New Hampshire—you have been sitting on a subcommittee this week trying to reach a decision, first, whether the Senate should review that election and recount the disputed ballots. Do you think they should?

Senator BYRD. I do.

Mr. CLARK. And so what happens, with the Senate reconvening on Tuesday? There is an immediate problem of seating. Either the Republican candidate, Mr. Wyman, or the Democratic, Mr. Durkin. What would be your suggestion?

Senator BYRD. Both.

Each contestant has what he considers to be a valid certificate of election. I think the Senate ought to ask both contestants to stand aside and refer the matter to the Rules Committee and let the Rules Committee try to determine the winner of the November 5th election.

Mr. MORGAN. Senator, the 93d Congress in 1972–73 is probably going to go down in history as the Watergate Congress, and there are prospects that the 94th Congress might go down in history as the reform Congress, but I remember Walter Lippman once telling me the United States was just too big to govern. Do you feel that is so, or do you feel there really is a momentum now for reform from the grassroots up?

Senator BYRD. I think there is a momentum for action. That is what is needed. The people want leadership. The Congress is not constitutionally structured, with 535 Members, just as no committee can write a novel, or write a song, the Congress is not constitutionally structured to provide national leadership, but it is going to provide action, and only the President can provide leadership, and I think he had better act quickly. He is a decent man, he is a disarming man, a most pleasant individual, a friendly man, but the American people want an aggressive, decisive leadership and they are not seeing it.

Mr. MORGAN. If he were to call you up tomorrow and say "Senator Byrd, how should I act?", right in the context of what you have been saying, what would you tell him?

Senator BYRD. I don't think he is going to do that, and I doubt that I would be prepared, but if I had a moment's preparation, I would say: Stay on the job, be a working President. This country needs a working President, and it needs a President who will be decisive. Now we have seen too much indecision. Three years ago in October he was talking about a surtax. Today he is apparently talking about a tax cut. In the November election he was talking about electing people who would balance the budget. Today he apparently is resigned to federal deficits. A few days ago he said something about—he indicated that he would not make an 180-degree turn in fighting inflation. Today he has made a 179-degree turn, if the trial balloons are true. So we see this decisiveness. The people like him, they trust him. He is open. He has these attributes. If he would just show the aggressiveness and decisiveness to act. This is what the people want to see, and if he were to ask me, I would have to say this.

Mr. CLARK. Senator, you said we need a working President, he ought to stay on the job. Are you echoing that line recently from Senator Barry Goldwater, that he should put Air Force One in mothballs and not do so much traveling, he should postpone foreign trips and trips across the country?

Senator BYRD. I think some of the foreign trips could have been postponed. I don't begrudge his skiing trips at Vail, but I do think this was a contrast to the very bleak Christmas that six and a half million unemployed persons experienced, and they are going to think of this and I think we have more confidence if a man is on the job, doing the work and showing decisiveness.

Mr. CLARK. Senator, thank you very much. We are now out of time. It has been a pleasure having you with us on issues and answers.

Mr. HUGH SCOTT. I would just like to add I thought it was a very good program.

Mr. ROBERT C. BYRD. I thank the Senator. I appreciate that. But the Senator said that in that program I said "We will count the 400 ballots."

Mr. HUGH SCOTT. I thought the Senator said something about, "We will count the 400 votes" or "400 ballots." It is not life or death, but that was my recollection.

Mr. ROBERT C. BYRD. It is of no matter here. The statement will be in the RECORD for all Senators to see.

ORDER FOR ADJOURNMENT

Mr. President, I take it the Senate is not going to reach agreement on this matter today, and I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BARTLETT. Reserving the right to object, and I shall not, I would like to comment on the request that the Senator has made for setting a time limit.

I realize that the distinguished Senator has the job of expediting matters before the Senate, and I am not trying to enter into the debate on the merits of the issue, but just a matter of establishing a time limit because I think it would be implicit in the Senator's request that justice would be more apt to take place with a time limit than without it, and I question that because I think that the debate should take place and perhaps if it goes on too long perhaps by motion or unanimous consent a time limit could be established.

But it seems to me that the goal of setting a time limit is not necessarily a good goal. In fact, I can think of some debates that have taken place on this floor of the Senate in which various Senators have been involved and in which I have been involved where the time limit, I think, worked against justice and worked against finding the best way.

Now, this is no criticism of the Senator, because I think the Senator's job is to expedite matters, but I think in this case it would be very helpful to the Nation and perhaps healthy for the 100 Members of this body to participate in a very meaningful discussion of this important matter.

Mr. ROBERT C. BYRD. Very well, the Senator may be right.

The PRESIDING OFFICER. Is there objection to the motion to adjourn?

Mr. ROBERT C. BYRD. I have not yet made that motion, I just asked unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BROCK. Mr. President, I have listened with a great deal of interest to this afternoon's debate and I hope we are not like two ships passing in the night.

I am a little bit concerned at the implications in some of the statements that have been made with regard to time limits, with regard to the possible actions of the Senate and/or the Rules Committee.

I have entered this proceeding with an absolute conviction that we will not vote on this matter on a partisan basis. I believe that.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BROCK. Yes.

Mr. ROBERT C. BYRD. For just 30 seconds.

The vote in the Senate Committee on Rules and Administration, on a motion to recommend to the Senate that Mr. Wyman be seated without prejudice, was not determined on the basis of a partisan vote. It was a 4-to-4 vote—a tie—and the motion was lost.

The motion which I made at that time, that the committee recommend to the Senate that neither claimant be seated and that the matter be referred back to the Rules Committee, was not determined on the basis of a partisan vote. The motion lost on a 4-to-4 tie.

I thank the Senator.

Mr. BROCK. I am aware of that and that is the point I was trying to make.

Mr. ROBERT C. BYRD. I thank the Senator for reminding me of it. I merely wanted the record to show.

Mr. BROCK. My concern with this entire debate is not of time. I do not know how long it takes to debate the issue. I think we might be debating the issue in advance of the facts, in one sense of the word, but I personally have no objection to a limit on time.

What does bother me is the terms in which the motion of the Senator from Montana is couched, because one could, I think, infer from that motion that we had two men with credentials before the Senate, and that is not a fact. We have only one.

It seems to me that the better motion would be, if there is to be one made, other than the motion of the Senator from Michigan which I shall support to seat Mr. Wyman without prejudice, but if there were to be any alternative motion that it should refer the credentials of Louis Wyman to the Rules Committee for determination as to their validity and to hear any contest.

But it is not within the power of the Senate, as far as I can read the law and the Constitution, to put somebody into this body who has not been certified by his State, and that is the case with Mr. Durkin. There is no certification for that man, regardless of his own personal qualities.

I think that is the point that is bothering me most about this debate.

We seem to be talking about judging between two men. It is not a judgment the Senate has to make. We seem to be talking about counting ballots. That is not a judgment the Senate has to make.

The Senate has to determine, on the basis of law, whether or not we have a valid certificate of election from a sovereign State of these United States. If we do, then we are bound by the Constitution to seat that individual, and that is the question that the Senate ought to be discussing.

If we are to bring it on the floor, fine; if we are to put it in the Rules Committee, fine; but we have only two choices of action, one is to seat Mr. Wyman based upon his duly authorized and subscribed certificate of election, or to find that that certificate lacks legal backing and cannot be sustained and declare the seat vacant.

I think the second choice would be abhorrent. I do not believe the Senate will do that.

But I think it is misleading to the people of this country to talk about a choice between two individuals, one of whom has no certification before this body.

Mr. ROBERT C. BYRD. Both Senators have their credentials before this body.

Mr. BROCK. The Senator knows that a certification which has been nullified is no longer a certification.

Mr. ROBERT C. BYRD. The Senator knows that that was not a counterfeit piece of paper.

The Senator knows that that certificate was issued by a duly authorized entity—the Governor of the State of New Hampshire and the secretary of state of New Hampshire. There was a rescission action taken later.

But those two credentials are before the Senate.

Mr. BROCK. The Senator states his facts correctly. I think it is important to point out that the Senate cannot, by its own rules, receive a conditional certification, and the first certification was conditional, by resolution of those who signed it, and second, whether it was conditional or not, if it is null and void, if it is rescinded by those who authorized it before action is taken on it in this body, then it is not, in fact, definable as a certificate anymore.

We can just have a historical certification. It has no force of law, but it is not, in fact, a certification that can be considered by the Senate.

Mr. ROBERT C. BYRD. It is a certificate of election, and it was rendered by a duly authorized entity. A Federal court ordered that there be no change in that certificate prior to the determination as to whether or not the State Ballot Law Commission was a constitutionally authorized body.

Nevertheless, there was a change made in the certificate, even in the face of that order by a Federal district court. Granted, that the court later said that such act of rescission did not constitute, in its judgment, an action for which the Governor would be held in contempt.

Mr. BROCK. That is correct.

Mr. WEICKER. Will the Senator from Tennessee yield?

On this record made by the distinguished Senator from West Virginia, if we are to apply logic to that reasoning, then it is that any license, any certification that sits in an elevator or above the meat counter, is good forever.

Mr. BROCK. A marriage license?

Mr. WEICKER. A marriage license, good forever.

Obviously, it is within the power of the proper political subdivision to rescind, to recall, and this has been duly done in this case.

Just one last comment, I would not like to be called an obstructionist to having this matter resolved and, therefore, I would not object to any unanimous-consent request if, in fact, that request brought to the immediate attention of the Senate a motion to declare the seat vacant.

Any such request, any such action, would be, as far as I am concerned, a proper resolution of the matter and should be voted on and the matter can go where it belongs.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BROCK. Yes.

Mr. ROBERT C. BYRD. The Senator from Connecticut can offer such a substitute motion.

Mr. BROCK. May I say to the Senator from Connecticut, while I agree with the first part of the statement, I could not support the second part.

Mr. WEICKER. I only want to make it clear that this is the position of Mr. Wyman. I will say it again and again. He, as the winner, wants it. I imagine it is a matter of morality. It is equity. He is still willing to let the people of New Hampshire decide. I just want to drive that point home.

Arrayed against that position is the position of the assistant majority leader that this should be decided in some room here in the Nation's Capitol.

Mr. ROBERT C. BYRD. Mr. President——

Mr. BROCK. I yield.

Mr. ROBERT C. BYRD. The Senator from West Virginia is willing to abide by the will of the Senate as to whether the matter ought to be decided initially in the Rules Committee of the Senate. It makes no difference to me. I will vote for the Mansfield motion. All I am asking is that the Senate proceed to exercise its will and tell us what it wants us to do.

Mr. BROCK. If I might pursue the subject briefly, it seems to me, that, in reference to the remarks of the Senator from Connecticut, the Senator-elect, Mr. Wyman, has suggested that if the Senate is unable to resolve the matter, he would be willing to present his case to the people of New Hampshire, which is an enormously gracious and, I think, courageous action to take on the part of the man who is the certified nominee from that State. But I think it would be fair to say that both candidates, only one of whom is certified, would feel that the law should apply.

If we do find that the certificate is valid, he should then be seated. There is no real serious question on that. It was a very gracious statement on his part to make, but I think it is our responsibility to determine the validity of his election certificate, and, having done so, to seat the Senator.

Mr. CANNON. Will the Senator yield?

Mr. BROCK. Yes.

Mr. CANNON. It may be that the Senator was not here earlier when we discussed the precedents and the law. The Supreme Court has decided this point. I may say that they were very reluctant to enter into matters relating to congressional elections.

I cite to the Senator the Pennsylvania case of Wilson against Vare.

In connection with that, a case came before the Supreme Court in Newberry against the United States on the relation of Cunningham. The Supreme Court in that decision said, "When a Senator-elect presents himself to the Senate with a certificate of election"—and let us assume that there was only one certificate of election here and that was the certificate of election of Mr. Wyman; this is the point made by the Senator from Tennessee—"claiming the right of membership, the jurisdiction of the Senate to determine the claimant's right is invoked, and the Senate's power to adjudicate such right immediately attaches by virtue of section 5 of Article 1 of the Constitution, and whether the credentials should be accepted and the oath administered pending this adjudication is a matter within the discretion of the Senate."

That is the whole issue here. The whole issue here is the Senate should vote to decide whether or not to accept these credentials submitted by Mr. Wyman and seat him, or whether to say he should step aside. The jurisdiction has attached, and the Senate is obliged under section 5, article 1 of the Constitution to go into this matter.

We cannot arbitrarily, as the Senator from Connecticut suggested, say that this is a tie without checking into it and refer it back to the State of New Hampshire. That is not our constitutional authority.

Mr. BROCK. I am not arguing with the Senator at all. I respect his experience and knowledge on the subject. I am in agreement with him. I am simply saying that we do not have the right to certify a man who has no certification from a sovereign State. That, to me, has been debated roundly here today in the wrong context.

Mr. CANNON. It may have been debated, but there is no such motion before the body.

Mr. BROCK. No. The motion of the Senator from Montana is to refer the credentials of both men. Well, I do not think both men have credentials. That is what I am trying to express loud and clear here today. There is only one man before this body with credentials—one—and that is Mr. Wyman.

If we want to refer it, fine. It seems to me that every precedent I have ever seen in the history of the Senate, unless there is fraud attached, would have us to seat that man without prejudice while we consider the case. But the fact of that can be debated and judged by the Senate, as the Senator properly points out.

Mr. CANNON. Earlier a number of precedents were cited that indicate clearly that, by precedents, the Senator's suggested position is in error.

The Senator from West Virginia cited two of those cases from his own State, as well as the case of Pennsylvania that I just referred to, the Vare case, where the Senate refused to seat either one and it went back to the State. They held a new election and neither of them were elected.

Mr. GRIFFIN. If the Senator will yield to me, I tried at several points in this debate to respond to the arguments, very persuasive arguments, made by my good friend from West Virginia, citing what he called precedents. I realize there are Senators who are very interested in that. As soon as I have an opportunity, I want to discuss each one of them.

They are not precedents to this situation. They are different situations.

With regard to the Vare case from Pennsylvania, which has been cited both by the Senator from West Virginia and the distinguished chairman of the committee, the Senator from Nevada, I want to point out that on page 121 of this Senate collection of various cases it was not the same case because there the Governor of Pennsylvania issued a qualified certificate.

It reads:

> On January 10 Governor Pinchot filed a certificate but refused to certify that Vare was chosen by the qualified electors of that State.

In that situation, with the qualified certificate, where the Governor refused to certify that he was elected, the Senate did not seat him provisionally. That is not this case.

Mr. HUGH SCOTT. That was the famous case of reasonable doubt.

Mr. BROCK. That is correct.

Mr. CANNON. If the Senator was responding to me, he left out two very important words when he was reading from page 121. He left out the words "of election."

> On January 10, 1927, Governor Pinchot, of Pennsylvania, filed a certificate of election.

That is what is required.

Mr. GRIFFIN. Will the Senator continue reading?

Mr. CANNON. The Senator read it. He left out the words "of election" before.

Mr. McCLURE. Will the Senator yield?

Mr. BROCK. I yield.

Mr. McCLURE. If we are looking at precedents, and I think they can be useful, what is the most recent precedent of this Senate? It is an action that was taken concurrently with the present action.

What is the issue in this case? The certificate of election of the Senator-elect from New Hampshire, Mr. Wyman, which is being challenged on the basis of an erroneous count of the votes—no fraud. An erroneous count of the votes.

A parallel case, a most recent precedent in this body is the Senator from Oklahoma (Mr. BELLMON) was seated, although he is being challenged by his opponent on the basis of an erroneous count of the vote. But he was seated pending a decision in that case.

If we are not being partisan in this case, if we are not simply saying that this one is too close to home, or if we are not saying it is so close we have a chance to steal it, why do we not try to treat both of them in exactly the same way?

Why is not the Senator-elect from New Hampshire entitled to exactly the same consideration as the Senator-elect from Oklahoma?

Mr. CANNON. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. CANNON. I think the Senator would not want the RECORD to remain as he has stated it, because he is clearly in error. He said the challenge to the Senator from Oklahoma was because of an erroneous counting of the votes. It was no such thing. It was because in Tulsa County, they violated the law and did not have a lever on so they could vote a straight party vote. That was the charge in Oklahoma. The charge was that had they not been in violation of the law, the vote would have come out differently.

Mr. BROCK. The Senator states the case even more dramatically, because in that situation there was some implication of malfeasance. There is none here. Even the one who contests Mr. Wyman says time and again in his testimony before the committee and in his own affidavit that there was no fraud. There was no fraud. So there is no justification for not seating Mr. Wyman.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. McCLURE. The issue in both cases is precisely the same: Were the votes counted correctly? In each instance, the challenger has said that the people in the State who are charged with the responsibility of counting the votes made an error in judgment in those votes which they counted.

In Oklahoma, it had to do with one particular issue in regard to the voting machines in Tulsa, as to whether or not they were in conformance with State law. They were counted, and as a result the Senator-elect, Mr. BELLMON, was elected; he was certified; he has been seated pending that challenge.

In New Hampshire, there are other technical issues as to whether or not the votes were properly counted. But in this instance, we say that we will not seat him, that we have to have him step aside until the issue is decided.

Mr. BROCK. Because there is a two-vote difference. It is the closeness of the vote, rather than the merit of the case, that is determining our action, and that is wrong.

Mr. WEICKER. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. WEICKER. One more step is that the system obviously grates on people—the fact that the contestant was declared the winner in one count and there was a review and it was reversed. That is really at the bottom of all this. If it had been the ballot commission right away, there would be no contest. But that is the law of the State of New Hampshire.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. ROTH. I yield.

Mr. BARTLETT. The question is not whether each person has been granted a certificate of election but whether the certificate of election that has been presented by each of the two is valid.

Mr. ROTH. That is correct.

Mr. BARTLETT. Is it not a similar situation to, say, my writing a check and then later, while the check still has not been cashed, properly advising the bank not to make payment on it? If somebody knowing that I had made that request then cashed the check, I think they would be operating improperly.

So the question is not only whether a certificate exists, but whether it is a valid certificate. Would that not be a similar situation? Does not one have the right to rescind?

Mr. BROCK. I think it is absolutely similar. Of course, one has the right to rescind.

I do not know about Oklahoma, but in Tennessee if you are caught stealing three times or drunk driving twice, the State can take your license away. They gave it to you, and they can take it away. If one does not believe it, go down there and try doing what they do not allow by law.

We have an exact analogy, in this particular instance, of the check and the driver's license. The State duly has withdrawn the certification. It is null and void. There is only one certificate before this body. There is only one case that can be referred to the Committee on Rules and Administration, if we decide to do that, and that is the certificate and the case of the Senator-elect, Mr. Wyman.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. ROBERT C. BYRD. If the Constitution had provided that a person whose driver's license is revoked could appeal to the Senate, does the Senator feel that he would have any takers?

Mr. BROCK. I expect he would.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield further, without losing his right to the floor?

Mr. BROCK. I yield.

Mr. ROBERT C. BYRD. Mr. President, I was asked by the distinguished assistant Republican leader earlier to yield during my discourse, and I said that I would do so later, I inadvertently failed to do that.

Mr. GRIFFIN. I appreciate the courtesy of the distinguished majority whip. I intend to defer my response until the Senator from Tennessee completes his remarks.

Mr. ROBERT C. BYRD. I understand that the distinguished Senator from Michigan had some questions as to the two West Virginia cases which I cited. In citing those cases I indicated that none of these precedents was on all fours. I am sure those were not—by any stretch of the imagination. As a matter of fact, they did not involve certificates of election except in the case of Lucas against Faulkner. There was an election of Faulkner by the State legislature. They are not on all fours, by any means.

I merely cited them as instances in which there was no charge of fraud or corruption in connection with the credentials presented here. There was none in those cases; yet, the claimants had to stand aside. I am not saying they are the same as the current case on all fours.

Mr. BROCK. Mr. President, I should like to express my appreciation to those who participated in the recent colloquy, and I will continue it in the days ahead.

At this time, I yield the floor so that the Senator from Michigan may speak.

Mr. GRIFFIN. I thank the Senator from Tennessee.

Mr. President, do I have the floor?

I do believe that the precedents referred to by the Senator from West Virginia require some response.

He cited the 1891 case, in which a certificate was issued by the Governor of the State of West Virginia and another certificate, or another document, indicating election had been issued by the legislature. In that situation, there were two different authorities of the State, each issuing a certificate, and on their face at least, each had equal standing. Of course, there was no question there of the election or of fraud. The question was, what does the Senate do when it has two certificates presented by two authorities of a State, each purporting on its face to be valid? I do not think that is a precedent for this situation.

In the 1941 case, there was a certificate from one Governor of the State and then a later certificate from another Governor of the State, two different authorities, each issuing a certificate; and on their face, in the files of the Senate, they both appeared to be valid. In that situation, the Senate did ask both to stand aside.

That is not the situation we have here. There is only one authority of the State of New Hampshire, the Governor and its Council. The Governor and the Council of the State of New Hampshire have before the Senate only the certificate of election of one Senator, and that is Louis Wyman.

I have not yet heard anymore argue—I wondered if the argument would be made—that the Governor and Council of New Hampshire, having once issued a certificate, could not revoke or rescind it. That argument really has not been made. It is interesting that it has not been made. It seems to me that it should be taken to be very clear that it can be revoked, particularly when there is no intervening action by the Senate.

That is particularly so in this case, where the record is clear that under the laws and statutes of New Hampshire, the first certificate was issued prematurely, before the recount proceedings had been completed; and that fact, of course, has been tested in the Federal court. Mr. Durkin, himself, has acknowledged and recognized that a certificate had been revoked and rescinded when he went into Federal court and asked the Federal court to require the Governor to issue a new one.

So here we have not two authorities, each issuing a certificate, both of which appear to be valid, as the cases to which the Senator from West Virginia alluded. In this situation, there is only one authority of the State. Although there has been a series of actions by that one authority, at the present time only one certificate is before the Senate.

Of course, I have already referred to the Vare case, in Pennsylvania, which involved a qualified certificate, where the Governor refused to certify that the candidate had been elected by the people of the State. Certainly, that is no precedent.

So I go back to the original statement I made. Of course, the Senate can always ignore its precedents, can break new ground, can set a new precedent. But the fact is that there is no precedent for the Senate refusing to seat, at least conditionally or provisionally, a Senator-elect who presents to the Senate a valid certificate, duly issued by the constituted authorities of the State, without any allegation of fraud, corruption, or illegality. If it is done in this case merely because the margin is two, it will be the first time in the history of the Senate that it has ever been done.

I hope and trust and pray that we will not deprive the people of the State of New Hampshire of their decision, of their right to determine who should be elected Senator to represent them in this body.

Mr. President, I yield the floor.

Mr. McCLURE. Mr. President, I wish to restate what I said earlier this afternoon; that is, I do not think there is any intention to obstruct the decision. I think it is being conceded by everyone, so far as I have been able to ascertain, in the debate who has addressed himself to the question, that there are substantial questions with regard to the count.

The State of New Hampshire, under its statutory processes, has made a determination. I do not question the right or the authority of this Senate to review the validity of that action or to review the accuracy of the various judgments that went into that process. I think that is clear. I might like to argue about whether they were right or wrong, and at an appropriate time I may desire to prevent the Senate or its duly authorized inferior body, whether it be the Committee on Rules or a select committee—and I think there is no debate here today to indicate that we have in mind other than to let the Committee on Rules look at it. I do not think that is the issue before the body today. The issue, simply stated, is whether or not the one Senator-elect who has the valid certificate of election from the State of New Hampshire, which has been tested in the Federal courts and sustained in the Federal courts, is entitled to be seated pending the determination. That is the only issue we have pending right now.

I think there is and can be no question that the Senate has the right to look behind that certificate. But I think also, there can be no real question that the Senator-elect, duly certified, has the right to be seated pending that determination.

Now what is wrong with that? Why do the Members on the other side of the aisle so fear the fact that he may be seated? There have been charges on the part of some that there is some kind of a partisan effort to delay determination here. In the face of that, they have said, we are not partisan; we have no desire—it is not because the man who was elected is a Republican that we desire to deny him his seat while we determine whether or not he should be seated permanently. There is no partisanship in that, they say, except that one man, perhaps in too great candor in looking at the certification when the ballot commission had determined and the Governor had certified that he was elected by two votes, says, "Oh, oh, but that Governor was a Republican." So they seek to undo what they then, by that argument, at least in their own minds, would say was a partisan determination by the State of New Hampshire by a similarly partisan determination on the part of the Senate.

I do not think we want to leave the impression and I certainly do not want to leave the impression that there is going to be a partisan determination of this issue. I am certain that besides the very eloquent statements that have been made here, there is a very real commitment on the part of most members of the Senate to an honest determination of the issues that are involved, without partisanship. I am somewhat inclined to the belief that the Senator from Connecticut has expressed earlier, that the people of New Hampshire ought to be given the opportunity to voice their own will. From my review of the record, it would appear to me that, from the malfunctioning machines in some of the precincts, from the fact that there was a tally in excess of the number of voters who actually voted there, probably after this is all done, the Committee on Rules must come back with the report that they really cannot determine; that there are some votes that they simply cannot, from the record, determine whether they have right or wrong and that, because of the closeness of the election, the only fair way for the New Hampshire people to have made their determination is to send it back for an election and declare this office vacant.

Mr. WEICKER. Would the distinguished Senator yield for a question?

Mr. McCLURE. Yes.

Mr. WEICKER. Is the distinguished Senator aware, is the distinguished minority leader aware, are there not some votes that cannot even be found in this election? Is that wrong? Can the distinguished chairman of the Committee on Rules respond?

Mr. McCLURE. I yield to the distinguished Senator from Michigan for a response to that.

Mr. GRIFFIN. It is my understanding that there are serious questions about the malfunctioning of voting machines in a number of precincts.

Mr. WEICKER. There are votes that cannot be traced; would that be substantially correct? I ask the distinguished Senator from Rhode Island. Is that essentially correct?

Mr. McCLURE. I yield to the Senator from Rhode Island.

Mr. PELL. My understanding is that there are allegations of the malfunctioning of voting machines, but I do not recall—my memory may be faulty—I do not recall instances of votes that just disappeared.

Mr. WEICKER. There was malfunctioning of machines where votes might not have been recorded, is that correct?

Mr. PELL. In one case, there was a statement that too many votes were recorded. Lord knows whom they were for.

Mr. WEICKER. How can we ever determine that here?

Mr. McCLURE. I say to the Senator from Connecticut, that is precisely the point I was trying to make. In view of the closeness of the election, with malfunctioning machines, we cannot make a determination of what really was true, and with the obvious error that there were more votes recorded than there were voters present at the polls, we cannot make a determination in that sense; the Committee on Rules may ultimately make the determination that it is impossible to go behind the certificate and they may decide to declare the seat is vacant.

Mr. GRIFFIN. May I just add to that that in a situation in Louisiana very recently with respect to the election of a Member of the other body, it was determined that only one machine, as I understand the facts, malfunctioned and that the difference on that machine could have made a difference in the election. The State of Louisiana held a new election.

Mr. McCLURE. And that was done under a Federal court order, as I recall, simply, in effect, determining that it was impossible to determine what the outcome of the election would have been had that machine not malfunctioned.

Again, I wish to urge that that is not really the issue which is before us today, because that is presuming the finding of the body that would be asked to investigate.

Mr. GRIFFIN. The question that the Senator from Idaho has so eloquently addressed is whether or not the Senator-elect from New Hampshire, Senator-elect by virtue of the only certificate on file, should be seated at least provisionally.

Mr. McCLURE. That is exactly correct.

Mr. GRIFFIN. Reference has been made to the precedents of the Senate. I wish to call attention to the fact that these precedents have been followed, not only in the Congresses and the Senates controlled by the Democratic party, but in those instances and through the years when the Republican party controlled the Senate.

I should like to focus attention, for example, on the situation that occurred in Maryland in 1946, when Mr. O'Connor came up with a margin, not of two votes, but of only 2,200 votes, and where the Republican 80th Congress, the Senate in the Republican 80th Congress, was presented with a challenge by his Republican opponent that there were errors and irregularities in that Maryland election. The Republican-controlled Senate seated Mr. O'Connor without prejudice and then proceeded to recount all of the ballots in the whole election in Maryland because there was no recount procedure under the statutes of the State of Maryland. The Republican-controlled Senate determined that Mr. O'Connor, the Democrat, had been properly elected and, of course, he had been seated in the first instance.

There was the New Mexico case, where Mr. Chavez had been elected and his Republican opponent challenged the election, claiming that the election laws of the State of New Mexico had been violated and that rights to a secret ballot had been violated. In that case, as in other cases, Senator Taft requested that Senator Chavez should be permitted to take the oath and be seated without prejudice, as the Senate controlled by the Republicans proceeded to investigate that particular election. Ultimately, Senator Chavez's election was confirmed.

I am only saying that this is the precedent that has been followed throughout the history of the Senate under the control both of Republicans and Democrats. Whether the margin was 2,000 or 10,000, or smaller than that, the Senator-elect with the certificate from the duly-constituted authorities of the State has been seated at least provisionally, so that the people of that State would have their representation while the matter was being decided. I think the Senator from Idaho has made a very good case on that point.

Mr. McCLURE. I thank the Senator from Michigan. I think it does bear repeating that in those two instances, a Republican Senate, being confronted by a challenge on the seating of a Democratic Member-elect, did provisionally seat that Democratic Senator-elect pending the outcome of the challenge.

That, I think, is the issue that must be debated and be determined by the Senate in making the determination of whether or not they should vote for the motion of the Senator from Montana or whatever other substitute motion may come in, without attempting at this time to determine the outcome of the contest itself. Let us at least determine the issue of whether or not we are going to respect the legal processes of the State of New Hampshire, which have been tested in the Federal courts and found to be sufficient, the legal processes which the Federal courts have said, in effect, validate the certificate filed on behalf of Senator-elect Wyman, and recognize the invalidity of the proposed credentials urged here by the challenger, Mr. Durkin.

That, I think, is the issue, if we are not dealing with this in terms of partisanship, which must be approached fully and openly before determination. Again, the most recent precedent, the one in which the Senate has already acted in this session of Congress pursuant to the urging and recommendation of the Committee on Rules, is on the contest in Oklahoma, where almost exactly the same issue is involved of whether or not the votes were counted correctly, and the Senator-elect, Mr. BELLMON, was certified by the State of Oklahoma and was seated without prejudice to the rights of the challenger, Mr. Edmondson, to perfect his challenge if he can.

I think both the earlier precedents, the actions that were taken in the cases cited by the Senator from Michigan, and the action taken by this Senate in this session, all persuasively and powerfully argue that Senator-elect Wyman should be seated provisionally pending the outcome, and then let us get on with the business of determining how we shall view the background of the election, and go ahead and get that done, with no intent to obstruct this matter, but to go ahead and get it resolved.

Several Senators addressed the Chair.

Mr. McCLURE. I yield first to the Senator from Rhode Island (Mr. PELL), without relinquishing my right to the floor.

Mr. PELL. Mr. President, I think the issues involved, as between the Oklahoma and New Hampshire cases, are very different. In the Oklahoma case, as I believe Senator BELLMON's own pleading asserted, the issue was not how the election in Tulsa County should have been conducted, but the legality of the election as conducted, and not the same as in New Hampshire, where there was a question of whether the vote was correctly counted.

Mr. McCLURE. Well, the issue in the Oklahoma case, as Mr. Edmondson would suggest, arose because the law would indicate there has got to be a straight partisan lever on the machine, and therefore it is not valid to count the votes on those machines. The issue in New Hampshire is whether or not the votes were properly counted.

Mr. PELL. They are two different propositions, I would suggest.

Mr. McCLURE. The question is whether or not votes should be counted in the total tally.

I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I would ask the question, either of the distinguished Senator from Rhode Island or the distinguished Senator from Nevada, since we have been doing most of the talking on this side of the floor, by what reason do they arrive at the conclusion that Louis Wyman should not be seated pending investigation by the committee? By what reason? I would like the answer to that, as to why the committee determines he should not be seated. No one takes away any rights from the Senate or any rights from the Rules Committee, but what is there in this case that makes them arrive at the conclusion that he cannot be seated without prejudice pending the investigation?

Several Senators addressed the Chair.

Mr. McCLURE. Mr. President, I yield to the Senator from Connecticut so that he may conduct this colloquy.

Mr. CANNON. Mr. President, I thought that was made quite clear throughout the day, that the Rules Committee did not make that recommendation. That motion failed on a tie vote in the Rules Committee, so there was no recommendation from the committee. The motion has been made by the distinguished Senator from Montana on the floor, and the debate has gone on for a number of hours. I do not want to have to restate everything everyone else has said.

Mr. WEICKER. Let me be very specific, then. Let me ask the distinguished Senator from Nevada whether or not he feels that Louis Wyman should be seated pending further investigation by his committee.

Mr. CANNON. No; I must say I do not feel he should be seated pending further investigation.

Mr. WEICKER. Why?

Mr. CANNON. The reasons that I do not are these: We have had three different counts out of New Hampshire now. Under New Hampshire law and the common law, the appeal goes to the legislative body from the ballot law commission. The legislative body is the United States Senate. This is the third step in that process to try to determine the intent of the New Hampshire voters, and who the winner was.

We have had three different counts. Every one of those counts came up with a different result. We have also a petition before us that says that about 40 votes were erroneously counted. I am sorry that I put my papers away, so I do not have the exact quotation. It also says that about 20 votes were counted for Mr. Wyman that were erroneously counted and should have been counted for Mr. Durkin.

That puts the issue squarely in question as to whether or not those ballots were properly counted. This is where the Senate has jurisdiction, under section 5 of article I, to make that determination.

Someone else asked the question, Why not seat Mr. Wyman without prejudice? Simply because of this: Let us suppose that the Senate Rules Committee goes into this matter and investigates these charges, and examines those ballots, which they will do, in the presence of counsel for both contestants and the contestants themselves, if they desire to be there, and open to the press and the public insofar as this committee is concerned—the recommendation of the subcommittee chairman has been that—and suppose the committee comes up with the determination that the ballots are exactly tied? Then what happens? The Senate would have to declare the seat vacant, or that neither one of them were elected, and it would go back to the State of New Hampshire for a new election.

Can the Senator say in his heart that the man who had been seated here, supposedly without prejudice, would not in fact have prejudiced the man who was not seated? That is absurd, because he is an incumbent.

Mr. WEICKER. What happened in the Edmonson case?

Mr. CANNON. The Senator answers his own question: Because he is an incumbent Senator. The determination is brought about because of the possibility of a tie vote.

Mr. WEICKER. Suppose we had exactly that situation in the Oklahoma case at the present time; should the court in Oklahoma come out in favor of Edmondson, would HENRY BELLMON have the advantage over Edmondson, since he has been seated as a Senator?

Mr. CANNON. Why, of course, he would. Certainly he would.

Mr. WEICKER. Then why did the Senate seat Senator BELLMON?

Mr. CANNON. The question is quite different. There is no similarity at all. There is no allegation, furthermore, in the Edmondson case, that they are contending they have a two-vote difference. In New Hampshire, there was 300-some odd, then 10, and then 2.

In the first place, we have one flat Federal question. We have an allegation of the violation of the law. The Supreme Court of Oklahoma has already said the law was violated, that Tulsa County was in violation of the law.

Mr. WEICKER. That makes the case even stronger. What it boils down to, I think, is not this matter of whether the incumbent would have the advantage or not, but rather it is the number of votes. Is not that really what bothers the Senator from Nevada?

Mr. CANNON. That certainly does not bother me. It might bother the Senator from Connecticut, but it certainly does not bother me.

Mr. WEICKER. Well, the fact is, Mr. President, there is no question; it is not argued by any Member on this side that the U.S. Senate does not have the right of final determination in every election in every State throughout the Union.

So the business of whether we come in at the third or fourth recount, that is not so. That just is not so. We have that right; it applies to every senatorial election. Nobody is disputing it.

But the big question is when do we invoke it? The fact is by the law of the State of New Hampshire the procedures were followed, a result was arrived at. Granted that result in New Hampshire, as indeed the election in the State of Connecticut, California, or anywhere else, is still subject to the scrutiny of this body. No one disputes that. But, by the law of the State of New Hampshire, one man was declared the winner.

I find it a frightening thing indeed. Gosh, everybody knows I have stood up against the antics of my party when they were swollen with power and when indeed they tried to pervert the election processes of this country to the disadvantages of the Members on the other side of this aisle. But let me warn you, you sit now in a position of enormous power, and what you are doing is you are using this last right that we have in the case of every election, every senatorial election, to contest the legal result arrived at in the election in the State of New Hampshire as between Louis Wyman and Mr. Durkin. I find that somewhat frightening to contemplate.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. CANNON. The Senator makes a beautiful argument on moral grounds. The only thing is he ignores the law.

Mr. WEICKER. Which law?

Mr. CANNON. The law of the State of New Hampshire.

Mr. WEICKER. The Senator is saying we made a judicial determination. This is not the——

Mr. CANNON. Under the election process, under the New Hampshire common law and the statutes, the review contemplated by the ballot law commission is not final in a case involving election to legislative offices until after appeal to the appropriate legislative body. That is a New Hampshire case. It is also referred to in another case decided in New Hampshire on the 6th of January of this year as being the law of that State.

Now, this is the legislative body where that appeal is being brought, and that is a step in the appellate process to determine who won that election, and that is exactly what the Senate is going to do.

Mr. WEICKER. I yield to the distinguished Senator from——

Mr. CANNON. Article I, section 5.

Mr. WEICKER. Is the Senator from Nevada saying the Governor of New Hampshire and the Ballot Law Commission are performing illegally?

Mr. CANNON. I beg the Senator's pardon.

Mr. WEICKER. They can make no certification? They performed illegally?

Mr. CANNON. The Governor of New Hampshire has gone through two different actions without a doubt. But the point is that the matter is vested here in the jurisdiction of the Senate now to make a determination under the Constitution. We have a challenge, we have an allegation of error, and it is up to the Senate to determine. The Senator can make his case, and all we want to do is vote one way or the other.

Mr. WEICKER. Well, I would only make——

Mr. CANNON. We had a vote in the Committee on Rules. It was not a partisan issue. We came out with a tie vote 4 to 4.

Mr. WEICKER (continuing). I would only make the comment to the Senator from Nevada that I think we are setting a very, very dangerous precedent here. I can envisage the U.S. Senate running around, becoming more deeply involved with senatorial elections depending on the results, et cetera, and, believe me, that is something we do not want to go ahead to do and we do not want to establish that precedent.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. WEICKER. I yield to the distinguished Senator from Idaho.

Mr. McCLURE. I think one point ought to be made in regard to the New Hampshire law, and the Senator from Nevada has raised it, and that is that the State of New Hampshire, in passing their laws for review of the judicial process, provided for an appeal to their supreme court from the ballot law commission's determination and they made an exception to that for those who were elected to the Senate or to the House of Representatives of the United States, noting that the appellate procedure to the State supreme court was not necessary where there was a recourse from the ballot law commission's activities vested in the Constitution of the United States.

That does not make the determination of the Senate of the United States a part of the appellate process. It only recognizes that constitutional prohibition against any interference with the prerogatives of the Senate and the House of Representatives in being the judges of the elections and qualifications of their Members.

Mr. GRIFFIN. If I may observe, having sat through the hearings as a member of the subcommittee, the Senator from Idaho has stated the legal situation very, very accurately. I do not think any fair reading of the statutes of New Hampshire or the decisions of the State courts could bring us to any conclusion other than the authorities in the State took notice and recognized that there is the constitutional right of the Senate under the Constitution to review these elections, which is there whether—in those States that recognize it by statute and in those States that pay no attention to it by statute, the right is there always in any event.

Mr. WEICKER. I concur with the distinguished Senator from Michigan, and let me emphasize, because I have to watch myself in this matter, we are still jumping ahead in this matter. Nobody denies we have the right to review; nobody denies that at all. All we have said is, why not seat him, Louis Wyman, while the review goes on. And then the answer came out, because it will give him an advantage should there be another election.

We have done the same thing insofar as Senator BELLMON is concerned vis-a-vis Ed Edmondson, so really that is no reason at all. It might be in the thinking of my colleagues on the other side of the aisle, but it should certainly have no application to this situation.

What we are asking for is not the final seating at all but the seating pending the decision of this body—that is considerably different—and because of a fear of psychology that is generated, well, that is really great, this man is not going to be seated.

That is a disgrace, I might add, I think, to our election processes. Not the fact of review—that we have got—but because you feel this might give some type of advantage should another election be held. That makes rather interesting law and I would like to read it sometime in the statute books.

Mr. BARTLETT. Mr. President, will the Senator from Nevada yield for a question?

Mr. CANNON. The Senator from Nevada does not have the floor. He has not had it for some time.

Mr. BARTLETT. Will he respond to a question?

Mr. CANNON. I am happy to respond.

Mr. BARTLETT. I understand there have been two certificates of election issued. The contention is, on the one hand, that one of these certificates is now valid and the other has been rescinded and is invalid. I would like to ask the Senator what his contention is. Does he consider the two certificates of election equal in validity or does he consider them different?

Mr. CANNON. I frankly do not know whether they are or are not equal in validity. I know we do have two certificates here. The motion of the distinguished Senator from Montana was to receive both certificates and all of the related papers that have been filed in this matter, and there are a number of them that I understand have been filed, to refer those to the Rules Committee. But, as I said earlier, in my judgment I can completely disregard, as I stated to the Senator from Tennessee, as far as I am concerned whether there was or was not a second certificate. If we were just to assume there was only one certificate here, and that was Mr. Wyman's certificate, based on the facts and on the petition we would have a valid basis to refuse to seat him and ask him to step aside until this matter had been determined, and that is what the motion proposed.

Mr. BARTLETT. Mr. President, I would like to ask the Senator another question: Is the Senator then disregarding the rescinding of the one certificate, and does the Senator have the opinion that the right to rescind a certificate, a certificate that it has issued, or is the Senator just disregarding it?

Mr. CANNON. I must say I frankly would assume that perhaps they have the right to rescind. I have not checked that, and it would not make one iota of difference in this case to me because the issue here that is posed, as I said, and can be posed even on one certificate, even though some other people have a different view, that could be posed on one certificate based on the fact that you have one count out of an election, you had a recount, based on the law of the State of New Hampshire that came up with a different result, with a different winner by 10 votes.

They had the certification of contested ballots as a result of that recount to the Ballot Law Commission and an appeal to the commission which came up with a result different than the previous one by two votes, a different winner by two votes.

We have a petition then filed with this Senate saying in one instance that there were 20 votes counted for Mr. Wyman that should have been counted for Mr. Durkin. There are other allegations in the petition, but if that were true, if any of those allegations are true, the result would be different than it is now before us, and that is my basis for supporting the motion by the distinguished majority leader.

Mr. BARTLETT. I would say to the distinguished Senator from Nevada, when the Senator is talking about 20 votes that may have been improperly counted, the Senator is, of course, arguing the case.

But I was talking about the validity of the certificate and the Senator says he does not know, nor does he care, whether or not there is the right to rescind. The right of rescission was made and it was certainly made by a properly constituted body, the same body that issued both certificates.

It seems to me the Senator is advancing the argument that it makes no difference whether a person has a valid certificate or not. It is a question of whether one has a certificate, and I think there is a big difference. Certainly the validation of the certificate is what is important, not whether one might have a friend who is a Governor, which is certainly not the case here, but certainly this could be the case in an election, where an invalid certificate would be issued and I would think that would absolutely not be recognized by this body, nor do I think in this case an invalid certificate should be recognized.

Mr. CANNON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR STEVENSON, SENATOR GRIFFIN, AND SENATOR ROBERT C. BYRD, AND DESIGNATING PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, the distinguished Senator from Illinois (Mr. STEVENSON) be recognized for not to exceed 15 minutes, the distinguished Senator from Michigan (Mr. GRIFFIN) be recognized for not to exceed 15 minutes, that I be recognized for not to exceed 15 minutes, and that there then be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 12 o'clock noon tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. STEVENSON, Mr. GRIFFIN, and Mr. ROBERT C. BYRD will be recognized, each for not to exceed 15 minutes, and in that order, after which there will be a period for the transaction of routine morning business, of not to exceed 30 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the pending question before the Senate will be on the privileged motion by Mr. MANSFIELD.

Rollcall votes could occur tomorrow.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:58 p.m. the Senate adjourned until tomorrow, Thursday, January 16, 1975, at 12 o'clock meridian.

EXTENSIONS OF REMARKS

THE UNITED NATIONS

HON. GALE W. McGEE

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Wednesday, January 15, 1975

Mr. McGEE. Mr. President, on December 23, there appeared a very thoughtful article in the Washington Star-News written by Columnist Charles Bartlett.

Entitled "U.N.'s Defiant Majority," the column is an effort to place the United Nations in general, and the 29th General Assembly in particular, in its proper perspective. I believe Mr. Bartlett has accomplished his purpose very well.

As a delegate to the 27th General Assembly of the United Nations, I can attest to the accuracy of Bartlett's following statement examining the U.N. diplomat. He noted:

> The atmosphere reflects the committed energies of experienced disciplined men pressing hard for harmony and consensus. It is the zeal of these earnest people that prevents the U.N. from sagging into a replica of its public image, into the pit of futility to which its record might condemn it. They keep the idealism alive because they keep hoping and trying.

Bartlett's concluding observation was most appropriate:

> The big thing is to stay hopeful and stay at it because there is no greater goal than peace on earth.

If we, as a nation, are indeed dedicated to this goal, then there can be no turning our back on the United Nations. Despite the record of the 29th General Assembly, the United Nations still represents more than ever mankind's greatest hope for peace in the world.

Those critics who would have the "United States get out of the U.N. and the U.N. out of the United States," demonstrate a particular shallowness which is a substitute for thinking. It is much better that the conflict between nations appear in the halls of the United Nations in the form of harsh rhetoric than on battlefields around the world.

If we truly share and believe in the goal of peace then we must believe and trust in the United Nations as a vehicle to achieve this goal.

In a world reeling under the heel of economic chaos and conflict there can only be global action and consensus in achieving stability. In a world whose problems of hunger, disease, and illiteracy can become the political problems of tomorrow, it is incumbent we act in concern and as an international community in meeting the needs of millions of the world's citizens.

We cannot hope to assure our own survival as a nation apart from the United Nations. For it should be all too apparent that the United States needs the world as much as the world needs us. It would be fatal to believe we can insulate and isolate ourselves from this reality.

I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.N.'S DEFIANT MAJORITY

(By Charles Bartlett)

UNITED NATIONS, N.Y.—Despite nearly 30 years of comings and goings by General Assemblies which bathed the world's problems in rhetoric, this place somehow manages to preserve its air of excitement and hopefulness.

Perhaps it is only the bold building, poised against the East River; or 138 flags snapping on their aluminum poles; or sleek limousines purring in the driveway; or the bouncy steps of well-fed diplomats on thick carpets. Maybe the atmosphere is merely enlivened by daytime anticipations of the night's parties and rendezvous.

But there is more to it than that. The atmosphere reflects the committed energies of experienced, disciplined men pressing hard for harmony and consensus. It is the zeal of these earnest people that prevents the U.N. from sagging into a replica of its public image, into the pit of futility to which its record might condemn it. They keep the idealism alive because they keep hoping and trying.

Sen. William Fulbright is critical of this country's move, in concert with France, West Germany and others, to admonish the small, poor nations which dominate the General Assembly. He sees it as the nostalgic whimpering of powers that once used their own dominance to partition Palestine, intercede in Korea and exclude Red China.

But the big powers have to do something because they lose so many votes these days. They can count only two contested victories in the session just ended. Ambassador John Scali's "tyranny of the majority" may not be a monolith, but it has hardened into a consistent alignment of countries concerned with securing more resources and power.

It does no damage to remind these countries that the pursuit of numerical majorities can be a sterile form of international endeavor; that the General Assembly is an advisory body, not a parliament, and that the forum functions best when it reaches quietly for understanding and consensus. Created as a symposium to spotlight abuses of human rights, the Assembly lacks the machinery to become an engine of revolution.

The majority is chasing illusionary victories, as a Philippine diplomat explained some years ago. "It is an obvious fact," he said, "that on the basis of simple majority the developing nations can outvote the developed nations at any time. Yet what will it avail them to reach decisions by simple majority if the defeated minority includes the very countries from whom concessions are expected?"

The majority is comprised of nations that furnish less than 5 percent of the U.N. costs. But the United States, putting up 30 percent of all expenses, has no plan to try to amend the charter to introduce a system of weighted votes. There is no realistic way to deprive little countries of their equal votes without creating an entirely new organization.

Sen. Peter Dominick wants the United States to stop its participation in the General Assembly while continuing to work with the Security Council and other international bodies. This would avert the embarrassment of roll-call defeats at the price of displaying a pompous "won't-play" spirit. A nation anxious to exert its influence constructively cannot afford this posture.

Delegates from small countries point out that they will face recall or even firing squads if they change their votes to please the big powers. So there is no way to avoid occasional lumps in the General Assembly. This makes it important to preach cooperation so the chesty majority can learn that defiance may be less rewarding than conciliation.

The big thing is to stay hopeful and stay at it because there is no greater goal than peace on earth.

SUPPORT OF RECOMPUTATION

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. GONZALEZ. Mr. Speaker, I am again introducing my bill which would provide for the recomputation of retired pay for members of the military.

I realize that the subject of recomputation is a complex one, and there has been a very strong debate on this matter since 1958 when the hundred-year-old tradition of tying retirement annuities directly to active pay scales was abandoned in favor of a cost-of-living increase system. But I strongly feel that this new system has not proven beneficial to the retirees, and we have broken faith with those who relied on a comfortable retirement after many years of dedicated service to our country.

In 1972 the Special Subcommittee on Retired-Pay Revisions of the House Armed Services Committee held hearings on the subject of recomputation. I had appeared before this subcommittee and presented my views in support of recomputation, but the subcommittee issued an unfavorable report on all recomputation proposals. At this time I insert for the Members' attention my statement before this subcommittee:

STATEMENT OF HENRY B. GONZALEZ, OCTOBER 4, 1972

Mr. Chairman, I have for many years supported the principle of recomputation of retired pay, and am grateful that you are considering my bill, H.R. 4725, and others which would restore the recomputation principle for retirees who entered the military services prior to May 31, 1958.

I know that, objections have been raised to this legislation, principally on the grounds of cost. But we must examine the principles involved here as well as the numbers; we must consider equity and justice as well as the cost. And if the principle involved in this legislation is right and just, and if it restores equity to substantial numbers of people who have been denied it, then we ought to act favorably.

The people affected by the legislation served their country honorably, at great cost and sacrifice to themselves and their families, and more often than not at great risk to their very lives. Not a few of them bear the scars and hurts and illnesses brought about by their service. They did not ask what the cost of their service might be—they only responded to the needs of their country. I think that we have an equal responsibility to respond to their needs.

For a hundred years prior to 1958, military retirees received a retirement pay based on current active duty pay—50 percent if they served twenty years, and 75 percent if they served for thirty years. This was a principal attraction of military service, and indeed was an institution of service—so much a part of it that no one dreamed the retirement system would ever change drastically.

It is hard to imagine what kind of shock was felt by those who had served fifteen or twenty years, when in 1958 Congress changed the retirement system—a system that they had counted on, planned on, been promised would be theirs always. They had fulfilled their part of the deal, but Congress reneged.

I was in the Texas State Senate at that time, and we were shocked by the change. Our legislature joined fifteen others in requesting that Congress reconsider. I thought the decision to abandon recomputation was wrong then and still believe so. Today, as then, I believed that Congress should allow recomputation.

It is impossible to explain the justice of a system which after only ten years of operation provides one man only half as much retirement pay as another—even though those men served the same length of time and retired in the same rank. Yet that is what this system has created. It is as if we paid only half as much social security to some retired workers as we did to others. The principle is the same, and it is wrong.

Aside from the question of simple justice, we have before us a question of real hardship. Every one of us knows what has happened to the cost of goods and services since 1958. In the last five years alone, the price of food has gone up by 25 per cent. Rent, interest and everything else has gone up immensely since 1958. That is why we have had to raise military pay so drastically, simply to prevent undue hardship to active duty members. And that is why retirement benefits have been improved—simply to prevent hardships to retired members. And what of those who retired prior to that magic date of May 31, 1958? Doesn't their food cost the same? Aren't their needs equal to those of everyone else? You and I know that they are. These people are not seeking any bonanza, but only what they expected to receive when they entered the service in the first place, and what they truthfully need now to provide the minimal comforts of life.

We are dealing here with a question of the full faith of this government. These people expected that their retirement system would operate as promised and as assured. Studies, commissions and recommendations have been made that recomputation should be provided. There is no reason that we can cite whereby Congress could justly deny recomputation. I believe that in simple justice, in simply fulfillment of our obligation, this legislation ought to be approved.

I can well understand the frustrations of the retired military persons and I shall keep hoping that one day the Congress will awaken to its responsibility to restore recomputation. It will not be easy as these are difficult times and Congress is under a lot of pressure to reduce spending, but recomputation is essential as it is compensation for hard work and dedication service to our Nation.

I hope that all Members will join me in my efforts.

THE MIDDLE EAST

HON. GALE W. McGEE

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Wednesday, January 15, 1975

Mr. McGEE. Mr. President, the Middle East remains, potentially, the most explosive area of the world. Predictions abound that unless further progress is made on a permanent negotiated settlement, we could once again be embroiled in war in the Middle East.

Therefore, it is particularly appropriate at this time to give serious thought to an article appearing in the January 1975, issue of Foreign Affairs. The article was written by Richard H. Ullman and his conclusions appeared in the December 24 edition of the Washington Post.

Ullman warns that in light of the present state of affairs in the Middle East, there can be no ambiguity whatsoever in the commitment of the United States to maintaining the security of Israel as an independent nation. He is absolutely correct, for if there is any one element in the Middle East crisis which could precipitate another war, it is the uncertainty of the U.S. commitment to Israel.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CASE FOR A GUARANTEE FOR ISRAEL

(By Richard H. Ullman)

(The following is the conclusion of "After Rabat: Middle East Risks and American Roles," an article in the January, 1975, issue of Foreign Affairs by Richard H. Ullman of the Council on Foreign Relations:)

The intrinsic importance of the survival of the Israeli state is, in fact, an unarticulated premise shared by many Americans concerned with issues of foreign policy. Certainly it is one shared by President Ford and Secretary Kissinger, and it extends far beyond the Jewish community. Yet most of these same Americans simutaneously take for granted the assumption, supported by opinion polling over the past several years, that the American policy will not stand for the acquisition of additional overseas commitments . . .

Yet, policy-makers and the "attentive public" concerned with foreign policy should carefully consider the potential consequences of not making even more clear the solidarity of the American commitment to Israel's survival. It has been argued above that the United States, more than any other single actor in the Middle East drama, is capable of deterring future Arab attacks upon Israel, of preventing pre-emptive war on the part of deterring future Arab attacks upon Israel, along more conciliatory paths that will help lay the foundation for a long-term settlement. It is arguable, also, that the cost of such an American role to U.S. interests in the Arab states—including oil supplies—would not be prohibitive. Indeed, it is likely that Arab leaders such as Sadat, Hussein and Faisal would actually welcome such an American commitment (although they could not say so publicly) so long as it were accompanied by Israeli withdrawals. For this might make it possible for them to resist Palestinian appeals for greater military efforts against Israel without being plausibly held up as traitors to the Arab cause.

An absolutely unambiguous American commitment—one perhaps including the stationing of contingents of American forces in Israel—would not be easy politically for any administration. But the political consequences of an Israeli defeat would be far worse. An obvious adverse political consequence of an Israeli defeat would be the political effects of the United States being, perhaps, dragged into a future ongoing Arab-Israeli war in order to counteract Soviet participation—and ambiguity clarified too late.

If there ever were a political situation which cried out for measures to reduce ambiguity, it is the present stage of conflict in the Middle East. The relatively ambiguous nature of the present American commitment encourages the Palestinians along the road of irridentism and silences voices for moderation both among the Palestinians themselves and among the other Arab peoples. It induces Israeli military leaders and politicians alike to think in terms of worst-case scenarios, and therefore not to make the sort of territorial concessions which will be so vitally necessary if a genuine end to hostilities in the Middle East is ever to come. And it does not deter those in the Soviet Union who, for reasons of domestic and international politics alike, would pursue adventurist courses. Thus the combination of a penchant for keeping options open, so much a characteristic of American foreign policy in the last decade, together with a widespread view that an unambiguous commitment cannot be managed politically, is likely to produce the worst possible outcome—a war in which the Israelis might suffer drastically and in which the United States might very well find itself, willy-nilly, involved.

It is at least arguable—and it is argued here—that *any* certainty in the U.S. Middle Eastern role is now more desirable than the role which American diplomacy has played since the Yom Kippur war Since the United States finds it politically impossible to wash its hands of Israel (one type of certainty), and overt and explicit commitment to Israel's defense—including even the stationing of U.S. military contingents in Israel—remains the most logical choice for those who would prevent a new war. . . .

Until very recently an explicit American commitment to Israel's survival seemed to most observers unnecessary. Indeed, a less ambiguous commitment would have worked against the delicate diplomacy which Secretary of State Kissinger set in motion in the aftermath of the Yom Kippur War. Those diplomatic efforts seem now to have failed. One should not make too much of this failure: the margin between success and failure in diplomacy is often extremely narrow, and we do not know just how narrow was the margin which tipped Arab governments along the path which led to Rabat, rather than to the sort of de facto (and potentially de jure) settlement which Secretary Kissinger had in mind. Now that the nature of the game in the Middle East has changed, however, and a new and potentially unstable—and destabilizing—Palestinian entity has emerged, the time is past when ambiguity in the American role might have proved useful.

DR. MARTIN LUTHER KING, JR.

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. MAZZOLI. Mr. Speaker, today is the 46th anniversary of the birth of Dr. Martin Luther King, Jr.

Few Americans have faced adversity with Mr. King's resoluteness, and few have seen the light of truth and justice with his keen eye. His contribution to his people and his nation will long stand as an example of the power of brotherhood and love. His tragic death prematurely ended a life that shaped American history.

The New York Times reported shortly after Dr. King's death:

> His home was bombed. He was spat upon and mocked. He was struck and kicked. He was stabbed, almost fatally, by a deranged Negro woman. He was frequently thrown into jail. Threats became so commonplace that his wife could ignore burning crosses on the lawn and ominous phone calls. Through it all he adhered to the creed of passive disobedience that infuriated segregationists.

Dr. King's speeches and writings were always effective because they were direct, vivid with Biblical imagery, and bore the mark of the history of his people.

Perhaps his most famous words—which reveal the driving force behind his life—were spoken here in Washington on a hot summer day in 1963:

> I have a dream that one day this nation will rise up and live out the true meaning of its creed: "We hold these truths to be self-evident, that all men are created equal."

Despite personal setbacks, and despite the dissension which sprang up within the civil rights movement, Dr. King preserved his faith: "I refuse to accept the view," he said upon accepting the Nobel Peace Prize in 1964, "that mankind is so tragically bound to the starless night of racism and war that the bright daybreak of peace and brotherhood can never become a reality."

Dr. King's early opposition to the Vietnam war, a position consistent with his philosophy of nonviolence and brotherhood, brought him added criticism and threats to his movement. As that tragic War unwound, America learned how right this gentle and peaceful man was.

Of all his words, Mr. Speaker, perhaps the most moving are those he spoke in answer to white critics who asked, "When will the Negroes be satisfied?"

Dr. King said:

> We will not be satisfied until justice rolls down like water and righteousness like a mighty stream.

This was Martin Luther King, Jr., whom we honor today and whom America will honor throughout its history.

BIRTHDAY OF DR. MARTIN LUTHER KING

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. GILMAN. Mr. Speaker, as we meet here today, people from all over America are marching in this city and in cities across the land in observance of the 46th birthday of Dr. Martin Luther King.

Almost 7 years after Dr. King's tragic death, our Nation is still striving to fully realize the goals and ideals for which he stood and for which he gave his life. Dr. King was a soldier in the war for human freedom and for the dignity of man. He helped win for America's black citizens the basic civil rights other citizens have enjoyed since the Revolution.

Now those basic civil rights are a part of our law and our system of government. But the struggle goes on for full economic and social freedom and equality for all people.

Today, we should reflect on what Dr. King could tell us if he were here. He might tell us we cannot forget our obligation to our poor and to the disenfranchised members of our society, that we cannot forget the needs of many of our people—the need to provide opportunities for housing, jobs, education, adequate nutrition, and health care.

He might call our attention to the many challenges that lie before us, the challenges of reforming our tax structure and restraining monopolies, of conserving our natural resources and making our Nation self-sufficient.

For all of these challenges are part of a larger goal, a goal that transcends racial lines and political affiliations: the goal of making a better life for each and every American citizen—and that epitomizes the goals and life of that great American, Dr. Martin Luther King, whose courage and conviction we honor today.

SPECIAL PROSECUTOR JAMES F. NEAL

HON. GALE W. McGEE

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Wednesday, January 15, 1975

Mr. McGEE. Mr. President, with the verdicts handed down in the Watergate case, Special Prosecutor James F. Neal has tendered his resignation.

In the January 2 Washington Post, Martin Weil most aptly summarized James Neal when he noted:

> Neal, whose sharp and determined cross-examinations and comprehensive and spellbinding summation won the admiration of even Watergate defense counsel, has resigned from the special prosecution force effective Monday.

I take particular pride in the outstanding manner in which Jim Neal conducted himself as Special Prosecutor. As a University of Wyoming history professor in the late 1940's and 1950's, I was fortunate to have Jim as a student of mine. Jim attended the University of Wyoming on a football scholarship. The people of Wyoming share this pride.

James F. Neal has rendered this Nation an invaluable service through the conscientious and brilliant performance of his duties during one of the most critical periods in our history as a Republic. We owe him a debt of gratitude.

I ask unanimous consent that Martin Weil's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VICTORY HIGHLIGHTS NEAL'S CAREER, ENDS TERM AS PROSECUTOR

(By Martin Weil)

James F. Neal, the Nashville lawyer who won wide admiration for his skill as chief prosecutor in the Watergate conspiracy trial that ended yesterday, said his feeling about the verdicts was perhaps more of relief than satisfaction.

"I don't think satisfied is the word," the 45-year-old Tennessee native told reporters when asked his reaction to the guilty verdicts against four of the five defendants. It's one of relief that a long, hard job is over and I can go home."

Neal, whose sharp and determined cross-examinations and comprehensive and spellbinding summation won the admiration of even Watergate defense counsel, has resigned from the special prosecution force effective Monday.

He will return to private practice in Nashville, where it was estimated he was earning about $100,000 to $150,000 a year, before he was summoned in 1973 by Archibald Cox to join the Watergate prosecution team.

Less clear at the moment are the plans of Neal's two chief assistants, Richard Ben-Veniste, 31, and Jill Wine Volner, also 31.

Ben-Veniste, who came here from New York in 1973 is reportedly planning to take a vacation and then enter private practice, possibly in Washington.

Mrs. Volner, a former Justice Department prosecutor and wife of Ian Volner, a communications lawyer here, could not be reached last night.

Neal, who carried most of the burden for the prosecution in the 64-day trial at the U.S. courthouse here, was born in rural Oak Grove, Tenn., and won a football scholarship to the University of Wyoming. After serving during the Korean conflict as a Marine Corps officer, he earned his law degree at Vanderbilt University.

Following a period of private practice here, he joined the Justice Department, and became known for two prosecutions of Teamster union leader James Hoffa, who, Neal said, "once called me the most vicious prosecutor who ever lived."

A 1962 prosecution ended in a hung jury. In 1964, a Chattanooga court convicted Hoffa of jury tampering.

Blue-eyed, somewhat short in stature, and armed with a Southern accent that comes and goes with his mood and a courtroom manner described as both charming and confident. Neal served two years as U.S. attorney in Nashville. He then spent several years as a highly successful defense lawyer before heeding the call of Archibald Cox.

Committing himself at first to only two weeks here, he spent five months, then returned home only to be summoned again last May by Leon Jaworski.

He came to court in October with what was regarded as a carefully prepared case that was outlined by the opening testimony of former Nixon counsel John W. Dean III, supported by use of the White House tapes, and strengthened by testimony of some 30 witnesses.

Neal's cross-examinations of former Attorney General John N. Mitchell and former White House domestic adviser John D. Ehrlichman were regarded as particularly impressive.

But he was widely acknowledged to have reached his courtroom peak in his summation, a bravura performance that blended solemnity and levity, with his voice rising from a soft whisper to a near roar, holding the jurors tantalized.

He used sarcasm, mimicry, and gestures, at one point whirling to point a finger at a defendant.

It was a strong, stinging speech, a classic of courtroom oratory, delivered by a man who once told an interviewer: "I really hate losing . . ."

When the verdicts came in yesterday, Neal took credit for prosecuting "as vigorously as we could."

Mrs. Volner, who cross-examined former assistant Attorney General Robert C. Mardian, who was convicted, and lawyer Kenneth Wells Parkinson, the only defendant acquitted, was born in Chicago and graduated from the University of Illinois and Columbia University law school.

She had been the first woman prosecutor in the organized crime section of the Justice Department, and gained some unwelcomed publicity during early stages of the Watergate investigation for the miniskirts she wore.

Ben-Veniste, who cross-examined H. R. (Bob) Haldeman, the former White House chief of staff, was born in New York, studied law at Northwestern University, and won a reputation as a tough prosecutor in the office of the U.S. attorney for the Southern District of New York.

A source who knew him there called him "very, very fair, but also very determined, very enthusiastic . . ."

Other members of the prosecution team included Peter Rient, Gerald Goldman, Larry Iason and George Frampton.

NATIONAL HEALTH INSURANCE

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. CARTER. Mr. Speaker, the 94th Congress will be considering many new and innovative pieces of legislation. Certainly among the most important, and the most controversial, will be proposals for a national system of health insurance.

I take this opportunity to insert into the RECORD at this time an interview with Dr. Stuart Altman, Deputy Assistant Secretary for Planning and Evaluation, concerning many of the plans offered for consideration. I commend them to the attention of my colleagues:

SPECIAL REPORT: ALTMAN SAYS FINAL NHI BILL WILL BE AN "AMALGAM"

In an exclusive interview, ***Stuart Altman***, Ph.D., Deputy Assistant Secretary of HEW for Planning and Evaluation, and one of the prime architects of the Administration's Comprehensive Health Insurance Plan (CHIP), told "Washington Information: National Health Insurance" Editor *Jeff Prussin* that the final form of NHI which will be passed by Congress "is likely to be an amalgam" of CHIP, the Kennedy-Mills Comprehensive National Health Insurance Act (CNHIA), and the Long-Ribicoff catastrophic plan. While *Altman* indicated that the Administration has problems with both CNHIA and Long-Ribicoff, the problems "with the Long-Ribicoff bill are more substantial, both in terms of concept and in terms of financing."

CNHIA, on the other hand, "goes a long way in terms of providing a balanced benefit package . . . We have differences, however, with the over-riding importance of Federal taxation in the bill."

HEALTH INSURANCE INDUSTRY WILL NOT BE NATIONALIZED

When asked how the issue of public versus private financing and administration would ultimately be resolved, *Altman* replied, "it is a highly political and emotional issue." He went on to say that even though some individuals are opposed to private insurance companies, and view their profits as a bad thing *per se*, "the Congress and the American people are not likely to voluntarily see another industry nationalized."

VOLUNTARY PARTICIPATION URGED

Altman indicated that there is "a symbolic value, if nothing else, in having some degree of individual freedom preserved by CHIP's voluntary participation—even though we have designed a plan where the amount of voluntary dropout would be very small." However, *voluntarism would not be the stumbling block that would hold up a compromise bill,* according to *Altman,* since there are more fundamental differences to be resolved such as financing and administration.

QUALITY CONTROL MECHANISMS IN CHIP AS GOOD AS ANY OTHER NHI PROPOSAL

Indicating that CHIP goes as far as any other bill in assuring high quality care by expanding Professional Standards Review Organization (PSRO) activities "to include all care in physicians' offices as well as hospitals," Altman called criticisms of CHIP's quality control mechanisms "mostly rhetorical statements." Indeed, Altman claimed that none of the other NHI proposals go further than CHIP in the area of quality.

CHIP COULD BE MORE SPECIFIC IN THE AREA OF COST CONTROLS

There is, however, some room for criticism of CHIP in the area of cost controls, according to Altman. While CHIP is "a pretty tough regulatory bill, which establishes a clear environment of cost controls, . . . it does not lay out, in excruciating detail, how this regulatory system would be put in place." For example, while the States would be required to develop reimbursement systems for hospitals, "we could have, and perhaps should in the future, put in clearly the kinds of guidelines that we would like to see the States adopt. I guess our position was, in looking at the way States are behaving, that they are much tougher and have been much more innovative in terms of designing new and effective reimbursement systems than the Federal Government. Therefore, we felt it was not necessary for us to write a law specifying how the States should act."

Indeed, there is a strong incentive under CHIP for States action in the area of cost controls since the individuals in a State, as well as the States themselves, are affected by the particular State's effectiveness in controlling costs because insurance premiums in the State would be experience rated.

Under a Federally financed system, on the other hand, there is no incentive for the States to contain costs.

STATES COULD NOT AFFORD NONPARTICIPATION UNDER CHIP

When asked if CHIP might create Medicaid-type of problems in terms of uneven participation by the States, Altman was confident that such problems would be avoided under CHIP. "The way we have designed CHIP, Arizona [which has only recently enacted legislation to participate under Medicaid] could not afford to stay out; it is an all or nothing game. I am not worried about that."

The two major problems under Medicaid, however, are uneven eligibility requirements and unequal benefits packages; and, under CHIP, both would be mandated by Federal law. Therefore, the benefits and eligibility under CHIP would be the same throughout the country.

In any event, since "a system as broad as National Health Insurance will ultimately require some kind of decentralization, we are willing to give the States a chance." Giving the Federal government authority to "jump in and take over from the States would immediately establish a hostile relationship between the two governments which, I think, you want to avoid."

Therefore, since Congress always has the ability to rewrite the law, they could "very easily amend the law to allow the Federal government to go in, or require the Federal government to go in, and Federalize the whole system."

PHYSICIAN REIMBURSEMENT IS "TOUGH ISSUE"

CHIP contains three categories into which providers might fall for purposes of reimbursement. Full participating providers are reimbursed by the insurance companies, based on a fee schedule, for all services and do not have to collect deductible and coinsurance amounts from patients. They must agree, however, to accept the fee schedule payment as payment in full for their services, and are precluded from direct billing of patients for additional amounts.

Associate participating providers must agree to handle all Medicare and Assisted Health Insurance Plan (AHIP) patients as they would handle all patients under the full participating provider category but, under the associate category, providers could bill other patients for amounts beyond those allowed by the fee schedules and would be responsible for collecting copayment amounts from non-Medicare, non-AHIP patients.

The third category of providers, non-participating providers, would have no agreements concerning fee schedules and would not be eligible for any payments under any of the CHIP programs.

While institutional providers would have to be full participating providers under CHIP, physicians could choose either the full participating or the associate participating provider categories. When *Altman* was asked if Medicare-type of problems, where physicians bill patients for excessive amounts above those allowed by Medicare, would be perpetuated under the associate participating provider category, he replied, "No, but it is a tough issue which I think we handled in the best way possible. First, we established a system where there is a much stronger incentive for the physician to be a full participating provider than under the existing Medicare system. The health card gives physcians tremendous savings on administrative costs, and they lose much of that advantage if they become associate participating providers since they would have to collect copayment amounts as well as charges above the fee schedules directly from the patients." Second, approximately 65 million people, representing over 40% of the health care dollar, would fall under Medicare or the AHIP, and thereby "be covered by full participating agreements."

Associate participating providers would not have the option of refusing to treat Medicare and AHIP patients; indeed, there would be penalties for such discrimination.

There are, of course, alternatives to the CHIP approach which were recognized by Altman. For example, if physicians are required to accept customary prevailing rates as payment in full, and all individuals pay the same premium, "the individual who lives in a lower income area, and pays $8 to go to the doctor, will be subsidizing the individual in a wealthy area who pays $25." If, on the other hand, payments to physicians were all to be the same, there would be a real possibility "that you would unduly standardize and regulatorize the health industry. In addition, physicians would always find ways of beating the system. If they are determined to charge higher rates, and the fee schedule does not allow that, they will continuously charge for more complicated procedures; they will never have a routine office visit. Then you will have to send a policeman to find out if they really performed the procedures for which they have billed."

CHIP, according to Altman, represents a middle ground on the question of physician reimbursement, and "after reviewing the question, it is not clear to me that I know any better way to do it. I know all the options, but I do not know which one is a better option."

ADMINISTRATION STRONG ON COST-SHARING

Altman indicated that while the Administration is flexible and willing to compromise concerning the amounts of deductibles and coinsurance, they strongly believe that deductibles and coinsurance are necessary, "both as a vehicle for impacting on the utilization of health care and as a method for more evenly distributing the costs." There is, however, a willingness on the part of the Administration to discuss CHIP's sliding scale for cost-sharing to ensure that cost-sharing would not be a barrier to seeking and receiving needed health care services.

Another interesting problem is raised by having a standard deductible which is uniform throughout the country, while the costs of health care vary greatly. For example, a standardized deductible might discriminate against individuals in the Mississippi Delta, as opposed to those in Beverley Hills. However, acording to Altman, the individuals in Beverley Hills would more rapidly use up their deductibles than would those in the Delta and would therefore pay higher premiums for their coverage.

POOR TO SUBSIDIZE RICH UNDER CNHIA

The problem you have with respect to the Kennedy-Mills bill, which is more serious, is that the people in the Delta would not only take a long time to use their deductibles, but they would also be subsidizing the health care for individuals in Beverley Hills since the costs of health care would be shared on an equal basis throughout the country." Indeed, this is a key problem which the Administration recognizes under Medicare: "what looks equal, is not always equal."

PREVENTIVE SERVICES SHOULD BE COVERED ON SAME BASIS AS OTHER SERVICES

According to Altman, preventive services should be covered by National Health Insurance, but should not be excluded from the deductible and coinsurance provisions, primarily because of definitional problems. For example, are the examination of a child with a sore throat to make sure he does not have strep throat, or the examination of a bruised arm to make sure it is not more seriously injured, any less preventive services than an annual check-up? "Why should the former be included under the deductible provision and the latter not?"

If preventive services were excluded from the deductibles and coinsurance, "it would distort the delivery system in the opposite direction than it is today, where most insurance coverage excludes preventive services. For example, people today make up stories and have sick visits; they do not have annual physicals. We finally said, 'let's not distort the delivery system in the other direction'."

ADMINISTRATION STUDYING LONG-TERM CARE

Altman praised CNHIA for raising the consciousness about the problem of long-term care. Even Kennedy and Mills, however, according to Altman, agree that the long-term care provision "they included [under CNHIA] may not be the best way of solving the long-term care problem."

While long-term care is a problem that must be addressed and resolved, Altman indicated that it was not included under CHIP because "we did not have a good solution for it. We have established a special Task Force which will look into the long-term care problem and come up with recommendations within the next couple of months."

He also questioned whether NHI is the appropriate vehicle to handle long-term care, because long-term care is "a subject where the medical care component is just one among many. . . . It borders on the whole maintenance of life," and NHI may not be the appropriate vehicle where "housing allowances, food and living, social services, and so forth may be just as important, if not more important, than medical care."

Finally, the Administration is anxious to explore the feasibility of alternatives to institutional long-term care, such as care at home.

FEAR OF OVERUTILIZATION OF MENTAL HEALTH BENEFITS

Altman indicated that mental health care presents a potential for never-ending cases, that is, "people become chronic users of this and they become almost addicted to it." The limits on mental health care in CHIP "are designed to allow an individual to receive a normal amount of crisis care." If he cannot be treated within the covered time period, "he is likely to go on for two or three years, and that is something that National Health Insurance can not handle. . . . It really becomes a long-term care problem."

PRIVATE INSURERS DEFENDED

Altman indicated that it is unfair to criticize the private insurance industry for not performing "in areas where they could not appropriately be expected to do the job. I do not think that private health insurance can, or should be, the vehicle for controlling medical costs or the quality of care; and they certainly cannot be the producers of new resources." It should be the job of insurance companies to administer and financially protect individuals against health care costs, and "it should be the job of government to establish the environment in which they operate."

On the question of insurance company profits and administrative costs, Altman said that the figures he had seen indicate that administrative costs for large groups are quite reasonable—with payout ratios "running anywhere from 85% to 95%. . . . When you get to the small groups, however, the administrative costs are very high. . . . There is a lot of individual selling, and administrative costs can run as high as 50%. CHIP was designed to reduce such high administrative costs."

While CHIP "will increase the amount of business for the insurance industry by about $4 billion," the increase will be primarily in the area of large, rather than small groups.

ALTMAN PESSIMISTIC ABOUT NHI ENACTMENT THIS YEAR

While Altman was confident that NHI will be enacted soon, he felt that "the realities of the situation make action this year doubtful. There is a general feeling that something needs to be done. However, it is not clear where the pressure is coming from. It is not from people who are out waving banners yet." However, health care costs are continuing to increase "at rates that, if they continue in the forseeable future, will make Americans even more concerned about medical care and push them towards more severe solutions." Already, because of increased costs, the Administration's cost estimates for the various NHI proposals are low.

In sum, Altman felt that "the longer the inaction on NHI, the more medical costs will get out of hand, and the more attractive to the general public a Federalized solution to the NHI problem will appear."

CITY OF BOSTON EMPLOYEES RETIRED

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. MOAKLEY. Mr. Speaker, recently Mr. Paul Carty and his wife, Edwina, both employees of the city of Boston retired after many years of devoted service to the people of their city.

On January 6, the city council adopted a resolution saluting the Cartys for their tireless service. I wish to join in that salute and insert the resolution at this point in the RECORD:

RESOLUTION

Whereas, Paul L. Carty, Executive Officer, Boston Retirement Board, and Edwina S. Carty, Head Secretary, Board of Examiners, having both retired from the City of Boston after more than 60 years of service in the aggregate; and

Whereas, During their service they have been most helpful and responsive to the needs of all who had business with their respective Boards; and

Whereas, As concerned and dedicated employees, they have not only won the respect and esteem of their fellow employees, but of everyone seeking their guidance and assistance; now, therefore be it

Resolved, That the Boston City Council salute Paul and Edwina Carty for their many years of devoted service to our City and wish them good health and happiness in their retirement years.

THE TRAGEDY OF CHILD ABUSE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. RANGEL. Mr. Speaker, child abuse has been a tragic problem for hundreds of years yet, until recently, there has been very little action taken to remedy the problem. Last year in New York City, there were 19,000 reported cases of child abuse. Adding the unreported figures to this already large number would probably make the figure beyond belief. We must put an end to the disastrous abuse of innocent children. I submit this article by Tom Rosenthal from the West Sider, an excellent community weekly, to make us all more aware of this terrible problem, and perhaps to stir some action as a remedy.

The article by Tom Rosenthal follows:

CHILD ABUSE: ONE BIG PROBLEM

(By Tom Rosenthal)

In 1874, a nine-year-old girl named Mary Ellen was found chained to her bed by a nurse named Etta Wheeler. By the little girl's physical condition it was apparent to the nurse that Mary Ellen's parents had beaten the child repeatedly and nearly starved her to death.

At the time there was no legal means for Etta Wheeler to remove Mary Ellen from her parents' control. Under common law, the parents had absolute power over their child.

With no other resources, Nurse Wheeler turned to the Society for the Prevention of Cruelty to Animals. On the grounds that the child was being treated worse than an animal, the Society was able to remove Mary Ellen from her parents' custody.

From 1869 through the 1870's, more than a thousand dead or dying children were found abandoned on the streets of New York.

In the 100 years since Mary Ellen was saved from an almost certain death, it is questionable whether the situation regarding child abuse and neglect has greatly improved.

Today, an estimated 5,000 children die every year in the United States as a result of injuries inflicted by parents and an additional 300,000 children suffer serious injury.

Last year, in New York City alone, there were 19,000 reported cases of child abuse. This year the projected figure will pass 26,000. Of these children, it is estimated that half will be under four years old; one-third will be less than 12 months. The numbers represent only a fraction of the total incidence of child abuse.

To focus attention on this overwhelming and often horrifying problem, the guidance counselors and Pupil Personnel Services Committee of School District 3 held a symposium on child abuse and neglect last Wednesday, November 13, at P.S. 163 on West 97th Street.

"We're not here to frighten anyone with the gory details of child abuse," Sam Wilkins of the program committee told the 100 parents, teachers and guidance counselors seated in the auditorium. "We're here to show how child abuse manifests itself."

Members of the panel, which included Dr. Elizabeth Watkins of St. Luke's Hospital, officials from the Bureau of Child Welfare, and a director of a neighborhood treatment center, sounded optimistic over the progress being made as a result of new legislation and a growing awareness of the problem by the public.

These inroads, according to Stewart Grant of the Bureau of Child Welfare, have brought greater results in the past 10 years than in perhaps the last 100.

But the panelists were careful not to sound too optimistic. Each described the continuing need for more awareness and more effort to combat the problem.

In opening the conference, District 3 Superintendent Joseph Elias summed up part of the problem when he said, "We know that children who are abused grow into parents who abuse children. Somewhere in that cycle we've got to intervene."

"But," Elias said, "there has been a reluctance on the part of many institutions to interfere in what has been called the private realm of the parents and the children, something we've held sacred."

This "sacred right," which for centuries has prevented society from interfering with emotionally troubled parents when they abuse and neglect their children, was finally curbed last year when New York State passed one of the most far-reaching pieces of legislation on the matter.

Under the law, teachers, school officials and a long list of professions including doctors, nurses, day care or child workers, police and many others were mandated to report to the Bureau of Child Welfare "when they have reasonable cause to suspect that a child is abused or maltreated."

Failure to report is a class A misdemeanor and the person can be liable for any damage caused by the failure.

Of the 19,000 cases reported to the Bureau last year, 3,300 came from hospitals, 2,500 from the Department of Social Services, 2,100 from schools, and many from police and Family Court. But, said Stewart Grant, the most glaring figure is that only 25 cases were reported by private physicians.

"About 90 percent of the cases involved lower income families," Grant said. "There is a reluctance on the part of private doctors to report suspected incidents because they might have a long-time relationship with the family."

Grant also said that some doctors might fear losing patients if they are known to report suspected cases of child abuse.

The large number of cases involving lower income families does not indicate that there is a higher incidence of abuse in those families, Grant said. "They are just subject to more observation by public agencies."

Each year the number of cases reported increases. Last year's figure is almost twice the number reported in 1972. Grant said, "There is probably a higher incidence of child abuse, but also a greater willingness on the part of neighbors and others to make reports."

The swelling of cases has caused an overburdening of the system, according to Dr. Watkins, head of St. Luke's Pediatric Department. "Each case, by law, has to be investigated," Dr. Watkins said.

While the system continues to be overburdened, there is still the basic problem of identifying child abuse.

"It is not easy to draw a fine line between the physical abuse of a hard spanking, screaming at a child, or yanking a child's arm when he moves too slowly," the doctor said.

Stewart Grant pointed out that "leaving a child alone for hours is a clear case of neglect. But what about sending a child to boarding school for 10 months and then to summer camp for the remaining two months? Is that neglect?"

Bereneece Sims, director of the Harlem-based community program called "Come in My Child," enlarged the scope of the problem by saying, "When the city cuts off social services, or cuts off the mother from welfare, the city is guilty of child abuse. Who is going to provide clothes, food and shelter when the parent can't?"

Ms. Sims, whose program provides residency for 20 children who have been abused and neglected, also questioned the effects of poverty and racism on children.

"Children take on the frustration of their mothers who have not fully recovered from the effects of her own poverty. The mother comes to feel the child as a penalty for her poverty. She feels she must have the endurance of a superhuman."

Ms. Sims made the point that "we can no longer treat only the symptoms, the child being beaten or abandoned, but also the causes."

While the panelists discussed the problem, the noise of children in the school yard filtered into the auditorium. It provided a fitting backdrop to the sense of optimism and the realization that more must be done if child abuse and neglect are ever to be eradicated. For, as Stewart said, "we are not dealing in statistics. Statistics represent children, and children are our concern."

TRIBUTE TO DR. MARTIN LUTHER KING, JR.

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. FISH. Mr. Speaker, today marks the 46th birthday of the late Dr. Martin Luther King, Jr. I think it is fitting for the Members of Congress to honor this man today by recommending themselves to the ideals for which he worked and died—equality and justice for every American; an end to poverty; and the national leadership that is needed in the cause of world peace.

Dr. King proved that radical change can be effected within the system—without destroying that system. The concept of peaceful change, which so clearly set apart Dr. King's efforts from the many violent and turbulent events of the 1960's, remains a model for all those seeking to bring about reforms that are so long overdue.

Only by being responsive to the needs of all the people of this country can we truly demonstrate our commitment to the ideals of Dr. King, and thereby insure that social change can be effectuated through peaceful means.

We miss the moral leadership of Dr. King, but his spirit lives on. I trust that this Congress will rededicate itself to his goals, and act vigorously to solve the problems of racism, poverty, and war.

STREET LIGHTS SAVE ENERGY, MAKE SAVANNAH A SAFER PLACE TO LIVE

HON. W. S. (BILL) STUCKEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. STUCKEY. Mr. Speaker, for years, Georgia communities have been among the Nation's first to use advanced municipal government techniques as well as technologically advanced equipment systems.

One area I, personally, am familiar with is community street lighting. I became involved when one of the House committees on which I serve developed a master plan for relighting the streets of our Nation's Capital.

One city in the vanguard of a developing trend in street lighting is Savannah. This Georgia city is leading the way in providing more light for its citizens, while using energy wisely. Their lights are the most efficient currently available. In fact, this type of light uses less energy than the lights they replace, while providing from 20 to 40 percent more illumination.

The Federal Energy Administration—our Nation's highest energy authority—has gone on record encouraging communities to use just those light sources because they use energy wisely, while providing the desired safety, and save local taxpayers money.

In fact, Chicago's Mayor Richard Daley recently announced his city's new high pressure sodium lights would save the city $250,000 annually in energy costs while using 250,000 fewer barrels of oil. Another major American city, New York, recently reported the same kind of important results. There, Milton Musicus said the city's new 86,000 high pressure sodium lights throughout the five boroughs would produce 50 percent more light, while resulting in a net saving of more than a million gallons of oil a year. Earlier, Philadelphia switched to these most efficient lights, increasing lighting levels by 70 percent while using 10 percent less energy.

It is pretty well accepted that lighting—thoughtfuly employed—helps save lives in traffic accidents, and reduces crime. A Library of Congress report points out that Tucson, Ariz., cut crime 50 percent after an area was relighted. This same report told of a study in Virginia indicating traffic accidents were reduced by 38 percent after relighting.

So today, when we are all concerned with using our energy sources efficiently, it is encouraging to have the FEA point out that projects such as Savannah's will not only help save lives and reduce crime, but also be helpful in conserving energy.

To give a broader perspective of the thoughtful program in Savannah, I insert an article from the October 1974 issue of Urban Georgia in the RECORD:

HOW SAVANNAH CONQUERED FEAR OF THE DARK

Savannah's "Brighten the Night" program is eloquent proof of the maxim that "nothing is as powerful as an idea whose time has come". According to P. Malcolm Smith, Jr., 37-year-old Director of Savannah's Traffic Engineering and Electrical Maintenance, "That the right time had come for upgrading the city's lighting was evident from the rising crime and accident figures plaguing Savannah".

It sparked the bold idea-packed plan for relighting Savannah, that was the combined brainchild of the Savannah Power and Electric Company and P. Malcolm Smith.

Savannah owes its unique position as the first totally planned city in the United States to General James Oglethrope. Arriving in 1733 from England with a band of colonists, he was instrumental in creating the design of the city.

The long range plans developed then, now account for Savannah's airy, gridiron-with-open-space design. Spacious parks and boulevards, too, were intentionally included. Today, they contribute substantially to the city's attractiveness.

DESIGN AIDED CRIME

In the 1960's, these very features also contributed to the city's rising crime and accident rate. The lush growth of trees, shrubs and Spanish moss, for instance, which were inadequately illuminated, served to shelter the criminal element, at the expense of the law-abiding citizens. Under cover of darkness, trouble-makers roamed the streets freely while the decent townspeople felt imprisoned in their homes after nightfall.

Malcolm Smith's reputation in relighting the cities of Tampa and the District of Columbia preceded him to Savannah. For his part, Smith recalls: "I knew that with cooperation from the citizens and utility company, we could show the dark city of Savannah that improved lighting would serve to upgrade every aspect of community life." Although a native of Tampa, Smith doubles as the city's director of Streets and Drains.

Working closely with Savannah's Power and Electric Company, and enlisting the support and cooperation, in addition, of one of the major street lighting manufacturers, Smith obtained a trial installation in 1968. Starting on Bay Street, the test consisted of six recently developed high intensity luminaires. Soon after these 400 watt high intensity lights were placed in the Bay Street area, which previously had no lights, it became clear that the city was delighted.

POLICE LAUD PROGRAM

Among the many government offices that vocally applauded the effort was the Police Department. "We found that it was now easier for our men to patrol a very much larger area, without increasing the size of the force," says Chief Leo B. Ryan. "Patrolmen could see clearly down both sides of the street, even though the area might have heavy growth of shrubbery and trees."

Ryan, Savannah's police chief since 1965 and a member of the Police Force since 1939, enthusiastically encouraged installation of the high intensity lights for other areas of the city. "I firmly believe," he points out "that adequate lighting is an effective deterrent of crime and vandalism. Darkness shields the criminal and costs the community untold grief in burglaries, assaults, and accidents.

"We find that the improved, high intensity lighting," he continued, "assists our police force to patrol larger areas more effectively, at no added cost to the community." In some high crime areas, Chief Ryan remarked, improved lighting enabled his department to reduce incidence of crime and vandalism by as much as 50 percent.

For the Savannah Power and Electric Company, the Bay Street installation also served as a pilot area. According to Wade Hampton, now a vice president at Savannah Power and Electric, but at that time sales manager: "We find that maintenance and upkeep of the new luminaries is minimal, and the light quality is excellent. We're for them 100 percent."

CITIES FOLLOWING SAVANNAH

Clearly, the community, too, heartily approved of the installation. Very soon City Hall was inundated with citizens' requests to extend the program to their areas. Now Savannah has the most extensive high-pressure-sodium lighting system per capita in the nation. Many other Southern cities, in fact, are modeling their own lighting campaigns on Savannah's.

The city of Macon, Georgia, is one of those which recently dispatched a delegation to study the Savannah plan, with an eye toward duplicating many of its outstanding features.

In 1969, Savannah's Street Lighting budget amounted to $20,000 and operated on a first-come, first-served request basis. By 1972–3, however, the budget for the city's 115,000 residents increased to $45,000 annually. Improved lighting is now proceeding according to a 5 year "blitz" plan conceived by Malcolm Smith's department and authorized by Mayor John Rousakis.

PLAN BEGAN IN 1970

Genesis for the plan goes back to 1970, when an improvement program was undertaken to upgrade arterial lighting on major traffic collectors. The plan involved phasing out inefficient incandescent lamps, which were also expensive to maintain, plus conversion of smaller mercury vapor lamps up to 400 watt lamps.

Upon taking office in 1970, Mayor Rousakis demanded that the relighting campaign be extended to residential sections, as well. In pledging his administration to restore safety on streets and highways, he said he would use every means available. Accordingly, the mayor's office authoirzed the Traffic Engineering Department to conduct an exhaustive 12-month survey to study Savannah's need for relighting, area by area, on a priority basis.

Smith's department, which by now had been expanded to include Dick Armstrong, a 33-year-old traffic planner, completed the study in October of 1970. Close collaboration on the 5 year "blitz the dark" campaign between the Savannah Power and Electric Company and the Traffic Engineering Department went forward in January 1971. Smith credits the utility's cooperation for much of the economical and efficient progress of the operation.

BUDGET APPROPRIATED

The City appropriated 50 percent of the $90,000 municipal budget for improved lighting, with the blessing of the man in the street, as well as the rest of the community. Savannah's morning and evening papers, the News and Press, strong advocates of high intensity lighting, featured the need for the campaign in Action Line Columns and editorials.

The planners of Savannah were careful to install lights and traffic signs that would preserve this historic quality. In a further effort to complement the architectural standards of the area, shepherd crook fixtures were converted to house the new high-intensity lights. Municipal officials are pleased with citizens' response that the total effect is to give "a good account" of the area's relighting program.

The size and variety of the lights going up in Savannah is planned with the needs of each specific site in mind. For example, Smith's research revealed that 175-watt mercury vapor lamps were both adequate and economical for most residential streets. For wider streets, with median dividers, and boulevard size streets, the 400-watt mercury-vapor lamps proved most effective.

ADDITIONAL ECONOMIES REALIZED

In other neighborhoods, which require less intense lighting, the 250-watt size sodium vapors are ideal. Additional economies were realized when Smith found that with a little ingenuity, the shepherd crook fixtures in use could be easily converted to house high-intensity lighting.

If measured only in the reduction of the traffic accidents in Savannah, the relighting program has to be a huge success. Statistics show, for example, that for the 19 month period from January 1969 to the end of July 1970, Savannah's vehicle-related accident rate amounted to a monthly total of fifty accidents. Many of these were serious accidents and fatalities which occurred at dark intersections. The same area, charted for the 17 month period from August 1970 to December 1971, after the lighting program was in effect, showed a total of 24 accidents monthly, better than a 50 percent reduction.

It is important to note that the accidents recorded after relighting were of a much less serious nature, too. Traffic Department studies revealed that adequately lit intersections greatly reduced the possibility of head-on collisions.

SPEED-UP REQUESTED

As these results pour in, residents are besieging city officials with requests to double up on the "blitz" program. They want to blitz the "blitz." The original plan calls for improvement of 85 percent of the city's areas by 1975, but citizens seek a speed up to a 1974 completion date. Mayor Rousakis' administration and Smith's Traffic Engineering group are now considering the feasibility of these requests.

Savannah anticipates that the relighting program will substantially contribute to the activity and safety of its busy seaport. The city's docks serve the lumber, millwork and metal fabricating plants for which Savannah is well known. Continued industrial growth is the encouraging forecast in these industries as well as for Savannah's chemical, petroleum and paper suppliers.

Savannah's story is a unique one. "We've proven that an inspired citizenry can work wonders with the help of municipal and elected officials," says Smith. "Savannah's citizens learned early that they could help push along this lighting program, and that their interests and desires were being heeded by city hall." But Smith quickly emphasizes that as others learn of our success, "the trend toward total community involvement in relighting projects" is spreading across the country.

One thing is certain—Savannah's fight against the shadows of the night is winning the pitched battle against crime, accidents and apathy.

SPECIAL PROSECUTOR JAMES F. NEAL

HON. GALE W. McGEE

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Wednesday, January 15, 1975

Mr. McGEE. Mr. President, Special Prosecutor James F. Neal has rendered the Nation an invaluable service by the manner in which he conducted the Government's side of the Watergate trial.

When Leon Jaworski resigned that position to return to private law practice, he certainly knew what he was doing when he recommended James Neal to replace him as Special Prosecutor. And James Neal proved he was more than equal to the task, as demonstrated by the words of Mary McGrory appearing in the Washington Star-News of December 20 and 23.

I am sure the people of Tennessee feel a special pride in James Neal as a home-State product. However, once again, I must point out that we in Wyoming also lay claim to James F. Neal and feel a special pride in the job he has done. As a history professor at the University of Wyoming during the late 1940's and 1950's, I point with special pride to the fact that Jim Neal was a student of mine. Not only that, but Jim Neal was also an excellent football player at the University of Wyoming on a team recognized as one of our finest.

Thus, the people of Wyoming certainly will not give Tennessee a clear road in claiming James Neal as their own. We in Wyoming would like to think that Jim's experience at the university had a lot to do with preparing him for the role he performed with excellence.

I ask unanimous consent that the two articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

NEAL'S BIG SOLO TURN—FROM THE BEST OF EVIDENCE

(By Mary McGrory)

Chief Prosecutor James F. Neal could hardly wait to have at them.

"You're so eager to get started" said Judge John J. Sirica, noting Neal's restlessness, "you're like a racehorse."

The closing argument to the jury is the prosecutor's big solo turn and Neal knew his material was matchless.

No prosecutor has ever had such evidence.

"There's never been anything like the tapes," observed one morose defense lawyer, "you have not only their own words, but their own voices."

And Neal had as defendants men who proved in the three months' trial that they have learned nothing.

Unless there is a constituency for unpleasantness on the jury, they all, with one exception, played into his hands. Only the least of them, Kenneth W. Parkinson, a proper establishment lawyer who signed up smugly to defend the Nixon campaign committee in a civil suit and ended up transmitting blackmail messages, behaved as if he were in trouble, not in a fight.

The others acted as they had while they were running the country. For them it was simply a question of finding the enemy—in this case the prosecutors took the place of peace demonstrators and balky congressmen—and opened fire.

H. R. Haldeman, who seems to understand that things have changed somewhat, tried, but he argued and rambled. John Mitchell was sullen, Ehrlichman overbearing. And Robert C. Mardian seemed bent on proving that he was a true Nixon man, that is, one who regards civility as a sign of weakness.

Their witnesses were disastrous. They contradicted each other, opened up new areas of inquiry and could not be vouched for. Charles Colson, summoned by Ehrlichman, made the point for the prosecution that, amid the cutthroat realities of the Nixon White House, anything was possible.

So Neal had all the cards, but when he stood up it was as if he were in the fight of his life. He is, like any good prosecutor, a showman. He rang every change: citizen indignation, rage, scorn, and humor. He told the story of Watergate as if it had happened yesterday and he could hardly do it justice.

He is out of Tennessee, and he has learned some preacher's tricks. He pounded the lectern. He wheeled around to search out John Mitchell slumped at his corner table. He told the jury what was at stake, "plain old garden variety right or wrong."

He quoted from the tapes in his heavy Tennessee drawl. He spoke in the present tense in down-home language. Gordon Liddy "high-tails it" to the campaign headquarters to shred documents the day of the breakin. John Dean "trots over" to the White House to report to Ehrlichman about the fund-raising scheme.

Neal never forgot his audience. He would lean towards the jury and ask, "Can you explain it?"

"Whah?" he would cry when inquiring what motive a witness could have had to dispute the testimony of the defendants.

He had a special old Justice Department man's fury for John Mitchell: "Do you think Mr. Mitchell got to be the attorney general of the U.S. without the ability to say no, you get out of my office, to someone like Mr. Liddy?"

He asked the jury to remember Herbert Kalmbach—"a gentleman, a sad man."

"Mr. Mitchell had an urge to get the truth out. Do you know what he told the FBI on July 5?"

He stopped, stepped back. Then he snorted, "Nothin'."

He mimicked John Ehrlichman protesting that during the CIA meeting, he "just sat there and did not know what was going on."

"Ladies and gentlemen of the jury, you saw Mr. Ehrlichman for three days on this stand. Nobody has ever accused him of being naive, dumb or not knowing what is going on. He knows what's going on. He knows what's going on 24 hours a day, and if there were 30 hours in the day, he'd know what's going on for 30 hours."

Neal roared through the evidence for an hour and 15 minutes, never pausing except for effect. After the recess he came back and apologized to the jury for being "loud."

"I'm all you've got," he said, his hoarse voice low.

He's too much for the defendants. Their lawyers know they cannot match his fire or his skill—or his case.

WATERGATE AS THEATER: NEAL'S FINAL SCENE

(By Mary McGrory)

If they didn't stop laughing, the judge, "Maximum John" Sirica, warned the spectators, he would clap them in jail for 10 days. Unlikely as it seemed in December 1974, the story of Watergate was causing unpardonable mirth in his courtroom.

"This is not a movie or a stage play," he said severely, during an intermission in chief prosecutor James F. Neal's extraordinary closing argument.

But as Neal did it, it was a play, the like of which has never been seen hereabouts. He took all the parts, John Ehrlichman, H. R. Haldeman and John N. Mitchell. He has a wicked ear for their admanastronaut-macho lingo, and he can quote it by the yard. He has a sharp eye for the zany detail. When the "humanitarian, compassionate" funds for the Watergate burglars are sent and handed to Fred LaRue by a White House messenger, he is wearing gloves, Neal notes, and "there is poor Gordon Strachan standing there with his bare hands."

Neal is from Tennessee, where juries expect to be taken by storm and demand their evidence and their law decked out in laughter, tears, action. True to his training, Neal put on a show, although he later said it was "Northern sophistication" by his usual standards.

He talks in pictures. He wants to shine up his star witness, John Dean, the favorite target of the defendants, who, despite the tapes, continue to damn him as a liar and manipulator. Neal makes a little suspense story of it.

In Neal's rollicking narrative, Dean melts into a cocker spaniel, a White House pet, who was "patted on the head" and praised for fetching and carrying in the cover-up.

"When did nice, good fine John Dean become mean John Dean?" Neal asks the jury while chuckles and giggles erupt in the courtroom.

It happens, he tells them, when John Dean goes to the prosecutors, and President Nixon, Haldeman and Ehrlichman find out that "he is going to let it all hang out."

He invites the jury to listen to the tapes, if they think he exaggerates. He reads the part where Nixon is telling Ehrlichman that a singing John Dean must be reminded that "one man can save his law license."

Neal reads Ehrlichman's lines with relish. He knows that Ehrlichman, who is still being the most pompous and indignant of the defendants, is outraged at having his words rendered in Neal's sardonic, Southern, band-saw tones.

And Mr. Ehrlichman's response, Neal says, is "Um-hum."

"He objects to the way I read it, he says it's a negative um-hum. But it's um-hum, right here in the transcript and it's spelled u-m-h-u-m."

Neal has geen going on for more than an hour, and the audience is lapping it up.

The judge sends the jury out, and Ehrlichman's lawyer leaps up and moves for a mistrial on account of the laughter in the courtroom and its "negative impact" on the jury.

The judge observes that Neal "has not exceeded the bounds of propriety." Obviously he has not. His boffo comic material is all in the record.

After the recess, the spectators, sobered by the prospects of D.C. Jail, return. Neal at once imperils their freedom. He translates the letter of resignation that Ehrlichman has written for John Dean in April 1973.

"Out, John Dean, out, hors d'oeuvre!"

Neal pauses for an apt, sympathetic metaphor for the two lesser defendants, Kenneth Parkinson and Robert C. Mardian. He compares them to cymbal clashers in a symphony orchestra, not often heard, but essential if the music calls for them. He is sorry for Parkinson "who looked evil in the face and first shied away" and then went along.

He comes back to his closing. How will he handle it? He approaches it quietly. He fumbles a bit with the quotes, but it is moving.

"Members of the jury," he says, the time for comedy past, "these conspiratorial conversations have happened in the hallowed halls of the White House of the U.S.—where once strode such giants as Jefferson, Jackson, Lincoln, the two Roosevelts, Eisenhower, Kennedy.

"Can you compare the White House, perhaps when Jefferson was drafting his Second Inaugural or Lincoln writing 'with malice toward none,' with the tapes you've heard in this courtroom, or Roosevelt saying 'we have nothing to fear but fear itself' with the statement, 'Give them an hors d'oeuvre and maybe they won't come back for the main course?' "

He sits down. He has demonstrated all the qualities that were lacking in the Nixon White House; reverence for the law, fidelity to facts, a sense of humor, a sense of history, patriotism, kindness and perspective.

It was a bravura performance. Those who heard it will never forget it and will be sorry for those who did not. It cried out for taping.

LANCE FREMD

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. HEINZ. Mr. Speaker, today, for the first time in history, the Naval Academy is dedicating a room to a midshipman. A room in the academy's recreation center, Dahlgren Hall, is being dedicated to Lance Fremd, who died at the age of 21 in a parachuting accident at the academy. It is fitting that Lance's spirit of adventure will become a permanent part of the academy's recreation program, and I respectfully request that this article from the Pittsburgh Press be reprinted in the Record.

I am proud to be associated with Mr. and Mrs. Osborne Fremd, constituents of mine from Mount Lebanon, Pa., and know you will join with me in wishing them the best on this important day.

The article follows:

NAVAL MEMORIAL TO RECALL MIDSHIPMAN'S LOFTY GOALS

(By Roger Stuart)

Lance Fremd, while he lived, may have appeared a lucky fellow.

Most often, he succeeded at whatever he aimed to do—going to sea at 14, earning a pilot's license at 16, then finally capturing a Naval Academy appointment at 18.

But his parents, Mr. and Mrs. Osborne Fremd, of 900 Valleyview Road, Mount Lebanon, know his successes were due more often to pluck than chance.

As for Lance's luck, the couple recalls these fateful items:

Insurance actuaries say the odds were a million-to-one against the freak skydiving accident that claimed his life Aug. 6, 1972, in Ridgely, Md.

Although Lance and other midshipmen were to have flown to Greece that Sunday to begin a training cruise in the Mediterranean, Navy transport planes were delayed a day.

The Fremds, after learning of the postponement, suggested they visit Lance in Annapolis that weekend. But he dissuaded them.

Lance parachuted from planes all day Saturday, and returned to the field on Sunday because his girl friend left her home five minutes before he telephoned to ask her for a date.

The Fremds recounter their son's aspirations and adventures while discussing the meeting room that will be dedicated in his name Jan. 15, at Annapolis.

It's located in Dahlgren Hall, the academy's newly renovated social and recreation center; so, the Fremds hope midshipmen who use it will find it a fitting tribute to their boy.

Lance, the eldest of two boys and two girls, was 21 when he died.

His sister, Alix, was celebrating her 14th birthday that day, and Mrs. Fremd was baking a cake when a Navy officer came up the driveway to bring the news.

The accident had occurred at a flying club not far from Annapolis, the officer said.

Lance's pilot chute popped out in an irregular horseshoe loop during his third free fall of the day, then tangled hopelessly with the main silk.

Lance was a first-classman and planned to become a Marine Corps pilot after graduating as a second lieutenant.

It had been tough getting that far, his parents knew. There still were some rough spots ahead.

But, quietly and with great confidence, he long had set his goals.

And, with a dedication that had surprised them when he was younger, he had pursued them.

Lance, for example, had wanted to sail on the ocean, and he went to sea at 14 aboard the schooner, Brilliant, out of Mystic, Conn.

The family lived in Harrison, N.Y. then. Lance, aiming at the Naval Academy, joined the Sea Scouts.

He decided to compete for one of nine berths on the crew of the Scout ship which was scheduled for a 10-day cruise along the Atlantic Coast.

The Fremds were doubtful anyone his age could win such a competition with much older youths, but Lance proved them wrong.

He also joined the Harrison High School swimming team, winning a letter before the Fremds moved to Mount Lebanon.

Lance was a junior when he arrived at Mount Lebanon and bent on breaking away from land once again, this time with the sky his goal.

He took flying lessons, paying for them himself with money he had saved delivering newspapers.

Lance never lost sight of the Naval Academy, although he knew it would be tougher getting an appointment from a local congressman because he was a stranger.

To make himself known to the late U.S. Rep. James G. Fulton, Lance went campaigning.

"He drafted a resume stating his credentials and went calling on 200 business and community leaders," said his dad.

"To those who would talk to him, he asked, 'Could you please write a letter to the congressman recommending he appoint me to the academy?' "

It was Lance's own idea. But it was obvious a bit of his dad's skill as a sales executive for PPG Industries had guided him.

Then, said Mrs. Fremd, when Richard Nixon came to Pittsburgh in 1968 during a campaign swing, Lance said he was going to get his recommendation, too.

His parents were dubious. But Lance hitched his chances of meeting Nixon to the Mount Lebanon High School Band and Rockettes. They were to greet the candidate at the airport.

"Lance waited for the ceremonial lull he fully expected would occur," said Mrs. Fremd. "When it did, Lance rushed up to Nixon, who was not yet the President.

" 'Mr. Nixon,' he pleaded, 'Will you read this?'

"Nixon said: certainly, he would and took the resume. But he gave it to an aide who pocketed it. So, we were fearful Nixon wouldn't read it.

"As it turned out, Nixon not only read it, he wrote Congressman Fulton asking him to consider strongly giving Lance an appointment.

Fulton did. But just in case he hadn't, Lance sought and got a Naval ROTC scholarship that he could have used at another college.

It was his brand of insurance. His larger goal was an officer's commission and a military flying career. Failure to get to Annapolis wouldn't stop him.

"Lance just wasn't an earth person," says his dad. "He was majoring in aerospace engineering, the academy's toughest curriculum."

"He got his greatest thrill taking a plane up as far as it would go," said his mom. "He took me up once and I could tell how he felt."

"We all flew with him—even Benjie," said Derek, 13, of the family's dachshund. "But Benjie didn't take too well to flying."

The parachute jumps also were thrilling to Lance, said his dad.

"But that's not why he made them. He jumped because he was going to build his own plane and he wanted to be sure he could escape in a hurry if the need arose."

The skydiving he did the day he died was intended merely to sharpen skills acquired in paratrooper training school at Fort Benning, Ga., where he earned gold parachute wings.

"To get to that point in his life," said his mother. "To go through all that training . . . it's terrible."

But for all of the tragedy, there's inspiration, too.

And that's why the Fremds are dedicating a room in their son's name at the U.S. Naval Academy that other midshipmen may use in preparing to achieve their own set of dreams.

UNITED STATES-SAUDI ARABIAN MILITARY RELATIONSHIPS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. HAMILTON. Mr. Speaker, in mid-December 1974, I asked the Department of State to send me an unclassified letter indicating the total range of United States-Saudi Arabian cooperation in the security field and the volume and amounts of current arms sales.

The Department of State's reply lists eight areas in which we have cooperative military relationships. It should be noted that the recent announcement of Saudi Arabia's intention to buy some $750 million worth of aircraft over the next few years covers contracts in only one of the eight categories listed.

I am sure my colleagues will agree that Congress needs to follow closely the arms buildup in the Persian Gulf and the Middle East. New reporting requirements to Congress will help in this process, but we need to pay particularly close attention to sales to Saudi Arabia, the even larger sales to its neighbor across the Persian Gulf, Iran, and potential sales to Kuwait.

The letter from the Department of State follows:

DEPARTMENT OF STATE,
Washington, D.C., December 31, 1974.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on the Near East and South Asia, Committee on Foreign Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: During our December 16 talk, you asked that I provide you with an unclassified statement on U.S. arms sales to Saudi Arabia.

As you know, a basis for our policy toward Saudi Arabia is our conviction that regional security in the Gulf must primarily depend on the strength and stability of the two largest Gulf countries, Iran and Saudi Arabia; and in the Peninsula itself, that the primary responsibility for collective security must rest with Saudi Arabia. Because of this, and because we and Saudi Arabia share an interest in the area's stability, we have had a military supply and training program in that country for over thirty years.

This program covers a wide range of activity, all of it carried out in response to Saudi requests. At the present time, its principal elements are:

1. *Operation of the U.S. Military Training Mission to Saudi Arabia:* This mission, comprised of 133 U.S. military personnel, administers and supervises our programs of military cooperation. Many of the mission's local costs are borne by the Saudis through assistance-in-kind; and we are preparing to negotiate a three-year foreign military sales (FMS) case with the Saudi Government which would have the effect of increasing that share of the mission's cost which is borne by the Saudis.

2. *Corps of Engineers Military Construction:* There are at present approximately 100 military and civilian personnel in Saudi Arabia engaged in managing construction projects through the U.S. Corps of Engineers. These projects include such things as military cantonments, airfields, training facilities, schools, headquarters facilities, communications facilities, hospitals, and so forth. Construction costs and costs of Corps of Engineers personnel are entirely paid for by the Saudi Government.

3. *Military Vehicles:* Since 1966 we have been engaged in an extensive program designed to standardize and modernize the Saudi armed forces' military vehicle fleet. Approximately two-thirds of the programed material has been delivered, and the remainder is scheduled for delivery through 1976.

4. *Air Defense:* American companies, particularly Raytheon, continue to assist Saudi Arabia in upgrading its air defense system in a program begun in 1966.

5. *Naval Modernization:* We began in 1972 to assist the Saudis in modernizing their navy. The objective is to provide a small force consisting of light, modern, naval vessels, and the necessary coastal facilities to support them in operations off both of Saudi Arabia's lengthy coastlines on the Red Sea and the Gulf.

6. *National Guard Modernization:* We are providing training, material, and light weapons to modernize elements of the Saudi National Guard, an internal security force independent of the Saudi military establishment.

7. *F-5 Aircraft:* We have provided a number of F-5 aircraft, trainers, training, support, and maintenance. The Saudis have expressed interest in continuing and expanding this program, and we are currently discussing that possibility with them.

8. *Transport Aircraft:* Lockheed has contracted to provide the Saudis with a modest military transport aircraft fleet, composed of C-130, KC-130, and C-140 (Jetstar) aircraft. About two-thirds of the aircraft ordered have been delivered since the program began in 1965, and the remainder will be delivered before the summer of 1975.

The total value of FMS sales to Saudi Arabia for FY 1973 was $274 million; for FY 1974, it was $435 million.

In addition to these specific ongoing activities, we have recently completed, at Saudi request, a thorough survey of the Saudi armed forces. This survey outlines force planning, organizational, training and manpower, and equipment acquisition goals through 1984. It incorporates, for the sake of giving a balanced overall picture, programs already underway, such as the naval modernization program and the F-5 and transport aircraft programs described above. It also makes recommendations for modernization of the Saudi army, and for better management and utilization of services and functions common to all branches of the Saudi armed forces, such as logistics; maintenance; intelligence; command and control; recruitment and training; financial management; automatic data processing; communications; and joint staff structure. The survey was presented to the Saudi government in September, 1974, and the Saudis have as yet made no decisions on its recommendations.

A further development which bears on our military relationship with Saudi Arabia is the establishment of joint Saudi-U.S. commission on security matters. This commission, announced by Secretary Kissinger and Prince Fahd during the latter's June visit to Washington, met for the first time in Saudi Arabia in early November under the co-chairmanship of Assistant Secretary of Defense for International Security Affairs Ellsworth and the Saudi Deputy Minister of Defense and Aviation, Prince Turki. The meeting was a productive and fruitful one, and the joint commission promises to become an effective instrument for the review and management of our cooperative programs to modernize the Saudis armed forces.

I trust that this general ouline will meet your need for an unclassified statement on the subject. As you know, of course, the Saudi Government, like many other governments, is sensitive about public discussion of its defense plans and programs.

Should you wish, I would be pleased to meet with you to provide more detailed information on any aspect of our military relationship with Saudi Arabia.

Sincerely,

SIDNEY SOBER,
Acting Assistant Secretary for Near Eastern and South Asian Affairs.

MARTIN LUTHER KING REMEMBERED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity today on the 46th anniversary of his birth to commemorate and pay tribute to the memory of one of the great men of our time, the late Rev. Martin Luther King, Jr. His teachings envisioned an America existing in harmony, free of racial prejudice. In his speeches and writings he voiced a strong criticism of discrimination in American society, yet his dream was of one America, coexisting in harmony.

His methods for achieving this ideal was through nonviolence. This is not to say he was afraid of physical violence but he felt such action was futile and wasteful. He held true to his conviction all his life. Ironically it was a violent act that cut his life short before he could fulfill the dreams he had so eloquently voiced.

Some called him a prophet and the Black Jesus, others criticized him for his peaceful methods, but all agreed that he was a man that helped awaken the black conscience; a man with a dream and the courage to try to fulfill it. However, it is perhaps easier to envision the dreams of the late Dr. King through his own words and recorded thoughts. I therefore submit for my colleagues the following excerpts taken from various speeches of the late reverend:

> A great revolution is taking place in our world, a social revolution in the minds and souls of men. And it has been transformed into a unified voice crying out, we want to be free.
>
> So listen to me, children: Put on your marching shoes; don't get weary; though the path ahead may be dark and dreary; we're walking for freedom, children.
>
> Some of you have knives, and I ask you to put them up. Some of you have arms, and I ask you to put them up. Get the weapon of nonviolence, the breastplate of righteousness, the armor of truth and just keep marching.
>
> Freedom is never voluntarily given by the oppressor; it must be demanded by the oppressed.
>
> I say to you today, my friends, even though we face the difficulties of today and tomorrow, I still have a dream. It is a dream deeply rooted in the American dream. I have a dream that one day this nation will rise up, live out the true meaning of its creed: 'we hold these truths self evident, that all men are created equal: I have a dream that one day every valley shall be exalted, every hill and every mountain shall be made low, the rough places will be made plains, and the crooked places will be made straight, and the glory of the Lord shall be revealed, and all flesh shall see it together.

U.N. SECRETARY-GENERAL KURT WALDHEIM INTERVIEWED

HON. GALE W. McGEE

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Wednesday, January 15, 1975

Mr. McGEE. Mr. President, the United Nations has come under tremendous criticism by many in Congress, particularly in response to a series of events which transpired during the 29th General Assembly.

While much of the frustration expressed by the United States over the 29th General Assembly is justified, I would caution my colleagues to examine the United Nations in its proper perspective. There has been too much rhetoric in the Congress concerning the United Nations which only serves as a substitute for thinking.

In this regard, it is particularly appropriate to call attention to an interview with U.N. Secretary-General Kurt Waldheim which appeared in the December 27, 1974, Christian Science Monitor.

It would behoove us to face the following facts expressed by Mr. Waldheim when he responded to those critics who dismiss the great majority of the third-world countries as being of little consequence.

Mr. Waldheim noted:

> You cannot say any longer today . . . they are only small countries with only a few million inhabitants each. They can really decide the fate of the world. Two-thirds of the raw materials of the world are in these developing countries and they realize this more and more.

In essence, the United States as the world's major consumer of raw materials has been getting these raw materials on concessional terms—a sort of foreign aid in reverse. Yes, we have paid for them. But we have paid very cheap prices to exploit these resources.

Yet, a new economic order is developing in the world at a time when the United States needs the world as much as it needs the United States. The true test of leadership within this country is a recognition of this rapidly developing change and to adjust our policies to adapt to this change. If we do not, it will be our constituents who pay the price for our shortsightedness and ill-conceived notions that the United States can go it alone.

Quite frankly, much of the dialog surrounding the notion that the United States should pull out of the U.N. verges on ignorance.

Mr. President, I ask unanimous consent that the interview with U.N. Secretary-General Waldheim be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHANGES IN WORLD PICTURE—SECRETARY-GENERAL LOOKS OUT FROM U.N.

(By David Anable)

UNITED NATIONS, N.Y.—It is essential the peoples of the developed world and of the developing world understand their need of each other and work together.

Times have changed. It is no longer possible for one group to impose its decisions and demands upon the other.

This was the central theme of an interview with UN Secretary-General Kurt Waldheim, following a turbulent General Assembly session in which the representatives of the developed Western world and the developing "third world" had clashed frequently.

"The old economic order is not satisfactory any more," says the former Austrian Foreign Minister, speaking in his panelled office atop the glass-encased UN Secretariat.

WORLD HAS CHANGED

"Things have changed. The world has changed. Life has changed. There are now many more countries than before. Therefore we have to take this new situation into account."

The Secretary-General takes issue with those who would dismiss the great majority of third-world countries as of little consequence.

"You cannot say any longer today, 'Well, they are only small countries with only a few million inhabitants each.' They can really decide the fate of the world. Two-thirds of the raw materials of the world are in these developing countries and they realize this more and more."

He sees increasing reason for the industrialized peoples to understand this change and to find ways of approaching the problem in a spirit of cooperation.

BOTH HAVE TO UNDERSTAND

"The same is true for the developing countries. We cannot say this for one group of countries and not for the other. Both have to understand that we cannot isolate these problems from the global issues. . . . We need each other and we should therefore cooperate."

But perhaps the greatest adjustment has to be made by the people or the industrialized world. In the past, and through the first decade or more after the UN was set up, the Western world was dominant in world affairs.

Now, he says, it is evident that the developing world does not and cannot accept a situation in which only one part of the world has a voice and can make the decisions as it has for centuries. Today at the UN the voice of the developing world is heard more and more. And he warns:

"It is not always expressed in the way the Western world wants to hear. But we are a composition of so many different backgrounds that we cannot expect everything to be seen the way the Western world sees it. If we accept this, we are able to understand better what happened in the General Assembly this year."

U.N. VIEW DEFENDED

The soft-spoken Austrian rejects the view, sometimes put forward by American diplomats here, that the UN is out of touch with the "real world."

"I absolutely do not share the view that what is going on at the UN is not the real world but artificial," he declares emphatically. "I think we do reflect what is going on in the world and what kind of problems, confrontations, issues we have today. We are a mirror of the world."

He warns bluntly against making the mistake of believing "that we can solve the problems of the world better without the United Nations. Let us not make the organization responsible for the failures of governments to cooperate better."

That cooperation he sees as urgent in the economic field, asserting that "you cannot expect to create political stability without achieving economic and social stability. And this can only be achieved if you adopt a new approach to the economic situation in the world."

In particular he still sees hope that the controversial "Charter of Economic Rights"—pushed through the General Assembly against American opposition and lacking support from any major Western industrial power or from Japan—can yet be revised to make it acceptable to the West and hence of real value in adjusting economic relationships.

REVISION HOPED FOR

Articles in the charter, he points out, leave the possibility of revision open. "I do not think this is the end of the story. It is only the beginning."

As for the UN itself, he was not dismayed by the debate between the West and the third world over "strengthening the role of the United Nations."

Although the debate started with confrontation, he says, it "led to a highly interesting debate at a high level . . . and by the end, to my great satisfaction, I saw that the statements became more and more conciliatory, each side understood the other better, and the end was in a very harmonious atmosphere."

REENACTING THE STRIP MINING BILL

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. DRINAN. Mr. Speaker, the entire Nation has expressed disappointment that the President vetoed the strip mining bill enacted by the Congress.

I append herewith editorials from the Gardner, Mass. News and the South Middlesex News—dailies in my congressional district—both of which express extreme disappointment at the veto of the President.

I concur in the judgment of these editorials and urge the speediest action possible in reenacting the strip mining bill—possibly in a stronger form.

The editorials follow:

[From the South Middlesex News, Jan. 2, 1975]

UNWELCOMED VETO

Anyone who has driven through the strip mined areas of the Appalachia and witnessed the depredation of the land brought about by the strip mining of coal must shed a tear for those beautiful areas of the far west that are about to be assaulted because of our need for an ever increasing amount of energy.

This is why the veto by President Ford of a compromise piece of legislation which would have required companies engaged in such mining to set aside a portion of the price of each ton of coal for the purpose of reclamation, is so disappointing.

Of course the bill, enacted by Congress after many months of public hearings, committee deliberations and protracted negotiations between the House and Senate was not entirely satisfactory to anyone. Regardless, it represented a reasonable effort to reconcile the conflict between the need for energy and the claims of the environment.

We can not see how Ford's approval of this bill would have hurt domestic coal production of which we seem to have a plentiful supply.

It should be noted that the President rejected the strip mining bill over the objections of both his Interior Secretary and chief energy adviser, Rogers C.B. Morton, and his director of the Environmental Protection Agency, Russell E. Train.

Secretary Morton has predicted that if the bill was vetoed an even more restrictive measure will be passed by Congress this year. So be it.

[From the Gardner News, Jan. 7, 1975]

STRIP MINING LAW: BACK AT IT

President Ford's pocket veto of the strip mining bill is a depressing negation of months of hard congressional effort which resulted in a workable compromise. Now the legislative travail must be resumed in the 94th Congress.

This ought to be undertaken with the least possible delay. The need for law imposing sensible regulation on this destructive method of mining coal remains as great as ever, and indeed becomes more urgent every passing day.

The President put forward two reasons for his veto. He said that the bill's environmental provisions would sharply cut coal production in a time of energy shortages, and that requisite federal spending would have an inflationary impact. The first point is open to challenge, at least as to the magnitude of the figures Mr. Ford cited; the second is of dubious significance.

These presidential reservations will have to be dealt with, however—unless proponents of a tough strip mining bill can muster veto-proof majorities, which seems unlikely. In any case, Congress should promptly get back at the task of re-enacting sound legislation on this subject.

A TRIBUTE TO ALBERTA WILLIAMS KING

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. RANGEL. Mr. Speaker, in recent years, it seems this Nation has been confronted time and again with cruel, senseless violence. We have had to learn to live with it, and more importantly, learn that we must live with the conviction of trying to stop it.

Alberta Williams King, the mother of the late Martin Luther King, was the victim of such violence. As we commemorate Martin on this day of his birth, let us also remember the woman who was his foundation, and his guide.

My colleague in Congress, ANDREW YOUNG, recently wrote an article in memory and honor of Mrs. King. It is now submitted for the attention of my colleagues:

MRS. ALBERTA WILLIAMS KING

(By Congressman ANDREW YOUNG)

She was the unquestionable pillar of strength of the family of Kings. Not demanding much of any of her children—save get a good education—stand with one's back erect—be proud of one's heritage. Hers was a humble message that is bound to be etched forever across the pages of Black American history.

Mama King was born in the church, lived her life for the church, prepared her children and her children's children for lives that were made whole by the church.

Mrs. Alberta Williams King was short of stature, always meticulous of dress and moved with a quiet commanding pace. Coretta King says of her first meeting with Mama King, ". . . her greeting was polite and casual." And it was the casualness of her awareness that was the persuasion of her personality.

Her father, the Reverend A. D. Williams, was the well-known pastor of Atlanta's Ebenezer Baptist Church on "sweet" Auburn Avenue—a pulpit that had been the center of Black Atlanta's leadership for nearly a century.

In her youth, Mama King attended prestigious Spellman College—a good institution with rich cultural roots. Always possessed of new ideas for one of her youth groups or a church program, she was a tireless individual who was dedicated to the church and its members whom she, no doubt, regarded as her own extended family.

The apparent influence on Martin was overwhelming—her quiet strength and temperament; her love of music and unending good works. Without a doubt, it was Mrs. King who developed Martin's person-oriented philosophical base. I have long believed that an individual man's quest for leadership is understood only in that person's relationship to the maternal influence received during his developing years. Martin's mother was strong.

There is something singularly evil and heartbreaking in the mindless killing of Mrs. Albert King, shot while playing the organ in the same Baptist Church where her father, her husband and her sons preached the virtues of love and peace and brotherhood—Thou shalt not kill—and where undoubtedly her grandsons will continue to preach these same virtues.

Mama King would have been philosophical enough about death to agree with a visitor to the King home Sunday afternoon who said, "The Lord has a reason for everything."

I know that she would have been proud of her grandchildren because they apprehended the assailant and displayed much restraint. Likewise, she would have been proud of Daddy King who declared, "I don't have anyone." And she probably would want us all to recall her son Martin's words.

"The essence of the Christian gospel is love."

"I still believe that love is the most durable power in the world."

Over the centuries men have sought to discover the highest good. This has been the chief quest of ethical philosophy. This was one of the big questions of Greek philosophy. The Epicureans and the Stoics sought to answer it. What is the summum bonum of life? I think I have discovered the highest good. It is love. This principle stands at the center of the cosmos. As John said, "God is Love. He who loves is a participant in the being of God. He who hates does not know God."

ADDRESS BY SENATOR J. WILLIAM FULBRIGHT—MORALITY AND TOLERANCE

HON. GALE W. McGEE

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Wednesday, January 15, 1975

Mr. McGEE. Mr. President, the December 24 edition of the Washington Post carried excerpts of a speech delivered by the distinguished former Senator from Arkansas, Mr. Fulbright.

The speech, delivered 2 weeks ago before the National Press Club, contains some very appropriate thoughts for all of us—the Congress, the executive branch, the media, and the American people.

It is a speech which typifies Bill Fulbright and the studious attention and reflection he gives to any subject he ponders. He calls upon us to recognize that all of us—American citizens and their elected representatives—are human and, therefore, are capable of human error, and bad judgment. By the same token, he calls upon the best in each and every one of us in order for us to meet the numerous crises shaking the very foundations of our Nation.

Bill Fulbright has so eloquently called our attention to the fact that by appealing to that which is best in each and every one of us—our strengths as a people, as a nation, and as a world—crises can be overcome and mankind can be much better off.

Basically, Bill Fulbright is warning us that appealing to the worst instincts of mankind only exacerbates and intensifies conflict and crisis.

I ask unanimous consent that Bill Fulbright's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

MORALITY AND TOLERANCE

(The following is excerpted from a speech by Sen. J. William Fulbright (D-Ark.) before the National Press Club last week:)

The heart of the matter is a surge of moral extremism in our attitude toward politics and political leaders. The genesis, I have no doubts, was Vietnam, followed by Watergate, both of which inevitably undercut confidence in our national leadership. Moral indignation, however, even justified moral indignation, has a tendency to become vindictive and self-righteous. Mistakes of judgment come to be perceived as premeditated malevolence, and an interest in correcting mistakes gives away to an obsession with punishing the malefactors, with giving them their just deserts.

My own view is that no one should get everything he deserves—the world would become a charnel house. Looking back on the Vietnam war, it never occurred to me that President Johnson was guilty of anything worse than bad judgment. He deceived the Congress, and he deceived me personally, over the Gulf of Tonkin episode in 1964 and his purposes in the election of '64. I resented that, and I am glad the deceit was exposed, but I never wished to carry the matter beyond exposure. I never had the slightest sympathy with those who called President Johnson and his advisers "war criminals."

We should stop conducting our affairs like a morality play. Lying and dirty tricks are intolerable not because of what they do to the trickster's soul but because they disrupt our society and its institutions. Because they do, it is essential that they be deterred, but this can usually be accomplished by exposure, embarrassment and censure; it does not require hunting down the malefactors to their utter ruin. An intolerance of lying can and should be reconciled with a degree of tolerance for liars—considering that few of us get through an ordinary day without trimming the truth once or twice.

In a democracy we ought to try to think of our public servants not as objects of adulation or of revilement, but as servants in the literal sense, to be lauded or censured, retained or dispensed with, according to the competence with which they do the job they were hired to do. Bitter disillusionment with our leaders is the other side of the coin of worshipping them. If we did not expect our leaders to be demi-gods, we would not be nearly as shocked by their failures and transgressions.

The media have a special responsibility for the restoration of civility in these matters, not only because they have contributed to the incivility, but also because there is no one to correct journalistic excesses except the members of the profession themselves. The media have become a fourth branch of government in every respect except for their immunity from checks and balances. This is as it should be—I can conceive of no restraints on the press which would not be worse than the excesses to which I have referred. But because you cannot and should not be restrained from outside, you have a special responsibility to restrain yourselves.

After a long era of divisiveness and acrimony, we are in need of a reaffirmation of the social contract among people, government and the media. The essence of that contract is a measure of voluntary restraint, an implicit agreement among the major groups and interests in our society that none will apply their powers to the fullest. For all the ingeniousness of our system of checks and balances, our ultimate protection against tyranny is the fact that we are a people who have not wished to tyrannize one another. "The republican form of government, wrote Herbert Spencer in 1891, "is the highest form of government: but because of this it requires the highest type of human nature—a type nowhere at present existing." We have shown in times of adversity in the past that we are capable of this "highest type of human nature." Let us call it into existence once again—we have never needed it more.

NATIONAL HEALTH INSURANCE

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. HEINZ. Mr. Speaker, on this 1st day of the 94th Congress, I am introducing a group of bills designed to prepare the American health care system for the advent of national health insurance.

As representatives of the American people, we share the goal of providing all Americans equal access to quality health care at a price they can afford. We recognize that as a nation dedicated to the principle of equality of all men, we can no longer tolerate the uneven and unfair distribution of health services that now exists. That is why national health insurance remains this Nation's No. 1 health priority.

The proposals I introduce today will help pave the way for national health insurance coverage for two important areas of health services; namely, mental health care and long-term nursing home care.

I have introduced "The Community Mental Health Centers Amendments and Rape Prevention and Control Act of 1975." This proposal represents the unfinished work of the 93d Congress, since it was approved by both the House and the Senate as a part of H.R. 14214, the Health Revenue Sharing and Health Services Act. Despite the overwhelming House passage by a vote of 372 to 14, President Ford pocket-vetoed H.R. 14214, thereby denying the Congress the opportunity to override his ill-advised rejection of this nearly unanimous congressional initiative.

As the author and sponsor of the Community Mental Health Centers Act in the 93d Congress, I believe this new Congress should simply reenact this legislation as quickly as possible, signaling the President that we intend to continue preparing our health care system for the eventual adoption of national health insurance. By taking the necessary legislative steps now to expand and improve community mental health services across this Nation, we can prevent a reoccurence of the inflation in the health sector which resulted from the mid-1960's adoption of medicare.

But, my bill would do more than simply assure that adequate facilities would be in place prior to the new demand expected to be unleashed with national health insurance. More importantly, my proposal focuses on preventing mental illness and treating the patient in his or her own community when illness does occur. By bringing mental health care to the communities, this people-oriented approach would also cut redtape and avoid the building or continued support of unnecessary medical Taj Mahals with taxpayers' dollars.

Mr. Speaker, the most we can expect to provide in any sector of the health care field is fully comprehensive, humane care—both preventive and remedial—with built-in cost and quality controls. That is precisely the goal of the decade-old community mental health centers program. And up until now that program has been amazingly successful in reducing the number of Americans shut away in mental hospitals, in rendering more humane care that is simultaneously more effective, and in cutting the costs of mental health care. These facts are freely conceded by both the Department of Health, Education, and Welfare, and the Office of Management and Budget.

The community mental health centers program has been one of Congresses most successful initiatives. How can we simply toss aside this Congress solemn commitment to establish nationwide a network of community-based care? Can we realistically expect the States and localities to carry alone the heavy burden of developing community mental health centers in each area where they are needed?

The answer, Mr. Speaker, is that witn States still saddled with expensive State mental hospitals which cannot be abruptly abandoned, few if any States will actually establish and support these centers without Federal start-up assistance. We can be sure, therefore, that our failure to stand by our commitment will assure that two-thirds of the Nation, 140 million Americans, will forever remain without adequate community-based mental health care in their areas.

Mr. Speaker, the continuation of the Community Mental Health Centers Act will prove a prudent investment in a sound system of mental health care. Moreover, this investment will repay us handsomely when national health insurance becomes a reality. That is why I have reintroduced my proposal exactly as approved by both the House and the Senate in the last Congress. I urge this new Congress to act immediately on this proposal and send it to the White House without delay.

My community mental health centers bill also incorporates the provisions of H.R. 10848, the Rape Prevention and

Control Act, which I sponsored last year along with 73 of my colleagues. This proposal was included in the community mental health centers proposal by House-Senate conferees when they met in December of last year to agree upon a final version of the health services bill.

Mr. Speaker, rape is one of the Nation's fastest growing, yet least understood crimes. It has reached such severe proportions that it restricts the right of women to move about freely in our society. My proposal, the Rape Prevention and Control Act, was a response to the urgent need to understand and prevent the crime of rape.

The rape prevention and control section of this bill I introduce today is also exactly as it was approved overwhelmingly by both the House and the Senate in H.R. 14214 last month. It would establish the National Center for the Prevention and Control of Rape in the National Institute of Mental Health. The purpose of this center is to study: First, the effectiveness of existing rape laws; second, the relationship between rape and our social attitudes toward sex roles; third, current methods of treating rape victims; fourth, the reasons for the low incidence of reported rapes; and fifth, the effectiveness of existing rape programs. In addition, this section would authorize grants to community mental health centers, existing rape crisis centers, and other nonprofit or public organizations to conduct research on rape, its victims, and its perpetrators, and to establish demonstration programs into rape's causes and prevention.

The passage of this legislation will move this Nation toward a more effective method of dealing with rape, and toward a greater understanding of its causes. This is the least this Congress can do for the millions of American women who live in constant fear.

Today I have also introduced The Commission on the Mental Health and Illness of the Elderly Act. This bill was also included in the health services bill approved by the last Congress but pocket-vetoed by the President. Because so many of the elderly with chronic and acute mental health problems often go untreated or receive inadequate care, I believe we must move ahead with a thorough review and analysis of public policies in this area. My proposal establishes a Commission charged with the following responsibilities:

First. To recommend a national policy for the proper maintenance of mental health for aged persons as well as a policy for the care and treatment of mental illness for such persons;

Second. Assess the future needs for mental health facilities, manpower, research, and training to meet the mental health facilities, manpower, research, and training to meet the mental health care needs of the elderly;

Third. Submit to the President for transmittal to the Congress a report on the major developments concerning the treatment and care for elderly persons suffering from mental illness;

Fourth. Evaluate existing mental health programs to determine whether such programs are responsive to the needs of the aged;

Fifth. Recommend priorities for programs designed to increase knowledge about various aspects of mental illness among aged and aging persons; and

Sixth. Cooperate with executive and legislative branches in implementing the recommendations of the 1971 White House Conference on Aging.

This Commission will allow us to begin to come to grips with the many mental health problems which plague many elderly Americans. The American Psychological Association estimates that there may be as many as 3 million elderly in need of mental health services, but only 20 percent of these have their needs met through existing programs. One particular problem which demands immediate attention is the growing trend in the States to discharge State hospital patients into nursing homes, boarding homes, or other facilities which are often only "human warehouses" on a smaller scale than State hospitals. This is a particular burden for elderly people who often have physical as well as mental infirmities. It is problems such as this which the representatives of the health and social professions, who will make up the Commission, should examine with an eye toward developing recommendations for solution.

A fourth area addressed by the legislation I am introducing today is that of improving nursing home care for the Nation's elderly. Each of these bills is designed to speed progress toward achievement of those goals set down by Congress in the Medicare Reform Amendments of 1972.

For years we have heard testimony and read stories which dramatically attest to the existence of unsatisfactory and unsafe, overcrowded and understaffed, substandard nursing homes. Some of us have witnessed the depression and wasted human spirit that inhabits these places.

Though we have made progress in recent years, we still have a long way to go. A recent HEW report indicates that 50 percent of all certified skilled nursing facilities, some 4,300 out of a total of 7,300 are not in full compliance with the Life Safety Code. We must substantially improve this record by seeing to it that nursing homes are properly inspected and that they have the wherewithal to make the physical and programatic changes demanded by Federal standards. We must also assure the nursing home patient the quality of care his or her condition demands, and we must protect the aged patient and the taxpayer against institutional care when it is not needed.

If enacted, my package of bills will significantly improve the care received by patients in nursing homes.

Briefly, this improved nursing home care legislation has the following features:

Since relocation of elderly patients often results in relapse or even death, the first bill places restrictions on the involuntary transfer of patients from one nursing facility to another;

The second bill requires rehabilitative services in nursing homes, with Federal reimbursements, in order to promote the return of patients to their homes and families;

The third bill will insure strong enforcement of standards by providing Federal funds for State surveys and inspection of nursing homes.

In order to help nursing homes pay for the constantly increasing list of Federal requirements, the fourth bill authorizes Government insured loans to these institutions to upgrade or correct deficiencies.

Because there is a growing number of older persons who need improved health care, but simply cannot get it at home, the fifth bill will encourage home health care and geriatric day care centers as alternatives to institutionalization. Too often a parent or other loved one is committed to an institution because the children lack the ability to care for them at home and because trained personnel outside the institutional setting are not available. This bill will help to avert these needless tragedies.

The sixth and final bill creates a permanent 11-member Nursing Home Advisory Council within the Department of Health, Education, and Welfare. Even with the enactment of the first five bills, there is a need to continually monitor and evaluate the quality of nursing care being delivered throughout the country. This final bill will meet this need.

Mr. Speaker, nursing home care for older Americans will improve tremendously if these bills become law. These bills, along with the other health legislation I am introducing today, will constitute a big step toward readying this Nation's health system for national health insurance. I urge early consideration and enactment of my proposals.

BILL INTRODUCED FOR COMPENSATION FOR VICTIMS OF CRIME

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. GONZALEZ. Mr. Speaker, in the last session of Congress I introduced a bill calling for compensation for victims of crime. My bill was referred to the House Judiciary Committee and executive comments on my bill was requested from the Justice Department. However, nothing further developed so I am again introducing this measure in hopes that positive action can be taken in this Congress.

Crime in our country has increased in the last decade, and has been the major concern of the majority of our citizens. As crime has increased, we have found more studies being done on the causes of crime and how best to rehabilitate the criminal.

Unfortunately, I believe that a very serious aspect of the crime problem has been overlooked, and that is consideration of the victim of crime. For him society has failed in its duty to protect him, and a State which forbids our going armed in self-defense cannot disavow all responsibility when it fails to protect its citizens.

The concept that society has an obligation to help meet the needs of victims of criminal violence arose almost 4,000 years ago, and I believe that it is time it again becomes a part of statutory law.

The code of Hammerrabi of ancient Babylonia (c. 1775 B.C.) evoked communal responsibility for certain crimes where it was possible to place individual blame. "If a robber has not been caught," the code specified, "the robbed man shall declare his lost property in the presence of the God and the city and Governor in whose territory and district the robbery was committed shall replace him for his lost property." In addition, the code ordered that "if it was a life that was lost the city and Governor shall pay one mina of silver to the heirs."

If the Babylonians had a system of compensating victims of criminal acts surely our society, which prides itself on its civilized nature, should have such a system.

In the 16th century, Jeremy Bentham noted the plight of the victim of crime and suggested this rationale for compensation: Has a crime been committed? Those who have suffered it, either in their person or their fortune, are abandoned to their evil condition. The society which they have contributed to maintain, and which ought to protect them, owes them, however, an indemnity, when its protection has not been effectual.

A number of foreign countries have compensation programs including New Zealand, England, and Canada. New Zealand was the first to inaugurate such a program in 1963. England's program was developed the following year and by December of 1968, it had made some 12,000 awards.

In the United States we have had a number of States enact laws compensating victims of crime. California was the first State to develop such a program in 1965. Subsequently, crime victim compensation statutes were enacted in New York in 1966. Hawaii and Massachusetts in 1967; Maryland in 1968; Nevada in 1969; New Jersey in 1971 and most recently Rhode Island, Alaska, and Louisiana.

Today I am introducing legislation that will compensate victims of certain crimes. I believe that it is time for the Federal Government to assume its obligation to come to the aid of victims of crime by offering them some type of monetary compensation.

My bill is based on title I of the Victims of Crime Act of 1973, which passed the Senate in the last session, but I have made several changes which I feel are necessary.

The bill as it passed the Senate establishes a Federal program but only for crimes that take place within the Federal jurisdiction. My bill will compensate victims of both State and Federal crimes.

I feel that we should have a uniform code for compensating victims and the most efficient, and least costly, would be to have one Federal program that would provide compensation in an offense against the laws of any State or of the United States, as opposed to a Federal program or individual State programs receiving Federal funds.

My bill, as well as the Senate version, establishes an independent Federal Violent Crimes Compensation Board for the purpose of providing compensation to two categories of individuals—victims and intervenors—or the surviving dependent or dependents of such individuals. A victim is a person who is killed or who suffers personal injury where the approximate cause of such death or injury is violent crime. An "intervenor" is a person who goes to the aid of a policeman or a victim to prevent a violent crime or to apprehend a suspect. Of course, the purpose of including the intervenor in this bill is to encourage third parties to assist their fellow citizens and to aid law enforcement officials. If people know they will have an opportunity to be compensated if they are harmed in aiding a victim of crime or a law enforcement officer, I believe many people would be more likely to get involved.

Another area where my bill differs from the Senate version is in the area of compensation. The Senate bill provides that a victim cannot recover unless he can show financial stress. I have eliminated financial stress as a condition precedent to recovery as I believe it could cause harsh results to the victim who does not quite suffer financial stress but who does not have an income in an amount sufficient to absorb his losses.

I believe it is better to consider the standard of living of the victim. That is, to determine whether with this standard being reduced coupled with the consideration of the extent and permanence of the injury and the depletion of the victim's personal income, will he be relegated to poverty or near-poverty conditions and will his family be forced to bear the burden of this financial situation.

Many people in our country are working for programs to rehabilitate criminals and are trying to get society to look on these people with compassion. I believe a bill such as my bill will encourage this feeling in our country and the following quote from English penal reform, Ms. Margaret Fry supports this:

> A rational system of correction can only be achieved when victims, satisfied financially, no longer press for revenge but rather favor rehabilitation.

I hope that every Member will lend his support to my bill, and hopefully compensation for victims of criminal acts will be available to Americans before this year has ended.

HOUSE OF REPRESENTATIVES—*Thursday, January 16, 1975*

The House met at 12 o'clock noon.

Rev. Arthur Morrison Martin, D.D., retired minister of the Presbyterian Church in the United States, Columbia, S.C., offered the following prayer:

Almighty God, our Heavenly Father, we pray Thy divine guidance and blessings on our labors as we represent the people of this Nation in their relationships one with another and with the peoples of Thy world. Make us ever mindful of Thy sovereign rule over us all.

Enable us to understand and to moderate the vital tensions which compose our corporate life. May we secure that righteousness which exalteth a nation and subdue those sins which are a reproach to any people. Thus may we, in deed and in truth, be one nation under Thee.

Our prayer we make, each in his own way, and many of us, in Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Marks, one of his secretaries.

HON. BILL NICHOLS

The SPEAKER. Will the gentleman from Alabama (Mr. NICHOLS) kindly present himself in the well of the House for the purpose of taking the oath of office.

Mr. NICHOLS appeared at the bar of the House and took the oath of office.

REV. ARTHUR MORRISON MARTIN

(Mr. MARTIN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, it is customary when we have a visiting minister that he be welcomed by that Member in whose district he resides. I want to thank the gentleman from South Carolina (Mr. SPENCE) for yielding that honor and courtesy to me.

While the Reverend Arthur Martin does not reside in my district and is not a constituent of mine, I can say for some 39 years I have been what one might call a constituent of his. He is my dad. He was born in Savannah, Ga., was educated at Davidson College, and at the Presbyterian Theological Seminary at Louisville, Ky. Until his recent retirement he was executive secretary of the Presbyterian Synod of South Carolina for 20 years. He was also the first chairman of the State Council of Leaders of Religion in South Carolina.

Mr. Speaker, it is a great personal pleasure for me, on behalf of the gentleman from South Carolina (Mr. Spence) and the gentleman from Georgia (Mr. Ginn) to welcome my father and my mother and family to this session of the Congress.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I should like to inquire of the distinguished majority leader what the program for the rest of the week might be.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished gentleman from Massachusetts.

Mr. O'NEILL. I thank the gentleman for yielding.

Mr. Speaker, I will be happy to announce the program. The only thing we have now scheduled for next week is on Monday. The Democratic Caucus has been meeting with regard to the chairman, and on Monday whatever chairmen have been elected by the caucus will be presented to the full House. It is hoped that the committees will meet forthwith in order that we may have a program the following week. Other than that on Monday we anticipate voting on the chairmen, and the committees that have been duly authorized by the Democratic Caucus presented to the floor. That is the only business for next week. We ask that the Members be present for that purpose. We ask that the committees that can be organized be organized on Tuesday and start hearings if they possibly can.

Mr. MICHEL. If the distinguished majority leader will yield further, would it be the intent, then, that we would meet again, say, on Thursday of next week?

Mr. O'NEILL. I presume that we would meet in pro forma sessions during the week.

Mr. MICHEL. I thank the gentleman.

PRINTING OF DEMOCRATIC STEERING AND POLICY COMMITTEE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, on December 10 the Speaker appointed a 10-member task force of the Democratic steering and policy committee to draft a program of action. That program has been drafted and was announced to the press by the Speaker on January 13. I offer it for printing in the Record at this point and earnestly commend it to the membership of the House:

To Revive the Economy: A Congressional Program of Action

The 94th Congress, convening at a moment of historic challenge to the American economy, must assume a responsibility for decisive and resourceful leadership. The critical problems of this immediate time will not yield to half-way measures, timid initiatives or public relations appeals to voluntarism. The nation at this juncture could ill afford a passive Congress which did no more than await and then react in leisurely, piecemeal fashion to Executive recommendations. The public expects and is fully entitled to a coordinated program of legislative action beginning immediately and clearly designed to rebuild a healthy and stable economy in the United States. We are determined that the American people shall not be disappointed in this rightful expectation.

For too long has the economy been allowed to drift, devoid of purposeful direction. For four consecutive quarters the gross national product has shrunk. Unemployment has mounted steadily while the debilitating increase in the basic cost of living continues, its rate abated only slightly. During the past year, the purchasing power of real wages has declined by 5.6 percent. Bankruptcies and foreclosures have grown alarmingly. Residential housing starts have been cut approximately in half. Waning business investments in new plant and equipment and sagging consumer purchases reflect a lack of confidence in the future.

Mirroring the general economic malaise, the Federal budget has become a principal victim of the inflation-recession. Declining economic output and rising joblessness have diminished government revenues while the extortionate and unprecedented level of interest rates has added many billions of dollars to the cost of public debt service and the swelling ranks of unemployed have added extra billions to the cost of providing unemployment compensation and public assistance. It is clear that the government cannot realistically expect to balance its budget until it comes to grips with the recessionary forces which have contributed so massively to the budgetary imbalance.

The Democratic majority in the 94th Congress totally rejects the theory that the tides of economic decline are inexorable. We do not believe that the nation has grown old and tired and incapable of a vigorous economic revival. We shall not recline in supine acquiescence to forecasts which point toward an 8 percent unemployment rate by the end of 1975. We believe that there are things which can be done to reverse the trends of deterioration. We are determined that these things shall be done. To the maximum extent consistent with the responsibility of careful legislative draftsmanship, we shall insist that several of them be done very quickly.

As one of the three equal and coordinate branches of government, we invite and wholeheartedly welcome the cooperation of the Executive branch in supporting the following legislative recommendations, in suggesting refinements and improvements, and finally in faithfully and diligently executing such programs as we shall enact. Meanwhile, the Democratic congressional leadership calls upon various committees of the Congress to begin immediately in the implementation of the following agenda.

I. IMMEDIATE ACTION GOALS

Due to the critical state of the nation's economy, we urgently request the committees of respective jurisdiction to prepare for presentation to the House the following items as soon as possible and in no case later than 90 days after our convening:

A. *Tax Relief and Reform*—The quickest way to generate the added purchasing power needed to counter the current recession and to ease the burden of those most damaged by inflation is through *tax relief* for low and middle income families. This can be achieved by increasing the personal income tax exemption, the standard deduction and minimum income allowance, by reducing the weight of payroll tax liabilities upon the working poor, and/or by a system of individual tax credits. The committee may wish to consider alternate or additional proposals. In any event, the amount of purchasing power released to the hands of Americans of modest income should be substantial and made quickly available.

The revenue loss thus suffered should be recouped to the extent reasonably possible by closing the loopholes that now enable large corporations and wealthy individuals to pay little or no taxes at all.

Action: Committee on Ways and Means.

B. *Lower Interest Rates*—A primary cause of the nation's simultaneous suffering from both inflation and recession is the misbegotten and prolonged policy of attempting to halt inflation solely by monetary restrictions and high interest rates. Manifestly this policy has been counter-productive. It has not abated inflation. It has fed its fires, adding an extra layer of cost at every level of the market place. It has contributed cruelly to the massive tide of small business bankruptcies, brought homebuilding to a virtual halt, dipped a heavy hand into the pockets of most American families, added a multi-billion dollar burden to the national budget through increased debt service costs, and actually set in motion a retrogressive redistribution of national income, widening the gap between rich and poor and largely undoing the beneficial results of a decade of costly public programs.

Two immediate steps are needed to reduce interest rates and stimulate the flow of credit to vital economic sectors:

(1) *Increase the supply of credit*—Between July 1 and October 1 of 1974, the Federal Reserve Board constricted the growth of the money supply to less than 2 percent per year at an annual rate, far below the 4–6 percent growth rate needed to finance the long-run needs of the economy. Furthermore, the stop and go policies of the Federal Reserve Board and the uncertainty generated by these policies have contributed in a major way to excessive inflation, combined with excessive unemployment. Steady and stable economic growth requires a steady and stable policy and a gradual but determined reduction of interest rates to a liveable level.

(2) *Credit Allocation*—With any given supply of new money overall, a credit allocation program is needed to channel credit *away from* speculative and inflationary uses—ranging from conglomerate take-overs to gambling in foreign exchange or gold—and *toward* vital credit-starved areas, such as housing, small business, food production, power generation, state and local governments, and productive capital investment. The expanded supply of credit for these purposes could be expected to lower interest rates for these necessary activities, thus lowering costs and reducing inflationary pressures, stimulate production of vital commodities and generate jobs in the private sector.

Action: Committee on Banking, Currency and Housing.

If the combination of these actions has not begun an appreciable reversal in interest rates by July 1 of this year, we recommend the serious consideration of more dramatic remedies, including the possibility of a progressive tax on interest income which would be prohibitive on income derived from excessive rates of interest (9 percent and above) and evolving downward to nominal on income derived from low rates of interest (below 6 percent).

Action: Committee on Ways and Means.

C. *The Problem of Rising Unemployment*—The Democratic majority in the Congress is unequivocally dedicated to the task of increasing productive jobs and reducing unemployment. The rate of unemployment hovers today at approximately 7.1 percent. Even by the optimistic forecasts of Administration economists, this figure is expected to exceed 7.5 percent by mid-1975. This is intolerable. The recent report of the Joint Economic

Committee portrays an even grimmer picture, estimating that the modest goal of a 5 percent unemployment rate cannot be expected before 1980 in the absence of a sustained overall economic growth rate of 5 to 6 percent. As a direct immediate attack on this problem we propose two approaches:

(1) *Additional public service jobs*—The Joint Economic Committee last month estimated the overall national need for public service jobs at 750,000. Since then the number of unemployed has increased dramatically and the need for public service jobs is correspondingly greater, outstripping even the emergency programs enacted by the 93rd Congress. The stagnating state of the economy is distressingly revealed in the ratio of funds provided in the most recent appropriation, which earmarked roughly three times as much for unemployment compensation as for public service employment. While clearly the duty of a humane nation which cannot provide useful and remunerative work, unemployment compensation is by comparison economically non-productive and personally unsatisfying. Public service jobs, admittedly second best to gainful and lasting employment in private industry, should be provided in an adequate dimension to fill the slack productively while other policies are generating a revival of the private sector.

Action: Committee on Education and Labor.

(2) *Acceleration of approved public works*—It is ironic that the nation suffers increasing unemployment in the building trades and a growing inventory of idle construction equipment, with ever mounting public costs for unemployment payments, at the very time that literally billions of dollars worth of badly needed and Congressionally approved civil works projects (water pollution abatement, flood control, highway, public mass transit and other constructive works) suffer unconscionable delays in administrative processing of grant applications. Legislation should be enacted to mandate early administrative funding of such projects already authorized by Congress. Such legislation should dramatically reduce the time lag created by redundant reports and proliferating paperwork and mandate a swift acceleration of construction starts.

Action: Committee on Public Works and Transportation.

D. *An Emergency Housing Program*—Probably the most seriously depressed sector of our economy is the housing and construction industry. Performance has fallen fully 60 percent below our national commitment to meet the need for 2.3 million new housing starts each year. As in the automotive industry, depression in housing starts has widespread "ripple" effects throughout countless other sectors of the economy. It is imperative, therefore, that significant stimulus be applied rapidly. We ask the appropriate committees to consider and recommend emergency housing measures, including such alternatives as (1) increasing the ability of savings and loan and thrift institutions to attract adequate capital in this era of escalating interest rates which have starved the mortgage markets, (2) interest rate subsidies for low and medium priced housing for the near term until concerted effort succeeds in reducing interest rates to an acceptable level, (3) incentives for the preservation and rehabilitation of older existing housing, including multi-family dwellings, and (4) short term assistance to homeowners having difficulty making mortgage payments because of unemployment or a significant drop in income. Recognizing the complexities of the housing market and the mortgage market which fuels it, we expect the appropriate committees to exercise broad judgment and discretion in weighing these and other alternatives and to report specific recommendations to the Congress for action early in this session.

Action: Committees on Banking, Currency and Housing, and Ways and Means.

E. *Emergency Energy Conservation Measures*—It now is apparent to all with the will to see that the alarmingly increasing gap between domestic production and domestic consumption of energy (especially petroleum) in the United States threatens not only our basic national economy but our national security as well. Just as the long term solution must lie in discovering ways to increase our production of energy, our interim salvation can be found only in vastly more effective conservation measures. We must control runaway energy consumption if the nation is to retain economic independence, let alone achieve stable and enduring economic growth. Voluntary restrictions simply have not worked. More stringent short-term measures are imperative.

To reduce our immediate energy usage and our resulting dependence on foreign oil sources, we commend to the appropriate committees for their consideration and recommendation one or more of the following courses: (1) mandatory allocation of petroleum and other forms of energy, (2) enactment of higher gasoline taxes, (3) gasoline and home fuel oil rationing, (4) higher manufacturer's excise taxes on pleasure craft and private automobiles of high horsepower, (5) restricting the sale of gasoline on certain days such as weekends, (6) long term, low interest loans for home insulation improvements, and (7) a national examination of utility rate structures of a type that encourage energy wastefulness by rewarding large usage with low rates.

We recognize that the above include hard and in some cases unpalatable choices and that the range of options should not be limited to those here enumerated. In specific connection with (2) above, we urge very cautious and careful consideration of the effect of any proposed fuel tax increase upon the millions of working Americans who have no available or practical alternative to the use of their automobiles in getting to and from their daily work and in the conduct of their necessary business activities. A punitive retail sales tax in the range of an additional 20¢ per gallon on gasoline, as advocated by some, predictably would penalize most harshly those whose consumption of fuel is directly related to their essential employment, while providing a relatively negligible disincentive to the use of scarce fuel by the wealthy for purposes of pleasure. We suggest, therefore, that some consideration might be given to dedicating revenues from any increase in the retail gasoline tax to a Trust Fund for a sharply accelerated program to develop alternative fuel sources (See II B below). In the alternative, we would strongly recommend rebates adequate to compensate workers for their loss of income.

Action: Committees on Commerce and Health, and Ways and Means.

F. *Wage and Price Stability*—We need a tough but selective program to halt the current wage-price spiral. Phases I and II of the Nixon Administration program controlled wages with a vengeance while permitting prices to rise, resulting in a cruel diminution of the wage earner's purchasing power. There must be no return to such a policy. The present Council on Wage and Price Stability is a toothless tiger. The need is for an independent agency with subpoena power, the resources to hold extensive hearings, the authority to delay price increases up to 90 days, and in extreme cases the authority to impose controls more permanently on a selective basis. The selectivity should be aimed at those industries where near-monopoly and "administered" prices render the forces of true competition inoperable.

Action: Committees on Banking, Currency and Housing, and Government Operations.

G. *Programs for the Needy*—While utilizing every effective means to bring about a national economic revival, we cannot lose sight of the anguish of those whose vulnerability to the twin menaces of recession and inflation has made them the principal victims of the nation's present economic plight. We urge in particular the early enactment of legislation to forestall the apparent intention of the Administration to increase the price of food stamps to low income Americans, and a more realistic measure of help to the needy aged, blind, and disabled.

Action: Committees on Agriculture, and Ways and Means.

II. OTHER IMPERATIVE GOALS OF THE 94TH CONGRESS

While the six goals listed above claim a priority of very early attention due to the impelling need for swift and decisive action to begin the economic revival, there are other goals no less imperative and no less important to the nation's economic growth and health. These goals, too, should be effectively addressed by the 94th Congress during its 1975 session.

A. *Health and Medical Care*—Circumstances dictate the timely enactment of a comprehensive national program to assure adequate health and medical care for all. The ravages inflicted upon family income by the steadily rising costs of medical care are well known to most Americans. Less well recognized is the significant impact such a plan could have on the nation's economy. The job-creating effects of public works programs, housing and other construction activities are easily apparent, but none of these exceeds health and medical care programs in the potential for generating useful employment. Health care is one of the most labor-intensive industries in the entire economy.

Action: Committees on Ways and Means, and Commerce and Health.

B. *New Sources of Energy*—In addition to the strictly conservation methods outlined above (Part I, Item E) it is obvious that the nation urgently needs to take major steps toward energy self-sufficiency. We ask the appropriate committees to consider and report their recommendations on ways to encourage exploration for new domestic oil and gas supplies, to encourage the development of secondary and tertiary recovery techniques for existing wells, to develop a national strategic energy reserve, and to mandate a concentrated program of research and development aimed at other sources and methods of energy production.

In the intermediate time frame, it is obvious that the nation shall depend to a profoundly greater degree upon coal and nuclear power. We, therefore, recommend to the appropriate Committees the early perfection of responsible surface mining legislation and the improvement of regulatory procedures relative to the construction of energy production facilities.

The long term solution must of necessity feature the earliest possible development of energy alternatives to petroleum. This concentrated effort should include the rapid perfection of economically viable methods of coal conversion and levels of funding adequate to accelerate pure and applied research in solar energy, nuclear fusion, geothermal power, the environmentally acceptable recovery of oil from shale, and any other alternatives that committees may choose to consider.

Twice before in our history we have made monumental achievements through concentrated "crash" programs: the Manhattan Project which resulted in unlocking the secrets of the atom and the Space Program spurred by President Kennedy's audacious promise to put a man on the moon in less than a decade. Our present crisis involving the need for energy self-sufficiency is surely no less urgent and is vastly more complicated and predictably more costly. To guarantee the steady and consistent maintenance of effort, free from starts and stops, we have suggested the possibility of a Trust Fund dedicated expressly to this singularly vital endeavor.

Action: Committees on Science and Technology, Interior, Ways and Means, Appropriations, and the Joint Committee on Atomic Energy.

C. *Anti-Trust Legislation*—Mindful of the recent action of Congress in increasing penalties under existing anti-trust laws, we feel the time has come for a broad new look aimed at tightening and strengthening these basic laws. Increasing sectors of our economy have become alarmingly vulnerable to monopoly and effective oligopoly conducive to administered pricing practices based solely on the seller's determination regardless of the efficiency of production. We have witnessed the systematic development of planned obsolescence in a variety of products and a growing tendency to reduce output rather than prices and thus make the growing unit of profit compensate for a declining volume of sales.

These practices manifestly contribute to inflation and mitigate against national economic recovery and against the best interest of consumers everywhere. The fundamental laws of competitive marketplace economics are effectively repealed where concentrated economic might is permitted to operate. Without attempting an all-inclusive list, we feel that this condition has come to apply particularly in the sectors of steel, automobile production, communications, food processing, banking, oil and electrical production and marketing, as well as in certain multinational corporations. We ask the appropriate committee to initiate careful oversight hearings on the effectiveness of present anti-trust laws and where justified to report new legislation to tighten and strengthen those laws so as to make these economically destructive practices impossible.

Action: Committee on the Judiciary.

D. *Consumer Protection*—It is manifestly in the interests of the consumer that safeguards be established against inferior goods as well as deceptive advertising and merchandizing techniques. Equally important to the long-run health and vibrancy of our economy is insistence that the nation's manpower and material resources be expended to produce durable, high-quality goods an services at prices affordable by the mass market. In pursuit of this goal, the Congress should promptly enact legislation establishing an effective and workable *Consumer Protection Agency*.

Action: Committee on Government Operations.

E. *Food Production*—In the past decade sweeping changes have dictated dramatic reversal in our basic agricultural policies—away from efforts aimed at curtailing excess production to avoid surpluses and toward the new goal of maximizing the nation's agricultural production to avoid shortages. The old programs contained certain built-in incentives not to produce. The new programs must feature incentives to achieve greater production from the nation's agricultural acreage. We request the appropriate committees therefore to conduct a careful review of such basic agricultural programs as acreage allotments, soil bank and acreage reserves in light of the nation's present and future requirements.

We also recommend that consideration be given to: (1) establishing a food export monitoring and management system to anticipate and prevent the development of domestic food shortages, (2) reestablishing a national grain reserve system to stabilize supplies, and (3) appropriate ways to guarantee a significant increase in competition and efficiency in the processing and distribution sectors of the food industry and an equitable rate of return to the growers themselves.

Action: Committee on Agriculture.

F. *Aid to Specific Industries*—Some industries that are presently depressed due to the slack economy and/or the energy shortage may in fact be faced with even more profound long term problems. Automobile production, where massive lay-offs recently have occurred, is a prime example. This particular industry looks to Congress for future guidance and direction. We request the appropriate committees to consider carefully what incentives may be provided to assist this industry in meeting the public need for less expensive and more energy-efficient vehicles.

We also ask the appropriate Committees to consider and recommend means of assistance to such other industries as are vital to the nation's economic health, including both existing programs and the possible need for new programs.

Action: Committees on Banking, Currency and Housing, Commerce and Health, Ways and Means.

G. *Help for Senior Citizens*—Of all of our population, the elderly are among the hardest hit by inflation. Most of them are living of fixed incomes, and the cost of living adjustments provided in Social Security benefits in the past have not been sufficient nor made quickly enough to prevent extreme hardship in many cases. Improvements in the Social Security system are thus urgently needed.

Action: Committee on Ways and Means.

The above action agenda is not intended as an exhaustive recitation of the problems confronting the nation or of the important legislation to be considered by the 94th Congress. Its purpose is to bring direct and immediate focus upon the truly urgent problems of the nation's economy which demand creative initiative and swift, decisive action on the part of the people's elected representatives in Congress. Some of the problems have been years in developing. They cannot be solved in a day. But they are not insoluble. Every day of unnecessary delay in coming directly to grips with them will only aggravate their dimensions. So let us begin.

Submitted by the Special Task Force of the Democratic Steering and Policy Committee: Jim Wright (Tex.), Chairman; Mel Price (Ill.); John Brademas (Ind.); Richard Fulton (Tenn.); Morris Udall (Ariz.); Henry Reuss (Wis.); Tom Bevill (Ala.); Philip Burton (Cal.); Jonathan Bingham (N.Y.); Barbara Jordan (Tex.).

January 13, 1975.

IN MEMORY OF DR. MARTIN LUTHER KING, JR.

(Mr. BADILLO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADILLO. Mr. Speaker, January 15, 1975, marked the 46th anniversary of the birth of Dr. Martin Luther King, Jr. On that day, we paid tribute to a man who dedicated his life to ending racial discrimination and achieving a social order based on political and economic justice for all Americans.

Dr. King was an eloquent spokesman who stirred the conscience of the American people by effectively working to make his dreams a reality. Those of us who share the commitment to justice of this great man of courage and vision know that there is much work to be done.

As we begin the 94th Congress, faced with the serious economic and social problems now confronting our Nation, it is fitting that we honor Dr. King by rededicating ourselves to work toward the achievement of the society he envisioned.

During the coming months, the Congress will be considering vital legislation to revitalize our Nation's economy and improve our social conditions. In the process, we must neither ignore the needs of the poor nor, for the sake of legislative expediency, fail to meet our responsibility to preserve and further the goal of social and economic justice.

The 94th Congress must accept the challenge and opportunity to demonstrate that the dreams of Dr. King are still the dreams to guide us, and we must take action to translate those dreams into specific legislative programs.

U.S. GROUP OF INTERPARLIAMENTARY UNION BIENNIAL MEETING

(Mr. JARMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JARMAN. Mr. Speaker, I wish to announce that the regular biennial meeting of the U.S. Group of the Interparliamentary Union will be held on January 21, 1975, at 4 p.m., in room EF–100, Capitol. All those interested should attend.

PROPOSED ACDA LEGISLATION

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, I have today, with cosponsors Mr. Biester, Mr. Bingham, Mr. Findley, Mr. Fraser, and Mr. Harrington, introduced legislation to amend the Arms Control and Disarmament Act, and for other purposes. The provisions of the legislation are the result of recommendations made during hearings held last fall on ACDA as part of a major indepth study of the Agency conducted by the Subcommittee on National Security Policy and Scientific Developments.

In the section-by-section analysis which follows, the basic provisions of the bill are explained in terms of what each proposed change involves and the reason for it.

Section-by-Section Analysis

TITLE I—ARMS CONTROL AND DISARMAMENT ACT AMENDMENTS OF 1974

Section 101. Purposes of Bill

What It Does

Changes the emphasis in the mandate of ACDA from capability to perform certain functions to designation as the Government agency responsible for performing those functions. Brings section 2 of the ACD Act of 1961 into conformity with section 22 of that Act which designates the Director of ACDA as having the prime authority, under the direction of the President, within the Government for arms control and disarmament matters.

Reason for the Change

Eliminates any possible question as to the Agency's statutory authority.

Section 102. National Security Council

What It Does

Requires that the Director of ACDA be a member of the National Security Council and a full participant in its deliberations.

Reason for the Change

Presently, the Director of ACDA attends—by invitation—only those meetings of the National Security Council dealing with arms control and disarmament issues. However, it should be recognized that most if not all of the issues handled by the NSC involve, directly or indirectly, a degree of arms control and disarmament. Thus, his formal membership on the NSC and his presence at all its meetings would help to assure full and proper consideration for the arms control aspects of all issues considered by NSC.

Section 103. General Advisory Committee

What It Does

This change would provide that (1) members of Congress be included in the membership of the General Advisory Committee (GAC) established under Sec. 26 of the basic Act and (2) that the advisory role of the GAC be expanded to include the Congress, (in addition to the President, Secretary of State, and Director of ACDA), among those whom GAC advises respecting matters affecting arms control, disarmament, and world peace.

Reason for the Change

This change is desirable in terms of expanding contact and communication between the Congress and the GAC, thereby providing Congress with additional access to the Agency. It would also serve to make available to the Congress additional insight and information on issues involving arms control and disarmament.

Section 104. (New Sec. 36) Impact statement

What It Does

Requires other Government agencies whose plans may impact on arms control and disarmament policies or negotiations to prepare "arms control impact statements" for review by ACDA. Not unlike environmental impact statements, it would permit the Agency to monitor and comment on such plans without having to devote its limited resources to ferreting out the necessary information. Provides that a copy of the ACDA impact statement be furnished to the National Security Council, the Office of Management and Budget, and the Congress. Finally, it requires that the Director of ACDA, after informing the Secretary of State, shall make recommendations to the Congress.

Reason for the Change

A requirement for impact statements will cause other Government agencies to take arms control and disarmament into account in formulating their plans and will bring ACDA into potential developments before it is too late to effectively influence them. It would also serve to provide complete and accurate information for those in the Congress and the Executive Branch who are subsequently called on to make decisions on these matters.

Section 105. Security requirements for certain consultants

What It Does

Permits the Director of the Arms Control and Disarmament Agency to waive the requirement for a high level security clearance for a limited class of special employees who do not have access to classified information.

Reason for the Change

From time to time the Agency requires the services of consultants for brief periods to work on unclassified projects. As presently written, section 45(a) prohibits such services from being performed until an unnecessary, expensive, and time-consuming investigation is conducted.

Section 106. Public information

What It Does

While not eliminating the prohibition against "propaganda" within the U.S. on the Agency's activities, this change reaffirms the need for and desirability of fulfilling one of the Agency's functions as cited in Section 2(c) ["Purpose"] of the Act.

Reason for the Change

In the past the prohibition against "propaganda" has tended to inhibit the Agency from carrying out necessary and legitimate public information activities within the U.S. By explicitly reaffirming one of the Agency's basic purposes, this change will allow ACDA to provide the public with information on U.S. arms control and disarmament goals and activities. It should also serve to balance the extensive public information program carried out by the Department of Defense.

Section 107. Report to Congress—Posture statement

What It Does

Requires that the Agency's annual report to the Congress be expanded to include a complete and analytical statement of arms control and disarmament goals, negotiations, and activities and an appraisal of the status and prospects of arms control negotiations and of arms control measures in effect.

Reason for the Change

The present annual report provided for in Sec. 50 of the Act presents little more than a sketchy update on the agency's activities generally. It provides the Congress with little if any substantive information on which to base an informed judgment as to progress and needs in achieving arms control goals. This change is intended to correct that deficiency, thereby enhancing the role and action of Congress in the arms control area. The added reporting requirement called for in this change is seen as analogous to the annual "Posture Statement" provided to Congress by the Secretary of Defense.

TITLE II—CONFORMING AMENDMENTS TO OTHER ACTS

Section 201. Sec. 414 Mutual Security Act.—ACDA consultation on issuing export licenses for arms, etc.

What it Does

Requires that the Director of ACDA be consulted and his opinion considered in making decisions whether or not to issue licenses for the export of articles designated as arms, ammunition, and implements of war under this section.

Reason for the Change

Although the law requires that consideration be given to the arms control impact of decisions under the Foreign Assistance Act of 1961 and the Foreign Military Sales Act, there is no such requirement in the munitions control section of the Mutual Security Act. At present ACDA is consulted about the issuance of certain export licenses, but this is an informal arrangement without any statutory basis. The change would ensure that all decisions under section 414 have the benefit of the Director's opinion of their impact on arms control policies and negotiations.

Section 202. Sec. 42(a) Foreign Military Sales Act—ACDA consultation on foreign military sales proposals

What it Does

Requires that the Director of ACDA be consulted and his opinion considered as part of the evaluation of all sales proposed to be made pursuant to the Foreign Military Sales Act.

Reason for the Change

Although section 42(a) of the Foreign Military Sales Act requires that the evaluation of proposed foreign military sales take into account their arms control impact, it does not specifically require that ACDA be consulted or that its views be obtained. The change would assure that all such evaluations have the benefit of the Director's opinion of the impact of the proposed sale on arms control policies and negotiations. ACDA's participation on the Secretary of State's Security Assistance Program Review Committee does not obviate the need for this change, because that committee is concerned with the formulation of annual programs and multi-year plans. This change would ensure ACDA participation in decisions on changes in the credit sales program and on unprogrammed cash sales requests.

Section 203. Sec. 511 Foreign Assistance Act—ACDA consultation on foreign military assistance proposals

What it Does

Requires that the Director of ACDA be consulted on all decisions to furnish military assistance under the Foreign Assistance Act and that his opinion as to the arms control impact of such assistance be taken into account in making such decisions.

Reason for the Change

Although section 511 of the Foreign Assistance Act requires that the decisions on military assistance take into account their arms control impact, it does not specifically require that ACDA be consulted or that its view be obtained. The change would assure that all such decisions have the benefit of the Director's opinion of their impact on arms control policies and negotiations. ACDA's participation on the Secretary of State's Security Assistance Program Review Committee does not obviate the need for this change because that committee is concerned with the formulation of annual programs and multi-year plans. This change would ensure ACDA participation in decisions on program changes.

INDIRECT EMISSIONS CONTROLS

(Mr. CASEY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CASEY. Mr. Speaker, today I am introducing a bill that I believe is extremely important to our Nation's economy and to the rights of our citizens.

The bill would prohibit the Environmental Protection Agency from establishing or enforcing what it calls indirect source emissions.

This bill is the same as the one that I introduced toward the end of the 93d Congress, which was known as H.R. 15858. A great many of our colleagues are familiar with the bill. A large number of them were cosponsors of the bill. Unfortunately because of the heavy burdens we faced and the late introduction, the last Congress did not have the opportunity to consider this matter.

Now, however, we who serve in the 94th Congress do have the opportunity to act and to correct a situation that poses a most serious threat to our economy, to the rights of the States, cities, and even individuals to control the use of their lands. My bill would not in any way detract from the purpose for which the Environmental Protection Agency was created.

For the benefit of our colleagues just beginning their service in the Congress and for those who did not have the opportunity to become familiar with this bill last year, I would like to provide some background.

The Congress, in passing the Clean Air Act and in creating the Environmental Protection Agency, saw the clear need for cleaning up the filth being poured into our skies and for protecting the air we breathe for future generations. I believe I am correct in saying that our intent was to stop pollution at its source, at the smokestacks and at the exhaust pipes. I was proud to support that legislation.

I do not believe that it was the intent of Congress then—I know it was not my intent—and I do not believe it is the intent of Congress now, to halt the industrial, residential, and recreational growth of our Nation.

We needed laws to protect our air.

We needed an agency with the power to force polluting industries or vehicles to begin immediately the necessary steps to stop fouling our air beyond reasonable limits. And we needed an agency with the power to see that those who built factories and motor vehicles in the future made them as clean as humanly possible within the realm of vast and increasing scientific knowledge.

We still need the laws to protect our air and we have them.

We still need an agency with the power to enforce those laws and we have it in the Environmental Protection Agency.

Unfortunately, that agency—which we refer to as the EPA—has somewhere gone considerably afield from the purpose for which it was created.

In recent years, there somehow has been a switch in emphasis from striking at the source of the pollution to changing the course of the lives of our citizens.

The EPA has set air standards for various parts of the country and rather than seeking to control pollution at its source has sought to tell us that we simply cannot use the land; that by constructing buildings and highways, that man will encroach in his automobile with its exhaust fumes, and that therefore he simply cannot be allowed to encroach.

To implement that philosophy, the EPA's bureaucracy came up with what we have come to know as the indirect source emission regulations, which come in various forms, such as "traffic flow controls," "parking regulations," and "transportation controls." Basically, all of them are simply land use controls, or as we call them in our cities, zoning laws.

The difference is that these formulated at the national level by the EPA supersede all those passed at the State and local level.

The EPA literally has laws drafted—and I might add never considered or even contemplated by the Congress—that would require approval of the EPA Administrator before most cities in this country could even build a hospital, a sports arena, a school, an airport, a thoroughfare or a parking lot. The EPA would have the right to dictate the location of not only factories, but office buildings, apartment projects, shopping centers, and even residential communities.

None of these regulations are based on community needs, economic impact or previous planning.

None of these regulations are based on the direct emission sources from the facilities themselves.

They are based solely on the fact that vehicular traffic would be increased and that as a result there would be motor exhaust fumes that would lower the air quality.

The EPA Administrator would become truly a czar of the highest magnitude.

By bureaucratic edict he could halt construction and wipe out the growth of Houston, New York, Los Angeles, Denver, Philadelphia, Detroit, Chicago, Boston—virtually all major cities and most smaller cities in America.

Perhaps some of our colleagues may doubt that the EPA would really go that far.

Just look in the Federal Register of November 15, 1973, at the EPA's proposed parking regulations. Then last year the EPA announced those regulations would go into effect on January 1, 1975. You will find that not only larger cities were involved. The EPA was going to require its approval on any construction project in Fairbanks, Alaska, that involved as few as 10 parking spaces.

Only because this House voted overwhelmingly to prohibit any funds being used for enforcement of these regulations during this fiscal year is the EPA not now requiring compliance.

But when this fiscal year ends on June 30, unless we take further action, the EPA is free to go right back and put the ridiculous requirements in force.

Mr. Speaker, yesterday all of us heard the President report on the state of our economy. I believe we will all agree with his analysis that it is not good.

If we allow the EPA to continue with its folly into indirect source emission controls, I can assure you it will get worse.

Enforcement of just the indirect source regulations already drafted by the EPA could cost our Nation not just thousands, but hundreds of thousands, and perhaps millions of jobs. The construction industries in many of our cities could be wiped out overnight and the repercussions would be felt in virtually every part of our economy.

We still cannot afford the cost of such regulations.

Nor can we allow a bureaucracy—the EPA or any other agency—to run roughshod over the intent or the lawmaking powers of this Congress or the rights of our citizens. If we wish to have Federal land controls of this nature, and I don't think we do, then let us assume the responsibility and let the Congress pass them. We must not allow a handful of bureaucrats to assume our powers.

Mr. Speaker, we have gone through many investigations of the abuse of powers by Federal agencies. We are still going through them.

I do not believe that an abuse of power by an agency is any more tolerable just because it hides behind the cloak of environmental protection.

My bill will make the intent of Congress clear. Our States and our cities can reassume their responsibility and right to plan and control their growth and their economies. And the Environmental Protection Agency can go back to providing the scientific leadership and the policing for cleaning up our factories, our motor vehicle emissions—the other direct sources of pollution.

Let us fight pollution, but let us fight it at the source and with reason.

Today I would like to invite each and every colleague in the House to join me in the sponsorship of this bill and to urge that it be given a full and early hearing and brought before us for enactment.

THE PRESIDENT'S STATE OF THE UNION MESSAGE

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, yesterday, the President's state of the Union speech was delivered in Washington, but the energy recommendations appear to have been written in Houston. It is shocking that the President should contemplate the deregulation of new natural gas and the decontrol of "old" oil, which constitutes over two-thirds of our current petroleum supply. The President proposes to solve the energy crisis by creating a "free market" in energy—an impossible proposal for a resource in short supply and controlled by a few.

This means that citizens who are dependent on natural gas and fuel oil for home heat will face increases of over 100 percent in their heating expenses. The President's proposed refund will never match this increase.

The President's proposal does not create or conserve an additional kilowatt of power or an additional Btu of energy. It simply generates a higher price, more profits to the producer, and a trickle-down of energy tax refunds which will represent only a fraction of the revenues taken from the consumer in higher prices.

The President's proposal guarantees more inflation, colder homes, and windfall profits for the oil producers which will never be adequately recaptured.

DISTRICT OF COLUMBIA REPRESENTATION

(Mr. GUDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUDE. Mr. Speaker, there is no reasonable explanation for our continued denial of voting representation in Congress to the residents of Washington, D.C.

Now that this city's residents can vote for a City Council, a Mayor, and even a President of the United States, our continued denial of the right to elect voting Representatives and Senators appears even more unsuitable and inconsistent than before. Even more unjust. Even more unfair. And even more "small minded."

It seems extraordinary that we should permit men and women to exercise influence over their local services and taxes, but none over war and peace and none over Federal taxation.

Thus, I have introduced a constitutional amendment providing District residents with as many Members of the House and Senate as they would have as residents of a State.

I ask colleagues on both sides of the aisle to study this amendment and support its approval.

FOOD STAMP PROGRAM

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, yesterday I introduced a resolution in the House calling on the Secretary of Agriculture to reverse his stand on the food stamp program that has been announced. The recommendations made by the Department of Agriculture would cut $650 million away from the food stamp program. This would primarily affect senior citizens, older individuals, and mothers with children of low income, preventing them from getting food stamps that they so desperately need today. If this request is not granted by the Secretary of Agriculture, it is the intention of many of us in the House to introduce legislation that would force the situation and prevent this what I believe to be cruel action from taking place, taking food away from those who need it today.

Mr. HECHLER of West Virginia. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. The gentleman from New York is absolutely right. We do not expect the Secretary of Agriculture to reverse his position. I think it is going to take congressional action to freeze the present price of food stamps.

I commend the gentleman from New York for his remarks, and join with him in taking the necessary action to protect those in need against the outrageous proposal to raise the price of food stamps.

FORMER CONGRESSWOMAN VIRGINIA JENCKES

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, it is with sorrow that I announce the passing of a former Member of the House, Virginia Jenckes of Indiana. Mrs. Virginia Ellis Jenckes was elected as a Democrat to the House of Representatives in 1932 from the Sixth District of Indiana. Her victory came just 12 years after women had received the right to vote. She was the first woman to be elected to such a high office in the State of Indiana. She served in the 73d, 74th, and 75th Congresses from March 4, 1933, to January 3, 1939. During her tenure in the House, she was recognized as a self-styled and staunch Jeffersonian Democrat. She earned the respect of both Democrats and Republicans for her positive and forthright stands on issues and principles.

Throughout her more than 97 years, she was always in the thick of politics during a period when political concepts of this country were undergoing dramatic alterations. She was once described by a political reporter as one of the most colorful political figures of the Roosevelt New Deal era.

After leaving Congress, she remained in Washington for many years devoting more than 3,700 hours to Red Cross work. She also was a volunteer in the first blood bank in the country here in Washington. She was very proud of her work for the Hungarian Freedom Fighters. A few years ago she returned to her native Terre Haute where she continued her active interest in community, State, Nation, and her political party. I talked with her some time ago and found her keenly alert and quite concerned about our problems. She voted in the November 1974 election just as she had in every election since the 1920's.

Mrs. Jenckes passed away in her hometown Terre Haute a week ago today, January 9, 1975, leaving several cousins. Interment was in Highland Lawn Cemetery in Terre Haute.

Mrs. Virginia Jenckes, a remarkable lady, was truly the "First Lady of Politics" of Indiana.

WILLIAM BARTRAM, EARLY AMERICAN BOTANIST

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Alabama. Mr. Speaker, I am introducing a bill today which authorizes a feasibility study of the trail that William Bartram followed through the southeastern part of the United States two centuries ago.

William Bartram, an early American botanist, during the 1770's, traveled from his native Philadelphia to the coastal areas and interior of North and South Carolina, Georgia, and Florida; across south Alabama to the Mobile Bay.

As William Bartram traveled, he studied and identified the wide variety of wild floral life and results of this journey have proven significant for botanists, zoologists, and ethnologists.

It is fitting that a walking trail be established to allow the public to share in the natural treasure of this area. It is certainly an opportune time for this study because the anniversary of Bartram's travels coincides with the Bicentennial celebration of our Nation.

Now is the time to preserve this historic and natural trail for future generations. We have made good progress in the past in improving the environment and we must continue to work hard in this endeavor.

FIFTH ANNUAL REPORT ON GOVERNMENT SERVICES TO RURAL AMERICA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 94-31)

The SPEAKER laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, referred to the Committee on Agriculture and ordered printed:

To the Congress of the United States:

I am transmitting herewith the fifth annual report on Government services to rural America, as required by the Agricultural Act of 1970.

GERALD R. FORD.

THE WHITE HOUSE, *January 16, 1975.*

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Currency and Housing:

To the Congress of the United States:

In accordance with section 5 of the Council on Wage and Price Stability Act, as amended, I am hereby transmitting to the Congress the first quarterly report of the Council on Wage and Price Stability. This report covers the third calendar quarter of 1974. In addition, it covers the months of May and June, the period not covered by the final quarterly report of the Economic Stabilization Program.

Inflation continued to be a very serious problem during the period covered by this report. The Council on Wage and Price Stability has been actively using its powers to monitor wage and price increases, conduct public hearings and investigate those Government programs and policies that raise costs and prices without creating corresponding social benefits. In so doing, it is carrying out the mandate of the Congress to combat inflation without resorting to wage and price controls. Although the results of these efforts are not always highly visible, I believe they are making an important contribution to abating continued inflation.

Because the problem of inflation is a stubborn one, I intend to ask the Congress to extend the life of the Council on Wage and Price Stability to June 30, 1976.

GERALD R. FORD.

THE WHITE HOUSE, *January 16, 1975.*

REPORT ON PRESIDENTIAL ACTION CONCERNING VIOLATIONS OF AN INTERNATIONAL FISHERY CONSERVATION PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries:

To the Congress of the United States:

The Pelly Amendment to the Fishermen's Protective Act of 1967, 22 U.S.C. § 1978 (1971), states that when the Secretary of Commerce determines that the citizens of a foreign country conduct fishing operations which diminish the effectiveness of a conservation program of an international fishery convention to which the United States is a party, he shall so certify to the President. The President may then direct the Secretary of the Treasury to prohibit the importation of fish products of the offending country. Within sixty days of certification, the President is required to notify the Congress of any action taken by him pursuant to such certification. If the President takes no action, or if he imposes an import prohibition which does not cover all fish products of the offending country, he must inform the Congress of his reasons.

The Secretary of Commerce has certified to me that the minke whale catches of the USSR and Japan during the 1973–1974 season exceeded the International Whaling Commission (IWC) quotas for that season. These actions diminished the effectiveness of the conservation program of the Commission.

Quotas on the number of whales to be taken each year are set at the annual meeting of the IWC. These quotas together with certain other limitations constitute an "international fishery conservation program." Objections to adopted quotas are permitted by the terms of the Convention. An objecting country is not legally bound by the quota. Whether or not the objection is legal, however, does not alter the fact that exceeding the quotas will diminish the effectiveness of the program. It constitutes a prima facie case for application of the Pelly amendment.

Last year both Japan and Russia objected to the minke and sperm whale quotas set by the IWC. In the case of the minke whale, a quota of 5,000 whales was set for the Antarctic. This figure was admittedly an informed estimate of the maximum sustainable yield of the stock, since precise figures on existing populations were lacking. Relatively few of these small whales had been previously taken. Nonetheless, the quota represented the best judgment of the scientific advisers and was duly adopted by the member nations. The Soviet Union and Japan voted against this quota. They said the figure should be 8,000, and formally objected to the quota. They then announced that each would take 4,000 minke whales during the 1973–74 season. In fact, the Soviet Union took 4,000 and Japan took 3,713. This represented an excess of 2,713, or approximately 50 percent over quota.

To date, no prohibition has been imposed under the terms of the Pelly amendment. I have decided to impose no such prohibition at this time. My decision is based upon the results of this year's meeting of the IWC in London. At this meeting, most of the member nations adopted an Australian amendment to the United States 10-year moratorium resolution. The amended resolution establishes the principle of a selective moratorium applicable to any stocks of whales which fall below their maximum sustainable yield levels or optimum population levels as these are determined. In effect, the selective moratorium shall prevent any whale stock from becoming endangered. According to its terms, the resolution shall be implemented in the 1975–1976 whaling conservation measures fixed by the IWC next year.

The June meeting also produced an agreement to strengthen the Secretariat and to convene a working level meeting to consider changes in the International Whaling Convention itself. In addition, the Commission's quotas for the 1974–1975 season incorporated some conservation improvements not included in the quotas for the last season. The Soviets and Japanese voted for the 1974–1975 quotas and, in general, appeared to be more conciliatory than during previous meetings. They, therefore, provided some hope that all member nations would comply with the resolution and with the 1974–1975 quotas.

There is, of course, the serious economic impact of trade sanctions to consider, particularly in the case of Japan, which in 1973 shipped $235 million in fishery products, 36 percent (in dollar value) of its fishery exports, to the United States. Domestically, withdrawal of Japanese imports, amounting to about 11 percent of our supplies, would result in higher prices for fish products.

Because of the important economic and political ramifications of such sanctions, they should be imposed only after all reasonable alternatives for the achievement of the conservation objective have proven ineffective. With the progress made at this year's IWC meeting, the current situation does not warrant such stringent measures and, therefore, I am taking no action now.

There is, of course, the possibility that subsequent action by Japan or the USSR may require a reassessment. In this event I will expect the Secretary of Commerce to submit such reports and recommendations as he finds warranted. The Secretary's present certification, prepared by the National Oceanic and Atmospheric Administration, recommends the course of action I have decided on.

GERALD R. FORD.

THE WHITE HOUSE, *January 16, 1975.*

BILL TO PROHIBIT MANUFACTURE, SALE, AND DISTRIBUTION OF HANDGUNS

(Mr. MIKVA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MIKVA. Mr. Speaker, I have introduced a bill designed to prohibit the manufacture, sale and distribution of handguns, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs.

For many years, a strong national handgun law has been sought by police chiefs and mayors of cities from coast to coast. And national opinion surveys have shown consistently that a substantial majority of Americans want a strong national handgun law, too.

They all realize, as should the Members of Congress, that a plentiful supply of handguns is a major cause of violent crime. In 1973, in 12 of our largest cities, 53 percent of all homicides were by handguns; nearly 10,000 people in the United States were killed by handguns. In this country, the homicide rate by firearms, which includes more than 30 million handguns, is 8 times higher than Canada, 23 times higher than West Germany, and 42 times higher than England.

A beneficial side effect of the energy crisis has been a reduction of highway speed which has saved 10,000 lives. If we faced up to the fact that we have a "handgun crisis," and passed a national handgun law, we would also see an eventual reduction in needless death.

"Speed Kills," the highway safety campaigns used to say. And so do handguns.

RUSSIAN REPUDIATION OF TRADE AGREEMENT WITH UNITED STATES

(Mr. FRENZEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRENZEL. Mr. Speaker, this week the government of the U.S.S.R. announced that it was repudiating its trade agreement with the United States, because it rejected the features in our Trade Reform Act of 1975 referring to emigration from Russia. The Soviet message also indicated that Russia was displeased with "other discriminatory legislation."

I am extremely disappointed that Russia is unwilling to change its discriminatory policies on emigration. I am even more disappointed by what I think was congressional blundering in the Eximbank conference committee. I believe the Exim bill was the discriminatory legislation referred to in the Soviet statement.

In that conference some of the very same Senators who fought for the Jackson amendment managed to put a limit on total Exim credits for shipments to Russia, and specific limits on special projects within Russia. It is probable that these unwise restrictions took away from the Soviets the real incentives they needed to soften their emigration policies and accept the terms of the trade bill. I believe the Russians would have accepted the terms of the trade bill if they had had an equal chance for credits under the Eximbank.

Therefore, I think it is fair to say that some of the very Senators who worked so hard to get the emigration language into the trade bill are the very ones who are responsible for the fact that it will not work. The unreasonable ceilings on Eximbank credits for exports to Russia had the effect of taking away the incentives offered under the trade bill. Most-favored-nation status is desirable, but Exim credits are essential.

I and other House conferees repeatedly warned the Senate conferees that the Exim credits were absolutely necessary as an incentive for the Russians to realize any benefit under the trade bill. Nevertheless, the Senate managers decimated those incentives, and so took away with one hand what they were trying to give with the other.

There still may be ways to obtain open emigration for Soviet Jews and other Soviet citizens. I intend to offer legislation soon to remove the discriminatory provisions of the Eximbank Extension Act, but obviously such a bill is not likely to pass now. Even if we were to pass a sensible Exim bill, such as the first conference report which was rejected by the Senate, it may be too late.

Nevertheless, I believe we have an obligation to try it. We must continue our efforts in every possible way to press for free emigration, for continued détente, and for the increase of trade-related jobs in America. We can do all this, I believe, by passage of an unrestricted Eximbank bill.

TAX RELIEF AND ENERGY CONSERVATION ACT OF 1975

The SPEAKER. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 5 minutes.

Mr. FRASER. Mr. Speaker, I plan to introduce legislation today which would stimulate our economy through a $15 billion net cut in taxes for low- and middle-income families and which, at the same time, would encourage a cutback in costly oil imports through a reduction in gasoline consumption. Under my proposal, Americans would pay an additional 20-cents-a-gallon tax on gasoline and special fuels. This price increase would be more than offset by a significant tax cut for all except those at high income and tax levels.

President Ford has made a similar proposal, but with important differences. He has proposed a regressive, one-shot tax cut that favors middle- and upper-income people. And the longer-term tax rebates he calls for will not be sufficient to offset the sharply inflationary impact of his proposed tax and price policy for oil. Imposing tariffs and taxes on unrefined oil and freeing the price of domestic crude will cancel out any beneficial impact of his tax cuts, without assuring a reduction in oil consumption, except as the byproduct of prolonged and worsening recession.

The bill I am proposing has two major objectives: First to inject $15 billion in net tax relief into our spending stream, directed toward those who need it most and will spend it; and second to achieve a sizable reduction in costly oil imports, by focusing on automobile use, where larger cutbacks can be made with less real hardship than in other areas.

The House Democratic Steering and Policy Committee has endorsed these same goals, leaving their implementation to the discretion of the appropriate committees.

President Ford also has claimed these goals as his own. But the tax relief he proposes is heavily weighted toward upper income families. And the tariffs, taxes, and price policy he endorses for oil and all oil products, from industrial fuel to home heating oil, would seriously aggravate current inflationary and recessionary pressures by raising the price of everything from bread, to plastic bags, to shoes.

Under my bill, the current $750 personal exemption from Federal income taxation would be replaced by a refundable $300 tax credit to every individual. This would mean $611 in tax relief for a family of four earning $10,000. Families would receive tax relief, at a diminishing rate as their incomes rise, up to incomes of $28,000 a year, for a family of four.

Under the President's proposal for a 12-percent across-the-board rebate in taxes, with a $1,000 ceiling, a family of four earning $10,000 would get $108 in tax relief. The same size family earning $40,000 or $50,000 or more would get $1,000 returned to it. Thus a family with five times the income of a less fortunate family would get 10 times as much tax back from the Government as the poorer family would.

My proposal to replace the current $750 personal exemption from Federal income taxation with a $300 refundable tax credit for every individual would work this way: Those paying less than $300 a year in Federal income taxes would have the difference refunded in cash. Low-income people paying no tax at all, including the unemployed, would receive a direct $300 payment from the Federal Government. People receiving benefits such as social security, supplemental security income—SSI—veterans' pensions, railroad retirement or public assistance would receive the $300 credit in addition to the payments they now receive. The States would have the option of reducing or delaying increases in these transfer payments because of this additional income.

The credit would be retroactive to January 1, 1975, and would result in reduced income tax withholding as soon as the tables could be adjusted.

I estimate that most families of four would receive tax relief until their incomes exceeded $28,000 a year. This calculation of tax savings includes payment of a 20-cent-a-gallon gasoline tax.

I have assumed that a family of four drives 12,000 miles per year in a car averaging 15 miles per gallon. If a family drives less, or has a more efficient car, it would achieve a greater tax savings. If a family drives more, or has a less efficient car, the savings would be less.

Net tax cut under Fraser plan

Family income:	
$5,000	$583
$10,000	461
$15,000	360
$20,000	240
$25,000	90

Individuals driving more than 10,000 miles a year for business and/or commuting to work, job-training, and post-high school education, or because of medical reasons or physical handicaps, would receive an additional tax credit equal to a full refund of the 20-cents-a-gallon tax for all such vehicle usage in excess of 10,000 miles. The same refund would be available to businesses for auto or truck usage of more than 10,000 miles a year required for business.

My tax proposal represents one of the most direct steps we can take to cure this country's serious economic ills. Eight percent unemployment is expected by mid-year. This could mean a $100 billion loss in output. We must pump more money into the spending stream and we can do it by giving more purchasing power to people who need it most—those in the lower- and middle-income ranges. A tax cut is the best tool we can use to increase production and create new jobs.

The $300 tax credit for individuals which I am proposing would mean a revenue loss of $33 billion. The 20-cents-a-gallon additional tax on gasoline would bring in an additional $18 billion in revenue. The new tax cut would therefore be $15 billion. This tax cut would help those least able to protect themselves from the fallout of a deteriorating economy.

The economy desperately needs this stimulus. President Ford expressed concern about the large deficit that a tax cut will produce. But he has ignored the great increase in revenue we would have with a lower unemployment rate. If we return to the modest unemployment rate of early 1973, we would have a $27 billion surplus.

This means that our current deficit is not providing inflationary stimulus to the economy. In fact it is a drag on the economy. We could and would produce more if consumers would buy more. The program I have proposed would put spendable income into the hands of the groups who will spend it.

The Federal Reserve Board figures show a utilization rate of 79.4 percent of our industrial capacity for December 1974. The demand brought about by a cut in personal income taxes for low- and middle-income groups will provide the incentive for business to fully use their capacity. Business does not need a larger investment tax credit. Business needs customers.

This tax credit plan is linked to the rise in gasoline excise tax because any domestic tax on gasoline must be returned immediately to the consumer in order to prevent further deepening of the recession. The tax credit provides an immediate return of the money to those who need it most and will spend it.

Furthermore, a sizable gas tax increase is the only effective way we can discourage gas consumption and thus reduce our enormous foreign oil bill, which was more than $25 billion in 1974. These payments abroad work like a huge excise tax, taking vast sums out of domestic purchasing power.

The fourfold increase in world oil prices is at the heart of inflation and the present worldwide recession. The suddenness of the price jump has thrown the world economy into disarray. If we join with the other major oil-consuming nations of the world in cutting back on costly oil imports, we should succeed in keeping the price at its current level, even if we do not succeed in bringing it down.

Most experts agree that the increase in the price of gasoline resulting from an additional 20-cent tax could bring about an 8-percent reduction in gas use. Since one-third of the oil we use each day—close to 7 million barrels—294 million gallons—gets burnt up in automobiles, this could mean a significant reduction in oil imports.

If the President's tariff, tax and price proposals for oil are accepted, the consumer would pay 10 cents more for heating oil as well as for gasoline. Electric utility companies have estimated that their rates could go up by another 25 percent as a result; airlines have projected a 21-percent increase in air fares; and New England fuel dealers have estimated $75 million extra in home heating costs for their region.

Economists Walter Heller and George Perry, in the latest National City Bank of Minneapolis newsletter, call the Ford proposal an "exercise in economic sadism," which would "boost prices, undercut consumer buying power, and prolong recession." Hobart Rowen, in the January 12 edition of the Washington Post, writes:

> A crude oil tax is the worst of all solutions. It would provide a new inflationary

impetus to the whole economy, worsen the recession and carry no assurance that gasoline consumption would be significantly diminished.

Heller and Perry estimate that $20 billion or so would be taken out of consumers' pockets by the Ford plan. Rowen estimates that the President's proposals could mean more than a $40 billion increase in consumer prices for all goods

The president of Chase Econometric Associates, Inc., a subsidiary of Chase Manhattan—the oil bank, commented that it would be hard to devise a more harmful fiscal policy:

> If the aim of such legislation is to use less imported oil, as is believed to be the case, it is simply common sense to put that tax on the uses of petroleum products with relatively higher elasticities, such as automotive transport, than with lower ones, such as industrial and heating uses.

Under my proposal, with so-called old oil prices in the U.S. still under control, the average price paid for oil would go down slightly, since we would be buying less high-cost foreign oil. This could mean a slight reduction in the price of heating oil and industrial fuel, instead of the sharp increase that would follow the President's proposal.

There is no painless remedy for the problems of the economy and of oil supply. We have got to cut oil imports. Larger cutbacks can be made, with less real hardship, in automobile use than in other areas. For the next few years—until we have successfully made the switch to smaller, more efficient cars—as a Nation we are going to have to change our automobile habits.

A gasoline tax, distasteful as it is to everyone, would have fringe benefits. In addition to encouraging oil conservation, helping with our balance of payments, and raising revenue for tax relief to low-income people, it would result in a reduction in air pollution and a lessening of congestion.

Contrary to general belief, moderate-income families use less gasoline than the well-to-do. As yearly household income goes up, so does gasoline consumption.

People can cut down at once on the miles they drive, without major inconvenience, and can increase the mileage they get by driving more slowly and conservatively. In time, they can switch to smaller cars or cars with more efficient engines.

We need to provide tax relief in order to stimulate our faltering economy. And we need to cut back on costly oil imports. I believe we can do both, with equity to low- and moderate-income people, under the plan I have proposed.

A section-by-section analysis of the bill follows:

Section 1. Short Title. "Tax Relief and Energy Conservation Act of 1975."

Section 2. Provides a $300 refundable tax credit to every individual, effective on January 1, 1975 for taxable year '75. Repeals the current $750 personal exemption from federal income taxation. Retains a single $750 personal exemption for the blind and/or those over 65. Provides an additional refundable credit to individuals and businesses (who will get this credit in lieu of the current business deduction), for the additional excise tax on gasoline and special fuels: for commuting to work, job-training, or post-high school education; for reason of being physically handicapped; or for business-related highway travel in excess of 10,000 miles a year.

Section 3. Imposes an additional 20¢ a gallon excise tax on gasoline, effective on the first day of the month, one month after enactment. Continues current credit for total federal excise tax on gasoline (including additional 20¢ a gallon tax). to certain categories of users: principally farmers and local transit companies. Denies credit for additional federal excise tax on gasoline to other categories of non-highway users, such as motor boats and off-road recreational vehicles.

Section 4. Imposes an additional 20¢ a gallon excise tax on special fuels, effective on the first day of the month, one month after enactment. Continues current credit for total federal excise tax on special fuels (including additional 20¢ a gallon tax), to certain categories of users: principally farmers and local transit companies. Denies credit for additional federal excise tax on special fuels to other crategories of non-highway users, such as motor boats and off-road rereation vehicles.

Section 5. Repeals existing deduction for State excise taxes on gasoline and special fuels.

Section 6. Provides that revenue from the additional excise tax on gasoline and special fuels goes into the general revenue and not into the Highway Trust Fund.

Section 7. Provides that tax credits under this Act are not treated as income for purposes of determining eligibility for certain programs of assistance to low-income individuals.

THE NUCLEAR THREAT

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, of all the threats to the continuation of human life on this earth, the greatest appears to be the proliferation of nuclear power. This awesome force can be used for war or peace, but its potential destructiveness draws no distinctions. The developers of nuclear power may well become its chief victims—but once the deadly material is unleashed, whether for war or peace, the effects could spread around the globe, could wipe out human and animal and plant life, could turn this green earth into a dead planet.

Yet our country is rushing forward blindly with vast development programs—both for war and peace—without the faintest real understanding of the nature of this force. Those whose profits depend upon nuclear development continue to assure us that the chances of accidental or deliberate holocaust are slight, while others not responsible to the industry warn that the risks are being tremendously underrated. But why should we take such risks at all, when there are other ways of providing heat and light and industrial power, other ways of maintaining national defense? We have not even begun to explore these ways—and the nuclear industry sees to it that the door to such exploration is firmly closed.

Other countries, meanwhile, follow our lead and are frantically developing their own nuclear capability—often with our help. Each feels compelled to do so by fear and envy of other countries. Each claims to want security and a better way of life. These are understandable goals. But nuclear power is not the way to achieve these goals, when at every step the fate of humanity is at stake.

We desperately need a pause in which we and other nations take a long look at what we are doing, and decide whether we really want to take such irreversible risks. Other nations, again, will follow our lead; among their citizens, too, are many who try to warn their leaders.

For the two nuclear giants, the SALT talks were supposed to provide such a pause. On the contrary, the agreement signed on November 25 at Vladivostok merely set a framework in which the arms race can accelerate. The so-called limits on armaments far exceed the nuclear arms that each country now possesses. No reduction of stockpiles is provided for. President Ford claims that the agreement "puts a cap on the arms race," but this is like putting a man's cap on a little boy and telling him to grow into it.

I am therefore introducing legislation which asks negotiations to limit nuclear weapons to present stockpiles and begin an immediate reduction of these stockpiles. Since the United States and the Soviet Union between them already have the equivalent of a million Hiroshimas, this certainly would not impair either's defense capability.

To encourage such negotiations, I am also asking the President to pledge that the United States will never be the first to use nuclear weapons. Fear of a first strike is used as justification on both sides, for continued arms increases. I recognize that a pledge can be broken, but I feel that the psychological effect of such a declaration would lessen the climate of distrust and aid détente.

Even more encouraging would be the achievement of a total test ban treaty. Both the United States and the Soviet Union have expressed willingness to negotiate such a ban, both in fact are committed to it by previous treaties. But neither has taken the first step. Since our overall nuclear capability exceeds that of the Soviets by about four to one, I feel that we can well afford to initiate this proposal. New methods of detection have made it almost impossible to cheat on nuclear tests, and their complete elimination would end the continuing hazards of radiation and disruption of the Earth's atmosphere. It would also end the development of ever more monstrous weapons. I am introducing a resolution asking that the Congress express its desire for such action at once.

On the domestic front, the nuclear industry has taken advantage of the oil crisis to proclaim itself the savior of our economy. In the name of providing power, the industry has laid terrifying plans for constructing hundreds of nuclear power plants, turning out great quantities of lethal plutonium, transporting it around the country, even selling it abroad. Citizen groups are springing up all over the country to protest such reckless action. Meanwhile we in Congress must make sure that alternative forms of energy are explored. I will support all legislation for a moratorium on the licensing or construction of nuclear power plants.

In order to keep my remarks brief, I

have dealt today with the general problem, omitting supporting data. In the CONGRESSIONAL RECORD for the past 3 years you will find much documentation of the charges I have made. My colleagues and I have repeatedly presented the opinions of experts—for example, see the CONGRESSIONAL RECORDS of July 31, August 1, September 30, and October 11, 1974. We are prepared to offer a great deal more in the months ahead. Meanwhile, I hope that this body will share my concern and support the legislation I am introducing.

CONGRESSMAN JOHN BRADEMAS APPEARS ON "MEET THE PRESS"

The SPEAKER. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, on January 5, 1975, our distinguished colleague, the gentleman from Indiana (Mr. BRADEMAS) appeared on the NBC television program, "Meet the Press," and was interviewed by the moderator, Mr. Lawrence E. Spivak, and by a panel of outstanding journalists.

Mr. Speaker, I believe that Congressman BRADEMAS, who serves as the chief deputy majority whip, did an outstanding job on "Meet the Press" in discussing the legislative programs proposed by the Democratic leadership for the 94th Congress and the relationships between Congress and the White House.

Mr. Speaker, I include for the information of the Members the transcript of the "Meet the Press" program on which Mr. BRADEMAS appeared:

"MEET THE PRESS"

Guest: Representative JOHN BRADEMAS (D., Ind.), Chief Deputy Majority Whip.

Moderator: Lawrence E. Spivak.

Panel: David S. Broder, the Washington Post; Peter Lisagor, Chicago Daily News; Neil MacNeil, Time Magazine; and Catherine Mackin, NBC News.

Mr. SPIVAK. Our guest today on Meet the Press is a member of the Democratic leadership of the House of Representatives, John Brademas of Indiana, Chief Deputy Majority Whip.

Mr. Brademas, a Rhodes Scholar, has served in Congress since 1958. He was recently appointed by Speaker Albert to a new committee which is developing a program of action for the Democratic majority in the House.

We will have the first questions now from Catherine Mackin of NBC News.

Miss MACKIN. Mr. Brademas, does the Democratic leadership in Congress have a program for dealing with inflation and recession? It did not, as recently as a month ago, when the last Congress adjourned.

$20 BILLION TAX CUT

Mr. BRADEMAS. Yes, I think—we are working on one right now, and I think it will be an effective one, and its major ingredient will be a tax cut, hopefully in the order, I would say, of some $20 billion for low and moderate income persons, and a program that hopefully also will be on the President's desk by the middle of March.

I can expand on the other aspects of the program if you like. In addition, we shall be working hard to ease the flow of credit, particularly for the housing industry and for those sectors of the economy that are in most need of it.

We will be anxious to expand the public service jobs program that was signed into law yesterday by the President in the first go-round on that, wherever it has proved necessary, and we will be concerned as well to develop some sort of wage-price mechanism that will, hopefully, mean a curb on the rampant inflation through which we have been going.

Miss MACKIN. Lyndon Johnson used to say you have to have people in on the takeoff if you want them in on the landing. Do you have the other leaders of Congress in on this? I mean, are the Democrats of Congress really united and ready to go with a definite program?

Mr. BRADEMAS. Yes, in my judgment we will be. You must understand that we only adjourned the 93d Congress a few days ago. The Speaker has appointed a ten-member committee chaired by Congressman James Wright of Texas, of which I am a member, to draw up a program to present to the Steering Committee. That will be done week after next and that program will be taken to the Caucus. From the major ingredients I have seen of it, it will command the overwhelming support of the Democratic Caucus.

Miss MACKIN. You have not mentioned the Senate, however. Don't you have to have the Senate leadership also involved in a program like this if it is to get through Congress?

SENATE AGREEMENT EXPECTED

Mr. BRADEMAS. I am confident on the basis of conversations that I have had with some of the Senators that we will get a similar attitude of responsiveness on the part of the Senate. I think we are moving toward consensus for a Democratic program in the 94th Congress to deal with the problems of the economy.

Mr. BRODER. Mr. Brademas, let's continue to talk about this Democratic economic program. Last month at the Kansas City Mini-Convention, the party came out for across-the-board economic controls on wages, prices, interest, rents, everything. Is that part of the legislative program?

STRENGTHEN WAGE/PRICE COUNCIL

Mr. BRADEMAS. In my judgment it will not be. What I think we will do will be to strengthen the Wage-Price Council in the following ways. We will move to give that council authority to conduct hearings, using the subpena power on proposed price hikes and wage hikes, especially in the basic industries, and give the Council the power to delay increases that seem to be unwarranted, and, in cases where they seem to be particularly outrageous, even to roll them back.

Mr. BRODER. Will the Democrats in Congress call for either gas rationing or some form of gasoline tax to discourage consumption?

RATIONING AS A LAST RESORT, RATHER THAN GAS TAX

Mr. BRADEMAS. In my judgment we are more likely—and this is my own judgment—to move in the direction, as a last resort, to discourage consumption, of gas rationing rather than a gas tax. The gas tax, I think most of us feel, in addition to the fact that the President is adamantly opposed to it, is regressive in nature and bears most heavily on those least able to afford it.

Mr. BORDER. You are talking about doing a lot of things that are going to cost a lot of money in addition to your $20 billion tax cut. Are you going to do anything at all to fight inflation as part of this program?

Mr. BRADEMAS. I think if we can get the economy moving again that is perhaps the most effective way to fight inflation of all. That is one reason I think the tax cut that I mentioned earlier has to be regarded as a fight, not only against unemployment, but as a fight against inflation.

CUT MILITARY BUDGET—AID TO DICTATORSHIPS

I think we will also go after federal spending that we regard as wasteful and unwarranted. I can give President Ford some suggestions right now. I'd suggest that we ought to go at that huge military budget that he is suggesting—$95 billion, we read, for the next fiscal year—as well as military aid to dictatorships that repress their own peoples. Those are a couple of examples.

Mr. MACNEIL. Congressman, do the Democrats in Congress, the leadership, feel they have a mandate to run the country or to take the lead from the 1974 elections?

A QUASI-MANDATE

Mr. BRADEMAS. The phrase I would use, Mr. MacNeil, is this: We have a quasi-mandate, if you will. In my judgment here is where we are.

We have a White House weakened by Watergate, occupied by a President who is not elected, who campaigned hard for his party at the polls and was overwhelmingly repudiated.

On the other hand, we have substantial increases in Democratic margins in the House and Senate, chiefly as a consequence, I think, of two negative factors, the Republican mismanagement of the economy and the whole series of events we call Watergate.

So that we have a kind of quasi-mandate. In my own view, however, it is not enough for us to operate in Congress in the next two years on those negative bases. We Democrats have the responsibility to develop a positive, constructive program to deal with the toughest problems facing the American people and to help fill the vacuum of leadership that the Ford White House represents.

Mr. MACNEIL. You talk of responsibility. Is your party prepared to take responsibility in election terms in '76, if you fail?

A STRONG CONGRESS, A STRONG PRESIDENT

Mr. BRADEMAS. Of course. I think, indeed, it is not a matter of our being prepared to. In the American political system one has no recourse. I do want to make the point, however, that I do not think the Congress can run the country, as it were. I strongly favor a strong President as well as a strong Congress.

Mr. MACNEIL. That is what I wanted to get to. How does such a disorganized group as the 535 Members of Congress formulate a sound economic program in the first place and then pass it?

Mr. BRADEMAS. I think we are in the process of doing that right now, Mr. MacNeil. As I have indicated, the Speaker has already appointed this committee to draw up a program, a program on which I think there will be considerable consensus among the Democratic Members of Congress, and I think that we can pass that program, so I think—and I feel very strongly about this—I think you are going to see the most effective operating Congress that we have seen during my now 16, 17 years in the House of Representatives.

Mr. LISAGOR. Mr. Brademas, at the bottom of many of our problems is oil, or so we are told. Now Secretary of State Kissinger has said we cannot foreclose military intervention if the industrial West is faced with strangulation. As a Democratic leader, how would your House troops react to such a possibility?

KISSINGER'S WAR STATEMENTS IRRESPONSIBLE

Mr. BRADEMAS. I think we would react very negatively, Mr. Lisagor, to that kind of a proposal and that kind of a statement. I don't see that Mr. Kissinger's statement served any useful purpose whatsoever. I think it was unwise. I think it was unwarranted. I do not think it was a responsible statement.

Mr. LISAGOR. Well, what in that case would you do if the industrial West is in fact confronted with either bankruptcy due to the exorbitant oil prices or strangulation due to an oil cutoff?

Mr. BRADEMAS. When one wants to escalate the hypothesis to that degree, I think one can go in any direction whatsoever, and I have criticized Mr. Kissinger just a minute ago for making speculations. In the event of that kind of a hypothesis, I think I would be as subject to criticism as he is for speculating on that. I really don't see that any useful purpose is served by a responsible public official threatening to go to war.

Mr. Lisagor. In other words, both the President and Mr. Kissinger have said this now, have raised this in a kind of vague way.

Mr. Brademas. Yes.

Mr. Lisagor. You would advise them to shut up on this issue?

Mr. Brademas. That is correct. That is correct.

I don't see that, in a situation as delicate as the one with which we are faced now, with the Arab States and Israel not yet having achieved a tolerable settlement, and with our country and the entire western world and our Japanese ally having enough difficulty in the oil crisis, I think it serves no useful purpose for the President of the United States, for the Secretary of State, nor, may I say, for a Member of Congress, to be speculating about going to war.

Mr. Spivak. Mr. Brademas, may I ask you a question? You and other Democrats called upon the President for leadership and yet before his messages and before he begins to exercise any leadership you come forward and say you are going to present your own program. I mean, doesn't that interfere with his leadership?

CONGRESS MUST STIMULATE PRESIDENT

Mr. Brademas. Not a bit. I hope it stimulates him and, of course, we are, Mr. Spivak, co-equal with the President of the United States and I would add, moreover, we got elected. He didn't. And I think we have, under the American Constitution, the responsibility to initiate legislation as the President has a responsibility to propose legislation. Customarily Members of Congress are criticized for sitting supinely back while the White House comes up with all the ideas. That is not going to happen in 1975 and 1976.

WON'T SIT BACK AND WAIT

Now, Mr. Ford is a nice man, but I see no evidence of constructive leadership on his part whatsoever in dealing with these tough problems. We will work with him; we will cooperate with him, but we won't sit back and wait for him.

Mr. Spivak. You Democrats controlled the last Congress and yet you failed to help solve the economic, the energy, the health problems, almost any of the problems that the country faced at that particular time.

You certainly didn't do anything about the major problems, the economic problem, the energy problem, the health problem. You failed to pass any legislation of any importance on that.

Why do you think this Congress is going to do any better than the last?

Mr. Brademas. Because I think your original assertion is not accurate, Mr. Spivak.

Mr. Spivak. What should we do? Why are we in the mess we are in?

BUILD ON IMPORTANT STRIDES OF 93D CONGRESS

Mr. Brademas. All right. We passed the most far-reaching trade bill in a long time. The President has just signed into law a multi-billion dollar public service jobs program. We passed a very important expansion and extension of the unemployment compensation program.

In the field of energy we established the Federal Energy Administration. We established the Energy Research and Development Administration. We passed the Alaska Pipeline Bill. We passed a deep water port bill that the President signed yesterday. We passed legislation to provide for more research and development and demonstration in geothermal energy and solar energy. We passed an important health planning bill that the President vetoed the other day.

Mr. Spivak. Are you saying then that everything you did failed to accomplish the purposes you set out? You didn't solve the energy problem; you didn't solve the health problem; you didn't solve the economic problem, the inflation or recession. Why do you think you are going to do any better this time?

Mr. Brademas. I don't think anyone, and certainly not a responsible Member of Congress, would suggest that the passage of a law is, to quote you, going to solve the problem in those particular——

Mr. Spivak. Or help solve the problems.

Mr. Brademas. Yes, I do think these programs, if one wants to modify the question, will do much to help solve the problem. I think the fact that we provided public service jobs money will certainly be very important in helping solve the problem of unemployment. The impact of unemployment on the now 6.5 million unemployed Americans will be considerably mitigated by the passage of our Unemployment Compensation Bill.

The President himself said, in signing the Trade Bill, that it will mean more jobs for American workers. So I think we have had a very significant, constructive record in the 93rd Congress. And consider how much better, in my view, we are going to do when we now have a much more substantial Democratic margin in the House of Representatives and the Senate than we had in the 93rd where the President, both Mr. Ford and Mr. Nixon, used the veto power to kill some of the important legislation that we passed.

Miss Mackin. How about national health insurance? Does that have a life in this coming Congress?

SEES NATIONAL HEALTH INSURANCE

Mr. Brademas. Oh, yes. In fact, I believe the Speaker said a few weeks ago he thought national health insurance ought to be one of the top priorities this year, and I think that we will pass a National Health Insurance Bill.

Miss Mackin. Could you be more specific? I can't see where the money is coming from to pay for a big national health insurance. It is terribly expensive.

Mr. Brademas. I agree with you and, being very candid with you, I think that is one of the most difficult problems that we have to resolve. I generally favor a program along the lines of the bill introduced by Senator Kennedy and Mrs. Griffiths that would provide comprehensive health coverage with no deductibles, but I believe that the problem we have not yet adequately come to grips with—and this is a more important problem now that we have a recession and now that we have seen a substantial increase in Social Security payroll taxes—is financing it.

So I want to approach that financing problem with very great care. I have no panacea for it.

Miss Mackin. What you are saying then is that the Democrats are going to tell people they are going to get a national health insurance, but the money really isn't around to pay for it?

FINANCING HEALTH INSURANCE WARRANTS CAREFUL STUDY

Mr. Brademas. No, I didn't say that at all. I simply said we will pass a national health insurance bill, in my view, but in view of the circumstances, particularly the changing circumstances of the economy, the recession that we are now into, we have to look much more carefully at the financing mechanism than I think so far we have done.

Mr. Broder. Mr. Brademas, given your belief that you think a tax cut is the best anti-inflation program, how big a deficit will the Democratic Congress produce this year?

Mr. Brademas. I don't think that one wants to allow you to suggest the deficit that the Democratic Congress will get away with this year, Mr. Broder, because I think the reason we are going to have substantial deficits is in large part the product of the outrageous mismanagement of the economy by the Administrations of Mr. Nixon and Mr. Ford.

It was, after all, only a few weeks ago that Mr. Ford finally got around to admitting that we are in the midst of a recession.

Moreover, there have developed factors over which neither Congress nor the White House had control that have contributed to the deficit, namely, Arab oil price hikes, to cite the most important one

DEFICIT ABOUT $36 BILLION

To come to the point of your question, in my judgment we are likely to have, according to the Joint Congressional Committee Report last week, about a $36 billion deficit as things now are in fiscal '76. To that would be added whatever deficit is the product of a substantial tax cut.

FORMER TREASURY SECRETARY SHULTZ URGED $25 BILLION TAX CUT

Let us suppose that we cut taxes on the order of $20 billion. That is very modest. George Shultz, the retiring Secretary of the Treasury, suggested in San Francisco last week a $25 billion tax cut, and he is a conservative Republican economist.

But I think it would be an error to suggest that if you took a $20 billion tax cut, added it to the projected $36 billion deficit for fiscal '76, you would have a $56 billion deficit for the simple reason that the fundamental purpose of the tax cut is to stimulate the economy and get it going again, and that would induce more corporate revenues and more personal income——

Mr. Broder. It would be close to but not perhaps quite as much as $55 billion.

Mr. Brademas. I would say perhaps more in the order of the mid-forties.

Mr. MacNeil. Congressman, you are talking of a tax cut. Is that going to be the Democrats' tax reform this year? What has happened to real reform? What has happened to, for example, the oil depletion allowance?

Mr. Brademas. I think there will be tax cuts in the first instance, and that there will be a tax reform bill in the second instance. I think it would be a great mistake to tie the two into one bill because for purposes of stimulating the economy right now, we need an immediate tax cut. So I am for separating the two.

TAX REFORM SHOULD HIT OIL DEPLETION ALLOWANCE—TAX SHELTERS

When we get by that, we should then turn our attention to a tax reform bill which I think will go after the oil depletion allowance and, in my view, hopefully, will eliminate it. Go after, as well, foreign tax credits. Go after a number of mining shelters. Go after a number of agriculture shelters and some shelters in other areas that protect particular businesses. So I think we are going to have both.

Mr. MacNeil. How effective will the new Democratic majority in Congress be against the very powerful oil lobby, in terms of tax reform and the other lobbies that have so much in the tax code?

Mr. Brademas. I think it will be very effective, and I think indeed we have already taken a step that is, I believe, a very encouraging one for all those who favor tax reform, particularly as far as the oil industry is concerned.

We have expanded the membership of the House Ways and Means Committee from 25 to 37 and we have changed the ratio on that committee from the previous 15 Democratic, ten Republican, to two to one Democratic. And as one of those who sits on the Steering Committee and helped nominate members of the Ways and Means Committee on the Democratic side, I can tell you I think we are now in good shape to have a good tax reform bill, including the oil industry.

Mr. MacNeil. Going to another area, what are you going to do about food prices? You have talked about fighting inflation. How do you do this? Do you have some program to give farmers incentives to produce more?

URGES FOOD PRODUCTION INCENTIVES, INVESTIGATION OF MIDDLEMEN

Mr. BRADEMAS. Yes, I think, and I pretend to no expertise in this area, but I would say we need to move in two areas. One, to give farmers much more incentive to produce what is needed. And second, I think we need to take a very careful look—and here, perhaps, we need some vigorous oversight hearings before we legislate so we know exactly what we are doing—in the whole processing middleman area, where most of the increases seem to be occurring.

Mr. LISAGOR. Speaking of oversight, Mr. Brademas, the President is appointing a blue ribbon commission to look into allegations against the Central Intelligence Agency.

Doesn't that suggest that Congress has failed conspicuously in its oversight responsibilities over the CIA?

SEES FAILURE TO OVERSEE CIA

Mr. BRADEMAS. Yes, I think Congress has failed conspicuously in its oversight responsibilities in respect to the CIA and I am very critical of our shortcomings in this respect and I would favor our looking at a new Joint Oversight Committee that will be much tougher, much stiffer, much more vigorous, much less prone to trust the executive branch than Congress has so far been. So I am very critical of what I regard as a congressional failure in this field.

Mr. LISAGOR. Assuming some truth to the allegations, what would you do about the CIA generally?

Mr. BRADEMAS. The first thing I think I would do would be to see to it that the President of the United States himself rode herd on it much more personally than I perceive Mr. Ford has done—and, of course, he has only been in office five months so I don't really blame him in this respect, but obviously much more carefully than Mr. Nixon did.

Mr. LISAGOR. Well, some of those abuses, Congressman, if I may intrude, went back to the Lyndon Johnson period, as you know.

Mr. BRADEMAS. I am well aware of that and I would be just as critical of a Democratic President for stepping over bounds as I would be of a Republican President. I don't think, however, that administrations prior to those of the Nixon Administration utilized the CIA in the way in which the Nixon Administration did in terms of protecting his own political hide, as it were.

Mr. SPIVAK. We have less than three minutes.

Mr. Brademas, the House Ways and Means Committee, with great power over legislation in the fields of taxation, health insurance, welfare and trade, is losing its powerful Chairman, Mr. Wilbur Mills. What effect do you think this is going to have on the work of that committee?

WAYS AND MEANS DEMOCRATS GAIN MORE IMPORTANT THAN MILLS LOSS

Mr. BRADEMAS. I think that the loss of Mr. Mills as Chairman will have much less impact than will the election returns of November last, because the addition of many more Democrats to the Ways and Means Committee and the change in the ratio on that committee will have far greater impact on the legislation that will come out of that committee than the fact that Mr. Mills is stepping down as Chairman.

Miss MACKIN. With respect to the Democrats' new economic program, normally the White House would tell you in advance about the program they are going to send to the Hill. You just sort of announced what you are sending to the President. Isn't this like picking a fight with Mr. Ford?

HARD TO TAKE FORD ECONOMICS SERIOUSLY

Mr. BRADEMAS. In part, that is our line of work. That is why the Founding Fathers wrote a separation of powers Constitution. Mr. Ford is a big man. He has been in the Congress of the United States. He has his responsibility as President; we have our responsibility as Members of Congress.

Where we can cooperate, I hope very much that we can cooperate, but the point I want to get across here is that we are not going to sit back and wait for the President of the United States to make up his mind. It was only last October that he was still campaigning for a five percent surcharge. Now it is very hard to take seriously the economic competence of someone who as recently as that couldn't see what was coming in this country.

Mr. BRODER. Given that the President is within an hour going to name this blue ribbon commission to investigate the CIA, do you see any reason for separate Congressional investigations?

Mr. BRADEMAS. Yes. I think one of the geniuses of the American constitutional system is its pluralism, is its diversity, and I see nothing wrong with having a variety of investigations going on at the same time. If Watergate has taught us anything, it has taught us that that is a good idea.

Mr. MACNEIL. You mentioned the advice you could give President Ford. How open is his door to you? Have you been down there, have you tried to see him?

DISAGREES WITH FORD, BUT RESPECTS OPENNESS

Mr. BRADEMAS. Yes, I have been down there. I have talked to the President. I talked to him about Cyprus. He did not agree with my point of view, and I did not agree with his. But he is a man who wants candid, frank discussion and for that I respect him very much. I think the fact that he served in the House of Representatives makes it much easier for his former colleagues to talk directly to him.

Mr. SPIVAK. Mr. Brademas, I am sorry to interrupt, but our time is almost up and we won't be able to get in another question and certainly not another answer.

Thank you for being with us today on Meet the Press.

STATE OF THE UNION MESSAGE TERMED "A MESSAGE WITHOUT A HEART"

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. RICHMOND) is recognized for 5 minutes.

Mr. RICHMOND. Mr. Speaker, the President's message was a message without a heart. It was a message that showed no understanding of the anguish a man or woman trying to support a family feels when they cannot find a job.

It was a message that showed no understanding of the plight of the 4,000 workers Mayor Beame laid off today. It was a message that said that the plight of people is not important, yet the plight of corporations, and the military deserves priority. That priority is wrong—that that is the priority that we in the Congress must work to change.

Sure the President is right to say that the taxes Americans pay are too high, that any tax system deserves immediate reform—but to do so at the expense of people who are in severe trouble now is not only a callous, but also a shortsighted policy. We need a tax cut and we need tax reform, but how much is a tax cut worth to someone who has no income? How much is a housing insulation allowance worth to someone who cannot afford to pay his fuel bill?

How much is a program for thermal efficiency in new buildings worth when construction is at an alltime low. What we need in New York City and in the country is direct aid to people now.

We need a direct stimulation to the construction and housing industry to provide jobs. We need tax incentives to get people to buy new cars that are more efficient and don't pollute the air. We need an expanded program of public service jobs to provide immediate relief to the 20 percent unemployed in Bedford Stuyvesant and the millions of unemployed all over America.

We need to keep the integrity of the social security system intact for our senior citizens. We need to have a food stamp program that provides a nutritional diet for poor people.

The President said his program was a new direction for America, but what it really was is the same old story. It is the business-as-usual, trickle-down Republican economics, which gives high tax breaks and incentives to corporations and utilities; but, gives the average out-of-work American no hope for the immediate future.

MAKE THE FEDERAL CONFLICT OF INTEREST LAWS APPLY TO PRESIDENT AND VICE PRESIDENT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SEIBERLING. Mr. Speaker, during the Rockefeller hearings, the Justice Department sent Congress a legal opinion concluding that the Federal conflict of interest law (18 U.S.C. 208) does not apply to the President and Vice President. While the House Judiciary Committee's report was silent on the point, the Senate Rules Committee's report accepted the Justice Department's position without question.

Because I believe that the Nation's highest officers should be among those subject to the conflict of interest statute, I am introducing proposed legislation to appropriately amend the law.

Currently, section 208 requires the disqualification of officers and employees of the executive branch from participating "personally and substantially" in Government matters in which they have a personal financial interest, unless the interest is determined by a higher official to be insignificant.

The intent of the conflict of interest law is to protect the integrity of the Government's decisions by making sure that those decisions are based on honest evaluations of the public interest rather than on any personal interests. In discussing a similar conflict of interest law, the Supreme Court said that—

> It attempts to prevent honest government agents from succumbing to temptation by making it illegal for them to enter into relationships which are fraught with temptation. United States v. Mississippi Valley Generating Co., 364 U.S. 520, 550 (1961).

The Constitution clearly gives the President and Vice President certain powers that cannot be delegated, such as the power to sign or veto legislation—in the case of the President—and the power to break tie votes in the Senate—in the case of the Vice President. I believe that it would be unconstitutional to pass a law requiring Presidential or Vice-Presidential disqualification from the exercise of such a power, regardless of motivation or possible conflict of interest. Decisions on signing or vetoing a bill, for instance, must be made only by the President. Disqualification is simply impossible and inappropriate, as it would nullify the President's constitutional rights and powers.

An appropriate alternative, which my bill would accomplish, is to require that the President and Vice President fully disclose the facts to Congress whenever either participates in a governmental matter in which he has a personal financial interest. My bill, thus, would permit these officers to act while in a conflict of interest, but it would make nondisclosure of the facts a crime. The bill will make the President and Vice President very careful to act in the public interest when they participate in matters in which they are financially affected. The expectation of public scrutiny will help prevent them from falling into the hands of temptation, either consciously or unconsciously. Passage of my bill would provide some degree of public accountability by our highest officers.

In addition, my bill would amend section 209 so as to include the President and Vice President among the governmental officials whose salary is to be payable only by the U.S. Government. This amendment is necessitated by the fact that the Justice Department does not believe that section 209 now applies to the President and Vice President.

SUMMARY OF THE PROVISIONS OF CONGRESSMAN ECKHARDT'S NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

(Mr. ECKHARDT asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. ECKHARDT. Mr. Speaker, on last Tuesday, the first day of this session, I introduced, along with several of my colleagues, the National No-Fault Motor Vehicle Insurance Act. Since I believe that legislation in this field will be acted on in this session and that such would be of great moment, the following summary is supplied for your consideration:

Section 2. The definition of economic loss includes medical and therapy expenses, funeral expenses, wages up to $1,000/month, expenses of substitute services required because of injury.

Section 3. Tort Exemption; no person operating an insured vehicle (unless such person is engaging in criminal activity) is liable in tort for any damages arising from accidents.

Section 4. No one may register or operate a motor vehicle unless it is insured under a qualified no-fault policy.

Section 5. Insurance Requirements: A qualifying no-fault policy must:

1. pay the net economic loss of any injured party or his dependent survivor;
2. make payments for net economic losses as they occur, except in the case of death payments which can be to the survivor in an immediate lump sum. Delayed payments are subject to interest;
3. pay any injured party, not an occupant in a motor vehicle, through the insurer of any vehicle involved; but the paying insurer may receive proportionate reimbursement from the other insurance companies involved;
4. not apply the payments resulting from any economic loss toward any attorneys' fees.
5. pay non-economic losses of any injured party; and
6. pay property damage.

Payments from public or private insurance plans will be taken into account when determining net economic loss.

Section 5 (c) & (d) Suits: One may not proceed to trial for damages, other than economic loss, unless all claims for economic loss have been paid; there is a question as to whether a claim is economic loss and the claim has not been paid within 30 days; three years have elapsed since the accident; or one year has elapsed since the date of the accident and all economic losses for wages have been satisfied. Any agreement for settlement of any claim for damage other than economic loss is unenforceable. The statute of limitations for bringing suit for damage other than economic loss is four years after the accident or one year after the last payment for economic loss, whichever is shorter.

Section 5 (e) through (h). No-fault policies may contain other provisions such as deductibles, so long as the Secretary of Transportation finds them consistent with the Act. Application for no-fault policies may not be refused or cancelled unless the applicant does not have a license or does not pay the premium.

Section 6. Uniform Statistical Plan and Price Information: The Secretary of Transportation consulting with the insurers and state insurance supervisory boards shall establish a uniform statistical plan for reporting claims, losses, and price information. Such data shall be available to the public in at least a semi-annual report. Data relevant to all aspects of no-fault auto insurance shall be collected and analyzed by the Secretary of Transportation.

Section 7. Assigned Claims Plan: The Secretary of Transportation consulting with insurers and state insurance supervisory boards shall organize in each state an assigned claims bureau and plan. These bureaus and plans shall be maintained by the insurers in each state and regulated by the state boards so long as each insurer is required by state law to participate.

Section 8. Claimants Attorney Fees: A claimant suing under a qualifying no-fault policy may be allowed an award of reasonable attorney's fees and court costs. A person making a claim for pain and suffering or property damage may enter into a contingent fee arrangement with an attorney so long as the fee does not exceed 25% of the award.

Section 9. Fraudulent Claims: Within the discretion of the court, an insurer may receive costs of defending itself in a suit in which the claim is found to be fraudulent.

Section 10. Administration: The Secretary of Transportation administers this act in consultation with state insurance regulatory agencies, private business and any others he deems necessary.

Section 11. Jurisdiction: Actions under Section 5 of the Act cannot be brought in federal court unless the action meets the requirements of § 1332 of Title 28 of the United States Code.

Section 12. Effective Date: Section 4, 5(g) and 7(d) take effect eigheen months after enactment of this Act. Section 3 applies to accidents occurring after the 15th day of the eighteenth month after enactment. All other sections take effect one year after enactment.

COST OF ENERGY AND OIL IMPORT FEES WOULD ADVERSELY AFFECT MANY STATES

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, there are many proposals of unquestioned merit in the President's state of the Union address. But there are those which would adversely affect some States, particularly those in coastal areas like Florida. I refer specifically to the $3 per barrel increase in the import fee on crude oil and products such as residual oil. Low sulfur residual oil is burned by several Florida electric utilities. Several million Florida families will be directy affected by this increased tax which the President has said can be imposed by Executive order.

Fuel specialists have stated that this tax would cost the average electric utility customer $100 each per year. Question has been raised that the President has used the proper procedures in proposing an import increase. That situation is being studied at this time. To add an additional $8 to $10 per month to the average utility bill would be a very serious thing to Floridians, a State which has many retirees and others living on fixed incomes.

The simple fact is all Floridians, and particularly businesses, would be adversely affected. There has been testimony that the total cost to Florida of the proposed tax increase would be as high as $285 million per year. The proposal is one which should have further study. It should be submitted to Congress for final determination as a part of the President's economic and energy package.

THE NEED FOR CONTINUING THE FORESTRY INCENTIVES PROGRAM

(Mr. SIKES asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SIKES. Mr. Speaker, the forestry incentives program launched last year already is highly successful. It is filling a longfelt need for improving forest lands in small private ownerships. It is having significant economic benefit in that it has provided employment for hundreds of rural people.

The Congress recognized the value of the program by funding the full amount of the authorization for fiscal year 1975. However, the bright promise of the program is now threatened by delays imposed by the administration. The $25 million appropriation has not yet been allocated. Consequently, no new work can be authorized or undertaken. The people who were employed under the program are being laid off.

It is estimated that the money appropriated will provide approximately 375,000 men days of employment in rural communities—many of them in hard-pressed areas. Employment opportunities are a major benefit. Much greater benefit will accrue under the long term, particularly at the turn of the century when trees planted now will begin to reach harvestable size.

Increased annual harvests of softwood saw timber are expected to amount to 1 billion board feet by the year 2000; 3.1 billion by 2010; and 5.6 billion by 2020. These increases in available timber supplies will have important multiplier effects upon secondary benefits such as greater employment in supporting industries.

Mention should be made also of the lower energy requirements for lumber and plywood as compared to aluminum and steel. It takes over 5,000 kilowatt-hours per ton to produce steel. Smelting of aluminum requires over 20,000 kilowatt hours per ton. In contrast, lumber and plywood only need 900 and 1,300 kilowatt hours per ton respectively to produce. These lesser energy requirements together with the lower levels of water and air pollution associated with their manufacture make lumber and plywood preferred structural materials from the standpoint of environmental quality. Programs which increase their competitiveness vis-a-vis other building materials clearly provide highly desirable social benefits.

Mr. Speaker, in view of these many significant benefits both now and in the future, I invite my colleagues to join with me in urging the President to allocate these funds immediately.

FEDERAL ELECTION CAMPAIGN ACT CHALLENGED IN COURT

(Mr. STEIGER of Wisconsin asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STEIGER of Wisconsin. Mr. Speaker, on January 2, a suit was filed in Federal court challenging the constitutionality of several provisions of the Federal Election Campaign Act and its amendments of 1974.

Six other parties and I have joined Senator JAMES BUCKLEY and former Senator Eugene McCarthy in this suit, and further plaintiffs will be filing with us in the near future. My own concern focuses especially on the limits imposed on candidates for Congress. The expenditure limits and some of the reporting provisions serve to favor incumbents who usually are better known than their opponents and who enjoy the added advantage of incumbent resources. Like the other plaintiffs, I am also concerned about the law's inequitable method of providing public funding for presidential campaigns. In setting limitations on expression and in using Federal dollars, particularly in the case of our democratic electoral system, I believe it is paramount that the Government treat its citizens equitably.

For the information of my colleagues and other readers of the RECORD, I am submitting the full text of the pleading filed on January 2:

[In the U.S. District Court District of Columbia]

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

James L. Buckley, U.S. Senator from the State of New York, 5020 Glenbrook Road, NW., Washington, D.C. 20016; Eugene J. McCarthy, 3053 "Q" Street, NW., Washington, D.C. 20007; William A. Steiger, Member of the U.S. House of Representatives from the Sixth Congressional District of the State of Wisconsin, 323 Constitution Avenue, NE., Washington, D.C. 20002; Stewart Rawlings Mott, 800 Park Avenue, New York, N.Y. 10021; Committee for a Constitutional Presidency, 1223 Connecticut Avenue, NW., Washington, D.C. 20036; Conservative Party of the State of New York, 468 Park Avenue South, New York, N.Y. 10016; New York Civil Liberties Union, Inc., 84 Fifth Avenue, New York, N.Y. 10011; American Conservative Union, 422 First Street, SE., Washington, D.C. 20003; and Human Events, Inc., 422 First Street, SE., Washington, D.C. 20003 *Plaintiffs* against Hon. Francis R. Valeo, Secretary, U.S. Senate, Office of the Secretary, The Capitol, Washington, D.C. 20510; Hon. W. Pat Jennings, Clerk of the U.S. House of Representatives, The Capitol, Washington, D.C. 20510; Hon. Elmer B. Staats, Comptroller-General of the United States, General Accounting Office, 441 G Street, NW., Washington, D.C. 20548; Hon. William B. Saxbe, Attorney General of the United States, Department of Justice, Constitution Avenue and 10th Street, NW., Washington, D.C. 20530; Federal Election Commission c/o Hon. Francis R. Valeo, Ex Officio Member, The Capitol, Washington, D.C. 20510; and c/o Hon. W. Pat Jennings, Ex Officio Member, The Capitol, Washington, D.C. 20510 *Defendants*.

JURISDICTION

1. This action seeks declaratory and injunctive relief against certain provisions of the Federal Election Campaign Act of 1971, Public Law 92–225, 86 Stat. 3, 2 U.S.C. Sections 431 *et seq.* (hereinafter referred to as the FECA), the Federal Election Campaign Act Amendments of 1974, Public Law 93–443, 88 Stat. 1263 (hereinafter referred to as the FECA Amendments), and Subtitle H of the Internal Revenue Code of 1954, Public Law 92–178, 85 Stat. 562, as amended by Public Law 93–53, 87 Stat. 138, 26 U.S.C. Sections 9001 *et seq.* (hereinafter referred to as Subtitle H), and against their enforcement by the defendants, on the grounds that the FECA, the FECA Amendments, and Subtitle H deprive the plaintiffs of freedom of speech and association, of the right to petition for redress of grievances, of the right of privacy, and of due process of law and discriminate invidiously against them, all in violation of the First, Fourth, Fifth, Sixth, and Ninth Amendments to the Constitution and the further grounds that the mode of appointment and confirmation of members of the Federal Election Commission and its purported power to administer, interpret, make rules and enforce said laws is in violation of constitutional separation of powers.

2. The jurisdiction of this Court rests upon 28 U.S.C. Sections 1331, 2201, and 2202, and Section 315(a) of the FECA, 88 Stat. 1285, 2 U.S.C. Section 437h. The amount in controversy, exclusive of interest and costs, exceeds $10,000.

3. Convocation of a three-judge district court is moved pursuant to 28 U.S.C. Sections 2282 and 2284, and certification to the Court of Appeals is requested under Section 315(a) of the FECA, 88 Stat. 1285, 2 U.S.C. Section 437h.

PARTIES

4. Plaintiff James L. Buckley is a United States Senator from the State of New York. He is a citizen of the State of New York and of the United States and is eligible to vote in elections for the office of President of the United States. He is a registered voter in the State of New York in the Republican Party.

He is a federal taxpayer. Plaintiff Buckley has contributed in the past to the campaigns of particular candidates for federal office in amounts greater than $1,000 and desires to do so in the future as a means of expressing his views on public issues. He may seek to be a delegate to the 1976 Republican Party National Convention. Plaintiff Buckley intends to be a candidate for federal office within the meaning of the FECA, the FECA Amendments, and Subtitle H. Said candidacy will be aided by volunteers whose incidental expenses will exceed $500 and thus constitute a contribution or expenditure within the FECA and the FECA Amendments. The expenditure of funds is essential to his success in conveying his ideas and position on public issues to voters and potential voters. To that end, plaintiff desires to solicit and receive contributions larger than $1,000, employ personal funds or the funds of his immediate family as available and necessary, and to spend whatever amounts are available and necessary to convey his views to voters and potential voters in a meaningful way.

5. Plaintiff Eugene J. McCarthy is a former United States Senator from the State of Minnesota. He is a citizen of the State of Minnesota and of the United States and is eligible to vote in elections for the office of President of the United States. He is a federal taxpayer. Plaintiff McCarthy intends to be a candidate for federal office within the meaning of the FECA, the FECA Amendments, and Subtitle H. The expenditure of funds is essential to his success in conveying his ideas and positions on public issues to voters and potential voters. To that end, plaintiff desires to solicit and receive contributions larger than $1,000, and to spend whatever is available and necessary to convey his views to voters and potential voters in a meaningful way. Said candidacy will be aided by volunteers whose incidental expenses will exceed $500 and thus constitute an expenditure under the FECA and the FECA Amendments. He is the Honorary Chairman of the Committee for a Constitutional Presidency, a political committee within the meaning of the FECA, the FECA Amendments, and Subtitle H, which is independent of the two major parties and of any other political party.

6. Plaintiff William A. Steiger is a Member of the United States House of Representatives from the Sixth Congressional District of Wisconsin. He is a citizen of the State of Wisconsin and of the United States, and is eligible to vote in elections for the office of President of the United States. He is a registered voter in the State of Wisconsin. He is a federal taxpayer. He may seek to be a delegate to the 1976 Republican Party National Convention. Plaintiff Steiger is considering a candidacy for federal office in 1976. The expenditure of funds is essential to his success in conveying his ideas and positions on public issues to voters and potential voters. To that end, plaintiff desires to spend whatever amounts are available and necessary to convey his views to voters and potential voters in a meaningful way.

7. Plaintiff Stewart Rawlings Mott has contributed in the past and will contribute in the future amounts in excess of $1,000 to individual candidates for federal office and in excess of $25,000 in the aggregate to such candidates. Plaintiff has also made expenditures on behalf of clearly identified candidates but independent of such candidates in excess of $1,000 and intends to do so in the future. Plaintiff Mott has made and intends to make expenditures against clearly identified candidates in excess of $1,000. Plaintiff has incurred and intends to incur certain incidental expenses on behalf of candidates as a volunteer in excess of $500. Such contributions are for the purpose of furthering plaintiff's ideas and positions on issues of public policy.

8. Plaintiff Committee for a Constitutional Presidency is a political committee within the meaning of the FECA, the FECA Amendments, and Subtitle H and a not-for-profit corporation under the laws of the State of Illinois. Plaintiff is independent of the major parties and of any other political party. It intendes to sponsor a candidate for the office of President of the United States in 1976 and desires to solicit and receive on behalf of such candidate contributions in excess of $1,000, to contribute to said candidate an amount in excess of $5,000 and to make expenditures on behalf of said candidate in excess of two cents multiplied by the voting age population of the United States.

Plaintiff will not hold a national nominating convention in 1976 to select its candidate, as such a convention is defined by the FECA Amendments. If plaintiff's candidate is to wage an effective campaign as an independent, he must make expenditures in excess of $20,000,000. Plaintiff's candidate will not be selected by primaries and will become eligible for state ballots through petition, and expects to incur expenses in that petition effort. Said activities are for the purpose of furthering plaintiff's ideas and positions on issues of public policy and are essential to its ability to participate meaningfully in the political process.

9. Plaintiff Conservative Party of the State of New York (hereinafter Conservative Party) is a political party in the State of New York and a political committee within the meaning of the FECA, the FECA Amendments, and Subtitle H. It has nominated in the past and intends to nominate in 1976 candidates for the offices of President of the United States, United States Senator from the State of New York, and Members of the United States House of Representatives from all or nearly all of the Congressional Districts of the State of New York. Plaintiff will seek to place its candidate for President only on the ballot of New York. Plaintiff is what is commonly called a third party. It intends to solicit and receive contributions in excess of $1,000 for many such candidates, to contribute to many such candidates amounts in excess of $5,000, and to expend on behalf of said candidate for President of the United States an amount in excess of $1,000, to expend an amount in excess of two cents multiplied by the voting age population of the State of New York in the case of its candidate for United States Senator, and to expend an amount in excess of $10,000 in the case of many candidates for the House of Representatives. In some cases, plaintiff may choose a candidate who it hopes will expend personal funds in excess of $35,000 in the case of a candidate for United States Senator and $25,000 in the case of a candidate for the House. Said activities are for the purpose of furthering plaintiff Conservative Party's ideas and positions on issues of public policy and are essential to its ability to participate meaningfully in the political process.

10(a). Plaintiff New York Civil Liberties Union (hereinafter NYCLU) is a not-for-profit corporation, organized under the laws of the State of New York. It is a non-partisan organization, dedicated to defending the rights guaranteed to persons under the Constitution and having as a principal function the dissemination of information concerning such rights within the State of New York. Plaintiff NYCLU, the New York State affiliate of the American Civil Liberties Union, is and has been since its inception barred by the Amercan Civil Liberties Union constitution, by-laws, and polcies from endorsing or opposing any candidate for public office.

(b). Plaintiff NYCLU has in excess of 40,000 members in New York State. Such members reside in all parts of the State. Membership dues for the NYCLU are $15 per year. Many members contribute more than $15 per year. Some contribute more than $100 per year, and the prime source of funds for NYCLU is contributions by members. The experience of the plaintiff NYCLU has been and is that membership is a controversial matter in many parts of the State. NYCLU does not disclose the names of its members and contributors. NYCLU regularly receives a substantial amount of "hate mail," most of which attacks NYCLU, its leadership and members, for allegedly subverting law and order or supporting "radical" groups. Numerous persons who have been identified with NYCLU activites have from time to time been threatened with physical violence or subjected to harassment of reprisals. As a consequence, many members request assurances that their names will remain confidential, and many contributors expressly request that they not be listed on the membership rolls.

(c). As part of its program of public education on controversial civil liberties issues, such as school busing, prisoners rights, and police misconduct, plaintiff NYCLU often sponsors newspaper advertisements or otherwise expends funds in excess of $1,000 in order to communicate its views to the public, and intends to do so in the future. The sole purpose of such activity is to set forth and publicize plaintiff's views and positions on important public issues involving civil liberties. Although plaintiff NYCLU does not endorse or oppose the election of candidates for public office, its advertisements and statements of views on public issues frequently and necessarily refer to, praise or criticize the conduct or actions of clearly identified public officials who may also happen to be candidates for federal office.

(d). In addition, the plaintiff NYCLU regularly publicizes, in its membership newsletter and through other publications, the civil liberties voting records, positions and actions of elected public officials, who are also frequently candidates for federal office. The NYCLU also solicits and then publicizes the views of candidates for office on civil liberties issues. NYCLU's purpose in communicating such information is to inform its members and the public generally about the views and actions of public officials and candidates with respect to civil liberties issues. The expenses of disseminating such information are normally paid for out of the plaintiff's general funds supplied by membership dues and contributions. Disclosure by the plaintiff of the names of its members and contributors would cause and tend to cause persons who are presently members to resign and would deter other persons from joining, paying dues and making contributions to the NYCLU.

11. Plaintiff American Conservative Union (hereinafter ACU) is a political committee within the meaning of the FECA, the FECA Amendments, and Subtitle H of the Internal Revenue Code of 1954. Plaintiff is independent of the two major political parties or of any other political party. Plaintiff ACU has made in the past, and intends to continue in the future to make contributions to political candidates whose ideas and positions on issues of public policy are similar to its own. These contributions will exceed $5,000 in the case of individual candidates. Said contributions are for the purpose of furthering ACU's positions on public issues.

12. Plaintiff Human Events, Inc., is a corporation organized under the laws of the State of Delaware. It publishes a weekly newspaper devoted primarily to the reporting of events of political importance and interest, to the discussion of public issues, and to the discussion of public officials, political leaders and candidates. Human Events also distributes books, tapes, pamphlets, reprints of articles, and employs other forms of communication to further its corporate and editorial purposes. It endorses explicitly or by implication or refrains from endorsing candidates for federal offices where it deems it necessary and appropriate. It regularly takes editorial positions on matters of public controversy. It has in the past and intends in the future to recommend to those of its readers who share its views that such readers communicate their views to public officials, political candidates, and other political leaders. Plaintiff is wholly owned by its three top executive employees and is not controlled directly or indirectly by any political party or political committee.

13. Defendant Francis R. Valeo is the duly appointed Secretary of the United States Senate. This defendant is a designated "supervisory officer" within the meaning of the FECA and the FECA Amendments and will enforce Titles I and III of the FECA until the appointments and qualification of all the members and general counsel of the Federal Election Commission, Section 208, FECA Amendments, 88 Stat. 1286. He is sued in his official capacity.

14. Defendant W. Pat Jennings is the duly appointed and presently acting Clerk of the United States House of Representatives. This defendant is designated a "supervisory officer" within the meaning of the FECA and FECA Amendments and will continue to enforce Titles I and III of the FECA until the appointments and qualification of all the members and general counsel of the Federal Election Commission, Section 208, FECA Amendments. 88 Stat. 1286. He is sued in his official capacity.

15. Defendant Elmer B. Staats is the duly appointed Comptroller-General of the United States. This defendant is designated a "supervisory officer" within the meaning of the FECA and FECA Amendments and will continue to enforce Titles I and III of the FECA until the appointments and qualification of all the members and general counsel of the Federal Election Commission, Section 208, FECA Amendments, 88 Stat. 1286. He is sued in his official capacity.

16. Defendants Valeo, Jennings, and Staats, in their respective capacities as "supervisory officers" under the FECA, are charged with enforcement of the FECA and the Regulations promulgated thereunder. Defendants Valeo and Jennings are also *ex officio* Members of the Federal Election Commission.

17. Defendant William B. Saxbe is the Attorney General of the United States. As such, he is charged with the enforcement of criminal sanctions against violations of Title 18 of the United States Code. He is also empowered to receive from the supervisory officers and/or the Federal Election Commission notifications of apparent violations of the FECA and the FECA Amendments, and at the request of the supervisory officers and/or Federal Election Commission, to institute civil actions for relief or any other appropriate order. In any case in which the Federal Election Commission refers an apparent violation to the Defendant, he must respond by report to the Commission with respect to any action taken by him regarding the apparent violation.

18. Defendant Federal Election Commission is established by Section 208(a) of the FECA Amendments, 88 Stat. 1280, as amended by the FECA, 2 U.S.C. Section 437c. The six members of the Federal Election Commission have not been confirmed as of the date of the filing of this complaint. When said members are confirmed and in office, they will be named in their official capacities as defendants in this action.

THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 AND THE AMENDMENTS OF 1974

19. The FECA Amendments substantially revise the FECA, and incorporate within their statutory framework Subtitle H of the Internal Revenue Code of 1954.

Limits on contributions to candidates

20. Section 101(a) of the FECA Amendments, 88 Stat. 1263, amends 18 U.S.C. Section 608 to provide *inter alia* that

(a) no person (as defined by 18 U.S.C. Section 591(g) to mean an "individual, partnership, committee, association, corporation or any other organization or group of persons") shall contribute to any candidate with respect to any election for any federal office more than $1,000;

(b) no individual shall make contributions aggregating more than $25,000 in any calendar year (contributions in a calendar year being defined to mean any contribution made with respect to a given election whether or not made during the actual year of such election); and

(c) no political committee as defined by 18 U.S.C. Section 608(b) as amended by the FECA Amendments to mean an organization registered as such under Setcion 303 of the FECA for a period of not less than 6 months which has received contributions from more than 50 persons and (except for State party organizations) has contributed to 5 or more candidates for federal office (other than a principal campaign committee) shall make contributions to any candidate with respect to any election for federal office in excess of $5,000.

21. Setcion 101(b) of the FECA Amendments, 88 Stat. 1266, amends 18 U.S.C. Section 608(a)(1) to provide that no candidate shall make expenditures from his personal funds or those of his immediate family in connection with his campaigns for nomination for election, or for election to federal office in excess of the following aggregate amounts:

(a) $50,000, in the case of a candidate for the office of President or Vice President of the United States;

(b) $35,000, in case of a candidate for the office of Senator or for the office of Representative from a State which is entitled to only one Representative; and

(c) $25,000, in the case of a candidate for the office of Representative in any other State.

22. Section 102(c) of the FECA Amendments, 88 Stat. 1269, amends 18 U.S.C. Section 591(e) to provide that certain incidental expenses incurred by volunteers in excess of $500 are a "contribution" within the meaning of Section 101(a).

23. The limitations specified in paragraphs 20, 21 and 22 of this complaint are not to be adjusted according to changes in the Consumer Price Index.

Limits on Candidate Expenditures

24. Section 101(a) of the FECA Amendments, 88 Stat. 1264, amends 18 U.S.C. Section 608 to provide that:

(a) no candidate shall make expenditures in excess of $10,000,000 in the case of a candidate for nomination to the office of President of the United States, except that the aggregate of expenditures in any one State shall not exceed twice the expenditure limitation applicable in such State to a candidate for nomination for election to the office of Senator, and except that the Federal Election Commission is empowered to prescribe rules under which expenditures in two or more States shall be allocated for purposes of the expenditure limitation, based on the voting age population in each State which can reasonably be expected to be influenced by such expenditure.

(b) no candidate shall make expenditures in excess of $20,000,000 in the case of a candidate for election to the office of President of the United States;

(c) no candidate shall make expenditures in excess of the greater of 8 cents multiplied by the voting age population of the State or $100,000, whichever is greater, in the case of a campaign for nomination for election by a candidate for the office of United States Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative;

(d) no candidate shall make expenditures in excess of the greater of 12 cents multiplied by the voting age population of the State or $150,000, whichever is greater, in the case of any campaign for election by a candidate for the office of Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative;

(e) no candidate shall make expenditures in excess of $70,000 in the case of any campaign for nomination for election, or for election by a candidate for the office of Representative in any State entitled to more than one Representative;
ments, 88 Stat. 1270–1271, amends 18 U.S.C. Section 591(f), relating to expenditures to exclude, *inter alia*, a candidate's fund-raising costs up to 20 percent of the applicable spending limit; and

(g) the limitations enumerated in paragraph twenty-seven subparagraphs (a) through (e) of this complaint shall be adjusted with reference to the Consumer Price Index, by a formula provided in Section 101(a) of the FECA Amendments, 88 Stat. 1265.

25. Section 101(a) of the FECA Amendments, 88 Stat. 1264, amends 18 U.S.C. Section 608 to define an expenditure "made on behalf of a candidate" as one made by

(a) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

(b) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

Independent Expenditure Limitations

26. Section 101(a) of the FECA Amendments, 88 Stat. 1266, amends 18 U.S.C. Section 608, to prohibit expenditures by any "person" as defined by 18 U.S.C. Section 591 (g) to mean an "individual, partnership, committee, association, corporation or any other organization or group of persons", independent of and not by or on behalf of a candidate but "relative to a clearly identified candidate" in excess of $1,000. "Clearly identified" is defined to mean (i) the candidate's name appears, (ii) a photograph or drawing of the candidate appears; or (iii) the identity of the candidate is apparent by unambiguous reference.

Expenses of volunteers

27. Section 102(d) of the FECA Amendments, 88 Stat. 1270, amends 18 U.S.C. Section 591 to provide that "expenditure" includes certain incidental expenses incurred by volunteers in excess of $500.

Penalties

28. Section 101(a) of the FECA Amendments, 88 Stat. 1266, amends Section 608 of the FECA to provide that any person who violates any provision of that Section shall be fined not more than $25,000 or imprisoned not more than one (1) year, or both.

Presidential nominating conventions

29. Section 406(a) of the FECA Amendments, 88 Stat. 1295, amends Section 9008 of the Internal Revenue Code of 1954 to limit the expenditures of the national committee of a party with respect to a presidential nominating convention to $2,000,000 (adjusted to the Consumer Price Index).

30. Section 406(a) of the FECA Amendments, 88 Stat. 1295, amends Section 9008 of the Internal Revenue Code of 1954 to provide that the Federal Election Commission may authorize the national committee of a party to make expenditures which exceed the limitation enumerated in paragraph 29 of this complaint. Such authorization is to be based on the Commission's determination that "due to extraordinary and unforeseen circumstances, such expenditures are necessary to assure the effective operation of the presidential nominating convention by such committee."

31. Section 406(b)(3) of the FECA Amendments, 88 Stat. 1296, amends Section 9012 of the Internal Revenue Code of 1954, to provide that any officer or member of a national committee who consents to a violation of the requirements specified in paragraph 29 of this complaint shall be fined not more than $5,000 or imprisoned not more than one year, or both.

Amounts contributed in excess of expenditures

32. Section 210 of the FECA Amendments, 88 Stat. 1289, provides that amounts received by a candidate as contributions which exceed his or her expenditures may be used to defray any ordinary and necessary expenses incurred in connection with his or her duties as holder of a federal office.

Expenditures of political party national committees

33. Section 101(a) of the FECA Amendments, 88 Stat. 1265, amends 18 U.S.C. Section 608 to provide that the national committee of a political party and state committees of a political party may make expenditures in connection with campaigns for federal office subject to certain spending limits. In the case of a national committee, it may spend no more than an amount equal to two cents multiplied by the voting age population of the United States in connection with a general election for President. A national or state committee of a party may spend: (1) up to two cents multiplied by the voting age population of the state or $20,000, whichever is greater, in connection with an election to the office of Senator or of Representative from a State which is entitled to only one Representative; (2) up to $10,000 in connection with an election to the office of Representative in any other State.

Subsidy for presidential elections

34. Sections 403–409 of the FECA Amendments, 88 Stat. 1291, amend Subtitle H of the Internal Revenue Code of 1954 to provide public financing for elections for the office of President of the United States. Under Section 9002 a candidate with respect to any presidential election is defined as an individual who has been nominated for election to that office by a major party or has qualified to have his name on the election ballot (or to have the names of electors pledged to him on the election ballot) in ten or more states. A major party is defined as one whose candidate in the preceding presidential election received, as the candidate for such party, twenty-five percent or more of the total number of popular votes received by all candidates for such office. A minor party is defined as one whose candidate in the preceding presidential election received, as the candidate of such party, five percent or more but less than twenty-five percent of the total number of popular votes received by all candidates for such office. A new party is defined as one which is neither a major party nor a minor party.

35. Section 9006 of the Internal Revenue Code of 1954, as amended by the FECA Amendments, establishes a "Presidential Election Campaign Fund" composed of amounts designated to the fund by individuals under Section 6096. Section 6096 permits individual and joint taxpayers to designate one or two dollars, as the case may be, of the taxes they owe to the Presidential Election Campaign Fund. If, at the time of a certification from the Federal Election Commission for payment to eligible candidates, such amounts are not or may not be sufficient to satisfy the full entitlements of the eligible candidates of all political parties, a pro rata distribution is called for, in accord with a priority for different kinds of expenses as established by the FECA.

36. Under Section 9004 of the Internal Revenue Code of 1954, as amended by Section 404(a) of the FECA Amendments, 88 Stat. 1291, candidates for major parties are entitled to equal payments, up to the statutory expenditure limit of $20,000,000 as adjusted by reference to the Consumer Price Index. Candidates of minor parties are entitled to payments equal to an amount which bears the same ratio to the amount allowed major party candidates as the number of popular votes received by the minor party's presidential candidate in the preceding presidential election bears to the average number of popular votes received by major party candidates for President in the preceding presidential election. A candidate who in the previous presidential election received between five and twenty-five percent of the popular vote is to receive an amount computed in the same manner as that of a minor

party (less whatever his or her party receives). After the election, a candidate of a minor party who receives more than five percent of the popular vote is entitled to an amount similarly computed if that exceeds the amount computed on the basis of the previous election. A candidate of a new party who receives more than five percent of the popular vote is entitled after the election to an amount computed on the basis of the same ratio.

37. Under Section 9008 of the Internal Revenue Code of 1954, as amended by Section 406(a) of the FECA Amendments, 88 Stat. 1294, major parties are entitled to payments up to $2,000,000 to defray expenses of nominating conventions (to be paid before any of the payments specified in paragraph 36 of this complaint). Minor parties are entitled to an amount to support their nominating conventions computed on the ratio described in paragraph 36 of this complaint based on the previous presidential election. The Federal Election Commission may authorize national committees of major and minor parties to make expenditures exceeding the limits described in paragraph 29 of this complaint upon a determination by the Commission that "due to extraordinary and unforeseen circumstances, such expenditures are necessary to assure the effective operation" of the convention.

38. Under Sections 9033 and 9034, as amended by Section 408(c) of the FECA Amendments, 88 Stat. 1297, a candidate for nomination for election to the office of President of the United States may receive from the Presidential Election Campaign funds to pay expenses incurred in connection with his or her campaign for nomination if he or she has received contributions in excess of $5,000 from residents of at least twenty states (the excess over $250 from any one individual not to be counted), the funds provided to be in an amount matching such contributions (the excess over $250 from any one individual not to be matched). Such payments are to be made only if sufficient funds are available for the payments specified in paragraphs 36 and 37 of this complaint.

Federal Election Commission

39. Section 208(a) of the FECA Amendments, 88 Stat. 1280, amends the FECA, 2 U.S.C. Section 437c, by providing for the establishment of a Federal Election Commission. Said Commission is to be composed of six members, two appointed by the President pro tempore of the Senate on the recommendations of the majority and minority leaders of the Senate, two by the Speaker of the House of Representatives on the recommendations of the majority and minority leaders of the House, and two by the President. All must be confirmed by a majority of both Houses.

40. The Commission has broad powers, Section 208(a) of the FECA Amendments, 88 Stat. 1282, 2 U.S.C. Section 437d. It may, *inter alia*: (a) investigate with the aid of compulsory process; (b) exercise primary jurisdiction with respect to civil enforcement of the FECA, as amended, by bringing actions (including proceedings for injunction) in federal district courts; (c) refer violations to the Attorney General; (d) formulate general policy with respect to the administration of the FECA, the FECA Amendments, and certain provisions of Title 18 of the United States Code; (e) render advisory opinions; and (f) make rules necessary to carrying out the FECA and the FECA Amendments.

41. Section 209(b)(1) of the FECA Amendments, 88 Stat. 1287, amends Section 316(a) of the FECA to empower the Commission to make rules and regulations under the provisions of the FECA and FECA Amendments relating to reporting and disclosure. Any proposed rule or regulation dealing with required reports or statements by a candidate for the office of Senator and by political committees supporting such candidate shall be transmitted to the Senate. If the Senate does not disapprove such a proposed rule or regulation within 30 legislative days, the Commission may prescribe it. Any proposed rule or regulation dealing with required reports or statements by a candidate for the office of Representative and by political committees supporting such candidate shall be transmitted to the House. If the House does not disapprove such proposed rule or regulation within 30 legislative days, the Commission may prescribe it. If a proposed rule relates to required reports or statements by a candidate for the office of President of the United States, and by political committees supporting such candidate, it shall be transmitted to both the House and the Senate. Both the Senate and the House may disapprove any such proposed rule or regulation within 30 legislative days.

42. Section 302 of the FECA Amendments, 88 Stat. 1290, amends the FECA, 2 U.S.C. Section 456, to provide that if the Commission finds that a candidate for a federal office failed to file a report required by the FECA or the FECA Amendments, such person shall be disqualified from becoming a candidate in any future election for federal office until one year after the expiration of the term for which such person was a candidate.

Miscellaneous Definitions

43. The FECA and FECA Amendments define in Section 301(d) a political committee as "any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000."

44. Section 301(e) of the FECA and Section 591(e) of Title 18 U.S.C., as amended, define a contribution as a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing the nomination for election of any person to federal office or for influencing the results of a primary to select delegates to a national nominating convention or influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of the President of the United States. News stories, commentaries and editorials are not excepted from these definitions.

45. Section 301(f) of the FECA and Section 591(f) of Title 18 U.S.C. define expenditures to mean a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing the nomination for election of any person to federal office or for influencing the results of a primary to select delegates to a national nominating convention or influencing the results of an election held for the expression of a preference for the nomination of persons for election to the office of the President of the United States. News stories, commentaries and editorials are excepted from these definitions.

Reporting and Disclosure

46. Under Section 302(b) of the FECA, as amended by Section 202(a) of the FECA Amendments, 88 Stat. 1275, committees must keep detailed records identifying any person who contributes $10 or more. Under Section 304(a) of the FECA, as amended by Section 204(a) of the FECA Amendments, 88 Stat. 1277, political committees receiving contributions or making expenditures on behalf of a candidate must file reports with said candidate's principal campaign committee which comply in all respects with the reports required to be filed with the Federal Election Commission by the principal campaign committee. A principal campaign committee must, under Section 304(b) of the FECA, report the full name, mailing address, and occupation of each person who has made one or more contributions to or for said committee in an aggregate amount in excess of $100, together with the amount and date of said contributions.

47. Section 204(c) of the FECA Amendments, 88 Stat. 1277, amends Section 304 of the FECA to provide that a member of Congress need not report as contributions received or expenditures made the value of services furnished by the Senate or House recording studios, or by an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives, and who furnishes such services as his primary duty as an employee of the Senate or House of Representatives, or if such services were paid for by the Republican or Democratic Congressional Committees. The section does not apply to recording services furnished during the calendar year before the year in which the Member's term expires.

48. Section 204(c) of the FECA Amendments, 88 Stat. 1278, provides that every person who makes contributions or expenditures other than by contributions to a political committee or candidate in an aggregate amount in excess of $100 shall file with the Commission a report containing the information described in paragraph 46 of this complaint.

49. Section 208(a) of the FECA Amendments, 88 Stat. 1279, amends the FECA as follows:

"SEC. 308. Any person (other than an individual who expends any funds or commits any act directed to the public for the purpose of influencing the outcome of an election, or who publishes or broadcasts to the public any material referring to a candidate (by name, description, or other reference) advocating the election or defeat of such candidate, setting forth the candidate's position on any public issue, his voting record, or other official acts (in the case of a candidate who holds or has held Federal office), or otherwise designed to influence individuals to cast their votes for or against such candidate or to withhold their votes from such candidate shall file reports with the Commission as if such person were a political committee. The reports filed by such person shall set forth the source of the funds used in carrying out any activity described in the preceding sentence in the same detail as if the funds were contributions within the meaning of section 301(e), and payments of such funds in the same detail as if they were expenditures within the meaning of section 301(f)."

50. Section 208 of the FECA Amendments, 88 Stat. 1284, amends the FECA to provide that the Federal Election Commission may institute civil actions for relief, including injunctions, if there is reason to believe that a person has engaged, or may engage, in acts or practices which violate the Act. The Commission may also request the Attorney General to bring civil actions for relief, including injunctions, against violations of the Act.

Penalties

51. Title 2 U.S.C. Section 441 provides that any person who violates the registration, reporting and disclosure provisions specified in paragraphs 46, 47, 48, or 49 of this complaint shall be fined not more than $1,000 or imprisoned not more than one year, or both.

Causes of Action

52. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they restrict and inhibit political activity by limiting the solicitation, receipt or making of contributions on behalf of political candidates, in violation of the rights of freedom of speech and association guaranteed by the First Amendment to the Constitution.

53. The FECA and the FECA Amendments violate the rights of one or more of the plaintiffs in that they restrict and inhibit political activity by preventing candidates or their immediate family from expending personal funds where available and necessary, in violation of their rights of freedom

of speech and association guaranteed by the First Amendment to the Constitution.

54. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they restrict and inhibit political activity by limiting the incidental expenses which volunteers working on behalf of political candidates may incur, in violation of their rights of freedom of speech and association guaranteed by the First Amendment to the Constitution.

55. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they limit expenditures by a candidate for federal office, and thereby restrict and inhibit the candidate's ability to communicate his ideas and positions, in violation of the rights of freedom of speech and association guaranteed by the First Amendment to the Constitution.

56. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they are designed to have, and have, the effect of favoring most incumbent officeholders and thereby disadvantaging most challengers, in violation of their rights of freedom of speech and association guaranteed by the First Amendment to the Constitution and the Due Process Clause of the Fifth Amendment to the Constitution. Incumbents have, at the government's expense, permanent offices, the frank, expense allowances, an established staff, access to Congressional television recording services, and a variety of office supplies and expenses, none of which constitute expenditures within the FECA and the FECA Amendments when used by them for all but blatantly political purposes. Challengers can employ such valuable resources only by making expenditures which the Act limits to an amount far below the value of what is available to incumbents by virtue of their office alone. This disparity is in addition to the political advantages which naturally inhere in incumbency, such as ability to make news and wider name recognition.

57. The FECA Amendments deprive one or more plaintiffs of their constitutional rights in that they allow incumbent officeholders and successful candidates to employ surplus campaign funds to defray the expenses of their offices, thus discriminating invidiously against candidates challenging incumbents and against unsuccessful candidates for federal office, in violation of the rights of freedom of speech and association guaranteed by the First Amendment to the Constitution and the Due Process Clause of the Fifth Amendment to the Constitution.

58. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they discriminate against third parties and minor parties which rely heavily on large contributions, in violation of their rights of freedom of speech and association guaranteed by the First Amendment to the Constitution and the Due Process Clause of the Fifth Amendment to the Constitution.

59. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they discriminate against third parties or minor parties which have not previously demonstrated their ability to capture a large percentage of the popular vote or which run candidates on a "balance of power" or "spoiler" strategy hoping to influence the policies of the major parties, in violation of their rights of freedom of speech and association guaranteed by the First Amendment to the Constitution and the Due Process Clause of the Fifth Amendment to the Constitution.

60. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they limit the expenditures of national committees of a political party in the case of campaigns for federal office in violation of the rights of freedom of speech and association guaranteed by the First Amendment to the Constitution and the Due Process Clause of the Fifth Amendment to the Constitution.

61. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they discriminate against political parties lacking a national committee, in violation of the rights of freedom of speech and association guaranteed by the First Amendment to the Constitution and the Due Process Clause of the Fifth Amendment to the Constitution.

62. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they discriminate against political parties sponsoring a candidate for President in only one State, in violation of their rights of freedom of speech and association guaranteed by the First Amendment to the Constitution and the Due Process Clause of the Fifth Amendment to the Constitution.

63. The FECA Amendments deprive one or more of the plaintiffs of their rights in that the method of appointment of the Federal Election Commission violates the constitutional separation of powers and discriminates invidiously against them in violation of the Due Process Clause of the Fifth Amendment to the Constitution.

64. The FECA Amendments deprive one or more of the plaintiffs of their right to a hearing before an impartial tribunal by entrusting administration and enforcement of the FECA, as amended, to the Federal Election Commission, in violation of the constitutional separation of powers, Article III, and the Due Process Clause of the Fifth Amendment to the Constitution.

65. The FECA Amendments deprive one or more of the plaintiffs of their rights in that the Federal Election Commission is empowered to make rules under the FECA in violation of the constitutional separation of powers and the Due Process Clause of the Fifth Amendment to the Constitution.

66. The FECA Amendments deprive one or more of the plaintiffs of their rights in that the Federal Election Commission has power to disqualify a person from becoming a candidate for election to federal office in violation of the First, Fifth, and Sixth Amendments to the Constitution.

67. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they provide, through auditing procedures, for the Federal Election Commission to inspect lists and records required to be kept by political committees of individuals who contribute more than $10, in violation of their right of freedom of speech and association and privacy guaranteed by the First, Fourth, and Ninth Amendments to the Constitution and of their right to due process of the Fifth Amendment to the Constitution.

68. The FECA Amendments and the FECA violate the rights of one or more of the plaintiffs in that they require political committees to register and disclose the names of those of their contributors who contribute in excess of $100, in violation of their rights of freedom of speech, association and privacy guaranteed by the First, Fourth, and Ninth Amendments to the Constitution and of their right to due process of the Fifth Amendment to the Constitution.

69. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they discriminate invidiously against them by not requiring the same disclosure from incumbent officeholders of all resources available to such incumbents, such as the value of services furnished by the Senate or House recording studios or the services of certain individuals on their staffs, in violation of the right to due process of the Fifth Amendment to the Constitution.

70. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they provide that every person contributing or expending more than $100 other than by contribution to a political committee or candidate (including volunteers with incidental expenses in excess of $600) must make disclosure to the Federal Election Commission, in violation of the rights of freedom of speech, association and privacy of the First, Fourth, and Ninth Amendments to the Constitution and of their right to due process of the Fifth Amendment to the Constitution.

71. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they require any person who expends funds or commits any act for the purpose of influencing the outcome of an election or who publishes or broadcasts to the public any material advocating the election or defeat of a candidate, setting forth a candidate's position on any public issue, his voting record or any official acts to file reports with the Commission as if such person were a political committee, in violation of the rights of freedom of speech, association and privacy of the First, Fourth, and Ninth Amendments to the Constitution.

72. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they provide criminal penalties for violation of the disclosure provisions of the statutes, in violation of the rights of freedom of speech, association and privacy of the First, Fourth, and Ninth Amendments to the Constitution.

73. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they restrain and inhibit individual political activity by limiting to $1,000 the independent (not on behalf of a candidate) expenditures of any person relative to an identified candidate, in violation of the rights of freedom of speech and association of the First Amendment to the Constitution.

74. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they exclude from the definition of "political committee" committees registered for less than the period of time prescribed in the statute, thus invidiously discriminating against such committees by prohibiting them from participating in the political process for a six-month period, in violation of the rights of freedom of speech and association guaranteed by the First Amendment to the Constitution.

75. The FECA and the FECA Amendments provide that the government may bring criminal prosecutions against anyone who violates or is about to violate Section 608 of the FECA and Section 9008 of the Internal Revenue Code of 1954. The risk of criminal prosecution deters and restrains one or more of the plaintiffs and in certain instances constitutes a prior restraint of their exercise of their rights of freedom of speech and of association in violation of the First Amendment to the Constitution and deprives one or more of the plaintiffs of due process of law in violation of the Due Process Clause of the Fifth Amendment to the Constitution.

76. The FECA, the FECA Amendments, and Subtitle H of the Internal Revenue Code of 1954 deprive one or more of the plaintiffs of their constitutional rights in that federal tax money is thereby used to support political movements and organizations, in violation of the restrictions imposed on the federal taxing and spending power by the First Amendment to the Constitution.

77. The FECA, the FECA Amendments, and Subtitle H of the Internal Revenue Code of 1954 deprive one or more of the plaintiffs of their constitutional rights in that federal tax money is thereby used to support only certain political parties in violation of the restrictions imposed on the federal taxing and spending power by the First Amendment to the Constitution.

78. The FECA, the FECA Amendments, and Subtitle H of the Internal Revenue Code of

1954 deprive one or more of the plaintiffs of their constitutional rights in that federal taxpayers are permitted to designate neither their preference for parties nor for candidates, in violation of the rights of freedom of speech and association guaranteed by the First Amendment to the Constitution.

79. The FECA, the FECA Amendments, and Subtitle H of the Internal Revenue Code of 1954 violate the constitutional rights of one or more of the plaintiffs in that they establish officially supported political parties and discriminate against minor parties and independent candidates, against parties sponsoring a candidate for President in less than ten States, against candidates with substantial support in less than twenty States, against parties who have neither nominating conventions nor primaries, and against independent candidates not nominated by conventions or primaries. These provisions violate the rights of freedom of speech and association of the First Amendment to the Constitution and the right to due process of law of the Fifth Amendment to the Constitution.

80. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they empower the Federal Election Commission and the Attorney General to bring civil actions, including proceedings for injunctions against any person who has engaged or who may engage in acts or practices which violate the Act. The risk of being subject to civil injunction proceedings deters and restrains one or more of the plaintiffs and in certain instances constitutes a prior restraint of the exercise of their rights of freedom of speech and association of the First and Fifth Amendments to the Constitution.

81. The FECA and the FECA Amendments violate the constitutional rights of one or more of the plaintiffs in that they limit the freedom of the press by exempting news stories, commentaries, and editorials from the statutory definitions of "expenditure" but not from the statutory definitions of "contribution," thus subjecting those press functions to regulation, in violation of the rights of a free press guaranteed by the First Amendment to the Constitution.

82. Titles I, II, III, and IV of the FECA Amendments deprive one or more of the plaintiffs of the rights of freedom of speech and association and of due process of law under the First and Fifth Amendments to the Constitution because they are excessively vague and overbroad.

83. Titles I, II, III, and IV deprive one or more of the plaintiffs of their retained rights under the Ninth Amendment to the Constitution.

84. Unless application of the FECA, the FECA Amendments, and Subtitle H of the Internal Revenue Code of 1954 against the plaintiffs is enjoined by this Court, plaintiffs will suffer irreparable injury and will be unable to exercise their constitutional rights to participate effectively in the political process, to communicate their views on issues of public policy, to support candidates for federal office, and to compete without discrimination in the electoral process.

PRAYER FOR RELIEF

Wherefore, plaintiffs pray that the Court make application for the convening of a three-judge district court and that said three-judge court hear this action, and upon such hearing to:

1. Order, adjudge, decree and declare that the FECA, the FECA Amendments, and Subtitle H are repugnant to the Constitution of the United States, and that said statutes violate plaintiffs' rights under the Constitution of the United States; and further

2. Permanently enjoin and restrain defendants, their agents and assistants from the use, operation, enforcement, execution and application of the FECA, the FECA Amendments, and Subtitle H in any and all respects in which the same may be found to be repugnant to the Constitution of the United States; and further

3. Grant such order and further relief as to the Court may seem just and proper, together with the costs and disbursements of this action.

Plaintiffs further pray, pursuant to Section 315(a) of the FECA, 88 Stat. 1285, 2 U.S.C. Section 437h, that this Court immediately certify, to the United States Court of Appeals for the District of Columbia Circuit all questions of constitutionality raised herein.

Dated: January 2, 1975.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TALCOTT) to revise and extend their remarks and include extraneous material:)

Mr. FRENZEL, for 5 minutes, today.

(The following Members (at the request of Mr. DOWNEY) to revise and extend their remarks and include extraneous material:)

Mr. FRASER, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Ms. ABZUG, for 10 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

Mr. RICHMOND, for 5 minutes, today.

Mr. CONYERS, for 60 minutes, January 22, 1975.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. STEIGER of Wisconsin and to include extraneous matter notwithstanding the fact that it exceeds five pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,529.

(The following Members (at the request of Mr. TALCOTT) and to include extraneous matter:)

Mr. CONLAN in five instances.

Mr. DERWINSKI in six instances.

Mr. MCCLOSKEY.

Mr. CONABLE.

Mr. CARTER.

(The following Members (at the request of Mr. DOWNEY) and to include extraneous material:)

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. JOHN L. BURTON.

Mr. WON PAT.

Ms. ABZUG.

Mr. CLAY in 10 instances.

Mr. HAMILTON.

Mr. TEAGUE in 12 instances.

Mr. LITTON.

Mr. PATTISON of New York in five instances.

Mr. MIKVA in five instances.

Mr. REUSS.

ADJOURNMENT

Mr. DOWNEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 26 minutes p.m.), the House adjourned until tomorrow, Friday, January 17, 1975, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

105. A letter from the Chief Justice of the United States, transmitting the proceedings of the meetings of the Judicial Conference of the United States held September 19–20, 1974 (H. Doc. No. 94–32); to the Committee on the Judiciary and ordered to be printed.

106. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report on receipts and disbursements from the sale of surplus military supplies, equipment, and material, and for expenses involving the production of lumber and timber products, pursuant to section 812 of Public Law 93–437; to the Committee on Appropriations.

107. A letter from the Assistant Secretary of the Navy (Installations and Logistics), transmitting notice of the Department of the Navy's intention to transfer the destroyer U.S.S. *Laffey* (DD–274) to the city of Alexandria, Va., pursuant to 10 U.S.C. 7308(c); to the Committee on Armed Services.

108. A letter from the Director, Defense Civil Preparedness Agency, transmitting a report on property acquisitions of emergency supplies and equipment during the quarter ended December 31, 1974, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended [50 U.S.C. App. 2281(h)]; to the Committee on Armed Services.

109. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting notice of proposed rulemaking for State adult education programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

110. A letter from the Executive Secretary of the Department of Health, Education, and Welfare, transmitting notice of proposed regulations and guidelines governing cooperative education programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

111. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting notice of a proposed regulation amendment for the guaranteed student loan program, pursuant to section 431 (d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

112. A letter from the Comptroller, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles to Israel, pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on Foreign Affairs.

113. A letter from the Comptroller, Defense Security Assistance Agency, transmitting notice of the intention of the Department of the Army to offer to sell certain defense articles and services to Turkey, pursuant to section 36(b) of the Foreign Military Sales Act, as amended; to the Committee on Foreign Affairs.

114. A letter from the Administrator of General Services, transmitting a report on progress in the implementation of the Presidential Recordings and Materials Preservation Act; to the Committee on House Administration.

115. A letter from the Secretary of the Interior, transmitting the annual report on the Government's helium program for fiscal year 1974, pursuant to section 16 of the Helium Act [50 U.S.C. 167n]; to the Committee on Interior and Insular Affairs.

116. A letter from the Acting Secretary of the Interior, transmitting notice of a proposed refund for duplicate rental payments by the Cities Service Oil Co., on nine Outer Continental Shelf leases, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953 [43 U.S.C. 1339(b)]; to the Committee on Interior and Insular Affairs.

117. A letter from the Assistant Secretary of the Interior, transmitting a copy of a proposed concession contract for the provision of facilities and services at Scotty's Castle, Death Valley National Monument, during a term ending June 30, 1977, pursuant to 67 Stat. 271 and 70 Stat. 543; To the Committee on Interior and Insular Affairs.

118. A letter from the Clerk, U.S. Court of Claims, transmitting a report of all judgments rendered by the court during the year ended September 20, 1974, pursuant to 28 U.S.C. 791(c); to the Committee on the Judiciary.

119. A letter from the Secretary of Transportation, transmitting a report on the feasibility and necessity for constructing to appropriate standards certain proposed highways along various routes, pursuant to section 143 of the Federal-Aid Highway Act of 1973 (Public Law 93-87); to the Committee on Public Works and Transportation.

120. A letter from the Fiscal Assistant Secretary of the Treasury, transmitting a statement of the liabilities and other financial commitments of the U.S. Government as of June 30, 1974, pursuant to section 402 of Public Law 89-809 [31 U.S.C. 757f]; to the Committee on Ways and Means.

121. A letter from the Chairman, U.S. Atomic Energy Commission, transmitting a proposed amendment to the 1955 "Agreement for Cooperation Between the Government of the United States of America and the Government of Israel Concerning Civil Uses of Atomic Energy", to extend the agreement for 2 years, pursuant to section 123 of the Atomic Energy Act of 1954, as amended [42 U.S.C. 2153(d)]; to the Joint Committee on Atomic Energy.

Received From the Comptroller General

122. A letter from the Comptroller General of the United States, transmitting a report on how civil agencies make limited use of cost-benefit analysis in support of budget requests; to the Committee on Government Operations.

123. A letter from the Comptroller General of the United States, transmitting a report that the Department of Defense's methods of purchasing food for the military services are costly and inefficient; jointly, to the Committees on Government Operations and Armed Services.

124. A letter from the Comptroller General of the United States, transmitting a report on reducing the Marine Corps logistics system by having the Marine Corps rely more on DOD integrated logistics managers; jointly, to the Committee on Government Operations and Armed Services.

125. A letter from the Comptroller General of the United States, transmitting a report that the failure of the Office of Management and Budget to complete the apportionment of funds appropriated in Public Law 93-517 (Labor-HEW Appropriations Act, 1975) by January 6, 1975, constitutes a deferral of budget authority which has not been reported to the Congress by the President, pursuant to section 1015(a) of the Impoundment Control Act of 1974 (H. Doc. No. 94-33); to the Committee on Appropriations and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*Submitted January 14, 1975*]

By Mr. CHAPPELL (for himself, Mr. Bevill, Mr. Lent, Mr. Ottinger, Mr. Roe, Mr. Rangel, Mr. Jones of North Carolina, Mr. Evans of Indiana, Mr. Davis of South Carolina, Mr. Ketchum, Mr. LaFalce, Mr. Nowak, Mr. Madigan, Mr. Long of Maryland, Mr. Horton, Mr. Holland, Mr. de Lugo, Mr. Jenrette, Mr. Helstoski, Mr. Grassley, Mrs. Holt, Mr. Bell, Mrs. Spellman, Mrs. Heckler of Massachusetts, and Mr. Waggonner):

H.R. 369. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain amounts received by members of certain firefighting and rescue units; to the Committee on Ways and Means.

By Mr. CHAPPELL (for himself, Mrs. Collins of Illinois, Mr. Davis of South Carolina, Mr. Downing, Mr. de Lugo, Mr. Hinshaw, Mr. Holland, Mr. Lehman, Mr. Pepper, Mr. Rangel, Mr. Roe, Mr. Solarz, and Mr. Zeferetti):

H.R. 370. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. CHAPPELL:

H.R. 371. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. CHAPPELL (for himself, Mr. Bafalis, Mr. Breaux, Mr. Brown of California, Mr. Carney, Mr. Cleveland, Mr. Cohen, Mr. Collins of Texas, Mr. Conyers, Mr. Davis of South Carolina, Mr. Edwards of California, Mr. Fuqua, Mr. Grassley, Mr. Hawkins, Mr. Hechler of West Virginia, Mr. Hillis, Mr. Lott, Mr. McCormack, Mr. Moss, Mr. Pepper, Mr. Sarbanes, Mr. Solarz, Mrs. Spellman, Mr. Thompson, and Mr. Vigorito):

H.R. 372. A bill to amend title II of the Social Security Act to provide that an individual may qualify for disability insurance benefits and the disability freeze if he has 40 quarters of coverage, regardless of when such quarters were earned; to the Committee on Ways and Means.

By Mr. CHAPPELL:

H.R. 373. A bill to amend the Clean Air Act and the Federal Water Pollution Control Act to provide that compliance orders shall include cost-benefit analyses; jointly to the Committees on Interstate and Foreign Commerce, and Public Works and Transportation.

H.R. 374. A bill to amend the Food Stamp Act of 1964 for the purpose of coordinating more closely any change in the retail price of food to the value of the allotment of food stamps available to eligible recipients; to the Committee on Agriculture.

H.R. 375. A bill to amend section 206 of the Federal Water Pollution Control Act relating to reimbursement and advance construction; to the Committee on Public Works and Transportation.

H.R. 376. A bill to create a Marine Resources Conservation and Development Fund; to provide for the distribution of revenues from Outer Continental Shelf lands; and for other purposes; jointly to the Committees on the Judiciary, Merchant Marine and Fisheries, and Interior and Insular Affairs.

H.R. 377. A bill to establish an Antitrust Revision Commission; to the Committee on the Judiciary.

H.R. 378. A bill to authorize the Secretary of the Interior to classify and inventory wetland resources, to measure wetlands degradation, to evaluate the environmental contribution of natural wetlands, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 379. A bill to amend title II of the Social Security Act to eliminate the 5-month waiting period which is presently a prerequisite of eligibility for disability insurance benefits or the disability freeze; to the Committee on Ways and Means.

H.R. 380. A bill to amend title XIX of the Social Security Act to impose certain requirements relating to the discharge or transfer of medicaid patients from skilled nursing or intermediate care facilities and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 381. A bill to provide for study of a certain segment of the Oklawaha River for potential addition to the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

H.R. 382. A bill to amend certain provisions of chapter 311 of title 18, United States Code, relating to parole; to the Committee on the Judiciary.

H.R. 383. A bill to amend title 38 of the United States Code so as to treat certain expeditionary campaigns as periods of war for the purposes of such title; to the Committee on Veterans' Affairs.

H.R. 384. A bill to provide for the establishment of a national cemetery in Florida; to the Committee on Veterans' Affairs.

H.R. 385. A bill to amend section 111(a) of title 38, United States Code, relating to the payment of travel expenses for persons traveling to and from Veterans' Administration facilities; to the Committee on Veterans' Affairs.

H.R. 386. A bill to provide for a Veterans' Administration hospital in the Halifax area of Volusia County, Fla.; to the Committee on Veterans' Affairs.

H.R. 387. A bill to amend title 28 of the United States Code, to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. employees, and for other purposes; to the Committee on the Judiciary.

H.R. 388. A bill to authorize the Attorney General to exchange criminal record information with certain State and local agencies; to the Committee on the Judiciary.

H.R. 389. A bill to amend the act of August 13, 1946, to increase the Federal contribution to 90 percent of the cost of shore restoration and protection projects; to the Committee on Public Works and Transportation.

H.R. 390. A bill to provide for continual application of current basic pay scales to Federal civil service annuities; to the Committee on Post Office and Civil Service.

H.R. 391. A bill to provide Federal assistance to States to enable them to provide day care services for children from needy families where the parents are working, training, or incapable of self-support; to the Committee on Education and Labor.

H.R. 392. A bill to assist in combating crime by reducing the incidence of recidivism, providing improved Federal, State, and local correctional facilities and services, strengthening administration of Federal corrections, strengthening control over probationers, parolees, and persons found not guilty by reason of insanity, and for other purposes; to the Committee on the Judiciary.

H.R. 393. A bill to amend chapter 2 of the Internal Revenue Code of 1954 to provide that an election to be exempt from coverage under the old-age, survivors, and disability insurance program, made by a minister, a member of a religious order, or a Christian Science practitioner, may be revoked; to the Committee on Ways and Means.

By Mr. CHAPPELL (for himself, Mr. Badillo, Mr. Conte, Mr. de Lugo, Mr. Dodd, Mr. Haley, Mr. Hinshaw, Ms. Holtzman, Mr. Hubbard, Mr. Jenrette, Mr. Lehman, Mr. Nix, Mr. Rangel, Mr. Riegle, Mr. Solarz, Mr. Yates, and Mr. Edwards of California):

H.R. 394. A bill to amend title XVIII of the Social Security Act to provide for the administrative and judicial review of claims [involving the amount of benefits payable] which arise under the supplementary medical insurance program; to the Committee on Interstate and Foreign Commerce.

cal insurance program; to the Committee on

H.R. 395. A bill to require the Secretary of

Agriculture to carry out a rural environmental assistance program; to the Committee on Agriculture.

H.R. 396. A bill to create a National Agricultural Bargaining Board, to provide standards for the qualification of associations of producers, to define the mutual obligation of handlers and associations of producers to negotiate regarding agricultural products produced or sold under contract, and for other purposes; to the Committee on Agriculture.

H.R. 397. A bill to protect the public health and welfare by providing for the inspection of imported dairy products and by requiring that such products comply with certain minimum standards for quality and wholesomeness and that the dairy farms on which milk is produced and the plants in which such products are produced meet certain minimum standards of sanitation; to the Committee on Agriculture.

H.R. 398. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

H.R. 399. A bill to amend title 32, United States Code, to provide that Army and Air Force National Guard technicians shall not be required to wear the military uniform while performing their duties in a civilian status; to the Committee on Armed Services.

By Mr. FLOOD:

H.R. 400. A bill to authorize the disposal of beryl ore from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

By Mr. FISH:

H.R. 401. A bill to establish a Capital Markets Advisory Committee; to the Committee on Banking, Currency, and Housing.

H.R. 402. A bill to provide for paper money of the United States to carry a designation in braille indicating the denomination; to the Committee on Banking, Currency, and Housing.

H.R. 403. A bill to establish a national adoption information exchange system; to the Committee on Education and Labor.

H.R. 404. A bill to amend chapter 9 of title 44, United States Code, to require the use of recycled paper in the printing of the Congressional Record; to the Committee on House Administration.

H.R. 405. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 406. A bill to reduce pollution which is caused by litter composed of soft drink and beer containers, and to eliminate the threat to the Nation's health, safety, and welfare which is caused by such litter by banning such containers when they are sold in interstate commerce on a no-deposit, no-return basis; to the Committee on Interstate and Foreign Commerce.

H.R. 407. A bill to provide for the humane care, treatment, rehabilitation and protection of the mentally retarded in residential facilities through the establishment of strict quality operation and control standards and the support of the implementation of such standards by Federal assistance, to establish State plans which require a survey of need for assistance to residential facilities to enable them to be in compliance with such standards, seek to minimize inappropriate admissions to residential facilities and develop strategies which stimulate the development of regional and community programs for the mentally retarded which include the integration of such residential facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 408. A bill to amend the Public Health Service Act to provide for the making of grants to assist in the establishment and initial operation of agencies and expanding the services available in existing agencies which will provide home health services, and to provide grants to public and private agencies to train professional and paraprofessional personnel to provide home health services; to the Committee on Interstate and Foreign Commerce.

H.R. 409. A bill to amend the Flammable Fabrics Act to extend the provisions of that act to construction materials used in the interiors of homes, offices, and other places of assembly or accommodation, and to authorize the establishment of toxicity standards; to the Committee on Interstate and Foreign Commerce.

H.R. 410. A bill to provide for loans for the establishment or construction, or both, of municipal, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 411. A bill to establish a National Foreign Investment Control Commission to prohibit or restrict foreign ownership control or management control, through direct purchase, in whole or in part; from acquiring securities of certain domestic issuers of securities; from acquiring certain domestic issuers of securities, by merger, tender offer, or any other means; control of certain domestic corporations or industries, real estate, or other natural resources deemed to be vital to the economic security and national defense of the United States; to the Committee on Interstate and Foreign Commerce.

H.R. 412. A bill to amend the Immigration and Nationality Act to provide for the immigration of children of individuals suffering from Hansen's disease; to the Committee on the Judiciary.

H.R. 413. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

H.R. 414. A bill to require in all cases court orders for the interception of communications by electronic and other devices, for the entering of any residence, for the opening of any mail, for the inspection or procurement of certain records, and for other purposes; to the Committee on the Judiciary.

H.R. 415. A bill to amend the act of May 20, 1964, entitled "An Act to prohibit fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States, and by persons in charge of such vessels", to define those species of Continental Shelf fishery resources which appertain to the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 416. A bill to amend the Migratory Bird Treaty Act to guarantee a trial by jury for any person charged with a violation of the provisions of that act; to the Committee on Merchant Marine and Fisheries.

H.R. 417. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 418. A bill to create a Joint Congressional Committee on Foreign Investment Control in the United States; to the Committee on Rules.

H.R. 419. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 420. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the uniformed services to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

H.R. 421. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Veterans' Affairs.

H.R. 422. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 423. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

H.R. 424. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

H.R. 425. A bill to amend the Social Security Act to provide for a minimum annual income (subject to subsequent increases to reflect the cost of living) of $3,850 in the case of elderly individuals and $5,200 in the case of elderly couples; to the Committee on Ways and Means.

H.R. 426. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Ways and Means.

H.R. 427. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

H.R. 428. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

H.R. 429. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income the interest on deposits in certain savings institutions; to the Committee on Ways and Means.

H.R. 430. A bill to amend the Internal Revenue Code of 1954 to provide that blood donations shall be considered as charitable contributions deductible from gross income; to the Committee on Ways and Means.

H.R. 431. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

H.R. 432. A bill to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land (rather than at its fair market value), and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes, at its value for its existing use, and to provide for the revocation of such lower evaluation and recapture of unpaid taxes with interest in appropriate circumstances; to the Committee on Ways and Means.

H.R. 433. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption for a taxpayer supporting a dependent who is mentally retarded; to the Committee on Ways and Means.

H.R. 434. A bill to amend title II of the Social Security Act to provide that the automatic cost-of-living increases in benefits which are authorized thereunder may be made on a semiannual basis (rather than only on an annual basis as at present); to the Committee on Ways and Means.

H.R. 435. A bill to amend title II of the Social Security Act to eliminate the duration-of-marriage requirements [and other special arrangements] which are presently applicable in determining whether a person is the widow of an insured individual for benefit purposes; to the Committee on Ways and Means.

H.R. 436. A bill to provide property tax relief to low-income elderly homeowners through direct reimbursements; to the Committee on Ways and Means.

H.R. 437. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

H.R. 438. A bill to amend title II of the Social Security Act to increase the amount of outside earnings which [subject to further increases under the automatic adjustment provisions] is permitted each year without any deductions from benefits thereunder, and to revise the method for determining such amount; to the Committee on Ways and Means.

H.R. 439. A bill to amend title II of the Social Security Act to provide that increases in monthly insurance benefits thereunder [whether occurring by reason of increases in the cost of living or enacted by law] shall not be considered as annual income for purposes of certain other benefit programs; to the Committee on Ways and Means.

H.R. 440. A bill to authorize an independent study of the civil nuclear power functions and special industrial operations of the Atomic Energy Commission; to the Joint Committee on Atomic Energy.

H.R. 441. A bill to amend the Atomic Energy Act of 1954 to permit the States concurrently with the Atomic Energy Commission to regulate the emission of radioactive effluents; to the Joint Committee on Atomic Energy.

By Mr. FLYNT:

H.R. 442. A bill to amend title 10 of the United States Code, to provide that personal delivery of notification of death of servicemen to the next-of-kin be made only by officers; to the Committee on Armed Services.

H.R. 443. A bill to amend title 10, United States Code, to permit the recomputation of retired pay of certain members and former members of the Armed Forces; to the Committee on Armed Services.

H.R. 444. A bill to amend the Occupational Safety and Health Act of 1970 to provide that where violations are corrected within the prescribed abatement period no penalty shall be assessed; to the Committee on Education and Labor.

H.R. 445. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

H.R. 446. A bill requiring that each Member of Congress be notified of the intended disposition of federally owned real property in the district he represents; to the Committee on Government Operations.

H.R. 447. A bill to amend title 44, United States Code, to provide for 98 copies of the daily edition of the Congressional Record to be furnished to each Representative, Delegate, and Resident Commissioner in Congress; to the Committee on House Administration.

H.R. 448. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 449. A bill to amend the Uniform Time Act; to the Committee on Interstate and Foreign Commerce.

H.R. 450. A bill to temporarily suspend required emission controls on automobiles registered in certain parts of the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 451. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

H.R. 452. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

H.R. 453. A bill to amend title 18 and title 28 of the United States Code with respect to the trial and review of criminal actions involving obscenity, and for other purposes; to the Committee on the Judiciary.

H.R. 454. A bill to restrict travel in violation of area restrictions; to the Committee on the Judiciary.

H.R. 455. A bill to abolish the Commission on Executive, Legislative, and Judicial Salaries; to the Committee on Post Office and Civil Service.

H.R. 456. A bill to amend title 38, United States Code; to the Committee on Veterans' Affairs.

H.R. 457. A bill to provide for annual adjustments in monthly monetary benefits administered by the Veterans' Administration, according to changes in the Consumer Price Index; to the Committee on Veterans' Affairs.

H.R. 458. A bill to amend title 38 of the United States Code with respect to the payment of certain benefits under that title; to the Committee on Veterans' Affairs.

H.R. 459. A bill to amend title II of the Social Security Act to provide that a beneficiary who dies shall [if otherwise qualified] be entitled to a prorated benefit for the month of his death; to the Committee on Ways and Means.

By Mr. FLYNT (for himself, Mr. Moss, and Mr. McClory):

H.R. 460. A bill to amend title 18 of the United States Code to prohibit the transportation or use in interstate or foreign commerce of counterfeit, fictitious, altered, lost or stolen transportation tickets; to the Committee on the Judiciary.

By Mr. FRASER:

H.R. 461. A bill to amend the Interstate Commerce Act to provide that no pipeline company engaged in the transportation of oil may transport oil through its pipelines if that company has an interest in such oil; to the Committee on Interstate and Foreign Commerce.

By Mr. FRENZEL:

H.R. 462. A bill to provide for accelerated capital formation; to the Committee on Ways and Means.

By Mr. FRENZEL (for himself and Mr. Steelman):

H.R. 463. A bill to establish a Joint Committee on Intelligence Oversight; to the Committee on Rules.

By Mr. FUQUA:

H.R. 464. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 465. A bill to repeal the Gun Control Act of 1968, to reenact the Federal Firearms Act, to make the use of a firearm to commit certain felonies a Federal crime where that use violates State law, and for other purposes; to the Committee on the Judiciary.

H.R. 466. A bill to provide that meetings of Government agencies and of congressional committees shall be open to the public, and for other purposes; to the Committee on Rules.

H.R. 467. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

H.R. 468. A bill to amend section 21 of the Second Liberty Bond Act to provide for the retirement of the public debt; to the Committee on Ways and Means.

By Mr. GRASSLEY:

H.R. 469. A bill to abolish the Commission on Executive, Legislative, and Judicial Salaries established by section 225 of the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GUDE:

H.R. 470. A bill to amend the Federal Home Loan Mortgage Corporation Act to establish a new secondary market program under which the Federal Home Loan Mortgage Corporation may provide needed liquidity for the savings and loan industry by purchasing older seasoned home mortgages from savings and loan associations and other financial institutions; to the Committee on Banking, Currency and Housing.

H.R. 471. A bill to provide that Members of the House of Representatives defeated for reelection may not travel at public expense; to the Committee on House Administration.

H.R. 472. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the establishment of standards for a grading system by which retail purchasers may determine the relative nutritional value of different foods, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 473. A bill to repeal section 3306 of title 5, United States Code, to eliminate the requirement of apportionment of appointments in the departmental service in the District of Columbia; to the Committee on Post Office and Civil Service.

H.R. 474. A bill to amend title 39, United States Code, to require the Postal Service to consult with agencies of State and local governments with respect to the construction of certain Postal Service facilities, to establish hearing procedures with respect to proposals for such construction, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 475. A bill to repeal the statutory authority to impose quotas on certain imported meat and meat products; to the Committee on Ways and Means.

H.R. 476. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

By Mr. GUDE (for himself, Mr. Shriver, Mr. Conyers, Mr. Pepper, Mr. Boland, Mr. Mollohan, Mr. Addabbo, Mr. Brown of California, Mr. Bingham, Mr. Martin, Mr. Cleveland, Mr. Dingell, Mr. Dominick V. Daniels, Mr. Horton, Mr. Harrington, Mr. Howard, Mr. Stuckey, Mr. Dickinson, Mr. Bergland, Mr. Frenzel, Mr. Stark, Mr. Matsunaga, Mr. Bell, Mr. O'Brien, and Mr. Cohen):

H.R. 477. A bill to authorize the voluntary withholding of Maryland, Virginia, and District of Columbia income taxes, pursuant to agreements subject to review by the Committee on House Administration of the House of Representatives, in the case of certain legislative officers and employees; to the Committee on House Administration.

By Mr. HECHLER of West Virginia:

H.R. 478. A bill to provide for paper money of the United States to carry a designation in braille indicating the denomination; to the Committee on Banking, Currency, and Housing.

H.R. 479. A bill to amend the Economic Stabilization Act of 1970 to insure that advertising expenses are excluded from consideration as part of the rates and charges of any regulated public utility, and for other purposes; to the Committee on Banking, Currency, and Housing.

H.R. 480. A bill to amend the black lung benefit provisions of the Federal Coal Mine Health and Safety Act of 1969 to delete the provisions for offset of black lung benefits against State workmen's compensation, unemployment compensation, and disability insurance benefits; to the Committee on Education and Labor.

H.R. 481. A bill to amend the Labor-Management Reporting and Disclosure Act of 1959 to require that all officers of national labor organizations be elected by secret ballot of the members; to the Committee on Education and Labor.

H.R. 482. A bill to establish an office within the Congress with a toll-free telephone number, to be known as the Congressional Advisory Legislative Line (CALL), to provide the American people with free and open access to information, on an immediate basis, relating to the status of legislative proposals pending before the Congress; to the Committee on House Administration.

H.R. 483. A bill to amend chapter 9 of title 44, United States Code, to require the use of recycled paper in the printing of the Congressional Record; to the Committee on House Administration.

H.R. 484. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 485. A bill to amend the National Trails System Act by designating the Potomac Heritage Trail located in portions of Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia, as a component of the National Trails System; to the Committee on Interior and Insular Affairs.

H.R. 486. A bill to make use of a firearm to commit a felony a Federal crime where such use violates State law, and for other purposes; to the Committee on the Judiciary.

H.R. 487. A bill to amend section 524 of title 28, United States Code, to provide that appropriations for the Department of Justice shall be authorized by the Congress on an annual basis, and for other purposes; to the Committee on the Judiciary.

H.R. 488. A bill to amend the Duck Stamp Act and other laws to prohibit the charging of any Federal fee to an individual who has attained age 65 for the privilege of hunting, trapping, or fishing; to the Committee on Merchant Marine and Fisheries.

H.R. 489. A bill to abolish the U.S. Postal Service, to repeal the Postal Reorganization Act, to reenact the former provisions of title 39, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 490. A bill to amend title 39, United States Code, to permit the attendance, without loss of pay or deduction from annual leave, of certain U.S. Postal Service employees at funerals of honorably discharged members of the U.S. Armed Forces, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 491. A bill to amend section 902 of the Federal Aviation Act of 1958 to prohibit smoking aboard certain aircraft operating in air transportation; to the Committee on Public Works and Transportation.

H.R. 492. A bill to provide a national program in order to make the international metric system the predominant but not exclusive system of measurement in the United States and to provide for converting to the general use of such system within 10 years; to the Committee on Science and Technology.

H.R. 493. A bill to amend the Internal Revenue Code of 1954 to provide that blood donations shall be considered as charitable contributions deductible from gross income; to the Committee on Ways and Means.

H.R. 494. A bill to amend the Internal Revenue Code of 1954 so as to reduce by 8 percent the amount of individual income tax withheld at the source; to the Committee on Ways and Means.

H.R. 495. A bill to amend title 38 of the United States Code in order to extend the entitlement of veterans to educational assistance from 36 to 45 months; to the Committee on Veterans' Affairs.

H.R. 496. A bill to amend title 38 to provide that service in the Women's Army Auxiliary Corps shall be considered active duty in the Armed Forces of the United States; to the Committee on Veterans' Affairs.

By Mr. HEINZ:

H.R. 497. A bill to amend section 232 of the National Housing Act to provide insurance for loans to finance improvements to long-term care facilities required to correct deficiencies identified in State surveys and Federal certification procedures; to the Committee on Banking, Currency, and Housing.

H.R. 498. A bill to amend the Older Americans Act of 1965 to provide strengthened programs relating to long-term care facilities, and for other purposes; to the Committee on Education and Labor.

H.R. 499. A bill to amend the Federal Trade Commission Act to provide for a reformed procedure for consent orders; to the Committee on Interstate and Foreign Commerce.

H.R. 500. A bill to establish a Commission on Mental Health and Illness of the Elderly, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 501. A bill to amend the Community Mental Health Centers Act to revise the various programs of assistance authorized by that act and to extend it to the fiscal year 1976; to the Committee on Interstate and Foreign Commerce.

H.R. 502. A bill to establish university coal research laboratories and to establish energy resource fellowships, and for other purposes; to the Committee on Science and Technology.

By Mr. HELSTOSKI:

H.R. 503. A bill to provide benefits on account of persons suffering disability or death from asbestosis or mesothelioma contracted in the course of their employment; to the Committee on Education and Labor.

By Mr. HENDERSON:

H.R. 504. A bill to amend subchapter III of chapter 83 of title 5, United States Code, to provide for mandatory retirement of employees upon attainment of 70 years of age and completion of 5 years of service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 505. A bill to amend chapter 83 of title 5, United States Code, to establish time limitations in applying for civil service retirement benefits, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 506. A bill to amend title 5, United States Code, to provide for additional positions in grades GS-16, GS-17, and GS-18, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 507. A bill to amend title 5, United States Code, to provide for grade retention benefits for certain employees whose positions are reduced in grade, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 508. A bill to amend title 5, United States Code, to authorize civilians employed by the Department of Defense to administer oaths while conducting official investigations; to the Committee on Post Office and Civil Service.

H.R. 509. A bill to provide for the acquisition of career status by certain employees of the Federal Government serving under overseas limited appointments; to the Committee on Post Office and Civil Service.

By Mr. HILLIS:

H.R. 510. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain recordkeeping provisions with respect to ammunition; to the Committee on the Judiciary.

H.R. 511. A bill to amend title 5 of the United States Code with respect to the observance of Veterans' Day; to the Committee on Post Office and Civil Service.

H.R. 512. A bill to establish improved nationwide standards of mail service, require annual authorization of public service appropriations to the U.S. Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 513. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

H.R. 514. A bill to amend title II of the Social Security Act to increase to $3,000 the amount of outside earnings permitted each year without deductions from benefits thereunder and to reduce from 72 to 70 the age at which these deductions will cease to be made from benefits based on such individual's wage records; to the Committee on Ways and Means.

By Mrs. HOLT:

H.R. 515. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January, 1972, and for other purposes; to the Committee on Armed Services.

H.R. 516. A bill to provide retirement annuities for certain widows of members of the uniformed services who died before the effective date of the Survivor Benefit Plan; to the Committee on Armed Services.

H.R. 517. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

H.R. 518. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 519. A bill to amend the National Trails System Act to authorize a feasibility study for the establishment of certain bicycle trails; to the Committee on Interior and Insular Affairs.

H.R. 520. A bill to provide a remedy for sex discrimination by the insurance business with respect to the availability and scope of insurance coverage for women; to the Committee on Interstate and Foreign Commerce.

H.R. 521. A bill to delay the effectiveness of court orders with respect to school busing until all appeals from such orders have been taken; to the Committee on the Judiciary.

H.R. 522. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

H.R. 523. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school; to the Committee on the Judiciary.

H.R. 524. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

H.R. 525. A bill to amend title 5, United States Code, to provide for grade retention benefits for certain Federal employees whose positions are reduced in grade, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 526. A bill to amend title 5, United States Code, to reduce from 60 to 55 the age after which the remarriage of a surviving spouse will not cause the loss of such spouse's civil service survivors annuity, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 527. A bill to designate the birthday of Susan B. Anthony as a legal public holiday; to the Committee on Post Office and Civil Service.

H.R. 528. A bill to require the Secretary of the Army and the Chief of Engineers to act on certain applications within 90 days or explain his failure to do so; to the Committee on Public Works and Transportation.

H.R. 529. A bill to amend title 38 of the United States Code so as to entitle veterans of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

H.R. 530. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of certain increases in monthly social security or railroad retirement benefits; to the Committee on Veterans' Affairs.

H.R. 531. A bill to amend title 38 of the United States Code in order to provide financial assistance for the establishment and maintenance of State veterans' cemeteries; to the Committee on Veterans' Affairs.

H.R. 532. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

H.R. 533. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

H.R. 534. A bill to amend the Internal Revenue Code of 1954 to provide that pensions paid to retired policemen or firemen or their dependents, or to the widows or other survivors of deceased policemen or firemen, shall not be subject to Federal income tax; to the Committee on Ways and Means.

H.R. 535. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 536. A bill to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land (rather than at its fair market value), and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes, at its value for its existing use, and to provide for the revocation of such lower evaluation and recapture of unpaid taxes with interest in appropriate circumstances; to the Committee on Ways and Means.

H.R. 537. A bill to amend the Social Security Act to provide for medical, hospital, and dental care through a system of voluntary health insurance including protection against the catastrophic expenses of illness, financed in whole for low-income groups through issuance of certificates, and in part for all other persons through allowance of tax credits; and to provide effective utilization of available financial resources, health manpower, and facilities; to the Committee on Ways and Means.

By Ms. HOLTZMAN:

H.R. 538. A bill to amend title VI of the Civil Rights Act of 1964 to prohibit sex discrimination in programs and activities receiving Federal financial assistance; to the Committee on the Judiciary.

H.R. 539. A bill to enforce the first amendment and fourth amendment to the Constitution, and the constitutional right of privacy by prohibiting any civil or military officer of the United States or the militia of any State from using the Armed Forces of the United States or the militia of any State to exercise surveillance of civilians or to execute the civil laws, and for other purposes; to the Committee on the Judiciary.

H.R. 540. A bill to provide for a Special Counsel to represent the United States in all litigation pertaining to Presidential materials of Richard Nixon; to the Committee on the Judiciary.

H.R. 541. A bill to amend section 214 of the Internal Revenue Code of 1954 to provide a deduction for dependent care expenses for married taxpayers who are employed part time, or who are students, and for other purposes; to the Committee on Ways and Means.

By Mr. ICHORD (for himself, Mr. DENT, and Mr. TAYLOR of Missouri):

H.R. 542. A bill to amend the Credit Control Act of 1969 (83 Stat. 376; 12 U.S.C. 1901 et seq.) to fix maximum interest charges in connection with credit transactions, and for other purposes; to the Committee on Banking, Currency, and Housing.

By Mr. JOHNSON of California:

H.R. 543. A bill to expand coverage of the Rehabilitation and Betterment Act (act of October 7, 1949, 63 Stat. 724); to the Committee on Interior and Insular Affairs.

By Mr. JOHNSON of California (for himself and Mr. LEGGETT):

H.R. 544. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to contract with private facilities near the homes of veterans for the medical care and treatment of veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. JOHNSON of Pennsylvania:

H.R. 545. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. KASTENMEIER:

H.R. 546. A bill to amend the Clayton Act to provide for additional regulation of certain anticompetitive developments in the agricultural industry; to the Committee on the Judiciary.

By Mr. KOCH:

H.R. 547. A bill to amend the Agricultural Act of 1956 to allow for the donation of certain surplus commodities by the Commodity Credit Corporation to State and local penal institutions, and for other purposes; to the Committee on Agriculture.

H.R. 548. A bill to provide that members of the Armed Forces may be separated or discharged from active service only by an honorable discharge, a general discharge, or discharge by court-martial, and for other purposes; to the Committee on Armed Services.

H.R. 549. A bill to amend title 10 of the United States Code to establish independent boards to review the discharges and dismissals of servicemen who served during the Vietnam era, and for other purposes; to the Committee on Armed Services.

H.R. 550. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of information to Government agencies; to the Committee on Banking, Currency, and Housing.

H.R. 551. A bill to provide for the Secretary of the Department of Health, Education, and Welfare to assist in the improvement and operation of museums; to the Committee on Education and Labor.

H.R. 552. A bill to authorize the Secretary of the Interior to establish and administer a program of direct Federal employment to improve the quality of the environment, the public lands, Indian reservations, and commonly owned and shared resources through a program of recreational development, reforestation, and conservation management, and for other purposes; to the Committee on Education and Labor.

H.R. 553. A bill to amend the Elementary and Secondary Education Act of 1965 to assist school districts to carry out locally approved school security plans to reduce crime against children, employees, and facilities of their schools; to the Committee on Education and Labor.

H.R. 554. A bill to provide for loans for the establishment and/or construction of municipal, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 555. A bill to provide a remedy for sex discrimination by the insurance business with respect to the availability and scope of insurance coverage for women; to the Committee on Interstate and Foreign Commerce.

H.R. 556. A bill to amend the Public Health Services Act to provide for a National Center for Clinical Pharmacology, to provide support for the study of clinical pharmacology and clinical pharmacy, and to provide for review of drug prescribing; and to amend the Federal Food, Drug, and Cosmetic Act to provide for additional regulation of drug promotions, to provide for recordkeeping and reporting for all drugs, to provide for certification of programs respecting manufacturers' representatives, to provide for the submission of data relating to therapeutic equivalence of drugs, to provide for the certification of certain drugs, to provide for a national drug compendium, to provide additional drug information to consumers, to establish a code system for the identification of all drugs, to provide for the recall of adulterated or misbranded foods, drugs, and cosmetics, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 557. A bill to amend the Public Health Service Act to establish a program of Federal financial assistance for research programs and specialized treatment centers for the study and treatment of problems respecting human fertility and sterility and the human reproductive process, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 558. A bill to amend the Public Health Service Act to direct the Secretary of Health, Education, and Welfare to prescribe radiation standards for, and conduct regular inspections of, diagnostic and other X-ray systems; to the Committee on Interstate and Foreign Commerce.

H.R. 559. A bill to amend the Public Health Service Act to provide for the protection of the public health from unnecessary medical exposure to ionizing radiation; to the Committee on Interstate and Foreign Commerce.

H.R. 560. A bill to establish in the Public Health Service an institute for research on dysautonomia, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 561. A bill to amend certain provisions of the Controlled Substances Act relating to marihuana; to the Committee on Interstate and Foreign Commerce.

H.R. 562. A bill to protect confidential sources of the news media; to the Committee on the Judiciary.

H.R. 563. A bill to require the destruction of certain files maintained by the Federal Bureau of Investigation with respect to Members of Congress, and to require notice to the Speaker of the House of Representatives and the President pro tempore of the Senate of certain other such files; to the Committee on the Judiciary.

H.R. 564. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasion of their privacy by prohibiting the use of the polygraph for certain purposes; to the Committee on the Judiciary.

H.R. 565. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide for grants to cities for improved street lighting; to the Committee on the Judiciary.

H.R. 566. A bill to amend section 201 of title 18, United States Code, to provide that the bribery of State and local officials shall be a Federal crime; to the Committee on the Judiciary.

H.R. 567. A bill to amend the Immigration and Nationality Act with respect to the waiver of certain grounds for exclusion and deportation; to the Committee on the Judiciary.

H.R. 568. A bill to grant an alien child adopted by an unmarried U.S. citizen the same immigrant status as an alien child adopted by a U.S. citizen and his spouse; to the Committee on the Judiciary.

H.R. 569. A bill to impose additional standards with respect to the construction, conversion, and operation of oil tankers in order to prevent the pollution of the marine environment, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 570. A bill to provide increased employment opportunity for executive agencies of the U.S. Government for persons unable to work standard working hours, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 571. A bill to authorize the Administrator of General Services to transfer certain airspace for use for housing purposes; to the Committee on Public Works and Transportation.

H.R. 572. A bill to amend chapter 3 of title 3, United States Code, to provide for the protection of foreign diplomatic missions; to the Committee on Public Works and Transportation.

H.R. 573. A bill to amend title 38 of the United States Code to make more equitable the procedures for determining eligibility for benefits under the laws administered by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 574. A bill to amend title 38 of the United States Code in order to provide veterans' educational assistance and home loan benefits to individuals who fulfill their obligation to perform alternative civilian service under the selective service laws; to the Committee on Veterans' Affairs.

H.R. 575. A bill to amend title II of the Social Security Act to permit an individual receiving benefits thereunder to earn outside income without losing any of such benefits; to the Committee on Ways and Means.

H.R. 576. A bill to amend the Internal Revenue Code of 1954 and title II of the Social Security Act to provide a full exemption (through credit or refund) from the employees' tax under the Federal Insurance Contributions Act, and an equivalent reduction in the self-employment tax, in the case of individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 577. A bill to amend section 216 of the Internal Revenue Code of 1954 to include corporations and others within the definition of the term "tenant-stockholder" for purposes of the provisions relating to cooperative housing corporations; to the Committee on Ways and Means.

H.R. 578. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to tenants of houses or apartments for their proportionate share of the taxes and interest paid by their landlords; to the Committee on Ways and Means.

H.R. 579. A bill to amend the Internal Revenue Code of 1954 to provide that in the case of a dependent 62 or more years of age the support test shall be satisfied if the taxpayer contributes $1,500 or more to the support of such dependent; to the Committee on Ways and Means.

H.R. 580. A bill to amend title II of the Social Security Act to provide that the remarriage of a widow, widower, or parent shall not terminate his or her entitlement to widow's, widower's, or parent's insurance benefits or reduce the amount thereof; to the Committee on Ways and Means.

H.R. 581. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 582. A bill to amend the Internal Revenue Code of 1954 to provide that blood donations shall be considered as charitable contributions deductible from gross income; to the Committee on Ways and Means.

H.R. 583. A bill to amend the Internal Revenue Code of 1954 to increase to $1,500 the personal income tax exemptions of a taxpayer (including the exemption for a spouse, the exemptions for dependents, and the additional exemptions for old age and blindness); to the Committee on Ways and Means.

H.R. 584. A bill to amend the Internal Revenue Code of 1954 to increase the excise tax on cigarettes, and to amend the Public Health Service Act to establish a trust fund to be used to fund the research programs of the National Cancer Institute; to the Committee on Ways and Means.

H.R. 585. A bill to modify the restrictions contained in section 170(e) of the Internal Revenue Code in the case of certain contributions of literary, musical, or artistic composition, or similar property; to the Committee on Ways and Means.

H.R. 586. A bill to amend the Internal Revenue Code of 1954 to provide that the 4-percent excise tax on the net investment income of a private foundation shall not apply to a private foundation organized and operated exclusively as a library or museum; to the Committee on Ways and Means.

By Mr. KOCH (for himself and Mr. BRADEMAS):

H.R. 587. A bill to amend the Education of the Handicapped Act to provide for comprehensive education programs for severely and profoundly mentally retarded children; to the Committee on Education and Labor.

By Mr. KOCH (for himself and Mr. CARTER):

H.R. 588. A bill to require federally related health care facilities to test infants for certain diseases; to the Committee on Interstate and Foreign Commerce.

By Mr. LAGOMARSINO:

H.R. 589. A bill to authorize the Secretary of the Interior to provide relief to the Santa Ynez River Water Conservation District due to delivery of water to the Santa Ynez Indian Reservation lands; to the Committee on Interior and Insular Affairs.

H.R. 590. A bill authorizing the Administrator of Veterans' Affairs to establish a national cemetery at Vandenberg Air Force Base, Calif.; to the Committee on Veterans' Affairs.

H.R. 591. A bill to amend title II of the Social Security Act to increase to $7,500 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. LEHMAN:

H.R. 592. A bill to amend the National Housing Act to prohibit Federal Housing Administration insurance of blanket mortgages on condominium projects, and Federal National Mortgage Association purchases of conventional condominium mortgages, where the developer retains or will retain a leasehold interest in the common areas and facilities of the project involved; to the Committee on Banking, Currency, and Housing.

H.R. 593. A bill to amend the Age Discrimination in Employment Act of 1967 to increase coverage under that Act, and for other purposes; to the Committee on Education and Labor.

H.R. 594. A bill to authorize and direct the Administrator of the General Services Administration to prescribe regulations with respect to the amount of recycled material contained in paper procured or used by the Federal Government or the District of Columbia; to the Committee on Government Operations.

H.R. 595. A bill to amend chapter 9 of title 44, United States Code, to require the use of recycled paper in the printing of the Congressional Record; to the Committee on House Administration.

H.R. 596. A bill to amend the Federal Cigarette Labeling and Advertising Act to revise the warning statement required by that Act to be placed on cigarette packages; to the Committee on Interstate and Foreign Commerce.

H.R. 597. A bill to amend the Federal Power Act to prohibit public utilities from increasing any rate or charge for electric energy, by means of any fuel adjustment clause in a wholesale rate schedule, in order to reflect any increased fuel cost; to the Committee on Interstate and Foreign Commerce.

H.R. 598. A bill to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes; to the Committee on the Judiciary.

H.R. 599. A bill to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 600. A bill to provide for a national cemetery in the area of Broward County or Dade County, Fla.; to the Committee on Veterans' Affairs.

H.R. 601. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 602. A bill to amend the Internal Revenue Code of 1954 to provide that amounts paid to certain related individuals shall be allowable as a deduction under the provision permitting a deduction for dependent care services necessary for gainful employment; to the Committee on Ways and Means.

H.R. 603. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 604. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. LENT:

H.R. 605. A bill to provide additional financial assistance for educational, biological, technological, and other research programs pertaining to U.S. fisheries; to the Committee on Merchant Marine and Fisheries.

H.R. 606. A bill to provide additional financial assistance for educational, technological, and other research programs pertaining to U.S. fisheries; to the Committee on Merchant Marine and Fisheries.

H.R. 607. A bill to amend the Fishermen's Protective Act of 1967 in order to strengthen the import restrictions which may be imposed to deter foreign countries from conducting fishing operations which adversely affect internationl fishery conservation programs; to the Committee on Merchant Marine and Fisheries.

By Mr. LITTON:

H.R. 608. A bill to amend the Higher Education Act of 1965 to provide that institutions of higher education and vocational schools shall not be eligible for purposes of federally assisted student loans unless they carry out a policy of tuition refunds for students who withdraw from courses of study at such institutions or schools, and for other purposes; to the Committee on Education and Labor.

H.R. 609. A bill to amend the Occupational Safety and Health Act of 1970 to provide that the Administrator of the Small Business Administration may render onsite consultation and advice to certain small business employers to assist such employers in providing safe and healthful working conditions for their employees; to the Committee on Education and Labor.

H.R. 610. A bill to prohibit, except in cases of extreme emergency, assistance under the Agricultural Trade Development and Assistance Act of 1954 to any country which does not make reasonable and productive efforts, especially with regard to family planning, designed to alleviate the causes of the need for assistance provided under such act; to the Committee on Foreign Affairs.

H.R. 611. A bill to amend the Legislative Reorganization Act of 1970 to provide seminars to freshmen Members of the Congress, and for other purposes; to the Committee on House Administration.

H.R. 612. A bill to provide for protection of franchised dealers in petroleum products; to the Committee on Interstate and Foreign Commerce.

H.R. 613. A bill to prohibit the use of U.S. fuel to train commercial airline and military pilots who are nationals of any foreign country which places an embargo on its shipment of petroleum products to the United States; to the Committee on Interstate and Foreign Commerce.

H.R. 614. A bill to amend section 412 of the Federal Aviation Act of 1958 to require the Civil Aeronautics Board to disapprove certain pooling and other agreements between air carriers unless the Board finds that no party to any such agreement will, by reason of payments received under such agreement, continue to earn a profit during any period of labor dispute between such party and its employees; to the Committee on Public Works and Transportation.

H.R. 615. A bill to amend the Internal Revenue Code of 1954 to require the establishment of formal procedures and criteria for the selection of individual income tax returns for audit, to inform individuals of the reasons why their returns were selected for audit, and for other purposes; to the Committee on Ways and Means.

H.R. 616. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

H.R. 617. A bill to provide an excise tax on every new automobile in an amount relating to the portion of such automobile's fuel consumption rate which falls below certain standards, to provide an energy research and development trust fund, and for other purposes; to the Committee on Ways and Means.

By Mrs. LLOYD of Tennessee:

H.R. 618. A bill to authorize an appropriation for a bridge on a Federal dam; to the Committee on Public Works and Transportation.

By Mr. LONG of Maryland:

H.R. 619. A bill to amend the Internal Revenue Code of 1954 to provide that the credit for foreign taxes shall not be allowed in the case of taxes paid to a foreign country with respect to income derived from the production of petroleum (or petroleum byproducts) or natural gas; to the Committee on Ways and Means.

By Mr. LONG of Maryland (for himself, Mr. Hechler of West Virginia, Mr. Riegle, Mr. Brown of California, Mrs. Chisholm, Mr. Moss, Mr. Charles Wilson of Texas, Mr. Mitchell of Maryland, Mr. Diggs, Mr. Rangel, Mr. Helstoski, Mrs. Collins of Illinois, Mr. Harrington, and Mrs. Mink):

H.R. 620. A bill to amend title 18 of the United States Code to require the consent of all persons whose communications are intercepted under certain provisions relating to certain types of eavesdropping; to the Committee on the Judiciary.

By Mr. LONG of Maryland (for himself and Mr. Koch, Mr. Yates, Mr. Riegle, Mr. Eilberg, Mr. Fauntroy, Mr. Guyer, Mr. Ketchum, Mr. Charles Wilson of Texas, Ms. Abzug, Mr. Won Pat, Mr. Casey, and Mr. Alexander):

H.R. 621. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

By Mr. LONG of Maryland (for himself, Mr. Koch, Mr. Nix, Mr. Hechler of West Virginia, Ms. Abzug, Mr. Traxler, Mr. Edwards of California, Mr. Mitchell of Maryland, Mr. Fish, Mr. Bennett, Mr. Stark, Mr. Yates, Mr. Crane, Mr. Leggett, Mr. Dingell, Mr. Matsunaga, Mr. Riegle, Mr. James V. Stanton, Mr. Ketchum, Mr. Lagomarsino, Mr. Breaux, Mr. Sarbanes, and Mr. Drinan):

H.R. 622. A bill to prohibit the transfer of atomic technology to foreign powers without the express approval of the Congress; to the Joint Committee on Atomic Energy.

By Mr. LUJAN:

H.R. 623. A bill to provide for the protection of the rights and privacy of teachers and other educational personnel; to the Committee on Education and Labor.

H.R. 624. A bill to quitclaim any interest of the United States in and to certain real property in Sandoval County, New Mex., to the record owner of such property; to the Committee on Interior and Insular Affairs.

H.R. 625. A bill to amend title 5, United States Code, to allow credit under the civil service retirement program for military service performed by a citizen of the United States in the armed forces of any nation allied or associated with the United States during a period of war; to the Committee on Post Office and Civil Service.

By Mr. McCLORY:

H.R. 626. A bill to amend chapter 44 of title 18 of the United States Code to provide for the systematic registration of handguns; to the Committee on the Judiciary.

H.R. 627. A bill to establish a program for the United States to convert to the international metric system; to the Committee on Science and Technology.

By Mr. McCLOSKEY:

H.R. 628. A bill to amend the National Security Act of 1947; to the Committee on Armed Services.

By Mr. MEEDS:

H.R. 629. A bill to provide price support for milk at not less than 85 per centum of the parity price therefor, and for other purposes; to the Committee on Agriculture.

H.R. 630. A bill to authorize the Secretary of the Navy to conduct programs of exploration for oil and gas on Naval Petroleum Reserve numbered 4, in the State of Alaska; to the Committee on Armed Services.

H.R. 631. A bill to authorize the Commissioner of Education to make grants for teacher training, pilot and demonstration projects, and comprehensive school programs, with respect to health education and health problems; to the Committee on Education and Labor.

H.R. 632. A bill to authorize a limited waiver of the child labor provisions of the Fair Labor Standards Act of 1938 with respect to certain agricultural hand harvest laborers; to the Committee on Education and Labor.

H.R. 633. A bill to direct the President to halt all exports of gasoline, distillate fuel oil, and propane gas until he determines that no shortage of such fuels exists in the United States; to the Committee on Foreign Affairs.

H.R. 634. A bill to authorize grants to encourage and assist the States in developing and implementing land use planning processes and programs; to coordinate Federal programs and policies which have a land use impact; to establish a public land policy and to provide public land use planning directives; to provide for the protection and enhancement of the environment; and for other purposes; to the Committee on Interior and Insuar Affairs.

H.R. 635. A bill to amend the Mineral Lands Leasing Act to provide for a more efficient and equitable method for the exploration for and development of oil shale resources on Federal lands, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 636. A bill to provide for the establishment of regional centers for the performing arts, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. METCALFE:

H.R. 637. A bill to establish in the Department of Housing and Urban Development a direct low-interest loan program to assist low- and middle-income homeowners in the maintenance and improvement of their homes, and to provide for an annual General Accounting Office audit of the housing programs of such Department to promote their more efficient administration; to the Committee on Banking, Currency, and Housing.

By Mr. MIKVA:

H.R. 638. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, except for or by members of the Armed Forces, law enforcement officials, and, where authorized, licensed importers, manufacturers, dealers, and pistol clubs; to the Committee on the Judiciary.

By Mr. MILFORD:

H.R. 639. A bill to amend section 13(c) of the Fair Labor Standards Act of 1938 to exempt from the child labor provisions of such act certain individuals employed at public sporting or recreational events; to the Committee on Education and Labor.

H.R. 640. A bill to provide for the deregulation of natural gas; to the Committee on Interstate and Foreign Commerce.

H.R. 641. A bill to amend title II of the Social Security Act to increase to $5,000 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. MINISH:

H.R. 642. A bill to establish a National Development Bank to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full employment economy both in urban and rural America by providing loans for the establishment of small and medium size businesses and industries, and the expansion and improvement of such existing businesses and industries, and for the construction of low- and moderate-income housing projects, and to provide job training for unskilled and semiskilled unemployed and underemployed workers; to the Committee on Banking, Currency, and Housing.

By Mr. MURPHY of New York:

H.R. 643. A bill to authorize research, development, and demonstration projects relating to new techniques of protein production, fertilizer production, and processing vegetable protein, and an education program to encourage market acceptance of products produced by such methods; to the Committee on Agriculture.

H.R. 644. A bill to amend title 10 of the United States Code in order to provide former members and their dependents medical and dental care in uniformed services facilities during the 60-day period after discharge or separation, and to make such persons eligible for post exchange and commissary privileges during such 60-day period; to the Committee on Armed Services.

H.R. 645. A bill to amend section 9 of the Military Selective Service Act relating to reemployment rights of members and former members of the Armed Forces of the United States; to the Committee on Armed Services.

H.R. 646. A bill to amend titles 10 and 37 of the United States Code in order to provide to members of the Armed Forces who were in a missing status for any period during the Vietnam conflict double credit for such period for retirement purposes and certain additional benefits and to provide such members certain medical benefits; to provide double retirement credit to Federal employees in such status during such conflict; and for other purposes; to the Committee on Armed Services.

H.R. 647. A bill to authorize members of the Armed Forces to be discharged from active military service by reason of physical disability when such members are suffering from drug dependency, to authorize the civil commitment of such members after their discharge, to provide for the review of less than honorable discharges granted to certain members and the issuance of new discharges in certain cases, and for other purposes; to the Committee on Armed Services.

H.R. 648. A bill to amend title 10 of the United States Code to prohibit contracting for the construction of vessels for U.S. Navy at places outside of the United States; to the Committee on Armed Services.

H.R. 649. A bill to establish a loan program to assist industry and businesses in areas of substantial unemployment to meet pollution control requirements; to the Committee on Banking, Currency, and Housing.

H.R. 650. A bill to authorize grants to States for the establishment of vision screening programs for public school students; to the Committee on Education and Labor.

H.R. 651. A bill to improve the quality of child development programs by attracting and training personnel for those programs; to the Committee on Education and Labor.

H.R. 652. A bill to authorize the Secretary of Labor to provide for the development and implementation of programs of units of local government to provide comprehensive year-round recreational opportunities for the Nation's underprivileged youth, and for other purposes; to the Committee on Education and labor.

H.R. 653. A bill to authorize a White House Conference on Education; to the Committee on Education and Labor.

H.R. 654. A bill to provide that local educational agencies shall not receive Federal financial assistance unless they provide educational services to all handicapped children at levels of expenditure at least equal to expenditures for other children; to the Committee on Education and Labor.

H.R. 655. A bill to provide for the development and implementation of programs for youth camp safety; to the Committee on Education and Labor.

H.R. 656. A bill to amend the Foreign Assistance Act of 1961 so as to provide for reductions in aid to countries in which property of the United States is damaged or destroyed by mob action; to the Committee on Foreign Affairs.

H.R. 657. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the assignment of surplus real property to executive agencies for disposal, and for other purposes; to the Committee on Government Operations.

H.R. 658. A bill to amend title 44, United States Code, to strengthen the authority of the Administrator of General Services with respect to records management by Federal agencies, and for other purposes; to the Committee on Government Operations.

H.R. 659. A bill to establish a Department of Social, Economic, and Natural Resources Planning in the executive branch of the Federal Government; to the Committee on Government Operations.

H.R. 660. A bill to establish a department of health; to the Committee on Government Operations.

H.R. 661. A bill to require the President to include in the budget transmitted to Congress additional information showing the regional impact of the budget proposals by State and congressional districts, and for other purposes; to the Committee on Government Operations.

H.R. 662. A bill to limit the sale or distribution of mailing lists by Federal agencies; to the Committee on Government Operations.

H.R. 663. A bill requiring that each Member of Congress be notified of the intended disposition of federally owned real property in the district he represents; to the Committee on Government Operations.

H.R. 664. A bill to provide that the Secretary of State shall make certain compensatory payments to States and political subdivisions with respect to United Nations property tax exemptions; to the Committee on Government Operations.

H.R. 665. A bill to amend the Legislative Reorganization Act of 1970 to provide seminars to freshmen Members of the Congress, and for other purposes; to the Committee on House Administration.

H.R. 666. A bill to authorize the construction and maintenance of the Gen. Draza Mihailovich Monument in Washington, D.C., in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II; to the Committee on House Administration.

H.R. 667. A bill to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape; to the Committee on Interstate and Foreign Commerce.

H.R. 668. A bill to provide for accelerated research and development in the care and treatment of autistic children, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 669. A bill to amend the Communications Act of 1934 to provide that licenses for the operation of broadcasting stations may be issued and renewed for terms of 4 years, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 670. A bill to amend the Communications Act of 1934 to provide that certain television broadcasting stations must include foreign language subtitles in programs of local origin; to the Committee on Interstate and Foreign Commerce.

H.R. 671. A bill to amend the Communications Act of 1934 in order to provide for the regulation of networks; to the Committee on Interstate and Foreign Commerce.

H.R. 672. A bill to make it an unfair practice for any retailer to increase the price of certain consumer commodities once he marks the price on any such consumer commodity, and to permit the Federal Trade Commission to order any such retailer to refund any amounts of money obtained by so increasing the price of such consumer commodity; to the Committee on Interstate and Foreign Commerce.

H.R. 673. A bill to amend the Federal Trade Commission Act to extend protection against fraudulent or deceptive practices, condemned by that act to consumers through civil actions, and to provide for class actions for acts in defraud of consumers; to the Committee on Interstate and Foreign Commerce.

H.R. 674. A bill to amend the Flammable Fabrics Act to extend the provisions of that act to construction materials used in the interiors of homes, offices, and other places of assembly or accommodation, and to authorize the establishment of toxicity standards; to the Committee on Interstate and Foreign Commerce.

H.R. 675. A bill to amend the Investment Advisers Act of 1940 to provide for regulation of persons rating municipal bonds; to the Committee on Interstate and Foreign Commerce.

H.R. 676. A bill to amend section 223 of the Communications Act of 1934 to prohibit harassing telephone calls made to collect alleged debts, and to inform the public of their right to be free from harassing, coercive, abusive, and obscene telephone calls; to the Committee on Interstate and Foreign Commerce.

H.R. 677. A bill to establish a Health Action Corps; to the Committee on Interstate and Foreign Commerce.

H.R. 678. A bill to provide for the establishment of a national advisory commission to develop a national plan for the control of epilepsy and its consequences; to the Committee on Interstate and Foreign Commerce.

H.R. 679. A bill to amend the Public Health Service Act to provide for a National Center for Clinical Pharmacology, to provide support for the study of clinical pharmacology and clinical pharmacy, and to provide for review of drug prescribing; and to amend the Federal Food, Drug, and Cosmetic Act to provide for additional regulation of drug promotions, to provide for recordkeeping and reporting for all drugs, to provide for certification of programs respecting manufacturers' representatives, to provide for the submission of data relating to therapeutic equivalence of drugs, to provide for the certification of certain drugs, to provide for a national drug compendium, to provide additional drug information to consumers, to establish a code system for the identification of all drugs, to provide for the recall of adulterated or misbranded foods, drugs, and cosmetics, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 680. A bill to strengthen and clarify the law prohibiting the introduction, or manufacture for introduction, of switchblade knives into interstate commerce; to the Committee on Interstate and Foreign Commerce.

H.R. 681. A bill to amend the Federal Power Act with respect to the jurisdiction of the Federal Power Commission over streams and other bodies of water the navigable portions of which lie within a single State; to the Committee on Interstate and Foreign Commerce.

H.R. 682. A bill to provide for a comprehensive, coordinated 5-year research program to determine the causes of and cure for cancer, to develop cancer preventative vaccines or other preventatives, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 683. A bill to amend the Federal Trade Commission Act to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

H.R. 684. A bill to establish a registration system with respect to donors of blood, and to provide funds for research to detect serum hepatitis prior to transfusion and transmission of the disease; to the Committee on Interstate and Foreign Commerce.

H.R. 685. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to discharge obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances; to the Committee on Interstate and Foreign Commerce.

H.R. 686. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia; to the Committee on Interstate and Foreign Commerce.

H.R. 687. A bill to provide for the humane care, treatment, habilitation and protection of the mentally retarded in residential facilities through the establishment of strict quality operation and control standards and the support of the implementation of such standards by Federal assistance, to establish State plans which require a survey of need for assistance to residential facilities to enable them to be in compliance with such standards, seek to minimize inappropriate admissions to residential facilities and develop strategies which stimulate the development of regional and community programs for the mentally retarded which include the integration of such residential facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 688. A bill to provide for protection of franchised dealers in petroleum products; to the Committee on Interstate and Foreign Commerce.

H.R. 689. A bill to amend the International Travel Act of 1961 to provide for Federal regulation of the travel agency industry; to the Committee on Interstate and Foreign Commerce.

H.R. 690. A bill to establish a grant-in-aid program to encourage the licensing by the States of motor vehicle mechanics; to the Committee on Interstate and Foreign Commerce.

H.R. 691. A bill to amend the Public Health Service Act to extend to commissioned officers of the Service the benefits and immunities of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended; to the Committee on Interstate and Foreign Commerce.

H.R 692. A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease; to the Committee on Interstate and Foreign Commerce.

H.R. 693. A bill to amend title 18 of the United States Code to prohibit the transportation or use in interstate or foreign commerce of counterfeit, fictitious, altered, lost, or stolen airline tickets; to the Committee on the Judiciary.

H.R. 694. A bill to protect the constitutional rights of professional athletes; to the Committee on the Judiciary.

H.R. 695. A bill to assure the right to vote to citizens whose primary language is other than English; to the Committee on the Judiciary.

H.R. 696. A bill to amend chapter 44, title 18, United States Code, to prohibit the unlawful possession of firearms, and for other purposes; to the Committee on the Judiciary.

H.R. 697. A bill to amend the Immigration and Nationality Act to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes; to the Committee on the Judiciary.

H.R. 698. A bill to amend title 18 of the United States Code to prohibit bribery of State and local law enforcement officers and other elected or appointed officials; to the Committee on the Judiciary.

H.R. 699. A bill to provide for the redistribution of unused quota numbers; to the Committee on the Judiciary.

H.R. 700. A bill to amend title 18 of the United States Code to establish an Office of the United States Correctional Ombudsman; to the Committee on the Judiciary.

H.R. 701. A bill to eliminate racketeering in the sale and distribution of cigarettes and to assist State and local governments in the enforcement of cigarette taxes; to the Committee on the Judiciary.

H.R. 702. A bill to amend the Immigration and Nationality Act and for other purposes; to the Committee on the Judiciary.

H.R. 703. A bill to provide financial assistance to States and localities for the construction and modernization of correctional institutions; to the Committee on the Judiciary.

H.R. 704. A bill to authorize the Federal Bureau of Investigation to exchange fingerprint information with registered national security exchanges and related agencies; to the Committee on the Judiciary.

H.R. 705. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

H.R. 706. A bill to amend the Gun Control Act of 1968; to the Committee on Judiciary.

H.R. 707. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

H.R. 708. A bill to amend section 216(b) (1) of the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

H.R. 709. A bill to amend title 14, United States Code, to provide a subsistence allowance for members of the Coast Guard officer candidate program; to the Committee on Merchant Marine and Fisheries.

H.R. 710. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 711. A bill to provide partial reimbursement for losses incurred by commercial fishermen as a result of restrictions imposed on domestic commercial fishing by a State or the Federal Government; to the Committee on Merchant Marine and Fisheries.

H.R. 712. A bill to provide for advance notice to the U.S. Fish and Wildlife Service and certain State agencies before the beginning of any Federal program involving the use of pesticides or other chemicals designed for mass biological controls, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 713. A bill to amend the Merchant Marine Act, 1936, to expand the mission of the U.S. Merchant Marine Academy and to change the name of the Academy to reflect the expanded mission; to the Committee on Merchant Marine and Fisheries.

H.R. 714. A bill to amend the Fishermen's Protective Act of 1967 to require the return of certain vessels of the United States; to the Committee on Merchant Marine and Fisheries.

H.R. 715. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

H.R. 716. A bill to provide for posting information in post offices with respect to registration, voting, and communicating with lawmakers; to the Committee on Post Office and Civil Service.

H.R. 717. A bill to designate the birthday of "Susan B. Anthony" as a legal public holiday; to the Committee on Post Office and Civil Service.

H.R. 718. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on Post Office and Civil Service.

H.R. 719. A bill to amend title 5, United States Code, to permit Federal, State, and local officers and employees to take an active part in political management and in political campaigns; to the Committee on Post Office and Civil Service.

H.R. 720. A bill to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy; to the Committee on Post Office and Civil Service.

H.R. 721. A bill to prohibit the furnishing of mailing lists and other lists of names or addresses by Government agencies to the public in connection with the use of the U.S. mails, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 722. A bill to amend the Postal Reorganization Act of 1970, title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 723. A bill to amend section 8335 of title 5, United States Code, to reduce the mandatory retirement age for non-U.S. citizen employees of the Panama Canal Company or the Canal Zone Government employed on the Isthmus of Panama to 62 years of age; to the Committee on Post Office and Civil Service.

H.R. 724. A bill to modify the project for hurricane-flood protection and beach erosion control at East Rockaway Inlet to Rockaway Inlet and Jamaica Bay, N.Y., and for other purposes; to the Committee on Public Works and Transportation.

H.R. 725. A bill to amend the Federal Aviation Act of 1958 to safeguard American citizens from racial and religious discrimination by foreign nations while traveling abroad; to the Committee on Public Works and Transportation.

H.R. 726. A bill to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for young people on a space-available basis; to the Committee on Public Works and Transportation.

H.R. 727. A bill to provide for a national educational campaign to improve safety on the highways by improving driver skill, driver attitudes, and driver knowledge of highway regulations; to the Committee on Public Works and Transportation.

H.R. 728. A bill to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for elderly people on a space-available basis; to the Committee on Public Works and Transportation.

H.R. 729. A bill to require the Secretary of Transportation to prescribe regulations governing the humane treatment of animals transported in air commerce; to the Committee on Public Works and Transportation.

H.R. 730. A bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation to handicapped persons and persons who are 65 years of age or older, to amend the Interstate Commerce Act to authorize free or reduced rate transportation for persons who are 65 years of age or older, and to provide new and improved transportation programs for the handicapped and the elderly; to the Committee on Public Works and Transportation.

H.R. 731. A bill to amend title 49 of the United States Code to protect airline ticket agents from liability for the usage of stolen airline tickets; to the Committee on Public Works and Transportation.

H.R. 732. A bill to amend section 401(j) of the Federal Aviation Act of 1958, to provide that no air carrier shall discontinue service, in whole or in part, unless such discontinuance is found to be in the public interest by the Civil Aeronautics Board after public hearings; to the Committee on Public Works and Transportation.

H.R. 733. A bill to extend the duties of the Executive Protective Service to include the protection of the United Nations buildings in New York City, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 734. A bill to provide for the creation of the National Fire Academy, and for other purposes; to the Committee on Science and Technology.

H.R. 735. A bill to provide financial aid to local fire departments in the purchase of advanced firefighting equipment; to the Committee on Science and Technology.

H.R. 736. A bill to establish a National Fire Data and Information Clearinghouse, and for other purposes; to the Committee on Science and Technology.

H.R. 737. A bill to further the conduct of research, development, and commercial demonstrations in geothermal energy technologies, to direct the National Science Foundation to fund basic and applied research relating to geothermal energy, and to direct the National Aeronautics and Space Administration to carry out a program of demonstrations in technologies for commercial utilization of geothermal resources including hot dry rock and geopressured fields; to the Committee on Science and Technology.

H.R. 738. A bill to amend the National Aeronautics and Space Act of 1958 to authorize and direct the National Aeronautics and Space Administration to conduct research and to develop ground propulsion systems which would serve to reduce the current level of energy consumption; to the Committee on Science and Technology.

H.R. 739. A bill to establish a U.S. Fire Administration and a National Fire Academy in the Department of Housing and Urban Development, to assist State and local governments in reducing the incidence of death, personal injury, and property damage from fire, to increase the effectiveness and coordination of fire prevention and control agencies at all levels of government, and for other purposes; to the Committee on Science and Technology.

H.R. 740. A bill to provide financial aid for local fire departments in the purchase of firefighting suits and self-contained breathing apparatus; to the Committee on Science and Technology.

H.R. 741. A bill to provide the Secretary of Commerce with the authority to make grants to States, counties, and local communities to pay for up to one-half of the costs of training programs for firemen; to the Committee on Science and Technology.

H.R. 742. A bill to amend title 38 of the United States Code to increase the maximum income level at which certain veterans remain eligible for pensions; to the Committee on Veterans' Affairs.

H.R. 743. A bill to amend title 38 of the United States Code in order to provide financial assistance for the establishment and maintenance of State veterans cemeteries; to the Committee on Veterans' Affairs.

H.R. 744. A bill to amend title 38 of the United States Code in order to improve the business loan program for veterans and to make veterans who served after January 31, 1955, eligible for such program; to the Committee on Veterans' Affairs.

H.R. 745. A bill to amend title 38 of the United States Code to clarify the circumstances under which the Administrator of Veterans' Affairs may pay for care and treatment rendered to veterans by private hospitals in emergencies; to the Committee on Veterans' Affairs.

H.R. 746. A bill to provide that veterans be provided employment opportunities after discharge at certain minimum salary rates; to the Committee on Veterans' Affairs.

H.R. 747. A bill to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension; to the Committee on Veterans' Affairs.

H.R. 748. A bill to amend title 38 of the United States Code in order to extend the entitlement of veterans to educational assistance from 36 to 45 months; to the Committee on Veterans' Affairs.

H.R. 749. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

H.R. 750. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

H.R. 751. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for income tax purposes of certain expenses incurred by the taxpayer for the education of a dependent; to the Committee on Ways and Means.

H.R. 752. A bill to amend title XVI of the Social Security Act to provide that the 1974 increases in social security benefits shall be disregarded in determining an individual's eligibility for supplemental security income benefits, and to provide that support and maintenance furnished a mentally retarded individual living in another person's household shall not constitute income to him for supplemental security income benefit purposes; to the Committee on Ways and Means.

H.R. 753. A bill to amend title II of the Social Security Act to provide a 50-percent across-the-board increase in benefits thereunder, with the resulting benefit costs being borne equally by employers, employees, and the Federal Government, and to raise the amount of outside earnings which a beneficiary may have without suffering deductions from his benefits; to the Committee on Ways and Means.

H.R. 754. A bill to promote the employment of unemployed Vietnam veterans in employment reflecting experience or providing training; to the Committee on Ways and Means.

H.R. 755. A bill to amend title II of the Social Security Act to increase to $7,500 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 756. A bill to promote the employment of unemployed Vietnam veterans; to the Committee on Ways and Means.

H.R. 757. A bill to promote the employment of unemployed handicapped Vietnam veterans; to the Committee on Ways and Means.

H.R. 758. A bill to permit any returned prisoner of war of the Vietnam conflict to import free of duty additional personal and household effects during the 1-year period after his return to the jurisdiction of the United States; to the Committee on Ways and Means.

H.R. 759. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption for a taxpayer, his spouse, or his dependent, who is disabled, and for other purposes; to the Committee on Ways and Means.

H.R. 760. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

H.R. 761. A bill to amend the Internal Revenue Code of 1954 to provide reasonable and necessary income tax incentives to encourage the utilization of recycled solid waste materials and to offset existing income tax advantages which promote a depletion of virgin natural resources; to the Committee on Ways and Means.

H.R. 762. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

H.R. 763. A bill to amend the Internal Revenue Code of 1954 to treat a portion of tuition paid to certain educational institutions as a charitable contribution; to the Committee on Ways and Means.

H.R. 764. A bill to amend the Internal Revenue Code of 1954 to encourage higher education, and particularly the private funding thereof, by authorizing a deduction from gross income of reasonable amounts contributed to a qualified higher education fund established by the taxpayer for the purpose of funding the higher education of his dependents; to the Committee on Ways and Means.

H.R. 765. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

H.R. 766. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

H.R. 767. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for donations of blood to nonprofit blood banks and other nonprofit organizations; to the Committee on Ways and Means.

H.R. 768. A bill to amend the Internal Revenue Code of 1954 to provide that the first $5,000 of compensation paid to law enforcement officers shall not be subject to the income tax; to the Committee on Ways and Means.

H.R. 769. A bill to provide for a national educational campaign to combat the lack of consciousness of the public as to the danger of improper uses of motor vehicles on the highways, and to impose an additional tax of one-tenth of a cent per gallon on gasoline and other motor fuels to pay for the costs of such campaign; to the Committee on Ways and Means.

H.R. 770. A bill to provide for the protection of children against physical injury caused or threatened by those who are responsible for their care; to the Committee on Ways and Means.

H.R. 771. A bill to amend title XVI of the Social Security Act to provide for emergency assistance grants to recipients of supplemental security income benefits, to authorize cost-of-living increase in such benefits and in State supplementary payments, to prevent reductions in such benefits because of social security benefit increases, to provide reimbursement to States for home relief payments to disabled applicants prior to determination of their disability, to permit payment of such benefits directly to drug addicts and alcoholics (without a third-party payee) in certain cases, and to continue on a permanent basis the provision making supplemental security income recipients eligible for food stamps, and for other purposes; to the Committee on Ways and Means.

H.R. 772. A bill to promote the employment of unemployed Vietnam veterans; to the Committee on Ways and Means.

H.R. 773. A bill to promote the employment of unemployed prisoners of war and missing in action Vietnam veterans; to the Committee on Ways and Means.

H.R. 774. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

H.R. 775. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation produces a higher combined benefit; to the Committee on Ways and Means.

H.R. 776. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

H.R. 777. A bill to create a national system of health security; to the Committee on Ways and Means.

H.R. 778. A bill to regulate lobbying and related activities; jointly, to the Committees on the Judiciary and Standards of Official Conduct.

H.R. 779. A bill to amend the National Environmental Policy Act of 1969 to provide for class actions in the U.S. district courts against persons responsible for creating certain environmental hazards; jointly, to the Committees on Merchant Marine and Fisheries and the Judiciary.

By Mr. NEAL (for himself, Mr. ANDREWS of North Carolina, Mr. BROYHILL, Mr. FOUNTAIN, Mr. HEFNER, Mr. HENDERSON, Mr. JONES of North Carolina, Mr. MARTIN, Mr. PREYER, Mr. ROSE, and Mr. TAYLOR of North Carolina):

H.R. 780. A bill to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the New River as a potential component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. NEAL:

H.R. 781. A bill to amend the Wild and Scenic Rivers Act to facilitate the study of the New River for designation as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

H.R. 782. A bill to amend the Wild and Scenic Rivers Act to facilitate the study of the New River for designation as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

H.R. 783. A bill to prevent the construction of a dam on the New River; to the Committee on Interstate and Foreign Commerce.

By Mr. NOWAK:

H.R. 784. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 785. A bill to amend the Internal Revenue Code of 1954 to provide tax relief for homeowners; to the Committee on Ways and Means.

H.R. 786. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

By Mr. OBEY:

H.R. 787. A bill to require that dairy products which are imported be labeled to disclose such fact; to the Committee on Interstate and Foreign Commerce.

H.R. 788. A bill to provide relief from shore damages attributable to high water levels in the Great Lakes, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. O'BRIEN:

H.R. 789. A bill to amend the act establishing the Indiana Dune National Lakeshore to provide for the expansion of the lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 790. A bill to discourage the use of painful devices in the trapping of animals and birds; to the Committee on Merchant Marine and Fisheries.

H.R. 791. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

H.R. 792. A bill to amend the Internal Revenue Code of 1954 to treat adoption fees in the same manner as medical expenses for income tax purposes; to the Committee on Ways and Means.

H.R. 793. A bill to amend the Internal Revenue Code of 1954 to encourage greater conservation of energy in home heating and cooling by providing an income tax deduction for expenditures made for more effective insulation and heating equipment in residential structures; to the Committee on Ways and Means.

H.R. 794. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 795. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax from $60,000 to $200,000; to the Committee on Ways and Means.

H.R. 796. A bill to amend the Internal Revenue Code of 1954 to allow an individual to elect a tax credit for 50 percent of his charitable contributions in lieu of the deduction allowed for such contributions; to the Committee on Ways and Means.

By Mr. PATMAN:

H.R. 797. A bill to support the price of milk at 90 percent of the parity price for the period beginning on the date of enactment of this subsection and ending March 31, 1976, and for other purposes; to the Committee on Agriculture.

H.R. 798. A bill to provide for the purchase of animals, poultry, and animal and poultry food products for use in foreign and domestic food relief programs, and for other purposes; to the Committee on Agriculture.

H.R. 799. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 800. A bill to abolish the U.S. Postal Service, to repeal the Postal Reorganization Act, to reenact the former provisions of title 39, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 801. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children, to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates, to the Committee on Veteran's Affairs.

H.R. 802. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. PEPPER:

H.R. 803. A bill to establish the Reconstruction Finance Corp. to make loan guarantees to business concerns which would otherwise be unable to obtain needed financing; to the Committee on Banking, Currency, and Housing.

H.R. 804. A bill to amend section 235 of the National Housing Act (the program of homeownership for lower income families), and section 236 of such act (the program of rental and cooperative housing for lower income families), to require that the Secretary of Housing and Urban Development carry out the programs under those sections to the full extent of the funds and contract authority made available to him by law; to the Committee on Banking, Currency, and Housing.

H.R. 805. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

By Mr. PERKINS:

H.R. 806. A bill to amend the Federal Coal Mine Health and Safety Act of 1969 to eliminate the support requirements for divorced wives and surviving divorced wives; to the Committee on Education and Labor.

By Mr. PEPPER:

H.R. 807. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 808. A bill to improve education by increasing the freedom of the Nation's teachers to change employment across State lines without substantial loss of retirement benefits through establishment of a Federal-State program; to the Committee on Education and Labor.

H.R. 809. A bill to authorize the Federal Energy Administration to allocate scarce supplies of natural gas under priorities which assure adequate allocations for fertilizer production and industries which use natural gas as an essential element in their production process; to the Committee on Interstate and Foreign Commerce.

H.R. 810. A bill to amend the National Science Foundation Act of 1950, as amended, to promote scientific research and development in the production of synthetic liquid fuels, and for other purposes; to the Committee on Science and Technology.

H.R. 811. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

H.R. 812. A bill to amend the Internal Revenue Code of 1954 to provide incentives for production of new facilities for obtaining oil from oil shale, or for converting coal into oil or gas; to the Committee on Ways and Means.

H.R. 813. A bill to amend section 37 of the Internal Revenue Code of 1954 to make the tax treatment of retirement income comparable to that of social security income; to the Committee on Ways and Means.

H.R. 814. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs; to the Committee on Ways and Means.

H.R. 815. A bill to amend titles II and XVIII of the Social Security Act to provide medicare coverage for disabled individuals under age 65 from the first month of their entitlement to benefits based on disability, in cases where the individuals involved are becoming reentitled to such coverage after a previous coverage period which ended during the preceding 5 years; to the Committee on Ways and Means.

H.R. 816. A bill to amend title II of the Social Security Act to make it clear that entitlement of an employee's survivor to an annuity under the Railroad Retirement Act of 1937, without any entitlement to a death payment under such act on account of such employee's death, will not prevent a lump-sum death payment from being made on such employee's wage record under the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

H.R. 817. A bill to amend title II of the Social Security Act to eliminate the reduction in disability insurance benefits which is presently required in the case of an individual receiving workmen's compensation benefits; to the Committee on Ways and Means.

H.R. 818. A bill to amend title II of the Social Security Act to reduce from 60 to 45 the age at which a woman otherwise qualified may become entitled to widow's insurance benefits; to the Committee on Ways and Means.

By Mr. PETTIS:

H.R. 819. A bill to direct the Secretary of the Treasury to issue $2 bills bearing a design emblematic of the Bicentennial of the American Revolution on the reverse side; to the Committee on Banking, Currency, and Housing.

H.R. 820. A bill to provide for the establishment of the National Conservation Area of the California Desert and to provide for the immediate and future protection, development, and administration of such public lands; to the Committee on Interior and Insular Affairs.

H.R. 821. A bill to provide for the arrest of, and to prescribe penalties for, violators of certain laws and regulations relating to the public lands of the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PEYSER:

H.R. 822. A bill to repeal the unnecessary commitment of Government funds to the Emergency Livestock Credit Act of 1974; to the Committee on Agriculture.

H.R. 823. A bill to amend section 232 of the National Housing Act to provide insurance for loans to finance improvements to long-term care facilities required to correct deficiencies identified in State surveys and Federal certification procedures; to the Committee on Banking, Currency, and Housing.

H.R. 824. A bill to establish in the Department of Housing and Urban Development a housing enforcement assistance program to aid cities and other municipalities in the more effective enforcement of housing codes; to the Committee on Banking, Currency, and Housing.

H.R. 825. A bill to provide that no State development agency shall be entitled to receive Federal financial assistance in any form unless it provides satisfactory assurances that it will take no action inconsistent with local zoning laws; to the Committee on Banking, Currency, and Housing.

H.R. 826. A bill to establish a consumer education program in the Office of Education; to the Committee on Education and Labor.

H.R. 827. A bill to amend section 428 of the Higher Education Act of 1965 to better assure that students will have reasonable access to loans to meet their postsecondary education costs; to the Committee on Education and Labor.

H.R. 828. A bill to amend the Older Americans Act of 1965 to provide strengthened programs relating to long-term care facilities, and for other purposes; to the Committee on Education and Labor.

H.R. 829. A bill to direct the Secretary of Labor for volunteer employment programs for older persons and to develop a resource directory on the availability of the skills, talents, and experience of those persons; to the Committee on Education and Labor.

H.R. 830. A bill to amend the Elementary and Secondary Education Act of 1965 to provide Federal assistance for interscholastic athletic programs in secondary schools associated with community improvement programs; to the Committee on Education and Labor.

H.R. 831. A bill to protect collegiate and other amateur athletes; to the Committee on Education and Labor.

H.R. 832. A bill to amend section 620 of the Foreign Assistance Act of 1961 to suspend, in whole or in part, economic and military assistance and certain sales to any country which fails to take appropriate steps to prevent narcotic drugs produced in such country from entering the United States unlawfully; to the Committee on Foreign Affairs.

H.R. 833. A bill to amend the Export Administration Act of 1969 to provide for the regulation of the export of agricultural commodities; to the Committee on Foreign Affairs.

H.R. 834. A bill to grant child care centers status as educational institutions, and to assist such centers in raising capital by permitting donation of surplus Federal property for their use; to the Committee on Government Operations.

H.R. 835. A bill to amend chapter 9 of title 44, United States Code, to require the use of recycled paper in the printing of the Congressional Record; to the Committee on House Administration.

H.R. 836. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the establishment of standards for a grading system by which retail purchasers may determine the relative nutritional value of different foods, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 837. A bill to direct the Federal Trade Commission to conduct a study of the practice whereby supermarket food chains reprice food items after the item has been initially priced and offered for sale; to the Committee on Interstate and Foreign Commerce.

H.R. 838. A bill to provide for the humane care, treatment, habilitation and protection of the mentally retarded in residential facilities through the establishment of strict quality operation and control standards and the support of the implementation of such standards by Federal assistance, to establish State plans which require a survey of need for assistance to residential facilities to enable them to be in compliance with such standards, seek to minimize in appropriate admissions to residential facilities and develop strategies which stimulate the development of regional and community programs for the mentally retarded which include the integration of such residential facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 839. A bill to amend the Flammable Fabrics Act to extend the provisions of that act to construction materials used in the interiors of homes, offices, and other places of assembly or accommodation, and to authorize the establishment of toxicity standards; to the Committee on Interstate and Foreign Commerce.

H.R. 840. A bill to amend the Railroad Retirement Act of 1937 to permit an annuitant to receive his annuity even though he renders compensated service for the outside employer by whom he was last employed before his annuity began to accrue; to the Committee on Interstate and Foreign Commerce.

H.R. 841. A bill to provide that foreign made products be labeled to show the country of origin, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 842. A bill to regulate the interstate trafficking and sale of hypodermic needles and syringes; to the Committee on Interstate and Foreign Commerce.

H.R. 843. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

H.R. 844. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

H.R. 845. A bill to amend title 28 of the United States Code to exempt volunteer firemen from Federal jury duty; to the Committee on the Judiciary.

H.R. 846. A bill to make Election Day a legal public holiday; to the Committee on Post Office and Civil Service.

H.R. 847. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of Dr. Enrico Fermi; to the Committee on Post Office and Civil Service.

H.R. 848. A bill the Antihijacking Act of 1975; to the Committee on Public Works and Transportation.

H.R. 849. A bill to extend the duties of the Executive Protective Service to include the protection of the United Nations buildings in New York City, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. KOCH:

H.R. 850. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. PEYSER:

H.R. 851. A bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to eliminate the present requirement that relocation payments be excluded from the recipient's income for public assistance purposes; to the Committee on Public Works and Transportation.

H.R. 852. A bill to provide new and improved transportation programs for older persons; to the Committee on Public Works and Transportation.

H.R. 853. A bill to amend the Internal

Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

H.R. 854. A bill to amend the Internal Revenue Code of 1954 to allow a credit against the individual income tax for tuition paid for the elementary or secondary education of dependents; to the Committee on Ways and Means.

H.R. 855. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for certain social security taxes, railroad retirement taxes, and civil service retirement contributions; to the Committee on Ways and Means.

H.R. 856. A bill to amend the Internal Revenue Code of 1954 to allow a deduction to tenants of houses or apartments for their proportionate share of the taxes and interest paid by their landlords; to the Committee on Ways and Means.

H.R. 857. A bill to amend the Internal Revenue Code of 1954 to provide for a refund of the manufacturers excise tax on certain tires, tubes, and tread rubber used by local transit systems furnishing commuter service; to the Committee on Ways and Means.

H.R. 858. A bill to amend the Internal Revenue Code of 1954 to increase the amount of refund payable with respect to fuels used by local transit systems for commuter service; to the Committee on Ways and Means.

H.R. 859. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

H.R. 860. A bill to amend title XVI of the Social Security Act to provide for emergency replacement payments to recipients of supplemental security income benefits, to authorize cost-of-living increases in such benefits, to insure that all beneficiaries receive such increases, to prevent reductions in such benefits because of social security benefit increases, to provide reimbursement to States for home relief payments to disabled applicants prior to determination of their disability, to permit payment of such benefits in limited circumstances directly to drug addicts and alcoholics (without a third-party payee), to restore food stamp eligibility to all supplemental security income recipients, to provide for expeditious action on applications for benefits, to amend eligibility requirements for separated spouses, to allow judicial review of eligibility determinations, and for other purposes; to the Committee on Ways and Means.

H.R. 861. A bill to amend the Social Security Act to provide that future increases in retirement or disability benefits under Federal programs shall not be taken into consideration in determining a person's need for aid or assistance under any of the Federal-State public assistance programs and for other purposes; to the Committee on Ways and Means.

H.R. 862. A bill to repeal the limitation imposed by section 1130 of the Social Security Act upon the amount payable to States as grants for social services under the various Federal-State public assistance programs, such as day care; to the Committee on Ways and Means.

H.R. 863. A bill to amend title II of the Social Security Act to increase the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. PEYSER (for himself and Mr. KOCH):

H.R. 864. A bill to provide that the Secretary of State shall make certain compensatory payments to States and political subdivisions with respect to United Nations property tax exemptions; to the Committee on Government Operations.

By Mr. PEYSER (for himself and Mr. RANGEL):

H.R. 865. A bill to prevent the use of heroin for any drug maintenance program; to the Committee on Interstate and Foreign Commerce.

By Mr. PRICE:

H.R. 866. A bill to amend title 10, United States Code, in order to improve the judicial machinery of military courts-martial by removing defense counsel and jury selection from the control of a military commander who convenes a court-martial and by creating an independent trial command for the purpose of preventing command influence or the appearance of command influence from adversely affecting the fairness of military judicial proceedings; to the Committee on Armed Services.

H.R. 867. A bill to require that discharge certificates issued to members of the Armed Forces not indicate the conditions or reasons for discharge, to limit the separation of enlisted members under conditions other than honorable, and to improve the procedures for the review of discharges and dismissals; to the Committee on Armed Services.

H.R. 868. A bill to establish a program to replace, through the cooperative efforts of Federal, State, and local governments, elementary and secondary schools which are in dangerous location or unsafe condition or are otherwise deficient; to the Committee on Education and Labor.

H.R. 869. A bill to limit the sale or distribution of mailing lists by Federal agencies; to the Committee on Government Operations.

H.R. 870. A bill to amend the Intergovernmental Cooperation Act of 1968 to improve intergovernmental relationships between the United States and the States and municipalities, and the economy and efficiency of government, by providing Federal cooperation and assistance in the establishment and strengthening of State and local offices of consumer protection; to the Committee on Government Operations.

H.R. 871. A bill to authorize the Secretary of the Interior to enlarge the Jefferson National Expansion Memorial National Historic Site, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 872. A bill to amend the Public Health Service Act to provide grants to develop training in family medicine; to the Committee on Interstate and Foreign Commerce.

H.R. 873. A bill to amend the Public Health Service Act so as to add to such act a new title dealing especially with kidney disease and kidney-related diseases; to the Committee on Interstate and Foreign Commerce.

H.R. 874. A bill to amend the Fair Packaging and Labeling Act to require certain labeling to assist the consumer in purchases of packaged perishable or semiperishable foods; to the Committee on Interstate and Foreign Commerce.

H.R. 875. A bill to require that certain processed or packaged consumer products be labeled with certain information, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 876. A bill to require that durable consumer products be labeled as to durability and performance life; to the Committee on Interstate and Foreign Commerce.

H.R. 877. A bill to require that certain durable products be prominently labeled as to date of manufacture, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 878. A bill to amend the Fair Packaging and Labeling Act to require the disclosure by retail distributors of unit retail prices of packaged consumer commodities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 879. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the labels on certain package goods to contain the name and place of business of the manufacturer, packer, and distributor; to the Committee on Interstate and Foreign Commerce.

H.R. 880. A bill to prohibit any increase in the price of certain consumer commodities by any retailer once a price is placed on any such community by such retailer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 881. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the labels on all foods to disclose each of their ingredients; to the Committee on Interstate and Foreign Commerce.

H.R. 882. A bill to amend the Federal Food, Drug, and Cosmetic Act so as to require that in the labeling and advertising of drugs sold by prescription the "established name" of such drug must appear each time their proprietary name is used, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 883. A bill to require that certain drugs and pharmaceuticals be prominently labeled as to the date beyond which potency or efficacy becomes diminished; to the Committee on Interstate and Foreign Commerce.

H.R. 884. A bill to permit the advertising of drug prices and to require retailers of prescription drugs to post the prices of certain commonly prescribed drugs; to the Committee on Interstate and Foreign Commerce.

H.R. 885. A bill to amend title 35 of the United States Code to provide for compulsory licensing of prescription drug patents; to the Committee on the Judiciary.

H.R. 886. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty; to the Committee on the Judiciary.

H.R. 887. A bill to extend benefits under section 8191 of title 5, United States Code, to law enforcement officers and firemen not employed by the United States who are killed or totally disabled in the line of duty; to the Committee on the Judiciary.

H.R. 888. A bill to provide for the issuance of a special postage stamp in commemoration of the life and work of Harriet Tubman; to the Committee on Post Office and Civil Service.

H.R. 889. A bill relating to the construction of locks and dam No. 26, Mississippi River, Alton, Ill. and Missouri; to the Committee on Public Works and Transportation.

H.R. 890. A bill to provide assistance to certain States bordering the Mississippi River in the construction of the Great River Road; to the Committee on Public Works and Transportation.

H.R. 891. A bill to amend the National Aeronautics and Space Act of 1958 to authorize and direct the National Aeronautics and Space Administration to conduct research and to develop ground propulsion systems which would serve to reduce the current level of energy consumption; to the Committee on Science and Technology.

H.R. 892. A bill to provide financial aid for local fire departments in the purchase of firefighting suits and self-contained breathing apparatus; to the Committee on Science and Technology.

H.R. 893. A bill to provide financial aid to local fire departments in the purchase of advanced firefighting equipment; to the Committee on Science and Technology.

H.R. 894. A bill to amend the Small Business Act to provide for loans to small business concerns seriously affected by shortages of energy producing materials, and for other purposes; to the Committee on Small Business.

H.R. 895. A bill to amend chapter 3 of title 38, United States Code, in order to provide for a veterans outreach services program in the Veterans' Administration to assist eligible veterans, especially those recently separated, in applying for and obtaining benefits and services to which they are entitled, and education, training, and employment, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 896. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

H.R. 897. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 898. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 899. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs; to the Committee on Ways and Means.

H.R. 900. A bill to amend title II of the Social Security Act to provide that all benefits based upon the attainment of age will be payable at age 60, subject to actuarial reduction; to the Committee on Ways and Means.

H.R. 901. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation reduces a higher combined benefit; to the Committee on Ways and Means.

H.R. 902. A bill to amend title II of the Social Security Act to permit States under Federal-State agreements, to provide for coverage for hospital insurance benefits for the aged for certain State and local employees whose services are not otherwise covered by the insurance system established by such title; to the Committee on Ways and Means.

H.R. 903. A bill to amend title II of the Social Security Act to eliminate the reduction in disability benefits which is presently required in the case of an individual receiving workmen's compensation benefits; to the Committee on Ways and Means.

H.R. 904. A bill to amend title II of the Social Security Act to provide that an individual may qualify for disability insurance benefits and the disability freeze if he has enough quarters of coverage to be fully insured for old-age benefit purposes, regardless of when such quarters were earned; to the Committee on Ways and Means.

H.R. 905. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

H.R. 906. A bill to amend title II of the Social Security Act to provide that no reduction shall be made in old-age insurance benefit amounts to which a woman is entitled if she has 120 quarters of coverage; to the Committee on Ways and Means.

H.R. 907. A bill to amend title II of the Social Security Act to increase to $750 in all cases the amount of the lump-sum death payment thereunder; to the Committee on Ways and Means.

H.R. 908. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formularly committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

H.R. 909. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

H.R. 910. A bill to add a new title to the Social Security Act to provide for a minimum annual income of $3,750 in the case of single individuals and $5,000 in the case of married couples; to the Committee on Ways and Means.

H.R. 911. A bill to repeal section 411 of the Social Security Amendments of 1972, thereby restoring the right of aged, blind, and disabled individuals who receive assistance under title XVI of the Social Security Act after 1973 to participate in the food stamp and surplus commodities programs; to the Committee on Ways and Means.

H.R. 912. A bill to amend the Internal Revenue Code of 1954 to provide that interest shall be paid to individual taxpayers on the calendar-year basis who file their returns before March 1 of the refund check is not mailed out within 30 days after the return is filed, and to require the Internal Revenue Service to give certain information when making refunds; to the Committee on Ways and Means.

H.R. 913. A bill to amend the Internal Revenue Code of 1954 to increase personal exemptions after 1974 by an amount based on annual variations in the Consumer Price Index; to the Committee on Ways and Means.

H.R. 914. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 915. A bill to amend the Internal Revenue Code of 1954 to permit the full deduction of medical expenses incurred for the care of individuals of 65 years of age and over, without regard to the 3-percent and 1-percent floors; to the Committee on Ways and Means.

H.R. 916. A bill to amend the Internal Revenue Code to encourage an increase in production of coal; to the Committee on Ways and Means.

H.R. 917. A bill to amend the Internal Revenue Code to encourage development of processes to convert coal to low pollutant synthetic fuels; to the Committee on Ways and Means.

H.R. 918. A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its fuel consumption rate, to provide for public disclosure of the fuel consumption rate of every automobile, to provide funding to develop more efficient automobile engines, and for other purposes; to the Committee on Ways and Means.

By Mr. RANDALL:

H.R. 919. A bill to amend the Occupational Safety and Health Act of 1970 to exempt any nonmanufacturing business, or any business having 25 or less employees, in States having laws regulating safety in such businesses, from the Federal standards created under such act; to the Committee on Education and Labor.

H.R. 920. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 921. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants to States for the establishment, equipping, and operation of emergency communications centers to make the national emergency telephone number 911 available throughout the United States; to the Committee on the Judiciary.

H.R. 922. A bill to amend Public Law 90-206 relative to the terms under which recommendations transmitted to Congress regarding rates of pay reviewed by the Commission on Executive, Legislative, and Judicial Salaries shall become effective, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 923. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

H.R. 924. A bill to extend to all individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns, and for other purposes; to the Committee on Ways and Means.

H.R. 925. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax, to increase the estate tax marital deduction, and to provide an alternate method of valuing certain real property for estate tax purposes; to the Committee on Ways and Means.

H.R. 926. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

H.R. 927. A bill to amend title II of the Social Security Act to increase to $7,500 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. RANDALL (for himself and Mr. HUNGATE):

H.R. 928. A bill to amend title XVI of the Social Security Act to permit individuals who are residents in certain public institutions to receive supplementary security income benefits; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 929. A bill to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States; jointly to the Committees on the Judiciary, and Standards of Official Conduct.

By Mr. ROBINSON:

H.R. 930. A bill to amend the Occupational Safety and Health Act of 1970 with respect to certain small businesses, and for other purposes; to the Committee on Education and Labor.

H.R. 931. A bill to authorize the Secretary of the Interior to establish the George Washington Boyhood Home National Historic Site in the State of Virginia; to the Committee on Interior and Insular Affairs.

H.R. 932. A bill to amend title 39 and title 18, United States Code, to provide for licensing and protection of distinctive designs, legends, and insignia of the U.S. Postal Service; to the Committee on Post Office and Civil Service.

H.R. 933. A bill to amend the Internal Revenue Code of 1954 to encourage greater conservation of energy in home heating and cooling by providing an income tax deduction for expenditures made for more effective insulation and heating equipment in residential structures; to the Committee on Ways and Means.

H.R. 934. A bill to amend the Internal Revenue Code of 1954 to provide a limited exclusion of capital gains realized by taxpayers other than corporations on securities; to the Committee on Ways and Means.

H.R. 935. A bill to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land [rather than at its fair market value], and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes, at its value for its existing use, and to provide for the revocation of such lower evaluation and recapture of unpaid taxes with interest in appropriate circumstances; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 936. A bill to amend section 319 of the Immigration and Nationality Act; to the Committee on the Judiciary.

H.R. 937. A bill to amend sections 320 and 321 of the Immigration and Nationality Act; to the Committee on the Judiciary.

H.R. 938. A bill to amend section 312 of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. RODINO (for himself and Mr. EDWARDS of California):

H.R. 939. A bill to amend the Voting Rights Act of 1965 to extend certain provisions for an additional 10 years and to make permanent the ban against certain prerequisites to voting; to the Committee on the Judiciary.

By Mr. ROE:

H.R. 940. A bill to amend title VI of the Civil Rights Act of 1964 to protect the employment rights of the elderly; to the Committee on Education and Labor.

H.R. 941. A bill to authorize grants to the Deganawidah-Quetzalcoatl University; to the Committee on Education and Labor.

H.R. 942. A bill to amend the Accounting and Auditing Act of 1950 to provide for the audit of certain Federal agencies by the Comptroller General; to the Committee on Government Operations.

H.R. 943. A bill to amend the Federal Property and Administrative Service Act of 1949 to permit donations of surplus supplies and equipment to State and local public recreation agencies; to the Committee on Government Operations.

H.R. 944. A bill to establish an office within the Congress with a toll-free telephone number to be known as the Congressional Advisory Legislative Line (CALL), to provide the American people with free and open access to information, on an immediate basis, relating to the status of legislative proposals pending before the Congress; to the Committee on House Administration.

H.R. 945. A bill to establish a National Foreign Investment Control Commission to prohibit or restrict foreign ownership control or management control, through direct purchase, in whole or in part; from acquiring securities of certain domestic issuers of securities; from acquiring certain domestic issuers of securities, by merger, tender offer, or any other means; control of certain domestic corporations or industries, real estate, or other natural resources deemed to be vital to the economic security and national defense of the United States; to the Committee on Interstate and Foreign Commerce.

H.R. 946. A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease; to the Committee on Interstate and Foreign Commerce.

H.R. 947. A bill to incorporate the Italian American War Veterans of the United States, Incorporated; to the Committee on Judiciary.

H.R. 948. A bill to establish a contiguous fishery zone of the United States beyond its territorial seas at a distance of 200 miles or the length of the Continental Shelf, whichever is greater; to the Committee on Merchant Marine and Fisheries.

H.R. 949. A bill to amend title 39, United States Code, as enacted by the Postal Reorganization Act, to facilitate direct communication between officers and employees of the U.S. Postal Service and Members of Congress, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 950. A bill to amend the Postal Reorganization Act of 1970, title 39, United States Code, to eliminate certain restrictions on the rights of officers and employees of the Postal Service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 951. A bill to amend title 23, United States Code, to insure that no State will be apportioned less than 80 percent of its tax contribution to the Highway Trust Fund; to the Committee on Public Works and Transportation.

H.R. 952. A bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation to handicapped persons and persons who are 65 years of age or older, to amend the Interstate Commerce Act to authorize free or reduced rate transportation for persons who are 65 years of age or older, and to provide new and improved transportation programs for the handicapped and the elderly; to the Committee on Public Works and Transportation.

H.R. 953. A bill to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for young people on a space-available basis; to the Committee on Pubic Works and Transportation.

H.R. 954. A bill to create a Joint Congressional Committee on Foreign Investment Control in the United States; to the Committee on Rules.

H.R. 955. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

H.R. 956. A bill to amend the Internal Revenue Code of 1954 to increase to $1,200 the personal income tax exemptions of a taxpayer [including the exemption for a spouse, the exemptions for dependents, and the additional exemptions for old age and blindness]; to the Committee on Ways and Means.

H.R. 957. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $7,500 of income received by a taxpayer who is 65 years of age or older; to the Committee on Ways and Means.

H.R. 958. A bill to amend the Internal Revenue Code of 1954 to provide for adjustment in the dollar limitations for purposes of the retirement income credit in order to make the tax benefits accorded to retirement income comparable to those accorded to social security income; to the Committee on Ways and Means.

H.R. 959. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

H.R. 960. A bill to provide for tax counseling to the elderly in the preparation of their Federal income tax returns; to the Committee on Ways and Means.

H.R. 961. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs; to the Committee on Ways and Means.

H.R. 962. A bill to amend title II of the Social Security Act to provide in certain cases for an exchange of credits between the old-age, survivors, and disability insurance system and the civil service retirement system so as to enable individuals who have coverage under both systems to obtain maximum benefits based on their combined service; to the Committee on Ways and Means.

H.R. 963. A bill to amend title II of the Social Security Act to provide that all benefits based upon the attainment of age will be payable at age 60, subject to actuarial reduction; to the Committee on Ways and Means.

H.R. 964. A bill to amend title II of the Social Security Act to reduce from 60 to 50 the age after which a widow or widower may remarry and still receive at least a reduced widow's or widower's insurance benefit; to the Committee on Ways and Means.

H.R. 965. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 966. A bill to amend title II of the Social Security Act to provide that an individual may qualify for disability insurance benefits and the disability freeze if he has 40 quarters of coverage, regardless of when such quarters were earned; to the Committee on Ways and Means.

H.R. 967. A bill to amend title XVI of the Social Security Act to provide for the payment of certain emergency assistance grants and special allowances to recipients of supplemental security income benefits, to authorize cost-of-living increases in such benefits and in State supplementary payments, to prevent reductions in such benefits because of social security benefit increases, to provide reimbursement to States for home relief payments to disabled applicants prior to determination of their disability, to permit payment of such benefits directly to drug addicts and alcoholics (without a third party payee) in certain cases, and to restore to recipients of such benefits their right to participate in the food stamp and surplus commodities programs; to the Committee on Ways and Means.

H.R. 968. A bill to establish a National Resource Information System, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. ROONEY:

H.R. 969. A bill to create a National Landlord and Tenant Commission, to establish housing courts, and to define or to provide therefor the rights, obligations, and liabilities of landlords and tenants so as to regulate the activities of the commercial rental housing operations which affect the stability of the economy, the amount of a person's real income, the travel of goods and people in commerce, and the general welfare of all citizens of this Nation; to the Committee on Banking, Currency, and Housing.

H.R. 970. A bill to establish the Office of General Counsel to the Congress, and for other purposes; to the Committee on House Administration.

H.R. 971. A bill to amend section 223 of the Communications Act of 1934 to prohibit harassing telephone calls made to collect alleged debts, and to inform the public of their right to be free from harassing, coercive, abusive, and obscene telephone calls; to the Committee on Interstate and Foreign Commerce.

H.R. 972. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 973. A bill to establish and prescribe the duties of a Federal boxing commission for the purpose of insuring that the channels of interstate commerce are free from false or fraudulent descriptions or depictions of professional boxing contests; to the Committee on Interstate and Foreign Commerce.

H.R. 974. A bill to regulate defective, ineffective, and unreliable medical devices; to the Committee on Interstate and Foreign Commerce.

H.R. 975. A bill to amend chapter 26 of title 49 of the United States Code to provide that compressed gas cylinders shipped in interstate commerce be inspected in the United States; to the Committee on Interstate and Foreign Commerce.

H.R. 976. A bill to protect collectors of antique glassware against the manufacture in the United States or the importation of imitations of such glassware; to the Committee on Interstate and Foreign Commerce.

H.R. 977. A bill to make Flag Day a legal public holiday, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 978. A bill to amend section 402 of title 23, United States Code, to extend certain deadlines relating to apportionment of highway safety funds, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 979. A bill to amend the Interstate Commerce Act to expedite the making of amendments to the uniform standards for evidencing the lawfulness of interstate operations of motor carriers; to the Committee on Public Works and Transportation.

H.R. 980. A bill to amend the Interstate Commerce Act to extend coverage of such act to certain motor vehicles used to transport schoolchildren and teachers, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. RODINO:

H.R. 981. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. RODINO (for himself and Mr. Eilberg):

H.R. 982. A bill to amend the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. ROONEY:

H.R. 983. A bill to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer); to the Committee on Ways and Means.

H.R. 984. A bill to amend section 1130 of the Social Security Act to repeal the provision presently limiting to 10 percent the portion of the total grants for social service paid to a State which may be paid with respect to individuals not actually recipients of or applicants for aid or assistance, and to amend the public assistance provisions of such act to specify the minimum periods within which an individual (not receiving aid or assistance) must have been or be likely to become an applicant for or recipient of aid or assistance in order for expenditures for services provided to him to qualify for Federal matching; to the Committee on Ways and Means.

By Mr. ROONEY (for himself and Mr. Eckhardt):

H.R. 985. A bill to amend the Interstate Commerce Act to provide improved enforcement of motor carrier safety regulations; to protect motor carrier employees against discrimination for reporting violations of such regulations; and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 986. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to provide improved enforcement of motor carrier safety regulations by the Secretary of Transportation; to protect motor carrier employees against discrimination for reporting violations of such regulations; and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ROSENTHAL:

H.R. 987. A bill to amend the Intergovernmental Cooperation Act of 1968 to improve intergovernmental relationships between the United States and the States and municipalities, and the economy and efficiency of government, by providing Federal cooperation and assistance in the establishment and strengthening of State and local offices of consumer protection; jointly to the Committees on Government Operations and Interstate and Foreign Commerce.

H.R. 988. A bill to require retailers to provide point of sale information to consumers concerning the recent price history of products and merchandise offered for sale at retail in commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 989. A bill to require that durable consumer products be labeled as to durability and performance life; to the Committee on Interstate and Foreign Commerce.

H.R. 990. A bill to require that certain durable products be prominently labeled as to date of manufacture, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 991. A bill to amend the Federal Trade Commission Act to make sales promotion games unfair methods of competition; to the Committee on Interstate and Foreign Commerce.

H.R. 992. A bill to amend title 5, United States Code, to provide for the establishment of a Special Cost-of-Living Pay Schedule containing increased pay rates for Federal employees in heavily populated cities and metropolitan areas to offset the increased cost of living, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 993. A bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation to handicapped persons and persons who are 65 years of age or older, to amend the Interstate Commerce Act to authorize free or reduced rate transportation for persons who are 65 years of age or older, and to provide new and improved transportation programs for the handicapped and the elderly; to the Committee on Public Works and Transportation.

H.R. 994. A bill to amend the Social Security Act to provide for a minimum annual income (subject to subsequent increases to reflect the cost of living) of $3,850 in the case of elderly individuals and $5,200 in the case of elderly couples; to the Committee on Ways and Means.

By Mr. ROSENTHAL (for himself, Mr. Kastenmeier, Mr. Koch, Mr. Long of Maryland, Mr. Madden, Mr. Miller of California, Mr. Nolan, Mr. Rangel, Mr. Rees, Mr. Riegle, Mr. Rodino, Mr. Sarbanes, Ms. Schroeder, Mr. Solarz, Mr. Stark, Mr. Studds, Mr. Thompson, Mr. Tsongas, and Mr. Won Pat):

H.R. 995. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Fair Packaging and Labeling Act and to otherwise require the labels on foods and food products to disclose all of their ingredients and any changes in their ingredients, their nutritional content, accurate weight data, sortage information, their manufacturers, packers, and distributors and their unit prices, and to provide for uniform product grading and prohibit misleading brand names; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Ms. Abzug, Mr. Addabbo, Mr. Brown of California, Ms. Collins of Illinois, Mr. Corman, Mr. Dominick V. Daniels, Mr. de Lugo, Mr. Downey, Mr. Drinan, Mr. Eckhardt, Mr. Edwards of California, Mr. Fascell, Mr. Fraser, and Mr. Hechler of West Virginia):

H.R. 996. A bill to permit the advertising of drug prices and to require retailers of prescription drugs to post the prices of certain commonly prescribed drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. Kastenmeier, Mr. Koch, Mr. Lehman, Mr. Long of Maryland, Mr. Mottl, Mr. Nolan, Mr. Rangel, Mr. Riegle, Ms. Schroeder, Mr. Seiberling, Mr. Solarz, Mr. Stark, Mr. Studds, and Mr. Thompson):

H.R. 997. A bill to permit the advertising of drug prices and to require retailers of prescription drugs to post the prices of certain commonly prescribed drugs; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Ms. Abzug, Mr. Addabbo, Mr. Brown of California, Mrs. Collins of Illinois, Mr. Corman, Mr. Dominick V. Daniels, Mr. de Lugo, Mr. Downey, Mr. Drinan, Mr. Eckhardt, Mr. Edwards of California, Mr. Fascell, Mr. Fraser, Mr. Hechler of West Virginia, and Mr. Kastenmeier):

H.R. 998. A bill to amend the Federal Food, Drug, and Cosmetic Act so as to require that in the labeling and advertising of drugs sold by prescription the "established name" of such drug must appear each time their proprietary name is used, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. Koch, Mr. Lehman, Mr. Long of Maryland, Mr. Melcher, Mr. Mottl, Mr. Nolan, Mr. Rangel, Ms. Schroeder, Mr. Seiberling, Mr. Solarz, Mr. Stark, Mr. Studds, Mr. Thompson, and Mr. Van Deerlin):

H.R. 999. A bill to amend the Federal Food Drug, and Cosmetic Act so as to require that in the labeling and advertising of drugs sold by prescription the "established name" of such drug must appear each time their proprietary name is used, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HECHLER of West Virginia:

H.R. 1000. A bill to provide for the orderly phasing out of surface coal mining operations, and to control those underground coal mining practices which adversely affect the quality of the environment, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROSENTHAL (for himself, Ms. Abzug, Mr. Addabbo, Mr. Brown of California, Ms. Collins of Illinois, Mr. Corman, Mr. Dominick V. Daniels, Mr. de Lugo, Mr. Downey, Mr. Drinan, Mr. Eckhardt, Mr. Edwards of California, Mr. Fascell, Mr. Fraser, Mr. Gilman, and Mr. Hechler of West Virginia):

H.R. 1001. A bill to require that certain drugs and pharmaceuticals be prominently labeled as to the date beyond which potency or efficacy becomes diminished; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. Kastenmeier, Mr. Koch, Mr. Lehman, Mr. Long of Maryland, Mr. Mottl, Mr. Nolan, Mr. Rangel, Mr. Riegle, Ms. Schroeder, Mr. Seiberling, Mr. Solarz, Mr. Stark, Mr. Studds, and Mr. Thompson):

H.R. 1002. A bill to require that certain drugs and pharmaceuticals be prominently labeled as to the date beyond which potency or efficacy becomes diminished; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Ms. Abzug, Mr. Addabbo, Mr. Brown of California, Ms. Collins of Illinois, Mr. Corman, Mr. Dominick V. Daniels, Mr. de Lugo, Mr. Downey, Mr. Drinan, Mr. Eckhardt, Mr. Edwards of California, Mr. Fascell, Mr. Fraser, and Mr. Gilman):

H.R. 1003. A bill to amend title 35 of the United States Code to provide for compulsory licensing of prescription drug patents; to the Committee on the Judiciary.

By Mr. ROSENTHAL (for himself, Mr. Hechler of West Virginia, Mr. Kastenmeier, Mr. Koch, Mr. Lehman, Mr. Mottl, Mr. Nolan, Mr. Rangel, Ms. Schroeder, Mr. Seiberling, Mr. Solarz, Mr. Stark, Mr. Studds, and Mr. Thompson):

H.R. 1004. A bill to amend title 35 of the United States Code to provide for compulsory licensing of prescription drug patents; to the Committee on the Judiciary.

By Mr. ROUSSELOT:

H.R. 1005. A bill to protect the constitutional rights of citizens of the United States and to prevent unwarranted invasions of privacy by prescribing procedures and standards governing the disclosure of certain financial information by financial institutions to governmental agencies, and for other purposes; to the Committee on Banking, Currency, and Housing.

H.R. 1006. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1007. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

H.R. 1008. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $1,000 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 1009. A bill to amend the Fair Credit Reporting Act, and to create a new title in the Consumer Credit Protection Act in order to license consumer credit investigators; to the Committee on Banking, Currency and Housing.

H.R. 1010. A bill to provide a comprehensive child development program in the Department of Health, Education, and Welfare; to the Committee on Education and Labor.

H.R. 1011. A bill to regulate commerce by assuring adequate supplies of energy resource products will be available at the lowest possible cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1012. A bill to regulate interstate commerce by requiring certain insurance as a condition precedent to using the public streets, roads, and highways, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1013. A bill to amend section 312(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

H.R. 1014. A bill to amend the Immigration and Nationality Act to increase immigration from Western Hemisphere nations; to the Committee on the Judiciary.

H.R. 1015. A bill to provide that certain aliens illegally in the United States may have their status adjusted to that of permanent residents; to the Committee on the Judiciary.

By Mr. SEIBERLING:

H.R. 1016. A bill to amend the Federal Deposit Insurance Act to terminate the insurance of any bank which fails to pay a certain rate of interest on all tax and loan accounts; to the Committee on Banking, Currency, and Housing.

By Mr. SHRIVER:

H.R. 1017. A bill to prohibit any change in the status of any member of the uniformed services who is in a missing status under chapter 10 of title 37, United States Code, until the provisions of the Paris Peace Accord of January 27, 1973, have been fully complied with, and for other purposes; to the Committee on Armed Services.

H.R. 1018. A bill to amend the Occupational Safety and Health Act of 1970, and for other purposes; to the Committee on Education and Labor.

H.R. 1019. A bill to amend the Occupational Safety and Health Act of 1970 to provide additional assistance to small employers; to the Committee on Education and Labor.

H.R. 1020. A bill to amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from requiring an indirect source emission review as a part of any applicable implementation plan; to the Committee on Interstate and Foreign Commerce.

H.R. 1021. A bill to prohibit the Federal Energy Administration from imposing any tax or fee on gasoline, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1022. A bill to amend the Public Health Service Act to provide assistance for programs for the diagnosis, prevention, and treatment of, and research in, Huntington's disease; to the Committee on Interstate and Foreign Commerce.

H.R. 1023. A bill to amend the Community Mental Health Centers Act to provide for the extension thereof, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1024. A bill to amend the Postal Revenue and Federal Salary Act of 1967 to abolish the Commission on Executive, Legislative, and Judicial Salaries; to the Committee on Post Office and Civil Service.

H.R. 1025. A bill to amend title 5 of the United States Code with respect to the observance of Veterans' Day; to the Committee on Post Office and Civil Service.

H.R. 1026. A bill to establish a Joint Committee on Energy, and for other purposes; to the Committee on Rules.

H.R. 1027. A bill to authorize the Administrator of the National Aeronautics and Space Administration to conduct research and development programs to increase knowledge of tornadoes, hurricanes, large thunderstorms, and other types of short-term weather phenomena, and to develop methods for predicting, detecting, and monitoring such atmospheric behavior; to the Committee on Science and Technology.

H.R. 1028. A bill to amend title 38 of the United States Code in order to entitle veterans to 45 months of educational assistance for all educational programs under chapter 34 of this title; to the Committee on Veterans' Affairs.

H.R. 1029. A bill to provide for the burial in the Memorial Amphitheater of the National Cemetery at Arlington, Va., of the remains of an unknown American who lost his life while serving overseas in the Armed Forces of the United States during the Vietnam conflict; to the Committee on Veterans' Affairs.

H.R. 1030. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Ways and Means.

H.R. 1031. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

H.R. 1032. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

H.R. 1033. A bill to direct the Secretary of Health, Education, and Welfare to develop and implement a system for the issuance of social security benefit checks on a staggered or cyclical basis; to the Committee on Ways and Means.

H.R. 1034. A bill to amend title II of the Social Security Act to increase to $4,000 the amount of outside earnings permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. SMITH of Iowa:

H.R. 1035. A bill to amend the Commodity Exchange Act to require public disclosure of certain information relating to sales of commodities for export, and for other purposes; to the Committee on Agriculture.

H.R. 1036. A bill to authorize the establishment and maintenance of reserve supplies of soybeans, corn, grain, sorghum, barley, oats, and wheat for national security and to protect domestic consumers against an inadequate supply of such commodities; to maintain and promote foreign trade; to protect producers of such commodities against an unfair loss of income resulting from the establishment of a reserve supply; to assist in marketing such commodities; to assure the availability of commodities to promote world peace and understanding; and for other purposes; to the Committee on Agriculture.

H.R. 1037. A bill to amend the Packers and Stockyards Act of 1921, as amended, to prohibit slaughter of livestock under certain conditions which reduce the bargaining power of livestock producers generally and interfere with a free market, and for other purposes; to the Committee on Agriculture.

H.R. 1038. A bill to authorize loans for study at nonprofit institutions of higher education; to the Committee on Education and Labor.

H.R. 1039. A bill to amend section 715 of title 32 of the United States Code to provide that claims for damage or injury caused by members of the Army or Air National Guard shall be allowed under such section notwithstanding the availability of remedies against the States for such damage or injury; to the Committee on the Judiciary.

By Mr. CORMAN (for himself, Mr. Bolling, Mr. Brown of California, Mr. Clay, Mr. Conyers, Mr. Danielson, Mr. Dellums, Mr. Drinan, Mr. Edwards of California, Mr. Fraser, Mr. Hawkins, Mr. Hechler of West Virginia, Mr. Johnson of California, Mr. Meeds, Mr. Mitchell of Maryland, Mr. Moorhead of Pennsylvania, Mr. Moss, Mr. Nix, Mr. Price, Mr. Rees, Mr. Rodino, Mr. Roybal, Mr. Stark, Mr. Thompson, and Mr. Charles H. Wilson of California):

H.R. 1040. A bill to broaden the income tax base, provide equity among taxpayers, and to otherwise reform the income, estate, and gift tax provisions; to the Committee on Ways and Means.

By Mr. CORMAN (for himself, Mr. Badillo, Mr. Diggs, Mr. Dingell, Mr. Eilberg, Mr. Harrington, Mr. Rosenthal, and Mr. Studds):

H.R. 1041. A bill to broaden the income tax base, provide equity among taxpayers, and to otherwise reform the income, estate, and gift tax provisions; to the Committee on Ways and Means.

By Mr. SMITH of Iowa:

H.R. 1042. A bill to assist institutions in educating Vietnam era veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1043. A bill to amend the Internal Revenue Code to regulate and prevent multiple taxation of certain kinds of income; jointly to the Committees on the Judiciary and Ways and Means.

By Mr. SMITH of Iowa (for himself, Mr. HUNGATE, Mr. MCCOLLISTER, Mr. EDWARDS of California, and Mr. MEZVINSKY):

H.R. 1044. A bill to amend the Clayton Act to preserve and promote competition among persons engaged in the marketing of petroleum products and petrochemicals; to the Committee on the Judiciary.

By Mr. SPENCE:

H.R. 1045. A bill to amend the Solid Waste Disposal Act to authorize the Administrator of the Environmental Protection Agency to make loan guarantee and interest subsidy payments to certain governmental units to assist them in carrying out projects for the generation of energy from solid wastes; to the Committee on Interstate and Foreign Commerce.

H.R. 1046. A bill to provide an economic incentive for the development, manufacture, distribution, and installation of equipment which utilizes solid wastes as a heat source in the generation of power; to the Committee on Ways and Means.

By Mr. STEIGER of Arizona:

H.R. 1047. A bill to amend title 18 of the United States Code to provide penalties for fixing certain horse or dog races, and for other purposes; to the Committee on the Judiciary.

H.R. 1048. A bill to provide for the taxation and registration of persons engaged in the business of conducting certain horse or dog racing meetings, and for other purposes; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin:

H.R. 1049. A bill to establish a program for the prevention and control of Dutch elm disease; to the Committee on Agriculture.

H.R. 1050. A bill to amend the Occupational Safety and Health Act of 1970 by providing for Federal authority to assure safe and healthful working conditions of State and local employees where a pattern or practice of unsafe or unhealthful working conditions or imminent dangers exist; to the Committee on Education and Labor.

By Mr. STRATTON:

H.R. 1051. A bill to insure that each admission to the service academies shall be made without regard to a candidate's sex, race, color, or religious beliefs; to the Committee on Armed Services.

H.R. 1052. A bill to amend the Economic Stabilization Act of 1970 to establish an Economic Stabilization Board, to stabilize prices, wages, rents, and interest rates at levels prevailing on the date of enactment of these amendments, and for other purposes; to the Committee on Banking, Currency, and Housing.

H.R. 1053. A bill to stabilize prices, rents, wages, salaries, profits, dividends, interest rates, and other economic transfers; to the Committee on Banking, Currency andH ousing.

H.R. 1054. A bill to amend the Federal Election Campaign Act of 1971, to provide free radio and television time to candidates for election to Federal office; to the Committee on House Administration.

H.R. 1055. A bill to amend the Emergency Petroleum Allocation Act of 1973 to prohibit the President from increasing the price of crude oil produced in the United States from the price of such oil in effect on December 1, 1974; to the Committee on Interstate and Foreign Commerce.

H.R. 1056. A bill to prohibit any increase in the price of certain consumer commodities by any retailer once a price is placed on any such commodity by such retailer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1057. A bill to amend title 5, United States Code, to provide for additional creditable service, for purposes of retirement, for certain employees of the Post Office Department; to the Committee on Post Office and Civil Service.

H.R. 1058. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on Post Office and Civil Service.

H.R. 1059. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 1060. A bill to amend the Internal Revenue Code of 1954 to provide a 30-percent credit against the individual income tax for amounts paid as tuition or fees to certain public and private institutions of higher education; to the Committee on Ways and Means.

H.R. 1061. A bill to amend the Social Security Act to make certain that recipients of supplemental security income benefits, recipients of aid or assistance under the various Federal-State public assistance and medicaid programs, and recipients of assistance or benefits under the veterans' pension and compensation programs and certain other Federal and federally assisted programs will not have the amount of such benefits, aid, or assistance reduced because of post-1973 increases in monthly social security benefits; to the Committee on Ways and Means.

H.R. 1062. A bill to amend the Social Security Act to prohibit public utilities from shutting off the supply of heat, light, or power to private residences without adequate prior notification to, and investigation by, the appropriate State welfare agencies; to the Committee on Ways and Means.

H.R. 1063. A bill to amend title II of the Social Security Act to reduce from 72 to 70 the age at which deductions on account of an individual's outside earnings will cease to be made from benefits based on such individual's wage record; to the Committee on Ways and Means.

By Mrs. SULLIVAN:

H.R. 1064. A bill authorizing the President to award the Medal of Honor posthumously to Harry S. Truman; to the Committee on Armed Services.

H.R. 1065. A bill to amend the Equal Credit Opportunity Act to include discrimination on the basis of race, color, religion, national origin, and age, and for other purposes; to the Committee on Banking, Currency, and Housing.

H.R. 1066. A bill to clarify and expand the authority of the Federal Home Loan Bank Board to regulate conflicts of interest in the operation of insured savings and loan associations, and for other purposes; to the Committee on Banking, and Housing.

H.R. 1067. A bill to provide a remedy for sex discrimination by the insurance business with respect to the availability and scope of insurance coverage for women; to the Committee on Interstate and Foreign Commerce.

H.R. 1068. A bill to protect the public health by providing authority to regulate or prohibit the transportation, sale, or other distribution in interstate commerce of live creatures intended to be offered as household pets, if determined to be infected with serious disease injurious to human beings; to the Committee on Interstate and Foreign Commerce.

H.R. 1069. A bill to amend the Shipping Act, 1916, in order to facilitate intermodal transportation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 1070. A bill to provide for the conservation and management of fisheries, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 1071. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

H.R. 1072. A bill to amend section 27 of the Merchant Marine Act of 1920, to provide a monetary penalty for the transportation of merchandise in violation of the coastwise laws; to the Committee on Merchant Marine and Fisheries.

H.R. 1073. A bill to extend the provisions of title XII of the Merchant Marine Act, 1936, relating to war risk insurance, for an additional 5 years, ending September 7, 1980; to the Committee on Merchant Marine and Fisheries.

H.R. 1074. A bill to amend section 216(b) (1) of the Merchant Marine Act, 1936; to the Committee on Merchant Marine and Fisheries.

H.R. 1075. A bill to amend the Merchant Marine Act, 1920, in order to permit cargo vessels to carry more than 16 passengers when emergency situations arise; to the Committee on Merchant Marine and Fisheries.

H.R. 1076. A bill to modify the flood protection project at St. Louis, Mo.; to the Committee on Public Works and Transportation.

H.R. 1077. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for income tax purposes of certain expenses incurred by the taxpayer for the education of a dependent; to the Committee on Ways and Means.

H.R. 1078. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

H.R. 1079. A bill to amend title II of the Social Security Act to provide that no reduction shall be made in old-age insurance benefit amounts to which a woman is entitled if she has 120 quarters of coverage; to the Committee on Ways and Means.

H.R. 1080. A bill to amend the Shipping Act, 1916, in order to facilitate intermodal transportation, and for other purposes; jointly to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

By Mrs. SULLIVAN (for herself and Mr. BARRETT):

H.R. 1081. A bill to assist in meeting the housing goals of the American people by creating the Home Owners Mortgage Loan Corporation; to the Committee on Banking, Currency, and Housing.

By Mrs. SULLIVAN (for herself, Mr. DINGELL, and Mr. FORSYTHE):

H.R. 1082. A bill to establish a comprehensive program to insure the wholesomeness of fish and fishery products; to the Committee on Merchant Marine and Fisheries.

By Mrs. SULLIVAN (for herself, Mr. DINGELL, Mr. FORSYTHE, and Mr. BIAGGI):

H.R. 1083. A bill to authorize the Secretary of the Interior to establish programs and regulations for the protection of the fishery resources of the United States, including the freshwater and marine fish cultural industries, against the dissemination of serious diseases of fish and shellfish; to the Committee on Merchant Marine and Fisheries.

By Mrs. SULLIVAN (for herself, Mr. ASHLEY, Mr. DOWNING, Mr. ANDERSON of California, Mr. DE LA GARZA, Mr. BREAUX, and Mr. ROBERT W. DANIEL, JR.):

H.R. 1084. A bill to amend the Merchant Marine Act, 1920, to establish a grant program to enable public ports to comply with certain Federal standards, to direct the Secretary of Commerce to undertake a comprehensive study of the present and future needs of public ports in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. SYMMS:

H.R. 1085. A bill to repeal certain provisions of law relating to the private carriage of letters, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. SYMMS (for himself and Mr. HANSEN):

H.R. 1086. A bill to repeal the Occupational Safety and Health Act of 1970; to the Committee on Education and Labor.

H.R. 1087. A bill to prohibit the Consumer Product Safety Commission from restricting the sale or manufacture of firearms or ammunition; to the Committee on Interstate and Foreign Commerce.

By Mr. TALCOTT:

H.R. 1088. A bill to designate certain lands in the Pinnacles National Monument in California as wilderness; to the Committee on Interior and Insular Affairs.

H.R. 1089. A bill to amend the Act of June 15, 1912, to permit an exchange of lands in the State of California; to the Committee on Interior and Insular Affairs.

By Mr. TAYLOR of North Carolina:

H.R. 1090. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

By Mr. TEAGUE:

H.R. 1091. A bill to authorize the payment of fees for civilian counsel and other expenses connected with the defense of members of the Armed Forces charged with certain crimes committed while engaged in combat; to the Committee on Armed Services.

H.R. 1092. A bill to amend title 10, United States Code, to establish a center for research regarding prisoner-of-war health problems; to the Committee on Armed Services.

H.R. 1093. A bill to establish a loan program to assist industry and businesses in areas of substantial unemployment to meet pollution control requirements; to the Committee on Banking, Currency, and Housing.

H.R. 1094. A bill to authorize the coinage of 50-cent pieces to commemorate the life of Hon. Sam Rayburn and to assist in the support of the Sam Rayburn Library; to the Committee on Banking, Currency, and Housing.

H.R. 1095. A bill to amend the District of Columbia Sales Tax Act to exempt certain food programs from the imposition of the sales tax; to the Committee on the District of Columbia.

H.R. 1096. A bill to further the achievement of equal educational opportunities; to the Committee on Education and Labor.

H.R. 1097. A bill to amend section 13(c) of the Fair Labor Standards Act of 1938 to exempt from the child labor provisions of such act certain individuals employed at public sporting or recreational events; to the Committee on Education and Labor.

H.R. 1098. A bill to amend title 5, United States Code, to provide that individuals be apprised of records concerning them which are maintained by Government agencies; to the Committee on Government Operations.

H.R. 1099. A bill to require executive agencies to report to a person who is elected to the House of Representatives on the scope and nature of their activities within such Representative's district during the previous Congress; to the Committee on Government Operations.

H.R. 1100. A bill to amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from requiring an indirect source emission review as a part of any applicable implementation plan; to the Committee on Interstate and Foreign Commerce.

H.R. 1101. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1102. A bill to amend title 18 of the United States Code to prohibit certain activities in time of war or armed conflict; to the Committee on the Judiciary.

H.R. 1103. A bill to impose certain safeguards on investigations carried out by Federal agencies; to the Committee on the Judiciary.

H.R. 1104. A bill to provide penalties for assaulting a member of the National Guard while he is engaged in carrying out official duties; to the Committee on the Judiciary.

H.R. 1105. A bill to impose a moratorium on new and additional student transportation; to the Committee on the Judiciary.

H.R. 1106. A bill to amend title 18 of the United States Code to prohibit certain officials of the United States from engaging in certain aspects of partisan politics; to the Committee on Post Office and Civil Service.

H.R. 1107. A bill to amend title 5 of the United States Code with respect to the observance of Veterans Day; to the Committee on Post Office and Civil Service.

H.R. 1108. A bill to amend title 23, United States Code, to insure that no State will be apportioned less than 80 per centum of its tax contribution to the Highway Trust Fund; to the Committee on Public Works and Transportation.

H.R. 1109. A bill to authorize the Administrator of the Energy Research and Development Administration (ERDA) to undertake a program of research and development for demonstrating alternative propulsion systems for automotive vehicles; to the Committee on Science and Technology.

H.R. 1110. A bill to establish a research and development program within the National Bureau of Standards of the Department of Commerce for alleviating shortages of products and materials, and for other purposes; to the Committee on Science and Technology.

H.R. 1111. A bill to authorize the Administrator of the Energy Research and Development Administration to establish a grant program for research and development of guidelines to conserve energy by reducing air drag on trucks; to the Committee on Science and Technology.

H.R. 1112. A bill to provide for disclosures designed to inform Congress and the public of the identity of persons who for pay or with funds contributed to them seek to influence the legislative process, the sources of their funds, and their areas of legislative activity, and for other purposes; to the Committee on Standards of Official Conduct.

H.R. 1113. A bill to provide direct aid to States and territories for educational purposes only; to the Committee on Ways and Means.

H.R. 1114. A bill to require research into possible uses of solid wastes resulting from mining and processing coal; jointly to the Committees on Science and Technology and Interior and Insular Affairs.

By Mr. THOMPSON:

H.R. 1115. A bill to authorize the Federal Power Commission to allocate scarce supplies of natural gas; to the Committee on Interstate and Foreign Commerce.

H.R. 1116. A bill to provide an income tax credit for savings for the payment of postsecondary educational expenses; to the Committee on Ways and Means.

H.R. 1117. A bill to regulate lobbying and related activities; jointly to the Committees on the Judiciary, and Standards of Official Conduct.

By Mr. THOMPSON (for himself and Mr. BRADEMAS):

H.R. 1118. A bill to amend the National Foundation on the Arts and Humanities Act of 1965 to further cultural activities by making unused railroad passenger depots available to communities for such activities; to the Committee on Education and Labor.

By Mr. THONE:

H.R. 1119. A bil to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

H.R. 1120. A bill to amend the Occupational Safety and Health Act of 1970 to provide that where violations are corrected within the prescribed abatement period no penalty shall be assessed; to the Committee on Education and Labor.

H.R. 1121. A bill to amend title 38 of the United States Code to provide specially adapted housing benefits to veterans suffering the loss, or loss of use, of both arms; to the Committee on Veterans' Affairs.

H.R. 1122. A bill to amend title 38 of the United States Code in order to extend the entitlement of veterans to educational assistance from 36 to 45 months; to the Committee on Veterans' Affairs.

By Mr. VAN DEERLIN:

H.R. 1123. A bill to provide for disclosure of certain information by certain persons making charitable solicitations by use of instrumentalities of interstate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. VIGORITO:

H.R. 1124. A bill to reduce pollution which is caused by litter composed of soft drink and beer containers, and to eliminate the threat to the Nation's health, safety, and welfare which is caused by such litter by banning such containers when they are sold in interstate commerce on a no-deposit, no-return basis; to the Committee on Interstate and Foreign Commerce.

H.R. 1125. A bill to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer); to the Committee on Ways and Means.

By Mr. WAGGONNER:

H.R. 1126. A bill to recognize benefits to the United States from the construction of the Toledo Bend Dam and Reservoir project and exempt Sabine River Authority, State of Louisiana, and Sabine River Authority of Texas, from charges for the use, occupancy, and enjoyment of certain lands of the United States within the Sabine National Forest, Tex.; to the Committee on Agriculture.

H.R. 1127. A bill to amend the Fair Labor Standards Act of 1938 to repeal the coverage of domestic service workers provided by the Fair Labor Standards Amendments of 1974; to the Committee on Education and Labor.

H.R. 1128. A bill to amend the Occupational Safety and Health Act of 1970 to provide that where violations are corrected within the prescribed abatement period no penalty shall be assessed; to the Committee on Education and Labor.

H.R. 1129. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

H.R. 1130. A bill to authorize the provision of assistance to foreign countries in exchange for strategic or critical raw materials; to the Committee on Foreign Affairs.

H.R. 1131. A bill to amend the Federal Trade Commission Act to provide that under certain circumstances exclusive territorial arrangements shall be deemed lawful; to the Committee on Interstate and Foreign Commerce.

H.R. 1132. A bill to temporarily suspend required emissions controls on automobiles registered in certain parts of the United

States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1133. A bill to limit the jurisdiction of the Supreme Court and of the district courts in certain cases; to the Committee on the Judiciary.

H.R. 1134. A bill to exercise the authority of Congress to enforce the 14th amendment to the Constitution by defining for the purposes of the equal protection guarantee the term "unitary school system", and to declare the policy of the United States respecting certain voluntary transfers by students among certain schools of any school system; to the Committee on the Judiciary.

H.R. 1135. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

H.R. 1136. A bill to increase the penalty with respect to certain offenses involving the commission of a felony while armed with a firearm; to the Committee on the Judiciary.

H.R. 1137. A bill to amend the Migratory Bird Treaty Act to permit the possession by taxidermists of certain migratory birds, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 1138. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension on compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 1139. A bill to amend the Internal Revenue Code of 1954 to provide a limited exclusion of capital gains realized by taxpayers other than corporations on securities; to the Committee on Ways and Means.

H.R. 1140. A bill to amend the Internal Revenue Code of 1954 to provide for more equitable taxation of transfers of capital during life and at death; to the Committee on Ways and Means.

H.R. 1141. A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for social security taxes paid by employees and by the self-employed; to the Committee on Ways and Means.

H.R. 1142. A bill to amend the Internal Revenue Code of 1954 to provide for a distribution deduction for certain cemetery perpetual care fund trusts; to the Committee on Ways and Means.

H.R. 1143. A bill to amend certain provisions of the Internal Revenue Code of 1954 to authorize refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale; to the Committee on Ways and Means.

H.R. 1144. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of social clubs and certain other membership organizations; to the Committee on Ways and Means.

H.R. 1145. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services; to the Committee on Ways and Means.

H.R. 1146. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 1147. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. WHALEN:

H.R. 1148. A bill to amend the Council on Wage and Price Stability Act to authorize the establishment of wage and price guidelines, to provide the Council with authority to suspend wage and price increases for 90 days, and for other purposes; to the Committee on Banking, Currency, and Housing.

H.R. 1149. A bill to authorize and require the President to ration gasoline and diesel fuel; to provide for the delegation of authority; and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1150. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the personal exemption to $1,000, to increase the amount of the standard deduction, to lower the tax rates which apply to certain low- and moderate-income brackets, to increase the amount of the investment tax credit and for other purposes; to the Committee on Ways and Means.

H.R. 1151. A bill to amend the Internal Revenue Code of 1954 to impose an excise tax on every new passenger automobile with respect to its weight; to the Committee on Ways and Means.

By Mr. WHITEHURST:

H.R. 1152. A bill to amend the Federal law relating to the care and treatment of animals to broaden the categories of persons regulated under such law, to assure that birds in pet stores and zoos are protected, and to increase protection for animals in transit; to the Committee on Agriculture.

H.R. 1153. A bill to direct the Secretary of Labor to study the feasibility of and need for a Cost of Existence Index; to the Committee on Education and Labor.

H.R. 1154. A bill to provide assistance to zoos and aquariums, to establish standards of accreditation for such facilities, and to establish a Federal Zoological and Aquarium Board, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 1155. A bill to require the Secretary of the Interior to make a comprehensive study of the wolf for the purpose of developing adequate conservation measures; to the Committee on Merchant Marine and Fisheries.

H.R. 1156. A bill to require the Secretary of the Interior to make a comprehensive study of the dolphin and porpoise for the purpose of developing adequate conservation measures; to the Committee on Merchant Marine and Fisheries.

H.R. 1157. A bill to amend title 38, United States Code, to provide that remarriage of the widow of a veteran after age 60 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

H.R. 1158. A bill to amend the Internal Revenue Code of 1954 to provide that the first $5,000 received as civil service retirement annuity from the United States or any agency thereof shall be excluded from gross income; to the Committee on Ways and Means.

By Mr. BOB WILSON:

H.R. 1159. A bill to amend title 10, United States Code, to change the method of computing retired pay of certain enlisted members of the Army, Navy, Air Force, or Marine Corps; to the Committee on Armed Services.

H.R. 1160. A bill to amend title 10, United States Code, to change the method of computing retired pay of certain enlisted members of the Army, Navy, Air Force, or Marine Corps; to the Committee on Armed Services.

H.R. 1161. A bill to provide retirement annuities for certain widows of members of the uniformed services who died before the effective date of the survivor benefit plan; to the Committee on Armed Services.

H.R. 1162. A bill to amend title 10 of the United States Code in order to provide for the reduction in survivor annuities under the survivor benefit plan by reason of social security benefits based on military service only if such benefits are in fact received by the survivor; to the Committee on Armed Services.

H.R. 1163. A bill to provide for the seizure and forfeiture of vessels, vehicles, and aircraft used to illegally transport into the United States certain aliens, and for other purposes; to the Committee on the Judiciary.

H.R. 1164. A bill to provide for the establishment of a memorial at the National Arboretum to Benjamin Henry Boneval Latrobe; to the Committee on Public Works and Transportation.

H.R. 1165. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the uniformed services to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

By Mr. BOB WILSON (for himself and Mr. Burgener):

H.R. 1166. A bill to provide retirement annuities for certain widows of members of the uniformed services who died before the effective date of the survivor benefit plan; to the Committee on Armed Services.

By Mr. BOB WILSON (for himself, Mr. Anderson of California, Mr. Bafalis, Mr. Bauman, Mr. Bell, Mr. Brown of California, Mr. Brinkley, Mr. Burgener, Mr. Chappell, Mr. Cleveland, Mrs. Collins of Illinois, Mr. Corman, Mr. Coughlin, Mr. Davis, Mr. Dickinson, Mr. Downing, Mr. Edwards of Alabama, Mr. Evans of Colorado, Mr. Fish, Mr. Fuqua, Mr. Gibbons, Mr. Gilman, and Mr. Ginn):

H.R. 1167. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

By Mr. BOB WILSON (for himself, Mr. Goldwater, Mr. Gude, Mr. Haley, Mr. Hammerschmidt, Mr. Hicks, Mr. Hinshaw, Mrs. Holt, Mr. Howard, Mr. Johnson of California, Mr. Kazen, Mr. Ketchum, Mr. Lott, Mr. Martin, Mr. Matsunaga, Mr. Moorhead of California, Mr. Myers of Indiana, Mr. Pepper, Mr. Robinson, Mr. Roe, Mr. Rogers, and Mr. Rose):

H.R. 1168. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

By Mr. BOB WILSON (for himself, Mr. St Germain, Mr. Shriver, Mr. Sikes, Mr. Spence, Mr. Steed, Mr. Steiger of Arizona, Mr. Studds, Mr. Van Deerlin, Mr. Walsh, Mr. Wampler, Mr. White, Mr. Whitehurst, Mr. Won Pat, Mr. Young of Florida, and Mr. Young of Texas):

H.R. 1169. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

By Mr. CHARLES H. WILSON of California:

H.R. 1170. A bill to establish the Cabinet Committee for Asian American Affairs, and for other purposes; to the Committee on Government Operations.

H.R. 1171. A bill to amend the Public Health Service Act to provide for the establishment of a National Institute of Aging; to the Committee on Interstate and Foreign Commerce.

H.R. 1172. A bill to carry out the recommendations of the Presidential Task Force on Women's Rights and Responsibilities, and for other purposes; to the Committee on the Judiciary.

H.R. 1173. A bill to amend title 5, United States Code, to protect civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights, to prevent unwarranted governmental invasions of their privacy, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1174. A bill to amend title 5, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1175. A bill to include inspectors of the Immigration and Naturalization Service or the Bureau of Customs within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of certain employees engaged in hazardous occupations, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1176. A bill to amend the Internal Revenue Code of 1954 to eliminate, in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

H.R. 1177. A bill to extend to all unmarried individuals the full tax benefits of income-splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 1178. A bill to amend title 28 of the United States Code to permit the holding of Federal District Court for the Eastern District of New York at a suitable site in Nassau County in lieu of Mineola; to the Committee on the Judiciary.

H.R. 1179. A bill to amend the Federal Aviation Act of 1958 to provide that State and local governments may regulate aircraft noise; to the Committee on Public Works and Transportation.

H.R. 1180. A bill to establish the Airport Noise Curfew Commission and to define its functions and duties; to the Committee on Public Works and Transportation.

H.R. 1181. A bill to allow a credit against Federal income taxes or a payment from the U.S. Treasury for State and local real property taxes or an equivalent portion of rent paid on their residences by individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 1182. A bill to establish study and research programs to insure that the extraction and transportation of offshore oil shall not endanger the marine environment, to amend the Internal Revenue Code of 1954 to provide for an offshore oil extraction excise tax, and for other purposes; to the Committee on Ways and Means.

H.R. 1183. A bill to establish a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes; jointly to the Committees on Government Operations and Interstate and Foreign Commerce.

By Mr. YATES:

H.R. 1184. A bill to amend the Act of August 24, 1966, for purposes of prohibiting the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment; to the Committee on Agriculture.

H.R. 1185. A bill to protect the political rights and privacy of individuals and organizations and to define the authority of the Armed Forces to collect, distribute, and store information about civilian political activity; to the Committee on Armed Services.

H.R. 1186. A bill to provide for the discharge of members of the Armed Forces from active military service by reason of physical disability when suffering from drug dependency, to authorize the civil commitment of such members concurrent with their discharge, to provide for retroactive honorable discharges in certain cases, and for other purposes; to the Committee on Armed Services.

H.R. 1187. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, in any manner affecting interstate or foreign commerce, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs; to the Committee on the Judiciary.

H.R. 1188. A bill to prohibit commercial flights by supersonic aircraft into or over the United States until certain findings are made by the Administrator of the Environmental Protection Agency and by the Secretary of Transportation, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 1189. A bill to establish an independent commission to administer the internal revenue laws; to the Committee on Ways and Means.

H.R. 1190. A bill to require States to pass along to individuals who are recipients of aid or assistance under the Federal-State public assistance programs or under certain other Federal programs, and who are entitled to social security benefits, the full amount of the 1972 increase in such benefits, either by disregarding it in determining their need for assistance or otherwise; to the Committee on Ways and Means.

H.R. 1191. A bill to amend the Fish and Wildlife Coordination Act to provide additional protection to marine and wildlife ecology by providing for the orderly regulation of dumping in the ocean, coastal, and other waters of the United States; jointly to the Committee on Merchant Marine and Fisheries, and Public Works and Transportation.

H.R. 1192. A bill to provide that a finding of permanent and total disability under title II or XVI of the Social Security Act, chapter 13 or 15 of title 38, United States Code, or the Railroad Retirement Act of 1937 will be considered as a finding of disability under any of such programs, and for other purposes; jointly to the Committees on Ways and Means, Veterans' Affairs, and Interstate and Foreign Commerce.

By Mr. YOUNG of Alaska:

H.R. 1193. A bill to authorize construction of the Devil Canyon and Denali Units of the Upper Susitna River Basin project and related transmission facilities; to the Committee on Interior and Insular Affairs.

H.R. 1194. A bill to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1195. A bill to make available to the city of Ketchikan, Alaska, certain lands necessary to the replacement of the Carlanna Creek Dam; to the Committee on Interior and Insular Affairs.

H.R. 1196. A bill to establish a Marine Fisheries Conservation Fund; to the Committee on Merchant Marine and Fisheries.

H.R. 1197. A bill to amend the Commercial Fisheries Research and Development Act of 1964 to authorize additional funds to restore fisheries affected by resource disasters; to the Committee on Merchant Marine and Fisheries.

H.R. 1198. A bill to amend title V of the Social Security Act to provide that, in making certain allotments to States thereunder, there shall be taken into account the higher cost of living prevailing in Alaska and Hawaii; to the Committee on Ways and Means.

H.R. 1199. A bill to authorize certain revenues from leases on the Outer Continental Shelf to be made available to coastal and other States; jointly to the Committees on the Judiciary and Government Operations.

By Mr. YOUNG of Florida:

H.R. 1200. A bill to amend title 10, United States Code, to equalize the retirement pay of members of the uniformed services of equal rank and years of service, and for other purposes; to the Committee on Armed Services.

H.R. 1201. A bill to terminate age discrimination in employment; to the Committee on Education and Labor.

H.R. 1202. A bill to direct the President to halt all exports of gasoline, distillate fuel oil, and propane gas until he determines that no shortage of such fuels exists in the United States; to the Committee on Foreign Affairs.

H.R. 1203. A bill to prohibit the exportation of fertilizer from the United States until the Secretary of Agriculture determines that an adequate domestic supply of fertilizer exists; to the Committee on Foreign Affairs.

H.R. 1204. A bill to limit U.S. contributions to the United Nations; to the Committee on Foreign Affairs.

H.R. 1205. A bill to require public disclosure by certain recipients of Federal funds of information required to be kept by such recipients as a condition of receiving such funds; to the Committee on Government Operations.

H.R. 1206. A bill to require candidates for Federal elective office to resign any elective public office the term of which ends after the beginning of the term of such Federal office before filing in the general election for such Federal office; to the Committee on House Administration.

H.R. 1207. A bill to prohibit travel at Government expense outside the United States by Members of Congress who after the adjournment sine die of the last session of a Congress are not candidates for reelection in the next Congress; to the Committee on House Administration.

H.R. 1208. A bill to amend the Public Health Service Act to provide for the making of grants to assist in the establishment and initial operation of agencies and expanding the services available in existing agencies which will provide home health services, and to provide grants to public and private agencies to train professional and paraprofessional personnel to provide home health services; to the Committee on Interstate and Foreign Commerce.

H.R. 1209. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1210. A bill to provide a penalty for unlawful assault upon policemen, firemen, and other law enforcement personnel, and for other purposes; to the Committee on the Judiciary.

H.R. 1211. A bill to amend section 1951, title 18, United States Code, act of July 3, 1946; to the Committee on the Judiciary.

H.R. 1212. A bill to amend title 5 and title 44, United States Code, to lengthen the time period between the publication of a Federal rule and the effective date of such rule, and the time period between the publication of notice of a hearing and the beginning of such hearing; to the Committee on the Judiciary.

H.R. 1213. A bill to amend section 700 of title 18, United States Code, relating to desecration of the flag of the United States; to the Committee on the Judiciary.

H.R. 1214. A bill to make displaying the flag of certain hostile countries treasonable; to the Committee on the Judiciary.

H.R. 1215. A bill to amend the Marine Mammal Protection Act of 1972 in order to prohibit the issuance of general permits thereunder which authorize the taking of marine mammals in connection with commercial fishing operations, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 1216. A bill to amend title 39, United States Code, to restrict the mailing of chain letters containing statements implying or predicting harm or misfortune to recipients failing to transmit the letters or copies thereof according to instructions therein, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1217. A bill to make Flag Day a legal public holiday; to the Committee on Post Office and Civil Service.

H.R. 1218. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 1219. A bill to amend title 38 of the United States Code in order to apply to veterans and other persons pursuing certain vocational and technical educational programs the same certification and requirements with respect to enrollment, pursuit, and attendance as apply to veterans and persons pursuing programs leading to standard college degrees; to the Committee on Veterans' Affairs.

H.R. 1220. A bill to amend title 38 of the United States Code so as to entitle veterans of the Mexican border period and of World War I and their widows and children to pension on the same basis as veterans of the Spanish-American War and their widows and children, respectively, and to increase pension rates; to the Committee on Veterans' Affairs.

H.R. 1221. A bill to amend chapter 15 of title 38, United States Code, to provide for the payment of pensions to World War I veterans and their widows, subject to $3,000 and $4,200 annual income limitations; to provide for such veterans a certain priority in entitlement to hospitalization and medical care; and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1222. A bill to provide for national cemeteries in the central west coast area of the State of Florida; to the Committee on Veterans' Affairs.

H.R. 1223. A bill to amend the Internal Revenue Code of 1954 to provide that the first $5,000 of an individual's civil service retirement annuity (or other Federal retirement annuity) shall be exempt from income tax; to the Committee on Ways and Means.

H.R. 1224. A bill to amend title II of the Social Security Act to increase to $3,600 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 1225. A bill to amend title II of the Social Security Act to provide for the payment of wife's or husband's insurance benefits (and widow's or widower's insurance benefits in cases of continuous entitlement) without regard to age where the insured individual (on the basis of whose wage record such benefits are payable) is or has been entitled to disability insurance benefits; to the Committee on Ways and Means.

H.R. 1226. A bill limiting the use for demonstration purposes of any federally owned property in the District of Columbia, requiring the posting of a bond, and for other purposes; jointly to the Committees on Public Works and Transportation and the District of Columbia.

H.R. 1227. A bill to require the Secretary of Transportation to prescribe regulations requiring certain modes of public transportation in interstate commerce to reserve some seating capacity for passengers who do not smoke; jointly to the Committees on Public Works and Transportation and Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

3. By the **SPEAKER**: Memorial of the Legislature of the State of California, relative to mobile teachers' retirement assistance; to the Committee on Education and Labor.

4. Also, memorial of the Legislature of the State of California, relative to American servicemen missing in action; to the Committee on Foreign Affairs.

SENATE—*Thursday, January 16, 1975*

The Senate met at 12 o'clock meridian and was called to order by the Vice President.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord, Thou hast been our dwelling place in all generations.

Before the mountains were brought forth, or ever Thou hadst formed the Earth and the world, even from everlasting to everlasting, Thou art God.—Psalms 90 : 1, 2.

O God look upon us in this generation and grant that our temporal and transient days shall be lived in the light of the transcendent and the eternal. Keep us day by day close to Thee that we may be close to one another. Help us first to become our brother's brother that we may better share our brother's burdens. Preserve us from pride and arrogance, from factionalism and self-seeking, that with pure purpose and divine illumination we may set forward Thy kingdom of truth and righteousness.

We pray in His name who went about doing good. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, January 15, 1975, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

FACT SHEET ON THE PRESIDENT'S STATE OF THE UNION MESSAGE

Mr. GRIFFIN. Mr. President, I ask unanimous consent that a fact sheet elaborating on the economic and tax program presented by the President of the United States in his state of the Union message on yesterday be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE PRESIDENT'S STATE OF THE UNION MESSAGE

THE PRESIDENT'S ECONOMIC AND TAX PROGRAM

The President's State of the Union Address outlined the nation's current economic situation and outlook, and his economic and tax program which are designed to wage a simultaneous three-front campaign against recession, inflation and energy dependence.

Background

The U.S. economy is faced with the closely linked problems of inflation and recession. During 1974, the economy experienced the highest rate of inflation since World War II. Late in 1974, when a recession set in, unemployment rose sharply to over 7 percent, the highest level in 13 years.

Accelerated inflation had its roots in the policies of the past and several recent developments not subject to U.S. control. Specifically:

Excessive Federal spending and lending for over a decade and too much money and credit growth.

Unusually poor harvests contributed heavily to world-wide food shortages and escalating food prices.

World petroleum product prices increased dramatically due to the Arab nations' embargo on shipments of oil to the U.S., the quadrupling of the price of crude oil by the OPEC nations, and their sharp reductions in crude oil production to maintain higher prices. Higher energy prices were passed through in the prices of other products and services.

The decline in U.S. domestic production of oil and natural gas that began in the 1960's also contributed to higher energy prices.

An economic boom occurred simultaneously in the industrialized nations of the world.

There were two international devaluations of the dollar.

Inflation contributed strongly to the forces of recession:

The real purchasing power of workers' paychecks was reduced.

Inflation also reduced consumer confidence, contributing to the most severe slump in consumer purchasing since World War II.

Inflation forced interest rates to very high levels, draining funds out of financial institutions that supply most mortgage loans and thus sharply reducing construction of homes.

Federal Government spending and lending programs, accounting for over half the funds raised in capital markets, reduced the amount of money available for capital investments needed to raise productivity and increase living standards.

Current situation and near-term outlook

The economy is now in a full-fledged recession and unemployment will rise further. Inflation continues at a rapid pace and the need to take immediate steps to conserve energy will further complicate the problem initially.

There are no instant cures. A careful and balanced policy approach is required. It will take time to yield full results. There is, however, no prospect of a long and deep economic downturn on the scale of the 1930's.

Major elements of the President's economic and tax program

I. *A $16 Billion Temporary, Anti-Recession Tax Reduction.* This major reduction in taxes proposed for individuals and businesses is designed to restore consumer confidence and promote a recovery of production and employment. The recession is deeper and more widespread than expected earlier, but the tax reduction—together with the easing of monetary conditions that has already taken place—will support a healthy economic recovery. The tax reduction must be temporary to avoid excessive stimulus resulting in a new price explosion and congested capital markets. The temporary nature of the reduction is consistent with the long-term economic goals of achieving and maintaining reasonable price stability and raising the share of national output devoted to saving and capital formation.

II. *Energy Taxes and Fees.* Energy excise taxes and fees on petroleum and natural gas will reduce use of these energy sources and reduce the nation's need for importing expensive and insecure foreign oil. Removal of price controls from domestic crude oil (together with other energy actions) will encourage domestic oil production. A windfall profits tax would recover windfall profits resulting from crude oil decontrol. Energy taxes and fees are expected to raise $30 billion in new Federal revenues on an annual basis.

III. *Permanent Tax Reduction Made Possible By Energy Taxes and Fees.* The $30 billion annual revenue from energy conservation excise taxes and fees and the windfall profits tax on crude oil would be returned to the economy through a major tax cut, a cash payment for non-taxpayers, and direct distribution to governmental units. Tax reductions are designed to go mainly to low- and middle-income taxpayers.

IV. *One Year Moratorium on New Federal Spending Programs.* The moratorium on new spending programs proposed by the President will permit the Federal Government to move toward long-term budget responsibility and to avoid refueling inflation when the economy begins rising again.

V. *Budget Reductions.* The President will propose significant spending reductions in his Fiscal Year 1976 Budget. The reductions total more than $17 billion, including $7.8 billion savings from reductions proposed last year and $6.1 billion from the 5 percent ceiling to be proposed on Federal employee pay increases and on Federal benefit programs that rise automatically with the Consumer Price Index.

Specific proposals announced by the President

I. *A Temporary, Anti-Recession Tax Cut of $16 Billion.* The President proposed a temporary tax reduction of approximately $16 billion to provide prompt stimulus to consumer spending and business investment. The tax cut is divided 75 percent to individuals and 25 percent to corporations, which is approximately the ratio that individual income taxes bear to corporate income taxes. The cuts would be:

A. *A Tax Reduction for Individuals of $12 Billion*

1. Individuals will receive a cash refund equal to 12 percent of their 1974 tax liabilities, as reported on their 1974 tax returns now being filed, up to a limit of $1,000. Married couples filing separately would receive a maximum refund of $500 each.

2. The temporary reduction will be a uniform 12 percent for all taxpayers up to about the $41,000 income level where the $1,000 maximum takes effect, and will then be a progressively smaller percentage for taxpayers above that level.

3. The refund will be paid in two equal installments in 1975 with payments of the first installment beginning in May and the second in September.

4. The proposal does not affect in any way the manner in which taxpayers complete and file their 1974 tax returns. They will file and pay their tax in accordance with existing law, without regard to the tax reduction. Later they will receive their refund checks from the Internal Revenue Service. Because no changes in deductions and other such items are involved, the Internal Revenue Service will be able to determine the amount of the refund and mail the checks without requiring further forms and computations from taxpayers.

5. The effect of the tax refund can be illustrated for a family of four as follows:

Adjusted gross income	Present tax	Proposed refund	Percent saving
$5,000	$98	$12	−12.0
$7,000	402	48	−12.0
$10,000	867	104	−12.0
$12,500	1,261	151	−12.0
$15,000	1,699	204	−12.0
$20,000	2,660	319	−12.0
$40,000	7,958	955	−12.0
$50,000	11,465	1,000	−8.7
$60,000	15,460	1,000	−6.5
$100,000	33,340	1,000	−3.0
$200,000	85,620	1,000	−1.2

Although the taxpayer will not figure his own refund, it is a simple matter for him to anticipate how much the Internal Revenue Service will be sending him, by calculating 12 percent of his total tax liability for the year (on Form 1049 for 1974, it is line 18, page 1, and on Form 1040A, line 19).

B. A TEMPORARY INCREASE IN INVESTMENT TAX CREDIT FOR BUSINESS AND FARMERS OF $4 BILLION

1. There will be an increase for one year in the investment tax credit to 12 percent for all taxpayers, including utilities (which presently have, in effect, a 4 percent credit). Utilities will continue to receive a 12 percent credit for two additional years for qualified investment in electrical power plants other than oil- or gas-fired facilities.

2. This increase in the credit will provide benefits of $4 billion in 1975 to immediately stimulate job-creating investment. (In view of the need for speedy enactment and the temporary nature of the increased credit, this change does not include the basic restructuring of the credit as proposed on a permanent basis in October 1974.)

3. With respect to utilities, it includes a temporary increase in the amount of credit which may be used to offset income tax. Under current law, not more than 50 percent of the income tax liability for the year may be offset by the investment credit. Since many utilities have credits they have been unable to use because of this limitation, under this proposal utilities will be permitted to use the credit to offset up to 75 percent of their tax liability for 1975, 70 percent for 1976, 65 percent for 1977, and so on, until 1980, when they will in five annual steps have returned to the 50 percent limitation applicable to industry generally.

4. The 12 percent credit will apply to property placed in service during 1975 and to property ordered during 1975 if placed in service before the end of 1976. The credit will also be available to the extent of construction, reconstruction or erection of property by or for a taxpayer during 1975, without regard to the date ultimately placed in service. Similar rules will apply to investment in electrical power plants other than oil- or gas-fired facilities, for which the 12 percent credit will continue through 1977.

II. *Energy Conservation Taxes and Fees.* Energy taxes and fees, in conjunction with domestic crude oil price decontrol and the proposed windfall profits tax, would raise about $30 billion on an annual basis. The fees and taxes and related actions (discussed more fully in Part Two of this Fact Sheet) include:

A. *Administrative Actions*

1. *Import Fee*—The President is acting immediately within existing authorities to increase import fees on crude oil and petroleum products. These new import fees will be modified upon passage of the President's legislative package.

(a) Import fees on crude oil and petroleum products will be increased by $1 effective February 1, 1975; an additional $1 effective March 1; and another $1 effective April 1, for a total increase of $3.00 per barrel. Currently existing fees will also remain in effect.

(b) FEA's "Old Oil Entitlements" program will be utilized to spread price increases on crude among all refiners, and to lessen disproportionate regional effects, such as New England, or in any specific industries or areas of human need where oil is essential.

(c) As of February 1975, product imports will cease to be covered by FEA's "Old Oil Entitlements" program. In order to overcome any severe regional impacts that could be caused by large fees in import dependent areas, imported products will receive a fee rebate corresponding to the benefit which would have been obtained under that program. The rebate should be approximately $1.00 in February, $1.40 in March, and $1.80 per barrel thereafter.

(d) The import fee program will reduce imports by an estimated 500,000 barrels per day and generate about $400 million per month in revenues by April.

2. *Crude Oil Price Decontrol*—To stimulate domestic production and further cut demand, steps will be taken to remove price controls on domestic crude oil by April 1, 1975, subject to congressional disapproval as provided by § 4(g) of the Emergency Petroleum Allocation Act of 1973.

3. *Control of Imports*—The energy conservation measures to be imposed administratively outlined above, the energy conservation taxes outlined below and other energy conservation measures covered in Part Two below, will be supplemented by the use of Presidential power to limit oil imports as necessary to fully achieve the President's goals of reducing foreign oil imports by one million barrels a day by the end of 1975 and by two million barrels before the end of 1977.

B. *Taxes Proposed to the Congress.* The President asked the Congress to pass within 90 days a comprehensive energy conservation tax program which will raise an estimated $30 billion in revenues on an annual basis. The taxes proposed are:

1. *Petroleum Excise Tax and Import Fee*—An excise tax on all domestic crude oil of $2 per barrel and a fee on imported crude oil and product imports of $2 per barrel.

2. *Natural Gas Excise Tax*—An excise tax on natural gas of 37¢ per thousand cubic feet (mcf), the equivalent on a Btu basis to the $2 per barrel petroleum excise tax and import fee.

3. *Windfall Profits Tax*—To ensure that the end of controls on crude oil prices does not result in one sector of the economy benefitting unfairly at the expense of other sectors, a windfall profits tax will be levied on the profits realized by producers of domestic oil. This tax is intended to recapture excessive profits which would otherwise be realized by producers as a result of the rise in international oil prices. This tax does not itself cause price increases, but simply recaptures the profits from price increases otherwise induced. It will, together with the income tax on such profits, produce revenues of approximately $12 billion. In aggregate, the windfall profits tax is sufficient to absorb all the profits that would otherwise flow from decontrolling oil prices, plus an additional $3 billion. More specifically the tax will operate as follows:

(a) A windfall profits tax at rates graduated from 15 percent to 90 percent will be imposed on that portion of the price per barrel that exceeds the producer's adjusted base price and therefore represents a windfall profit. The initial "adjusted base price" will be the producer's ceiling price per barrel on December 1, 1973 plus 95 cents to adjust for subsequent increased costs and higher price levels generally. Each month the bases will be adjusted upward on a specified schedule, which will gradually raise the adjusted base price to reflect long-run supply conditions and provide the incentive for new investment in petroleum exploration. Percentage depletion will not be allowed on the windfall profits tax liability.

(b) The windfall profits tax rates will be applied to prices per barrel in excess of applicable adjusted base prices as follows:

Portion of price per barrel in excess of base and subject to tax and amount of tax

Less than $0.20: 15% of amount within bracket.

$0.20, under $0.50: $0.03 plus 30% of amount within bracket.

$0.50, under $1.20: $0.12 plus 60% of amount within bracket.

$1.20, under $3.00: $0.54 plus 80% of amount within bracket.

$3.00 and over: $1.98 plus 90% of amount within bracket.

(c) The windfall profits tax does not include a "plowback" provision, nor does it contain exemptions for classes of production or producers. It does, however, include the limitation that the amount subject to tax may not exceed 75 percent of the net income from the barrel of crude oil. The tax will be retroactive to January 1, 1975.

(d) The windfall profits tax reduces the base for the depletion allowance.

III. *Permanent Tax Reductions and Payments to Non-Taxpayers Made Possible by Energy Conservation Taxes.*

Of the $30 billion in revenue raised annually by the proposed conservation taxes outlined above, about $5 billion is paid by governments through the higher costs of energy in their purchases. This $5 billion includes:

$3 billion by the Federal Government.

$2 billion by state and local governments.

The President is proposing to the Congress that $2 billion of the revenues be paid to State and local governments, pursuant to the distribution formulas applicable to general revenue sharing. The other $25 billion will be returned to the economy mostly in the form of tax cuts. As in the case of the temporary tax reduction, this permanent change will be divided between individuals and corporations on a 75–25 percent basis, about $19 billion for individuals and about $6 billion for corporation. Specifically, this would include:

A. *Reductions for Individuals in 1975*—Tax cuts for individuals will be achieved in two ways: (1) through an increase in the Low Income Allowance and (2) a cut in the schedule of tax rates. In this way, tax-paying individuals will receive a reduction of approximately $16½ billion, with proportionately larger cuts going to low- and middle-income families. The Low Income Allowance will be increased from the present $1,300 level to $2,600 for joint returns and $2,000 for single returns. That will bring the level at which returns are nontaxable to what is approximately the current "poverty level" of $5,600 for a family of 4. In addition, the tax rates applicable to various brackets of income will be reduced. The aggregate effects of these changes are as follows:

1975 LEVELS

Adjusted gross income class (thousands)	In billions: Income tax paid under present law	In billions: Amount of income tax reduction	Percentage reduction in income tax
$0 to $3	$0.3	—$0.25	—83.3
$3 to $5	1.8	—1.20	—66.7
$5 to $7	4.0	—1.96	—49.0
$7 to $10	8.9	—3.38	—38.0
$10 to $15	21.9	—4.72	—21.6
$15 to $20	22.8	—2.70	—11.8
$20 to $50	44.4	—2.15	—4.8
$50 to $100	13.5	—.11	—.8
$100 and over	13.3	—.03	—.2
Total	130.9	—[1] 16.50	—12.6

[1] Does not include payments to nontaxpayers.

The effect of these tax changes can be illustrated for a family of 4, as follows:

Adjusted gross income	Present tax [1]	New tax	Tax saving	Percent saving
$5,600	$185	0	$185	100.0
$7,000	402	$110	292	72.6
$10,000	867	518	349	40.3
$12,500	1,261	961	300	23.8
$15,000	1,699	1,478	221	13.0
$20,000	2,660	2,450	210	7.9
$30,000	4,988	4,837	151	3.0
$40,000	7,958	7,828	130	1.6

[1] Calculated assuming low income allowance or itemized deductions equal to 17 percent of income, whichever is greater

B. *Residential Conservation Tax Credit* (Discussed in the Energy Section of this Fact Sheet). The President seeks legislation to provide incentives to homeowners for making thermal efficiency improvements, such as storm windows and insulation, in existing homes. This measure, along with a stepped-up public information program, could save the equivalent of over 500,000 barrels of oil per day by 1985 Under this legislation:

1. A 15 percent tax credit retroactive to January 1, 1975 for the cost of certain improvements in thermal efficiency in residences would be provided. Tax credits would apply to the first $1,000 of expenditures and can be claimed during the next three years.

2. At least 18 million homes could qualify for these tax benefits, estimated to total about $500 mililon annually in tax credits.

C. *Payments to Nontaxpayers of $2 billion.* The final component of the $19 billion distribution to individuals is a distribution of nearly $2 billion to nontaxpayers and certain low-income taxpayers. For this low-income group, a special distribution of $80 per adult will be provided, as follows:

1. Adults who would pay no tax, even without the tax reductions in A above, will receive $80.

2. Adults who receive less than $80 in such tax reductions will receive approximately the difference.

3. Persons not otherwise filing returns but eligible for these special distributions will make application on simple forms provided by the Internal Revenue Service on which they would furnish their name, address, social security number, and income.

4. For purposes of the special distribution, "adults" are individuals who during the year are at least 18 years old and who are not eligible to be claimed as a dependent under the Federal income tax laws.

5. Since most taxpayers will receive their 1975 income tax reductions in 1975 through reductions in withholding on wages and estimated tax payments, the special distribution to non-taxpayers and low-income taxpayers will also begin in 1975. It is anticipated that disbursement, based on 1974 income can be made in the summer of 1975.

D. *Tax Reductions for Corporations.* The corporate rate will be reduced by 6 percentage points, effectively lowering the corporate rate from 48 percent to 42 percent for 1975. The resulting benefit in 1975 is estimated at about $6 billion.

IV. *Moratorium on New Federal Spending Programs.* The President announced that he would propose no new Federal spending programs except for energy. He also indicated that he would not hesitate to veto any new spending programs passed by the Congress. The need for the moratorium is demonstrated by preliminary FY 1976 Budget estimates:

	Fiscal years—: 1974	Fiscal years—: 1975	Fiscal years—: 1976	Percent change: 1975/1974	Percent change: 1976/1975
Revenues	264.9	280	303	5.7	8.2
Outlays	268.4	314	349	17	11.1
Deficit	—3.5	32–34	45–47		

NOTE: Estimates for 1975 and 1976 are subject to a variation of $2 billion in the final budget.

V. *Budget Reductions.* The budget figures shown above assume that significant budget reductions proposed by the President are effected. Including reductions proposed in a series of special messages sent to the last session of Congress, these budget reductions total more than $17 billion. If this total, over $6 billion will result from the proposed 5% ceiling on Federal pay increases and on those Federal benefit programs that rise automatically with the Consumer Price Index.

The following summarizes reductions in 1976 spending to be included in the upcoming budget:

[In billions]

	Outlays
Effect of budget reductions proposed last year (including administrative actions)	$8.9
Amounts overturned by the Congress	—1.1
Remaining savings	7.8
Further reductions to be proposed:	
Ceiling of 5% on Federal pay and programs tied to the CPI	6.1
Other actions planned	3.6
Total reductions	17.5

The following lists those programs to which the 5% ceiling will apply and shows spending amounts for them:

EFFECT OF 5 PERCENT CEILING ON PAY INCREASES AND PROGRAMS TIED TO CPI

[Fiscal year estimates; dollars in billions]

Programs affected	1975 outlays	1976 outlays: Without ceiling	1976 outlays: With ceiling	Difference 1975–76 (with ceiling)
Social security	64.5	74.3	71.8	+7.3
Railroad retirement	3.0	3.4	3.3	+.3
Supplemental Security Income	4.7	5.5	5.4	+.7
Civil service and military retirement payments	13.5	16.2	14.9	+1.4
Foreign service retirement	.1	.1	.1	(1)
Food stamp program	3.7	3.9	3.6	—.1
Child nutrition	1.3	1.8	1.6	+.3
Federal salaries:				
Military	23.2	23.1	22.5	—.7
Civilian	35.5	38.9	38.0	+2.5
Coal miner benefits	1.0	1.0	1.0	(1)
Total	150.5	168.2	162.1	+11.7

[1] Less than $50,000,000.

The 5% ceiling will take into account increases that have already occurred since January 1, 1975. Under the plan, after June 30, 1976, adjustments would be resumed in the same way as before the establishment of the 5% ceiling. However, no catchup of the increases lost under the ceiling would take place.

Summary of the budget impact of the new taxes and fees and the tax cuts

The following table summarizes the estimated direct budget impact, on a full-year-effective basis of the tax and related changes proposed by the President to deal with the economic and energy situations:

Revenue raising measures—Estimated amounts

[Dollars in billions]

Oil excise tax and import fee	+ 9½
Natural gas excise tax	+ 8½
Windfall Profits tax	+12
Total	+30

Revenue disbursing measures—Estimated amounts

[Dollars in billions]

Energy rebates:	
Income tax cuts, individuals	−16½
Residential tax credit	− ½
Nontaxpayer distribution	− 2
Corporate tax cut	− 6
State and local governments	− 2
Federal Government costs	− 3
Subtotal	−30
Temporary economic stimulus:	
Individual tax refunds	−12
Investment credit increase	− 4
Subtotal	−16
Total Revenue Disbursing Measures	46

The tax and related changes will go into effect at different times, but all of them during the year 1975:

The energy conservation taxes are proposed to go into effect April 1.

The increase in import fees would go into effect:

$1 per barrel February 1.

To $2 per barrel March 1.

To $3 per barrel, if the energy taxes have not been enacted, April 1.

The windfall profits tax on crude oil would be effective as of January 1, 1975. First payments of the tax would be made in the third quarter.

The permanent tax cuts for individuals and corporations made possible by the revenues from the energy conservation taxes would be effective as of January 1, 1975. The changes in withholding rates for individuals are expected to go into effect on June 1. The withholding changes will be adjusted so that 12 months reduction is accomplished in the 7 months from June through December.

The tax credit for energy-saving improvements to existing residences would go into effect as of January 1, 1975.

The special distribution to nontaxpayers is expected to be paid out in the summer of 1975.

The $2 billion distribution to State and local governments would be effective with the second quarter of 1975.

The temporary anti-recession tax cut for individuals will be paid out in two installments, in the second and third quarters.

The one-year increase in the investment tax credit becomes effective retroactively to January 1, 1975.

The timing of the various changes suggests a pattern of direct budget changes as follows. The timing of the economic stimulus or restraint will depend, as well, on such factors as the indirect effects of the budget changes, the timing of the pass-through of higher energy costs to final users, the extent to which the changes are anticipated, and a variety of monetary and financial developments that arises out of these changes.

TIMING OF DIRECT BUDGET IMPACT

[Billions of dollars]

	Calendar years—							
	1975				1976			
	I	II	III	IV	I	II	III	IV
Energy taxes	+0.2	+4.1	+12.6	+7.6	+7.6	+7.5	+7.5	+7.5
Return of energy revenues to economy:								
Tax reduction	0	−3.2	−9.0	−9.0	−5.6	−7.9	−6.3	−6.4
Nontaxpayers			−2.0				−2.0	
S&L governments	0	− .5	− .5	− .5	− .5	− .5	− .5	− .5
Federal Government	0	0	− .8	− .7	− .8	− .7	− .8	− .7
Temporary tax cut	0	−6.1	−7.9	− .6	− .8	− .9	0	0
Net effect	+ .2	−5.7	−7.6	−3.2	− .1	−2.5	−2.1	− .1

Inflation impact

Both major parts of the tax package require inflation analysis. The excise taxes on crude oil and natural gas, combined with the tariff and decontrol of prices of both "old" oil and new natural gas, will add to the general price level immediately. The consumer price index is expected to rise by about two percent when these tax and price increases go into effect. However, this increase has a one-time impact on the price level that, when exceptions in some areas, should not add materially to inflationary pressures in future years.

The inflationary impact of the $16 billion anti-recession tax cut is more difficult to assess. While some economists may argue that a tax cut will add to the rate of inflation during the year ahead, others would contend that under present economic conditions, with unemployment high and many factories operating well below capacity, the predominant effect of the tax cut will be to stimulate spending, and that additional spending will have only a slight impact on prices.

Whatever the precise price impact of this $16 billion tax cut during 1975, the most important fact about it from the standpoint of inflation is that it is temporary. With the recession still under way, the rate of inflation will be coming down—it will be too high, but nevertheless moving in the right direction. After the economy gets well into recovery, however, too much stimulus would be sure to reverse the slowing of the inflation rate and indeed, start a new acceleration. Thus, the tax stimulus must be temporary rather than permanent.

The President has declared a moratorium on new Federal spending programs for this same reason. Budget expenditures are rising rapidly this year, in part, because of programs to aid the unemployed. That is acceptable and highly desirable in a recession to relieve the burden on workers who are affected. It is also desirable because spending under those programs phases out as the economy recovers and unemployment falls. The increased Federal spending is only temporary.

Over the long-term, however, both Federal spending and lending have been rising much too fast, a fact that accounts for a substantial part of our current economic problems. A new burst of expenditure programs cannot help the Nation recover from the current recession—the impact would come much too late—but it would surely do much inflationary harm as the economy returns to prosperous conditions in the years ahead. Therefore, at the same time that taxes are being reduced to support a healthy recovery, policies that would revive inflationary pressures must be avoided after the recovery is underway. The size of currently projected Federal budget deficits precludes introduction of new spending programs now that would raise inflationary pressures later. For this reason, the President requested that no new spending programs, except as needed in the energy area, be enacted so that we can regain control of the budget over the long-run and permit a gradual return to reasonable price stability.

Presidential proposals of October 8, 1974 resubmitted for Congressional action

In addition to the comprehensive set of economic and energy policies discussed in the State of the Union Message, the President asked that the new Congress pass quickly certain legislative proposals originally requested in his October 8, 1974, message. Those proposals would:

1. Remove restrictions on the production of rice, peanuts, and extra-long-staple cotton.

2. Amend P.L. 480 to waive certain restrictions on shipments of food under that Act to needy countries for national interest or humanitarian reasons.

3. Amend the Antitrust Civil Process Act to strengthen the investigation powers of the Antitrust Division of the Department of Justice.

4. Eliminate the U.S. withholding tax on foreign portfolio investments to encourage such investment.

5. Allow dividends paid on qualified preferred stock to be an authorized deduction for determining corporate income taxes to increase incentives for raising needed capital in the form of equity rather than debt.

6. Create a National Commission on Regulatory Reform and take prompt action on other reforms of regulatory and administrative procedures that will be recommended in the future.

7. Strengthen our financial institutions and provide a new tax incentive for investment in residential mortgages.

8. Permit more competition between different modes of surface transportation (The Surface Transportation Act).

9. Amend the Employment Act of 1946 to make explicit the goal of price stability. (Substitute "to promote maximum employment, maximum production, and stability of the general price level" in place of the present language, "to promote maximum employment, production and purchasing power.")

THE PRESIDENT'S ENERGY PROGRAM

[including energy taxes and fees]

The President's State of the Union Address outlined the Nation's energy outlook, set forth national energy policy objectives, and described actions he is taking immediately and indicated proposals he is asking the Congress to pass.

Background

Over the past two years, progress has been made in conserving energy, expanding energy R&D and improving Federal government energy organization. Despite such accomplishments, we have not succeeded in solving fundamental problems and our National energy situation is critical. Our reliance on foreign sources of petroleum is contributing to both inflationary and recessionary pressures in the United States. World economic stability is threatened and several industrialized nations dependent upon imported oil are facing severe economic disruption.

With respect to the U.S. energy situation:

Petroleum is readily available from foreign sources—but at arbitrarily high prices, causing massive outflow of dollars, and at the risk of increasing our Nation's vulnerability to severe economic disruption should another embargo be imposed.

Petroleum imports remain at high levels even at present high prices.

Domestic oil production continues to decline as older fields are depleted and new fields are years from production; 8.8 million barrels per day in 1974 compared to 9.2 million in 1973.

Total U.S. petroleum consumption is increasing, although at slower rates due to higher prices.

Natural gas shortages are forcing curtailment of supplies to many industrial firms and denial of service to new residential customers. (14% expected this winter versus 7% last year.) This is resulting in unemployment, reductions in the production of fertilizer needed to increase food supplies, and increased demand for alternative fuels—primarily imported oil.

Coal production is at about the same level as in the 1930's.

Nuclear energy accounts for only 1 percent of total energy supply and new plants are being delayed, postponed or cancelled.

Overall energy consumption is beginning to increase again.

U.S. vulnerability to economic and social impact from an embargo increases with higher imports and will continue to do so until we reverse current trends, ready standby plans, and increase petroleum storage.

Economic impacts of the four-fold increase in OPEC oil prices include:

Heavy outflow of U.S. dollars (and, in effect, jobs) to pay for growing oil imports—about $24 billion in 1974 compared to $2.7 billion in 1970.

Tremendous balance of payments deficits and possible economic collapse for those nations of Europe and Asia that must depend upon expensive imported oil as a primary energy source.

Accumulation of billions of dollars of surplus revenues in oil exporting nations—approximately $60 billion in 1974 alone.

U.S. energy outlook

I. *Near-Term* (1975–1977): In the next 2–3 years, there are only a few steps that can be taken to increase domestic energy supply particularly due to the long lead time for new production. Oil imports will thus continue to rise unless demand is curbed.

II. *Mid-Term* (1975–1985): In the next ten years, there is greater flexibility. A number of actions can be taken to increase domestic supply, convert from foreign oil to domestic coal and nuclear energy, and reduce demand—if the Nation takes tough actions. Vulnerability to an embargo can be eliminated.

III. *Long-Term* (Beyond 1985): Emerging energy sources can play a bigger role in supplying U.S. needs—the results of the Nation's expanded energy research and development program. U.S. independence can be maintained. New technologies are the most significant opportunity for other consuming nations with limited domestic resources.

National energy policy goals and principles announced by the President

I. *Near-Term* (1975–1977): Reduce oil imports by 1 million barrels per day by the end of 1975 and 2 million barrels by the end of 1977, through immediate actions to reduce energy demand and increase domestic supply.

(A) With no action, imports would be about 8 million barrels per day by the end of 1977, more than 20 percent above the 1973 pre-embargo levels.

(B) Acting to meet the 1977 goal will reduce imports below 1973 levels, assuring reduced vulnerability from an embargo and greater consumer nation cooperation.

(C) More drastic short-term reductions would have unacceptable economic impacts.

II. *Mid-Term* (1975–1985): Eliminate vulnerability by achieving the capacity for full energy independence by 1985. This means 1985 imports of no more than 3–5 million barrels of oil per day, all of which can be replaced immediately from a strategic storage system and managed with emergency measures.

(A) With no action, oil imports by 1985 could be reduced to zero at prices of $11 per barrel or more—or they could go substantially higher if world oil prices are reduced (e.g., at $7 per barrel, U.S. consumption could reach 24 million barrels per day with imports of above 12 million, or above 50% of that total).

(B) The U.S. anticipates a reduction in world oil prices over the next several years. Hence, plans and policies must be established to achieve energy independence even at lower prices—countering the normal tendency to increase imports as the price declines.

(C) Actions to meet the 1985 goal will hold imports to no more than 3–5 million barrels per day, even at $7 per barrel prices. Protection against an embargo of the remaining imports can then be handled most economically with storage and standby emergency measures.

III. *Long-Term* (Beyond 1985): Within this century, the U.S. should strive to develop technology and energy resources to enable it to supply a significant share of the Free World's energy needs.

(A) Other consuming nations have insufficient fossil fuel resources to reach domestic energy self-sufficiency.

(B) The U.S. can again become a world energy supplier and foster world energy price stability—much the same as the nation did prior to the 1960's when it was a major supplier of world oil.

IV. *Principles:* Actions to achieve the above national energy goals must be based upon the following principles:

Provide energy to the American consumer at the lowest possible cost consistent with our need for secure energy supplies.

Make energy decisions consistent with our overall economic goals.

Balance environmental goals with energy requirements.

Rely upon the private sector and market forces as the most efficient means of achieving the Nation's goals, but act through the government where the private sector is unable to achieve our goals.

Seek equity among all our citizens in sharing of benefits and costs of our energy program.

Coordinate our energy policies with those of other consuming nations to promote interdependence, as well as independence.

Actions announced today by the President

I. Actions announced by the President to meet near-term goals (1975–1977)

To meet the national goals, the President outlined a comprehensive program of legislative proposals to the Congress which he requested be enacted within 90 days and administrative actions that he will begin implementing immediately. The legislative package is more effective and equitable than the administrative program, but the President indicated that the seriousness of the situation demanded immediate action. These actions will reduce overall energy demand, increase domestic production, increase conversion to coal, and reduce oil imports. They include:

(A) Administrative actions

1. *Import Fee*—Because of the seriousness of the problem and because time is required for Congressional action on his legislative proposals, the President is acting immediately within existing authorities to increase the import fees on crude oil and petroleum products. These new import fees would be modified upon passage of the President's legislative package.

(a) Import fees on crude oil and petroleum products under the authority of the Trade Expansion Act of 1962, as amended, will be increased by $1 effective February 1, 1975, an additional $1 effective March 1; and another $1 effective April 1, for a total increase of $3.00 per barrel. Currently existing fees will also remain in effect.

(b) FEA's "Old Oil Entitlements" program will be utilized to spread price increases on crude among all refiners and to lessen disproportionate regional effects, particularly in the Northeast.

(c) As of February 1975, product imports will cease to be covered by FEA's "Old Oil Entitlements" program. In order to overcome any severe regional impacts that could be caused by large fees in import dependent areas, imported products will receive a rebate corresponding to the benefit which would have been obtained under that program. The rebate should be approximately $1.00 in February, $1.40 in March, and $1.80 per barrel in April.

(d) This import fee program would reduce imports by about 500,000 barrels per day. In April it would generate about $400 million per month in revenues.

2. *Backup Import Control Program*—The energy conservation measures and tax proposals will be supplemented by the use of Presidential power to limit oil imports as necessary to achieve the near-term goals.

3. *Crude Oil Price Decontrol*—To stimulate production and further cut demand, steps will be taken to remove price controls on domestic crude oil by April 1, 1975, subject to congressional disapproval as provided by § 4(g) of the Emergency Petroleum Allocation Act of 1973.

4. *Increase Public Education on Energy Conservation*—Energy Resources Council will step up its efforts to provide information on energy conservation methods and benefits.

(B) Legislative proposals

1. *Comprehensive Tax and Decontrol Program*—The President asked the Congress to pass within 90 days a comprehensive legislative package which could lead to reduction of oil imports of 900,000 barrels per day by 1975 and 1.6 million barrels by 1977. Average oil prices would rise about $4.00 per barrel of $.10 per gallon. The package which will raise $30 billion in revenues on an annual basis includes:

(a) *Windfall Profits Tax*—A tax on all domestic crude oil to capture the windfall profits resulting from price decontrol. The tax would take 88% of the windfall profits on crude oil and would phase out over several years. The tax would be retroactive to January 1, 1975.

(b) *Petroleum Excise Tax and Import Fee*— An excise tax on all domestic crude oil of $2 per barrel and a fee on imported crude oil and product imports of $2 per barrel. The new, administratively established import fee of $3 on crude oil would be reduced to $2.00 and $1.20 fee on products would be increased to $2.00 when the tax is enacted. The product import fee would keep the excise tax from encouraging foreign refining and the related loss of jobs to the U.S.

(c) *New Natural Gas Deregulation*—Remove Federal interstate price regulation on new natural gas to increase domestic production and reduce demand for scarce natural gas supplies.

(d) *Natural Gas Excise Tax*—An excise tax on natural gas of 37¢ per thousand cubic feet (mcf), which is equivalent on a Btu basis to the $2 per barrel petroleum excise tax and fee. This will discourage attempts to switch to natural gas and acts to reduce natural gas demand curtailments. Since the usual results of gas curtailments is a switch to oil, this will limit the growth of oil imports.

2. *Elk Hills Naval Petroleum Reserve.* The President is asking the Congress to permit production of the Elk Hills Naval Petroleum Reserve (NPR No. 1) under Navy control. Production could reach 160,000 barrels per day early in 1975 and 300,000 barrels per day by 1977. The oil produced would be used to top off Defense Department storage tanks, with the remainder sold at auction or exchanged for refined petroleum products used by the Department of Defense. Revenues would be used to finance further exploration, development and production of the Naval petroleum reserves and the strategic petroleum storage.

3. *Conversion to the Use of Domestic Coal.* The President is asking the Congress to amend the Clean Air Act and the Energy Supply and Environmental Coordination Act of 1974 to permit a vigorous program to make greater use of domestic coal to reduce the need for oil. This program would reduce the need for oil imports by 100,000 barrels per day in 1975 and 300,000 barrels in 1977. These amendments would extend FEA's authority to grant prohibition orders from 1975 to 1977, prohibit powerplants early in the planning process from burning oil and gas, extend FEA enforcement authority from 1978 to 1985, and make clear that coal burning installations that had originally planned to convert from coal to oil be eligible for compliance date extensions. It would give EPA authority to extend compliance dates and eliminate restrictive regional environmental limitations. A plant could convert as long as its own emissions do not exceed ambient air quality standards.

II. Actions Announced by the President to Meet Mid-Term Goals (1975–1985)

These actions are designed to meet the goal of achieving the capability for energy independence by 1985. The actions include measures to increase domestic energy production (including measures to cope with constraints and strike a balance between environmental and energy objectives), reduce energy demand, and prepare for any future emergency resulting from an embargo.

(A) Supply actions

1. *Naval Petroleum Reserve No. 4 (Legislative proposal)*—The President is asking the Congress to authorize the exploration, development and production of NPR–4 in Alaska to provide petroleum for the domestic economy, with 15–20% earmarked for military needs and strategic storage. The reserves in NPR–4 which are now largely unexplored could provide at least 2 million barrels of oil per day by 1985. Under the legislative proposal:

(a) The President would be authorized to explore, develop and produce NPR–4.

(b) The Government's share of production (approximately 15–20%) would be used to help finance the strategic storage system and to help fulfill military petroleum requirements. Any other receipts go to the United States Treasury as miscellaneous receipts.

2. *OCS Leasing (Administrative)*—The President reaffirmed his intention to continue an aggressive Outer Continental Shelf leasing policy, including lease sales in the Atlantic, Pacific, and Gulf of Alaska. Decisions on individual lease sales will await completion of appropriate environmental studies. Increased OCS leasing could add domestic production of 1.5 million barrels of oil and additional supplies of natural gas by 1985. There will be close cooperation with Coastal states in their planning for possible increased local development. Funding for environmental studies and assistance to States for planning has been increased in FY 1975.

3. *Reducing Domestic Energy Price Uncertainty (Legislative proposal)*—Legislation will be requested authorizing and requiring the President to use tariffs, import quotas, import price floors, or other measures to achieve domestic energy price levels necessary to reach self-sufficiency goals. This legislation would enable the President to cope with possible large-scale fluctuations in world oil prices.

4. *Clean Air Act Amendments (Legislative proposal)*—In addition to the amendments outlined earlier for short-term goals, the President is asking for other Clean Air Act amendments needed for a balance between environmental and energy goals. These include:

(a) Legislative clarification to resolve problems resulting from court decisions with respect to significant air quality deterioration in areas already meeting health and welfare standards.

(b) Extension of compliance dates through 1985 to implement a new policy regarding stack gas scrubbers—to allow use of intermittent control systems in isolated power plants through 1985 and requiring other sources to achieve control as soon as possible.

(c) A pause for 5 years (1977–1981 model years) for nationwide auto emission standards at the current California levels for hydrocarbons (0.9 grams per mile) and carbon monoxide (9 grams per mile), and at 1975 standards (3.1 grams per mile) for oxides of nitrogen (with the exception of California which has adopted the 2.0 standards). These standards for hydrocarbons (HC) and carbon monoxide (CO) are more stringent than now required nationwide for 1976 model year's cars. The change from the levels now required for 1977–1981 model years in the law will have no significant impact on air quality standards, yet they will facilitate attainment of the goal of 40% increase in auto fuel efficiency by the 1980 model year.

(d) EPA will shortly begin comprehensive hearings on emission controls and fuel economy which will provide more detailed data for Congressional consideration.

5. *Surface Mining (Legislative proposal)*—The President is asking the Congress to pass a surface mining bill which strikes a balance between our desires for reclamation and environmental protection and our need to increase domestic coal production substantially over the next ten years. The proposed legislation will correct the problems which led to the President's veto of a surface mining bill last year.

6. *Coal Leasing (Administrative)*—To assure rapid production from existing leases and to make new, low sulfur coal supplies available, the President directed the Secretary of the Interior to:

(a) Adopt legal diligence requirements to assure timely production from existing leases.

(b) Meet with Western Governors to explore regional questions on economic, environmental and social impacts associated with new Federal coal leases.

(c) Design a program of new coal leasing consistent with timely development and adequate return on public assets, if proper environmental safeguards can be provided.

7. *Electric Utilities*—The President is asking the Congress for legislation concerned with utilities. In recent months, 60% of planned unclear capacity and 30% of nonnuclear capacity additions have been postponed or cancelled by electric utilities. Financing problems are worsening and State utility commission practices have not assured recovery of costs and adequate earnings. The transition from oil and gas-fired plants to coal and nuclear has been slowed greatly—contributing to pressure for higher oil imports. Actions involve:

(a) *Uniform Investment Tax Credit (Legislative)*—An increase in the investment tax credit to eliminate the gap between utilities and other industries—currently a 4% rate applies to utilities and 7% to others.

(b) *Higher Investment Tax Credit (Legislative)*. An increase in investment tax credit for all industry, including utilities, for 1 year—to 12%. The 12% rate would be retained for two additional years for all power plants except oil and gas-fired facilities.

(c) *Preferred Stock Dividend Deduction (Legislative)*—A change in laws applicable to all industries, including utilities, which allows deductions of preferred stock dividends for tax purposes to reduce the cost of capital and stimulate equity rather than debt financing.

(d) *Mandated Reform of State Utility Commission Process (Legislative)*—The legislation would selectively reform utility commission practices by: (1) setting a maximum limit of 5 months for rate or service proceedings; (2) requiring fuel adjustment pass-throughs, including taxes; (3) requiring that construction work in progress be included in a utility's rate base; (4) removing any rules prohibiting a utility from charging lower rates for electric power during off-peak hours; and (5) allowing the cost of pollution control equipment to be included in the rate base.

(e) *Energy Resources Council Study (Administrative)*—Review and report to the President on the entire regulatory process and financial situation relating to electric utilities and determine what further reforms or actions are needed. ERC will consult with State utility commissions, governors, public utilities and consumers.

8. *Nuclear Power*—To accelerate the growth of nuclear power which supplies only one percent of our energy needs, the President is proposing, in addition to actions outlined above:

(a) *Expedited Licensing and Siting (Legislative)*—A Nuclear Facility Licensing Act to assure more rapid siting and licensing of nuclear plants.

(b) *1976 Budget Increase (Legislative)*—An increase of $41 million in appropriations for nuclear safety, safeguards, and waste management.

9. *Energy Facilities Siting (Legislative)*—Legislation would reduce energy facility siting bottlenecks and assure sites for needed facilities with proper land use considerations:

(a) The legislation would require that states have a comprehensive and coordinated process for expeditious review and approval of energy facility applications; and state authorities which ensure that final State energy facility decisions cannot be nullified by actions of local governments.

(b) Provision for owners of eligible facilities or citizens to use States for inaction.

(c) Provide no Federal role in making case by case siting decisions for the States.

(B) Energy conservation actions

The President announced a number of energy conservation measures to reduce demand, including:

1. *Auto Gasoline Mileage Increases (Administrative)*—The Secretary of Transportation has obtained written agreements with each of the major domestic automobile manufacturers which will yield a 40 percent improvement in fuel efficiency on a weighted average for all new autos by 1980 model year. These agreements are contingent upon relaxation of Clean Air Act auto emission standards. The agreement provides for interim goals. Federal monitoring and public reporting of progress.

2. *Building Thermal Standards (Legislative)*—The President is asking Congress for legislation to establish national mandatory standards for new homes and commercial thermal (heating and cooling) efficiency buildings which would save the equivalent

of over one-half million barrels of oil per day by 1985. Under this legislation:

(a) The Secretary of Housing and Urban Development shall consult with engineering, architectural, consumer, labor, industry, and government representatives to advise on development of efficiency standards.

(b) Thermal standards for one and two-family dwellings will be developed and implementation would begin within one year. New minimum performance standards for energy in commercial and residential buildings would be developed and implemented as soon thereafter as practicable.

(c) Standards would be implemented by State and local governments through local building codes.

(d) The President also directed the Secretary of Housing and Urban Development to include energy conservation standards in new mobile home construction and safety standards.

3. *Residential Conservation Tax Credit*—The President is asking Congress for legislation to provide incentives to homeowners for making thermal efficiency improvements in existing homes. This measure, along with a stepped-up public information program, could save the equivalent of over 500,000 barrels per day by 1985. Under this legislation:

(a) A 15 percent tax credit retroactive to January 1, 1975 for the cost of certain improvements in thermal efficiency in residences would be provided. Tax credits would apply to the first $1,000 of expenditures and can be claimed during the next three years.

(b) Improvements such as storm windows, and insulation, would qualify for the tax credit.

4. *Low-Income Energy Conservation Program (Legislative)*—The President is proposing legislation to establish a Low-Income Energy Conservation Program to offer direct subsidies to low-income and elderly homeowners for certain energy conservation improvements such as insulation. The program is modeled upon a successful pilot program in Maine.

(a) The program would be administered by FEA, under new legislation, and the President is requesting supplemental appropriations in 1975 and $55 million in fiscal year 1976.

(b) Acting through the States, Federal funds would be provided to purchase materials. Volunteers or community groups could install the materials.

5. *Appliance Efficiency Standards (Administrative)*—The President directed the Energy Resources Council to develop energy efficiency goals for major appliances and to obtain agreements within six months from the major manufacturers of these appliances to comply with the goals. The goal is a 20% average improvement by 1980 for all major appliances, including air conditioners, refrigerators and other home appliances. Achievement of these goals would save the equivalent of over one-half million barrels of oil per day by 1985. If agreement cannot be reached, the President will submit legislation to establish mandatory appliance efficiency standards.

6. *Appliance and Auto Efficiency Labelling Act (Legislative)*—The President will ask the Congress to enact a mandatory labelling bill to require that energy efficiency labels be placed on new appliances and autos.

(C) Emergency preparedness

The President announced that comprehensive energy emergency legislation will be proposed, encompassing two major components.

1. *Strategic Petroleum Storage (Legislative)*—Development of an energy storage system of one billion barrels for domestic use and 300 million barrels for military use. The legislation will authorize the government to purchase and prepare the storage facilities (salt domes or steel tanks), while complex institutional questions are resolved and before oil for storage is actually purchased. FEA will develop the overall program in cooperation with the Department of the Interior and the Department of Defense. All engineering, planning, and environmental studies would be completed within one year. The 1.3 billion barrels will not be complete for some years, since time is required to purchase, prepare, and fill the facilities.

2. *Standby and Planning Authorities (Legislative)*—The President is requesting a set of emergency standby authorities to be used to deal with any significant future energy shortages. These authorities would also enable the United States to fully implement the agreement on an International Energy Program between the United States and other nations signed on November 18, 1974. This legislation would include the authority to:

(a) Implement energy conservation plans to reduce demand for energy;

(b) allocate petroleum products and establish price controls for allocated products;

(c) ration fuels among end users;

(d) allocate materials needed for energy production where such materials may be in short supply;

(e) increase production of domestic oil; and

(f) regulate petroleum inventories.

III. Actions announced by the President to meet long-term goals (beyond 1985)

The expanded research and development program on which the nation is embarked will provide the basis for increasing domestic energy supplies and maintaining energy independence. It will also make it possible in the long run for the U.S. to export energy supplies and technology to others in the free world. Important elements are:

(A) *Synthetic Fuels Program (Administrative)*—The President announced a National Synthetic Fuels Commercialization Program to ensure at least one million barrels per day equivalent of synthetic fuels capacity by 1985, using technologies now nearing commercial application.

1. Synthetic fuel types to be considered will include synthetic crude from oil shale and a wide range of clean solid, liquid, and gaseous fuels derived from coal.

2. The Program would entail Federal incentives (possibly including price guarantees, purchase agreements, capital subsidies, leasing programs, etc.), granted competitively, and would be aimed at the production of selected types of gaseous and liquid fuels from both coal and oil shale.

3. The program will rely on existing legislative authorities, including those contained in the Federal Non-Nuclear Energy Research and Development Act of 1974, but new legislative authorities will be requested if necessary.

(B) Energy Research and Development Program—In the current fiscal year, the Federal Government has greatly increased its funding for energy research and development programs. These Federal programs are a part of a much larger national energy R & D effort and are carried out in cooperation with industry, colleges and universities and others. The President stated that his 1976 Budget will continue to emphasize these accelerated programs which include research and the development of technology for energy conservation and on all forms of energy including fossil fuels, nuclear fission and fusion, solar and geothermal.

(C) Energy Research and Development Administration—(ERDA). The President has signed an Executive Order which activates, effective January 19, 1975, the Energy Research and Development Administration. ERDA will bring together in a single agency the major Federal energy R & D programs which will have the responsibility for leading the national effort to develop technology to assure that the U.S. will have an ample and secure supply of energy at reasonable prices. ERDA consolidates major R & D functions previously handled by the AEC, Department of the Interior, National Science Foundation and Environmental Protection Agency. ERDA will also continue the basic research, nuclear materials production, and weapons programs of the AEC.

IMPACTS OF NEAR AND MID-TERM ACTIONS ON PETROLEUM CONSUMPTION AND IMPORTS

NEAR TERM PROGRAM (MMB/D)

	1975	1977
Consumption if no new actions	18.0	18.3
Imports if no new actions	6.5	8.0
	Import savings	
Less service savings by short-term actions:		
Production from Elk Hills	0.2	0.3
Coal conversion	.1	.3
Tax pakcage	.9	1.6
Total import savings	1.2	2.2
Remaining imports	5.3	5.8

MID-TERM PROGRAM

Consumption if no new actions	23.9 MMB/D
Imports if no new actions	12.7 MMB/D
	1985 impact on imports
Less savings achieved by following actions:	
OCS leasing	1.5
NPR–4 development	2.0
Coal conversion	.4
Synthetic fuel commercialization	.3
Auto efficiency standards	1.0
Continuation of taxes	2.1
Appliance efficiency goals	.1
Insulation tax credit	.3
Thermal standards	.3
Total import savings by actions	8.0
Remaining imports	4.7
Less:	
Emergency storage	3.0
Standby authorities	1.7
Net import vulnerability	0

INTERNATIONAL ENERGY POLICY AND FINANCING ARRANGEMENTS

Background

The cartel created by the Organization of Petroleum Exporting Countries (OPEC) has successfully increased their governments' prices for exports of oil from approximately $2 per barrel in mid-1973 to $10 per barrel today. Even after paying for their own increased imports, OPEC nations will report a surplus of over $60 billion in 1974, which must be invested. Oil price increases have created serious problems for the world economy. Inflation pressures have been intensified. Domestic economies have been disrupted. Consuming nations have been reluctant to borrow to finance their oil purchases because of current balance of payments risks and the burden of future interest costs and the repayment of massive debts. International economic relations have been distorted by the large flows of capital and uncertainties about the future.

U.S. position

The United States believes that the increased price of oil is the major international economic problem and has proposed a comprehensive program for reducing the current exorbitant price. Oil importing nations must cooperate to reduce consumption and accelerate the development of new sources of energy in order to create the economic conditions for a lower oil price. However, until the price of oil does decline, international stability must be protected by financing facilities to assure oil importing nations that financing will be available on reasonable terms to pay for their oil imports

The United States is active in developing these financing programs. Once a cooperative program for energy conservation and resource development and the interim financing arrangements are agreed upon, it will be possible to have constructive meetings with the oil producers.

Actions taken by oil consuming nations

The oil consuming nations have already created the International Energy Agency to coordinate conservation and resource development programs and policies for reacting to any future interruption of oil exports by producing nations. The four major elements of this cooperative program are:

An emergency sharing arrangement to immediately reduce member vulnerability to actual or threatened embargoes by producers,

A long-term cooperative program to reduce member nation dependence on imported oil,

A comprehensive information system designed to improve our knowledge about the world oil market and to provide a basis for consultations among members and individual companies; and

A framework for coordinating relations with producing nations and other less developed consuming countries.

The International Energy Agency has been established as an autonomous organization under the OECD. It is open to all OECD nations willing and able to meet the obligations created by the program. This international agreement establishes a number of conservation and energy resources development goals but each member is left free to determine what domestic measures to use in achieving the targets. This flexibility enables the United States to coordinate our national and international energy goals.

Other U.S. actions and proposals

The United States has also supported programs for protecting international stability against distorting financial flows created by the sudden increase of oil prices. Although the massive surplus of export earnings accumulated by the producing nations will have to be invested in the oil consuming nations, it is unlikely that these investments will be distributed so as to match exactly the financing needs of individual importing nations. Fortunately the existing complex of private and official financial institutions has, in the case of the industrialized countries, been effective in redistributing the massive oil export earnings to date. However, there is concern that some individual industrialized nations may not be able to continue to obtain needed funds at reasonable interest rates and terms during the transition period until supplies are increased, conservation efforts reduce oil imports and the price of oil declines. Therefore, the United States has supported various proposals for "reshuffling" the recycled funds among oil consuming nations, including:

Modification of International Monetary Fund (IMF) rules to permit more extensive use of existing IMF resources without further delay;

Creation of a financial solidarity facility as a "safety net" for participating OECD countries that are prepared to cooperate in an effort to increase conservation and energy resource development actions to create pressure to reduce the present price of oil;

Establishment of a special trust fund managed by the IMF which would extend balance of payments assistance to the most seriously affected developing nations on a concessional basis not now possible under IMF rules. The United States hopes that oil exporting nations might contribute a major share of the trust fund and that additional resources might be provided through the sale of a small portion of the IMF's gold holdings in which the differential between the original cost of the gold and the current market price would be added to the trust fund; and

An increase in IMF quotas which would make more resources available in 1976.

These proposals will be discussed at ministerial level meetings of the Group of Ten, the IMF Interim Committee and the International Monetary Fund/International Bank for Reconstruction and Development Committee in Washington, D.C. January 14 to 17.

In these meetings, the United States will continue to press its views concerning the fundamental importance of international cooperation to achieve necessary conservation and energy resources development goals as a basis for protecting our national security and underlying economic strength.

REFERRAL OF COMMUNICATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that two communications from the U.S. Consumer Product Safety Commission, dated January 10, 1975, be referred jointly to the Committees on Labor and Public Welfare and Commerce, and that a communication from NASA relative to the solar heating and cooling demonstration program be referred jointly to the Committees on Aeronautical and Space Sciences, Banking, Housing and Urban Affairs, and Labor and Public Welfare.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER FOR A MESSAGE FROM THE PRESIDENT AND COMMUNICATIONS TO BE HELD AT THE DESK

Mr. MANSFIELD. Mr. President, I also ask unanimous consent that a message from the President of the United States, dated December 27, 1974, transmitting deferral reports, one communication from OMB, and three communications from the Comptroller General of the United States dealing with rescissions and deferrals be held at the desk pending further disposition.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER FOR CERTAIN MATTERS TO BE HELD AT THE DESK

Mr. MANSFIELD. Mr. President, I further ask unanimous consent that pending further action all matters dealing with rescissions and deferrals be held at the desk.

The VICE PRESIDENT. Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. MANSFIELD. Mr. President, there are a number of special orders; and if no one seeks recognition at this time, I ask unanimous consent that the Senate stand in recess until 1 p.m. today.

There being no objection, at 12:04 p.m. the Senate recessed until 1 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BIDEN).

ORDER TO VACATE RECOGNITION OF CERTAIN SENATORS TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order previously entered for Mr. STEVENSON, Mr. GRIFFIN, and myself be vacated.

The PRESIDING OFFICER (Mr. BIDEN). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CHURCH, SENATOR STENNIS, SENATOR ROBERT C. BYRD, AND SENATOR GRIFFIN, AND DESIGNATING PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. CHURCH be recognized for not to exceed 15 minutes, that he be followed by Mr. STENNIS for not to exceed 15 minutes, that he be followed by Mr. ROBERT C. BYRD for not to exceed 15 minutes, and that he be followed by Mr. GRIFFIN for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the order for the recognition of Senators tomorrow there be a brief period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFYING RULE XXII

Mr. ALLEN. Mr. President, an interesting article appeared in the Washington Post this morning in the form of an editorial entitled "Modifying Rule 22."

I ask unanimous consent that a copy of that editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MODIFYING RULE 22

As one of its first items of business, the new Senate will consider the perennial problem of striking a reasonable balance between the right of a minority of senators to debate and the ability of a majority to decide. At issue once again is Rule 22, the cloture rule which requires the votes of two-thirds of those present and voting to limit floor debate and amendments. As experience has amply shown, this rule enables a stubborn minority to tie up a measure forever or force the majority to make major concessions to bring a bill to an up-or-down vote. Last year, two major casualties attributable to Rule 22 were the consumer protection agency bill, which was totally blocked, and the legal services corporation act, which was badly weakened before a final vote could be obtained.

Sens. Walter F. Mondale (D.-Minn.) and James B. Pearson (R.-Kan.) are leading this year's attempt to modify Rule 22 by reducing the number needed for cloture to three-fifths of those present and voting. The Senate should be far more hospitable to such a step than in the past. For one thing, cloture as an issue is no longer as supercharged as it was in the era of the Senate's great civil rights debates. Nor are as many senators still inclined to champion the principle of unlimited debate. Thanks to the influence of newer members and the press of legislative business, the world's greatest deliberative body has become much more efficient and decisive recently, to the extent that many debates are limited and amendments restricted by routine agreement now.

As a result of such changes, the Senate has invoked cloture more frequently since 1971 than in the past. Since Rule 22 was installed in 1917, cloture has been voted only 21 times; 9 of those came in the last Congress alone. And yet the rule retains its sting. Indeed, the new-style, low-key filibusters may be somewhat easier and more effective than the old. A determined senator with no more than 33 allies may now tie up one bill without snarling the entire Senate calendar or subjecting his colleagues to marathon sessions. In other words, the Senate may be coming to accommodate obstructionism too much; as filibusters become more genteel, they may also grow far more common and indiscriminate.

The point of the Mondale-Pearson effort is not to strip Senate minorities of all defense against majority tyranny, but rather to make one weapon, endless debate or the threat of it, somewhat harder to employ. Three-fifths, or up to 60 votes, would still be an impressive force to have to muster to curtail debate. At this point in the Senate's evolution, such a change seems timely and reasonable.

Before the Senate can reach a vote on amending Rule 22, however, a perennial parliamentary battle must be won. The first step depends on Vice President Rockefeller as presiding officer. He will be called upon to decide whether the Senate, at the start of a new Congress, may adopt and amend its rules by majority vote, or whether Rule 22 applies to efforts to change Rule 22. Vice Presidents Nixon and Humphrey, in similar situations, upheld the power of a new Senate to change its rules without having to quash a filibuster first. If Mr. Rockefeller follows those precedents, it will be far easier for the Senate to debate Rule 22 head-on and to decide how much of its ways of doing business should be changed.

Mr. ALLEN. Mr. President, the thrust of this editorial is contrary to the views of the Senator from Alabama. He offers the resolution as a matter of interest to the Senate. Particularly he had hoped that he would have an opportunity to address some remarks to the Vice President, because the ruling that he will in all likelihood be called upon to make in the near future will have important bearing on the outcome of the effort to amend rule XXII.

The editorial seeks to give advice to the Vice President with regard to his upcoming ruling. The editorial states:

> The first step depends on Vice President Rockefeller as presiding officer. He will be called upon to decide whether the Senate, at the start of a new Congress, may adopt and amend its rules by majority vote, of whether Rule 22 applies to efforts to change Rule 22. Vice Presidents Nixon and Humphrey, in similar situations, upheld the power of a new Senate to change its rules without having to quash a filibuster first. If Mr. Rockefeller follows those precedents, it will be far easier for the Senate to debate Rule 22 head-on and to decide how much its ways of doing business should be changed.

Mr. President, I invite attention to the fact that this statement with regard to Vice President Nixon and Vice President HUMPHREY is inaccurate. It is incomplete. It is misleading.

By the way, I am surprised to note an instance—and it is perhaps the first instance in many months—in which the Washington Post speaks with approval with respect to actions of President Nixon. But they do commend President Nixon for an alleged act that he performed while serving as Vice President. However, the truth is that he did not rule on this point. What he did was to express an opinion as to what the ruling might be in the future. But the ruling was never made. It was never made because the Senate voted to table the effort to amend the rules.

So Vice President Nixon never ruled in this case. He responded to a parliamentary inquiry and gave an answer to a question that was asked on the floor. But it was not a ruling, because a ruling is an act taken by the Presiding Officer with respect to an issue that is presently before the Senate, and which demands action by the Vice President in order that the matter may proceed.

Vice President Nixon, on Thursday, January 3, 1957—and this appears in the RECORD—gave the distinction between an opinion and a ruling. I quote:

> There can be an appeal from a decision of the Chair on a point of order. There can be no appeal as to any pronouncement by the Chair regarding a parliamentary inquiry. A response by the Chair to a parliamentary inquiry is an opinion. A ruling on a point of order is a decision and is subject to appeal to the Senate.

Mr. President, the editorial is inaccurate when it infers that Vice President Nixon ruled in this matter.

I think, Mr. President, that it is passing strange that the editorial should speak of the Humphrey ruling in 1969 as a precedent, because after Vice President HUMPHREY, in January 1969, ruled that cloture could be invoked by a majority of the Senators, but less than a two-thirds majority, an appeal was taken from the ruling and the Senate overruled that ruling and established the ruling of the Senate in that regard. That is not mentioned in the editorial, so I say that it is incomplete. The precedent is not the ruling of the then Vice President, Mr. HUMPHREY. The precedent is the ruling by the Senate in overruling this ruling of the Vice President. So these two instances that the editorial calls attention to are inaccurate and incomplete.

I note also, Mr. President, that the editorial omits the action that was taken in the Senate in January 1971, when the very same question was presented to the then Presiding Officer, the President pro tempore of the Senate, Mr. Ellender of Louisiana, and even though a majority of the Senators had voted to invoke cloture, fewer than two-thirds had so voted. The President pro tempore of the Senate then presiding over the Senate ruled that, two-thirds of the Senate not having voted to invoke cloture, the motion to invoke cloture had failed.

Mr. JAVITS took an appeal from that ruling and, Mr. President, the Senate sustained that ruling.

So the two precedents that have taken place in the Senate are not the precedents called attention to in the editorial. Vice President Nixon did not rule. Even though Vice President HUMPHREY did rule, the Senate overruled him. Then, on the ruling by President Pro Tempore Ellender in 1971, a ruling that it took a two-thirds vote to invoke cloture at the beginning of the session, and on appeal by Senator JAVITS of New York, the Senate by a large majority voted to sustain the Chair's ruling.

What was the question that was presented at that time? The present majority leader of the Senate, the distinguished Senator from Montana (Mr. MANSFIELD), made the motion to table the Javits appeal. What did he say?

I am quoting from the CONGRESSIONAL RECORD, page 5486, of March 9, 1971—

> Mr. MANSFIELD. Mr. President, I appreciate the explanation made by the distinguished Senator from New York. He has laid the issue out in such a way that there can be no misunderstanding.
>
> I have said time and time and time again that I am against a mere majority vote to bring about a change in the rules, because I think to do so would alter the position of the Senate in our scheme of Government.
>
> If the appeal of the Senator from New York were upheld—

That is, if it just takes a majority to cut off debate at the start of a session—

> then it would be only a matter of time before a majority would be able to cut off debate on any issue. That is the real issue at this time. The heart of this institution is at stake.
>
> Mr. President, I move to table the appeal of the Senator from New York.

On that, the votes were yeas 55 and the nays 37.

That is a precedent I should like to call to the attention of the Vice President. The Senate overruling the ruling of the then Vice President, Mr. HUMPHREY, is the other precedent that I should like to call to his attention.

Also, Mr. President, quoting from Senate Procedure, the recent monumental and great work by Dr. Riddick, the Parliamentarian Emeritus of the Senate, "A two-thirds vote"—this is on page 222—"A two-thirds vote is required to invoke cloture and this is true even at the beginning of a new Congress"—the situation we have now—"when the Senate is trying to amend its rules."

Here again, reading further on the same page:

In response to parliamentary inquiries on September 18, 1961, the Chair held that he could not rule, if a vote on a cloture motion were less than two-thirds but more than a majority, that the motion had been adopted.

Well, Mr. President, the precedents cited by the Washington Post are not precedents—just the opposite are the precedents, because the Humphrey ruling supposedly the precedent, was overruled by the Senate.

The so-called Nixon action was not a ruling and even in the opinion that he gave, he said that the matter would be up to the Senate to decide a constitutional question. That, of course, would be subject to debate here in the Senate and that would require two-thirds vote to cut off.

Mr. President, I regret the fact that the Vice President is not in the chair, because I should hate for him to take the facts set up in this editorial as being accurate, because they are not accurate. I hope that on tomorrow, we will see this editorial revised. Let them make whatever statements they wish as to the desirability of change, but let them confine their remarks to accurate remarks as to what has taken place, here on the floor of the Senate.

This matter will be before the Senate in a few days. The Vice President will be required to rule, I merely wish to assert for the record. I assume the Vice President will look for precedents other than those cited by the Washington Post.

The Senator from Alabama is not going to have any private conversation with the Vice President as to how he thinks he should rule but, from time to time on the Senate floor as this debate gets underway, the Senator from Alabama will make clear what he thinks the rules of the Senate provide, what he thinks the precedents are.

I might state this, Mr. President: Despite what the Washington Post says, there has never been a ruling by a Presiding Officer of the U.S. Senate that debate on a motion to change the rules of the Senate, even at the beginning of a session of the Senate, can be terminated by a vote of less than two-thirds of the Senators present and voting, with the sole exception of the ruling by the then Vice President, Mr. HUMPHREY, who was promptly, within minutes, overruled by the U.S. Senate.

So much for precedents, Mr. President. We will be discussing this matter further at a later date.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I had earlier vacated my 15-minute order. I ask unanimous consent that it may be restored to my control.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield as much time from that order as he may need to the distinguished Senator from Minnesota (Mr. HUMPHREY).

S. 166—EMERGENCY TAX RELIEF ACT OF 1975

Mr. HUMPHREY. Mr. President, I rise to introduce a very important piece of legislation, which I call the Emergency Tax Relief Act of 1975.

The United States is in the midst of its worst recession since the Great Depression of the 1930's. Real output in 1974 dropped 2 percent below the 1973 level—the largest 1-year decline in real output since the late 1940's.

The inevitable consequence of such a reduction in economic activity is rapidly increasing unemployment. In fact, unemployment is presently growing at a rate virtually unprecedented since the 1930's. In the last 2 months alone, more than 1 million persons have become unemployed. Most of this dramatic increase has been due to layoffs. The number of unemployed who have lost their jobs is now 3.2 million or almost exactly half of the 6.5 million currently unemployed.

The national unemployment rate in December was a devastating 7.1 percent of the labor force. For certain groups of Americans—women, minorities, young people, Vietnam veterans, and others—unemployment has been much higher.

Unemployment among black Americans, for example, rose 50 percent in the last 12 months to 12.8 percent, and among black teenagers the unemployment rate is a socially disastrous 37.8 percent. The unemployment rate for women is 8.6 percent, and among Vietnam veterans it has reached 15.3 percent.

However, the experts all agree that the unemployment rate is far from its peak and that it will continue to rise in the months ahead to more than 8 percent.

At the same time, the real income, the "buying power," of the paychecks of America's workers has declined more than 3 percent in the last year. Continually rising prices for food, fuel, clothing and housing, coupled with production declines and unemployment increases, have produced the most serious reduction in the economic welfare of American families since the end of World War II.

At the same time, many segments of the private sector of the American economy are in serious trouble. High interest rates, soaring fuel prices, and reduced real incomes have resulted in what one can only describe as a major "depression" in the housing and automobile industries.

New car sales for 1974 were down 23 percent in 1974 and auto makers inventories are at unprecedented high levels. As a result, tens of thousands of auto workers are out of work.

The housing and construction industry is in a shambles, with the unemployment rate among its workers averaging 15 percent nationally and over 30 percent in many parts of the country. New housing starts plunged 60 percent from 1973 to November 1974 and building permits, the key indicator of things to come, are running at a rate that is 70 percent below the 1973 level.

Besides these very disturbing aggregate economic facts, there is also a growing crisis of consumer confidence which I am deeply concerned about. The confidence of consumers on the economic outlook is the lowest it has been for 25 years. This attitude is completely understandable as people have watched their increases in money income, averaging about 9 percent in 1974, being overwhelmed by a 12-percent inflation rate. In addition, they have experienced increased tax burdens, the first time this has occurred in a postwar recession. This intense consumer pessimism makes it hard to solve the problems of either inflation or recession.

To indicate what would happen if we just follow a "slow-but-steady" prescription, similar to that followed recently by the administration, the Joint Economic Committee has estimated that it would take 11 years to close the gap between actual and potential income, at a cost in terms of output loss equal to $1,800 billion. This is truly a staggering amount which cannot be tolerated, especially since this would also mean that we do not get down to a 4-percent unemployment rate until 1986.

I wish to stress the point that the current recession is not really dampening, but rather fueling, inflation. By reducing productivity and raising unit labor and material costs, the recession is directly contributing to much of the cost-push inflation we have today.

What all of this adds up to is the most serious recession since the 1930's. Moreover, the likelihood of an even deeper recession, with even more suffering, becomes greater with each day that passes without forceful action.

We must get America back to work.

To accomplish this objective, to reverse the recessionary momentum in our economy, and to provide some relief to those who are suffering in the present economic nightmare, I am today introducing legislation to immediately cut taxes by $21 billion.

At the same time, I am introducing a separate bill—The Tax Reform Act of 1975. This legislation would close some of the most glaring corporate loopholes, primarily those available to the oil giants, and also raise the tax on wealthy individuals who escape taxes completely under our current laws. This proposal would provide $5.6 billion in new tax revenue in 1975. Thus, the net stimulative impact of the tax legislation I am introducing today is approximately $16 billion.

This, by the way, is the figure that was in the President's proposal, except under the proposal that I am here today offering, the great share of the benefits would go to families and individuals with incomes of $20,000 a year or less; in fact, over 80 percent of the tax benefits would go to those individuals. In the President's program, 43 percent of the benefits go to persons with incomes of $20,000 or more.

I realize that this tax cut would increase the deficit, but not by the full $16 billion in net stimulus because the cut would increase economic growth and raise tax revenues in 1975, 1976, and 1977. The estimate made by the JEC staff is that the tax cut would increase the deficit by $5 to $7 billion and would probably increase the 1975 growth rate by 1.5 to 2 percent. Without such a cut, the drag on the economy from rapidly rising tax collections would continue, causing further decreases in real output which in itself contributes to a larger deficit.

The tax cut must be at least as large as this $21 billion package to have an impact on our $1.4 trillion economy. This level of tax reduction would maintain the personal tax burden at the level that prevailed at the start of the recession in late 1973, rather than allowing it to increase, as happened in 1974.

I believe this tax relief bill has two strong positive features. First, it provides for a tax cut that is both effective and appropriate. Second, this measure can be enacted and put into effect quickly, because it basically would modify existing tax law, rather than establish a totally new revenue code presenting burdensome administrative complexities.

In choosing the form the tax cut would take, I was guided by the principles that it should be simple to implement, large enough to have a stimulative impact on the economy, targeted primarily to low- and moderate-income taxpayers, and not erode the long-run revenue capacity of the tax system.

The combination of provisions which adhere to these principles in my bill are as follows:

First, reduce taxes for low-income taxpayers by $1.5 billion, by increasing the low-income allowance from $1,300 to $1,800. This would help the lowest income level taxpayer.

Second, reduce taxes $1.2 billion for those who do not itemize their deductions, by increasing the standard deduction from the present 15 percent of adjusted gross income, with a maximum deduction of $2,000, to 17 percent and a maximum of $2,500. In addition to aiding low- and middle-income taxpayers, this change would also have the advantage of simplifying tax filing.

Third, reduce taxes $6.3 billion for individuals at all income levels by increasing the present personal exemption from $750 to $900. This change would focus benefits on the middle-income taxpayer who has also been hard hit by inflation and recession.

Fourth, reduce taxes $9.5 billion for workers through a refundable tax credit equal to 1.5 percent of wages up to $14,100 in income. That is the figure on which tax is paid under social security. This change would benefit all workers up to the maximum level of payroll taxes and be financed from general revenues.

Fifth, stimulate the very sluggish business investment sectors, by increasing the investment tax credit from 7 percent to 10 percent, at a cost or at a savings in taxes of $2.5 billion.

If this legislation is enacted by April 1, 1975, there can be an immediate one-time drop in withholding taxes, amounting to more than $5 billion. Therefore, the tax relief provided in this measure can be quickly returned to American families.

Mr. President, the bill provides that withholding schedules will be lowered immediately to reflect the tax law changes. Moreover, to maximize the immediate impact on the economy, all of the tax cut will be made retroactive to January 1, 1975.

The Emergency Tax Relief Act of 1975 can provide both a rapid one-time tax rebate and a longer-term tax reduction over the course of the entire year.

This can mean an immediate and sustained increase in the paychecks of American families, in contrast to the President's recent proposal.

Moreover, the tax relief measure I am proposing would have a strong stimulative impact on the economy at the least risk of pushing up prices.

Taken together, the provisions of the Emergency Tax Relief Act constitute a $21 billion package which provides relief to all taxpayers, with the bulk of individual tax reductions going to those who make $20,000 or less. That amount, I correct the record, is 72 percent of the entire tax benefit.

These cuts, except for the investment tax and workers tax credit feature would be effective for 2 years only, are meant to be permanent, but the bill does have a provision stating that they will expire in 1977 if offsetting tax reform measures are not passed by then.

Mr. President, I ask unanimous consent that a fact sheet showing the detailed impact of this proposal on our citizens by income category be printed at this point in the RECORD.

There being no objection, the fact-sheet was ordered to be printed in the RECORD, as follows:

FACTS ON PROVISIONS OF BILL

(1) Increasing the Low Income Allowance. Under this provision, the low income allowance would be increased from $1300 to $1800. This increase would reduce or eliminate taxes for those individuals and families who are actually below the poverty line whose inflated dollar incomes now subject them to the income tax. The reduction in taxes amounts to $1.5 billion.

(2) Increasing the Rate and Ceiling of the Standard Deduction.

This provision woud reduce taxes for those who do not itemize deductions by increasing the standard deduction from 15 percent of adjusted gross income to 17 percent and from a maximum of $2000 to $2500. The principal beneficiaries of this $1.2 billion tax reduction would be low and middle income taxpayers. This provision will undoubtedly attract more people to use the standard deduction and therefore it simplifies tax filing.

(3) Increase the Personal Exemption.

By increasing the personal exemption from $750 to $900, $6.3 billion of tax relief is provided, principally to middle income taxpayers. It can be justified on the grounds that all taxpayers have moved into higher tax brackets as a result of inflation and thus broad based relief should be provided.

(4) Refundable Tax Credit for Workers.

All workers will receive a refundable tax credit of 1½ percent of their income on wages subject to social security taxes, up to $14,100. This provision is the only one that provides relief to those workers whose incomes are so low that they do not pay any Federal income taxes. It also helps to relieve the regressive burden of the payroll tax. The total cost of this widespread relief is $9.5 billion.

DISTRIBUTION OF TAX RELIEF FOR INDIVIDUALS

The four provisions above constitute a tax relief package for individuals totalling $18.5 billion. This is quite a bit larger than my $10 billion package proposed in late 1974 because it has become clear that economic conditions are rapidly deteriorating and that this extra stimulus is needed and would not be inflationary. The additional relief is provided through reducing the tax credit rate to 1½ percent but having it apply for incomes up to $14,100.

The exact way in which this package provides tax relief to various income groups is shown in the following table.

TABLE I.—DISTRIBUTION OF TAX REDUCTIONS BY ADJUSTED GROSS INCOME CLASS, CALENDAR 1975

[Revenue amounts in billions]

Adjusted gross income classes (in thousands)	Amount of tax		Tax reduction		Percentage reduction in tax
	Present law	Revision	Amount	Percent distribution	
Under $5	$1.7	$0.7	$1.1	5.7	60.9
$5 to $10	12.0	8.1	3.9	20.9	32.1
$10 to $15	21.1	16.8	4.3	23.4	20.5
$15 to $20	23.9	19.9	4.0	21.5	16.7
$20 to $25	20.8	18.4	2.4	12.9	11.5
$25 to $50	34.1	31.8	2.4	12.8	6.9
$50 and over	29.9	29.4	.5	2.8	1.7
Total	143.6	125.1	18.5	100.0	12.9

Source: JEC with calculations based on the Brookings 1970 tax file projected to 1975.

This table indicates that 72 percent of the tax reduction accrues to taxpayers reporting up to $20,000 in adjusted gross income, and that taxes would be reduced by at least 16 percent for everyone who makes less than $20,000 annually. A striking feature of the table is the great amount of relief being extended to those people making less than $5,000 a year, as they receive a 61 percent reduction in taxes. The table also shows that nearly two-thirds of the tax reduction goes to people with incomes of $5,000 to $20,000.

Therefore, this is a well-balanced package that targets the benefits primarily to low and moderate income taxpayers and provides some relief to everyone.

(5) Increasing the Investment Tax Credit. Business capital investment is beginning to lag and productivity has been seriously declining for over a year. To help reverse these trends, some additional tax stimulus for investment should be provided. This provision would raise the investment tax credit from seven percent (four percent for utilities) under current law to 10 percent which includes utilities. This total tax reduction for corporations in 1975 would be $2.5 billion, about 12 percent of the total tax relief package.

Mr. HUMPHREY. I also ask unanimous consent that the full text of the Emergency Tax Relief Act of 1975 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Tax Relief Act of 1975."

INCREASE IN PERCENTAGE STANDARD DEDUCTION

SEC. 2. Section 141(b) of the Internal Revenue Code of 1954 (relating to percentage standard deduction) is amended by striking out the item relating to 1972 and thereafter in the table which appears at the end of such subsection and inserting in lieu thereof the following new items:

"1972	15	2,000
"1975 and thereafter	17	2,500"

INCREASE IN LOW-INCOME ALLOWANCE AND PERSONAL EXEMPTION

SEC. 3. (a) Low-Income Allowance.—Section 141(c) of the Internal Revenue Code of 1954 (relating to the low-income allowance) is amended—

(1) by striking out "$1,300" and inserting in lieu thereof "$1,800"; and

(2) by striking out "$650" and inserting in lieu thereof "$900".

(b) Personal Exemption.—Section 151 of the Internal Revenue Code of 1954 (relating to personal exemptions) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$900".

(c) Conforming Amendments.—

(1) Section 6012(a)(1) of such Code (relating to person required to make returns of income) is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$900", by striking out "$2,050" wherever it appears and inserting in lieu thereof "$2,700", and by striking out "$2,800" wherever it appears and inserting in lieu thereof "$3,600".

(2) Section 6013(b)(3)(A) of such Code (relating to assessment and collection in the case of certain returns of husband and wife is amended by striking out "$750" wherever it appears and inserting in lieu thereof "$900" and by striking out "$1,500" wherever it appears and inserting in lieu thereof "$1,800".

(d) Withholding.—Effective with respect to wages paid on or after the 30th day after the date of enactment of this Act, the table contained in section 3402(b) (relating to percentage method of withholding) is amended to read as follows:

"Percentage Method Withholding Table

"Payroll period	Amount of one withholding exemption
Weekly	$17.30
Bi-weekly	34.60
Semi-monthly	37.50
Monthly	75.00
Quarterly	25.00
Semi-annual	450.00
Annual	900.00
Daily or miscellaneous (per day of such period)	2.40."

TAX CREDIT FOR LOW- AND MIDDLE-INCOME WORKERS

SEC. 4. (a) In General.—

(1) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as 43, and by inserting after section 41 the following new section:

"Sec. 42. Tax credit for low- and middle-income workers.

"(a) In General.—There shall be allowed to a taxpayer who is an eligible individual as a credit against the tax imposed by this chapter for the taxable year an amount equal to 1.5 percent of the amount of wages subject to social security taxes received by the taxpayer during that year. In the case of a taxpayer who is married (as determined under section 143) and who files a joint return of tax with his spouse under section 6013 for the taxable year, the amount of credit allowable by this subsection shall be an amount equal to 1.5 percent of the total amount of wages subject to social security taxes received by the taxpayer and his spouse during that year.

"(b) Limitations.—

"(1) Maximum credit.—The amount of the credit allowable to a taxpayer (or to a taxpayer and his spouse in the case of a joint return of tax under section 6013) for any taxable year under subsection (a) shall not exceed an amount equal to 1.5 percent of so much of the wages (as defined in section 3121(a)) as does not exceed $14,100 received by that individual (or by that individual and his spouse in the case of a joint return of tax) during that year with respect to employment (as defined in section 3121(b) without regard to the exclusion set forth in paragraph (9) of that section).

"(2) APPLICATION WITH SECTION 6428.—The amount allowable to a taxpayer, or to a taxpayer and his spouse, as a credit under subsection (a) for any taxable year (after the application of paragraphs (1) and (2)) shall be reduced by the sum of any amounts received under section 6428 during that year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who maintains a household (within the meaning of section 214(b)(3)) in the United States which is the principal place of abode of that individual.

"(2) SOCIAL SECURITY TAXES.—The term 'social security taxes' means the aggregate amount of taxes imposed by sections 3101 (relating to rate of tax on employees under the Federal Insurance Contributions Act) and 3111 (relating to rate of tax on employers under such Act) with respect to the wages (as defined in section 3121(a)) received by an individual and his spouse with respect to employment (as defined in section 3121(b)), or which would be imposed with respect to such wages by such sections if the definition of the term 'employment' (as defined in section 3121(b)) did not contain the exclusion set forth in paragraph (9) of such section.".

(2) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Tax credit for low income workers.
"Sec. 43. Overpayments of tax.".

(3) Section 6401(b) of the Internal Revenue Code of 1954 (relating to excessive credits) is amended by—

(A) inserting after "lubricating oil)" the following: ", 42 (relating to tax credit for low-income workers),"; and

(B) striking out "sections 31 and 39" and inserting in lieu thereof "sections 31, 39, and 42".

(4) Section 6201(a)(4) of such Code (relating to assessment authority) is amended by—

(A) inserting "or 42" after "section 39" in the caption of such section; and

(B) striking out "oil)," and inserting in lieu thereof "oil) or section 42 (relating to tax credit for low income workers),".

(b) ADVANCE REFUND OF CREDIT.—

(1) Subchapter B of chapter 65 of the Internal Revenue Code of 1954 (relating to rules of special application) is amended by adding at the end thereof the following new section:

"SEC. 6428. ADVANCE REFUND OF SECTION 42 CREDIT

"(a) IN GENERAL.—A taxpayer may receive an advance refund of the credit allowable to him under section 42 (relating to tax credit for low-income workers) not more frequently than quarterly by filing an election for such refund with the Secretary or his delegate at such time and in such form as the Secretary or his delegate may prescribe. If the taxpayer elects to base his claim for refund on social security taxes imposed on him, his spouse, and their employers, the election shall be a joint election signed by the taxpayer and his spouse. An election may not be made under this subsection with respect to the last quarter of the calendar year, and any other election shall specify the quarter or quarters to which it relates and shall be made not later than the fifteenth day of the eleventh month of the taxable year to which it relates. The Secretary or his delegate shall pay any advance refund for which a proper election is made without regard to any liability, or potential liability, for tax under chapter 1 which has accrued, or may be expected to accrue, to the taxpayer for the taxable year to which the election relates.

"(b) LIMITATIONS.—

"(1) AMOUNT OF REFUND.—The amount of any refund for which a taxpayer files an election under subsection (a) shall be an amount equal to the amount of the credit allowable under section 42 with respect to social security taxes payable with respect to that taxpayer (or, in the case of a joint election, social security taxes payable with respect to that taxpayer and his spouse) for the quarter or quarters to which the election relates.

"(2) INELIGIBLE FOR CREDIT.—No advance refund may be made under this section for any quarter to a taxpayer who, on the basis of the income the taxpayer and his spouse reasonably may expect to receive during the taxable year, will not be entitled to claim any amount as a credit under section 42 for that year.

"(3) MINIMUM PAYMENT.—No payment may be made under this section in an amount less than $30.

"(c) COLLECTION OF EXCESS PAYMENTS.—In addition to any other method of collection available to him, if the Secretary or his delegate determines that any part of any amount paid to a taxpayer for any quarter under this section was in excess of the amount to which that taxpayer was entitled for that quarter, the Secretary or his delegate shall notify that taxpayer of the excess payment and may withhold, from any amounts which that taxpayer elects to receive under this section in any subsequent quarter, amounts totaling not more than the amount of that excess.".

(2) The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"Sec. 6428. Advance refund of section 42 credit.".

(c) RETURNS OF TAXPAYERS RECEIVING ADVANCE REFUND OF SECTION 42 CREDIT.—Section 6011(d) (relating to interest equalization returns, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) RETURNS OF TAXPAYERS RECEIVING ADVANCE REFUND OF SECTION 42 CREDIT.—Every taxpayer who elects to receive an advance refund of the credit allowed by section 42 (relating to tax credit for low-income workers) during the taxable year shall file a return for that year, together with such additional information as the Secretary or his delegate may require.".

(d) DEVELOPMENT OF APPLICATION FORMS; COOPERATION OF OTHER GOVERNMENT AGENCIES.—

(1) The Secretary of the Treasury shall develop simple and expedient application forms and procedures for use by taxpayers who wish to receive an advance refund under section 6428 of the Internal Revenue Code of 1954 (relating to advance refund of section 42 credit), arrange for distributing such forms and making them easily available to taxpayers, and prescribe such regulations as may be necessary to carry out the provisions of sections 42 and 6428 of such Code. Each such application form shall contain a warning that the making of a false or fraudulent statement thereon is a Federal crime.

(2) The Secretary of the Treasury is authorized to obtain from any agency or department of the United States Government or of any State or political subdivision thereof such information with respect to any taxpayer applying for or receiving benefits under section 6428 of the Internal Revenue Code of 1954 (relating to advance refund of section 42 credit), or his spouse, as may be necessary for the proper administration of section 42 of the Internal Revenue Code of 1954 (relating to tax credit for low-income workers with families) and of section 6428 of such Code (relating to advance refund of section 42 credit). Notwithstanding any

other provision of law, each agency and department of the United States Government is authorized and directed to furnish to the Secretary such information upon request.

(e) AMENDMENT OF SOCIAL SECURITY ACT.—Section 402(a)(7) of the Social Security Act is amended by inserting after "other income" the following: "(including any amounts derived from application of the tax credit established by section 42 of the Internal Revenue Code of 1954)".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1974 and before January 1, 1977, but no advance refund payment under section 6428 of the Internal Revenue Code of 1954 shall be made before July 1, 1975.

INCREASED INVESTMENT CREDIT

SEC. 5. (a) IN GENERAL.—Section 46 of the Internal Revenue Code of 1954 (relating to amount of credit) is amended by—

(1) striking out "7 percent" in subsection (a)(1) and inserting in lieu thereof "10 percent"; and

(2) by striking out "4/7" in subsection (c)(3) and inserting in lieu thereof "7/10".

(b) EFFECTIVE DATE.—The amendments made by this section apply with respect to section 38 property which is constructed, reconstructed, erected, or purchased after December 31, 1974 and before January 1, 1977.

EFFECTIVE DATE

SEC. 6. Except as otherwise specifically provided, the amendments made by this Act apply to taxable years beginning after December 31, 1974.

S. 167—TAX REFORM ACT OF 1975

Mr. HUMPHREY. Mr. President, I also present the proposal that I mentioned, the Tax Reform Act of 1975, as an entirely separate item, and I want to make it clear I think the first thing to be done is the emergency tax relief. Therefore, I present two bills to be considered separately: The Tax Reform Act is vital but it is a matter that does not need to be acted upon before April 1 but it needs to be acted upon, and I wish to say to my fellow Senators, and particularly to those on this side of the aisle, that the President's stress upon the urgency of prompt action I fully support. I would hope that this Senate would look upon its duties here in the same light that Franklin Roosevelt and the Congress in 1933 looked upon their responsibilities. The first 100 days of the 94th Congress will be critically important, and it is in these 100 days that we need to act upon these proposals that have been presented to us both by the President and by Members of the Congress. Thank goodness the President at least has permitted us to have now a legitimate and, I hope, a thoughtful dialogue, on what to do on taxation, and also what to do on energy policy.

Mr. President, one of the things sorely needed to restore confidence in government is reform of inequitable, special-interest tax loopholes. These reforms also are needed to help pay for all the things that need to be done in America where government must play a role. Therefore I am today introducing the Tax Reform Act of 1975.

This bill accompanies a separate bill—the Emergency Tax Relief Act of 1975, to provide a sizable reduction in taxes on low- and middle-income Americans—and will partially recoup the revenues lost through that reduction.

This bill closes several large existing loopholes that benefit only major corporations and wealthy individuals, including the notorious loopholes for oil income. It increases taxes on oil retroactively to the beginning of 1974, when the giant jump in oil prices and profits took place. Its total revenue gain in 1975 would be an estimated $5.6 billion.

First, my bill would repeal the tax-favored status of so-called domestic international sales corporations—DISC's—which permits exporters to shelter their profits from taxation. Through this senseless loophole march all of America's largest corporations. These firms were expanding their foreign sales by leaps and bounds before this provision was established in 1971. The devaluation of the dollar since that time makes it easier and more profitable to do so than before. However, by setting up a DISC sudsidiary, which is only an accounting fiction, they can avoid over a billion dollars per year in income taxation on these profits. There is no convincing evidence that DISC has stimulated U.S. exports significantly. By repealing this giveaway as of January 1, 1975, my bill would recoup some $1.25 billion for the Treasury in this year.

A second provision of this tax reform bill would remove major tax preferences for foreign oil and gas effective January 1, 1974. We should no longer permit favored treatment for oil production in foreign countries when it is a prime national objective to foster rapid supply development at home. Moreover, there is no reason to subsidize the treasuries of foreign governments that rip off Americans with exorbitant oil prices. Therefore this bill would abolish the percentage depletion option for foreign oil and gas and limit the use of the foreign tax credit. Credits allowable against U.S. taxes for payments to foreign governments would be limited to no more than 10 percent above the would-be U.S. taxes on that income. This avoids double taxation of oil income but limits rigorously the amount that can be credited against income from activities other than oil extraction. These two measures would increase 1975 revenues to the U.S. Treasury by an estimated $680 million.

In addition to repealing percentage depletion for foreign oil and gas, I think it is now time to phase it out for domestic production as well.

Since the increase in oil prices of December 1973, the profits of the oil industry have been inordinate and far greater than necessary to induce the most rapid output expansion permitted by the physical resource constraints. In view of the harsh economic squeeze of inflation and recession on most American families, it is an insult to my sense of equity that excessive oil profits should continue to slip through unjustifiable tax loopholes. As one of the first steps in the new energy legislation required this year, Congress should clean up the existing abuses in the tax code applying to oil extraction. My bill would phase out percentage depletion this year for most oil income and in 1979 for the remaining small amount—mainly for oil from small producers and marginal wells. It would generate about $3 billion in new taxes this year on 1974 and 1975 oil income.

Finally, this bill would strengthen the minimum tax by eliminating two important deductions that now prevent the minimum tax from being truly effective in insuring that all wealthy individuals pay some reasonable amount of tax regardless of the existence of other loopholes and shelters which they can use. The bill would reduce the current income exclusion from $30,000 to $10,000 and would eliminate the current deduction for taxes paid, effective January 1, 1975. These changes would generate about $700 million in new revenues in 1975, assuming that percentage depletion for domestic oil also is repealed.

The Tax Reform Act of 1975 draws on several ideas I have advanced over the years, as well as on ideas of some of my colleagues and some of the careful work done by the House Ways and Means Committee with respect to reforming oil taxation. Combined with my accompanying tax reduction bill, its passage would constitute a significant step toward fighting the current recession while restoring a greater degree of fairness to our tax system.

Mr. President, I ask unanimous consent that the text of the Tax Reform Act of 1975 be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SHORT TITLE

SECTION 1. This Act may be cited as the "Tax Reform Act of 1975"

TERMINATION OF SPECIAL TAX TREATMENT FOR DOMESTIC INTERNATIONAL SALES CORPORATIONS

SEC. 2. (a) TERMINATION OF EXEMPTION PROVISIONS.—Section 991 of the Internal Revenue Code of 1954 (relating to tax exemption of a DISC) is amended by adding at the end thereof the following: "This section shall not apply to any taxable year beginning after December 31, 1974.".

(b) TERMINATION OF DISCs.—Section 992 (a) of the Internal Revenue Code of 1954 (relating to definition of a DISC) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—Notwithstanding any any other provision of this part, no corporation shall be treated as a DISC or former DISC for any taxable year beginning after December 31, 1974.".

(c) DISTRIBUTION BY DISCs TERMINATED.—Section 995(b) of the Internal Revenue Code of 1954 (relating to deemed distributions of DISC income) is amended by adding at the end thereof the following new paragraph:

"(3) DISTRIBUTIONS UPON TERMINATION.—

"(A) In the case of a corporation which was a DISC, or former DISC, for a taxable year ending after December 31, 1973, and before January 1, 1975, and to which the provisions of paragraph (2) do not apply for the succeeding taxable year, a shareholder of the corporation shall be deemed to have received (at the time specified in subparagraph (B)) a distribution taxable as a dividend equal to his pro rata share of the DISC income of such corporation accumulated during the immediately preceding consecutive taxable years for which the corporation was a DISC.

"(B) Distributions described in subparagraph (A) shall be deemed to be received in equal installments on the last day of each of the 10 taxable years of the corporation following the taxable year ending before January 1, 1975.".

REPEAL OF PERCENTAGE DEPLETION IN CASE OF FOREIGN OIL AND GAS WELLS

SEC. 3. (a) AMENDMENT TO SECTION 613.—Section 613(d) of the Internal Revenue Code of 1954 (relating to percentage depletion) is amended to read as follows:

"(d) DENIAL OF PERCENTAGE DEPLETION IN CASE OF FOREIGN OIL OR GAS WELL.—

"(1) IN GENERAL.—In the case of any foreign oil or gas well, the allowance for depletion under section 611 shall be computed without reference to this section.

"(2) FOREIGN OIL OR GAS WELL.—For purposes of this subsection, the term 'foreign oil or gas well' means any oil or gas well which is not located in the United States or in a possession of the United States.".

(b) TREATMENT OF INTANGIBLE DRILLING AND DEVELOPMENT EXPENSES IN THE CASE OF FOREIGN OIL AND GAS WELLS.—Section 263(c) of such Code (relating to intangible drilling and development costs in the case of oil and gas wells), as amended by section 102(c) of this Act, is further amended by adding at the end thereof the following new paragraph:

"(3) FOREIGN OIL AND GAS WELLS.—

"(A) IN GENERAL.—The regulations prescribed under this subsection shall be applied separately—

"(i) with respect to domestic oil and gas wells, and

"(ii) with respect to foreign oil and gas wells.

"(B) REVOCATION, WITH RESPECT TO FOREIGN OIL AND GAS WELLS, OF ELECTION TO EXPENSE.—In the case of any taxpayer with respect to whom there is in effect for his last taxable year ending before January 1, 1974, an option to deduct as expenses intangible drilling and development costs in the case of oil and gas wells—

"(i) such option shall continue to apply to domestic oil and gas wells, but

"(ii) the taxpayer may revoke such option with respect to foreign oil and gas wells, effective for his first or second taxable year ending after December 31, 1973, and for all taxable years thereafter.

Any revocation referred to in clause (ii) of the preceding sentence shall be made before the expiration of the time for filing claim for credit or refund of any overpayment of tax imposed by this chapter with respect to such first taxable year or such second taxable year, as the case may be. Any such revocation may be revoked at any time before the expiration of the time referred to in the preceding sentence, but after the expiration of such time may not be revoked.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) The term 'domestic oil and gas wells' means oil and gas wells located in the United States or a possession of the United States.

"(ii) The term 'foreign oil and gas wells' means oil and gas wells other than domestic oil and gas wells."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1973.

LIMITATION ON FOREIGN TAXES ATTRIBUTABLE TO FOREIGN OIL AND GAS EXTRACTION INCOME; SEPARATE COMPUTATION OF FOREIGN TAX CREDIT FOR OIL AND GAS RELATED INCOME

SEC. 4. (a) IN GENERAL.—Subpart A of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to foreign tax credit) is amended by adding at the end thereof the following new section:

"SEC. 907. SPECIAL RULES IN CASE OF FOREIGN OIL AND GAS INCOME.

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) during the taxable year with respect to foreign oil and gas extraction income which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year, multiplied by

"(2) the percentage which is 110 percent of the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11.

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income.

With respect to foreign oil related income, the overall limitation provided by section 904(a)(2) shall apply and the per-country limitation provided by section 904(a)(1) shall not apply.

"(c) FOREIGN INCOME DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FOREIGN OIL AND GAS EXTRACTION INCOME.—The term 'foreign oil and gas extraction income' means the taxable income derived from sources without the United States and its possessions from—

"(A) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells, or

"(B) the sale or exchange of assets used in the trade or business described in subparagraph (A).

"(2) FOREIGN OIL RELATED INCOME.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(A) the extraction (by the taxpayer or any other person) of minerals from oil or gas wells,

"(B) the processing of such minerals into their primary products,

"(C) the transportation of such minerals or primary products,

"(D) the distribution or sale of such minerals of primary products, or

"(E) the sale or exchange of assets used in the trade or business described in subparagraph (A), (B), (C), or (D).

"(3) DIVIDENDS, PARTNERSHIP DISTRIBUTIONS, ETC.—The term 'foreign oil and gas extraction income' and the term 'foreign oil related income' include—

"(A) dividends from a foreign corporation in respect of which taxes are deemed paid by the taxpayer under section 902,

"(B) amounts with respect to which taxes are deemed paid under section 960(a), and

"(C) the taxpayer's distributive share of the income of partnerships,

to the extent such dividends, amounts, or distributive share is attributable to foreign oil and gas extraction income, or to foreign oil related income, as the case may be.

"(4) CERTAIN LOSSES.—If for any foreign country for any taxable year the taxpayer would have a net operating loss if only items from sources within such country (including deductions properly apportioned or allocated thereto) which relate to the extraction of minerals from oil or gas wells were taken into account, such items—

"(A) shall not be taken into account in computing foreign oil and gas extraction income for such year, but

"(B) shall be taken into account in computing foreign oil related income for such year.

"(d) DISREGARD OF CERTAIN POSTED PRICES, ETC.—For purposes of this chapter, in determining the amount of taxable income in the case of foreign oil and gas extraction income, if the oil or gas is disposed of, or is acquired other than from the government of a foreign country, at a posted price (or other pricing arrangement) which differs from the fair market value for such oil or gas, such fair market value shall be used in lieu of such posted price (or other pricing arrangement).

"(e) TRANSITIONAL RULES.—

"(1) TAXABLE YEARS ENDING AFTER DECEMBER 31, 1973.—In applying subsections (d) and (e) of section 904 for purposes of determining the amount which may be carried over from a taxable year ending before January 1, 1974, to any taxable year ending after December 31, 1973—

"(A) subsection (a) of this section shall be deemed to have been in effect for such prior taxable year and for all taxable years thereafter, and

"(B) the carryover from such prior year shall be divided (effective as of the first day of the first taxable year ending after December 31, 1973) into—

"(i) a foreign oil related carryover, and

"(ii) another carryover,

on the basis of the proportionate share of the foreign oil related income, or the other taxable income, as the case may be, of the total taxable income taken into account in computing the amount of such carryover.

"(2) TAXABLE YEARS ENDING AFTER DECEMBER 31, 1974.—In applying subsections (d) and (e) of section 904 for purposes of determining the amount which may be carried over from a taxable year ending before January 1, 1975, to any taxable year ending after December 31, 1974, if the per-country limitation provided by section 904(a)(1) applied to such prior taxable year and to the taxpayer's last taxable year ending before January 1, 1975, then in the case of any foreign oil related carryover—

"(A) the first sentence of section 904(e)(2) shall not apply, but

"(B) such amount may not exceed the amount which could have been used in such succeeding taxable year if the per-country limitation continued to apply.

"(f) RECAPTURE OF FOREIGN OIL RELATED LOSS.—

"(1) GENERAL RULE.—For purposes of this subpart, in the case of any taxpayer who sustains a foreign oil related loss for any taxable year—

"(A) that portion of the foreign oil related income for each succeeding taxable year which is equal to the lesser of—

"(i) the amount of such loss (to the extent not used under this paragraph in prior years), or

"(ii) 50 percent of the foreign oil related income for such succeeding taxable year,

shall be treated as income from sources within the United States (and not as income from sources without the United States), and

"(B) the amount of the income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) to a foreign country for such succeeding taxable year with respect to foreign oil related income shall be reduced by an amount which bears the same proportion to the total amount of such foreign taxes as the amount treated as income from sources within the United States under subparagraph (A) bears to the total foreign oil related income for such succeeding taxable year.

For purposes of this chapter, the amount of any foreign taxes for which credit is denied under subparagraph (B) of the preceding sentence shall not be allowed as a deduction for any taxable year. For purposes of this subsection, foreign oil related income shall be determined without regard to this subsection.

"(2) FOREIGN OIL RELATED LOSS DEFINED.—For purposes of this subsection, the term "foreign oil related loss" means the amount by which the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil related income for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

"(A) any net operating loss deduction allowable for such year under section 172(a) or any capital loss carrybacks and carryovers to such year under section 1212, and

"(B) any—

"(i) foreign expropriation loss for such year as defined in section 172(k)(1), or

"(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

"(3) Dispositions.—

"(A) In general.—For purposes of this chapter, if property used in a trade or business described in subparagraph (A), (B), (C), or (D) of subsection (c)(2) is disposed of during any taxable year—

"(i) the taxpayer notwithstanding any other provision of this chapter (other than paragraph (1)) shall be deemed to have received and recognized foreign oil related income in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the foreign oil related losses which were not used under paragraph (1) for such taxable year or any prior taxable year, and

"(ii) paragraph (1) shall be applied with respect to such income by substituting '100 percent' for '50 percent'.

"(B) Disposition defined.—For purposes of this subsection, the term 'disposition' includes a sale, exchange, distribution, or gift of property, whether or not gain or loss is recognized on the transfer.

"(C) Exceptions.—Notwithstanding subparagraph (B), the term 'disposition' does not include—

"(i) a disposition of property which is not a material factor in the realization of income by the taxpayer, or

"(ii) a disposition of property to a domestic corporation in a distribution or transfer described in section 381(a).

"(g) Western Hemisphere Trade Corporations Which Are Members of an Affiliated Group.—If a Western Hemisphere trade corporation is a member of an affiliated group for the taxable year, then in applying section 901, the amount of any income, war profits, and excess profits taxes paid or accrued (or deemed to have been paid) during the taxable year with respect to foreign oil and gas extraction income which would (but for this section and section 1503(b)) be taken into account for purposes of section 901 shall be reduced by the greater of—

"(1) the reduction with respect to such taxes provided by subsection (a) of this section, or

"(2) the reduction determined under section 1503(b) by applying section 1503(b) separately with respect to such taxes,

but not by both such reductions."

(b) Carrybacks From 1977, 1978, or 1979 of Foreign Taxes Attributable to Foreign Oil Related Income.—If the taxpayer has a carryback of foreign taxes attributable to foreign oil related income (within the meaning of section 907(c)(2) of the Internal Revenue Code of 1954) paid or accrued for a taxable year ending in 1977, 1978, or 1979, then in applying section 904(d) of the Internal Revenue Code of 1954 such carryback (in lieu of being a 2-year carryback) shall be—

(1) if the carryback arises in a taxable year ending in 1977, a 3-year carryback, or

(2) if the carryback arises in a taxable year ending in 1978 or 1979, a 4-year carryback.

(c) Technical Amendments.—

(1) Section 901(e)(2) of the Internal Revenue Code of 1954 (relating to foreign taxes on mineral income) is amended by striking out "extraction of minerals" and inserting in lieu thereof "extraction of minerals (other than minerals extracted from oil or gas wells)".

(2) Section 963(d) of such Code (relating to effective foreign tax rate for purposes of subpart F) is amended by adding at the end thereof the following new sentence:

"For purposes of this subsection, the income, war profits, or excess profits taxes paid or accrued to any foreign country by any controlled foreign corporation or corporations shall be reduced as provided in subsections (a) and (f) of section 907."

(3) The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 907. Special rules in case of foreign oil and gas income."

(d) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1973; except that—

(1) the second sentence of section 907(b) shall apply to taxable years ending after December 31, 1974, and

(2) the provisions of section 907(f) shall apply to losses sustained in taxable years ending after December 31, 1974.

PHASEOUT OF PERCENTAGE DEPLETION FOR DOMESTIC OIL AND GAS PRODUCTION

Sec. 5. Adjustment of Rates.—

(1) Amendment of Rates.—

(1) Amendment of Subchapter I.—Part I of subchapter I of chapter 1 of the Internal Revenue Code of 1954 (relating to natural resources) is amended by inserting after section 613 the following new section:

"Sec. 613A. Phaseout of Percentage Depletion for Domestic Oil and Gas Production

"(a) Reduction in 22 Percent Rate.—Except as otherwise provided in this section, in the case of domestic oil and gas wells the percentage referred to in section 613(a) shall be (in lieu of the 22 percent specified in section 613(b)(1)) the percentage determined in accordance with the following table:

"In the case of gross income from the property for the following calendar years:	The percentage shall be:
1974	8
1975 and thereafter	0

"(b) 3,000 Barrel-a-Day Exemption.—

"(1) In general.—If the taxpayer elects the application of this subsection for the taxable year, then with respect to so much of his average daily production of domestic crude oil as does not exceed 3,000 barrels, the percentage referred to in section 613(a) shall be 15 percent in the case of gross income from the property before January 1, 1979.

"(2) Average daily production.—Four purposes of paragraph (1) the taxpayer's average daily production of domestic crude oil shall be determined by dividing his aggregate production of domestic crude oil during the taxable year by the number of days in such taxable year.

"(3) Barrels within exemption to be determined on a proportionate basis.—If the taxpayer's average daily production of domestic crude oil exceeds 3,000 barrels, the barrels to which paragraph (1) applies shall be determined by taking from the production of each property a number of barrels which bears the same proportion to the total production of the taxpayer for such year from such property as 3,000 barrels bears to the aggregate number of barrels representing the average daily production of domestic crude oil of the taxpayer for such year.

"(4) Businesses under common control; members of the same family.—

"(A) Component members of controlled group treated as one taxpayer.—For purposes of this subsection, person who are members of the same controlled group of corporations shall be treated as one taxpayer.

"(B) Aggregation of business entities under common control.—If 50 percent or more of the beneficial interest in two or more corporations, partnerships, trusts, estates, or other entities is owned by the same or related persons (taking into account only persons who own at least 5 percent of such beneficial interest), the 3,000 barrel per day exemption provided by this subsection shall be allocated among all such entities in proportion to the respective production of domestic crude oil during the period in question by such entities.

"(C) Allocation among members of the same family.—In the case of individuals who are members of the same family, the 3,000 barrel per day exemption provided by this subsection shall be allocated among such individuals in proportion to the respective production of domestic crude oil during the period in question by such individuals.

"(D) Definition and special rules.—For purposes of this paragraph—

"(i) the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that section 1563(b)(2) shall not apply and except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a),

"(ii) a person is a related person to another person if such persons are members of the same controlled group of corporations or if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), except that for this purpose the family of an individual includes only his spouse and minor children, and

"(iii) the family of an individual includes only his spouse and minor children.

"(c) Stripper Well Exemption.—In the case of any well located in the United States or in a possession of the United States which is a stripper well (as defined in subsection (h)(4)) for any calendar month ending before January 1, 1979, if the taxpayer elects the application of this subsection for the taxable year, then with respect to the gross income for such month from crude oil produced from such well the percentage referred to in section 613(a) shall be 15 percent.

"(d) Election.—The taxpayer may elect for any taxable year to have subsection (b) or subsection (c) (but not both) apply. Any such election may be made on the taxpayer's return for the taxable year. Any such election may be made or changed at any time thereafter before the expiration of the time for filing a claim for credit or refund of an overpayment of the tax imposed by this chapter for such taxable year.

"(e) Exemption for Regulated Natural Gas and Natural Gas Sold Under Fixed Contract.—

"(1) In general.—

"(A) Regulated natural gas.—Except as provided in paragraph (2), in the case of regulated natural gas, the percentage referred to in section 613(a) shall be 22 percent and the provisions of this section (other than this subsection) shall not apply.

"(B) Natural gas sold under fixed contract.—In the case of natural gas sold under a fixed contract, the percentage referred to in section 613(a) shall be 22 percent and the provisions of this section (other than this subsection) shall not apply.

"(2) Termination of regulated natural gas exemption.—In the case of regulated natural gas, if the summary of prices published pursuant to paragraph (3) for any calendar year shows—

"(A) an average price of 1,000 cubic feet of regulated natural gas which equals or exceeds

"(B) one-sixth of the average price per barrel of domestic crude oil not subject to Federal price control,

then the allowance for depletion shall be computed for all periods after December 31 of such calendar year without reference to paragraph (1)(A).

"(3) COMPILATION OF DATA WITH RESPECT TO PRICES OF REGULATED NATURAL GAS AND DOMESTIC CRUDE OIL.—For each calendar year beginning after December 31, 1974, the Secretary or his delegate shall compile data establishing—

"(A) the average sales price per 1,000 cubic feet of regulated natural gas sold during such year, and

"(B) the average sales price per barrel of domestic crude oil not subject to Federal price control which is sold during such year. Within 90 days after the close of any such calendar year, the Secretary or his delegate shall publish a summary of such data in the Federal Register. Any such summary so published shall be final and conclusive.

"(4) AUTHORIZATION TO COMPILE DATA.—

"(A) DATA FROM EXECUTIVE AGENCIES.—In compiling the data required under paragraph (3), the Secretary or his delegate is authorized to receive directly from any other executive department or agency of the United States information and statistics necessary for the compilation of such data. Such other executive department or agency shall furnish any such requested information and statistics directly to the Secretary or his delegate.

"(B) PURCHASERS AND SELLERS TO FURNISH INFORMATION.—If no other executive department or agency of the United States is able to furnish the Secretary or his delegate the information and statistics from which the data required under paragraph (3) can be compiled, the Secretary or his delegate may by regulation require purchasers and sellers of domestic crude oil and regulated natural gas to make such reports of sales, volumes, prices, and related information as may be necessary to compile the data required under paragraph (3).

(f) GEOTHERMAL ENERGY.—In the case of any geothermal deposit which is determined to be referred to in section 613(b)(1)(A), the percentage referred to in section 613(a) shall be 22 percent and the provisions of this section (other than this subsection) shall not apply.

"(g) DEFINITIONS.—For purposes of this section—

"(1) CRUDE OIL.—The term 'crude oil' includes a natural gas liquid recovered from a gas well in lease separators or field facilities.

"(2) NATURAL GAS.—The term 'natural gas' means any product (other than crude oil) of an oil or gas well if a deduction for depletion is allowable under section 611 with respect to such product.

"(3) DOMESTIC.—The term 'domestic' refers to production from an oil or gas well located in the United States or in a possession of the United States.

"(4) STRIPPER WELL.—A well shall be treated as a stripper well for any calendar month for which its production of crude oil averaged 10 barrels or less per day.

"(5) BARREL.—The term 'barrel' means 42 United States gallons.

"(6) REGULATED NATURAL GAS.—The term 'regulated natural gas' means natural gas subject to the jurisdiction of the Federal Power Commission with respect to the sale or transportation of which an order or certificate of the Federal Power Commission is in effect (or a proceeding for the issuance of such an order or certificate has been instituted), if price is taken into account directly or indirectly in the issuance of such order or certificate.

"(7) NATURAL GAS SOLD UNDER A FIXED CONTRACT.—The term 'natural gas sold under a fixed contract' means domestic natural gas sold by the producer under a contract, in effect on April 10, 1974, and all times thereafter before such sale, under which the price for such gas cannot be adjusted to reflect to any extent the increase in liability of the seller for tax under this chapter by reason of the phaseout of percentage depletion under this section."

(2) The table of sections for part I of subchapter I of chapter 1 is amended by inserting after the item relating to section 613 of the following new item:

"SEC. 613A. Phaseout of percentage depletion for domestic oil and gas production.".

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall take effect on January 1, 1975, and shall apply to taxable years ending on or after such date.

INCREASE IN MINIMUM TAX FOR TAX PREFERENCES

SEC. 6. (a) Section 56(a) of the Internal Revenue Code of 1954 (relating to imposition of tax) is amended—

(1) by striking out the figure "$30,000" in paragraph (1) and inserting in lieu thereof "$10,000", and

(2) amending paragraph (2) to read as follows:

"(2) the sum of the tax carryovers to the taxable year.".

(b)(1) Section 56(b)(1)(B) is amended by striking out $30,000" and inserting in lieu thereof "$10,000".

(2) Section 56(c)(2) is amended by striking out "$30,000" and inserting in lieu thereof "$10,000".

(3) Section 58 of such Code relating to rules for application of this part, is amended by—

(A) striking out "$30,000" each place it appears therein and inserting in lieu thereof "$10,000"; and

(B) striking out "$15,000" in subsection (a) and inserting in lieu thereof "$5,000".

(c) The amendments made by this section apply to taxable years beginning after December 31, 1974.

RESTORATION OF VACATED ORDERS FOR SENATOR STEVENSON AND SENATOR GRIFFIN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order that was vacated for Mr. STEVENSON earlier today be restored to the control of Mr. ALLEN, and that the order for Mr. GRIFFIN be restored to his control because that time may very well be utilized up until something like 2 p.m.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Is there further morning business?

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

REPORT OF THE COUNCIL ON WAGE AND PRICE STABILITY—MESSAGE FROM THE PRESIDENT

The VICE PRESIDENT laid before the Senate a message from the President of the United States transmitting the first quarterly report of the Council on Wage and Price Stability, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs. The message is as follows:

To the Congress of the United States:

In accordance with section 5 of the Council on Wage and Price Stability Act, as amended, I am hereby transmitting to the Congress the first quarterly report of the Council on Wage and Price Stability. This report covers the third calendar quarter of 1974. In addition, it covers the months of May and June, the period not covered by the final quarterly report of the Economic Stabilization Program.

Inflation continued to be a very serious problem during the period covered by this report. The Council on Wage and Price Stability has been actively using its powers to monitor wage and price increases, conduct public hearings and investigate those Government programs and policies that raise costs and prices without creating corresponding social benefits. In so doing, it is carrying out the mandate of the Congress to combat inflation without resorting to wage and price controls. Although the results of these efforts are not always highly visible, I believe they are making an important contribution to abating continued inflation.

Because the problem of inflation is a stubborn one, I intend to ask the Congress to extend the life of the Council on Wage and Price Stability to June 30, 1976.

GERALD R. FORD.

THE WHITE HOUSE, *January 16, 1975.*

REPORT ON GOVERNMENT SERVICES TO RURAL AMERICA—MESSAGE FROM THE PRESIDENT

The VICE PRESIDENT laid before the Senate a message from the President of the United States transmitting the annual report on Government services to rural America, which, with the accompanying report, was referred to the Committee on Agriculture and Forestry. The message is as follows:

To the Congress of the United States:

I am transmitting herewith the fifth annual report on Government services to rural America, as required by the Agricultural Act of 1970.

GERALD R. FORD.

THE WHITE HOUSE, *January 16, 1975.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Vice President laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REVISION OF DEFERRAL REPORTS—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE SINE DIE ADJOURNMENT

The VICE PRESIDENT laid before the Senate a message from the President of the United States received on December 27, 1974, under authority of the order of December 20, 1974, transmitting revisions of 11 deferral reports, which, with the accompanying reports, were ordered to be held at the desk. The message is as follows:

To the Congress of the United States:

In accordance with the provisions of Title X of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344), I am transmitting supplementary reports that revise eleven deferral reports sent to the Congress in September and October of this year. I am also transmitting herewith reports on eight new deferrals for the fiscal year 1975.

Details of these deferrals are contained in the reports attached to this message.

GERALD R. FORD.

THE WHITE HOUSE, *December 27, 1974.*

PELLY AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT—MESSAGE FROM THE PRESIDENT

The VICE PRESIDENT laid before the Senate a message from the President of the United States concerning the possible application of the Pelly amendment to the Fishermen's Protective Act, which was referred jointly, by unanimous consent, to the Committees on Commerce, Finance, and Foreign Relations. The message is as follows:

To the Congress of the United States:

The Pelly Amendment to the Fishermen's Protective Act of 1967, 22 U.S.C. § 1978 (1971), states that when the Secretary of Commerce determines that the citizens of a foreign country conduct fishing operations which diminish the effectiveness of a conservation program of an international fishery convention to which the United States is a party, he shall so certify to the President. The President may then direct the Secretary of the Treasury to prohibit the importation of fish products of the offending country. Within sixty days of certification, the President is required to notify the Congress of any action taken by him pursuant to such certification. If the President takes no action, or if he imposes an import prohibition which does not cover all fish products of the offending country, he must inform the Congress of his reasons.

The Secretary of Commerce has certified to me that the minke whale catches of the USSR and Japan during the 1973-1974 season exceeded the International Whaling Commission (IWC) quotas for that season. These actions diminished the effectiveness of the conservation program of the Commission.

Quotas on the number of whales to be taken each year are set at the annual meeting of the IWC. These quotas together with certain other limitations constitute an "international fishery conservation program." Objections to adopted quotas are permitted by the terms of the Convention. An objecting country is not legally bound by the quota. Whether or not the objection is legal, however, does not alter the fact that exceeding the quotas will diminish the effectiveness of the program. It constitutes a prima facie case for application of the Pelly Amendment.

Last year both Japan and Russia objected to the minke and sperm whale quotas set by the IWC. In the case of the minke whale, a quota of 5,000 whales was set for the Antarctic. This figure was admittedly an informed estimate of the maximum sustainable yield of the stock, since precise figures on existing populations were lacking. Relatively few of these small whales had been previously taken. Nonetheless, the quota represented the best judgment of the scientific advisors and was duly adopted by the member nations. The Soviet Union and Japan voted against this quota. They said the figure should be 8,000, and formally objected to the quota. They then announced that each would take 4,000 minke whales during the 1973-74 season. In fact, the Soviet Union took 4,000 and Japan took 3,713. This represented an excess of 2,713, or approximately 50 percent over quota.

To date, no prohibition has been imposed under the terms of the Pelly Amendment. I have decided to impose no such prohibition at this time. My decision is based upon the results of this year's meeting of the IWC in London. At this meeting, most of the member nations adopted an Australian amendment to the United States 10-year moratorium resolution. The amended resolution establishes the principle of a selective moratorium applicable to any stocks of whales which fall below their maximum sustainable yield levels or optimum population levels as these are determined. In effect, the selective moratorium shall prevent any whale stock from becoming endangered. According to its terms, the resolution shall be implemented in the 1975-1976 whaling conservation measures fixed by the IWC next year.

The June meeting also produced an agreement to strengthen the Secretariat and to convene a working level meeting to consider changes in the International Whaling Convention itself.

In addition, the Commission's quotas for the 1974-1975 season incorporated some conservation improvements not included in the quotas for the last season. The Soviets and Japanese voted for the 1974-1975 quotas and, in general, appeared to be more conciliatory than during previous meetings. They, therefore, provided some hope that all member nations would comply with the resolution and with the 1974-1975 quotas.

There is, of course, the serious economic impact of trade sanctions to consider, particularly in the case of Japan, which in 1973 shipped $235 million in fishery products, 36 percent (in dollar value) of its fishery exports, to the United States. Domestically, withdrawal of Japanese imports, amounting to about 11 percent of our supplies, would result in higher prices for fish products.

Because of the important economic and political ramifications of such sanctions, they should be imposed only after all reasonable alternatives for the achievement of the conservation objective have proven ineffective. With the progress made at this year's IWC meeting, the current situation does not warrant such stringent measures and, therefore, I am taking no action now.

There is, of course, the possibility that subsequent action by Japan or the USSR may require a reassessment. In this event I will expect the Secretary of Commerce to submit such reports and recommendations as he finds warranted. The Secretary's present certification, prepared by the National Oceanic and Atmospheric Administration, recommends the course of action I have decided on.

GERALD R. FORD.

THE WHITE HOUSE, *January 16, 1975.*

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the message received from the President today relative to invoking the Pelly amendment to the Fishermen's Protective Act of 1967 be jointly referred to the Committees on Commerce, Foreign Relations, and Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

SUPPLEMENTAL APPROPRIATIONS, 1975

A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to notice, a letter to the Office of Management and Budget concerning a fiscal year 1975 supplemental appropriation (with accompanying papers); to the Committee on Appropriations.

TECHNICAL SCHEDULES FOR THE CONSUMER PRODUCT SAFETY COMMISSION'S FISCAL YEAR 1976 BUDGET

A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, technical schedules for the Consumer Product Safety Commission's fiscal year 1976 budget (with accompanying papers); to the Committee on Appropriations.

REPORT OF THE COMPTROLLER GENERAL

A confidential letter from the Comptroller General of the United States transmitting a report entitled "Stronger Controls Needed Over Major Types of U.S. Equipment Provided to the Republic of Vietnam Armed Forces"; to the Committee on Government Operations.

SOLAR HEATING AND COOLING DEMONSTRATION PROGRAM

A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a preliminary program plan for developing and demonstration activities authorized under the Solar Heating and Cooling Demonstration Act (with an accompanying report); ordered held at desk.

REPORTS OF THE CONSUMER PRODUCT SAFETY COMMISSION

Two letters from the Chairman of the Consumer Product Safety Commission each transmitting, pursuant to law, a report pursuant to the provisions of Public Law 92-573, the Consumer Product Safety Act (with an accompanying report). Ordered held at desk.

REPORT OF THE OFFICE OF MANAGEMENT AND BUDGET

A letter from the Director of the Office of Management and Budget transmitting, pursuant to law, a report required by the Congressional Budget and Impoundment Control Act of 1974 (with an accompanying report); ordered held at desk.

RESCISSIONS AND DEFERRALS

Three letters from the Comptroller General of the United States dealing with rescissions and deferrals (with accompanying papers); ordered held at desk.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the VICE PRESIDENT:

A resolution adopted by the Council of the City of Struthers, Ohio, commending the Congress for the Federal revenuing sharing program; to the Committee on Finance.

A letter from a citizen of the Virgin Islands seeking a redress of grievances; to the Committee on Interior and Insular Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. CURTIS:

S. 155. A bill to authorize the Secretary of the Interior to convey all right, title and interest of the United States in and to a tract of land located in Scotts Bluff County, Nebr., to Robert L. Summerville of Scotts Bluff County, Nebr. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS (for himself, Mr. Goldwater, Mr. Abourezk, Mr. Brock, Mr. Domenici, Mr. Hathaway, Mr. Magnuson, Mr. Mathias, Mr. Stafford, Mr. Symington, Mr. Thurmond, Mr. Tower, Mr. Weicker, and Mr. Williams):

S. 156. A bill to provide for continuing earth resources satellite experimentation. Referred to the Committee on Aeronautical and Space Sciences.

By Mr. INOUYE (for himself, Mr. Magnuson, Mr. Cannon, Mr. Moss, Mr. Javits, and Mr. Baker):

S. 157. A bill to authorize appropriations to the Secretary of Commerce for the promotion of tourist travel. Referred to the Committee on Commerce.

By Mr. HELMS:

S. 158. A bill to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the New River as a potential component of the national wild and scenic rivers system. Referred to the Committee on Interior and Insular Affairs.

S. 159. A bill to amend the act relating to the Lumbee Indians of North Carolina. Referred to the Committee on Interior and Insular Affairs.

S. 160. A bill for the relief of Mr. Shahnawaz Kadir Shaikh and his wife, Mrs. Avis Phyllis Shaikh;

S. 161. A bill for the relief of Ricardo A. and Clina Kostner; and

S. 162. A bill for the relief of Chun Keung NG.

By Mr. BENTSEN:

S. 163. A bill for the relief of Maria Pueblito Vega-Lopez; and

S. 164. A bill for the relief of Antoinette L. M. Smith. Referred to the Committee on the Judiciary; and

S. 165. A bill to authorize a project for flood protection in and in the vicinity of Baytown, Tex. Referred to the Committee on Public Works.

By Mr. HUMPHREY:

S. 166. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to low- and middle-income taxpayers and to provide increased incentives for expanded investment; and

S. 167. A bill to amend the Internal Revenue Code of 1954 so as to provide for a more equitable distribution of tax burden. Referred to the Committee on Finance.

By Mr. DOMENICI (for himself, Mr. Bartlett, Mr. Garn, Mr. McClure, Mr. Tower, and Mr. Bellmon):

S. 168. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit or an income tax deduction for certain expenditures of a taxpayer relating to the thermal design of the residence of such taxpayer. Referred to the Committee on Finance.

By Mr. DOMENICI:

S. 169. A bill to amend title II of the Social Security Act to provide that the amount of an individual's earnings shall, for purposes of the provisions thereof requiring deductions from benefits on account of excess earnings, be deemed to be reduced by an amount equal to the expenses paid by him during the taxable year for medical care for himself. Referred to the Committee on Finance.

S. 170. A bill to modify the boundary of the Cibola National Forest, and for other purposes;

S. 171. A bill to provide for a study of the suitability and feasibility of designating the Vietnam Veterans Chapel, Eagle Nest, N. Mex., as a national memorial to the Vietnam veterans. Referred to the Committee on Interior and Insular Affairs.

By Mr. METCALF (for himself and Mr. Huddleston):

S. 172. A bill entitled "Travel Expenses Amendments Act of 1975." Referred to the Committee on Government Operations.

By Mr. BEALL:

S. 173. A bill for the relief of Miss Lisa Maria Potter (also known as Lisa Maria Verest, Mary Alice Verest, and Mary Alice Epiphanio);

S. 174. A bill for the relief of Eugene Leland Memorial Hospital;

S. 175. A bill for the relief of the estate of Albert W. Small;

S. 176. A bill for the relief of Mrs. Angelica Chumacero Gutierrez;

S. 177. A bill for the relief of Miss Taciana Consina;

S. 178. A bill for the relief of Miss Milagros T. Posada;

S. 179. A bill for the relief of Peggy S. Foy; and

S. 180. A bill for the relief of Charles Hammond, Jr. Referred to the Committee on the Judiciary.

By Mr. CASE (for himself, Mr. Hart, and Mr. Weicker):

S. 181. A bill to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States. Referred to the Committee on Rules and Administration.

By Mr. CANNON (for himself and Mr. Tower):

S. 182. A bill to authorize the appointment of Alexander P. Butterfield to the retired list of the Regular Air Force, and for other purposes. Referred to the Committee on Armed Services.

By Mr. MOSS:

S. 183. A bill for the relief of Guillermina Yolanda Abadillo;

S. 184. A bill for the relief of Rosa Amelia Alba Mauricio; and

S. 185. A bill for the relief of Mrs. Helen Kuri George. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 186. A bill to provide for the establishment of a national cemetery in the State of South Carolina. Referred to the Committee on Veterans' Affairs.

By Mr. DOLE (for himself, Mr. Curtis, Mr. Helms, Mr. Young, Mr. Domenici, Mr. Eastland, Mr. Hruska, Mr. Percy, and Mr. Fannin):

S. 187. A bill to provide a priority system for certain agricultural uses of natural gas. Referred to the Committee on Commerce.

By Mr. NELSON:

S. 188. A bill to authorize the Secretary of Health, Education, and Welfare to establish a medical malpractice reinsurance program, and to conduct experiments and studies on medical malpractice. Referred to the Committee on Labor and Public Welfare.

By Mr. NELSON (for himself, Mr. Jackson, and Mr. Muskie):

S. 189. A bill relating to the necessity of reorganizing certain departments and agencies of the executive branch, and for other purposes. Referred to the Committee on Government Operations.

By Mr. MOSS:

S. 190. A bill for the relief of John Oakason and H. F. Mulholland. Referred to the Committee on Interior and Insular Affairs.

By Mr. HANSEN (for himself and Mr. McGee):

S. 191. A bill relating to the rehabilitation of areas damaged by deleterious mining practices, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. WEICKER (for himself, Mr. Domenici, and Mr. Moss):

S. 192. A bill to require the disclosure of the net worth of public officials. Referred to the Committee on Government Operations.

By Mr. WILLIAMS (for himself, Mr. Abourezk, Mr. Bayh, Mr. Beall, Mr. Burdick, Mr. Case, Mr. Church, Mr. Cranston, Mr. Gravel, Mr. Philip A. Hart, Mr. Hatfield, Mr. Hathaway, Mr. Hollings, Mr. Humphrey, Mr. Magnuson, Mr. Mathias, Mr. McGee, Mr. McIntyre, Mr. Nelson, Mr. Pell, and Mr. Weicker):

S. 193. A bill to prohibit the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment. Referred to the Committee on Commerce.

By Mr. KENNEDY:

S. 194. A bill to establish a comprehensive program of insurance and reimbursement with respect to losses sustained by the fisheries trades as a result of environmental and natural disaster; and

S. 195. A bill to provide certain essential assistance to the U.S. fishing industry. Referred to the Committee on Commerce.

By Mr. KENNEDY (for himself and Mr. Stevens):

S. 196. A bill to apply certain provisions of the Fishermen's Protective Act of 1967 to situations in which vessels of the United States or their gear are damaged by actions of foreign countries. Referred to the Committee on Commerce.

By Mr. KENNEDY:

S. 197. A bill to provide Small Business Administration disaster assistance for individuals who are self-employed in the fishing industry. Referred to the Committee on Banking, Housing and Urban Affairs.

S. 198. A bill to amend the provisions of law establishing a fund to promote the free flow of domestically produced fishing industry products in order to increase the amounts in such fund. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOSS (for himself, Mr. Goldwater, Mr. Abourezk, Mr. Brock, Mr. Domenici, Mr. Hathaway, Mr. Magnuson, Mr. Mathias, Mr. Stafford, Mr. Symington, Mr. Thurmond, Mr. Tower, Mr. Weicker, and Mr. Williams):

S. 156. A bill to provide for continuing Earth resources satellite experimentation. Referred to the Committee on Aeronautical and Space Sciences.

EARTH RESOURCES SATELLITE PROGRAM

Mr. MOSS. Mr. President, 3 days from now this country will launch the second Earth resources technology satellite.

Ironically, the lift-off of this marvelous scientific instrument gives rise to a fundamental question about the whole program. Is the ERTS program a brief experiment for the sake of experimentation, or are we willing to commit ourselves to a sufficiently extended experimental period to decide on the true merits of this new tool?

This question confronts us now, even as ERTS–B is in final prelaunch checkout, because there is no commitment to the continuity of this experimental program.

If ERTS–B fails to achieve orbit or if a malfunction prematurely snuffs out its expected life on 1 to 2 years, then there is no backup. The scientists in 40 nations who are participating in the ERTS program will be cut off from further scientific data. In fact, even if this satellite goes full term, there may well be a gap in data because an immediate decision to build another follow-on satellite would come to fruition only 2 years or more from now.

Even if ERTS–B should fail, the investment in the first ERTS satellite would have been well worth the effort. The hundreds of thousands of images compiled from ERTS–1 data make up a record of how the Earth looked from space over a 2-year period. This data is certainly useful for geological exploration and precise mapping of features that are relatively immutable on the Earth's surface. But it is adequate only for the "one shot" investigators.

Without the commitment to a continuity in data, hope is dimmed for ERTS ever becoming an operational global monitor of changes in the Earth's resources. Already ERTS has demonstrated the capability of analyzing the quantity, type, and health of the crops and forests. It is possible to detect landslides and avalanches, the extent of flood damage, large-scale dumpings in bodies of water, and waterfowl breeding habitats. In short, ERTS can let us watch the dynamics of our environment.

But what nation or investigator would not be reluctant to become dependent upon or even involved in a program with so tenuous an existence?

Furthermore, this uncertain situation threatens the development of ERTS into a scientific forecasting instrument. Several years ago our meteorological satellite program was in similar straits. Early data strongly suggested the possibility of developing predictive methods with which to analyze the satellite pictures so as to drastically improve the forecasting of weather.

Had there been no commitment to launch more satellites, then the call to development of these predictive and analytic techniques would have stirred little interest. Why would a scientist commit his time and reputation to development of ways to use a system that may or may not exist in the future? As important as continuity of data is to a scientist, it is even more vital to potential users in business and in Federal, State, and local agencies. Furthermore, foreign nations are presently considering extension of their involvement in ERTS. Assurances as to the fate of the program would certainly encourage these reluctant investors.

The enthusiasm is contagious throughout the scientific community when discussion centers on the potential of ERTS as an instrument of prophecy. Even now, an experiment is underway to combine ERTS crop analyses with meteorological satellite data in an effort to predict the output of wheat in North America. Speaking before the United Nations World Food Conference in Rome last fall, Secretary of State Henry Kissinger called the experiment "a promising and potentially vital contribution to national planning of global production." If ERTS offered no predictions other than world agricultural forecasts, it would be the success of the decade.

Yet there is more. With further experimentation and data scientists can predict the path of pests, the location of future floods, the water levels in reservoirs fed by snow melt, and the shipping lanes that will be free of sea ice, to name a few examples.

Such visions of the potential of American technology are too precious to be swept away by the illusion that ERTS is a passing fancy in NASA.

For these reasons, I am introducing a bill to provide for an earth resources satellite program. This measure was previously identified as amendment 1996 to S. 2350. The major provisions of this amendment are as follows:

First. The policy of the United States would be to continue the experimental program until 1980, or until the earlier establishment of a permanent earth resources satellite system.

Second. The President would be directed, acting through NASA, the Department of the Interior and other agencies, to assure continuity of satellite data during the experimental period.

Third. The President would be required to furnish the Congress with any necessary fiscal year 1976 budget amendments by April 15.

Fourth. The President's annual aeronautics and space report, already required by law, would include for each of the next 5 years a progress report and a statement of his views on the need for a permanent operational satellite system.

Support was widespread when I introduced this same amendment on November 25, 1974. No action was taken on the amendment to S. 2350 because of its late introduction. At that time, however, 22 Senators cosponsored the amendment. Governors and other senior officials of 32 States wrote letters to my committee in support of the ERTS program. Last year the House and Senate authorization committees as well as the respective appropriation committees expressed their unqualified endorsement of the continuation of ERTS.

Equally important, spokesmen of the scientific community have urged rapid action to ensure continuity of ERTS data. These scientific representatives include the National Research Council of the National Academy of Sciences and the president of the National Academy of Engineering.

Now 13 Senators join with me in sponsoring this bill.

Mr. President, I urge my colleagues to give careful consideration to the fate of ERTS. We cannot allow this instrument of prophecy to yield no more than a record of the past.

Mr. ABOUREZK. Mr. President, I join with Senator Moss in introducing this bill because I think it will be the single-most important piece of space-related legislation to be considered in the new 94th Congress. Certainly it is no understatement to say that ERTS has provided us with perhaps the best picture of the Earth's physical and geological health in the history of man. Never before have we been able to monitor our water and land resources as well as we can now. Ten years ago, we only hoped of having an ability to monitor air and water pollution to study its effect on life here on Earth. In the early days of this decade, having such a valuable tool at our disposal for seeking out new sources of minerals and petroleum, or underground water supplies was only the dream of many American scientists. Yet, because of ERTS, all of this and more has become a reality.

Dr. James C. Fletcher, the NASA Administrator, noted recently that ERTS–1 has taken over 100,000 pictures of three-fourths of the world's land area, providing information to thousands of users from over 40 States and at least 48 countries.

Yet, despite assurances from numerous administration officials about their support for this invaluable program, the long-term future of the program is in doubt. Absolutely no provision for satellite imagery has been made beyond the ERTS–B. Funding for a third ERTS satellite seems as far away today as it was 2 years ago when the first ERTS was launched. And yet, even now, if ERTS–C obtained adequate funding, our second ERTS satellite will have to function for at least 3 years, or until 1978 to insure continuity of data.

In spite of the seemingly uphill battle to insure that ERTS continues, scores of highly respected organizations and individuals have issued urgent pleas calling for the continuity of ERTS.

The American Society of Photogrametry has continued to argue for additional funding and insurance for ERTS' future. One reason, they point out, is that ERTS will provide vital demographic data for the 1980 census.

Dr. Robert Seamans, the new ERDA

Administrator, recently wrote to Dr. Fletcher, giving preliminary findings of a study undertaken by the Space Application Board of the National Academy of Engineering on the practical applications of space systems. Although the findings are preliminary and not yet endorsed by the Space Applications Board, they bear eloquent testimony to the success of this country's unmanned Earth satellite programs:

> The ERTS-1 satellite has begun to demonstrate the utility of earth observations in a number of areas such as land use, agriculture, water resources, and environmental monitoring. In the judgment of the user panels, the absence of assurance of continuity of data deters some users from turning to space-derived information in preference to conventionally collected data. ERTS-B has been approved and is expected to be launched in time to continue these demonstrations. Beyond ERTS-B—or if ERTS-B should fail prematurely—there is no follow-on spacecraft. The SAB believes that planning for construction and launch of ERTS-C should begin now to permit continuity of earth observations so that users will have adequate opportunity to learn how to use them, assess their value, and arrange for follow-on operational systems.

Given a sufficient amount of time, I would like to check back into legislative history, Mr. President. I would like to find out if ever there was a governmental program which proved to be so valuable, had so much congressional and popular support, yet, had so much difficulty in planning its own future. I would be willing to wager that few, if any, programs suffered the budget cuts, lack of attention, and anxiety about the future as the ERTS program and its counterpart in the Interior Department, EROS.

The Space Application Board's report had another significant finding. In part, the report stated:

> Building on the successful experimental, off-line data dissemination systems as the Department of the Interior's Earth Resources Observation System (EROS) Center, the Board feels that means must be found to provide information more quickly to users in the format they need.

In the past 2 years, I have been actively pressing for installation of equipment at the EROS Data Center in Sioux Falls to permit direct receipt and processing of data from ERTS. This would allow much faster response to user requirements and increase ERTS benefits immensely. The quotation from Dr. Seamans' letter lends considerable support to the need for this added equipment.

We could go on indefinitely with quotations and reports which argue for the continuation of ERTS data. Less than 6 months ago, the Space Committees in both Houses of Congress, in hearings on ERTS, compiled the testimonies of scores of experts and Government officials, all of whom attested to the necessity of an on-going ERTS program.

The bill, if passed, would provide that assurance. Regular ERTS users, who have learned to rely on this data, could then plan ahead for even larger scale ERTS projects. States could establish their own ERTS-type agencies. And other countries, who have looked to the United States for leadership in the Earth resources survey field, would continue to come to us with requests for data, services, and more information.

We can only hope that this legislation speeds through the legislative hurdles so we can get on with these plans posthaste. We need this bill and I am proud to be one of its cosponsors.

By Mr. INOUYE (for himself, Mr. MAGNUSON, Mr. CANNON, Mr. MOSS, Mr. JAVITS, and Mr. BAKER):

S. 157. A bill to authorize appropriations to the Secretary of Commerce for the promotion of tourist travel. Referred to the Committee on Commerce.

Mr. INOUYE. Mr. President, the legislation I am introducing today would authorize the appropriation of funds for the U.S. Travel Service.

The proposal actually contains two authorizations. One section of the bill authorizes the appropriation of $30 million in each of the fiscal years 1977, 1978, and 1979 to the Travel Service to promote travel to the United States from abroad. This provision extends the existing authorization which USTS has and which expires at the end of fiscal year 1976.

The second section of the bill authorizes the appropriation of $2.5 million in each of the fiscal years 1975, 1976, and 1977 to the Travel Service for domestic travel promotion. This provision passed the Senate unanimously late in the last Congress (S. 3942), but the House was unable to act.

The U.S. Travel Service created by the International Travel Act of 1961. Its mandate was to encourage foreign tourism to the United States. Initially, $3 million was authorized for the Travel Service.

Subsequent legislation has progressively increased that authorization so that it is $25 million for fiscal year 1976, the year it expires.

In 1973 Congress gave the Travel Service additional authority to promote domestic tourism when it enacted Public Law 93-193. That law did not authorize funds to be appropriated for domestic tourism, however. The Travel Service subsequently informed the Congress in 1974 that additional authorizing legislation was therefore necessary.

In response, the Senate enacted S. 3942, which, as I have mentioned, was not acted upon by the House.

The legislation I am introducing today would therefore authorize funds for the Travel Service to promote domestic tourism.

Inasmuch as the basic authorization for USTS expires at the end of fiscal year 1976, it made little sense, in my judgment, to give the Travel Service an authorization for a domestic program beyond fiscal 1976 unless the basic authorization was also extended. Accordingly, the bill does this as well.

Briefly, Mr. President, that is why this legislation contains two separate authorizations for the U.S. Travel Service.

Mr. President, tourism expenditures in the United States total $61 billion a year and these expenditures provide employment for about 4 million Americans. In 46 of our 50 States, tourism is one of the top three industries.

Despite its vital role in our economy, the Federal Government last year spent the meager sum of $11.5 million to promote foreign tourism to the United States through the Travel Service, and nothing to promote domestic tourism through the Travel Service. By contrast, our neighbor to the north, Canada, spent about $17 million.

Mr. President, the U.S. Travel Service is, in the judgment of many of us, one of the soundest and wisest investments the Federal Government makes.

Significantly, all segments of the U.S. tourism industry share that estimate of the Travel Service's worth.

Expeditious consideration and enactment of this legislation will reaffirm support of the Travel Service, and enable it to proceed with the planning necessary to promote tourism to and within the United States in an efficient and effective manner.

By Mr. HELMS:

S. 158. A bill to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the New River as a potential component of the National Wild and Scenic Rivers System. Referred to the Committee on Interior and Insular Affairs.

Mr. HELMS. Mr. President, we North Carolinians are a bit inclined to brag about the New River. There is nothing else like it in the Eastern United States. It entered modern history when it was discovered by Peter Jefferson, and named the New River; but it is actually the oldest river in the world, save only the Nile. It was in prehistoric times the headwaters of a gigantic river, the Teays, which flowed through the Midwest to the gulf and drained half the continent. All but the section now known as the New was obliterated by the glaciers of the ice age.

Today the New River remains as a geological rarity, one of the few unpolluted, free-flowing rivers in the East. For millions of years it has remained such. It is only modern civilization that threatens it now.

In North Carolina we are firmly convinced that the Wild and Scenic Rivers Act was passed to provide protection for rivers such as the New for future generations. There has seldom been such an issue on which the elected officials of North Carolina at local, State, and Federal levels, both Republican and Democratic, have had such unanimity.

But the New River bill, which sought to preserve the New River in its unspoiled natural state for the benefit of future generations, failed to become law in the last Congress. My former distinguished colleague from North Carolina, Mr. Ervin, and I sponsored this bill in the 93d Congress, and it passed the Senate 49 to 19 after a vigorous and thorough debate.

Unfortunately for the people of North Carolina and the Nation, this measure was pigeon-holed through a parliamentary maneuver in the House Rules Committee during the waning moments of Congress last December.

Immediately, the almost national concern with the fate of the New River was made plainly evident to all of us here in Washington on the editorial pages of the Washington Post. In an editorial entitled, "A Dismaying Defeat for North Carolina," the Post rallied behind the preservation of the New River, and at the same time rallied against the forces which temporarily halted these efforts.

Mr. President, I ask unanimous consent that this editorial from the Washington Post of December 14, 1974, be printed in the Record at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **HELMS**. Mr. President, it is the overwhelming view of the people of North Carolina, particularly those who dwell in the affected region and are most intimately familiar with the New River itself, that it should be designated as a potential component of the Wild and Scenic Rivers System. It is not an easy thing for the fiercely independent people of the Blue Ridge to favor a higher level of Federal control over the use of lands which they have known and loved for generations. But they have seen that rich and powerful out-of-State interests are eagerly trying to destroy the New River's pristine state and are exploiting the power of Federal agencies to help them attain their own ends. Only the Wild and Scenic Rivers System can protect them from broader manifestations of Federal power.

It is ironic that the proposed power generating project that would destroy the New River has a projected life of only 50 years—the flash of a swallow's tail in a sunbeam, when compared to the eons, literally eons, of the New River's existence up to now. And it is an insignificant moment to those families who have dwelled on these lands for generations. It is in settled communities such as these that the deep roots of society have meaning and private property becomes something more than a title to be exploited. Property becomes a trust for the future generations and its mere economic value is least in the scale of priorities. The inclusion of the New River in the Wild and Scenic Rivers System will help these citizens to preserve their trust, and their values.

Mr. President, I point out that the interest of the Federal Power Commission in this project has been rather narrowly concentrated on the production of electric power itself. The studies which the FPC has made are based on old concepts of resource management. This country has done a lot of rethinking about how to handle the power crisis and to balance out all of our economic and social needs.

The pumped-storage concept of supplying peaking power which is the basis of this power project has been shown to be an uneconomic concept when considered in the overall context. Steam-generating plants will be used to pump water up to the higher reservoir at night so that it can flow down through the water turbines during the day when the peak demand is highest. But there is no such thing as perpetual motion. It will take three units of power to generate every two units produced by the pumped-storage facility.

Moreover, it will add considerably to the air pollution problem because the steam generation will be done in old-fashioned plants without the pollution control facilities that would be required if new steam plants were built for peaking power.

It is highly significant that this project has a planned drop of yearly output of nearly two-thirds over 20 years, from 5.5 to 2.75 million megawatt hours. The reason for this is that the reservoir will silt up at a rapid rate, leaving no room for the quantities of water needed for economical generation.

Mr. President, many Americans—and I am one of them—feel that the influence of the Federal Government has become so pervasive that citizens of a locality or a State are no longer able to control their destiny. Decisions which vitally affect their lives and which have profound local consequences are being made at the national level by some agency of the Federal Government, with little or no sensitivity to the consequences that these decisions produce on a local scale.

Now the citizens of Ashe and Alleghany Counties in North Carolina are faced with the fact that such a decision by a Federal agency may rob them of their dignity and property. And the State, and indeed, the Nation, will be robbed of a priceless natural resource. If this bill is passed, this effort by one agency of the Federal Government, an agency with narrow interests, will be superseded by the power of another arm of the Federal Government in a less pernicious form, a form which, by law, will be more attuned to the broad interests of the Nation and with the thinking of the people who will be most affected. I personally think it would be better if the Federal Government were not involved at all; but under the circumstances, this is the only way to preserve something that North Carolinians cherish. I urge my colleagues to join me in supporting this bill, which I reintroduce today.

Mr. President, I ask unanimous consent that the text of the New River bill be printed in the Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 5 of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end thereof the following:

"(28) New, North Carolina and Virginia: From the headwaters of the North Fork of the New at latitude 36 degrees 22 minutes north, longitude 81 degrees 41 minutes west near Tamatuck, Watauga County, North Carolina, and the headwaters of the South Fork of the New at latitude 36 degrees 12 minutes north, longitude 81 degrees 41 minutes west near Boone, Watauga County, North Carolina, through the counties of Ashe and Alleghany of North Carolina and into Grayson County, Virginia, to a point on the main New River near Galax, Virginia, at latitude 36 degrees 40 minutes north, longitude 80 degrees 58 minutes west. The recommendations of the President to the Congress, and the study preceding such recommendations, required by section (4), concerning the river designated by this clause (28), shall be made on or before two years from the date of enactment of this clause (28).".

Sec. 2. The provisions of section 7 of the Wild and Scenic Rivers Act shall be applicable to that segment of the New River designated in section 1 of this Act, except that the time period of such provisions shall be deemed to relate to the date of enactment of this Act insofar as such provisions are applicable to the designated segment.

[From the Washington Post, Dec. 14, 1974]

A Dismaying Defeat for North Carolina

Last Wednesday afternoon, several members of the North Carolina congressional delegation came before the House Rules Committee to speak on behalf of legislation that would protect the New River. This scenic and unspoiled waterway in northwestern North Carolina is said by geologists to be the world's second oldest river, preceded only by the Nile. The river has been threatened for a number of years by plans of the Appalachian Power Company, a subsidiary of American Electric Power, to build two dams in a $430 million hydroelectric project. Sen. Sam J. Ervin Jr. and Rep. Wilmer Mizell were among those asking the Rules members not to hold up legislation that would permit government officials to study the possibility of the New River becoming part of the National Wild and Scenic River System.

Such a request appeared reasonable—merely asking Rules to allow the House to vote on a study. To the dismay of the North Carolinians, the committee voted 13 to 2 to "defer action," a term meaning the bill was dead. Once again, the Rules Committee reverted to its obstructionist ways by arbitrarily frustrating the legislative process. In the discussions about the bill nothing was mentioned about procedural matters, presumably the main jurisdiction of the Rules Committee. Instead, the members took it upon themselves to argue the merits of the legislation.

Actually, it was clear that the New River bill was a sound piece of legislation. It had the support of both the Interior Department and the Environmental Protection Agency. It had passed the Senate 49 to 19 and was approved by the House Interior Committee. Most important, the bill had strong support among the 3,000 persons whose farms and homes in the river's valley would be submerged. Several North Carolina newspapers waged editorial campaigns to keep the power company out, but the industry's aggressive lobby was putting pressure on the Rules Committee right into the afternoon of the fatal 13 to 2 vote.

It is no consolation to the citizens along the New River whose croplands and pastures now appear to be lost to Appalachian Power, but the Rules Committee has a long and bleak record of killing off bills it doesn't like. Before the Rules vote, Assistant Secretary of the Interior Nathaniel P. Reed said the bill was threatened by "old school, outdated backroom monkey business." This was an allusion to the mischief of committee chairman Ray J. Madden (D–Ind.), who was holding the New River bill hostage until the Interior Committee voted out a bill to expand the Indiana Dunes National Lakeshore in Mr. Madden's home state.

The combination of Mr. Madden's intransigence and the lobbying of the power companies proved too much. A chance exists that the river still may be saved by a victory in federal court; the state and two North Carolina counties are challenging the Federal Power Commission on a procedural matter when the FPC issued the license for the dam. Until a decision is made by the courts, it stands that Congress has once again been mocked by a committee of 15 that acts like a government within a government.

By Mr. HELMS:

S. 159. A bill to amend the act relating to the Lumbee Indians of North Carolina. Referred to the Committee on Interior and Insular Affairs.

Mr. HELMS. Mr. President, I introduce today a bill of great importance to a proud Indian tribe with a long history and significant traditions. This bill will eliminate an outdated discrepancy between the Federal law with regard to the Lumbee Indians and the full recognition they have had for nearly 100 years in the statutes of their home State of North Carolina.

This bill passed the House of Representatives without objection during the 93d Congress, Mr. President. However, due to the wish of some Senators that extensive hearings be held on it in the Senate, it was not acted on by the Senate in that Congress.

This legislation is extremely important to the Lumbee Indians and I hope that hearings, committee action, and adoption of it by the Senate can take place early in this session.

This bill will remove the obstacles which unjustly deny to the Lumbees unhampered access to the far-reaching programs developed for all native Americans at the Federal and State levels in recent years.

Since at least 1885, the Lumbees have been recognized in the laws of North Carolina. They are referred to initially as the "Croatans" in the act of 1885, as "the Indians of Robeson County" in the subsequent act of 1911, and as "the Lumbee Indians of North Carolina" in the act of April 20, 1953. The act of 1953 describes them as—

> The Indians now residing in Robeson and adjoining Counties of North Carolina, originally founded by the first white settlers on the Lumbee [sic] River in Robeson County * * *.

The Federal Public Law 570, of June 7, 1956, which is to be amended and modified by the proposed legislation, uses the same language as the North Carolina Act of 1953 to describe and recognize the Lumbee Indians. But Public Law 570 goes on to deny to the Lumbees equal access to Indian programs of the Federal Government. That restriction in favor of, and in distinction from, so-called reservation Indians belongs to a day when Federal programs were found to address the status of Indians on reservations inadequately and when the economic plight and civic inequality of the urban and rural Indian had been totally ignored.

The Eisenhower administration took the first step in giving to the Lumbee Indians, by means of Public Law 570, the first national recognition they had ever formally received in the Federal law. And that recognition was, and still remains, the intent of the Congress. But Indian programs remained restricted to Indians on reservations until recent years when programs that could give to all native Americans the full opportunities for economic enterprise, for civic equality, and meaningful cultural preservation were adopted. In recent years, Congress expanded the programs for urban and rural Indians. So the erstwhile restriction in Public Law 570, which denied to the Lumbees access to the only Indian programs then available—for Indians on reservations—is now out of date and unnecessary. In fact, the very programs recently initiated for the urban and rural Indians cannot come to fruition if such self-reliant and populous groups as the Lumbees are not put into the very mainstream of the economy and of the development of their native State.

The proposed change will give nothing to the Lumbees that they have not traditionally enjoyed in the laws of North Carolina. But the proposed clarification is urgently needed to give the Lumbee Indians full access to the new national programs for urban and rural Indians and to assure the full availability of Federal matching funds for the relevant State-funded programs. I strongly support this legislation and I commend it to my colleagues in the Congress for quick adoption.

By Mr. BENTSEN:

S. 165. A bill to authorize a project for flood protection in and in the vicinity of Baytown, Tex. Referred to the Committee on Public Works.

SUBSIDENCE PROBLEM IN THE BAYTOWN, TEX. AREA

Mr. BENTSEN. Mr. President, I introduce this bill today in an effort to resolve the problem of flooding and general land subsidence which is occurring on the east side of the upper reaches of Galveston Bay, in the area known as the Brownwood addition of Baytown, Tex. The area is near Houston, Tex.

This problem of the land subsidence is caused by pumping water from the ground in sufficient quantities to permanently lower the water table. The pumping has been conducted by municipal and industrial interests which the people of the Brownwood addition have no control over. In the last 25 years, the water table has dropped more than 200 feet, resulting in land subsidence of up to 7 feet. The affected areas can be described as a 65-mile-diameter saucer, with one edge east of Baytown and the other edge at Katy, Tex., 35 miles west of Houston. Subsidence is the greatest at the center of the saucer and diminishes toward the edges. This subsidence is not reversible; there is apparently no way to recover the lost elevation.

The subsidence is causing a tragic loss of homes in the Brownwood area. The area is one of many beautiful homes and is the chosen retirement area of many people. Preliminary studies have revealed that 541 residences are affected in the Brownwood addition with the number of people affected reaching 2,000. Mr. President, as a result of this situation there are actually homes sitting out in the bay because the land has literally sunk below sea level.

The frequent flooding is extensive, and the residents are almost daily on flood watches from high tides. A recent study by the distinguished Water Resources Institute of Texas A. & M. University estimated that the historical and property losses attributable to subsidence in the area totaled $109.6 million. This loss can only be expected to increase rapidly as the subsidence continues.

While the flooding has created obvious discomforting and costly problems for the local residents, the Federal Government has had to bear the major portion of the cost through federally subsidized flood insurance. Any additional delay in resolving this problem can only mean more cost to the Federal Government.

Mr. President, the Texas Water Resources Institute addressed the problem eloquently in their December 1974 newsletter. I ask unanimous consent that the text of that newsletter be included in the Record at this point, and the facts presented by the newsletter be carefully studied by my colleagues.

There being no objection, the newsletter was ordered to be printed in the Record, as follows:

Sinking $$$$ Into Sinking Land

Subsidence was a relatively unknown, unnoticed ecological condition until it recently took on a new spelling: ubidence.

An economic report, revealing that subsidence had cost the Houston-Pasadena area $113 million in damage and property losses, gave definition and dimension to the semi-ignored phenomenon. Subsidence is the sinking of coastal land surface due to withdrawal of underground water.

In 1972 an Associated Press column by Paul Recer capsuled the condition in prose that evoked emotional response, but failed to carry an economic thrust. It follows:

"Inch by inch, like a leaky balloon slowly collapsing, the ground in Houston and the area surrounding Galveston Bay is sinking. And as it does, bay waters rush in to claim acreage once high and dry. The word for the phenomenon is 'subsidence' and the result of it is expensive and even disastrous. Streets are being slowly flooded, homes are being cut off, trees die in salt water, docks and levees must be raised and park lands turn into lakes.

"The cause is well known. Industries, cities and individuals are using too much water from the wrong place. But only in recent years have residents begun to notice that as the water use increases, so does the subsidence. On the average now, about 600 million gallons per day are pumped out of the Beaumont Clays. Over half of it is pumped out by municipalities, principally, Houston. Most of the rest of the pumping is by industry, especially the huge paper and petrochemical complex along the Houston Ship Channel.

"Even if the pumping was stopped today, the subsidence might continue for months or perhaps years because it could take that long for subsurface pressure to become balanced again. Until then, a little more of Texas is disappearing every day beneath the relentless attack of invading sea water."

The economic report—results of which were published on page one of the Houston Post in October—was a study titled "Costs of Land Subsidence Due to Groundwater Withdrawal" conducted by an economic research team for the Texas Water Resources Institute, Texas A&M University.

The Gulf Coast Aquifer underlies the Houston-Galveston-Gulf Coast complex, where tremendous withdrawals of groundwater are necessary for municipal, industrial, and irrigation purposes. When water is withdrawn from the sands, hydrostatic pressure in the sands is reduced, causing water to move from the clays and silts. The earth becomes compacted, reducing its volume, and land subsidence results. R. K. Gabrysch of U.S. Geological Survey in Houston says most of the compaction is permanent because the clays are mostly inelastic. Less than 10 percent rebound can be expected to result from total recovery of artesian pressure.

KEEPS SINKING

Underground water pumpage in the ever-booming Houston area has now reached more than 595 million gallons daily, half of it going for industrial uses. Gabrysch says that as the water pressure drops, so does the land. In the past 30 years the Houston Ship Channel area has sunk by as much as 7.5 feet. The San Jacinto Monument is now 6.5 feet lower than 30 years ago, a drop of 3.5 occurring in the past 10 years. During that 30 year period, Texas City, Webster, and downtown Houston have experienced a drop of 4 feet; Pasadena, 7 feet; Baytown, 5.5 feet; and other coastal towns, 3 feet and up.

Translating the subsidence rate into dollars was the mission of the Texas A&M research team. Three hundred square miles of the affected 3,000 square mile area were analyzed in the study, covering residential, commercial, public, and industrial areas. Little evidence was found that subsidence causes direct damage such as structural faulting. In almost all cases, damages and property losses resulted from either tidal or freshwater flooding—the greatest damages caused by tidal flooding. It was estimated that the six-foot tide that occurred with tropical storm Delia in 1973 caused subsidence-related property damages and losses of over $53 million. Projections indicated that a similar tide—and such can be expected about every five years—could cause $54.4 million in damages and losses if the land sinks two more feet and $63.5 million if it drops five feet.

GONE WITH THE FLOOD

What are some of the property damages and losses?

A visit to Baytown's once-beautiful Brownwood residential area, located on a lush peninsula, gives a stark answer. Of the 435 homes, priced between $25,000 and $75,000 when built, twenty have been abandoned; 60 percent have become rental property; and the rest are a source of constant care and cost to the owners. No longer do the proud old oak trees and exotic tropical plants on acre and half-acre lawns catch the eye of the passerby. Instead, concrete riprap-and-earthen levees, private bulkheads stacked three deep, and abandoned boat houses are familiar sights in this prime property area. Vegetation is dead or dying. Money spent on the property is aimed at survival, not beauty. The encroachment of bay water has brought death to a community. Mrs. Jean Shepherd, Brownwood Civic Association president, says, "Property owners are financially chained to sinking real estate."

Ruinous effects are not confined to bayfront home owners' property. In Kemah and Seabrook costly steps have been taken by business people to drain off flood water or to stay dry. One store owner spends $5,000 a year on dirt and fill materials. In Clear Lake, only the roofs of 10-foot high picnic shelters in the park are visible. Bulkheads around boat berths at a marina and at a seafront apartment have been raised several times. Some perimeter roads at San Jacinto Monument are often underwater, and the reflection pool sometimes resembles an ancient ruin.

To cope with flooding there must be continuous effort to raise roads, repair damages, and construct dikes and drainage facilities. Local tax money, private capital, and funds from organizations like the Brownwood Civic Association are plowed into repair work and preventive maintenance.

WATER, SALT WATER, EVERYTHING

A perimeter road built in Baytown in 1973 was supposed to turn back 7-foot tides; however, many homes are inundated at 3.5 feet and others at 4 and 5 feet. Once the tide sweeps over, electric pumps must be used to rid the area of the destructive water. Brownwood Civic Association paid $35,000 for five pumps for general use, and many home owners have their own $3500 pumps.

Freshwater damages are minor compared to the effects of tidal flooding. Changes in surface slopes introduce or aggravate drainage problems in streams, canals and watersheds during heavy rains. In some cases, lift pump have been intalled to cope with destruction of old sewer lines.

A few cases of damage to structures such as well casings and pipe lines—also some surface faulting—are caused by subsidence, the study indicated.

Professor Lonnie L. Jones, head of the research team, told a Water for Texas Conference in October, 1974, that the annual withdrawal rate of 118 billion gallons per year is increasing. He said a switch to surface water will be economically justified, even with the large difference in direct costs because of the large indirect cost caused by land subsidence.

For example, if all the 1972 water needs for the area under study had been pumped from groundwater sources, the total cost would have been about $20.5 million, counting direct pumping and subsidence-related costs. In contrast, if all water had been purchased from surface sources, total costs would have been about $18.9 million. This represents a saving of about $1.6 million to the area.

"Substitution of surface water for groundwater would result in higher direct costs to users, and at least initially, some form of inducement might be needed to encourage consumption of surface water," Jones stated, adding that "equitable distribution of increased costs is a problem that will demand the attention of legal and social planners."

Mr. BENTSEN. Mr. President, the Army Corps of Engineers has recently completed an intensive study of the Baytown situation. Though this study is still under final agency review, preliminary reports indicated that the relocation of homeowners out of the area would be the most feasible solution. Flood retaining structures are engineeringly possible, but I strongly question the financial and ecological feasibility of this option. It is important to note that any walls built to resist high tides, subside along with the rest of the terrain, and thus can only be temporary in their effectiveness. It is for this reason that I am introducing this bill today which will enable the Corps of Engineers to relocate the homeowners out of the area and claim the area as parkland, a nonstructural solution to the problem. I hope that my colleagues will join me in supporting this measure.

By Mr. HUMPHREY:

S. 166. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to low- and middle-income taxpayers and to provide increased incentives for expanded investment; and

S. 167. A bill to amend the Internal Revenue Code of 1954 so as to provide for a more equitable distribution of tax burden. Referred to the Committee on Finance.

(The remarks of Mr. HUMPHREY concerning the introduction of the Emergency Tax Relief Act of 1975 and the Tax Reform Act of 1975 appear earlier in the RECORD.)

By Mr. DOMENICI (for himself, Mr. BARTLETT, Mr. GARN, Mr. MCCLURE, Mr. TOWER, and Mr. BELLMON):

S. 168. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit or an income tax deduction for certain expenditures of a taxpayer relating to the thermal design of the residence of such taxpayer. Referred to the Committee on Finance.

Mr. DOMENICI. Mr. President, I join with my colleagues in sponsoring legislation today that will benefit both the Nation and the consumer in encouraging energy conservation.

We have heard the President establish a national goal to decrease our energy consumption immediately by 1 million barrels of oil per day. The Chairman of the Federal Power Commission has warned us that natural gas reserves are being depleted at a far greater rate than new reserves are being discovered. It seems, and I might say quite rightly so, that the future demands of energy has finally become a dominant issue in Congress.

The average American has reached the saturation point of equating governmental conservation measures with increased personal hardships. The Federal Power Commission has recommended mandatory gas conservation measures and allocation to high priority end users. Unfortunately, mandatory conservation measures are very difficult to impose on the residential market with allocations adding just another burden on the homeowner. Cutbacks do not solve the long-range problems and inevitably lead to increased unemployment.

A basic reason that we have not seen a greater level of energy conservation among homeowners is the high initial expense. The Federal Energy Administration estimates that a cost of $400 to $600 is necessary to add conventional energy-saving materials.

The bill I am introducing offers a direct incentive for homeowners to incorporate energy savings materials. Briefly, this bill would allow the homeowner a tax break on expenditures of up to $4,000 for energy conservation materials. The homeowner could add either conventional measures such as weather-stripping, storm doors, storm windows, caulking materials, and insulation. Nonconventional methods being solar heating, and cooling equipments also will be allowed. An option is available for either a deduction of up to $4,000 from the taxable income or a 25-percent tax credit on those allowed expenditures. This option approach will offer a much needed incentive to decrease energy consumption for all homeowners, regardless of their particular tax bracket. A further limit on conventional expenditures of $1,000 from the total $4,000 allowed has been included in this bill to meet FEA recommendations.

Justification for this legislation can be seen both from the beneficial effect to the Nation in decreasing total energy consumption along with the definite boost to the economy with the additional flow of available capital.

Let us assume that approximately 5

percent of the U.S. homeowners decide to take advantage of this tax incentive. If we allow for a total $4,000 expenditure for conventional materials in 5 million homes using a 25-percent tax credit, the loss to the Treasury would be $500 million. This figure, however, is very misleading because it is not measured against the cost of the energy which is saved. Using FEA figures at the end of 5 years with the cost of oil at $10 per barrel there would be an annual conservation of one-quarter billion barrels of oil or more than two-thirds of a million barrels per day. Further, FEA studies show that the homeowner will receive a total return from his original expenditures at the end of 4 years.

An additional comment should be made about the benefits to be gained by offering incentives to utilize solar heating and cooling equipment. Recent figures indicate that the average colonal home in Baltimore, Maryland using present solar heating technology would be able to decrease standard energy consumption by 60 percent. Using that same home which required 24 barrels of No. 2 heating oil per year a net energy savings of fifteen barrels could be realized.

The cost to the Treasury will be minimal because of the limited state of the industry. It is anticipated that the entire industry will not reach a 1 million dollar mark in sales this year. Hearings before the Aeronautical and Space Sciences Committee confirmed that the solar industry would be able to substantially reduce the cost to the consumer if such equipment were mass produced due to an increased market.

I am very pleased to have been able to work with Congressman VANIK on this approach and understand that he will introduce similar legislation in the House.

In summary, this bill has been introduced to meet the demand to decrease our level of energy consumption while benefiting the homeowner. In the words of the FPC Commission. "The time for energy conservation measures is now" and I hope my colleagues will join with me in supporting this legislation.

Mr. President, I ask unanimous consent that the full context of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) present national energy sources are limited and the capacity of the national energy supply system to meet future demand is threatened;

(2) it is in the national interest to conserve energy by moderating the demand for fossil fuels and by improving the efficiency with which such fuels are used;

(3) significant energy savings for the Nation and the consumer may be achieved by applying existing methods of energy conservation to the thermal design of various residential structures; and

(4) it is an important national objective to encourage sound investment practices which improve the thermal design of various residential structures and increase the use of solar energy in heating and cooling such structures.

(b) It is the purpose of this Act to establish a system of income tax credits and income tax deductions in order to promote improvement of the thermal design of various residential structures.

INCOME TAX CREDIT FOR CERTAIN EXPENDITURES RELATING TO THERMAL DESIGN OF RESIDENCES

SEC. 2. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by redesignating section 42 as section 43 and by inserting immediately after section 41 the following section:

"**SEC. 42. EXPENDITURES RELATING TO THERMAL DESIGN OF TAXPAYER'S RESIDENCE.**

"(a) General Rule.—There shall be allowed as a credit against the tax imposed by this chapter an amount equal to the ordinary and necessary expenses paid during the taxable year for the improvement of the thermal design of the principal residence of a taxpayer, either through the purchase of conventional materials or through the purchase of solar heating and cooling equipment.

"(b) Purchase of Principal Residence.—That amount of the cost of a principal residence purchased by a taxpayer during the taxable year which is equal to the cost to the taxpayer of any storm door, storm window, or solar heating and cooling equipment contained in such principal residence, shall qualify for a credit under subsection (a). The seller of such principal residence shall furnish the taxpayer with an accounting of the cost to the taxpayer of any such storm door, storm window, or solar heating and cooling equipment.

"(c) Limitations.—

"(e) General limitation.—The credit allowed by subsection (a) shall be limited to—

"(A) 25 percent of any expense which qualifies for a deduction under section 220 (a); and

"(B) $1,000 for the period during which the provisions of this section are in effect, no more than $250 of which may be allowed as a credit for the purchase of conventional materials.

"(2) Application with other credits.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under section 35 (relating to partially tax-exempt interest), section 37 (relating to retirement income), section 38 (relating to investment in certain depreciable property), and section 41 (relating to contributions to candidates for public office).

"(d) Carryback and Carryover of Unused Credits.—If the amount of the credit determined under subsection (a) for any taxable year exceeds the limitation provided by subsection (c)(2) for such taxable year (hereinafter in this subsection referred to as the "unused credit year"), such excess shall be—

"(1) a credit carryback to any taxable year—

"(A) during which the provisions of this section are in effect; and

"(B) which precedes the unused credit year; and

"(2) a credit carryover to each of the four taxable years following the unused credit year.

"(e) Definitions.—

"(1) Conventional materials.—For purposes of this section, the term 'conventional materials' includes storm doors, storm windows, caulking materials, and insulation.

"(2) Solar heating and cooling equipment.—For purposes of this section, the term 'solar heating and cooling equipment' means any solar heating and cooling equipment which meets the definitive performance criteria prescribed by the Secretary of Housing and Urban Development under section 8 of the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93-409; 88 Stat. 1073).".

(b) The table of sections for such subpart A is amended by striking out the item relating to section 42 and inserting in lieu thereof the following new items:

"Sec. 42. Expenditures relating to thermal design of taxpayer's residence.

"Sec. 43. Overpayments of tax.".

INCOME TAX DEDUCTION FOR CERTAIN EXPENDITURES RELATING TO THERMAL DESIGN OF RESIDENCES

Sec. 3. (a) Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221, and by inserting immediately after section 219 the following new section:

"**SEC. 220. EXPENDITURES RELATING TO THERMAL DESIGN OF TAXPAYER'S RESIDENCE.**

"(a) General Rule.—There shall be allowed as a deduction the ordinary and necessary expenses paid during the taxable year for the improvement of the thermal design of the principal residence of the taxpayer, either through the purchase of conventional materials (as defined by section 42(e)(1)) or through the purchase of solar heating and cooling equipment (as defined by section 42 (e)(2)).

"(b) Purchase of Principal Residence.—That amount of the cost of a principal residence purchased by a taxpayer during the taxable year which is equal to the cost to the taxpayer of any storm door, storm window, or solar heating and cooling equipment contained in such principal residence, shall qualify for a deduction under subsection (a). The seller of such principal resident shall furnish the taxpayer with an accounting of the cost to the taxpayer of any such storm door, storm window, or solar heating and cooling equipment.

"(c) Limitation.—The deduction allowed by subsection (a) shall be limited to $4,000 for the period during which the provisions of this section are in effect, no more than $1,000 of which may be allowed as a deduction for the purchase of conventional materials.

"(d) Election to Take Credit in Lieu of Deduction.—This section shall not apply in the case of any taxpayer who, for the taxable year, elects to take the credit against tax provided by section 42 (relating to credit against tax for expenditures relating to thermal design of taxpayer's residence). Such election shall be made in such manner and at such time as the Secretary or his delegate shall prescribe by regulations.".

(b) The table of sections for such part VII is amended by striking out the item relating to section 219 and by inserting in lieu thereof the following new items:

"Sec. 220. Expenditures relating to thermal design of taxpayer's residence.

"Sec. 221. Cross references.".

REPORT

SEC. 4. The Secretary of the Treasury or his delegate shall prepare a report in consultation with the Administrator of the Federal Energy Administration. Such report shall be transmitted to the Congress no later than September 15, 1978, and shall include (1) information with respect to the number and amounts of credits and deductions taken under the amendments made by the foregoing provisions of this Act; (2) the nature of thermal design improvements made by taxpayers with respect to their principal residences; (3) the geographical areas of the United States in which such residences were located; and (4) an analysis of the energy savings achieved through operation of such amendments.

TECHNICAL AMENDMENTS

SEC. 5. (a) Section 56(a)(2)(A) of the Internal Revenue Code of 1954 (relating to imposition of minimum tax) is amended—

(1) in clause (iv) thereof, by striking out "and"; and

(2) by adding at the end thereof the following new clause:

"(vi) section 42 (relating to expenditures relating to thermal design of taxpayer's residence); and".

(b) Section 6096(b) of the Internal Revenue Code of 1954 (relating to income tax liability) is amended by striking out "and 41" and inserting in lieu thereof "41, and 42".

EFFECTIVE DATE

SEC. 6. The amendments made by the foregoing provisions of this Act shall apply to expenses incurred during taxable years beginning after December 31, 1974, and ending before January 1, 1980. Such amendments shall terminate at the close of December 31, 1979, except that taxpayers may continue to take credit carryovers as provided by section 42(d)(2) of the Internal Revenue Code of 1954 (relating to carryback and carryover of unused credit), as enacted by section 2(a) of this Act.

By Mr. DOMENICI:

S. 169. A bill to amend title II of the Social Security Act to provide that the amount of an individual's earnings shall, for purposes of the provisions thereof requiring deductions from benefits on account of excess earnings, be deemed to be reduced by an amount equal to the expenses paid by him during the taxable year for medical care for himself. Referred to the Committee on Finance.

ADJUSTMENT OF THE SOCIAL SECURITY EARNINGS LIMITATION FOR MEDICAL EXPENSES

Mr. DOMENICI. Mr. President, I am concerned about two inequities in the social security program: the earnings limitation and the inadequate coverage provided under medicare.

Under the earnings test, individuals who have paid social security taxes all their lives and are otherwise eligible for benefits, will have their benefits reduced by $1 for every $2 over $2,520 which they earn in 1975. This amounts to a tax rate of 50 percent for these persons, many of whom must work to supplement their income. Some say that those who work do not need social security. Two statements of fact clearly illustrate the fallacy of this argument: First, despite recent increases, the latest data show the average monthly social security benefits to be only $187.29 for retired workers and only $177.07 for widows and widowers. On an annual basis, this amounts to $2,247 and $2,125. The poverty level for a retired person in 1973, before last year's high inflation rate, was $2,119. Second, the social security system was not designed as a needs tested program. Equity demands that those who have paid social security taxes reap some of the benefits.

I am also concerned about the personal costs of health care which are high even for those eligible for medicare. Despite the fact that 85 percent of older persons have one or more chronic health conditions, medicare does not cover the costs of dental care, out-of-hopsital drugs, eyeglasses or hearing aids. Neither does medicare cover preventive health service, and this program makes only a very small contribution toward home health care. Medicare also provides inadequate coverage of catastrophic health care needs.

Since its inception in 1966, the premium for supplementary medical insurance under medicare, and the hospital deductible have each increased over 100 percent. In 1973, the average older person was faced with a health bill of $311.40 for which he or she was personally responsible. In 1970, 15 percent of all older persons had out-of-pocket expenses of $550 or more. Over 4 percent had out-of-pocket expenses of $1,000 or more. As health care expenditures for the elderly have risen over 40 percent since 1970, it is obvious that these bills the elderly must now pay are dramatically higher.

The high medical bills illustrate only part of the problem. Many persons, particularly elderly persons simply do not have adequate medical care because they cannot afford the costs of such care.

The bill I have introduced today would lessen the inequities and hardships imposed by the earnings test and health expenses not covered by medicare. Under this bill the amount of social security beneficiary earned would be deemed to be reduced by the amount of any medical expenses incurred during the year. For example, if an individual earned $3,000 in 1975 and had medical expenses totaling $480, he or she would not lose any social security benefits as the $480 of medical expenses would reduce the countable earnings to $2,520, the current maximum earnings level at which benefits are not reduced.

The income tax laws have long recognized the need to take into account consideration individual circumstances such as high medical expenses. My bill would apply this same understanding to the social security earnings limitation. It would also allow many to obtain needed health care they are now forced to do without. In addition, it would increase the disposable income of many elderly persons, thus preserving their independence.

I urge my colleagues to support this measure as an expression of their own concern for the elderly in this country.

Mr. President, I request unanimous consent that the text of this bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 203 (f) (3) of the Social Security Act is amended—

(1) by striking out "except that," and inserting in lieu thereof "except that (A)", and

(2) by inserting, immediately before the period at the end thereof the following: ", and (B) in determining an individual's excess earnings for any taxable year which begins after December 31, 1974, such individual's earnings shall be deemed to be reduced (but not below zero) by an amount equal to the aggregate of the expenses paid by such individual during such year for medical care (as defined in section 213 (e) of the Internal Revenue Code of 1954) for himself".

By Mr. DOMENICI:

S. 170. A bill to modify the boundary of the Cibola National Forest, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

ADDITIONS TO THE CIBOLA NATIONAL FOREST, N. MEX.

Mr. DOMENICI. Mr. President, I rise today to introduce a bill to extend the boundaries of the Cibola National Forest in New Mexico to include four distinct land areas.

The first area contains 4,556 acres, all of which are owned by the United States. With the exception of about 300 acres of open grassland, the area is forested. The area had national forest status from 1912 until 1954 when it was transferred to the Department of the Army Corps of Engineers to become a part of the Fort Wingate Army Depot. The Army Corps of Engineers has no further need for this area, and has declared it excess to their needs. This area is bounded on the east by national forest lands and on the west by Indian lands and can be efficiently administered as a part of the national forest.

The second area contains 14,476 acres of which 9,760 acres are public domain lands. The State of New Mexico owns 1,280 acres, and 3,436 acres are privately owned. The public lands were acquired through Taylor Grazing Act exchanges with the understanding that they would, at some time, be included in the Cibola National Forest.

The third area contains 520 acres of land owned by the city of Albuquerque. The city would like this land included in the forest boundary to protect this environmentally sensitive area.

The fourth area contains about 7,000 acres and it is a portion of the Elena Gallegos grant. This area is contiguous to the national forest and ranges in elevation from 6,000 to 9,000 feet. The land is similar to the forest lands and would qualify for national forest purposes. It is my understanding that the private owner trustees—the land belongs to a school—have agreed to dispose of this property.

Mr. President, the land is located in the Sandia Mountains and would make a valuable addition to the national forest system.

I request unanimous consent that the text of my bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundary of the Cibola National Forest in New Mexico be modified to include the following described lands:

(a) A tract of land in townships 13 and 14 north, range 16 and 17 west, of the New Mexico principal meridian in New Mexico, beginning at a point from which the southwest corner of section 34, township 14 north, range 17 west, bears north 89 degrees 52 minutes west 1,717.32 feet; thence south 0 degrees 56 minutes east 1,307.46 feet to the southwest corner of the Fort Wingate Army Depot;

thence south 89 degrees 45 minutes east 897.60 feet; thence south 89 degrees 57 minutes east 2,643.30 feet; thence north 89 degrees 48 minutes east 5,272.08 feet; thence north 89 degrees 51 minutes east 6,596.70 feet to the southeast corner of Fort Wingate Army Depot which bears north 89 degrees 51 minutes east 1,320.66 feet and south 1,328.58 feet from the northwest corner of section 6, township 13 north, range 16 west; thence north 0 degrees 42 minutes west 12,945.12 feet; then due west, 15,175.51 feet to the west boundary of the Fort Wingate Army Depot; thence south 0 degrees 35 minutes west 2,598.32 feet; thence south 0 degrees 23 minutes west 5,195.52 feet; thence south 0 degrees 32 minutes west 3,872.88 feet to the point of beginning, containing an area of 4,556 acres, more or less. The southwest and southeast corners of Fort Wingate Army Depot mentioned in the above description are the same as was installed as of November 19, 1971, and mentioned in the Mann survey, United States Department of the Interior, Bureau of Land Management plat dated September 9, 1957.

(b) Township 14 north, range 15 west, section 3, all lying south of Interstate 40; section 4, all lying south of Interstate 40; section 5, all; section 8, all; section 9, all; section 10, all lying south of Interstate 40; section 11, all lying south of Interstate 40; section 12, all lying south of Interstate 40; section 13, all lying south of Interstate 40; section 14, all; section 15, all; section 16, all; section 17, all; section 20, all; section 21, all; section 22, all; section 23, all; section 24, all; section 25, all; section 26, all; section 27, all; section 28, all; section 29, all; section 32, east half; section 33, all; section 34, all; section 35, all; section 36, all; containing 14,476.06 acres, more or less.

(c) Township 10 north, range 4 east, section 2, south half northeast quarter, southeast quarter; section 11, northeast quarter, north half southeast quarter, southeast quarter, southeast quarter southeast quarter; containing 520 acres, more or less.

(d) That portion of the Elena Gallegos grant lying east of a line described as beginning at the closing corner between section 35 and 36 on the south boundary of the said grant and extending north 63 chains, thence east 37 chains, thence north 222.3 chains to the 7½ mile corner on the north boundary of said grant, containing 7,000 acres, more or less.

Sec. 2. Subject to valid existing rights, all lands owned by the United States in the areas described in section 1 of this Act, are hereby added to the National forest, and shall be administered in accordance with the laws, rules, and regulations applicable thereto.

Sec. 3. For the purposes of section 6 of the Act of September 3, 1964 (78 Stat. 903), the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that forest on January 1, 1965.

By Mr. DOMENICI:

S. 171. A bill to provide for a study of the suitability and feasibility of designating the Vietnam Veterans Chapel, Eagle Nest, New Mexico, as a national memorial to the Vietnam veterans. Referred to the Committee on Interior and Insular Affairs.

VIETNAM VETERANS CHAPEL, EAGLE NEST, N. MEX.

Mr. DOMENICI. Mr. President, I am introducing today a bill to authorize the Secretary of the Interior to conduct a study of the feasibility of administering the Vietnam Veterans Chapel in New Mexico.

I am aware of the fact that the National Park Service presently administers no war memorials outside the National Capital area, other than those located in historic battlefield parks. However, I believe that this particular memorial and the area around it merits consideration for inclusion in the National Park System.

Construction of this memorial was begun in August 1968 by Dr. and Mrs. Victor Westphall, following the death of their eldest son, 1st Lt. Victor David Westphall III, in the Southeast Asia conflict. Since that time, other interested individuals have contributed financial assistance for construction of the Chapel. Located high in the Sangre de Cristo Mountains near Angel Fire and Eagle Nest, N. Mex., the memorial was erected as a memorial to all of the victims of conflicts in Vietnam.

Mr. President, I have received many letters from Vietnam veterans and others who have visited this chapel and the overwhelming desire of those writing is to see this established as part of the National Park System because of its national significance.

I ask unanimous consent that the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to conduct a study of the feasibility and desirability of administering the Vietnam Veterans Chapel located near Eagle Nest, New Mexico, as a unit of the National Park System. No later than one year from the date that funds for such study are made available to him, the Secretary shall submit to the Congress a report thereon, including his recommendations as to any further legislation as may be necessary.

Sec. 2. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. CASE (for himself, Mr. Hart, and Mr. Weicker):

S. 181. A bill to promote public confidence in the legislative, executive, and judicial branches of the Government of the United States. Referred to the Committee on Rules and Administration.

Mr. CASE. Mr. President, on behalf of Mr. Hart and myself, I introduce a bill to require full public disclosure of personal financial interests, all sources and amounts of income, assets and liabilities, and transactions in real and personal property by the President, the Vice President, Members of Congress and the judiciary.

In addition, Federal employees earning more than $25,000 a year and all candidates for Federal office would be covered by our bill.

Over the years I have introduced full disclosure legislation on behalf of myself and colleagues many times.

Indeed, this is the 10th Congress in which I have introduced a disclosure bill and over the years I have seen gradual acceptance of the value of full disclosure of personal financial interests.

We in the Senate are governed now by a standing rule; those in the House also are covered by a standing rule; an executive order applies disclosure rules to agency heads and persons in the Executive Office of the President.

This is fine as far as it goes. But the trouble is that it does not go far enough and apply to all of us who hold the public's trust by reason of election or appointment. And it is a rather piecemeal approach which it seems to me may leave the public more than ever convinced that bureaucratic nonsense covers up more than just incompetency.

The public is extremely sensitive to the issue of conflict of interest. And this is as it should be. The public is entitled to know the facts about those who serve or would serve and when the facts are on the table, the public and the press can make their own judgment.

I believe that the time has come to enact a full public disclosure bill and I hope that this will be the year in which it is finally passed.

I would like, if I may, to ask unanimous consent that Senator Weicker's name be added to Senator Hart's bill and mine as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. CANNON (for himself and Mr. Tower):

S. 182. A bill to authorize the appointment of Alexander P. Butterfield to the retired list of the Regular Air Force, and for other purpose. Referred to the Committee on Armed Services.

Mr. CANNON. Mr. President, I am submitting a bill to authorize the appointment of Alexander P. Butterfield to the retired list of the Regular Air Force with an effective date of appointment upon the day after he ceases to hold office as Administrator of the Federal Aviation Agency or the day before his death, whichever is earliest.

I make this request not only because I think it would be equitable but also because our former colleague Senator Norris Cotton made a similar proposal in the last days of the 93d Congress prior to his retirement. I, therefore, want to read Senator Cotton's correspondence to Senator Stennis.

November 20, 1974

Hon. John C. Stennis,
Chairman, Senate Committee on Armed Services, Washington, D.C.

Dear Mr. Chairman: On March 9, 1973 the Senate confirmed the nomination of the Honorable Alexander P. Butterfield to be Administrator of the Federal Aviation Administration, vice John H. Shaffer, resigned.

Section 301(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1341(b)), setting forth the qualifications of the Administrator of the Federal Aviation Administration, requires that "At the time of his nomination he shall be a civilian . . ." On January 4, 1973, when Mr. Butterfield's nomination first was submitted to the Senate, he held the rank of Colonel in the United States Air Force, retired, and, thus, was ineligible to be either nominated or confirmed for this position.

Subsequently, Mr. Butterfield submitted to the Secretary of the Air Force his resignation terminating all entitlements of his status as a retired regular officer, which resignation was accepted effective February 8, 1973.

Then on February 26, 1973, Mr. Butterfield's nomination was resubmitted to the Senate and following a hearing held by our Committee on Commerce, reported favorably and confirmed on March 9, 1973 as Administrator of the Federal Aviation Administration.

I do not believe that it was the intent of Congress to deprive Mr. Butterfield permanently of the benefits and status which he acquired during his years in the armed forces. Therefore, in order to accord Mr. Butterfield equitable treatment similar to the precedent established by the Congress with respect to the first Administrator of the Federal Aviation Agency, General Elwood R. Quesada, who, like Mr. Butterfield, had to resign his commission, and for whom Congress later by law authorized the restoration of his commission in the armed forces (Private Law 86–177, approved September 16, 1959 (73 Stat. A–77)), I am considering the introduction of legislation authorizing the restroation of Mr. Butterfield to the Air Force's retired list the day after he ceases to hold office as Administrator of the Federal Aviation Administration, or the day before his death, whichever is earliest.

Since any such legislation would have to be considered by the Committee on Armed Services, I would appreciate being advised by you as to whether you foresee any grounds for objection to it.

Your consideration of this matter will be appreciated.

In closing, I wish to advise you that I am taking the liberty of furnishing a copy of this letter to Senator Magnuson, Chairman of the Committee on Commerce which conducted the hearing on Mr. Butterfield's nomination. I also am sending a copy to Senator Cannon who, while a member of your Committee, also serves as Chairman of the Commerce Committee's Subcommittee on Aviation and presided at Mr. Butterfield's hearing.

With best wishes,
Sincerely,

Norris Cotton,
U.S. Senator.

Mr. President, I ask unanimous consent to include the foregoing letter in its entirety in the Record at this point.

In my view Senator Cotton covered the subject in a most concise and detailed manner. I must agree with him that it certainly was not the intent of Congress to deprive Mr. Butterfield of the benefits he acquired during his years in the Armed Forces and accordingly feel the passage of this legislation would be most appropriate.

Mr. TOWER. Mr. President, I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. I am delighted to have the Senator as a cosponsor.

By Mr. THURMOND:

S. 186. A bill to provide for the establishment of a national cemetery in the State of South Carolina. Referred to the Committee on Veterans' Affairs.

Mr. THURMOND. Mr. President, I am pleased to introduce a bill to provide for a national cemetery in the State of South Carolina.

On June 27, 1974, I introduced a similar bill which was referred to the Senate Veterans' Affairs Committee. Unfortunately, the committee was unable to hold hearings on the national cemetery system, and the bill was not reported.

During the 94th Congress, the Senate Veterans' Affairs Committee will be reviewing our national cemetery policy, and will hold hearings on the recommendations of the Veterans' Administration to implement that policy. At that time, I am hopeful this legislation will be favorably considered.

Two national cemeteries already exist in South Carolina for 310,000 living veterans—one in Beaufort and one in Florence. The Florence cemetery has only 400 remaining spaces, and the Beaufort cemetery has about 6,000 spaces remaining. Neither cemetery is located in the geographical center of the State. Elementary arithmetics shows the need for additional burial space.

Mr. President, it is my strong conviction that veterans who have served their country and who wish to be buried in a national cemetery should have that privilege and honor. They should not have to be interred hundreds of miles away from their loved ones.

South Carolina needs additional burial space, and I am hopeful that this legislation will help to alleviate that problem.

Mr. President, I send the bill to the desk for appropriate reference, and ask unanimous consent that the text appear in the Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs is authorized and directed to establish a national cemetery in the State of South Carolina. Such cemetery shall be established at or near the city of Columbia, South Carolina, if the Administrator determines that such a location is desirable and practicable for such purpose. The Administrator is authorized to use as a site for such cemetery any federally owned lands in such State which are surplus to the needs of the department or agency of the Government having jurisdiction over such lands and are deemed by the Administrator to be suitable for the location thereon of a national cemetery. In the event the Administrator determines that no such federally owned lands are available as a site for such cemetery, he is authorized to acquire by donation, purchase, condemnation, or otherwise such lands as in his judgment are required as a site for such cemetery.

Sec. 2. The head of any department or agency of the Government having jurisdiction over any lands in the State of South Carolina which are surplus to the needs of such department or agency and which are deemed by the Administrator of Veterans' Affairs to be suitable for the location thereon of the national cemetery provided for by the first section of this Act is authorized and directed, upon request by the Administrator of Veterans' Affairs, to transfer such lands to the Veterans' Administration.

Sec. 3. The Administrator of Veterans' Affairs is authorized and directed to provide for the care and maintenance of the national cemetery established under authority of this Act.

Sec. 4. The appropriation of such sums as may be necessary to carry out the provisions of this Act is hereby authorized.

By Mr. DOLE (for himself, Mr. Curtis, Mr. Helms, Mr. Young, Mr. Domenici, Mr. Eastland, Mr. Hruska, Mr. Percy, and Mr. Fannin):

S. 187. A bill to provide a priority system for certain agricultural uses of natural gas. Referred to the Committee on Commerce.

NATURAL GAS PRIORITY FOR FERTILIZER

Mr. DOLE. Mr. President, during the past year, there has been a growing concern that the number of people in the world is increasing faster than the amount of food we produce. In conjunction with this realization, I think there has been an increasing awareness of a basic fact that we have known for a long time. The simple fact that before people do much of anything else, they must eat.

The reality of modern agriculture and food production is that without fertilizer our ability to meet the demand for food is drastically reduced.

Yet we are seeing natural gas curtailments for many fertilizer plants all over the country. The natural gas supplies to plants in Alabama, Arkansas, California, Louisiana, New Jersey, New York, North Carolina, Missouri, and West Virginia have been curtailed or stopped altogether. These actions have resulted in plant shutdowns or sharp reductions in the production of fertilizer. The total result is bound to be a lower supply of fertilizer and a more aggravated fertilizer shortage for farmers in all States of the Union.

Mr. President, we must have fertilizer to meet the food requirements of this Nation and the rest of the world that depends on us. There are several undesirable results we can expect to see from an even greater fertilizer shortage. It is to avoid a possible food shortage and other undesirable results that I introduce this legislation today to establish a natural gas priority on fertilizer production.

SHORTAGE AGGRAVATED

It is my understanding that the Department of Agriculture expects a loss of about 500,000 tons of ammonia production because of the recent curtailments. Since natural gas curtailments are dependent to some extent on the weather and other factors, a safe expectation for production losses would probably be between 400,000 to 600,000 tons of ammonia. Last year, U.S. plants produced about 16 million tons of ammonia. About 12 million tons of that ammonia was used to produce nitrogen fertilizers. That 12 million tons includes 4 million tons of anhydrous ammonia which was applied directly into the soil.

So a loss of 500,000 tons in production would be a decrease of about 3 percent of our productive capacity. The most recent figures I have seen from the Department of Agriculture indicate a fertilizer shortage this year of about 6 to 8 percent. The reduction of 3 percent of our ammonia production would further aggravate that shortage. Obviously, with a shortage of 6 to 8 percent, we need greater production, not less. The need for this legislation is clear and I hope we can act promptly on it.

DEMAND INCREASING

Many Kansas farmers I have talked to feel a very intense pressure to expand production. Our public media often carry stories of millions of people in other countries starving or suffering from malnutrition. The American people are suffering greatly from inflation and there has been a great deal of sentiment expressed that farm production should be increased in order to hold down the price of food. So farmers in Kansas are working hard to expand their output of food.

Yet their own cost of production has been skyrocketing. Anhydrous ammonia that was selling for around $60 a ton only a few years ago is now up to $180 to $220 or more per ton. Many farmers are beginning to feel that with a declining market for wheat, corn, and feed grains, and with rising costs of production for fertilizer, equipment, and other essential materials, it may be necessary to restrict production. Some wheat farmers who have already planted their crop this year have expressed the sentiment that unless conditions improve it may be necessary to plow up some of the wheat that has already been planted in order to prevent a situation we are seeing in the livestock market from developing in the wheat market.

So, Mr. President, we need greater production of fertilizer and not less. We need not only a priority on natural gas for existing fertilizer plants but an availability of natural gas for new plants.

OTHER ASPECTS

As I mentioned before, there are numerous other reasons why this legislation should be passed. Probably chief among those reasons is to avoid further inflationary increases in the price of food. With an inadequate supply of fertilizer, the level of food production in this country is almost certain to decline. Lower supplies of food mean higher prices. The difficulties in our economy are severe enough without adding further to inflation.

In drafting this legislation, we have made an effort to keep the issue simple and to avoid controversy. The priority is restricted primarily to feedstock uses of natural gas and fertilizer and agricultural chemical production. The bill would only be effective for a period of 1 year and if it is apparent that the program is productive it can be extended at that time. We have avoided putting in this legislation provisions included in previous legislation which are a great deal more controversial.

So I hope this legislation is something we can all agree on promptly. We clearly have to have an adequate supply of food. An adequate supply of food is dependent upon fertilizer and we must have natural gas for fertilizer production. This bill would insure that the fertilizer industry receives that priority on natural gas. I hope every Senator will join me in supporting this legislation.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 187

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Natural Gas Priority Act".

SEC. 2. The Natural Gas Act, as amended (52 Stat. 821; 15 U.S.C. 717 et seq.), is amended by inserting immediately after section 22 the following new sections:

"NATURAL GAS FOR ESSENTIAL AGRICULTURAL PURPOSES

"SEC. 22a. (a) Notwithstanding any other provision of law or of any natural gas allocation or curtailment plan in effect under existing law, the Commission shall, for the period of one year following enactment of this Act, prohibit any interruption or curtailment of natural gas and take such other steps as are necessary to assure as soon as possible the availability in interstate commerce of sufficient quantities of natural gas for use as a raw material feedstock or process fuel in the production of fertilizer (including materials utilized in the production of fertilizer, such as sulfur), animal feed grade chemicals (including defluorinated phosphates and urea), and essential agricultural chemicals. All such uses are referred to in this Act as 'agricultural requirements'. Any priority granted under this section shall also apply to the use of natural gas to meet existing boiler fuel capacity needs of such agricultural requirements: *Provided,* That it is not feasible to meet such existing boiler fuel requirements with an alternate fuel (other than propane). As used in this section, 'sufficient quantities of natural gas' means the amounts of natural gas which the Secretary of Agriculture certifies to the Commission are necessary (1) to meet such agricultural requirements domestically; (2) to meet certain United States export requirements that are important to maintain, or expand United States imports of materials which are similarly essential to the production of food; and (3) to carry out certain humanitarian objectives in friendly countries under the Agricultural Trade Development and Assistance Act of 1954, as amended, except to the extent that any such amounts are required to maintain natural gas service to existing residential and small commercial users.

"(b) Nothing in this section shall impair any requirement in any State or Federal law pertaining to safety or environmental protection, and the Commission, in carrying out this section shall not assume that there will be any lessening of safety or environmental requirements established pursuant to State or Federal law.

DIRECT COMMISSION AUTHORITY OVER AGRICULTURAL REQUIREMENTS FOR NATURAL GAS

SEC. 3. Section 7(a) of the Natural Gas Act, as amended, is amended by inserting immediately after the words "any person or municipality engaged or legally authorized to engage in the local distribution of natural gas or artificial gas to the public," the words "or to meet agricultural requirements as specified in this Act,".

By Mr. NELSON:

S. 188. A bill to authorize the Secretary of HEW to establish a medical malpractice reinsurance program, and to conduct experiments and studies on medical malpractice. Referred to the Committee on Labor and Public Welfare.

Mr. NELSON. Mr. President, the medical malpractice "crisis" has worsened, during the 2 years since completion—in January, 1973—of a $2 million Federal report on the situation by the HEW Commission on Medical Malpractice.

In the past 2 years, many insurance companies have abruptly terminated malpractice coverage in a number of States; premiums have continued to skyrocket, along with the number of claims filed, and awards by courts.

Clearly, something must be done to correct the situation. A bill that I am offering proposes several steps in that direction.

The need for action is prompted by the following facts:

Most primary insurance companies are getting out of the medical malpractice business. Fewer than 12 companies now write at least 90 percent of physician malpractice coverage. (Dr. Roger O. Egeberg, Special Assistant for Health, HEW, Washington Star-News, article by Judith Randal, December 27, 1974.)

Health providers are unable to obtain malpractice coverage, or to obtain it at prices they can afford.

Premiums for coverage often are prohibitively expensive. In the past 10 years, the cost of malpractice liability insurance has risen 950 percent for surgeons, 540 percent for other doctors. The New York State Medical Society says that new physicians are paying $10,000 to $15,000 annually in premiums, and that rates as high as $34,000 for some anesthesiologists are not uncommon. (AMA News, July 1/8, 1974, page 15.)

Total premium volume for medical liability insurance for practitioners and hospitals increased from $61 million in 1960 to $370 million in 1970, and approximately $500 million in 1973. (HEW Malpractice Commission Report, Appendix, reference 5, "The Medical Insurance Market," at 509. The five most populous States (California, Illinois, New York, Pennsylvania, and Ohio) produced one-half of the premium income.)

Suits against physicians are increasing at the rate of 10 percent a year; at the present rate, half again as many doctors can expect to be sued by 1978 as are sued now. One physician in three can expect a malpractice suit during a career. (Medical Economics, October 29, 1973, page 93.) Ninety percent of all malpractice suits ever filed in the United States have been brought since 1964 (Dr. David S. Rubsamen, Medical World News, January, 1975, page 66).

Physicians are practicing "defensive medicine", or ordering possibly unnecessary procedures, to protect against the possibility of malpractice suits.

Attorney contingency fees raise the cost of litigation and encourage high court awards, but attorneys are reluctant to take on clients seeking small claims. Total compensation for claims closed in 1970 aggregated $80 million. Legal fees cost the insurance carriers an additional $10 million. (HEW Medical Malpractice Commission, article, "A Critique of the Report of HEW's Medical Malpractice Commission," Josephine Y. King, Ph. D., J.D., The Journal of Legal Medicine, March/April, 1974.)

Recent estimates indicate that, of the malpractice premium dollar, only between 16 cents and 17 cents ever gets to the accident victims (Medical World News, Jan. 25, 1974).

Verne E. Brown, claims attorney for the St. Paul Fire and Marine Insurance Company, one of the country's largest malpractice carriers, is quoted in Medical Economics (October 29, 1974, page 106):

The cost of premiums reflects the cost of legal defense, and this ties in with the contingency system of paying plaintiff's attorneys. The effect is apparent when you consider premiums in Canada and here. The quality of medicine in both countries is similar, as is the law, but most provinces in Canada have no contingency fee. The courts there fix the attorney's fee. Granted that Canada has a much less suit-oriented populace—still, doctors in Canada pay $50 for $100,000/$300,000 liability coverage, while ours may pay $1,500 for the same amount.

New Jersey and other States now have established mandatory sliding scales for contingency fees.

Malpractice insurance costs are estimated to represent between 2 and 4 percent of physicians' overhead. These are passed on in fees charged to patients. (Medical Economics, October 29, 1973, page 108.) Hospitals are estimated to spend $2 per bed per day for malpractice protection, expected to be $4 per day in 1975 (Dr. Egeberg, Washington Star-News).

The HEW Medical Malpractice Commission studied 16,000 malpractice cases that had been closed by insurance companies in 1970. The study showed that: Half the cases were closed before a lawsuit was actually begun; a quarter of the total cases resulted in the claimant receiving some financial settlement. Of the 8,000 actual lawsuits, 80 percent were settled out of court and in 60 percent of the claimant received some payment. Only 20 percent of the lawsuit cases ever came before a jury, but the verdict was in favor of the physician in four out of every five of these. Only 3 percent of cases were settled for or awarded sums of more than $100,000; and more than half the claimants received less than $3,000—probably not enough to cover legal costs.

Although claim awards are shown not to be high generally, a few extremely high malpractice awards tip the scales. In 1973, one plaintiff was awarded damages of $4 million.

Nevertheless, insurance companies continue to get out of the medical malpractice business as too risky; physicians' premiums continue to rise; and court awards in the millions are increasingly common.

"Malpractice insurance is getting more costly, not just because of huge awards," according to a broker for the Medical Society of the State of New York's malpractice insurance. (Medical World News, January 25, 1974.)

Many facets affect the medical malpractice problem. To solve it, cooperation must come from the insurance industry, the medical profession, Federal and State governments, the judicial sector, and the general public.

This bill proposes a number of solutions. Parts of the bill are based on recommendations of the HEW Medical Malpractice Commission. Parts of the bill are inspired by what is lacking from the Commission study and recommendations.

What the bill does:

Establishes in HEW a National Medical Malpractice Development Fund, patterned after the Federal riot and flood reinsurance programs, to protect primary insurance companies against catastrophic malpractice claims losses.

Insurance companies selling malpractice insurance could voluntarily pay into the reinsurance pool, which would be supported by such payments.

The pool initially would pay malpractice liability claims above $25,000. The figure would be adjusted up or down, based on actuarial experience.

The Secretary of HEW would consult with State insurance authorities and other knowledgeable persons regarding malpractice premium rates for primary insurance.

The Secretary would be required to make the following studies and reports:

Study the direct and indirect costs of medical malpractice claims in all federally-supported health care programs;

Explore alternative methods of classifying individual medical practitioners and institutions for ratemaking purposes;

Study and recommend methods of minimizing the cost of litigation, including the contingency fee system;

Develop a contingency plan to provide medical malpractice insurance if it were to become unavailable through private companies;

Support and conduct demonstration studies and evaluate alternatives to settling malpractice claims, including demonstrations of no-fault insurance and compensation, prelitigation screening, arbitration, and mediation.

A number of different programs involving prelitigation efforts to settle disputes are underway in the Nation, but little evaluation of their results has been done on a broad scale, and no experiments have been conducted on the no-fault concept, although considerable study of such compensation has been done. It is hoped that small-scale demonstrations of no-fault systems might be conducted.

Insurance companies participating in the reinsurance pool would be required to provide data on malpractice claim experience to the administrator of the pool.

A Federal Medical Malpractice Reinsurance Advisory Board would be established, composed of 19 members appointed by the Secretary. Members would be selected from the general public, the insurance industry, medical practitioners and other health care providers, the legal profession, State insurance authorities, and the Federal Government.

Mr. President, I ask unanimous consent that the text of the bill, and articles describing the malpractice situation, be inserted into the RECORD following these remarks.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Medical Malpractice Insurance Act".

AUTHORITY

SEC. 2. (a) The Secretary of HEW (hereinafter referred to as the "Secretary") is authorized to offer to any insurer or pool, subject to such rules and regulations as he may prescribe, reinsurance against liability for damages resulting from acts of medical malpractice.

(b) In carrying out the medical malpractice reinsurance program authorized by subsection (a) of this section, the Secretary shall arrange for—

(1) appropriate financial participation and risk sharing in the reinsurance program by insurance companies or other insurers, and

(2) other appropriate participation on other than a risk-sharing basis by insurance companies or other insurers, insurance agents and brokers, and insurance adjustment organizations.

(c) The Secretary shall make reinsurance available in such amounts as he determines to be necessary, based upon actuarial studies, but shall make available initially such insurance in amounts in excess of $25,000.

CLAIMS AND JUDICIAL REVIEW

SEC. 3. (a) All reinsurance claims for losses under this Act shall be submitted by insurers in accordance with such terms and conditions as may be established by the Secretary.

(b)(1) Upon disallowance of any claim under color of reinsurance made available under this Act, or upon refusal of the claimant to accept the amount allowed upon any such claim, the claimant may institute an action against the Secretary on such claim in the United States district court for the district in which a major portion (in terms of value) of the claim arose.

(2) Any action under paragraph (1) must be begun within one year after the date upon which the claimant received written notice of disallowance or partial disallowance of the claim.

(3) The district courts of the United States have exclusive jurisdiction to hear and determine actions brought under this subsection without regard to the amount in controversy.

USE OF EXISTING FACILITIES AND SERVICES

SEC. 4. In carrying out his responsibilities under this Act, the Secretary may utilize—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States, or

(2) officers and employees of any executive agency (as defined in section 105 of title 5, United States Code) as the Secretary and the head of any such agency may from time to time agree upon, on a reimbursement or other basis.

ESTABLISHMENT OF AFFORDABLE RATES

SEC. 5. (a) In establishing the rates for various reinsurance coverages offered from time to time under this Act, the Secretary shall consult with appropriate State insurance authorities and other knowledgeable persons and is authorized to take into consideration the nature and degree of the risks involved, the extent of anticipated losses, the prevailing rates for similar coverage in adjacent or comparable areas and territories, the economic importance of the various types of coverage, and the relative abilities of the particular classes and types of insurers to pay the full estimated costs of such coverage. Nothing in this section shall be construed to prohibit or require either the adoption of uniform national rates or the periodic modification of currently estimated affordable rates for any particular line or subline of coverage, class, State, territory, or risk on the basis of additional information or actual loss experience.

(b) For purposes of this section, the term "rate" means such premium rate as the Secretary determines would permit the purchase of a specific type of insurance coverage by a reasonably prudent person in similar circumstances with due regard for the costs and benefits involved.

REPORTS AND STUDIES

SEC. 6. (a) The Secretary shall—

(1) conduct a comprehensive study to determine the direct and indirect costs of medical malpractice claims, including litigation arising out of such claims, in all Federally supported health care programs;

(2) explore alternative methods of classifying individual medical practitioners and institutions for medical malpractice insurance rate-making purposes;

(3) study and recommend methods of minimizing the cost of litigation, including the contingency fee system;

(4) develop a contingency plan to provide medical malpractice insurance if such insurance were to become unavailable through private insurance companies.

(b)(1) In carrying out his functions under this Act, the Secretary is authorized to provide financial assistance to persons for the purpose of studying and evaluating new and alternative methods of settling medical malpractice claims, including but not limited to studies and demonstration projects of no-fault insurance and compensation plans, prelitigation screening programs, arbitration programs, and mediation of disputes.

(2) Assistance may be provided under paragraph (1) under such terms and conditions as the Secretary may by regulation prescribe.

(c) The Secretary shall annually report to the President and the Congress on his operations and activities under this Act together with such recommendations as may be appropriate.

RECORDS, ANNUAL STATEMENT, AND AUDITS

SEC. 7. (a) Any insurer, or pool, acquiring reinsurance under this Act shall furnish the Secretary with such summaries and analyses of information in its records as may be necessary to carry out the provisions of this Act, in such form as the Secretary in cooperation with the State insurance authority, shall, by regulation, prescribe. The Secretary shall make use of State insurance authority examination reports and facilities to the maximum extent feasible.

(b) Any insurer or pool acquiring reinsurance under this Act shall file with the Secretary a true and correct copy of any annual statement, or amendment thereof, filed with the State insurance authority of its domiciliary State, at the time it files such statement or amendment with such State insurance authority. In addition, any such insurer or pool shall file any information pertaining to medical malpractice insurance as the Secretary may determine is necessary for carrying out the provisions of this Act.

(c) Any insurer or other person executing any contract, agreement, or other appropriate arrangement with the Secretary under this Act shall keep reasonable records which fully disclose the total costs of the programs undertaken or the services being rendered, and such other records as will facilitate an effective audit of liability for reinsurance payments by the Secretary.

(d) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of investigating, audit, and examination to any books, documents, papers, and records of any insurer or other person that are pertinent to the costs of any program undertaken for, or services rendered to, the Secetary. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities.

ABVANCE PAYMENTS

SEC. 8. Any payments which are made under the authority of this Act may be made, after necessary adjustments on account of previously made underpayments or overpayments in advance or by way of reimbursement. Payments may be made in such installments and on such conditions as the Secretary may determine.

RECOVERY OF PREMIUMS; STATUTE OF LIMITATIONS

SEC. 9. (a) The Secretary in a suit brought in the appropriate United States district court, shall be entitled to recover from any insurer the amount of any unpaid premiums lawfully payable by such insurer to the Secretary.

(b) No action or proceeding shall be brought for the recovery of any premium due to the Secretary for reinsurance, or for the recovery of any premium paid to the Secretary in excess of the amount due to it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except that, where the insurer has made or filed with the Secretary a false or fraudulent annual statement or other document with the intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

PAYMENT OF CLAIMS

SEC. 10. The Secretary is authorized to issue orders establishing the general method or methods by which proved and approved claims for losses may be adjusted and paid for any liability which is covered by medical malpractice reinsurance made available under the provisions of this Act.

NATIONAL INSURANCE DEVELOPMENT FUND

SEC. 11. (a) To carry out the programs authorized under this Act, the Secretary is authorized to establish a National Medical Malpractice Reinsurance Development Fund (hereinafter referred to as the "fund") which shall be available without fiscal year limitations—

(1) to make such payments as may, from time to time, be required under reinsurance or direct insurance contracts under this Act;

(2) to pay such administrative expenses as may be necessary or appropriate to carry out the purposes of this Act; and

(3) to repay to the Secretary of the Treasury such sums, including interest thereon, as may be borrowed from him for purposes of such programs under this Act.

(b) The fund shall be credited with—

(1) reinsurance premiums, fees, and other charges which may be paid or collected in connection with reinsurance;

(2) interest which may be earned on investments of the fund;

(3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

(4) such amounts which are hereby authorized to be appropriated as may be necessary from time to time to reimburse the fund for losses and expenses (including administrative expenses) incurred in carrying out the program;

(5) receipts from any other source which may, from time to time, be credited to the fund; and

(6) funds borrowed by the Secretary and deposited in the fund.

(c) If, after any amounts which may have been advanced to the fund from appropriations have been credited to the appropriation from which advanced, the Secretary determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

SEC. 12. (a)(1) There is established a Federal Medical Malpractice Reinsurance Advisory Board (hereinafter called the "Board") consisting of nineteen members appointed by the Secretary. Members of the Board shall be selected from among representatives of the general public, medical practitioners and other providers of health care services, the legal profession, the insurance industry, State and local governments including State insurance authorities, and the Federal Government. Not more than two members of the Board shall be regular full-time employees of the Federal Government; not more than three shall be representatives of the general public; not less than four shall be representatives of health care providers; not less than four shall be representatives of the legal profession; not less than four shall be representatives of the insurance industry; and not less than two shall be representatives of State insurance authorities.

(2) The Secretary shall designate a Chairman and a Vice Chairman of the Board.

(3) Each member shall serve for a term of two years or until his successor has been appointed, except that no individual who is appointed while a full-time employee of a State or the Federal Government shall serve in such position after he ceases to be so employed, unless he is reappointed.

(4) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(b) The Chairman shall preside at all meetings, and the Vice Chairman shall preside in the absence or disability of the Chairman. In the absence of both the Chairman and Vice Chairman, the Board may appoint any member to act as Chairman pro tempore. The Board shall meet at such times and places as it may fix and determine, but shall hold at least four regularly scheduled meetings a year. Special meetings may be held at the call of the Chairman or any three members of the Board.

(c) The Board shall review general policies and shall advise the Secretary and perform such other functions as he may require.

(d) The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States, and such members, except those who are regular full-time employees of the Government, shall receive for their services, as members, the per diem equivalent to the rate for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, when engaged in the performance of their duties, and each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons in the Government employed intermittently.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

LIABILITY VS. PROTECTION—NO. 1

One out of every six physicians already know what it feels like to have a malpractice claim filed against them. Court awards stemming from such claims recently broke through the $4,000,000 level, and out-of-court settlements are hitting all-time highs. By 1978:

One physician in three can expect to be confronted with a claim at some time during their careers.

True (77%); False (23%).

Every doctor will need a $10,000,000 liability insurance umbrella to safeguard himself adequately.

True (18%); False (59%); Undecided (23%).

Barring a fundamental restructuring of the whole health-care system—which they consider unlikely—most medicolegal authorities on our panel believe the short-term outlook on the malpractice front is bleak. Suits against physicians, they point out, are increasing at the rate of 10 per cent a year;

that means there'll be half again as many hitting doctors in 1978 as there are today.

"Even your 'one physician out of three' statement will look like a conservative estimate five years from now," declares Eli P. Bernzweig, who acted as staff director of the U.S. Commission on Medical Malpractice. "In fact, I consider it quite likely that *every* doctor actually engaged in treating patients will be faced with at least one claim at some time during his career." Considering that earlier this year the commission's statistical survey found most doctors had yet to feel the chill of a malpractice suit, Bernzweig's prediction is a pretty ominous one. But it's not an inconsistent one. "Our survey," he points out, "showed one claim generated for every 226,000 patient visits. Any practicing physician is likely to rack up that many over a 30-day practice span—so my appraisal has credible statistical support."

The experts agree that the well-known factors responsible for escalating the malpractice problem will continue to operate: the growing depersonalization and fragmentation of medical practice; the complexity of modern procedures; the use of potent but hazardous new drugs; the doctor shortage. And there are other developments that the pessimistic majority expect to have impact in the years just ahead.

AN INCREASINGLY LITIGATION-PRONE PUBLIC

This trend isn't new, and it's not confined to medical practice; it applies to the whole field of personal-injury litigation. But it's the barometer experienced malpractice-watchers cite most frequently in predicting a further rise in claims. Now, with the spread of no-fault auto insurance, plaintiff's attorneys who find their profitable auto-accident business drying up are turning to greener fields. And it's apparent that medical malpractice is a target of choice in states where auto no-fault is already on the books.

"We've had lots of chasing going on inside our hospitals," observes Cleveland defense attorney R. Crawford Morris. "The minute somebody gets burned with a hot water bottle, there's a lawyer there taking pictures. And the patient hasn't hired him—doesn't even *know* him."

PREPAID LEGAL SERVICES

This counterpart of prepaid medical care is starting to catch on, and some experts are convinced it will spur the filing of small claims that few attorneys have thus far been willing to bother with. At present, prepaid legal service plans are offered chiefly by a handful of unions and private cooperatives, and they're not so comprehensive as to include contingency-fee cases.

However, the insurance industry is making its first moves into this general area, and at least one Blue Cross plan—New Jersey's—is investigating the idea of a separate corporation to administer a legal insurance program. At the national level the Taft-Hartley Act was amended last summer to facilitate the inclusion of such coverage in union contracts. By 1978 this could emerge as a standard fringe benefit for organized labor and gradually be broadened to cover contingency cases.

If pressure from consumers should persuade the Federal Government to follow the unions' lead, at least one expert, Washington, D.C., attorney Vincent H. Cohen, envisages a legal program similar to Medicare. Under such a plan, an injured patient could engage a lawyer of his own choice, and "Judicare" would pay his lawyer bills just as Medicare now pays doctor bills.

"Should that happen," says Cohen, "I can see an aggrieved patient going into an attorney's office and saying, 'I want to sue my doctor.' He won't be deterred from consulting the attorney, because he'll have a chit for legal fees. And the lawyer won't be afraid to accept the case, because he knows he's going to get paid. With these restraints lifted from both of them, small malpractice claims will multiply."

LEGAL DOCTRINES FAVORING THE PLAINTIFF

Judging from the direction in which the courts are moving, they won't be making things any easier for physicians in the next five years. On the contrary, they're finding ever more liberal grounds for compensating patients, and interpretations unfavorable to doctors are gradually spreading beyond the jurisdictions in which they originated.

Thus the old locality rule is on the way to extinction; the statute-of-limitations clock starts ticking in most states from the time of discovery rather than from the date of the incident; res ipsa loquitur is being invoked more frequently; and even physicians' verbal assurances to patients are exposing them to breach-of-contract suits when there's a bad result.

In short, when negligence is difficult to establish, plaintiff's attorneys are increasingly able to collect damages for patients via other legal doctrines. Chief among these is the doctrine of informed consent. It's been used for years, but lately it has really started snowballing. In 1972, two landmark cases—one in the District of Columbia and another in California—enlarged the doctor's obligation to inform his patients of a treatment's risks.

"The burden on the doctor is so unrealistic now," charges attorney Cohen, "that even where no negligence is present, if the doctor fails to enumerate each possible risk, or even if a patient *feels* he hasn't been informed fully enough, that patient can sue. If I were a plaintiff's lawyer, I'd always allege lack of informed consent. It's the easiest thing he's got going for him—but it's going to be hell on doctors."

Then, there's the potential impact of a recent landmark decision in a nonmedical negligence suit. New York State's highest court ruled in Dole v. Dow Chemical Company that the apportionment of relative responsibility among co-defendants was a question to be determined by the courts.

"This decision means," attorney Albert Averbach of Seneca Falls, N.Y., points out, "that it will be a lot harder to settle a malpractice case where there is more than one defendant, and that many more such cases will find their way to trial. The carriers can't buy peace for the doctor so long as another defendant—the hospital, say, or an equipment manufacturer—is holding out." Such a settlement would be meaningless, Averbach explains, if the other defendants go to trial and the jury judges the physician's share of responsibility to be greater than the amount his carrier has settled for.

An equally informed minority dispute such gloomy views of the malpractice situation. Says William J. Curran, attorney and professor of medical law at Harvard: "I don't accept the assumption that we have a significantly rising rate of actual suit, and statements that suggest we do are inflammatory. They create enormous problems in relationships between physicians and attorneys. There *is* an increase of the amount gathered by any plaintiff in a successful suit, but that is largely due to inflation and to what's happening in personal-injury litigation in general."

HOW MUCH UMBRELLA INSURANCE WILL YOU NEED?

There's virtually unanimous agreement that the size of awards and settlements will keep going up and that by 1978 all physicians should carry seven-figure malpractice insurance umbrellas. But $10,000,000 worth for every physician, as suggested in the opening true-false statement? No. Even allowing for five more years of inflation, the consensus is that such a figure would be excessive for the average doctor.

It's possible that the $4,000,000 award made in a San Francisco court earlier this year would inflate to $10,000,000 if the case were tried five years from now. But that award was regarded by most of our authorities as an aberrational verdict. They don't anticipate more than a handful of million-dollar cases a year, and they say that excess limits of from $1,000,000 to $5,000,000 should suffice for most physicians. Those who *should* carry a $10,000,000 umbrella, they say, are anesthesiologists, surgeons in unusual and high-risk specialties—especially if they practice in large metropolitan areas—and men of national stature who might be held to a higher standard of performance than the ordinary physician.

Speaking for the minority who favor such high coverage for *all* physicians, New York attorney Sidney Bernstein says, "With verdicts almost halfway there today, $10,000,000 won't be at all unreasonable tomorrow." Others point out that while the million-dollar-plus award is rare, no doctor can be sure it won't happen to him, and since premiums for the extra coverage are minimal, it's simple pragmatism to buy it.

On the whole, though, even plaintiff's attorneys feel that if things get to the point where seven- and eight-figure payments are commonplace, the situation would become so intolerable that counteraction would be inevitable. "It's self-defeating," explains one medicolegal expert. "There's been a mixed reaction to that $4,000,000 award—a grudging admiration for the brilliance of the attorney who won it, but a lot of shaking of heads to the effect that this is getting awfully close to killing the goose that lays the golden eggs." The general belief is that one way or another, a ceiling will be reached. If other approaches don't do it, the Government will be forced to step in.

Liability Versus Protection—No. 2

Growing malpractice insurance payouts have caused insurers to hike premiums as much as 800 per cent for some physicians, while many carriers have quit the field altogether. According to most estimates, premiums will go up 10 to 25 per cent a year for the rest of the decade. By 1978:

Physicians will be paying three times their present premiums.

True (73%); False (27%).

They'll still have trouble finding and keeping coverage.

True (9%); False (73%); Undecided (18%).

"The most serious malpractice problem plaguing doctors," says Harvard's medical-law professor William J. Curran, "isn't lawsuits, but the cost of liability insurance." Yet the two go hand in hand. The expert consensus is that, with claims and dollar payouts soaring, medical malpractice insurance rates will be three times higher in 1978 than they are today.

Rates won't jump evenly across the board. Many areas will continue to have a benign medicolegal climate, and many doctors will continue to practice in low-risk specialties. But some physicians can expect their premiums to more than triple: anesthesiologists, orthopedists, plastic surgeons, and neurosurgeons—especially in such litigation-prone states as California, Florida, and New York. Many forecasters warn that routine premiums for high-risk practitioners in high-risk states will run around $10,000 to $20,000 a year by 1978.

A dissenting view is voiced by Los Angeles plaintiff's attorney David M. Harney, who thinks premium hikes will not exceed 10 per cent a year. He says: "Remember, you're dealing with at least 300,000 doctors, whose premiums come to millions of dollars. Add 10 per cent a year to that, and you're getting a tremendous amount of money over-all."

But the size of the doctor-market for malpractice insurance doesn't look that impressive to most of our medicolegal authorities. In fact, the experts cite this lack of size as one of the special factors that will continue to exacerbate the premium problem.

THE NARROW MARKET BASE

Unlike auto liability insurance, where risk is spread among millions of car owners, the cost of medical malpractice insurance is borne by a few hundred thousand doctors. The smaller the data base, the more difficult it is to make realistic actuarial projections—and the more each policyholder has to ante up to ensure ample coverage of risks.

MALPRACTICE'S "LONG TAIL"

Again experts cite the contrast between malpractice and auto liability insurance. Carriers know that an auto-accident claim must be filed within a fixed period—generally two years—and they can calculate the effect of inflation in closing such a claim. Not so with medical malpractice. A patient may learn his pain stems from a surgical incident that took place many years before; a child may wait until he reaches adulthood to initiate malpractice action. So actuarial uncertainty forces carriers to prepare for the worst.

THE CONTINGENCY FEE

Says Verne E. Brown, claims attorney for the St. Paul Fire & Marine Insurance Company, one of the country's largest malpractice carriers: "The cost of premiums reflects the cost of legal defense, and this ties in with the contingency system of paying plaintiff's attorneys. The effect is apparent when you consider premiums in Canada and here. The quality of medicine in both countries is similar, and is the law, but most provinces in Canada have no contingency fees. The courts there fix the attorney's fee. Granted that Canada has a much less suit-oriented populace—still, doctors in Canada pay $50 for $100,000/300,000 liability coverage, while ours may pay $1,500 for the same amount."

Not all the experts agree with Brown's appraisal, and many feel that, as more and more states follow New Jersey's lead in establishing mandatory sliding scales for contingency fees, the excesses of the system will disappear.

Malpractice insurance costs generally run between 2 and 4 per cent of physician's overhead. Until recently, whenever carriers raised premiums, physicians could, if they desired, compensate by boosting their fees. But now they're having more and more trouble getting fee increases accepted by governmental and other third-party payers—and by the Nixon Administration's price-control apparatus. So for now the experts see doctors being squeezed between fee controls and premium hikes.

On the other hand, some of our consultants note forces at work that should mitigate the upward pressure on premiums. Here are examples of where relief may come:

"From a change in the way medical care is delivered—supplementing the one-to-one doctor-patient approach with comprehensive clinic practice."—Victor H. Blake, CNA/Insurance, Chicago.

"From doctors learning to deal sympathetically with patients, so as not to antagonize them."—Neil Chayet, attorney, Boston.

"From insurance commissioners forcing the companies to justify each rate increase."—Mark Gorney, plastic surgeon, San Francisco.

"From all the doctors in the country self-insuring cooperatively, rating premiums according to the risks in the specialty or area of practice."—Moe Levine, attorney, Mineola, N.Y.

"From taking dishonest and incompetent doctors out of practice, thus lowering overall costs."—Herbert S. Denenberg, Insurance Commissioner, Pennsylvania.

AT LEAST YOU'LL BE ABLE TO GET COVERAGE

The cost may be painfully higher, but doctors will have no problems finding malpractice coverage five years from now, an overwhelming majority of informed observers predict. Malpractice insurance is at least becoming profitable to the carriers. During the early sixties their calculations were thrown out of whack by an unexpected claims explosion coupled with inflation. That's when they resorted to those premium boosts of up to 100 per cent per annum that clobbered doctors at the end of the decade. Now they seem to have caught up.

The new swing to group programs has markedly increased the availability of coverage. In the past, insurers wrote malpractice insurance for doctors individually. Today, they're moving toward covering doctors on a group basis alone, largely through medical society programs. About 25 state society programs are now available.

"The advantages of such programs are obvious," says A. John Smither, vice president of the insurance brokerage firm that administers the Pennsylvania Medical Society's program. "When you cover all the doctors in a state rather than just a fraction of them, you get a geographical spread, you get a specialty spread, you eliminate selective underwriting, and you have a chance of making a profit. So now there's competition between reputable companies for the business of large medical groups."

To a few experts, these developments seem insufficient to do the trick. Attorney Sidney Bernstein of New York City believes that by 1978, it will be all but impossible for some physicians to obtain insurance, partly because of unavailability, partly because of prohibitive cost. What then? Again, says Bernstein, the only realistic answer would be for Uncle Sam to move in.

Liability Versus Protection No. 3

By appointing a malpractice commission, the Government has already taken its first step into the field. There'll be more—plus local screening panels, arbitration programs, group-coverage innovations, and additional proposals for no-fault coverage. By 1978, these combined forces will have turned the trend to one of smaller premium rises, fewer suits reaching court, and no-fault coverage for all physicians.

True (9%); False (77%); Undecided (14%).

There'll be lots of action over the next five years to curb the malpractice menace. Most of this will come, not from the Federal Government, but from state legislatures and the private sector. But it won't be enough to reverse the tide, unless the early adoption of a sweeping national health insurance program should unexpectedly bring Washington into the act in a large way.

That sums up the thinking of the majority of close observers of the malpractice scene. Now let's elaborate on what they expect—and why.

NEW INITIATIVES FROM MALPRACTICE CARRIERS

"One of the profound developments of this decade," predicts Herbert S. Denenberg, Pennsylvania's militant Insurance Commissioner, "will be the change in the way insurance companies operate—away from simply shoveling money back and forth to imposing cost controls, quality controls, and safety programs."

Preventive education for doctors will be stressed. Carrier executives point out that because of the publicity over the years about surgical sponges left in abdomens, such cases are diminishing—"Surgeons have become sensitized to this as a prime risk." So companies will now be sensitizing doctors to less familiar malpractice traps through the utilization of sustained educational programs.

New patient grievance mechanisms will be another focus of carrier experimentation. Some clues as to how they'll do this come from Eli Bernzweig, Government malpractice specialist, who's just moved over to the private sector as vice president in charge of professional liability programs for Argonaut Insurance Company. "We're going to seek ways," he says, "whereby patients, while still hospitalized, can air their complaints to a neutral person—one who can perceive a problem as it's cropping up and do something about it then and there. This might involve putting an ombudsman in every hospital."

Advance medical payments in the event of an untoward result are already being tried by some malpractice carriers. This approach should not be confused with legislated no-fault insurance. The patient isn't asked to waive his right to file a damage suit later on, but the hope is that he'll be mollified. "There's a lot to be said for making monetary payments on the spot," declares Bernzweig, "so patients don't go out of the hospital with hard feelings augmented by a hefty extra bill."

MORE SCREENING AND ARBITRATION PANELS

Our authorities agree that there'll be more all-doctor defense panels (which carriers prefer) and more joint doctor-lawyer screening panels of the type set up in Pima County, Ariz. The prevailing view, however, is that by 1978 the mechanism most likely to be interposed between complaint and courtroom is arbitration, compulsory or voluntary. Either way the question remains as to just how much a patient's right to sue can be curtailed. There's no consensus among the experts on what arbitration format has the best prospects.

Some of our consultants consider the malpractice problem much too massive to be alleviated by any of these measures. New York attorney Sidney Bernstein terms them "palliatives, placebos, Band-Aids all."

MORE ACTION FROM STATE LEGISLATURES

State action is far more likely than major Federal programs, say the insiders. If, for example, the professional liability insurance market should once again dry up, states could take emergency action to keep companies from withdrawing by decreeing that if they did withdraw, they'd be barred from writing other business in the state. Or Insurance Commissioners could require companies to set up an assigned-risk pool to cover all doctors who couldn't otherwise obtain malpractice insurance.

Quality-control measures by the states are considered especially likely. Some observers expect states to get tougher on medical licensure. "In the whole United States today," declares Los Angeles attorney David M. Harney, "there are maybe a dozen licenses a year revoked for medical incompetence. A bad driver gets his driver's license revoked easily enough, but a physician has his for life." Related to tougher licensing may be legislation to permit review of such closely held data as hospital tissue committee reports, and to grant doctors immunity from suit when they pass judgment on their colleagues' competence.

In California, whose legislation has often influenced other states, new approaches may be forthcoming from a special committee studying the social and legal aspects of malpractice.

NO HELP FROM NO-FAULT

Although Washington is planning pilot projects to test the feasibility of no-fault insurance, most experts feel that it's still years away for malpractice injury. Continental Casualty Vice President Thomas F. Tucker explains: "Patients usually aren't completely satisfied after medical treatment. They're sick to start with, and they may not be made 100 per cent well. If you start paying for dissatisfaction, claims will multiply to 10 times what they are now, administrative operations will swamp you, and you'll end up with a Frankenstein's monster."

A LOW-KEY FEDERAL ROLE, UNLESS . . .

As to action by the Federal Government, few authorities expect it to become a major force in the malpractice situation unless national health insurance is adopted in a comprehensive form that demands this. "I see the Government just sitting there," says Eli Bernzweig, "with its engine idling, observing and waiting for the right moment to get its wheels in motion. Until that time comes, it will do what it traditionally does best—dole out funds and lend its administrative resources to help others do the job."

Meanwhile there are a number of things Uncle Sam may be getting involved in.

Data-gathering. At present, there's no national clearinghouse for malpractice information, though individual insurance companies and professional associations compile data on malpractice incidence and claims experience for their own use. Most consultants think that five years from now a nationwide data bank will have been established, and it will probably be under Federal auspices.

Setting quality standards. The Government already has both feet in this area with the passage of P.S.R.O. legislation. Next may come Federal guidelines for educational requirements, reexamination and recertification, and periodic relicensing—to which the individual states would have to conform.

Some medicolegal authorities are alarmed by this prospect. "You'd need hundreds of physicians to view all the necessary data," says plastic surgeon Mark Gorney of San Francisco. "So I worry that it will wind up in the hands of clerks with an I.Q. about the level of their diastolic blood pressure. They'll feed the stuff into a big computer and get after the doctor if it doesn't check out with all their norms."

Fixed compensation schedules. The Government will be looking into a workmen's compensation type plan to cover medical injuries, with a schedule of fixed payments for given injuries. Under such a plan, which is generally regarded as a halfway measure on the road to no-fault, the Government might take over the responsibility of satisfying the claims of injured patients, with physicians coming in on a contributory basis, or make up the difference with a subsidy where the physicians' private insurance left off.

What's really needed, experts think, is a broad-based, cooperative system embracing both health professionals and patients. Thus, coexisting with "fault" malpractice insurance paid for by the physician, there'd be a sort of "maloccurrence" insurance paid for by the patient. He could buy it as a rider to his health insurance policy, or on a one-time basis, much as he takes out flight insurance today.

"I see it working this way," says attorney Crawford Morris. "The patient goes into the hosiptal at a per diem cost of, say, $100. But the hospital tacks 50 cents a day onto this charge, and that insures the patient against an unforeseen adverse result—a staph infection, for instance, which might keep him in the hospital two extra weeks. He'd be compensated for his additional expenses and loss of wages. And this wouldn't preclude suit for gross negligence."

Only if the malpractice situation becomes critical do our forecasters think Uncle Sam will take such measures as these:

Providing contingency insurance. If sizable blocs of doctors have their malpractice coverage cut off, as happened temporarily a few years ago in Utah and Hawaii, the Government might step in, much as it did with flood insurance. A Federal stand-by insurance program would offer coverage to affected doctors at reasonable rates. The likelihood is that the U.S. would not sell such insurance directly, but would utilize existing carriers.

Providing reinsurance. Another possible approach is for the Government to back up private insurers with reinsurance—say, over the first $25,000. So far, bills to that effect have failed—possibly because, right now, the reinsurance market is stronger than ever. But by 1978, if that market declines, chances for legislation that would fill the void could improve. "There may even be a brief period," says attorney Neil Chayet of Boston, "when governmental subsidy will be required to keep certain specialties in practice." All agree that if the Government does step in to underwrite physicians errors, it would also feel entitled to exert control over the way they practice.

To recap, these are the directions in which the malpractice scales are likely to tip between now and 1978:

More claims, but more measures to forestall suits.

Higher payouts, but not routine million-dollar ones.

Higher premiums, but at a moderating rate of increase.

Wider availability of liability insurance.

More accountability by doctors to the public.

More carrier, state, and Federal assistance.

Finally, the good doctors are likely to be less vulnerable to malpractice problems, and the bad ones more vulnerable. "And that," one expert says, "is exactly the way it ought to be."

The Malpractice Crisis After a Year: Even Worse

Last April HEW published its massive $2-million report on medical malpractice, setting off hopes that finally something was going to be done about what had come to be called the "malpractice crisis." But now, almost a year later, the "crisis" is not only unimproved, it's worse:

Last fall Employers Insurance of Wausau stunned the New York State medical society when it abruptly decided to pull out of the group's malpractice plan, covering 20,000 doctors. The Wisconsin carrier, citing a shocking 100% rise in claims against policyholders in just two years, said the program was getting "too scary" to handle and set April 30 as the policy cutoff date. But the company later extended the deadline, pending the outcome of negotiations with other carriers who said they're willing to help support the 25-year-old plan.

The St. Paul Fire and Marine Insurance Company, which writes malpractice policies for 40% of Wisconsin's doctors, has stopped issuing policies in high-risk specialties there.

The New York State Insurance Department says it doesn't expect to be able to rescue the floundering Professional Liability Company of New York, and is warning the 4,000 doctors insured by the concern to start shopping for another carrier.

In Maryland, premiums have jumped 46% over last year and, when 1973 statistics are collated, may go higher. In Los Angeles County, the medical association averted a sensational 75% premium hike by switching to a new carrier. But the new company—the Travelers Insurance Group—jacked up rates for high-risk groups by 47%.

Across the land, the theme is heard again and again: a continued and often accelerating rise in the volume of malpractice incidents, claims, and awards, and a corresponding rise in premiums. Even in rural areas, claims are increasing. Carriers say they're losing money in the business.

"Clearly," says Pittsburgh doctor-lawyer Cyril Wecht, a noted malpractice expert, "the impact of the HEW study has been nil." Says former AMA President Charles Hoffman, who served on the now-disbanded 21-member commission that wrote the report: "I'm profoundly disappointed with the commission's failure to achieve its mission."

But Eli Bernzweig, who was the panel's executive director and is now with the Argonaut Insurance Company, argues that the report affected insurers. "Carriers have taken seriously most of the recommendations aimed at them," he says. "They've stepped up loss-prevention and physician-education efforts and are improving their data collection. Also, more medical societies are using arbitration panels to settle claims out of court, just as the commission recommended." Doctors, lawyers, and mediators staff these panels—not insurers.

But one thing that hasn't changed, Bernsweig says, has been the government's passive attitude. "HEW officials are acting like lost sheep; they're still trying to discover what the commission did." A check with HEW reveals that the department's main undertaking the past year has been, in the words of Dr. William Kirby, "to review the report." Dr. Kirby says his Office of Program Operations has submitted the findings of its review to Assistant Secretary of Health Charles C. Edwards and that a decision is imminent. "But don't expect much," he says. "The federal role will almost certainly be indirect—funding research and disbursing grants and, in general, encouraging the components in the field to move ahead on their own."

Organized medicine, as one component, hasn't waited for government stimulus. Even before the HEW report came out, AMA officials were laying plans for a permanent Medical Liability Commission (MLC) which would pull together representatives from every major national health group to give all providers an organization they could turn to for information, guidance, and help. When the AMA finally saw the study, its resolve was stiffened. It was incensed at the report's critical tone toward the medical profession, and Dr. Hoffman himself claimed that many of its major recommendations would do more harm than good.

The new commission is well along. In concert with the AMA, the American Hospital Association, the American Dental Association, and 17 specialty societies have appointed men to the commission's board and have paid dues ranging from $1,000 to $16,000. A search is on for quarters in Chicago and for a full-time executive director (an odds-on favorite for the post is Richard P. Bergen, head of the AMA's legal research department).

Right now the commission is under the enthusiastic direction of Dr. Hoffman, who has named the chairmen of the seven new committees. The West Virginia urologist says the commission "for the first time brings all parts of the medical profession together on the malpractice problem, enabling the profession to focus its efforts and avoid the duplication and conflicting interests of the past." One of the commission's major concerns, he says, will be to make sure coverage is available. It will develop contingency plans for carrier-abandonment crises like those that threatened doctors in New York.

But there are many other goals for the new group, too. Among them: to teach doctors how to prevent claims (Dr. Hoffman believes the single most important legal prophylaxis is an open and friendly attitude toward patients); to push for a local no-fault experiment or two; to encourage the use of arbitration, screening panels, and other forms of out-of-court solutions; and to try to counter the trend in the courts toward both the imposition of greater liability on physicians and the expansion of legal doctrines that make it easier for claimants to recover damages.

But some physicians question the effectiveness of a malpractice-relief organization like the commission that expressly excludes insurer, lawyer, and consumer groups. Even one of the commission's board members, Delaware plastic surgeon James T. Metzger, calls such exclusion a "serious flaw and a major weakness." Pittsburgh's Dr. Wecht is even more critical: "I'm amazed that in this day and age of consumer participation and patients' bills of rights, consumers are locked out. Even worse is to bar lawyers, especially those engaged in malpractice defense. The exclusionary policy is unwise and unattuned to the times."

Dr. Hoffman comments, "Oh, he's a plaintiff's lawyer, and that's what I would expect him to say. We on the commission feel strongly that we need a central force to represent just the providers of health care. We might expand later to bring in pharmacists and nurses, but we have no plans at all to admit nonproviders."

If the commission has shut its doors to "nonproviders " the National Foundation for the Study of Health Science Liability has not. This group, formed three years ago, counts carriers and legal and consumer groups among its members as well as medical specialty societies and the AHA. When HEW released its malpractice report last year, it pointed to it as the logical group to put the study's recommendations into effect. The HEW panel itself had called for a "broad-based" nongovernmental group to serve as a "focal point for research and prevention activity."

Despite the federal government's recognition, the foundation has languished, in part because of the AMA's Medical Liability Commission. But both groups insist no rivalry exists between them. Indeed, the foundation's president, Florida anesthesiologist J. Gerard Converse, is on the board of the MLC. And Dr. Hoffman has set up a liaison committee to link the two groups.

Still, both are seeking government and foundation support, and some rivalry seems inevitable. So far, the foundation has definitely been the weaker sister. It's still trying to get off the ground, and its executive director, former HEW Regional Medical Program official Charles Hilsenroth, works on a consulting basis out of his Bethesda, Md., home. Asked what the foundation hoped to accomplish over the next two years or so, Mr. Hilsenroth replied "to survive"—and so, it seems, will the anguish of physicians, who still face the fiscal crisis of malpractice.

THE MALPRACTICE INSURANCE MIASMA: A WAY OUT—I

(By Bradley Hitchings)

Last year an article appeared in one of the magazines specializing in the monetary aspects of medical practice to the effect that doctors exaggerate the dangers of malpractice. It started with a standard defense of the status quo (worry equals paranoia) and went on to pooh-pooh the report of the U.S. Malpractice Commission—a mere 18,000 claims filed in a year is nothing; malpractice insurance rates more-or-less have leveled off; million-dollar awards are rare. (See "Three Enormous Malpractice Awards," *Doctor and the Law*, p. 55.)

It should be a little hard to convince Southern California doctors, for instance, that malpractice insurance rates have leveled off. An insurance company has just agreed to take their group at a mere 55% increase in premium, instead of the 75% hike their present insurer demands. And now in New York some further cause for "paranoia" is about to break. Employers Insurance of Wausau, which has insured the Medical Society of the State of New York since 1949, has served notice that it does not want to re-up again under any conditions. "We thoroughly expect to find another company and continue on," says Frank Appleton of H. F. Wanvig, Inc., the MSSNY broker, but he suggests that higher rates are likely.

The New York group has already had its share of premium rate increases. On Sept. 1, 1969, their premiums were jumped 55%. One year later came another increase of 65%; on July 1, 1971, another 45%. Although on July 1, 1972, the MSSNY group malpractice rates shaded down 1½% and a year later dropped 8%, the society expects rates to jump sharply upward again on May 1, 1975, when a new insurer must take over.

Appleton feels the whole program is in for serious difficulties unless steps are taken soon, and by steps he means legislation. But, if anything, court interpretation of existing statutes is making matters worse. "Malpractice insurance is getting more costly, not just because of huge awards," he says. (In 1973 the bell was rung on damages to a *single plaintiff* at the $4-million level.) "The courts are also expanding the statute of limitations. Now it's three years, with a kind of open end on foreign bodies. The statute doesn't start running until the patient realizes a foreign body has been left.

"Another thing getting out of hand is the is the contingency fee arrangement," adds Appleton. "As long as the attorneys can keep on creaming off a quarter or more of these large settlements, they will just attract more and more suits. And hearing these cases before lay juries doesn't always result in justice. Also, the courts are getting bogged down, so delays can run to years and years now, while the trend in frequency and severity of cases is definitely on the upgrade."

Recent estimates indicate that of the malpractice premium dollar, only between 16¢ and 17¢ ever gets to accident victims. The rest is eaten up by insurance overhead, expert witnesses, and legal fees. The comparable figure for automobile insurance is 44¢ to the victim—a situation that has long been thought scandalous and has brought no-fault coverage to a dozen states.

Opposition to auto no-fault has come almost entirely from the lawyers who pocket the lion's share of the auto liability dollar. In view of the even more intolerable tort liability bonanza that exists for lawyers in malpractice cases, it will come as no surprise to physicians familiar with the situation that the author of the magazine article referred to at the beginning of this column is a past president of the Association of Trial Lawyers of America.

Although there has been scant discussion of the possibility in medical circles, there is no reason why the no-fault approach could not be applied to malpractice insurance. In fact, a workable plan has been devised. Jeffrey O'Connell, professor of law at the University of Illinois, who together with Robert E. Keeton of Harvard Law School wrote *Basic Protection for the Traffic Victim*—the book generally credited with initiating no-fault auto insurance reform—has now proposed a way out of the malpractice miasma.

"I would let anyone who was a health care provider—a hospital or doctor—pick out certain procedures that he or the institution does where adverse results can be predicted. For these adverse results a specific amount would be paid with no questions asked," O'Connell proposes. In those cases there would be no need to determine whether the adverse results happened because of the pre-existing condition of the patient, the inevitable risk of the procedure, or some shortcoming of the health care provider itself. "Take a case of paralysis from spinal anesthesia. We know from figures available that, say, .0018% of the time there will be paralysis. We don't know what percentage is negligence, what is a pre-existing condition, and what is due to causes unknown. Under the present system it takes all the money in the insurance pot to find out which it was.

"That is not necessary. The orthopedist or anesthesiologist could simply say that in the aggregate with this procedure, such-and-such a risk operates and damages could be predetermined accordingly. That would also eliminate the stigma, the bitterness of the doctor who gets sued, and the unhappy sequel of the paralyzed person waiting for his money (of which, if he finally gets it, his lawyer may get one third to one half).

"The insurance company could agree to pay a specified amount, say $20,000, for a spinal anesthesia case. If the patient is 16 years old and will never walk again, there's no telling what that will cost, but nevertheless up to the $20,000, or maybe $50,000, a lot of money can be saved. If somebody sues the doctor based on negligence, the $20,000 or whatever would be deducted and the plaintiff could not get an equal amount for pain and suffering. The state would forbid it. Awards for pain and suffering are often many times the out-of-pocket costs."

O'Connell's no-fault system would be a modest beginning, designed to start by gaining at least some relief from tort liability. "The beauty of this approach," as he sees it, "is in letting everybody experiment, to see whether and to what extent we can avoid this very cumbersome and wasteful system.

"With this beginning, medical specialties, state and county medical associations, and interested government agencies can see what procedures and what specialties can make no-fault insurance applicable to them on both an equitable and financially feasible basis."

MALPRACTICE AT THE CRISIS STAGE

Currently a general surgeon practicing in Manhattan with a $1-million limited malpractice coverage pays $4,875 a year in premiums. (In early 1972 it was even higher, at $5,380.) Before the first of three sharp rate hikes beginning Sept. 1, 1969, he was paying $1,450. Says Dr. Robert Hicks, chairman of the Professional Medical Liability Insurance and Defense Board of the Medical Society of the State of New York, "If malpractice keeps going on the way it is in terms of its own slope curve, it will eventually take a significant portion of the health care dollar at the sacrifice of medical care per se. And eventually it will break the back of the medical economy. We not only have to set up our commissions, we've got to get the legislators and executors of our states and the federal government intimately involved in this to the same extent that we're involved. We're now at the crisis stage, and it's a very serious crisis."

[From the Washington Star-News, Sept. 17, 1974]

LAWSUITS UP COSTS OF MDs' INSURANCE

(By Robert Pear)

In response to soaring malpractice settlements, the two companies that insure most District doctors have raised their rates by as much as 45 percent.

Maximilian Wallach, superintendent of the D.C. Department of Insurance, said yesterday that the new medical malpractice rates of the Hartford Fire Insurance Co. were on the average 23 percent higher than last year.

Hartford, he said, is the carrier for about 70 percent of the members of the Medical Society of D.C., and most of the rest are insured by the St. Paul Fire and Marine Insurance Co.

St. Paul's new rates that went into effect here this month are 45 percent higher than last year, Wallach said. St. Paul announced in June that it would stop insuring doctors in Maryland next year because the state insurance commissioner had refused to grant a 48 percent rate increase sought by the company.

"All you need is a few big juicy awards, and the rates go wild," Wallach said, noting that the District is a small rating area. "We could have held hearings on the new rates, but we couldn't prove they're excessive in view of the verdicts that have come out country-wide."

Malpractice rates go into effect unless challenged as unreasonable by the department, which then has the burden of showing the increase is not warranted.

The Insurance Services Office, a licensed rating bureau that files on behalf of hundreds of companies, has requested a 100 percent increase in malpractice rates here.

Kevin M. Rayan, Middle Atlantic regional vice president of the bureau, said member companies insured a small number of doctors here, but would be attracted more strongly if rates were increased. The rate application is under review by the D.C. insurance department.

Rate increases are to be passed on to patients. "The impact is tremendous," said Robert L. Haydon, deputy superintendent of D.C. insurance department. "The actual cost to the public is increased by defensive medicine as well as by higher premiums.

"More and more people are suing who used to settle," Haydon said, and doctors know about the "increased claim-consciousness of the public."

Hospital officials have acknowledged that some medical procedures are ordered mainly to protect themselves against claims.

"If suits weren't so great, hospitals wouldn't take so many X-rays," said Dr. George W. Hyatt, an orthopedic surgeon at Georgetown University Medical Center and an authority on emergency care. He estimated in a recent interview that 70 percent of the X-rays of emergency patients "are taken to protect the physician, the hospital and the emergency room."

The charges, of course, are borne by the patient and his insurance company.

In addition, according to Wallach, the D.C. insurance superintendent, "part of the increased cost of malpractice premiums is absorbed by Uncle Sam," because premiums are deductible as a business expense on income-tax returns.

Wallach provided the following examples of the new Hartford rates:

A general practitioner doing no surgery must pay annual premiums of $385, compared with $313 last year. A physician doing minor surgery must pay $696, compared with $566. And the rate has jumped from $1,980 to $2,435 for such specialists as anesthesiologists, neurosurgeons, orthopedists, obstetricians and plastic surgeons.

For those rates, he said, a doctor is insured for a single claim up to $100,000 and for an aggregate of $300,000 in claims in one year.

St. Paul was the carrier sponsored, or recommended, by the medical society for more than a decade until the doctors' group was attracted to Hartford last year.

The main question, Wallach said, is not so much rates as whether companies should write malpractice policies at all. "They are standing in line to get out, not to get in," he said. "I wonder sometimes why anybody wants to write the business in a situation like this."

Among the larger malpractice awards here was one of $95,000 last year to a 2-year-old girl and her parents who charged that an obstetrician had been responsible for permanent injuries she suffered in childbirth.

A peculiar feature of malpractice insurance is that it may take four or five years for "losses," or injuries to be discovered. "A claim can be reported at any time as long as it originated in the policy period," Haydon said.

This lag boosts the costs of settlement, according to insurance experts, because disabled victims commonly want an income for the rest of their lives. An award considered adequate four or five years ago, at the time of injury, would be too little to satisfy a victim today, because of inflation.

The problems in the District and Maryland are part of a national pattern, according to insurance analysts.

For example, the company that has underwritten malpractice insurance for almost all New York State physicians for the past 25 years will cease providing such coverage next year.

The insurance commissioner of California, Gleeson L. Payne, was quoted in a recent issue of The National Underwriter, a trade journal, as saying: "I believe we are on the threshold of having to market for malpractice insurance. Neither the public nor the doctors can expect the insurance industry to continue malpractice insurance if they aren't making a profit in a free enterprise situation."

St. Paul officials said last spring that pending claims against Maryland doctors insured by the company involved one of every three orthopedic surgeons, one of every four obstetricians and anesthesiologists, and one of every 12 general practitioners.

Increases in malpractice suits have been attributed to the complex technology that leads to more accidents, to the high expectations of seriously ill patients, and to an absence of close doctor-patient relations.

[From the Journal of Legal Medicine, March/April 1974]

A CRITIQUE OF THE REPORT OF HEW'S MEDICAL MALPRACTICE COMMISSION

(By Josephine Y. King, Ph.D., J.D., Professor of Law, School of Law, Hofstra University, Hempstead, N.Y.)

The most recent and significant attempt to understand the factors underlying the high incidence of medical liability claims in the United States was made by the Secretary's Commission on Medical Malpractice. This Commission,[1] appointed by the Secretary of Health, Education, and Welfare, submitted its report in January 1973.[2] [3]

The Commission's charge had been to advise the government concerning "the entire range of problems associated with professional liability (malpractice) claims against all categories of health care providers and institutions . . . and make recommendations as to legislative, administrative and programmatic actions calculated to ameliorate the problems so identified."[4]

Extensive external and staff research studies were authorized to aid the Commission's deliberations.[5] Unfortunately, due to the brief time allotted the Commission, some studies reached completion on the eve of the final report and some after the report was written.[6] It is apparent that certain findings and recommendations of the Commission emerged without benefit of the data and analysis contained in the supporting studies. Indeed, the research documents penetrate the complex issues of medical malpractice more profoundly than does the Commission's *Report*.

The actual and potential accomplishments of the Commission cannot be assessed without recourse not only to the *Appendix* containing the special studies but also to the prepared statements of individual Commissioners.[7] The latter reveal the degree of disagreement and reservation attending some of the most important recommendations as well as the adverse effect of time constrictions. With a realization of these difficulties, this paper will focus on the *Report* itself since it is the findings and recommendations combined in the official government document that the public and press will consult and evaluate.

In surveying the problem, the Commission found that health care is the second largest industry in the nation. In 1971, the cost of direct health services was $75-billion dollars, representing 7.4 per cent of the gross national product and an average per capita cost of $358.[8]

One of the most informative studies initiated by the Malpractice Commission was a survey of medical malpractice claims that reached final disposition in 1970.[9] The objective of the study was to describe statistically from insurance records the characteristics and manner of disposition of claims for compensation based on alleged medical injuries. A sample of 3,000 insurance company files yielded approximately 1,500 claims, which were analyzed. It may be noted in passing that, while claims data were supplied by 26 insurance carriers, five companies handled 60 per cent of the cases surveyed.

The authors of the survey estimated that 12,000 incidents of alleged malpractice generated the claims settled in 1970. Of these, 8,000 were "true" claims resulting in some payment in 40 per cent of cases. Total compensation for claims closed in 1970 aggregated $80-million. Additionally, legal fees cost the insurance carriers $10-million.

The median of payments was $2,000. One-half of all recoveries were in the range of $1 to $2,000 and almost 90 percent fell within the range of $1 to $19,999.

In the typical claim file, the claimant was usually represented by a lawyer, named one insured as a defendant (a physician in about one-half the cases, a hospital in 36 per cent of the cases), and alleged negligent treatment in a hospital setting (surgical suite in 39 per cent of the cases and patient's room in 34 per cent).

In 50 percent of the claims, there was no physical injury or only minor, temporary physical injury. Severe permanent injury was alleged in 2.5 per cent of the cases and injuries resulting in death in 18 per cent.

The disposition time (interval from alleged incident of malpractice to closing of claim file) was two years or less in almost 60 per cent of the cases. But 20 per cent took five or more years to close.

Viewed from the defendant's perspective, physicians—particularly those in a few specialties—were prime targets for claims. Sixty per cent of the defendant-practictioners were in individual practice. Internal medicine and pediatrics had less than the average number of claims. Surgical specialties (in particular general surgery, obstetrics-gynecology, and orthopedic surgery) had more than the average. Anesthesiologists were named as defendants in a disproportionately large number of claims.

Of the defendants, 70 per cent had previous claims against them. Ninety per cent of the insureds had liability insurance coverage for at least $100,000/300,000. While this coverage appeared adequate in view of the median payment of $2,000, it should be noted that where settlement of a claim did not occur until *after* trial, more than one-fourth of such payments exceeded $100,000.

Less than one-tenth of the claims reached the trial stage; of these, only 30 per cent resulted in payment to the claimant.[10]

These data supply a factual pattern: a high incidence of initiated claims that have a low durability (only one-tenth reach trial stage) but 40 per cent receive some payment ($2,000 or less in one-half of all paid claims), justifying an inference that insurance companies prefer a nominal settlement rather than the expense of defending the insured health care providers. At the same time, health care providers—particularly hospitals and specialists—feel the threat of a lawsuit whether the claim is spurious or meritorious.

In exploring the etiology of malpractice suits, the Commission considered the human dimension, insurance, and the legal system.

The breakdown in the relationship of the patient and the physician or hospital stimu-

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Footnotes at end of article.

lates claim initiation. Numerous preventive measures are recommended: improvements in the physical environment and management of hospitals, education of the public and communication with the patient concerning the risks and limitations of medical treatment to avoid unrealistic expectations, establishment of a patient grievance mechanism in health care institutions, and the creation of an office of Consumer Health Affairs.

The last proposal is engaging. The Commission projected an agency [11] similar to a labor mediation office to receive and investigate complaints regarding health care, to screen out nonmeritorious claims, and to conduct informal negotiations that would bring together the parties and facilitate settlement. The agency would also maintain records and issue reports on recommendations for improvement in the health care system and in the relationship between providers and consumers of health care.

If a primary cause of malpractice claims is the patient's genuine or illusory belief that the adverse result of treatment was an avoidable occurrence, common sense dictates that countermeasures include reduction of the likelihood of injury through enforcement of quality standards for physicians and institutions and the development of medical injury prevention programs [12] by concerted action of the providers, insurance industry, and government.

Licensure and regulation of health professionals drew extensive criticism from the Commission.[13] State medical boards either do not possess or effectively exercise [14] powers to remove the incompetent professional. Licensure laws do not require reregistration of professionals premised upon proof of continued competence. Standards for initial licensure vary among the states. Licensing of allied health personnel is a "jungle."

The Commission offered the following recommendations to improve licensing and quality of health professionls:

All state medical practice acts should empower state licensing agencies to suspend or revoke licenses for professional incompetence.

State licensing boards should require periodic reregistration of physicians, dentists, nurses, and other heatlh professionals and participation in programs of continuing medical education. Specialty boards should periodically reevaluate physicians they have certified.

If feasible, a uniform national licensing system should be adopted.

Institutional licensure should be studied as an alternate to individual licensure of the many categories of allied health personnel to encourage uniform standards and mobility.

Health professionals should be required to engage in continuing medical education.

These criticisms and proposals of the Commission focus upon the human element and personal interrelationships comprehended within the scope of the malpractice problem. The two remaining factors—insurance and the legal system—are treated with less knowledge and insight.

LACK OF BACKGROUND DATA UNDERCUTS THE CREDIBILITY OF THE COMMISSION'S STATEMENTS ON PROFESSIONAL INSURANCE

Medical liability insurance has increased phenomenally over the last decade from a total premium volume for practitioners and hospitals of $61 million in 1960 to $370 million in 1970.[15] Cost and availability of insurance are the crucial issues. Carriers write individual coverage, but group hospital plans (about 35 in number) and group practitioner plans (state and county medical societies)[16] have proliferated. Both types of group plan include peer review of claims. Physicians are rated by specialty and locality. Insurers contend they suffer underwriting losses, but underwriting profit or loss is determined without reference to returns on invested reserves for losses incurred but not paid.

The total number of carriers, rating practices, each carrier's share of the market, and comprehensive data on comparative rates are statistics necessary to judging the competitiveness and availability of liability insurance. These, the researchers for the Commission admitted, could not be obtained.[17] Yet the Commission's finding was that generally malpractice insurance is *competitive and available* to health care practitioners.[18] In view of the admitted lack of background data, such a finding lacks credibility.

The Commission did, however, recommend that a uniform statistical reporting system and a single data collection agency be established for medical liability insurance. Rational assessment of the insurance role in medical malpractice cannot otherwise be assayed.

The dominant attitude represented in the Commission's appraisal of the present compensation system and of the law and lawyers controlling its operation is captured in one sentence of the *Report:* "The Commission firmly believes that a working system for compensating losses due to medical injury should not be lightly discarded in favor of an untried substitute." [19] Such commitment to the "forensic lottery" [20] of the adversarial process in league with traditional negligence precepts reduces the Commission's recommendations to precatory and platitudinous observations.[21]

THE COMMISSION'S RECOMMENDATIONS ARE REDUCED TO PLATITUDES BY COMMITMENT TO THE LOTTERY OF THE ADVERSARIAL PROCESS

The Commission did find that legal doctrines such as *res ipsa loquitur,* informed consent, strict liability, the discovery rule, and statute of limitations lacked uniformity in different jurisdictions, and recommended consistency in medical-legal rules. The Commission found that the contingent fee was basically a fair method of compensating lawyers, although it ought to be regulated by court rule. Since the contingent fee discourages acceptance of a meritorious claim with low monetary recovery potential, however, the Commission advocated legal assistance to ensure counsel in those cases unattractive to the private practitioner.

Further, the Commission recommended that physicians and lawyers should achieve a closer understanding and that organized medicine should encourage its members to act as expert witnesses in malpractice trials. Finally, claimants should be required to give notice to health practitioners of their intent to sue before filing an action so that settlements can be facilitated at an early stage.

The above suggestions are indicative of the Commission's approach—as represented in the final *Report*—to the interaction of the legal system and malpractice claims. Analytically, it could have attacked this fundamental dilemma from one or both of two vantage points: (a) the procedural mechanisms for prosecuting and defending malpractice claims, (b) the substantive rules of tort law defining the rights and duties of parties in personal injury actions.

The means for enforcing an alleged right, on the one side, and resisting liability, on the other, are prescribed by a system of procedure. Historically, its purpose is to facilitate the peaceful adjudication of controversies. But in the last several decades of increased emphasis on improving judicial administration, we have come to demand more: an adjudication that is just, economical (in terms of money and time) and contributes to the refinement of the law and prevention of similar controversies. Court litigation of malpractice disputes fails to achieve these procedural goals.

At present, two alternatives to the traditional approach are being attempted: arbitration and screening panels. The various arbitration schemes now in effect have, to date, yielded too few completed cases to lay the foundation for empirical studies and conclusions.[22] On the other hand, many screening panels, varying in composition and function, are operative on the county and state level.[23]

The usual screening panel is composed of physicians and lawyers who preliminarily examine medical negligence claims and attempt to effect settlement without trial. If settlement attempts fail and the claim appears meritorious, the plaintiff will receive aid in obtaining medical experts for the ensuing litigation. But if his claim lacks merit, most panels have no authority to compel the plaintiff to desist from pursuing a lawsuit.

A more formalized version of the screening panel—which is at root a mediation procedure—exists in Wayne County [Detroit], Michigan, and New York County [New York City's borough of Manhattan], New York.

In Wayne County, a three-member mediation panel—consisting of a plaintiff's lawyer and a defense lawyer (nominated by respective lawyers' associations) and a circuit judge selected by the two lawyers—evaluates liability and damages and attempts settlement of negligence cases.[24] All types of negligence cases suitable for mediation come before such a panel. A distinctive feature of the Wayne County mediation procedure is the sanction imposed upon a party who unrealistically rejects a settlement proposed by the panel and insists on going to trial. If such party does not receive a favorable judgment that exceeds by 10 per cent the panel's estimate, he will be assessed costs and lawyer's fees. Lawyer's fees are approximately $350 per day. In many cases, this will be a substantial consideration affecting the decision to settle.

Beginning in June 1971, a single panel and later multiple panels achieved an outstanding "success rate" of more than 90 per cent final dispositions in several thousand cases. Unfortunately, the author does not have available any analysis by category of cases to focus directly on the Wayne County results in mediating malpractice claims. What is significant, however, in this approach to combating calendar congestion and delay in negligence litigation is the nondiscretionary imposition of the lawyer's fee penalty for nonsettling litigants who have misjudged the value of their claims.

By contrast, the malpractice mediation plan in the Supreme Court of New York County lacks a formal sanction but is devoted to medical liability claims. In a report by Presiding Justice Harold A. Stevens,[25] the procedure and its results thus far were described. An interprofessional committee of physicians and lawyers prepared an original draft of the plan that was implemented by court rules.

Two lists, one of physicians by specialty [26] and one of experienced lawyers were prepared by the medical and bar associations. A physician and a lawyer are chosen, in the order the names appear on the list, and assigned to a panel with a judge of the Supreme Court (which in New York is a court of general jurisdiction). A calendar of medical malpractice cases is prepared, and two cases are assigned to each panel. The physician panelist receives the plaintiff's medical record, and the other panelists are given the pleadings to review before the hearing. The parties are represented by counsel. Statements made at the hearing are not admissible as evidence if a trial later ensues. None of the panelists may participate in a subsequent trial of the claim.

Footnotes at end of article.

The hearings are informal. After each side is heard, the panel excuses counsel and deliberates the merits of the case. If a settlement is indicated, the panel will discuss its recommendation with each side separately. If settlement is not achieved, the case is returned to its regular place on the calendar.

Summarizing the results from the panel's inception in September 1971 to March 1973, Justice Stevens related that settlement was reached in about 42 per cent of all cases, with approximately 60 per cent settling for $15,000 or less. Several settlements, however, were in the $200,000 and upward range. Although no total figure is mentioned in the report, the panels have probably reviewed about 400 to 500 cases to date.

Thus the formalized, court-sponsored panels in Michigan and New York provide some experience in mediation. But since the former is not catalogued specifically for medical claims and since both have been operative a relatively short time, it is too early to greet these efforts as panaceas.

WERE CASES WITH HIGH CLAIMS RESERVED FOR PRIVATE LITIGATION BECAUSE OF THEIR POTENTIAL FOR SUBSTANTIAL FEES?

The Malpractice Commission's reactions to mediation and arbitration as alternatives to litigation were guarded.[27] It recommended continued experimentation with such efforts. But why did the Commission specifically advocate a maximum monetary limit for arbitration, "with cases demanding higher amounts being handled through the present jury system"? [28] These are the very cases that, as estimated in New York, may consume at least 10 days of trial. The repercussions of such lengthy and complex trials on the parties, on the progress of other cases on the calendar, on the public (the cost of providing judges, staff, courtroom facilities)—are these secondary to the negligence lawyer's interest in preserving for private litigation cases promising substantial fees?

It is worth underscoring that the Commission's cautious acceptance of mediation and arbitration confines dispute settlement alternatives to procedural processes. It does not touch the nerve center of negligence litigation—the substantive legal principles that leave an injured person uncompensated unless he can prove a degree of fault that translates into dollar amounts attractive to lawyers on a contingent fee basis. This second, and admittedly more complex, investigation would have required the Commission to confront the principles of the fault-based compensation system and evaluate their merit and relevancy in medical liability claims. The Report virtually ignores this problem of substantive law.[29] Indeed, it does not recognize one of the most provocative underlying studies submitted to the Commission—an analysis of the application of the no-fault concept to medical injury compensation.[30]

The authors of this no-fault study liminally profile the deficiencies of the fault-based system. The claimant faces high legal costs, difficulty of proof, delay, and uncertainty of compensation. The health care provider experiences anxiety, constraints in practice, and spiraling liability premiums. The insurer struggles with unpredictable variables in ratemaking. The public bears the inflationary costs of health care without any assurance that the "system" safeguards its quality.

As an alternative, the study projects a no-fault compensation plan with the following objectives: accessibility to the complainant and prompt, predictable reparation at low administrative cost with continuing review and potential for operational improvements. The principles and structure [31] of the no-fault system that was proposed are:

Complete substitution of strict liability for the fault principle. The complainant's proof would consist of demonstrating injury through a "medical intervention act."

A Medical Injury Compensation Commission composed of representatives of health care providers, the legal profession, private insurers, and the public would administer the plan and direct the work of the Compensation Board.

All costs, except the operation of the Commission, would be borne by private insurance.

Claims filed with the Board would be screened. The screening panel's recommendation would not be binding.

Claims persisting beyond the screening stage would be heard by a referee with an expert medical staff.

Compensation is limited to net economic loss.[32] In making the award, the referee would be guided, but not bound by, schedules established by the Commission.

An appeal could be taken by the claimant, health care provider, or insurance carrier to a review board for consideration of questions of law and fact, but not a trial *de novo*. A final appeal to a court of law would permit review solely of procedural errors, and whether or not the findings of fact below are supported by substantial evidence.

This was the plan suggested as a possible alternative to the present compensation system. Some members of the Malpractice Commission doubtless would disagree with the particular details of the proposal outlined in this study and disapprove of the procedural and substantive changes it would entail.

But the Commission was charged with making recommendations "calculated to ameliorate the problems." Did it not have a responsibility to approach, open-mindedly and without a prior commitment to traditional negligence concepts and trial procedures, the issue of viable alternatives to the present system of litigating malpractice claims? [33]

FOOTNOTES

[1] The Commission was appointed in August 1971. Twelve of the 21 members had law degrees. (Two had both J.D. and M.D. degrees and one had a J.D. and an R.N.) The remainder of the Commission was made up of medical doctors, an osteopath, nurses, insurance representatives, and consumers.

[2] U.S. DEPT. OF HEALTH, EDUCATION AND WELFARE, PUB. NO. (OS) 73–88, REPORT OF THE SECRETARY'S COMMISSION ON MEDICAL MALPRACTICE (1973) [hereinafter referred to as REPORT].

[3] *Blue-Ribbon Panel Probes Malpractice Problems,* 1:1 J. LEG. MED. 44–48 (Mar./Apr. 1973).

[4] See REPORT, *supra,* reference 2, at xv.

[5] U.S. DEPT. OF HEALTH, EDUCATION AND WELFARE, PUB. NO. (OS) 73–89, APPENDIX TO THE REPORT OF THE SECRETARY'S COMMISSION ON MEDICAL MALPRACTICE (1973) [hereinafter referred to as APPENDIX].

[6] See REPORT, *supra,* reference 2, at 133.

[7] *See* REPORT, *supra,* reference 2, *Separate and Dissenting Statements,* at 105–38.

[8] REPORT, *supra,* reference 2, at 12.

[9] Statistics cited in this portion of the paper are derived from APPENDIX, *supra,* reference 5, at 1–25, *passim.*

[10] By contrast, in a selective survey (sample of lawyers engaged in medical malpractice litigation), the respondents indicated the recovery rate for plaintiffs was 79 per cent with a mean gross recovery of $81,000. See APPENDIX, *supra,* reference 5, *The Medical Malpractice Legal System,* at 154.

[11] REPORT, *supra,* reference 2, at 86–87.

[12] The Commission emphasized the need for a central data gathering system to receive and analyze information relating to the frequency and cause of medical injuries. REPORT, *supra,* reference 2, at 63–65.

[13] REPORT, *supra,* reference 2, at 51–60.

[14] Report, *supra,* reference 2, at 52. The vast majority of disciplinary actions involve charges of criminal conduct or moral turpitude rather than professional incompetence.

[15] APPENDIX, *supra,* reference 5, *The Medical Malpractice Insurance Market,* at 509. The five most populous states (California, Illinois, New York, Pennsylvania, and Ohio) produced one-half of the premium income. *Id.* at 529.

[16] *Id.* at 514–21.

[17] *Id.* at 508.

[18] REPORT, *supra,* reference 2, at 38.

[19] REPORT, *supra,* reference 2, at 100.

[20] *See* Ison TG: THE FORENSIC LOTTERY (London 1967) [*i.e.* 1968].

[21] REPORT, *supra,* reference 2, at 27–38, *passim.*

[22] See the extensive studies of arbitration law contained in the APPENDIX, *supra,* reference 5, at 315–423.

[23] *See* APPENDIX, *supra,* reference 5, *Alternatives to Litigation, I: Technical Analysis,* at 214–314.

[24] The information on the Wayne County mediation procedure was presented in an address by Chief Justice Thomas M. Kavanaugh, Michigan Supreme Court, at the University of Southern California on September 28, 1972.

[25] N.Y.L.J. Mar. 29, 1973, at 1, col. 5.

[26] See Tables III–4, III–5. *See also* APPENDIX, *supra,* reference 5, at 506–07.

[27] Report, *supra,* reference 2, at 90–96.

[28] Report, *supra,* reference 2, at 93.

[29] However, now that more states each year are adopting some form of the no-fault automobile accident reparations plan, the public may come to expect and demand fair, prompt compensation for other injuries. See King, *Accident Reparation: Reappraisal and Reform,* 3 Conn. L. Rev. 268 (Winter 1970–71), and *Compensation for Traffic Injuries: New York and Comparative Systems,* 45 St. John's L. Rev. 434 (March 1971).

[30] See Appendix, *supra,* reference 5, *Non Fault Based Medical Injury Compensation Systems,* at 450.

[31] *Id.* at 459–60, 481–85.

[32] Cost of treatment, loss of present and future income and rehabilitation not compensated by other sources (hence the collateral source rule would be eliminated and no award would be made for pain and suffering).

[33] By contrast, see Report of the Royal Commission of Inquiry, Compensation for Personal Injury in New Zealand (Wellington 1967). The Commission recommended a comprehensive program of compensation for accidental injuries based on five general principles: Community Responsibility, Comprehensive Entitlement, Complete Rehabilitation, Real Compensation, and Administrative Efficiency.

COMMENTS ON THE CRITIQUE

(By Don Harper Mills, M.D., J.D.)

This is a notable critique on the HEW Commission's Report on Medical Malpractice, authored by a person who has given considerable and penetrating thought to the complex issues involved, and to the manner by which they were handled by the Commission.

Though she recognized the time constraints that burdened the Commission, I was surprised she criticized it for not advocating a new approach to compensation of medical injuries, such as a no-fault system.

Actually, the Commission rendered a substantial effort in this direction but went only as far as it could at that time. The Commission states it did "not have the knowledge, expertise or time to draft a detailed program for such compulsory compensation insurance type of no-fault compensation or to work out all the problems it is likely to involve. It does, however, believe that a program of this nature is worthy of study, investigation and testing." To define the "compensable event" and to measure the universe of injuries for which compensation would be paid are the *sine qua non* for establishing any no-fault system in medical malpractice. The Commission tried to tangle with these but found that much more hard data were needed before the viability of such a system could be assured.

Hopefully, some group will now pick up the ball to develop this information. Perhaps then we will be able to alter the malpractice picture for the benefit of everyone.

By Mr. NELSON (for himself, Mr. JACKSON, and Mr. MUSKIE):

S. 189. A bill relating to the necessity of reorganizing certain departments and agencies of the executive branch, and for other purposes. Referred to the Committee on Government Operations.

CONGRESSIONAL OVERSIGHT OF GOVERNMENT SPYING

Mr. NELSON. Mr. President, more than 20 years ago, Supreme Court Justice Felix Frankfurter described the evolution of tyrannical power in the executive branch:

> The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority.

Unfortunately, Justice Frankfurter's observation does much to explain why individual liberty has been eroded by an ever expanding web of surveillance conducted at all levels of government. For many years now, the Government has used both simple and sophisticated techniques to exercise almost unlimited power over the individual. The Government installs wiretaps, plants electronic bugs, uses computerized information to assemble dossiers on individuals, and engages in other surveillance activities which make a mockery of the individual freedoms guaranteed by our Constitution.

The dangers of uncontrolled government surveillance were exposed again only yesterday. CIA Director William Colby confirmed a recent report by the New York Times that the CIA used warrantless wiretaps, break-ins and other surveillance techniques to spy on American citizens and that the agency had intelligence files on more than 10,000 Americans. The purported basis for these surveillance activities was the Government's concern about foreign involvement with political dissidents in this country. Even if that concern were warranted, it would not justify domestic spying by the CIA. The congressional charter establishing the CIA in 1947 states explicitly that the CIA "shall have no police, subpena, law enforcement powers, or internal security functions." When the CIA begins to involve itself in spying on American citizens within the United States—for whatever reason—it not only constitutes a violation of law; it also represents the beginnings of a police state in which the Government alone determines the limits of its powers and the scope of the citizen's rights.

To help protect people in this country from uncontrolled Government spying, Senator JACKSON and Senator MUSKIE are joining me in reintroducing legislation to oversee all Government surveillance activities conducted within the United States. Under this bill, at least once each year, representatives of the CIA, the FBI, the IRS, and every Federal agency that engages in surveillance would be required to testify before the joint committee under oath about the full scope and nature of their respective agency's spying activities in the United States. The joint committee, moreover, would be entitled to all relevant information concerning those activities and practices. There would be no exceptions.

As part of its responsibilities, the joint committee would be obligated to report to the full Congress as often as it deems necessary, but in any event, at least once a year. The report would include the committee's findings as to whether the Government is complying fully with the law, whether the courts are exercising their review powers diligently, and whether additional legislation is needed to protect the right to privacy and other fundamental liberties from Government snooping.

I first introduced this legislation almost 4 years ago in the 92d Congress. I reintroduced it with Senator JACKSON in 1973 in the 93d Congress. The time for congressional action on this matter is long overdue. The Subcommittee on Intergovernmental Relations of the Senate Government Operations Committee held hearings on this proposal last year and the subcommittee chairman, Senator MUSKIE, has assured me that those hearings will be continued in this session of Congress.

The need for those hearings and the need for urgent congressional action should be beyond doubt. The recent CIA disclosures are but one of many revelations concerning abusive Government spying. Other recent examples include the following:

The FBI's "cointelpro" program, which was operative between 1956 and 1971, consisted of the FBI's surveillance and disruption of organizations which the agency considered dangerous. These organizations included the Southern Christian Leadership Conference, the Urban League, the Congress on Racial Equality and other politically active groups. To discredit members of these organizations, the FBI disseminated information, some of which the agency knew to be false, to the members' employers, credit unions and the media. In publicly disclosing the program last fall, Attorney General William Saxbe described some of the FBI's practices as "abhorrent to a free society."

Last fall it was also revealed that the IRS, acting at the direction of the White House, monitored the tax records and political activities of 3,000 groups and 8,000 individuals between 1969 and 1973. The groups monitored included the Urban League, Americans for Democratic Action, the National Student Association, the Unitarian Society and the National Council of Churches. These IRS activities did not reflect a neutral enforcement of the tax laws; they represented instead a blatant attempt to secure private information about the politics of people whose views did not coincide with those of the White House. Indeed, these secret activities were continued for 4 years despite the fact that there was little information to show violations of the tax laws.

In 1970, President Nixon approved the "Huston Plan," an interagency scheme for domestic surveillance which provided for the use of wiretaps, electronic bugs, break-ins and other activities which a staff assistant described as "clearly illegal." Although the plan was revoked 5 days later, because of the objections by FBI Director Hoover, President Nixon's continued interest in the idea ultimately led to the creation of the "Plumbers," a White House unit which carried out the break-in at Daniel Ellsberg's psychiatrist's office and engaged in other questionable surveillance activities. Indeed, one recent article reported that there had been at least 100 illegal break-ins conducted by the "plumbers" and other secret Government units.

A 1973 Senate subcommittee report detailed the extensive spying secretly conducted by 1,500 agents of the U.S. Army on more than 100,000 civilians in the late 1960's. This surveillance was directed principally at those suspected of engaging in political dissent. No one in the Congress knew about this spying. No one in the executive branch would accept responsibility for it. Again, there is no guarantee that this sorry episode will not be repeated. In fact, a Senate committee learned recently that in the last 3 years—after the administration assured the public that the military would no longer spy on civilians—the U.S. Army has maintained numerous surveillance operations on civilians in the United States. And an article in the New Republic magazine of March 30, 1974, detailed the U.S. Army's use of wiretaps, infiltrators, and other surveillance techniques to spy on American citizens living abroad who supported the presidential candidacy of GEORGE MCGOVERN. The Army's spying was reportedly so extensive that it even intercepted a letter from a college librarian in South Carolina who requested information about a German publication.

Last May, the U.S. Supreme Court decided the Chavez and Giordano cases. Those cases involved the Government's use of wiretaps between 1969 and 1971 which were not approved by the Attorney General or a specially designated Assistant Attorney General. The Court held that this failure was a clear violation of Federal law. This illegal wiretap authorization, it turned out, had been used in 60 cases involving 626 persons. In other words, thousands of telephone conversations involving hundreds of people were intercepted by the Government before anyone knew about the illegality of this action or could do anything to stop it.

The Justice Department still maintains a practice of installing warrantless wiretaps on American citizens and others when it feels "national security" is involved. This practice violates the plain language of the fourth amendment—which requires a judicial warrant based on probable cause before the Government can invade an individual's privacy. Last October, the Attorney General testified before a Senate subcommittee that "the public record is sufficiently clear that there has been no serious abuse of discretion over the years of national security wiretaps installed in foreign intelligence purposes." While I do not question the Attorney General's integrity, that is a hard statement to swallow. Except for the abuses exposed recently and quite by accident, it should be added—there is no public record on national security wiretaps. The Congress does not even know how many of these wiretaps are operative today, let alone any specific information concerning their justification. Lacking any information, how can the Congress or the public be assured that there have been no abuses. Attorneys General are usually honorable men, but our cherished constitutional rights should not hang by the slender thread of one man's good faith. Indeed, other Senate testimony last October suggested that the extent and abuses of national security wiretapping may be far more extensive than is presently known. William Bender of Rutgers Law School, who represents individuals subject to wiretaps, said that, on his review of thousands of pages of wiretap logs, the Government's intelligence wiretap program is much broader than the public knows.

These examples are only the tip of the iceberg. As early as 1967, Prof. Alan Westin reported in his book, "Privacy and Freedom," that—

> At least fifty different federal agencies have substantial investigative and enforcement functions, providing a corps of more than 20,000 "investigators" working for agencies such as the FBI, Naval Intelligence, the Post Office, the Narcotics Bureau of the Treasury, the Securities and Exchange Commission, the Internal Revenue Service, the Food and Drug Administration, the State Department, and the Civil Service Commission. While all executive agencies are under federal law and executive regulation, the factual reality is that each agency and department has wide day-to-day discretion over the investigative practices of its officials.

The numbers—and dangers—of this official spying have surely increased since 1967. But even those 1967 figures, as well as the examples I have described, should be more than sufficient to demonstrate what should be clear to everyone: uncontrolled Government snooping is a dangerous assault on our constitutional liberties. Those liberties are the cornerstone of our democratic system and any assault on them cannot be treated lightly. A society cannot remain free and tolerate with a government which can invade an individual's privacy at will.

One does not have to attribute malevolent motives to Government officials in order to realize the need for congressional action here. Good intentions are not the criteria for judging the lawfulness or propriety of Government action. In fact, the best of intentions often produce the greatest dangers to individual liberty. As Supreme Court Justice Brandeis once observed:

> Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasions of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

Relying on this historical judgment, the Supreme Court held in the 1972 Keith case that the Government cannot wiretap American citizens for "domestic security" purposes without court authorization. In issuing this decision, the Court declared, as a matter of constitutional law, that the Government's self-discipline is inadequate to protect the individual freedoms guaranteed by the fourth amendment. The court's judgment was not premised on the malicious dispositions of those who inhabit the executive branch. Rather, the judgment flowed from the conflicting interests which the Government is required to serve. Speaking for a unanimous Court, Justice Lewis Powell examined the evolution and contours of the freedoms protected by the fourth amendment. He then stated:

> These Fourth Amendment freedoms cannot properly be guaranteed if domestic security surveillances may be conducted solely within the discretion of the executive branch. The Fourth Amendment does not contemplate the executive officers of Government as neutral and disinterested magistrates. Their duty and responsibility is to enforce the laws, to investigate and to prosecute. . . . The historical judgment, which the Fourth Amendment accepts, is that unreviewed executive discretion may yield too readily to pressure to obtain incriminating evidence and overlook potential invasion of privacy and protected speech.

In this context, a congressional oversight committee would be a two-edged sword in the effort to end the abuses of Government snooping. On the one hand, this committee could provide assurances to the public that Government surveillance activities are limited to those conducted by lawful means and for legitimate purposes. On the other hand, the oversight committee could help the executive branch to insure that Government agents do not misuse the public authority entrusted to them. Fulfillment of these two functions by the oversight committee would do much to eliminate illegal and unethical Government spying.

In considering creation of a congressional oversight committee, Congress should not fear that the power to investigate and conduct surveillance is exclusively within jurisdiction of the executive branch and that Congress has no right to sensitive information concerning such investigations and surveillance activities. Certainly there is no language in the Constitution which allows Government surveillance activities to escape congressional scrutiny. It should be remembered here that the "separation of powers" concept does not mean that each branch of Government can operate entirely independent of the others. As Harvard professor Richard Neustadt observed, it is more appropriate to speak of separate institutions sharing power rather than institutions having separate powers. Indeed, the fundamental premise of our constitutional system is that all power is "fenced about," that every coordinate branch of Government is subject to the check of the other branches. If Government investigative and surveillance activities can be maintained by Government secrecy, there would be no way for the Congress to know whether it should exercise its power to check the executive branch.

Moreover, a lack of congressional oversight would cripple Congress's ability to protect those individual freedoms guaranteed to everyone by the Constitution. In the Federalist Papers, James Madison acknowledged Congress as "the confidential guardians of the rights and liberties of the people."—No. 50. Congress cannot fulfill its responsibility to protect those rights and liberties unless it first has the facts concerning the scope and nature of Government investigative and surveillance activities. Access to those facts is also important if Congress is to exercise its other responsibilities. Thus, the Constitution empowers Congress—not the President—to regulate interstate commerce; the Constitution empowers Congress—not the President—to enact laws concerning the punishment of criminal offenses and the protection of individual privacy. And perhaps most important of all, the Constitution empowers Congress—not the President—to appropriate public moneys for Government operations, including investigative and surveillance activities.

Madison said that—

> This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of grievances, and for carrying into effect every just and salutary measure. (*The Federalist Papers*, No. 58.)

And only last June, in denying a citizen standing to have a public accounting of how the CIA spends public funds, the U.S. Supreme Court declared that "the subject matter is committed to the surveillance of Congress, and ultimately to the political process." Referring to article I, section 9, clause 7 of the Constitution—which requires a published account of public expenditures—the court also took note of—

> Nearly two centuries of acceptance of a reading of clause 7 as vesting in Congress plenary power to spell out the details of precisely when and with what specificity Executive agencies must report the expenditure of appropriated funds and to exempt certain secret activities from comprehensive public reporting." (*United States* v. *Richardson*, S. Ct. No. 72-885, June 25, 1974, slip op. at 12.)

The thrust of these statements is clear: Congress' power over appropriations includes the power to obtain facts as to how the funds have been implemented in the past. Otherwise, Congress has no firm basis to know how it should appropriate funds in the future.

The need for this congressional oversight committee, then, should not be underestimated. The individual's right to privacy is one of our most cherished liberties. It is fundamental to the concept of democratic self-government where each individual's private thoughts and beliefs are beyond the reach of government. Without that right to privacy, the individual's freedom to participate in and guide his government is jeopardized. Government then becomes a monster to be feared rather than a servant to be trusted. As Justice Stephen Field stated in 1888:

> Of all the rights of the citizen, few are of greater importance or more essential to his peace and happiness than the right of personal security, and that involves not

> merely protection of his person from assault, but exemption of his private affairs, books and papers from the scrutiny of others. Without enjoyment of this right, all others would lose half their value.

A right so vital to individual liberty and, indeed, to our constitutional system deserves rigorous protection by Congress—the people's chosen representatives. The legislation we have offered provides a timely opportunity to establish that protection and assure the American public that individual freedom is still the foundation of our political system.

By Mr. HANSEN (for himself and Mr. McGee):

S. 191. A bill relating to the rehabilitation of areas damaged by deleterious mining practices, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HANSEN. Mr. President, today I am introducing legislation to provide for a Federal contribution through the Bureau of Mines for projects to seal and fill voids in abandoned coal mines and abandoned oil and gas wells, and to reclaim and rehabilitate lands affected by surface mining and processing of coal and other minerals. I first introduced this legislation in the 92d Congress, and it was the subject of hearings before the Senate Interior Committee in December 1971, although no action was taken during that Congress. The legislation was again introduced in the 93d Congress, and the substance of it incorporated as a provision of S. 425, the Surface Mining Reclamation Act, which was vetoed by the President late last year.

Similar legislation to permit Federal aid in the rehabilitation of areas damaged by deleterious mining practices has long been on the books with regard to the Appalachian area of our Nation. This area has suffered the effects of subsidence resulting from the collapse of ceilings over abandoned mines, many of them beneath populated areas. The Congress recognized the disastrous effect this problem has on the quality of human life and the economy of affected areas. However, even though Federal assistance is limited to areas of Appalachia, this is not the only area of the country where subsidence is a problem. The Bureau of Mines reported to me several years ago that urban areas threatened by subsidence existed in 28 States. One of these areas is at Rock Springs, Wyo., where subsidence has caused extensive property damage and has disrupted the entire economy.

Recently, under the terms of a demonstration grant from the Department of Housing and Urban Development, the Dowell Division of Dow Chemical Company backfilled a small portion of the undetermined area beneath Rock Springs to test a new technique developed by the company. The technique was proven extremely successful, and a great deal less expensive than conventional methods of filling underground voids, many of which contain water or are on fire. The technique pioneered in Rock Springs, Wyo., provides greater surface support in potential subsidence areas, is cheaper, and is less disruptive to the area where it is being used.

It is important that all cities and towns in this Nation which face potential subsidence damage be given an opportunity to solve this problem. Justice and equity require that Federal assistance which is given to the Appalachian area to solve subsidence problems in populated areas be extended to the entire Nation. A family in another part of the Nation which loses a home to subsidence suffers as greatly as a family in Appalachia.

I support the efforts of Congress to develop legislation to insure that future mining operations do not lead to destruction of the environment. But at the same time, I do not think we can turn our backs on those who are suffering today as a result of the mining practices of the past.

By Mr. WEICKER (for himself, Mr. Domenici, and Mr. Moss):

S. 192. A bill to require the disclosure of the net worth of public officials. Referred to the Committee on Government Operations.

Mr. WEICKER. Mr. President, today I am reintroducing the Net Worth Disclosure Act, a bill that I originally introduced on September 30, 1974 (S. 4059). This bill would require high-ranking officials within the executive and legislative branches of the U.S. Government to file annually with the Comptroller General a complete statement of net worth. Statements filed with the Comptroller General would be kept as public records available for inspection by the general public.

I strongly believe that the public has a right to know the financial interests of those who guide their Government. The disclosure of financial worth and interests by policymakers is one step toward strengthening the public's trust. I feel the Senate should adhere to those standards of public disclosure that it recently asked of then nominee Nelson Rockefeller and that it regularly asks of persons nominated to high Federal positions.

The Senate addressed the subject of financial disclosure during the last session and included provisions for financial disclosure in the Federal Election Campaign Act. However, during conference deliberation over the Federal Election Campaign Act these provisions were deleted. We have comprehensive election reform, yet to this day we have not enacted any legislation requiring public financial disclosure by elected and or appointed Federal officials.

The net worth disclosure amendment would require that the President, Vice President, Members of the Congress, and all employees of the executive and legislative branches earning in excess of $30,000 a year, file each February 15 a net worth statement of assets and liabilities over $1,500 held alone or jointly within the family during the previous calendar year. Asset valuation would be based on fair market value as of December 30 of the disclosure year.

I would urge support of this amendment to insure that the public has the basic right to know the financial interests of their Government officials.

Mr. President, I ask unanimous consent that the text of my bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 192

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Net Worth Disclosure Act".

Sec. 2. (a) Each individual referred to in subsection (b) shall file annually with the Comptroller General of the United States a full and complete statement of net worth to consist of:

(1) A list of the identity and value of each asset held by him, or jointly by him and his spouse or by him and his child or children, and which has a fair market value in excess of $1,500 as of the end of the calendar year prior to that in which he is required to file a report under this Act.

(2) A list of the identity and amount of each liability owed by him, or jointly by him and his spouse or by him and his child or children, and which is in excess of $1,500 as of the end of the calendar year prior to that in which he is required to file a report under this Act.

(b) The provisions of this Act apply to the President, the Vice-President, each Member of the Senate, each Member of the House of Representatives (including Delegates and the Resident Commissioner from Puerto Rico), and each officer and employee of the United States within the executive and legislative branches of Government receiving compensation at an annual rate in excess of $30,000.

(c) Reports required by this Act shall be in such form and shall contain such information in order to meet the provisions of this Act as the Comptroller General may prescribe. All reports filed under this Act shall be maintained by the Comptroller General as public records, open to inspection by members of the public, and copies of such records shall be furnished upon request at a reasonable fee.

Sec. 3. Each person to whom this Act applies on January 1 of any year shall file the report required by this on or before February 15 of that year. Each person to whom this Act first applies during a year after January 1 of that year shall file the report required by this Act on or before the forty-fifth day after this Act first applies to him during that year.

Sec. 4. Any person who knowingly and willfully fails to file a report required to be filed under this Act, or who knowingly and willfully files a false report required to be filed under this Act, shall be fined not more than $2,000, or imprisoned for not more than two years, or both.

Sec. 5. This Act shall become effective on January 1, 1976.

By Mr. WILLIAMS (for himself, Mr. Abourezk, Mr. Bayh, Mr. Beall, Mr. Burdick, Mr. Case, Mr. Church, Mr. Cranston, Mr. Gravel, Mr. Philip A. Hart, Mr. Hatfield, Mr. Hathaway, Mr. Hollings, Mr. Humphrey, Mr. Magnuson, Mr. Mathias, Mr. McGee, Mr. McIntyre, Mr. Nelson, Mr. Pell, and Mr. Weicker):

S. 193. A bill to prohibit the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment. Referred to the Committee on Commerce.

THE ANTI-DOG-FIGHTING ACT

Mr. WILLIAMS. Mr. President, today 20 of my colleagues join me in reintroducing the revised Anti-Dog-Fighting Act, which I first introduced in the 93d Congress.

Since dog fighting was first brought to the attention of the American public 5 months ago, it has been the subject of several bills, hearings before a House subcommittee and the National Gambling Commission, and hundreds of letters from humane individuals and groups around the country. The bill I am introducing today incorporates the recommendations culled from these various sources, and I believe it represents the best legislative means available to us for putting an end to the brutal "sport" of dog fighting.

Certainly anyone concerned about the humane treatment of animals would be repelled by the gruesome reports and films of dog fights which were presented as testimony at the hearings. The dogs lunge at each other, constantly biting and tearing, with the encouragement of their masters who are always close at hand. The American pit bull terrier, normally a docile pet, can be trained to inflict terrible injury on its adversary with its powerful jaws and agile body.

Underground dogfight journals are replete with accounts of bloody matches which last from one-half to 3 hours and result in broken bones, internal injuries, and often the death of one or both dogs. A humane organization which has conducted investigations of the activity reports that 75 percent of fighting dogs die either in the pit or after the fight due to their wounds. They estimate that dogfighting accounts for the death of 1,200 to 1,500 dogs per year.

Senseless cruelty is involved in the 2-year training of pit dogs as well as in actual fights. Cats and other small animals are frequently sacrificed to arouse the puppies' blood lust. Later, practice matches called "rolling" are held to determine a dog's fighting potential. When trained fighting dogs are not available, promoters sometimes procure stray dogs at pounds and pit them against each other, using cattle prods and injections as stimulants.

Abhorrent as this activity is to most of us, approximately 15,000 Americans are said to engage in dogfighting as promoters, spectators, breeders, and trainers. For some, the motive is sadistic sport or entertainment, much like that offered in the arenas of ancient Rome. Others are attracted by the sizable profits gained through betting, admission fees, and the sale of dogs and training paraphernalia. The clandestine nature and criminal element involved in dogfighting encourage illicit peripheral activities such as drug and alcohol sales. Prostitutes are sometimes made available to participants in weekend "conventions," and the highly charged atmosphere of dogfights always holds the potential for violence.

The promotion of and participation in this inhumane "sport" and its accompanying illegal activities is clearly against the public policy of the United States. While humane legislation has traditionally been the domain of State governments, Federal action is required to control pervasive practices involving interstate commerce. Dogfighting is such a practice. In spite of laws in 38 States which specifically ban it, it has grown significantly over the past several years, in terms of the number of fights, participants, and promotional publications, and the level of gambling. This indicates the ineffectiveness of State laws, which are often ambiguous and do not provide penalties sufficiently severe to deter violators. Enforcement has been erratic, mainly because local humane officers are unable to handle a criminal activity of this magnitude. Dogfighting has increasingly become an organized, interstate activity in which dogs, spectators, equipment, and promotional materials cross State lines with impunity. I believe that it will only be curtailed through strong Federal legislation which will reinforce existing State laws. This is the purpose of my bill.

Although most Federal animal welfare legislation is administered by the Department of Agriculture, I believe that anti-dog-fighting legislation requires enforcement by the Department of Justice, under title 18 of the United States Code. It is clearly a criminal problem rather than a regulatory one and calls for undercover work, massive police raids, and the powers of arrest and confiscation. These enforcement powers belong not to USDA veterinary inspectors but to Department of Justice agents.

The legislation I propose would authorize the Department of Justice to prosecute any person who promotes, participates in, attends, or makes a site available for a dogfight. Also subject to prosecution would be those who breed, train, or sell dogs to fight other dogs, or manufacture or sell equipment used in dogfighting. The use of any communications system—the mails, telephone, radio, television, or telegraph—for the purpose of furthering dogfighting would be prohibited, and the Postal Service would be authorized to seize any promotional materials sent through the mails. Those convicted of any of these violations would face a stiff fine or prison term, in addition to the forfeiture of their dogs and equipment.

I am confident that all of my distinguished colleagues here today share my desire to bring a long-overdue end to dogfighting in the United States. For this reason, I urge prompt and favorable action on this legislation and continued vigilance to ensure its effective enforcement.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That chapter 3 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 48. Protection of dogs.

"(a) As used in this section, the term 'commerce' means commerce between a point in any State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) and any point outside thereof, or between points within the same State or possession of the United States (including the District of Columbia and the Commonwealth of Puerto Rico) but through any place outside thereof, or within the District of Columbia, or from any foreign country to any point within the United States.

"(b) The Congress hereby finds (1) that the practice of promoting, instigating, or otherwise conducting, for purposes of sport, wagering, or entertainment, any exhibition, show, or other program involving a fight between dogs, including dogs bred or trained for that purpose, is cruel and inhumane treatment of such animals; contrary to the public policy of the United States; and is repugnant to ordinary decency; and (2) that the movement of such dogs in commerce adversely affects and burdens such commerce.

"(c) It shall be unlawful for any person to sell or offer for sale, ship, transport, or otherwise move, or deliver or receive for movement, in commerce, any dog which such persons knows or has reason to know has been bred or trained to fight other dogs for purposes of sport, wagering, or entertainment.

"(d) It shall be unlawful for any person to ship, transport, or otherwise move, or deliver or receive for movement, in commerce, any dog which such person knows or has reason to know is being so shipped, transported, moved, delivered, or received in order to utilize such dog, for purposes of sport, wagering, or entertainment, in any show, exhibition, program or activity featuring or otherwise involving a fight between the dog and another dog.

"(e) It shall be unlawful for any person to knowingly promote, conduct, carry on, attend, or participate in, for purposes of sport, wagering, or entertainment, any show, exhibition, program or other activity involving a fight between one or more dogs, including a dog bred or trained for that purpose, if any one or more of such dogs was moved to such show, exhibition, program, or activity in commerce.

"(f) It shall be unlawful for any person to breed or train, for sale, shipment, transport, delivery, or movement, in commerce, any dog which such person knows or has reason to know, will be utilized for purposes of sport, wagering, or entertainment in any show, exhibition, program, or activity featuring or otherwise involving a fight between that dog and another dog.

"(g) It shall be unlawful for any person to sell or offer for sale, ship, transport, or otherwise move, or deliver or receive for movement, any equipment or device which such person knows or has reason to know will be utilized in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between two or more dogs for purposes of sport, wagering, or entertainment.

"(h) It shall be unlawful for any person to manufacture for sale, shipment, transportation, delivery, or movement, in commerce, any equipment or device which such person knows or has reason to know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between two or more dogs for purposes of sport, wagering, or entertainment.

"(i) It shall be unlawful for any reason to make available any site, structure, or facility, whether enclosed or not, which such person knows or has reason to know is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between two or more dogs, if one or more of such dogs or such site, structure, or facility, or part thereof, was moved in commerce.

"(j) It shall be unlawful for any person to knowingly use the mail service of the United States Postal Service, or any telephone, telegraph, radio or television, for the purpose of promoting or in any other manner furthering any show, exhibition, program, or activity featuring or otherwise involving a fight between two or more dogs for purposes of sport, wagering, or entertainment.

"(k) Any person who violates any provision of this section shall be punished by a fine of not more than $25,000 or imprisonment for not more than one year, or both, and such dogs, equipment, and devices involved in any such violation shall be forfeited.".

Sec. 2. Section 3001(a) of title 39, United States Code, is amended by inserting immediately after "section" the following: "48 (j),".

Sec. 3. The analysis of chapter 3 of title 18, United States Code, is amended by adding at the end thereof the following new item: "48. Protection of dogs.".

By Mr. KENNEDY:

S. 194. A bill to establish a comprehensive program of insurance and reimbursement with respect to losses sustained by the fisheries trades as a result of environmental and natural disasters; and

S. 195. A bill to provide certain essential assistance to the U.S. fishing industry. Referred to the Committee on Commerce.

By Mr. KENNEDY (for himself and Mr. STEVENS):

S. 196. A bill to apply certain provisions of the Fishermen's Protective Act of 1967 to situations in which vessels of the United States or their gear are damaged by actions of foreign countries. Referred to the Committee on Commerce.

By Mr. KENNEDY:

S. 197. A bill to provide Small Business Administration disaster assistance for individuals who are self-employed in the fishing industry. Referred to the Committee on Banking, Housing and Urban Affairs.

S. 198. A bill to amend the provisions of law establishing a fund to promote the free flow of domestically produced fishing industry products in order to increase the amounts in such fund. Referred to the Committee on Agriculture and Forestry.

ASSISTANCE FOR THE AMERICAN FISHING INDUSTRY

Mr. KENNEDY. Mr. President, during the debate last December on legislation to extend the fishing zone to 200 miles, the full Senate had the opportunity to discuss the state of our domestic fishing industry. One fact is clear to all of us from that debate—the fishing industry is in urgent need of assistance now if we are to reverse the devastating decline of this vital industry. I am today introducing five bills designed to allow the American fishing industry to revitalize itself. I ask unanimous consent that at the conclusion of my remarks, the full text of the five bills be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, what the American fishing industry needs most and first is relief from the massive foreign fishing effort off our coasts. The fishing industry is not asking for exclusionary rights to the fish and marine resources of the coastal waters—they are asking for equity and for some reasonable, sensible plan that will assure that further depletion of our fish resources will be halted. The facts are now in. We know that damaged or threatened stocks now touch every segment of the fishing industry: haddock, herring, mackerel, menhaden, sablefish, shrimp, yellowtail flounder, and halibut.

I look forward to cosponsoring again with the distinguished chairman of the Senate Commerce Committee, Senator MAGNUSON, legislation to extend on an interim basis, the U.S. fishing zone to 200 miles. I am hopeful that the Senate will once again overwhelmingly approve this legislation and that we can look forward to early House action on the measure.

The legislation I am introducing today is designed to begin the enormous task of putting the fishing industry back into business. The grim statistics on dwindling fish stocks are matched by the facts and figures on old, antiquated fishing vessels and gear, inadequate marketing programs, exorbitant insurance costs, and depletion and destruction of gear and equipment by natural disasters.

Among the bills I introduce today is an amendment to the Small Business Act to provide disaster assistance to self-employed clammers who suffer loss of income from "red tide." The "red tide" has hit the fishermen of Massachusetts twice and by all projections it will come again. Many of the small self-employed businessmen engaged in clamming cannot now meet the income and inventory requirements to qualify for disaster loans from the Small Business Administration. This legislation would allow those fishermen who are wiped out by the "red tide" to qualify for loans to reestablish themselves and again provide income for their families.

I am also introducing a bill to provide a broad program of insurance against natural disasters which severely reduce or impair fish resources. The legislation sets up a corporation with a capital stock of $25 million to provide insurance to vessel owners and domestic fish dealers against storms and other natural disasters which prevent the harvesting or marketing of fish or shellfish. Grants totaling $8 million would be available for boat owners, processors, and dealers for recovery during a period of economic loss due to health restrictions curbing the sale of fish products.

The Fisheries Development Act of 1975 authorizes a comprehensive program of grants and technical assistance for the fishing industry. This legislation would allow fishermen to take advantage of modern methods of fishing and the new technology in gear and equipment to increase their productivity and expand their operations. Research into new and underutilized species and the development of new markets would be encouraged and for the first time a complete review would be made of the numerous and often conflicting Federal, State, and local regulations affecting the fishing industry.

Of the five bills I introduce today, there are two that I am most hopeful the Senate will act quickly to enact. Senator STEVENS has joined with me in sponsoring an amendment to the Fishermen's Protective Act to protect fishermen whose vessels or gear are damaged by foreign fishing vessels. This same amendment was approved by the Senate on May 25, 1972, but was not accepted in conference. At the close of the last Congress, I joined with Senator MUSKIE to support a similar amendment with the funds for reimbursement to come out of the fish and wildlife conservation fund. That provision in the maritime authorization bill was vetoed by the President.

Mr. President, the time has come to pass legislation which will guarantee that as long as our fishermen are to be subjected to the harassment of foreign fishing fleets resulting in damage or destruction of their vessels and gear, that at the very least they will not be forced to wait years for reimbursement from the foreign nation involved. While the months and years pass during negotiation, the fishermen without the resources to repair or replace their equipment go out of business and their families go without income.

Senator STEVENS has visited with the fishermen of Alaska who wait years for reimbursement for foreign damage. And some Alaskan fishermen and some Massachusetts fishermen are still waiting years later. Senator STEVENS and I had the opportunity to visit with representatives of the New England fishing industry during our hearings in Boston on the extension of the fishing zone. During that testimony, we heard the grim stories of deliberate harassment and damage by foreign vessels to fishermen who then must devote all their efforts to proving the claim which will take months and years to be adjudicated.

The amendment we offer today simply says that when an American fisherman has suffered damage at the hands of a foreign fishing vessel or fleet, he will be reimbursed quickly and equitably while our Government continues the lengthy negotiations with the foreign country involved.

I am also offering an amendment to the Saltonstall-Kennedy Act of 1954 to provide that 100 percent rather than 30 percent of duties on fish imports will be returned to the domestic fishing industry. President Kennedy, when he was in the Senate, and Senator Saltonstall introduced legislation to return 30 percent of the tariff duties collected on imported fish products to the domestic fishing industry. Since that time, these funds have been an important source of revenue for research and development for the fishing industry. Since 1954, we have seen an alarming rise in imported fish products, until today when nearly 70 percent of the fish consumed in the United States is imported. The return of 100 percent of the duties on these products to the fishing industry is an equitable and sensible, simple and quick way to provide additional funds at this critical juncture for the fishing industry. I will ask the Secretary of Commerce for his review of this legislation, his projections on the amount of funds that would become available, and the programs and plans which might be implemented with these funds.

Mr. President, the full Senate has had the opportunity during our review of extended fishing zone jurisdiction to become alert to the problems of America's oldest industry. I am hopeful that very quickly in this session of the new Congress, we can begin to take the steps necessary to provide the fishing industry with the assistance they need to reverse the decline of their industry. The fishermen are not asking for a handout from the Federal Government; they are asking for a fair shake. It is time the Congress responded to their needs.

S. 194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Fisheries Environmental and Natural Disaster Assistance Act".

DECLARATION OF PURPOSE

SEC. 2. It is the purpose of this Act to promote the national welfare by improving the economic stability of the fisheries and fisheries trade through a sound system of product insurance and indemnity against excessive losses, caused by Federal, State, or local health authority action preventnig the processing or marketing of fish or fish products or by any natural disaster; and providing the means for the research and experience helpful in devising and establishing such insurance.

TITLE I—FEDERAL FISHERIES ENVIRONMENTAL AND NATURAL DISASTER INSURANCE CORPORATION

CREATION

SEC. 101. To carry out the purposes of this title, there is hereby created as an agency of and within the Department of Commerce a body corporate known as Federal Fisheries Environmental and Natural Disaster Insurance Corporation (hereinafter referred to as the "Corporation"). The principal office of the Corporation shall be located in the District of Columbia, but there may be established agencies or branch offices elsewhere in the United States under rules and regulations prescribed by the Board of Directors.

CAPITAL STOCK OF THE CORPORATION

SEC. 102. (a) The Corporation shall have a capital stock of $25,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Commerce (hereinafter referred to as the "Secretary"), be subject to call in whole or in part by the Board of Directors of the Corporation.

(b) There are authorized to be appropriated such sums as are necessary for the purpose of subscribing to the capital stock of the Corporation.

(c) Receipts for payments by the United States of America for or on account of such stock shall be issued by the Corporation to the Secretary of the Treasury and shall be evidence of the stock ownership by the United States of America.

CAPITALIZATION OF THE CORPORATION

SEC. 103. The payment for capital stock in the Corporation shall be affected by transfer of funds on the books of the Treasury Department to the credit of the Corporation.

BOARD OF DIRECTORS AND MANAGER OF THE CORPORATION

SEC. 104. (a) The management of the Corportion shall be vested in a Board of Directors (hereinafter referred to as the "Board") subject to the general supervision of the Secretary. The Board shall consist of the manager of the Corporation, two other persons employed in the Department of Commerce, and two persons experienced in the insurance business who are not otherwise employed by the Government. The Board shall be appointed by, and hold office at the pleasure of, the Secretary, who shall not, himself, be a member of the Board.

(b) Vacancies in the Board so long as there shall be three members in office shall not impair the powers of the Board to execute the functions of the Corporation, and three of the members in office shall constitute a quorum for the transaction of the business of the Board.

(c) The Directors of the Corporation who are employed in the Department of Commerce shall receive no additional compensation for their services as such Directors but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation outside of the District of Columbia. The members of the Board who are not employed by the Government shall be paid such compensation for their services as Directors as the Secretary shall determine, but such compensation shall not exceed $100 per day each when actually employed and transportation expenses plus not to exceed $20 per diem in lieu of subsistence expenses when on business of the Corporation away from their homes or regular places of business.

(d) The manager of the Corporation shall be its chief executive officer with such power and authority as may be conferred upon him by the Board. He shall be appointed by, and hold office at the pleasure of, the Secretary.

POWERS OF THE CORPORATION

SEC. 105. The Corporation—

(1) shall have succession in its corporate name;

(2) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) may make contracts and purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of such property held by it upon such terms as it deems appropriate;

(4) may sue and be sued in its corporate name in any court of record of a State having general jurisdiction, or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; except that no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property;

(5) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers granted to it by law may be exercised and enjoyed;

(6) shall be entitled to the free use of the United States mails in the same manner as the other executive agencies of the Government;

(7) with the consent of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, facilities, officials, and employees thereof in carrying out the provisions of this title;

(8) may conduct researches, surveys, and investigations relating to fisheries disaster insurance and shall assemble data for the purpose of establishing sound actuarial bases for insurance on fisheries commodities;

(9) shall determine the character and necessity for its expenditures under this title and the manner in which they shall be incurred, allowed, and paid, without regard to the provisions of any other laws governing the expenditure of public funds and such determinations shall be final and conclusive upon all other officers of the Government; and

(10) shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation and all such incidental powers as are customary in corporations generally.

PERSONNEL OF THE CORPORATION

SEC. 106. (a) The Secretary shall appoint such officers and employees as may be necessary for the transaction of the business of the Corporation pursuant to the civil service and classification laws, define their authority and duties, delegate to them such of the powers vested in the Corporation as he may determine, require bond of such of them as he may designate, and fix the penalties and pay the premiums of such bonds, except that personnel paid by the hour, day, or month when actually employed, and local insurance committeemen may be appointed without regard to civil service laws and regulations.

(b) Insofar as applicable, chapter 81 (relating to compensation for work injuries, of title 5, United States Code, shall extend to persons given employment under the provisions of this title, including the employees of the committees and associations referred to in subsection (c) of this section and the members of such committees.

(c) The Secretary of Commerce may allot to bureaus and offices of the Department of Commerce or transfer to such other agencies of the State and Federal Governments as he may request to assist in carrying out this title any funds made available pursuant to the provisions of this title.

(d) In carrying out the provisions of this title the Board may, in its discretion, utilize producer-owned and producer-controlled cooperative associations.

FISHERIES ENVIRONMENTAL DISASTER INSURANCE

SEC. 107. (a) To carry out the purposes of this title, the Corporation, commencing with fish and shellfish catches for 1974, shall insure, or reinsure insurers of—

(1) domestic fishing vessel owners and crews for losses in gross revenue incurred in a single season by inability to harvest or market as planned a fish or shellfish catch because of Federal, State, or local health regulation or action determining the product to be unfit for human consumption or because of any natural disaster, as defined by the Secretary;

(2) domestic fishing vessel owners for costs of refitting vessels necessitated by, or loss value of vessels caused by, elimination of an entire fish or shellfish resource as a harvestable resource because of Federal, State, or local health regulation or action or because of any natural disaster; and

(3) domestic fish and shellfish dealers, processors, and wholesalers against losses incurred by inability to market an inventory of fish or shellfish because of Federal, State, or local health regulation or action determining the product to be unfit for human consumption when the cause of the determination is change, either natural or man-made.

(b) The Board shall fix premiums for each type of insurance and for the various species of fish and shellfish at such rates as the Board deems sufficient to cover claims for losses on such insurance, and to establish as expeditiously as possible a reasonable reserve against unforeseen losses. Such premiums shall be reviewed and adjusted annually to reflect experience of the previous year.

(c) The Board shall adjust and pay claims for losses in cash under rules prescribed by the Board. In the event that any claim for indemnity under the provisions of this title is denied by the Corporation, an action on such claim may be brought against the Corporation in the United States district court, or in any court of record of the State having general jurisdiction, sitting in the district in which the in- * * * district courts to determine such controveries without regard to the amount in controversy; except that no suit on such claim shall be allowed under this subsection unless the same shall have been brought within one year after the date when notice of denial of the claim is mailed to and received by the claimant.

EXEMPTIONS OF INDEMNITIES FROM LEVY

SEC. 108. Claims for indemnities under this title shall not be liable to attachment, levy, garnishment, or any other legal process before payment to the insured or to deduction on account of the indebtedness of the insured or his estate to the United States except claims of the United States or the Corporation arising under this title.

DEPOSIT AND INVESTMENT OF FUNDS

SEC. 109. All money of the Corporation not otherwise employed may be deposited with the Treasury of the United States or in any bank approved by the Secretary of the Treasury, subject to withdrawal by the Corporation at any time, or with the approval of the Secretary of the Treasury may be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States. Subject to the approval of the Secretary of the Treasury, the Federal Reserve banks are hereby authorized and directed to act as depositories, custodians, and fiscal agents for the Corporation in the performance of its powers conferred by this chapter.

TAX EXEMPTION

SEC. 110. The Corporation, including its franchise, its capital, reserves, and surplus, and its income and property, shall be exempt from all taxation imposed by the United States or by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

CORPORATION AS FISCAL AGENT OF GOVERNMENT

SEC. 111. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary of the Treasury. The Corporation may also be employed as a financial agent of the Government and shall perform all such reasonable duties as a depository of public money and financial agent of the Government as may be required of it.

ACCOUNTING BY THE CORPORATION

SEC. 112. The Corporation shall at all times maintain complete and accurate books of account and shall file annually with the Secretary a complete report as to the business of the Corporation. The financial transactions of the Corporation shall be audited at least once each year by the General Accounting Office for the sole purpose of making a report to Congress, together with such recommendations as the Comptroller General of the United States may deem advisable; except that such report shall not be made until the Corporation shall have had reasonable opportunity to examine the exceptions and criticisms of the Comptroller General or the General Accounting Office, to point out errors herein, explain or answer the same, and to file a statement which shall be submitted by the Comptroller General with his report.

ADVISORY COMMITTEE

SEC. 113. The Secretary is authorized to appoint, from time to time, an advisory committee consisting of not more than five members experienced in the functions of the Corporation and appointed with due consideration of their geographical distribution, to advise the Corporation with respect to carrying out the purposes of this title. The compensation of the members of such committee shall be determined by the Board but shall not exceed $100 per day each while actually employed and actual necessary traveling and subsistence expenses, or a per diem allowance in lieu of such expenses.

TITLE II—REIMBURSEMENT OF COMMERCIAL FISHERMEN

DEFINITIONS

SEC. 201. As used in this title—

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "domestic fishing" means commercial fishing undertaken by vessels registered in the United States.

(3) The term "allied sport fishing camps" means fishing camps and businesses which provide facilities, boats, bait, and other incidental supplies for fishing.

(4) The term "fishing equipment" includes nets, equipment, and vessels used in domestic fishing.

(5) The term "prohibitive Federal or State restrictions" means restrictions relating to a deterioration in the quality of the aquatic environment and imposed or enforced on or after January 1, 1970, and until December 31, 1975 (or until the implementation of title I of the Federal Fisheries Environmental and Natural Disaster Assistance Act, if such implementation is before December 31, 1975) by any State or by any department or agency of the Federal Government which, in the judgment of the Secretary, impair the economic feasibility of any type of domestic fishing to such an extent as to reduce—

(A) by 50 per centum or more the fair market value, in the affected area, of fishing equipment principally useful for that type of fishing, or

(B) by 20 per centum or more the market value of the commercial catch in the calendar year concerned but for the imposition of such restrictions and which also results in allied sport fishing camps proportionate losses.

(6) The term "eligible owner" means any legal entity which—

(A) is the owner of fishing equipment, and

(B) was engaged in domestic fishing as his usual occupation for thirty days or more prior to the imposition of prohibitive Federal or State restrictions thereon, or

(C) was the owner and operator of a sport fishing camp.

GRANTS TO AFFECTED OWNERS

SEC. 202. (a) Any eligible owner adversely affected by the imposition of prohibitive Federal and State restrictions in any calendar year may apply to the Secretary for a grant under this section for the purpose of enabling such owner to meet the usual business expenses which, but for the economic loss caused him by the imposition of such restrictions, such owner would ordinarily be able to meet.

(b)(1) In any case in which paragraph (2) does not apply, a grant made by the Secretary under this section may not exceed an amount equal to 70 per centum of the yearly gross earnings from domestic fishing or allied sport fishing camp operations which the eligible owner lost in the calendar year as a result of the imposition of such Federal or State restrictions. In determining lost gross earnings from domestic fishing operations for an eligible owner under this paragraph, the Secretary shall subtract the amount of actual or estimated gross earnings from such operations in the year in which such Federal or State restrictions were imposed from the yearly gross earnings from domestic fishing operations made by such eligible owner in the last calendar year in which no prohibitive Federal or State restrictions affected such owner's operations.

(2) In the case of an eligible owner who substantially increased his investment in fishing equipment for use in the calendar year in which such restrictions are imposed, as compared with his investment in materials in the calendar year immediately preceding such calendar year, a grant made under this section may not exceed an amount equal to 70 per centum of the estimated yearly gross earnings from domestic fishing operations which the eligible owner lost in the calendar year as a result of the imposition of such Federal or State restrictions. In estimating lost gross earnings under this paragraph, the Secretary shall take into account all harvesting gear owned by the eligible owner and in use by him at the time, or intended to be so used by him before, such Federal or State restrictions were imposed and the expected income for that calendar year. In the case of an eligible owner who operates a sport fishing camp, the Secretary shall accordingly take into account his volume of business and investments in facilities and supplies when estimating lost gross earnings under the same paragraph.

(c)(1) No grant may be made under this section unless application therefor is made before the close of the calendar year after the calendar year in which the prohibitive Federal or State restrictions concerned are imposed or enforced.

(2) No grant may be made under this section to any owner unless such owner is a domestic legal entity.

APPROPRIATIONS AUTHORIZED

SEC. 203. There is authorized to be appropriated to carry out the purposes of this title not to exceed $5,000,000.

TITLE III—REIMBURSEMENT OF FISH AND SHELLFISH PROCESSORS AND MARKETERS

DEFINITIONS

SEC. 301. As used in this title—

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "inventory" means fish or shellfish product in processed or partially processed form owned by a domestic corporation.

(3) The term "fishing equipment" includes nets, equipment, and vessels used in domestic fishing.

(4) The term "prohibitive Federal, local, or State restriction" means restrictions imposed on or after January 1, 1970, and until December 31, 1975 (or until the implementation of title I of the Federal Fisheries Environmental and Natural Disaster Assistance Act if such implementation is before December 31, 1975), by any State or local government agency or by any agency or department of the Federal Government which prohibits marketing of the product in this country because of determination that the product is unfit for human consumption when the cause of such determination is change, either natural or man-made, in environmental conditions; or a newly discovered hazardous condition (including, but not limited to, presence of toxic or potentially toxic constituents or contaminants).

(5) The term "eligible owner" means any domestic legal entity which is the owner of the inventory or fishing equipment at the

time of imposition of the prohibitive restrictions.

GRANTS

SEC. 302. (1) Any eligible owner adversely affected by the imposition of prohibitive Federal, State, or local restrictions during the period specified, may apply to the Secretary for a grant under this title for the purpose of recovering losses incurred in disposition of inventory affected or lost value of fishing equipment rendered unusable because of elimination of an entire fish or shellfish resource as a harvestable resource.

(2) No grant shall be made under this section unless such inventory was acquired from a domestic fishing vessel.

APPROPRIATIONS AUTHORIZED

SEC. 303. There is authorized to be appropriated to carry out the purposes of this title not to exceed $3,000,000.

S. 195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Fisheries Development Act of 1975".

TITLE I

STATEMENT OF PURPOSE

SEC. 101. The purpose of this title is to encourage and facilitate efficient use of fishery resources in all regions of the United States, to coordinate and maximize the benefits from new fisheries technology, development, and research, and to provide other assistance to the fisheries industry.

FISHERIES EXTENSION SERVICE

SEC. 102. (a) In order to aid in diffusing useful and practical information on subjects related to commercial fishing operations, the processing of fisheries products, and the marketing thereof, and to encourage the application of such knowledge, the Secretary of Commerce (hereinafter referred to as the "Secretary") is authorized to provide funds for the National Oceanic and Atmospheric Administration in the Department of Commerce the Fisheries Extension Service and to exercise through such Service the existing fisheries extension authority of such Administration, as well as the extension authority under the provisions of this section. All such extension activities shall be coordinated with the fisheries extension activities carried on by the States and by the sea grant colleges and, to the extent practicable and feasible, shall utilize or be carried out through State fisheries agencies, colleges and universities, or other institutions with expertise in the field of fisheries development, with special emphasis on institutional arrangements which promote regional undertakings.

(b) In determining which industries and geographic areas shall receive priority for the purposes of initiating extension activities authorized in this section, the Secretary shall consider such factors as (1) the size of the industries to be affected; (2) the state of their technology as compared to that of similar industries in foreign countries; (3) the extent of the potential resources and markets; (4) the amount of information resulting from relevant research activities; and (5) the economic benefits to be derived from the practical application of such information to commercial operations.

(c) The Secretary is authorized to carry out fisheries extension work pursuant to this section which shall consist of the giving of instruction and practical demonstrations in commercial fishing, in the processing and marketing of fisheries products, and in business management at all levels of the fishing industry, to persons engaged in such activities for economic gain, and of imparting information on said subjects through demonstrations, publications, and otherwise. Such work shall be carried on in such manner as may be determined by the Secretary after consultation with appropriate State and local officials, and local representatives of the industries to be benefited by such work.

(d) There are authorized to be appropriated for the purposes of this section $10,000,000 for the fiscal year beginning July 1, 1975, $15,000,000 for the fiscal year beginning July 1, 1976, and $20,000,000 for the fiscal year beginning July 1, 1977.

TECHNICAL ASSISTANCE GRANTS

SEC. 103. (a) The Secretary is authorized to make technical assistance grants to fishery cooperatives, marketing associations, and other private agencies or organizations, to pay in whole or in part the costs of—

(1) implementing technological improvements in the fisheries for demonstration purposes; and

(2) marketing research necessary for the development of foreign markets.

(b) In determining whether to make any such grant, and in fixing the amount thereof, and the terms and conditions on which it will be made, the Secretary shall take into consideration the amount available for grants under this section; the number of applications for such grants; the financial condition of the applicant; and the benefits which are expected to accrue from the proposed demonstration project.

(c) Payments pursuant to a grant under this section may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

(d) There are authorized to be appropriated for the purposes of this section $5,000,000 for the fiscal year beginning July 1, 1975, $7,500,000 for the fiscal year beginning July 1, 1976, and $10,000,000 for the fiscal year beginning July 1, 1977.

EXPANSION INTO NEW OR UNDEREXPLOITED SPECIES

SEC. 104. (a) For the purpose of encouraging and assisting the United States fishing industry to expand into unexploited or underexploited species, the Secretary is authorized to make grants pursuant to this section for the necessary conversion of fishing vessels (including the acquisition of gear).

(b) In determining whether to make such a grant and in fixing the amount thereof, and the terms and conditions on which it will be made, the Secretary shall take into consideration the amount available for grants under this section; the number of applications for such grants; the financial ability of the applicant to pay any remaining cost of conversion and to operate the vessel after conversion; and the benefits to the industry generally.

(c) Payments pursuant to a grant under this section may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.

(d) There are authorized to be appropriated for the purposes of this section $5,000,000 for the fiscal year beginning July 1, 1975, and for each of the two succeeding fiscal years.

FISHERIES LAW STUDY

SEC. 105. (a) The Secretary is authorized to undertake a comprehensive study and review of existing fisheries regulation at the local, State, and Federal levels. Such study shall include but need not be limited to (1) a review of existing Federal, State, and local regulation of commercial and recreational fishing, and (2) an assessment of the effectiveness of such regulation in promoting the efficient and beneficial use of marine resources.

(b) The Secretary is further authorized to develop a series of model codes suitable for adoption by the various coastal States. These codes shall be designed to harmonize the conflicting interests of various commercial and recreational fishing, and to promote the conservation and efficient exploitation of marine resources.

(c) The results of such study and such model codes shall be incorporated into a report on the state of fishery regulation and shall be presented to the Congress and the President on May 31, 1976, and kept up to date by an annual supplement presented on May 31 of each following year.

(d) There are hereby authorized to be appropriated for the purposes of this section $1,000,000 for the fiscal year beginning July 1, 1975, plus such additional sums as the Congress may deem necessary for each fiscal year thereafter.

IMPORT STUDY

SEC. 106. In order to aid the Congress in adopting the Nation's tariff policies to the needs of the domestic fishing industry, the Secretary shall submit beginning as soon as practicable a semiannual report to the President and the Congress on the importation of fisheries products into the United States. Such report shall include, but need not be limited to (1) a profile of the quantity and value of the fisheries products imported into the United States in the preceding six months, broken down by tariff category and country or origin, (2) a projection of imports of fisheries fresh products and frozen products anticipated in the following six months, and (3) an analysis of the effects of these past and projected imports on the domestic fisheries.

FISHERMEN'S COOPERATIVE ASSOCIATION

SEC. 107. The Secretary is authorized, under such rules and regulations and under such terms and conditions as he may prescribe, to make grants to fishermen's cooperative associations for the following purposes:

(1) to finance the purchase of fish and shellfish or products thereof and the cost of storing fish and shellfish and the products thereof in cold storage or other storage facilities owned, leased, or used by such association;

(2) to provide operating capital needed to supplement the capital funds of such association; and

(3) to finance or refinance the acquisition by purchase or lease of land, buildings, and equipment and the construction or reconstruction of buildings or other improvements used by such association in connection with activities related solely to the storage, processing preparation for market, handling, or marketing of fish and shellfish or the products thereof.

No grant shall be made under this subsection if, in the judgment of the Secretary, the grant will increase the production of any fish or shellfish which is commonly produced in excess of annual marketing requirements, or will materially contribute to the depletion of any fish or shellfish species contrary to sound conservation practices. There is authorized to be appropriated $3,000,000, for the fiscal year ending June 30, 1976, and for each of the two succeeding years, for grants pursuant to this section.

TITLE II

STATEMENT OF PURPOSE

SEC. 201. The purpose of this title is to assist voluntary associations of fishermen, processors, cooperatives, and other organizations and persons engaged in handling fish and fish products, and to conditionally exempt such associations from certain provisions of the antitrust laws, so that they may, through marketing agreements, promotional and product development activities, marketing research, and other related activities, better regulate the fluctuation of prices and the marketing of fish and fish products which create the unstable and chaotic conditions in the fishing industry, and expand and develop existing and new markets, both domestic and foreign, for underexploited species.

VOLUNTARY ASSOCIATIONS AUTHORIZED

SEC. 202. (a) In order to effect the purpose of this title, the Secretary shall have the power, after due notice and opportunity for hearing, to permit the voluntary association for the purpose of this title of fishermen, processors, cooperatives, and other organizations and persons engaged in the handling of fish or fish products (hereinafter referred to as "handlers").

(b) Such voluntary associations may be formed for the purposes of the issuance of marketing agreements, the development and promotion of a specific product or products, and the establishment of market and product research programs designed to improve the quality or increase the consumption of the product.

(c) The making of any such agreement shall be lawful and shall not be held in violation of any of the antitrust laws of the United States if such agreement meets the requirements of this title and such additional requirements as are prescribed by the Secretary for the purpose of this title.

PURPOSES OF MARKETING AGREEMENTS

SEC. 203. Agreements made pursuant to section 202 may—

(a) limit, or provide methods for limiting, in a fair and equitable manner the total quantity of any fish or fish product, or any grade, size, or quality thereof, produced in any specified manner during any specified period or periods of more than three months each, which may be marketed in or transported to any or all markets during any specified period or periods by each handler or all handlers, but such limits shall be subject to minimum limits determined by the Secretary;

(b) allot, or provide methods for alloting, in a fair and equitable manner the amount of any fish or fish product, or of any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all other handlers during any specified period or periods;

(c) establish or provide for the establishment of reserve pools of any such fish or fish product, or of any grade, size, or quality thereof, and provide for the equitable disposition of the net return derived from the sale thereof among the persons beneficially interested therein;

(d) require or provide for the requirement of inspection of any such fish or fish product produced during specified periods of marketing;

(e) determine, or provide methods for determining the evidence and extent of the surplus of any fish or fish product, or of any grade, size, or quality thereof and provide for the control and disposition of such surplus and for equalizing the burden of such surplus elimination or control among the handlers thereof;

(f) prohibit unfair methods of competition and unfair trade practices in the handling of any fish or fish product;

(g) provide that any fish or fish product, or any grade, size, or quality thereof shall be sold by the handlers of any class or handlers in the manner provided in such agreement;

(h) provide to the association the powers and duties—

(1) to administer such agreement in accordance with its terms and provisions;

(2) to make rules and regulations to execute the terms and provisions of such agreement;

(3) to receive, investigate, and report on complaints of violation of such agreement; and

(4) to recommend amendments to such agreement; and

(i) make such other provisions incidental to, and not inconsistent with the terms and conditions above specified and necessary to execute the provisions of such agreements.

AGREEMENTS NOT APPLICABLE TO RETAILERS

SEC. 204. Agreements formulated under this title shall not be applicable to any person who sells fish or fish products at retail in his capacity as retailer.

AUTHORITY TO PREVENT SHORTAGES

SEC. 205. The Secretary shall not permit to continue in effect any agreement which reduces the supply of any fish or fish product below a quantity sufficient to provide for normal domestic consumption, exports, and carryover.

SHARING OF EXPENSES

SEC. 206. Each association formed under this title and approved by the Secretary may require that each member thereof shall pay to the association such member's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find are reasonable and are likely to be incurred by such association, during any period specified by him, for such purposes as the Secretary may determine to be appropriate for the maintenance and functioning of such association, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of commodity received, handled, held, or disposed of by such association for the benefit or account of persons other than members. Such pro rata shares shall be computed on the basis of the quantity of the fish or fish products distributed, processed, or shipped by such association, and such other activities as the Secretary may approve.

INFORMATION REPORTS

SEC. 207. (a) All parties to any marketing agreement pursuant to this title shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement has been carried out or has effectuated the declared policy of this title, and with such information as he finds to be necessary to determine whether or not there has been any abuse of exemptions from the antitrust laws. Such information shall be furnished in accordance with forms of reports to be prescribed by the Secretary. For the purpose of ascertaining the accuracy of any report made to the Secretary pursuant to this section, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is authorized to examine such books, records, papers, copies of income tax reports, accounts, correspondence, contracts, documents, or memorandums, as he deems relevant and which are within the control of (1) any such party to such agreement from whom such report was requested, (2) any person having, either directly or indirectly, actual or legal control of or over such party, or (3) any subsidiary of any such party.

(b) All information furnished to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department of Commerce and only information so furnished or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which he or any officer of the United States is a party, and involving the agreement with reference to which the information so to be disclosed was furnished or acquired. Nothing in this section shall be deemed to prohibit (1) the issuance of general statements based upon the reports of a number of parties to an agreement or of handlers subject to an agreement, which statements do not identify the information furnished by any persons, or (2) the publication by direction of the Secretary, of the name of any person violating any marketing agreement, together with a statement of the particular provisions of the agreement violated by such person. Any such officer or employee violating the provisions of this section shall upon conviction be subject to a fine of not more than $1,000 or to imprisonment for not more than one year, or to both, and shall be removed from office.

GRANT ASSISTANCE

SEC. 208. (a) The Secretary is authorized to make grants to voluntary associations formed pursuant to this title in order to assist such associations in carrying out the purpose of this title. No grant shall be made under this section if, in the judgment of the Secretary, the grant will increase the production of any fish or shellfish which is commonly produced in excess of annual marketing requirements, or will materially contribute to the depletion of any fish or shellfish species contrary to sound conservation practices.

(b) There are authorized to be appropriated $1,500,000 for the fiscal year ending June 30, 1976, and for each of the two succeeding fiscal years, for grants pursuant to this section.

SEPARABILITY

SEC. 209. If any provision of this title is declared unconstitutional, or the applicability thereof to any person, circumstance, or commodity is held invalid the validity of the remainder of this title and the applicability thereof to other persons, circumstances, or commodities shall not be affected thereby.

S. 196

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Fishermen's Protective Act of 1967 is amended—

(1) by inserting immediately before "by a country" a comma and the following: "or vessel of the United States or its gear damaged,"; and

(2) by inserting before "in accordance" the following: "or such vessel or its gear damaged".

SEC. 2. Section 5(a)(2) of the Fishermen's Protective Act of 1967 is amended by inserting after "seizure" the following: "or damage to a vessel of the United States or its gear".

SEC. 3. (a) Section 7(a) of the Fishermen's Protective Act of 1967 is amended to read as follows: "(a) The Secretary, upon receipt of an application filed with him at any time after the effective date of this section by the owner of any vessel of the United States which is documented or certificated as a commercial fishing vessel, shall enter into an agreement with such owner subject to the provisions of this section and such other terms and conditions as the Secretary deems appropriate. Such agreement shall provide that, if such vessel or its gear has been damaged, on or after January 1, 1971, as a result of the action of a vessel operated by the government of such country or any other activity of such government (on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States), or if such vessel is seized by a foreign country and detained under the conditions of section 2 of this Act, the Secretary shall guarantee—

"(1) the owner of such vessel for actual costs, except those covered by section 3 of this Act, incurred by the owner arising out of damage to his vessel or gear by such country, or during the seizure and detention period and as a direct result thereof, as determined by the Secretary, resulting (A) from any damage to, or destruction of, such vessel, or its fishing gear or other equipment, (B) from the loss or confiscation of such vessel, gear, or equipment, or (C) from dockage fees or utilities;

"(2) the owner of such vessel and its crew for the market value of fish caught (A) before damage to such vessel or gear and lost or spoiled as the result of such damage, or (B) before seizure of such vessel and confiscated or spoiled during the period of detention; and

"(3) the owner of such vessel and its crew for not to exceed 50 per centum of the gross income lost as a direct result of such damage or such seizure and detention, as determined by the Secretary of the Interior, based on the value of the average catch per day's fishing during the three most recent calendar years immediately preceding such damage or seizure and detention of the vessel seized, or, if such experiences are not available, then of all commercial fishing vessels of the United States engaged in the same fishery as that of the type and size of the damaged or seized vessel."

(b) Section 7(b) of such Act is amended by striking out "seized."

S. 197

Be it enacted by the Senate and House of Representaitves of the United States of America in Congress assembled, That, in the administration of section 7(b)(4) of the Small Business Act, the Administrator of the Small Business Administration shall make loans to cover loss of income or profit to individuals who are self-employed in the fishing industry and who, as a result of the red tide or any other incident of toxic algae occurring on or after September 1, 1972, sustain losses of income or profit, except that the aggregate amount of loans under such section made pursuant to the additional authority conferred by this Act to any individual in any calendar year may not exceed the lesser of (1) the actual amount of income or profit lost, or (2) $5,000.

S. 198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(a) of the Act entitled "An Act to authorize the Federal Surplus Commodities Corporation to purchase and distribute surplus products of the fishing industry", approved August 11, 1939, as amended (15 U.S.C. 713c-3 (a)) is amended by striking out "30 per centum" and inserting in lieu thereof "100 per centum".

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 11

At his own request, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of S. 11, a bill to amend the State and Local Fiscal Assistance Act of 1972 to make Federal revenue sharing a permanent program to provide for periodic increases in the dollar amounts of revenue returned to the States under that act to offset the effects of inflation, and to eliminate certain restrictions on the purposes for which local governments may use funds obtained under the act.

S. 32

At his own request, the Senator from Utah (Mr. MOSS) was added as a cosponsor of the bill (S. 32) to establish a framework for the formulation of national policy and priorities for science and technology, and for other purposes.

SENATE RESOLUTION 11

At the request of Mr. CHILES, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from California (Mr. TUNNEY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of Senate Resolution 11, a resolution concerning the tariff on imported oil.

SENATE RESOLUTION 12—SUBMISSION OF A RESOLUTION AMENDING THE STANDING RULES OF THE SENATE PROVIDING FOR OPEN MEETINGS OF CONFERENCE COMMITTEES

(Referred to the Committee on Rules and Administration.)

Mr. ROTH. Mr. President, on behalf of myself, and Senators CHILES, BROCK, CLARK, HUMPHREY, PHILIP A. HART, LEAHY, MATHIAS, PROXMIRE, STEVENSON, and TUNNEY, I am offering a resolution to require that, as a general rule, conference committees between the House and Senate be open to the public. Similar language is being presented in the House of Representatives.

Under the resolution, conference committees can only be closed if a majority of either the House managers or Senate managers present vote, in open session, to close the meeting.

This resolution is a logical corollary to another resolution which Senator CHILES and I are offering to require Senate committees to be open to the public, with certain exceptions. It would make no sense to have committee sessions in both House and Senate open, but then close the conference committee. Can there be any valid reason, if a bill is considered in open meetings in the House and Senate committees, why the conference committee, where the final compromises are made, should not, as a rule, be open?

It used to be, as a matter of course, that conferences were closed. However, in the 93d Congress, a number of conference committees were opened to the public, including the conference on the budget reform bill, the bill to create the Federal Energy Administration, the Freedom of Information Act amendments, and the bill to establish the Energy Research and Development Administration. As a member of two of these conferences, I believe that experience shows that conference committees can operate effectively "in the sunshine."

The 94th Congress will be called upon to make many difficult decisions. Yesterday the President reported that the state of the Union was not good, and he outlined a series of proposals that will require far-reaching congressional action. At this crucial time, I believe the public will be watching very closely to see how the Congress responds. It has asked the President to be open and frank, and it demands the same of the Congress. I believe these difficult decisions should be made as openly as possible; the public should be able to know what considerations the Congress took into account and where their Senators and Congressmen stood. As an institution and as individuals, we are accountable to the electorate and they have the right to know what we did and why.

When Congress makes decisions in secret, that in itself becomes an issue. It is an issue that we cannot afford because it deflects attention from the merits of the action. For this reason, I hope that the Senate will speedily act on this resolution.

The resolution is as follows:

S. RES. 12

Resolved, That (a) rule XXII of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"3. Each Conference Committee between the Senate and the House of Representatives shall be open to the public except when the managers of either the Senate or the House of Representatives in open session determine by a roll call vote of a majority of those managers present, that all or part of the remainder of the meeting on the day of the vote shall be closed to the public: provided, that this provision shall not become effective until a similar rule is adopted by the House of Representatives.

(b) The caption of such rule XXVII is amended to read as follows: "CONFERENCE COMMITTEES; REPORTS; OPEN MEETINGS."

Mr. CLARK. Mr. President, when the people of this country elect men and women to represent them in Congress, they send them to the capital with certain expectations. They do not demand perfection, but they do expect absolute honesty, hard work, and a measure of commonsense and common decency. And it is no secret that those qualities are most likely to flourish when government is open, when the public's business is conducted out in front where the public can see what is happening. Government behind closed doors is not by definition dishonest—indeed, on a few occasions, national security may demand secrecy—but government behind closed doors always brings with it public doubt and distrust. And that is something a democracy cannot afford.

Given all that has happened in the last 2 years, the need for government in the sunshine is greater than ever, and Congress is the one institution that ought to set the best example.

Two years ago there was an unsuccessful attempt to change the rules of the Senate to require that all committee meetings be open except when a majority agreed they be closed. In the House of Representatives, however, a similar proposal was approved, establishing a presumption in favor of openness. As a result, 92 percent of all House committee meetings during the 93d Congress were held in full public view. Opening those meetings did not cripple the legislative process as some people had feared. But, it did result in increased public confidence in Congress, and in my judgment, it led to better legislation as well.

That was not the only step in the right direction.

Acting on their own, a number of Senate committees chose to open their meetings during the 93d Congress; again, the results were positive. Last fall, the Senate voted to require open meetings for the newly elected Budget Committee. And in addition, a number of Senate-House conference committees, including the conference committee that considered the strip mining bill, conducted their proceedings in open session.

Two days ago, the House reaffirmed a commitment to open committee meetings and adopted an open conference committee rule to go with it. Yesterday, the Senate Democratic and Republican conferences approved the concept of open Senate and conference committee meetings. All that remains is for the full Senate to give its approval.

With the opening of the 94th Congress, legislation has been introduced to let the sun shine in once and for all on the work of the Federal Government. Yesterday, led by Senator LAWSON CHILES, a number of Senators joined in the introduction of Senate Resolution 9, to require open Senate committee meetings, and S. 5, the Government in the Sunshine Act, a bill to mandate open meetings of Federal agencies, as well as congressional committees. In both proposals, there is a provision to permit closed meetings on limited occasions when national security, personal privacy, or other specific matters are being considered.

Today, along with Senators ROTH, CHILES, BROCK and others, we are introducing still another "sunshine" resolution to open House-Senate conference committee meetings. Never has the opportunity been greater to enact legislation like this to promote open, honest, and effective government. More than ever before, the people expect their elected representatives in Washington not only to provide leadership in solving our critical economic problems, but to provide leadership in restoring the credibility and integrity of government itself. And with the approval of this legislation, the Congress will have traveled very far along the road to that goal.

SENATE RESOLUTION 13—SUBMISSION OF A RESOLUTION AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

(Referred by unanimous consent to the Committee on Rules and Administration.)

Mr. CHURCH (for himself and Mr. FONG) submitted the following resolution:

S. RES. 13

Resolved, That section 4 of Senate Resolution Numbered 267, Ninety-third Congress, agreed to March 1, 1974, is amended by striking out "$415,000" and inserting in lieu thereof "$431,000".

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the Senate resolution being introduced today by Mr. CHURCH, for himself and Mr. FONG, authorizing supplemental expenditures by the Special Committee on Aging for inquiries and investigations be referred to the Committee on Rules and Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 15—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON AGRICULTURE AND FORESTRY

(Referred to the Committee on Rules and Administration.)

Mr. TALMADGE, from the Committee on Agriculture and Forestry, reported the following resolution:

S. RES. 15

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, amended, in accordance with its jurisdiction under Rule XXV of the Standing Rules of the Senate, the Committee on Agriculture and Forestry, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the Committee under this resolution shall not exceed $250,000, of which amount (1) not to exceed $11,201 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1976.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Committee.

SUBCOMMITTEE ON LONG-TERM CARE ANNOUNCES NEW YORK HEARINGS

Mr. MOSS. Mr. President, I would like to announce hearings by my Subcommittee on Long-Term Care, U.S. Senate Special Committee on Aging, to be held in New York City on Tuesday, January 21, 1975, at the New York County Lawyers Association Building, 14 Vesey Street, beginning at 10 a.m.

This will be the 23d hearing in the sequence "Trends in Long-Term Care" which began in July 1969. As the result of these hearings the subcommittee has prepared a 12-volume report on nursing home problems. Our introductory report, "Nursing Home Care in the United States: Failure in Public Policy" was published in November; and our first supporting paper dealing with nursing home abuses was released in December. Subsequent reports will follow monthly for the next 10 months.

The New York hearings grow out of investigations conducted by the New York Times, and Mr. John Hess in particular, and by the Office of the Welfare Inspector General and the Temporary Commission on Living Costs and the Environment chaired by Assemblyman Andrew Stein of Manhattan.

Preliminary inquiries by the staff of my subcommittee indicated almost immediately that important Federal issues are involved. One of the issues upon which we hope to focus is the effect of New York's "cost-plus" medicaid reimbursement formula on the quality of care. Another relates to the effectiveness of Federal statutes requiring the disclosure of nursing home ownership and the possibility of kickbacks from suppliers to nursing homes.

In the course of our investigation the staff repeatedly turned up important leads which could not be followed because of lack of information. This is particularly true with respect to issues related to nursing home profits. There has been great reluctance, in fact, outright refusal, by operators in New York and other States to show their books and financial statements to the subcommittee. At the same time such operators have consistently argued for higher medicaid rates.

It is in this climate of resistance and lack of information that we have elected to invoke the subcommittee's subpena powers with respect to some 41 providers. The disclosures by the Times, the welfare inspector general of New York and the Stein Commission only serve to confirm the necessity of this measure.

In addition to the above issues, the subcommittee will examine the role of political influence and other impediments which contribute to keeping substandard homes open. It is my hope that the findings from this hearing can be incorporated into our ninth supporting paper to be published in August dealing with financial incentives in favor of poor care, nursing home reimbursement formulas, and profits.

ANNOUNCEMENT OF HEARING

Mr. MOSS. Mr. President, I wish to announce that the Committee on Aeronautical and Space Sciences will hold a hearing on planetary science and the Earth's upper atmosphere on Wednesday, January 29, at 9:30 a.m.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Monday, January 27, 1975, at 10:30 a.m., in room 2228 Dirksen Senate Office Building, on the following nomination:

Edward Hirsch Levi, of Illinois, to be Attorney General.

Any persons desiring to offer testimony in regard to this nomination, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The hearing will be before the full Judiciary Committee.

HEARINGS ON THE IMPACT OF THE ENERGY CRISIS IN MAINE

Mr. ROTH. Mr. President, on January 20, 1975, the Subcommittee on Intergovernmental Relations, Committee on Government Operations, will continue its hearings begun in the 94th Concrisis on State and local governments.

The January 20 hearing will be conducted in city council chambers of the Portland City Hall, beginning at 9:30 a.m.

NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Thursday, January 23, 1975, at 10:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nomination:

Thomas J. Meskill, of Connecticut, to be U.S. circuit judge for the second circuit, vice J. Joseph Smith, retired.

Any persons desiring to offer testimony in regard to this nomination, shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

The subcommittee consists of the Senator from Arkansas (Mr. McClellan), the Senator from North Dakota (Mr. Burdick), the Senator from Nebraska (Mr. Hruska), the Senator from Pennsylvania (Mr. Hugh Scott), and myself as chairman.

ADDITIONAL STATEMENTS

TRIBUTE TO FRANK MUTO

Mr. HUMPHREY. Mr. President, I want to take this opportunity to pay tribute to a man whose distinguished public career has come to a close. As most of my colleagues know, Frank Muto, the Senate Democratic photographer for 18 years, left the Senate at the end of December.

By any standard imaginable, Frank Muto has led a full life. Beginning as an office boy for the New York Daily News at the age of 15, he soon got his hands on a camera. He did not put it down for the next 50 years.

In 1927, When Charles Lindbergh made his historic flight, Frank covered the story. He covered it so well that the next year, at the age of 20, he became photo editor for the Brooklyn Star News. In the following years he was to photograph Al Capone, "Legs" Diamond, and Dutch Schultz.

And, when the mayor of New York City, Jimmy Walker, was defeated, Frank was assigned to travel to Europe with him. He served as his best man when the former mayor married Betty Compton in Cannes, France, in 1933.

Frank moved to the west coast in 1936 and took a job as picture editor for a number of screen magazines. But it was not to last. He introduced a revolutionary technique—the candid camera shot—and no one liked it. At that time, the market was for stilted, posed pictures, and Frank's technique was not appreciated. So he moved on again.

He became intrigued by an offer from the Italian Government. They needed a director of tourist photography, and Frank took the job. As it turned out, one of his responsibilities was photographing Mussolini, who was fond of posing in the middle of a wheat field stripped to the waist.

When war became imminent, Frank moved on again. He went to work for International News Photo and was assigned to cover the war in Poland. This was to be the first of many war stories that Frank covered, and it provided an example of his dedication.

Having crossed into Poland, he was captured by the Russians and held in detention. His photographic equipment had been lost in a bombing raid, and he had been shooting with a Brownie. Life used his pictures extensively, as did many other publications, because he was the only American photographer there at the time.

The night he was captured, Frank escaped. He tied the Brownie to his head with a towel and swam across the river to Romania and safety—at least temporarily.

Then he was beaten up and thrown in a Romanian jail, suspected of being a spy. When he finally was released, he was asked to go to Finland to cover the war. He made it as far as Germany before he was arrested again. But eventually he arrived in Finland and Norway. In Norway he telephoned out an exclusive account of the French and British evacuation.

When Frank was ready to leave Norway, it was not easy. He had to walk the 140 kilometers to the Swedish border under intermittent strafing by Stukas. Fortunately, the snow was 15 feet deep, and when the planes came over, he buried himself in the snow.

From Sweden, Frank returned to the United States and began the Bureau of Public Relations Still Pictures at the old War Department. The bureau presently is known as the Army Pictorial Service. He was to continue in this post for the rest of the war, covering the Yalta and Potsdam conferences and the Japanese surrender on the carrier *Missouri*.

Both Finland and Poland presented him with medals for humanitarian service to citizens of their countries during the war years.

After the war, Frank struck out on his own. He pioneered a technique for closeup photography of insects. But this work did not last. Frank was too used to being in the action. Consequently, the man who had proved his ability in a varied career of many years became the Senate Democratic photographer in 1957.

This was the beginning of many close friendships on Capitol Hill for Frank, including former Presidents Lyndon Johnson and John Kennedy. And I am pleased to include myself in the number of his many friends.

Frank says that he is going to travel now, to go around the world by boat. And he is not going to take a camera, although I have difficulty believing that statement.

I know that my colleagues join me in expressing appreciation to Frank and wishing him bon voyage, as he takes a well-deserved rest after an extraordinary career of public service. We will all miss his dedication, flawless tact, and forthright good humor.

THE STATE OF THE UNION MESSAGE

Mr. BUCKLEY. Mr. President, with one major exception, President Ford's state of the Union message has forcefully addressed the principal economic and energy issues facing both the Congress and the American people in the year ahead. Unfortunately, the exception could prove fatal. In his understandable concern over the deepening recession and its huge human cost in unemployment, the President appears to be abandoning the fight against inflation.

We need to do more than hold the line on Federal expenditures. We need to cut back in all those areas that do not create productive jobs or that are not essential to our security. The huge deficits predicted for fiscal years 1975 and 1976 are unacceptable. We cannot turn the corner on recession or meet our energy goals by the further upsurge of inflation that will further destroy incentives to save and our ability to modernize and expand our productive plant.

Inflation has long ceased to be a matter of concern limited largely to academic circles. It has now become absorbed into the very fabric of our society in a way that transcends mere economics. In a very real sense, inflation has become a symbol of a general malaise that is now—and here I choose my words with caution—eating away at the confidence and the spirit of our fellow countrymen.

And yet, at the same time we find ourselves suddenly in the midst of a serious recession. Caught between the hard rock of recession and the whirlpool of inflation, we are faced with difficult choices; and on what course we choose may well depend our long-term economic health.

It is abundantly clear that the recession, not inflation, has become the overriding economic concern of political leaders; and it is clear that the administration now views recession as "public enemy No. 1." Who can argue? The decline for three straight quarters in the GNP, the massive shutdown in the housing and automobile industries, 7.1 percent unemployment with more layoffs expected; all this is surely cause enough for major concern.

Since World War II, the Nation has faced several recessions, and in each case economic expansion returned after a relatively short hiatus. But, unfortunately, the problem facing the Nation today is far greater than in previous periods of economic down-turn. In the 1958–60, 1963–64 and 1970–71 recessions, the Nation's consumers and businesses did not have to accommodate themselves to 12 percent annual inflation. However, that is the case today, and I suggest the difference is crucial for the future prospects of the American economy.

In the postwar period it has been national economic policy to secure economic expansion even at the cost of increased inflation. So long as the inflation was relatively small, the policy was economically acceptable. But as they say, times have changed, and so must our policy. The social and economic costs of hyped-up economic booms purchased through inflation have grown too high; the pains of withdrawal too disturbing.

The analogy that inflation is our drug is not farfetched. Inflationary policies can be addictive; and our short-term economic objective must be to get ourselves off our current habit with a minimum of withdrawal pains. There is a serious question, however, whether the economic policies most often discussed these days even contemplate the desirability of this goal. It now seems clear that with or without the administration's blessings, the Congress will insist on expansionary objectives at the expense of the fight against inflation; a fight that is now beginning to show some signs of success. The price of some foods and many raw materials is dropping; and the cost of other basics, like housing, is beginning to level off. This morning's papers announced a half-percent decline in the wholesale price index. By mid-year 1975 a relative improvement will show up in the cost-of-living statistics. But having now endured much of the pain of an agonizing withdrawal from inflation, we are now being stampeded away from prudence and into policies that can only rekindle inflationary pressures.

At this point there can be little doubt that this Nation is in for a round of increased public expenditures with staggeringly high deficits. While it was projected only a few months ago that the deficit for the fiscal year 1975 would be in the $6 to $10 billion range, the latest estimates suggest that it will be over $20 billion even without the President's proposed tax rebate. And the prospects for fiscal year 1976 are even bleaker, with estimates of a deficit running to $50 billion or more. If a substantial tax cut is added on without a corresponding cut in Government expenditures, it is my view that we will face a potentially chaotic economic situation.

If we unleash an all-out effort to beat the recession with economic approaches that have been the stock and trade of Government throughout the postwar period, we can expect, for starters, a rate of inflation that by mid-1976 could reach levels substantially, I repeat, substantially higher than our most recent experience. The only way such inflation could be avoided would be for the Federal Government to finance its additional debt and to refinance the old debt coming due through the Nation's capital markets. As a practical matter, this is impossible without drying up the sources of capital that are increasingly needed for plant expansion and modernization, for housing and for the thousand and one other needs of the job-creating, productive sectors of the economy. Government borrowing is already absorbing more than 60 percent of the funds available in our capital markets. Further increases in demand by Government on available funds would create pressures on credit and interest rates that would leave the Federal Reserve Board with no practical alternative but to return to the printing press; and to the extent that the Federal Reserve Board inflates the Nation's money supply, we will not only recreate the conditions that gave us 12-percent inflation in 1974, but we will be building on a base that will make the next stage higher still.

Either way, whether the Federal Government finances the massive deficits now predicted through direct borrowing or by resort to the printing press, some firms large and small will be forced to close their doors. Too many businesses today are simply in no financial condition to survive another credit crunch or to cope with still higher rates of inflation.

To further complicate the matter, economic statistics today indicate a less-than-reassuring relationship between levels of unemployment and inflationary fiscal and monetary policies. While the relationship may at one time have been "tight," there is far less certainty today than there has been in the past of the ability of Government to directly stimulate beneficial economic developments. In the present environment, there is serious question as to whether the inflation created by traditional antirecessionary measures will not cost us as many jobs, even in the short term, as pump-priming Government expenditures would create.

The question that has to be asked is whether we can endure another upsurge of the inflationary spiral such as that of the past 2 years, with its attendant uncertainties and undermining of confidence, without serious damage to the economy. The Wall Street Journal suggested in an editorial published on December 4, 1974, that a new round of increased inflation—when it had run its course—could result, in their words, in a massive economic bust. This is an informed judgment we simply cannot ignore. Nor can we ignore the social turmoil that could well result from a renewed surge of inflation. There are millions of Americans who are unable to make the adjustments which diminish the impact of inflation. Many of them are senior citizens on fixed incomes. We cannot reasonably expect that they will not become increasingly agitated over their dilemma. Clearly they are being robbed of their treasure and there is almost nothing they can do about it.

The combination of economic uncertainty and social turmoil are just the conditions that breed imprudent or even reckless policies. It is not unlikely that the noxious notion of wage and price controls will, as in 1971, seem the only option available.

Wage and price controls, as we should know by now, treat effects not causes. Public reliance on wage and price controls to accomplish goals that are inherently impossible leads too many of our fellow citizens to frustration and even devil theories about business, labor and our economic system. A complex, highly interdependent economy cannot properly function under an incomes policy. Pressures are nevertheless being mounted for a new round of mandatory controls to be administered in a manner far more rigid than were the various phases of the previous administration.

Yet if we follow this course, we will not only in the longer run fail to contain inflationary forces, we will, in the process of trying to do so, be returning to the shortages, the misallocation of resources, and the postponement of investment decisions that were a principle legacy of our most recent attempt to play Canute with the economic tides. It is hard to believe that the lessons of the recent past should be so easily forgotten; that so many in positions of responsibility should fail to understand the contributions of controls-created dislocations to our present difficulties.

If there is anything our economic predicament should teach us, it is the futility of trying to allocate resources and manipulate the direction of the economy through central planning. Unfortunately, too few people in public life—or in business, for that matter—are inclined to defend what to me is an obvious truth; and that is that only the mechanism of a free, competitive marketplace can meet the needs of our increasingly complex economy. The interaction of a million daily decisions freely made by private producers, consumers and investors remains the most sensitive barometer of our economic needs, and the surest means we have of channeling resources and investment capital to their most productive uses.

Of course, it is easier to suggest what should not be done than to recommend a series of proposals for consideration. But clearly, on the policy level, we must come to grips with the approaches of the post-World War II period. It is essential that American policy be one of providing an environment in which growth without inflation is not only possible, but probable. It may well mean that we have to settle for an economy with a slower growth rate, but the present growth policies while helpful for some have proven injurious for many others. It is only reasonable that we should strive for conditions of stability in which consumers and businessmen alike can plan for themselves. As it is, the current situation discourages saving and makes planning guesswork, at best.

Fundamental disagreements over what should be the appropriate national economic objectives make the problem more difficult. But if we accept, as I believe we must, the necessity of a policy of growth without inflation, there are some things we should do, and do now.

First of all, as the President suggested, the problem of ever-increasing government spending must be resolved. Since 1929, when all levels of Government accounted for 10 percent of the gross national product, government has grown three times as fast as the private sector, to the point where in 1971 it purchased goods and services which accounted for 32.2 percent of the GNP. In 1939, taxation by all Government amounted to 19.3 percent of national income. The projection for 1974 is 36.5 percent. Clearly, the growth of Government must be brought under control. As most Government spending consumes rather than creates wealth, many are now beginning to wonder whether the size of Federal expenditures may not be approaching, or even exceeding, the ability of the Nation's productivity to support. Many wonder to what extent the economy can continue to sustain the burden without breaking down.

Prof. Colin Clark and Prof. C. Northcote Parkinson, working independently, have concluded that most Western nations have gone beyond the limits of a sustainable maximum burden. One consequence of the large ratio of Government spending to the whole economy is the pressure to expand the money supply to accommodate these expenditures faster than real wealth can be produced to support them. At some point the burden on the Nation's wealth becomes intolerable. This historical record points to the consequence of the process of inflation; however, if monetary expansion is not sufficient to meet this fundamental demand, the result is recession. This is exactly where we find ourselves today. Unless the administration and the Congress come to grips with this structural problem within the economy, then our immediate future will be one of recurring crises, producing growing discontent.

The idea that American wealth can accommodate every demand placed upon it is simply not true; and we court economic disaster if the Nation and its Government ignores this simply truth. The Congress of the United States, working with the President must bring Government fiscal policy under control. This can be done only by establishing a spending ceiling for fiscal year 1976. The projected $335 to $340 billion budget is too high by at least $20 billion. We have got to do more than tinker with the fiscal accounts. We have to hold the line on inflation in Federal spending; and before the President calls for a net reduction in taxes, he must be prepared to call for and fight for offsetting reductions in projected expenditures.

If the American worker has to cut back because of inflation and recession, if business has to do the same, then it is only proper that the Government apply the standard to itself. Calling on business to roll back its price increases and on labor to defer wage increases while Government goes rolling along is unfair, unreasonable and unwise. The great irony is that Government is the only recession-proof, inflation-proof sector of the economy. In fact we usually increase the size and impact of Government during recessions through temporary programs that have a habit of lingering on. And the Government profits considerably when inflation produces increased real dollar revenues. Government is able to do this by transferring the burden of both recession and inflation from its shoulders to the worker, the businessman and the private citizen.

To hold the line on spending, we must declare a moratorium on new programs that are not clearly of an emergency nature while we reexamine the utility of those currently on the books.

To insure that inflation does not become a part of the permanent economic life-style of Americans, we must announce our resolve to limit increases in the money supply to around 4 percent.

To fight the recession, we must stabilize our economic conditions which means reducing the burden and impact Government has on the economy. We do the economy no good by simply transferring demand from the Nation's citizens to Government and call it an antirecession program. We do not end the recession any sooner by making it costly if not impossible to invest.

There are some steps which can have both short-term and long-term beneficial effects. Prof. Thomas Moore of Stanford has researched 22 major areas within the economy where Government agencies prevent price decreases. Each agency of the Federal Government has the standing authority to change this. They should move immediately to eliminate these anticompetitive inflationary practices.

On another front, the Congress should look for alternatives to public service employment programs that are little more than "make-work" projects. We already have far too large a percentage of the work force holding nonproductive public jobs to encourage still further growth in this category. In 1929, one out of 11 members of the American work force was employed by Federal, State, and local governments. Today, the figure is 1 out of 5, and it is inching up. We should at the very least seek double duty out of such expenditures by investing them in labor-intensive capital improvement projects that would yield long-term benefits. One project that comes to mind is the repair and upgrading of the Nation's railroad track beds. Not only is this work highly labor-intensive, but it would aid materially in the expansion of coal production, which is also a labor-intensive industry. A program of roadbed improvements could usefully employ unskilled labor, and it would have positive implications for both increased use of the Nation's railroads as well as facilitating the transport of coal as our Nation's mines expand their production.

But whatever programs we adopt to help relieve unemployment (and there is much that can be done by redeploying funds within the budget without adding to its size), they cannot be adopted at the expense of our fight against inflation. We need to think of the longer term as well as of immediate needs and pressures.

The economic prospect for 1975 is anything but bright, but we can seriously compound our problems if we adopt the wrong cures. Amidst great wealth and production, it is not impossible to see serious economic consequences unless the Government does what is necessary to get us off the treadmill of rapidly increasing inflation. To do the wrong things is to commit the United States to a course of action in which we may find it quite easy to kill the goose that has provided the Nation with so many golden eggs.

But in the longer term we face a far graver danger if we fail to contain inflation, and that is a political one. Many years ago, in 1938, Walter Lippman contemplated what had happened in Germany and Italy, and wrote the following:

> The more I see of Europe the more deeply convinced do I become that the preservation of freedom in America, or anywhere else, depends upon maintaining and restoring for the great majority of individuals the economic means to remain independent individuals. The greatest evil of the modern world is the reduction of the people to a proletarian level by destroying their savings, by depriving them of private property, by making them helpless employees of a private monopoly or of government monopoly. At that point they are no longer citizens. They are a mob. For when the people lose this sense of their separate and individual security . . . they are a frightened crowd ready for a master.

Walter Lippman was speaking of the political consequences of sustained inflation. It is for this reason, among others, that this Senator does not propose to change his own understanding of the Nation's economic priorities.

THE ANNOUNCEMENT OF GRANT DEADLINES

Mr. MONTOYA. Mr. President, the Office of Education has the responsibility for announcing grant deadlines for library and education programs. Unfortunately, sometimes good judgment is not used when fulfilling this responsibility.

For example, the Office of Education recently announced a January 29 grant deadline for the library programs authorized by title II of the Higher Education Act of 1965, as amended. The announcement was made the day after Christmas, a time that many academic institutions were closed for vacations and closed to save fuel. Moreover, at the time the announcement was made, no application materials were available to send to eligible applicants. It was not until 2 weeks after the announcement that the Office of Education received application materials from the printer. Therefore, it was nearly 3 weeks after the announcement that interested applicants received the forms.

Grant applicants must have time to prepare careful and thoughtful proposals if there is to be wise expenditure of public funds. This is simply impossible under the kind of situation I have just described. I have written the Commissioner of Education about this matter, urging that he take immediate steps to announce a 30-day extension of the January 29 deadline.

For the benefit of my colleagues, I am including with these remarks a copy of my letter to the Commissioner, and I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., January 15, 1975.

Dr. TERREL BELL,
Commissioner,
Office of Education,
Washington, D.C.

DEAR DR. BELL: A January 29th closing date for receipt of applications under Title II of the Higher Education Act of 1965 as amended was announced in the December 26th Federal Register. I understand that a delay in the sending of applications will result in the Western States receiving such applications as late as the 14th or 15th of January. In addition, for example, the University of New Mexico did not receive the Federal Register until January 10th.

That the U.S. Office of Education would announce educational grant deadlines the day after Christmas seems questionable at best. Everyone knows that many schools are closed over the holidays, and many more are closed in an effort to save energy when students are on vacations.

As a Member of the Senate Appropriations Committee, I am particularly sensitive to the necessity of seeing that federal funds are wisely spent. Grant applicants must have time to prepare careful and thoughtful proposals. I believe this is impossible while a January 29th deadline for applications exists.

Accordingly, I urge your immediate action to extend the deadline for at least thirty (30) days for both the Higher Education Act Title II–A Resources Program and for the Higher Education Act Title II–B Training and Research Demonstration programs. This extension must be announced without delay, so that potential applicants may take advantage of such a delay. I understand that last year, the Office of Education extended the deadline for the Library program just as it was closing. This is clearly an unacceptable procedure for it does not allow applicants time to utilize the extension.

A timely announcement of a thirty (30) day extension would be the best remedy at this point. I look forward to hearing from you regarding the resolution of the above.

With every good wish, I am

Sincerely,

JOSEPH M. MONTOYA,
U.S. Senator.

THE FOOD STAMP PROGRAM—S. 13

Mr. CASE. Mr. President, I am happy to join in sponsoring Senator McGOVERN's amendments to the Food Stamp Act.

A year and a half ago I proposed an amendment to the farm bill designed to insure that people would receive adequate benefits under the food stamp program. My proposal was agreed to by the Congress and is now a part of the law.

Specifically, my amendment required the face value of coupon allotments to be adjusted to meet current food costs semiannually, rather than on an annual basis. Previously, the Department of Agriculture adjusted food stamp allotments only once a year, which was far from sufficient with food prices rising at rates of 10 to 20 percent annually. This change to semiannual adjustment was designed to help needy consumers if food prices continued to go up. And as we are all painfully aware, food prices have continued to climb.

The food stamp program is vital to the health and well-being of millions of Americans. Its purpose is to insure a nutritionally adequate diet through a coupon-purchase plan whereby needy households pay a portion of their income for a higher value in food stamps.

Now the administration is threatening to cut back the food stamp program at the very moment when the need for it is greater than at any time since the thirties.

Through proposed regulations published in the Federal Register, the Agriculture Department would increase the cost of food stamps beginning the 1st of March.

Under the proposed regulations, the maximum amount many elderly people will have to pay for $46 a month in food stamps will be increased from $33 to $43.

In a typical case, a widow of 60 who receives social security benefits of $105 a month can now buy $46 worth of food stamps for $18. Under the proposed regulations, she would have to pay $31 for the same amount of food stamps. And in some cases, the cost of food stamps to the purchaser would more than double.

This administrative action by the Department of Agriculture threatens the well-being of millions of Americans. It certainly goes against the intent of Congress in previous food stamp legislation.

My own belief is that this is not an area for decreased Federal spending at this time. Cutbacks in the food stamp program would place a cruel burden on the poor and the elderly living on fixed incomes. Most have already been forced to reduce their diets to the bare minimum. Many are not even currently able to include such foods as hamburger, chicken, eggs, milk, and fresh vegetables in their diet. We cannot ask the very groups of people who are least able to afford a bare minimum to cut back further.

The bill also would make permanent and extend to all States a section of current law which temporarily allows SSI—supplemental security income—recipients to participate in the food stamp program.

I joined a number of my colleagues in writing to the Department of Agriculture soon after the proposed regulations were published. It was our hope that the Department would reconsider its position. Unfortunately, the Department has not done so. It is my strong hope that Congress will act in a timely manner to prevent the regulations from going into effect on March 1, as scheduled. This administration cannot in conscience act in such an inhumane way to the poor and elderly of this country.

TRIAGE: A BANKRUPT DOCTRINE

Mr. HUMPHREY. Mr. President, in recent months the term triage has come up in a new context. Triage was first used as a World War I term to describe the system for separating wounded soldiers into three groups; those who would die even if help was administered, those who would survive only if help was administered, and those who could survive without help.

Triage is now being used as a rationale for deciding on food allocations. Some analysts feel that, with the problem of world food scarcity and the desperate situation in some countries, triage as a doctrine to decide who will receive food makes some sense.

I find this doctrine to be defeatist and unsupportable. We should be looking for ways to deal with these complex problems rather than trying to take on God-like authority in deciding who will survive. The major food producing nations such as the United States, Canada, and Australia; the newly rich oil-producing countries and other nations must take the lead in developing and financing the steps which are needed to deal with the problem.

An article appeared in the January 5, 1975, New York Times Magazine entitled "Triage, Who Shall Be Fed? Who Shall Starve?" It deals with the triage theory and some of its implications. Some experts feel that we have already begun to implement triage without admitting it.

This article carries implications which could result in catastrophe or lead to a new and much needed emphasis on agricultural development in the underdeveloped countries. Fortunately, some of the earlier supporters of the triage doctrine have begun to change their minds.

My conclusion, after participating in the World Food Conference in Rome, is that we must make a new start in the development process rather than give up as is implied in triage.

Mr. President, I ask unanimous consent that this article by Wade Greene be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TRIAGE—WHO SHALL BE FED? WHO SHALL STARVE?

(By Wade Greene)

During the trench-warfare slaughters of World War I, a system for separating the wounded into three groups was practiced in Allied medical tents. The groups consisted of those likely to die no matter what was done for them, those who would probably recover even if untreated, and those who could survive only if cared for immediately. With supplies and manpower limited, the third group alone received attention. Such a practice was called triage—from the French verb *trier*, to sort. While it is still little discussed, triage has become a standard wartime procedure for making the most efficient use of scarce medical resources.

With severe food shortages in many parts of the world today, some people are advocating the unsentimental, morally uncomfortable practice of the medical tent for dealing with nations that are victims of the battle against starvation. The triage analogy is the basis of a scenario as bleak, as unthinkable, as any of those thoughts about life-after-holocaust, that issued from the Hudson Institute in the nineteen-fifties:

Instead of floundering in nucelar ruin, the world is swept by famine as the populations of many regions outstrip their agricultural capacities. Only one nation, the United States, has a sizable surplus of food. And, with godlike finality, we dispense it, after systematically deciding which people are salvageable and should be fed, which will survive without help, and which are hopeless and should be left to the ravages of famine.

Unthinkable, perhaps, but no longer unthought. The idea has haunted recent discussions of mounting global food shortages. Some observers detected it in the halls of the recent World Food Conference in Rome. It has cropped up in graduate seminars and Congressional committees. "Will you and I as American citizens some day have to participate in the choice of 'Food Triage'?" wondered a House agriculture subcommittee in a recent report.) And triage-type thinking was recently expressed by no less respectable a figure than the president of the American Academy of Sciences.

The current attention to the idea represents, in effect, a delayed reaction. Food triage was first proposed in 1967 in a book entitled "Famine—1975!" The authors, William and Paul Paddock, one an agronomist and the other a retired career officer of the Foreign Service, prescribed triage as a mode of U.S. food allocation in a coming time of widespread famine. With experts now estimating that as many as 10 million people may starve to death this year and that as many as half a billion are hovering on the brink of starvation, "Famine—1975!" may prove to have been precisely prescient. Whether its prescription for dealing with famine was equally inspired is another matter.

"Triage is not a system to cut off aid. It is not a system to reduce help," William Paddock said emphatically the other day when I talked by phone to him at his home on the Bahamian island of Eleuthera. "It's a system to make it more effective."

That may be, but the focus of attention has fallen on the morally disturbing notion that some countries should be cut off from food aid for the benefit of the rest. Which countries? The book describes them: "Nations in which the population growth trend has already passed the agricultural potential. This, combined with inadequate leadership and other divisive factors, makes catastrophic disasters inevitable. . . . To send food to them is to throw sand in the ocean." The book looks at a number of examples, invites the reader to do some triage reckoning himself, aided by three check boxes following each example, and gives the authors' own judgments at the end of the grim game. The biggest loser is India. ". . . Today's trends show it will be beyond the resources of the United States to keep famine out of India during the nineteen-seventies. Indian agriculture is too antiquated. Its present government is too inefficient to inaugurate long-range agricultural development programs. Its population tidal wave is too overwhelming, more than 11,800,000 are added each year to the current half-billion population."

If triage struck a responsive chord in some circles, it was not, predictably enough, well received in others. As the authors note in the book itself, some who read the manuscript before publication reacted with "complete horror." As for critical reaction after publication, "we were thoroughly clobbered," recalled William Paddock.

But for the most part, the book and the triage idea went relatively unnoticed outside of special-interest circles. The book had been written during a severe drought in India where famine was staved off only by the shipment of millions of tons of American grain. But the weather improved as the book appeared, and soon after the Green Revolution was proclaimed. Miracle rice and wonder wheats seemed to promise nearly limitless expansion of the world's food production. The Paddocks' dire projection and even direr prescription tended to be dismissed as crop yieds did in fact increase and the threat of famine faded for a while.

At about the same time, however, anxiety over the unprecedented expansion of world populations began to inspire other proposals challenging traditional humanitarian values, including Western respect for individual freedom, even the sanctity of life itself. Paul Ehrlich's "The Population Bomb" appeared (in 1968) a year after the Paddocks' book and approvingly referred to "triage" while also declaring that "many apparently brutal and heartless decisions" will have to be made in order to bring birth rates down. That same year, the hardest and most relentlessly reasoned thoughts about population appeared in the respected professional publication Science. The article was entitled "The Tragedy of the Commons," and its author—whose name among populationists has since become almost synonymous with thinking the unthinkable—was a University of California ecologist-biologist, Garrett Hardin.

I had lunch with Dr. Hardin the other day after watching him testify before a House subcommittee. He had calmly advised the lawmakers that we would be doing a favor to starving countries as well as ourselves if we refused to send them any more food. He seemed good-natured and was surprisingly humorous, however. "I'm supposed to be gloomy," he said at one point when we were talking about another member of what some in the New York- and Princeton-based population establishment call the "California camp." "But he's much gloomier than I am." Dr. Hardin wore a vasectomy pin in his lapel, a golden replica of the male symbol in biology with a chunk out of the circle. When I asked him about it, he said he had had himself vasectomized 20 years ago, after having had four children. "Just like in India," he said, an ironic allusion to the contention that many Indian men who have vasectomies in exchange for incentive payments or food bonuses already have as many children as they want.

Dr. Hardin's writing is deadly earnest by comparison to the person at lunch, both in its style and in its message. "The Tragedy of the Commons" proposed compulsory birth control on the grounds that those who do not practice birth control will otherwise outbreed those who do to the detriment of an overpopulated society as a whole—just as a commons, a pasturing area open to all, will tend to be overgrazed because it is in each user's interest to put as many cattle on it as he can. "The only way we can preserve and nurture other and more precious freedoms is by relinguishing the freedom to breed, and that very soon," Dr. Hardin concluded. He drew broader social and moral implications, too, borrowing some thoughts from a recent book on "situation ethics." "The morality of an act," he wrote, "is a function of the state of the system at the time it is performed." In other words, freedom to have as many children as one wanted was properly valued in a sparsely populated planet but should be limited in an increasingly crowded one. Other values are changing as well in our heavily peopled world, he suggested.

The relativity of right and wrong was at the same time beginning to be argued by Jay Forrester, the management professor at the Massachusetts Institute of Technology, who invented the memory device central to the operation of digital computers and whose disciples subsequently put together computerized projections of doom under the auspices of the Club of Rome. In turning his attention from corporations to social systems (which he has described as "multiple-loop, nonlinear feedback mechanisms") Dr. Forrester looked first at the city of Boston, later at the world. And he came to the conclusion that we no longer intuitively understand the outcome of some societal actions, not because of population growth per se, but because of the increasing complexity of social systems. So what in the short run may seem to be an unqualified good may lead in the long run to undesirable—bad—results. Is the good then good?

Dr. Forrestor espoused his gospel of moral complexity in 1971 in a speech before an unlikely audience, the Division of Overseas Ministries of the National Council of Churches. He advised the church group to reconsider traditional international humanitarianism in the light of what he regarded as the long-range inhumanities of some supposedly humane acts. "Consider a country that is overpopulated," he said. "Its standard of living is low, food is insufficient, health is poor, and misery abounds. . . . The country is operating in the overextended mode where all adversities are resolved by a rise in the death rate. The process is part of a natural mechanism for limiting further growth in population. But suppose that humanitarian impulses lead to massive relief efforts from the outside for each natural disaster. What is the long-term result? The people who are saved raise the population still higher. . . . Relief leads to more people in crisis, to still-greater need for relief, and, eventually, to a situation that even relief cannot handle." . . . "The church should begin to examine the limits and consequences of humanitarianism," the technologist advised the theists.

A doctoral student of Dr. Forrester, Dale Runge, later expanded this theme in an unpublished but widely-read paper, "The Ethics of Humanitarian Food Relief," in which, with the aid of computerized projections, he came to the conclusion that such relief is "not ethical" because by itself it creates more misery over the long run than it alleviates.

As this course of thinking developed in recent years, so did its relevancy. The climate, generally favorable for decades in the world's main agricultural areas, reverted to its haphazard ravages, drastically reducing crop yields in several parts of the world. Energy costs soared, and because of the Green Revolution's heavy dependence on energy (for pumping water and for petroleum-based fertilizer), the cost of food also soared—out of reach for millions in impoverished areas. Increasing cries for food relief have added an immediacy to proposals that we should not answer all, or perhaps any, such appeals. Other economic factors added an extra dimension to these proposals. Until recently, the U.S. found it quite painless to give or sell food cheaply to countries that needed it. We produced far more than we could use and were paying $1-million a day just to store excess grain. But U.S. grain reserves are gone now, mostly to Russia. Meantime, quadrupled oil prices have made us increasingly dependent on international food sales to maintain our balance of payments; these sales have grown from $8-billion to $21-billion annually in the last three years and now head the U.S. export list.

Doubts about our humanitarian impulses have been generally phrased in terms of whether these impulses were good for the "beneficiaries" or for the world as a whole; some doubters now feel it is appropriate also to ask whether they are good for us. Garrett Hardin, for one. His "Tragedy of the Commons" has been anthologized in no less than 48 different collections, and he revived and extended the commons theme last fall, reasoning that our generosity not only does no long-range good for others but imperils us in the process.

In articles in Psychology Today and Bio-Science magazines, he argues for an adjusted ethics of survival dominated by unsqueamish self-interest; lifeboat ethics, he calls it, in an analogy that has already begun to rival triage. The rich nations of the world, he writes, are adrift in lifeboats. "In the ocean outside each lifeboat swim the poor of the world, who would like to get in, or at least to share some of the wealth. What should the lifeboat passengers do?" We could try to take everyone aboard, but we would sink the lifeboat if we did, he says. "The boat swamps, everyone drowns. Complete justice, complete catastrophe." Because he thinks we have already exceeded the carrying capacity of our land in some ways, Dr. Hardin suggests that it would be prudent not to take anyone aboard. "For the foreseeable future," he concludes, "our survival demands that we govern our actions by the ethics of a lifeboat, harsh though they may be."

Harsh indeed in light of American's ingrained image of themselves as international benefactors and rescuers. The lifeboat ethic was denounced as an "obscene doctrine" in a guest editorial in November's Science by Roger Revelle, head of Harvard's Center for Population Studies. Dr. Hardin says that mail from his Psychology Today article has been running about 95 per cent against his doctrine, accusing him of "being a scoundrel."

Cutting off aid to starving nations was proposed recently from another more surprising source—Philip Handler, president of the National Academy of Sciences. But he adds a significant proviso that offers little moral comfort. We should not give food aid, he said, if we aren't willing to do enough to effect long-range solutions. Dr. Handler contended, in a speech in late September, that if we are going truly to help hungry countries, food aid has to be accompanied by further assistance aimed at setting those we help on the road to both agricultural self-sufficiency and lower population growth rates, which tend to fall as standards of living rise. Anything short of that, says Dr. Handler, with a clear echo of Forrester and Runge, is "probably intrinsically counterproductive," and only leads to later misery "on a larger scale."

"Cruel as it may sound," Dr. Handler said, "If the developed and affluent nations do not intend the colossal, all-out effort commensurate with this task"—and he indicated his doubts that they do—"then it may be wiser to 'let nature take its course.'" Asked later whether he was saying that a policy of triage should be considered, Dr. Handler replied: "That's what I was saying, gently."

Such are the major contours of the recent challenges to America's humanitarian instincts—or at least what we like to think are our instincts—toward the starving, suffering millions in the rest of the world. How persuasive are the analogies and the arguments?

In recent weeks I talked to most of the principal advocates involved, some of their supporters and some of their dissenters. These are gloomy times, of course, and the burden of proof in many situations rests almost wholly on those prophets who claim things are not bad and are not getting worse. Still, I have found experts who have considered—and dismissed—the triage and lifeboat reasonings because they feel the world can and will surmount disparities between food supplies and population. People like the Paddocks, however, seem more convinced of their pessimistic premises than ever. "Everything is so much worse than when we wrote that book," said William Paddock. "You have a couple of hundred million more people to worry about, you've got the energy crisis, you've got inflation. . . . Another thing is that we have less land under production today than we did in 1967 due to losing land from salting and advancing deserts."

The facts are not all on one side or the other. To some extent, one's opinion about them and about the harsh measures being proposed depends on an *a priori* sense either that material progress and a little bit of luck are part of man's boundless destiny or, as many ecologists and philosophers and Forrester's computers contend, that nature sets firm limits, which we are approaching, on how much an ever-larger population can extract from a finite planet.

The major, recurrent argument I encountered against the triage concept was that, even if there are such limits, we are close enough to them to justify triage—not while much of the world enjoys an overabundance of its fruits. This viewpoint was not limited to the U.S. It extended to other countries that produce or consume disproportionate amounts of food and energy—wealthy, food-surplus countries like Canada and Australia, the newly-rich oil-producing countries and Western Europe and Japan. Nonetheless, it was the U.S., according to this argument, with its unmatched capacity for food production and widely disproportionate consumption of global resources, which figuratively has the most fat to trim before it can justify dictating the starvation of others. It has been noted, for example, that if Americans cut their meat-consumption by only one-tenth, the saving in grain used for cattle feed would totally eliminate the estimated grain shortage of the countries now verging on starvation.

"As long as the wealthy societies are consuming at the rate we are, I think there's an awful lot that can be done short of triage," says Roger Shimm, president of Union Theological Seminary and one of many religious leaders who are considering anew the dimensions of the age-old scriptural injunction to feed the hungry. And as long as cutting back on consumption is a possibility, he added, "I would find it extremely hard to say that I would deliberately consign people to starvation by any act, positive or negative."

But how much of a possibility is this, in terms of the will if not the way? The question arose at a recent three-day meeting near Baltimore, sponsored by the Aspen Institute, at which experts from government, private groups and the academy who have been concerned with food, population and ethics gathered to consider the world food situation. In one vigorous exchange, the protagonists were Jay Forrester, to whom many of the questions were directed, and Peter Henriot, a Jesuit, who works with the Center for Concern in Washington. Their disagreement grew out of a discussion of Dr. Hardin's lifeboat analogy. Dr. Forrester asked whether it would be moral to rescue the drowning poor if it meant swamping the boat. To which Peter Henriot replied that the moral thing to do would be first to make the boat more efficient—get rid of the excess baggage. That's just so much preaching, Dr. Forrester answered.

In any case, could the United States adopt a deliberate, explicit policy by which it determined which countries were to be helped and which left to the inexorable course of nature—a governmental version of the Paddocks' triage check list? I asked Representative John Dingell, before whose House subcommittee Garrett Hardin testified. "In terms of U.S. politics," Representative Dingell said, "we can't do it either morally or politically." But many policies aren't arrived at "clearly and explicitly . . . they sort of grow and evolve. And whether we make a conscious decision of the kind that Hardin has discussed in his papers, the hard fact of the matter is that nature is probably going to make those judgments for us. . . . Triage is going to come upon us whether we like it or not."

Some others say it already has, that we have begun practicing triage without declaring it. "There has always been a degree of triage in the world," said Dr. Forrester in the course of a recent scientific conference at the Franklin Institute in Philadelphia.

John Steinhart, professor of geology and geophysics at the University of Wisconsin, was more specific and less philosophic as he discussed the subject at Representative Dingell's hearings. "I guess I would argue," he said, "that we are already practicing triage, whether we call it by that name or not. The decision, for instance, that the President not respond to Secretary Butz's or Senator Humphrey's request for additional food for India, but, instead, supply some additional food to Syria means a triage decision. That decides that some Indians will die and some Syrians will live. It is as simple as that."

Both Dr. Forrester and Dr. Steinhart were using the term loosely, however. In the battlefield analogy, the triage decision is made on the basis of which sufferer will gain some decisive benefit. Our food allocation these days seems to be based almost entirely on how it benefits us—the donors rather than the recipients—either by helping our balance of payments through export sales or our balance of power, by keeping strategically important countries friendly. In fact, in recent years, most of our food aid, in the form of low-interest, long-term loans for food purchases, has gone to countries like South Vietnam, South Korea, Pakistan, Indonesia, Egypt, Syria and Israel. While this has had the effect of reducing "humanitarian" shipments to much needier countries, the effect seems to have been incidental rather than a result of the harsh logic of triage. That Washington policy-makers may be moving toward a harder look at humanitarian food relief in its own right, however, was evidenced by a National Security Council representative's recent remark that "to give food aid to countries just because people are starving is a pretty weak reason."

Perhaps the utlimate obstacle to triage, or the lifeboat ethic, is a moral self-image with which Americans cannot tamper without severe, perhaps devastating, consequences. "I have certain moral feelings about letting some poor bastard starve," concedes Representative Dingell. Somewhat more elegantly, Ronald Jager, a professor of philosophy at Yale University, who took part in the Aspen Institute meeting, asks: "What happens to us, to our whole conception of what a moral life is, if we force ourselves to turn callously away? What happens when a nation does that, when a nation has to tell itself, when its leaders have to tell its people: this is what we must do, the moral thing to do is let Bangladesh disappear in anguish? . . . What you create is an internal situation which I think is just disintegrative."

I asked Garrett Hardin about this. "I'm not sure I can exactly answer you," he said, "but I've got a sort of reply. We have gotten ourselves into a difficult position in the last 25 years. . . . The success of the Marshall Plan in Europe was one of the great motivations for embarking on AID [Agency for International Development]. Now this was the first time that the nation ever embarked on such a project as trying to save the whole world. People have been starving to death for centuries—and even in large numbers. There is nothing new about that. But now, because of the feeling that has been built up over the last 25 years—that we somehow can, we have an obligation to, save the world—we're in a difficult position. That, coupled with television so that the person who is dying 8,000 miles away can be brought into our living room. . . . But quite apart from whether it's desirable or not, I think the realities are that we simply don't have the ability to take care of the rest of the world and we better adjust to that. I think we have a very hard psychological adjustment to make. My only point is that we don't have to go up against the sentiment of the ages, it's only the sentiment of the last 25 years."

Several people I talked to, however, said that they were not prepared to adjust to some realities. Richard Neuhaus, author of the book, "In Defense of People," and a Lutheran minister, said, "A world that would choose Garrett Hardin's options is a world in which I for one would not care to survive."

When I pressed Dr. Hardin on this point, he admitted that the question of whether we could live with ourselves by the values he is espousing was probably the strongest challenge to his case. "But I firmly believe that we can," he said. "I'm doing it. I don't think it's easy. But—it's like gravity. We may not like the law of gravity either. But once you know it's true, you don't sit down and cry about it. That's the way the world is."

Philosophers have been arguing the fundamental ethical question posed by triage at least since Plato: the weighing of "good" ends against "bad" means. This problem has cropped up in very concrete form throughout history, also. It has been solved notoriously in some cases—in Nazi atrocities, for example. Other solutions have been less easy to condemn, however, including a legally famous application of Dr. Hardin's lifeboat ethics, the case of *United States v. Holmes.* Holmes was a sailor on a passenger ship that was wrecked on an iceberg in 1841. He and a number of passengers found themselves in a dangerously overloaded lifeboat, so Holmes directed that several passengers be thrown overboard. He and the rest were eventually rescued. Holmes was tried for manslaughter, convicted and then pardoned by President Tyler.

The ultimate course of the law in not punishing Holmes seems just in this case, and it may appear to offer some support to the ethics of food triage and of Dr. Hardin's lifeboat analogy. But, in the view of several people I talked to, the difference between a literal situation involving individuals and the analogous one involving nations may make precisely the difference between right and wrong.

In the Holmes case, the likelihood of everyone's dying unless a few were sacrificed was presumably immediate and total. But even with computer projections, the future is far from being absolutely predictable in the complex realm of food and population. Who can be sure that tens of hundreds of millions of people will eventually starve to death if we are not willing to write off a lesser number now—sure enough, that is, to make the decision to do so?

Another distinction generaly acknowledged at the Aspen Institute meeting is that life and death terms don't apply to nations as they do to individuals. Gerald Barney of the Rockefeller Brothers Fund raised the point that nations don't die, they don't disappear. And not helping them does not eliminate them as a problem; it may even create a larger problem of prolonged social upheaval and violence.

Dr. Forrester, who had shown considerable interest in the triage concept when he came to the Baltimore meeting, seemed to have become disillusioned with it during the discussions, for when I talked with him afterwards, he was saying some of the same things Mr. Barney had said. He was far from abandoning his underlying moral arguments over whether help is really helpful, however. "There's an implication going along with the word [triage]," he said, "that there are those who, if you help them, will survive and some who, if you don't help them, won't. And neither of these is true. It seems to me that those we help are not going to be better off than those we don't help. In many ways the problems we see around us today are related to past attempts to help that haven't succeeded."

Part of the gloom of the times is the pervasiveness of at least one aspect of Dr. Forrester's viewpoint—the feeling that many social programs aren't working, at least not the way we want them to. But even he is said to have left the Aspen Institute meeting expressing the hope that his computers might still come up with ways of helping that really do help.

Meantime, there appears to be a great deal of soul-searching in and out of Government to try to determine just what we can and should do to stem the tide of hunger and famine, something more than muddling from crisis to crisis. Some people are quite happy to use the specter of triage as a moral prod.

Some, too, while deploring such a viewpoint, feel that the population explosion in some parts of the world may have pushed the search for answers beyond the framework of traditional liberal values. Several people I talked to mentioned China. Though I am sure these people view China's repressive society as intolerable, they still look at China's improving living standards and rapidly declining birth rate and find repression an acceptable alternative to the degradation and death of millions.

Many of the same people felt, however, that a great deal more to alleviate hunger could be done by the world's wealthy nations within their traditional humanitarian standards. Whether Americans, among others, have the will to do so is another matter. I encountered considerable doubt about that. Yet the feeling, frequently expressed, was that if we turn our backs on the world's starving because we have not summoned the will to provide effective help regardless of its cost, it will be at a bitter loss in self-esteem, no matter how sophisticated our ethical justifications. In such an event, as sociologist Daniel Patrick Moynihan has put it, "We are going to have to face up to the fact that we're a different people than we thought we were."

THE PRESIDENT FACES REALITY AND SO SHOULD CONGRESS

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled, "The President Faces Reality and So Should Congress," which was published in the Philadelphia Inquirer on January 16, 1975.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Jan. 16, 1975]

THE PRESIDENT FACES REALITY AND SO SHOULD CONGRESS

It is not a pleasant thing for a President to have to report that "the state of the Union is not good." But it was Gerald Ford's duty in his first such address to face the facts, and he did so squarely with a somber catalog of the country's problems in these early days of 1975:

"Millions of Americans are out of work. Recession and inflation are eroding the money of millions more. Prices are too high and sales are too slow. This year's federal deficit will be about $30 billion, next year's probably $45 billion. The national debt will rise to over $500 billion. Our plant capacity and productivity are not increasing fast enough. We depend on others for essential energy. Some people question their government's ability to make hard decisions and stick with them. They expect Washington politics as usual."

That is just what the President called it—bad news—and he was right in saying it is not calculated to produce wild applause.

Mr. Ford himself, however, deserves applause for his candor. And he deserves further applause for laying before the Congress and the country a sweeping program of action.

By that we do not mean to imply approval of that program in all its particulars. It is broad and complex, as the problems themselves are. Its impact is difficult to evaluate in the strange economic climate which now prevails. We have already expressed reservations about some of the President's proposals, and we probably shall have more reservations as the fine print is examined.

For the moment, however, the point is that Mr. Ford is offering something more than "politics as usual."

Drawing on one of his greatest strengths, he is talking directly and honestly. He frankly admits that he has changed his mind about what should be done. He shows remarkable flexibility in his transformation from an old-time religionist to a neo-Keynesian. And in response to critics calling for stronger leadership, he demonstrates his own "ability to make hard decisions."

It is now up to the Congress to respond in kind.

For the President is right when he says the American people want action and that it will take a "new partnership" between the White House and Capitol Hill to provide it.

It is inevitable that the Democratic Congress will reshape the proposals of this Republican President. The important thing is that the lawmakers must not embrace only those portions of Mr. Ford's programs which are politically palatable and then shy away from the tough ones.

We can take it for granted, for instance, that there will be some form of tax relief. That's always popular. But what about energy conservation? Regardles of whether they are the President's proposals or others, anything which promises to work will call for some sacrifice, hardship and expense.

And how about Mr. Ford's call for a moratorium on expensive new federal spending programs? They are hard to resist, but it is a fact of life that years of deficit spending to pay for programs already in existence are responsible for much of the trouble the country is in today. A refusal to face this reality, no matter how tempting the short-range attraction of new problems of long-range recovery.

The new Congress is filled with fresh faces and strengthened by a number of internal reforms. It got off to a fast start yesterday by sacking a couple of venerable committee chairmen. And it seems determined, furthermore, to recapture some of the responsibility it has abdicated to the White House over the years.

Its challenge, therefore, is to face up to the unhappy state of the Union as honestly as the new President has done and work with him in the spirit of cooperation, conciliation, communication and compromise he again pledged yesterday.

THE MIDDLE-INCOME FAMILY

Mr. MONTOYA. Mr. President, the middle-income families of America must feel as though they were on a merry-go-round. At the very least, they must be having an identity crisis.

Last October the President's economic advisers put most of our middle class into the category of "upper income"—if your family income was $15,000 you certainly deserved to pay higher taxes. That was when they favored a surcharge on taxes to solve our economic problems.

Now in a whirl-around worthy of a dervish, they reclassified all of us. The tax rebate proposed by the economic advisers to the President would go to taxpayers at the rate of 12 percent of their tax payment up to $1,000. That is 12 percent of the tax after all the deductions are out, all the loopholes have been taken advantage of, and all the exemptions have been accounted for. When 12 percent of your taxable income comes to $1,000, you are talking about an individual who has an income of $40,000 to $50,000 or more. Which, if you believe that the tax cut is intended to help the lower- and middle-income families who are most in need during this economic crisis, means that "poor folks" now includes practically every household in the United States.

The Department of Commerce Consumer Income Report shows that as of March 1974, only 7.8 percent of American households had an income of $25,000 and over—and the median household income was $10,512. Now that is not individual income—that is for a family, reporting all of their 1973 income.

I am afraid I cannot go along with the fluctuating levels of "upper" and "lower" and "middle" income which the administration uses to define us for tax purposes.

I quite agree that a tax cut of some kind is needed at this time, and have said so earlier. I believe that tax cut should go first and only to those in the lower and middle income brackets. I am quite clear about my own definitions of those terms, and for me they mean families who have up to $15,000 of taxable income. Those are the people who have been hurt by inflation. Those are the people who are being hurt by the recession. Those are the families who have members who are unemployed today but who will be paying taxes this April on income earned while they were working last year. Those are the men and women who need our help now—and who need it in a tax cut, in a program for jobs, in emergency programs of other kinds. Just dumping money back into the economy on a mass basis will not help these people who should be first on our list for action—not in time.

President Ford's other economic recommendations suffer, unfortunately, from the same defect. His recommended oil exise tax and import tax is across the board in its impact—and the burden will fall equally on those who can afford to pay more and those who simply cannot. Yet those who cannot pay are, in most cases, the men and women who must use automobiles to get to work. I agree with the President that we must cut back on our use of oil, and that we must do so immediately. However, I believe we must find a way to conserve oil by mandating a reduction in luxury driving, not necessary driving. That means some form of enforced cutback on wasted energy in luxury automobiles, in industry, and in other business and personal use. Mr. Ford's plan will not mean that those who are wealthy will drive less—only that those who are poor will do so. His plan does not mean that industry will cut waste—only that they will pass higher costs along to the consumer. His plan does not mean that $40,000 and $50,000 homes will use less heating oil—only that the homes of the elderly poor or the young working families who must now choose between warmth or food for their children—those homes will now be colder.

The President said that his plan requires personal sacrifice. ". . . if we all pitch in, we will meet our goal . . ." he said. But analysis reveals that by "all" he is not including every American—only those who are required to sacrifice because they are too poor to do anything else. The voluntary sacrifice which Mr. Ford expects of the upper income American has not appeared in the last 6 months, despite repeated requests for it. I doubt that it will appear now.

I quite agree with the President that we are in trouble, but that we have a basically strong economy and many political and economic protections which will prevent anything similar to the great depression of the thirties. We do have income safeguards and unemployment cushions built into our economy and our Government to protect us from the most awful aspects of depression. Cutting back on the funding of some of those programs which were meant to protect the average worker against severe economic changes will not help us to solve our problems, however.

I could not agree more with the President when he says that we must "rekindle faith in ourselves." I agree that "nobody is going to pull us out of our troubles but ourselves, and by our own bootstraps." But I believe, Mr. President, that if we are going to do those things then we must make sure that every American is wearing boots—and every American shares in the exercise of pulling on those straps.

I want to go on record, Mr. President, as supporting the goals which the President has spoken of, and I am quite willing to attempt to do what he has asked of the Congress. I, too, want to "turn our economy around and declare our energy independence."

I believe that we will do that through helping those segments of our society who have been wounded in the inflation and who are now being attacked again by our recession. I believe we will do that by providing jobs, by cutting taxes for lower incomes, by mandating energy conservation for our most wasteful energy big spenders, by breaking up trusts and corporations who are prospering while other Americans suffer. I believe we can pull up on our bootstraps by building homes for those who need them, by building the factories and small businesses which will put people to work, by continuing our search for new forms of energy while we provide real incentives to those who can conserve energy in the immediate future, and by protecting the elderly and the children through continued improvement in education, health, and retirement programs.

That is what I believe is right for America. That is the kind of economic program I will continue to support. That is the goal of the legislation which I will continue to support.

I am ready to roll up my sleeves and go to work on that kind of legislation today.

INAUGURATION OF SOUTH CAROLINA GOV. JAMES B. EDWARDS

Mr. THURMOND. Mr. President, one of the truly representative events in American public life is the election of a State Governor. Yesterday, I had the privilege of attending the inauguration of Gov. James B. Edwards of South Carolina in a ceremony which typified the culmination of the American political process.

Governor Edwards, 47, has brought into office with him the freshness of new ideas and a complete dedication to constitutional government. He waged a vigorous campaign last year for the governorship and based his candidacy on real progress for all the people. It was a positive, optimistic appeal to the best in people, and his inauguration yesterday indicated all the promise of unity behind his administration. He is the first Republican to become Governor of South Carolina in 100 years and he waged his successful campaign at a time when many Republican candidates around the country were facing uphill fights.

His eloquent inaugural address yesterday from the steps of the historic State House in Columbia was evidence of his foresight and his approach to sound government. The initial emphasis of his legislative program will stress tax reform, ethics standards for public officials, judicial improvements, educational advancements, and an efficient stewardship of the taxpayers hard earned dollars.

The election and political ascendancy of James B. Edwards to the governorship of his State is an American story in the best tradition. He is not one who has spent a lifetime in politics. An eminent oral surgeon by profession, he is one who joined a local Republican organization a few years ago because he felt the need to work for the principles of good government. Two years ago he ran successfully for a seat in the South Carolina Senate where he rendered 2 years of distinguished service before being elected chief executive of his State.

Governor Edwards has lived most of his life in Mount Pleasant, S.C., a neighboring community to Charleston where he has had a highly successful practice of oral surgery for a number of years. He is a graduate of the College of Charleston, the University of Louisville School of Dentistry, and the University of Pennsylvania Medical School.

During World War II he served in the U.S. maritime service and then served in the U.S. Navy during the Korean war.

Governor Edwards and his lovely wife, the former Ann Darlington of Edgefield, S.C., have been active participants in their community and church activities for many years. They have a 20-year-old son, James B. Edwards, Jr., and a 15-year-old daughter, Catherine Edwards.

The new Governor of South Carolina has surrendered a thriving professional practice to participate in the political process of our State and Nation. He is dedicated to the needs of the people whom he serves and the constitutional system which he represents and I predict he will be an outstanding Governor.

Mr. President, his inaugural address was a superb statement to the people by a newly elected leader outlining his programs and purposes of office. It is such an excellent address that I would like to share it with my colleagues of the Senate. Accordingly, I ask unanimous consent that the "Text of Governor Edwards Inaugural Address to South Carolina," as published in the State newspaper of Columbia, S.C., January 16, 1975, be printed in the Record at the conclusion of my remarks.

There being no objection, the address was ordered to be printed in the Record, as follows:

Text of Governor Edwards' Inaugural Address to South Carolina

Here is the text of Gov. James B. Edwards' inaugural address Wednesday:

Gov. West, distinguished platform guests, my fellow South Carolinians:

It is with complete humility that I come before you today as the 86th governor of a proud South Carolina. I want to thank you all for sharing the joy and excitement of this day with me.

As I assume this high office, I am mindful that you have given me great honor. My family and I are most appreciative.

You have given me your confidence—I accept the responsibility. You have expressed timely concern in your mandate—I promise to respond.

Today marks a new beginning for South Carolina and me. Those who embark on new journeys and adventures must supply guidance and instruction to their hopes of reaching their appointed destinations. For our beginning today, I believe the word of God is our best source of direction. In II Chronicles, God provides us promise:

"If my people will humble themselves and pray, and search for me, and turn from their wicked ways, I will hear them from Heaven and forgive their sins and heal their land."

I believe God's word can provide us with strength and comfort when we open our hearts and minds, and keep our faith strong. Men can build and launch ships of state, but without God's help, the sailing is impossible. Let us always seek this guidance and his help as we chart our course into the future.

We South Carolinians, Americans all, live in a time of great change and uncertainty.

Our national economy is afflicted with uncertainty.

Our long-range energy supplies remain in question.

Our morale is ebbing low.

Our general progress as a proud, strong nation seems stunted.

Obviously, there are no easy answers, but we will never find answers, so long as we concentrate on the problems.

This is a time to solve problems, not complain about them . . . a time for talking about what's right with America, a time to talk about the greatness of this giant-of-a-nation that has compassionately given of more resources to foreign countries, and has won more wars in defense of man's freedom than any nation in the history of mankind.

It is a time to match actions to our concerns.

It is time for us to teach, talk, tell, and sell America and South Carolina.

Americans must never feel sorry for America—that is a violation of our heritage! The truth is that America is Americans, just as South Carolina is South Carolinians. Our country is what we make it; what we insist that it be.

South Carolina to me is 2.8 million great people—black, white, rich and poor, all standing tall, and ready to do whatever is necessary to overcome any hardships that lie ahead. Conquering hardships is very much a part of the life of our state and nation.

Our times are not unlike those faced by our forefathers. The opportunities are just as personal today, and the obligations just as great. Carolinians prevailed at the birth of our nation—to Sullivan, Camden, Kings Mountain and Cowpens. They stood tall in the agony of defeat and in the triumph of victory. They surmounted the challenges of the past, and we will accept those of the future. We are a people of sound principle.

We can be confident, for whatever we face today, we have the resources to prevail. What we must be sure of is that we have the will to prevail, and we must remember always that it is not government, but people who create this will.

Little has changed in our land, except the level of our spirit. We Americans must get back to the business of being Americans, and when we do, our problems will thaw in the warm spirit of patriotism.

The impending bicentennial observance of our nation's birth offers us a unique opportunity to produce a timely regeneration of the American dream.

History is full of the part South Carolina played in the creation of America. Our state can again lead the way in returning true meaning to the "Spirit of '76." Yes, let us all commit ourselves not to just a celebration, but to a rededication to the principles and ideals that brought a young nation to greatness.

We live in a state that gives us a foundation on which to anticipate excitement and great opportunity. Today, South Carolina enjoys relative economic strength and considerable resources. We continue to be productive in agriculture; we have a solid base in industry; we enjoy the benefits of many god given assets, such as our seashores, and our ports and harbors which we have as thresholds to the world.

But, most of all, we have 2.8 million men and women who still believe in giving a day's work in return for a day's pay. We have truly been given the opportunity to demonstrate America at its very best!

I want to let it be known loud and clear that, during the next four years, this administration will honor those working men and women of South Carolina, those producers of goods and services, who are responsible for maintaining our sound economic future.

Hard work, dedication, and resolve to create new ways of fulfilling our goals and responsibilities is a lesson of our forefathers. This will serve us well as we endeavor to reach our potential of great achievement, which will benefit generations to come. The goals of my administration will be set high, and kept in sharp focus. To frustrations and burdens we shall react with maturity and quiet determination. I believe that working together, we can confidently chart a course toward a new summit of prosperity for all South Carolinians, and we can begin our journey today!

Beginning with the "State of the State" address, and in the weeks ahead, I shall be specific in outlining the plans and proposals of this administration to the General Assembly and the people of South Carolina.

This administration will be reform-minded, for that is a part of our mandate. We will not embark on a careless adventure of change. There will be no arbitrary uprooting of customs, and institutions, because change for the sake of change defeats all good purpose. We must remember, however, that change has been the one constant of history.

Our job is to direct change in a responsible and open way to help our people. We shall view change as the product of opportunity, and seek it out accordingly.

Ethics legislation, local government, and tax reform will be topics high on the list of priorities.

This administration will create the beginning of a system of health care that will provide accessibility of quality care to all our people.

Education is an integral part of any effort to elevate the dignity and prosperity of our people. With this in mind, we shall make every effort to reform our educational system to assure excellence in state educational programs and opportunities at all levels.

This administration is deeply concerned about the alarming increase in crime in our state. We intend to send the criminals a firm message—that while we are concerned about their rights and civil liberties, we are more concerned about the rights, freedoms, and civil liberties of our law-abiding citizens. Judicial reform is a must.

I enlist the support and cooperation of the General Assembly in re-assessing the old ideas, beliefs, and patterns of our state government. This is in order.

South Carolina is fortunate in the quality of its legislators. They are men and women sincerely committed to South Carolina and its future. To you, ladies and gentlemen of the Senate and House, I pledge my complete cooperation. I have confidence in what the future holds.

I begin not with any partisan goals, or debts to any special interests, but rather as the recipient of a public trust from 2.8 million great people; people who are hungry for leadership that is not concerned with politics, but dedicated to building responsive and effective government.

Let us all reach across political and social barriers, and work together to improve our state, and effectively plan for the future.

To my fellow South Carolinians, I would remind you that South Carolina government depends upon involvement of all its citizens. Proper leadership can provide only a commitment to progress, and it can, by its own success, restore confidence in what can be done by individuals. In the end, though, individual South Carolinians give South Carolina government its force and meaning.

This administration pledges itself to complete openness. We want our people to be aware of our strengths and weaknesses, our problems and our achievements. I have an abiding faith that if our people are aware of our problems, they will rise to the occasion and make every effort necessary to bring about needed solutions. The order and spirit of our state's past will serve us well as we look to the future. This administration will not be short-sighted in setting goals. Our rich heritage requires us to plan with the generations of tomorrow in mind. Let us always remember that the future does not belong to those who are satisfied with today.

We in South Carolina have every reason to look to the future with positive faith. We must not acquiesce to the insidious virus of fear. Let us place our emphasis on doing what is necessary to build a better tomorrow. Let us keep our thoughts and actions positive and our spirits high.

History will judge us and, yes, in time we shall judge ourselves, on how we used our talents and resources to enrich the lives of our people.

I invite each of you to join me in rededicating ourselves to the end that South Carolina can always view the past with pride, the present with security and the future with confidence. Let this be the overriding objective of our actions and the best expression of our goals—not only for this administration, but for generations to come.

The greatness of our land is the opportunity to dream and to build. An anonymous author said, "I have dreamed man's dreams that never came true. I have seen them vanish at dawn, but I have realized enough of my dreams, thank God, to make me want to dream on."

Let us dream, South Carolinians, and build together for a great tomorrow.

COAL RESEARCH LABORATORIES AND ENERGY RESOURCE GRADUATE FELLOWSHIPS

Mr. HUDDLESTON. Mr. President, I am pleased to cosponsor S. 62 to establish coal research laboratories and energy resource graduate fellowships, which was introduced yesterday by the Senator from Pennsylvania (Mr. HUGH SCOTT).

Coal is our most abundant energy source—my State of Kentucky alone has known reserves equaling 100 years of U.S. consumption at present levels. And, coal is versatile—it can be gasified, liquefied, or burned directly. But, despite coal's unique abundance and versatility, it is severely underutilized due to serious restraints on its production and use. While we sit on almost one-half of the world's reserves, we use coal to fulfill barely 20 percent of our energy needs. If we are going to achieve any significant degree of energy self-sufficiency, we are going to have to increase that percentage substantially.

This bill takes two important steps toward that goal. First, it would establish coal research laboratories at selected universities for research into coal utilization. These laboratories would be at institutions in coal producing States with previous experience in coal research and currently active programs in the area.

Second, the bill would increase the pool of technicians and engineers specially trained in the fields of energy resources, production, and utilization through a program of energy research fellowships.

I am convinced that with concentrated research efforts supported by Government, industry, and private sources, coal can reassume its rightful place as a major energy source in the very near future. In Kentucky, a coal research program has been underway at the University of Kentucky's Institute for Mining and Minerals Research for 2 years now, and last year the State General Assembly approved an appropriation of $3.7 million for expanded research at the institute and $4 million for a new specialized research facility. Of the program's numerous achievements, one of the most basic has been the establishment of a core of professionals with the expertise and training to solve the environmental, production and technical problems which are inhibiting the use of coal today.

We need to give all the support we can to institutions like the University of Kentucky which have proven their research capabilities. I urge prompt consideration of this bill so that these institutions can expand their efforts to meet the Nation's energy requirements as quickly as possible.

THE DEATH OF H. L. HUNT

Mr. THURMOND. Mr. President, on November 29 of last year, H. L. Hunt, a great businessman and a great American, died in Dallas, Tex., at the age of 85. Because of his vast wealth and his outspoken political views, Mr. Hunt had for many years received extensive coverage in the press and other media. For the same reasons, his death elicited comment all over the Nation. Nevertheless, however much has already been said about Mr. Hunt, there is much more that might be said. He was such an exceptional individual, and his achievements were so numerous, that it is almost impossible to do him justice. I cannot do this myself, but I do wish to offer a few words of personal tribute to a man I greatly liked and admired.

To me, the single word that best describes H. L. Hunt is great. He was great in his accomplishments, great in his ambitions, great in his patriotism. He was without question a titanic figure in the oil business. Combining remarkable imagination with an equally remarkable capacity for work, he acquired 44 producing oil wells by the age of 34. By 41, he had gained control of the richest oil field then known. However, he was not a man to relax and enjoy his success. On the contrary, success only stimulated him to greater effort, and he maintained a strenuous pace to the end of his long life.

It is hard to imagine anyone achieving more in business than H. L. Hunt did. He not only amassed one of the greatest private fortunes in the world, but the corporations he founded provided jobs for thousands of workers and a vital commodity for millions of consumers. He is to be ranked among the foremost builders of our Nation's economy. Nevertheless, business did not consume all of his interest or his energy. In his later years, his love of country prompted him to take a more active role in public affairs and to speak out on the important issues of the day. This he did in a newspaper column called "Facts Forum" which he both wrote and financed, then in a radio program called "Life Line."

H. L. Hunt was extremely alarmed at certain trends in America and in the world. He hated the totalitarian system of the Communists, and he was continually warning his countrymen against the dangers of Communist expansion. He also opposed the increasing growth and expense of the Federal Government and the introduction of the welfare state. While his liberal critics sometimes attacked his views as ultraconservative, he called his philosophy "constructivism" and declared that he was only telling the truth most politicians did not have the courage to tell. Indeed, many of his predictions have come true, and many of his warnings are as timely now as ever before.

As for his character, people invariably found H. L. Hunt to be very different from his public image. Though one of the Nation's business leaders, he lived a life of great simplicity. Though controversial and incisive in his political opinions, he was unfailingly courteous, even gentle, in his dealings with other people. All in all, he was a unique personality. Only this country could have produced him, it could only have produced him at the time it did, and it could only produce one of him. He has left us now, but H. L. Hunt's life is a precious reminder of the potential of human existence, of how much one man can do in the time allotted to him.

Mr. President, at the funeral services for Mr. Hunt, his long-time friend and associate Sidney Latham spoke the eulogy. It is so eloquent and moving that I wish others to have the benefit of reading it. I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

There being no objection, the eulogy was ordered to be printed in the Record, as follows:

Eulogy of H. L. Hunt

(By Sidney Latham)

Introduction of Mr. Latham by Dr. W. A. Criswell, Pastor, First Baptist Church, Dallas, Texas: Sidney Latham said to me, "Pastor, the family will know me, the employees of the Hunt Oil Company will know me, but the great number of visitors, to them, I'm afraid I'd be a stranger, So," he said, "I think it would be better if you would present me in the service." Sidney Latham, for a generation, was the lawyer for the Hunt Oil Company. He was a man in whom Mr. Hunt had illimitable, immeasurable trust, and Sidney Latham is one of the finest Christians I've ever known. In keeping with the faith and the nobility of the Company and the man who founded it, it is in order that Sidney Latham speak at this solemn and holy hour.

Sidney Latham: This may be just a little bit unusual in the conduct of a funeral, but the unusual was the usual in the life of this usual man. He bequeaths to those of us who knew him best a train of memories and vivid pictures of genius at work. There was met and mingled in his being the boldness and spirit of the conqueror, but a humility, which, in return for a great favor, asked not for thanks, but only to be excused for injecting himself into the affairs of another. There was met and mingled in his being the brilliance of human intellect at its highest, yet a strong sense and appreciation of the simple things of life. There was a bit of grandeur about his presence, yet much of the touch of the common man. He gained much because he risked much. He moved about, among and beyond the timberlines of life, where the timid and fearful cared not, or dared not, to venture. He had some faults, all human.

He loved these United States with a fierce devotion. To him the American Constitution and the freedom it forged flowed from the pens of men divinely inspired. There were those who just couldn't forgive him the sin of success, because thereby he proved that the American way would work. And there were those who would deny it and destroy it. I have seen him turn the stroke of a pen into a million dollars and to enjoy the full harvest of great wealth. But in all candor, I think the greatest and most genuine happiness I ever saw or heard him exhibit was that Sunday night that he called me to tell me that he had just joined the Church within the hour just passed. He seemed to feel that he had made the best and biggest trade he had ever made in all of his career of big trades. He had traded the here for the hereafter, and he was pleased. A man of great understanding himself, he was perhaps the most misunderstood man that ever drew public comment. His restless soul at last has found a lasting rest. Perhaps his critics will let it be so.

AMERICAN FORESTRY ASSOCIATION CENTENNIAL

Mr. HUMPHREY. Mr. President, with the beginning of 1975, the American Forestry Association—the oldest national citizen conservation organization in America—enters its centennial year. Since 1875, the primary purpose of the association has been to conserve and develop America's forests and related resources of soil, water and wildlife for the good of all Americans.

To accomplish this purpose, the association has created enlightened public appreciation of these resources and has stimulated public action and built public support for the protection of the country against forest fires and flood, for the prevention and control of soil erosion, for the development of conservation policies in forest and range management, for the control of forest insects and diseases, for the preservation of wildlife, and for the allocation and maintenance of outdoor recreation areas. Greater national security, industrial strength, employment and enjoyment opportunities are natural results of such activities, for the environmental benefit of all.

Mr. President, the spirit of the American Forestry Association is captured in an editorial in the latest issue of American Forests. The author, Samuel Dana, is the dean of American forestry today, one of the oldest and most renowned living members of the profession and a long-time director and honorary vice-president of the American Forestry Association. Mr. President, I ask unanimous consent that the editorial, "Forestry for People," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

Forestry for People

(By Samuel T. Dana)

During its first hundred years, The American Forestry Association has been a leader in the development of sound policies and practices for the management of the Nation's forest resources. It has had its ups and downs, but it has never wavered in its goal of furthering wise use of the wide variety of goods and services provided by those resources.

The emphasis has changed with changing times. Tree planting was a major concern of the founders. Then timber production and watershed protection came to the fore. Wildlife and recreation received constantly increasing attention. More recently, stress has been laid on the less tangible assets provided by forests—their ameliorating effect on climate and weather, their help in the control of pollution, their improvement of both rural and urban landscapes, and their provision of opportunities for physical, mental, and spiritual refreshment.

The Association has always recognized that these fruits of the forest result from the use made of the environment—the "ecosystem"—and that air, soil, water, plants, and animals are all interrelated. Increasingly, the Association has urged the expansion of our present scanty knowledge of these relationships, and the application of that knowledge in practices that will maintain the productivity of the environment.

Similarly, it has recognized that the resources provided by forests come also from other lands. It has consistently urged wise use of the resources wherever they occur, and has joined with other organizations in efforts to bring about such management. But it has felt that it can render the greatest service by focusing its main activities on the third of the Nation's land in forests. Their large area, the wide variety of their products, and the complex biological, economic, and social problems involved in their management justify such concentration of effort. This view is implicit in the Association's retention of its original name—The American *Forestry* Association.

We hear much nowadays about "forestry for people." Forestry always has been, and always will be for people. Wood, water, wildlife, scenery, wilderness are not produced or protected for their own sake but for man's use, enjoyment, and inspiration. What products or services (or combination thereof) will best contribute to that end is often a difficult and highly controversial question, particularly when uses conflict, as they often do. In attempting to answer the question, with respect both to general policies and their specific applications, the Association has been guided by the goal of finding the action that will contribute most to the material, cultural, and spiritual benefit of mankind.

In another sense, the Association has also been interested in people. It has never been an organization of professional foresters or any other specialized group. Its founders were men with diverse backgrounds who believed that a small body of devoted, everyday citizens could do much to turn utilization of the forest resources of the country from destructive into constructive channels. Its membership has continued to include people from all walks of life with the unifying influence of an interest in forests and related resources.

The character of its membership has been reflected in the composition of its board of directors. Some have had special interests (such as wood, water, wildlife, wilderness), but the majority have been impartial in their attitudes. As a result, the Association has seldom taken extreme positions. It has generally followed a middle-of-the-road course which would command the support of most of its members always with the objective of improving the management of natural resources. It has followed a "get-together" policy of cooperation among individuals, organizations, and agencies in furthering programs on which there is general agreement, while leaving the door open for argument, with eventual action, on controversial issues.

The Association's chief tool for attaining its objectives has been education—of the general public, school children, forest owners, bureaucrats, and legislators, notably at the federal level. Much reliance has been placed on its magazine and many other publications. Constructive use has been made of its annual meetings; of special meetings, such as its Forest Congresses and its conference on tree planting; and on field campaigns such as the Southern Forest Fire Project. Although not a lobbying organization, it has kept the Congress informed of its views on subjects within its field of competence. In short, it has regarded education as in the long run the most effective way of spreading the gospel.

The AFA's Centennial History records the history of the first hundred years of The American Forestry Association, of which its members can justly be proud. That history also presents a challenge to the Association to do even better in the next hundred years. Times will change. Problems will become more complex and more difficult. Science fiction may become reality. There may be cities both in the sky and under the sea. Agriculture may be revolutionized and practiced on the oceans, in Antarctica, and eventually on the moon and perhaps even on other planets. Synthetics of all kinds which will be superior to natural materials may be created.

The character, location, products, values, and uses of forest resources will change, perhaps drastically, but their importance will be increased rather than diminished. Inevitably, resources of their magnitude and with an endless variety of potential goods and services will continue to play an important part in human affairs.

The Association's history offers some guides as to how it can maintain its traditional position of leadership; but the past is only prologue to the future. The next hundred years will present unforeseen problems and challenges which will require new philosophies and new programs of action. May the Association meet those challenges intelligently, courageously, and effectively.

MR. HARRY S. DENT

Mr. THURMOND. Mr. President, on December 11, 1974, Mr. Harry S. Dent of Columbia, S.C., a former member of my staff and a former adviser to President Nixon, pleaded guilty in Federal district court in Washington to a misdemeanor charge brought by the Office of the Watergate Special Prosecutor. News accounts indicate that Judge George Hart, in sentencing Mr. Dent to the minimum penalty of 30 days unsupervised probation, called him "an innocent victim of circumstances." The question naturally arises, why was an innocent victim of circumstances ever prosecuted in the first place?

The question is particularly appropriate when the Special Prosecutor said Mr. Dent, the only full-time political adviser at the White House during President Nixon's first term, had no involvement whatsoever in the Watergate affair or any related activities in the 1972 campaign.

There are other disturbing aspects to this case. The offense to which Mr. Dent pleaded guilty was the violation of an old and obscure law regulating campaign finances. This law is no longer on the books, and from its passage in 1925 until last December 11, it had been invoked in only one recorded case. Very few lawyers or politicians even knew of its existence. Mr. Dent was prosecuted for nothing more than a technicality.

In addition, the offense in question occurred in 1970, a full year and a half before the Watergate break-in and the subsequent coverup. There have been no charges of any kind against Mr. Dent in any Watergate or Watergate-related matters. Nevertheless, it was the Watergate Prosecutor who brought the charges. In doing so, he made it seem that Mr. Dent was in some way connected with Watergate, after all.

The explanation of all these irregularities seems obvious to me. The real and serious crimes of Watergate have led the country, the Congress, and particularly the Special Prosecutor's office into an attitude of suspicion and hostility toward anyone who worked in the Nixon administration. This is terribly unfair. The case against Mr. Dent was clearly based more on zeal than on substance.

It is a pity that he was unable to fight his case in court. However, the vindictive climate of opinion in Washington based on rampant attitudes of guilt by association would have made a fair trial highly unlikely. The Special Prosecutor's office also objected to a change of venue. Mr. Dent was snared in a hopeless judicial dilemma: to plead guilty to a misdemeanor and leave a mark on his long record of outstanding public service, or to face the felony trial in Washington which the Special Prosecutor had promised. In the end, he had no choice but to plead guilty. Judge Hart's subsequent remarks showed that his guilty plea was virtually meaningless.

Mr. President, I am not alone in defending Harry Dent. In recent weeks, numerous accounts have been published and broadcast in South Carolina and other States protesting this unfair treatment. The authors agree that the Nation must not persecute its public officials, and that a careful distinction must be made between the true guilty of Watergate and the "innocent victims." I ask unanimous consent that representative accounts be printed in the RECORD at the conclusion of my remarks.

There being no objection, the representative accounts were ordered to be printed in the RECORD, as follows:

[From the Washington Star-News, Dec. 12, 1974]

Dent Put on Probation

A federal judge called former Nixon political strategist Harry S. Dent an "innocent victim" in sentencing him to only one month of probation for his part in a secret White House campaign money operation for 1970 GOP Senate candidates.

Dent, 44, who stepped down this past weekend as counsel for the Republican National Committee, pleaded guilty yesterday to a one-count misdemeanor in aiding an unregistered campaign fund which fed nearly $3 million into the 1970 races.

But Dent told U.S. District Judge George L. Hart Jr. that he had been unaware of the details of the 1970 operation and said his role in any violation of the law was inadvertent.

"It does sound to me that Mr. Dent was more the innocent victim than the perpetrator," Hart said.

Dent told newsmen afterwards that he agreed to plead guilty to the misdeameanor only because the Watergate special prosecutor's office was threatening to indict him on a felony charge for the same role.

"You want to know the truth?" Dent said. "I honestly did not feel that I could get a fair trial in Washington in the current atmosphere."

He said no one with whom he had talked "thought I could come in here, having worked as Richard Nixon's Southern strategist, and walk out of the courtroom."

Even though the 1970 Senate funding was unconnected with the Watergate scandals, Dent said he was afraid the atmosphere would taint a trial if he had fought the case. "There is more passion about Watergate here than anywhere else in the country," Dent said.

The 1970 operations, set up in the basement backroom of a Washington town house, steered about $2.8 million to GOP candidates for the Senate, House and governor in 19 states.

The money was raised from individual Republican donors and passed out to candidates favored by former President Richard M. Nixon and his political aides. Dent was one of a handful of top White House advisers who recommended which candidates should get how much.

Dent told Judge Hart, "I did not consciously or intentionally violate the law."

He said he thought the checks from the Republican donors were being delivered directly to the candidates, and therefore the campaign operation did not need to make a public report, since the candidates would list the donors' names on their own filings.

However, slightly over $1 million from a single donor, New York industrialist John A. Mulcahy, was converted into cashier's checks and placed in a Washington bank account under the name of "The Public Institute." The 1970 operation then used this bank account to pass out cash to several campaigns.

Dent said he had been unaware of this bank device, which converted the operation into an unregistered campaign fund.

Dent was the third person to plead guilty in the 1970 funding.

Former Nixon attorney Herbert W. Kalmbach is now serving a felony sentence of six months or more, and is due to come before the Parole Board next month. Former White House aide Jack A. Gleason is awaiting sentencing after pleading to the same one-count misdemeanor under which Dent was charged.

Gleason had handled the actual town house operation under White House supervision. Dent and two other aides, Charles W. Colson and the late Murray Chotiner, acted as regional advisers on the races. Kalmbach raised the money. Former chief-of-staff H. R. (Bob) Haldeman was in, over-all charge.

Dent said he was acting "on the instructions of the President" in working in the 1970 campaign scheme.

Dent, a former aide to Sen. Strom Thurmond-S.C., served as a Nixon political strategist from 1969 until after the 1972 election when he returned to Columbia, S.C., to practice law.

His attorney, Judah Best, argued that the old Corrupt Practices Act, under which Dent was charged, had not been enforced in the last 40 years. He said the law, now repealed and replaced, was outmoded and confusing, but Best got a frowning reaction from Hart, once a political money man himself.

"You're unfortunately coming before a judge who complied with the act for 22 years," Hart said.

When Dent explained to Hart how the operation had worked, the judge asked the GOP aide whether he had signed any of the checks or handled the money, and Dent replied, "No, sir, I didn't touch it."

Dent told Hart he thought he would be tarnished by the Watergate scandal even though the 1970 fund was not linked to it. "I'm afraid I'm destined for the history books as a bad footnote because it would be difficult to distinguish what my dilemma was today," Dent said.

Hart put Dent on unsupervised probation for the next month. The maximum sentence could have been one year in prison and a $1,000 fine.

Dent said afterwards, "I kinda got put over a barrel, but the judge took me off the hook."

[From the Charleston (S.C.) News and Courier, Dec. 31, 1974]

Pistol-Whipping of Harry Dent

The expression "Spanish justice" is what you hear nowadays about the office of the Watergate special prosecutor. In olden days it meant that to avoid prosecution you must carry a purse of gold to the side door of the palace and the case against you would be dropped. At the K Street location of the posse known as Special Prosecutor, of course, you don't take money, but you do take a certain payment-in-kind. If your purse contains evidence to jail a top Nixon aide, you may go scot free on a waiver, or be allowed to cop a plea for some minor offense and get off easy.

This is routine practice by public prosecutors (but increasingly in bad repute), and it does have some conveniences. On occasion, however, as in the matter of former White House aide Harry Dent, it leads to an abuse of power and to the boneheaded injustice of punishing the innocent along with the guilty.

Harry Dent, a South Carolinian who first came to Washington on the staff of Sen. Strom Thurmond, worked at the White House during the first Nixon term. He provided information for the funding of 1970 Republican senatorial campaigns. He did not know that Herbert Kalmbach and Jack Gleason laundered some of the money through a phony bank account. Both Kalmbach and Gleason pleaded guilty, yet both of them asserted that Dent had no knowledge of the mishandling of the funds.

Then why was Dent recently entrapped into coping a plea to a misdemeanor? In entering the plea, he told Chief Judge George Hart, "I did not willfully violate the law . . ." Judge Hart declared that Dent was an "innocent victim of circumstances," and imposed a nominal sentence—one month of unsupervised probation. Then, for heaven sake, why was this man ever brought to trial? Why was his good name tarnished by the Special Prosecutor? Why were he and his family put to mental anguish?

The feeling in Washington is that Harry Dent had the experience of a citizen who is held up at gunpoint and then pistol-whipped because he had an empty purse.

The three special prosecutors—Cox, Jaworski and Ruth—have been hell-bent to nail all the Watergate offenders. Dent has no known Watergate connections. He was no good to the special prosecutor as a spiller of state's evidence. He seems to have been punished out of sheer malignancy.

Having tried and failed to tie him into the Watergate conspiracy of 1972, the prosecutor found that Dent had been reporting in 1970 to a prime villain, Bob Haldeman. A technical, non-willful finding was made against Dent, and at first he resolved to fight it.

He noted a poll which showed that 85 percent of jury-age persons in the District of Columbia believed Nixon aides guilty when charged. Dent has a rich Southern accent, and is known as an architect of the Nixon "Southern strategy."

Not liking his chances with a black-dominated jury, Dent asked for a change of venue, asked to be tried by a judge, asked to be tried separately from Haldeman. In each instance, the prosecutor refused the request. Dent's choice was to defend himself under these grave disadvantages at risk of a prison term and disbarment—or to cop a plea that added a measly point to the prosecutor scoreboard of success.

We should ask, I think, where the American people figure in this unwarranted humiliation of a proud and honorable man? Would they have approved? Would they have willingly footed the bill? The person who comes off best in all this is Judge Hart, who cleared Dent of any intentional wrongdoing.

By chance, I received last week a letter about the National College of the State Judiciary which is a part of the University of Nevada. Here nearly 900 judges a year take two-, three-, and four-week courses on appropriate subjects. The letter related to a recent column about criminal justice, and it suggested that a useful college course for judges would be one on what laymen think about the application of the law.

It's a good suggestion which should not be limited to judges. Public prosecutors also need contact with the American people. It is difficult to believe that the humiliation of Harry Dent would find any approval in the family circles which make up this nation.

[From the Columbia (S.C.) Record, Dec. 16, 1974]

Clear Dent's Name

While we've not always agreed with the political views of former White House counsel Harry S. Dent, we firmly believe that he may be facing a bum rap in South Carolina. The State Board of Grievances and Discipline, an arm of the S.C. Supreme Court, will consider what action—if any—it should take in view of Dent's pleading guilty to a misdemeanor in Washington.

The State Board could reprimand Dent, suspend his law practice or disbar him. Anything less than public clearance would be, in our contemplated opinion, a bum rap, an injustice.

Dent pled guilty, after plea bargaining, to a technical violation of the half-century old Federal Corrupt Practices Act, loosely-enforced and now repealed.

The State Board should consider these facts:

(1) Dent was sentenced to the least possible punishment by Federal District Judge George L. Hart Jr., who observed from the bench that Dent was an "innocent victim of circumstances" and not a "perpetrator." The State Board, all lawyers, know the difference.

(2) Even though none have been brought to trial, individuals handling campaign funds for Senator George McGovern, Senator Hubert Humphrey, Congressman Shirley Chisholm and others have been chastised by government accountants and officials for quite similar technical violations. Indeed, a number of Congressional incumbents in both houses have technically violated reporting laws governing campaign finance reporting.

(3) Young attorneys in the D.C. special prosecutor's office are a rapacious bunch, pursuing their singular task with an ardor approaching zealotry. The State Board need

but inquire around this state to discover the degree of justice or injustice within this special branch.

(4) Sorrowfully, Dent himself is quite right when he attests that anyone who is or was one of the "so-called Nixon people" cannot receive a fair trial in the District of Columbia. "Washington is not the right place to try anybody and to expect them to get a fair trial," he says, correctly.

We trust that the State Board of Grievances and Discipline will be just. Any complaint against Dent should be (a) dismissed as unworthy of consideration, or (b) dismissed with full clearance for Dent in his legal activities. The highly technical violation of an antique, unenforced, repealed section of a code by "an innocent victim" merits complete clearance by the State Board in its early January meeting.

[From the Charleston (S.C.) Evening Post, Dec. 13, 1974]

Unfair to Harry Dent

Caught in the fallout from Nixon administration scandals, a South Carolinian whose integrity we trust has suffered unjust embarrassment in a Washington court.

In sentencing Harry S. Dent, former White House counsel now practicing law in Columbia, to one month of unsupervised probation, U.S. Judge George Hall commented: "In this case, Mr. Dent seems more the innocent victim than the perpetrator." Why he was prosecuted has not been explained to our satisfaction and we are moved to assume that vindictive politics may be involved.

The case, based on reporting of campaign funds collected in 1969 and 1970, is too technical for review within the space allotted for this editorial. It has no connection with Watergate, which began in 1972. The special prosecutor already has cleared Mr. Dent of that phase of his political connection with the Nixon administration, after thorough investigation. Nor is there any question about mishandling of funds.

Given the choice of pleading guilty to unintentional commission of a misdemeanor, or risking more serious consequences in a hostile environment, Mr. Dent, on advice of counsel, took the safer but humiliating course of self-incrimination, despite firm belief in his own innocence.

As a longtime admirer of Harry Dent, who ably served as a voice for the South in the White House, we sympathize with his plight and defend his reputation for truth and honesty. In a sense that we deeply deplore, American justice was the loser in this unfair prosecution of a worthy citizen.

[From the Spartanburg (S.C.) Herald-Journal, Dec. 15, 1974]

An Exoneration of Harry Dent

Harry S. Dent pleaded guilty to a law violation and was sentenced in a way which amounts to exoneration.

The facts and circumstances as revealed in court indicate that he has been unfairly marked. He was forced into a position of pleading guilty to a minor technical violation or facing a jury trial in the very hostile atmosphere of Washington, D.C.

Federal Judge George Hart apparently did not like the situation himself. He characterized Dent as an "innocent victim of circumstances" and not a "perpetrator."

Judge Hart then sentenced the former Republican chief legal counsel to 30 days of unsupervised probation—about as close as it could be to dismissal of charges, which was not within the court's purview because of the negotiated plea.

Now, on the basis of "abundant publicity," the State Board of Grievances and Discipline is going to consider whether Dent should be punished as a lawyer. He could be reprimanded, suspended from law practice, or disbarred.

The Board's secretary said no formal complaint is necessary because of the publicity.

In all fairness, that does not seem right. If no one has sufficient reason to bear the burden of filing charges, and being identified, Mr. Dent should not be subjected to the proceeding.

Even though forced to plead guilty, he asserted, "I did not consciously violate the law." Not even the special prosecutor suggested he did.

What happened was that Dent, as a top political advisor to President Nixon, recommended the use of campaign contributions in certain Senate races.

Without his knowledge, some of the money was deposited in a bank account for "Public Institute." Under the law, this constituted a political committee, which required a chairman and treasurer and filing of reports.

Dent's violation was to assist this "committee" by providing political information which was used in distributing the funds. He insists he didn't even know it was a committee.

There was no charge of mishandling funds, only one of failure to file proper reports.

Furthermore, the law under which Dent was sentenced was so ineffective and unenforceable there had been only one reported prosecution since its enaction in 1925—and that was in 1933.

The action against Dent was in 1974, but the law had been repealed in 1972.

Apparently, the judge agreed with a statement by Dent's lawyer that "the Court is aware that his acts constitute a criminal offense only in the most technical fashion" and "there is nothing in the charge by the special prosecutor of any moral turpitude on the part of Mr. Dent."

Harry Dent has had an impressive and honorable career in public service and politics.

He should be encouraged to continue it.

[From the Columbia (S.C.) State, Dec. 16, 1974]

Harry Dent Weathers Politico-Legal Ordeal

An objective reading of the case against former Nixon aide Harry S. Dent confirms the observation of a federal district judge in Washington that the South Carolinian was "an innocent victim" of circumstances.

The circumstances in question involved the channeling of campaign funds to Republican congressional candidates in the 1970 elections. The date is important since it clearly separates Mr. Dent's involvement, such as it was, from the subsequent political scandals stemming from the Watergate disclosures. We fear, as does Mr. Dent himself, that many Americans and even some South Carolinians will tend to link his troubles with the Watergate affair. It is a false connection for there is nothing to show that Mr. Dent deserves any of the stigma attached to Watergate.

Indeed, the record shows little of anything warranting legal action against the South Carolinian. True, he was up to his ears in political operations stemming from the White House's interest in promoting the election of Republicans. But there has been no evidence that he was aware that his advice was linked with a financial routing procedure which ran afoul of an old (1925) law which required the naming of a chairman and treasurer of any committee handling campaign funds (that law since has been repealed, and Mr. Dent's prosecution was the first and only one of its kind in 40 years.)

But there were other circumstances which prompted Mr. Dent to plead guilty to a technical misdemeanor rather than undergo possible prosecution in a full-fledged trial. For one thing, the backwash of Watergate is such that anyone connected with the Nixon White House is automatically subject to suspicion. For another, the racial and political complexion of the District of Columbia produces juries which are not all characteristic of public sentiment across the nation. Despite which it is virtually impossible to obtain a change of venue.

In Mr. Dent's case he was given unsupervised probation for 30 days, the lightest sentence possible and one accompanied by Judge Hart's comment of virtual exoneration.

There may be several lessons to be learned from this episode, as from an earlier instance involving prominent South Carolinians who neglected to follow prescribed procedures in making campaign contributions.

The prime lesson, it seems to *The State*, is this: there is a public and a legal insistence that statutes against corrupt political practices be followed scrupulously—both as to the spirit and the letter of the law. It is not enough to avoid corruption, it is essential that there be nothing which would even hint at its presence.

These are hard times for persons in political life, but only they can restore the public's faith in our system of government.

[From the Waterboro (S.C.) Press & Standard, Dec. 19, 1974]

Unfortunate Victim

One thing that has long been known is that Harry Dent is an honest and honorable man, even though an arch conservative. He was embroiled in a dilemma in which he was the victim of his supposed friends; but he had to pay the price. His association with the Nixon administration and his attempts to do what he thought was right, resulted in his having to plead guilty to a misdemeanor charge, brought under a rarely used law concerning campaign contributions, and their use.

The prevailing atmosphere in Washington, brought about by the Watergate affair, caused Mr. Dent to plead guilty even though he was not. Perhaps the saddest thing about this is the reputation of the American system. Because of Watergate faith has been lost in the courts and other American institutions. This loss of faith and the complete disregard of all basic principles of honesty, morality and trust by the Nixon administration; and the abuse of the people's rights brought about the situation. In a way Mr. Dent's decision to plead guilty to a charge of which he was innocent is unfortunately a continuation of this loss of faith in the American system.

No doubt Mr. Dent would have had problems and perhaps a long court session. But the American system works, and justice prevails. That was proven by the Watergate affair; and the continued strength and resiliency of the American government.

Mr. Dent was unfortunately a victim of circumstances, woven by his supposed friends, who forgot everything but personal salvation and benefit.

[From the Greenville (S.C.) News, Dec. 13, 1974]

Dent Comes Off Well

All things considered, Harry S. Dent's guilty plea and one-month unsupervised probation on a technical misdemeanor charge involving the 1970 congressional campaigns add up to more of a commendation than a censure for the former White House aide.

Federal Judge George Hart, who handled the case, put it in proper perspective when he said the South Carolinian was "an innocent victim" of circumstances. The charge was that in 1970 Dent "aided and abetted" an illegal secret campaign fund for Republican Senate and House candidates by giving President Nixon information and advice on the various races assisted by the fund. Dent, however, had no knowledge of the fund's nature or the fact that it had no registered officers as required by law.

The outcome of the Dent case amounts to a clean bill in connection with the Watergate scandals which ruined the Nixon administration. As a high political aide to the former President, the South Carolinian was under investigation for months by the Watergate prosecutor's staff. As the architect of the GOP Southern strategy, he was on the "most wanted list" of the probers.

But they obviously could turn up nothing upon which to indict him in connection with Watergate. To "get him" they had to resort to a since-repealed law which had not been enforced during the entire 40 years of its existence and use a technical violation of which Dent had no knowledge.

The Dent case provides no reason to discredit him or to reflect upon his integrity. To the contrary the fact that he kept his hands clean in the Watergate scandal while in the White House reflects credit upon him.

[From the Florence (S.C.) Morning News, Dec. 18, 1974]

The Harry Dent Case

Harry Dent, the South Carolinian who is generally credited with being the architect of the "southern strategy" which helped put Richard Nixon in the White House, has been given what amounts to a slap on the wrist after pleading guilty to a misdemeanor charge involving a "technical violation" of federal campaign contribution laws.

All things considered, that was probably adequate censure for the former protege of Sen. Strom Thurmond and political adviser to former President Nixon.

Federal Judge George Hart who accepted Dent's plea and sentenced him to one month of unsupervised probation said: "It does appear as if Mr. Dent were more an innocent victim than a perpetrator."

The charge against Dent stemmed from his connection with what is called the "Townhouse Operation" while he was a member of the Nixon staff. Involved was a secret $3-million political fund administered by Herbert Kalmbach, also a former Nixon aide.

Kalmbach pleaded guilty on Nov. 15 to a misdemeanor charge of operating a fund-raising committee which had neither a designated chairman nor treasurer.

From statements made by Dent and others, the South Carolinian was not involved in disbursement of the funds. He was consulted as to which political candidates were favored by the White House.

The charge against Dent was that he "aided and abetted" in the administration of the secret illegal fund by giving information and advice to Nixon on which candidates should be assisted by disbursements from the fund.

As part of the explanation for entering a guilty plea rather than facing trial, Dent said (the day after his plea) that no Watergate defendant could get a fair trial in Washington. Whether one buys that depends to a considerable degree on how he has stood on the Watergate business all along. However, anyone who reviews the record of the Watergate cases cannot help but be impressed by the extent of the leniency and mercy shown to date in the courts to Watergate defendants.

Dent has sworn that he did not "consciously or intentionally" violate the law. There is no reason to dispute that on the basis of information that has been made public.

"Operation Townhouse," however, was prelude to the deepening morass of devious and illegal campaign activities that have since been grouped under the general heading of Watergate. The progression was from "technical violation" to much more sinister activities.

Dent's fear is that his association with "Townhouse" at the time of the 1970 campaigns may make him a "bad footnote in history." Rightly or wrongly, that is probably true.

However, there are a good many others who have been caught in Watergate web who on reflection probably wish they had left the White House staff as early as Dent did.

[From the Gulfport (Miss.) Sun Herald, Dec. 18, 1974]

Harry S. Dent No Watergater

The tentacles of the Watergate scandal reach so far and so ruthlessly that at times they strangle the reputations of the innocent, along with those who are undeniably guilty.

A case in point is Harry S. Dent of South Carolina, former special counsel to the President, whose principle chore was that of political adviser to President Nixon.

Dent pleaded guilty the other day to a technical charge under an old 1925 law that has since been repealed. It was his misfortune to be involved before the repeal.

His conviction really had nothing to do with Watergate or even President Nixon. He was charged with the misdemeanor of aiding and abetting a political committee established in the District of Columbia to handle finances for the 1970 congressional elections without having chosen a chairman or treasurer.

Dent chose to plead guilty to the technicality simply because he was guilty and because he didn't want to undergo the expense and agony of a trial.

As he said, when he appeared before District Judge George L. Hart Jr., "I fear that for the rest of my life I will be connected with Watergate."

The tragedy is that he may be right. And yet it is a tribute to Dent's honesty and integrity that he served Nixon in the White House for so many years without becoming involved in the disregard for law that characterized the actions of so many Nixon aides. And he wasn't involved in Watergate and its attendant scandals.

Dent may have been the most outspoken and independent aide Nixon had. He came to Mississippi at about the same time Spiro Agnew was in the state, snubbing GOP senatorial candidate Gil Carmichael because Nixon didn't want to oppose Democrat James Eastland.

Dent, in a refreshing break from the tradition that loyalty to Nixon must come first, publicly said that he felt the White House wanted all GOP candidates, including Carmichael, elected. One can scarcely imagine an Ehrlichman or a Haldeman speaking so boldly or giving consideration to the political ethic, which holds that a president shouldn't turn his back on a good candidate from his own party for selfish interests.

Dent was urged to stay on after the landslide Nixon election. He was even told he could have a job of greater importance in the new administration. He must have smelled something. He told Nixon's emmissary not to tempt him further—he was getting out and going back to South Carolina.

Those who know Harry Dent will continue to respect him as an honest and independent man, regardless of his conviction under an obscure statute no longer on the books. Harry Dent was no Watergater.

[From the Charleston (S.C.) News and Courier, Jan. 4, 1975]

Dent Case: Politics at Work

The State Board of Grievances and Discipline is acting routinely in taking note of former White House aide Harry Dent's plea to a technical misdemeanor violation of the now-repealed Corrupt Campaign Practices Act. If grounds exist for disciplinary action they are difficult to perceive.

Judging by the numerous press reports of Mr. Dent's case—and these are all the board now has before it—there is no evidence Mr. Dent ever handled the illegal 1970 campaign fund or was even aware the law was being violated by those who did.

That U.S. District Judge George Hart saw no evidence is indicated by the month of unsupervised probation he awarded as the sentence and his comment that Mr. Dent appeared more the innocent victim than the perpetrator. The whole thing smacked more of vengefulness than justice.

Should the grievances board now attempt to impose professional penalties or sanctions on Mr. Dent with no real evidence of intentional wrongdoing, it will be widely regarded as motivated by partisan politics. That would be fair appraisal.

[From WSPA—Radio and TV editorial, Spartanburg, S.C., Dec. 16–17, 1974]

Harry Dent

Those who have followed the career of Harry Dent sympathize with him in the predicament in which he has been placed as a result of pleading guilty to a misdemeanor charge growing out of political intelligence work he did for the Nixon Administration. Having had a large hand in putting together the southern strategy that won Richard Nixon the presidential nomination in Miami in 1968, he he was given an office in the East Wing of the White House when the new Nixon Administration took office. In fact, it was in the same offices occupied by James F. Byrnes when he was Assistant President under Franklin Roosevelt.

When Haldeman, Ehrlichman and others put up a Berlin wall around the President, Dent was shuffled over to an office in the old State Department Building.

Harry Dent went to Washington as a newspaperman and later became Senator Thurmond's Administrative Assistant. He knows his way around Washington. It was unfortunate for Richard Nixon that he did not keep the South Carolinian in the East Wing of the White House rather than permit those with no experience in Washington to isolate him in the Oval Office. Had Harry Dent remained in the White House and President Nixon relied on him and the Republican National Committee to run his reelection campaign instead of Haldeman and Jeb McGruder there would have been no Watergate.

With the present climate in Washington, Harry Dent with his southern background knew he did not have a chance of a fair trial, even though the statute under which he was charged as violating has now been repealed and ignored for 40 years.

Chief U.S. Judge George L. Hart, Jr., in sentencing Dent to one month of unsupervised probation correctly summed up the case when he said on the record:

"It does appear to me as if Mr. Dent were more an innocent victim than a perpetrator."

WSPA does not believe Harry Dent did anything wrong, and it would be a travesty on justice if the anti-Nixon press tars him with the Watergate brush in the public mind.

[From Paul Harvey News, Chicago, Ill., Dec. 19, 1974]

Jury System Indicted

There were ominous overtones to that legal decision last month; Harry Dent was set free but our American jury system was indicted.

Harry Dent said, "I am a Republican, I am a white boy with a South Carolina accent. There is no way I could get a fair trial from a Washington, D.C. jury."

And in effect the judge agreed.

So, though innocent, Harry Dent pleaded guilty.

The first response by responsible blacks is to protest that a black jury would be just as fair as any . . .

Though most blacks have memories long enough to realize that when and where the situation was reversed a black defendant didn't have a prayer.

Now it's the white southerner in the mostly black District of Columbia who could not depend on our "jury of peers" system for justice.

What had Harry Dent not done?

As a White House aide, southern political strategist for the Nixon campaign, he assisted in dispensing some three million dollars in campaign funds to GOP candidates for Senate and House seats.

There is a federal statute providing that a political committee must have a designated chairman and treasurer and to accept or dispense campaign money otherwise is a misdemeanor.

Harry Dent is not accused of stealing anything or hurting anybody. He handled none of the campaign money.

Washington's best legal brains agree that there was no wrongdoing . . .

But they also agreed that Dent could be brought to trial on the "secrecy" technicality and that to face trial in Watergate-conscious Washington—would be first degree suicide.

Understand, Dent was in no way involved in Watergate or its ramifications. Indeed, he walked out on the Nixon administration to avoid involvement in what he saw developing.

But the lynch mob atmosphere in DC is such that Dent had to plead guilty to a misdemeanor of which he was innocent or face lengthy, costly trial and possible felony conviction.

Nor was any District judge willing to allow a change of venue. Dent had no choice but to face an inherently hostile jury.

District Judge George Hart—accepting the guilty plea—acknowledged that Dent was himself an "innocent victim" of a faulty system.

He imposed no jail sentence, no fine.

But the treasured American judicial system had been indicted for discrimination.

UNITED STATES VERSUS SOVIET TECHNOLOGY

Mr. McINTYRE. Mr. President, every year at about this time, Department of Defense officials are disposed to make profound announcements regarding the Soviet threat. Some of these are factual some are exaggerations, and some are questionable, but all are very loud. Just the other day headlines were made by the Secretary of Defense's remarks about the initial deployment of MIRV on the Soviet ICBM. I am certain there will be a rash of additional headlines during the next several months coinciding with the appearance by Department of Defense officials before the Congress in support of the fiscal year 1976 budget.

I would strongly counsel my colleagues, and especially the new Members of both the House and the Senate to view these pronouncements in their true perspective and consider them very carefully.

During these same years in the area of research and development, the Department of Defense has religiously made the strong argument that the Soviet Union is widening the technology gap and is in fact running ahead of the United States in certain technical areas. Each year the Research and Development Subcommittee, which it is my privilege to chair, has probed deeply into this matter and has attempted to get at the hard facts. This has been a most difficult chore.

This year I have anticipated this approach by writing to the Director of Defense Research and Engineering and alerting him to my concern. I have also advised him to be very specific and detailed in making his case. These views were made the subject of a letter dated January 8, 1975, which included a series of articles published in the Washington Post last November, which provided an interesting and illuminating insight into Soviet military science, technology, industry, and education. I ask unanimous consent to have this letter and attachments printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McINTYRE. Mr. President, I encourage my colleagues to read this material so that they may be aware of this situation and better appreciate the actions which the subcommittee will recommend when it comes to grips with the details of the program proposed for research and development for the next fiscal year.

EXHIBIT 1

JANUARY 8, 1975.

Dr. MALCOLM R. CURRIE,
Director, Defense Research and Engineering, Department of Defense, Washington, D.C.

DEAR DR. CURRIE: The Washington Post published a series of four articles last November under the title "Russian Voices". Three of them provide an interesting insight into Soviet military science, technology, industry and education. These were written by Mr. Robert G. Kaiser, a staff writer, and largely reported interviews with former Soviet citizens, now residing outside the Soviet Union. Copies of these three articles are attached.

I expect that your presentation of the FY 1976 program to the Congressional committees again will include a comparison of U.S. and Soviet science, technology, and military weapon system developments. The attached articles, particularly the underlined passages, appear to refute earlier statements by Defense witnesses of how the U.S. is lagging behind the Soviets in specific areas and how their accelerating momentum is widening the gap.

I will not now address specific questions which may be asked at a later time, but suggest that the key points made in the articles be considered and treated in your formal statement.

I consider it highly important that generalizations not be used to compare U.S. and Soviet capabilities, but that specific facts supported with hard evidence be available. Without these, the best case cannot be made for a strong technology program.

I am concerned that the presentation to be made to the Congress on Soviet vs. U.S. technology be completely objective, be an accurate representation of U.S. intelligence findings, and depict clearly the basis and methodology used in forecasting trends for discrete technologies and discrete equipments or categories of equipment.

The extent to which such forecasts are the result of specific studies conducted under contract or in-house should be identified and explained.

I believe that these suggestions should improve the possibility of positive and favorable consideration of the RDT&E authorization request for the next fiscal year.

Sincerely,

THOMAS J. MCINTYRE,
Chairman, Subcommittee on Research and Development.

SOVIET SCIENCE: HOW GOOD?

(By Robert G. Kaiser)

In 1957 the Soviet Union launched the first sputnik, and the Western world caught its breath. Were the Russians that far ahead Was their science that much better?

The fear that those questions had to be answered affirmatively compelled the United States to undertake a crash "catch-up" program. The federal government invested hundreds of millions of dollars in science, and in less than 15 years it was obvious that the Americans had surpassed Soviet space achievement. But had they really been far behind in science?

In extended interviews, scientists in the Soviet Union and others now living in Israel, Italy and the United States who once worked in Soviet science were asked to try to explain to a Westerner how the Soviet system works. This article consists of some of their answers:

A chemist from Moscow discussed the Western world's impression of science in the Soviet Union:

"The Western estimation of Soviet science is wildly exaggerated . . . the absence of real self-criticism and real competition, and the over riding importance of political considerations . . . hold it back. . . .

"One absurd thing in Soviet science is the need to plan your research work five years in advance. You have to say, five years ahead of time, what kind of equipment you'll need, what instruments. In reality, I may be working on one idea today, but if it turns out badly, I'll have to head off in an entirely new direction—but that may not be possible, because the system is so bureaucratic. You won't get anything that isn't planned for. . . .

"So what happens? People start hoarding things. For instance, they'll say to you, do you need such and such an apparatus? And you'll say no—but go ahead, give it to us, we'll save it just in case it comes in handy. It won't cost you anything, you won't have to answer for it.

"The Soviet Union tries to substitute quantity for quality. For example, they create big scientific institutes. There are institutes with 8,000, 10,000, even 15,000 workers. But I know many institutes whose 'coefficient of useful activity' is precisely zero.

"Just as you can't make an ocean-going liner out of thousands of little sailboats, you can't bring together 10,000 mediocre people without ideas and put them into an institute and call it science. It isn't science. Especially if you put a mediocre fellow at the head of such an institute . . . and there are many of them. . . .

"Why? Because the boss is chosen by the Central Committee of the [Communist] Party. He is a good party member. He is very vigilant. If somebody does something [ideologically] wrong, he reports it to higher authority. . . . He has the authority of the party behind him. He gathers a group of scientists around him, and they may all try to work, but without a real leader it all just spins around."

A physicist from one of Moscow's most distinguished scientific institutes discussed the role of politics in Soviet science.

"Political barriers exist and they hinder the normal growth of science. For example, travel abroad to meet with colleagues and to see other laboratories and scientists working in your area is absolutely necessary, but travel abroad is controlled . . . Those who can travel either are members of the [Communist] Party or have otherwise proven their reliability . . . In order to advance through the ranks of Soviet science you have to be a member of the party . . ."

"And as soon as you're a member of the party," another physicist added, "you'll have to do whatever they tell you to. This affects even competent scientists. For example, I think that the current director of the Institute is a competent guy, no dope. But he has absolutely no conscience or honor. He will contradict today what he told you yesterday.

"That's what makes a Soviet scientist different. When you meet him in the West he is an ordinary, intelligent, good fellow. And when he gets home he'll make up all kinds of dirt about what he saw in the West. He'll concoct whatever is necessary if it serves his career . . ."

A Ukrainian scientist described a more mundane example of political pressure in his provincial city:

"The Soviet authorities want every citizen in the country to read the newspapers . . . but the papers are very boring and one-sided . . . So the authorities force the papers on the citizenry by requiring them to subscribe . . .

"At my institute a professor was called to the party committee, where they said to him, 'You are required to subscribe to five newspapers'—all papers of the same type and in fact they don't mind if you take two subscriptions to the same paper—'and to four magazines,' which you don't need at all, 'and if you don't do it, we'll consider you politically unrealiable, with the obvious consequences . . .' "

"And if someone interrupts them and says, 'Excuse me, this is a democratic country, if I want to read I'll read,' they would answer 'If you want to work in this institute, you shouldn't engage in such conversations, you should subscribe to these papers.' "

A scientist from Kiev explained another kind of political pressure:

"Say a director of an institute doesn't have a portrait of Lenin in his office. [Portraits of V. I. Lenin, founder of the Soviet state, are displayed in almost every Soviet official's office.] He just forgot about it. A secretary of the regional party committee drops by, and comments on the fact that there is no portrait of Lenin. The director knows that if he doesn't quickly hang up a portrait of Lenin, his error will be remembered . . ."

Despite political interference, however, Soviet scientist have managed an impressive record of accomplishment, especially in a few fields such as nuclear physics.

According to the physicist from Moscow, these successes are largely attributable to the government's policy of investing almost without limit in priority projects.

"If the director of an institute enjoys influence on high that is among party and government big shots, then they listen to him. If he says we have to develop such-and-such-he'll receive the money he needs . . . When they decide something is necessary, they finance it and it happens."

A scientist who once worked in the institute of nuclear physics in Novosibirsk, one of the most advanced scientific centers in the country, explained how the scientists there competed with Western physicists:

The institute of nuclear physics was set up at Academgorodok ("academic town") outside Novosibirsk in 1958. Its director was G.I. Budker, a gifted physicist who gathered together a group of innovative intellects without regard for the usual rules of seniority and status that generally govern Soviet science.

For about ten years, unil 1968, the institute was extraordinarily productive. It attracted excellent people in part because Budker could offer them comparatively good apartments, and because an unusual democratic spirit prevailed at Academgorodok.

In that scientific community young intellectuals formed discussion groups and coffee clubs, at which all kinds of subjects—including political topics—were freely discussed. These groups allowed for a kind of debate and discussion that is traditionally impossible in the Soviet Union.

Budker's imagination guided the institute into fruitful and hitherto unexplored scientific territory. But the institute had trouble conducting its experiments because it could not easily acquire sophisticated equipment it needed. For unique experiments involving colliding beams, the institute established its own little industry to produce the required equipment.

Soon after that work began, this physicist recalled, several groups in Western Europe and America began similar experiments. It quickly became obvious to the scientists in Academgorodok that the Westerners would outdistance them because they had better equipment for experiments.

When they saw what was happening, Budker and his colleagues tried to jump ahead of the foreigners by heading off in a radically new direction, but they failed.

"You have to move quickly and skim off the cream," the physicist said, discussing the ground-breaking research he had participated in. "Soon the Western scientists will catch up with you. And his doesn't depend on how smart you are. It's because of the low level of our technology."

Budker's secret, he said, was that his imagination continued to produce new ideas, and the pursuit of these ideas kept his scientists on the frontiers of international physics. To continue to receive priority in Soviet science, the physicist said, a laboratory or institute must continue to stay up with the world leaders in its field.

Budker's institute began to lose its standing in 1968. The political climate changed sharply that year, after the Soviet invasion of Czechoslovakia, and the institute in Novosibirsk was getting older, more bureaucratized and more conservative. Today, the physicist said, it is no longer the exciting and experimental institution it once was. And the coffee clubs and discussion groups have disbanded.

Another physicist who worked in one of the Soviet Union's leading laboratories, elaborated on the problem of inadequate technology:

"It can happen that one crucial area holds back others. For example, it is well known that the Soviet Union is far behind in computers. And without computer technology, realistically, there can't be significant progress in chemistry, physics, physical chemistry. You can't just develop computers by yourself, it takes a long time so you turn to foreigners. You turn to Americans, who can provide big computers . . .

"I think the greatest barrier to the development of Soviet science now is the inadequacies of certain branches of industry, which cannot provide the necessary equipment and supplies for science. It's like a vicious circle: science can't give industry what it needs because industry can't give science what it needs, and so on.

To break out of this circle now, to get the sophisticated equipment, computers and so forth, they must buy Western things. On the other hand, you may be able to buy one, two, three computers for the leading institutes, but to create a broadly based computer science you have to begin producing computers at home."

"I'm sure that the military people are also concerned, because without good, relatively cheap computers, all their rockets and ships and so on aren't worth much . . ."

According to all of these scientists, prestige is an important factor in Soviet science. One chemist recounted how prestige affected the commercial use of Soviet microbiology.

"I worked in microbiological industry. We had it because it existed abroad—therefore, the Soviet Union had to have it also.

"Some theoretical scientists proposed that they could make artificial protein from oil for much less than the cost of any known form of natural protein. But the doctors said they could not approve the use of this artificial protein to feed people.

"So the scientists said, 'O.K., we'll give it to animals.' Again the doctors refused to permit it, saying that a lot of carcinogens [cancer-producing substances] had been found in the organs of animals who had eaten the protein.

"Then the scientists said tell us which organs retain these carcinogens, and we'll cut them out of the animals and throw them away. And they all agreed on that compromise. They knew they shouldn't have accepted it, but they did.

"Why? First of all they knew the government wanted to be able to say, 'Look, we created a whole new branch of industry. And they could brag about the great savings in the production of protein. So they started producing the stuff, knowing it might be poison. And none of the officials involved had the power to stop it. Occasionally an individual refused to go along . . . So it was done without him."

(Some names and places have been changed in this article to preserve the anonymity of the persons interviewed.)

Soviet Industry: Working by "The Plan"

(By Robert J. Kaiser)

Available statistics show the Soviet Union's enormous economy as second in size and strength only to America's. The Soviets now produce more steel than the United States does. They are the world's masters of hydroelectric power; railroad transportation and coal mining.

The size and scope of Soviet industry impresses outsiders; foreigners are less interested in, and less able to see, how that industry actually works.

A Moscow chemist recently provided a glimpse of the inner workings of a Soviet factory.

"I knew a guy who was the head of a shop in the construction plastics combine in Moscow. He thought up a way to save a great deal of very expensive epoxy in the production process—a colossal saving. But he never said anything about it.

"For one thing, to get a new method like that approved would take, at the very least, six months. Moreover, no one would want to take responsibility for approving a change in the production method. What if it didn't work out? So he just started doing it his new way, quietly, without telling anybody.

Of course, he started to accumulate a great reserve of epoxy, because he was still receiving the amount he needed for the old process. He used to give it away to people who needed it or trade some for a bottle of vodka. But then he began to worry about the possibility of a spot inventory check by the authorities. They might say, 'How come you've got all this extra epoxy?' It made him nervous . . ."

That chemist was one of a number of Soviet technicians and administrators who talked of their experiences in Soviet industry in tape-recorded interviews in the Soviet Union, Italy, Israel and the United States. Each of those questioned was asked to describe aspects of the Soviet economy outsiders ordinarily do not see.

No single generalization adequately describes all of Soviet industry. Some modern factories in the Soviet Union compare favorably with any in the West, but many others work like the Moscow construction plastics combine.

An engineer who worked in a Soviet factory that produced electrical equipment for ocean-going ships described the factory's work:

"I've been working in the technical [i.e., quality] control department. . . . All the factory's production goes through our section. We check that it's working all right, and adjust it when it isn't—in other words, we do more than just look at it.

"Our month goes like this: For the first 20 days of the month we do absolutely nothing; we wait for various parts to reach us from the different shops, but they all work on the same kind of schedule.'

"In the whole factory, on the first, second, third, maybe fourth of the month, everybody is resting up from the rush to fulfill the previous month's Plan." All Soviet factories are legally obliged to meet the production targets—"the Plan"—set for them by central authorities. "On the fifth or sixth, people start cranking up to do a little something . . . but the production lines aren't working yet. On the 10th, maybe the 12th, they start looking for the parts and materials that will go into the month's production . . .

"During this first part of the month they'll also be correcting the mistakes made in the previous month's production . . . Somewhere round the 15th or 16th, the various shops actually start producing something. But nothing reaches our department that soon.

"Maybe about the 20th we begin to receive the first finished production for checking. We start working on it at a relaxed pace. But then, somewhere between the 22d and the 25th or so, the storm begins. And then do we work! Checking, fixing, adjusting—like crazy!

"It gets more and more intense on the 29th, 30th, 31st if there is one. It's a good month when there's a 31st. Most workers work a shift and a half or two shifts during those last days of the month. Our department works as much as we're needed, sometimes around the clock.

"It's dangerous, of course, but nobody ever says anything about that. At the beginning of the month there are always people around talking about safety, talking about maintenance and all that stuff. But at the end of the month we never see any of those people. . . . They all disappear. . . .

"So we receive the production at the end of the month, often on the very last day, and often it doesn't work, something is wrong with it. It often takes us into the first few days of the next month to get it working properly.

"Meanwhile, of course, somebody is waiting for our products. There's a shipyard next to our factory that makes ships using our electrical equipment. Several other shipyards around the country depend on our stuff.

"But we don't ship it out until the very end of the month, maybe even in the first few days of the next month. And a lot of it is crap, because we simply can't check out an entire month's production in a few days. . . . Our mistakes screw up those other factories—they can't do their work without our products. . .

"You know, there's a popular saying among Soviet workers that I think is very revealing: "What are they going to do, shoot us?" That's what they say when the paint is a little sloppy, or something isn't just as it should be."

A man who worked in a factory that made prefabricated sections of reinforced concrete for the Soviet buildings industry describes that enterprise:

"In our shop we made the metal frames around which the concrete was poured . . . The shop was all cluttered and confused—there was no production line at all, it seemed. The organization of labor was terrible.

"There was no ventilation. In the winter it was cold and the windows had to be kept closed. When it started to get warmer the management had to remove the windows, or the workers would break them out themselves.

"A majority of the workers in our shop were women. They did really heavy work, much heavier than they are supposed to according to the regulations. I was a safety engineer, but there was very little I could do in the way of making things safer . . .

"We were supposed to work 41 hours a week, but in fact we worked a lot more. They kept people after work, especially in our shop, and if they were falling behind the Plan they'd make people work on Saturdays, too. This happened a lot. Instead of having four free Saturdays a month, the way we were supposed to, we had one or two.

"They had two Plans to fulfill: a production Plan, simply square meters of reinforced concrete, and then a 'realization' Plan, which stipulated a certain level of sales to construction organizations or to other factories. I worked there for most of 1972, and from month to month they usually fell short in actual production. But they just added the needed amounts in their reports, and always fulfilled the Plan. On paper.

"But the important thing is that they were putting out defective stuff on purpose. A lot of it wouldn't have qualified for any category of quality, it was junk . . . The director and other officials always talked openly about the fact that we were producing junk . . . But the construction organizations had to build their targeted number of apartment houses, so they made do with what we gave them. And it would hold up the required weight, it didn't collapse on them.

"Nevertheless, junk worth 80,000 to 100,000 rubles [$108,000 to $135,000 at the official exchange rate] was returned to the factory every year by users who refused to accept it. But we had a very clever lawyer at the factory who could juggle with this and bring the figure of reported returns down to about 30,000 rubles' worth. He did this in various ways."

For example, the people who got the stuff had only a certain amount of time in which to complain about it. If they missed the deadline, they were stuck with it. Or the lawyer could make various kinds of deals and adjustments to keep the users happy . . .

"We had a huge turnover of workers. There were 480 positions for workers in the factory, and during 1972 about 500 people were hired. and the same number quit. There were some senior workers, brigade leaders and so on, who had been there for many years. They were the most important workers.

"But a lot of the others would just come for a couple of months, see how hard it was, and move on to another job . . . ."

One aspect of Soviet industry that strikes foreigners is its ability to produce truly impressive products at least in some fields. The quality of Soviet tanks is beyond dispute; rockets and bombs also seem to work reasonably well. At industrial exhibits in the West, Soviet products sometimes look as good as equivalent Western equipment, or better.

The achievements of Soviet military industry, these interviews suggest, can be attributed to a huge concentration of resources coupled with rigid quality control. An engineer from a factory that made electrical equipment for ships, including ships for the Soviet navy explained:

"Curiously, the standards for ordinary production and the standards for military production are identical—what changes is how strictly they're adhered to. In our factory it would have been simply impossible to maintain the high level of quality control on all our production that we achieved on our military orders . . .

"The bosses all listen when the consumer is from the navy . . . The navy people don't mess around. An ordinary customer is different. You can say, 'Take it easy, we'll have it ready for you tomorrow,' things like that, but the navy man won't listen to that kind of talk.

"The stuff we made for the military was much better than the ordinary production simply because we checked every single part, every detail as it was put together. Of course it took much longer to make it that way—twice as long, maybe three times, because we checked it all out so carefully . . ."

The Soviet Defense Ministry stations officers in the factories that produce armaments and other equipment for the military, and these officers are empowered to reject any item they find unsatisfactory. In effect, this gives the military a virtually unlimited budget to maintain the quality of equipment made for it, while the civilian economy must accept vastly lower standards.

Military equipment is not the only product Soviet industry can produce that impresses outsiders. Soviet turbines, some lines of Soviet steel and some Soviet machine tools, among others, have been lavishly praised by Western experts.

Some of these products come from the several dozen leading factories in the country—enterprises with large budgets, the latest Western equipment and excellent reputations. These factories are a necessary part of the system, one Soviet engineer suggested, as examples to the ordinary enterprises of how good things could be. However, he added, the state could not afford the cost of running all its enterprises on the standards that prevail in these showpiece factories.

By devoting great resources to isolate projects, the Soviet economy can also custom-make products that other economies mass produce. This may explain how the Soviets make rockets and atomic missiles, for example.

A Moscow physicist described an experience he had with one impressive piece of machinery:

"My Moscow apartment is near the Exhibit of Economic Achievement," a permanent show of machinery and other exhibits extolling Soviet industry and agriculture. "A colleague came to me one day and said I should go to the exhibit and look at a new centrifuge that had appeared there—a beautiful machine, he said, and just what we needed for something we were working on at the time.

"So I went. It looked great, everything about it worked well. I asked the people there what factory made the thing. They gave me a name and I wrote it down. During the next few months I went from factory to factory, and sent my colleagues from factory to factory, trying to track down the maker of that centrifuge.

"It turned out that no factory made it. That one had been made as a custom model—custom-made for an exhibition that is supposed to show the progress of the national economy!

"Finally I found somebody I knew in a scientific institute who had worked on the centrifuge. Really, I said, when will such a machine be available? Not earlier than five years from now, he said."

(Some names and places have been changed in this article to preserve the anonymity of the persons interviewed.)

EDUCATION IN U.S.S.R. DOMINATED BY POLITICS

(By Robert G. Kaiser)

Before the Bolshevik Revolution, higher education in Russia was available only to a tiny minority of the population. In the 57 years since 1917, universities and colleges have blossomed all over the Soviet Union, and millions of students are now enrolled.

But the statistics of Soviet education tell nothing about its substance. Authorities in Israel, which has absorbed nearly 100,000 Soviet emigres in recent years, have found that a Soviet education is narrow and often inadequate. Soviet graduates "know much too much about much too little," says Schlomo Rosen, the Israeli minister of absorption of immigrants.

From the first grade, Soviet education is rigorous and inflexible. An American teacher who was allowed to spend many weeks in Moscow classrooms concluded that the children successfully mastered reading, basic arithmetic and other skills.

"But by the time they go off to college," this American teacher said, "they don't know how to think."

This article consists of extended comments of present and former Soviet intellectuals, some interviewed in Moscow, others in their new homes in Israel, Italy and the United States. All of them studied or taught in Soviet colleges and universities. They addressed their comments to weakness in the Soviet educational system.

Like almost every aspect of Soviet life, education has been politicized. A graduate student at Moscow State University explained part of what that means in a recorded interview:

"In recent years they've undertaken a campaign to 'improve the social structure of the student body' [at Moscow State, the Soviet Union's leading university]. What does that mean? In effect, that they choose students from those elements of society that they think are the most loyal. They do this by taking them into a special preparatory faculty without their passing any of the regular university entrance exams. And from there they pass into the university.

"And whom specifically are they picking? It turns out that their ideal 'proletariat' consists of people from the countryside, small towns and villages. The urban proletariat, it seems, is already dubious. At least its sons and daughters don't get the same preference as rural kids.

"The people they chose are recommended by [Communist] Party organizations . . . There is a pretext of examining their knowledge. A friend of mine is a math teacher, and she sat in on one of the 'meetings' they hold with these kids to find out how much they know. They were asking the simplest questions—thing people ought to learn in the seventh grade. But one of them couldn't even answer that stuff, and my friend pointed out how little he knew. They bawled her out for not following the general line. That guy got admitted.

"You know what is worst of all? The kids who get into the university this way understand exactly why they were admitted, and they take advantage of it. They know they can't possibly be kicked out of school.

"A teacher can't give them a failing grade. If he did, he'd be called into the party committee and chewed out. And so you see 17-year-old kids who already realize that in this country, in this system, you don't need to know anything—to have any real knowledge—in order to get ahead. All you have to do is join the party. They call it a 'clever move' to join the party as soon as they can."

A professor at a medical school in the Ukraine recounted his experiences:

"The students who enter a college or university—with the exception of a tiny percentage—are virtually guaranteed that they will successfully finish and graduate.

"I was considered a bad examiner. There was a time when the dean tried to prevent me from giving examinations. I gave a large percentage of low marks. I always felt that since we were dealing with future physicians, their level of knowledge had to be reasonably high . . .

"This led to a lot of unpleasantness for me. I was summoned to the dean and to the party committee. They demanded that my marks be higher, that my average mark be a four [the equivalent of a B]. At the time my average grade was a little less than three [that is, just less than passing] . . ."

A student at the medical institute in Irkutsk, the principal city in Eastern Siberia, also discussed why it was easy to get through school:

"The first two years of medical school are devoted to general subjects. [In the Soviet Union, a student goes directly from secondary school into medical school for a six-year course.] In the third year you begin to work in hospitals and clinics. From the third year on, it's enough just to attend the classes. No matter if you never study, from then on nobody gets flunked out.

"Why? Well, they talk about the fact that by then they've already spent a lot of money on the student. But that isn't the main thing. They have a plan. According to the plan, they're supposed to graduate a fixed number of doctors. That's the main thing. That's why they admit twice as many as they need to graduate. Even so, they often fail to fulfill the plan "because students flunk out in the first two years, or drop out later.

"A student can say on an exam [examinations in the Soviet Union are generally oral], 'I don't know,' and the professor will tell him the answer, saying, 'Don't you remember how it was explained in the lecture?'

"I saw this happen once. The student said, 'Yes, yes, I remember,' and they gave him a three [the passing grade]. This is particularly true for the sixth year. In the sixth year, medical students do absolutely nothing, really . . .

"So how can there be good doctors in Russia? There really are good doctors, a lot of them. First of all, students who want to study can study . . .

"After graduation, even those who don't study find themselves working as doctors, maybe in a village somewhere, where they'll work as therapists, surgeons, pediatricians, gynecologists, dermatologists—all at the same time. They may be the only doctor for six hundred miles. So through practical experience they become real doctors . . ."

There are colleges and universities in the Soviet Union with reputations better than the rest, rough equivalents of Oxford and Cambridge or Harvard and Yale. One of the most famous is the Moscow State Institute for International Relations, a "closed" college under the direction of the Foreign Ministry. The sons and daughters of high officials are often found among the students there. The school trains young people for careers in diplomacy, foreign trade and journalism.

A graduate of the institute talked about life there in a recorded interview:

"The school was dominated by one goal, the one dream that was held up before all of us, the possibility of a trip abroad for practice work. A lot of the students were ready to do whatever was necessary to make that trip abroad—to study well, to do all the right things in the Komsomol (the Young Communist League) and so on.

"The chance to go abroad comes in the first half of the fifth [i.e., final] year in school .... That's the big issue from the first year on. You *may* be able to go abroad—the chance exists. But less than half the students end up going . . .

"I went there because I didn't want a technical education; I wanted a general education in the humanities. But you know what kind of stuff they teach there—one year of math, which you soon forgot; some accounting; then the history of the party, Marxism-Leninism and so on. A lot of it wasn't really political; it was more ideological, and completely useless.

"The only good thing was foreign languages. They did that well. There was a good language lab, equipped with Norwegian tape recorders . . . Everybody had to study two languages . . .

"We all had military training too. I'm a lieutenant myself—a military translator. My specialty is interrogating prisoners. They taught us about Western armies, about their weapons. Everybody had to do it, except the girls. They could do it if they wanted to . . .

"It's a 'closed institute.' That means there is no public announcement inviting people to apply. It doesn't appear on the list of ordinary colleges. And when you apply you have to give them a '*kharakteristika*'—a recommendation—from your local regional committee of the Komsomol . . .

"There are a lot of extra meetings when you're applying to get in. First a meeting with the Komsomol, then at the institute. Then you take the exams, and have still another meeting afterward. They use that last one as a way to weed out people they don't want, even if they passed the exams. They do it by asking some clever, impossible questions. One girl was asked to list all the British military bases in the world. She knew a lot of them, but not all . . .

"When I was a student, the son of Shcholokov was a student too. [Nikolai A. Shcholokov is the Soviet minister of interior, which means he is in charge of the country's vast internal security forces, apart from those of the Committee for State Security, the K.G.B.] Everybody knew that he was the son of Shcholokov . . . He was a handsome, big playboy.

"His papa gave him a white Mercedes while he was still a student. (Such cars are not available in the Soviet Union, except to the highest officials.) He drove it to the institute, but the teachers and his papa stopped him from doing that. They cut it out pretty fast. He only appeared a few times in the car—it caused a big sensation . . .

"He seemed like a regular guy. He didn't study very much. But he became an unprecedented case. They let him stay for a second senior year so he could graduate. He couldn't pass the exams the first time. Ordinary people don't get a second chance.

"They tried to send him abroad for his practice work, but a lot of countries refused to let him in. That was very demoralizing for the rest of the students, to see that the son of Shcholokov couldn't go anywhere overseas. He finally went to some small country . . .

"Now he's the secretary of the institute's Komsomol committee . . . That's a very big job. The committee is above everybody else . . . They decide on all trips abroad, anyone who wants to go overseas has to have the Komsomol's permission . . . All personnel matters go through the Komsomol secretary. And he has the opportunity to travel abroad. He has a lot of power. . . .

"If you look at the student body, you see that they are children of the privileged class . . . You can see whose children are admitted before the entrance exams when, for instance, generals come into the school wearing all their medals, and go right to the rector's office. They come out after a while, confident that their sons will be admitted.

"Nevertheless, the school makes a show of choosing the students democratically. They say they're not going to admit people 'from above'—that's when important people call each other by phone to arrange things outside of official channels . . .

"There were also children of ordinary workers and very simple people in the student body. The institute has recruiters who visit every (Soviet) republic. They go to the local Komsomol meetings, for instance, and solicit applications . . . We had a lot of good people who got in that way . . .

"There was a strong caste system. Children of important people stick together; they don't mix with the rest. This extends to marriage. The son of the assistant dean of the institute, say, might marry the daughter of the director of the Bank for Foreign Trade . . .

"I'm personally convinced that none of them believed in anything, not in anything at all . . . There weren't any really convinced Communists . . . They're careerists, that's the best word for them. The way that system works, they come out of the institute right into careers that are waiting for them. They know what it will be like—they've heard already from their parents . . . They know precisely what they want—to live well, to travel abroad. It's a privileged class, and they want to stay in it. And of course, that has nothing in common with communism.

"Once after I graduated from the institute I was out with a girl who took me to the apartment of somebody she knew who was still a student there. There was a darkened room with 10 or 15 people sitting around. These were the 'golden youth,' as we called them. The apartment was very big and luxurious by Soviet standards.

"Everybody chewed gum, sat there and listened to the record of 'Jesus Christ Superstar.' That's sort of a typical scene: everything there was unavailable to an ordinary citizen—the chewing gum, the big apartment, the good foreign record. They already knew the record by heart, they sang along with the chorus."

One aspect of higher education in the Soviet Union is familiar to American ears. An undergraduate at a big Soviet institute explained it:

"I think physical education is the most influential department in the institute. When I was in the first and second years of school I was a good student, and they make the good students help the bad ones . . . One girl athlete was assigned to me, and came to me for help all the time.

"She was a master of sport, a champion ice skater, a racer. She was already pretty old—33, I think. She came to the institute after working for some years; she got in through the 'workers' faculty,' . . . a year's special course to prepare people for college: workers and farm workers. . . .

"From the age of 15 to about 25, that girl had been a really good skater. When she was studying on the workers' faculty she announced that she would compete in sports competitions for the honor of the institute. And the physical education department had a lot of influence.

"It could ask the other departments not to flunk such-and-such a student because his or her athletic abilities were needed for the honor of the school. They usually did this through the deans of the various departments. Everybody wants the institute to do well . . . An athlete who had some success was in a great position . . . If you were really a good skater, you could skate all day, all the time, and still pass all your exams . . ."

(Some names and places have been changed in this article to protect the anonymity of the persons interviewed.)

RETIREMENT OF C. H. ALBRIGHT AS DISTRICT DIRECTOR OF THE SMALL BUSINESS ADMINISTRATION IN COLUMBIA, S.C.

Mr. THURMOND. Mr. President, on January 17, 1975, Mr. C. H. Albright of Rock Hill, S.C., will retire as district director of the South Carolina district office of the Small Business Administration, a post he has filled with distinction for the last 5 years. His achievements in this office are the latest in a long career of public and civic service. A highly successful businessman, Mr. Albright might have spent a comfortable life tending to his own private affairs. Instead, he has chosen to give generously of time and effort in the service of his State. South Carolina has profited greatly by this choice of his, and the whole country would profit greatly if other able and honorable men would follow his unselfish example.

Though I am sure that Mr. Albright's retirement from the SBA will by no means conclude his public career, it provides an excellent vantage point from which to look back upon his accomplishments and pay him the tribute he deserves. I am more than usually happy to do this, for during all the time Mr. Albright has been such a loyal servant of South Carolina, he has also been my own close and valued friend.

To list only a few of the honors Mr. Albright has received, he was a member of the Rock Hill city council for 4 years and Rock Hill's mayor for another 4. He has served in the South Carolina State senate. He has been a member of the board of visitors of Clemson University since 1953. Among civic distinctions, he has been president of his local chamber of commerce and a member of the board of directors of the State chamber. The Red Cross, the YMCA, the Salvation Army, and the United Fund have all elected him to their boards as well. Finally, he has given valuable leadership to the First Presbyterian Church of Rock Hill as a member of the board of elders.

As district chairman of the SBA, he has used his experience, imagination, and affabilty to make the South Carolina office one of the most effective in the whole country. His fellow agency heads in the area showed their high regard for him and his work by choosing him as president of the Federal Executive Council of Columbia in 1972. In November of last year, the SBA itself singled him out for special recognition among agency officials.

Mr. President, this is a record to be proud of. Mr. Albright can take pride in it, and as a friend and fellow South Carolinian, I feel entitled to take pride in it too. I congratulate C. H. Albright for all he has done for his State and its people, and I wish him health, happiness, and continued achievement in the years ahead.

SCIENCE AND TECHNOLOGY POLICY: DOWN THE HALL, NOT DOWN THE MALL

Mr. MOSS. Mr. President, with disturbing regularity we hear America described as a "crisis driven" Nation that reacts to problems only after the difficulties are well upon us. Sputnik, the environment and the energy shortage are terms that have become synonomous with the national crisis. In nearly all of these critical times, the Nation has turned abruptly to its scientists and engineers for solutions only to be warned that answers to new problems take time, regardless of the money available.

Hindsight in nearly every case has revealed that warnings existed but went unheeded. There was no formal mechanism at the national level by which the country could anticipate these problems and orient our research and development resources toward coping with the coming storm. Historically, only in times of war has the President gathered scientific advisors closely around him. Yet after both World War II and the Korean war, these advisory groups faded away with the crisis. It was not until 1962 that the President had fully funded, fully staffed scientific advice close to him. However, in 1973 the President abolished this effort.

Again, our country is threatened not by forces of troops but by forces of economics. If anything has kept our economy strong, it has been the continuous increments in industrial and agricultural productivity achieved through technological advances. And in world trade our primary export is, and will continue to be, technology and the products of science and technology. And yet, while lawyers and economists have the ear of the President in the combat against inflation and unemployment, there is no independent and objective council of scientific advisors at his elbow.

I join Senator KENNEDY in sponsoring S. 32 because I believe that our national problems are too great, our resources too limited to continue without serious long-range national planning in the area of R. & D. The President has legal counsel and economic counsel—CEA—close by his side, should not "scientific counsel" be there as well? S. 32 is not an attempt to establish a laboratory in the White House, but rather to give the President immediate access to three advisors capable of assessing the implications of emerging technology and the dimensions of new technological problems.

Let me emphasize that this bill is not going to create a temporary council to cope with current exigencies by hastily fashioning "technological fixes". Rather this council will be studying future problems to insure that when the crunches come, we will have scientists trained to solve these problems and industries prepared to institute these solutions.

For example, the Committee on Aeronautical and Space Sciences is looking at the possible consequences of certain man-made chemicals affecting the stratosphere. We were shocked to learn that there are at most only 100 scientists in the world who are trained in the phenomena involved. The scientific efforts of this Nation must be coordinated at the Presidential level to give not only continuity and stability, but most of all, foresight to our scientific and technological programs. I believe passage of S. 32 is the first necessary step to achieving these goals.

Some will say that the President already has such advisors. But if there is anything that the Committee on Aeronautical and Space Sciences learned in its hearings on this subject last year, it is that this "scientific counsel" cannot be effective unless these people are full-time, independent, objective and most important, this "scientific counsel" must be "down the hall, not down the mall."

GENERAL REVENUE SHARING

Mr. HRUSKA. Mr. President, I am pleased to be a cosponsor of S. 11 to extend the State and Local Fiscal Assistance Act of 1972, commonly referred to as general revenue sharing.

I have strongly supported general revenue sharing since the program was created pursuant to congressional enactment of Public Law 92–512.

From its inception I have considered revenue sharing a bold and useful experiment which merited support and should be tried. Now that this legislation has been in operation for several years, I have the general impression that, despite some early difficulties and certain shortcomings, revenue sharing has been working well.

I strongly favor the concept of sharing Federal revenues with State, county, and municipal governments to assist them in funding needed and worthwhile projects, to help ease the financial burden on local taxpayers caused by these projects, and to permit local officials to expend the funds allotted them under the program when and where they deem best.

In his state of the Union message the President made a strong appeal for renewal of the revenue sharing program.

I know there is much local support for revenue sharing throughout the country. I have heard from many Nebraska communities favorable to the program. Most recently I received communications from such widely representative sources in Nebraska as the Nebraska association of county officials, the board of Holt County supervisors, the office of the mayor of Omaha, and the village board of Greenwood. All of these Nebraska citizens and local officials praised the benefits they had seen in their own communities from revenue sharing and all of them urged me to vote to continue the program beyond its expiration date in 1977.

I realize that some Government officials and special interest groups have criticized certain aspects of the program. I have heard remarks from Nebraska officials about problems they have encountered in administering shared revenues.

I have reviewed the report of the Advisory Commission on Intergovernmental Relations and I agree with much of its evaluation of general revenue sharing. There may be a genuine need to reassess the entire Federal program, as its critics have urged.

S. 11 contains many provisions which point toward improving the operation of the program and suggests solutions for the problems which some local officials in Nebraska and elsewhere have encountered. For instance, I favor eliminating unnecessary and burdensome restrictions on the purposes for which revenue sharing funds may be used by local governments. And I believe that the proposal for permanent automatic funding, tied to Federal adjusted gross income, merits serious consideration.

Accordingly, I support S. 11 as a sound basis for careful review and reevaluation of general and special revenue sharing, and I look forward to the hearings which the Senate Committee on Government Operations will soon hold on this important program.

No one can foresee the outcome of the months of extensive hearings and deliberations which lie ahead. We can expect sharp debate over the recommendations which will come out of the hearings. But a beginning must be made, and S. 11 provides a good starting point for reexamining revenue sharing.

Senators Baker, Beall, Brock, Domenici, Hansen, Packwood, Percy, and Hugh Scott have rendered a valuable service to the Senate in preparing and introducing this legislation at the start of the 94th Congress.

JAMES A. SNEED, FORMER DIRECTOR, CHARLESTON VA HOSPITAL.

Mr. THURMOND. Mr. President, on December 26, 1974, James A. Sneed, the Director of the Charleston Veterans Administration Hospital, died unexpectedly of a heart attack. Mr. Sneed was on a hunting expedition with a number of friends and VA employees.

Mr. Sneed was an outstanding hospital administrator. His loss will be keenly felt in South Carolina and in the Veterans Administration. As Director of the Charleston VA Hospital, he touched many lives and he helped many people. He was a devoted public servant.

Mr. Sneed was personally interested in the welfare of all the patients at the Charleston Hospital. In contacts with my office, he was always pleasant and helpful in working out problems which had been brought to my attention. Jim Sneed served the veterans of South Carolina and the Nation well.

Mr. President, I want to extend my heartfelt sympathy to his wife and his family. The community, the State, and the VA will miss him.

Mr. President, I ask unanimous consent that a news account from the News and Courier of Charleston, S.C., which details the life of James A. Sneed, be printed in the Record at the conclusion of my remarks.

There being no objection, the news account was ordered to be printed in the Record, as follows:

Hospital Director, James Sneed, Dies

James A. Sneed, director of the Charleston Veterans Administration Hospital, died Thursday of a heart attack while on a deer hunting expedition.

The funeral will be 2 p.m. Saturday at the graveside in U.S. National Cemetery, Beaufort, directed by Stuhr's.

Mr. Sneed was born June 6, 1921 at Barn, W. Va., a son of James L. Sneed and Mrs. Rebecca Foley Sneed. He attended Beckley and Marshall colleges in West Virginia. He served four and a half years with the Army in the American, Panama Canal zone and Pacific Theaters during World War II.

Mr. Sneed's Veterans Administration assignments began in 1946 as a personnel assistant in Huntington, W. Va. He progressed in positions in increasing responsibility at hospitals in New York, Georgia, Florida and Michigan until his assignment as assistant director at the Charleston hospital from February 1966 to March 1969. He then served as assistant director at Oklahoma City, Oklahoma and Albany, New York VA hospitals until he became director of Newington, Conn., hospital in May 1972. He returned to the Charleston hospital as director in October 1973.

He was a member of the Association of Military Surgeons of the U.S., Federal Hospital Institute Alumni Association; Kiwanis; First (Scots) Presbyterian Church, and **Nominee in American** College of Hospital Administrators.

Surviving, in addition to his widow, Mrs. Janet Sneed, are two sons, Charles Sneed of Memphis, Tenn., and James Sneed of Washington, D.C.; a daughter, Miss Susan Lee of Charleston; a brother, Kermit E. Sneed of Charleston, W. Va.; two sisters, Mrs. Earl Perfinger of Florida and Mrs. Marvin Sipple of Hurricane, W. Va.

NATIONAL MARCH FOR FULL EMPLOYMENT

Mr. HUMPHREY. Mr. President, yesterday Representative Augustus Hawkins and I cohosted a breakfast for nearly 100 Members of the House and Senate. We held this breakfast meeting in conjunction with Delegate Fauntroy and the Reverend Jesse Jackson who are leading the "National March for Full Employment."

Our purpose was to demonstrate the concern of Congress for this crisis among the blacks in America and to offer a concrete proposal to get all Americans back to work. That proposal, which I have introduced in the Senate as S. 50, "The Equal Opportunity and Full Employment Act," would for the first time guarantee a job to every American who is able and willing to work.

In my remarks at this breakfast, I noted that we must shift the battlefield for equal opportunity from the courts to the marketplace. Economic justice must now be the major goal of a civil rights movement for the 1970's and beyond.

The centerpiece in our program for economic justice must be a job guarantee measure similar to the bill I have introduced..

Mr. President, I ask unanimous consent that the text of my remarks at the congressional breakfast for full employment be printed in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks by Senator Hubert Humphrey at Congressional Breakfast for Full Employment

I am delighted that so many Members of Congress are able to join us this morning. We are here for one reason—to demonstrate our concern over the economic crisis among blacks in America and our determination to do something about it.

We have made progress in the last decade in our efforts to promote human rights and equal justice for all Americans. In fact, we can take pride in having "beaten the odds" and moved ahead as fast as we have.

But I reject the proposition that two centuries of racial injustice have somehow vanished from the land.

Let's not kid ourselves or permit anyone to deceive us. We have miles to go before we even approach our dreams.

America still has an unfinished agenda of human rights. And at the top of this agenda is the right to a meaningful life free from poverty and hunger.

We must shift the battlefield for equal opportunity in America from the courts to the marketplace. Economic justice must now be the major goal of a civil rights movement for the 1970's and beyond.

And this must be a civil rights movement for all Americans. Poverty knows no racial bounds. Whether, white, black, brown or red, the children of urban slums and rural blight have a right to escape the poverty which every day, every week, every month and every passing year will deprive them of their basic civil rights: The right to develop to their full potential and the right to share in the abundance of America.

We now must identify the struggle for civil rights as an all-embracing struggle for the rights and privileges and duties of all Americans. We need allies and friends.

We must create a climate of shared interests between the needs, the hopes and the fears of the minorities and the needs, the hopes and fears of the majority.

This is the challenge to every one of us who would claim a share in the leadership of our people.

Today we are entering a period of economic hardship which has not been equalled since the days of the soup kitchens and the boarded-up banks of the Great Depression.

Yes, my friends, despite statements to the contrary, we are entering a recession which will bring us many tragic reminders of the 1930's. And let us remember that a recession for white America is depression for black America.

Just look at the figures:

Unemployment for black adults now is nearly 13 per cent, compared to 7.1 per cent for whites.

In the last year unemployment among black men and women has increased by 50 per cent to reach a tragic total of 1.3 million people.

And joblessness among black teenagers has reached the socially disastrous rate of 38 per cent.

These are the so-called "official" figures. But they don't measure the true economic costs or the full human costs of this recession—the broken homes, the lost educational opportunities, the hunger, the lost dreams, the pain of it all.

These official rates don't even count the millions of men and women who have, in frustration, given up looking for jobs, or those who have been forced to accept a part-time job because full-time work just wasn't available.

The struggle for economic justice always is tough, even when times are good. But when times are bad we must make special efforts.

The recession-creating policies of the Administrations since 1969 threaten all of the progress toward economic justice that we have made in two decades. And, we cannot stand by and watch the gains of the 60's go down the drain in the "Great Recession" of the 70's.

Unless we act soon, millions of poor blacks and poor whites will suffer even more poverty. These people will spend the rest of the decade trying to recover what they may lose in the coming months of recession.

I am not here to give you a dissertation on economics. But I want to tell you that the federal government can take action which will begin to turn the tide against recession in three important areas: taxes, the future of our cities and, most importantly, jobs.

First, we must enact a program of tax relief which will put money in people's pockets so they can spend it and get the economy moving again.

I have proposed a $21 billion tax cut aimed primarily at helping low and middle income families. They are the ones that really need help. This measure would reduce taxes by 61 per cent for those earning under $5,000, by 32 per cent for those making $5,000 to $10,000, and 20 per cent for all those making $10,000 to $15,000

There are many proposals for tax reductions being discussed these days. All of them are complex, and while prompt action is needed, wisdom demands very careful examination and deliberation.

An effective tax relief bill must meet three tests.

First, it must assure more equitable treatment of those in the lower and middle tax brackets.

Second, it should maintain the tax system's revenue-generating ability.

And third, it must be designed to be quickly implemented to provide the stimulus for economic growth.

The time has come for the government to recognize that its cities are becoming the shame of a great nation. Many are becoming empty shells where the poor live and the rich and middle class work and then leave. The vast treasure in American banks now flows to the suburbs, the speculative land developers, the multinational corporations and to finance the conglomerate mergers.

We need resources in our cities—not only to build skyscrapers, but to construct low cost housing. Not only to build giant convention halls, but to improve our schools and hospitals. Not only to build expressways, but to pave and clean our streets and provide efficient transportation systems.

If the private banks won't help our cities, then the Congress must establish a National Domestic Development Bank that will. Such a public bank would provide long-term, low-interest loans to stimulate economic development.

Third, and most important, we must launch a genuine full employment and equal opportunity program that will guarantee a job at decent wages to every American who is able and willing to work.

This is not a pipe dream. A nation which spends $100 billion each year in its military budget can give every American a good job. The government must become the employer of last resort. Congressman Hawkins and I have introduced the Equal Opportunity and Full Employment Act, to wipe out unemployment in this nation and to make the vague ideal of the "right to a job" a reality in our people's lives.

We need to get America back to work.

Congressman Hawkins will explain exactly how our proposal would work. I urge all of you to give it your fullest possible support.

If we do not act to turn the economic tide, our nation and each of us must accept the consequences of its inaction.

We must accept the possibility of continued decay and despair in our cities.

And we also must accept the responsibility for having created a new generation of frustrated and angered Americans who never will believe that economic justice can be achieved in their country and in their lifetime.

With your commitment and leadership we can begin today a renewed march toward economic justice for all our citizens.

We must again lock arms, in the spirit of that great American whose birthday we celebrate today and whose loss our nation mourns. We must quicken the pace in our march toward that "promised land" of opportunity and justice, and fulfill the dreams which Martin Luther King, Jr. had for America.

VETERANS LEGISLATION IN THE 93D CONGRESS

Mr. THURMOND. Mr. President, the 93d Congress passed major legislation to aid America's veterans. In each instance, the legislative product was the result of a bipartisan effort in the Veterans' Affairs Committee and in the Senate.

A recent editorial in the Stars and Stripes-the National Tribune addressed itself to the bipartisan relationship which we enjoy on the Senate Veterans' Affairs Committee. Much credit should go to the chairman, Senator HARTKE, for the good working relationship on the committee. Equally influential in assuring a bipartisan committee is the distinguished ranking minority leader, Senator HANSEN. I commend both men for their leadership in the 93d Congress and look forward to working with them in the 94th Congress.

Mr. President, I ask unanimous consent that the editorital, "Nonpartisan Care for Veterans" and a news release from the Veterans' Affairs Committee, detailing the major legislative accomplishments of the 93d Congress, be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. THURMOND. Mr. President, since the release of the Veterans' Affairs Committee newsletter, it should be noted that President Ford has signed into law the Veterans and Survivors Pension Adjustment Act of 1974—Public Law 93–527—the Veterans and Servicemen's Automobile Adaptive Equipment Amendments of 1974—Public Law 93–538—and the Veterans Housing Act of 1974—Public Law 93–569.

Mr. President, generally, the veterans benefits program fared well in the last Congress. Additional improvements, however, will be in order in this Congress. I am confident the 94th Congress will continue to give priority attention to the needs of our veterans.

EXHIBIT 1

[From the Stars and Stripes-the National Tribune, Dec. 19, 1974]

NON-PARTISAN CARE FOR VETERANS

A not uncommon thing happened in the Senate last week.

A veterans housing bill, reported to the floor with the unanimous backing of the Veterans Affairs Committee, swept to overwhelming passage.

What is ordinary is that the housing bill, as every other bill, had the full support of every member of the Veterans Affairs Committee. And just so everyone might understand the import of that, it is worth noting that the political spectrum on that Committee stretches from the right to the left, from Senators Hansen and Thurmond of the Republicans to Senators Cranston and Hughes of the Democrats.

Bringing consensus to this disparate group is the Committee chairman, Vance Hartke, a Democrat with a liberal voting record. But it has been the Senator's leadership through compromise, through reconciliation, that has enabled the Committee to bring unanimous support to all of its legislative doings.

We take our hat off to Senator Hartke. We feel that the essence of political leadership is to make compromise where it is necessary in order to reach objectives.

Senator Hartke's record of leadership at the end of this Congress remains unblemished. No other Committee of the Congress can boast that all of the measures it has sent to the floor have been done with the unanimous backing of all its members.

The veterans of the nation can be grateful to Senate Hartke, and I know they are. We might only wish that this same kind of consensus were possible in the House Committee. It would make things work easier.

[From the Veterans' Affairs Committee News Release, Dec. 20, 1974]

HARTKE REVIEWS 1974 VETERANS' LEGISLATION PASSED BY CONGRESS

Senator Vance Hartke (D.-Ind.), Chairman of the Senate Committee on Veterans' Affairs, today said that 1974 should be regarded as "one of the most productive years ever for legislation designed to aid veterans and their families." In a year-end review of the Committee's activities, Hartke noted that hearings by his Committee this year totaled over 5,000 pages of testimony which produced 6 major pieces of legislation enacted into law and four other major measures which were on the President's desk as the second session of the 93d Congress drew to a close.

Among the major legislation to aid America's 29 million veterans, enacted or awaiting Presidential action, were the following:

The Veterans Insurance Act of 1974 (Public Law 93–289), which increased the maximum coverage of low-cost Servicemen's Group Life Insurance (SGLI) term insurance to $20,000 and extended coverage on a full-time basis on reservists and national guardsmen. The act also authorizes a new $20,000 term policy known as "Veterans Group Life Insurance (VGLI) to provide low-cost protection to veterans for an additional five years after leaving the service to aid in their readjustment when expenses are often high and income low. Finally the act provides for dividends to be paid on veterans special life insurance in effect for Korean war veterans.

Veterans Disability Compensation and Survivor Benefits Act of 1974 (Public Law 93–295) which provides that service-connected disabled veterans with a disability rating of 50 percent or less receive a 15 percent increase in compensation benefits. Those veterans with more serious disability ratings of 60 to 100 percent received an 18 percent boost. In addition to the 2.2 million disabled veterans affected by these increases, about 375,000 widows of men killed in action received a 17 percent increase in their survivor benefits under this act.

Two-Year Extension of Educational Entitlement (Public Law 93–337) provides that veterans will now have ten years (instead of eight years) within which to utilize their educational benefits under the GI Bill.

Vietnam Era Veterans Readjustment Assistance Act of 1974 (Public Law 93–508) enacted into law over the President's veto, this comprehensive $800 million measure contains 35 major provisions to improve educational and employment opportunities for over 7 milion Vietnam era veterans. Included in the provisions are a 22.7 percent increase in the basic monthly educational assistance allowance (old/new rates: single vet—$220 to $270; married vet—$261 to $321; two dependents—$298 to $366). The new GI Bill also provides for direct low-interest government educational loans for veterans of up to $600 a year. Veterans are also eligible to receive an additional school year of eligibility to complete an undergraduate degree. Amendments are also provided for additional safeguards to protect veterans from abuses by certain vocational and correspondence schools. Other provisions of the act provide for additional aid for educationally disadvantaged veterans such as tutorial services and up to 6 months of refresher training for veterans to update knowledge and skills in light of technological advances. The veteran work-study program is expanded and increased. Statutory authority is given to permanently established veteran representatives on campuses to reduce redtape delays in receiving benefits. In addition to increased allowances for on-job training and apprenticeship training, the act also provides for increased job assistance to unemployed vets and require all federal contractors to take affirmative action to employ and advance in employment qualified disabled and Vietnam era veterans.

Veterans and Survivors Pension Adjustment Act of 1974 (Awaiting Presidential action) provides for a 12 percent increase in rates and a $400 increase in annual income limitations for over 2.3 million veterans and their survivors; 12 percent increases are also provided for "old-law" pensioners and for the additional house-bound and aid-in-attendance allowances. The measure would provide nearly $300 million in additional benefits during the first full year. It would also provide for a study of the needs of veterans aged 72 or older to aid Congress in consideration of additional legislation next year.

Veterans and Servicemens Automobile Adaptive Equipment Amendments of 1974 (Awaiting Presidential Action) makes a number of improvements to the provisions authorizing automobile and adaptive equipment grants for certain service-connected seriously disabled veterans by providing for increased grants for the purchase of specially-equipped automobiles and by expending the benefits to certain persons not previously eligible and by improving the program with respect to adaptive equipment and the provision of driver training.

Veterans Housing Act of 1974 (Awaiting Presidential Action) makes a number of amendments to improve and expand the VA housing loan guarantee program. First, the measure would restore a veteran's loan entitlement if obligations on his original VA guaranteed loan are met. This means 29 million American veterans can more easily finance purchases of new housing in different cities and towns. The measure would provide a 40 percent increase in the maximum amount of government home loan guarantee and expand the authority of veterans to purchase condominiums with VA guaranteed loans. The mobile home loan program is made permanent and the maximum loan guarantee for single-wide mobile homes is increased from $10,000 to $12,500 and for double-wides from $15,000 to $20,000. Loan maturities are extended to 20 years for double-wide mobile homes. It also expands the number of financial institutions who can make so-called "automatic" loans without applications submitted to the VA for prior approval. This should speed the processing time for the majority of veteran loan applications. Finally the measure would increase the grant payable to severely disabled veterans who must have specially-adapted housing. The maximum grant for so-called "wheelchair" homes would be increased from $17,500 to $25,000.

Hartke concluded by saying that the legislation passed by Congress this year "clearly demonstrates that we intend to fulfill our obligation to those who served their country in the times of crisis."

HAS THE DEPARTMENT OF DEFENSE EXCEEDED CONGRESSIONAL AUTHORITY?

Mr. McINTYRE. Mr. President, I have been concerned for some time that certain practices of the Department of Defense in the management of defense contracts may be either in violation of the law or in violation of established reprograming procedures as agreed upon with the Congress.

Specifically, this involves either tacit or explicit authority by the Department of Defense for contractors who are developing major weapon systems to use their own funds to cover costs incurred during the current fiscal year when the amounts obligated by the Government in accordance with the programs authorized and appropriated by the Congress have been exhausted before the year is completed. This has been done in a number of instances and appears to be growing.

If this practice is continued and enlarged it will, in effect, be mortgaging the next year's budget. This is because the funds necessary to repay the contractor for the amounts he has laid out during the latter part of the current year will have to be repaid to him by the Government when the next year's appropriations become available. This would reduce the amount available in the budget year to undertake important new research and development work.

The full details of this problem have been incorporated in a letter dated January 6, 1975, addressed to the Secretary of Defense. The purpose of this letter is to require the Secretary of Defense to address a series of specific questions designed to disclose the full extent to which this practice is going on and to address the legal implications and the procedural implications of this practice. I believe this is a subject which is of great interest to other committees of the Congress because this has implications that may involve other Government departments as well as the Department of Defense.

I have also addressed a letter dated January 7, 1975, to the Comptroller General requesting his opinion regarding the legality of this practice. I ask unanimous consent to have both of these letters printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Armed Services,
Washington, D.C., January 6, 1975.

Hon. James R. Schlesinger,
Secretary of Defense,
Washington, D.C.

Dear Mr. Secretary: I understand that there are a significant number of major weapon system developments which have already encountered increases in cost this year beyond the amounts authorized and appropriated by the Congress. These include the Navy NATO PHM, the Air Force B–1, and the Army UTTAS and AAH programs, among others.

I am advised that in the case of most, if not all, of these specific programs, the Department of Defense either is tacitly or explicitly authorizing the various contractors involved to spend their own funds in excess of government contractual liability when government funds are exhausted, with the expectation that they will be reimbursed from funds anticipated to be provided by the Congress in the next fiscal year (1976).

This is not a new practice and at least in the B–1 program it has been done before. I do not condone this practice, and I am concerned that there may be legal objections because failure by the government to reimburse a contractor would still permit the contractor to seek repayment through claims procedures.

There is another issue involved which bears upon the legal authority of the Department of Defense to accept the incurrence of costs by a contractor which ultimately obligates the government to expend funds not authorized and appropriated by the Congress. This may have implications of Section 3679 violations.

I would appreciate your views on this matter including specific answers to the following questions:

1. What authority does the Department of Defense have for tacitly or explicitly authorizing the obligation of government funds in excess of amounts authorized and appropriated?

2. What are the Section 3679 implications?

3. What are the specific programs involved in this category during the current fiscal year, and what are the actual or estimated amounts expected to be obligated by each contractor for material or services used in

excess of those authorized by the Department of Defense under existing contracts?

I am also concerned that these practices may in effect circumvent established reprogramming procedures as agreed upon by the Department of Defense and the Congress.

The basic responsibilities and prerogatives of the Congress for authorizing and appropriating funds for the Department of Defense must be recognized as overriding all other considerations.

I would appreciate a reply by February 15, 1975.

Sincerely,
Thomas J. McIntyre,
Chairman, Subcommittee on Research and Development.

U.S. Senate,
Committee on Armed Forces,
Washington, D.C., January 7, 1975.

Hon. Elmer B. Staats,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

Dear Mr. Staats: Attached is a copy of a letter dated January 6, 1975, addressed to the Secretary of Defense, raising a series of questions concerned with the practices of the Department of Defense in tacitly or explicitly authorizing contractors to spend funds in excess of government contractual liability with the expectation that such funds will be reimbursed from subsequent year appropriations or, failing that, through claims procedures. The letter also addresses specific questions concerning the legality of present practices.

Request that your agency conduct a thorough review of the legal implications of this matter and advise this subcommittee of your findings and appropriate recommendations by February 15, 1975. This problem also should be considered by your staff and field offices who are currently involved in the review of all major weapon systems.

A copy of this letter is being sent to the Secretary of Defense so that he will be aware of your involvement.

Sincerely,
Thomas J. McIntyre,
Chairman, Subcommittee on Research and Development.

WILLIAM L. KINNEY EDITORIALS ON NATIONAL DEFENSE, INFLATION, AND ENERGY IN THE MARLBORO HERALD-ADVOCATE

Mr. THURMOND. Mr. President, William L. Kinney, Jr., editor of the Marlboro Herald-Advocate in Bennettsville, S.C., recently pointed out in two editorials some priority items which we will face in the 94th Congress.

I believe these two editorials deserve the attention of the Congress and the Nation.

In a December 26, 1974, editorial, Mr. Kinney wrote about the needs to control inflation and to achieve energy independence. In his January 2, 1975, column, he supported the maintenance of a strong national defense capability. His views on a strong defense should be emphasized, and I call particular attention to his stern warning.

Mr. Kinney wrote:

> Without such capability, there would quickly be no personal security, no future, no inflation, and no United States of America to worry about.

Mr. President, I commend Mr. Kinney and the Marlboro Herald-Advocate for taking a strong, no-nonsense position on these matters of national urgency. These two editorials are excellent material for us to digest before considering questions of fundamental importance to the Nation and the free world in the 94th Congress. I commend both editorials to the attention of my colleagues.

Mr. President, I ask unanimous consent that the two editorials entitled "Not Too Much" and "These Are Two 'Musts' ", be printed in the Record at the conclusion of my remarks.

There being no objection, the editorials were ordered to be printed in the Record, as follows:

Not Too Much

There are countless ways of presenting numbers to bolster a particular point of view. Sometimes those numbers, while completely accurate, can paint a dangerously distorted picture.

This is a thought to keep in mind when the new Congress reconvenes after the first of the year and budgetary requests come in for their turn at floor discussion and public debate.

Particularly is this true with reference to Defense Department spending to maintain adequate levels of national defense.

In the fiscal year ending June 30, 1975, estimates are that the military will spend $83.2 billion, as compared with 1969 spending of $78.7 billion.

But, in real buying power, as measured in 1969 dollars, current military spending is down by more than a third to some $50.4 billion.

There will be cutbacks in purchases of ships, planes, missiles, tanks and other arms.

Personnel will be reduced by some 44,000 uniformed men and women in the Air Force and the Navy.

Decisions will have to be made on whether to delay maintenance of ships, planes and other equipment in order to pay for the construction of new weapons and research and development of new weapons technology essential to future military strength.

At present, the two most critical new weapons systems being developed, the B–1 strategic bomber and the Trident nuclear-missile submarine, are going forward along with improvements in the third major leg of the nation's defense capability—the land-based Minuteman strategic missile system.

Air Force Secretary Dr. John L. McLucas (a former Marlboro Countian) has noted that all three of these weapons systems are vital to U.S. survival.

Speaking of the B–1, he has emphasized the increasing importance of bombers as a force capable of deterring attack in the face of growing Soviet strategic capabilities.

The point is that the bomber is controlled by a crew capable of following detailed and discriminating orders while in flight, including the all-important order to return to base. The B–1 will give the U.S. a flexibility of response not to be found in unmanned ballistic missiles and a variety of response well short of all-out nuclear war.

In the coming months, as efforts to cut federal expenditures mount, there will be great pressure to make those cuts in the defense budget in order to maintain various domestic spending programs.

Americans must remember that maintaining adequate defense capabilities has to remain the nation's first priority.

Without such capability, there would quickly be no personal security, no future, no inflation and no United States of America to worry about.

The present defense budget only amounts to 5.8 percent of the value of all the goods and services the U.S. produces, and this is a drop from 8.8 percent less than 5 years ago. This may not be enough to safeguard tomorrow—it certainly is not too much.

These Two Are "Musts"

There is much to indicate that President Ford may have an unprecedented opportunity to establish an atmosphere and gain passage of legislation which will, in time, set the nation on a course away from the rocks of inflationary disaster.

In the past couple of years, there is some evidence that more understanding of the economics of the American enterprise system has been pounded into the heads of more members of Congress and the general public than at any other time in many years.

The dislocations of wage and price controls under the Nixon Administration demonstrated how prices set too low could dry up supply, bankrupt companies, disrupt international trade and, by causing scarcities, actually increase inflationary pressures.

It became apparent that no regulatory agency could possibly control the prices of products, services or labor with either the accuracy or the necessary quickness of response that is characteristic of the free market and essential to the proper functioning of the U.S. economy.

Most people have come to accept the fact that excessive federal deficits mean inflation and destruction of money values.

More people feel this is just not worth the benefits that federal budget deficits might buy for a time—as, for example, expansion of "free" health services, low-cost housing, unemployment payments and myriad other things.

Gradually, it seems there is more understanding of the fact that individual security cannot, in the long run, be purchased with billions of borrowed dollars. More people see that the nation must produce before it can consume.

And this may well have a most beneficial effect on attitudes toward work itself and toward quality, as well as quantity, of production. There may be a decline, and certainly there must be a decline, in the tendency among legislative bodies and governmental leaders to make what amounts to long-run economic decisions for short-run political expediency.

There is little point, for example, in raising social security benefits if the schedule of increases already established to take effect in years to come, is beyond the capacity of the system to pay.

The determination to shun what looks like the easy way out, very likely will be tested in coming months if inflation does not noticeably slacken.

In such a case, the pressure for another round of wage and price controls will be extreme, even though history and recent experience have repeatedly demonstrated that such attempts are not only futile but highly destructive of any efforts to successfully restrain inflation in a situation as the United States faces today.

Overregulation of the economy. A search for 'full' employment. Rigidities of institutions—government, business, labor. Environmental controls 'at any price'."

He calls for a cut in federal spending and long-term fiscal policy aimed at budget surpluses of one to two percent.

He says the U.S. has probably passed legislation to achieve national goals that are already beyond what we can afford in such areas as environmental protection and social services.

It will take a new level of political honesty to point this out to the American people. If the goals set are too high, the choice must be made to either cut back or increase productivity to meet them.

The capital gains tax should be lowered to encourage investment. Also, deductions of capital losses for income tax purposes should be increased. Above all, there should be no general tax cut, no economic planning agency and no wage and price controls.

Grayson's recommendations make eminently good sense.

A number of them are included in President Ford's inflation-fighting program.

Others should be.

It is important to remember that a fiscal, financial and monetary disease that has been developing for a generation cannot be cured overnight.

That it must be cured, there is no doubt.

It must be kept in mind that, as Thomas Paine once said, "Those who expect to reap the blessing of freedom must undergo the fatigue of supporting it."

Before us lie two top priority national objectives: (1) To control inflation and (2) To achieve a reasonable degree of energy independence for the United States.

Both will require an unprecedented measure of determination to succeed on the part of the American people.

C. Jackson Grayson, Jr., with a wealth of academic, as well as practical, experience behind him, offers solutions in an article from Nation's Business magazine, entitled "Beating Inflation Without Controls."

Grayson is dean of the business school at Southern Methodist University and was chairman of the federal government's unlamented and now extinct Price Commission from November, 1971, to January, 1973.

He believes that the U.S. must break the habit of hesitancy.

Politicians, fearing public reaction, have hesitated to impose effective deflationary action, yet such determination is required because it is the only thing that will break the inflationary expectations that have ruled governmental, as well as citizen, thinking for 30 years.

Grayson speaks of the need to attack inflationary biases that have "... crept into our economy over the years.

"These include: Overexpectations and overspending. Underproductivity. Reduction of competition. Overemphasis on demand, and not on supply.

FINANCIAL STATEMENT FOR 1974 OF SENATOR JAMES B. ALLEN

Mr. **ALLEN**. Mr. President, prior to coming to the U.S. Senate on January 3, 1969, I publicly stated that I would, each year during my service in the Senate file a statement of my financial condition with the Secretary of the U.S. Senate, the secretary of state of the State of Alabama, and the probate judge of Etowah County—my home county—Alabama.

I have pursued this policy and have filed statements of my financial condition at the end of 1968, 1969, 1970, 1971, 1972, and 1973. In addition to such filings, I have placed in the CONGRESSIONAL RECORD copies of my 1968, 1969, 1970, 1971, 1972, and 1973 statements. I ask unanimous consent that my 1974 statement be printed in the RECORD. The statement sets forth my reasons for making these statements public.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[District of Columbia, city of Washington]

FINANCIAL STATEMENT

I, James B. Allen, Gadsden, Alabama, do hereby certify that the following is a true and correct statement of my financial condition as of December 31, 1974.

ASSETS

Home at 1321 Bellevue Drive, Gadsden, Alabama—cost 1959	$32,500.00
Furniture, furnishings, books	$5,000.00
Automobile	2,500.00
State of Alabama; City of Huntsville, Ala. bonds (latest brokers' bid)	23,500.00
U. S. Savings bonds, at cost	600.00
Residence at 7405 Hallcrest Dr., McLean, Va.—1970 cost	47,700.00
Bank Accounts—exact	1,947.00
Payments into Civil Service Retirement account—exact	20,019.12
Life insurance surrender value (all but $2,000 in term)	200.00
Total	133,966.97

LIABILITIES

Indebtedness on residence at 7405 Hallcrest Dr., McLean, Va. to First State Bank of Altoona, Alabama and Exchange Bank of Attalla, Alabama, monthly payment loan—exact	37,208.20
Note—First State Bank of Altoona, Alabama	18,000.00
Total	55,208.20
Net Worth	78,758.77

I am not an officer, director, stockholder, employee or attorney for any person, firm, company or corporation, nor am I a member of any law firm, nor am I engaged in the practice of law in any form.

My income is limited to my Senate salary and interest on U. S., State of Alabama and municipal bonds listed above. During 1974, I received no honoraria or non-official expense payments or reimbursements of any sort. I have never during my service in the Senate or at any time prior thereto, accepted any such honoraria or non-official expense payments or reimbursements of any sort, nor did I have during such year a committee or person designated to receive contributions, political or otherwise, except the single campaign committee conducting my campaign for the U. S. Senate in 1974. Such campaign committee received no contributions during such year subsequent to May 31, 1974.

This statement is made pursuant to a declared policy of filing annually with the Secretary of the U.S. Senate, the Secretary of State of the State of Alabama, the Probate Judge of Etowah County, Alabama (my home county), a statement of my assets and liabilities, and income. A similar statement will be filed each year during my service in the Senate, this being the seventh such annual statement I have filed since coming to the Senate in January 1969.

The purpose of this statement is two-fold:

1. To show the absence of any conflict of interest between my ownership of assets and my service in the Senate in the public interest.

2. To keep the public advised as to my financial status, and to disclose the extent to which I have benefited financially during my public service.

I believe the public is entitled to this information from me as a United States Senator in the discharge of this public trust.

Recapitulation of past year's net worth:

End of 1968, as I came to the Senate	$92,984.81
End of 1969	87,750.00
End of 1970	87,243.34
End of 1971	85,939.09
End of 1972	85,265.70
End of 1973	79,443.92
End of 1974	78,758.77

This 13th day of January, 1975.

JAMES B. ALLEN.

Sworn to and subscribed before me on this 13th day of January, 1975.

DAVID G. STEVENSON,
Notary Public.

RETIREMENT OF LEWIS D. BARTON AS DIRECTOR OF THE VETERANS EMPLOYMENT SERVICE

Mr. **THURMOND**. Mr. President, on December 31, 1974, the Department of Labor lost one of its outstanding employees when Lewis D. Barton, Director of the Veterans Employment Service of the Manpower Administration, retired.

Mr. Barton had been in charge of the national program of job counseling, placement, and training for veterans, and had coordinated the efforts of over 200 employees in their work with the U.S. Employment Service. Veterans across the Nation owe Lew Barton an outstanding debt of gratitude for the many years of valuable service which he rendered to our Nation's veterans.

He began his Government service in 1934 with the National Reemployment Service, and took on increasingly important responsibilities through the years. This outstanding public servant has left a great legacy for his fellow employees in the Federal service—an unselfish devotion to duty.

I want to take this opportunity to wish Lew a happy retirement, and I know that many of my colleagues who know him personally, join with me in wishing him good health and success in all future endeavors.

APPELLATE REVIEW OF SENTENCING

Mr. **HRUSKA**. Mr. President, the United States is one of the few nations that does not afford the defendant the opportunity to appeal his sentence. Every aspect of a criminal trial can be appealed to a higher authority except the sentence imposed on the defendant. As a result, our criminal justice system has been belabored with unwarranted disparities in sentencing; as well as instances of unduly harsh and unfair treatment.

Hearings conducted by the Subcommittee on Criminal Laws during the second session of the 93d Congress have documented this disparity. One study undertaken by the Second Circuit released in September 1974, and reprinted in the hearings of the subcommittee, provides dramatic evidence that a convicted criminal gets a stiff prison term or leniency depending on the luck of the draw among sentencing judges. For example, in one experiment involving more than 50 Federal judges, a 40-year-old cab driver who pleaded guilty to one heroin sale and had seven prior convictions would have been jailed for 10 years by one judge, while another judge, viewing the same man with the same record would impose a 1-year sentence.

Equity in our system of justice cannot be based on the luck of the draw. During the last session of Congress I introduced S. 716 which would establish a statutory system for appellate review of sentencing. This legislation is identical to S. 2228 and S. 1501, which I introduced respectively in the 92d and 91st Congress, and S. 1540 which was passed unanimously by the Senate in the 90th Congress.

During the 93d Congress, the Subcommittee on Criminal Laws circulated a committee print of a bill embodying a proposed Federal Criminal Code. This bill, S. 1, as amended, provides for appellate reviewing of sentencing. It is my hope that the Committee on the Judiciary will process this bill early this year so that the full Senate will have the opportunity to pass a very needed Federal Criminal Code this session.

In anticipation that the issue of appellate review of sentencing will be faced in this Congress, because of the pending code revision and the work of the National Commission on the Revision of the Federal Appellate System, I commend to my colleagues the reading of an article recently published in the Nebraska Law Review. The article, "In Search of a Rational Sentence: A Return to the Concept of Appellate Review," is authored by Robert J. Kutak and J. Michael Gottschalk.

Mr. President, I find this article to be an excellent analysis of the concept of appellate review. Briefly, it traces the origins of the doctrine that appellate courts have no authority to review sentences, describes how the courts have worked around that doctrine in recent years, discusses legislative proposals, and examines the arguments both for and against appellate review. The conclusion of the authors is embodied in the title of their article—the search for a rational sentence requires a legislative embodiment of the concept of appellate review.

Mr. President, I ask unanimous consent that this article be printed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HRUSKA. Mr. President, for several years, Mr. Robert Kutak served as my administrative assistant. In that capacity he was of great assistance in researching, drafting, and securing passage of the Criminal Justice Act and other bills dealing with criminal law and corrections. More recently, Mr. Kutak has been extremely helpful in the drafting of the Juvenile Justice and Delinquency Prevention Act of 1974 provisions which deal with corrections and the creation of the National Institute of Corrections. In addition, Mr. Kutak served as a member of the Presidential Commission on Standards and Goals. He is a member of the American Bar Association and serves as chairman of the Section on Individual Rights and Responsibilities. He also serves as chairman of a Special Committee on Judicial Improvements. He is widely recognized for his competence in this entire field. He is to be commended for his contributions. J. Michael Gottschalk, coauthor of the article, received his law degree at University of Nebraska College of Law. He is in general practice in Omaha.

EXHIBIT 1

IN SEARCH OF A RATIONAL SENTENCE: A RETURN TO THE CONCEPT OF APPELLATE REVIEW

(By Robert J. Kutak* and J. Michael Gottschalk**)

I. INTRODUCTION

At one time, federal circuit courts routinely reviewed the propriety of criminal sentences. Since approximately the turn of this century, however, it has been axiomatic that criminal sentences are beyond the scope of appellate review. By 1930, the principle that appellate courts have no control over a sentence which is within statutory limits was referred to as the "one rule in the federal criminal practice which is firmly established . . ."[1] Thus, in a relatively short period, criminal sentences have become an anomaly. Of the myriad exercises of judicial discretion, the sentencing decision stands in virtual isolation[2] as the only area in which the trial judge truly has no one peering over his shoulder. It is the purpose of this article to examine the background, development and future of this doctrine.

An understanding of this unique phenomenon must begin with a review of its legislative and common law origins. Traditional applications of the doctrine by federal courts and more recent responses to the problems created by it are the next step toward a clarification of the present status of the principle of non-review. The recommendations of various public and legal committees which have addressed themselves to this issue, and thereby influenced its present posture, must also be examined. On at least two occasions, Congress has clearly established exceptions to the non-review doctrine. A review of those exceptions and of certain currently pending legislative proposals to eliminate the anomaly constitutes the remainder of this article.

II. ORIGIN AND DEVELOPMENT OF THE NON-REVIEW DOCTRINE

A. Appellate jurisdiction: Early judicial construction

In 1879, Congress granted to the circuit courts jurisdiction, upon writs of error, in all criminal cases in which imprisonment or a fine in excess of $300.00 was imposed (hereinafter "1879 Act").[3] The enactment conferring this jurisdiction also provided that "in case of an affirmance of the [conviction] . . . the circuit court shall proceed to pronounce final sentence and to award execution thereon."[4] This particular statutory language, however, was omitted from the 1891 act creating the courts of appeals (hereinafter "1891 Act"). Instead, Congress provided:

"[A]ll provisions of law now in force regulating the methods and system of review, through appeals or writs of error, shall regulate the methods and system of appeals and writs of error provided for in this act in respect to the circuit courts of appeals in respect to the circuit courts of appeals. . . ."[5]

One "provision of law" in force at the time the courts of appeals were established had been adopted in 1872 (hereinafter "1872 Act"):

"The appellate court may affirm, modify, or reverse the judgment, decree, or order brought before it for review, or may direct such judgment, decree, or order to be rendered, or such further proceedings to be had by the inferior court as the justice of the case may require."[6]

The broad authority of the 1872 Act to examine and alter lower court decisions was not curtailed by the 1879 Act nor was it restricted by the 1891 Act. Indeed, it appears that the basic jurisdictional authority to modify judgments in civil cases, adopted in 1872, was expanded to include criminal sentences within the ambit of permissible review in 1879 and was transferred to the newly created courts of appeals by section 11 of the 1891 Act.

The most widely cited judicial interpretation[7] of the effect of the variation in phraseology between the 1879 Act and the 1891 Act is *Freeman v. United States*.[8] This decision arose from the appeal of a conviction for fraudulent use of the mails. After affirming the conviction, the court cited two earlier decisions in which a request for sentence modification, similar to that made by Freeman, had been granted. These cases were distinguished with the following comment:

"[T]hose rulings were made in view of the peculiar lanugage of the third section of the act of March 3, 1879 . . . .

"There is no such provision in the act creating the Circuit Court of Appeals. Those courts are given only appellate jurisdiction to review, by appeal or by writ of error, final decision in the District Court.

"We find no error. The judgment is affirmed.[9]"

In the *Freeman* opinion, the court did not refer in any way either to the language of section 11 of the 1891 Act or to the broad authority to modify lower court decisions contained in the 1879 Act.

Jackson v. United States[10] is another decision thought by some commentators to interpret the 1891 grant of authority[11] as precluding appellate sentence modification. Jackson was convicted of assaulting several vigilantes intent upon bringing him to justice. A sentence of "ten years at hard labor" was imposed and the plaintiff asserted that this sentence was excessive.

The court considered the legality of a sentence "at hard labor" and, after concluding that such a qualification upon a sentence to confinement was unauthorized, made the following observation:

"The courts are not entirely uniform as to the particular manner in which the correction in the sentence should be made,—whether by the court that imposes the sentence, or by the appellate court. The difference in this respect, however, seems to depend upon the particular way in which the question is raised—whether by habeas corpus or by writ of error; but all the authorities agree that the defendant is not entitled to a new trial, and that the error can be corrected by striking out the illegal part of the sentence.[12]"

Accordingly, the conviction and the confinement portions of the sentence were affirmed and the qualification of "at hard labor" was stricken.

This decision is obviously focused upon the question of an illegal, rather than an excessive, sentence. The court appears to reject the "at hard labor" proviso not because it is inappropriate under the circumstances, but rather because it is beyond the range of punishments permitted by the applicable statute.[13] Thus, what is relied upon as a primary authority for the non-review doctrine is, in fact, a case in which the sentence imposed was simply beyond the court's statutory authority.

In the *Jackson* opinion, however, the court alluded briefly to the question of a "legal," but allegedly "excessive," sentence. The court noted that Jackson's punishment was not "so out of all proportion" to the offense for which he was convicted as to "shock public sentiment and violate the judgment of reasonable people."[14] The obvious implication of this statement is that if the sentence were "so out of all proportion" even the fact that it was within statutory limits, and therefore "legal," would not prohibit appellate modification. If the court believed its own suggestion that it lacked jurisdiction to alter any sentence which was within the statutory limits, the fact that a particular sentence "shocks the public sentiment" would be wholly irrelevant.

At the time the 1891 Act was adopted, in addition to the broad authority granted by the 1872 Act, another "provision . . . in force regulating the method . . . of review through appeal" was, of course, the explicit authority of the 1879 Act to "pronounce final sentence" when a conviction was affirmed. However, neither the "affirm, modify or reverse" language of the 1872 Act nor the "final sentence" language of the 1879 Act is expressly

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Footnotes at end of article.

repeated in the 1891 Act. The question of whether Congress intended by the "all . . . methods and system" language of section 11 of the 1891 Act to preserve the existing practice of appellate review of sentences arises, as the *Freeman* opinion notes, solely from this variation in phraseology.

Strong support for an affirmative answer to this inquiry is found in the report concerning the then proposed legislation submitted by the House Committee on the Judiciary in 1890. The Committee advised Congress that the 1891 Act "provides that the circuit courts of the United States shall exercise such jurisdictions . . . as they have and exercise under existing laws." [15] The report also states that the 1891 Act "destroys the 'judicial despotism' of the present system by creating an intermediate appellate court, with power to revise the final judgments of the district courts in all cases, civil and criminal, except . . . where the fine is not over $300 and does not involve imprisonment." [16]

Less than five years after its adoption, the 1891 Act was thoroughly examined by the Supreme Court. *Ballew v. United States* [17] arose from criminal convictions upon one count of wrongfully withholding a pension check and a second count of receiving a greater commission for obtaining the pension than was permitted by statute. The Court found error in the instructions upon the first count but affirmed the conviction upon the second count; it then turned its attention to the sentence which had been based upon convictions of both counts. After a scholarly discussion of the English precedent establishing that an appellate court had no common law authority to enter a proper judgment, the Court reviewed the English and American statutory authority for appellate review of sentences. The Court concluded that "[t]he statutes in reference to the power of Federal appellate tribunals have from the beginning dealt with the subject [of sentence modification]." [18] The general authority to "modify . . . the judgment . . . or direct such [further] judgment . . . as the justice of the case may require," [19] granted to appellate courts in 1872 (as well as to their predecessors) [20] was also noted. This analysis was followed by an examination of section 11 of the 1891 Act which prompted the Court to hold:

> "It thus conclusively appears that the authority of this court to reverse, and remand with directions to render such proper judgment as the case might require . . . was confessedly conferred by express statutory provisions, and that a like power was conferred upon the Circuit Courts of Appeals. . . ." [21]

Following this conclusion concerning its authority over judgments generally, the Court examined whether it could take the same "action as the ends of justice might require" in criminal cases arising upon a writ of error from the courts of appeals as it could in civil cases. Despite the apparent lack of express statutory authority, the Court nevertheless concluded that it did have such jurisdiction. The reason for this conclusion was that, since the 1891 Act conferred jurisdiction to hear criminal cases upon writs of error to the courts of appeals, Congress must have intended for the Supreme Court to exercise the same powers in deciding criminal cases that it had exercised for several years in deciding civil cases arising upon writs of error. In reference to the 1891 Act, the Court held:

> "[T]he entire history of the legislation . . . demonstrates that the general grant of power to render a proper judgment on writs of error was evidently not reiterated in express terms when new subjects [*sic*]—matter of jurisdiction [*i.e.*, criminal] were vested in this court, because such authority was deemed to be already adequately provided by the general statutes on the subject." [22]

The Court then found that "substantial justice requires . . . that the general judgment rendered by the court below should be reversed, and the cause be remanded to that court with instructions to enter judgment upon the second count. . . ." [23]

Approximately fifteen years before the *Freeman* decision, the United States Court of Appeals for the Second Circuit had also concluded that the 1891 Act authorized review of sentences. In *Hanley v. United States*,[24] several state court decisions were cited for the proposition that "where a wrong judgment pronounced . . . an appellate tribunal, in the absence of express statutory authority, cannot pronounce the appropriate judgment." [25] The court then quoted section 11 of the 1891 Act and held that "[t]he statutory authority conferred upon this court is abundantly sufficient to prevent a failure of justice through any such technicality." [26] This conclusion is reached by a determination that the "final sentence" authority granted by the Act of 1879 was among the "methods and system" in force at the time of the adoption of section 11. Finally, citing *Ballew*, the court held: "This legislation gives the Circuit Court of Appeals abundant authority to correct an error in the sentence without disturbing the conviction." [27] The sentence was reversed and the case remanded with instructions to the district court that a single sentence be imposed for all three counts upon which the defendant was convicted.

A third case supporting the conclusion that the non-review doctrine is mistaken is *Bryan v. United States*.[28] The Supreme Court began by noting: "The extent of the power of federal appellate courts to enter judgment when reversing and remanding cases in the lower federal courts has been defined by statutes from the assumption of our system of courts." [29] Explaining that the authority and practice of the courts of appeals had been "roughly parallel" to their own, the Court quoted that portion of section 10 of the 1891 Act which provided that upon reversal "the cause shall be remanded to the said district or circuit court for further proceedings to be there taken in pursuance of such determination." [30] In a footnote to this comment, Justice Minton noted that "[t]he succeeding section [*i.e.*, section 11] provided that existing methods of review should regulate the system of appeals and writs of error in the Circuit Courts of Appeals. . . ." [31] The Court cited *Ballew* as one of the cases holding section 11 equally applicable to the Supreme Court and courts of appeals. The history of sections 10 and 11, through their codifications as sections 876 and 877 of Title 28 of the United States Code and their merger into section 2106 of Title 28 of the United States Code (hereinafter "section 2106"), was also traced in the *Bryan* opinion. Finally, the Court reasoned that the issue was whether the court of appeals decision was "just and appropriate" within the scope of section 2106;[32] the Court answered this question in the affirmative.

A comprehensive analysis of the 1891 Act, as interpreted by *Ballew, Hanley* and *Bryan*, inevitably diminishes the significance and authority of both *Freeman* and *Jackson*. Although *Ballew, Hanley* and *Jackson* were decided before *Freeman*, none of them is cited therein. The *Freeman* conclusion that the 1891 Act contained no such provision as the "final sentence" authority in the 1879 Act contradicts both the applicable precedent and the language of the relevant statutes. Although *Freeman* is correct in observing the absence of the "final sentence" terminology from the 1891 Act, the legislative history of that statute and the holdings of both *Ballew* and *Hanley* compel the conclusion that the transition from circuit courts to courts of appeals did not in any way diminish the sentence reviewing authority of the intermediate federal appellate courts. Thus it appears that what is universally recognized as the basic authority for the development of the non-review doctrine is, in fact, dicta uttered without recognition of controlling contrary authority.

The *Jackson* decision is an even less persuasive authority for the non-review doctrine. Although *Ballew* fully analyzed the question of appellate authority to modify sentences, it is not cited in *Jackson*. While the *Jackson* decision is primarily focused upon devices for correction of an illegal sentence, the court's remark about sentences which "shock the public sentiment" strongly suggests the belief that jurisdictional authority was available to alter such sentences even though they might be within statutory limits. Thus, this familiar precedent for the non-review doctrine could easily be asserted as authority for the contrary position.

The observation that the 1891 Act itself does not include "final sentence" terminology similar to the 1879 Act is unassailable. The significance of that omission, however, can be accurately evaluated only by examining the substantive provisions and Congressional history of the 1891 Act. Section 11 of that Act, by its incorporation and continuation of methods of appeal inaugurated by the 1872 Act, empowered the newly created courts of appeals to "modify" judgments or "direct such judgment . . . or such further proceeding . . . as the justice of the case may require." In addition, there is no evidence to suggest that section 11 of the 1891 Act was not also intended to incorporate the "final sentence" language of the 1879 Act. Finally, the legislative history of the 1891 Act expressly states that Congress intended to continue appellate authority to revise sentences. Thus, the variation in phraseology which is the foundation of the non-review doctrine is devoid of any legal significance.

B. Supreme Court precedents: Emerging requirement of "individualized" sentences

A discussion of the non-review doctrine would not be satisfactorily concluded even by an unequivocal concession that the 1891 Act continued, rather than terminated, the statutory authority of federal appellate courts to review and modify criminal sentences. In addition to cases construing the 1891 Act, several other Supreme Court decisions have been cited as support for this legal anomaly; *Blockburger v. United States* [33] is certainly among the most prominent.[34] In that case, Blockburger was convicted on five counts of selling morphine and sentenced to the maximum period of confinement on each count. He asserted that the parcels alleged in two counts were sold simultaneously to a single buyer and therefore constituted a single offense. The opinion does not indicate whether the argument was raised that the sentence constituted an abuse of discretion. Rather, the only discussion of the sentence was compelled by Blockburger's attack upon the number of offenses for which he could properly be convicted. He argued that if the Court accepted his contention that he had committed only four offenses, rather than five, the combined maximum penalty should be reduced by the amount of the maximum penalty provided for one offense. In holding that each offense was separate and subject to a separate penalty, the Court noted that only Congress could direct a merger of separate acts into a single offense in the manner Blockburger requested. Apparently as an afterthought, the Court added:

> "[I]mposition of the full penalty of fine and imprisonment upon each count seems unduly severe; but there may have been other facts and circumstances before the trial court properly influencing the extent of punishment. In any event the matter was

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Footnotes at end of article.

one for that court, with whose judgment there is no warrant for interference on our part." [35]

Another multiple count narcotic conviction, and a request to re-examine *Blockburger*, confronted the Supreme Court in *Gore v. United States*.[36] Selling, repackaging and concealing narcotics were again held to be separate offenses, and the *Blockburger* holding that a separate sentence might be imposed for each offense, notwithstanding that all were committed at the same time and place, was expressly followed. The Court, in the last paragraph of its opinion, volunteered the thought that the *Gore* appeal was motivated by a desire to have the federal appellate courts "enter the domain of penology." [37] After citing the statutes authorizing Scottish and English courts of appeals to revise sentences, the opinion concluded that "[t]his court has no such power." [38] No authority was cited for this disclaimer, but it was apparently made in reference to the preceding sentence concerning revision of criminal punishment by appellate courts. Interestingly, each of the three dissenting opinions, like the majority opinion, was primarily directed to the question of whether multiple convictions for a single act will be permitted; none contained any reference to the question of jurisdiction to review the propriety of a criminal sentence.

Against this background of the legislative authority for appellate review of sentences and the judicial creation of the non-review doctrine, it is appropriate to examine briefly a recently developed sentencing standard which has opened at least the back door to appellate review. This standard, possibly better recognized as a sentencing concept, is that each criminal sentence should be "individualized." More particularly, it is now accepted that there must be some discernible relationship between the particular facts of each case and the sentence imposed.

The concept of an individualized sentence has provided the foundation for a growing number of appellate determinations to intervene in the basic sentencing judgment under the guise of examining the sentencing "process." The stated rationale is that a deficient "sentencing process," by itself, deprives the defendant of a sentence based upon the particular circumstances of his case. But, unless the trial judge is legally obligated to "tailor" his sentence to the particular facts of each case, the sentencing process, as well as the sentence itself, becomes, from the appellate perspective, inconsequential.

The most frequently cited source of the requirement for "individualized" sentences is the Supreme Court's decision in *Williams v. New York*.[39] In accordance with a state statute, the trial court had considered a probation report and several other extra-judicial sources in reaching its decision to impose a death sentence. Significantly, the judge disclosed all the facts which he had considered and the defendant did not request an opportunity to rebut or discredit the extra-judicial sources. In holding that due process does not render a sentence void because a judge considers out-of-court information, the Court made the following comment:

"Highly relevant—if not essential—to his selection of an appropriate sentence is the possession of the fullest information possible concerning the defendant's life and characteristics. And modern concepts individualizing punishment have made it all the more necessary that a sentencing judge not be denied an opportunity to obtain pertinent information . . .

"Undoubtedly the New York statutes emphasize a prevalent modern philosophy of modern penology that the punishment should fit the offender and not merely the crime. The belief no longer prevails that every offense in a like legal category calls for an identical punishment without ragard to the past life and habits of a particular offender." [40]

This language, or its progeny, has provided the primary foundation for the recent appellate review of sentences. Implementation of the individualized sentencing doctrine must, therefore, be recognized as the stated objective of all recent decisions analyzing the sentencing "process."

Perhaps the first unmistakable Supreme Court authority for evaluation of the sentencing "process" is *Townsend v. Burke*.[41] This appeal arose because the trial judge's remarks at a pre-sentence hearing had clearly indicated his belief that all arrests shown on the defendant's criminal record had resulted in convictions. In fact, the defendant had been tried and acquitted of two of the charges for which he had previously been arrested. The primary contention on appeal was the denial of appointed counsel represented a violation of due process.[42] Although it set the sentence aside and remanded the case for resentencing, the Court was obviously concerned about the non-review doctrine:

"We would make clear that we are not reaching this result because of the petitioner's allegation that his sentence was unduly severe. The sentence being within the limits set by the statute, its severity would not be grounds for release here even on direct review of the conviction, much less on review of the state court's denial of *habeas corpus*. It is not the duration or the severity of this sentence that renders it constitutionally invalid; it is the carelessness . . . of [a] sentence on a foundation so extensively and materially false . . . that renders the proceedings lacking in due process." [43]

Townsend is the apparent source and certainly the most widely recognized authority for the device of purportedly reviewing the sentencing "process" while expressly refusing to engage in any form of "substantive review of sentence imposed. *Townsend* creates the vehicle through which *Williams* is implemented. From the defendant's perspective, this is equivalent to a forthright review of the sentence itself. From the perspective of the courts, however, each decision to deal with an unacceptable sentence by examining the sentencing process entails a departure from the traditional desire to exercise judicial tact and to avoid unsatisfying controversy over insignificant procedural questions.

The first recent case in which the Supreme Court actually determined and imposed a criminal sentence appears to be *Yates* v. *United States*.[44] This case is notable because on three prior occasions the Supreme Court had ruled upon some facet of it. This fourth appeal contested the trial court's determination that Mrs. Yates had been guilty of eleven separate acts of contempt and the resulting imposition of eleven consecutive one year sentences. After determining that, in fact, only one contempt had occurred, and noting that sentence adjustments "normally ought not be made by this court" [45] the following rule was established:

"However, when in a situation like this the District Court appears *not to have exercised its discretion* . . . but, in effect, to have sought merely to justify the original sentence, this Court has no alternatives except to exercise its supervisory power over the administration of justice in the lower federal courts by setting aside the sentence of the District Court . . . .

"[T]his Court is of the view, exercising the judgment that we are now called upon to exercise, that the time that petitioner has already served in jail is an adequate punishment for her offense . . . and is to be deemed in satisfaction of the new sentence herein ordered formally to be imposed." [46]

The idea of utilizing this generalized supervisory authority to modify a criminal sentence has not gone unnoticed.[47] Despite attempts to distinguish it as limited to crimes for which no statutory penalty is provided, recent cases suggest the *Yates* decision has played a crucial role in the emerging appellate awareness of both responsibility and authority with regard to criminal sentences..

A more recent example of the internal inconsistency suggested in *Jackson* [48] may be found in *United States* v. *Tucker*.[49] The Supreme Court seized upon the *Townsend* rationale that the sentencing "process" was defective because prior invalid convictions were considered [50] and upheld a court of appeals decision to remand the case for resentencing. In reaching this result, however, the following observation was volunteered: "The Government is also on solid ground in asserting that a sentence imposed by a federal district judge, if within the statutory limits, is generally not subject to review." [51] The precedential value of this remark is diminished by both its obviously superfluous nature and its essential incompatibility with the result reached.

Thus, careful analysis of *Blockburger* and Gore raises serious doubt about the basic relevance of either decision to any discussion concerning appellate review of sentences. Both cases are directed to questions of statutory interpretation and the due process and double jeopardy validity of multiple convictions resulting from simultaneous violations of a single criminal statute. Conversely, *Townsend*, *Yates* and *Tucker* each set aside a criminal sentence imposed by a federal district judge. While there are significant differences in the rationale for the three latter decisions, each of them includes at least an implicit reference to the *Williams* requirement for "individualized" sentences and, on a pragmatic level, each results in the substantive appellate review of a criminal sentence. Collectively, these cases form the basis foundation for virtually all of the judicial examples of substantive sentence review.

C. Current circuit positions on "individualized" sentences

The development of the *Williams* mandate for individualized sentences has required the courts of appeals to resort to a wide variety of circumlocutions for avoiding the harsh realities of the non-review doctrine. In general, current decisions demonstrate increasing reliance upon various fictions to avoid the anomaly of non-review without encountering the difficulties inherent in either a comprehensive analysis of the origins of the non-review doctrine or a forthright rejection of it. One observer, in summarizing the cases which purport to examine the sentencing "process," concluded that "if manipulated by a well-intentioned and moderately artful court of appeals, [this precedent] is no bar to effective review of the severity of a sentence." [52]

A typical appellate reaction to the conflict between *Williams* and the non-review doctrine is the decision in *United States v. Wilson*.[53] In this case, the defendant claimed both an abuse of discretion and an inadvertent failure to utilize the special sentencing procedures available for youthful offenders. The following introductory remarks illustrate this court's very traditional conception of the non-review doctrine:

"It is normally not an appellate court's function to review sentences . . . . [W]e are committed to the view that our power in this regard is sharply curtailed. The statutory authority to review sentences exercised on appeal from 1789 to 1891, is thought to have been removed by implication when appellate jurisdiction was transferred from the federal circuit courts to the newly created courts of appeals. [Citing *Freeman*.] Thus, until the Supreme Court or the Congress restores our power, we cannot modify sentences even when we deem them unwarranted." [54]

Notwithstanding the professed belief that such activity is "not their function" and that

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Footnotes at end of article.

their statutory authority "is thought to have been removed," the court nevertheless vacated the sentence and remanded this case for resentencing. The stated justification for this resolution was an inability to determine, on the basis of an ambiguous record, whether the judge deliberately elected not to utilize the available special youth statute or simply overlooked it. The remand, however, was not attributed to the usual considerations of an individualized sentence,[55] a defective sentencing "process"[56] or the failure to exercise discretion.[57] Rather, the court atypically concluded that "[i]n the interests of justice, the District Judge should be afforded further opportunity to consider and reimpose sentence."[58] In view of both the result and the rationale, it seems highly unlikely that either Mr. Wilson or the judge who sentenced him will be convinced that the United States Court of Appeals for the Fourth Circuit "cannot modify sentences even when [they] deem them unwarranted."[59]

Another typical example of the piecemeal creation of vehicles through which appellate review may be accomplished is found in *United States v. Weston*.[60] The trial judge furnished a copy of the pre-sentence report to Weston's counsel who vigorously objected to its allegation that the defendant controlled a state-wide illegal drug wholesale business. In response to these objections, the trial judge offered the defendant an opportunity to present any available evidence which would contradict the damaging factual assertions. In addition, the probation officer was directed to submit the confidential documents upon which the report was based for *in camera* inspection. The appellate court began its discussion by pointing out "[i]t has long been the rule in this circuit that this court 'has no authority to review the sentence so long as it falls within the statutory limits.'"[61] A scholarly review of the various decisions concerning the "process" by which a sentence is determined was undertaken with the preface that "[t]here is a difference between reviewing a sentence and deciding that certain types of information should not, for various reasons, be considered in sentencing."[62] After distinguishing *Williams v. New York* on the ground that Williams admitted the accuracy of the extra-judicial materials considered while Weston violently denied their credibility, the court examined the source of the protested portion of the pre-sentence report and found it to be highly speculative, unsupported and factually barren.[63] The court of appeals remanded for resentencing with the following holding:

> "In Townsend . . . the Supreme Court made it clear that a sentence cannot be predicated on false information. We extend but little in holding that a sentence cannot be predicated on information of so little value as that here involved. A rational penal system must have some concern for the probable accuracy of the informational inputs in the sentencing process."[64]

Several courts have been unwilling to continue creating new permutations of the *Townsend* focus on the sentencing "process." They have, however, out of their dissatisfaction with the awkward anomaly of non-review, resorted to the same type of ingenuity evident in *Wilson* and *Weston*. Rather than focusing upon the sentencing "process," they have developed what might be accurately labeled the "gentle hint" approach. For example:

> "While it is not the function of this court to review the length of sentences imposed by district courts, it is observed that the appellant has served a substantial part of his period of alternate service. . . . Considerations based on compassion and mercy are to be determined by the trial court. We are confident that the distinguished trial judge in this case will give due consideration to all legitimate factors to be considered if a reduction in sentence is sought."[65]

Another court of appeals has demonstrated a similar aptitude for "encouraging" modification of a sentence by the trial court. After expressing its collective "sense of uneasiness" with the arguments advanced in support of the sentence imposed, the court concluded:

> "Perhaps reconsideration would produce the same decision but, though unable to do more, we suggest . . . that appellant move for a reduction of sentence . . . so that the district court may have an opportunity to reconsider this matter."[66]

In the unlikely event its feelings were not made apparent by this remark, the Court cited *United States* v. *Daniels*[67] in support of its decision.

Additional examples of these two mechanisms, as well as an illustration of the variety of responses currently being produced by requests for appellate review, can be found in three recent decisions from a single court of appeals. In *United States* v. *Espinoza*,[68] before announcing sentence, the trial judge had pointed out to one defendant: "[Y]our record is bad, your record for threats and assaults."[69] A subsequent request for an opportunity to rebut this factual assertion was denied. After stating that "we are not asked to review the length of the sentence,"[70] the court of appeals nevertheless vacated the sentence and directed that the defendant be given an adequate opportunity to rebut the factual assumptions explicitly relied on by the trial court. This disposition followed a holding that the "defendant retains the right not to be sentenced on the basis of invalid premises."[71] The trial judge's refusal to permit rebuttal of the information upon which he relied in assessing sentence was deemed to be contrary to "fundamental fairness"[72] and to be "an abuse of discretion . . . inconsistent with the need for enlightened sentencing."[73] Despite its decision to change the sentence, the court expressed the traditional view that "appellate courts have little if any power to review substantially the length of sentence."[74] The logical inconsistency within this decision was apparently overlooked. As in *Jackson*,[75] if this court of appeals had no power to review the length of sentence, whether the "process" by which that sentence was determined was either "fair" or "enlightened" appears to be irrelevant.

In *United States v. Hartford*[76] the same court eloquently articulated the trial judge's broad discretion in sentencing but pointed out that "the careful scrutiny of the *judicial process* by which the particular punishment was determined . . . is . . . a necessary incident of what has always been appropriate appellate review of criminal cases."[77] This opinion considered three appeals consolidated for review and resulted in the vacation and remand of two sentences but the affirmation of the third. The sentence in the first case was vacated because the judge's statement that the statutory maximum sentence was an insufficient punishment was thought by the appellate court to be improper and to have led the trial court into utilizing the indeterminate sentencing provisions of the Federal Youth Corrections Act for punitive purposes. The second sentence was remanded because the appellate court found a failure by the trial court to impose an individualized sentence in accordance with *Williams v. New York*.[78] This determination was based upon the judge's statement that "[t]his is one man that is lucky that he only has a maximum of a five year sentence because if there was any more I would give it to him."[79] In the third case, the majority found that the judge properly exercised the discretion afforded to him. The expressed disbelief of the dissent "that the only time an abuse of sentencing discretion may be shown is when the judge's statements indicate that he has a predetermined sentencing policy"[80] clearly emphasized the potential consequences of candor by the trial court.

The concluding note in this trio was sounded in *United States v. Trevino*.[81] An appeal from a denial of a motion for reduction of sentence was rejected because:

> "Unlike *Townsend* . . . there is no showing of reliance on information acknowledged to be materially untrue; unlike . . . *Weston* . . . appellant has not directly . . . denied the truth of hearsay information . . . and unlike *United States v. Espinoza* . . . appellant has not requested an opportunity to rebut the information relied upon by the trial judges."[82]

Several common features of these cases must be recognized to appreciate the Fifth Circuit's present posture. None of these three decisions directly addressed the basic jurisdictional issue. While *Espinoza* impliedly disclaims authority to review sentences, both *Espinoza* and *Hartford* found such authority in *Townsend* and other "process" cases. No apparent consideration was given to *Freeman, Jackson* or the origins of the non-review doctrine in any of the three opinions. The provisions of section 2106 and the arguments supporting the authority of a court of appeals to engage in substantive review were also omitted from all three opinions. Finally, the variety of circumstances presented in these appeals distorted beyond recognition the concept of a valid sentencing "process" articulated in *Townsend*.

In this context, the boundary between procedural due process and substantive due process has faded beyond ready discernability. So long as appellate courts continue to limit their consideration to the sentencing "process," to the exclusion of the propriety of those sentences, they will also ensure that trial records remain barren of evidence concerning the considerations and analysis by which the sentence was determined. The natural responses of the trial bench to the position outlined in *Espinoza, Hartford* and *Trevino,* as well as their companions in other circuits, demand that more candid and effective procedures for substantive appellate review be made available.

D. Abandonment of the nonreview doctrine

Adherence to the nonreview doctrine by the various courts of appeals was the natural and predictable consequence of the early failure to recognize the significance of section 11 of the 1891 Act and *Ballew*. Within the past five years, however, nearly every court of appeals has significantly altered its position on this subject.

Unquestionably the most comprehensive and carefully reasoned judicial analysis of the appellate review issue since *Ballew* was *United States v. Rosenberg*.[83] Judge Frank, writing for the court directly addressed the claim of Julius and Ethel Rosenberg that imposition of the death penalty in their case was an abuse of judicial discretion. He began his analysis by succinctly stating the nonreview doctrine: "Unless we are to overrule sixty years of undeviating federal precedent, we must hold that an appellate court has no power to modify a sentence."[84] Judge Frank pointed out that *Ballew* and *Hanley* "strongly suggest that the statutory powers given in the 1879 law to circuit courts had been incorporated by reference in the 1891 statute setting up the circuit courts of appeal."[85] Furthermore, he drew attention to the fact that the authority of courts of appeals to "affirm, modify or reverse" judgments, found in section 2106,[86] had not been utilized by noting: "No decision by the Supreme Court or any federal court of appeals seems to have cited or considered this statute in passing on the question of the power to reduce a sentence when a conviction is affirmed."[87] Notwithstanding the novel and refreshing perceptions found in this opinion,

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Footnotes at end of article.

the majority of the court in *Rosenberg* concluded:

"Because . . . for six decades federal decisions, including . . . *Blockburger* . . . , have denied the existence of such authority, it is clear that the Supreme Court alone is in a position to hold that Section 2106 confers authority to reduce a sentence which is not outside the bounds set by valid statute. As matters now stand, this court properly regards itself as powerless to exercise its own judgment concerning the alleged severity of the defendants' sentences." [88]

Despite the court's apparent incapacity to embrace the existing authority for substantive appellate review, the *Rosenberg* decision is, nevertheless, comparable to the 1891 Act and *Ballew* as one of the significant steps in the development of the appellate review concept. The opinion appears to be the first attempt in this century to analyze the jurisdictional provisions of the 1891 Act and to acknowledge the existence of statutory authority for substantive sentence review. Perhaps more importantly, the *Rosenberg* decision is the first candid expression of appellate dissatisfaction with the non-review doctrine. Judge Frank's obvious frustration with having the court perpetuate the error of its ways, principally because it was such a long standing error, would have prompted speculation that the issue would soon reappear. Surprisingly, however, twenty years elapsed before another court of appeals openly acknowledged either its disagreement with a criminal sentence or the jurisdictional nature of the non-review doctrine.

In 1954, however, two years after the *Rosenburg* decision, the Solicitor General of the United States presented an eloquent argument in support of a candid system of appellate review in a speech presented to the annual meeting of the American Bar Association Section on Criminal Law:

"I suggest a study of the desirability of providing for appellate review of sentences.

"The judicial process should have the internal means of overcoming its own mistakes.

"The possibility of review would make itself felt even in cases not actually appealed. The existence of the power would make its exercise unnecessary in all but a few cases.

"[P]recisely because the trial judge is forced to operate with so little guidance in the legal rules a second glance at the product is all the more indicated . . . .

"To the sentencing judge in serious cases it should be a source of comfort to know that any error he may have committeed in this most crucial step of the whole trial is subject to correction on appeal. . . . Moreover, when affirmed on appeal, the trial judge would have the satisfying assurance . . . that his judgment on the most momentous question in the case has been upheld." [89]

Another five years elapsed before the thrust of Judge Frank's scholarship in *Rosenburg* and the force of, by then Judge Sobeloff's pragmatic analysis was recognized in a judicial opinion. The majority opinion *in Smith v. United States* [90] cited *Gore* and *Blockburger* for the proposition that three sales of prohibited substances may result in conviction on fourteen separte counts. While the en banc court candidly expressed its opinion that the fifty-two year sentence was "greater than should have been imposed," [91] it concluded that "appellate courts are without power to control or modify a sentence which is within the limits fixed by a valid statute." [92] Although section 2106 was quoted, the majority pointed out no case had held that this statute authorized modification of a sentence within statutory limits; thus, the court's conclusion parelleled that of Judge Frank in *Rosenberg*: "Until the Supreme Court sees fit to hold that section 2106 applies in such cases, we think this court should apply what appears to be the fixed rule." [93]

In a widely cited dissent to this decision, Chief Judge Murrah effectively countered the majority interpretation of section 2106 with the succint argument that "no federal court has ever said that the statute does not mean what it plainly says." [94] By his brief and forceful dissent, Chief Judge Murrah reinforced the disquietude over the non-review doctrine and gave further impetus to the arguments articulated by Judge Sobeloff.

Several commentators have suggested that *United States v. Wiley* [95] is the next step in the development of current thinking concerning the anomaly of non-review. In its first consideration of this case [96] the court pointed out that although the defendant had played a minor role, was younger and had no prior criminal record, he had been sentenced to three years imprisonment while the "ringleader" who was older and had been previously convicted of other offenses was sentenced to only two years. The expressed reason for the initial remand of this sentence was a determination that the trial judge's fixed policy of not considering probation for persons who chose to plead not guilty and stand trial was contrary to the *Williams* mandate for "individualized" sentences. The trial court's reimposition of the same sentence resulted in a second appeal.

In *Wiley II*, the court remanded the case a second time with directions to impose "a proper sentence not inconsistent with the views herein expressed." [97] The court expressly stated, however, that this disposition was an exercise of its "supervisory control of the district court in aid of its appellate jurisdiction." [98] In neither opinion did the court cite or refer to section 2106. Thus, while *Wiley II* represents a refreshing departure from the technique of reviewing only the sentencing "process," or giving the lower court a "gentle hint" to reduce the sentence, this decision fails to acknowledge the express statutory authority to engage in substantive review of criminal sentences.

If selection of the most significant recent case considering the anomaly of non-review were to be based solely upon the number of published comments, the choice would undoubtedly be *United States v. Daniels*.[99] In an earlier opinion, the court upheld Daniels' conviction for failing to report to his Selective Service Board for alternate service but remanded the case for "review of this sentence." [100] On remand the trial judge imposed the same sentence and stated that "for over thirty years" he had imposed the maximum sentence in all cases of this type. A second appeal followed. Not surprisingly, *Daniels II* began with the traditional reference to the non-review doctrine: "The severity or duration of punishment imposed by a trial court is not subject to modification where the sentence imposed is within requisite legislative limits." [101] After reviewing *Williams* and *Townsend*, however, the court concluded that discretion of the trial judge "will be subject to appellate scrutiny under limited circumstances, such as: the reliance by the sentencing court on improper factors or the failure of the sentencing court to 'evaluate the available information in light of the facts relevant to sentencing.' " [102]

The court of appeals defined three separate errors in the district court decision. The first was a conventional objection to the failure to "individualize" the defendant's sentence rather than routinely adhering to an unswerving policy for particular types of cases. The second basis for reversal represented an undisguised substantive judgment upon the propriety of a five year sentence. After a succinct factual review, the court stated:

"We believe that under the mitigating circumstances present here the District Court's mechanical sentencing of the appellant to five years in the penitentiary defies the United States Congress' implied legislative will to impose a lesser sentence where appropriate." [103]

The third error cited was an equally candid form of substantive review: "Third, we are disturbed by the district court's failure to conceive of the sentencing procedure in the terms of . . . modern penological philosophy. . . ." [104]

In addition to its open acknowledgement of substantive review, the *Daniels II* decision included a second significant departure from the customary disposition of modern appellate review cases. Rather than the typical remand for "reconsideration in light of our opinion," the court of appeals entered an order suspending the sentence, placing the defendant upon probation and specifying the conditions of that probation. Not surprisingly, *Yates* [105] is cited as the authority for this disposition.

Thus, while *Daniels II* does not acknowledge statutory jurisdiction, it at least makes explicit the fact of substantive judicial review. The number of courts which had engaged in this practice *sub rosa*, and the variety of ways they had disclaimed what they were doing, in fact, makes *Daniels II* distinctive primarily for its candor. It is difficult to imagine a more dramatic means of expressing a willingness to substitute its own judgment for that of the trial judge than for the court of appeals to enter an order setting the approved sentence.

In 1972, this same court of appeals was again confronted with the appellate review anomaly. *United States* v. *McKinney* [106] (hereinafter referred to as "*McKinney III*") had previously been remanded as a result of the court's determination that the sentence was "excessive and out of proportion to the offense." [107] On remand, the trial court imposed the same sentence and the court of appeals returned the case a second time because at the time of the resentencing, the district court did not "have the benefit of our subsequent decision in *United States* v. *Daniels*. . . ." [108] At the second resentencing, the maximum five year punishment was imposed for a third time.

The court of appeals began its third consideration of *McKinney* by summarizing the defendant's exemplary record prior to this conviction for violation of the Selective Service Act. The thesis of the district court "that he had absolute, uncontrollable, and unreviewable discretion to impose any sentence he saw fit to impose so long as it did not exceed the satutory limit, and that an appellate court had no jurisdiction to do anything about it" [109] was also noted. Then, without further discussion of its rationale, or any stated consideration of its jurisdiction to do so, the court of appeals concluded that the latest decision of the trial court "constituted a gross abuse of discretion as well as a violation of our mandates." [110] An order reducing the sentence to one year, allowing credit for a confinement previously served, and directing release of the defendant from custody was entered by the appellate tribunal. Probably the most significant aspect of *McKinney III* is that, although it represented an opportunity to retreat from *Daniels II*, it unmistakably affirmed that decision, including entry of a similar order articulating the court's substantive determination of the appropriate sentence.

Unquestionably the most comprehensive analysis of the non-review doctrine since

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Footnotes at end of article.

Rosenberg is found in *Woosley v. United States*.[111] After reviewing the effect of the 1891 Act and the various Supreme Court decisions traditionally thought to support the non-review doctrine, the Eighth Circuit Court of Appeals concluded "the Supreme Court's support for the rule that federal appellate courts generally may not review a sentence is pure dicta." [112] Then, on the basis of the *Williams* mandate for individualized sentences, the court held that when the district court followed a fixed sentencing policy in cases of a particular type, it failed to exercise any discretion. Therefore, substantive appellate review of that sentence would be no more than "according to defendant the judicial discretion to which he is entitled." [113]

Having thus surmounted the two great historical barriers to substantive review of criminal sentences, the *Woosley* court turned to the difficult question of what standards should be utilized in a system of express substantive review. Tragically, at this point, the court of appeals snatched defeat from the jaws of victory. The standard selected was "whether the imposition of a maximum sentence was in itself an *abuse* of discretion under the circumstances presented. . . ." [114] Thus, while the court established its authority to modify the severity of a criminal sentence, it abnegated its responsibility for all such modifications except those "within narrow limits where the court has manifestly or grossly abused its discretion." [115] Such a standard gives the trial court no guidance and, worse, permits the perpetuation of the same seemingly erroneous practices that prompt appellate court intervention at this point.[116]

The foregoing criticism must be tempered by recognition that this court, more than forty years previously, rendered the decision in *United States v. Gurera*. By contrast, *Woosley* expresses a major shift in philosophy about the non-review doctrine. The opinion in *Woosley* is certainly the most comprehensive example of what one court has referred to as "a growing body of precedent supporting appellate review of sentencing."

III. SOURCES FOR A DOCTRINE OF APPELLATE REVIEW OF SENTENCING

A. Existing statutory exceptions

Entirely apart from both the existence of section 2106 and the development of several mechanisms for judicial review of criminal sentences, Congress has enacted two significant statutory procedures for appellate review.[117] One is applicable to the armed forces. No sentence imposed by a military court-martial becomes final until it has been reviewed by the Convening Authority.[118] The Convening Authority "may approve only such findings of guilty, and the sentence or such part or amount of the sentence, as he finds correct in law and fact and as he in his discretion determines should be approved." [119]

In addition, the Judge Advocate General of each service is required to appoint and maintain a Board of Review.[120] This Board "may affirm only . . . such part or amount of the sentence, as it finds correct in law and fact and determines, on the basis of the entire record, should be approved." [121] Finally, the United States Court of Military Appeals, consisting of three judges appointed by the President with the advice and consent of the Senate for fifteen year terms, may "set aside the findings [of guilt] and sentence. . . ." [122] Thus, each sentencing decision of the military trial judge must be scrutinized by three distinct entities, each having express statutory authority to alter that decision. In addition, an appellate court composed of civilian judges appointed in the same manner as judges of the courts of appeals may also alter the sentence in cases which come before it. The non-review doctrine, an anomaly unique to sentencing,[123] is nonexistent in the military criminal justice system.

A more recent, and far more significant, Congressional endorsement of the appellate review procedure is found in Title X of the Organized Crime Control Act of 1970.[124] Basically intended to permit longer periods of confinement for persons involved in major, organized criminal activities,[125] this legislation established, for a very limited number of cases, both appellate sentence review and several other devices which represent equally significant departures from current sentencing procedures.

For the increased confinement provisions to be used, it must be established that the defendant is "a dangerous special offender." [126] This determination can be made by the district court only after a full hearing including an opportunity by counsel for the defendant "to inspect the pre-sentence report sufficiently prior to the hearing as to afford a reasonable opportunity for verification." [127] The trial court is required to place in the record a statement identifying the information relied upon in making its decision and the reasons for the sentence imposed.

Either the defendant or the United States may appeal from a sentence imposed pursuant to this procedure. Upon such appeal, "[r]eview of the sentence shall include review of whether the procedure employed was lawful, the findings made were clearly erroneous, or the sentencing court's discretion was abused." [128] The court of appeals may affirm, modify or vacate the sentence and may impose "any sentence which the sentencing court could originally have imposed, or remand for further sentencing procedures." [129] If the United States has initiated the appeal, the sentence may be increased, affirmed or reduced; but if the defendant initiates the appeal, the sentence may only be affirmed or reduced. Finally, regardless of its disposition, "the court of appeals shall state in writing the reason for its disposition of the review of the sentence." [130]

It is obvious that this legislation represents a major departure from all the current doctrines regarding sentencing. Unlike any other criminal penalty provision in the United States Code, a defendant may not be confined under this section unless the trial judge informs him of the particular facts which were relied upon in determining the sentence. The defendant is also made privy to the analysis of those facts which brought the judge to the particular sentence imposed. Furthermore, again unlike a person sentenced under any other statute, the "dangerous special offender" is entitled to have the reasons for the sentence reviewed by an appellate body which has been furnished with adequate information to make a determination of its propriety. Depending upon which party takes the appeal, the court may or may not be permitted to increase the sentence. But, in either event, the court is required to state the reasons for whatever disposition it makes.

B. Pending legislation

Although the appellate review concept represented by the Organized Crime Control Act was not adopted by Congress until 1970, proposed legislation to establish a comprehensive system of sentence review was introduced in Congress as early as 1955. In that year, Senator Kefauver introduced S. 1480 [131] which would have permitted an "appeal against the sentence" and allowed a court of appeals to "impose any sentence which it deems appropriate." [132] In virtually every subsequent session of the Congress, Senator Hruska has introduced some form of appellate review legislation.[133] Although one of these proposals was passed by the Senate in 1968, [134] no proposal broader in scope than the provision in Title X of the Organized Crime Control Act has yet been enacted. Several significant legislative proposals to revise the entire federal criminal code, including its sentencing provisions, are currently pending before Congress. The Senate versions of these proposals have been the subject of extensive hearings in the past two years. It is anticipated that the Senate Committee on the Judiciary will report one of these bills, in all likelihood with substantial amendments, by the end of 1974 with the goal of enactment by the 94th Congress.

The most comprehensive bill providing for appellate review is S. 716 introduced by Senator Hruska on February 1, 1973.[135] In his introductory remarks, the Senator pointed out that "this legislation is identical to S. 2228 and S. 1501, which I introduced respectively in the 92nd and 91st Congresses, and to S. 1540 which was passed unanimously by the Senate in the 90th Congress." [136]

The initial impact of S. 716 would be that the appellate court would receive substantially more information concerning the sentence imposed. In each case directing imprisonment, the trial judge would be required to state "his reasons for selecting that particular sentence." [137] In addition, the courts of appeals could require by either rule or order that any transcript, record, report, document, or "other information relating to the offense . . . and to the sentence" be transmitted to them.[138] S. 716 incorporates the American Bar Association position that such sentencing information would, on appeal, be available to the defendant only to the extent that such materials were available in the district court.

S. 716 would also allow the courts of appeals discretion in determining whether a sentence appeal would be heard. Denial of a request for appellate sentence review would be "final and not subject to further judicial review." [139] For those cases in which review was granted, the appellate function would be to "determine whether the sentence is excessive." [140] The reviewing court would be empowered to take action the sentencing court might have taken except that, under this proposal, "the defendant's sentence shall not be increased as a result of an appeal." [141] Unless the sentence was affirmed or the appeal dismissed, the court would be required to "state the reasons for its actions." [142]

Finally, under S. 716, the probability of a significant increase in the case load of the appellate courts is drastically reduced by the provision that this statute would become effective "six months after its approval and shall apply only to sentences imposed thereafter." [143] The vast flood of appeals from persons currently under sentences which might otherwise be expected to follow adoption of a system of sentence reveiw would not be permitted under S. 716; only sentences imposed more than six months after its approval would be eligible for review. During the six-month period between adoption and implementation, trial courts would necessarily review their sentencing procedures in preparation for the requirement that they state the reasons for their decisions. This review itself should, in many cases, lead to improved sentencing policies. In addition, necessary alterations to existing appellate procedures could easily be implemented during this period. This very effective solution to what some believe to be a major disadvantage of appellate review [144] is found only in S. 716.

Another appellate review measure was introduced by Senator McClellan on January 4, 1973 as a part of one proposal to revise the federal criminal code.[145] The bill, S. 1, is a modified version of the recommendations of the National Commission on Reform of Fed-

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eral Criminal Laws.[146] The general sentencing provisions of S. 1 require that all sentences "be accompanied by appropriate findings of facts and statements of reasons." [147]

The subchapter of S. 1 directed to criminal appeals also contains a section establishing a form of appellate review. The appellate review provisions of S. 1 are limited to sentences of "upper-range imprisonment for dangerous special offenders." [148] "Dangerous special offender" is defined generally to include persons having previously been convicted of felonies, persons posing a serious danger to the safety of others, persons engaged in a major conspiracy and persons using firearms in the commission of a felony.[149]

The standard to be applied in reviewing this limited class of cases is "whether the procedure employed was lawful, the findings made were clearly erroneous, or the sentencing court's discretion was abused." [150] The appellate court could impose any sentence which the trial court was empowered to levy except that the sentence could be increased only upon a review initiated by the United States. Regardless of their decision, the courts of appeals would be required to "state in writing the reasons" for their disposition.

An alternative comprehensive recodification of the federal criminal code was introduced on March 27, 1973 by Senators Hruska and McClellan. S. 1400 [151] was basically drafted by the Criminal Code Revision Unit established within the Department of Justice pursuant to a Presidential directive issued following submission of the Brown Commission report.[152] Among the many significant differences between S. 1 and S. 1400 is that the latter does not contain any provision for appellate review of sentences. In addition, it does not require the trial judge to reveal either the factual considerations which form the basis of his sentence or the analysis of those considerations which produced the sentence imposed. Notwithstanding S. 1400, it may be reasonably assumed that the bill reported by the Senate Judiciary Committee will include some form of the appellate review concept. The Senate hearings, as well as previous Senate actions, clearly point in this direction.

C. Reexamination of judicial arguments against review

1. Does the Trial Judge Have an Advantage?

The arguments customarily relied upon by courts not openly accepting the concept of substantive appellate review center upon two points. The first is that—

"[T]he sentencing judge is in a superior position, because of his personal involvement in the transaction, to determine the most appropriate type and degree of penal sanction." [153]

While examples supporting this reasoning are legion, one of the most succinct statements originated in *United States* v. *Latimer* [154] and was reaffirmed in *United States v. Lowe*:[155] "The sentencing of one convicted of a crime is largely dependent upon matters which are within the knowledge, experience and judgment of the sentencing court." [156] The view of the district court in *Daniels* that it was "qualified by experience, temperament [and] knowledge of law . . ." [157] to determine an appropriate sentence appears to be a typical expression of this position.

In support of this thesis it is argued that, having considered the enormous problems of sentencing on a far greater number of previous occasions, a trial judge is more likely to reach a rational and appropriate conclusion than an appellate judge. This argument discounts the probability that appellate judges have had experience at the trial court level before their appointment. It likewise glosses over the fact that most trial judges come to the bench with no previous sentencing experience. In addition, if appellate courts were regularly to engage in the substantive review of sentences, this argument would obviously become invalid. The importance of the sentencing judge's past experience is further diminished by the *Williams* mandate for individualized sentences—the sentence imposed upon the last bank robber to appear before the court is infinitely less material than the particular circumstances of the present bank robber's case. Perhaps the most damaging evidence of the thesis' invalidity is the unfortunate number of cases in which an appellate court has been required to apply *Williams* and remand a sentence expressly imposed in accordance with a fixed policy.[158]

The second point frequently cited in opposition to appellate review of sentences is that the trial court's personal observations of a defendant's appearance and demeanor lead it to a more appropriate sentence. The potential hazards of this well-established notion can be found in *Williams*.[159] The defendant appealed the state court's imposition of the death penalty because in determining an appropriate sentence, the judge expressly considered, as permitted by state law, several extra-judicial sources of information. The Court pointed out it was concerned with the propriety of considering extra-judicial material during sentencing, stating:

"It is conceded no federal constitutional objections would have been possible if the judge here had sentenced appellant to death because appellant's trial manner impressed the judge that appellant was a bad risk for society, or if the judge had sentenced him to death giving no reason at all." [160]

During the course of a lengthy criminal trial, the trial judge has an opportunity constantly to observe the defendant and his reactions to various developments occurring in the presentation of evidence. The strength of any assertion that these observations are helpful in determining the most appropriate sentence would seem to increase in direct proportion to the length of the opportunity for such observation. It is entirely reasonable to suggest that a perceptive judge who has spent five to seven hours each day for several days in the same room as the defendant may be more capable of analyzing the defendant's interests, motivations and values than even those appellate judges having the time to digest a trial transcript of that length.

This conventional wisdom is questionable upon three grounds. "In some localities as many as ninety-five percent of the criminal cases are disposed of by [pleas of guilty]. . . ." [161] In every case in which a plea of guilty is entered, even the most scrupulous compliance with Rule 11 [162] and the defendant's right of allocation are unlikely to afford the trial judge an opportunity for any significant personal observation of the defendant. Thus, in all such cases, the argument that the trial judge's personal observations have materially enhanced his ability to determine an appropriate sentence does not apply because there has been no opportunity for such observation.

In those infrequent cases in which a significant opportunity for personal observation exists, the unstated and necessarily subjective impressions based upon the defendant's courtroom demeanor seem of such questionable validity as to be untrustworthy. As Judge Sobeloff has stated:

"Not always can a sentencing judge gain a balanced insight of a man by observing him when he is undergoing one of the greatest stresses to which he can be subjected [the criminal trial]. Unless the judge takes special pains, the impression so formed can become grotesquely distorted." [163]

Finally, it may be legitimately asked whether observations of the defendant's courtroom behavior made during a trial should be entitled to judicial consideration in the sentencing determination. This consideration is partcularly relevant if courtroom exposure is limited to the brief arraignment and sentencing hearings. With stakes so high, the defendant should not be required to take the risk of a mistaken impression.

2. Should the Trial Judge State His Reasons?

Analysis of an additional aspect of appellate review is necessary to understand why there has been such a reluctance, not to say inability, to change current sentencing policies. The *Williams* philosophy requires the collection of data prior to a determination of sentence. The Federal Rule of Criminal Procedure concerning pre-sentence reports [164] is perhaps the most visible means by which this policy is implemented. An illustration of the emphasis given to the formulation of a sentence based on all available information is found in the one case considered in *Hartford* [165] in which the sentence was not vacated. The court of appeals praised the district court because it had "permitted testimony at the sentencing proceedings by both [the defendant's] father and minister, despite the existence of an apparently comprehensive pre-sentence report. . . . The record . . . indicates that the judge had examined the pre-sentence report in addition to correspondence from the appellant's minister, and before sentencing, the judge allowed considerable testimony concerning [the defendant's] particular circumstances." [166]

Although criminal sentences are expected to be based upon factual considerations, the first general requirement for disclosure of these facts has only recently appeared. On April 24, 1974, the Chief Justice transmitted to Congress proposed amendments to the Federal Rules of Criminal Procedure.[167] Although the effective date of these rules has been postponed until August 1, 1975, one of the proposed rules requires that the district courts must "upon request permit the defendant . . . to read the report of the presentence investigation. . . ." [168] While there are significant limitations to this requirement, it nevertheless represents an important departure from the rule that release of a pre-sentence report was entirely discretionary with the trial judge.[169]

Of far greater significance is the fact that virtually all recent decisions vacating criminal sentences have appeared to be the consequence of a trial judge's candid statement of the reasons for his selection of a particular sentence. For example, each of the following remarks during the sentencing process has resulted in appellate reversal:

[I]t wouldn't make any difference if there were fifty other charges. If this man pleaded guilty to distributing LSD he would get the maximum penalty. . . .[170]

[I]n cases of this kind, [people who refuse to report for induction] deserve a five year sentence. . . .[171]

"When you consider a man has just willfully neglected to serve and refused to serve his country, it would seem to be a travesty that he would serve less time at confinement, even under a maximum sentence, than a man who went on and served.[172]

"It has been my policy, and I don't intend to change it at this point, . . . you have not even asked for conscientious objector status . . . . You would not serve in any noncombatant work." [173]

Notwithstanding the substantial disincentive for such candor by the sentencing judge, several courts have described the great utility of expressing the sentencing rationale:

"Had the court below stated reasons . . . or, in the alternative, disclosed in some greater detail the basis for imposing the rather long sentence, the posture of this appeal would be different. Rather, we are faced with a disturbing record that discloses only that defendant was given a lengthy sentence on the basis of possible erroneous information and that the district court, without stating reasons, refused to permit rebuttal of the factual assumption."[174]

One court has required that reasons for the sentencing decision be articulated. After the conviction on one of four counts was reversed, the district court in *United States v. McGee*[175] refused a request to reduce the sentence and reimposed the original sentence. Upon an appeal asserting an abuse of discretion, the court of appeals responded:

"[T]he trial judge has "very broad discretion," and he is generally under no obligation to give reasons for his sentencing decisions. . . . In this particular case, though, we have determined that . . . the initial sentencing process with respect to the valid counts was . . . affected by the conviction on the far more serious count. . . . To purge this possible taint . . . we believe the trial judge should either have reduced the sentences . . . or have given at least a summary explanation of his reasons for declining to do so. . . . If the original sentences on the valid counts are to stand, we think the latter is the minimum necessary to impart integrity to those sentences . . . ."[176]

With the exception of *Pearce v. North Carolina*[177] and cases arising thereunder, no instance has been found in which the trial judge was forced to choose between either specifying the reasons for his sentencing decision or having that sentence vacated by an appellate court. The discretion presently granted the sentencing judge to remain silent as to the information considered and the reasons for selection of the sentence imposed appears to be a virtually insurmountable obstacle to effective appellate review. Meaningful review of criminal sentences will never be possible without and adequate and open record of the sentencing considerations and rationale.

D. Other nonlegislative recommendations

The American Bar Association ("ABA") Project on Standards for Criminal Justice published a tentative draft of Standards Relating to Appellate Review of Sentences (hereinafter "ABA proposal") in April, 1967. With one significant exception, that draft was approved by the ABA House of Delegates in February, 1968. The ABA position, as finally adopted, begins with the premise that "judicial review should be available for all sentences imposed in cases where provision is made for review of the conviction."[178] The appellate court would be provided with the pre-sentence report and all other documents "available to the sentencing court as an aid in passing sentence."[179] These materials would be reviewable by the defendant "only to the extent that such examination was permitted prior to the imposition of sentence."[180] In addition, the sentencing judge "should be required in every case to state his reasons for selecting the particular sentence imposed."[181] Under the ABA proposal, appellate review would extend to "the propriety of the sentence, having regard to the nature of the offense, the character of the offender, and the protection of the public interest."[182]

While its Advisory Committee on Sentencing and Review recommended that the appellate court be limited to affirming or reducing the sentence, the ABA ultimately concluded that the appellate court should be able to "substitute for the sentence under review any other disposition that was open to the sentencing court."[183]

As the ABA Special Committee pointed out in its recommended amendments to the Advisory Committee draft, "except for this one point of disagreement, both committees are unanimously in favor of the concept of appellate review of sentences and are unanimously in support of the Advisory Committee Report as written."[184] Finally, the appellate court would not be required to specify the basis for its disposition in a written opinion unless doing so "would substantially contribute to the achievement of the objectives of sentence review. . . . Normally, this should be done in every case in which the sentence is modified or set aside by the reviewing court."[185]

Another analysis of the appellate review issues was published in 1973 by the National Advisory Commission on Criminal Justice Standards and Goals.[186] In a comprehensive report prepared by the National Advisory Commission's Task Force on Corrections it is recommended that:

Appeal of a sentence should be a matter of right . . . the issues should include:

a. Whether the sentence imposed is consistent with statutory criteria.

b. Whether the sentence is unjustifiably disparate in comparison with cases of similar nature.

c. Whether the sentence is excessive or inappropriate.

d. Whether the manner in which the sentence is imposed is consistent with statutory and constitutional requirements.[187]

The National Advisory Commission's Task Force on the Courts also recommended that a single unified review of every criminal conviction should extend "the legality and appropriateness of the sentence."[188] Further, the Corrections Task Force recommended that the trial court be required to articulate the reasons for selecting the particular sentence imposed; however, it took no position on whether the reviewing court should be allowed to increase the sentence.[189] The Court's Task Force, on the other hand, followed the ABA position regarding appellate increase of a sentence and recommended that "the reviewing court, for stated reasons, [should be empowered] to substitute for the sentence imposed any other disposition that was open to the sentencing court, if the defendant has asserted the excessiveness of his sentence as error. . . ."[190] However the Court's Tack Force report did not recommend that the trial judge be required to state his reasons for selecting the particular sentence imposed.

As noted earlier, an extensive study of the entire federal criminal system was initiated in 1966 by the Brown Commission.[191] The Brown Commission recommended that the basic statute which establishes the jurisdiction of courts of appeals be amended as follows: "Such review shall in criminal cases include the power to review the sentence and to modify or set it aside for further proceedings."[192] In its comment accompanying this proposal, the Brown Commission noted the ABA endorsement of the appellate review concept. The Brown Commission did not go as far as the ABA, preferring, as its choice of words indicates, the more conservative view that the power to change should be limited to the power to decrease the sentence. The Brown Commission also pointed out that features of the comprehensive sentencing system proposed by the report would "depend in large measure for their effectiveness on uniform interpretations by appellate courts."[193]

Finally, perhaps the most significant nonlegislative proposal is the draft of a proposed amendment to Rule 35 of the Federal Rules of Criminal Procedure prepared by the Subcommittee on Administration of the Criminal Law of the Judicial Conference of the United States. As proposed, this Rule would empower a panel composed of three district judges to "modify or reduce" those sentences deemed to be "excessive."[194] The current draft of the amended Rule would not require a sentencing court to state either the facts it considered or its reasons for imposing a particular sentence. The reviewing panel also would not be required to state the reasons for its determination. Sentences could be reviewed under this Rule only if the trial court had denied a motion to reduce the sentence, a term of imprisonment for two years or more had been imposed and the defendant requested review within thirty days following denial of his motion for sentence reduction.[195]

The significance of this proposal is obviously enhanced by the prestige of its originators. The fact that the Judicial Conference found it advisable to promulgate such a rule should remove the doubt about the degree to which sentence disparity exists. No such rule would be needed for random or isolated cases. On this issue the adamant believers in the workability of the status quo have been pleaded out of court by the Judicial Conference. Furthermore, although Standard 5.11 of the National Advisory Commission's Corrections Task Force acknowledges the possibility that an administrative review board could be created as an alternative to review of sentences through normal appellate procedures, only the draft Rule 35 recommends as a desirable alternative an entirely new tribunal whose sole function would be to review sentences. It likewise stands alone in perpetuating, without exception, the mystery which currently conceals the sentencing process. Under the Judicial Conference proposal, the trial court would not be required to state its reasoning with respect to the sentence and the reviewing panel would not be required to disclose the rationale for whatever action may be taken. It is, indeed, the least satisfactory solution that has been proposed.

E. Recent Congressional Hearings

The Senate Subcommittee on Judicial Machinery held public hearings on S. 2722 in 1966.[196] As earlier noted, this bill was introduced by Senator Hruska and, like the pending S. 716, it would have permitted an appeal "upon the ground that the sentence, although lawful, is excessive."[197] The requirement that each trial judge state "as part of the record his reasons for imposing that particular sentence"[198] and the provisions postponing the implementation of this practice for a period of six months following its approval were also included in S. 2722.

The Senate Subcommittee on Criminal Law and Procedures heard testimony on S. 716 in 1973.[199] One of the few points upon which there was a unanimity of opinion at the hearings, both in 1966 and 1973, was the vital necessity for some form of appellate review. Judge Simon E. Sobeloff began his testimony in 1966 with a reaffirmation of the thoughts underlying his speech of twelve years earlier:[200]

"It seems to me that the basic weakness of our criminal appellate system is that it encourages concentration on the trivia of the trial and ignores the most momentous decision; namely, the sentence. The tribunal that hears the appeal ought not only to inquire into whether the indictment was properly drawn . . . but also into the crucial problem of what the sentence should be."[201] Seven years later Judge J. Edward Lumbard pointed out that "although there still remains considerable division among the federal judges as to whether there should be review and the form it should take,"[202] the Advisory Committee on Criminal Rules of the Judicial Conference "is convinced that there should be some form of review of sentences in criminal cases."[203] Professor Livingston

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Footnotes at end of article.

Hall of Harvard Law School observed "[A]ll the commentators that I know of who have spoken on or written on appellate review of sentences favor it." [204]

Unquestionably, the most eloquent and forceful argument in support of the adoption of some form of appellate review presented during the 1973 hearings was contained in a statement submitted by Judge Marvin F. Frankel.[205] After pointing out the present unavailability of review, Judge Frankel stated:

"I cannot know whether the reader finds this [lack of available review procedures] as horrendous as I do. . . . Consider that a civil judgment for $2,000 is reviewable in every state at least once, possibly on two appellate levels. Then consider the unreviewability of a sentence of 20 years imprisonment. . . . Consider that a distinguished committee of the American Bar Association, not normally an agency of revolution, when it urged appellate review of sentences . . . pointed out 'that in no other area of our law does one man exercise such unrestricted power.' " [206]

This agreement upon the necessity for adding a system of sentence review to the federal criminal process is certainly impressive. Of far greater significance is that, in all of the testimony given, neither the practicability nor the simple justice of a system of appellate review has been seriously denied.[207]

As previously noted,[208] there have been assertions that appellate judges lack the resources or the aptitude which, by some undefined means, enables their brethren on the trial bench to discern the most appropriate sentence. In the words of Judge Lumbard:

"There is a feeling on the part of the circuit judges themselves, as well as on the part of the district judges, that the circuit judges really don't know enough about this sentencing business. They are uncomfortable with it . . . the *most unpleasant thing* that a federal judge does is to impose sentence in a criminal case. It is *a very difficult, disturbing experience* and it is one that ought to have the talents of those who have had experience in it:" [209]

The response by Judge Frankel to this frequently advanced notion puts the matter in more accurate perspective:

"A huge percentage of sentences are imposed after guilty pleas. The trial judge, who hears the defendant in a brief sentencing proceeding, knows little of the defendant beyond what he obtains from the presentence report. . . . The appellate court . . . can usually have substantially the same pertinent material as that available to the trial judge. Moreover, the first-hand knowledge, normally cursory and superficial, is almost as much a danger as it is a benefit. Too many trial judges fancy themselves as amateur psychologists and function all too verily as amateurs.[210]

"[T]he conventional assertion that the trial judge has the unique and unreproducible advantages of seeing the defendant, "sizing him up" and possessing from daily exposure a seasoned wisdom in the use of such first-hand impressions . . . [can be fairly described] as minor and largely phony. The trial judge's keen eyes and ears have been mythologized . . . the uses of the trial and sentencing hearing for appraising the defendant in relevant respects are much overrated. The trial judge's powers of effective observation are likewise exaggerated . . . but the whole subject is overblown and the conclusion against appellate review does not follow in any event." [211]

During the 1966 hearings, another federal district court judge actively engaged in criminal trials expressed a similar denial of the special aptitude attributes to him:

"There are those who contend that appellate judges are not qualified to pass sound judgment in determining whether a trial judge has abused discretion in the sentence imposed. This contention seems to me to be singularly devoid of merit. For one thing, many judges of the U.S. courts of appeal serve there after long experience on the trial bench . . . The mere passage of time between sentencing and review may present a better perspective.

"My admiration for my brothers on the federal trial bench . . . and for their exceptional insights into human beings is second to none. But it has not convinced me that they or I possess some wholly innate capacity to make the punishment fit the crime because of their or my personal observation of a defendant during the course of his trial." [212]

If the trial judge possesses any "advantage" in the sentencing process, it lies in the non-disclosure of the facts and reasons which influenced the sentence imposed. Unless the trial judge chooses to express those facts and reasons, only he can know if the sentence is appropriate; the rest—the defendant, the prison administrator and the appellate court—can only second-guess. This questionable "advantage" would be largely eliminated by the requirement, contained in the ABA proposal, S. 1, S. 716 and the National Advisory Commission proposal that the trial judge state the reasons for his sentencing decision. With such a record, the trial judge's "unique opportunity to size up the defendant" would assume no greater importance in the review of sentences than it now has in the review of a limitless number of other exercises of judicial discretion.

Unquestionably the most widely voiced reservation about a system of appellate review is that such a system would impose too great a burden on the existing courts of appeals. Critics of appellate review have focused upon this argument virtually to the point of excluding all other considerations. In his analysis of federal jurisdiction, Judge Friendly has referred to appellate review as the "worst spectre of all." [213] His concerns about excessive work load are stated as follows:

"But I hope there will be enough good judgment in Congress to realize that adoption of [appellate review] would administer the *coup de grace* to the Courts of Appeals as we know them. The problem of volume is not so much with the cases where a sentence is imposed after a trial, since most of these will be appealed anyway and the sentence would be just one more point to be considered, although sometimes an important and difficult one, but with the great mass of convictions, nearly 90% of the total, obtained on pleas of guilty or *nolo contendere*. If the sentence in only half of these were appealed . . . [and] most proponents of appellate review of sentences reject out of hand . . . a possible increase of sentence . . . [as a] limiting effect, the case load of the Courts of Appeals would be doubled by this means alone. While there would not be an equivalent increase in burden, . . . if even a small percentage of those convicted on pleas of guilty should appeal their sentence, 'the courts would be swamped.' " [214]

The concern expressed by Judge Friendly was anticipated by Judge Weigel in the 1966 hearings. After listing the many state jurisdictions in which appellate courts are empowered to review and reduce sentences, he pointed out:

"Experience in these states has not confirmed the fears of those who urged that appellate courts would be overwhelmed with new appeals. . . . The same has been true of the experience in England where appellate courts have long had and exercised powers like those which would be provided to the U.S. Court of Appeals by S. 2722." [215]

Judge Frankel referred to Judge Friendly's concern and, while agreeing that the work load argument "has merit," he found it to have "far less than decisive weight. . . . We do not know . . . how large the burden would actually be, my own hunch is that the usual attack upon a sentence would be short work (which means . . . most would be affirmed, but does not lessen the need for allowing appeals)." [216]

Fears similar to those expressed by Judge Friendly have prompted several proposals for avoiding the potential increase in appellate work load. Judge Lumbard pointed out in his testimony that—

"[i]t would greatly relieve whatever system [of appellate review] is adopted if it could be explicitly provided that in cases where the sentence is imposed after [a plea bargain] . . . the defendant . . . need not have the right to appeal from sentence." [217]

During his Senate testimony, Professor Daniel J. Meador was not prepared to agree that such a system should be formalized, but he concurred that "where the negotiated plea includes an agreement about sentence and . . . the agreement is included in the record . . . the appellate court is not going to touch the sentence." [218] The alternative found in S. 176 of allowing review only of those sentences imposed more than six months after its passage would, of course, be another method of limiting the predicted change in the appellate work load following adoption of a system of sentence review.

Another relevant consideration in any evaluation of the potential effect of a sentencing review system upon appellate work load is the manner in which appeals having no significant merit may be identified and disposed of. Appellate court judges soon develop the skills to take an accurate measure of the pleadings coming to them. Those lacking substantial merit are quickly identified. As Judge Lumbard testified: "I think the fact is that most of the petitions for review . . . can be decided very speedily by looking at the papers. . . ." [219] He estimates that 80 per cent of sentence review cases could be disposed of by this initial review and that further consideration or hearings would be required for only the remaining 20 per cent. Judge Hoffman believes the number of sentence appeals which could be rapidly disposed of would be even higher: "We visualize that probably 95 out of evey 100 of these cases will be of little or no merit." [220]

The possibility must be acknowledged that a sentence review system could actually reduce appellate work loads. Judge Sobeloff has observed that "when judges sense that injustice has been done, they strain to magnify minor defects in a search for reversible error." [221] The painstaking manner with which appellate courts occasionally search the non-sentence aspects of criminal cases to find a justifiable basis for overturning what is considered to be an unreasonable sentence has been observed by Judge Frankel:

"[T]he appellate judges will search out some strained species of "error" in the trial, not because they genuinely deem it a proper ground for a reversal, but as a pretext for setting aside the intolerable sentence." [222]

Judge Hoffman readily concurs:

"[W]hen the matter hits the appellate court there is frequently a compromise of differences by one judge saying, well, I won't reverse if you will cut the sentence down from 10 years to 2 years, I will go along and vote affirmance . . . . I don't approve of that. That has been done. . . . I am confident it is probably done on the appellate level in many, many instances." [223]

As Judges Sobeloff, Frankel and Hoffman have observed, and the line of cases based upon *Williams* confirms, significant amounts of appellate time are now devoted to seeking means of camouflaging substantive sentence review. A system openly permitting such review would obviously eliminate the necessity for these creative enterprises. It is likely in many instances, therefore, that any of the currently proposed appellate review systems

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Footnotes at end of article.

would reduce, not increase, existing appellate work load.

Finally, the most obvious response to any suggestion that an appellate review system would overload the court structure is that such suggestions are simply irrelevant. "[I]f the work requires an additional law clerk, that is little enough for the government to provide." [224] Or, as Professor Hall stated:

"Anything that gives any judge extra work is a burden on the courts, but our courts exist to do justice, and I am convinced [appellate review] is a very important thing. If it puts an extra burden on the courts, it must be borne." [225]

Judge Frankel agrees. "Considering all the things on which appellate judges ponder, the effort to make sentences more rational and just would hardly seem unworthy of their labors." [226]

Nearly fourteen years ago, the then chairman of the House Committee on the Judiciary acknowledged that the most frequent objection to a sentence review system is that it would "over-burden the appellate courts with a flood of appeals." [227] His response to that objection remains unanswerable. "This objection completely evades the issue of whether an appeal procedure is needed to insure the quality of justice that should characterize our courts." [228]

Finally, the voice of Senator McClellan also must be counted among those rejecting the concern of excessive work load as a prohibition to appellate sentence review. At the conclusion of his remarks concerning the introduction of S. 176, Senator McClellan provided the perfect summation on behalf of an effective system of appellate review:

"We must be careful that we do not overload our courts. At the same time, we must keep our perspective. We must not refuse to do justice for a lack of courts. Court congestion is reason to move with care. It is not a reason to fail to act." [229]

IV. CONCLUSION AND RECOMMENDATION

Despite repeated disclaimers and resourceful attempts to obscure its existence, a system of appellate review of criminal sentences is in operation in virtually every court of appeals. Those who oppose the basic concept can neither cope with the pressures which have forced the courts of appeals to exercise some form of review nor, as has generally been the case, continue to ignore them. The record of the irrational or disparate sentence is too well documented to be dismissed or put out of mind. The debate which persisted for so many years is no longer germane. The inquiry is not whether there should be a system of appellate review, but rather how that system should be established and what form it should take.

No issue is more crucial to this inquiry than the extent of the record to be prepared by the trial judge with respect to his sentencing decision. Unless the trial judge is required to state the relevant facts and to disclose his reasons for selecting the sentence imposed, no system of appellate review will have an opportunity to become effective.

The second crucial issue is whether the reviewing body should be required to disclose its reasons for the action it takes with respect to the sentence. The need for disclosure at this level is nearly as compelling as at the trial level. Even if the concept of individualized sentencing continues to prevail, a "common law" of sentencing can nevertheless be developed. The appellate court's grounds for disagreement with the trial judge should be delineated for the guidance they will give future sentencing courts.

The third issue of major importance is whether the review system should be closed to particular categories of cases. An attempt to review every criminal sentence currently in force would be an overwhelming and possibly self-defeating enterprise. Further, it is inevitable that the early decisions in the area of sentence review will have a very great impact on the future development of the doctrine. Accordingly, no review should be attempted in the absence of an acceptable record for such review. The provision of S. 716, which permits review prospectively so that the reasons for imposition will be available, is extremely desirable. Other restrictions upon the access to a sentence review system, however, are inimical to the basic concept and should be accepted only with the greatest caution.

The next inquiry must be directed at whether the appellate court should have the discretion to increase, as well as to decrease or otherwise modify, a criminal sentence. The case can be made that such a power, if statutorily given, does not contravene the fifth amendment. So, at least, the teaching of *Pearce* would dictate. In that decision, the court cited *Williams* and specifically held that, following a retrial and second conviction, the trial judge was not constitutionally precluded from imposing a sentence either greater or lesser than the original sentence. At the same time it must be acknowledged, as Judge Friendly has made clear in the *Jenkins* case, that the law in the area of double jeopardy is far from being settled. Until the Supreme Court speaks further, there appears to be no constitutional prohibition against statutorily empowering appellate courts to increase sentences. Certainly in the pursuit of a wholly logical system of appellate review, the power to increase sentences becomes an indispensable corollary of the power to decrease them.

The most serious objection to adoption of such statutory authority is the "chilling effect" the power to increase sentences might have upon the criminal defendant's exercise of his right to sentence review. If such review were to occur upon the defendant's initiative, he would be represented by counsel both in making that decision and in pursuing the appeal; by such representation, the hazards would be largely overcome. It is fair to add that if the courts of appeals are to be accorded the presumption that they act responsibly and conscientiously, the compelling interest in obtaining a full, fair and balanced review would seem to offset whatever risk the defendant attaches to the initiation of an appeal.

One further observation is appropriate. Empowering appellate courts to increase sentences might also have a constructive influence on the sentencing judge. Rather than deciding a close question against the interests of the defendant, with the thought that an appellate court could reduce his sentence if it is appealed, he would realize that a total review is available. Any tendency to increase the sentence in contemplation of review would be mitigated by the knowledge that the appellate court can increase an inadequate sentence just as it can reduce an excessive one. In short, the logic of the ABA Advisory Committee is unassailable in urging that the appellate court be empowered to make any disposition which was available to the sentencing court. Once past the Constitutional question, the statutory scope of review cannot reasonably exclude the power to increase, as well as decrease, the sentence.

The final inquiry must be directed to the grounds upon which an appeal should lie. It would indeed be laudable if some formula could be articulated which would ensure the attainment of a rational sentence in every case. But that goal, if not wholly illusory, may be beyond present capabilities. The most which might be hoped for is a recognition of the principles of individualization which are inadequately, but plainly, conveyed by the familiar maxim that "punishment should fit the criminal, not the crime." As long as this doctrine retains validity, grounds such as "excessiveness," "inappropriateness" and "unreasonableness" must remain the applicable standards. While there is no assurance that sentences will be less irrational by the establishment of such criteria, in the case-by-case review of sentencing decisions, more precise guidelines will be developed for the trial judge. How his broad discretion should be properly exercised may always be elusive in a society with evolving standards of decency—but the search will be immeasurably enhanced, and pursued more intelligently, by the availability of appellate review.

It appears that ample authority and precedent now exist for appellate review. Without further legislation, it is impractical at this late date to expect the courts of appeals to be unaffected by the body of case law founded upon *Freeman* and *Jackson* whenever the exercise of their authority is invoked. Moreover, any systems of appellate review developed in reliance upon the resolution of individual cases would be uneven and unsatisfactory; a fact evidenced by the disposition on review of sentences analyzed herein. Our criminal justice system should not permit—and the concept of appellate review does not deserve—such a protracted and uncoordinated development. Under the circumstances, legislation is the most desirable solution.

POSTSCRIPT

From an analysis of the judicial treatment of the nonreview doctrine subsequent to *Yates*, if not *Williams*, one could have concluded that the concept of appellate review of sentencing was rapidly moving toward universal recognition. Perhaps more importantly, that concept was being applied, although in slightly varying manners, in virtually all of the federal courts of appeals. In fact, it had been so well recognized and so widely applied that a very viable case could have been made against the further pursuit of legislation. The inadvisability of seeking legislative enactment of what appeared to be a judicially accepted concept was underscored by the absence of any argument about the desirability of the objectives which that concept would achieve. Since only the mechanics by which a system of appellate review might be implemented remained subject to current debate, Congress might have hesitated to take any action at this time and chosen instead to await the final product of the ongoing judicial experimentations with this principle.

This contentment regarding the general recognition of and experimentation with the concept of appellate review was abruptly ended on June 26, 1974. On that date the United States Supreme Court entered its opinion in *Dorszynski v. United States*.[231] In this opinion, the Court served notice that there was no authority for the principle of appellate review of sentences in the federal judicial system and that implementation of the principle, by whatever means might be devised, was unwarranted. A ruling so surprising in light of the unmistakable trend of recent years and so contrary to the apparent disposition of virtually all of the courts of appeals requires both examination and comment.

The issue in *Dorszynski* is simple: When a trial court chooses to impose a sentence inconsistent with the alternative sentencing procedures of the Federal Youth Corrections Act [232] upon a defendant who, by virtue of his age, is eligible for treatment pursuant to that Act, does section 5010(d) of Title 18 of the United States Code [233] require a specific finding that the defendant "will not benefit" from those sentencing procedures or is imposition of the sentence itself an adequate "finding"? The Court, speaking through Chief Justice Burger, held that there must be an express finding of "no benefit." [234] The five member majority, however, declined to

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Footnotes at end of article.

require that the trial court disclose the reasons for entry of the required finding. The four remaining members, while concurring that a specific finding was required, would also have the trial court state those reasons.[235]

The opinion might have ended without more. The questions raised by the Court's grant of certiorari as well as those inherent in the facts of the case had been resolved. Such disposition, however, would have suggested at least implicit approval of the appellate review concept. Citation by the Court of the "process" cases[236] in support of its holding that there must be an express finding would argue strongly for this conclusion. Anticipating such an interpretation, the Court accordingly began its opinion with a denial of the existence of any judicial authority for the concept of appellate review.[237] In no uncertain terms it then disclamed the availability of the doctrine for itself and for the courts below.

The motive for this disclaimer other than to avoid the logical implications of its own holding must be left to speculation. The effect of such action is, however, not speculative. The *Dorszynski* decision will unquestionably have a "chilling effect" upon the efforts of courts of appeal to recognize, apply and expand the basic principle of appellate review of criminal sentences. It must be frankly recognized that by such an emphatic denial the Court has effectively thwarted for the forseeable future any acceptance of this concept throughout the federal judicial system. Ironically, the concept of appellate review has been, by this case, denied not only an opportunity to be developed, but even a "day in court" in which the question of its availability could be heard. Since the issue of appellate review had not been briefed, the Court expressed its position without the benefit of an examination of the precedent for, legal history, or current philosophy of the doctrine.

The advent of *Dorszynski* can only mean that another forum must be sought in which to review, and if necessary, renew, the basic debate as to both the availability and the advisability of appellate review of sentences. Fortunately, that forum is at hand; and even more fortunately, several vehicles for that debate are already before it. *Dorszynski*, more than any other decision (certainly including those decisions which have actually analyzed the non-review doctrine and candidly rejected it), will force Congress to acknowledge that it must address this question. But for this decision, Congress may well have deferred action upon the issue to allow the courts additional opportunity to explore and analyze all aspects of appellate review. But by any reasonable view of legal theory, however, such explorations now are effectively foreclosed to the appellate judge. Hence it is for Congress to revive the principle of appellate review of sentences and, indeed, to mandate its operation in an orderly system of criminal justice.

FOOTNOTES

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[1] Gurera v. United States, 40 F.2d 338, 340–41 (8th Cir. 1930). For another definition of the concept which will hereinafter be referred to as the "non-review doctrine," see note 84 and accompanying text *infra*.

[2] An illustration of the incredulity produced by the explanation of this anomaly to someone unfamiliar with it may be found in the following exchange during a Presidential discussion of an alleged remark by Mr. E. Howard Hunt that he would be "out [of jail] by Christmas." [H: Mr. Robert Haldeman; D: Mr. John Dean; P: Former President Richard Nixon]:

H. Can't you appeal an unjust sentence as well as an unjust? [sic]

D. You have sixty days to ask the Judge to review it. There is no appellate review of sentences.

H. There isn't?

P. The Judge can review it.

H. Only the sentencing Judge can review his own sentence?

Submission of Recorded Presidential Conversations to the Committee on the Judiciary of the House of Representatives by President Richard Nixon, April 30, 1974, 227–8.

[3] Act of March 3, 1879, ch. 176, § 1, 20 Stat. 354.

[4] *Id.* § 3.

[5] Act of March 3, 1891, ch. 517, § 11, 26 Stat. 829.

[6] Act of June 1, 1872, ch. 255, § 2, 17 Stat. 197.

[7] *E.g.*, Woosley v. United States, 478 F.2d 139 (8th Cir. 1973); United States v. Rosenberg, 195 F.2d 583 (2d Cir. 1952); Coburn, *Disparity in Sentences and Appellate Review of Sentencing*, 25 Rutgers L. Rev. 207 (1971) [hereinafter cited as Coburn]; Comment, *Appellate Review of Sentences and the Need for a Reviewable Record*, 1973 Duke L.J. 1357. Commentaries and judicial opinions which discuss this subject without citation of *Freeman* are extremely rare.

[8] 243 F. 353 (9th Cir. 1917), *cert. denied*, 249 U.S. 600 (1919).

[9] *Id.* at 357. The two cases distinguished were United States v. Wynn, 11 F. 57 (C.C.E.D. Mo. 1882) and Bates v. United States, 10 F. 92 (C.C.N.D. Ill. 1881).

[10] 102 F. 473 (9th Cir. 1900).

[11] Note 5 *supra*. While *Jackson* may be slightly less widely cited than *Freeman*, it is far more common to find them both in a single citation.

[12] *Id.* at 490.

[13] *Jackson* might properly be contrasted with Weems v. United States, 217 U.S. 349 (1910) in which a legal sentence was found to be so excessive as to constitute denial of the constitutional prohibition against cruel and unusual punishment. In both cases the concern is with the sentence's "legality" rather than its subjective propriety.

[14] 102 F. at 488

[15] H.R. Rep. No. 1295, 51st Cong., 1st Sess. 1 (1890).

[16] *Id.* at 3.

[17] 160 U.S. 187 (1895).

[18] *Id.* at 198.

[19] Act of June 1, 1872, ch. 250, § 2, 17 Stat. 197.

[20] "[S]uch court shall proceed to render such judgment or pass such decree as the District Court should have rendered or passed. . . ." Act of Sept. 24, 1789, ch. 20, § 24, 1 Stat. 85; quoted in *Ballew* at 198.

[21] 160 U.S. at 201–02 (1895).

[22] *Id.* at 202.

[23] *Id.* at 203. "In view of the discussion by the Supreme Court in Ballew . . . it is difficult to understand the reason for the [non-review] doctrine having taken such a strong root in the federal court system in such a short period of time. . . ." Comment, *Criminal Law and Procedure—Federal Appellate Review of Sentences*, 7 Soffolk U.L. Rev. 1128, 1131, n. 19 (1973).

[24] 123 F. 49 (2d Cir. 1903).

[25] *Id.* at 854.

[26] *Id.*

[27] *Id.* at 855.

[28] 338 U.S. 552 (1950).

[29] *Id.* at 554.

[30] Act of March 3, 1891, ch. 517, § 10. 26 Stat. 826.

[31] 338 U.S. at 554 (1950).

[32] *Id.* at 560.

[33] 284 U.S. 299 (1932).

[34] *Blockburger* has been heavily relied upon in, *e.g.*, Woosley v. United States, 478 F. 2d 139 (8th Cir. 1973); United States v. Daniels, 446 F. 2d 967 (6th Cir. 1971); Smith v. United States, 273 F. 2d 462 (10th Cir. 1959); United States v. Rosenberg, 195 F. 2d 583 (2d Cir. 1952); Coburn, *supra* note 7; Comment, *supra* note 7; Comment, *Daniels v. United States; Appellate Review of Criminal Sentencing—Limiting the Scope of the Non-Review Doctrine*, 33 U. Pitt. L. Rev. 917 (1972).

[35] 284 U.S. at 305.

[36] 357 U.S. 386 (1958).

[37] *Id.* at 393.

[38] *Id.* at 393.

[39] 337 U.S. 241 (1949).

[40] *Id.* at 247 (citation omitted).

[41] 334 U.S. 736 (1948).

[42] With the clear vision of hindsight, it is very apparent that the court was deeply concerned with the same concepts which ultimately produced Gideon v. Wainwright, 372 U.S. 335 (1963).

[43] 334 U.S. at 741.

[44] 356 U.S. 363 (1958).

[45] *Id.* at 366.

[46] 356 U.S. at 366 (emphasis added).

[47] Woosley v. United States, 478 F.2d 139 (8th Cir. 1973); United States v. Daniels, 446 F.2d 967 (6th Cir. 1971); Comment, *supra* note 7; Comment, U. Pitt. L. Rev., *supra* note 34; Note, 23 Case W. Res. L. Rev. 430 (1972).

[48] *See* notes 10–14 and accompanying text *supra*.

[49] 404 U.S. 443 (1972).

[50] The convictions were invalid under Gideon v. Wainwright, 372 U.S. 335 (1963). Therefore, the defendant was sentenced "on the basis of assumptions concerning his criminal record which were materially untrue." 334 U.S. at 741.

[51] 404 U.S. at 447.

[52] Comment, *supra* note 7, at 1363.

[53] 450 F.2d 495 (4th Cir. 1971).

[54] Id. at 498 (citations omitted).

[55] *See, e.g.*, Williams v. New York, 337 U.S. 241 (1949).

[56] *See, e.g.*, Townsend v. Burke, 334 U.S. 736 (1948).

[57] *See e.g.*, Yates v. United States, 356 U.S. 363 (1958).

[58] 450 F.2d at 498.

[59] *Id.*

[60] 448 F.2d 626 (9th Cir. 1971).

[61] *Id.* at 631.

[62] *Id.* It should be noted that *Weston* was decided by the same court of appeals which produced both *Jackson* and *Freeman*.

[63] *E.g.*

> In essence, then, what we have is a conviction at a trial providing all of the safeguards required by the Constitution. . . . This is followed by a determination, based on unsworn evidence detailing otherwise unversified statements of a faceless informer that would not even support a search warrant or an arrest, and without any of the constitutional safeguards, that Weston is probably guilty of additional and far more serious crimes. . . . 448 F.2d at 631.

[64] *Id.* at 634.

[65] United States v. Johnson, 476 F.2d 1251, 1263 (5th Cir. 1973). The *Yates* court admitted utilizing this device in response to dilemma of the non-review doctrine:

> [W]hen this Court found that only a single offense was committed by petitioner, and not eleven offenses, it chose not to reduce the sentence, but to leave this task, with *gentle intimations of the necessity for such action*, to the District Court. 356 U.S. at 366 (emphasis added).

[66] United States v. Walker, 469 F.2d 1377, 1381 (1st Cir. 1972).

[67] 446 F.2d 967 (6th Cir. 1971). *See* note 99 and accompanying text *infra*. For examples of district courts which failed to perceive the unstated motivation for appellate remand until a second appellate decision articulated those motives, see United States v. Wiley, 278 F.2d 500 (7th Cir. 1960) and Leach v. United States, 334 F.2d 945 (D.C. Cir. 1964).

[68] 481 F.2d 553 (5th Cir. 1973).

[69] *Id.* at 554.

[70] *Id.*

[71] *Id.* at 555.

[72] *Id.* at 556.

[73] *Id.* at 558.

[74] *Id.*

[75] *See* notes 10–14 and accompanying text *supra.*

[76] 489 F.2d 652 (5th Cir. 1974).

[77] *Id.* at 654 (emphasis original).

[78] 337 U.S. 241 (1949).

[79] *Id.* at 655.

[80] *Id.* at 657.

[81] 490 F.2d 95 (5th Cir. 1974).

[82] *Id.* at 96. [I]t appears that the *Townsend* rule, if manipulated by a well-intentioned and moderately artful court of appeals, is no bar to effective review of the severity of a sentence." Comment, *supra* note 7, at 1363.

[83] United States v. Rosenberg, 195 F.2d 583 (2d Cir. 1952).

[84] *Id.* at 604. Immediately following this pronouncement, Judge Frank quotes the well-known rule of Gurera v. United States, 40 F.2d 338, 340 (8th Cir. 1930); *see* note 1 and accompanying text *supra.*

[85] 195 F.2d at 604 n.25 (2d Cir. 1952).

[86] Originally adopted as Act of June 25, 1948, ch. 646, 62 Stat. 963, this statute provides:

> The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the case and direct the entry of such appropriate judgment, decree or order or require such further proceedings to be had as may be just under the circumstances.

Portions of what had formerly been 28 U.S.C. §§ 344, 876 and 877 (1940 ed.) are incorporated in this legislation.

[87] 195 F.2d 583, 605 (2d Cir. 1952).

[88] *Id.* at 605–07.

[89] Sobeloff, *The Sentence of the Court—Should There be Appellate Review?,* 41 A.B.A.J. 13, 16–17 (1973).

[90] 273 F.2d 462 (10th Cir. 1959).

[91] *Id.* at 467.

[92] *Id.*

[93] *Id.* at 468.

[94] *Id.* at 469. Chief Judge Murrah, after agreeing that sentencing discretion is best exercised by the trial court, argues that this thesis "does not mean that the appellate courts shoud abnegate a duty imposed by statute when manifest justice requires the exercise of that power." *Id.* Chief Judge Murrah's analysis of 28 U.S.C. § 2106 (1974) is vaguely reminiscent of the statement of the Lord Chief Justice in *Rex v. The Minister For Drains:* "[I]f Parliament does not mean what it says it must say so." A. Herbert, Uncommon Law at 313 (1935).

[95] 278 F.2d 500 (7th Cir. 1960). *See, eg.,* Comment, *supra* note 7; Comment, *Present Limitations on Appellate Review of Sentencing,* 58 Iowa L. Rev. 469 (1972); Comment, *Appellate Review of Sentences: A Survey,* 17 St. Louis U.L.J. 221 (1972); Comment, *supra* note 23.

[96] United States v. Wiley, 267 F.2d 453 (7th Cir. 1959).

[97] United States v. Wiley, 278 F.2d 500, 504 (7th Cir. 1960).

[98] *Id.* at 503. *Cf.* Leach v. United States, 334 F.2d 945 (D.C. Cir. 1964). As might be expected, an extensive quotation from *Yates* precedes this conclusion.

[99] 446 F.2d 967 (6th Cir. 1971). *See* Comment, *supra* note 47; Comment, U. Pitt. L. Rev., *supra* note 34.

[100] United States v. Daniels, 429 F.2d 1273, 1274 (6th Cir. 1970).

[101] United States v. Daniels, 446 F.2d 967, 969 (6th Cir. 1971).

[102] *Id.* at 970 (*citing* Scott v. United States, 419 F.2d 264, 266 (D.C. Cir. 1969)).

[103] *Id.* at 972.

[104] *Id.*

[105] *See* notes 42-44 and accompanying text *supra.*

[106] 466 F.2d 1403 (6th Cir. 1972).

[107] United States v. McKinney, 427 F.2d 449, 455 (6th Cir. 1970).

[108] United States v. McKinney, 466 F.2d 1403 (6th Cir. 1971). It should be noted that both the order directing the second remand of this case and the opinion rendered following the case's third appearance in the court begin at 1403; however, the order was entered in 1971 and the opinion published in 1972.

[109] United States v. McKinney, 466 F.2d 1403, (6th Cir. 1972).

[110] *Id.* at 1405.

[111] 478 F.2d 139 (8th Cir. 1973).

[112] *Id.* at 142.

[113] *Id.* at 144–45.

[114] *Id.* at 146 (emphasis original).

[115] *Id.* at 147.

[116] Although the court believed the severity of this sentence "shocks the judicial conscience" and could "find no basis by any rational criteria to justify Woosley's punishment in this case" it nevertheless elected to remand for resentencing rather than impose a sentence itself.

[117] For an analysis of the non-review doctrine in the federal courts as well as a comprehensive survey of state statutes and decisions permitting appellate review of criminal sentences, see Comment, St. Louis U.L.J., *supra* note 95. *See also* ABA Proposal, *infra* note 178 at 67, *et seq.*

[118] 10 U.S.C. § 860 (1956).

[119] *Id.* § 864.

[120] *Id.* § 866(a).

[121] *Id.* § 866(c).

[122] *Id.* § 867(e).

[123] In *Pearce,* the Court held that whenever a second or subsequent trial resulted in a more severe sentence than was imposed following the original trial, a statement of the reasons for imposition of the greater sentence would be required to ensure that the sentence was not motivated by constitutionally impermissible reasons.

[124] 18 U.S.C. § 3575, *et seq.* (1970).

[125] 119 Cong. Rec. 1783 (daily ed. Feb. 1, 1973).

[126] 18 U.S.C. § 3575(a) (1970).

[127] *Id.* § 3575(b).

[128] *Id.* § 3576.

[129] *Id.*

[130] *Id.*

[131] S. 1480, 84th Cong., 1st Sess. (1955).

[132] *Id.*

[133] *See, e.g.,* S. 3914, 86th Cong., 2d Sess. (1960); S. 1692, 87th Cong., 1st Sess. (1961); S. 2879, 87th Cong., 2d Sess. (1962); S. 823, 88th Cong., 1st Sess. (1963); S. 2722, 89th Cong., 1st Sess. (1965); S. 1540, 90th Cong., 1st Sess. (1967); S. 1561, 91st Cong., 1st Sess. (1969); and, S. 2228, 92d Cong., 1st Sess. (1971).

[134] S. 1540, 90th Cong., 1st Sess. (1967).

[135] S. 716, 93d Cong., 1st Sess. (1973) [hereinafter cited as S. 716].

[136] 119 Cong. Rec. S. 1776 (daily ed. Feb. 1, 1973).

[137] S. 716, *supra* note 135, at (e).

[138] *Id.*

[139] *Id.* at (b).

[140] *Id.*

[141] *Id.* at (c).

[142] *Id.*

[143] *Id.* at (i).

[144] *See* note 213 and text accompanying *infra.*

[145] S. 1, 93d Cong., 1st Sess. (1973) [hereinafter cited as S. 1].

[146] *Cf.* note 192 and accompanying text *infra.* A brief description of the major differences between the Brown Commission recommendations and S. 1 has been prepared by the Commission's Director. *1973 Hearings, infra* note 194 at 5382.

[147] S. 1, *supra* note 145 § 1–4A.1(a).

[148] *Id.* § 3–11E3(a).

[149] *Id.* 1–4B2(b) (2).

[150] *Id.* § 3–11E3(a). This standard is identical with the standard adopted in Title X of the Organized Crime Control Act of 1970. *See* note 124 and accompanying text *supra.*

[151] S. 1400, 93d Cong., 1st Sess. (1973).

[152] A very informative discussion of the history and development of this legislation may be found in the testimony of Mr. Joseph T. Sneed, Deputy Attorney General, *1973 Hearings, infra* note 194 at 5218.

[153] Coburn, *supra* note 7, at 216.

[154] 415 F.2d 1288 (6th Cir. 1969).

[155] 482 F.2d 1357 (6th Cir. 1973).

[156] *Id.* at 1358.

[157] United States v. Daniels, United States District Court for the Eastern District of Kentucky, Transcript of Sentencing Hearing; quoted in United States v. Daniels, 446 F.2d 967 (6th Cir. 1971).

[158] *E.g.,* United States v. Hartford, 489 F.2d 652 (5th Cir. 1974); Woosley v. United States, 478 F.2d 139 (8th Cir. 1973); United States v. McKinney, 466 F.2d 1403 (6th Cir. 1972); United States v. Daniels, 446 F.2d 967 (6th Cir. 1971); United States v. Wiley, 278 F.2d 500 (7th Cir. 1960).

[159] 337 U.S. 241 (1949).

[160] *Id.* at 251. After alluding to the non-review doctrine, one court formulated this classic statement of the special vantage point enjoyed by the trial judge:

> This historic deference [to the trial judg's discretion], premised in great measure on the proxmity of the trial judge to the criminal defendant, thus affording the court the opportunity of first-hand observation and impressions which together with many other considerations must be weighed in passing sentence continues unabated and remains uncompromised. . . . United States v. Hartford, 489 F.2d 652, 654 (5th Cir. 1974).

[161] ABA Project on Minimum Standards for Criminal Justice, Standards Relating to Pleas of Guilty (Approved Draft, 1970). *See* note 210 *infra.*

[162] Fed. R. Crim. P. 11.

[163] *Hearings on S. 2722 before the Subcomm. on Improvements in Judicial Machinery of the Senate Comm. on the Judiciary,* 89th Cong., 2d Sess. 37 (1966). [Hereinafter cited as *1966 Hearings*].

[164] Fed. R. Crim. P. 32(c).

[165] United States v. Hartford, 489 F.2d 652 (5th Cir. 1974); *see* notes 76–80 and accompanying text *supra.*

[166] *Id.* at 656.

[167] 119 Cong. Rec. 3517 (daily ed. May 2, 1974).

[168] Proposed Rule 32(c) (3) (A), *Id.* at 3521.

[169] *See* Fed. R. Crim. P. 11. Rule 32 permits the Court to state orally or in writing "a summary of the factual information contained [in the pre-sentence report] to be relied on in determining sentence . . ." in lieu of making the report available. In addition, the Proposed Rule exempts from disclosure certain confidential information and diagnostic opinions.

[170] United States v. Hartford, 489 F.2d 652, 655 (5th Cir. 1974).

[171] United States v. Daniels, 446 F.2d 967, 969 (6th Cir. 1971).

[172] United States v. Charles, 460 F.2d 1093, 1095 (6th Cir. 1972).

[173] Woosley v. United States, 478 F.2d 139, 140 (8th Cir. 1973).

[174] United States v. Espinoza, 481 F.2d 553, 557–58 (5th Cir. 1973). For a very forceful argument that the trial court should disclose the reasons for their sentences, see, Coburn, *supra* note 7, at 217. Perhaps the most persuasive argument for disclosure found in a recent opinion is contained in United States v. Brown, 479 F.2d 1170, 1172 (2d Cir. 1973).

[175] United States v. McGee, 344 F. Supp. 442 (S.D.N.Y. 1972).

[176] McGee v. United States, 462 F.2d 243, 247 (2d Cir. 1972).

[177] 395 U.S. 711 (1969). "[W]henever a judge imposes a more severe sentence upon a defendant after a new trial, the reasons for his doing so must affirmatively appear." *Id.* at 726. The significance of this decision to a system of appellate review, however, goes far beyond the requirement that the sentencing rationale be articulated in this limited class of cases. *See* note 183 *infra.* While the imposition of a similar requirement for all sentences would undoubtedly be of great benefit, the relationship between the mental processes which, in fact, produced a sentence and the articulated rationale is, however, likely to be very tenuous. As one writer has recently observed, true candor about the sentencing decision may not reasonably be expected because "[t]he psychological roots of a judge's sentence reach into a bog where most judges fear to tread. To trespass there is to risk unsettling discoveries, to confront demons they would sooner avoid." D. Jackson, Judges at 370 (1974). [hereinafter cited as Jackson]. Judge Frankel agrees that "accidents of birth and biography . . . [generate] the guilts, the fears, and the rages that affect almost all of us at times and in ways we often cannot know." *Id.* at 367. Finally, a psychiatrist who has been extensively involved in courses and seminars for trial judges over the past decade has concluded that "[judges] have all kinds of explicit rationales for not thinking about their own involvement." *Id.* at 370.

[178] ABA Project on Standards for Criminal Justice, Standards Relating to Appellate Review of Sentences, Standard 1.1(a) (Approved Draft, 1968) [hereinafter cited as ABA Proposal].

[179] *Id.* Standard 2.3(a) (iii).

[180] *Id.*

[181] *Id.* Standard 2.3(c).

[182] *Id.* Standard 3.2(i). In the draft proposal of the Advisory Committee on Sentencing and Review, the word "excessiveness" was used rather than the word "propriety."

[183] ABA Proposal, *supra* note 178, Standard 3.3(ii). The Advisory Committee's Comment concerning Draft Standard 3.4 begins with the following observation: "Perhaps the most controversial question involved in the decision to provide for sentence review is whether the reviewing court should be authorized to increase the penalty imposed by the sentencing court." This commentary contains an excellent summary of most constitutional and policy arguments which have been raised concerning this aspect of an appellate review system. *Id.* at 55–64. While neither the Advisory Committee nor the Special Committee took a position on the issue, each noted "the prospect of serious constitutional difficulties if an increase is allowed on an appeal by the State." *Id.* at 56.

A thorough analysis of the applicability of the Constitutional double jeopardy prohibition to an appellate review system permitting sentences to be increased was prepared by the United States Department of Justice during the Congressional consideration of the Organized Crime Control Act of 1970. In a letter to the House Judiciary Committee, Assistant Attorney General Will Wilson specifically reviewed North Carolina v. Pearce, 395 U.S. 711 (1969), Green v. United States, 355 U.S. 184 (1957) and Specht v. Patterson, 386 U.S. 605 (1967) as well as several related Supreme Court decisions. Speaking for the Justice Department, Mr. Wilson concluded that an appellate court's imposition of an increased sentence upon a "dangerous special offender" (*See* note 124 and accompanying text *supra*) would be Constitutionally permissible. 2 U.S. Code Cong. & Ad. News 4068–70 (1970).

Another excellent treatment of the development of the double jeopardy doctrine in the American courts is found in Congressional Research Service, The Constitution of the United States of America: Analysis and Interpretation (1973). Citing *Pearce,* this treatise states: "[T]he double jeopardy clause does not restrict a trial judge from imposing a lawful sentence more severe than the sentence originally imposed . . ." *Id.* at 1099.

The basic origins of the doctrine are discussed in a highly informative opinion by Judge Friendly. In United States v. Jenkins, 490 F.2d 868 (2d Cir. 1973), observations by Demosthenes, Blackstone, and the 1st Congress are all noted before the more recent cases are analyzed. Although its facts limit the application of this decision with respect to the problem of increasing sentences on review, it does provide a scholarly examination of the double jeopardy clause in general.

On May 28, 1974, the Supreme Court granted applications for writs of certiorari in *Jenkins* and in United States v. Wilson, 492 F.2d 1345 (3d Cir. 1973). 42 U.S.L.W. 3652 (U.S. May 28, 1974). Unless the Supreme Court reverses the trend, the clear weight of authority runs in the direction of holding the increase of a criminal sentence by an appellate court would not constitute being "twice placed in jeopardy" and, therefore, would be Constitutionally permissible. The Constitutional issue aside, the ABA Proposal's policy argument is persuasive. "[I]t is just as appropriate for the reviewing court to have the power to correct an excessively low sentence as it is for the court to have the power to correct an excessively high one. It is in general unsound to restrict the discretion of courts in a manner which may prohibit them from reaching the result dictated by justice in the particular case." Special Committee on Minimum Standards for the Administration of Criminal Justice, Recommended Amendments 2 (1968), *reprinted in* ABA Proposal, *supra* note 175 (Supp. 1968).

[184] Special Committee on Minimum Standards for the Administration of Criminal Justice, Recommended Amendments 2 (1968); *reprinted in* ABA Proposal, *supra* note 178 (Supp. 1968).

[185] ABA Proposal, *supra* note 178 Standard 3.1(b).

[186] Hereinafter referred to as "The National Advisory Commission." This Commission was appointed by the Administrator of the Law Enforcement Assistance Administration in October, 1971 for the purpose of formulating a national goals and standards for crime reduction and prevention at both the state and local level. The Commission formed Task Forces on several topics including one to examine Corrections and another to examine the Courts.

[187] National Advisory Commission, Report on Corrections, Standard 5.11(4) [hereinafter cited as NAC Report on Corrections].

[188] National Advisory Commission, Report on Courts, Standard 6.1(2) (1973) [hereinafter cited as NAC Report on Courts].

[189] NAC Report on Corrections, *supra* note 184, at 178–79.

[190] NAC Report on Courts, *supra* note 185, Standard 6.3(6).

[191] The popular name for the National Commission on Reform of Federal Criminal Laws is derived from the name of its Chairman, former Governor Edmund G. Brown.

[192] The National Commission on Reform of Federal Criminal Laws, Final Report 317 (1971).

[193] *Id.*

[194] The entire text of the proposal rule and related materials submitted by the Administrative Office of the United States Courts has been reprinted in *Hearings on the Reform of the Federal Criminal Laws (S.1, S.716, S.1400, and S.1401) Before the Subcomm. on Criminal Laws and Procedures of the Senate Comm. on the Judiciary,* 93d Cong., 1st Sess. 5335 *et seq.* (1973) [*hereinafter cited as 1973 Hearings*].

[195] *Id.* at 5337.

[196] *1966 Hearings, supra* note 163.

[197] S. 2722, 89th Cong. 1st Sess. 1965).

[198] *Id.*

[199] *1973 Hearings, supra* note 194.

[200] Sobeloff, *supra* note 89.

[201] *1966 Hearings, supra* note 163 at 25.

[202] *1973 Hearings, supra* note 194 at 5348.

[203] *Id.*

[204] *Id.* at 5370.

[205] *Id.* at 5649.

[206] *Id.* at 5650.

[207] The clear focal point of attack upon the concept of appellate review has been the practicality of such a system and its effect upon court workloads. *See* note 213 and accompanying text *infra.*

[208] *See* notes 153–58 and accompanying text *supra.*

[209] *1973 Hearings, supra* note 194 at 5350 (emphasis added). It would obviously be abnormal to expect circuit judges to enthusiastically solicit such an onerous burden. An eloquent statement of one reason the sentencing task is so disquieting to judges is found in a recent analysis of the American judiciary:

"It is one of the transcendent ironies of our system of criminal justice that at sentencing, precisely the point where most is at stake, the judge is unceremoniously out adrift from all the moorings of law and principle that restrict him at every other point in the process. He is afloat in the dark, with little to guide him, no codified set of criteria, nothing to help him with the most important decision he has to make. His conduct of a trial is circumscribed by dozens of rules, precedents, and statutes. He may comment on evidence only in carefully specified circumstances, and only in jurisdictions (such as federal courts) that permit it. He rules on the admissibility of evidence in accordance with a body of law refined through centuries of courtroom combat. His charge to a jury must hew to limits prescribed by the nature of the offense, the available options, and hallowed precedent. But in sentencing, nothing—one to fourteen, five to life, thirty days to two years, and only his mind and heart to go on." Jackson, *supra* note 177 at 360.

[210] *Id.* at 5655.

[211] *Id.* at 5652–53.

[212] Testimony of Honorable Stanley A. Weigel, Judge of the United States District Court for the Northern District of California, *1966 Hearings, supra* note 163 at 75–76.

[213] H. Friendly, Federal Jurisdiction: A General View 36 (1973).

[214] *Id.* at 36–37.

[215] *1966 Hearings, supra* note 163, at 74.

[216] *1973 Hearings, supra* note 194, at 5655.

[217] *Id.* at 5351.

[218] *Id.* at 5569.

[219] *Id.* at 5352.

[220] *Id.* at 5358.

[221] *1966 Hearings, supra* note 163, at 25.

[222] *1973 Hearings, supra* note 194, at 5652.

[223] *Id.* at 5360.

[224] *1966 Hearings, supra* note 163, at 30.

[225] *1973 Hearings, supra* note 194, at 5371–72.

[226] *Id.* at 5651.

[227] Statement by Representative Emanuel Celler, *Appellate Review of Sentences: A Symposium at the Judicial Conference of the United States Court of Appeals for the Second Circuit,* 32 F.R.D. 249, 309 (1962).

[228] *Id.*

[229] *Supra note* 125, at S. 1783.

[230] S. 716 is reproduced with the amendments and deletions herein recommended *infra* at page 519.

[231] Dorszynski v. United States, 94 S. Ct. 3042 (1974).

[232] 18 U.S.C. § 5005, *et. seq.* (1970).

[233] "If the court shall find that the youth offender will not derive benefit from treatment under subsection (b) or (c), then the court may sentence the youth offender under any other applicable penalty provision." Subsections (b) and (c) generally provide for commitment of the youth offender to the Attorney General.

[234] Dorszynski v. United States, 94 S. Ct. 3042, 3053 (1974).

[235] *Id.* at 3054.

[236] *Id.* at 3052–53. *See* note 43 and accompanying text *supra.*

[237] The intent of Congress was in accord with long-established authority in the United States vesting the sentencing function exclusively in the trial court.

"If there is one rule in the federal criminal practice which is firmly established, it is that the appellate court has no control over a sentence which is within the limits allowed by a statute." Gurera v. United States, 40 F.2d 338 (CA8 1930).

[I]f a court imposed a sentence within that range [*i.e.,* established by statute] his exercise of discretion as to where within the permissible range sentence should be fixed was not subject to challenge. *Id.* at 3051.

STATE OF THE UNION: RIGHT DIRECTION BUT WRONG ROAD

Mr. WILLIAMS. Mr. President, the people of the Nation undoubtedly will welcome the decisiveness with which the President has, at long last, chosen a new course.

The state of the Union reflects a state of economic emergency here at home. The President has now acknowledged that harsh reality, and he has charted a program which he hopes will, as he has put it, turn America in a new direction.

With his address yesterday, there is no longer any debate over what we have to do, only how to go about it.

The citizens of this country did not have to be told that a new direction is needed. They have felt the crushing bite of simultaneous inflation and recession for many months.

The message of our virtually unprecedented economic condition was heard by the Congress last year, and the actions taken in these Chambers to provide additional public service jobs, to speed efforts in the area of public works, and to provide expanded benefits to those who have lost their jobs in the current recession are enduring testimony to the fact that the Congress got the message.

In the unfamiliar and uncharted waters of our current economic crisis, any course that is chosen by the President or prescribed by the Congress will have its critics.

And I must say that, while I am pleased with the intensity of the President's expressed concern and his willingness to join the Congress in shouldering the burden, I am skeptical that major elements of his program can achieve his professed goals of reducing the cost of living and, at the same time, provide enough jobs for people to make a living at all.

URGENT NEED FOR MORE JOBS

On the huge charts in the situation room, the President's plan of attack on our economic malaise may look like the answer. But the human impact will, and should, be judged in the trenches of everyday life.

And in those trenches, the great tragedy is that so many Americans are in the ranks of the unemployed.

Our first imperative must be to deal with that brutal fact, and to do so with the urgency and immediacy the situation demands.

The President said as much yesterday, but his new program, combined with other long-term policies of this administration, give little substantive evidence that there will be additional, direct action to provide productive employment to the millions without jobs.

Unemployment has deepened dramatically in the past month, and even the most optimistic forecasters shudder when they predict an unemployment rate of 7.5 percent by midyear.

As the situation worsens, the need for public service jobs to take up the slack has intensified, yet the administration has not recognized that funds for the emergency programs enacted by the 93d Congress must be increased promptly.

As chairman of the Committee on Labor and Public Welfare, I have placed a top priority on insuring that this legislation is fully funded and implemented and, if necessary, new legislation will be proposed to create the necessary jobs for those who have no other hope in these times.

SPEED FUNDING OF VITAL PUBLIC WORKS

In my view, the cooperation of the administration is also required to accelerate the funding of approved public works projects. The Nation suffers stunning unemployment in the construction trades, yet billions of dollars for vital public projects are under impoundment by the executive branch or otherwise held up by administrative delays—projects in sewage treatment, flood control, mass transit and highways, among others.

The bulk of these funds should be released at the earliest possible time and, if not, the Congress should resort to its powers under the Budget and Impoundment Control Act to force their release.

Other new initiatives are required to stimulate housing construction, to control costs of food production, and to stabilize wages and prices.

NEW BUDGET CUTS EXPECTED

The President has proposed, among other things, new budget cuts. He did not specify where those new cuts will be made in his new budget, and I assume that he will give us the details in the near future with his annual budget message.

For myself at this point, I am deeply hopeful that these reductions will not be imposed on programs that have been authorized and funded for vitally needed health and educational services, and for development of the human potential that is in all of our people.

A society that fails in its humane duty to provide for those in need will suffer not only economic stagnation, but stagnation of the spirit as well.

ENERGY PROGRAM THREATENS MORE INFLATION

The President's mandatory energy conservation program is a matter of concern to me. It may well relieve our dependence on foreign sources of fuel, but it is inconceivable to me how it can be expected to bring down prices or free the necessary capital for industrial expansion and more jobs.

By the President's own words, these are the three goals of his program.

Nevertheless, he will act unilaterally to impose higher tariffs on already expensive imported oil, and he has asked the Congress to enact excise taxes on domestically produced oil and natural gas.

He has chosen to drive up the cost of petroleum fuels across the board—for industry, power generation, home heating, farm operations, as well as for personal automobiles.

Moreover, he wants authority to use tariffs, import quotas, and price floors to keep fuel prices artificially high.

Admittedly, the President's proposed tax rebates will provide many Americans with extra cash to pay the higher prices.

But if prices are not restrained, the cost of basic necessities and other goods will simply expand to absorb the extra money made available. The all too likely result could be even greater inflation with only marginal possibilities for job expansion.

ELDERLY, POOR, HANDICAPPED ASKED TO SACRIFICE

The President has in recent days repeated his characterization of inflation as "the cruelest tax of all." And never is it more cruel than when it descends on the shoulders of the elderly, the poor, and the handicapped on fixed incomes.

But in the face of double-digit inflation that probably would be sustained by the President's energy policies, he has called on the Congress to limit cost-of-living increases to no more than 5 percent for those needy Americans receiving subsistence and retirement benefits from the Social Security Administration.

The logic of these conflicting policies escapes me entirely. They would appear to be submitting the poor, the elderly, and the handicapped to both edges of the economic sword—limited income and declining spending power.

RESPONSIBLE CONGRESSIONAL ALTERNATIVES

My colleagues in the Congress have taken a responsible course for these times. A broad and unusually specific congressional economic program has been presented by the majority party, and a firm commitment has been made to enact its most urgent provisions with all deliberate speed. The proposals are simply recommendations.

Some have called them vague and overgeneralized. I disagree with that characterization.

The congressional proposals comprise a shopping list of policy options, allowing for choosing those that dovetail and fit together into a smoothly surfaced economic recovery program.

The President's proposals are additional options for the Congress to consider, and I know that they will be given the most serious and respectful consideration.

The President has done what he felt he had to do—propose a single program for dealing with our economic ills. One may wish that he had been more comprehensive, but he has set his course once again, as he did in his economic message of last October.

It is a starkly different course.

I sincerely hope that he will sharpen his focus on shifting economic developments and, as events indicate, adjust his views to conform with new realities.

I am confident that he will, as will we in the Congress.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER**. Is there further morning business? If not, morning business is concluded.

Mr. **ALLEN**. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **HUMPHREY**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McClure). Without objection, it is so ordered.

Mr. **HUMPHREY**. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

FORTY-SIXTH ANNIVERSARY OF THE BIRTH OF THE REVEREND DR. MARTIN LUTHER KING, JR.

Mr. **HUMPHREY**. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The **PRESIDING OFFICER**. The resolution will be stated by title.

The legislative clerk read as follows:

Resolution commemorating the 46th anniversary of the birth of the Reverend Dr. Martin Luther King, Jr., on January 15, 1929.

The **PRESIDING OFFICER**. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. **HUMPHREY**. Mr. President, this resolution, which I am submitting for myself and Mr. Brooke, Mr. Mondale, Mr. Javits, Mr. Bentsen, Mr. Domenici, and Mr. Griffin, commemorates the birth of Dr. Martin Luther King, Jr., on January 15, 1929—46 years ago. I believe it is of the greatest importance that his profound contribution to the moral and social growth of America be recognized and kept before our attention; therefore, I have also joined with Senator Brooke in sponsoring Senate Joint Resolution 2, designating January 15 of each year as "Martin Luther King Day."

Dr. King's absolute dedication to the achievement of human freedom and equality has left a permanent imprint upon the history and the conscience of our Nation. He was a man who lived by the code of nonviolence, but whose death came, ironically and tragically, at the hand of violence.

Martin Luther King's life of 39 years was one of solid accomplishment, worldwide acclaim, and great promise. He attended the Atlanta public schools and received degrees from Morehouse College, Crozier Theological Seminary, and Boston University. But the discriminatory injustices visited upon an entire people caused him to move from the Ebenezer Baptist Church in Atlanta, where he was serving as copastor with his father, into the organization of what came to be symbolic of the Nation's nonviolent struggle for social and economic progress. His appeal for mutual understanding and equal opportunity was carried from Montgomery, Ala., in 1956, to the organization of the Southern Christian Leadership Conference, to the profoundly moving freedom march in Washington, in 1963, to the slums of Chicago in 1966, and finally to Memphis, Tenn., in the effort to translate legal rights into economic justice.

The struggle to establish economic justice continues today. But the impact of inflation and recession underscores the fact that this struggle now involves all Americans—black and white, old and young, rural and urban.

While we were attempting to treat rampant, runaway inflation, the seditious, creeping enemy of recession with massive unemployment reared its ugly head. As I speak here, 6½ million Americans are without jobs. Men and women who want to work, who desperately need to produce income to provide for their families, are unable to find employment in an economy that is suffering from massive dislocations and dangerously low productivity.

While overall unemployment stands at 7.1 percent, the rate of joblessness among black Americans is 12.8 percent. And the saddest, most profound fact of all, Mr. President, is that unemployment among young black Americans is 37.8 percent.

The real cost of recession is incalculable. To the millions of Americans who are jobless, the cost is nutritious meals, a decent home, enough fuel to make it through the winter, and adequate clothing. The less tangible, but profoundly significant effects of widespread unemployment are loss of dignity and pride. It is not enough to make speeches about the American dream and the perseverance of the American spirit. We must act, and act now.

Many of my colleagues are aware of the national march for full employment that took place yesterday in the Nation's Capital. Prior to the march, as I met with Rev. Jesse Jackson and almost 100 Members of Congress deeply concerned that our Nation should address the economic crisis facing black Americans, I reflected on my association with Dr. King. This is a struggle in which he would have been totally involved, because it strikes to the heart of the movement for social and economic justice.

There can be no social justice in a country that is besieged by recession. Dr. King realized that black Americans cannot be truly free if they are poor and lack the dignity and pride that come with economic independence. He would have understood keenly the scope of the crisis, which affects all Americans. He would have cried for mutual understanding; he would have prayed that all Americans come together to find solutions and to work for the common good.

He is not here with us to fight this battle. But let us reaffirm our dedication to the principles for which he fought while he was with us. We must again lock arms in the spirit of that great American whose birthday we honor and whose loss our Nation feels so deeply. We must quicken the pace in our march toward that promise of opportunity and justice and fulfill the dreams Martin Luther King, Jr. held for America.

The **PRESIDING OFFICER**. The question is on agreeing to the resolution.

The resolution (S. Res. 14) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 14

Whereas the Reverend Dr. Martin Luther King, Junior, dedicated his life to the achievement of freedom and equality for all people in the United States of America;

Whereas Dr. King's appeal for mutual understanding and equal opportunity became symbolic of this Nation's non-violent struggle for social progress;

Whereas Dr. King's leadership in the cause of establishing civil rights and economic justice in America generated the respect and commitment of millions of our people and received international recognition and honor;

Whereas our Nation is in the midst of an economic crisis which threatens the economic security of all Americans and endangers national efforts to promote social and economic justice; and

Whereas economic recovery will require the unique qualities of commitment and progressive leadership exhibited by Dr. King: Now, therefore, be it

Resolved, That the Senate of the United States commemorates the birth of this great American and honors his contributions to the cause of social progress and economic justice for all Americans.

PRIVILEGE OF THE FLOOR

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that Mr. Durkin may have the privilege of the floor of the Senate today.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **JAVITS**. Mr. President, will the Senator make the same request for Senator Wyman?

Mr. **ROBERT C. BYRD**. Mr. President, Mr. Wyman is technically an ex-Senator, and he would be accorded that privilege.

RECESS UNTIL 3 P.M.

Mr. **ROBERT C. BYRD**. Mr. President, if no Senator seeks recognition, I ask unanimous consent that the Senate stand in recess until 3 p.m. today.

There being no objection, at 2:05 p.m. the Senate recessed until 3 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. McClure).

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

The Senate resumed the consideration of the credentials of the claimants to be U.S. Senator from the State of New Hampshire.

Mr. **ROBERT C. BYRD**. Mr. President, what is the question before the Senate?

The **PRESIDING OFFICER**. The Chair lays before the Senate the unfinished business, which the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. Mansfield) moves that the credentials of Louis C. Wyman and John A. Durkin and all papers now on file with the Senate relating to the same be referred to the Committee on Rules and Administration for recommendations thereon.

RECESS UNTIL 3:31 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 30 minutes.

The motion was agreed to, and at 3:01 p.m., the Senate recessed until 3:31 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. McClure).

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CASE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. GRIFFIN. Mr. President, if no one else seeks recognition, while awaiting the arrival of the majority whip, I renew my motion that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to, and at 3:51 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 5:45 p.m. when called to order by the Presiding Officer (Mr. Weicker).

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

The Senate continued with the consideration of the credentials of the claimants to be U.S. Senator from the State of New Hampshire.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I propose the following unanimous-consent request:

Mr. President, I ask unanimous consent that on Monday, January 27, at the hour of 2 o'clock p.m., the Senate proceed to the consideration of the privileged motion by Mr. Mansfield and any amendment thereto for debate; that debate be limited to 3 hours and equally divided on Monday afternoon of January 27 between Mr. Mansfield and Mr. Griffin; that no action thereon be taken on that day.

Provided further, that at the hour of 10 o'clock on Tuesday, January 28, there be a time limitation of 6 hours, to be equally divided between Mr. Mansfield and Mr. Griffin. Provided further, that at the hour of 4 o'clock p.m. on January 28 a vote occur on a substitute motion by Mr. Griffin which will be generally in the nature of a proposal that Mr. Wyman be seated without prejudice to Mr. Durkin, and that no tabling motion be in order, and that no amendment to that amendment be in order; that upon the disposition of the Griffin amendment there be a time limitation of 10 minutes to be equally divided between Mr. Weicker and Mr. Mansfield; that there then occur a vote on a motion by Mr. Weicker which will be in the nature of a proposal that the seat, the contested seat, be declared vacant, and that the matter of filling that vacancy be referred to the State of New Hampshire.

Provided further, that on the disposition of that motion, there be a 10-minute time limitation to be equally divided between Mr. Mansfield and Mr. Griffin, and that the vote then occur on the motion by Mr. Mansfield if not amended, or as amended if amended.

Provided further, that no tabling motion be in order on any one of these three amendments and that no other amendments be in order.

Mr. GRIFFIN. I would say that the Senator from West Virginia, I think, intends that in the event the so-called Griffin motion is not agreed to, then the Senate would proceed to the Weicker motion, if it is offered, and then if that is not agreed to, then proceed to a vote, because if the Senate did adopt my amendment or the Weicker amendment, then I take it the Mansfield motion would not be before the Senate.

Mr. ROBERT C. BYRD. The Senator is correct and, if I were Mr. Scott, I would say that the Senator is preeminently correct.

I amend my request accordingly: That in the event Mr. Griffin's motion is not agreed to, the Senate then proceed after 10 minutes of debate to vote on the Weicker amendment. In the alternative, if the Griffin amendment is agreed to, then after 10 minutes of debate the Senate proceed to the vote on the Mansfield amendment, as amended, if amended.

I thank the Senator.

Mr. GRIFFIN. I think that I will state that it has been understood that these two amendments, one to be offered by the junior Senator from Michigan and the other to be offered by the Senator from Connecticut (Mr. Weicker) will be introduced and in printed form available to the Senate 24 hours before the anticipated vote.

Also, it is understood that neither the junior Senator from Michigan nor the Senator from Connecticut (Mr. Weicker) is required to offer either of those motions. We could refrain in one case or the other and not offer them.

Mr. ROBERT C. BYRD. Mr. President, I include in my motion the provision that either Mr. Griffin or Mr. Weicker, or both, may have the authority either to not present such motion or, having presented it, to withdraw it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, it is understood, and perhaps I ought to make it a unanimous-consent request, that a motion by Mr. Griffin and a motion by Mr. Weicker will be submitted and printed no later than 24 hours prior to the hour of 4 o'clock p.m. on Tuesday, January 28.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank all Senators.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF SENATE RESOLUTION 4

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on tomorrow the Senate proceed to the consideration of Senate Resolution 4, to amend Rule XXII of the Standing Rules of the Senate, coming over under the rule, and that debate on that matter may continue until not later than 6 o'clock p.m. tomorrow; and that no call for the regular order, on tomorrow, displace that resolution.

Mr. ALLEN. Reserving the right to object, and I do not plan to object, as the Senator from Alabama understands it, this resolution having been introduced and, by unanimous consent on the day of its introduction, it having been agreed that it would be treated as a resolution coming over under the rule to be taken up on tomorrow, under the rules the only period for discussion of this resolution would be the period between the 15-minute orders, the morning business, and the end of the morning hour, which would allow possibly only some 30 minutes for discussion.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER (Mr. Bumpers). The Senate will be in order and stay in order.

Mr. ALLEN. In all likelihood there would be only a period of some 30 minutes for discussion of this resolution, and if the resolution was not acted upon in that time, it would go to the calendar. But the purpose of the request of the distinguished assistant majority leader is to give the proponents, and I assume the opponents, a longer period on tomorrow to discuss the resolution.

If the resolution does not pass in this prescribed period, it would be part of the request of the distinguished Senator from West Virginia that the resolution go to the calendar, as it would under the existing situation.

Mr. ROBERT C. BYRD. Under the request that I have submitted, the resolution would automatically go to the calendar at the close of business tomorrow or no later than 6 p.m., whichever is the earlier.

Mr. ALLEN. So really the purpose is just to give a little additional time on tomorrow for discussion and no action, in all likelihood, to be taken on the resolution.

Mr. ROBERT C. BYRD. The first part of the Senator's statement is correct. The latter part undoubtedly will also be correct. But I can only say that the purpose of this request is to give the proponents and the opponents more time than they would otherwise have without this request. But as to action being taken on it, I cannot be——

Mr. ALLEN. I can assure the Senator no action will be taken.

Mr. ROBERT C. BYRD. I think the Senator can assure me of that.

Mr. ALLEN. If there are arguments in favor of this resolution, and of that I am skeptical, I would like to hear them. I assure the Senator that this period of possibly 5 hours will not be all of the time that the proponents of the resolution will have to discuss the merits, if any, of the resolution. I have no objection.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator. Before the Chair puts the request, may I say that the distinguished Senator from Alabama has stated the matter correctly. If this request were not made at this time, at the conclusion of routine morning business tomorrow Resolution No. 4 would come down automatically under the rule and would remain before the Senate until the morning hour had expired, which, on tomorrow, would be 2 o'clock because I will get consent later to come in at noon.

At the hour of 2 o'clock tomorrow, the unfinished business, which involves the contested New Hampshire election, would automatically come down and there would be no further discussion of Senate Resolution 4. That resolution, Senate Resolution 4, would then go on the calendar.

On the basis of the request I am making, the matter involving the contested election will not come up tomorrow. We have reached an agreement on that, so we know when a vote will occur thereon.

In order to give Senators all of tomorrow afternoon, if they wish, in which to discuss Senate Resolution 4, they may do so under this request, and at the close of business tomorrow, or not later than 6 p.m., whichever is the earlier, Senate Resolution 4 would go to the calendar, where it would otherwise go at 2 o'clock tomorrow.

Am I correct thus far?

The PRESIDING OFFICER. The Senator is absolutely correct.

Mr. ROBERT C. BYRD. Before the Chair puts the question, I want to be sure that, by this request, I have in no way prejudiced the rights of either the opponents or the proponents, and that the request, if granted, will leave both opponents and proponents with the same rights that they would have otherwise had.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLEN. I wish the distinguished majority leader would not be motioning to the distinguished Senator from Michigan when he speaks of the proponents of this resolution, because I do not believe that is correct.

Mr. GRIFFIN. Let the RECORD show that the Senator from Michigan did not say anything. [Laughter.]

Mr. ALLEN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Alabama for his usual courtesy and consideration and cooperation.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Senators on tomorrow be as follows, after the two leaders or their designees have been recognized under the standing order; Mr. CHURCH, for not to exceed 15 minutes; Mr. STENNIS, for not to exceed 15 minutes; Mr. ROBERT C. BYRD, for not to exceed 15 minutes; Mr. GRIFFIN, for not to exceed 15 minutes, and Mr. STEVENSON, for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. At the conclusion of routine morning business tomorrow, Mr. President, we will proceed to consider Senate Resolution 4.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 12 o'clock noon tomorrow.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. CHURCH, Mr. STENNIS, Mr. ROBERT C. BYRD, Mr. GRIFFIN, and Mr. STEVENSON.

There will then ensue a period for the transaction of routine morning business, of not to exceed 15 minutes, with statements therein limited to 3 minutes each, at the conclusion of which the Senate will proceed to the consideration of Senate Resolution 4, the resolution coming over under the rule. Debate will occur thereon, and I have been assured by the distinguished Senator from Alabama that there will be no final action on that resolution tomorrow.

At the conclusion of business or at 6 p.m., whichever is the earlier, the resolution will go on the calendar.

Mr. President, I would not want to say that there will be no rollcall votes tomorrow afternoon—at least in this situation.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I hope to move to adjourn shortly.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 6:08 p.m., the Senate adjourned until tomorrow, Friday, January 17, 1975, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 16, 1975:

DEPARTMENT OF JUSTICE

Edward Hirsch Levi, of Illinois, to be Attorney General, vice William B. Saxbe.

DEPARTMENT OF TRANSPORTATION

William T. Coleman, Jr., of Pennsylvania, to be Secretary of Transportation, vice Claude S. Brinegar.

DEPARTMENT OF STATE

Nathaniel Davis, of New Jersey, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State.

John E. Reinhardt, of Maryland, a Foreign Service information officer of the class of Career Minister for Information, to be an Assistant Secretary of State.

Arthur W. Hummel, Jr., of Maryland, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ethiopia.

Mark "Evans" Austad, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Finland.

Holsey G. Handyside, of Ohio, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Mauritania.

Wells Stabler, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain.

Harry W. Shlaudeman, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela.

DEPARTMENT OF DEFENSE

Joseph Laitin, of Maryland, to be an Assistant Secretary of Defense, vice Jerry Warden Friedheim, resigned.

THE JUDICIARY

Thomas J. Meskill, of Connecticut, to be U.S. circuit judge for the second circuit, vice J. Joseph Smith, retired.

DEPARTMENT OF JUSTICE

Earl J. Silbert, of the District of Columbia, to be U.S. attorney for the District of Columbia for the term of 4 years; vice Harold H. Titus, Jr., resigned.

John L. Briggs, of Florida, to be U.S. attorney for the middle district of Florida for the term of 4 years (reappointment).

Ronald T. Knight, of Georgia, to be U.S. attorney for the middle district of Georgia for the term of 4 years vice William J. Schloth, resigned.

Department of Commerce

Lutrelle F. Parker, of Virginia, to be Deputy Commissioner of Patents and Trademarks, vice Robert Gottschalk.

Bernard A. Meany, of Connecticut, to be an Assistant Commissioner of Patents and Trademarks, vice Richard A. Wahl, resigned.

Department of Housing and Urban Development

Thomas G. Cody, of Maryland, to be an Assistant Secretary of Housing and Urban Development (new position).

Office of Management and Budget

James T. Lynn, of Ohio, to be Director of the Office of Management and Budget, vice Roy L. Ash, resigned.

National Library of Medicine

John William Kauffman, of New Jersey, to be a member of the board of regents, National Library of Medicine, Public Health Service, for a term expiring August 3, 1977, vice William O. Baker, term expired.

Eddie G. Smith, Jr., of the District of Columbia, to be a member of the board of regents, National Library of Medicine, Public Health Service, for a term expiring August 3, 1976, vice Max Michael, Jr., term expired.

Communications Satellite Corporation

Edward E. David, Jr., of Illinois, to be a member of the board of directors of the Communications Satellite Corporation until the date of the annual meeting of the Corporation in 1976, vice Rudolph A. Peterson, term expired.

Federal Metal and Nonmetallic Mine Safety Board of Review

Charles E. Schwab, of Colorado, to be a member of the Federal Metal and Nonmetallic Mine Safety Board of Review for the term expiring September 15, 1979 (reappointment).

Interstate Commerce Commission

Robert J. Corber, of Virginia, to be an Interstate Commerce Commissioner for the remainder of the term expiring December 31, 1976, vice W. Donald Brewer, resigned.

National Oceanic and Atmospheric Administration

Subject to qualifications provided by law, the following for permanent appointment to the grades indicated in the National Oceanic and Atmospheric Administration:

To be captain

K. William Jeffers

To be commanders

William M. Noble
Edward M. Gelb
Otto F. Steffin

To be lieutenant commanders

Yeager A. Bush
Robert C. Roush
Ronald L. Sellers

To be lieutenants

Joseph A. Millen
Daniel S. Eilers
Hugh H. Sprunt, Jr.
Gary J. Decker

To be ensigns

Mark V. Losleben
John R. O'Reilly
Todd A. Baxter
Robert D. Haught
Ronald W. Kimball
Lars A. G. Pardo
Allan C. Smith, Jr.
Pirkko K. Uusitalo
Mary C. Wencker
Bruce C. Woodry
John R. Fuechsel

In the Coast Guard

The following regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant commander:

Stanley J. Spurgeon
Charles G. Hill, Jr.
Peter E. Prindle
Arthur D. Hoppe
Leo G. Vaske
Garry M. Vaughn
Antonnealle G. Townsend
John R. Bradley, Jr.
Robert O. Midgett
Ronald G. Shays
William J. Ledoux, Jr.
David F. Steele, Jr.
Philibert B. Akau
Burton G. Howell
Ernest L. R. Johnson
George A. Blann
David A. Carter
Armand L. Chapeau
Michael J. Blaschum
Bruce T. Collings, Jr.
Frederick K. Patterson
Paul L. Hooper, Jr.
Joseph F. Gall
Billy R. Warren
Stanley Burgess
David F. Johnston
Terry D. Beacham
Harold C. Messenheimer
Robert W. Cathey
Duncan P. Johnson
David F. Withee
Joseph J. McClelland, Jr.
Kendall M. Whiting
Jerry L. Millsaps
Daniel E. Struck
Frederick N. Gallien
Richard R. Cottingham
Jack K. Stice
Frederick G. Koehnke
Robert A. Melvin III
Carl J. Muehlenbeck
Charles W. Gower
Gerald D. Sickafoose
John H. Hanna III
Harold E. Millan, Jr.
John C. Maxham
John F. Milbrand
Dennis J. Shaw
Michael C. Grace
Thomas G. Deville
Richard E. Peyser
Thomas M. Dunn
Joseph R. Hoosty
Robert S. Duncan, Jr.
Philip J. Grossweiler
John C. Carney, Jr.
Thomas R. Dickey
Kenneth E. Williams
Edward A. Hemstreet
William K. May
Harry H. Dudley
Jose E. Rodrigues
Gary B. Johnson
Nesbit C. Lofton
Robert W. Mueller
Jerald H. Heinz
Donnie D. Polk
Jonathan Collom
Harry W. Tiffany
William H. Stockton II
Benjamin M. Chiswell III
Kenneth J. Allington
John G. Busavage
Donald H. Van Liew
Anthony C. Alejandro
John E. Shkor
Joseph O. Bernard
Stanley Winslow
Eric J. Staut
Dennis R. Freezer
Douglas W. Crowell
John R. Felton
Douglas F. Gehring
Donald B. Wittschiebe
Donald F. Murphy
Edward J. Barrett
Ronald J. Marafioti
Richard P. Oswitt
Michael T. Bohlman
John D. Bannan
Walter L. John
Gerald L. Underwood
David A. Jones
Jeffery J. Hamilton
Earl A. Blanton
Raymond A. Ross
Robert J. Philpott
Richard W. Wright
Philip J. Cardaci
Michael W. Taylor
William A. Lehmann
Jack S. Webb
Paul E. Busick
Anthony R. Carbone
Kenneth C. Hollemon
Robert G. Keary
Harvey G. Knuth, III
Imants J. Leskinovitch
Warren E. Miller, Jr.
Donald A. Winchester
Merle J. Smith, Jr.
Dennis W. Parker
John L. Parker
Marvin L. Beaty
Dwight C. Broga III
William L. Engleson, Sr.
William E. Jones
Gerald T. Victor
Donald W. Troutt
Dewain D. Clark
Joseph J. Kennedy
Kenneth L. Norton
Charles M. Montanese, Jr.
Jon J. McNutt
Jay D. Crouthers
Robert J. Opezio
Ray C. Gregory
Robert P. Reichersamer
Kenneth G. Coder
Richard G. Hendrickson
John G. Carroll, Jr.
Barry E. Chambers
Edward M. Goodwin III
Joseph T. Oskolski
James L. Middleton
Oscar F. Poppe, Jr.
Henry C. Post
Kevin J. Barry
Michael K. Cain
Thomas O. Preston
Joseph A. Telep
Francis X. Owens
Robert C. North
William E. Wade, Jr.
Dennis R. Robbins
Terence N. Carsten
Ronald A. Simons
John F. Ebersole
Henry D. Jacoby
Robert J. Sancrant
Henry J. Dresch
Terry W. Sinclair
Warren C. Hoyt

The following reserve officer of the U.S. Coast Guard to be a permanent commissioned officer in the Regular Coast Guard in the grade of lieutenant:

Robert A. Regan

The following officer to be a permanent commissioned officer in the U.S. Coast Guard in the grade of lieutenant commander having been found fit for duty while on the temporary disability retired list:

Franklin H. Doughten

In the Coast Guard

The following officers of the U.S. Coast Guard for promotion to the grade of Lieutenant (junior grade):

Bruce W. Kreger
John T. Egbert
Steven B. Sullivan
William W. Spitler
Kenneth T. Venuto
Gary K. Sody
John J. Anthony
James A. Rauch
Bruce J. Good
William C. Helgeson
William D. Kline
Dennis G. Bohlayer
Gregory S. Chapman
Philip P. Wieczynski
Paul J. Moeller
Daniel J. Farrell
Daniel W. Stuhlmann
Arthur J. French
John C. Reed
Bruce P. Austin
Kenneth M. Norris
Miles A. Millbach
Mathew L. Sheep
Carl V. Mosebach
Herbert A. Lewis
Michael G. Fay
Edward T. Gaines
Patrick T. Hoopes
David B. Crawford
Bernard J. Roan
Robert H. Fitch
John E. Veentjer
Thomas J. Allard
Robert D. Gamble
John R. Sprouse
Kenneth F. Anderson
Brian J. Clark
George T. Gunther
Thomas J. Haas
Rodney M. Leis
William J. Wilkinson
Steven E. Froehlich
David E. Young
John D. Cook
Paul G. Miller
Byron D. Ward
Calvin M. Rich
Thomas J. Donlon
Ray W. Clark
David W. Smith
Michael J. Calabro
Thomas J. Collins
Tajr Hull
John V. Oshea
Gary S. Steinfort
Grant E. Leber
Michael J. Pierce
Gary P. Kosciusko
Robert E. Young
Peter T. Milner
Steven J. Bellona
Dennis H. Schenck
Gregory M. Auth
Robert W. Bruce
Kenneth D. Bradley
Fredrick A. Adams
Robert G. Ross
James R. Woeppel
Donald S. Lewis
Daniel J. Rothaupt
Stephen H. Francis
Robert F. O'Hara
Douglas I. Boyles
Michael J. Wensman
Stanley T. Fuger
Edward P. Boyle
Robert L. Skewes
Glenn M. Austin
David W. Beach
Michael J. Courtois
David M. Rice
Peter A. Popko
Rodney B. Bowles
David A. Andersen
Keith Coddington
Michael K. Parmelee
Noris M. Turner
Dale L. Thompson
Charles A. Barrett
Michael M. Rosecrans
Michael M. Ashdown
James R. Loew
Dante J. Grasso
Michael F. Breen
George F. Wright
Robin E. Gutridge
Stephen E. Trenchard
Robin E. Crusse
Kenneth H. Good
Robert A. Schwehr
Kenneth N. Knutson
Michael A. Robinett
Harry P. Stratton
Freddy L. Montoya
Harry K. Foote
Robert F. Petko
David R. Nicholson
Michael J. Stevens
Deryck G. Bratton
Larry L. Hereth
David W. Smith
Thomas J. Hadley
William E. Plage
Jimmie L. Sether
Daniel J. Scherer
Robert B. Buford
Robert E. Dodge
Robert G. Blythe
Douglass S. Hertz
Alan M. Orr
Richard J. Reardon
Robert A. Robichaud
Michael R. Sadler
Robert F. Rzemieniewski
Robert F. Wilson
Mark T. Piennett
William B. Brooks
David R. Gauthier
Thomas A. Fitzgerald
Mark W. Newman
Robert C. Johnson
James E. Tighe
James L. Converse
William J. Barker
Freddy G. Simpson
Gary M. Anderson
Stephen L. Johnson
James C. Devin
Anthony C. Yamada
Michael R. Bowen
John D. Pendegraft
John S. Burnett
Michael W. Brown
Peter J. Boyd
Robert A. Bohlen
Alan J. Rice
Thomas J. Neill
Mark D. Keyl
Michael E. Swigert
Robert E. McDaniel
Bradley N. Balch
Lawrence J. Shirley
Thomas D. Meyer
John S. Clay
Keith A. Moll
Frank L. Stoup
Mason F. Stober
Gregory L. Rahl
David W. Moore
Guy H. Buckelew
Randal K. Corrigan
Keith R. Colwell
Carlos Alfonso
Michael R. Warren
Gary R. Mansi
Billy L. Laws
Warren G. Schneeweis

Louis J. Orsini
Allen W. Penn
Stephen C. Patterson
Timothy J. Howe
Patrick L. Shuck
Gary H. Watson
William D. Chappell
James W. John
William G. Paulick
Alton J. Parks
Albert A. Hoffman
Bruce D. Martin
David E. Elliott
Joseph F. Duncan
Kevin J. Grote
Thomas W. Hathaway
Larry A. Peters
Stanley H. Zukowski
Samuel A. Melton
Carl R. Perkins
Richard J. Armstrong
Virgilio S. Merced
Garace A. Reynard
Dennis A. Stuart
Glen A. Reed

The following officers of the Coast Guard Reserve for promotion to the grade of Commander:

Albert C. Buechler
Joseph T. Bronaugh
Mark M. Powdermaker
Philip C. Lancey

The following Reserve officers of the U.S. Coast Guard to be permanent commissioned officers in the Regular Coast Guard in the grades indicated:

Lieutenant commander

Richard W. Minter
Philip G. Shaw

Lieutenant

Dennis E. Solomon
Terence M. Bills

IN THE AIR FORCE

The following officers for temporary appointment in the United States Air Force under the provisions of Chapter 839, Title 10 of the United States Code:

To be major general

Brig. Gen. Robert M. White, [redacted] FR, Regular Air Force.

Brig. Gen. Harrison Lobdell, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. George H. Sylvester, [redacted]FR, Regular Air Force.

Brig. Gen. William C. Burrows, [redacted]FR, Regular Air Force.

Brig. Gen. Paul W. Myers, [redacted]FR, Regular Air Force, Medical.

Brig. Gen. John G. Albert, [redacted]FR, Regular Air Force.

Brig. Gen. Charles L. Wilson, [redacted] FR, Regular Air Force.

Brig. Gen. Lucius Theus, [redacted]FR, Regular Air Force.

Brig. Gen. Robert C. Thompson, [redacted]FR, Regular Air Force.

Brig. Gen. John R. Spalding, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Robert E. Sadler, [redacted]FR, Regular Air Force.

Brig Gen. Winfield W. Scott, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Richard H. Schoeneman, [redacted]FR, Regular Air Force.

Brig. Gen. Thomas M. Sadler, [redacted] FR, Regular Air Force.

Brig. Gen. Lovic P. Hodnette, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Walter D. Druen, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Benjamin R. Baker, [redacted]FR, Regular Air Force, Medical.

Brig. Gen. Richard C. Bowman, [redacted]FR, Regular Air Force.

Brig. Gen. Gerald J. Post [redacted]FR, Regular Air Force.

Brig. Gen. Carl D. Peterson, [redacted]FR, Regular Air Force.

Brig. Gen. Cecil E. Fox, [redacted]FR, Regular Air Force.

Brig. Gen. Kermit C. Kaericher, [redacted]FR, Regular Air Force.

Brig. Gen. Don D. Pittman, [redacted]FR, Regular Air Force.

Brig. Gen. Robert A. Rushworth, [redacted]FR, Regular Air Force.

Brig. Gen. Charles C. Blanton, [redacted]FR, Regular Air Force.

Brig. Gen. John J. Murphy, [redacted]FR, Regular Air Force.

Brig. Gen. James P. Mullins, [redacted] FR, Regular Air Force.

Brig. Gen. Wayne E. Whitlatch, [redacted]FR, Regular Air Force.

Brig. Gen. Thomas M. Ryan, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. Malcolm E. Ryan, Jr., [redacted]FR, Regular Air Force.

Brig. Gen. James L. Brown, [redacted]FR, Regular Air Force.

Brig. Gen. Benjamin F. Starr, Jr., [redacted]FR, Regular Air Force.

I nominate the following officers for appointment in the Regular Air Force to the grades indicated, under the provisions of Chapter 835, Title 10 of the United States Code:

To be major general

Lt. Gen. James E. Hill, [redacted]FR, (Brigadier General, Regular Air Force), U.S. Air Force.

Maj. Gen. Howard M. Lane, [redacted]FR, (Brigadier General, Regular Air Force), U.S. Air Force.

Maj. Gen. Edward P. McNeff, [redacted] FR, (Brigadier General, Regular Air Force), U.S. Air Force.

Maj. Gen. Howard P. Smith, Jr., [redacted]FR, (Brigadier General, Regular Air Force), U.S. Air Force.

Maj. Gen. James E. Paschall, [redacted] FR, (Brigadier General, Regular Air Force). U.S. Air Force.

Maj. Gen. Travis R. McNeil, [redacted]FR, (Brigadier General, Regular Air Force), U.S. Air Force.

Maj. Gen. George Rhodes, [redacted]FR, (Brigadier General, Regular Air Force), U.S. Air Force.

Maj. Gen. Kendall Russell, [redacted]FR, (Brigadier General, Regular Air Force), U.S. Air Force.

Maj. Gen. Jack Bellamy [redacted]FR, (Brigadier General, Regular Air Force), U.S. Air Force.

Maj. Gen. Timothy I. Ahern, [redacted], (Brigadier General, Regular Air Force), U.S. Air Force.

Maj. Gen. Charles E. Buckingham, [redacted]R, (Brigadier General, Regular Air Force), U.S. Air Force.

Lt. Gen. Brent Scowcroft, [redacted]FR, (Brigadier General, Regular Air Force), U.S. Air Force.

To be Brigadier General

Brig. Gen. David W. Winn, [redacted]FR, (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John R. Spalding, Jr., [redacted]FR, (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Cecil E. Fox [redacted]FR, (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Kermit C. Kaericher, [redacted]R, (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Bohdan Danyliw, [redacted]FR, (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Benjamin F. Starr, Jr., [redacted]R, (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Norman C. Gaddis, [redacted]FA, (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Henry B. Stelling, Jr., [redacted]R (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Jack I. Posner, [redacted]FR (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. James B. Currie, [redacted]FR (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Rupert H. Burris [redacted] FR (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Thomas F. Rew, [redacted]FR, (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. William C. Norris, [redacted] FR (Colonel Regular Air Force), U.S. Air Force.

Brig. Gen. Carl G. Schneider, [redacted] FR (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Richard C. Bowman, [redacted]R (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Richard H. Schoeneman, [redacted]FR (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. John G. Albert, [redacted]FR (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Frank G. Barnes, [redacted] FR (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. George M. Wentsch, [redacted]R (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. James P. Mullins, [redacted] FR (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Carl D. Peterson, [redacted] (Colonel, Regular Air Force), U.S. Air Force.

Brig. Gen. Donald N. Vivian, [redacted]R (Colonel, Regular Air Force, Medical), U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be general

Lt. Gen. John Russell Deane, Jr., [redacted] Army of the United States (major general, U.S. Army).

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, section 3284 and 3307:

To be major general

Maj. Gen. Robert Creel Marshall, [redacted] Army of the United States, (brigadier general, U.S. Army).

Lieutenant General John Alfred Kjellstrom, [redacted] Army of the United States, (brigadier general, United States Army).

Major General Robert Leahy Fair, [redacted] Army of the United States, (brigadier general, United States Army).

Major General Chester M. McKeen, Jr., [redacted] Army of the United States, (brigadier general, United States Army).

Major General Kenneth Banks Cooper, [redacted] Army of the United States, (brigadier general, United States Army).

Major General Richard Edward McConnell, [redacted] Army of the United States, (brigadier general, United States Army).

Major General Ernest Graves, Jr., [redacted] Army of the United States, (brigadier general, United States Army).

Major General Thomas McKee Tarpley, [redacted] Army of the United States, (brigadier general, United States Army).

Maj. Gen. Ira Augustus Hunt, Jr., [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. Richard Luther West, [redacted] Army of the United States (brigadier general, United States Army).

Maj. Gen. William Roy Wolfe, Jr., [redacted] Army of the United States (brigadier general, United States Army).

Maj. Gen. Joseph Corbett McDonough, [redacted] Army of the United States (brigadier general, United States Army).

Maj. Gen. Wilbur Henry Vinson, Jr., [redacted] Army of the United States (brigadier general, United States Army).

Maj. Gen. Gordon Sumner, Jr., [redacted], Army of the United States (brigadier general, United States Army).

Maj. Gen. Herbert Eric Wolff, [redacted], Army of the United States (brigadier general, United States Army).

Maj. Gen. Charles Robert Myer, [redacted] Army of the United States (brigadier general, United States Army).

Maj. Gen. Robert Morin Shoemaker, [redacted] Army of the United States (brigadier general, United States Army).

Maj. Gen. Charles James Simmons, [redacted] Army of the United States (brigadier general, United States Army).

Maj. Gen. Sam Sims Walker, [redacted], Army of the United States (brigadier general, United States Army).

Maj. Gen. John Royster Thurman, III, [redacted] Army of the United States (brigadier general, United States Army).

Maj. Gen. Charles Dwelle Daniel, Jr., [redacted] Army of the United States (brigadier general, United States Army).

Maj. Gen. Charles Maurice Hall, [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj Gen. Elmer Raymond Ochs, [redacted] Army of the United States (brigadier general, U.S. Army).

Maj. Gen. William Johnston Maddox, Jr., [redacted] Army of the United States, (brigadier general, U.S. Army).

Maj. Gen. John Robin Davis Cleland, Jr., [redacted] Army of the United States, (brigadier general, U.S. Army).

The U.S. Army Reserve officers named herein for promotion as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3384:

To be major general

Brig. Gen. Naiff Harold Kelel, [redacted].
Brig. Gen. Lee Lawrence, [redacted].
Brig. Gen. Howard Ashton Louderback, Jr., [redacted].
Brig. Gen. John Henry Neller, [redacted].
Brig. Gen. Norris Ewel Sills, [redacted].
Brig. Gen. Donald Austerfin Yongue, [redacted].

To be brigadier general

Col. Forrest Anderson Abbott, [redacted].
Col. Bill Charles Branson, [redacted].
Col. Royston Brown, [redacted].
Col. Charles Maxwell Headrick, [redacted].
Col. Evan LeRoy Hultman, [redacted].
Col. Frederick Hebel Lawson, [redacted].
Col. Marion Mann, [redacted].
Col. Gordon Clark McKeague, [redacted].
Col. Forrest Cooke Murphy, Jr., [redacted].
Col. James David Randall, Jr., [redacted].
Col. William Doyle Tidwell, Jr., [redacted].
Col. Donal Lloyd Turkal, [redacted].

The Army National Guard of the United States officers named herein for promotion as Reserve commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Charles Hayden Jones, [redacted].
Brig. Gen. William Robert Sharp, [redacted].
Brig. Gen. Harold Roden Story, [redacted].

To be brigadier general

Col. Wilbur Robert Buntin, Jr., [redacted].
Col. James Arthur Daley, [redacted].
Col. George Henry Fairfield, [redacted].
Col. Morphis Albert Jamiel, [redacted].
Col. Clarence Frost Rhea, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. Cunningham Campbell Bryant, [redacted].
Brig. Gen. Richard Austin Miller, [redacted].

To be brigadier general

Col. John Coffey, Jr., [redacted].
Col. Marvin Kent Speigner, [redacted].

IN THE NAVY

Rear Adm. Donald C. Davis, U.S. Navy, having been designated for commands and other duties of great importance and responsibility commensurate with the grade of vice admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Capt. John J. O'Connor, Chaplain Corps, U.S. Navy, for temporary promotion to the grade of rear admiral subject to qualification therefore as provided by law.

IN THE AIR FORCE

The following-named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended.

MEDICAL CORPS

Lieutenant colonel to colonel

Bennett, Raymond S., Jr., [redacted].
Bielstein, Henry V. A., [redacted].
Bratton, Jack L., [redacted].
Brix, John F., Jr., [redacted].
Christensen, Dennis W., [redacted].
Coolidge, Thomas T., [redacted].
Culpepper, Burford W., [redacted].
Faries, James L., [redacted].
Franks, Bert M., [redacted].
Harsa, Richard J., [redacted].
Heimbach, Richard D., [redacted].
Kramer, Edward F., Jr., [redacted].
Martinezoferrall, Jose A., [redacted].
Mauk, Bryant D., [redacted].
Neisler, James W. H., [redacted].
Obriant, Charles R., [redacted].
Perkins, Robert S., [redacted].
Reynolds, Ralph D., [redacted].
Sanders, James G., [redacted].
Shapiro, Stephen R., [redacted].
Shirley, Louis A., [redacted].
Townsend, Amos R., [redacted].
Turk, Robert P., [redacted].
Walter, William H., III, [redacted].
Weber, Carl H., Jr., [redacted].
Willis, John C., [redacted].

DENTAL CORPS

Aslanis, James T., [redacted].
Awtry, Teddy D., [redacted].
Baum, Leroy M., Jr., [redacted].
Bernui, Rolando, [redacted].
Bourne, William F., [redacted].
Butz, Donald J., [redacted].
Charron, Thomas W., [redacted].
Daugherty, George I., II, [redacted].
Doran, John E., [redacted].
Fowler, James A., Jr., [redacted].
Frisbie, Orton D., [redacted].
Gerhardt, Donald E., [redacted].
Jones, James P., [redacted].
Killoy, William J., [redacted].
Lambert, Ralph L., [redacted].
Lindner, Marshall W., [redacted].
Morse, Donald P., [redacted].
Rehg, Paul J., [redacted].
Roraff, Arthur R., [redacted].
Sanders, Dick W., [redacted].
Schultheis, William J., Jr., [redacted].
Simmonds, Charles R., [redacted].
Stobie, James L., [redacted].
Swimley, Dwight C., [redacted].
Welker, William A., [redacted].
Wellins, Stanley L., [redacted].

MEDICAL CORPS

Major to lieutenant colonel

Altenburg, John F., [redacted].
Applestein, Bruce, [redacted].
Barrocas, Albert, [redacted].
Bedingfield, John R., Jr., [redacted].
Beineke, Daniel D., [redacted].
Bellas, Richard C., [redacted].
Beman, John W., Jr., [redacted].
Bloom, Bernard H., [redacted].
Bloom, Lee, B. B., [redacted].
Bonfili, Hubert F., [redacted].
Briccetti, Albert B., [redacted].
Buttemiller, Robert, [redacted].
Carretta, Robert F., [redacted].
Claflin, Dale G., [redacted].
Cole, Richard F., [redacted].
Creasy, James K., [redacted].
Crickenberger, Dallas P., [redacted].
Dean, Gilbert D., Jr., [redacted].
Eilert, John B., [redacted].
Fitzhugh, William G., [redacted].
Foshee, William S., [redacted].
Fragala, Mario R., [redacted].
Froelicher, Victor F., Jr., [redacted].
Garcia, Raymond L., [redacted].
Gates, George F., III, [redacted].
Geils, George F., [redacted].
Giller, Walter J., Jr., [redacted].
Green, Stephen H., [redacted].
Guise, Charles W., [redacted].
Harford, Francis J., Jr., [redacted].
Harris, Gary D., [redacted].
Hart, Kenneth R., [redacted].
Hauth, John C., [redacted].
Hawley, William J., [redacted].
Heckler, Frederick R., [redacted].
Heimburger, Steven L., [redacted].
Henrikson, Ronald A., [redacted].
Hickman, James R., Jr., [redacted].
Hill, McArthur O., [redacted].
Hromyak, George F., Jr., [redacted].
Ingram, James C., Jr., [redacted].
James, Richard E., [redacted].
Jenkins, Douglas W., Jr., [redacted].
Johnson, Thomas A., [redacted].
Jones, Al E., [redacted].
Kennedy, James J., III, [redacted].
Kocher, David B., [redacted].
Komer, Robert A., [redacted].
Koskinen, Kenneth R., [redacted].
Lefton, Theodore E., [redacted].
Lentz, Gary D., [redacted].
Luetje, Charles M., II, [redacted].
Manning, Larry G., [redacted].
Martin, Harvey C., [redacted].
Maulsby, Gilbert O., [redacted].
McConnell, Whitman E., [redacted].
McCraw, John B., [redacted].
McCullough, James A., [redacted].
Mitchell, Don Q., [redacted].
Moll, Jacob T., [redacted].
Nechtman, Carl M., [redacted].
Nielsen, Mark W., [redacted].
O'Connell, Leo P., [redacted].
Olson, James E., [redacted].
Osteen, Frank B., [redacted].
Pennington, Dewey G., [redacted].
Posey, William C., [redacted].
Pritchett, Paul E., [redacted].
Reaves, Charles E., [redacted].
Reider, Daner R., [redacted].
Riherd, Leslie M., Jr., [redacted].
Risch, Edward D., [redacted].
Rundell, William K., Jr., [redacted].
Schwartz, Howard S., [redacted].
Shotton, Francis T., Jr., [redacted].
Smith, Hugh N., [redacted].
Sorrells, Timothy L., [redacted].
Steiger, Ezra, [redacted].
Streisand, Robert L., [redacted].
Thomas, Robert F., [redacted].
Trevino, Saul G., [redacted].
Trick, Lorence W., [redacted].
Ulrich, Richard A., [redacted].
Warren M. Charles, Jr., [redacted].
Wasserman, James M., [redacted].
West, Gary W., [redacted].
Westra, John P., [redacted].
Williams, Charlie B., Jr., [redacted].
Wilson, Stephen K., [redacted].
Wooddell, William J., [redacted].
Young, Jerome M., [redacted].
Zlatnik, Frank J., [redacted].

DENTAL CORPS

Almquist, Theodore C., [redacted].
Andres, Carl J., [redacted].
Arnold, Ralph M., [redacted].
Aussiker, William H., [redacted].

Beidler, Donald B., [redacted].
Bochenko, Thomas J., [redacted].
Colburn, James F., [redacted].
Couture, Paul P., [redacted].
Dettmann, Darryl D., [redacted].
Dewitt, Dennis H., [redacted].
English, John R., [redacted].
Harrold, Charles Q., [redacted].
Hartman, Garrett E., [redacted].
Hedrick, Michael C., [redacted].
Kaiser, David A., [redacted].
Lawless, John E., [redacted].
Matranga, Luke F., Jr., [redacted].
Moretsky, Howard, [redacted].
Sano, Lawrence N., [redacted].
Smith, Jared H., [redacted].
Solberg, Peter E., [redacted].
Studt, Kurt H., [redacted].
Willsey, Dean B., [redacted].

The following named officer for promotion in the United States Air Force, under the appropriate provisions of chapter 839, Title 10, United States Code, as amended.

CHAPLAIN

Major to lieutenant colonel

Hudson, Charles R., [redacted].

The following officers for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, Title 10, United States Code, with dates of rank to be determined by the Secretary of the Air Force.

To be first lieutenant

Smith, Bernard J., [redacted].
Zeitler, Arthur R., [redacted].

IN THE AIR FORCE

The following-named officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, Title 10, United States Code, with a view to designation under the provisions of section 8067, Title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be lieutenant colonel

Sanders, James G., [redacted].

To be captain

Brewer, Robert L., [redacted].

DENTAL CORPS

To be captain

Staab, Robert G., [redacted].
Wyand, Anthony J., [redacted].

The following-named officer for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, Title 10, United States Code, with a view to designation under the provisions of section 8067, Title 10, United States Code, to perform the duties indicated, and with date of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be first lieutenant

Gillham, Robert A., [redacted].

The following persons for appointment as Reserve of the Air Force, in the grade indicated, under the provisions of section 593, Title 10, United States Code, with a view to designation under the provisions of section 8067, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be colonel

Bridges, Berly E., [redacted].
Del Beccaro, Mario T., [redacted].
Falbey, Francis B., [redacted].
Gorman, James A., Jr., [redacted].
Marvis, Theodore E., [redacted].
Serota, Benjamin, [redacted].
Wilson, Walter W., [redacted].
Miller, Thomas J., [redacted].

To be lieutenant colonel

Gray, Neal H., [redacted].
Queen, Charles R., [redacted].

DENTAL CORPS

To be lieutenant colonel

Powell, David L., Jr., [redacted].

The following-named officer for appointment in the Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593 and 8351b, Title 10, United States Code, with a view to designation as Medical Officer, under the provisions of section 8067, Title 10, United States Code:

MEDICAL CORPS

To be lieutenant colonel

Torruella, Joseph M., [redacted].

The following persons for appointment as Temporary officers in the United States Air Force, in the grade indicated, under the provisions of sections 8444 and 8447, Title 10, United States Code, with a view to designation as Medical Officers, under the provisions of section 8067, United States Code:

MEDICAL CORPS

To be lieutenant colonel

Boytar, Alexander A., [redacted].
Campbell, Jene D., [redacted].
Koenigsberg, Edward J., [redacted].
Lee, Kyu Yong, [redacted].
Queen, Charles R., [redacted].
Rayos, Blas O., Jr., [redacted].
Torres-Quesada, Ernesto A., [redacted].

The following-named Air Force officers for reappointment to the active list of the Regular Air Force, in the grade indicated, under the provisions of sections 1210 and 1211, Title 10, United States Code:

LINE OF THE AIR FORCE

To be colonel

Wisniewski, Raymond F., [redacted].

To be major

McMath, Leroy, [redacted].

To be first lieutenant

Gordon, Bruce P., [redacted].

DENTAL CORPS

To be lieutenant colonel

Cole, James B., [redacted].

The following-named officers for appointment as a Reserve of the Air Force, in the grade indicated, under the provisions of sections 593 and 1211, Title 10, United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

Bukowski, Henry J., [redacted].
Ruffer, William R., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, Title 10, United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

Donahoo, John D., [redacted].
Hueser, Ralph L., [redacted].
Smith, Robert L, [redacted].

CHAPLAIN CORPS

To be lieutenant colonel

Schreiter, Daniel A., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Delemos, Robert A., [redacted].
Harsa, Richard J., [redacted].
Miller, James B., [redacted].

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, Title 10, United States Code, as amended. All officers are subject to physical examination required by law.

LINE OF THE AIR FORCE

Second lieutenant to first lieutenant

Adamson, Douglas E., [redacted].
Adriance, Gary R., [redacted].
Ahern, Bruce D., [redacted].
Albin, Timothy S., [redacted].
Alderman, Stephen D., [redacted].
Allen, Ralph E., [redacted].
Allison, John E., [redacted].
Almond, Cheryl M., [redacted].
Amelung, Martin D., [redacted].
Anderson, Eric A., [redacted].
Anderson, Gregory J., [redacted].
Anderson, Robert H., Jr., [redacted].
Anderson, Steven E., [redacted].
Andrews, Keith P., [redacted].
Archey, Kenneth J., [redacted].
Arizmendi, Thomas G., [redacted].
Arnold, Gregory L., [redacted].
Asbury, Clinton J., III, [redacted].
Ash, George W., [redacted].
Augenstein, Paul M., [redacted].
Augustenborg, Jay M., [redacted].
Augustyniak, Edward F., Jr., [redacted].
Baird, Gary K., [redacted].
Baird, Richard R., [redacted].
Baker, Gerald A., [redacted].
Baker, John R., [redacted].
Baker, William B., [redacted].
Baldwin, Gary T., [redacted].
Balentine, Howard W., [redacted].
Bandi, Raymond L., [redacted].
Bangert, Berthold T., Jr., [redacted].
Banks, Robert J., [redacted].
Barksdale, Barry W., [redacted].
Barlow, Larry S., [redacted].
Barr, James R., [redacted].
Barr, Richard E., Jr., [redacted].
Barris, Bernard C., [redacted].
Barry, Craig L., [redacted].
Barry, Stephen J., [redacted].
Bartol, Thomas J., [redacted].
Barton, Raymond O., III, [redacted].
Bassa, Paul, Jr., [redacted].
Bays, Kent J., [redacted].
Beck, William C., II, [redacted].
Behler, Robert F., [redacted].
Bell, Robert A., Jr., [redacted].
Bench, Terence R., [redacted].
Benfield, Gerald R., [redacted].
Bentson, Kirk D., [redacted].
Bentz, Curtis L., [redacted].
Berendt, Steven E., [redacted].
Berg, Robert G., [redacted].
Berlin, Frank B., [redacted].
Bethards, Daniel E., [redacted].
Bilak, Mark J., [redacted].
Binn, Brian A., [redacted].
Bishop, Edward C., [redacted].
Bishop, Edward C., [redacted].
Bishop, Stephen G., [redacted].
Black, Steven B., [redacted].
Blank, Gary F., [redacted].
Blue, David V., [redacted].
Bobrowski, Paul M., [redacted].
Bohannon, Frank B., [redacted].
Bolding, William A., [redacted].
Boley, Nicholas D., [redacted].
Bolt, Russell T., [redacted].
Borenstein, Richard D., [redacted].
Borysewicz, Michael D., [redacted].
Bowman, David M., [redacted].
Bowman, Gary D., [redacted].
Boyer, Franklyn M., Jr., [redacted].
Brandon, Howard B., [redacted].
Brandon, William H., Jr., [redacted].
Brannick, Michael R., [redacted].
Bream, Brian B., [redacted].
Brees, Ernest Maytum, [redacted].
Brennan, Kevin B., [redacted].
Bridges, Donald E., [redacted].
Briggs, Hugh C., [redacted].
Briggs, Lewis W., [redacted].
Broomall, Vernon H., Jr., [redacted].
Brower, Douglas R., [redacted].
Brown, Charles D., [redacted].
Brown, Michael F., [redacted].
Brown, Ralph B., Jr., [redacted].

Brown, Robert W., [redacted].
Brown, Thomas E., [redacted].
Brumlik, Thomas A., [redacted].
Bryan, James L., Jr., [redacted].
Buchanan, John W., [redacted].
Buchanan, Walter E. L., III, [redacted].
Buley, Stephan L., [redacted].
Burg, Jerome W., [redacted].
Burke, Patrick J., Jr., [redacted].
Burton, David H., Jr., [redacted].
Buschmann, Richard W., [redacted].
Bush, John L., [redacted].
Buss, William D., [redacted].
Calcutt, Harry M., Jr., [redacted].
Caltagirone, Andrew T., [redacted].
Camalick, John J., [redacted].
Camann, Stephen P., [redacted].
Cameron, Jeffrey A., [redacted].
Cannistraci, Biagio E., [redacted].
Cantwell, Francis X., [redacted].
Carey, Bernard P., III, [redacted].
Carlson, Robert R., [redacted].
Carnahan, Bennie C., [redacted].
Carrigan, Thomas E., [redacted].
Carroll, Oscar F., Jr., [redacted].
Carson, Richard T., [redacted].
Carter, Dale K., [redacted].
Casdorph, Thomas R., [redacted].
Cauthen, Frank C., [redacted].
Chamberlin, Kurt T., [redacted].
Champa, David A., [redacted].
Chapman, Robert M., Jr., [redacted].
Chatman, Robert W., [redacted].
Chayer, Linwood N., [redacted].
Cheeseman, Daniel F., [redacted].
Chiabotti, Stephen D., [redacted].
Childress, John S., [redacted].
Cignatta, John V., [redacted].
Clark, Bruce C., [redacted].
Clark, Steven P., [redacted].
Clarke, Stanley N., [redacted].
Clauson, Vaughn S., [redacted].
Clayton, Charles B., [redacted].
Coker, Stanley G., [redacted].
Colenda, Frank B., [redacted].
Colwell, William S., [redacted].
Compton, Arthur O., [redacted].
Conklin, Jeffrey C., [redacted].
Connell, Joseph R., [redacted].
Conner, Albert G., [redacted].
Cook, Robert W., [redacted].
Cooper, Larry H., [redacted].
Copenhafer, Robert C., Jr., [redacted].
Corgill, James N., III, [redacted].
Cosby, Mark R., [redacted].
Cottingham, William O., III, [redacted].
Coyle, Neal D., [redacted].
Crain, Lawrence A., [redacted].
Crane, Randall L., [redacted].
Crawford, Thomas M., III, [redacted].
Crumm, William L., [redacted].
Dailey, Robin N., [redacted].
Damberg, Philip C., [redacted].
Davidson, Jack V., Jr., [redacted].
Davis, Faye L., [redacted].
Dawson, George B., [redacted].
Deehan, Paul G., [redacted].
DeFilippo, Peter M., [redacted].
Dehmer, Robert L., [redacted].
Demel, Steven M., [redacted].
Dennen, Richard T., [redacted].
Dennis, Russell, Jr., [redacted].
Descoteaux, Louis L., [redacted].
Devore, Jeffrey S., [redacted].
Dewitt, Ronald L., [redacted].
Dierker, Robert R., [redacted].
Dieterich, William, [redacted].
Dietrich, Robert W., [redacted].
Diewald, Michael G., [redacted].
Dileo, John, [redacted].
Dize, Wayne E., [redacted].
Doerr, Robert D., [redacted].
Donley, James W., Jr., [redacted].
Donohue, Robert F., Jr., [redacted].
Doyle, Francis A., [redacted].
Drennan, Jerry M., [redacted].
Dunn, Michael M., [redacted].
Dupre, Felix, [redacted].
Duran, Estevan, [redacted].
Dyer, Emerson L., Jr., [redacted].
Eaton, Brian J., [redacted].
Eckard, David M., [redacted].
Edwards, Wayne C., [redacted].
Eldredge, Bradley B., [redacted].
Elliott, Wilburt J., [redacted].
Ely, Curtis D., [redacted].
Emerick, Roger C., [redacted].
Emerson, Daryl L., [redacted].
Emmer, William J., [redacted].
Ervin, Merl D., [redacted].
Erwin, Douglas L., [redacted].
Ewing, Mark S., [redacted].
Faucher, William O., [redacted].
Feddern, Henry R., [redacted].
Feeley, Robert M., [redacted].
Ferraioli, Richard A., [redacted].
Finlayson, Mark L., [redacted].
Finnegan, James F., [redacted].
Fischer, Mark J., [redacted].
Fiscus, Thomas Joseph, [redacted].
Fitzhugh, Norman R., [redacted].
Flemens, Norman R., [redacted].
Foglesong, Robert H., [redacted].
Forker, Douglas B., [redacted].
Formanek, Rudolph H., [redacted].
Foster, Carl D., [redacted].
Foulots, William B., [redacted].
Fox, Leonard D., [redacted].
Franklin, Stephen G., [redacted].
Fravel, Neil H., [redacted].
Freckleton, Grover C., [redacted].
Froehlich, Laurence E., [redacted].
Frost, Joseph L., [redacted].
Fukey, Michael F., [redacted].
Fuller, Rex L., III, [redacted].
Furda, Joseph M., [redacted].
Fuss, John R., [redacted].
Gabig, Jerome S., Jr., [redacted].
Gardes, Paul S., [redacted].
Gardner, Herbert A., Jr., [redacted].
Garvey, Patrick K., [redacted].
Gates, Glenn A., [redacted].
Gaudino, James L., [redacted].
Gawelek, John C., [redacted].
Geddes, Miechel C., [redacted].
Gelinger, Joseph J., [redacted].
Gessner, Andrew M., [redacted].
Ghelber, Craig S., [redacted].
Giarnese, John M., [redacted].
Giddens, David L., [redacted].
Gideon, William G., [redacted].
Gigax, Milton E., [redacted].
Gilliland, Daniel J., [redacted].
Gillmore, Donald W., [redacted].
Gillon, Stephen J., [redacted].
Girdharry, Reginald E., [redacted].
Glushko, William A., [redacted].
Gocke, Robert P., Jr., [redacted].
Gonyea, Paul A., [redacted].
Goodman, Douglas R., [redacted].
Gormley, James H., Jr., [redacted].
Gracey, David S., [redacted].
Gradle, Robert P., [redacted].
Graf, Edward, Jr., [redacted].
Grant, Gary H., [redacted].
Grappo, Gary A., [redacted].
Graves, John G., [redacted].
Grebb, Michael D., [redacted].
Greene, Dennis V., [redacted].
Greene, James E., [redacted].
Greenlaw, John T., Jr., [redacted].
Greer, Charles R., Jr., [redacted].
Grenier, Gary E., [redacted].
Griffith, Edward M., [redacted].
Gunther, Gary L., [redacted].
Haaf, Leslie J., Jr., [redacted].
Haan, William D., [redacted].
Haas, Darryl D., [redacted].
Hall, John C., [redacted].
Hall, Truman D., [redacted].
Hall, William A., [redacted].
Hamel, Michael A., [redacted].
Hamilton, William L., [redacted].
Hampson, Robert J., [redacted].
Haney, Reed P., [redacted].
Hansen, Warren A., [redacted].
Hanson, Jon D., [redacted].
Happ, Henry J., III, [redacted].
Harburg, Fred D., [redacted].
Hardman, Charles M., [redacted].
Hargrave, Robert L., Jr., [redacted].
Harlan, James W., [redacted].
Harley, John T., III, [redacted].
Harris, John G., [redacted].
Harrington, Charles C., [redacted].
Harrington, Charles K., [redacted].
Harrison, Booker, [redacted].
Harry, Peter J., [redacted].
Hart, Gordon L., Jr., [redacted].
Harvey, Bernard E., [redacted].
Harwell, Roger B., [redacted].
Hatton, Craig T., [redacted].
Hebert, Michael L., [redacted].
Helgeson, Larry A., [redacted].
Helmen, Jerry L., [redacted].
Hemphill, William A., III, [redacted].
Henderson, Clyde R., [redacted].
Henderson, David C., [redacted].
Henderson, Douglas M., [redacted].
Henderson, Lewis S., III, [redacted].
Hendrick, Blake M., [redacted].
Hendrickson, Roy G., II, [redacted].
Henry, James R., [redacted].
Herklotz, Alan G., [redacted].
Herrmann, James A., [redacted].
Hershenow, William J., III, [redacted].
Hesterberg, Raymond C., Jr., [redacted].
Hickox, Dan W., Jr., [redacted].
Hill, Douglas H., [redacted].
Hill, Jeffrey R., [redacted].
Hillegass, William G., [redacted].
Hinds, Ernest, III, [redacted].
Hoke, Franklin E., Jr., [redacted].
Honig, Emanuel M., [redacted].
Hooker, Gary L., [redacted].
Horne, Joe T., [redacted].
Horton, Charles L., [redacted].
Hosea, Bruce J., [redacted].
Hoskins, Mark D., [redacted].
Hoyle, Stephen C., [redacted].
Hudgins, Lewis W., Jr., [redacted].
Hudson, Philip R., [redacted].
Huester, Bruce W., [redacted].
Huff, Lawrence D., [redacted].
Hulton, Donald E., [redacted].
Hummel, James A., [redacted].
Humpherys, Thomas W., [redacted].
Humphries, John G., [redacted].
Hutchinson, John W., Jr. [redacted].
Ianacone, Eric M., [redacted].
Isert, Gregory J., [redacted].
Issenmann, James H., [redacted].
Jackson, Richard W., [redacted].
Jackson, Steven R., [redacted].
Jacobs, Larry H., [redacted].
Jacocks, Henry L., [redacted].
Jaeger, James A., [redacted].
Janssen, Frank A., [redacted].
Janulis, James F., [redacted].
Jarecki, John T., Jr., [redacted].
Jayne, Harry M., [redacted].
Jensen, Harold M., Jr., [redacted].
Johnson, Charles L., II, [redacted].
Johnson, Curtis D., [redacted].
Johnson, Douglas M., [redacted].
Johnson, Duane C., [redacted].
Johnson, Edwin L., [redacted].
Johonson, James L., [redacted].
Johnson, Robert E., [redacted].
Jones, Allan M., III, [redacted].
Jones, Anthony C., [redacted].
Jones, Donny R., [redacted].
Jones, Gregory L., [redacted].
Jones, Peter L., [redacted].
Jones, Raymond J., [redacted].
Jung, Phillip E., Jr., [redacted].
Kampf, Alexey, [redacted].
Kancilia, John R., [redacted].
Kapaska, David L., [redacted].
Karstensen, Dudley W., [redacted].
Kasson, William J., Jr., [redacted].
Keeler, William H., Jr., [redacted].
Keller, Frederick E., [redacted].
Kellerman, William C., III, [redacted].
Kent, Donald A., [redacted].
Kerber, David W., [redacted].
Kimmel, James W., [redacted].
King, Calvin J., Jr., [redacted].
King, Robert A., [redacted].
King, Stephen E., [redacted].
Kinzer, David A., [redacted].

Kirchner, Michael J., [redacted].
Kirsch, John P., [redacted].
Kito, Gary W., [redacted].
Klein, David J., [redacted].
Klepko, Harry, Jr., [redacted].
Knowlton, Paul B., [redacted].
Kolesar, Charles M., [redacted].
Koskella, Richard T., [redacted].
Kramer, Eve R., [redacted].
Krapf, Richard W., [redacted].
Krasovec, George Lee, [redacted].
Kroehl, Bruce F., [redacted].
Kronemeyer, Douglas K., [redacted].
Kuno, Mark E., [redacted].
Lafountaine, Edward L., [redacted].
Lafreniere, Robert A., [redacted].
Lakin, Charles E., III, [redacted].
Lamoe, Steven K., [redacted].
Landsberger, Brian J., [redacted].
Lecato, Harvey, [redacted].
Lecroix, Charles D., [redacted].
Leddy, Michael K., [redacted].
Lee, Alan S., [redacted].
Leech, William H., Jr., [redacted].
Legun, Thomas A., [redacted].
Leitch, Alan J., [redacted].
Lansberger, Brian J., [redacted].
Lewis, Sanford C., [redacted].
Lien, Richard A., [redacted].
Lillis, John R., [redacted].
Livingston, James L., [redacted].
Lohmeyer, Paul D., [redacted].
Long, Bobbie J., [redacted].
Loomis, Michael G., [redacted].
Looney, Donald C., [redacted].
Looney, William R., III, [redacted].
Lopert, Clifton B., [redacted].
Lorenger, James W., [redacted].
Lovell, William A., [redacted].
Lundberg, David J., [redacted].
Lynch, Michael K., [redacted].
Machacek, Steven R., [redacted].
Macniven, Donald B., [redacted].
Maddock, Thomas R., [redacted].
Makovic, William T., II, [redacted].
Mancuso, Thomas J., [redacted].
Manke, Robert P., [redacted].
Manning, Jerome O., [redacted].
Manos, Joseph E., [redacted].
Mansuy, John E., [redacted].
Marchel, Douglas K., [redacted].
Marfing, Sally S., [redacted].
Markowski, Gary J., [redacted].
Marks, Robert S., [redacted].
Marshall, Charles J., Jr., [redacted].
Marshall, Darryl L., [redacted].
Marshall, Edward R., [redacted].
Marshall, Gregory E., [redacted].
Marston, Robert E., [redacted].
Martin, Jerome V., [redacted].
Martin, William C., [redacted].
Mason, Henry M., [redacted].
Mason, Michael F., [redacted].
Masters, Scott E., [redacted].
Mastin, David L., [redacted].
Mayer, Mark V., [redacted].
Mayes, George W., [redacted].
Mayfield, William K., [redacted].
Mayward, Richard M., [redacted].
McCarthy, Mark S., [redacted].
McCarthy, Peter M., [redacted].
McClure, Gary K., [redacted].
McCormack, Charles R., [redacted].
McCotter, Frederick, III, [redacted].
McDonald, John R., [redacted].
McDonald, Michael, [redacted].
McDonald, Thomas L., [redacted].
McElhare, Michael N., [redacted].
McElroy, Bruce B., [redacted].
McGarry, Brian J., [redacted].
McGarvey, William J., [redacted].
McIlwain, Merrell S., II, [redacted].
McLaughlin, David C., [redacted].
McLoughlin, William J., [redacted].
McMullen, William H., [redacted].
McNabb, Michael A., [redacted].
McNeff, Jules G., [redacted].
McNerney, Michael T., [redacted].
McNulla, Patric M., [redacted].
McPherson, Galen E., [redacted].
Mead, Thomas U., [redacted].
Mentecki, Joseph A., [redacted].
Mercier, Daniel E., [redacted].
Meyer, John C., Jr., [redacted].
Meyer, Mark P., [redacted].
Migyanko, John M., [redacted].
Miller, Bruce W., [redacted].
Miller, Donald C., [redacted].
Miller, Edward L., [redacted].
Miller, Robert L., Jr., [redacted].
Miller, Roger S., [redacted].
Miller, Thomas B., [redacted].
Mills, Glenn D., Jr., [redacted].
Minnigerdde, Stephen C., [redacted].
Mitchell, Gerry W., [redacted].
Mitchell, William L., [redacted].
Monaghan, Jeffrey C., [redacted].
Moon, Patrick S., [redacted].
Moore, David R., [redacted].
Moore, William Judson, [redacted].
Moorman, Marshall J., [redacted].
Moran, Terrence J., [redacted].
Morgan, Chester H., II, [redacted].
Morgan, Kevin H., [redacted].
Morgenstern, Richard K., [redacted].
Morrison, David J., [redacted].
Morrison, Sidney C., [redacted].
Moss, Thomas C., Jr., [redacted].
Mueller, Dale H., [redacted].
Mulder, Daniel M., [redacted].
Mullen, Harry B. III, [redacted].
Murkey, Dennis A., [redacted].
Murphy, Michael L., [redacted].
Musson, Michael L., [redacted].
Myers, Charles S., [redacted].
Nagy, Richard, [redacted].
Narzinski, Daniel P., [redacted].
Nash, Charlie R., [redacted].
Nash, Roger B., [redacted].
Neal, Thomas W., [redacted].
Nedergaard, Robert E., [redacted].
Negro, James E., [redacted].
Nelson, Michael V., [redacted].
Nelson, Porter E., [redacted].
Nestico, John J., [redacted].
Newill, David B., [redacted].
Nicholson, Michael E., [redacted].
Nield, George C. IV, [redacted].
Nielsen, Paul D., [redacted].
Nielsen, Steven R., [redacted].
Niemann, Bruce L., [redacted].
Niemi, Gary G., [redacted].
Norton, Jeffery J., [redacted].
O'Day, Terence L., [redacted].
Oiness, Mark A., [redacted].
Ojala, James V., [redacted].
Olson, Arthur S., Jr., [redacted].
O'Neill, Stephen T., [redacted].
Ordzie, Edmund A., [redacted].
O'Riordan, Thomas A., [redacted].
Orr, Horace A., [redacted].
Pacini, Philip M., [redacted].
Painter, Edward H., [redacted].
Pandolfo, Alexander W. F., [redacted].
Parker, Allan C., [redacted].
Parker, Alonzo C. III, [redacted].
Parker, Hugh A., [redacted].
Parks, Donald L., [redacted].
Parks, Reginald D., [redacted].
Parmentier, Richard D., [redacted].
Parsons, Roger S., [redacted].
Pate, John R., [redacted].
Patty, Kevin B., [redacted].
Payton, Gary D., [redacted].
Peak, John C., [redacted].
Peckham, Brian H., [redacted].
Pennington, Clarence R., [redacted].
Peppers, Donald A., [redacted].
Perry, Frederick S., [redacted].
Peterson, James E., [redacted].
Peterson, David A., [redacted].
Peterson, Michael R., [redacted].
Peterson, Stephen M., [redacted].
Petkewicz, Robert J., [redacted].
Pflueger, Daniel W., [redacted].
Plummer, James W., [redacted].
Polishak, Michael F., [redacted].
Pollard, George D., [redacted].
Polve, James C., [redacted].
Porter, James H., [redacted].
Porter, William G., [redacted].
Potter, Gary W., [redacted].
Powels, James E., [redacted].
Prahler, David S., [redacted].
Pranke, Keith B., [redacted].
Probst, Kevin F., [redacted].
Puels, Carl H., Jr., [redacted].
Puissegur, Bryce F., [redacted].
Pulis, Frank D., [redacted].
Putnam, James T., [redacted].
Quinn, Edward J., Jr., [redacted].
Quinn, Patrick F., [redacted].
Rademacher, Fredrick W., [redacted].
Raines, Robert M., [redacted].
Rakitts, Robert E., [redacted].
Randolph, Stephen T., [redacted].
Ransford, Edward L., [redacted].
Rasmussen, Bruce A., [redacted].
Rathert, William A., [redacted].
Rauk, Robert J., [redacted].
Ray, Richard R., [redacted].
Reed, James E., [redacted].
Reguly, Dennis C., [redacted].
Reilman, Robert F., Jr., [redacted].
Reynolds, Larry W., [redacted].
Rhaney, Mahlon C., Jr., [redacted].
Rhoads, Harold S., [redacted].
Richards, Ronald E., [redacted].
Richardson, Charles W., [redacted].
Rifenberg, Ronald R., [redacted].
Riggs, Gregory E., [redacted].
Riley, Kenneth J., [redacted].
Riolo, Andrew M., [redacted].
Roach, Richard L., [redacted].
Robertson, James C., II, [redacted].
Robinson, Garald K., [redacted].
Robinson, Paul H., [redacted].
Rochelle, Thomas W., [redacted].
Rodefer, Karl D., [redacted].
Rollings, Raymond S., Jr., [redacted].
Romito, Michael A., [redacted].
Rooney, Patrick G. B., [redacted].
Rosebush, Kenneth E., Jr., [redacted].
Ross, Joseph D., Jr., [redacted].
Ross, Leslie J., [redacted].
Ross, Robert B., [redacted].
Rubacha, Christian M., [redacted].
Rucker, Raymond I., Jr., [redacted].
Russell, William B., [redacted].
Sabo, Richard E., [redacted].
Sanders, Marcus R., [redacted].
Sarsfield, Harvey F., Jr., [redacted].
Savage, Richard A., [redacted].
Sbach, Dennis M., [redacted].
Scace, Daniel R., [redacted].
Schank, Roland A., [redacted].
Schaur, Daniel H., [redacted].
Scheib, Warren W., [redacted].
Schenk, Thomas A., [redacted].
Schiessler, Terry L., [redacted].
Schimmer, Michael C., [redacted].
Schmidt, Paul M., [redacted].
Schmidt, Randall M., [redacted].
Schnick, Robert H., [redacted].
Schoen, Robert J., [redacted].
Schulte, Lawrence J., [redacted].
Schunemann, Paul F., [redacted].
Searles, Edward L., III, [redacted].
Sewall, Roy E., [redacted].
Sexton, Donald L., [redacted].
Shafer, John B., [redacted].
Shaklee, Charles W., [redacted].
Sharadin, Ellis W., [redacted].
Sharp, Philip C., [redacted].
Sharrar, Larry L., [redacted].
Shearer, Martin S., [redacted].
Sherman, Douglas R., [redacted].
Shields, Van Winder, [redacted].
Short, Richard L., [redacted].
Shrum, Leslie W., [redacted].
Siebers, Daniel R., [redacted].
Sills, Jeffery K., [redacted].
Simmons, James L., [redacted].
Simmons, Timothy E., [redacted].
Simpson, Charles N., [redacted].
Singleton, Robert L., Jr., [redacted].
Sirmons, Richard W., [redacted].
Sisson, Glenn E., Jr., [redacted].
Skotte, Daniel M., [redacted].
Slawinski, Terry L., [redacted].
Small, James W., [redacted].
Smiles, Archie C., Jr., [redacted].

Smiley, William B., [redacted].
Smith, Barry H., [redacted].
Smith, Earl P., II, [redacted].
Smith, Gregg A., [redacted].
Smith, Gregory D., [redacted].
Smith, Jack W., [redacted].
Smith, William H., [redacted].
Smolka, James W., [redacted].
Snipes, Earl R., [redacted].
Sokolowsky, Melvin J., [redacted].
Solheym, Larry R., [redacted].
Sorensen, Robert G., [redacted].
Sorlie, Victor A., [redacted].
Sotak, Michael V., [redacted].
Spillers, Robert I., [redacted].
Spindle, William H., [redacted].
Stachelski, Duwayne D., [redacted].
Stall, Floyd M., Jr., [redacted].
Stanberry, Carl W., [redacted].
Stanley, Galen W., [redacted].
Starkovich, Thomas A., [redacted].
Staudenmeier, William J., Jr. [redacted].
St. Clair, Sumner L., Jr., [redacted].
Stefaniak, James, [redacted].
Steinfeld, Philip, [redacted].
Stephens, Scott D., [redacted].
Stern, Gary W., [redacted].
Stettler, James A., [redacted].
Stetzler, Ray S., Jr., [redacted].
Stevens, Anthony K., [redacted].
Stewart, Timothy B., [redacted].
Stites, Thomas S., [redacted].
Stledger, John W., [redacted].
Stoddard, Gregory V., [redacted].
Stoehrmann, Kenneth C. [redacted].
Stone, James R., [redacted].
Stone, Robert D., Jr., [redacted].
Stone, Thomas J., [redacted].
Storer, Richard W., III, [redacted].
Stover, David R., [redacted].
Stringer, William F., [redacted].
Stubbs, David C., [redacted].
Stubben, Mark A., [redacted].
Sturman, John S. [redacted].
Suhar, John C. [redacted].
Sullivan, Thomas M., Jr., [redacted].
Sutton, Peter U., [redacted].
Swettman, William P., Jr., [redacted].
Tanner, Glen R., [redacted].
Tate, Ben R., III, [redacted].
Taylor, Earl V., [redacted].
Taylor, John E., [redacted].
Teel, Scott C., [redacted].
Terbeek, Douglas G., [redacted].
Tharp, David C., [redacted].
Thomas, David W., [redacted].
Thomasson, Samuel Maxie, III, [redacted].
Thompson, Theodore E., [redacted].
Thurman, John A., [redacted].
Thurston, Leo K., Jr., [redacted].
Tillman, Steven W., [redacted].
Timmons, Bruce E., [redacted].
Tindall, Robert S., [redacted].
Tompkins, James W., [redacted].
Townsley, Justin L., Jr., [redacted].
Tumino, David, [redacted].
Tyler, Roger F., [redacted].
Tyrrell, John T., [redacted].
Ullrich, Rainer C., [redacted].
Underwood, Thomas J., [redacted].
Upshaw, Dale J., [redacted].
Vaaler, John L., [redacted].
Vanrastelaar, Joost, [redacted].
Vandame, Richard A., Jr., [redacted].
Vanderweg, Marvin D., [redacted].
Vanorne, Ronald W., Jr., [redacted].
Veenstra, Robert J., [redacted].
Velotas, William M., [redacted].
Venteicher, Gerald J., [redacted].
Verzola, Michael W., [redacted].
Vetterlein, Jon M., [redacted].
Vician, Daniel J., [redacted].
Vinal, William S., [redacted].
Vogel, Peter C., [redacted].
Voorhees, Brian R., [redacted].
Voorhees, Peter V., [redacted].
Wagasky, George, III, [redacted].
Wagie, David A., [redacted].
Waitte, Edward J., [redacted].
Walker, William H., IV, [redacted].
Walker, William T., [redacted].
Wallace, Ronald E., [redacted].
Waller, Robert L., [redacted].
Ward, Morris A., Jr., [redacted].
Wargo, George P., [redacted].
Weaver, Scott L., [redacted].
Webb, Thomas P., [redacted].
Webb, Thomas P., Jr., [redacted].
Weeker, Scott A., [redacted].
Weese, David F., [redacted].
Wessler, James D., [redacted].
Weston, Craig P., [redacted].
Weston, John D., [redacted].
Westphal, James L., [redacted].
Weydert, James C., [redacted].
Wheeler, Dean F., Jr., [redacted].
White, Clifford K., Jr., [redacted].
White, John W., Jr., [redacted].
Whitlock, Timothy S., [redacted].
Whitney, David J., [redacted].
Wickham, Johnston H., [redacted].
Wilhite, Ross L., [redacted].
Wilker, John S., [redacted].
Wilkin, Danny E., [redacted].
Wilkinson, David F., [redacted].
Williams, Mark A., [redacted].
Williams, Rickie J., [redacted].
Williams, William G., III, [redacted].
Willson, Raymond A., Jr., [redacted].
Wilson, Howard C., [redacted].
Winborn, Erik L., [redacted].
Windnagel, Thomas D., [redacted].
Winter, Charles C., [redacted].
Winterberger, Gary A., [redacted].
Witters, Richard C., [redacted].
Woessner, James K., [redacted].
Wojdyla, Richard A., [redacted].
Woodmansee, Robert H., [redacted].
Woodside, Robert E., [redacted].
Wright, Keith C., [redacted].
Yates, Cale B., III, [redacted].
Yates, Farris F., [redacted].
Young, Robert E., [redacted].
Youngquist, Charles D., [redacted].
Youngquist, Robert A., [redacted].
Zekoski, Joseph, [redacted].
Zeuty, Edward J., Jr., [redacted].
Zickrick, Karl F., [redacted].

NURSE CORPS

Cable, Damon W., [redacted].
Herrmann, David L., [redacted].

MEDICAL SERVICE CORPS

Artim, Richard A., [redacted].
Barrett, John F. [redacted].
Barton, Donald E., [redacted].
Brichta, Robert F., [redacted].
Bukala, Christopher J., [redacted].
Buttino, Louis, Jr., [redacted].
Cerha, James P., [redacted].
Deel, David I., [redacted].
Didio, Nicholas, II, [redacted].
Doyle, John E., III, [redacted].
Duke, John M., [redacted].
Emhoff, Timothy A., [redacted].
Evans, John E., [redacted].
Gaede, Gary L., [redacted].
Griffith, John L., [redacted].
Holm, Peter F., [redacted].
Jones, Kenneth Allan, [redacted].
Jones, Ronald D., [redacted].
Kalosis, John J., Jr., [redacted].
Kitchen, Robert H., Jr., [redacted].
Knutson, Clark J., [redacted].
Krauth, Lee E., [redacted].
Lamarine, David A., [redacted].
Meredith, Keith S., [redacted].
Metz, Karl W., [redacted].
Neuland, Michael E., [redacted].
Noblett, Allan I., [redacted].
North, Phillip T., [redacted].
Parmet, Allen Jeffrey, [redacted].
Paul, Samuel J., [redacted].
Peedin, Floyd R., [redacted].
Quinton, Ronald R., [redacted].
Ray, Norman S., [redacted].
Reay, James D., [redacted].
Rice, Robert A., [redacted].
Rodgers, Lee P., [redacted].
Roe, John P., [redacted].
Romett, Joseph L., [redacted].
Rugh, Kenneth S., [redacted].
Rupp, Joseph L., Jr., [redacted].
Rutherford, Randy J. [redacted].
Schafer, Klaus O., [redacted].
Sellers, Alfred O., [redacted].
Shaw, William D., [redacted].
Slade, John B., Jr., [redacted].
Snell, George C., [redacted].
Solana, Richard P., [redacted].
Steel, Maxwell W., III, [redacted].
Stone, Kenneth A., [redacted].
Storey, Richard C., Jr., [redacted].
Walsh, William F., [redacted].
Weiss, Michael S., [redacted].
Winn, Richard E., [redacted].
Young, Charles R., [redacted].

BIOMEDICAL SCIENCES CORPS

Adams, Thomas R., [redacted].
Artiglia, Edward W., [redacted].
Biery, Terry L., [redacted].
Binovi, Robert D., [redacted].
Bonillalinero, Francisco, [redacted].
Braendlein, Russell G., Jr., [redacted].
Carroll, George B., Jr., [redacted].
Clark, Dwight E., [redacted].
Crosby, Ray M., [redacted].
Dixon, James Patrick, [redacted].
Engebretson, Kenneth A., [redacted].
Erickson, Bruce E., [redacted].
Fatf, William H., [redacted].
Graham, John G., [redacted].
Hindelang, Robert D., [redacted].
Kraft, Corinne A., [redacted].
Neill, Marvin W., [redacted].
Patterson, Wayne R., [redacted].
Rogers, Earl D., [redacted].
Sanders, Mary A., [redacted].
Simmons, Jackie R., [redacted].
Stork, Roger L., [redacted].
Tillman, Dale W., [redacted].
Wandmacher, Gary A., [redacted].
Weingaertner, Mary A., [redacted].
Yoshioka, Doreen N., [redacted].

IN THE ARMY

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3305:

ARMY PROMOTION LIST

To be colonel

Miller, Daniel L., [redacted].
Purcell, Benjamin H., [redacted].

The following-named officers for promotion in the Army of the United States under the provisions of Public Law 92–129:

ARMY PROMOTION LIST

To be lieutenant colonel

Carey, Norman C., [redacted].
Crotty, Richard E., [redacted].
Lewis, Lee A., [redacted].
McDaniel, Morris, [redacted].
Morrison, Don R., [redacted].
Nicotra, Andrew P., [redacted].
Tallman, Charles W., [redacted].
Taylor, James E., [redacted].
Williams, Paul E., [redacted].
Zitz, Joseph S., [redacted].

VETERINARY CORPS.

To be lieutenant colonel

Sims, William M., Jr., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Agee, Robert N., [redacted].
Ahmann, Thomas M., [redacted].
Alving, Carl R., [redacted].
Anderson, Warren T., [redacted].
Auerbach, Julian, [redacted].
Avilescollado, Albert, [redacted].
Baker, Timothy E., [redacted].
Ball, John H., [redacted].
Barnes, Cary M., [redacted].
Barrick, Earl F., [redacted].
Bauserman, Steven C., [redacted].
Benson, Richard W., [redacted].
Berliner, Daniel S., [redacted].
Biggs, Simon L., [redacted].
Black, Joel W., [redacted].

Bode, Donald D., Jr., [redacted].
Bouzigard, Ray J., [redacted].
Bowman, Robert P., [redacted].
Braeuer, Norbert, [redacted].
Brient, Bruce W., [redacted].
Brown, Thomas L., [redacted].
Burch, Gary R., [redacted].
Buster, John E., [redacted].
Cathey, Robert H., [redacted].
Chalus, Dennis M., [redacted].
Charles, Merl A., [redacted].
Chensam, Clifford R., [redacted].
Chier, James K., [redacted].
Christensen, Richard, [redacted].
Clark, Gary B., [redacted].
Clark, William D., [redacted].
Classen, Charles H., [redacted].
Collins, John T., [redacted].
Corrigan, Dominic F., [redacted].
Deegan, Michael J., [redacted].
Demski, Stanley L., [redacted].
Dibiase, Marco J., [redacted].
Dimond, Richard C., [redacted].
Effron, Alan M., [redacted].
Ekland, David A., [redacted].
Ellis, Charles M., [redacted].
Espinosa, John L., [redacted].
Esposito, Anthony J., [redacted].
Etheredge, Edward E., [redacted].
Finney, Jackie L., [redacted].
Foote, William C., [redacted].
Franceschi, Portfirio, [redacted].
Gagon, Terry E., [redacted].
Gaydos, Joel C., [redacted].
Gerow, Lynn B., Jr., [redacted].
Giordano, Frank L., [redacted].
Glouberman, Stephen, [redacted].
Gonzalez, William E., [redacted].
Gorelkin, Leo, [redacted].
Gotthold, William E., [redacted].
Gough, David C., [redacted].
Griffiss, John M., [redacted].
Grinstead, Carl E., [redacted].
Haines, Edward T., [redacted].
Haines, Lynn H., [redacted].
Hall, Roger V., [redacted].
Hathaway, James A., [redacted].
Heckman, Aldred A., [redacted].
Hertzog, Robert W., [redacted].
Hightshue, David C., [redacted].
Hodder, Richard, [redacted].
Hoffman, Carl M., [redacted].
Hohengarten, John H., [redacted].
Holley, Robert G., [redacted].
Hoppe, John W., [redacted].
Jeffer, Edward K., [redacted].
Johnson, Marshall R., [redacted].
Johnston, James S., [redacted].
Jones, Charles C., [redacted].
Jones, Gary M., [redacted].
Keeler, David A., [redacted].
Keeney, Glenward T., [redacted].
Kehn, Brent D., [redacted].
Keidel, Werner N., [redacted].
Khoo, David, [redacted].
Kingry, Roy L., Jr., [redacted].
Klein, Thomas A., [redacted].
Knauft, Richard D., [redacted].
Knieser, Martial R., [redacted].
Korsower, Jack M., [redacted].
Kreutzmann, Robert, [redacted].
Kyser, Kay A., [redacted].
Leftik, Martin I., [redacted].
Lentino, Jorge A., [redacted].
Lepine, Eugene M., [redacted].
Levine, Norman S., [redacted].
Lewis, Ronald J., [redacted].
Lewis, Ronel L., [redacted].
Little, Loren E., [redacted].
Long, James M., [redacted].
Loos, Gerald D., [redacted].
Lopiccolo, Philip, [redacted].
Lynch, Richard D., [redacted].
MacDonald, Richard, [redacted].
Martin, William H., [redacted].
Mayon, George E., [redacted].
Mazat, Bruce A., [redacted].
McAlhany, Joseph C., [redacted].
McArthur, Michael S., [redacted].
McNitt, Theodore R., [redacted].
Merrill, Richard H., [redacted].
Morris, Richard L., [redacted].
Morrison, Robert E., [redacted].
Mulvany, David J., [redacted].
Murgo, Joseph P., [redacted].
Myers, William D., [redacted].
Mylander, Kenneth W., [redacted].
Norton, Jay F., [redacted].
Onufer, Charles N., [redacted].
Ostberg, Roy C., [redacted].
Paudler, Franklin T., [redacted].
Payne, Douglas D., [redacted].
Pearlman, Eliot J., [redacted].
Pfuetze, Karl D., [redacted].
Phillips, Stanley M., [redacted].
Pierson, Dean L., [redacted].
Pitts, James R., [redacted].
Pollard, William W., [redacted].
Pottenger, Lowell K., [redacted].
Raine, Dudley A., [redacted].
Ranes, Paul S., [redacted].
Sanders, Joe M., Jr., [redacted].
Sattgast, John E., [redacted].
Schultheis, William, [redacted].
Schwab, James A., [redacted].
Scott, Robert M., [redacted].
Shaw, Robert W., [redacted].
Sheinkopf, Harold N., [redacted].
Shuger, Richard D., [redacted].
Silsby, Harry D., IV, [redacted].
Sim, Joel C., [redacted].
Sisler, Gary L., [redacted].
Southwick, Edward G., [redacted].
Stabenow. David., [redacted].
Staiano, Ralph A., [redacted].
Starling, John L., [redacted].
Steele, Russell W., [redacted].
Steines, William J., [redacted].
Stokes, James W., [redacted].
Sudderth, Michael E., [redacted].
Sugerman, Harvey J., [redacted].
Swanson, Dennis R., [redacted].
Tahmoush, Albert J., [redacted].
Thomas, Harry M., [redacted].
Thomason, Albert M., [redacted].
Thrall, James H., [redacted].
Tiesenga, Sidney W., [redacted].
Tramont, Edmund C., [redacted].
Traugott, Richard C., [redacted].
Trompler, Raymond A., [redacted].
Tubb, Daniel W., [redacted].
Tuttle, Jay R., [redacted].
Valente, Vincent P., [redacted].
Vieta, Paul A., [redacted].
Warkel, Raphael L., [redacted].
Watson, James D., [redacted].
Weaver, Clyde M., [redacted].
Webber, George R., [redacted].
Weeks, Lyle D., [redacted].
Welch, Gary W., [redacted].
Whelton, John C., [redacted].
Wight, Dennis A., [redacted].
Williams, Curtis S., [redacted].
Williams, Reginald, [redacted].
Williams, Ronald G., [redacted].
Wray, Harvey L., [redacted].
Yates, Dewey J., [redacted].
Yost, Raymond V., [redacted].

DENTAL CORPS

To be lieutenant colonel

Belasco, John R., [redacted].
Bellizzi, Ralph, [redacted].
Cremer, Jerry L., [redacted].
Cunningham, David E., [redacted].
Jagels, Arlen E., [redacted].
Lohse, Walter G., [redacted].
Meagher, John R., [redacted].
Morgan, Don W., [redacted].
Peak, Benson W., [redacted].
Robbins, Fredrick, [redacted].
Schow, Sterling R., [redacted].
Strope, Michael B., [redacted].

The following-named officers for promotion in the Regular Army of the United States under the provisions of title 10, United States Code, sections 3284 and 3299:

ARMY PROMOTION LIST

To be lieutenant colonel

Burnett, Shelton, J., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Lafollette, Bruce F., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Flanery, Colbert L., [redacted].

ARMY PROMOTION LIST

To be major

Brennan, Ambrose W., [redacted].
Gilmour, Adam S., [redacted].
Saunders, Phillip A., [redacted].
Fitch, Kenneth L., [redacted].
Hardy, Teddy J., Sr., [redacted].
Touhey, Henry J., [redacted].

MEDICAL SERVICE CORPS

To be major

Brown, Wallace J., [redacted].

The following-named officers for promotion in the Regular Army of the United States, under the provisions of title 10, United States Code, sections 3284 and 3298:

ARMY PROMOTION LIST

To be first lieutenant

Juncer, Dennis, [redacted].
Cronyn, Robert L., [redacted].
Martine, Victor C., [redacted].
Robertson, Thomas F., [redacted].
Vanhorne, Ralph J., [redacted].
Varnado, Talmadge R., [redacted].

To be first lieutenant

ARMY NURSE CORPS

Henricson, Lawrence K., [redacted].
Otero, Albert A., [redacted].
Kobliska, Dorothy A., [redacted].

EXTENSIONS OF REMARKS

THE FARMER IS CAUGHT IN A COST-PRICE SQUEEZE

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 15, 1975

Mr. OBEY. Mr. Speaker, the calf slaughters that occurred last fall in Wisconsin and other parts of the country shocked a great many Americans, who witnessed the kills on television, or read about them in their newspapers, without fully understanding why these cattlemen were taking such a drastic step.

It was a drastic step because the plight of the farmer, including the dairy farmer, itself was drastic. And it still is.

One of the best explanations of the dairyman's plight that I have seen is this Associated Press feature story which appeared in the Kansas City Star of last December 8. Datelined Wisconsin Rapids, Wis., which is in my congressional district, the story explains in detail how farm economics affect Norman Newell, a farmer who works 14 hours a day, has not had a vacation in 7 years, and has not made enough money to pay any income tax in 3 years.

The story follows:

CALF KILL PROTEST SURPRISES FARMER

(Norman Newell, a Wisconsin cattleman, hopes to be out of farming next year. Caught in a cost-price squeeze, he helped organize the first calf slaughter calling attention to the plight of the livestock farmer. "I was really surprised at how people reacted," Newell said, displaying a stack of letters protesting the kill.)

WISCONSIN RAPIDS, WIS.—Norman Newell has worked 14 hours a day, usually seven days a week, the last 22 years.

He doesn't smoke, drink or gamble and hasn't had a vacation in seven years.

Norman Newell, 58 years old, is considered a successful farmer: his buildings, equipment and 1,700 acres of central Wisconsin farmland are worth hundreds of thousands of dollars.

But he's in debt, and he and his wife live off her teacher's salary. Newell hasn't made enough money to pay any income tax in three years.

That's why he and members of his local farm association horrified the nation Oct. 15 by shooting and burying 22 calves on Newell's farm. It was the start of calf slaughters by angry cattlemen and dairy farmers in Wisconsin, New York, Minnesota and Washington.

"A year from now I hope to be out of farming," Newell said, nodding at the for-sale sign near the gate. "If I could really, just make a little bit or break even, it would be worth it to keep farming."

Newell looks away from the tractor he has been repairing, ignoring the bone-chilling wind and snow flurries lashing his leathery face.

He gazes toward the trench where the calves were buried instead of being sent to market, toward the feed barn where he used to raise 354 prime veal calves at a time and toward the field where 500 cattle graze on dead autumn grass.

"I'm going to try to keep them alive as cheaply as possible and sell them next June or July when prices might be higher," Newell said of the grazing herd.

The feed barn is empty because he can't sell a calf for enough to cover the cost of buying it newborn and feeding it for three to four months while it grows to market size.

USDA AGREES

The U.S. Department of Agriculture agrees. It says, that in the final quarter of 1974 grain-fed beef is averaging $38 to $40 a 100 pounds on the hoof compared with $49 in 1973. But the farmer's cost to produce each 100 pounds is more than $50 because of rising feed-grain costs, the USDA says.

Dairy farmers, whose herds must breed annually to keep up milk production, now have nowhere to sell newborn calves since Newell and other beef producers don't want them.

But the dairy farmers say they can't afford to keep the newborn calves either because milk prices haven't kept pace with rising feed costs. So they're reducing their herds or selling out entirely. About 2,000 of the 53,000 dairy herds in Wisconsin, the nation's biggest dairy state, could disappear this year, the state agriculture department says. That's well above the average annual loss for the last 10 years.

There are 300,000 dairymen in the nation and more than 1 million beef farmers.

Dairy and beef farmers can and do sell newborn calves for dog food, but the price paid doesn't cover shipping costs, they say.

So, following the lead of Newell and other Wisconsin farmers, dairy and cattlemen in several states have staged calf kills in protest or have threatened to kill calves. The greatest number, about 700 calves, have been killed in Wisconsin. Less than 2,000 have been slaughtered elsewhere in the nation.

BLAMES GOVERNMENT

"The government is to blame," Newell, who is one of 12,000 Wisconsin beef farmers, said. "Farmers can put up with inflation and everything else that bothers everybody else. It's all this government interfering and manipulating of farmers. Nobody has to put up with it like we do."

Newell, a sixth-grade dropout who bought his first car at 11 and gave up a profitable Alaskan fishing career to become a farmer, believes farmers have been caught in the price-cost squeeze because of U.S. Agriculture Department pressure to produce more food.

"Farmers feel a certain responsibility, and when the government says we need more food, we try to produce more. They say each farmer feeds 45 people, but it's probably more with the food shipped overseas. We feed the world."

Newell finishes his repair work on the tractor as dusk settles and enters the small but comfortable farm home. The kitchen is warm with dinner preparations of veal, carrots and apple pie, by his wife Nella.

A set of mounted antlers—Newell takes half a day off for the opening of deer hunting season—hangs on the wall. Strips of fly paper dangle from the points of the antlers.

He rummages through a stack of papers and produces a chart showing that the farmer receives less a pound for beef today than in 1952.

Another chart shows that it costs the average farmer 56 cents to raise a pound of beef on grain. Newell considers himself fortunate to get 40 cents a pound when he goes to market.

Perhaps because of this, there has been a record beef slaughter this year—36 million head, the USDA says, up 7 per cent from last year. But most of the increase results from the slaughter of young, grass-fed animals. The slaughter of grain-fattened animals is way down, the USDA reports.

Newell lifts a stack of letters, dozens from as far away as New York and California, protesting the calf kills.

"I was really surprised at how people reacted," he said. "We did it to get some attention to our problems, but we never thought the reactions would be this strong."

Most of the letters deride Newell, calling him a barbarian or a Communist.

NO REGRETS

"No, I don't regret the calf kill," he said. "Anybody who knows anything about farmers knows that it's not something we like to do, not after all the nights we've stayed up fighting to keep a sick animal alive."

He finds a copy of a letter to President Gerald R. Ford threatening more calf kills unless quick action is taken to bail out struggling farmers.

"If things don't get better we'll have a union of all the farmers in the country," Newell said. "It would make the union troubles of the 1930s seem like kid stuff. It would be a shame to see all those wheat fields go up in smoke."

Newell blames much of the farmer's troubles on antifarm sentiment based on a lack of consumer understanding of farms and farmers.

"Consumers are simply going to have to pay more for food," Nella said.

Newell urges city folks to form food cooperatives and make their purchases from wholesalers, distributors and packing houses to avoid some of the middleman costs.

" I lose money on my beef, but nobody else does after it goes to the slaughterhouse," he said.

He pulls out a pocket calculator:

In January he borrowed $43,000 to buy 110 2-year-old, 700 pound heifers. Counting shipping, feed and other costs, he has more than $450 invested in each animal.

They now weigh about 900 pounds each but would only sell for about $275 apiece.

Overall Newell figures he would lose $60,000 if he sold his remaining 500 cattle today. So he maintains the herd, on grass, and waits until next year when prices might be higher. Most of Wisconsin's 12,000 beef farmers also are maintaining their herds, the state agriculture department says.

Newell ticks off the list of rising costs in the last two years. Feed corn has tripled, baling wire has tripled, fence wire has tripled and fertilizer has doubled.

SOLUTIONS SUGGESTED

He has several ideas for easing the squeeze, topped by an advisory committee of everyday farmers for the Agriculture Department.

"We need some real farmers there in Washington, not all these college people telling us what to do when they've never worked on a farm," he said.

His other suggestions include a tax on meat-packers to finance low-interest farm loans, livestock contracts between farmers and packers to regulate supplies and guarantee profits and a minimum farm profit.

"They should pass a law so that nobody makes more than a farmer, all the way down the line," he said.

Newell settles back in his worn easy chair, dead tired at 8 p.m. after getting up before daybreak. He still has to check his fences before he can sleep.

"You know, with the land and working outside, a farmer considers himself rich in ways other than money. But I'm getting out. I still want to be able to eat in 10 years."

THE DILEMMA OF THE "DOERS"

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. DERWINSKI. Mr. Speaker, in this opening session of Congress, there are all sorts of promises and demands that "something" be done just for the doing's sake. I respectfully direct the attention of the Members to an article by syndicated Columnist Nicholas von Hoffman, which was carried in the Tuesday, December 31, 1974, Chicago Tribune. This article is as appropriate today as it was the day it was published:

THE DILEMMA OF THE "DOERS"

(By Nicholas von Hoffman)

WASHINGTON.—A few weeks ago New York magazine ran a cover depicting someone who it was impossible to take as anybody but President Ford in a clown's costume replete with the traditional red rubber ball nose. This piece of art elicited a certain number of tsk-tsks in this city of bland pomposity, but off-camera there was general agreement with the magazine.

The more spirited members of both parties have taken to dismissing Ford as a bumbling do-nothing. It occurs to no one that a bumbling do-nothing may be preferable to a bumbling do-something.

Having spent summer and fall ineffectually fighting inflation, they're now switching over to encouraging it in hopes that cheap money will put people back to work. It won't.

"A sustainable low level of unemployment cannot be obtained for the 'purchase price' of a higher rate of inflation," writes Darryl Francis, the president of the St. Louis Federal Reserve Bank, in the November issue of his institution's Review.

The St. Louis people have a history of challenging the unproven truths Washington and economic orthodoxy take for granted. Thus Francis and his research staff have gone over the economic history of the last 20 years and what they've found is that, save for short-run, transitory fluctuations, trying to stimulate employment by inflationary attempts to increase purchasing power [i.e., quickie tax cuts] doesn't work.

In fact, over the last decade as inflation rates began their dreadful zoom, the permanent level of unemployment has kept edging upwards, not downwards.

Francis and his associates would have to be categorized as rather conservative, laissez-faire economists. But people on the Left have also been pointing to the fading effectiveness of blowing up new whooshes of money—known in the trade as aggregate demand policies or macro-economics.

Thus it's only the people running the country who don't realize that the classic dilemma of having to choose between inflation and full employment is a false one.

Francis writes: "If there is no tradeoff, but policymakers act as if one exists, any attempt to use aggregate demand policies to achieve unemployment below the rate dictated by the issue of supply and demand will result in accelerating inflation."

That accelerating inflation won't be too long in coming either. Price rises should begin to slow up by late winter, but with the misguided programs and policies now being put together, costs ought to be climbing out of sight by fall.

There's no end of work to be done in America, but much of it isn't getting done because some workmen's wages are too high and others are too low, so that some tasks are too expensive to pay for and some are too cheap to get anybody to do. Others are out of work because they're too far away from the jobs or because unions and other occupational monopolies won't let them work. Still others lack marketable skills.

These aren't ductile problems susceptible to rapid resolution; but while we put our backs into solving them, it would make matters easier if we could learn to fight off the fidgety imprecations of the do-something-do-anything hysterics. It would also help if we could find the fortitude to pursue any set of policies long enough to let them have some good effect.

CONGREGATION EMANU-EL OF SAN FRANCISCO OBSERVES THE 125TH ANNIVERSARY OF ITS FOUNDING

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. JOHN L. BURTON. Mr. Speaker, the Congregation Emanu-El will celebrate its 125th anniversary this month.

The congregation has played an important part in the growth and development of San Francisco since services were first held in 1849.

Mr. Speaker, I would like to pay tribute to the temple's anniversary, and share with you a review of its history:

CONGREGATION EMANU-EL OF SAN FRANCISCO OBSERVES THE 125TH ANNIVERSARY OF ITS FOUNDING

Congregation Emanu-El became a congregation shortly after the first Jewish religious service was held in San Francisco on the occasion of the High Holy Days in September, 1849. From its modest first building, located on Broadway near Stockton, the site of the Temple was subsequently moved to 450 Sutter Street where it remained until 1926, when the Congregation moved to the corner of Arguello Boulevard and Lake Street.

The minutes of the Congregation, dated March 30, 1851, foreshadowed the future course of the Congregation:

"In conclusion, your Committee begs leave to give you the assurance that their endeavours to promote the good cause will not rest until a suitable Edifice worthy of God's Chosen People be completed in this great Emporium of the New World."

The building on Sutter Street, as well as the present one, rank among the finest architectural works of their kind. The Congregation's founders lived up to their pledge, as did their descendants.

Its lay and rabbinic leaders served not only the welfare of the Jewish community. From their ranks came also those men and women who contributed to the cultural and intellectual development of the City of San Francisco. The roll of its members contains the names of many of the pioneer families, some of whose descendants are still actively associated with the Temple.

As early as the 1860s, Temple Emanu-El became associated with the First Unitarian Church in an annual inter-faith Thanksgiving service. This was a unique innovation in the religious life of America. Subsequently, when the Sutter Street Temple was severely damaged in the 1906 earthquake, Congregation Emanu-El worshipped in the Unitarian Church while repairs were being made. This association continues to this day. Unfortunately, many early historic records were destroyed during the earthquake-fire.

The Congregation spawned several Jewish institutions in the City to meet the social welfare needs of a burgeoning Jewish Community. Its present building also serves as a resource for communal endeavors in the Jewish, as well as, general community.

The history of Temple Emanu-El closely parallels the history of the City of San Francisco since 1849, contributing to the unique life style for which the City is world famous.

Mr. Speaker, I know that you join with me and my colleagues in congratulating the congregation on their achievement of this milestone, and wish them continued growth, fulfillment, and success.

NEW CONCEPT OF HEALTH CARE DELIVERY INAUGURATED FOR GUAM

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. WON PAT. Mr. Speaker, certainly one of the prime concerns of our time is the urgent need for equitable and far-reaching health care plans for our citizens. While mainland Americans have been provided with numerous alternatives in this matter, the citizens of Guam have suffered from rather restrictive opportunities.

I am pleased to announce to my distinguished colleagues that progress has been recently made in this area with the announcement of a new concept of health care delivery program for Guam. The program bears careful attention since this approach could be applied elsewhere in the United States. It is important to the consumer because future HML rate increases will be held to a minimum if medical costs can be controlled through individual physicians. Needless to say, we are hopeful that the inauguration of this plan will usher in a new and better era for Americans in Guam. At the same time I strongly urge my colleagues to enact a comprehensive health plan as expeditiously as possible for all Americans.

Mr. Speaker, I am inserting an explanatory article from the family health program newsletter dealing with this new concept in the RECORD for my colleagues who are concerned about this pressing problem:

NEW CONCEPT OF HEALTH CARE DELIVERY INAUGURATED ON GUAM

For the first time both an individual practice HMO mode (foundation type) and a group practice prepayment HMO mode are being sponsored by the same organization. After having successfully organized and operated a group practice prepayment HMO type on Guam for the past year, FHP has inaugurated a dual-choice alternate system in cooperation with a majority of the independent physicians on the Island. This individual practice HMO type is being sponsored by the Health Maintenance Life Insurance Company, a subsidiary of Family Health Program. HML Insurance Company is underwriting the risk on hospitalization, pharmacy, out-of-area, as well as administering the plan, supplying the Medical Director, Nurse Coordinator, Regional Manager, and all claims and administrative personnel.

Government of Guam employees have had the free choice of selecting either the individual practice HMO, comprising the majority of the 30 independent fee-for-service physicians on Guam, or a Group Practice Prepayment mode through the two group practices on the Island, FHP Catholic Medical Center and Seventh-Day Adventist Medical Center. The significant feature is that the choice is on the system of care since the benefits and the rates paid are almost identical. Whereas last year only about 3,500 employees out of the 10,000 Government of Guam employees selected either FHP or the insurance mode, this year over 7,000 of the 10,000 employees chose this expanded modernized service.

Both programs serve an identical member population. The doctors in the group practice are salaried physicians working in an integrated group setting while the individual doctors see patients in their own practices. Keystones to this new program are: the prior authorization concept for elective hospitalization, the sliding payment scale and the use of a formulary for prescription drugs. Preventive medical services and in-and-out of hospital care are provided on both plans.

A majority of Guam's fee-for-service physicians have joined the independent practice program which will be a three-year program with the Guam Government. Data collection will illustrate after a year if quality health care at a controlled cost can be delivered through the individual practice HMO as effectively as through the group practice HMO. One past American Medical Association President said during a recent speech on Guam: "This new system of health care delivery should be a good experiment." That doctor meant that in the two forms of health care delivered to identical populations, both groups use the same hospital and all other factors are perfect for a controlled experiment.

During the last year, FHP has provided health care through FHP's group practice HMO medical center to the employees of the Guam Government, U.S. Federal employees on Guam, the Catholic Diocese, and Catholic School System, University of Guam students, several large hotels and numerous other corporations on the island. A new group practice prepaid dental plan was also inaugurated in 1974 by FHP for its Guam members.

FHP's innovation, the Independent Practice HMO, will be carefully watched because the approach could be applied elsewhere in the United States. The concept is important to the consumer because, if medical costs

CAN be controlled through individual physicians, future HML rate increases will be held to a minimum. Compare the usual insurance carried increases this year of 20 to 40% and you'll see why a health care dollar goes much further in a planned health care system.

ANCHER NELSEN OF MINNESOTA

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. HAGEDORN. Mr. Speaker, under leave to extend my remarks in the CONGRESSIONAL RECORD, I would like to include an editorial which appeared last week in the Washington Star-News entitled "Friend From Minnesota." The editorial is an appropriate salute to the man I have been privileged to succeed in the House of Representatives, the Honorable Ancher Nelsen, of Hutchinson, Minn.

Ancher Nelsen's 16 years of distinguished service in Congress is only a part of his long public career. Prior to his election to Congress in 1958, he served as a Minnesota State senator from McLeod County from 1935 to 1948; lieutenant governor of Minnesota in 1952 and was the administrator of the national rural electrification program from 1953–56. As a member of the Interstate and Foreign Commerce Committee as well as the District of Columbia Committee, Congressman Nelsen has made many great contributions not only to his district and State but to the entire Nation and his service will be long remembered.

It will not be easy for me to fill Ancher Nelsen's shoes. I can only pledge to my colleagues in the Congress and to the people of the Second District of Minnesota that I have every intention of setting as my goals the same high standards of honesty, dedication, and concern that distinguished Congressman Nelsen's many years of public service.

I am sure I speak for all the people of the Second Congressional District in wishing Congressman Nelsen and his wife many years of happiness and good health in the years ahead.

The editorial follows:

FRIEND FROM MINNESOTA

One thing this city proves, time and again, is that the stereotypes cherished by many peope are highly unreliable. Who in the early Sixties, for example, would have sized up a rural Republican congressman from Minnesota—a farmer who never went to college—as one of the District of Columbia's most effective friends in all its history? Yet that's what Ancher Nelsen turned out to be, serving for the past decade as ranking GOP member of the House District Committee.

As he departs for voluntary retirement in the conservative cornbelt from whence he came, some words of remembrance and appreciation are in order. Beyond much doubt, Nelson's main achievement in 16 years on Capitol Hill was what he did for the District—to improve its physical and political life. Needless to say, the thousands of hours he devoted to this did him little or no good politically back in Minnesota. He did not, however, count that cost very seriously. It was his opinion that the quality of life in the Nation's Capital is every citizen's business, and apparently his constituents went along with him.

Nelsen's attitude of concern is reflected in a parting statement on what he deems his major contribution—creation of the Washington Technical Institute, in which he played a major role. Established after the riots of 1968, this educational facility was highly valuable, he said, "for a lot of people who up to that point didn't have a chance like we have out in rural America." He also had much to do with approval of the Metro system, and chaired the so-called Nelsen Commission on governmental efficiency here. Most importantly, though, the District's emergence this year into home rule, limited though it may be, probably couldn't have been achieved without his efforts.

There are those who contend he was too slow and cautious on this but the District could have been much worse off without his help, and his sense of what was politically attainable. Nelsen's keen and sympathetic interest in this city weighs against the popular notion that only urban congressmen are deeply concerned about urban affairs. We hope there are others among the congressional newcomers who will help disprove that idea in the future.

A BILL TO PROVIDE EQUITY FOR PHILIPPINE VETERANS OF THE U.S. ARMED FORCES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. ANDERSON of California. Mr. Speaker, under the provisions of the Immigration and Nationality Act, visa numbers for persons born in areas other than the independent countries of the Western Hemisphere are allocated by preference categories. For example, brothers, sisters, and children of U.S. citizens; spouses and unmarried children of permanent residents; talented professionals; and workers to fill a labor shortage are allowed to immigrate to this country on a priority basis.

However, there is an important group presently excluded from these preference categories—the Philippine veterans of the U.S. Armed Forces—aliens who courageously served as members of the U.S. military, fighting under our flag, under our commanders, side-by-side with American men.

Veterans have a special place in the hearts of Americans. We all recognize the debt of gratitude that we owe those who served in the Armed Forces to protect and preserve our country. But we have been remiss in paying that debt to the aliens who have served honorably as members of our Armed Forces. For example, under current law it means nothing that a man or woman served for several years with the U.S. Army during World War II when he or she applies for an immigrant visa number. This is wrong, and it is high time that we corrected this injustice.

Therefore, I am today introducing a bill which would extend first preference category privileges to those persons who have served at least 3 years in the Armed Forces of the United States and have been honorably discharged.

As a matter of justice, Mr. Speaker, those who put their lives on the line to serve in our Armed Forces should be given first preference status and be permitted to enter this country if they so choose.

SOLUTION TO WORLD FOOD CRISIS

HON. JERRY LITTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. LITTON. Mr. Speaker, a major topic of discussion and debate in the recent past has been that of the world food situation. It seems that for every person I talk to, there is a new dimension to the crisis, a new angle to the story, or a new solution to the problem. Prophets of doom are predicting the beginning of the end; technology tycoons assure us that machinery and modern know-how will prevail and eternal optimists are waiting patiently for the manna to fall from the heavens.

Granted, the rhetoric has been stimulating and the debate has come across as a well-thought-out chess game with its succession of moves and countermoves. Plainly, everyone knows there are too many people precariously positioned on the brink of starvation and death, not to mention hunger and misery. People care about their fellow men, women, and children. They want to help. But no one can agree on the design of the solution.

Some say it is already hopeless. Or that there is no possibility to solve the problem until the socio-economic structure of the world is altered. Others insist that countries with food have a moral obligation to continue increasing their donations. Many claim that modern technology and the "green revolution" alone will put enough food into the mouths of millions of hungry people. Our administration here in this country encourages production and more production as the answer.

The complexity of the food crisis is awesome. In dealing with the underdeveloped nations of the world, one quickly discovers that no matter how small, each is unique and special in its social, economic, and cultural makeup. What is workable in one country might be totally out of line for its neighbor. And yet most have one crucial common feature—they are food-poor and people-rich.

Although I make no claim at having the answer to the problem, I feel that a proposal which I introduced Tuesday goes far toward a long-range solution to the food crisis. I have read with interest and hope pages and pages of sophisticated analyses and corrective remedies. I know something about the economics of food production and feeding people and I think every proposal certainly has merit and value. But plain-speaking, it gets down to simple, pragmatic logic. Too many people and not enough food.

Last year I visited the poor region of the Sahel in Africa. I was shocked at the number of persons crammed into these small countries and the lack of food necessary to sustain such numbers. I asked the leaders whom I met what plans they had for correcting such a decrepit situation. Most of them replied they were relying on the help of the rich nations like the United States—China and Russia had made it clear they were not prepared to help. My initial reaction was that the agriculture-rich nations of the world had to keep pumping food into these countries. But this is no permanent solution.

Following this experience, I went to Rome for the World Food Conference. Saddened and depressed by what I had seen in the Sahel, I was hopeful that some long-range solution would emerge from the Conference to alleviate and eventually end this suffering.

Instead, what I observed was a meeting of global leaders who seemed more interested in bickering and criticizing each other than in finding workable answers. I found many foreign leaders short on memory and long on words when they insisted that the United States had not helped enough, that in fact we deserved great responsibility for the food shortage itself. American consumers consume too much and American producers produce too little, they said.

I spoke with many of these leaders and said certainly every American was alarmed and concerned with the plight of a great number of men, women and children who were facing starvation and hunger. I even ventured to say that Americans were willing to do their part, to make a few sacrifices, to continue sharing their food with these hungry nations even while exports of food assistance caused a cost increase to the American consumer here at home. But what are the nations of the Third World going to do to help themselves. Certainly attempts at increasing and improving food production is a necessary step. Slowing down and stabilizing their rapid growth of population is equally important. When I inquired about the status of family planning programs or whatever responsible plans they had for population control, they replied that family planning were dirty words in their countries. I replied that the seeming noninterest of these developing countries to take actions to help themselves were becoming dirty words in the United States.

Rome served the purpose of getting everyone united for discussion and evaluation of the situation. Many of the industrialized nations pledged more assistance. I applaud this goodwill gesture in hopes that it will save some from starvation. Every nation should seriously endeavor to increase food production. But I also firmly believe that these recipient nations should show willingness at helping themselves by developing programs designed to stabilize their population growth.

I examined our food-for-peace program, Public Law 480. Through this act the United States has been exporting food for assistance purposes to these needy countries since 1954. Throughout this law was the stipulation that recipient nations work continually to improve and increase their own production. Not insisted upon in the language of the law was another kind of self-help activity, that of stabilizing their population growth. For this reason I introduced on November 18 of last year and again on Tuesday, January 14 of this year, a bill which would provide that except in the case of extreme emergency, no Public Law 480 funds would be used to grant food assistance to those countries who do not make a reasonable effort at bringing their own population in line with the world population growth.

I believe that the American people are ready to see a change in our food assistance program. When it was initiated, we had the food reserves available to freely distribute to many needy nations, most of which were trying to get back on their feet in the aftermath of World War II. I am sure no American wants to watch the continuing saga of starvation and hunger throughout the world. Americans have always shown themselves to be a generous and compassionate people. But times have changed now. It does not take an economics expert to see that what was feasible 10 or 20 years ago, is no longer possible. We no longer have huge bins stocked full of grain, nor are there fields of farmland lying idle because of too much grain.

It makes no sense that these same nations who are food poor are also the ones who are experiencing the largest growth of population and seem least interested in doing anything about it. Recalling many of the speeches at the World Population Conference in Bucharest by some of the hungry and over-populated developing nations such as India, it was obvious that they wanted no part in the UN proposal of stabilizing their population growth.

From the beginning of the human race until 1830, we had less than 1 billion persons inhabiting the Earth. In the next 100 years we added another billion and in the next 30 years—by 1960, another billion had appeared. A fourth billion was expected in the next 15 years—by 1975, and a fifth billion by 1985. Most experts predict we will have 6.5 to 7.5 billion by the year 2000. If this rate continues we will see the population explode in the next century from the present 5 billion to more than 37 billion.

I urge my colleagues to consider my proposal. My approach to solving this problem stems directly from the nature of the problem itself—a world food shortage caused by too many people and not enough food. The solution to the problem obviously lies in increasing production and stabilizing the world population growth. Consider this: Algeria, a country of 15 million, currently has a population growth of 2.7 percent. If this growth rate continues for the next century, if would result in a population of 1.78 billion or nearly half of today's entire global population. Bangladesh, a country the size of Missouri or Wisconsin, is expected to have as many people as currently populate the entire United States by the year 2000. Mexico, with 49 percent of her population under the age of 15, will have approximately 1.3 billion people in the next century if current growth rate continues. The list goes on and on.

While it is true that in the last 10 years, the increase in the growth of food production has been effective—approximately 30 percent—the growth has been almost nullified in the less developed countries by the increase in population. This has resulted in virtually no increase in per-capita food production since an increase in population brings about a corresponding decline in per capita natural resources, which are in fixed supply. For example, there was a worldwide population increase of 700 million during the decade of the Sixties. This equaled the population increase of the entire 19th century. This population increase of 20 percent means that there is a corresponding 20 percent decrease per person in the amount of available natural resources need to produce food.

Public Law 480 has been an effective and important means by which we have been able to help foreign countries with food assistance at the same time we could put our great food reserves in this country to good use. But the situation has changed drastically. Now more than ever, our grain reserves are at an all-time low. Weather conditions across the globe have caused disaster and uncertainty and experts predict this trend will continue. Fertilizer, which has made it possible for us to increase yields of many crops, is out of reach in many areas of the world and will continue as such as long as the feedstock and plant capacity situation remain tight. Resources of the natural variety are lower than ever. Prices are high. And yet, in spite of it all, people continue to multiply by rapid and unprecedented numbers. Specifically, we all must face the reality that what was effective and practical in years past simply is not workable today. Changes must be made across the board to meet the demands of today's world. Harsh as it may seem, it gets down to a choice between the quality or quantity of life.

Certainly, I do not claim that my proposal has all the answers. I do feel however, that it is a step in the right direction, a preventative measure to insure that the number of starving persons in the world will begin to decrease instead of increase.

In all honesty, the support which this bill has received throughout the entire Nation has greatly exceeded my initial expectations. I thought it would be misunderstood by some, but so far, over 500 letters supporting my position have reached my office in Washington. Numerous magazines and newspapers throughout the country have written endorsements, including the hometown newspaper of President Ford, The Grand Rapids Press.

Obviously, from the great response I have had on this subject across the country, a sizable number of Americans feel that it is high time these recipient nations begin to demonstrate a real and productive effort at helping themselves instead of continuing to attack the United States for what they refer to as consuming too much and producing too little.

FOOD STAMPS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. CARTER. Mr. Speaker, I have offered a resolution which expressed the same sentiments as were offered by my distinguished colleagues with regard to the U.S. Department of Agriculture's proposed regulations for the food stamp program. My resolution, however, addresses an aspect of that proposal conspicuous by its absence. It is an aspect of extreme importance to this Nation. I speak of the health and well-being of those who would be most seriously affected if these regulations go into effect.

I wholeheartedly support the resolution introduced January 14. But that resolution left unstated the concern of Congress that the proposed regulations will greatly increase the precariousness of the health of the elderly and the poor, as well as add to their economic instability. Data from the National Center for Health Statistics reveal that these groups have the highest rates of illness and death. Diet has a profound influence on health status; and the Secretary of Agriculture's proposed regulations would seriously undermine the ability of those most vulnerable to illness to obtain and maintain adequate nutritional levels.

I believe the addition of my clause will greatly enhance the resolution and impress upon the Secretary of Agriculture our sentiments as to the complexity and seriousness of the proposed action as it relates to the lives and welfare of food stamp recipients.

I therefore have offered this resolution:

RESOLUTION

Resolved,

Whereas the spiraling inflation has had a severe impact particularly on individuals living on a fixed income; and

Whereas the food stamp program was designed to assist those individuals least able to cope with the high cost of living; and

Whereas the food stamp regulations proposed in the Federal Register of December 6, 1974 would place an enormous burden on the individuals the program was designed to assist, contrary to the original Congressional intent; and

Whereas the proposed regulations would restrict the implementation of the food stamp program and in many instances render the program ineffective in providing food stamps at a reduced cost

Whereas adequate nutrition is an essential for the health and well-being of those eligible for the food stamp program and whereas the poor already experience the highest morbidity and mortality rates: now therefore be it,

Resolved, that it is the sense of the House that the Secretary of Agriculture, should immediately rescind the proposed regulations and take all necessary steps to insure that our nation's elderly and poor will continue to benefit from the food stamp program to the same extent which they presently do.

The proposed regulations are being put forth by the U.S.D.A. as a means to reduce federal spending for the food stamp program. Those savings are supposed to amount to $325 million between March 1 of this year and the end of the fiscal year, and about $650 million each year after that. Given the present $4.6 billion federal expenditure for the program, the $650 million would be a savings of 14.1 per cent.

There can be no argument with the need for cutting federal expenditures. However, in this case the human impact must be considered and not just the balance sheet.

While this is a proposal which ostensibly would bring in additional revenue to the federal government by requiring that participants pay more money, it could only have been devised by someone with no understanding of how people behave. If something costs you more money, you do one of several things: you pay the higher amount and have less money to spend on other items; you buy less of the particular item, if possible; or, most likely, you quit buying the item at all. That, I am afraid, will be the actual effect of this proposal.

To most insidious aspect of this proposal is that it will place the greatest burden on those least able to bear it.

To accomplish the so-called savings, U.S.D.A. will require that all participants pay 30 per cent of their net monthly income for food stamps. Households of eight persons or more already pay that percentage under present regulations. All households of less than that size, then, will be the ones which have to pay more money and thus are likely to drop out of the program entirely. According to a survey conducted by the U.S.D.A. itself, households of less than eight persons account for 93.5 per cent of the total now participating! U.S.D.A.'s survey shows also that 50 per cent of the participating households are of the one- and two-person size: 29 per cent have only one member; 21 per cent have two members. It is clear, therefore, that the greatest impact of these regulation changes will be on these individuals.

Looking more closely at who will be hurt most, 66 per cent of the participating households are headed by a female. Eighteen per cent are headed by a female who is 66 years of age or older. The average monthly cash income of such an individual is $157. Presently she would pay $33 to obtain food stamps worth $46—the amount for which she is eligible. If the U.S.D.A. gets its way, she would pay $47—or 36 per cent more than she now spends—to get stamps worth one dollar less than she paid for them. It goes without saying that her response to this will be quit buying the stamps.

What the cost-saving to the government involved in this proposal actually is, then, is a round-about way of eliminating people from the program. If fewer people participate, then the amount the federal government has to spend naturally will drop. But so will the quality of nutrition for these people, especially the elderly and the poor who need good diets to maintain health and whose children need proper and adequate food to develop properly.

The proposal is false economy as well because the savings that might be realized through reduced spending for the food stamp program will be wiped out later through increased outlays for treating the medical problems which undoubtedly will result from poorer diets and, looking even further into the future, for helping those individuals with physical disabilities or mental retardation which might have been prevented if proper food in enough quantity had been available when they were young.

The proposal could not have come at a worse time either because of the nation's economic troubles. As a side effect, a cutback in the number of food stamp program participants would only create greater unemployment. Estimates of the economic impact of the food stamp program reveal that for every 1,000 persons participating, $20,000 is generated each month in a community because of the money freed for paying for other goods and services.

Food prices have risen 15 per cent in a year, but that is an average increase based on food a family of four supposedly would buy. Over the same period the prices of food which people with lower incomes would be most likely to purchase have risen much more. The price of rice has gone up 90 per cent, the price of dried beans 147 per cent, the price of margarine 56 per cent, the price of white bread 27 per cent. Higher income families are paying the increased prices for these items as well, of course, but it is on the poor, who frequently consume these items as the bulk of their diet rather than as items to turn to when others cost more, that the impact is greatest. The poor, in other words, need more help now, not less.

When Congress instituted the food stamp program 10 years ago its objective was to improve the diets of low-income households and to expand the market for domestically produced food by supplementing the food-purchasing power of eligible low-income families and individuals. Freedom of choice in selecting the food they wished to eat was another intended benefit of the program.

Now the U.S.D.A. is saying that out of every three dollars that a low-income family or individual earns, one must go for food. It is mandating a personal budgeting process at which middle-income families, and you or I, would balk. The poor have no choice, however. They either go along or they go without.

I am hopeful that the Agriculture Department will recognize the very serious defects in its plan and, in accord with the desire expressed by Congress through this resolution, rescind its proposed regulations.

A TRIBUTE TO MARTIN LUTHER KING AND HIS GOALS

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Ms. ABZUG. Mr. Speaker, today marks the birthday of Martin Luther King, one of history's most dedicated civil rights leaders, who was slain 7 years ago in Memphis. Dr. King was one of the most eloquent spokesmen for the downtrodden peoples of our Nation, constantly struggling for justice for all. Although we wept at his death, we may rejoice today for the birth of this exceptional man who instilled hope in all people. We deeply miss his leadership, yet we must not lose his extraordinary vision.

In a tribute to Dr. King, Reverend Jesse Jackson of PUSH and Congressman WALTER FAUNTROY are leading a symbolic march, during which the participants will march around the White House 7 times. This symbolic reference is to Joshua, who marched with his people around the walled city of Jericho 7 times. As you know, the walls came falling down, and the immense wealth of Jericho was put into the treasury of the citizens. Therefore, this demonstration will not only pay tribute to the slain civil rights leader, but will also carry on the tradition of organizing the powerless to speak out about their needs.

But this does not solve the problem, which has worsened in the last few months with rapidly increasing unemployment among the poor. We, in the Congress, have an obligation to deal with this growing problem. As a first step we must pass legislation such as the Equal Opportunity and Full Employment Act of 1976, which would be a large step toward nationwide full employment and equal opportunity.

This, I believe, is the greatest tribute we can possibly pay to Dr. King, on this commemoration of his birth.

LET US MEET THE ENERGY CRUNCH—NOW

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. McCLOSKEY. Mr. Speaker, with reference to the President's state of the Union message yesterday on energy policy, I think we should seriously consider the conflicting proposal of our former colleague, Melvin Laird. In a recent article which appeared in Reader's Digest, Mr. Laird very strongly presented the argument for immediate rationing of gasoline and fuel oil.

An excerpt of pertinent portions of that article is as follows:

LET'S MEET THE ENERGY CRUNCH—NOW

(By Melvin R. Laird)

It's time to end the rhetoric and get down to making the rough sacrifices needed to cut back on our consumption of foreign oil.

Our present oil situation poses the severest threat to America since World War II. This point cannot be made too strongly. We are importing far more oil than we can afford. As a consequence, our country's whole economic and political structure is gravely imperiled. To rescue ourselves, we are going to have to make sacrifices akin to those demanded in wartime. In my view, that means immediate federal rationing of gasoline and fuel oil—as abhorrent as that may be to all of us.

What lies behind this national emergency? The United States runs on petroleum. In 1970, our daily consumption was 14.7 million barrels; in 1973, it was 17.3 million barrels. Oil provides nearly half our energy. Five years ago, we were importing 3–4 million barrels a day. Today, we import 6.2 million, about 38 percent of what we use.

As long as the cost of foreign petroleum was only about $2.50 a barrel, importing made good sense. But, beginning in October 1973, the cartel of major oil-exporting countries, jumped the price—to more than $10 a barrel by January 1974. Our oil-import bill skyrocketed from $8.3 billion in 1973 to $25 billion in 1974. As a result, our 1973 trade surplus deteriorated into a trade deficit of several billion dollars in 1974.

"Trade deficit" may be a dull and meaningless term to many. But when imports continue to exceed exports, each of us is affected. As excess dollars pile up abroad, their worth cheapens in comparison with foreign currencies. And, as happened in 1971 and 1973, devaluation follows, the price of everything we buy abroad automatically goes up, and domestic inflation worsens. Indeed, some economists believe that our present annual inflation of about 12 percent could double if we don't drastically cut our use of overseas oil.

Herein lies the *real* danger. For the harsh fact is that few societies have been able to sustain an inflation rate of more than 20 percent for long and still retain a stable form of government. If we continue our present easygoing ways, we face prolonged, uncontrolled inflation that will destroy millions of jobs, wipe out savings, disintegrate our banking system and paralyze business, while creating a social climate conducive to violence and political anarchy.

There is, moreover, still another danger. The World Bank has calculated that, if purchasing continues as at present, the Organization of Petroleum Exporting Countries (OPEC—which includes seven Arab states) will by 1980 have amassed currency reserves totaling $653 billion. This is three times the total of today's official currency reserves of all the nations in the world!

Thus far, these oil-exporting nations have handled their enormous hoard of money with goodwill toward nations of the West. However, certain Arab leaders have made clear their determination to use oil as a political weapon.

We cannot remain dependent upon foreign petroleum without endangering the nation's stability. But what *can* we do? The President should be empowered to slash oil imports by at last 50 percent. A cut of three million barrels a day would shave more than $10 billion from our annual import bill, transform our trade deficit into a surplus and dampen the fires of inflation.

If the President is allowed to halve our petroleum imports at once, he must also be empowered to enforce savings that will guarantee enough oil for essential national purposes—primarily farming, industry and travel to work. Only rationing can provide such guarantees.

I am not referring to halfway, gradual measures. I am talking about a system of controls that will force most of us to reduce our driving by 30 percent. And I am warning that unless we face up squarely and courageously to such action, we will face far severer consequences later.

And I think another unpleasant measure is necessary—raising gasoline taxes at least ten cents a gallon. The added levy will discourage frivolous use of gasoline and stimulate individual conservation. It will also produce revenues that can be used to build mass-transit systems to eventually liberate workers from such heavy dependence on the gas-guzzling automobile.

We must recognize that we Americans are all in this together—and that our national survival is literally at stake. We await only the call to action by the President and the new Congress.

LONG BEACH FLOAT "PROCLAIMS LIBERTY THROUGHOUT THE LAND"

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. ANDERSON of California. Mr. Speaker, every New Year's Day millions of Americans, and indeed people all over the world, sit enraptured before their television sets watching the beautiful Tournament of Roses Parade. Each year many of my constituents have the thrill of seeing the fragrant, flower-decked floats in person.

But, the Rose Parade of 1975 was an especially exciting event for the people of Long Beach, Calif. This year the float sponsored by the city was awarded the Theme Prize for best depciting the "Heritage of America." The Long Beach float was titled "Proclaim Liberty Throughout the Land" and featured a replica of the Liberty Bell.

The float design was selected by the Rose Float Advisory Committee and approved by the Long Beach City Council. The members of this hard working committee are: John C. Snidecor, chairman; Nancy Byrne, vice chairman; Phyllis Poper, secretary; David Barkin; Gordon Getz; Mary Klingensmith; Joan McCluer; and Jan Dromgold, member ex-officio.

The float, which was built by Festival Artists of Pasadena, Calif., measured 50 feet long by 18 feet wide by 16 feet high, and the bell was 2½ times the actual size of the original Liberty Bell. The float functioned on a system of cantilevers using 1,000 pounds of ballast at the rear of the float to keep it upright.

Mr. Speaker, it is a pleasure to congratulate the advisory committee, the city officials, and all the people of Long Beach for their outstanding floral tribute to our American heritage. Their float, and the whole parade, was indeed a fitting way to begin our Bicentennial celebration.

TOWARD ECONOMIC RECOVERY

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. REUSS. Mr. Speaker, there follow two op-ed columns of mine from the Sunday, January 12, 1975, issues of the Boston Globe and the Los Angeles Times, outlining the tax cuts and other programs needed to spur economic recovery:

[From the Boston Globe]

A TAX CUT—QUICKEST WAY TO BUILD PURCHASING POWER

(By Representative HENRY S. REUSS)

The first order of business for the 94th Congress must be a legislative program for economic recovery.

It will have to take tough and unpopular steps to lick inflation, recession, and energy conservation. Instead of thinking in grandiose terms—massive budget deficits or across-the-board price controls, for example—Congress should concentrate on programs that attack these problems coherently and directly.

Congress made a good start toward an adequate public service employment program, funding over 350,000 new jobs at the local level in such vital areas as police and fire protection, health services, sanitation, and education. This program should be continued, expanded and improved by the new Congress.

The quickest way to generate the added purchasing power needed to counter the current recession is through tax reductions for low- and middle-income families, either by increasing the low-income allowance and the standard deduction or by reducing the regressive payroll tax. This should be financed, as soon as possible by plugging income tax loopholes that primarily benefit the wealthy without any economic justification. Two immediate steps are needed to stimulate the flow of credit to vital economic sectors and thus reduce interest rates.

Between July 1 and Oct. 1, the Federal Reserve constricted the growth of the money supply to less than 2 percent per year at an annual rate, down from more than 7 percent growth needed to finance the long-run needs of the economy.

This stop-and-go money policy of the Fed—sometimes too much, sometimes too little—has been a major cause of excessive inflation combined, now, with excessive unemployment. The Federal Reserve should bring money supply growth into the 4–6 percent range, and keep it there on a steady basis.

But even with an adequate supply of credit, an allocation program is needed to channel credit away from speculative and inflationary uses—ranging from conglomerate take-overs to gambling in foreign exchange or gold—and toward productive and anti-inflationary uses, such as housing, capital investment, agriculture, State and local governments.

This will lower interest rates for productive uses and reduce inflationary pressures, while raising interest rates for speculative and inflationary purposes—just what is wanted.

Two particularly hard-hit industries need special help.

With starts down to an annual rate of 990,000, the lowest since 1966, housing is in a full-fledged depression.

One good way to stimulate housing construction is a "shallow subsidy" for moderate-income families who have been priced out of homeownership. A program to bring interest payments down to 6 percent per year during the first few years of homeowning could add up to 1,000,000 additional housing starts, and stimulate about 500,000 on-site jobs, 100,000 off-site jobs directly related to housing, and 400,000 jobs in related industries, such as home furnishings and kitchen equipment.

The automobile industry today is also sick. But rather than stimulate the production of high energy-consuming automobiles, we ought to mount a program to turn some of those idle automobile assembly lines and unemployed auto workers to making energy-conserving equipment, such as mass-transport, railroad passenger cars, new forms of small automobiles, and even bicycles. In World War II, Detroit converted from automobile to war production—1975 could start, at least, a partial conversion to energy.

The hideous budget deficits projected by the Joint Economic Committee—$22.8 billion for 1975 and $36.4 billion for 1976—come from the pressures of inflation on government programs, combined with tax losses due to recession and falling incomes. With recovery, such deficits will rapidly disappear. The budget committees recently established by Congress should concentrate on putting together a responsible Federal budget for non-inflationary recovery.

Incidentally, a budget that aims at full, but not overfull, employment is indicated not only to fight recession, but to fight inflation. Full employment, by spreading overhead costs over the largest number of units of production, increases productivity and lowers prices.

What about direct controls? Comprehensive wage-price controls are undesirable now, particularly since economic slack has lessened inflationary increases in competitive industries.

But the alternative to across-the-board controls is not no controls but selected controls—controls on concentrated industries where administered prices resist the downward pressure of market conditions.

As for wages, it is simply unfair to expect workers to sacrifice pay increases voluntarily in a period of such high inflation. Wage moderation must come, but only after the government has committed itself to a special contract that provides the basic element of worker security—a public service jobs program and improved unemployment compensation, strong controls over administered prices, credit allocation for vital economic sectors, and tax relief for low- and moderate-income families.

There are two main ways to conserve gasoline: Raising prices by excise taxes, or rationing.

The most recent Administration sugestion—a $3 a barrel tariff on imported oil—has an additional objection. Since it would raise the price of imported oil by another $3 per barrel on top of the current $11 price, it would give domestic producers another excuse for demanding a rise in the price of domestically-produced oil.

The only fair way to cut consumption is by straightforward rationing, according to need. Under such a system, essential driving is preferred to pleasure driving. As the history of World War II gasoline rationing demonstrates, administrative difficulties are by no means inseparable.

[From the Los Angeles Times]

How Big a Tax Cut To Stimulate Spending? A Sizable Trim Is Required

(By Representative **Henry S. Reuss**)

The new Congress when it convenes this week will want to move swiftly to help the economy, which during the past three months has plunged into one of the worst crises since the Great Depression.

Unemployment, which hovered just over 5% as late as last August, soared to more than 7% in December, with 6 million Americans, willing and able to work, out of jobs. Forecasts call for unemployment to get worse before it gets better.

In addition, the real output of the U.S. economy has fallen steadily since the end of 1973. And inflation continues unabated, with prices still rising by more than 12% a year.

Economic recovery thus will be Congress' first order of business.

There is widespread agreement in the new Congress that an immediate and substantial tax cut is the quickest way to generate more buying power to counter the recession. Low and middle-income families whose spending power has been hurt the most by rising prices and lost jobs should be the main ones to benefit from the tax cuts.

Critics of this approach argue that a tax cut large enough to be effective will swell the already large federal deficit, and will only add to inflationary pressures. But the ensuing budget deficit can be shaved considerably by plugging tax loopholes that have made a joke of our tax system.

As for adding to inflation, a tax cut need not be inflationary. With the economy now operating at about $100 billion below its capacity, the current inflation is not one of excess demand. This is a time for a budget that aims at full, but not overfull, employment. Full employment, by spreading the overhead costs of business over the largest number of units of production, can actually increase productivity and help lower prices.

I think the economy would be helped by three tax cuts which Congress should enact as soon as possible. They are:

—A $225 credit against federal income taxes for each exemption in the family. This would benefit low and middle-income families in comparison with the present $750 personal exemption, which favors high-income taxpayers. A wealthy family of four in the 50% tax bracket, for example, saves taxes equal to 50% of that $750 exemption, or $375 for each exemption, a total of $1,500 for the family. But a family of four living on $10,000 a year, and in the 20% tax bracket, saves only 20% of the $750, or $150, for each exemption, a total of $600 for the family. A tax credit of $225 each for the four members of the $10,000-a-year family would save the family $300 more than at present.

A tax credit of this size would reduce federal revenues by $9.6 bililon a year, 77% of it going to those making less than $15,000 a year, and all of it benefiting those making less than $26,000 a year. No one under the poverty level would be required to pay federal income tax.

—A bigger low-income allowance, and higher standard deduction. Increasing the low-income allowance from the present $1,300 for all taxpayers to $1,600 for single persons and $1,900 for couples, as the House Ways and Means Committee has recommended, would cut $1.8 billion from the taxes of nearly 30 million families, with more than 60% of the reduction going to families with incomes below $7,000 a year, and another 35% to families with incomes below $10,000.

Raising the standard deduction from 15% to 16% and lifting the ceiling from $2,000 to $2,300, also recommended by Ways and Means, would cut taxes another $507 million for about 9 million taxpayers making less than $20,000 a year.

—Reduced payroll taxes for Social Security. The Social Security tax on payrolls falls more heavily on low and middle-income families than do income taxes because there are no deductions or exemptions from the Social Security levy. Freeing the first $1,800 of family income from the Social Security tax, and allowing an additional $750 exemption for each family member as now is done with the income tax, would cut taxes by $7 billion a year, almost all of the saving going to about 24 million families making less than $10,000 a year.

A four-member family now earning $4,800 a year, for example, would see its Social Security payroll tax drop from $280 a year under current law to zero. A six-person family with an income of $8,000 a year now pays $468, but would pay only $98 a year with this change.

Altogether, these three tax cuts would reduce federal taxes by $17 to $20 billion in 1975. About $5 billion of this could be offset immediately by swift congressional action to plug glaring tax loopholes, particularly by ending the oil depletion allowance, as Congress almost did last year, and by raising the minimum tax on the wealthy.

Closing loopholes would not only make taxes fairer, but would make the net tax reduction—and lost federal revenue—about $12 to $15 billion, an amount that seems adequate right now to stimulate a noninflationary end to the recession.

These tax cuts should be enacted by Congress within 90 days, or even sooner if possible, in order to keep unemployment from growing to depression levels.

The cuts should be made retroactive to Jan. 1, 1975. Since those benefiting from the cuts will have accrued a sizable saving by the time the cuts are enacted several weeks from now, refunding their taxes in a lump sum will produce a strong immediate impact on the economy.

It is true that the already huge budget deficits projected by the Joint Economic Committee of Congress—$22.8 billion for fiscal 1975 and $36.4 billion for fiscal 1976—would be increased initially by the tax cuts I have suggested.

But this increase in the deficit should be only temporary. The resulting economic recovery should bring in more taxes from more prosperous business and individuals, thus reducing the anticipated deficits.

This has happened before. In 1964, for instance, a $10 billion tax cut so stimulated the economy that the federal deficit actually fell from $5.9 billion in 1964 to $1.6 billion in 1965.

Tax cuts for low and middle-income families will not be enough by themselves to guarantee economic recovery. Some families, frightened about the future, may just save their added income instead of buying more.

That is why tax relief must be accompanied by a wide range of programs that go hand-in-hand with tax cuts to stimulate the economy, such things as expanded public service jobs, increased spending for mass transportation, and credit allocation to stimulate homebuilding and productive capital investment. Together, these steps offer real hope of reversing the dismal trend of the last several months.

SUCCESS OF ALTERNATIVE EDUCATION IN SOUTHEAST MINNEAPOLIS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. FRASER. Mr. Speaker, since 1971 the southeast alternatives program—SEA—of the Minneapolis public schools has provided the families of southeast Minneapolis with an exciting and innovative set of educational opportunities: SEA includes five elementary and secondary schools, each characterized by a distinct approach to learning, each open to any student within the southeast area. As David Savage observes in an article entitled "Minneapolis Families Happy About Choice of Teaching Philosophies" in the National Institute of Education's newsletter Information:

> Perhaps the most striking characteristic seen throughout the SEA is the opportunity for choice.

Not only are the parents and students encouraged to choose the school that best matches the students' needs and abilities, but teachers are allowed to select the school whose format best fits their personal approach to teaching.

A testimony to the success of SEA is the fact that it has served as a model for alternative education programs throughout Minneapolis. During a period in which our educational system must respond to a variety of complex economic, social, and political pressures, SEA serves as an encouraging reminder of the dividends imaginative approaches to education can pay. The article follows:

MINNEAPOLIS FAMILIES HAPPY ABOUT CHOICE OF TEACHING PHILOSOPHIES

In a Southeast Minneapolis school, a group of six- and seven-year-olds wearing goggles are huddled around a table with test tubes. One child explains, "We're getting to know chemicals," Elsewhere in the room, children are charting plant growth, playing word games, and cutting out pictures to show the life cycle of a butterfly.

In another classroom a few blocks away, eight-year-olds are sitting at their desks solving problems in their math workbooks. A teacher helps several students who are working at a second-grade level, while others work independently at fourth- and fifth-grade levels.

Some older students in a third school are planning a week-long canoe trip down the Mississippi River to collect water samples. When they return, they will compile a report accompanied by charts, to show the extent and causes of the river's pollution.

These children are among 2200 in Southeast Minneapolis who can choose which of five public schools they will attend. The schools follow distinctly different philosophies, ranging from traditional, teacher-directed learning to open classrooms that allow students a large measure of freedom.

Educators have recognized for years that children learn in different ways and at different speeds. However, finding an education program that serves these individual needs has never been easy. By providing choices for students, parents, and teachers, the Southeast Alternatives (SEA) project has gone a long way toward individualizing education.

There are four elementary schools and two secondary programs from which parents and students can choose:

TUTTLE, THE CONTEMPORARY SCHOOL

Tuttle is often referred to as the "traditional school" in Southeast because it has kept such traditional elements as age-graded, self-contained classrooms. The principal and teachers resist this label, pointing instead to the school's contemporary methods of teaching basic skills. Mathematics, for example, is taught with the aid of computers. Computerized tests help teachers identify student needs and monitor progress in several skill areas. Reading, language arts, and social studies centers use games, books, and audio-visual materials as instructional aids. Specialists in math and reading help teach the basic skills classes.

Outside the regular classroom, Tuttle's 275 students can pursue their special interests in industrial arts, ceramics, and art workshops. But learning basic skills in a teacher-directed classroom remains the focus of Tuttle's program.

PRATT, THE CONTINUOUS-PROGRESS SCHOOL

The Pratt School also puts a heavy emphasis on teaching basic skills, but within ungraded, multi-age classrooms. Each child works at his own rate through carefully sequenced curricula in reading, language arts, and mathematics. Since ages are mixed and groups change, a child can move forward when ready but feels no stigma about staying at one skill level until it is mastered.

Pratt's curriculum packages are not dry or programmatic, says Principal Betty Jo Zander. "We try to structure the courses around a theme that interests the children. This year, we're using world cultures as a theme, so our readings and language arts studies are related to cultures."

While the mornings are structured for Pratt's 460 students, afternoons are spent in small groups working on special projects. These two-week mini-courses related to science, social studies, or the arts are chosen by the students and have ranged from learning Swahili to raising shrimp.

MARCY, THE OPEN SCHOOL

The brightly colored classrooms at Marcy are often divided into small areas containing everything from butterflies and rabbits to test tubes, typewriters, metric scales, and word games. Within this rich and carefully designed environment, the children learn by doing. While learning basic skills is important, Marcy students also learn to make decisions, plan activities, and pursue interests.

The children work together in large or small groups on projects of their own choosing. For instance, one group set up a "Super Snack Shop" for which the children made up recipes, prepared snacks, advertised with posters, and kept track of expenses and income.

During "quiet time," about one and a half hours daily, students work on more traditional reading and arithmetic tasks with texts, workbooks, and games. "This isn't the only basic skills work," says Judy Farmer, the school's resources coordinator, "because the children learn basic skills while working on their projects." A child building a birdhouse in "Hammer Hall," Marcy's workshop, must learn to measure lengths and angles, for example.

The role of the open school teacher is a bit different. Marcy teachers must know where each child is in his or her development and must encourage the child's best use of time and resources. Their goal is to encourage children to take an active, enthusiastic part in their own learning.

SOUTHEAST, THE FREE SCHOOL

A social activist approach to learning characterizes the free school. Its self-proclaimed "radical" philosophy has won both supporters and critics. Students take an avid interest in contemporary affairs and get involved in community projects and in political causes such as the United Farm Workers struggle in California. Their travel experiences have ranged from a short trip to nearby woods to a month-long trip to Mexico.

Unlike other SEA schools, with their kindergarten-through-sixth-grade proograms, Southeast offers a kindergarten-through-twelfth-grade program for its 160 students. For primary students, the emphasis is on language arts and mathematical skills. As they progress through the middle and secondary grades, students are presented with more choices about how to use their time and how to develop their own interests. Secondary students must fulfill graduation requirements that emphasize skills needed to get a job or enter college.

The free school's noncompetitive, relatively unstructured atmosphere seems especially suited to some students. As one parent put it, "Some kids get turned off by the rigid structure of other schools. Perhaps they need more attention or their energy and creativity is smothered. Here, they can develop as individuals and build confidence in themselves as they learn."

MARSHALL-UNIVERSITY HIGH SCHOOL

After finishing their sixth year, most Pratt, Tuttle, and Marcy students move on to the Marshall-University High School. The high school tries to provide options that appeal to its diverse student population of about 1000.

"Many of the students coming here already have a definite goal in mind," says Principal Mike Joseph. "So we try to offer them courses and options that will further their goal." As an example, Mr. Joseph points to the school's television studio and its elaborate video taping equipment. "Students come here from all over the city because they are interested in broadcasting or filming."

Other program options include Project AWARE, which combines wilderness, travel with environmental study; the Off-Campus Learning Experience in which students earn credits by working in the community; and Individual Directed Study Options in which students design their own curricula for a trimester. In addition, a large number of MUHS students enroll in university courses.

SEA's funding, administered by NIE's Experimental Schools Program, totals about $6.5 million for five years. The level of NIE funding declines each year, so that by 1976 the entire amount will be provided by the Minneapolis Public School system.

Southeast Minneapolis, with a population of 30,000, is a diverse community. Dominated by the main campus of the University of Minnesota, the area is bounded by flour mills, railroads, freeways, and the Mississippi River. Stately old homes sit a few blocks from low-income apartments, and workers from the nearby mills live next to University professors. The diversity of occupations, interests, ages, and lifestyles provides a fitting background for a program of education alternatives.

It was, in fact, the Southeast community that first insisted on education choices for their children, according to SEA Director Jim Kent. "A number of parent groups had expressed an interest in alternatives for their children, and some teachers in our schools were already experimenting with open education," he said.

All the schools are strongly committed to teaching the basic skills of reading, language arts, and mathematics. Some schools teach reading with teacher-directed lessons, others follow prescribed reading courses, and still others use colored pictures and word games. Although the philosophies differ, each school's concern with teaching basic skills is evident.

Active community participation is also common to all the schools. Each school has its own advisory council in which parents can meet with the principals and staff and participate in making decisions. Parents, University of Minnesota students, and community members work as volunteers in the schools, teaching a special-interest course or helping a teacher. The Marcy open school, for example, has 40 or 50 volunteers in the school each week.

Perhaps the most striking characteristic seen throughout the SEA is the opportunity for choice. Parents choose the kind of school they want their child to attend. Teachers have the opportunity to choose the school that best fits their philosophies and teaching styles. And throughout their 12 school years, students are presented with choices.

Of course, problems remain for the SEA schools. Comprehensive change in a school system is never accomplished easily. But with the continued cooperation and dedication of parents, teachers, administrators, and students, alternatives in public education are here to stay in Minneapolis.

FAREWELL ADDRESS OF MAJ. GEN. C. C. SCHNIPKE OF MICHIGAN'S ARMY NATIONAL GUARD

HON. LUCIEN N. NEDZI

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. NEDZI. Mr. Speaker, the State of Michigan and, indeed, the Nation have been very well served by Maj. Gen. C. C. Schnipke, head of Michigan's National Guard.

I have been personally acquainted with General Schnipke, have worked with him on a number of problems, and respect him as a dedicated and competent professional.

Under leave to extend my remarks in the RECORD, I set forth below the general's farewell address at the end of his long and distinguished career:

FAREWELL ADDRESS

As you come to the end of your National Guard military career, you suddenly become conscious of two things. The Guard was here before you joined, and the Guard will be here after you leave. Further, whatever impact we may have had during our service, it was built on what we were given by our predecessors, and what we leave will be built upon by future Guardsmen and women.

I do not intend to take much of your time talking about the past. It is over, and we must keep our eye on our mission, and concentrate our efforts on the future. But, I must tell you, that it is a long way, from rolled puttees, high choker collar blouses, and 1903 rifles—to battle field sensors, to TV intelligence, and red eye air defense weapons. It's a long way from Jenny Aircraft, to F106 fighters. I can assure you that the Guard has come a long way.

In pre-World War II days the Guard was poorly equipped, and was never authorized full strength, or funds to adequately train, and was never certain of the plans for its utilization. It took over one year to mobilize and to become ready for combat.

Today, both the Army and Air Guard have most of the equipment they will need for mobilization. All our officers and enlisted personnel have active service training, and are required to meet the same standards that are imposed on the active Army and Air Force. In addition, we are designated as the first-line backup for the active services. And by national defense total force policy, we are to be given the priority that will permit us to become their equals.

All of this is cause for great pride—pride, because of the trust and confidence imposed upon us by the Federal Government and active services. But it is also cause for great concern, because this new and significant status brings with it many pressures, and tremendous responsibilities.

Mobilization time is now measured in days and weeks instead of months and years.

Readiness requirements become more stringent each year.

Equipment, tactics, and techniques, become increasingly complex.

It is also a cause for concern, because we must recruit, train and maintain this force, during a time of changing values, and great social turbulence. We must recognize that change is the order of the day. We are experiencing massive changes in our political system, in the attitude and values of our young men and women, in our economic system, in ecology, and in the rise of the anti-authority movement. All of these changes will continue into the foreseeable future. In order to keep up with the times, and the impact of these massive changes on the Guard, we are going to have to become students of the times. We are going to have to become more flexible, and more adaptable than ever before. It will do no good to withdraw into the isolation of our office, and hope that all the problems in the changing society will go away. They won't! And as personnel strength is, and will continue to be, absolutely our top priority job, the future of the Guard will depend upon how responsive, and sensitive, we are to what is going on. Let me give you a few examples.

During all the years of the draft, our skills in recruiting disappeared, and our concern for retention, became nonexistent. You cannot sell the Guard today, by appealing only to patriotism and an athletic program. Young people are also interested in what the Guard will do for them, in terms of money, benefits, and the development of skills that are unique, in their civilian pursuits. They want to know how the Guard is relevant to their life styles, and what it does for our society. Thus, recruiting must become responsive, to what the young people are concerned about, and how the Guard can assist them in their life goals.

The retention of Guardsmen is even a more difficult job. Nothing we can say to a man or woman during their final weeks of service, will be of any avail, if they have not experienced personal growth, if they have been subjected to unprofessional, or faltered leadership, or if they feel that their time had been wasted, in unprogressive, or poorly planned training.

We have now come to realize, that retention begins the first day, a man or woman comes in contact with the Guard, and that there can be no let down anywhere along the line, if we intend our young men and women to stay with us. To keep them happy, motivated, and progressing is a profound challenge. But unless we meet this challenge, we will not be able to gain that degree of stability, in our lower and middle ranks, that is essential to a good unit.

A final pressing problem, is the public image of the National Guard. It is of utmost importance, that the National Guard have a good positive public image, if we are to attract the young men and women we require today. Most Guardsmen are anxious to engage in community action projects, and are happy to respond to State emergencies generated by floods or snow, and so forth. However, such exposures are normally limited, to a certain area of the State, and usually generate but temporary publicity, and fleeting recognition.

We do have many other opportunities, however, to develop our public image, because of the numerous relationships, we have with other agencies on the Federal, State, county and local levels. Today we have closer ties with the active services than ever before. We have affiliated units, round-out associations, and many inter-action programs with General Scott's Readiness Region and groups. We have close ties with the State police, county sheriffs, city police and civil defense agencies. National Guard headquarters at every level, are in daily liaison with such departments, planning, and organizing for emergency contingencies. In addition, we have established communication channels with high schools, colleges, and other public agencies which will facilitate our recruiting program. All in all, we have never inter-acted with more public agencies than we do today. We are continually in the public exposure. We must remember that whatever we do—good, bad, or indifferent, is newsworthy, and will be commented on by the media.

But if we are ever mindful, to put our best foot forward, and remember that we are in the public exposure, we will gain the healthy public image that we desire.

In the military, we are always part of a team. The leader can give directions, purpose and encouragement to the team, but in the long run, all members of the team must make contributions, to the success of the mission. As you are all aware, our business is a very serious business—it is a deadly serious business. Our primary mission is to produce ready trained combat units, for the U.S. Army and Air Force, for employment anywhere in the world. We know that in combat the best trained, and best equipped unit, has the greatest chance for victory and survival. The same is true of the individuals within the unit. Knowing these facts, let no commander, at any level, become responsible for the death of a young soldier or airman, or for the destruction of a unit, because he did not take advantage of every opportunity, to train his people.

It has got to be done now, and on every occasion that time will permit, for there may not be a tomorrow.

I am happy and proud to be able to state, without any hesitation, that the Michigan Army and Air National Guard today, is better equipped, and better trained, than any time in its history, and our units are in a higher combat ready posture than ever achieved before.

I have been privileged to be the adjutant general of Michigan and the commanding general of the Michigan National Guard for the past 10 years, and whatever success, I may have had, is due to many many people. It is due to the outstanding devotion, and professional ability, of our officers, and enlisted men and women, who have carried on under all types of conditions, to keep the Michigan National Guard a viable military organization.

It is also due to the devoted service, and professional ability, of the civilian men and women in the department. It is also due to the directions, and guidance, provided by the Chief of the National Guard Bureau, and the tremendous support provided by the U.S. Army and Air Force advisor groups. In addition, it is due to the guidance, and encouragement provided by the Governor and his entire staff, which has always been most timely and helpful. It is due to the Michigan Legislature, for their patient understanding and monetary support—and the other State departments for their generous cooperation.

There is another to whom I owe any success I may have achieved. This reserved, quiet, behind-the-man-type woman who has been my life partner, and given assistance and encouragement for my entire military career, is of course, my lovely wife, Bernice.

It is to all of these wonderful people then that I owe my sincere thanks, appreciation, and gratitude. It is also to these same people that I owe whatever recognition may accrue to me in the annals of this organization. It is to you the present members of the Michigan National Guard, that its future, is entrusted. I know it will be in good hands.

HOUSE REPUBLICAN POLICY COMMITTEE SUMMARY OF 1974 STATEMENTS AND FLOOR VOTES

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. CONABLE. Mr. Speaker, I wish to submit a report on the activities of the House Republican Policy Committee during 1974. The policy committee held 21 meetings during which there was thorough discussion by a broad cross-section of Republican membership of pending legislation. Fourteen policy statements resulted, and even in instances where no Republican concensus could be reached on a specific measure, the discussion helped to clarify the issues and the basis for differences.

Of the 14 statements issued by the policy committee in 1974, 10 urged passage of a measure, although in 3 cases support was contingent on substantial amendment. Three statements opposed legislation, but one of these specified changes which would make the measure acceptable.

Four of the 14 statements were concerned with measures or actions affecting the operation of the political system—voter registration, House rules changes, committee reform, and election reform. Three dealt with economic issues—Federal Reserve monetary policy, antitrust procedures and penalties and the role of congressional Democratic leadership in dealing with the economy. The problems of the elderly have received increasing legislative attention and the policy committee dealt with these in statements on pension reform, housing for the elderly and the housing bill. Energy was touched upon in statements on deepwater ports, strip mining of coal and mass transportation.

Rollcall votes on issues discussed in the policy statements reflect a high degree of support for policy committee positions by Republican Members. Support for policy position statements in 1974 averaged 85.6 percent of Republican Members voting.

Members of the policy committee in 1974 were: BARBER CONABLE, chairman; JOHN RHODES, Leslie Arends, JOHN ANDERSON, SAMUEL DEVINE, JACK EDWARDS, LOU FREY, Dave Martin, BOB MICHEL, CHARLES WIGGINS, GARNER SHRIVER, JAMES BROYHILL, JOHN MYERS, DELBERT LATTA, Peter Frelinghuysen, JAMES HASTINGS, KENNETH ROBINSON, Stanford Parris, Robert Huber, J. WILLIAM STANTON, ALBERT JOHNSON, Bob Price, ALBERT QUIE, John Dellenback, JOHN ERLENBORN, and James Grover.

A summary of the 1974 policy committee statements and the subsequent votes pertaining to these statements follows:

HOUSE REPUBLICAN POLICY COMMITTEE STATEMENTS AND FLOOR VOTES—93D CONGRESS, 2D SESSION

Key: R=Republican; D=Democrat; T=Total.

1. Auditing the Federal Reserve, February 20, 1974—adopted a statement opposing legislation authorizing the Government Accounting Office to review and audit monetary policies implemented by the Federal Reserve. Monetary policy must be insulated from short-run political and economic pressures and should be based on long-term considerations. The Federal Reserve has had a good record of efficiently managing its affairs. Congress has had an undistinguished record in handling fiscal policy and should not assume, via the GAO, responsibility for monetary policy as well.

Vote on amendment to restrict the proposed audits to financial transactions and administrative spending of the Federal Reserve, specifically excluding monetary policy audits: (Vote #171)

	R	D	T
Yeas	146	78	224
Nays	8	131	139
Percent yeas	95	37	62

2. Pension reform legislation, February 22, 1974—adopted a statement favoring the enactment of comprehensive pension reform legislation to assure working people of fair and equitable pension treatment when they retire or change jobs. Particularly laudable are vesting, funding and disclosure requirements and changes in tax law to liberalize pension plans for self-employed individuals and to allow those not otherwise covered by retirement plans to establish Individual Retirement Accounts. The statement urged elimination of the legislation's costly termination insurance provisions which would undoubtedly result in increased government regulation.

Vote on Erlenborn amendment restructuring the bill's termination insurance provisions: (Vote #34)

	R	D	T
Yeas	139	40	179
Nays	38	179	217
Percent yeas	79	18	45

Vote on passage of pension reform legislation: (Vote #37)

	R	D	T
Yeas	166	210	376
Nays	3	1	4
Percent yeas	99	99	99

3. Voter Registration Act, March 4, 1974—strongly opposed passage of this bill to establish a voter registration administration in the General Accounting Office and initiate a voter registration program through the Postal Service. This system of mail registration would undermine other more effective registration methods, would create an administrative nightmare, establish yet another federal bureaucracy, wreak havoc with election administration procedures and cause chaos in the political process.

Vote on rule for considering H.R. 8053, the Voter Registration Act: (Vote #140)

	R	D	T
Yeas	20	177	197
Nays	160	44	204
Percent yeas	89	20	51

4. House rules changes, April 4, 1974—supported H. Res. 998 to to reform House rules. Particularly welcome were tightening up of procedures to require separate House consideration of nongermane Senate amendments to bills and conference reports, limiting quorum calls, and the continued requirement of 20 Members to force a recorded vote when the House sits as the "Committee of the Whole" (unless 200 or more are present, in which case 40 Members are required to obtain a recorded vote.)

Vote on H. Res. 998:

	R	D	T
Yeas	154	220	374
Nays	20	7	27
Percent yeas	89	97	93

5. Housing for the elderly, April 9, 1974—endorsed reinstatement of the Section 202 direct loan program to nonprofit sponsors for building specialized housing for the elderly and the section 23 program with a set-aside for housing for the elderly. These proposals were initiated by the Republican Task Force on Aging.

Vote on the Steele amendment to the Housing and Community Development Act, H.R. 15361, to reinstate the section 202 program and provide the section 23 program set-aside: (Vote #214)

6. Broadcast License Renewal Act, April 9, 1974—supported passage of H.R. 12993, the Broadcast License Renewal Act. Specifically favored were several features of the bill: ascertainment of needs, views and interests of people served by broadcast stations as a condition of license renewal, increase license terms, resolution of the cross-ownership of communications media issue.

Vote on the Broyhill (N.C.) amendment to increase term of licenses to 5 years (instead of the bill's three-year provision): (Vote #129)

	R	D	T
Yeas	170	138	308
Nays	8	76	84
Percent yeas	86	64	79

Vote on passage:

	R	D	T
Yeas	176	203	379
Nays	14	0	14
Percent yeas	93	100	96

7. Committee Reform Amendments of 1974, May 2, 1974—expressed wholehearted agreement with objective of improving House committee structure to deal with important national issues. Several procedural changes were particularly welcomed: elimination of proxy voting in committees, early organization of new Congresses, emphasis on oversight responsibilities, augmented staff assistance for minority party members of committees. Endorsed a continuing review and adjustment of committee jurisdictions.

Latta amendment to ban proxy voting in commitee: (Vote #428)

	R	D	T
Yeas	149	47	196
Nays	1	165	166
Percent yeas	99	22	85

Passage of Committee Reform Amendments: (Vote #431)

	R	D	T
Yeas	148	211	359
Nays	2	5	7
Percent yeas	98	98	98

8. Deepwater ports legislation, June 5, 1974—favored legislation to facilitate the construction of deepwater ports for importing oil shipped in huge supertankers.

Vote on Passage: (Vote #193)

	R	D	T
Yeas	137	181	318
Nays	4	5	9
Percent yeas	97	97	97

9. Housing and Urban Development Act of 1974, June 18, 1974—supported enactment of H.R. 15361, the Housing and Urban Development Act of 1974. This measure, developed with bipartisan support, replaces several categorical programs with block grants for community development assistance, establishes a new housing subsidy program, assists in meeting rural housing needs, helps ease the housing credit situation. The statement supported adoption of an amend-

ment to provide specialized housing for the elderly (See Statement #5 above).

Vote on Steele amendment to provide specialized housing for the elderly: (Vote #214)

	R	D	T
Yeas	116	158	274
Nays	51	61	112
Percent yeas	69	72	71

Vote on Passage: (Vote #216)

	R	D	T
Yeas	146	205	351
Nays	14	11	25
Percent yeas	91	95	93

10. Strip mining legislation, July 16, 1974—supports enactment of legislation to regulate strip mining and surface mining of coal. The substitute phasing out strip mining altogether was rejected as too extreme. Several preferred approaches to the regulation of strip mining were endorsed, including sufficient flexibility to allow a variety of possible uses of strip mined land. The Hosmer version of the legislation, H.R. 12898, was substantially consistent with the Policy Committee's recommendations.

Vote on substitute bill to phase out strip mining: (Vote #274)

	R	D	T
Yeas	3	66	69
Nays	178	158	336
Percent nays	98	71	83

Vote on Hosmer amendment to allow strip mined land to be made suitable for agricultural and recreational uses: (Vote #282)

	R	D	T
Yeas	140	73	213
Nays	41	152	193
Percent yeas	77	32	53

Vote on Hosmer substitute bill: (Vote #273)

	R	D	T
Yeas	103	53	156
Nays	82	173	255
Percent yeas	56	23	38

Vote on passage of strip mining bill: (Vote #287)

	R	D	T
Yeas	120	171	291
Nays	50	31	81
Percent yeas	71	85	78

11. Election reform legislation, August 6, 1974—supported reform of election law, particularly the changes recommended by the House Republican Task Force on Election Reform. The bill as brought to the Floor, however, needed several amendments to make it acceptable as true reform rather than partisan advantage: an independent elections commission, reasonable spending limits with full disclosure of contributions and expenditures, prohibition of "pooling" contributions by special interest groups, and removal of limitation on political party contributions. The modified-closed rule for debating this bill prevented many of these amendments.

Vote on previous question on rule (a "no" vote would have allowed an open rule to be adopted so that all amendments would be considered.): (Vote #324)

	R	D	T
Yeas	1	218	219
Nays	181	9	190
Percent nays	99	3	46

Vote on establishing an independent Federal elections commission: (Vote #330)

	R	D	T
Yeas	179	212	391
Nays	4	21	25
Percent yeas	98	90	94

Vote on Dickinson recommittal motion with instructions to bar "pooled" contributions: (Vote #335)

	R	D	T
Yeas	154	10	164
Nays	28	215	243
Percent yeas	85	4	40

Vote on passage: (Vote #336)

	R	D	T
Yeas	136	219	355
Nays	45	3	48
Percent yeas	75	98	88

12. Federal mass transportation legislation, August 12, 1974—opposed H.R. 12859, the Federal Mass Transportation Act of 1974, as reported and urged several changes: reduction of the authorized amount by at least half; tieing subsidies of operating expenses to incentives for efficient management, improved service, rational fare structures and greater use of mass transit; and removal of incentives for development of fixed guideway mass transit systems.

Vote on amendment to cut funds for federal operating subsidies for urban mass transit systems: (Vote #356)

	R	D	T
Yeas	136	61	197
Nays	40	162	202
Percent yeas	77	27	49

Vote on Harsha amendment to substitute population (2 million) requirement for fixed-guideway requirement for federal mass transportation grants: (Vote #358)

	R	D	T
Yeas	129	14	143
Nays	31	184	215
Percent yeas	81	7	40

Vote on Shuster amendment to make local efforts to discourage auto use and encourage public transit use a major factor in allocating federal mass transit grant money: (Vote #359)

	R	D	T
Yeas	126	29	155
Nays	24	150	174
Percent yeas	84	16	47

Vote on Harsha substitute cutting authorization from $20.4 billion to $11.4 billion: (Vote #367)

	R	D	T
Yeas	165	92	257
Nays	19	136	155
Percent yeas	90	40	62

Vote on passage:

	R	D	T
Yeas	122	202	324
Nays	63	29	92
Percent yeas	66	87	78

13. Antitrust procedures and penalties act, November 18, 1974—urged passage of this bill as a first step toward more firm and vigorous enforcement of antitrust laws—a key element of any effective long-term anti-inflationary economic policy.

Bill was passed without a record vote.

14. Congress and the economy: More drift or decisive policy? December 3, 1974. Stated that the Democratic leadership of the Congress has ignored the need to deal decisively with inflation, recession and unemployment. The majority party—which controls the actions of Congress—was urged to either support the President's program or undertake one of its own.

LUCKY TO BE IN ON A LEGEND

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 16, 1975

Mr. DERWINSKI. Mr. Speaker, one of the most dramatic moments of this holiday season was the victory of the Notre Dame Fighting Irish over No. 1 ranked Alabama Crimson Tide in the January 1, 1975, Orange Bowl in Miami. As all good sports fans know, this was the last game in the coaching career of Ara Parseghian as head football coach at Notre Dame.

I was especially intrigued by an article carried in the Tinley Park, Ill., Star Tribune by its multitalented editor, Dennis Wheeler. In his article, Dennis draws on his own brief association with Ara Parseghian, and in doing so produces a very deep admiration for this coaching genius:

LUCKY TO BE IN ON A LEGEND

(By Dennis Wheeler)

I can't help but feel a sense of kinship for Ara Parseghian, even though we never met and probably never will.

The kinship comes, I guess, from the fact I have had the privilege of watching at very close hand the stages of his development as a national personality. On and off, I have been close to the athletic triumphs over which he has presided for the last 20 years.

And a national personality is definitely what Ara Parseghian is. When he announced Monday his retirement as head football coach at Notre Dame, it made front page headlines in newspapers all over the United States. That's because Notre Dame football is what it is, but it is also because Ara Parseghian is who he is—one of the three or four most famous coaching geniuses in the nation.

This kinship of which I speak began in 1955, when I was in high school. It was spring, and the athletic director and principal had made arrangements for an all-sports banquet for all athletes in the school and their fathers.

I was a sophomore then and had just completed my first year in interscholastic athletics. I had warmed the bench for the sophomore football team, had played frosh-soph basketball, and had done some pitching for the baseball team.

It was announced that the banquet speaker for the evening was to be somebody called Ara Parseghian.

The announcement precipitated loud guffaws all over the school's locker rooms. "Who's Aira Whats-his-name?" classmates were asking each other.

Our embarrassed football coach—embarrassed because our school was so small it couldn't attract a Woody Hayes or a Ray Eliot—tried to explain that Parseghian had just been hired to coach football at Northwestern university.

"He's a young new coach who has done very well at some Ohio college," he said.

At the banquet, a husky, coal-black haired man stood up after dinner and advanced confidently to the microphone. I remember being struck by the way his deep set eyes looked out at us, boring into us as individuals and not as an audience. His voice, high and almost squeaky, was disarming at first because athletes are supposed to growl in brass tones. But any impression of unmanliness disappeared as soon as he started talking.

That night Parseghian talked to us of our futures, not his. He had learned we were a new school and had no real tradition yet in sports. He had done his homework; he mentioned many of our names in his talk and he worked some of the names of our opponent schools into the fabric of his speech.

After capturing our attention with some jokes and anecdotes (most of them with us as the main characters), he talked about character, attitude, effort.

He spoke of how sports are possibly the best preparation for developing the proper attitude toward life. But he stressed that sports by themselves are nothing more or less than games. By themselves, they are largely meaningless and he said the pursuit of victory at the cost of values amounts to complete emptiness.

His voice rising, he exhorted us to give life our best shot. Without ever getting religious, the talk turned into a talk on ethics. It was an incredibly uplifting speech that ended with everyone in the room leaping to their feet to give Parseghian a standing ovation. I can remember feeling on fire with resolution about my future.

Two years later, I went to Northwestern and on the first weekend on campus went to my first college game.

There from the tunnel at the end of Dyche stadium came the purple and white uniformed Wildcats, and there in front of them, sprinting in the lead as the team charged out to take the field was Parseghian, looking young enough to put on a uniform himself.

For four years, we at Northwestern who were into sports marveled at Northwestern's ability to compete in the Big Ten. A private school with a small number of athletic scholarships to be given, Northwestern nonetheless was rated in the nation's top 20 three of the four years I was there, and the Wildcats finished in the Big Ten's first division, barely missing a Rose Bowl bid, each of those three years.

During those years, Parseghian became well known across the country, and there was talk of Ara moving up to one of the "big" coaching jobs in the nation; some said he would succeed Hayes at Ohio State when Woody finally put down the clipboard.

In my senior year at N.U., I dated the girl I later married one evening after Northwestern had whipped Notre Dame 7 to 6. To my amazement, she was livid with rage over the game's result—it turned out she had been a Notre Dame follower since girlhood, largely because her father had been team dentist under Frank Leahy. She had seen dozens of Notre Dame games in South Bend over the years.

So it was only natural that we have since maintained an avid interest in the fortunes of both N.U. and Notre Dame on the gridiron.

And so there was a storybook quality for me about the way Parseghian and N.U. went on to beat Notre Dame four years in a row, and how Notre Dame then hired Ara, not Catholic and certainly not Irish, to restore the evaporating glory of Notre Dame football.

Ara took over the year after Notre Dame had launched its mediocre way to a two wins, seven losses record. In Ara's first year, the Irish won nine and lost only one, and the rest of his career there has become legendary.

During those years, because of my father-in-law's alumni standing, we have personally seen many Notre Dame games. We saw the famous victory over Purdue in which the Hanratty to Seymour passing combination premiered. We saw O. J. Simpson and Southern California crush the Irish 36 to 7. We saw Notre Dame run up 38 points in the first half against Miami of Florida this year.

But now the pressures of big time coaching have evidently taken their toll. Parseghian no longer looks like one of his players; dark circles haunt his eyes; his hair is graying rapidly.

He said Monday he wants to rest and get away from football for a year. Then he may re-assess his future and coach again.

As a football fan, I hope he changes his mind and takes the job that would be the natural progression for him—the now vacant Chicago Bears head job. But he probably won't. If he says he wants to take a year off, he must want to. Few people have been as dedicated to football as Parseghian has, and so if he's tired of it, it must be some kind of tired.

But no matter, really. If Parseghian never coaches another game, his name is now as historic as Rockne's or Leahy's or Bear Bryant's or, for that matter, Woody Hayes'.

I feel lucky I was able to be in on so much of the legend while it was in the making.

HOUSE OF REPRESENTATIVES—*Friday, January 17, 1975*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

God is our refuge and strength, a very present help in trouble.—Psalms 46: 1.

Our Father God, who hast made and sustained us as a Nation, at this high altar of our national life, where our fathers bowed their heads in prayer, we also bow our heads in the deep assurance that Thou art our refuge and strength, a present help in trouble.

May the spiritual truths by which we know we ought to live assert their ascendance over our spirits and in so doing keep the lamps of faith, hope, and love burning in the inner shrine of our hearts.

Endure with the spirit of wisdom those who lead our Nation in these troubled times. So rule their hearts and direct their endeavors that law and order, justice and freedom, cooperation and peace may everywhere prevail: to the glory of Thy holy name and the good of our human family. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I would like to ask the distinguished majority leader, the gentleman from Massachusetts (Mr. O'NEILL), whether there is any revision in the announced program for next week as had been discussed yesterday briefly.

Mr. O'NEILL. Mr. Speaker, if the gentleman from Illinois will be good enough to yield to me.

Mr. MICHEL. I will be happy to yield to the gentleman from Massachusetts.

Mr. O'NEILL. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, on Monday we will hope to proceed with the approving of those chairmen that have thus far been approved by the Democratic Caucus. That will be done on Monday. The other chairmen for the remaining four committees have not been approved so far by the Democratic Caucus. The earliest that those could be offered for consideration of the House would be on Thursday next. The Democrats plan to caucus on Wednesday. Therefore I would hope that when we adjourn today that we will adjourn to meet on Monday next. But, as I say, this would be the only business on Monday, and that we would then adjourn over until Thursday and take up on Thursday afternoon the remaining committees. We are hopeful that they will have been approved in the Democratic Caucus by that time.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ADJOURNMENT TO MONDAY, JANUARY 20, 1975

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

BINGHAM OPPOSES OIL TARIFF INCREASE

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, in his state of the Union address the President announced he was going to impose a $3 per barrel tariff on imported oil to be phased in during the next 3 months. This would have a direct and disastrous effect on many householders, tenants, and homeowners in my district and in other districts. It would also, because of the "ripple" effect through the entire economy, add between 2 and 4 percent to our already cruel rate of inflation. Everything from fertilizer to medicine would cost more because companies would simply pass their added fuel and materials costs on to the consumer. For the average family, it would mean an extra $250 a year in fuel costs. Con Ed says New York City residents face between a 5- and 20-percent rise in their electric bills, many of whom have already seen their bills double in the last year. For those on fixed incomes and tight budgets it may well mean foregoing essential food items to pay for excessively costly fuel oil. Already the price of fuel oil is causing hardship on homeowners and putting tremendous pressure on landlords to increase rent paid by already hardpressed tenants.

The Northeast, already heavily burdened with the cost of importing Arab oil, will be hit harder than any other region of the United States. Any plan to reduce the use of petroleum must assure that the price of crude oil is equal throughout the country. Price equalization, or price relief, for the Northeast is essential to maintain its economic vitality and afford its inhabitants a decent standard of living. The President's proposal does not afford the Northeast any protection.

Second, I am dubious of the President's claim that the tariff would effectively reduce our oil imports by 1 million barrels a day by the end of the year, and another million by the end of 1977. A Wall Street Journal survey of oil industry experts concluded that oil consumption would drop by less than 800,000 barrels a day, and that imports would decline at an even slower pace than demand.

Third, the President's proposal makes no distinction between petroleum uses. This is 45.8 percent of each barrel of crude oil refined into gasoline. Gasoline consumption is also the most elastic component of our petroleum-based economy. Elasticity, of the ability to control demand, must be recognized in any conservation program. There is little elasticity in asphalt production or the manufacture of life-saving pharmaceuticals. By burdening each and every use of petroleum equally in an effort to reduce consumption, it would actually hurt some segments of the population more than others. More fortunate Americans will simply pay the added expense without changing their "fuelish" habits while Americans with little or no discretionary income would suffer grievous deprivation.

The President says he already has the authority to impose such a tariff and therefore no legislation to achieve that objective is needed. I disagree. I have reviewed the provision of the law the President is relying upon and have concluded his authority is tenuous and very likely subject to legal attack. There is a serious question whether the proposed action would violate several provisions of the Trade Reform Act enacted into law at the end of the last session. But, assuming the President does have the power to do as he proposes, I believe we must legislatively stop it, and I will introduce legislation to that effect.

Vigorous steps must be taken to reduce energy consumption. The Democratic Steering and Policy Committee task force program which I helped draft calls for action to achieve conservation goals. Among the alternatives suggested are substantial gasoline taxes and the rationing of gasoline and fuel oil. But the task force deliberately omitted any mention of a tariff increase on oil imports, because it was agreed that it was the least desirable alternative in terms of achieving conservation as well as spreading the burden equally. In the weeks ahead I will work vigorously to enact the task force's proposals.

ADJOURNMENT FROM MONDAY, JANUARY 20 OVER TO THURSDAY, JANUARY 23

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday next that it adjourn to meet at 12 o'clock noon on Thursday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GUAM LAND CLAIMS BILL

(Mr. WON PAT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. WON PAT. Mr. Speaker, in the name of justice and on behalf of the American people of Guam, today I am pleased to introduce a measure which will provide judicial review of past World War II land claims by Guamanian civilians against the U.S. Government.

The measure I introduce today is almost identical to H.R. 12760 which I sponsored in the 93d Congress. During the previous Congress, many individuals, including myself, worked hard to gather substantiating information in support of H.R. 12760. Thanks to the understanding and generosity of Representative Phillip Burton, chairman of the House Subcommittee on Territorial Affairs, I was able to chair a field hearing in Guam on this measure in May of 1974.

During our 4 days of hearings, 179 persons testified that the U.S. military took their land in the days following World War II without adequate compensation. It is my belief that the testimony we heard on Guam demonstrates a cumulative pattern of unsavory methods the military used in acquiring land on Guam following our liberation from the enemy in 1944.

There are many statements that indicate to me that the people of Guam were treated with considerable callousness in their land transactions with the Federal Government. Such treatment was hardly fair pay for the outstanding loyalty to the American flag which the people of Guam showed at every turn during those horrible years when we lived under the boot of the enemy.

In the current Congress, I anticipate that my colleagues on the House Interior Committee will give this measure their full attention. The time has come for Congress to rectify the wrong doing which was committed in the name of the Federal Government those many years ago.

Thank you.

U.S. CANAL ZONE: ACQUISITION COSTS, 1904–74

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Flood) is recognized for 5 minutes.

Mr. FLOOD. Mr. Speaker, in current discussions about the Panama Canal problem, two of the most frequently raised questions are the juridical status of the Canal Zone and the cost of acquiring it.

The matters of sovereignty over the Canal Zone and title to the Panama Canal were covered at length in my address to the House of Representatives in the Congressional Record of March 9, 1964, pages 4705–4716, on "Panama Canal: Focus of Power Politics" and reprinted in House Document No. 474, 89th Congress, pages 305–344. In general terms, the Canal Zone may be described as a territorial extension of the United States subject to the laws of our country, which are embodied in the Canal Zone Code.

In addition to securing a grant in perpetuity of sovereign rights, power and authority over the Canal Zone from Panama, the United States obtained title to all privately owned land and property in it through purchase from individual owners.

The total cost of acquiring the Canal Zone as of June 30, 1974, was $166,362,173, making it the most costly territorial extension of the United States.

To enable realistic comparisons, the major U.S. territorial acquisitions are listed:

Year	Territory	Cost
1803	Louisiana Purchase	$15,000,000
1821	Florida Purchase	6,674,057
1848	Mexican Cession, including California.	15,000,000
1853	Gadsden Purchase	10,000,000
1867	Alaska Purchase	7,000,000
1904	Canal Zone up to June 30, 1974	166,362,173

No wonder, President Theodore Roosevelt always viewed the acquisition of the Canal Zone as one of his greatest achievements and compared it in importance to the Louisiana Purchase.

The indicated $166,362,173, of course, does not include the cost of constructing the Panama Canal and its defense. Its full costs on June 30, 1974, were estimated at a grand total of $6,880,370,000, which includes the cost of acquisition of the Canal Zone.

To even discuss the idea of the retrocession to Panama of the U.S. Canal Zone territory with all its vast investments is like suggesting the return of the Alaska Purchase to Russia or the Florida Purchase to Spain.

The detailed report of the Secretary of the Army on the Canal Zone acquisition cost follows:

Secretary of the Army,
Washington, December 23, 1974.

Hon. Daniel J. Flood,
House of Representatives,
Washington, D.C.

Dear Dan: In response to your 4 December letter, the 1964 tabulation of Canal Zone acquisition cost, as reflected in Panama Canal Company accounts, is updated to 30 June 1974 as indicated below:

	Reported on Mar. 31, 1964	Additions, 1964–74	Total, June 30, 1974
Republic of Panama:			
Original payment, 1904 (1903 treaty)	$10,000,000		$10,000,000
Annuity 1903–74 (1903, 1936, 1955 treaties)	30,150,000	$21,793,602	51,943,602
Property transfers:			
Property in Panama City and Colon, 1945	11,759,956		11,759,956
Water system in Panama City and Colon (unamortized cost)	669,226		669,226
1955 treaty transfer	22,260,500		22,260,500
Columbia (1922)	25,000,000		25,000,000
Companie Nouvelle du Canal Panama (1904)	40,000,000		40,000,000
Private titles, stocks, and claims	4,728,889		4,728,889
Total	144,568,571	21,793,602	166,362,173

The assets acquired from the New French Canal Company included 68,887 shares of stock of the Panama Railroad Company. The remaining 1,013 shares were acquired from individual owners for about $150,000 included in the item "Private titles, stocks and claims."

With best regards,

Sincerely,

HOWARD H. CALLAWAY.

ECONOMICS, POLITICS, AND LIBERTY

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, after a year of political tumult, the nation has come to rest in the grips of a new crisis. Our economic problems, ill-handled in the first years of this decade, ignored in the political crisis of the last year, have burst into a real crisis. Last year the question was whether our country could rid itself of criminals in high places, and restore decency and order to our Government. This year the question is whether our national leadership can produce the means to end our most serious economic crisis in 40 years, without imperiling American liberty.

Somehow in recent years there has been a tendency to pretend that economics has nothing to do with politics. Economists liked to portray themselves as objective scientists, far above the push and pull of mere politics. Congress, itself, evolved a school of technocrats, who like to pretend that their economic nostrums are the sole of objectivity, divorced from politics.

But economics lies at the heart and soul of politics. It is easy to forget that what we now call economics was once called political economy. The central issue is always economic; every political issue has at its heart one economic idea or another.

Marx was an economist, not a politician. But his economic ideas are at the root of Lenin's politics. And likewise, every well-known "ism" of modern times is built around a body of economic thought.

Economics has everything to do with politics. Realistic thinkers will readily recognize that the real business of politics is the question of who gets what: Who pays the taxes, who gets the benefits; who gives, and who receives—and who has the power to decide.

In the very caucus debates, over committee chairmanships, I have read stores that quote some as saying the issue of a chairmanship was, who was best suited to deal with the economic questions of today. But that is not so. The issue was, who shall have the power to decide?

And for this Congress, the whole political struggle will be over economic policy. The issue will be, who gets what: who pays, who receives, and who decides.

It is the outcome of the struggle that concerns the country. Our internal struggles over organization and leadership, over policy and procedure—all eventually will have profound effect on the Nation and all who live in it.

One of the issues to be resolved is whether our decisions will benefit liberty, or threaten it. For in our decisions governing policy, we also must decide how to make that policy work. It is the enforcement machinery of a political system that either protects individual liberty or destroys it. Economic policies do not get carried out in a vacuum; they are placed in being by the force and will of government.

So the stakes in this political struggle over economic policy are high. Much more is involved than how prices can be stabilized and prosperity restored; for in deciding these things, we also decide whether we remain in the channels of a free society, or slip into the restrictions of a country that is governed by economic technocrats, who are not so much concerned about people as they are about making the numbers add up according to some predetermined plan.

Whatever economic policy we end up with, we have to be conscious of its political, as well as its economic effects. We must be careful that in resolving an economic crisis, we do not stifle the soul of this Nation. We must remember that it is possible, that in our efforts to assure economic security for everyone, we can also destroy liberty for everyone.

There has been announced a Democratic program for resolving the economic crisis, but as far as I know, only the members of the task force that assembled it, and the press to whom they announced it, have seen copies of this master plan. I certainly have not. And there has been a Republican plan, put forward by the President, of which we have seen only the bare outlines. It is for us to take these and create a program that will work, and one which hopefully will adhere to the principles of liberty that we inherited, and which we have the responsibility of maintaining.

We will have to avoid easy nostrums.

At one point, the press reported that the Democratic proposals for economic policy included price control authority for the President. This was discarded, and a much more vague proposal to control so-called inflationary increases, was put forth. Whereas the leadership has rejected a complete program of wage and price controls, it still courts the notion of selective controls. This idea of selective controls ignores historical experience and political reality. Postwar experience should have taught us that selective controls do not work; they create and exacerbate the economic locations that arise from any kind of controls. And anyone who lived through the Economic Stabilization Act markups a year or two ago, when we tried to legislate selective controls, should be aware of the political impossibility of controlling some sectors of the economy while leaving others undisturbed. No controls scheme can work very long, unless it follows Cohen's iron law of controls, which I reminded the House of in 1971:

> . . . to be effective, controls must reproduce at a rate faster than that at which means are found for avoiding them.

Does anyone dispute this? Let him examine the rapidly growing volumes of regulations and minutiae that have already been produced by the Federal Energy Administration. Let him recall the computer readouts that we got from the Cost of Living Council. Let him read "Confessions of a Price Controller."

I opposed the Economic Stabilization Act of 1971. I opposed it because it represented only part of what had to be a comprehensive program; I opposed it because it was considered and passed without any thought given as to how it would fit into an overall program, if indeed we ever found out what that would be; and I opposed it because it represented a complete surrender of the powers of Congress to the hands of the President. I argued that Congress should have come up with clearer guidelines for economic policy; and I said that we should reserve the right to effectively review the decisions made by the administration; I said, too, that we should preserve the right to act on our own, if need be, in 1972.

But I was ignored. We gave the President a blank check until 1973, and his selective controls proved to be a disaster. Things got worse instead of better.

What did we do?

In 1973 we tried to write our own version of selective controls, and ended up with a chaotic bill that nobody understood and which the House eventually refused to even consider. It ended with another surrender to Presidential power. I argued against this, too: I said that instead of trying to perform a legislative impossibility—impossible politically and technically—we should ask the President to formulate a controls program which we might then review and adjust as necessary. But I was ignored then.

Last year the whole jerrybuilt structure came tumbling down. Back then, the leadership swore off controls. Now, 7 months later, there is renewed talk of controls—but very vague talk.

If we seriously think that we are going to succeed in controlling inflation by means of selective controls, we will be ignoring the lessons of history—even the lessons we have learned since 1971. Santyana postulated that those who cannot learn by the past are condemned to repeat it. The Biblical proverb is even more succinct:

> As a dog returneth to his vomit, so a fool returneth to his folly. (Proverbs 26: Verse 11)

So I hope that those who urge a program of selective controls upon us, will reconsider, and remember the past. I do not expect that anything I might say would be heeded by those advocates any more today than it was in 1971 or 1973—but perhaps their memories will cause them to reconsider.

On the Republican side, we have a proposal to place a tariff on crude oil imports, and maybe a tax on domestic crude as well. I cannot imagine a step that would be more likely to exacerbate inflation than that. The problem we have is that oil prices are too high already. There is no need to compound the problem by raising them still more. In Hobart Rowen's excellent words:

> A new tax on crude oil is comparable to the now abandoned medical practice of attaching leeches to a bleeding patient.

A tax on crude oil penalizes equally the essential uses of oil and the wasteful uses of oil. It is surely not wasteful to use oil to heat a house. Yet the crude oil tax would increase the price of heating fuel. Now it might be wasteful to burn up petroleum cruising around town looking for hookers, but the crude oil tax places no special penalty on such waste. Casual burning of fuel is penalized by the administration proposal no more than the most essential use; whether fuel is needed or not, whether it is wisely or foolishly used, the administration would penalize it the same.

Maybe we do have to cut down on oil imports. I am certain that we do. But conservation does not mean penalizing essential uses of oil; it means curbing nonessential uses.

I am not at all sure that raising the price of gasoline greatly restricts its use. There is no evidence that the near-doubling of gasoline prices in the last year has greatly cut consumption. It may be that cutting consumption is more difficult than we think.

In any case, it makes no sense for the President to tell us on the one hand that he wants a tax rebate and reduction to stimulate buying, hopefully of automobiles, when he also demands a penalty on fuel for those same vehicles. Who is kidding whom? Nobody is going to take his paltry $20 rebate and plunk it down on a car that costs hundreds more than it did a year ago, when gas costs twice what it did a year ago. Detroit won't be saved by the rebate plan.

I have seen very little thus far that shows the kind of imaginative thinking that is needed to deal with this crisis.

Instead, we have had timid and confused half-measures from an administration that about-faces on economic policy faster than a slick military drill team, and dull old technocratic ideas from some congressional advocates. The problem is unfortunately much too great for partisan politics to address, and far beyond the grasp of simple personal ambitions.

I do not believe that we have to think in terms of providing technocratic answers. We have to think in terms of democratic aswers.

The technocrats tell us that we have to find some magic percentage growth in money supply; that we have to get into credit allocation schemes; and that we have to give this or that incentive, this or that control, to fix up this or that kind of problem in the economy. But all that this kind of thing does is to multiply bureaucracy, and require explaining away when failure finally becomes apparent.

In a free economy, economic movements are going to be determined by individuals choosing their own way. I think that this is perfectly all right.

The American people do not want unlimited security. They want an assurance that they have a decent chance. They want an assurance that they can get decent medical care without going bankrupt, that they can get a decent job, and that they can get a decent house, and decent food, and live comfortably when they retire. The people I know do not demand total security; they only ask a fair chance, a fair return a shot at success. For they know that with total security comes total government.

The technocrats confuse their patching and tinkering with economic policy. A patchwork of allocations and controls is no policy; it is the busywork of unimaginative minds.

We would do well to remember another proverb:

Where there is no vision, the people perish.

This is a time for vision; it is a time for commitment to a policy that accomplishes the goal of ending this sorry crisis—and one that moreover protects, rather than diminishes, our liberty.

I do not pretend to have the entire answer—but I do have a suggestion that I believe illustrates the kind of policy that we should adopt.

We know that the country needs to cut down on the use of petroleum. We need to do this because we cannot afford to become dependent, any more so than we are now, on the oil exporting cartel. We need to conserve our own limited resources. That does not necessarily mean that we can, or even should, reduce our total energy consumption. But it does mean that we have to convert from oil to other energy sources, where we can.

If we are going to have a tax on oil, let it not be a tax that goes into general revenues. Let it be a tax that goes into a fund for energy conversion. Let us call this an energy conversion trust.

Such a trust built the great Interstate Highway network.

Such a trust can be used to finance conversion from oil and gas to other energy sources—sources that are plentiful.

Suppose that the energy conversion trust fund were used to finance the conversion of oil and gas fired electrical generating plants. This would conserve millions of barrels of oil and trillions of cubic feet of gas. It would help cut utility rates, by lowering the interest costs of utility installations.

Yet the trust need not dictate the kind of plant that is built—it need only be a plant that does not use oil or natural gas. There need be no direction requiring that a solar plant be built, or a requirement for a geothermal plant, nor for a nuclear plant. It can be whatever ingenuity and enterprise elect—and this kind of freedom of action would assure the fastest progress, and the best result.

My energy conversion trust would cut consumption of scarce fuels; it would do this without curbing anybody's freedom of action; and it would do this in a way that assures that we can get the most imaginative and productive possible solutions.

This is the kind of ideas that I believe the country needs.

And I think that ideas of this nature, ideas that maximize our unique national strengths—can be brought into play with respect to other problems as well.

If there is unemployment, and we want public service jobs, we do not necessarily need to funnel the funds for this through a bureaucratic maze from here to Seattle; we can simply establish centers of employment. Maybe cities need to be cleaned up. There is no need to go through local bureaucracies to achieve this—just set up a job center, hire the people, and get on with the job.

Maybe trees need to be planted, or flowers planted. There is no need to go through grandiose administrative channels—hire the people and get the job done.

And perhaps there are public works that need to be built. By all means, let us build them. But let us do it in the simple and direct manner that has characterized our country in the past.

If prices are too high, let us find out where the real problems are. It is foolish to concentrate on phantoms, when we know that the real enemy is the high price of oil, and the international cartel that imposes that high price upon us and every other nation in the world. Let us find means of dealing with OPEC—either by cutting down our use of imported oil, or by political and economic efforts to break the cartel. But let us deal with it forthrightly, directly.

I accept the fact that not every economic problem is amenable to simple and direct solutions. But I believe that we have seen enough of arcane patchwork to know that it merely leads us deeper into the economic woods, and further away from the pragmatism and liberty of action that has ever been the hallmark of American politics.

So I call for a new vision—a vision which recognizes the reality that economics is in fact politics, and that political policy is rooted in economic policy. If economic policy is not grounded in freedom, then its political consequence can only be a diminution of personal liberty.

I do not say that government has no economic role; I do not say that we ought to return to practices that were unconscionable in the past, and would be more so today. But I believe that we have to recognize that poor policy, no matter how well intentioned, can have tragic political consequences.

I see a need for a new vision—one that has its beginning in a true understanding of the American character. And that is a character that does not know economic dogma, or care about it. It is a character that is pragmatic in its heart, boundless in its energy and determination, and a character that asks only one thing—a fair chance, an equal opportunity, a chance to be productive, a chance to achieve whatever is possible. Let us start there, rather than work backward from economic assumptions which do not keep in mind this essential American trait, the trait that we inherited ourselves, and which we are sworn to protect and preserve.

MORATORIUM ON ELECTRONIC BRANCHING

The SPEAKER. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, today I have reintroduced legislation which I first introduced on December 19, 1974, invoking a moratorium on the establishment of electronic transfer facilities on the part of financial institutions in order that the National Commission on Electronic Fund Transfers, established by Public Law 93-495, will not be presented with a "fait accompli" situation by actions of the regulatory agencies responding to pressures from those institutions regulated, anxious to obtain a competitive advantage prior to the Commission's deliberations.

Mr. Speaker, at the beginning of the 93d Congress, disturbed by reports of certain "experiments" underway in California that denied participation to certain classes of financial institutions, I raised a number of questions of the Justice Department involving the potential for unfair trade practices or possibly anticompetitive violation of both State and Federal law. During the course of our hearings on H.R. 11221 (Public Law 93-495) the Subcommittee on Bank Supervision and Insurance received testimony from the Justice Department, each Federal regulatory agency, and all interested trade associations. Because of the complexity of the issues raised and few answers to questions involving the public interest, each witness endorsed the concept of a national commission, mandated to explore the consequences of the application of electronic fund transfer systems and to make recommendations designed to insure the continuation of competition on equal terms among financial institutions while protecting fully the public interest. In the joint explanatory statement of the committee of conference on H.R. 11221 (Public Law 93-495), the conferees stated:

> The conferees, however, believe further that during the existence of the study commission that federal agencies involved in electronic funds transfers, as well as those engaged in such activity in the private sector, recognize that potential payments mechanisms are in an experimental stage with a number of significant public policy questions unresolved, and hence all such efforts are subject to change and modification.

Because of the urgency involved, the Congress approved a $500,000 supplemental appropriation at the end of the 93d Congress. My letter to the President, dated November 13, 1974, and Mr. Friedersdorf's response, dated November 14, sum up the reasons for this Commission's creation and the necessity for it to begin its deliberations at the earliest possible moment, and I wish to make these letters part of the RECORD at this point:

NOVEMBER 13, 1974.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On October 28 you signed into law one of the most sweeping financial institution reform laws, P.L. 93-495, in years. One of the key elements of this Act provided for the establishment of a National Commission on Electronic Fund Transfers which, as I am sure you are aware, is designed to monitor the development and progress of electronic fund transfers in the financial institutions and other business enterprises using such a system, reporting its findings and recommendations to you and the Congress no later than two years after the date of enactment.

Recognizing the fact that rapid changes in technology have already set in motion forces necessitating change in the very structure and functioning of our country's financial institutions, it is incumbent upon us to act expeditiously to insure the most effective and efficient utilization by this Commission, of the expertise already developed in the area of electronic fund transfer systems. Certainly in the spirit and consistent with the purpose of P.L. 92-463, you have an excellent opportunity to urge the Director of the Office of Management and Budget to utilize the authority conferred upon him in that Act, specifically in Section 7(c), to bring together all of the experts in the various regulatory agencies who have been involved in the EFTS developmental efforts.

Mr. President, I am sure you recognize the importance of funding for the National Commission on Electronic Fund Transfers if it is to begin to function in an effective and expeditious manner. Inasmuch as the House has already passed the Supplemental Appropriations bill for fiscal year 1975, (H.R. 16900) and the Senate has scheduled floor action for November 18, I urge you, Mr. President, to lend your support for an amendment providing initial funding for the Commission, should such an amendment be offered on the Senate floor next week.

In closing, Mr. President, I want to emphasize the fact that the numerous experimental EFTS programs and projects already in progress make it imperative that every step be taken to accelerate the Commission's study and investigation. Otherwise, we will be permitting technology to outdistance the law.

Sincerely,
FERNAND J. ST GERMAIN,
Chairman.

THE WHITE HOUSE,
Washington, November 14, 1974.

Hon. FERNAND J. ST GERMAIN,
House of Representatives,
Washington, D.C.

DEAR MR. ST GERMAIN: I would like to acknowledge and thank you for writing to the President on November 13 in which you urge that he lend his support for an amendment providing initial funding for the National Commission on Electronic Fund Transfers, should such an amendment be offered on the Senate floor next week.

I have noted your interest in accelerating the Commission's study and investigation, and will see that your letter is called to the early attention of the President.

With kind regards,
Sincerely,
MAX L. FRIEDERSDORF,
Deputy Assistant to the President.

It is with dismay then, Mr. Speaker, that we are advised of continued activities by the regulatory agency particularly, the recent action taken by the Comptroller of the Currency permitting electronic branching. These branches may well have obvious benefits for the consuming public but there can be no question that they profoundly affect the structure of the financial institutions and have serious ramifications on the dual banking system as we now know it to exist. On December 19, 1974, Senator PROXMIRE, also a conferee, on H.R. 11221—Public Law 93-495—introduced identical legislation, feeling exactly as I do, and has today reintroduced his bill. From all that we can learn there has still been no substantive precommission staff work undertaken by OMB or any other regulatory agency and until the Commission comes into being it is our belief any further explanation should be done with the utmost caution until the guidance of the Commission either formal or informal can be obtained. My recent letter to the President of December 30, 1974, and Mr. Loen's response, I believe, sums up the situation as of today, making the passage of this moratorium legislation essential:

COMMITTEE ON BANKING
AND CURRENCY,
Washington, D.C., December 30, 1974.

The PRESIDENT,
The White House
Washington, D.C.

DEAR MR. PRESIDENT: We in the Congress created the National Commission on Electronics Fund Transfers (EFT) to study and make recommendations for the development of a payments system based on the electronic transfer of funds. With your approval of H.R. 11221 on October 28, 1974, this commission was established insuring that EFT would develop only after a thorough study. Thus, I along with my colleagues, in both the House and the Senate, was deeply concerned when the Comptroller of the Currency, on December 12th, issued an interpretation of the National Banking Act which sanctions a program of major investment by national banks in electronic terminals, including automated tellers and point of sale terminals without geographic restrictions.

In response to the Comptroller's regulations, Senator Proxmire and I, on December 19th, introduced legislation calling for a moratorium on the establishment of more electronic transfer facilities by financial institutions. The moratorium which would have been effective on December 19, 1974, and would have continued until December 1, 1976, it appears, is now imperative to insure that the federal financial regulatory agencies will not preempt the work of the National Commission in its study and assessment of the implications of electronic fund transfers. Although the Congress did not act on the moratorium in the 93rd Congress, because of the urgency and the magnitude of the situation, Senator Proxmire and I intend to press for the adoption of such a moratorium early in the next Congress.

Moreover, Mr. President, inasmuch as you have the sole responsibility to appoint the members of the commission and in particular appoint the Executive Director, I renew my request for you to act expeditiously to implement the work which the National Commission on Electronic Fund Transfers was established to carry out. Most importantly, I urge you to appoint an Acting Executive Director, possibly someone from one of the federal regulatory agencies who has been working in this area. This person, working with the Office of Technology Assessment and using the unlimited resources available through the Library of Congress could, at the outset, immediately begin to compile all of the data and expertise already developed in the area of electronic fund transfer systems. By securing competent, unbiased, and independently developed information, the groundwork for the commission's study will be set enabling the membership to get on with the task of formulating policy recommendations. Certainly, in view of the fact that the commission has already received a $500,000 appropriation, there is no reason for further delay in an already long overdue study of the wide range of public policy questions posed by the development of electronic fund transfer systems.

Your assistance in this matter is greatly appreciated and I am confident that you will take the necessary steps to accelerate the commission's study and investigation.

Sincerely,

FERNAND J. ST GERMAIN,
Chairman.

THE WHITE HOUSE,
Washington, January 3, 1975.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Bank Supervision and Insurance, Committee on Banking and Currency, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your December 30 letter to the President in which you inform him that you and Senator Proxmire plan to press for the adoption of a moratorium on the establishment of more electronic transfer facilities by financial institutions. You, also, renew your request that early action be taken to accelerate the work of the National Commission on Electronic Fund Transfers.

I have checked with the office of the Director of Personnel and learned that they are very actively involved in reviewing background information on persons under consideration for appointment as Executive Director of the Commission. I have made them aware of your interest in the appointment of an Acting Executive Director at this time, and will call your letter to the early attention of the President.

With kind regards,

Sincerely,

VERNON C. LOEN,
Special Assistant to the President.

DECLINING ENTHUSIASM FOR FOREIGN AID

(Mr. MILLER of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MILLER of Ohio. Mr. Speaker, the extremely difficult time encountered by the foreign aid program in the last session of Congress points out, I think, the fact that many Members feel a great many of our dollars are being wasted. This mood in the Congress only reflects the same consensus among the public that has been prevalent for many years. With our severe economic problems here at home, foreign aid is coming under intense scrutiny as being a bottomless pit with often ineffective one-sided benefits. In light of this dissatisfaction with foreign aid, I wanted to share with my colleagues a recent article in U.S. News & World Report which further analyzes the many problems with foreign aid:

[From U.S. News & World Report, Jan. 20, 1975]

AFTER 197 BILLIONS, UNITED STATES TURNS SOUR ON FOREIGN AID

America's foreign-aid programs are beginning to show signs of falling apart after alternating for three decades between triumphs and setbacks.

Helping other nations has been costly. Since the end of World War II, the U.S. has contributed about 197 billion dollars in aid to some 140 nations—a sum equivalent to somewhat more than 40 per cent of the current national debt.

Now signs are that more and more Americans—from ordinary taxpayers to top Government officials—want to overhaul and severely limit foreign-assistance programs.

Behind the pressure for cutbacks in the main: a growing feeling that the U.S. has spent too much money for the wrong purposes in the wrong places—and has received too little in return.

Disillusionment with past programs, however, is only one factor undermining support for foreign aid. Among others:

A severe recession at home coupled with unrelenting inflation has convinced many Americans that their country can no longer afford to prop up shaky governments around the globe.

The huge agricultural surpluses that were formerly the backbone of many U.S. aid programs have vanished. Now the U.S. can sell all the food it can grow, has no need to give it away.

Americans are becoming increasingly resentful of the failure of the newly rich oil-producing nations—especially the Arabs—to use their immense wealth to help needy nations.

Some nations that once were eager to get American help now regard it with suspicion—feeling that the U.S. uses aid only, or largely, for political purposes. Americans, on the other hand, feel resentful when governments that have received help in the past turn against the U.S. in international disputes.

"Liberals" in Congress complain that the U.S. uses aid to support dictatorial governments which terrorize their citizens. This puts them into a common front with "conservatives" who contend that aid funds are wasted through corruption and inefficiency.

As one member of the Senate Foreign Relations Committee staff predicts:

"It's going to boil down to essentially a dollars-and-cents thing. Most 'liberals' and 'conservatives' already agree that the program is too expensive a luxury to maintain at the present level and that it isn't working too well any more. Unless our recession turns around in a hurry, it's going to be a 'night of the long knives' for foreign aid."

In fact, foreign-aid funds already are being trimmed, at least when measured in real terms. In "constant dollars"—to discount inflation—aid money voted last fiscal year actually added up to the lowest total in a decade and was down 27 per cent from the high reached two years earlier.

Friend and foe. The list of countries that have received U.S. largesse reads like a world atlas. There are longtime allies such as Great Britain; two former foes, Germany and Japan; neighboring Mexico, "neutrals" such as India, and new African nations with names most Americans are unable to pronounce. Even the Soviet Union is included. The chart on page 39 gives the complete breakdown.

The foreign-aid program hits its peak in years when the U.S. was prosperous. Jobs were plentiful, living standards were rising, prices holding fairly steady, the country enjoying a fat trade balance.

None of that is true today. With a huge budget deficit certain and the economic slump now expected to last through most of 1975, attempts to slash big pieces from the economic-assistance package will be pushed in Congress.

One-sided aid. What irritates some critics is that the very countries benefiting most from today's global economic crisis—the Arab oil producers—are doing little to help less fortunate nations.

In 1974, for example, the U.S. contributed 28 million dollars toward the 85-million-dollar budget of the United Nations relief agency for Palestinian refugees. Saudi Arabia, world's leading oil exporter and a champion of the refugees, gave $650,000.

The U.S. recently boycotted another special U.N. fund set up to provide emergency relief for countries hit hardest by the quadrupled cost of oil and increases in other commodity prices. It was the first time that this country ever refused to take part in a major U.N. relief effort.

Official U.S. explanation was that the relief work should be carried out through existing programs rather than by creating another new and costly bureaucracy. Nevertheless, the move was also seen as a deliberate signal that Washington is fed up with the way "third world" nations have been voting against America in the U.N. General Assembly.

Example: The U.S. opposed a move in the General Assembly to permit the terrorist Palestine Liberation Organization to take part in debate on the Palestine question. The Americans were swamped, 104–4.

Again: U.N. members voted on a motion to exclude South Africa from the late 1974 sessions of the General Assembly. The U.S. fought the idea and lost, 91–22.

How allies act. U.S. opponents of foreign aid also complain that some of the biggest recipients of American help have lined up against this country in critical international situations.

Most European countries—which leaned on the Marshall Plan to recover from World War II—sided with the Arabs in the 1973 Mideast war. Even America's NATO allies—other than Portugal—refused to let U.S. planes ferrying supplies to Israel use their airports.

India—saved time and again from famine by American food shipments—seldom misses a chance to denounce U.S. diplomatic and military actions.

Several Latin-American and African countries which have received aid from the U.S. have nationalized American companies and raised barriers to imports of U.S. goods.

Some of America's "conservative" lawmakers who have long opposed aid programs now are gaining allies from the "liberal" ranks.

Representative H. R. Gross (Rep.), of Iowa, fought foreign aid in each of the 26 years he spent in Congress. Said Mr. Gross shortly before his retirement:

"This crazy-quilt legislation is getting us into more trouble at more expense each year. It's about time we quit kidding ourselves that we can remake the world and police it at the same time."

From a "conservative" Senator: "We're not getting our money's worth. Why should we help India if they can find the money to develop an A-bomb? And we've always been left alone in a pinch. Look at Vietnam."

Some former backers of the aid program, such as Representative Charles Wilson (Dem.), of Texas, are having second thoughts.

"I once supported foreign aid with enthusiasm," Mr. Wilson said. "But now I believe you're just throwing your money away if you help people who turn out to be hostile to you."

Senator Alan Cranston (Dem.), of California, predicts:

"A major effort will be made to reform

the program to get it away from the diplomatic and military uses that pervert its main purpose—helping the needy. All too often the money winds up in the wrong hands."

Some once-friendly lawmakers now oppose foreign aid on grounds that too often the money supports dictatorial governments. Cited as examples: Chile, South Korea and South Vietnam.

Representative Donald M. Fraser (Dem.), of Minnesota, a member of the House Foreign Affairs Committee who has been a strong supporter of aid programs, said he changed his mind because "the executive branch has made it abundantly clear that it intends to give the maximum amount of military aid, no matter how cruelly repressive recipient governments might be."

MISSPENT FUNDS?

More important than where aid money goes, other opponents argue, is how the funds are spent. Stories of waste and corruption abound—many of them denied by foreign-aid officials.

Typical charges, recounted recently in a series of articles published in "The Philadelphia Inquirer," include:

Houses erected ostensibly for poor families in South America are being occupied—and sometimes rented out at exorbitant profit—by doctors, lawyers and civil servants. Federal officials claim they did nothing but guarantee loans to U.S. firms to invest in the projects.

South Korean clothing factories, opened with loans backed by Washington, underprice American companies by paying workers an average of 20 cents an hour.

Food shipments and advice of U.S. agricultural experts in many instances actually have held back efforts by less developed countries to increase their own farm production.

Washington helped build a luxury resort hotel with 12 swiming pools in Haiti—one of the most impoverished countries on Earth. Specifically the U.S. Government's Overseas Private Investment Corporation guaranteed an American investment in building the hotel in an attempt to draw tourists.

Noting cases such as these, Senator Frank Church (Dem.), of Idaho, said:

"If the beneficiaries were the poor and the hungry of the world, I would be less concerned with what we have done. But . . . this program no longer serves the interests of the United States. It ought to be scrapped."

MORE CRITICISM

Surveys of newly elected members of Congress indicate that many of them will resist continuing foreign aid at high levels—especially military assistance. Commented Representative Clement J. Zablocki, of Wisconsin, second-ranking Democrat on the House Foreign Affairs Committee:

"It appears that military aid in particular will be in serious trouble. Many of the new members campaigned against foreign aid. They can't turn around. They'll have to vote against it unless it is tailored to their criticism. I think the Administration is in for a rough time getting the kind of bill it'll want."

The White House already is handcuffed by Congress in how it spends aid funds.

An authorization bill sent to Mr. Ford in late December calls for about 2.7 billion dollars in grants and loans—some 555 million less than the Administration wanted. There is serious doubt that even that much will finally be appropriated.

The authorization bill had been in serious trouble for months until Secretary of State Henry Kissinger finally made a hurried trip to Capitol Hill. He persuaded House members to delay carrying out their threat to suspend military aid to Turkey because of Turkey's use of American military equipment during the invasion of Cyprus.

But even Mr. Kissinger's persuasive powers could not prevent Congress from riddling the aid bill with limitations on funds for Turkey, the Indo-China nations, the Middle East, India and South Korea.

Daniel P. Moynihan, outgoing U.S. Ambassador to India, warned:

"The United States Congress is writing so many mean-spirited and inane restrictions in its aid legislation that the day can't be far when no self-respecting country will take American aid."

Yet Mr. Moynihan also admitted that the critical attitude assumed by some receiving countries aggravate the controversy. He said of India:

"They don't know how to cultivate us. They go around and make up lists of what America has done wrong."

Despite criticism of foreign aid, President Ford insists that it is "needed to sustain our peaceful objectives" and to meet "our moral, political and security obligations."

Proponents of the program defend it on more pragmatic grounds. A senior official in the Agency for International Development, main pipeline for the assistance effort, argues that, in helping new nations, the U.S. is really protecting its sources of raw materials and creating markets for American products.

Money at home. Government officials estimate that, of the total 197 billion dollars spent in aid so far, about 175 billions—nearly 90 per cent—has gone for American goods and services provided to receiving nations. Biggest beneficiaries: farmers and the defense industry.

Many in Congress, however, contend that aid money filtered through corporations to create jobs and spending power could be more effectively used in domestic social programs that help Americans at home.

Backers of U.S. aid argue that the various programs have paid off by preventing large chunks of the world from being sucked into the Communist orbit—Western Europe after World War II, South Korea in the 1950s and most recently South Vietnam.

The need for American money, food and equipment also is credited with helping Washington's effort to play a peace-making role in such potentially explosive situations as the Arab-Israeli conflict and the Greek-Turkish struggle over Cyprus. And looking ahead, one AID official says:

"The U.S. is not as powerful as it was before. With the energy problem and the food crisis, we need the less developed countries, too."

In the years since World War II, foreign-aid programs have undergone several major overhauls.

Under the Marshall Plan, nearly all the money went for economic assistance to Western European nations directly involved in fighting World War II.

In the cold war of the 1950s and early 1960s, mutual security became the watchword. Emphasis switched from economic to military aid, shifting from advanced countries to less developed parts of the world. Huge sums went to South Korea, Greece and Turkey to help them resist the threat of Communist take-overs. India became a major recipient, and Washington began pouring money, weapons and food into Indo-China.

Loans and gifts. Passage of the Foreign Assistance Act of 1961 signaled another change—this time to build up weak economies in hopes of making them self-supporting. Nearly one third of the money voted since then has gone to Indo-China, Korea and Israel, and another 20 per cent to India, Pakistan, Brazil, Nationalist China and Iran.

Last fiscal year about 42 per cent of the estimated 12 billion dollars in foreign aid of all types was military in nature, the rest economic. Some 57 per cent of the total was in grants and the balance in loans. Less developed countries received about 75 per cent of the funds. Israel and Indo-China alone absorbed more than 40 per cent.

About 22 billion dollars in aid over the years has come in the form of loans by the Export-Import Bank. The bank makes low-interest credits available for purchase of American goods and services. The receiving nations now pay between 7 and 8.5 per cent interest—considerably below what they would be charged in commercial markets.

In the end, aid supporters argue, the U.S. will not abandon its tradition of helping needy people. Emergency food shipments to prevent starvation in Bangladesh and Northern Africa are cited as only the latest examples.

Asserted a member of the House Foreign Affairs Committee:

"If you ask an American, 'Shall we do what we can to keep people in poor countries from starving?' they'll always say, 'Yes.' "

But providing badly needed food or lending a hand to nations hit by disasters is one thing, while continuing massive military and economic transfusions for every country that wants them is viewed as quite different. Reflecting today's hard-nosed attitude, a veteran observer of Congress said:

"Many members are asking themselves: 'What good does it do for the people back home?' A lot of them are deciding that the answer is—'not a damned thing.' "

Events in the months ahead, most informed officials agree, will make it clear that the days of an open-handed U.S. aid policy are over.

WILLIAM H. FRANKLIN

(Mr. MICHEL asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MICHEL. Mr. Speaker, one of America's outstanding businessmen will retire from his post at the end of this month, and it is fitting that this body take note of his brilliant career. He is William H. Franklin, chairman of the board and chief executive officer of the Caterpillar Tractor Co. of Peoria.

In his 34 years at Caterpillar, Franklin guided it into a position of remarkable strength and vigor. But to those of us who have known him, he is much more than just a financial genius. Unassuming and unpretentious, he has set a standard of ethical behavior that deserves emulation by businessmen everywhere. His countless contributions to civic causes have made my hometown of Peoria a better place for all its citizens. He has been an inspiration to thousands.

Upon the approach of his retirement, an excellent profile of Mr. Franklin written by Barbara Mantz appeared in the Peoria Journal Star. The article follows:

> For 30 years he's been Caterpillar's financial brain—the computer, the quantifier, the statistical wizard. But for the past few weeks, William H. Franklin has been conducting a countdown of his own—how many days till retirement.
>
> Franklin, regarded as the financial genius behind Caterpillar Tractor Co. for three of its five decades, steps down Feb. 1 as chairman of the board and chief executive officer. And, he says sincerely, he is looking forward to retirement. Friends say he really has been counting the days.
>
> He'll still serve on Caterpillar's Board of Directors, of course. And he'll still loan his financial wizardry to groups like the Federal Reserve Bank, the Exxon Corp. and the Committee for Economic Development.
>
> But his immediate concern will be a much less spectacular set of figures—his golf average. It seems that in the last 10 to 15 years, Franklin's golf score has risen in direct proportion to Caterpillar's profits.
>
> Thinking about golf instead of tractors will be a real change of pace for the man who,

more than anyone else, is credited with securing Caterpillar's reputation as a financially sound, stable company. Not a way to make a quick buck, but a good, solid place for long-term investment.

"He's been the guiding financial mind of the company for many years," says William Blackie, like Franklin an accountant and his predecessor as chairman of the board. "Economists will say Caterpillar has a great reputation for the quality of its financing, and that's largely due to the accounting."

And that, he hastens to add, is Franklin's major contribution to Caterpillar.

"He brought financially oriented, scientific management to this company," Caterpillar president Lee Morgan says of Franklin. "He's helped the organization really understand, in the finest sense of the term, the use of accounting information as a real managerial tool.

"Standards of work are related to this. You develop standards for achievement; you measure the actual against the goal. This is management by objectives that he articulated and led us toward—you quantify your objectives, you quantify the past accomplishments, then you look back and see if you've achieved your objectives and your goals. It's a simple but a very large and valuable concept."

Franklin himself won't discuss his accomplishments at Caterpillar—won't even, on the eve of his retirement, look back over his 34 years with the company and talk about one or two things he's particularly proud of having done.

"I don't know how to answer that," he says, speaking slowly and cautiously and appearing every bit as uncomfortable at being interviewed as people had said he would be. "You see, I don't like to be proud of anything."

Franklin's words are more revealing about himself than about his role at Caterpillar. He really would, friends say, rather not be proud of anything. In his view, a man should be humble, never proud.

He's discussed his philosophy of humility often with William Naumann, Caterpillar's next board chairman and a longtime personal friend.

"To him humility is not going around wearing sack cloth and ashes, but realizing that whatever talents and abilities you have are probably not of your own making," explains Naumann. "They were given to you by a Being greater than your own, and it was intended that these talents were to be used wisely."

The deep religious convictions underlying that philosophy come from a man whose genuine religious devotion would be matched by few corporate executives. Almost until the time he became Caterpillar president, and job pressures were too great, Franklin went to Mass daily. He intends to resume the practice after retirement.

Franklin converted to Catholicism about 20 years ago. Typically, he did so only after making a thorough study of all major religions.

Since then, church-related work has been his one consuming interest, apart from business. He was a founding member of a businessman's board formed in 1957 to advise the Sisters of the Third Order of St. Francis on administering health care services in their hospital chain. He served as the board's president for 15 years, during which three new hospitals were built and St. Francis remodeled.

He ran the fund drive to build Bergan High School and has made sizable personal contributions to the church and the hospital. He once spoke about God and the businessman at the Governor's annual prayer breakfast.

"I've tried to be as good a Christian as I possibly could be," Franklin says when asked to discuss the role of religion in his life. "That's about all I can say about that."

The statement is typically brief; Franklin dislikes talking about himself as much as he dislikes talking about his accomplishments. An executive biographical form Caterpillar files is noticeably blank in portions provided for hobbies and "a few interesting highlights of your Caterpillar career."

He is, friends say, a private man. For all his importance to Caterpillar and Peoria, his name has never become a household word. Even some Caterpillar office personnel report that they've never seen Franklin and aren't sure they'd know him if they did.

Franklin apparently prefers his relative anonymity. He's serious, businesslike, formal. He's never found it easy to be around lots of people, to be in the public gaze, to host things, associates say. He's never been a glad-hander.

He's known as something of a moralist—thoroughly honest, always concerned not only whether a decision is right in a business sense, but in an ethical one. Once a report came out that the federal government was planning a major spending cutback that could affect Caterpillar. Someone suggested that the company contact the President to point out the adverse business effects.

Franklin vetoed the idea, saying, "We've never asked for special favors from the government, and I don't propose to start doing it now."

He'd rather cheat himself out of a dime on an expense voucher than cheat the company, says Emma Ross, Franklin's secretary for 27 years. She recalls the time he became stranded in Indianapolis on a personal trip and, though needed back at the office, refused to ask the company plane to pick him up.

He hadn't gone there on business, he explained, so he found his own way home.

Old friends like George Murray, retired tire company owner, and retired insurance executive Matthew Powers describe Franklin as a kind-hearted, ordinary guy who, when asked by a stranger what he does, says only that he works for Caterpillar.

He seems to lack the aggression, certainly the killer instinct, that would make one man stand out among 80,000 and reach the top. He detests sham and pompousness and self-importance and is quick to shoot down any sign of it in others.

A few years back, Murray was lunching at the Creve Coeur Club with a couple businessmen he wanted badly to impress. Noticing Franklin at a nearby table, Murray pointed him out and said, "See, over there is Bill Franklin, head of Caterpillar. We're just like this," holding up crossed fingers.

The men were suitably impressed until they were leaving the Club and Murray, passing Franklin's table, called out, "Hi, Bill." Franklin, who'd observed the scene, glanced up and muttered, "Hi, Anderson."

Only child of a Chicago coal salesman, William Franklin majored in English at Princeton because, quite simply, he liked to read.

"I felt I was going to college to learn what to do with my leisure time," he explains. "I felt I was most apt to be reading during my leisure because I've always liked to read."

After graduation, he got a job as a clerk for a Chicago cold storage company which loaned money on the product in storage.

"They asked me to set up a statement showing how the company stood as far as the collateral," Franklin recalls. "Then they asked me to go up to a Detroit warehouse and set the same statement up. When I came back, my boss said it would have been helpful if I'd been an auditor."

So that's what Franklin decided to become. He studied accounting in night school for three years at Northwestern University, became a certified public accountant and went to work for Price Waterhouse and Co. out of Chicago.

There he worked closely with another bright, young fellow, named William Blackie. One of their larger accounts was Caterpillar Tractor Co., which required that they spend a considerable time in Peoria doing Caterpillar's audit.

(A "fringe benefit" of Franklin's work here was his acquaintance with a young Caterpillar secretary, an El Paso native named Mary Haas. She left the company when they were married in 1937.)

In 1939 Caterpillar hired Blackie as its controller, and two years later, Blackie persuaded Franklin to become his assistant. Within three years, Blackie was promoted and Franklin took his old job—a process that was to continue right on up through board chairmanship.

They made a good team, associates reflect, with personalities and styles and talents that complemented each other. Blackie established his reputation as a visionary and his genius as a manager; Franklin was the realist, his genius, finance.

"It goes far beyond accounting, though he's one of the very best accountants in the United States," says Blackie of Franklin. "He's extended his knowledge of accounting into the world of finance. In terms of interpretation of financial figures, his knowledge is very astute."

So astute that his ability to digest complicated financial data is the background for an "inside" challenge issued to anyone about to make a presentation to Franklin and other top Caterpillar management.

"It's always a race for the guy making the presentation to get to the middle of the book before Bill Franklin gets to the back of the book," chuckles Morgan. "It's kind of unnerving to the presenter when he's working on Pge six to have someone ask a question about something that's on Pge 18, and that's usually Bill Franklin."

"He has a very unique intellectual capacity," says Naumann. "He can look at the facts, size up the situation and foresee its impact on the future."

One area in which this skill has been particularly important to Caterpillar is in employment stabilization. The company has had no layoffs since 1959, and Naumann says Franklin should be given a good share of the credit.

"One of the ways you stabilize employment is the manner in which you assess the market and set your schedules accordingly," he says. "With the ability to foresee changes, you can adjust schedules to maximize employment. He's stayed close to the scheduling function the entire time he's been an officer."

Money, accounting (Franklin is a believer in conservative accounting principles which emphasize long-term stability rather than quick growth) and profits are subjects which Franklin enjoys discussing, talks about easily and at length.

Particularly profit. People who know him say you can't talk to or about Franklin for any length of time without eventually reaching the subject of profit.

Once, he alleged in a speech that the nation was graduating a bunch of "economic illiterates"—people who didn't understand that profit was good, not bad, that it played an essential role in the nation's economy.

(Bradley University President Martin G. Abegg says Franklin, who serves on Bradley's Board of Trustees, is such a fanatic on the topic that sometimes Abegg must remind him that Bradley is not supposed to make money.)

"Profit is very much needed in order for a company to grow," Franklin explains. "The company that is not making any money or is making very little money has little accumulated money to use. When it goes to the market place to try to get more money, people don't want to invest in it because it's not making very much profit.

"So the only way a company can grow and thrive and prosper, as Caterpillar has, is to make a reasonable profit but a good profit—first, in order to accumulate funds to use and secondly in order to attract capital from outside of the company.

"We sold $250 million worth of bonds just last month, and they were bought up on the first day, and the issue was a great success, and we have now $250 million more than we had the day before, and this is simply because Caterpillar is recognized as a sound financial company with a good profit record to support paying off those bonds."

He says the fact that a company like Caterpillar is concerned about profit doesn't mean that it's ignoring concerns like ecology, minority employment or the energy crisis.

"When I talk, for example, about the need for profit, I'm talking about the need for profit over the long term," he says. "After all, Caterpillar's in business we hope for ever, and the thing that we need to do is make the best profit we can forever, over the long, long pull.

"Now we will only be able to do that—we'll only be able to stay in business forever—if the general public permits us to operate. If an industry as a whole is not taking care of their civic problems, such as ecology, or disregarding the problems of minorities, the public isn't going to permit them to stay in business very long."

For Franklin, the "long pull"—his 34 years with the company—have been successful ones, both profit and growth-wise. When he joined the company, Caterpillar was a struggling East Peoria factory, employing 15,000 people here and in a small California plant. Sales totaled about $102 million annually.

In 1973, profit alone amounted to $247 million and sales were close to $4 billion. More importantly, Caterpillar is an international corporation, employing 80,000 people in 25 plants and 11 countries.

Business associates say Franklin's role in that growth should not be underestimated.

"There's no question that Bill Blackie was responsible for developing us into a multinational corporation, but while he was doing this, don't forget that Bill Franklin was the chief operating officer," says Naumann. "His role in developing this and refining this and carrying this out was very important. You know, there's quite a distance between conceiving an idea and implementing it."

But those also were years when Franklin was often too busy for some of the things he likes best—reading and golfing. He used to be an excellent golfer, but now, Franklin says he's afraid his game may be "shot beyond repair."

Still there's always hope, and one of the reasons the Franklins have bought a condominium in Naples, Fla., is so he won't have to wait until spring to get his game back in shape.

When golfing weather returns to the Midwest, the Franklins will head back for their Miller Avenue home. Not incidentally, it borders the Peoria Country Club golf course. And, friends say he'll deny it, but they know William Franklin too well to believe that, even on his busiest days, he hasn't sneaked out the back door and aimed a few practice shots at the nearest hole.

PROVIDING NATIONAL DESIGNATION AND PROTECTION FOR HELLS CANYON AND MIDDLE SNAKE RIVER

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the Record.)

Mr. ULLMAN. Mr. Speaker, this week I have reintroduced my legislation to provide national designation and protection for Hells Canyon and the Middle Snake River. As my colleagues know, this is the deepest river gorge on the North American continent. Last year, my bill was a victim of parliamentary maneuvering in the waning days of the 93d Congress. This year, I am joined in introduction of the bill by Chairman Roy Taylor of the Subcommittee on National Parks and Recreation, the entire Oregon delegation, most of the members of the Washington delegation, and many other present and former members of the House Interior Committee.

The major issue is whether the last free-flowing stretch of the Snake River should remain unimpounded. My bill proposes Wild and Scenic River status for 101 miles of the Snake from the present Hells Canyon dam downstream to Asotin, Wash. It creates a national recreation area encompassing 670,000 acres around Hells Canyon, including provisions for study of road access to the rim of the Oregon side and wilderness designation of the steep canyon face in Oregon and Idaho. The administration recommended Wild and Scenic River status last year, pointing out that some energy development projects have too high an environmental price tag. This stretch of the river is the last remaining potential hydroelectric site in the Pacific Northwest, but is not a part of the Bonneville Power Administration projections for future power sources. I am convinced that new dams need not be built and will not be built. We need to pursue alternate power sources in the Pacific Northwest. These proposed dams would only buy us 6 months relief based on projected uses, and then we would still need alternate sources and the canyon would be flooded. We should not pay that price, and we should take action early this year to enact H.R. 30. I urge my colleagues to join me in supporting this important resource legislation.

Mr. DUNCAN of Oregon. Mr. Speaker, I am joining as a cosponsor of the bill to establish the Hells Canyon National Recreation Area with Congressman Ullman and others for two reasons:

First. Because I would not vote today for either authorizing or funding of any dam in Hells Canyon. I have enjoyed boating, camping, and fishing in that area and believe that only the most demanding of reasons can justify altering it; and

Second. I have great respect for the judgment and integrity of Congressman Ullman, in whose district this area lies, and who is the principal sponsor of the bill.

I acknowledge, however, some reservations about the bill. Some are technical and can be ironed out: One is not technical. It is in my judgment potentially very serious. It is the increasing energy problem facing this country—threatening our whole industrial and economic stability—and emphasized both by the President and my own party in public declarations during the past few hours. While I oppose dams in the Snake today, neither I nor anyone else knows the options that may confront the country tomorrow.

I believe further that we need not face such an option; that our energy problems can be solved by other means—if we can unite to do so with the same enthusiasm and cohesiveness that proponents of this bill have demonstrated. This means support for research and development of all alternative sources of energy, including such as may be required to remove the problems and advance our present technology in nuclear power production and the production and use of coal in a manner not destructive of our environment. I am confident that such support will be forthcoming.

Should the next few years, however, present the unpleasant alternative I suggest is possible, I shall not hesitate to make the choice which the national interest requires at that time, and I shall, of course, present my views with respect to the technical problems outlined above, as the bill proceeds through the legislative process.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my legislation to provide national designation and protection for Hells Canyon and the Middle Snake River.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Studds) to revise and extend their remarks and include extraneous matter:)

Mr. Flood, for 5 minutes, today.

Mr. Gonzalez, for 30 minutes, today.

Mr. St Germain, for 5 mintues, today.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the revise and extend remarks was granted to:

(The following Members (at the request of Mr. Miller of Ohio) and to include extraneous matter:)

Mr. Coughlin.

Mr. Mitchell of New York.

Mr. Emery.

Mr. Findley in five instances.

Mr. McCollister in three instances.

Mr. Derwinski in three instances.

Mr. Bauman in 10 instances.

Mr. Miller of Ohio in six instances.

(The following Members (at the request of Mr. Studds) and to include extraneous matter:)

Mr. Stuckey.

Mr. Bolling in two instances.

Mr. Obey.

Mr. Jones of Tennessee.

Mr. Harrington in five instances.

Mr. Carney in two instances.

Mr. Anderson of California in three instances.

Mr. Gonzalez in three instances.

Mr. Byron in 10 instances.

Mr. Lehman in five instances.

Ms. Schroeder.

Mrs. SULLIVAN.
Mr. BROWN of California.

ADJOURNMENT

Mr. STUDDS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until Monday, January 20, 1975, at 12 o'clock noon.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*Submitted January 14, 1975*]

By Mr. ABDNOR:

H.R. 1228. A bill to amend the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

By Ms. ABZUG:

H.R. 1229. A bill to exonerate and to provide for a general and unconditional amnesty for certain persons who have violated or are alleged to have violated laws in the course of protests against the involvement of the United States in Indochina, and for other purposes; to the Committee on the Judiciary.

By Mr. ALEXANDER:

H.R. 1230. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries; to the Committee on Government Operations.

H.R. 1231. A bill to amend the Federal Trade Commission Act to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

H.R. 1232. A bill to amend the Social Security Act to make certain that recipients of supplemental security income benefits, recipients of aid or assistance under the various Federal-State public assistance and medicaid programs, and recipients of assistance or benefits under the veterans' pension and compensation programs and certain other Federal and federally assisted programs will not have the amount of such benefits, aid, or assistance reduced because of post-1973 increases in monthly social security benefits; to the Committee on Ways and Means.

H.R. 1233. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ANDERSON of California:

H.R. 1234. A bill to terminate the airlines mutual aid agreement; to the Committee on Public Works and Transportation.

By Mrs. SULLIVAN:

H.R. 1235. A bill to protect the public health by amending the Federal Food, Drug, and Cosmetic Act so as to amend certain labeling provisions of the food, drug, and cosmetic chapters to assure adequate information for consumers, including cautionary labeling of articles where needed to prevent accidental injury; expand the coverage of the "Delaney Clause" to apply to mutagenic and teratogenic agents; eliminate the "Grandfather's Clause" for pre-1958 chemical additives used in food; require nutritional labeling of foods; require labeling of all ingredients in foods, listed in order of predominance, including specific coloring and preservative ingredients; prohibit worthless ingredients in special dietary foods; authorize the establishment of standards for medical devices; require medical devices to be shown safe and efficacious before they are marketed commercially; require all antibiotics to be certified; provide for the certification of certain other drugs; require records and reports bearing on drug safety; limit the distribution of sample drugs; require cosmetics to be shown safe before they are marketed commercially; clarify and strengthen existing inspection authority; make additional provisions of the act applicable to carriers; provide for administrative subpenas; provide for strengthening and facilitating mutual cooperation and assistance, including training of personnel, in the administration of that act and of related State and local laws; prohibit the use of carcinogenic color additives in animal feeds; safeguard the health of children by banning sweetened or flavored aspirin from commerce; authorize a system of coding for prescription drugs; establish a U.S. Drug Compendium; and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ANDERSON of California:

H.R. 1236. A bill to amend the Coastal Zone Management Act of 1972, to provide for Federal-State cooperation in oil drilling activities which may affect the coastal zone of a State prior to final approval of a State's coastal zone management program; jointly to the Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

By Mr. ANNUNZIO:

H.R. 1237. A bill to amend title II of the Social Security Act to increase to $750 in all cases the amount of the lump-sum death payment thereunder; to the Committee on Ways and Means.

By Mr. BELL:

H.R. 1238. A bill to encourage States to establish motor vehicle disposal programs and to provide for federally guaranteed loan and tax incentives for the acquisition of automobile scrap processing equipment; to the Committee on Interstate and Foreign Commerce.

By Mr. BENNETT:

H.R. 1239. A bill to prohibit the broadcasting of paid political advertisements for presidential candidates and to require broadcasting stations to provide free broadcasting time for such candidates; to the Committee on Interstate and Foreign Commerce.

By Mr. BIESTER:

H.R. 1240. A bill to amend title 18, United States Code, to promote public confidence in the legislative branch of the Government of the United States by requiring the disclosure by Members of Congress and certain employees of the Congress of certain financial interests; to the Committee on Standards of Official Conduct.

By Mr. BINGHAM:

H.R. 1241. A bill to provide for the monthly publication of a Consumer Price Index for the Elderly which shall be used in the provision of cost-of-living benefit increases authorized by title II of the Social Security Act; to the Committee on Ways and Means.

H.R. 1242. A bill to regulate interstate commerce by amending the Federal Food, Drug, and Cosmetic Act to provide for the licensing of vessels and establishments used in the harvesting, processing, displaying, and selling of fish and fishery products, for the inspection of the vessels and establishments after licensing, and for cooperation with the States in the regulation of intrastate commerce with respect to State fish inspection programs, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, and Merchant Marine and Fisheries.

By Mr. BOLAND:

H.R. 1243. A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; jointly to the Committees on Interstate and Foreign Commerce, and Science and Technology.

By Mr. BROOKS:

H.R. 1244. A bill to establish procedures and regulations for certain protective services provided by the U.S. Secret Service; jointly to the Committees on Government Operations, and the Judiciary.

By Mr. BROYHILL:

H.R. 1245. A bill to amend the act of August 24, 1955, for purposes of prohibiting the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment; to the Committee on Agriculture.

By Mr. CARNEY:

H.R. 1246. A bill to amend the Food Stamp Act of 1964 to prohibit, after January 1, 1975, an increase in the percentage of a household's monthly net income required to be paid for a monthly allotment of food stamps unless the Congress establishes the increase; to the Committee on Agriculture.

H.R. 1247. A bill to regulate interstate and foreign commerce in order to provide early warning of plant closings and relocations to those locally affected; to the Committee on Education and Labor.

H.R. 1248. A bill to limit the quantity of iron and steel scrap which may be exported from the United States to 6 million tons annually during the next 3-year period; to the Committee on Foreign Affairs.

H.R. 1249. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a Formulary Committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

H.R. 1250. A bill to amend title XVIII of the Social Security Act to freeze the inpatient hospital deductible which is imposed for purposes of hospital insurance benefits, and the monthly premiums which are charged for purposes of supplementary medical insurance benefits (and for purposes of hospital insurance benefits for uninsured individuals not otherwise eligible, at their 1974 levels; to the Committee on Ways and Means.

H.R. 1251. A bill to amend the Social Security Act to establish a program of food allowance for older Americans; jointly to the Committees on Agriculture, and Ways and Means.

By Mr. CONLAN:

H.R. 1252. A bill to reestablish the fiscal integrity of the Government of the United States and its monetary policy, through the establishment of controls with respect to the levels of its revenues and budget outlays, the issuance of money, and the preparation of the budget, and for other purposes; jointly to the Committees on Ways and Means, and Banking, Currency, and Housing.

By Mr. CONTE:

H.R. 1253. A bill to direct the President to halt all exports of gasoline, distillate fuel oil, and propane gas until he determines that no shortage of such fuels exist in the United States; to the Committee on Foreign Affairs.

H.R. 1254. A bill to provide for protection of franchised dealers in petroleum products; to the Committee on Interstate and Foreign Commerce.

H.R. 1255. A bill to authorize the Council on Environmental Quality to carry out a county government environmental control demonstration project; to the Committee on Merchant Marine and Fisheries.

By Mr. DOMINICK V. DANIELS:

H.R. 1256. A bill to amend the age and service requirements for immediate retirement under subchapter III of chapter 83 of title 5, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DANIELSON (for himself, Mr. Matsunaga, Mr. Mineta, Mrs. Mink, and Mr. Anderson of California):

H.R. 1257. A bill to establish a Relocation Benefits Commission to provide assistance to certain persons who were relocated under the authority of Executive Order Numbered 9066, dated February 19, 1942, and for other purposes; to the Committee on the Judiciary.

By Mr. de la GARZA:

H.R. 1258. A bill to amend title XIX of the Social Security Act to require a State, under its approved medicaid plan, to provide assistance to the medically indigent as well as the medically needy; to the Committee on Interstate and Foreign Commerce.

By Mr. DELANEY:

H.R. 1259. A bill to strengthen and improve the Older Americans Act of 1965 and for others purposes; to the Committee on Education and Labor.

H.R. 1260. A bill to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes; to the Committee on Education and Labor.

H.R. 1261. A bill to amend the Export Administration Act of 1969 to provide for the regulation of the export of agricultural commodities; to the Committee on Foreign Affairs.

H.R. 1262. A bill to provide for the humane care, treatment, habilitation, and protection of the mentally retarded in residential facilities through the establishment of strict quality operation and control standards and the support of the implementation of such standards by Federal assistance, to establish State plans which require a survey of need for assistance to residential facilities to enable them to be in compliance with such standards, seek to minimize inappropriate admissions to residential facilities and develop strategies which stimulate the development of regional and community programs for the mentally retarded which include the integration of such residential facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1263. A bill to prohibit the use of appropriated funds to carry out or assist research on living human fetuses; to the Committee on Interstate and Foreign Commerce.

H.R. 1264. A bill to amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended, to implement the Convention for the Suppression of Unlawful Seizure of Aircraft and to amend title XI of such act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Unlawful Seizure of Aircraft and to authorize the Secretary of Transportation to revoke the operating authority of foreign air carriers under certain circumstances, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 1265. A bill to prohibit most-favored-nation treatment and commercial and guarantee agreements with respect to any nonmarket economy country which denies to its citizens the right to emigrate or which imposes more than nominal fees upon its citizens as a condition to emigration; to the Committee on Ways and Means.

H.R. 1266. A bill to establish an Office of Consumer Affairs in the Executive Office of the President and a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes; jointly to the Committees on Government Operations, and Interstate and Foreign Commerce.

By Mr. DELLUMS:

H.R. 1267. A bill to provide for disclosure of information by executive departments to committees of Congress; to the Committee on Armed Services.

H.R. 1268. A bill to help preserve the separation of powers and to further the constitutional prerogatives of Congress by providing for congressional review of executive agreements; jointly to the Committees on Foreign Affairs and Rules.

By Mr. DOWNING:

H.R. 1269. A bill to amend the depository library program (44 U.S.C. 1901–14); to the Committee on House Administration.

H.R. 1270. A bill to promote the conservation and orderly development of hard mineral resources of the deep seabed, pending adoption of an international regime relating thereto; jointly to the Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

By Mr. DUNCAN of Tennessee:

H.R. 1271. A bill to designate a national laboratory as the "Oak Ridge National Laboratory"; to the Joint Committee on Atomic Energy.

By Mr. ECKHARDT (for himself, Mr. Dingell, Ms. Abzug, Mr. Drinan, Mr. Mitchell of Maryland, Mr. Scheuer, Mr. Charles H. Wilson of California, Mr. Helstoski, Mr. Van Deerlin, Mr. Stark, Mr. Ashley, Mr. Carney, and Mr. Edwards of California):

H.R. 1272. A bill to require no-fault motor vehicle insurance as a condition precedent to using the public streets, roads, and highways in order to promote and regulate interstate commerce; to the Committee on Interstate and Foreign Commerce.

By Mr. EILBERG:

H.R. 1273. A bill to help preserve the separation of powers and to further the constituted prerogative of Congress by providing for congressional review of executive or international agreements; to the Committee on Foreign Affairs.

H.R. 1274. A bill to establish in the State of Pennsylvania the Edgar Allan Poe National Historical Park; to the Committee on Interior and Insular Affairs.

H.R. 1275. A bill to establish a Council on Judicial Tenure in the judicial branch of the Government, to establish a procedure in addition to impeachment for the retirement of disabled Justices and judges of the United States, and the removal of Justices and judges whose conduct is or has been inconsistent with the good behavior required by article III, section 1 of the Constitution, and for other purposes; to the Committee on the Judiciary.

H.R. 1276. A bill to require that all authorization of appropriations for the Departments of Justice and Labor for administering the Immigration and Nationality Act, with respect to any fiscal year beginning after June 30, 1970, shall be specifically made by Act of Congress; to the Committee on the Judiciary.

H.R. 1277. A bill to establish certain rules with respect to the appearance of witnesses before grand juries, to provide for independent inquiries by grand juries, and for other purposes; to the Committee on the Judiciary.

By Mr. EILBERG (for himself and Mr. Green):

H.R. 1278. A bill to amend the Public Health Service Act to promote the health and welfare of children in need of adoption by facilitating their placement, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. FISH:

H.R. 1279. A bill to provide for the garnishment of the wages of Federal employees; to the Committee on the Judiciary.

H.R. 1280. A bill to authorize and direct the Secretary of Defense and the Administrator of the General Services Administration to insure the procurement and use by the Federal Government of products manufactured from recycled materials; to the Committee on Government Operations.

H.R. 1281. A bill providing for temporary controls of certain increases in utility rates; to the Committee on Interstate and Foreign Commerce.

H.R. 1282. A bill to promote fair competition among prime contractors and subcontractors and to prevent bid peddling on public works contracts by requiring persons submitting bids on those contracts to specify certain subcontractors who will assist in carrying them out; to the Committee on the Judiciary.

H.R. 1283. A bill to amend title 23 of the United States Code to authorize a grant program for research and development of alternative fuels for motor vehicles; to the Committee on Science and Technology.

H.R. 1284. A bill to provide for the monthly publication of a Consumer Price Index for the Aged which shall be used in the provision of cost-of-living benefit increases authorized by title II of the Social Security Act; to the Committee on Ways and Means.

By Mr. FLOWERS:

H.R. 1285. A bill to amend the black lung benefits provisions of the Federal Coal Mine Health and Safety Act of 1969 to extend those benefits to miners who incur silicosis in iron mines; to the Committee on Education and Labor.

By Mr. FLYNT:

H.R. 1286. A bill to amend title XI of the Social Security Act to repeal the provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. FRASER (for himself, Mr. Diggs, Mr. Buchanan, and Mr. Biester):

H.R. 1287. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; to the Committee on Foreign Affairs.

By Mr. FREY:

H.R. 1288. A bill to permit the transportation of passengers by foreign vessels between ports in the United States if such transportation is not in direct competition with U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. GUDE (by request):

H.R. 1289. A bill to provide for a study and investigation with respect to the adoption by the United States of a reformed calendar; to the Committee on Interstate and Foreign Commerce.

By Mr. HARKIN:

H.R. 1290. A bill to amend the Agricultural Act of 1949 to increase the loan rate and established price on certain agricultural commodities; to the Committee on Agriculture.

By Mr. HECHLER of West Virginia:

H.R. 1291. A bill to amend the act of August 24, 1966, for purposes of prohibiting the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment; to the Committee on Agriculture.

H.R. 1292. A bill to amend the Federal Meat Inspection Act to prohibit the sale for human consumption of meat from horses, mules, and other equines; to the Committee on Agriculture.

H.R. 1293. A bill to amend the Food Stamp Act of 1964 to prohibit, after January 1, 1975, an increase in the amount paid by households for allotments of food stamps; to the Committee on Agriculture.

H.R. 1294. A bill to amend the International Travel Act of 1961 to provide for Federal regulation of the travel agency industry; to the Committee on Interstate and Foreign Commerce.

H.R. 1295. A bill to amend the National Environmental Policy Act of 1969 to provide for citizens actions in the U.S. district courts against persons responsible for creating certain environmental hazards; jointly to the Committees on Merchant Marine and Fisheries, and the Judiciary.

H.R. 1296. A bill to provide reduced retirement benefits for Members of Congress who remain in office after attaining 70 years of age; jointly to the Committees on Post Office and Civil Service, and House Administration.

By Mr. HEINZ:

H.R. 1297. A bill to amend title XIX of the Social Security Act to impose certain requirements relating to the discharge or transfer of medicaid patients from skilled nursing or intermediate care facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1298. A bill to amend the Social Security Act to provide for the furnishing of rehabilitative services to inpatients of long-term care facilities; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

H.R. 1299. A bill to amend the Social Security Act so as to make permanent certain temporary provisions relating to inspections of long-term care institutions, to provide for the publication of certain information regarding such institutions, and requiring that such institutions provide certain training for their nonprofessonal employees as a condition of participation in the medicare and medicaid programs; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

H.R. 1300. A bill to amend title XVIII of the Social Security Act to provide for the establishment of a Nursing Home Affairs Advisory Council; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. HENDERSON:

H.R. 1301. A bill to authorize the Secretary of Agriculture to make advances of money to chiefs of field parties; to the Committee on Agriculture.

By Mrs. HOLT:

H.R. 1302. A bill to provide for payments in lieu of real property taxes, with respect to certain real property owned by the Federal Government; to the Committee on Government Operations.

H.R. 1303. A bill to authorize voluntary withholding of Maryland, Virginia, and District of Columbia income taxes in the case of Members of Congress and congressional employees; to the Committee on House Administration.

H.R. 1304. A bill to assure the continued dedication of the United States to quality education and the neighborhood school concept: to the Committee on the Judiciary.

H.R. 1305. A bill to establish a Commission on Medical Malpractice Awards; to the Committee on the Judiciary.

H.R. 1306. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitations, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1307. A bill to amend title XVIII of the Social Securtiy Act to include breast prosthesis among the items and services for which payment may be made under the supplementary medical insurance program; to the Committee on Ways and Means.

H.R. 1308. A bill to amend title XI of the Social Security Act to repeal the provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Ms. HOLTZMAN:

H.R. 1309. A bill to prohibit increases in the amount required to be paid by households for food stamp allotments; to the Committee on Agriculture.

H.R. 1310. A bill to provide a remedy for sex discrimination by the insurance business with respect to the availabiltiy and scope of insurance coverage for women; to the Committee on Interstate and Foreign Commerce.

H.R. 1311. A bill relating to intervening in and influencing the political affairs of foreign countries or political subdivisions thereof; to the Committee on the Judiciary.

H.R. 1312. A bill to prevent the use of Federal funds for certain legal expenses of certain persons convicted or pardoned in Watergate-related cases; to the Committee on the Judiciary.

By Mr. ICHORD:

H.R. 1313. A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Rolls, Mo., for airport purposes; to the Committee on Public Works and Transportation.

By Mr. JOHNSON of California:

H.R. 1314. A bill to amend chapter 2 of title 16 of the United States Code (respecting national forest) to provide a share of timber receipts to States for schools and roads; to the Committee on Agriculture.

By Mr. JOHNSON of Pennsylvania:

H.R. 1315. A bill to incorporate the U.S. Submarine Veterans of World War II; to the Committee on the Judiciary.

H.R. 1316. A bill to exclude from gross income the first $1,000 of interest received from savings account deposits in home lending institutions; to the Committee on Ways and Means.

H.R. 1317. A bill of amend title II of the Social Security Act to increase the amount of outside earnings which [subject to further increases under the automatic adjustment provisions] is permitted each year without any deductions from benefits thereunder, and to revise the method for determining such amount; to the Committee on Ways and Means.

By Mr. JONES of Oklahoma (for himself and Mr. ALEXANDER):

H.R. 1318. A bill to provide that there shall be no general revenue sharing unless the Federal budget is in balance or shows a surplus; to the Committee on Government Operations.

By Mr. KARTH (for himself, Mr. FORSYTHE, and Mr. DINGELL):

H.R. 1319. A bill to provide additional funds to the States for carrying out wildlife restoration projects and programs, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. KARTH (for himself and Mr. EILBERG):

H.R. 1320. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Public Works and Transportation.

By Mr. KASTENMEIER:

H.R. 1321. A bill to protect the public health and welfare by providing certain minimum standards of sanitation for imported dairy products; to the Committee on Agriculture.

By Mr. KOCH:

H.R. 1322. A bill to amend the Military Selective Service Act to clarify the definition of conscientious objector so as to specifically include conscientious opposition to military service in a particular war; and to provide to certain indviduals the opportunty to claim exemption from military service as selective conscientious objectors irrespective of their existing selective servce status; to the Committee on Armed Services.

H.R. 1323. A bill to amend the Military Selective Service Act to 1967 clarifying the definition of conscientious objector so as to specifically include conscientious opposition to military service in a particular war; to the Committee on Armed Services.

H.R. 1324. A bill to amend the Consumer Credit Protection Act; to the Committee on Banking, Currennncy, and Housing.

H.R. 1325. A bill to amend title XIX of the Social Security Act to waive the existing requirement that all medicaid patients be given free choice in the selection of treatment facilities in cases where the services involved are being effectively provided through locally operated public health centers, or where such services may be most effectively obtained in designated specialized medical centers; to the Committee on Interstate and Foreign Commerce.

H.R. 1326. A bill to amend title 5, United States Code, to permit Federal officers and employees to take an active part in political management and in political campaigns; to the Committee on Post Office and Civil Service.

H.R. 1327. A bill to amend title 38 of the United States Code in order to permit veterans to transfer all or part of their educational assistance under chapter 34 of such title to their spouses, and to provide educational assistance at the secondary school level to widows, widowers, and spouses eligible for educational assistance under chapter 35 of such title; to the Committee on Veterans' Affairs.

H.R. 1328. A bill to amend title 38 of the United States Code in order to eliminate the time limitation on the provision of educational assistance to veterans who served on active duty at any time during the Vietnam era or thereafter; to the Committee on Veterans' Affairs.

H.R. 1329. A bill to amend the Social Security Act to provide that the Secretary of Health, Education, and Welfare [in the case of the old-age, survivors, and disability insurance program or the medicare program] or the appropriate state agency [in the case of any of the public assistance or medicaid programs] shall be liable for attorney's fees incurred by an individual in successfully challenging a decision which denies him the benefits or assistance, or reduces or limits the benefits or assistance, to which he is entitled under such program; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 1330. A bill to require Federal employees to file with the Office of the Federal Register a statement with respect to certain gifts made or received by such employees; jointly to the Committees on the Judiciary and Standards of Official Conduct.

By Mr. LITTON:

H.R. 1331. A bill to require the President to transmit to Congress copies of each Presidential proclamation and Executive order; to the Committee on Government Operations.

H.R. 1332. A bill to establish an Agency of Economic and Natural Resources Planning in the executive branch of the Federal Government; to the Committee on Government Operations.

By Mr. METCALFE:

H.R. 1333. A bill to amend section 1979 of the Revised Statutes (42 U.S.C. 1983) to permit suits against bodies politic and the District of Columbia with respect to certain violations of civil rights; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.R. 1334. A bill to amend the Export-Import Bank Act of 1945 to prohibit the extension of credit to Turkey until the President reports to the Congress that Turkey is cooperating with the United States in the curtailment of heroin traffic; to the Committee on Banking, Currency, and Housing.

H.R. 1335. A bill to create a National Landlord and Tenant Commission, to establish housing courts, and to define or to provide therefor the rights, obligations, and liabilities of landlords and tenants so as to regulate the activities of the commercial rental housing operations which affect the stability of the economy, the amount of a person's real income, the travel of goods and people in commerce, and the general welfare of all citizens of this Nation; to the Committee on Banking, Currency and Housing.

H.R. 1336. A bill to provide for the monthly publication of a Consumer Price Index for the Elderly and to provide for studies to be made with regard to utilizing such index in determining cost-of-living adjustments authorized in certain Federal programs for individuals who are at least 62 years of age; to the Committee on Education and Labor.

H.R. 1337. A bill to provide for additional Federal financial participation in expenses incurred in providing benefits to Indians, Aleuts, native Hawaiians, and other aboriginal persons, under certain State public assistance programs established pursuant to the Social Security Act; to the Committee on Ways and Means.

H.R. 1338. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

H.R. 1339. A bill to amend the Maritime Academy Act of 1958 in order to authorize the Secretary of the Navy to appoint students at State maritime academies and colleges as Reserve midshipmen in the U.S. Navy, and for other purposes; jointly to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. MURTHA (for himself, Mr. Hechler of West Virginia, Mr. Morgan, Mr. Charles H. Wilson of California, Mr. Conyers, Mr. Helstoski, Mr. Rosenthal, Mrs. Collins of Illinois, Mr. Price, Mr. Johnson of Pennsylvania, Mr. Harrington, Ms. Holtzman, and Mr. Slack):

H.R. 1340. A bill to amend the Federal Coal Mine Health and Safety Act of 1969; to the Committee on Education and Labor.

By Mr. MURTHA:

H.R. 1341. A bill to amend section 118(c) of title 28, United States Code, to establish a place for the holding of Federal district court in Johnstown, Pa.; to the Committee on the Judiciary.

By Mr. OBEY:

H.R. 1342. A bill to protect the public health and welfare by providing for the inspection of imported dairy products and by requiring that such products comply with certain minimum standards for sanitation and that the dairy farms on which milk is produced and the plants in which such products are produced meet certain minimum standards of sanitation, and for other purposes; to the Committee on Agriculture.

H.R. 1343. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries; to the Committee on Government Operations.

H.R. 1344. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

By Mr. O'BRIEN:

H.R. 1345. A bill to amend the act of August 24, 1966, for purposes of prohibiting the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment; to the Committee on Agriculture.

H.R. 1346. A bill to amend the Civil Rights Act of 1964 to make it an unlawful employment practice to discriminate against individuals who are physically handicapped because of such handicap; to the Committee on Education and Labor.

H.R. 1347. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish a save-outdoor-America program, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1348. A bill to amend section 404(b) of the Federal Aviation Act of 1958 to provide that no physically handicapped individual shall be denied air transportation solely because of such physical handicap, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 1349. A bill to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land [rather than at its fair market value], and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes, at its value for its existing use, and to provide for the revocation of such lower evaluation and recapture of unpaid taxes with interest in appropriate circumstances; to the Committee on Ways and Means.

By Mr. OTTINGER:

H.R. 1350. A bill to strengthen and expand the Headstart program, with priority to the economically disadvantaged, to amend the Economic Opportunity Act of 1964, and for other purposes; to the Committee on Education and Labor.

By Mr. PATMAN:

H.R. 1351. A bill to assure maximum national nutrition with the highest quality and greatest quantity of milk, milk products, red meat, and poultry at the most reasonable cost to consumers with emphasis on people, performance and production; to achieve a continuing supply of essential food in the national interest; and for other purposes; to the Committee on Agriculture.

H.R. 1352. A bill to prohibit the importation into the United States of any fresh, chilled, frozen, or canned cattle meat during a 180-day period and for other purposes; to the Committee on Ways and Means.

H.R. 1353. A bill to prohibit the importation into the United States of any dairy products for a period of 12 months unless and until the market price for milk reaches 100 percent of parity and then only if the Secretary of Agriculture certifies that the products equal or exceed all U.S. health and sanitary requirements; to the Committee on Ways and Means.

By Mr. PEPPER:

H.R. 1354. A bill to amend title XVIII of the Social Security Act to provide long-term care services as a part of the supplementary medical insurance program, to encourage the creation of community long-term care centers to assist in providing such services, and for other purposes; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. PEPPER (for himself and Mr. Dingell):

H.R. 1355. A bill to protect the Nation's consumers and to assist the commercial fishing industry through the inspection of establishments processing fish and fishery products in commerce; jointly to the Committees on Merchant Marine and Fisheries and Interstate and Foreign Commerce.

By Mr. PERKINS:

H.R. 1356. A bill to increase the production, transportation, and conversion of coal as a source of energy; to the Committee on Interstate and Foreign Commerce.

H.R. 1357. A bill to amend the Higher Education Act of 1965 to provide for the education of persons for coal production, conversion, utilization, and conservation and related activities, and for other purposes; jointly to the Committees on Education and Labor, and Science and Technology.

H.R. 1358. A bill to establish a program to provide for the development of coal gasification and coal liquefaction, for production of oil from oil shale, and for other purposes; jointly to the Committees on Interior and Insular Affairs, and Science and Technology.

By Mr. PETTIS (for himself and Mr. Brown of California):

H.R. 1359. A bill for the relief of certain students harmed by the insolvency of Riverside University of Riverside, Calif.; to the Committee on the Judiciary.

By Mr. PEYSER:

H.R. 1360. A bill to provide Federal assistance for programs of consumers' nutritional education; to the Committee on Agriculture.

H.R. 1361. A bill to amend title XIX of the Social Security Act to impose certain requirements relating to the discharge or transfer or medicaid patients from skilled nursing or intermediate care facilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1362. A bill to amend the Social Security Act to provide for the furnishing of rehabilitative services to inpatients of long-term care facilities; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

H.R. 1363. A bill to amend the Outer Continental Shelf Lands Act, to establish a National Marine Mineral Resources Trust, and for other purposes; jointly to the Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

H.R. 1364. A bill to amend the Hazardous Materials Transportation Control Act of 1970 to require the Secretary of Transportation to issue regulations providing for the placarding of certain vehicles transporting materials in interstate and foreign commerce, and for other purposes; jointly to the Committees on Public Works and Transportation and Interstate and Foreign Commerce.

H.R. 1365. A bill to amend title XVIII of the Social Security Act to provide for the establishment of a Nursing Home Affairs Advisory Council; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

H.R. 1366. A bill to amend the Social Security Act so as to make permanent certain temporary provisions relating to inspections of long-term care institutions, to provide for the publication of certain information regarding such institutions, and requiring that such institutions provide certain training for their nonprofessional employees as a condition of participation in the medicare and medicaid programs; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. PRICE:

H.R. 1367. A bill to provide for the development of a uniform system of quality grades for consumer food products; to the Committee on Agriculture.

H.R. 1368. A bill to amend the Public Works and Economic Development Act of 1965 to establish a program to assist municipalities and businesses in urban industrial development, and for other purposes; to the Committee on Banking and Currency and Housing.

H.R. 1369. A bill to establish a fuel stamp program which will provide fuel stamps to certain low-income elderly households to help meet fuel costs incurred by such households; to the Committee on Interstate and Foreign Commerce.

H.R. 1370. A bill to increase the production, transportation, and conversion of coal as a source of energy; to the Committee on Interstate and Foreign Commerce.

H.R. 1371. A bill to amend the Public Works and Economic Development Act of 1965, as amended, to establish an emergency Federal economic assistance program, to authorize the President to declare areas of the Nation which meet certain economic and employment criteria to be economic disaster areas, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 1372. A bill to amend title XVIII of the Social Security Act to provide payment under the supplementary medical insurance program for optometrists' services and eyeglasses; to the Committee on Ways and Means.

By Mr. ROE:

H.R. 1373. A bill to amend the Social Security Act to establish a national catastrophic illness insurance program under which the Federal Government, acting in cooperation with State insurance authorities and the private insurance industry, will reinsure and otherwise encourage the issuance of private health insurance policies which make adequate health protection available to all Americans at a reasonable cost; to the Committee on Interstate and Foreign Commerce.

H.R. 1374. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

By Mr. ROONEY:

H.R. 1375. A bill to prohibit without congressional approval expenditures of appropriated funds with respect to private property used as residences by individuals whom the Secret Service is authorized to protect; to the Committee on Government Operations.

By Mr. ROSENTHAL:

H.R. 1376. A bill to establish the Airport Noise Curfew Commission and to define its functions and duties; to the Committee on Public Works and Transportation.

H.R. 1377. A bill to repeal the meat quota provisions of Public Law 88–482; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI:

H.R. 1378. A bill to amend title XVIII of the Social Security Act to conform the timing of premium determinations thereunder with the automatic benefit increase provisions in title II of that act, and to provide for studies of malpractice insurance problems among physicians and hospitals; jointly to the Committees on Ways and Means, and Science and Technology.

By Mr. STEIGER of Arizona:

H.R. 1379. A bill to amend Public Law 87–279 to permit the Secretary of the Interior to administer electric utility systems constructed and operated as a part of an irrigation system; to the Committee on Interior and Insular Affairs.

By Mrs SULLIVAN:

H.R. 1380. A bill to authorize appropriations for the fiscal year 1975 for certain maritime programs of the Department of Commerce; to the Committee on Merchant Marine and Fisheries.

By Mr. TEAGUE:

H.R. 1381. A bill to amend section 1152(a) of the Social Security Act to provide that any State with a statewide professional standards review organization shall be established as one area for which a professional standards review organization may be designated, if such State requests; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. WAGGONNER:

H.R. 1382. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of professional standards review organizations to review services covered under the medicare and medicaid programs; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

[*Submitted January 14, 1975*]

By Mr. ALEXANDER:

H.R. 1383. A bill to convey the mineral rights in certain real property located in Izard County, Ark., to L. M. Brown, the owner of such real property; to the Committee on Interior and Insular Affairs.

By Mr. CHAPPELL:

H.R. 1384. A bill for the relief of Romeo M. De Garcia, his wife Amelia, and their son Jeffrey Noel; to the Committee on the Judiciary.

H.R. 1385. A bill for the relief of Ramona Castro Flores Vda. de Guzman; to the Committee on the Judiciary.

By Mr. CONTE:

H.R. 1386. A bill for the relief of Smith College, Northampton, Mass.; to the Committee on the Judiciary.

By Mr. DE LA GARZA:

H.R. 1387. A bill for the relief of Raul Alvarez Rodriguez; to the Committee on the Judiciary.

H.R. 1388. A bill for the relief of Guadalupe Villegas-Cantu; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 1389. A bill for the relief of Mrs. Dorothy S. Eaton; to the Committee on the Judiciary.

H.R. 1390. A bill for the relief of Phiroze J. Nagarvala; to the Committee on the Judiciary.

By Mr. DOWNING:

H.R. 1391. A bill for the relief of Boulos Stephan; to the Committee on the Judiciary.

By Mr. EILBERG:

H.R. 1392. A bill for the relief of Ball State University and the American Association of Colleges for Teacher Education; to the Committee on the Judiciary.

H.R. 1393. A bill for the relief of Jacinta Roque Gonzalez Lopez; to the Committee on the Judiciary.

By Mr. FISH:

H.R. 1394. A bill for the relief of Suk Chin and Hae Suk Chin; to the Committee on the Judiciary.

H.R. 1395. A bill for the relief of Mee Kyung Cho and Hee Kyung Cho; to the Committee on the Judiciary.

H.R. 1396. A bill for the relief of Sang Kook Chung and Hwa Soon Chung; to the Committee on the Judiciary.

H.R. 1397. A bill for the relief of Ae Sook Song and Mi Yun Lee; to the Committee on the Judiciary.

By Mr. HASTINGS:

H.R. 1398. A bill for the relief of Beverly H. Fagerstrom; to the Committee on the Judiciary.

H.R. 1399. A bill for the relief of Maria Del Carmen Alvarado Martinez; to the Committee on the Judiciary.

By Mrs. HOLT:

H.R. 1400. A bill to authorize the conveyance of certain lands in the District of Columbia to the Greater Southeast Community Hospital Foundation, Inc., to the Committee on Interior and Insular Affairs.

H.R. 1401. A bill for the relief of Robert M. Johnston; to the Committee on the Juidicary.

By Mr. ICHORD:

H.R. 1402. A bill for the relief of John W. Hollis; to the Committee on the Judiciary.

By Mr. JOHNSON of California:

H.R. 1403. A bill to authorize the Secretary of the Interior to rectify a public land transaction; to the Committee on the Judiciary.

H.R. 1404. A bill to authorize the Secretary of the Interior to convey certain lands in Madera County, Calif., to Mrs. Lucille Jones, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1405. A bill to authorize the Secretary of the Interior to convey certain lands in Placer County, Calif., to Mrs. Edna C. Marshall, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. JORDAN:

H.R. 1406. A bill for the relief of Doctor Lawrence C. B. Chan; to the Committee on the Judiciary.

By Mr. KETCHUM:

H.R. 1407. A bill for the relief of Conrado S. Sabelino, Sr.; to the Committee on the Judiciary.

By Mr. LEHMAN:

H.R. 1408. A bill for the relief of Joseph Hoffman; to the Committee on the Judiciary.

By Mr. LUJAN:

H.R. 1409. A bill to provide for the payment of death benefits in lieu of Servicemen's Group Life Insurance benefits to the eligible survivors of certain individuals killed while participating in the Air Force Reserve Officer's Training Corps flight instruction program; to the Committee on the Judiciary.

H.R. 1410. A bill for the relief of Samuel T. Ansley; to the Committee on the Judiciary.

H.R. 1411. A bill for the relief of Maria Martins Sanchez; to the Committee on the Judiciary.

By Mr. McCLORY:

H.R. 1412. A bill for the relief of Trinidad P. Yumul and minor children, Randy Eugene Richardson and Raymond Yumul; to the Committee on the Judiciary.

By Mr. MILFORD:

H.R. 1413. A bill for the relief of Janusz Kochanski; to the Committee on the Judiciary.

H.R. 1414. A bill for the relief of Manuel Suarez; to the Committee on the Judiciary.

H.R. 1415. A bill for the relief of Aurora Garcia Suarez; to the Committee on the Judiciary.

By Mr. MURPHY of New York:

H.R. 1416. A bill for the relief of Lee In Duek; to the Committee on the Judiciary.

By Mr. PETTIS:

H.R. 1417. A bill to authorize the President of the United States to present, in the name of Congress, a Medal of Honor to Brig. Gen. Charles E. Yeager; to the Committee on Armed Services.

By Mr. REES:

H.R. 1418. A bill for the relief of Gregory Barrett; to the Committee on the Judiciary.

H.R. 1419. A bill for the relief of Nicolas Gabriel Burger and Silvia Burger; to the Committee on the Judiciary.

H.R. 1420. A bill for the relief of Mary P. Cain; to the Committee on the Judiciary.

H.R. 1421. A bill for the relief of Stephanie Kahn and Barbara Heyman; to the Committee on the Judiciary.

H.R. 1422. A bill for the relief of Ester Libkind; to the Committee on the Judiciary.

H.R. 1423. A bill for the relief of Diana L. Ortiz; to the Committee on the Judiciary.

H.R. 1424. A bill for the relief of Mrs. Rose Thomas; to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 1425. A bill for the relief of Juliet Elizabeth Tozzi; to the Committee on the Judiciary.

By Mr. ROSTENKOWSKI:

H.R. 1426. A bill for the relief of Mrs. Wanda Maria Dudek; to the Committee on the Judiciary.

By Mr. ROYBAL:

H.R. 1427. A bill for the relief of Marta Lidia Corletto Padro; to the Committee on the Judiciary.

By Mr. STEIGER of Wisconsin:

H.R. 1428. A bill for the relief of Jong Ho Lee; to the Committee on the Judiciary.

By Mrs. SULLIVAN:

H.R. 1429. A bill for the relief of Ebinger Electronics, Inc.; to the Committee on the Judiciary.

By Mr. SYMMS:

H.R. 1430. A bill for the relief of Jose Ramon Santa Maria; to the Committee on the Judiciary.

By Mr. TEAGUE:

H.R. 1431. A bill for the relief of William Alison Anders and Michael Collins; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 1432. A bill for the relief of Liwang Ameng Garcia and Nelson Ameng Montoya; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 1433. A bill to authorize Robert L. Rausch to accept an office or position in a university maintained by the Government of Canada; to the Committee on Foreign Affairs.

H.R. 1434. A bill to amend the Act entitled "An Act to authorize the sale of certain public lands in Alaska to the Catholic Bishop of Northern Alaska for use as a mission school", approved August 8, 1953; to the Committee on Interior and Insular Affairs.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

(Submitted January 15, 1975)

By Mr. BROYHILL:

H.R. 1435. A bill to amend the Communications Act of 1934 to provide authorization for appropriations for the Federal Communications Commission for fiscal years 1976, 1977, and 1978; to the Committee on Interstate and Foreign Commerce.

H.R. 1436. A bill to amend the Securities Exchange Act of 1934 to provide authorizations for appropriations for the Securities and Exchange Commission for fiscal years 1976, 1977, and 1978; to the Committee on Interstate and Foreign Commerce.

H.R. 1437. A bill to provide authorizations for appropriations for the Food and Drug Administration for fiscal years 1976, 1977, and 1978; to the Committee on Interstate and Foreign Commerce.

H.R. 1438. A bill to amend the Federal Power Act to provide authorization for appropriations for the Federal Power Commission for fiscal years 1976, 1977, and 1978; to the Committee on Interstate and Foreign Commerce.

H.R. 1439. A bill to provide authorizations for appropriations for the Federal Aviation Administration for fiscal years 1976, 1977, and 1978; to the Committee on Public Works and Transportation.

H.R. 1440. A bill to amend the Federal Aviation Act of 1958 to provide authorizations for appropriations for the Civil Aeronautics Board for fiscal years 1976, 1977, and 1978; to the Committee on Public Works and Transportation.

H.R. 1441. A bill to amend the Interstate Commerce Act to provide authorizations for appropriations for the Interstate Commerce Commission for fiscal years 1976, 1977, and 1978; jointly to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

H.R. 1442. A bill to provide authorizations for appropriations for the regulatory agencies of the Federal Government for fiscal years 1976, 1977, and 1978; jointly to the Committees on Interstate and Foreign Commerce and Public Works and Transportation.

By Mr. CARTER:

H.R. 1443. A bill to amend the Public Health Service Act to revise the National Health Service Corps program and the Public Health and National Health Service Corps Scholarship Training program; to the Committee on Interstate and Foreign Commerce.

By Mr. DOMINICK V. DANIELS:

H.R. 1444. A bill to amend title 5, United States Code, to provide for annuities for surviving spouses under the Civil Service Retirement System without reduction in principal annuities, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1445. A bill to establish a National Energy Information System in the Department of Commerce and for other related purposes; jointly, to the Committees on Interstate and Foreign Commerce, and Interior and Insular Affairs.

By Mr. ECKHARDT (for himself, Mr. Moss, Mr. Dingell, Mr. Phillip Burton, Mr. Gibbons, Mr. Price, and Mr. Studds):

H.R. 1446. A bill to restore the independence of the Civil Aeronautics Board, the Federal Communications Commission, the Federal Power Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Securities and Exchange Commission, and the Consumer Product Safety Commission; and to increase the independence of the Environmental Protection Agency in carrying out the Clean Air Act, the Solid Waste Disposal Act, and the Noise Control Act of 1972; to the Committee on Interstate and Foreign Commerce.

By Mr. EDWARDS of Alabama:

H.R. 1447. A bill to amend the Clean Air Act to assure consideration of the total environmental, social, and economic impact while improving the quality of the Nation's air; to the Committee on Interstate and Foreign Commerce.

By Mr. GONZALEZ:

H.R. 1448. A bill to amend title 10, United States Code, to permit the recomputation of retired pay of certain members and former members of the Armed Forces; to the Committee on Armed Services.

H.R. 1449. A bill to provide for the compensation of persons injured by certain criminal acts, and for other purposes; to the Committee on the Judiciary.

By Mr. HALEY:

H.R. 1450. A bill to amend the Budget and Accounting Act, 1921, to provide for the retirement of the public debt by setting aside the first 5 percent of the budget receipts of the United States for each fiscal year for the sole purpose of retirement of obligations counted as part of the public debt; jointly to the Committees on Government Operations, and Ways and Means.

By Mr. HORTON:

H.R. 1451. A bill to designate the birthday of Susan B. Anthony as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. HOWARD:

H.R. 1452. A bill to extend the contiguous fisheries zone of the United States to a distance of 197 miles seaward of the territorial sea; to the Committee on Merchant Marine and Fisheries.

By Mr. HOWE (for himself and Mr. McKay):

H.R. 1453. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries; to the Committee on Government Operations.

By Mr. ICHORD:

H.R. 1454. A bill to amend title II of the Social Security Act to provide that increases in monthly insurance benefits thereunder (whether occurring by reason of increases in the cost of living or enacted by law) shall not be considered as annual income for purposes of certain other benefit programs; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself, Mr. Baldus, Mr. Obey, and Mr. Steiger of Wisconsin):

H.R. 1455. A bill to provide for the appointment of an additional district judge for the western district of Wisconsin; to the Committee on the Judiciary.

By Mr. LOTT:

H.R. 1456. A bill to amend title II of the Social Security Act to eliminate the 5-month waiting period for disability benefits, to liberalize the earnings test, to permit adopted children to qualify for benefits without regard to time of adoption, to eliminate the reconsideration stage in benefit determinations, to provide for the issuance of duplicate benefit checks where the initial checks are lost or delayed, and to provide for expedited benefit payments to disability beneficiaries; to the Committee on Ways and Means.

By Mr. MELCHER:

H.R. 1457. A bill to amend the Food Stamp Act of 1964; to the Committee on Agriculture.

By Mr. MINISH:

H.R. 1458. A bill making an additional appropriation for the fiscal year ending June 30, 1975, for the Department of Health, Education, and Welfare for research on the cause and treatment of diabetes; to the Committee on Appropriations.

H.R. 1459. A bill to extend benefits under section 8191 of title 5, United States Code, to law enforcement officers and firemen not employed by the United States who are killed or totally disabled in the line of duty; to the Committee on the Judiciary.

H.R. 1460. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to survivors of certain public safety officers who die in the performance of duty; to the Committee on the Judiciary.

By Mr. PERKINS:

H.R. 1461. A bill to eliminate discrimination based on sex with respect to the appointment and admission of persons to the service academies; to the Committee on Armed Services.

H.R. 1462. A bill to amend the Higher Education Act of 1965 with respect to basic educational opportunity grants; to the Committee on Education and Labor.

By Mr. PETTIS:

H.R. 1463. A bill to amend title 10, United States Code, to restore the system of recomputation of retired pay for certain members and former members of the Armed Forces; to the Committee on Armed Services.

H.R. 1464. A bill to limit the sale or distribution of mailing lists by Federal agencies; to the Committee on Government Operations.

H.R. 1465. A bill to provide for the division of assets between the Twenty-Nine Palms Band and the Cabazon Band of Mission Indians, Calif., including certain funds in the U.S. Treasury, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1466. A bill to convey certain federally owned land to the Twentynine Palms Park and Recreation district; to the Committee on Interior and Insular Affairs.

H.R. 1467. A bill to prohibit assaults on State and local law enforcement officers, firemen, and judicial officers; to the Committee on the Judiciary.

H.R. 1468. A bill to amend section 403(b) of the Federal Aviation Act of 1958 to permit the continuation of family fares; to authorize reduced-rate transportation for handicapped persons and their attendants; and to authorize reduced-rate transportation for elderly people and young people on a space-available basis; to the Committee on Public Works and Transportation.

H.R. 1469. A bill to require the Secretary of Transportation to prescribe regulations governing the humane treatment of animals transported in air commerce; to the Committee on Public Works and Transportation.

H.R. 1470. A bill to amend title 18, United States Code, to promote public confidence in the legislative branch of the Government of the United States by requiring the disclosure by Members of Congress and certain employees of the Congress of certain financial interests; to the Committee on Standards of Official Conduct.

H.R. 1471. A bill to amend title 38 of the United States Code so as to provide that public or private retirement, annuity, or endowment payments (including monthly social security insurance benefits) shall not be included in computing annual income for the purpose of determining eligibility for a pension under chapter 15 of that title; to the Committee on Veterans' Affairs.

H.R. 1472. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. PRICE:

H.R. 1473. A bill to require an investigation and study, including research, into possible uses of solid wastes resulting from mining and processing coal; to the Committee on Interior and Insular Affairs.

By Mr. REUSS:

H.R. 1474. A bill to amend the provisions of the Tariff Act of 1930 relating to the marketing of imported articles in order to clarify the meaning of "ultimate purchaser" in the case of certain articles imported for processing; to the Committee on Ways and Means.

By Mr. ROBERTS:

H.R. 1475. A bill to increase the production, transportation, and conversion of coal as a source of energy; to the Committee on Interstate and Foreign Commerce.

H.R. 1476. A bill to amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from requiring an indirect source emission review as a part of any applicable implementation plan; to the Committee on Interstate and Foreign Commerce.

H.R. 1477. A bill to amend the Civil Rights Act of 1964 to provide for freedom of choice in student assignments in public schools; to the Committee on the Judiciary.

H.R. 1478. A bill to amend title 18 of the United States Code to provide in certain circumstances the death penalty for kidnaping, and to establish a rebuttable presumption with respect to certain unexplained disappearances; to the Committee on the Judiciary.

H.R. 1479. A bill to provide a penalty for the robbery or attempted robbery of any narcotic drug from any pharmacy; to the Committee on the Judiciary.

H.R. 1480. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

H.R. 1481. A bill to abolish the U.S. Postal Service, to repeal the Postal Reorganization Act, to reenact the former provisions of title 39, United States Code, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1482. A bill to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as "Veterans Day"; to the Committee on Post Office and Civil Service.

H.R. 1483. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

H.R. 1484. A bill to prescribe uniform criteria for formulating judicial remedies for the elimination of dual school systems; jointly to the Committees on the Judiciary and Education and Labor.

H.R. 1485. A bill to create a public works program for the purpose of reducing unemployment; to the Committee on Public Works and Transportation.

H.R. 1486. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; jointly to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. ROYBAL:

H.R. 1487. A bill to amend title VII of the Civil Rights Act of 1964 to protect the employment rights of the elderly; to the Committee on Education and Labor.

H.R. 1488. A bill, National Public Employee Relations Act; to the Committee on Education and Labor.

H.R. 1489. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 1490. A bill to amend title II of the Social Security Act to increase to $3,600 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. SLACK:

H.R. 1491. A bill to provide a priority system for certain agricultural uses of natural gas; to the Committee on Interstate and Foreign Commerce.

By Mrs. SULLIVAN (for herself and Mr. DOWNING):

H.R. 1492. A bill to protect the domestic fishing industry by granting to it the same protections granted to the coastwide trade; to the Committee on Merchant Marine and Fisheries.

By Mr. TALCOTT:

H.R. 1493. A bill to authorize the Secretary of Agriculture to cooperate with the States and subdivisions thereof in the enforcement of State and local laws, rules, and regulations within the National Forest System; to the Committee on Agriculture.

H.R. 1494. A bill to amend the Federal Meat Inspection Act to require that imported meat and meat food products made in whole or in part of imported meat be labeled "imported" at all stages of distribution until delivery to the ultimate consumer; to the Committee on Agriculture.

H.R. 1495. A bill to require imported foodstuffs to meet standards required by the Federal Government for domestic foodstuffs; to the Committee on Agriculture.

H.R. 1496. A bill to provide grants to States or political subdivisions thereof or to certain other persons to assist the restoration of historical cemeteries or burial plots, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1497. A bill to amend the Federal Water Pollution Control Act; to the Committee on Public Works and Transportation.

H.R. 1498. A bill to amend the Internal Revenue Code of 1954 to authorize a deduction from gross income for certain expenses of employing full-time household help; to the Committee on Ways and Means.

H.R. 1499. A bill to amend section 213 of the Internal Revenue Code of 1954 to provide that certain expenses of child adoption shall be treated as medical expenses; to the Committee on Ways and Means.

By Mr. RONCALIO:

H.R. 1500. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Polecat Bench area of the Shoshone extensions unit, Pick-Sloan Missouri Basin program, Wyo., and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1501. A bill to authorize the Administrator of General Services to provide space in the Old Post Office Building to tenants approved by the Chairman of the National Endowment for the Arts, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. SEBELIUS:

H.R. 1502. A bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes; to the Committee on Agriculture.

H.R. 1503. A bill to authorize and direct the Secretary of the Interior to conserve and store helium; to the Committee on Interior and Insular Affairs.

H.R. 1504. A bill to amend the Uniform Time Act of 1966 to provide that daylight saving time shall begin on Memorial Day and end on Labor Day of each year; to the Committee on Interstate and Foreign Commerce.

By Mr. VANIK:

H.R. 1505. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit or an income tax deduction for certain expenditures of a taxpayer relating to the thermal design of the residence of such taxpayer; to the Committee on Ways and Means.

By Mr. WAGGONNER:

H.R. 1506. A bill to amend Public Law 92-181 (85 Stat. 583) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products; to the Committee on Agriculture.

By Mr. LANDRUM:

H. J. Res. 93. Joint resolution to provide for the designation of the week of February 9 to 15, 1975, as National Vocational Education Week; to the Committee on Post Office and Civil Service.

By Mr. ROBERTS:

H.J. Res. 94. Joint resolution designating the American Rose as the National Floral Emblem of the United States of America; to the Committee on House Administration.

H.J. Res. 95. Joint resolution proposing an amendment to the Constitution of the United States to insure the rights of parents and local school authorities to determine which school the children in that locality will attend; to the Committee on the Judiciary.

By Mr. WHITEHURST:

H.J. Res. 96. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. HORTON:

H. Con. Res. 43. Concurrent resolution expressing the sense of Congress that the Holy Crown of Saint Stephen should remain in the safekeeping of the U.S. Government until Hungary once again functions as a constitutional government established by the Hungarian people through free choice; to the Committee on Foreign Affairs.

By Mr. PATMAN:

H. Con. Res. 44. Concurrent resolution providing for the printing of a revised edition of the House document, "Our American Government, What is it? How Does It Function?"; to the Committee on House Administration.

By Mr. ROBERTS:

H. Con. Res. 45. Concurrent resolution to collect overdue debts; to the Committee on Foreign Affairs.

By Mr. CARTER:

H. Res. 66. Resolution expressing the sense of the House that the proposed regulations on food stamps, effective March 1, 1975, be rescinded; to the Committee on Agriculture.

By Mr. ASHBROOK:

H. Res. 67. Resolution to amend the Rules of the House of Representatives to establish the Committee on Internal Security, and for other purposes; to the Committee on Rules.

By Mr. HORTON:

H. Res. 68. Resolution concerning the safety and freedom of Valentyn Moroz, Ukrainian historian; to the Committee on Foreign Affairs.

By Mr. SEBELIUS:

H. Res. 69. Resolution creating a select committee to study the impact and ramifications of the Supreme Court decisions on abortion; to the Committee on Rules.

By Mr. STUDDS:

H. Res. 70. Resolution providing monetary allowances for toll-free telephone services for telephone calls to the district offices of Members of the House, and for other purposes; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

[*Submitted January 15, 1975*]

By Mr. DANIELSON:

H.R. 1507. A bill for the relief of Marisa Marzano; to the Committee on the Judiciary.

By Mr. DICKINSON:

H.R. 1508. A bill for the relief of Wilma V. Hatfield; to the Committee on the Judiciary.

By Mr. HALEY:

H.R. 1509. A bill to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in certain lands in Florida to Arthur M. Marshall and Carl F. Steinfield; to the Committee on Interior and Insular Affairs.

By Mr. McCOLLISTER:

H.R. 1510. A bill for the relief of Steve P. Reese; to the Committee on the Judiciary.

By Mr. RIEGLE:

H.R. 1511. A bill for the relief of Jill Pedley Arrand; to the Committee on the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*Submitted January 16, 1975*]

By Mr. ANDERSON of California:

H.R. 1512. A bill for the relief of certain natives of the Philippines who served in the U.S. Armed Forces during World War II; to the Committee on the Judiciary.

H.R. 1513. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

By Mr. CASEY (for himself, Mr. Kazen, Mr. Rousselot, and Mr. Milford):

H.R. 1514. A bill to amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from requiring an indirect source emission review as a part of any applicable implementation plan; to the Committee on Interstate and Foreign Commerce.

By Mr. DINGELL:

H.R. 1515. A bill to limit the jurisdiction of the Supreme Court and the district courts in certain cases; to the Committee on the Judiciary.

By Mr. DINGELL (for himself and Mr. Forsythe):

H.R. 1516. A bill to amend the Migratory Bird Treaty Act to prohibit the baiting of migratory game birds during certain periods, to impose penalties for such baiting, to increase the maximum fines for certain other violations of such act, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DINGELL (for himself, Mr. Forsythe, Mr. Downing, Mr. Rogers, Mr. McCloskey, Mr. Murphy of New York, Mr. Jones of North Carolina, Mr. Anderson of California, Mr. Bowen, and Mr. Biaggi):

H.R. 1517. A bill to amend the Fishermen's Protective Act of 1967 to require the return of certain vessels of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. DINGELL (for himself, Mr. McCloskey, Mr. Biaggi, Mr. Anderson of California, Mr. Downing, Mr. Forsythe, Mr. Metcalfe, Mr. Breaux, Mr. Sarbanes, Mr. Karth, Mr. Conte, Mr. Rooney, and Mr. Moss):

H.R. 1518. A bill to increase the maximum amount of aggregate payments which may be made in calendar years after 1974 to carry out conservation agreements under the Water Bank Act; to the Committee on Merchant Marine and Fisheries.

By Mr. DINGELL (for himself, Mr. Biaggi, Mr. Anderson of California, Mr. Studds, Mr. McCloskey, Mr. Mr. Treen, Mr. Forsythe, and Mr. Pritchard):

H.R. 1519. A bill to authorize the Secretary of the Interior to assist the States in controlling damage caused by predatory and depredating animals; to establish a program or research concerning the control and conservation of predatory and depredating animals; to restrict the use of toxic chemicals as a method of predator control; and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DINGELL (for himself, Mr. Forsythe, Mr. Downing, Mr. Biaggi, Mr. McCloskey, Mr. Anderson of California, Mr. Metcalfe, Mr. Sikes, and Mr. Conte):

H.R. 1520. A bill to designate certain lands in the State of Alaska as units of the national wildlife refuge system; to the Committee on Merchant Marine and Fisheries.

By Mr. DINGELL (for himself, Mr. Forsythe, Mr. McCloskey, Mr. Conte, Mr. Ford of Michigan, Mr. Nedzi, and Mr. Moss):

H.R. 1521. A bill to require a Federal permit for the taking of any migratory game birds other than migratory waterfowl, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DINGELL (for himself, Mr. Biaggi, Mr. Forsythe, and Mr. Studds):

H.R. 1522. A bill to revise the laws relating to the establishment, administration, and management of the National Wildlife Refuge System, to establish a Bureau of National Wildlife Refuges, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ECKHARDT (for himself, Mr. Dent, Mr. Seiberling, Mr. Vanik, Mr. Ichord, Mr. Matsunaga, Mrs. Boggs, Mr. Mikva, Mr. Charles H. Wilson of California, Ms. Jordan, Ms. Abzug, Mr. Edwards of California, and Mr. Conyers):

H.R. 1523. A bill to amend the Budget and Accounting Act, 1921, to provide the Comptroller General additional authority to audit certain expenditures; to the Committee on Government Operations.

By Mr. EDWARDS of Alabama:

H.R. 1524. A bill to authorize the Secretary of the Interior to conduct a study with respect to the feasibility of establishing the Bartram Trail as a national scenic trail; to the Committee on Interior and Insular Affairs.

H.R. 1525. A bill to amend the Communications Act of 1934 to establish orderly procedures from the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. EDWARDS of California:

H.R. 1526. A bill to prohibit the introduction into interstate commerce of nonreturnable beverage containers; to the Committee on Interstate and Foreign Commerce.

H.R. 1527. A bill to amend the Immigration and Nationality Act to eliminate the legal custody requirement and the requirement of residence and physical presence in the United States for the naturalization of children adopted by U.S. citizens; to the Committee on the Judiciary.

By Mr. ERLENBORN:

H.R. 1528. A bill to amend the National Labor Relations Act to provide that any employee who is a member of a religion or sect historically holding conscientious objection to joining or financially supporting a labor organization shall not be required to do so; to the Committee on Education and Labor.

By Mr. GUDE:

H.R. 1529. A bill to repeal the limitation on pay comparability adjustments under subchapter I of chapter 53 of title 5, United States Code; to the Committee on Post Office and Civil Service.

By Mr. HASTINGS:

H.R. 1530. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to discharge obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances; to the Committee on Interstate and Foreign Commerce.

By Ms. HOLTZMAN:

H.R. 1531. A bill to prohibit the use of appropriated funds by the Commission on C.I.A. Activities; to the Committee on Armed Services.

By Ms. HOLTZMAN (for herself and Mr. John L. Burton):

H.R. 1532. A bill to prohibit the use of appropriated funds by the Central Intelligence Agency for certain purposes; to the Committee on Armed Services.

By Mr. METCALFE:

H.R. 1533. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, in any manner affecting interstate or foreign commerce, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs; to the Committee on the Judiciary.

By Mr. DINGELL (for himself, Mr. McCloskey, Mr. Biaggi, and Mr. Forsythe):

H.R. 1534. A bill to provide additional funds for certain projects relating to fish restoration, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 1535. A bill to increase the amount of benefits payable to widows of certain former employees of the Lighthouse Service; to the Committee on Merchant Marine and Fisheries.

By Mr. NIX:

H.R. 1536. A bill to include inspectors of the Immigration and Naturalization Service or the Bureau of Customs within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of certain employees engaged in hazardous occupations, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1537. A bill to amend title 5, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1538. A bill to amend title 38 of the United States Code in order to provide mortgage protection life insurance to certain veterans unable to acquire commercial life insurance because of service-connected disabilities; to the Committee on Veterans' Affairs.

By Mr. SATTERFIELD:

H.R. 1539. A bill to amend title 10 of the United States Code in order to reduce the share of the outpatient and inpatient charges paid for by beneficiaries under the CHAMPUS program from 25 per centum to 5 per centum; to the Committee on Armed Services.

H.R. 1540. A bill to amend chapter 17, title 38, United States Code, to provide hospital care and medical services abroad to an alien, who was never an American citizen for any service-connected disability incurred while serving in the Armed Forces of the United States; to the Committee on Veterans' Affairs.

H.R. 1541. A bill to amend section 624 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to furnish hospital care and medical services for certain veterans in need of such care while sojourning or residing abroad, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1542. A bill to amend title 38, United States Code, in order to authorize outpatient care by the Veterans' Administration for all disabilities of certain veterans suffering from service-connected conditions, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1543. A bill to amend section 620, title 38, United States Code, to authorize payment of a higher proportion of hospital costs in establishing amounts payable for nursing home care of certain veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1544. A bill to amend title 38, United States Code, in order to increase the number of nursing care beds required to be operated by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SATTERFIELD (for himself, Mr. Teague, Mr. Roberts, and Mr. Hammerschmidt):

H.R. 1545. A bill to amend title 38, United States Code, to establish the per annum full-pay scale for certain personnel of the Department of Medicine and Surgery of the Veterans' Administration; to make a career in the Department of Medicine and Surgery more attractive, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SATTERFIELD (for himself, Mr. Teague, and Mr. Roberts):

H.R. 1546. A bill to amend section 620, title 38, United States Code, to exempt contract nursing home care under this section from the requirement of the Service Contract Act of 1965; to the Committee on Veterans' Affairs.

By Mr. SATTERFIELD (for himself and Mr. Roberts):

H.R. 1547. A bill to amend title 38 of the United States Code in order to extend medical benefits to the survivors of any veteran who at the time of death was suffering from a total and permanent service-connected disability; to the Committee on Veterans' Affairs.

By Mr. SEIBERLING:

H.R. 1548. A bill to amend title 18 of the United States Code to make section 208 (acts affecting a personal financial interest) and section 209 (salary of Government officials and employees payable only by United States) applicable to the President and Vice President of the United States; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 1549. A bill to amend certain provisions of the Land and Water Conservation Fund Act of 1965 relating to the collection of fees in connection with the use of Federal areas for outdoor recreation purposes; to the Committee on Interior and Insular Affairs.

By Mr. ZABLOCKI (for himself, Mr. Biester, Mr. Bingham, Mr. Findley, Mr. Fraser, and Mr. Harrington):

H.R. 1550. A bill to amend the Arms Control and Disarmament Act, and for other purposes; to the Committee on Foreign Affairs.

By Mr. DINGELL:

H.J. Res. 97. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. DINGELL (for himself, Mr. Murphy of New York, Mr. Lott, Mr. Jones of North Carolina, Mr. Biaggi, and Mr. Anderson of California):

H.J. Res. 98. Joint resolution amending the Fishermen's Protective Act of 1967 to insure the safety of U.S. commercial fishing vessels, crews, and equipment against illegal harassment and seizure; to the Committee on Merchant Marine and Fisheries.

By Mr. ERLENBORN:

H.J. Res. 99. Joint resolution proposing an amendment to the Constitution of the United States to insure that due process and equal protection are afforded to an individual from conception; to the Committee on the Judiciary.

By Mr. JOHNSON of Pennsylvania:

H.J. Res. 100. Joint resolution designating February of each year as American History Month; to the Committee on Post Office and Civil Service.

By Mr. KETCHUM:

H.J. Res. 101. Joint resolution authorizing increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes; to the Commission on Armed Services.

By Mr. McFALL (for himself, Mr. Reuss, and Mr. Brademas):

H. Con. Res. 46. Concurrent resolution expressing the sense of Congress regarding tariff and import restrictions; to the Committee on Ways and Means.

By Ms. HOLTZMAN (for herself and Mr. John L. Burton):

H. Res. 71. Resolution directing the President to provide to the Committee on the Judiciary of the House of Representatives certain information relating to certain activities of the Central Intelligence Agency; to the Committee on the Judiciary.

H. Res. 72. Resolution directing the President to provide to the House the information contained in the report of William E. Colby delivered to the President on or about December 26, 1974, and relating to certain activities of the CIA; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

[*Submitted January 16, 1975*]

By Mr. EDWARDS of California:

H.R. 1551. A bill for the relief of Mr. and Mrs. Gordon Hopper; to the Committee on the Judiciary.

By Mr. GUDE:

H.R. 1552. A bill for the relief of Morris and Lenke Gelb; to the Committee on the Judiciary.

H.R. 1553. A bill for the relief of Victor Henrique Carlos Gibson; to the Committee on the Judiciary.

H.R. 1554. A bill for the relief of James A. Horkan; to the Committee on the Judiciary.

H.R. 1555. A bill for the relief of Walter Laqueur and his wife Barbara; to the Committee on the Judiciary.

H.R. 1556. A bill for the relief of Hendrika Koenders Lyne; to the Committee on the Judiciary.

H.R. 1557. A bill for the relief of the estate of Albert W. Small; to the Committee on the Judiciary.

H.R. 1558. A bill for the relief of Dr. Gernot M. R. Winkler; to the Committee on the Judiciary.

H.R. 1559. A bill to authorize the burial of the remains of Marie E. Newman in Arlington National Cemetery, Va.; to the Committee on Veterans' Affairs.

By Ms. HOLTZMAN:

H.R. 1560. A bill for the relief of Murray Swartz; to the Committee on the Judiciary.

By Mr. JOHNSON of Pennsylvania:

H.R. 1561. A bill for the relief of Upper Allegheny Sand & Gravel Co., Inc.; to the Committee on the Judiciary.

By Mr. KETCHUM:

H.R. 1562. A bill for the relief of Maria R. Diaz; to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 1563. A bill for the relief of Charles C. Varga, Jr.; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 1564. A bill for the relief of Raymond Charles Wiggins; to the Committee on the Judiciary.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[*Submitted January 17, 1975*]

126. A letter from the President of the United States, transmitting his approval of the Pocatalico River Basin Joint Study Interim Report (West Virginia, as modified, pursuant to Public Law 87-639 [16 U.S.C. 1009]; to the Committee on Public Works and Transportation.

127. A letter from the Deputy Secretary of Defense, transmitting a report on the financial condition and operating results of working capital funds of the Department of Defense for fiscal year 1974, pursuant to 10 U.S.C. 2208; to the Committee on Armed Services.

128. A letter from the Deputy Chief, Office of Legislative Affairs, Department of the Navy, transmitting notice of the intention of the Department of the Navy to donate certain surplus property to the Hawaiian Railway Society, Honolulu, Hawaii, pursuant to 10 U.S.C. 7545; to the Committee on Armed Services.

129. A letter from the Executive Secretary, Federal Metal and Nonmetallic Mine Safety Board of Review, transmitting the annual report of the board's activities for calendar year 1974, pursuant to section 10(l) of the Federal Metal and Nonmetallic Mine Safety Act [30 U.S.C. 729(l)]; to the Committee on Education and Labor.

130. A letter from the Deputy Assistant Secretary of the Interior, transmitting the biennial report on continuing studies of the quality of water of the Colorado River basin, pursuant to 70 Stat. 105, 76 Stat. 96, 389, and 88 Stat. 274; to the Committee on Interior and Insular Affairs.

131. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting copies of materials requested from the Commission by the Office of Management and Budget, pursuant to section 27(k) (1) of Public Law 92-573; to the Committee on Interstate and Foreign Commerce.

132. A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting a copy of the Commission's budget esimate for the 3-month transition period, July 1–September 30, 1976, pursuant to section 27(k) (1) of Public Law 92-573; to the Committee on Interstate and Foreign Commerce.

133. A letter from the Administrator, Federal Energy Administration, transmitting a report on foreign ownership, control, and influence on domestic energy sources and supply, pursuant to section 26 of Public Law 93-275; to the Committee on Interstate and Foreign Commerce.

134. A letter from the Director, Admin-

istrative Office of the U. S. Courts, transmitting a draft of proposed legislation to amend the act of August 6, 1958, 72 Stat. 497, relating to service as chief judge of a U.S. district court; to the Committee on the Judiciary.

135. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend section 2254, title 28, United States Code, to the Committee on the Judiciary.

136. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide a penalty for failure of a convicted person to surrender himself to the Attorney General; to the Committee on the Judiciary.

137. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to enlarge the trial jurisdiction of U.S. magistrates in misdemeanor cases, to make technical and administrative amendments in the Federal Magistrates Act, and for other purposes; to the Committee on the Judiciary.

138. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for the defense of judges and judicial officers sued in the official capacity; to the Committee on the Judiciary.

139. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to eliminate the requirement of a three-judge district court in cases seeking to restrain the enforcement of State or Federal statutes for repugnance to the Constitution; to the Committee on the Judiciary.

140. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for the setting aside of convictions in certain cases and for other purposes; to the Committee on the Judiciary.

141. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee for the reason of such employee's Federal jury service; to the Committee on the Judiciary.

142. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to authorize the position of crier-clerk within the judicial branch of the Government of the United States and for other purposes; to the Committee on the Judiciary.

143. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for the appointment of additional district judges, and for other purposes; to the Committee on the Judiciary.

144. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for the protection of U.S. probation officers; to the Committee on the Judiciary.

145. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for a within-grade salary increase plan for secretaries to circuit and district judges of the courts of the United States, and for other purposes; to the Committee on the Judiciary.

146. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend title 28 of the United States Code to provide for the investigation and prosecution of disciplinary proceedings against members of the bar of the courts of the United States, and for other purposes; to the Committee on the Judiciary.

147. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend sections 611 and 627 of title 28, United States Code, relating to the retirement of the Director and Deputy Director of the Administrative Office of the U.S. Courts and the Director of the Federal Judicial Center; to the Committee on the Judiciary.

148. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for the appointment of legal assistants in the Courts of Appeal of the United States; to the Committee on the Judiciary.

149. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to authorize the Judicial Conference of the United States to fix fees and costs in the U.S. districts courts and for other purposes; to the Committee on the Judiciary.

150. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for the appointment of transcribers of official court reporters' transcripts in the U.S. district courts, and for other purposes; to the Committee on the Judiciary.

151. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend the Jury Selection and Service Act of 1968, as amended, to clarify the qualification section of that act with regard to service by persons whose civil rights have been restored; to the Committee on the Judiciary.

152. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to provide for amendment of the Jury Selection and Service Act of 1968, as amended, adding further definitions relating to jury selection by electronic data processing; to the Committee on the Judiciary.

153. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend title 28, United States Code, to provide in civil cases for juries of six persons, and for other purposes; to the Committee on the Judiciary.

154. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors; to the Committee on the Judiciary.

155. A letter from the Secretary of Health, Education, and Welfare, transmitting the seventh annual report on medicare, covering fiscal year 1973, pursuant to section 1875(b) of the Social Security Act, as amended [42 U.S.C. 139511(b)] (H. Doc. No. 94-34); jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce and ordered to be printed.

RECEIVED FROM THE COMPTROLLER GENERAL

156. A letter from the Comptroller General of the United States, transmitting his review of the proposed deferrals of budget authority and the supplementary reports revising previously proposed deferrals which were contained in the message from the President dated December 27, 1974 (House Document No. 94-10), pursuant to section 1014(b) and (c) of Public Law 93-344 (H. Doc. No. 94-35); to the Committee on Appropriations and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[Submitted January 17, 1975]

By Ms. ABZUG:

H.R. 1565. A bill to amend titles 10 and 37, United States Code, to provide for equality of treatment for military personnel in the application of dependency criteria; to the Committee on Armed Services.

H.R. 1566. A bill to amend the United States Housing Act of 1937 to provide for grants to local public housing agencies to assist in financing security arrangements designed to prevent crimes and otherwise insure the safety and well-being of low-rent housing tenants; to the Committee on Banking, Currency, and Housing.

H.R. 1567. A bill to establish a National Bank for Cooperative Housing to aid in financing the purchase and construction of low- and middle-income housing; to the Committee on Banking, Currency, and Housing.

H.R. 1568. A bill to amend title 5, United States Code, to provide for equality of treatment with respect to married women Federal employees in connection with compensation for work injuries, and for other purposes; to the Committee on Education and Labor.

H.R. 1569. A bill to provide equality of treatment for married women employees of the Federal Government under the Foreign Service Act of 1946; to the Committee on Foreign Affairs.

H.R. 1570. A bill to provide relief to certain individuals 62 years of age and over who own or rent their homes, through income tax credits and refunds; to the Committee on Ways and Means.

By Mr. ASHBROOK:

H.R. 1571. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

H.R. 1572. A bill to repeal sections 102 and 202 of the Flood Disaster Protection Act of 1973 which make flood insurance coverage and community participation in the national flood insurance program prerequisites for approval of any financial assistance in a flood hazard area, and for other purposes; to the Committee on Banking, Currency, and Housing.

H.R. 1573. A bill to prohibit Soviet energy investments; to the Committee on Foreign Affairs.

H.R. 1574. A bill to authorize the establishment of the Ohio and Erie Canal National Historical Park in the State of Ohio, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1575. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the authority of the Secretary of Health, Education, and Welfare with respect to foods for special dietary use; to the Committee on Interstate and Foreign Commerce.

H.R. 1576. A bill to extinguish Federal court jurisdiction to require attendance at a particular school of any student because of race, color, creed, or sex; to the Committee on the Judiciary.

H.R. 1577. A bill to amend the Internal Security Act of 1950 to control and penalize terrorists, and for other purposes; to the Committee on the Judiciary.

H.R. 1578. A bill to amend section 4 of the Internal Security Act of 1950; to the Committee on the Judiciary.

H.R. 1579. A bill to amend chapter 44 of title 18, United States Code, to exempt ammunition from Federal regulation under the Gun Control Act of 1968; to the Committee on the Judiciary.

H.R. 1580. A bill to make it a Federal crime to kill or assault a fireman or law enforcement officer engaged in the performance of his duties when the offender travels in interstate commerce or uses any facility of interstate commerce for such purpose; to the Committee on the Judiciary.

H.R. 1581. A bill to guarantee that every employee of the Federal Government shall have the right to refrain from union activity; to the Committee on Post Office and Civil Service.

H.R. 1582. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

H.R. 1583. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit for tuition expenses of the taxpayer or his spouse or a dependent at a institution of higher education, and an additional credit for gifts or contributions made to any institution of higher education; to the Committee on Ways and Means.

H.R. 1584. A bill to amend the Internal Revenue Code of 1954 to provide a basic $5,000 exemption from income tax, in the case of an individual or a married couple, for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

H.R. 1585. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

H.R. 1586. A bill to amend title II of the Social Security Act to increase to $4,000 the amount of outside earnings permitted each year without deductions from benefits thereunder; to the Committee on Ways and Means.

H.R. 1587. A bill to promote the foreign policy of the United States by strengthening and improving the Foreign Service personnel system of the Department of State and of the U.S. Information Agency; jointly to the Committees on Foreign Affairs, and Post Office and Civil Service.

H.R. 1588. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. BERGLAND (for himself, Mr. Fraser, Mr. Koch, Mr. Peyser, and Mr. Weaver):

H.R. 1589. A bill to amend the Food Stamp Act of 1964; to the Committee on Agriculture.

By Mr. BERGLAND:

H.R. 1590. A bill to declare that certain federally owned lands within the White Earth Reservation shall be held by the United States in trust for the Minnesota Chippewa Tribe, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1591. A bill to provide for additional Federal financial participation in expenses incurred in providing benefits to Indians, Aleuts, native Hawaiians, and other aboriginal persons, under certain State public assistance programs established pursuant to the Social Security Act; to the Committee on Ways and Means.

By Mr. CARNEY:

H.R. 1592. A bill to amend the act of August 24, 1966, as amended, to assure humane treatment of certain animals, and for other purposes; to the Committee on Agriculture.

H.R. 1593. A bill to establish a Voter Registration Administration within the General Accounting Office for the purpose of administering a voter registration program through the Postal Service; to the Committee on House Administration.

H.R. 1594. A bill to amend title 38 of the United States Code in order to provide service pension to certain veterans of World War I and pension to the widows of such veterans; to the Committee on Veterans' Affairs.

H.R. 1595. A bill to amend title 38 of the United States Code to make certain that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 1596. A bill to amend the Internal Revenue Code of 1954 to provide individuals a limited exclusion from gross income for interest on deposits in certain savings institutions; to the Committee on Ways and Means.

H.R. 1597. A bill to amend title II of the Social Security Act to provide a 20-percent across-the-board increase in benefits thereunder; to the Committee on Ways and Means.

By Mr. DRINAN:

H.R. 1598. A bill to authorize the disposal of tantalum minerals from the national stockpile; to the Committee on Armed Services.

H.R. 1599. A bill to amend chapter 3 of title 3, United States Code, to provide for the protection of foreign diplomatic missions; to the Committee on Public Works and Transportation.

H.R. 1600. A bill to establish the Frederick Law Olmsted Home and Office in Brookline, Mass., as a national historic site; to the Committee on Interior and Insular Affairs.

H.R. 1601. A bill to regulate and control handguns; to the Committee on the Judiciary.

H.R. 1602. A bill to abolish the death penalty under all laws of the United States, and for other purposes; to the Committee on the Judiciary.

H.R. 1603. A bill to amend certain sections [authorizing wiretapping and electronic surveillance] of title 18 of the United States Code; to the Committee on the Judiciary.

H.R. 1604. A bill to amend the Internal Revenue Code of 1954 to deny the deduction of any expenditure of any oil company for advertising not directly related to the sale of products or services; to the Committee on Ways and Means.

H.R. 1605. A bill to amend the Internal Revenue Code of 1954 to increase the excise tax on cigarettes, and to amend the Public Health Service Act to increase the authorization for appropriations for the National Heart and Lung Institute by amounts equal to the increase in receipts from such tax; to the Committee on Ways and Means.

By Mr. ECKHARDT:

H.R. 1606. A bill to authorize a project for flood protection in and in the vicinity of Baytown, Tex.; to the Committee on Public Works and Transportation.

By Mr. FINDLEY:

H.R. 1607. A bill to amend title 18 of the United States Code to make parallel the exemption from lottery prohibitions granted to newspapers and to radio and television; to the Committee on the Judiciary.

By Mr. FRASER:

H.R. 1608. A bill to amend the Internal Revenue Code of 1954 to allow individuals a refundable tax credit of $300 for certain personal exemptions, to impose an additional excise tax of 20 cents a gallon on gasoline and certain special fuels, to allow a refundable tax credit for the additional excise tax imposed on a certain portion of the gasoline and special fuels used for commuting or business-related highway travel and for other purposes; to the Committee on Ways and Means.

By Mr. HAWKINS (for himself, Mr. Reuss, Mr. Badillo, Mr. Benitez, Mrs. Burke of California, Mr. Phillip Burton, Mrs. Chisholm, Mr. Corman, Mr. Dellums, Mr. de Lugo, Mr. Fauntroy, Mr. Green, Mr. Harrington, Mr. Helstoski, Mr. Lehman, Mrs. Meyner, Mr. Mineta, Mrs. Mink, Mr. Moakley, Mr. Nix, Mr. Smith of Iowa, Mr. Stark, Mr. Udall, Mr. Waxman, and Mr. Won Pat):

H.R. 1609. A bill to establish a national policy and nationwide machinery for guaranteeing to all adult Americans able and willing to work the availability of equal opportunities for useful and rewarding employment; to the Committee on Education and Labor.

By Mr. HAWKINS (for himself, Mr. Reuss, Ms. Abzug, Mr. Barrett, Mr. Brodhead, Mr. Brown of California, Mr. Carney, Mr. Clay, Mrs. Collins of Illinois, Mr. Conyers, Mr. Dent, Mr. Diggs, Mr. Drinan, Mr. Fascell, Mr. Fraser, Mr. Metcalfe, Mr. Nowak, Mr. Ottinger, Mr. Perkins, Mr. Rangel, Mr. Rodino, Mr. Rosenthal, Mr. Sarbanes, Mr. Solarz, and Mr. Thompson):

H.R. 1610. A bill to establish a national policy and nationwide machinery for guaranteeing to all adult Americans able and willing to work the availability of equal opportunities for useful and rewarding employment; to the Committee on Education and Labor.

By Mr. HILLIS:

H.R. 1611. A bill to amend the Internal Revenue Code of 1954 to provide for an excess profits tax on the income of corporations engaged in oil production and refining, and to establish the Energy Research, Development, and Exploration Trust Fund; to the Committee on Ways and Means.

By Mr. LENT:

H.R. 1612. A bill to require petroleum to be extracted from Naval Petroleum Reserve No. 1 for use by utilities in the generation of electricity; to the Committee on Armed Services.

By Mr. MILLER of Ohio:

H.R. 1613. A bill to authorize the construction of such facilities as deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) in the vicinity of Logan and Nelsonville, Ohio, for the purpose of providing adequate flood protection to this area; to the Committee on Public Works and Transportation.

By Mr. MORGAN:

H.R. 1614. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Public Works and Transportation.

H.R. 1615. A bill to amend title 38, United States Code, to provide for the payment of pensions to veterans of World War I; to the Committee on Veterans' Affairs.

H.R. 1616. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

By Mr. MOSS (for himself, Mr. Dingell, and Mr. Eckhardt):

H.R. 1617. A bill to amend the title Federal Trade Commission Act and the Motor Vehicle Information and Cost Savings Act; to the Committee on Interstate and Foreign Commerce.

By Mr. MOSS (for himself, Mr. Dingell, Mr. Rooney, Mr. Adams, Mr. Eckhardt, Mr. Carney, Mrs. Sullivan, Mr. Reuss, Mr. Corman, Mr. Harrington, and Ms. Abzug):

H.R. 1618. A bill to regulate commerce and amend the Natural Gas Act so as to provide related products at reasonable prices to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ST GERMAIN:

H.R. 1619. A bill to impose a moratorium on the receipt of deposits or the making of loans by financial institutions at places of business, other than those of financial institutions through the means of electronic methods of funds transfers; to the Committee on Banking, Currency, and Housing.

H.R. 1620. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. SCHROEDER:

H.R. 1621. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 1622. A bill to prohibit the dumping of spent oil shale on any Federal land other than Federal land leased for the operation of shale oil recovery facilities and to provide for the recovery of damages for injury to the United States caused by the unlawful dumping of spent oil shale; to the Committee on Interior and Insular Affairs.

By Mrs. SCHROEDER (for herself, Mr. Charles H. Wilson of California, Mr. Frenzel, Mr. Mann, Mr. Van Deerlin, Ms. Holtzman, Mr. Nix, Mr. Udall, Mr. Traxler, Mr. Clay, Mr. Hechler of West Virginia, Mr. Mitchell of Maryland, Mr. Conyers, Mr. Harrington, Mr. Fascell, Mr. Stark, Mrs. Burke of California, and Ms. Abzug):

H.R. 1623. A bill to amend title 39, United States Code, to provide additional standards to regulate the proper use of the penalty mail privilege on an official basis by Government departments, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. SCHROEDER (for herself, Mr. Conyers, Mr. Moakley, Mr. Hechler of West Virginia, Mr. Eilberg, Mr. Rosenthal, Mr. Murtha, Mr. Mitchell of Maryland, Mrs. Chisholm, Mr. Won Pat, Mr. Wampler, Mr. Nix, Mr. Edwards of California, Mr. Stark, Mr. Charles H. Wilson of California, Mr. Metcalfe, Mr. Dent, and Ms. Abzug):

H.R. 1624. A bill to amend the Internal Revenue Code of 1954 to provide for an increase in the amount of the personal exemptions for taxable years beginning after December 31, 1974; to the Committee on Ways and Means.

By Mr. STUDDS:

H.R. 1625. A bill to authorize payment of costs incurred in the alteration or replacement of certain municipal waste incinerators for the purpose of controlling air pollution; to the Committee on Interstate and Foreign Commerce.

H.R. 1626. A bill to increase the subsistence payments to students at State maritime academies; to the Committee on Merchant Marine and Fisheries.

H.R. 1627. A bill to insure that recipients of veterans' pension and compensation will not have the amount of such pension or compensation reduced, or entitlement thereto discontinued, because of increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 1628. A bill to amend title II of the Social Security Act to increase to $5,000 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. Boland, Mr. Burke of Massachusetts, Mr. Conte, Mr. Drinan, Mr. Harrington, Mr. Moakley, and Mr. Tsongas):

H.R. 1629. A bill to establish the Nantucket Sound Islands Trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ULLMAN (for himself, Mr. Bonker, Mrs. Burke of California, Mr. Byron, Mr. Carr, Mr. Eckhardt, Mr. Lagomarsino, Mr. Regula, Mr. Ruppe, and Mr. Tsongas):

H.R. 1630. A bill to establish the Hells Canyon National Recreation Area in the States of Oregon, Idaho, and Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BOB WILSON:

H.R. 1631. A bill to provide retroactive pay to certain members of the Armed Forces held as prisoners of war during World War II; to the Committee on Armed Services.

H.R. 1632. A bill to secure the civil rights of blind persons; to the Committee on the Judiciary.

H.R. 1633. A bill to repeal section 5532 of title 5, United States Code, relating to reductions in the retired or retirement pay of retired officers of regular components of the uniformed services who are employed in civilian offices or positions in the Government of the United States; to the Committee on Post Office and Civil Service.

H.R. 1634. A bill authorizing the President to proclaim the week including the Fourth of July as "God Bless America Week"; to the Committee on Post Office and Civil Service.

H.R. 1635. A bill to amend section 410(a) of title 38, United States Code, to provide a statutory presumption of service-connected death of any veteran who has been rated totally disabled by reason of service-connected disability for 20 or more years; to the Committee on Veterans' Affairs.

H.R. 1636. A bill to amend title 38 of the United States Code to provide an alternative method for computing dependency and indemnity compensation in order to insure that in certain instances the survivors of deceased veterans receive an amount of compensation equal to that to which they would have been entitled if such veterans had been civil service employees killed while performing job-related functions; to the Committee on Veterans' Affairs.

H.R. 1637. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income any payments made under the retired serviceman's family protection plan by an individual who has waived his military retirement pay in order to receive a civil service retirement annuity; to the Committee on Ways and Means.

By Mr. BOB WILSON (for himself, Mr. Bennett, and Mr. Archer):

H.R. 1638. A bill to prohibit any change in the status of any member of the uniformed services who is in a missing status under chapter 10 of title 37, United States Code, until the provisions of the Paris Peace Accord of January 27, 1973, have been fully complied with, and for other purposes; to the Committee on Armed Services.

By Mr. BOB WILSON (for himself, Mr. Beard of Tennessee, Mr. Byron, Mr. Cohen, Mr. Flynt, Mr. Lujan, Mr. McCloskey, Mr. Quillen, Mr. Roybal, Mr. Sarasin, Mr. Talcott, and Mr. Winn):

H.R. 1639. A bill to authorize recomputation at age 60 of the retired pay of members and former members of the uniformed services whose retired pay is computed on the basis of pay scales in effect prior to January 1, 1972, and for other purposes; to the Committee on Armed Services.

By Mr. WON PAT:

H.R. 1640. A bill to amend the Organic Act of Guam to provide for a certain procedure for the settlement of claims arising out of the acquisition of property in Guam by the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ASHBROOK:

H.J. Res. 102. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

H.J. Res. 103. Joint resolution proposing an amendment to the Constitution of the United States relative to freedom from forced assignment to schools or jobs because of race, creed, or color; to the Committee on the Judiciary.

H.J. Res. 104. Joint resolution proposing an amendment to the Constitution to permit the imposition and carrying out of the death penalty in certain cases; to the Committee on the Judiciary.

H.J. Res. 105. Joint resolution proposing an amendment to the Constitution of the United States relative to force and effect of treaties; to the Committee on the Judiciary.

By Mr. CRANE:

H.J. Res. 106. Joint resolution designating the last Wednesday in August of each year as Senior Citizen Recognition Day; to the Committee on Post Office and Civil Service.

By Mr. DRINAN:

H.J. Res. 107. Joint resolution proposing an amendment to the Constitution of the United States lowering the age requirements for membership in the Houses of Congress; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.J. Res. 108. Joint resolution to designate February 9 to 15, 1975, as National Vocational Education and National Vocational Industrial Clubs of America (VICA) Week; to the Committee on Post Office and Civil Service.

By Mrs. LLOYD of Tennessee:

H.J. Res. 109. Joint resolution designating the period beginning January 28, 1975, and ending February 3, 1975, as Chattanooga Area Manufacturers Week; to the Committee on Post Office and Civil Service.

By Mr. O'NEILL:

H.J. Res. 110. Joint resolution to require the submission to and approval by the Congress of fees on oil imports; to the Committee on Ways and Means.

By Mr. BOB WILSON (for himself, Mr. Brinkley, and Mr. Talcott):

H.J. Res. 111. Joint resolution designating February of each year as American History Month; to the Committee on Post Office and Civil Service.

By Mr. DRINAN:

H. Con. Res. 47. Concurrent resolution relating to peace throughout the world; to the Committee on Foreign Affairs.

By Mrs. SCHROEDER (for herself, Ms. Abzug, Mr. Anderson of California, Mr. Badillo, Mr. Bell, Mr. Benitez, Mrs. Boggs, Mr. Brown of California, Mrs. Burke of California, Mr. John L. Burton, Mr. Phillip Burton, Mr. Conte, Mr. Edwards of California, Mr. Fascell, Mr. Fauntroy, Mr. Gonzalez, Mr. Harrington, Ms. Jordan, Mr. Matsunaga, Mr. McCloskey, Mr. McKinney, Mr. Moss, Mr. Murphy of Illinois, Mr. Nix, and Mr. O'Brien):

H. Con. Res. 48. Concurrent resolution to provide for the printing of copies of the Constitution of the United States in Spanish; to the Committee on House Administration.

By Mrs. SCHROEDER (for herself, Mr. Bingham, Mr. Pepper, Mr. Rangel, Mr. Riegle, Mr. Rinaldo, Mr. Rodino, Mr. Rooney, Mr. Rosenthal, Mr. Roybal, Mr. Runnels, Mr. Ryan, Mr. Sebelius, Mr. Seiberling, Mr. Stark, Mr. Thompson, Mr. Udall, Mr. Symington, and Mr. Derwinski):

H. Con Res 49. Concurrent resolution to provide for the printing of copies of the Constitution of the United States in Spanish; to the Committee on House Administration.

By Ms. ABZUG:

H. Res. 73. Resolution providing for investigations and studies by standing committees of the House of Representatives to ascertain and identify those areas in which differences in treatment or application, on the basis of sex, exist in connection with the administration and operation of those provisions of law under their respective jurisdictions, and for other purposes; to the Committee on Rules.

By Mr. ASHBROOK:

H. Res. 74. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mrs. SULLIVAN (for herself and Mr. Flood):

H. Res. 75. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

[Submitted January 17, 1975]

By Mr. ASHBROOK:

H.R. 1641. A bill for the relief of Valery Chalidze; to the Committee on the Judiciary.

By Mr. BERGLAND:

H.R. 1642. A bill for the relief of Rosa C. Vargas; to the Committee on the Judiciary.

By Mr. DRINAN:

H.R. 1643. A bill for the relief of Mina Cooper; to the Committee on the Judiciary.

H.R. 1644. A bill for the relief of Benjamin R. Lucardie; to the Committee on the Judiciary.

H.R. 1645. A bill for the relief of Kevin Patrick Saunders; to the Committee on the Judiciary.

By Mr. HELSTOSKI:

H.R. 1646. A bill for the relief of Jack George Makari; to the Committee on the Judiciary.

By Mr. HINSHAW:

H.R. 1647. A bill for the relief of Gabriel Edgar Buchowiecki; to the Committee on the Judiciary.

By Mr. LENT:

H.R. 1648. A bill for the relief of Gabriel Gellerman; to the Committee on the Judiciary.

By Mr. RAILSBACK:

H.R. 1649. A bill for the relief of Howard D. Harden; to the Committee on the Judiciary.

H.R. 1650. A bill for the relief of Sandstrom Products Co. of Port Byron, Ill.; to the Committee on the Judiciary.

By Mr. RANGEL:

H.R. 1651. A bill for the relief of Mohammed Yousef Kakar; to the Committee on the Judiciary.

By. Mr. BOB WILSON:

H.R. 1652. A bill to extend the term of Design Pat. No. 21,053, dated September 22, 1891, for a badge, granted to George Brown Goode, and assigned to the National Society, Daughters of the American Revolution; to the Committee on the Judiciary.

SENATE—*Friday, January 17, 1975*

The Senate met at 12 o'clock meridian and was called to order by the Vice President.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we thank Thee for all the blessings of this life, especially for new friendships in this place and for old friendships made stronger and more precious with each passing day. May we take time to listen to one another, and above all else to listen to the promptings of Thy spirit. Give us grace to heed the monitoring of the conscience Thou hast planted within us. So may we work in the spirit of unity and in the bonds of peace. Spare us from wasting time on the wrong things. Help us to do with all our soul and mind and strength the work committed to us by the people, that we fail neither them nor Thee.

In the name of the Master-Workman we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, January 16, 1975, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

CONGRATULATIONS TO THE VICE PRESIDENT

Mr. MANSFIELD. Mr. President, in late years, the Vice President has been all too seldom in his chair presiding over this body as the President of the Senate. I wish at this time to congratulate the Vice President for occupying that chair, in his official capacity, for 4 days in a row. That is a record, at least since 1967.

Speaking for the Senate as a whole, I hope that this Vice President will be more often sitting in that chair than other Vice Presidents, both Democrat and Republican, have in the past.

The VICE PRESIDENT. I thank the Senator from Montana.

Mr. STAFFORD. Mr. President, I join in what the majority leader has said. Having known the Vice President since we were Governors together some 16 or 18 years ago, I am well aware that any assignment he undertakes, he will do very well and very thoroughly.

The VICE PRESIDENT. I thank the Senator from Vermont.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I have no time request.

May I ask who is to be recognized today before the distinguished Senator from Mississippi (Mr. Stennis)?

The VICE PRESIDENT. The Senator from Idaho (Mr. Church) is to be recognized.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the recognition of the Senator from Idaho be vacated and that the Senator from Mississippi be recognized at this time.

The VICE PRESIDENT. Without objection, it is so ordered.

Under the previous order, the Senator from Mississippi (Mr. Stennis) is recognized for not to exceed 15 minutes.

Mr. STENNIS. I thank the Chair.

Mr. President, I shall most likely yield back a part of my time. I am advised by the Senator from West Virginia (Mr. Robert C. Byrd) that he is detained at a Democratic Caucus and will not claim the time that he has been allotted, 15 minutes, which was to follow my remarks.

TARGET PRICES FOR COTTON

Mr. STENNIS. Mr. President, while the Senate was adjourned I had the opportunity to personally look into the situation that is faced by cotton producers. I can attest that it is a very grim situation indeed, at least in Mississippi, and that if something constructive is not done about it, very soon, we may see the end of cotton production as a major crop in the United States. Virtually the same situations exist in other cotton production States.

The fact is that rising production costs, caused by inflation, have simply outstripped the market price, and a farmer who plants cotton under the target price established by current law is facing a prohibitive loss in the coming crop year. I have been told by many cotton farmers that the estimated costs to produce a pound of cotton this year will be at least 50 cents and perhaps more. Estimates vary somewhat, but they are close to that figure.

The target, or floor price, established by the Agriculture Act of 1973 is 38 cents for Middling inch American upland cotton. The present market price this year is very low. It seems apparent that the best the farmer can hope for is the 38 cents target price, so he faces a potential loss of 11 or 12 cents a pound.

The inflation of production costs is a reflection of the increased costs of fuels and chemicals. Pesticides, herbicides, and fertilizers have increased greatly in cost. It is obvious that further cost increases can be expected in gasoline, diesel fuel, and propane or other gas, all used in cotton growing, harvesting, and production. The cost of "premudge" and "postmudge" treatments of the soil have also increased.

The Agriculture Act of 1973 contains an escalator clause, to adjust target prices for farm commodities such as cotton, wheat, and feed grains, so that they take into account rising production costs. However, the escalator clause does not take effect until the 1976 and 1977 crop years.

Under the farm bill passed by the Senate in 1973 the escalator clause would have been effective for all four of the crop years, and the target price for cotton would have started at 43 cents, instead of 38 cents. However, in order to get a bill that would pass the House and avoid a Presidential veto, it was necessary to accept the lower figure and defer the effective date of the escalator clause. The bill originally passed by the Senate would have afforded considerable relief for the hard-pressed cotton farmers this year.

The distinguished Senator from Georgia (Mr. Talmadge) chairman of the Committee on Agriculture and Forestry has announced that hearings on the farm bill will be held during the weeks of February 3 and February 17. I commend his prompt attention to the serious problems now faced by cotton farmers, as well as many other agricultural producers.

I have written a letter to the distinguished chairman, on the subject of cotton costs, and ask unanimous consent that it be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STENNIS. Mr. President, I strongly urge the revision of the Agriculture Act of 1973 to provide for a target price of an absolute minimum of 52 cents for cotton, and with an escalator clause effective in 1975, to cover increasing costs of production.

I think, Mr. President, with such a law as this on the books, I believe there is a very good chance indeed that under present conditions, the cost to the Government for the operation of such a law would be very small because the excess of cotton or the reserve of cotton or the cotton that has been on hand for many years is no longer on hand and there has not been any big reserve built up. With this law on the books, I believe that most of the cotton will move at this so-called price and that, therefore, the principal cost to the Government will be merely the administration of the law.

Of course, no one can guarantee that fact, but that is the reasonable prospect. I look forward to the hearings by the Committee on Agriculture, and to the presentation of what I believe will be a sound and necessary bill to the floor of the Senate, and I know there is a similar interest in the House of Representatives. I certainly think they will be moving in that direction in that body.

As an illustration of the rising cost of fertilizers used in cotton production, a producer gave me the figures taken from his books as follows:

Type 14-14-14 on March 20, 1973, the sum of $68 per ton; on December 23, 1974, the sum of $153 per ton.

Type 8-32-16 on March 22, 1974, the sum of $127.75 per ton; and on December 23, 1974, the sum of $193 per ton.

Type 8-24-24 on March 20, 1973, the cost was $73 per ton; on March 22, 1974, $107; and on December 23, 1974, the sum of $187 per ton. Two other types used were in the same proportion.

Mr. President, that concludes my remarks. I am glad to yield back the additional time that I had for that purpose.

EXHIBIT 1

U.S. SENATE,
Washington, D.C., January 16, 1975.
Hon. HERMAN E. TALMADGE,
Chairman, Agriculture and Forestry Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I have recently had the opportunity to confer with many cotton producers in Mississippi, and I am convinced that unless legislative action is taken to provide a target price that will compensate for the very rapidly rising costs of growing cotton, there will be drastic reductions in production.

You will recall that when the Agriculture Act of 1973 was passed by the Senate it provided a target price of 43 cents a pound for cotton. It also included an escalator clause to permit adjustment of the target price to reflect increased costs of production, to be effective over the full four years covered by the bill. As you know, in order to get a bill that would pass the House and not be vetoed, it was necessary to lower the target price for cotton to 38 cents a pound, and make the escalator clause applicable only to crop years 1976 and 1977.

I am reliably informed by very reputable cotton growers that costs of production this year are presently estimated at about 49 to 50 cents a pound. I would expect that we will see further increases soon in the costs of gasoline, diesel fuel, chemicals, and propane and other gases, because of the increased costs of petroleum products, and as you know, these will have strong effects on the costs of cotton production.

I wish to urge very strongly, Mr. Chairman, that your Committee give early consideration to raising the target price for cotton to an absolute minimum of 52 cents a pound, effective this year, and that the escalator clause be made effective in 1975.

Sincerely yours,
JOHN C. STENNIS,
U.S. Senator.

QUORUM CALL

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed therein be charged to the time allocated to the Senator from Michigan (Mr. GRIFFIN).

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? If not, the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO VACATE REMAINING ORDERS FOR RECOGNITION OF SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all remaining time on orders previously entered be vacated.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

ORDER FOR ADJOURNMENT UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 o'clock noon on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The foregoing order was subsequently changed to provide for adjournment from today until Tuesday, January 21, 1975.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Vice President laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ACTIVITIES OF THE JOINT COMMITTEE ON DEFENSE PRODUCTION—REPORT OF A COMMITTEE—(REPT. NO. 94-1)

Mr. SPARKMAN. Mr. President, as chairman of the Joint Committee on Defense Production, I am submitting the 24th annual report of this committee with the request that the report be printed as a Senate document. This report is made in accordance with the provisions of section 712(b) of the Defense Production Act, which provides for a report to the Senate and the House from time to time.

The Joint Committee on Defense Production has the responsibility of reviewing programs authorized in the Defense Production Act—which provides for readiness measures, including priorities and allocations of materials and the expansion of supply for emergency use. There were substantial increases in the use of the priorities and allocations authority for defense purposes, including determinations to make use of such authority for construction of the Alaska pipeline.

This report questions the justifications for stockpiling for the first year of war only, and the proposed sale of $6.6 billion of the $7.8 billion of strategic and critical materials held in Government inventories.

The report also questions the conclusion that materials would be available after the first year of war from increased U.S. production, imports, and substitutes.

Concern is expressed as to the willingness of the executive branch to rely on Defense Production Act programs for the availability of materials at the beginning of the second year of a conflict, since significant increases in new mine production would require from 3 to 5 years.

Concern is also expressed as to the reliance which is being placed on substitutes for materials and imports at the beginning of the second year of war. The report concludes that the time limits for developing substitutes for materials cannot be known in advance, and that the development of substitutes could prove to be more costly than the retention of Government-owned materials. The report questions whether substitutes could be developed for high-temperature materials such as tungsten, tantalum, molybdenum, columbium, and chromium.

As to the willingness of the executive branch to increase reliance on imports of materials rather than to stockpile for the beginning of the second year of a war, the report states that unfavorable consequences have resulted from our heavy dependence on petroleum imports and there have been reports of proposed price fixing for other imports. The primary purpose of stockpiling materials is to prevent wherever possible a dangerous and costly dependence of the United

States upon foreign nations in times of national emergency.

The VICE PRESIDENT. Without objection, the report will be printed as a Senate document.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. WEICKER (for himself, Mr. McGovern, Mr. Baker, Mr. Tunney, Mr. Percy, Mr. Philip A. Hart, Mr. Abourezk, Mr. McGee, Mr. Javits, Mr. Case, Mr. Buckley, Mr. Hathaway, Mr. Hartke, Mr. Mathias, Mr. Humphrey, Mr. Stafford, Mr. Eagleton, Mr. Brooke, Mr. Metcalf, Mr. Cranston, Mr. Allen, Mr. Kennedy, Mr. Clark, Mr. Mondale, Mr. Taft, Mr. Goldwater, Mr. Cannon, and Mr. Church):

S. 199. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes. Referred to the Committee on Finance.

By Mr. RIBICOFF (for himself, Mr. Percy, Mr. Javits, Mr. Magnuson, Mr. Cranston, Mr. Moss, Mr. Weicker, Mr. Abourezk, Mr. Bayh, Mr. Biden, Mr. Brooke, Mr. Case, Mr. Clark, Mr. Culver, Mr. Gravel, Mr. Gary W. Hart, Mr. Philip A. Hart, Mr. Haskell, Mr. Hatfield, Mr. Hathaway, Mr. Ford, Mr. Inouye, Mr. Humphrey, Mr. Jackson, Mr. Kennedy, Mr. Leahy, Mr. Mathias, Mr. McGee, Mr. McGovern, Mr. Mondale, Mr. Muskie, Mr. Nelson, Mr. Pastore, Mr. Proxmire, Mr. Stafford, Mr. Stevenson, Mr. Stone, Mr. Tunney, and Mr. Williams):

S. 200. A bill to establish an independent consumer agency to protect and serve the interest of consumers, and for other purposes. Referred to the Committee on Government Operations.

By Mr. MATHIAS:

S. 201. A bill to provide for the striking of medals in commemoration of the 200th anniversary of the signing of the Declaration of Independence by Charles Carroll of Carrollton. Referred to the Committee on Banking, Housing and Urban Affairs.

S. 202. A bill to amend the Foreign Service Act of 1946 to require that 85 percent of all ambassadors be career personnel in the Foreign Service. Referred to the Committee on Foreign Relations.

By Mr. SPARKMAN:

S. 203. A bill to amend the Securities Act of 1933. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JACKSON:

S. 204. A bill for the relief of Rosina C. Beltran. Referred to the Committee on the Judiciary.

By Mr. MATHIAS (for himself and Mr. Mansfield):

S. 205. A bill to amend the Legislative Reorganization Act of 1970 to provide that Federal agencies keep congressional committees fully and currently informed. Referred to the Committee on Government Operations.

By Mr. INOUYE:

S. 206. A bill for the relief of Mr. Paul Wing-Ling Kwan. Referred to the Committee on the Judiciary.

By Mr. McGEE:

S. 207. A bill for the relief of Reva J. Cullen; and

S. 208. A bill for the relief of Robert L. Miller and Mildred M. Miller. Referred to the Committee on the Judiciary.

By Mr. McGEE (for himself and Mr. Hansen):

S. 209. A bill for the relief of Willard H. Allen, Jr., and Nicole J. Allen. Referred to the Committee on the Judiciary.

S. 210. A bill to amend section 35 of the Mineral Leasing Act of 1920 with respect to the disposition of the proceeds of sales, bonuses, royalties, and rentals under such act. Referred to the Committee on Interior and Insular Affairs.

By Mr. McGEE (for himself and Mr. Brock):

S. 211. A bill to amend the Internal Revenue Code of 1954 with respect to 0.22 caliber ammunition recordkeeping requirements. Referred to the Committee on Finance.

By Mr. McGEE:

S. 212. A bill to authorize the Secretary of the Interior to convey certain lands in the State of Wyoming. Referred to the Committee on Interior and Insular Affairs.

By Mr. PACKWOOD (for himself and Mr. Hatfield):

S. 213. A bill for the relief of J. Dain Connor, Clarice June Connor, wife; Thomas Clayton Connor, David Dain Connor, sons; Nancy Lynn Connor, daughter. Referred to the Committee on the Judiciary.

By Mr. FONG:

S. 214. A bill for the modernization and general revision of the patent laws, title 35 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. Kennedy):

S. 215. A bill to amend the Public Health Service Act to provide for a national program for medical injury compensation insurance. Referred to the Committee on Labor and Public Welfare.

By Mr. DOMENICI:

S. 216. A bill to amend the Gun Control Act of 1968 to provide for separate offense and consecutive sentencing in felonies involving the use of a firearm. Referred to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. Montoya):

S. 217. A bill to repeal the act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOMENICI:

S. 218. A bill for the relief of Maria Guadalupe Padilla. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 219. A bill for the relief of Anand Damodardas Mundra. Referred to the Committee on the Judiciary.

By Mr. MONDALE:

S. 220. A bill for the relief of Suk Hee Yoo;

S. 221. A bill for the relief of Dr. Raul A. Cuestas-Gomez and wife Yolanda Cuestas;

S. 222. A bill for the relief of Maud Claudine Friedland; and

S. 223. A bill for the relief of Angela Garza. Referred to the Committee on the Judiciary.

By Mr. McCLURE:

S. 224. A bill to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes; and

S. 225. A bill to amend the Wild and Scenic Rivers Act so as to designate the Box Canyon Creek, Idaho, as a component of the National Wild and Scenic Rivers System. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOMENICI:

S. 226. A bill to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAYH:

S. 227. A bill to amend the Internal Revenue Code to encourage the continuation of family farms, and for other purposes. Referred to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. Ribicoff, and Mr. Brooke):

S. 228. A bill to establish the National Trust for the Preservation of Historic Ships. Referred to the Committee on Interior and Insular Affairs.

By Mr. KENNEDY (for himself and Mr. Brooke):

S. 229. A bill to amend the Endangered Species Act of 1973 to make it more consistent with the Marine Mammal Protection Act of 1972. Referred to the Committee on Commerce.

By Mr. KENNEDY:

S. 230. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize group life insurance programs for public safety officers and to assist State and local governments to provide such insurance. Referred to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 231. A bill to amend section 5(b) of the Food Stamp Act of 1964 to prohibit the use of funds to furnish food stamps to certain persons enrolled in institutions of higher education. Referred to the Committee on Agriculture and Forestry.

By Mr. BURDICK (for himself, Mr. Abourezk, Mr. Baker, Mr. Domenici, Mr. Helms, Mr. Huddleston, Mr. Humphrey, Mr. Inouye, Mr. McGee, Mr. McGovern, and Mr. Young):

S. 232. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services. Referred to the Committee on Finance.

By Mr. BURDICK (for himself and Mr. Young):

S. 233. A bill for the relief of North Central Educational Television, Inc. Referred to the Committee on the Judiciary.

By Mr. BURDICK:

S. 234. A bill for the relief of Arthur Rike. Referred to the Committee on the Judiciary.

By Mr. BURDICK (by request):

S. 235. A bill to establish a uniform law on the subject of bankruptcies. Referred to the Committee on the Judiciary.

S. 236. A bill to revise and reform title 11 of the United States Code; and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BURDICK:

S. 237. A bill to amend title 28, United States Code, to provide in civil cases for juries of six persons, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BURDICK (for himself and Mr. Young):

S. 238. A bill to authorize the Devils Lake Sioux Tribe of the Fort Totten Reservation to consolidate its landholdings in North Dakota and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BURDICK:

S. 239. A bill for the relief of Pavel Vosicky. Referred to the Committee on the Judiciary.

S. 240. A bill to amend the Act entitled "An Act granting a charter to the General Federation of Women's Clubs." Referred to the Committee on the Judiciary.

By Mr. BURDICK (for himself and Mr. Young):

S. 241. A bill to donate to the Devils Lake Sioux Tribe, Fort Totten Reservation, some submarginal lands of the United States, and to make such lands part of the reservation involved; and

S. 242. A bill to declare that certain federally owned land is held by the United States of America in trust for the Turtle Mountain Band of Chippewa Indians of the Turtle Mountain Chippewa Indian Reservation. Referred to the Committee on Interior and Insular Affairs.

By Mr. PROXMIRE (for himself and Mr. Cranston):

S. 243. A bill to establish an independent Special Prosecution Office, as an independent agency of the United States, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. PROXMIRE (for himself, Mr. Kennedy, Mr. Cranston, and Mr. Pell):

S. 244. A bill to amend section 102 of the National Security Act of 1947, as amended, to prohibit domestic intelligence activities by the Central Intelligence Agency, and for other purposes. Referred to the Committee on Armed Services.

By Mr. PROXMIRE:

S. 245. A bill to impose a moratorium on the receipt of deposits or the making of loans by financial institutions at places of business, other than those of financial institutions through the means of electronic methods of funds transfers. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BELLMON:

S. 246. A bill to revise the period used for determining changes in the index of prices paid by farmers and in the national average yield per acre for the purpose of making adjustments in the target price of the 1976 crops of wheat, feed grains, and cotton. Referred to the Committee on Agriculture and Forestry.

By Mr. BELLMON:

S. 247. A bill for the relief of Kria Malik Basiluos; and

S. 248. A bill for the relief of Filemon J. Inocencio, Senior, Noemi S. Inocencio, Pamela Ann Inocencio, and Filemon Jose Inocencio, Junior. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself, Mr. Tower, and Mr. Brooke):

S. 249. A bill to amend the Securities and Exchange Act of 1934, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. HUMPHREY (for himself and Mr. Mondale):

S. 250. A bill to prevent increases in cost of coupons to food stamp recipients. Referred to the Committee on Agriculture and Forestry.

By Mr. FONG (for himself, Mr. Fannin, and Mr. Tower):

S.J. Res. 5. A joint resolution to establish a National Commission on Social Security. Referred to the Committee on Finance.

By Mr. HELMS:

S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right of life to the unborn. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER (for himself, Mr. McGovern, Mr. Baker, Mr. Tunney, Mr. Percy, Mr. Philip A. Hart, Mr. Abourezk, Mr. McGee, Mr. Javits, Mr. Case, Mr. Buckley, Mr. Hathaway, Mr. Hartke, Mr. Mathias, Mr. Humphrey, Mr. Stafford, Mr. Eagleton, Mr. Brooke, Mr. Metcalf, Mr. Cranston, Mr. Allen, Mr. Kennedy, Mr. Clark, Mr. Mondale, Mr. Taft, Mr. Goldwater, Mr. Cannon, and Mr. Church):

S. 199. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes. Referred to the Committee on Finance.

Mr. WEICKER. Mr. President, I am today reintroducing, along with Senators McGovern, Baker, Tunney, Percy, Ribicoff, Hart, Abourezk, McGee, Javits, Case, Buckley, Hathaway, Hartke, Mathias, Humphrey, Stafford, Eagleton, Brooke, Metcalf, Cranston, Allen, Kennedy, Clark, Mondale, Taft, Goldwater, Cannon, and Church, legislation to protect the confidentiality of every American's tax return.

First proposed with the House sponsorship of Representative Jerry Litton, Democrat of Missouri, on September 11, this legislation seeks to close loopholes which currently make it possible for White House staffers or various Federal agencies to gain access to confidential information on an individual's tax return.

We are all aware of the repeated political abuses of the Internal Revenue Service which were revealed during the Watergate hearings, and which constituted one of the allegations included in article II of impeachment voted by the House Judiciary Committee.

This measure reaffirms the use of the IRS for its intended purpose, to collect taxes and not to gather private information on citizens or to harass those who differ with whoever is in the White House.

Mr. President, let me make an important point at this time. The Congress of the United States is on notice. Do we really need any more Watergate bombshells before we act decisively to prevent future Watergate-type abuses of the Constitution and of individual citizen's rights? I think not. The responsibility for positive action rather than rhetorical posturing is ours, now, in this first session of the 94th Congress. And I wish to restate my conviction that if reform measures are not voted this year, then the impetus for that much needed reform will be lost, until we are once again faced with a crisis of Watergate-type abuses against our constitutional democracy.

Of all abuses uncovered in the last 2 years, none poses a greater threat to the principles of privacy and due process than misuse of personal income tax returns. The documented use of the Internal Revenue Service as an intelligence body to derive information harmful to enemies of the Nixon administration and helpful to its friends flaunts the fundamental principles on which our Government was founded. Attempts were made by high White House officials, with the apparent knowledge of President Nixon, to receive information from the Internal Revenue Service on his administration's enemies, to harass foes with tax audits and protect friends from such investigation. The House Judiciary Committee in article II, subparagraph 2 of the Articles of Impeachment succinctly summarized the mass of information it had gathered against President Nixon in this area. It stated:

> He has, acting personally and through his subordinates and agents, endeavored to obtain from the Internal Revenue Service, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, income tax audits or other income tax investigations to be initiated or conducted in a discriminatory manner.

In outlining some dozen areas of Nixon's direct connection with possible criminal activity, Special Prosecutor Leon Jaworski included misuse of IRS information and trying to initiate IRS audits of White House "enemies" among the charges.

The Nixon administration not only sought tax information to use against enemies but also legally sought to open tax returns of whole occupational groups for its inspection. Two Executive orders, Executive Order 11697 and Executive Order 11709 required the Treasury Department to turn over farmers income tax returns to the Department of Agriculture allegedly for statistical purposes. This directly threatened the privacy of three million citizens and provided the model for similar orders directed against other occupational groups. After congressional hearings, the introduction of H.R. 10977 and other bills to prohibit such widespread invasions of taxpayers' privacy, and the recommendations for repeal of the orders by the then Vice President Ford and the Domestic Council on Privacy, President Nixon belatedly repealed his earlier controversial orders. These orders, which left Federal bureaucrats free to rummage through income tax returns for statistical data obtainable from other sources and the attempted corruption of the audit procedures to harm enemies and help friends have made us aware of how fragile is the privacy of our tax returns.

At the heart of the problem is an antiquated section of the Internal Revenue Code, section 6103, which makes our tax returns public records. We ask our taxpayers to voluntarily and freely report the most confidential aspects of their financial status in the belief that such information will not be used in a manner violative of their right of privacy. In effect, each of us for taxation purposes is waiving our fifth amendment rights. But our law invites abuse and misuse of this information by stating that, unless otherwise limited, tax returns are public records. The Commissioner of Internal Revenue, Donald C. Alexander, was right when commenting on section 6103, he told the House Foreign Operations and Government Information Subcommittee on August 3, 1973:

> I suggest that a better approach is precisely the opposite: tax returns should be confidential and private, except as otherwise specified.

Justice Brandeis once stated:

> The most comprehensive of rights and the right most valued by civilized men is the right to be left alone.

It is this right that is in danger of extinction.

I am proud to introduce a bill to protect the confidentiality of personal income tax returns and limit the use of these returns for purposes other than those for which they were intended. This bill would enact a new section 6103 of the Internal Revenue Code to provide:

All returns made with respect to taxes imposed under any provision in this title are confidential records and no such return or any information contained therein shall be disclosed except as provided in this title.

This bill is intended to limit use of income tax returns to the purpose for which the taxpayer intended them to be used—the reporting of his income for the purpose of assessing a tax against him. The only persons to whom this information can be divulged are the taxpayer himself, his authorized representative, officers and employees of the Internal Revenue Service and the Justice Department for enforcement of the Internal Revenue Code, State tax officials for the purpose of administering their tax system, the Joint Committee on Internal Revenue Taxation, and under the spotlight of public knowledge, the President. The President and Attorney General can obtain tax returns only upon written request specifying the taxpayer whose return is to be inspected. The President must certify that he needs the return in the performance of his official duties.

On September 20, President Ford signed an Executive order limiting White House access to income tax returns. Pursuant to the order, tax returns will be open to inspection by the President only upon written request signed by the President personally. In any such request, the President may designate by name an employee or employees, of the White House who are authorized on behalf of the President to receive a particular tax return.

I commend the President for his initiative in this area. Executive orders may be a first step. But Presidential access to confidential tax returns of American citizens is better preserved by statute than left to the unpredictable course of an Executive order which can be easily changed, revoked, or disregarded.

The Commissioner of Internal Revenue would be required by this bill to issue a quarterly report to the Joint Committee on Internal Taxation specifying the names of taxpayers whose returns are requested, the persons requesting them, and the dates requested so that Congress can provide an additional check against the unnecessary invasion of tax return confidentiality. In the future, what a President does with a taxpayer's return will be known to the Nation. Thus, his constitutional powers are not restricted, but his ability to move in secret is.

Upon request of head of any Federal department or agency or of the principal tax official of a State, the IRS Commissioner may furnish certain statistical information derived from tax returns, so long as the tax information does not disclose the identity of any taxpayer or any return. This information so furnished must be compiled by the IRS itself for some reasonable fee.

This legislation tightens congressional access to confidential tax returns. Under present law, specifically section 6103(d), the Senate Finance Committee, House Ways and Means Committee, and other select or joint congressional committees, as authorized by resolution, can obtain and inspect tax returns.

Under this proposal only the Joint Committee on Internal Taxation will have the right to obtain from the IRS individual tax returns. Any decision to request data or inspect any return must be made by the entire committee, by a majority vote with a quorum present. The Joint Committee on Internal Revenue Taxation may disclose statistical information, derived from tax returns, to other congressional committees in such a manner as to protect the identity of the taxpayer or any return.

This measure would further amend section 7213 of the Internal Revenue Code, making the unauthorized disclosure or receipt of tax information a felony, punishable by fines up to $10,000 and/or imprisonment up to 5 years. With this change, Government officials seeking to pry open confidential tax files for political or personal purposes would at least face stiff criminal penalties.

There will be those Government agencies and congressional committees who protest that this legislation will prevent them from obtaining the information necessary to administer or enact laws, that they need to know overrides any privacy interest that may be involved.

If an agency needs to know something that is contained in a tax return, why not ask the taxpayer directly? All information in tax returns can be obtained by other legal means. Because the tax return makes bureaucratic investigation easier is not sufficient reason to skirt standard judicial remedies or de facto amend the Constitution.

To rely on the surreptitious use of tax returns for nontax purposes may often result in an unknowing waiver by the taxpayer of his fifth amendment right against self-incrimination. That is abhorrent to our sense of justice. It is also illegal.

The bureaucratic insistence that tax returns must be public records so that agencies can know even more than the citizen intends them to know, threatens the stability of our tax system and thus the stability of government itself. The method in which taxpayers voluntarily comply with our tax laws and, in most cases, fully report their earnings is the envy of most other nations where dishonesty is often the rule rather than the exception. If taxpayers become convinced that the confidential data they submit each year is being used for political purposes, how long will it be before taxpayers cheat? Widespread cheating would be beyond the capacity of our 13,000 revenue agents to control and our entire system of voluntary self-assessment could collapse.

With the support of nearly one-third of the Senate, I urge prompt consideration and enactment of this long overdue legislation. President Nixon's Executive order opening tax files of 3 million farmers was perfectly legal even though it shocked Congress and the public. Earlier Executive orders of other Presidents have legally made tax returns available to the Renegotiation Board, the Federal Trade Commission, the Department of Commerce, and the Department of Health, Education, and Welfare. From the 72d Congress to the present, Congress has enacted no fewer than 47 resolutions authorizing regular and special committees to obtain tax returns.

There will be those who will say that Watergate-type abuses of the tax system could never occur again because no President or agency of Government would want to risk the resulting outrage. To say this is to ignore the lesson of the painful period through which we are passing. We are a Government of laws and not of men. Congress can enact laws to protect the rights of our citizens. Congress cannot legislate good or bad judgment by Presidents of the United States.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATIONS ON INSPECTION OF RETURNS AND DISCLOSURE OF INFORMATION.

(a) Section 6103 of the Internal Revenue Code of 1954 (relating to publicity of returns, et cetera) is amended to read as follows:

"SEC. 6103. CONFIDENTIALITY OF RETURNS.

"(a) PROHIBITION ON INSPECTION AND DISCLOSURE.—All returns made with respect to the taxes imposed by this title are confidential records. Except as provided in this title—

"(1) no such return shall be open to inspection, and

"(2) no information contained in any such return shall be disclosed.

Paragraph (2) shall not preclude the publication by the Commissioner of statistics derived from such returns, except that no such publication shall disclose the identity of any taxpayer or of any return.

"(b) DEFINITION OF RETURN.—For purposes of this section, the term 'return' means any form or other document, prepared by or on behalf of a taxpayer and filed under compulsion of law, containing information necessary to determine tax liability under this title.

"(c) AUTHORIZED INSPECTIONS.—Returns of the taxes imposed by this title shall be open to inspection, in such manner, at such times and places, and subject to such conditions consistent with the provisions of subsection (a) as the Commissioner shall prescribe by regulations, by the following persons:

"(1) The taxpayer by or for whom a return was made or his authorized representative.

"(2) Officers and employees of the Internal Revenue Service, the Department of the Treasury, and, with respect to matters referred to the Department of Justice by the Commissioner, the Department of Justice, in each case solely for purposes of the administration and enforcement of this title.

"(3) Officers and employees of Department of Justice, solely for purposes of the administration and enforcement of this title (other than matters referred to the Department of Justice by the Commissioner), and only upon the written request of the Attorney General of the United States specifically naming the taxpayer whose return is to be inspected.

"(4) Any State agency, body, or commission lawfully charged with tax administration for the purpose of, and only to the extent necessary in, the administration of a specific tax law of such State and shall be used only for such tax administration. The inspection shall be permitted, or the disclosure made, only upon written request of the head of such State agency, body, or commission, designating the representatives of such agency, body, or commission to make the inspection or to receive the return on behalf of such agency, body, or commission. This paragraph shall not apply with respect to returns of the taxes imposed by Chapters 35 and 53.

"(5) The President of the United States, upon his written request specifically naming the taxpayer whose return is to be inspected, provided that the inspection of such return is necessary in the performance of his official duties.

The Commissioner shall, within thirty days after the close of each calendar quarter, submit a report to the Joint Committee on Internal Revenue Taxation listing the returns furnished for inspection during that quarter under paragraphs (3), (4) and (5), the date on which the request for inspection of each such return was received, and, in the case of returns furnished under paragraph (4), the name and position of the individual making such request. The Joint Committee may make public such portions of such reports, or information derived therefrom, as it deems advisable.

"(d) Joint Committee on Internal Revenue Taxation.—The Joint Committee on Internal Revenue Taxation shall have the right to obtain data and to inspect returns and to submit any relevant or useful information thus obtained to the Senate, the House of Representatives, or any committee of the Senate or the House, except that information obtained from such returns may be disclosed in statistical form only without disclosing the identity of any taxpayer or of any return. Any decision of the Joint Committee to request any data or to inspect any return shall be determined by a majority vote of the members present and voting, a quorum being present.

"(e) Disclosure of Certain Information.—

"(1) Social security and railroad retirement taxes.—The Commissioner shall furnish to the Social Security Administration and the Railroad Retirement Board information derived from returns of the taxes imposed by chapters 2, 21, and 22.

"(2) Federal agencies and state tax authorities.—Upon the request of the head of any department or agency of the Federal Government or of the principal tax official of a State, the Commissioner is authorized to furnish statistical information derived from returns to such department or agency or such State, except that no information so furnished shall disclose the identity of any taxpayer or of any return. Any information so furnished shall be compiled by employees of the Internal Revenue Service and the Commissioner may prescribe a reasonable fee for furnishing such information.

"(f) Furnishing of Copies.—Whenever a return is open to the inspection of any person, a certified copy thereof shall, upon request, be furnished to such person under regulations prescribed by the Commissioner who may also prescribe a reasonable fee for furnishing such copy.

"(g) Disclosure of Information as to Persons Filing Income Tax Returns.—The Commissioner shall, upon inquiry as to whether any person has filed an income tax return in a designated internal revenue district for a particular taxable year, furnish to the inquirer, in such manner the Commissioner may determine, information showing that such person has, or has not, filed an income tax return in such district for such taxable year."

(b) The table of sections for subchapter B of chapter 61 of such Code is amended by striking out the item relating to section 6103 and inserting in lieu thereof the following:

"Sec. 6103. Confidentiality of returns."

Sec. 2. Unemployment Tax Returns.

(a) Section 6106 of the Internal Revenue Code of 1954 (relating to publicity of unemployment tax returns) is repealed.

(b) The table of sections for subchapter B of chapter 61 of such Code is amended by striking out the item relating to section 6106.

Sec. 3. Unauthorized Disclosure of Information.

(a) Section 7213 of the Internal Revenue Code of 1954 (relating to penalties for unauthorized disclosure of information) is amended—

(1) by striking out "misdemeanor" each place it appears in paragraphs (1), (2), and (3) of subsection (a) and inserting in lieu thereof "felony";

(2) by striking out "$1,000" each place it appears in such paragraphs and inserting in lieu thereof "$10,000";

(3) by striking out "1 year" each place it appears in such paragraphs and inserting in lieu thereof "5 years"; and

(4) by redesignating subsection (e) as (f) and inserting after subsection (d) the following new subsection:

"(e) Unauthorized Receipt.—Any person who knowingly receives any information or material which is disclosed or furnished in violation of the provisions of subsection (a) shall be guilty of a felony and, upon conviction thereof, shall be fined not more than $10,000, or imprisoned for not more than 5 years, or both, together with the costs of prosecution."

Sec. 4. Effective Dates.

The amendments and repeal made by sections 1 and 2 shall take effect on the first day of the third month which begins after the date of the enactment of this Act. The amendments made by section 3 shall take effect on the date of the enactment of this Act.

By Mr. RIBICOFF (for himself, Mr. Percy, Mr. Javits, Mr. Magnuson, Mr. Cranston, Mr. Moss, Mr. Weicker, Mr. Abourezk, Mr. Bayh, Mr. Biden, Mr. Brooke, Mr. Case, Mr. Clark, Mr. Culver, Mr. Gravel, Mr. Gary W. Hart, Mr. Philip A. Hart, Mr. Haskell, Mr. Hatfield, Mr. Hathaway, Mr. Ford, Mr. Inouye, Mr. Humphrey, Mr. Jackson, Mr. Kennedy, Mr. Leahy, Mr. Mathias, Mr. McGee, Mr. McGovern, Mr. Mondale, Mr. Muskie, Mr. Nelson, Mr. Pastore, Mr. Proxmire, Mr. Stafford, Mr. Stevenson, Mr. Stone, Mr. Tunney, and Mr. Williams):

S. 200. A bill to establish an independent consumer agency to protect and serve the interest of consumers, and for other purposes. Referred to the Committee on Government operations.

CONSUMER PROTECTION ACT OF 1975

Mr. RIBICOFF. Mr. President, I introduce for appropriate reference the Consumer Protection Act of 1975.

In September 1974, on the fourth cloture vote, the Senate came within one vote of breaking a filbuster against the Consumer Protection Act of 1974. The bill being introduced today is in most respects identical to that bill which was supported by 65 Senators. It represents a program, painstakingly achieved after 5 years of intensive negotiation and study. I hope the Senate will act speedily to pass this legislation which will help insure effective representation for the American consumer in Federal agency proceedings.

The bill would establish an independent nonregulatory Agency for Consumer Advocacy—ACA—to speak for the interests of the consumer. The Agency will be authorized to advocate the interests of consumers before agencies and the Federal Courts and to provide the public with information about consumer matters.

The Agency will in no respect have the power to regulate the activities of businesses. It will have no authority to issue regulations and order governing the way individuals and businesses live or work. It will have no authority to force other Federal agencies to take any particular regulatory actions.

Rather, it will act solely as an advocate and spokesman for consumer interests.

Under normal conditions the need for this legislation is great—during these difficult economic times, it is critical.

According to Department of Justice Antitrust Chief Thomas Kauper, studies have indicated that price fixing and other anticompetitive actions raise price levels by as much as $80 billion a year. Transportation economists estimate that price-fixing and waste allowed under CAB, FMC, and ICC regulations cost the consumer between $8 to $16 billion yearly.

Against these enormous losses to the consumer, we are proposing an agency at a cost of $15 million for the first year. A consumer protection agency is not a massive new Federal spending program.

The impact of such an agency on the inflationary pressures; however, is bound to be many times its size. The savings to consumers in identifying shabby merchandise and holding down prices will be major deterrents to our spiraling inflation.

Today, unfortunately, the consumer has no advocate—no rallying point of opinion. He is hard pressed by the rising cost of living and often feels an enormous sense of helplessness in seeking to protect his legitimate interests.

One individual is powerless when an automobile manufacturer charges him large sums of money to replace parts that cost only a fraction of that to make.

One individual is powerless when the cost of heating his home doubles or triples in price.

One individual is powerless when deceptive packaging misleads him into buying one size food product thinking he is buying another larger size.

One individual is powerless to make sure the meat or poultry he is eating has not been contaminated with dangerous chemicals.

Individually, each consumer is powerless, but together consumers share an identifiable community of interests—interests which are greatly in need of representation.

Many consumer problems are dealt with in Washington. But the Federal regulatory agencies cannot do the job alone. They reply, as is traditional under our American system, on the adversary process to reach their decisions. But consumers, isolated and fragmented, lack the resources and expertise to participate adequately in these adversary proceedings.

The result is that the consumer viewpoint is not adequately represented before Federal agencies. A former high FTC official disclosed at the hearings on the consumer bill in the last Congress that business representatives exceed consumer representatives before Federal agencies by a ratio of about 100 to 1. This is not good for consumers. This is not good for business. This is not good for America.

This legislation will guarantee that henceforth there will be someone in Washington to speak for consumers in the halls and hearing rooms of the Federal Government. This should help end some of the public's mistrust of government.

And when the Administrator speaks for the consumer, he will speak with knowledge of consumer preferences. The legislation assures this. Consumers will be free to petition the agency to express their views and to request the agency to become involved in particular issues. In this capacity as a clearinghouse for consumer complaints, the agency will be receiving and reviewing complaints from the public and individual consumer problems. Its information-gathering powers will provide yet a further means for the agency to discover consumer trouble spots. Finally, the agency will be free to conduct surveys and other studies to assure that it is acquainted with the needs and desires of consumers.

The ACA will not be just another Government agency. It will not dictate to people, or ignore their wishes. With no regulatory powers to its own, its role will be to bring the 210 million consumers in this country and the large, and too often unwieldly, Federal Government closer together.

This bill differs in several respects from the bill introduced in the Senate in February 1973. These differences represent the fruits of intensive negotiation, over hundreds of hours, by interested parties. They are outlined as follows:

1. Consumer Council:

The consumer protection agency bill introduced in February, 1973, provided for a Council of Consumer Advisors, in the Executive Office of the President, to set priorities on consumer matters and review impact of Federal programs.

This bill deletes the Council entirely.

2. State and local proceedings:

The 1973 bill authorized the consumer agency to intervene or participate in state or local agency or court proceedings, on request of state officials or the state or local agency or court.

This bill denies ACA such authority.

3. Grant Program:

The 1973 bill authorized grants to state and local public agencies to promote consumer interests and education. It provided for $20 million in the first fiscal year and $40 million in the second fiscal year after enactment.

This bill contains no grant program.

4. Name of agency:

Original bill designated Consumer Protection Agency (CPA) as name of the agency.

This bill designates Agency for Consumer Advocacy (ACA) as name of the agency.

5. Budget By-Pass:

Bill previously provided that the Administrator's proposed budget estimates, and recommendations or testimony on legislation, be submitted to Congress at the same time they were submitted to OMB.

This bill deletes this provision.

6. Informal proceedings:

The 1973 bill provided that the Administrator of the Consumer Protection Agency could "as of right participate" in informal agency proceedings which substantially affect consumers. It was understood that the participation would be equal to that of others.

This bill does not *require* agencies to allow ACA to participate in their informal proceedings simultaneously or equally with others. ACA may present "written or oral submissions", and Federal agencies must give "full consideration" to such ACA submissions.

7. Subpoenas:

The 1973 bill required the Federal host agency to issue subpoenas under its authority where the consumer agency was intervening or participating in an agency proceeding or activity.

This bill limits host agency issuance of subpoenas requested by ACA to proceedings which authorize a hearng.

8. Judicial review:

The 1973 bill allowed consumer agency, where it did not participate below, to seek judicial review unless the court determined it would be detrimental to the interests of justice. The 1973 bill also required the Administrator to petition the agency for reconsideration prior to seeking judicial review of any agency decision whenever the Federal agency's law *required* such petition, and the Administrator had not participated in the proceeding at the agency level.

This bill requires the court to make an affirmative finding as to whether or not the ACA's institution of a proceeding in court would impede the interests of justice. Current bill also requires the Administrator to petition the agency for reconsideration before appealing whenever such a petition is *authorized* by agency laws and the Administration had not participated in the proceeding at the agency level.

9. Interrogatories—small business:

The 1973 bill contained no exemption from the interrogatory section for small businesses.

This bill exempts from the interrogatory section, except in the case of an imminent and substantial danger to health or safety, any business having fewer than 25 employees, assets under $7½ million, net worth under $2½ million, and average net income under $250,000.

10. Access to agency records:

The 1973 bill allowed consumer agency full access to Federal agency records, with exceptions only for national security information, policy recommendations, and administrative and personnel records.

This bill imposes much more stringent limitations on ACA access. In addition to the original safeguards, it prohibits ACA from obtaining trade secrets which an agency has agreed to keep confidential. It prohibits ACA from obtaining prosecutorial recommendations from law enforcement agencies. It specifically prohibits ACA access to bank examination reports to the same extent other agencies are denied access to such information. Finally, the current bill contains an additional provision prohibiting ACA access to information which would disclose the financial condition of individuals who are customers of financial institutions.

11. Farmers:

Original bill did not include farmers within the definition of consumers.

This bill redefines consumers to include farmers, and specifically directs the Administrator to promote the interests of farmers "in obtaining a full supply of goods and services at a fair and equitable price". It also contains a new provision requiring the Administrator to consider the interests of both farmers and consumers before intervening in any Department of Agriculture proceeding.

12. Protection for Small Business:

The bill introduced in 1973 contained no special protection for small business.

This bill requires ACA to take the views of small business into account in setting ACA's priorities, and requires ACA to solicit advice from small business before promulgating any rules or regulations under the act.

13. Exemptions:

Original bill contained no explicit provision barring the consumer agency from participating in labor-management relations cases before the NLRB, although accompanying committee report stated such cases would be exempt.

This bill adopts the limited labor-management exemption contained in the bill passed by the House in 1974. It also provides that ACA will not participate in broadcast license renewal cases before the Federal Communications Commission.

14. GAO review:

The bill introduced in 1973 contained no provision for GAO review.

This bill requires GAO to review all of ACA's activities, and provide a full report to Congress within three years of the date of enactment, with an evaluation of ACA's effectiveness and recommendations for any modifying legislation.

This legislation does not abridge the rights of any person or organization to make its case before Federal agencies. It does, instead, honor the principle that all persons affected by governmental action should have equal access to those Government agencies responsible for that action.

This bill is not anti-business. It is pro-consumer and what is good for consumers is good for responsible businesses.

The House of Representatives has passed consumer agency legislation by large majorities in both the 92d and 93d Congresses. The time is overdue for the Senate to carry out the will of a majority of its Members who have supported legislation similar to this over several years and many votes. This is vital legislation which will make our Government more responsive to the needs of the American people and thereby help restore dwindling confidence in our Government and our free enterprise system.

I am confident that the Committee on Government Operations will report this bill to the floor speedily. I hope the Congress will act without delay to pass it into law.

Mr. President, I ask unanimous consent that the full text of the Consumer Protection Act of 1975 be printed in the Record, together with a summary of the bill.

There being no objection, the summary and bill were ordered to be printed in the Record, as follows:

SUMMARY AND EXPLANATION OF S. 200

The bill would establish an independent, nonregulatory Agency for Consumer Advocacy (ACA) to speak for the interests of the consumer. The Agency will be authorized to advocate the interests of consumers before agencies and the courts and to provide the public with information about consumer matters.

The agency will have no regulatory or other legal power to force business enterprises to change their practices in any way. Rather, it will operate purely as a spokesman for the consumer before the other agencies that do make decisions affecting the consumer.

CONSUMER ADVOCACY BEFORE FEDERAL AGENCIES

The most important function of the Agency will be representation of consumer interests before Federal agencies and courts. In *formal* adjudicatory or rule-making proceedings under the Administrative Procedure Act, the ACA is authorized to intervene as a party.

In such cases the Agency will be subject to the same rules as any other person who is a party to the proceedings. The Act directs ACA to refrain from intervening in such proceedings unless necessary to adequately represent the interests of consumers.

When a Federal agency considers a decision affecting the interests of consumers outside a formal adjudicatory or rulemaking proceeding, the Act gives the ACA the right to submit data and other relevant information or arguments. Such submission will be in either written or oral form and presented in such a way as not to hinder the agency's ability to act expeditiously. This means that if the lead tinsel manufacturers have a meeting with the Commissioner of FDA on the schedule for removing lead tinsel from the market, the Administrator of ACA is entitled to present his views on the subject to FDA officials. The section does *not* give him the right to be present at the tinsel manufacturers meeting and argue his case at the same time they do.

JUDICIAL REVIEW

The ACA Administrator is also authorized, where necessary to protect consumer interests, to seek judicial review of an agency proceeding reviewable under law. He may also intervene in any judicial proceeding reviewing or enforcing such agency actions. This right to seek review is analogous to the right now enjoyed by private persons aggrieved by agency action. If the Administrator did not participate in the agency proceeding below, he may appeal the agency decision only if he first files a timely petition before the Federal agency for rehearing and reconsideration and the agency fails to act favorably on the petition.

CLEARINGHOUSE FOR COMPLAINTS

The Agency is authorized to act as a clearinghouse for consumer complaints. ACA is required to notify businesses of all complaints concerning them, to give them an opportunity to respond, to transmit such complaints to appropriate Federal or state agencies, and to maintain an up-to-date file for public inspection of complaints together with any comments which are received.

GATHERING INFORMATION

The ACA is authorized to obtain the information it needs through the submission of written interrogatories. However the Administrator may only use this authority where the information is not publicly available and cannot be obtained from another Federal agency. Moreover, he may not use this authority in an agency proceeding in which the Administrator has intervened. The interrogatories may only be enforced if the Administrator sustains the burden of showing that they are relevant to the purpose for which they are sought and are necessary to uncover consumer fraud or to protect consumer health or safety.

INFORMATION FROM OTHER AGENCIES

The ACA may obtain information from other agencies. But ACA is expressly prohibited from collecting information from other agencies concerning national security, tax records, internal policy recommendations, and other similar private information. There are also strict limits on the Agency's right to have access to trade secrets. The Agency is prohibited from publicly disclosing any information obtained from another Federal agency if the information is exempted from such disclosure by the other agency.

FUNDING

The bill would authorize $15 million for fiscal year '76, $20 million for fiscal year '77, and $25 million for fiscal year '78. By way of contrast, the U.S. Budget for fiscal year 1975 provides $1.433 billion in Federal funds under the caegory "advancement of business."

EXAMPLES

Following are some examples of the types of cases in which ACA could participate, and how it might affect the outcome.

1. In 1972, after a DC–10 passenger plane was involved in a near fatal accident, the FAA discovered that the plane's cargo door was at fault. The FAA drafted a directive requiring the manufacturer, McDonnell-Douglas, to correct the defect in the cargo door. McDonnell-Douglas intervened directly with the FAA Administrator, urging that FAA make the notice permissive, rather than mandatory. The FAA did so, and the result was that the modification was not made on all DC–10's.

In March, 1974, a DC–10 crashed near Paris killing 344 people. It was a plane on which the cargo door had not been modified. The FAA believes that the faulty cargo door caused the crash.

Had ACA been in existence in 1972, it could have participated and urged FAA to issue the air-worthiness directive requiring that the cargo door be modified.

2. Each year an estimated 1300–6000 cancer deaths are caused from exposure to x-ray machinery. To improve the safety of x-ray machines, Congress passed the Radiation Control Act of 1968. The FDA, however, postponed issuing the regulations needed to implement the Act until 1972. Then the FDA postponed the deadline for complying with the Act until August 1, 1974. The Agency for Consumer Advocacy could have monitored FDA's actions, and prodded the agency into acting much more quickly. Unnecessary deaths could have been avoided.

3. In September, 1973, the Cost of Living Council permitted domestic auto makers to raise their prices an average of about $70 per car. Although this cost the American public approximately $54 million a month in increased costs, the COLC notified the public of its proposed action only one day before the deadline for requesting an opportunity to appear and only 4 working days before the hearings themselves. The Council also failed to provide the public with the basic information it needed to prepare meaningful comments. An Agency for Consumer Advocacy official familiar with government cost and pricing decisions would have had the necessary knowledge and expertise to uncover the necessary background information, develop meaningful comments, and seek the additional time needed to adequately represent the consumer's interests.

S. 200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Protection Act of 1975".

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that the interests of consumers are inadequately represented and protected within the Federal Government; and that vigorous representation and protection of the interests of consumers are essential the fair and efficient functioning of a free market economy. Each year, as a result of this lack of effective representation before Federal agencies and courts, consumers suffer personal injury, economic harm, and other adverse consequences in the course of acquiring and using goods and services available in the marketplace.

(b) The Congress therefore declares that—

(1) A governmental organization to represent the interests of consumers before Federal agencies and courts could help the agencies in the exercise of their statutory responsibilities in a manner consistent with the public interest and with effective and responsive government. It is the purpose of this Act to protect and promote the interests of the people of the United States as consumers of goods and services which are made available to them through commerce or which affect commerce by so establishing an independent Agency for Consumer Advocacy.

(2) It is the purpose of the Agency for Consumer Advocacy to represent the interests of consumers before Federal agencies and courts, receive and transmit consumer complaints, develop and disseminate information of interest to consumers, and perform other functions to protect and promote the interests of consumers. The authority of the Agency to carry out this purpose shall not be construed to supersede, supplant, or replace the jurisdiction, functions, or powers of any other agency to discharge its own statutory responsibilities according to law.

(3) It is the purpose of this Act to promote protection of consumers with respect to the—

(A) safety, quality, purity, potency, healthfulness, durability, performance, repairability, effectiveness, dependability, availability, and cost of any real or personal property or tangible or intangible goods, services, or credit;

(B) preservation of consumer choice and a competitive market;

(C) prevention of unfair or deceptive trade practices;

(D) maintenance of truthfulness and fairness in the advertising, promotion, and sale by a producer, distributor, lender, retailer, or other supplier of such property, goods, services, and credit;

(E) furnishing of full, accurate, and clear instructions, warnings, and other information by any such supplier concerning such property, goods, services, and credit; and

(F) protection of the legal rights and remedies of consumers.

(4) This Act should be so interpreted by the executive branch and the courts so as to implement the intent of Congress to protect and promote the interests of consumers, and to achieve the foregoing purposes.

ESTABLISHMENT

SEC. 3. (a) There is hereby established as an independent agency of the United States within the executive branch of the Government the Agency for Consumer Advocacy. The Agency shall be directed and administered by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, for a term coterminous with the term of the President, not to exceed four years. The Administrator shall be an individual who by reason of training, experience, and attainments is exceptionally qualified to represent the interests of consumers. There shall be in the Agency a Deputy Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such function, powers, and duties as may be prescribed from time to time by the Administrator and shall act for, and exercise the powers of, the Administrator during the absence or disability of, or in the event of a vacancy in the office of, the Administrator. On the expiration of his term, the Administrator shall continue in office until he is reappointed or his successor is appointed and qualifies. The Administrator may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(b) No employee of the Agency while serving in such position may engage in any business, vocation, other employment, or have other interests inconsistent with his official responsibilities.

(c) There shall be in the Agency a General Counsel who shall be appointed by the Administrator.

(d) The Administrator is authorized to appoint within the Agency not to exceed five Assistant Administrators.

POWERS AND DUTIES OF THE ADMINISTRATOR

SEC. 4. (a) The Administrator shall be responsible for the exercise of the powers and the discharge of the duties of the Agency, and shall have the authority to direct and supervise all personnel and activities thereof.

(b) In addition to any other authority conferred upon him by this Act, the Administrator is authorized, in carrying out his functions under this Act, to—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary to carry out the provisions of this Act and to prescribe their authority and duties;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and while such experts and consultants are so serving away from their homes or regular place of business, pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) appoint advisory committees composed of such private citizens and officials of the Federal, State, and local governments as he deems desirable to advise him with respect to his functions under this Act, and pay such members (other than those regularly employed by the Federal Government) while attending meetings of such committees or otherwise serving at the request of the Administrator compensation and travel expenses at the rate provided for in paragraph (2) of this subsection with respect to experts and consultants: *Provided*, That all meetings of such committees shall be open to the public and interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Administrator may prescribe;

(4) promulgate, in accordance with the applicable provisions of the Administrative Procedure Act, title 5, United States Code, such rules, regulations, and procedures as may be necessary to carry out the provisions of this Act, and assure fairness to all persons affected by the Agency's actions, and to delegate authority for the performance of any function to any officer or employee under his direction and supervision;

(5) utilize, with their consent, the services, personnel, and facilities of other Federal agencies and of State, regional, local, and private agencies and instrumentalities, with or without reimbursement therefor, and to transfer funds made available under this Act to Federal, State, regional, local, and private agencies and instrumentalities as reimbursement for utilization of such services, personnel, and facilities;

(6) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the provisions of this Act, on such terms as the Administrator may deem appropriate, with any agency or instrumentality of the United States, with any State, or any political subdivision thereof, or with any person;

(7) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(8) adopt an official seal, which shall be judicially noticed;

(9) establish such regional offices as the Administrator determines to be necessary to serve the interests of consumers;

(10) conduct conferences and hearings and otherwise secure data and expressions of opinion;

(11) accept unconditional gifts or donations of services, money or property, real, personal, or mixed, tangible or intangible;

(12) designate representatives to serve or assist on such committees as he may determine to be necessary to maintain effective liaison with Federal agencies and with State and local agencies carrying out programs and activities related to the interests of consumers; and

(13) perform such other administrative activities as may be necessary for the effective fulfillment of his duties and functions.

(c) Upon request made by the Administrator, each Federal agency is authorized and directed to make its services, personnel, and facilities available to the greatest practicable extent within its capability to the Agency in the performance of its functions.

(d) The Administrator shall prepare and submit simultaneously to the Congress and the President, not later than April 1 of each year beginning April 1, 1976, an annual report, which shall include a description and analysis of—

(1) the activities of the Agency, including its representation of the interests of consumers before Federal agencies and Federal courts;

(2) the major Federal agency actions and Federal court decisions affecting the interests of consumers;

(3) the assistance given the Agency by other Federal agencies in carrying out the purposes of this Act;

(4) the performance of Federal agencies and the adequacy of their resources in enforcing consumer protection laws and in otherwise protecting the interests of consumers; and the prospective results of alternative consumer protection programs;

(5) the appropriation by Congress for the Agency, the distribution of appropriated funds for the current fiscal year, and a general estimate of the resource requirements of the Agency for each of the next three fiscal years; and

(6) the extent of participation by consumers in Federal agency activities, and the effectiveness of the representation of consumers before Federal agencies, together with recommendations for new legislation, new budget authority for the Agency, and administrative actions to deal with problems discussed in the report, to protect and represent the interests of consumers more effectively, and to carry out the purposes of this Act.

FUNCTIONS OF THE AGENCY

SEC. 5. (a) The Agency shall, in the performance of its functions, advise the Congress and the President as to matters affecting the interests of consumers; and shall protect and promote the interests of the people of the United States as consumers of goods and services made available to them through the trade and commerce of the United States.

(b) The functions of the Administrator shall be to—

(1) represent the interests of consumers before Federal agencies and courts to the extent authorized by this Act;

(2) conduct and support research, studies, and testing to the extent authorized in section 9 of this Act;

(3) submit recommendations annually to the Congress and the President on measures to improve the operation of the Federal Government in the protection and promotion of the interests of consumers;

(4) obtain information and publish and distribute material developed in carrying out his responsibilities under this Act in order to inform consumers of matters of interest to them, to the extent authorized in this Act;

(5) receive, transmit to the appropriate agencies and persons, and make publicly available consumer complaints to the extent authorized in section 7 of this Act.

(6) conduct conferences, surveys, and investigations, including economic surveys, concerning the needs, interests, and problems of consumers: *Provided*, That such conferences, surveys, or investigations are not duplicative in significant degree of similar activities conducted by other Federal agencies;

(7) cooperate with State and local governments and encourage private enterprise in the promotion and protection of the interests of consumers;

(8) keep the appropriate committees of Congress fully and currently informed of all the Agency's activities, when asked or on his own initiative;

(9) publish, in language readily understandable by consumers, a consumer register which shall set forth the time, place, and subject matters of actions by Congress, Federal agencies, and Federal courts, and other information useful to consumers;

(10) encourage the adoption and expansion of effective consumer education programs;

(11) encourage the application and use of new technology, including patents and inventions, for the promotion and protection of the interests of consumers;

(12) encourage the development of informal dispute settlement procedures involving consumers;

(13) encourage meaningful participation by consumers in the activities of the Agency;

(14) promote the consumer interests of farmers in obtaining a full supply of goods and services at a fair and equitable price; and

(15) perform such other related activities as he deems necessary for the effective fulfillment of his duties and functions.

REPRESENTATION OF CONSUMERS

SEC. 6. (a)(1) Whenever the Administrator determines that the result of any Federal agency proceeding or activity may substantially affect an interest of consumers, he may as of right intervene as a party or otherwise participate for the purpose of representing an interest of consumers, as provided in paragraph (2) or (3) of this subsection. In any proceeding, the Administrator shall refrain from intervening as a party, unless he determines that such intervention is necessary to represent adequately an interest of consumers. The Administrator shall comply with Federal agency statutes and rules of procedure of general applicability governing the timing of intervention or participation in such proceeding or activity and, upon intervening or participating therein, shall comply with laws and agency rules of procedure of general applicability governing the conduct thereof. The intervention or participation of the Administrator in any Federal agency proceeding or activity shall not affect the obligation of the Federal agency conducting such proceeding or activity to assure procedural fairness to all participants.

(2) Whenever the Administrator determines that the result of any Federal agency proceeding which is subject to the provisions of section 553, 554, 556, or 557 of title 5, United States Code, relating to administrative procedure, or which involves a hearing pursuant to the administrative procedural requirements of any other statute, regulation, or practice, or which is conducted on the record after opportunity for an agency hearing, or which provide for public notice and opportunity for comment, may substantially affect an interest of consumers, he may as of right intervene as a party or otherwise participate for the purpose of representing an interest of consumers in such proceeding.

(3) With respect to any Federal agency proceeding not covered by paragraph (2) of this subsection, or any other Federal agency activity, which the Administrator determines may substantially affect an interest of consumers, the Administrator may participate by presenting written or oral submissions, and the Federal agency shall give full consideration to such submissions of the Administrator. Such submissions shall be presented in an orderly manner and without causing undue delay. Such submission need not be simultaneous with that of any other person.

(b) At such time as the Administrator determines to intervene or participate in a Federal agency proceeding under subsection (a)(2) of this section, he shall issue publicly a written statement setting forth his findings under subsection (a)(1), stating concisely the specific interest of consumers to be protected. Upon intervening or participating he shall file a copy of his statement in the proceeding.

(c) To the extent that any person, if aggrieved, would by law have such right, the Administrator shall have the right, in accordance with the following provisions of this subsection, to initiate or participate in any Federal court proceeding involving a Federal agency action—

(1) The Administrator may, as of right, and in the manner prescribed by law, initiate any civil proceeding in a Federal court which involves the review of a Federal agency action that the Administrator determines may substantially affect an interest of consumers. If the Administrator did not intervene or otherwise participate in the Federal agency proceeding or activity out of which such agency action arose, the Administrator, before initiating a proceeding to obtain judicial review, shall petition such agency for rehearing or reconsideration thereof, if the statutes or rules governing such agency specifically authorize rehearing or reconsideration. Such petition shall be filed within sixty days after the Federal agency action involved, or within such longer period as may be allowed by applicable procedures. The Administrator may immediately initiate a judicial review proceeding if the Federal agency does not finally act upon such petition within sixty days after the filing thereof, or at such earlier time as may be necessary to preserve the Administrator's right to obtain effective judicial review of the Federal agency action. Where the Administrator did not intervene or otherwise participate in the Federal agency proceeding or activity out of which the judicial proceeding arises, the court shall determine whether the Administrator's initiation of such judicial proceeding pursuant to this subsection would impede the interests of justice.

(2) The Administrator may, as of right, and in the manner prescribed by law, intervene or otherwise participate in any civil proceeding in a Federal court which involves the review or enforcement of a Federal agency action that the Administrator determines may substantially affect an interest of consumers.

(3) The initiation or other participation of the Administrator in a judicial proceeding pursuant to this subsection shall not alter or affect the scope of review otherwise applicable to the agency action involved.

(d) When the Administrator determines it to be in the interest of consumers, he may request the Federal agency concerned to initiate such proceeding, or to take such other action, as may be authorized by law with respect to such agency. If the Federal agency fails to take the action requested, it shall promptly notify the Administrator of the reasons therefor and such notification shall be a matter of public record.

(e) Appearances by the Agency under this Act shall be in its own name and shall be made by qualified representatives designated by the Administrator.

(f) In any Federal agency proceeding in which the Administrator is intervening or participating pursuant to subsection (a)(2) of this section, the Administrator is authorized to request the Federal agency to issue, and the Federal agency shall, on a statement or showing (if such statement or showing is required by the Federal agency's rules of procedure) of general relevance and reasonable scope of the evidence sought, issue such orders, as are authorized by the Federal agency's statutory powers, for the copying of documents, papers, and records, summoning of witnesses, production of goods and papers, and submission of information in writing.

(g) The Administrator is not authorized to intervene in proceedings or actions before State or local agencies and courts.

(h) Nothing in this section shall be construed to prohibit the Administrator from communicating with Federal, State, or local agencies and courts at any time and in any manner consistent with law or agency rules.

(i) Each Federal agency shall review its rules of procedure of general applicability, and, after consultation with the Administrator, issue any additional rules which may be necessary to provide for the Administrator's orderly intervention or participation, in accordance with this section, in its proceedings and activities which may substantially affect the interests of consumers. Each Federal agency shall issue rules determining the circumstances under which the Administrator may be allowed to make simultaneous submissions under subsection (a)(3) of this section. Any additional rules adopted pursuant to the requirements of this subsection shall be published in proposed and final form in the Federal Register.

(j) The Administrator is authorized to represent an interest of consumers which is presented to him for his consideration upon petition in writing by a substantial number of persons or by any organization which includes a substantial number of persons. The Administrator shall notify the principal sponsors of any such petition within a reasonable time after receipt of any such petition of the action taken or intended to be taken by him with respect to the interest of consumers presented in such petition. If the Administrator declines or is unable to represent such interest, he shall notify such sponsors and shall state his reasons therefor.

CONSUMER COMPLAINTS

SEC. 7. (a) Whenever the Administrator receives from any person any complaint or other information which discloses—

(1) an apparent violation of law, agency rule or order, or a judgment, decree, or order of a State or Federal court relating to an interest of consumers; or

(2) a commercial, trade, or other practice which is detrimental to an interest of consumers;

he shall, unless he determines that such complaint or information is frivolous, promptly transmit such complaint or information to any Federal, State, or local agency which has the authority to enforce any relevant law or to take appropriate action. Federal agencies shall keep the Administrator informed to the greatest practicable extent of any action which they are taking on complaints transmitted by the Administrator pursuant to this section.

(b) The Administrator shall promptly notify producers, distributors, retailers, lenders, or suppliers of goods and services of all complaints of any significance concerning them received or developed under this section unless the Administrator determines that to do so is likely to prejudice or impede an action, investigation, or prosecution concerning an alleged violation of law.

(c) The Administrator shall maintain a public document room containing, for public inspection and copying (without charge or at a reasonable charge, not to exceed cost), an up-to-date listing of all consumer complaints of any significance which the Agency has received, arranged in meaningful and useful categories, together with annotations of actions taken in response thereto. Unless the Administrator, for good cause, determines not to make any specific complaint available, complaints listed shall be made available for public inspection and copying: *Provided*, That—

(1) the party complained against has had a reasonable time to comment on such complaint and such comment, when received, is displayed together with the complaint;

(2) the agency to which the complaint has been referred has had a reasonable time to notify the Administrator what action, if any, it intends to take with respect to the complaint;

(3) the complainant's identity is to be protected when he has requested confidentiality. Whenever the complainant requests that his identity be protected, or the complaint is unsigned, the Administrator shall place an appropriate designation on the complaint before making it available to the public.

CONSUMER INFORMATION AND SERVICES

SEC. 8. (a) In order to carry out the purposes of this Act the Administrator shall develop on his own initiative, and, subject to the other provisions of this Act, gather from other Federal agencies and non-Federal sources, and disseminate to the public in such manner, at such times, and in such form as he determines to be most effective, information, statistics, and other data including, but not limited to, matter concerning—

(1) the functions and duties of the Agency;

(2) consumer products and services;

(3) problems encountered by consumers generally, including annual reports on interest rates and commercial and trade practices which may adversely affect consumers; and

(4) notices of Federal hearings, proposed and final rules and orders, and other pertinent activities of Federal agencies that affect consumers.

(b) All Federal agencies which, in the judgment of the Administrators, possess information which would be useful to consumers are authorized and directed to cooperate with the Administrator in making such information available to the public.

STUDIES

SEC. 9. The Administrator is authorized to conduct, support, and assist research, studies, plans, investigations, conferences, demonstration projects, and surveys concerning the interests of consumers.

INFORMATION GATHERING

SEC. 10. (a)(1) The Administrator is authorized, to the extent required to protect the health or safety of consumers, or to discover consumer fraud and substantial economic injury to consumers, to obtain data by requiring any person engaged in a trade, business, or industry which substantially affects interstate commerce and whose activities he determines may substantially affect an interest of consumers, by general or specific order setting forth with particularity the consumer interest involved and the purposes for which the information is sought, to file with him a report or answers in writing to specific questions concerning such activities and other related information. Nothing in this subsection shall be construed to authorize the inspection or copying of documents, papers, books, or records, or to compel the attendance of any person. Nor shall anything in this subsection require the disclosure of information which would violate any relationship privileged according to law. Where applicable, chapter 35 of title 44, United

States Code, shall govern requests for reports under this subsection in the manner in which independent Federal regulatory agencies are subject to its provisions.

(2) The Administrator shall not exercise the authority under paragraph (1) of this subsection if the information sought—

(A) is available as a matter of public record; or

(B) can be obtained from another Federal agency pursuant to subsection (b) of this section; or

(C) is for use in connection with his intervention in any agency proceeding against the person to whom the interrogatory is addressed if the proceeding is pending at the time the interrogatory is requested.

(3) In the event of noncompliance with any interrogatories or requests submitted to any person by the Administrator pursuant to paragraph (1), any district court of the United States within the jurisdiction of which such person is found, or has his principal place of business, shall issue an order, on conditions and with such apportionment of costs as it deems just, requiring compliance with a valid order of the Administrator. The district court of the United States shall issue such an order upon petition by the Administrator or on a motion to quash, and upon the Administrator's carrying the burden of proving in court that such order is for information that may substantially affect the health or safety of consumers or may be necessary in the discovery of substantial economic injury to consumers, and is relevant to the purposes for which the information is sought, unless the person to whom the interrogatory or request is addressed shows that answering such interrogatory or request will be unnecessarily or excessively burdensome.

(4) The Administrator shall not have the power to require the production or disclosure of any data or other information under this subsection from any small business. For the purpose of this paragraph, "small business" means any person that (A) together with its affiliates, including any other person with whom such person is associated by means of a franchise agreement, does not have assets exceeding $7,500,000, does not have net worth in excess of $2,500,000, and does not have an average net income, after Federal income taxes, for the preceding two years in excess of $250,000 (average net income to be computed without benefit of any carryover loss), and (B) has had over the preceding two years an average number of full-time employees not in excess of twenty-five. Nothing in this paragraph shall be construed to prohibit the Administrator from requesting the voluntary production of any such data or information. Notwithstanding this paragraph, the Administrator shall have the power, pursuant to paragraph 1, to obtain information from a small business if necessary to prevent imminent and substantial danger to the health or safety of consumers and the Administrator has no other effective means of action. The Administrator shall, not later than eighteen months after the date on which this Act becomes effective, submit to Congress a detailed report with respect to the effect of the limitations contained in this paragraph on the purposes of this Act, for such action as the Congress may deem appropriate.

(b) Upon written request by the Administrator, each Federal agency is authorized and directed to furnish or allow access to all documents, papers, and records in its possession which the Administrator deems necessary for the performance of his functions and to furnish at cost copies of specified documents, papers, and records. Notwithstanding this subsection, a Federal agency may deny the Administrator access to and copies of—

(1) information classified in the interest of national defense or national security by an individual authorized to classify such information under applicable Executive order or statutes, and restricted data whose dissemination is controlled pursuant to the Atomic Energy Act (42 U.S.C. 2011 et seq.);

(2) policy and prosecutorial recommendations by Federal agency personnel intended for internal agency use only;

(3) information concerning routine executive and administrative functions which is not otherwise a matter of public record;

(4) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(5) information which such Federal agency is expressly prohibited by law from disclosing to another Federal agency, including, but not limited to, such expressly prohibited information contained in or related to examination, operating, or condition reports concerning any individual financial institution prepared by, on behalf of, or for the use of an agency responsible for regulation or supervision of financial institutions;

(6) information which would disclose the financial condition of individuals who are customers of financial institutions; and

(7) trade secrets and commercial or financial information described in section 552(b)(4) of title 5, United States Code—

(A) obtained prior to the effective date of this Act by a Federal agency, if the agency had agreed to treat and has treated such information as privileged or confidential and states in writing to the Administrator that, taking into account the nature of the assurances given, the character of the information requested, and the purpose, as stated by the Administrator, for which access is sought, to permit such access would constitute a breach of faith by the agency; or

(B) obtained subsequent to the effective date of this Act by a Federal agency, if the agency has agreed in writing as a condition of receipt to treat such information as privileged or confidential, on the basis of its reasonable determination set forth in writing that such information was not obtainable without such an agreement and that failure to obtain such information would seriously impair performance of the agency's function.

Before granting the Administrator access to trade secrets and commercial or financial information described in section 552(b)(4) of title 5, United States Code, the agency shall notify the person who provided such information of its intention to do so and the reasons therefor, and shall, notwithstanding section 21(b), afford him a reasonable opportunity, not to exceed ten days, to comment or seek injunctive relief. Where access to information is denied to the Administrator by a Federal agency pursuant to this subsection, the head of the agency and the Administrator shall seek to find a means of providing the information in such other form, or under such conditions, as will meet the agency's objections.

(c) Consistent with the provisions of section 7213 of the Internal Revenue Code of 1954 (26 U.S.C. 7213), nothing in this Act shall be construed as providing for or authorizing any Federal agency to divulge or to make known in any manner whatever to the Administrator, solely from an income tax return, the amount or source of income, profits, losses, expenditures, or any particular thereof, or to permit any Federal income tax return filed pursuant to the provisions of the Internal Revenue Code of 1954, or copy thereof, or any book containing any abstracts or particulars thereof, to be seen or examined by the Administrator, except as provided by law.

LIMITATIONS ON DISCLOSURES

SEC. 11. (a) No officer or employee of the Agency shall disclose to the public or to any State or local agency—

(1) any information (other than complaints published pursuant to section 7 of this Act) in a form which would reveal trade secrets and commercial or financial information as described in section 552(b)(4) of title 5, United States Code, obtained from a person and privileged or confidential unless the Administrator determines that the release of such information is necessary to protect health or safety; or

(2) any information which was received solely from a Federal agency when such agency has notified the Administrator that the information is within the exceptions stated in section 552(b) of title 5, United States Code, and the Federal agency has determined that the information should not be made available to the public; except that if such Federal agency has specified that such information may be disclosed in a particular form or manner, such information may be disclosed in such form or manner.

(b) The following additional provisions shall govern the release of information pursuant to any authority conferred by this Act, except information released through the presentation of evidence in a Federal agency or court proceeding pursuant to section 6—

(1) The Administrator, in releasing information concerning consumer products and services, shall determine that (A) such information, so far as practicable, is accurate, and (B) no part of such information is prohibited from disclosure by law. The Administrator shall comply with any notice by a Federal agency pursuant to section 11(a)(2) that the information should not be made available to the public or should be disclosed only in a particular form or manner.

(2) In the dissemination of any test results or other information which directly or indirectly disclose product names, it shall be made clear that (A) not all products of a competitive nature have been tested, if such is the case, and (B) there is no intent or purpose to rate products tested over those not tested or to imply that those tested are superior or preferable in quality over those not tested.

(3) Notice of all changes in, or any additional information which would affect the fairness of, information previously disseminated to the public shall be promptly disseminated in a similar manner.

(4) Where the release of information is likely to cause substantial injury to the reputation or good will of a person, the Administrator shall notify such person of the information to be released and afford him a reasonable opportunity, not to exceed ten days, to comment or seek injunctive relief, unless immediate release is necessary to protect the health or safety of the public. The district courts of the United States shall have jurisdiction over any action brought for injunctive relief under this subsection, or under section 10(b)(7).

(c) In any suit against the Administrator to obtain information pursuant to the provisions of section 552 of title 5, United States Code, where the sole basis for the refusal to produce the information is that another Federal agency has specified that the documents not be disclosed in accordance with the provisions of subsection (a)(2) of this section, the other Federal agency shall be substituted as the defendant, and the Administrator shall thereafter have no duty to defend such suit.

NOTICE

SEC. 12. (a) Each Federal agency considering any action which may substantially affect an interest of consumers shall, upon request by the Administrator, notify him of any proceeding or activity at such time as public notice is given.

(b) Each Federal agency considering any action which may substantially affect an interest of consumers shall, upon specific request by the Administrator, promptly provide him with—

(1) a brief status report which shall contain a statement of the subject at issue and a summary of proposed measures concerning such subject; and

(2) such other relevant notice and information, the provision of which would not be unreasonably burdensome to the agency and which would facilitate the Administrator's timely and effective intervention or participation under section 6 of this Act.

(c) Nothing in this section shall affect the authority or obligations of the Administrator or any Federal agency under section 10(b) of this Act.

SAVING PROVISIONS

SEC. 13. (a) Nothing in this Act shall be construed to affect the duty of the Administrator of General Services to represent the interests of the Federal Government as a consumer pursuant to section 201(a)(4) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)(4)).

(b) Nothing in this Act shall be construed to relieve any Federal agency of any responsibility to protect and promote the interests of consumers.

(c) Nothing in this Act shall be construed to limit the right of any consumer or group or class of consumers to initiate, intervene in, or otherwise participate in any Federal agency or court proceeding or activity, nor to require any petition or notification to the Administrator as a condition precedent to the exercise of such right, nor to relieve any Federal agency or court of any obligation, or affect its discretion, to permit intervention or participation by a consumer or group or class of consumers in any proceeding or activity.

DEFINITIONS

SEC. 14. As used in this Act, unless the context otherwise requires—

(1) "Administrator" means the Administrator of the Agency for Consumer Advocacy;

(2) "Agency" means the Agency for Consumer Advocacy;

(3) "agency action" includes the whole or part of an agency "rule," "order," "license," "sanction," "relief," as defined in section 551 of title 5, United States Code, or the equivalent or the denial thereof, or failure to act;

(4) "agency activity" means any agency process, or phase thereof, conducted pursuant to any authority or responsibility under law, whether such process is formal or informal;

(5) "agency proceeding" means agency "rulemaking", "adjudication", or "licensing", as defined in section 551 of title 5, United States Code;

(6) "commerce" means commerce among or between the several States and commerce with foreign nations;

(7) "consumer" means any individual who uses, purchases, acquires, attempts to purchase or acquire, or is offered or furnished any real or personal property, tangible or intangible goods, services, or credit for personal, family, agricultural, or household purposes;

(8) "Federal agency" or "agency" means "agency" as defined in section 551 of title 5, United States Code. The term shall include the United States Postal Service, the Postal Rate Commission, and any other authority of the United States which is a corporation and which receives any appropriated funds, and, unless otherwise expressly provided by law, any Federal agency established after the date of enactment of this Act, but shall not include the Agency for Consumer Advocacy;

(9) "Federal court" means any court of the United States, including the Supreme Court of the United States, any United States court of appeals, any United States district court established under chapter 5 of title 28, United States Code, the District Court of Guam, the District Court of the United States Customs Court, the United States Court of Customs and Patent Appeals, the United States Tax Court, and the United States Court of Claims;

(10) "individual" means a human being;

(11) "interest of consumers" means any health, safety, or economic concern of consumers involving real or personal property, tangible or intangible goods, services, or credit, or the advertising or other description thereof, which is or may become the subject of any business, trade, commercial, or marketplace offer or transaction affecting commerce, or which may be related to any term or condition of such offer or transaction. Such offer or transaction need not involve the payment or promise of a consideration;

(12) "participation" includes any form of submission;

(13) "person" includes any individual, corporation, partnership, firm, association, institution, or public or private organization other than a Federal agency;

(14) "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Canal Zone, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

(15) "submission" means participation through the presentation or communication of relevant evidence, documents, arguments, or other information.

CONFORMING AMENDMENT

SEC. 15. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(60) Administrator, Agency for Consumer Advocacy."

(b) Section 5315 of such title is amended by adding at the end thereof the following:

"(100) Deputy Administrator, Agency for Consumer Advocacy."

(c) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(135) General Counsel, Agency for Consumer Advocacy."

"(136) Assistant Administrators, Agency for Consumer Advocacy."

EXEMPTIONS

SEC. 16. (a) This Act shall not apply to the Central Intelligence Agency, the Federal Bureau of Investigation, or the National Security Agency, or the national security or intelligence functions (including related procurement) of the Departments of State and Defense (including the Departments of the Army, Navy, and Air Force) and the military weapons program of the Energy Research and Development Administration, to any agency action in the Federal Communications Commission with respect to the renewal of any radio or television broadcasting license, or to a labor dispute within the meaning of section 13 of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 113) or of section 2 of the Labor Management Relations Act (29 U.S.C. 152), or to a labor agreement within the meaning of section 201 of the Labor Management Relations Act, 1947 (29 U.S.C. 171).

(b) Nothing in this Act shall be construed, and no authority in this Act shall authorize, the Administrator to intervene in any United States Department of Agriculture proceeding without considering the consumers' interest in an adequate supply of food, and without considering the interests of farmers in maintaining an adequate level of income and production.

SEX DISCRIMINATION

SEC. 17. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or cut off any other legal remedies available to a person alleging discrimination.

FAIRNESS FOR SMALL BUSINESS

SEC. 18. (a) It is the sense of the Congress that small business enterprises should have their varied needs considered by all levels of government in the implementation of the procedures provided for throughout this Act.

(b)(1) In order to carry out the policy stated in subsection (a), the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the procedures provided for throughout this Act which particularly affect such enterprises, and the activities of the various agencies in connection with such provisions, and (B) shall, as part of its annual report, provide to the Congress a summary of the actions taken under this Act which have particularly affected such enterprises.

(2) To the extent feasible, the Administrator shall seek the views of small business in connection with establishing the Agency's priorities, as well as the promulgation of rules implementing this Act.

(3) In administering the programs provided for in this Act, the Administrator shall respond in an expeditious manner to the views, requests, and other filings by small business enterprises.

(4) In implementing this Act, the Administrator shall, insofar as practicable, treat all businesses, large or small, in an equitable fashion; due consideration shall be given to the unique problems of small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated to carry out the provisions of this Act not to exceed $15,000,000 for the fiscal year ending June 30, 1976, not to exceed $20,000,000 for the fiscal year ending June 30, 1977, and not to exceed $25,000,000 for the fiscal year ending June 30, 1978. Any subsequent legislation to authorize appropriations under this Act for the fiscal year beginning on July 1, 1978, shall be referred in the Senate to the Committee on Government Operations and to the Committee on Commerce.

EVALUATION BY THE COMPTROLLER GENERAL

SEC. 20. (a) The Comptroller General of the United States shall audit, review, and evaluate the implementation of the provisions of this Act by the Agency for Consumer Advocacy.

(b) Not less than thirty months nor more than thirty-six months after the effective date of this Act, the Comptroller General shall prepare and submit to the Congress a report on his audit conducted pursuant to subsection (a), which shall contain, but not be limited to, the following:

(1) an evaluation of the effectiveness of the Agency's consumer representation activities;

(2) an evaluation of the effect of the activities of the Agency on the efficiency, ef-

fectiveness, and procedural fairness of affected Federal agencies in carrying out their assigned functions and duties;

(3) recommendations concerning any legislation he deems necessary, and the reasons therefor, for improving the implementation of the objectives of this Act as set forth in section 2.

(c) Copies of the report shall be furnished to the Administrator of the Agency for Consumer Advocacy, the chairmen of the Senate Committees on Commerce and on Government Operations, and the chairman of the Committee on Government Operations of the House of Representatives.

(d) Restrictions and prohibitions under this Act applicable to the use or public dissemination of information by the Agency shall apply with equal force and effect to the General Accounting Office in carrying out its functions under this section.

MISCELLANEOUS PROVISIONS

SEC. 21. (a) Nothing in this Act shall be construed to limit the discretion of any Federal agency or court, within its authority, including a court's authority under Rule 24 of the Federal Rules of Civil Procedure, to grant the Administrator additional participation in any proceeding or activity, to the extent that such additional participation may not be as of right, or to provide additional notice to the Administrator concerning any agency proceeding or activity.

(b) (1) No act or omission by the Administrator or any Federal agency relating to the Administrator's authority under sections 6 (a), (d), (f), (i), and (j), 7, 10, 11, and 12 of this Act shall affect the validity of an agency action or be subject to judicial review: *Provided,* That—

(A) the Administrator may obtain judicial review to enforce his authority under sections 6 (a), (d), (f), (i), and (j), 10, and 12 of this Act: *Provided,* That he may obtain judicial review of the Federal agency determination under section 6(f) of this Act only after final agency action and only to the extent that such determination affected the validity of such action;

(B) a party to any agency proceeding or a participant in any agency activity in which the Administrator intervened or participated may, where judicial review of the final agency action is otherwise accorded by law, obtain judicial review following such final agency action on the ground that the Administrator's intervention or participation resulted in prejudicial error to such party or participant based on the record viewed as a whole; and

(C) any person who is substantially and adversely affected by the Administrator's action pursuant to section 6(f), 10(a), or 11 of this Act may obtain judicial review, unless the court determines that such judicial review would be detrimental to the interests of justice.

(2) For the purposes of this subsection, a determination by the Administrator that the result of any agency proceeding or activity may substantially affect an interest of consumers or that his intervention in any proceeding is necessary to represent adequately an interest of consumers shall be deemed not to be a final agency action.

TRANSFER OF CONSUMER PRODUCT INFORMATION COORDINATING CENTER

SEC. 22. (a) All officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with the functions of the Consumer Product Information Coordinating Center in the General Services Administration are transferred to the Agency and all functions of the Administrator of General Services administered through the Consumer Product Information Coordinating Center are transferred to the Agency.

(b) (1) Except as provided in paragraph (2) of this subsection, personnel engaged in functions transferred under this section shall be transferred in accordance with applicable laws and regulations relating to transfer of functions.

(2) The transfer of personnel pursuant to this section shall be without reduction in classification or compensation for one year after such transfer.

PUBLIC PARTICIPATION

SEC. 23. (a) After reviewing its statutory authority and rules of procedure, relevant agency and judicial decisions, and other relevant provisions of law, each Federal agency shall issue appropriate interpretations, guidelines, standards, or criteria, and rules of procedure, to the extent that such rules are appropriate and are not already in effect, relating to the rights of individuals who may be affected by agency action to—

(1) petition the agency for action;

(2) receive notice of agency proceedings;

(3) file official complaints (if appropriate) with the agency;

(4) obtain information from the agency; and

(5) participate in agency proceedings for the purpose of representing their interests.

Such interpretations, guidelines, standards, criteria, and rules of procedure shall be published in proposed and final form in the Federal Register.

(b) Each Federal agency shall take all reasonable measures to reduce or waive, where appropriate, procedural requirements for individuals for whom such requirements would be financially burdensome, or which would impede or prevent effective participation in agency proceedings.

(c) Any rules of procedure issued by any Federal agency pursuant to this section shall be published in a form and disseminated in a manner that is designed to inform, and that is able to be understood by, the general public.

EFFECTIVE DATE

SEC. 24. (a) This Act shall take effect ninety calendar days following the date on which this Act is enacted, or on such earlier date as the President shall prescribe and publish in the Federal Register.

(b) Any of the officers provided for in this Act may (notwithstanding subsection (a)) be appointed in the manner provided for in this Act at any time after the date of the enactment of this Act. Such officers shall be compensated from the date they first take office at the rates provided for in this Act.

SEPARABILITY

SEC. 25. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality and effectiveness of the remainder of this Act and the applicability thereof to any persons and circumstances shall not be affected thereby.

By Mr. SPARKMAN:

S. 203. A bill to amend the Securities Act of 1933. Referred to the Committee on Banking, Housing and Urban Affairs.

HOUSING SECURITIES ACT OF 1975

Mr. SPARKMAN. Mr. President, on December 3, 1974, I introduced a bill, S. 4199, the so-called Housing Securities Act of 1974. At the time I introduced the measure I said I realized that no action could be concluded on the bill in the weening days of the 93d Congress and that I intended to reintroduce the measure in the 94th Congress. I again introduce the bill today.

The Housing Securities Act of 1975 is another in a series of steps being taken to implement the efforts of the Federal Home Loan Mortgage Corporation to develop an effective secondary mortgage market for the entire housing industry. This bill has been prepared by the Federal Home Loan Mortgage Corporation and has been coordinated each step of the way with the Securities and Exchange Commission. Changes recommended by the SEC have been included. Basically, the bill will exempt certain secondary mortgage market transactions from the registration provisions of the Securities Act of 1933.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill, an explanatory statement, and a copy of a letter from Mr. Ray Garrett, Chairman of the Securities and Exchange Commission be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS—S. 4199

Sec. 1. Title.

Sec. 2. Adds a new paragraph 5 to Section 4 of the Securities Act of 1933 which exempts from the registration provisions of that Act:

(a) Transactions involving an offer or sale of certain mortgages or participation interests in such mortgages

(1) originated by certain financial institutions, including savings and loan associations, sold individually or in packages in minimum denominations of not less than $250,000, and sold for cash or a promise to pay cash within sixty (60) days to a purchaser for its own account, and

(2) originated by an FHA-approved mortgagee, sold individually or in packages in minimum denominations of not less than $250,000 and sold for cash or a promise to pay cash within sixty (60) days to a purchaser for its own account, provided that such sales may be made only to certain financial institutions, including savings and loan associations, certain insurance companies, the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA) or the Government National Mortgage Association (GNMA).

(b) Transactions involving non-assignable comitments to buy or sell mortgages which would qualify under the transactional exemption found in paragraph (a) above where such comitmments are to be completed within two (2) years. The party contracting to sell mortgages pursuant to such commitment must be any eligible originator mentioned in paragraph (a) above and the party contracting to purchase mortgages pursuant to such commitment must be any eligible originator mentioned in paragraph (a) (1) above, certain insurance companies, FHLMC, FHMA, or GNMA.

(c) Transactions involving resales of the securities acquired pursuant to the proposed exemptions which meet the conditions for sale relating to the package size of the security ($250,000) and where the resales are for cash or promise to pay cash within sixty (60) days to a purchaser for its own account.

EXPLANATORY STATEMENT TO ACCOMPANY A BILL TO EXEMPT CERTAIN MORTGAGE TRANSACTIONS FROM REGISTRATION UNDER THE SECURITIES ACT OF 1933

The secondary mortgage market involves the transfer of mortgages from the loan originator to another investor in order to provide liquidity to the primary market, the market in which loans are made to borrowers by originators. The liquidity goal of a viable secondary mortgage market is essential to the effective functioning of the primary market because in a local area with relatively high construction levels, local lenders can be quickly "loaned up" and forced to withdraw from the primary market due to a lack of lendable funds unless there is access to secondary market funds. The importance of this function is illustrated by the fact that currently the secondary market totals approximately $25 billion a year. This represents approximately 22% of all mortgage loan originations.

The Federal Home Loan Mortgage Corporation (FHLMC) was established in 1970 by Congress to foster and encourage a viable secondary market. It was with this Congressional mandate in mind that FHLMC became the moving force behind AMMINET, a new corporation organized to aid the secondary market. AMMINET, an acronym for the Automated Mortgage Market Information Network, Incorporated, is a nonprofit corporation established by the FHLMC and five industry trade associations (U.S. League of Savings Associations, American Bankers Association, National League of Insured Savings Associations, Mortgage Bankers Association and National Association of Mutual Savings Banks). The impetus for the creation of AMMINET stemmed from the fact that although the present secondary market is a multi-billion dollar market, it is largely inefficient, operating primarily by word of mouth, and up until the creation of AMMINET had no central market system. AMMINET's goal is to help move mortgage funds from capital-surplus areas to capital-deficient areas more rapidly, through the use of advanced technology, thereby effecting a more efficient allocation of mortgage funds and a more beneficial secondary mortgage market.

As a mortgage is essentially a secured promissory note, and hence a security, there were numerous questions to be resolved with respect to the Federal Securities laws regarding the establishment of AMMINET. The Securities and Exchange Commission ("SEC") has been most helpful in this process and has given FHLMC a no-action position under the Securities and Exchange Act of 1954 ("1934 Act") regarding the operation of AMMINET, and, in addition, has granted an exemption to the broker-dealer requirements and the net capital requirements of the 1934 Act for those who deal in certain mortgages. With respect to the Securities Act of 1933 ("1933 Act"), however, the Commission felt it did not have the power to grant a similar exemption from the registration requirement of the 1933 Act and it was with that in mind that the staffs of the SEC and FHLMC met to discuss needed legislation. The proposed legislation was the result of those meetings between both groups, as evidenced by the letter from Chairman Ray Garrett, Jr. of the SEC to Chairman Thomas Bomar of the Federal Home Loan Bank Board commenting on the proposed legislation and supporting it, a copy of which is attached. Chairman Garrett's comments were incorporated into the proposed legislation.

The proposed legislation would exempt from the registration provisions of the 1933 Act those transactions involving the offer or sale of certain mortgages and participation interests in such mortgages where (1) they are originated by a commercial bank, savings and loan association, savings bank or similar financial institution; (2) the aggregate sales price per purchaser is not less than $250,000; (3) the purchaser pays cash within sixty (60) days, and (4) the purchaser buys for its own account.

Transactions involving mortgages originated by mortgage bankers would also be exempt to the extent that they meet requirements (2), (3) and (4) outlined above and are sold to certain regulated lenders, including commercial banks, savings and loan associations, savings banks, certain insurance companies, or Federal National Mortgage Association ("FNMA"), FHLMC, or Government National Mortgage Association ("GNMA"). Commitments regarding any mortgage which is the subject matter of the transactional exemption would also be exempted where the commitments are between certain qualified originators and other qualified originators, certain insurance companies, FNMA, FHLMC or GNMA.

It was felt that the high dollar amount of each transaction—$250,000—and the fact that the mortgages must be originated by regulated institutions when they are sold to the general public, are sufficient safeguards to warrant a transactional exemption from the 1933 Act. Subsequent sales of the packages would also be permissible when the terms of the exemption are followed. The alternative to the exemption would either be registration under the 1933 Act or utilization of the so-called private offering exemption, found in Section 4 of the 1933 Act.

Registration would require disclosure of such information as the homeowner's history as a wage earner, his current salary, his prospects for the future, information about his property, local legal considerations such as, for example, stringent redemption laws and a general description of local geographic concerns. This information would not only be cumbersome and costly to obtain and process through the SEC, but would also delay the sale of mortgages until the registration statement was effective. In addition, the disclosure required would be necessary for each mortgage in the mortgage package. Mechanically, such a disclosure document would be an administrative nightmare, unduly burdensome to prepare, and, because of its sheer size, overwhelming to a prospective purchaser.

On the other hand, the other alternative to exemption, namely utilization of the private offering exemption, contradicts the FHLMC/AMMINET goal of having a viable secondary mortgage market. In a private offering the purchaser must agree to assume the risk of the security of an indefinite period of time which, in most cases, requires investment for at least two years. The purpose of a viable secondary mortgage market, however, is to enable originators to liquidate their mortgages to obtain funds to originate new mortgages whenever those funds are needed. Any warranty concerning a holding period given by a purchaser would not only discourage present originators who have capital surpluses from purchasing mortgages, but would also destroy the marketability of mortgages to institutional investors such as insurance companies and pension funds who wish to have some degree of liquidity.

In light of the manifest disadvantages of registration of use of the private offering exemption in the secondary mortgage market, the only alternative which appears to be acceptable is an exemption for transactions in large denominations, the type of exemption which will be created by the proposed legislation.

If the proposed legislation is not adopted, neither AMMINET nor any other trading system for mortgages can operate, and without an information system such as AMMINET, the attempt of both FHLMC and the Federal Home Loan Bank Board to provide for the efficient movement of money from capital-surplus to capital-deficient areas within thrift institutions and to attract new money into the mortgage market will be severely hampered. If that occurs, the loser will be the American public which is anxious that adequate funds be available to finance the purchase of critically needed housing.

Securities and Exchange Commission,
Washington, D.C., November 20, 1974.
Hon. Thomas R. Bomar,
Chairman, Federal Home Loan Mortgage Corporation, Washington, D.C.

Dear Tom: Thank you for your letter of November 8, 1974, requesting the Commission's views on the legislation proposed by the Federal Home Loan Mortgage Corporation ("FHLMC") to amend Section 4 of the Securities Act of 1933 ("1933 Act"). I understand that FHLMC intends to have the legislative proposal introduced on its behalf shortly, and I am pleased that the Commission has been given the opportunity to comment on it prior to its introduction.

The Commission has examined the proposed legislation which would create a limited exemption from the registration requirements of the 1933 Act for certain transactions involving mortgages and related securities. FHLMC believes that the exemption is necessary to enable it to fulfill its statutory objective of creating a liquid secondary mortgage market, that in turn would generate additional funds for the housing industry. Should the Congress be persuaded that proposed exemption is necessary and desirable to achieve FHLMC's purpose, we believe that the legislation that you have proposed would provide an appropriate means of accomplishing this result. The Commission recognizes that the proposed exemption contains a number of restrictions that would limit its availability only to transactions involving investors who have substantial resources and which would further circumscribe offerings made in reliance upon it, so as to limit the need for registration to protect the parties involved. Accordingly, in light of the above and subject to the following comments, the Commission supports this narrow exemption.

The Commission believes that certain interpretive problems may arise if the proposed legislation is enacted in the form submitted to us. The Commission therefore recommends for your consideration the following suggested changes:

(1) The words "one or more," if inserted in the first line of paragraph 5(a) immediately prior to the words "promissory notes", would make clear that a package of notes sold in a single transaction would be exempt equally as a separate note;

(2) The phrase "and where the foregoing securities are subject to the three conditions for sale set forth in subparagraphs (a) (1) (i) (iii)" would, if added at the end of paragraph (b), remove all doubt that the securities underlying the commitment contracts are subject to the three conditions for sale set forth in the above-mentioned subparagraphs.

In addition to the foregoing, it appears to the Commission that the question of resales of the securities acquired pursuant to the proposed exemption should be clarified. In our view, any such resales should be subject to the three conditions for sale set forth in paragraph 5(a) (1). We therefore recommend that FHLMC consider adding a new paragraph (c) to its legislative proposal for this purpose. Such a provision might be phrased in the following manner, or in words to that effect:

"(c) The exemption provided by paragraphs (a) and (b) hereof shall not apply to resales of the securities acquired pursuant thereto, unless each of the conditions for sale contained in subparagraphs (a) (1) (i)–(iii) are satisfied."

The Commission also understands that the reference in subparagraph (a) (2) of the legislation to the HUD Secretary's statutory authority to approve mortgages will be changed from "12 U.S.C., Sections 1703, 1707 (b)" to "12 U.S.C., Sections 1709 and 1715b as amended."

Sincerely,

RAY GARRETT, Jr., *Chairman.*

By Mr. FONG:

S. 214. A bill for the modernization and general revision of the Patent Laws, title 35 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

PATENT MODERNIZATION ACT

Mr. FONG. Mr. President, I am introducing today S. 214, a bill for the general revision and modernization of the patent law, title 35, of the United States Code, and for other purposes, which is being referred to the Committee on the Judiciary.

This bill which I introduce today, the Patent Modernization Act, is essentially the same as S. 4259 which I introduced December 19, 1974. My statement can be found in the CONGRESSIONAL RECORD for that date, beginning on page 41142. Sections 103, 142, 143, and 144 of S. 4259, the text of which follows my statement on December 19, have been revised in response to suggestions I have received. A brief explanation of these revisions will be printed in today's RECORD following the conclusion of my introductory remarks.

Although less than a month has elapsed since S. 4259 was introduced, I have already heard from a number of knowledgeable persons in the patent field, all of whom welcomed the approach taken in S. 4259. Most made favorable comments relating to various of its provisions and some offered suggestions for amendments. I would especially like to express my appreciation to those persons and organizations who took their valuable time during the holiday season to review my statement and bill, and to thank them for their support, encouragement, and suggestions.

I am particularly pleased to report that Mr. Sidney Neuman of Chicago, a member of the President's Commission on the Patent System in 1966, has termed my bill to be "encouraging and reassuring" and to have "such enlightened and constructive approaches to resolving and terminating the frustrations of the last 8 years." Mr. Neuman added:

> I am pleased to note that the substance of many of our recommendations, (*e.g.*, Nos. X, XI, XIII, XV) are now reflected in your bill.

He has been particularly in agreement with me on important section 115 regarding the duty to disclose relevant information to insure a system free from deliberate, fraudulent, and improper conduct in the prosecution of patent applications.

I said last December, and today reiterate, that one important reason why the United States of America has been able to exercise leadership in the world over the past several decades is that we have been in the forefront of science and technology. At the end of World War II in 1945, America was the undisputed leader, having crossed new frontiers of knowledge under the impetus of wartime necessity.

But those nations whose economies were shattered by the war have made a comeback, and certain other formerly agrarian nations are now making great strides in science and technology. Our Nation is facing increasingly fierce competition in world markets.

It is imperative that the United States now keep pace with our competitors and exceed them, if possible. This is why our private competitive enterprise system is so important to fostering initiative and innovation. This is why we as a nation must continue to encourage research, both basic and applied, and the disclosure of research discoveries through a fair and equitable patent system. For our patent system is an unsung, yet vital, component of America's success story to date. I believe our patent system can be further improved to give even greater stimulus to invention, innovation, and the advancement of the arts and sciences as envisioned by our Founding Fathers, who included in the Constitution authority for Congress:

> To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

My bill, which has been somewhat refined since its introduction last year, amends the present statute which the inventive community understands well, even as stated by Judge Giles S. Rich of the U.S. Court of Customs and Patent Appeals in his speech in Rochester, October 15, 1974. Judge Rich, who has been interpreting and applying the present law, has urged that it be amended "cautiously as need is demonstrated," and that this be achieved by "amending the present statute, which people understand."

Respecting a bill proposed by the administration in the last Congress (S. 2504), the eminent Judge stated in his talk:

> A statute should say as little as possible and not, for example, attempt to tell patent lawyers how to write claims for every conceivable kind of invention. . . . Can you imagine this litigation that would be engendered by the new terminology used, and how long it would be before its import became settled?

Judge Rich's admonition is well made. My bill is built upon the present statute, adding some concepts suggested to me by the innovative community which after careful consideration I found reasonable, economical, and meritorious and some other provisions which appear warranted by my study of patent problems.

I wish to emphasize that reasonable maintenance fees, if adopted, are supported by me with the clear understanding that other patenting fees shall be kept at a minimum so as to encourage maximum disclosure of inventions.

Accordingly, I am reintroducing my bill—with modifications explained at the end of my statement today. Once again may I say I offer my bill as a vehicle for discussion, study, and the further refinement which will be required in the Congress to finally resolve and to terminate the impasse and the frustrations of the last 8 years, so that the inventive genius of our country can increasingly respond to the incentive of a modernized voluntary disclosure patent system.

I also invite comment on the following suggestions which I have received:

First. In letters approving my bill, several have suggested that the imposition of maintenance fees will be a real burden or disincentive to utilize the patent incentive system. Elimination altogether of such maintenance fees has been urged. It has also been urged that, if maintenance fees are demanded by the majority at the Patent Subcommittee level, only nominal maintenance fees payable each year be required. One letter suggested that total maintenance fees be no more than $325, or no more than five times the present filing fee.

Second. Another letter suggested that there should be a "public counsel" officer in the Patent Office, administratively responsible to the Commissioner of Patents, whose function would be limited to advocating the cause espoused by anyone who contests, ex parte, the issuance or requests the reexamination of a patent under chapter 31 of the bill.

Third. A further suggestion recommended that reexamination under chapter 31 of my bill be limited to no more than a period of 1 year after the grant of a patent rather than during the entire lifetime of the patent.

Fourth. Another suggested that in section 103 of S. 4259, in line 28 after "art" insert, "either", and in line 29 after "made", insert "or one year before the actual filing of the application".

Mr. President, our Nation's patent system should be improved in a manner that will preserve what has proven sound and meritorious, protect the constitutional right of inventors, and enhance incentives to American inventors. In this way, Congress can help to further the advancement of science and technology to keep America in a preeminent position of leadership.

Outnumbered as we are in population by some of our competitors, we must take positive steps to make sure we make up in quality what we lack in quantity.

Facing as we do in America the critical problems of energy shortages and soaring energy costs, high retail food prices, worldwide shortages of grains and other protein foods, and global inflation, we need now more than ever to provide added incentive to our inventors and scientists to find ways to solve these problems.

Our patent system can and should be increasingly instrumental in promoting discovery of feasible methods to harness solar energy, ocean wave energy, and geothermal energy. An improved patent system can stimulate discovery of methods to convert nonedible substances like cellulose into edible foods, which in turn can assist in overcoming predicted food shortages in the years to come.

Our Nation's patent incentive system should and can be improved so that its incentives not only will be preserved and protected but also perfected. Such an improved system should encourage and stimulate would-be innovators to redouble their efforts to solve our technological and scientific problems in energy, food production, and other fields through needed inventions as soon as possible.

An improved patent system can also be instrumental in the fight against inflation by encouraging new inventions that allow industry to produce more and better products per unit time, thereby increasing efficiency and output and permitting reduced prices of goods and services.

Patents represent an important and effective avenue for creating incentive to produce a greater variety of new products, spurring competition with a better product or with reduced price. Additionally, prices of existing products can be lowered through the creation of new and more efficient patentable processes which allow these goods to be produced at lower cost and sold at lower prices.

Increased productivity, of course, is most important to our Nation and at this time in our history when our total national output of goods and services—gross national product—GNP—expressed in real dollars has declined over the past four quarters.

Additionally Mr. President, patents stimulate competition and allow smaller companies to compete successfully with larger companies. As the experienced and knowledgable Commissioner of Patents, C. Marshall Dann, explained in his June 6 speech last year before the Conference on Patents, Antitrust, and Trade Secrets, sponsored by the Federal Bar Association and the Bureau of National Affairs:

> The patent system provides a spur to competition in research and development. . . . Patents can be of great value in the competitive struggle both to small companies and to large ones. To the extent they permit a small company to compete more effectively with larger companies in the same field there is an overall benefit to competition.

Mr. President, without belaboring the matter further, I believe I have illustrated the need for improvement in our patent system and the importance of a viable patent system to future scientific and technological leadership for our country. May I just proceed to explain the background of patent legislation in the past Congress and then explain the provisions of the bill I am again offering.

BACKGROUND ON PATENT LEGISLATION IN THE 93D CONGRESS

There were several bills offered for modernization and revision of patent laws. These were S. 1321, by Senator HART, S. 2504 by Senator SCOTT, and S. 2930 by Senator BUCKLEY.

S. 1321 (HART)

After hearings in September 1973, on this bill and upon introduction and selection for markup of the Scott—administration—bill, work on S. 1321 ceased.

S. 2504 (ADMINISTRATION BILL)

The subcommittee on Patents, Trademarks, and Copyrights of the Judiciary Committee labored in the last Congress upon S. 2504 submitted by Senator SCOTT as a courtesy to the administration. Members of the subcommittee and their staffs soon were informed that the individuals and organizations which constitute the voluntary disclosure, patent incentive or innovative community, upon whom this country must rely for the progress of the useful arts as mandated by the U.S. Constitution, were deeply and vigorously opposed to the concepts in the administration bill. The bill received virtually no support by the public.

The will of the inventive community, as expressed at meetings of patent and inventor associations, legal organizations, chemical, engineering, and other societies, was virtually unanimous in opposition to the administration bill. Activity on S. 2504 committee print—C.P.—amended to include some of the essence of amendments offered by the administration, a small group of patent counsels, and by me, ceased. This opposition was still active when the last Congress ended. This is to be contrasted with the immediate and widespread support I received on S. 4259. My "individual views" on this bill and the views of Senator JOHN L. MCCLELLAN, subcommittee chairman discuss S. 2504 C.P.

S. 2930 (BUCKLEY—AMERICAN PATENT LAW ASSOCIATION PATENT LAW MODERNIZATION BILL)

Mr. FONG. Virtually unanimous support from the public and the innovative community was given and still exists for S. 2930 introduced by Senator BUCKLEY. This bill was prepared by members of the American Patent Law Association and members of the Section of Patent, Trademark, and Copyright Law of the American Bar Association. I find this to be a good bill. However, none of its principal provisions received the approval of the Subcommittee on Patents, Trademarks and Copyrights. Yet, this bill, in its entirety, was presented and supported by Commissioner of Patents Marshall Dann when, as president of the American Patent Law Association, he testified before the Senate September 11, 1973. Unfortunately, no real consideration was given this bill even after its formal introduction on January 31, 1974.

NEW PATENT BILL (FONG)

Upon fresh, objective reconsideration of the entire subject of patent law, I have concluded it to be desirable and appropriate to reintroduce today my bill to accomplish expeditiously an effective revision of the patent system.

I believe this bill will improve our Nation's patent system while maintaining the basic structure of the law, which has served us adequately for many years. The bill does not intend a radical change in the patent laws, but rather is designed to increase the incentive to the inventive community, to streamline the patent system itself, and to spur the progress of science and technology. I do not believe it is necessary to perform radical surgery to improve the health and vitality of our Nation's patent system.

My bill seeks to balance the equities between the national interests of our country and the rights of our Nation's inventors, all within the framework of a practical, workable system.

My bill is designed to meet the following goals:

First. To increase the incentive to our Nation's inventors to create more inventions to meet our country's needs now;

Second. To achieve the maximum percentage of valid patents at a minimum of cost;

Third. To allow the public to request the Patent Office to reexamine any questionable patent;

Fourth. To harness the patent system to help fight inflation, solve our energy problems, and relieve our food shortages;

Fifth. To accelerate the public disclosure of technological advances.

Sixth. To reduce the expense of obtaining and litigating a patent.

Seventh. To shorten the period of pendency of a patent application from filing to final disposition by the Patent Office.

Eighth. To raise the quality and reliability of U.S. patents.

HISTORY OF PATENT LAW LEGISLATION, GENERAL INFORMATION

Since 1966 the following bills have been introduced: S. 1042, February 1967; S. 2597, October 18, 1967; S. 3892, July 1968; S. 1246, February 1969; S. 2756, August 1969; S. 643, February 1971; S. 1321, March 1973; S. 2504, October 1, 1973; and S. 2930, January 31, 1974.

In an effort to achieve legislation to revise title 35, which had been before the subcommittee since early 1967, the so-called Fong amendments to S. 2504 were offered during subcommittee markup sessions in mid-1974. To a large extent, the thrust of these amendments were incorporated into the Hart-Scott markup of S. 2504 committee print and is essentially incorporated in the bill I am introducing today.

PROBLEMS OF THE INCENTIVE SYSTEM FOR GRANTING PATENTS

My proposed bill is drafted in the light of the following facts:

(A) PRIOR ACT

Studies have shown the principal problem in determining whether an invention is worthy of a patent is to make certain that all the relevant prior art is before the Patent Office.

Under present law, relevant prior art is supplied voluntarily by the applicant and through a "search" of the available prior art in the Patent Office by the patent examiner assigned to that particular case.

Under my bill, the applicant is required to submit to the Patent Office all information which he "reasonably believes" to be pertinent to the patentability of his invention.

In addition, prior art can be cited to the Patent Office by the public at any time after the patent issues. A reexamination of the patent on the basis of such cited prior art can be requested by anyone at any time. Any art to be used in a patent suit must have been considered first by the Patent Office.

Thus, my bill allows the public to attack any patent at any time during its entire life—at a very low cost—since this "reexamination" process would be done in the Patent Office. Appeal processes are also provided within the framework of the Patent Office.

Bringing all the pertinent prior art before the patent examiner will maximize the percentage of valid patents issued by the Patent Office. According to the Patents Office study of court determinations of validity-invalidity for the period 1968 through 1972, out of about 1,500,000 patents outstanding, 2,025 were challenged as invalid. In other words, less than fifteen one-hundredths of 1 percent of all the outstanding patents were challenged.

Approximately one-half of the challenged patents were determined invalid, many of these because all the prior art was not before the examiner before the patent was issued. When the prior art before the court and the pattent office have been the same, the patents held invalid on prior art dropped by one-half, that is to about 25 percent of those patents litigated.

It is well-nigh impossible to ensure that every patent issued will be valid, considering the approximately 80,000 patents issued each year and considering the fact that, on patent validity questions, reasonable men may honestly differ.

As we all know, no system can ever be perfect. But I believe that by the additional input from the public as provided in chapter 31 of my bill, we can achieve the highest percentage of valid patents possible, while still protecting the inventor's rights by not denying him the power of injunction to protect his invention while his patent is being challenged.

(B) UNCLEAN HANDS; FRAUD

In the 1968 through 1972 period, 2,025 notices of patent suit were given to the Commissioner of Patents as required by law. In only 22 of the 2,025 cases, or about 1 percent of the total patents challenged, was fraud or unclean hands found. During the same 5-year period, there were an estimated 1.5 million patents outstanding. Also, in the same period of 5 years, the Patent Office issued about 400,000 patents, an average of 80,000 per year. For further information please see Patent Office study dated August 31, 1973.[1]

Present law already provides sufficient means to deal effectively with those who may deliberately abuse the system by improper or fraudulent conduct. As the knowledgeable Assistant Attorney General of the Antitrust Division, now Judge Richard W. McLaren, said when testifying before our Senate Subcommittee on Patents, Trademarks, and Copyrights, in May of 1971:

> The procurement of a patent by fraud on the Patent Office may give rise to an action by the United States for cancellation of a patent, or a perjury or other criminal prosecution; and an attempt to enforce such a patent may constitute a violation of the Sherman Act. Similarly, the invalidity of a patent obtained by fraud is a defense in an action for infringement. . . . *the Patent Code should and presently does contain safeguards to insure proper conduct by applicants before the Patent Office.*" (Emphasis supplied.)

Therefore, since the problem of fraud or unclean hands is already down to an almost irreducible percentage—22 of the 2,025 cases in the period 1968 through 1972—and since the patent code presently does contain sufficient safeguards to insure proper conduct by applicants before the Patent Office, my bill retains present law. As we all know, honesty cannot be legislated.

OVERVIEW

My bill includes concepts and provisions selected with care and deliberation from the several bills introduced in the past, including the former administration bill. Concepts taken from these bills are implemented with language reflecting suggestions and recommendations from those with knowledge and expertise gained from many years of patent experience across a wide spectrum.

A substantial number of provisions from Senator BUCKLEY's bill (S. 2930), which was supported by the American Patent Law Association, and some provisions from the administration bill (S. 2504) have been incorporated.

My bill provides for a new reexamination procedure that allows any member of the public to attack a patent and cause the Commissioner of Patents to reexamine the validity of an issued patent. This provides an inexpensive means by which anyone may attack a patent.

I have sought to hold down the cost of this bill by adhering to present law whenever possible.

Most importantly, my bill not only retains the crucial incentive for inventors contained in our present patent law, but I believe it significantly increases that incentive.

My bill is in accord with the fundamentals of a viable patent system, which are:

First. Availability, accessibility, and utilization of the system on the widest possible basis to the public, especially to those who would use the system—inventors, coworkers, and investors.

Second. Reasonable costs for obtaining valid patent protection for inventions.

Third. Reasonable valid protection when the patent has been obtained.

Fourth. Adequate protection of the disclosure made in the application for patent and thus disclosed to the Patent Office by the applicant, if ultimately no patent is granted.

I believe the patent system must be fair and equitable to the vast number of applicants—those who deal fairly with the Patent Office. It must not unduly burden all because of the transgressions of a very few.

THE CONGRESSIONAL PROVISION—ARTICLE I, SECTION 8, CLAUSE 8

The constitutional provision upon which the patent incentive system is based reads:

> To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries—(Art. I, Sec. 8, Cl. 8)

This provision mandates a voluntary disclosure patent incentive system; it also mandates that the inventor's exclusive right be secured. In the constitutional provision, the word "securing" requires safeguarding the inventor's inherent right to his invention.

Our Patent Office does not, as is so often mistakenly stated, grant a "monopoly." It grants a patent.

This patent is an "open letter" which, in effect, states to all who may be concerned that, upon the disclosure of his invention, the inventor's right which is inherent in him the moment he has completed his invention, has been secured so that his right can be enforced in the courts of our land.

STIMULATION OF COMPETITION BY EARLY PATENTING

The primary purpose of the voluntary disclosure patent incentive system is to get to the public at the earliest possible moment the basic concept of the invention. Given the "crux" of the inventive concept, one skilled in the art can work with the invention or design around it. When the invention becomes known publicly, it engenders competition by those who will design around the patent claims to keep themselves competitive.

Obviously, price-cutting on the same product produced by more than one individual or organization is a kind of competition. In an innovative society, true competition results in the making available of alternative or better products, goods, or services as a result of the exclusive right. It is the exclusive right to one person which induces his competitor to produce something different or better with which to continue to compete. Thus, our patent incentive system stimulates competition.

TOO-BURDENSOME PATENT CHANGES WOULD DISCOURAGE DISCLOSURES OF INVENTIONS; ENCOURAGE RELIANCE ON TRADE SECRETS

Some provisions of other patent bills offered in the last Congress concerned me because I believe they would have imposed unnecessary burdens upon the patent applicant and upon the Patent Office. There were too many requirements for disclosure of information not needed by one skilled in the art to understand the invention for which a patent was applied.

These requirements would have imposed much greater expense on the applicant and would have drastically increased the reading burden on the examiner in the Patent Office. Printing costs would have greatly increased without any quid pro quo benefit to anyone. Unreasonable statutory requirements for superfluous disclosure would only have provided additional points for attack on validity decreasing rather than increasing the number of valid patents issued.

One bill which concerned me would have required full disclosure of the inventor's application for patent before a patent was issued on it. This would not have protected the inventor.

Neither individuals nor companies would invest time, funds, and energy to make and to develop expensive inventions only to turn them over to a competitor. Nor would they seek to obtain a patent in the face of patent law provisions that were difficult if not impossible, to comply with. They may well have proceeded to use their inventions secretly.

As Roger M. Milgrim said in Harvard Business Review, November-December, 1974; in his article "Getting Most Out of Your Trade Secrets," there is a growing disenchantment with the patent system of the United States—A patent is time-consuming and expensive to obtain.

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[1] Patent Office Study of Court Determinations of Validity-Invalidity, in 1968–1972, Published Patent Trademark, Copyright Journal, No. 144, September 13, 1973, Appendix.

Mr. Milgrim added:

> The key to the success of many a business, they (trade secrets) are often a good alternative to patents, and their use and licensing have been a mainstay of U.S. foreign revenues for many years.
>
> * * * * *
>
> On May 13, 1974, however, the Supreme Court determined that the law of trade secrets is independent of and complementary to the federal court patent system. Trade secret developers, therefore, can continue to choose freely between seeking patent protection and treating the matter as a trade secret.
>
> * * * * *
>
> Is it better to hold a given piece of patentable knowledge as a trade secret, thereby holding an advantage for as long as it remains secret, or is it better to seek a patent, trading public disclosure in the issued patent for a guaranteed period of statutory exclusivity?
>
> * * * * *
>
> Perhaps the major disadvantage of relying on trade secret protection, given the choice, is that the law of trade secrets encourages independent development of matter protected by a trade secret. It is, for example, perfectly lawful to purchase a competitor's formulation or product and attempt to copy it by reverse engineering. Many complex chemical processes, formulas, and manufacturing methods and techniques, however, are not readily reverse engineered and often prove terribly difficult to develop independently.
>
> * * * * *
>
> "Potential trade secret relief is startlingly superior to patent infringement relief in one respect: more than 20 states have trade secret theft statutes.

If those who are inventing and developing inventions, so that they can better compete in the marketplace with their goods and services, find that the incentive of our voluntary disclosure, patent incentive, inventive system is substantially reduced—and even destroyed—it is clear that they will direct their efforts toward secrecy. Return to the guilds may become the order of the day. Competition will be greatly reduced. Progress of science and the useful arts will be seriously impeded.

Only recently, the U.S. Supreme Court in *Kewanee* v. *Bicron*, 416 U.S. 470 (1974), recognized that the Federal patent laws do not compel disclosure of an invention but merely offer the exchange of a patent for the disclosure of an invention.

The present patent law, which is currently resulting in the publication of some 80,000 disclosures annually, has been eminently successful in causing the disclosure of inventions to the public.

GENERAL DISCUSSION OF SOME PROVISIONS OF THE FONG PATENT MODERNIZATION ACT

1. STATUS OF COMMISSIONER OF PATENTS—ELEVATION

Presently the Commissioner of Patents is under the Assistant Secretary of Commerce for Science and Technology.

My bill would elevate the Commissioner of Patents to Assistant Secretary of Commerce, would raise his grade from executive level V to executive level IV, and would provide the Commissioner with full authority, responsibility, and necessary flexibility to conduct the operations of the Office.

My bill would provide the essential statutory guidance for the operation of the Patent Office and the examination of patent applications. It would leave the rulemaking authority in the administration of the Patent Office, where it belongs.

2. MAJOR PROVISIONS OF PRESENT TITLE 35 UNITED STATES CODE ARE RETAINED

Those provisions which are essential in present title 35 are retained as a basis for continued effective operation of our system.

The major portion of my bill consists of existing law, with slight modifications in some cases and substantive improvements in others.

3. SUBMISSION OF PRIOR ART BY APPLICANT

Present law does not require nor provide for submission of prior art known to applicant.

As I have noted, the principal problem in patent procurement is to place before the patent examiner the pertinent information needed to reach a judgment on patentability. My bill provides this in a reasonable, relatively feasible, inexpensive, manner. All pertinent information that reasonably can be found which would affect the examiner's judgment is required to be submitted by the applicant into the record.

4. RECORD OF ORAL INTERVIEWS

Present law provides no guidelines for recordation of oral interviews.

My bill would provide that no oral interviews can be had without making a written record of points covered and their disposition. This record would be a permanent part of the patent file in the Patent Office. It would be available to the public whenever a study of the patent is made.

5. PATENT DISCLOSURE REQUIREMENTS—VALIDITY

Present law provides requirements for disclosure.

My bill would require only that the inventor or applicant for patent shall disclose sufficiently that concept or that information which those skilled in the art need to understand the invention.

The constitutional provision regarding patents obviously envisioned a system in which the return to the applicant will make it worth his while to relinquish his disclosure to competitors. Any attempt to siphon from him the continuing results of his research will operate as a serious disincentive, particularly at this time when we need to increase incentives.

The constitutional mandate does not require extensive, time-consuming disclosure of "all" the knowledge of the inventor or his associates. Funds and time should not be required to prepare a cookbook detailed disclosure to those skilled in the art.

6. RE-EXAMINATION OF ISSUED PATENTS

Present law has no provision for reexamination of patents.

(A) CITATION OF ART

Importantly, my bill provides that the applicant's invention shall not be disclosed to the public by the Patent Office unless and until the applicant and the Patent Office Examiner are both satisfied that a patent should and does issue. I have previously noted that my bill provides that any interested party can cite additional prior art to the Patent Office at any time after a patent issues. Upon a request for reexamination the Patent Office will consider the new art. That consideration will show whether the disclosure of the newly cited art is in fact closer to the invention claimed in the patent than that of the art previously considered by the Office. If it is, the Office will then decide whether it will nullify the patent or one or more of its claims or to abbreviate their scope.

(B) RIGHTS OF PATENT HOLDER

Present law sufficiently provides for rights of a patent holder.

My bill preserves the present rights of a patent holder.

Importantly, at the moment the patent is granted, the inventor—now a patentee—will, under my bill, have the rights which under our laws always have been those of a patent holder and which provided the incentive to disclose his invention. The incentive to apply for a patent will have been preserved. He will have the right to proceed, under due process of law, to obtain an injunction against anyone who infringes a claim of his patent.

Potential infringers will know this and only at their own risk will then proceed to use the invention and/or to make, use, sell, or stockpile either machines, manufactures, articles, or compositions of matter protected by patent claims. Full measure of damages for infringement will be available to the patentee in the courts. The mandate of our Constitution will have been "secured."

Many approaches have been advanced for improving potential validity of patents through the means of opposition proceedings. One approach called for opposition proceedings before the issuance of a patent. This could allow third parties to cite from time to time prior art, hoping that, by repeated new citations, issuance will be delayed. Also, I have noted great concern about the inherent expense of such proceedings.

In that respect, I have supported S. 2930 introduced by my colleague from New York, Senator JAMES BUCKLEY. However, as I have previously stated, chapter 31 of my bill does insure that all art will be considered by the Patent Office in connection with those patents which may be offered for license or in the course of litigation.

This procedure is also attractive because it is relatively inexpensive. Thus, under chapter 31 there are reduced to a minimum the time and expense involved on the part of the Office personnel and on the part of the innovative community to deal with art cited against the patent, leaving the time and money for further progress of the useful arts through innovation.

The provisions of chapter 31 of my bill should be contrasted, carefully, with provisions of other bills which would publish and thus disclose the invention to a competitor of the inventor before a patent has been granted. Unless such bills would provide that the remedies for any unauthorized practice during the period starting with publication and ending with issuance of patent shall be those which would have been available had the patent been issued at the beginning of the period, and further, that there shall be upon issuance of the patent the right to enjoin the use or sale of machines, manufactures, or compositions of matter made during that period, the provisions should be condemned as failing to meet the constitutional test.

Without these provisions, these bills would permit a compulsory licensing of the invention during the pending of the application after its publication and, if and when a patent has issued, a compulsory licensing of the patent with respect to machines, manufactures, or compositions of matter made during that opposition period.

Even if such provision includes that a reasonable royalty shall be paid to the patentee, that provision is defective because a reasonable royalty to one may not be a reasonable royalty to another.

Furthermore, the patentee may have wanted to practice his invention and to permit no one else to do so. He may have wished to start his own company or to cause his own company to grow, this being his free choice of how to compete in the marketplace.

7. SUBPENA POWERS—SECTION 23, SECTION 24

Present law, in sections 23 and 24, provides subpena powers which have always been ample and proper.

My bill would preserve these powers.

In line with the principle of keeping examination in the Patent Office, I believe that subpena powers should be retained in the Federal courts. A person, especially one who has no experience in the Patent Office, should continue to have, as he now does, the right to move to quash a subpena issued against him and to do so in his own home district or jurisdiction. He should be able to do this under due process of law in a duly established court where each citizen would have the protection of the law as applied by a judge of that court. My bill preserves this due process of law for all persons.

8. SOLICITOR—SECTION 3(d); BOARD OF APPEALS—SECTION 7

Present title 35 does not establish the position of Solicitor.

For a very long time, however, by administrative action there has been a satisfactorily functioning Solicitor and aides in the Patent Office.

There has also been a Board of Appeals and this Board is currently provided for in title 35.

My bill retains the Board of Appeals and also provides statutorily for a Solicitor. It prescribes the powers and duties of the Solicitor and the Board of Appeals. The functions of the Solicitor and the Board of Appeals are basically retained as in present law.

9. PROVISIONS FOR DISCLOSURE TO THE PATENT OFFICE—SECTIONS 112, 115, 131, 251

Present law provides for disclosure, for an oath, for examination, and for reissue of a defective patent.

My bill preserves and modifies, with improvements, these provisions.

I reiterate that the primary function of the Patent Office is to obtain disclosure of invention in such a manner that its basic concept will be clear to one who is skilled in the art to which it pertains or with which it may be most nearly connected. The would-be discloser of an invention should be continually encouraged, subject only to reasonable regulations or requirements, to come forward and to disclose his invention.

If the basic concept of his invention is not sufficiently made clear so that one skilled in the art applying his skill can place the invention into practice, then the patent should not be granted. My bill amply provides for a court to hold the patent invalid if it is granted without adequate disclosure of the invention. This will be a loss to the patentee of his secured right to exclude others. This possible loss of right is ample incentive to produce the necessary disclosure.

Thousands of persons apply for a patent each year. Of these, a very few may inadvertently fail to disclose sufficiently that which is needed by one skilled in the art to comprehend and to practice the invention. There may be some who may deliberately withhold essential information from those skilled in the art. Burdening thousands of patent applicants because of relatively very few who may not have dealt fairly or properly with the Patent Office would be grossly inequitable.

Our great voluntary disclosure, patent incentive, inventive system should be made even more attractive, if possible, to encourage more progress of the useful arts and competition. It should not be made less attractive to the thousands of applicants because of a dishonest few. The patents of those few would, of course, be judged invalid.

Only reasonable disclosure requirements can be successful in a voluntary disclosure, patent incentive, inventive system.

The provisions which relate to disclosure including sections 112, 115, 131, and 251, should be sufficient to insure that an adequate disclosure will be made. There must be a balance between that which in theory may be required and that which in practice can be reasonably supplied. Anything less than adequate would be under my bill, as at present, basis for refusing to grant a patent.

(A) INFORMATION IN POSSESSION OF APPLICANT

Present title 35 makes no explicit requirement that information relating to prior art in possession of applicant shall be disclosed to the Patent Office.

My bill provides a practical requirement for such disclosure.

It is reasonable to require that the applicant, his associates, and/or his attorney tell the Patent Office the principal items of prior art that any of them have in their possession and which any of them have considered during the preparation of the application for patent.

It is reasonable to expect that such items will be noted by them so that when the time comes that the application for patent is filed, they can apprise the Patent Office of prior art which, upon review of all matters noted by them, should in good conscience be disclosed to the Patent Office.

Also, it is reasonable to insist that the disclosure of such information and knowledge be reasonably complete at the time the application for patent is filed.

(B) PRIOR ART AFTER FILING

My bill further provides that, subsequent to the filing of the application, any prior art coming to the attention of either the inventor or his associates, or their attorneys or agent, shall be made available to the Patent Office within a reasonable time. There should be no penalty for inadvertence leading to a failure to disclose. Invalidity of a patent should not rest on mere technicality. It should be based only on whether or not the essential information has been disclosed.

10. COMMISSIONER'S FREEDOM TO REGULATE APPROPRIATELY

Present law provides the Commissioner of Patents with authority to issue regulations or rules not inconsistent with the law.

My bill preserves and improves present law.

Under my bill, the Commissioner of Patents would have the authority, as he has now, to promulgate rules and regulations not inconsistent with the law. In addition, by elevating the Commissioner of Patents to the level of Assistant Secretary, my bill streamlines the operation of the Patent Office.

My bill does not, as the administration bill had proposed, write detailed regulations into the statute. I believe the existing Administrative Procedure Act not only provides the necessary flexibility for the Commissioner, but also provides opportunity for all interested parties to express to the Commissioner their views prior to final promulgation of regulations. In addition, this act provides for judicial review of regulations.

In the very complex, highly technical field of patent examination, Congress should set the policy guidelines and let the rulemaking process with all its safeguards under well-established law fill in the pertinent details.

11. COSTS OF PATENT OFFICE OPERATIONS—FEES AND BUDGET

At present, the entire Patent Office operation involves a budget of about $80,000,000 annually. The Patent Office collects fees to the extent of about $30,000,000, which are paid to the Treasury. If only these fees are taken into consideration, the net cost of the operation of the Patent Office is approximately $50,000,000. As I note in my "Individual Views" however, the tax revenues generated through licensing of patents and through taxable income earned by enterprises using the patents totals more than the budget of the Patent Office.

Many in government circles choose to ignore the general income taxes that patent owners pay on income from patent licenses. Also, many ignore the taxes generated by the great many enterprises created and operated as a result of the working of the incentive of our patent incentive system. Despite the fact that such funds are not set aside for specific use of the Patent Office, I believe we should recognize the financial support to the Federal Government by those funds and not try to cut too deeply into the patent owner's returns.

My bill retains the fee schedule of 35 U.S.C. I do not favor drastic revision of those fees. The public will continue to benefit greatly by continued widespread use of the patent system. They should not be discouraged in that use by fee increases.

Setting of fees has been, and should continue to be, the prerogative of the Congress by statute. The Commissioner and his staff should submit to the Congress a schedule of fees with suitable justification.

12. MAINTENANCE FEES

Present law does not require the inventor or patent holder to pay fees to maintain the patent for its statutory life.

My bill provides for reasonable maintenance fees.

It is a fallacy to contend, as some have done, that under present law the Patent Office operates at a financial loss to our Government. Our Nation derives benefit far in excess of costs of operation of the Patent Office. It taxes incomes created by the progress of the useful arts and by consequent competition induced by the granting of patents. As earlier indicated, taxes collected by the Federal, State, and local governments on all operations, production of goods and services or by earned income in wages and salaries, and on royalties on patent license agreements, are so vast that our government at all levels—local, State, and Federal—is amply repaid for operation of the Federal patent incentive system.

On the other hand, those who would seek a patent should pay reasonable filing fees so that they will not lightly file applications for patent.

Time has allowed review of whether and to what extent maintenance fees should be payable on issued patents and yet retain the maximum possible incentive to come forward and to disclose. It must be clear to the inventor or to the organization to which he may assign his invention that the expense in proceeding by the patent route will be reasonable to his or its circumstances, otherwise he will proceed in secrecy, as I noted earlier.

Whether maintenance fees should be charged should not be related to the cost of operation of the Patent Office. At best such fees should be related only to the cost of collecting the fees.

In any "Individual Views," referring to the question of maintenance fees, I stated:

> There have never been maintenance fees in the United States. There are no maintenance fees under present law. Once an inventor pays his patent attorney the fees for the prosecution for a patent and pays the fees charged by the Patent Office and his patent is issued, he has his patent free and clear for 17 years. He has responded to the incentive of the system and has disclosed his invention to the public.
>
> Inventors are creators. Inventors take nothing from the public; they add to the public domain. Perhaps they should not be charged at all for filing patent applications, but should be paid for doing so.
>
> At a time when our nation's economy is faltering, and our Gross National Product is declining, I question the wisdom of adding this heavy handicap to our nation's inventors. At a time when our Gross National Product has fallen 5.8% and we have a negative export/import balance, it appears to be a most inappropriate time to possibly DEstimulate our economy. (See April 19, 1974, Washington Post article entitled "GNP Falls 5.8%; Inflation Rate Rises to 10.8%")
>
> It is also arguable that extremely high maintenance fees are possibly unconstitutional. Congress has been mandated (Article I, Sec. 8, Cl. 8) :
>
> "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."
>
> There is no indication in our Constitution that the government should charge any more than nominal administrative fees.
>
> Many of the inventive community argue that the taxes received by the government from royalties paid to inventors and the taxes received by the government from the sale of products covered by patents far outweigh the cost of running the Patent Office, now estimated at about $77 million per year.
>
> Indeed, it has been said as early as in the 1950's that the tax on the royalties which are received in the electronics industry alone, through patent license and other arrangements, just about equals the cost of operation of the Patent Office. Therefore, the Patent Office could be looked upon as already a self-sustaining operation in the sense that it earns for the government taxes which already exceed the cost of operating the Patent Office.

There is no logical reason based either on the constitutional mandate or otherwise for which maintenance fees should be charged. The Patent Office is operated to stimulate invention and disclosure thereof to benefit all the people. All parties agree that this function has been amply discharged. The value of the award of a patent in exchange for the disclosure of the invention therein described should not be significantly reduced by maintenance fees. Maintenance fees will constitute a second big bite of the apple from the patent owner.

In a spirit of compromise, I am willing to accept reasonable maintenance fees.

13. INFRINGEMENT OF PATENTED PROCESS BY IMPORTED PRODUCT

Present title 35 does not contain any explicit provision securing the right of a process patent holder to enable him to sue for infringement an importer of a product made abroad by the patented process.

My bill would provide protection for the U.S. process patent holder.

Major industrial nations—France, West Germany, Japan, England, Italy—who are competitors of U.S. producers protect their inventors holding process patents.

My bill would provide similar protection to our Nation's inventors holding process patents.

Section 271(e) of my bill would provide to the American patentee or patent holder the right to sue for infringement upon any unauthorized importation of a product produced abroad by anyone else using his patented process.

PRESIDENT'S COMMISSION ON PATENT SYSTEM

Finally, my bill has been designed to accomplish the objectives of the President's Commission on the Patent System as these are reported by that Commission on pages 3 and 4 of its report submitted to the President on November 17, 1966. These objectives are worthy of repetition because all of them must be implemented in such a manner as to preserve, protect, and perfect the incentive of our voluntary disclosure, patent incentive, inventive system. Accordingly, they are contained in my "Individual Views" on S. 2504 committee print at the conclusion of my remarks.

CONCLUDING REMARKS

In preparing and presenting this bill, I have endeavored to find common ground on which all parties can agree, so that the patent incentive system will be truly improved. I believe the provisions of my bill are reasonable and reach sion.

A complete rewrite or even extensive revision of title 35 or of its basic concepts can but engender 20 to 30 years of litigation at great expense to the public and great uncertainty to the inventive community as indicated by Judge Giles S. Rich.

I seek to avoid a dichotomy amounting to a polarization of opinion respecting key provisions. I have endeavored to give due weight to the views of the voluntary disclosure, patent incentive, inventive system community, which includes the Patent Office Commissioner, the Commission on Revision of the Federal Appellate System, and inventors, individuals, industry, and members of the bar who advise those responding to the patent incentive.

As I stated in my earlier remarks, I again offer my bill for discussion and study by all interested parties. I look forward to receiving further comments and suggestions which would improve features of my bill.

Mr. President, I ask unanimous consent to include in the RECORD at this point the following related material: First, a brief explanation of revisions in sections 103, 142, 143, and 144; second, the text of my new bill; third, the "Individual Views of Senator HIRAM L. FONG"; and fourth, the "Individual Views of Senator JOHN L. MCCLELLAN."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTIONS OF S. 4259 REVISED IN S. 214

Section 103. I have revised Section 103, which deals with "obviousness" of an invention to those skilled in the art, so as to incorporate and codify *In re Foster,* 52 CCPA 1808, 343 F. 2d 980, 145 USPQ 146, cert. den., 383 U.S. 966, reh. den., 384 U.S. 934 (1965). Since this is the case law at the present time, I think it is desirable to reflect it in my new bill (S. 214).

Sections 142, 143, and 144. I have revised these three sections dealing with appeals from the final decision of the Patent Office. The revisions eliminate the "reasons of appeal." As so revised, my new bill will conform the procedure before the Court of Customs and Patent Appeals with that in other Federal Courts where the requirement for "assignments of error" in appeals from a district court to the U.S. court of appeals for the several circuits has been eliminated. I realize that formal recitation of reasons of appeal serves no practical purpose since an appellate court must derive its real understanding of the points at issue from the decisions below and from the briefs of the parties. As so revised, my new bill eliminates the requirement of existing law for "reasons of appeal."

S. 214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Patent Modernization Act of 1975".

SEC. 2. Title 35 of the United States Code, entitled "Patents", is hereby amended in its entirety to read as follows:

"PART I—PATENT AND TRADEMARK OFFICE

"CHAPTER 1.—ESTABLISHMENT, OFFICE, FUNCTIONS

"Sec.
"1. Establishment.
"2. Seal.
"3. Commissioner and other officers.
"4. Restrictions on officers and employees as to interest in patents.
"5. Omitted.
"6. Omitted.
"7. Board of Appeals.
"8. Library.
"9. Classification of patents.
"10. Certified copies of records.
"11. Publications and public services.
"12. Research and studies.
"13. Annual report to Congress.

"CHAPTER 2.—PROCEEDINGS IN THE OFFICE

"Sec.
"21. Day for taking action falling on Saturday, Sunday, or holiday.
"22. Form of papers filed.
"23. Evidence on Office cases.
"24. Subpoenas, witnesses.
"25. Oath and declaration in lieu of oath.
"26. Effect of defective or missing execution.
"27. Effective date of documents and fees to be filed in the Office.

"CHAPTER 3.—PRACTICE BEFORE OFFICE

"Sec.
"31. Regulations for agents and attorneys.
"32. Suspension or exclusion from practice.
"33. Unauthorized practice.

"CHAPTER 4.—PATENT FEES

"Sec.
"41. Patent fees.
"42. Payment of patent fees; return of excess amounts.
"43. Maintenance fees.

"PART II—PATENTABILITY OF INVENTIONS AND GRANTS OF PATENTS

"CHAPTER 10.—PATENTABILITY OF INVENTIONS

"Sec.
"100. Definitions.
"101. Subject matter patentable.
"102. Conditions for patentability; novelty and loss of right to patent.
"103. Conditions for patentability; non-obvious subject matter.
"104. Invention made abroad.

"CHAPTER 11.—APPLICATION FOR PATENT

"Sec.
"111. Application for patent.
"112. Specification.
"113. Drawings.
"114. Models specimens.
"115. Oath of applicant; duty to disclose.
"116. Joint inventors.
"117. Death or incapacity of inventor.
"118. Filing by other than inventor, oath by other than inventor.
"119. Benefit of earlier filing date in foreign country; right of priority.
"120. Benefit of earlier filing date in the United States.
"121. Divisional applications.
"122. Confidential status of applications.
"123. Publication.

"CHAPTER 12.—EXAMINATION OF APPLICATION

"Sec.
"131. Examination of application.
"132. Notice of rejection; reexamination.
"133. Time for prosecuting application.
"134. Appeal to the Board.
"135. Priority of invention contest.
"136. Settlement agreements.

"CHAPTER 13.—REVIEW OF OFFICE DECISION

"Sec.
"141. Appeal to Court of Customs and Patent Appeals.
"142. Notice of appeal.
"143. Proceedings on appeal.
"144. Decision on appeal.
"145. Civil action to obtain patent.
"146. Civil action in case of interference.
"148. Presumption of correctness.
"149. Judicial review of nonfinal decisions.

"CHAPTER 14.—ISSUE OF PATENT

"Sec.
"151. Issue of patent.
"152. Late payment effect of reinstatement of patent.
"153. How issued.
"154. Contents and term of patent.
"155. Patents granted on review.

"CHAPTER 15.—PLANT PATENTS

"Sec.
"161. Patents for plants.
"162. Description, claim.
"163. Grant.
"164. Assistance of Department of Agriculture.

"CHAPTER 16.—DESIGNS

"Sec.
"171. Patents for designs.
"172. Right of priority.
"173. Term of design patent.

"CHAPTER 17.—SECRECY OF CERTAIN INVENTIONS AND FILING APPLICATIONS IN FOREIGN COUNTRIES

"Sec.
"181. Secrecy of certain inventions and withholding of patent.
"182. Forfeiture of the right to a patent for unauthorized disclosure.
"183. Right for compensation.
"184. Filing of application in foreign country.
"185. Patent barred for filing without license.
"186. Penalty.
"187. Nonapplicability to certain persons.
"188. Rules and regulations, delegation of power.

"PART III—PATENTS AND PROTECTION OF PATENT RIGHTS

"CHAPTER 25.—AMENDMENT AND CORRECTION OF PATENTS

"Sec.
"251. Reissue of defective patents.
"252. Effect of reissue.
"253. Disclaimer.
"254. Certificate of correction of Office mistake.
"255. Certificate of correction of applicant's mistake.
"256. Correction of named inventor.
"257. Certificate for change in status of claims.

"CHAPTER 26.—OWNERSHIP AND ASSIGNMENT

"Sec.
"261. Ownership; assignment.
"262. Joint Owners.

"CHAPTER 27.—GOVERNMENT INTERESTS IN PATENTS

"Sec.
"266. (Repealed.)
"267. Time for taking action in Government application.

"CHAPTER 28.—INFRINGEMENT OF PATENTS

"Sec.
"271. Infringement of patent.
"272. Temporary presence in the United States.

"CHAPTER 29.—REMEDIES FOR INFRINGEMENT OF PATENT, AND OTHER ACTIONS

"Sec.
"281. Remedy for infringement of patent.
"282. Presumption of validity; defenses.
"283. Injunction.
"284. Damages.
"285. Attorney fees.
"286. Time limitation on damages.
"287. Limitation on damages; marking and notice.
"288. Action for infringement of a patent containing an invalid claim.
"289. Additional remedy for infringement of design patent.
"290. Notice of patent suits.
"291. Priority of invention between patentees.
"292. False marking.
"293. Nonresident patentee, service and notice.
"294. Arbitration.

"CHAPTER 30.—PRESERVATION OF OTHER RIGHTS

"Sec.
"301. Preservation of other rights; nonpreemption.

"CHAPTER 31.—PRIOR ART CITATIONS

"Sec.
"311. Rules established by Commissioner of Patents.
"312. Citation of art.
"313. Request for examination.
"314. Determination of issue by Commissioner of Patents.
"315. Reexamination ordered by Commissioner of Patents.
"316. Response or amendment by patent owner.
"317. Appeals.
"318. Certificate of patentability; Unpatentability and claim cancellation.
"319. Reliance on art in court only after Office review.
"320. Stay of court proceedings to permit Office review.
"321. Dismissal of complaint.

"PART IV—PATENT COOPERATION TREATY

"CHAPTER 35.—DEFINITIONS

"Sec.
"351. Definitions.

"CHAPTER 36.—INTERNATIONAL STAGE

"Sec.
"361. Receiving Office.
"362. International searching authority.
"363. International application designating the United States; effect.
"364. International stage; procedure.
"365. Right of priority; benefit of the filing date of a prior application.
"366. Withdrawn international application.
"367. Actions of other authorities; review.
"368. Secrecy of certain inventions; filing international applications in foreign countries.

"CHAPTER 37.—NATIONAL STAGE

"Sec.
"371. National stage; commencement.
"372. National stage; requirements and procedure.
"373. Improper applicant.
"374. Publication of international application; effect.
"375. Patent issued on international application;
"376. Fees.
"1542. Transitional and supplementary provisions.

"PART I—PATENT AND TRADEMARK OFFICE

"Chapter 1.—ESTABLISHMENT, OFFICERS, FUNCTIONS

"Sec.
"1. Establishment.
"2. Seal.
"3. Commissioner and other officers.
"4. Restrictions on officers and employees as to interest in patents.

"5. Omitted.
"6. Omitted.
"7. Board of Appeals.
"8. Library.
"9. Classification of patents.
"10. Certified copies of records.
"11. Publications and public services.
"12. Research and studies.
"13. Annual report to Congress.

"§ 1. Establishment

"The Patent and Trademark Office, hereinafter termed 'Office,' shall continue as an office in the Department of Commerce, where records, books, drawings, specifications, and other papers and things pertaining to patents and the trademark registrations shall be kept and preserved, except as otherwise provided by law. The Office shall function independently of the Department of Commerce in the exercise of discretion concerning the rulemaking, investigatory, and adjudicatory functions of the Office, including judicial proceedings related thereto. Appointment of members of the Board of Examiners-in-Chief and primary examiner shall not be subject to the provisions of section 3105 of title 5, United States Code.

"§ 2. Seal

"The Patent Office shall have a seal with which letters patent, certificates of trademark registrations, and papers issued from the Office shall be authenticated.

"§ 3. Commissioner and other officers

"(a) (1) There shall be a chief administrative officer of the Office, the Commissioner of Patents and Trademarks, referred to in this title as the 'Commissioner.' The Assistant Secretary of Commerce for Patents and Trademarks, shall, ex officio, be the Commissioner of Patents and Trademarks. The Commissioner shall be appointed by the President, by and with the advice and consent of the Senate, and he shall be compensated at the rate now or hereafter provided for level IV of the Executive Schedule pay rates (5 U.S.C. 5315). The Commissioner shall superintend or perform all duties required by law respecting the granting and issuing of patents and the registration of trademarks, shall have the authority to carry on studies and programs regarding domestic and international and patent and trademark law and practice, and shall have charge of property belonging to the Office. The Commissioner is authorized to promulgate rules and regulations, not inconsistent with law, governing proceedings before the Office; to review, himself or by such delegate as he shall designate, all decisions or orders of the Office, the review of which other provisions of this title do not assign to the Board of Appeals; and otherwise to prescribe such further rules and regulations and take such further actions as may be necessary or proper for purposes of administration of the Office.

"(2) The Commissioner may, in coordination with the Department of State, carry on programs and studies cooperatively with foreign patent offices and international intergovernmental organizations, or may authorize such programs and studies to be carried on, in connection with the performance of duties stated in subsection (a) (1) of this section.

"(3) The Commissioner may, with the concurrence of the Secretary of State, transfer funds appropriated to the Office, not to exceed $200,000 in any year, to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents and trademarks. These special payments may be in addition to any other payments or contributions to the international organization and shall not be subject to any limitations imposed by law on the amounts of such payments or contributions by the Government of the United States.

"(4) The Commissioner may, with the concurrence of the Secretary of State, allocate funds appropriated to the Office, to the Department of State for the purpose of payment of the share on the part of the United States to the working capital fund established under the Patent Cooperation Treaty. Contributions to cover the share on the part of the United States of any operating deficits of the International Bureau under the Patent Cooperation Treaty shall be included in the annual budget of the Office and may be transferred by the Commissioner to the Department of State for the purpose of making payments thereof to the International Bureau.

"(b) There shall be a Deputy Commissioner of the Office, who shall be appointed by the Commissioner, and who shall be compensated at a per annum rate of basic compensation not in excess of the maximum scheduled rate provided for positions in grade 18 of the General Schedule. The Deputy Commissioner shall perform such functions as the Commissioner may assign or delegate and he shall act as Commissioner during the absence or disability of the Commissioner or in the event of a vacancy in the office of the Commissioner.

"(c) The Commissioner may appoint not more than four assistant Commissioners of the Office who shall be compensated at a per annum rate of basic compensation not in excess of the maximum scheduled rate provided for positions in grade 18 of the General Schedule. Such Assistant Commissioners shall perform such functions as the Commissioner may from time to time assign or delegate. In the event of vacancies in the offices of Commissioner and Deputy Commissioner, or their absence or disability, the Assistant Commissioner senior in date of appointment shall fill the office of Commissioner until said vacancies, absences, or disabilities terminate.

"(d) In addition to the officers designated in the preceding subsections of this section, there shall be a Solicitor of competent legal and scientific knowledge and ability, appointed by the Commissioner, who shall be compensated at a per annum rate of basic compensation not in excess of the maximum scheduled rate provided for positions in grade 18 of the General Schedule. He shall perform such legal functions as requested by the Commissioner under regulations promulgated by the Commissioner. He or his delegate—

"(1) may participate in any proceeding before the Office when the supervisory primary examiner or the Board of Appeals so requests and it appears to him that it is necessary or appropriate in the public interest for him to participate; and

"(2) shall defend appeals from any final action of the office, except as otherwise provided by subsection (f) of this section; and

"(3) shall conduct such investigations or inquiries pursuant to section 24 of this title, as may be necessary or appropriate to investigate violations of this title and rules and regulations promulgated thereunder; and

"(4) shall take measures appropriate to assure that adverse or conflicting interests or positions are not taken by the same employee of the Office.

"(e) The Commissioner shall, subject to other requirements of law, appoint Examiners-in-Chief and other officers and employees and assign or delegate to them the functions of the Office. The Commissioner is authorized to fix the per annum rate of basic compensation of each Examiner-in-Chief at not in excess of the maximum scheduled rate provided for positions in Grade 17 of the General Schedule (5 U.S.C. 5104).

"(f) Any other provision of law to the contrary notwithstanding the authority of the Solicitor and that of any officer or employee of the Office, to appear before the courts shall be subject to the direction and control of the Attorney General, and shall be limited to such delegation of authority as the Attorney General or his duly authorized representative may make.

"(g) The Secretary of Commerce may vest in himself the functions of the Patent Office and its officers and employees specified in this title and may from time to time authorize their performance by any other officer or employee.

"§ 4. Restrictions on officers and employees as to interest in patents

"(a) Officers and employees of the Office shall be incapable, during the period of their appointments and for one year thereafter, of applying for a patent or, during such period and for one year thereafter, being named as an inventor in an application for patent for an invention made during such period or for one year thereafter and of acquiring, directly or indirectly, except by inheritance or bequest, any patent or any right or interest in any patent, issued or to be issued by the Office.

"(b) After expiration of the one-year post-appointment period provided for in subsection (a) of this section, a former officer or employee may apply for a patent or be named as an inventor in an application for patent: *Provided, however,* That if the subject matter claimed in an application for patent was invented during the period of his appointment or employment or within one year thereafter, the application for such patent shall not be entitled to any date of invention earlier than one year after termination of the appointment of such former officer or employee.

"(c) The Commissioner shall prescribe regulations governing the participation of present or former officers and employees of the Office in the preparation or prosecution of applications for patent which may be or have been assigned to one or more examining groups to which the work of such officers or employees may be or has been related.

"(d) Nothing contained in this section shall be construed to modify the obligations imposed by this or any other title of the United States Code upon present or former officers and employees of the United States.

"§ 7. Board of Appeals

"(a) The Commissioner, the Deputy Commissioner, the Assistant Commissioners, and the examiners-in-chief shall constitute a Board of Appeals in the Patent Office. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, who shall be appointed under the classified Civil Service. There shall be not more than thirty examiners-in-chief.

"(b) The Board of Appeals shall:

"(1) Review adverse decisions of the primary examiners upon applications for patents as provided in section 134 of this title.

"(2) Review or consider actions arising under Section 135 of this title and perform the functions specified in other Acts of Congress as being performed by a Board of Patent Interferences and when performing said functions shall constitute a Board of Patent Interferences.

"(3) Render other decisions and orders or perform other functions or duties as provided in this title or as the Commissioner of Patents may by regulation or order prescribe.

"(c) Each appeal or other action shall be decided by at least three members of the Board of Appeals. The Board of Appeals has sole power to reconsider its decisions.

"(d) Whenever the Commissioner considers it necessary to maintain the work of the Board of Appeals current, he may designate any patent examiner of the primary examiner grade or higher having the requisite ability to serve as examiner-in-chief for periods not exceeding six months each. An examiner so designated shall be qualified to act as a member of the Board of Appeals. Not more than one such designated examiner-in chief shall be a member of the Board of Appeals hearing an appeal or considering a case. The Secretary of Commerce is authorized to fix the per annum rate of basic compensation of each designated examiner-in-chief in the Office at not in excess of the maximum scheduled rate provided for positions in grade 16 of the General Schedule of positions referred to in section 5104 of title 5, United States Code. The per annum rate of basic compensation of each designated examiner-in-chief shall be adjusted, at the close of the period for which he was designated to act as examiner-in-chief, to the per annum rate of basic compensation which he would have been receiving at the close of such period if such designation had not been made.

"(e) Except as otherwise provided in or pursuant to this title, the Board of Appeals shall exercise judicial functions of the Office, including all agency review of appeals, as provided in this title. Except as provided otherwise in this title, the decision of the Board of Appeals shall constitute final agency action (as that term is defined in 5 U.S.C. 551) in all matters considered by it, and shall be the final decision of the office for the purposes of chapter 13 of this title.

"§ 8. Library

"(a) The Commissioner shall make all reasonable efforts to maintain a complete and current library of scientific and other works and periodicals, both foreign and domestic, in the Office which shall be available to its employees in the discharge of their duties under this title and to assist the public in the study of the useful arts.

"(b) The Commissioner may establish liaison with such Government agencies as may be appropriate in order to make available to the Office library additional scientific and other works and periodicals, both foreign and domestic.

"§ 9. Classification of patents

"The Commissioner shall maintain with appropriate revisions the classification by subject matter of published specifications of United States patents and of such other patents and applications and other scientific and technical information as may be necessary or practicable, for the purpose of determining with readiness and accuracy the patentability of subject matter for which applications for patent are filed.

"§ 10. Certified copies of records

"The Commissioner may, upon payment of the prescribed fee, furnish certified copies of records of the Office to persons entitled thereto.

"§ 11. Publications and public services

"(a) The Commissioner shall cause to be published, in such format as he determines to be suitable, the following:

"(1) The specifications and drawings of patents and patent applications, subject to the provisions of this title.

"(2) Certificates of trademark registrations, including statements and drawings.

"(b) The Commissioner may cause to be published, in such format as he determines to be suitable, the following:

"(1) Patent abstracts.

"(2) The Official Gazette of the United States Patent Office.

"(3) Annual indices of patents, published applications and trademarks, and information concerning the same.

"(4) Annual volumes of decisions in patent and trademark cases.

"(5) Classification manuals and indices of the classifications of patents.

"(6) Pamphlet copies of the patent laws and rules of practice, laws, and rules relating to trademarks and circulars and other publications relating to the business of the Office.

"(c) The Office may print the headings of the drawings for patents for use in photolithography.

"(d) The Commissioner (1) shall maintain public facilities for the searching of patent materials, (2) may establish a public information service for the dissemination to the public of information concerning patents and trademarks, and (3) may from time to time disseminate or provide for dissemination of public technological and other public information, the publication of which in his judgment would encourage invention and progress in the useful arts. Such dissemination may be made by periodical or other publications, the preparation and display of exhibits, and other appropriate means.

"(e) The Commissioner may exchange copies of any of the publications specified in subsections (a) and (b) for publications desirable for the use of the Office for like items of other countries, and may furnish copies of any of these publications to international intergovernmental organizations of which the United States is a member.

"(f) The Commissioner may supply copies of specifications and drawings of patents to public libraries in the United States which shall maintain such copies for the use of the public, at the rate for each year's issue established for this purpose in section 41 of this title.

"§ 12. Research and studies

"The Commissioner shall conduct a program of research and development to improve and expedite the handling, classification, storage, and retrieval of patents and other scientific and technical information.

"§ 13. Annual report to Congress

"The Commissioner shall report to Congress annually the moneys received and expanded, statistics concerning the work of the Office and other information relating to the Office as may be useful to the Congress or the public.

"Chapter 2.—PROCEEDINGS IN THE OFFICE

"Sec.
"21. Day for taking action falling on Saturday, Sunday, or holiday.
"22. Form of papers filed.
"23. Evidence on Office cases.
"24. Subpoenas, witnesses.
"25. Oath and declaration in lieu of oath.
"26. Effect of defective or missing execution.
"27. Effective date of documents and fees to be filed in the Office.

"§ 21. Day for taking action falling on Saturday, Sunday or holiday

"When the day, or the last day, for taking any action or paying any fee required by this title falls on Saturday, Sunday, a holiday within the District of Columbia, or on any other day where receipt of papers cannot be effected the action may be taken, or the fee paid, on the next succeeding secular business day.

"§ 22. Form of papers filed

"The Commissioner may by regulation prescribe the form of papers filed in the Office.

"§23. Evidence in Office cases

"The Commissioner shall establish regulations for the presentation and production of evidence in Office proceedings, including affidavits, depositions, discovery, and other evidence required in the Office. Any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where he resides, may take such affidavits and depositions.

"§ 24. Subpoenas, witnesses

"(a) The clerk of any United States court for the district wherein testimony is to be taken in accordance with regulations established by the Commissioner for use in any case in the Office, shall, upon the application of any party thereto, issue a subpoena for any witness residing or being within such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses, discovery and to the production of documents and things shall apply to contested cases in the Office consistent with Office regulations established under section 23 of this title.

"(b) Every witness subpoenaed and in attendance shall be allowed the fees and traveling expenses allowed to witnesses attending the United States district courts.

"(c) A judge of a court whose clerk issued a subpoena may enforce obedience to the process or punish disobedience as in the other like cases, on proof that a witness, served with such subpoena, neglected or refused to appear or to testify. No witness shall be deemed guilty of contempt for disobeying such subpoena unless his fees and traveling expenses in going to, and returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret matter except upon appropriate order of the court which issued the subpoena.

"25. Oath and declaration in lieu of oath

"(a) An oath to be filed in the Office may be made before any person within the United States authorized by law to administer oaths or, when made in a foreign country, before any diplomatic or consular officer of the United States authorized to administer oaths, or before any officer authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by certificate of a diplomatic or consular officer of the United States, and such oath shall be valid if it complies with the laws of the state or country where made.

"(b) The Commissioner may by regulation prescribe that any document to be filed in the Office and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration in such form as the Commissioner may prescribe, such declaration to be in lieu of the oath otherwise required.

"(c) Whenever such written declaration issued, the document must warn the declarant that willful false statements and the like are punishable by fine or imprisonment, or both, in accordance with 18 U.S.C. 1001.

"(d) The Commissioner may by regulation prescribe that any oath or declaration of a person not fluent in English shall be in a language in which he is fluent, together with an English translation thereof, the accuracy of which shall be attested to pursuant to such rules as the Commissioner may prescribe.

"§ 26. Effect of defective or missing execution

'Any document to be filed in the Office and which is required by any law or regulation to be executed in a specified manner may be provisionally accepted by the Commissioner despite a defective or missing execution, provided a properly executed document is submitted within such reasonable time as may be prescribed by the Commissioner.

"§ 27. Effective date of documents and fees to be filed in the Office

"The Commission may by regulation prescribe that an application for Letters Patent, or for Trademark registration, any other document or thing, or a fee shall be deemed to have been filed in the Office as of the day of deposit thereof in the United States mails, and the Commissioner may by regulation prescribe the conditions which must be fulfilled to make such deposit effective as a filing in the Office as of the date of such deposit.

"Chapter 3.—PRACTICE BEFORE OFFICE

"31. Regulations for agents and attorneys.
"Sec.
"32. Suspensions or exclusion from practice.
"33. Unauthorized practice.

"§ 31. Regulations for agents and attorneys

"The Commissioner may prescribe regulations governing the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other person valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office.

"§ 32. Suspension or exclusion from practice

"The Commissioner may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Office, any person, agent, or attorney shown to be incompetent or disreputable, or guilty of gross misconduct, or who does not comply with the regulations established under section 31 of this title, or who shall, by word, circular, letter, or advertising, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant, or other person having immediate or prospective business before the Office. The reasons for any such suspension or exclusion shall be duly recorded. The United States District Court for the District of Columbia, under such conditions and upon such proceedings as it by its rules determines, may review the action of the Commissioner upon the petition of the persons so refused recognition or so suspended or excluded.

"§ 33. Unauthorized practice

"(a) Whoever, not being recognized to practice before the Office:

"(1) Holds himself out or knowingly permits himself to be held out as so recognized, or

"(2) Holds himself out or knowingly permits himself to be held out as available either to perform the service of preparing or prosecuting an application for patent or to provide such service to be performed by a person not so recognized or by an unidentified person, or

"(3) For compensation, either performs the services of preparing or prosecuting an application for patent for another not so recognized or provides such service to be performed by a person not so recognized or by an unidentified person, or

"(4) Knowingly makes to an applicant or prospective applicant for a patent any false, misleading or deceptive material representation, by commission or omission, with respect to patentability or the procurement of a patent—shall be punishable by imprisonment not exceeding one (1) year or a fine not exceeding $25,000 nor less than $1,000 for each offense or both.

"(b) Where an agent, attorney, or firm recognized to practice before the Office assumes responsibility for the service of preparing or prosecuting a patent application at the time such service is rendered, the service shall be considered as performed by such agent, attorney, or firm within the meaning of this section.

"(c) An action for injunctive relief may be brought by the United States or by any person that is or is likely to be injured by any act proscribed in subsection (a) of this section. In any action under this subsection, it shall not be necessary that actual damage be alleged or proved.

"(d) Whoever engages in any act proscribed in subsection (a) of this section shall be liable in a civil action to any person injured by such acts, and the person injured shall be entitled to recover damages which the court may treble in its discretion, and full costs and expenses including attorneys' fees.

"(e) The district and territorial courts of the United States shall have original jurisdiction of all actions arising under this section, without regard to the amount in controversy or to the diversity of the citizenship of the parties.

"(f) The bringing of or maintenance of a civil action for damages or injunctive relief under this section shall not prevent or be prevented by the institution or continuation of criminal proceedings against whoever commits any act proscribed in subsection (a) of this section.

"Chapter 4.—PATENT FEES

"Sec.

"41. Patent fees.

"42. Payment of patent fees; return of excess amounts.

"43. Maintenance fees.

"§ 41. Patent fees.

"(a) The Commissioner shall charge the following fees:

"1. On filing each application for an original patent, except in design cases, $65; in addition, on filing or on presentation at any other time, $10 for each claim in independent form which is in excess of one, and $2 for each claim (whether independent or dependent) which is in excess of ten. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

"2. For issuing each original or reissue patent, except in design cases, $100; in addition, $10 for each page (or portion thereof) of specification as printed, and $2 for each sheet of drawing.

"3. In design cases:

"a. On filing each design application, $20.

"b. On issuing each design patent: For three years and six months, $10; for seven years, $20; and for fourteen years, $30.

"4. On filing each application for the reissue of a patent, $65; in addition, on filing or on presentation at any other time, $10 for each claim in independent form which is in excess of the number of independent claims of the original patent, and $2 for each claim (whether independent or dependent) which is in excess of ten and also in excess of the number of claims of the original patent. Errors in payment of the additional fees may be rectified in accordance with regulations of the Commissioner.

"5. On filing each disclaimer, $15.

"6. On appeal for the first time from the examiner to the Board of Appeals, $50; in addition, on filing a brief in support of the appeal, $50.

"7. On filing each petition for the revival of an abandoned application for a patent or for the delayed payment of the fee for issuing each patent, $15.

"8. For certificate under section 255 or under section 256 of this title, $15.

"9. As available and if in print: For uncertified printed copies of specifications and drawings of patents (except design patents), 50 cents per copy; for design patents, 20 cents per copy; the Commissioner may establish a charge not to exceed $1 per copy for patents in excess of twenty-five pages of drawings and specifications and for plant patents printed in color; special rates for libraries specified in section 13 of this title, $50 for patents issued in one year. The Commissioner may, without charge, provide applicants with copies of specifications and drawings of patents when referred to in a notice under section 132.

"10. For recording every assignment, agreement, or other paper relating to the property in a patent or application, $20; where the document relates to more than one patent or application, $3 for each additional item.

"11. For each certificate, $1.

"(b) The Commissioner may establish charges for copies of records, publications, or services furnished by the Office, not specified above.

"(c) The fees prescribed by or under this section shall apply to any other Government department or agency, or officer thereof, except that the Commissioner may waive the payment of any fee for services or materials in cases of occasional or incidental requests by a Government department or agency, or officer thereof. (Amended July 24, 1965, Public Law 89-83, secs. 1 and 2, 79 Stat. 259.)

"12. For any request for patent reexamination under chapter 31, $75.

"§ 42. Payment of patent fees; return of excess amounts.

"All patent fees shall be paid to the Commissioner who, except as provided in sections 361(b) and 376(b) of this title, shall deposit in the same in the Treasury of the United States in such manner as the Secretary of the Treasury directs, and the Commissioner may refund any sum paid by mistake or in excess of the fee required by law.

"§ 43. Maintenance fees

"(a) During the term of a patent, other than for a design, the following maintenance fees shall be due:

"(1) a first maintenance fee of $300 on or before the seventh anniversary of the beginning of the term of the patent; and

"(2) a second maintenance fee of $600 on or before the tenth anniversary of the beginning of the term of the patent; and

"(3) a third maintenance fee of $1,100 on or before the thirteenth anniversary of the beginning of the term of the patent.

"(b) In the case of a reissue patent, the times specified herein shall run from the beginning of the term of the patent.

"(c) (1) A grace period of six months will be allowed in which to pay any maintenance fee, provided it is accompanied by the fee prescribed for delayed payment. When a response is not received to the notice provided by paragraph (e) of this subsection, a subsequent notice shall be sent approximately sixty days after the due date of any maintenance fees.

"(2) The first and second maintenance fees may be deferred in accordance with paragraph (f) on this subsection.

"(d) A patent will terminate on the due date for any maintenance fee unless, as provided for in this section, the fee due (including any fees previously deferred) is paid or a statement in accordance with paragraph (f) of this subsection requesting deferment is filed. Such termination or lapsing shall be without prejudice to rights existing under any other patent.

"(e) Notice of the requirement for the payment of the maintenance fees and the filing of statements in compliance with this subsection shall be attached to or embodied in the patent. Approximately thirty days before a maintenance fee is due, the Commissioner shall send an initial notice thereof to the patentee and all other parties having an interest of record at the addresses last furnished to the Office. Irrespective of any other provision of this subsection, a maintenance fee may be paid within thirty days after the date of such initial notice.

"(f) Any inventor to whom a patent issued (or his heirs) and who owns the patent, or any small business concern (as that term is defined in or pursuant to section 213) of the Small Business Act, as amended, 15 U.S.C. 632), may within six months of the seventh anniversary of the beginning of the term of the patent by a statement to the Commissioner request deferment of the first maintenance fee if the gross benefit received by the inventor or any other party having or having had any interest in the subject matter of the patent, from under, or by virtue of the patent or from the manufacture, use, or sale of the invention, was less in value than the amount of the fee, and the statement so specifies. The fee shall thereupon be deferred until the time the second maintenance fee is due and shall be paid in addition to the second maintenance fee.

"PART II—PATENTABILITY OF INVENTIONS AND GRANT OF PATENTS

"Chapter	Sec.
"10. PATENTABILITY OF INVENTIONS	100
"11. APPLICATION FOR PATENT	111
"12. EXAMINATION OF APPLICATIONS	131
"13. REVIEW OF OFFICE DECISIONS	141
"14. ISSUE OF PATENT	151
"15. PLANT PATENTS	161
"16. DESIGNS	171
"17. SECRECY OF CERTAIN INVENTIONS AND FILING APPLICATIONS ABROAD	181

"Chapter 10.—PATENTABILITY OF INVENTIONS

"Sec.
"100. Definitions.
"101. Inventions patentable.
"102. Conditions for patentability; novelty and loss of right to patent.
"103. Conditions for patentability; non-obvious subject matter.
"104. Invention made abroad.

"§ 100. Definitions.

"When used in this title unless the context otherwise indicates:

"(a) The term 'invention' means invention or discovery.

"(b) The term 'process' means process, art, or method and includes a new use of a known process, machine, manufacture, composition of mater, or material.

"(c) The terms 'United States' and 'this country' mean the United States of America, its territories and possessions, and the Commonwealth of Puerto Rico.

"(d) The term 'applicant' means any person who owns an application for a patent as provided in this title.

"(e) The term 'patentee' includes not only the person to whom the patent was issued but also the successors in title to such person.

"(f) The term 'actual filing date in the United States' includes the filing date to which an application, an international application under section 363 of this title, or patent, or the subject matter of any claim thereof, may be entitled under the provisions of sections 120 and 365(c) of this title (and excludes any date under section 119, 365(a) or 365(b) of this title). An application or the resulting patent may contain separate claims for subject matter having different actual filing dates in the United States by virtue of the provisions of section 120 of this title or may contain claims entitled to the benefit of a prior date under the provisions of section 119 of this title, in addition to claims not so entitled.

"(g) The term 'useful' shall include, but shall not be limited to, utility in agriculture, commerce, industry, health or research.

"(h) The term 'person' includes an individual and any entity considered as such at law, including a corporation, company, foundation, institution, society, union, club, church, the United States, any Government agency, or any other group of persons whether or not organized for any purpose.

§ 101. Subject matter patentable

"Whoever invents or discovers any new and useful process, machine, manufacture, composition of matter, or any new and useful improvement, thereof, or his successor in title, may obtain a patent therefor, subject to the conditions and requirements of this title.

§ 102. Conditions for patentability; novelty and loss of right to patent

"A person shall be entitled to a patent unless:

"(a) The applicant or any of his predcessors in title has abandoned the invention; or

"(b) The invention was first patented or caused to be patented or was the subject of an inventor's certificate by the inventor or applicant, or their assigns or legal representatives, or described or caused to be described in an official publiaction of an application in a foreign country before the actual filing date of the United States application, the application for patent or inventor's certificate resulting in the patenting or description of this subsection having been filed in said country more than twelve months before said-actual filing date in the United States; or

"(c) Before the invention thereof the invention was made in this country by another, provided the invention of such other does not stand abandoned at the time of the invention which is the subject of the application; *And further provided,* That such other has not suppressed or concealed his invention. In determining priority of invention, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time before conception by the other until his own reduction to practice. However, in establishing priority of invention, an invention which has been abandoned shall not be accorded a date prior to the date of resumption of activity; or

"(d) The subject matter was not invented by the inventor himself but rather derived by him from another; or

"(e) The invention is identically disclosed or described in any of the following prior art:

"(1) A patent or publication in this or a foreign country reasonably available to the public of the United States in printed or other tangible form before the invention was made by the inventor, or more than one year—before the actual filing date in the United States of the application; or

"(2) A published United States patent application or United States patent of another which has an actual filing date in the United States before the invention was made by the inventor named in the application; or

"(3) Subject matter made known publicly by another, or in public use by another, in this country before the invention was made by the inventor named in the application; or

"(4) Subject matter on sale or in public use in this country more than one year before the actual filing date in the United States of the application; or

"(5) With respect only to the losing party of a priority of invention contest under sections 135 and 291 of this title, the subject matter of the claim involved.

"§103. Conditions for patentability; non-obvious subject matter

"A patent may not be obtained though the invention is not identically disclosed or described in the prior art as set forth in section 102(e) of this title, if the differences between the subject matter sought to be patented and prior art are such that the subject matter as a whole would have been obvious from said prior art, either at the time the invention was made or more than one year before the actual filing date in the United States of the application to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made, or because the invention has simplicity or is the last step in an evolutionary development, or because it is not revolutionary, basic, scientific or technical in character. Claims for a new combination or assemblage of known mechanical or other elements shall be subjected to the same standard of patentability as is applied to claims for other types of subject matter.

"§ 104. Invention made abroad.

"In proceedings in the Office and in the courts, an applicant for a patent, or a patentee, may not establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country, except as provided in sections 119 and 365 of this title. Where an invention was made by a person, civil or military, while domiciled in the United States and serving in a foreign country in connection with operations by or on behalf of the United States, he shall be entitled to the same rights of priority with respect to such invention as though the same had been made in the United States.

"Chapter 11.—APPLICATION FOR PATENT

"Sec.
"111. Application for patent.
"112. Specification.
"113. Drawings.
"114. Models, Specimens.
"115. Oath of applicant.
"116. Joint inventors.
"117. Death or incapacity of inventor.
"118. Filing by other than inventor, oath by other than inventor.
"119. Benefit of earlier filing date in foreign country; right of priority.
"120. Benefit of earlier filing date in the United States.
"121. Divisional applications.
"122. Confidential status of applications.
"123. Publication.

"§ 111. Application for patent.

"(a) An application for patent may be filed by either the inventor or the owner of the invention sought to be patented. The application shall be made in writing to the Commissioner, shall be signed by the applicant and include the name of each person believed to have made an inventive contribution, and shall be accompanied by the prescribed fee. An Application filed by a person not the inventor shall include, at the time of filing, a statement of the facts supporting the allegation of ownership of the invention.

"(b) An application for patent shall include (1) A specification as prescribed by section 112 of this chapter, and (2) A drawing as prescribed by section 118 of this chapter.

"(c) For purposes of filing a patent application and securing a filing date, an application may be signed by an agent of the applicant, provided that the agent is authorized so to do or provided that the application is ratified in writing by the applicant within six months after the filing. Failure of proof of the authority of the agent or of ratification by the applicant within six months after the filing of the application shall result in abandonment of the application.

"(d) When the application is signed by the owner or his agent, the owner, within thirty days after filing an application for patent, shall serve a copy of the application on the inventor, along with a statement calling the inventor's attention to the provisions of subsection (e) of this section. Service may be effected by mailing a copy of the application and statement, by first-class mail, to the last known address of the inventor. Failure to serve a copy of the application and statement on the inventor within thirty days shall result in abandonment of the application. The Commissioner may by regulation require proof of such service, and may extend the thirty-day period or waive the requirement for service upon a showing of sufficient cause.

"(e) An inventor, within a time prescribed by the Commissioner, may furnish a statement under oath to the Commissioner alleging that the applicant is not the owner of the invention as required by subsection (a) of this section. The Commissioner, in accordance with such regulations as he establishes and on compliance with the requirements of this title, shall issue a patent to the inventor filing such statement without prejudice to later judicial proceedings, unless the notice is withdrawn by the inventor or the applicant records in the Office an assignment by the inventor, or in lieu thereof, files a written statement by the inventor consenting to the filing of the application by and the issuance of the patent to the applicant.

"(f) Notice to the Commissioner, in a manner prescribed by regulations, of a final decision in a judicial proceeding in a court having jurisdiction thereof, from which no appeal has or can be taken, that an applicant is the owner of an invention shall authorize the Commissioner to issue a patent to such applicant for such invention.

"(g) An error in the naming of an inventor, in either a sole or joint application for patent, without deceptive intent, may be corrected at any time, in accordance with regulations established by the Commissioner.

"§ 112. Specification

"(a) The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the applicant of carrying out his invention.

"(b) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention. A claim may be written in independent or dependent form, and if in dependent form, it shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim.

"(c) An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in th specification and equivalents thereof.

"(d) When the invention relates to a process involving the action of a micro-organism not already known and available to the public, or in a product of such a process, the written description required by subsection (a) of this section shall be sufficient as to said micro-organism if—

"(1) not later than the date that the United States application is filed, an approved deposit of a culture of the micro-organism is made by or on behalf of the applicant or his predecessor in title, and

"(2) the written description includes the name of the depository and its designation of the approved deposit and, taken as a whole, is in such descriptive terms as to enable any person skilled in the art to which the invention pertains to make and use the same.

"An approved deposit shall be a deposit which—

"(i) is made in any public depository in the United States which shall have been designated for such deposits by the Commissioner of Patents by publication, and

"(ii) is available, except as otherwise prohibited by law, in accordance with such regulations as may be prescribed—

"a. to the public upon issuance of a United States patent to the applicant or his predecessor or successor in title which refers to such deposit, and

"b. prior to issuance of said patent, under the conditions specified in section 122.

"(e) For the dissemination of information and other purposes, the Commissioner, in accordance with such regulations as he establishes, may require a brief abstract of all or part of the application. The abstract shall not be used for interpreting the scope of any claims of a patent, nor shall it affect in any way the validity of the patent.

"§ 113. Drawings

"When the nature of the case admits, the applicant shall furnish a drawing.

"§ 114. Models, specimens

"(a) The Commissioner may require the applicant to furnish a model of convenient size to exhibit advantageously the several parts of his invention.

"(b) When the invention relates to a composition of matter, the Commissioner may require the applicant to furnish specimens or ingredients for the purpose of inspection or experiment.

"§ 115. Oath of applicant; duty to disclose

"(a) Except as provided in section 118, the inventor shall make oath that he believes to the best of his knowledge that he is the first inventor, that he is aware of no prior public use or other facts which would bar the issuance of the patent, and that he has made full disclosure to the Office of all facts he reasonably believes to be pertinent to the prosecution of his application. Such oath shall state of what country the inventor is a citizen.

"(b) The applicant of an application filed pursuant to section 117 of this title may make the oath required by subsection (a) of this section, so varied in form that it can be made by him.

"(c) The oath or oaths shall be submitted not later than the time of payment of the fee required under the provisions of section 151(a) of this title.

"(d) The applicant, and his agent or attorney (while responsible for prosecution of his application) have an obligation, continuing until issuance of the patent, to notify the Office of any known change in, or addition to, the information provided in accordance with section 131(b) of this title.

"(e) Only one of the inventor, the applicant (if it not the inventor), any person to whom the inventor is under any obligation to assign the application, and the agent or attorney (or other representative recognized under section 31 of this title) shall be responsible for making a reasonable inquiry and filing a statement of facts with respect to any change in or addition to the information required by subsections (a) and (d) of this section.

"§ 116. Joint inventors

"(a) When two or more persons have made inventive contributions to subject matter claimed in an application, they shall apply for a patent jointly and each sign the application and make the required oath, or, if the application is filed by some other person having the right to do so, they shall be named as the inventors.

"(b) In an application for patent for an invention naming two or more inventors, it shall not be necessary for each person named as an inventor to be a joint inventor of the invention asserted in any claim.

"(c) If a joint inventor refuses upon notice to him to join another inventor in an application for patent, or cannot be found or reached after diligent effort, the application may, subject to the requirements of section 111 of this title, be made by the other inventor on behalf of himself and the omitted inventor. The Commissioner, on proof of the pertinent facts and after such notice to the omitted inventor as he prescribes, may grant a patent to the inventor making the application, subject to the same rights which the omitted inventor would have had if he had been joined. The omitted inventor may subsequently join in the application.

"(d) Whenever a person is joined in an application for patent as joint inventor through error, or a joint inventor is not included in an application through error, and such error arose without any deceptive intention on his part, the Commissioner may permit the application to be amended accordingly. under such terms as he prescribes.

"§ 117. Death or incapacity of inventor

"Legal representatives of deceased inventors and of those under legal incapacity and, if necessary to preserve his legal rights or prevent irreparable damage, the assignee or any person to whom the inventor was or is under an obligation to assign the application, may make application for patent and otherwise proceed on behalf of the inventor upon compliance with the requirements and on the same terms and conditions applicable to the inventor.

"§ 118. Filing by other than inventor, oath by other than inventor

"Whenever an inventor refuses to execute an application for patent, or an oath, or cannot be found or reached after diligent effort, a person to whom the inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for the inventor on proof of the pertinent facts and a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; and the Commissioner may grant a patent to such inventor upon such notice to him as the Commissioner deems sufficient, and on compliance with such regulations as he prescribes.

"§ 119. Benefit of earlier filing date in foreign country; right of priority.

"(a) An application for patent for an invention filed in this country by any person who has, or whose predecessor or successor has, previously regularly filed an application for a patent for the same invention in a foreign country which affords similar privileges in the case of applications filed in the United States or to citizens of the United States, shall have the same effect as the same application would have if filed in this country on the date on which the application for patent for the same invention was first filed in such foreign country, if application in this country is filed within twelve months from the earliest date on which such foreign application was filed; but no patent shall be granted on any application for patent for an invention which has been patented or described in a printed publication in any country more than one year before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country more than one year prior to such filing.

"(b) No application for patent shall be entitled to this right of priority unless a claim therefore and a certified copy of the original foreign application, specification and drawings upon which it is based are filed in the Office before the patent is granted, or at such time during the pendency of the application as required by the Commissioner not earlier than six months after the filing of the application in this country. Such certification shall be made by the office of the foreign country in which filed and show the date of the application and of the filing of the specification and other papers. The Commissioner may require a translation of the papers filed if not in the English language and such other information as he deems necessary.

"(c) In like manner and subject to the same conditions and requirements, the right provided in this section may be based upon a subsequent regularly filed application in the same foreign country instead of the first filed foreign application: *Provided*, That any foreign application filed prior to such subsequent application has been withdrawn, abandoned, or otherwise disposed of, without having been laid open to public inspection, and without leaving any rights outstanding, and has not served, nor thereafter shall serve, as a basis for claiming a right of priority.

"(d) When the application claiming priority under this section discloses an invention relating to a process involving the action of a micro-organism not already known and available to the public, or a product of such a process, and an approved deposit is made under section 112, subsection (d) the approved deposit shall be considered to have been made on the earliest date that an application in a foreign country, the priority of which is being claimed, contains a reference identifying a deposit of the same micro-organism made in a public depository.

"(e) Applications for inventor's certificates filed in a foreign country in which applicants have a right to apply, at their discretion, either for a patent or for an inventor's certificate shall be treated in this country in the same manner and have the same effect for purpose of the right of priority under this section as applications for patent, subject to the same conditions and requirements of this section as apply to applications for patent, provided such applicants are entitled to the benefits of the Stockholm Revision of the Paris Convention at the time of such filing.

"§ 120. Benefit of earlier filing date in the United States

(a) An application for patent for an invention disclosed in the manner provided in section 112(a) of this chapter in an application previously filed in the United States shall have the same effect, as to such invention, as though filed on the date of the prior application if—

"(1) it is filed during the pendency of the prior application, that is, before the patenting or abandonment of, or the termination of proceedings in, the prior application;

"(2) the two applications have the same inventor for the subject matter common to both, and

"(3) the application specifically claims or is amended to claim the benefit of the date of filing of the prior application for subject matter claimed in the second application.

"(b) In a series of applications with respect to an invention, each of which is entitled to the benefit of the filing date of the immediately preceding application in the series in accordance with the provisions of subsection (a) of this section, the last application in the series shall be entitled to the benefit of the filing date of the earliest application in the series for which a claim is made, even though any application in the series may be copending only with the immediately preceding application.

"(c) Subject to the limitations of this section, if a previous application referred to in subsection (a) of this section is entitled to the benefit of the date of an application in a foreign country under section 119 of this chapter, with respect to the subject matter sought to be patented in the later application, then the later application referred to in subsection (a) of this section shall be entitled to the benefit of such date.

"(d) An applicant must claim the benefit of the filing date of the earliest application on which he intends to rely in a later filed application within three months of the time of filing such later application, or during examination or re-examination of such application as provided in chapter 12 of this title upon an adequate showing why the claim was not made earlier. In a series, each application must claim the benefit of the immediately preceding application in accordance with the provisions herein.

"(e) The Commissioner may by regulation dispense with signing and execution in the case of an application directed solely to subject matter described and claimed in the prior application.

"§ 121. Divisional applications

"If two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions. If the other invention is made the subject of a divisional application which complies with the requirements of section 120 of this title it shall be entitled to the benefit of the filing date of the original application. A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, shall not be used as a reference either in the Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application. If a divisional application is directed solely to subject matter described and claimed in the original application as filed, the Commissioner may dispense with signing and execution by the inventor. The validity of a patent shall not be questioned for failure of the Commissioner to require the application to be restricted to one invention.

"§ 122. Confidential status of applications

"Applications for patent shall be kept in confidence by the Office and no information concerning the same given without authority of the applicant, or owner of record of the application, unless necessary to carry out the provisions of any Act of Congress or in such special circumstances as may be determined by the Commissioner.

"§ 123. Publication

"The Commissioner may establish regulations for the publication of pending applications at the request of applicants and shall publish applications in accordance therewith.

"Chapter 12.—EXAMINATION OF APPLICATION

"Sec.
"131. Examination of application.
"132. Notice of rejection; reexamination.
"133. Time for prosecuting application.
"134. Appeal to the Board of Appeals.
"135. Priority of invention contest.
"136. Settlement agreements.

"§ 131. Examination of application

"(a) The Commissioner shall cause an examination to be made of the application and the alleged new invention. If on such examination it appears that the applicant is entitled to a patent under the law, the Commissioner shall issue a patent therefor as herein provided.

"(b) All oral interviews related to applications pending in the Office shall be in recorded form. Any arguments, or representations by the applicant, anyone acting on his behalf, or for the Office shall be summarized into the record and shall be available to the public in the patented file.

"(c) The Commissioner may require an applicant, within such time as he may prescribe by regulation, to submit copies of or cite a reasonable number of patents and publications the applicant has specifically considered in connection with the application for patent, and which were known with reasonable certainty to be prior art or, if no specific relevant patents or publications were considered, a statement to that effect and an explanation as to why the claims in such application are believed to be patentable. The Commissioner may at any time require an applicant to state in the record why a claim is patentable over any patent or publication. Neither matters of judgment exercised in citing such patents or publications, nor inadvertent failure to comply with the provisions of this section in whole or in part, shall constitute a ground for holding a patent invalid or unenforceable, or subject the patentee or patentee's attorney or agent to a charge of misuse or fraud.

"(d) The granting of a patent shall not be refused solely on the ground that if it occurred there would then exist more than one patent for the same invention where the patents will expire on the same date as a result of filing on the same date or as the result of a terminal disclaimer pursuant to section 253 of this title, so long as the right to sue for infringement of said patents is in the same legal entity.

"§ 132. Notice of rejection; reexamination

"Whenever, on examination, any claim of an application is rejected, or any objection or requirement made, the Commissioner shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of the application; and if after receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined. No amendment shall introduce new matter into the disclosure of the invention.

"§ 133. Time for prosecuting application

"Upon failure of applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than one month as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

"§ 134. Appeal to the Board of Appeals

"An applicant for a patent, any of whose claims have been finally or twice rejected, may appeal from the decision of the primary examiner to the Board of Appeals, having once paid the fee for such appeal.

"§ 135. Priority of invention contest

"(a) Whenever there are two applications naming different inventors claiming the same or substantially the same subject matter, a patent shall ordinarily be issued on the application having the earliest actual filing date in the United States, if otherwise allowable. The application having the later filing date in the United States with respect to such subject matter shall be rejected on the basis of such patent. If, within one year after the issuance of the patent or within six months after a rejection of claims in his application on the basis of the invention claimed in the patent, or within such shorter time as fixed by the Commissioner, not less than one month, the applicant for such later filed application, which application is found otherwise allowable, makes a prima facie showing of priority of invention in accordance with section 102(c), 119, or 120 of this title with respect to the actual filing date in the United States of such patent and offers to present evidence in support of such showing, the matter of priority of invention shall be determined by the Board of Appeals in such proceedings as the Commissioner shall establish. The Commissioner, upon the institution of proceedings under this section, shall issue a patent at the request of such applicant if his application is otherwise allowable. Failure of that applicant to proceed hereunder within the time specified shall preclude such applicant from asserting priority of his invention with respect to the invention claimed in the patent for the purpose of obtaining a patent.

"(b) Whenever an otherwise allowable claim of an application is for the same or substantially the same subject matter as a claim of a patent having a later actual filing date in the United States, or for subject matter over which a claim of such patent is unpatentable, the Commissioner may, on his own motion or at the request of the applicant, initiate proceedings under this section on notice to the parties, requiring such patentee to present his prima facie case within a designated time not less than three months. The Commissioner upon the institution of proceedings under this section, shall issue a patent at the request of such applicant if his application is otherwise allowable.

"(c) If two or more applications for the same or substantially the same subject matter have the same actual filing date in the United States, the Commissioner may initiate a priority contest under this section on his own motion, whether or not any of the applications may have been issued as a patent. The Commissioner shall, upon the institution of proceedings under this subsection and at the request of any applicant, issue a patent on his otherwise allowable application.

"(d) A claim for the same or substantially the same subject matter as a claim of an issued patent may not be made in any application unless such claim is made prior to one year after the date on which the patent was granted.

"(e) In any proceeding under this section, the Office or a party may raise the question of the patentability of any claim of the application or patent of one party over the subject matter claimed in the application or patent of the other party, and such question may be considered in the proceeding.

"(f) Whenever a patent, reexamination of which under provisions of chapter 31 has been ordered has an actual filing date earlier than that of an application, the patent shall have prima facie priority with respect to the application. In the case of two patents being reexamined, the patent having the earlier actual filing date shall have prima facie priority.

"(g) The decision of the Board of Appeals in proceedings under this section adverse to a claim of an application shall constitute the final refusal by the Office of such claim. A final judgment adverse to a claim of a patent from which no appeal or other review has been or can be taken or had been taken shall constitute cancellation of such claim from the patent, and notice thereof shall be endorsed on copies of the specification of the patent thereafter distributed by the Office.

"(h) Any person who has not proceeded in accordance with the provisions of this title shall not be foreclosed or in any way prejudiced with respect to the defense of an infringement suit or affirmative relief under declaratory judgment proceedings, except as provided in chapter 31.

"(i) No person subject to an adverse decision in a proceeding under this chapter shall be foreclosed with respect to asserting comparable grounds in defense of an infringement suit or as a basis for affirmative relief under declaratory judgment proceedings involving the patent of the successful party.

"(j) Judgment adverse to a claim of a patent shall not preclude the filing of an application for reissue in accordance with section 251 of this title but matters already decided in a proceeding under this chapter may not be again considered.

"§ 136. Settlement agreements

"(a) Any agreement or understanding between parties to a proceeding under section 135 or 192 of this title including any collateral agreements referred to therein, made in connection with or in contemplation of the termination of the proceeding shall be in writing and a true copy thereof filed in the Office before the termination of the proceeding as between the said parties to the agreement or understanding. If any party filing the same so requests, the copy shall be kept separate from the file of the proceeding and made available only to Government agencies on written request stating reasons for the request or to any person on a showing of good cause. Failure to file the copy of such agreement or understanding shall render permanently unenforceable such agreement or understanding and any patent of such parties involved in the proceeding, or any patent subsequently issued on any application of such parties so involved. The Commissioner may, however, on a showing of good cause for failure to file within the time prescribed, permit the filing of the agreement or understanding during the six-month period subsequent to the termination of the proceeding as between the parties to the agreement or understanding.

"(b) The Commissioner shall give notice to the parties or their attorneys of record, a reasonable time prior to said termination, of the filing requirement of this section. If the Commissioner gives such notice at a later time, irrespective of the right to file such agreement or understanding within the six-month period on a showing of good cause, the parties may file such agreement or understanding within sixty days of the receipt of such notice.

"(c) Any discretionary action of the Commissioner under this subsection shall be reviewable under chapter 7 of title 5, United States Code.

"Chapter 13.—REVIEW OF OFFICE DECISION

"Sec.

"141. Appeal to Court of Customs and Patent Appeals.

"142. Notice of appeal.

"143. Proceedings on appeal.

"144. Decision on appeal.

"145. Civil action to obtain patent.

"146. Civil action in case of interference.

"148. Presumption of correctness.

"149. Judicial review of nonfinal decisions.

"§ 141. Appeal to Court of Customs and Patent Appeals

"(a) An applicant or patentee dissatisfied with a decision of the Board of Appeals under sections 134, 135, or chapter 81 may appeal to the United States Court of Customs and Patent Appeals, thereby waiving the right to proceed under section 145 of this title.

"(b) The appeal of a party to a priority of invention contest dissatisfied with the decision of the Board on the question of priority may appeal to the United States Court of Customs and Patent Appeals, but such appeal shall be dismissed if any adverse party to such interference, within twenty days after the appellant has filed notice of appeal according to section 142 of this title, files notice with the Commissioner that he elects to have all further proceedings conducted as provided in section 146 of this title. Thereupon the appellant shall have thirty days thereafter within which to file a civil action under section 146, in default of which the decision appealed from shall govern the further proceedings in the case.

"§ 142. Notice of appeal

"When an appeal is taken to the United States Court of Customs and Patent Appeals, the appellant shall give notice thereof to the Commissioner within such time after the date of the decision appealed from, not less than sixty days, as the Commissioner appoints.

"§ 143. Proceedings on appeal

"The United States Court of Customs and Patent Appeals shall, before hearing such appeal, give notice of the time and place of the hearing to the Commissioner and the parties thereto. The Commissioner shall transmit to the court certified copies of all the necessary original papers and evidence in the case specified by the appellant and any additional papers and evidence specified by the appellee and in an ex parte case the Commissioner shall in writing furnish the court with the grounds of the decision of the Office.

"§ 144. Decision on appeal

"The United States Court of Customs and Patent Appeals, on petition, shall hear and determine such appeal on the evidence produced before the Office. Upon its determination the court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Office and govern the further proceedings in the case.

"§ 145. Civil action to obtain patent

"An applicant dissatisfied with the decision of the Board of Appeals may unless appeal has been taken to the United States Court of Customs and Patent Appeals, have remedy by civil action against the Commissioner in the United States District Court for the District of Columbia if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints. The court may adjudge that such applicant is entitled to receive a patent for his invention, as specified in any of his claims involved in the decision of the Board of Appeals, as the facts in the case may appear and such adjudication shall authorize the Commissioner to issue such patent on compliance with the requirements of law. All the expenses of the proceedings shall be paid by the applicant.

"§ 146. Civil action in case of interference

"(a) Any party to a priority of invention contest under section 135 of this title dissatisfied with the decision of the Board of Appeals on the question of priority, may have remedy by civil action, if commenced within such time after such decision, not less than sixty days, as the Commissioner appoints or as provided in section 141 of this title, unless he has appealed to the United States Court of Customs and Patent Appeals, and such appeal is pending or has been decided. In such suits the record in the Office shall be admitted on motion of either party upon the terms and conditions as to costs, expenses, and the further cross-examination of the witnesses as the court imposes, without prejudice to the right of the parties to take further testimony. The testimony and exhibits of the record in the Office when admitted shall have the same effect as if originally taken and produced in the suit.

"(b) Such suit may be instituted against the party in interest as shown by the records of the Office at the time of the decision complained of, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same state, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Commissioner shall not be a necessary party but he shall be notified of the filling of the suit by the clerk of the court in which it is filed and shall have the right to intervene. Judgment of the court in favor of the right of an applicant to a patent shall authorize the Commissioner to issue such patent on the filing in the Office of a certified copy of the judgment and on compliance with the requirements of law.

"§ 148. Presumption of correctness

"In any appeal or proceeding under this chapter, the Office decision shall be given a presumption of correctness.

"§ 149. Judicial review of nonfinal decisions

"The Commissioner may by general regulation provide that there shall be judicial review of specified nonfinal decisions of the Office.

"Chapter 14.—ISSUE OF PATENT

"Sec.

"151. Issue of patent.

"152. Late payment; effect of reinstatement of patent.

"153. How issued.

"154. Contents and term of patent.

"155. Patents granted on review.

"§ 151. Issue of patent

"(a) If it is determined that an applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.

"(b) Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned. Issuance of the patent shall be subject to the provisions of chapter 31.

"(c) Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.

"(d) If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and sufficient cause is shown for the late payment, it may be accepted by the Commissioner as though no abandonment or lapse had ever occurred.

"§ 152. Late payment; effect of reinstatement of patent

"No patent with respect to which a late payment is accepted shall abridge or affect the right or privilege of any person or his successors in business or title to continue to use, or to sell to others for their use or sale, anything which such person without bad faith made, used, or acquired during the interim period after the date the patent lapsed or became unenforceable for failure to pay such fee, and prior to the reinstatement of the patent. Any such person or his successor may use or sell the specific thing so made, used, or acquired, in the same manner as though the patentee had authorized such use or sale, even though such use or sale by him or his successor would infringe the patent, in the absence of such authorization. A court before which the matter is in question may provide for the continued manufacture, use, or sale of things, to the extent and under such terms as the court deems equitable for the protection of investments made, business commenced, of business for which substantial preparation was made, during such interim period.

"§ 153. How issued

"Patents shall be issued in the name of the United States of America, under the seal of the Office, and shall be signed by the Commissioner or have his signature placed thereon, and shall be recorded in the Office.

"§ 154. Contents and term of patent

"(a) Every patent shall contain a grant to the applicant, his heirs or assigns or, as provided in section (e) of this title, to the inventor, his heirs or assigns, of the right, during the term of the patent, to exclude others from making, using, or selling the invention throughout the United States, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

"(b) The term of a patent shall expire twenty years from the date of filing the application in the United States or, if the benefit of the filing date in the United States of a prior application is claimed, from the earliest such prior date claimed. In determining the term of the patent, the date of filing any application in a foreign country which may be claimed by the applicant shall not be taken into consideration.

"(c) The term of a patent whose issuance has been delayed by reason of the application having been ordered kept secret under section 181 of this title shall be extended for a period equal to such delay in issuance of the patent after the notice of allowability referred to in section 183 of this title. The term of a patent shall also be extended for a period equal to the delay incurred due to review under section 151 or 152 of the Atomic Energy Act of 1954 (68 Stat. 943), or under section 305 of the National Aeronautics and Space Act (72 Stat. 435).

"§ 155. Patents granted on review

"An applicant may, after initiating review under sections 141, 145, or 146 of this title, request the issuance of a patent for claims standing allowed in the application. Upon payment of the prescribed fee, issuance of such patent shall occur in accordance with this chapter. As to claims which stand allowed, the patent shall have the force and effect specified in section 154 of this title. Each claim in the application not standing allowed shall be identified as such, and shall not have any force and effect, except as provided in section 257 of this title.

"Chapter 15.—PLANT PATENTS

"Sec.
"161. Patents for plants.
"162. Description, claim.
"163. Grant.
"164. Assistance of Department of Agriculture.

"§ 161. Patents for plants

"(a) Whoever invents or discovers and asexually reproduces any distinct and new variety of plant, including cultivated sports, mutants, hybrids, and newly found seedlings, other than a tuber propogated plant or a plant found in an uncultivated state, may obtain a patent therefore, subject to the conditions and requirements of this title. (Amended September 3, 1954, 68 Stat. 1190.)

"(b) The provisions of this title relating to patents for inventions shall apply to patents for plants, except as otherwise provided.

"§ 162. Description, claim

"(a) No plant patent shall be declared invalid for noncompliance with section 112 of this title if the description is as complete as is reasonably possible.

"(b) The claim in the specification shall be in formal terms to the plant shown and described.

"§ 163. Grant

"In the case of a plant patent the grant shall be of the right to exclude others from asexually reproducing the plant or selling or using the plant so reproduced.

"§ 164. Assistance of Department of Agriculture

"The President may by Executive order direct the Secretary of Agriculture, in accordance with the requests of the Commissioner, for the purpose of carrying into effect the provisions of this title with respect to plants (1) to furnish available information of the Department of Agriculture, (2) to conduct through the appropriate bureau or division of the Department research upon special problems, or (3) to detail to the Commissioner officers and employees of the Department.

"Chapter 16.—DESIGNS

"Sec.
"171. Patents for designs.
"172. Right of priority.
"173. Term of design patent.

"§ 171. Patents for designs

"(a) Whoever invents any new, original and ornamental design for an article of manufacture may obtain a patent therefor, subject to the conditions and requirements of this title.

"(b) The provisions of this title relating to patents for invention shall apply to patents for designs, except as otherwise provided.

"§ 172. Right of priority

"The right of priority provided for by section 119 of this title and the time specified in section 102(b) shall be six months in the case of designs. Applications for design registrations and such registrations in foreign countries shall have the same effect as applications for design patents for the purpose of section 102(b) and 119 of this title.

"§ 173. Term of design patent

"Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant, in his application, elects.

"Chapter 17.—SECRECY OF CERTAIN INVENTORIES AND FILING APPLICATIONS IN FOREIGN COUNTRIES

"Sec.
"181. Secrecy of certain inventions and withholding of patent.
"182. Forfeiture of the right to a patent for unauthorized disclosure.
"183. Right of compensation.
"184. Filing of application in foreign country.
"185. Patent barred for filing without license.
"186. Penalty.
"187. Nonapplicability to certain persons.
"188. Rules and regulations, delegations of power.

"§ 181. Secrecy of certain inventions and withholding of patent

"(a) Whenever publication or disclosure by the grant of a patent on an invention in which the Government has a property interest might, in the opinion of the head of the interested Government agency, be detrimental to the national security, the Commissioner upon being so notified shall order that the invention be kept secret and shall without publication thereof order withholding of the grant of a patent therefor under the condition set forth hereinafter.

"(b) Whenever the publication or disclosure of an invention, in which the Government does not have a property interest, might, in the opinion of the Commissioner, be detrimental to the national security, he shall make the application for patent in which such invention is disclosed available for inspection to the Atomic Energy Commission, the Secretary of Defense, and the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States.

"(c) Each individual to whom the application is disclosed shall sign a dated acknowledgement thereof, which acknowledgment shall be entered in the file of the application. If, in the opinion of the Atomic Energy Commission, the Secretary of Defense, or the chief officer of another department or agency so designated, the publication or disclosure of the invention by the granting of a patent therefor would be detrimental to the national security, the Atomic Energy Commission, the Secretary of a defense department, or such other chief officer shall notify the Commissioner and the Commissioner shall order that the invention be kept secret and shall withhold the grant of a patent for such period as the national interest requires, and notify the applicant thereof. Upon proper showing by the head of the department or agency who caused the secrecy order to be issued that the examination of the application might jeopardize the national interest, the Commissioner shall thereupon maintain the application in a sealed condition and notify the applicant thereof. The owner of an application which has been placed under a secrecy order shall have a right to appeal from the order to the Secretary of Commerce under rules prescribed by him.

"(d) An invention shall not be ordered kept secret and publication or the grant of a patent withhold for a period of more than one year. The Commissioner shall renew the order at the end thereof, or at the end of any renewal period, for additional periods of one year upon notification by the head of the department or the chief officer of the agency who caused the order to be issued that an affirmative determination has been made that the national interest continues so to require. An order in effect, or issued, during a time when the United States is at war, shall remain in effect for the duration of hostilities and one year following cessation of hostilities. An order in effect, or issued, during a national emergency declared by the President shall remain in effect for the duration of the national emergency and six months thereafter. The Commission may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the publication or disclosure of the invention is no longer deemed detrimental to the national security.

"§ 182. Forfeiture of the right to a patent for unauthorized disclosure

"The right to a patent for the invention disclosed in an application for patent subject to an order made pursuant to section 181 of this title may be held forfeited upon its being established by the Commissioner that in violation of said order the invention has been published or disclosed or that an application for a patent therefor has been filed in a foreign country by the inventor, his successors, assigns, or legal representatives, or anyone in privity with him or them, without the consent of the Commissioner. The forfeiture shall be held to have occurred as of the time of violation. The consent of the Commissioner shall not be given without the concurrence of the heads of the departments and the chief officers of the agencies who caused the order to be issued. A holding of forfeiture shall constitute forfeiture by the applicant, his successors, assigns, or legal representatives, or anyone in privity with him or them, of all claims against the United States based upon such invention.

"§ 7183. Right to compensation

"(a) An applicant, his successors, assigns, or legal representatives, whose patent is withheld as herein provided, shall have the right, beginning at the date the applicant is notified that, except for such order, his application is otherwise in condition for allowance, or February 1, 1952, whichever is later and ending six years after a patent is issued thereon to apply to the head of any department or agency who caused the order to be issued for compensation for the damage caused by the order of secrecy and/or for the use of the invention by the Government, resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. The head of the department or agency is authorized, upon the presentation of a claim, to enter into an agreement with the applicant, his successors, assigns, or legal representatives, in full settlement for the damage and/or use. This settlement agreement shall be conclusive for all purposes notwithstanding any other provision of law to the contrary. If full settlement of the claim cannot be effected, the head of the department or agency may award and pay to such applicant, his successors, assigns, or legal representatives, a sum not exceeding 75 per centum of the sum which the head of the department or agency considers just compensation for the damage and/or use. A claimant may bring suit against the United States in the Court of Claims or in the District Court of the United States for the district in which such claimant is a resident for an amount which when added to the award shall constitute just compensation for the damage and/or use of the invention by the Government.

"(b) The owner of any patent issued upon an application that was subject to a secrecy order issued pursuant to section 181 of this title, who did not apply for compensation as above provided, shall have the right, after the date of issuance of such patent, to bring suit in the Court of Claims for just compensation for the damage caused by reason of the order of secrecy and/or use by the Government of the invention resulting from his disclosure. The right to compensation for use shall begin on the date of the first use of the invention by the Government. In a suit under the provisions of this section the United States may avail itself of all defenses it may plead in an action under section 1498 of title 28. This section shall not confer a right of action on anyone or his successors, assigns, or legal representatives who, while in the full-time employment or service of the United States, discovered, invented or developed the invention on which the claim is based. A patentee receiving a settlement of his claim for damages caused by reason of an order of secrecy by the Court of Claims shall be required to disclaim the terminal portion of the patent term equal in duration to any extension granted under the provisions of section 154(c) of this title.

"§ 184. Filing of application in foreign country

"(a) Except when authorized by a license obtained from the Commissioner a person shall not file or cause or authorize to be filed in any foreign country prior to six months after filing in the United States an application for patent or inventor's certificate or for the registration of a utility model, industrial design, or model in respect of an invention made in this country. A license shall not be granted with respect to an invention subject to an order issued by the Commissioner pursuant to section 181 of this title without the concurrence of the head of the departments and the chief officers of the aegncies who cause the order to be issued. The license may be granted retroactively where an application has been inadvertently filed abroad and the application does not disclose an invention within the scope of section 181 of this title.

"(b) The term 'application' when used in this chapter includes applications and any modifications, amendments, or supplements thereto, or divisions thereof.

"(c) No license shall be required subsequent to the filing of a foreign application for any modifications, amendments, or supplements to that foreign application, or divisions thereof, which do not alter the nature of the invention originally disclosed, which are within the scope of the subject matter originally disclosed, and where the filing of the foreign application originally complied with the provisions of this section, unless the applicant has been notified by the Commissioner that a specific license is required for filing such papers in connection with any application.

"§ 185. Patent barred for filing without license.

"Notwithstanding any other provisions of law any person, and his successors, assigns, or legal representatives, shall not receive a United States patent for an invention if that person, or his successors, assigns, or legal representatives shall, without procuring the license prescribed in section 184 of this title, have made, or consented to or assisted another's making, application in a foreign country for a patent or inventor's certificate or for the registration of a utility model, industrial design, or model in respect of the invention. A United States patent issued to such a person, his successors, assigns, or legal representatives shall be invalid.

"§ 186. Penalty

"Whoever, during the period or periods of time an invention has been ordered to be kept secret and the grant of a patent thereon withheld pursuant to section 181 of this title, shall, with knowledge of such order and without due authorization, wilfully publish or disclose or authorize or cause to be published or disclosed the invention, or material information with respect thereto, or whoever, in violation of the provisions of section 184 of this title, shall file or cause or authorize to be filed in any foreign country an application for patent or inventor's certificate or for the registration of a utility model, industrial design, or model in respect of any invention made in the United States, shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than two years, or both.

"§ 187. Nonapplicability to certain persons

"The prohibitions and penalties of this chapter shall not apply to any officer or agent of the United States acting within the scope of his authority, nor to any person acting upon his written instructions or permission.

"§ 188. Rules and regulations, delegation of power

"The Atomic Energy Commission, the Secretary of a defense department, the chief officer of any other department or agency of the Government designated by the President as a defense agency of the United States, and the Secretary of Commerce, may separately issue rules and regulations to enable the respective department or agency to carry out the provisions of this chapter, and may delegate any power conferred by this chapter.

"PART III—PATENTS AND PROTECTION OF PATENT RIGHTS

"Chapter	Sec.
"25. AMENDMENT AND CORRECTIONS OF PATENTS	251
"26. OWNERSHIP AND ASSIGNMENT	261
"27. GOVERNMENT INTERESTS IN PATENTS	266
"28. INFRINGEMENT OF PATENTS	271
"29. REMEDIES FOR INFRINGEMENT OF PATENT AND OTHER ACTIONS	281

"Chapter 25.—AMENDMENT AND CORRECTION OF PATENTS

"Sec.
"251. Reissue of defective patents.
"252. Effect of reissue.
"253. Disclaimer.
"254. Certificate of correction of Office mistake.
"255. Certificate of correction of applicant's mistake.
"256. Correction of named inventor.
"257. Certificate for change in status of claims.

"§ 251. Reissue of defective patents

"(a) Whenever any patent is, through error without any deceptive intention, deemed wholly or partly inoperative or invalid, by reason of a defective specification or drawing, or by reason of the patentee claiming more or less than he had a right to claim in the patent or by reason of failure to cite or adequately distinguish previously uncited prior art, the Commissioner shall, on the surrender of such patent and the payment of the fee required by law, reissue the patent for the invention disclosed in the original patent, and in accordance with a new and amended application, for the unexpired part of the term of the original patent. No new matter shall be introduced into the application for reissue.

"(b) The Commissioner may issue several reissued patents for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued patents.

"(c) The provisions of this title relating to applications for patent shall be applicable to applications for reissue of a patent, except that the oath of the applicant prescribed by section 115 shall not be required if the application does not seek to enlarge the scope of the claims of the original patent.

"(d) No reissued patent shall be granted enlarging the scope of the claims of the original patent unless applied for within one year from the grant of the original patent.

"§ 252. Effect of reissue

"(a) The surrender of the original patent shall take effect upon the issue of the reissued patent, and every reissued patent shall have the same effect and operation in law, on the trial of actions for causes thereafter arising, as if the same had been originally granted in such amended form, but in so far as the claims of the original and reissued patents are identical, such surrender shall not affect any action then pending nor abate any cause of action then existing, and the reissued patent, to the extent that its claims are identical with the original patent, shall constitute a continuation thereof and have effect continuously from the date of the original patent, subject to the provisions of section 152 of this title and subsection (b) of this section.

"(b) No reissued patent shall abridge or affect the right of any person or his successors in business who made, purchased or used prior to the grant of a reissue anything patented by the reissued patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased or used, unless the making, using or selling of such thing infringes a valid claim of the reissued patent which was in the original patent. The court before which such matter is in question may provide for the continued manufacture, use or sale of the thing made, purchased or used as specified, or for the manufacture, use or sale of which substantial preparation was made before the grant of the reissue, and it may also provide for the continued practice of any process patented by the reissue, practiced, or for the practice of which substantial preparation was made, prior to the grant of the reissue, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the grant of the reissue.

"§ 253. Disclaimer

"(a) Whenever, without any deceptive intention, a claim of a patent is invalid the remaining claims shall not thereby be rendered invalid. A patentee, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of any complete claim, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing and recorded in the Office; and it shall thereafter be considered as part of the original patent to the extent of the interest possessed by the disclaimant and by those claiming under him.

"(b) In like manner any patentee or applicant may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted or to be granted.

"§ 254. Certificate of correction of Office mistake

"Whenever a mistake in a patent, incurred through the fault of the Office, is clearly disclosed by the records of the Office, the Commissioner may issue a certificate of correction stating the fact and nature of such mistake, under seal, without charge, to be recorded in the records of patents. A printed copy thereof shall be attached to each printed copy of the patent, and such certificate shall be considered as part of the original patent. Every such patent, together with such certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form. The Commissioner may issue a corrected patent without charge in lieu of and with like effect as a certificate of correction.

"§ 255. Certificate of correction of applicant's mistake

"Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such corrected form.

"§ 256. Correction of named inventor

"An error in the naming of an inventor in either a sole or joint application for patent, without deceptive intent, shall not affect validity of a patent and may be corrected at any time by the Commissioner in accordance with regulations established by him or upon order of a Federal court before which the matter is called in question. Upon such correction, the Commissioner shall issue a certificate of correction.

"§ 257. Certificate or change in status of claims

"(a) When any claim in a patent is allowed subsequent to the issuance of the patent under section 155 of this title, the Commissioner shall issue a certificate stating the fact, under seal, without charge, to be recorded in the record of the patent and shall publish a notice thereof in the Official Gazette. Such certificate shall be considered as part of the original patent, and a copy of the certificate shall be attached to each copy of the patent thereafter distributed by the Office. Upon the issuance of such certificate, such claim shall constitute a claim of the patent which shall have the force and effect specified in section 154 of this title with respect to actions for causes thereafter arising.

"(b) Upon the termination of proceedings on any patent issued pursuant to section 155 of this title, the Commissioner shall attach a certificate to subsequently distributed copies of the patent and publish in the Official Gazette a notice of the final disposition of all claims in the patent which were not allowed at the time such patent was granted.

"Chapter 26.—OWNERSHIP AND ASSIGNMENT

"Sec.

"261. Ownership; assignment.

"262. Joint owners.

"§ 261. Ownership; assignment

"(a) Subject to the provisions of this title, patents shall have the attributes of personal property.

"(b) Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

"(c) A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or, in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant or conveyance of a patent or application for patent.

"(d) An assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Office within three months from its date or prior to the date of such subsequent purchase or mortgage.

"§ 262. Joint owners

"In the absence of any agreement to the contrary, each of the joint owners of a patent may make, use or sell the patented invention without the consent of and without accounting to the other owners.

"Chapter 27.—GOVERNMENT INTEREST IN PATENTS

"Sec.

"266. [Repealed.]

"267. Time for taking action in Government applications.

"§ 267. Time for taking action in Government applications

"Notwithstanding the provisions of sections 133 and 151 of this title, the Commissioner may extend the time for taking any action to three years, when an application has become the property of the United States and the head of the appropriate department or agency of the Government has certified to the Commissioner that the invention disclosed therein is important to the armament or defense of the United States.

"Chapter 28.—INFRINGEMENT OF PATENTS

"Sec.

"271. Infringement of patent.

"272. Temporary presence in the United States.

"§ 271. Infringement of patent

"(a) Except as otherwise provided in this title, whoever without authority makes, uses or sells any patented invention, within the United States during the term of the patent therefor, infringes the patent.

"(b) Whoever, without authoriy, imports into the United States a product made in another country by a process patented in the United States shall be liable as an infringer.

"(c) Whoever actively induces infringement of a patent shall be liable as an infringer.

"(d) Whoever sells a component of patented machine, manufacture, combination or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

"(e) No patent owner otherwise entitled to relief for infringement or contributory infringement of a patent shall be denied relief or deemed guilty of misuse or illegal extension of the patent right by reason of his having done one or more of the following: (1) derived revenue from acts which if performed by another without his consent would constitute contributory infringement of the patent; (2) licensed or authorized another to perform acts which if performed without his consent would constitute contributory infringement of the patent; (3) sought to enforce his patent rights against infringement or contributory infringement.

"(f) Whenever a licensee under a patent licensing arrangement asserts in appropriate proceedings the invalidity of any patent or of any claim of any patent included in such arrangement—

"(1) the action in which such invalidity is asserted, if then pending in a state court, shall be removed to the district court of the United States for the district embracing the place where such action is pending, and

"(2) the licensor shall, with respect to such patent or to such claim of such patent, have the option of terminating such arrangement: *Provided, however,* That if any such arrangement is so terminated with respect to less than all of the patents or claims so licensed, and the arrangement itself does not provide for, or the parties thereto are unable, within such time as the court may determine to be reasonable, to agree upon the consideration to be paid for the license under the remaining patents or claims, the court in which the invalidity is asserted shall determine a reasonable consideration to be paid for the patents or claims not terminated: *Provided further,* That such termination shall not relieve the licensee of liabilities accrued for the period prior to such termination. Agreement in such a patent licensing arrangement not to contest the validity of any licensed claim or patent shall neither prevent a licensee from asserting invalidity under this subsection nor serve as the basis for the finding of a misuse or illegal extension of the patent right.

"(g) No assignor of a patent shall directly or indirectly contest the validity of the patent which he has assigned unless he first offers to restore to the owner of the patent, or for his benefit, the consideration paid by such owner for the patent, or an amount determined by the court to equal the value of such payment. Such restoration must be made regardless of the outcome of the contest, and the court shall provide therefor in its judgment or other final determination, if not previously paid. An assignor proceeding under this subsection shall be precluded from asserting any ground for invalidity known or reasonably available to him at the time his assignment of the patent was made.

§ 272. Temporary presence in the United States

"The use of any invention in any vessel, aricraft or vehicle of any country which affords similar privileges to vessels, aircraft or vehicles of the United States, entering the United States temporarily or accidentally, shall not constitute infringement of any patent, if the invention is used exclusively for the needs of the vessel, aircraft or vehicle and is not sold in or used for the manufacture of anything to be sold in or exported from the United States.

"Chapter 29.—REMEDIES FOR INFRINGEMENT OF PATENT, AND OTHER ACTIONS

"Sec.
"281. Remedy for infringement of patent.
"282. Presumption of validity; defenses.
"283. Injunction.
"284. Damages.
"285. Attorney fees.
"286. Time limitation on damages.
"287. Limitation on damages; marking and notice.
"288. Action for infringement of a patent containing an invalid claim.
"289. Additional remedy for infringement of design patent.
"290. Notice of patent suits.
"291. Interfering patents.
"292. False marking.
"293. Nonresident patentee, service and notice.
"294. Arbitration.

"§ 281. Remedy for infringement of patent

"A patentee shall have remedy by civil action for infringement of his patent.

"§282. Presumption of validity; defenses

"(a) A patent shall be presumed valid. Each claim of a patent (whether in independent or dependent form) shall be presumed valid independently of the validity of other claims; dependent claims shall be presumed valid even though dependent upon an invalid claim. The burden of establishing invalidity of a patent or any claim thereof shall rest on the party asserting it. A party challenging the validity of a patent under this title has the burden of establishing invalidity of the claimed invention by clear and convincing evidence.

"(b) The following shall be defenses in any action involving the validity or infringement of a patent and shall be pleaded—

"(1) noninfringement, absence or liability for infringement, or unenforceability,

"(2) invalidity of the patent or any claim in suit on any ground specified in part II of this title except that based upon prior art cited under provisions of chapter 31, which shall be considered only after said prior art has been considered by the office under the provisions of said chapter as a condition for patentability: *Provided, however,* That the validity of a patent may not be questioned solely because of the existence of two or more patents where said patents will expire on the same date as a result of filing on the same date or as a result of a terminal disclaimer pursuant to section 253 of this title, so long as the right to sue for infringement of said patents is maintained in the same legal entity,

"(3) invalidity of the patent or any claim in suit for failure to comply with any requirement of sections 112 or 251 of this title,

"(4) any other fact or act made a defense by this title.

"(c) In actions involving the validity or infringement of a patent the party asserting notice in the pleadings or otherwise in writing to the adverse party at least thirty days before the trial, of the country, number, date, and name of the patentee of any patent, the title, date, and page numbers of any publication to be relied upon as anticipation of the patent in suit or, except in actions in the United States Court of Claims, as showing the state of the art, and the name and address of any person who may be relied upon as the prior inventor or as having prior knowledge of or as having previously used or offered for sale the invention of the patent in suit. In the absence of such notice proof of the said matters may not be made at the trial except on such terms as the court requires.

"§ 283. Injunction.

"The several courts having jurisdiction of cases under this title may grant injunctions in accordance with the principles of equity to prevent the violation of any right secured by patent, on such terms as the court deems reasonable.

"§ 284. Damages

"(a) Upon finding for the claimant the court shall award the claimant damages adequate to compensate for the infringement but in no event less than a reasonable royalty for the use made of the invention by the infringer, together with interest and costs as fixed by the court.

"(b) When the damages are not found by a jury, the court shall assess them. In either event the court may increase the damages up to three times the amount found or assessed.

"(c) The court may receive expert testimony as an aid to the determination of damages or of what royalty would be reasonable under the circumstances.

"§ 285. Attorney fees

"The court in exceptional cases may award reasonable attorney fees to the prevailing party.

"§ 286. Time limitation on damages

"(a) Except as otherwise provided by law, no recovery shall be had for any infringement committed more than six years prior to the filing of the complaint or counterclaim for infringement in the action.

"(b) In the case of claims against the United States Government for use of a patented invention, the period before bringing suit, up to six years, between the date of receipt of a written claim for compensation by the department or agency of the Government having authority to settle such claim, and the date of mailing by the Government of a notice to the claimant that his claim has been denied shall not be counted as part of the period referred to in the preceding paragraph.

"§ 287. Limitation on damages; marking and notice

"Patentees, and persons making or selling any patented article for or under them, may give notice to the public that the same is patented, either by fixing thereon the word 'patent' or the abbreviation 'pat.', together with the number of the patent, or when, from the character of the article, this cannot be done, by fixing to it, or to the package wherein one or more of them is contained, a label containing a like notice. In the event of failure so to mark, no damages shall be recovered by the patentee in any action for infringement, except on proof that the infringer was notified of the infringement and continued to infringe thereafter, in which event damages may be recovered only for infringement occurring after such notice. Filing of an action for infringement shall constitute such notice.

"§ 288. Action for infringement of a patent containing an invalid claim

"Whenever, without deceptive intention, a claim of a patent is invalid, an action may be maintained for the infringement of a claim of the patent which may be valid.

"§ 289. Additional remedy for infringement of design patent

"(a) Whoever during the term of a patent for a design, without license of the owner (1) applies the patented design, or any colorable limitation thereof to any article of manufacture for the purpose of sale, or (2) sells or exposes for sale any article of manufacture to which such design or colorable imitation has been applied shall be liable to the owner to the extent of his total profit, but not less than $250, recoverable in any United States district court having jurisdiction of the parties.

"(b) Nothing in this section shall prevent, lessen, or impeach any other remedy which an owner of an infringed patent has under the provisions of this title, but he shall not twice recover the profit made from the infringement.

"§ 290. Notice of patent suits

"The clerk of a court of the United States, within one month after the filing of an action under this title shall give notice thereof in writing to the Commissioner, setting forth so far as known the names and addresses of the parties, name of the inventor, and the designating number of the patent upon which the action has been brought. If any other patent is subsequently included in the action the clerk of the court shall give like notice thereof. Within one month after the decision is rendered or a judgment issued the clerk of the court shall give notice to the Commissioner. The Commissioner shall, on receipt of such notices, enter the same in the file of such patent.

"§ 291. Priority of invention between patentees

"(a) Whenever there are two patents naming different inventors and claiming the same or substantially the same subject matter, the owner of one of the patents may have relief against the owner of the other by civil action, and the court may adjudge the question of the validity of any of such patents, in whole or in part. A final judgment in such action adverse to a patentee from which no appeal or other review has been or can be taken or had shall constitute cancellation of the claims involved from the patent, and notice thereof shall be indorsed on copies of the patent thereafter distributed by the Patent Office.

"(b) Such suit may be instituted against the party in interest as shown by the records of the Office, but any party in interest may become a party to the action. If there be adverse parties residing in a plurality of districts not embraced within the same state, or an adverse party residing in a foreign country, the United States District Court for the District of Columbia shall have jurisdiction and may issue summons against the adverse parties directed to the marshal of any district in which any adverse party resides. Summons against adverse parties residing in foreign countries may be served by publication or otherwise as the court directs. The Commissioner shall not be made a party, but he shall be notified of the filing of the suit by the clerk of the court in which it is filed and shall have the right to intervene.

"§ 292. False marking

"(a) Whoever, without the consent of the patentee, marks upon, or affixes to, or uses in advertising in connection with anything made, used, or sold by him, the name of any imitation of the name of the patentee, the patent number, or the words 'patent', 'patentee', or the like, with the intent of counterfeiting or imitating the mark of the patentee, or of deceiving the public and inducing them to believe that the thing was made or sold by or with the consent of the patentee; or

"(b) Whoever marks upon, or affixes to, or uses in advertising in connection with any unpatented article, the word 'patent' or any word or number importing that the same is patented, for the purpose of deceiving the public; or

"(c) Whoever marks upon, or affixes to, or uses in advertising in connection with any article, the words 'patent applied for', 'patent pending', or any word importing that an application for patent has been made, when no application for patent has been made, or if made, is not pending, for the purpose of deceiving the public—

Shall be fined not more than $500 for every such offense.

"(d) Any person may sue for the penalty in which event one-half shall go to the person suing and the other to the use of the United States

"§ 293. Nonresident patentee; service and notice

"Every patentee not residing in the United States may file in the Office a written designation stating the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the patent or rights thereunder. If the person designated cannot be found at the address given in the last designation, or if no person has been designated, the United States District Court for the District of Columbia shall have jurisdiction and summons shall be served by publication or otherwise as the court directs. The court shall have the same jurisdiction to take any action respecting the patent or rights thereunder that it would have if the patentee were personally within the jurisdiction of the court.

"§ 294. Arbitration

"(a) A written provision in any agreement or contract to settle by arbitration any controversy thereafter arising out of such contract or agreement in respect to the infringement or validity of any patent involved in said contract or agreement, or an agreement in writing to settle by arbitration an existing controversy in respect to the infringement or validity of any patent involved in said contract or agreement, or an agreement in writing to settle by arbitration an existing controversy in respect to the infringement or validity of any patent, shall be valid, irrevocable, and enforceable, except for any grounds as exist at law or in equity for the revocation of any contract. Arbitration of such controversies, awards, and confirmation of awards shall be governed by title 9, United States Code. In any such arbitration, the defenses provided for under section 282 of this title shall be considered by the arbitrator.

"(b) The parties to an existing dispute as to patent validity or infringement may, after such dispute has arisen, agree in writing to settle such dispute by arbitration, and such agreement shall be valid, irrevocable, and enforceable, except for any grounds as exist at law or in equity for revocation of any contract.

"(c) Within two months after the award is renedered, the patentee shall give notice thereof in writing to the Commissioner and to the clerk of the district court of the United States for the district and division embracing the place where the arbitration proceeding was conducted. There shall be a separate notice prepared for each patent involved in such proceeding. Such notice shall set forth the names and addresses of the parties, the name of the inventor, and the name of the patent owner, shall designate the number of the patent, shall contain a copy of the award, and shall contain a copy of all submissions to the arbitrator concerning the validity of the patent. The Commissioner shall, upon receipt of such notice, enter the same in the record of the prosecution of such patent.

"(d) Any party to the arbitration proceeding may designate those portions of an award or submission contained in the notice required under subsection (c) of this section that he deems to relate to a trade secret or other confidential research, development, or commercial information belonging to and of substantial value to him. Upon a verified showing of good cause, such designated information shall be kept separate from the file of the patent, and made available only to government agencies on written request to and approval by the Attorney General.

"Chapter 30.—PRESERVATION OF OTHER RIGHTS

"§ 301. Preservation of other rights; nonpreemption

"This title shall not be construed to preempt rights or obligations not arising by operation of this title, whether arising by operation of state or Federal law of contracts, of confidential or proprietary information, of trade secrets, or of unfair competition.

"Chapter 31.—PRIOR ART CITATIONS TO PATENT OFFICE AND REEXAMINATION OF PATENTS

"§ 311. Rules Established by Commissioner of Patents

"The Commission shall establish rules and regulations for the citation to the Office of prior art patents or publications, pertinent to the validity of patents, and for the reexamination of patents in the light of such prior art.

"§ 312. Citation of art

"Any person may, at any time within the period of enforceability of a patent, cite to the Office prior patent or publications which may have a bearing on the patentability of any claim of the patent, provided that the person citing such prior art identifies in writing the part(s) of the same considered pertinent and the manner of applying the same to at least one claim of the patent. The writing identifying and applying the same shall become a part of the official file of the patent. The identity of the person citing the prior art will be excluded from such file upon his request to remain anonymous.

"§ 313. Request for examination

"Any person may, at any time within the period of enforceability of a patent, request reexamination of the patent as to the patentability of any claim thereof in the light of any prior art cited under the provisions of section 312 of this chapter, by filing in the Office a written request for such reexamination accompanied by a reexamination fee prescribed according to this title and by a statement of the relation of such prior art to the patentability of the claim or claims involved. Unless the requesting person is the patentee, the Commissioner shall promptly send a copy of such request and statement to the owner of the patent appearing from the records of the Office at the time of the filing of the request.

"§ 314. Determination of issue by Commissioner of Patents

"(a) Within ninety days following the filing of a request for reexamination under section 313 of this chapter the Commissioner shall make a determination as to whether a substantial new question of patentability affecting any claim of the patent concerned, not previously considered in examination or reexamination of such claim, is raised by the consideration, with or without any other prior art, of the prior art which has been cited in relation to the patent according to section 312 of this chapter. The Commissioner on his own initiative may make such a determination at any time.

"(b) A record of the Commissioner's determination under paragraph (a) of this section shall be made in the file of the patent, and a copy of it sent promptly to the owner of the patent.

"(c) A determination by the Commissioner pursuant to paragraph (a) of this section that such a new question of patentabiilty is not so raised shall be final and nonappealable.

"§ 315. Reexamination ordered by Commissioner of Patents

"If, in a determination made pursuant to paragraph (a) of section 314, the Commissioner finds that a substantial new question of patentabiilty affecting a claim or claims of the patent is raised by consideration of the patents and publications that have been cited in relation to the patent according to section 312 of this chapter, he shall order a reexamination of the patent for the resolution of the question, and shall proceed to resolve it in accordance with sections 131, 132, 133, and any other pertinent section of this title, as though the claim or claims involved were present in a pending application. The patent owner shall be given a reasonable period, not less than two months, after the filing of the reexamination order within which he may file a statement on such question for consideration in the reexamination. Any reexamination proceeding under this section shall be conducted with special dispatch within the Office.

"§ 316. Response or amendment by patent owner

"The patent owner shall be provided an opportunity in any reexamination proceeding under this chapter to amend any claim of his patent in order to distinguish the claim from prior art cited according to section 312 of this chapter, or in response to a decision adverse to the patentability of the claim, but no amendment enlarging the scope of a claim shall be permitted in a reexamination proceeding under this chapter.

"§ 317. Appeals

"The owner of a patent involved in a reexamination proceeding under this chapter may appeal in accordance with section 134, sections 141 through 145 or other pertinent section of this title from a final decision in such proceeding adverse to the patentability of any claim, or amended claim, of the patent.

"§ 318. Certificate of patentability; unpatentability and claim cancellation

"When in a reexamination proceeding under this chapter the time for appeal has expired or any appeal proceeding has terminated, the Commissioner shall issue and publish a certificate cancelling any claim of the patent finally determined in such proceeding or on appeal therein to be unpatentable, confirming any claim of the patent so determined to be patentable, and incorporating in the patent any amended claim thereof so determined to be patentable.

"§ 319. Reliance on art in court only after Office review

"No patent or (printed) publication may be relied upon as evidence of nonpatentability in a civil action involving an issue of validity or infringement of a patent unless the patent or publication was cited by or to the Office during prosecution of the application for the patent or was submitted for consideration by the Office in accordance with sections 312 and 313 of this chapter and was actually considered in accordance with section 314. The limitation provided by this section shall apply in any civil action in which a pleading presents a claim for infringement or for adjudication of the validity of a patent, upon the basis of the contents of the patent file as it existed on the date of the filing of such pleading, excepting that a party may rely upon a patent or publication cited later, and upon the final determination had on a request for reexamination in the light of such patent or publication, if such patent or publication was cited and such request was filed in the Office within the period of a stay ordered by the court in accordance wtih section 320 of this chapter.

"§ 320. Stay of court proceedings to permit Office review

"(a) Any party to a civil action against whom a pleading presents a claim for infringement or for adjudication of the validity of a patent shall have the right, by motion brought before any responsive pleading, to secure a stay of all proceedings in the action by order of the court for a period, not less than four months, sufficient to enable such party to search for and cite patents or publications considered pertinent to the patent and to request reexamination of the patent in view of such prior art according to sections 312 and 313 of this chapter. If such party files a request for such reexamination in the Office and serves and files a copy of it in the action within the period of the stay provided by such order, the stay shall be extended by further order of the court until at least twenty days after the final determination of the request for reexamination.

"(b) The corut, on motion and upon such terms as are just, may at any time stay the proceedings in a civil action in which the validity of a patent is in issue for a period sufficient to enable the moving party to cite to the Office newly discovered additional prior art in the nature of patents or (printed) publications and to secure final determination of a request for reexamination of the patent in the light of such additional prior art, provided the court finds that such additional prior art, in fact, constitutes newly discovered evidence which by due diligence could not have been discovered in time to be cited to and considered by the Office within the period of a stay of such proceedings that was or could have been secured according to subsection (a) of this section.

"§ 321. Dismissal of complaint.

"The party or parties whose complaint commencing a civil action presents a claim for infringement or for adjudication of the validity of a patent shall have the right, by notice served upon the other party or parties and filed in the action at any time within the period of a stay ordered by the court pursuant to section 320 of this chapter, to dismiss such complaint without prejudice and without costs to any party.

"PART IV—PATENT COOPERATION TREATY

"Chapter 35.—DEFINITIONS

"Sec.
"351. Definitions.

"§ 351. Definitions.

"When used in this part unless the context otherwise indicates—

"(a) The term 'treaty' means the Patent Cooperation Treaty done at Washington, on June 19, 1970, excluding chapter II thereof.

"(b) The term 'Regulations', when capitalized, means the Regulations under the treaty excluding part C thereof, done at Washington on the same date as the treaty. The term 'regulations,' when not capitalized, means the regulations established by the Commissioner under this title.

"(c) The term 'international application' means an application filed under the treaty.

"(d) The term 'international application originating in the United States', means an international application filed in the Office when it is acting as a Receiving Office under the treaty, irrespective of whether or not the United States has been designated in that international application.

"(e) The term 'international application designating the United States' means an international application specifying the United States as a country in which a patent is sought regardless where such international application is filed.

"(f) The term 'Receiving Office' means a national patent office or intergovernmental organization which receives and processes international applications as prescribed by the treaty and the Regulations.

"(g) The term 'International Searching Authority' means a national patent office or intergovernmental organization as appointed under the treaty which processes international applications as prescribed by the treaty and the Regulations.

"(h) The term 'International Bureau' means the international intergovernmental organization which is recognized as the coordinating body under the treaty and the Regulations.

"(i) Terms and expressions not defined in this part are to be taken in the sense indicated by the treaty and the Regulations.

"Chapter 36.—INTERNATIONAL STAGE

"Sec.
"361. Receiving Office.
"362. International Searching Authority.
"363. International application designating the United States: Effect.
"364. International stage: Procedure.
"365. Right of priority; benefit of the filing date of a prior application.
"366. Withdrawn international application.
"367. Actions of other authorities: Review.
"368. Secrecy of certain inventions; filing international applications in foreign countries.

"§ 361. Receiving Office.

"(a) The Office shall act as a Receiving Office for international applications filed by nationals or residents of the United States. In accordance with any agreement made between the United States and another country, the Office may also act as a Receiving Office for International applications filed by residents or nationals of such country who are entitled to file international applications.

"(b) The Office shall perform all acts connected with the discharge of duties required of a Receiving Office, including the collection of international fees and their transmittal to the International Bureau.

"(c) International applications filed in the Office shall be in the English language.

"(d) The basic fee portion of the international fee, and the transmittal and search fees prescribed under section 376(a) of this part, shall be paid on filing of an international application. Payment of designation fees may be made on filing and shall be made not later than one year from the priority date of the international application.

"§ 362. International Searching Authority

"The Office may act as an International Searching Authority with respect to international applications in accordance with the terms and conditions of an agreement which may be concluded with the International Bureau.

"§ 363. International application designating the United States: Effect

"An international application designating the United States shall have the effect, from its international filing date under article 11 of the treaty, of a national application for patent regularly filed in the Office.

"§ 364. International stage: Procedure

"(a) International applications shall be processed by the Office when acting as a Receiving Office or International Searching Authority, or both, in accordance with the applicable provisions of the treaty, the Regulations, and this title.

"(b) An applicant's failure to act within prescribed time limits in connection with requirements pertaining to a pending international application may be excused upon a showing satisfactory to the Commissioner of unavoidable delay, to the extent not precluded by the treaty and the Regulations, and provided the conditions imposed by the treaty and the Regulations regarding the excuse of such failure to act are compiled with.

"§ 365. Right of priority; benefit of the filing date of a prior application

"(a) In accordance with the conditions and requirements of section 119 of this title, a national application shall be entitled to the right of priority based on a prior filed international application which designated at least one country other than the United States.

"(a) In accordance with the conditions and requirements of the first paragraph of section 119 of this title and the treaty and the Regulations, an international application designating the Uniited States shall be entitled to the right of priority based on a prior foreign application, or a prior international application designating at least one country other than the United States.

"(c) In accordance with the conditions and requirements of section 120 of this title, an international application designating the United States shall be entitled to the benefit of the filing date of a prior national application or a prior international application designating the United States, and a national application shall be entitled to the benefit of the filing date of a prior international application designating the United States. If any claim for the benefit of an earlier filing date is based on a prior international application which designated but did not originate in the United States, the Commissioner may require the filing in the Patent Office of a certified copy of such application together with a translation thereof into the English language, if it was filed in another language.

"§ 366. Withdrawn international application

"Subject to section 367 of this part, if an international application designating the United States is withdrawn or considered withdrawn, either generally or as to the United States, under the conditions of the treaty and the Regulations, before the applicant has complied with the applicable requirements prescribed by section 371(c) of this part, the designation of the United States shall have no effect and shall be considered as not having been made. However, such international application may serve as the basis for a claim of priority under section 365 (a) and (b) of this part, if it designated a country other than the United States.

"§ 367. Actions of other authorities: Review

"(a) Where a Receiving Office other than the Patent and Trademark Office has refused to accord an international filing date to an international application designating the United States or where it has held such application to be withdrawn either generally or as to the United States, the applicant may request review of the matter by the Commissioner, on compliance with the requirements of and within the time limits specified by the treaty and the Regulations. Such review may result in a determination that such application be considered as pending in the national stage.

"(b) The review under subsection (a) of this section, subject to the same requirements and conditions, may also be requested in those instances where an international application designating the United States is considered withdrawn due to a finding by the International Bureau under article 12(3) of the treaty.

"§ 368. Secrecy of certain inventions; filing international applications in foreign countries

"(a) International applications filed in the

Office shall be subject to the provisions of chapter 17 of this title.

"(b) In accordance with article 27(8) of the treaty, the filing of an international application in a country other than the United States on the invention made in this country shall be considered to constitute the filing of an application in a foreign country within the meaning of chapter 17 of this title, whether or not the United States is designated in that international application.

"(c) If a license to file in a foreign country is refused or if an international application is ordered to be kept secret and a permit refused, the Office when acting as a Receiving Office or International Searching Authority, or both, may not disclose the contents of such application to anyone not authorized to receive such disclosure.

"Chapter 37.—NATIONAL STAGE

"Sec.
"371. National stage: Commencement.
"372. National stage: Requirements and procedure.
"373. Improper applicant.
"374. Publication of international application: Effect.
"375. Patent issued on international application: Effect.
"376. Fees.

"§ 371. National stage: Commencement

"(a) Receipt from the International Bureau of copies of international applications with amendments to the claims, if any, and international search reports is required in the case of all international applications designating the United States, except those filed in the Office.

"(b) Subject to subsection (f) of this section, the national stage shall commence with the expiration of the applicable time limit under article 22 (1) or (2) of the treaty, at which time the applicant shall have complied with the applicable requirements specified in subsection (c) of this section.

"(c) The applicant shall file in the Office—

"(1) the national fee prescribed under section 376(a)(4) of this part;

"(2) a copy of the international application, unless not required under subsection (a) of this section or already received from the International Bureau, and a verified translation into the English language of the international application, if it was filed in another language;

"(3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Office by the International Bureau, and a translation into the English language of such amendments were made in another language;

"(4) a statement of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for statements of applicants.

"(d) Failure to comply with any of the requirements of paragraph (1) to (3) of subsection (c) of this section within the time limit provided by article 22(1) or (2) of the treaty shall result in abandonment of the international application.

"(e) If the international application was signed by or on behalf of the assignee, or other successor in title, the inventor shall have the opportunity to file a ratification within thirty days from commencement of the national stage as provided in subsection (b) of this section. If such ratification is not timely filed, the procedure provided by section 111(d) of this title shall apply.

"(f) After an international application has entered the national stage, no patent may be granted or refused thereon before the expiration of the applicable time limit under article 28 of the treaty, except with the express consent of the applicant. The applicant may present amendments to the specification, claims, and drawings of the application after the national stage has commenced.

"(g) At the express request of the applicant, the national stage of processing may be commenced at any time at which the application is in order for such purpose and the applicable requirements of subsection (c) of this section have been complied with.

"§ 372. National stage: Requirements and procedure

"(a) All questions of substance and, within the scope of the requirements of the treaty and the Regulations, procedure in an international application designating the United States shall be determined as in the case of national applications regularly filed in the Office.

"(b) In case of international applications designating but not originating in, the United States—

"(1) the Commissioner may cause to be reexamined questions relating to form and contents of the application in accordance with the requirements of the treaty and the Regulations;

"(2) the Commissioner may cause the question of unity of invention to be reexamined under section 121 of this title, within the scope of the requirements of the treaty and the Regulations.

"(c) Any claim not searched in the international stage in view of a holding, found to be justified by the Commissioner upon review, that the international application did not comply with the requirement for unity of invention under the treaty and the Regulations, shall be considered canceled, unless payment of a special fee is made by the applicant. Such special fee shall be paid with respect to each claim not searched in the international stage and shall be submitted not later than one month after a notice was sent to the applicant informing him that the said holding was deemed to be justified. The payment of the special fee shall not prevent the Commissioner from requiring that the international application be restricted to one of the inventions claimed therein under section 121 of this title, and within the scope of the requirements of the treaty and the Regulations.

"§ 373. Improper applicant

"An international application designating the United States, shall not be accepted by the Office for the national stage if it was filed by anyone not qualified under chapter 11 of this title to be an applicant for the purpose of filing a national application in the United States. Such international applications shall not serve as the basis for the benefits of an earlier filing date under section 120 of this title in a subsequently filed application, but may serve as the basis for a claim of the right of priority under section 119 of this title, if the United States was not the sole country designated in such international application.

"§ 374. Publication of international application: Effect

"The publication under the treaty of an international application designating the United States shall have the same effect under this title as a published national application.

"§ 375. Patent issued on international application: Effect

"(a) A patent may be issued by the Commissioner based on an international application designating the United States, in accordance with the provisions of this title. Such patent shall have the force and effect of a patent issued on a national application filed under the provisions of chapter 11 of this title.

"(b) Where due to an incorrect translation the scope of a patent granted on an international application designating the United States, which was not originally filed in the English language, exceeds the scope of the international application in its original language, a court of competent jurisdiction may retroactively limit the scope of the patent, by declaring it unenforceable to the extent that it exceeds the scope of the international application in its original language.

"§ 376. Fees

"(a) The required payment of the international fee, which amount is specified in the Regulations, shall be paid in United States currency. The Office may also charge the following fees:

"(1) A transmittal fee (see section 361(d));

"(2) A search fee (see section 361(d));

"(3) A supplemental search fee (to be paid when required);

"(4) A national fee (see section 371(c));

"(5) A special fee (to be paid when required; see section 372(c));

"(6) Such other fees as established by the Commissioner.

"(b) The amounts of fees specified in subsection (a) of this section, except the international fee, shall be prescribed by the Commissioner. He may refund any sum paid by mistake or in excess of the fees so specified, or if required under the treaty and the Regulations. The Commissioner may also refund any part of the search fee, where be determines such refund to be warranted."

TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

SEC. 2. Section 1542 of title 28, United States Code, is amended to read as follows:

"§ 1542. Office decisions

"The Court of Customs and Patent Appeals shall have jurisdiction of appeals from decisions of:

"(1) The Board of Appeals of the Office as to patent applications and patents as provided in chapter 18 of title 35, United States Code.

"(2) The Commissioner of Patents or the Trademark Trial and Appeals Board as to trademark applications and proceedings as provided in section 1071 of title 15, United States Code."

SEC. 3. If any provision of title 35, Patents United States Code, as amended by this Act, or any other provision of this Act, is declared unconstitutional or is held invalid, the validity of the remaining provisions shall not be affected.

SEC. 4. (a) This Act shall take effect on the day one year after enactment. It shall apply to all applications for patent actually filed in the United States on and after this effective date, even though entitled to the benefit of an earlier filing date, and to patents issued on such applications.

(b) Applications for patent actually filed in the United States before and still pending on the effective date of this Act, and patents issued on such applications, shall be governed by the provisions of title 35, United States Code, in effect immediately prior to the effective date. Part II and part III of this Act shall apply to patents issued on or after the effective date.

(c) Part III of this Act shall apply to unexpired patents granted or applied for prior to the effective date of the Act except as otherwise provided.

(d) Section 251 of title 35 as amended by this Act shall apply to applications for reissue filed after the effective date but the conditions for patentability shall be determined under the law applicable to the original patent.

(e) Assistant Commissioners of patents and examiners-in-chief in office on the effective date of this Act shall continue in office and in accordance with their then existing appointments.

(f) Subsection (d) of section 112 of title 35 as amended by this Act shall not apply to patents issued, and applications filed, prior to the effective date of this Act. No such application shall be held incomplete, and no such patent shall be held invalid, because availability to the public of a deposit of a micro-organism recited therein was conditioned upon issuance of a United States patent reciting a deposit of said micro-organism.

(g) The amendment made by this Act to title 35, United States Code, shall not affect any rights or liabilities existing under such title as in effect immediately prior to the effective date of this Act.

(h) All functions performed by the Board of Patent Interferences shall be performed by the Board of Appeals. When performing such functions the Board of Appeals shall constitute a Board of Patent Interferences. Individuals who are members of the Board of Patent Interferences immediately prior to the effective date of this Act shall become examiners-in-chief and members of the Board of Appeals on the effective date of this Act and shall receive compensation at the same rate as provided for members of the Board of Appeals.

SEC. 5. Nothing in title 35 as amended by this Act shall affect any provision of the Atomic Energy Act of 1954, as amended, or of the National Aeronautics and Space Act, except that the functions of a Board of Patent Interferences specified in said Acts may be performed by the Board of Appeals as specified in section 7 of title 35 as amended by this Act.

SEC. 6. Section 308 of the Clean Air Amendments Act of 1970 is amended to read as follows:

"SEC. 308. If the Administrator determines that the implementation of the purposes and intent of this Act is being significantly retarded by any section of title 35 of the United States Code he shall, after consultation with the Department of Commerce, recommend to the Congress such modification of title 35, as may be necessary.".

INDIVIDUAL VIEWS OF SENATOR HIRAM L. FONG

INTRODUCTION

S. 2504 as reported by the Subcommittee on Patents, Trademarks, and Copyrights, to the full Judiciary Committee, hereinafter referred to as S. 2504 C.P., purports to improve the U.S. patent system and thereby increase the percentage of valid patents issued.

Unfortunately, as drafted, S. 2504 C.P. would have just the opposite effect.

Instead of moving toward the six major objectives of the President's Commission on the Patent System, S. 2504 C.P. would operate in exactly the opposite direction.

The President's Commission set forth the following six major objectives for the U.S. patent system:

"1. To raise the quality and reliability of the U.S. Patent.

"2. To shorten the period of pendency of a patent application from filing to final disposition by the Patent Office.

"3. To accelerate the public disclosure of technological advances.

"4. To reduce the expense of obtaining and litigating a patent.

"5. To make U.S. patent practice more compatible with that of other major countries, wherever consistent with the objectives of the U.S. patent system.

"6. To prepare the patent system to cope with the exploding technology foreseeable in the decades ahead."

However, as I shall endeavor to demonstrate in these Individual Views, S. 2504 C.P. would:

1. Not accomplish the six goals of the President's Commission on the Patent System;

2. Add great cost and insurmountable burdens to the American inventor;

3. Invalidate many patents on expensively developed and important inventions;

4. Burden both the applicant and the Patent Office with chores and expense beyond what we can reasonably expect governmental and research and development budgets to carry without great loss of incentive to the advancement of science and the useful arts;

5. Frustrate small companies to the advantage of larger established ones who through the new opposition proceedings will have the greatest legal tool for harassment ever created to effectively eliminate their competition;

6. Exacerbate the problem of inflation which is now our Nation's Number One problem.

I agree with and support the six major objectives outlined by the President's Commission established to reform the patent law.

The six amendments I introduced at the Patents, Trademarks and Copyrights Subcommittee level were introduced only after much thought and deliberation on comments from various members of the public.

It is gratifying that the Administration has now recognized, generally, that the original bill needed amending.

My amendments were a sincere attempt to help the Administration bill meet some of the objectives outlined by the President's Commission and to engender support for the bill from the inventive community—support that appears to have been totally lacking for the original text of S. 2504. In fact, the voluntary patent inventive community has been almost unanimously opposed to the bill.

Unfortunately, only one and one-half of my six amendments were accepted in the Subcommittee. Thus, the bill as reported to the full Committee is not materially improved over the original bill either in meeting the six goals of the President's Commission or in regard to acceptance or approval by the inventive community. I was pleased, however, to have the support of the Chairman of our Subcommittee, Senator John L. McClellan on five of six of my amendments. He abstained on my amendment to Section 41 on maintenance fees.

Finally, we must not lose sight of two important facts: (a) that the patent system is a voluntary incentive system, and (b) that Congress should fulfill their Constitutional mandate "to promote the Progress of Science and useful Arts, by securing for limited times to Authors and Inventors the Exclusive Rights to their respective Writings and Discoveries."

One can readily see that the useful arts will not progress if inventors never disclose or communicate their inventions to the public, but choose to practice them in secrecy or possibly to have their inventions die with them. This secrecy, of course, is the alternative to the patent system which is, and always has been open to the inventive community.

As the United States Government, speaking through the Department of Justice, stated in *Kewanee Oil v. Bicron*:

"The *Federal Patent Laws* merely *offer*, and *do not compel* the exchange of a 17-year monopoly for disclosure of patentable inventions; . . ." (emphasis supplied)

Up to now, most inventors have chosen the patent route—but under the Subcommittee bill, S. 2504 C.P., they could very well choose secrecy.

Why patents are important and should be encouraged

Patents can effectively fight and reduce inflation by increasing our country's productivity through new inventions that allow industry to produce more and better products per unit time, thereby creating more products through greater efficiency and allowing for reduced prices of goods and supplies.

Thus, patents are important because they represent an economical and effective way of fighting inflation with no increase in taxes. By allowing goods to be produced faster and more efficiently (better products in a lesser time) patents permit a reduction of prices while maintaining or decreasing overhead in terms of man-hours and production time. Increased productivity, of course, is most important to our Nation at this time in our history when our total national output of goods and services (Gross National Product—GNP) expressed in real dollars has declined over the past two quarters.

Additionally, patents stimulate competition and allow smaller companies to compete successfully with larger companies. As the experienced and knowledgeable Commissioner of Patents, C. Marshall Dann, recently explained in his June 6, 1974 speech before the FBA-BNA Conference of Patents, Antitrust, and Trade Secrets:

"The *patent* system provides a spur to competition in research and development . . . *Patents* can be of *great* value in the competitive struggle both *to small companies* and to large ones. To the extent they permit a small company to compete more effectively with larger companies in the same field there is an overall benefit to competition." (emphasis supplied)

However, S. 2504 C.P. as proposed by the Subcommittee would, in my view, inhibit inventors from disclosing their discoveries and thus would stifle competition and technological advances.

1. It would increase the difficulties of applicants, especially the smaller ones, in preparing and prosecuting patent applications.

2. It would increase the complexity of examination procedures necessitating a greatly enlarged Patent Office at the taxpayer's expense.

3. It would make valid patents more difficult to obtain and to enforce because of difficult if not impossible-to-comply-with provisions.

4. It would make the obtaining and enforcement of patents substantially more expensive.

5. It would create a disincentive to making inventions known.

6. It would create a disincentive to the making of inventions at all.

7. It would discourage the establishment of new businesses built on inventions, i.e., discouraging new companies such as Polaroid.

8. It would discourage individual inventors from applying for a patent because of prohibitive cost involving increasingly large patent lawyer's fees and new maintenance fees.

9. It may cause our nation to lose in the technological race.

10. It may cause our nation to lose in the arms race.

While some reform to the patent system is justified, I believe that we might well consider the *caveat* given to us by the eminent former Chief Judge of the Court of Customs and Patent Appeals Judge Eugene Worley, who said in *In re Prater and Wei*, 162 U.S.P.Q. 541, at page 552 (August 14, 1969):

"Congress, of course, had no way of knowing in 1952 what lay in the test tube then or what would become a reality tomorrow. But it devised a statute—a model of legislative craftsmanship and foresight—broad enough to anticipate and nourish the technological explosion we have witnessed. Our patent system is a delicate balance of interest; it protects the fruits of the extraordinary efforts it demands of inventors compatibly with the public interest. It has largely fostered the favorable climate resulting in the tremendous strides this country has made in reaching the pinnacle in the worldwide competition in the arts and sciences—from atomic energy to antihistamines, computers to catalysts, lasers to lunar landings.

"So it is with no little surprise and concern that one learns of proposed patent 'reforms'. I can appreciate, from my own Congressional experience, the difficulty of enacting legislation acceptable to all concerned. However, after having dealt with the patent statutes, particularly the 1952 Patent Act, for nearly twenty years as a member of this court, I have grave misgivings concerning the desirability or need for any substantive change in a system that has worked so well in following the Constitutional mandate 'to promote the Progress of Science and Useful Arts'."

Therefore, any substantial changes to the present patent system should be undertaken only with great caution and deliberation, after considering and integrating the suggestions from the experts in the field, the members and professionals of the inventive community itself.

Unless a change would clearly and indisputably improve existing patent law, we should retain the law as it is, for it can be shown statistically and by actual court decided cases to be workable and successful.

S. 2930, introduced January 31, 1974, by Senator Buckley, would in my opinion attain the objectives of the President's Commission. S. 2504 C. P. on the other hand would exacerbate our current inflation problem and would fail to meet the objectives of the President's Commission.

THE FONG AMENDMENTS

First amendment (section 3)

Purpose:

The purpose of my first amendment was to insure that the 3 (d) Solicitor and his assistants (who may be numerous) would not cause great dissension and strife in the Patent Office, but rather work harmoniously with the Commissioner of Patents and his assistants. It would be a waste of the taxpayer's money and a loss of efficiency to have two warring factions within the same agency, both working against each other rather than with each other.

Problem:

The language in the bill stated that 3 (d) Solicitor "shall be independent of the Commissioner in carrying out his responsibilities under this title . . .", which means that a subordinate to the Commissioner of Patents would not have to report to, nor coordinate his activities with, that of the Commissioner. It is comparable to allowing a Deputy Attorney General be independent of the Attorney General.

Solution:

In Subcommittee, I proposed to strike this language from Section 3 of the bill.

Accepted:

I was pleased to have the support of both the Chairman, Senator McClellan, and the ranking Minority member, Senator Scott on this amendment.

Second Amendment

Purpose:

The purpose of my second amendment was to insure that all witnesses, especially non-party witnesses who were subpoenaed would be given the right to the full protection of law as now provided by the Federal Rules of Civil Procedure, and not made to travel thousands of miles to answer an extrajudicial administrative subpoena regarding a patent case they had no connection with, nor any interest in, as present language of the bill allows.

The Federal Rules of Civil Procedure, Rule 45, Section (d) (2) and Section (e) (1) provide that:

"the deposition is to be taken . . . only *in the county wherein he resides* or is employed or transacts his business . . ." and that "A subpoena requiring the attendance of a witness at a hearing or trial may be served at any place within the district, or at any place without the district that is *within 100 miles of the place of the hearing or trial* specified in the subpoena;" (emphasis supplied)

This reasonable restriction provided by our Federal Rules of Civil Procedure, which presently is also part of our patent laws (35 U.S.C. 23 and 24) should not be deleted.

Problem:

The language in the bill now allows the Board of Examiners-in-Chief to issue subpoenas to any persons in the United States—regardless of whether he or she is a party to the proceedings, and to compel that party or non-party to proceed to Washington, D.C. regardless of the distance involved, inconveniences, and loss of time to the party or non-party subpoenaed.

If the person located in Hawaii, Alaska, California, or any other distant state cannot make the trip to Washington, he must then hire an attorney in Washington to answer the order from the United States District Court for the District of Columbia "to show cause why the person refusing or failing to comply with such subpoena or order should not be commanded by the court to comply therewith", as provided in Section 23(c) of the S. 2504 C.P., the subpoena enforcement section.

Therefore, if a non-party cannot *afford* to take time off from work to travel to Washington, the non-party must still pay a Washington attorney to represent him in the United States District Court in D.C. to explain why he could not or should not be made to comply with the subpoena in order not to be charged with contempt of court.

Under present law, a subpoena may be issued to compel witnesses to testify, but testimony is to be taken only in the area of the witnesses' residence. Present law also guarantees to each witness subpoenaed all the protection embodied by the Federal Rules of Civil Procedure and the concomitant protection of an impartial Federal judge as against an administrative non-judge person.

Since non-parties and their documents or other information can be subpoenaed, courts should decide the rights of a person to comply or not to comply with a subpoena, rather than an administrative officer purporting to read the Federal Rules of Civil Procedure. The person, especially the non-party called or subpoenaed, should have the unqualified right to recourse to the court in his own jurisdiction by a motion to quash or alter etc., pursuant to Rule 45 of the Federal Rules of Civil Procedure.

No Federal court requires one to travel from Hawaii to Washington to question the reasonablenes of a subpoena.

Solution:

My solution was to substitute present Section 23 and 24 of 35 U.S.C. Patents for Section 23 and 24 of the bill, or in other words to retain present law. One may issue all the subpoenas he desires under present law (Section 24 of 35 U.S.C.) and obtain all the information desired in the district court of the witnesses' home state.

Rejected:

Although my amendment to substitute present law of 35 U.S.C. 23, 24 was rejected three to two, I was pleased to have the support of the Chairman of the Subcommittee on Patents, Trademarks, and Copyrights, Senator McClellan.

Third amendment (section 41)

Purpose:

The purpose of my third amendment was to reduce a newly created handicap proposed by S. 2504 to be put on the American inventor, a handicap that had never existed before in our Nation's history—that of maintenance fees.

S. 2504. C.P. would have charged the American inventor with a first maintenance fee of at least $1,000 on or before the tenth year of his patent, and a third maintenance fee of at least $500 on or before the seventh year of his patent, a second maintenance fee of at least $1,500 on or before the thirteenth year of his patent.

In Subcommittee, I proposed an amendment to reduce the minimum total maintenance fee from $3,000 to $2,000 (7th year, $300; 10th year, $600; and 13th year, $1,100). This amendment would have particularly eased the burden on the small inventor and the small business. As many are aware, in most instances, patents are the only means that small business have in competing with the giants of industry.

Problem:

There have never been any maintenance fees in the United States. There are no maintenance fees under present law. Once an inventor pays his patent attorney the fees for the prosecution of his application and pays the fees charged by the Patent Office and his patent issues, he has his patent free and clear for 17 years. He has responded to the incentive of the Patent System and has disclosed his invention to the public.

That would no longer be the case under S. 2504 C.P. as reported by the Subcommittee. The small inventor will now have to pay at least $3,000, just to keep his patent alive for its full term. The words "at least" are most important since the proposed maintenance fees have no upper limit, but rise as the cost of running the Patent Office rises. According to Section 41, fees, including maintenance fees, are supposed to pay approximately 50% of the cost of running the Patent Office. The "at least" language would permit increases in the already high maintenance fees.

This change, together with the other financial burdens that S. 2504 C.P. would impose on inventors, will discourage many small inventors from inventing, or once having invented, it will discourage them from disclosing their inventions to the public, denying the public the use of what could be a needed advancement in medicine, science, or engineering.

Inventors are creators. Inventors *take nothing from* the public; *they add* to the public domain. Perhaps they should not be charged at all for filing patent applications, but should be paid for doing so.

At a time when our nation's economy is faltering, and our Gross National Product, adjusted to remove the impact of inflation, has been declining, I question the wisdom of adding this heavy handicap to our nation's inventors. At a time when our real Gross National Product has fallen 5.8% and we have a negative export/import balance, it appears to be an inappropriate time to possibly DEstimulate our economy. (see April 19, 1974 *Washington Post* article entitled "GNP Falls 5.8%; Inflation Rate Rises to 10.8%")

(a) *Major Competitors Have Much Lower Maintenance Fees:*

One can see how large this handicap would be when we compare the maintenance fees in S. 2504 C. P. to those presently in force in the countries of our competitors, i.e.:

Japan's maintenance fee	$370
Great Britain's maintenance fee	$698
France's maintenance fee	$806
Proposed U.S. maintenance fee (or more than)	$3, 000
Germany (but much lower for first 7 years)	$3, 326

Germany's fees while high, are very low for the first seven years, i.e., $187.20, compared to our proposed $500 fee due the seventh year of the patent's life.

(b) *High Maintenance Fees Possibly Unconstitutional:*

It is also arguable that extremely high maintenance fees are possibly unconstitutional. Congress has been mandated (Article I, Sec. 8, Cl. 8):

"*To promote the Progress of Science* and the useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;" (emphasis supplied.)

There is no indication in our Constitution that the government should charge any more than nominal administration fees.

The power to tax is the power to destroy. In this case, the tax (maintenance fees) payable by the patentee could also result in the destruction of valuable patents of small inventors. It is therefore not surprising that those countries who have maintenance fees have a very small number of private individual inventors as distinguished from corporate inventors when compared to the United States. According to a recent study:

Country:	*Patents Issued to Individuals Rather than Corporate Inventors*
United States	25%
United Kingdom	5%
West Germany	5%

Therefore, it would seem that if one were to support the small inventor, one would have to support either the removal of maintenance fees, proposed in S. 2504, i.e., support present law, or substitute low administrative cost.

The above percentages seem to establish at least a prima facie case that the present United States patent system encourages individual inventors more than the patent systems of the United Kingdom and West Germany. This appears to be a positive attribute of our current patent system and one that should not be destroyed.

(c) *Argument that Maintenance Fees are Needed to Make the Patent Office Self-Supporting May Be Moot.*

Many of the inventive community argue that the taxes received by the Federal government from royalties paid to inventors and the taxes received by the government from the private sale of products covered by patents far outweigh the cost of running the Patent Office, now estimated at about $77 million per year.

Indeed, it was said as early as in the 1950's that the tax on the royalties which are received in the electronics industry alone, through patent license and other arrangements, just about equals the cost of operation of the Patent Office. Therefore, the Patent Office could be looked upon as already a self-sustaining operation in the sense that it earns for the government taxes which already exceed the cost of operating the Patent Office.

We may want to ask ourselves, how can we expect our nation to compete successfully with others while bearing such a handicap? Do we have enough of a handicap now with our present inflation and with our present real decline in productivity and negative import/export balance, or do we want more?

Solution:

The solution to this precedent-creating handicap is either to eliminate the maintenance fees entirely or to reduce them considerably so that they would be more in line with that of our competitors.

Since there was such strong support in Subcommittee for the maintenance fees as provided in S. 2504, it appeared hopeless to delete them entirely. Therefore, I introduced an amendment at the Subcommittee level to reduce the maintenance fees by one-third, bringing the maintenance fees down to a total of $2,000 on the basis that this would have been a reasonable compromise.

Rejected:

This amendment was rejected by a three to one vote, with the Chairman of the Subcommittee, Senator McClellan, abstaining.

Fourth amendment (section 112)

Purpose:

The purpose of my fourth amendment was to make Section 112 reasonable to comply with. As S. 2504 C.P. stands, it makes compliance actually impossible.

Since Section 282(b)(3) makes any "failure to comply with any requirement of Sections 112, 115, 131, or 251" grounds for invalidity of a patent, it is very important that these sections demand only what can reasonably and practically be expected of the American inventor.

Problem:

(a) *Tell Everything You Know:*

Section 112 of S. 250 C.P. would command the American inventor to have his patent attorney write down in the patent application everything the inventor knows regarding the invention and everything the inventor knows or contemplates in making or using the invention, and if he *misses one fact, his patent will be held invalid* under new Section 282(b)(3) mentioned above.

At $50–$75 per hour to the patent attorney who must maintain his offices and staff, this will create another costly burden for the American inventor—one that S. 2504 C. P. makes no provision for escaping—but rather adds woe upon misery by adding to the inventor's cost additional attorney's fees on top of the $3,000 in maintenance fees.

The question is how many American inventors can afford this type of cost, and how many inventions will be lost to the public for good because of the extreme high cost involved in obtaining a "protectable" patent.

Problem:

(b) *Predict the Future:*

Section 112 also adds a requirement to the law that never existed before, that is probably impossible to comply with, and may substantially change present case law.

Section 112 (a) (1) (B) requires the applicant to *predict* at the time he files his application, all the novel or unexpected properties or results which he will use in the future to defend his patent, if his patent is ever attacked for invalidity. This of course is impossible in many cases, especially in chemical cases, where commercial success is almost never achieved or known until after the patent application is filed, since F.D.A. clearances may not be granted till several years after the application has been filed.

The full benefit which the disclosed invention bestows on the public may not be appreciated until long after the application has been filed.

Section 112(a)(1)(B) requires an applicant to look into a crystal ball, and if his crystal ball is cloudy, he runs the risk of later losing his patent. How can anyone reasonably be expected to predict the future 17 to 19 years hence, in this era of technological and scientific explosion!

Many patents are attacked on the basis of being "obvious" under Section 103 of 35 U.S.C., whereby the owner of the patent must prove that his invention was "unobvious". One of the ways of proving "unobviousness" has always been commercial success, yet this most often occurs long after the application has been filed, e.g., F.D.A. clearances obtained, or after other events.

As stated by the United States Supreme Court in *Graham v. John Deere Co. of Kansas City,* 148 U.S.P.Q. at page 467:

"Such secondary consideration as *commercial success,* long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. *As indicia of obviousness or nonobviousness,* these inquiries may have relevancy." (emphasis supplied)

If, however, as in many cases, commercial success is never known until years after the application is filed, it is impossible for that applicant to know at the time he files his application whether his invention will be a commercial success. Yet under Section 112 as now written in S. 2504 C. P., he must know his commercial success *at the time he files* his application for patent or forever be barred from using that test later to show that this invention was non-obvious.

A further case in point is *In re Meng and Driessen,* 181 U.S.P.Q. where at page 96 it states:

"Under Section 103, evidence of what occurred after the invention may have a probative value equal to or greater than evidence of what went before. Though indicated as 'secondary' considerations in *Graham,* such factors are second only in time." (emphasis supplied)

Section 112 of S. 2504 C. P. would prevent an inventor from using any "evidence of what occurred after the invention" since he is unaware of such evidence *at the time he files his application for patent.*

(c) *Superfluous and irrelevant information required could double the cost to the individual inventor and to the Patent Office.*

Superfluous, irrelevant, and unnecessary extra information requirements under Section 112 create at least a "doubling" cost effect to both the small inventor as well as to the Patent Office.

The inventor's cost is doubled since he still has to pay his patent attorney $50–$75 an hour to write down the extraneous information in the application, i.e., *all the inventor knows* regarding the invention and *all the inventor knows or contemplates* regarding the use of his invention.

The cost to the Patent Office and to the American taxpayers is doubled since it will take Patent Office personnel at least twice as long to read and digest a patent application which must at least be twice as long to comply with the bill, i.e., the application must not only include everything that is pertinent and relevant, it must also include everything the *inventor knows* regardless of its relevancy, *or be rejected later as an invalid patent under Section 282(b)(3).* Thus on discovery, a party or even the government under Section 298, could find some fact, relevant or not—significant or not—and argue that the applicant did not tell all.

(d) *Britain and Italy have complained about Section 112.*

I am informed by the Department of State that Britain and Italy have complained to the United States regarding the *impossible-to-comply-with* disclosure provision of S. 2504, especially Section 112.

Under the Patent Cooperation Treaty, ratified by Congress in 1972, they have to comply with United States Patent Law in order for the United States to give them credit and protection for their inventions in our country. However, as now written, S. 2504 C.P. provisions are onerous, burdensome, and unfair to applicants—from the United States and from abroad.

(e) *Other possibly irrelevant requirements:*

S. 2504 C.P. requires a patent applicant to state what is known "to be conventional or old" to the inventor, to any person he assigns his invention, and to the applicant. Any failure to do so or any inadvertent omission would result in loss of the patent issued to the inventor.

What is "old" can be entirely irrelevant. What we should be concerned with is the closest prior art, i.e., publications, patent, journal articles, etc., to determine if the invention is "obvious" under Title 35, Section 103 of present law, or is statutorily barred under Section 102.

Also, regarding "best mode or modes"—there can only be one best mode—one best means by which an invention is supposed to be used. Two or more best modes are self-contradictory, yet S. 2504 C.P. requires the inventor to describe all the "best mode or modes", or subsequently lose his patent.

At the other end of the spectrum, an invention such as a new herbicide, may be applied to crops in more than one hundred different ways, i.e., in slurrys, in water-soluble sprays, in powders, in pellets, in water-insoluble sprays, and all at varying strengths.

S. 2504 C.P. would cause the inventor to list ad nauseam all the hundreds of different ways with varying strengths and different ways that a herbicide could be applied in order to assure that a court would not subsequently cancel his patent because he unintentionally forgot one mode that some court might interpret as a "best mode".

The unnecessary extra time this would take the inventor and the patent attorney to describe these multitudinous means would tremendously increase the attorney's fees to the inventor and thus discourage the American inventor from disclosing his invention to the public.

Solution: a) *Require all that is relevant and material to the facts at issue*

All that is necessary to determine whether there is a valid invention is that there be a reasonable disclosure by the inventor which is relevant and material, the substance of which he is presently aware regarding his invention—not everything he knows regarding his invention or about the art to which it relates.

As a witness on a witness stand is never required to tell "all he knows" in a trial, but rather only what is relevant and material to the facts at issue, a patent application should only be required to contain that information which is relevant and material to determine whether or not there is present a valid invention—no more and no less.

The test is two-fold: (1) Is the basic concept disclosed, and (2) Is it so documented that those in the art will be able to carry out that concept?

(b) *Language in Section 112 appears to be an easy method of guaranteeing all relevant and material information is disclosed by asking for everything, and of course will be extremely costly to the individual inventor, the Patent Office, and the taxpayer.*

It is of course possible to guarantee, at an unjustifiedly high cost, that everything relevant and material will be disclosed by asking the inventor to tell everything he knows concerning the invention.

This may be the easy way out in terms of drafting an airtight provision, but it does not take into account or consider the limited budget of most individual inventors, the high cost of patent attorneys, the waste of the taxpayer's money to support the extra personnel needed at the Patent Office to read all the extraneous material, nor the disincentive created in the inventor toward ever disclosing his invention to the public in the first place. As S. 2504 C. P. is written, one must of course tell everything he knows or lose his patent once he receives it, since it will be held invalid for non-compliance with Section 282(b)(3), above mentioned.

(c) *Pertinent parts of my amendments to Section 112 are as follows:*

(a)(1) The specification shall at the time the application is filed contain a written description—

(A) of the subject matter sought to be patented; and

(B) of the novel or unexpected properties or results[, and the old but superior properties or results] on which the applicant will rely in seeking [or upholding] the grant of the patent.

(c)(1) With respect to the particular invention, [The specification shall state what is known to the inventor, any person to whom he is under any obligation to assign the application, and applicant, or any of them, to be conventional or old.] [It] *it* shall conclude with one or more etc.

Rejected:

This amendment was rejected by a 3 to 2 vote, and again I was pleased to have the support of the Chairman of the Subcommittee on Patents, Trademarks and Copyrights, Senator McClellan.

Fifth amendment (section 115)

Purpose:

The purpose of this amendment was to remove the impossible-to-comply-with requirements presently in Section 115 which would breed invalidity rather than create more valid patents.

Problem:

As presently worded in S. 2504 C. P., Section 115 also breeds invalid patents since it requires the inventor, the applicant, the prospective assignee, the attorney, and the agent to tell, *"all . . . they . . . know"* and additionally anything *"tending to"* or *"that would tend . . . to"* affect the issuance of the patent. If he or any of the above persons *accidentally* misses anything, his patent will subsequently be held invalid under Section 282(b)(3).

Even if perfect compliance is honestly sought by all parties mentioned above, Section 115 might still be impossible to meet since it is tantamount to having to prove a negative. An infringer should always be able to find the "one fact" that a person forgot to include or overlooked.

Solution:

What should be required is that the inventor and everyone in privity with him tell everything that is relevant and material to the facts at issue, i.e., anything which they are aware of after reasonable inquiry that would directly concern the denial or granting of the patent to the inventor.

Amendment:

The major change I proposed in Subcommittee to Section 115(a)(3) was as follows (new words italic and deleted words bracketed):

(3) The duty of disclosure includes an obligation to furnish the Office with information *becoming available on reasonable inquiry which* [tending to] contradicts any representation made to the Office on behalf of the applicant *and which* [or that would tend] adversely [to] affects the issuance of the patent to the applicant, whether or not there exists further information which would in fact overcome the effect of the undisclosed information.

Rejected:

This amendment was rejected by a 3 to 2 vote in the Subcommittee, and again I was pleased to have the affirmative support of the Chairman of the Subcommittee of Patents, Trademarks, and Copyrights, Senator McClellan.

Sixth amendment (section 135)

Problem:

Section 135 on Opposition Proceedings is: (a) too expensive, (b) open to costly delays, and (c) allows for the harassment of smaller companies by larger ones.

As presently worded in S. 2504 C.P., Section 135, would defeat at least three of the six goals established by the President's Commission on the Patent System, i.e. (a) *to shorten the period of pendency of a patent application* from filing to final disposition by the Patent Office, (b) *to reduce the expense* of obtaining and litigating a patent, and (c) to make U.S. patent practice more *compatible with* that of *other* major *countries*, wherever consistent with the objectives of the U.S. patent system.

(a) *Section 135 would broaden period of pendency:*

Rather than shorten the period of pendency of a patent application, Section 135 would lengthen the period of pendency. As an eminent patent attorney, Mr. Tom Arnold, stated in his April 25, 1974 speech before the New Jersey Patent Law Association when presented with the Jefferson Medal for contribution to the Patent System.

". . . *unlimited oppositions commonly cause a delay* in obtaining issue of patents *which delays patent enforcement for years* and reduces the patent owner's value."

The patent, if any is obtained, will have cost inordinate expense to the patent applicant.

Testimony at a recent American Patent Law Association meeting by Mr. Andy Kline of the law firm of Synnesvedt & Lechner of Philadelphia, indicated that in just one of his patent applications in Japan, he encountered 147 separate oppositions, which of course required him to write 147 answering briefs—considerably increasing both the pendency time and lawyer's fees involved.

(b) *Section 135 would increase rather than reduce the expense of obtaining a patent.*

As Mr. Tom Arnold said in his acceptance speech mentioned above, "Oppositions can *raise* the *costs* of getting a patent *beyond* the level of an *applicant's* financial *capacity* for commitment . . ." (Emphasis supplied)

What would the fee be at $50–$75 an hour to write 147 answering briefs to 147 separate oppositions on a complicated invention in which the specification alone might be 50 pages long, and the application might contain 100 separate claims, as some chemical applications do? Would an independent inventor be able to borrow enough money just to pay his patent attorney to answer each opposition at a time that he had no patent yet, and therefore no collateral to use to borrow money from a bank or other financial institution? Many opposition proceedings run over $10,000, and the small inventor with no collateral i.e. no patent yet, will possibly just give up.

Mr. Arnold indicated one German company reportedly opposes all German applications for patents in its art, and reports that by doing so, 50% of its would be competitors immediately give up by dropping their patent application—and therefore are effectively eliminated from competition. They are destroyed by *the high cost* of obtaining a patent before they ever start.

(c) *U.S. Patent practice may be made more INcompatible rather than more compatible, with other countries under Section 135*

I am advised that under the new European Patent System mentioned in the recent June 24, 1974, Wall Street Journal article entitled, "Multinational Firms Find Patent Battles Consume Time, Money", that because of the harsh experiences with opposition proceedings in terms of costly delays, harassment of smaller companies by larger ones, and the great expense involved, the new *European Patent System* has eliminated the opposition proceedings.

While our pendency for patents now normally takes 18 to 24 months without opposition proceedings, France's pendency for patents with their opposition proceedings takes 72 months according to this Wall Street Journal article.

Under the new European Patent Convention, instead of filing for patents in a dozen different countries, one need only file at an office set up in Munich, which will then grant or deny a "European patent" good throughout most of Europe—through the new European Patent System Convention that has just decided to eliminate opposition proceedings.

(d) *The brand-new-in-the-law opposition proceedings now proposed under Section 135 invite competitors to live off the fruits of another's labor, toil, and inventive genius.*

Under Section 135 of S. 2504, an inventor's competitor need only to sit back and wait until there is full disclosure of the invention (this occurs when an application for patent is published as allowable under the bill) and oppose under Section 135 (c)(1) delaying the issuance of the patent for possibly many years.

In the meantime, the competitor can copy, market, and stockpile the new invention to his heart's content—the only risk being that IF and WHEN the patent ever issues, the competitor may be liable, upon a successful lawsuit by the inventor, for "reasonable royalties".

On the other hand, if the opposition proceeding is post-patent issuance, as in S. 2930 Buckley (and under the Fong Amendment), then there is the power of injunction.

Without this Power of Injunction, the competitor is considerably less likely to invest time, money, and energy to build a plant to conduct research in the field of the invention—but rather would just sit back and copy the inventions of others—robbing them of the benefits of their creativity.

Clearly, if the only risk of copying another's invention is a reasonable royalty, then Section 135 as now in the bill would amount to an unfair, unconsented-to compulsory license of the invention, at least until a patent has been issued—if ever.

Amendment:

Because of the strong support in the Subcommittee for opposition proceedings my amendment did not eliminate opposition proceedings, but tried to make them more reasonable, less time consuming, and fair to the inventor.

My amendment would have still allowed the public to present all the prior art to the Patent Office and later, after the issuance of the patent, would have allowed an adversary proceeding.

This would allow all relevant and material information to be brought to the attention of the Patent Office with the least delay, but still would give adequate protection to the inventor while his patent undergoes opposition proceedings.

Under my amendment to section 135, the opposition proceeding would still be allowed, but it would be allowed *after* the patent has issued, so that the inventor could protect his invention while his patent undergoes opposition proceedings. Since one cannot get an injunction to protect his invention without a patent, it is imperative that a patent be issued first so that an inventor can protect himself during the long drawn-out opposition proceedings. Otherwise an outsider could stockpile the invention and flood the market tying up all prospective customers before the inventor ever gets his patent.

Thus, my amendment would still have provided the public with an opportunity to get all the "prior art" to the Patent Office, and still allowed the expensive and long-drawn-out, adversary proceeding—but only after the inventor was protected, i.e., after he had received his patent. This would have achieved two main goals: (1) Making more valid patents, but at a lower cost, and (2) protecting the inventor, by getting the patent to him sooner so that he could protect his invention while the opposition proceedings were being deliberated. Disclosure of the claimed invention would occur at the same time as in the Administration bill.

Rejected:

While this amendment was rejected on a 3 to 2 vote again at the Subcommittee level, I was again pleased to have the support of the Chairman of the Subcommittee of Patents, Trademarks, and Copyrights, Senator McClellan.

Conclusion:

Because almost no one outside the government appears to support S. 2504 C.P. as a whole, because, as I have shown, S. 2504 C.P. has serious and fundamental defects, and because the patent system is crucial to the future technological and economic progress of the Nation, Congress should not act on such wide-ranging "reform" legislation without the benefit of thorough public hearings.

Hearings on such a complex measure would help the Judiciary Committee and the Senate avoid pitfalls which I believe are inherent in S. 2504 C.P.

I have listed some of the provisions which directly defeat the six goals of the President's Commission of the Patent System, but there are many others. Many other provisions make questionable changes in both procedural as well as substantive aspects of the Patent Law.

Among sections, not herein dealt with specifically, but which need attention notably are 28, 102, 123 (which overrules *Sears v. Gottschalk,* 178 U.S.P.Q. 33, decided April 26, 1973), 131, 132, 182(d), 191–194, 271(e), 298, (299 withdrawn), and 301.

Without belaboring the issues further, I believe hearings would assist the full Judiciary Committee in remedying the serious substantive and procedural defects of S. 2504 C.P.

I have no doubt of the sincere and honest efforts of the legislative staff and other members of the Subcommittee. But as the complexity and ramifications of the provisions of this bill are profound, I believe that more input from the experts in the field, including the leading members of the professional societies in the inventive community must be obtained.

As S. 2504 C.P. now stands:

(1) It will not accomplish its stated objectives, i.e., the six goals of the President's Commission on the Patent System;

(2) It will add great cost and insurmountable burdens to the American inventor;

(3) It will invalidate many patents on expensively developed and important inventions;

(4) It will burden both the applicant and the Patent Office with chores and expense beyond what we can reasonably expect government and research and development budgets to carry without great loss of incentive to the advancement of science and the useful arts;

(5) It will frustrate small companies to the advantage of larger established ones who through the new opposition proceedings will have the greatest legal tool for harassment ever created to effectively eliminate their competition.

(6) It will exacerbate the problem of inflation which is now our Nation's number one problem.

INDIVIDUAL VIEWS OF SENATOR JOHN L. MCCLELLAN

I voted to report S. 2504 from the Patents Subcommittee to permit the full Committee on the Judiciary to determine its disposition. This legislation introduces some long-needed and beneficial innovations in the American Patent System. It also introduces concepts and procedures which fail to promote the progress of the useful arts. In my judgment our patent system will be weakened by the enactment of patchwork legislation, which is confused in purpose, and deficient in execution.

This is not routine legislation. The Committee is dealing with an institution as old as the nation itself—an institution in which no basic statutory changes have been made since the Act of 1836.

S. 2504 was introduced on October 1, 1973—many of its important provisions were not contained in predecessor patent revision bills. The Administration urged the Subcommittee to immediately report the bill, as introduced. I met with the Secretary of Commerce and informed him that I could not agree to his request since I believed the legislation should be reviewed by all interested parties. I then learned that the judicial provisions of the legislation were drafted without any consultation with the Federal courts, or coordination with the Commission on Revision of the Federal Court Appellate System, which is considering the entire subject of patent appellate litigation.

Although the legislation has international implications, it appears that the Department of State likewise did not participate in its preparation. As Chairman of the Subcommittee I have received representations on behalf of several foreign governments that certain sections of S. 2504 are contrary to the objectives of the Patent Cooperation Treaty and of our international obligations. On December 20, 1973, I requested an early report from the Secretary of State I have yet to receive a reply.

It is customary and useful that programs for the general revision or codification of titles of the United States Code to be undertaken with the assistance of the Nation's leading experts, including the appropriate segments of the organized bar. The bar was not consulted in the drafting of S. 2504. Some may regard this exclusion as a recommendation for this legislation. A somewhat different judgment is likely to be expressed in the future by those inventors, small business firms, and other patent owners who will suffer from the extensive and protracted litigation that is certain to result from this prolix legislation. Months after its introduction there still remains considerable uncertainty as to the intent of various sections of this legislation with respect to existing case law.

The Administration initially estimated that S. 2504 would add 5 million dollars a year to the budget of the Patent Office. It was apparent to me from a review of its provisions that this price tag was grossly inaccurate. The Secretary of Commerce subsequently furnished a detailed report on the budgetary and personnel implications of S. 2504. The Secretary advised that the initial additional costs would range from 20 to 31 million dollars and require from 1045 to 1565 additional Patent Office personnel. The bill as reported by the Subcommittee adds additional functions and costs to the Patent Office operation.

A particular concern to me has been the exclusion of the Commissioner of Patents from an effective role in the formulation and development of this legislation. On February 5, 1974, during the hearing on the nomination of Curtis Marshall Dann to be Commissioner of Patents, I requested the nominee to review S. 2504 and to give the Subcommittee the benefit of his independent counsel on this legislation. Mr. Dann assured me that he would. When it appeared subsequently that he was being prevented from doing so, I urged the President to authorize the Commissioner "to directly make known to the Subcommittee his comments on S. 2504 and proposed modifications". This request was denied.

I recognize that effective management of the executive branch is facilitated by a uniform Administration position on pending legislation. It is significant, however, that the Administration has permitted another agency of the executive branch to maintain a position on patent legislation independent and contrary to that of the Administration. Yet the Congress is being denied the counsel of the Commissioner of Patents on the most comprehensive patent legislation in almost 150 years.

When the Subcommittee commenced the markup of this legislation, it was presented with hastily drafted substitutes for many of the important sections of the bill. It now appears that yet another revision is to be proposed in the full Committee. This is not sound legislative procedure for the consideration of one of the most intricate titles of the United States Code.

S. 2504 fails to promote—in fact, will retard—the objectives of patent law revision set forth in the Report of the President's Commission on the Patent System. It discards beneficial provisions of predecessor bills and substitutes new concepts that will create endless uncertainty and delay. It will encourage greater reliance on trade secrets to the detriment of the public. It will significantly add to the costs of those who utilize the patent system, and to those of the Government, while conferring limited benefits.

By Mr. INOUYE (for himself and Mr. KENNEDY):

S. 215. A bill to amend the Public Health Service Act to provide for a national program of medical injury compensation insurance. Referred to the Committee on Labor and Public Welfare.

Mr. INOUYE. Mr. President, today my distinguished friend from Massachusetts (Mr. KENNEDY) and I are joining to introduce a bill which we believe could be of considerable moment and benefit to all persons who provide or receive health care in the United States. This bill seeks to establish a federal system of compensation for injuries received as the result of medical treatment. Under the system provided in this legislation, any person who received such an injury would automatically be compensated by the government without having to first prove that his doctor had been negligent or involve himself in the difficult and grueling task of bringing a malpractice suit. For reasons which my later remarks shall hopefully make clear, it is my belief that this no-fault approach to medical injuries is a clearly desirable alternative to the existing tort system of malpractice law from the standpoint of doctors and patients alike.

As my colleagues may already be aware, medical malpractice has recently been the subject of considerable attention not only in the publications of professional health associations but also in the national press. Attention has focused on an incipient crisis in the medical malpractice insurance area, a crisis which has been in the making for several years and which has been fanned by the increasing size and number of malpractice claims being filed against health care providers each year in this country. For example, 10 years ago, about 6,000 malpractice claims were filed each year. By 1970 this number had risen to approximately 10,000 to 12,000, and today, it has been estimated, anywhere from 15,000 to 20,000 such claims are opened annually.

A number of reasons for this startling increase have been ventured, and although the individual validity of each is different to determine, together they provide some general insight into the malpractice problem. To begin with, the number of people receiving health care services in this country has grown appreciably. At the same time, the services received have changed; new types of medication, equipment, and procedures have introduced new risks of injury. In addition, the greater degree of segmented, specialized medical care has perhaps altered and dehumanized the patient-physician relationship. While few persons would think to sue their long-familiar family doctors, there is much less reluctance to bring suit against a consulting orthopedic surgeon seen on a one-time basis for an expensive service.

This same specialized, sophisticated image of modern medicine—cultivated greatly by television and other media—may also have heightened the readiness of persons to sue by raising their expectations of what they perceive to be a "miracle science." Moreover, the public's growing "suit-consciousness," if it does indeed exist, comes at a time when the number of personal-injury lawyers who have gained proficiency in malpractice law is multiplying. In my own State of Hawaii, for example, several health care providers have expressed to me their concern that the introduction of no-fault automobile insurance has prompted more personal-injury lawyers to enter the area of malpractice law.

It seems likely that some combination of these factors accounts for the phenomenal increase in annual malpractice claims. But while the causes of the increase may be in doubt, the effects are not. And the most salient effect has been the currently publicized crisis in the cost and availability of medical malpractice insurance. With the incidence of claims increasing to the point where one out of every five physicians can expect to be sued during his career, and one out of seven physicians in some high-risk specialties and suit-prone localities can expect to be sued each year, and with the average settlement or court judgment growing 13 to 14 percent per year and reaching $8,000 in 1973, many private insurers have found malpractice insurance to be a profitless business. Having no way to make actuarial predictions of losses, and faced with the possibility of settling claims for millions of dollars, companies have had to escalate their premiums at record-setting rates.

In the period 1960–70, nonsurgeon physician premiums went up 540.8 percent, surgeon premiums 950 percent. Each year since 1970 has seen an additional increase of about 80 percent, until there are now neurosurgeons, orthopedic surgeons, and other physicians in high-risk specialties who pay as much as $20,000 or more for their annual coverage. The insurance picture for hospitals is no less formidable. I am aware of one California hospital whose premium shall double this year to total over $800,000.

Mr. President, the consequences of these exorbitant rates should be apparent to everyone. For the most part, the cost of malpractice insurance is simply passed on to the physician's patients, thereby raising the cost of health care. But, in addition, for any physician just starting out in a high-risk specialty, or for any physician who wishes to practice on a part-time basis and devote his remaining time to teaching or practicing on a nonfee basis, the cost of malpractice insurance may be prohibitive. The subsequent withdrawal or retirement of the physician from the health care system is one cost to society which should not be overlooked.

But all of this is only one aspect of the present malpractice insurance crisis. For while some health care providers are being made to pay generously for coverage, others are unable to obtain coverage at all. Recently, every week has seen new stories of insurance companies terminating policies or withdrawing wholesale from the malpractice field. In New York last week, a major provider of insurance announced that it would not increase its premiums by 200 percent this year as it had originally planned to do but would instead terminate its malpractice policies in 6 months, discontinuing its coverage of 27,000 of New York City's 35,000 doctors. Similar events have been occurring in California, Michigan, Maryland, and other States. In fact, there are today only a half dozen companies which even carry malpractice insurance, and it is questionable whether any of these shall be doing so 2 or 3 years hence. Should coverage become wholly unavailable, I must wonder how many health care providers would be willing to continue practicing at the risk of a malpractice suit.

Given this state of affairs, I believe it is imperative that action be taken to avert what could be a disaster for health care and health care providers in this country. The bill which Senator KENNEDY and I introduce today would seek to mitigate the proliferation of malpractice actions by giving patients who are injured as the result of medical treatment first recourse to a no-fault system for recovering losses.

Some would contend that the existing malpractice system is sufficient and preferable for the recovery of losses by injured parties, but I would argue otherwise. As much as we would like to believe that the system adequately compensates the victims of medical malpractice, the fact is that the existing system frequently works to the severe detriment of the patient, as well as to the provider.

It is important to recognize that in our adversary system of malpractice, the first concern of the system is to make a determination as to the fault or guilt of the provider. The emphasis is not on affording immediate and adequate relief or treatment to the injured party. Quite the contrary, fewer than half of all malpractice claims are settled in less than 18 months, and at least 10 percent remain unsettled 6½ years after they are filed. In the meantime the injured party is left to his own devices when it comes to the financing of medical treatment which cannot wait on the pleasure of the court.

In addition to being long, tort procedures are expensive to all parties involved. The plaintiff who wins a malpractice suit may find his award reduced anywhere from 30 to 50 percent by the expenses of fees for legal counsel and for expert witness. The defendant, whether he wins or loses, will pay tens of thousands of dollars toward his defense. His insurance premiums will go primarily toward defraying these costs and not toward compensating the victim; in fact, it has been variously estimated that only 16 to 20 cents out of every paid premium dollar actually goes toward the compensation of the victim. In light of the discouraging length, expense, and arduousness of the process, I have little doubt that a substantial number of persons who believe themselves—correctly or incorrectly—to be victims of malpractice nonetheless decide against bringing suit.

Physicians, too, are disserved and disadvantaged by the malpractice system. Perhaps we tend to overlook the harms and injustices done to them because of the sympathy we are inclined to feel for an injured patient. It is easy to view a malpractice case as a dispute between an unjustly-harmed victim and a malevolent doctor. In fact, however, in many instances it is the doctor who is the real victim and who suffers the greater injustice. Judging by the fact that only half of all claims filed today ever result in compensation to the plaintiff, it seems likely that a great number of blameless providers are being hauled into court. And although they may be found completely blameless, they nonetheless sustain a number of inequitable and irrecoverable losses by their very involvement in a malpractice action. Any doctor who is charged, justly or unjustly, with malpractice is forced to spend demandingly excessive amounts of time away from his practice and in the courtroom, to the clear detriment of his patients and his practice. Furthermore, as a result of publicity given the case, his professional reputation is marred with a stigma of blame—regardless of the outcome of the suit—which may permanently handicap him in the pursuits of his profession. There is no way to estimate the social and personal cost of these consequences, but I would regard them as tragic and wasteful for all parties concerned.

Of course, it might be properly argued that the threat of a suit under the existing malpractice system keeps some health care providers from practicing a sloppy or ill-administered brand of medicine. But it does so at the expense of spurring competent and circumspect providers—as by far the greater portion of practicing providers are—to practice "defensive medicine." Hypersensitized to the possibility of being sued, providers overtreat patients, taking excessive precautions for the sake of building a strong defense in any claims which may ensue.

In other instances, they undertreat patients, forgoing treatments and procedures which carry higher risk of injury in favor of more secure alternatives which may prove less beneficial in the long run. Clearly, it is difficult to say how much of medicine being practiced today—how many X-rays, how many drug prescriptions, how much surgery—is "defensive" and unnecessary. But I have no doubt that these practices—which themselves expose patients to unnecessary risks—comprise a colossal and reprehensible amount of the waste which keeps the cost of health care so high today.

Moreover, the threat of malpractice suits leads to an inefficient and wasteful use of manpower. Physicians and hospitals—who are often liable for injuries negligently caused by nurses, paraprofessionals, and other health personnel working under them—are naturally reluctant to permit those personnel to perform any services which carry any risk of injury to the patient. As a result, nurses and other personnel are shamefully underutilized, being prohibited from administering treatment which they are fully trained and qualified to administer.

In short, the failings of our existing tort system of handling malpractice are many and severe. Its adverse consequences are suffered by all. Patients suffer in their inability to obtain needed relief in the time and amount that is required; doctors suffer in being forced to assume an adversary stance vis-a-vis their patients; and the public at large suffers in having to maintain costly and inefficient judicial and medical systems.

For all of these reasons, I am convinced of the need to create an alternate system for dealing with medical injuries. The National Medical Injury Compensation Insurance Act which Senator KENNEDY and I are proposing would start with the premise that persons who receive serious injuries as the result of medical treatment or misdiagnosis, regardless of whether fault is involved, should be entitled to certain benefits including compensation for medical expenses and income loss. In this way, it would be similar to the existing system for worker's compensation, allowing recovery of injury-related losses through a fairly simple administrative claims procedure.

It would differ from some systems of worker's compensation, however, in that it would not be a compulsory system. Health care providers would have the option of participating in or abstaining from the system. A participating provider would pay annual premiums to the Federal Government. In return, his patients would receive benefits for injuries resulting from medical treatment by the provider. In addition, participating providers would receive malpractice insurance from the Federal Government which would, among other things, pay any damages awarded in a malpractice suit against the provider.

This points up another important aspect of the proposal, namely, that it would not free doctors or other providers of their liability for malpractice. Injured persons would still be able to go to court instead of seeking no-fault benefits. Even though the tort system of seeking damages has had all of the undesirable consequences discussed earlier, I do not believe any person should be denied his right to choose to take an injury claim into the courtroom.

It is my expectation and hope, however, that victims of medical injury will see the advantage of the no-fault compensation system over the tort system, and that in choosing one or the other they will prefer the less complicated and less costly no-fault approach. In this way the burdensome and problematic increase in malpractice claims could conceivably be stopped and reversed.

Naturally, some may fear that the medical injury compensation system will work too well in this regard, eliminating malpractice suits and along with them any reason that doctors have for practicing responsible medicine. But I believe that good doctors practice good medicine in spite of, not because of the threat of malpractice, and that they will continue to do so after the threat is lessened. Conversely, it is questionable whether a deficient or careless doctor can be made to practice good medicine by an external threat. In his case, it is more important that we identify him and take steps to prevent him from endangering the health and lives of his patients.

This brings me to a third important aspect of this proposal. As now written, this bill seeks to guarantee that a no-fault system would not serve to protect or conceal underqualified or incompetent health care providers and would not lead to any deterioration in the quality of health care. Indeed, certain of its provisions are meant to positively insure that only those providers who can be expected to practice competent medicine will be qualified to participate in the system.

For example, as a condition of participation in the medical injury compensation insurance program, health care professionals will have to comply with national standards of licensure and relicensure set up by the Secretary of Health, Education, and Welfare. In addition, each participating physician will agree to have the health care services he provides reviewed by the Professional Standards Review Organization in his area. Competent providers will not have anything to fear under this system, but—as it should be—deficient providers will, since their deficiencies will be more likely to come to light. Presumably, too, an incompetent physician—should he gain entry to the program—would accumulate unusually numerous or serious claims. In that case, his loss-experience would trigger automatic administrative review of his professional competence and performance. And were this review to determine that he had irresponsibly endangered the health of his patients, his participation in the program could be terminated.

The quality of health services would also be enhanced by the elimination of unnecessary procedures. It has been demonstrated that dramatic reductions in the number of surgical operations being performed can be brought about by merely requiring doctors to obtain second affirmative opinions from other qualified doctors as a prerequisite to performing surgery. Consequently, this bill would impose a confirming consultation requirement with which participating doctors would have to comply, and by which the high cost of health care might be reduced.

Finally, I am also concerned about reducing the cost of health care for some of those persons who are least able to afford it. As a final condition of participation, providers would be asked to treat medicare patients at the rate of reimbursement set by the Government. The current widespread practice of charging medicare patients amounts in excess of what the Government will pay excludes too many people from the health care system and perhaps even provokes the growing number of malpractice claims being filed by Federal program patients.

There are other important features of this bill which are meant to alleviate other longstanding problems associated with our current malpractice system. My major concern throughout, however, has been to design legislation—either this proposal or an outgrowth of it developed in cooperation with Senator KENNEDY's Subcommittee on Health—which would provide an equitable, efficient compensation system at no loss, and even at some considerable gain, to the quality of health care services in this country.

Having worked on this proposal for several months now, I can appreciate the complexity and intractability of certain features of the malpractice problem. I am not absolutely certain that my proposal can or should serve as a cureall in this area, or that it will not raise complex questions of its own. But I think it is important that we all appreciate the serious plights in which doctors find themselves today and in which medically injured persons have always found themselves, and that we work—in the hearings and deliberations ahead—to remedy them.

Mr. President, the attention and concurrence of our colleagues in the need for legislation of this sort will be a heartening development for all who are presently harmed or frustrated by the malpractice system. Action in this area cannot be taken too soon and will go far towards facilitating the better utilization of our Nation's health resources. I ask unanimous consent that the text of my bill and a bill summary be printed in the Record.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

S. 215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; TABLE OF CONTENTS

Section 1. This Act may be cited as the "National Medical Injury Compensation Insurance Act of 1975."

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of Public Health Service Act.

"TITLE XVII—NATIONAL MEDICAL INJURY COMPENSATION INSURANCE

"Part A—National Medical Injury Compensation Insurance Program

"§ 1701 Participation; Insurance Coverage
"§ 1702 Medical Injury Compensation Insurance Fund
"§ 1703 Premiums; Terms of Insurability
"§ 1704 Eligibility for Participation
"§ 1705 Conditions of Participation
"§ 1706 Termination of Participation
"§ 1707 Reporting of Claims
"§ 1708 Insurance Benefits

"Part B—Payment of Claims for No-Fault Benefits

"§ 1711 No-fault Benefits
"§ 1712 Beneficiaries of No-fault Benefits
"§ 1713 Limitation on No-fault Benefits
"§ 1714 Payment of No-fault Benefits
"§ 1715 Procedures for Determination of No-fault Benefits; Appeals
"§ 1716 Time Limitations on Filing of Claims for No-fault Benefits
"§ 1717 Effect of Filing for No-fault Benefits on Tort Recovery

"Part C—General Provisions

"§ 1721 Definitions
"§ 1722 Medical Injury Compensation Insurance Administration
"§ 1723 Regulations
"§ 1724 Advisory Council on Medical Injury Compensation
"§ 1725 Professional Standards Review Organizations
"§ 1726 Payment of Attorneys' Fees
"§ 1727 Penalties

"Part D—Minimum National Standards for State Licensure of Health Professionals

"§ 1731 Minimum National Standards for State Licensure of Health Professionals
"§ 1732 State Programs for Licensure in Accordance with this Part
"§ 1733 State Licensure Requirements

AMENDMENT OF PUBLIC HEALTH SERVICE ACT

Sec. 2 The Public Health Service Act is amended by adding at the end thereof the following new title:

"TITLE XVII—NATIONAL MEDICAL INJURY COMPENSATION INSURANCE

"Part A—National Medical Injury Compensation Insurance Program

"PARTICIPATION; INSURANCE COVERAGE

"Sec. 1701. (a) The Secretary shall establish and implement a program of national medical injury compensation insurance.

"(b) In carrying out such program, the Secretary shall, in accordance with the provisions of this title, enter into contracts with physicians and other health professionals and with health care institutions which choose to participate in such program to provide insurance coverage under this title.

"(c) Insurance coverage provided by any contract entered into pursuant to this title shall include—

"(1) insurance benefits for the insured against loss resulting from tort liability as provided in section 1708, and

"(2) no-fault benefits for any beneficiary of such contract as provided in section 1711,

respecting injury suffered as a result of the provision of health care services by the insured.

"MEDICAL INJURY COMPENSATION INSURANCE FUND

"Sec. 1702. (a) To carry out the medical injury compensation insurance program authorized by this title, there is established in the Treasury of the United States a Medical Injury Compensation Insurance Fund (hereinafter referred to as the 'fund') which shall be available, without fiscal year limitation—

"(1) for making such payments as may, from time to time, be required under this title, and

"(2) to pay the necessary administrative expenses of carrying out the insurance program under this title.

"(b) The fund shall be credited with premiums which may be paid or collected pursuant to section 1703.

"PREMIUMS; TERMS OF INSURABILITY

"Sec. 1703. (a) The Secretary shall, after consultation with the Advisory Council on Medical Injury Compensation, established under section 1724, prescribe by regulation—

"(1) chargeable premium rates for insurance coverage under this title,

"(2) appropriate loss-deductibles for tort liability,

"(3) appropriate limitations of coverage, and

"(4) other general terms of insurability, which he shall incorporate in contracts entered into under this title.

"(b) Premium rates shall be established at a level which will provide funds for deposit in the National Medical Injury Compensation Insurance Fund, established under section 1702, sufficient to pay anticipated no fault benefit claims and tort damages in accordance with this title and to pay the necessary administrative expenses of carrying out the insurance program under this title.

"(c) Premium rates shall be uniform among insureds, except that the Secretary may classify physicians and other health professionals by type of practice and percentage of time devoted to such practice in a manner which reflects risk exposure and may vary the rates among such classes of professionals.

"ELIGIBILITY FOR PARTICIPATION

"Sec. 1704. (a) The Secretary shall make insurance available under this title in only those States which the funds have established programs—

"(1) for the licensure of health professionals, in accordance with part D, and

"(2) for the licensure of health care institutions, in accordance with regulations of the Secretary,

and in only those areas for which Professional Standards Review Organizations have been designated pursuant to section 1152 of the Social Security Act.

"(b) No health professional or health care institution shall be eligible for insurance under this title unless such professional or institution has submitted satisfactory evidence of initial licensure and, where appropriate, renewal of such licensure in accordance with a program described in paragraph (1) or (2) of subsection (a) in the State or States where such professional practices his profession or the State in which such institution is located.

"(c) No physician shall be eligible for insurance under this title unless he agrees—

"(1) to have the health care services which he provides reviewed by the Professional Standards Review Organization (designated pursuant to section 1152 of the Social Security Act) for the area in which he provides such services, without regard to whether such services are provided in institutions,

"(2) with respect to health care services provided individuals who are entitled to insurance benefits under title XVIII of the Social Security Act, to accept payment for the provision of such services on the basis of an assignment in accordance with the provisions of section 1842(b)(3)(B)(ii) of such Act, and

"(3) with respect to the performance of any surgical procedure specified in regulations of the Secretary, to consult with, and obtain the recommendation of surgery by, such appropriately qualified specialists as may be required by such regulations, prior to the performance of such procedures.

"CONDITIONS OF PARTICIPATION

"Sec. 1705. (a) Participation in the insurance program established under this title shall be conditioned upon continued compliance with the requirements for eligibility described in section 1704.

"(b) Each insured under this title shall furnish to the Secretary such information as may be necessary to determine whether payment is due on any claim made under this title and the amount of any payment which may be due with respect to such claim.

"(c)(1) Each insured under this title shall inform any patient of such insured of the existence of any injury which is compensable under section 1711.

"(2) In the event that any insured fails to inform such patient within 30 days after he knew or reasonably should have known of such injury and such patient does not file a claim for no-fault benefits within the period required by section 1716, because he has not been so informd, such insured shall be liable to compensate such patient in an amount equal to the amount such patient would have been entitled to recover if he had filed a timely claim.

"(3)(A) A suit may be instituted under paragraph (2) at any time.

"(B) Nothing in this subsection shall be construed to affect the tort liability of any insured.

"TERMINATION OF PARTICIPATION

"Sec. 1706. (a) A contract of insurance under this title may be terminated—

"(1) by the insured at such time and upon such notice to the Secretary and the patients of such insured as may be provided in regulations, except that notice of more than three months shall not be required, or

"(2) by the Secretary at such time and upon such reasonable notice to the insured and the public as may be provided in regulations, and in accordance with subsection (b).

"(b) The Secretary shall not terminate any contract for insurance under this title, except upon a finding—

"(1) that the insured is not complying substantially with the conditions of participation described in section 1705,

"(2) that the insured has failed to pay the applicable premium within a reasonable period of time after it becomes due or is not complying substantially with any other term of such contract,

"(3) that the insured has knowingly made, or caused to be made, any false statement or misrepresentation of a material fact for use in applying for insurance or in determining whether payment of default benefits or tort damages is due under this title, or

"(4) that the insured has provided services which are unnecessarily harmful to the patients of such insured or are of grossly inferior quality.

"(c) Any termination shall be applicable with respect to insurance services provided after the effective date of such termination, except that insurance coverage may continue for up to thirty days after such termination with respect to services to patients which are a continuation of a treatment begun prior to the effective date of such termination.

"(d) Where a contract under this title with an insured has been terminated by the Secretary, the Secretary may not enter into another contract with such insured unless the Secretary finds that the reason for the termination has been removed and that there is reasonable assurance that it will not recur.

"(e) Any individual aggrieved by any action of the Secretary pursuant to this section shall be entitled to a hearing and to review in accordance with the provisions of section 1715.

"REPORTING OF CLAIMS

"SEC. 1707. (a) (1) The Secretary shall report all claims for no-fault benefits filed under this title and all transactions instituted respecting health care services provided by a physician or other health professional to the State agency in the State in which such professional practices his profession.

"(2) The Secretary shall report such claims and actions respecting health care services provided by health professional to the Professional Standards Review Organization designated under section 1152 of the Social Security Act for the area in which such professional practices his profession.

"(b) Where there are an unusually high number of claims and actions respecting the health care services provided by an insured, the Secretary shall investigate the nature and cause of the injuries for which such claims are made and actions are instituted and the findings of such investigation shall be reported as provided in subsection (a). The Secretary shall also take into consideration such findings in determining whether it is appropriate to terminate the insurance contract with such insured.

"INSURANCE BENEFITS

"SEC. 1708. (a) The insurance program established under this title shall provide insurance benefits to insureds which benefits shall consist of compensation for loss incurred as a result of tort liability.

"(b) Loss incurred as a result of tort liability shall consist of all damages recoverable under the tort law of the State in which a tort action is brought applicable to injury resulting from the provision of health care services.

"(c) Insurance benefits under this title shall not include compensation for loss incurred as a result of a failure to comply with the provisions of section 1705(c).

"PART B—PAYMENT OF CLAIMS FOR NO-FAULT BENEFITS

"NO-FAULT BENEFITS

"SEC. 1711. (a) The insurance program established under this title shall provide no-fault benefits to beneficiaries of contracts entered into in accordance with such title, which benefits shall consist of compensation for loss from any injury suffered as a result of health care services provided by an insured to such beneficiary, to the extent provided in section 1713.

"(b) No-fault benefits shall be paid to beneficiaries without regard to fault on the part of the insured.

"BENEFICIARIES OF NO-FAULT BENEFITS

"SEC. 1712. (a) Beneficiaries of no-fault benefits provided for in any contract entered into with an insured under this title shall be—

"(1) any patient of such insured, and

"(2) any survivor of a patient of such insured who has died as a result of health care services provided by such insured.

"(b) Claims for no-fault benefits may be filed by (1) beneficiaries, or (2) legal representatives of such beneficiaries.

"LIMITATION ON NO-FAULT BENEFITS

"SEC. 1713. (a) The no-fault benefits provided to a beneficiary by the insurance program established under this title shall consist of compensation for loss from injury determined in accordance with regulations of the Secretary, but limited to—

"(1) in the case of a patient, economic loss, including—

"(A) all reasonable expenses necessarily incurred for medical and other health treatment,

"(B) all reasonable expenses necessarily incurred for medical and vocational rehabilitation services,

"(C) all reasonable expenses necessarily incurred in obtaining services in lieu of those the patient would have performed for the benefit of himself or his family if he had not been injured, up to $800 per month, and

"(D) loss of earnings, including—

"(i) loss of gross income as calculated in accordance with subsection (b), and

"(ii) all reasonable expenses of a patient for hiring a substitute to perform self-employment services, thereby mitigating loss of income, or for hiring special help, thereby enabling a patient to work and mitigate loss of income,

up to an amount which, when added to such patient's other sources of continuing income equals $2,000 per month, and

noneconomic loss, including pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage recoverable under tort law applicable to injury resulting from the provision of health care services (but not including punitive or exemplary damages) up to a limit of $2,000 per month, or

"(2) in the case of a survivor,

"(A) loss of income of a deceased patient which would probably have been contributed to a survivor, if such patient had not sustained the fatal injury, and

"(B) all appropriate and reasonable expenses necessarily incurred by a survivor, after a patient's death resulting from injury, in obtaining services in lieu of those which the patient would have performed for the benefit of such survivor if he had not sustained the fatal injury,

reduced by expenses which the survivor would probably have incurred but avoided by reason of that patient's death resulting from injury, *provided that*, in no case shall (i) the amount of compensation for loss described in subparagraph (A) exceed an amount which, when added to such survivor's other sources of continuing income equals $2,000 per month, or (ii) the amount of compensation for loss described in subparagraph (B) exceed $800 per month, and

"(C) loss (as defined in paragraph (1)) suffered by the patient prior to his death for which such patient did not otherwise receive compensation.

"(b) Loss of earnings of an individual shall be calculated by determining the probable income of such individual for the period for which he incurs such loss and reducing the amount of such income by an amount equal to—

"(1) any income which such individual earns from substitute work,

"(2) any income which such individual would have earned in available substitute work he was capable of performing but unreasonably failed to undertake, and

"(3) any income which such individual would have earned by hiring an available substitute to perform self-employment services but unreasonably failed to do.

"(c) In determining economic loss under this section all benefits and advantages (less reasonably incurred collection costs) that an individual receives or is entitled to receive from Social Security (except those benefits provided under title XIX of the Social Security Act), workers' compensation, any disability or health insurance, and all other benefits (except the proceeds of life insurance) received by or available to an individual because of the injury shall be subtracted from the gross amount of loss.

"PAYMENT OF NO-FAULT BENEFITS

SEC. 1714. (a) There shall be paid from the Medical Injury Compensation Insurance Fund to each beneficiary of no-fault benefits under this title such benefits as such beneficiary is entitled to receive under this title.

"(b) No-fault benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as loss is sustained.

"(c) A claim for no-fault benefits shall be paid without deduction for the benefits or advantages which are to be subtracted from the gross amount of loss in calculating economic loss in accordance with section 1713, if such benefits or advantages have not been paid or provided to such claimant prior to the date the no-fault benefits claim is paid. The Secretary is thereupon entitled to recover reimbursement from the person obligated to pay or provide such benefits or advantages or from the claimant who actually receives them.

"(d) The right of any individual to any future payment under this part shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this part shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

"PROCEDURES FOR DETERMINATION OF NO-FAULT BENEFITS; APPEALS

"SEC. 1715. (a) (1) The Secretary is directed to make findings of fact, and decisions as to the rights of any individual filing a claim under this part within 60 days of the date on which such claim is filed. Upon request by any such individual who makes a showing in writing that his rights may be prejudiced by any decision the Secretary has rendered, he shall give such individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to such decision as may be prescribed in regulations of the Secretary, except that the period so prescribed may not be less than six months after notice of such decision is mailed to the individual making such request. The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this title. In the course of any hearing, investigating, or other proceeding, he may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Secretary even though inadmissible under rules of evidence applicable to court procedure.

"(2) Decisions of the Secretary under this subsection shall be reviewable by commencing a civil action in the United States district court as provided in subsection (d).

"(b) For the purpose of any hearing, investigation, or other proceeding authorized or directed under this title, or relative to any other matter within his jurisdiction hereunder, the Secretary shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Secretary. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof. Subpoenas of the Secretary shall be served by anyone authorized by him (1) by delivering a copy thereof to the individual named therein, or (2) by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpoena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

"(c) In case of contumacy by or refusal to obey a subpoena duly served upon, any person, any district court of the United States for the judicial district in which said person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Secretary, shall have jurisdiction to issue an order requiring such person to appear and give testimony, or to appear and produce evidence, or both; any failure to obey such order of the court may be punished by said court as contempt thereof.

"(d) Any individual, after any final decision of the Secretary made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Secretary may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia. As part of his answer the Secretary shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a rehearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Secretary or a decision is rendered under subsection (a) hereof which is adverse to an individual who was a party to the hearing before the Secretary, because of failure of such individual to submit proof in conformity with any regulation prescribed under this title, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary and the Secretary shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm his findings of fact or his decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and transcript of the additional record and testimony upon which his action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

"(e) The findings and decision of the Secretary after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Secretary shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Secretary, or any officer or employee thereof shall be brought under Section 24 of the Judicial Code of the United States to recover on any claim arising under this title.

"TIME LIMITATIONS ON FILING OF CLAIMS FOR NO-FAULT BENEFITS

"SEC. 1716. (a) An initial claim for no-fault benefits for loss from injury may be filed by a patient not later than 18 months after such patient knew or reasonably should have known of such injury and that such injury was a result of the provision of health care services. If no-fault benefits have been paid for such loss, a claim for further benefits may be filed not later than one year after the last payment of benefits.

"(b) An initial claim for no-fault benefits for loss from injury may be filed by the survivor of a patient not later than one year after the death of such patient. If no-fault benefits have been paid for such loss, a claim for further benefits may be filed not later than one year after the last payment of benefits.

"(c) If a beneficiary is under a legal disability when the right to file a claim first accrues, the period of his disability is not a part of the time limited for filing of a claim.

"EFFECT OF FILING FOR NO-FAULT BENEFITS ON TORT RECOVERY

"SEC. 1717. (a) No claim for no-fault benefits of any beneficiary under this title shall be accepted for filing by the Secretary unless such beneficiary or his legal representative agrees, in writing, that no tort action will be instituted or prosecuted against the insured with respect to the injury for which no-fault benefits are claimed.

"(b) In the event such beneficiary or his legal representative does institute or prosecute such action he shall be considered to have breached such agreement. The Secretary is authorized to sue for damages for such breach. The amount of liquidated damages for breach of such agreement shall be the amount of any damages recovered by such beneficiary or representative in such tort action.

"PART C—GENERAL PROVISIONS

"DEFINITIONS

"SEC. 1721. As used in this title—

"(1) the term 'insured' means an individual identified by name as an insured in a contract entered into under section 1701.

"(2) the term 'patient' means an individual to whom an insured provides health care services.

"(3) the term 'survivor' means an individual identified in the wrongful death statute of the State of domicile of a deceased patient as one entitled to receive benefits by reason of the death of another individual.

"(4) the term 'legal representative' means an individual who would be entitled to institute a tort action on behalf of another individual, according to the law of the State of domicile of such other individual.

"(5) the term 'health professionals' means physicians, dentists, clinical psychologists, pharmacists, optometrists, podiatrists, nurses, physicians assistants, dental auxiliaries, and any other classes of professionals prescribed by the Secretary in regulations.

"(6) the term 'health care institutions' means health care facilities and health maintenance organizations within the meaning of regulations promulgated under section 1122 of the Social Security Act.

"(7) the term 'injury' means physical harm, bodily impairment, disfigurement, or delay in recovery.

"(8) an injury 'results' from the provision of health care services when it is more probably associated in whole or in part with the provision of such services than with the condition for which such services were provided.

"(9) the term 'condition' means the state of health of the patient prior to the provision of health care services.

"(10) the term 'without regard to fault' means irrespective of fault as a cause of injury.

"(11) the term 'health care services' means the rendering, as well as the omission, of any care, treatment, or services provided within the course of treatment.

"(12) the term 'State' means a State of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

"(13) the term 'State agency' means the department, commission, board, or other agency of a State which is charged by the law of that State with the administration of laws and regulations regarding licensure of health professionals.

"MEDICAL INJURY COMPENSATION INSURANCE ADMINISTRATION

"SEC. 1722. (a) There is hereby established within the Department of Health, Education, and Welfare an office to be known as the Medical Injury Compensation Insurance Administration.

"(b) The Secretary shall perform the functions authorized by this title through the Medical Injury Compensation Insurance Administration.

"REGULATIONS

"SEC. 1723. The Secretary shall have authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this title, which are appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

"ADVISORY COUNCIL ON MEDICAL INJURY COMPENSATION

"SEC. 1724. (a) The Secretary shall establish and appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive services, an advisory council to be known as the Advisory Council on Medical Injury Compensation (hereinafter referred to as the 'Council'). The Council shall advise, consult with, and make recommendations to, the Secretary with respect to (1) the preparation of any regulations prescribed in accordance with this title, and (2) the implementation and administration of this title.

"(b)(1) The Council shall be composed of fifteen members. The members shall be appointed by the Secretary and shall be persons who, as a result of their training, experience, or attainments, are exceptionally well qualified to assist in carrying out the functions of the Council. Not less than seven members shall be persons who are not health professionals.

"(2) The term of office of voting members of the Council shall be six years, except that—

"(A) of the members first appointed to the Council, four shall be appointed for terms of two years and four shall be appointed for terms of four years, as designated by the Secretary at the time of appointment; and

"(B) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

A member may serve after the expiration

of his term until his successor has taken office.

"(3) The chairman of the Council shall be selected by the members from among their number. The term of office of the chairman of the Council shall be the lesser of three years or the period remaining in his term of office as a member of the Council.

"(c)(1) Except as provided in paragraph (2), the members of the Council shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel-time) during which they are engaged in the actual performance of duties vested in the Council.

"(2) Members of the Council who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Council.

"(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

"(d) The provisions of section 14(a) of the Federal Advisory Committee Act shall not apply with respect to the Council.

"PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

"SEC. 1725. (a) Any agreement entered into by the Secretary with a qualified organization designating it a Professional Standards Review Organization under section 1152 of the Social Security Act shall provide that such organization perform the applicable review and other functions described in title XI of such Act with respect to the health care services provided by physicians who agree, pursuant to section 1704, to have such services reviewed by such organization.

"(b) The provisions of part B of title XI of the Social Security Act shall apply to the health care services provided by any physician who agrees, pursuant to section 1704, to have such services reviewed as provided by such section.

"(c) The Secretary shall make payments to Professional Standards Review Organizations equal to the amount of expenses reasonably and necessarily incurred, as determined by the Secretary, by such organizations in carrying out or preparing to carry out the duties and functions required to be performed under this section.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"PAYMENT OF ATTORNEYS' FEES

"SEC. 1726. (a) In addition to no-fault benefits or tort damages paid by the Secretary out of the Medical Injury Compensation Insurance Fund established by section 1702 to or for the benefit of any claimant or plaintiff to whom such payment is due the Secretary shall, if the claimant or plaintiff was represented by an attorney, pay out of such Fund, a reasonable fee (based upon actual time expended), established on the basis of regulations of the Secretary, to compensate such attorney for the services performed by him in connection with such claim or action to recover such damages.

"(b) No part of such no-fault benefits or tort damages may be applied in any manner as attorney's fees in connection with such claim or action to recover such damages.

"(c) Any attorney who charges, demands, receives or collects for services performed by him in connection with such claim or action to recover such damages any amount in excess of that paid by the Secretary under subsection (a) shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $10,000, or imprisonment for not more than one year, or both.

"(d)(1) Except as provided in paragraph (2), with respect to a claim for no-fault benefits filed by a claimant for which payment is not due under this title, the Secretary shall, if such claimant was represented by an attorney, pay out of such Fund, a reasonable fee (based upon actual time expended), established on the basis of regulations of the Secretary, to compensate such attorney for the services performed by him in connection with such claims.

"(2) No payment shall be made under paragraph (1) with respect to any claim found by the Secretary to be fraudulent or frivolous.

"PENALTIES

"SEC. 1727. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any claim for any benefit or payment under this title,

"(2) knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefits or payment,

"(3) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for insurance under this title, or in any proceeding concerning the termination of any contract of insurance under this title, or

"(4) in the case of a health professional or health care institution, knowingly and willfully makes or causes to be made any false statement or representation respecting the participation of such professional or institution in the insurance program established under this title,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"PART D—MINIMUM NATIONAL STANDARDS FOR STATE LICENSURE OF HEALTH PROFESSIONALS

"MINIMUM NATIONAL STANDARDS FOR STATE LICENSURE OF HEALTH PROFESSIONALS

"SEC. 1731. (a)(1) Within two years of the date of enactment of this part, the Secretary shall, in consultation with appropriate professional organizations, and in cooperation with any recognized national professional testing organization or organizations, develop and establish national standards for the licensure of health professionals and prepare appropriate examinations for the initial licensure and appropriate procedures for the subsequent renewal of such licensure (which shall be required periodically, but at least once every six years). Such standards shall include satisfactory performance, as defined by the Secretary, on an initial examination, demonstration of written and spoken proficiency in the English language in a manner approved by the Secretary, and compliance with such other requirements as are determined to be appropriate for the evaluation of competence to practice the health professions.

"(2)(A) A health professional licensed to practice his profession in any State shall be deemed to have complied with the appropriate procedures for renewal of his license required by this section if he has complied with the procedures established by any appropriate professional organization and certified by the Secretary in accordance with subparagraph (B).

"(B) The Secretary shall certify the procedures for renewal of licenses under this part, established by any appropriate professional organization, except upon a finding that such procedures are not adequate to assure appropriate continuing competence to practice the health professions. If the Secretary fails to certify any such procedures he shall publish in the Federal Register a statement of the reasons for such action.

"(3)(A) The requirements of this part with respect to licensure shall not apply to any health professional in any State who has been given a license to practice his profession in such State prior to the date upon which the provisions of this part take effect in such State, except that any such professional shall, after the provisions of this part take effect in such State, be subject to the requirements of this part respecting renewal of licenses.

"(B) Procedures for the renewal of licensure prescribed under this section shall not, so far as they are applicable to health professionals who are licensed to practice their professions in any State on the date of enactment of this section, require the taking of an examination as a condition of relicensure. Nothing in this paragraph shall be construed to preclude a State or appropriate professional organization from establishing such procedures as it deems necessary for the relicensure of health professionals.

"(b) The Secretary shall periodically, but not less often than once every two years, review the national standards (including the examinations and certifications) established pursuant to subsection (a) and shall, in a manner consistent with such subsection, revise such standards as appropriate to assure that such standards are adequate for evaluation of competence to practice the health professions.

"(c) Prior to the establishment or revision of the national standards, pursuant to this section, the Secretary shall publish a notice in the Federal Register and afford all interested parties a reasonable opportunity to present their views by oral and written submission. The final action of the Secretary in establishing and revising the national standards shall be subject to judicial review in accordance with section 1732(d)(3) in the United States Court of Appeals for the District of Columbia Circuit.

"STATE PROGRAMS FOR LICENSURE IN ACCORDANCE WITH THIS PART

"SEC. 1732(a)(1) A State may establish a program for licensure of health professionals in accordance with this part.

"(2) A State licensure program is in accordance with this part only if it meets or exceeds all of the national standards and complies with the provisions of section 1733. A State program 'meets' the national standards only if the substance of the State program requirements is the same as, or the equivalent of the corresponding requirements of the national standards. A State licensure program 'exceeds' the national standards only if it includes requirements which are the same as or equivalent to the corresponding requirements of the national standards, and imposes additional requirements which are reasonably necessary to assure competent health professionals, and which are not inconsistent with the national standards.

"(b) Upon the establishment of a program, pursuant to subsection (a), in any State, the State agency may submit to the Secretary a certified copy of such program, together with all relevant information which is requested by the Secretary. Within one hundred and twenty days after the Secretary receives a copy of a State licensure program established under subsection (a), the Secretary shall make a determination whether such State has established a licensure program in accordance with this part.

"(c) The Secretary shall periodically, but not less often than once every three years, review each State licensure program which has been determined under subsection (b) to be in accordance with this part to determine whether such program is still in accordance with this part. To facilitate such review each State agency shall submit to the Secretary periodically all relevant information which is requested by the Secretary.

"(d) (1) Before making any determination under this section, the Secretary shall publish a notice in the Federal Register and afford the State and all interested parties a reasonable opportunity to present their views by oral and written submission.

"(2) The Secretary shall notify in writing the Governor and the State legislature of the affected State of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register.

"(3) Any determinations made by the Secretary under this section shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, in the United States court of appeals for the circuit in which is located the State whose plan is the subject of such determination or in the United States Court of Appeals for the District of Columbia Circuit. Any such review shall be instituted within sixty days from the date on which the determination made by the Secretary is published in the Federal Register.

"STATE LICENSURE REQUIREMENTS

"SEC. 1733. No State licensure program shall be considered to be in accordance with this part unless such program meets the following requirements—

"(1) each licensing State which has a licensure program which meets the national standards, as determined by the Secretary under section 1731, shall provide that a health professional licensed to practice his profession in any other State which has a licensure program which meets the national standards, as determined by the Secretary under section 1731, shall be deemed to be qualified for licensure in such licensing State; and in the case of any licensing State which has a licensure program which exceeds the national standards, as determined by the Secretary under section 1731, such licensing State shall provide that such a health professional shall be deemed to be qualified for licensure in such licensing State upon compliance with the additional requirements imposed by the licensure program of such licensing State;

"(2) no State shall establish any requirement for licensure of health professionals which requires that the individual applying for licensure reside in such State for a designated period of time prior to such licensure;

"(3) each State shall apply the requirements of its licensure program equally to all individuals who apply to be licensed as health professionals in such State, whether they have received an education in such profession in the United States or in a foreign nation; each State licensure program shall have only one set of licensure requirements and no State shall license (including issuance of temporary, partial, limited, institutional, and conditional licenses) any individual to practice such profession unless such individual has met all of the requirements of its licensure program; and

"(4) the State agency of each State shall notify the Secretary of any denial of licensure or relicensure to any health professional.

BILL SUMMARY

The National Medical Injury Compensation Insurance Act would establish a no-fault system of compensation—similar to Worker's Compensation—for injuries suffered as the result of health care services. Under the bill, the Secretary of Health, Education, and Welfare would enter contracts with health care providers—professionals and institutions—who chose to participate in the program. The providers would pay an annual premium to a Medical Injury Compensation Insurance Fund and would in turn receive no-fault coverage for their patients as well as federal medical malpractice insurance for themselves. As conditions of participation, they would be required to comply with standards of licensure and relicensure established by the Secretary. In addition, physicians would agree to accept review of their services by Professional Standards Review Organizations, to accept as full payment in Medicare cases the level of reimbursement assigned by the federal government, and to obtain concurring opinions from specialists prior to the performance of surgical procedures.

For the duration of provider's participation in the program, any of his patients who sustained an injury as a result of the provider's health services would be entitled to file a claim—within a prescribed time limit—with a Medical Injury Compensation Insurance Administration in HEW. If his injury were deemed treatment-induced, he would be compensated within certain limits, for medical expenses, injury-related income loss, and pain or inconvenience. (The program would, however, be a secondary insurance program; that is, any benefits the patient received from the compensation plans like health insurance, sick leave plan or Worker's Compensation would be deducted from the benefits due under this program.) Determinations would be made by the Secretary—who would be empowered to subpoena any revelant witness or materials. If appealed by the patient, determinations would be reached through an administrative hearing or, thereafter, by judicial review in the federal courts. If he chose to do so, the patient could still seek recovery of damages through a malpractice suit instead of seeking Medical Injury Compensation benefits. However, the initiation of one process—either the no-fault or the malpractice process—would disqualify the claimant from seeking recovery through the other. Participating providers who were sued would be covered by federal malpractice insurance for damages awarded the plaintiff.

In the case of a provider who accumulated unusual records of losses, whether in the no-fault or the tort systems, the Secretary would investigate the provider's professional performance. If it were found that the services provided in those cases had been seriously deficient or irresponsible or that patients had been unnecessarily harmed, the Secretary would be authorized to terminate the provider's participation in the Medical Injury Compensation program.

Except in these instances or in the cases of providers who failed to pay their premiums or comply with eligibility requirements and other regulations, no one's participation would be terminated.

Mr. **KENNEDY**. Mr. President, I am pleased to join with my distinguished colleague from Hawaii, Senator INOUYE, in cosponsoring the national medical injury compensation insurance program. I intend to call hearings before the Health Subcommittee on this and other proposals intended to deal with the rapidly worsening medical malpractice insurance crisis in the near future.

THE PROBLEM

Malpractice insurance has become enormously expensive—an expense ultimately borne by the patient.

For orthopedic surgery, neurosurgery, or plastic surgery, it can cost in the tens of thousands of dollars each year. And every doctor must pay, even though the vast majority go through their entire professional careers without a significant judgment against them.

Even worse, according to the Secretary's Commission on Medical Malpractice insurance premiums go to benefit the injured patients. The rest goes to administrative costs and costs associated with litigation.

The fear of medical malpractice actions can lead physicians to view the patient not only as someone to be cared for, but as a possible adversary in court. In such a situation, a physician may order lab tests and other diagnostic procedures at additional cost to protect himself—lest in hindsight he be accused of missing an unlikely diagnosis for lack of thoroughness.

In fact, fear of malpractice makes many physicians reluctant to perform high-risk therapeutic procedures, even though they may offer a patient his only hope.

This situation has led doctors in some States to threaten to withdraw their services, because of the high costs or total unavailability of malpractice insurance.

For those who are faced with a suit, medical malpractice actions are terribly time consuming. The average length of time for a medical malpractice action is nearly 5 years. Five years of endless hours with attorneys rather than with patients. Such a waste of valuable professional time cannot be justified.

For these reasons, I believe our existing malpractice system is a disservice to doctor and patient alike. It does little to assure the patient high quality medical care, and its costs are unfair to the average practitioner.

THE PROPOSAL

The national medical injury compensation insurance program would create a federally administered no-fault medical injury compensation insurance program as well as a Federal medical malpractice insurance program. The bill proposes that this program be entirely self-supporting through premium income at no additional cost to the taxpayer. In addition, it would abolish the contingent fee system for malpractice disputes, which generates incentives for lawyers to seek very large settlements, and replace it with a fee schedule for tort actions.

It will call for a partnership between government and medicine. In order to assure maintenance of high-quality health care services, any physician wishing to participate in the no-fault medical injury compensation insurance program would have to satisfy two conditions.

First of all he must agree to the review of his professional activities by a professional standards review organization.

Second, no provider of health services will be eligible for the benefits of the no-fault insurance program unless he resides in a State which has enacted legislation requiring licensure and relicensure for medical practice in compliance with minimum standards promulgated by the Federal Government.

Through these two mechanisms, it is hoped that the quality of medical practice will be preserved despite the greatly lessened threat to doctors of litigation. In addition, the Secretary is given authority to terminate participation in the program of any provider who accumulates an unusual record of losses if those losses were due to the provision of health services in a deficient or irresponsible manner.

While this legislation preserves a patient's right to pursue his claim in court. I believe most patients will elect to go the no-fault route, thereby greatly diminishing the time and expense required to settle claims arising from injury due to medical procedures, reducing the high administrative costs currently associated with medical malpractice tort actions, and contributing to the swift and equitable settlement of claims arising from injury as a result of medical treatment.

Mr. President, hearings will be held in mid-March on this and other proposals. The intervening time between now and then should allow adequate consideration by interested parties of the complex issues involved.

Because of the difficulties inherent in a no-fault approach particularly that of defining a compensable injury, I shall also introduce a similar bill proposing an arbitration approach to malpractice disputes before the end of this month, in order that both may be considered at the hearings.

Mr. President, at this point I would like to review the malpractice problem in somewhat greater detail.

Many of you are aware of the serious problems physicians are having throughout the country with enormous increases in their medical malpractice insurance premiums. Many are threatened with the loss of their medical malpractice insurance altogether.

Between 1960 and 1970 malpractice insurance premiums for dentists rose 115 percent, for hospitals 262.7 percent for physicians other than surgeons 540.8 percent and for surgeons 949.2 percent. Available evidence since 1970 shows malpractice insurance rates continuing to climb. In early 1974, physicians in New York State had to pay 93.5 percent more for their malpractice insurance than for the previous rating period. The insurer recently proposed an additional increase of almost 200 percent, raising the rates for some specialists as high as $45,000. In Maryland, St. Paul Co., which insures 95 percent of the State's doctors, is requesting a rate increase of 48 percent after receiving an increase of 46 percent only a few months before their new request. The California Medical Association claims their medical malpractice insurance rates have increased 400 percent since 1971.

In my State of Massachusetts, doctors who were paying $622 a few years ago now pay close to $4,000, and their insurer plans another increase.

In Maryland, a dispute between the State insurance commissioner and the St. Paul Fire and Marine Insurance Co. has resulted in the threat by the insurance company to withdraw coverage from all the physicians it covers in Maryland. Ninety-five percent of the physicians in the State are covered by them. To date, the insurance commissioner and the State medical society have succeeded only in extending coverage until April of this year.

In New York, Argonaut Insurance Co. has announced its intention of withdrawing its coverage of New York physicians on July 1 after agreeing to defer a requested increase of 200 percent in malpractice insurance premium rates, initially intended to go into effect on January 1 of this year.

In a recent case in Indianapolis, Ind., it was necessary for the State insurance commissioner to intervene where the St. Paul Fire and Marine Insurance Co. had withdrawn coverage from eight anesthesiologists. The insurance commissioner was successful in placing insurance with several insurers. The cost of that insurance increased from $2,000 per doctor to $16,000 per doctor.

Problems of rising premiums and coverage for physicians are obviously symptoms of a far larger problem.

According to an article in the November 4, 1974 issue of the American Medical News, the number of malpractice claims filed has increased by 8 to 9 percent per year. According to the Insurance Services Office, an independent rating organization, in 1966, 1.7 physicians per 100 were sued and by 1972, 3 physicians per 100 were sued. In 1970, the average—mean—settlement of a malpractice claim was $5,000, by 1973 the figure had increased to $8,000. Prior to 1971, there were three settlements for over $1,000,000 in California. Since 1971, there have been nine.

Although the cost of malpractice insurance has increased dramatically, only a small portion of these dollars actually go to the injured patient or his legal representative. The amount of premium dollars that actually are awarded to the patient or his legal representative may be as low as 16 cents to as high as 38 cents, depending upon which estimate is accepted. The remainder goes to lawyers for the plaintiff and the defendant, and for both costs and profits of medical malpractice insurers. Settlements are seldom arrived at quickly, with the average time for cases heard by a jury taking 5 years. It takes over 10 years to settle all medical malpractice claims made in any 1 year.

Why are claims increasing so fast in number and amounts?

What we see is a paradox. Physicians have more information and resources at their disposal than they have ever had. Medicine has made outstanding advances in such areas as cardiac surgery, and organ transplants in the last 15 years.

And yet the number of claims for medical malpractice is increasing. Many factors contribute to medical malpractice claims. Consumers and lawyers are increasingly using the courts to deal with alleged injuries caused by professionals in several fields.

Between 1962 and 1970, malpractice insurance rates for lawyers almost doubled and rates for architects and engineers tripled. As specialization in medicine has increased, personal relationships between physicians and other health care providers and the patient have deteriorated or become less personal. Lawyers who specialize in medical malpractice cases will acknowledge that it is easier to get a large settlement in an urban area than in a rural one because the jury is apt to be more sympathetic with the doctor, who is most probably a general practitioner.

There is clearly a higher expectation of favorable outcomes by the patient, perhaps spurred by stories of dramatic successes achieved by medicine. One of the alleged contributors to the incidence of medical malpractice is the way in which the claimant's lawyer is paid, that is through contingent fees. Such fees for lawyers most commonly are set at 33⅓ of the settlement amount. This method of paying lawyers can result in unconscionable fees for attorneys in the event of very large settlements and can discourage lawyers from taking cases if the claim is too small to justify their time. Although there is little evidence to support the contention that lawyers do cause excessive claims to be made, there nevertheless are problems with this approach to paying for their time in medical malpractice cases.

The effect that the fear by physicians of a medical malpractice claim can have on their practice is a matter of great concern. Doctors, by their own admission, practice defensive medicine, which is defined as practices which are undertaken merely to protect the physician against a claim, or to protect him in the event a claim is filed.

Such practices frequently result in unnecessary and expensive services, which raises the cost of medical care and steals time away from scarce health professionals. Physicians also express concern that the fear of medical malpractice causes them to look upon patients as potential adversaries in a medical malpractice suit.

To the insurance industry, medical malpractice offers special problems.

Insurers cite the major problems facing the insurer as: First, the inability to predict with any reasonable degree of accuracy the number and size of claims that might arise from health service provider encounters with patients; second, the relatively small number of insured providers, and the harmful impact a single very large award can have on reserves and rates; third, inflation and its impact on future settlements; and fourth, the concern that courts are increasingly making awards in the case of injuries whether or not negligence has been proven.

Insurers claim they are losing money in many states. Historically, trends in profitability are uneven. In the sixties, losses relative to premiums tended to increase rapidly during the middle sixties and drop again by 1970. Although no data has been published to support their claims, insurance companies indicate that once again loss ratios are unfavorable. The following table is offered to show the loss ratios occurring for medical malpractice insurance during the 1960's.

Ratio of losses incurred to premiums: 1960–1970

Year:	Ratio
1960	0.84
1961	.81
1962	.82
1963	.78
1964	1.00
1965	1.16
1966	1.16
1967	1.02
1968	.91
1969	.69
1970	.54

A spokesman for Hartford Insurance recently stated that most of the insurers in the medical malpractice business are either restricting that business or getting out of its altogether. He further stated that less than a half dozen companies handle the majority of the business today. This issue of availability creates potentially critical problems for the doctors who are denied protection and for the patients who might be injured by those doctors.

In my own State of Massachusetts, the Argonaut Insurance Co. of Menlo Park, Calif., has notified the Massachusetts Medical Society that it will not accept any new doctors in the society-sponsored insurance plan, if those doctors had been covered previously by another insurer in the State. Understandably, this will protect the insurer against physicians who might represent higher risks. But to deny physicians coverage because their type of practice might increase the risk of a malpractice claim reduces the usefulness of insurance itself—which is to protect both the physician and the injured patient.

One of the commitments of the Senate should be to assure that both doctors and patients have such protection.

A frequently stated contention by many is that the vast majority of malpractice claims are unfounded and that juries frequently make awards to claimants when there is a medical injury, whether or not negligence is involved. They suggest that eliminating unfounded claims would go a long way toward solving the medical malpractice problem.

The facts do not support that contention. Many of you may be familiar with the Medical Malpractice Commission which was convened by DHEW Secretary Elliot Richardson in 1971 to look at the malpractice problem in depth. The Commission submitted its findings in January of 1973. As one of its activities, the Commission polled the insurers to determine the number of claims in their files which were meritorious, in the opinion of the insurers. The insurers indicated that 46 percent were meritorious. This is consistent with the Commission's finding that 45 percent of medical malpractice claims were settled in favor of the claimant. Equally revealing was the Commission's finding that there are probably many more injuries caused by negligence than there are medical malpractice claims. To many, the process of submitting a medical malpractice claim is too expensive, complex, cumbersome, and traumatic.

What we see as we look at the medical malpractice problem is that the present system to deal with this problem is unsatisfactory to every person and institution affected by it. The cries for change come from the doctor, the patient, the insurance commissioners, and the insurers.

I am confident that the Congress will be responsive to this problem in the upcoming session. I intend to expedite the passage of legislation through the Senate as quickly as possible, consistent with a full examination of the merits of the various proposals which will be pending before the subcommittee.

By Mr. DOMENICI:

S. 216. A bill to amend the Gun Control Act of 1963 to provide for separate offense and consecutive sentencing in felonies involving the use of a firearm. Referred to the Committee on the Judiciary.

Mr. DOMENICI. Mr. President, a crime of violence occurs every 36 seconds in this country. While 1973 was unprecedented with its 1 million reported violent crimes, 1974 revealed an 8 percent jump in this figure.

These shocking statistics—translating into an 80-percent greater probability that any of us will be victimized by violent crime this year than 10 years ago—are nowhere more apparent than in my home State of New Mexico. While the national rate of gun-related crime is 43 percent of all crime, and in the West this figure is 41 percent, New Mexico suffers with a rate of 47 percent. Plainly stated, almost half of the crimes committed in my State involve the use of guns.

Yet I do not believe that the answer to this problem can be found in attempting to deprive our citizenry of their right to own guns. Legitimate, responsible homeowners and sportsmen should not be penalized for the misdeeds of others.

The penalties should be placed on the wrongdoers. They should be swift and they must be stern. Only by putting the criminal on notice that his misdeeds will cost him dearly can we hope to correct this critical problem.

Therefore, I, together with my colleagues Senators CURTIS, BEALL, STEVENS, and THURMOND, introduce today an amendment to title 18, section 924(c) of the United States Code. I ask unanimous consent that this amendment be inserted at this point in my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 216

A bill to amend the Gun Control Act of 1963 to provide for separate offense and consecutive sentencing in felonies involving the use of a firearm.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 924(c) of the Gun Control Act of 1963 (Public Law 90–618; 18 U.S.C. 924(c)) read as follows:

"(c) Whoever—

"(1) uses a firearm to commit any felony for which he may be prosecuted in a court of the United States; or

"(2) carries a firearm during the commission of any felony for which he may be prosecuted in a court of the United States, shall, in addition to the punishment provided for the commission of such felony, be sentenced for the additional offense defined in this subsection to a term of imprisonment for not less than one year nor more than ten years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to a term of imprisonment for not less than five nor more than twenty-five years.

"The execution or imposition of any terms, of imprisonment imposed under this subsection may not be suspended, and probation may not be granted. Any term or imprisonment imposed under this subsection may not be imposed to run concurrently with any term or imprisonment imposed for the commission of such felony."

Mr. DOMENICI. Mr. President, the bill clarifies the intent of Congress that carrying a gun be treated as a separate and distinct offense from the felony committed.

In addition, it provides that the present requirement of "unlawfulness" in the carrying of the gun be deleted. Therefore, the act of carrying the gun—despite the lawfulness of possession—will be treated as a criminal act if done in conjunction with the commission of a crime.

Finally, this bill dispels all doubt that carrying a firearm during the commission of a felony creates a separate and distinct felony sentencing for which must be imposed consecutively with that of the underlying charge. Sentencing for the gun charge would be subject to the sterner penalties this bill contains.

With our crime rate accelerating, and with our innocent citizens needlessly dying, I commend this amendment to my distinguished colleagues as an urgent matter deserving our earnest attention.

By Mr. DOMENICI (for himself and Mr. MONTOYA):

S. 217. A bill to repeal the act of May 10, 1926 (44 Stat. 498), relating to the condemnation of certain lands of the Pueblo Indians in the State of New Mexico. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, today I am introducing legislation to repeal the act of May 10, 1926 (44 Stat. 498), relating to the condemnation of Pueblo Indian land in the State of New Mexico. The act as written and as applied is discriminatory. It makes an unjustified distinction between the Pueblo Indian land in New Mexico and all other Indian land in the United States.

The condemnation procedure applicable to Indian land required for valid public purposes, other than the Pueblo Indian land in New Mexico, is initiated by application to the Secretary of the Interior. A judgment on the merits of the application is made by the Secretary in accordance with his mandate to fulfill the obligation of trust the U.S. Government and our non-Indian people have to the first Americans.

Under the present law which this bill would repeal, the State of New Mexico is allowed to acquire valuable land from New Mexico Pueblo Indians without involving the Federal agency or its officials who are charged with the responsibility of protecting the rights of Indian people.

I have received numerous requests from Indian officials from the New Mexico Pueblos to have this law repealed. One of these letters is from Martin Aguilar, governor of the Pueblo of San Ildefonso and, another is from Robert E. Lewis, governor of the Pueblo of Zuni.

So, Mr. President, today along with the distinguished senior Senator from New Mexico (Mr. MONTOYA), and with the full support of the former Governor of our State, Bruce King, I ask that this bill to repeal the act of May 10, 1926 (44 Stat. 498), be referred to the appropriate committee and given immediate attention. I urge the support of my colleagues in correcting the previous action of the Congress which has worked to the detriment of the fine Indian people of the New Mexico Indian Pueblos.

I request unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Act entitled "An Act to provide for the condemnation of the lands of the Pueblo Indians in New Mexico for public purposes, and making the laws of the State of New Mexico applicable in such proceedings", approved May 10, 1926 (44 Stat. 498), is hereby repealed.

(b) The provisions of subsection (a) of this section shall be deemed to have taken effect as of July 15, 1974.

SEC. 2. All proceedings and actions pursuant to such Act of May 10, 1926 (44 Stat. 498), pending on July 15, 1974, or commenced on or after that date but prior to the date of the enactment of this Act, shall be held and considered to have terminated as of July 15, 1974, and thereafter to be of no force and effect.

Mr. MONTOYA. Mr. President, I am today introducing legislation that would abolish an outmoded and discriminatory statute. Currently, the Land Condemnation Act of May 10, 1926 (44 Stat. 498) impinges upon the sovereign rights of the Pueblo Indians in New Mexico.

Originally, the need for such legislation arose from the necessity of establishing clear title upon Pueblo land. In 1924, the Jemez Indians of New Mexico granted assurance of right-of-way to the Department of the Interior on behalf of the Santa Fe-Northwestern Railway Co. to cross their land. Upon completion of the railroad, it was discovered that the right-of-way at Jemez had not been granted through a legally binding contract of consent. Not having obtained the legal right of way, the rail company was prevented from obtaining construction bonds. The Santa Fe-Northwestern Railroad attempted to acquire the legal right-of-way from the Indians, but the Pueblos were reluctant to sign the necessary contracts, fearing that the technicalities of the contract might be used in the future to remove the land from their control. In response to this stalemate, the Congress passed legislation providing for the condemnation of Pueblo land in New Mexico for public purposes. This allowed the Government to grant title to the railroad, thereby enabling the issuance of construction bonds.

The act was passed with the intent of solving a unique problem at a precise time. Since passage, the Land Condemnation Act has been used on 12 different occasions. The statute should have been repealed in the 70th Congress after it had served its original function, but it has instead become the basis for encroachment by the State on Indian territory.

The repeal of this law would return the Pueblos to a position of equality with other tribes in other States. At the present time, there is no legislation which allows any other State to condemn Indian tribal land without tribal approval. Only the Pueblo Indians in New Mexico are subject to this violation of their lands.

The repeal of the Land Condemnation Act has virtually unanimous support among New Mexico representation. Along with Senator DOMENICI and myself, Governor King and the Pueblo Indians have offered their full endorsement.

I want to assure my colleagues that the implications of this repeal have been fully investigated. Dean Hart of the University of New Mexico Law School and Richard Elkhe, Legislative Attorney for the Library of Congress, have fully researched the repeal of the Land Condemnation Act. Both of their reports conclude with the recommendation for prompt repeal. I want to take this opportunity to express my gratitude to Mr. Hart and Mr. Elkhe for their superb legislative investigation.

The demands of simple justice require that this act be repealed. Therefore, Mr. President, I ask for the passage of this bill to repeal the Land Condemnation Act, and request that the following pertinent information be inserted into the CONGRESSIONAL RECORD:

Legislative research conducted at the University of New Mexico Law School.

Letter of support from Gov. Bruce King of New Mexico.

Research report of Mr. Richard Elkhe, legislative attorney at the Library of Congress.

Land Condemnation Act of May 10, 1926 (44 Stat. 498).

Legislative history of the Land Condemnation Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACT OF MAY 10, 1926, 44 STAT. 498

A. CONGRESSIONAL INTENT

The legislative history of the Act of May 10, 1926, 44 Stat. 498 shows that it was a special statute enacted to correct a deficiency in the Pueblo Lands Act of June 7, 1924, 43 Stat. 636. At the behest of George A. H. Fraser, U.S. Special Assistant Attorney General detailed to New Mexico to supervise the Pueblo Lands Board created by the Pueblo Lands Act, identical bills were introduced in the Senate and House on April 10 and 12, respectively, providing that the State of New Mexico could condemn lands belonging to Pueblo Indian Tribes for public purposes, H.R. 11201, 69th Congs., 1st Sess. 67 Cong. Rec. 7333; S. 3953, 69th Cong., 1st. Sess., 67 Cong. Rec. 7243. Both bills were referred to the respective commitees on Indian Affairs and were reported out with amendments. H. Rep. 955, 69th Cong., 1st Sess., 67 Cong. Rec. 8018; S. Rep. 716, 69th Cong., 1st Sess., 67 Cong. Rec. 8442. There was no debate in the Senate and the bill was perfunctorily passed and referred to the House Committee on Indian Affairs. 67 Cong. Rec. 8525. In a short debate in the House, Representative Morrow explained that the situation giving rise to the bill was the need for a clear title upon which to float bonds by a railroad which had constructed five miles of track across the Jemez Pueblo Reservation. 67 Cong. Rec. 8633. Representative Leavitt assured Representative LaGuardia that the Indians had been compensated and S. 3953 was then passed in lieu of H.R. 11201. *Id.* 8634. The bill was approved by President Coolidge as Public Law 211 on May 10, 1926, *Id.* 9189; 44 Stat. 498.

Professor Cohen comments that the Act "is substantially similar to the general statute governing condemnation of allotted lands, but there is no parallel statute governing tribal lands generally, so that the Pueblos are subjected to a type of action from which other tribes are immune." F. Cohen, *Handbook of Federal Indian Law* 393 (1942; 1971 U.N.M. Reprint). There is only one report case construing the Act, involving Interstate 25 which passes through the lands of the Pueblo of Laguna. *New Mexico ex rel. State Highway Commission* v. *United States,* 148 F. Supp. 508 (D.N.M. 1957). Citing *Town of Okeman* v. *United States,* 140 F.2d 963 (10th Cir. 1944), which involved condemnation of allotment lands pursuant to 25 U.S.C. § 357, the court found that the United States had waived its sovereign immunity by implication in the 1926 Act and can be joined as a defendant in the condemnation proceeding.

B. CONSTITUTIONAL AND LEGAL IMPLICATIONS

As was noted by Professor Cohen, the Act is a special statute, and has no counterpart in any other special statute affecting Indian tribes. No other state can condemn Indian tribal lands. *Minnesota* v. *United States,* 305 U.S. 382 (1939). Not only can the state exercise eminent domain, but also a municipality, N.M. Stat. § 14–17–8, a county, N.M. Stat. § 22–9–15, a drainage district, N.M. Stat. §§ 75–20–19, 75–20–53, 75–20–56, an irrigation district, N.M. Stat. §§ 75–22–12, 75–22–30, an oil well owner, N.M. Stat. §§ 22–9–3 *et. seq.*, an oil or gas pipeline company, N.M. Stat. § 65–4–8, a public utility, N.M. Stat. § 22–9–1 *et seq.,* a railroad, *id.,* a school district, N.M. Stat. § 22–9–15 and an urban renewal project, N.M. Stat. § 14–49–9.

Rather than giving the state blanket power of eminent domain, the Act should be repealed and the Pueblo Indians be restored to a position of equality with other Indian tribes. Should the need arise for the state to condemn Pueblo lands, it can request such power from the legislative branch of the federal government. There are a number of statutes which Congress has allowed a state or municipality to condemn lands for special purposes. E.g., 25 U.S.C. § 311 (public Highway); Act of February 28, 1919, 40 Stat. 1206 (San Diego can condemn lands for reservoir). While there is a statute allowing condemnation of allotted lands, 25 U.S.C. § 357, there is no blanket authorization for state condemnation of Indian trust and fee patent lands, other than a statute which gives the state of New York this power as part of the general grant of jurisdiction to that state over Indians in 25 U.S.C. §§ 232–3. c. *Oneida Indian Nation v. County of Oneida,* 94 S. Ct. 772, 783–4 (1974). The unique and peculiar situation of the New York Indians is not applicable to the Pueblo Indians in New Mexico. *Mescalero Apache Tribe v. Jones,* 411 U.S. 145, 1949 (1973) (New Mexico Enabling Act, 36 Stat. 557 (1910), bars state jurisdiction over Indian tribes).

C. CONCLUSION

Constitutional legislation can be introduced repealing the Act of May 10, 1926, 44 Stat. 498. The preamble should recite that the purpose of the Act is to place the New Mexico Pueblos on an equal footing with other Indian tribes in New Mexico and the nation. In the hearing on the bill, there should be testimony to the effect that the Navajos, Mescalero and Jicarilla Apaches are not subject to this provision, even though these tribes have far more extensive holdings in New Mexico than the Pueblos. In order to assure the state of New Mexico, a proviso may be inserted in the bill that the repeal of the 1926 Act will not bar Congressional action to give the state condemnation powers for specific, enumerated purposes.

It could also be argued that the continued existence of the 1926 Act is in conflict with provisions prohibiting the limitation, creation or expansion of Indian reservations except by an act of Congress, Act of June 22, 1936, 49 Stat. 1757, Act of March 3, 1927 § 4, 44 Stat. 1347; Act of June 30, 1919, § 27, 41 Stat. 3, 34; Act of May 25, 1918 40 Stat. 561; 25 U.S.C. 0211. By repealing the 1926 Act, Congress will once again reaffirm its fiduciary duty towards the Pueblo Indians by protecting their lands from piecemeal encroachment by the state. c. *Morton v. Ruiz*, 94 S. Ct. 1055, 1075 (1974).

Regardless of the pitfalls involved in amending the Civil Rights legislation, it would seem that fundamental fairness requires that with respect to the land condemnation matter the New Mexico Pueblos should be on an equal footing with other Indian tribes.

STATE OF NEW MEXICO,
Sante Fe, N. Mex., June 17, 1974.
Hon. JOSEPH M. MONTOYA,
U.S. Senate,
Washington, D.C.

DEAR JOE: State Planning Officer David has advised me of the tremendous concern about the 1926 Land Condemnation Act which was expressed by the All Indian Pueblo Council during a recent meeting at Isleta Pueblo. The prevailing attitude is that this Act severely endangers the status of Indian land and infringes upon their sovereign rights. Those members of the Council who discussed this issue at the conference stated their belief that only the State of New Mexico is subject to the provisions of this Act.

It is the expressed desire of the All Indian Pueblo Council to have this Act either rescinded or at least amended so as to no longer threaten usurpation of the sovereign powers of the Indian Pueblos. I share the desire of the All Indian Pueblo Council to do away with any existing deficiencies and your support in this regard. We would very much appreciate your assistance in thoroughly investigating this matter to determine the most appropriate, and effective means of redress.

At this same meeting, the members of the All Indian Pueblo Council also voiced their dissatisfaction with the 1968 Civil Rights Consent Clause which they contend adversely affects their traditional form of Government.

In view of the deep concern expressed, I believe that it would behoove us to explore all possible means of reaching an accord between these two conflicting demands. Your help in securing a just solution to this problem will be appreciated.

Please be assured that both David King's office and my office will always be available to provide whatever assistance we can. If additional information is required, please feel free to contact either David King or me.

Sincerely,

BRUCE KING,
Governor.

ACT OF MAY 10, 1928 (44 STAT. 498)

The intent of Congress in enacting the Act of May 10, 1926, providing for the condemnation of land of the Pueblo Indians in New Mexico was apparently to resolve a controversy which had arisen over title to land on which a railroad was operating. The land was situated on the Pueblo at Jemez and the railroad had paid the Indians for a right-of-way. However, the land was also the subject of hearings before the Peublo Lands Board which eventually held that the Indian title to the land had not been extinguished and that the act pursuant to which the railroad had acquired its right-of-way was not applicable to the Pueblo lands. The House Report on the bill which became the Act of May 10, 1928, thus, states:

"Notwithstanding the fact that the Jemez Pueblo was paid about $3,000 for the right of way, being the amount of damages fixed by the appraisers under the Act of March 2, 1899, they have persistently refused to make a contract, and seem to think that because a suit has been brought by the Government at the instance of the Department of Justice that there is a chance to recover their lands, or at least secure payment of similar consideration. A diligent search has failed to disclose any adequate remedy for the situation short of a bill authorizing condemnation proceedings." H. Rept. No. 955 (69th Cong., 1st Sess., 1926).

Similar sentiments were expressed in the brief House debate proceding passage of the bill. At one point, Rep. Morrow explained:

"The Indians are entirely taken care of in the bill. They have been paid for their land.

The Department of Justice, however, and the Department of the Interior, realize that it is not desirable to interfere with the operation of this railroad, which has now been in operation for about one year, and it has also developed that the act of March 2, 1899, is probably not sufficiently broad to cover the matter of acquisition of right of way over or across pueblo lands. The act of March 2, 1899, appears as section 1, chapter 374, Thirtieth Statutes, page 990.

Notwithstanding the fact that the Jemez Pueblo was paid about $3,000 for the right of way, being the amount of damages fixed by the appraisers under the act of March 2, 1899, they have persistently refused to make a contract, and seem to think that because a suit has been brought by the Government at the instance of the Department of Justice that there is a chance to recover their lands, or at least secure payment of similar consideration. A diligent search has failed to disclose any adequate remedy for the situation short of a bill authorizing condemnation proceedings.

Mr. George A. H. Fraser, Special Assistant Attorney General, detailed in New Mexico to assist in the work of the pueblo lands board and who has brought the suit to quiet title on behalf of the Pueblo of Jemez, states under date of April 1, 1926, as follows:

"As I said at first, I do not see any certain or permanent cure except an act of Congress making the provisions of all existing right of way statutes applicable to all of the pueblos, and I think that at the present time, when the State of New Mexico as well as two or three public utilities need such rights of way, everyone would unite in promoting such an act, which is manifestly fair and necessary."

The report of the Secretary of the Interior favorable to this bill is attached hereto and made a part of this report.

DEPARTMENT OF THE INTERIOR,
Washington, April 21, 1926.
Hon. SCOTT LEAVITT,
Chairman, Committee on Indian Affairs,
House of Representatives.

MY DEAR MR. LEAVITT: The following is submitted in response to your request of April 13, 1926, for an opinion on H.R. 11201, Sixty-ninth Congress, first session:

The bill, which provides for the condemnation of the lands of the Pueblo Indians in New Mexico for any public purpose and for any purpose for which lands may be condemned under the laws of the State of New Mexico, the damages awarded to be paid to the superintendent or agent in charge of the tribe, community, or pueblo holding title, also provides that the Federal courts of the district within which such lands are located shall have and retain jurisdiction of all proceedings, and shall conform, as near as may be to the practice, pleadings, forms, and proceedings existing at the time in like causes in the courts of record of the State.

This department will have no objection to the passage of the bill if amended as follows:

In line 8, substitute the word "officer" or "agent," and after the word "charge" insert the words "for the benefit."

After the words "said State of New Mexico" in line 5, page 2, add: "*Provided also,* That notice of each suit shall be served upon the Secretary of the Interior at the time of filing."

Such notice would afford an opportunity to present any objection the department might have to the proceeding in any particular case.

If the bill is amended as suggested it is recommended that it receive the favorable consideration of your committee.

Very truly yours,

E. C. FINNEY,
Acting Secretary.

HISTORY OF ACT OF MAY 10, 1926 (44 STAT. 498), TO CONDEMN PUEBLO LANDS FOR PUBLIC PURPOSES

A controversy over a right of way between the Santa Fe Northwestern Railway Company and the Pueblo of Jemez culminated in Congress enacting into law the Act of May 10, 1926 (44 Stat. 498) which authorizes the condemnation of Pueblo lands for public purposes.

On July 11, 1924, the Secretary of the Interior approved an application of the Santa Fe Northwestern Railway Company for a right of way for railroad purposes, through tribal lands of the Pueblos of Zia, Santa Ana and Jemez in the State of New Mexico, under provision of the Act of March 2, 1899 (30 Stat. L. 990), as amended. The regulations of the Department of the Interior under said Act were complied with and compensation for the land taken was assessed by a board of appraisers. In the Pueblo of Jemez, about 20 acres of cultivated and 25 acres of uncultivated land was taken for railroad purposes, and damages of $2,946.55 was paid by the company. The railroad company then believed—and with good reason—that it had secured a complete title for an adequate consideration.

In 1925, when the Pueblo Lands Board, functioning under the Act of June 7, 1924, considered the adverse claims to land within the Pueblo of Jemez, its report on the claim of the Santa Fe Northwestern Railway Company was that the Indian title to the lands, used for a railroad right of way, was not extinguished, and that the Act of March 2, 1899, supra, had no application to the lands of the Pueblo Indians of New Mexico who hold their lands in a fee simple communal title.

Thereafter, in accordance with the Pueblo

Lands Act of June 7, 1924, a suit was instituted in the United States District Court for the District of New Mexico by George A. H. Fraser, Special Assistant to the Attorney General of the United States, the real purpose of which was to determine what rights, if any, the Santa Fe Northwestern Railway Company secured in 1924 on the land being used for railroad purposes in the Pueblo of Zia, Santa Ana and Jemez.

While that suit was pending, the Railway Company began refunding operations which involved a bond issue, and attorneys for the bonding house underwriting this issue would not approve the title of Santa Fe Northwestern with the above-mentioned suit pending. It was decided that if the Pueblo of Jemez would execute a deed for the easement for right of way purposes and the transaction were approved by the Secretary of the Interior under the provisions of sec. 17 of the Act of June 7, 1924 (Pueblo Lands Act) that the title of Santa Fe Northwestern would be approved for the bond issue.

Three meetings were held with the Jemez Pueblo officials in an attempt to get them to sign a document on the right of way easement. It was explained to the Council that the Railroad Company had secured the right of way in 1924 in good faith and had paid to the Pueblo the appraised damages, but that later developments showed the necessity of getting a deed from the Pueblo officials for the right of way. At each of these meetings the Council refused to sign the deed although the Pueblo had accepted the payment from the Railroad in 1924.

The Special Attorney for the Pueblo Indians in a letter dated May 24, 1926 to H. J. Hagerman, Special Commissioner to negotiate with Indians, stated that it was later learned that the railroad bordered on some of the Jemez Indians' sacred springs and this may have caused them to refuse to sign the document. That letter, in next to last paragraph, cites some of the possible criticism of the Act, as passed, and gives reasons why such an Act is needed.

When it became apparent that the Council of Jemez Pueblo would refuse to sign any right of way agreement, the Attorney General for the State of New Mexico on April 18, 1926, forwarded to Senators Jones and Bratton of New Mexico a proposed bill which provided for the condemnation of lands of the Pueblo Indians of New Mexico for any purpose or which other lands of the State may be condemned, but with the proviso that jurisdiction over such condemnation proceeds should be in the Federal Court. The bill was signed by the President on May 10, 1926.

Our files indicate that thereafter when the Santa Fe Northwestern Railway Company attempted to finalize its right of way across the Jemez Pueblo under the Act of May 10, 1926, by suit in the United States District Court for the district of New Mexico, Judge Neblett, before when the condemnation proceedings were held, in effect held that the Act of May 10, 1926 contained insufficient authority to warrant a decree in favor of the company as the United States was a necessary party but had not consented to be sued and the suit could not therefore be maintained.

The file indicates that another condemnation statute designed to remedy this defect failed to pass in Congress due to pressure of work at the end of Congress. Enclosed is a draft of a proposed bill, to amend the Act of May 10, 1926, which we assume is the bill referred to.

Enclosed is a copy of a letter dated November 16, 1927, to the Attorney General from George A. H. Fraser, Special Assistant to the Attorney General, which states that a meeting was held at the request of the Assistant Commissioner of Indian Affairs and attended by several Indian officials and various friends of the Indians to consider the form of the statute which "everyone realizes must be passed by the coming Congress to cover the question of condemnation of Pueblo Indian lands". Attached to that letter is the suggested draft of bill prepared by Mr. Fraser which included, in section 2 of the draft, provision for repeal of the Act of May 10, 1926.

The repeal of the May 1926 Act is not included in the Act approved on April 21, 1928, a copy of which is attached for ready reference.

By Mr. DOMENICI:

S. 226. A bill to designate the Aldo Leopold Wilderness, Gila National Forest, N. Mex. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, I am pleased today, in response to requests by the New Mexico Wilderness Study Committee and other concerned environmental and conservation groups, to introduce a bill to create a new wilderness area—the Aldo Leopold Wilderness.

This area would comprise 231,737 acres to be incorporated into the Gila National Forest in New Mexico for addition to the national wilderness preservation system.

Much of the 231,737 acres which this legislation asks be set aside, would also be designated as wilderness under the provisions of the measure which the President sent to the Congress. The President recommended that 188,095 of the Black Range primitive area be included in the wilderness preservation system.

Mr. President, I am at this time expressing no opinion as to which acreage I prefer. But I do believe it is important that those groups who would have the larger area designated as wilderness be given the opportunity to present their views and have their opinions brought forth at committee hearings.

I am introducing this measure so that the appropriate Senate committee will have the opportunity to investigate the request that 44,000 acres on the perifery of the core area also be designated as wilderness.

By Mr. BAYH:

S. 227. A bill to amend the Internal Revenue Code to encourage the continuation of family farms, and for other purposes. Referred to the Committee on Finance.

Mr. BAYH. Mr. President, I am today introducing the Family Farm Inheritance Act, legislation which I introduced previously and which passed the Senate during the 93d Congress. The purpose of this legislation, which amends the estate tax provisions of the Internal Revenue Code, is to stop the decline in the number of family farms in this country.

For years I have been distressed by and called to the attention of the Senate the steady drop in the number of family farms in this country. The disappearance of the family farm, long the backbone of American agriculture, has been fostered by high estate taxes which leave the heirs to family farms with farming units that are not economically viable. Just within the past month, Don Paarlburg, Director of Economics for the Department of Agriculture, expressed the view that the decline in the number of family farms in this country will continue.

The legislation which I am introducing today can help solve this problem by excluding the first $200,000 in the value of a family farm from the taxable estate of those farmers who have managed their own farms during their lives and have willed that farm to relatives who will carry on this treasured tradition. With the welcome support of the able and distinguished chairman of the Finance Committee (Mr. LONG) this measure passed the Senate last August but was dropped in conference with the House. I am reintroducing it now with the strong hope that affirmative action can come quickly and thus bring an abrupt halt to the pattern which has seen millions of family farms disappear from the American landscape since the end of World War II.

All family farms, benefiting from the provisions of this bill, must be actively used to raise agricultural crops or livestock for profit rather than as a hobby. To be specific, in order to qualify for the exemption, the decedent must have owned the farm for at least 5 years and must have exercised substantial management and control over the farm before he died. Those who inherit must not only continue to exercise substantial management and control over the farm, but also must maintain ownership and live on the farm for at least 5 years. In the event that a farm is willed to several children, all inheritors are covered by the bill if one of them meets the residency and management qualifications set forth.

I want to emphasize that this proposal is not envisioned as a tax break for all farmers, but rather as a device to assist those farmers who are not likely to have sufficient liquid capital to meet the estate taxes. This bill will in no way benefit hobby farmers or corporate farms. Its purpose is clear and it is drawn in such a way to preclude opening any new tax loophole.

Presently family farmers usually have to sell part of their land to raise enough money to pay estate taxes; after one or two generations, so much of the farmland has been sold off that there is no longer a viable economic unit—particularly in these days when the average size of a farm is increasing not decreasing. The result has been the increased ownership of land by corporations despite the fact that research studies by USDA relating cost per unit to size have generally shown that all of the economies of size can be achieved by modern and fully mechanized one-man and two-man farms.

As everyone concerned about the rise or corporate farming knows, the individual farmer has been having a progressively harder time making ends meet. Fifty years ago there were about 32 million Americans—more than 30 percent of the entire population—living on the farm; today there are only about 9 million Americans—slightly more than 4 percent of our population—still on the farm. This number is decreasing steadily.

Moreover, it is the small farmer, the family farmer, who is being forced off the farm into our already overcrowded cities. In fact, every week hundreds of family farms in this country have to be abandoned by their owners because they are no longer viable. Cumulatively, a million family-sized farms were consolidated out of existence in the 1950's and another million in the 1960's.

The reasons for the demise of the family farmer are evident. While food prices in this country have gone up along with everything else, the farmer often has not shared in this increase. Food price increases have gone to retailers and middlemen, but too many farmers have seen their share of the retail food dollar remain constant, or, as in the past year, decline. At the same time while the average American nonfarm worker labors an average of less than 37 hours a week, the average full-time family farmer works 60.2 hours a week and earns less for his time. Farmers historically have received an average of about 5 percent return on their investment whereas there is a 10 to 12 percent average return on investment in industry.

One of the greatest problems faced by farm families is the estate tax—a tax which is uniquely burdensome for farmers because it is usually based on the inflated value of the land as a real estate parcel rather than on its fair value as a farming operation. Children who have spent years working the farm with their parents are suddenly confronted with a large tax when the owner of their operation dies. For a small farmer, estate taxes are particularly severe because most of his assets are generally nonliquid: His farm, his farmhouse, his livestock, his crops, and equipment comprise the bulk of his assets and they are all essential to the profitable operation of the farm. Nonfarmers, if only because their return on investment is usually greater, normally have a greater percentage of liquid assets with which they can meet estate taxes.

To illustrate the problem faced by family farmers, let us take the hypothetical case of a Mr. Jones, Jr., who is left a 300-acre farm valued at $700 an acre, plus farm equipment, crops, and farmhouse, for a total valuation of $280,000. At the prevailing tax rate, he would have to pay $56,700 in Federal estate taxes. An average small farmer, Mr. Jones, makes only about $10,000 a year from his farm; the income is already stretched thin to cover new farm equipment and family expenses. Assuming that Mr. Jones does not have large savings, he would be forced either to take out a mortgage on the farm—if it is not already mortgaged—or sell part of his land in order to pay the estate tax on his father's farm. Either way he would decrease by a considerable margin the already small profit he is able to make from the farm. Furthermore, the burden of estate taxes could very possibly be so great that Mr. Jones, Jr., might find out that he can no longer make enough money on the farm to support his family. Thus he would be forced to sell the farm and look for work elsewhere.

Unless we want to see a continuing decline in the number of family farmers, and an eventual domination of the farm industry by large corporate farms, it is essential to help family farmers meet what are now unbearably high estate taxes.

Mr. President, there are two probable criticisms of this bill which I would like to address. First, small businesses would probably ask for similar tax breaks; and second, the cost could be high.

In response to the first consideration, I am certainly aware that small family businesses often have as difficult a time making ends meet as small family farms do, and that they need encouragement if they are to prosper. However, it seems to me that family farms differ from family businesses in significant respects which entitle farms to separate consideration with reference to estate taxes. The rapid technological changes, marginal profits, and the need for capital in farming encourage forced saving and reinvestment by all family members. Since farm households are relatively more self-sufficient than urban households and since the cost of rural living is generally lower than that of urban living, members of the family often are not remunerated for their contributions to the farm; rather, all wages and profits are pooled and reinvested in more land, new machinery, or better fertilizer and seed.

Members of the younger generation may be taxed on money which otherwise might have come to them in the form of a salary. Combined with the fact that most profits are plowed back into the farm is the fact that the return on investment is generally lower in farming. Thus, farmers tend to have less liquid capital saved with which to pay estate taxes.

Farmers also suffer most dramatically from the fact that their estates are taxed at the real estate value of the land, rather than on the basis of the farming value of the land. The current shortage of land is pushing up real estate values both for the farmer and for the small businessman located in a city: however, a far greater proportion of a farm's assets are tied up in land. The farmer who finds that suburban sprawl is forcing up the value of his main asset simply cannot absorb the increased costs of that particular item.

The second main argument against my proposal is likely to be one of cost. The Department of the Treasury has estimated that the revenue loss would be about $200 million annually. Unfortunately, I do not know the nature of their calculations leading to this estimate. However, the Department of Agricultural Economics at Purdue University has provided a second, tentative estimate of an annual revenue loss falling somewhere between $50 and $100 million—and probably closer to $50 million than to the higher figure.

All Americans—whether rural, urban or suburban should recognize that the growth of corporate farms at the expense of the family farmer is a threat to the rural way of life as well as to the consumer's pocketbook. Literally thousands of farmers have been driven off the land into the cities. Good, hard-working people with dignity developed from years of self-sufficiency have suddenly found themselves lost in big cities. The irony of all this is that there is no evidence that these giant corporate farms offer any productive advantages. Rather it is the highly efficient family farmer who remains the secret behind the vast productive capacity of American agriculture. I would hope that the Congress would take a major step toward preserving this uniquely American institution and act favorably on this bill.

I ask unanimous consent that the full text of this legislation be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Family Farm Inheritance Act".

Sec. 2. Part IV of chapter 11B of the Internal Revenue Code of 1954 (relating to deductions from the gross estate) is amended by adding at the end thereof the following new section:

"Sec. 2057. Interests in family farming operations.

"(a) General Rule.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate the lesser of (1) $200,000, and (2) the value of the decedent's interest in a family farming operation continually owned by him or his spouse during the five years prior to the date of his death and which passes or has passed to an individual or individuals related to him or his spouse.

"(b) Subsequent Disqualification Results in Deficiency.—The difference between the tax actually paid under this chapter on the transfer of the estate and the tax which would have been paid on that transfer had the interest in a family farming operation not given rise to the deduction allowed by paragraph (a) shall be a deficiency in the payment of the tax assessed under this chapter on that estate unless, for at least 5 years after the decedent's death—

"(1) the interest which gave rise to the deduction is retained by the individual or individuals to whom such interest passed, and

"(2) the individual or any of the individuals to whom the interest passed resides on such farm, and

"(3) such farm continues to qualify as a family farming operation.

"(c) Death of Subsequent Holder.—In the case of the subsequent death of an individual to whom the interest in a family farming operation has passed, his successor shall be considered in his place for purposes of paragraph (b).

"(d) Definitions.—

"(1) Family farming operation.—A 'family farming operation' is a farm:

"(A) actively engaged in raising agricultural crops or livestock 'for profit', within the meaning of section 183, and

"(B) over which the owner or one of the owners exercises substantial personal control and supervision.

"(2) Relations.—An individual is 'related' to the decedent or his spouse if he is that person's father, mother, son daughter, grandson, granddaughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister."

By Mr. KENNEDY (for himself, Mr. RIBICOFF, and Mr. BROOKE):

S. 228. A bill to establish the National Trust for the Preservation of Historic Ships. Referred to the Committee on Interior and Insular Affairs.

PRESERVATION OF HISTORIC SHIPS

Mr. KENNEDY. Mr. President, I am introducing today for myself and Senator RIBICOFF and Senator BROOKE legislation designed to preserve ships of national historic importance to the United States. I ask unanimous consent that the full text of the bill be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. This legislation sets up a national trust under the direction of a board of trustees who will be authorized to acquire ships of national historic importance or to assist private efforts in the preservation of such ships.

Just as in the case of many of our historic buildings, the caretakers of these treasures of history have been for generations private citizens or groups who have spent enormous amounts of time and money to assure that these historic ship are protected. And just as in the case of so many of our historic buildings, time has run out. There is an urgent need for restoration and preservation funding; and those who have protected our maritime heritage are in desperate need of assistance.

The valuable lesson that we have all learned as our efforts have been concentrated on the preparation of Revolutionary War sites for the visitors expected during the bicentennial celebration is that we are not preserving structures; we are preserving history. We are not roping off old buildings and artifacts behind glass; we are making it possible for thousands of families to visit and touch the scenes of the beginning of this country. We are not making new museums; we are allowing the history of this Nation to come alive again for our young people.

The legislation I introduce today assures that the same high priority is given to the preservation of ships which have played a role in the maritime history of the United States. The bill does not designate ships for preservation or acquisition, but leaves to the new national trust those decisions based on their own findings and the assistance of the Advisory Council. I ask unanimous consent to have printed in the RECORD at this point, brief histories of some of the ships that have been cited as being vital symbols of our maritime history by the National Maritime Historical Society.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE "KAIULANI"

Important as the last of her line, the last American-built square-rigged sailing ship. Built in Maine, named after the last queen of Hawaii, and a wreck in Manila, this historic ship was given to the people of the USA by the Philippines in 1964. The National Maritime Historical Society, charged with bringing her back to America, has prepared plans for her restoration. She will be used as part of the Maritime BiCentennial fleet during the BiCentennial years. After that she will become a sail training ship, probably for underprivileged young people. As the last of her kind, it is imperative that this generation save her for future generations of Americans.

THE "ALEXANDER HAMILTON"

The *Alexander Hamilton* is beloved by New Yorkers of every ilk. More people have probably travelled aboard her spacious decks than on any other ship sailing out of New York in the 20th century. She is in direct line with Robert Fulton's *Clermont* and is known as the white swan of the Hudson. She is the last side-wheeled excursion boat on the Atlantic, Pacific or Gulf coasts of the U.S. As a classic example of American steamboat architecture she must be preserved, restored and put back into service for the BiCentennial. It is hoped that she will move up and down Long Island Sound and the Hudson in 1976 illustrating to all the people of the State how steamboats made New York great.

THE "DELTA QUEEN"

Known and beloved throughout the USA as the last Ohio river overnight boat, the last steamboat of the inland rivers that can carry passengers over-night, and the last of the Mark Twain steamers. Saved from premature destruction by a special Act of Congress, this stately stern-wheeler is still in service. She will be retired, however, and must be preserved for posterity. Renown in song and story, the saga of the stern wheeler on our inland waterways cannot be over-estimated in its importance to Americana and the winning of the West.

THE "DELTA KING"

A sistership, a veteran and hero of World War II, long neglected and lying alone and almost forgotten on the Sacramento River in California, this one-time riverboat queen can still be saved. She was originally built, as was *Delta Queen*, for overnight service on the Sacramento from San Francisco to Sacramento.

THE "VICAR OF BRAY"

No more brilliant and heroic saga exists in all American history than the gold rush. While many sturdy Americans struggled across the continent to reach California, many others went via ship, around the Cape or via the dangerous Isthmus of Panama. One of these was the little immigrant ship *Vicar of Bray*. She lies in the Falkland Islands. She is owned by the National Maritime Historical Society and can be brought back to California for restoration, hopefully in time for Bicentennial year celebrations.

Mr. KENNEDY. Unfortunately, this legislation comes too late for the *Alice Wentworth*, America's oldest schooner which was lost to a storm in Massachusetts last April. But there is still time to insure that work such as the kind that is accomplished in New York City with the *Pioneer* is continued. The *Pioneer* at the South Street Museum is a living, learning experience for young people in the youth centers of the city. Weekend and summer training cruises aboard the *Pioneer* provide a unique experience for these disadvantaged youngsters and demonstrate the learning value of preserving historic ships.

Again, I would like to recommend to the Members of the Senate a short publication entitled, "The Ships That Brought Us So Far," an account of the ship preservation movement by Peter Stanford. Mr. Stanford points out:

> That era of man the voyager is ending in our lifetimes. Recognizing this, we undertake to record what we are able to, so that man in understanding his heritage may come to better terms with his destiny.

Those experts who have committed their lives to the preservation of historic ships have predicted that we are in the last decade when it will be possible to save any ship dating from the age of sail. This Congress has the opportunity to take up that challenge and assure that our history as a maritime nation is preserved for all time by our generation.

S. 228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Trust for the Preservation of Historic Ships Act".

SEC. 2. (a) In order to acquire, restore, preserve, maintain, put on display, and operate for all the people of the United States ships of national interest and importance in the technical, commercial, naval, cultural maritime history of this Nation, and to identify and focus public attention and support for such acquisitions, restoration, preservation, maintenance, display, and operation, there is hereby created a charitable, educational, and nonprofit corporation, to be known as the National Trust for the Preservation of Historic Ships (hereinafter referred to as the "Historic Ships Trust").

(b) In carrying out the provisions of subsection (a), the Historic Ships Trust shall be authorized to acquire, with donated, appropriated, or other funds, ships of national interest and importance in the technical, commercial, naval, cultural maritime history of the United States, and to restore, preserve, maintain, display, and operate such ships.

(c) As used in this Act, the term "ships" shall include ship parts, ship relics, and ship records.

SEC. 3. The Historic Ships Trust shall have its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be an inhabitant and resident thereof. The Historic Ships Trust may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

SEC. 4. (a) The affairs of the Historic Ships Trust shall be under the general direction of a board of trustees composed of thirty-three trustees of whom one shall be the Secretary of the Interior (ex officio), one shall be the Secretary of the Smithsonian Institution (ex officio), and the remaining thirty-one trustees who shall be citizens of the United States, to be chosen as hereinafter provided.

(b) The Secretary of the Interior and the Secretary of the Smithsonian Institution, when it appears desirable in the interest of the conduct of the business of the board and to such extent as they deem it advisable, may by written notice to the Historics Ships Trust, designate any officer of their agency to act for them in the discharge of their duties as a member of the board of trustees.

(c) The Secretary of the Interior and the Secretary of the Smithsonian Institution and the following-named persons shall serve as members of a temporary board of trustees:

Helen Delich Bentley, Chairman, Federal Maritime Commission.

Frank Braynard, trustee, National Maritime Historical Society.

Norman Brouwer, trustee, National Maritime Historical Society.

Karl Kortum, trustee, National Maritime Historical Society.

John Lyman, trustee, National Maritime Historical Society.

Walter F. Schleech, Junior, rear admiral, United States Navy (retired).

Peter Stanford, trustee, National Maritime Historical Society.

John N. Thurman, trustee, National Maritime Historical Society.

Shannon Wall, trustee, National Maritime Historical Society.

Charles Wittholz, trustee, National Maritime Historical Society.

(d) The Secretary of the Interior shall serve as Chairman of the temporary board and shall call a meeting of such temporary board within ninety days after the date of the enactment of this Act for the purpose of adopting bylaws of the Historic Ships Trust and electing the members of the first regular board of trustees in accordance therewith. The first regular board of trustees shall elect a chairman from among its members. The respective terms of office of the trustees shall be as prescribed by the board of trustees but in no case shall a single term exceed a period of three years from the date of election. A successor to a trustees shall be chosen in the same manner and shall have a term expiring three years from the date of the expiration of the term for which his predecessor was chosen, except that a successor chosen to fill a vacancy occurring prior to the expiration of such term shall be chosen only for the remainder of that term. The chairman of the board of trustees shall be elected by a majority vote of the members of the board. No compensation shall be paid to the members of the board of trustees for their services as such members, but they shall be reimbursed for travel and actual expenses necessarily incurred by them in attending board meetings and performing other official duties on behalf of the Historic Ships Trust at the direction of the board of trustees.

SEC. 5. To the extent necessary to enable it to carry out the functions vested in it by this Act, the Historic Ships Trust shall have the following general powers:

(1) To have succession until dissolved by Act of Congress, in which event title to the properties of the Historic Ships Trust, both real and personal, shall, insofar as consistent with existing contractual obligations and subject to all other legally enforceable claims or demands by or against the Historic Ships Trust, pass to and become vested in the United States of America.

(2) To sue and be sued in its corporate name.

(3) To adopt, alter, and use a corporate seal which shall be judicially noticed.

(4) To adopt a constitution and to make such bylaws, rules, and regulations, not inconsistent with the laws of the United States or of any State, as it deems necessary for the administration of its functions under this Act, including among other matter, bylaws, rules, and regulations governing membership, visitation to historic properties, educational programs, administration of corporate funds, and the organization and procedure of the board of trustees.

(5) To accept, hold, and administer gifts and bequests of money, securities, or other personal property of whatsoever character, absolutely or on trust, for the purposes for which the Historic Ships Trust is created. Unless otherwise restricted by the terms of the gift or bequest, the Historic Ships Trust is authorized to sell, exchange, or otherwise dispose of and to invest or reinvest in such investments as it may determine from time to time the moneys, securities, or other property given or bequeathed to it. The principal of such corporate funds, together with the income therefrom and all other revenues received by it from any source whatsoever, including appropriated funds, shall be placed in such depositories as the Historic Ships Trust shall determine and shall be subject to expenditures by the Historic Ships Trust for its corporate purposes.

(6) To acquire by gift, purchase, or otherwise, absolutely or on trust, and to hold and, unless otherwise restricted by the terms of the gift or devise, to encumber, convey, or otherwise dispose of, any real or other property, or any estate or interest therein, as may be necessary and proper in carrying into effect the purposes of the Historic Ships Trust.

(7) To contract and make cooperative agreements with Federal, State, or municipal departments or agencies, corporations, associations, or individuals under such terms and conditions as it deems advisable, respecting the acquisition, financing, protection, preservation, maintenance, display, or operation of any historic ship.

(8) To enter contracts generally and to execute all instruments necessary or appropriate to carry out its corporate purposes, which instruments shall include such concession contracts, leases, or permits for the use of lands, buildings, or other property deemed desirable either to accommodate the public or to facilitate administration.

(9) To appoint and prescribe the duties of a president and such officers, agents, and employees as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the Historic Ships Trust may determine.

(10) And generally to do any and all lawful acts necessary or appropriate to carry out the purposes for which the Historic Ships Trust is created.

SEC. 6. The Secretary of the Interior and the Secretary of the Smithsonian Institution are authorized to establish a suitable advisory commission. The members of the advisory commission shall include representatives of business, banking, labor unions, associations, publications and other organizations and institutions, and individuals concerned with the preservation, history, and public appreciation of historic ships.

The advisory commission shall render advice to the Secretaries, from time to time, upon matters which he may refer to them for consideration.

SEC. 7. For the fiscal year ending June 30, 1976, and for each of the next following four fiscal years, there is authorized to be appropriated to the Historic Ships Trust the sum of $1,000,000.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 229. A bill to amend the Endangered Species Act of 1973 to make it more consistent with the Marine Mammal Protection Act of 1972. Referred to the Committee on Commerce.

ASSISTANCE TO SCRIMSHAW DEALERS AND ARTISTS

Mr. KENNEDY. Mr. President, I am introducing for myself and Senator BROOKE an amendment to the Endangered Species Act of 1973 to make it consistent with the Marine Mammal Protection Act of 1972. This legislation is designed to protect the art of scrimshaw and the livelihood of scrimshanders in Massachusetts and elsewhere in this country where the art of scrimshaw flourishes.

The Marine Mammal Protection Act of 1972 which I strongly supported and which had broad support in the Congress placed a ban on the taking, catching, importing, or exporting of marine mammals except under permit for scientific purposes. One of the central purposes of this legislation was to halt U.S. involvement in the killing of whales.

The Endangered Species Act Amendments of 1973 prohibited whale ivory in interstate commerce and included whale ivory taken prior to the Marine Mammal Protection Act. These provisions resulted in a great deal of confusion for those engaged in scrimshaw trade and made impossible any interstate commercial activity in scrimshaw objects on whale ivory taken at any time—years or hundreds of years prior to the Marine Mammal Protection Act. I would like to include in the RECORD at this time a letter I received from Robert W. Shoning, Director of the National Marine Fisheries Service explaining in some detail the confusion that has resulted which adversely affects scrimshanders and scrimshaw dealers.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL MARINE FISHERIES SERVICE,
Washington, December 10, 1974.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: In view of your interest in the Endangered Species Act of 1973 and the likelihood that Congress will not enact relief legislation to allow interstate commerce in pre-Act inventories of scrimshaw or other products of endangered species, I would like to advise you of an action we are taking in accordance with our responsibilities under the Act.

A considerable amount of confusion still exists with respect to the application of the Endangered Species Act of 1973, 16 U.S.C. 1531, to commercial activity involving whalebone, whaleteeth, scrimshaw, and other whale products acquired prior to December 28, 1973, the date the Act became effective.

Eight species of whales are presently listed as endangered including the sperm whale, traditionally the major source of scrimshaw and other whalebone products. In general, any interstate or foreign commerce in parts or products of these endangered whales is now prohibited in the course of a commercial activity. Such parts or products may not be imported into or exported from the United States, nor sold, shipped or offered for sale in interstate or foreign commerce.

These prohibitions apply to all parts or products including those on hand when the Act became effective. However, section 9(b) exempts parts or products held on December 28, 1973, provided they were not held in the course of a commercial activity nor contrary to the purposes of the Act. Commercial activity is defined broadly by section 3(1) as "all activities of industry or trade." Thus, the exemption is not available to merchandise held in inventory on December 28, 1973.

Inventories of sperm whale bone or teeth held by manufacturers or suppliers of bone or ivory products may not be sold in interstate commerce as raw material or as finished products either by the original holder or by a subsequent purchaser. Equally prohibited is the interstate sale of inventories of finished products held by scrimshaw dealers and other retailers. Furthermore, none of these products may be advertised in interstate or foreign commerce.

It is our impression that there may be genuine ignorance on the part of many scrimshaw dealers as to the fact that pre-Act stocks may not be exported or sold in interstate commerce. Part of the confusion is attributable to the Marine Mammal Protection Act which does not apply to pre-Act materials. We intend to send a letter detailing our intention to enforce the provisions of the Endangered Species Act regarding whalebone and whale ivory to everyone we believe to be affected by these prohibitions. We also intend to publicize as widely as possible the fact that pre-Act materials of endangered species are covered by the Act. In this way we hope to avoid a misunderstanding as to the requirements of the Act or our enforcement responsibilities. Any assistance you could give us in disseminating this information to your constituents would be greatly appreciated.

Sincerely,

ROBERT W. SCHONING,
Director.

Mr. KENNEDY. Mr. President, the scrimshaw artists and dealers who have contacted me simply want to be able to continue to trade in ivory taken long before the ban which we all support went into effect. These constituents are among the most ardent supporters of the U.S. moratorium on killing whales. These artists and dealers would be the first to report any illegal trade in ivory taken since the ban went into effect.

To assure that our absolute commitment to end the killing of whales is in no way weakened by this very specific provision, Senator BROOKE and I are reintroducing the refined version of the legislation introduced in the last Congress. This language is the result of extensive staff work both in the Senate and the House and with the assistance of the Department of Commerce to make absolutely clear that no further killing of whales will be tolerated in this country even while we amend the act to allow commercial activity in old ivory.

I look forward to Senate action on this legislation to end the confusion and concern of so many engaged in one of America's oldest art forms.

I ask unanimous consent that the full text of the bill be printed at the conclusion of my remarks and Senator BROOKE's remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I am pleased to introduced legislation today with Senator Kennedy which will allow interstate commerce in antique scrimshaw art objects. Such commerce is necessary if we are to preserve the marvelous old art of scrimshanders.

In the 93d Congress my colleague and I introduced similar legislation but unfortunately time conspired against its enactment. That legislation caused quite a stir amongst scores of concerned citizens who feared that it would hamper U.S. efforts to control and eventually end the devastating hunt of whales. Hence my colleague and I revised our legislation to assure these citizens that we are in complete agreement on the need to preserve and protect the dangerous depleted whale population. Such protection is, and should continue to be, a top priority of our Government. Were our legislative initiatives in any way detrimental to the achievement of this important priority, we would not even consider proposing them.

I believe that the bill we introduce today has been greatly strengthened by this citizen response, and that there is now no room in our initiative for the impression that our commitment to the preservation of whales is in any way lessened or weakened. Further I think it reaffirms something which I have long believed: That our unswerving commitment to the moratorium on whales can exist side by side with a commitment to aid our antique scrimshaw dealers. The two are quite compatible and I see no reason why they cannot be simultaneous priorities for the Government. I hope the legislation we offer today will be helpful in this direction.

S. 229

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(b) of the Endangered Species Act of 1973 (87 Stat. 896; 16 U.S.C. 1539) is amended by adding at the end thereof a new subparagraph (4) to read as follows:

"(4) The Secretary of Commerce may grant, under such terms and conditions as he may prescribe (including, but not limited to, registration of inventories, keeping of complete sales records, provision for duly authorized agents of the Secretary of Commerce to have the right to inspect inventories and records, and filing of such reports as the Secretary of Commerce may require), exemptions to the prohibitions in clauses (E) and (F) of section 9(a)(1) of this Act to persons for stocks or inventories of bone and teeth of marine mammals of the order Cetacea, including parts or products thereof, lawfully held within the United States on December 21, 1972. Subsequent purchasers of bone and teeth of marine mammals of the order Cetacea, including parts or products thereof, originally sold by a person granted an exemption pursuant to this paragraph shall be entitled to the same exemption. In connection with any action brought for a violation of the provisions of section 9(a) of this Act, there shall be a rebuttable presumption that the exemption provided for in this paragraph does not apply, and any person claiming the benefit of any such exemption shall have the burden of overcoming such presumption. Notwithstanding the provisions of section 4 (f)(2)(A), regulations published by the Secretary of Commerce in connection with this exemption shall be effective on the date of publication."

By Mr. KENNEDY:

S. 250. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1963 to authorize group life insurance programs for public safety officers and to assist State and local governments to provide such insurance. Referred to the Committee on the Judiciary.

Mr. KENNEDY. Mr. President, I am introducing a bill to establish a federally subsidized group life insurance program for State and local public safety officers.

The Senate has previously adopted this or a similar program by overwhelming votes. The bill I am introducing at this time is identical to the measure passed by the Senate in 1972.

This bill provides for a nationwide, federally subsidized program of group life, accidental death, and dismemberment insurance for State and local public safety officers, including firefighters, correctional guards, court officers and police. Coverage under this plan is patterned closely after the highly successful Federal Employees and Servicemen's Group Life Insurance programs, which are available to all Federal civilian employees and to members of our Armed Forces. The Law Enforcement Assistance Administration would buy a national group policy from a nationwide life insurance carrier so that the underlying coverage would be provided—and much of the administrative work would be handled—by the private sector.

Any unit of State or general local government could apply to participate in the program. Officers in participating units could elect not to be covered; those remaining in the program would have their share of the premiums deducted from their wages. Coverage would be at a level of the officer's annual salary plus $2,000, starting from a floor of $10,000 coverage rising to a maximum of $32,000. Accidental death and dismemberment insurance would be included with usual double indemnity feature. LEAA would pay up to one-third of the total cost of the premiums, leaving the remainder to be covered by the insured officer or the employing agency.

Where existing State or local group life insurance plans provide coverage for public safety officers, or where it was desired to establish such a program within a year after the effective date of the bill, eligible officers would choose by ballot between the Federal and the State or local plans. If they chose the State or local program, it would be eligible for the same subsidy which would go to the Federal plan.

Totaling the four categories of public safety officers—police, firefighters, correctional guards, and court officers—the bill would make its benefits available to approximately 700,000 to 900,000 persons.

There are many reasons why this program is vitally needed. Most tragically and most prominently of all, the rate of crippling and killing assaults on officers is high and rising each year. The number of police killed by criminal acts rose from 86 in 1969 to 127 in 1973 and 132 in 1974. Firefighters, too, are still subject to criminal assaults while on their job; from 1967 through 1969 injuries during civil disorders averaged over 200 per year, and in 1970 the rate remained almost the same at 195.

Because of these hazards, some public safety officers find regular life insurance coverage hard to come by, unusually expensive, or restricted in benefits offered.

Because of job hazards, low salaries, and employer inaction—all factors which are related to their public service jobs—many officers and their families are inadequately protected against death or disability on or off the job. This is one important problem that is too often overlooked—that public safety officers' work situations make it difficult or impossible for many of them to obtain adequate life insurance to cover them on or off duty. In other words, if we wish to respond adequately to the problems created by the risks of officers' work, we have to enact legislation which will help them whether they are killed or injured on the job or not, whether by a criminal act or by accident or by natural causes.

In conclusion, let me say that I regard this bill as one over which there need be no partisan division. In the past it has attracted support from Democrats and Republicans, conservatives and liberals. It is also supported by the major public safety officers' organizations and by many insurance companies. It will help with morale and in recruiting and keeping good public safety officers, and we can hope it will thereby improve the protection we all receive. And it will go a long way toward alleviating a serious human problem on which the Federal Government is uniquely qualified to act. We owe these men and women no less, and the time for action is now.

I look forward to Senate approval of this vitally important measure in this Congress, so that we may begin to provide adequate insurance protection for our Nation's public service protectors.

By Mr. EAGLETON:

S. 231. A bill to amend section 5(b) of the Food Stamp Act of 1964 to prohibit the use of funds to furnish food stamps to certain persons enrolled in institutions of higher education. Referred to the Committee on Agriculture and Forestry.

AVOIDING FOOD STAMP ABUSE

Mr. EAGLETON. Mr. President, I send to the desk for appropriate reference a bill to amend the Food Stamp Act so as to make ineligible for food stamps those college students whose parents are financially able to provide their support.

Specifically, my bill would make ineligible a student who: first, is at least 18 years old; second, is enrolled in an institution of higher education; and third, is a properly claimed tax dependent of a person whose own household is ineligible for food stamps. A "properly claimed" tax dependent is one who receives more than half of his or her support from the taxpayer claiming the exemption.

While the Department of Agriculture has not compiled information on student participation in the food stamp program, a number of surveys of college communities across the country have shown that thousands of college students have been receiving food stamps.

In 1971, concern about abuse of the program by non-needy students led the Congress to enact a tax dependency provision. That provision read:

> Any household which includes a member who has reached his eighteenth birthday and who is claimed as a dependent child for Federal income tax purposes by a taxpayer who is not a member of an eligible household, shall be ineligible to participate in any food stamp program established pursuant to this Act during the tax period such dependency is claimed and for a period of one year after expiration of such tax period.

In 1973, the Supreme Court in Murry against USDA held that that language violated due process in that—

> The tax deduction taken for the benefit of the parent in a prior year is not a rational measure of the need of a different household with which the child of the tax-deducting parent lives, and the administration of the Act allows no hearing to show that the tax deduction is irrelevant to the need of the household.

Last year, an amendment, carefully drafted by Congressman John B. Anderson of Illinois to meet the objections of the Supreme Court, was included in the Agriculture appropriations bill. That provision, of course, is effective only for the current fiscal year. My bill would make it a permanent part of the Food Stamp Act.

Under the appropriations provision and my bill, only the student who is claimed as a tax dependent is made ineligible for food stamps. Other members of the student's household can receive food stamps if the eligibility requirements of the law are met.

Second, the student is made ineligible only for the tax year during which he is claimed as a dependent.

Third, the stipulation that the tax dependent must be properly claimed gives the student the opportunity, through the fair hearing process, to establish that he is not in fact receiving more than half of his support from the parent claiming the tax exemption.

Mr. President, the food stamp program is probably the most equitable and effective Federal program yet devised to meet the needs of low-income citizens. Widespread abuse by those who are not truly needy can only serve to erode public support for the program.

I believe it is incumbent upon those of us who have consistently supported the food stamp program and opposed efforts to cripple it to see to it that these abuses are eliminated.

By Mr. BURDICK (for himself, Mr. Abourezk, Mr. Baker, Mr. Domenici, Mr. Helms, Mr. Huddleston, Mr. Humphrey, Mr. Inouye, Mr. McGee, Mr. McGovern, and Mr. Young):

S. 232. A bill to amend the Internal Revenue Code of 1954 to provide that the tax on the amounts paid for communication services shall not apply to the amount of the State and local taxes paid for such services. Referred to the Committee on Finance.

Mr. BURDICK. Mr. President, in 1973 the Internal Revenue Service issued a revenue ruling (73–184) which had the effect of imposing a "tax on a tax," much to the irritation and indignation of the citizens of many States.

Section 4251 of the Internal Revenue Code imposes a tax on the amount paid for local and toll telephone service; the section also provides that the person paying for the phone service shall pay that tax. In determining the base amount to be taxed, the IRS now requires that the State and local sales tax be included. This may be illustrated by a hypothetical example from North Dakota:

Old taxing system

Telephone service	$10.00
North Dakota sales tax	.40
Federal excise tax (9% of $10)	.90
Total bill	11.30

New taxing system

Telephone service	10.00
North Dakota sales tax	.40
Federal excise tax (9% of $10.40)	.94
Total bill	11.34

Thus, by including the $0.40 North Dakota sales tax in the base, the telephone customer must pay an additional 4 cents Federal tax.

The ruling is now costing the citizens of 17 States a total of about $17 million in the following amounts:

Alabama	$700,000
Florida	4,000,000
Illinois	4,000,000
Iowa	500,000
Kansas	400,000
Kentucky	800,000
Maine	300,000
Minnesota	900,000
Mississippi	525,000
Missouri	1,000,000
Nebraska	250,000
New Mexico	260,000
North Dakota	125,000
Pennsylvania	2,000,000
South Carolina	200,000
South Dakota	150,000
Tennessee	1,000,000

The bill which I introduce today on behalf of myself and the Senator from South Dakota (Mr. Abourezk), the Senator from Tennessee (Mr. Baker), the Senator from New Mexico (Mr. Domenici), the Senator from North Carolina (Mr. Helms), the Senator from Kentucky (Mr. Huddleston), the Senator from Minnesota (Mr. Humphrey), the Senator from Hawaii (Mr. Inouye), the Senator from Wyoming (Mr. McGee), the Senator from South Dakota (Mr. McGovern), and the Senator from North Dakota (Mr. Young), would prohibit the IRS from including the amount representing State or local sales taxes in the base for computation of the Federal communications excise tax. It is identical to the bill (S. 2790) I introduced in the last Congress. Its intendment was approved in the Ways and Means Committee's tentative decisions of August 22, 1974, and I would hope we can have final action on the new bill in the very near future.

By Mr. BURDICK (by request):

S. 235. A bill to establish a uniform law on the subject of bankruptcies. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, today I am introducing, by request, a bill to revise the bankruptcy laws of the United States.

This bill is the result of the deliberations of the bankruptcy judges and it reflects their views as to the appropriate remedies for the ills that afflict our present system. This bill, like the one proposed by the Bankruptcy Commission seeks to modernize the administrative machinery of the bankruptcy courts and, in general, set uniform standards and laws throughout the United States.

I am not unalterably wed to each and every provision of this bill, I believe that it can serve as an additional vehicle for needed reforms in the Federal bankruptcy law.

By Mr. BURDICK (by request):

S. 236. A bill to revise and reform title II of the United States Code; and for other purposes. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, today I am reintroducing, by request, a bill to revise the bankruptcy laws of the United States.

The bill that is being introduced today is the end product of more than 2 years of work by the Bankruptcy Commission and more than a year of staff study by the Improvements in Judicial Machinery Subcommittee of the Committee on the Judiciary of the U.S. Senate.

The Bankruptcy Commission conducted 21 working meetings lasting a total of 44 days. It conducted public hearings in Washington, New York, Chicago, and Los Angeles. It received information from private and governmental organizations which were expressly concerned with the bankruptcy system in this country. In addition to these efforts the Commission staff, which numbered some 27 persons, engaged in legal and practical studies supplemented by extensive research conducted by several private contractors.

The Congress of the United States created the Bankruptcy Commission, because the present bankruptcy system has proved archaic and ineffective. Enacted in 1898 and extensively revised in 1938, the present bankruptcy system has received only sporadic attention from the Congress. In fact, despite the staggering increase in bankruptcy filings, 10,000 in 1946 to 20,000 in 1972, a quarter century has passed without major amendment to the Bankruptcy Act. It is not surprising then that serious flaws have developed.

The Bankruptcy Commission felt that to remedy the faults of the present system, a new bankruptcy law establishing a new organization and new procedures was required. The bill being introduced would seek to modernize the administration structure of the bankruptcy courts and, in general, set uniform standards and laws throughout the United States.

While I am not unalterably wed to each and every provision of this bill, I believe it will serve as an excellent vehicle for needed reforms of the Federal bankruptcy law. Therefore I urge that it receive prompt hearings, upon proper referral, as well as full consideration and debate, so that we may enact worthy legislation in this area.

By Mr. BURDICK:

S. 237. A bill to amend title 28, United States Code, to provide in civil cases for juries of six persons, and for other purposes. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, I am introducing today a bill to provide for juries of six persons in civil cases only. This is a matter which requires final consideration during this new Congress.

On June 21, 1973, the Supreme Court decided the case of Colgrove against Battin in which a majority of the Court held that the Constitution does not require that juries in civil cases tried in the Federal courts must consist of 12 persons. Thus, the Supreme Court has finally extended a line of cases in recent years which have held that the term "jury" as used in the Constitution does not carry with it a connotation of 12 persons as a constitutional requisite.

Encouraged by some of the earlier decisions, a large number of Federal district courts adopted local rules of court which provided for the use of six-person juries in specified types of civil cases. For almost 2 years, the experimentation has continued and I am not aware that the use of six-person juries in civil cases has met with any significant criticism from the trial bar of this country.

Mr. President, it is interesting to note that in the Colgrove case, two members of the Court dissented on the grounds that the introduction of six-person juries by local rule was beyond the rulemaking Enabling Act of 1934. This is a view which has been expressed by many critics competent to comment on the question. In any event, now that this decision has removed the constitutional barrier, I believe that the Congress should pass appropriate legislation fixing the number of jurors in civil cases, but not criminal cases, at the number of six. The bill also preserves the principle of unanimity. The passage of such legislation by Congress would remove all controversy relative to the power of local courts to adopt varying legal practices and procedures in areas where Congress has previously stated that there should be uniformity in all 94 Federal district courts.

By Mr. PROXMIRE (for himself, Mr. KENNEDY, Mr. CRANSTON, and Mr. PELL):

S. 244. A bill to amend section 102 of the National Security Act of 1947, as amended, to prohibit domestic intelligence activities by the Central Intelligence Agency, and for other purposes. Referred to the Committee on Armed Services.

PROHIBITING DOMESTIC OPERATIONS BY THE CENTRAL INTELLIGENCE AGENCY

Mr. PROXMIRE. Mr. President, the statement by CIA Director William Colby before the Senate Appropriations Committee confirms that his agency has been deeply involved in domestic activities of a questionable and in my opinion illegal nature.

The Congress must act quickly to provide the American citizen that his privacy and rights under the Constitution will not further be abridged. It is not sufficient to state that such activities are now ended by administrative decision. There should be a clear congressional revision of the 1947 National Security Act so that the original prohibition against domestic activities is reinforced and broadened.

An amendment to provide this assurance was attached to the fiscal year 1975 military authorization procurement bill but failed to survive the conference due to the House conferees objecting to its nongermane content.

That amendment was reintroduced as a bill last July and now I reintroduce the same provision.

It is important to note that the Director of the CIA has stated on two occasions that he supports this bill. I think this is evidence of the good intentions of the present Director and in another indication of the sound approach he is taking in this difficult time for his Agency.

Mr. President, this bill could well be the base for a thorough reassessment of the 1947 National Security Act and the 1949 CIA Act. I hope that the Armed Services Committee will soon hold hearings on this legislation and provide the assurances that the American people are looking for.

Mr. President, I ask unanimous consent that this bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102 of the National Security Act of 1947, as amended (50 U.S.C. 403), is amended as follows:

(1) Subsection (d) is amended by inserting "foreign" immediately before "intelligence" the first time the latter term appears in such subsection.

(2) Clauses (1) and (2) of subsection (d) are amended by inserting "foreign" immediately before "intelligence" each time the latter term appears in such clauses.

(3) Clause (3) of subsection (d) is amended by inserting "foreign" immediately before "intelligence" the first time the latter term appears in such clause.

(4) Clause (4) of subsection (d) is amended by inserting "relating to foreign intelligence activities" immediately after "of common concern."

(5) Clause (5) of subsection (d) is amended to read as follows:

"(5) to perform such other functions and duties related to foreign intelligence affecting the national security as may be specifically directed from time to time by the Council and reported to the Congress in such manner and in accordance with such procedures as the Congress may establish to insure effective legislative oversight with due recognition of essential security requirements.".

(6) Add at the end of such section a new subsection as follows:

"(g) Nothing in this or any other Act shall be construed as authorizing the Central Intelligence Agency to—

"(1) carry out, directly or indirectly, within the United States, either on its own or in cooperation or conjunction with any other department, agency, organization, or individual any police or police-type operation or activity, any law enforcement operation or activity, or any internal security operation or activity; *Provided, however,* That nothing in this Act shall be construed to prohibit the Central Intelligence Agency from (A) protecting its installations, (B) conducting personnel investigations of Agency employees and applicants or employees of contractors and others requiring access to sensitive Agency information in carrying out Agency responsibilities, or (C) providing information resultng from foreign intelligence activities to other appropriate departments and agencies; or

"(2) participate, directly or indirectly, in any illegal activity within the United States.".

By Mr. PROXMIRE:

S. 245. A bill to impose a moratorium on the receipt of deposits or the making of loans by financial institutions at places of business, other than those of financial institutions through the means of electronic methods of funds transfers. Referred to the Committee on Banking, Housing and Urban Affairs.

MORATORIUM ON ELECTRONIC BRANCHING

Mr. PROXMIRE. Mr. President, I am reintroducing legislation which I introduced in the last Congress to impose a moratorium on the establishment of electronic transfer facilities on the part of financial institutions. The moratorium would be effective as of December 19, 1974, the date I introduced a similar bill in the last Congress, and would continue until December 1, 1976. The purpose of the moratorium is to enable the National Commission on Electronic Fund Transfers, which was recently established by the Congress, to study the implications of electronic branching and to make appropriate recommendations to the Congress and the President. I understand similar legislation is being introduced today in the House of Representatives by Congressman St Germain.

Mr. President, the need for a moratorium on electronic branching has become necessary due to a recent interpretation of the Comprtoller of the Currency holding that electronic facilities for effecting deposits, withdrawals, or loans are not branches within the meaning of the National Bank Act and, therefore, are not subject to the various geographic restrictions imposed on the establishment of branches by national banks.

Under this interpretation, a handful of large money center banks could establish electronic branches throughout the United States and siphon money away from locally chartered financial institutions. While these electronic branches obviously have considerable benefit for the consuming public, they also can profoundly affect the structure of financial institutions and threaten the viability of the dual banking system.

The National Commission on Electronic Fund Transfers was established to assess all of the implications of the developing electronic funds transfer system including the impact of electronic transfer facilities on our branching laws. However, if the interpretation of the Comptroller is allowed to stand, the Commission and the Congress could be quickly faced with a fait accompli. If a large number of electronic transfer facilities are established throughout the country, the options available to the Congress for dealing with the branching issue could be substantially reduced. Accordingly I believe it is in the public interest to preserve our options to the maximum extent feasible until we can receive the Commission's reports and recommendations.

By recommending this moratorium I do not mean to imply that these electronic transfer facilities are necessarily contrary to the public interest. I can see many advantages to electronic branching and I am hopeful that these new technological developments can proceed in such a way that the stability of our financial regulatory system is not unduly threatened. I also feel strongly that we should move cautiously in this area until the recommendations of the Commission on Electronic Fund Transfers are received.

By introducing a similar bill last December 19, 1974, I believe financial institutions were put on fair notice that Congress is seriously considering legislation to restrict or limit electronic branching until the report of the Electronic Fund Transfers Commission is received. I am hopeful that the issue of a temporary moratorium can be promptly dealt with in the current Congress. It may well be that any temporary moratorum would need to provide for some limited experimentation until Congress can make a final judgment on this issue. I would certainly be amenable to some reasonable modification of the moratorium to accommodate any such experimentation which can be demonstrated to be necessary.

By Mr. BELLMON:

S. 246. A bill to revise the period used for determining changes in the index of prices paid by farmers and in the national average yield per acre for the purpose of making adjustments in the target price of the 1976 crops of wheat, feed grains, and cotton. Referred to the Committee on Agriculture and Forestry.

Mr. BELLMON. Mr. President, I am introducing legislation to amend the Agriculture and Consumer Protection Act of 1973.

During the Senate-House conference on that legislation there was considerable give and take between conferees in an effort to arrive at provisions which we felt would be agreeable to all parties concerned, including the President.

One of the compromises was to restrict the cost of production adjustment formula with regard to the target prices to the final 2 years of the program—1976 and 1977. However, in the bill finally adopted, the change in the target prices in 1976 will be determined only on the change in the cost of production index in 1975.

In the 15 months since adoption of the Agriculture and Consumer Protection Act, the cost of production index has increased from 158 to 184—1967=100. There have been very dramatic increases in most farm production inputs. For example, according to Oklahoma Department of Agriculture statistics, tractor diesel increased from 19.4 cents per gallon to 35 cents per gallon from September 1973 to September 1974. During that same period fertilizer in Oklahoma increased from $89 per ton to $220 per ton for anhydrous ammonia, $92 per ton to $215 per ton for urea—45 to 46 percent nitrogen, $75 per ton to $170 per ton for 33.5 percent nitrogen, $85 per ton to $155 per ton for 6–6–24, $79 per ton to $150 per ton for 10–20–10, $83 per ton to $170 per ton for 16–20–0, $110 per ton to $225 per ton for 18–46–0.

Farm equipment prices increased between 30 and 40 percent in 1974 alone. One farm equipment company authorized the following increases in 1974: January 1—6 percent, April 6—6 percent, June 24—7 percent, August 21—8 percent, November—7 percent. A good example is a combine that one of my neighbors ordered. He ordered a model 6600 combine on January 15, 1974, which was selling for $22,850. The combine finally came in this week and is now selling for $29,610. A 4430 tractor—125 horsepower—was selling for $13,200 at the beginning of 1974 and now is going for $22,000. A grain and fertilizer drill was bringing $2,520 in January 1974 and now is bringing $4,200. With price increases such as these to pay, farmers plainly are not helped by target prices frozen at mid-1973 levels.

Under the present law these cost of production increases would not be taken into account in determining the 1976 and 1977 target prices.

Mr. President, this Government has asked American farmers to produce at maximum capacity to meet the food and fiber needs of a growing world population. Yet the Government has not provided the farmers with the protection from commodity price drops that is necessary to encourage full production. Last January cotton was bringing 60 cents per pound in Oklahoma and today a cotton producer is lucky to get 25 cents per pound. The market is declining daily. Government policies have contributed in part to the shortages of fertilizer and other products which have resulted in production cost increases.

The bill I introduce today would amend current law to provide that any changes in the cost of production between the date of enactment of the act, August 10, 1973, through calendar year 1975 shall be considered in determining the 1976 and 1977 target prices.

Mr. President, simple justice demands that this action be taken promptly. I ask unanimous consent that the full text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 107(c) of the Agricultural Act of 1949, as amended, is amended by changing in the first sentence the words "during the calendar year 1975" to read "during the period August 10, 1973, through December 31, 1975," and by deleting the proviso clause in such sentence and substituting in lieu thereof the following: "*Provided,* That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of wheat for the calendar years 1973 through 1975 over the national average yield per acre of wheat for the calendar years 1970 through 1972 in the case of the 1976 crop and (ii) the national average yield per acre of wheat for the calendar years 1974 through 1976 over the national average yield per acre of wheat for the calendar years 1973 through 1975 in the case of the 1977 crop.".

(b) Section 105(b) (1) of the Agricultural Act of 1949, as amended, is amended by changing in the second sentence the words "during the calendar year 1975" to read "during the period August 10, 1973, through December 31, 1975," and by deleting the proviso clause in such sentence and substituting in lieu thereof the following: "*Provided,* That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of feed grains for the calendar years 1973 through 1975 over the national average yield per acre of feed grains for the calendar years 1970 through 1972 in the case of the 1976 crop and (ii) the national average yield per acre of feed grains for the calendar years 1974 through 1976 over the national average yield per acre of feed grains for the calendar years 1973 through 1975 in the case of the 1977 crop.".

(c) Section 103(e)(2) of the Agricultural Act of 1949, as amended, is amended by changing in the first sentence the words "during the calendar year 1975" to read "during the period August 10, 1973, through December 31, 1975," and by deleting the proviso clause in such sentence and substituting in lieu thereof the following: "*Provided*, That any increase that would otherwise be made in the established price to reflect a change in the index of prices paid by farmers shall be adjusted to reflect any change in (i) the national average yield per acre of cotton for the calendar years 1973 through 1975 over the national average yield per acre of cotton for the calendar years 1970 through 1972 in the case of the 1976 crop and (ii) the national average yield per acre of cotton for the calendar years 1974 through 1976 over the national average yield per acre of cotton for the calendar years 1973 through 1975 in the case of the 1977 crop.".

By Mr. WILLIAMS (for himself, Mr. Tower, and Mr. Brooke):

S. 249. A bill to amend the Securities and Exchange Act of 1934, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

SECURITIES ACTS AMENDMENTS OF 1975

Mr. WILLIAMS. Mr. President, on behalf of myself and Senators Tower and Brooke, I am today introducing a bill entitled "The Securities Acts Amendments of 1975." This bill is a consolidation of the four securities bills which were passed by the Senate in the last Congress together with provisions concerning the disclosure of the securities holdings of large institutions. This unified legislative package represents the most substantial and significant revision of this country's Federal securities laws since the passage of the Securities Exchange Act in 1934.

The four bills previously passed by the Senate and incorporated into this bill are S. 470, which passed on June 18, 1973; S. 2058, which passed on August 1, 1973; S. 2474 which passed on September 16, 1974; and S. 2519, which passed on May 27, 1974. The institutional investor disclosure provisions in this bill are similar to those included in S. 2234 and S. 2683 on which hearings were held before the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs on August 13 and 14, 1974.

The Senate bills which we considered last Congress had their House counterpart in H.R. 5050. This omnibus securities bill was reported by the House Committee on Interstate and Foreign Commerce on November 19, 1974, with only one dissenting vote. However, under strong pressure from opponents of this legislation, the House Rules Committee denied H.R. 5050 a rule. As a result, the bill never reached the House floor, and the 93d Congress closed without final passage of any securities legislation.

The failure to enact securities legislation in the last Congress was unfortunate for both the investing public and the securities industry. This legislation represents the product of nearly 4 years of studies, investigations, and hearings. It is carefully designed to improve the efficiency of the securities market mechanisms and to increase the protections provided to securities investors. It is reform legislation in the very best sense, for it will, I am convinced, lay the foundations for a stronger and more profitable securities industry while assuring that investors are more economically and effectively served by that industry.

Because of the importance of this legislation and the extensive work that has already gone into it, we should proceed with its consideration and passage promptly. There is a pressing need to clarify the operational direction of the securities markets and the regulatory posture of the securities industry. It is time to get about the serious business of building a national market system. It is well past time that a national system for the clearance and settlement of securities transactions should have been in place. The municipal securities industry needs a coordinated regulatory environment. And investor confidence in the integrity of our equity markets may well depend on increased disclosure of the activities of institutional investors in those markets.

The bill we are introducing today would accomplish these objectives. In a fair, even handed, and effective manner, this bill would assure increased competition in the securities industry, and thereby improve the efficiency of securities trading. It would rationalize regulatory procedure and thereby improve investor protection while reducing industry costs. And it would point the way toward a national market system, and thereby assure that this country's securities markets remain the strongest in the world.

This bill speaks not only to the correction of past problems, but also to the facilitation of constructive future growth for the securities industry and the securities markets. Very briefly, it covers nine basic subject matter areas: commission rates, institutional membership, fiduciary standards, self-regulation and SEC oversight, a national market system for securities, national system for clearance and settlement of securities transactions, municipal securities, institutional disclosure, and the sale of investment company advisers for profit. A detailed summary of the legislative changes that would be made in each of these areas accompanies the legislation.

Mr. President, this is much-needed legislation, nearly all of which has already passed the Senate. It has bipartisan support. I assure you I will do everything possible to move this legislation through the Congress at the earliest possible date. Mr. President, I ask unanimous consent that a summary of the Securities Act Amendments of 1975 and the full text of the legislation be printed in the Record.

There being no objection, the summary and bill were ordered to be printed in the Record, as follows:

SUMMARY OF THE PRINCIPAL PROVISIONS OF THE SECURITIES ACTS AMENDMENTS OF 1975

I. COMMISSION RATES

The Securities and Exchange Commission (the "SEC" or the "Commission") has clear authority under existing provisions of the Securities Exchange Act of 1934 (the "Exchange Act") to control the level and extent of fixed rates of commission imposed on transactions effected on a national securities exchange. The SEC also has clear authority to abolish such fixed rates entirely. The Securities Acts Amendments of 1975 (the "bill") would not affect this authority. Because the SEC is proceeding in a deliberate and responsible manner to phase out fixed rates, further legislation in this area appears to be unnecessary. As the Banking Committee stated in its report on S. 470 during the last Congress;

"Although . . . fully competitive rates are necessary and appropriate for the long term health of the securities industry, the development of a true central market system, and the protection and fair treatment of investors, there are serious difficulties with any attempt by the Congress to set the precise date on which fixed rates are to be eliminated."

A. The determination of the reasonableness of fixed rates

The bill would, however, make one important change in the nature of the SEC's responsibility with respect to fixed rates. As early as 1963, the SEC's Special Study of the Securities Markets stated:

"The general standards of reasonableness [governing commission rates in the Exchange Act] is the kind of general standard that needs to be given specific content in the course of administration; yet after nearly 30 years there has been no comprehensive and consistent public articulation, on the part of the Exchange or the Commission, of the principles or criteria to be applied in interpreting the standard."

The Securities Industry Study Report of the Subcommittee on Securities (the "Report") reached the same conclusion ten years later: ". . . the setting of reasonable fixed rates in the securities industry still proceeds without an adequate rationale or sufficient benchmarks. . . ."

This situation would be corrected in the bill by requiring that *if* fixed rates are permitted, the SEC must (1) find that the rates are "reasonable in relation to the costs of providing brokerage service" and (2) publish "the standard employed in adjudging reasonableness." (Sec. 19(b)(2))[1] The SEC would be given explicit authority over the accounting practices of brokers and dealers to assure a proper data base for any ratemaking proceeding. (Sec. 17(e))

B. "Failsafe" provisions with respect to fully competitive rates

The controversy over the desirability and timing of the elimination of fixed commission rates has led to a general belief that the SEC should have flexible power to deal effectively with any untoward consequences of a fully competitive rate environment. To accomplish this, the bill would grant the SEC, in addition to broad general powers related to the protection of investors and the maintenance of fair and orderly markets, three powers designed specifically to deal with problems which may be caused by fully competitive commission rates.

First, the bill would authorize the SEC to require any broker or dealer who effects transactions on an exchange "on a regular basis" but is not a member of that exchange, "to comply with respect to such transactions with such rules of the exchange as the Commission may specify." The exchange would be authorized to enforce compliance with such rules by the broker or dealer, and with respect to those transactions, that broker or dealer would be deemed to be a "member" of the exchange for purposes of various procedural and regulatory provisions of the Exchange Act. (Secs. 6(f) and 3(a)(3))

Second, the bill would direct the Commission to take all appropriate action to deal with any serious disruption in the operation of the markets for listed securities caused by trading in the third market after the advent of fully competitive rates. The SEC would have broad rulemaking authority in this regard, e.g., it could impose affirmative market making obligations on third market dealers or prohibit retail securities firms from dealing as principle with public customers in listed securities. (Sec. 15(c)(5)) In addition, the SEC would be authorized, upon carefully prescribed factual findings, subject to judicial review on a standard of substantial evidence, to prohibit all trading of listed securities in the third market. (Sec. 11A(c)(4))

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[1] Section references, unless otherwise indicated, are to sections of the Securities Exchange Act of 1934 as amended by the bill.

Third, subject to the finding of reasonableness discussed above, the SEC could at any time permit the exchanges to reestablish fixed rates if it finds that fixed rates are "necessary to accomplish the purposes of [the Exchange Act]." (Sec. 19(b)(2))

II. INSTITUTIONAL MEMBERSHIP

Institutional membership on stock exchanges (i.e., the performance of both investment management and brokerage services for the same institutional account by the same exchange member) has caused (1) impediments to fair competition between investment managers, (2) conflicts of interest, and (3) distortions in the efficient allocation of securities trading. The bill would resolve these problems by prohibiting stock exchange members from effecting any transaction on the exchange for any account in which the member or an associated person has a financial interest or with respect to which the member or an associated person exercises investment discretion. (Sec. 11(a)(1))

The bill would exempt from this prohibition certain types of transactions by exchange members which contribute to the fairness and orderliness of exchange markets or which have not given rise to serious problems. For example, exemptions would be provided for transactions by market makers, including specialists and block positioners, stabilizing transactions permitted under section 10(b) of the Act, bona fide arbitrage transactions, transactions made with the approval of floor officials, and transactions to offset transactions made in error. Transactions for a member's own account and transactions for the account of a natural person or trust created by a natural person for himself or another natural person would also be exempted. In addition, the SEC would have the authority to exempt any other transaction which is consistent with the purposes of the subsection. (Sec. 11(a)(1)(A)–(I))

All exchange transactions which fall under the broad prohibition but which have an exemption could be regulated or prohibited by the SEC as it deems necessary or appropriate in the public interest or for the protection of investors. (Sec. 11(a)(2)(A))

An exchange member would be deemed to exercise "investment discretion" with respect to an account if he has legal responsibility for the investment of the account's assets or in fact makes the day-to-day investment decisions for the account. The later *de facto* test is intended to reduce the danger of evasion of the bill's prohibition against any combination of brokerage services and institutional money management through artificially structured arrangement. The Commission would also have the authority to include within the definition of "investment discretion" such other "influence with respect to the purchase and sale of securities" as it determines should be subject to regulation. (Sec. 3(a)(35))

The Commission would be authorized to extend the broad prohibition against the combination of money management and brokerage to the over-the-counter market in order to prevent any disincentive to belong to or trade on an exchange or to protect investors. (Sec. 11(a)(2)(B))

So long as commissions on exchange transactions continue to be fixed, it would not be fair as a matter of competition among money managers or appropriate for the orderly functioning of the markets to limit the efforts by financial institutions to save commission costs by joining securities exchanges. So long as commissions are fixed, money managers which are exchange members enjoy a competitive advantage over managers which are not members. To freeze the existing membership arrangements or to allow the SEC to freeze standards through Rule 19b–2 or otherwise would result in a highly anticompetitive situation. Accordingly, the bill's prohibition against an exchange member executing transactions for an account in which it or an associated person has an interest or an account with respect to which it or an associated person exercises investment discretion would not become effective until all fixed rates of commission have been eliminated. (Sec. 11(a)(3))

During the period prior to the elimination of fixed rates neither the SEC nor any exchange would have the authority to promulgate any rule or take any other action to prohibit transactions by an exchange member for the account of any associated person which is not a natural person or any account with respect to which such member or an associated person exercises investment discretion from off the floor of the exchange. (Sec. 11(a)(4)) Thus, the SEC's Rule 196–2 would have to be withdrawn. The SEC would, however, retain its full powers under the Exchange Act to regulate floor trading and members' trading for their own account.

III. FIDUCIARY STANDARDS

The bill would resolve the uncertainty about the legality of a fiduciary paying higher commissions out of a beneficiary's funds to a broker who provides the fiduciary with valuable research services. (Sec. 24 of the bill.) This would be done by amending the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to make clear that in a competitive rate environment, a fiduciary registered with the SEC and subject to the SEC's regulation does not act in breach of his fiduciary obligation solely by reason of causing or inducing his fund or client to pay a broker a commission for effecting a transaction in excess of the commission being charged by other brokers for effecting similar transactions.

Under the amended statutes, the payment of higher commission charges for research services would be authorized, however, only if:

A. The investment adviser determines, in good faith, that the research services provided by the broker to the fund or client justified the higher commission payment;

B. The investment company or investment adviser discloses to the fund security-holders or the advisers' client, pursuant to rules of the SEC, the circumstances in which and the research services for which the investment company or adviser pays higher fees; and

C. The broker to whom these higher commissions are paid is not affiliated with the investment company or investment adviser.

Subject to these provisions, money managers would, of course, still have a fiduciary duty to obtain best execution for the securities transactions of their funds and clients.

IV. SELF-REGULATION AND SEC OVERSIGHT

The securities industry's unique system of self-regulation has shown great strength in some areas and, in general, has served the industry well. It has also, however, displayed serious deficiencies and has not operated as effectively or fairly as it should.

The bill contains a number of provisions which would clarify the scope of the self-regulatory responsibilities of national securities exchanges and registered securities associations (which are defined in section 3(a)(26) as "self-regulatory organizations") and the manner in which they are to exercise those responsibilities. The bill would also clarify and strengthen the SEC's oversight role with respect to the self-regulatory organizations.

A. The concept of membership

The concept of "membership"—i.e., voluntary association with an industry organization—is fundamental to the self-regulatory system established by the Exchange Act. However, because of certain changes in the operation of the markets, a change in the definition of "member" appears desirable. Presently, "member" is defined only for exchanges and includes any person permitted (1) to effect transactions on an exchange without the use of another person acting as broker or (2) to use the facilities of the exchange without the payment of a commission or with the payment of a commission less than that charged the general public. When fixed commission rates are eliminated the concept of commission "charged the general public" will become obsolete. Furthermore, in a national market system institutional investors may well be permitted to effect transactions on exchanges without the use of another person acting as broker. Without an amendment of this definition, therefore, such investors would automatically be deemed members of the exchange on which such trades are effected.

Section 3(a)(3) as amended by the bill would redefine "member" to mean a person who has agreed to be regulated by a national securities exchange or registered securities association and with respect to whom such exchange or association has undertaken to enforce compliance with its rules, the Exchange Act, and the rules and regulations thereunder. An exchange's or association's undertaking would not, however, be discretionary with respect to persons qualified for membership. In other words, if a person meets the requirements for membership he must be admitted. Secs. 6(b)(2) and 15A (b)(3). And with respect to a person admitted, i.e., a member, an exchange or association must enforce compliance with its rules, the Exchange Act, and the rules and regulations thereunder. (Sec. 19(g).)

B. Procedural standards for self-regulatory action

The self-regulatory organizations exercise governmental power in basically three ways which may adversely affect the interests of particular persons: (1) by imposing a disciplinary sanction, broadly defined, on a member or person associated with a member, (2) by denying membership to an applicant, and (3) by requiring members to cease doing business entirely or in specified ways with a particular non-member or with respect to a particular security.

The bill would establish the following minimum procedural standards for such self-regulatory action:

(1) The rules of a self-regulatory organization must provide a fair procedure for disciplinary action against any member or person associated with a member, the denial of membership, the barring of any person from being associated with a member, and the prohibition or limitation of any person with respect to requested access to services offered by the organization or any member thereof. (Secs. 6(a)(7) and 15A(b)(8).)

(2) Notice of any final action by a self-regulatory organization adversely affecting a member or non-member must be filed with the Commission and made available for public inspection. (Secs. 19(d) and 24.)

(3) The Commission, on its own motion or pursuant to the petition of any aggrieved person, may review any action by a self-regulatory organization imposing a disciplinary sanction, denying membership, barring association, or prohibiting or limiting access to requested services. (Secs. 19(e) and (f))

C. Scope of self-regulatory authority

The Exchange Act does not clearly specify the substantive reach of an exchange's authority over its members. Apart from specific provisions confirming an exchange's authority in particular areas, there is nothing in the Exchange Act which limits or defines an exchange's rule-making authority. Indeed, present section 6(c) states:

"Nothing in this title shall be construed to prevent any exchange from adopting and enforcing any rule not inconsistent with this title and the rules and regulations thereunder and the applicable laws of the State in which it is located."

The authority of national securities associations is dealt with substantially differently. The scope of an association's rule-making authority is defined by present section 15A(b) in terms of affirmative and negative requirements.

The bill would extend the association pattern to exchanges. Thus, the bill would eliminate present Section 19(b) of the Act insofar as it provides an enumeration of subject matters of exchange rulemaking. And it would also eliminate the open-end authority in present section 6(c). Although these provisions have been read as expressing, at least in part, both the scope and the limits of an exchange's rule-making authority, they have proved to be unclear and unsatisfactory in both respects.

Under the bill the scope of the rule-making authority and responsibility of all self-regulatory organizations would be defined in terms of purposes and standards rather than subject matters. The purposes to be served by self-regulatory rules would be expressed affirmatively and negatively (what the rules must be, and what they may not be, designed to accomplish). New sections 6(b) (5) and 15 A(b) (6) would require the rules of any self-regulatory organization to be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to provide safeguards against unreasonable profits or unreasonable rates of commissions or other charges, to foster cooperation and coordination with other self-regulatory organizations, to remove impediments to and perfect the mechanisms of a national market system, and, in general, to protect investors and the public interest. Similarly, by reason of the same sections, a self-regulatory organization's rules must not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers or to regulate matters not related to the purposes of the Exchange Act or the administration of the exchange or association.

Under procedures established by the bill whereby self-regulatory rule changes would have to be justified to and reviewed by the Commission after opportunity for public comment, the Commission's action in approving any such change would constitute a determination by the Commission that the rule is within the permitted purposes and is in conformity with the specified standards of the Exchange Act. (Sec. 19(b))

D. Self-regulating rulemaking

The bill would improve the rule-making processes of the self-regulatory organizations in several respects.

First, although at present all self-regulatory organizations are required to file proposed rule changes with the SEC, there is no requirement that they file an explanation or justification for their proposals. In order to facilitate expeditious Commission review and evaluation of such proposals and to assure informed public comment on them, section 19(b) (1) would require all self-regulatory organizations to file with the SEC in connection with any proposed rule change a "concise general statement of the basis and purpose" of the proposed rule change.

Second, section 19(b) (1) would also require the SEC to give notice and provide an opportunity for interested persons to participate in the process of reviewing a proposed change in a self-regulatory organization's rules. In addition, all comments and all correspondence between the SEC and the self-regulatory agency concerning the proposal would be available for public inspection. (Sec. 23(a))

Third, the Exchange Act at present creates the anomalous situation whereby an exchange, which may not lawfully do business until its rules have undergone official scrutiny in relation to statutory standards, is free to change those rules at any time thereafter without similar advance scrutiny or approval. Section 19(b) (2) would fill this regulatory gap by providing that no change in the rules of any self-regulatory organization may become effective until the SEC finds it to be consistent with applicable requirements. "House-keeping" rules and other rules which do not substantially affect the public interest or the protection of investors would take effect upon filing with the SEC, subject to the SEC's authority to abrogate them within 60 days of filing. (Sec. 19(b) (3))

Fourth, the SEC's present practice is to indicate "approval" of both exchange and registered securities association rules by merely stating that it has "no objection" to their adoption. In order to avoid a lack of public justification for major regulatory policies, section 19(b) (2) would require the Commission, in connection with the approval of a self-regulatory rule change, to publish its reasons for such approval. (Secs. 19(b) (2) and 23(c))

E. SEC power to change self-regulatory rules

In order to assist the Commission's efforts to establish and regulate a national market system, the bill would greatly expand the Commission's direct regulatory powers over the nation's trading markets and the participants in those markets. Thus, for example, section 11A(b) would clarify the Commission's direct authority over processors of market information, and section 11A(c) would confirm the Commission's direct authority over the development and operation of a composite tape and composite quotation system. Similarly, sections 11(b) and 15(c) (5) would provide the SEC with direct authority over all market-making activities.

Notwithstanding the Commission's broadened direct regulatory authority under the bill, there would still be situations in which the Commission's only authority would be indirect, i.e., through requiring the self-regulatory organizations to take specified actions. And as the Report demonstrated there are several problems with the SEC's existing indirect regulatory powers.

First, the SEC has divergent authority with respect to a registered securities association's rules on the one hand and an exchange of rules on the other. Under the bill, the SEC would have uniform authority to "abrogate, add to, or delete from" any self-regulatory organization's rules. (Sec. 19(c))

Second, there has been a continuing controversy as to the precise scope of the SEC's power to amend the rules of a self-regulatory organization. The bill would give the SEC clear authority to amend any self-regulatory organization's rules in any respect consistent with the objectives of the Exchange Act. (Sec. 19(c))

Third, there is also a controversy over the procedures that the SEC must follow in order to force a change in the rules of a self-regulatory organization. In recognition of the quasi-legislative, policy-making nature of an SEC determination to require such a change, section 19(c) would provide that the Commission's action shall be by "rule". Accordingly, the basic procedures the Commission would be required to follow are specified in the Administrative Procedure Act (5 U.S.C. § 553) for rulemaking not on the record. The bill would, however, also require the SEC to (1) provide all interested persons an opportunity to present their views in person as well as in writing; (2) keep a transcript of all oral presentations; and (3) publish a statement of its reasons for taking the action it did, including an identification of the facts it has relied upon in reaching its conclusion.

In order to avoid any doubt as to the SEC's authority in areas where its direct authority overlaps its residual, indirect authority, section 19(c) (4) would make clear that where the Commission has direct authority, it would not be required to proceed under section 19(c) or to follow the procedures specified in that section. In such cases, the SEC could rely on its direct authority and follow the usual Administrative Procedure Act requirements for notice and comment rulemaking.

F. Coordination of self-regulatory responsibilities

The Report concluded that the present allocation of self-regulatory responsibility has two significant defects:

First, the activities and records of many firms are subject to inspection and surveillance by more than one self-regulatory organization.

Second, the standards of the different self-regulatory organizations differ both in substance and in enforcement.

The bill would correct these defects by providing the SEC with authority to establish an explicit allocation of regulatory responsibilities and to eliminate unequal regulation in the securities industry. Amended section 17(d) of the Exchange Act and section 23 of the bill would transfer the present Authority of the Securities Investor Protection Corporation to allocate responsibility for the enforcement of financial rules to the SEC and vest the SEC with the additional authority to rationalize the allocation of all other regulatory responsibilities. Finally, section 11A(a) (2) would direct the SEC to assure that all securities firms are subject to equal regulation as defined in Sec. 32(a) (36).

G. SEC enforcement powers

The Commission has oversight responsibility with respect to the self-regulatory organizations to insure that they exercise their delegated governmental power effectively to meet regulatory needs in the public interest and that they do not exercise that delegated power in a manner inimical to the public interest or unfair to private interests.

To enhance the SEC's oversight powers and provide it with greater regulatory flexibility, the bill would significantly increase the regulatory options available to the SEC to deal with perceived self-regulatory short comings.

First, section 19(h) (1) would authorize the SEC, by order, upon appropriate findings, to censure or place limitations on the activities, functions, and operations of a self-regulatory agency. These powers would be in addition to suspension and deregistration.

Second, section 19(h) (1) would also expand the grounds on which the SEC could sanction a self-regulatory organization. The SEC would be able to take appropriate action against a self-regulatory organization upon a finding that it had failed to enforce its own rules, the Exchange Act or the rules thereunder.

Third, section 19(h) (4) would authorize the SEC to censure or remove from office any officer or director of a self-regulatory organization who had willfully failed to enforce compliance with the Exchange Act, the rules thereunder, or the organization's own rules.

Fourth, sections 21 (e) and (f) would empower the SEC to apply to a Federal court for an injunction to (1) enjoin the violation of the rules of a self-regulatory organization, (2) command a member of a self-regulatory organization to comply with the rules of such organization, or (3) command a self-regulatory organization to enforce compliance by its members with the Exchange Act, the rules thereunder, and the organization's own rules.

Judicial review

The bill would substantially revise Section 25 of the Exchange Act concerning judicial review of SEC action. The bill would (1) simplify and clarify the provisions relating to the review of Commission orders and (2) establish a statutory review procedure for certain SEC rules, including those approving and disapproving self-regulatory actions.

The changes with respect to review of SEC orders to codify and clarify existing law but would not alter in any fundamental respect the availability of court review of orders or the manner in which such review is exercised.

The bill's major innovation in the area of judicial review relates to SEC rule-making. At the present time there is no provision for statutory review of Commission rules. Preenforcement review of rules, to the extent it is available, is pursuant to the Administrative Procedure Act (5 U.S.C. § 702) and is thus in the District Court. The bill would establish a preenforcement review procedure in the Court of Appeals for any SEC rule promulgated under section § 6, 11, 11A, 15(c)(5) or (6), 15A, 17, 17A or 19 of the Exchange Act—i.e., any provision relating to the operation or regulation of the national market system or national system for the clearance and settlement of securities transactions, or the SEC's oversight of the self-regulatory organizations.

V. A NATIONAL MARKET SYSTEM FOR SECURITIES

In the Report, the Subcommittee on Securities emphasized the importance of empowering the SEC to shape the development of and maintain adequate regulatory control over an integrated, national market system. Section 2 of the bill sets the pattern for the later substantive provisions implementing this recommendation by amending Section 2 of the Exchange Act to include among its purposes to "remove impediments to and perfect the mechanism of a national market system in securities."

A. Communications among and dissemination of information about securities markets

Communications systems for the automated dissemination of transaction and quotation information with respect to securities will form the heart of the national market system. The bill would expand the SEC's authority and responsibility to regulate persons operating and administering such systems by adding Section 11A to the Exchange Act. This new section, entitled, "National Market System for Securities: Securities Information Processors" would bring under the SEC's jurisdiction all organizations engaged in the business of collecting, processing, or publishing information relating to quotations for or transactions in securities.

Sec. 11A(b) would give the SEC broad authority to regulate and oversee the activities of registered securities information processors (as defined in section 3(a)(22)), national securities exchanges, and the NASD when they are performing processing and communication functions related to the securities market. For example, the SEC would be directed to assure that all brokers and dealers as vendors of market information have access on reasonable terms to all services of any registered securities communication system. (Sec. 11A(c)(3)(A)) The SEC would be authorized to review any exclusionary action taken by a registered securities information processor. (Sec. 11A(b)(5) In addition the SEC would be authorized to promulgate rules to facilitate the prompt, accurate, and reliable collection, processing, distribution, and publication of information with respect to quotations and transactions, i.e., to develop and oversee a composite tape and composite quotation system. (Sec. 11A(c)(1))

Other powers conferred upon the Commission would include the authority to promulgate rules to prevent the publication of fraudulent or manipulative information with respect to quotations and transactions (Sec. 11A(c)(1)(A)); to specify the method and manner in which information with respect to quotations and transactions is published and the form and content of such information (Sec. 11A(c)(1)(C)); to assure the prices charged by any central processing authority are reasonable (Sec. 11A(c)(1)(D)); to allocate among persons furnishing information to a registered securities information processor the costs associated with collecting, processing, distributing, and publishing such information (Sec. 11A(c)(3)(C); and to require disclosure of transactions which take place in the fourth market. (Sec. 11A(c)(2))

B. Elimination of unnecessary regulatory restrictions

As a result of its Securities Industry Study, the Subcommittee on Securities concluded that the development of a national market system will depend in large measure on the removal of unnecessary regulatory impediments to competition among markets and market participants. However, rather than recommend that the Exchange Act be amended to require the elimination of particular enumerated impediments, the Subcommittee concluded that the better approach would be to charge the SEC with the responsibility to eliminate all present and future competitive restraints which, in its view, cannot be justified by the purposes of the Exchange Act.

Following this approach under the bill the SEC would have an affirmative obligation to eliminate all present and future burdens on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. Thus, the SEC would be required to review the rules of all self-regulatory organizations to assure that they do not impose any such burden on competition. (Secs. 6(b)(8) and 15A(b)(9)) A self-regulatory organization would not amend its rules unless the SEC found that the amendment would not impose an unnecessary competitive burden. (Sec. 19(b)) Actions by a self-regulatory organization which have an adverse impact on an individual or a firm, e.g., disciplinary sanctions levied against a member or denial of membership to a broker-dealer would be subject to review by the SEC and reversal if they were found to impose an unnecessary burden on competition. (Secs. 19(e) and 19(f)) The SEC would also be empowered to abrogate, add to, or delete from the rules of a self-regulatory organization if it deems such action necessary or appropriate to remove burdens on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. (Sec. 19(c))

Further the bill would require the SEC to evaluate its own regulatory proposals in light of the fundamental national economic policy of furthering competition and would prohibit the SEC from promulgating any rule which would impose a burden on competition not necessary or appropriate to achieve the purposes of the Exchange Act. (Sec. 23(a)(2))

C. Regulation of market makers

The Subcommittee on Securities concluded in its Report that market making capacities must be strengthened to absorb the large trading imbalances created by institutional transactions, and it expressed its belief that this could be best achieved by encouraging vigorous competition among market makers. The bill would advance this position by empowering and directing the SEC to remove present restrictions on communication among market makers and to open new opportunities for competition. (Sec. 11A(c))

Following the Subcommittee's recommendation to establish adequate regulatory authority "to back up the competitive pressure to make tight and continuous markets", the bill would add a new section to the Exchange Act giving the SEC authority over the activities of all market makers. (Sec. 15(c)(5)) In addition, the bill would direct the SEC to assure that market makers are subject to equal regulation. (Sec. 11A(a)(2))

D. Auction trading principles

To guarantee that public investors enjoy the benefits of "auction" trading in connection with orders for securities with suitable characteristics, the bill would give the SEC the authority to prescribe rules requiring all broker-dealers trading for their own account in such securities to yield in the execution of their transactions to public orders. Section 11(a)(2) would provide the SEC with this authority over members of exchanges. Section 15(c)(5) would provide the SEC with this authority with respect to dealers operating in the third market. The SEC would also be given similar regulatory control over transactions effected by persons with access to exchange markets on terms comparable to those enjoyed by members. (Sec. 6(e))

In order to assure priority for public orders, a mechanism must be established by which specialists and other market markers can be made aware of all such orders within the national market system. The bill would accordingly vest the SEC with the authority to require all dealers, whether operating from on or off an exchange floor, to disclose to such persons as the SEC indicates the limited price orders which they hold or which are in their "book". (Secs. 11(b) and 15(c)(5))

E. Auction trading of unlisted securities

The Subcommittee on Securities concluded in its Report that once there is open communication and competition among market makers, stocks should attract the type of market (i.e., the balance of "auction" and "dealer" qualities) warranted by their trading characteristics. This means that corporate management should not be able to limit the markets in which investors can trade the corporation's securities by choosing, for example, not to "list" those securities on an exchange.

The bill follows the recommendation of the Report by giving the SEC the authority to define the securities suitable for trading in the national market system, (Sec. 11A(a)(3)) and by permitting an exchange, upon application to and approval by the Commission, to commence trading in securities which are not "listed" on any exchange. (Sec. 12(f)(3)) Standards would be established to guide the Commission in considering applications for the extension of so-called "unlisted trading privileges", including the public trading activity in the security, the impact of the extension of the existing markets for the security and on competition, and the progress that has been made toward the development of a national market system. (Sec. 12(f)(2))

F. Reports to the Congress

In order that the Congress and the public may be kept informed of the progress toward a national market system, the bill would require the SEC to include in its annual reports information with respect to the development of such a system, the activities, capabilities, and plans of the self-regulatory organizations relating thereto, and the effect the absence of fixed commission rates may be having on the development of such a system. (Sec. 23(b)(3) and (8))

VI. NATIONAL SYSTEM FOR CLEARANCE AND SETTLEMENT OF SECURITIES TRANSACTIONS

Broadly stated, the bill would create a system of regulation and decisionmaking extending to all facets of securities handling related to securities transactions within the

United States. The bill would vest the SEC with broad authority and responsibility to correct securities handling problems and to develop a national system for the prompt and accurate clearance and settlement of securities transactions. In some areas the authority conferred upon the Commission would be exclusive. In other areas, the Commission would share responsibility with the bank regulatory agencies.

A. Clearing agencies

The bill would require "clearing agencies", as defined in section 3(a)(23), to register with and report to the Commission. (Secs. 17A(b) and 17(a)(1)) The Commission would be empowered to review the rules of such clearing agencies (Sec. 19(b)) and to adopt necessary and appropriate rules for their regulation and the regulation of persons doing business with them. (Sec. 17A(d)(1)) Registered clearing agencies would be "self-regulatory organizations" (Sec. 3(a)(26)) and therefore subject to those provisions of the bill applicable to self-regulatory organizations discussed above.

Overall policy responsibility for the development and coordination of the securities handling system would be delegated to the SEC. With respect to clearing agencies which are banks, however, enforcement and inspection responsibilities would be delegated to the bank regulatory agencies. (Secs. 17(a)(2) and 17A(d)(2)) In addition, the bill would expressly recognized the responsibility of the banking agencies to assure the safeguarding of funds and securities held by bank clearing agencies. Thus, a bank could not be registered as a clearing agency if the appropriate banking agency finds that it cannot adequately safeguard funds and securities within its custody or control or for which it is responsible. Sec. 19(a)(2)) Similarly, a bank clearing agency would not be permitted to change its rules in a way the appropriate bank regulatory agency finds to be contrary to appropriate standards for the safeguarding of securities and funds. (Sec. 19(b)(4)) A bank clearing agency would also be prohibited from operating in contravention of rules the banking agency promulgates as necessary or appropriate for the adequate safeguarding of funds and securities.

The Commission would have the right to review the operations of bank clearing agencies if such review were necessary to fulfill its rulemaking or other policymaking responsibilities. (Sec. 17(b)) This authority is carefully circumscribed to assure that any such Commission review would occur only after consultation with the appropriate bank regulatory agency and only with respect to matters which are germane to policy proposals then before the Commission.

Several provisions of this bill designed to assure cooperation among and avoid duplicate regulation by the several agencies which regulate and enforce compliance by bank clearing agencies. The Commission and the bank regulatory agencies would be required to furnish one another copies of reports concerning bank clearing agencies and to notify each other of actions taken with regard to bank clearing agencies. (Secs. 17(c) and 17A(d)(4)) The regulatory agencies charged with regulation and inspection of and compliance by bank clearing agencies would be required to consult with and request the views of each other before issuing a proposed rule concerning such clearing agencies adopting such a rule. (Sec. 17A(d)(4)(A)(ii)) Nothing contained in the bill would impair the authority of any state banking authority or of any other state or Federal regulatory authority which has jurisdiction over a person registered as a clearing agency to make or enforce rules governing such a person if such rules are not inconsistent with the Exchange Act or any rules prescribed thereunder. (Sec. 17(d)(5))

B. Transfer agents

The bill would require registration and reporting by transfer agents. In cases where the transfer agent is a bank, registration would be with the appropriate bank regulatory agency, and in the case of other transfer agents, registration would be with the Commission. (Sec. 17A(c)) The Commission would have broad rulemaking authority over all aspects of a transfer agent's activities. (Sec. 17A(d)(1)(A)) This would include such matters as: minimum standards of performance, the prompt and accurate processing of securities transactions, and operational compatibility of and cooperation by transfer agents with other facilities and participants in the securities handling process. The bank regulatory agencies would have rule making authority with respect to the safeguarding of securities and funds by bank transfer agents. (Sec. 17A(d)(1)(B)).

Inspection and enforcement of rules and regulations applicable to bank transfer agents would be the primary responsibility of the appropriate banking agency. (Secs. 17(a)(3), 17(b), and 17A(d)(4)(A)(iii)) However, to assist the Commission in discharging its policymaking functions under the bill in an informed manner, the bill would give the SEC authority to review the operation of bank transfer agents. (Sec. 17(b)). Such Commission review could occur only after consultation with the appropriate bank regulatory agency and only with respect to matters which are germane to the Commission's responsibilities under the Exchange Act. Finally the bill contains provisions similar to those applicable to bank clearing agencies designed to provide, to the maximum extent practicable, cooperation and coordination among the various agencies supervising bank transfer agents. (Sec. 17A(d)(4))

C. Elimination of stock certificate

The bill would direct the Commission, by the end of 1976, to take such steps as are within its power to bring about the elimination of the negotiable stock certificate as a means of settlement among brokers and dealers of transactions consummated on national securities exchanges or by means of the mails or other instrumentalities of interstate commerce. (Sec. 17A(c)). This provision would in no way preclude individual shareholders from asking for and receiving certificates as proof of ownership of their shares. The Commission would also be required to report annually to Congress on its progress in eliminating the certificate as a means of settlement and its recommendations, if any, for further legislation, to eliminate the certificate. (Sec. 23(b)(4))

D. "Street name" registration of securities

The bill would direct the Commission to consider the practice of registering securities in "street name" in order to determine (1) whether such registration is consistent with the policies of the Exchange Act, and (2) whether steps can be taken to facilitate communications between corporations and their shareholders while at the same time retaining the benefits of "street name" registration. (Sec. 12(m)) The Commission would be directed to report its preliminary findings to the Congress within six months of the bill's enactment and its final recommendations within one year.

E. State taxes on securities transactions

The bill would prohibit the imposition of state taxes on securities or upon the transfer of securities merely because the facilities of a clearing agency are physically located in the taxing state. This provision is designed to facilitate the development of a national system for handling securities transactions while at the same time preserving the state taxing powers over transactions with which the taxing state has a traditional jurisdictional basis for taxation. (Sec. 28(c))

VII. MUNICIPAL SECURITIES

The bill would extend the basic coverage of the Exchange Act to the securities firms and banks which underwrite and trade securities issued by states and municipalities. All such firms would be classified as "municipal securities dealers," and as such they would be required (1) to register with the Commission and (2) to comply with rules concerning just and equitable principles of trade and other matters prescribed by a new self-regulatory organization called the Municipal Securities Rulemaking Board. Although the bill would establish a pervasive and coordinated scheme of federal regulation of the activities of municipal securities dealers, the issuers of municipal securities would continue to be exempt from the basic regulatory requirements of the federal securities laws.

A. Registration of municipal securities dealers

Brokers and dealers that buy, sell, or effect transactions in municipal securities and banks that buy and sell such securities as a part of a regular business other than in a fiduciary capacity would be required to register with the SEC as "municipal securities dealers." (Sec. 15B(a)(1)) If a bank engages in the business of trading municipal securities through a separately identifiable department or division, that department or division rather than the entire bank would register with the Commission. (Secs. 3(a)(30) and 15B(b)(2)(H)) Brokers and dealers already registered with the SEC by reason of their general securities business would not be required to re-register.

Registration of a securities firm or bank as a municipal securities dealer would be conditional upon specified filings and a determination by the SEC that the firm could comply with standards established by the Municipal Securities Rulemaking Board. (Sec. 15B(a)(2)) No person would be permitted to engage in the business of trading in municipal securities unless registered with the SEC, and the SEC would have the authority, in accordance with specified procedures, to revoke the registration of any person found to be in violation of the statute or any rule of the SEC or the Municipal Securities Rulemaking Board. (Sec. 15B(c)(2))

B. The municipal securities rulemaking board

A self-regulatory body called the Municipal Securities Rulemaking Board (the "Board") would be established and delegated the responsibility to formulate rules regulating the activities of all municipal securities dealers. (Secs. 15B(b)(1) and (2)) Unlike the existing self-regulatory organizations, the Board would not be a membership organization, nor would it have any inspection or enforcement responsibilities. Its sole function would be to prescribe rules for the municipal securities industry.

The Board would be comprised of representatives of broker-dealers, banks, and the public, including issuers of and investors in municipal securities. (Sec. 15B(b)(1)) The procedures to be followed in the nomination and election of members of the Board would assure fair administration of the Board and fair representation of all segments of the municipal securities industry. (Sec. 15B(b)(2)(B)) The Board would be authorized to hire appropriate staff and to assess municipal securities dealers to cover reasonable expenses. (Secs. 15B(b)(2)(I) and (J))

The Board's rulemaking powers would be extensive. (Sec. 15B(b)(2)(A)–(K)) The purposes for which the Board could exercise its rulemaking authority would include prevention of fraudulent and manipulative acts and practices; promotion of just and equitable principles of trade; establishment of standards for entry into the municipal securities business; regulation of selling and underwriting practices; procedures for arbitration of intra-industry disputes; and determination of the frequency and scope of inspections of municipal securities dealers by the bank regulatory authorities with respect to banks and the National Association of Securities Dealers (the "NASD") with respect to securities firms.

C. SEC oversight of the Board

The SEC's powers over the Board would be identical to those the SEC would have over other self-regulatory organizations. For example, the Board could not adopt or change any rule without prior SEC review and approval. (Sec. 19(b)) In addition, the SEC could, in accordance with statutorily prescribed procedures, abrogate, add to, or delete from the rules of the Board in any respect consistent with the purposes of the Exchange Act. (Sec. 19(c)) The SEC would also have the authority to remove from office or censure any member or employee of the Board for willful violation of the Exchange Act or rule of the Board or for willful abuse of authority. (Sec. 15B(c)(8)) The SEC's direct rulemaking authority with respect to municipal securities would be limited to the control of fraudulent, manipulative, and deceptive acts and practices. (Sec. 15(c)(1) and (2))

D. Inspection and enforcement responsibilities: Cooperation and consultation among Federal agencies

The Board would have no power to conduct inspections or to enforce its rules. Instead, the bill would assign these responsibilities with respect to securities firms which are members of the NASD to the NASD. (Secs. 15A(b)(7) and 15B(c)(7)) Similarly, such responsibilities with respect to municipal securities dealers which are banks would be vested in the bank regulatory agencies. (Secs. 15B(c)(5) and 17(b))

The SEC would have the power to review enforcement actions taken against a municipal securities dealer by the NASD (Sec. 19 (d)), but not those by a banking agency. However, the SEC would have the authority to institute independent action against any municipal securities dealer, provided, in the case of a bank, that the SEC first give notice to and consult with the appropriate banking agency. (Secs. 15B(c)(2) and (6)). Similarly, the SEC would have the power to inspect any municipal securities dealer, provided, in the case of a bank, it first gives notice to and consult with the banking agency. (Sec. 17(b)) The bill would require the Commission and the banking agencies to exchange inspection reports and other relevant information. (Sec. 17(c))

VIII. INSTITUTIONAL DISCLOSURE

The bill would amend Section 13 of the Exchange Act to require institutional investment managers, as defined in section 13(f) (5), to file reports with the SEC disclosing their securities holdings and securities transactions.

A. The jurisdiction tests and reporting requirements

Every institutional investment manager which uses any means of interstate commerce in the course of its business and which exercises investment discretion, as defined, with respect to accounts holding at least $100 million of equity securities registered under the Act or issued by an insurance company or closed-end investment company (collectively referred to as "section 13(d)(1) securities") would be required to file disclosure reports with the SEC. The SEC would have rulemaking authority to raise or lower the $100 million jurisdictional amount, but in no event could it require reports from persons exercising investment discretion over less than $10 million of section 13(d)(1) securities.

Institutional investment managers satisfying the jurisdictional tests would be required to disclose their holdings of section 13(d)(1) securities. In addition, the SEC could require such institutional investment managers to disclose such additional matters as their holdings of other securities, their voting power with respect to section 13(d)(1) securities, and the details of any transaction in a section 13(d)(1) security involving at least $500,000. (Sec. 13(f)(1))

B. Commission power to exempt

The SEC would be empowered to exempt any institutional investment manager or security from any or all of the provisions of the subsection. (Sec. 13(f)(2))

C. Public disclosure of reports: Confidentiality of information

All information filed with the Commission would be publicly available promptly after filing in such form as the Commission prescribes, subject to confidential treatment in appropriate cases. The SEC would be required to tabulate the information in a manner which enhances its usefulness to other federal and state authorities and the public.

D. Standards for Commission action; Coordination of reports

The Commission would be required to exercise its authority under the section in the public interest and for the protection of investors to maintain fair and orderly markets. In exercising this authority, the Commission would be directed to take such steps as are within its power to achieve uniform, centralized reporting of information concerning the holdings and transactions of institutional investment managers, to eliminate duplicative reporting, and to minimize the compliance burdens on institutional investment managers. The Commission would be expressly directed to consult with other federal and state authorities and national securities exchanges and registered securities associations in this regard.

Finally, institutional investment managers which are FDIC insured banks would file copies of all reports with the appropriate bank regulatory agency. (Sec. 13(f)(4))

E. Annual reports to the Congress

The Commission would be required to report to the Congress on its use and dissemination of information filed pursuant to this subsection. (Sec. 23(b)(9))

F. Definitions

"Institutional investment manager" would be defined broadly to include any person exercising investment discretion with respect to any account of any other person. (Sec. 13(f)(5)(A)) "Investment discretion" would be defined to mean *de jure* or *de facto* power to select the securities to be purchased or sold by an account. In addition, the SEC would have the power to include in the definition of "investment discretion" other appropriate forms of influence over the purchase or sale of securities. (Sec. 3(a)(35)) Specifically excluded from the definition of "investment discretion" is discretion exercised outside the United States with respect to an account outside the United States, but the SEC would have the power, by rule, to subject such discretion to the requirements of the subsection as necessary to prevent the evasion of its purposes. (Sec. 13(f)(5)(B))

IX. SALE OF INVESTMENT COMPANY ADVISERS FOR PROFIT

The bill would clarify the law in light of the 1971 decision of the Court of Appeals for the Second Circuit in *Rosenfeld v. Black*, 445 F.2d 1337 (2d Cir. 1971) by removing the uncertainty surrounding the circumstances in which an investment adviser of an investment company can receive any profit upon the transfer of its business without incurring liability to the company or its shareholders.

The bill would make clear that an investment adviser can make a profit on the sale of its business subject to two principal safeguards to protect the investment company and its shareholders. (Sec. 25 of the bill) The first safeguard would require that 75 percent of the investment company's directors be independent for a period of three years after the investment adviser sells its business or otherwise transfers the advisory relationship. The second safeguard would provide that such a transaction must not impose any unfair burden on the investment company.

The bill would also extend the protection against liability it affords to investment company investment advisers to corporate trustees who perform the functions of an investment adviser for an investment company organized as a common law trust. The bill would provide a limited exemption from the 75 percent-independent-board-of-directors requirement for transfers of controlling blocks of the stock of an investment adviser or corporate trustee where the transferee is the adviser or trustee or an affiliated person who is a natural person who has controlled or shared control of the adviser or trustee for 6 months prior to transfer. The bill would make technical amendments to sections 9 and 36 of the Investment Company Act to make it clear that the provisions dealing with persons barred from serving investment companies and breaches of fiduciary duty apply to a corporate or other trustee performing the functions of investment adviser, as well as to an investment adviser.

S. 249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Securities Acts Amendments of 1975".

SEC. 2. Section 2 of the Securities Exchange Act of 1934 (15 U.S.C. 78b) is amended by striking the word "and" immediately before the phrase "to impose requirements necessary to make such regulation and control reasonably complete and effective," and by adding the following immediately after that phrase: "to remove impediments to and perfect the mechanisms of a national market system for securities and a national system for the clearance and settlement of securities transactions and the safeguarding of securities and funds related thereto,".

SEC. 3. Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended as follows:

(a) Paragraph (3) of subsection (a) thereof is amended to read as follows:

"(3) The term 'member' when used with respect to a national securities exchange or registered securities association means any person who agrees to be regulated by such exchange or association and with respect to whom the exchange or association undertakes to enforce compliance with the provisions of this title, the rules and regulations thereunder, and its own rules. For purposes of sections 6(b)(1), 6(b)(4), 6(b)(6), 6(b)(7), 6(d), 19(d), 19(e), 19(g), 19(h), and 21 of this title, the term 'member' when used with respect to a national securities exchange also means any person required to comply with specified rules of such exchange in accordance with section 6(f) of this title.".

(b) Paragraph (12) of subsection (a) thereof is amended to read as follows:

"(12) The term 'exempted security' or 'exempted securities' includes securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors; municipal securities, as defined in section 3(a)(28) of this title: *Provided, however,* That municipal securities shall not be deemed to be 'exempted securities' for the purposes of sections 15, 15A (except subsections (b)(5), (b)(10), and (g)(2) thereof), and 17A of this title; any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian; any interest or participation in a collective trust fund maintained by a bank or in a separate account maintained by an insurance company which interest or participation is issued in connection with (A) a stock-bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, or (B) an annuity plan which meets the requirements for the deduction of the employer's contribution under section 404(a)(2) of such Code, other than any plan described in clause (A) or (B) of this paragraph which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of such Code, and such other securities (which may include, among others, unregistered securities, the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities'.".

(c) Paragraphs (18) and (19) of subsection (a) thereof are amended to read as follows:

"(18) The term 'person associated with a broker or dealer' or 'associated person of a broker or dealer' means any partner, officer, director, or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such broker or dealer, or any employee of such broker or dealer, except that for the purposes of section 15(b) of this title (other than paragraph (6) thereof), persons associated with a broker or dealer whose functions are solely clerical or ministerial shall not be included in the meaning of such term.

"(19) The terms 'investment company', 'affiliated person', 'insurance company', 'separate account', and 'company' have the same meanings as in the Investment Company Act of 1940.".

(d) Paragraph (21) of subsection (a) thereof is amended to read as follows:

"(21) The term 'person associated with a member' or 'associated person of a member' when used with respect to a member of a national securities exchange or registered securities association means any partner, officer, director, or branch manager of such member (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such member, or any employee of such member, except that persons associated with a member whose functions are solely clerical or ministerial shall not be included in the meaning of such term.".

(e) Subsection (a) thereof is further amended by adding at the end thereof the following new paragraphs:

"(22) The term 'securities information processor' means any person engaged in the business of (A) collecting, processing, or preparing for distribution or publication, or assisting, participating in, or coordinating the distribution or publication of information with respect to transactions in or quotations for any security, or (B) distributing or publishing (whether by means of a ticker tape, a communications network, a terminal display device, or otherwise) on a current and continuing basis information with respect to such transactions or quotations. The term 'securities information processor' does not include any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, any national securities exchange, any registered securities association, any broker or dealer solely by reason of functions commonly performed as part of customary brokerage or dealing activities, or any common carrier, as defined in section 3(h) of the Communications Act of 1934, subject to the jurisdiction of the Federal Communications Commission or a State commission, as defined in section 3(t) of that Act.

"(23)(A) The term 'clearing agency' means any person who acts as an intermediary in making payments or deliveries or both in connection with transactions in securities or who provides facilities for comparison of data respecting the terms of settlement of securities transactions, to reduce the number of settlements of securities transactions, or for the allocation of securities settlement responsibilities. Such term also means any person, such as a securities depository, (i) who acts as a custodian of securities in connection with a system for the central handling of securities whereby all securities of a particular class or series of any issuer deposited within the system are treated as fungible and may be transferred, loaned, or pledged by bookkeeping entry without physical delivery of securities certificates, or (ii) who otherwise permits or facilitates the settlement of securities transactions or the hypothecation or lending of securities without physical delivery of securities certificates.

"(B) The term 'clearing agency' does not include (i) Federal Reserve banks, Federal home loan banks, or Federal land banks; (ii) any bank, broker, dealer, building and loan, savings and loan, or homestead association, or cooperative bank if such bank, broker, dealer, association, or cooperative bank would be classified as a clearing agency solely by reason of lending, fiduciary, correspondent, or safekeeping functions commonly performed by such institutions as part of customary banking, brokerage, dealing, association, or cooperative banking activities, unless the Commission, by rule, otherwise provides as necessary to assure the prompt and accurate clearance and settlement of securities transactions or to prevent evasion of this title; (iii) any life insurance company, its registered separate accounts, or a subsidiary of such insurance company by reason of functions commonly performed by such entities in connection with variable annuity contracts or variable life policies issued by such insurance company or its separate accounts; or (iv) any registered open-end investment company or unit investment trust by reason of functions commonly performed by it in connection with shares in such registered open-end investment company or unit investment trust.

"(24) The term 'participant' when used with respect to a clearing agency means any person who uses a clearing agency to clear or settle securities transactions or to lend or hypothecate securities. Such term does not include a person whose only use of a clearing agency is through another person.

"(25) The term 'transfer agent' means any person who engages on behalf of an issuer of securities or on behalf of itself as an issuer of securities in (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; (D) exchanging or converting such securities; or (E) transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates. The term 'transfer agent' does not include any insurance company or separate account that performs such functions solely with respect to variable annuity contracts or variable life policies that it issues.

"(26) The term 'self-regulatory organization' means any national securities exchange, registered securities association, or registered clearing agency, or (solely for purposes of sections 19(b), 19(c), and 23(c) of this title) the Municipal Securities Rulemaking Board established by section 15B of this title.

"(27) The term 'rules of an exchange', 'rules of an association', or 'rules of a clearing agency' means the constitution, articles of incorporation, bylaws, and rules, or instruments corresponding to the foregoing, whatever the name, of an exchange, association of brokers and dealers, or clearing agency, respectively, and such of the stated policies, practices, and interpretations of such exchange, association, or clearing agency as the Commission, by rule, may determine to be necessary or appropriate in the public interest or for the protection of investors to be subject to the operation of the provisions of this title and the rules and regulations thereunder.

"(28) The term 'rules of a self-regulatory organization' means the rules of a national securities exchange, the rules of a registered securities association, the rules of a registered clearing agency, or the rules of the Municipal Securities Rulemaking Board.

"(29) The term 'municipal securities' means securities which are direct obligations of or obligations guaranteed as to principal or interest by a State or any political subdivision thereof, or any agency or instrumentality of a State or any political subdivision thereof, or any municipal corporate instrumentality or one or more States, or any security which is an industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code of 1954) the interest on which is excludable from gross income under section 103(a)(1) of such Code if, by reason of the application of paragraph (4) or (6) of section 103(c) of such Code (determined as if paragraphs (4)(A), (5), and (7) were not included in such section 103(c)), paragraph (1) of such section 103(c) does not apply to such security.

"(30) The term 'municipal securities dealer' means any persons (including a separately identifiable department or division of a bank) engaged in the business of buying and selling municipal securities for his own account, through a broker or otherwise, but does not include—

"(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business; or

"(B) a bank, unless the bank is engaged in the business of buying and selling municipal securities for its own account other than in a fiduciary capacity, through a broker or otherwise: *Provided, however,* That if the bank is engaged in such business through a separately identifiable department or division (as defined by the Municipal Securities Rulemaking Board in accordance with section 15(B)(b)(2)(H) of this title), the department or division and not the bank itself shall be deemed to be the municipal securities dealer.

"(31) The term 'municipal securities broker' means a broker engaged in the business of effecting transactions in municipal securities for the account of others.

"(32) The term 'person associated with a municipal securities dealer' when used with respect to a municipal securities dealer which is a bank or a division or department of a bank means any person directly engaged in the management, direction, supervision, or performance of any of the municipal securities dealer's activities with respect to municipal securities, and any person directly or indirectly controlling such activities or controlled by the municipal securities dealer in connection with such activities.

"(33) The term 'municipal securities investment portfolio' means all municipal securities held for investment and not for sale as part of a regular business by a municipal securities dealer or by a person directly or indirectly, controlling, controlled by, or under common control with a municipal securities dealer.

"(34) The term 'appropriate regulatory agency' means—

"(A) When used with respect to a municipal securities dealer:

"(i) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary or a department or division of any such bank;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a subsidiary or a department or division thereof, a bank holding company, a subsidiary of a bank holding company which is a bank other than a bank specified in clause (i) or (iii) of this subparagraph, or a subsidiary or a department or division of such subsidiary;

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), or a subsidiary or department or division thereof; and

"(iv) the Commission in the case of all other municipal securities dealers.

"(B) When used with respect to a clearing agency or transfer agent:

"(i) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank;

"(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a subsidiary thereof, a bank holding company, or a subsidiary of a bank holding company which is a bank other than a bank specified in clause (i) or(iii) of this subparagraph;

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), or a subsidiary thereof; and

"(iv) the Commission in the case of all other clearing agencies and transfer agents.

"(C) When used with respect to a participant or applicant to be a participant in a clearing agency or a person requesting access to services offered by a clearing agency or participant therein:

"(i) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia when the appropriate regulatory agency for the clearing agency is not the Commission;

"(ii) the Board of Governors of the Federal Reserve System in the case of a state member bank of the Federal Reserve System, a bank holding company, or a subsidiary of a bank holding company which is a bank other than a bank specified in clause (i) or (iii) of this subparagraph when the appropriate regulatory agency for the clearing agency is not the Commission;

"(iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) when the appropriate regulatory agency for the clearing agency is not the Commission; and

"(iv) the Commission in all other cases.

"(D) When used with respect to an institutional investment manager which is a bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act:

"(i) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia;

"(ii) the Board of Governors of the Federal Reserve System, in the case of any other member bank of the Federal Reserve System; and

"(iii) the Federal Deposit Insurance Corporation, in the case of any other insured bank.

"(E) When used with respect to a national securities exchange or registered securities association, member thereof, person associated with a member thereof, applicant to be a member thereof or to become associated with a member thereof, or person requesting access to services offered by such exchange or association or member thereof, or the Municipal Securities Rulemaking Board, the Commission.

As used in this paragraph, the terms 'bank holding company' and 'subsidiary of a bank holding company' have the meanings given them in section 2 of the Bank Holding Company Act of 1956, as amended.

"(35) A person exercises 'investment discretion' with respect to an account if, directly or indirectly, he (A) is authorized to determine what securities or other property shall be purchased or sold by or for the account, (B) makes decisions as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions, or (C) otherwise exercises such influence with respect to the purchase and sale of securities or other property by or for the account as the Commission, by rule, determines should be subject to the operation of the provisions of this title and the rules and regulations thereunder.

"(36) A class of persons or markets is subject to 'equal regulation' if no member of the class has an unfair competitive advantage over any other member thereof resulting from an unjustifiable disparity in their regulation under this title.

"(37) The term 'records' means accounts, correspondence, memorandums, tapes, discs, papers, books, and other records, whether expressed in ordinary or machine language.".

(f) Subsection (b) thereof is amended by striking the word "and" immediately before the word "accounting" and by adding immediately after that word the phrase: "and other".

(g) The section is further amended by adding at the end thereof the following new subsection:

"(d) No issuer of municipal securities or officer, agent, or employee thereof acting in the course of his official duties as such shall be deemed to be a 'broker', 'dealer', or 'municipal securities dealer' solely by reason of buying, selling, or effecting transactions in the issuer's securities.".

SEC. 4. Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended to read as follows:

"NATIONAL SECURITIES EXCHANGES

"SEC. 6. (a) An exchange may be registered as a national securities exchange under the terms and conditions hereinafter provided in this section and in accordance with the provisions of section 19(a) of this title, by filing with the Commission an application for registration in such form as the Commission, by rule, may prescribe containing the rules of the exchange and such other information and documents as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(b) An exchange shall not be registered as a national securities exchange unless the Commission determines that—

"(1) Such exchange is so organized and has the capacity to be able to comply with and to enforce compliance by its members with the provisions of this title, the rules and regulations thereunder, and the rules of the exchange, and to carry out the purposes of this title.

"(2) The rules of the exchange provide that any registered broker or dealer may become a member of such exchange and any person may become associated with a member thereof except such as may be excluded or barred pursuant to subsection (c) of this section.

"(3) The rules of the exchange assure a fair representation of its members in the adoption of the rules of the exchange and amendments thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs.

"(4) The rules of the exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

"(5) The rules of the exchange are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to provide safeguards against unreasonable profits or unreasonable rates of commissions or other charges, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate matters not related to the purposes of this title or the administration of the exchange.

"(6) The rules of the exchange provide that its members and persons associated with its members shall be appropriately disciplined for violation of the provisions of this title, the rules or regulations thereunder, or the rules of the exchange, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction.

"(7) The rules of the exchange are in accordance with the provisions of subsection (d) of this section, and, in general, provide a fair procedure for the disciplining of members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation of any person with respect to requested access to services offered by the exchange or a member thereof.

"(8) The rules of the exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of this title.

"(c)(1) A national securities exchange may, and in cases in which the Commission, by order, directs as appropriate in the public interest shall, deny membership to any registered broker or dealer and bar from becoming associated with a member any person who—

"(A) has been and is expelled or suspended from membership or participation in or barred or suspended from being associated with a member of any self-regulatory organization;

"(B) is subject to an order of the Commission, denying suspending for a period not exceeding twelve months, or revoking his broker or dealer's registration:

"(C) by his conduct while associated with a broker or dealer was a cause of any effective suspension, expulsion, or order of the character described in subparagraph (A) or (B) of this paragraph, and in entering such a suspension, expulsion, or order, the Commission or any such self-regulatory organization shall have jurisdiction to determine whether or not any person was a cause thereof;

"(D) has associated with him any person who is known, or in the exercise of reasonable care should be known, to him to be a person who, if such person were a broker or dealer, would be ineligible for admission to membership under subparagraph (A), (B), or (C) of this paragraph; or

"(E) has committed or omitted any act or omission enumerated in subparagraph (D) or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the date of the filing of an application for membership or to become associated with a member, is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4), has willfully made or caused to be made in an application for membership or to become associated with a member, or report required to be filed with the exchange, or in any proceeding before the exchange, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

If a national securities exchange proposes to admit any such broker or dealer to membership or to permit any such person to become associated with a member, not less than thirty days prior to such proposed action the exchange shall file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(2) (A) A national securities exchange may deny membership to, or condition the membership of, a registered broker or dealer if (i) such broker or dealer does not meet such standards of financial responsibility and operational capability and such broker or dealer and all natural persons associated with such broker or dealer do not meet such standards of training, experience, and competence as are prescribed by the rules of the exchange or (ii) such broker or dealer or person associated with such broker or dealer has engaged and there is a reasonable likelihood he will again engage in acts or practices constituting a violation of this title, the rules or regulations thereunder, or the rules of the exchange. A national securities exchange may examine and verify the qualifications of an applicant to be a member and the natural persons associated with such an applicant in accordance with procedures established by the rules of the exchange.

"(B) A national securities exchange may bar a natural person from becoming associated with a member or condition the association of a natural person with a member if such person (i) does not meet such standards of training, experience, and competence as are prescribed by the rules of the exchange or (ii) has engaged and there is a reasonable likelihood he will again engage in acts or practices constituting a violation of this title, the rules or regulations thereunder, or the rules of the exchange. A national securities exchange may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the exchange and require any person associated with a member, or any class of such persons, to be registered with the exchange in accordance with procedures so established.

"(C) Subject to the provisions of section 19(c) of this title, a national securities exchange may limit the number of members of the exchange and the number of designated representatives of members permitted to effect transactions on the exchange without the services of another person acting as broker.

"(d)(1) In any proceeding by a national securities exchange to determine whether a member or person associated with a member should be disciplined (other than a summary proceeding pursuant to paragraph (3) of this subsection), the exchange shall bring specific charges, notify such member or person of, and give him an opportunity to defend against, such charges, and keep a record. A determination by the exchange to impose a disciplinary sanction shall be supported by a statement setting forth—

"(A) any act or practice in which such member or person associated with a member has been found to have engaged, or which such member or person has been found to have omitted;

"(B) the specific provision of this title, the rules or regulations thereunder, or the rules of the exchange which any such act or practice, or omission to act, is deemed to violate; and

"(C) the sanction imposed and the reason therefor.

"(2) In any proceeding by a national securities exchange to determine whether a person shall be denied membership, barred from becoming associated with a member, or prohibited or limited with respect to requested access to services offered by the exchange or a member thereof, the exchange shall notify such person of, and give him an opportunity to be heard upon, the specific grounds for denial, bar, or prohibition or limitation under consideration and keep a record. A determination by the exchange to deny membership, bar a person from becoming associated with a member, or prohibit or limit a person with respect to requested access to services offered by the exchange or a member thereof shall be supported by a statement setting forth the specific grounds on which the denial, bar, or prohibition or limitation is based.

"(3) A national securities exchange may summarily suspend a member or person associated with a member who (A) has been and is expelled or suspended from any self-regulatory organization or barred or suspended from being associated with a member of any self-regulatory organization or (B) is in such financial or operating difficulty that the exchange determines and so notifies the Commission that the member cannot be permitted to continue in business with safety to investors, creditors, other members, or the exchange. A member or person associated with a member so summarily suspended shall be promptly afforded an opportunity for a hearing by the exchange in accordance with the provisions of paragraph (1) of this subsection. The Commission, by order, may stay any such summary suspension on its own motion or upon application by any person aggrieved thereby, if the Commission determines after notice and opportunity for hearing (which hearing may consist solely of the submission of affidavits or presentation of oral arguments) that such stay is consistent with the public interest and the protection of investors.

"(e) No national securities exchange shall impose any schedule or fix rates of commissions, allowances, discounts, or other charges for effecting transactions on such exchange except pursuant to a rule of the exchange approved by the Commission in accordance with section 19(b) of this title.

"(f) The Commission, by rule or order, as it deems necessary or appropriate in the public interest and for the protection of investors, to maintain fair and orderly markets, or to assure equal regulation may (1) require any person not a member of a national securities exchange effecting transactions on such exchange without the services of another person as broker or any broker or dealer not a member of a national securities exchange effecting transactions on such exchange on a regular basis, to comply with respect to such transactions with such rules of such exchange as the Commission may specify and (2) authorize and direct such exchange to enforce compliance with such rules by such person or broker or dealer.".

SEC. 5. Section 11 of the Securities Exchange Act of 1934 (15 U.S.C. 78k) is amended as follows:

(a) The title is amended to read: "TRADING BY MEMBERS OF EXCHANGES".

(b) Subsections (a) and (b) thereof are amended to read as follows:

"(a)(1) It shall be unlawful for any member of a national securities exchange to effect any transaction on such exchange for any account in which it or an associated person thereof has a financial interest (other than an interest which the Commission determines to be insignificant) or with respect to which it or an associated person thereof exercises investment discretion: *Provided, however,* That this paragraph shall not make unlawful—

"(A) any transaction by a dealer acting in the capacity of market maker, including a registered specialist and block positioner;

"(B) any transaction for the account of an odd-lot dealer in a security in which he is so registered;

"(C) any stabilizing transaction effected in compliance with rules under section 10(b) of this title to facilitate a distribution of a security in which the member effecting such transaction is participating;

"(D) any bona fide arbitrage transaction;

"(E) any transaction for the account of a natural person or a trust (other than an investment company) created by a natural person for himself or another natural person;

"(F) any transaction to offset a transaction made in error;

"(G) any transaction made with the prior approval of a floor official to permit the member effecting such transaction to contribute to the maintenance of a fair and orderly market, or any purchase or sale to reverse any such transaction;

"(H) any transaction for a member's own account; and

"(I) any other transaction of a kind which the Commission, by rule, determines is consistent with the protection of investors and the purposes of this subsection.

"(2) The Commission, by rule, as it deems necessary or appropriate in the public interest and for the protection of investors, to maintain fair and orderly markets, or to assure equal regulation of exchange markets and markets occurring otherwise than on an exchange, may regulate or prohibit:

"(A) transactions on a national securities exchange not made unlawful by paragraph (1) of this subsection by any member thereof (other than a specialist or odd-lot dealer) for any account in which such member or an associated person thereof has a financial interest or with respect to which such member or an associated person thereof exercises investment discretion; and

"(B) transactions otherwise than on a national securities exchange by any member of a national securities exchange or transactions on a national securities exchange or otherwise by any broker or dealer not a member of a national securities exchange for any account in which such member, broker, or dealer or an associated person thereof has a financial interest or with respect to which such member, broker, or dealer or associated person thereof exercises investment discretion: *Provided, however,* That nothing in this subparagraph shall be deemed to authorize the Commission to regulate or prohibit any transaction by any dealer acting in the capacity of market maker.

"(3) The provisions of paragraph (1) of this subsection shall not be in effect with respect to transactions effected by any member of a national securities exchange for any account in which it or an associated person thereof has a financial interest or with respect to which it or an associated person thereof exercises investment discretion, during the following periods:

"(A) prior to the last date on which any national securities exchange imposes any schedule or fixes rates of commissions, allowances, discounts or other changes for effecting transactions on the exchange;

"(B) for a period of twelve months following the date specified in subparagraph (A), if the total value of all such transactions effected by such member during such period on all national securities exchanges of which it is a member (other than transactions described in subparagraphs (A) through (G) of such paragraph (1)) does not exceed 20 per centum of the total value of all transactions effected by such member during such period on all such exchanges; and

"(C) for a period of twelve months following the period specified in subparagraph (B), if the total value of all such transactions effected by such member during such period on all national securities exchanges of which it is a member (other than transactions described in subparagraphs (A) through (G) of such paragraph (1)) does not exceed 10 per centum of the total value of all transactions effected by such member during such period on all such exchanges.

"(4) Notwithstanding paragraph (2) of this subsection or any other provision of this title, neither the Commission nor a national securities exchange shall during any period in which such exchange imposes any schedule or fixes rates of commissions, allowances, discounts, or other charges for effecting transactions on the exchange, promulgate or enforce any rule prohibiting a member thereof from (A) effecting on such exchange, in accordance with rules of the exchange applicable to transactions for an account of a person who is not associated with a member, any transaction for the account of an associated person which is not a natural person or any account with respect to which such member or an associated person exercises investment discretion from off the floor of the exchange or (B) sharing with or rebating to any such account all or any part of any commission paid to such member by such account in connection with a transaction effected on the exchange.

"(b) When not in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest and for the protection of investors, to maintain fair and orderly markets, or to remove impediments to and perfect the mechanism of a national market system, the rules of a national securities exchange may permit (1) a member to be registered as an odd-lot dealer and as such to buy and sell for his own account so far as may be reasonably necessary to carry on such odd-lot transactions, and (2) a member to be registered as a specialist. Under the rules and regulations of the Commission a specialist may be permitted to act as a broker and dealer or limited to acting as a broker or dealer. It shall be unlawful for a specialist or an official of the exchange to disclose information in regard to orders placed with such specialist which is not available to all members of the exchange to any person other than an official of the exchange, a representative of the Commission, or a specialist who may be acting for such specialist: *Provided, however*, That the Commission, by rule, may require or permit disclosure of any limited price order placed with a specialist to such other specialists, such dealers, such brokers, and such other persons in such manner and under such conditions as it deems necessary or appropriate in the public interest and for the protection of investors, to maintain fair and orderly markets, or to remove impediments to and perfect the mechanism of a national market system. It shall also be unlawful for a specialist acting as a broker to effect on the exchange any transaction except upon a market or limited price order.".

SEC. 6. The Securities Exchange Act of 1934 is amended by inserting after section 11 (15 U.S.C. 78k) the following new section:

"NATIONAL MARKET SYSTEM FOR SECURITIES; SECURITIES INFORMATION PROCESSORS

"SEC. 11A. (a)(1) The Congress finds that—

"(A) The securities markets are an important national asset which must be preserved and strengthened.

"(B) New data processing and communications techniques create the opportunity for more efficient and effective market operations.

"(C) It is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure—

"(i) economically efficient mechanisms for the execution of securities transactions;

"(ii) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets operating otherwise than on an exchange;

"(iii) the availability to brokers and dealers of information with respect to quotations for and transactions in securities;

"(iv) an opportunity for investors' orders in qualified securities to be executed without the participation of a dealer; and

"(v) the practicability of brokers executing such orders in the best market.

"(D) The linking of all markets for qualified securities through communication and data processing facilities will foster efficiency, enhance competition, increase the information available to brokers and dealers, facilitate the offsetting of investors' orders, and contribute to best execution of investors' orders.

"(2) The Commission is directed, therefore, having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets, to establish a national market system for securities qualified for trading in such a system. The national market system shall include, as a minimum, a system for the composite reporting of all transactions in such securities, a system for the composite display of all quotations for such securities, and equal regulation of all markets for such securities and all exchange members, brokers, and dealers effecting transactions in such securities.

"(3) The Commission, by rule, shall designate the securities or classes of securities qualified for trading in the national market system.

"(b)(1) Except as otherwise provided in this section, it shall be unlawful for any person, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a securities information processor with respect to any security unless such person is registered in accordance with this section or exempted from the definition of 'securities information processor' in section 3(a)(22) of this title. The Commission, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any securities information processor or class of securities information processors or security or class of securities from any provision of this section or the rules or regulations thereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this section, including the maintenance of fair and orderly markets in securities and the removal of impediments to and perfection of the mechanism of a national market system: *Provided, however*, That a securities information processor engaged exclusively in distributing or publishing information with respect to transactions in or quotations for securities obtained from a registered securities information processor, national securities exchange, or registered securities association is exempt from the requirements to register in accordance with this section unless the Commission, by rule or order, finds that the registration of such securities information processor is necessary or appropriate in the public interest, for the protection of investors, or for the achievement of the purposes of this section.

"(2) A person may be registered as a securities information processor by filing with the Commission an application for registration in such form as the Commission, by rule, may prescribe containing the address of its principal office or offices, the names of the securities and markets for which it is then acting and for which it proposes to act as a securities information processor, and such other information and documents as the Commission, by rule, may prescribe with regard to performance capability, standards and procedures for the collection, processing, distribution, and publication of information with respect to quotations for and transactions in securities, personnel qualifications, financial condition, and such other matters as the Commission determines to be germane to the provisions of this title or the rules and regulations thereunder, or necessary or appropriate in furtherance of the purposes of this section.

"(3) The Commission shall, upon the filing of an application for registration pursuant to paragraph (2) of this subsection, publish notice of the filing and afford interested persons an opportunity to submit written data, views, and arguments concerning such application. Within ninety days of the date of the publication of such notice, the Commission shall—

"(A) by order grant such registration, or

"(B) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within one hundred and eighty days of the date of publication of notice of the filing of the application for registration. At the conclusion of such proceedings the Commission, by order, shall grant or deny such registration. The Commission may extend the time for the conclusion of such proceedings for successive periods of up to thirty days if it finds good cause for each such extension and publishes its reasons for so finding.

The Commission shall grant the registration of a securities information processor if the Commission finds that such securities information processor is so organized and has the capacity to be able to assure the prompt, accurate, and reliable performance of its functions as a securities information processor, to comply with the provisions of this title and the rules and regulations thereunder, and to carry out its functions in a manner consistent with the purposes of this section. The Commission shall deny the registration of a securities information processor if the Commission does not make any such finding.

"(4) A registered securities information processor may, upon such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered securities information processor is no longer in existence or has ceased to do business in the capacity specified in its application for registration, the Commission, by order, shall cancel the registration.

"(5)(A) If any registered securities information processor prohibits or limits any person in respect of requested access to services offered, directly or indirectly, by such securities information processor, the registered securities information processor shall promptly file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Any prohibition or limitation on requested access to services with respect to which a registered securities information processor is required by this paragraph to file notice shall be subject to review by the Commission on its own motion, or upon application by any person aggrieved thereby filed within thirty days after such notice has been filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such prohibition or limitation, unless the Commission otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments). The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of a stay.

"(B) In any proceeding to review the prohibition or limitation of any person in respect of requested access to services offered by a registered securities information processor, if the Commission, after notice and opportunity for hearing, finds that such prohibition or limitation is consistent with the provisions of this title and the rules and regulations thereunder, that such person has not been discriminated against unfairly, and that no burden has been imposed on competition not necessary or appropriate in furtherance of the purposes of this title, the Commission, by order, shall dismiss the proceeding. If the Commission does not make any such finding, the Commission, by order, shall set aside the prohibition or limitation and require the registered securities information processor to permit such person the requested access to services offered by the registered securities information processor.

"(6) The Commission, by order, may censure or place limitations upon the activities, functions, or operations of any registered securities information processor or suspend for a period not exceeding twelve months or revoke the registration of any such processor, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and necessary for the protection of investors or to assure the prompt, accurate, or reliable performance of the functions of such securities information processor and that such securities information processor has violated or is unable to comply with any provision of this title or the rules or regulations thereunder.

"(c) (1) No national securities exchange, member thereof, registered securities association, securities information processor, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to collect, process, distribute, publish, or prepare for distribution or publication any information with respect to quotations for or transactions in any security or to assist, participate in, or coordinate the distribution or publication of such information in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest or for the protection of investors (A) to prevent the use or publication of fraudulent, deceptive, or manipulative information with respect to quotations and transactions, (B) to assure the prompt, accurate, and reliable collection, processing, distribution, and publication of information with respect to quotations and transactions, (C) to regulate the method and manner in which such information shall be distributed and published and the form and content of such information, and (D) to assume the reasonableness of the fees and other charges of any registered securities information processor, national securities exchange, or registered securities association acting as the central processor of such information.

"(2) The Commission, by rule, as it deems necessary or appropriate in the public interest or for the protection of investors, may require any person who has effected the purchase or sale of any security by use of the mails or any means or instrumentality of interstate commerce to report such purchase or sale to a registered securities information processor, national securities exchange, or registered securities association and require such processor, exchange, or association to make appropriate distribution and publication of information with respect to such purchase or sale.

"(3) The Commission shall prescribe such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors (A) to assure that all brokers, dealers, securities information processors, and, subject to such limitations as the Commission, by rule, may impose as necessary or appropriate for the protection of investors and the maintenance of fair and orderly markets, all other persons have access on reasonable and nondiscriminatory terms (including the payment of reasonable fees) to information with respect to quotations for and transactions in securities published or distributed by registered securities information processors, national securties exchanges, and registered securities associations, (B) to assure that any system utilized by any member of a national securities exchange, broker, or dealer to transmit or direct orders for the purchase or sale of securities to a facility for execution operates in a manner consistent with the development and operation of a national market system, and (C) to provide for the fair and reasonable allocation among persons furnishing information with respect to quotations for and transactions in securities to a registered securities information processor, national securities exchange, or registered securities association of the costs of such processor, exchange, or association associated with the collection, processing, distribution, and publication of such information.

"(4) (A) If the Commission finds, after notice and opportunity for hearing and such consideration as it deems necessary or appropriate of conditions arising after the rules of national securities exchanges imposing any schedule or fixing rates of commissions, allowances, discounts, or other charges have been eliminated, that as a result of transactions in securities registered pursuant to section 12(b) of this title effected otherwise than on a national securities exchange the fairness or orderliness of the markets for such securities has been or is likely to be affected in a manner contrary to the public interest or the protection of investors, the Commission, in accordance with its powers under this title, shall prescribe such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors to restore or maintain the fairness and orderliness of the markets for such securities. In addition to its other powers under this title, the Commission is authorized in prescribing rules and regulations under this subsection to prohibit brokers nd dealers from effecting transactions in such securities otherwise than on a national securities exchange, if it makes the findings required by the preceding sentence and further finds that no rule of any national securities exchange unreasonably impairs the ability of any dealer to solicit or effect transactions in such securities for his own account or unreasonably restricts competition among dealers in such securities or between dealers acting in the capacity of market makers who are specialists in such securities and such dealers who are not specialists in such securities. The Commission may conditionally or unconditionally exempt any security or transaction or any class of securities or transactions from any such prohibition if the Commission deems such exemption consistent with the public interest and the protection of investors.

"(B) For the purposes of subparagraph (A) of this paragraph the ability of any dealer to solicit or effect transactions in securities for his own account shall not be deemed to be unreasonably impaired by any rule of an exchange fairly and reasonably prescribing the sequence in which orders brought to the exchange must be executed or which has been adopted pursuant to a rule of the Commission promulgated under this title.

"(C) No rule promulgated pursuant to the authorization in the second sentence of subparagraph (A) of this paragraph shall become effective until the rules of national securities exchanges imposing any schedule or fixing rates of commissions, allowances, discounts, or other charges have been eliminated or remain in effect after the Commission has determined that a national market system for securities has been established or April 30, 1978, whichever is earlier: *Provided, however,* That until a national market system has been established, the Commission may extend the effectiveness of any such rule beyond April 30, 1978, for successive periods of up to one year, if it finds that each such extension is necessary or appropriate in the public interest or for the protection of investors and reports its reasons for so finding to the Congress not less than sixty days before any such extension begins.

"(D) Nothing in this paragraph shall be construed to impair the Commission's powers or to modify the Commission's responsibilities under any other provision of this title.".

SEC. 7. Section 12(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78*l* (f)) is amended as follows:

(a) Paragraphs (1) and (2) thereof are amended to read as follows:

"(f) (1) Notwithstanding the foregoing provisions of this section, any national securities exchange, subject to the terms and conditions hereinafter set forth—

"(A) may continue unlisted trading privileges to which a security had been admitted on such exchange prior to July 1, 1964;

"(B) upon application to and approval of such application by the Commission, may extend unlisted trading privileges to any security listed and registered on any other national securities exchange; and

"(C) upon application to and approval of such application by the Commission, may extend unlisted trading privileges to any security registered pursuant to section 12 of this title or which would be required to be so registered except for the exemption from registration provided in subsection (g) (2) (B) or (g) (2) (G) of that section.

If an extension of unlisted trading privileges to a security is based upon its listing and registration on another national securities exchange, such privileges shall continue in effect only so long as such security remains listed and registered on a national securities exchange.

"(2) No application pursuant to this subsection shall be approved unless the Commission finds, after notice and opportunity for hearing, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors. In considering an application for the extension of unlisted trading privileges to a security not listed and registered on a national securities exchange, the Commission shall, among other matters, take account of the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.".

(b) Paragraph (6) thereof is amended by striking the words "section 19(b) of".

SEC. 8. Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 781) is amended by adding at the end thereof the following new subsections:

"(j) The Commission is authorized, by order, as it deems necessary or appropriate for the protection of investors to deny, to suspend the effective date of, to suspend for a period not exceeding twelve months, or to revoke the registration of a security, if the Commission finds, on the record after notice and opportunity for hearing, that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder. No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security the registration of which has been and is suspended or revoked pursuant to the preceding sentence.

"(k) If in its opinion the public interest and the protection of investors so require, the Commission is authorized summarily to suspend trading in any security (other than an exempted security) for a period not exceeding ten days, or with the approval of the President, summarily to suspend all trading on any national securities exchange or effected by means of any system operated or regulated by a registered securities association or registered securities information processor for a period not exceeding ninety days. No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security in which trading is so suspended.

"(l) It shall be unlawful for an issuer, any class of whose securities is registered pursuant to this section or would be required to be so registered except for the exemption from registration provided by subsection (g)(2)(B) or (g)(2)(G) of this section, by the use of any means or instrumentality of interstate commerce, or of the mails, to issue, either originally or upon transfer, any of such securities in a form or with a format which contravenes such rules and regulations as the Commission may prescribe as necessary or appropriate for the prompt and accurate clearance and settlement of transactions in securities. The provisions of this subsection shall not apply to variable annuity contracts or variable life policies issued by an insurance company or its separate accounts.

"(m) The Commission is authorized and directed to make a study and investigation of the practice of recording the ownership of securities in the records of the issuer in other than the name of the benficial owner of such securities and to determine (1) whether such practice is consistent with the purposes of this title, with particular reference to section 12(g), 14, 15(d), and 17A, and (2) whether steps can be taken to facilitate communications between issuers and the beneficial owners of their securities while at the same time retaining the benefits of such practice. The Commission shall report to the Congress its preliminary findings within six months after the date of enactment of the Securities Acts Amendments of 1975, and its final conclusions and recommendations within one year of such date.".

SEC. 9. Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end thereof the following new subsection:

"(f)(1) Every institutional investment manager which uses the mails, or any means or instrumentality of interstate commerce, or any facility of a national securities exchange, directly or indirectly, in the course of its business as an institutional investment manager and which exercises investment discretion with respect to accounts holding equity securities of a class described in section 13(d)(1) of this title having an aggregate fair market value on the last trading day in any of the preceding twelve months of at least $100,000,000 or such other amount (but in no case less than $10,000,000) as the Commission, by rule, may determine, shall file reports with the Commission in such form, for such periods, and at such times after the end of such periods as the Commission, by rule, may prescribe, but in no event shall such reports be filed for periods longer than one year or shorter than one quarter. Such reports shall include for each such equity security held on the last day of the reporting period by accounts (in aggregate or by type as the Commission, by rule, may prescribe) with respect to which the institutional investment manager exercises investment discretion (other than securities held in amounts which the Commission, by rule, determines to be insignificant for purposes of this subsection), the name of the issuer and the title, class, CUSIP number, number of shares or principal amount, and aggregate fair market value of each such security. Such reports may also include for accounts (in aggregate or by type) with respect to which the institutional investment manager exercises investment discretion such of the following information as the Commission, by rule, prescribes—

"(A) the name of the issuer and the title, class, CUSIP number, number of shares or principal amount, and aggregate fair market value or cost or amortized cost of each security (other than an exempted security) held on the last day of the reporting period by such accounts;

"(B) the aggregate fair market value or cost or amortized cost of exempted securities (in aggregate or by class) held on the last day of the reporting period by such accounts;

"(C) the number of shares of each equity security of a class described in section 13 (d)(1) of this title held on the last day of the reporting period by such accounts with respect to which the institutional investment manager possesses sole or shared authority to exercise the voting rights evidenced by such securities;

"(D) the aggregate purchases and aggregate sales during the reporting period of each security (other than an exempted security) effected by or for such accounts; and

"(E) with respect to any transaction, having a market value of at least $500,000 or such other amount as the Commission, by rule, may determine, effected during the reporting period by or for such accounts in any equity security of a class described in section 13(d)(1) of this title—

"(i) the name of the issuer and the title, class, and CUSIP number of the security;

"(ii) the number of shares or principal amount of the security involved in the transaction;

"(iii) whether the transaction was a purchase or sale;

"(iv) the per share price or prices at which the transaction was effected;

"(v) the date or dates of the transaction;

"(vi) the date of the settlement of the transaction;

"(vii) the broker or dealer through whom the transaction was effected;

"(viii) the market or markets in which the transaction was effected; and

"(ix) such other related information as the Commission, by rule, may prescribe.

"(2) The Commission, by rule, or order, may exempt, conditionally or unconditionally, any institutional investment manager or security or any class of institutional investment managers or securities from any or all of the provisions of this subsection or the rules thereunder.

"(3) The Commission shall tabulate the information contained in any report filed pursuant to this subsection in a manner which will, in the view of the Commission, maximize the usefulness of the information to other Federal and State authorities and the public. Promptly after the filing of any such report, the Commission shall make the information contained therein conveniently available to the public for a reasonable fee in such form as the Commission, by rule, may prescribe, except that the Commission, where appropriate, may delay or prevent public disclosure of any such information in accordance with section 24 of this title. Notwithstanding the preceding sentence, any such information identifying the securities held by the account of a natural person or an estate or trust (other than a business trust or investment company) shall not be disclosed to the public.

"(4) In exercising its authority under this subsection, the Commission shall determine (and so state) that its action is necessary or appropriate in the public interest and for the protection of investors or to maintain fair and orderly markets or, in granting an exemption, that its action is consistent with the protection of investors and the purposes of this subsection. In exercising such authority the Commission shall take such steps as are within its power, including consulting with the Comptroller General of the United States, the Director of the Office of Management and Budget, the appropriate regulatory agencies, Federal and State authorities which, directly or indirectly, require reports from institutional investment managers of information substantially similar to that called for by this subsection, national securities exchanges, and registered securities associations, (A) to achieve uniform, centralized reporting of information concerning the securities holdings of and transaction by or for accounts with respect to which institutional investment managers exercise investment discretion, and (B) to avoid unnecessarily duplicative reporting by and minimize the compliance burden on institutional investment managers consistent with the purposes of this subsection. Federal authorities which, directly or indirectly, require reports from institutional investment managers of information substantially similar to that called for by this subsection shall cooperate with the Commission in the performance of its responsibilities under the preceding sentence. An institutional investment manager which is a bank, the deposits of which are insured in accordance with the Federal Deposit Insurance Act, shall file with the appropriate regulatory agency a copy of every report filed with the Commission pursuant to this subsection.

"(5)(A) For purposes of this subsection the term "institutional investment manager' includes any person, other than a natural person, investing in or buying and selling securities for an account in which it has a financial interest, and any person exercising investment discretion with respect to the account of any company or any person other than the person exercising investment discretion.

"(B) An institutional investment manager, required to file reports under this subsection, shall not be deemed to exercise investment discretion with respect to an account held outside the United States insofar as such discretion is exercised outside the United States, unless the Commission, by rule, otherwise prescribes as necessary or appropriate to prevent the evasion of the purposes of this subsection.

"(C) The Commission shall adopt such rules as it deems necessary or appropriate to prevent duplicative reporting pursuant to this subsection by two or more institutional investment managers exercising investment discretion with respect to the same account.".

SEC. 11. Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended as follows:

(a) The title thereof is amended to read: "REGISTRATION AND REGULATION OF BROKERS AND DEALERS".

(b) Subsection (a) thereof is amended to read as follows:

"(a) (1) It shall be unlawful for any broker or dealer to make use of a facility of a national securities exchange or any broker or dealer (other than one whose business is exclusively intrastate) to make use of the mails or any means or instrumentality of interstate commerce, to effect any transaction in, or to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with subsection (b) of this section.

"(2) The Commission, by rule or order, as it deems necessary or appropriate in the public interest or for the protection of investors, may conditionally or unconditionally exempt from paragraph (1) of this subsection any broker or dealer or class of brokers or dealers specified in such rule or order.

"(b) (1) A broker or dealer may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning such broker or dealer and any persons associated with such broker or dealer as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Within forty-five days of the date of the filing of such application or any amendment to such application the Commission shall—

"(A) by order grant registration, or

"(b) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within one hundred and twenty days of the date of the filing of the application for registration or any amendment thereto. At the conclusion of such proceedings the Commission, by order, shall grant or deny such registration. The Commission may extend the time for the conclusion of such proceedings for successive periods of up to thirty days if it finds good cause for each such extension and publishes its reasons for so finding.

The Commission shall grant the registration of a broker or dealer if the Commission finds that the requirements of this section are satisfied. The Commission shall deny the registration of a broker or dealer if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under paragraph (4) of this subsection.

"(2) An application for registration of a broker or dealer to be formed or organized may be made by a broker or dealer to which the broker or dealer to be formed or organized is to be the successor. Such application, in such form as the Commission, by rule, may prescribe, shall contain such information and documents concerning the applicant, the successor, and any persons associated with the applicant or the successor, as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. The grant or denial of registration to such an applicant shall be in accordance with the procedures set forth in paragraph (1) of this subsection. If the Commission grants such registration, the registration shall terminate on the forty-fifth day after the effective date thereof, unless prior thereto the successor shall, in accordance with such rules and regulations as the Commission may prescribe, adopt the application for registration as its own.

"(3) Any provision of this title (other than section 5 and subsection (a) of this section) which prohibits any act, practice, or course of business if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any such act, practice, or course of business by any registered broker or dealer or any person acting on behalf of such a broker or dealer, irrespective of any use of the mails or any means or instrumentality of interstate commerce in connection therewith.

"(4) The Commission, by order, shall censure, place limitations on the activities, functions, or operations, suspend for a period not exceeding twelve months, or revoke the registration of any broker or dealer if it finds, on the record after notice and opportunity for hearing, that such censure, limitation, suspension, or revocation is in the public interest and that such broker or dealer, whether prior or subsequent to becoming such, or any person associated with such broker or dealer, whether prior or subsequent to becoming so associated—

"(A) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission under this title, or in any proceeding before the Commission with respect to registration, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with rspect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

"(B) has been convicted within ten years preceding the filing of any application for registration or at any time thereafter of the crime of armed robbery or grand larceny or of any felony or misdemeanor which the Commission finds—

"(i) involves the purchase or sale of any security;

"(ii) arises out of the conduct of the business or a broker, dealer, municipal securities dealer, or investment adviser;

"(iii) involves embezzlement, fraudulent conversion, or misappropriation of funds or securities; or

"(iv) involves the violation of section 1341, 1342, or 1343 of title 18, United States Code.

"(C) is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter, broker, dealer, or municipal securities dealer, or as an affiliated person or employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity, or in connection with the purchase or sale of any security.

"(D) has willfully violated any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, this title, the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board, or is unable to comply with any such provision.

"(E) has willfully aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, this title, the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board or has failed reasonably to supervise, with a view to preventing violations of the provisions of such statutes, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision. For the purposes of this subparagraph (E) no person shall be deemed to have failed reasonably to supervise any person, if—

"(i) there have been established procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such other person, and

"(ii) such person has reasonably discharged the duties and obligations incumbent upon him by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

"(F) is subject to an order of the Commission entered pursuant to paragraph (6) of this subsection (b) barring or suspending the right of such person to be associated with a broker or dealer which order is in effect with respect to such person.

"(5) Pending final determination whether any registration under this subsection shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or appropriate in the public interest or for the protection of investors. Any registered broker or dealer may, upon such terms and conditions as the Commission deems necessary or appropriate in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered broker or dealer is no longer in existence or has ceased to do business as a broker or dealer, the Commission, by order, shall cancel the registration of such broker or dealer.

"(6) The Commission, by order, shall censure any person, or suspend for a period not exceeding twelve months or bar any person from being associated with a broker or dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, suspension, or bar is in the public interest and that such person has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of this subsection or has been convicted of any offense specified in subparagraph (B) of said paragraph (4) within ten years of the commencement of the proceedings under this paragraph or is enjoined from any action, conduct, or practice specified in subparagraph (C) of said paragraph (4). It shall be unlawuful for any person as to whom such an order suspending or barring him from being associated with a broker or dealer is in effect willfully to become, or to be, associated with a broker or dealer without the consent of the Commission, and it shall be unlawful for any broker or dealer to permit such person to become, or remain, a person associated with him without the consent of the Commission, if such broker or dealer knew, or in the exercise of reasonable care, should have known, of such order.

"(7) No registered broker or dealer shall, during any period when it is not a member of a registered securities association, effect any transaction in, or induce the purchase or sale of, any security (otherwise than on a national securities exchange of which it is a member) unless such broker or dealer meets such standards of operational capability and such broker or dealer and all natural persons associated with such broker or dealer meet such standards of training, experience, competence, and such other qualifications as the Commission finds necessary or appropriate in the public interest or for the protection of investors. The Commission shall establish such standards by rules and regulations, which may—

"(A) appropriately classify brokers and dealers (taking into account relevant matters, including types of business done and nature of securities sold) and persons associated with brokers and dealers;

"(B) specify that all or any portion of such standards shall be applicable to any such class;

"(C) require persons in any class to pass tests prescribed in accordance with such rules and regulations; and

"(D) provide that persons in any such class other than a broker or a dealer and partners, officers, and supervisory employees of brokers or dealers, may be qualified solely on the basis of compliance with such standards of training and such other qualifications as the Commission finds appropriate.

The Commission, by rule, may prescribe reasonable fees and charges to defray its costs in carrying out this paragraph, including, but not limited to, fees for any test administered by it or under its direction. The Commission may cooperate with registered securities associations and national securities exchanges in devising and administering tests and may require registered brokers and dealers and persons associated with such brokers and dealers to pass tests administered by or on behalf of any such association or exchange and to pay such association or exchange reasonable fees or charges to defray the costs incurred by such association or exchange in administering such tests.

"(8) In addition to the fees and charges authorized by paragraph (7), each registered broker or dealer not a member of a registered securities association shall pay to the Commission such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed by the Commission because such broker or dealer is not a member of such a securities association. The Commission shall establish such fees and charges by rules and regulations.

"(9) No broker or dealer subject to paragraph (7) of this subsection shall effect any transaction in, or induce the purchase or sale of, any security (otherwise than on a national securities exchange of which it is a member) in contravention of such rules and regulations as the Commission may prescribe designed to promote just and equitable principles of trade, to provide safeguards against unreasonable profits or unreasonable rates of commissions or other charges, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.".

(c) Paragraphs (1) and (2) of subsection (c) thereof are amended to read as follows:

"(c)(1) No broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which it is a member by means of any manipulative, deceptive, or other fraudulent device or contrivance, and no municipal securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any municipal security by means of any manipulative, deceptive, or other fraudulent device or contrivance. The Commission shall, for the purposes of this paragraph, by rules and regulations define such devices or contrivances as are manipulative, deceptive, or otherwise fraudulent.

"(2) No broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which it is a member, in connection with which such broker or dealer engages in any fraudulent, deceptive, or manipulative act or practice, or makes any fictitious quotation, and no municipal securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security in connection with which such municipal seurities dealer engages in any fraudulent, deceptive, or manipulative act or practice, or makes any fictitious quotation. The Commission shall, for the purposes of this paragraph, by rules and regulations define, and prescribe means reasonably designed to prevent, such acts and practices as are fraudulent, deceptive, or manipulative and such quotations as are fictitious.".

(d) Paragraph (5) of subsection (c) there is amended to read as follows:

"(5) No dealer acting in the capacity of market maker (other than a specialist registered on a national securities exchange) shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security) in contravention of such specified and appropriate standards with respect to dealing as the Commission, by rule, shall impose as necessary or appropriate in the public interest and for the protection of investors, to maintain fair and orderly markets, or to remove impediments to and perfect the mechanism of a national market system. Under the rules of the Commission a dealer acting in the capacity of market maker with respect to a security may be prohibited from acting as a broker in that security. The Commission, by rule, may require or permit the disclosure of any limited price order placed with a dealer acting in the capacity of market maker to such other dealers, such other dealers, such brokers, and such other persons in such manner and under such conditions as it deems necessary or appropriate in the public interest and for the protection of investors, to maintain fair and orderly markets, or to remove impediments to and perfect the mechanism of a national market system.".

(e) Subsection (c) thereof is further amended by adding at the end thereof the following new paragraph:

"(6) No broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) in contravention of such rules and regulations as the Commission shall prescribe as necessary or appropriate in the public interest and for the protection of investors or to protect or remove impediments to a national system for the prompt and accurate clearance and settlement of securities transactions, to regulate the time and method of, and the form and format of documents used in connection with, making settlements, payments, transfers, and deliveries of securities and of opening, maintaining, and closing accounts. Nothing in this paragraph shall be construed (A) to affect the authority of the Board of Governors of the Federal Reserve System, pursuant to section 7 of this title, to prescribe rules and regulations for the purpose of preventing the excessive use of credit for the purchase or carrying of securities, or (B) to authorize the Commission to prescribe rules or regulations for such purpose.".

(f) The section is further amended by adding at the end thereof the following new subsection:

"(e) The Commission, by rule, as it deems necessary or appropriate in the public interest and for the protection of investors or to assure equal regulation may require any member of a national securities exchange not required to register under section 15 of this title or any person associated with any such member to comply with any provision of this title (other than section 15(a)) or the rules or regulations thereunder which by its terms regulates or prohibits any act, practice, or course of business by a 'broker or dealer' or 'registered broker or dealer' or a 'person associated with a broker or dealer,' respectively.".

Sec. 11. Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended as follows:

(a) The title thereof is amended to read: "REGISTERED SECURITIES ASSOCIATIONS".

(b) Subsections (a) and (b) thereof are amended to read as follows:

"(a) An association of brokers and dealers may be registered as a national securities association pursuant to subsection (b), or as an affiliated securities association pursuant to subsection (d), under the terms and conditions hereinafter provided in this section and in accordance with the provisions of section 19(a) of this title, by filing with the Commission an application for registration in such form as the Commission, by rule, may prescribe containing the rules of the association and such other information and documents as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(b) An applicant association shall not be registered as a national securities association unless the Commission determines that—

"(1) By reason of the number of its members, the scope of their transactions, and the geographical distribution of its members such association will be able to carry out the purposes of this section.

"(2) Such association is so organized and has the capacity to be able to comply with and to enforce compliance by its members with the provisions of this title, the rules and regulations thereunder, the rules of the Municipal Securities Rulemaking Board, and the rules of the association, and to carry out the purposes of this title.

"(3) The rules of the association provide that any registered broker or dealer may become a member of such association and any person may become associated with a member thereof, except such as may be excluded or barred pursuant to subsection (g) of this section.

"(4) The rules of the association assure a fair representation of its members in the adoption of the rules of the association and amendments thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs.

"(5) The rules of the association provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the association operates or regulates.

"(6) The rules of the association are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to provide safeguards against unreasonable profits or unreasonable rates of commissions or other charges, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, to fix minimum profits, to impose any schedule or fix rates of commissions, allowances, discounts, or other charges, or to regulate matters not related to the purposes of this title or the administration of the association.

"(7) The rules of the association provide that its members and persons associated with its members shall be appropriately disciplined for violation of any provision of this title, the rules or regulations thereunder, the rules of the Municipal Securities Rulemaking Board, or the rules of the association, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction.

"(8) The rules of the association are in accordance with the provisions of subsection (h) of this section and, in general, provide a fair procedure for the disciplining of members and persons associated with members, the denial of membership to any person seeking membership therein, the barring of any person from becoming associated with a member thereof, and the prohibition or limitation of any person with respect to requested access to services offered by the association or a member thereof.

"(9) The rules of the association do not impose any burden on competition not necessary or appropriate in furtherance of the purpose of this title.

"(10) The requirement of subsection (c), insofar as these may be applicable, are satisfied.

"(11) The rules of the association include provisions governing the form and content of quotations relating to securities or any class thereof which may be distributed or published by any member or any person associated with a member, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations, both at the wholesale and retail level, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.".

(c) The section is amended by striking out subsections (e), (f), (g), (h), (j), (k), (l), and (n), thereof, redesignating subsections (i) and (m) thereof as subsections (e) and (f), respectively, and amending redesignated subsection (e) to read as follows:

"(e) (1) The rules of a registered securities association may provide that no member thereof shall deal with any nonmember (as defined in paragraph (2) of this subsection) except at the same prices, for the same commissions or fees, and on the same terms and conditions as are by such members accorded to the general public.

"(s) For the purposes of this subsection, the term 'nonmember' shall include (A) with respect to transactions in securities other than municipal securities, any broker or dealer who makes use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security otherwise than on a national securities exchange and who is not a member of any registered securities association, except a broker or dealer who deals exclusively in commercial paper, bankers' acceptances, and commercial bills, and (B) with respect to transactions in municipal securities, any municipal securities dealer for whom the Commission is the appropriate regulatory agency who is not a member of any registered securities association.

"(3) Nothing in this subsection shall be so construed or applied as to prevent (A) any member of a registered securities association from granting to any other member of any registered securities association any dealer's discount, allowance, commission, or special terms, in connection with the purchase or sale of securities, or (B) any member of a registered securities association or any municipal securities dealer for whom the Commission is not the appropriate regulatory agency from granting to any member of any registered securities association or any such municipal securities dealer any dealer's discount, allowance, commission, or special terms in connection with the purchase or sale of municipal securities: *Provided, however*, That the granting of any such discount, allowance, commission, or special terms in connection with the purchase or sale of municipal securities shall be subject to rules of the Municipal Securities Rulemaking Board adopted pursuant to section 15B(b) (2) (K) of this title.".

(d) The section is further amended by adding at the end thereof the following new subsections:

"(g) (1) A registered securities association may, and in cases in which the Commission, by order, directs as appropriate in the public interest shall, deny membership to any registered broker or dealer and bar from becoming associated with a member any person who—

"(A) has been and is expelled or suspended from membership or participation in or barred or suspended from being associated with a member of any self-regulatory organization;

"(B) is subject to an order of the Commission, denying, suspending for a period not exceeding twelve months, or revoking his broker or dealer's registration;

"(C) by his conduct while associated with a broker or dealer was a cause of any effective suspension, expulsion, or order of the character described in subparagraph (A) or (B) of this paragraph, and in entering such as suspension, expulsion, or order, the Commission or any such self-regulatory organization shall have jurisdiction to determine whether or not any person was a cause thereof;

"(D) has associated with him any person who is known, or in the exercise of reasonable care should be known, to him to be a person who, if such person were a broker or dealer, would be ineligible for admission to membership under subparagraph (A), (B), or (C) of this paragraph; or

"(E) has committed or omitted any act or omission enumerated in subparagraph (D) or (E) of paragraph (4) of section 15(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the date of the filing of an application for membership or to become associated with a member, is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4), has willfully made or caused to be made in an application for membership or to become associated with a member, or report required to be filed with the association, or in any proceeding before the association, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein.

If a registered securities association proposes to admit any such broker or dealer to membership or to permit any such person to become associated with a member, not less than thirty days prior to such proposed action the association shall file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(2) (A) A registered securities association may deny membership to, or condition the membership of, a registered broker or dealer if (i) such broker or dealer does not meet such standards of financial responsibility and operational capability and such broker or dealer and all natural persons associated with such broker or dealer do not meet such standards of training, experience, and competence as are prescribed by the rules of the association or (ii) such broker or dealer or person associated with such broker or dealer has engaged and there is a reasonable likelihood he will again engage in acts or practices constituting a violation of this title, the rules or regulations thereunder, the rules of the Municipal Securities Rulemaking Board, or the rules of the association. A registered securities association may examine and verify the qualifications of an applicant to be a member and the natural persons associated with such an applicant in accordance with procedures established by the rules of the association.

"(B) A registered securities association may bar a natural person from becoming associated with a member or condition the association of a natural person with a member if such person (i) does not meet such standards of training, experience, and competence as are prescribed by the rules of the association or (ii) has engaged and there is a reasonable likelihood he will again engage in acts or practices constituting a violation of this title, the rules or regulations thereunder, the rules of the Municipal Securities Rulemaking Board, or the rules of the association. A registered securities association may examine and verify the qualifications of an applicant to become a person associated with a member in accordance with procedures established by the rules of the association and require a natural person associated with a member, or any class of such natural persons, to be registered with the association in accordance with procedures so established.

"(C) A registered securities association may restrict or condition membership on such specified geographical basis, or on such specified basis relating to the type of business done by its members, or on such other specified and appropriate basis as the Commission, by rule, determines to be consistent with the public interest and the purposes of this section.

"(h) (1) In any proceeding by a registered securities association to determine whether a member or person associated with a member should be disciplined (other than a summary proceeding pursuant to paragraph (3) of this subsection) the association shall bring specific charges, notify such member or person of, and give him an opportunity to defend against, such charges, and keep a record. A determination by the association to impose a disciplinary sanction shall be supported by a statement setting forth—

"(A) any act or practice in which such member or person associated with a member has been found to have engaged, or which such member or person has been found to have omitted;

"(B) the specific provision of this title, the rules or regulations thereunder, the rules of the Municipal Securities Rulemaking Board, or the rules of the association which any such act or practice, or omission to act, is deemed to violate; and

"(C) the sanction imposed and the reason therefor.

"(2) In any proceeding by a registered securities association to determine whether a person shall be denied membership, barred from becoming associated with a member, or prohibited or limited with respect to requested access to services offered by the association or a member thereof, the association shall notify such person of, and give him an opportunity to be heard upon, the specific grounds for denial, bar, or prohibition or limitation under consideration and keep a record. A determination by the association to deny membership, bar a person from becoming associated with a member, or prohibit or limit a person with respect to requested access to services offered by the association or a member thereof shall be supported by a statement setting forth the specific grounds on which the denial, bar, or prohibition or limitation is based.

"(3) A registered securities association may summarily suspend a member or person associated with a member who (A) has been and is expelled or suspended from any self-regulatory organization or barred or suspended from any self-regulatory organization or (B) is in such financial or operating difficulty that the association determines and so notifies the Commission that the member cannot be permitted to continue in business with safety to investors, creditors, other members, or the association. A member or person associated with a member so summarily suspended shall be promptly afforded an opportunity for a hearing by the association in accordance with the provisions of paragraph (1) of this subsection. The Commission, by order, may stay any such summary suspension on its own motion or upon application by any person aggrieved thereby, if the Commission determines after notice and opportunity for hearing (which hearing may consist solely of the submission of affidavits or presentation of oral arguments) that such stay is consistent with the public interest and the protection of investors.".

SEC. 12. The Securities Act of 1934 is amended by inserting after section 15A (15 U.S.C. 78o-3) the following new section:

"MUNICIPAL SECURITIES

"SEC. 15B. (a)(1) It shall be unlawful for any municipal securities dealer (other than one registered as a broker or dealer under section 15 of this title) to make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any municipal security unless such municipal securities dealer is registered in accordance with this subsection.

"(2) A municipal securities dealer may be registered by filing with the Commission an application for registration in such form and containing such information and documents concerning such municipal securities dealer and any persons associated with such municipal securities dealer as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors. Within forty-five days of the date of the filing of such application or any amendment to such application the Commission shall—

"(A) by order grant registration, or

"(B) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within one hundred and twenty days of the date of the filing of the application for registration, or any amendment thereto. At the conclusion of such proceedings the Commission, by order, shall grant or deny such registration. The Commission may extend the time for the conclusion of such proceedings for successive periods of up to thirty days if it finds good cause for each such extension and publishes its reasons for so finding.

The Commission shall grant the registration of a municipal securities dealer if the Commission finds that the requirements of this section are satisfied. The Commission shall deny the registration of a municipal securities dealer if it does not make such a finding or if it finds that if the applicant were so registered, its registration would be subject to suspension or revocation under subsection (c) of this section.

"(3) Any provision of this title (other than section 5 or paragraph (1) of this subsection) which prohibits any act, practice, or course of business if the mails or any means or instrumentality of interstate commerce is used in connection therewith shall also prohibit any such act, practice, or course of business by any registered municipal securities dealer or any person acting on behalf of such municipal securities dealer, irrespective of any use of the mails or any means or instrumentality of interstate commerce in connection therewith.

"(4) The Commission, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any broker, dealer, or municipal securities dealer or class of brokers, dealers, or municipal securities dealers from any provision of this section or the rules or regulations thereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this section.

"(b)(1) Not later than one hundred and twenty days after the date of enactment of the Securities Acts Amendments of 1975, the Commission shall establish a Municipal Securities Rulemaking Board (hereinafter in this section referred to as the 'Board') to be composed initially of nine members appointed by the Commission which shall perform the duties set forth in this section. The initial members of the Board shall serve as members for a term of two years, and shall consist of three individuals who are not associated with any broker, dealer, or municipal securities dealer, at least one of whom shall be representative of investors in municipal securities, and at least one of whom shall be representative of issuers of municipal securities (which members are hereinafter referred to as 'public representatives'); three individuals who are associated with and representative of municipal securities brokers and municipal securities dealers which are not banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as 'broker-dealer representatives'); and three individuals who are associated with and representative of municipal securities dealers which are banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as 'bank representatives'). Prior to the expiration of the terms of office of the initial members of the Board, an election shall be held under rules adopted by the Board (pursuant to subsection (b)(2)(B) of this section) of the members to succeed such initial members.

"(2) The Board shall propose and adopt rules to effect the purposes of this title with respect to transactions in municipal securities by brokers, dealers, and municipal securities dealers. (Such rules are hereinafter collectively referred to in this title as 'rules of the Board.') No rule of the Board or change in, addition to, or deletion from the rules of the Board shall take effect except in accordance with section 19(b) of this title. The rules of the Board, as a minimum, shall:

"(A) provide that no municipal securities broker or municipal securities dealer shall effect any transaction in or induce the purchase or sale of any municipal security unless such municipal securities broker or municipal securities dealer meets such standards of operational capability and such municipal securities broker or municipal securities dealer and every natural person associated with such municipal securities broker or municipal securities dealer meet such standards of training, experience, competence, and such other qualifications as the Board finds necessary or appropriate in the public interest or for the protection of investors. In connection with the definition and application of such standards the Board may—

"(i) appropriately classify municipal securities brokers and municipal securities dealer (taking into account relevant matters, including types of business done, nature of securities other than municipal securities sold, and character of business organization), and persons associated with municipal securities brokers and municipal securities dealers;

"(ii) specify that all or any portion of such standards shall be applicable to any such class; and

"(iii) require persons in any such class to pass tests administered in accordance with subsection (c)(7) of this section; and

"(iv) provide that persons in any such class other than a municipal securities broker or a municipal securities dealer and partners, officers, and supervisory employees of municipal securities brokers or municipal securities dealers, may be qualified solely on the basis of compliance with such standards of training and such other qualifications as the Board finds appropriate;

"(B) establish fair procedures for the nomination and election of members of the Board and assure a fair representation in such nominations and elections of municipal securities brokers and municipal securities dealers. Such rules shall provide that the membership of the Board shall at all times be equally divided among public representatives, broker-dealer representatives, and bank representatives, and that the public representatives shall be subject to approval by the Commission to assure that no one of them is associated with any broker, dealer, or municipal securities dealer and that at least one is representative of investors in municipal securities and at least one is representative of issuers of municipal securities. Such rules shall also specify the term members shall serve and may increase the number of members which shall constitute the whole Board provided that such number is an odd number.

"(C) be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, municipal securities brokers, or municipal securities dealers, to fix minimum profits, to impose any schedule or fix rates of commissions, allowances, discounts, or other charges, to regulate matters not related to the purposes of this title with respect to municipal securities or the administration of the Board, or to impose any burden on competition not necessary or appropriate in furtherance of such purposes.

"(D) if the Board deems appropriate, provide for the arbitration of claims, disputes, and controversies relating to transactions in municipal securities: *Provided, however*, That no person other than a municipal securities broker, municipal securities dealer, or person associated with such a municipal securities broker or municipal securities dealer may be compelled to submit to such arbitration except at his instance and in accordance with section 29 of this title.

"(E) provide for the periodic examination in accordance with subsection (c)(7) of this section of municipal securities brokers and municipal securities dealers to determine compliance with applicable provisions of this title, the rules and regulations thereunder, and the rules of the Board. Such rules shall specify the minimum scope and frequency of such inspections and shall be designed to avoid unnecessary regulatory duplication or undue regulatory burdens for any such municipal securities broker or municipal securities dealers.

"(F) include provisions governing the form and content of quotations relating to municipal securities which may be distributed or published by any municipal securities broker, any municipal securities dealer, or any person associated with such a municipal securities broker or municipal securities dealer, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations, both at the wholesale and retail level, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.

"(G) prescribe the records that municipal securities brokers and municipal securities dealers shall make and keep and the periods for which such records shall be preserved.

"(H) define the term 'separately identifiable department or division', as the term is used in section 3(a)(30) of this title, in accordance with specified and appropriate standards to assure that a bank is not deemed to be engaged in the business of buying and selling municipal securities through a separately identifiable department or division unless such department or division is organized and administered so as to permit independent examination and enforcement of applicable provisions of this title, the rules and regulations thereunder, and the rules of the Board. A separately identifiable department or division of a bank may be engaged in lawful activities other than those relating to municipal securities.

"(I) provide for the operation and administration of the Board, including the selection of a Chairman from among the members of the Board, the compensation of the members of the Board, and the appointment and compensation of such employees, attorneys, and consultants as may be necessary for carrying out the Board's functions under this section.

"(J) provide that each municipal securities broker and each municipal securities dealer shall pay to the Board such reasonable fees and charges as may be necessary to defray the costs and expenses of operating and administering the Board. Such rules shall specify the amount of such fees and charges.

"(K) establish the terms and conditions under which any municipal securities dealer may sell, or prohibit any municipal securities dealer from selling, any part of a new issue of municipal securities to a municipal securities investment portfolio during the underwriting period.

"(c)(1) No broker, dealer, or municipal securities dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security in contravention of any rule of the Board.

"(2) The Commission, by order, shall censure, place limitations on the activities, functions, or operations, suspend for a period not exceeding twelve months, or revoke the registration of any municipal securities dealer if it finds, on the record after notice and opportunity for hearing, that such censure, limitation, denial, suspension, or revocation, is in the public interest and that such municipal securities dealer has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title or has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(3) Pending final determination whether any registration under this section shall be revoked, the Commission, by order, may suspend such registration, if such suspension appears to the Commission, after notice and opportunity for hearing, to be necessary or appropriate in the public interest or for the protection of investors. Any registered municipal securities dealer may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any registered municipal securities dealer is no longer in existence or has ceased to do business as a municipal securities dealer, the Commission, by order, shall cancel the registration of such municipal securities dealer.

"(4) The Commission, by order, shall censure any person, or suspend for a period not exceeding twelve months or bar any person from being associated with a municipal securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, suspension, or bar is in the public interest and that such person has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b) of this title or has been convicted of any offense specified in subparagraph (B) of said paragraph (4) within ten years of the commencement of the proceedings under this paragraph or is enjoined from any action, conduct, or practice specified in subparagraph (C) of said paragraph (4). It shall be unlawful for any person as to whom such an order or an order entered pursuant to paragraph (5) of this subsection suspending or barring him from being associated with a municipal securities dealer is in effect, willfully to become, or to be, associated with a municipal securities dealer without the consent of the Commission, and it shall be unlawful for any municipal securities dealer to permit such a person to become, or remain, a person associated with him without the consent of the Commission, if such municipal securities dealer knew, or, in the exercise of reasonable care, should have known, of such order.

"(5) With respect to any municipal securities dealer for which the Commission is not the appropriate regulatory agency, the appropriate regulatory agency may sanction any such municipal securities dealer in the manner and for the reasons specified in paragraph (2) of this subsection and sanction any person associated with any such municipal securities dealer in the manner and for the reasons specified in paragraph (4) of this subsection. In addition, the appropriate regulatory agency may in accordance with section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) enforce compliance by any such municipal securities dealer or any person associated with any such municipal securities dealer with the provisions of this section, section 17 of this title, the rules of the Board, and the rules of the Commission pertaining to municipal securities dealers, persons associated with municipal securities dealers, and transactions in municipal securities. For purposes of the preceding sentence, any violation of any such provision shall constitute adequate basis for the issuance of an order under section 8(b) or 8(c) of the Federal Deposit Insurance Act, and the customers of any such municipal securities dealer shall be deemed to be 'depositors' as that term is used in section 8(c) of that Act. Nothing in this paragraph shall be construed to affect in any way the powers of the appropriate regulatory agency to proceed against any such municipal securities dealer under any other provision of law.

"(6) The Commission shall, prior to initiating any action pursuant to this subsection against any municipal securities dealer for which it is not the appropriate regulatory agency or any person associated with such a municipal securities dealer, give notice to the appropriate regulatory agency of the identity of such municipal securities dealer or person associated with such a municipal securities dealer and the nature of and basis for such proposed action and consult with such agency concerning the effect of such proposed action on sound banking practices and the feasibility and desirability of coordinating such action with any proceeding or proposed proceeding by the appropriate regulatory agency against such municipal securities dealer or associated person. The appropriate regulatory agency shall, prior to initiating any action against any municipal securities dealer or person associated with a municipal securities dealer for violation of any provision of this section, the rules of the Board, or the rules of the Commission pertaining to municipal securities dealers, persons associated with municipal securities dealers, or transactions in municipal securities, give notice to the Commission of the identity of such municipal securities dealer or person associated with a municipal securities dealer and the nature of and basis for such proposed action and consult with the Commission concerning the effect of such proposed action on the protection of investors and the feasibility and desirability of coordinating such action with any proceeding or proposed proceeding by the Commission against such municipal secuities dealer or associated person. Nothing in this paragraph shall be construed to impair or limit (other than by the requirement of prior consultation) the power of the Commission or the appropriate regulatory agency to initiate any such action or to affect in any way the power of the Commission or the appropriate regulatory agency to initiate any other action pursuant to this title or any other provision of law.

"(7)(A) Tests required pursuant to subsection (b)(2)(A)(iii) of this section shall be administered by or on behalf of and periodic examinations pursuant to subsection (b)(2)(E) of this section shall be conducted by—

"(i) the National Association of Securities Dealers, Incorporated, in the case of municipal securities brokers and municipal securities dealers which are members of such association; and

"(ii) the appropriate regulatory agency, in the case of all other municipal securities brokers and municipal securities dealers.

"(B) The National Association of Securities Dealers, Incorporated, in the case of municipal securities brokers and municipal securities dealers which are members of such association, and the appropriate regulatory agency, in the case of municipal securities dealers for which the Commission is not the appropriate regulatory agency, shall make a report of any examination conducted pursuant to subsection (b)(2)(E) of this section and promptly furnish the Commission a copy thereof and any data supplied to it in connection with such examination. The Commission shall make a report of any examination of a municipal securities dealer for which it is not the appropriate regulatory agency and promptly furnish the appropriate regulatory agency a copy thereof and any data supplied to it in connection with such examination. Subject to such limitations as the Commission, by rule, determines to be necessary or appropriate in the public interest or for the protection of investors, the Commission shall, on request, make available to the Board a copy of any report of an examination of a municipal securities broker or municipal securities dealer made by or furnished to the Commission pursuant to this paragraph.

"(8) The Commission is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title to remove from office or censure any member or employee of the Board whom, the Commission finds, on the record after notice and opportunity for hearing, has willfully (A) violated any provision of this title, the rules and regulations thereunder, or the rules of the Board or (B) abused his authority.

"(d) Neither the Commission nor the Municipal Securities Rulemaking Board is authorized under this title, by rule or regulation, to require an issuer of municipal securities, directly through a purchaser or prospective purchaser of securities from the issuer, to file with the Commission or the Board prior to the sale of such securities by the issuer any application, report, or document in connection with the issuance, sale, or distribution of such securities.".

SEC. 13. Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended by striking subsection (a), redesignating subsection (b) as subsection (e), and inserting the following as subsections (a), (b), (c), and (d):

"(a)(1) Every national securities exchange, member thereof, broker or dealer who transacts a business in securities through a medium of any such member, registered securities association, registered broker or dealer, registered securities information processor, and registered clearing agency shall make and keep for prescribed periods such records, furnish such copies thereof, and make such reports as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(2) Every registered clearing agency shall also make and keep for prescribed periods such records, furnish such copies thereof, and make such reports, as the appropriate regulatory agency, by rule, prescribes as necessary or appropriate for the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible.

"(3) Every registered transfer agent shall make and keep for prescribed periods such records, furnish such copies thereof, and make such reports as the appropriate regulatory agency, by rule, prescribes as necessary or appropriate in furtherance of the purposes of section 17A of this title.

"(b) All records of persons described in subsection (a) of this section and registered municipal securities dealers are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission and the appropriate regulatory agency as the Commission or the appropriate regulatory agency deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title: *Provided, however,* That the Commission shall not conduct any such examination of a registered clearing agency or registered transfer agent for which it is not the appropriate regulatory agency unless the examination is (1) germane to the Commission's consideration of a clearing agency's application for registration in accordance with section 19(a) of this title or proposed rule change in accordance with section 19(b) of this title or a Commission rulemaking pursuant to section 17A(d)(1) of this title, and (2) necessary or appropriate for the Commission's proper performance of its responsibilities under this title: *And provided further,* That the Commission shall, prior to conducting any such examination of a registered clearing agency, registered transfer agent, or registered municipal securities dealer for which it is not the appropriate regulatory agency, give notice to the appropriate regulatory agency of such proposed examination and consult with such agency concerning the feasibility and desirability of coordinating such examination with examinations conducted by the appropriate regulatory agency with a view to avoiding unnecessary regulatory duplication or undue regulatory burdens for such clearing agency, transfer agent, or municipal securities dealer. Nothing in the second proviso of the preceding sentence shall be construed to impair or limit (other than by the requirement of prior consultation) the power of the Commission under this subsection to examine any clearing agency, transfer agent, or municipal securities dealer, and nothing in either proviso of the preceding sentence shall be construed to affect in any way the power of the Commission under any other provision of this title or otherwise to inspect, examine, or investigate any such clearing agency, transfer agent, or municipal securities dealer.

"(c)(1) Every clearing agency, transfer agent, and municipal securities dealer for which the Commission is not the appropriate regulatory agency shall (A) file with the appropriate regulatory agency a copy of any application, notice, proposal, report, or document filed with the Commission by reason of being a clearing agency, transfer agent, or municipal securities dealer and (B) file with the Commission a copy of any application, notice, proposal, report, or document filed with the appropriate regulatory agency by reason of being a clearing agency, transfer agent, or municipal securities dealer.

"(2) The appropriate regulatory agency shall file with the Commission a copy of any order entered by the appropriate regulatory agency with respect to any clearing agency, transfer agent, or municipal securities dealer for which the Commission is not the appropriate regulatory agency, and the Commission shall file with the appropriate regulatory agency a copy of any order entered by the Commission with respect to any such clearing agency, transfer agent, or municipal securities dealer.

"(3) The Commission and the appropriate regulatory agency shall each make a report of any examination conducted by it of any clearing agency, transfer agent, or municipal securities dealer for which the Commission is not the appropriate regulatory agency, and shall, upon request, furnish to the other a copy of such report.

"(d)(1) With respect to a person who is a member of or participant in more than one self-regulatory organization, the Commission, by rule, as it deems necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among self-regulatory organizations with respect to the regulation of members and participants, or to remove impediments to and foster the development of a national market system and national system for the clearance and settlement of securities transactions, may allocate among such self-regulatory organizations responsibility (A) to examine such person for compliance with applicable provisions of this title, the rules and regulations thereunder, and the rules of the self-regulatory organizations of which such person is a member or in which such person is a participant, (B) to enforce compliance with such provisions, (C) to receive regulatory reports, and (D) to carry out other specified regulatory functions with respect to such person. In allocating any such responsibility, the Commission shall take into consideration the regulatory capability and procedures of the self-regulatory organizations, availability of staff, convenience of location, and such other factors as the Commission may consider germane to the protection of investors, cooperation and coordination among self-regulatory organizations, and the development of a national market system and a national system for the clearance and settlement of securities transactions. The allocation to one self-regulatory organization of the responsibility to enforce compliance by any person with specified provisions of this title, the rules or regulations thereunder, or the rules of self-regulatory organizations of which such person is a member or in which such person is a participant, shall relieve all other self-regulatory organizations of which such person is a member and in which such person is a participant of any responsibility to enforce compliance by such person with such provisions. The Commission, by rule, as it deems necessary or appropriate in the public interest and for the protection of investors, may require any self-regulatory organization so relieved of any such responsibility and any person with respect to whom such responsibility relates to take appropriate steps to notify customers of and persons doing business with such person of the limited nature of such self-regulatory organization's responsibility for such person's acts, practices, and course of business.

"(2) A self-regulatory organization shall furnish copies of any report of examination of any person who is a member of or participant in such self-regulatory organization to any other self-regulatory organization of which such person is a member or in which such person is a participant upon the request of such person, such other self-regulatory organization, or the Commission.

"(e)(1) Every registered broker or dealer shall annually file with the Commission a balance sheet certified by an independent public accountant, prepared on a calendar or fiscal year basis, and such other financial statements (which may be certified) and such other information concerning its financial condition as the Commission, by rule, shall require as necessary or appropriate in the public interest or for the protection of investors.

"(2) The Commission, by rule, as it deems necessary or appropriate in the public interest or for the protection of investors, may prescribe the form and content of financial statements filed pursuant to this title by brokers and dealers and the principles and standards used in the preparation of such statements.".

SEC. 14. The Securities Exchange Act of 1934 is amended by inserting after section 17 (15 U.S.C. 78q) the following new section:

"NATIONAL SYSTEM FOR THE CLEARANCE AND SETTLEMENT OF SECURITIES TRANSACTIONS

"SEC. 17A. (a)(1) The Congress finds that—

"(A) The prompt and accurate clearance and settlement of securities transactions (including the transfer of record ownership) and the safeguarding of securities and funds related thereto are necessary for the protection of investors, brokers, dealers, and other persons holding securities.

"(B) Inefficient procedures for clearance and settlement impose unnecessary costs on investors, brokers, dealers, and other persons holding securities.

"(C) New data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement.

"(D) The linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors, brokers, dealers, and other persons holding securities.

"(2) The Commission is directed, therefore, having due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and the maintenance of fair competition among brokers and dealers, clearing agencies, and transfer agents, to establish a national system for the prompt and accurate clearance and settlement of transactions in securities. This national system shall include, as a minimum, access to any registered clearing agency by any qualified professional and equal regulation of brokers, dealers, clearing agencies, and transfer agents.

"(b)(1) Except as otherwise provided in this section, it shall be unlawful for any person, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a clearing agency with respect to any security (other than an exempted security) unless such person is registered in accordance with this subsection. The Commission, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any person or security or any class of persons or securities from any provision of this section or the rules or regulations thereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this section, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds. A person shall not perform the functions of a clearing agency and a transfer agent unless such person is registered in accordance with this subsection and subsection (c) of this section.

"(2) A clearing agency may be registered under the terms and conditions hereinafter provided in this subsection and in accordance with the provisions of section 19(a) of this title, by filing with the Commission an application for registration in such form as the Commission, by rule, may prescribe containing the rules of the clearing agency and such other information and documents as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the prompt and accurate clearance and settlement of securities transactions.

"(3) A clearing agency shall not be registered unless the Commission determines that—

"(A) Such clearing agency is so organized and has the capacity to be able to facilitate the prompt and accurate clearance and settlement of securities transactions, to safeguard securities and funds in its custody or control or for which it is responsible, to comply with the provisions of this title and the rules and regulations thereunder, to enforce compliance by its participants with the provisions of this section, section 17 of this title, the rules and regulations thereunder, and the rules of the clearing agency, and to carry out the purposes of this section.

"(B) the rules of the clearing agency provide that any (i) registered broker or dealer, (ii) other registered clearing agency, (iii) registered investment company, (iv) bank, (v) insurance company, or (vi) such other person or class of persons as the Commission, by rule, may from time to time designate as appropriate to the development of a national system for the prompt and accurate clearance and settlement of securities transactions may become a participant in such clearing agency, except such as may be excluded pursuant to paragraph (4) of this subsection.

"(C) The rules of the clearing agency assure a fair representation of its shareholders (or members) and participants in the adoption of the rules of the clearing agency and amendments thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs.

"(D) The rules of the clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.

"(E) The rules of the clearing agency do not impose any schedule of prices, or fix rates or charges, for services rendered by its participants.

"(F) The rules of the clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency, or to regulate matters not related to the purposes of this section or the administration of the clearing agency.

"(G) The rules of the clearing agency provide that its participants shall be appropriately disciplined for violation of any provision of this section, section 17 of this title, the rules and regulations thereunder, or the rules of the clearing agency by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, or any other fitting sanction.

"(H) The rules of the clearing agency are in accordance with the provisions of paragraph (5) of this subsection, and, in general, provide a fair procedure with respect to the disciplining of participants, the denial of participation to any person seeking participation therein, and the prohibition or limitation of any person with respect to requested recess to services offered by the clearing agency or a participant therein.

"(I) The rules of the clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of this title.

"(4)(A) A registered clearing agency may, and in cases in which the Commission, by order, directs as appropriate in the public interest shall, deny participation to any registered broker or dealer who may be denied membership in a national securities exchange pursuant to section 6(c)(1) of this title. If a registered clearing agency proposes to admit any such broker or dealer to participation, not less than thirty days prior to such proposed action the clearing agency shall file notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(B) A registered clearing agency may deny participation to, or condition the participation of, any person if such person does not meet such standards of financial responsibility, operational capability, experience, and competence as are prescribed by the rules of the clearing agency. A registered clearing agency may examine and verify the qualifications of an applicant to be a participant in accordance with procedures established by the rules of the clearing agency.

"(5)(A) In any proceeding by a registered clearing agency to determine whether a participant should be disciplined (other than a summary proceeding pursuant to subparagraph (C) of this paragraph), the clearing agency shall bring specific charges, notify such participant of, and give him an opportunity to defend against such charges, and keep a record. A determination by the clearing agency to impose a disciplinary sanction shall be supported by a statement setting forth—

"(i) any act or practice in which such participant has been found to have engaged, or which such participant has been found to have omitted;

"(ii) the specific provision of this section, section 17 of this title, the rules or regulations thereunder, or the rules of the clearing agency which any such act or practice, or omission to act, is deemed to violate; and

"(iii) the sanction imposed and the reason therefor.

"(B) In any proceeding by a registered clearing agency to determine whether a person shall be denied participation or prohibited or limited with respect to requested access to services offered by the clearing agency or a participant therein, the clearing agency shall notify such person of, and give him an opportunity to be heard upon, the specific grounds for denial or prohibition or limitation under consideration and keep a record. A determination by the clearing agency to deny participation or prohibit or limit a person with respect to requested access to services offered by the clearing agency or a participant therein shall be supported by a statement setting forth the specific grounds on which the denial or prohibition or limitation is based.

"(C) A registered clearing agency may summarily suspend and close the accounts of a participant who (i) has been and is expelled or suspended from any other registered clearing agency or (ii) is in such financial or operating difficulty that the clearing agency determines that such suspension and closing of accounts are necessary for the protection of the clearing agency, its participants, or investors. A participant so summarily suspended shall be promptly afforded an opportunity for a hearing by the clearing agency in accordance with the provisions of subparagraph (A) of this paragraph. The Commission, by order, may stay any such summary suspension on its own motion or upon application by any person aggrieved thereby, if the Commission determines after notice and opportunity for hearing (which hearing may consist solely of the submission of affidavits or presentation of oral arguments) that such stay is consistent with the public interest and the protection of investors.

"(c)(1) Except as otherwise provided in this section, it shall be unlawful for any person, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the function of a transfer agent with respect to any security registered under section 12 of this title or which would be required to be registered except for the exemption from registration provided by subsection (g)(a)(B) or (g)(2)(G) of that section unless such person is registered in accordance with this subsection. The appropriate regulatory agency, by rule or order, upon its own motion or upon application, may conditionally or unconditionally exempt any person or security or class of persons or securities from any provision of this section or any rule or regulation prescribed under this section, if the appropriate regulatory agency finds that such exemption is in the public interest and consistent with the protection of investors and the purposes of this section, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds, and the Commission does not object to such exemption.

"(2) A person may be registered as a transfer agent by filing with the appropriate regulatory agency an application for registration in such form and containing such information and documents concerning performance capability, standards and procedures for transfer of securities and safeguarding of securities and funds, and operational compatibility of the transfer agent's activities with those of other persons involved in the securities handling process, as the appropriate regulatory agency may prescribe as necessary or appropriate in furtherance of the purposes of this section. Within thirty days of the date of the filing of such application or any amendment to such application the appropriate regulatory agency shall—

"(A) by order grant registration, or

"(B) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within one hundred and twenty days of the date of the filing of the application for registration or any amendment thereto. At the conclusion of such proceedings the appropriate regulatory agency, by order, shall either grant or deny such registration. The appropriate regulatory agency may extend the time for the conclusion of such proceedings for successive periods of up to thirty days if it finds good cause for each such extension and publishes its reasons for so finding.

The appropriate regulatory agency shall grant the registration of a transfer agent if the appropriate regulatory agency finds that such transfer agent is so organized and has the capacity to be able to assure the prompt, accurate, and reliable performance of its functions as a transfer agent and to comply with the provisions of this section, section 17 of this title and the rules and regulations thereunder. The appropriate regulatory agency shall deny the registration of a transfer agent if it does not make any such finding.

"(3) A registered transfer agent may, upon such terms and conditions as the appropriate regulatory agency deems necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of this section, withdraw from registration by filing a written notice of withdrawal with the appropriate regulatory agency. If the appropriate regulatory agency finds that any registered transfer agent is no longer in existence or has ceased to do business in the capacity specified in its application for registration, the appropriate regulatory agency, by order, shall cancel the registration.

"(d)(1) No registered clearing agency or registered transfer agent shall, directly or indirectly, engage in any activity as clearing agency or transfer agent in contravention of such rules and regulations (A) as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, or (B) as the appropriate regulatory agency may prescribe as necessary or appropriate for the safeguarding of securities and funds.

"(2) With respect to any clearing agency or transfer agent for which the Commission is not the appropriate regulatory agency, the appropriate regulatory agency may in accordance with section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) enforce compliance by any such clearing agency or transfer agent with the provisions of this section, sections 17 and 19 of this title, and the rules and regulations thereunder. For purposes of the preceding sentence, any violation of any such provision shall constitute adequate basis for the issuance of an order under section 8(b) or 8(c) of the Federal Deposit Insurance Act, and the participants in any such clearing agency and the persons doing business with any such transfer agent shall be deemed to be 'depositors' as that term is used in section 8(c) of that Act.

"(3) The appropriate regulatory agency, by order, may censure or place limitations upon the activities, functions, or operations of any transfer agent or suspend for a period not exceeding twelve months or revoke the registration of any such transfer agent, if the appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest or necessary for the protection of investors and that such tranfer agent has willfully violated or is unable to comply with any provision of this section or section 17 or 19 of this title or the rules or regulations thereunder.

"(4)(A) With respect to any clearing agency or transfer agent for which the Commission is not the appropriate regulatory agency, the Commission and the appropriate regulatory agency shall consult and cooperate with each other, and, as may be appropriate, with State banking authorities having supervision over such clearing agency or transfer agent toward the end that, to the maximum extent practicable, their respective regulatory responsibilities may be fulfilled and the rules and regulations applicable to such clearing agency or transfer agent may be in accord with both sound banking practices and a national system for the prompt and accurate clearance and settlement of securities transactions. In accordance with this objective—

"(i) the Commission and the appropriate regulatory agency shall promptly notify the other of the initiation and conclusion of any action against any such clearing agency or transfer agent;

"(ii) the Commission and the appropriate regulatory agency shall, at least fifteen days prior to the issuance for public comment of any proposed rule or regulation or adoption of any rules or regulation concerning any such clearing agency or transfer agent, consult and request the views of the other; and

"(iii) the appropriate regulatory agency shall assume primary responsibility to enforce compliance by any such clearing agency or transfer agent with the provisions of this section and sections 17 and 19 of this title.

"(B) Nothing in the preceding subparagraph shall be construed to impair or limit (other than by the requirement of notification) the Commission's authority under any provision of this title or otherwise to enforce compliance by any clearing agency or transfer agent with the provisions of this title and the rules and regulations thereunder.

"(5) Nothing in this section shall be construed to impair the authority of any State banking authority or other State or Federal regulatory authority having jurisdiction over a person registered as a clearing agency or transfer agent to make and enforce rules governing such person which are not inconsistent with this title and the rules and regulations thereunder.

"(e) The Commission shall take such steps as are within its power to bring about on or before December 31, 1976 the elimination of securities certificates as a means of settlement among brokers and dealers of transactions consummated on national securities exchanges or by means of the mails or other means of instrumentalities of interstate commerce.".

SEC. 15. Section 19 of the Securities Exchange Act of 1934 (15 U.S.C. 78s) is amended to read as follows:

"REGISTRATION, RESPONSIBILITIES, AND OVERSIGHT OF SELF-REGULATORY ORGANIZATIONS

"SEC. 19. (a)(1) The Commission shall, upon the filing of an application for registration as a national securities exchange, registered securities association, or registered clearing agency, pursuant to section 6, 15A, or 17A of this title, respectively, publish notice of the filing and afford interested persons an opportunity to submit written data, views, and arguments concerning such application. Within ninety days of the date of publication of such notice, the Commission shall—

"(A) by order grant such registration, or

"(B) institute proceedings to determine whether registration should be denied. Such proceedings shall include notice of the grounds for denial under consideration and opportunity for hearing and shall be concluded within one hundred and eighty days of the date of publication of notice of the filing of the application for registration. At the conclusion of such proceedings the Commission, by order, shall grant or deny such registration. The Commission may extend the time for the conclusion of such proceedings for successive periods of up to thirty days if it finds good cause for each such extension and publishes its reasons for so finding.

The Commission shall grant such registration if the Commission finds that the requirements of this title and the rules and regulations thereunder with respect to the applicant are satisfied. The Commission shall deny such registration if the Commission does not make such finding.

"(2) With respect to an application for registration filed by a clearing agency for which the Commission is not the appropriate regulatory agency—

"(A) The Commission shall not grant registration prior to the sixtieth day after the date of publication of notice of such application unless the appropriate regulatory agency has notified the Commission of the appropriate regulatory agency's determination that the clearing agency is so organized and has the capacity to be able to safeguard securities and funds in its custody or control or for which it is responsible and that the rules of the clearing agency are designed to assure the safeguarding of such securities and funds.

"(B) The Commission shall institute proceedings in accordance with paragraph (1)(B) of this subsection to determine whether registration should be denied if the appropriate regulatory agency notifies the Commission within sixty days of the date of publication of notice of such application of the appropriate regulatory agency's (i) determination that the clearing agency may not be so organized or have the capacity to be able to safeguard securities or funds in its custody or control or for which it is responsible or that the rules of the clearing agency may not be designed to assure the safeguarding of such securities and funds and (ii) reasons for such determination.

"(C) The Commission shall deny registration if the appropriate regulatory agency notifies the Commission prior to the conclusion of proceedings in accordance with paragraph (1)(B) of this subsection of the appropriate regulatory agency's (i) determination that the clearing agency is not so organized or does not have the capacity to be able to safeguard securities or funds in its custody or control or for which it is responsible or that the rules of the clearing agency are not designed to assure the safeguarding of such securities or funds and (ii) reasons for such determination.

"(3) A self-regulatory organization may, upon such terms and conditions as the Commission, by rule, deems necessary or appropriate in the public interest or for the protection of investors, withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any self-regulatory organization is no longer in existence or has ceased to do business in the capacity specified in its application for registration, the Commission, by order, shall cancel the registration. Upon the withdrawal of a national securities association from registration or the cancellation, suspension, or revocation of the registration of a national securities association, the registration of any association affiliated therewith shall automatically terminate.

"(b)(1) Each self-regulatory organization shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed rule or any proposed change in, addition to, or deletion from the rules of such self-regulatory organization (hereinafter in this subsection collectively referred to as a 'proposed rule change') accompanied by a concise general statement of the basis and purpose of such proposed rule change. The Commission shall, upon the filing of any proposed rule change, publish notice thereof together with the text of the proposed rule change and the self-regulatory organization's statement of basis and purpose of such proposed rule change. The Commission shall give interested persons an opportunity to submit written data, views, and arguments concerning the proposed rule change. No proposed rule change shall take effect except in accordance with the provisions of this subsection.

"(2) Within thirty-five days of the date of publication of notice of the proposed rule change under paragraph (1) of this subsection or within such longer period up to sixty days of such date as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission shall—

"(A) by order approve such proposed rule change and declare it effective in accordance with its terms, or

"(B) institute proceedings to determine whether the proposed rule change should be disapproved. Such proceedings shall include notice of the grounds for disapproval under consideration and opportunity for hearing and shall be concluded within one hundred and eighty days of the date of publication of notice of the proposed rule change. At the conclusion of such proceedings the Commission, by order, shall approve such proposed rule change and declare it effective in accordance with its terms or disapprove such proposed rule change. The Commission may extend the time for the conclusion of such proceedings for successive periods of up to thirty days if it finds good cause for each such extension and publishes its reasons for so finding.

The Commission shall approve a proposed rule change of a self-regulatory organization and declare it effective in accordance with its terms if the Commission finds that such proposed rule change is consistent with the requirements of this title and the rules and regulations thereunder applicable to such organization. The Commission shall disapprove a proposed rule change of a self-regulatory organization if the Commission does not make such finding. The Commission shall disapprove a proposed rule change of a national securities exchange imposing any schedule or fixing rates or commissions, allowances, discounts, or other changes for transactions on such exchange unless the Commission finds that such schedule or fixed rates of commissions, allowances, discounts, or other changes are reasonable in relation to the costs of providing the service for which such charge is made (and publishes the standards employed in adjudging reasonableness) and necessary to accomplish the purposes of this title. The Commission shall not approve any proposed change and declare it effective in accordance with its terms prior to the thirtieth day after the date of publication of notice of the proposed rule change, unless the Commission finds good cause for so doing and publishes its reasons for so finding.

"(3) Notwithstanding the provisions of paragraph (2) of this subsection, a proposed rule change concerned solely with the administration of a self-regulatory organization or other matters which the Commission, by rule, determines do not substantially affect the public interest or the purposes of this title may take effect in accordance with its terms upon filing with the Commission and may be enforced by such organization to the extent it is not inconsistent with the provisions of this title, the rules and regulations thereunder, and applicable Federal and State law. At any time within sixty days of the date of filing of such a proposed rule change, the Commission, by order, may abrogate the change in the rules of the self-regulatory organization made thereby, require that the proposed rule change be refiled under paragraph (1) of this subsection and institute proceeding in accordance with the provisions of paragraph (2)(B) of this subsection, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title. A Commission order pursuant to the preceding sentence shall not affect the validity or force of the rule change during the period it was in effect and shall not be reviewable under section 25 of this title nor deemed to be 'final agency action' for purposes of section 704 of title 5, United States Code.

"(4) With respect to a proposed rule change filed by a registered clearing agency for which the Commission is not the appropriate regulatory agency—

"(A) The Commission shall not approve any such proposed rule change prior to the thirtieth day after the date of publication of notice of the proposed rule change unless the appropriate regulatory agency has notified the Commission of the appropriate regulatory agency's determination that the proposed rule change is consistent with the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible.

"(B) The Commission shall institute proceedings in accordance with paragraph (2) (B) of this subsection to determine whether any such proposed rule change should be disapproved if the appropriate regulatory agency notifies the Commission within thirty days of the date of publication of the proposed rule change of the appropriate regulatory agency's (i) determination that the proposed rule change may be inconsistent with the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) reasons for such determination.

"(C) The Commission shall disapprove any such proposed rule change if the appropriate regulatory agency notifies the Commission prior to the conclusion of proceedings in accordance with paragraph (2)(B) of this subsection of the appropriate regulatory agency's (i) determination that the proposed rule change is inconsistent with the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) reasons for such determination.

"(D) The Commission shall abrogate any change in the rules of such a clearing agency made by a proposed rule change which became effective in accordance with its terms upon filing with the Commission under paragraph (3) of this subsection, require that the proposed rule change be refiled under paragraph (1) of this subsection, and institute proceedings in accordance with the provisions of paragraph (2)(B) of this subsection, if the appropriate regulatory agency notifies the Commission within thirty days of the date of such filing of the appropriate regulatory agency's (i) determination that the rules of the clearing agency as so changed may be inconsistent with the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) reasons for such determination.

"(c) The Commission, by rule, may abrogate, add to, or delete from (hereinafter in this subsection collectively referred to as 'amend') the rules of a self-regulatory organization (other than a registered clearing agency) as the Commission deems necessary or appropriate in the public interest, for the protection of investors, to insure the fair administration of the self-regulatory organization, or otherwise in furtherance of the purposes of this title, in the following manner:

"(1) The Commission shall publish notice of the proposed rulemaking in the Federal Register. The notice shall include the text of the proposed amendment to the rules of the self-regulatory organization and a statement of the Commission's reasons, including any pertinent facts, for commencing such proposed rulemaking.

"(2) The Commission shall give interested persons an opportunity for the oral presentation of data, views, and arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation.

"(3) A rule adopted pursuant to this subsection shall incorporate the text of the amendment to the rules of the self-regulatory organization and a statement of the Commission's basis for and purpose in so amending such rules. This statement shall include an identification of the facts on which the Commission considers its determination to so amend the rules of the self-regulatory agency to be based, including the support for any of such facts which were disputed in the rulemaking.

"(4) Except as provided in paragraphs (1) through (3) of this subsection, rulemaking under this subsection shall be in accordance with the procedures specified in section 553 of title 5, United States Code, for rulemaking not on the record. Nothing in this subsection shall be construed to impair or limit the Commission's power to make, or to modify or alter the procedures the Commission may follow in making rules and regulations pursuant to any other authority under this title. Any amendment to the rules of a self-regulatory organization made by the Commission pursuant to this subsection shall be considered for all purposes of this title to be part of the rules of such self-regulatory organization and shall not be considered to be a rule of the Commission.

"(d)(1) If any self-regulatory organization imposes any final disciplinary sanction on any member thereof or participant therein, denies membership or participation to any applicant, or prohibits or limits any person in respect of requested access to services offered by such organization or member thereof or participant therein, or if any self-regulatory organization (other than a registered clearing agency) imposes any final disciplinary sanction on any person associated with a member, or bars any person from becoming associated with a member, the self-regulatory organization shall promptly file notice thereof with the appropriate regulatory agency. The notice shall be in such form and contain such information as the appropriate regulatory agency, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(2) Any action with respect to which a self-regulatory agency is required by paragraph (1) of this subsection to file notice shall be subject to review by the appropriate regulatory agency on its own motion, or upon application by any person aggrieved thereby filed within thirty days after the date such notice was filed with the appropriate regulatory agency and received by such aggrieved person, or within such longer period as the appropriate regulatory agency may determine. Application to the appropriate regulatory agency for review, or the institution of review by the appropriate regulatory agency on its own motion, shall not operate as a stay of such action unless the appropriate regulatory agency otherwise orders, after notice and opportunity for hearing on the question of a stay (which hearing may consist solely of the submission of affidavits or presentation of oral arguments.) The appropriate regulatory agency shall establish for appropriate cases an expedited procedure for consideration and determination of the question of a stay.

"(e)(1) In any proceeding to review a final disciplinary sanction imposed by a self-regulatory organization on a member or participant or a person associated with a member, after notice and opportunity for hearing (which hearing may consist solely of consideration of the record before the self-regulatory organization and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the sanction)—

"(A) if the appropriate regulatory agency finds that such member, participant, or person associated with a member has engaged in such acts or practices, or has omitted such acts, as the self-regulatory organization has found him to have engaged in or omitted, that such acts or practices, or omissions to act, are in violation of such provisions of this title, the rules or regulations thereunder, the rules of the self-regulatory organization, or, in the case of a registered securities association, the rules of the Municipal Securities Rulemaking Board as have been specified in the determination of the self-regulatory organization, and that such provisions have been applied in a manner consistent with the purposes of this title, the appropriate regulatory agency, by order, shall so declare and, as appropriate, affirm the sanction imposed by the self-regulatory organization, modify the sanction in accordance with paragraph (2) of this subsection, or remand to the self-regulatory organization for further proceedings; or

"(B) if the appropriate regulatory agency does not make any such finding the appropriate regulatory agency, by order, shall set aside the sanction imposed by the self-regulatory organization and, if appropriate, remand to the self-regulatory organization for further proceedings.

"(2) If the appropriate regulatory agency, having due regard for the public interest, the protection of investors, and the elimination of any burden on competition not necessary or appropriate in furtherance of the purposes of this title, finds that any sanction imposed by a self-regulatory organization is excessive or oppressive the appropriate regulatory agency may cancel, reduce, or require the remission of such sanction.

"(f) In any proceeding to review the denial of membership or participation in a self-regulatory organization to any applicant, the barring of any person from becoming associated with a member of a self-regulatory organization, or the prohibition or limitation of any person with respect to requested access to services offered by a self-regulatory organization or any member thereof or participant therein, if the appropriate regulatory agency, after notice and opportunity for hearing (which hearing may consist solely of consideration of the record before the self-regulatory organization and opportunity for the presentation of supporting reasons to dismiss the proceeding or set aside the action of the self-regulatory organization) finds that the specific grounds on which such denial, bar, or prohibition or limitation is based exist in fact, that such denial, bar or prohibition or limitation is in accordance with the rules of the self-regulatory organization, that such rules have been applied in a manner consistent with the purposes of this title, and that such denial, bar, or prohibition or limitation does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of this title, the appropriate regulatory agency, by order shall dismiss the proceeding. If the appropriate regulatory agency does not make any such finding, the appropriate regulatory agency, by order, shall set aside the action of the self-regulatory organization and require it to admit the applicant to membership or participation, permit such person to become associated with a member, or grant such person the requested access to services offered by the self-regulatory organization or member thereof or participant therein.

"(g) (1) Every self-regulatory organization shall comply with the provisions of this title, the rules and regulations thereunder, and its own rules and, subject to section 17(d) of this title and the rules thereunder, shall absent reasonable justification or excuse enforce compliance—

"(A) in the case of a national securities exchange, with such provisions by its member, persons associated with its members, and issuers of securities registered thereon;

"(B) in the case of a registered securities association, with such provisions and the provisions of the rules of the Municipal Securities Rulemaking Board by its members, persons associated with its members, and issuers of securities for which quotations are published by means of any system operated or regulated by the association; and

"(C) in the case of a registered clearing agency, with the provisions of section 17 and 17A of this title, the rules and regulations thereunder, and its own rules by its participants.

"(2) The Commission, by rule, as it determines to be in the public interest and consistent with the protection of investors and the purposes of this title, may designate any provision of this title or the rules or regulations thereunder to be without this subsection.

"(h) (1) The appropriate regulatory agency is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of this title to suspend for a period not exceeding twelve months or to revoke the registration of a self-regulatory organization, or to censure or impose limitations upon the activities, functions, and operations of a self-regulatory organization, if the appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such self-regulatory organization has violated or is unable to comply with any provision of this title, the rules or regulations thereunder, or its own rules or without reasonable justification or excuse has failed to enforce compliance—

"(A) in the case of a national securities exchange, with any such provision by a member thereof, a person associated with a member thereof, or an issuer of a security registered thereon;

"(B) in the case of a registered securities association, with any such provision or any provision of the rules of the Municipal Securities Rulemaking Board by a member thereof, a person associated with a member thereof, or an issuer of a security for which quotations are published by means of any system operated or regulation by the association; or

"(C) in the case of a registered clearing agency, with any provision of section 17 or 17A of this title, the rules or regulations thereunder, or its own rules by its participants.

"(2) The appropriate regulatory agency is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title to suspend for a period not exceeding twelve months or to expel from a self-regulatory organization any member thereof or participant therein, if the appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such member or participant has willfully violated or has effected any transaction for any other person who, such member or participant had reason to believe, was violating with respect to such transaction—

"(A) in the case of a national securities exchange, any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, this title, or the rules or regulations under any of such statutes;

"(B) in the case of a registered securities association, any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, this title, the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board; or

"(C) in the case of a registered clearing agency, any provision of this title, the rules or regulations thereunder, or the rules of the clearing agency.

"(3) The appropriate regulatory agency is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title to suspend for a period not exceeding twelve months or to bar any person from being associated with a member of a national securities exchange or registered securities association, if the appropriate regulatory agency finds, on the record after notice and opportunity for hearing, that such person has willfully violated or has effected any transaction for any other person who, such person associated with a member had reason to believe, was violating with respect to such transaction—

"(A) in the case of a national securities exchange, any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, this title, or the rules or regulations under any of such statutes; of

"(B) in the case of a registered securities association, any provision of the Securities Act of 1933, the Investment Advisers Act of 1940, the Investment Company Act of 1940, this title, the rules or regulations under any of such statutes, or the rules of the Municipal Securities Rulemaking Board.

"(4) The appropriate regulatory agency is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title to remove from office or censure any officer or director of a self-regulatory organization whom the appropriate regulatory agency finds, on the record after notice and opportunity for hearing has willfully violated any provision of this title, the rules or regulations thereunder, or its own rules, willfully abused his authority, or without reasonable justification or excuse has failed to enforce compliance—

"(A) in the case of a national securities exchange, with any such provision by any member, person associated with a member, or issuer of securities registered thereon;

"(B) in the case of a registered securities association, with any such provision or any provision of the rules of the Municipal Securities Rulemaking Board by any member, person associated with a member, or issuer of securities for which quotations are published by means of a system operated or regulated by the association;

"(C) in the case of a registered clearing agency, with any provision of section 17 or 17A of this title, the rules or regulations thereunder, or the rules of the clearing agency by any participant.

"(i) If a proceeding under subsection (h) (1) of this section results in the suspension or revocation of the registration of a clearing agency, the appropriate regulatory agency may, upon notice to such clearing agency, apply to any court of competent jurisdiction specified in section 21 (e) or 27 of this title for the appointment of a trustee. In the event of such an application, the court may, to the extent it deems necessary or appropriate, take exclusive jurisdiction of the clearing agency involved and the records and assets thereof, wherever located; and the court shall appoint the appropriate regulatory agency or person designated by the appropriate regulatory agency as the trustee with power to take possession and to continue to operate or to terminate the operations of such clearing agency in an orderly manner for the protection of participants and investors, subject to such terms and conditions as the court may prescribe.".

SEC. 16. Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended as follows:

(a) Subsection (a) thereof is amended to read as follows:

"(a) The Commission may, in its discretion, make such investigations as it deems necessary to determine whether any person has violated, is violating, or is about to violate any provision of this title, the rules or regulations thereunder, the rules of a national securities exchange or registered securities association of which such person is a member or a person associated with a member, the rules of a registered clearing agency in which such person is a participant, or the rules of the Municipal Securities Rulemaking Board, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Commission is authorized, in its discretion, to publish information concerning any such violations, and to investigate any facts, conditions, practices, or matters which it may deem necessary or proper to aid in the enforcement of such provisions, in the prescribing of rules and regulations under this title, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this title relates.".

(b) Subsections (e) and (f) thereof are amended to read as follows:

"(e) Wherever it shall appear to the Commission that any person has engaged, is engaged, or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this title, the rules or regulations thereunder, the rules of a national securities exchange or registered securities association of which such person is a member or a person associated with a member, the rules of a registered clearing agency in which such person is a participant, or the rules of the Municipal Securities Rulemaking Board, it may in its discretion bring an action in the proper district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon such a showing a permanent or temporary injunction or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices as may constitute a violation of any provision of this title or the rules or regulations thereunder to the Attorney General, who may, in his discretion, institute the necessary criminal proceedings under this title.

"(f) Upon application of the Commission the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States shall also have jurisdiction to issue writs of mandamus, injunctions, and orders commanding (1) any person to comply with the provisions of this title, the rules and regulations thereunder, the rules of a national securities exchange or registered securities association of which such person is a member or person associated with a member, the rules of a registered clearing agency in which such person is a participant, and the rules of the Municipal Securities Rulemaking Board, or with any undertaking contained in a registration statement as provided in subsection (d) of section 15 of this title, (2) any national securities exchange or registered securities association to enforce compliance by its members and persons associated with its members with the provisions of this title, the rules and regulations thereunder, and the rules of such exchange or association, or (3) any registered clearing agency to enforce compliance by its participants with the provisions of sections 17 and 17A of this title, the rules and regulations thereunder, and the rules of such clearing agency.".

(c) The section is further amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding the provisions of section 1407(a) of title 28, United States Code, or any other provision of law, no enforcement action instituted by the Commission pursuant to the securities laws shall be consolidated or coordinated with other actions not brought by the Commission, even though such other actions may involve common questions of fact, unless such consolidation is consented to by the Commission. 'Securities laws' as used herein include the Securities Act of 1933 (15 U.S.C. 77 et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.), the Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.), the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the Investment Advisers Act of 1940 (15 U.S.C. 806 et seq.), and the Securities Investor Protection Act of 1970 U.S.C. 78aaa et seq.).".

SEC. 17. Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended to read as follows:

"RULES, REGULATIONS, AND ORDERS; ANNUAL REPORTS

"SEC. 23. (a)(1) The Commission, the Board of Governors of the Federal Reserve System, and the other agencies enumerated in section 3(a)(34) of this title shall each have power to make such rules and regulations as may be necessary or appropriate to implement the provisions of this title or for the execution of the functions vested in them by this title, and may for such purpose classify persons, securities, transactions, statements, applications, reports, and other matters within their respective jurisdictions, and prescribe greater, lesser, or different requirements for different classes. No provision of this title imposing any liability applies to any act done or omitted in good faith in conformity with a rule, regulation, or order of the Commission, the Board of Governors of the Federal Reserve System, or other agency enumerated in section 3(a)(34), notwithstanding that such rule, regulation, or order may thereafter be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

"(2) The Commission shall, in making rules and regulations pursuant to any provision of this title, consider among other matters the impact any such rule or regulation would have on competition. The Commission shall not adopt any such rule or regulation which would impose a burden on competition not necessary or appropriate in furtherance of the purposes of this title. The Commission shall include in the notice of any proposed rulemaking under this title and in the statement of basis and purpose incorporated in any rule or regulation adopted under this title, the reasons for the Commission's determination that any burden on competition imposed by such rule or regulation is necessary or appropriate in furtherance of the purposes of this title.

"(3) Subject to the provisions of section 24 of this title, the Commission shall, in making rules and regulations pursuant to any provision of this title and in considering any application for registration in accordance with section 19(a) of this title or any proposed rule change of a self-regulatory organization in accordance with section 19(b) of this title, make available for public inspection and copying all written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule, regulation, application, or proposed rule change.

"(b) The Commission, the Board of Governors of the Federal Reserve System, and the other agencies enumerated in section 3(a)(34) of this title, shall each make an annual report to the Congress on its work for the preceding year, and shall include in each report whatever information, data, and recommendations for further legislation it considers advisable with regard to matters within its respective jurisdiction under this title. The Commission shall also include in its annual report to the Congress for each fiscal year—

"(1) a summary of the Commission's oversight activities with respect to self-regulatory organizations, including a description of any examination of any such organization, any material recommendation presented to any such organization for changes in its organization or rules, and any action by any such organization in response to any such recommendation;

"(2) a statement and analysis of the expenses of each self-regulatory organization in connection with the performance of its responsibilities under this title, for which purpose data pertaining to such expenses shall be made available by such organization to the Commission at its request;

"(3) information, data, and recommendations with respect to the development of a national market system and a national system for the prompt and accurate clearance and settlement of securities transactions, including a summary of the regulatory activities, operational capabilities, financial resources, and plans of self-regulatory organizations, registered securities information processors, and registered transfer agents with respect thereto;

"(4) the steps the Commission has taken and progress it has made toward elimination of the stock certificate as a means of settlement, and its recommendations, if any, for further legislation to eliminate the stock certificate;

"(5) the number of requests for exemptions from provisions of this title received, the number granted, and the basis upon which any such exemption was granted;

"(6) a summary of the Commission's regulatory activities with respect to municipal securities dealers and municipal securities brokers including the number and nature of all sanctions imposed in proceedings against such municipal securities dealers and brokers, specifying the proceedings which were against municipal securities dealers for which the Commission is not the appropriate regulatory agency;

"(7) a statement of the expenses and an analysis of the operations, administration, and performance of the Municipal Securities Rulemaking Board;

"(8) a description of the effect the absence of any schedule or fixed rates of commissions, allowances, discounts, or other changes for transactions effected on a national securities exchange is having on the maintenance of fair and orderly markets and the development of a national market system for securities; and

"(9) a statement of the time elapsed between the filing of reports pursuant to section 13(f) of this title and the public availability of the information contained therein, the costs involved in the Commission's processing of such reports and tabulating such information, the manner in which the Commission uses such information, and steps the Commission has taken and the progress it has made toward requiring such reports to be filed and such information to be made available to the public in machine language.

"(c) The Commission, by rule, shall prescribe the procedure applicable to every case pursuant to this title of adjudication (as defined in section 551 of title 5, United States Code) not required to be determined on the record after notice and opportunity for hearing. Such rules shall, as a minimum, provide that prompt notice shall be given of any adverse action or final disposition and that such notice shall be accompanied by a statement of written reasons.".

SEC. 18. Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended to read as follows:

"PUBLIC AVAILABILITY OF INFORMATION

"SEC. 24. (a) For purposes of section 552 of title 5, United States Code, the term 'records' includes all applications for registration statements, reports, contracts, correspondence, notices, and other documents filed with or otherwise obtained by the Commission pursuant to this title or otherwise: *Provided, however,* That the Commission shall not deny any request made in accordance with section 552(a)(3) of title 5, United States Code, for any application for registration, registration statement, report, contract, correspondence, notice, or other document filed with the Commission unless the Commission finds that public disclosure thereof would not be in the public interest and would jeopardize the safety of funds or securities, reveal trade secrets or processes, or impair the value of a contract.

"(b) It shall be unlawful for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any application for registration, registration statement, report, contract, correspondence, or other document filed with or otherwise obtained by the Commission which is not available to any person on request in accordance with section 552(a)(3) of title 5, United States Code: *Provided, however,* That the Commission may make available to the Board of Governors of the Federal Reserve System and the agencies enumerated in section 3(a)(34) any information with regard to matters within their respective jurisdictions under this title."

SEC. 19. Section 25 of the Securities Exchange Act of 1934 (15 U.S.C. 78y) is amended to read as follows:

"COURT REVIEW OF ORDERS AND RULES

"SEC. 25. (a)(1) A person aggrieved by a final order of the Commission entered pursuant to this title may obtain review of the order in the United States Court of Appeals for the circuit in which he resides or has his principal place of business, or for the District of Columbia Circuit, by filing in such court, within sixty days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part.

"(2) A copy of the petition shall be transmitted forthwith by the clerk of the court to a member of the Commission or an officer designated by the Commission for that purpose. Thereupon the Commission shall file in the court the record on which the order complained of is entered, as provided in section 2112 of title 28, United States Code, and the Federal Rules of Appellate Procedure.

"(3) On the filing of the petition, the court has jurisdiction, which becomes exclusive on the filing of the record, to affirm or modify and enforce or to set aside the order in whole or in part.

"(4) The findings of the Commission as to the facts, if supported by substantial evidence, are conclusive.

"(5) If either party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there was reasonable ground for failure to adduce it before the Commission, the court may remand the case to the Commission for further proceedings, in whatever manner and on whatever conditions the court considers appropriate. If the case is remanded to the Commission, it shall file in the court a supplemental record containing any new evidence, any further or modified findings, and any new order.

"(b)(1) A person adversely affected by a rule of the Commission promulgated pursuant to section 6, 11, 11A, 15(c) (5) or (6), 15A, 17, 17A, or 19 of this title may obtain review of the rule in the United States Court of Appeals for the circuit in which he resides or has his principal place of business or for the District of Columbia Circuit, by filing in such court, within sixty days after the promulgation of the rule, a written petition praying that the rule be set aside.

"(2) A copy of the petition shall be transmitted forthwith by the clerk of the court to a member of the Commission or an officer designated for that purpose. Thereupon, the Commission shall file in the court the rule under review and any documents referred to therein, the Commission's notice of proposed rulemaking and any documents referred to therein, all written submissions and the transcript of any oral presentations in the rulemaking, factual information not included in the foregoing that was considered by the Commission in the promulgation of the rule or proffered by the Commission as pertinent to the rule, the report of any advisory committee received or considered by the Commission in the rulemaking, and any other materials prescribed by the court.

"(3) On the filing of the petition, the court has jurisdiction, which becomes exclusive on the filing of the materials set forth in paragraph (2) of this subsection, to affirm and enforce or to set aside the rule.

"(4) The findings of the Commission as to the facts identified by the Commission as the basis, in whole or in part, of the rule, if supported by substantial evidence, are conclusive.

"(5) If the court determines that an opportunity for oral presentation of data, views, or arguments (when none was provided), an additional opportunity to submit written data, views, or arguments with or without opportunity for oral presentation, or other additional proceeding is required by law or is desirable to resolve a genuine issue as to a fact identified by the Commission as the basis, in whole or in part, of the rule or for any other reason, the court may remand the case to the Commission in whatever manner and on whatever conditions the court considers proper, or (if it determines that a remand would be inappropriate under the circumstances) conduct such proceedings itself or through one of its judges or by appointing a special master, who may be a United States judge or magistrate. If the case is remanded to the Commission, it shall file in the court supplemental materials containing any further or modified findings and any new rule.

"(6) If proceedings hav been instituted under this subsection in two or more courts of appeals with respect to the same rule, the Commission shall file the materials set forth in paragraph (2) of this subsection in that court in which a proceeding was first instituted. The other courts shall thereupon transfer all such proceedings to the court in which the materials have been filed. For the convenience of the parties in the interest of justice that court may thereafter transfer all the proceedings to any other court of appeals.

"(c)(1) No objection to an order or rule of the Commission, for which review is sought under this section, may be considered by the court unless it was urged before the Commission or there was reasonable ground for failure to do so.

"(2) The filing of a petition under this section does not operate as a stay of the Commission's order or rule. Until the court's jurisdiction becomes exclusive, the Commission may stay its order or rule pending judicial review if it finds that justice so requires. After the filing of a petition under this section, the court, on whatever conditions may be required and to the extent necessary to prevent irreparable injury, may issue all necessary and appropriate process to stay the order or rule or to preserve status or rights pending its review; but (notwithstanding section 705 of title 5, United States Code) no such process may be issued by the court before the filing of the record or the materials set forth in subsection (b)(2) of this section unless: (A) the Commission has denied a stay or failed to grant requested relief, (B) a reasonable period has expired since the filing of an application for a stay without a decision by the Commission, or (C) there was reasonable ground for failure to apply to the Commission.

"(3) When the same order or rule is the subject of one or more petitions for review filed under this section and an action for enforcement filed in a district court of the United States under section 21(f) of this title, that court in which the petition or the action is first filed has jurisdiction with respect to the order or rule to the exclusion of any other court, and thereupon all such proceedings shall be transferred to that court; but, for the convenience of the parties in the interest of justice, that court may thereafter transfer all the proceedings to any other court of appeals or district court of the United States, whether or not a petition for review or an action for enforcement was originally filed in the transferee court. The scope of review by a district court under section 2(f) of this title is the same as by a court of appeals under this section.

"(d)(1) For purposes of the preceding subsections of this section, the term 'Commission' includes the agencies enumerated in section 3(a)(34) of this title insofar as such agencies are acting pursuant to this title.

"(2) For purposes of subsection (a)(4) of this section and section 706 of title 5, United States Code, an order of the Commission denying registration pursuant to section 19(a) of this title to a clearing agency for which it is not the appropriate regulatory agency or disapproving a proposed rule change pursuant to section 19(b) of this title by such a clearing agency shall be deemed to be an order of the appropriate regulatory agency insofar as such order was entered by reason of a determination by the appropriate regulatory agency that such registration or proposed rule change would be inconsistent with the safeguarding of securities or funds.".

SEC. 20. Section 28 of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(b)) is amended as follows:

(a) Subsection (b) thereof is amended to read as follows:

"(b) Nothing in this title shall be construed to modify existing law with regard to (1) the binding effect on any member of any exchange of any action taken by the authorities of such exchange to settle disputes between its members or (2) the binding effect of such action on any person who has agreed to be bound thereby.".

(b) The section is further amended by adding at the end thereof the following new subsection:

"(c) No State or political subdivision thereof shall impose any tax on any change in beneficial or record ownership of securities effected through the facilities of a registered clearing agency or any nominee thereof or custodian therefor or upon the delivery or transfer of securities to or through or receipt from such agency or any nominee thereof or custodian therefor, unless such change in beneficial or record ownership or such transfer or delivery or receipt would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision. No State or political subdivision thereof shall impose any tax on securities which are deposited in or retained by a registered clearing agency or any nominee thereof or custodian therefor, unless such securities would otherwise be taxable by such State or political subdivision if the facilities of such registered clearing agency or any nominee thereof or custodian therefor were not physically located in the taxing State or political subdivision.".

SEC. 21. Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended to read as follows:

"TRANSACTION FEES

"SEC. 31. Every national securities exchange shall pay to the Commission on or before March 15 of each calendar year a registration fee for the privilege of doing business as a national securities exchange during the preceding calendar year. Such fee shall be in an amount equal to one five-hundredth of 1 per centum of the aggregate dollar amount of the sale of securities (other than securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States or such securities issued or guaranteed by corporations in which the United States or such securities issued or guaranteed by a corporation in which the United States has a direct or an indirect interest as shall be designated for exemption from the provisions of this section by the Secretary of the Treasury) transacted on such national securities exchange during each preceding calendar year to which this section applies. Every registered broker and dealer shall pay to the Commission on or before March 15 of each calendar year a fee in an amount equal to one five-hundredth of 1 per centum of the aggregate dollar amount of sales of securities registered on a national securities exchange (other than securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States or such securities issued or guaranteed by corporations in which the United States has a direct or an indirect interest as shall be designated for exemption from the provisions of this section by the Secretary of the Treasury) transacted otherwise than on such an exchange during each preceding calendar year. The Commission, by rule, may exempt any sale of securities or any class of sales of securities from the fee imposed by this section, if the Commission finds that such exemption is necessary or appropriate in the public interest and is consistent with fair competition and the development of a national market system.".

SEC. 22. Section 1(b) of the Act of August 20, 1962 (15 U.S.C. 78d-1(b)), is amended to read as follows:

"(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, hearing examiner, employee, or employee board, upon its own initiative or upon petition of a party to or intervenor in such action, within such time and in such manner as the Commission, by rule, shall prescribe: *Provided, however*, That the vote of one member of the Commission shall be sufficient to bring any such action before the Commission for review: *And provided further*, That in the event action at a delegated level (1) denies any request for action pursuant to section 8(a) or section 8(c) of the Securities Act of 1933 or the first sentence of section 12(d) of the Securities Exchange Act of 1934; (2) suspends trading in a security pursuant to section 12(k) of the Securities Exchange Act of 1934; or (3) is pursuant to any provision of the Securities Exchange Act of 1934 in a case of adjudication, as defined in section 551 of title 5, United States Code, not required by that Act to be determined on the record after notice and opportunity for hearing (except to the extent there is involved a matter described in section 554(a)(1)–(6) of title 5, United States Code), a person or party adversely affected by such action shall be entitled to review by the Commission.".

SEC. 23. Section 9(c) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78iii(c)) is amended to read as follows:

"(c) INSPECTIONS.—The self-regulatory organization of which a member of SIPC is a member shall inspect or examine such member for compliance with applicable financial responsibility rules, except that if a member of SIPC is a member of more than one self-regulatory organization, the Commission, pursuant to section 17(c) of the 1934 Act, shall designate one of such self-regulatory organizations to inspect or examine such member for compliance with applicable financial responsibility rules".

SEC. 24. (a) Section 36 of the Investment Company Act of 1940 (15 U.S.C. 80a–35) is amended by adding at the end thereof the following new subsection:

"(c)(1) No person who serves or acts with respect to a registered investment company in a capacity enumerated in subsection (a)(1) or (a)(2) of this section shall be found to have acted unlawfully or to have breached a fiduciary duty under subsection (a) or (b) of this section, solely by reason of having caused or induced such registered investment company to pay to a broker an amount of commission for effecting a securities transaction which is in excess of the amount of commission charged by any other broker for effecting similar transactions, if—

"(A) such person determines in good faith that research services provided by such broker justify the amount of commission paid; and

"(B) such broker does not serve or act with respect to such investment company in a capacity enumerated in subsection (a)(1) or (a)(2) of this section and is not an affiliated person of any person who does serve or act in such a capacity.

"(2) A registered investment company shall make appropriate disclosure to its security holders of its policies and practices with respect to the amounts of commission paid for effecting securities transactions, at such times and in such manner as the Commission shall prescribe by rules or regulations.

"(3) For purposes of this subsection, 'research services' means advice, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, and analyses and reports concerning securities.".

(b) Section 206 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–6) is amended—

(1) by inserting the designation "(a)" immediately after "SEC. 206."; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) No investment adviser shall be found to have acted unlawfully under this section, or to have breached a fiduciary duty solely by reason of having caused or induced a client to pay to a broker an amount of commission for effecting a securities transaction which is in excess of the amount of commission charged by any other broker for effecting similar transactions, if—

"(A) such investment adviser determines in good faith that research services provided by such broker justify the amount of commission paid; and

"(B) such broker is not the investment adviser or an affiliated person of the investment adviser.

(2) An investment adviser shall make appropriate disclosure to its clients of its policies and practices with respect to the amounts of commission paid for effecting securities transactions, at such times and in such manner as the Commission shall prescribe by rules or regulations.

"(3) For purposes of this subsection, 'research services' means advice, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, and analyses and reports concerning securities.".

SEC. 25. (a) Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a) is amended as follows:

(a) Section 15 thereof is amended by adding at the end thereof the following new subsection:

"(f)(1) An investment adviser or a corporate trustee performing the functions of an investment adviser of a registered investment company or an affiliated person of such investment adviser or corporate trustee may receive any amount or benefit in connection with a sale of securities of, or a sale of any other interest in, an investment adviser or a corporate trustee performing the functions of an investment adviser which results in an assignment of an investment advisory contract with such company or the change in control of or identity of a corporate trustee who performs the functions of an investment adviser, if—

"(A) for a period of three years after the time of such action, at least 75 per centum of the members of the board of directors of such registered company or such corporate trustee (or successor thereto, by reorganization or otherwise) are not (i) interested persons of the investment adviser of such company or such corporate trustee, or (ii) interested persons of the predecessor investment adviser or such corporate trustee; and

"(B) there is not imposed an unfair burden on such company as a result of such transaction or any express or implied terms, conditions, or understandings applicable thereto.

"(2)(A) For the purpose of paragraph (1)(A) of this subsection, interested persons of a corporate trustee shall be determined in accordance with section 2(a)(19)(B): *Provided*, That no person shall be deemed to be an interested person of a corporate trustee solely by reason of (i) his being a member of its board of directors or advisory board or (ii) his membership in the immediate family of any person specified in clause (i) of this subparagraph.

"(B) For the purpose of paragraph (1)(B) of this subsection, an unfair burden on a registered investment company includes any arrangement, during the two-year period after the date on which any such transaction occurs, whereby the investment adviser or corporate trustee or predecessor or successor investment advisers or corporate trustee or any interested person of any such advisers or any such corporate trustee receives or is entitled to receive any compensation directly or indirectly (i) from any person in connection with the purchase or sale of securities or other property to, from, or on behalf of such company, other than bona fide ordinary compensation as principal underwriter for such company, or (ii) from such company or its security holders for other than bona fide investment advisory or other services.

"(3) If—

"(A) an assignment of an investment advisory contract with a registered investment company results in a successor investment adviser to such company, or if there is a change in control of or identity of a corporate trustee of a registered investment company, and such adviser or trustee is then an investment adviser or corporate trustee with respect to other assets substantially greater in amount than the amount of assets of such company, or

"(B) as a result of a merger of, or a sale of substantially all the assets by, a registered investment company with or to another registered investment company with assets substantially greater in amount a transaction occurs which would be subject to paragraph (1)(A) of this subsection,

such discrepancy in size of assets shall be considered by the Commission in determining whether or to what extent an application under section 6(c) for exemption from the provisions of paragraph (1)(A) should be granted.

"(4) Paragraph (1)(A) of this subsection shall not apply to a transaction in which a controlling block of outstanding voting securities of an investment adviser to a registered investment company or of a corporate trustee performing the functions of an investment adviser to a registered investment company is—

"(A) distributed to the public and in which there is, in fact, no change in the identity of the persons who control such investment adviser or corporate trustee, or

"(B) transferred to the investment adviser or the corporate trustee, or an affiliated person or persons of such investment adviser or corporate trustee, or is transferred from the investment adviser or corporate trustee to an affiliated person or persons of the investment adviser or corporate trustee: *Provided,* That (i) each transferee (other than such adviser or trustee) is a natural person and (ii) the transferees (other than such adviser or trustee) owned in the aggregate more than 25 per centum of such voting securities for a period of at least six months prior to such transfer.".

(b) Section 15(c) is amended by adding at the end thereof a new sentence as follows: "It shall be unlawful for the directors of a registered investment company, in connection with their evaluation of the terms of any contract whereby a person undertakes regularly to serve or act as investment adviser of such company, to take into account the purchase price or other consideration any person may have paid in connection with a transaction of the type referred to in paragraph (1), (3), or (4) of subsection (f).".

(c) Section 16 thereof is amended as follows:

(1) in the first sentence of subsection (b) by striking out "The provisions of subsection (a) of this section" and inserting in lieu thereof "The foregoing provisions of this section";

(2) by redesignating subsection (b) as subsection (c), striking out "this subsection (b)" therein, and inserting in lieu thereof "this subsection (c)"; and

(3) by adding after subsection (a) thereof the following new subsection:

"(b) Any vacancy on the board of directors of a registered investment company which occurs in connection with compliance with section 15(f)(1)(A) and which must be filled by a person who is not an interested person of either party to a transaction subject to section 15(f)(1)(A) shall be filled only by a person (1) who has been selected and proposed for election by a majority of the directors of such company who are not such interested persons, and (2) who has been elected by the holders of the outstanding voting securities of such company, except that in the case of the death, disqualification, or bona fide registration of a director selected and elected pursuant to clauses (1) and (2) of this subsection (b), the vacancy created thereby may be filled as provided in subsection (a).".

(d) Sections 13(b), 15(d), 18(i), and 32(a) thereof are amended by striking out the phrases "subsection (b) of section 16" and "section 16(b)" wherever they occur and inserting in lieu thereof "section 16(c)".

(e) Section 10(e) thereof is amended to read as follows:

"(e) If by reason of the death, disqualification, or bona fide resignation of any director or directors, the requirements of the foregoing provisions of this section or of section 15(f)(1) in respect of directors shall not be met by a registered investment company, the operation of such provisions shall be suspended as to such registered company—

"(1) for a period of thirty days if the vacancy or vacancies may be filled by action of the board of directors;

"(2) for a period of sixty days if a vote of stockholders is required to fill the vacancy or vacancies; or

"(3) for such longer period as the Commission may prescribe, by rules and regulations upon its own motion or by order upon application, as not inconsistent with the protection of investors.".

(f) Section 9 thereof is amended by adding at the end thereof the following new subsection:

"(d) For the purposes of subsections (a) through (c) of this section, the term 'investment adviser' includes a corporate or other trustee performing the functions of an investment adviser.".

(g) Section 36 thereof is further amended by adding at the end thereof the following new subsection:

"(d) For the purposes of subsections (a) through (c) of this section, the term 'investment adviser' includes a corporate or other trustee performing the functions of an investment adviser.".

SEC. 26. (a) This Act shall become effective on the date of its enactment except as hereinafter provided. Sections 6(b), 6(e), 11A(b), 15A(b), 17A(b), and 17A(c) of the Securities Exchange Act of 1934 (as amended by this Act) shall become effective one hundred and eighty days after the date of enactment, and section 31 of the Securities Exchange Act of 1934 (as amended by this Act) shall become effective on January 1 next following the enactment of this Act.

(b) If the Commission determines that the organization or rules of any national securities exchange or registered securities association registered with the Commission on the date of enactment of this Act do not comply with applicable requirements of this Act upon their effectiveness, the Commission shall so notify such exchange or association in writing specifying the respects in which the exchange or association is not in compliance with such requirements. On and after the ninetieth day following the receipt of such notice by a national securities exchange or registered securities association, the Commission is authorized, by order, to suspend the registration of any such exchange or association or impose appropriate limitations on the activities, functions, and operations of any such exchange or association, if the Commission finds, after notice and opportunity for hearing, that the organization or rules of such exchange or association do not comply with such requirements. Any such suspension or limitation shall continue in effect until the Commission, by order, declares that such exchange or association is in compliance with such requirements.

By Mr. HUMPHREY (for himself and Mr. MONDALE):

S. 250. A bill to prevent increases in cost of coupons to food stamp recipients. Referred to the Commitee on Agriculture and Forestry.

(The remarks of Mr. HUMPHREY in connection with the introduction of the above bill appear later in the RECORD.)

By Mr. FONG (for himself, Mr. FANNIN, and Mr. TOWER):

S.J. Res. 5. A joint resolution to establish a National Commission on Social Security. Referred to the Committee on Finance.

INDEPENDENT NATIONAL SOCIAL SECURITY COMMISSION

Mr. FONG. Mr. President, I am introducing today, with my distinguished colleagues Senator FANNIN and Senator TOWER as cosponsors, Senate Joint Resolution 5 which would establish a permanent, independent, bipartisan National Social Security Commission. Its language is identical to Senate Joint Resolution 48 which we introduced early during the 93d Congress. I ask unanimous consent that the text of the joint resolution be printed at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. FONG. The magnitude of the social security system and the importance of its individual impact on every man, woman, and child in America, directly and indirectly, as well as on millions yet unborn, demand no less than constant review of how it serves and can serve our people.

The National Social Security Commission would act as a bipartisan watchdog on behalf of the people. Independent of either administrative or legislative responsibilities, it could be of great help to the Congress and to the administration in their respective and joint efforts to strengthen the social security system and make it a more effective instrument of financial assistance to all Americans.

The independent commission we propose would maintain continuous review of social security's effectiveness. Included in such a review would be:

First. Imaginative consideration of innovations which may improve the system's ability to help provide decent economic and health security for its benficiaries without intolerable tax burdens on wage earners and their employers.

Second. Persistent review and analysis of inequities within the system which may affect substantial numbers of its participants either as beneficiaries or as taxpayers;

Third. Careful determination of the system's possible effects, positive or negative, on other elements in our economic system, both public and private, through which Americans strive for financial security; and

Fourth. Positive reassurances of the system's fiscal integrity and its ability always to meet its obligations to the American people.

Extensive criticisms and questions in the news media and in the Halls of Congress about the social security system have been increasing over the past several years. I myself have been deeply concerned about recent reports in the news media that the Advisory Council on Social Security, currently reviewing the programs, is considering major changes which would include tax increases and restraints on benefits.

These reports have generated considerable alarm among both contributors and beneficiaries. This serves to strengthen my conviction that public confidence in the social security system could best be maintained were it to be under constant surveillance by the National Social Security Commission which we propose.

Whatever the truth may be about the financial condition of social security, the American people deserve the kind of objectivity which an independent, constant, bipartisan review would provide.

We urge prompt approval of Senate Joint Resolution 5 by the Senate, the House of Representatives, and the President as a demonstration of congressional and administration concern for the day-to-day importance of the Social Security Act for all Americans and as a joint reemphasis of our intent that its impact will be of maximum benefit to all.

In making this appeal for action, we give full recognition to the long record of excellent administration of social security by the Department of Health, Education, and Welfare. No less important has been the distinguished work of the Senate Committee on Finance and the House Committee on Ways and Means. In no way would the independent National Social Security Commission diminish or derogate their proper responsibilities. On the contrary, it would be a valuable source of help to them.

Under Senate Joint Resolution 5, the National Social Security Commission will have a continuing responsibility to study, investigate, and review the Federal old-age, survivors, and disability insurance program and the health insurance programs which operate under authority of the Social Security Act.

At present the Social Security Act provides for such an overview by the Advisory Council on Social Security, but only on an intermittent, part-time basis. Under the Fong-Fannin-Tower resolution, the latter would be replaced by the full-time National Social Security Commission.

It is unfair to the American people, the Congress and the President to rely for such important studies on an advisory council which holds a limited number of meetings during 1 year out of 4, as is now the case.

The almost inevitable dependence on the social sceurity program's administrative agency by such part-time panel, no matter how distinguished its membership, also leaves much to be desired.

Social security is too big, too important to be the object of only part-time review. Nor it is desirable that such review when it is made should be in the hands of the Federal department charged with its administration.

If the interests of the people are to be fully safeguarded, a constant overview of social security is needed, independent of its administrators—not on a part-time, intermittent basis, but with full-time surveillance. This is the intent and purpose of the National Social Security Commission to be created by the Fong-Fannin-Tower resolution.

The importance of the Commission's work, as recognized in the resolution, is underscored by the manner of appointment of its nine members and the provision that the Commission shall be bipartisan.

The Commission chairman and four members will be appointed, on a bipartisan basis, by the President with the advice and consent of the Senate. Two members each, with no more than one from a single political party, will be appointed by the President pro tempore of the Senate and the Speaker of the House of Representatives.

This is another way in which the Commission will differ from the currently authorized Advisory Council on Social Security, whose membership is named by the Secretary of Health, Education, and Welfare.

Members of the Commission shall be individuals of recognized standing and distinction who have demonstrated capacity to discharge the great responsibility which the resolution places upon it.

The Commission membership unquestionably should include men or women recognized as authorities in the fields of actuarial science, economics, and other appropriate disciplines.

The National Social Security Commission, in short, should be a blue-ribbon panel capable of representing imaginatively and effectively to both specific and broad ramifications of social security. It should be staffed by persons able to give continuous expert attention to such ramifications.

In my repeated calls, especially during the 93d Congress, for creation of the independent National Social Security Commission, I have reiterated that social security in many respects is the biggest business in America.

Old-age, survivors, and disability cash insurance payments and health insurance benefits to approximately 30 million people during 1975 will exceed $75 billion. Over 90 percent of the American people are covered. Everyone directly or indirectly participates in its financing.

The importance of independent review of the system by experts serving an ombudsman role on behalf of all the people is made clear by these statistics.

The implications of social security, however, go far beyond the dollars in benefits and the taxes paid to provide such benefits. The system affects all efforts of individual Americans and groups to provide financial security for themselves. It has an impact on private pensions, individual insurance and savings, health care patterns, and on employment and retirement practices in our Nation.

At no time has there been an authoritative review of all these elements which affect social security or are affected by it.

I believe it is high time that we look at these questions.

An independent, bipartisan National Social Security Commission would be expected to look at these questions in its deliberations, its investigations, and its reports to the people, the Congress, and the President.

The Commission must, of necessity, give recognition to the fact that with a program as big as social security there are constant tides which affect its operation and the needs of people whom it would serve.

Through the National Social Security Commission we would provide a new and important assurance to all the people that these tides, in their ebb and flow, will be given constant consideration. Its objective will be to give constant attendance to ways in which social security may fulfill its maximum promise for the benefit of all America.

S.J. RES. 5

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby established a commission to be known as the National Commission on Social Security (hereinafter referred to as the "Commission").

(b) (1) The Commission shall consist of—

(A) five members to be appointed by the President, by and with the advice and consent of the Senate, one of which members shall, at the time of appointment, be designated as Chairman of the Commission;

(B) two members to be appointed by the Speaker of the House of Representatives; and

(C) two members to be appointed by the President pro tempore of the Senate.

(2) At no time shall more than three of the members appointed by the President, one of the members appointed by the Speaker of the House of Representatives, or one of the members appointed by the President pro tempore of the Senate, be members of the same political party.

(3) The membership of the Commission shall consist of individuals who are of recognized standing and distinction and who possess demonstrated capacity to discharge the duties imposed on the Commission. No individual who is otherwise an officer or full-time employee of the United States shall serve as a member of the Commission.

(4) The Chairman of the Commission shall designate a member of the Commission to act as Vice Chairman of the Commission.

(5) A majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(6) Members of the Commission shall be appointed for a term of four years.

(7) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as that herein provided for the appointment of the member first appointed to the vacant position.

(c) Members of the Commission shall receive $138 per diem while engaged in the actual performance of the duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(d) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission; except that meetings of the Commission shall be held not less frequently than once in each calendar month which begins after a majority of the authorized membership of the Commission has first been appointed.

SEC. 2. (a) It shall be the duty and function of the Commission to conduct a continuing study, investigation, and review of—

(1) the Federal old-age, survivors, and disability insurance program established by title II of the Social Security Act; and

(2) the health insurance programs established by title XVIII of such Act.

(b) Such study, investigation, and review of such programs shall include (but not be limited to)—

(1) the fiscal status of the trust funds established for the financing of such programs and the adequacy of such trust funds to meet the immediate and long-range financing needs of such programs;

(2) the scope of coverage, the adequacy of benefits, and the conditions of qualification for benefits provided by such programs;

(3) the impact of such programs on, and their relation to, public assistance programs, nongovernmental pension and insurance programs, other governmental retirement and annuity programs, medical service delivery systems, and national employment practices;

(4) the quality of the administration of such programs;

(5) any inequities (whether attributable to provisions of law relating to the establishment and operation of such programs, to rules and regulations promulgated in connection with the administration of such programs, or to administration practices and procedures employed in the carrying out of such programs) which affect substantial numbers of individuals who are insured under such programs.

SEC. 3. The Commission shall submit an annual report of its study, investigation, and review of programs (referred to in section

2), together with its recommendations with respect to such programs, to the President and to the Congress. In addition, the Commission shall, at such times as it deems appropriate, submit to the Secretary of Health, Education, and Welfare reports on, and recommendations with respect to, such programs

SEC. 4. (a) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule by title 5, United States Code.

(b) In addition to the Executive Director, the Commission shall have the power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 5. In carrying out its duties under this joint resolution, the Commission, or any duly authorized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters with respect to which it has a responsibility under this joint resolution, as the Commission or such committee may deem advisable. The Chairman of the Commission or any member authorized by him may administer oaths or affirmations to witnesses appearing before the Commission or before any committee thereof.

SEC. 6. The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to enable it to carry out its duties under this joint resolution. Upon request of the Chairman of the Commission, any such department or agency shall furnish such information to the Commission.

SEC. 7. The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

SEC. 8. There are hereby authorized to be appropriated such sums as may be necessary to carry out the preceding provisions of this joint resolution.

SEC. 9. It shall be the duty of the Health Insurance Benefits Advisory Council (established by section 1867 of the Social Security Act), to provide timely notice to the Commission of any meeting thereof, and the Chairman of the Commission (or his delegate) shall be entitled to attend any such meeting.

SEC. 10. Section 706 of the Social Security Act (relating to appointment of Advisory Council on Social Security) is hereby repealed.

By Mr. HELMS:

S.J. Res. 6. A joint resolution proposing an amendment to the Constitution of the United States guaranteeing the right of life to the unborn. Referred to the Committee on the Judiciary.

A NEW HUMAN LIFE AMENDMENT

Mr. HELMS. Mr. President, I send to the desk a new constitutional amendment which is intended to guarantee to every human being in the United States, the right to life. As we are all aware, such an amendment is necessary because of the U.S. Supreme Court decision 2 years ago taking that right to life away from certain classes of human beings; namely, those who are in the first stages of human development and have not yet been born.

A number of proposed constitutional amendments have been offered, all attempting to restore the right to life. I, myself, offered such an amendment last year, which was Senate Joint Resolution 130 in the 93d Congress, 1st session. Since then the Constitutional Rights Subcommittee of the Judiciary Committee, under the able and capable leadership of the distinguished Senator from Indiana (Mr. BAYH) has held extensive hearings on many aspects of this complicated problem, involving issues of constitutional law, medical ethics, biological development, and human concern.

I testified before the subcommittee last year, and indicated then that I was putting forth Senate Joint Resolution 130 to stimulate discussion and criticism, and that it was not necessarily a final draft. After much reflection upon the differing criticisms that were brought out against the wording of my original proposal and against that of other amendments submitted, I am now prepared to offer this new amendment. In my judgment, it is a great improvement over every other proposal I have seen. I believe that it is an amendment which everyone can unite behind in the effort to end the destruction of innocent human life in the United States.

The main thrust of any human life amendment must be to insure that all human beings enjoy the protection of the right to life. This can be done by insuring that all human beings are considered "persons" under the protection of the 5th and 14th amendments. In Roe against Wade, the U.S. Supreme Court said:

> The appellee and certain amici argue that the fetus is a "person" within the language and meaning of the Fourteenth Amendment. In support of this they outline at length and in detail the well-known facts of fetal development. If this suggestion of personhood is established, the appellant's case, of course, collapses, for the fetus' right to life is then guaranteed specifically by the Amendment.

If personhood is established by a new constitutional amendment, then the Supreme Court itself admits that the right to life of the unborn child will be protected.

It is most important, however, that the beginning of life, and therefore, the beginning of the constitutional protection of that life, be defined with precision and clarity. Our scientific knowledge today is sufficient to provide such a definition, and the language must not be so loose or general that the way is opened for arguments that the period of protected life should be shortened for convenience' sake. On the other hand, it is not necessary to encumber the unborn child with all the constitutional rights of an adult; our concern can be limited to the right to life.

Once the principle has been established of the primacy of life of every human being, it is inevitable that someone will raise the problem of the so-called hard cases, where pregnancy puts two lives in simultaneous danger, the life of the mother and the life of the child. Today such cases are indeed medical rarities, although they do exist, and it would be unfortunate to amend the Constitution in such a way that a doctor attempting to care for his patients would be placed in legal jeopardy. It would also be unfortunate to amend the Constitution in such a way that an exception clause would destroy the primacy of life values so that the way would be opened to widespread abuse under the cover of law. The resolution of this problem has been a principal aim of my amendment.

Finally, I do not think that abortion should be made a Federal crime when committed outside of Federal jurisdiction. Our tradition of State and local criminal law should be maintained in the analogy of homicides, robberies, assaults, and other crimes of violence, which are prosecuted and punished on the State level, except where there is an overriding Federal interest.

Although the right to life can be made a constitutional right, the Federal Government should not pre-empt the rights of the States to prohibit abortion, prescribe penalties, and regulate the implements of abortion. This is especially important because there is some doubt whether restraints on Federal and State action can reach private action under the 14th amendment. Such a doctrine has been put forward in certain cases before the Supreme Court, but I think that it is wise and prudent, from the standpoint of the Constitution and the problem of enforcement, to leave room for the States to legislate prohibitions against abortion in the field of private action.

These considerations, along with a recognition of the need for simplicity, have governed the drafting of my new amendment, the substantive portion of which reads as follows:

> "ARTICLE —
>
> SECTION 1. With respect to the right of life guaranteed in this Constitution, every human being, subject to the jurisdiction of the United States, or of any State, shall be deemed, from the moment of fertilization, to be a person and entitled to the right of life.
>
> SECTION 2. Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

I will make the following observations:

First. Personhood: The essence of the amendment is that it restores personhood to the unborn child at every stage of its biological development.

Second. Moment of fertilization: This amendment clearly states that life begins at the moment of fertilization. The word "fertilization" is scientific and unambiguous. The biological evidence clearly establishes that the fertilization of the egg is the beginning of human development, that the fertilized ovum is genetically complete and independent of the mother, and that the life span which follows is a continuum unbroken by any point of radical change. The word "moment" makes it clear that a given point in time is established, rather than the process of development. If the language of the amendment allows for a process of development, then the way is opened for a court to choose any point in that process, such as implantation, "viability," or even birth, for the protection of life. It is not enough to protect every stage of biological development, unless we know with some certainty what a stage of development means. The word "fertilization" is more precise than the word "conception," which, in common parlance, is often used interchangeably. "Conception" however is a word whose use and associations antedates our scientific knowledge, and in certain proabortion circles, an effort has been made to equate conception with implantation. It is true that many fertilized ova are never implanted; but that is only to say that a human being can die at any time in his life span.

Third. Hard cases: This amendment contains no specific exception clause because the difficult cases can be handled under traditional concepts of substantive due process. This amendment leaves the difficult cases to be determined by an even-handed application by the courts and State legislatures of constitutional principles applying to all human beings. It establishes the basic life principle, that the destruction of the child in the womb is a violation of every human being's constitutional right to life. Not every abortion, of course, results in the death of the child; controversies are in the papers daily about the efforts or lack of efforts to ensure the survivability of such children outside the womb. The amendment would, however, insure equal protection. The amendment also takes cognizance of substantive due process as it has been developed in Anglo-Saxon jurisprudence. Although the amendment does not encourage exceptions, it admits to exceptions in the light of legal precedents, such as "the doctrine of necessity," established in rare and unusual circumstances. In any case, the solution would have to be determined by an even-handed application of principles applying to all human beings.

Fourth. States rights: As already indicated, this amendment allows the States to act in the fields of State interest, without the Federal Government pre-empting all action. Both Federal and State governments can act concurrently to prohibit abortions. Any Federal action promoting abortions, including funding of actual abortions, use of Federal facilities or personnel, and research on abortions, particularly research that involves clinical testing, would be clearly a violation of the constitutional rights of the unborn. The Federal Government could act to outlaw interstate commerce in abortions, and in drugs, instruments, and equipment intended to procure abortions. The States would have similar powers within their jurisdictions. The States, particularly, could delineate the spheres of culpability with respect to participating in abortions, prescribe penalties, and enforcement powers of local jurisdictions. In many ways, the result will be similar to the actions of the States under the 21st amendment in regulating the sale and transportation of intoxicating liquors. Needless to say, no State could enact laws infringing upon the constitutional right to life of any person.

Fifth. Other rights for the unborn: This amendment would make the unborn child a person only "with respect to the right to life guaranteed in this constitution." Thus only the right of life would become a constitutional right. Other rights could be assigned to the unborn by legislation or judicial interpretation, as indeed there is already existing a large body of law on inheritance law and tort claims. It is clear, therefore, that an unborn child would not be subject to census, registration, passports, taxation, and other such requirements imposed upon residents of the United States. Our laws take due note of the age of citizens, and make appropriate distinctions based upon such considerations. A broad distinction is made between adults and minors, for example, and even minors are subdivided according to mental responsibility. Yet all enjoy the fundamental right to life, a right which is just as reasonably accorded to the born and the unborn.

Sixth. Euthanasia: This amendment also recognizes that the right to life is a broad right that cannot be abridged on account of age, illness, or incapacity. There is nothing in our traditions that would allow for such an abridgment. Yet in certain quarters there are some who are beginning to argue that other human beings have a right to decide when someone's life should be terminated. This is a principle that we can never admit to our society. It is indeed the same principle involved in the destruction of the unborn. By emphasizing that every human being is a person, from the moment of fertilization, and entitled to the right to life, this amendment implicitly forecloses such arguments.

Mr. President, there is just one additional consideration which I should add. We should focus upon the fact that, in the taking of any innocent life, the ultimate evil is not death itself. People die every day, causing human tragedies for their loved ones, and have done so from the beginning of time. The real evil, in which society has the ultimate interest, is the effect which the deliberate taking of innocent life has upon those who take that life.

The real evil of abortion is the distorted mentality in the living that is created when social convenience, pleasure, or utility is preferred to human life; or when the quality of life as a value supplants life itself as a value. We cannot allow our society to cross the line which allows the ultimate abrogation of the rights of an individual. We can debate the proper social measures that must be taken to alleviate the problems of human life; but there should be no debate about life itself.

Mr. President, I ask unanimous consent that the text of my joint resolution be printed in the RECORD at the conclusion of my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 6

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution only if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. With respect to the right to life guaranteed in this Constitution, every human being, subject to the jurisdiction of the United States, or of any State, shall be deemed, from the moment of fertilization, to be a person and entitled to the right to life.

"SECTION 2. Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.".

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 11

At the request of Mr. BEALL, the Senator from Oklahoma (Mr. BARTLETT) was added as a cosponsor of S. 11, the State and Local Fiscal Assistance Act.

S. 80

At the request of Mr. MATHIAS, the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 80, a bill to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land—rather than at its fair market value—and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes at its value for its existing use, and to provide for the revocation of such lower valuation and recapture of unpaid tax with interest in appropriate circumstances.

S. 81

At the request of Mr. MATHIAS, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 81, a bill to provide the Governors of coastal States with a delay mechanism so as to protect coastal States from adverse environmental or economic impacts and other damages associated with the development of oil and gas deposits in the Outer Continental Shelf and for other purposes.

S. 109

At the request of Mr. INOUYE, the Senator from Minnesota (Mr. MONDALE) and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 109, a bill to amend chapter 55 of title 10, United States Code, to require the Armed Forces to continue to provide certain special educational services to handicapped dependents.

S. 149

At the request of Mr. PACKWOOD, the Senator from Connecticut (Mr. RIBICOFF) was added as a cosponsor of S. 149, a bill to equalize Federal income tax treatment of unmarried individuals.

SENATE RESOLUTION 16—SUBMISSION OF A RESOLUTION AMENDING THE RULES OF THE SENATE CONCERNING JURISDICTION OVER ENERGY RESEARCH

(Referred to the Committee on Rules and Administration.)

Mr. MOSS (for himself and Mr. GOLDWATER) submitted the following resolution:

S. Res. 16

Resolved, That paragraph 1(a) of rule XXV of the Standing Rules of the Senate is amended—

(1) by adding at the end of subparagraph (1) the following:

"(D) matters relating to energy research and development;

"(E) Energy Research and Development Administration."; and

(2) by striking out of subparagraph (2) "upon," and inserting in lieu thereof "upon (A)", and by adding at the end of such subparagraph (2), immediately before the period a comma and the following: "and (B) energy research and development activities of all agencies of the United States".

Sec. 2. Immediately before the period at the end of the last item of the second column of the table contained in paragraph 6(a) of rule XVI of the Standing Rules of the Senate, insert a semicolon and the following: "for the Energy Research and Development Administration".

SENATE RESOLUTION 19—SUBMISSION OF A RESOLUTION TO ESTABLISH A SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS

(Referred, by unanimous consent, to the Committee on Government Operations.)

Mr. MATHIAS. Mr. President, on behalf of myself, the Senator from Montana (Mr. MANSFIELD), the Senator from Maine (Mr. MUSKIE), and the Senator from Tennessee (Mr. BAKER), I submit a resolution to establish a select committee to study and investigate all matters with respect to the operations of the intelligence activities, foreign and domestic, of the U.S. Government. The purpose of this study is to determine the past effects and future role of such activities of agencies of the U.S. Government within the United States and overseas. This resolution is similar to Senate Resolution 419 which we submitted at the end of the last session and was referred to the Committee on Government Operations.

Since Senate Resolution 419 was introduced last October 4, there have been further revelations of the involvement of the CIA and the FBI in intelligence activities against U.S. citizens. These apparently illegal activities serve to emphasize the necessity for a thorough effort to provide policy guidelines for the intelligence requirements of the United States, both foreign and domestic. In the aftermath of Watergate and following a series of shocking revelations of the abuse of power, it is clear that one of the most important tasks facing the Government of the United States is to determine the proper role of intelligence agencies within our constitutional system of government. Thirty years' experience has proven that the existing legal authorities for our intelligence agencies are inadequate, and it is necessary to write new laws, to draw new guidelines, and new policies, for our intelligence agencies.

It is encouraging that the standing committees with jurisdiction over separate agencies such as the CIA are now engaged in investigations in their areas of responsibility of the abuses which have come to light in recent weeks and during the course of the past years. It will require the full energies of the Armed Services Committees of both Houses, the oversight committees of both Houses, the Foreign Relations Committee, and other committees which are conducting investigations to help root out the abuses of power that have occurred. But the larger questions will remain, and no standing committee has the time or mandate to undertake the broad study required by the situation that has developed over the past 30 years.

This is why Senator MANSFIELD and I have proposed that the Senate establish a select committee to be organized on a basis similar to the Watergate committee and the special Committee on Emergency Powers. This select committee would undertake a detailed study of the nature of the legal authorities of all U.S. intelligence agencies, both foreign and domestic, and the overall intelligence requirements of the United States from a variety of points of view ranging from the broadest constitutional questions to the particular needs of agency bureaucracies.

We are all aware that almost all of 200 proposals introduced by the Congress since 1950 have sought to improve the quality of oversight and to prevent the reoccurrence of illegal activities. All of us in the Congress must recognize that all of these proposals were unsuccessful and that the failure to act meaningfully must not continue at this critical time. The Congress must act.

Senator MANSFIELD and I both believe that a select committee to study all aspects of U.S. intelligence activities, foreign and domestic, would be able to concentrate on what we regard as the major purpose of assuring that the FBI, CIA, and other intelligence agencies will have clearly drawn guidelines so that they may continue to serve our Nation. In the past, these agencies have performed valuable and necessary functions, and there will be a need for them to do so in the future. But it is our view that there is a requirement that must be met for a thoughtful redefinition of our national intelligence needs. For the Congress, this means that we must draw up new policy guidelines for the intelligence activities of the United States. Our intelligence agencies are presently without policy guidelines.

It is an astonishing fact, for example, that there is no specific authority for any covert activities by the CIA anywhere in the law. In the past, it has been argued that the President was empowered by the National Security Act of 1947 to assign "intelligence activities" to the CIA, yet the law itself or legislative history does not reveal even the slightest suggestions that covert activities are subsumed under the meaning of "intelligence activities." In fact, legislative history at the time of the passage of the act reveals that Congress was assured that there was no authority for the kind of activities that are now known as covert.

I am of the view that covert activities of some kind might be necessary in some future circumstances. This makes it all the more imperative that sound guidelines consistent with constitutional guarantees be placed upon any agencies legally entrusted with these duties. It is also evident that the distinctions between foreign and domestic are far less clear now than they may have seemed in the years just following World War II. Further, the means of gathering intelligence, and the means of surveillance have progressed so rapidly in recent decades, that this same technological advance has proven to be a threat to constitutional guarantees, as well as a boon to the agencies that make use of these new technologies. Science and technology, particularly in the intelligence field so dependent upon secrecy must be placed under firm constitutional restraints. It is clear that secrecy and open democratic government have proven to be uneasy partners.

These are but a few of the considerations that the Congress must meet, and it is my view that a select committee of the kind we have proposed offers the best means to resolve the manifold problems that the past 30 years of our turbulent history have produced, and to do so in a nonpartisan, thorough, and considered way required by the dimensions of the problem.

I ask unanimous consent that the resolution be referred to the Committee on Government Operations.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution is as follows:

S. Res. 19

Resolved, That (a) there is established a select committee of the Senate to be known as the Select Committee To Study Governmental Operations With Respect to Intelligence Activities (hereafter referred to in this resolution as the "select committee").

(b) The select committee shall be composed of nine Members of the Senate, to be appointed as follows:

(1) five members from the majority party to be appointed by the Majority Leader of the Senate, and

(2) four members from the minority party to be appointed by the Minority Leader of the Senate.

(c) The Majority Leader of the Senate shall designate one of the members appointed by him as chairman of the select committee and the Minority Leader of the Senate shall designate one of the members appointed by him as vice chairman of the select committee. A majority of the members of the select committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee; and shall be filled in the same manner as original appointments thereto were made.

(d) For the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the select committee shall not be taken into account.

Sec. 2. It shall be the function of the select committee to conduct a study and investigation with respect to all matters relating to (1) the operations of the United States Government with respect to domestic and foreign intelligence activities, and (2) the past effect and future role of such activities of agencies of the United States Government within the United States and overseas.

Sec. 3. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amended, (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency, and (9) to have access to any data, evidence, information, report, analysis, or document or papers relating to any of the matters or questions which the select committee is authorized and directed to study and investigate, which are in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government, and which will aid the select committee to prepare for or conduct the study and investigation authorized and directed by this resolution. All members of the select committee, and all employees of the select committee specially designated for such purpose by the select committee, shall have an opportunity to examine any data, evidence, information, report, analysis, or document or papers which the select committee obtains access to under authority of clause (9) of the preceding sentence.

(b) The chairman of the select committee shall preside over meetings of the select committee, except that (1) in the absence of the chairman, the vice chairman shall preside, and (2) in the absence of both the chairman and vice chairman, any other member of the select committee designated by both the chairman and the vice chairman may preside.

(c) Any member of the select committee may administer oaths to witnesses.

(d) Subpenas authorized by the select committee may be issued over the signature of the chairman, or any other member designated by the chairman, and may be served by any person designated by the chairman or member signing the subpena.

Sec. 4. The select committee shall make a final report of its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than two years after the date this resolution is agreed to. The select committee may also submit to the Senate such interim reports as it considers appropriate. Upon submission of its final report, the select committee shall cease to exist.

Sec. 5. (a) From the date this resolution is agreed to, through February 28, 1976, the expenses of the special committee under this resolution shall not exceed $500,000, of which amount not to exceed $75,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended.

(b) The select committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to the study and investigation for which expenditures are incurred out of funds made available under this section, to the Senate at the earliest practicable date, but not later than February 28, 1976.

Sec. 6. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman and vice chairman of the select committee.

SENATE RESOLUTION 20—SUBMISSION OF A RESOLUTION PROMOTING STRATEGIC ARMS CONTROL

(Referred to the Committee on Public Relations.)

Mr. KENNEDY. Mr. President, on behalf of myself, the Senator from Maryland (Mr. Mathias), and the Senator from Minnesota (Mr. Mondale), I submit a Senate resolution relating to the Vladivostok Agreement and strategic arms control.

This effort, we believe, is in the best spirit of Senate action on foreign policy. And it reflects a spirit of cooperation with the administration, as it seeks to negotiate further arms control agreements with the Soviet Union. We are pleased that Secretary of State Kissinger has indicated his general support of the resolution and its objectives. This resolution accepts the agreement negotiated at Vladivostok. It imposes no conditions, no strings. It will not in any way tie the hands of the Secretary of State.

But we also believe that Vladivostok must not be the end of arms control negotiations. It must be only the beginning of efforts to place firm and final limits on the nuclear arms race. That race will now continue in qualitative terms, even within the limits on numbers imposed by Vladivostok.

This resolution calls upon the President to use his best efforts to complete the negotiations begun there. It also calls upon him to use his best efforts to go further, in three areas:

First, to negotiate mutual restraints on the pace and character of both development and deployments. This provision is designed to give time to people on both sides who genuinely want to halt the arms race. There must be time to negotiate further reductions of numbers. There must be time to build upon what has already been done. We must never again face a situation in which the building of weapons, and the introduction of new ones, happens so fast that arms control is left behind.

Second, we call upon the President to seek a commitment from both countries to continue negotiating, in order to get numbers that are lower than Vladivostok. This does not mean lowering the numbers between now and May—that is not feasible. But it does mean looking to further efforts in getting the numbers down.

Third, we call upon President Ford to begin negotiating in areas that are not covered by previous agreements. These areas could include cruise missiles, mobile missiles and, of course, a comprehensive test ban.

We hope that negotiations can begin now in all these areas. In some cases, that may prove possible; in some it may not, because of the very nature of the negotiating process. We seek nothing that will divert those negotiations from their proper course, of getting a final Vladivostok accord. At the very least, we firmly expect the steps outlined here will be taken as soon as these accords are ratified by the Congress and the Supreme Soviet.

We believe that this resolution supports the Secretary of State in having wide flexibility in negotiating; it will help build needed support in the Congress; it will help limit the spread of nuclear weapons, by expressing real commitment to nuclear restraint. In view of all that has happened in recent days, it is important to put the Senate firmly on record in support of détente, and of improved United States-Soviet relations.

There is probably no more important issue facing the United States than to rid the world once and for all of the specter of nuclear war. Despite progress so far, that specter is still very real. Hopefully, the Congress and the administration, working together, can help advance the day when the world will be free from fear of nuclear war.

Mr. President, I ask unanimous consent to have the resolution printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution is as follows:

S. Res. 20

Resolved,

Whereas, at Vladivostok on November 24, 1974, the President of the United States and the General Secretary of the Central Committee of the Communist Party of the Union of Soviet Socialist Republics reached an agreement in principle on the limitation of strategic offensive nuclear arms; and

Whereas, this agreement in principle places a limitation of 2,400 for each country on the number of strategic nuclear delivery vehicles, and a sub-limit of 1,320 for each country on the number of strategic missile launchers equipped with multiple independently targetable reentry vehicles (MIRVs); and

Whereas, this agreement is an important beginning in placing constraints upon strategic nuclear weapons programs and delivery systems currently planned for development by the United States, and upon the deployment by the Soviet Union of a so-called "next generation" of nuclear weapons; and

Whereas, the Vladivostok Agreement contributes to efforts between the United States and the Soviet Union to achieve agreements on mutual limitations and reductions of nuclear armaments, based upon the principle of substantial overall equality between Soviet and American nuclear forces, taking into account both qualitative and quantitative factors; and

Whereas, mutual restraint by the United States and the Union of Soviet Socialist Republics in future deployments of nuclear arms would help to prevent the further spread of nuclear weapons to countries not now possessing them: Therefore, be it

Resolved, that the Senate of the United States

(1) Commends the agreement in principle reached at Vladivostok on November 24, 1974, and expresses its support for the broad purposes of that agreement as a major and substantial step forward in furthering mutual arms control, beneficial to United States interests, and in improving the relations between the United States and the Soviet Union;

(2) Expresses its firm belief that this agreement in principle must lead to further mutual arms limitations and reductions and that both the United States and the Soviet Union should make every effort to halt the continuing competition in strategic arms by exercising mutual restraint in the deployment of nuclear weapons systems beyond currently-deployed levels and types of weapons systems.

(3) expresses its understanding that the

Vladivostok Agreement establishes limits within which the United States and the Soviet Union may deploy strategic forces, but that any deployment of United States strategic nuclear weapons, up to the limits established by the Vladivostok Agreement, should be based solely upon the actual needs of United States security.

SEC. 2. It is the advice of the Senate that the President should make every possible effort (a) to complete the negotiations resulting from the Vladivostok Agreement in principle; (b) in addition, to reach further agreements including, but not limited, to the following:

(1) Mutual restraints on the pace and character of development and deployments by the United States and the Soviet Union of strategic weapons systems within mutually agreed limitations of the Vladivostok Agreement and of the final accords to be negotiated on the basis of the Vladivostok Agreement.

(2) A commitment to negotiate mutual reductions to lower levels than those contained in the Vladivostok Agreement, both in the total numbers of strategic delivery vehicles and in the numbers of missiles capable of carrying multiple, independently-targetable reentry vehicles.

(3) A mutual commitment to continue negotiations on a timely and sustained basis to achieve further mutual limitations with regard to military forces and armaments not presently limited as part of the 1972 United States-Soviet Union strategic arms control agreements and the Vladivostok Agreement.

Negotiations to achieve the objectives contained in subsections (1), (2), and (3) should begin as soon as possible.

SEC. 3. It is further the sense of the Senate that the specific accords concluded on the basis of the Vladivostok Agreement between the President of the United States and the General Secretary of the Central Committee of the Communist Party of the Union of Soviet Socialist Republics should be submitted to the Senate for its advice and consent in accordance with the provisions of Section 2, Article II of the Constitution, relating to treaties.

SEC. 4. The Secretary of the Senate is directed to transmit copies of this resolution to the President and to the Secretary of State.

Mr. MATHIAS. Mr. President, a successful foreign policy is a major factor contributing to the well-being and security of the American people. Recent history has reinforced the view that foreign policy has become, since World War II, an ever-growing element in our national affairs. The great burdens of world leadership affect all of our citizens. These burdens impinge upon every citizen in the form of taxes, and a host of personal sacrifices that have included long periods of military service and the risk of the lives of citizens in wars in pursuit of the objectives of foreign policy.

In a very important sense, therefore, there is no longer a valid institutional distinction between foreign policy and domestic policy, if for no other reason than because such domestic matters as wheat production or corn production have worldwide consequences; correspondingly, the desire of other countries 10,000 miles away to sell or withhold commodities affects our daily lives. It is even more obvious that the decisions of the other great powers to build or not to build weapons systems directly affects our sense of security and our pocketbooks.

Whether concerned with domestic or foreign matters, there should be no areas of public policy that lie outside constitutional processes. The making of law is the most fundamental means of making policy. There is no question that Congress has the right and the obligation to make the law, and there is no question that the Senate under the Constitution, has a special responsibility in foreign policy; the advice and consent provision of section 2 of article II of the Constitution refers specifically to the process of making binding commitments on the part of the United States with foreign nations. The treatymaking power is a shared responsibility. In accord with the Constitution, the Senate should give its advice as to what the policy of the United States should be; the executive branch should carry out this advice in the form of negotiations, and the result of these negotiations, that is, treaties, should undergo a process of ratification, that is consent. Despite the power given to the Senate by the Constitution, it is remarkable that there have been no recorded instances of the use of formal "advice" in the history of our Government. The "advice" power and responsibility remain to be used. There is no more important policy issue before the United States than reducing the danger of nuclear war and I regard it as significant that this resolution should be the first instance of the Senate giving its formal advice.

It is our view that the "advice" of the Senate to the President and his advisers should be that it is vitally important to the United States to continue to press forward with negotiations with the Soviet Union to further limit the development and deployment of nuclear weapons, and to reduce on a mutual basis the number of weapons systems to the lowest possible levels—far lower than is now the case.

In my view, the ABM Treaty of 1972 was a great step forward. This treaty established for the first time the principle of parity as national policy for both the United States and the Soviet Union; in the case of the ABM Treaty, the physical reality of a stalemate in nuclear weaponry was matched with political commonsense.

The Vladivostok agreement in principle is a further endorsement on the part of the superpowers of the principle of parity. The Vladivostok agreement places for the first time overall limits on launchers and MIRV's on a basis of equality. In my view, this is a substantial achievement, and is worthy of the support of the Senate, the Congress and the people of the United States. But it is not enough in itself. It is a step, albeit, and an important step and the President and negotiators should be commended for their achievement, which must be pursued to its conclusion. But it must be accompanied by renewed efforts to achieve further mutual limitations and reductions of nuclear weapons stockpiles.

In no way should the Vladivostok agreement be regarded as a reason in itself for the deployment of new nuclear weapons systems. This is part of the advice that the Senate should give to the executive branch: That the deployment of nuclear weapons systems should be based only on the real security needs of the United States, and not on the basis of imagined bargaining chips. The ABM Treaty and the Vladivostok agreement provide a sound and equitable basis for lessening the necessity to develop and deploy new weapons systems. They offer the hope that we can, in the near future, perhaps this very year, spend less on nuclear weapons. They offer the hope that we can, in fact, reduce the danger of nuclear war by limiting development and deployment of weapons and by reducing existing stocks.

This resolution is a formal proposal of advice to the President on an important foreign policy matter, and it is also intended to reflect the Senate's acceptance of its constitutional responsibility to set guidelines to establish national policy, to give direction and bounds to the actions of the executive branch as required by the Constitution. This resolution in the form of advice from the Senate is the result of much deliberation between the sponsors and their staffs and Dr. Kissinger and his advisers. Senators KENNEDY and MONDALE and I believe that the support of the achievement of the Vladivostok agreement is in the national interest. Through the advice of the Senate we have sought to state what we think the purposes of these negotiations should be. It gives me great hope that on almost all points that the executive branch and the authors of this resolution were in agreement and that the Senate has begun after almost 200 years to use the authority and responsibility for the making of foreign policy assigned to it by the Constitution.

Mr. MONDALE. Mr. President, first, let me associate myself with the remarks of my colleagues in particular on the importance of this resolution from the standpoint of the role of the Senate in giving advice to the executive, and on the constructive purpose of this resolution.

The unfortunate action of the Soviet Union in regard to our trade relations makes it all the more important for us to try to keep the SALT negotiations on an even keel. Our responsibility now should be to continue to pursue détente as we can, and not to overreact. So this resolution is aimed at supporting the effort to wrap up the Vladivostok accord and to keep negotiations to control strategic arms at the cutting edge of our efforts to develop a better relationship with the Soviet Government.

At the same time, of course, it is clear that the Vladivostok accord does not come to grips with some of the most important issues confronting our strategic relationship. So this resolution, quite rightly, advises the executive branch to also seek additional agreements that will curb those aspects of the competition in strategic arms which are not covered by the Vladivostok agreement.

I would like to call attention to two provisions of the resolution. The first will be found in the first numbered paragraph 3. It expresses the understanding of the Senate that the Vladivostok agreement establishes limits within which the United States may—and let me stress may—deploy strategic forces, but that actual deployment, up to the limits established by the agreement, should be based solely upon the actual needs of the U.S. security.

In other words, it is important that this agreement be considered an arms control measure; that it not be construed as a requirement to build up or maintain forces at the ceiling. The decision to deploy strategic forces, by the executive and by the Congress, should be made on the strategic merits and we should not consider this agreement as the source of further rationale, justification or legitimization of a strategic buildup.

A second point that I would like to make regards the first numbered paragraph in section II, which calls for mutual restraints in the pace and character of development and deployments of strategic weapons systems. This is an additional category of measures which we urge the administration to tackle soon.

As an essentially numerical agreement, the Vladivostok accord does little about the problem of modernization. However, the most dynamic aspect of the strategic competition lies in the turnover of weapon systems—the replacement of one kind of missile with another such as Soviet replacement of old SS–9 ICBM's with the awesome MIRVed SS–18. Replacement of old Polaris subs by Trident and B–52's with B–1's are examples on our side. This dynamism in modernization is the real source of strategic uncertainty today, and of course, is a great drain on our pocketbooks.

This paragraph calls upon the administration to try to negotiate some mutual restraints in this area, both in the deployment and development of new weapons. For example, this would relate to limits on the rate at which strategic systems might be deployed and the rate at which they might be modernized. In the area of limiting development of new weapons, it would call for consideration of such possibilities as slowing or putting a quota on strategic missile tests, putting a quota on number of new types of systems, prohibiting certain refinements such as maneuverable warheads, and so forth.

What we are trying to say with this provision is that while we support building a box around the strategic arms race, which is what the Vladivostok accord does, in effect, we have to recognize that there can be a pretty nasty competition going on within the box. We therefore urge the President to try to go further, to try to bring that competition under control. Otherwise, the longrun prospects for an improved relationship with the Soviet Union will run up against the hard realities of a continuing strategic arms competition, even if the Vladivostok accords are successfully completed—which, of course, we earnestly desire.

NOTICE OF HEARINGS ON DRUGS

Mr. NELSON. Mr. President, I wish to announce that the Subcommittee on Monopoly of the Senate Small Business Committee has scheduled hearings for January 28 and 29 on two antibiotic drugs—clindamycin and lincomycin. In addition, the subcommittee will resume its hearings on oral hypoglycemic drugs on January 31. The hearings will be held in room 1114 of the Dirksen Senate Office Building, starting each day at 10 a.m.

NOTICE OF MEETING

Mr. SPARKMAN. Mr. President, the U.S. Group of the Interparliamentary Union will hold its biennial meeting at 4 p.m., Tuesday, January 21, in room EF–100, the Capitol. All those interested are urged to attend.

ADDITIONAL STATEMENTS

PERSPECTIVE ON PESSIMISM

Mr. TOWER. Mr. President, economic indicators released within the last few days demonstrate that the inflationary spiral in our economy is in the early stage of abatement. The wholesale price index fell for the first time in 14 months, and farm prices continued to show a decline. But to the consumer these figures are meaningless because they do not show up at the cash register. The figures will not become tangible evidence of a successful battle against inflation until the general price level begins to subside. Regretfully the only tangible evidence we have today of the slowdown in economic activity and the subsequent softening in the price structure is the rise in unemployment and the decline in price of selected commodities and products.

Understandably the high unemployment rate fosters anxiety and an attitude that immediate Federal action is necessary. Congress and the President are responding to the Nation's mood with thoughtful proposals to cure our economic ills, but I note with growing concern an attitude that our market-oriented economy has somehow failed. Many believe it has failed to rein inflation and appears to have created massive unemployment. I attribute this to a growing lack of tolerance for the cyclical disturbances which are often necessary to stabilize a free market economy. While I believe it is essential to evaluate critically the structural deficiencies in our economy, we must not lose sight of the positive aspects of our Nation's economic record.

It was with great interest, therefore, that I read a recent article published by the Mellon Bank entitled "Perspective on Pessimism." The article questions whether the recent performance of our economy is evidence of a need to change direction toward a more controlled economy given the accomplishments and long-term performance of our dynamic free market system. I agree with the conclusions of the author that our economic system is not in need of a massive overhaul or further Government interference in the decisionmaking process of private businessmen, rather that our system has demonstrated its ability to perform and is more in need of a vote of confidence.

Mr. President, I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Perspective on Pessimism

Within the next two weeks or so the Administration will unveil its proposals for dealing with the nation's most pressing economic problems and by all accounts some form of tax reduction will be prominent on the list of recommendations. For a large number of Americans, however, the implementation of strong, new, antirecessionary measures will not alter the fact that 1975 will mark the second consecutive year of declining living standards. After adjusting for the rise in prices, disposable personal income dropped an estimated 2.7% last year and a further small decline seems likely in 1975. Along with this loss of purchasing power, the unemployment rate, which has climbed from 4.8% at the end of 1973 to the current reading of 7.1%, could well reach the 8% mark before the end of 1975.

HAS THE SYSTEM FAILED?

That this performance is both unsatisfactory and disappointing is not in question. The economy has been derailed from its historic noninflationary growth track and there seems little chance for a return to stable economic conditions much before 1976. To some people the prospect of a two-year period in which unemployment is rising and inflation remains a stubborn problem constitutes nothing less than an indictment of the entire economic system. What might be needed, they suggest, is some form of a controlled economy which will avoid further cyclical disturbances and prevent another outbreak of inflationary fever.

Without specifying how this near-Utopian condition is to become a reality, the critics contend that the present free enterprise system with its emphasis on the interplay of market forces has failed the American people and should, therefore, be replaced—at least in part—by a planned or heavily regulated economy. Recent public opinion polls and surveys of consumer sentiment suggest that a disconcertingly large number of people share this gloomy assessment of a gravely flawed economic structure and fear the onslaught of another Great Depression of the type experienced in the 1930's. There is, then, a sizable body of opinion which holds that the free market economy can no longer cope with the perplexing problems of mounting unemployment and high rates of inflation. This would seem to suggest that while there is a full awareness of present day economic difficulties, the unequalled record of achievement during the past quarter of a century has been forgotten—or dismissed as irrelevant.

CONSIDER THE RECORD

To be sure, people can scarcely be expected to express satisfaction with the present state of affairs. But to condemn a dynamic and creative economic system which has produced almost uninterrupted gains in living standards for more than twenty-five years seems to fly in the face of fact, reason and even common sense. No doubt part of the cause for current discontent can be found in faulty information about the true state of the economy. For example, one recent survey revealed that the public's estimate of inflation over the past year is roughly seven times the actual increase in prices. But perhaps the best explanation can be found in the steady escalation of expectations which has taken place since the end of World War II. The very success of the American economy has, without doubt, encouraged people to expect more and more in the way of rapid and substantial progress. Stated another way, public tolerance of a relatively brief interlude in which the economic machine sputters or even stalls has been steadily declining over the past 25 years.

The shock of sickness tends to be more severe following an extended period of good health. Likewise, the shock of economic adversity is all the greater when the vast majority of people can scarcely remember anything other than steady gains in material well-being. Before concluding, therefore, that some fundamental changes in the free market structure are needed to restore economic health, it may be well to pause and reflect upon the nation's astounding record of progress since 1947.

Income. Between 1947 and 1973 real family income showed a gain of more than 100%, equivalent to a compounded annual rate of 2.7%. During the same period the disparity between white and nonwhite median family incomes was substantially reduced, with nonwhite incomes rising from just over 50% of the white median to over 60% in 1973.

Housing Standards. By 1970, only 7.4% of the nation's dwelling units were classified as substandard—a drastic reduction from the 35.4% reported in 1950. The actual number of substandard units declined 68%, from an estimated 14.8 million units to just over 4.7 million.

Poverty. In 1959—the earliest year for which comparable data is available—18.1% of white persons were living in poverty, but by 1973 this ratio had been more than cut in half to 8.2%. And although 29% of nonwhite persons were classified as living below the poverty level in 1973, this ratio was almost half the 56% experienced in 1959.

Education. In 1950, 56% of young whites in the 20–24 age group had at least four years of high school—by 1973 this ratio had jumped to 85%. And among Negro and other races the 1973 was 73% as compared with less than 25% in 1950. The growth in the college-educated population has been even more impressive, with the percentage of persons 25 years and over—both white and nonwhite—completing four or more years of college almost tripling during the same period.

This partial catalog of past accomplishments may seem of little consequence at a time when six and one-half million people are out of work and the inflation rate is still in the double-digit range. And yet, this may be just the right moment to stand back and take a clear-eyed view of the nation's longer term performance. Essentially, no other nation's economic system—capitalist, socialist or Communist—has been so successful in raising living standards and securing a better way of life, not just for a small minority or elite, but for all people.

For too long there has been a tendency to highlight the nation's alleged failures but give relatively little space or time to the impressive list of successes. The current crop of economic difficulties, which although formidable are by no means insoluble, must be viewed within the context of the unexampled gains extending back to 1947. In the final analysis the question is whether the long-run benefits of a dynamic, free enterprise business system outweigh the pain and distress associated with the current sharp economic recession. On balance, the present system deserves a clear vote of confidence, especially when the alternative of stultifying, growth-retarding government controls are carefully considered. The documented record of past achievement is one which reveals a vital and resilient economy, capable of staging a full recovery from the present sharp recession. But resumption of stable growth may necessitate something more than the widely expected stimulus of lower taxes and easier credit conditions. What may be even more essential is the realization that recent past performance justifies a full measure of faith and confidence in the nation's economic system.

THE DEFENSE MANPOWER COMMISSION: A $2.5 MILLION MISTAKE?

Mr. PROXMIRE. Mr. President, on October 28, 1969, I expressed my concern to the Senate about the composition and mission of a special blue ribbon defense panel formulated to study the management and procurement policies of the Pentagon. The biographical sketches of the panel members looked more like a composite of "Who's Who in Defense Contracting" than the supposedly objective, get-tough board so badly needed to zero in on serious DOD procurement and internal management problems.

At a time when cost overruns were becoming the rule rather than the exception, Secretary of Defense Laird and former President Nixon formed the panel to "restore public confidence in the military" and to "view the Department of Defense with a fresh, objective, and in-involved perspective."

Today, I will discuss another study panel: the Defense Manpower Commission—DMC. After 13 months of existence the Commission still appears to be looking for a mission and seems well on the way to becoming a $2.5 million mistake.

The Commission was a product of an amendment to the fiscal year 1974 Department of Defense authorization bill, cosponsored by my distinguished colleagues Senator HOWARD BAKER of Tennessee and Senator LLOYD BENTSEN of Texas.

Under section 702 of title VII of Public Law 93–155, the Commission was authorized to study and investigate the short- and long-term manpower requirements of the Department of Defense with special emphasis on increasing manpower productivity. Included in its mandate is a directive to give special consideration to the pay structure and the distribution of grades within each Armed Force; to comparative cost-efficiency analysis of the U.S. Armed Forces versus the armed forces of other countries; to improved recruitment and retention technique and methodology; and to a socioeconomic impact study of the composition of the "new" military.

It was anticipated by the Congress that this study potentially could provide significant cost-saving data for our military officials and experts and help increase the sagging productivity in manpower utilization in the Department of Defense. However, the glaring lack of progress by the Commission since its birth in November of 1973, compounded by overwhelming dominance of its membership and staff with former Pentagon personnel, has convinced this Senator that the Defense Manpower Commission has hardly made a dent in the pervasive manpower efficiency problem that plagues the Defense Department. In fact, until December 18, 1974, the Defense Manpower Commission had yet to make any kind of report on its progress. I think the time has come to ask "what has the Commission been doing with its $2½ million?"

Here are some of the things I believe the Commission should be looking at as part of its work program:

That in fiscal year 1974 approximately 68 percent of the 2,100,000 active duty military personnel served as commissioned warrant officers and noncommissioned officer/specialists—E4–E9. This breaks down to an average of two officers or noncommissioned officer/specialists on active duty for each private to be supervised.

That only 17 percent of the active duty military personnel in fiscal year 1974 were assigned to combat skill jobs.

That the 2.1 million fiscal year 1974 military force contained more three- and four-star generals and admirals, colonels, and Navy captains than were required on active duty in 1945 to command 12.1 million military personnel, and that approximately 80 percent of all U.S. generals and field grade officers served in noncombatant roles.

The point I wish to make here is that there are mountains of problems facing our Armed Forces in the area of manpower utilization and the Defense Manpower Commission was forced specifically to attack these difficiencies, in our Department of Defense. To date, the Commission has issued only one progress report, despite the House Armed Services Committee directive to produce several, periodic interim reports rather than one final report.

The minutes of the Commission meetings to date show that the Defense Manpower Commission is struggling to interpret its charter, and its work program indicates general confusion as to the direction it is to go. Most of all, the promilitary composition of the Commission and staff, coupled with its admitted lack of expertise in manpower management, is such that it must be asked if the Defense Manpower Commission can pursue its mission with the objectivity, neutrality, and experience that the Congress intended.

THE COMMISSION

Mr. President, one sure-fire way to avoid corrective action on known Government problems is to appoint a study commission to delay efforts to zero in on those deficiencies. And a foolproof way of assuring that such a delaying tactic is effectively implemented is to appoint commissioners who are sympathetic to the agency under investigation and who are, or were at one time, intimately involved in that agency's internal structure and policies.

In the case of the Defense Manpower Commission, this bureaucratic technique grew out of the threat of a substantial cut by the Congress in the budget of the Department of Defense.

From the chairman on down, the Commission is staffed with former military men, former civilian Department of Defense civilian personnel, or former employees of business or educational institutions enjoying a substantial portion of the Defense contract pie. The only two Commissioners with no extensive military profile also, unfortunately, have no particular expertise in manpower management or policy.

So what we have at the Commission are five members with extensive association with the Department of Defense,

a former Congressman with no experience in manpower policy, and a former radio station executive with a background in broadcasting. Are these the seven persons that the Congress must rely on to critically examine our military manpower needs? And what about the staff, that must supplement the efforts of the Commissioners?

THE STAFF

We all know the importance of staff impact on administrative decisions, but in the case of the Defense Manpower Commission staff, can we expect them to offer their superiors the type of unbiased support and "legwork" necessary to get at the heart of the problems?

Unfortunately, the composition of the staff is almost a carbon copy of the Commissioners with 10 of the 19 original professional staff members predominantly of military background and 2 others having worked closely with the Department of Defense in a civilian capacity.

It took the Commissioners almost 10 months and over 21 applicants before deciding upon an executive director for the Commission, a retired military officer.

The executive director pledged to round out his staff with a more balanced complexion. But a look at the new staff members reveals that three of the four hired had extensive military or civilian-DOD backgrounds, including one former officer of a company that received over $123,437,000 in Defense contracts since fiscal year 1972.

Finally, it is the feeling of this Senator, that if a study commission must inevitably be packed with Defense Department advocates, then at the very least, the advisory committee, that it relies on for its manpower expertise, should be totally independent of this intimate relationship with the subject of the study. Does the advisory panel meet this criteria?

THE ADVISORY PANEL

Of the 15-member consultant panel, 11 members have extensive backgrounds either in the military proper, or in civilian assignments with the Department of Defense. One panel member, for example, serves as a director for 13 companies, including 1 corporation which over the past 3 years has received $59,880,000 in Defense contract awards.

Of the four remaining panel members without significant background in a military or civilian-DOD capacity, one is a graduate of West Point, and another served for 25 years as attorney, consultant, and chief counsel for the House Armed Services Committee, and is a major general in the Marine Corps Reserve.

Mr. President, in summary, I in no way wish to demean these men and women of the Commission nor their staffs nor the advisory panel. Most of them have most impressive career histories with a record of meritorious service to their professions and their country. The point I wish to make is that the Defense Manpower Commission is dominated by partisans of the Agency being studied and the possibilities of an objective, candid, and critical examination of the manpower needs of the Department of Defense are in question.

The Commission, as I have mentioned, has made but one progress report to date. Nearly 14 months after its birth in November 1973, the Defense Manpower Commission still appears to be struggling to define its objectives. And the overwhelming military flavor of the Commission makes it questionable if the Commission can overcome, among other things, the agencywide syndrome of protecting upper level positions in the military bureaucracy.

In a letter dated December 23, 1974, I asked Chairman Curtis W. Tarr and his other six Commissioners to offer concrete proof to the American people that the $2.5 million invested in this Commission will yield twice that figure in savings derived from recommendations evolving from this study of our defense manpower situation. If the efforts to date of the Defense Manpower Commission are any indication of the final product, the American people may, once, again, have had their hard-earned tax dollars wasted in a fruitless effort by the Department of Defense to criticize and correct itself.

Mr. President, I ask unanimous consent to have printed in the Record a copy of my letter to Chairman Tarr and his reply.

There being no objection, the letters were ordered to be printed in the Record, as follows:

December 23, 1974.

Hon. Curtis W. Tarr,
Chairman, Defense Manpower Commission,
Washington, D.C.

Dear Mr. Chairman: Since the creation of the Defense Manpower Commission under PL 93–155, I have been concerned about the composition and proposed objectives of the study group.

The Congressional intent behind the formation of the Defense Manpower Commission was for the study commission to critically evaluate our military manpower requirements with an eye towards increasing productivity and saving tax dollars.

Under Section 707 of Title VII, the Commission was directed to "submit interim reports to the Congress and to the President" regarding its duties and its recommendations for corrective action by either the Administration or the Congress. So far no reports have been made. In fact, the minutes of your monthly meetings indicate that the Defense Manpower Commission is still struggling to interpret its mission and objectives—nearly 13 months after its birth!

At the same time, the Commission, its staff, and the AMC Advisory Panel are so overwhelmingly composed of former Pentagon employees that I fail to see how the Commission can possibly offer the "uninvolved, objective perspective" so necessary in tackling this massive manpower problem in the Defense Department.

Therefore, I present to you a challenge. The Defense Manpower Commission will cost the American taxpayer $2.5 million. I ask that you, as Chairman of the Defense Manpower Commission, show concrete proof that the findings of your study have or will yield, at the very least, a two-fold return in terms of savings derived from your recommendations. I feel sure that the average American wage-earner would be interested to see how his $2.5 million investment is working.

Thanking you in advance for your prompt response to this inquiry.

Sincerely,

William Proxmire, U.S.S.

Defense Manpower Commission,
Washington, D.C., December 30, 1974.
Hon. William Proxmire,
U.S. Senate,
Washington, D.C.

Dear Senator Proxmire: Fortunately your thoughtful letter of December 23rd arrived when I was here in Washington, spending a few days with my family during this Holiday season Members of the Defense Manpower Commission join me in expressing gratitude for your interest in our work. I understand we have kept you informed of our activities through copies of our minutes given to a member of your staff.

I was interested in your comments about the responsibilities of the Commission, because they are different from my understanding of the legislation and of the circumstances concerning the establishment of the Commission. Although I am sure members of Congress are interested in saving tax dollars, the requirement to determine how that might be done was not specifically placed upon the Commission in the legislation by which it was established. I am hopeful that we will be able to recommend ways to reduce expenditures or to provide dollars for allocation elsewhere. But my conception of our Commission responsibility is broader than you have indicated in your second paragraph.

Although the legislation establishing the Commission became law in November of 1973, the Commissioners were not appointed and sworn in until April 19th, 1974. Thus we have not been active for as long a period as you suggest.

The Commission has been required to submit interim reports from time to time. On December 18th I delivered the first of these personally to Senators Stennis, Fong, Hansen, Nunn, Baker and McClellan; Congressmen Hébert, Mahon, Montgomery and Nedze; to ten administrative assistants and Committee staff people on Capitol Hill; and to personnel in the White House. I made certain that all of the sponsors of the Amendment establishing the Commission had this information. At the same time I sent copies to the Speaker of the House Carl Albert, Majority Leader of the Senate Mansfield, Majority Leader of the House O'Neill, Minority Leader Rhodes, and OMB Director, Roy Ash.

Your letter also expressed serious reservations about the composition of our staff. At the start of this effort, I questioned in my own mind the degree that we should rely only on people who are thoroughly familiar with the system, recognizing that a newcomer would have the advantage of objectivity and the disadvantage of taking the time to comprehend a complicated structure before intelligent recommendations could be made. Our final appointments of 20 professionals represent a balance between these two extremes; the staff also includes two women and two Blacks. Fundamentally, however, the recommendations the Congress seeks can best be assured by the careful work of people who are bright and intellectually honest. After working carefully with these individuals, I feel we have made excellent selections.

Because of your interest, may I explain how we are organized and plan our work? Members of the Defense Manpower Commission are listed in Enclosure 1. Abstracts from the Law spelling out the duties of the Commission are found in Enclosure 2. Enclosure 3 includes information concerning our staff. To broaden the base of constructive criticism and to contribute to our overall understanding of the problems we face, we have formed a panel of distinguished consultants. I have listed them in Enclosure 4. Members of our staff have met twice with the panel, and they continue to work with these consultants on special projects.

The Commissioners believe that because of the continuing rise of Defense costs, particularly manpower costs, the Congress expects a response on several broad questions:

1. What are the true needs for manpower in the Department of Defense and in the Armed Forces, both now and during the next decade, including Active Duty and Reserve personnel, civilians, and personnel on contract?

2. How can this manpower best be recruited, trained, compensated, and utilized more effectively?

3. How can the management of Defense manpower programs be improved?

With a relatively small staff to approach such important issues, we recognize that we must meet our challenge in a unique manner. This awareness led to several conclusions. First, we are making maximum use of studies either completed or being undertaken. In particular, we know of relevant work that has been done in the Department of Defense, the General Accounting Office, and the Office of Management and Budget. Second, we rely on the Department of Defense for historical and current data, as well as other information that they can provide. We will utilize other agencies of the Government, as permitted in the legislation establishing the Commission, whenever it is to our advantage to do so. In short, we are utilizing what exists rather than duplicating effort. Initially we have concentrated on six broad issue areas, shown in Enclosure 5.

The reaction thus far to our effort from Congressional Committee staffs and other agencies of the Government has been favorable. But we do have a long way to travel on the road that leads to a finished report, and quite naturally I am more anxious to look ahead at what must be done than to remain content.

I am particularly pleased by your concern about the Commission being able to return benefits to the taxpayers that greatly offset the cost of our effort. During the last three days I have reviewed with members of our staff their current work, and it seems quite evident that we are working upon projects that can reap substantial rewards. But obviously the test would be adoption of new administrative methods or of new legislation based upon our recommendations. I can promise the recommendations, not the action based upon them.

A few years ago, when I had the good fortune to be your constituent in Wisconsin, I headed a task force on local government organization and finance. Although the recommendations of our task force were not immediately adopted in the State, they have provided the basis for some improvement since that time, and they also have provoked continuing discussion that can only accrue to the benefit of the citizens of Wisconsin. On larger issues, I hope that the Defense Manpower Commission can submit a report that will do much the same: suggest areas for improvement, changes that will reduce costs, and ideas that will encourage the discussion that paves the way toward a major restructuring that presently is needed in Defense manpower.

I thank you for your interest and send to you my best wishes for the New Year.

Sincerely,

CURTIS W. TARR,
Chairman.

INTERDEPENDENCE AND PRODUCTIVITY

Mr. MATHIAS. Mr. President, not long ago, a book by Jean Jacques Servan-Schreiber, entitled "The American Challenge," was quite popular in Europe and the United States. It outlined the revolutionary impact that American business was having upon Europe. It ascribed much of that impact to American management techniques.

In the past few years, however, the focus has changed somewhat. The United States is, quite correctly in my view, becoming increasingly concerned with the problem of productivity. A part of that productivity is management, and our management skills need constant reevaluation.

With a truly international and cosmopolitan outlook, two authors in the September–October Harvard Business Review have looked to Japan for clues as to what management techniques might be importable to the United States. The results of their inquiry are quite interesting and truly demonstrate the interdependence of our world.

I ask unanimous consent that a copy of this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MADE IN AMERICA (UNDER JAPANESE MANAGEMENT)

(By Richard Tanner Johnson and William G. Ouchi)

(NOTE.—"You get a feeling around here that they care about people, whereas in my previous work experience with U.S. companies they cared only about output and meeting the profit projections." So says an American manager in a Sony Corporation plant in the United States. Caring about people and other intrinsic elements of the Japanese management style, this article indicates, seem to result in high output and healthy profits too—even when the workers are American. From study of many Japanese and U.S. operations in the two countries, the authors show what elements of that style have been exported to this country and how they are working. From the extensive quotations of Japanese and Americans in these companies, the reader can form a basis for judging whether the oriental way of managing people could succeed in his organization. The authors offer their own judgment on the matter.

Since 1973, the authors have been making a comparative study of Japanese and U.S. businesses through a grant from the National Commission on Productivity. Mr. Johnson is associate professor of business administration at the Graduate School of Business, Stanford University. Mr. Ouchi is assistant professor of organizational behavior at that school, assistant professor in the department of sociology, and associate director of the Stanford Organization Research Training Program. Mr. Johnson is author of the recently published book, *Managing the White House,* and Mr. Ouchi has published articles dealing with organization control.)

On the assembly line of a U.S. company in Atlanta, Georgia, 35 American women put together transistor panels in a prescribed set of steps. In Tokyo, at another plant of this company, 35 Japanese assemblers use the same technology and the same procedure to manufacture the same part. The only real difference between the two lines is their productivity: the Japanese workers turn out 15% more panels than do their American counterparts 7,000 miles away.

In Sony Corporation's plant at San Diego, California, some 200 Americans make 17- and 19-inch television sets on an assembly line that is identical with Sony's typical assembly line in Japan. In this case, however, the similarity does not end there: the American workers produce as much for Sony in San Diego as the Japanese assemblers do for Sony in Tokyo.

What is more, our interviews with 20 other Japanese companies operating in the United States suggest that, in many instances, they are outperforming American companies in the same industries.

What contributes to the Japanese success, even when the workers are not Japanese? What can Westerners learn from these successes that they can apply to their own organizations? We can offer no quick and easy answers to these questions.

At any rate, there is no formula that could be applied in the United States to solve all productivity problems. In fact, some of the techniques described here as Japanese are part of the standard operating procedure of occidental companies. Other aspects of Japanese management are inseparable from the Japanese culture itself and cannot be used in America. Yet, with these disclaimers made, there is still truth in the observation that nowhere on this planet can we find a successful industrialized society whose managerial approach is as different from ours as is that of the Japanese. By examining these differences, this article tries to provide a fuller understanding of the strengths and shortcomings of our own approach.

But as the contrasting illustrations from Atlanta and San Diego indicate, the Japanese approach has some features that are exportable. In this article we try to identify the factors underlying the success of some Japanese companies in the United States, and we show how American employees have received Japanese methods.

EXPORTED MANAGERIAL STYLE

In our study we observed five important aspects of this managerial approach: (1) emphasis on a flow of information and initiative from the bottom up; (2) making top management the facilitator of decision making rather than the issuer of edicts; (3) using middle management as the impetus for, and shaper of, solutions to problems; (4) stressing consensus as the way of making decisions; and (5) paying close attention to the personal well-being of employees.

"BOTTOM-UP" PROCESS

The Japanese manager is not bound by Western traditions of authority and hierarchy. He believes that change and initiative within an organization should come from those closest to the problem. So he elicits change from below. He relies on his sales force and distributors to innovate in the marketplace and on his hourly workers, foremen, and middle managers to improve the production process.

In the Western world, authority is equated with hierarchical position. As a person rises in the organization, he has more to say about directing its course. He makes the key decisions and sets policy; on his judgment the welfare of the organization depends. The Japanese executive, on the other hand, is not burdened with having to be a "decision maker" in this Western sense. Nor is he, in the image of Andrew Carnegie or Alfred Sloan, expected to stake out bold new frontiers for his company and guide it with firmness and resolve. The Japanese top manager is a much less isolated figure. While the Japanese meticulously define the status of the leader, his role in the decision-making process is little differentiated from that of others in the organization. Rather, he sees his task as improving on the initiatives of others and creating an atmosphere in which subordinates are motivated to seek better solutions. So the responsibility for the corporation's success rests not just with him but with all employees.

As a consequence, the Japanese executive encourages a flow of initiative and information from lower levels up. When hired by a Japanese subsidiary in the United States, the American manager often undergoes an Alice-in-Wonderland experience. He finds himself in a topsy-turvy world in which many of the conventions of Western-style management are reversed. The bottom-up style of decision making can be very frustrating for an American accustomed to the issuance of orders from above. In one interview, an American manager in a Japanese-owned company said:

"Our Japanese executives seem to be waiting to rubber-stamp our initiatives, while the American executives are waiting for the Japanese top management to establish objectives, to say what we're trying to accomplish so we know what to initiate. I think we fall between the chairs. We've never received any objectives! Are they to increase sales? Make a profit? I've asked, but we get no answers!"

Most of the Japanese companies studied have an open-door policy; any employee has access to any manager, regardless of the chain of command. Such access is facilitated by the fact that the higher managers spend little time in their offices and much time in the large open areas filled with desks. A typical Japanese company in Tokyo has few private offices. Those that exist are for the convenience of high-level executives and for occasions when privacy is necessary.

The contrast with American places of work tells something about the differing attitudes toward employees in the two cultures. Many of the Japanese interviewed expressed the belief that the private office contributes significantly to the communications problems that seem to plague their American counterparts. Said the Japanese controller of Sony in the United States:

"Private offices are a status symbol in this country. I worry about those walls. Americans spend a lot of time in their offices and call people in. But there is a possible problem—it creates distance between managers and their subordinates and colleagues."

This distance inhibits the free flow of information and initiatives from below and can create situations in which a manager feels threatened by a subordinate's suggestion or criticism. In Japan, it is not considered an affront when a junior manager questions the opinion of his superior. As one American manager put it, "Americans will disagree with their boss rarely but violently; the Japanese disagree often but politely."

Senior manager the facilitator

To conclude that the Japanese executive is passive would be a mistake; he plays a key role in shaping decisions. When a subordinate brings in a proposal, the manager does not simply accept or reject it. Instead, he tactfully asks questions, makes suggestions, provides encouragement, and, if necessary, sends the person back for more answers. This sequence may recur, and if it does, the proposal generally improves each time. If the two ultimately decide that the proposal has merit, the manager refers it to others higher in the organization. They repeat the same questioning process.

Many U.S. managers feel that they will lose their subordinates' respect if they fail to set objectives and issue orders. They are puzzled by the complex web of relationships in Japanese organizations. For their part, Japanese managers feel that their system is more effective and more rewarding for all involved. One of them in the United States told us:

"In Japan, knowing the company is very important so that you understand what the company wants you to do even if they don't tell you what to do. The emphasis is on using your own mind and on figuring out in each situation what is best for the company. That is expected of you. But in the United States the American managers want objectives. That makes the situation seem simpler, but it means that you miss opportunities.

"All the Japanese here have had problems managing the Americans. The Japanese expect subordinates to think, but the American attitude is 'You tell me what to do and I'll do it—but it's your responsibility.' Some Americans in Japan say a Japanese company is like the army, but I think the American system is more like the army."

Middle manager the molder

Almost without exception, the Japanese managers we interviewed had endeavored to apply the "bottom-up" style of management in the United States. But they learned that this approach presupposes certain behavior on the part of the senior manager's subordinates. In the Japanese system, junior managers are not functional specialists who carry out their boss's directives; rather, they are both initiators, who perceive problems and formulate tentative solutions, and coordinators, who, in liaison with others in other functional areas, help shape a composite plan before presenting it to their superiors. When a Japanese national filled a middle manager's slot in the companies surveyed, the system usually worked smoothly. When an American was placed in such a position, however, he encountered difficulties more frequently. Many of the Japanese we talked to offered reasons for these difficulties. Here is a typical explanation:

"American managers rarely coordinate well. They lack human skills and seem much less familiar with other parts of the organization. A good Japanese-style middle manager knows everybody, and so he can get good information. That helps very much. When such a man makes a recommendation, all the coordination is already done. This process takes time; maybe a big decision takes half a year or more. And he spends a lot of his time on the phone, talking. He does not spend a lot of time on substance; his subordinates do that. But when he presents his proposal to the department head, all the functional areas are on board, and implementation is immediate once the decision to move is made."

To be sure, the concerns expressed by the Japanese are shared by many Western-style managers in U.S. companies. Even so, the Japanese in general place much more emphasis than do Americans on coordination skills. Japanese managers expect their subordinates to communicate outside the chain of command with other functional areas. Virtually every American we interviewed cited the stress on lateral communication as one of the major differences between Japanese and U.S. organizations.

Earlier we mentioned the large, desk-filled open areas in Japanese plants. A look at one of these provides a glimpse of the middle manager in action. Customarily he sits at a desk that adjoins a long working table. Around the table his subordinates—assistants, researchers, and secretaries—work side by side like college freshmen at the library during exam week. He does little during the day which his subordinates are not aware of. There are many such groups in the large room. Since each manager in just a turn of his swivel chair from another, he can easily turn to the next and discuss a problem that has arisen. Subordinates cannot help hearing what is going on—a further advantage. Moreover, since the department head is nearby, he too is kept in constant touch. Thus all are well aware of not only the issues facing the organization but also others' problems and perspectives.

In interviews, Japanese managers assigned to U.S. subsidiaries often expressed polite surprise at how weak in communications skills American managers are. They quoted Americans as complaining "I've spent my whole damn day on the telephone" and "I didn't get anything done because people kept interrupting me." What the American views as petty distraction from his job, the Japanese views as central to his job.

To a substantial degree, the Japanese have exported the open work setting to the United States. This arrangement offers several benefits other than the strictly motivational ones. First, it fosters consistency in behavior. The middle manager, for example, would find it difficult to treat subordinates differently from superiors. Second, it puts a premium on performance, since everyone is witness to everyone else's work. Finally, of course, it greatly assists evaluation of performance at all levels.

Decision by consensus

This communication process is the key to the slow and difficult way the Japanese have of working toward a decision. It is not really "participative management," the policy of having superiors and subordinates cooperate that has been adopted by many U.S. companies. Instead, it is an attempt to reach a consensus based on close coordination of the activities of each functional area affected by an issue.

For the Westerner, a decision process based on consensus conveys a host of Parkinsonian horrors—interminable meetings, endless squabbling, and ultimate indecision. Such is often the case in the Western system, where individualism is prized, where value is given to making decisions quickly, where a slow process of choice is often equated with inefficiency, and where interpersonal skills are not always well developed. For the Japanese, the consensus process has a very different connotation. Since management elicits initiative from below, arrival at a consensus does not require a chain of command in which each superior strives to leave his stamp on a proposal. Moreover, their meetings do not degenerate into adversary proceedings in which participants either strive for supremacy or accept less meaningful generalization as their only common ground.

Contrary to what many Westerners think, the Japanese system does not demand that all participants "sign off." Those who affix their seals to the document containing the decision are indicating their consent, which is not the same as their approval. Each participant is indicating satisfaction that his point of view has been fairly heard, and while he may not wholly agree that the decision is the best one, he is willing to go along with and, even more, to support it. In this manner, the Japanese sidestep the nearly impossible task of attaining unanimity. The Japanese vice president of a major Japanese bank put the idea of consensus this way:

"Many people review a decision, so it is very difficult for a manager to be arbitrary. We try our best to persuade others, but if others disagree, we think, 'Maybe my idea is wrong after all.' "

From the Japanese point of view, a group decision is important because in most cases there are many alternative solutions, any one of which might work. The group decision creates commitment of all parties to the chosen solution. The findings of behavioral science suggest that often the quality of commitment to a decision rather than the quality of some dimension of the decision itself is the most critical factor in the fate of a project.

This decision process is not without costs. On occasion, the Japanese are so concerned with their desire for smooth relationships that important issues fail to get a full airing. Managers who disagree with a proposal will sometimes remain silent rather than upset the relationships they have so carefully cultivated. Furthermore, the process unquestionably consumes a great deal of time. Consider the reaction of an experienced American banker who joined a large Japanese bank as its senior vice president for loans:

"When I walked in here, I couldn't see how they ever got off the ground—so damn methodically slow, I thought they must never get anything done. I was openly critical. But then I found they were already making money, and our little bank back in Salinas took years before it did. We've had rather careful scrutiny of every loan made—and we haven't lost a nickel since I've been here. The reason? In passing every decision through five people, you're bound to pick up the key issues. There's little chance of all five loan officers missing the forest for the trees."

Concern for the employee

When one thinks of how the Japanese treat their employees, the word *paternalism* may come to mind. It is well known that the Japanese organization traditionally offers its workers housing, extensive onsite recreation facilities, and lifetime employment. The Japanese operating in the United States have not come to that point yet; nevertheless, on both sides of the Pacific, concern for the whole employee—not for just his work performance—is a characteristic of the Japanese company. This concern, the Japanese are convinced, is essential to attaining productivity and high standards. It is, however, more than a matter of policy; it is a philosophy, as we can see in the remarks of the Japanese chairman of a ball-bearing manufacturer in the Midwest:

"U.S. firms rate employees solely on productivity and believe personal matters should be left at home. The Japanese believe we have to take the whole person into account and constantly ask ourselves, 'Is he happy?' A good foreman should be able to tell by an employee's face if he's happy or if he's had a fight with his wife, and so forth. I do not think this attitude is found in American firms. Perhaps that is why you have good relations among people within a particular work group but problems in vertical relations.

"My impression is that American companies lack spiritual quality. We're trying to instill that here. I go into the plant and talk to people. The president should know every worker by name. Of course, in the very large companies this is impossible, but at least two levels of management above the foreman should know the employee by name. To have spiritual and mental communication with the workers, you have to know their names. For example, an employee's wife had her seventh baby yesterday. I must be familiar enough with this situation to ask him, 'Is your baby due today or tomorrow?" People have to know they count."

A seasoned American worker at a Japanese electronics plant echoes this statement and reflects what many in other companies surveyed said: "The Japanese are concerned with the employee and the product. Americans just care about the product. The Japanese appear very much to want the employee to be comfortable. I never get the impression that the higher-up Japanese managers don't have time to talk. They usually seem concerned, whereas American bosses convey a 'you have to work, that's all there is to it' attitude."

CASE OF THE MISSING ADS

When several Americans came to work as department heads at one of the largest Japanese automotive firms in the United States, they had all been reading extensively on Japanese methods. Most of them had come from a major American automotive company, and all had had long experience in the industry. Inevitably, under the pressure of business in this fast-growing organization, they turned instinctively to their accustomed Western management techniques. They looked to the Japanese nationals at the top levels of the organization to give them direction, objectives, and priorities. But nothing was forthcoming; the Japanese were waiting patiently for initiatives from them.

After a time, upon the Americans' initiative, an organization chart was drawn up in an effort to settle where the authority and responsibility for decisions rested. It was a thoroughly American document, showing in neat boxes the various departments—parts, service, sales, marketing, planning, and so on—and the vertical relationships, with the Japanese president at the top and the lowest subdepartment on the bottom. The Japanese, who rarely draw up organization charts (and who, if they do, invariably make them read horizontally, like a flow chart), tolerated the American version as a "when in Rome" accommodation. But the chart did not solve the problems; the organization was not functioning well, and decisions were not being made.

For example, there was the simple problem of timing the availability of advertising media for the introduction of new models each year. In the U.S. market, this occurs in October; in Japan, new models are introduced in January. From the parent company in Japan, the advertising materials consistently arrived two to three months late for the introduction of new models. Year after year, the U.S. distributors complained about the delay. The American heads of the sales and advertising departments took the problem up the chain of command and requested their Japanese president to contact Japan and straighten the matter out. He did contact Japan—but the problem remained.

By chance, other developments in the organization provided an opportunity for overcoming the difficulty. Beginning in the early 1970s, top management in Japan began to assign a Japanese "coordinator" to each American department head. The coordinator, usually promising young executives in training for international assignments, were to become acquainted with U.S. business practices. It was not long before they began observing with dismay that the American managers tended to concentrate on their functional roles and to expect coordination between functions to occur at the senior management levels—as is the practice in many U.S. companies. To the Japanese, it appeared, as one put it, "as if the various departments were separate companies, all competing against each other."

As inveterate communicators, some coordinators began to pick up problems that cropped up in one department and share them with their counterparts in other departments. In this roundabout way, the Americans learned what their colleagues were doing. Coordination between departments improved.

Soon the Japaneses coordinators became aware of the difficulties typified by the late arrival of the advertising materials. True to their training in U.S. companies, the Americans were sending a report on every problem up the chain of command. Japanese top management in the United States would listen to each complaint, then send the American manager back for "more information." Translated, this meant "Come back with a proposal." Not comprehending, the Americans became increasingly impatient and frustrated. Occasionally, as in the case of the ads, the problems became so serious that the Americans insisted they be reported to Japan. The Japanese president obliged them, but the parent company remained unresponsive. The reason was simple: since Japanese organizations are unaccustomed to dealing with problems from the top down, the Tokyo organization did not know how to handle a letter from the president of the Japanese subsidiary in the United States to the president of the parent company in Japan.

Once the coordinators understood the nature of the difficulty, remedying the advertising materials lag and similar problems was easy. A coordinator would simply pick up the telephone and call somebody at his managerial level in Tokyo. In a few days an answer would come back—and in this manner the matter of the ads was resolved.

The coordinators took some time—and the American department heads a somewhat longer time—to realize that the neat boxes in the organization chart were not interacting. By U.S. standards, the Americans were doing a good job. But without American superiors to make decisions and weave the organization together, they found that their effectiveness was diminished. To bridge the gap in managerial styles, the coordinators created a shadow organization. In this manner they not only solved the coordination problem but also involved the parent organization.

MILLIONS OF JOHN WAYNES?

Most of the companies we studied had avoided crises in managerial styles—like the one just described—by placing Japanese in the key slots and relegating Americans to less vital positions. However, many Japanese managers expressed a desire to Americanize further by promoting U.S. managers into Japanese-held positions. But there are risks in trying to straddle the two cultures; perhaps an organization should try to remain predominantly American or predominantly Japanese. Without a fortuitous circumstance, such as the arrival of the coordinators at the U.S. auto plant, an organization that has attempted to compromise between the two styles may find itself functioning ineffectively.

Even so, the success of many Japanese operations in the United States—especially in terms of productivity—causes some businessmen to wonder whether they can borrow with profit from the Japanese style. In these days of growing worker disenchantment over assembly-line jobs and with frustration reaching into the managerial ranks, expressions of satisfaction from Americans working for Japanese companies cannot be dismissed lightly. A statement of one of Sony's American managers makes the point: "You get a feeling around here that they care about people, whereas in my previous work experience, with U.S. companies, they cared only about output and meeting the profit projections."

That the Japanese approach does not fit neatly into standard Western categories bothers some Americans. It is not truly permissive, given its emphasis on loyalty and performance and the social penalties for deviant behavior. Some might term it "humanistic"; yet Japanese managers express strong commitment to productivity and quality as goals. "Paternal" fails as a one-word description, in view of the Japanese emphasis on initiative from below.

For those who want to understand the Japanese approach—even more so for those who want to employ Japanese techniques in U.S. companies—it is essential to recognize the widely differing assumptions on which behavior in the two cultures is based. These differences are especially pronounced in the Japanese and American attitudes toward individuality and self-sufficiency. The American emphasis on these qualities contributes to competition and rivalry in organizational life. The American is buffeted by two streams of thought. On the one hand, the frontier spirit has instilled in our culture a belief in an individual's capacity to rise according to his abilities. Americans are exhorted to be like Horatio Alger—competitive and ambitious. On the other hand, by Constitution and by custom, ours is a culture dedicated to equality. But in a large American organization, the consequence of equality can be impersonalization; in the effort to treat all men equally, all men are often treated the same. As one Japanese executive observed, "You Americans treat each other like IBM cards—the only difference is where the punch holes are."

Thus the American's two belief systems forever bind him in tension. The contradictions of our culture lead either to rivalry and disruptive behavior, as individuals strive to "get ahead" by pursuing their interests aggressively, or to an inconclusive middle ground, where the pressure to "go along" makes it easy to avoid taking initiatives or hazarding risks.

The Japanese is faced with no such dichotomy. His assumptions about individuality enhance rather than detract from meaningful cooperative action. Moreover, a Japanese might be the first to point out that cooperative endeavor is what complex organizational life is all about.

He sees himself far less as an individual than he does as a part of his family or work group. His achievements as an independent entity are not as important to him as his role in furthering the well-being of people associated with him. In his work setting the company considers him as a whole person more than an American company would, for the Japanese are interested in how he fits in with the group in every way, not in just how he fits in as a producer.

It is possible that Japanese methods are more suitable for crowded organizational life than the Western approach. Obviously, the American system of management, with its emphasis on ingenuity and entrepreneurial genius, has many strengths. But it rests on the underpinnings of a frontier society that exalted individualism and had more than enough opportunity to go around. In just 50 years, we have changed from a society in which most people lived on farms to a nation in which most people live in cities. Many Americans work in large, complex organizations, in close contact with other people. Under these circumstances, perhaps some of our deep-seated American values are inappropriate for these times. The West could accommodate ten thousand John Waynes spread over the vast landscape. But millions of John Waynes employed under ten thousand corporate roofs may not, in the long run, prove workable.

As American society continues to mature and develop, its structure will inevitably change. It is possible that a basic alteration in the relationship between company and employee, from chairman of the board down to janitor, may occur. By studying how the Japanese manage a network of complex relationships, we can learn a great deal about how to live and work as a collectivity.

THREE SUCCESS STORIES

The Japanese companies whose experiences are described in this article have been generally successful in their U.S. ventures. Here are three examples, chosen because they reflect different approaches to capturing market shares in the United States.

In comparing two companies that assemble products in both the United States and Japan, we noted that Sony has achieved higher productivity. With the typical Japanese approach to personnel relations, the company treated its employees as "whole persons" rather than as so many productive units. Not only is productivity at Sony high, but also absenteeism and turnover are low: the averages at Sony's San Diego operation range from 25% to 50% below those at other electronics companies in that area. (All but a few of the Japanese companies in this study, incidentally, reported lower than average rates of absenteeism and turnover.)

In contrast to Sony, a Japanese producer to miniature ball bearings has handled its work force in a rather traditional American fashion. As a consequence, absenteeism and turnover at its operations have equaled or slightly exceeded the averages for like companies in its geographical area. It has single-mindedly pursued a constantly increasing share of the market. Underpricing its U.S. competitors and outperforming them in product quality and volume, the company has greatly increased its market share. It purchased its factory from a large manufacturer whom it had virtually driven out of the miniature ball-bearing field. At the time of the study, the American work force, most of which the company had inherited from its former rival, was operating on a three-shift basis to keep up with burgeoning demand.

In California, a Japanese bank has grown twice as fast as most small banks in the state. Its growth is only partly due to captive business from Japanese companies establishing subsidiaries on the West Coast. Americans working for this bank repeatedly refer to the aggressiveness and esprit de corps that the Japanese staff instills in fellow managers and workers. Management has kept operating costs low by maintaining staff levels at a minimum. Committed to avoiding layoffs during slow periods, the Japanese are motivated to avoid overhiring. So they carry on extensive cross-training. This gives the bank the flexibility to put anybody from the loan officer level on down into a teller's window to handle peak traffic rather than having to hire extra tellers to solve the peak-load problem. This practice enriches the hourly employee's work by providing him with a variety of different tasks he can perform. It also puts considerable group pressure on absentees and and eventually reduces absenteeism.

UNITED STATES NEEDS PROGRAM OF MANDATORY ENERGY CONSERVATION AND MASSIVE PRODUCTION TO COMBAT ENERGY-ECONOMIC CRISIS

ECONOMIC ANALYSIS OF FORD PROGRAM

Mr. JACKSON. Mr. President, a preliminary economic analysis of the Ford administration's economic and energy program, prepared at my request by the Interior Committee staff, shows what commonsense should tell all of us: the American consumer will lose if this package is enacted. Indeed, it will cost our citizens a minimum of $43 billion a year, and perhaps as much as $60 billion or more per year.

This dramatic cost to our citizens, Mr. President, is based upon conservative assumptions which do not include the indirect and secondary costs which will be added to food, clothing, petrochemicals, fertilizer, and other essential goods and services. This means even higher rates of inflation. At the same time, Americans will not recoup in reduced taxes what is lost in higher energy costs. This will have a deflationary impact upon an economy which is already at low ebb. The overall result? An intolerable perpetuation of rising inflation and deepening recession.

BURDENS TO CONSUMERS

This program will especially burden middle- and low-income Americans who will face higher prices for electricity, gasoline, heating oil, natural gas and for all goods and services.

The $43 billion cost of the administration's energy program to U.S. consumers amounts to over $200 for each man, woman, and child in the United States, over $800 for an average family of four. These costs will appear in direct purchases of energy which these families must make to fulfill basic shelter and transportation needs. They will also appear in the prices for all the other goods and services which families purchase as the effects of an increase of 60 cents or more per million Btu in the average price of primary fossil energy work their way through the economy.

These indirect energy costs are significantly larger than the direct costs which can be calculated. For example, under the administration's program, assuming a simple passthrough of costs which treats all petroleum products evenly, the price of gasoline and heating oil will rise by at least 10 to 15 cents per gallon. Thus, the annual cost of heating a home which requires 1,250 gallons of heating oil will increase by $125 to $180. The average home heated by gas would rise to at least $114.

While the costs to an average family for direct purchases of energy—gasoline, electricity, and heating fuel—amount to around $250, this grossly underestimates the total cost of the administration's program. Substantial indirect costs for energy used in transporting food, in materials for manufactured products and for all the other goods and services supplied by the economy will all be passed to consumers. With these costs included, the impact on our average family is over three times as high as the administration's estimate and far exceeds any rebates available under any administration tax proposal.

BENEFITS TO CORPORATIONS

The inequity of burdening the average American family with exorbitant price increases is compounded by the benefit which will accrue to energy producers in the form of windfall profits. Only $29 billion of this $43 billion reduction in consumer purchasing power would be absorbed by the Government in the proposed excise tax. More than $14 billion would go to energy producers in windfall profits, even if the so-called windfall profits tax suggested by the administration were adopted in this session of Congress. The administration's program is also riddled with loopholes which would for example, permit coal companies and natural gas producers to amass $12 billion in unearned income because they are not covered by the windfall profits tax.

An increase of the investment tax credit to 12 percent across the board, also proposed by the President, offers an indiscriminate windfall of $5 or $6 billion to industry, without regard to national needs or priorities, and without adequate consideration of its real effectiveness in bringing forth new plant and equipment investment that otherwise would not take place. Today, in a swelling recession, the capital plant of most industries is underutilized. To restore health in these industries, what is needed is not an investment tax windfall, but restored consumer income, consumer confidence and consumer demand to put their existing investments to work. In some other industries, especially the oil industry, high prices have created more investment incentive and more cash flow than industry can conceivably respond to. Here again the answer is not to pile tax windfalls on price windfalls—which the administration would further inflate, but to break the bottlenecks in certain industries that supply the energy sector with equipment and materials.

IMPACT OF ADMINISTRATION'S TAX AND PRICING POLICIES

It is not only these inequities, but the harmful effects of the administration's energy and economic proposals which alarm me. The program could turn recession into depression, and growing economic distress into catastrophe.

After letting both the economy and the Nation's energy position drift for months, the administration has now offered a program which contains the portent of economic disaster.

As the President himself said at the beginning of his Monday night television address,

> Higher energy costs compound both recession and inflation.

Nevertheless, he has announced a plan for oil and gas taxes which, together with the end of price controls on "old" oil and "new" natural gas, would take at least $43 billion per year from American consumers and increase the average price level of all goods and services by at least 3 percent.

The administration's tax reduction proposals, however, would return to the people only a part of the income confiscated in higher fuel prices, and the benefits of the 1974 tax rebate will go overwhelmingly to high income taxpayers and to corporations.

The proposed tax of $2 per barrel on imported and domestic crude oil, together with the decontrol of old oil, will in one stroke, increase the average price of petroleum products by at least 10 cents per gallon. The increase in the price of oil alone will take $24 billion out of the pockets of consumers.

The price increases set off by President Ford's policies would not be confined to gasoline, heating oil, and the many other goods and services which depend on oil for fuel or raw material.

Coal and natural gas are in short supply, and because imported oil is their principal substitute, the imported oil price tends to determine their prices, except where there are effective price controls.

Raising the price of foreign oil by $2 per barrel will also pull up the price of coal in new contracts by about $9 per ton, and will thereby directly take another $2.3 billion in the first year out of the disposable income of American consumers.

Higher prices for both coal and oil will find their way directly into electric bills, which will increase an average of 3.6 mills per kilowatt hour; they mean further distress for the hard-pressed electric utilities, many of which are already on the edge of insolvency and bankruptcy.

The administration again proposes to deregulate "new" natural gas supplies from price controls. This measure, coupled with the tax on crude oil, and decontrol of oil prices can be expected to increase the price of new gas, including gas from contracts that expire this year, more than four-fold, to as much as $2.40 per thousand cubic feet.

The price of that natural gas which is sold in the producing States and is not now under price controls, will also increase by two to three times, because of the higher price of oil, together with the influence of the decontrolling interstate gas. Even the "old" natural gas which would remain under price controls would be increased in price by a 37-cent excise tax, as was set forth in the President's fact sheet. The total increase in natural gas prices would be on the order of $17 billion in the first year, with further increases to come.

OPEC RESPONSE

The impact of the Ford energy tax and price policy on the American consumer and the economy would be nearly equivalent to last year's increases in oil prices. The reverberating shock waves from OPEC's oil price increases are still being felt in the form of rising unemployment, inflation and business bankruptcies. I doubt seriously that the United States and world economies can absorb another round of major oil price increases. The administration's tariff and excise tax is an open invitation to OPEC nations to further increase world oil prices by $2 per barrel. The OPEC nations contended before the embargo that the value of oil is whatever price the consuming nations charge their citizens, including taxes. There is no reason to believe that their position has now changed.

By allowing "new" oil prices to float to OPEC's artificial price last January, the administration legitimized the cartel's ruinous and arbitrary pricing decisions. The Nixon administration, in effect, turned control over pricing policy for 40 percent of U.S. oil over to the Persian Gulf nations.

Now, the Ford administration proposes to deregulate natural gas and lift all oil price controls. The administration is giving OPEC an opportunity to set the price for all U.S. energy—oil, natural gas, coal, and uranium. This is a dangerous, irresponsible, and ill-conceived policy.

ADMINISTRATION'S MARKET INTERVENTION

The President says his administration wants to return to the free market, that they oppose all energy price controls, rationing and the allocation of fuels.

In fact, the market interventions they have proposed in the forms of tariffs, crude oil taxes, excise taxes on natural gas, reduction in the corporate income tax, a massive investment tax credit and a price guarantee for energy producers, are major interventions in the free market which have cruel consequences for the average American consumer.

The administration should understand that we do not now have a free market in energy. We have not had a free market for decades. Import controls, prorationing and special tax privileges have prevented a free market. Today OPEC, not the marketplace, dictates price.

I hope we will soon see the day when market intervention in any form will not be necessary. Meanwhile, however, we will need transitional programs to insure equity, to maintain independence in foreign policy, and to establish the preconditions for restoration of market pricing.

A PROGRAM FOR MANDATORY CONSERVATION AND MASSIVE PRODUCTION

I believe a period of transition is necessary. A sensible program of domestic energy price controls, coupled with import quotas, strong mandatory energy conservation, and an equitable allocation system which is backed up by a gasoline rationing program, if necessary, makes more sense and will get results. An energy program of this nature, together with a meaningful tax rebate on April 15, would conserve energy and start to turn the economy around.

The Interior Committee will soon begin work on legislation I shall introduce to reduce our total oil consumption and dependence on Middle Eastern oil without huge price increases.

The President would be required, under this program, to announce a schedule of quarterly targets for a gradual, but definite and achievable reduction in oil imports. The States would have prime responsibility for conservation, and the President would have authority to use a variety of measures to encourage further fuel conservation or to restrict consumption directly in order to reach the import reduction targets.

The measures authorized by this bill are ranked in order of increasing severity, and include both programs for voluntary and mandatory conservation actions, gasoline rationing, petroleum allocations to reduce demand, and the imposition of import quotas. Whenever the measures enforced in one quarter failed to achieve that quarter's conservation target, the President would be authorized to implement a stronger program to reduce consumption in the next quarter.

Rationing, in turn, would be implemented only when it became clear that voluntary and mandatory conservation programs were insufficient to reduce imports by the planned amount. Import quotas and a demand restraining allocation system would be imposed as a last resort only if gasoline rationing did not do the job in the previous quarter.

Oil import quotas and the use of allocations to restrain demand as established under this plan would have to meet clear legislative guidelines for fairness and efficiency for all sectors of the economy and all regions of the country.

The old mandatory oil import quota system was a model of irrationality and inequity and was one of the causes of our present plight. Congress does not want to see that program revived and intends to pay close attention to the standards and machinery for administering any new quota system.

I do not like the prospect of mandatory conservation programs such as Sunday service station closings, reducing heat and lighting in public buildings, and ultimately the possibility of gas rationing if all else fails. There is, however, no other realistic or fair program which will reduce consumption.

Mr. President, a massive and concerted national effort to increase domestic energy production will minimize and eventually eliminate the need for resorting to the tough conservation measures I have outlined.

In his state of the Union message on Wednesday, President Ford specifically mentioned the ability of the American people to undertake a massive new production effort in World War II. I think his example is a good one.

If we bring to bear all of America's great resources—Federal and private, intellectual and material—we can do what is necessary. The great history of achievement of the War Production Board in World War II and the example cited by the President demonstrate what can be done in a period of national crisis.

I propose that we build upon that experience to deal with the energy and economic crises we now face. I propose establishment of a National Energy Production Board to mobilize on an urgent basis the material, the manpower, and the monetary resources necessary to reduce our energy dependence on foreign nations.

The National Energy Production Board would be composed of representatives of impacted States and communities as well as representatives from relevant Federal agencies. The Board would be mandated to—

Achieve rapid exploration of the Outer Continental Shelf consistent with environmental concerns and the legitimate interests of coastal States;

Develop the resources of the naval petroleum reserves in California as supplies for a usable national strategic oil reserve, and carry out a prompt exploration program in Naval Petroleum Reserve No. 4 on Alaska's North Slope;

Develop and implement a program to effect a speedy but environmentally safe conversion to coal of all electrical powerplants and heavy industrial plants now burning oil and natural gas;

Improve the existing energy transportation systems, including the reconstructoin of railroad beds to insure that western and Appalachian coal can be efficiently transported from the mines to the powerplants;

Assure maximum utilization of private and public plant capacity—for example, naval shipyards—in the manufacture of equipment essential to increase energy production such as offshore drilling rigs, mining equipment, drilling pipe, and other essential goods;

Remove bottlenecks arising in the implementation of new energy production systems; and

Direct scarce equipment supplies and parts to those domestic producers best able to increase energy output.

The creation of a National Energy Production Board with the authority to coordinate and use the resources of other Federal agencies and private industry would make an important contribution toward the increased production and efficient utilization of our domestic energy resources.

Many elements of the President's program were actively considered by the last Congress over strong administration objections. These measures include a national energy conservation policy, a system of strategic petroleum reserves, an energy facility siting policy, a Federal leasing policy for coal and the Outer Continental Shelf, and use of Elk Hills and Naval Petroleum Reserve No. 4 as a readily available national security strategic oil reserve.

Two of the major measures the President has requested were passed by the Congress but were vetoed last year. These measures—the surface mining control bill and standby energy emergency legislation—will receive priority consideration in the Congress.

I promise that on these measures I will work for early enactment on an urgent, bipartisan basis.

Mr. President, I ask unanimous consent that the Interior Committee's staff study of the cost of the Ford administration program and table A1-2 of the FEA report "Comprehensive Energy Plan: A Report in Response to Section 22, Federal Energy Administration Act of 1974," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COST OF FORD ADMINISTRATION ENERGY PROGRAM

[Prepared for Senator Henry M. Jackson, Jan. 15, 1975]

Summary: The energy taxes proposed by President Ford, together with the removal of price controls on "old" oil and "new" natural gas, would have a *minimum, direct* cost to consumers by the end of its first year:

Federal tax collections, $29 billion per year; additional profits to producers, $14 billion per year, equals total consumer cost of $43 billion per year.

The use of less conservative assumptions could easily increase these cost estimates to $60 billion or more.

The Administration's own estimate of the direct consumer cost of the program is $55 billion. Forty three billion dollars is an added cost equivalent to $810 per year for an average family of four; $55 billion is equivalent to $1,040 per family, and $60 billion is equivalent to $1,130 per family. These figures imply an average increase in the U.S. price level of 3 to 4 percent (GNP deflator).

Assumptions: These figures have been calculated on the basis of information in the White House Fact Sheet on The State of the Union message. Only direct increases in the prices of primary fuels have been considered, and conservative assumptions have been used throughout.

In particular:

(1) No account is taken of any "inflation multiplier"; that is, increases in primary fuel prices are assumed to be passed through by processors and distributors on a dollar-for-dollar basis rather than with a percentage markup;

(2) No costs have been attributed to structural dislocations in the economy resulting from the price increases;

(3) A price of $11.40 per barrel for currently uncontrolled oil is taken as the base price to which decontrolled oil, coal and natural gas prices would relate, rather than the price of imported oil, whose average is now about $13 per barrel. Using the latter figure (a not unreasonable assumption) would increase consumer costs by an additional $5.5 billion per year.

(4) No account is taken of the possibility that OPEC will further increase export oil prices in response to the import and excise taxes. Each dollar OPEC raised its prices would further increase U.S. consumer costs of energy an additional $10.4 billion per year by the end of the first year.

(5) Only 60 percent of intrastate natural gas contracts and 50 percent of coal contracts were assumed to expire or be subject to renegotiation during the first year. If all contracts not subject to price controls were renegotiated, consumer costs would increase an additional $8.2 billion per year. Using the $13 oil import price (rather than $11.40; see item (3) above) and assuming renegotiation of contracts would increase estimated consumer costs by an additional $14.6 billion per year.

The calculations for the conservative, base case are as follows:

	Annual (billions)		
	Consumer cost	Tax revenues	Producer profits
A. OIL			
1. Imported oil: tariff: 6.5 mmbd×365×$2	$4.8	$4.8	
2. Presently controlled oil:			
(a) Decontrol: 5.7 mmbd×365 ×$8.15	16.8		
(b) Excise tax: 5.7 mmbd×365 ×$2		4.2	
(c) Windfall profits tax: 5.7 mmdb×365 ×$4.83		10.4	
(d) Residual (a–b–c)			$2.2
3. Presently uncontrolled oil: Excise tax: 3 mmbd× 365×$2	2.2	2.2	
Total oil	23.8	21.6	2.2

Note:

Use of a $13 base price rather than $11.40 for presently controlled oil results in an additional consumer cost of $3.3 billion, of which $3.0 billion would be captured by the windfall profits tax, and $0.3 billion would take the form of producers' profit.

Each dollar per barrel increase in the OPEC price would increase consumer costs by an additional $5.5 billion per year, of which exporting countries (not limited to OPEC) would receive $2.3 billion, the federal treasury would receive $1.9 billion in windfall profit taxes (at a 90 percent marginal rate), and $1.3 billion would take the form of increased producer profit.

	Annual (billions)		
	Consumer cost	Tax revenues	Producer profits
B. NATURAL GAS			
1. New interstate gas:			
(a) Decontrol: 2.3 tcf×($2.21–$0.45)×1.11	$4.5		
(b) Excise tax: 2.3 tcf×$0.37× 1.11		$.9	
(c) Residual: (a–b)			$3.6
2. Intrastate gas:			
(a) Price increase: 0.6×11.0× ($2.21–1)×1.11	8.9		
(b) Excise tax: 0.6× 11×$0.37×1.11		2.7	
(c) Residual: (a–b)			6.2
3. Old interstate gas: Excise tax: 9.2 tcf×$0.37× 1.11	3.8	3.8	
Total natural gas	17.2	7.4	9.8

Note:

In the absence of regulation, the price of natural gas not subject to price controls would tend to settle at a level slightly less (because of higher transportation and storage costs for gas than for oil) than the price of an equivalent heating value of oil. We assume $13.40 per barrel and a differential between gas and oil of $0.25 per million BTU, so the gas price in new or renegotiated contracts would average about $2.21 per mcf.

Decontrol of "new" gas, including contracts which would expire in 1975, affects an estimated 2.3 trillion cubic feet. The new gas price is assumed to rise from $0.45 to $2.21 per thousand cubic feet.

Deregulation of new interstate gas will accelerate increases in the price of unregulated intrastate gas (which currently averages approximately $1.00 per thousand cubic feet). We assume that 60% of old intrastate gas contracts expire or are renegotiable in 1975, and that the new price is $2.21 per thousand cubic feet. Old intrastate gas amounts to 11.0 trillion cubic feet per year.

Production of natural gas liquids is equivalent in heating value to about 11 percent of (dry) gas production. Gas production and cost figures have been increased by 11 percent to account for natural gas liquids.

Use of $13 per barrel for oil as a base price for energy, rather than $11.40, results in an additional consumer cost for natural gas of $2.2 billion: $0.8 billion for new gas and $1.4 billion for intrastate gas. All of this increase would accrue as producer revenues.

Assuming all intrastate gas contracts are renegotiated to $2.21 per thousand cubic feet adds another $2.3 billion to accrued consumer costs for natural gas, while assuming both renegotiation and a $13 per barrel oil price adds $4.6 billion per year, all of which would accrue to producers.

Each dollar per barrel increase in the OPEC oil price would increase annual consumer costs for natural gas by an additional $2.5 billion, all of which will accrue in added profits to domestic producers. If all contracts are renegotiated, the additional cost to consumers for natural gas will be $3.1 billion per year for each dollar per barrel increase in the OPEC oil price.

	Annual (billions)		
	Consumer cost	Tax revenues	Producer profits
C. COAL			
Price increase: 0.5×540 mmt×4.27×$2	$2.3	$0.0	$2.3

Note:

Each dollar per barrel of crude oil corresponds to $4.27 per ton for bituminous coal and lignite (weighted average heat content). If 50 percent of contracts expire or are renegotiable in 1975, at current consumption rates 270 million tons per year would be affected.

Assuming all coal contracts are renegotiated upward by an amount equivalent to the value per BTU of the $2 tariff and excise tax on oil, the result would be an additional $2.3 billion annual cost to consumers for coal.

Each additional dollar per barrel in the OPEC oil price would add another $1.2 billion to the consumer cost of coal. If all coal contracts were renegotiated, each additional dollar per OPEC barrel would cost consumers an additional $2.3 billion for coal.

MINIMUM DIRECT COST OF FORD ENERGY PLAN, TAX REVENUES, AND ADDITIONAL PRODUCER PROFIT

	Annual (billions)		
	Consumer cost	Tax revenues	Producer profits
Total energy	$43.3	$29.0	$14.3

TABLE A1-2[1].—SUMMARY OF FEA ENERGY CONSERVATION PLAN AND SAVINGS FOR OIL IMPORT REDUCTION PROGRAM

Voluntary measures with major Federal program	Probable petroleum savings rate, thousands of barrels per day for each quarter in 1975 (1)	(2)	(3)	(4)	Maximum theoretical potential
DEMAND REDUCTION MEASURES					
1. Reduce energy use in industry: Institute industry conservation plans and energy audits	50	75	105	175	280
2. Reduce energy use in transportation:					
Institute auto fuel economy program	3	6	13	58	74
Enforce a 55-mile-an-hour speed limit	10	25	50	50	100
Encourage motorists to keep cars tuned	0	1	2	4	60
Encourage motorists to keep tires inflated to specification	1	2	2	3	10
Encourage use of public transportation	1	2	3	5	20
Encourage carpooling	7	10	25	40	400
Encourage activity and route coordination to conserve travel	28	95	127	130	220
Total transportation	50	141	222	290	884
REDUCE ENERGY CONSUMPTION IN BUILDINGS					
3. Environmental systems:					
Modify ventilation in commercial buildings	5	30	15	50	100
Induce building owners to thermally insulate and seal buildings	0	2	2	15	40
Encourage adjusting the space heating/cooling thermostat for broader comfort settings	38	15	22	102	410
Encourage economic home furnace/air conditioning maintenance	0	3	5	5	28
Urge reduction in commercial lighting	7	55	100	100	200
Urge turning off gas yard lights	0	8	8	8	35
Encourage energy conscious design by builders, architects, engineers	0	0	3	5	10
Total environmental systems	50	110	155	285	823
4. Consumer consciousness:					
Reduce hot water heater thermostat setting	0	5	5	5	23
Encourage cold water laundering	1	4	13	20	100
Urge maintenance and reduced use of residential appliances	9	16	27	35	107
Total consumer consciousness	10	25	45	60	230
Total buildings	60	135	200	345	1,053
Total demand rate reduction	160	350	525	810	2,217
FUEL SUBSTITUTION MEASURES					
5. Coal conversion in electric powerplants	0	35	75	115	235
6. Coal conversion in industry	10	25	50	75	75
Total fuel substitution rate	10	60	125	190	310
Total voluntary demand and fuel substitution savings rate with major Federal direction	170	410	650	1,000	2,527

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[1] Table extracted from FEA report.

TABLE III-1[1].—SUMMARY EVALUATION OF RECOMMENDED ENERGY PROGRAM

Action	Energy Savings	Import Reduction	Economic Cost/Benefit	Price Effects	Windfall Gains and Losses	Social Cost Benefit	Environmental Cost/Benefit	International Implications
1 million barrels per day import reduction in 1975.	Savings of 215 million barrels of oil equivalent in 1975; savings rate reaches 1 million barrels per day of oil equivalent by the 4th quarter of 1975.	Reduction of imports by 1 million barrels per day by the 4th quarter, 1975. The coal conversion savings, industrial savings and savings in buildings are expected to continue in future years as they are largely based on capital improvements.	If program is successful savings will reduce balance of payments outflow by over $2 billion in 1975. For each conservation action an investment cost may be incurred; however, dollar savings achieved through reduction in energy consumption permit	Some downward pressure on gasoline, distillate and residual fuel oil prices should result from less use of high-cost imports of crude oil. This would tend to increase consumption of these fuels relative to other energy forms. Upward pressure on	None apparent. Lower imports of foreign crude oil could reduce profits of importers.	Some adverse employment effects in petroleum marketing and distribution; social lifestyles slightly affected by energy conservation measures. Businesses producing energy conservation materials and services are benefited.	Increased use of coal as a result of coal conversion program may cause rise in emissions of pollutants. More efficient furnaces, better combustion, and less soot could result from investment in new coal burning equipment.	Reduced U.S. dependence on imports. Increased pressure on international Cartel to lower crude prices. Reduced vulnerability of American society and economy to interruption of foreign supplies.

Footnote at end of table.

TABLE III-1[1].—SUMMARY EVALUATION OF RECOMMENDED ENERGY PROGRAM—Continued

Action	Energy Savings	Import Reduction	Economic Cost/ Benefit	Price Effects	Windfall Gains and Losses	Social Cost Benefit	Environmental Cost/Benefit	International Implications
			eventual recovery of capital outlays.	materials and equipment prices could result from conservation measures in buildings and industry.		Program entails development of conservation ethic requiring more frugal living, austere comfort conditions and fewer conveniences.	In general, conservation lowers the environmental degradation associated with energy production and consumption.	

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[1] Table extracted from FEA Report.

MULTINATIONALS SEEK TO BLAME LABOR FOR ECONOMIC CRISIS

Mr. HARTKE. Mr. President, for many years I have been very concerned about multinational corporations. These international behemoths, which have grown far beyond our comprehension and control, have enormous impact on world trade and world politics. They have grown larger and more powerful than many nation-states. And that growth and magnitude is dangerous—dangerous because the multinational corporations are motivated by sales and profits rather than by statesmanship and public good.

One of my greatest concerns about the multinationals and the United States is the export of American capital, American technology, and American jobs. The multinational corporations are responsible for exporting hundreds of thousands of jobs which would otherwise be filled by working men and women in the United States. And now, the multinationals have advanced the ironical insinuation that laborers are responsible for the world economic crisis.

This assertion has been answered very effectively by Peter Bommarito, president of the United Rubber Workers, in his speech to the Japanese Federation of Rubber Worker's Unions. Excerpts from his remarks were published in the Leader, a publication of the Indiana State Building and Construction Trades Council.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was crdered to be printed in the RECORD, as follows:

MULTINATIONALS SEEK TO BLAME LABOR FOR WORLD ECONOMIC CRISIS

(By Peter Bommarito)

(NOTE.—Following are excerpts from an address by the president of the United Rubber Workers to the convention of the Japanese Federation of Rubber Workers' Unions.)

TOKYO, JAPAN.—We, as trade unionists, are faced by an unprecedented growth in the concentration of wealth and corporate assets in fewer people and fewer companies. This concentration of wealth has already reached the point where less than 3 percent of the largest companies of the western world already own over 75 percent of corporate property, and less than 2 percent of the world's population possesses over 60 percent of the wealth.

The greatest perpetrator of this trend is the multi-national company, that relatively new form of business enterprise with plants and other facilities spread through numerous countries. We are all too familiar with what these firms can do to juggle their production, prices, taxes, and profits in such a manner as to reap maximum benefit for the corporation—often without regard for the interests of the people or the countries in which they operate.

We in the United States have been feeling the effects of their activites for some time and I understand that Japan is now also being faced with runaway plants and other multi-national maneuvers. In almost every developed country of the world, individual workers, local governments, and even countries are being manipulated by the tremendous power wielded by these corporate giants.

Simultaneous with their global efforts to bring about a greater concentration of wealth in the hands of a few, these multi-national firms have declared open season on the labor movement.

Their method of operation is to place the blame on labor for the economic and social ills of our time. In this manner, they hope to divert the public's attention from themselves and their economic cannibalism. Labor is being accused for the present condition of the world's economy. Labor is being blamed for the ever-increasing inflationary spiral. Labor is blamed for the export of jobs and resulting unemployment.

In fact, labor is being blamed for the spread of the multi-national, the companies claiming that the only means industry has to offset the alleged monopolistic power of the labor movement is to export their production facilities to more labor-friendly countries.

If organized labor had the monopolistic power attributed to us, the multi-nationals would find it vastly more difficult to pursue their questionable objectives. But, while the labor forces of our two great countries suffer, the multi-national corporation, through its foreign subsidiaries, prospers.

And while thousands of skilled craftsmen, professional and blue-collar workers are idled by these plant closures, urgent economic and social needs in both our countries are being ignored. The fulfilling of these needs would provide useful employment in such vital areas as environmental control, revitalization of our cities, the production of much needed housing, education and health facilities.

Yes, labor is blamed for all the economic and social ills of the world, and the real culprits go merrily on their way reaping astronomical profits and snickering to their corporate selves. But this is not unusual, for the multi-national corporations think and act in a manner quite apart from anything we have ever seen before. They have discarded the concept of nations as separate political and economic entities, considering themselves citizens of the world, renouncing allegiance and loyalty to any one country.

The creed of the multi-nationals has become "company before country. . . ."

The implications of this philosophy are enormous and important particularly to those of us who are primarily concerned with the impact that it can have on an economic system and on the lives of the workers. It means the multi-national will not hesitate to do whatever is necessary or go wherever necessary to get the better deal.

It means that some countries will find whole industries leaving because corporate policy has found it desirable. It means international monetary crises precipitated by the multi-nationals. It means unemployment for some and a lesser standard of living for others. It means the loss of industrial payrolls, the erosion of the tax base in many communities, and the loss of potential sales for local merchants.

As you are well aware, the effect of massive job losses does not stop with the unemployed worker and this is especially true in the smaller communities where the local economy may depend upon a factory keeping its doors open. To the multinational though, corporate interests are separate and apart from any and all other considerations, a very unsettling fact to many people and to many countries around the world, a fact made even more distressing when one realizes that 51 of the world's largest economic entities are corporations rather than nations.

Fortunately, criticism of these corporate giants is mounting, and it is coming from many directions. But simply being aware is not enough. In view of the tremendous manipulative potential of the multi-nationals, nations of the world must make a commitment to regulate them before they pose even more serious threats to the economic and political security of the world.

THE RURAL/URBAN BALANCE

Mr. TOWER. Mr. President, while every segment of business and industry is suffering from the present economic condition, one particular industry of major importance to Texas and to the Nation continues to suffer unparalleled hardships. The livestock industry is faced with very low market prices, very high costs of production, and an uncertain future. While commodity prices in general are high today, the price of live cattle is uncommonly low. I know that many of my colleagues regularly correspond with livestock producers and feeders just as I do, and we are deeply concerned with the inequitable situation.

On October 22, 1974, I had the pleasure of addressing the Texas Cattle Feeders Association, those men and women who have made Texas the No. 1 cattle feeding State. Their concerns, as well as those of the producers, are real and justified and have a direct impact on every consumer in this country. I feel it is necessary to responsibly inform the general public of the adverse effects current economic conditions are having on food and fiber producers and therefore on the supplies of these essential commodities. As in any industry, continued uncertainties and hardships, as well as unsound regulations and unnecessary controls, will eventually lower supply dramatically. I feel it important that the general public be made aware that the interests of the producer and the consumer are one and the same—ample supplies at fair prices.

In the January 1975 issue of Feedlot Management there appeared an article which underscores several points I believe are important if we are to realize a strong and stable agricultural economy. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Rural/Urban Balance

(By John Tower)

There is a persistent and undeniable rumor that the "green revolution" is underpowered. Agriculture simply doesn't have the horses to get the job done. Sure, there are plenty of machines, enough manpower and sufficient land—but without greater say in the federal decision making process, the revolution just spins its wheels.

Two years ago, a check of U.S. House of Representative lawmakers found that more than 50% could not claim a single farmer in their constituency. These delegates continually emphasize that they vote their conscience, but they naturally tend to pay more attention to the earnest, though misguided, demands from their base constituency. It is a generally accepted belief that an elected official is a profile of the majority of the voters in a particular area.

Many U.S. congressmen, senators and representatives alike, are keenly aware of the plight facing U.S. farmers. One of these congressmen, Senator John Tower (R., Texas) recently told a group of cattle feeders in his home state that in his estimation "government is already too involved with your business . . . Governmental action was a very significant factor in upsetting the normal marketing patterns of the cattle industry and was a major contributing factor to the present problems cattlemen are facing." Certain governmental action, however, could benefit the feeder. In a letter to the President of the United States, Tower asserted that "Governmental action which will assist this industry is not only vitally necessary, but a matter of basic equity."

While there has been some positive legislative action designed to aid the cattle feeder (including the guaranteed loan program which has had limited success), it is far more likely that cattle feeders and all farmers will be on the defensive from the start. The incoming Congress will be even more urban oriented than the current one. Although some delegates, including Senator Tower, believe that "we need a consumer protection agency like we need a hole in the head," most congressmen will take a long hard look at this sure-to-be-proposed legislation. Its passage could signal even higher federal spending, adding fuel to an already rampant inflation.

Responding to the current trend toward consumer legislation, the Texas senator warned that "They (urban consumers) don't always think in terms of the long pull. They don't worry about cattlemen going out of business if the price at the counter is lower. They don't reckon with the fact that if you destroy the U.S. beef producing capacity you destroy self-dependency." Tower affirmed the belief that delegates to the House of Representatives and the U.S. Senate are heavily committed to urban sentiments. "It is very difficult to get beneficial farm legislation through Congress," he recently told Texas feeders. "To some of these urban congressmen it (farm legislation) simply means a rise in (retail) price."

Tower, along with a number of other agriculture oriented representatives, believes that a strong agriculture is most beneficial to the consumer.

An assistant to Senator Tower explained the situation this way. "Consumer pressures were responsible for the elimination of price support programs to the farmer. One of the single most important factors in the livestock industry which upset normal marketing patterns and greatly expanded uncertainty in the market was wage and price controls in the summer of 1973. At that time many realized the long range effects of these controls and predicted long range problems. Consumer pressures nearly succeeded in establishing a Consumer Protection Agency which was strongly opposed by the cattle feeding industry.

"We do not oppose the general theory, but rather the bureaucratic monster that would have resulted from that particular consumer protection legislation as written. We must remain aware of the public interests. The attitudes of consumers play an important role in the future of the cattle feeding industry and this must be recognized."

Tower, in his third term as a U.S. Senator, believes that in view of the comparatively small number of agricultural producers, including cattle producers and feeders, the Washington lobby effort is generally successful. The best approach to changing certain attitudes in governmental decision making is through people. The most effective single effort agriculture can make, Tower advised, is a good public relations program.

The majority of people are not aware of the problems facing agriculture due to the lack of opportunity to witness the situation first hand, Tower said. "Efforts to educate the public to problems and results these problems could bring would go a long way in eliminating anti-agricultural decisions."

The consumer does not realize, Tower insisted, that the farmer does not set a price on his product the way meat is priced in the store. By making it clear that the farmer does not receive the majority of money paid for food items in the store, we can provide a tremendous boost to the future of agriculture.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the most tragic case of genocide occurred in World War II when the Nazi regime exterminated over 6 million Jews while the world stood by all too passively. Yet it is important to remember that in the 20th century there have been several gruesome cases of genocide and all too often this pattern of global indifference has prevailed. In 1915, for example, 1,200,000 Armenian Christians were slaughtered by the Turks. In 1947, 1 million Moslems were eliminated by India. And in the last few years untold numbers of Biafrans were ruthlessly cut down by Nigerian armed forces.

History has been replete with repetitions of this heinous crime and the world response has been altogether inadequate. In the aftermath of World War II, U.S. delegates to the United Nations attempted to make a concern for human rights the cornerstone of this young international organization. To this end, they championed the Universal Declaration on Human Rights and were the guiding force behind the drafting of an international convention outlawing genocide. Unfortunately, their progress in this area was short lived since the Senate has steadfastly refused to ratify 29 of the human rights conventions submitted to it.

In the case of the Genocide Convention, the number of nations endorsing this important human rights document has risen to 84 with the accession of the tiny nation of Lesotho last November. The tragedy of our inaction rests with the fact that progress in developing international law is dependent upon international consensus. The failure of one of the two superpowers to endorse this convention—while most of our NATO and SEATO allies have—undermines progress in the human rights field and emasculates our own efforts in crises such as the Nigerian civil war. State Department officials have publicly stated that our diplomatic effort to forestall more bloodshed in that situation was undercut by our inaction on these treaties.

Mr. President, the nations of the world have heard our words. Now is the time to show them by our actions that we are not hypocrites.

Let us reverse our dismal record this session by prompt ratification of the Genocide Convention.

PROPOSED TAX EXEMPTION ON CERTAIN INTEREST EARNED ON SAVINGS DEPOSITS

Mr. SPARKMAN. Mr. President, recently, Dr. Saul B. Klaman, vice president and chief economist of the National Association of Mutual Savings Banks, addressed the 61st annual convention of the Mortgage Bankers Association of America in Miami Beach.

Among several topics he discussed was that of giving tax exemption up to a set amount on interest earned on savings deposits. The primary purpose of such exemption is to encourage a steady flow of savings to enable mortgage lenders to finance home buyers. Another and also very important aim of the proposal is to enable institutions to retain the savings deposits they already have and thus avoid dangerous disintermediation.

The arguments presented by Dr. Klaman are concise and convincing. They are also timely since they concern a topic that has been before Congress for some time. I have excerpted those arguments from his full text and ask unanimous consent that they be printed in the Record following my remarks. I agree with his presentation and commend it to the Members of the Senate for careful study and consideration.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

The Advantages of the Savings Account Tax Exemption Route

Short of licking inflation and reducing the extraordinarily high level of market interest rates, all proposed solutions to mortgage and housing market problems may generate adverse side effects. But it seems to me that, in the economic environment likely to prevail in the immediate years ahead, we will get the "biggest bang for our buck" with minimum adverse effects, through tax exemption for a portion of interest earned on savings accounts. There are several advantages of this proposal (recently approved overwhelmingly by the House Ways and Means Committee) over the Emergency Home Purchase Assistance Act, in part because it has a multifaceted impact. Let me summarize the significant plus factors of the tax exemption proposal.

(1) *It will stimulate aggregate savings in the economy.* The measurable increase in after-tax yields available to savers will encourage current savers to save more and non-savers to scratch hard to set aside funds. In support of the thesis that total savings can be stimulated by higher rewards, we have no less an authority than Federal Reserve Board Governor Robert C. Holland. He noted in a recent speech that, contrary to a major body of economic thought, high interest rates on savings (exempting a portion of interest from taxes would have the same effect as raising interest rates) encourage consumers to save more and spend less. Observing that ". . . the imperfect analytical tools of present-day economists cannot distinguish an average effect of interest rates on total personal spending and saving," he asked critically, "Is this another case of economists telling bankers and others that their common-sense instincts are wrong?" Governor Holland concluded that ". . . interest rates that are high enough can probably coax some expansion of total saving out of the economic system." And there is little disagreement that our economy needs more saving to finance capital formation.

(2) *It will halt disintermediation at mortgage-oriented thrift institutions.* This point needs little elaboration. But it deserves emphasis because disintermediation is clearly the cutting edge in our current mortgage market stress. Preliminary estimates of NAMSB and of the U.S. League of Savings Associations indicate that $17 billion of additional saving flows into savings banks and savings and loan associations would be generated by a tax exemption of $1,000 in interest on regular joint savings accounts. Some $14 billion of this amount would likely be channeled into housing credit. Moreover, the stimulus to savings growth at commercial banks and credit unions would generate an additional $4 billion in residential mortgage credit, according to our estimates. Thus, the total amount of new funds available to finance houses and apartments would be well over twice the total amount authorized under the Emergency Home Purchase Assistance Act.

(3) *The need for direct federal assistance would be lessened and capital market pressures reduced.* Quite clearly, the generation of so much additional private mortgage credit, would minimize or eliminate the need for funds authorized under the new federal emergency program or available under other federal mortgage programs. The federally-sponsored housing agencies have channeled about $13 billion of funds into residential mortgage markets in the fiscal year ending June 30, 1974. This represented fully 30 percent of the net increase in residential debt over this period, compared with only 15 percent in the preceding fiscal year. To raise this large amount of funds, the agencies borrowed over $11 billion in the capital markets, nearly one-fourth of total net capital market flows from July 1973 to June 1974. The market increase in private mortgage credit resulting from tax exemption of savings interest would minimize these capital market pressures and bring home mortgage interest rates down from their current celestial heights.

(4) *The net cost to the Treasury would be minimal or largely offset.* The cost to the U.S. Treasury of an exemption of $1,000 on joint savings accounts is estimated at $1.7 billion. Given the amount of mortgage funds expected to be generated, the increased employment, profits and activity in the housing, mortgage, real estate and related industries would produce enough tax revenues to offset this cost. In any event, the federal funds required to generate as much housing activity through the Emergency Home Purchase Assistance Act as through the tax exemption route, would be just as costly to the U.S. Treasury.

(5) *The tax exemption route is more than a one-shot deal.* The current federal emergency program is another in the long line of one-shot government injections of funds. The $3 billion authorization is expected to finance only 100,000 units at a maximum, and if the entire $7¾ billion is expended, around 250,000 units. These are not very impressive totals, given the current depressed level of home building. And we can certainly expect more one-shot injections during succeeding periods of credit stringency. While hardly the only answer, the tax exemption route will provide a more steady and adequate flow of mortgage funds over the years.

(6) *Private decision-making in the mortgage sector is left intact.* This is perhaps one of the primary advantages of the tax exemption proposal over the direct injection of federal funds. The rules of the game are not dictated from on high. Decision-making remains where it belongs—in the private sector where funds are channeled from the thousands of private mortgage institutions into areas of greatest demand. There are no arbitrary allocations of funds by type of property, geographic area or otherwise. There is no better way to assure a balance in mortgage market activity. If the structure of markets is changed and the traditional single-family house is in less demand than it was before, builders will not be forced into producing such units simply because money is available for nothing else.

WORLD POPULATION ESTIMATES

Mr. PACKWOOD. Mr. President, for over 3 years, I have placed in the CONGRESSIONAL RECORD monthly estimates of the population of the United States. In that period of time, the United States has grown by more than 5 million people. I might mention that this growth has occurred during a period when most Americans have been led to believe that we have reached a stabilized population and are no longer growing in numbers.

International figures on growth rates are more difficult to compile, but over the years the Population Reference Bureau here in Washington has done an excellent job in putting together summaries of population estimates for other nations around the world. The Environmental Fund has recently taken over this responsibility, and has just published its 1974 estimates. Because of the serious nature of this data and its relevance to the future of the world community, I ask unanimous consent that these figures be printed in the RECORD.

There being no objection, the figures were ordered to be printed in the RECORD, as follows:

WORLD POPULATION ESTIMATES, 1974

	Population estimates mid-1974 (millions)	Growth rate (percent)	Birth rate per 1,000 population	Death rate per 1,000 population	Population under 15 (percent) [a]	Per capita energy consumption [b] 1972	1958–63 population growth rate [c]	1965 birth rate [d]
World	4,061.1	2.2	35.0	13.0	37	1,984	2.0	36.0
Africa	411.4	2.6	47.0	21.0	44	363	2.3	46.0
North Africa	96.0	3.0	47.0	17.0				
Algeria[1]	15.9	3.4	50.0	16.0	47	533	2.2	47.0
Egypt[2]	38.0	2.8	44.0	16.0	42	324	2.5	42.0
Libya[3]	2.2	3.7	46.0	16.0	45	4,407	3.7	
Morocco	16.8	3.3	50.0	17.0	46	223	2.9	46.0
Sudan	17.4	3.1	49.0	18.0	46	119	2.8	53.0
Tunisia[4]	5.7	2.6	46.0	16.0	45	349	2.1	45.0
West Africa	132.4	2.4	49.0	25.0				
Cape Verde Islands	.3	2.6	37.0	11.0	42	116		
Dahomey	3.0	2.5	51.0	26.0	43	32	2.2	51.0
Gambia	.4	1.9	42.0	23.0	40	82	2.5	
Ghana	9.6	2.9	47.0	18.0	46	152	3.5	52.0
Guinea	4.3	2.2	47.0	25.0	43	96	3.0	55.0
Ivory Coast	4.7	2.3	46.0	23.0	44	309	3.5	52.0
Liberia	1.7	2.9	50.0	21.0	43	368	1.4	
Mali	5.5	2.3	50.0	27.0	44	23	3.5	59.0
Mauritania	3.1	2.1	44.0	23.0	42	100		
Niger	4.4	2.9	52.0	23.0	47	28	3.2	53.0
Nigeria[5]	79.8	2.5	50.0	25.0	45	66	1.4	49.0
Portuguese Guinea[1] (Guinea-Bissau)	.6	1.2	41.0	29.0	36	94		
Senegal	4.3	2.3	46.0	23.0	42	156	2.3	43.0
Sierra-Leone	2.7	2.2	45.0	23.0	43	135		
Togo	2.2	2.5	51.0	26.0	44	63	2.4	54.0
Upper Volta	5.8	2.0	49.0	29.0	43	12	2.1	49.0

Footnotes at end of table.

	Population estimates mid-1974 (millions)	Growth rate (percent)	Birth rate per 1,000 population	Death rate per 1,000 population	Population under 15 (percent) [a]	Per capita energy consumption [b] 1972	1958–63 population growth rate [c]	1965 birth rate [d]
East Africa	111.8	2.5	46.0	21.0				
Burundi	3.6	2.3	48.0	25.0	43	10	4.3	
Comoro Islands [1]	.3	2.3	44.0	21.0	44	49		
Ethiopia [6]	27.9	2.1	46.0	25.0	45	35		
Kenya [1]	13.5	3.2	49.0	17.0	47	165	2.9	51.0
Malagasy Republic	7.4	2.1	46.0	25.0	46	69	3.0	46.0
Malawi	4.9	2.4	49.0	25.0	45	53	3.9	
Mauritius	.9	1.7	25.0	8.0	40	151	3.1	38.0
Mozambique	9.0	2.0	43.0	23.0	40	144	1.7	
Reunion	.5	2.2	29.0	7.0	45	348		
Rhodesia	6.1	3.4	48.0	14.0	46	582	3.3	49.0
Rwanda	4.1	2.9	52.0	23.0	45	12	2.6	
Somalia	3.1	2.2	46.0	24.0	46	33		
Tanzania	14.7	2.5	47.0	22.0	44	72	1.9	
Uganda	11.1	2.6	43.0	17.0	43	66	2.5	45.0
Zambia	4.7	2.9	50.0	21.0	44	508	2.8	51.0
Middle Africa	44.0	2.1	45.0	24.0				
Angola	6.0	2.0	50.0	30.0	42	205	2.0	
Cameroon [6]	6.3	2.0	43.0	23.0	41	100	1.9	40.0
Central African Republic [6]	1.8	2.1	46.0	25.0	42	54	2.3	41.0
Chad	4.0	2.3	48.0	25.0	44	20		48.0
Congo	1.0	2.1	44.0	23.0	41	219	1.5	46.0
Equatorial Guinea	.3	1.3	35.0	22.0	35	180		
Gabon [6]	.5	.8	33.0	25.0	33	888	1.8	36.0
Zaire	24.1	2.2	45.0	23.0	44	86	2.2	43.0
South Africa	27.2	2.4	40.0	16.0				
Botswana	.7	2.1	44.0	23.0	43			
Lesotho	1.0	1.8	39.0	21.0	39			
Republic of South Africa	24.3	2.4	40.0	16.0	40	2,770	2.4	
Namibia	.7	1.9	44.0	25.0	40			
Swaziland [1]	.5	2.9	48.0	19.0	49			
Asia	2,345.6	2.6	40.0	14.0			1.8	38.0
Southwest Asia	85.6	2.8	43.0	15.0			2.4	42.0
Bahrain [1]	.2	3.1	50.0	19.0	45	5,117		
Cyprus	.7	1.5	23.0	8.0	33	1,705	1.1	25.0
Gaza [1]	.4	3.1	46.0	15.0	50			
Iraq	10.7	3.3	49.0	16.0	48	642	2.8	49.0
Israel	3.2	2.0	27.0	7.0	33	2,712	3.5	25.7
Jordan	2.6	3.3	49.0	16.0	46	331	2.9	45.0
Kuwait [4]	1.0	9.8	43.0	7.0	35	10,441	10.7	40.0
Lebanon	3.1	2.2	27.0	5.0	43	889	3.0	
Oman [1]	.7	3.1	50.0	19.0	45	182		
Qatar [1]	.1	3.0	49.0	19.0	45			
Saudi Arabia	8.6	2.7	50.0	23.0	44	900		
Syria [1]	7.2	3.4	48.0	14.0	46	455		
Turkey	38.9	2.5	40.0	15.0	42	564	2.9	45.0
U. A. Emirates [1]	.2	3.1	50.0	19.0	45			
Yemen Arab Republic	6.4	2.7	50.0	23.0	44	13		
Yemen, People's Republic	1.6	2.7	50.0	23.0	44	423		
Middle South Asia	844.1	2.7	44.0	17.0			2.1	42.0
Afghanistan	18.7	2.4	51.0	27.0	44	38		49.0
Bangladesh [7]	77.3	3.0	47.0	17.0	45	32	2.8	
Bhutan [1]	1.0	2.3	47.0	24.0				
India [6]	619.4	2.6	43.0	17.0	42	186	2.3	41.0
Iran	32.2	2.8	45.0	17.0	45	954	2.4	45.0
Maldive Islands	.1	2.7	50.0	23.0	44			
Nepal [6]	12.4	2.2	45.0	23.0	42	15	1.6	49.0
Pakistan [8]	69.2	3.3	51.0	18.0	44	158	2.8	51.0
Sikkim	.2	1.3	29.0	16.0	40			
Sri Lanka	13.6	2.2	30.0	8.0	40	146	2.5	38.0
Southeast Asia	318.3	3.0	45.0	15.0	44		2.4	42.0
Burma	30.2	2.3	40.0	17.0	40	58	2.1	46.0
Indonesia [6] [9]	133.7	2.9	48.0	19.0	45	133	2.3	45.0
Khmer Rupublic [6] (Cambodia)	8.0	2.9	45.0	16.0	45	25		50.0
Laos	3.3	2.5	42.0	17.0	42	79	2.4	
Malaysia [1]	12.2	2.8	38.0	10.0	44	492	3.2	41.0
Philippines [6]	43.3	3.3	45.0	12.0	43	311	3.2	47.0
Portuguese Timor	.6	1.8	43.0	25.0	42	10		
Singapore [7]	2.2	1.7	22.0	5.0	38	885	3.2	33.2
Thailand [6]	41.0	3.3	43.0	10.0	46	305	3.0	45.0
Vietnam, Democratic Republic of [10]	23.8	2.9	45.0	16.0	41	140	3.4	
Vietnam, Republic of	20.0	3.5	43.0	8.0	41	287	3.4	44.0
East Asia	1,097.6	2.3	36.0	13.0	35		1.4	33.0
China [10]	917.0	2.4	38.0	14.0	36	567		
Hong Kong [4]	4.2	2.4	19.0	5.0	36	1,034	4.7	29.4
Japan [11]	109.8	1.3	20.0	7.0	24	3,251	.9	17.7
Korean, Dem. Republic	15.5	2.8	39.0	11.0	46	2,161		
Korea, Republic	33.7	2.5	36.0	11.0	42	827	2.8	42.0
Macau [1]	.3	2.3	31.0	8.0	38	305		
Mongolia	1.4	3.1	42.0	11.0	44	963	3.2	
Taiwan [1]	15.7	1.9	24.0	5.0	39		3.5	34.5
North America	240.0	1.1	15.0	9.2	27	11,256	1.6	22.0
Canada [4]	22.5	1.5	15.7	7.4	29	10,757	2.0	23.5
United States of America [12]	217.5	1.0	14.9	9.4	27	11,611	1.6	21.2

Footnotes at end of table.

WORLD POPULATION ESTIMATES, 1974—Continued

	Population estimates mid-1974 (millions)	Growth rate (percent)	Birth rate per 1,000 population	Death rate per 1,000 population	Population under 15 (percent) [a]	Per capita energy consumption [b] 1972	1958–63 population growth rate [c]	1965 birth rate [d]
Latin America	319.0	2.7	38.0	11.0	43			
Middle America	76.2	2.9	43.0	14.0			2.8	
Costa Rica	1.9	2.6	32.0	6.0	44	478	4.5	48.0
El Salvador	4.0	3.6	44.0	8.0	47	199	3.2	46.8
Guatemala	5.7	2.8	42.0	14.0	44	260	3.2	47.7
Honduras	2.9	3.2	49.0	17.0	47	231	3.2	47.0
Mexico [6], [13]	57.9	2.8	4.50	9.0	48	1,318	3.2	45.4
Nicaragua [1]	2.2	3.2	47.0	15.0	47	408	2.9	47.0
Panama	1.6	3.0	36.0	6.0	43	848	3.2	40.4
Caribbean	26.4	2.3	34.0	11.0	41			
Bahamas	.2	2.3	29.0	6.0	44	4,965		
Barbados	.2	1.3	22.0	9.0	37	1,113		
Cuba	9.1	2.1	27.0	6.0	37	1,168	1.8	33.0
Dominican Republic	4.6	3.4	49.0	15.0	47	261	3.6	51.0
Guadeloupe	.4	2.2	29.0	7.0	42	548		
Haiti	5.3	2.4	44.0	20.0	42	28	2.3	
Jamaica	2.0	2.8	35.0	7.0	46	1,568	1.8	39.9
Martinique	.4	1.8	25.0	7.0	42	278		
Netherlands Antilles	.2	1.7	23.0	6.0	38			
Puerto Rico	3.0	1.7	24.0	7.0	36	4,191	1.9	30.2
Trinidad and Tobago [1]	1.0	1.7	24.0	7.0	41	4,201	3.2	34.5
Tropical South America	175.5	3.0	40.0	10.0				
Bolivia	5.5	2.5	44.0	19.0	43	210	1.4	43.0
Brazil	110.7	2.8	38.0	10.0	42	532	3.1	45.0
Colombia	24.0	3.4	45.0	11.0	47	610	2.2	44.0
Ecuador	7.0	3.4	45.0	11.0	47	296	3.1	47.0
Guyana	.8	3.1	38.0	7.0	46	1,012	2.8	42.6
Peru	15.4	3.1	42.0	11.0	44	622	2.8	45.0
Surinam	.4	3.4	41.0	7.0	46	2,211		
Venezuela	11.7	3.3	41.0	8.0	45	2.473	3.4	47.0
Temperate South America	40.9	1.6	26.0	10.0				
Argentina	24.5	1.2	22.0	10.0	29	1,728	1.6	21.7
Chile [14]	10.6	2.1	30.0	9.0	40	1,516	2.3	33.7
Paraguay	2.8	3.4	45.0	11.0	46	119	2.4	47.0
Uruguay	3.0	1.3	23.0	10.0	28	906	1.2	23.0
Europe	470.7	.5	15.4	14.9	26		.9	19.0
Northern Europe	81.3	.3	14.2	11.4				
Denmark	5.1	.4	14.3	10.1	23	5,567	.7	17.6
Finland	4.7	.3	12.2	9.3	24	4,928	.8	17.6
Iceland	.2	1.4	20.7	7.1	32	4,182	1.9	25.1
Ireland [15]	3.1	1.2	22.5	11.0	31	3,303	.1	22.5
Norway	4.0	.6	15.5	10.1	24	4,639	.8	17.9
Sweden	8.2	.3	13.5	10.5	21	5,739	.5	16.0
United Kingdom	56.0	.2	13.9	12.0	24	5,398	.7	18.8
Western Europe	151.9	.3	13.2	10.3				
Austria	7.5	.1	12.9	12.3	25	3,608	.6	18.6
Belgium	9.8	.1	13.3	12.1	23	6,468	.5	17.2
France	52.4	.6	16.4	10.7	25	4,153	1.3	18.1
Federal Republic of Germany (including West Berlin)	61.9	–.2	10.2	11.8	23	5,396	1.3	18.5
Luxembourg	.3	–.1	10.9	12.0	22	(e)	1.0	16.0
Netherlands	13.5	.6	14.5	8.2	27	5,711	1.4	20.7
Switzerland	6.5	.5	13.6	8.9	23	3,620	2.1	19.2
Eastern Europe	105.7	.6	16.5	10.5			.7	18.0
Bulgaria	8.7	.7	16.3	9.4	22	4,130	.9	16.1
Czechoslovakia	14.7	.7	18.8	11.5	23	6,844	.7	17.1
Democratic Republic of Germany (including East Berlin)	16.9	–.3	10.6	13.7	21	5,995	–.2	17.2
Hungary	10.5	.3	15.0	11.8	20	3,279	.4	13.1
Poland	33.7	.9	17.4	8.0	25	4,556	1.3	18.1
Romania	21.2	1.0	19.0	9.0	25	3,150	.8	15.2
Southern Europe	131.8	.9	17.7	8.7			.8	21.0
Albania	2.4	2.5	33.3	8.1	42	667	3.2	37.8
Greece	9.0	.7	15.5	8.6	25	1,607	.7	19.0
Italy	55.2	.6	16.0	9.9	24	2,796	.6	20.0
Malta [4]	.3	–.3	16.8	9.1	26	1,305	.4	19.8
Portugal	8.6	1.0	20.3	10.5	28	908	.7	23.7
Spain	35.2	1.1	19.2	8.5	28	1,765	.8	22.2
Yugoslavia	21.1	.9	18.0	8.7	27	1,610	1.1	20.8
U.S.S.R	252.0	.9	17.7	8.7	29	4,767	1.7	19.6
Oceania	20.7	1.7	23.0	9.7	33	4,275	2.1	27.0
Australia [4]	13.4	1.7	18.9	8.5	29	5,701	2.1	20.6
Fiji	.6	2.3	27.8	5.3	45	518		
New Zealand [4]	3.0	1.5	20.5	8.5	32	2,887	2.2	24.1
Papua/New Guinea	2.7	2.4	42.0	18.0	47	188		
Smaller Islands	1.0							

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[a] From "World Population: 1973," International Statistical Programs Center, U.S. Bureau of the Census, May 1974.

[b] Quantities in kilograms of coal equivalent. From the United Nations "Statistical Yearbook," 1973, table 137.

[c] From 1965 "Population Data Sheet," Population Reference Bureau.

[d] Includes population (totaling 1,740,000) of smaller countries not listed here.

[e] See Belgium.

EXPLANATORY REMARKS

This fact sheeet was originally prepared for our own information. We found the results of our investigations so interesting, and in some cases so startling, that we decided to circulate them to others who might also find them useful.

All population figures are estimates, but some estimates are far better than others. The official population figures of many countries seem (and are) highly improbable. Even very sophisticated censuses do not achieve perfection. For example, the official population of the United States on July 1, 1974 was reported by the Bureau of the Census to be 211,909,000. This estimate is based on the official census of 1970, which showed a population of 203,235,298. During the years following a census, the official figure is changed to reflect births, deaths, and net migration. If these computations are correct, our population at any given time could be readily obtained—provided that we accurately counted everybody in the first place. Unfortunately, we never do; a few are counted twice, but a much larger number are missed altogether.

Following recent U.S. censuses, very sophisticated analytical and statistical work has been done at the Bureau of the Census to determine how many people were, in fact, not counted. Eventually this figure (usually showing about a 5 million undercount) is published, but it is *not* added to the official figure. Accordingly, the official population of the United States on July 1, 1974 (211.9 million) did not include the verified undercount of 5.3 million, nor did it account for those who immigrated illegally. The latter, we cannot count—we cannot even find—but they are here. (The U.S. Immigration and Naturalization Service estimates their number, in the last twelve months alone, to be between a million and 3 million.)

To a greater or lesser extent every other country has similar problems. In most developed countries, nearly all births and deaths are recorded. In the rest of the world, about two-thirds of all births and deaths are never recorded. (In Asia, the United Nations reported that in 1963, only 7% were recorded; in Africa, only 4%. The situation has not changed greatly since.)

In compiling these world population data, we have carefully consulted the official figures given by each country, the official U.N. estimates and the world population data for 1973 published by the International Statistical Programs Center of the United States Bureau of Census. Generally, we have used the U.N. estimates. Where we have found it necessary to deviate from these estimates, a footnote will explain why we have done so, together with the alternate sources used. See, for example, footnote No. 10 on China.

The reader is free to make his own choice.

FOOTNOTES

[1] All 1974 population data for this country derived from *World Population: 1973*, International Statistical Programs Center, U.S. Bureau of the Census, May, 1974.

[2] Birth and death rates taken from U.N. *Demographic Yearbook* for 1970, because these figures correspond almost exactly with those reported in *Egypt: Population Problems and Prospects*, edited by Abdel R. Omran, Carolina Population Center, Chapel Hill, N.C. 1973. The U.N. estimates in the 1972 *Yearbook* are 34.6 and 13.1 U.N. *Population and Vital Statistics Report*, Series A. Vol. XXVI, no. 3 makes no estimates. The U.N. birth rate, published in 1972, seems impossibly low. It would require a drop of 10 per thousand in a period of 10 years in a Muslim country. Birth rates in most Muslim countries continue to range between 45 and 50.

[3] U.N. estimate of growth rate is 3.0, but the actual growth of the population reported by the U.N. from 1964 to 1972 was at the rate of 3.7.

[4] Growth rate adjusted for net migration.

[5] Population reported in the 1972 U.N. *Demographic Yearbook* is 61 million, but the 1974 Nigerian Census indicates a population of "close to 80 million." The Nigerian Embassy gives the figure of 79.8 million.

[6] Population total derived from *World Population: 1973*, International Statistical Programs Center, U.S. Bureau of the Census, May 1974.

[7] All figures derived from U.N. World Population Conference, *Summary Country Statements Concerning Population Change and Development*, June 21, 1974.

[8] U.N. *Population and Vital Statistics Report, Series A*, gives a birth rate of 36 and a death rate of 12. We have used figures from the 1972 *Demographic Yearbook*, because they are reinforced by the figures given in U.N. World Population Conference, see footnote no. 7.

[9] Includes population of West Irian.

[10] According to the 1972 U.N. *Demographic Yearbook*, the midyear population of China would be 829.8, with a growth rate of 1.7. We can find no student of Chinese population who agrees that these figures are realistic. Traditionally, birth and death rates in China have been high. The present regime claims to have made tremendous efforts to lower the death rate, and there is no indication that the birth rates were significantly lowered before 1970, if then. Even if we assume that near-miracles have been accomplished in the past 4 years, China would still have experienced 2 decades of high growth rates, unless, unlike most other Asian countries, it failed in its attempt to lower the death rate.

There has never been a reliable count of the Chinese. Under the present regime, there has been only one attempt at a census, and that was 21 years ago. By sophisticated census standards, it was primitive, and almost surely produced an undercount. However, on June 30, 1953, the Peking government reported that the population was 582.6 million, growing at an estimated rate of 2.29. That growth rate is believable for 1953. But while most other Asian countries were experiencing rising growth rates during the succeeding 20 years, the U.N. *Demographic Yearbook* has reported a decline. If the growth rate had remained the same, the population of China would be 932 million by mid-1974.

In 1956, the Chinese published an estimate of 627.8, and a growth rate of only 2.14. If this had continued, China's population would now be 919 million.

If the Chinese had been as successful as other Asian countries in lowering the death rate, the population of China would be well over 1 billion.

The distinguished authority on the subject, Dr. John S. Aird, Foreign Demographic Analysis Division, of the U.S. Bureau of the Census, has recently made 4 projections for the Joint Economic Committee of the U.S. Congress. These projections, based on various fertility assumptions, gave a low figure of 915.2, and a high figure of 918.2 as of July 1, 1974.

Aird also has calculated the population of China assuming a 5, 10 and 15% undercount in 1953. Assuming a 5% undercount, the January 1, 1974 population could be as high as 944 million; with a 10% undercount, it might be as high as 996 million, and with a 15% undercount, it would be 1.055 billion. ("Population Growth," reprinted from *Economic Trends in Communist China*, ed. by Eckstein, Galenson, and Liu; Aldine Publishing Co., 1968).

[11] Including Ryukyu Islands.

[12] The population of the United States on July 1, 1974 was, officially, 211,909,000, but this figure does not include the undercount of 5.3 million revealed since the 1970 census. Also, it takes no account of the number of illegal immigrants who have entered the country in the past year. Immigration officials estimate that there are from 1 to 3 million of these each year—about 90% of them from Mexico. As the lowest estimate we could find anywhere was 400,000, we have also added that number to the official population figures for the United States and subtracted it from the population of Mexico.

This requires that the U.S. population growth rate be increased from .8 to 1.0 and that the Mexican growth rate be decreased from 3.6 to 2.9.

[13] Population and growth rate adjusted for emigration—see footnote no. 12.

[14] Population base from 1970 U.N. *Demographic Yearbook*, reinforced by CELADE estimate for 1970, published in *Regional Urban Population Growth Trends*, Robert W. Fox, Inter-American Development Bank, Washington, D.C., 1974.

[15] Growth rate not adjusted for net migration, because it seems to have become negligible. See *U.N. World Population Conference Summary Country Statements Concerning Population Change and Development, Addendum*, July 16, 1974.

[16] Population from official 1974 North Vietnam Census as reported to U.S. Census Bureau, September 18, 1974. Census reveals that average rate of population growth from 1960 to 1974 was 2.9%. The report notes that high birth rates have continued throughout the period. As public health measures have lowered the death rate, the population growth rate must have increased, in which case, in the early 1960's it was well below 2.9, and is now well above it. The U.N. *Demographic Yearbook* estimated the average growth rate 1963–1970 as 2.4 and the average growth rate 1963–1972 as 2.3—as so often happens, a considerable under-estimate.

CORRECTION OF ERROR IN THE JOINT STATEMENT OF MANAGERS ON THE FOREIGN ASSISTANCE ACT OF 1974

Mr. SPARKMAN. Mr. President, I wish to correct an error appearing in the joint statement of managers which accompanied the conference report on the Foreign Assistance Act of 1974. The conference report was passed by the Congress in December, was subsequently signed by the President, and has entered into law—Public Law 93–559. This correction of the explanatory statement which accompanied that conference report is intended simply to set the record straight.

The error may be found on page 42 of the conference report document, House Report No. 93–1610, which contains both the conference report and the joint statement of managers. Under the heading "Limiting Intelligence Activities," there is a description of the conference committee's action on the differing Senate and House provisions regarding congressional approval of covert intelligence operations abroad. The error appears in the second sentence of the second paragraph, in the description of the House provision, which was the provision agreed to by the conference committee. In that sentence, the phrase "prohibited the use of Foreign Assistance Act funds only," should not have been included. I ask unanimous consent that this portion of the explanatory statement be printed in the Record at this point, with the phrase which should be excised shown in italic.

There being no objection, the portion of the statement was ordered to be printed in the Record, as follows:

Limiting Intelligence Activities

The Senate bill contained a provision which added a new section 661 to the Foreign Assistance Act prohibiting the use of funds appropriated under any act by, or on behalf of the Central Intelligence Agency (CIA), or any other agency of the U.S. Government, for the conduct of operations in foreign countries other than operations intended solely for obtaining intelligence, unless the President finds that such operations are important to the national security and transmits a report of his findings to the committee of the Congress having jurisdiction to monitor and review the intelligence activities of the U.S. Government. These restrictions would not apply during a declared war or during an exercise of power under the War Powers Resolution.

The House amendment contained a provision which added a new section 660 to the Foreign Assistance Act which was similar to the Senate measure. The basic differences were that the House section *prohibited the use of Foreign Assistance Act funds only,* applied to the CIA but not to other government agencies, and specifically required that the reports be transmitted to the Foreign Affairs and Foreign Relations Committees, among the committees with relevant jurisdiction. The House amendment also provided that the restrictions should not apply during a declared war or during an exericse of power under the War Powers Resolution.

The Senate receded.

The committee of conference agreed that strict measures should be taken to insure maximum security of the information submitted to the Congress pursuant to this provision.

Mr. SPARKMAN. Mr. President, I ask further that there appear at this point the actual text of section 32 of Public Law 93-559, to which this explanation refers.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

INTELLIGENCE ACTIVITIES AND EXCHANGES OF MATERIALS

SEC. 32. The Foreign Assistance Act of 1961 is amended by adding at the end of part III the following new sections:

"SEC. 662. Limitation on Intelligence Activities.—(a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives.

"(b) The provisions of subsection (a) of this section shall not apply during military operations initiated by the United States under a declaration of war approved by the Congress or an exercise of powers by the President under the War Powers Resolution.

"SEC. 663. Exchange of Certain Materials.—(a) Notwithstanding any other provisions of law, whenever the President determines it is in the United States national interest, he shall furnish assistance under this Act or shall furnish defense articles or services under the Foreign Military Sales Act pursuant to an agreement with the recipient of such assistance, articles, or services which provides that such recipient may only obtain such assistance, articles, or services in exchange for any necessary or strategic raw material controlled by such recipient. For the purposes of this section, the term 'necessary or strategic raw material' includes petroleum, other fossil fuels, metals, minerals, or any other natural substance which the President determines is in short supply in the United States.

"(b) The President shall allocate any necessary or strategic raw material transferred to the United States under this section to any appropriate agency of the United States Government for stockpiling, sale, transfer, disposal, or any other purpose authorized by law.

"(c) Funds received from any disposal of materials under subsection (b) shall be deposited as miscellaneous receipts in the United States Treasury."

POWER AND THE FIRST AMENDMENT

Mr. PROXMIRE. Mr. President, many persons are prone to change their minds when it comes to governmental power. It depends upon whose ox is gored.

That is true even when it comes to something as basic as the first amendment.

Marcus Cohn, a Washington communications lawyer and former staff member of the Federal Communications Commission, tied those two ideas together in a recent article for the Outlook section of the Washington Post.

Writing in defense of first amendment rights for broadcasters, Mr. Cohn shows how the White House in the past has used the fact of governmental control over broadcasters to its own advantage. He also shows how some liberals—this Senator included—have changed their minds about freedom for broadcasters.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 22, 1974]

HOW LIBERALS REDISCOVERED FREE SPEECH

(By Marcus Cohn)

On Sept. 25, 1970, Charles W. Colson sent a memo to H. R. Haldeman in which he proposed that the White House get a ruling from the Federal Communication Commission on the "rule of the President, when he uses TV." This, he argued, would have "an inhibiting impact on the networks." Probably the last thing he ever expected was that this memo—and others—would end up helping to ignite a flurry of judicial and congressional dedication to broadcasters' First Amendment rights.

Broadcasters, of course, have been delighted—indeed, amazed—to find a growing number of liberals as their new defenders. There is, for example, Democratic Sen. William Proxmire of Wisconsin, who 15 years ago played a central role in requiring the FCC to judge how stations handled controversial issues. This Fairness Doctrine notion had been kicking around for a number of years by then, but it was Proxmire who proposed and pushed through the amendments to the Communications Act. Today the same Sen. Proxmire is delivering Senate speeches declaring that the doctrine is unconstitutional. He now describes it as the "unfairness doctrine," an "Orwellian double think" procedure, and the subversion of Voltaire to mean "I will defend to the death your right to agree with me."

PLENTY OF COMPANY

Proxmire is certainly not alone in his sharp change of heart; he has plenty of company among federal judges, other liberal members of Congress and intellectuals who have similarly reversed course in the wake of Watergate and other events on a wide range of issues.

Historian Arthur Schlesinger, Jr., for example, has spent a good deal of his career supporting a strong presidency, illustrating his case with studies of President Franklin Roosevelt, and then growing even more enthusiastic about the strong, activist President when he actually got the chance to play a role in the Kennedy White House. In those days, Prof. Schlesinger has written, President Kennedy was too often deflected from noble purposes by reluctant bureaucrats and elected congressmen who checked his power. Now, however, Schlesinger argues his book "The Impact Presidency" that the President has too much power.

Similarly, when conservative State Department employee Otto Otepka tried to tell Congress a few pertinent facts about how the department was doing its business, many distinguished liberals—who happened to think Otepka and his congressional allies were on a Communist witchhunt—cried out that the State Department should exercise executive "privilege" and withhold Otepka's information. Many of those same liberals had very different ideas about our last administration's right of executive privilege.

Then there is the case of scholar-politician-diplomat Daniel Patrick Moynihan, who once stridently warned the country that scholars are at their weakest in prescribing massive government programs and have, in fact, sold the country large amounts of "snake oil." Scholars should stick to studying results, said Moynihan. But within a year or so after he wrote this warning, Moynihan became the czar of domestic policy in the Nixon administration and proposed what he said was the most far reaching social reform (a guaranteed annual income) since the 1930s.

These and other turnabouts can be explained in a number of ways. We all know that a foolish consistency is the hobgoblin of little minds. It is also possible, and hopefully true, that men learn by experience and change their preconceptions.

But there is yet another potential explanation: Is it possible that despite some of the most scholarly formulations about the relationships within government and between government and the governed these matters are really decided, perhaps unconsciously, on the basis of just who has the power? More bluntly, do some people think that lots of government power is fine when the "good guys"—their people—are in office, but government power must be drastically reduced when the "bad guys"—the "other" people—get elected

JUDICIAL SANCTIFICATION

Obviously, our fundamental rights should be decided on firmer ground than whether politicians to our liking are in command at the moment. The Constitution and our laws are not so easy to change that we can alter our notions on the basis of who won the last election. And yet, as Prof. Philip Kurland, a constitutional scholar at the University of Chicago Law School, has pointed out, "When it is a President with what has come to be called 'charisma,' a Franklin Delano Roosevelt or a John Fitzgerald Kennedy, some of us have applauded the seizure of power by the President. When that office is occupied by one whose objectives are less to our tastes, we deplore the power that has become his to exercise."

One of the most striking examples of this phenomenon has occurred in the area of freedom of speech, and particularly the use of the air waves. Suddenly liberals have begun to argue that broadcasters should have the same First Amendment rights enjoyed by newspapers, and that the FCC should stay out of programming matters—a far cry from their earlier position.

In the 1940s, such FCC commissioners as James Lawrence Fly, Clifford Durr, Paul Walker, Paul Porter and Frieda Hennock—all devoted New Dealers—constantly urged greater government involvement in programming. They argued that radio stations had a responsibility to engage in more non-entertainment; it was euphemistically called "meaningful" programming.

Those were the days when Louis G. Caldwell, a determined and brilliant conservative, represented the interests of the Chicago Tribune and other violently anti-Roosevelt licensees. He argued repeatedly that the commission was violating the First Amendment when it stepped into the programming area. But the commissioners and the staff scoffed at such a notion.

The commission position received judicial sanctification from some general and gratuitous language that Justice Frankfurter included in a 1940 opinion on behalf of a unanimous Supreme Court. He said the commission not only had the duty to act "as a kind of traffic officer policing the wave lengths to prevent stations from interfering with each other, but that it was Congress' intention to place upon it the obligation of "determining the composition of (the) traffic." Although this reference was not required by the issues involved in the case at hand, it was immediately used by the FCC and by other courts as a definitive interpretation of the commission's powers and a congressional command that it aggressively involve itself in programming.

THE BLUE BOOK

Until 1946, there was no federal guideposts outlining what actually constituted programming in the public interest. However, on March 7, 1946, the commission issued a 50-page brochure which had a blue cover and immediately became known as "The Blue Book."

The Blue Book required each station to report in its license renewal application the amount of programming it had carried in each of several categories—for example, education, news, discussion, and religion. In addition, the station was required, and still is required, to include in its application promises about the programming it would carry in the three-year license period. Then, each time a license renewal application was filed, the commission weighed how well the promises had been kept.

The Blue Book acknowledged that the Communications Act prohibited the FCC from censoring programs. But the commission, after reviewing the congressional history of the Communications Act and the judicial review of its powers, concluded that it not only had the right to make such judgments, but, indeed, it was "under an affirmative duty . . . to give full consideration to (the) program service" of every licensee at renewal time.

During the next quarter century the U.S. Court of Appeals for the District of Columbia (to which practically all FCC decisions are appealed) encouraged the commission's programming activity. In case after case, the court brushed aside First Amendment whimpers and not only approved the commission's right to make programming judgments, but even scolded the commission when it shirked this task.

For example, in 1962 Chief Judge David L. Bazelon, on behalf of a unanimous court which then included Judge Warren Burger, held that "the commission may impose reasonable restrictions upon the granting of licenses to insure programming designed to meet the needs of the local community."

Until November of 1969, we had very few hard facts showing that the White House had ever used the FCC to pressure stations—and particularly the networks—to assure a friendly attitude toward the President and his programs.

We do know that President Roosevelt sent a memorandum to FCC Chairman Fly on Oct. 3, 1940, in which he said: "Will you please let me know when you propose to have a hearing on newspaper ownership of radio stations." We also know that during the Eisenhower years rumors were rampant that Sherman Adams and other members of the White House elite recommended to the FCC what the outcome should be in contested hearings, where there were two or more applicants for the same facility.

But neither the Roosevelt inquiry nor the interference by the Eisenhower White House were designed to intimidate the networks or stations or newspapers because of program content that was critical of the administration. That was a Nixon administration invention, and its history is by now familiar.

There was FCC Chairman Dean Burch's phone call to CBS president Frank Stanton on Nov. 4, 1969, requesting a transcript of the network's news analysis that had followed a Nixon address the night before. There was Vice President Agnew's Des Moines speech nine days later catigating the networks' news coverage and reminding them that they held licenses through the sufferance of the FCC. There were, according to CBS's Stanton, a number of White House phone calls over the next three years expressing displeasure with news broadcasts. There was the Colson memo to Haldeman. There was the December, 1972, Indianapolis speech by Clay T. Whitehead, director of the White House's Office of Telecommunications Policy, condemning the "ideological plugola" and "elitist gossip" of network news. And there was President Nixon on tape telling Haldeman that "The main thing is The Post is going to have damnable, damnable problems out of this one. They have a television station . . . And they're going to have to get it renewed."

Some later recanted their positions; Burch subsequently said he never should have made the Stanton call, that he didn't realize its implications, and Whitehead later termed the Fairness Doctrine "the mark of a totalitarian society . . . government enforced journalism . . . a total incongruity with freedom of expression in this country . . ."

Whitehead found himself in strange company. For once the Nixon White House's involvement in FCC programming matters became a matter of public record, a number of liberal senators and judges changed their tunes as well.

On Sept. 25, 1972, for example, Judge Bazelon joined two of his colleagues in an opinion sustaining the FCC's denial of a license renewal on a programming issue, and stated that he would file, at a later date, a concurring opinion. But during the following 40 days he had second thoughts. On Nov. 4, 1972, he issued instead a 39-page (*dissenting*) opinion in which he argued that FCC involvement in programming violated the First Amendment; he said that the commission had no constitutional right to deny a station its license because of its programming.

Bazelon repeatedly referred to the "chilling effect" that FCC programming intervention and supervision has on freedom of speech and thought. He noted that "highly respected members of newspaper and broadcasting corps" had warned us "that governmental regulation of broadcasting has been more pernicious than any group of private censors." He went on to say that there was "some question as to what the FCC may constitutionally ask of applicants with respect to programming plans . . ." And more recently, in a speech to the Federal Communications Bar Association, he urged the "broadcast media . . . (to) strenuously resist all government attempts to interfere with their wide legitimate decisions."

A JOYOUS TREMOR

When Supreme Court Justice William O. Douglas said on May 29, 1973, that he had concluded that "TV and radio stand in the same protected position under the First Amendment as do newspapers and magazines," and when Justice Potter Stewart concurred, a joyous tremor went through the broadcasting industry.

While the courts—and particularly their liberal members—were showing determination to curtail the FCC's power over programming, such other liberals as Sens. Proxmire and George McGovern and former Sen. Eugene McCarthy began to urge that station owners' program judgments be cloaked with First Amendment rights.

On March 14, 1972, for example, McCarthy issued a "Statement on Freedom of Broadcasting" which warned of the dangers which occur when power is given to the White House/FCC to interfere, criticize or evaluate whether the content of broadcasting serves the public interest. He stated, "We cannot continue government efforts to regulate the quality and substance of broadcasting." He saw no reason at all why the government "should impose quality standards on radio and television broadcasters when we have no such government controls on newspapers." His absolutist position arose from the fact that those who wanted to increase the regulation of broadcasters were doing so "in the hope of getting them to do what they want . . ."

Watergate then, has helped validate the thesis that our dedication to the basic philosophy behind the First Amendment is inversely related to our confidence that the White House understands its values and purposes. When we are convinced that the presidential political process recognizes and respects the First Amendment's purpose and sanctity, the less nervous and anxious we are about its vitality and values. The more we doubt the President's commitment to it, the more eager we are to implement and strengthen it. Bad presidencies have the effect of giving the First Amendment a charge of adrenalin.

STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1972—S. 11

Mr. DOMENICI. Mr. President, I, along with several of my colleagues, have introduced S. 11—a bill to extend the State and Local Assistance Act of 1972. Simply stated, we wish to see revenue sharing continued with but slight modifications.

In June 1974, I contacted public officials in my home State of New Mexico seeking their opinions on the revenue sharing program. On September 26, 1974, I read the results of that poll into the CONGRESSIONAL RECORD. Of the 170 officials contacted, only 1 commented unfavorably. The vast majority strongly preferred the revenue sharing program to such programs as grant-in-aid.

However, a recurring theme of complaint was revealed in the administration of the program. Recipients are wary of using their funds for any recurring expenditures since future funding to maintain their programs is not automatic. S. 11 cures this omission by establishing automatic funding with continuous congressional oversight authority.

Another problem we noticed was that funding levels adequate in one year might not support the same programs in later years, because inflation will have eroded the impact of those dollars. S. 11, pursuant to recommendations by the Advisory Commission on Intergovernmental Relations, provides that entitlements shall be made inflation-proof thereby giving more certainty to the expectations of recipients.

Yet, the most frequent complaint was that categorical restrictions on the use of funds often prevented their best use. This complaint was reiterated at the Economic Summit Conference and the Presummit on State and Local Governments. Consequently, my colleagues and I chose to eliminate categoricals and treat all funds as general revenue sharing funds.

We believe that with these modifications the revenue sharing program will more fully serve the needs of its beneficiaries, and we have the data to support our beliefs.

DANGEROUS OIL TAX PLAN

Mr. MONDALE. Mr. President, a recent editorial in the St. Paul Pioneer Press has outlined well the major objections to the type of energy tax proposals which President Ford has outlined in his state of the Union address.

I urge my colleagues to read this thoughtful editorial, which shows the inequities of the type of program which the President has outlined and the need for a congressional alternative to it.

I ask unanimous consent that a copy of the St. Paul Pioneer Press editorial be printed in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Dangerous Oil Tax Plan

The Ford Administration is nearing agreement on the economic and energy programs it will recommend to Congress in the next few weeks. It is generally predicted these will include a one-shot reduction of federal income taxes for individuals to stimulate the economy and the imposition of stiff new taxes on crude oil to reduce oil consumption.

Their are strong arguments for a tax cut to combat recession and unemployment. The crude oil tax increase plan, however, is ill-conceived and could have disastrous results. It poses the danger of simultaneously increasing inflation and aggravating the recession.

President Ford reportedly wants an additional $3-a-barrel tax on all crude oil, domestic and imported, combined with abandoning price controls on "old" domestic oil coming from sources which were in production prior to 1972. Old oil is now sold at $5.25 a barrel, and makes up 60 percent of domestic production. Other oil is about $12.50 a barrel, the general market price.

The Ford plan would mean upping the cost of most domestic crude from $5.25 to more than $15 a barrel if the proposed new $3 tax is included. This would be a horrendous increase. The present combined average cost of old, new and imported oil is about $9.80 a barrel. Decontrolling old domestic oil and adding the new tax to crude from all sources would bring this average up to $15.50 or $16, a jump of more than 50 per cent.

U.S. oil companies would stand to take in about $9 billion a year more for their "old" domestic oil, but the Administration proposes to tax away about $8 billion. The government's total increase in oil tax revenues would be perhaps $25 billion, which could be used to help finance an income tax reduction. The higher oil costs would mean increasing retail gasoline prices, the estimates ranging from 7 to 14 cents a gallon.

While the big increases in crude oil prices would tend to reduce consumption, this would be accomplished by putting new cost burdens on the entire industrial economy using fuel oil, on home and industrial users of oil heat and on electricity from oil-fueled generating plants. Manufacturing costs would be increased in many instances, requiring higher prices for consumer goods. The overall result would be more inflation and more risk of job losses in some industries.

All this would be in the name of reducing energy consumption, whereas that result could largely be accomplished without such widespread damage to the economy by simply putting a stiff new tax on gasoline alone. The most obvious energy waste is in the automotive field. Ford's energy experts and members of his Cabinet have pleaded for the limited gasoline tax approach, but he has stubbornly refused to consider it. The crude oil tax is his alternative.

It is a wholly objectionable plan, dangerous to the economy in so many ways that its endorsement by the Administration would be a serious mistake. If it is put before Congress it should be rejected.

Ford Administration officials, including Secretary of State Kissinger, have repeatedly said that high oil prices endanger not only the economy of the United States, but of the whole industrial world. How can the President then advocate even higher oil prices in the U.S. as good medicine for the economy? It is ridiculous.

TECHNOLOGY ASSESSMENT BOARD

Mr. KENNEDY. Mr. President, as Chairman of the Technology Assessment Board throughout the 93d Congress, I am privileged to announce to the Senate the unanimous selection of the distinguished Senator from New Jersey (Mr. Case) to serve as Vice Chairman of the Technology Assessment Board for the duration of the 94th Congress.

Pursuant to subsection 4(c) of the Technology Assessment Act of 1972 (Public Law 92-484), the six Senate members of the Technology Assessment Board—Mr. Kennedy, Mr. Hollings, Mr. Humphrey, Mr. Case, Mr. Schweiker, and Mr. Stevens—have unanimously selected the Senator from New Jersey (Mr. Case) to serve as Vice Chairman of the Board for the duration of the 94th Congress.

The chairmanship and vice chairmanship of the Technology Assessment Board rotate between the House and Senate in alternate Congresses. Thus during the 93d Congress, in which the Office of Technology Assessment came into being, I served as first Chairman of the Technology Assessment Board, and Congressman Charles A. Mosher, of Ohio, served as Vice Chairman. During the 94th Congress a Board member from the House will serve as Chairman and Senator Case will serve as Vice Chairman.

I wish to call to the attention of the Senate the historic fact that Senator Case and Representative Mosher are both members of the minority party, and yet will serve as Vice Chairmen of this important joint congressional Board.

This highlights the bipartisan character of the Technology Assessment Board, which I strongly supported in the development of the legislation and which I made every effort to put into practice during my tenure as chairman. It was in keeping with this spirit that I nominated my distinguished colleague from New Jersey for this position and why I am personally gratified that the Senate members of the Technology Assessment Board have unanimously endorsed his selection. I am confident that he will carry out this responsibility with great distinction, and I look forward to his leadership on our Board throughout this Congress.

To add a personal note, I should like to say how much I have enjoyed the opportunity to provide leadership to this important new congressional institution—the Office of Technology Assessment—during its formative first years. As ranking Democratic Senator on the Board, I intend to continue to play an active role in shaping this institution to better serve the needs of the 94th Congress.

The Senate may be interested in my final report to the Technology Assessment Board setting out the initial accomplishments and aims of the Office of Technology Assessment. I ask unanimous consent that my letter-report to the Board be printed in the Record.

There being no objection, the letter-report was ordered to be printed in the Record, as follows:

December 31, 1974.

Fellow Members of the Technology Assessment Board: As the 93rd Congress draws to a close and I prepare to turn over my chairmanship to a House Member of our Board, I should like to share my thoughts with you about what we have accomplished thus far, and what still needs to be done.

The Office of Technology Assessment is an experiment in Congressional thought and action. The questions it addresses are critical.

Can we shape modern technology to meet human needs?

Can we create energy sources which are cheap and non-polluting?

Can we expand producvivity while generating more jobs, and jobs which are more meaningful?

Can we transform the wonders of modern medical science into the delivery of excellent health care to all our citizens?

Can we find a way to feed the hungry throughout the world, while meeting the needs of our farmers and consumers here at home?

Can we design practical mass transit systems for our cities and suburbs?

In every technical area there are questions like these crying for solution; and there is important legislation which hinges on the answers that are uncovered.

But OTA is not only an experiment in technical analysis, it is also an experiment in institutional reform.

Can the Congress redress the imbalance of information with the Executive Branch? In an age in which technical knowledge is power, the capability of the Congress to cope with complex technical issues has been woefully inadequate. Decisions on weapons systems, on major programs like the Supersonic Transport (SST), and on the shape and direction of the nation's research and development programs have all been made on the basis of information furnished by the Executive Branch—by the very agencies having the most to gain or lose by the decisions made by Congress.

Congress needs its own source of unbiased technical expertise, and OTA is an institutional innovation to meet that need. But even more than a technical or institutional experiment, OTA is an experiment in how to make democracy work.

It is not just a matter of whether Congress can utilize technical information and advice. The crucial point is whether Congress can do so in the full glare of public scrutiny—and with the full participation of the varied public groups that have a stake in the outcome of the decisions.

Thus the Advisory Committees we have established contain not only the technical experts, and the economists, lawyers, and sociologists—but also the representatives of labor and industry, consumers, environmentalists, and other interested segments of the public.

All these varied elements participate in shaping the studies and in appraising their results. The efforts of these panels are neither pandemonium, nor panaceas, but a major experiment in the social control of technology.

We will not know the outcome of this experiment for some time to come. But in the one study which has been completed to date—the Drug Bioequivalence Project—we obtained results which were highly significant: (1) that the drug industry needs a substantial improvement in quality control procedures; and (2) that any wide-scale reliance on generic drugs needs to be carefully planned and implemented in phases over a sufficient period of time.

I can attest that my own thinking was strongly affected by the findings of this study, and that legislation in my Health Subcommittee was substantially reshaped as a result.

I believe this excellent beginning is a reliable forecast of the future impact of OTA studies on Congressional action.

The fields we have chosen to focus on reflect the problems of our times: energy, food, health, transportation, oceans, materials, and technology and world trade.

As the results of our studies start to come in over the coming year, we will begin to get answers to critical questions in all these priority areas.

How should we allocate our resources to energy R&D?

How economical is solar energy for the generation of electric power?

What are the economic, social, and environmental impacts of drilling for offshore oil and gas? Of the use of deep water ports?

How can we strengthen the technology of our fisheries industry?

How can we strengthen overall food technology systems? What is the impact of the energy shortage on fertilizers and food production?

How can we assure the nation adequate supplies of materials resources?

What is the impact of automated mass transit technology—not only on movement of people and goods, but on jobs and the economy in general?

How can we use our high technology products to strengthen America's international competitive position?

These are but a few examples of the critical issues addressed by OTA studies. I fully expect that the results of these studies will significantly clarify future Congressional debate on such issues.

Over the past year, with the outstanding leadership furnished by Director Daddario, we have built a powerful team for tackling these problems. Mim Daddario is one of those fortunate figures in history who have not only the imagination to conceive a novel idea of significance to society, but who also have the concrete opportunity to put the idea into practice.

Under his leadership, OTA has assembled a high quality, highly motivated staff, and has pulled together an outstanding array of talent on our Advisory Committees in special areas and on our statutory Advisory Council. We are fortunate to have on these panels some of the most outstanding people in the country, including a Nobel Laureate in medicine, the Dean of the Yale Medical School; the presidents of MIT, Cal Tech and Michigan State; the Manager of the Chicago Transit Authority and other state and local officials; the executive vice presidents of DOW Chemical, Texas Instruments, Bell Laboratories and other leaders in engineering, the behavioral and life sciences; the President of the International Association of Machinists and other labor officials; the first woman to serve as Assistant to the President of the United States for Consumer Affairs; and a noted authoress and lecturer on environmental, economic, and consumer, issues.

Welding this diversity of professional talent into an effective team has been our most tangible accomplishment over the first year.

But an intangible accomplishment of perhaps even greater significance—and especially gratifying to me personally—is the demonstration that the Congress can mount and manage a fully non-partisan effort to direct the nation's technology toward our citizens' needs.

Even before the Technology Assessment Board had organized itself, various news commentators were speculating that OTA would strangle itself in a web of political ambition and partisan interest.

We have demonstrated that we can effectively operate a non-partisan Board, evenly split between the parties, with conservatives, moderates, and liberals from all regions of the country, and that we can amicably and constructively resolve our different points of view and work together to provide Congress with the objective information it needs so desperately. This has been most satisfying to me as Chairman.

This is the challenging experiment on which we have embarked. Can man rationally control his scientific knowledge and put it to work to solve human problems? Can we bring together the best brains in the nation? Can we blend their deliberations with the interests of industry, the consumer, the environment, the economy, and the quality of life in our society?

Can we forge from these facts and these divergent points of view a rational set of alternatives for Congress to consider? Can we set out clearly and objectively the consequences of each alternative—the benefits as well as the costs and the risks? This is what OTA is all about. I believe OTA is off to a promising start and shows every indication of becoming a key Congressional tool in shaping technology for the nation's economic needs.

I have enjoyed the opportunity to serve as your chairman during OTA's first critical year and I look forward to continuing to work with you in the years ahead.

Sincerely,

EDWARD M. KENNEDY,
Chairman.

THE PUBLIC RECORD ON LAWYERS

Mr. MATHIAS. Mr. President, on January 10, 1975, I had the pleasure of attending a luncheon given by the Maryland State Bar Association, at which my colleague from California, Senator TUNNEY, was a speaker. Senator TUNNEY's topic was, appropriately enough, "The Public Record on Lawyers." In his remarks, the Senator discussed many of the issues facing the legal profession, issues which are important to the general public.

As one who has been privileged to serve with Senator TUNNEY on the Subcommittee on Representation of Citizen Interests, I was particularly interested in what he had to say to the members of the Maryland Bar Association. I think that others will be interested as well. I therefore ask unanimous consent that the text of his remarks on that occasion be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE PUBLIC RECORD ON LAWYERS

Chief Justice Burger recently observed that "What we as lawyers have long accepted, in terms of legal institutions, legal concepts and procedures, may not be eternal verities."

As this audience is well aware, the average lawyer's practice has changed substantially in recent years, and more changes are in the wind.

Communities all over the country are experimenting with new concepts of delivering legal services (like prepaid and group legal service plans, and legal clinics), with paralegal assistants, with standardized practices and computers.

And, attention is finally being given to the vast and unmet legal needs of millions of citizens in this country.

For the past eighteen months, the Senate Subcommittee on Representation of Citizen Interests has devoted full attention to assessing the adequacy of representation for all Americans, to uncovering the obstacles to improved delivery and quality of legal services, and to publicizing important new developments. Today, I would like to share some of our public record with you.

Sadly, we have found that average Americans do not have equal access to our institutions in large part because they do not have access to competent and affordable legal services.

While law school enrollments have increased fifty per cent in the last five years and the number of lawyers is expected to double within ten years, more and more lawyers are concentrating in group practice in large city firms serving primarily business and corporate interests.

Too few lawyers provide legal services to the poor, and only a small percentage of lawyers serve middle-income citizens, seventy percent of the nation's population.

Subcommittee hearings on legal fees provide substantial evidence that because of the high cost of lawyers, Americans are deterred from obtaining needed legal counsel.

Witnesses characterized the average homebuyer as feeling that "law and the legal process work against him as often as for him, and that the costs of his legal remedies often exceed the benefits."

One witness, who purchased a "lemon" car, said she never sought the advice of an attorney because she figured the fee would be about $500, "and I know I cannot afford that." Instead, she faced, alone, months of unsuccessful negotiations with the car dealer and car repairman.

Our findings buttress at least three prior studies which showed that over half of those questioned felt they had unmet legal needs, and cited high expected attorney costs as the reason their needs went unmet.

The recently-completed preliminary findings of the American Bar Association Special Committee to Survey Legal Needs also document that one third of those questioned had never consulted a lawyer about a non-business matter, and that more than another third had consulted a lawyer only once in their lives. While the Survey warns that "further analysis" is necessary in order to assess why these people never used lawyers, my study persuades me that the high costs and lack of information will turn out, once again, to be the key reasons.

Testimony before the Subcommittee has shown that preventive counseling is seldom used by the average citizen, who often enters into major transactions such as buying a house and signing a lease unaware of the legal implications and complications of the arrangement.

Time and again, the Subcommittee has heard that information about where to find lawyers is scarce. In the best of circumstances, the citizen consults a lawyer reference panel, and is routed to a lawyer for an initial half-hour consultation at a fee of $10 to $15. As many of you know, however, these panels are vastly under-utilized, and fail to enable citizens to "shop around" for a lawyer who is best trained and able to take their case for a reasonable fee.

Studies and testimony show that citizens are often unaware of the procedural opportunities or remedies available to them. They may have rights to appear and be heard in public hearings preliminary to some federal rulemaking, but few understand the implications of these hearings or avail themselves of lawyers to aid them.

In areas of less immediate and more diffuse consequences to individuals—polluted air and water, inadequate treatment facilities in the county hospital, unsafe auto manufacturing standards—citizens feel unfairly burdened by legal expenses which a larger community should rightly share, and often are not adequately organized to pool resources to obtain representation.

Three days of legislative hearings on a bill I am sponsoring to provide $95 million in Federal matching grants to improve consumer redress mechanisms at the State level showed that even existing redress mechanisms *not* requiring the use of lawyers (for example, many small claims courts) are most frequently used by credit agencies and other businesses *against* citizens. Indigent and even middle-income defendants often have little or no understanding of their procedural rights in small claims courts, or of the basic elements of their defense.

In short, the resources of the legal profession are badly skewed—away from the people.

What must be done?

We must proceed on three interrelated fronts:

First, we must reduce the need for lawyers in routine transactions;

Second, we must lower the costs and increase the availability of essential lawyer services; and

Third, we must assure the representation of previously unrepresented interests, especially those diffuse interests often referred to as the "public interest."

I. REDUCING THE NEED FOR LAWYERS IN ROUTINE TRANSACTIONS

It comes as no shock to their audience that lawyers are expensive. In most cases, they have invested large sums during the course of a long training period, and their office overhead, including the costs of stocking a law library, rent and salaries for support help, is high. Ethical limitations on advertising, solicitation, and unauthorized practice also inhibit lawyers from freely marketing their services and from using less expensive, nonlicensed personnel.

An obvious way to lower the costs of legal representation for average citizens and to help bring essential legal care within their reach is to reduce the need for lawyers to handle small monetary claims. This objective may be accomplished by means of citizen education programs, the further development of redress mechanisms usable without lawyers, paralegal aid programs, and the simplification of routine legal transactions to eliminate the need for attorneys' supervision.

Last fall, the Subcommittee held a hearing on developments in law-related education, in order to assess a number of programs now ongoing in secondary schools and community colleges around the country. Witness after witness testified that a more sophisticated public is less likely to get into legal tangles, and that increased federal funding of these programs is warranted. Since our hearings, the Law Enforcement Assistance Administration and the Office of Education have embarked on a joint program to provide Federal support to law-related education programs.

In the 94th Congress, I will reintroduce the Consumer Controversies Resolution Act to provide Federal matching grants to improve consumer redress mechanisms at the state level. The legislation has widespread consumer and business support, and was unanimously reported by the Senate Commerce Committee and favorably reported by our Subcommittee last session.

Increased use of nonlegal and paralegal personnel is another part of the answer. A Subcommittee hearing last July on legal assistants showed that . . .

"The increased use of legal assistants by the legal profession is surely one of the most significant trends to emerge within the last twenty years. It has the potential for encouraging innovation and improvement in law office organization and operation and providing a better quality, lower cost service to the client."

We learned, however, that the ABA is attempting, prematurely, to certify certain training programs, a move which I am convinced would chill developments. Hopefully, opposition by the National Paralegal Institute, the American Association of Law Schools and the National Commission on Accrediting will forestall the ABA action.

II. LOWERING THE COST AND INCREASING THE AVAILABILITY OF ESSENTIAL LAWYER SERVICES

The Subcommittee has looked into a number of promising developments, including the use of computers, standardized client interview forms, legal clinics and prepaid legal plans which reduce costs, or, at least, share the burden of necessary legal fees among members of a group.

Our hearings revealed that changes in the ethical rules on prepaid legal services endorsed by the ABA House of Delegates at their mid-winter meeting in Houston, Texas, last February, discriminated against closed panel prepaid plans, in possible violation of the Constitution, antitrust laws, and recent amendments to the Taft-Hartley Act.

Since our May hearings, the ABA itself has warned states to delay adoption pending further study, and the Congress has made clear, in recent pension legislation, that state bar associations are preempted from interfering with labor-negotiated prepaid plans.

III. ASSURING THE PREVIOUSLY UNREPRESENTED INTERESTS, ESPECIALLY THOSE DIFFUSE INTERESTS OFTEN REFERRED TO AS THE "PUBLIC INTEREST"

Former ABA President Chesterfield Smith called on the bar last April to declare it the obligation of every attorney to represent interests which have long been un- or underrepresented. He argued that such an obligation is essential to preserve the adversary system, which, he warned, is becoming increasingly an *ex parte* system.

A small cadre of about 150 "public interest" lawyers now operates throughout the country. Most of them depend on altruism by private firms or foundation support in order to feed their families. These funding sources are drying up, and bar association and government efforts will have to take up the slack.

Some bar associations now tithe their individual members, and others are considering doing so.

Many are suggesting Federal support through direct subsidies, or through indirect means like allowing charitable deductions to attorneys for the value of services rendered *pro bono* or at less than full market rates to those in need.

Subcommittee hearings showed that court awards of attorneys fees to the prevailing party in litigation against the government offer great potential as a funding source for public interest litigation.

Such fee awards are now permitted in 29 Federal statutes and courts are using their equity powers to grant them in a number of other cases. At the beginning of the 94th Congress, I plan to introduce legislation to assure uniformity in fee awards in Federal cases.

ABA President James Feller has recently reminded us that:

"Under Canon 2 . . . it is the obligation not only of the American Bar Association and of state and local bar associations, but also of every member of the bar 'to assist the legal profession in fulfilling its duty to make legal counsel available.' This language admonishes all lawyers to work togeher in fulfilling this obligation."

Keep in mind that no other self-regulated profession has met the challenge to change without intervention. All have been dragged—kicking and screaming.

Whether the legal profession proves the exception remains to be seen.

The alternative is active involvement by the Federal government.

In all events, the responsibilities of lawyers will be redefined in the public interest.

PROPOSED ARMS SALE

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee. In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD the notification I have just received.

There being no objection, the notification was ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., January 13, 1975.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirement of Section 36(b) of the Foreign Military Sales Act of 1968, as amended, the following information is provided for proposed FMS case IR–D–KBK:

a. Country: Iran.

b. Total Value: $150,000,000.

c. Description of articles or services offered: Annual spare parts requisition case for period 21 March 1975 through 20 March 1976 for H–43 (helicopters), T–33 (fighter trainer), F–4D/E (fighter aircraft), RF–4E (reconnaissance fighter aircraft), F–5A/B/E (fighter aircraft), C–130 (cargo aircraft), KC–707 (tanker/cargo aircraft), RF–5 (reconnaissance fighter aircraft), AN/FPS–10 (radar), AN/FPS–89 (radar), AN/GPS–11 (radar), TPS–43 (radar), AIM–7 (Sparrow Missile), AIM–9 (Maverick Missile), and other systems supportable under the Supply Support Arrangement.

d. Military Department: Air Force.

e. Date report delivered to Congress: 13 January 1975.

Sincerely,

ROBERT B. HAMMOND,
Comptroller.

PROPRIETARY, VOCATIONAL, AND HOME STUDY SCHOOLS

Mr. HARTKE. Mr. President, one of the keys to realizing educational opportunities is the ability to make intelligent meaningful decisions among a variety of available choices. False and deceptive advertising of educational opportunities may lead to broken hopes and dreams.

As chairman of the Committee on Veterans' Affairs I have been quite concerned that veterans have an opportunity to make informed choices. This concern resulted in amendments in Public Law 92–540 in 1972 establishing essentially pro rata refund policies for veterans enrolled in home study courses and provisions that home study contracts would not become effective unless reaffirmed by the veteran buyer after a 10-day "cooling off period."

In addition, the Vietnam Era Veterans Readjustment Assistance Act of 1974, now Public Law 93–508 contains additional amendments designed to protect veterans. First, the Veterans' Administration shall not approve vocational objective courses for GI Bill benefits unless the school can demonstrate that at least one-half of available course graduates within a preceding 2-year period were employed in the occupational category for which the course was designed to provide training.

Public Law 93–508 further directs the Administrator not to approve the enrollment of veterans in courses offered by institutions which utilize erroneous, deceptive, or misleading advertising sales or enrollment practices of any kind.

Mr. President, the Federal Trade Commission recently held hearings in Washington on a proposed trade regulation rule concerning proprietary, vocational and home study schools. As the lead-off witness, I had the opportunity to bring to the attention of the Federal Trade Commission the extensive information gathered by the Committee on Veterans' Affairs and my amendments made in 1972 and 1974 to the GI bill.

I ask unanimous consent to have printed in the Record my testimony of December 16, 1974, before the Federal Trade Commission on proposed trade regulation rules concerning proprietary, vocational, and home study.

There being no objection the testimony was ordered to be printed in the Record, as follows:

Text of Testimony of Senator Vance Hartke

It is a pleasure to appear as the lead-off witness in the Federal Trade Commission's Washington hearings on the proposed trade regulation rule governing proprietary, vocational and home study schools. I appear this morning, both in my capacity as Chairman of the Senate Committee on Veterans' Affairs and as a ranking member of the Commerce Committee. Both of these Committees, of course, have a deep and continuing concern with the issues which have been raised by the proposed trade rule. But more important, I appear here as the father of seven children and as one who has personally realized the value and benefits of additional education and who is concerned that his own children have the opportunity to realize fully such benefits as well.

The key to realizing educational opportunities is the ability to make intelligent, meaningful decisions among a variety of available choices. It is vitally important that the opportunity to choose meaningfully exists for all Americans. False and deceptive advertising about mouthwashes, for example, is a minor annoyance, but false and deceptive advertising about education and vocational opportunities can be a major disaster. Fundamental hopes and dreams can be dashed and lives ruined. Thus, I believe that the questions concerning advertising and sales practices and efforts to enable the education consumer in making a wise choice should occupy a high priority in the activities of the Federal Trade Commission and of the federal government as a whole. The proposed trade regulation rule should serve as a valuable device for continuing serious discussion of the federal government's role.

The proposed trade rule broadly deals with the following areas: first, a cooling off period and reaffirmation provisions; second, cancellation and refund policies; and third, disclosures concerning job placements and general advertising restrictions. Because veteran legislation enacted into law in 1972, and this year, which I authorized has dealt with all of the above, I would like to further contribute to your decision process by briefly outlining the problems as I see them from my vantage point as Chairman of the Committee on Veterans Affairs.

A basic question, of course, is what role, if any, should the federal government have concerning proprietary, vocational and home study schools? Traditionally, regulation of the schools has rested with either state agencies or with recognized accrediting bodies. Yet evidence has accumulated that continuing serious problems exist which individual states and accrediting bodies have either been unable or unwilling to respond to; second, the federal government today both directly and indirectly, massively supports the vocational and correspondence school industry. Over $800 million federally-backed student loans have gone to such schools in the last ten years. This year alone the Veterans' Administration will distribute approximately $600 million to veterans enrolled in vocational and correspondence courses. Several major profit-making schools have student bodies that are almost entirely populated with veterans receiving VA benefits or students receiving federally-backed loans. Often these profit-making schools either by themselves or as part of larger economic conglomerates operate throughout the country and across state lines and are subject to little if any state regulations. They often possess the power to intimidate accrediting bodies rather than to be regulated by them. Quite simply these schools are either subject to some measure of federal regulation or they will answer to no one but themselves.

When I became Chairman of the Senate Committee on Veterans' Affairs upon its formation in 1971, it was soon apparent that too often these schools did not answer to anyone but themselves. And it appeared to the Committee that more needed to be done to insure that the consumer interest of the veteran was protected and that hundreds of millions of federal tax dollars were not being spent each year in a manner that permitted schools to receive ever-increasing amounts while engaging in unfair or deceptive practices to obtain them. Committee hearings and investigations revealed that while there were many worthwhile private and public vocational and correspondence schools operating in an ethical manner, there were others of dubious value engaging in sharp and questionable practices. Veterans, often with little aptitude for the home study courses, were being enrolled by high-pressure salesmen operating on a commission basis. Drop-out rates were high and the general accounting office testified in hearings I chaired that over 75 percent of all veterans did not complete the correspondence courses in which they enrolled. The General Accounting Office further testified that 57 percent of the veterans said they would have considered a different form of education had they known what the course completion rates were.

Given these high drop-out rates, refund provisions for those who did not complete the course also came under close examination. My Committee found that schools were using "time-elapsed" refund policies approved by accrediting groups that allowed for little or no refund even if the veteran had completed less than one percent of the course. As a result, I introduced amendments concerning home study schools to my GI Bill, which became part of the 1972 GI Bill Amendments, enacted as Public Law 92–540. These amendments provided for full disclosure of the obligations of both the institution and the veterans and provided for a ten day "cooling-off period" following which there must be a written affirmation by the veteran before he becomes financially obligated. This provision was intended to provide a veteran an opportunity—away from possible high-pressure salesmen tactics—to decide whether he desired to pursue that particular course of study or not.

Second, Public Law 92–540 also instituted a prompt pro rata type refund policy for correspondence schools based on a "lesson completed" basis rather than a "time-elapsed" basis. Although some schools maintained at the time that these amendments were unworkable or would bring economic ruin to them, two years of operation under these provisions have revealed no such thing. Whether the "cooling-off period" and reaffirmation provision have significantly aided the veteran in making wiser, consumer decisions is more difficult to assess. A follow-up study done by GAO at my request found that the wording used by the Veterans' Administration and schools on the affirmation forms, tended to confuse the veteran as to its purpose and intent. Thus the Committee has directed the Veterans' Administration to write the form so that the veteran has a clearer idea of its purpose.

Continued staff investigation, hearings and studies conducted this year indicate that the problems have persisted with vocational and home study courses. The proceedings of the National Conference on Consumer Protection and Post-Secondary Education, a Brookings Institute study, and investigative reporting series in both the Boston Globe and Washington Post, for example, have all focussed attention on problems in vocational study industry.

Consequently, I authored a number of amendments this year which became part of Public Law 93–508, finally enacted two weeks ago as the Vietnam Era Veterans Readjustment Assistance Act of 1974. Perhaps the most significant of these amendments concern job placements of those veterans who graduate from vocational objective courses. Employment opportunities play a central and important role in the veteran's decision to enroll in a particular vocational course. But as the proposed trade rule tacitly acknowledges, school advertising is often misleading and real employment opportunities are often not there. As the Veterans' Administration testified before the Federal Trade Commission in 1970:

"A common complaint of veterans is that of not obtaining a job upon completion of the course."

Thus the new GI Bill now provides that the Veterans' Administration shall not approve enrollment in a vocational objective course unless the school can demonstrate that at least one-half of the persons completing the course within a preceding two-year period were employed in the occupational category for which the course was designed to provide training. The law excludes those who are not available for employment for a variety of reasons, and permits schools to make their placement showing by use of statistically valid sampling techniques. The new GI Bill further directs the Administrator not to approve veteran enrollment in any course offered by an institution which utilizes erroneous, deceptive or misleading sales or enrollment practices of any kind. The extensive Committee report makes clear that such practices can be deceptive by *omission* of material facts as well as by active statement.

In this connection I should observe that I view a key problem here both with respect to advertising and with job placement is what I would call "truth in packaging." That is, courses are often mislabeled. Schools which offer "computer-programmer" courses but whose graduates can only find jobs as "keypunch operators" should be labeled as courses for operators and not for programmers. Contrary to the assertions of some that these are mere "entry level" jobs, a recent extensive study by Wellford Wilms, submitted to the National Institute of Education has concluded that keypunch operators do not move up to later become programmers but indeed remain keypunch operators. Thus "truth in labeling" as to what the course actually prepares the student for in terms of subsequent employment should provide accurate information as to type of job and salary level that can be reasonably expected. And, it should serve as a check against the abuses and overstatements that inevitably tempt salesmen operating on a commission basis.

Finally, to avoid excessive reliance on federal funding and to allow free market-place choices to be made, the bill provides that no more than 85 percent of the students in vocational courses may be subsidized by VA funds. Subsequent to Committee action, the Office of Education is now considering limitations on the percentage of students with federally-backed loans that a school may enroll.

In conclusion, it is apparent from the foregoing that much of the basic underlying intent of the proposed trade regulation bill is consistent with veterans' legislation enacted by Congress both in 1972 and 1974. But it is also obvious that there are specific differences that should be resolved and questions as to whether each item will accomplish what is intended. Too often the left hand of the government does not know what the right is doing. This can result in conflicting rules which do not significantly aid the student consumer but only confuse him and add heavy burdens to the regulated industry. For example, the affirmation and refund policies proposed in the trade rule differ from those now in effect for veterans. And, the Office of Education has recently issued its own proposed regulations in connection with the student loan program which require schools to adopt "fair and equitable refund policies".

Similar, actual or potential differences exist with respect to what constitutes successful job placement and what constitutes material facts about employment opportunities or what is a deceptive practice by omission. While uniformity should not be sought as a goal or end in itself, I believe that increased coordination and consideration of mutual problems and solutions by those charged with responsibility in this area would be invaluable in any trade rule which is ultimately developed here.

In this connection, I want to point out that Congress, in the recent GI Bill has directed the Administrator to seek to achieve effective coordination and interrelationship of service among all federal programs and activities affecting veterans. In the same act, the Veterans' Administration is directed to utilize where appropriate the services and facilities of the Federal Trade Commission, carrying out investigations with respect to deceptive advertising.

These are important steps, I believe in making sure that the government fulfills its responsibilities, to insure that students, many of whom are in receipt of federal tax dollars, will not be deceived or otherwise deprived of vital information when choosing a course.

I appreciate the opportunity to appear here and share some of my observations on this vital matter. I want you to know that I and the Committee staff are prepared to offer whatever additional assistance may be necessary and valuable in your deliberations. Thank you.

FACTS IN THE BELLMON ELECTION CHALLENGE CASE

Mr. BELLMON. Mr. President, during Senate deliberations on the Durkin-Wyman election contest this week, several references have been made to the challenge involving my own election. I wish to set the record straight.

There is absolutely no comparison between the two cases. The issues and the facts are entirely different.

In order to familiarize the Members of the Senate with the nature of the challenge to my election now pending before the Senate Rules Committee, I submit for the record a brief chronological summary of the events in the Oklahoma case. I urge my colleagues to examine these facts carefully.

Also, I will be pleased to provide to any Member of the Senate so requesting it a copy of my answer to the petition filed with the Rules Committee by my challenger, which amplifies the information set forth in the summary.

Mr. President, I ask unanimous consent that the aforementioned summary be printed in full in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

1. November 5th—The certified and official statewide results in the Oklahoma U.S. Senate race were as follows:

Statewide results

(R) Henry Bellmon	390, 997
(D) Ed Edmondson	387, 162
(Ind) Paul Trent	13, 650

Henry Bellmon received a 3,835 vote plurality of the votes cast statewide.

2. No recount was requested or conducted.

3. November 7th—Edmondson filed a lawsuit in Tulsa County District Court alleging certain violations of Oklahoma's election laws in the operation of the voting machines in that county, primarily the absence of a single straight party voting lever. There were no allegations of fraud or willful misconduct. Edmondson requested the court to order a new statewide election or declare the Tulsa County results void and Edmondson the statewide winner on that basis.

Tulsa County results

(R) Henry Bellmon	72, 145
(D) Ed Edmondson	49, 775
(Ind) Paul Trent	1, 789

Henry Bellmon received a 22,370 vote plurality in Tulsa County.

4. November 13th—After a two-day hearing, the Oklahoma District Court concluded:

"There was no evidence of any irregularity which would warrant the calling of a new election or in awarding a Certificate of Election to (Edmondson). . . . As a matter of law (Edmondson) is not entitled to a Certificate of Election. . . . It is possible to determine with mathematical certainty that Henry Bellmon received the greatest number of votes for the office of U.S. Senator."

Oklahoma District Court rendered Judgment for Henry Bellmon.

5. November 22nd—A Motion for New Trial was filed by Edmondson, fully heard by the Court and overruled.

6. December 19th—Edmondson appealed the Trial Court's decision to the Oklahoma Supreme Court.

The Oklahoma Supreme Court in a unanimous (9–0) decision upheld the lower court.

In reviewing the facts and interpreting Oklahoma's election laws, the Court declared:

"The Tulsa County votes cast by use of the voting machines are not illegal or void. . . . All the votes cast in Tulsa County were properly recorded and the exact number of votes cast can be determined with mathematical certainty. . . . The Record will not support a finding that any voter was deprived of his right to vote in the U.S. Senate race or failed to vote in the race because he could not vote a straight party ticket (by a single lever)."

The Oklahoma Supreme Court by a unanimous (9–0) decision upheld the lower court and ordered a Certificate of Election issued to U.S. Senator Henry Bellmon.

7. December 27th—Edmondson filed a Petition for Rehearing before the Oklahoma Supreme Court.

8. January 2nd—The Oklahoma Supreme Court fully considered and denied the Edmondson rehearing petition.

9. January 3rd—The State Election Board issued a Certificate of Election to Henry Bellmon.

10. January 9th—Edmondson filed petition with Rules Committee of the U.S. Senate.

COSMETIC SAFETY

Mr. EAGLETON. Mr. President, on February 15, 1973, I introduced the Cosmetic Safety Act (S. 863), a bill to give the Food and Drug Administration the authority it needs to insure that only safe cosmetic products are made available to the public. Briefly, my bill, as introduced, would have required full ingredient and cautionary labeling of cosmetics, premarket safety testing by the manufacturers, registration of manufacturers, and submission of all adverse reaction complaints to the FDA.

The Senate Health Subcommittee held 2 days of hearings on the bill in February of last year, but regrettably no final action was taken in the 93d Congress.

Recently, an article has come to my attention which underscores the need for legislation of this kind. Red Dye No. 2, a widely used coloring additive for foods, ingested drugs, and cosmetics—particularly lipsticks—has been under study for a number of years. Some evidence exists that Red No. 2 can cause cancer and fetal toxicity, yet, the FDA has recently made it known that it intends to approve the permanent use of this color.

The article, which appeared in the New York Times, details the fruitless struggle that has been waged by consumer advocates and even some of the agency's own scientists to have this dye banned. Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. Mr. President, in my judgment, the facts brought forth in this article present further evidence that the Federal Food, Drug, and Cosmetic Act needs to be amended to provide greater protection to consumers through increased labeling requirements and greater product safety testing.

I fully intend to reintroduce a cosmetic safety bill early in this Congress. Revisions will be made based on the testimony the subcommittee received on S. 863, but the basic thrust of the bill will remain the same: First, to assure that cosmetic products undergo safety testing so as to screen out hazards to the consumer's health and safety; and second, to require manufacturers of cosmetic products to inform consumers of the ingredients which make up such products. The articles referred to follow:

EXHIBIT 1

[From the New York Times, Dec. 19, 1974]

FDA APPROVES A CHALLENGED DYE

(By Lucinda Franks)

The Food and Drug Administration plans to approve the permanent use of an artificial food coloring although some of the agency's own scientists say there are questions about whether it may cause cancer and fetal death.

The dye, Amaranth or FD&C Red No. 2, has long been the most widely used color in the nation's food supply. It is inexpensive, produces a durable, almost perfect, red, and is used in an almost endless array of foods, including many ice creams, processed cheese, cakes and jams.

It makes fish whiter, cherry pie redder, and in some cases hides blemishes and makes low-quality food look more appetizing. Even dog food contains the coloring—to please the eye of the owner since dogs are color blind.

The controversy over its use involves conflicting interpretations of laboratory experiments conducted by the Food and Drug Administration. Some scientists have concluded that the dye can have two adverse effects on health; that fetuses can be killed or born deformed if the mother ingests even moderate amounts of the dye and that Red No. 2 can cause cancer.

Three years ago, the Federal agency, acting on the basis of its own tests on laboratory animals that indicated the dye caused fetal toxicity, announced it intended to drastically limit the allowed uses of Red No. 2, a coal tar derivative. It also ordered the food industry to conduct reproductive tests on all other artificial colors. The restriction was never carried out, although some major users of the dye voluntarily banned Red No. 2 pending the results of new tests.

Now, however, the agency has completed new fetal toxicity tests which it says show no harmful reproductive effects. As a result, it has let it be known that it will give the dye a "clean bill of health."

With this decision, General Foods has now resumed using Red No. 2. But Nabisco says it has permanently eliminated it and General Mills says it will wait to resume using the dye until all controversy is resolved.

Dr. Thomas Collins, who in 1971 conducted the original F.D.A. tests showing fetal toxicity in rats, said the other day that he felt the new tests, one of which he was the author, "pretty much answer the fetal toxicity question, although there are still a few doubts I would like cleared up."

Dr. Collins said the experimental design of the new tests left out some things he would have liked to have seen included and that although the F.D.A. had not as yet authorized him to do so, he wanted to continue testing the dye for fetal toxicity to be "supersafe."

In addition, Dr. Collins said he also thought that the safety of Red No. 2 had not been proved in regard to its carcinogenic potentiality. "The books should not be closed on Red 2," he said.

SERIOUS DOUBTS RAISED

Dr. David Gaylor, the chief statistician at the National Center for Toxicological Research, an F.D.A.-sponsored laboratory, is a high-level government scientist who also believes that there are still serious doubts about the carcinogenic potential of Red No. 2.

Dr. Gaylor recently reviewed three laboratory cancer tests on the dye done by the F.D.A. in the nineteen-fifties. Federal officials have long cited the findings of the tests as evidence that the dye was not carcinogenic, but after his review, Dr. Gaylor sent an internal memorandum to the agency warning that the dye could be cancer-causing.

"I was very disturbed," he said in an interview. "The tests are not clear-cut and they raise doubts. At the very least, there should be some new and immediate testing."

A spokesman for the F.D.A. Commissioner, Alexander M. Schmidt, said that he could not comment on the criticism of Red No. 2 by agency scientists at this time. "The Commissioner will have to sign the final order on the dye," the spokesman said, "and when it crosses his desk, he will obviously take into account all shades of scientific opinion."

Consumer groups, including Ralph Nader's Washington-based Health Research Group and the Center for Science in the Public Interest, also have protested the F.D.A.'s decision to approve the dye as safe.

The Nader group says it has analyzed data from the new F.D.A. fetal toxicity tests as well as data from the three earlier cancer tests and disputes the agency's "clean" findings on both of them. The group contends that one of the fetal toxicity tests indicates that the dye may, in fact, cause fetal death. It also argues that the cancer test data does not absolve Red No. 2, but, instead, "strongly indicates that it does, in fact cause cancer."

Dr. Gaylor was asked by the F.D.A. to review its early F.D.A. cancer experiments on Red No. 2 because of the contentions of the Health Research Group. He said that although he did not concur with the Nader organization's argument that the dye was a strong carcinogen, he agreed that the test data has "cast the dye into suspicion."

"BLITZ" IS CHARGED

The consumer groups also maintain that an "organized blitz" from the food industry has caused the F.D.A. to delay restricting the dye for the last three years while it performed new fetal toxicity tests prompted by industry complaints about the original ones.

Dr. Virgil Wodicka, who was head of the agency's Bureau of Foods until he resigned last month to become a private food consultant for the food industry, said in an interview that the food industry had made no secret of its opposition to the proposed ban on the dye.

Asked if the agency came under pressure, he said, "Hell yes. They [the industry] were vocally unhappy about it. But that did not ultimately affect the results of the new fetal toxicity tests, which have now satisfied us that the dye is safe."

Nonetheless some agency critics believe the dye controversy underscores serious failure by the Food and Drug Administration to act firmly to protect the public from dangerous substances in their food supply.

They are especially critical because food colorings have no nutritional value and are used purely for cosmetic purposes—and at times deceptive ones, such as making some strawberry ice cream look as though it contained strawberries. They insist that no risk, however small, should be tolerated by consumers.

"Instead of temporarily taking it off the market," said Anita Johnson, a lawyer at the Health Research Group, "the F.D.A. has allowed Americans to consume about 2.6-million pounds of Red No. 2 while it decided for three years whether the dye caused cancer and birth defects."

Dr. Wodicka argues that the agency "never felt Red No. 2 was that bad. Industry toxicologists came up with some valid arguments against the tests we did. Now we've retested it and these tests lay [the controversy] to rest."

BANNED ELSEWHERE

Dr. Jacqueline Verrett, a research scientist for the F.D.A. who has worked on Red No. 2, maintains "there has been ample evidence to ban the dye. But industry thinks a plate of food has to look like a Picasso painting to sell—even if in the end what looks so colorful and good ends up killing you."

The Soviet Union, which originally spurred the F.D.A. to test Red No. 2 after it published two studies in 1970 indicating that the dye caused cancer and fetal deaths in rats, has banned the coloring. Other nations such as West Germany, have limited its use to certain foods, and the World Health Organization in 1972 recommended limitations so strict that they would eliminate normal use of the dye.

But the use of Red No. 2 has, like the use of other synthetic colors, increased over the last 15 years in this country. Production of the dye doubled between 1960 and 1970 until the controversy about it caused a gradual decline from about 1.5-million pounds in 1970 to about 900,000 pounds this year. Still, about $4.5-million worth of Red No. 2 is now produced annually in the United States and it is used in at least $10-billion worth of food.

The safety of Red No. 2 was cast into doubt as early as 1956 when an international conference of scientists in Rome declared the dye to be a suspected carcinogen.

NEW STUDY ASSAILED

In 1970, Soviet tests were published in this country contending the dye caused cancer. Although the F.D.A. discounted the results of the Soviet experiments because of questionable control factors, two years later the agency ordered its own scientists to begin a two-year study of the relationship, if any, between Red No. 2 and cancer.

Now some F.D.A. scientists are contending that the new two-year experiment, which was designed to be the most definitive cancer test ever done on the dye, is "in a mess."

The new study, according to the scientist who requested anonymity because they work for the agency, was virtually unmonitored for a year because the scientist who started it left the agency. They say that some of the laboratory animals used in the test appear to have been placed in the wrong cages and that many animals died without being examined. They contend that only about 50 out of the original 500 rats have survived and this low number, they say, would make the experiment results questionable.

Hyman Gittes of the F.D.A.'s Division of Toxicology denied the charges. He said that although he did not know how many animals were left from the original sample, he was satisfied that the study was in good shape.

TESTS WORRY FDA

In addition a leading research scientist at the F.D.A. said that at least one experiment raising other questions about Red No. 2 was "more or less squelched." The experiment was preliminary, he said, but indicated that the dye may cause hormonal changes—the swelling of the uterus—in female mice. The scientist said that although those involved in the experiment wanted to see it pursued, it was shelved by their superiors. Mr. Gittes confirmed that the study was not followed up, but cited a lack of manpower as one reason.

Although the F.D.A. was not impressed with the 1970 Soviet cancer experiments, it was alarmed by other Soviet tests, released at the same time, that linked Red No. 2 to fetal toxicity. F.D.A. officials thought the latter tests were better designed and controlled than the cancer experiments and ordered its own reproductive studies.

The first experiment was conducted in the spring of 1971 by Dr. Verrett, who injected chick embryos with quantities of Red No. 2.

Dr. Verrett, who has written a critical book on the F.D.A. called "Eating Can Be Hazardous to Your Health," still keeps some of her test results—chicks with oversized eyes, twisted skeletons, and other defects—in jars in her laboratory.

But because her experiment did not fit into standard dose-response patterns—very small and very large amounts of the dye both killed all the embryos while medium doses killed less than half—her results were not accepted as conclusive by the agency. Nevertheless, she still maintains that they were significant.

"Low doses of a chemical can be more harmful than large ones," she said. "Often the body just excretes large gulps of a substance whereas smaller amounts will be absorbed and metabolized. This is a possibility with Red No. 2."

A BAN IS URGED

Late in 1971 Dr. Collins conducted a further study that showed that Red No. 2 caused rat fetuses to die. That fall a group of eight scientists who had been working on the dye issued an internal memorandum to top officials of the agency, declaring that the data on the dye was "not encouraging" and recommending that it be banned in food.

In a later memorandum, the scientists calculated that a "no-effect" level of the dye would be 4.5 milligrams a day for an average person. According to other F.D.A. data, the average person ingests each day nearly five times that amount—20 milligrams—in cosmetics, drugs and food containing Red No. 2. And the data estimates daily intake for some persons could be as high as 200 milligrams a day.

As a result of the scientists' recommendations, the F.D.A. put a notice in the Federal Register in September, 1971, that it intended to limit drastically the use of the dye.

When the notice appeared a concentrated effort was begun by the food industry, particularly the color manufacturers, to change the F.D.A.'s mind. Warner-Jenkinson, a subsidiary of the 7-Up Company that is a major producer of Red No. 2, played a key role in the effort.

ACTIVITIES ARE DEFENDED

James Turner, a Washington lawyer active in the consumer movement to ban Red No. 2, accused the industry in an interview of a "strategy to force delay after delay on a determination—in this case, restrictions on the dye—in hopes that it finally fizzles out." He added:

"The industry lobbyists call up the F.D.A., sometimes daily, asking, 'What problems do you have? What can we do to assist? Do you know that this could destroy us economically? Would you like some eminent doctors to call you and testify that this dye is safe.' "

Stuart Symington Jr., a son of the United States Senator from Missouri and the lawyer who was hired by Warner-Jenkinson to represent its interests in Washington, said that the industry was only trying to make sure that F.D.A. got its side of the story—that the dye was scientifically safe.

"These people's business depended on it," Mr. Symington said.

"We made sure our position was understood and then we stepped back and let the F.D.A. do their own thing," he continued. "We have been surprised and pleased at the outcome."

Warner-Jenkinson declines to say how much of the more than $4-million Red No. 2 market it holds, but the company is thought to be one of if not the largest producer of the dye.

A major concern of the color manufacturers continues to be that a ban on Red No. 2 would cause serious problems in the use of other artificial food dyes and threaten the entire industry.

"We're down to three usable red colors now and if they ban Red No. 2 we're dangerously close to having no reds at all," said A. S. Clausi, vice president for corporate research at General Foods. "From the standpoint of flexibility, it's bad for the industry."

Another problem for the industry is that the dye which some manufacturers have been using in its place—Red No. 40—does not give as pure and deep a color.

"Grape drinks look muddy, and everything looks a bit duller so we have to use more of it," said Mr. Clausi. "People don't want to buy food that does not look like it's always looked."

The products that contain Red No. 2 range from lipstick, pill coatings and liquid medicine to noncola soft drinks, candy bars, gelatin desserts syrup, baked goods, cake and pudding mixes, breakfast cereals, cold meat, frankfurters, sausages, vinegar, salad dressings, pretzels, crackers, corn chips, sweet rolls, and canned fruit.

In December, 1971, the F.D.A. consented to an industry request that the findings on Red No. 2 be submitted to a panel formed by the Food Protection Committee of the National Academy of Sciences.

COMMITTEE IS CRITICIZED

The Food Protection Committee has long been criticized by consumer groups for being overly susceptible to industry viewpoints. At the time of its consideration of Red No. 2, for instance, the committee received about 40 per cent of its funds from the food industry. Some members, although they work in colleges and universities, receive research and consulting grants from industry.

Indeed, the F.D.A. has often been accused by some consumer groups of showing the same bias. The consumers cite a number of top F.D.A. officials who have either worked in regulated industry at some juncture before joining the agency or have taken industry positions after leaving it.

Dr. Wodicka, for instance, who was vice president of Hunt-Wesson foods before heading the F.D.A.'s Bureau of Foods, has now rejoined the food industry. The F.D.A.'s director of nutrition, Ogden Johnson, left this year to join the Hershey Foods Corporation. The F.D.A.'s general counsel, Peter Hutt, represented many large food manufacturers before joining the agency, and Charles C. Edwards, the agency's Commissioner until last year, was vice president of a management consultant concern that had food and drug accounts.

An F.D.A. spokesman said that the percentage of F.D.A. officials who joined the agency directly from industry and then went back to the business was small, although it was inevitable that some might have had some industry experience at some point in their career. "Often, the best people for the job can only be found in industry," he said.

The Food Protection Committee issued its decision in June, 1972. After reviewing the tests of F.D.A. scientists and data submitted by an industry committee, it concluded that nothing "warrants the conclusion that Red No. 2 in normal usage constitutes a hazard to health or reproduction."

It was a decision that upset the scientists who had signed the earlier memorandum that called for the ban on Red No. 2 in food products.

After the Food Protection Committee's decision, the F.D.A. decided to appoint an ad hoc committee to review the Red No. 2 controversy and to consider industry complaints against the fetal toxicity tests. The committee was composed of five outside consulting scientists, including the head of the Food Protection Committee panel that had cleared the dye.

Industry representatives were arguing that the "gavage" method used in the experiments—feeding the rats through a stomach tube—was unreliable because it constituted a physical shock to the animals.

FINDINGS ARE CHALLENGED

Consumer representatives and some F.D.A. scientists, including Dr. Collins and Dr. Verrett, countered that the people who were ingesting the Red No. 2 the most were getting it exactly that way—by drinking glasses of cherry soda, for instance

In May, 1973, the ad hoc committee asked Dr. Collins to redo his fetal toxicity tests using a new experimental design that would compare tests employing the gavage method and tests in which the dye was administered in the rat feed. The committee also asked that the same experiments be carried out at the National Center for Toxicological Research and at an industry-sponsored laboratory.

Last June, nearly three years after the start of the first F.D.A. tests on Red No. 2, the committee met and reviewed the results of the three new studies. Although it has not yet issued a final report, the members concluded that the test results indicated that the dye did not cause fetal toxicity, whether ingested through gavage or through the feed.

One of the new F.D.A. tests on fetal toxicity, the one done by the National Center for Toxicological Research, was analyzed by scientists in Ralph Nader's Health Research Group. The Nader sicentists concluded that the test was positive, not negative.

Using a different, but accepted, scientific method of calculating safety, the group contends that the data indicate that the dye is safe for pregnant women only at extremely low levels. According to their calculations, a 110-pound woman would exceed the safe limit if she drank more than one-third of a can of cherry soda containing Red No. 2 a day.

In February, the F.D.A. received the results of extensive reproductive studies it had ordered the color manufacturers to perform on all artificial food dyes after the positive agency fetal toxicity tests on Red No. 2 in 1971.

"The results have been negative on all of them," Dr. Wodicka reported. "We are doing a final check by running stability tests to be sure that the colors do not change when processed into food, but as of now, they've all been cleared."

Dr. Wodicka said that as soon as the stability tests were completed, the colors that are on a provisional list would be taken off and given permanent status.

In 1960, Congress passed a law requiring that all food dyes be tested by color manufacturers for general safety and that they remain on a provisional list until the tests were completed. F.D.A. officials say that because of protracted testing and changing standards of safety, many of the colors, including Red No. 2 are still on the provisional list.

Richard Ronk, head of the F.D.A.'s Department of Color Additives, said that the agency would examine the Nader group's analysis and its contention that the tests indicate Red No. 2 caused fetal toxicity.

"But we don't agree with their interpretation and, frankly, we probably won't do anything about it," he said.

[From the New York Times, Dec. 19, 1974]

UNITED STATES BANNED 11 COAL-TAR-DERIVATIVE DYE SINCE 1919

Benzyl Violet of FD&C Violet No. 1, which like Red No. 2 is a coal-tar derivative, was abruptly banned by the Food and Drug Administration in April, 1973, after two Japanese studies showed that it caused cancer in female rats.

The F.D.A., which had confined its testing of the color to male rats, certified 20 times as much Violet No. 1 in 1972 as in 1971 because manufacturers had used it to replace Red No. 2 when it came into question.

Dr. Virgil Wodicka of the F.D.A.'s Bureau of Foods said the Japanese studies were convincing enough to dictate an immediate ban on the color, which was used to stamp meat, and in candy, beverages and cakes. The bureau is now doing its own tests on the dye, Dr. Wodicka said, and "if it comes out clean on our tests, then we'll bring Violet No. 1 back."

Since 1919, 11 coal-tar-derivative dyes have been banned because of possible harmful effects; some scientists say that the 11 still remaining on the F.D.A.'s approved list are also suspect.

Five of those banned were found to cause cancer, two caused organ damage and, at high dosages, two caused intestinal lesions, and two caused heart damage.

Two others are presently severely restricted. Citrus Red No. 2 is used only to color the skins of Florida oranges because there is evidence it is a weak carcinogen. The use of Red No. 4, which caused adrenal damage in dogs, is confined to maraschino cherries.

Most of the artificial colorings on the market are coal-tar derivatives. Originally made from compounds derived from coal tar, they are now made with synthetic chemicals identical to the original coal-tar compounds.

Besides Red No. 2, at least one other widely-used coal-tar dye has become controversial. Tartrazine, or FD&C Yellow No. 5, has been proven to cause allergic reactions in some people, especially those who are sensitive to aspirin. Because Tartrazine, whose production has almost doubled in the past 13 years, is sometimes used to disguise products (egg or butter bread look as if they contain more of those ingredients if the coloring is used), it is a special target of consumer groups.

Richard Ronk, head of the F.D.A.'s Department of Color Additives, said that the agency recognizes the studies that have been done on the allergic responses and the recommendations by some scientist that the dye be eliminated from medications that use it for coloring.

He said the F.D.A. has no foreseeable plans to restrict it, although it might consider requiring food and drug manufacturers to disclose the presence of the dye on the label.

Tartrazine is found in pickles, gelatin desserts, powdered drink mixes, breakfast cereals, margarine, salt butter, cakes, cake and pudding mixes, candies, noncola soft drinks, puddings and custards and many other yellow-colored products.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of Senate Resolution 4, which the clerk will state.

The legislative clerk read as follows:

A resolution (S. Res. 4) amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The ACTING PRESIDENT pro tempore. Debate on this resolution may continue until the close of business today or the hour of 6 p.m., whichever is earlier. Who seeks recognition?

PROPOSED CHANGE IN RULE XXII

Mr. PEARSON. Mr. President, I am pleased to sponsor, together with the distinguished Senator from Minnesota and numerous other Senators, a resolution amending rule XXII, to provide that cloture may be invoked on an affirmative vote of three-fifths rather than two-thirds of Senators present and voting. With adoption of this resolution, I believe we can achieve a fundamental and needed reform in the Senate by bringing into closer balance two of its most cherished rights—the right to debate and the right to vote.

Limiting debate is a common practice in representative government. As early as 1604, the British Parliament instituted a procedure, through which motion could be made to end debate, known as the previous question. This procedure was borrowed and utilized by the Continental Congress.

From 1789, when the First Congress met to establish rules pursuant to article I, section 5 of the Constitution, until 1917, the Senate operated without any effective means to limit debate. In 1846, the Senate initiated use of the unanimous consent procedure to fix a date on which a measure would be put to final passage. In 1870, the Senate adopted the so-called Anthony Rule, limiting each Senator to one 5-minute speech during the course of a debate on a particular measure.

Because these procedures required unanimous consent before they could be implemented, they were largely ineffective in preventing a small group of Senators—or even one Senator—from extending debate on an unlimited basis. This inherent weakness was dramatically demonstrated in 1917, shortly after the United States entered World War I. At that time, an important shipping bill was defeated in the Senate by a filibuster. Shortly after this defeat, President Wilson called the Congress into special session and requested adoption of some procedure to limit debate. As a result, the Senate leadership proposed adoption of what is now rule XXII. The resolution was debated, and in an atmosphere of national emergency, approved by a vote of 76 to 3. Only one day of debate was utilized to consider a measure which has had a profound impact on the effectiveness of the Senate.

Mr. President, I have given this cursory history of debate limiting procedures to point out what I believe to be two relevant points. First, there is nothing new, unprecedented, or revolutionary in our attempts to balance the rights of each Senator to debate and to vote. Striking a proper balance is a problem which has vexed legislative bodies for nearly four centuries. Second, there is no magic in the two-thirds formula adopted by the Senate in 1917, as evidenced by the manner in which rule XXII was initially adopted.

Mr. President, nearly 80 years ago, Senator Henry Cabot Lodge, of Massachusetts, made the following observation:

> If the courtesy of unlimited debate is granted, it must carry with it the reciprocal courtesy of permitting a vote after due discussion. If this is not the case, the system is impossible. Of the two rights, moreover, that of voting is the higher and more important. We ought to have both, and debate certainly in ample measure, but if we are forced to choose between them, the right of action must prevail over the right of discussion. To vote without debating is perilous, but to debate and never vote is imbecile.

It is clear, Mr. President, that the Senate has not followed this worthwhile advice. Since 1917, the Senate has sought to limit debate through implementation of rule XXII 99 times. In the 93d Congress alone, 30 attempts were made. Yet, cloture has been invoked only 20 times, barely once in every five attempts. Additionally, no one can determine with accuracy the number of informal attempts at cloture, which have been turned back in the face of an uncompromising minority. And no one can estimate the number of surrenders by Senators with legislation of substance which have occurred at the mere threat of filibuster.

There can be no question that the events of the last 58 years with regard to rule XXII indicate a serious imbalance between the rights of those who would delay and those who would decide. We who support Senate Resolution 4 believe that a proper balance can be struck.

We who support this resolution believe that further steps must be taken to assure the orderly transaction of the Nation's business.

And we who support this resolution share the concern of many Americans that Congress must get on with the problems of the Nation and not waste countless hours, days, weeks, and months hopelessly mired in parliamentary entanglements.

But how, Mr. President, can we correct this imbalance? Certainly, not by majority cloture. During my time of service in this body, I have found on numerous occasions that extended debate can prevent hasty or ill-conceived action which could wrought much mischief in our country. As a result of this experience, I cherish the right of full debate as much as anyone, and I will seek to preserve that right as long as I continue to serve here. I know the vast majority of the other cosponsors of this resolution feel the same way. Thus, to argue that the modification of rule XXII we seek will end full discussion of every issue that comes before us is to greatly misread both our intent and the thrust of our proposal.

A shift from 66 to 60 percent of the Senate necessary to invoke cloture will not eliminate the precious right of full debate. But it will make it somewhat easier to more efficiently conduct public business by striking a better balance between the right of debate and the right to vote at some time. If a three-fifths cloture rule had been in effect for the past 58 years, 44, not just 20, of those 99 cloture petitions would have been successful—a considerable improvement, but hardly any "gag" on free speech.

Mr. President, a substantial majority of the Senate should be allowed to work its will at some point. Not to allow it to do so is to admit that the constitutional guarantee of equal representation will not apply and that a relative handful of Senators, may exercise a legislative veto power never contemplated by our Founding Fathers or the words of the Constitution.

How substantial a majority should be established to invoke cloture? Here obviously is where honest men can disagree, as they did when the present rule XXII was first adopted. The two-thirds rule is the result of well-intentioned men constructing what they hoped would be an effective compromise between the extreme of majority cloture, on the one hand, and unlimited debate, on the other. It was an honest attempt to find that fair balance of which I spoke earlier. Yet, as the evidence of the past 58 years indicates, this worthwhile effort has failed by making the majority necessary for cloture so substantial that it is nearly impossible to obtain. What we are suggesting today is a further modification of their original effort based on the experience of the past six decades. We believe that three-fifths of the Senate present and voting constitutes an ample majority, one which should have the right to act. But we also believe that three-fifths is not a majority so substantial as to be impractical of attainment, the equivalent, in fact, of having no debate limitation at all.

Mr. President, article I, section 5 of the Constitution gives a majority of the Senate convened the right to modify and adopt its rules of procedure, regardless of rules which may have applied in previous Congresses. In the past, those who disagreed with this interpretation have claimed that because two-thirds of the 100 Members of this body carry over from one Congress to the next, the Senate is a continuing body, bound by the rules of previous years. To make this claim, however, is to state that the Constitutional right of the Senate to make its own rules applied only to the First Congress. It is no doubt true that the framers of the Constitution hoped each succeeding Congress would be guided by the experience and collective wisdom of its predecessors, thereby concurring in rules and procedures which could continue to withstand the test of time.

It is difficult to imagine, however, that these men intended each house of a new Congress to be restricted in efforts to amend its rules and procedures by what a majority of its Members considered to be outmoded and unworkable procedures. Yet, based on debates in other years this is precisely what the opponents of Senate Resolution 4 would have us believe.

In a sense, it is true that rule XXII as presently constituted has met the test of time. But it is also evident that the rule is in need of repair. Close examination reveals that while the form created in 1917 still remains, the substance has turned out to be something quite different from that which many of its architects anticipated.

Mr. President, the issues we are debating are large and merit the extended consideration they will no doubt receive. They go right to the heart of Senate tradition and purpose. Cloaked in the guise of a complicated parliamentary device, the question of cloture relates directly to the ability of the Senate to function fairly, effectively, and, above all, in a representative manner. The proposal we espouse is a reasonable, carefully balanced compromise that offers some hope of preserving that which is best in Senate tradition while eliminating or at least ameliorating part of that which is worst.

Public confidence in the effectiveness of our national political institutions has been seriously shaken by scandals at the highest levels of Government. Many seriously question the ability and even the will of Government to deal efficiently and effectively with the many serious problems confronting the country and the world. In the past 2 years, however, Congress has demonstrated, through adoption of legislation dealing with war powers and allocation of Federal revenues or budget control that it has the capacity to accept change for the better. We have the opportunity to continue this movement in the 94th Congress through adoption of this simple, yet far-reaching resolution. It seems to me that our approval will be a signal to the Nation that the U.S. Senate intends to fairly but expeditiously deal with the multitude of problems which command our attention.

Mr. President, I yield the floor.

Mr. MONDALE. Mr. President, I rise today in support of the pending resolution—submitted by myself, the distinguished Senator from Kansas (Mr. PEARSON), and 43 of our colleagues representing a broad political and philosophical cross section of the U.S. Senate—to amend rule XXII of the Standing Rules of the Senate.

I am proud to announce that the distinguished Senator from Iowa (Mr. CLARK), the distinguished Senator from California (Mr. CRANSTON), the distinguished Senator from Maryland (Mr. MATHIAS), and the distinguished Senator from Vermont (Mr. STAFFORD) will be assisting Senator PEARSON and me in leading this effort. I wish to thank these Senators for their help in the organizational stage of this effort and for all of the help which I know they will provide as we progress.

I especially wish to express my appreciation to the distinguished Senator from Kansas (Mr. PEARSON) who has been the Senate's most persistent leader in seeking to reform the filibuster rule and who, once again, shoulders the main burden as we seek to reform the rules of the Senate in a way that will permit us to better reach and solve the profound problems which face our country.

Mr. President, the resolution we support would provide for limitation of debate upon the vote of three-fifths, rather than the current two-thirds, of those Senators present and voting.

The U.S. Senate has rightly been called the greatest deliberative body in the world. The Members of a deliberative body, such as the U.S. Senate, have two vitally important rights—the right to debate and the right—if I may say so, the obligation—to decide.

We must debate, for full discussion is the hallmark of rational consideration. Similarly, and in an equal sense, we must decide, or deliberation is an empty gesture without decision.

Unfortunately, rule XXII, in its present form, has protected the right of debate at the expense of the right to decide. Rule XXII has significantly impaired the ability of this body to function, and its inhibitions on the legislative process promise to increase, rather than diminish, during the 94th Congress.

Mr. President, one can reflect very quickly upon the issues which face this Congress, profound issues of taxation, the pervasive issues of energy resources, for instance. The spectacle of permitting this Nation to be paralyzed by a small group of Senators, who will not accede to the right of the Senate to decide—as they can properly do under rule XXII—will haunt this Senate and this country in this coming Congress unless we are able to amend this rule to permit the Senate to eventually come to decision on great issues that confront our country.

I suggest to my colleagues in the Senate that we may take no more important action during the 94th Congress than the steps we are now taking to reform rule XXII of the Standing Rules.

Let us begin by attempting to examine the effects of the filibuster—legitimized and protected by rule XXII—on the Senate.

At the outset, however, I must frankly admit that the effects of the filibuster are impossible to qualify. We may, of course, look to the fact that there have been 100 record cloture votes in the Senate, since the adoption of the present cloture rule in 1917, and see that only 20 have resulted in the successful invocation of cloture. But that is just the tip of the iceberg, because filibuster has a more pervasive, subtle influence than those recorded votes disclose.

The record cloture votes tell a story of defeat and delay. But, cloture votes hardly tell the whole story.

Dozens of filibusters took place during this 58-year period that did not culminate in record cloture votes. Yet, their toll was surely high in terms of the defeat, the delay, and the compromising of important legislation. Many appropriations bills, for instance, have been talked to death because of what they did—or did not—contain.

Similarly, bare cloture vote statistics do not reveal the bills that have been lost in the jam created by filibusters.

And the threat of the filibuster, which hangs over this body like a heavy cloud, and which is impossible to quantify, has often been as effective as an actual filibuster in influencing the legislative process.

Filibusters have delayed legislation and have blocked the passage of legislation. They have prevented the organization of the Senate, delayed the election of its officers, and blocked presidential appointments. They have resulted in the modification of the terms of legislation and have achieved the enactment of legislation favored by those leading the filibuster. They have delayed the adjournment of Congress and have forced special sessions. They have cost the taxpayer much money and the legislative process much time.

Moreover, it can no longer be said the filibuster is the tool of the representatives of one section of the country or of one political philosophy or that it is used solely against one category of legislation—civil rights.

When I first came to the Senate 10 years ago, the filibuster rule was used principally against civil rights legislation, but now it is being used by Senators from all parts of the country and of all political philosophies.

In recent months, however, the filibuster has been most frequently—and repeatedly—used to block, delay, or compromise important social, economic, and governmental reform legislation favored by an overwhelming majority of the Members of this body and by an overwhelming majority of the American people. If the public pronouncements of some of my colleagues in this body are any indication, Mr. President, we can expect more and more of the same during the 94th Congress as we seek to deal with the critical needs and desires of the American people.

This is a time of severe economic crisis. One need only look to the unemployment statistics, the inflation figures, or the production totals to realize the depths of the problems and that the 94th Congress will be faced with tough choices inherent in their solution. Difference of opinion will engender different legislative approaches. We must—as has always been the tradition of this body—consider all alternatives, engage in extended consideration and discussion, and compromise where necessary.

All that is true, but it is also true that we must finally act.

Will we be able to act under the present rule XXII if a small group of Senators—of whatever philosophy or from whatever section of the country—decide to frustrate the will of the Senate?

This is a time of diminished confidence in the Government and its institutions. Recent scandal at the highest level of the executive branch have alerted the American public to the fact that—while our system is strong, workable, and resilient—certain reforms and safeguards may be needed. Various courses of action in the aftermath of Watergate will be proposed. Again, we must study all approaches, debate, and work toward consensus solutions. But again, will we be prevented from acting once the will of the Senate has been determined?

Our people have many other needs. Many cannot obtain quality, reasonably priced health care. Many cannot reach their maximum potential in our educational system. Many do not have decent, livable housing. Many regard our ideal of equality as a myth. Many cannot find employment. Senators will differ over the best approach to these problems. Some will favor incentives; some will favor criminal laws; some will favor private rights of action; some will favor Federal solutions; some will favor State and local approaches. But, I worry that rule XXII will prevent us from doing anything, while our constituents clamor for action.

Writing in the Federalist in 1787, Alexander Hamilton said:

> In those emergencies of a nation, in which the goodness or badness, the weakness or strength of its government, is of the greatest importance, there is commonly a necessity for action. The public business must, in some way or other, go forward.

This is such a time, and the U.S. Senate must act. But rule XXII, as it so frequently has in the past, may prevent the Senate of the 94th Congress from acting.

The sponsors of this resolution propose, what they sincerely believe to be, a reasonable accommodation of the right to debate and the right to decide. We believe these two, often conflicting rights, may be harmonized in such a way as to protect action rather than intransigence. We believe an amendment to rule XXII providing for cloture upon the vote of three-fifths of those Senators present and voting will sufficiently protect the important rights which rule XXII was originally intended to protect without paralyzing the U.S. Senate.

What, in the final analysis, are the values sought to be protected by those who oppose change in rule XXII? Why have so many fought so hard to protect the Senate filibuster?

Opponents of change claim, first, to be protecting extended, thorough debate. Few would dispute the importance of debate to the thoughtful execution of the legislative mission. But, as I have pointed out, the right to debate must be harmonized with the right to vote. And even the staunchest opponents of change in the filibuster procedure would not advocate unlimited debate.

The question really boils down to how thorough debate must be and how long debate must last. The supporters of this resolution firmly and sincerely believe that the proposed change in rule XXII protects extended debate. Under the three-fifths proposal, as under rule XXII as presently written, attempts to limit debate do not generally occur until many hours of debate have taken place. In those few instances where attempts to invoke cloture have been quickly pursued, the effort was not to limit debate or to end a filibuster but rather to invoke the provisions of rule XXII restricting amendments. Several such instances occurred at the end of the 93d Congress. All understood the importance, under the circumstances, of limiting amendments, and the unusually large number of votes for cloture confirm this understanding. Moreover, such instances are extremely unusual.

In addition, even if cloture is invoked—under rule XXII as written or as proposed to be amended—100 hours of debate are still allowed. Surely 100 hours of debate—following upon what are commonly lengthy gestation periods for legislation and careful committee consideration—when combined with precloture debate, adequately provides for careful consideration and extended discussion.

Second, the opponents of change in rule XXII argue that they seek to protect the right of the minority against the legislative onslaught of the majority. Again, no one would dispute the importance—in the Senate or elsewhere in our constitutional system—of protecting minority rights.

The question remains, however, how to best protect minority rights and when they are adequately protected. Our Constitution is replete with protective devices. The Bill of Rights and the Civil War amendments are specific protections. The tripartite system, with its checks and balances, is designed to protect the rights of the minority, whatever that minority might be. The power of judicial review entrusts the judicial branch with the power and the duty to apply the constitutional protections to the acts of private and public entities. Even the Senate itself, with two Members from each State, is designed to protect minority rights.

Despite these protections, some would argue that a minority of the membership of the Senate should be able to stop Senate action when it threatens to jeopardize their rights. Possibly this is true. If so, the supporters of change in rule XXII believe the protection afforded by the proposed change is adequate to protect such rights. Where best to draw the line for such protection is a metaphysical task. Why two-thirds or three-fifths?

Moreover, we would dispute the proposition that the filibuster has truly been used by a minority to stop the hasty and ill-conceived action of an overbearing majority. An analysis of the uses of the filibuster in recent years simply does not support such an argument. Rather, the device has been used repeatedly by a small group of Senators as a method for stopping action and avoiding compromise on measures which have been carefully considered and which were favored by a vast majority of the Members of this body—from all sections of the country and of all political philosophies—and by an overwhelming majority of the people of this Nation.

Nevertheless, we believe the proposed change adequately protects minority rights within this body, while also preserving the unquestioned right of the majority to take action.

A variant of this argument contends that rule XXII, as presently written, protects the so-called small States. But, rule XXII is not needed to protect the small States, the Senate itself is designed to do that. So it is that each State has an equal number of representatives in the Senate. There are no small or large States here. To the extent that the small States do need extra protection, they have it. Not only is the number of small State Senators greater than two-fifths of the Senate, it is also greater than one-half of the Senate. Moreover, even a cursory analysis of the cloture votes since the adoption of the cloture rule in 1917 reveals that the issues at stake bore little or no relation to the rights of so-called small States.

Mr. President, it is important to emphasize what the supporters of this change in rule XXII are not doing. We are not seeking to establish—nor move toward—the principle of majority cloture in the U.S. Senate. I believe I can safely say that most of the sponsors of this resolution oppose majority cloture. We value extended debate and minority rights sufficiently to retain a greater-than-majority cloture rule.

We seek, however—based upon careful consideration of the often conflicting values at stake and thorough study of past experience with the present rule XXII—to find a proper way of harmonizing conflicting values and of relating past experience to the present-day needs of the Senate. We believe the three-fifths cloture, which we propose, represents the best approach.

In the coming days, the Senate—and the Vice President—will be confronted with a question intimately intertwined with the merits of our resolution. The question, simply stated, is: May a majority of the Members of the Senate of the 94th Congress change the rules of the Senate, uninhibited by the past rules of the Senate?

I firmly believe that the majority has such a right—as the U.S. Constitution, the precedents of this body, the inherent nature of our constitutional system, and the rulings of two previous Vice Presidents make clear. On this, I will have more to say at the appropriate time.

Mr. President, I close with a bit of personal experience. As I speak with citizens of my State of Minnesota, in the letters I receive from Minnesota and from other States, and as I travel throughout the United States, I hear a recurring theme. "Why does not the Congress do something about the problems we face?"

Again and again, I hear this complaint, and so do my colleagues.

Some of this feeling results from a lack of exposure to the many, excellent accomplishments of this body. I would submit, however, that a great deal of this dissatisfaction and disillusionment results from what the Senate has failed to do—or has delayed in doing—as a result of rule XXII.

Legislation has been defeated, legislation has been delayed, time has been lost, expense has been incurred, and public confidence in and respect for this body has been diminished because of the rule we seek to change today.

Moreover, Mr. President, if the problem is great today, it will only become greater. As long as rule XXII remains unchanged, we invite the unfortunate consequences I have spoken of. As long as rule XXII remains unchanged, we invite self-inflicted legislative paralysis and its consequences.

I urge my colleagues, in the strongest terms, to join in this effort and to enable the Senate to meet the problems of the United States in 1975 and thereafter.

Mr. President, I ask unanimous consent to have printed in the RECORD a compilation of cloture votes since the adoption of rule XXII in 1917, their results, and their results under the amendment to rule XXII which we propose.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LIST OF CLOTURE VOTES SINCE ADOPTION OF RULE 22

Following is a complete list, through the end of the 93rd Congress, of the 100 cloture votes taken since Rule 22 was adopted in 1917. Only 20 of these (indicated by *underlining*) were successful. In the right-hand column is shown the vote necessary to invoke cloture under the proposed three-fifths rule. Twenty-four additional cloture votes (indicated by * in front of the issue) would have been successful using the proposed change. Please note that, between 1949 and 1959, the cloture rule required the affirmative vote of two-thirds of the Senate membership, rather than two-thirds of those present and voting.

Issue	Date	Vote	Yea—two-thirds majority	Votes needed—three-fifths majority
Versailles Treaty	Nov. 15, 1919	78–16	63	57
Emergency tariff	Feb. 2, 1921	36–35	48	43
Tariff bill	July 7, 1922	45–35	54	48
World Court	Jan. 25, 1926	68–26	63	57
Migratory birds	June 1, 1926	46–33	53	47
Branch banking	Feb. 15, 1927	65–18	56	50
Disabled officers	Feb. 26, 1927	51–36	58	52
Colorado River	do	32–59	61	55
D.C. buildings*	Feb. 28, 1927	52–31	56	50
Prohibition Bureau	do	55–27	55	49
Banking Act *	Jan. 19, 1933	58–30	59	53
Antilynching	Jan. 27, 1938	37–51	59	53
Do	Feb. 16, 1938	42–46	59	53
Antipoll tax	Nov. 23, 1942	37–41	52	47
Do	May 15, 1944	36–44	54	48
Fair Employment Practices Commission	Feb. 9, 1946	48–36	56	50
British loan	May 7, 1946	41–41	55	49
Labor disputes	May 25, 1946	3–77	54	48
Antipoll tax	July 31, 1946	39–33	48	43
FEPC	May 19, 1950	52–32	64	58
FEPC	June 12, 1950	55–33	64	58
Atomic Energy Act	July 26, 1954	44–42	64	58
Civil Rights Act	Mar. 10, 1960	42–53	64	57
Amend rule 22	Sept. 19, 1961	37–43	54	48
Literacy tests	May 9, 1962	43–53	64	58
Do	May 14, 1962	42–52	63	57
Comsat Act	Aug. 14, 1962	63–27	60	54
Amend rule 22	Feb. 7, 1963	54–42	64	58
Civil Rights Act	June 10, 1964	71–29	67	60
Legislative reapportionment	Sept. 10, 1964	30–63	62	56
Voting Rights Act	May 25, 1965	70–30	67	60
Right-to-work repeal	Oct. 11, 1965	45–47	62	55
Do	Feb. 8, 1966	51–48	66	59
Do	Feb. 10, 1966	50–49	66	59
Civil Rights Act	Sept. 14, 1966	54–52	64	58
Do	Sept. 19, 1966	52–41	62	56
District of Columbia Home Rule	Oct. 10, 1966	41–37	52	47
Amend rule 22	Jan. 24, 1967	53–46	66	59
Open housing*	Feb. 20, 1968	55–37	62	55
Do.*	Feb. 26, 1968	56–36	62	55
Do.*	Mar. 1, 1968	59–35	63	57
Do	Mar. 4, 1968	65–32	65	58
Fortas nomination	Oct. 1, 1968	45–43	59	53
Amend rule 22	Jan. 16, 1969	51–47	66	59
Do	Jan. 28, 1969	50–42	62	55
Electoral college*	Sept. 17, 1970	54–36	60	54
Do.*	Sept. 29, 1970	53–34	58	53
Supersonic transport	Dec. 19, 1970	43–48	61	55
Do	Dec. 22, 1970	42–44	58	52
Amend rule 22	Feb. 18, 1971	48–37	57	51
Do	Feb. 23, 1971	50–36	58	52
Do	Mar. 2, 1971	48–36	56	50
Do	Mar. 9, 1971	55–39	63	57
Military draft	June 23, 1971	65–27	62	55
Lockheed loan	July 26, 1971	42–47	60	54
Do.*	July 28, 1971	59–39	66	59
Do	July 30, 1971	53–37	60	54
Military draft	Sept. 21, 1971	61–30	61	55
Rehnquist nomination	Dec. 10, 1971	52–42	63	57
Equal job opportunity	Feb. 1, 1972	48–37	57	51
Do *	Feb. 3, 1972	53–35	59	53
Do	Feb. 22, 1972	71–23	63	57
United States-Soviet arms pact	Sept. 14, 1972	76–15	61	55
Consumer Agency *	Sept. 29, 1972	47–29	51	46
Do *	Oct. 3, 1972	55–32	58	53
Do *	Oct. 5, 1972	52–30	55	49
School busing	Oct. 10, 1972	45–37	55	49
Do	Oct. 11, 1972	49–39	59	53
Do	Oct. 12, 1972	49–38	58	53
Voter registration *	April 30, 1973	56–31	58	53
Do *	May 3, 1973	60–34	63	57
Do	May 9, 1973	67–32	66	59
Public campaign financing	Dec. 2, 1973	47–33	54	48
Do	Dec. 3, 1973	49–39	59	53
Rhodesian chrome ore *	Dec. 1, 1973	59–35	63	57
Do *	Dec. 13, 1973	62–33	64	57
Legal Services Program*	Dec. 13, 1973	60–36	64	58
Do	Dec. 14, 1973	56–29	57	51
Rhodesian chrome ore	Dec. 18, 1973	63–26	60	54
Legal services program	Jan. 30, 1974	68–29	65	58
Genocide treaty*	Feb. 5, 1974	55–36	61	55
Do	Feb. 6, 1974	55–38	62	56
Government pay raise	Mar. 6, 1974	67–31	66	59
Public campaign financing*	Apr. 4, 1974	60–36	64	58
Do	Apr. 9, 1974	64–30	63	57
Public debt ceiling	June 19, 1974	50–43	62	56
Do	do	45–48	62	56
Do	June 26, 1974	48–50	66	59
Consumer agency	July 30, 1974	56–42	66	59
Do.*	Aug. 1, 1974	59–39	66	59
Do.*	Aug. 20, 1974	59–35	63	52
Do.*	Sept. 19, 1974	64–34	66	59
Export-Import Bank	Dec. 3, 1974	51–39	60	54
Do	Dec. 4, 1974	48–44	62	55
Trade bill	Dec. 13, 1974	71–19	60	54
School busing	do	56–27	56	50
Exim Bank	do	49–35	56	51
Do.*	Dec. 16, 1974	54–34	59	53
Tax reform	Dec. 17, 1974	67–25	62	56
Social service	do	70–23	62	56

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Maryland is recognized.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. PEARSON. Mr. President, I thank the distinguished Senator from Minnesota for his words of approval with regard to my efforts in this cause, and I express my great pride in joining him in the sponsorship of seeking modification of rule XXII. It is a sense of pride I equally share in my association with the Senator from Maryland.

In the remarks I made earlier, I devoted a great deal of attention to what the history of rule XXII had been. It seems to me that the Senator from Minnesota has more aptly looked ahead rather than behind and dealt with some of the problems that will face us in this Congress.

The President has indicated that, by Executive action, he will take acts to increase the tax on imported oil. On our part, we must move to relieve, if we are to comply with the President's recommendation, the lid on old oil and take other legislative acts, all of which he asks to be achieved in the next 90 days. It is, therefore, the administration which asks us to move expeditiously, with some dispatch, and with, of course, great deliberation.

So I congratulate the Senator on his remarks, particularly those that look ahead to the problems in the 94th Congress.

I appreciate the opportunity to make these comments, and I thank the Senator from Maryland.

Mr. MATHIAS. Mr. President, whenever one embarks upon a difficult and burdensome adventure, it is good to have stout companions, good companions. I feel that the Senator from Kansas and the Senator from Minnesota are among the outstanding Members of the Senate who are showing not only every concern for the country, the Senate, and the institution of Congress by leading this fight, but also are showing their energy and skill in the organization of a battle which has been fought before, but which I honestly believe is closer to being won than at any other time in modern history.

The matter before us involves the rules and procedures of the Senate for terminating debates and for coming to a vote. It is a very simple proposition—so simple that I suspect many of our fellow Americans wonder why we even have to discuss it. They elect us to make decisions. Yet we have begun the session by debating at length the question of how long we shall debate. I am sure that it is a very mystifying concept to many people.

Our decision on this matter may in fact decide the fate of the proposals that have been made for economic recovery of this country, as has been suggested by the Senator from Minnesota. Our decision on this matter may very well decide the success of our efforts to slow down inflation, our efforts to protect consumers, and our attempts to insure that taxes are fair and equitable. Perhaps most important, our decision on this question may determine whether or not we will restore public confidence in the integrity of public officials and the credibility and viability of public institutions.

The President of the United States, 2 days ago, in his address to the joint session on the state of the Union, was particularly blunt in reporting that the state of the Union "is not good." He outlined what we all know so well and so unhappily—that millions need jobs, that inflation soars, that poverty again creeps across the land, that health care must be improved, that education must be bolstered, that individual rights must be steadfastly maintained.

We also know, as the President pointed out, that America must be able to provide economic and moral leadership for the Western Alliance and for all the non-Communist world.

The people of the United States are looking to Washington for responsible and considered action.

Last November, the people registered their profound misgivings, as did the thousands of people with whom I met during the campaign, about the procedures that are followed in Congress and about the delays that recur in Congress. The voters implicitly questioned the leadership that we in Congress have been able to provide.

I believe that the voters of America sent us a signal. Today we shall indicate whether or not we have received that signal, and whether or not we are going to respond in an affirmative and positive way.

The issue before us is, How shall we decide the time at which to bring debate to a close and to vote up or down on an issue? In the past, for a number of years—although certainly not for the whole history of the Senate, and in fact not even for most of the history of the Senate—this procedure has been governed by rule XXII, a rule that has taken on a kind of character and personality of its own.

Rule XXII states that debate will be terminated if 16 Senators file a cloture motion and if on the second legislative day thereafter, two-thirds of the Senators present and voting vote to bring debate to a close. If two-thirds of the Senate votes to end debate, then each Senator is still entitled to 1 hour to explain the merits of his position, to argue for his amendment, and to attempt to persuade his colleagues.

The proposal before us would reduce the number of votes needed to end the debate from two-thirds of those present to 60 percent of those present and voting.

These are interesting figures. They are statistics, and I think that some consideration of exactly what they mean should be given.

Of course, the simple question, as the Senator from Minnesota explained in his remarks, can rise: Why not make it a simple majoritarian rule? Why not say just 51, 1 more than a majority? I think he did explain fully why that proposition has not been followed in the past.

But when we insist on two-thirds, we are saying that it takes a supermajority of the size that is required to amend the Constitution of the United States, or the supermajority which is required to ratify a treaty. A treaty, once ratified and confirmed, becomes the law of the land. So rule XXII says we need majorities of that size for the simple process of ending debate.

I think there is a substantial, critical difference between ending a debate in the Senate and amending the Constitution or ratifying a treaty.

Mr. MONDALE. If the Senator will yield, the framers of our Constitution knew the significance of the two-thirds rule. They knew it was such a high burden that it would be rare to be able to achieve it. They knew how to apply that two-thirds requirement when they wanted to apply it, when they wanted to amend the Constitution of the United States, which they wanted to be a rare measure, very difficult to achieve. They provided that two-thirds of the House, two-thirds of the Senate, and most of the States had to propose and then ratify a constitutional amendment. They knew how to say two-thirds when they wanted it.

In order to strengthen the President in the veto power, they provided that the only way we could override a Presidential veto is with a two-thirds vote of those present and voting. The same was true of the ratification of treaties, which is supposed to be a solemn act by which this country makes a binding agreement with another country or series of nations.

The same is true of impeachment. We should not be able to remove a President or any other public officer unless two-thirds of the Senate, having heard a serious trial of that kind, votes by two-thirds.

In the case of the rules of the Senate, it is clear that they intended that at the beginning of each session, the Senate and the House had the right to establish its rules by majority vote.

What we are trying to do is establish the right to amend rule XXII so that it is difficult to close off debate, but not impossible.

Examples, I think, prove the case. Just 3 days ago, the Soviet Government announced that they were repudiating the U.S. trade agreement of 1972. I think that is a very unfortunate development. Well, we can look and see that at the end of the last session, when we were trying to work out an Export-Import Bank proposal which met the needs of our country and our business community, which responded to the best judgment of our Presidential leadership and the leadership of the committee that worked on it, we were presented with a debate, a filibuster. Even though the proponents of a good Export-Import Bank measure had an enormous majority, they did not have the two-thirds required and in order to pass an Export-Import Bank bill at all, changes had to be made, not with the support of the majority of the Senate, but in order to accede to the wishes of a small minority of the Senate.

Those conditions, I think, contributed enormously to the deterioration of the relationship between the United States and the Soviet Union.

It seems to me that a not-so-subtle difference, a profoud different, between 66⅔ percent and a simple majority could be the difference between an active, responsible U.S. Senate and one which is dominated by a small minority.

Mr. MATHIAS. I thank the Senator, and I think he has spelled out in a concrete way the point I was trying to make. The degree of difficulty of ending a debate and coming to a decision, which is exactly what we are trying to measure by rule XXII and by the changes we have proposed to rule XXII, can affect the outcome of many vital issues. But in itself, the act of closing off debate should not take on the same character and quality as the highest acts that the Senate performs, such as amending the Constitution or ratifying a treaty, which may affect the land area of the Nation, or the impeachment of the Chief Executive.

We are dealing here with a subject which the Founding Fathers considered. We understand the reasons why the majority rule has been bypassed in this case. But we also understand that there are two fundamentals in any parliamentary institution. One of them is that there be time and opportunity and freedom for debate. Members can rise and discuss issues fully, and they can examine them without fear of any retribution.

But second, and equally important, there comes a time for a decision. Debate can be exciting, or it can be dull. It can be edifying, or it can be foolish. But whatever the character of the debate, ultimately there comes a time when we must decide the issue. That is one of the two fundamentals of any parliamentary institution.

Of course, rule XXII implicitly recognizes that fact, a time for debate and a time for decision. It was designed to require more votes to end debate than are required to pass the measure being debated; thereby, hopefully, guaranteeing that minorities will always have an opportunity to be heard, that the minority will always be entitled to a fair opportunity to present its case. This safeguard would be preserved by the measure that we are recommending.

There comes a time, however, as we all know, when everything that is worth saying has been said. When that time arrives, it is also the time for action, the time to recognize that other fundamental of any legislative body, the right to decide. There is not any textbook that can instruct us in advance exactly when that moment arrives. There is no crystal ball. There is no divining rod that can start fluctuating when the moment to decide arrives.

But in the vast majority of cases, I think we can agree on a time to vote. We do it directly by unanimous consent with no difficulty at all.

On some occasions, Senators, sometimes for very valid reasons, delay action—to get more time, to provide opportunities to compromise. But there are also occasions when Senators who lack the votes to defeat legislation try to accomplish their purpose by words instead of by votes. I think that those occasions are the kind to which we want to direct our efforts. Those are the tactics that must eventually be overcome, as has been long recognized.

Rule XXII says that debate shall end when cloture is invoked by two-thirds vote of those present and voting. But as was suggested by the Senator from Kansas, our experience has been that this number is so high that debate lingers on even after all that needs to be said has been said, and resaid.

In quiet times, perhaps the Senate could afford to wait the extra weeks while filibusters ground legislation to a slow death. In less severe, less acute crises than that which we face today, bills that were killed through strangulation by the words of the opponents may not have been as urgent for the Nation as some of the measures that have been and will be proposed during this session.

Yet we are now so organized as a nation, for better or for worse, that unemployed men and women throughout the land may actually suffer deprivation and hardship because of delays of the Congress in attending to the legislation which might ameliorate their lot. Children may receive less than quality education because Congress does not attend to educational proposals before it, and the results of the delay in Congress can be very fast and very widespread throughout the entire 50 States.

So the times when we could afford to wait weeks or months have certainly passed. America today needs action. Last November the people asked for action. The world awaits action. Our vote on this issue will determine whether or not we will meet one of the most severe tests to which the Senate has been submitted.

I hope that we will take the historic step—a very historic step—of modifying rule XXII, so that we can address the issues and the problems which lie before us.

Mr. President, the Washington Post, on January 16, published a very interesting and persuasive editorial entitled "Modifying Rule XXII." I ask unanimous consent that the editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MODIFYING RULE XXII

As one of its first items of business, the new Senate will consider the perennial problem of striking a reasonable balance between the right of a minority of senators to debate and the ability of a majority to decide. At issue once again is Rule 22, the cloture rule which requires the votes of two-thirds of those present and voting to limit floor debate and amendments. As experience has amply shown, this rule enables a stubborn minority to tie up a measure forever or force the majority to make major concessions to bring a bill to an up-or-down vote. Last year, two major casualties attributable to Rule 22 were the consumer protection agency bill, which was totally blocked, and the legal services corporation act, which was badly weakened before a final vote could be obtained.

Sens. Walter F. Mondale (D.-Minn.) and James B. Pearson (R-Kan.) are leading this year's attempt to modify Rule 22 by reducing the number needed for cloture to three-fifths of those present and voting. The Senate should be far more hospitable to such a step than in the past. For one thing, cloture as an issue is no longer as supercharged as it was in the era of the Senate's great civil rights debates. Nor are as many senators still inclined to champion the principle of unlimited debate. Thanks to the influence of newer members and the press of legislative business, the world's greatest deliberative body has become much more efficient and decisive recently, to the extent that many debates are limited and amendments restricted by routine agreement now.

As a result of such changes, the Senate has invoked cloture more frequently since 1971 than in the past. Since Rule 22 was installed in 1917, cloture has been voted only 21 times; 9 of those came in the last Congress alone. And yet the rule retains its sting. Indeed, the new-style, low-key filibusters may be somewhat easier and more effective than the old. A determined senator with no more than 33 allies may now tie up one bill without snarling the entire Senate calendar or subjecting his colleagues to marathon sessions. In other words, the Senate may be coming to accommodate obstructionism too much; as filibusters become more genteel, they may also grow far more common and indiscriminate.

The ponit of the Mondale-Pearson effort is not to strip Senate minorities of all defense against majority tyranny, but rather to make one weapon, endless debate or the threat of it, somewhat harder to employ. Three-fifths, or up to 60 votes, would still be an impressive force to have to muster to curtail debate. At this point in the Senate's evolution, such a change seems timely and reasonable.

Before the Senate can reach a vote on amending Rule 22, however, a perennial parliamentary battle must be won. The first step depends on Vice President Rockefeller as presiding officer. He will be called upon to decide whether the Senate, at the start of a new Congress, may adopt and amend its rules by majority vote, or whether Rule 22 applies to efforts to change Rule 22. Vice Presidents Nixon and Humphrey, in similar situations, upheld the power of a new Senate to change its rules without having to quash a filibuster first. If Mr. Rockefeller follows those precedents, it will be far easier for the Senate to debate Rule 22 head-on and to decide how much its ways of doing business should be changed.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. MATHIAS. I yield.

Mr. MONDALE. A New York Times editorial published on Tuesday, January 14, argued similarly strongly for the change in rule XXII which we propose, and for a ruling by the Vice President of the United States which would permit the majority, as contemplated by the Constitution, to establish new rules at the beginning of this Congress. I ask unanimous consent that this editorial also be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ROCKEFELLER'S RULING

When the new Senate meets today, it faces once again the old but fundamental issue whether majority rule is to guide its own proceedings. At stake is reform of Senate Rule 22, which requires at least two-thirds of those members present and voting to shut off a protracted debate. The effect of this pro-filibuster rule is that determined minorities can tie up the Senate for weeks, sometimes killing outright a bill favored by a majority and in other situations delaying action while haggling for concessions off the floor.

Reform of the Senate rules was a perennial issue two decades ago in the long struggle to enact civil rights legislation. However, after the pro-civil rights majority had repeatedly demonstrated in the mid-sixties that it could wear down the filibustering obstructionists and muster the necessary two-thirds majority, the steam went out of this once-heated controversy.

But in the last two years, the Senate has again been stalemated by no fewer than nine filibusters, none of them related to civil rights but all of them damaging to the Senate's effectiveness and self-respect. The bill to establish a Federal Consumer Agency with strong enforcement powers was a notable victim of this technique. As a result, Senator Mondale of Minnesota and a sizable group of bipartisan co-sponsors are again pressing for rules reform. They urge that debate be cut off if three-fifths of the Senate so votes.

The first parliamentary hurdle is to obtain a ruling from the Vice President, the presiding officer of the Senate, that adoption of a new rule is in order. If so, it can be approved by a majority vote. Otherwise, the reform coalition will need a two-thirds majority to break a filibuster by defendants of the status quo. It is an old story for those whose memories go back a decade or more.

Richard Nixon and Hubert Humphrey, when they served as Vice President, both made parliamentary rulings in favor of re-

> form. In view of Vice President Rockefeller's long association with the cause of human rights, it would be astonishing if he now cast his influence in behalf of so tainted a device as the filibuster. Moreover, if the Watergate scandals are to lead to a renewal of the nation's political institutions, the Senate would be a good place to start with a reduction of arbitrariness and minority privilege. Today, then, the Vice President has more than a ceremonial role to perform.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. GLENN). The Chair, on behalf of the Vice President, pursuant to section 2251 of title 42, United States Code, appoints the following Senators to the Joint Committee on Atomic Energy: the Senator from New Jersey (Mr. CASE), the Senator from Kansas (Mr. PEARSON), and the Senator from New York (Mr. BUCKLEY).

QUORUM CALL

The PRESIDING OFFICER. What is the will of the Senate?

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I may be permitted to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

BORING THE BRASS HATS

Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on International Finance and Resources held hearings January 16 on the agreement reached last month in Martinique between President Ford and President Valery Giscard D'Estaing of France on the debt owed the United States by France for military installations taken over by the French when the North Atlantic Treaty Organization was forced out of France in 1967.

Following this hearing, the Assistant Secretary of State who testified for the State Department told reporters that he found the committee hearing "boring."

This does not surprise me at all. In fact, I would have been astonished had he found it otherwise.

Having been around this town of Washington, D.C., quite awhile, I find such an attitude to be somewhat prevalent among high officials of Government.

To their way of thinking, it is sophisticated and attractive to give away tax funds supplied by the wage earners, but it is "boring" to be called upon to justify such action.

Unfortunately, the senior Senator from Virginia has found it necessary twice this week to "bore" high officials of government.

Two days ago, January 15, the Subcommittee on General Legislation of the Armed Services Committee, of which I am chairman, held a hearing seeking justification from the Defense Department as to why the cost of the M–60 tank has increased 38 percent over a 1-year period. The committee directed Defense Department officials to closely reexamine the cost estimates.

I rather suspect that as the months go by, other high officials of government will be "bored" by committee hearings as I am convinced that there is too much waste, extravagance and, indeed, incompetence in the handling of funds of the American taxpayer.

I believe very strongly that the handling of public funds is a public trust.

I believe, also, that many high officials of Government need to be reminded that the only place they can obtain money to spend, or to give away to foreign countries, must come out of the pockets of the hard-working men and women of our Nation.

Money owed the United States by foreign nations does in reality belong to the American people, the American taxpayer.

In regard to the 1967 French debt, these facts were established: As a member of the North Atlantic Treaty Organization, formed to protect the freedom of European Nations, the United States invested $912 million in France. This breaks down as follows: U.S. contributions of $362 million to NATO facilities and $550 million of direct U.S. Defense Department investment.

It might be of interest to note, too, that France had an inventory of $1.5 billion of military equipment given by the United States on a grant basis.

When the late President De Gaulle withdrew France from NATO and required all NATO members to leave French soil, the United States computed that the cost of such action to our country was $378 million. It was this debt which the two Presidents negotiated at Martinique.

It was agreed that France would pay the United States $100 million, and that no interest is to be charged. It was not stipulated as to when payment is to be made but the State Department testified it is hoped that the $100 million will be paid over a 5-year period.

The debt settlement amounted to 27 cents on the dollar. Parenthetically, France still owes the United States a World War I debt of $3 billion plus $3 billion in interest.

The Senator from Virginia, as the subcommittee chairman, noted at the hearing that the 27-percent figure is similar to the agreement made with Russia in 1972 in regard to the Russian debt to the United States.

Russia owed the United States $2.6 billion for lend-lease equipment usable in the Russian civilian economy, $9 billion for World War II military equipment was written off by the United States. In 1972, the State Department agreed to settle the $2.6 billion debt for 3 cents on the dollar plus another 24 cents, provided Russia was extended "most favored nation" tariff treatment and low-interest-rate, long-term loans by the United States.

In other words, Russia would pay the conditional 24 cents on the dollar to the United States if the United States would loan her the money to pay it.

I expressed the view at the committee hearing, and express it again today on the floor of the Senate, that this so-called settlement of the Russian debt is a ridiculous one.

I do not doubt that the State Department found this boring.

Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

STATEMENT ON CONSTITUTIONAL QUESTION

Mr. MONDALE. Mr. President, the constitutional question which the distinguished Vice President must decide is one of the most important matters this body faces as it carries out its duties each session. Simply stated, the question is: Does the Senate, under the Constitution, have the right to adopt rules by majority vote at the beginning of a new Congress, uninhibited by rules adopted by past Congresses?

Although two previous Vice Presidents have avoided ruling on the question, we submit that the proper procedure and the correct ruling were made in 1957, 1959, and 1961 by then Vice President Nixon and in 1969 by then Vice President HUMPHREY. If I may quote briefly from Vice President Nixon's 1957 ruling:

> It is the opinion of the Chair that while the rules of the Senate have been continued from one Congress to another, the right of a current majority of the Senate at the beginning of a new Congress to adopt its own rules, stemming as it does from the Constitution itself, cannot be restricted or limited by rules adopted by a majority of the Senate in a previous Congress.

The supporters of this resolution would argue, under the Constitution of the United States, the rulings of two previous Vice Presidents, and the precedents and practices of this body, that a majority of the Members of the Senate of each new Congress have the undiluted power to determine the rules under which they will operate during that Congress.

I rise today to briefly address that question, and, in light of the fact that the distinguished Vice President is presiding, to make clear what we consider to be the legal and constitutional basis for our request.

Analysis begins with article I, section 5 of the Constitution. That provision reads, in pertinent part: "each House may determine the rules of its proceedings," and I quote directly from the Constitution of the United States.

That wording, we would submit, has two obvious meanings and effects. First, it clearly means that each branch of the Congress—each "House" of Congress—may determine its rules. If the language has such a meaning, we would suggest that the distinguished Vice President look to the practice of the House for guidance, as it would be strange indeed to interpret the applicability of the identical constitutional to the two Houses of Congress in different manners. If this is done, the Vice President will obviously find the House regularly, at the beginning of each new Congress, acting to adopt rules by majority vote.

In addition, we would argue that the article I, section 5 language should be read to allow each new Senate—each "House" of the Senate—to determine its rules by majority vote.

Mr. President, we all know that the first Senate, meeting in 1789, had the power to make rules by majority vote. It would be contrary to usual constitutional interpretation, fundamental democratic principles, and commonsense to deny that right to Senates that followed—including the Senate of the 94th Congress meeting today.

Let us take an example to illustrate the soundness of this assertion. Suppose the Senate, during the 93d Congress, passed a law which provided that it might only be repealed by a vote of two-thirds of the Members of a succeeding Congress. Is there any doubt that an attempt such as this to thwart the rights and the will of a succeeding Congress would fail and that the succeeding Congress could repeal the law by majority vote?

Or suppose the Members of one Congress passed a law which provided that a Congress that followed could not consider economic legislation? Or suppose the Members of Congress passed a law provided that bills could only be passed by unanimous consent in a succeeding Congress? Is there any doubt that these attempts by past Congresses to bind the hands of new Congresses would fail?

The answer, of course, is simple and the principle is basic. One Congress may not bind another. The power that the Members of the first Senate had in 1789 to make rules is the same power possessed by the Members of the Senate of the 94th Congress. Article I, section 5 must be read to allow the majority of each Senate to make rules to govern its proceedings.

Even a cursory examination reveals that the right to start anew at the beginning of each new Congress is the rule, rather than the exception, in the Senate. At the beginning of a new Congress, we reintroduce bills, start over with committee consideration of bills, debate and vote anew on bills. We also elect officers at the beginning of a new Congress, require the resubmission of nominations, and reselect committee members. In fact, the rules may be the only aspect of this body's work that is argued to not begin anew at the opening of a new Congress.

During the debates that have taken place on this question throughout the years, much has been said about the Senate being a "continuing" body. Apparently, opponents of change in rule XXII find the continuing nature of this body as determinative of the power of a majority of the Senate to act on rules changes at the commencement of a new Congress.

As we have seen, the Senate is hardly a continuing body when it wipes the slate clean of bills, resolutions, nominations, and treaties at the beginning of each new Congress. Nor it is a continuing body with respect to many of its other actions.

But some would argue that, because two-thirds of the Members of the Senate return for each new Congress, this somehow makes the Senate a continuing body for purposes of rules changes.

First, Mr. President, the adjective continuing is just that—an adjective. It is descriptive, possibly, but it surely is not causative. The word may describe the return of two-thirds, but the question remains whether the return of two-thirds binds the hands of a new Senate.

We would argue that it cannot and should not. For, despite the fact that two-thirds of the Senators return, a new majority may return. That is to say, each new Senate—because of the influx of one-third new membership—has its own majority. As I have previously discussed, this new majority may not be inhibited by the past.

But, even if one admits that the Senate has some continuing aspects, it must surely be admitted that it also has many noncontinuous aspects. We would submit, Mr. President, that the debate over whether the Senate is a continuing body is not very helpful and surely not determinative of this important constitutional question.

The other argument often advanced by opponents of change in rule XXII may be promptly disposed of. It has been argued that, by operating under the old rules, the proponents of change in rule XXII are bound by them—both in theory and in fact.

First, Mr. President, the proponents of change in rule XXII specifically stated, at the commencement of this debate, that, by so operating, they did not acquiesce in the effects of the old rules on their effort. This has been the traditional method for making clear that we intend to preserve our rights throughout the deliberation as though it were the first day of the Congress.

Moreover, to the extent that the old rules may be argued to limit the right of the proponents, they must fall before the Constitution. For instance, rule XXXII, to the extent that it might be read to limit change in the rules by majority vote, is subordinate to the constitutional right to make such a change.

Mr. President, the two-thirds requirement of old rule XXII is not sacrosanct. It is not in the Constitution. It is merely a rules provision. When the framers of our Constitution wanted a two-thirds requirement, they knew how to provide for one—with the veto override power, senatorial ratification of treaties, constitutional amendments, impeachment, and expulsion of Members of Congress, for instance. They did not provide for a two-thirds cloture requirement. If you read the Constitution, it is very clear that the framers of the Constitution realized what a severe challenge it was to obtain a two-thirds vote.

They knew how to provide for it when they wanted it. They provided, for example, that, in order to make certain the President's veto power was a real measure of strength in our constitutional system, one could only override a Presidential veto by a two-thirds vote of Congress. They spelled it out. They knew how to do it.

They spelled out that, in order for a President to make a solemn treaty obligation with another country, the President must bring that treaty to the Senate and, in order for it to be binding, had to obtain a two-thirds vote of the U.S. Senate.

They provided that, if we wished to amend our Constitution, it should be a difficult and a solemn act. Thus, they provided that two-thirds of the Senate and two-thirds of the House must propose an amendment, which later must be ratified by the States.

The same is true for impeachments. The framers knew that conviction of impeachment was a harsh remedy, to be provided only after indictment, after trial, and after a two-thirds vote for conviction here in the U.S. Senate.

The same is true for the expulsion of Members.

I am saying that the framers knew exactly how serious a two-thirds requirement was, and they knew when to require it. They did not do so in the constitutional provision dealing with the developing of rules of the Senate and the House. They simply provided that the Houses shall determine their own rules, clearly meaning that a majority should be able to do so.

If the desire to change the rules can be subject to old rule XXII, in effect, we have the novel result that the Constitution of the United States can be amended by the rules of the Senate adopted in a previous Congress.

We are hard pressed to see how that argument can be sustained and, indeed, it has not been on previous occasions by two former Vice Presidents of the United States.

Now, Mr. Vice President, I make this argument today, not in anticipation of a ruling at this time, but simply to spell out some of the fundamental principles that we believe support the proposition that a majority be given the opportunity to establish its own rule.

If we are not permitted to do so by a ruling by the Vice President of the United States, then it will be very difficult—not impossible, maybe, but very, very difficult—to get the two-thirds vote required to invoke the old rule XXII. If that is the requirement, if that is the way in which we are forced to act procedurally, the chances of establishing the rules, as provided under the Constitution by majority vote, will have been taken away from us.

The framers did, however, permit each House to make the rules of its proceedings. It is that right we are asserting today, Mr. President. It is that right that must be exercisable by majority vote. It is that right we ask to have guaranteed today.

It is obvious that, not only the substance of a Vice-Presidential ruling on this question, but also the form of that ruling is vitally important. We would submit that the Vice President might—as Vice President HUMPHREY did in 1969—rule cloture invoked under old rule XXII, when a majority of the Members of the Senate vote for cloture, and the provisions of that rule applicable to limit debate on appeals from the rulings of the Chair; or, the Vice President might choose to submit the question to the Senate. Such a submission, in order to actually permit a Senate vote on the question, must be without debate. In short, the form of the ruling of the distinguished Vice President is also important.

Mr. President, over the many years that this question has been debated, much has been said and much has been written. Perhaps the best discussion of this question is contained in a brief presented to the Senate in 1961 by Senators HUMPHREY, Kuchel, Douglas, JAVITS, CLARK, and CASE. Many of the arguments I have advanced today are discussed at length in this excellent brief. In addition, the Senate precedents and House practice are considered in depth. So that my colleagues and the distinguished Vice President might have the benefit of this excellent document, I ask unanimous consent that the brief be printed in the RECORD at this point.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

1961 BRIEF

I. The Majority of the Senate in Each Congress Has a Constitutional Right To Adopt Rules of Proceedings for the Senate of That Congress Unfettered by Action or Rules of the Senate of Any Preceding Congress

Article I, section 5 of the Constitution of the United States declares that "each House may determine the rules of its proceedings." Both the language and context make clear that "each House" means not only the separate branches of the Congress—that is, the House and the Senate—but also the separate branches of each succeeding Congress. No reason has been or can be adduced to interpret this constitutional provision as a grant of rule-making authority to the Members of the House and the Senate meeting for the first time in 1789 and a withholding of this same authority from the Members of the House and the Senate of later Congresses. Both language and logic lead to the conclusion that the constitutional authority to make rules is granted to each House of each Congress.

Article I, section 5, as we have just seen, is an identical grant of rule-making authority to each House of Congress. It is not disputed that the House of Representatives of each new Congress has the power to, and does, adopt new rules at the opening of each Congress. (See point V). The identical constitutional provision cannot reasonably be given a different interpretation as applied to the Senate, a coordinate branch of the "Congress of the United States." (Article I, section 1). For, not only do the two bodies act as a team in the Congress, but the rule-making authority of the House can be rendered meaningless if the Senate is not also in a position to adopt rules that will make possible the expression of the majority will of the Senate and thus of the Congress.

Every principle of constitutional construction supports the interpretation of article I, section 5, which gives the majority of the Senate present on January 3, 1961, the right to "determine the rules of its proceedings" unfettered by action or rules of the Senate of any preceding Congress. The Constitution of the United States should be interpreted in the light of the intention of its framers to build a democratic government reflecting the will of the governed not only for the day but for an enduring future. What Chief Justice Marshall said in *McCulloch* v. *Maryland* (4 Wheat. 316, 415), of the congressional power to pass "necessary and proper" legislation, is equally applicable to its power to make its own rules without the impediments of the past:

"The subject is the execution of those great powers on which the welfare of a nation essentially depends. It must have been the intention of those who gave these powers, to insure, as far as human prudence could insure, their beneficial execution. This could not be done by confining the choice of means to such narrow limits as not to leave it in the power of Congress to adopt any which might be appropriate, and which were conducive to the end. This provision is made in a constitution intended to endure for ages to come, and, consequently, to be adapted to the various crises of human affairs. To have prescribed the means by which government should, in all future time, execute its powers, would have been to change, entirely, the character of the instrument, and give it the properties of a legal code. It would have been an unwise attempt to provide, by immutable rules, for exigencies which, if foreseen at all, must have been seen dimly, and which can be best provided for as they occur. To have declared that the best means shall not be used, but those alone without which the power given would be nugatory, would have been to deprive the legislature of the capacity to avail itself of experience, to exercise its reason, and to accommodate its legislation to circumstances."

Likewise, article I, section 5, must be read in the light of the spirit of democratic government upon which the Constitution is predicated. There is no more basic principle of democracy than that the present shall determine its own destiny unhampered by the dead hand of the past. It cannot be argued, in a democracy, that earlier Congresses can bind new Senators who are elected on pledges to particular programs which old rules make impossible.

We cannot state this proposition as well as Thomas Jefferson did many years ago:

"Can one generation bind another, and all others, in succession forever? I think not. The Creator has made the earth for the living, not the dead * * *. A generation may bind itself as long as its majority continues in life; when that has disappeared, another majority is in place, holds all the rights and powers their predecessors once held, and may change their laws and institutions to suit themselves. Nothing then, is unchangeable but the inherent unalienable rights of man." (The Jefferson Cyclopedia, vol. VII, pp. 377, 378.)

As one generation cannot bind another, so one legislature cannot bind its successor. This fundamental principle of the independence and full authority of each new legislature, recognized by all authorities, has been well stated by Judge Cooley (Constitutional Limitations, 6th ed., 1890, pp. 146–147):

"To say that the legislature may pass irrepealable laws, is to say that it may alter the very constitution from which it derives its authority; since, insofar as one legislature could bind a subsequent one by its enactments, it could in the same degree reduce the legislative power of its successors; and the process might be repeated until, one by one, the subjects of legislation would be excluded altogether from their control, and the constitutional provision that the legislative power shall be vested in two houses would be to a greater or less degree rendered ineffectual."

The inherent right of legislative bodies to be unfettered by previous assemblies has been forcefully recognized by the Supreme Court of the United States in cases dating back over a long period. This right, as analyzed by the Supreme Court, does not arise from any particular phraseology in Federal and State constitutions; it arises from the very nature of successive legislatures in a democratic society.

In one of the leading cases dealing with this problem, the Supreme Court stated:

"Every succeeding legislature possesses the same jurisdiction and power with respect to them as its predecessors. The latter have the same power of repeal and modification which the former had of enactment, neither more nor less. All occupy, in this respect, a footing of perfect equality. This must necessarily be so in the nature of things. It is vital to the public welfare that each one should be able at all times to do whatever the varying circumstances and present exigencies touching the subject involved may require. A different result would be fraught with evil." *Newton* v. *Board of County Commissioners of Mahoning County, Ohio* (100 U.S. 548, 559).

Again, in response to the argument that Congress could not change the use of certain public lands, Mr. Justice (later Chief Justice) Stone said:

"By dedicating the lands thus acquired to a particular public use, Congress declared a public policy, but did not purport to deprive itself of the power to change that policy by devoting the lands to other uses. The dedication expressed no more than the will of a particular Congress which does not impose itself upon those to follow in succeeding years. See *Newton* v. *Mahoning County Commissioners* (100 U.S. 548, 559); *Connecticut Mutual Life Insurance Co.* v. *Spratley* (172 U.S. 602, 621)." *Reichelderfer* v. *Quinn* (287 U.S. 315, 318).

This principle, that no legislature can act so as to fetter its successors in expressing public policy and public will, has been repeatedly expressed. See *Town of East Hartford* v. *Hartford Bridge Co.* (10 How. 511, 533); *Ohio Life Insurance and Trust Co.* v. *Debolt* (16 How. 416, 431); *Connecticut Mutual Life Ins. Co.* v. *Spratley* (172 U.S. 602, 621); *Toomer* v. *Witsell* (334 U.S. 385, 393 (n. 19)). Who would maintain that, for example, if the Congress enacts a law providing that it can be repealed only by a two-thirds vote, that a majority could not subsequently repeal both that provision and the law itself by a simple majority? Such a theory would be the first, irreversible step toward the destruction of democratic government. Yet this is the very argument which is being made by those who would assert the binding effects of the old rules upon the Senate of the new Congress.

Article I, section 5 of the Constitution, empowering each House to "determine the rules of its proceedings" must be interpreted in the light of these fundamental democratic principles upon which the Constitution is based; so interpreted, it can only be read to give each branch of each succeeding Congress the same power of making its own rules that the branches of the first Congress had when they met in 1789. And there can be no slightest question whatever that the majority of the Senators in 1789 had the right to adopt rules for their own governance and that that right could not have been frustrated by any attempts at filibuster.

What we have had in the past dozen years is a clear illustration of the evils inherent in the members of a legislative body seeking to bind their successors. What we have had is not simply a rule of the past whose incidental effect is to bind the present and the future; what we have had are purposeful efforts to restrict the authority of future Congresses by preventing changes in the rules.

First came clause 3 of the Hayden-Wherry resolution of 1949, which amended rule XXII to provide that there shall be no cloture whatever on any proposal to change the rules of the Senate. The Senate of the 81st Congress thus attempted to fasten its will on the Senate of all future Congresses; it attempted to perpetuate the present rule XXII for all time. This was not a simple effort to provide rules for the Senate's own governance, but was rather a deliberate attempt to foist those rules upon the Senate of all future Congresses. As Senator RUSSELL so aptly said of clause 3, "the rules of the Senate hereafter are not subject to cloture on a motion to proceed to the consideration of a change in the standing rules * * * it [clause 3] permits Senators who have the courage to do so to protect the parliamentary integrity of this body from assaults that will come in the days that lie ahead." (95 CONGRESSIONAL RECORD 2722. See also 95 CONGRESSIONAL RECORD 2230, 2415, 2582–2584, 2673–2675). Clause 3 was, in a word, a deliberate effort boldly stated to flout the basic principle that the Members of one Congress cannot bind their successors. The Vice President's advisory rulings in both 1957 and 1959 clearly stated his belief that clause 3 was unconstitutional.

Then, in 1959, the resolution of Majority Leader JOHNSON made an even more determined effort to bind the Senate of future Congresses. While removing clause 3 of the Hayden-Wherry resolution of 1949, the Johnson resolution of 1959 added a new similarly intended section 2 to rule XXXII reading as follows:

"2. The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules."

But this provision can no more deny to a majority of the Senate of the 87th Congress their right to adopt rules than could clause 3 of the 1949 resolution. True, its intent, when considered in the light of the existing rule XXII, is to fasten that rule upon future Congresses until two-thirds of the Senators vote to cut off a filibuster against a rules change and get to a vote on a change in the rules. But the intended purpose falls before article I, section 5, and the basic democratic principles just discussed. A majority in 1959[5] cannot give a minority in 1961 the right to prevent the majority in 1961 from exercising its democratic will. It cannot be that such a strategem has effectively given a minority of Senators a perpetual veto power over the national legislative process.

It might be helpful and clarifying to consider some other possible courses that the Senate of the 81st Congress or the 87th Congress might have followed to perpetuate rule XXII. Suppose that, instead of adopting section 2 of rule XXXII, the Johnson resolution had provided that rules of the Senate "may be amended hereafter only be unanimous consent." Certainly no one would contend that the Senators meeting on January 3, 1961, would be bound by any such rule and yet this is exactly the purpose and effect of section 2 of rule XXXII. As long as a minority of Senators are on their feet and ready to talk and there are not two-thirds of the Senate ready to vote cloture, there can be no change in the rules of the Senate even though 55 percent or 60 percent or even more favor majority cloture. There is little difference between substance, the only effect of which is to create a certain result, and the actual form. When the practical effect of a provision is unconstitutional, it does not matter that the draftsmen have carefully avoided a clear expression thereof.

Or let us take a second case. Suppose the Senate in 1959 instead of enacting section 2 of rule XXXII had adopted a rule that no equal rights legislation could be considered for 25 years or some other terms of years. Again no one would dream of arguing that this rule would bind a majority of the Senate of the incoming 87th Congress. Yet again as a practical matter, that is exactly the purpose of the action of the Senate of 1959.

The Senate of 1959, by section 2 of rule XXXII, tried to bind the future just as much as if it had required unanimous consent to any changes in the rules or had provided that the Senate of no future Congress could take up equal rights legislation. Its efforts to prevent the Senate from responding to the will of the people cannot succeed under the authorities cited and principles outlined above.

Rule XXII, in combination with rule XXXII, is substance masquerading as procedure. Rules are generally intended to facilitate the conduct of business, not to prevent it. The purpose of rules is to facilitate and provide, by orderly procedure, what a legislative body desires to do; a rule which defeats the purpose for which rules are established is hostile in democratic processes.

Rule XXII, in combination with rule XXXII, is not a procedural means of getting business done; it is a substantive means of preventing business from being done.

It is a means of the Senate of one Congress seeking to bind its successors to its own rules and its own inaction.

It is a means of keeping the majority of the Senate and of the people from determining vital substantive issues.

The answer to this attempt to bind the future lies in article I, section 5, which gives the majority of the Senate of the 87th Congress, meeting for the first time on January 3, 1961, the power and the duty to make its own rules, unfettered by efforts of the Senate of an earlier Congress to deprive this majority of its constitutional power and responsibility. Rules adopted by the Senate of an earlier Congress cannot prejudice the explicit constitutional authority in article I, section 5.

II. The Four Closest Precedents in the History of the Senate All Support the Proposition That a Majority of the Senate of a New Congress Can Act To Adopt Its Own Rules Without the Obstruction of Actions and Rules of the Senate of an Earlier Congress

A. Precedent 1—The dismissal of the Senate printer in 1841: A joint resolution of 1819 authorized each House of Congress to choose the printer for the next succeeding House; it provided the method, rights of pay, and other matters of detail. Pursuant to this joint resolution, the Democratic Senate in 1840 chose as printer for the Senate of the following Congress (the 27th Congress) the firm of Blair & Rives. Mr. Blair was editor of the Washington Globe, an intensely partisan newspaper which supported the Democratic administration. The Whigs had given notice during the last days of the 2d session of the 26th Congress that they did not consider that the Democrats had any constitutional or moral right to choose a printer for the next Congress. Despite these warnings, the Democratic Senate awarded the contract for the printing for the next Senate to Blair & Rives.

Immediately upon the opening of a special session of the Whig-controlled 27th Congress, Senator Mangum, of North Carolina, introduced a resolution that Blair & Rives be dismissed as printer to the Senate (9 Congressional Globe, p. 236). The resolution was heatedly opposed, largely on the authority of the established usage under the joint resolution of 1819. The opponents argued that a printer had been elected 10 times under the authority of the resolution and that now, on the occasion of the 11th election, the unconstitutionality of the authorizing resolution was claimed too late.

Senator Allen, of Ohio, in a statement quoted several times during the recent Senate debates on rules changes, summed up the position of those contending for the binding effect of the action of the previous Senate in these words:

"And as to the assertion that this was a new Senate, he denied the fact. * * * There was no such thing as a new Senate known to the Constitution of this Republic. They might as well speak of a new Supreme Court as of a new Senate."

Senator Buchanan and others supported Senator Allen, arguing for the theory of the Senate as a permanent and continuous body bound by the actions of the Senate of an earlier Congress.

Rejecting the appeals of Senators Allen, Buchanan, and the other Democrats, those in favor of the dismissal of the printer designated the resolution of 1819 as a nullity because it attempted to bind the actions of future Houses of Congress. The argument that the Senate of one Congress could not bind its successors prevailed; the resolution to dismiss the printer was adopted 26 to 18.

In a word, the Senate of 1841 rejected the theory that the action of the Senate of one Congress could bind the Senate of a later Congress. The Senate rejected this theory in the face of the same arguments of permanence and continuity that are now being made by the supporters of rule XXII. Indeed, it is significant that Senator Taft, leading the battle against the motion to take up rules in 1953, relied heavily upon the quotation from Senator Allen in the 1841 debate, despite the fact that Senator Allen's statement and his theory had been repudiated by a majority of the Senate when it voted to dismiss the printer. In other words, those who relied upon the statements of Senators Allen, Buchanan, and their colleagues were relying upon the arguments of the defeated side; it was as though, in arguing to a court, a lawyer had relied upon a decision that had been overruled.

B. Precedent 2.—Abrogation of the joint rules in 1876: The story of the abrogation of the joint rules and their relevance to the present issue was well stated in the Leadership Conference Brief, 99 CONGRESSIONAL RECORD 187, and quoted in the 1957 brief submitted by Senators joining in the motion to take up rules (103 CONGRESSIONAL RECORD 24, 26). We again quote that statement in full:

"In the First Congress the Senate and House adopted joint rules to govern the relationship and necessary business between them. Annals of Congress, 57–58, 987. Thereafter, these joint rules of the two Houses were treated as in force and revised and amended, although the Senate and House did not adopt them at the beginning of each Congress.

"In 1865, rule XXII of the joint rules was adopted in an attempt to settle the long-standing controversy on the method of counting electoral votes. In 1869, there was a violent quarrel between the two Houses of Congress over the effect of this particular joint rule. This led to a determination by a portion of the Senate to rescind that rule, in anticipation of any problems over the counting of electoral votes which might arise from the 1876 presidential election (Haynes, op. cit., supra, page 245 et seq.). The desire of the Senate to eliminate joint rule XXII led to the end of acquiescense of each new

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[5] Whether there actually was a majority for this provision is unclear. It was added as part of a compromise package and no vote was ever taken on this provision separately.

Senate in the continuation of the joint rules and the Senate in the 1st session of the 41st Congress, after 87 years of unbroken historical usage, demonstrated its right to adopt new joint rules at the beginning of each new Congress.

"On December 15, Senator Edmunds, of Vermont, introduced a resolution to adopt the joint rules in force at the close of the last session of Congress. Senator Bayard, of Delaware, asked whether this was necessary, and Senator Edmunds answered:

"'That, as a celebrated Englishman said, is past finding out. The object of this resolution is to ascertain from the proper Committee on Rules (which had jurisdiction over the joint rules as well as the Standing Rules of the Senate) whether the joint rules that were in force at the last session of Congress are in force now without any vote; and, if so, upon what principle of law or joint proceeding; and if not, of course to take some steps to have some joint rules between the two Houses,' (4 Congressional Record 220).

"The resolution was referred to the Committee on Rules, which reported it back favorably with a technical amendment making it a concurrent resolution. Senator Hamlin argued that the joint rules operated only by acquiescence (4 Congressional Record 309). Considerable heated discussion ensued, in which widely different theories as to the effect and validity of the joint rules were stated. The one point receiving constant reiteration was that the joint rules had operated by acquiescence, and must be subject to change. Senator Hamlin, as he gave the committee report, stated it as follows:

"'It is only by acquiescence in long years that they have been treated and regarded as rules, and not by an affirmative vote either of the House or of the Senate' (4 Congressional Record 309).

"Recognition that common consent or acquiescence could give validity to that which was otherwise doubtful only so long as the acquiescence continued was voiced by Senator Merrimon, who said in the course of this debate (4 Congressional Record 431–432):

"'It seems, as the venerable Senator from Maine [Mr. Hamlin] stated on a former occasion, that this matter has passed uniformly from the beginning of the Government down to this time without question. The question is now raised, and if today some action of Congress should be required under the joint rules, and a Senator should rise and say "I object," there would be the end of it. It is only by common consent that the practice to which I have referred has prevailed.'

"Despite the appeals to history, longstanding practice, and the venerability of the joint rules, the Senate voted to reject a substitute resolution which would have treated the rules as in force and provide for an amendment of those rules, and accepted the initial resolution which was framed on the theory that no joint rules existed at the opening of the new Congress (4 Congressional Record 519).

"Thus, the Senate passed a concurrent resolution adopting the joint rules anew for the 44th Congress. The House never passed this resolution. The Senate, at various times, since then has made an effort to have joint rules passed but they never have succeeded (Gilfrey, Precedents, 1914, p. P–441; Hinds, secs. 6782–6787.) In most respects the House and Senate now operate in the same manner as they did under the joint rules on some theory of usage.

"The decision, by vote of the Senate, that the joint rules were not in effect demonstrated that the joint rules had existed only by acquiescence and that the acquiescence of even 87 years was in no way binding when a majority manifested its will to the contrary. It also showed conclusively that the method by which the majority in such a situation manifests its will is by the adoption of new rules and not by amendment of the old ones."

C. Precedent 3—Senator Walsh's resolution and arguments in 1917: At the opening of the 65th Congress in March 1917, Senators Owen of Oklahoma and Walsh of Montana raised the question whether the rules of the preceding Senate were binding upon the new body.

Senator Owen, on the first business day of the Senate of the new Congress, March 6, 1917, refused to permit a bill to be referred to committee on the ground that committees were not in existence at the beginning of this new Congress, and Senator Walsh supported Senator Owen's contention.

On March 7, Senator Walsh presented a resolution squarely raising the issue whether the rules carried over from Senate to Senate and presented his now famous argument against the old rules being utilized to frustrate the right of the Senate of the new Congress to adopt rules for its governance. Said the Senator: "A majority may adopt the rules in the first place. It is preposterous to assert that they may deny to future majorities the right to change them."

On the evening of March 7, after Senator Walsh's resolution and speech, caucuses of both parties voted to approve a change in rule XXII to provide for cloture by a two-thirds vote. The resolution was debated by unanimous consent without ever being referred to committee and was adopted on March 8, 1917 (76 yeas, 3 nays). Senator Walsh, who had accomplished his purpose of obtaining the cloture rule he sought dropped his resolution.

D. Precedent 4—Vice President Nixon's Advisory Rulings in 1957 and 1959.

At the opening of the 85th and 86th Congresses in 1957 and 1959, several Senators made parliamentary inquiries of Vice President Nixon. With clarity and consistency the Vice President gave repeated advisory rulings that a majority of the Senate of a new Congress can act to adopt its own rules without the obstruction of actions and rules of the Senate of an earlier Congress and that a motion to cut off debate would be in order against a filibuster attempt to prevent a determination of the rules to govern the Senate of the new Congress. These rulings are quoted earlier in this brief and will not be repeated here. But even a cursory glance back at these rulings will be sufficient to make clear that they follow the Constitution and precedents with logic and reasoning.

Thus, in the four closest precedents, the Senate, while some of its Members talked "continuous body" and others talked in a contrary vein, each time supported the right of the Senate to adopt new rules unfettered by past actions. The printer was dismissed in 1841 despite the argument that this could not be done in the face of the action of the Senate of the earlier Congress; new joint rules were adopted in 1876 despite the action and acquiescence of the Senate of the earlier Congress; a new cloture rule was adopted in 1917 by overwhelming agreement once the argument was made that the old rules did not bind the Senate of the new Congress; and the Vice President's advisory rulings in 1957 and 1959 were well received by the Senate.

III. The Senate of Each New Congress Makes a Fresh Start on All Activities; It Has a Right To Make a Fresh Start in Whole or in Part on Its Rules if a Majority So Desire

In every major activity the Senate recognizes a constitutional right of the Senate of each new Congress to determine both legislative and executive business anew. All consideration of bills,[6] resolutions, treaties and nominations starts at the beginning of each Congress without reference to or continuation of what has taken place in the past; new officers and committee members are elected in the Senate of each new Congress; when the Senate finally adjourns, the slate is wiped clean; the proceedings begin again in the next Congress.

For convenience, we present an analysis of the operations of the U.S. Senate in tabular form.

The thing that stands out in the analysis is that everything starts afresh with the possible exception of the rules.[7] And these, too, it is submitted start afresh in whole or in part the moment a majority of the Senators at the opening of the Senate of a new Congress so will it and so vote. All that has happened over the past years is that there has been acquiescence in the carryover of rules of the Senate from Congress to Congress.[8] Carryover of the rules based on acquiescence is certainly no precedent for arguing that the earlier rules bind the Senate of the new Congress in the absence of such acquiescence. Absent acquiescence, the Senate of the new Congress has power to adopt its rules at the opening of the new Congress unfettered by any restrictive rules of earlier Congresses. The acquiescence in rule XXII will be ruptured when the resolution proposed herein is offered on January 3, 1961.

IV. The Talk About the Senate Being a Continuing Body Is Both Misleading and Irrelevant: Whether or Not the Senate Is Properly Termed a Continuous Body as an Academic Matter Does Not Determine Whether a Majority of the Senate of the 87th Congress May Adopt Its Own Rules Unobstructed by the Actions and Rules of the Senate of Earlier Congresses

As we have seen in points II and III, the Senate has not in the past acted as a continuous body.

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[6] As was well said in the 1957 brief of the Legislative Reference Service of the Library of Congress, in referring to the fact that no action in connection with bills carries over from the Senate of one Congress to the Senate of the next Congress:

"This necessary practice is not grounded upon a rule only but upon art. I, sec. 1, of the Constitution of the United States which vests all legislative power in the Congress. As the legislative business of one Congress cannot carry over to a subsequent Congress, a fortiori, the legislative business of one part of the Congress cannot carry over to that part of a subsequent Congress."

[7] It has been suggested that the very fact that the Senate rules referred to in the above analysis provide that Senate bills, resolutions, treaties, nominations, etc., start afresh is evidence that, in the absence of these rules, Senate activities and business would not start afresh. There are several answers to this suggestion: (i) The rules codified rather than reversed existing practice. (ii) At least with respect to legislative business, starting afresh is a constitutional necessity. See note 6, supra. (iii) Senate rule XXXII provides for the continuation of legislative business from session to session of the same Congress; the existence of this rule hardly proves that the opposite would be true in the absence of rule XXXII. No more does the existence of the various rules providing that Senate business and activities start afresh in a new Congress prove that the opposite would be true in the absence of these rules.

[8] Except, of course, in 1917, when Senators Walsh and Owen refused to acquiesce until the Senate adopted the cloture rule they sought, and in 1953, 1957, and 1959, when Senators joining in the Anderson motion refused to do so and the Senate, in voting to table the Anderson motion, indicated its acquiescence in the old rules.

ANALYSIS OF THE OPERATIONS OF THE U.S. SENATE

Activity	Senate acts anew in each Congress	Senate bound by Senate of preceding Congress	Comment
1. Introduction of bills	×		See Senate rule XXXII.
2. Committee consideration of bills	×		Do.
3. Debate on bills	×		Do.
4. Voting on bills	×		Do.
5. Election of officers	×		While the old officers carry over until new ones are elected, the carryover does not prove rules carryover. It is a mere convenience. Even in the House, the Clerk carries over until the new one is elected. Obviously this does not prove that House rules carry over, they do not.[1]
6. Consideration of validity of senatorial elections	×		Although credentials of a Senate-elect are often presented to the Senate prior to the beginning of his term, the validity of the credentials can only be considered by the Senate to which he was elected and not before.
7. Consideration of treaties	×		See Senate rule XXXVII(2).
8. Submission and consideration of nominations	×		See Senate rule XXXVIII(6).
9. Election of committee members	×		See rule XXV. While old committees carry over until new ones are elected, the carryover does not prove rules carry over. It is a mere convenience. Even in the House, the Clerk carries over until the new one is elected. Obviously this does not prove that House rules carry over; they do not.
10. Adjournment	×		Adjourns sine die. When Congress ends at noon of a particular day, and a special session of the Senate of the new Congress is called, the Senate adjourns at noon, and one minute afterward opens the new session.
11. Rules	(?)	(?)	Past practice of Senate on rules is ambiguous. It can be explained as acquiescence in past rules, which can either be repeated at the opening of the Senate of any new Congress by beginning to operate under them or which can be refused by the adoption of new rules in whole or in part.

[1] Similarly, the fact that the President pro tempore carries over until there is a change of party control of the Senate is no evidence of rules carryover. On the contrary, the fact that an election of a President pro tempore automatically follows a shift in party control (see 99 Congressional Record 9), is evidence that the Senate of each new Congress responds to the will of the majority of the Senate of that Congress.

It did not act as a continuous body in 1841 when it dismissed the printer chosen by the Senate of the earlier Congress; it did not act as a continuous body in 1876 when it adopted new joint rules; and it did not act as a continuous body in 1917 when it yielded to the contrary arguments of Senator Walsh and adopted the cloture rule he demanded (point II).

It does not today act as a continuous body; it wipes the slate clean on bills, resolutions, treaties, and nominations at the beginning of each new Congress (point III).

It would be circular reasoning, indeed, to argue that, despite these actions, the Senate is a continuous body because it has acquiesced in the carryover of rules in the past and is now bound to continue to acquiesce in the old rules because it is a continuous body.

No one would deny that many Senators have talked in terms of a continuous body and that textbook writers have accepted this talk in their academic works. But the talk has been largely by those who tried—unsuccessfully—to use the phrase to prevent Senate action departing from that of the Senate of an earlier Congress and who have failed in their efforts.[9]

The essence of the matter, of course, is that the term "continuous" is an adjective resulting from the two-thirds carryover of Senators, not a cause of anything. Also, it can be appropriate when considering one aspect of the Senate and inappropriate when considering another. The adjective may, for example, be well used when it is simply meant to convey the fact that two-thirds of the Members of the Senate carry over to the succeeding Congress; but, equally clearly, the adjective "continuing" is inappropriate when it is intended to convey the idea of a body which wipes the slate clean in regard to bills, treaties, nominations, etc. (see point III). But whether or nott he term "continuing" is a good or a bad adjective,[10] it has not been a successful adjective when utilized against concrete proposed action. It cannot prevail over article I, section 5 of the Constitution empowering each House "to determine the rules of its proceedings " nor sanction a device by which the Senate of a previous Congress attempted to fashen its will upon the future. Whether the Senate be continuous not for other purposes, its bylaws (rules) are void where they conflict with its charter (Constitution). If, by saying that the Senate is a continuous body, it is intended to assert that the rules of yesterday can bind the Senate of the Congress of today, the simple answer is that the first obligation of the Senate is not to its rules but to the people and the Constitution from whence its power derives. There cannot be a constitutional obligation of the Senate to observe rules whose purpose and effect is to deprive it of its constitutional right to make its own rules.

Actually, parliamentary bodies generally have both continuous and discontinuous aspects. The House of Representatives, as we shall show in point V, has continuous aspects and yet no one refers to it as a continuous body and no one disputes its right to adopt new rules at the beginning of each Congress. By the same token, the Senate has both continuous and discontinuous aspects: its limited continuous aspects do not support the proposition that the Senate of an earlier Congress can prevent the Senate of a new Congress from acting upon rules as the majority may determine at the opening of the new Congress.

The relevant difference between the House and the Senate, which causes the latter to be described sometimes as a continuous body, is the fact that two-thirds of the Senators carry over from Congress to Congress. But the fact that two-thirds of the Senators carry over to the new Congress is not relevant to the question whether the rules of the Senate of one Congress bind the Senate of the next Congress. What is relevant is the fact that one-third of the Senators do not carry over and that, in the course of a very few years, a majority of the Senators do not carry over; and in the course of a little more than a generation, no Senator carries over.

The argument for the carryover of the rules seems to come down to this: Because two-thirds of the Senators carry over, the Senate is a continuous body; because the Senate is a continuous body, the rules carry over. Striking the words "continuous body" out of this formula, the argument comes down to this: Since two-thirds of the Senators carry over, the rules carry over. But this is a patent nonsequitur. It assumes that the carryover of two-thirds of the Senate always carriers over a majority in favor of the rules. The infusion of one-third newly elected Senators—both by their numbers and their power of persuasion—may very well change the majority view on rules and it is this majority view that is determinative under our constitutional democracy, not who carries over. That the new one-third may change the majority on any matter is well illustrated by the shifting of the Senate from party to party over the years. The argument that the two-thirds carryover prevents the new majority from acting on the rules disenfranchises not only the newly elected one-third, but the new majority who are prevented from exercising their powers and duties to make the rules for their own work and laws for the people. To say that the Senate of the 87th Congress in 1961 is the same as the Senate of the 1st Congress in 1789 because two-thirds of its members carried over to the Senate of the 2d Congress is to prefer romantic form to rational substance and dubious academic theory to practical reality.

Some Senators genuinely believe the Senate is a "continuous body." Others genuinely believe that it is not, that it acts as a "discontinuous body." Both have the right to their opinions. But when a descriptive term resulting from nothing more than the carryover of two-thirds of the Senators is used as a reason for preventing the majority of the body from determining the Senate's actions, an adjective is being confused with a reason and an effect with a cause. The parliamentary deadfall dug by the Senate of a dead Congress, harmless enough as an abstraction, should not be permitted to stultify and destroy the power of the Senate and of the entire Congress in the present.

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[9] We have already seen (point II, A) how Senator Taft and others quoted Senator Allen and his colleagues who were on the losing side in the 1841 debate over the dismissal of the printer.

[10] The passing reference to the Senate as continuing body in *McGrain* v. *Daughtery* (273 U.S. 135), is much discussed and little analyzed. That case involved an investigation into the malfeasance of Attorney General Daughtery, which was begun in the 68th Cong., and the validity of a subpena to the Attorney General's brother which had been issued during the life of that Congress. Before the Supreme Court handed down its decision, the 68th Cong. had expired. In considering whether the case had become moot as a result of this fact, the Supreme Court pointed out that the Senate could now revive the committee "by a motion to that effect" and therefore there was a potential need for the information sought from Daughtery. All the Court held was that the Senate had power to revive a committee started in one Congress by action taken by the Senate in the next Congress. This decision did not involve the determination that the Senate was a continuing body for all purposes, since it dealt only with the problems of continuing investigations; actually, even the finding of the Senate's continuity in this respect is open to question, since a truly continuing body would not require a new motion to continue the work of the committee. In a word, the Court disproved its own dictum.

V. The Practice of the House of Representatives in Readopting Its Rules in Each New Congress Is a Relevant Precedent for tne Senate

As we have noted many times in this brief, article I, section 5, of the Constitution provides that "each House may determine the rules of its prcoeedings." Article I, section 1 provides that "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives." The Constitution contains reference after reference to the Congress of which the Senate is a coordinate part. Where any differences in the conduct or authority of the two Houses are intended, they are set forth in express terms in the Constitution and no difference is expressed in relation to the determination of rules. We believe, therefore, that the Senate can properly consider the history and practice of the House of Representatives in the adoption of its rules.

A. Brief history of House practice on adoption of the rules: The House in the First Congress, as one of its first acts, adopted rules of procedure, based on those used in the Continental Congress (Galloway, "Congress at the Crossroads" (1946), p. 13; Annals of Congress 121). The House of the Second Congress instituted the system, now in use, of adopting the rules of the prior House at the beginning of the session (3 Annals of Congress 143). This practice apparently continued until 1860. However, for the 30-year period from 1860 to 1890, the House operated under a system of acquiescence in past rules, without necessarily formally adopting new rules at the beginning of each Congress. During this period the House operated under a resolution providing that the 1860 rules of the House should be the rules "of the present and subsequent Congresses unless otherwise ordered." This rule remained in existence until 1890 and operated as the source of authority for the rules of the House.

In 1890, there occurred perhaps the most famous example of a change in basic legislative procedure in our country. Speaker Reed ruled that at the beginning of each new Congress the House operates under general parliamentary law until new rules are adopted. By so ruling, he made it possible for the majority of the House to adopt new rules which were designed to promote effective majority exercise of legislative functions and to prevent minority obstructionism (21 Congressional Record 1347; 99 Congressional Record 188, 189). Since 1890, House rules have been adopted anew by each incoming Congress. The 1890 episode demonstrates that acquiescence in the carryover of rules does not prevent the majority from acting when they no longer deem such acquiescence in the public interest.

B. Current House practice on adoption of the rules: Very early in the first session of each new Congress, on the first or second day, the ranking member of the (old) Committee on Rules offers a resolution adopting rules for the new Congress (Galloway, "Legislative Procedure in Congress" (1955), p. 15). The resolution often is phrased in terms of reference to the rules of the preceding Congress, although the rules are sometimes set out in full (see 99 Congressional Record 15–24). Unless a major change is proposed, debate is non-existent or perfunctory and the rules are adopted within a few minutes (see adoption of rules for 84th and 85th Congresses at 101 Congressional Record 11; 103 Congressional Record 47). Even when a controversial change has been proposed, the debate does not run on unduly (see adoption of new rules for the 81st and 82d Congresses at 95 Congressional Record 10; 97 Congressional Record 9).[11] During the period preliminary to the adoption of the rules, the House operates under general parliamentary procedure (21 Congressional Record 740–749; 99 Congressional Record 24) and under general parliamentary procedure debate on the rules can always be effectively closed by a call for the previous question (99 Congressional Record 24). The experience of the House within the last 50 years in adopting rules has proved conclusively that the necessity for periodic adoption every 2 years at the opening of each new Congress does not delay either the organization of the legislative body or the prompt consideration of legislative business.

C. Carryover of House Clerk: Perhaps the most striking example of a House procedure which, at first glance, is inconsistent with the House's view of itself as a discontinuous body is the carryover of the Clerk of the old House for the purpose of opening the new session of Congress in the new House. This procedure is described at 100 Congressional Record 188 (see also Cannon's Procedure in House of Representatives 175). It is now authorized by statute, although, of course, that statute, like the provisions of the Legislative Reorganization Act, is subject to change by the House in the exercise of its constitutional right to make its own rules. That statute, moreover, merely codifies a longstanding custom and House rule, under which the House operated prior to the statute. The carryover procedure is not limited solely to the Clerk, for, in case the Clerk is absent, the duty falls upon the Sergeant at Arms and next on the Doorkeeper (Hinds, "Precedents," 15). This well-known and unquestioned procedure offers a further convincing demonstration that neccessary procedural carryovers, acquiesced in over a long period of time, do not change the nature of a legislative body and cannot obliterate nor diminish the constitutional and moral right of a majority of an American legislative body to make its own rules.

The House also carries over certain other functions. These are listed in sections 6748–6754 of Hinds, "Precedents." Hinds, in summarizing these carryover procedures, points out that, although the House becomes functus officio at the end of its terms, in practice certain rules extend into the new Congress. But the carryover of the Clerk and of other items by acquiescence does not deprive the House of its right to make new rules at the opening of a new Congress; no more does past acquiescence of the Senate in rules carryover deprive it of the right to make new rules at the opening of a new Congress when a majority of the Senators then elected and present so decide.

These practices and procedures of the House of Representatives are relevant to the debate concerning the adoption of new rules by the Senate. Because the House and the Senate operate as a team in a 2-year Congress, the Senate in each Congress starts anew with respect to legislative business. So does the House. (The Senate also starts anew in each new Congress the business relating to its special functions in connection with nominations and treatymaking.) Both organize their activities on a 2-year basis.

The sole significant difference between the two legislative bodies in our Congress is the duration of the individual Senators' terms and the rotation of one-third of the number of Senators every 2 years. The historical materials demonstrate that the longer term for Senators was established in order to provide a moderating force in Congress, a body which would have stability and the opportunity via its longer term to acquire specialized knowledge in the field of foreign affairs and some independence from the pressures of politics. (See Prescott, "Drafting the Federal Constitution," pp. 247–260.) It is equally clear from the debates in the Constitutional Convention that there was a firm desire to avoid the establishment of a permanent upper house similar to the House of Lords. Thus the Convention dismissed without even a vote a suggestion made that tenure might be for life. It rejected the proposal of a 9-year term in favor of the shorter, 6-year term. The fact that the Founding Fathers desired to give a measure of stability to one branch of the Congress cannot support any artificial theories abrogating the right of new Senators in each new Congress to have equal voice in establishing "the rules of its proceedings." If the rules cannot as a matter of actual fact be changed at the will of the majority, as in the House, the Senate will have been converted into that permanent, undemocratic and irresponsive body which it was the particular intention of the drafters of the Constitution to prevent.[12]

VI. Majority Rule Is the Basic Principle of Legislative Action Prescribed by the Constitution of the United States: The Rulings of the Vice President Should Be Made in 1961, as in 1957 and 1959, in the Light of the Fact That His Decision May Well Determine Whether Constitutional Majority Rule Is To Be Regained in the Senate of the United States

Majority rule has not existed in the Senate of the United States for many years. The filibuster and the threat of filibuster have prevented the majority from carrying out its will in the Senate and thus in the Congress. This is in direct opposition to the letter and majority rule as the basic principle of our Government, and the basis of the enacting power of the Houses of Congress. The Supreme Court has aptly described the principle of majority rule as one "sanctioned by our government practices, by business procedure, and by the whole philosophy of democratic institutions." *N.L.R.B.* v. *A. J. Tower Co.* (329 U.S. 324, 331).

The pervasive need for majority rule was recognized at the Constitutional Convention. Alexander Hamilton, writing in the Federalist, No. XXII, strongly emphasized this need as follows:

"To give a minority a negative upon a majority (which is always the case where more than a majority is requisite to a decision) is, in its tendency, to subject the sense of the greater number to that of the lesser * * *. If a pertinacious minority can control the opinion of a majority, respecting the best mode of conducting it, the majority, in order that something may be done, must conform to the views of the minority; and thus the sense of the smaller number will overrule that of the greater, and give a tone to national proceedings."

The authors of the Constitution prescribed majority rule as the rule for congressional action by expressly enumerating all the instances in which more than a majority vote was to be required. These special cases were limited to five. There are two-thirds requirements in connection with (1) the power of Congress to override the veto, (2) senatorial ratification of treaties, (3) the initiation by Congress of proposals to amend the Constitution, (4) the impeachment power, and (5) the expulsion of Members of Congress. In these rare instances, where it was felt necessary to make exceptions to majority rule, the Constitution expressly said so (art. I, sec. 7; art. II, sec. 2; art. V; art. I, sec. 3; art. I, sec. 5).

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[11] In 1951, the proposed rules were amended and then adopted without undue interruption of House business even though efforts to close debate by use of the previous question motion were unsuccessful.

[12] Actually the precedent set by the House in adopting its rules at the opening of each Congress goes far beyond what is proposed here. The Senators backing majority rule are not now proposing the adoption of all the rules at the opening of Congress. All they are suggesting is the adoption of a new rule XXII and the right of the majority of the Senate of the new Congress to adopt that new rule XXII without obstruction in the form of action by earlier Congresses. Certainly the right to adopt a whole new set of rules unfettered by old rules includes the right to adopt one or more new rules unfettered by old rules.

This detailed specification of the two-thirds requirement in connection with particular powers demonstrates that, when Congress was to operate other than by majority rule, it was so instructed by definite language in the Constitution. When a document, as carefully drafted and considered as was the Constitution, enumerates particular exceptions to a general rule, it must be concluded that no other exceptions were intended to be made. As the Supreme Court said in *Addison* v. *Holly Hill Co.* (322 U.S. 607 at 617): "Exemptions made in such detail preclude their enlargement by implication."

The framers of the Constitution gave further evidence of their intent that the majority rule should govern in all except the five specified instances by the great care with which they limited the two-thirds requirement. At least two separate instances are recorded in which the convention rejected efforts to impose a two-thirds requirement on legislation:

1. On August 29, a motion to limit the national power over interstate and foreign commerce by a two-thirds provision was made and rejected. Mr. Sherman, in arguing against the motion, stated that "to require more than a majority to decide a question was always embarrassing, as had been experienced in cases requiring the votes of nine States in Congress" (referring to the Congress under the Articles of Confederation).

2. On September 15, another attempt to fetter Congress' control over navigation by a two-thirds limitation was unsuccessful (Farrand, "Records of the Federal Convention of 1787").

In addition to the rejected attempts that were made to limit the majority principle in connection with substantive powers, the motion in the Constitutional Convention to raise the quorum provision (art. I, sec. 5) from a majority to two-thirds was overwhelmingly put down. Some members of the Convention even feared that a majority was too large a number. George Morris pointed out that "the secession of a small number" might "in the national councils * * * be fatal," and this fear of his was concurred in by a number of others who spoke on the subject (Prescott, "Drafting the Federal Constitution," p. 425 et seq.) Accordingly, the Congress was given power to compel the attendance of absent members so that a majority could be gathered together and the business of the Congress dispatched.

Majority rule is the constitutional measure for legislative action. As Senator Thomas of Colorado pointed out in debating the cloture rule of 1917, "majority rule is an essential principle in American Government" (55 Congressional Record 33). Yet this fundamental constitutional principle can only be reestablished in the U.S. Senate through new rules, in whole or in part, at the opening of the Senate of a new Congress. If this route is blocked by a ruling of the Vice President or otherwise, there will be no way to carry out this basic principle of the Constitution and to implement the Supreme Court's statement that a House of Congress "may not by its rules ignore constitutional restraints * * *" *United States* v. *Ballin* (144 U.S. 1, 5).

VII. CONCLUSION

Article I, section 5 of the Constitution gives the Senate of each succeeding Congress, just as it gives the House of each suceeding Congress, the power to act on rules without regard to anything that the Senate of an earlier Congress may have done (point I). We have seen how the fundamental principles of democratic government require that the majority of the Senators of each new Congress have the right to act unfettered by an earlier majority (point I). We have seen how the Senate has refused to be bound by the action of the Senate of earlier Congresses whenever its own majority desired to take action (point II). We have seen how the Senate wipes the slate clean at the opening of each new Congress (point III). We have seen how the Senate has talked continuity and acted discontinuously (point IV). We have seen that the history and practice of the House of Representatives is a relevant precedent in favor of a ruling that a majority of the Members of the Senate of the 87th Congress have power to adopt rules at the opening of the new Congress unfettered by any restrictive rules of earlier Congresses and thus a majority of the Members of the Senate of the 87th Congress have power to terminate a filibuster by a motion for the previous question or a motion to cut off debate where such action is necessary to determine the rules that will govern the Senate of the 87th Congress (point V). We have seen that the proposed action at the opening of Congress is the only method to restore the constitutional principle of majority rule to the Senate of the United States (point VI).

For all these reasons, we urge the Vice President, acting as President of the Senate, to reassert his advisory rulings of 1957 and 1959 and thus to make possible a return to the constitutional principle of majority rule.

Respectfully submitted by Senators joining in motion to amend rule XXII.

Hubert Humphrey.
Thomas Kuchel.
Paul H. Douglas.
Jacob Javits.
Joseph S. Clark.
Clifford Case.

Mr. MONDALE. For those reasons, we believe the ruling should—in substance and form—permit the Senate to fulfill its responsibilities under the Constitution of the United States.

Mr. PEARSON. Will the Senator yield?

Mr. MONDALE. I am glad to yield to the Senator.

Mr. PEARSON. Mr. President, I would like to recapitulate in part the very excellent statement the Senator has made on the constitutional question. Does the Constitution, in article I, section 5, not say that the Senate may by majority vote adopt its rules of procedure?

The Senator has through the years been a student of this particular contest now pending. To be called up Monday is the Senate Resolution 4, sponsored by some 43 or 44 Senators, which will amend rule XXII, to provide that three-fifths rather than two-thirds Senators present and voting may invoke cloture.

Now, on Monday next, when the Senator from Kansas makes that motion, what will then occur in the U.S. Senate?

Will the Senator respond to that inquiry?

Mr. MONDALE. Well, then——

Mr. PEARSON. If history repeats itself on Monday next, what will be the result?

Mr. MONDALE. If history repeats itself, when the Senator from Kansas moves to call up Senate Resolution 4 to change the rules, we will be confronted with a long, interminable filibuster.

Mr. PEARSON. And if the procedures in the Senate in regard to this issue concur with past actions, what will occur next?

Mr. MONDALE. At some point, we will have to seek to invoke cloture. At what point, I do not think can be determined at this time. But, that will be the only remedy available to us in the short run.

Mr. PEARSON. And there, if I am correct, at that point the issue is joined, either prior to the vote on cloture or after the vote, and the question will be as to whether or not the Constitution of the United States, or whether or not rule XXII of the Senate, shall govern as to how cloture shall be invoked and whether or not the Senate may change its rules.

Mr. MONDALE. The Senator is absolutely correct, and that is why the ruling of the Vice President is crucial in our right under the Constitution of the United States to establish our rules. Past precedent makes it perfectly clear that, unless we have such a ruling, we will be presented with a filibuster that can last for months.

Mr. PEARSON. I thank the Senator.

Mr. JAVITS. Mr. President, I refrained from asking the Senator from Minnesota (Mr. Mondale) to yield, though what I am about to say would fit in directly with what he just answered to Senator Pearson, for the reason that the two-thirds rule for cloture is not the only way in which this question can be determined.

The question is will the Senate itself determine what the Constitution provides, or will the Senate be bound accepting these rules either tacitly or after a contest by a vote?

I must claim a long experience in that this matter I started in the place in which Senators Mondale and Pearson now stand in 1957 upon my first entry into this hallowed Chamber, under the leadership of Paul Douglas, of Illinois, when the effort was made to amend rule XXII. It took us a number of years to get to the issue, but we finally did during President Johnson's administration.

The ruling of—I should not say the ruling—the obites dictum of Vice President Nixon was simply an opinion, but ruling—the obiter dictum of Vice Presidency, we got a precedent, whereby the Vice President put to the Senate the constitutional proposition on the motion of Senator McGovern, which for all practical purposes would have ended debate and brought about a vote by the Senate on this change of rule XXII.

An appeal was taken from a ruling of the Chair, and there, a majority sustained the proposition that the motion was not in order and the point of order which had been made by the minority leader, Senator Dirksen, was thereupon sustained.

I give the vote figure because it is so important, by a 59 to 37 rollcall vote.

An attempt was then made to invoke cloture and 5 votes were cast for cloture and 46 against it. But by then the issue had already been decided on the question of the ruling which, for practical purposes, would have been the Senate's ruling, not the Chair's ruling, if the Senate had said that the procedure adopted by Senator McGovern was appropriate. Unfortunately, the Senate said no.

The question that is a matter of first impression, therefore, before the Senate, and which, in my judgment, according to the precedents, may be decided by majority vote and does not require two-thirds, is what is the ruling of the Senate on the Constitution? Suppose the Senate in 1967 had said yes instead of no. Question: Would those who challenge the power of the Senate to act then have marched out of the Chamber and said they are in revolt? What would have happened if the Vice President had stuck to his guns that the Senate, having voted by a majority as to what it considered to be the constitutional requirement that the rule was then properly amended, if a majority voted to amend the rule and that would have been the rule thereafter? We would not have this complete charade which makes a mockery of the Constitution of turning upon ourselves by applying the very rule that we are seeking to amend through a motion to amend. But only the Senate can decide that. Senators cannot beg off on the ground that it takes two-thirds. It takes a majority for the Senate to decide that constitutionally it has the power to change its rules at the beginning of each Congress because the Constitution says it is free to act in order to change its own rules at that time.

The Senator from Minnesota (Mr. Mondale) properly points out that the restraints which were put upon that power of the Senate were also put upon it by the rules themselves as the price paid for cutting down the required number from two-thirds of 100 to two-thirds of those present and voting. At that time the agreement was that the Senate rules were continuous, and that any change was to be made only according to rule XXII, to wit, according to the Senate rules. But, that is just as unconstitutional as the efforts made to prevent the Senate from changing its rules unless there is compliance with rule XXII, and if one goes down the other goes down.

So we come to the basic question: what does the Constitution say as interpreted by the Senate? It is not an interpretation by the pending officer but by the Senate. The presiding officer's duty would then be to decide whether his oath requires him to carry out the rules as determined by the Senate—not by him, but by the Senate—according to the Constitution. That would involve a matter of judgment on the part of the presiding officer, probably the most important decision in his political career.

Nonetheless, that would be a very different question from what he thinks the rules ought to be. It would be a question of whether or not he accepts or rejects what the majority of the Senate has done. That is the important point. However, the Senate has not done that heretofore. The Senate has not passed on this constitutional question. Where it has passed on it, or at least according to the interpretation of Vice President Humphrey because that was his interpretation put on the motion that was before the Senate at that time—it has rejected the idea. So the proponents of this proposition, and a long line of distinguished proponents, I might say—I pay great tribute to Senators Pearson and Mondale for taking on this fight—have fought very hard for the proposition they are seeking to sustain.

But the point is, Mr. President, we have not yet had a majority which said that the Constitution says so and so, not something else. When we get that majority, then he issue will really be posed as perhaps a great constitutional crisis to the country. No one can forget that this Union almost split upon the doctrine announced by Senator Calhoun before the Civil War of a concurrent majority. That is, that it took a majority of those who believed in slavery in order to carry a measure even though an absolute majority was for that measure if the absolute majority was composed of those who did not believe in slavery.

I am not drawing that analogy invidiously at all. It was great constitutional debate, a great political debate.

The only emphasis now, because it is the whole nubbin of what I have to argue, Mr. President, is that the Senate is the only body that can and should as its duty decide this issue, and it has never decided it. Where it has been in a position to act on it, it decided it negatively. Every Senator must face his duty. If he believes that the Constitution allows us to change our rules without regard to rule XXII, he has to vote that way frontally and directly. He cannot shrink from it, as the majority has before, when the issue was really before them and could be decided by a majority.

Mr. President, that really is the key and critical point. Everything else has been argued time and time and time and time again, very eloquently argued as it just has been by Senator Mondale, as I say, in a very great tradition.

For the country, I think it is very important to have one thing in mind. I speak now in terms of the substantive effect of a change in rule XXII.

First, there are no wild-eyed radicals who are trying to close off debate, as it can be closed off in the House of Representatives by a mere motion for the previous question. If sustained by a majority of a quorum, which is a pretty small number of Representatives, that is it. No one is arguing for that. Even Senator Douglas and I in our most halcyon days on this issue did not argue that less than 51 Senators should have the power to close debate, and that only after what was tantamount to about 6 weeks of debate on any issue. That is a wildly radical proposal, but it was the most favorable proposal on this rule in terms of the position we espoused that has been put before us.

Mr. MONDALE. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. MONDALE. I agree completely with the Senator from New York that, given the opportunity, a majority of the Senate must decide the constitutional question in favor of a rule change, which is their right, as I see it, under article 1, section 5, of the Constitution of the United States. But the great difficulty has been, except on one or two occasions, that the majority has not been given the right to decide. A filibuster that could not be stopped, absent a ruling of the Vice President that permitted the majority to do what the Constitution of the United States intended done; namely, at the beginning of a new Congress, the Senate shall prepare its own rules.

Mr. JAVITS. May I just interject at that point? That is not quite the thrust of what I am saying. It is along the line, but not the thrust. The thrust of what I am saying is that there is no precedent before the Senate where a majority said that the constitutional way to proceed is to allow us to change the rules without regard to rule XXII.

There is no such precedent. Upon the occasion when such a precedent could have been made, a majority shrank from it. That is the critical point. Until the day when a majority no longer shrinks from it, we will not have the issue really posed to the Vice President in the chair.

Mr. MONDALE. That is correct. But I am sure that the Senator does not mean to say that we do not have precedent for previous Vice Presidents ruling that a majority had the right, if it wished to change its rules at the beginning of a session. That majority right is essential if we are going to discharge our responsibilities and have our rights conferred under the Constitution of the United States.

Mr. JAVITS. I am not saying that. I merely point out that in order to really bring this issue to a point where it represents the vital determination before the country, we have not yet had that confluence of circumstance where the Senate itself, by a majority vote, did not shrink from saying that the Constitution gives us the power and that we intend to use it. As I say, at that point there may be a crisis decision for whoever is the Vice President. I pointed that out. But it would not be of his making. It would be of the making by the Senate, and that has not yet happened because the Senate did not vote affirmatively on the question when it had the chance.

So I hope, because this is the moment when the winds of change are blowing through this Capitol in an unparalleled way, both here and in the other body, that the Senate can truly measure up to its responsibility and what we all know will be the convictions of a majority by facing this issue and saying yes instead of no. If this happens, it will say, "We find that the Constitution gives us this power, and we propose to exercise it."

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PEARSON. Will the Senator indicate how—especially if the next few days do follow the course of history—the Senate may, under filibuster conditions, have the opportunity at any time to express its will by a majority vote on the constitutional issue?

Mr. JAVITS. All one has to do is to read the proceedings which took place when this matter was up for decision. I have already referred to the situation which faced Vice President HUMPHREY. Just let me, if I may, read that, or at least state it, from the history of the debates on the Senate cloture rules, which is contained in a document of the Committee on Rules and Administration which was issued this year.

Mr. PEARSON. If the Senator will permit me to interrupt him, on that particular vote, at that time, there was a cloture vote. After the Humphrey decision, 51 Senators voted to invoke cloture. That was a majority of the U.S. Senate, by indirection, or an oblique way, in some way giving total expression to what they wanted to do on the rules change.

Mr. JAVITS. There is no question about it. But the word "oblique" is what I had been talking about; because we also had an opportunity at another time, which a majority itself frustrated, to face this constitutional issue.

Mr. PEARSON. On the vote to override?

Mr. JAVITS. On the vote to sustain or reject the point of order made by Senator Dirksen.

Let me give the situation. Senator McGOVERN made a motion that the Senate immediately vote to end debate on a motion to consider his resolution, which was a resolution to change rule XXII.

Senator McGOVERN justified the procedure by arguing that the Senate, under the Constitution, could, at the beginning of a new session, adopt new rules by majority vote. Thereupon, Senator Dirksen lodged a point of order against the McGovern motion, claiming that it was in effect an effort to circumvent rule XXII.

Vice President HUMPHREY, who was then presiding, asked the Senate if the point of order should be sustained. He also said that this question was debatable but subject to a motion to table, whereupon Senator McGOVERN moved to table the Dirksen point of order, and the tabling motion was rejected. The Vice President said that he would construe the acceptance of the tabling motion as sustaining the constitutionality of Senator McGOVERN's motion. The Senate, by a majority, thereupon rejected Senator McGOVERN's motion, his tabling motion, and proceeded to sustain the point of order—both by a substantial majority, the first one by a vote of 61 to 37 and the second one by a vote of 59 to 37. That was the key.

The question I ask, and the question which faces this Vice President, a new Vice President, is this: Suppose the Senate has decided the other way on that procedure, where the Vice President legitimately had a right to say, according to Senate precedents, that a tabling motion can determine this constitutional issue and he will construe it that way.

The question now facing all of us who are proponents of this proposition is this: When really faced with a vote that can decide the issue, will the majority again turn tail and run, or will it stand up to it, at long last, and vote its convictions? That, I think, is really the nubbin of this debate.

Then we will see whether a great constitutional crisis is presented to the country or what a Vice President will feel it his duty to do, or whatever else may occur. But at least then we will have faced realistically this issue and we will see whether we really are incompetent, as we have been for all these years, or whether we are really men and Senators and can control our destiny according to the Constitution.

Mr. PEARSON. Mr. President, if the Senator will yield further, I concur, at least so far as my memory serves me, that that is an absolutely accurate description of what occurred 2 years ago or 4 years ago.

I still fail to understand how the Senate, directly squared off under the conditions that are going to prevail in the next few days, can ever get an opportunity, outside the imposition of rule XXII, to close off debate. I do not understand how, through a tabling motion, we can ever get a straight shot at a majority vote on this issue.

Mr. JAVITS. I could answer the question by saying that the "sunshine rule" does not require the proponents of a given position to disclose their strategy on the Senate floor. I can refrain from doing that. But I can answer the question by saying that I believe that legitimately and properly, according to the rest of the Senate rules which are applicable—we have tacitly accepted them because we are only contesting rule XXII—the Senate can be brought to a vote on the issue, on the constitutionality question, so that every Senator must say that it is or is not a valid motion under the Constitution.

I have only given the precedent of the Vice President HUMPHREY situation because that is where it actually happened, and there a majority ran away from facing the issue affirmatively. That is their perfect right. Nonetheless, if even a majority will not sustain that view, what can any Vice President do? That is the end of that.

Mr. CLARK. Mr. President, will the Senator from Minnesota yield me a few minutes?

Mr. MONDALE. I am glad to yield.

The VICE PRESIDENT. The Senator from New York has the floor.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. JAVITS. I yield the floor.

Mr. CLARK. Mr. President, this is the beginning of what almost certainly will be a long and difficult process to amend the Senate's cloture rule, rule XXII, so that it reflects the Senate's need for both full debate and effective decision.

The resolution offered by the Senator from Kansas (Mr. PEARSON) and the Senator from Minnesota (Mr. MONDALE) provides that three-fifths of the Senators present and voting may decide to limit debate on a question before the Senate and resolve it with a vote. As it stands now, the rule requires the approval of two-thirds of the Senators present and voting to limit debate.

Since its inception in 1917, the requirement has often frustrated and befuddled the Senate and, in turn, the country. The requirement has permitted the filibuster to flourish, and the Senate need look no farther than the last Congress for examples of its impact. Legislation that had the support of a substantial majority of the Senate was delayed or destroyed. In addition, the mere threat of filibuster often affected the Senate's schedule, especially near the session's end. In all too many instances over the years, a small number of Senators has been able to decide that the Senate will not decide important questions before it.

In the last 15 years, the attempts that have been made to modify the rule have been unsuccessful, but each succeeding attempt has had the support of an increasing number of Senators. It is not surprising that this resolution has 45 cosponsors because the need for it has been well demonstrated.

The Senate operated for more than a century without any cloture rule at all.

A vote could not be taken without unanimous consent, and as a result, some controversial questions were never decided by the Senate. The Senate's inability to resolve a particularly troublesome question, the armed merchant ship bill, led to the adoption of the two-thirds requirement for cloture. But even during that debate in March of 1917, it was clear that immortality was not part of the two-thirds cloture formula. In fact, there was substantial support then for a rule that provided cloture by a majority vote. However, there was unanimous agreement in 1917—as there is today—that any cloture rule must protect the rights of the minority to be heard, that under no circumstances should the Senate adopt a "gag" rule. The resolution now before the Senate incorporates those principles, but it also recognizes the challenges that now face the Congress and the need for the Senate to free itself from unnecessary delays that block legislation after it has been fully and thoroughly debated and considered in subcommittee, committee, and the full Senate.

In the 58 years that cloture rule has been in effect, there have been 100 attempts to limit debate and come to a vote. Only 20 of them have been successful. No party or political philosophy has had a corner on the filibuster. It has been used by Senators from large States and small. Whether the issue has been civil rights legislation, the supersonic transport, or the consumer protection bill, the filibuster has tied up the work of the Senate. At times, it has become much more than an expression of the rights of the minority to be heard—it has become an obstacle to effective government, creating a tyranny of the minority that is no better than the tyranny of the majority that rule XXII attempts to prevent.

Clearly, a balance must be struck—between the importance of debate and the importance of decision. In 1917, it was set at two-thirds of the Senators present and voting. But times have changed. In the 65th Congress, the Federal budget was about $2 billion. In fiscal year 1975, it will be about $307 billion.

In the 65th Congress, the Senate conducted 384 votes. In the 93d Congress, there were more than 1,100. The quality and quantity of the Senate's work have changed, and this resolution would amend rule XXII to reflect that change.

Just as in 1917, the majority on any given issue today is not always right. The majority should not always be permitted to work its will. An argument which at first blush seems compelling may lose its force and logic when subjected to analysis and debate. But once there is full debate, once the views of all sides have been expressed, there ought to be a vote. This proposal provides for both full expression and decisions. Once three-fifths of the Members of the Senate present and voting agreed to cloture, debate would be limited, not cutoff. Each Senator still would have a full hour left to debate the question at hand. After cloture, the Senate still could consider amendments and changes as it can under rule XXII today.

Almost 200 years ago in the Federalist Papers, Alexander Hamilton warned of the danger inherent in minority control:

> If a pertinacious minority can control the opinion of a majority, respecting the best method of conducting (the public business), the majority, in order that something may be done, must conform to the views of the minority: and thus the sense of the smaller number will overrule that of the greater . . . hence tedious delays; continual negotiation and intrigue; . . . compromises of the public good. And yet, in such a system, it is even happy when such compromises can take place; for upon some occasions things will not admit of accommodation; and then the measures of government must be injuriously suspended or fatally defeated.

Those same dangers surface every time there is a filibuster or the threat of one.

Mr. President, this proposal—Senate Resolution 4—Will prevent minority control as it protects minority rights. I am sure that in the days ahead, its merits will be thoroughly debated, as they are being here today.

There also will be extensive consideration of another important question: Whether a majority of the Members of the Senate may change its rules without being bound by the rules of the Senate in earlier Congresses. And the Vice President may well become involved through parliamentary rulings that will be required. A great deal will be at stake, and in the next few weeks, as the resolution itself becomes the object of a filibuster, the Senate will have both an example of rule XXII's shortcomings and an opportunity to correct them. I hope we take advantage of it.

Mr. President, I yield the floor.

Mr. ALLEN. Mr. President, I have been somewhat intrigued at some of the statements that have been made by those who are supporting this change in the Senate rules, both as to comments on precedents that have been set and pretty liberal quotations from the Constitution. I believe the distinguished Senator from Kansas spoke of the Constitution's saying that by a majority vote, the Senate could amend its rules. I believe that the distinguished Senator from Minnesota (Mr. MONDALE) and the distinguished Senator from New York (Mr. JAVITS) spoke of the Constitution's providing that at the beginning of a new Congress, a new session, a different rule applied in this regard.

Let us refer to the Constitution itself to see just what it does say. I believe that would be the highest and best evidence of what the Constitution says.

Article I, section 5, subsection 2: "Each House may determine the rules of its proceedings. . . ."

That does not seem to indicate to the Senator from Alabama that a different situation exists every 2 years, at 2-year intervals, in the continuing Senate.

I was interested, too, in the fact that the distinguished Senator from Minnesota spoke of President Nixon's ruling back in 1957, and he spoke with approval of this so-called ruling by the then Vice President. Mr. President, I have been somewhat interested in the favorable comments that have been made recently here, in this Chamber, and in the eastern press about this great ruling of then Vice President Nixon. It is the first time in many months, Mr. President, that a favorable word has been said in the U.S. Senate with regard to the former President, Mr. Nixon.

Certainly I have not heard the distinguished Senator from Minnesota (Mr. MONDALE) say anything favorable about him; and, to a somewhat lesser extent, I do not recall the distinguished Senator from New York (Mr. JAVITS) having a whole lot of favorable comments to make about the former Vice President and former President.

But right now, the distinguished Senator from New York had the grace and accuracy to refer to the Vice President's comments as being obiter dictum, not a ruling but a comment that was not necessarily a decision, as lawyers might say of obiter dicta by each other.

The fact is, I will say to the distinguished Senator from Minnesota, who spoke so approvingly of the action of Vice President Nixon, that a review of the Journal and the RECORD will show that Vice President Nixon did not rule. He merely, in response to a parliamentary inquiry, stated one man's opinion. He stated that opinion, and, on Thursday, January 3, 1957, he gave in his own words the distinction between a ruling and an opinion—a very significant difference. He said:

> There can be an appeal from a decision of the Chair on a point of order. There can be no appeal as to any pronouncement by the Chair regarding a parliamentary inquiry. A response by the Chair to a parliamentary inquiry is an opinion. A ruling on a point of order is a decision and is subject to appeal to the Senate.

There was no ruling, so there could not be an appeal. He made a comment as to what he thought the rule might provide, and that now is held out before the Senate by some Senators as being great wisdom. Something that should be followed as a precedent.

The Vice President, Vice President Nixon, did not have to decide. The Senate rejected the efforts to initiate a motion or resolution to amend the rules, so he never had to decide whether a majority could vote cloture, or whether it took the two-thirds provided by rule XXII.

Senators speak approvingly of the decision or ruling—and it was a ruling—by Vice President HUMPHREY in 1969. They were following the very same procedure that is being followed now, in trying to amend rule XXII, and after considerable debate—I might say to the distinguished junior Senator from Florida (Mr. STONE) that that great Senator from his State, Mr. Holland, was leading the fight against efforts to amend rule XXII, and he did a magnificent job; I am hopeful that the distinguished Senator from Florida will follow in the footsteps of the late distinguished Senator from Florida, Mr. Holland. But the history of that ruling by Vice President HUMPHREY was that after debate had proceeded for some days, a cloture motion was filed. A majority, but not a two-thirds majority, voted to invoke cloture.

Vice President HUMPHREY pulled out his card and read his ruling—indicating, of course, that a decision had been reached in advance with regard to the ruling.

He read his ruling that while a two-thirds majority had not voted to invoke cloture, a majority had; therefore, cloture was invoked.

Well, Senator Holland wanted to debate that. But Vice President HUMPHREY said, "No, there is no debate on an appeal from the ruling of the Chair; after cloture has been invoked, there can be no debate."

Within minutes, then, the vote was taken on an appeal from the ruling of the Chair, and the Senate—it has been suggested that the Senate has not acted in some of these areas—the U.S. Senate voted to override Vice President HUMPHREY, saying, "Your ruling is wrong; it does take a two-thirds majority to invoke cloture under this state of affairs"—exactly the same situation we are going to have presented here later.

I was interested to note that the distinguished majority leader—then, as now the distinguished Senator from Montana (Mr. MANSFIELD)—even though Vice President HUMPHREY was one of the titular heads of the Democratic Party, and the majority leader was the leader of the Democratic Party in the Senate—I remember it to this day; I shall never forget it: the distinguished majority leader voted to override the Vice President of the United States, Mr. HUMPHREY. I did not know the measure of that man when I came to the Senate. I had been here only a few days when that took place. And I state on the floor of the Senate that that vote to override the Vice President on this amazing ruling that he made was the most important vote that has been taken in the Senate in my memory.

So the U.S. Senate established the precedent. There is no precedent to be derived from the action of Vice President HUMPHREY. The Senate set the precedent. The Vice President's ruling was a precedent for about 15 minutes; that is how long that precedent lasted, just until the Senate could act, Mr. President. And when the Senate acted, though I probably should not use this expression, the Senate slapped the Vice President down, and said, "His ruling is wrong." They said, "You must follow the rule book, Mr. Vice President."

All right, something else has been overlooked here by the New York Times.

By the way, I notice they had something nice to say about Mr. Nixon in their editorial and it is not often that I have noticed that type of comment. This editorial has been introduced by the distinguished Senator from Minnesota (Mr. Mondale).

Let us see what it said. This is Tuesday, January 14, 1975, the New York Times and the Washington Post directing their editorials to the distinguished Vice President of the United States, now presiding over the Senate, and the Post and the New York Times are saying that in view of the actions of Mr. Humphrey and Mr. Nixon while they were serving as Vice President, we recommend a similar course to you.

As I say, Vice President Nixon did not make any ruling, and the Senate took it away from him anyhow having killed an effort to amend the rules by a rollcall vote.

The New York Times said Richard Nixon and Hubert Humphrey, when they served as Vice President, both made parliamentary rulings in favor of reform.

Well, as I have pointed out, Vice President Nixon made no ruling and Vice President Humphrey's ruling remained effective for 15 minutes, just until the Senate could vote to override it.

Now, for some reason or other, these two editorialists, one the Washington Post, one the New York Times, are searching for precedents and they mention things that are not precedents, but they overlook mentioning this action of the Senate in overruling the Vice President. I wonder why they were silent on that and why they did not say that after Mr. Humphrey ruled one way, the way they are recommending that Vice President Rockefeller rule, I wonder why they did not say the Senate overruled that ruling?

Here it is, here is the editorial, the Senator from Minnesota put it in the Record.

I wonder why they were silent at that point?

Did they think the distinguished Vice President would do no more research than to read the editorials of the Washington Post and the New York Times? I do not believe that is going to be the case.

Mr. MATHIAS. Will the Senator yield for an answer to his inquiry, because I put one of those editorials into the Record?

Mr. ALLEN. I beg the Senator's pardon, I am surprised that he is admitting to that. I thought the distinguished Senator from Minnesota put it in.

Mr. MATHIAS. I put the Washington Post editorial in the Record. The Senator asked why they did not say the ruling of the Chair was not sustained.

Mr. ALLEN. I did not ask the Senator from Maryland; I asked the editorial writer.

Mr. MATHIAS. Well, I will be glad to respond. That is the supposition of the Senator from Alabama.

Mr. ALLEN. I am hoping to say that in the New York Times tomorrow, why they left it out, and also the Washington Post.

I wonder why——

Mr. MONDALE. Will the Senator yield?

Mr. ALLEN. Yes.

Mr. MONDALE. Will the Senator from Alabama be willing to let the Senate majority once again have a chance to vote on that issue, or does the Senator suppose there might be a filibuster preventing this?

Mr. ALLEN. The Senator from Alabama has spoken for about 15 minutes and the proponents of the resolution spoke for about 2 hours here today, so I do not believe the Senator from Alabama is occupying too much time.

Mr. MONDALE. Would the Senator agree that the majority should have the right, as provided under the Constitution, to vote on these rules?

Mr. ALLEN. Well, the Senator is restating the Constitution again. It does not say that. The Senator needs to read the Constitution a little further. It has been misquoted on this floor time and time again this afternoon.

Mr. MONDALE. Will the Senator yield?

Mr. ALLEN. No, I will not yield further; no.

Now, after leaving out that choice bit of information, let us see what took place in 1971. Let us search for precedents.

Two eastern newspapers were searching for precedents and they came up with two nonprecedents and cited them as being precedents.

Let us search for precedents.

The Senate acted in overruling Vice President Humphrey. Has the Senate acted in other instances? Well, you will not find it in these two editorials.

Let us see. Let us look at the Congressional Record to see what happened on that subject.

In 1971, this matter came up again in the Senate at the so-called beginning of the Congress, actually the resumption of the continuing Senate. This very same question was presented.

We had a different ruling at that time. The President pro tempore Ellender was in the chair, went through the same up-the-hill, down-the-hill tactics that had been going on here in the Senate for more than 20 years on this same subject. Cloture motion filed as to the effort to amend the rules got more than half the votes, but not two-thirds.

Vice President Agnew was not in the Chair, but the President pro tempore, Mr. Ellender, the distinguished chairman of the Appropriations Committee, the Senator from Louisiana, ruled that cloture had not been invoked because two-thirds of the Senators present and voting had not voted to invoke cloture.

So he ruled, even though a majority had voted for cloture, that cloture had not been invoked.

Well, what happened then?

That is a precedent, not mentioned in the editorials, however.

Well, the distinguished Senator from New York (Mr. Javits) rose and appealed this ruling, and the distinguished majority leader (Mr. Mansfield)—this was on March 9, 1971, on page 5486 of the Congressional Record had this to say:

> Mr. President, I appreciate the explanation made by the distinguished Senator from New York. He has laid the issue out in such a way that there can be no misunderstanding.

He had given his reason why he thought the ruling ought to be overturned:

> I have said time and time and time again that I am against a mere majority vote to bring about a change in the rules, because I think to do so would alter the position of the Senate in our scheme of government.

That is pretty good language. I will read it again:

> I have said time and time and time again that I am against a mere majority vote to bring about a change in the rules.

That is what these Senators are trying to do.

Senator Mansfield has been here a long time. He is one of the outstanding Senators in this body, and in recent times. He is a student of the rules. He runs the show here according to the rules.

That is what he thought about it—

> Do not amend the rule by a mere majority vote to bring about change in rules, that is, by cutting off debate, because I think to do so would alter the position of the Senate and our scheme of government. If the appeal of the Senator from New York were upheld—

In other words, if Senator Javits' contention that a majority vote at the so-called beginning of Congress could cut off debate, Senator Mansfield said—

> then it would be only a matter of time before a majority would be able to cut off debate on any issue. That is the real issue at this time. The heart of this institution is at stake.

So, Mr. President, I have no qualms about standing here in the Senate Chamber discussing this issue when a man of as great distinction as Senator Mansfield, who has been majority leader of the U.S. Senate longer than any other majority leader in history, makes this statement:

> The heart of this institution is at stake in this issue.

I do not know of a more worthy cause that I might espouse than what Senator Mansfield says is at the very heart of this issue, whether debate can be cut off by a majority vote.

Now, Mr. President, to talk about precedents.

APPOINTMENT BY THE VICE PRESIDENT

The VICE PRESIDENT. The Chair, in accordance with Public Law 79–304, appoints the Senator from Ohio (Mr. Taft) to the Joint Economic Committee in lieu of the Senator from Kansas (Mr. Pearson), resigned.

RECESS FOR 15 MINUTES

Mr. ALLEN. Mr. President, the Democratic Caucus is meeting, and they have a vote scheduled in the next few minutes. I ask unanimous consent that we have a 15-minute recess, with the understanding that I will not lose my right to the floor at the end of that time.

I know the distinguished Senator from Minnesota would want to vote, and also the distinguished Senator from Florida.

Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes, and, further, that I not lose my right to the floor when we reconvene.

There being no objection, the Senate, at 2:45 p.m., recessed until 3 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DOMENICI).

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I was discussing the matter of precedents with regard to the question of whether it takes a majority vote or a two-thirds vote to cut off debate where an effort is being made to amend the Senate rules at the beginning of a new Congress. I say "new Congress" advisedly, because the Senate is a continuing body, and it is not a new Senate.

The House of Representatives, on the other hand, with their entire membership coming up for election every 2 years, does have a new House every 2 years. But the Senate, choosing only one-third of its membership every 2 years, is a continuing body.

We pointed out the precedents that exist, to the effect that amendments to the Senate rules, even at the start of a new Congress, must be subject to the rules of the Senate with regard to cutting off debate on such motions or resolutions seeking to amend the rules.

We pointed out that the Senate, on two or more occasions, has established the precedent in this regard: First, when the Senate overruled Vice President HUMPHREY, who ruled that a majority could involve cloture, and the Senate said, "Not so; it takes a two-thirds majority." Then, in 1971, when President pro tempore ELLENDER ruled that even though a majority had voted to invoke cloture, a two-thirds majority was required to invoke cloture, and therefore cloture was not involved, failing a two-thirds vote.

On the appeal from that ruling by the distinguished Senator from New York (Mr. JAVITS), the Senate sustained the ruling of the Presiding Officer and ruled, in effect, that a two-thirds majority is needed.

Mr. President, as I read from article I, section 5, of the Constitution, to lay at rest some of these amendments about what the Constitution says about the Senate making new rules, nothing is said about that.

> Each House may determine the rules of its proceedings.

That is what the Constitution says. It does not say that there is any different situation every 2 years.

That is not the only precedent. Many Senators, during the course of a session of Congress, served in the chair of the Presiding Officer. I do not propose that any Senator set themselves up as authorities on the Senate rules. Each of us always leans over to get words of advice from the Parliamentarian. He is there for that purpose—to advise the Chair, on request—or without request, for that matter; and where points of order come up, not to make a ruling, because the Parliamentarian does not have a right to make a ruling, but to advise the Chair as to what is the proper ruling from a parliamentary standpoint. So we all lean very heavily on the Parliamentarian.

For many, many years, the Senate Parliamentarian was Dr. Floyd M. Riddick. At the end of the 93d Congress, he became Parliamentarian emeritus of the Senate. During 1974 he updated the book that he and the former Parliamentarian had written before, and it was published last year. I read from page 222 of this work entitled "Senate Procedure." Here is what the Parliamentarian emeritus said, a man who served the Senate for many years and was Assistant Parliamentarian for many years before that—he has seen these battles come and go; he has made a study of precedents.

I should be a lot more inclined, and I believe the Senate is going to be more inclined, to follow what the Parliamentarian says is the Senate rule than what the distinguished Senator from Minnesota says that Vice President Nixon ruled back in the long ago, or what Vice President HUMPHREY ruled in the long ago.

He said:

> A two-thirds vote is required to invoke cloture and this is true even at the beginning of a new Congress when the Senate is trying to amend the rules.

That is the very situation we are going to have confronting us here in the Senate, this very thing.

I notice Dr. Riddick does not say "at the beginning of a new Senate." He says "at the beginning of a new Congress." We do have a new Congress every 2 years. We are in the 94th Congress now. That does not mean that the Senate is not a continuing body.

Mr. President, why, then, should the rules of the Senate carry on from one session of Congress to another session? Because the Senate is a continuing body and because the Senate rules say that they do.

Reading from this article of the Constitution that was so badly misquoted:

> Each House may determine the rules of its proceedings.

And they have done that. Each House does have its own proceedings. Rule XXXII of the Senate covers this exact point, and I quote from rule XXXII, section 2:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

What do these rules say about changing the rules? The rules say, in effect, that a motion or resolution to amend the Senate rules is subject to debate and that the only way that debate can be cut off is by a two-thirds vote of the Senators present.

Mr. President, how can the proponents of this resolution even seek to cut off debate if, as they say, rule XXII does not apply? Before there was rule XXII, which was put in 1917, they did not have any way to cut off debate. That is the reason for rule XXII. Rule XXII does not confer the right of unlimited debate. What it does is restrict the right of unlimited debate. Back in 1917, as America's entry into World War I approached and the submarines were taking a heavy toll of American shipping, President Wilson felt that the merchant marine should be armed and instead of arming the merchant marine, as they do today—that would not trouble a President today at all. He would just order the merchant marine armed. Back in those days, there was more separation of powers between the executive and the legislative branches and President Wilson sponsored this bill providing for the arming of our shipping.

Some of the—they call them doves today, I assume. Some of the liberal Senators, who did not want to take any action that they felt would draw us nearer into the war, mounted a filibuster in the Senate, right here in this very Chamber, and there was no way of cutting off debate. They did not have rule XXII then. Rule XXII came about as an outgrowth of that situation, because they did filibuster that bill to death because they did not have rule XXII. So rule XXII can stop debate. We need a rule XXII to limit debate. That is what rule XXII does. It does not extend the right of debate. That is already there. But it does limit the right of debate.

President Wilson used this phrase about this group in the Senate that had killed his bill, a very fine bill, a much needed bill; but for this little group of willful men, representing no opinion but their own, who brought the greate Government of the United States to a halt. He called for limitation of debate and rule XXII resulted. So there is nothing pernicious about rule XXII. It helps stop debate when it is in the national interest.

I have read from rule XXII saying that the Senate rules carry on until amended as provided in the rules; in other words, subject to all of the conditions and reservations about bringing the issue to a vote that are provided in the Senate rules.

Mr. TOWER. Will the Senator yield for a question?

Mr. ALLEN. I will be glad to.

Mr. TOWER. What the Senator is saying, then, is if indeed the rules are continuing, rule XXII as presently constituted is also continuing?

Mr. ALLEN. That is correct.

Mr. TOWER. And any proposal to change the rules is subject to the same proscriptions as are in the existing rules?

Mr. ALLEN. That is correct.

Mr. TOWER. Otherwise, we would be operating without any rules at all.

Mr. ALLEN. That is correct. The proponents of this resolution have their feet planted squarely on either side of the fence. They are saying, "Let us use rule XXII to cut off debate; let us follow that procedure. Let us put in a resolution, follow it up with a cloture motion. Let use use rule XXII to that extent. But oh, no, let us not use that pernicious two-thirds in there. Let us come forward with something new. Let us reject that, but let us accept this part of it."

So they are squarely on both sides of the fence. Their feet are firmly implanted on both sides, taking one part that they like and seeking to discard the part that they do not like.

Now, Mr. President, the Senate from time to time reaches compromises on some of these issues. Rule XXII has been subject to efforts to amend, subject to compromises with regard to amendments. I believe the most recent change in rule XXII came about as a result of a compromise. It was a compromise of 1959, when President Johnson was majority leader of the Senate.

Some of the Senators here—at least one, the distinguished majority leader, was here at that time, and possibly others—who are now in the Chamber, that is. Many other present Senators were here.

There were several things about rule XXII as it existed at that time that did not suit those who occupied the position then that the proponents of this resolution now occupy.

In the first place, Senate rule XXII at that time provided that to cut off debate, it took two-thirds of the full membership of the Senate. Well, at that time I am not sure whether they had the full 50 States or not, but, based on the present number of Senators, 100, obviously prior to the 1959 amendment it would have taken 67 Senators to cut off debate.

That is pretty hard to get, I assume, and probably harder to get today than it was then, on account of the absentee record of the Senate. So it was pretty difficult to get what you might call a constitutional two-thirds, because every vote that was not there was really counted, I guess—at least once, possibly twice—for the opposition to cloture. That was one situation they did not like.

The second phase of rule XXII that the proponents of cloture-killing did not like was the fact that cloture did not apply to a motion to proceed to consideration of a change in the rules. In other words, they could debate all day or all year, I guess, on a motion of that sort, because to get a resolution up, you have to move to bring it up, and under the rules as they existed at that time—and I take my comments largely from the committee print entitled "The Senate Cloture Rule," dated 1975; it is a pamphlet, I assume, available to the public—but at that time, cloture did not apply to a motion to proceed to the consideration of the rules.

So the Senators, in a spirit of compromise, compromised those two elements of the rules, and then added another, and that is a significant phase of this discussion today, and probably for some days to come. Cloture was made to apply, I guess, to everything. I do not know of anything that was exempted. But certainly they put under the cloture rule a motion to proceed to the consideration of a motion or resolution to change the rules.

So there were two concessions. The distinguished Senator from Louisiana (Mr. LONG) was here then. Those two concessions were made in favor of those who wanted to weaken rule XXII. They changed the rule from requiring a constitutional two-thirds majority to cut off debate, and put it at the present rule—two-thirds of those present and voting, which I assume could be as few as 34; if we had 51 Senators present, two-thirds of that would be somewhere in the neighborhood of 34.

Mr. LONG. Mr. President, will the Senator yield?

Mr. ALLEN. Yes, I am glad to yield.

Mr. LONG. It seems to me that the greatest headway that was made under rule XXII has been not merely to extend it so that you could apply cloture of debate to anything, a motion to proceed or anything else, but, in addition to that, the difference in the psychological attitude of Senators toward the cloture rule. In the closing days of the last Congress, as the Senator knows, the Senator from Louisiana, in an effort to pass three major bills, asked the Senate to vote cloture on those bills before a word of debate had been heard.

Mr. ALLEN. That is correct.

Mr. LONG. And the Senate went along with that proposal.

Mr. ALLEN. Only 19 votes against it.

Mr. LONG. Yes; and that was rather unheard of prior to that time: That, without having heard a word of debate, the Senate would vote to shut off debate without having heard a single word about what it would be asked to vote on.

We had a germaneness rule, but it took a great deal of confidence of the Senate in itself to be willing to impose cloture under those circumstances, because we might be asked to vote on something, without an hour's debate, which might be an unwise proposal, and should be explored by further debate.

The fact that the Senate is no longer reluctant to vote for cloture just to get on with the business is a far departure from the way it had been up until this last year. It had never happened before; the Senate had never voted cloture without having the measure explained at all. The bill was just introduced, with an explanation of why it was necessary to invoke cloture if the measure was to be considered before the Senate adjourned a day or two later; and we shut off debate. That is not the way the attitude of the Senate had always been. The Senator will remember there were years when you could not get a vote to invoke cloture no matter what the situation was.

Mr. ALLEN. The Senator is correct.

Mr. LONG. The fact that you could get an overwhelming majority of votes for cloture, not just two-thirds, far more than two-thirds; the Senator said——

Mr. ALLEN: Seventy-one to 19 was the vote.

Mr. LONG. Yes; 71 to 19 on a measure as significant as that, without a moment's debate, indicates the Senate's changed attitude about that matter.

Mr. TOWER. Will the Senator yield so that I may comment on the remarks of the Senator from Louisiana?

Mr. ALLEN. I yield.

Mr. TOWER. This is one Senator who for years would not vote for cloture, but as I got older and wiser, I came to the conclusion that cloture is sometimes justified, and for a while I even sold my soul to the point that I started signing cloture motions.

If the Senate wants to work its will, it is not hard to get cloture. But I remember what William S. White said in his book, "Citizen." He said that one of the purposes of the Senate is to prevent an unreasonable majority, on a wave of emotion, from trampling over the rights of a minority.

I think the cloture rule aids the Senate in fulfilling what is an important function in a democracy, protecting the minority from the tyranny of an unreasonable majority.

Mr. ALLEN. I thank the Senator, and I certainly agree that that is a very important point. Getting on to what, to the Senator from Alabama, has to be a compromise with regard to this matter, quoting from page 88 of the document entitled "Senate Cloture Rule," a committee print, the then majority leader, Lyndon Johnson—let me just read the whole thing. It speaks of this resolution that was subsequently passed:

> The resolution does these things—for these reasons:

I have discussed two of them:

> First, it provides that cloture shall be possible on the vote of two-thirds of the Senators present and voting.
>
> Our present rule—

This was the rule that existed in 1959—

> provides that cloture can be voted only by two-thirds of the full Senate membership. This necessitates the actual presence of the Chamber of 66 Senators casting affirmative votes.

Obviously we had 49 States at that time:

> In a body of this size, infirmities and disabilities for one or two Members or more are commonplace. The committee duties of the Senate frequently require some Senators to be absent. The nature of our Nation's world position, also, has resulted in more and more Senators being asked to serve the country at important tasks abroad. Each absent Senator, in effect, cancels two votes of those present.
>
> Two-thirds is a division by which we provide for amending the Constitution. . . .

And I would say this to the distinguished Senator from Minnesota to give him some of the reasoning behind the two-thirds. We have not had any reasoning that I have heard behind the three-fifths, but two-thirds is the division by which we provide for amending the Constitution, for ratifying treaties, for expelling members from the Senate, and apparently this was not under consideration at that time, but impeachment of the President or Federal officers.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. ALLEN. Let me finish, please:

> It is an established, traditional division and we are maintaining it by this resolution.
>
> The second provision of this resolution is, perhaps, the most important—although some have chosen to disregard its presence.

I explained it a moment ago, and I am going to read it from the original text:

> Our present rule XXII specifically—

This is the situation in 1959—

> Our present rule XXII specifically exempts from cloture any motion to proceed to consideration of a change in the rules. This is the only such gap in our rules. Cloture can apply to substantive issues. Cloture can apply to a vote on the rules themselves. No

> cloture, however, can be applied to this one motion.
>
> Thus, in present form, this means that debate could conceivably run on with no power to limit it when, in effect, there was no real subject matter before the Senate.

I wonder where the Senator from Minnesota is going to reach out and get some power to limit debate when the majority leader was saying that debate could conceivably run on with no power to limit it when in effect there was no real subject matter before the Senate.

> This invites obstruction which serves no real purpose. It is intolerable to a majority and unnecessary for a minority, where the minority has a case to present.
>
> The change now proposed would close this remaining narrow gap and permit the majority to maintain a standard of responsibility on this as on more important motions—

This is Vice President Johnson explaining the reasoning behind the 1959 compromise. I do not know whether it was called that at that time, but it seems to the Senator from Alabama that it was, in fact, a compromise.

Finally, the third provision of this resolution—I want the distinguished Senator from Minnesota to pay close attention to this—the third provision of this relates:

> Finally, the third provision of this resolution would write into the rules a simple statement affirming what seems no longer to be at issue. Namely, that the rules of the Senate shall continue in force, at all times, except as amended by the Senate.

Well, the majority leader, Lyndon Johnson, was not a very good prophet because something that he said he felt never would take place is now being challenged by the distinguished Senator from Minnesota. Let us read that again:

> Finally, the third provision of this resolution would write into the rules a simple statement affirming what seems no longer to be at issue—Namely, that the rules of the Senate shall continue in force at all times, except as amended by the Senate.

So Vice President Johnson thought that he was laying this matter to rest for all time, but apparently the distinguished Senator from Minnesota is digging up this issue again that was laid to rest back 15 years ago:

> This preserves, indisputably the character of the Senate as the one continuing body in our policy-making process.

If that is not a significant statement—and at the bottom of the controversy we have here and decisive of this issue:

> This preserves indisputably the character of the Senate as the one continuing body in our policy-making process.

And that is true, the U.S. Senate is the only continuing body in our national policymaking process—

> It precludes—

Still quoting the then majority leader, President Lyndon Johnson—

> It precludes the involvement of the Senate in the obstruction that would occur—or could occur—if, at the beginning of each Congress, a minority might attempt to force protracted debate on the adoption of each Senate rule individually.

So the distinguished majority leader at that time, President Lyndon Johnson, thought when they were agreeing to the compromise of 1959 this matter would not come before the Senate again. But he was wrong, he was wrong. It has been up here, this is the third time, I guess. I do not believe they tried in 1973. There were other fish being fried at that time. I do not believe an effort was made to amend the rules in 1973, but efforts were made to amend the rules in 1969, in 1971, and now in 1975.

Mr. MONDALE. Mr. President, will the Senator yield?

Mr. ALLEN. I yield for a question, yes.

Mr. MONDALE. Well, the Senator refers to frying fish, but I cannot think of a fish that would be more difficult to fry than the one that the distinguished Senator from Alabama just put in the pan. He seems to argue that those who have just come to the Senate have less to say about the rules that govern our behavior than those who previously served here.

Mr. ALLEN. The Senator is mistaken at that point.

Mr. MONDALE. Let me finish my question.

Mr. ALLEN. Yes, I wish the Senator would put it in the form of a question. The Senator is making a statement.

Mr. MONDALE. The Constitution of the United States, as the Senator from Alabama knows——

Mr. ALLEN. What is the Senator's question? I yielded for a question.

Mr. MONDALE. I have to lay a predicate.

Mr. ALLEN. I yielded for a question, not the predicate.

Mr. MONDALE. My question is——

Mr. ALLEN. Yes.

Mr. MONDALE. Does the Senator from Alabama believe that the Constitution of the United States, which provides in article I, section 5, that the Houses of the Congress shall establish their own rules, can be amended, even by someone as influential as Lyndon Johnson, by a rule of the Senate? The Senator from Alabama would seem to argue that the rule not only amends the Constitution of the United States, but also seeks to provide that one Congress—one group of Senators—in the year 1959 can bind the U.S. Senate in 1975. Does the Senator from Alabama really believe that is a sound proposition?

Mr. ALLEN. The Senator from Alabama certainly believes that the Senate, acting under the power given it by the Constitution, and being a continuing body, has got a right to set up rules. It set up a rule, and the distinguished Senator from Minnesota is following half of that rule in filing his resolution for a rules change to be followed up by a cloture motion and, at the same time, is disregarding the second phase of that rule which requires a two-thirds vote to invoke cloture. So certainly I feel that the Senate, having made this rule, it must be amended as provided by the Senate rules.

Mr. MONDALE. Will the Senator yield further?

Mr. ALLEN. No, the Senator will have an opportunity. The Senator has spoken twice here today and I have only spoken once and I thought that it was the opponents of this measure who were supposed to be talking here but, it seems to me, that the distinguished Senator from Minnesota wanted to talk a third and fourth time on this very same issue.

But, as I stated, the Presiding Officer of the Senate, Mr. Lyndon Johnson, as I say, was a pretty poor prophet of what might happen. He had no idea that the Senator from Minnesota was going to come and drag this old horse out and beat it again. He thought he had sufficiently interred it with the provision added to rule XXXII. If the Senator has not read that, and I am rather of the opinion that he probably has not inasmuch as he is bringing this issue up again, I would like to read in rule XXXII which is the third part of the 1959 compromise. Let us read that to the distinguished Senator and also for the RECORD.

Rule XXXII, which was put in, or this phase of it was put in, as part of the 1959 compromise, the Senator from Alabama was not here at the time, but he has the same right everyone else has to make a study of the precedents, the rules of the Senate, section 2 of rule XXXII, and this was added in 1959:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

So unquestionably we are in a continuing body and we are subject to rules that continue on from one Congress to the next and are subject to amendment only as provided in the Senate rules.

Those rules provide that the rules can be amended by 1 day's notice of intent to apply for the change in the rules, and it can be in the form of a motion or a resolution.

But it has got to come up for consideration, that is the way it is with all matters pending before the Senate. It has got to get up for consideration and got to come to a vote before the rules can be amended.

So the rules provide, I assume, that they can be amended by a majority vote, providing the issue comes to the Senate, is before the Senate for consideration, and debate thereon has ended.

Then the question would be called for and it would be put by the Presiding Officer and the Senate could amend its rules, if it saw fit. But it has got to follow the rules.

That is what disturbs me about this effort. The effort to go behind the Senate rules. We have got to have rules to govern the proceedings of this body.

There is something interesting here, if I can lay my hands on it, it is what a very eminent parliamentarian over in England had to say about Senate rules.

I do not see the sentences right here, but what he said was that it is not so important what a rule is, but what is important is that there be a rule and that these proceedings in legislative bodies are not determined by the power of the gavel or the whim or the caprice of the Presiding Officer.

They are decided by this rule, and we have got to be a Government of laws and not of men. We have got to be governed by the rules that have governed this body since the first Senate in 1789 with the changes made by the Senate in accordance with its rules.

Mr. President, this compromise was reached in 1959. There were two elements of it that were favorable to those who wanted to choke off debate, to those in favor of gag rule. There was one element there favorable to those who wanted to carry on debate in accordance with the limitations prescribed by the Senate rules.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ALLEN. Yes, I am delighted to yield, provided I do not lose my right to the floor.

Mr. President, I made a stipulation, provided I do not lose my right to the floor.

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

Mr. MANSFIELD. And that this does not interrupt the sequence.

Mr. ALLEN. And will not be considered another speech when I resume my remarks, is that the condition?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Fine.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING PARAGRAPH 2 OF RULE XXV OF THE STANDING RULES OF THE SENATE

Mr. MANSFIELD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 17) amending paragraph 2 of rule XXV of the Standing Rules of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. TOWER. Mr. President, there is no objection on the minority side.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 17) was agreed to.

The resolution reads as follows:

S. RES. 17

Resolved, That paragraph 2 of Rule XXV of the Standing Rules of the Senate is modified to read as follows:

"2. Except as otherwise provided by paragraph 6 of this rule, each of the following standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"Committee	*Members*
"Aeronautical and Space Sciences	10
"Agriculture and Forestry	14
"Appropriations	26
"Armed Services	16
"Banking, Housing, and Urban Affairs	13
"Budget	16
"Commerce	18
"Finance	18
"Foreign Relations	17
"Government Operations	14
"Interior and Insular Affairs	14
"Judiciary	15
"Labor and Public Welfare	15
"Public Works	14"

Resolved further that paragraph 3 of rule XXV is modified as follows:

"Rules and Administration	8
"Post Office and Civil Service	9
"District of Columbia	7
"Veterans' Affairs	9"

Mr. MANSFIELD. Mr. President, I shall send another resolution to the desk shortly. I ask unanimous consent, unless any other Member so wishes, that there be a voice vote on the naming of the chairmen of the various committees and a voice vote on the members of the committees, collectively.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 18—NAMING DEMOCRATIC COMMITTEE MEMBERS AND THEIR CHAIRMEN

Mr. MANSFIELD. Mr. President, I send this resolution to the desk and ask for its immediate consideration.

Mr. TOWER. That is to say, the majority members of the committees. This does not apply to the minority members of the committees.

Mr. MANSFIELD. No, but this is a Senate matter, so the Republicans should participate in some form or other.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. TOWER. What I want to make sure is that the Republicans are not foreclosed from adding some members to the committee.

Mr. MANSFIELD. Not at all.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 18) naming Democratic Committee Members and their chairmen.

The resolution is as follows:

S. RES. 18

Resolved, That the following shall constitute the majority party's membership on the standing committees and the Select Committee on Small Business of the Senate for the Ninety-fourth Congress:

Committee on Aeronautical and Space Sciences: Mr. Moss (Chairman), Mr. Symington, Mr. Stennis, Mr. Cannon, Mr. Ford, Mr. Bumpers.

Committee on Agriculture and Forestry: Mr. Talmadge (Chairman), Mr. Eastland, Mr. McGovern, Mr. Allen, Mr. Humphrey, Mr. Huddleston, Mr. Clark, Mr. Stone, Mr. Leahy.

Committee on Appropriations: Mr. McClellan (Chairman), Mr. Magnuson, Mr. Stennis, Mr. Pastore, M.. Robert C. Byrd, Mr. McGee, Mr. Mansfield, Mr. Proxmire, Mr. Montoya, Mr. Inouye, Mr. Hollings, Mr. Bayh, Mr. Eagleton, Mr. Chiles, Mr. Johnston, Mr. Huddleston.

Committee on Armed Services: Mr. Stennis (Chairman), Mr. Symington, Mr. Jackson, Mr. Cannon, Mr. McIntyre, Mr. Harry F. Byrd, Jr. Mr. Nunn, Mr. Culver, Mr. Hart of Colorado, Mr. Leahy.

Committee on Banking, Housing and Urban Affairs: Mr. Proxmire (Chairman), Mr. Sparkman, Mr. Williams, Mr. McIntyre, Mr. Cranston, Mr. Stevenson, Mr. Biden, Mr. Morgan.

Committee on the Budget: Mr. Muskie (Chairman), Mr. Magnuson, Mr. Moss, Mr. Mondale, Mr. Hollings, Mr. Cranston, Mr. Chiles, Mr. Abourezk, Mr. Biden, Mr. Nunn.

Committee on Commerce: Mr. Magnuson (Chairman), Mr. Pastore, Mr. Hartke, Mr. Philip A. Hart, Mr. Cannon, Mr. Long, Mr. Moss, Mr. Hollings, Mr. Inouye, Mr. Tunney, Mr. Stevenson, Mr. Ford.

Committee on Finance: Mr. Long (Chairman), Mr. Talmadge, Mr. Hartke, Mr. Ribicoff, Mr. Harry F. Byrd, Jr., Mr. Nelson, Mr. Mondale, Mr. Gravel, Mr. Bentsen, Mr. Hathaway, Mr. Haskell.

Committee on Foreign Relations: Mr. Sparkman (Chairman), Mr. Mansfield, Mr. Church, Mr. Symington, Mr. Pell, Mr. McGee, Mr. McGovern, Mr. Humphrey, Mr. Clark, Mr. Biden.

Committee on Government Operations: Mr. Ribicoff (Chairman), Mr. McClellan, Mr. Jackson, Mr. Muskie, Mr. Metcalf, Mr. Allen, Mr. Chiles, Mr. Nunn, Mr. Glenn.

Committee on Interior and Insular Affairs: Mr. Jackson (Chairman), Mr. Church, Mr. Metcalf, Mr. Johnston, Mr. Abourezk, Mr. Haskell, Mr. Glenn, Mr. Stone, Mr. Bumpers.

Committee on the Judiciary: Mr. Eastland (Chairman), Mr. McClellan, Mr. Philip A. Hart, Mr. Kennedy, Mr. Bayh, Mr. Burdick, Mr. Robert C. Byrd, Mr. Tunney, Mr. Abourezk.

Committee on Labor and Public Welfare: Mr. Williams (Chairman), Mr. Randolph, Mr. Pell, Mr. Kennedy, Mr. Nelson, Mr. Mondale, Mr. Eagleton, Mr. Cranston, Mr. Hathaway.

Committee on Public Works: Mr. Randolph (Chairman), Mr. Muskie, Mr. Montoya, Mr. Gravel, Mr. Bentsen, Mr. Burdick, Mr. Culver, Mr. Morgan, Mr. Gary W. Hart.

Committee on Rules and Administration: Mr. Cannon (Chairman), Mr. Pell, Robert C. Byrd, Mr. Allen, Mr. Williams.

Committee on Post Office and Civil Service: Mr. McGee (Chairman), Mr. Randolph, Mr. Burdick, Mr. Hollings, Mr. Moss.

Committee on the District of Columbia: Mr. Eagleton (Chairman), Mr. Inouye, Mr. Stevenson, Mr. Glenn.

Committee on Veterans' Affairs: Mr. Hartke (Chairman), Mr. Talmadge, Mr. Randolph, Mr. Cranston, Mr. Stone.

Select Committee on Small Business: Mr. Nelson (Chairman), Mr. Sparkman, Mr. McIntyre, Mr. Nunn, Mr. Johnston, Mr. Hathaway, Mr. Abourezk, Mr. Haskell, Mr. Clark, Mr. Mondale.

The PRESIDING OFFICER. The clerk will state the chairmen and the membership appointments.

The assistant legislative clerk read as follows:

The Committee on Aeronautical and Space Sciences, Mr. Moss, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. Moss' appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Symington, Stennis, Cannon, Ford, and Bumpers.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

Committee on Agriculture and Forestry, Mr. Talmadge, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. TALMADGE's appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Eastland, McGovern, Allen, Humphrey, Huddleston, Clark, Stone, and Leahy.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Appropriations, Mr. McClellan, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. MCCLELLAN'S appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Magnuson, Stennis, Pastore, Robert C. Byrd, McGee, Mansfield, Proxmire, Montoya, Inouye, Hollings, Bayh, Eagleton, Chiles, Johnston, and Huddleston.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Armed Services, Mr. Stennis, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. STENNIS' appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Symington, Jackson, Cannon, McIntyre, Harry F. Byrd, Jr., Nunn, Culver, Gary W. Hart, and Leahy.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Banking, Housing, and Urban Affairs, Mr. Proxmire, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say, "aye"; opposed, "no."

The ayes have it. Mr. PROXMIRE's appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Sparkman, Williams, McIntyre, Cranston, Stevenson, Biden, and Morgan.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say, "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on the Budget, Mr. Muskie, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say, "aye"; opposed, "no."

The ayes have it. Mr. MUSKIE's appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Magnuson, Moss, Mondale, Hollings, Cranston, Chiles, Abourezk, Biden, and Nunn.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say, "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Commerce, Mr. Magnuson, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. MAGNUSON's appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Pastore, Hartke, Hart of Michigan, Cannon, Long, Moss, Hollings, Inouye, Tunney, Stevenson, and Ford.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Finance, Mr. Long, chairman.

The PRESIDING OFFICER. The question is on the chairman as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. LONG's appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Talmadge, Hartke, Ribicoff, Byrd, Nelson, Mondale, Gravel, Bentsen, Hathaway, and Haskell.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Foreign Relations, Mr. Sparkman, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. SPARKMAN's appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Mansfield, Church, Symington, Pell, McGee, McGovern, Humphrey, Clark, and Biden.

The PRESIDING OFFICER. The question is on the membership. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Government Operations, Mr. Ribicoff, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. RIBICOFF's appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. McClellan, Jackson, Muskie, Metcalf, Allen, Chiles, Nunn, and Glenn.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Interior and Insular Affairs, Mr. Jackson, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. JACKSON's appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Church, Metcalf, Johnston, Abourezk, Haskell, Glenn, Stone, and Bumpers.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on the Judiciary, Mr. Eastland, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. EASTLAND's appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. McClellan, Hart of Michigan, Kennedy, Bayh, Burdick, Byrd of West Virginia, Tunney, and Abourezk.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Labor and Public Welfare, Mr. Williams, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. WILLIAMS' appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Randolph, Pell, Kennedy, Nelson, Mondale, Eagleton, Cranston, and Hathaway.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Public Works, Mr. Randolph, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed "no."

The ayes have it. Mr. RANDOLPH'S appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Muskie, Montoya, Gravel, Bentsen, Burdick, Culver, Morgan, and Hart of Colorado.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Rules and Administration, Mr. Cannon, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say, "aye"; opposed, "no."

The ayes have it. Mr. CANNON'S appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Pell, Robert C. Byrd, Allen, and Williams.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say, "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Post Office and Civil Service, Mr. McGee, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say, "aye"; opposed, "no."

The ayes have it. Mr. McGEE'S appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Randolph, Burdick, Hollings, and Moss.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on the District of Columbia, Mr. Eagleton, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. EAGLETON'S appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Inouye, Stevenson, and Glenn.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Committee on Veterans' Affairs, Mr. Hartke, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. HARTKE'S appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Talmadge, Randolph, Cranston, and Stone.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

The assistant legislative clerk read as follows:

The Select Committee on Small Business, Mr. Nelson, chairman.

The PRESIDING OFFICER. The question is on the chairmanship as stated. As many as favor the appointment will say "aye"; opposed, "no."

The ayes have it. Mr. NELSON'S appointment as chairman is agreed to.

The assistant legislative clerk read as follows:

Messrs. Sparkman, McIntyre, Nunn, Johnston, Hathaway, Abourezk, Haskell, Clark, and Mondale.

The PRESIDING OFFICER. The question is on the membership as stated. As many as favor the appointments will say "aye"; opposed, "no."

The ayes have it. The membership appointments are agreed to.

Without objection, the resolution is agreed to.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, under the provisions of section 2251 of title 42, United States Code, appoints the Senator from California (Mr. TUNNEY) to fill a vacancy of the majority party membership on the Joint Committee on Atomic Energy.

The Chair, on behalf of the Vice President, pursuant to the provisions of section 1024 of title 15, United States Code, appoints the Senator from Massachusetts (Mr. KENNEDY) to fill a vacancy of the majority party membership on the Joint Economic Committee.

The Chair, on behalf of the Vice President, under the provisions of Senate Resolution 33, 87th Congress, as amended and supplemented, appoints the Senator from Iowa (Mr. CLARK) to fill a vacancy of the majority party membership on the Special Committee on Aging.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, on the same basis as the Senator from Alabama yielded the floor.

The PRESIDING OFFICER. Without objection.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT MEMBERSHIP OF COMMITTEES NOT BE PRINTED ON THE CALENDAR UNTIL WEDNESDAY NEXT

Mr. MANSFIELD. Mr. President, in view of the fact that an imbalance will have been created because of the fact that the Republicans have not as yet been able to fulfill their committee assignments, I ask unanimous consent that the pages dealing with the standing committees, select committees, and special committees all not be printed on the calendar until Wednesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER (Mr. HELMS). The pending business is Senate Resolution 4.

Mr. ROBERT C. BYRD. What will be the pending question on Monday, after routine morning business has been completed?

The PRESIDING OFFICER. The Chair is advised that the Senate will then return to the consideration of the unfinished business, which is the motion by the distinguished majority leader (Mr. MANSFIELD).

Mr. ROBERT C. BYRD. In other words, Senate Resolution No. 4 will be on the calendar at the close of business today?

The PRESIDING OFFICER. That is correct.

Mr. MONDALE. Mr. President, on Monday before we resume the consideration of the pending business, it is the intention of the proponents of Senate Resolution 4 to have the Senator from Kansas (Mr. PEARSON) move the consideration of that resolution. I thought we ought to serve notice on the leadership that is our intention.

Mr. ALLEN. On Tuesday?

Mr. MONDALE. On Tuesday.

ORDER FOR ADJOURNMENT UNTIL TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjourment until the hour of 12 o'clock noon on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I wish to state that the reason the Senate is not coming in on Monday is to give the respective conferences an opportunity to continue their work in the selection of committees and the disposition of other matters. Senators will have the full day on Monday for such work. In the long run, I think this will enable the Senate to proceed more expeditiously.

Mr. GRIFFIN. Will the majority whip yield?

Mr. ROBERT C. BYRD. If the Senator will yield further.

Mr. HUMPHREY. I yield.

Mr. GRIFFIN. I confirm what the majority whip is saying. On our side, the Republican side, the Committee on Committees will be meeting. We hope before the day is over on Monday that all of our committee assignments will be completed.

Mr. ROBERT C. BYRD. I thank the Senator.

ORDER FOR RECOGNITION OF SENATORS HATFIELD, ALLEN, GRIFFIN, AND ROBERT C. BYRD ON TUESDAY

Mr. ROBERT C. BYRD. I ask unanimous consent that when the two leaders or their designees have been recognized under the standing order on Tuesday next, the Senator from Oregon (Mr. HATFIELD) be recognized for not to exceed 15 minutes; that the Senator from Alabama (Mr. ALLEN) be recognized for not to exceed 15 minutes following Mr. HATFIELD; that the Senator from Michigan (Mr. GRIFFIN) then be recognized for not to exceed 15 minutes; and that I then be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of Senators on Tuesday, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE ACTION NEEDED ON FOOD STAMPS

Mr. HUMPHREY. Mr. President, on November 26 President Ford announced a number of budget reductions and rescissions totaling $4.6 billion.

Included among the steps to be taken was an increase of roughly a third in the cost charged to low-income persons for food stamps. Now, under the proposed new regulations, all but the most destitute would be required to pay 30 percent of their net income to purchase their food stamps. This contrasts with 23 percent of net income, which an average household pays for food stamps today.

The administration estimates that $650 million per year would be saved through the implementation of this program which is to become effective on March 1, 1975. But the Commodity Nutrition Institute estimates that the figure is closer to $1 billion per year, and it terms the measure "draconian."

The administration contends that the poor are merely being asked to pay a little extra for their food stamps. But the truth is that this step will have a devastating impact on lower income families and in particular, may I add, the elderly on fixed income or social security.

Most seriously affected will be the households with one and two members. These constitute almost a fourth of the total 15 million people now receiving food stamps. It also is estimated that over half of the one and two member households, or at least 1.75 million, are elderly and desperately in need of food stamps.

The plan would hit hardest at those individuals whose net income is between $154 and $194 per month. These people who now receive a $10 to $13 reduction in their $46 worth of food stamps per month would be eliminated entirely from the program.

Eliminating individuals from the food stamp program whose net income per month is between $154 and $194 a month will seriously affect recipients under the supplemental security income—SSI—program—the assistance program to aid the aged, blind, and disabled poor.

Mr. President, I think it is unbelievable and unconscionable that we would eliminate from the benefits of the food stamp program people who are on social security and are receiving from $154 to $194 a month. But the fact is that under the administration proposal, these people would have to pay more for the food stamps than the food stamps would buy.

The effect of the new plan on SSI recipients will be to drive most of them from the program, even though the Congress acted in August 1973, December 1973, and July 1974 to keep SSI recipients in the food stamp program.

This eliminates individuals from the food stamp program whose net income per month is between $154 and $194 and will seriously affect recipients under supplemental security income, the assistance programs to aid the aged, the blind, and the disabled poor.

In other words, Mr. President, on three separate occasions the Congress of the United States has specifically included in the benefits of the food stamp program those persons who are on what we call supplemental security income, the blind, the disabled, the poor disabled and the elderly.

The people who use and depend on the food stamps have been especially hard hit by rising food costs. While rent, electricity and clothing have gone up in cost for everyone, food costs for the poor have advanced more sharply than the 15 percent general food inflation rate. Most of the food staples purchased by the poor—according to Nelson Cruikshank of the National Council of Senior Citizens—have gone up by over 25 percent in the last year.

And on top of this food inflation, the administration proposal that an average family of four now should pay nearly a third more for its food stamps translates into $14 a month or $168 a year.

The proposal has been offered as a means of cutting back on a program whose costs are reported to be out of hand and with the enrollment growing by leaps and bounds.

This is hardly an accurate picture since, in December of 1971, 14.9 million people participated in either the food stamp program or the commodity program. In September 1974—with the commodity program phased out except on Indian reservations—the number of recipients under the food stamp program was 15 million.

Now, Mr. President, in 3 years the number of recipients of food stamps included increased 100,000, and I ask the Senate to remember what happened to unemployment in those 3 years, with the sharp rise.

The main reason for the increasing costs under the program is food price inflation. Bringing inflation under control would stabilize program costs.

But you do not bring inflation under control by knocking down the poor another notch.

We now are told that the administration has shifted its gears from fighting inflation to fighting the recession.

Would it not also make sense to shift gears as far as imposing this additional burden on the shoulders of the elderly, the blind, and the disabled poor is concerned?

Various methods of stimulating the economy are being discussed, and almost everyone agrees that those at the bottom of the economic ladder deserve a significant reduction in their taxes.

Why give with one hand and at the same time take away with the other?

When the Senate passed S. 2792 on December 18, 1974, it recommended, in the report accompanying the bill, that the administration's proposal to increase the cost of food stamps not be implemented "until Congress had an opportunity to consider legislation on the subject next year."

In a letter to Royal Shipp, USDA food

stamp director, 43 Members of the Senate also urged against implementing the food stamp proposal. Other Senators sent separate letters stating their objection to the administration proposal.

To date there has not even been an administration response to these letters.

The Congress will be reviewing the food stamp program as a part of overall agricultural hearings. We will need to take a thorough look at the food stamp program, but this cannot be completed before the scheduled March 1 implementation of the new regulations.

Consequently, I am today introducing legislation, which Senator MONDALE has joined in sponsoring, to freeze the cost of food stamps until December 30, 1975, or until the Congress has had an opportunity to review the program in depth. We need to have adequate time to see what the program has accomplished and what the future direction is likely to be.

Mr. President, I ask unanimous consent that the text of my bill to freeze the cost of food stamps be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding the provisions of section 7(b) of the Food Stamp Act of 1964 (7 U.S.C. 2016 (b)), the charge imposed on any household for a coupon allotment under such Act after the date of enactment of this Act and prior to December 30, 1975, may not exceed the charge that would have been imposed on such household for such coupon allotment under rules and regulations promulgated under such Act and in effect on January 1, 1974.

Mr. HUMPHREY. I also ask unanimous consent that the Community Nutrition Institute report to which I referred, entitled "The Impact of the Ford Administration's Proposal To Raise Food Stamp Prices," be included at this point in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE IMPACT OF THE FORD ADMINISTRATION'S PROPOSAL TO RAISE FOOD STAMP PRICES

(Report by the Community Nutrition Institute)

On November 26, the Ford Administration unveiled a plan to make changes in the food stamp program that would result in a serious economic blow to millions of poor families across the United States. The new plan would require these families to pay more—in many cases, significantly more—for their food stamps.

The food stamp program, which now aids about 15 million persons each month, has in the past five years become one of the most important assistance programs available to low income persons in this country. The program provides stamps to eligible households, who use the food stamps at grocery stores just as if they were cash. The amount of food stamps a household gets depends on the size of the household, and is supposed to be sufficient to provide the household with a nutritionally adequate died. Most households pay a monthly charge for their food stamps, with the amount that each household pays for its stamps being determined by its income.

The Ford Administration's new plan, formally published in the Federal Register for December 6, 1974, would require all but the most destitute households to pay 30 percent of their net income to purchase their stamps each month, starting in March, 1975. For many households, this would represent a sharp increase over the price now paid for stamps. Yet there would be no increase at all in the amount of food stamps that would be provided for this increased price.

The U.S. Department of Agriculture (USDA), which administers the food stamp program, says that the average household now pays 23 percent of its net income for food stamps. This means that the Administration's plan would require the average family to pay nearly one third more for its food stamps than it now pays. According to USDA, this translates into an additional charge to the average family of four of $14 a month, or $168 a year, for the same amount of stamps.

Nationwide, over 95 percent of all food stamp recipients—or over 14 million persons—would have to pay more for food stamps under the Administration's plan. USDA's official estimate is that these recipients will have to pay $650 million more each year to buy food stamps if the new plan is put into effect.

THE ADMINISTRATION'S PLAN AND THE ELDERLY

The new plan would hit hardest at food stamp recipients living in one and two person households, the majority of whom are elderly. Most single persons would be hit with increases of 35 to 100 percent in the price of their food stamps. For a few individuals and couples the increase would run as high as 800 percent. Nearly one out of every four food stamp recipients lives in a one or two person household.

The plan would be harshest on those individuals whose net income is between $154 and $194 a month. All such persons—who are now eligible for a $10–$13 food stamp benefit each month—would be eliminated entirely from the food stamp program.

These individuals would be eliminated under the new plan because they would be required to pay more in cash to participate in the food stamp program each month than they would receive back in the form of food stamps. At present, one person households in this income range can pay $33–$36 each month and receive $46 in food stamps. Under the new plan, however, they would have to pay $46–$58, and still get only $46 in food stamps.

This aspect of the new food stamp plan would mean that some persons living below the poverty line (now $194 a month for persons living alone) would be unable to get food stamp aid for the first time in a number of years.

The elimination from the food stamp program of individuals with incomes between $154 and $194 a month would affect recipients of the Supplemental Security Income (SSI) program—the federal government's new assistance program for the aged, blind, and disabled poor—with particular severity. There are now 18 states in which combined federal and state payments to aged, blind and disabled individuals enrolled in the SSI program total $154 a month or more. Consequently, individual SSI recipients in these states will be dropped from the food stamp program unless they can qualify for large enough income deductions. The states involved are Colorado, Connecticut, Idaho, Illinois, Kansas, Maine, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, and Washington. Blind individuals in Iowa who receive SSI benefits would also be affected in this manner.

Some SSI recipients in other states would also be forced out of the food stamp program. The SSI program provides a basic federal income guarantee of $146 a month to individuals and $219 a month to couples, and allows states to supplement these amounts. Even in states that do not provide supplementary payments, individuals and couples who receive Social Security or other unearned income as well as SSI are allowed to have $20 additional in total income—or $166 a month for individuals and $239 for couples. This means that in all states, single persons who receive both Social Security and SSI will have an income of at least $166 a month, and will consequently be eliminated from the food stamp program under the Administration's new plan, unless they qualify for income deductions. The most recent figures from the Social Security Administration show that two thirds of all elderly SSI recipients do receive Social Security.

SSI recipients who do not receive Social Security or other income, and who live in a state that does not provide supplementary payments, now have incomes of $146 a month and will technically remain able to participate in the food stamp program if the new plan is implemented. However, a person with net income of $146 a month would have to pay $43.80 for $46 of food stamps each month, under the new plan. Presently, such persons pay $30 for their $46 in stamps. It seems safe to predict that few if any aged, blind, or disabled SSI recipients will continue to go through the time-consuming processes involved in applying for and using food stamps to receive a $2.20 monthly benefit.

SSI recipients and other individuals who are able to take significant income deductions would get larger food stamp benefits, but would still have to pay far more than they do currently. An SSI recipient with net income after deductions of $105 a month, for example, would have to pay $31.50 for food stamps, instead of $18 as at present.

Elderly couples—especially those who are SSI recipients—would also be harshly affected. A couple with $270 net monthly income would have to pay $81 for $84 in food stamps, rather than $64 for $84 in stamps as at present. A couple with $239 net income (the basic federal SSI payment of $219 plus $20 in Social Security) would pay $71.70, instead of $62, for its $84 in food stamps (and would see its food stamp benefit nearly cut in half from $22 to $12.30).

The overall effect of the new USDA plan on SSI recipients would thus be to eliminate most of them from the program by substantially reducing (or eliminating altogether) their food stamp benefits. Although the Congress acted on three occasions—in August 1973, December 1973, and July 1974 (P.L. 93–86, P.L. 93–233, and P.L. 93–335)—to keep SSI recipients in the food stamp program, the Administration's new food stamp plan would effectively end their participation in large numbers. One USDA food stamp official told the Community Nutrition Institute that he expected about half of the elderly individuals and couples who now get food stamps to leave the program as a result of this new plan. USDA statistics show that if this estimate is correct, implementation of this plan would mean that nearly one million elderly poor would stop getting food stamp benefits.

	Household of 1		Household of 2	
	Price paid for $46 of stamps each month		Price paid for $84 of stamps each month	
Net monthly income	Current price	Price under new plan	Current price	Price under new plan
$25	$1	$7.50	$1	$7.50
$35	4	10.50	4	10.50
$45	6	13.50	7	13.50
$65	10	19.50	12	19.50

	Household of 1		Household of 2	
	Price paid for $46 of stamps each month		Price paid for $84 of stamps each month	
Net monthly income	Current price	Price under new plan	Current price	Price under new plan
$85	$14	$25.50	$18	$25.50
$105	18	31.50	23	31.50
$125	24	37.50	29	37.50
$145	30	43.50	35	43.50
$165	33	[1] 49.50	38	49.50
$185	36	[1] 55.50	44	55.50
$205			50	61.50
$225			56	67.40
$245			62	73.50
$265			64	79.50
$275			64	82.50

[1] All individuals with net monthly income of $154 and above would have to pay more for food stamps than they would receive, and would hence be removed from the program.

Implementation of the plan would be doubly harsh on many SSI recipients because it would come at a time when inflation has been eating up the value of their SSI benefits. The SSI benefits paid to aged individuals in 19 states are now lower, when adjusted for inflation, than comparable state old age assistance payments were in January, 1972 (before the SSI program came into existence). Payments to aged couples, when adjusted for inflation, have declined since January, 1972 in 21 states. The declines range as high as 25 percent for individuals in some states, and 20 percent for couples.

FAMILIES WITH VERY LOW INCOMES

The new plan would also prove very severe on larger families that have very low incomes, such as net income under $100 a month. These families, which have oriented their subsistence spending patterns for three years around the prices currently charged for stamps, would receive a devastating jolt by having their food stamp prices rise by up to 200 percent at a time when rent, heat and other costs are rising as well. The following chart shows the current food stamp prices and the prices that would be charged to a very poor family of four under the new plan:

	Current price	Price under new plan
Net monthly income:		
$37.50	$4	$11.25
47.50	7	14.25
57.50	10	17.25
67.50	13	20.25
77.50	16	23.25

Also hard hit by the new plan would be higher income households earning within $100 of the maximum food stamp income eligibility limits. Households in these income categories would see their food stamp benefits disappear almost entirely. A household of two with $270 net monthly income would pay $81 for $84 in stamps, an increase of $17 in price. A family of four with $500 income would pay $150 for $154 in stamps, up $20. A family of six with $680 monthly income would pay $204 for $210 in stamps, an increase of $26.

MANY FAMILIES WOULD BE FORCED TO LEAVE THE PROGRAM

One immediate effect of the new plan would be to drive large numbers of the poor—especially the elderly—out of the food stamp program. Considering that large numbers of SSI recipients would leave or be removed from the program—and that many non-SSI one and two person households as well as many families near the top of the income scale would also drop out—an overall drop-out rate of 10 percent seems a conservative estimation. A 10 percent drop-out rate would mean that 1.5 million persons were either eliminated or felt compelled to leave the food stamp program.

(An important point to remember is that food stamp participation is already quite low—about 15 million persons out of 37 million estimated to be eligible by an HEW Department computer analysis conducted in early 1974. The high prices already charged for food stamps have long been said by a number of nutritionists and anti-hunger advocates to be the single greatest obstacle to increased participation.)

If 10 percent of those in the program do drop out, about $325–$335 million a year in benefits going to the poor would disappear, in addition to the $650 million in benefits that would be wiped out by having recipients pay more for their stamps.

This would make the total withdrawal of benefits, due to the Administration's new plan, close to $1 billion a year (See Appendix A). Since the entire food stamp program now provides less than 4 billion a year in benefits, the new plan would cut food stamp aid going to the nation's poor by about 25 percent. This would make the new food stamp plan one of the largest cutbacks in income assistance for the poor in U.S. history, and perhaps the largest cutback during any period of economic crisis.

THE ADMINISTRATION'S JUSTIFICATIONS FOR THE PLAN

No strong arguments have been advanced to defend the new plan. Two principal arguments—that the plan is necessary as a budget cutting device and that the plan would make the food stamp program more equitable—do not stand up under close scrutiny.

1. *Budgetary Considerations:* Administration spokesmen frequently cite the rising costs of the food stamp program as the main reason for the new cutbacks. The food stamp program is rapidly growing and is out of control, they say, contending that costs have risen from $2.2 billion in fiscal year 1973 to $4 billion in fiscal 1975.

This analysis is misleading on several accounts. In FY 1973, several hundred counties ran the commodity distribution program instead of a food stamp program, at a cost to the federal government of about a quarter of a billion dollars. These counties have now transferred to the food stamp program, as required by Congress in Public Law 93–86. The cost of the commodity program in FY 1973 is not included in the $2.2 billion figure given for FY 1973, but the cost of running food stamp programs in these counties is included in the $4 billion figure for FY 1975.

Even more important, the increase in the numbers of persons in the food stamp program in recent years simply reflects those persons who entered the program when their counties switched from the commodity program to the food stamp program. In December 1971, 14.9 million persons participated in either the food stamp or commodity programs. In September 1974, the number of participants stood at 15.0 million. *The number of persons in these programs has not changed in nearly 3 years despite massive inflation and high unemployment. The food stamp program is not growing rapidly. It is not out of control. The entire increase in the cost of the program is due to the transfer of counties from commodities to food stamps, and to the federal government's inability to control food price inflation.* If inflation were brought under control, so would be the costs of the food stamp program.

A further point is that Congress and USDA are making other food stamp changes to cut food stamp program costs. Congress has enacted a ban on food stamps for students claimed as tax dependents by households not themselves eligible for food stamps; USDA has announced that quality control and work registration procedures will be intensified. USDA says that an additional $110 million will be saved in the latter part of FY 1975 alone through these alterations in the program.

Finally, to make the massive program cuts envisioned by the new plan would not only be disastrous to the elderly and to other poor families but would also contribute to further unemployment and recession by removing needed federal food stamp dollars from local economies. These dollars are "high velocity" dollars that circulate widely throughout local economies and have a significant economic "multiplier effect." Their removal from local economies at this time could be especially damaging economically in areas of high food stamp usage.

It is especially inappropriate for Administration spokesmen to defend this draconian food stamp measure while at the same time suggesting the possibility of a tax cut in 1975 to stimulate the economy. A tax cut, of course, will not help the elderly poor and the majority of food stamp recipients who pay little or no income tax. To cut taxes and raise food stamp prices would thus be an exercise in redistributing income from the elderly and the poor to those who already have more income.

2. *Equitability Considerations:* Stephen Hiemstra, an assistant to Edward J. Hekman, the administrator of USDA's Food and Nutrition Service, was quoted in the New York Times as saying that the Administration's new plan would make the food stamp program more equitable because it would require all families to pay 30 percent of net income for food stamps, the amount now required of many large families. Hiemstra similarly told the Washington Post that 25 percent of all food stamp recipients would not be affected by the new plan, because many people already pay the full 30 percent.[1]

These statements are based upon an incorrect mathematical analysis, as Dr. Hiemstra now acknowledges. USDA food stamp profiles show that persons in households already paying 30 percent of income comprise less than one-tenth of one percent of the entire food stamp caseload. The "many large families" already paying a full 30 percent of income turn out not to exist.

The only persons who will not be affected by the new plan are destitute households who will continue to get food stamps free (one and two person households with income below $20 a month; larger households with income below $30 a month), and an infinitesimal fraction of participants who do already pay 30 percent of income for food stamps. These two groups, taken together, comprise only about 4 percent of all food stamp participants. The remaining 96 percent of recipients, numbering over 14 million people, will have to pay more than before.

In a phone conversation with the Community Nutrition Institute on December 5, Dr. Hiemstra acknowledged USDA's error and said that it appeared that over 90 percent of those getting food stamps would, indeed, have to pay more under the new plan.

Simple logic should indicate that making virtually everyone in a group of people worse off than before is not an effective exercise in making matters more equitable for this group.

Moreover, there has always been some logic in charging differing percentages of income to different categories of food stamp recipients. A single person making $170 a month now pays $36 for $46 in food stamps. A family of four making $170 a month net income pays $47 for $154 in food stamps. The family of four does pay a larger percentage of income, but it also gets a much greater benefit. If the single person had to pay $47, such a person would actually be paying the government $1 more than the value of the food stamps he or she would be receiving. Yet it is exactly this type of absurd arrangement that the Administration's new plan would bring into being, under the guise of "equitability."

The Community Nutrition Institute believes that the elderly and the poor deserve better than the new plan. These are people who need special help in a time of economic distress, people who are living on fixed incomes but watching heat, electric, and other bills rise every month. Their Social Security checks, SSI checks, and food stamp allotments are regularly adjusted to keep pace with inflation, but the adjustments are usually out of date before they are even implemented. The food stamp allotment for a family of four, supposedly based on the meager USDA "economy food plan," will be $154 a month from January 1, 1975 until June 30, 1975. But by September, 1974, the cost of the economy plan had already hit $155.10 and showed no signs of stopping.

The attempt to make the poor pay more for their food stamps would thus squeeze them from both ends—while inflation is decreasing the "real value" of their food stamps and of other benefits, the government is asking them to pay more than ever for these "devalued" stamps. The result can only be more hunger and malnutrition—and consequently, higher government expenditures for public assistance and medical assistance in the years to come.

Already the poor have been harder hit by the inflation than has any other segment of the population. A recent study by the HEW Department, "The Impacts of Inflation and Higher Unemployment: With Emphasis on the Lower Income Population" found that the current inflationary period has been 20 percent worse for the poor than for middle income families (unlike inflationary periods in the 1960's when the impact of rising prices was distributed relatively evenly among income groups.)

The study also found that unemployment rates for those with the lowest incomes—the aged, blacks and teenagers—have risen faster than the average; and that despite food stamps, unemployment compensation, and other government programs, some of the unemployed have suffered income losses of as much as 40 percent after losing their jobs.

In a comment that could be applied directly to the Administration's new food stamp plan, the study observed that "the statistics presented in this paper, while accurate, fail, as all such presentations must, to convey the hardship that a 10 percent income loss means to a family that begins with a $3,000 income. The poor have little or no flexibility to adjust to job and real income losses."

In spite of what the HEW study has found, the Administration is proposing with its new food stamp plan to mete out a further 7 percent income loss to the average poor family in the program, and to inflict an even greater income loss on most of the elderly. To paraphrase the HEW paper, no analysis can convey the hardship that this will bring.

At the very least, prices for food stamps should be maintained at current levels, the same levels that have been in effect for three years. (If anything, it is already harder for a low income family to pay the same percentage of income for food stamps that it paid three years ago, since the cost of all other family necessities has risen so sharply during this period.)

* * * * *

APPENDIX A: THE EFFECT OF THE NEW PLAN ON STATE ECONOMIES

Implementation of the Administration's food stamp plan would have a considerable effect on the economies of a large number of states. The table shown below lists the amount of federal food stamp dollars that will be lost to state economies annually if the plan is put into effect. The first column gives the USDA figure for the number of food stamp recipients in each state in September 1974, the latest month for which such data is available. The second column shows the loss to each state if the price increase took effect but if no one left the food stamp program as a result. The third column shows the loss if 10 percent of the food stamp participants in each state left the program, a conservative estimation.

It should be remembered that food stamp dollars are "high velocity" dollars that circulate a number of times in a local economy and have a significant economic "multiplier" effect. Therefore, the actual loss to state economies will be several times the dollar figures shown in this chart.

HOW THE FIGURES WERE COMPILED

USDA estimates that the new plan will cut food stamp benefits by $3.50 per participant per month. Consequently the figures in the second column were derived by multiplying the number of food stamp recipients in each state by $42 ($3.50/mo. × 12 months). The figures for most states are probably low, because September is traditionally one of the months of lowest food stamp participation (food stamp participation peaks each March).

The figures in the third column were derived by:

(1) taking the USDA figure for the average per person food stamp bonus for each state in September, 1974.

(2) adding 60 cents to this figure to reflect the increase in food stamp bonuses that will occur on January 1, 1974 when new food stamp tables take effect. (The new tables increase the food stamp allotment about $1 per person; in the past, each $1 increase in the allotment per person has resulted in a 70 cent increase in the average monthly bonus. Since one person households will not get any allotment increase on January 1, however, the increase has been estimated here at only 60 cents. USDA officials regard this estimate as conservative.)

(3) substracting $3.50 from the figure derived in step (2), to reflect the decrease in the bonus that USDA says will occur if the new plan is implemented.

(4) multiplying this figure by 10 percent of the number of recipients in each state in October, 1974 to find the monthly loss in federal bonus dollars that will occur if 10 percent of the participants in each state leave the program.

(5) multiplying this figure by 12 to annualize it.

(6) adding this figure to the figure in column 2 to find the total annual dollar loss to each state if the prices are increased on March 1 and if 10 percent of the recipients leave the program.

The figures in this column are also low because they are based on September participation data.

State	Food stamp recipients	Dollar loss to economy from new plan if no one leaves the program	Dollar loss to economy if 10 percent of recipients leave the program
Alabama	338, 507	$14, 217, 294	$22, 264, 282
Alaska	14, 205	596, 610	1 035, 033
Arizona	[1] 110, 400	[1] 4, 636, 800	7, 314, 220
Arkansas	245, 940	10, 329, 480	10, 181, 868
California	1, 343, 373	56, 421, 666	83, 987, 679
Colorado	131, 151	5, 508, 342	8, 747, 247
Connecticut	139, 532	5, 860, 344	8, 435, 546
Delaware	21, 214	$890, 988	$1, 274, 876
District of Columbia	116, 392	4, 888, 464	7, 395, 547
Florida	514, 847	21, 623, 574	35, 586, 224
Georgia	424, 830	17, 842, 860	26, 835, 661
Hawaii	71, 540	3, 004, 680	4, 802, 337
Idaho	31, 695	1, 331, 190	2, 044, 327
Illinois	840, 900	35, 317, 800	53, 299, 605
Indiana	194, 036	8, 149, 512	12, 338, 361
Iowa	105, 645	4, 437, 090	6, 672, 115
Kansas	53, 107	2, 230, 494	3, 149, 457
Kentucky	400, 655	16, 827, 510	27, 366, 339
Louisiana	502, 279	21, 095, 718	33, 933, 969
Maine	96, 133	4, 037, 586	5, 808, 355
Maryland	245, 101	10, 294, 242	16, 626, 671
Massachusetts	87, 774	3, 686, 508	5, 013, 650
Michigan	567, 791	23, 847, 222	32, 670, 694
Minnesota	[1] 165, 930	[1] 6, 969, 060	[1] 9, 953, 808
Mississippi	348, 321	14, 629, 482	23, 026, 804
Missouri	288, 353	12, 110, 826	18, 820, 223
Montana	[1] 32, 821	[1] 1, 378, 482	[1] 2, 181, 546
Nebraska	44, 332	1, 861, 944	2, 654, 068
Nevada	27, 168	1, 141, 056	1, 940, 447
New Hampshire	30, 277	1, 271, 634	1, 793, 730
New Jersey	435, 187	18, 277, 854	27, 333, 325
New Mexico	149, 831	6, 292, 902	10, 133, 370
New York	1, 195, 785	50, 222, 970	65, 175, 065
North Carolina	[1] 341, 397	[1] 14, 338, 674	[1] 21, 553, 075
North Dakota	[1] 18, 361	[1] 771, 162	[1] 1, 137, 133
Ohio	750, 774	31, 532, 508	50, 722, 291
Oklahoma	155, 463	6, 529, 446	9, 337, 107
Oregon	163, 617	6, 871, 914	10, 694, 661
Pennsylvania	744, 896	31, 285. 632	43, 487, 028
Rhode Island	77, 881	3, 271, 002	4, 621, 458
South Carolina	354, 484	14, 888, 328	23, 982, 969
South Dakota	[1] 30, 273	[1] 1, 271, 466	[1] 1, 874, 867
Tennessee	329, 456	13, 837, 152	21, 842, 932
Texas	1, 057, 976	44, 434, 992	69, 902, 590
Utah	39, 829	1, 672, 818	2, 519, 263
Vermont	38, 165	1, 602, 930	2, 241, 812
Virginia	215, 338	9, 044, 196	13, 238, 118
Washington	[1] 228, 898	[1] 9, 613, 716	14, 991, 903
West Virginia	213, 774	8, 978, 508	12, 964, 965
Wisconsin	129, 403	5, 434, 926	7, 421, 003
Wyoming	9, 272	389, 424	589, 142
Guam	1, 194	50, 148	81, 812
Puerto Rico	[2] 816, 403	34, 288, 926	57, 899, 300
Virgin Islands	[3] 17, 396	730, 632	1, 310, 545
Total	15, 049, 302	632, 070, 684	958, 210, 323

FOOTNOTES

[1] The totals for these states do not reflect about 77,000 residents of Indian reservations who are still enrolled in the commodity program rather than the food stamp program. All reservations must switch to the food stamp program by July 1, 1977, however, and so the eventual economic effect of the cutback in these states would be larger than this chart indicates.

[2] The total for Puerto Rico includes 352,000 persons estimated by USDA to have participated in the food stamp program in October, 1974, plus 464,403 additional persons reported as having participated in the commodity program in October. Since all commodity areas of Puerto Rico transferred to food stamps on November 1, these 464,403 persons are presumably now food stamp recipients and were counted as such in the above chart. Preliminary figures for October have been used (rather than September data) because some parts of Puerto Rico scheduled to implement the food stamp program on September 1 were late in certifying large numbers of eligible households. In addition, far more persons are eligible for food stamps in Puerto Rico than have been eligible for commodities, and the October figures should be closer to the eventual size of the food stamp program.

[3] October preliminary data used in the Virgin Islands since the food stamp program was implemented here on October 1.

NOTE.—The dollar loss to state economies in the above chart totals $632 million rather than $650 million, USDA's official estimate, because the above chart is based on food stamp participation by 15 million persons, while USDA estimates that participation will soon average closer to 15.5 million persons. Considering that participation usually peaks in March and dips over the summer, and that Puerto Rico is expected to witness major expansion of the food stamp program in coming months, USDA's projection seems reasonable. This higher average participation figure would bring the total dollar loss to state economies if the new plan is implemented and if 10 percent of food stamp recipients leave the program to about $980–$985 million a year. If 10 percent proves to be an underestimation of the dropout rate, then the total dollar loss to state economies if the new plan is implemented will surpass $1 billion a year.

THE 1973 TOTAL UNITED STATES PROFILE OF FOOD STAMP PROGRAM PARTICIPANTS FOR ALL PERSONS BY HOUSEHOLD SIZE, BY INCOME RANGE FOR THE MONTH OF JUNE

PROFILE A

[In percent]

Monthly income	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons	9 persons	10 or more persons	Total
0 to $29.99	6.1	5.4	4.5	4.5	3.7	3.4	3.3	2.2	1.7	2.8	4.1
$30 to $39.99	2.3	1.6	1.2	.7	.4	.3	.6	.3	.4	.2	.9
$40 to $49.99	3.5	2.0	1.4	.9	.4	.2	.2	.6	.3	.3	1.1
$50 to $69.99	10.7	5.1	4.2	2.3	1.7	1.2	1.4	.8	.7	1.2	3.3
$70 to $99.99	21.1	13.6	7.7	6.1	3.9	2.6	2.2	2.3	2.3	1.8	7.1
$100 to $149.99	55.9	30.6	21.4	13.3	11.2	8.4	7.6	4.6	4.2	4.4	18.0
$150 to $249.99	.4	41.7	52.4	40.7	31.6	26.7	22.8	20.1	21.6	16.7	30.6
$250 to $359.99			7.2	26.3	31.0	30.5	27.1	23.4	21.3	21.3	17.9
$360 to $419.99				5.2	11.7	11.9	14.2	12.0	11.9	9.2	6.5
$420 to $479.99					4.4	11.0	12.6	14.0	12.0	8.6	4.7
$480 to $539.99						3.8	4.1	12.3	7.1	7.5	2.4
$540 and up							3.9	7.4	16.5	26.0	3.4
Percent by household size	9.6	13.3	14.1	14.4	12.3	10.2	8.1	6.3	4.1	7.6	100.0

FOOD STAMP ALLOTMENTS AND PURCHASE REQUIREMENTS (EFFECTIVE JAN. 1)

48 States and District of Columbia	Number of persons in household 1	2	3	4	5	6	7	8
Monthly coupon allotment	$46	$84	$122	$154	$182	$210	$238	$266
Monthly net income and monthly purchase requirement:								
$0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	36	44	46	47	48	49	50	51
$190 to $209.99	36	50	52	53	54	55	56	57
$210 to $229.99		56	58	59	60	61	62	63
$230 to $249.99		62	64	65	66	67	68	69
$250 to $269.99		64	70	71	72	73	74	75
$270 to $289.99		$64	$76	$77	$78	$79	$80	$81
$290 to $309.99			82	83	84	85	86	87
$310 to $329.99			88	89	90	91	92	93
$330 to $359.99			94	95	96	97	98	99
$360 to $389.99			100	104	105	106	107	108
$390 to $419.99			104	113	114	115	116	117
$420 to $449.99				122	123	124	125	126
$450 to $479.99				130	132	133	134	135
$480 to $509.99				130	141	142	143	144
$510 to $539.99				130	150	151	152	153
$540 to $569.99					154	160	161	162
$570 to $599.99					154	169	170	171
$600 to $629.99					154	178	179	180
$630 to $659.99						178	188	189
$660 to $689.99						178	197	198
$690 to $719.99						178	202	207
$720 to $749.99							202	216
$750 to $779.99							202	225
$780 to $809.99							202	226
$810 to $839.99								226
$840 to $869.99								226
$870 to $899.99								226

Note: For each additional household member over 8 add $22 to the 8-person allotment.

Source: The table of food stamp benefits that the administration's plan would replace (reprinted from: "Food and Nutrition," the newsletter of the Food and Nutrition Service, U.S. Department of Agriculture, Nov. 22, 1974.)

PROPOSAL TO LIMIT SOCIAL SECURITY INCREASES TO 5 PERCENT

Mr. HUMPHREY. Mr. President, might I say on a related topic that the proposal of the President to limit social security increases to 5 percent will be vigorously resisted by this Senator. If we are going to call for sacrifies, let us call for sacrifices from people who already have too much, not from those who have too little.

I remember the words of Franklin Roosevelt who said that it should be the purpose of this Government to see to it that those who have too little shall have enough, and not to see that those who have too much shall have more.

I still believe that that purpose is morally right and politically right.

The American people will not tolerate punishing the poor of this country and the elderly and, believe me, the rate of inflation on the social security recipients has been far above the nationally declared official rate of 12 percent. It is recognized that that rate of inflation runs at about 18 to 20 percent upon the elderly under social security, and for this Government to say that all it can do to hold down the costs of Government is to limit social security increases to 5 percent I think demonstrates moral bankruptcy. We are not going to let it happen, and I want this RECORD today to clearly document the sentiments of the junior Senator from Minnesota. I will use every means at my command, including every rule of this body, including every rule of every committee to see to it that that provision, which has been recommended by the President, is not implemented.

We have in social security today, rightly so, a cost-of-living escalator clause, and if there is any group in America which deserves a cost-of-living escalator clause, it is our senior citizens.

How anybody could have influenced the President of the United States to include that 5 percent limitation on social security benefits in his state of the Union message is beyond me.

If the state of the Union is so bad that the elderly citizens of this country are not entitled to more than a 5-percent increase in their benefits in a year when their costs have gone up 15 to 20 percent, then it is about time that we took a whole good new look at what is going on in this country.

Mr. MATHIAS. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. MATHIAS. The Senator, as I have, has been around here a little while and I remember the old system in which we delt with inflation and the rising cost of living with relation to social security which I felt was very unsatisfactory, and I am sure he did; that where the Congress would wait a while and the cost of living would go up and old people who were pensioners and social security beneficiaries would get further and further behind the mainstream of American life, and then the Congress would be forced to enact legislation which increased social security benefits, but we never caught up with the cost of living. We would have to make a 15- or 20-percent increase which, by the time we got around to doing it, recognized what had happened in the past but never really brought the senior citizens of this country up to the point where they ought to be.

My concern is that we will slip back if we do not keep pace with the cost of living, we will slip back into that still unsatisfactory pattern which, from the beneficiaries' point of view, is so unhappy, and which from the Government's point of view is bad because you have these unbudgeted increases which the Congress feels forced to adopt and it is just bad financing.

Mr. HUMPHREY. The Senator is so right. And then when these increases would come through, people were led to believe that someone other than the Congress was just on a big program of handouts without having the information that what we were trying to do at the time was merely to catch up and repair the damage that had already taken place and that is why the Congress very wisely, after extended hearings, and after years of discussion, decided to include the cost-of-living escalator clause, and I thank the Senator for his observation because I repeat that if we permit it to happen, if we permit the 5-percent freeze increase to take place, we will be back right where we were before, only worse.

Because in the past, the rate of inflation has been the highest it has been for years, and I think the highest in our history.

Mr. MATHIAS. Will the Senator yield again very briefly?

It does concern me as a matter of equity that the rate of inflation is running at the rate of, say, 12 percent, and we would hope it will not run at that rate very long and it will be lower; nevertheless, that is what it has been. We have to look at facts the way they are, but if we put a 5-percent limit on the increase, then we are really asking the senior citizens, the people least able to adjust to the rising cost of living, to absorb 7 percent out of their standard of living, the difference between the 5 percent we may allow them and the 12 percent that they have to cope with.

We are asking them to take 7 percent out of their meager existence, and I think in a country that is as generous and compassionate as ours, we should find some other arrangement.

Mr. HUMPHREY. The Senator is so correct.

May I say quickly for the RECORD, we have just been told to expect food prices to rise at about the same level they have this year, which is around 15 to 18 percent. We have to add that on. In the meantime, these older people, these senior citizens of our country, suffer.

Then add on top of that, if the President's efforts on energy conservation, putting on a $3 tariff, go into effect and the other proposals of decontrol of domestic crude oil and decontrol on new natural gas go into effect, we are going to have heating bills skyrocketing. It is estimated they will run anywhere from a 20 to 25 percent increase in your heating bill.

Other costs will go up because when we have an increase on the cost of crude oil, it goes all across the fabric of your whole economy.

Then we are going to tell our senior citizens they can get 5 percent, no more.

Why do we not tell the banks that they will get 5 percent interest and no more?

When is somebody going to have the intestinal fortitude—I guess that is the clean word, the way to say it—when is the President going to say to the financial institutions of this country, "We are going to give the old people 5 percent and we are going to give you 5 percent, buddy," and then see what happens out of Wall Street, out of the 22 largest commercial banks of this country.

Why, they will say, "You are destroying the financial system."

But nobody worries, apparently, about destroying millions of our elderly.

So we are just not going to take it, and I thought I ought to serve notice.

I have been around, Mr. President, for some time. I have not had a real good fight for a long time and if the administration wants one, they are surely going to get it.

I have a lot of allies. I see one of them, the generalissimo of them all, standing here by my side, and I do not want him to stand by my side, I want him to lead so I can be behind him, the distinguished Senator from Louisiana.

There is no greater friend to the elderly, no greater friend to the poor, no greater friend of those under economic injustice than the distinguished Senator from Louisiana.

I see my friend, the majority whip, as well.

So I will just have to tell our President, whom I like, that I want him to get rid of those advisers that get him into this mishmash, this mess. I want him to tell those fellows who are advising him to put a 5 percent limitation on increase in social security, I want him to tell them to go find a senior citizen home and try it for size—try it for size.

Or I will make a deal with him, and I think the senior citizen will go along with it. If he will reduce the rate of interest, rates on new housing, to 5 percent, I think our senior citizens, brothers and sisters, will make the sacrifice.

Then, we could get some homes for the American people and maybe we could find some other way to be of a little more help to our senior citizens.

But imagine increasing the cost of food stamps, and every Senator here knows that is going to eliminate all the people, Senator LONG, that you try to help under social security, to eliminate for them the food stamp program.

Then imagine we are going to tell that same group they will get no more—that is, those on social security—that they will get no more than 5 percent and then tell them that also we are going to raise their heating bill 25 percent, then tell them next year groceries are going up 18 percent.

One has to look at this. There has to be something wrong with that kind of thinking.

I have to be a little bit careful of my language here lest I am looked upon as one trying to give an intemperate speech, but I want to serve notice that these things shall not come to pass; and if there is a chapter in Scripture that can help me, may I ask my good friend from Alabama to get up and help me, but these things shall not come to pass.

The Senator from Louisiana.

Mr. LONG. The Senator, I am sure, has seen enough of what happens in the White House. He came close to occupying that Oval Room by day and the Lincoln Room by night himself, so he has seen enough that I am sure he has some conception of what happens.

I have difficulty understanding it myself, that a man can be up here on Capitol Hill and can serve with Senators and Congressmen and be as perceptive and understanding of how the people of this country are thinking as anybody else and then when he is put in the White House, behind that fence with the security guard, and the intellectual guard to surround him, it is a whole new situation.

It seems he is no longer than 90 days in office before he loses contact with reality and believes just what those people tell him in the White House. I cannot understand how they isolate themselves from reality.

President Johnson used to constantly caution me that we should not go around repeating what the President told us. It was all right to say what we said to the President, nobody cares about that, but we should not repeat what the President said to us.

So I am not going to repeat what the President said to me, but my reaction was that if it took a change of the law to give these old people back the cost-of-living social security increase Congress thought they should have, that we could pass that over his veto without the least bit of difficulty.

In fact, I came to the firm conclusion that the only vote we would lose would be a few stout soldiers who finally decided to retire before the next election.

So there is just no doubt about it at all, this Congress is not going to deny the poor, aged, disabled or blind people of this country a little cost-of-living increase in their social security benefit as a part of an energy program or part of an inflation program or part of just about anything you can think of.

How can the Senator believe anybody who has still managed to retain his contact with rank-and-file people could recommend that we reduce income taxes on the corporate giants of America from 48 percent down to 42 percent, including some making very great profits, while at the same time tell the poor old people that they can have only a 5-percent increase in the cost of living that will have gone up about 20 percent by that time?

Mr. HUMPHREY. That is right.

Mr. LONG. Can the Senator explain what happens when a man goes down to the White House that causes him to lose such complete contact with what the people of this country are thinking?

Mr. HUMPHREY. Well, I do not know what happens. I tried to find out. I wanted to find out what happened, but I was spared, apparently. I did not realize that it was a kind act, I thought it was a most unfortunate act, but now as I listen to the Senator from Louisiana I realize that I have been saved and I want to thank him for the evangelical service he has performed here.

But I will state, I do think that when they come in with these economic messages—we have a very distinguished group of experts, they are good and able in the Office of Management and Budget—these people have been known as having a passion for anonymity. I have never known anybody anonymous that is very passionate, but they have a passion for anonymity. They come in and make these overall recommendations to the President, and it sounds on the surface like it is all right. They say everybody will be limited to a 5-percent increase. That is, Government workers, military, and the old folks.

But is it not interesting, as the Senator just said, we are going to keep them down to 5 percent, but take corporate taxes down 6 percent?

Also, we are not going to worry about the interest rates at all. I did not hear a word about interest rates, not one word. I do not know whether the President can do too much about that. I think he could, but I would have liked to have had him suggest it.

If he stuck with the 5-percent number, we can apply that to a lot of things. There used to be a time around this town when we worried about 5 percent. Do you remember? Now they raised the rates. It costs 10 percent. But it used to be 5 percent.

I do not want to take more of the time of the Senate as it is late here. We used to have a time when we had Senators with a 5 o'clock hour. I do not want to approach that.

I believe in giving people fair notice. I do not believe in sneaking up in the middle of the night and then trying to deliver a lethal blow or even a blow that would just sort of scratch the surface. I want my friend at the White House and all of his associates to know that when that little number comes up here on social security I intend to be following the leadership of the distinguished Senator from Louisiana. We were neighbors for years. We walked up and down East Highway together many times. We are friends from the Louisiana State University. We will renew that friendship, Mr. President, a compact like Damon and Pythias. We will join together.

I am here to tell you, Mr. President, you ought to take that one—not you, Mr. President; Mr. President in the White House. I want to say to Mr. President, a decent, friendly, good man, "Save yourself before it is too late. Send us a little message and say it was an arithmetical misprint. Send us a little message and say somebody gave you some bad advice. Say you are sorry." People love to know when somebody is sorry. I have made so many mistakes I have spent a lot of time saying I am sorry.

Mr. President, when you make a good one like that, say you are sorry out loud. I tell you, it will do a lot to help the message. I am sincere about that.

No, sir, Mr. President, there will be no pushing down the elderly in this country, who are the number one victims of inflation. We are going to help them. I think that 5 percent suggestion may remind us of how much they really deserve. We are going to help them. Let the word go from this place in the words of a great President, that, "We are not going to hurt you, Mr. Senior Citizen; we are going to help you."

Mr. LONG. If the Senator will yield, let me confirm what the Senator has said. There may be some elderly citizens and some disabled people in this country who might really read that the President recommended that they not get their cost-of-living increase and be making their plans on trying to live on even less than they have now, which is meager enough. Let me assure the Senator that anyone who is interested in the views of this Senator, who has been elected to continue to serve on the Finance Committee as the chairman, that in my judgment the House will not pass it, and if an effort were made to add it in the Senate, or if the House did pass it, it would have no chance whatever in the Senate. It would be defeated by an overwhelming vote. As I said before, I do not think it will receive any more votes than there are Senators who have already made their plans beyond any peradventure of reconsideration to retire from public office at the end of this Congress. I do not think all those would vote for it.

Mr. HUMPHREY. I do not think anybody would vote for it. I know our colleagues here, and they are compassionate people. I do not think there would be a single vote. I really do not think there would be one vote for it.

I know the President has somebody who reads this Record. We are not speaking now angrily of a President. We are speaking of someone we know, someone we hold in respect and many of us hold in friendship.

I say to President Ford, just send down a little note and say that was all a mistake. Do not get our blood hot here. Let us, as Isaiah used to say, and as L. B. J. used to say about Isaiah, "Come let us reason together." Not only that, Mr. President, come let us knock off the nonsense. It just is not going to happen.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HUMPHREY. Yes.

ORDER FOR RECOGNITION OF SENATOR CHILES ON TUESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Chiles may also be recognized for not to exceed 15 minutes on Tuesday, and that he precede me in the order of recognition.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 85-874, appoints the Senator from Massachusetts (Mr. Kennedy) to the National Cultural Center Board.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene again at 12 noon on Tuesday next.

After the two leaders or their designees have been recognized under the standing order the following Senators will be recognized, each for not to exceed 15 minutes, and in the following order: Mr. Hatfield, Mr. Allen, Mr. Griffin, Mr. Chiles, and Mr. Robert C. Byrd.

There will then ensue a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 5 minutes each.

At the conclusion of routine morning business the unfinished business will be the New Hampshire senatorial election dispute.

Whether or not there will be further debate on Senate Resolution 4—Rule 22—remains to be seen.

There is always the possibility of rollcall votes.

Republican and Democratic conferences will continue on Monday.

ADJOURNMENT UNTIL TUESDAY, JANUARY 21, 1975

Mr. HUMPHREY. Mr. President, I move, unless there is further business to come before the Senate, and I do not believe there is any other business, that the Senate adjourn until Tuesday at noon in accordance with the previous order.

The motion was agreed to; and at 4:56 p.m., the Senate adjourned until Tuesday, January 21, 1975, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 17, 1975:

In the Coast Guard

The following officers of the U.S. Coast Guard for promotion to the grade of Rear Admiral:

Malcolm E. Clark
Robert A. Duin
David F. Lauth
Sidney A. Wallace
William S. Schwob

In the Air Force

The following officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be brigadier general

Col. William P. Acker, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Anderson W. Atkinson, [redacted] FR, Regular Air Force.

Col. Walter H. Baxter III, [redacted] FR, Regular Air Force.

Col. Stanley C. Beck, [redacted] FR (Major, Regular Air Force), U.S. Air Force.

Col. John H. Bennett, [redacted] FR, Regular Air Force.

Col. Rufus L. Billups, [redacted] FR, Regular Air Force.

Col. Max B. Brailliar, [redacted] FR, Regular Air Force, Medical.

Col. Jay R. Brill, [redacted] FR, Regular Air Force.

Col. William E. Brown, Jr., [redacted] FR, Regular Air Force.

Col. Kelly H. Burke, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Kenneth D. Burns [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Carl H. Cathey, Jr. [redacted] FR (major, Regular Air Force), U.S. Air Force.

Col. Edgar A. Chavarrie, [redacted] FR, Regular Air Force.

Col. Ernest J. Clark, [redacted] FR, Regular Air Force, U.S. Air Force, Medical.

Col. Robert F. Coverdale, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. William D. Curry, Jr., [redacted] FR, Regular Air Force.

Col. Charles L. Donnelly, Jr., [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Philip C. Gast, [redacted] FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Don M. Hartung, [redacted]FR, Regular Air Force.

Col. Charles C. Irions, [redacted]FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Thomas E. Lacy, [redacted]FR, Regular Air Force.

Col. Chris C. Mann, [redacted]FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. James B. McCarthy,[redacted]FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Edward J. Nash, [redacted]FR, Regular Air Force.

Col. George K. Patterson,[redacted]FR, Regular Air Force.

Col. John R. Paulk, [redacted]FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Thomas C. Pinckney, Jr.,[redacted]FR, Regular Air Force.

Col. Andrew Pringle, Jr.,[redacted]FR, Regular Air Force.

Col. Walter B. Ratliff, [redacted]FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Irving B. Reed, [redacted]FR, Regular Air Force.

Col. Richard G. Rumney,[redacted]FR, Regular Air Force.

Col. George L. Schulstad,[redacted]FR (lieutenant colonel, Regular Air Force), U.S. Air Force.

Col. Eugene D. Scott, [redacted]FR, Regular Air Force.

Col. Robert Scurlock, [redacted]FR, Regular Air Force.

Col. James W. Stansberry,[redacted]FR, Regular Air Force.

Col. Leroy W. Svendsen, Jr., [redacted]FR, Regular Air Force.

Col. Herbert V. Swindell,[redacted]FR, Regular Air Force, Medical.

Col. Daryle E. Tripp, [redacted]FR, Regular Air Force.

Col. Everett L. True, [redacted]FR, Regular Air Force.

Col. Ewell D. Wainwright, Jr., [redacted]FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

Col. Joseph E. Wesp, [redacted]FR, Regular Air Force, Medical.

Col. Robert F. C. Winger,[redacted]FR, (lieutenant colonel, Regular Air Force) U.S. Air Force.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code:

To be brigadier general

Col. Harry L. Cochran, Jr.,[redacted]FG, Air National Guard.

Col. Richard L. Frymire, Jr.,[redacted]FG, Air National Guard.

Col. Grady L. Patterson, Jr.,[redacted]FG, Air National Guard.

Col. Richard A. Rann[redacted]FG, Air National Guard.

Col. Hal C. Tyree, Jr.,[redacted]FG, Air National Guard.

Col. Bobby E. Walls,[redacted]FG, Air National Guard.

IN THE NAVY

Rear Adm. Edward C. Waller, III, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

EXTENSIONS OF REMARKS

AN ECONOMIC CRISIS

HON. VANCE HARTKE

OF INDIANA

IN THE SENATE OF THE UNITED STATES

Friday, January 17, 1975

Mr. HARTKE. Mr. President, I ask unanimous consent to have printed in the RECORD remarks I made last Saturday, January 11, at the Henry Morrison Flagler Museum.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

AN ECONOMIC CRISIS

The week began with news that 7.1 percent of the nation's work force was unemployed. This is the highest level of unemployment in fourteen years. Our top economists assure us that the present recession will easily top that of the waning years of the Eisenhower administration. We have been warned to gird ourselves for further increases in the unemployment rate to at least 8 percent. We are faced with the very real possibility that double digit inflation will become double digit unemployment. I hardly need to tell you that we are in the midst of an economic crisis of major and extraordinary proportions.

Unemployment figures are statistics—cold and technical. They tell us nothing about the human tragedy which they reflect. It is frightening to contemplate that an 8 percent unemployment rate means that seven and one-half million of our fellow citizens are out of work; it means that seven and one-half million Americans have been deprived, through no fault of their own, of the means to provide for themselves and their families; it means that seven and one-half million once proud, independent, and secure individuals have been reduced by circumstances to a state of perpetual anxiety and insecurity; it means that seven and one-half million workers who a few weeks ago or a few months ago were looking forward to the future are now experiencing the desperation of unemployment lines and even welfare lines.

It is too easy to talk about the economy in the abstract jargon of the technocrats. But words like recession and inflation do not refer to textbook problems; they refer to real flesh and blood human problems. The economy is people. It is the vast and complex interrelationships between two hundred million people working in a complementary fashion to produce a reasonably comfortable and satisfying life.

Because the economy is people and not some lifeless abstraction, our actions in that area have an immediate and direct impact on countless individual lives. When we tinker with the economy, we tinker with the hopes and dreams of our fellow citizens. This should make us not only cautious, but compassionate. This should make us continuously aware that what we in Washington do may irrevocably ruin or enhance individual lives. This should make us keenly and profoundly aware of the extent of our responsibilities.

I am deeply concerned about the present state of our economy. We must act quickly to halt the deterioration and to reverse the downward spiral. However, the sickness in our economy is only one part of a more general sickness in our society. And before I address myself to the specific economic problems and suggest a few solutions, I want to comment on the broader question.

Our Country was founded in the belief that individual human beings count, that the individual and his welfare represent the ultimate value. The act of creating America was the personal act of a handful of people who wanted to live in a new community where their views and attitudes would not only be tolerated, but would be legitimate. They left their old world to establish a new one because they felt themselves estranged from their mother country.

I fear that we have drifted too far from that original conception. I fear that modern America is estranging too many of its people.

The hallmark of contemporary American society seems to be impersonality. A member of my own staff—a political scientist—is always speaking to me about the "political system." What a cold, impersonal name for such an eminently human activity as politics. But the malaise of impersonality reaches deep into our institutions and into our thought patterns.

Dehumanization has been the ironic outgrowth of our quest for equality. Giant bureaucracies have been the outgrowth of our need to deal with the myriad problems that beset a society of two hundred million people. They are rational, they are egalitarian. But the result is the reduction of individual identity to a few slots on a computer card. Our humanity lies in our diversity and our uniqueness—our feelings, our needs and our dreams are different. It is that difference that modern society is trying to erase.

The giant bureaucracies have become predominant forces in each of our lives. They are powerful beyond our capacity to change or influence them. Most people—and I include myself—feel a sense of impotence when confronted with the countless logical regulations created and administered by the countless sincere, capable and unbending men and women whose inevitable response to our complaints and problems is—"that is not my responsibility." Diffuse responsibility is the greatest of modern man's self-inflicted punishments.

What concerns and alarms me is that increasing numbers of our fellow citizens are experiencing a sense of estrangement because of this impersonality and dehumanization. There is a sense that our institutions—and especially our government—are not responsive to human needs: a sense that the institutions have a life and direction of their own. A sense that there is no way to turn things around.

Congress is the one institution that should be responsive to the needs of the people. It ought to serve to humanize and personalize the relationship between the people and the government. It ought to be the main arena for dialogue and for change. It ought to do all these things, but it does not.

In too many instances Congress has contributed to the emerging sense of alienation and dissatisfaction by deceiving itself into believing that for every problem there is a legislative solution. Because we are legislators, we understandably think in terms of laws. But only a passing knowledge of sociology is needed to know that there are narrow limits within which legislation can be effective. Law must reflect the prevailing consensus and the prevailing values of the community. But, more to the point, there are quite simply a host of problems that should not and cannot be dealt with by legislative action. We must place greater reliance on other institutions, and we must encourage them. If not, we will create a society in which all other institutions—the family, the community, the church—have become atrophied or moribund.

The impact of Congress has been further diluted by its excessive dependence upon the executive branch. The last century of American history has witnessed the steady accretion of presidential power, most of it by default. Congress has been too quick to shirk responsibility, too prepared to pass the buck to the president. The net result of this process was neatly summarized in the title of a recent book—*the imperial presidency*.

Mr. Nixon did not create the circumstances by which we managed to re-establish an American monarchy. Mr. Nixon's folly was to act like a monarch—he did not bother to maintain the illusion of the constitutional separation of powers. He made it painfully obvious by his administration's arrogance and paranoia, that the delicate balance of powers and responsibilities that to men like Madison were the very essence of democracy, simply no longer applied.

I hope our grandchildren will look upon the second half of the 1970s as the beginning of a revitalization of American democracy. I hope they will be able to say there was a redressing of the balance between Congress and the Executive. But for Congress to reassert itself, it must do more than engage in rhetoric; it must be willing to shoulder substantive responsibilities.

There are no easy solutions to widespread disenchantment and alienation. The only solutions are the simple and obvious ones; the ones that are so easy to talk about but so tremendously difficult to put into practice.

We must reassert the central role of the individual in our society. His rights must be assured. He must be moved back to center stage. He must be made to feel important; he must be made to feel that he counts, that his opinions count, and that his needs and feelings are accounted for. We must somehow develop structures within our political framework that give him a greater role. We must arrest drift towards the abdication of personal responsibility, dehumanization, and impersonality.

I question the present direction of American society. We are not being sufficiently reflective of the implications of our actions. We are heading, I fear, towards disaster. Political history has important lessons to teach that we are ignoring. A population alienated from itself and its institutions; a population beset with an overwhelming sense of frustrating powerlessness; a population that loses its feeling of internal cohesion and kinship, is ripe for tyranny and totalitarianism.

We are, as Aristotle observed, political and social animals. We have a deep-seated need to feel ourselves part of a wider social fabric than the nuclear family. If individuals no longer gain a sense of identity and feel a sense of fulfillment from participation in the life of the society, they will lose their commitment to its values. The tendency to float towards political extremism will become more pronounced. The appeal of the Nazi Party in Germany was not ideological or intellectual for most people. It provided them with individual identity; it linked the lonely, the isolated, and the alienated to what was perceived as a transcendent cause.

I am not suggesting that the situation in America today duplicates that of pre-Nazi Germany. I am suggesting, however, that there are certain symptoms of a widespread and deeply rooted sickness that are becoming obvious. Frustration, hopelessness, powerlessnes—these are the great enemies of democracy. Economic cries and dislocations have historically served to exacerbate these feelings and to narrow the base upon which a democratic policy can rest.

It is because of the intimate relationship between economic crisis and political crisis that the situation today is so critical; it is because of this relationship—as well as simple humanity—that we must act to meet the crisis forcefully and without delay.

The causes of today's economic crisis are deeply rooted in the history of the last decade. Of the many contributing factors, four stand out: the Vietnam tragedy; the quadrupled price of oil at the hands of the OPEC countries, the capricious effects of weather on food production; and the inability of the Nixon administration to fashion policies to bring the economy under control.

The economy has been subjected to hyper-inflation for approximately four years; little in the way of purposeful Government action was forthcoming during that period. The economy, for all practical purposes, was left to its own inadequate devices. The Nixon administration was engaged during much of that time in a desperate struggle for political survival. With all its energies and resources thrown into the battle to shore-up the crumbling walls of the Watergate cover-up, the economy was left to deteriorate.

When Mr. Ford succeeded to the Presidency, we all hoped for immediate and forceful action. But Mr. Ford, like his predecessor—but for different reasons—was immobilized. He treated the Nation to encomiums about consumer restraint while the White House passed out WIN buttons.

Part of his difficulty was an inability to understand what was happening. In fairness it must be granted that the Nation was experiencing a new phenomenon—inflation and recession. President Ford was more fearful of the inflation than the recession, and what action his administration took was in that direction. Unfortunately, he made this judgment at a time when it was increasingly clear that the recession was the more dangerous of the two. To see this took no magic or special wisdom. Last spring I was already calling for an immediate decrease in the interest rate, and argued that a tax cut to stimulate consumer purchasing was essential. When I declared that if we did not move quickly we would find ourselves in a major recession, a Republican Member of Congress publicly suggested I be shot for treason!

Today, the unemployment rate stands at 7.1 percent and is increasing daily. New applications for unemployment insurance have not been as great since the 1930s. Over the last five month period, industrial production dropped by three percent. Between November and December the decline was an incredible 2.3 percent. When we remember that our economy has been growing at the rate of 3 to 4 percent annually over the last couple of decades, these figures appear even more dire.

We are in a recession. The most severe since the great depression. The question is now, what to do.

Mr. Alan Greenspan, the President's main economic advisor, has told us that things will get worse before they get better. In other words, the economy has not yet reached its lowest point. Even after we "bottom-out" there will be a lengthy time lag before there is any appreciable drop in the unemployment rate, and before industry will be able to produce at pre-recession levels.

I respect Mr. Greenspan for his candor, a quality that has been conspicuously absent from administration pronouncements in the last six years. But other aspects of Mr. Greenspan's approach to economic problems disturbs me. He has stated his reluctance to move forcefully against recession because he fears it might ultimately rekindle the now abating inflation. I share his concern that anti-recession policies might have unwanted side-effects. But that is where we part company.

The administration is letting its fears create a "do nothing" attitude. We have had too many years of "do nothing." The result has been unmitigated economic disaster. It is now time to act; to act quickly and massively. The Government cannot simply stand around shaking its head while the economy falls to pieces. We must be realistic about potential dangers; but we must also respond to the real and present danger.

The most effective weapon in the Government's economic arsenal is fiscal policy—tax policy. You know, and I know, that in 1975 there will be a major tax cut. That is the fastest and surest way we know of to stimulate production. Cutting taxes gives the individual consumer more money to spend on refrigerators, clothing, or automobiles. It will create repercussions that will be felt throughout all sectors of the economy. This will be in conjunction with the long-awaited change in the Federal Reserve Board's policy to lower interest rates which will stimulate the housing industry—until recently the hardest hit sector of the economy. It will also bolster the sagging stock market by making the purchase of equity shares more appealing in comparison to bonds.

That there will be a tax cut is a foregone conclusion. The extent of the tax cut, the precise groups who will benefit most, whether or not it will be retroactive, and compensatory revenues all will be important questions. The Senate, according to the Constitution, cannot take the initiative in tax matters. We in the Finance Committee will have to wait until the House of Representatives and specifically the Ways and Means Committee, considers the various alternatives.

It is also too early to estimate how large a tax cut will be needed to stimulate without over-stimulating. But one thing is sure: To be effective, the cuts must benefit primarily the low and middle income groups. Not only have they been most hurt by the inflation, they spend most of their income and save very little. I am also in agreement with those who have argued that an immediate tax cut of at least ten percent *retroactive to* 1974 is essential. I would, however, modify this by suggesting that the cut be smaller the greater the income level. The greater an individual's income, the less likely they are to spend that income. Therefore, it would serve no real purpose to allow Mr. Rockefeller or Mr. Kennedy a tax cut.

We may have to resort to measures designed specifically to stimulate particular sectors of the economy. This might be done by offering individuals what I call a "personal investment tax credit," just as the Government provides an incentive to business to make capital investments—an incentive, by the way, which I think should be strengthened by increasing the tax credit from seven to ten percent—we should take the same approach with individuals. A tax credit might be given for the purchase of homes and automobiles since these are the most important expenditures for most people. This would enable us to stimulate only certain specific sectors of the economy. It would be the difference between using a meat cleaver and a surgical scalpel.

There is substantial agreement in Congress that the immediate response to the recession will be a tax cut. The details have yet to be worked out. I am confident that we will be able to put a halt to the recession. But this is also a time when we should fix our gaze upon more distant shores; we should not be satisfied just to solve the short-term crises. It is a time when we should reflect upon the nature of our economy and attempt to develop broad and, hopefully, far-ranging policies that will preserve and enhance the best in our economic relations and prune the worst.

Most Americans accept and believe in the free-enterprise economy. They believe in personal initiative and individual incentive.

They believe that decisions made in the marketplace about price, allocation of materials and resources, the level of production, profit, and distribution of income will be efficient and socially acceptable. We are comfortable with free enterprise. It seems to combine our American penchant towards pragmatism and our adherence to Judeo-Christian morality.

But we are faced with a contradiction; a contradiction between belief and commitment to free enterprise on one side and economic realities on the other. If the crisis of the seventies has had any benefit, it has been to point this out.

The most obvious contradiction is between the laws of supply and demand that are supposed to rule a free market economy and the ability of our major industries to disregard these forces. We have found that manufacturing has become so concentrated that prices no longer reflect the market, but that they are artificially established by administrative fiat. More significant, they can maintain those prices—at times even raising them—during a period of decreasing demand. In a free enterprise economy this should be impossible.

The United States is rapidly being transformed into something quite unrecognizable to those of us committed to free enterprise. We are moving towards some form of bureaucratic-administrative capitalism that will eventually be barely distinguishable from the State capitalism practiced by Germany and Italy in the wake of the great depression.

If the free enterprise system is to be more than a memory, we must institute some fundamental reforms. It is a principle of long standing that the Government must watch over the economy to insure that these transformations do not occur. Our anti-trust laws were originally conceived for that end. Today, those laws are no longer adequate. The scope of the problem has increased immensely, and so has its complexity. The solution embodied in our law—namely, the simple break-up of large companies—and the criteria that bring the law into effect need drastic revision in light of contemporary technology, economic practice and efficiency.

A further difficulty with anti-trust legislation is enforcement. The procedures are extremely complicated and time-consuming—to the point almost of being self-defeating.

Furthermore, recent administrations have simply been unwilling to devote the resources and energies necessary to the task. The Republican Party, in particular, has repeatedly espoused the cause of these monolithic monsters to the detriment of the public and national interest.

Revising and revitalizing anti-trust laws and enforcement procedures are the essential precondition for rejuvenating the free enterprise system.

I speak to you as an advocate of free enterprise. I believe in it. I trust it. I do not idolize it, however. It is a human, social invention that works better than most but is still flawed. It is because of these flaws that government must play an active role in the economy. And it is because of these flaws that some structural changes are essential.

Because our economy is imperfect, we experience shocks and swings from time to time. We are in the middle of one right now. This erratic behavior has disastrous consequences for individual human beings. We have long accepted the idea that government has certain responsibilities in this respect. But the approach has been haphazard, often ineffective, short-term in conception, wasteful of human resources, and generally degrading.

I propose that we establish a human resources bank to deal with the human dimension swings on a humane, permanent, and rational basis. The bank would coordinate—and, where necessary, recommend—national policies for unemployment compensation. It would establish a core of public service jobs—not makeshift employment but socially valuable work based upon the real need of our local communities. This core of jobs must be capable of relatively quick expansion or contraction as the situation dictates. This could be accomplished by prior planning which would anticipate our needs.

The Human Resources Bank would incorporate two additional features. First, it would establish procedures for retraining when that was a warranted alternative to either temporary employment or unemployment compensation. We have had sufficient experience—much of it negative—in this field to be able to create a logical retraining program. Second, the bank would serve as a national employment coordination center, matching of people and employment opportunities. Because this would often involve individuals moving from one locale to another at precisely the moment when their financial resources are weakest, the bank would be authorized to either provide or guarantee loans at the lowest possible interest rates for relocation and resettlement.

In recent weeks there has been an upsurge in sentiment for a revival of the Reconstruction Finance Corporation. Throughout the depression, the war years, and into the early 1950's when it was disbanded, this agency provided substantial financial assistance to business. Recognizing all its flaws and the potential dangers inherent in Government assistance, I nonetheless believe that it is necessary to re-establish a revised and modified RFC. Too many well-run, efficient businesses are being ruined by the recession and inflation. This, in turn only adds to the unemployment problem which further depresses the economy, and so on, in a vicious circle. A restructured R.F.C. must guard against subsidizing the inefficient. It must contain a review board that is insulated from political pressure, but not beyond political accountability. It must be sufficiently well-funded to accomplish its objectives, but its operations must be related to the state of the economy.

A reconstituted R.F.C. would help business like the Human Resources Bank would help individuals. Both of these structural changes in our economy would contribute to smoothing out the rough spots, and insuring no serious damage were done to deserving individuals and deserving businesses. It is part of the recognition that free enterprise is good but flawed. Part of the appeal of free enterprise is that it requires little in the way of planning compared to other systems; but this should not blind us to the fact that it is still a human institution which needs some supervision.

Domestically, the bloated corporate structure is undermining the concept of free enterprise. Internationally, the multinational corporation is doing the same to free trade. The multinational corporation is a phenomenon of the post-war era. It has not yet been fully integrated into our legal systems—national or international. In some respects, the multinational corporation acts like an international outlaw. Because it operates simultaneously in a variety of political jurisdictions and owes allegiance to none, many of these giants serve only themselves.

America has been seriously hurt by the multinational corporations. We have been deprived of jobs; we have had our technology and our know-how pirated; and our capital has been used to finance plants abroad whose profits are neither used here for productive purposes nor are they taxed by our government. These things, if we are to create true free enterprise and true free trade, must be changed.

I am proposing a series of reforms to our tax laws designed to make the multinationals accountable. Under present law, multinational corporations headquartered in America pay no federal taxes *until* and *when* their foreign earnings are repatriated. The United States which made these earnings possible by providing the capital for overseas expansion and the technology necessary to exploit it, receives nothing in return. I propose that these tax deferrals be eliminated. Foreign earnings should be taxed during the year when they are earned—regardless of whether they are returned to the United States.

Under present law, the multinational corporation receives a tax advantage—and, therefore, an incentive—for doing business abroad. For example, a company operating in Florida or Indiana pays corporate taxes to the state government. When it comes time to pay federal corporate taxes, the state taxes are treated as a business expense. However, the taxes a multinational pays to a foreign government are treated as a tax credit—that is, they are deducted directly from the company's tax bill.

I see no reason why taxes paid to the Government of Hong Kong should receive preferential treatment as compared to taxes paid to the State of Indiana. I propose that we end this discrimination. Because foreign corporate taxes tend to be higher than American State taxes, my amendment to the Internal Revenue Code provides that foreign corporate earnings be taxed at a rate of twenty-four percent rather than the normal forty-eight percent, but it also provides that the foreign taxes be treated as a regular business expense and not as a credit. This is more than equitable.

There is a broad spectrum of reforms that must be instituted to revitalize the free market economy and dispose of the present economic crisis. The ones I have discussed represent what I believe to be a creative beginning to a fundamental problem. We can no longed afford *ad hoc* solutions. We must provide for contingencies before they happen. We must not be afraid to reform old structures and to create new ones.

I believe deeply and sincerely in democracy and free enterprise. Both are threatened. Adding to the growing sense of individual irrelevance in the face of a massive and unresponsive government, we have a fundamentally disruptive economic crisis. We must cure both. But we cannot afford merely to defeat the immediate crisis. Our entire free enterprise system stands in danger. Without fundamental reforms, I predict that within a decade—at most, two—America will have state capitalism, and little will be left of the basic values and attitudes upon which our Nation was founded. But these reforms are possible, and they are within our reach. Now is the time to act.

THE PRESIDENT'S PROPOSALS REQUIRE CAREFUL ATTENTION

HON. W. S. (BILL) STUCKEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. STUCKEY. Mr. Speaker, I was extremely impressed with the preparation and delivery of President Ford's major addresses to the Nation this week.

Fully realizing that our economy is in the midst of serious and potentially ruinous financial disruption because of the outflow of U.S. dollars for foreign oil, I believe we must take drastic action. Moreover, we face the complex economic peril of having to deal with inflation and recession at the same time.

President Ford's comprehensive plan to deal with these three problems must be studied carefully and all economic consequences considered quickly and fairly without endless partisan haggling before I can support or reject these measures. My initial reaction is one of favor for tax relief, especially coupled with restraints on Federal spending—which are needed in any case—to insure that we do not launch another crippling inflationary spiral. I strongly favor an energy conservation program which will spare us the bureacratic nightmare of gasoline rationing.

We all realize that this Nation is facing its greatest economic challenge since the Great Depression. Something must be done. But we must act prudently to insure that our response is not one which would produce an ever greater economic calamity in the years ahead.

MRS. SCHROEDER REINTRODUCES LEGISLATION

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mrs. SCHROEDER. Mr. Speaker, I would like to take this opportunity today to reintroduce five bills which I previously introduced in the 93d session.

First, I am reintroducing a bill to amend title 39, the United States Code to provide additional standards to regulate the proper use of the penalty mail privilege by Government officials. Congress already enacted comprehensive controls against the political abuse of its franking privilege, with special provisions to control members' abuse. It is high time we institute similar controls in the executive branch of Government. I am happy to add that 17 cosponsors have committed themselves to the passage of this legislation.

The threat of environmental waste has prompted me to reintroduce legislation to prohibit the unnecessary dumping of spent oil shale upon Federal lands. The bill I am reintroducing is designed to meet oil shale problems head on by declaring it illegal to dump spent shale on land other than that leased under the original prototype leasing program.

I am taking this opportunity to reintroduce a House concurrent resolution to authorize the printing as a House document, a Spanish translation of the U.S. Constitution. I and 58 cosponsors agree that Congress must encourage the active participation of all Spanish-speaking Americans in the legislative process. Let me, simply, reiterate my conviction to end the years of overlooking the positive contribution of Spanish Americans to a better life in this country.

Consistent with all efforts to curb the recessionary trend of the economy and in line with recommendations imposed by the Steering and Policy Committee earlier this week, I am reintroducing legislation to increase the personal exemption on Federal income tax returns from $750 to $1,000. I urge you to join myself and 17 colleagues in supporting this important legislation to relieve those hardest hit by inflation, the low- and middle-income earners.

Today I am also introducing a piece of legislation to prohibit travel at Government expense outside the United States by former Members of Congress. Instead of simply talking of cutting wasteful Government spending, Congress must take immediate action in this crucial area. For too long now, former Members of Congress have abused the public trust by using the taxpayers' money for personal excursions which have no bearing on foreign or domestic policy. I ask my colleagues in the House to join me in drawing a firm halt to this unfair practice.

CURRENT ECONOMIC PROBLEM

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. DERWINSKI. Mr. Speaker, there is a definite tendency for prophets of gloom to paint only a negative picture of present economic complications. However, I do not believe it is inconsistent to maintain a positive attitude during our current economic dislocation.

A similar point is taken in an article by Julie LaDouceur, which appeared in the December 26 edition of Suburban Life Publications, serving West Cook County, Ill. The article follows:

> DEPRESSION CAN BE HELPED
>
> (By Julie LaDouceur)
>
> A new year will soon be here.
>
> If you are optimistic, chances are the new year is seen as a light in the window for the economy stumbling around in the darkness of uncertainty.
>
> Perhaps a new year will bring new ideas that can put the fears of people who have already suffered through one depression at ease, new ideas that would halt the possibility of those who have only heard and read of the Depression to experience the evils of a depression.
>
> I am one of those lucky enough to have never lived through a depression. I am far enough removed from its effects to wonder what it was like compared to life as I experience it.
>
> Now as I look at life around me, I see people not only unwilling to share material things, but people who are unwilling to share of themselves.
>
> Members within families are even unwilling to sit down and just talk with one another. If this is so within the unit of the family, how much more must this be true among the members of the human race.
>
> I must say, though, that since the economy has become rather frightening I have been told by complete strangers that I can get such and such an item in another store that is not only made better than the item I'm considering, but cheaper, or if I reach back on the shelf I can get a can of peaches that has been on the shelf two days longer for four cents cheaper than the can in my hand.
>
> Why would they bother to do this for me?
>
> Simply because we are all in the same boat, paddling up the same stream, just as people experienced hardship together during the "great Depression."
>
> Of course, conditions now are nowhere near what they were then and experts maintain that a depression is not in the foreseeable future.
>
> In my youthful ignorance and foolishness, I find myself wishing for one of the effects experienced by my parents during that crisis.
>
> I wish people would take the time to share of themselves with others. It needn't cost anything, but it could do much to increase the value of a fellow human being's self-esteem and help spirtual depression, and besides, a friendly hello or remark makes you feel better too.
>
> Try it some time and see if two people paddling together can't make things easier for each other.
>
> Then, perhaps, 1975 could be bright for everyone, no matter what the economy brings.

UTICA PAYS TRIBUTE TO VICTOR PERRETTA

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. MITCHELL of New York. Mr. Speaker, on Friday, January 24, I will be privileged to join the people of Utica, N.Y., in a well-deserved tribute to Victor Perretta.

Mr. Perretta has for years been affectionately and respectfully known in the Utica area as Mr. Housing. He just recently retired as executive director of the city's municipal housing authority.

There is so much that can be said about Victor Perretta both as a public official with skill, dedication, determination, and as a sensitive human being with compassion, understanding, and sincerity.

On a professional basis, Mr. Perretta's accomplishments in the public housing field are known and highly regarded not only in the Utica area and New York State but throughout the Nation. On a personal basis, he is viewed by one and all as a true friend always there to help.

The Observer-Dispatch of Utica, summarized the man and the feeling toward him in the following editorial which I am pleased to share with my colleagues:

> A well-run, non-political public housing program is a plus for any community. Utica has had such a program for nearly a quarter century thanks to the man called "Mr. Housing."
>
> Victor Perretta has retired as executive director of the Municipal Housing Authority, but he has left a solid base of accomplishments upon which his successors can build.
>
> Mr. Perretta, in many ways, was a pioneer. He instituted community contact and social services programs in housing projects long before this was state and federal policy. He put boys' club extensions in Humphrey Gardens and Gilmore Village. He encouraged formation of tenant organizations. He kept the MHA financially sound.
>
> He did this and more while keepinng a low profile (something a few of our political leaders should note).
>
> In short, Mr. Perretta was a capable, progressive, sensitive housing administrator whose prime concern was the people he served.
>
> The community will have an opportunity

to honor Mr. Perretta on Friday, January 24 at a testimonial dinner at Twin Ponds Golf and Country Club.

He deserves a spirited and grateful tribute.

MEMBERS INTRODUCE THE ENERGY CONSERVATION ACT

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. MOSS. Mr. Speaker, today I am introducing on behalf of myself, Mr. DINGELL, and Mr. ECKHARDT, the Energy Conservation Act, a bill which is designed to provide for improvements in the energy efficiency of major consumer products.

When the recent Arab oil embargo impacted upon this country, American consumers responded to the call for conserving energy by changing long standing habits and modifying lifestyles. Lowering of thermostats, switching to carpools and mass transit, and canceling of trips were among the many ways individual Americans responded to the call for reducing energy consumption.

The reaction of the American public to the energy crisis has indeed been heartening. It demonstrates clearly the American people are serious about conserving energy.

Last year in the midst of the energy crisis, we introduced this legislation. Last winter's energy crisis dramatically brought to the attention of all Americans the fact that supplies of our principal energy sources—petroleum, coal, and natural gas—are not infinite. Further, we have also learned firsthand this past year just how damaging to our economy high energy prices can be. Accordingly, the need to conserve energy will remain with us for a long time to come. We cannot afford to revert back to the wasteful energy consumption practices of the past.

Major savings in energy with minimal inconvenience to individuals can be made through improvements in energy consuming products and systems. In particular, significant gains can be made in the energy efficiency of automobiles, heating and air-conditioning systems, and other major household products.

The bill which we have introduced today is designed to spur such improvements by creating consumer awareness of energy consumption characteristics, and by Federal incentives for the adoption of advanced technology to improve energy efficiency.

There are many examples of how household appliances can be made more efficient. Pilot lights can burn up to 40 percent of the energy required in gas ranges. Installation of electric ignitors on ranges would eliminate this wasteful use without affecting the performance of the range. Further inadequate insulation in ovens and refrigerator doors is responsible for significant wasteage of energy. Similarly, there are opportunities for improving the energy efficiency of clothes dryers, water heaters, furnaces, and air-conditioners.

Our bill would require that estimates of the annual operating cost of such products and systems be provided to consumers at time of sale so that, particularly in this time of higher and higher energy prices, individuals can consider operating costs together with purchase price before reaching a decision.

This bill also focuses on achieving the most ecologically and economically feasible improvements in fuel economy for automobiles. Automobiles account for 13 percent of all the energy used in this country. While it is true that the energy crisis has finally made the automobile manufacturers in this country aware of the need to pay attention to fuel economy, the seriousness of the crisis and the importance of the automobile industry to the country's economy commands us to establish a national goal for major advances in fuel eocnomy of automobiles.

Several authoritative reports by Government and private groups indicate that significant improvement in fuel through the use of existing and developing technology. This is quite apart from the improvement achieved by switching from large cars to small cars as major domestic manufacturers have been doing recently.

However, the current poor earnings situation of the American automobile manufacturers, coupled with their enormous capital outlays for converting their assembly lines to produce more compact cars, provide doubts as to whether they will be willing to consider major technological changes in the near future.

This bill calls for a major Federal effort to develop advanced technology automobile prototypes, integrating the best available concepts for optimizing fuel economy, low emissions, safety and performance.

In the past the Federal Government has funded research and development activities to develop a safe car; Congress mandated the development of low-emission automobiles; and Federal standards have also been devised covering automobile bumpers. The time is long overdue now for us to integrate all of these efforts and consider the automobile as a total transportation system.

In conjunction with the automotive research and development program envisioned by this bill, the bill establishes a national goal of improving the industry-wide automobile fuel economy 75 percent in the next 10 years. The Secretary of Transportation is directed to promulgate minimum standards for fuel economy in order to achieve this goal. The bill would also require that all advertisements of fuel economy be based on a standard test, eliminating all of the confusion that has resulted recently with each company devising its own tests for fuel economy and then advertising results which are extremely misleading to the public.

Mr. Speaker, heating and cooling our homes, driving our automobiles, and running our appliances accounts for 40 percent of the total energy requirements for this country. A substantial reduction in these areas of energy usage is possible through the program envisioned by this legislation.

HARRINGTON OFFERS RESOLUTION CREATING A SELECT COMMITTEE TO INVESTIGATE INTELLIGENCE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. HARRINGTON. Mr. Speaker, the current controversy centering around allegations of illegal Central Intelligence Agency activities raises much broader questions about this Nation's huge intelligence community, of which the CIA is only a part. Several billion dollars annually are appropriated for the "intelligence" operations of the CIA, the National Security Agency, the Defense Intelligence Agency, and the Federal Bureau of Investigation, despite the fact that very few people in Congress and the general public have any idea how these funds are spent. Allegations of illegal CIA domestic surveillance and covert foreign operations, serious matters in themselves, highlight the congressional abdication of any real knowledge, control, or responsibility in these areas. Consequently, I offered a resolution yesterday which would create a Select Committee of the House to Investigate intelligence.

The CIA was created in 1947, to serve a still important national need for the collection and analysis of foreign intelligence. Similarly, many of the other agencies in the intelligence community undoubtedly provide essential information gathering services under necessary security precautions. My concern stems from these activities, but from secret operations of these agencies beyond the legal limits imposed by law and our constitutional system. In our zeal to preserve the secrecy of intelligence, we have removed traditional controls and given these agencies the opportunity to tread far beyond their charters. Evidence of illegal CIA operations can be found in the Agency's involvement in Watergate, its participation in the activities of the "plumbers," its apparent domestic surveillance program, and its free-wheeling covert operations abroad. The FBI, particularly under former Director Hoover, was admittedly engaged in illegal counterintelligence programs. While less is publicly known about the NSA and DIA, evidence made available by the Watergate Committee indicates their planned participation in the "Huston Plan," a coordinated, intelligence community domestic surveillance operation that anticipated the use of illegal wiretapping, mail tampering, and break-ins.

The common thread in this history of secret abuse of power has been the absence of any substantial congressional inquiry into the intelligence community.

No systematic review of agency functions, purposes, or activities has been attempted. The intelligence community has been allowed to expand into a secret arm of Government unaccountable to the Congress and the American people.

The response within the executive branch to the exposure of illegal operations has been defined, as in the case of the present CIA domestic surveillance controversy, to blindly protect rather than objectively reform the intelligence community. The initial investigation of the CIA entrusted fact finding to Secretary of State Kissinger and CIA Director William Colby, men with an obvious self-interest in preserving intact the secret apparatus they head. Members of the new Presidential Commission likewise bring to their jobs a firmly entrenched establishment outlook in which deference to the intelligence community weighs heavily. In light of his well-known views on security matters, and his past service on the President's Foreign Intelligence Advisory Board, Vice President ROCKEFELLER is but one example of the Commission's predisposition to coddle the CIA. This pattern has occurred in connection with eight previous executive branch studies of the CIA since 1949, all of which have failed to prevent recurring illegal activities. Operating in secret and issuing classified recommendations, these "investigations" have successfully diverted public attention from such ill-conceived CIA operations as the Bay of Pigs invasion and the subsidization of domestic cultural organizations. The self-defeating and ineffective nature of internal review is illustrated by the failure of the President's Foreign Intelligence Advisory Board, itself the product of a study recommendation, to keep watch over the intelligence community. The President's Commission has merely spawned a new series of self-serving investigations inadequate in scope and suspect in its determination to provide any meaningful reform.

Within Congress, control of the massive intelligence agencies has been left to small subcommittees of very senior members who have repeatedly demonstrated little commitment to do the job. Hindered from the start by inadequate staffing and funds, the oversight committees have consciously steered clear of the agencies whose operations they are charged with monitoring. Although these subcommittees argue, from behind the cloak of secrecy, that their work has been adequate, the record reveals a purposeful abdication of their constitutional responsibility to oversee the intelligence community:

The Senate Armed Services Oversight Subcommittee repeatedly failed to meet even once during 1973, despite since acknowledged CIA activities in Chile and involvement in Watergate that year.

The chairman of the House Armed Services Subcommittee on Intelligence apparently was informed of some CIA domestic surveillance some time in late 1973, but announced an investigation only after massive newspaper publicity made it necessary to do so.

That same subcommittee spent more time this year in hearings concerned with the unauthorized disclosures of classified information than with the questionable domestic and foreign CIA operations of which its chairman was aware.

Oversight committees are seriously understaffed and ill equipped to keep watch over the everyday operations of a multibillion-dollar intelligence community, let alone keep it within legal bounds. The House Subcommittee on Intelligence, for example, does not have a single, full-time staff member.

The committee met irregularly, pursuing a fragmented approach to the complex intelligence issues with which they must deal. When I sought to determine the adequacy of committee procedures and organization in a questionnaire sent last July to all oversight chairmen, not one offered a substantive reply, despite oral assurances by both House chairmen that they would do so.

More significantly, the members of those committees have illustrated a disinclination to even inquire into many facets of our intelligence activities. Rather than seeking out information about possible illegal or unwise agency operations, they have conspired by silence and disinterest to shield the intelligence community from any congressional examination. The oversight committees have willingly allowed the executive branch to keep them in the dark about matters supposedly under their supervision. The pattern of acquiescence and deference to the intelligence community is clear. Oversight by Congress has been an illusion. To entrust further investigations to the existing committee structure would merely perpetuate the myth.

The creation of a new House Select Committee on Intelligence would meet the requirements of a thorough and independent investigation. Such a committee would have the independence to pursue current allegations of illegal CIA operations, both foreign and domestic, and would have the subpena power and staff necessary to do the job. It would also be equipped to study the many elements of the intelligence community that have previously eluded congressional scrutiny. Finally, it could recommend directly to the House whatever legislation is necessary to keep intelligence agencies within legal bounds and under the watchful oversight of an effective congressional structure, instead of sidetracking reform measures through a labyrinth of dead end committees.

Unlike its predecessor, the 94th Congress has already been aggressive in fulfilling its constitutional responsibilities. The expectations of the American people have been awakened, and they are demanding more openness, and greater accountability, from their representatives. It is inconsistent with those expectations for us to turn away from our constitutional mandate to keep all agencies of Government within the law. The need for forthright action is even more acute when dealing with agencies that have been operating for so long behind an iron curtain of executive secrecy and congressional blinders.

New questions have been raised about the extent of illegal domestic surveillance by the CIA; but illegal break-ins, mail tampering, and the maintenance of dossiers by the CIA and FBI; about the largely unknown activities of the NSA and DIA; about clandestine interference in the internal affairs of another democratic nation; and about the potentially dangerous effects on our democratic institutions of an uncontrolled secret intelligence establishment. I urge support for the creation of a new committee to investigate these matters, so that we may meet our responsibilities to the Constitution and the expections of the American people.

THE GHOST OF LOCKE

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. BOLLING. Mr. Speaker, I call to the attention of my colleagues the following timely column by William Safire, "The Ghost of Locke", appearing in the New York Times of January 13:

THE GHOST OF LOCKE

(By William Safire)

WASHINGTON.—John Locke, an English philosopher, stirred controversy three centuries ago with the notion that societies were organized and ruled not by divine right, but by what he called "the consent of the governed."

Choosing his words carefully so as not to offend the King, Locke held that men left the wild state of nature by their own volition, making a social contract in order to protect "life, liberty and property."

When tyrants snatched away the protection of a citizen's natural rights, the government was breaking the contract, and the time came for men to "appeal to Heaven." Locke's reverent phrase was taken from the practice of Biblical generals of praying before battle, and actually were code words—widely understood at the time—for armed rebellion against tyranny.

Such ideas fired up young Thomas Jefferson a century later, and he filled the Declaration of Independence with Lockeian ideas and phrases, even to "the pursuit of happiness."

How do I know this? Because I took a course on Locke's second treatise on government just a couple of years ago, conducted by a professor at St. John's College. The seminar was a skullcracker and the handful of students included Allen Otten, David Broder, and Robert Novak, columnists; Herman Wouk, author, and David Ginsberg, lawyer; Marilyn Berger, reporter, and Katherine Graham, newspaper publisher.

The teacher who guided this high-powered agglomeration of opinion molders through the sources of political freedom—expertly shaming class-cutters and homework-skippers into line—was Robert Goldwin, 52, who popped up in the news recently as a special consultant to the President.

Dr. Goldwin, who served with Donald Rumsfeld at NATO, was the man behind the widely acclaimed session of academics with President Ford last month. His job is to "assure the flow of information, ideas and suggestions" to the President from outside government: Such salutary sessions with men who live the life of the mind were described by departing Len Garment as a *"coup de tête."* That play on "coup d'état" may be the only pun in French of the Ford Administration, but it felicitously praises the new green light on a necessary two-way street.

The new White House adviser resists the title of "Intellectual-in-Residence" or "the new Garment center," preferring to act as a kind of free safety in the Ford secondary: one day lending a hand on speeches, the next day sitting in on Domestic Council discussions, soliciting unorthodox ideas like those of Harvard Professor Martin Feldstein, watching over the interests of the arts and humanities, setting up more skull sessions with the man in the Oval Office.

Locke's treatises, of course, are close at hand: the occasional ghost of Mr. Ford is inspired by the pervasive ghost of Mr. Locke. For the pressure is on—led by those who were so recently decrying Caesarism—for the President to seize control of a free economy, or to do something dramatic to gain the illusion of leadership.

What the President and all his advisers are learning is that the public must be pandered to, at least to a certain extent, even when wrong: Locke's "consent of the governed" has its drawbacks. Dr. Goldwin is working on an equation: "Action in a democratic society equals wisdom divided by consent."

How best can consent be won? Often by indirection, by muting the arguments that appeal most to yourself and appealing instead to the self-interest of others. For example:

Englishmen of the seventeenth century who believed in freedom of expression sought the removal of the licensing of printing. To advance this cause, John Milton, the epic poet, wrote "Areopagitica," which stands today as the greatest prose work in denunciation of censorship. But the licensing of printing stayed in effect.

Later in that century, John Locke addressed himself to the same subject. He argued, in dull and plodding language, that licensing of English printers drove up the price of books and was causing the industry to move to France. The economic cost of censorship was too high; Parliament, for less than noble interests, then acted to free the press.

As President Ford labors over his State of the Union Address, wondering how to enlist consent in our time, it is comforting to know that the ghost of John Locke still stalks the corridors of power. An appeal to self-interest is more useful than an appeal to idealism, and even more helpful than an appeal to heaven, in coaxing the governed to consent.

NATIONAL VOCATIONAL EDUCATION AND NATIONAL VOCATIONAL INDUSTRIAL CLUBS OF AMERICA WEEK

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. GONZALEZ. Mr. Speaker, I am introducing a resolution today to designate February 9 to 15, 1975, as National Vocational Education, and National Vocational Industrial Clubs of America—VICA—Week.

I feel that it is important to recognize these students involved in vocational education—close to a million in the United States—and their club. These young people, male and female, are enrolled in trade, industrial and technical education courses at the secondary level and are being trained in vocational and occupational oriented skills.

Recent projections of the national economy indicates an increased demand for vocationally skilled manpower, which supports my belief that vocational education deserves our attention and support.

It has been the practice in high schools around the country in the past decade to encourage young people to enter the academic curriculum while ignoring the vocational and industrial trade programs. I am happy to note that this trend is now reversing as our Nation's need for diversity is recognized. Our country was built by people who performed all types of work and we continue to need this variety in order to prosper.

I urge all Members to support this resolution to honor these young people whose future goals are an important part of helping America grow.

THE IRONY OF MAKING WRIGHT PATMAN A TARGET OF "CONGRESSIONAL REFORM"

HON. LEONOR K. SULLIVAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mrs. SULLIVAN. Mr. Speaker, the vote in the Democratic Caucus yesterday afternoon on the nomination by the steering committee for the chairman of the Committee on Banking, Currency, and Housing keeps open the right of all of the members of the Democratic Caucus to vote on WRIGHT PATMAN'S fitness to continue as Banking Committee chairman.

Mr. Speaker, when I came to the House in the 83d Congress, those of us primarily interested in the consumer side of legislative issues could have caucused comfortably in one of the smaller Capitol elevators. Now, practically all of the Members consider themselves pro-consumer legislators, and consumer issues are politically popular—even though in recent Congresses few good consumer bills seem to be able to get through to enactment, and those which are passed are often watered down to shadows of their original form.

FIGHTS ALWAYS FOR CONSUMER

But when I came to Congress, when there were so few of us actively working primarily for consumer causes, WRIGHT PATMAN was in the forefront. And, as I told the caucus yesterday, he still stands at the front of the Congress in concern for the average American family—in every issue which comes along. As chairman of the Committee on Banking and Currency for the past dozen years, he led the way in accomplishments in behalf of the consumer, of the small businessman, and of the rank and file of the people in every congressional district, from the wage earner and credit union member to the homebuyer or bank borrower or housewife shopping in the grocery store.

Without his leadership and courage and legislative skill as committee chairman, we would have had no Consumer Credit Protection Act, no Fair Credit Reporting Act, no Credit Control Act—the instrument by which interest rates can be regulated and reduced—and no Real Estate Settlement Reform or antimonopoly Bank Holding Company Act worth the paper they are written on, to name only a few of the major consumer laws he has skillfully steered through to enactment as chairman, and over bitter opposition. He is not satisfied to pass weak bills; he fights for strong consumer legislation until it passes.

The first-term Members may or may not know this background about WRIGHT PATMAN. But 218 of the 291 members of the Democratic Caucus do know it. Some of them may have reasons which to them are good and sufficient reasons for wanting to remove WRIGHT PATMAN as chairman of the committee. But as I told the caucus yesterday, let us not pretend that deposing WRIGHT PATMAN from his chairmanship could be regarded as part of some movement for "congressional reform."

NO AUTOCRAT—A THOROUGHLY HONORABLE CHAIRMAN

Charges of autocratic behavior against Chairman PATMAN are demonstrably false. He was the first chairman to open up executive sessions to the public, and he was the first to assure absolute parity in committee procedures for junior members of the committee, down to the lowest ranking member. He has never acted in conspiratorial secrecy, or as a czar. I have never served under a more considerate and honorable chairman. He is the most liberal chairman in the House, the most courageous in the public interest, and one who has never—never—had a conflict of interest involving any bill before us. Where would be the "reform" aspect of getting rid of such a thoroughly decent and honorable and progressive chairman?

In urging the Caucus yesterday to reject the first nomination offered by the Democratic Steering Committee, I pointed out that a bare majority of the 24-member Steering Committee had voted 13 to 11 to deny the entire Caucus of 291 Members the opportunity yesterday to pass judgment on WRIGHT PATMAN'S fitness to continue as chairman of a committee he has led with distinction and effectiveness for a dozen years. Having worked side-by-side with WRIGHT PATMAN over all of those years in fighting for consumer and public interest legislation in the Committee on Banking and Currency, I urged my colleagues in the Caucus to reject the Steering Committee recommendation and thus preserve their rights as individual members of the Caucus to be able to vote yea or nay on WRIGHT PATMAN, as we had been doing on other incumbent chairmen.

EXPONENT OF REAL REFORM

The Caucus so voted, and as a result Mr. PATMAN'S name can subsequently be placed in nomination. I stated that as Democrats we owed WRIGHT PATMAN that courtesy, for he is the foremost living symbol of what our party stands for in enlightened national economic policy.

To shunt him aside from the chairmanship in the name of "Congressional Reform" would be a cruel hoax on the American people, for of all of the Members of the House, none has been as consistent an exponent of real reform than Wright Patman—both in economic matters and in the operations of Congress and of Government.

The loudest cheers for the removal of Wright Patman as chairman of the Committee on Banking, Currency, and Housing would come not from those who favor reform in the political systems of this country, but from the giant economic monopolies which he has fought so hard and so successfully for so many years.

ARTICLE BY RALPH NADER

Mr. Speaker, under unanimous consent I submit a letter I sent on January 13 to every Democratic Member of the House along with a copy of Ralph Nader's eloquent article in Sunday's Washington Star-News in praise of Wright Patman's remarkable record in Congress and as chairman of the Committee on Banking and Currency, as follows:

Congress of the United States,
Washington, D.C., January 13, 1975.

Dear Colleague: I am enclosing a copy of Ralph Nader's syndicated column of Sunday January 12, which analyzes Chairman Wright Patman's leadership of the Banking and Currency Committee.

Nader, who must be rated as the nation's Number One consumer interest advocate, reiterates the Patman record of action for the people's interest—a record which those of us who have served with him know so well. It should dispel the rumors and false statements which have been so freely and unfairly spread about Representative Wright Patman.

It is significant that many of the issues which we have heard Wright Patman talk about through the years are at last gaining widespread support and are today integral parts of the Democratic economic programs. With the kind of majorities which we enjoy in this Congress, it appears likely that many of these proposals which have been pushed by Chairman Patman will come to fruition.

But more than anything else, the Nader column reminds us how badly the Congress needs the courage and the willingness to take on tough issues. I don't think anyone in the House can deny that Wright Patman has this kind of courage and I think it is gratifying that this was recognized in the Ralph Nader column.

Sincerely,

Leonor K. Sullivan,
Member of Congress.

THE YOUNGEST POPULIST

(By Ralph Nader)

The old Texas populist, Wright Patman, has been in Congress for 46 years—longer than anyone else in both Houses. He came to Washington in March 1929—a few months before the stock market crash that launched the depression.

Unlike other progressives of that period, Patman concentrated on money and banks as his specialty in the House of Representatives.

He angered the banks and their powerful congressional supporters almost from the day he was first elected. Imagine a freshman congressman taking on Treasury Secretary Andrew Mellon for practicing like a big banker instead of a public official. The old guard on Capitol Hill didn't like to imagine so they kept Patman off the Banking Committee until the late thirties. This obstruction, in turn, kept him from becoming chairman until 1963.

Now for the first time in his steadfast career, Patman has a sympathetic Banking Committee chairman over in the Senate in Sen. William Proxmire, D-Wis. Over and over again in the past, the wily bank nemesis would be stymied either because bills he got through the House, such as the one last year to have the Federal Reserve audited by the General Accounting Office, would never get through the Senate or because a majority of his own bank-indentured committee members blocked him.

In September 1972, Patman wanted to launch an investigation into the Watergate matter by issuing subpoenas to suspected contributors, campaign committees and banks to trace the money. All the Republicans and five Democrats on his committee joined to block the inquiry. As he has shown so often in his career, Patman was right too soon.

At the mere age of 78, Patman stood on the House floor that memorable day in 1972 to deny Wilbur Mills, for the first time, a request for unanimous consent to ram through that session's outrageous "Christmas tree" of tax-loophole bills.

Only Rep. Les Aspin, D-Wis., had the courage to stand with Patman in a move that began the downfall of Mills' power in the House.

Whether the issue deals with consumer credit, credit unions, bank mergers, the secret power of the Federal Reserve, the bank holding company movement or adequate credit for housing, Patman remains the youngest populist of them all.

With a more consumer minded committee, following the retirement or defeat of several big banking allies last November, Patman will be permitted more leeway to push for fundamental changes in the nation's financial institutions and the reduction of taxpayer subsidies to the banks, which have totaled many billions of dollars.

For decades, the hard-working chairman of the House Banking Committee has warned Americans about the close interlocks between banks and other corporations, and between banks and the federal banking agencies that are supposed to regulate them.

He has made concrete and understandable what he means when he says that the people's money must be used for the people's interests. His audiences understand what banking concentration is, when he says that the nation has just over 14,000 commercial banks, but the 50 largest have more assets and deposits than all the rest.

Ten years ago, Patman arranged for the publication of a "Primer on Money" to educate citizens about money and the banking system in clear language. It was distributed in the tens of thousands and is still available free from his office.

The new Congress provides Patman with the best climate in years for the lengthy menu of hearings and legislative proposals that he and his staff have been preparing. Unlike so many venerable, status quo-type, congressional chairman, Wright Patman can be permitted to view the current session as possibly his finest hour.

HELMS SHOULD STAY IN UNITED STATES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. FINDLEY. Mr. Speaker, the serious charges concerning the conduct of the Central Intelligence Agency during the stewardship of Richard Helms have greatly compromised his effectiveness as American Ambassador to Iran.

In my view, it would be a mistake for Mr. Helms to be permitted to return to this highly sensitive diplomatic post until such time as he is completely cleared of any wrongdoing.

The allegations of illegal procedures during the time Mr. Helms served as head of the CIA were so substantial that President Ford ordered an investigation by a commission headed by Vice President Rockefeller. In addition, several congressional committees will make their own examination. If the facts warrant it, prosecutions may follow.

The American Embassy at Teheran should be served by a diplomat of highest competence, in whom everyone can have absolute confidence. By any standard, the post at Iran can be rated one of the most demanding in the world. Iran is an important ally of the United States. The Shah is a close friend of this country. He is also one of the truly effective leaders in today's world, a man who will exert a considerable influence on the future course of events in the Middle East. Certainly, our representative there must be able to concentrate his full attention and energies on the economic, diplomatic, and military interests which converge so menacingly in that part of the world. He must be able to deal on a full-time basis with the Shah and the people of Iran.

To help guarantee thorough investigations of the CIA by the Presidential panel and the congressional committees, Mr. Helms should remain in Washington. To help guarantee quality representation of U.S. interests, the management of our Embassy in Teheran should be placed in other hands until his name is cleared.

SALUTE TO SGT. ALONZO M. WILSON OF YOUNGSTOWN, OHIO

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. CARNEY. Mr. Speaker, on Sunday, January 5, the American Negro Police Association honored retired Youngstown police Sgt. Alonzo M. Wilson with a testimonial dinner at the Brentford House in Hubbard, Ohio. I had the privilege and the pleasure of joining with more than 450 of Sergeant Wilson's relatives, friends, and well-wishers at this affair.

Sergeant Wilson received a diamond and ruby studded gold badge from the American Negro Police Association and the Youngstown police department for his 32 years of distinguished service to the police department, the community, and youth. He was also the recipient of resolutions adopted by the city of Youngstown and the State of Ohio, a silver cup from the North Side Old Timers, a plaque from Remus Post for his sponsorship of the old time football team in the 1920's, and a presentation on behalf of the Buckeye Elks Lodge.

Mr. Speaker, I would like to take this opportunity to express my personal thanks and appreciation to Sergeant Wilson for the outstanding work he has done over the years to make the city of Youngstown a better place in which to live. In these troubled times, our country needs more people like Sergeant Wilson. We are most fortunate to have Sergeant Wilson, his wife, Mary, and his children and grandchildren as members of our community. I am proud to call him my friend.

Mr. Speaker, I insert excerpts from the Sgt. Alonzo M. Wilson testimonial banquet program in the RECORD at this time:

AMERICAN NEGRO POLICE ASSOCIATION HONORING SGT. ALONZO M. WILSON, 1942—32 YEARS OF DEDICATED SERVICE—1974

Sergeant Alonzo M. Wilson was born in Birmingham, Alabama, in 1908. Reared in Donora, Pa., he graduated in 1925 from Donora High School where he played varsity football. He then attended Northwestern University for two years. From 1943 to 1945 he served in the United States Navy. He participated in the Okinawa Campaign and attained the rating of First Class Petty Officer.

Sergeant Wilson is married to the former Mary Boyd of Kalamazoo, Mich. They have one son, Howard, who is an electrical engineer in Dallas, Texas, and a daughter, Barbara Snipes of Youngstown, Ohio, and five grandchildren. Sergeant and Mrs. Wilson reside at 157 W. Philadelphia Avenue.

Other members of his family include a brother, Dr. Wade Wilson, president of Cheyney State College; and a sister, Mrs. Mack Phillips of Donora, Pa.

In November of 1942 he was appointed to the Youngstown Police Department and was appointed to the rank of Sergeant in January 1952. During the career with the police force he has done investigation which led to many arrests and convictions of some of our city's top crimes.

Sergeant Wilson is very active in civic, religious and community affairs. He likes working with youth, and enjoys seeing young people participate in programs that will benefit them and our community. He is Assistant Pastor's Steward of the Steward Board if Price Memorial A.M.E. Zion Church. Some of the organizations of which he is a member are: American Negro Police Assn., Buckeye Elks Lodge No. 73, Fraternal Order of the Police, Y.M.C.A.'s Business Men's Club, Chairman of Ways & Means Committee, State of Ohio I.B.P.O.E. of W., and Office Manager of the Security Department of the Grand Lodge of the I.B.P.O.E. of W.

Sergeant Wilson is also an avid sports fan and spends much of his spare time going to sporting events.

PROGRAM

Invocation: Rev. Lonnie Simon.

Remarks: Sgt. Mizell Stewart, Anthony "Tony" Vivo Co-Chairmen.

Welcome address: Dr. Earnest Perry, Master of Ceremonies.

DINNER

Remarks: David Levy, M.D., James "Monk" Tillman; Ray T. Davis, Mahoning County Sheriff; Tho Honorable Charles J. Carney, 19th District Congressman; Dr. Wade Wilson, President, Cheyney State College; Dr. C. C. Davis, Minister, Centenary United Methodist Church; Remus Bost.

Invocation: Rev. Munford Carter, Assistant Pastor, Price Memorial Church.

COMMITTEE

Mizell Stewart and Anthony Vivo, Co-Chairmen.

Publicity: William Campanizzi, Isadore Blakley.

Tickets: Herb Allison, Charles Street.

Banquet: Lt. Dan Murphy, Milton Cobbins, Jacci Flemings, James Johnson.

Floral: Catherine Allison, Mary Wilson, Pamela Snipes, Barbara Snipes.

COHEN AMONG JAYCEES' TOP 10

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. EMERY. Mr. Speaker, it is with a great deal of pride that I ask to include in the appendix of the RECORD, an article from the Bangor Daily News, Bangor, Maine, of January 13, 1975, entitled "Cohen Among Jaycees' Top 10."

The article with a United Press International dateline from Tulsa, Okla., details a new honor for my distinguished colleague from the Second District who joins a very prominent list of Americans.

The article follows:

COHEN AMONG JAYCEES' TOP 10

TULSA, OKLA.—The U.S. Jaycees Saturday announced their ten outstanding young men for 1975 but an internal dispute and court actions left undetermined plans for the official awards ceremony.

The three attorneys, two physicians, a university president and four others named to the annual list were to have been honored in Kansas City Jan. 18, but the national organization withdrew in a dispute with the local chapter over admission of women members.

The U.S. 8th Court of Appeals in St. Louis ruled Wednesday the Jaycees could hold their convention at a location of their choosing, but no site has yet been announced.

The 1975 honorees:

Perry Albert Lambird, 35, Oklahoma City physician and pathologist cited for a nationwide study of school health services which helped shape current federal and local school health programs. He also was listed as the youngest president of a major symphony organization in America.

Morris Thompson, 35, of Washington, D.C., youngest commissioner in the 140 year history of the Bureau of Indian Affairs. The Jaycees termed the Athabascan Indian from Alaska "one of the nation's most effective spokesmen for his people."

William S. Cohen, 34 Maine congressman and attorney who served on the House Judiciary Committee which voted three articles of impeachment against former President Richard Nixon. Cohen was cited as a "defender of the rights of his constituents" who has "fought opposition when those rights were being encroached upon."

Richard Earl Barber, 35, New World National Bank chairman, Pittsburgh, Pa. The Jaycees said Barber rose from "the humblest of beginnings to become, not just a leader of the black community, but an important and influential leader of all the community. Barber is living proof that the 'American Dream' can still become a reality for those with the dedication to pursue it."

Jonathan L. Goldstein, 33, U.S. attorney for the District of New Jersey, cited for successful prosecution of corrupt public officials and organized crime figures as well as environmental activities which led to a 1972 lawsuit halting the dumping of sewage sludge by 23 municipalities along the Atlantic Coast.

Larry Gene Griffith, 32, medical doctor-administrator, Dalat, South Vietnam, praised for rejecting the potentially lucrative aspects of private practice to dedicate his time and medical training to helping the war-torn nations of southeast Asia as executive director of Project Concern.

Albert John Hofstede, 34, mayor of Minneapolis, Minn. One of the nation's youngest mayors, Hofstede was cited for establishing major programs in housing, transportation and governmental reform "while at the same time achieving a strong reputation as an able administrator."

Donald Edward Messer, 33, president of Dakota Wesleyan University, Mitchell, S.D. Messer, a theologian and one of the nation's youngest college presidents, was praised for his work in relation to correcting social injustices and "providing new human services."

Gerald Lawrence Parsky, 32, Washington, D.C., youngest assistant Treasury Secretary in history, cited for "exceptional achievement in tax reform and trade relations" during his government service.

Donald Blessing Rice Jr., 35, Santa Monica, Calif., Rand Corp. president and a former assistant director of the Office of Management and Budget, praised for efforts to "help government serve the people" by working toward solutions to specific problems in society.

The Jaycees have issued a list of ten outstanding young men in America each year since 1938.

Among those previously honored were Elvis Presley (1970), Edward Kennedy (1967), Ralph Nader (1966), Henry Kissinger (1958), Robert Kennedy (1954), Gerald R. Ford (1949), Richard Nixon (1947), John F. Kennedy (1946), Nelson A. Rockefeller (1944) and Orson Welles (1941).

PHARMACEUTICAL CARE AND THE PHARMACIST

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. LEGGETT. Mr. Speaker, we devoted a great deal of attention to medicine and health in the 93d Congress. We passed the health revenue sharing bill, the health planning bill, and other such legislation. We were concerned about such problems as medical care for the poor, migrant health, the adequacy of medical education, and the distribution of doctors both nationally and regionally.

One of the areas of the health field that perhaps receives less attention than most is pharmaceutical care and the pharmacist. The importance of this part of the health picture was brought home to me again recently when I read an article about the responsibility of the pharmacist by Glenn Spaulding, who is director of pharmacy relations for PAID Prescriptions, a nationwide, nonprofit drug service contractor.

Mr. Spaulding makes the point that the pharmacist is a highly skilled professional who is the patient's last line of defense before actually obtaining a drug. His motto in providing quality pharmaceutical care must be to give the right drug, at the right time, in the right place, and in the right quantity.

He has the responsibility to be sufficiently aware of the patient's profile and diagnosis to insure that the patient gets the drug that will do the job and will not have adverse reactions. He must provide the patient with adequate dosage instructions for example how many times a day and at what time intervals. He must have the right place to communicate with the patient to obtain the information he needs, and he must respect the privacy of those communications. His responsibility also includes dispensing the right amount of the medication, and it should be a full therapeutic quantity sufficient to do the job.

Ultimately, we can be sure pharmacists will fulfill these responsibilities only if we have adequate self-evaluation and peer evaluation by pharmacists themselves.

I would like to commend to the Members Mr. Spaulding's article at this point in the RECORD:

RESPONSIBILITY—YOU CAN'T DODGE IT

(By Glenn Spaulding)

Pharmacy is a skilled profession. As such, those who train for Pharmacy tacitly accept the responsibilities inherent in their professional training. The education required for a pharmacy degree is designed to prepare the student to become more than a mere run-of-the-pill counter. The knowledge a pharmacy student assimilates during his schooling prepares him to be a professional who is able to utilize his hard-earned knowledge for the benefit of those who entrust their well-being to him. As a student, his study of drugs and their effects is designed for a definite purpose—to better serve his customers in an area where they are uninformed and he is an expert.

However, judgmental interference has been imposed on Pharmacy from agencies outside of the profession because pharmacists have refused to accept this responsibility and acquiesced to the pressures of those more concerned with what they can get than what they can give. Unless pharmacists are willing to accept their present role as pill counters with its attendant lowering of educational and wage standards, then we must accept peer evaluation and utilize effective self-evaluation and self-discipline to bring about the required changes.

How then is the quality of pharmaceutical care to be measured and assessed?

For the purposes of this discussion, we will accept the broad general definition of quality pharmaceutical care: the right drug, at the right time, in the right place, and in the right quantity. We will discuss this in terms of self-evaluation as well as peer evaluation. Meaningful review must be prospective to have an immedate impact on patient care. While the technology is available for this kind of review, the practical application, more importantly, the economic feasibility, are not yet realities. Although we must limit this discussion to presently applicable methods of providing care, bear in mind that these methods may undergo only refinements. The basic concerns involving quality care will not change substantially.

A singleness of purpose must be maintained in the delivery of pharmaceutical care. That purpose is the charge that the people conferred when granting us a license to practice. A learned profession is licensed by the people of a state primarily to protect them in an area in which they lack sufficient knowledge to protect themselves individually (against the contingencies of their own actions) as well as collectively (against the actions of those practitioners charged with this responsibility).

ABOUT THE AUTHOR

Glenn Spaulding is the co-editor of the Contra Costa Pharmaceutical Association bulletin. He is a member of CPhA, APhA, the American Institute of the History of Pharmacy, and the Academy of General Practice of Pharmacy. Spaulding is a former director and president of the Northern California chapter of the APhA. In 1972, he became director of pharmacy relations and communications for PAID Prescriptions, a nationwide non-profit drug service contractor.

THE RIGHT DRUG

The pharmacist is the patient's last line of defense before he actually possesses the medication. Insuring that the patient has the right drug goes far beyond the traditional role of properly interpreting the prescriber's orders. The pharmacist has the responsibility to look for, and to identify clinically, significant potential adverse drug reactions and to bring these to the attention of the prescriber prior to delivering the drug to the patient.

It is indeed difficult to imagine any effective method of accomplishing this purpose without the use of a patient profile system. Certainly, an increased liability goes hand-in-hand with this increased responsibility. However, as a New Jersey judge who ruled on this matter noted, the pharmacist who refuses to accept the full responsibility which the people have charged him with may place himself in even greater jeopardy.

Profiling is the only area of prospective review generally available at the present time. Therefore, profiles must be utilized to the utmost extent, not merely maintained. The pharmacist must review his patient's profile prior to dispensing any prescription.

Adjunct advantages, such as tax records and "refills without your prescription number," may be desirable, but are not essential for patient protection. These should be considered as promotional tools only.

One limitation a pharmacist faces with the profile system is his lack of total information. Is the patient receiving drugs from other providers? Do you request past drug and medical history from your clients? Are you conducting a patient education program to alert them to what you are doing and why you are doing it? Without an ongoing patient education program, profiling becomes increasingly meaningless.

The greatest limitation at present is the pharmacist's lack of knowledge concerning each patient's diagnosis. What is the patient's condition? A system must be developed to require that a statement of the diagnosis or the general condition being treated be included in all drug orders. However, we should not let this limitation hinder us from our responsibilities. Many valid assumptions can be made concerning drug therapy without the aid of a diagnosis, e.g., how many conditions are treated with nitroglycerin?

We have vast territories to cover with only our present capabilities. Self-evaluation of this method only involves asking yourself some searching questions.

Peer evaluation requires the services of specialized computer systems such as those utilized in PAID Prescriptions' drug programs. For the evaluation to be valid, it must be localized and it must consist of local active practitioners. It is desirable to have prescriber representation for medical input and liaison. It must carry out its activities regularly, and it must have the power to act on inappropriate practice habits.

Since the currently available programs are retrospective, they are at best educational. However, the ongoing activities of such programs do bring about changes in practice patterns. Since such programs are regional in nature, activity of a given patient from all providers can be accululated in a common profile.

This method of evaluation and accumulation of data provides for the definition of common practice patterns as well as variants from this pattern. The peer review evaluation complements the pharmacist's self-evaluation by providing him with a valuable tool for self-evaluation in comparison to his peers.

THE RIGHT TIME

The pharmacist has a responsibility to provide the patient with adequate dosage instructions. Is "four times a day" sufficient instructions? At what time intervals? Before or after eating?

Certainly the physician has the primary responsibility. But the pharmacist also has the responsibility to protect his patient and to reinforce and supplement the physician's instructions.

The information a pharmacist should provide a patient about his prescription has reached paramount importance. One state, Washington, has deemed it necessary to define the required information in legislation. This indicates that the people not only desire, but also demand information and protection.

A drawback of legislating requirements is that there is a tendency to comply with the mechanics of the law without concern with the intent. Our actions are further reduced to mere mechanical procedures, with the diminished esteem and respect which the public views the profession. It is not sufficient to maintain profiles or to "parrot" required information to a patient. The pharmacist must have sufficient concern and take the necessary steps to assure that his patient is experiencing the desired response to drug therapy.

THE RIGHT TIME

Any discussion of quality pharmaceutical care would be incomplete without considering confidentiality, or the patient's right to privacy. Health professionals in the course of their practice may share information about a mutual patient if that information is required for that patient's care. Thus, the pharmacist has not only the responsibility, but also the right to intercede and utilize any information to protect his patient.

To be effective, we must remain objective without losing our humanity. Degrees and areas of privacy vary greatly between individuals and in different situations involving the same patient. If a pharmacist establishes a sympathetic personal relationship with his patient, the professional relationship becomes more productive. Therefore, it is incumbent upon the pharmacist to provide both the time and the place to privately effect communication with his patient. The rule should be that all our actions are motivated for the patient's benefit, and with due regard for the protection of his right to privacy.

The information a pharmacist gleans in the course of his practice about a patient may be privileged. This privilege, however, belongs to the patient, not to the pharmacist. Only the patient can relinquish his privilege. A pharmacist must secure a specific release from the patient to provide information to billing companies, third-party administrators, insurance companies, etc. This not only protects the pharmacist, but also provides the opportunity to further communicate with the patient concerning the need for privacy and what it means. Ordinarily, no such release is necessary to share information with another provider of service.

The right place includes not only the proper route of administration, but also the physical place for the exchange of medication from the pharmacist to the patient. It is difficult to properly instruct the patient or elicit responses to appropriate questions via the mail or a delivery man.

The pharmacist has further responsibilities in cases where the kind of medication may be inappropriate in an ambulatory setting, e.g., is injectable antineoplastic medication appropriate for self-administration?

Perhaps, but the pharmacist definitely has the responsibility to his patient to insure that he is being properly monitored.

THE RIGHT QUANTITY

The appropriate amount of medication actually dispensed on each prescription order is based on a number of variables, including the intended purpose and type of medication, the condition being treated, the reliability of the patient, the stability of the drug, and consideration of the cost.

Most importantly, the pharmacist must dispense a full therapeutic quantity of medication. Penicillin for a streptococcal infection should be in a full 10-day supply. Chronically used medication should be in at least a 30-day supply. Highly toxic or unstable drugs may require dispensing in smaller amounts.

These are judgmental decisions for the pharmacist and require objective self-evaluation. However, it is difficult to evaluate oneself without precedents and guidelines. Peer evaluation provides a frame of reference by defining the community standard of practice.

The pharmacist can have a profound impact on patient care by carefully monitoring patient compliance—or noncompliance. The effectiveness and quality of our care can be determined by examining our patients' records as well as judging the success rate of drug therapy. Some questions we should ask ourselves each time we dispense a prescription are: Is the drug being taken in adequate dosage and at proper intervals? Is the patient complying with the dosage regimen? Is he requesting renewals at the proper intervals according to the directions? Is the patient experiencing the desired effect? If not, why?

Who should pay for the pharmacists' services? Government, underwriters of prepaid plans, and the public are demanding that pharmacy services be cost-effective inasmuch as the patients' demands are unlimited and the budgets fixed. When an individual abuses a program, he endangers the integrity of the total delivery system. We are allowing artificial barriers and regulations to be imposed upon pharmacy practice that punish the whole for the actions of the few, while we have within our grasp the ability to affect far greater and more substantial savings through developing appropriate patterns of therapy. Thus, we should not expect payment for services not rendered. We have no real choice. We must seize our opportunity to prove that we are capable of fulfilling our responsibilities in becoming effective drug control agents.

WORKERS IN PERIL

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. OBEY. Mr. Speaker, the following article is the first in a series of four published in the Washington Post beginning January 2, and entitled "Workers in Peril."

The author, Douglas Watson, describes the poorly funded fight which scientists and physicians in this country are carrying out against worker exposure to lethal chemicals. Watson uses a recent study of a Bethlehem steel mill at Sparrows Point, Md., a plant with an excellent safety record, to demonstrate the problem of worker exposure to chemicals which have no apparent ill effects until 20 years or so after a worker's first exposure. These chemicals may cause any one of a large number of deadly diseases, including numerous types of cancer.

I will place each of the four articles in the RECORD, starting today with the first installment:

CANCER IS HIGH AMONG STEELWORKERS

(By Douglas Watson)

Baltimore area steelworkers die more frequently from cancer, respiratory diseases and strokes and somewhat earlier than their neighbors, according to a study being made by a Johns Hopkins University professor and a local union.

The mortality study of 316 workers at Bethlehem Steel Corp's Sparrows Point complex near Baltimore is incomplete and provides no explanation for possibly high levels of occupational illness there.

However, the study raises serious questions at a time when the discovery elsewhere of fatal work-related, long-term diseases resulting from industrial exposure to such chemicals as vinyl chloride, asbestos and arsenic is prompting a much closer look throughout the nation at occupational health.

Bethlehem Steel, the country's second largest steelmaker, has an above-average record in avoiding on-the-job accidents at its 22,000-employee Sparrows Point complex, Maryland's largest private employer and one of the nation's biggest steel mills.

However, it is unclear how well Bethlehem Steel is doing in regard to preventing occupational illnesses—those work-caused diseases known as "the silent enemy" because their causes often go unrecognized as they quietly sicken and kill unsuspecting workers.

Dr. Edward P. Radford, a professor of environmental medicine at Johns Hopkins University, who is conducting the mortality study in cooperation with United Steelworkers Local 2609, said of the extent of occupational illnesses at Sparrows Point, "There's no way you can tell me everything's all right."

Occupational illness is in part the focus of the 1970 Occupational Safety and Health Act, which aims "to assure so far as possible every working man and woman in the nation safe and healthier working conditions."

For years occupational health attracted little attention from industry, labor, or even the medical profession. Even now, four years after the 1970 act, occupational health is only starting to emerge as a problem to be dealt with.

The Johns Hopkins study of 361 active and former Sparrows Point steelworkers who died between September, 1973, and May, 1974, found that 109—74 whites and 35 blacks—succumbed to cancer—a rate 43 per cent above the average cancer death rate for Baltimore men. The death figures are 49 per cent higher for the white steelworkers and 29 per cent higher for the black steelworkers.

The study found that 34 of the steelworkers—18 whites and 16 blacks—died of strokes, which is 47 per cent above the average stroke death rates for Baltimore men. For white steelworkers the rate was 41 per cent higher; for blacks 52 per cent higher than average.

Respiratory diseases claimed 15 white steelworkers—nearly the same rate as other Baltimore white men—but the 13 black steelworkers who died of respiratory diseases reflected a rate 80 per cent above the average of other Baltimore black men.

The study also found that the 361 steelworkers died at an average age of 63.8 years—64.5 years for whites and 62.9 years for blacks.

In contrast, 65.3 years is the average life expectancy for Baltimore males who reach age 20, about the time most of the steelworkers started working at Sparrows Point, a city health official said.

Dr. Radford said, "There is clearly an abnormal distribution of death by category among these steelworkers." He added, "This can serve as an indication that there are some factors in the work environment which are contributing to the death rate."

A Bethlehem Steel spokesman said, "We haven't seen the study and therefore we can't comment on it."

The number of steelworker deaths was indicated initially by life insurance claims filed during the period, and the causes of deaths were then determined.

Dr. Radford said that in coming months the study will subdivide the dead steelworkers by job classifications, which could give a much better idea of the types of health hazards involved in certain kinds of work at Sparrows Point.

Most occupational health concern recently has resulted from reports of deaths caused by industrial exposure to vinyl chloride, asbestos and arsenic.

At least 26 cases of a rare, long-term but fatal liver cancer has been discovered among workers in polyvinyl-chloride plants, and federal standards regulating vinyl emissions have been imposed.

Similarly, new federal regulations have been adopted for the asbestos industry following the discovery that asbestos workers in Texas and New Jersey are dying from the effects of inhaling asbestoes fibers for many years.

Inorganic arsenic is another hazardous material that recently received urgent attention after reports of fatalities among workers exposed to arsenic. Recently the National Institute for Occupational Safety and Health (NIOSH) recommended a reduction in permissible arsenic exposure levels because the widely used industrial chemical can cause respiratory and lymphatic cancer.

Occupational health concerns have focused lately on industries using new chemicals whose dangers may not be fully known. The steel industry is much more traditional, many of its processes and materials having been used for decades.

When health and safety is mentioned. Bethlehem Steel officials stress that the company has spent $32 million in the last five years to meet new federal air and water quality standards at Sparrows Point, and has budgeted $64 million more for environmental improvements through 1976.

(The nation's steel companies together had at the beginning of this year budgeted $643.2 million for installation of air and water pollution-control equipment in coming years, up from $335.9 million budgeted the year before, according to the American Iron and Steel Institute.)

Production-minded Bethlehem Steel executives often show resentment about the environmental investment at Sparrows Point, which for years was one of the state's biggest polluters. Pointing out one new environmental facility, a company official said, "That's $7.1 million that won't make a damn bit of steel."

David Wilson, president of Steelworkers Local 2609 that is undertaking the mortality study with the help of Dr. Radford, said that cooperation from Bethlehem Steel "is very hard to get" concerning occupational illnesses.

"The company obviously doesn't want to admit any illness is job-related because right away it sees the specter of increased workmen's compensation payments," Wilson said.

Union officials also complain that Bethlehem Steel has been reluctant to inform them when present or former workers die and has refused to allow members of a union's safety and health committee to tour Sparrows Point's mills.

A company spokesman responded by noting that the company is the one providing Local 2609 with reports of the deaths the union is using in its study. He said a joint management-labor committee concerned with safety and health makes monthly inspections at Sparrows Point.

Union officials aren't entirely critical of the company's environmental health efforts. Carroll Filliaux, chairman of the safety and health committee of United Steelworkers Local 2610, said, "The company is really making a genuine effort to clean up the plant compared with 10 or 15 years ago when things were rough."

Like many companies, Bethlehem Steel has for years placed heavy emphasis on educational programs to avoid accidents, and that, plus advancing technology that increasingly enables men to work safely remote from the gigantic machinery they are operating, resulted in no accident fatalities in 1974 and only two in 1973.

While Bethlehem Steel and other companies keep all sorts of accident statistics, occupational illnesses—Bethlehem officials said no figures are available on illnesses at Sparrows Point.

Dr. Radford said analysis of employees' causes of death "is a very simple thing that any company could do if it had the interest."

And Wilson said that Bethlehem Steel, with the extensive personnel records available to all companies, knows much more about occupational illnesses than its executives acknowledge.

Unions, with a few exceptions, also have shown little interest in occupational health. Like almost everyone else, labor leaders haven't appreciated the disease hazards their union members face until recently.

Better pay, fringe benetfis, pensions and job security are the usual union objectives. Elimination of occupational health hazards often isn't even mentioned in contracts, though the United Steelworkers and the nation's 10 largest steel companies, including Bethlehem Steel, did agree last April to seek healthier working conditions for cokeoven workers.

The United Steelworkers' Pittsburgh headquarters, which for years had a two-man safety and health department recently expanded from four to five such specialists, and the AFL–CIO has said that federal health standards will be the minimum agreed to.

John F. Sheehan, legislative director for the United Steelworkers, recently told a meeting of the Society for Occupational and Environmental Health here, "I'm only beginning to pronounce the (occupational health) terms, as I think most of the labor movement is."

The labor spokesman told the assembled safety and health experts that with workers' lives at stake, "We don't want to determine over a long period of time what the problem is." Rather, he said, unions will press for a ban on potentially hazardous materials, "even on the most scanty of data."

Sheehan added that at present, industrial health and safety issues "are for the most part grievance matters" discussed in the adversary setting of labor-management negotiations, hence "the collective bargaining tool is not amenable to handling the problems."

The medical profession, with some exceptions, has shown little interest in occupational health; many doctors regard it as a low-priority area. There are less than 400 occupational medicine specialists among doctors in this country.

Dr. Barry Friedlander, in charge of overseeing employee health programs for 1 million Maryland workers, said that though state law requires doctors to report occupational illnesses, he's only received three such reports in six years.

Many doctors are unaware of the law. Others, burdened by too much paperwork, can't be bothered. The result, Dr. Friedlander said, is that the state health department and medical profession are largely left to guess at the extent of occupational illnesses.

Most forms for patients to list their medical histories don't even provide space for an individual to mention the kinds of work he has done.

Dr. Robert J. Brandt, a former company doctor at Sparrows Point, said it was rare there for private physicians "to come to us and say, 'I'm treating so-and-so for lung problems. Can you tell me where he works?' "

What would happen, Dr. Brandt said, is that doctors treating Sparrows Point workers would send the company routine notes saying, " 'I'm treating so-and-so for asthma or pneumonia and he should not be exposed to dust, fumes or excessive heat.' " Dr. Brandt added, "If you just drive to Sparrows Point you'll be exposed to that."

Some doctors who treat occupational illnesses every day don't like to acknowledge the causes. "Even if there is a problem, I'm not committing myself to publicly say it," said Dr. Irving R. Beck, a private physician in Baltimore County.

Dr. Friedlander said, "Many doctors are very uncomfortable with the whole situation because they're not familiar with occupational health; they're not sure of their diagnoses, and they would not want to have to go and testify as to a diagnosis."

Bethlehem Steel's Sparrows Point complex has the largest industrial dispensary in the state with a staff of 45, including six doctors. Sparrows Point also has a 24-employee safety department and a seven-member environmental health engineering staff to control hazards and keep medical records on employees working in potentially dangerous areas.

A company spokesman said, "Periodic checkups are given to those exposed to possibly hazardous environments, such as bricklayers, coke-oven workers and those working in areas where there is a potential lead hazard. All operators of mobile equipment are also given periodic examinations."

However, Dr. Brandt said that when he left the company dispensary in 1974, Bethlehem Steel's doctors were continuing to spend the majority of their time treating accident victims, not practicing preventive medicine.

And some steelworkers interviewed said they didn't trust the company doctors and went to private physicians if at all possible.

At a Pennsylvania steel plant, union officials discovered that the local hospital radiologist checking workers who had complained of shortness of breath and excessive fatigue was not reporting findings of pneumoconiosis or emphysema. As the company's medical director later explained, those diseases were not compensatable under the Workmen's Compensation law and, therefore, the company was not interested in them.

Assistant Secretary of Labor John H. Stender, head of OSHA, said in a Nov. 14 speech, "It is noteworthy that in a recent case dealing with asbestosis, a California jury awarded $351,000 in damages to an employee against a physician who had examined the employee over a period of time and reportedly withheld the findings of such examination from the employee."

Stender continued, "The doctor allegedly contended his duty was only to report to the man's employer, who retained the doctor. This case may turn out to be a turning point in industrial medicine."

LET THEM EAT GRASS

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. JONES of Tennessee. Mr. Speaker, an article appeared in the Memphis, Tenn., Commercial Appeal, on Sunday, January 12, and is entitled "Let Them Eat Grass." The article is by William E. Barksdale and originally appeared in the January 2 New York Times. Mr. Barksdale is a vice president of Cook Industries, which is located in Memphis, Tenn., and is currently serving as president of the American Forage and Grassland Council.

Mr. Barksdale suggests in his article that we must move more closely to an efficient forage-based system in the beef industry. In 1952 about 45 percent of the beef cattle marketed were grain-fed. The practice of feeding U.S. beef cattle high rates of grain developed during a time when grain was in surplus and relatively cheap. The beef industry is not on the verge of converting 100 percent to grass. Obviously, some grain will be used in beef production in the foreseeable future. The forage-produced animal, however, is brought to market at less cost than the grain-fed animal.

At this point, I would like to include in the RECORD the text of Mr. Barksdale's article:

LET THEM EAT GRASS

(By William E. Barksdale)

MEMPHIS.—Some Americans, in their concern about the world food crisis, have eliminated red meat from their diets. A few have begun to suggest that all Americans should discontinue eating meat, and, indeed, that the U.S. beef industry should be permanently scrapped.

To follow such advice would be agriculturally insane, flagrantly wasteful of one of the world's greatest food resources, and economically chaotic.

Great public attention has been given the charge that beef cattle consume seven or eight pounds of grain per pound of beef produced in the feedlot. (It usually is less than this.) Almost completely ignored is a far more significant pair of facts. First, cattle are ruminants. Second, they obtain most of their feed from sources that humans cannot eat.

The ruminant animal, including the cow, the sheep, the deer and the elk, has a large, four-section stomach designed by nature to handle great volumes of bulky, fibrous material. Bacteria and other micro-organisms thrive inside this unique digestive system, which is vastly different from that of man and other animals. The cattle ingest forages containing plant cellulose and other nutrients: the micro-organisms convert these to their own bodies consisting of high-quality proteins. The ruminant, in turn, is nourished by digesting the micro-organisms.

Forages, of course, are unusable by man, poultry, or swine; they must be converted by a ruminant to be of food value to humans. This means the ruminant is a walking protein factory, and therefore, one of the most promising weapons in man's battle against hunger.

The practice of feeding U.S. beef cattle high rates of grain developed during the years when grain was in surplus and relatively cheap. Beef feeders simply substituted low-cost grain for forages and time. A beef animal does reach slaughter condition slightly faster when fed grain. Also, the assembly of great numbers of cattle in confinement for grain feeding provides for intensification of an agricultural practice that usually is extensive in nature.

In 1952 some 45 per cent of the cattle marketed were grain-fed: in 1972 the figure was up to 78 per cent. It is estimated that cattle going into feedlots during the 1950–55 period weighed an average of 800 pounds. By the 1970–72 period, cheap grain had become such a widespread substitute for grass that the average cattle going on feed weighed only about 500 pounds.

Availability of cheap grain led to luxurious uses. By 1972 cattle feeders were marketing four times more prime and choice cattle than they had sold in 1952. Twice as much energy is required to produce a pound of fat as is needed to make a pound of lean red meat. In 1973, some 2.5 billion pounds of excess fat were trimmed from beef carcasses at the retail level. Most of these trimmings represented wasted grain.

The United States land area includes between 750 million and 1.2 million acres of range, pasture, hay and silage, depending on whose definition is used. Included is everything from arid rangeland of the West to the intensively managed Midwestern alfalfa fields to the high-productive pastures of the humid, temperate Southeast. Most of this acreage is unsuited for tillage. It is, for the most part, too steep, too poorly drained, too dry, or of the wrong soil type for tillage. But forages can be produced on such land. This use keeps most of the land in continuous cover, minimizing erosion and sedimentation, which is both economically and environmentally desirable.

Our beef industry is not on the threshold of reverting 100 per cent to grass. It is obvious that some grain will continue to be used in beef production in the foreseeable future. However, in some areas and under certain conditions it is economically possible to produce slaughter-ready beef on forages alone, without significantly decreasing meat grade and quality.

The forage beef required about a month longer to reach slaughter condition. Forage-produced carcasses yielded slightly less-marketable beef, and thus would have returned slightly less to the farmer. The forage-produced animal, however, generally is brought to market at less cost than the grain-fed animal.

When we consider alternatives to hunger in underfed nations, we commonly think of giving the people grain. Ironically, while some Americans suffer a self-imposed burden of guilt about eating beef, peasant farmers in some lands view the beef animal as their most promising source of protein.

More complete utilization of our forage and grass-land resources will require adaptation at several levels. Many beef producers will have to accept new practices. Some consumers will have to accept the sometimes yellowish fat of forage-finished beef instead of the white fat of grain-fed animals. Public and private research funds must be made available to provide technological inputs, such as higher yielding, more digestible, longer-lived varieties of grasses and legumes. The United States now is experiencing a technological gap resulting from cutbacks in forage and cattle research in the past decade. If we are to rely more on forages in beef production, we need a better supply of higher quality forage.

We already have overstated the use of grain in beef production. About 75 per cent of all feed units consumed by beef cattle today are from forages. Only about 25 per cent are from grain. A quarter of a century ago, however, forages supplied 83 per cent of the beef industry's feed units.

Clearly, we can and must move more closely to an efficient, forage-based system in the beef industry.

COUGHLIN URGES AID FOR HIGHER EDUCATION

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. COUGHLIN. Mr. Speaker, in our determined efforts to overcome the destructive forces of inflation and recession, we must insure that the youth of our Nation are not denied the opportunity to gain the benefits of higher education.

As private institutions of higher learning are forced to raise tuition and fees in order to continue to provide quality education, lower and middle income families are increasingly finding that their childrens' further education must be sacrificed. This regrettable state of affairs must be reversed immediately. Not only is the welfare of our private colleges and universities at stake, but also, and more importantly, the future welfare of millions of young people and our Nation itself. I respectfully urge that we provide the relief so desperately needed by lower and middle income families.

I shall shortly introduce legislation again which would provide income tax credits for lower and middle income families to ease the burden of financing the higher education of their children. Not only would such a measure provide immediate assistance to families and institutions that are suffering in the present economic crisis, but it would also have the long-term benefit of producing better educated citizens with higher earning capacities. College graduates in their lifetime earn an average of $213,000 more than high school graduates, and earn an average of $371,000 more than those with 8 years of education or less. Hence, a positive impact on the economy and tax revenues would result from the educational development of our children.

We must insure that the price of solving today's problems is not the education of today's youth. For if we pay that price, the real cost will be immeasurable.

Due to the severe situation of our institutions of higher learning, I am sure that my colleagues will find the text of an article printed in the January 15, 1975 issue of the Washington Star-News most informative:

[From the Washington Star-News, Jan. 15, 1975]

COSTS KILLING PRIVATE COLLEGES, DEAN FEARS

(By John Mathews)

Without substantial government subsidies, America's system of private colleges and universities is doomed to become "fit substance merely for nostalgic regret and history."

"I give it 15 years, and that includes Harvard," Peter P. Pouncey, dean of the college at Columbia University, said here today.

Pouncey asserted that "new legislation is needed" immediately to save private colleges which are losing their competitive warfare with publicly supported state and local institutions. Tax relief for parents of college students or increased direct government grants to students are needed now to save private higher education, he told the Columbia College and Engineering School alumni at a luncheon.

At Columbia, one of the Ivy League schools, an undergraduate bachelor's degree costs more than $26,000 over four years, Pouncey said, "which is considerably more than the cost of two B.A.s from most state universities in the country."

Pouncey's pessimistic outlook for private colleges and universities has been echoed at meetings here this week of the American Association of Colleges and the Education Commission of the States, made up of governors and state legislators.

A task force report distributed at the association convention maintained the "fundamental situation for hundreds of private colleges is deteriorating." Colleges face decreased student applications and enrollments, depleted endowments, deteriorating buildings and, in some cases, "erosion in the quality of instruction."

In the last five years, 50 private colleges have closed, but the report of the National Council of Independent Colleges and Universities said in the next few years, if present trends continue, "all but a few private institutions will be in grave peril."

Without public subsidies, private colleges have been forced to increase their tuitions, weakening their competitive position. They are "in the position of a thriving business that finds itself confronted with an intrinsically strong and heavily subsidized competitor which can sell its product at one-fifth the price," the report said.

The council calls for public grants to students at private colleges to offset the difference between the tuition they pay and the lower tuition at public institutions. If the public grants averaged $400 per student, the total cost to be borne by the states would amount to $840 million annually.

Pleas for added help for private colleges and universities are coming at a strategic time. Congress this year is expected to revise existing federal legislation on student aid which Pouncey said is not sufficient to save private colleges.

Congressional leaders so far have said they doubt any massive increases in federal aid to students or institutions will be adopted in the face of mounting federal budget deficits and a deteriorating economy.

MEMBERS INTRODUCE THE CONSUMER ENERGY ACT

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. MOSS. Mr. Speaker, today I am introducing the Consumer Energy Act on behalf of myself and 10 other Members of Congress. The following Members are cosponsoring the Consumer Energy Act: Mr. Dingell, Mr. Rooney of Pennsylvania, Mr. Adams, Mr. Eckhardt, Mr. Carney, Mrs. Sullivan, Mr. Reuss, Mr. Corman, Mr. Harrington, and Ms. Abzug. We will be seeking the support of additional Members who are concerned with the impact of the energy shortage on the consumer in the days ahead.

The Consumer Energy Act is an affirmative congressional program. It is an alternate to the administration's policy of inaction at first, then contradictory statements and policies primarily reflecting the interests of the major oil producers and not the American people.

Once again the administration has asked almost nothing from the giant oil companies and almost everything from the consumer.

The purpose of the Consumer Energy Act is to provide a consumer energy program that is comprehensive, practical, and fair to both the public and the oil industry. It is designed to distribute more fairly the burdens of the energy shortage, provide essential information on energy costs and supplies to the public, infuse new vitality and competition into the oil industry, and increase supplies to the consumer at reasonable prices.

The following is a summary of the background and major provisions of the Consumer Energy Act:

BACKGROUND

Serious questions were raised concerning the nature and extent of the energy shortages. Statistics are not reliable and the Government is solely dependent upon data which the oil industry releases.

Consumers have been asked to restrict their driving, to slow down when they do drive, to turn down their thermostats, and increasing numbers are losing their jobs. At the same time, rising prices have increased petroleum company revenues by almost $25 billion on an annual basis. Such large amounts cannot be spent on new exploration and development, and it has been estimated that about $13 billion of the major oil companies' $25 billion in additional revenues will generate windfall profits.

Last year we offered some predictions about what would happen as to the result of the administration's policy of excessive energy prices and said that it would do much more than give excess profits to oil companies. We said:

> Such a policy of excessive price increases can have dramatic impact on the economy in 1974. It is likely that the rate of inflation will be accelerated. The level of unemployment will be higher. There will be shortages resulting in dislocation to many industries. The median forecast of some 20 different economic forecasting groups, including the Council of Economic Advisers, predicts an inflation rate next year of 5.9 percent. The estimates of next year's unemployment level range from about 6 to 9 percent. The Consumer Price Index advanced about 9 percent in 1973, the highest rise in more than 22 years. Many of these economic forecasts do not reflect the increases in petroleum prices which have already occurred which are likely to accentuate the Nation's economic ills.

Twelve months have passed since we offered those grave predictions. We now have the benefit of hindsight to see if those estimates were accurate. In fact, they were conservative.

As for the future, the impact of higher energy prices are likely to continue to accelerate for a long time to come—unless we act soon. Rising energy prices are causing consumer discontent, as most vividly illustrated by the violence which flared along the Nation's major highways as independent truckowners protested the rising price of diesel fuel.

As spring approaches and the demand for gasoline and other fuels increases, the lines at gasoline stations may reappear and grow long while tempers become shorter.

Increasingly, critics are suggesting drastic solutions to the Nation's energy shortages: nationalization, complete breakup of the major oil companies, or total regulation and domination of the industry by the Government.

The Consumer Energy Act rejects this approach. Its focus is on revitalization of the free enterprise system and encouragement of competition while providing the minimum amount of regulation that is needed to protect the consumer from those sectors of the industry that are not workably competitive, or in which market forces are inoperative. The goal of the Consumer Energy Act is to make the free enterprise system work.

THE CONSUMER ENERGY ACT IN BRIEF

The principal thrust of the Consumer Energy Act is to create incentives toward a gradual and orderly restructuring of the natural gas and oil industry by enlarging the market share and influence of the independent producer.

Currently, there are more than 10,000 oil and gas producers in the United States. Approximately 90 percent of the Nation's production, however, is controlled by a dozen natural gas and oil companies. Because of increasing concentration, the ranks of the independent oilman have until recently, been dwindling rapidly.

In 1954, there were about 40,000 oil producers in the United States. Today, there are less than one-quarter that number. These independent producers are often small entrepreneurs who are willing to risk their fortunes on the discovery of oil. Although they do 80 to 90 percent of the wildcatting in the Nation, many of them cannot afford to engage in expensive production drilling, and as a result, most of the oil and gas production in the United States today is not done by the independents, the risk takers, but by the major oil companies.

As the cost of drilling increases, as seismic and geological techniques become more sophisticated, as new discoveries are made in more remote areas or far offshore, as lease bonuses increase and as construction costs soar, the independent oilman is becoming an endangered species. The proposed bill is intended to reverse this trend.

It provides special incentives to independents—price deregulation, access to Federal lands, access to oil pipelines, protection for both independent and franchised dealers. It is hoped that with these incentives the market share of the independent sector of the oil industry will increase from the current 10 to 40 percent in a decade. Independents will then be a viable competitive force in the marketplace; at that time it may be appropriate to review the need for price controls on major producers.

The Consumer Energy Act also proposes new incentives for the major oil companies. The premise of the bill is that the free market is the best allocator of scarce resources, but for the free market system to work properly, multinational oil companies must be structured competitively.

Mounting evidence suggests that the discipline of the marketplace is not operating to establish reasonable oil prices for products sold by major petroleum companies. Instead of market forces, the world oil price is determined by an oil-producing cartel.

Oil that is selling on the world market for $11.60 costs but $0.15 to produce in the Middle East. World oil prices and, consequently, domestic oil prices have soared not because of the operation of the free market but because of the monopoly power primarily of a few Middle Eastern nations.

Since the discipline of the free market is not functioning effectively with respect to the major oil companies, the consumer is faced with two choices: First, tolerate the distortions and misallocations resulting from oligopolistic or monopolistic supply and pricing patterns; or second, endure the difficulties associated with regulation and effective control.

The Consumer Energy Act proposes, for the major companies, a firm, fair stream-lined, and workable system of price controls and incentives to encourage maximum efficient levels of production of oil and gas at reasonable prices. This goal would be achieved by a reformed system of Federal Power Commission oversight and the establishment of a Federal Oil and Gas Corporation as a supplier of last resort.

A synopsis of the Consumer Energy Act follows:

SYNOPSIS OF THE CONSUMER ENERGY ACT

TITLE I—NATURAL GAS AND OIL REGULATORY REFORM

Because natural gas and oil are generally produced by the same companies, often from the same wells, and because both fuels are generally end-use substitutes for each other, the bill proposes to treat both fuels uniformly for purposes of well-head price regulation. For the largest multinational companies, the ones that remain subject to FPC controls, these controls would apply to the well-head prices of both natural gas and oil.

The bill proposes to deregulate small producers. Small producers would be any producer of natural gas or oil solely engaged in the business of exploration, development, and production of natural gas or oil in the United States, as well as any one of the following sectors of the oil industry: transportation, refining, or marketing. Such producers are relatively competitively structured. They do not administer prices. Any increase in price to them can be reasonably expected to result in larger supplies of needed energy sources for the United States.

In order for price controls to operate fairly and effectively, all producers in the same class should be subject to a fair system of regulation. The Consumer Energy Act proposes that the largest companies subject to regulation should be subject to controls both in the interstate and intrastate markets. This approach, however, does not interfere with traditional State jurisdiction over intrastate producers. The bill proposes that the Federal Power Commission would not exercise such jurisdiction if the producing State regulatory commission meets certain minimum standards to insure adequate attention to the interests of the Nation as a whole.

One of the valid objections raised by the industry to current Federal Power Commission practices is the enormous regulatory lag associated with the establishment of well-head prices. The bill proposes to simplify this process by providing an annual review of rates on a national basis with regional adjustments, effective Congressional oversight, and restriction on judicial review. The national area rate would be established at a rate justified by the costs of exploration, development, operation, or maintenance, including a fair rate of return. It further provides the FPC with authority during shortages to equitably allocate petroleum supplies among all customers and regions of the Nation.

In order to assure the independence of the Federal Power Commission, this section would require the Commission to concurrently submit its budget estimates and legislative recommendations to Congress and the Executive Branch. It would permit the Commission to undertake civil actions in its own name and through its own attorneys. To provide continued Congressional oversight, no authorization shall be for more than 3 years.

It is proposed here that the Commission undertake an evaluation of proved and potential reserves of natural gas and oil in the United States and to undertake an updating of such an evaluation each year. The Federal Trade Commission in consultation with the Federal Power Commission is also authorized to collect the information needed to carry out the purposes of this Act.

TITLE II—EMERGENCY INTERIM RELIEF FOR CONSUMERS OF OIL

This title would impose a temporary interim price rollback for all domestically produced crude oil prices to December 1, 1973, price levels. Price increases since that time would also be rolled back, except for actual nonpetroleum cost increases, such as gasoline station overhead that have occurred since then. It is designed to supplement the rollback under the Energy Emergency Act of 1973 (now in conference), to reduce the windfall profits earned by petroleum companies last year, and to slow the runaway inflation fueled primarily by skyrocketing energy prices.

TITLE III—FEDERAL OIL AND GAS CORPORATION

Title III would establish a Federal Oil and Gas Corporation to explore, develop, and produce natural gas and oil from publicly owned lands. The Corporation is intended to satisfy national energy needs, stimulate competition in the petroleum business, and provide the public with knowledge of the actual cost of producing oil and gas so that public policy can be geared to the Nation's interests. It would give the Nation a yardstick against which to judge the performance and pricing of the private oil companies. It could provide a means for effective exploration of Federal lands, the establishment of strategic reserves, and provide the Nation with a supplier of last resort. It is not the purpose of this title to provide a forerunner for nationalizing the American petroleum industry. Its purpose is to develop public resources while preserving the free enterprise system in the oil and gas industry. It would provide a spur, a yardstick, an incentive for competition. The Federal Oil and Gas Corporation proposal is modeled after the highly successful record and structure of the Tennessee Valley Authority.

TITLE IV—EQUAL TREATMENT FOR SMALL PRODUCERS OF OIL AND GAS

Title IV requires that petroleum pipelines, which are the highways of the oil industry, be open to all who wish to ship their products. Currently, these pipelines are owned by a few of the largest major oil companies. Yet, they are the lifeline upon which independent producers, refiners, and marketers depend. The title would perfect the Interstate Commerce Commission's authority to assure that oil pipelines are common carriers in fact as well as in name. It provides that petroleum pipeline owners establish service and storage facilities for independent producers and refiners who meet reasonable minimum requirements. If the Interstate Commerce Commission does not substantially respond to complaints of unfair treatment, then the Federal Power Commission is given authority over oil pipelines to assure that appropriate action is taken.

The title also proposes the establishment of a new system of bidding for drilling rights on Federal land under which at least 50 percent of the lease sales would be made on the basis of royalty rather than bonus bidding. The present bonus bidding system for rights to develop offshore lands requires an enormous initial capital outlay on the part of the successful bidder. The effect of this system is to exclude small and independent oil companies from the opportunity to develop natural gas and oil on public lands, except in joint ventures with major corporations. By moving toward a royalty system of bidding on an experimental basis, such entry barriers could be reduced and the small independent bidder would have a better chance of gaining access to the offshore properties which contain a large percentage of the Nation's future oil and gas supplies. The royalty bidding experiment would be combined with a system of performance requirements and royalty adjustments to assure the maximum efficient level of production over the life of the reservoir and the maximum return to the U.S. Treasury.

TITLE V—FAIR TREATMENT FOR RETAILERS OF PETROLEUM PRODUCTS

Shortages of fuel have fallen unevenly among the Nation's gasoline retailers, striking particularly hard at independent retail outlets which provide significant price competition in petroleum marketing. More than 3,000 independent dealers were forced to close their doors last year. In addition, branded dealers are often faced with a severe bargaining disadvantage when dealing with major oil companies. Therefore, this title would protect all gasoline dealers from arbitrary termination of their leases or franchises, and assure that, in the event of shortages, supplies would be allocated fairly to all classes of retailers.

TITLE VI—TERMINATION OF WASTEFUL RATE STRUCTURES

When it appeared that the Nation's supplies of oil and gas were abundant, the Federal Power Commission provided leadership for the establishment of natural gas rate structures that now encourage waste. As consumption increases, the unit price typically declines. This title proposes to revise priorities by shifting in a gradual and orderly fashion toward rate structures that encourage conservation rather than waste.

SUMMARY

The intent of the Consumer Energy Act of 1974 is to promote competition and revitalize the free enterprise system by providing special incentives to independent producers, and by regulating those sectors of the industry where market forces in the past have proven to be inadequate. In this way, the proposed bill would increase supplies of natural gas and oil while assuring that such supplies will be provided at reasonable prices to the consumer and without an excessive inflationary impact on the Nation's fragile economy.

COMMITTEE TO INVESTIGATE INTELLIGENCE

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. HARRINGTON. Mr. Speaker, the opening of the 94th Congress coincides with tremendous public concern over the unchecked activities of our intelligence community. Recent revelations concerning domestic surveillance, the primary cause for the current furor, have prompted several congressional committees to launch investigations. However, domestic spying and other examples of illegal intelligence activity, for instance CIA covert operations in Chile, are but shadows of our intelligence dilemma which are cast only from time to time. The community itself remains a mystery, largely ignored by Congress in the past and likely to remain so if we insist, like the six blind men in the Indian fable, on inspecting only parts of the elephant.

Another negative aspect attending limited investigations of isolated intelligence transgressions is that they may reveal wrong doing without putting them in perspective. The good work of the CIA, the FBI, and other intelligence agencies may, in the search for witches, be forgotten and their ability to make positive contributions to the country impaired.

The surest way to comprehensively probe our intelligence apparatus, and at the same time put it in perspective, is a full, all-encompassing investigation such as proposed in my resolution to create a Select Committee of the House To Investigate Intelligence.

Certainly this is a propitious time to adopt such a resolution—the public sees the need, our colleagues in the Senate are considering a similar step to meet it, and the press has given support. This last has come from a number of newspapers this week, including the Washington Post and the Baltimore Sun whose editorials I am inserting in today's RECORD. I encourage my colleagues to read the following articles with one eye on public opinion and the other on preserving the aspects of intelligence.

[From the Washington Post, Jan. 14, 1975]

INTELLIGENCE AGENCIES AND THE CONSTITUTION

It is the Majority Leader's view and my view that there is a need to examine in depth to what extent, if any, covert activities are required by the United States. There is a need to understand not only the requirements of the United States for these activities, but what systems or procedures or oversight and accountability are required to assure that constitutional guarantees and processes are not abused in the future, as they have on occasion been in the past. . . .

The history of the past twenty-five years has shown that the creations authorized by the National Security Act have severely strained our constitutional system. As a consequence, there is clearly a requirement to revise the basic authorities for our intelligence agencies. But to what extent and in what ways, neither Senator Mansfield nor I can assert at this time. Nor do we believe that anyone is in an informed position to do so. From a statement by Senator Mathias, urging creation of a Select Senate Committee to study government intelligence activities.

According to Senator Mathias, in the 28 years since the creation of the Central Intelligence Agency there have been more than 200 separate resolutions and legislative proposals urging the reform one way or another of the agency itself. And the amount of reform that has been achieved by this ad hoc approach has been almost nonexistent. Now the reformers are having another go; fresh resolutions are being prepared and several different congressional committee hearings are under way on various aspects of the latest crisis in CIA's affairs. We think Senators Mansfield and Mathias, and Rep. Michael J. Harrington, have a better idea. The two senators are supporting a resolution to set up a select Senate committee, equally divided between Democrats and Republicans, to study not just CIA but all domestic and foreign intelligence activities of the United States government. It would review the past, report on the present and make some proposals for the future. Mr. Harrington would establish a new House Select Committee on Intelligence, which would also take a broad view of the intelligence problem, which addresses itself to the particular allegations which have recently been made against the CIA.

The point of all this, as we understand it, is by no means to pre-empt or postpone an urgent examination of the ways in which the CIA appears to have gone beyond its legislative charter over the years. On the contrary, we think that this matter cannot be left solely to President Ford's "blue ribbon" commission and that standing committees of both houses have some responsibility to make immediate inquiries into charges which have raised serious questions in the public mind about whether assorted intelligence agencies of the federal government are even now under effective control. But none of these committees has a sufficiently broad area of interest to undertake the sort of full-scale investigation that is sorely needed.

For what is sorely needed is not only to know whether on this or that occasion, or in this or that particular fashion, the CIA or the FBI or other intelligence operations have violated regulations or the laws in ways that impinge on the rights of private citizens. Rather, it also seems necessary at this point to go back to the drawing board and reexamine in the most searching and painstaking way what this country's current requirements are in terms of an intelligence capability and how that capability can best be accomplished without undermining constitutional rights of individuals or putting at risk our legitimate national security interests. There is no use pretending that these two objectives are not by their nature in conflict much of the time. Just as there are risks to rights of privacy in any domestic intelligence operation so there would be a risk to our national security in ending secret intelligence activities by the government. Unless you are prepared to accept extreme solutions, one way or the other, it comes down to a balancing of risks and some very hard choices.

And it also comes down to the question of who does the balancing and to what extent the decisions are subject to effective supervision and control by both the Congress and the Executive Branch. Clearly some of the intelligence machinery and some of the practices have outlived their usefulness. But this is not necessarily to say that a wholesale dismantling is indicated. The point is to decide, first, what the real requirements are. That is why the proposals for broad and searching congressional inquiries by select committees strike us as a good idea.

[From the Baltimore Sun, Jan. 14, 1975]

INVESTIGATING THE CIA

The Rockefeller Commission began yesterday its investigation into charges that the Central Intelligence Agency illegally spied on American citizens and otherwise violated constitutional rights. The commission's membership was drawn from so narrow a range of individuals, and so many of the members have previous ties to the intelligence community, that it is unlikely the results of its work will be widely accepted. At any rate, the burden is definitely on the commission to prove that it is not in the whitewash business.

Meanwhile, there is a need for something else. Congress ought—at last—to take a good look into the whole question of intelligence operations in this country. We don't mean just the CIA's surveillance of so called dissidents, we mean the operations of the CIA lock, stock and barrel. And we mean the Defense Intelligence Agency and the Federal Bureau of Investigation and all the rest. It is being overlooked these days, but just a few weeks before this CIA story broke, Attorney General Saxbe reported that the FBI had been performing "counter-intelligence" operations against American citizens and organizations from 1956 through 1971. "Abhorrent in a free society" concluded the Justice Department study team that unearthed the practices.

What we have in mind is not—definitely not—more of the same old cozy "oversight" by the CIA subcommittees of the House and Senate Armed Services and Appropriations committees. Their performance has been a disgrace. Only last year the senior members of those subcommittees prevented Congress and the nation from getting even an idea of how much the CIA spends, much less what it spends it for. For such senators as John Stennis and John McClellan and such representatives as Lucien Nedzi now to claim jurisdiction in investigating the CIA is to assume that Congress will forget and forgive their years of nonfeasance.

What is needed, it seems to us, is the creation of special new committees after the fashion of the Senate Select Committee on Presidential Campaign Activities (the Ervin Committee) in both House and Senate. Senators Charles Mathias and Mike Mansfield proposed a Senate committee of that sort last year, and Mansfield is going to propose it again officially today. Representative Michael Harrington is pushing for such a select committee on the House side. Decision appears to rest in the hands of the Democratic Steering Committee.

These committees, if they come into existence, should draw their membership from senators and representatives of diverse backgrounds and interests. Not only should there be specialists in military and security affairs but also experts in constitutional law and government operations. Intelligence gathering organizations of the sort now in dispute may be necessary in a free society, but if they are, elected public officials have the responsibility to monitor their activities and to make sure that constitutional rights are not sacrificed to expediency or to secrecy.

OUR 200TH ANNIVERSARY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. DERWINSKI. Mr. Speaker, as we approach the 200th anniversary of our country in 1976, we will again have a major congressional election campaign. Interest in the two is of nonparallel consideration.

It is with this thought that I bring to the attention of the Members an article by my good friend and constituent, Joseph T. Meek of Western Springs, Ill., who was the founder of the Illinois Retail Merchants Association, delegate to the Illinois Constitutional Convention, and an outstanding civic and political leader in Cook County. The article very logically addresses itself to the relationship of the voter to the Bicentennial celebration.

The article follows:

VOTING IS THE REAL BICENTENNIAL CELEBRATION

(By Joseph T. Meek)

The Bicentennial observance in 1976 must, to carry any significance and have any effect on a new and mistrusting generation, recreate in the citizens a deep sense of responsibility for and participation in the governing of their country.

We hope a strong, nonpartisan, nationwide effort will be made to have 100 million registered voters by the Fourth of July, 1976—a pointed way to the peak of patriotism, earned participation.

By November, 1976, we would like to see three-fourths of those voters at the polls to insure, at least, that the majority has spoken.

Already a vigorous but small group of senior citizens is supporting a "Bicentennial Committee of 100 Million Americans," working hard toward this goal. These worried patriots deserve the united strength of the nation.

Dr. Mark Krug of the University of Chicago and others, including this writer, have been working with high school and college students and their teachers to develop conscientious, dedicated citizens. Modern America is seemingly as unacquainted with the meaningfulness of its vote as is the citizen who, for the first time, becomes old enough to vote.

To the new generation, Dr. Krug wrote: "Americans will love America the more, not less, when they gain an insight into the fact that generations past have built America soundly and well. These past generations have left for new generations the task of improving and refining our way of life and the government which permits it to develop as free citizens want it and not as dictators desire it . . .

"The young in particular, must be deeply imbued with and committed to the American creed. . . ."

Part of the lesson we must learn from the coming Bicentennial is that we must intelligently defend the advantages of our way of life, our system of government.

The Bicentennial ought not only entertain but inform millions of Americans that political competence is essential to the protection and advancement of whatever profession the new voter selects or the voter tries to follow.

Most of us, in school and out, have been taught only the advantages of governmental processes, but have never been taught the essential steps of selection, nomination, and election, which is the "Fancy Dan" stuff gone to work—politics!

Many men and women in government are cynical, frustrated, and disillusioned. Those conditions have been brought about not by the processes but tragically marked by the apathy, carelessness, and criticism of those who take our nation for granted.

We have told students to never become cynical about politics, that, in a real sense, it is the only game in town.

Politics is the life blood of a democracy, of a republic. It is the fuel that propels the engine of a free society. To profess love for the democratic form of government but ridicule and disclaim its politics is to pretend to honor a product while despising the process that creates it.

It is exactly in this area of history book hypocrisy that the young generation finds the "double-talk" which it has come to despise and shun.

The extent to which the political life of our country becomes corrupted is the result—almost entirely—of the tendency of sincere, decent, and unselfish people to wash their hands of their responsibilities and abdicate the field to the special interests, the selfish, and the cynical.

The 1976 Bicentennial will be the greatest of costly failures in our history if it glosses over what we are trying to celebrate, what we must do to have an even more glorious celebration in 2076.

Without a representative vote in 1976 our Bicentennial may well be a wake in advance of our death as a competitive two-party system. Our songs may well be dirges for a citizenry which failed to believe in and support its own existence.

PRICES VERSUS WAGE INCREASES

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 17, 1975

Mr. FINDLEY. Mr. Speaker, the editor of the Illinois State Journal-Register recently wrote a perceptive column on the relationship between prices and wage increases over the past 20 years. The text of his comment appears below:

PRICES VERSUS WAGE INCREASES

(By Ed Armstrong)

One of our readers sent me a letter a few days ago about what she considered irresponsible or incomplete reporting. It referred to a chart in Parade Magazine, the newspaper supplement produced by Parade Publications and distributed as part of the Sunday State Journal-Register.

I hope she will forgive me for using her letter here instead of in our letter column. I'm doing so because it includes some things that I believe deserve discussion and the making of some points beyond the valid point she makes.

Here is what she wrote:

EDITOR: We know there is inflation but it isn't as bad as it is printed by a chart in your Parade Magazine on Jan. 5, which purported to reflect the purchasing power of the dollar from 1944 to 1974.

What the chart left out was the wage increases people have received during the same period.

We are just an ordinary family. My husband works in public utilities. I do not have available exact figures for 1944, but based on 1954, 1964 and 1974 figures, his hourly wage was $3.13 in 1954, $5.07 in 1964 and $8.10 in 1974.

Based on those hourly rates and using the Parade chart, here's what our hour's pay would buy of each of these items in the three comparable years:

Steak—3 lbs. in '54, 4 lbs. in '64 and 4 lbs. in '74.

Sugar—6 lbs. in '54, 8 lbs. in '64 and 3 lbs. in '74. (This one's a baddie).

Bread—19 loaves in '54, 24 loaves in '64 and 22 loaves in '74.

Coffee—2 lbs. in '54, 6 lbs. in '64 and 6 lbs. in '74.

Eggs—5 dozen in '54, 8 dozen in '64 and 9 dozen in '74.

Milk—3 gallons in '54, 5 gallons in '64 and 5 gallons in '74.

Lettuce—15 heads in '54, 20 heads in '64 and 18 heads in '74.

Butter—4 lbs. in '54, 6 lbs. in '64 and 8 lbs. in '74.

Postage Stamps (for ordinary first class letter)—101 in '54, 101 in '64 and 81 in '74.

Gasoline—10 gallons in '54, 16 gallons in '64 and 15 gallons in '74.

Most people want to go back to 1954 prices but they would not go back to 1954 wages! So, when reading charts such as this, take into consideration the rise in wages during the same period.

NAME WITHHELD.

She accompanied it with a signed note saying, "It always irks me to see only one side of the coin," and requesting that her name be withheld because she thinks it shouldn't be everyone's business how much her husband earns.

She's right that just telling how much prices have gone up in dollar terms without reflecting how many more dollars wage earners are receiving is telling only half the story. And she's right that most of us would like to have 20-year-ago prices but we wouldn't settle also for 20-year-ago wages. It's human nature to want more and better than what we have, and that's what we'd have if we had '54 prices and '74 wages.

But while the Parade chart showed one side of the coin, and this reader's letter presented the other side, I suggest that the coin also has some edges.

Her figures put the situation in perspective so far as the salaried person is concerned, the one whose hourly pay has steadily increased along with inflation.

But let's take the guy or gal who retired on a fixed dollar pension around 1964. Where does this leave that person? Hungry, maybe? The list of commodities on the chart has gone up 80 percent in 10 years. Social Security and some other pensions have been increased during that 10 years, but many have not. And a lot of retirees who thought they had it pretty well made now find out they don't.

There's something else the letter writer's figures show that affects millions of Americans and is the source of much of the concern and pessimism today.

Between 1954 and 1964, her husband's wages went up about 62 percent. Of the 10 commodities on the chart, his wages would buy more of nine of them and the same of one—stamps—in 1964. He could buy far more coffee, eggs, milk and gasoline with an hour's pay in 1964 than he could buy 10 years earlier. There was not a single item on the list that he'd have to work longer to buy.

Clearly living standards of people as measured in consumer goods were going up in that decade.

Now, what happened between 1964 and 1974?

Although her husband's salary went up another 60 percent, almost as much as it did the previous decade, his salary would buy more of only two commodities of the 10 on the chart. It would buy the same amount of three and less of five.

This is the essence of today's inflationary economy: more salary is buying less goods.

Thus, a people who were accustomed to a long period of steadily growing affluence now find themselves having to fight to stay even.

This is the situation the leaders of our country are trying to turn around, but the question is: Do any of them really know how to do it?

HOUSE OF REPRESENTATIVES—*Monday, January 20, 1975*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let your light so shine before men, that they may see your good works, and glorify your Father who is in heaven.—Matthew 5: 16.

O Lord, our God, as in reverence we bow before Thee, breathe upon us Thy Spirit that with honor bright, hearts pure, and hands clean we may face the duties of this demanding day. Send us forth into these hours ready to do the right, without fear or favor, firm in the conviction that at the heart of the universe goodness reigns and truth will ultimately prevail.

We pray for our country. May ill will, greed, and all selfish endeavors be swept away by the power of Thy Spirit and may honor, justice, cooperation in service, and self-sacrifice for the good of all flourish abundantly among us.

Make us one in spirit as we give ourselves in deep devotion to the welfare of our beloved Nation.

In the spirit of Christ, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

PROCEDURE WITH RESPECT TO SUBMITTING EXTENSIONS FOR RECORD SHOULD BE CHANGED BACK

(Mr. BINGHAM asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, late last summer, because of the most misguided humor of some unknown individuals, presumably interns, a very stringent rule was announced with regard to placing material in the Extensions of Remarks section of the CONGRESSIONAL RECORD. It seems to me that this rule should now be reexamined, particularly since we have short sessions in this period of the Congress. We should not be limited to 15 minutes after the session ends within which to place material in the Extensions of the RECORD.

I would earnestly suggest that, if the Member signs the document that is to be placed in the Extensions of the RECORD, we could safely go back to the old system, which was most convenient for the Members, of placing the material in the various boxes.

If for some reason that is not feasible, then I would urge that at least we be given until 5 o'clock or 6 o'clock in the afternoon or within 15 minutes after the session ends, whichever is later, to submit our insertions.

W. R. "BOB" POAGE MOST COMPLETELY QUALIFIED MEMBER OF AGRICULTURE COMMITTEE TO SERVE AS CHAIRMAN

(Mr. SEBELIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEBELIUS. Mr. Speaker, the comments I am about to make are based upon the fact that I have the responsibility of representing as best I can the citizens within my congressional district and our Nation.

I realize many may think my remarks uncalled for as well as an intrusion into a political matter that I have no business discussing. I can only say I am speaking from the heart. I would feel negligent if I did not speak out.

The best friend that the American consumer—and I want to stress that, the

American consumer—and the farmer and stockman has had during the 6 years I have had the privilege of serving in this body has been W. R. "Bob" Poage. He is also the most knowledgeable, best informed, and most completely qualified member of the Agriculture Committee to serve as chairman.

I want to stress that I say this with high personal regard and great respect for the fine ability of others on the committee who are eligible for consideration as chairman.

As a member of the minority in this legislative body, I want to go on record as pleading with the majority Members to reconsider their action of last week. Decisions within the House Agriculture Committee affect not only our farmers but also such issues as our Nation's food supply and the humanitarian fight against hunger and malnutrition worldwide.

In the interest of finding workable answers to these problems and assuring the American people adequate supplies of food and fiber at a reasonable cost, I plead with my colleagues to let the most sincere, qualified, and experienced member of the committee continue to serve as its leader for the next 2 difficult years.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The SPEAKER. The Chair desires to make an announcement. The Chair has been advised that the electronic voting system is at the present time not operable. Until further notice, therefore, all votes and quorum calls will be made by standby procedures which are provided in the rule.

The Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 6]

Abdnor
Addabbo
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Archer
Badillo
Bafalis
Baldus
Barrett
Bell
Biaggi
Biester
Boggs
Brinkley
Brown, Mich.
Burgener
Burke, Calif.
Burke, Fla.
Burlison, Mo.
Butler
Chisholm
Clancy
Clay
Cleveland
Cochran
Collins, Ill.
Conte
Conyers
Crane
D'Amours
Davis
de la Garza
Dent
Diggs
Downing
Duncan, Tenn.
Du Pont
Edgar
Eilberg
Erlenborn
Esch
Eshleman
Evans, Ind.
Florio
Flowers
Flynt
Ford, Tenn.
Frey
Gibbons
Gilman
Harkin
Harsha
Hawkins
Hébert
Hefner
Helstoski
Holland
Holtzman
Hutchinson
Johnson, Colo.
Ketchum
Kindness
Kluczynski
Krueger
LaFalce
Lent
McCloskey
McEwen
McKinney
Macdonald
Madigan
Mann
Matsunaga
Melcher
Milford
Mills
Mitchell, Md.
Moffett
Murphy, Ill.
Murphy, N.Y.
Myers, Ind.
Nix
Obey
Patten
Pattison, N.Y.
Pettis
Peyser
Preyer
Railsback
Richmond
Riegle
Runnels
Schroeder
Shuster
Sisk
Snyder
Solarz
Staggers
Stanton, James V.
Steiger, Ariz.
Studds
Symms
Teague
Udall
Vander Jagt
Walsh
Whalen
Whitehurst
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Wolff
Wydler
Young, Ga.

The SPEAKER. On this rollcall 319 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ELECTION TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 76) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. Res. 76

Resolution designating membership on certain standing committees of the House

Resolved, That the following-named Members, Delegates, and Resident Commissioner be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Appropriations: George H. Mahon (chairman), Texas; Jamie L. Whitten, Mississippi; Robert L. F. Sikes, Florida; Otto E. Passman, Louisiana; Joe L. Evins, Tennessee; Edward P. Boland, Massachusetts; William H. Natcher, Kentucky; Daniel J. Flood, Pennsylvania; Tom Steed, Oklahoma; George E. Shipley, Illinois; John M. Slack, West Virginia; John J. Flynt, Junior, Georgia; Neal Smith, Iowa; Robert N. Giaimo, Connecticut; Joseph P. Addabbo, New York; John J. McFall, California; Edward J. Patten, New Jersey; Clarence D. Long, Maryland; Sidney R. Yates, Illinois; Bob Casey, Texas; Frank E. Evans, Colorado; David R. Obey, Wisconsin; Edward R. Roybal, California; Louis Stokes, Ohio; J. Edward Roush, Indiana; Gunn McKay, Utah; Tom Bevill, Alabama; Bill Chappell, Junior, Florida; Bill D. Burlison, Missouri; Bill Alexander, Arkansas; Edward I. Koch, New York; Yvonne Brathwaite Burke, California; John P. Murtha, Pennsylvania; Bob Traxler, Michigan; Robert Duncan, Oregon; Joseph D. Early, Massachusetts; Max Baucus, Montana.

Committee on the District of Columbia: Charles C. Diggs, Junior (chairman), Michigan; Donald M. Fraser, Minnesota; W. S. (Bill) Stuckey, Junior, Georgia; Ronald V. Dellums, California; Thomas M. Rees, California; Walter E. Fauntroy, District of Columbia; James J. Howard, New Jersey; James R. Mann, South Carolina; Romano L. Mazzoli, Kentucky; Les Aspin, Wisconsin; Herbert E. Harris, II, Virginia; Dan Daniel, Virginia; Jerry Litton, Missouri; Helen S. Meyner, New Jersey; Henry J. Nowak, New York; Philip R. Sharp, Indiana; James J. Florio, New Jersey.

Committee on Education and Labor: Carl D. Perkins (chairman), Kentucky; Frank Thompson, Junior, New Jersey; John H. Dent, Pennsylvania; Dominick V. Daniels, New Jersey; John Brademas, Indiana; James G. O'Hara, Michigan; Augustus F. Hawkins, California; William D. Ford, Michigan; Patsy T. Mink, Hawaii; Lloyd Meeds, Washington; Phillip Burton, California; Joseph M. Gaydos, Pennsylvania; William (Bill) Clay, Missouri; Shirley Chisholm, New York; Mario Biaggi, New York; Ike F. Andrews, North Carolina; William Lehman, Florida; Jaime Benitez, Puerto Rico; Michael T. Blouin, Iowa; Robert J. Cornell, Wisconsin; Theodore M. (Ted) Risenhoover, Oklahoma; Paul Simon, Illinois; Edward P. Beard, Rhode Island; Leo C. Zeferetti, New York; George Miller, California; Ronald M. Mottl, Ohio; Tim L. Hall, Illinois.

Committee on Foreign Affairs: Thomas E. Morgan (chairman), Pennsylvania; Clement J. Zablocki, Wisconsin; Wayne L. Hays, Ohio; L. H. Fountain, North Carolina; Dante B. Fascell, Florida; Charles C. Diggs, Junior, Michigan; Robert N. C. Nix, Pennsylvania; Donald M. Fraser, Minnesota; Benjamin R. Rosenthal, New York; Lee H. Hamilton, Indiana; Lester L. Wolff, New York; Jonathan B. Bingham, New York; Gus Yatron, Pennsylvania; Roy A. Taylor, North Carolina; Michael Harrington, Massachusetts; Leo J. Ryan, California; Charles Wilson, Texas; Donald W. Riegle, Junior, Michigan; Cardiss Collins, Illinois; Stephen J. Solarz, New York; Helen S. Meyner, New Jersey; Don Bonker, Washington.

Committee on Government Operations: Jack Brooks (chairman), Texas; L. H. Fountain, North Carolina; John E. Moss, California; Dante B. Fascell, Florida; Henry S. Reuss, Wisconsin; Torbert H. Macdonald, Massachusetts; Wiliam S. Moorhead, Pennsylvania; Wm. J. Randall, Missouri; Benjamin S. Rosenthal, New York; Jim Wright, Texas; Fernand J. St Germain, Rhode Island; Floyd V. Hicks, Washington; Don Fuqua, Florida; John Conyers, Junior, Michigan; Bella S. Abzug, New York; James V. Stanton, Ohio; Leo J. Ryan, California; Cardiss Collins, Illinois; John L. Burton, California; Richardson Preyer, North Carolina; Michael Harrington, Massachusetts; Robert F. Drinan, Massachusetts; Edward Mezvinsky, Iowa; Barbara Jordan, Texas; Glenn English, Oklahoma; Elliott H. Levitas, Georgia; David W. Evans, Indiana; Anthony Toby Moffett, Connecticut; Andrew Maguire, New Jersey.

Committee on Interior and Insular Affairs: James A. Haley (chairman), Florida; Roy A. Taylor, North Carolina; Harold T. Johnson, California; Morris K. Udall, Arizona; Phillip Burton, California; Thomas S. Foley, Washington; Robert W. Kastenmeier, Wisconsin; Patsy T. Mink, Hawaii; Lloyd Meeds, Washington; Abraham Kazen, Junior, Texas; Robert G. Stephens, Junior, Georgia; Joseph P. Vigorito, Pennsylvania; John Melcher, Montana; Teno Roncalio, Wyoming; Jonathan B. Bingham, New York; John F. Seiberling, Ohio; Harold Runnels, New Mexico; Antonio Borja Won Pat, Guam; Ron de Lugo, Virgin Islands; Bob Eckhardt, Texas; Goodloe E. Byron, Maryland; Jaime Benitez, Puerto Rico; Jim Santini, Nevada; Paul E. Tsongas, Massachusetts; Allan T. Howe, Utah; James Weaver, Oregon; Bob Carr, Michigan; George Miller, California; Theodore M. (Ted) Risenhoover, Oklahoma.

Committee on Interstate and Foreign Commerce: Harley O. Staggers (chairman), West Virginia; Torbert H. Macdonald, Massachusetts; John Jarman, Oklahoma; John E. Moss, California; John D. Dingell, Michigan; Paul G. Rogers, Florida; Lionel Van Deerlin, California; Fred B. Rooney, Pennsylvania; John M. Murphy, New York; David E. Satterfield III, Virginia; Brock Adams, Washington; W. S. (Bill) Stuckey, Junior, Georgia; Bob Eckhardt, Texas; Richardson Preyer, North Carolina; James W. Symington, Missouri; Charles J. Carney, Ohio; Ralph H. Metcalfe, Illinois; Goodloe E. Byron, Maryland; James H. Scheuer, New York; Richard L. Ottinger, New York; Henry A. Waxman, California; Robert (Bob) Krueger, Texas; Timothy E. Wirth, Colorado; Philip R. Sharp, Indiana; William M. Brodhead, Michigan; W. G. (Bill) Hefner, North Carolina; James J. Florio, New Jersey; Anthony Toby Moffett, Connecticut; Jim Santini, Nevada.

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Arkansas; Elizabeth Holtzman, New York; Edward Mezvinsky, Iowa; Herman Badillo, New York; Romano L. Mazzoli, Kentucky; Edward W. Pattison, New York; Christopher J. Dodd, Connecticut; William J. Hughes, New Jersey; Martin A. Russo, Illinois.

COMMITTEE ON MERCHANT MARINE AND FISHERIES: **Leonor K. (Mrs. John B.) Sullivan (chairman), Missouri; Thomas L. Ashley, Ohio; John D. Dingell, Michigan; Thomas N. Downing, Virginia; Paul G. Rogers, Florida; John M. Murphy, New York; Walter B. Jones, North Carolina; Robert L. Leggett, California; Mario Biaggi, New York; Glenn M. Anderson, California; E. de la Garza, Texas; Ralph H. Metcalfe, Illinois; John B. Breaux, Louisiana; Fred B. Rooney, Pennsylvania; Paul S. Sarbanes, Maryland; Bo Ginn, Georgia; Gerry E. Studds, Massachusetts; David R. Bowen, Mississippi; Joshua Eilberg, Pennsylvania; Ron de Lugo, Virgin Islands; Carroll Hubbard, Junior, Kentucky; Don Bonker, Washington; Les AuCoin, Oregon; Norman E. D'Amours, New Hampshire; Jerry M. Patterson, California; Leo C. Zeferetti, New York; James L. Oberstar, Minnesota.**

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COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION: Robert E. Jones (chairman), Alabama; John C. Kluczynski, Illinois; Jim Wright, Texas; Harold T. Johnson, California; David N. Henderson, North Carolina; Ray Roberts, Texas; James J. Howard, New Jersey; Glenn M. Anderson, California; Robert A. Roe, New Jersey; Teno Roncalio, Wyoming; Mike McCormack, Washington; James V. Stanton, Ohio; Bella S. Abzug, New York; John B. Breaux, Louisiana; Gerry E. Studds, Massachusetts; Bo Ginn, Georgia; Dale Milford, Texas; Norman Y. Mineta, California; Kenneth L. Holland, South Carolina; Allan T. Howe, Utah; Elliott H. Levitas, Georgia; James L. Oberstar, Minnesota; Jerome Ambro, Junior, New York; Henry J. Nowak, New York; Robert W. Edgar, Pennsylvania; Marilyn Lloyd, Tennessee.

COMMITTEE ON RULES: Ray J. Madden (chairman), Indiana; James J. Delaney, New York; Richard Bolling, Missouri; B. F. Sisk, California; John Young, Texas; Claude Pepper, Florida; Spark M. Matsunaga, Hawaii; Morgan F. Murphy, Illinois; Gillis W. Long, Louisiana; Joseph Moakley, Massachusetts; Andrew Young, Georgia.

COMMITTEE ON SCIENCE AND TECHNOLOGY: Olin E. Teague (chairman), Texas; Ken Heckler, West Virginia; Thomas N. Downing, Virginia; Don Fuqua, Florida; James W. Symington, Missouri, Walter Flowers, Alabama; Robert A. Roe, New Jersey; Mike McCormack, Washington; Bob Bergland, Minnesota; George E. Brown, Junior, California; Dale Milford, Texas; Ray Thornton, Arkansas; James H. Scheuer, New York; Richard L. Ottinger, New York; Henry A. Waxman, California; Philip H. Hayes, Indiana; Tom Harkin, Iowa; Jim Lloyd, California; Jerome Ambro, Junior, New York; Christopher J. Dodd, Connecticut; Michael T. Blouin, Iowa; Tim L. Hall, Illinois; Robert (Bob) Krueger, Texas; Marilyn Lloyd, Tennessee; James J. Blanchard, Michigan.

COMMITTEE ON SMALL BUSINESS: Joe L. Evins (chairman), Tennessee; Tom Steed, Oklahoma; John C. Kluczynski, Illinois; John D. Dingell, Michigan; Neal Smith, Iowa; James C. Corman, California; Joseph P. Abbaddo, New York; William L. Hungate, Missouri; Fernand J. St Germain, Rhode Island; Charles J. Carney, Ohio; Parren J. Mitchell, Maryland; Bob Bergland, Minnesota; Henry B. Gonzalez, Texas; James M. Hanley, New York; Gus Yatron, Pennsylvania; John Breckinridge, Kentucky; John J. LaFalce, New York; John Krebs, California; Berkley Bedell, Iowa; Frederick W. Richmond, New York; David W. Evans, Indiana; Martin A. Russo, Illinois; Alvin Baldus, Wisconsin; Richard Nolan, Minnesota; Butler Derrick, South Carolina.

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT: Melvin Price (chairman), Illinois; Olin E. Teague, Texas; F. Edward Hébert, Louisiana; John J. Flynt, Junior, Georgia; Thomas S. Foley, Washington; Charles E. Bennett, Florida.

COMMITTEE ON VETERANS' AFFAIRS: Ray Roberts (chairman), Texas; Olin E. Teague, Texas; David E. Satterfield, III, Virginia; Don Edwards, California; G. V. (Sonny) Montgomery, Mississippi; Charles J. Carney, Ohio; George E. Danielson, California; Lester L. Wolff, New York; Jack Brinkley, Georgia; Charles Wilson, Texas; Ronald M. Mottl, Ohio; Robert J. Cornell, Wisconsin; W. G. (Bill) Hefner, North Carolina, Mark W. Hannaford, California; Harold E. Ford, Tennessee; Edward P. Beard, Rhode Island; Robert W. Edgar, Pennsylvania; Timothy E. Wirth, Colorado; Kenneth L. Holland, South Carolina.

COMMITTEE ON WAYS AND MEANS: Al Ullman (chairman), Oregon; Wilbur D. Mills, Arkansas; James A. Burke, Massachusetts; Dan Rostenkowski, Illinois; Phil M. Landrum, Georgia; Charles A. Vanik, Ohio; Richard H. Fulton, Tennessee, Omar Burleson, Texas; James C. Corman, California; William J. Green, Pennsylvania; Sam M. Gibbons, Florida; Joe D. Waggonner, Junior, Louisiana; Joseph E. Karth, Minnesota; Otis G. Pike, New York; Richard F. Vander Veen, Michigan; J. J. Pickle, Texas; Henry Helstoski, New Jersey; Charles B. Rangel, New York; William R. Cotter, Connecticut; Fortney H. (Pete) Stark, California; James R. Jones, Oklahoma; Andrew Jacobs, Junior, Indiana; Abner J. Mikva, Illinois; Martha Keys, Kansas; Joseph L. Fisher, Virginia.

Mr. O'NEILL (during the reading). Mr. Speaker, in view of the fact that copies of the resolution are available and that this is simply the names of the chairman and members of all committees except four on the Democratic side, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I wonder if the distinguished majority leader could tell us what Members are not included?

Mr. O'NEILL. The committees not included are the Committee on Agriculture, the Committee on Armed Services, the Committee on Banking and Currency, and the Committee on House Administration.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman and withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROGRAM FOR TODAY AND BALANCE OF THE WEEK

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, and I address my remarks to the minority leader also, that this is the conclusion of the program of the day. There is no session scheduled for either Tuesday or Wednesday. The Democrats will meet in caucus at 9 o'clock Wednesday to complete their committee assignments and will report back to the House on Thursday, at which time it is my understanding that the Republicans will come in with a resolution concerning their Members.

Mr. RHODES. Mr. Speaker, will the distinguished majority leader yield?

Mr. O'NEILL. I am happy to yield to the gentleman from Arizona.

Mr. RHODES. The gentleman from Massachusetts is precisely correct. The work on this side is waiting for the Committee on Committees on tomorrow and, hopefully, we will have our conference on Wednesday and be ready to submit the resolution for our ranking minority member and committee members on Thursday.

Mr. O'NEILL. I do hope that we will be able to get some kind of business on the schedule for next week, but at this particular time it is really hard to say. We will have to await further developments.

There will be a session on Thursday at 12 o'clock.

ISSUES FOR ECONOMIC GROWTH

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLLINS of Texas. Mr. Speaker, as we begin the 94th Congress, we are faced with the need for a program of action against inflation and recession. President Ford outlined his recommendations last week. Today, I would like to add some specific suggestions for a positive economic growth program for America.

Congressional overspending is a primary cause of our inflation and has accentuated our recession. With a probable $50 billion deficit facing America, we need some solid, progressive legislation.

We need to rechannel the money presently going to the Federal Government and direct it to private industry to provide working capital for more jobs.

America today has more government than it wants—we have more government than we need—and we most obviously have more government than we can afford.

Here are 22 basic issues that I recommend for immediate consideration:

1. Congressional Responsibility—Let's make it clear to the Nation that the responsibility for our economic future rests with Congress. Congress wrote the poor laws and now Congress must pass good laws to correct our present situation. The President can veto, but the responsibility for action is with Congress.

2. No New Taxes—As a measure to restore

the confidence of the American people in our economy, Congress should clearly affirm that there will be no new taxes or tax increases in the next five years.

3. Welfare Rollback—Congress should roll back Federal Spending for Relief and Welfare programs to its 1970 level. With our present economic situation, this government cannot afford to be as generous as it was during our boom years. Recipients of government largess will also have to be asked to sacrifice.

4. Effective Balance—Let us call for a 10% cut in the salaries of the President, Vice-President, and Cabinet Members. Congressional salaries should be dependent on the balance of the budget. If there is a deficit, Congressmen would take a 10% cut in salary, but for every $2 billion surplus, Congressmen would receive a 1% salary increase. Hopefully, this would provide the liberal spenders in Congress with enough incentive to keep the budget in the black.

5. Trim the Federal Payroll—Congress should order the reduction of the Washington bureaucracy. It has been proven that the Regional Offices management, such as we have in Dallas, is more effective than Washington control. We should reduce the high-paying supergrade jobs in Washington by at least 20% and the rest of the Washington bureaucracy by 15%.

6. Auto Seatbelts, Interlocks and Buzzers—Federal automobile regulations have increased the sticker price of cars in America by hundreds of dollars. Let's transfer the bureaucrat in the Department of Transportation who dreams up these regulations to a permanent position in Timbuktu.

7. Discourage Welfare—It should be national policy that any welfare recipient who is offered a job paying the subsistence level has the right to refuse that job. However, such refusal will immediately result in their removal from the welfare rolls.

8. Tithing vs. Federal Subsidies—Let's encourage all Americans to practice tithing. Private contributions to churches, universities, United Funds, and foreign missions are the most effective method to finance charity. The U.S. has a trillion dollar gross national product, 35% of which is returned to governments in taxes, leaving $650 billion in income. A 10% tithe would provide $65 billion for charitable purposes. Private charity is the responsibility of individuals—the government cannot take the place of the church, nor should it try to do so.

9. The Media—During the past few years the press has been accused of biased reporting and overt distortions of the news. Their negativism has been a big influence in discouraging America. Let's encourage more balanced news coverage and find reporters who can see the brighter side of life.

10. Reduce Civilians in the Pentagon—We need to reduce the number of civilians who work in the Pentagon to previous peace-time levels. There is no need to keep a staff large enough to man a war-time Pentagon Headquarters. Reducing excessive civilian manpower will help us to stabilize the Defense budget, while maintaining or increasing the funds available for research, development, and procurement.

11. Foreign Aid—We need to eliminate excessive foreign aid. The U.S. Government has to borrow the money it gives away and pay added interest on these loans. There is no justification for America, in her present economic situation, to dig herself any deeper into debt to give foreign aid.

12. Amtrak—Let's continue profitable Amtrak operations such as those in the Washington to Boston corridor. However, Amtrak has been facing operating losses of about $150 million per year because ridership on other routes has been too low to reach a break-even level. We must close down all of Amtrak's losing runs.

13. Bring Congress Closer to the People—Congress should be in Session half of the time and spend the other half of the time working in their Districts. If each Representative spent more time in his home District, he would be better able to develop a realistic approach to the needs of his Constituents. We spend too much time in Washington and pass too many laws. We pass more laws than the country can afford and give America more government than the people want.

14. No New Construction in Washington—Congress should enact a moratorium on new construction of federal buildings within a 50 mile radius of the Washington area. There are already too many bureaucrats taking up space in our Capital.

15. Service to America—We should establish a mandatory period of service for all young men and women at age 18, or immediately following high school. They would spend one year of service in the military, or fifteen months in essential work, such as in hospitals, parks, or public works projects. They would be provided room and board, as well as $40 salary per month.

16. Earn Your Way Through College—All colleges in the U.S. that receive any type of federal funding should change to the Quarter System. This would provide students with an opportunity to work a term and go to school the next term. Two students could alternate at the same job and go through school in six years.

17. Business Incentives—In order to get our economy moving and reduce the unemployment rate, Congress should provide additional deductions for depreciation, depletion, and investment credit. With business moving forward again, economic prosperity will return to America.

18. Busing—For the conservation of energy, we should eliminate the busing of any student beyond his closest school, unless that student is in a special training program which is located beyond his neighborhood school.

19. Moratorium on pollution controls—Let's ease pollution control requirements and place a moratorium on new pollution control laws until energy needs are satisfied in this country and the inflated Middle East prices are reduced. The high cost of pollution control devices has contributed to the severe problems of the automobile industry and the increased consumption of fuel necessitated by these devices has aggravated the energy crisis.

20. Revenue sharing—With the Federal Government already in debt over $486 billion, there is no Federal money to share. Revenue sharing to the tune of over $30 billion in 5 years causes an expanded Federal budget through deficit spending.

21. Dead railroad freight tracks—Railroads should be required to terminate all dead and unprofitable trackage if they are to participate in or receive any type of Federal assistance.

22. Reduction in Government paper requirements—Excessive paperwork is an expensive part of operations in business. Unnecessary requirements should be eliminated. For instance, I would require that business no longer keep any type of record to classify any person by sex, race, color, religion or creed. This unnecessary statistical data should be completely eliminated, as America needs no quotas. The Constitution is very clear on the fact that there will be equal opportunities for all.

THE LATE JOE W. ANDERSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. Albert) is recognized for 30 minutes.

Mr. ALBERT. Mr. Speaker, it is with great sorrow and a profound sense of loss that I announce the passing of my longtime friend and former administrative assistant, Joe W. Anderson. During his years on the Hill, Joe made many friends. He was an outstanding servant, not only of my office but of the House.

Joe died suddenly on January 10 of an apparent heart attack in Teheran, Iran, where he was visiting his daughter, Mrs. Frances C. McLellan.

Joe was a native of my hometown, McAlester, and later lived for many years in Hugo, which is in the southern part of my congressional district near the Oklahoma-Texas border.

From the beginning of his distinguished service with the 1st Infantry Division in World War II until his retirement as regional director of the Veterans' Administration in 1973, Joe devoted his life to serving his country. A disabled combat veteran himself, Joe joined the Veterans' Administration as a contact representative in 1946. He was my administrative assistant from 1957 to 1959, when I was majority whip. Joe subsequently returned to the Veterans' Administration and became head of the Muskogee regional office on April 1, 1966, a post he held with distinction until his retirement on June 30, 1973.

Joe earned numerous honors throughout his life, including the Distinguished Career Service Award for "outstanding efficiency, integrity, dedication, and loyalty." Those of us who knew Joe were always aware of these qualities. He was a great friend and a great American, an original American, a proud member of the Chickasaw Indian Tribe. My whole family dearly loved him. He was one of the best friends we ever had. We shall miss him. We extend our deepest sympathies to his wife, Bernice, and to his daughter, Frances Claire, and her two children. May God comfort them in their sorrow. I include the following material at this point in the Record:

[From the Muskogee (Okla.) Daily Phoenix and Times-Democrat, Jan. 11, 1975]

Former VA Director, Joe Anderson, Dies

Former director of the Muskogee Veterans Administration Regional Office, Joe W. Anderson, died of an apparent heart attack Friday in Teheran, Iran. Anderson was in Teheran on a business and visiting trip. He was visiting his daughter, Frances C. McLellan when he was stricken.

Anderson served the Muskogee office for seven years before resigning June 30, 1973. He moved to Hugo after his resignation where he had ranching interests.

He was succeeded at the VA Regional Office by W. Troy Baker, present director.

A native of McAlester, Anderson, 57, was a Chickasaw and had served in World War Two. He served in the First Infantry Division and was awarded the Silver Star, Bronze Star, Purple Heart and Combat Infantryman's Badge.

Anderson joined the Muskogee Regional Office in 1946 as contact officer and prior to his appointment as director was assistant Area Field Director of the VA in Washington, D.C. He also served as administrative assistant to Carl Albert, speaker of the House of Representatives. He formerly was a consultant of the Division of Indian Health in the Department of Health, Education and Welfare. He also was a member of the Inter-Tribal Council of Five Civilized Tribes and Chickasaw Advisory Council.

A member of the American Legion, Veterans of Foreign Wars and Disabled American Veterans, Anderson was presented with awards for outstanding service to veterans by these three veterans groups. He also received a certificate of recognition for his service and dedication to veterans by the director of the National Committee on Jobs for Veterans.

Anderson served as chairman of the Interagency Board of U.S. Civil Service Examiners for Oklahoma, United States Civil Commission and was chairman of the Muskogee Mail Users Council. He was a member of the Governor's Committee on Jobs for Veterans and was appointed chairman of the Muskogee Jobs for Veterans.

He also was a member of the President's Committee on Employment of the Handicapped and a member of the Executive Committee of the Governor's Committee on Employment of the Handicapped.

Anderson, who received a bachelor of arts degree from the University of Kansas, was president of the board of directors of Muskogee Community Chest while in Muskogee. In addition he was past chairman and member of the Co-ordinating Committee of the Federal Combined Campaign in Muskogee.

Arrangements have not been announced.

Survivors include his wife, Bernice, of the home in Hugo; a daughter and two grandchildren, Stacey and Mike, all of Teheran; his mother, Mrs. Ghaska Rogers of Hugo, and two sisters, Mrs. Robert N. Welch of Hampton, Virginia, and Mrs. Tom Phillip of Oklahoma City.

NARRATIVE APPRAISAL FOR DISTINGUISHED CAREER SERVICE AWARD, JOE W. ANDERSON, DIRECTOR, VA REGIONAL OFFICE, MUSKOGEE, OKLA.

Mr. Anderson began his career with the VA as a Contact Representative on May 14, 1946. He worked at the regional office in Muskogee until February 1, 1947, when he was promoted and transferred to Hugo, Oklahoma, as Chief of Hugo Contact Section. Mr. Anderson remained in this position until he was selected as Assistant Contact Officer on May 6, 1956, and returned to Muskogee. On September 30, 1957, he left the VA to become Administrative Assistant for Congressman Carl Albert and then to spend several years in private enterprise. Mr. Anderson returned to the VA on February 14, 1966, as a Program Management Officer in the Area Field Director's Office, Area 4. On April 1, 1966, he was appointed as Manager, VARO, Muskogee, a position he held until his retirement on June 30, 1973.

Throughout his distinguished career with the VA Mr. Anderson continually displayed the characteristics of outstanding leadership and dedication to his work. This performance of duty earned him the following recognition from Central Office:

1. Area Field Director's Commendation—1969—in recognition of dedication and exceptional service.
2. Chief Benefits Director's Performance Award—1970.
3. Chief Benefits Director's Performance Award—1971.
4. Chief Benefits Director's Performance Award—1972.

Mr. Anderson's exceptional work did not go unnoticed by the service organizations in Oklahoma and nationally. The esteem of these organizations is reflected in the awards they presented to him:

1. VFW—1968—Special Award (Plaque) for Outstanding Service Rendered to Oklahoma Veterans and Their Dependents.
2. VFW—1972—Recognition Award from Patrick E. Carr, Commander-in-Chief of VFW.
3. American Legion—1971—Special Award (Plaque) for Dedicated Service to Oklahoma Veterans.
4. American Legion—1968—Special Award, American Legion of Oklahoma, in Appreciation for Services to Oklahoma Veterans.
5. DAV—1970—National Citation for Distinguished Service.
6. DAV—1971—Special Award (Plaque) reading: "In recognition of the dedication to his work, the performance of his duties, his sympathy and understanding of the problems of the veterans and his dependents, presents to Joe W. Anderson, Director, VA Regional Office, Muskogee, this reminder of our appreciation of his work with us as a friend, fellow veteran and humanitarian. . . ."
7. Award by Resolution—State:

American Legion—1969, 1970, 1971.

VFW—1970, 1971, 1972.

DAV—1972—Entered in Congressional Record, Volume 118, No. 104, dated June 26, 1972, by Congressman Ed Edmondson.

Mr. Anderson's talents and leadership have prompted numerous other organizations nationally, as well as at the state and local levels, to seek his participation in their endeavors. Without fail, Mr. Anderson has given freely of his time and actively participated in these groups:

1. President's Committee on Employment of the Handicapped.
2. National Committee—Jobs for Veterans.
3. Governor's Committee on Employment of the Handicapped.
4. Governor's Committee—Jobs for Veterans.
5. Chairman, Muskogee Postal Customers' Council for 7 years—Appointed by Postmaster General.
6. Member, Interagency Board U. S. Civil Service Examiners.
7. Member, Intertribal Council of 5 Civilized Tribes.
8. Member, Chicasaw Advisory Council.
9. Consultant—Surgeon General's Advisory Committee on Indian Health.

In recognition of his outstanding work in these organizations, Mr. Anderson has received the following special awards:

1. Award 1973—For outstanding service and dedication to America's veterans in support of the President's Job for Veterans Program—James F. Oates for The National Committee—Jobs for Veterans.
2. Ambassador of Goodwill Award, 1973—from Oklahoma Governor David Hall.

Additionally, he has served for many years as:

1. Member, Board of Directors, Muskogee Chamber of Commerce.
2. Member, Human Relations Committee, Muskogee Chamber of Commerce.
3. Member, Congressional Action Committee, Muskogee Chamber of Commerce.
4. Co-Chairman, Long Range Planning Committee, Eastern Oklahoma Council of Boy Scouts of America.
5. Member, Board of Directors, Choctaw County (Hogo) Chamber of Commerce.
6. Member, Board of Directors, Choctaw County (Hugo) Memorial Hospital.
7. Chairman, Muskogee Combined Federal Campaign Coordinating Committee.

Mr. Anderson continually demonstrated the ultimate in leadership excellence. His established reputation for leadership within the VA as well as outside is unquestionable. In day-to-day dealings with subordinates, Mr. Anderson used sound, effective principles of leadership. He fully realized the drives, motivations, and ambitions which affect attitudes and performances.

He inspired his co-workers to react with a team spirit which resulted in the production of high quality work throughout the regional office. He was quick to recognize and develop the talents of his co-workers. A testament of this ability is the enviable record he compiled the last 14 months of his directorship. In that period 20 of his co-workers were promoted and transferred to other VA stations. These included in part: 1 Assistant Director, 2 Loan Guaranty Officers, 1 Adjudication Officer, 1 Assistant Adjudication Officer, 1 Personnel Officer, 1 Assistant Personnel Officer, 2 to Central Office, and 1 Secretary to Director.

Mr. Anderson possessed to a high degree and used with effectiveness all those qualities which inspired affection and respect. He knew all the employees of the regional office by name and something of their background. He frequently visited them on the job and displayed the active interest he had in them and their job performance. His comprehensive knowledge of the various programs enabled him to "talk shop" as he visited different areas. Those who worked under him believed in his ability as a leader. They rated him knowledgeable, resourceful, and committed. He had an eager and curious mind which was constantly alert for innovations and improvements in approaches and methods. His continuing "in touch" relation with office conditions enabled him to identify and correct incipient irritations and problems. He applied sound reasoning to the solution of the instant problem in such a way as to prevent its recurrence.

His personal example was a constant reminder to his employees of the need for a conscious effort to maintain a favorable public image. He instilled in his staff a sincere concern and a deep sense of dedication and personal commitment to the accomplishments of the station's mission to serve the veteran, his widow, and orphan.

Mr. STEED. Mr. Speaker, it was with great sorrow that I learned of the death of Joe W. Anderson, a devoted and effective public servant as well as a friend.

I first became well acquainted with him in the late 1950's when he served here as administrative assistant to Congressman ALBERT. His roots were in Oklahoma, to which he contributed a great deal, and he soon returned there.

As manager of the Veterans' Administration regional office at Muskogee, Okla., Joe Anderson brought a warm-hearted concern to the problems of veterans with which he dealt. No problem was too small for him to give it due attention.

He helped to make certain that veterans received prompt consideration of their problems. He made it easier for them to reach Veterans' Administration personnel. When he retired because of ill health some 2 years ago an entire generation of veterans in Oklahoma had reason to be grateful for his services. I have never known anyone with more expertise in and devotion to the welfare of veterans.

Our sympathy goes to his family at this untimely loss.

Mr. JARMAN. Mr. Speaker, it was with a feeling of personal loss that I heard your announcement this morning at our Oklahoma congressional delegation breakfast of the untimely passing of our good and mutual friend, Joe Anderson of Muskogee.

Joe will long be remembered by the members of the Oklahoma delegation and their staff members as one of the most able public servants our State of Oklahoma has ever produced. As a member of your staff and as director of the Muskogee Regional Office of the Veterans' Administration, Joe worked diligently to provide personal service to our fellow Oklahomans.

I offer my condolences to the Anderson family.

Mr. ENGLISH. Mr. Speaker, Oklahoma and America have truly lost a good man. It was with great sorrow that I learned that Joe Anderson, an Oklahoman of diverse and impressive talents, had passed away in Iran.

Although I did not have the privilege of working directly with Mr. Anderson, I know him well through his dedicated work with the office of my distinguished colleague, Speaker ALBERT, and with the Veterans' Administration in Muskogee.

Few Oklahomans in recent years have earned and deserved the respect of their contemporaries as much as did Joe Anderson. His death is truly a loss to ourselves, our State, and our Nation.

Mr. RISENHOOVER. Mr. Speaker, among the great people who have served this country is numbered Joe W. Anderson. For many years, he was administrative assistant to our colleague, Mr. ALBERT, but later he was head of the Veterans' Administration regional office at Muskogee in the Second District of Oklahoma.

With sorrow, we note that Mr. Anderson died recently while visiting his daughter in Iran. While the loss will be felt most directly by his family and his old friend, Speaker ALBERT, I would like to add that I counted Joe as a friend and respected him as a citizen.

Joe Anderson was a disabled veteran who most humanly understood the role and mission of the Veterans' Administration. He added warmth and care to a tough administrative job. He was a good man, a patriotic American, and a loving father who will be missed by all who enjoyed the goodness of his life.

Mr. JONES of Oklahoma. Mr. Speaker, the news of Joe Anderson's untimely death was indeed a sad moment for those of us who had the good fortune to know and work with him during his distinguished career on Capitol Hill and in the Veterans' Administration.

As a former member of your Washington staff, Joe earned the very highest respect of all Oklahomans who came in contact with him. He showed a unique dedication to the needs of your constituents, and the problems of all Oklahomans as well.

After leaving Washington in 1966 to become Administrator of the Muskogee Regional Veterans' Administration Office, Joe became known as both a friend of every GI, and a competent and able Administrator. During Joe's tenure, the Muskogee VA hospital received badly needed improvements, largely as a result of his tireless efforts within the VA, and before the House and Senate Appropriations Committees. Joe fulfilled the pledge he had made to bring top-grade medical care to the veterans in his region.

Even after his retirement from Federal service in 1973, Joe continued to assist needy veterans on a volunteer basis, and through his frequent visits, we in the Oklahoma congressional delegation were kept informed of his activities and the major problems and needs of ex-servicemen within our State.

Joe Anderson was both my own friend, and a friend of my family. We will all deeply miss him, and to his family I extend my heartfelt sympathies. Joe was a dedicated servant of the people, and a man whose concern for others should be an example for us all.

GENERAL LEAVE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to insert their remarks on the passing of a fine servant of the House and official of the Veterans' Administration, a man who was highly decorated, wounded, and disabled, Joe W. Anderson.

The SPEAKER pro tempore (Mr. McFALL). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEGISLATION TO BAR IMPORT FEE ON PETROLEUM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 15 minutes.

Mr. BINGHAM. Mr. Speaker, I am introducing today legislation to provide for congressional disapproval of Presidential increases in import fees on imported petroleum products such as were proposed by President Ford to dampen consumption.

My bill would amend the Trade Expansion Act of 1962 to provide that no Presidential action taken under the national security section (19 U.S.C. 1862), such as the proposed import fees, would become effective until submitted to the appropriate committees of the Congress. The submission would be in the form of a report stating both the nature of the action to be taken and the reasons underlying the President's decision.

Following the Presidential submission the Congress would have 60 legislative days to disapprove by concurrent resolution, the contemplated or initiated action. The procedure for disapproval is modeled after the process employed in the war powers legislation enacted by the 93d Congress.

The President's ability to act during a genuine national emergency would not be impaired. There is nothing in my bill that would prevent the President from taking those steps contemplated by section 232, such as raising import fees. Under my bill, the action could have been initiated by the time the Congress begins deliberations on the concurrent resolution. Indeed, the President would still be able to go forward with his petroleum import fee plan as before, pending congressional action. All that would be required is the submission to the Congress of the required report at the time the proposed action is to be implemented.

My proposal would further safeguard the intent of the 1962 trade laws against abuse or improper use by the President. Under existing law there is no recourse. In my view this is too important an oversight not to remedy.

My proposed course of action is dictated by several factors. First, the President's proposed import fee on petroleum under section 232 appears to violate the notice and hearings requirements established by the Trade Reform Act of 1974. That section was designed to afford interested parties time to present evidence on both sides of the question to give the President a broad and detailed picture of the problem and the need to utilize extraordinary Presidential power to protect the Nation's security. In my view, the action contemplated by the White House is entirely outside the parameters of the Trade Reform Act, violates the intent of the 1962 provisions, and is a Presidential attempt to legislate by Executive fiat—a usurption of the Congress prerogative to which I object.

Second, if indeed the action is only temporary, designed to implement a policy of fostering a decline in energy consumption, the method is one which is doomed to failure.

Oil experts believe that less than 800,000 barrels of oil a day will be saved under the Ford plan, and that foreign oil consumption would decline by an even slower rate than overall demand. Further, it now appears that gasoline, which comprises approximately 45.8 percent of all petroleum consumption and where our greatest reduction in usage could occur would be the least heavily taxed form of energy.

Raising import fees would do little more than continue the ill-advised pricing policies of the Nixon-Ford administrations which resulted in smaller rises in the price of gasoline—37 percent—than for diesel fuel—49 percent—home heating oil—66 percent—residual oil burned by electric utilities—143 percent—and aviation fuel—100 percent—over the last 18 months.

According to one recently published article on the President's proposed oil program, a gallon of fuel will cost an additional 10 cents. Given the exigencies of the oil industry, it means that on a percentage basis, the cost of a gallon of gasoline will rise less than a gallon of diesel or aviation fuel, or home heating oil. Gasoline prices would increase 19.2 percent while heating oil jumped by 28 percent and aviation fuel spurted upwards by 42 percent.

Aside from the questionable legality of the import-fee proposal, commonsense dictates that curtailing unnecessary driving would be the least painful way to reduce oil consumption. It would be anti-inflationary, and would, on the whole, be fairer than making changes in the American lifestyle dependent upon the inability to pay.

THE PRESIDENT'S ENERGY PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 15 minutes.

Mr. DRINAN. Mr. Speaker, last week the President of the United States outlined to this Congress an energy program which he hoped would correct many of the inbalances which now exist. He stated that this energy program was designed to make the United States invulnerable to the actions of foreign powers, especially those from whom we import large amounts of oil. In implementing the program, two vital stages are envisioned. First, the President proposed a $3 tariff on crude imports and a $2 tariff on oil imports. Second, oil prices would be decontrolled, and a $2 tax would be put on domestic oil, while the tariff on imported oil would drop to $2.

I do not question the integrity of the President in proposing such an energy package, Mr. Speaker, but I do strenuously object to the makeup of the program and to the impact which it will have on certain regions of the country. If this program is adopted, it will deal a devastating blow to New England, and in particular, to my State of Massachusetts. Quite candidly, I cannot imagine any set of proposals which would strike at the economy and the consumer of New England quite as much as this package, and I am awestruck when I read of the devastation which these proposals would bring about on my constituents.

The main portion of the President's energy program is of course the $3 a barrel fee on imported oil. Since New England is 75 percent dependent on oil for its energy needs and almost totally dependent upon imported residual fuel oil for generating its electrical power, our region is affected much more heavily than other regions in the United States. This 75 percent figure stands in stark contrast to other sections of the country, many of which are only 30 and 40 percent dependent on oil in their energy consumption. But the $3 tariff is only the first step in the President's program. If oil prices were also decontrolled, as the President has requested, New England would be adversely affected even more. If we were to follow Mr. Ford's solution to the energy crisis, we would be helping to turn New England into a disaster area.

Mr. Speaker, talk of New England as an economically depressed area is not idle speculation in view of these most recent developments. Already, unemployment in Massachusetts has risen to a record high of over 9 percent. At the same time, our State is experiencing the worst rash of plant shutdowns and layoffs in more than 20 years. The tariff and the other oil proposals would grievously hurt the New England competitive situation, and might put us on the road to becoming the new Appalachia of America.

Let us look at the actual figures which point to the dreary conclusions which I have drawn above. Just taking the $3 tariff on crude imports, it can be seen that the President's plan would increase by $442 million a year the cost that New England pays for residual oil. Ninety-one percent of this oil is imported, and half of the cost will be directly borne by the electric utilities. This would, of course, be reflected in the consumer's higher electric bills in the coming year. In addition, New Englanders will be paying approximately $300 million more for the 4.4 billion gallons of gasoline which they consume, each gallon of gas rising in price by about 7 cents.

We then turn to heating costs, which will rise by some $75 million a year. This means another annual $45 million in fuel adjustment charges for the consumer, and this will add at least $30 more to each family's heating bills. Heating oil, which went from 22 cents per gallon in mid-1973 to 35 cents and more last summer, will probably go up to 50 cents and more per gallon. The implications of this price rise are genuinely fearsome.

In adding up all of these grim statistics, we find that the total cost of the first phase of the Ford oil program would be about $823 million for New England alone. If we then proceed on to phase 2 of the President's energy program, we find an additional staggering figure of $1.357 billion for New England, or a total of $2.18 billion for the cost of the two phases together. This compares to the national cost of $30 billion. It is not difficult to see that New England is being unjustly discriminated against, and that our region would bear an unnecessarily heavy burden. Indeed, with only 5:8 percent of the Nation's population, we would be asked to bear 10.5 percent of the newly imposed energy cost increases. In view of our region's already high unemployment rate and its future economic prospects, I think it is evidently clear that New England is not crying "stop" for nothing.

Mr. Speaker, I would like to point out that insofar as the energy crisis, our region is well ahead of the rest of the country in promoting energy conservation. We are doing our share, and this is reflected in the energy savings which have been brought about. Industrial companies in Massachusetts have cut fuel consumption from 20 to 35 percent, and residential consumers have realized up to 20 percent savings in heating oil. However, there is a practical limit to the conservation measures which can be taken by industries and companies, and I fear that the only way to further reduce oil consumption would be to actually close the doors of our businesses. Therefore, instead of having the effect of conserving energy, the oil tariff would only force these companies to pay a higher price for what they must have. In some cases, companies may be forced to close, further adding to the already high amount of unemployment.

I have noted in recent days articles which have called attention to the thousands of Americans, very probably hundreds of thousands, who are losing the heat in their homes as winter and economic recession close in. Their problem is that they simply cannot pay their bloated fuel bills, and as a result, fuel distributors are just cutting off these people in sharply increasing numbers. One major New York oil distributor said last week that if the weather really turns cold in the Northeast, that perhaps between 20 and 40 percent of his customers would be unable to meet their fuel bills. I ask you, Mr. Speaker, if this was the situation before any increased energy prices were implemented, what kind of situation might we be creating after the cost increases go into effect. We simply cannot allow this situation to occur in a country which has long been noted for its humanity and compassion.

Mr. Speaker, I do not intend to allow the President to blithely implement an energy program which would bring about such economic chaos for New England. I am taking legal action against the President of the United States in an attempt to enjoin the imposition of the $3 per barrel oil tariff. I will argue to the courts that the President does not have the authority to impose such a duty, as under article I, section 8 of the Constitution, Congress is given the exclusive power to "lay and collect taxes, duties, imports and excises." The President has cited the Trade Expansion Act of 1962 as his legal authority, but that act only allows the President to "adjust the imports" of articles such as oil. While the President might have the power to restrict oil imports, he does not have the power to impose such a heavy tariff, whether that tariff is called a "tariff" or "license" as the President prefers to call it.

I am hopeful that my suit, which will be joined by a number of New England utilities, will be successful on the merits. While I do agree with the President that strong energy policies must be taken in the near future, I feel that it is incumbent upon the President to carefully regard all interests of the country in making such energy decisions. In the meantime, I feel it is important for us to file an action against the President's program.

A second action which I am taking in order to stop the implementation of this dangerous energy program is to file legislation requiring Congress approval of any tariff imposed by the President. In the bill that I have cosponsored, it is specified that—

> After January 14, 1975, no tariff, fee, or quota may be imposed by the President pursuant to this section with respect to imported petroleum or petroleum products unless the Congress, by concurrent resolution, first approves the imposition of such tariff, fee, or quota.

If this legislation is enacted, the President will not be granted the power to unilaterally impose such a program on the country and its consumers without the approval of the Congress.

Mr. Speaker, I greatly fear for the economic prospects of my State of Massachusetts and for the New England region as a whole should the President's energy program be implemented. In view of this potentially disasterous situation, I feel it is incumbent upon the Congress to act speedily in insuring that the President's program is in the best interests of the entire country. I am sure that my colleagues would not want to see one region of our Nation sacrificed by the energy decision of our President. We must undertake positive actions in the energy field, but let us insure that Massachusetts and New England as a whole can survive the impact of these policies.

AUTO PRICES: PROFITS AND INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

Mr. VANIK. Mr. Speaker, Friday, the Ford Motor Co., following the lead of Chrysler, announced a plan to rebate up to $500 to the purchasers of new cars.

I share the hope of Detroit's auto manufacturers that this dramatic move will help encourage car sales, thus improving the economy and putting employees back to work.

But why was this not done earlier? Better yet, why did Detroit insist on such big price increases last fall that the American consumer was forced out of the automobile market?

There is no indication that by offering these rebates that these cars are going to be sold at a loss. Indeed, it now appears that in some models there is considerably more than $500 profit or "leeway" per auto. But last September, Ford President Lee A. Iacocca said that because of rising costs, the company wanted to lift prices by $500. The New York Times of September 13, 1974 reported:

> The company said the increase included $269, or 5.3 per cent, to cover part of its increased costs for labor, material and parts; $104, or 2.1 per cent, to cover the basic cost of Government-mandated equipment on the 1975 models, and $18, or 0.3 per cent, to cover previously optional equipment made standard.
>
> Ford said that from Oct. 1, 1972 to Oct. 1, 1974, costs increased $950 per vehicle, of which $400 had been recovered by higher prices up to now, "leaving unrecovered costs of about $550."
>
> The 1975 model increase of $391 would reduce the unrecovered costs to $159.

Something is strange here, Mr. Speaker. Either the September statement of Ford Motor Co. was in "error" about unrecovered costs or, if unrecovered costs reduced the profit margin per car, then profits had been running at least as high as $700 per car.

The rebates also reveal the utter failure of the administration's jawboning efforts. When the 1975 model year price increases were announced last summer, the administration made a "big" effort to reduce the level of these increases and was satisfied by a miniscule reduction.

Our country and its workers are going through a hard and frightening winter—a time of troubles which could have been largely avoided by either price restraint or tougher Government action last fall.

THE NEED FOR A CONGRESSIONAL REVIEW OF DRUG TREATMENT PROGRAMS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, Senator HENRY M. JACKSON has announced that his Senate permanent Subcommittee on Investigations will conduct an inquiry into the effectiveness of Drug Enforcement Administration's efforts to stem the flow of heroin into the United States.

I applaud this initiative. But, I also believe that an examination must be conducted concurrently into the effectiveness of the National Institute of Drug Abuse's administration of millions of dollars in Federal funds for the treatment of drug users. Last year I had some correspondence with Dr. Robert DuPont, Director of the National Institute of Drug Abuse, concerning the controversy that has arisen in New York City over the effectiveness of both the privately operated treatment programs supported by public funds and the city's administering agency, the addiction services administration. In October, I asked that Dr. DuPont's institute make a programmatic review of the city's treatment programs to determine if HRA's charges of ineffectiveness and incompetence were justified or whether the charges of incompetence levied against HRA's Administrator by the program director were justified. In short, I felt that if either were true, the Federal Government should find out about it, since approximately millions of dollars in Federal funds are being spent annually by the Institute of Drug Abuse in New York City.

By letter of December 10, Dr. DuPont declined my request protesting that he had "neither the legislative mandate nor sufficient staff to investigate and determine the accuracy of the allegations."

If this is true, this signals a significant weakness in our Federal drug program—one which should be examined by the Jackson subcommittee. Should the distinguished Senator review the effectiveness of the Government's administration of treatment dollars, I have requested permission to testify before the subcommittee.

The interception of heroin's flow into this country is certainly important. But, we also must be sure that we are doing the best we can to allay the demand for heroin generated in this country by those already addicted to the drug.

Attached is my letter to Senator JACKSON:

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 20, 1975.

Hon. HENRY JACKSON,
Chairman, Subcommittee on Permanent Investigations, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR: I read in today's New York Times that you plan an inquiry into the Administration of the Drug Enforcement Administration to determine its effectiveness in stemming the flow of heroin into the United States. I would like to suggest that you broaden that hearing to include its effectiveness in administering the millions of dollars spent in the treatment of drug users.

I made this suggestion because of what is happening in New York City. Addiction Services Administrator Jerome Hornblass is responsible for spending over $80 million in drug control funds, $8 million of which comes directly from the federal government. In addition, the N.Y. State Narcotics Addiction Control Commission receives another $47 million in federal funds and allocates much of that amount to the City as well. The city agencies conducting the treatment programs have been criticized by Administrator Hornblass as being inept and ineffective. In turn, the program directors have charged Mr. Hornblass with incompetency.

I brought this matter to the attention of Dr. Robert DuPont, Director of the National Institute of Drug Abuse, asking him to investigate the charges and counter-charges since federal funds are involved. By letter of December 10th, DuPont advised me, however, that the National Institute of Drug Abuse has "neither the legislative mandate nor sufficient staff to investigate and determine the accuracy of the allegations." In short, he declined to undertake an investigation and effectively turned his back on the potential squandering of millions of dollars.

Enclosed you will find a recent statement I made on this subject together with several of the letters that I have inserted in the *Congressional Record* setting forth the matter in more detail. In the event that you broaden the scope of the hearings to include this aspect, I would very much appreciate the opportunity to appear before your committee to provide them with the background information.

Sincerely,

EDWARD I. KOCH.

EDITORIALS IN SUPPORT OF REPEALING TRUCK WEIGHT INCREASES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, this week, together with a number of cosponsors, I will be introducing legislation to repeal Interstate Highway truck weight increases that were voted late in the last Congress as part of the Federal Aid Highway Act of 1974, a multipurpose highway bill that could not be amended under suspension of the rules.

Because of safety hazards caused by the increased weight, and an estimated multibillion-dollar cost the weight increase will mean in highway maintenance, the increase is opposed by the American Automobile Association, the National Highway Safety Advisory Committee—chartered by Congress to advise the Secretary of Transportation—the National Association of Counties, the Professional Drivers' Council, the Brotherhood of Teamsters, and the General Federation of Women's Clubs.

I urge the support of my colleagues for this legislation to repeal the dangerous and costly truck weight increases. A sampling of editorial opinion from throughout the country is appended.

[From the Daytona Beach (Fla.) Morning Journal, Jan. 9, 1975]

THE 55-MILE-PER-HOUR LIMIT IS FINE—BUT NOT HEAVIER TRUCKS

Did President Ford give thought to the idea that when he signed the bill that raises the maximum weight limit for highway monsters, he also may have been signing the death warrant for many Americans?

The new law permits trucks plying interstate roads to carry 80,000 pounds, up from the 73,230 pounds set by Congress in 1956. In the intervening 13 years, the public, as represented by the American Automobile Assn. and other safety advocates, successfully has fought off the trucking industry's campaign to get the limit raised.

But in 1974, the clout of AAA was dwarfed by last minute feeding of contributions to candidates for the 94th Congress by the industry's well heeled political arm. An industry spokesman says the contributions came from the Teamsters—a claim hard to imagine. Surely heavier loads increase the responsibility of the truck driver and add to the fatigue factor that is always a highway danger.

Safety experts say that the heavier the truck, the greater are the hazards. Such trucks climb hills more slowly and stop more slowly than automobiles. With greater weight, obviously, the more likely it is that the truck would kill the occupants of an automobile in a collision.

Indeed, the heavier the truck, the more likely it is to have accidents. The U.S. Transportation Dept. explains that the larger loads will add to the strain on big rig braking systems which are none too efficient now.

There is, too, the certainty that these more heavily laden trucks will chew up the highways more than they do now, requiring extra millions of dollars in repairs. Before Transportation Depts. catch up with the potholes and ruts, there is the increased danger to motorists who follow in the wake of the 40 ton destroyers.

Then there is the psychological danger to the driving public that the tonnage increase will augment. Big trucks now can unnerve drivers as they roar by—too many do not observe the speed limit—with ear shattering noise. They can make small cars actually swerve from the rush of wind.

The bill does have a good feature. It makes the 55 mile an hour speed limit permanent—a limit that has proved to be a leading factor in lowering the nation's highway death rate.

But such a measure should not have been saddled with the specter of death that the clause allowing heavier trucks represents. Ford should have considered this and used the veto he likes to exercise.

[From the Baltimore Evening Sun, Dec. 23, 1974]

Forty-Ton Monsters

Bigger is better, according to the oil companies and tanker-builders who are forever endangering the oceans with ever larger ships, collisions and spills. In trucks, you can't go wider because of laning or higher because of bridging, but longer and heavier is better, according to the American Trucking Association, an owner group. The association is very happy right now, following congressional approval of a bill raising the weight limit on the Interstate network from 36-plus tons to 40.

What do 80,000-pound truck loads mean? Some reduction in unit-cost shipping expenses, when a monster truck happens to have a full load. Second, the effect is greater pounding on road surfaces—they wear out sooner—though it's the public's fares and taxes, not the fleet owner's, which are billed for the repaving. Third, driving becomes that much more dangerous. Not just for the fellow behind the truck wheel, but for whoever in an ordinary-size vehicle is in his path in the event of a skid, wobble or sudden stop. As the American Automobile Association points out, the fatality rate for big rigs is already almost double that for ordinary traffic.

It isn't always the driver and passenger in the small foreign car who get expunged when some truck highballing on past, on a downgrade well above the speed limit, veers in a high wind or hits a patch of ice. Sometimes the monster tries to stop in a hurry and jackknifes, and it is the driver who gets mashed or incinerated. There is an effort on to make President Ford realize that this bill is business as unusual, and bad business—a bill calling for veto. Maybe individual truck drivers, facing these increased threats to their own lives and to their friends' and neighbors' lives will sound off loud enough for the White House to hear. Somebody ought to be blowing the horn on this bad bill.

[From the Detroit News, Dec. 27, 1974]

The Truck Talks—And Congress Obeys

The 93rd Congress authored an outrage against the public highway system. Bending like a willow in the wind to the truckers, the lawmakers passed a bill which would permit 80,000-pound trucks to roll down the interstate highways.

The previous limit of 73,280 pounds was attacked by the strong and wealthy truck lobby. Truckers argued they couldn't make money because they lost too much time traveling at the new fuel-conserving 55 m.p.h. speed limit.

The argument is phony because the truckers have not sacrificed profits to the lower limit. It is well known that truckers are not observing the 55 m.p.h. speed limit. Using citizen band radios illegally to inform one another about location of radar units, the trucks are rolling at the same old speeds, slowing down only when approaching police cars.

Even if the truckers were observing the 55 m.p.h. speed limit, the difference in time over the 70 m.p.h. limit on interstates is hardly great enough to interfere with their coffee breaks. A 55 m.p.h. speed limit does not alter time required to get to and from freeways and to load the trucks. It applies only to the running times at full speed which are a portion of the trip.

The interstate highways were paid for out of a trust fund bankrolled by the gasoline tax. The automobile owner pays far more than his share for this system. This is especially true when you consider how much less such highways would cost if they were engineered to stand up only to the strain of a 4,000-pound car. Pavements have to be much thicker and contain steel reinforcing to accommodate 80,000-pound trucks.

In effect, the congressional action permits the trucks to go out and break up by their tremendous weights the pavements that in the main have been paid for by car owners. Those who argue that trucks pay their way on the public highways ought to go back to the studies of the American Association of State Highway Officials which compare the wear and tear imposed on a highway by a truck and a car. Engineers have established how enormous that difference is. There is no trucking firm in this country paying fees equal to the wear and tear factors plotted in these studies.

The House did not advocate weight increases but in a conference committee on highway legislation, House conferees went along with the senators who had been so well and thoroughly wooed by the trucking lobby. The truckers won. The public will suffer another abuse of its highway trust funds.

The next assault on legislators will be to increase widths and lengths of trucks, to make absolutely certain that truck traffic entirely destroys the small amount of pleasure enjoyed by the public traveling interstate highways.

If Congress feels bound to salve the whimperings of a coddled trucking industry, let them change the Interstate Commerce Commission rules so that unnecessary empty runs of trucks will be eliminated. There would be more profit in that for the truckers and more efficiency in the use of fuel.

Congress needs to be sharply reminded that interstate highways belong to the people and not to the trucking industry. Or at least they did. The trouble is, as the muscle of the truckers is felt in Washington, the people who paid the major share of the highway bill are pushed farther into the background.

[From the Atlanta Constitution, Dec. 24, 1974]

The M-60 Trucks

Look out! Here come the 40-ton monsters down the expressways!

Congress is in the process of passing a bill to increase the maximum truck weight limits on interstate highways from 73,280 pounds to 80,000 pounds. That's only 10 tons or so lighter than an M-60 tank, the kind the Army runs through or over trees with.

The weight increase, the first allowed in 18 years (a long time for congressional sanity), was strongly opposed by the American Automobile Association and other groups. The weight boost was part of a $752.8 million federal aid highway bill which has been worked out in conference by the House and Senate.

The bill concerns several other highway matters, such as banning certain large billboard signs and ordering the states to enforce the 55-miles-per-hour speed limit on the interstates—both of which sound great. But the monster trucks don't sound so good (if you can hear anything after they go by).

Trucking interests have been trying for years to get truck weights increased with no success. But now they have succeeded with that jazz about America's needs moving by truck and patriotic talk about saving fuel in the energy crisis. And there might even be some truth to that.

But what will all that weight do to our interstates? And what happens to the little bitty two- and three-ton cars as those giant trucks go zooming down the expressways, drawing a small hurricane along with them? Driving the expressways is already the most daredevil act this side of skydiving.

Maybe the heavier trucks won't be too much of a problem on the interstates, but for the safety and sanity of us all, keep them off the regular highways. Can you imagine getting behind (or even worse, in front of) one of those 40-ton behemoths on a hilly, curvy, narrow highway?

The original bill passed by the House had no truck-weight provisions, but the Senate bill did. And then in conference a clause was added that those states which already have truck weight limits higher than 80,000 pounds on non-interstate highways may extend that higher limit to the interstates.

"The Senate bill was an assault on the motorist, but the conference bill was a rape," said James J. Gudinas, assistant highway director of the AAA. Can you imagine? Before you know it, they'll be letting 'em move the whole store down the highway.

But maybe Congress hasn't lost its senses completely in authorizing the heavier trucks. It did talk mean about enforcing the 55-mile-an-hour speed limit. And in case you state patrolmen don't understand, that means the big trucks too.

[From the Sarasota (Fla.) Journal, Dec. 20, 1974]

Bigger Trucks Likely

Congress has voted to allow heavier trucks on the nation's interstate highways. The American Automobile Association calls it a "rape of the motorist." We applaud the AAA and hope that President Ford may choose to veto the bill.

The basic increase in weight—the first allowed in 18 years--would be from 73,280 pounds to 80,000 pounds.

It is interesting to note that the bill also orders that the states enforce the 55-mile an-hour speed limit under penalty of losing federal highway funds.

We can just see the present big trucks zooming along above 55 and the prospect of them weighing 40 tons instead of a paltry 36 makes a return to the days of shank's mare or the Old Grey Mare worth consideration.

For shame, Congressmen!

[From the Tuscaloosa (Ala.) News, Dec. 26, 1974]

Bill To Increase Truck Load Is a Step Backward

Taking a big step backward, the Congress sent to the President last week a bill that will allow increased truck weights on interstate highways. The bill, which has been pushed by trucking interests, means that the maximum weight for trucks using interstate highways will be upped from 73,280 to 80,000 pounds gross weight.

In Alabama the new law will be a defeat for state forces who last year fought off an attempt by truckers to increase allowable weights on the state's highways. Attorney Gen. Bill Baxley won an agreement from the state highway department to begin construction of permanent weighing scales to enforce the laws, after the state highway department had indicated it did not like the idea of permanent scales. The highway department has preferred the use of portable scales to the permanent types that truckers can easily evade.

The Congressional action was vigorously opposed by the American Automobile Association and other groups but received overwhelming approval from both houses of Congress. Even worse, the House-Senate conference committee came out with an amendment that could add additional weights to interstate highways in some states. That provision calls for interstate highway weight limits to match those of intrastate highways within a state. In some states, the non-interstate limit is much greater, thus in those states, the maximum weights allowable will be applicable.

Alabama officials concerned with the weights of big trucks on roads and bridges other than interstates are fearful that some of the roads and bridges are not suitable for such heavy loads. Now, with the federal action, the state may have to allow up to the maximum 80,000 pound limit authorized by the new bill on state highways. Another provision of the bill may mean more traffic tickets. The bill calls for strict enforcement of the 55 mile-per-hour speed limit or else loss of state highway funds.

[From the Youngstown (Ohio) Indicator, Dec. 26, 1974]

SNEAKING UP ON THE ROADS

With little or no advance mention, both houses of the Congress quickly approved a compromise highway bill that increases the weight limits on trucks by about 8 per cent. The American Automobile Association termed the bill "the rape of the motorists." The language may have been a little strong, but the protest was justified.

Truck weight limits on interstate highways generally are to rise from 73,280 pounds to 80,000 pounds, and 20,000 pounds instead of 18,000 may be carried on one axle. In states which already have weight limits higher than these, the state limit will be accepted for interstate highways.

The action was taken to mollify truck drivers, who have been talking about another strike at the end of January to demand higher weight limits and increased limits on length of rigs.

Since the new legislation makes no concessions on length, it is hard to tell whether it will satisfy the truckers, even with the new weight limits. The fact is, of course, that many trucks already have been violating the weight limits (along with speed limits), and the new legislation will benefit only those who have been observing the old ones. These operators probably are in the majority, as they should be, but violations have been common enough that our highways have suffered.

The interstate highways have been engineered to handle heavy loads; yet it is obvious to any motorist that these superhighways are taking a pounding. The principal problem, however, is that the 40-ton burden of the trucks has to travel over other roads to get on and off the interstates. Many roads and bridges that are below modern standards have load limits posted, but other highways, as well as city streets, were not built for such loads, and they are likely to be abused even more than before.

The higher weight limits were in the bill when it passed the Senate last September, but for some reason got little attention amid the discussions of mass transit. They were not in the bill as it first passed the House, but House members of the conference committee yielded on this point and the House, abandoning its long resistance to higher load limits, quickly passed the bill.

The bill provides $753 million for road construction, mainly in rural areas, puts new limits on "jumbo" billboards near interstate highways, and permits cities to use additional funds for urban mass transit instead of highways. For these reasons, along with the practical policies of pleasing the truckers, President Ford may approve the bill.

The truck operators pay heavy taxes toward highway construction and maintenance. It is undeniable, however, that much of that maintenance is necessary only because of the heavy trucks. The other taxpayers, and especially motorists, should make it plain to the Congress that these new weight limits, if they become law, should be permanent. The states and the nation cannot afford to rebuild their highway systems in order to make one industry more profitable.

[From the Johnstown (Pa.) Tribune-Democrat, Dec. 19, 1974]

THE BIG-TRUCK LOBBY

Once those big-truck lobbyists get rolling, stopping them is akin to braking a tractor-trailer with a stick spragged into the ground.

It ain't easy.

And even when you think you've got them slowed they somehow generate more momentum; and then they try to ram bigger-than-ever trucks, carrying heavier-than-ever cargoes, down the public's highways.

Right now, for instance, the truck lobby—realizing the rush as Congress moves toward adjournment—is trying to cloak in the legislation crowd a proposal to allow heavier trucks on federal highways and major state highways. In terms of weight, the lobby wants the maximum increased from the current 73,000 pounds to 80,000 pounds—a weight New York Democrat Rep. Edward Koch says will require millions more dollars for road maintenance.

Highway damage is not the only item to be guarded against as the truck lobby presses for bigger trucks and heavier loads; there's a little matter of safety on the highways. And that aspect was mentioned the other day in a Wall Street Journal column., to wit:

"Big, heavy trucks are a safety hazard on the open road because they travel in a 'mix' with passenger cars; chances of fatalities are considerably greater, for example, when a big truck and a car collide than when two cars collide. Now, as Sen. Howard H. Baker Jr., the Tennessee Republican puts it, 'Increased truck sizes and weights could present substantial threats to the safety of smaller passenger vehicles sharing the highways. . . .' "

That, of course, is nothing that we haven't editorially stated before; and the problem of big trucks and heavy loads is naturally compounded when the trucks are traveling terrain such as Pennsylvania and other mountainous states contain; the Johnstown district can attest, tragically, to too many instances of death caused by runaway trucks.

To allow even bigger trucks would, therefore, constitute a daring of fate so far as safety is concerned and a don't care attitude in regard to highway maintenance.

We don't expect that admonition to worry the truck lobbyists; however, they should not expect us and others who are worried about highway safety and upkeep to back off in attempts to keep truck sizes and cargo weights from getting out of hand.

[From the Madison (Wis.) State Journal, Dec. 27, 1974]

TRUCK WEIGHT INCREASE

Tucked in between provisions for highway safety and beautification in the highway aid bill which recently cleared Congress is a section which would permit a 10 per cent increase in weghts trucks can carry on Interstate and federal highways.

The move was seen as a sop to the trucking industry which failed to defeat the 55-mile-an-hour speed limit measure enacted earlier, a measure which reduced fuel consumption and cut down on traffic fatilities.

The truckers argued that with the slower speeds the heavier trucks would not inflict significant damage to the roads. This would be a questionable position even if it could be demonstrated that truckers are religiously observing the lower speed limit, an assumption that is even more questionable.

By permitting truck weights to increase from 73,280 to 80,000 pounds, roads and bridges are bound to come under heavier stress, which will result in more repairs at taxpayers' expense.

While the federal action is only permissive requiring state legislative approval to go into effect within the various jurisdictions, it will add emphasis to the truckers' contining efforts to permit bigger and heavier trucks, which further endanger and inconvenience automobile drivers.

The Wisconsin Legislature beat back a strong attempt by the Wisconsin Motor Carriers Assn. to change the state law to permit 65-foot, double-bottom trucks on Wisconsin's four-lane highways.

Many legislative surveys showed overwhelming public opposition to the larger trucks. A Wisconsin American Automobile Assn. poll showed that 86 per cent of those polled were in opposition.

The congressional action to increase the weights was slipped into a conference committee report with insufficient debate as Congress raced to adjourn for the holidays.

If President Ford does not veto the highway bill because of the weight inclusion, the next session of Congress should act promptly to delete it from the law. And if that doesn't happen, Wisconsin lawmakers should reject it.

[From the Los Angeles Times Dec. 25, 1974]

KEEP ON TRUCKIN', BUT——

President Ford should veto the federal highway authorization legislation sent to him by Congress. He should do so because of a rider attached to the measure that would increase federal weight limits on trucks traveling interstate highways.

That amendment represents the initial victory for truckers in their years-long battle. If it is approved it may well lead to further demands from truck operators for longer and wider rigs than presently allowed. That may become necessary, but the government lacks a coherent transportation policy, of which so substantial a change should be a part.

Maximum permissible gross weight for trucks is now 73,280 pounds and the single-axle weight limit is 18,000 pounds. The new bill would increase the gross to 80,000 pounds and the single-axle weight to 20,000 pounds.

During debate in the Senate, Sen. Robert T. Stafford of Vermont, ranking Republican on the transportation subcommittee, emphasized that existing limitations are "the primary inhibition against a new generation of longer, heavier trucks."

In earlier testimony before the committee, a spokesman for the American Automobile Assn. stressed the fact that an increase in axle loadings "will not only reduce the life of present pavements but will also require billions of dollars for reconstruction of older pavements." He added that interstate bridges have been, and are still being designed and constructed on the basis of 18,000 pound axle loads.

The weight limitations would apply only to federal interstate highways. But those heavier rigs would have to travel county roads and city streets when they go off the federal system. Those local thoroughfares and bridges are often less able to stand the impact than the superhighways. That is why auto clubs in both Northern and Southern California, the County Supervisors Assn., and the League of California Cities have opposed relaxation of existing limitations.

Mr. Ford may be inclined to sign the bill because it contains a clause making permanent the 55-m.p.h. speed limit which will otherwise expire June 30. He strongly favors such a proviso and so do we. But the wiser course would be to withhold approval of this legislation and start anew when the Congress reconvenes next year.

No substantial change in truck weights or sizes should be made until the government develops a national transportation policy that weights the advantages of the several kinds of transportation and attempts rationally to allocate to each of them the open and hidden tax subsidies all of them require.

ART ROONEY AND STEELER FEVER

(Mr. GAYDOS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GAYDOS. Mr. Speaker, on January 12, 1975, millions of Americans, through television, became acquainted with a man who is a legend in his time; beloved in his hometown like no other man I know. The stories written and told about this remarkable gentleman are like something from a Damon Runyon novel.

This affable, white-thatched Irishman with a penchant for cigars, who prefers the warm company of friends to the hot glare of publicity, is Mr. Arthur J. Rooney, the proud, respected, and widely admired owner of the Pittsburgh Steelers, winners of the 1975 Super Bowl and champions of the National Football League.

Art Rooney, one of the Nation's most prominent sports figures, is a millionaire. In addition to his Steelers, he owns a 300-acre horse breeding farm and has an interest in several race tracks. He has also been highly successful in other ventures not directly connected with sports.

But, Art Rooney has not always been wealthy and he has never lost touch with those "who knew him when." He still lives in the same house where he and his wife, Kathleen, raised five sons. He still is called "Art" by his friends, who are legion; "The Prez" by his employees and "The Grand Old Man of the NFL" by sportswriters.

Mr. Rooney came into this world in a small coal mining community located in the 20th Congressional District of Pennsylvania. His father, Dan, was the sole innkeeper in Coulterville, now known as Coulter, and Art was the first of six boys and two girls due to arrive in the Rooney family.

While Art was still very young, Mr. Rooney moved the family to Pittsburgh where he opened the still-remembered "Rooney Saloon," famous for nickel beers, free lunches, and sports talk. The home was located near the point where the Monongahela River collides with the Allegheny and gushes onward as the Ohio. The area was subject to flooding and on more than one occasion, Art and his brothers paddled their way to school.

The Rooneys all were athletic. Knute Rockne tried to lure Art to Notre Dame to play football; the Boston Red Sox and Chicago Cubs wanted him to play baseball and the professional boxing world beckoned after he won the international lightweight and welterweight championships.

Art never pursued a career but later in life organized a semipro football team which ultimately led him into the National Football League in 1933. In the meantime, he had acquired a reputation as a horseplayer and won immortality in 1936 when, during a 2-day weekend in New York, he parlayed a $20 bet into winnings estimated between $250,000 and $350,000.

His career in professional football was not so spectacular. In 1933 when he entered his Pittsburgh Pirates in the NFL, the team finished last. It was the first of many defeats, humiliations, and frustrations Art was to experience over the next four decades. On a few occasions, he came close to grabbing pro football's brass ring but, somehow, it always eluded him—until 1974, the year of the Super Steelers.

Steeler fever, dormant for 42 years, ran rampant last season in western Pennsylvania. The "carriers" were easily recognized: Joe Greene, Dwight White, L. C. Greenwood, Ernie Holmes, Franco Harris, Rocky Bleir, Terry Bradshaw, Roy Gerella, Ray Mansfield, Jim Clack, Gerry Mullins, John Kolb, Jack Ham, Mike Wagner, Glen Edwards, Mel Blount, Lynn Swann, Jim Stallworth, Andy Russell, Jack Lambert, Gordon Gravelle, Bob Walden, Joe Gilliam, Terry Hanratty, and head coach Chuck Noll, who turned the cliche "Whatever it takes" into a battlecry.

Mr. Speaker, Art Rooney is one of those rare individuals blessed with the gift to love and be loved. We in the Pittsburgh area are extremely fond of this grand old man. We doubt if there is another like him—anywhere.

STEELER FEVER BOWLS 'EM OVER

(Mr. GAYDOS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. GAYDOS. Mr. Speaker, I rise today to welcome our new colleagues in the 94th Congress and to offer whatever assistance I can in helping them serve their Government and its people.

I apologize if I appear somewhat haggard and hoarse but I have not yet recovered from the effects of a fever which began sweeping western Pennsylvania a few months ago. I, along with hundreds of thousands, including some Members of the Pennsylvania delegation in the House, fell victim to super Steeler fever, which reached epidemic proportions Sunday when the sensational Pittsburgh Steelers bowled over the Vikings of Minnesota in New Orleans.

There is no cure for Steeler fever, which lay dormant in our part of the country for 42 years, although it is easily diagnosed. Its victims grow progressively excited and wild-eyed. They are apt, on the spur of the moment, to suddenly explode into a roar, shouting incantations such as "Dee-fense. Dee-fense," or "Dobre Schunka. Dobre Schunka."

The stricken ones can be heard muttering among themselves about a "steel curtain" rung down on Steeler foes by the likes of men such as "Mad Dog," "Mean Joe," "Golden Shoes" or "Arrowhead." They rave about mighty forces: "Franco's Italian Army," "Rocky's Rangers" or "Gerella's Gorillas."

The victims have an almost irresistible urge to carve, stitch, sew, or stamp the names of the carriers of Steeler fever on anything available. Hats, cars, sweaters, banners all bear the names of Mansfield, Clack, Mullins, Kolb, Ham, Wagner, Edwards, Blount, Thomas, Swann, Stallworth, Russell, Lambert, and others.

They sing the praises of a Bradshaw and shout the creed of the man who converted the cliche, "Whatever it takes." into a battle cry, Chuck Noll. And they speak in reverence of an affable Irishman addicted to unlit cigars, Mr. Art Rooney, who, after 40 years of draining the dregs of defeat, now sips the sweet wine of supervictory.

Mr. Speaker, while I do not profess to practice medicine, I believe Steeler fever is a chronic virus, diminishing in intensity during the spring and summer, only to flare up anew in the fall. Those of us afflicted with it can be expected to suffer the symptoms for some time, perhaps years.

Consequently, while I do not propose to set a bad example for my new colleagues by engaging in wagering on the floor of the House, I have a proposition for my friends from Minnesota, or anywhere else. A dozen stuffed cabbages and a pound of kielbasa says with Super Bowl 10, Steeler fever strikes again.

THE HATCH ACT: NEED FOR REPEAL

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DOMINICK V. DANIELS. Mr. Speaker, I am today introducing legislation to guarantee the civilian employees of the executive branch of the United States the right to have counsel or representatives of their choice present during interrogations which may lead to disciplinary actions and to prevent unwarranted reports from employees concerning their private life.

Federal employees need and deserve the legal safeguards contained in my bill, in order that they may render devoted and wholehearted service without the threat of unreasonable or capricious discipline. There is no greater impediment to job commitment than the threat of arbitrary suspension or firing. At a time in this Nation's economic history when the Government is calling upon all workers to increase productivity and have pride in their work, it is imperative that this appropriate legal safeguard be guaranteed to those who carry on the vital day-to-day work of this Nation's business.

Mr. Speaker, at a time in our history when great concern is being voiced about the reduced participation of the general public in the elective process, it is almost ironic that a Federal mandate precludes such political involvement by a group of people who have a great appreciation and understanding of the workings of the political process. I refer, of course, to Federal employees. And, of course, the mandate to which I refer is the Hatch Act.

The Hatch Act is a classic example of a piece of legislation which has served its intended and useful purpose, and which now serves only to impede one of the most important functions in our democratic process—the right to engage in political activity. The merit principles which the Hatch Act was designed to protect are, for the most part, functioning smoothly. The political pressures of the 1920's and 1930's that led to the passage of the Hatch Act are not an important factor in the 1970's. Other safeguards already in place within the civil service system, together with an alert media and a responsive public, have eliminated the need for the protection extended under the Hatch Act.

It is time to extend the right to participate in the workings of our democratic way of life to Federal employees.

Therefore, I am introducing today legislation to repeal the Hatch Act—legislation which will restore the full rights of citizenship to the Federal employee, rather than placing him in the category of a second-class citizen.

Included among the political activities a Federal employee may enjoy under my bill are:

First, candidacy for or service as delegate, alternate, or proxy in any political convention or service as an officer or employee thereof;

Second, participation in the deliberations of any primary meeting, mass convention or caucus, addressing the meeting, making motions, preparing or assisting in preparing resolutions before the meeting, or taking a prominent part therein;

Third, preparing for, or organizing or conducting a political meeting or rally, addressing such a meeting on any partisan political matter, or taking any part therein;

Fourth, membership in political clubs and organizing of such a club;

Fifth, distributing campaign literature and distributing or wearing campaign badges and buttons;

Sixth, publishing or having editorial or managerial connection with any newspaper, including those generally known as partisan from a political standpoint, and writing for publication or publishing any letter or article, signed or unsigned, soliciting votes in favor of or against any political party, candidate, or faction, except that no such editorial, letter, or article shall make reference to the writer's official employment or authority;

Seventh, organizing or participating in any political parade;

Eighth, initiating or signing nominating petitions on behalf of a partisan candidate, including canvassing for signatures of others; and

Ninth, candidacy for nomination or election to any National, State, county, or municipal office.

In addition, the bill prohibits the use of official authority for the purpose of affecting the results of elections.

The legislation I propose will amend an outdated and outmoded law so that Federal employees can enjoy the privileges and responsibilities of a participatory democracy.

I urge my colleagues to join with me in working toward early consideration during this Congress.

FOOD STAMP AMENDMENTS

(Mr. DOMINICK V. DANIELS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DOMINICK V. DANIELS. Mr. Speaker, the first week of December seems to have some attraction for those who wish to commit infamous acts. We are all familiar with the significance of December 7, "a day that will live in infamy," in the classic words of President Franklin D. Roosevelt.

December 6 now has special significance for those of us who are concerned with the plight of the poor and the elderly. This is the day that the Ford administration decided to launch its surprise attack against those Americans least able to defend themselves against the twin ravages of inflation and recession. The target of opportunity seized upon by the Ford administration in its ill-conceived strategy to cut Federal spending is the food stamp program, which in the past few years has become one of the most important assistance programs available to low-income persons in this country.

In a report issued December 23, 1974, the Joint Economic Committee referred to the food stamp program as—

> The income support program reaching the greatest number of people; it focuses on the necessity which has risen most rapidly in price and is a program that can be made more effective with a few simple administrative changes.

In the same report, the committee acknowledges that—

> The poor have been the hardest hit by changing economic conditions in 1974. The combination of inflation, recession, and rising unemployment has been catastrophic for the poor and the near-poor.

President Ford's food stamp proposals, if implemented, would be an unconscionable assault upon the already-decimated purchasing power of low-income Americans.

Under the President's proposal, all recipients would be required to pay 30 percent of their income for food stamps. Currently, the poorest recipients pay as little as 5 percent of their modest incomes; they stand to have a 500 percent increase in the cost of food stamps on March 1. The average food stamp recipient who currently pays 23 percent of his income for stamps will have a 30 percent increase in the cost of stamps. There will be no increase at all in the amount of food stamps that would be provided for this increased price.

The new plan would hit hardest at food stamp recipients living in one and two person households, the majority of whom are elderly. Most single persons would be hit with increases of 35 to 100 percent in the price of their food stamps. For a few individuals and couples, the increase would run as high as 800 percent. Currently, one out of every four food stamp recipients lives in a one or two person household, and the Department of Agriculture has estimated that 95 percent of the 15 million Americans currently participating in the food stamp program will be affected by these proposed changes.

These hard economic facts certainly do not square with the President's cavalier pronouncement that this budget-cutting move would affect only certain individuals who would have to pay only slightly more in cash to obtain the stamps. The Community Nutrition Institute has estimated that at least 1.5 million Americans would find the benefits of food stamps to be so small under the proposed program that they would simply drop out of the program. For example, an elderly couple with $270 in adjusted monthly income can now pay $64 and receive $84 in food stamps. Under the proposed plan, they would be required to pay $81 for the same $84 worth of stamps. The $3 savings under the proposed program would hardly justify standing in long lines for hours to fill out a six-page food stamp application form, and then, once inside a supermarket, to separate all qualifying items from nonqualifying items.

Mr. Speaker, there are many areas in the Federal budget where spending cuts can and should be made. But these excisions must not be made without some sense of logic and compassion. This budget-cutting venture proposed by the President would accomplish a very cruel objective—it would institutionalize hunger in America.

I, for one, do not believe that a balanced budget can only be built upon the misery and hunger of millions of low-income Americans. Must we starve our own people to feed our Treasury?

I think not, Mr. Speaker, and I believe that many of my colleagues will join with me in this viewpoint.

It is clear to me that this Congress must exercise special responsibilities in the coming year. This Congress must be the voice of conscience that reminds the administration about the importance of priorities. The well-being of the American people must be the priority that guides the administration in drawing proposals to restore balance to our national economy. We will not gain much as a society by relegating millions of less-fortunate Americans to hunger and misery in our zeal to produce a balanced budget. The President's energy proposals already threaten to take heat and light out of the homes of the elderly and poor, as well as taking gasoline out of their cars, by making these products much more expensive. This Congress must not allow the President to also take food off the tables of the poor and the elderly by increasing the cost of food stamps.

The legislation I am introducing today

would amend the Food Stamp Act to prevent the proposed regulation change from going into effect. The amendment continues the concept that food stamps should represent a reasonable investment on the part of the household, but provides that in no event can that investment be more than the percent charged under the current schedule.

The amendment would also reduce the maximum charge from 30 percent of net food income to 25 percent. In other words, those recipients who are now paying 10 and 20 percent of their incomes for food stamps would continue to pay that amount, while those paying 26 to 30 percent would have the price reduced to 25 percent.

Mr. Speaker, a section-by-section analysis of my bill, together with a portion of the Joint Economic Committee print concerning the plight of the poor and elderly follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section one would amend the food stamp act to prevent the recently announced regulation change increasing the cost of food stamps to 30% for all participants from going into effect. The amendment continues the concept that the cost of food stamps should represent a reasonable investment on the part of a household but provides that in no event can that investment be more than the *per centum* charged a household with the same income under the current schedule.

The amendment would also reduce the maximum charge from 30% of net food stamp income to 25%. In other words, those recipients now paying 10% and 20% of their incomes for stamps would continue to pay that amount while those paying 26–30% would have the price reduced to 25%.

The estimated cost of this provision at current participation levels is $450 million.

SECTION 2

This section of the bill amends Section 3 of the Food Stamp Act of 1964, as amended, which defines the terms used in the Act.

Subsection (e) which defines the term "household" is amended to delete the requirement that household members under age 60 be related in order to qualify for the food stamp program. This requirement was ruled unconstitutional by the Supreme Court in its decision in the case of *Moreno* v. *USDA*, 413 U.S. 528. The amendment will bring the Act into conformance with the Supreme Court decision.

This provision was introduced at the request of the administration in the 93rd Congress, but no action was taken.

SECTION 3

This section of the bill revises subsection 5(b).

Subsection 5(b) retains the concept that the food stamp program shall be limited to households whose income and resources are substantial limiting factors in the attainment of a nutritionally adequate diet. However, it excludes the housing payment in kind from the standards of eligibility. The inclusion of housing payments in kind not in excess of $25 is most unpopular among the States. To determine the value of in kind income, State agencies must develop expertise in estimating the value of housing or obtain guidance on the matter through other agencies or organizations. In either case, any possible savings to the program are more than offset by the complexities, if not impossibilities, of effectively administering this provision. Further, this provision would permit housing payments in kind to be disregarded for purposes of income, and thus be treated consistently with the way in which other payments in kind are handled under the food stamp and other welfare-type programs.

The revision of Subsection 5(b) further deletes the provision prohibiting the participation of certain tax dependents in the food stamp program. In its decision in the case of *Murry* v. *USDA*, 413 U.S. 508, the Supreme Court ruled that the "tax dependency" provision of the Act is unconstitutional. Thus, the *"tax dependency"* provision in the current Act is not enforceable.

This provision was introduced at the request of the administration in the 93rd Congress, but no action was taken.

SECTION 4

This section of the bill revises Section 10 (e) (7) of the Act.

Subsection (e) (7) is revised to give a State agency an option to establish a system under which a food stamp household may elect to have its charge for the coupon allotment withheld from its public assistance check. The Act now mandates a State agency to offer such a questionable value. An optional system would permit a State to operate the system in an area where it would be a help, such as rural localities lacking adequate transportation. The State would not be required to bear the cost of administering such a system in larger metropolitan areas where public assistance withholding is not only the minimal usefulness but also subject to abuse. Giving the States this option could serve to gain their increased cooperation in other areas of greater program importance.

This provision was introduced at the request of the administration in 93d. Congress, but no action was taken.

SECTION 5

Section 5 removes the requirement that food stamp recipients who are housebound, feeble, physically handicapped, or otherwise disabled must be over 60 years of age to use stamps for meals-on-wheels.

Without this section, many incapacitated persons under 60 who receive meals-on-wheels have to pay cash for the meals even though they have food stamps. Purchase of delivered meals with food stamps would still be limited to incapacitated persons.

[Report of the Joint Economic Committee, Congress of the United States together with Supplementary and Minority Views

ACHIEVING PRICE STABILITY THROUGH ECONOMIC GROWTH

Relief Measures for the Poor and the Elderly

The Poor.—The poor have been the hardest hit by changing economic conditions in 1974. The combination of inflation, recession, and rising unemployment has been catastrophic for the poor and near-poor. While the poor may not suffer a proportionately greater decline in dollar incomes than other groups, the decline in their purchasing power is from a level that is at best marginally adequate. Price increases in recent years have caused a greater loss of higher income groups.

In all of the previous inflationary periods since World War II, the poor benefited because of accompanying tighter labor markets. But the economy is now in the midst of a serious recession. Also contributing to the poor's loss of purchasing power is the general tendency for the wages of low-skilled workers to adjust less to inflation than average wage rates, primarily because they lack the bargaining power of better-paid and more highly unionized workers. Prices of the basic purchases made by the poor have been rising faster than the Consumer Price Index. For example, food price inflation of the past 18 months has added twice as much to the cost of living of the poor as to the average urban worker's cost of living.[1] The poor cannot "substitute down" as the more affluent can to less expensive foods.

Dried beans and rice, which are common items in the diets of the poor, increased in price from December 1970 to March 1974 by 256 percent and 124.3 percent, respectively.

What can be done to reduce the burdens imposed on the poor by the present combination of recession and inflation? Most public assistance is channeled to the poor through the many income support programs which have been established in the United States since the depression more than 45 years ago. These programs, established at different times and with varying objectives, have combined to produce an overall income transfer system riddled with conflicts and inequities, operated at huge cost, and delivering inadequate benefits to millions of needy persons.

A comprehensive program for reform of our income maintenance program was presented earlier this month in a report issued by the Subcommittee on Fiscal Policy of this Committee, under the leadership of Congresswoman Martha Griffiths. The recommended program consists of two parts: Tax relief for low- and moderate-income workers and modest cash grants related to income for the poorest in our society. Tax relief would occur through the substitution of rebatable tax credits, which are deducted from tax liability, for the individual(s) filing the tax return.

This comprehensive system of credits and allowances is more efficient and equitable than the food stamp and AFDC programs which it would replace. This program breaks sharply with the traditional welfare structure in that it avoids the penalties on work, marriage and family responsibility that the old programs perpetuate. We commend the full 260 page report to anyone seriously interested in the Federal income transfer system, the problems under which it currently operates and some of the possibilities of reform.

We recommend that the program for income maintenance reform contained in the report of the Subcommittee on Fiscal Policy and the legislation that would enact this program be given the most immediate consideration.

While endorsing this welfare reform package and agreeing fully with the points it raises concerning the serious deficiencies in the current welfare programs, we also recognize that some immediate improvements are needed in the income support programs to help compensate the many poorer Americans who have suffered greatly from this year's severe inflation and developing recession. The Subcommittee on Fiscal Policy realizes, and states in its report, that its recommended program could not be in effect until 1977. In the light of this time lag, extension under existing statutes of the food stamp and Aid for Dependent Children (AFDC) programs is required to provide immediate relief to the poor.

The food stamp program should be emphasized since it is the income support program reaching the greatest number of people, it focuses on the necessity which has risen most rapidly in price, and is a program that can be made more effective with a few simple administrative changes. Currently, there are 14.3 million recipients of food stamps out of a total eligible population estimated to be between 30 to 35 million. The cost has escalated in the past three years from $1.6 billion to $4.0 billion. Many economists view this expansion of the program as a healthy development in that they see many advantages to food stamps as an income support program. More people benefit at a far lower per capita cost than in the government's two other major welfare programs, Medicare and AFDC. Also, the Food Stamp Program is mandatory, is nation-wide, is based on minimum food needs tied to national standards and most important, is designed to help all the needy. Thus, it includes the working poor, who are usually not covered by other income support measures.

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[1] Loraine Donaldson, "The Poor Pay More—of the Food Inflation Tax," unpublished paper. Georgia State University, 1974. Food costs, which according to the Bureau of Labor Statistics have risen about three times as fast as other major budget components, generally account for a higher proportion of the poor's expenditures than of higher income groups.

Despite these laudable advantages, the program as it is currently operating suffers from some serious shortcomings. Perhaps the most significant is that the amount of food stamp allotments (currently $150 per month for a family of four) is simply not enough to provide for a nutritionally balanced diet. In many cases, this deficient payment affects the health of prenatal infants, nursing mothers, the elderly, and the unemployed. As things now stand, a family with a low income receiving food stamps may have to spend more than 40 percent of its income to obtain a minimum required diet.

The monthly bonus amount is based on the Economy Food Plan of the USDA, which currently provides allotments allowing less than 40 cents per person per meal. According to a food consumption survey by the USDA, less than 10 percent of those who eat at the cost level of the Economy Food Plan obtain the full recommended dietary allowances. For this reason, the USDA's Low Cost Food Plan should become the basis for food stamp allotments.

An equally significant defect of the present program is that the maximum purchase price, 30 percent of net household income, is too high. In fact, this ties in with the low level of participation in the program, since the high cost of purchasing food stamps is the most important reason for nonparticipation by many households. Thus, the maximum purchase price should be set at 25 percent of net household income, which would not only increase the value of the stamps for those currently using them (particularly benefitting the elderly poor), but would also attract many more people into the program, especially those poor people who felt they simply could not afford the current purchase price. These changes would raise the annual cost of the program by approximately $420 million.

It should be noted that this 25 percent maximum and preservation of the existing sliding scale up to that maximum, is in conflict with the President's recent amendment to the food stamp regulations. This amendment would require, as of March 1, 1975 *all* food stamp recipients to pay a flat 30 percent of net income for their food stamp allotment. This is a most ill-advised administrative change; it would increase the already severe burden that the poor and near-poor are bearing. Specifically, households with one or two persons would be hurt the most. Of these 50 percent are over 60 years of age. An elderly individual receiving the current Supplemental Security Income (SSI) payment of $146.00 a month now pays $30 to receive $46 in food stamps, a $16 bonus. The President's amendment would increase the purchase price to $43.80, reducing the bonus to $2.20, a virtually negligible amount. Among food stamp recipients of all ages, those with the lowest incomes will experience the greatest percentage increases in purchase prices. The ultimate effect, therefore, will be a strong inducement for many to drop from the program.

The participation problem is already a serious one. Only 40 to 48 percent of those eligible actually use food stamps. Even this low rate overstates the participation of the elderly, blind, and disabled, which is currently 28 percent. Legislation to alleviate much of this problem has already been passed by Congress in July specifying that the Federal Government should cover 50 percent of administrative costs, as compared to the present level of 28 percent. Additional funds to cover administrative costs should enable states to hire more certification workers.

Another major problem is that the semiannual increase in the food stamp allotment lags four to twelve months behind the increases in cost of the Economy Food Plan. For example, the Food Stamp allotment during this month (December 1974) is based on the Economy Food Plan established in February. Costs are probably 10 to 15 percent higher now.

To increase the value of the food stamps, for current participants, the President's administrative decision earlier this year should be reversed and the maximum purchase price should be reduced from 30 percent to 25 percent of net household income. The present sliding payment scale up to the maximum should be retained. Furthermore, the U.S. Department of Agriculture should expand participation in the program, particularly by implementing the provisions of P.L. 93-347 that enable the Federal Government to provide 50 percent of the administrative costs of the program. The payment scales of the Food Stamp Program should be adjusted every four instead of every six months.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RAILSBACK (at the request of Mr. RHODES), for today on account of inclement weather.

Mr. BURKE of Florida, for January 20 through January 24, 1975, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. EMERY) to revise and extend their remarks and include extraneous material:)

Mr. BAUMAN, for 15 minutes, today.

(The following Members (at the request of Mr. DODD) to revise and extend their remarks, and to include extraneous matter:)

Mr. ALBERT, for 30 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. BINGHAM, for 15 minutes, today.

Mr. BROWN of California, for 15 minutes, today.

Mr. DRINAN, for 15 minutes, today.

Mr. VANIK, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

The following Members (at the request of Mr. EMERY) and to include extraneous material:)

Mr. LAGOMARSINO.

Mr. SEBELIUS in two instances.

Mr. RHODES.

Mr. COHEN.

Mr. CONLAN.

Mr. DERWINSKI in two instances.

Mr. TAYLOR of Missouri.

Mr. SARASIN in five instances.

Mr. DEL CLAWSON.

Mr. YOUNG of Florida.

(The following Members (at the request of Mr. DODD), and to include extraneous matter:)

Mr. ANNUNZIO in six instances.

Mr. GONZALEZ, in three instances.

Mr. ANDERSON of California in three instances.

Mr. O'NEILL.

Mr. MCDONALD of Georgia in 10 instances.

Mr. RANGEL in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. HAMILTON.

Mr. VANDER VEEN

Mr. DOWNEY.

Mr. MATHIS.

Mr. STOKES in three instances.

Mr. SATTERFIELD.

Mr. DE LUGO.

Mr. JONES of Tennessee.

Mr. EVINS of Tennessee in 10 instances.

Mr. BOLLING in two instances.

Mr. DODD in five instances.

Mr. DRINAN in two instances.

ADJOURNMENT OVER TO THURSDAY, JANUARY 23, 1975

Mr. DODD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 46 minutes p.m.), under its previous order, the House adjourned until Thursday, January 23, 1975, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV executive communications were taken from the speaker's table and referred as follows:

157. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a copy of Presidential Determination No. 75-8, suspending the provisions of sections 505(d) and 620(x) of the Foreign Assistance Act of 1961, as amended, sections 3(c) and 3(d) of the Foreign Military Sales Act, as amended, and section 5 of Public Law 93-570, in the case of Turkey to further negotiations for a peaceful solution of the Cyprus conflict; to the Committee on Foreign Affairs.

158. A letter from the Assistant Secretary of State for Congressional Relations; transmitting a copy of Presidential Determination No. 75-9, authorizing the ordering of defense articles and services for military assistance to Cambodia in the security interests of the United States; to the Committee on Foreign Affairs.

159. A letter from the President, Gorgas Memorial Institute of Tropical and Preventive Medicine, Inc.; transmitting the 46th Annual Report of the Gorgas Memorial Laboratory, covering fiscal year 1974, pursuant to 45 Stat. 491 [22 U.S.C. 278a], together with a report on the research activities of the Gorgas Memorial Institute-Middle America Research Unit, and the financial report of the Institute for fiscal year 1974 (H. Doc. No. 94-36); to the Committee on Foreign Affairs and ordered to be printed.

160. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Regional Rail Reorganization Act of 1973 to increase the financial assistance available under section 213 and 125, and for other purposes; to the Committee on Interstate and Foreign Commerce.

161. A letter from the Director, Administrative Office of the U.S. Courts, transmitting

a draft of proposed legislation to amend title 28 of the United States Code to provide for the appointment of officers and employees of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court, and for other purposes; to the Committee on Judiciary.

Received From the Comptroller General

162. A letter from the Comptroller General of the United States, transmitting a report that the use of surety bonds in Federal construction should be improved; jointly, to the Committees on Government Operations, and the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 1653. A bill to incorporate the Italian American War Veterans of the United States, Inc.; to the Committee on the Judiciary.

H.R. 1654. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide a system for the redress of law enforcement officers' grievances and to establish a law enforcement officers' bill of rights in each of the several States, and for other purposes; to the Committee on the Judiciary.

H.R. 1655. A bill to require the destruction of certain files maintained by the Federal Bureau of Investigation with respect to Members of Congress, and to require notice to the Speaker of the House of Representatives and the President pro tempore of the Senate of certain other such files; to the Committee on the Judiciary.

By Mr. BELL:

H.R. 1656. A bill to exempt certain automotive parts and accessories from the excise tax imposed by section 4061 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. BINGHAM:

H.R. 1657. A bill to amend Gateway National Recreational Area in the States of New York and New Jersey, to authorize the inclusion of North Brother Island, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1658. A bill to amend the Trade Expansion Act of 1962 (76 Stat. 877) to provide for congressional disapproval of Presidential actions to raise or lower tariff barriers in the name of national security, and for other purposes; to the Committee on Ways and Means.

By Mr. BROWN of California (for himself, Ms. Abzug, Mr. Del Clawson, Mr. Conyers, Mr. Derrick, Mr. Drinan, Mr. Edwards of California, Mr. Esch, Mr. Eshleman, Mr. Ford of Tennessee, Mr. Fraser, Mr. Hawkins, Mr. Hechler of West Virginia, Ms. Holtzman, Mr. LaFalce, and Mr. McKay):

H.R. 1659. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of alcoholic beverages is not a deductible expense; to the Committee on Ways and Means.

By Mr. BROWN of California (for himself, Mr. Moorhead of California, Mr. Pepper, Mr. Pettis, Mr. Preyer, Mr. Pritchard, Mr. Quie, Mr. Rees, Mr. Roe, Mr. Rose, Mr. Ryan, Mr. Scheuer, Mr. Smith of Iowa, Mr. Stark, Mr. Studds, Mr. Talcott, and Mr. Whitehurst):

H.R. 1660. A bill to amend the Internal Revenue Code of 1954 to provide that advertising of alcoholic beverages is not a deductible expense; to the Committee on Ways and Means.

By Mr. CARNEY:

H.R. 1661. A bill to amend the Internal Revenue Code by increasing the personal exemption from $750 to $1,000, to provide that a taxpayer may elect a credit in the amount of $300 for each personal exemption to which he is entitled in lieu of taking a deduction for each such exemption, and for other purposes; to the Committee on Ways and Means.

H.R. 1662. A bill to amend the Internal Revenue Code of 1954 to provide an income tax deduction for the performance by an individual of volunteer services for a Federal, State, or local governmental agency; to the Committee on Ways and Means.

By Mr. CEDERBERG:

H.R. 1663. A bill to amend the act of August 24, 1966, for purposes of prohibiting the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment; to the Committee on Agriculture.

H.R. 1664. A bill to amend the Truth in Lending Act to eliminate the inclusion of agricultural credit; to the Committee on Banking, Currency, and Housing.

H.R. 1665. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1666. A bill to amend the Internal Revenue Code of 1954 to deny an exemption from tax to any otherwise tax-exempt organization which discriminates in certain cases against blind individuals; to the Committee on Ways and Means.

H.R. 1667. A bill to amend the Internal Revenue Code of 1954 to exempt certain farm vehicles from the highway use tax, and to require that evidence of payment of such tax be shown on highway motor vehicles subject to tax; to the Committee on Ways and Means.

By Mr. CHAPPELL:

H.R. 1668. A bill to establish the Mineral Conservation Research and Development Commission within the National Science Foundation, and to provide for the inventory of major nonfuel raw materials and the development of substitute minerals; to the Committee on Science and Technology.

By Mr. CHAPPELL (for himself, Mr. Rose, Mr. Young of Georgia, Mr. St Germain, Mr. Mitchell of Maryland, Mr. Yatron, Mr. Sisk, Mr. Morgan, Mr. Tsongas, Mr. Carney, Mr. Shipley, Mr. Murphy of New York, Mr. Coughlin, Mr. Ichord, Mr. de Lugo, Mr. Waxman, Mr. LaFalce, Ms. Abzug, Mr. Hungate, Mr. Ketchum, Mr. Pepper, Mr. Robinson, Mrs. Schroeder, Mrs. Lloyd of Tennessee, and Mr. Brodhead):

H.R. 1669. A bill to amend title II of the Social Security Act to provide that an individual may qualify for disability insurance benefits and the disability freeze if he has 40 quarters of coverage, regardless of when such quarters were earned; to the Committee on Ways and Means.

By Mr. COHEN:

H.R. 1670. A bill to amend the Forest Pest Control Act of June 25, 1947; to the Committee on Agriculture.

By Mr. COHEN (for himself, Mr. Sikes, Mr. McDade, and Mr. Duncan of Oregon):

H.R. 1671. A bill to further insect and disease control programs of the Forest Service, Department of Agriculture; to the Committee on Agriculture.

By Mr. CONABLE (for himself and Mr. Horton):

H.R. 1672. A bill to suspend for a 3-year period the duty on mustard seeds; to the Committee on Ways and Means.

By Mr. DOMINICK V. DANIELS:

H.R. 1673. A bill to amend the Food Stamp Act of 1964; to the Committee on Agriculture.

H.R. 1674. A bill to guarantee to the civilian employees of the executive branch of the U.S. Government the right to have a counsel or representative of his choice present during interrogations which may lead to disciplinary actions and to prevent unwarranted reports from employees concerning their private life; to the Committee on Post Office and Civil Service.

H.R. 1675. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, to protect Federal civilian employees from improper political solicitation, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ECKHARDT (for himself, Mr. Dingell, Mr. Rogers, Mr. Eilberg, Mr. Harrington, Mr. Conyers, Mr. Matsunaga, Mr. Rosenthal, Mr. Brown of California, Mr. Hawkins, Mr. Pepper, Mr. Won Pat, Mr. Sarbanes, Mr. Gonzalez, Ms. Holtzman, Mr. Rees, Mr. Metcalfe, Mr. Hechler of West Virginia, Mr. Moss, Ms. Mink, Mr. Frenzel, Ms. Jordan, Mr. Mann, Mr. Fascell, and Mr. McCloskey):

H.R. 1676. A bill to amend the Coastal Zone Management Act of 1972 to establish a national policy with respect to the beach resources of the Nation; to the Committee on Merchant Marine and Fisheries.

By Mr. FLOOD:

H.R. 1677. A bill to establish a national program of Federal insurance against catastrophic disasters; to the Committee on Banking, Currency, and Housing.

H.R. 1678. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school; to the Committee on the Judiciary.

H.R. 1679. A bill to establish university coal research laboratories and to establish energy resource fellowships, and for other purposes; to the Committee on Science and Technology.

H.R. 1680. A bill to amend the Internal Revenue Code of 1954 to provide that an individual who suffers a casualty loss as a result of a major disaster may disregard the amount of any grant or cancellation of loan under a State disaster assistance program for purposes of determining the amount of that individual's casualty loss deduction and of determining his gross income; to the Committee on Ways and Means.

By Mr. FLOOD (for himself and Mr. McDade):

H.R. 1681. A bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters; to the Committee on Interstate and Foreign Commerce.

By Mr. FUQUA:

H.R. 1682. A bill to terminate any phosphate leases issued pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and rights to such leases within the Osceola National Forest and to direct the Secretary of the Interior to take action with respect to the same; to the Committee on Interior and Insular Affairs.

H.R. 1683. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. GUDE:

H.R. 1684. A bill to reorganize and consolidate certain functions of several Federal agencies and departments in a new Criminal Justice Services Administration in the Department of Justice to promote more effective operations and management of the Federal system of criminal justice; to the Committee on the Judiciary.

H.R. 1685. A bill to amend the Gun Control

Act of 1968; to the Committee on the Judiciary.

By Mr. WAYNE L. HAYS:

H.R. 1686. A bill to establish a Voter Registration Administration within the General Accounting Office for the purpose of administering a voter registration program through the Postal Service; to the Committee on House Administration.

By Mr. HECHLER of West Virginia:

H.R. 1687. A bill to amend the Wild and Scenic Rivers Act to facilitate the study of the New River for designation as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

H.R. 1688. A bill to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the New River as a potential component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

H.R. 1689. A bill to prevent the construction of a dam on the New River; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI:

H.R. 1690. A bill relating to the income-tax treatment of charitable contributions of inventory and certain other ordinary income property; to the Committee on Ways and Means.

H.R. 1691. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

H.R. 1692. A bill to amend the Internal Revenue Code of 1954 to provide that the first $5,000 received as civil service retirement annuity from the United States or any agency thereof shall be excluded from gross income; to the Committee on Ways and Means.

By Mr. ICHORD:

H.R. 1693. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries; to the Committee on Government Operations.

By Mr. JENRETTE:

H.R. 1694. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. McCLORY:

H.R. 1695. A bill to provide for the marking of certain fuel oils to prevent the sale or use of such fuel oils as a means of avoiding the payment of the Federal excise tax on the sale or use of diesel fuel; to the Committee on Interstate and Foreign Commerce.

H.R. 1696. A bill to prohibit the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment; to the Committee on the Judiciary.

H.R. 1697. A bill to amend the Internal Revenue Code of 1954, to permit a taxpayer to take an income tax deduction with respect to the purchase and installation of solar heating and cooling equipment; to the Committee on Ways and Means.

By Mr. McCOLLISTER:

H.R. 1698. A bill to amend section 502(b) of the Mutual Security Act of 1954 to reinstitute specific accounting requirements for foreign currency expenditures in connection with congressional travel outside the United States, and for other purposes; to the Committee on Foreign Affairs.

H.R. 1699. A bill to amend the Federal Election Campaign Act of 1971, and title 18, United States Code, to reform Federal election campaign activities; to the Committee on House Administration.

H.R. 1700. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 1701. A bill to withhold compensation from Members of the House of Representatives and Senate under certain circumstances with respect to attendance; to the Committee on the Judiciary.

H.R. 1702. A bill to amend the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. MINK:

H.R. 1703. A bill to amend title 10 of the United States Code in order to permit the partial attachment of retired or retainer pay to satisfy judicially decreed child support contributions, and for other purposes; to the Committee on Armed Services.

H.R. 1704. A bill to amend chapter 55 of title 10, United States Code, to require the Armed Forces to continue to provide certain special educational services to physicially handicapped dependents of members serving on active duty; to the Committee on Armed Services.

H.R. 1705. A bill to provide for the conveyance of the island of Kahoolawe to the State of Hawaii, and for other purposes; to the Committee on Armed Services.

H.R. 1706. A bill to provide for uniform expiration dates for agreements in the longshore and maritime industries in the States of Washington, Oregon, and California; to the Committee on Education and Labor.

H.R. 1707. A bill to establish a Federal sabbatical program to improve the quality of teaching in the Nation's elementary and secondary schools; to the Committee on Education and Labor.

H.R. 1708. A bill to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities designed to achieve conservation and nonuse of energy and materials, and for other related educational purposes; to the Committee on Education and Labor.

H.R. 1709. A bill to amend the International Education Act of 1966 to provide for the establishment under that act of an Asian Studies Institute; to the Committee on Foreign Affairs.

H.R. 1710. A bill to amend title 5, United States Code, to provide for travel and transportation expenses on the return of an employee who was a past resident of certain areas outside the continental United States from a post of duty to which he or she transferred in the continental United States; to the Committee on Government Operations.

H.R. 1711. A bill to provide that local governments may receive reimbursement from the United States for protection provided by such governments to visiting Federal and foreign governmental officials; to the Committee on Government Operations.

H.R. 1712. A bill to authorize the Secretary of the Interior to provide transportation for employees of Haleakala National Park, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1713. A bill to establish a National Hospital Administration to provide publicly financed hospital care to all individuals in the United States, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1714. A bill to amend section 19 of title 3, United States Code, to provide for an election for the office of President and the office of Vice President in the case of vacancies in both the office of President and the office of Vice President; to the Committee on the Judiciary.

H.R. 1715. A bill to provide for the sale of certain property acquired by the United States during World War II to the former owners; to the Committee on the Judiciary.

H.R. 1716. A bill to provide that time spent by American civilians in enemy prisoner-of-war camps and similar places shall be creditable (as though it were military service) toward pensions, annuities, or similar benefits under various Federal retirement programs; to the Committee on the Judiciary.

H.R. 1717. A bill to amend the Immigration and Nationality Act to eliminate the legal custody requirement and the requirement of residence and physical presence in the United States for the naturalization of children adopted by U.S. citizens; to the Committee on the Judiciary.

H.R. 1718. A bill for the relief of certain orphans in Vietnam; to the Committee on the Judiciary.

H.R. 1719. A bill to carry out the recommendations of the Presidential Task Force on Women's Rights and Responsibilities, and for other purposes; to the Committee on the Judiciary.

H.R. 1720. A bill to amend the Merchant Marine Act, 1936, in order to permit nationals of the United States to serve as officers and crew aboard vessels documented under laws of the United States; to the Committee on Merchant Marine and Fisheries.

H.R. 1721. A bill to amend title 39, United States Code, to reduce the rate of postage on certain mail transported between the State of Hawaii and certain Pacific areas; to the Committee on Post Office and Civil Service.

H.R. 1722. A bill to amend title 5, United States Code, to include as creditable service under the civil service retirement system periods of service as contract technicians by persons hired by private authority to perform work under Federal supervision pursuant to a contract between such private authority and the Federal Government, and for other purposes; to the Committee on Post Office and Civil Service

H.R. 1723. A bill to amend the Federal Aviation Act of 1958 to require certain air carriers to grant free air transportation to certain attorneys and witnesses attending proceedings before the Civil Aeronautics Board and to require the Board to hold public hearings in additional locations; to the Committee on Public Works and Transportation.

H.R. 1724. A bill to amend the Federal Aviation Act of 1958 to provide a mandatory 60-day notice period prior to a change in any rate, fare, or charge specified in any effective tariff of any air carrier or foreign air carrier; to the Committee on Public Works and Transportation.

H.R. 1725. A bill to amend the Internal Revenue Code of 1954 to exempt from income tax any pension or annuity received under a public retirement system; to the Committee on Ways and Means.

H.R. 1726. A bill to amend title II of the Social Security Act to provide in certain cases for an exchange of credits between the old-age, survivors, and disability insurance system and the civil service retirement system so as to enable individuals who have some coverage under both systems to obtain maximum benefits based on their combined service; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.R. 1727. A bill to amend the Federal Trade Commission Act (15 U.S.C. 41) to provide that under certain circumstances exclusive territorial arrangements shall not be deemed unlawful; to the Committee on Interstate and Foreign Commerce.

H.R. 1728. A bill to amend title 5 of the United States Code with respect to the observance of Memorial Day and Veterans Day; to the Committee on Post Office and Civil Service.

By Mr. PERKINS (for himself and Mr. BEARD of Rhode Island):

H.R. 1729. A bill to amend the Vocational Education Act of 1963; to the Committee on Education and Labor.

By Mr. RHODES:

H.R. 1730. A bill: Compensation and other emoluments attached to the Office of the Attorney General; to the Committee on Post Office and Civil Service.

By Mr. RHODES (for himself, Mr. Matsunaga, Mr. Steiger of Arizona, Mr. Myers of Indiana, Mr. Dickinson, Mr. Hinshaw, Mr. Madden, Mr. Bob Wilson, Mr. Melcher, and Mr. Mollohan):

H.R. 1731. A bill to incorporate the United States Submarine Veterans of World War II; to the Committee on the Judiciary.

By Mr. ROBINSON:

H.R. 1732. A bill to amend the Truth in Lending Act to eliminate the inclusion of agricultural credit; to the Committee on Banking, Currency, and Housing.

H.R. 1733. A bill to provide further for uniform annual observances of certain legal public holidays on Monday, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RODINO:

H.R. 1734. A bill to regulate lobbying and related activities; jointly to the Committees on the Judiciary and Standards of Official Conduct.

By Mr. SARASIN:

H.R. 1735. A bill to eliminate racketeering in the sale and distribution of cigarettes and to assist State and local governments in the enforcement of cigarette taxes; to the Committee on the Judiciary.

By Mr. STEELMAN:

H.R. 1736. A bill to amend the Public Health Service Act to provide for the making of grants to assist in the establishment and initial operation of agencies and expanding the services available in existing agencies which will provide home health services, and to provide grants to public and private agencies to train professional and paraprofessional personnel to provide home health services; to the Committee on Interstate and Foreign Commerce.

By Mr. TALCOTT:

H.R. 1737. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 1738. A bill to repeal the lowest unit rate provisions of section 315(b) of the Communications Act of 1934; to the Committee on Interstate and Foreign Commerce.

H.R. 1739. A bill to abolish the Commission on Executive, Legislative, and Judicial Salaries; to the Committee on Post Office and Civil Service.

H.R. 1740. A bill to amend the Internal Revenue Code of 1954 to authorize a tax credit for certain expenses of providing higher education; to the Committee on Ways and Means.

H.R. 1741. A bill to amend the Internal Revenue Code of 1954 to extend the head of household benefits to unremarried widows and widowers, and individuals who have attained age 35 and who have never been married or who have been separated or divorced for 1 year or more, who maintain their own households; to the Committee on Ways and Means.

H.R. 1742. A bill to amend the Internal Revenue Code of 1954 to provide equitable tax relief to America's small businesses; to the Committee on Ways and Means.

H.R. 1743. A bill to amend the Internal Revenue Code of 1954 to authorize and facilitate the deduction from gross income by teachers of the expenses of advanced education (including certain limited travel) undertaken by them, and to provide a uniform method of proving entitlement to such deduction; to the Committee on Ways and Means.

By Mr. WHITE:

H.R. 1744. A bill to provide for the establishment of the U.S. Academy of Foreign Affairs; to the Committee on Foreign Affairs.

H.R. 1745. A bill to remove the appropriation limitation for development of Chamizal National Memorial, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1746. A bill authorizing the extension of the American Canal at El Paso, Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1747. A bill to authorize an exchange of lands for an entrance road at Guadalupe Mountains National Park, Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1748. A bill to amend section 106 of title 4 of the United States Code relating to State taxation of the income of residents of another State; to the Committee on the Judiciary.

H.R. 1749. A bill to provide that the Administrator of the Social and Economic Statistics Administration, Department of Commerce, be subject to Senate confirmation, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1750. A bill to amend the Internal Revenue Code of 1954 to provide a basic $5,000 exemption from income tax for amounts received as annuities, pensions, or other retirement benefits; to the Committee on Ways and Means.

H.R. 1751. A bill to provide for the construction and maintenance of a fence near the international boundary between the United States and Mexico in the city of El Paso, Tex.; jointly, to the Committees on the Judiciary, and Foreign Affairs.

By Mr. WHITE (for himself and Mr. Won Pat):

H.R. 1752. A bill to provide for the establishment of a national historic park on the island of Guam, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WHITE (for himself and Mr. Runnels):

H.R. 1753. A bill to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or destricting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BELL (for himself, Mr. Badillo, Mr. Carter, Mr. Duncan of Tennessee, Mr. Fraser, Mr. Guyer, Mr. Harrington, Mr. Pritchard, Mr. Pepper, Mr. Quie, Mr. Regula, Mr. Sarasin, and Mr. Van Deerlin):

H.J. Res. 112. Joint resolution to authorize the Secretary of the Interior to establish on certain public lands of the U.S. national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CEDERBERG:

H.J. Res. 113. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

H.J. Res. 114. Joint resolution designating the square dance as the national folk dance of the United States of America; to the Committee on the Judiciary.

By Mr. CHAPPELL:

H.J. Res. 115. Joint resolution to authorize the President to proclaim the week of June 29–July 5 as Why I Love America Week; to the Committee on Post Office and Civil Service.

By Mr. DERWINSKI:

H.J. Res. 116. Joint resolution calling upon the President to reduce drastically the amount of bureaucratic redtape which currently exists in the executive branch of the Federal Government; to the Committee on Government Operations.

By Mr. LAGOMARSINO:

H.J. Res. 117. Joint resolution authorizing increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes; to the Committee on Armed Services.

By Mr. ROBINSON (for himself and Mr. Downing):

H.J. Res. 118. Joint resolution to authorize and request the President to issue a proclamation designating May 13 of each year as American Business Day; to the Committee on Post Office and Civil Service.

By Mr. WHITE:

H. Con. Res. 50. Concurrent resolution providing for a joint meeting of Congress on July 4, 1976; to the Committee on Rules.

By Mr. FRASER (for himself and Mr. Gude):

H. Res. 77. Resolution authorizing the printing as a House document of the proceedings incident to the presentation of a portrait of Hon. Charles C. Diggs, Jr.; to the Committee on House Administration.

By Mr. HARRINGTON:

H. Res. 78. Resolution to amend the Rules of the House of Representatives to create a standing committee to be known as the Committee on Intelligence Operations, and for other purposes; to the Committee on Rules.

By Mr. McCOLLISTER:

H. Res. 79. Resolution to require that the fixing or adjusting of certain allowances of Members of the House of Representatives by the Committee on House Administration be approved by the House of Representatives; to the Committee on House Administration.

H. Res. 80. Resolution to amend the Rules of the House of Representatives with respect to the acceptance of any honorarium by any Member, officer, or employee of such House; to the Committee on Standards of Official Conduct.

By Mr. PEYSER (for himself and Mrs. Fenwick):

H. Res. 81. Resolution expressing the sense of the House that the Secretary of Agriculture should rescind the food stamp regulations proposed on December 6, 1974; to the Committee on Agriculture.

By Mr. JOHNSON of Pennsylvania:

H. Res. 82. Resolution to refer H.R. 1561, a bill for the relief of the Upper Allegheny Sand and Gravel Co., to the Chief Commissioner of the Court of Claims; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

5. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the Tehama-Colusa Canal; to the Committee on Appropriations.

6. Also, memorial of the Legislature of the State of California, relative to an Armed Forces expeditionary medal; to the Committee on Armed Services.

7. Also, memorial of the Legislature of the State of California, relative to Amtrak; to the Committee on Interstate and Foreign Commerce.

8. Also, memorial of the Senate of the Commonwealth of Massachusetts, relative to the metric system; to the Committee on Science and Technology.

9. Also, memorial of the Legislature of the State of Tennessee, relative to restoring the original name to the Oak Ridge National Laboratory; to the Joint Committee on Atomic Energy.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CEDERBERG:

H.R. 1754. A bill for the relief of Morgan-McCool, Inc., to the Committee on the Judiciary.

By Mr. KARTH:

H.R. 1755. A bill for the relief of Angela Garza; to the Committee on the Judiciary.

By Mr. McCLORY:

H.R. 1756. A bill for the relief of Dr. and Mrs. Milton Margoles; to the Committee on the Judiciary.

By Mrs. MINK:

H.R. 1757. A bill for the relief of Plotemia Mabanag Bareng and Bastiana Lilian Mahanag Bareng; to the Committee on the Judiciary.

H.R. 1758. A bill for the relief of Terrence Jarome Caguiat; to the Committee on the Judiciary.

H.R. 1759. A bill to authorize Col. Charles Dolan, U.S. Air Force Reserve, to receive credit for certain activities of benefit to the United States in determining his entitlement to and amount of retired pay for nonregular service in the Armed Forces; to the Committee on the Judiciary.

H.R. 1760. A bill for the relief of Keith Lai McKinney and Clifford Tuan McKinney; to the Committee on the Judiciary.

H.R. 1761. A bill for the relief of Evelyn Fegi Matayoshi and Wilma Fegi Matayoshi; to the Committee on the Judiciary.

By Mr. MOLLOHAN:

H.R. 1762. A bill for the relief of Mrs. Lessie Edwards; to the Committee on the Judiciary.

By Mr. VAN DEERLIN:

H.R. 1763. A bill for the relief of Olga Flerida Sanchez Acosta, Jose Ismael Sanchez Acosta, and Jesus Santiago Sanchez Acosta; to the Committee on the Judiciary.

H.R. 1764. A bill for the relief of Faustino Murgia-Melendrez; to the Committee on the Judiciary.

By Mr. WHITE:

H.R. 1765. A bill for the relief of Miss Mari Ann Sharar; to the Comimttee on the Judiciary.

H.R. 1766. A bill for the relief of Mrs. Leocadia H. Villafuerte; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

10. The SPEAKER presented a petition of the Board of Commissioners, Wayne County, Mich., relative to the food stamp program; to the Committee on Agriculture.

EXTENSIONS OF REMARKS

AMERICA—MERCHANT OF WAR

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. BINGHAM. Mr. Speaker, the 93d Congress passed historic legislation giving the Congress the legal authority for oversight and control over the sale of weapons of war to foreign countries. That legislation, which was based on an amendment to the Foreign Assistance Act which I offered in the House and Senator NELSON offered in the Senate, requires the President to submit quarterly reports to the Congress containing listings of all sales and offers to sell. These reports must include the dollar amount of the sale, the defense items to be sold, the country purchasing the item, the military service selling the item, and the dates of offer and acceptance of the sale.

Additionally, the legislation requires that the President seek congressional concurrence for any foreign military sale for $25 million or more. Under the legislation the President must submit a statement describing the intended sale and wait 20 calendar days before forwarding the letter of offer to the intended purchaser. During this 20-day waiting period, Congress may disapprove the sale by concurrent resolution.

The need for a strong congressional role in determining the U.S. role in stocking foreign military arsenals is now more pressing than ever, in wake of recent massive arms sales to Iran and Saudi Arabia and the pro-sales policies of the Ford administration. The United States, according to a January 13, 1975, report in U.S. News & World Report, is the No. 1 arms peddler in the world. The Ford administration reportedly justifies the boom in sales over the last few years in part on economic and pragmatic grounds—the sales provide jobs for Americans, while American refusal to sell only sends countries seeking weapons to other suppliers. Accordingly rather than discouraging sales, U.S. News reports that officials are working hard with defense industry salesmen around the world to boost sales even further.

I would remind the administration that economic and pragmatic considerations are not sufficient grounds for stockpiling foreign military arsenals. Sales based solely on these considerations are irresponsible—and I would hope that the Ford administration would refrain from them. The United States will and should continue to supply some arms to its allies and friends, in amounts and in type consistent with our national security requirements and their defensive needs. But, at the same time, America must encourage restraint in conventional arms transfers.

I call upon Mr. Ford to exercise such restraint and to encourage other nations to do likewise. Given the increases in arms sales reported almost daily in the press and the increasing danger for violence they represent, it is essential that the President move rapidly to implement the sense of Congress resolution on multinational arms transfer regulation contained in the Foreign Assistance Act passed by the 93d Congress. That resolution urges the President to develop and propose a draft international agreement for regulating the transfer of conventional weapons at the Geneva Conference of the Committee on Disarmament. It also requires the President to report his progress in implementing the resolution to the Congress within 6 months. I urge the President to achieve substantial progress toward the goal of the resolution in less than 6 months.

Mr. Speaker, because of its relevance, I commend the U.S. News report to the attention of my colleagues:

AMERICA ON TOP AMONG WORLD'S ARMS PEDDLERS

Not even Russia sells more major weapons abroad. Orders for American-made arms have doubled in a year, and there is no slowdown in sight.

Sales of U.S.-produced arms to foreign nations are soaring to record levels.

Orders from abroad for U.S. aircraft, missiles, tanks, ships and other weapons of war have doubled in a year to more than 8 billion dollars annually.

U.S. officials say that these sales make the United States the top arms merchant in the world. The Soviet Union, however, is not far behind, with its major armament program in the Middle East. France and Britain are rated a distant third and fourth in arms exporting.

Pictured on these pages are some of the U.S. weapons most in demand now and in recent years.

Iran for instance, has agreed to pay 1.9 billion dollars for 80 of the Navy's newest jets—the F-14 Tomcat. The deal is considered a key factor in keeping open the Long Island plant of Grumman Aerospace Corporation, which makes the plane.

The sale, completed after the Shah of Iran was given a personal aerial demonstration of the plane, helps to make Iran the leading customer of U.S. arms.

Israel is a close second. In the 12-month period ended June 30, 1974, Israel bought 2.1 billion dollars' worth of military equipment, including A-4 Skyhawks and F-4 Phantoms, C-130 Hercules cargo planes and large numbers of helicopters, tanks, artillery pieces and other equipment.

FIERCE SALES FIGHT

Now something even bigger is in the works. Northrop Corporation and General Dynamics Corporation are competing under an Air Force contract for a lightweight fighter that could result in sales of 8 billion dollars or more, with most of the potential market thought to be in Europe or elsewhere abroad. French and Swedish companies have entered the fierce competition.

The reason for the booming arms market, defense-industry officials say, is partly that the U.S. has reversed its attitude on military sales.

This reversal in policy represents a decision that refusing to sell weapons to foreign countries only sends them to other suppliers and does nothing to halt the proliferation of arms.

Rather than discouraging such sales, U.S. officials now are working hard with defense-industry salesmen around the world to boost sales even further.

Industry officials estimate that for every billion dollars of sales abroad, 31,000 Americans are put to work as a direct result, and another 60,000 jobs are created in support businesses.

In some cases, foreign sales are of critical importance. Items like the Northrop F-5E Tiger are built primarily for export. Pentagon aides say that if overseas sales stopped, the plant making the plane would have to be closed.

Military sales abroad are in addition to the half billion dollars in arms a year handed out free as military aid to friends and allies. Not included, either, are the millions of dollars in second-hand weapons that are passed on to other countries.

Aid recipients are potential customers in the future, say Defense officials.

Japan is an example. Grant aid to Japanese ended in 1966. Since then, arms sales have averaged about 50 million dollars a year. From 1950 through June, 1974, U.S. arms sales to Japan totaled 424 million.

Since World War II, military sales have risen from token amounts, while the proportion of military aid has declined. Sales averaged about 1.25 billion dollars a year in the last of the 1960s.

The biggest growth of foreign military sales by the U.S. has been in just the last three years. The total for the 12-month period that ended June 30, 1972, was 3.3 billion dollars, double that of the previous 12-month period.

In the following 12 months, orders rose to 3.9 billions; and in the 12-month period that ended June 30, 1974, orders more than doubled again to 8.3 billions.

IN THE FUTURE

Industry officials see a potential for even greater sales ahead.

In recent months, several countries—including Israel, Greece, Saudi Arabia and Iran—have asked for a step-up in arms deliveries.

Friendly and allied countries are also faced with the problem of replacing aging military equipment received from the U.S. in the past. Most are expected to buy later-model American arms.

These factors, added to uncertain conditions in the Middle East, Latin America and other potential hot spots, point to continued high levels of arms sales abroad during the years ahead.

TOP 10 BUYERS OF U.S. ARMS

Based on arms orders placed in year ended June 30, 1974:

1. Iran, $3.8 billion.
2. Israel, $2.1 billion.
3. Saudi Arabia, $588 million.
4. Greece, $435 million.
5. West Germany, $219 million.
6. Spain, $148 million.
7. Canada, $94 million.
8. Korea, $81 million.
9. Taiwan, $68 million.
10. Chile, $68 million.

A YOUTH VIEW FROM THE INSIDE

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. O'NEILL. Mr. Speaker, in the November 1974 issue of Youth Reporter, there is an interesting article by Brian O'Connor, who participated in the Washington Workshops program and tells all he learned while on the Hill.

Washington Workshops does a splendid job educating these young women and men and deserves support of their effort.

The article follows:

WASHINGTON WORKSHOP—A YOUTH VIEW FROM THE INSIDE

(By Brian O'Connor)

Every year millions of people come to Washington, D.C., to find in the countless memorials the spirit of the great men who, from a violent birth in a despotic world, established the first great free nation upon the face of the earth. But mens' souls do not live in marble.

The true spirit of our forefathers lives where those who are willing to search deeper than a frozen gaze of stone may find it. Humans forged this nation and humans continue the work. The search for the "American Heritage" is fulfilled in the discovery of the people who devote their lives to service to their country.

In the past, the human side of government has not been available for public scrutiny and study. The House and Senate galleries were as close as anyone could have hoped to approach their government. But mere physical proximity of the people to their leaders is as meaningless a personal experience as the contact of eyes with the impersonal words of a daily paper.

CLOSING CHASM

The appalling lack of public involvement, while public tourism flourishes, has created a chasm between the citizens and the leaders of this country of Grand Canyon-esque dimensions. This division has given an alarming number of our elected and appointed officials—as evidenced by the tragedy of Watergate—a feeling of immunity from prosecution, an opportunity for aggrandizement, a sense of security while ignoring the law. But the gap is closing and integrity is slowly returning now that citizens are coming to Washington as educated, informed, and concerned individuals rather than as gawking tourists.

Much of the credit for the current awareness must go to Leo S. Tonkin, a Harvard Law School graduate, who came to Washington as a student intern and immediately recognized the need for government education through personal interaction and involvement with its leaders.

He has continually expounded the view of Thomas Jefferson: "A nation that expects to be ignorant and free in a state of civilization expects what never was and will never be."

In 1967, Washington Workshops Foundation was created by Mr. Tonkin in order to replace ignorance in the operations of the Federal Government with education through a program entitled, "The Congressional Seminar."

FIRST SEMINAR

In the summer of 1968, Mr. Tonkin brought 200 students to Washington for the first session of the Congressional Seminar. The Workshops Foundation received its baptism by fire for that summer the city was engulfed in the flames of riots which followed the murders of Martin Luther King, Jr. and Robert F. Kennedy.

At that time it was difficult to find government officials who were willing to devote their time to talk to young men and women who would most likely ask embarrassing questions. But there were people who showed interest in youth and welcomed the opportunity to meet in seminar sessions with them, and thus with the first dynamic session lauded as an "overwhelming success", the Workshops dream was consummated.

Since that summer the Workshops Foundation has generated tremendous growth in both interest and participation. In 1975 nine sessions of the Congressional Seminar, with over 100 students comprising each session, will be offered. Senators, Congressmen, Supreme Court Justices, Cabinet members, Pentagon staff, Ambassadors, lobbyists, professional staff, personnel, and numerous other government officials will have dialogue sessions with the students in the various government office buildings.

While current issues and contemporary events are of major importance in the dialogues between the students and speakers, the search for a personal interaction is encouraged by the director, Mr. Tonkin.

EXPERIENCE RECALLED

Howard Ibach, who was a Congressional Seminar student during 1973, recounts an experience during his week in Washington: "During a seminar with Barry Goldwater, Jr. of California at the Rayburn House Office Building, I came to realize that questions regarding his stand on pending legislation and moral issues were just repetitions of what I read in the paper, hear on the news, or could receive in a typed letter from his office. I asked him, 'Congressman, why did you become a Congressman?' He paused for a second and then answered, 'Thank you for asking that question.' He then proceeded to outline the complete background of his motivation and desire for public service and recognition. It was an unusually enlightening and personal experience for me. I had sought and, I believe, succeeded in discovering the 'man behind the myth', so to speak, which is what I feel the Workshops program is all about."

The follow-up opportunities available to students who are interested in extending their government involvement and education beyond the Congressional Seminar are varied. The National Student Advisory Committee, which is only open to those who have completed the Congressional Seminar, is an organization designed to act as a channel for constructive student proposals and amendments to the program. Annual meetings are held throughout the United States. Student editorial projects written by Workshop students command national distribtuion through the Workshops' mailing list.

Since 1969 the Advanced Congressional Seminar has been offered to Congressional Seminar alumni. The Advanced Seminar entails a three-week internship in the Office of a member of the House or Senate, and three transferable college credits are available to the Advanced Seminar students through a research project written during their tenure in the program.

A PROFOUND EFFECT

Dorothy Hogg, who worked in Congressman Peter N. Kyros' office as a student in the Advanced Congressional Seminar, expresses her feelings on her three weeks sojourn to the nation's capitol: "Working in Congressman Kyros' office has had a profound effect on me. I had never been able to appreciate the hard work and dedication which a seat in Congress requires. The opportunity to work not only for a committed man, but for his constituents as well, has given me a sense of accomplishment which I had never known before my involvement with the Washington Workshops."

A unique and innovative factor of the Workshops program is the student residence at Mount Vernon College in northwest Washington. The academic ambience of a college campus is much more endemic to an educational and social experience than a hotel, which is one reason why the Workshops has been so successful while hotel-based student programs in Washington have come and gone through the years. The freedom, and responsibility of dormitory residence has proved to engender an unexpected maturity by the teen-age students. Young men and women from every social, economic, and geographical background of the country who participate weekly in the Congressional Seminar create a microcosm of the society as a whole.

John McGowan, a former student of the Congressional Seminar, and subsequently an intern in the office of Congressman John Ware of Pennsylvania through the Advanced Congressional Seminar, writes: "For me the most meaningful experience while in Washington was the chance to meet and talk with people my own age from all over the United States. Just the contact I made with others made my whole involvement with the Washington Workshops worthwhile. I have learned through this contact how essential sincere dialogue and an open mind are to understanding persons from different backgrounds. I will always be grateful for the opportunity to broaden my horizons in experience and understanding."

A FULL SCHEDULE

While the students have the option to delegate their own time as they choose, for those who wish to take advantage of them, a full schedule of social, athletic, and cultural activities are offered. The campus sports develop into competition between the Congressional Seminar and the Advanced Congressional Seminar, dubbed Washington Workshops I and Washington Workshops II respectively.

At the end of each session of the Congressional Seminar, a dance is held with a live band. Tours of monumental Washington are organized during free time along with bus rides to outdoor concerts at the Jefferson Memorial, the Capitol steps, the Tidal Basin, and other sites. The close proximity of the vibrant Georgetown section offers students hours of browsing pleasure along with the visual spectacle of that historic yet youthful section of Washington.

The week of the Congressional Seminar culminates in a model Congressional session held at Mount Vernon College and chaired by House Floor Manager Donald K. Anderson. During the week the students divide into five committees: Education, Foreign Affairs, Interior and Insular Affairs, Judiciary, and Select.

General resolutions intended to produce a "sense of the seminar" are written and discussed in the committees and presented to the "committee as a whole", the assembly of the students. The resolutions are debated according to the parliamentary rules of the House as interpreted by Mr. Anderson and then voted upon. The sense of the seminar has proved to be a valuable tool in the practical education of the students.

Both the art of forensics and the compromise of politics come into play during the debate and therefore provide a unique forum where the role of government may be learned.

THE ULTIMATE PROOF

The ultimate proof of the Washington Workshops Foundation's effectiveness in promoting interest in the system of American Government is the involvement that Workshops alumni have shown after their education through the Workshops. Delegates to both the Democratic and Republican National Nominating Conventions, permanent staff positions on Capitol Hill, local and state elective offices, are a few of the positions that Workshop students have gone on to occupy. It is not unlikely that the future will see the first Workshop alumni occupying a seat as a member of Congress.

ABOUT THE AUTHOR

Brian O'Connor, a former participant in the Congressional Seminar, is currently a freshman at Harvard College. His home town is Moorestown, N.J.

He was assisted in the preparation of this article by three other former participants in the 1974 Washington Workshops: Howard Ibach of Milwaukee, a high school senior at Nicolet H.S., who interned in the office of Sen. Gaylord Nelson of Wisconsin; Dorothy Hogg of High Point, N.C., a freshman at the University of Virginia, who worked as an intern in the office of Congressman Peter N. Kyros of Maine; and John McGowan of Malvern, Penna., a freshman at George Washington University, Washington, D.C., who worked as an intern in the office of Congressman John H. Ware of Pennsylvania.

O'Connor worked as an intern in the Washington Workshops Foundation Office.

For more information on the program contact: Washington Workshops; 1329 E Street, NW; Suite 1111; Washington, D.C. 20004.

THE NO POSTAGE POSTAGE STAMP

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. LAGOMARSINO. Mr. Speaker, in the last decade we have seen the price of the first class postage stamp skip along from 4 cents right up to 10 cents where it rests today. Now the Postal Service, in its ever present desire to serve the public, is ready to make amends for the cost increases of the past by offering the no postage postage stamp. By this, I mean, the cost of mailing a letter will from now on be free.

If you are wondering how you missed the announcement of this innovative idea and are planning to rush down to your nearest post office to find out more about it, do not bother. It was not published in any Postal Service departmental memo and most postal officials and employees know nothing about it. But the free postage stamp does exist.

Actually, the Postal Service, already millions of dollars in debt, was trying to regain rather than lose revenues when it accidentally created the no postage postage stamp.

In the past, many individuals were sending off their letters, most of which were bills, absent of any postage. This way, the individual or company which received the letter would get stuck paying the postage. For the post office, it meant extra time, effort, and expense to collect this postage.

To stop this, the Postal Service announced that it would no longer deliver the letter to the addressee stamped "postage due" but instead would return it to the sender. Unfortunately, the sender has turned out to be more ingenious than the Postal Service.

A member of my staff and a friend of his in Berkeley, Calif., recently demonstrated how to use the new Postal Service policy to their benefit. A letter bearing my staff member's name in the upper left hand corner as the sender and his friend's name as the addressee was dropped into a mail box in Berkeley. Four days later, it was "returned" to Alexandria, Va., stamped "returned for postage." Of course, there was no need to pay any postage and the Postal Service was out 10 cents.

No doubt, it will not be long before more members of the public hear about the no postage postage stamp and begin applying the idea. The Postal Service's next brilliant idea will then be the 15-cent postage stamp so that they can pay for the no postage postage stamp.

A PROGRAM TO REVIVE THE ECONOMY

HON. JOHN B. CONLAN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. CONLAN. Mr. Speaker, I have introduced a comprehensive package of measures to combat inflation and recession through reduced Government spending that will pump more than $30 billion back into the private sector of our economy.

The trouble with proposals for a multibillion-dollar tax cut alone is that this does nothing about the continuing upward spiral of inflationary Federal spending. In fact, a tax cut without a cut in Government spending only compounds our economic problem.

A tax cut must be matched by a reduction in Federal spending plus a balanced Federal budget to avoid further inflationary deficits that fuel recession and increase unemployment. And the first place to start cutting is with foreign aid and with nonproductive Government programs draining family incomes and removing jobs from our private enterprise economy.

Mr. Speaker, our goal must be a three-pronged attack against high taxes, high prices, and high interest rates through reduced Government spending, increased productivity, and creation of jobs in the private sector. I believe the four bills I introduced on the first day of this Congress, plus one I cosponsored with Mr. BAFALIS, will get us well on the road to achieving this urgent goal.

I am asking for, first, an immediate moratorium on new Federal spending programs; second, a 10 percent reduction in the Federal budget; third, a 3-year moratorium on U.S. foreign aid; fourth, a balanced Federal budget for fiscal year 1976, and fifth, a constitutional amendment forbidding future Federal deficits and requiring gradual repayment of our $500 billion national debt.

This comprehensive program to revive our economy by reducing the Government's inflationary drain on productivity, which in turn causes recession and unemployment, deserves the wholehearted support of this Congress.

For the benefit of my colleagues, I would like to include at this point in the RECORD a complete list of these bills I have introduced and the committees to which they were referred:

LIST OF BILLS

H. Con. Res. 10. Concurrent resolution to provide an opportunity for an orderly and cohesive policy toward reducing the rate of inflation through a moratorium on all new federal spending programs. Referred to Committee on Government Operations.

H. Con. Res. 36. Concurrent resolution to provide an opportunity for an orderly and cohesive policy toward inflation control and economic stability by declaring a reduction in all appropriations for fiscal year 1976. Referred to Committee on Appropriations.

H. Con. Res. 9. Concurrent resolution to provide an opportunity for an orderly and cohesive policy toward inflation control and economic stability by declaring a 36-month moratorium on all foreign aid appropriations for economic development. Referred to Committee on Foreign Affairs.

H.R. 1252. A bill to reestablish the fiscal integrity of the Government of the United States and its monetary policy, through the establishment of controls with respect to the levels of its revenues and budget outlays, the issuance of money, and the preparation of the budget, and for other purposes. Referred to Committees on Ways and Means and Banking, Currency, and Housing.

H.J. Res. 5. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt. Referred to Committee on the Judiciary.

INAUGURATION OF THE HONORABLE RAY BLANTON AS THE 44TH GOVERNOR OF THE STATE OF TENNESSEE

HON. JOE L. EVINS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. EVINS of Tennessee. Mr. Speaker, Ray Blanton was inaugurated as the 44th Governor of Tennessee on Saturday last in impressive ceremonies in the War Memorial Auditorium in Nashville.

Many of you will recall that Ray served with great ability and distinction as a Member of the House—and I am sure he will govern the State of Tennessee with the same cool competence and courage already demonstrated in his career of public service.

In his inaugural address Governor Blanton pledged to govern Tennessee for the people—for the "plain folks who want a better Tennessee"—and he was repeatedly cheered in the War Memorial Auditorium as he outlined the philosophy, goals and objectives of his administration.

The inaugural was a most impressive ceremony, with Chief Justice William H. D. Fones of the Tennessee Supreme Court administering the oath of office. An inaugural gala and inaugural ball complemented the main ceremony and on yesterday the Governor and his charming wife held an open house for the people of Tennessee at the Governor's mansion.

Symbolizing the transfer of power from a Republican to a Democratic Governor, at the moment Governor Blanton was sworn in, a painting of Abraham Lincoln in the Governor's office was replaced by a portrait of Andrew Jackson, Tennessee's distinguished son, the 11th President of the United States and hero of the Battle of New Orleans. Governor Blanton had instructed his aides to change the portraits at the precise moment of his taking the oath of office.

The full program of the inaugural activities and ceremony follow:

INAUGURAL ACTIVITIES

CALENDAR AND INFORMATION

Inaugural prayer service

Saturday, January 18: McKendree United Methodist Church, 10:30 A.M.

The inauguration ceremony

Saturday, January 18: War Memorial Building, 12:00 Noon.

Inaugural parade

Saturday, January 18: War Memorial Building, 12:30 P.M.

Reception at the State Capitol

Saturday, January 18: State Capitol, 2:00 P.M.–4:00 P.M.

Inaugural ball

Saturday, January 18: Municipal Auditorium, 7:15 P.M.

Reception at the Governor's residence

Sunday, January 19: Governor's Residence, 2:00 P.M.–5:00 P.M.

INAUGURAL CEREMONY

12 o'clock Saturday, Jan. 18

Governor-elect Blanton, Governor Winfield Dunn, Lt. Governor John S. Wilder, Speaker of the House Ned McWherter and Chief Justice William H. D. Fones escorted from the State Capitol to the front of the War Memorial Building.

Joint Convention of the 89th General Assembly of Tennessee is called to order, by Mr. Speaker Wilder, President of the Joint Convention.

Proceedings opened with prayer by Rev. Tom Bullock, Adamsville Methodist Church, Adamsville, Tennessee.

Mr. J. T. Craig, Chief Clerk of the Senate, reads the Joint Resolution.

National Anthem sung by Lynn Anderson, Nashville, Tennessee.

Mr. Speaker Wilder presents Governor Winfield Dunn who addresses the Joint Convention.

Mr. Speaker Wilder presents Governor-elect Ray Blanton, who delivers the Inaugural Address to the Joint Convention.

Oath of Office administered to Governor Ray Blanton by the Honorable William H. D. Fones, Chief Justice of the Supreme Court of Tennessee.

Governor's salute by the Tennessee National Guard, Nashville, Tennessee.

Benediction by Rev. Ed Currie, Pastor, Price Missionary Baptist Church, Memphis, Tennessee.

Governor Blanton and party move to reviewing stand.

Mr. Speaker, Governor Blanton takes office as Tennessee, like other States, faces economic problems, increased demands for services with declining State revenues. He is preparing a legislative program to respond to the many challenges facing his administration and to implement campaign pledges.

Certainly I wish Governor Blanton the very best of good luck and success as he assumes his new responsibilities, and I am sure that his former colleagues in the House join me in this expression of good wishes.

DR. MARTIN LUTHER KING, JR.

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. DOWNEY. Mr. Speaker, January 15 would have been the 46th birthday of Martin Luther King, Jr. For a decade before his tragic death in 1968, Dr. King led the struggle to assure equal rights for the black people in America and dignity for all people. Those were years of change and years of achievement, and Martin Luther King became a symbol in the cause of human rights.

But on this day in 1975, we again face serious challenges to the dignity of our people. Growing numbers of men and women are jobless, poor and middle-income families cannot afford the rising costs of even the most simple housing and food, senior citizens are barely able to make ends meet on their small and fixed incomes.

The growing recognition of this suffering and of the failure to meet the people's pressing need are being dramatized today in Washington and in cities around the Nation by Dr. King's followers, led by Rev. Jesse Jackson. At the same time that the "Silver Rights March" acts to symbolize the plight of so many, the 94th Congress begins the tough job of developing solutions to our problems.

While this was a day to remember Martin Luther King as a champion of the people in the cause of justice and humanity, this Congress—to truly honor his memory—should move quickly and affirmatively to help those who Dr. King himself would champion today. It is for us to carry on by recommitting ourselves to the dream he had.

A BILL TO STOP ABUSE OF AUTHORITY BY THE FDA

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. ANNUNZIO. Mr. Speaker, at the beginning of the 94th Congress, I introduced H.R. 186, a bill to prevent the Food and Drug Administration from implementing proposed regulations designed to limit the potencies and combinations of ingredients in vitamin and mineral supplements.

H.R. 186 is identical to legislation I introduced in the 93d Congress and also identical to a bill introduced by former Congressman Hosmer on this subject. During the 93d Congress, many hundreds of my constituents wrote to me and let me know of their opposition to the proposed FDA regulations because certain supplements would be classified as drugs rather than foods and because costly marketing requirements for drugs would drive up prices, making the vitamin-mineral products least available to those who need them most.

Those supplements which are now arbitrarily classified as drugs either have dosage levels higher on a per unit basis than those prescribed by the FDA regulation or they have combinations of supplements other than those allowed. In the case of two vitamins, A and D, dosage levels over a certain amount will now be available only by prescription. Eventually, even more of the supplements may be placed on a prescription-only status. An advisory review panel has been requested to provide its advice on the dividing line between over-the-counter and prescription drugs.

I can see no reason for the FDA to promulgate such regulations. Most vitamins and minerals present no danger to the consumer, indeed, they may be highly beneficial. If some of the vitamins are hazardous at high levels, as may be the case for the vitamins A and D, they should be limited. However, criticism has poured in from academic, consumer, and industry sources, protesting that the levels prescribed are far too low—400 I.U. for vitamin D and 10,000 I.U. for vitamin A.

Considering the present level of knowledge regarding the need for vitamin and mineral supplements, whether or not a benefit can be derived from high potency supplements seems to be a very subjective decision. But regardless of the availability or lack of benefits, the consumers have every right to purchase food supplements at dosage levels they desire as long as they are unadulterated, correctly labeled, and present no hazard to health. The FDA seems to have made a value judgment that consumers are wasting their money on useless supplements. It is not within the legislative mandate of the FDA to regulate how consumers spend their money. The mandate was designed by Congress only to protect their safety.

In an attempt to stop this abuse of authority, I have introduced H.R. 186 which would require the FDA to prove that any vitamin or mineral—synthetic or natural—is "intrinsically injurious to health in the recommended dosage," before restricting its dosage level or requiring a warning label. H.R. 186 would prohibit the FDA from arbitrarily controlling what goes into vitamin-mineral supplements. In those instances where a high potency supplement does pose a threat to health, the FDA would be free to impose limits on the dosage strengths or require a warning label.

Mr. Speaker, I have sponsored this amendment to the Federal Food, Drug, and Cosmetic Act in the firm belief that its passage is imperative if we are to protect the rights not only of the manufacturers, but of the consumer. Therefore, I strongly urge the support of my colleagues for this legislation so that this crucial amendment can be enacted into law.

TRIBUTE ON 75TH WEDDING ANNIVERARY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. STOKES. Mr. Speaker, I wish to bring to the attention of my colleagues a story with a positive message about American family life. This is a love story that has been going on for three-quarters of a century. On January 8, 1975, Mr. and Mrs. Simon A. Stanard celebrated their 75th wedding anniversary at their home at 10201 Westchester Avenue in Cleveland, Ohio.

Simon Stanard was born in North Carolina 97 years ago, the son of a minister. He met and married Clara Bell Mountain in Bel Air, Ohio, at the turn of the century, and moved with his young bride to Cleveland in 1903. Mr. Stanard worked as a custodian for the Cleveland Trust Bank for over 60 years before retiring in 1962. Mrs. Stanard has been active in civic work as a member of the Parent Teachers Association and the Christian Women's Temperance League right up to the present day. They are both members of the Christian and Missionary Alliance Church and the American Leprosy Foundation.

The Stanards raised a family of nine. Four of their children are now living: Mr. Harold Stanard, Mrs. Alice Hurse, Mrs. Elsie Voorhies, and Mrs. Clemence Wright. Mr. and Mrs. Stanard are also blessed with 20 grandchildren, 27 great-grandchildren, and 8 great-great-grandchildren.

In our times the institution of marriage has changed from when the Stanards pledged their troth at the turn of the century. When asked how they managed to withstand the changes and stay in love for 75 years the Stanards say:

> We give the credit to God.

Mrs. Stanard adds a note of wisdom saying—

> We haven't always seen eye to eye but we always disagreed agreeably.

Mr. Speaker, I call on my colleagues to to join me in congratulating this remarkable couple.

IMPACT OF OIL EXCISE TAX INCREASE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. YOUNG of Florida. Mr. Speaker, in his state of the Union message President Ford announced that he will impose a graduated excise tax on imported crude oil, starting at $1 per barrel and rising to $3 per barrel, in an effort to decrease domestic consumption and lower our dependence on foreign suppliers.

While I wish to support my President in achieving these goals, unless there are some qualifications in the excise tax proposal I must oppose the tariff increase because it discriminates heavily against those areas which must rely on foreign crude oil for the energy needs. My home State of Florida is one such area. Florida utilities now pay $12.38 per barrel for imported Venezuelan crude, and a $3 per barrel import fee would push that price to an astronomical $15.38 per barrel—nearly three times the cost of price-controlled domestic oil.

Electricity bills in Florida have more than doubled in the last year, and according to figures obtained from industry sources, an additional $3 per barrel tax could cost 2.2 million Floridians an additional $5 per month in their electric bills.

Such increases hit hardest at those who can least afford them. Many residents in my own Sixth Congressional District are retirees living on small fixed incomes and are already overburdened by the rate increases of the past year. A further increase could mean the difference for some between using electricity and eating.

If we are to have a tariff increase, it must be accomplished in a more equitable fashion. Floridians must be allowed access to a fair share of the cheaper domestic oil, rather than continue a forced dependence on expensive foreign crude.

Last fall the Federal Energy Administration issued a proposal to allow hard-hit utilities an entitlement to domestic oil based on a percentage of the foreign oil they are buying. I strongly supported this proposal, known as alternative rule 4, but the FEA failed to adopt it as a final allocation rule.

Therefore, I am drafting legislation to amend the Emergency Petroleum Allocation Act to require the FEA to give all utilities the same access to cheaper domestic oil. My bill will establish a form of national oil pool, and utilities will be able to draw upon this pool to meet their energy needs in the same proportion that the Nation as a whole uses domestic oil. Thus, if the Nation uses 11 barrels of domestic oil for every 7 barrels of foreign oil, Florida utilities will be able to buy 11 barrels of cheaper domestic oil for every 7 barrels of expensive foreign oil they buy.

This proposal will spread the burden of foreign oil costs and the tariff increase equitably among all utilities and greatly ease the costs of Florida electric consumers, and the incentive to further reduce dependence on foreign oil will exist throughout the Nation.

The 94th Congress faces a major task in drafting energy legislation. I believe that equitable treatment of all Americans should be a priority in our deliberations. Under present law, certain geographic areas, including Florida, suffer undue hardship and economic costs that their residents are ill able to afford. Legislation along the lines which I have suggested will eliminate these inequities, and I urge my colleagues to give it their full support.

WAR WITHOUT END

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. DRINAN. Mr. Speaker, it is really unbelievable that a fourth American President should now be seeking to reinvolve the United States in Vietnam.

Garry Wills, the well-known columnist, expresses my views on this matter in the Washington Star-News on January 17, 1975.

Mr. Wills concludes:

> We have nothing to win in Saigon, and never did. We have all kinds of things to lose there; and this President, like the three men who preceded him, is asking us to risk them.

Mr. Wills also reminds us that Henry Kissinger did not end the war in Vietnam. Rather, he "kept it alive by endless blood transfusions." Mr. Wills fails to find any reason "to prolong the agony." Certainly, he suggests, the United States should not become reinvolved in order "to keep the shine on Henry Kissinger's shameful Nobel Peace Prize."

Mr. Wills' article follows:

WAR WITHOUT END

(By Garry Wills)

Remember President Nixon's defense in the last days of his mendacious regime? It went something like, "Watergate will not matter in the long run, not for a man who ended the war in Vietnam."

Actually, he did not end it. Rather, with Henry Kissinger's help, he kept it alive by endless blood transfusions. The war went on, and took an even deeper toll of Vietnamese life, after the so-called settlement.

But the war is now finally lost. All men of sense should at last see the dark at the end of the tunnel.

Yet we are being asked to prolong the agony. For what—To keep the shine on Henry Kissinger's shameful Nobel Peace prize? To pretend that the inevitable is indefinitely prolongable? It isn't.

The sad thing is that the struggle over Vietnam-after-Vietnam develops on so many false fronts. Take just these three:

President Ford is asking for extra military aid to the land that already gets most of our aid. Congress will fight back fiercely by trying to stick to our mere $700 million dollars scheduled for Vietnam this year. Both positions are crazy—that of Ford because it asks us to escalate again toward an impossible victory, that of Congress because it tries to continue the myth of a gradual letdown that will be neither victory nor loss.

Ford tries to pump blood back into one wound while it pours out of 14 others. Congress tries to put a bandage on the one wound, while more wounds are delivered. If Congress "wins," we all lose—Vietnam by a series of further bloody twitches galvanized by us, Americans, by the drain of money in our desperate economic situation, and the rest of the world by the loss of American determination and resources.

Another false issue will be raised—that of Secretary of State Kissinger's position over against the Congress. If Congress comes even partially to its senses now, it will be called part of the "revolt" against the Secretary of State's control of foreign policy. Kissinger wants a free hand in Cyprus, on foreign trade, and in the Middle East.

Maybe he deserves some cooperation in these areas—but not in the soured dealings over Vietnam. The longer he holds out there, the worse he makes things for himself in regions where some hope remains.

The more we prolong the Vietnam craziness, the harder it gets to judge the merits of activism or restraint in other places. The administration is indulging in wild talk now of war in the Middle East—talk that becomes more plausible, to ourselves and others, if we go on defending the indefensible in Vietnam. On the other hand, a firm non-violent economic resistance in the Middle East becomes harder, the more all hostile acts get equated with further Vietnams.

We have nothing to win in Saigon, and never did. We have all kinds of things to lose there; and this President, like the three men who preceded him, is asking us to risk them.

NEEDED: HIGHER TAX ON GASOLINE

HON. DAVID E. SATTERFIELD III

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. SATTERFIELD. Mr. Speaker, in an editorial on Sunday, January 12, the Richmond Times-Dispatch offered some interesting arguments with respect to a possible increase in the gasoline tax as a means to combat our Nation's oil problems and economic difficulties.

I believe this editorial will be of value in our discussions of these momentous problems in the days ahead:

NEEDED: HIGHER TAX ON GASOLINE

As the new Congress prepares to convene, government leaders appear to be on the verge of panicking about the nation's economic problems; and when men panic, they can do some irrational and dangerous things. News stories report that President Ford, only recently a bullet-biting fighter of inflation, is about to make at least a 179-degree turn to aim his fire at the recession. From congressmen comes scary talk of massive tax cuts and soaring budget deficits, which could, in the long run, aggravate the country's economic troubles and make the current period of gloom seem like a golden age by comparison.

A far more thoughtful and more responsible approach is necessary if the nation's economic problems are to be solved. There is no quick and painless way out of this agonizing mess, and those who suggest otherwise are guilty of a despicable attempt to deceive the American people.

Consider, for the moment, the oil problem. Unquestionably, the exorbitant price of imported oil is a major cause of the nation's economic difficulties. Far too many American dollars are gushing from this country into the coffers of the oil-exporting countries. During the third quarter of 1974, the outflow of oil money was primarily responsible for the United States' balance-of-payments deficit of $3.6 billion, the second highest three-month deficit on record. Obviously, a successful assault against the nation's economic problems must include a major reduction in the importation of oil.

Experts have said the United States' goal should be to cut oil imports by one million barrels a day by 1976. Only if we are prodded, however, are we Americans likely to reduce our consumption of gasoline enough to achieve that goal. And it is becoming increasingly clear that the most efficient, most effective and most equitable way to encourage the conservation of gasoline is to increase its cost sharply.

One way to achieve a one-million-barrel reduction in the daily consumption of oil by next year, the Ford administration has been told, would be to raise the federal gasoline tax by 50 cents per gallon. This would boost the pump price of gasoline to $1 or more per gallon, about twice what it is now in most sections of the country but less than most Europeans have been paying for it for a long time. Such an increase would be all the incentive that most of us would need to adopt more frugal driving habits.

Critics of a gasoline tax increase complain that it would impose an unfair burden upon people with low incomes. And a 50-cent increase, one news magazine has argued, could cause "a drop in demand sharp enough to send the economy into a tailspin." But it should be possible to develop a plan that would blunt these objections, and one possible approach is suggested:

The plan could be designed to permit people to purchase up to 10 gallons of gasoline per week at the present federal tax rate of 4 cents per gallon. On all purchases in excess of that amount, the increase would apply.

So that there would be no need to print coupons, require the maintenance of massive records or establish a new federal bureaucracy to administer the program, the higher tax should be collected from everyone at the time of purchase. Then the federal government, acting through the Internal Revenue Service, could give each person who filed an income tax return a rebate of $260 per year, which would represent the total annual tax collected at the 50-cent rate, on 10 gallons of gasoline per week. Actually, the rebate could and should show up in each paycheck as a $5 per week reduction in the withholding tax, which would mean that the money could be put to immediate use. Provision also should be made for Social Security recipients, many of whom own automobiles. And to prevent the 50-cent gasoline tax increase from boosting the cost of other goods and services, it should be rebated on all fuel purchased for commercial and agricultural uses. The tax would be collected at the time of the sale, but buyers could apply for refunds at the end of each month.

Let us cite some figures to show how the plan might work:

According to the most current estimates, 73 billion gallons of gasoline are consumed by passenger cars each year. At this rate, a 50-cent tax increase would generate for the federal government additional revenue of more than $36 billion a year.

If the government refunded $260 per year for every income tax return filed, it would disburse a total of more than $21 billion annually, a figure based upon official estimates that at least 83 million individual returns will be filed for the 1974 tax year. Most of the refunds would go to heads of households, but some, of course, would go to other individuals, some of whom might not even own an automobile. But disbursements to them could be justified by the fact that almost any individual who earns enough to be required to file an income tax is likely to spend enough on gasoline, directly or indirectly, to merit inclusion in the plan.

A fair way to deal with Social Security recipients, whose driving needs will differ from those of workers, might be simply to increase each one's annual benefits by $130. In many cases, this would mean $260 per household per year, since some families would include two recipients. The total disbursement for people on Social Security probably would not exceed $2 billion a year.

On the basis of all of these figures, the federal government would be left, after distributing all rebates, with a net return of about $13 billion. But since the purpose of the program would be to reduce gasoline consumption, and it surely would have that result, the government's gross receipts from a 50-cent tax increase probably would never total as much as $36 billion a year. However, consumption could drop by as much as one-third and revenue from the tax increase still would be sufficient to finance all of the suggested rebates.

Most of these refunds, it should be emphasized, would go back into the economy. Thus a reduction in the demand for gasoline should not cause the "tailspin" that the magazine pessimistically predicted.

A gasoline tax increase would be far preferable to two other proposals that have been advanced, an increase in the tax on crude oil and fuel rationing. A crude oil tax increase would send inflationary shock waves throughout the economy immediately, for such a boost would increase the price of nearly every product or service utilizing oil or energy produced by oil. Adversely affected, for example, would be the power plants that generate electricity for American homes. There certainly would not be anything inflationary about a gasoline tax as suggested here. Rationing and other restrictions on the sale of gasoline would mean red tape for sellers and buyers, long lines at service stations and other problems. An army of bureaucrats would have to be assembled. Such schemes tend to be fraught with inequities and abuses, including black-marketeering, and are extremely difficult to administer.

One very important aspect of the tax increase plan suggested here is the freedom it would give the motorist. He could drive as much as he liked as long as he was willing to pay the price.

This plan is designed for the gasoline problem and is not intended to be a substitute for action that may be needed in other areas of the economy. It is not in conflict, really, with Mr. Ford's opposition to a general increase in the gasoline tax, for each person in effect would determine whether he would pay any tax increase at all, and if so, how much. He would pay none, obviously, if he used only 10 gallons of gasoline a week.

We do not pretend that this proposal is perfect. It is offered not as a finished program but as the outline of a plan for an equitable and effective approach to one of the nation's most challenging problems. The development of such a plan should be the common objective of President Ford and Congress.

JOHN O. HOLLY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. STOKES. Mr. Speaker, during the recess between the 93d and the 94th Congresses funeral services were held in Cleveland, Ohio, for one of our most illustrious and extraordinary black leaders. Mr. Speaker, John O. Holly was a fearless fighter for the rights accorded to all Americans by the Constitution. He was a man for whom I had great admiration, and I was proud to have him as my friend. I deem it a privilege to cite his accomplishments to my colleagues as set forth in his obituary which follows. I also at this time include the remarks which I was privileged to make regarding Mr. Holly at his funeral. I commend both the obituary and my remarks to each of my colleagues in order to acquaint them with the life of one of the finest men I have ever been privileged to know:

OBITUARY

John Oliver Holly, Jr., passed away December 20, 1974 in Richmond Heights General Hospital.

A native of Tuscaloosa, Ala., where he was born, Dec. 3, 1903, the son of Mr. and Mrs. John O. Holly, Sr., the family moved to Roanoke, Va., where John completed his high school education at Harrison High.

John's father moved to Detroit, Mich., where he established a trucking business. In Detroit, John took a commercial course at Cass Tech while employed at the Packard Motor Co.

In the late twenties, John O. Holly moved to Cleveland, Ohio. In 1927, he married the former Leola Lee (deceased), and from this union, two sons were born, Arthur (deceased) and Marvin. In 1961, he married Marguerite Stone, secretary to the late Bishop A. J. Allen, now office manager of the City of Cleveland Law Department.

Mr. Holly was employed as a shipping clerk at the Federal Sanitation Company. After a trip to the Century of Progress Exposition in Chicago, he was inspired by what he saw and got the idea of harnessing the power of Black people to improve their living conditions.

In 1937, with a nucleus of a small band of Cleveland business and church leaders, the Future Outlook League was organized.

The first targets of the new organization were the hundreds of community based businesses that did not hire Blacks except in menial jobs. Victories were scored through persuasion, followed by boycotts and picketing. As a result of his crusades for jobs, John O. Holly was sent to jail for defying a court order. This, however, did not deter John O. Holly in his efforts to advance his people.

The whole story of the life of John O. Holly and the Future Outlook League was published in a book in 1947 which was authorized by Charles H. Loeb of the Cleveland Call & Post.

Mr. Holly, for more than 40 years, was one of Cleveland's most involved citizens. His name is synonymous with that of the Future Outlook League, Inc., an organization he helped start in 1935, and served as President until his demise which laid the groundwork for much of the economic advancement of Blacks in the greater Cleveland area, and a number of Ohio cities. During those years, the principles of the Outlook League, which had branches in Akron, Alliance, Canton, Mansfield, Painesville, Youngstown, and Springfield, became a guide in the field of civil rights. Its slogan, "Don't Buy Where You Can't Work," have served as an example and guide for Black community organizations throughout the nation.

The integration of Blacks into employment in banks, department stores, utilities, industrial plants and housing, and the development of Black entrepreneurships, was largely predicated upon the FOL's program.

John O. Holly exerted his leadership and extended his unique ability into other fields, including that of effective political action.

He organized and gave leadership to the Federated County Democrats of Ohio, Inc., and, in 1949, was its first and only State Chairman. In 1937, he was a candidate for Cleveland City Council and was nominated on the Democratic ticket from the 12th Ward. In 1952–56, he was elected Delegate-at-Large to the Democratic National Convention, serving as vice-chairman of the Ohio delegation.

In 1954, he was the first Black candidate to run for nomination for Congress from the 21st District.

As a member of Champion City Lodge #177 of the Improved Benevolent Order of Elks of the World, Mr. Holly held many responsible Grand Lodge posts and, at the time of his death, was serving as Grand Convention Director.

An active member of Mt. Sinai Baptist Church and member of its trustee board, Mr. Holly was a former member of the Executive Committee of the Cleveland Branch NAACP.

John O. Holly started former Cleveland mayor Carl Stokes on his political career and was the champion and patriarch of many other young Blacks who worked in both the Democratic and Republican parties. At the time of his death, Mr. Holly was employed by the City of Cleveland.

Survivors are: Wife: Marguerite; Son: Marvin; Grandchildren: Arthur; Barbara; John O. 3rd; Deborah; Marva; Three great-grandchildren; two nieces: Barbara Boyd, Rosetta Newman; One nephew: Melvin Clark; and numerous relatives and friends.

REMARKS AT THE FUNERAL OF JOHN O. HOLLY, JR.

Reverend Clergy, Grand Exalted Ruler Reynolds, Marguerite and Marvin Holly, Granddaughter Ruler Smith. In 1946 Charlie Loeb authored the book, *The Future Is Yours*. This book eloquently chronicles the history of John O. Holly and the Future Outlook League. In the front of this book where the dedication appears it says "To the new generation of American Negroes who are no longer content with second-class citizenship and who intend to do something about it, this book is respectfully dedicated." This then to me symbolizes the life of John O. Holly. Few men die and leave an institution. John O. Holly was a pioneer in protest, a man decades ahead of his time. The forty year existence of the institution which he founded for the perpetuation of the progress of black people is a great legacy. John Holly became a civil rights leader long before the modern day pioneers and martyrs such as Martin Luther King, Jr., Medgar Evers and Malcolm X, whom we honor today. A few days ago I picked up "The Future Is Yours" and read it again. I did so in order to once again bring into perspective the enormous contribution that John Holly and his devoted followers made to black economic progress in that era. I was 10 years old in 1935 and though I can recall the soup lines and other indicia of poverty I was unaware of many of the conditions affecting black people at that time. Every man and woman here today should read that book which describes the conditions of black people in Cleveland in 1935 when this young black man set out to create black unity and black economic opportunity. As we look at our community today it is difficult for us to realize that in 1935 Cleveland had a black population of 80 thousand people, that 80% of that population was either on direct or indirect relief. That at the same time there were more than 3,000 business places operating in the Central area. But that less than 100 employed black people—and these were in menial positions. Black high school graduates were for the most part relegated to jobs as porters, shoe shiners, factory labor and domestic work. John Holly triumphed over race prejudice, public indifference, and even apathy in the black community itself. His fierce determination and strong leadership qualities enabled him to be a Moses to his people. Thousands of black men and women enjoy positions of trust, prestige, and dignity today because a John Holly was determined that in America no man should be denied an equal economic opportunity because of the color of his skin. I am proud of my own personal friendship with him and equally determined and committed wife Marguerite. You and his family were his strength. Two of my relatives, Linton and Ruth Freeman were among his first supporters, with Ruth having the honor of being the League's second office secretary. My brother was not only the recipient of jobs through John Holly, but he was also his political protege. And so the Stokes family enjoyed a close and intimate relationship with the Holly family. Not all men have the capacity to become a legend in their own time. God, in his infinite wisdom saw fit to give John Holly this capacity. Yet he was a man who walked with Kings and never lost the common touch. For those of us who have studied his life it is apparent that he was indeed a man ahead of his time. Secondly his success at struggle and protest in behalf of mankind does indeed teach us that the future is ours. While history will record him as a pioneer in protest, he will live in the hearts of all of us who knew him as our "Uncle John".

TIME TO RETHINK COMPULSORY RETIREMENT

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. SEBELIUS. Mr. Speaker, I have the privilege of representing a rural district in Kansas where many of our fine citizens are over the age of 65. I make mention of this fact not only because I am very much interested in the problems of our elderly in rural areas but also because I know many of my colleagues share this interest in behalf of their elderly constituents throughout the Nation.

I recently had occasion to read an article written by Mr. Allan C. Brownfeld that I feel sums up very well a particular problem facing our senior citizens that fortunately could be rectified through proper legislation. Mr. Brownfeld's article is entitled, "Time to Rethink Compulsory Retirement," and certainly such is the case.

In the past session of Congress, my friend and colleague, the Honorable PAUL FINDLEY from Illinois, introduced legislation that would terminate age discrimination in employment. Congressman FINDLEY's bill would simply put an end to compulsory retirement at 65 or in reality what has come to be a most damaging form of age discrimination. I was most happy to cosponsor this legislation.

In the interest of utilizing one of our Nation's most valued resources, and putting an end to senseless discrimination, I commend the following to the attention of my colleagues.

[From the Manchester (N.H.) Union Leader, Dec. 11, 1974]

TIME TO RETHINK COMPULSORY RETIREMENT

(By Allan C. Brownfeld)

When the Congress passed legislation outlawing discrimination based upon race, sex and age, it overlooked one of the most damaging forms of age discrimination—compulsory retirement at 65.

Today, millions of able-bodied men and women are told, upon their 65th birthday, that they are no longer wanted or needed as contributing members of society.

Existing law allows employers in both government and private industry to discharge employes when a predetermined age is reached. The difficulty and anguish this enforced retirement has caused is only beginning to be understood.

In a recent published study, Retirement: A Medical Philosophy and Approach, the American Medical Association's Committee on Aging states "The increase in life expectancy and higher health levels will prove of little benefit to man if he is denied the opportunity to continue contributing of his skills at a certain chronological age, whether this be 45, 65, or 85 years."

It is the conviction of this medical committee that such arbitrary retirement and denial of work opportunity—whether the work is for pay or the pleasure of giving—seriously threatens the health of the individual concerned.

Society exerts every effort to assist each individual to achieve his maximum potential, to utilize his abilities for his own and the human community's greatest benefit.

The committee adds, "From the beginning of life until its end, these objectives and motivation should continue to apply. Unfortunately, however, they apply only until a certain chronological age—most often 65—when forces outside of medicine inflict a disease—or disability-producing condition, upon working men and women that is no less devastating than cancer, tuberculosis, or heart disease. This condition—enforced idleness—robs those affected of the will to live full, well-rounded lives, deprives them of opportunities for compelling physical and mental activity, and encourages atrophy and decay. It robs the worker of his initiative and independence. It narrows physical and mental horizons so much that the patient's final interests and compulsions are in grumbling about his complaints."

It is the view of doctors studying the question of aging that compulsory retirement on the basis of age will impair the health of many individuals whose job represents a major source of status, creative satisfaction, social relationships, or self-respect.

In a position paper prepared for the 1971 White House Conference On Aging, the American Medical Association noted that there are no known diseases specifically attributable to the passage of time and that, since compulsory retirement and artificial barriers to employment based on age can be prime factors in the deterioration of health, middle aged and older workers should be afforded equal opportunities with others for gainful employment, based on their personal desires and capabilities.

Now, a suit has been filed in federal court by Martin Weisbroad, an attorney in the Chicago office of the U.S. Department of Housing and Urban Development. Weisbroad brought the suit in December, 1972, two months before reaching age 70 and mandatory retirement. His suit declares that the civil service provision forcing him to retire—although he has been re-hired on a temporary basis—is unconstitutional.

"I'm not built for retirement. I don't want to sit on a park bench," the plaintiff told Time Mazagine, which added, "thousands of aged Americans would probably echo that sentiment."

At present, discrimination based on religion, national origin, race, sex, wealth and practically every other variable which can be used to separate citizens into "classes" has been eliminated—but age discrimination is still practiced.

Rep. Paul Findley (R-Illinois) has sponsored legislation which would eliminate mandatory retirement based upon age. The legislation is attracting a good deal of support.

One of its co-sponsors, Rep. Philip Crane (R-Illinois) notes, "If mandatory retirement at 65 were suddently imposed on the House of Representatives, about 60 members would be unseated. Congress," however does not have a mandatory retirement age because the founding fathers recognized that advancing years alone were not the measure of lessening wisdom or ability. Is it not just as absurd to require millions of workers to retire when they reach their 65th birthday—or earlier?"

Pollster Louis Harris said recently that the nation's aged feel they are being misused by the society and warned, "It is not hard to predict that we shall see a wave of militance grow. Mr. Harris stated that a recently completed study sponsored by the National Council on Aging showed that nearly a quarter of all people over 65 would like to be working, either with without pay. "The basic shame . . . about the way senior citizens are treated is that people are declared . . . useless long before their time in a society that will be aging dramatically in the next decade, this can be a highly dangerous political fact."

All forms of collectivism—viewing people as "blacks" or "women" or "Catholics" eliminates the need to a free society to judge each person solely as a unique individual.

This is also true with regard to age. We can ill afford to waste one of our greatest natural resources—the experienced men and women who have provided their younger fellow-citizens with the society from which they are now being cast aside.

END COMPULSORY RETIREMENT

(By William Loeb)

At this newspaper, any man or woman can continue to work as long as he or she wants to work and 65 means nothing to us. At one time we employed the oldest Composing Room superintendent in the nation. John Laing, who lived to 98, was 81 when he finally said his legs would not keep up with the speed required at edition time and he would like to retire.

Laing was financially able to retire years before but he just enjoyed working and we enjoyed and needed his sage and able advice and leadership.

At the same time, John Laing was working for us, we employed the youngest editor of a daily newspaper in the nation. Cliff Noyes, a New Hampshire born and raised lad who was 18 when he held that position.

Both were employed for the same reason—they had a great deal of enterprise, courage and good judgment and a capacity for hard work.

More than 30 years ago, when this writer was in his 30's, he protested, as he still protests, compulsory retirement at the age of 65. Not only does it deprive the individual of the opportunity to go on and enjoy work but in many cases, it also deprives the nation of the services of some of its most able citizens.

While it is true that there are some works and professions so fatiguing that, when a man reaches 65 he is ready to retire, there are other occupations where this is not the case. Furthermore, people vary greatly in the way they age. Some individuals are senile in their 50's, while others are still in good physical and mental health in their 80's and 90's.

If you feel compulsory retirement at 65 is wrong, read the very interesting article by Columnist Allan C. Brownfeld at the top of our back page today. He quotes a recently published study by the American Medical Association's Committee on Aging which states, "The increase in life expectancy and higher health levels will prove of little benefit to man if he is denied the opportunity to continue contributing his skills at a certain chronological age, whether this be 45, 65, or 85 years."

Furthermore, there is another practical aspect of this situation. As better health and advances in medical science increase, more older people will be living a healthy and vigorous life longer and there will be more and more of them.

As the birth rate drops, if these older people were to retire at 65, then the burden of supporting them by a national pension system would fall on the younger population and it would be unbearable.

From every aspect, the good that can come from the productivity of the older people, the fun and security they can have if they continue to work and, lastly, the lowered cost of retirement pensions, the idea of doing away with compulsory retirement at 65 should be adopted on a national level.

WORRIED, CRITICAL OF STATE OF WORLD, CYRUS EATON SAYS

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. STOKES. Mr. Speaker, one of Cleveland's great industrialists and a noted world figure in his own right, Mr. Cyrus Eaton, has recently celebrated his 91st birthday. On the anniversary of his birth, December 27, 1974, he was interviewed by reporter William Montalbano for a front page article in the Miami Herald. His frank observations on the international scene make fascinating reading and are most timely. I submit the article for the benefit of my colleagues:

[From the Miami Herald, Dec. 27, 1974]

WORRIED, CRITICAL OF STATE OF WORLD, CYRUS EATON SAYS

(By William Montalbano)

ISLAMORADA.—Cyrus Eaton, "ending my life as a farmer and a philosopher," is restless and worried. He is 91 years old, a patriarchal figure of lively eyes and gnarled cane, feeling feisty as he paces a deserted Atlantic beach.

"I am somewhat in a critical mood of the human race," he says. "And I am unhappy over the state of the world. We haven't done our highest and our best."

Cyrus Eaton has been outspoken and controversial for a long time, the multimillionaire who made friends in Moscow, Hanoi and Havana and preached detente with the Communist world before detente was fashionable.

Detente is a fact, now, and Eaton is no longer pilloried as a Communist-sympathizer and dupe. Today, as he marks the anniversary of his birth in 1883, Eaton has been vindicated into respectability. He is kind of an international elder statesman without portfolio, one of the few private citizens in the world with instant access to both the White House and the Kremlin.

Cyrus Eaton fears for the future.

"I am at an age when I don't want to kid myself or to help kid humanity about what is going on. If humanity is to be preserved the United States must take the lead."

The threat of nuclear war that could wipe mankind from the face of the earth is the spectre that haunts Eaton most. Since 1957 he has sponsored conferences of international scientists to warn against the peril—called Pugwash conferences after the Nova Scotia village where Eaton was born.

"At last summer's conference in Austria, the scientists said the arms race was worse than it was in 1957. Only now it is componnded by complacency. Everybody is used to the idea that doomsday is just around the corner. There is no sense of urgency."

The arms agreement at Vladivostok between President Ford and Soviet Communist Party Chairman Brezhnev was a tragic step in the wrong direction, Eaton says.

"They didn't agree to reduce weapons, but to stop after a big increase on both sides. This is a challenge to all the rest of the world to develop these terrible weapons of destruction.

"The risk in not having defense is less than the risk of developing these weapons on a vast scale. The United States must take the lead."

Eaton, who now spends his vacations in Florida because his doctors made him abandon skiing five years ago, worries about the ramifications of the U.S. preoccupation with defense.

It has helped spawn, he says, the CIA, which he has attacked for nearly a decade and now terms "perhaps the most evil institution in the world. It is misleading, irresponsible, highly dangerous. It ought to be abolished."

America's international posture has contributed substantially to the current domestic economic woes says Eaton, who's "probably the only living American to be keenly affected by the recession of 18 and 93 and every one since."

Eaton, a Cleveland industrialist, rail and utility magnate who still rides horseback on his Ohio farm, blames the current recession on the high cost of money.

"That is the result of our folly in spending countless billions like drunken sailors on trying to reform the rest of the world. The CIA is a prime manifestation of this.

"There is no return on money spent on bombs."

Eaton's last venture as a merchant of peace came last year on a trip to Cuba. He has maintained good relations with Premier Fidel Castro since Castro seized power.

"The United States will move swiftly toward complete and friendly relations with Cuba," Eaton says. "We can't much longer keep up the illusion that Cuba is a dangerous enemy. Everywhere among business people there is a desire to have completely friendly relations.

"That is unfortunate for those who left Cuba. They will have to make their future in the United States and other countries."

Although he professes to be an optimist, Eaton's reading of history leaves him largely unimpressed with the progress of mankind.

"Man in some form has been on this earth for more than a million years. For a million years ignorance has been the outstanding characteristic of humanity, followed by intellectual laziness and vanity.

"It has only been 500 years since Columbus discovered the New World. And 400 years ago when Galileo said in Florence the earth went around the sun instead of vice versa he was sentenced to burn at the stake.

"In my lifetime I have seen development of the electric light, the telephone, the automobile and the airplane. Now that man is beginning to use his head, is he going to end it all?"

Cyrus Eaton sits erect in a white wicker chair in an old wood frame house by the sea. He savors the beauty of "the morning sunlight dancing off the ocean and the sea breeze fingering the Australian pines.

He has come to enjoy these reflections by the sea, to dream that one day Florida might become an intellectual center for men anxious to overcome "the myths and superstitions" he finds to have characterized too much of human history.

"It is a time for humility," Cyrus Eaton says. "The progress we have made is so limited . . . Instead of boasting of progress we ought to wonder why it took up a million years to get this far."

OBJECTIONS TO ADDITIONAL FINANCIAL HELP TO SOUTH VIETNAM

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. DRINAN. Mr. Speaker, I attach herewith a cogent statement from the American Association of University Professors outlining the objections of this prestigious organization to the proposal that an additional $300 million be given to South Vietnam.

This statement issued from the office of Mr. Joseph Duffey, the general secretary of the American Association of University Professors, points out that the $300 million proposed by the administration for South Vietnam could be used to provide funds for a work-study program for 600,000 students and basic opportunity grants for 400,000 persons studying in college.

The article follows:

American Association of
University Professors,
Washington, D.C. January 10, 1975.

Statement Issued by Joseph Duffey, General Secretary of the American Association of University Professors

Reports that the President is seriously considering requesting from Congress supplemental foreign aid funds for South Vietnam and Cambodia are extremely discouraging. We believe that the President should not make such a request and that if he does, Congress should overwhelmingly reject it. The recent history of the national controversy over aid to Southeast Asia, should guide both the President and Congress in determining how the American people view the situation in Indochina. America's interests are not served by further intervention, whether it be with money or personnel. The signing of the cease-fire and the withdrawal of American troops brought to an end the divisive internal strife in America over this issue. It would be terribly unfortunate if this highly emotional issue were revived at a time when Americans are confronted with a grave economic crisis at home.

Placed in the context of current national priorities, the suggestion of appropriating additional funds for Indochina would be a direct affront to the American people who believe that more pressing current issues require resolution. The Administration's belated recognition of the gravity of the recession and its impact upon lower- and middle-income groups should lead the Administration to conclude that an additional $300 million could be spent more profitably on human resources at home rather than on war materials shipped to Indochina. The American people have been exceptionally tolerant of previous errors of judgment on Southeast Asia, but their tolerance of continued misguided policy and ill-spent funds will surely wear out in a period of grave economic crisis.

In the list of federal spending priorities, it may be significant to point out that an additional $300 million applied to the federal program for postsecondary education would permit over 600,000 students enrolled in postsecondary education institutions to participate in the College Work-Study program authorized by Congress and over 400,000 students to receive Basic Educational Opportunity Grants. For most of these students, the grants and work-study payments permit them to go to college and to receive training in specialized programs necessary to both our society and economy. This investment in human resources would be significantly more productive at the present time than $300 million worth of war materials shipped to Indochina for further destruction of that ravaged area.

BULLDOGS WIN NATIONAL CHAMPIONSHIP

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUES OF REPRESENTATIVES

Monday, January 20, 1975

Mr. MATHIS. Mr. Speaker, someone once said that competitive athletics is the best character builder anywhere and I had an opportunity over the Christmas holidays of witnessing such an event not only for the men participating, but also the entire community.

The Thomasville High School football team located in Thomasville, Ga., was selected as the No. 1 high school football team in the Nation by the National Sports News Service in Minneapolis, Minn. This award is not taken lightly in my part of the country and I am extremely proud of the entire community. I want all my colleagues to be aware of this award and I am submitting two articles from the Thomasville Times-Enterprise and also a copy of a congratulatory letter from President Ford.

Bulldogs Win National Championship

(By George Lassiter)

The Thomasville Bulldogs today were officially proclaimed National High School Football Champions for 1974.

This ultimate in accolades was bestowed by the National Sports News Service (NSNS) at Minneapolis, Minn., in an announcement by NSNS Editor Art Johlfs.

Johlf's list of 20 top high school teams across the United States features Thomasville in the No. 1 spot that twice (in 1962 and 1971) was awarded to the Valdosta Wildcats.

Only one other Georgia team, the Lakeside Vikings—ranked No. 17—were included in the top 20. Thomasville defeated Lakeside, 26–20, in its season's finale to win Georgia's AAA football championship for the second consecutive year. Lakeside was ranked No. 2 in the nation last year and has been in the top 20 consistently for five consecutive seasons.

Rounding out the top five teams behind Thomasville are Glenbrook, of Northbrook, Ill.; Harding, of Warren, Ohio; South Hills of Covina, Calif.; and Brazoswood, of Houston, Tex.

Leon High of Tallahassee, Fla., was ranked No. 9; Wheeler of Marietta, Ga., No. 39; Americus, Ga. No. 61; and Dougherty of Albany, No. 99, in the official poll by the NSNS.

Thomasville was ranked No. 13 in the NSNS poll last year after its defeat of Wheeler of Marietta to finish the 1973 campaign with 13 consecutive victories for its first-ever State AAA football crown.

Thomasville thus becomes only the second team in Georgia ever to win the national high school football championship. The other was Valdosta.

Region 1AAA of which Thomasville and Valdosta are both members, is far and away the most illustrious football conference in Georgia—and perhaps the nation. Region 1AAA also produced another state champion in Albany High School in 1958—and Albany that year also was ranked high nationally.

It was another Albany school this year—Dougherty High—that upset the defending state-champion Bulldogs, 27–20, in Thomasville's only loss since 1972. Until then the Bulldogs had won 19 straight games. But Thomasville defeated all other opponents, and now has won 25 of its last 26 games—and 32 of the past 35.

NSNS Editor Art Johlfs said this was the first time in 20 years of the national poll that a team without a perfect record had won the national championship.

He said Thomasville, after its defeat of Lakeside, was trailing but in the running with teams from Ohio, Texas and California—all state champions in 1973—for the No. 1 spot. And their seasons ran a week longer than Thomasville's.

However, when none of them repeated as a state champion, Thomasville vaulted into the No. 1 spot for keeps!

Johlfs said the NSNS, in making its selections, collects information on football teams in each state and evaluates them according to statistics, caliber of competition, past records and a special formula developed by the NSNS. The data is then fed into the computer and a final judgment is made.

The Bulldogs outscored their opponents this year by 443 to 153—or an average score of 34–11 per game. They averaged 283 yards rushing and 78 yards passing in each of their 13 games.

En route to the championship(s) they knocked off three undefeated teams—Bainbridge, during the regular season; and Groves of Savannah and Columbus High during the playoffs. These and other opponents were ranked high in polls either in pre-season or regular-season selections.

The NSNS's Johlfs said certain states have consistently strong football programs, and he said Georgia is highly regarded. In addition to Thomasville, Valdosta, Lakeside and Albany, Southwest High of DeKalb County also has been ranked in the poll's Top 10.

The NSNS poll is the only one of its kind, and Johlf's emphasized that the team chosen No. 1 wins only a "mythical championship"—as in the national rankings among colleges—since no actual gridiron playoff system exists.

Johlfs said only one other team in the top 20—John Marshall of Rochester, Minn., with a 12–0 record this year—repeated as a state champion.

Thomasville High is one of the smallest schools in Georgia's AAA ranks, and it is the second smallest in Region 1AAA.

TOP 20 TEAMS

The Top 20 teams:

1. Thomasville High, Thomasville, Ga. 12–1
2. Glenbrook, Northbrook, Ill. 12–0
3. Harding, Warren, Ohio 11–1
4. South Hills, Covina, Calif. 13–1
5. Brazoswoods, Houston, Tex. 13–1
6. John Marshall, Rochester, Minn. 12–0
7. Morristown, N.J. 10–0
8. Gateway High, Monroeville, Penn. 11–0–1
9. Leon High, Tallahassee, Fla. 13–0
10. Syosset, N.Y. 9–0
11. Leominister, Mass. 11–0
12. St. Xavier, Middletown, Conn. 12–1
13. Washington, Indianapolis, Ind. 12–0
14. Holy Name Catholic, Huntington, Long Island, N.Y. 8–0
15. Upper Sinclair, Penn. 10–0–1
16. Putnam City, Okla. 11–1–1
17. Lakeside, Atlanta, Ga. 11–3
18. East St. Louis, Ill. 11–1
19. Upper Arlington, Ohio 11–1
20. St. John Bosco, Bellflower, Calif. 12–2

HUGHES: IT'S A DREAM COME TRUE FOR US

(By Ed Kelly)

The Thomasville Bulldogs sit atop the prep football world today, and nobody is more estatic than their ultrasuccessful head coach, Jim Hughes.

Hughes, 37, not only has the top team in Georgia—and the nation—but also one of the country's hottest college prospects, William Andrews.

"Everything has just fallen into place, and we couldn't be happier," Hughes said. "This is a dream come true for us."

And, with an obvious reference to Valdosta, Hughes said.

"Thomasville is no longer playing in anybody's shadow."

Acknowledging that his team being named the national champion is only a "mythical title," Hughes said: "So are the collegiate rankings—and there is nobody who can disprove that we deserve the honor."

Hughes added:

"We don't go out seeking such rating, but when they come from the success of hard work by our football team, we are naturally delighted. I certainly feel this team could hold its own with anybody.

In five years as Thomasville's head coach, Hughes has compiled a record of 46–7–3 in Region 1AAA—the toughest, and certainly the most prestigious football region in Georgia, and the only one ever to produce two national champions. The other, of course, was Valdosta, which won the national championship in both 1962 and 1971.

Recent talk of a Valdosta-style "dynasty" at Thomasville gained more impetus when Hughes said: "We felt that if someone was going to get us, then it had to be this year."

Now that the "truth" can be told, Hughes and other Thomasville coaches felt before the 1974 season started that the team was "one year away from another possible championship."

The coaching staff privately predicted that Thomasville probably would win the Region 1AAA championship again this year—and they figured that anything beyond that would be "icing on the cake," a bonus.

"We have a lot of youngsters playing for us," Hughes had said, "and we didn't know how they would react."

How they "reacted" is now history, especially those breath-taking, come-from-behind victories they made their trademark. For example, in the South Georgia championship game against Columbus, they trailed 14–0 after six minutes of action—but won the game, 28–14.

Hughes will lose 17 players off a team numbering about 80, but he figures he has one of the finest sophomore classes in the school's history coming up in 1975. Add these to the present varsity, and the "makings" are there for another powerhouse—stronger, perhaps, than the 1974 team.

Although Hughes will lose several fine athletes off the current team, only one of them could be described as irreplaceable. That player, of course, is William Andrews, the most sought-after football player in Thomasville's history—and certainly the most highly-recruited player this year in Georgia, the South and perhaps the nation. College scouts from UCLA to Miami, Fla., and from Nebraska and Oklahoma to North Carolina—you name it—are after him in droves. Andrews in three seasons has rushed for 4,349 yards and has excellent leadership that makes him the most popular player on the team.

Andrews' running was made especially effective this year by the threat of quarterback Jack Cannady's passing, an extra dimension the Bulldogs didn't have in winning 13 straight games in 1973.

Cannady completed 64 of 115 passes for 912 yards—a 55.6 per cent completion average.

While the 1973 team specialized in rugged defensive play, the 1974 squad was, to put it mildly, explosive on offense. And its defense toward the season's end rivaled the play of the 1973 team.

And, as faithful Thomasville fans already know, nearly everybody on the defensive team will return in 1975!

JANUARY 3, 1975.

Mr. JIM HUGHES,
Coach, Thomasville High School, Thomasville, Ga.

DEAR MR. HUGHES: It was good news to learn from Congressman Dawson Mathis that Thomasville High School's football team has been selected the top high school football team in our nation by the National Sports News Service of Minneapolis. I know how proud everyone in Thomasville must be of this high honor that has come to you, your team and your school, and I just wanted to add my own congratulations to the many you are receiving at this time. This is a well-deserved honor and I wish you many more successful seasons ahead.

With my best wishes.

Sincerely,

GERALD R. FORD.

FRED PACKARD: NEVER A LOSER

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. COHEN. Mr. Speaker, too often in dealing with the handicapped, we may think of them as a group apart, as individuals whose outlook and expectations are radically different from those of the rest of the population. I am very pleased therefore to bring to the attention of my colleagues an article of one "handicapped" person from my district. Fred Packard's perspective, determination, and accomplishments despite birth defects restricting the use of his hands and legs should do much to change such limited notions, and as legislators, provide us with a better understanding of the handicapped and the Federal programs which involve and assist them.

Last year, for instance, the Congress enacted legislation to extend and improve the Vocational Rehabilitation Act. This program makes important contributions to our Nation and its economy by training handicaped people for regular employment and participation in our society. Clearly, however, the potential of these individuals is a resource we are just beginning to develop. I commend Fred Packard's story to my colleagues as a reminder of just how much our handicapped citizens can achieve when provided the opportunity and encouragement.

Fred Packard: Never a Loser

(By Mark Vogler)

Bridgton.—Somebody must have been wrong about Fred Packard.

Born with only four fingers and badly deformed legs which restricted his movement to crawling, doctors in Portland said he would never lead a normal life.

But Friday, during the Maine Rehabilitation Vocational Council's Annual meeting in Bangor, he walked up to the award table to receive state honors for individual achievement in life.

"They gave me the award because they thought I was handicapped—but I really don't look at it that way," said the 29-year-old Packard in a recent interview.

Perhaps Packard is right.

"I've never been a loser at anything I've ever done."

As one of the up and coming success stories in the state's insurance circles, Packard is happily married, has a two-month-old daughter and lives in an attractive raised chalet which he planned and contracted himself.

He said all the credit belongs to his parents, who sent him to a Shriner's hospital in Springfield, Mass., at age four after being told in a Portland hospital that their son would never be able to walk.

There he spent almost eight months over three years, undergoing orthopedic surgery in about 20 operations.

"I didn't walk in, but I walked out of there," he recalls.

"The fascinating thing about the hospital was that most of the doctors there didn't receive any money. Even though the Shriners support 23 of these hospitals across the country today, parents who have handicapped children are afraid to take them there."

Right from childhood, and even without adequate facilities for the handicapped in town, Packard said he never felt out of place.

"My development was normal in what I call 'the ordinary world,'" he says.

"I don't think there's a finite difference between what is 'normal' and what is 'abnormal.' Some of those people who are so-called normal, I think are three bricks short of a full load in the brain capacity."

When he was five his father gave him a cow to take care of. And he believes that it was the rural farm upbringing which enhanced his personal growth.

"I was taught responsibility at a young age, which is true of any child on the farm," he says.

"I was never hidden, put or shied away . . . but marched in public like the rest of us, and the real credit belongs to my parents.

It never dawned on Packard that he had a handicap because he remembers "always being with people who didn't have them."

"When I was five years old, there was nothing else available, so I had to step on that school bus like the rest of them and have an education," he says.

"If a person can possibly cope in the normal situation, it is so much better."

Because his parents bought and saved $2,500 in savings bonds from cash awards young Fred won in 4-H contests, he was able to get a head start toward a college education.

But even before receiving a bachelor of science degree (1969) in business administration at the University of Maine at Portland, Packard worked year round to pay more than half of the expenses.

He got into the insurance field as a result of his outgoing, warm personality, it seems.

As a youngster, people knew him all over town. He used to walk the streets selling raffle tickets if he wasn't entering farm animals in 4-H contests, says a friend.

Carroll Lurvey, now an executive sales director in Maine for American Bankers Life of Miami, Fla., inquired in the neighborhood about a go-getter who would make a good salesman for the company.

A client of Lurvey's suggested Packard. Shortly after, during the summer of 1967, Lurvey went into the woods where the older Packard and his son were working and told the boy, "You'd make an excellent salesman."

A summer later, Packard needed a job and found one.

But there were some other companies who obviously felt differently about hiring a handicapped person.

As a senior and president of the businessmen's fraternity of UMP, Packard helped sponsor a Native Sons and Daughters program through the local chamber of commerce. Fifty companies came to the University to screen 800 graduates looking for jobs.

"Although I was more qualified than most—and even was responsible for setting tne thing up—I never received one response," he recalls.

"I knew what the basic reason was, they didn't want to hire anyone with a handicap."

But the day after Packard graduated from UMP, he went to work for American Bankers Life. For four years he has had his own booth at the Native Sons and Daughters clinic and boasts that he hired a classmate who did not like his job with one of the 50 companies.

"This fellow I guess, just couldn't handle the work, it was not a case of his competence with the company. It's just what you call experience," he says.

"Basically, all companies are ruthless. They throw everybody up against the wall. Whatever sticks is fine. And whatever falls on the ground, they got the work out of anyway."

He considers his company's attitude to be different from most other insurance firms, contending that his retention rate of personnel is 85 per cent after two years compared to five remaining people out of 100 hired by the average firm.

After only five years with American Bankers Life, Packard is agency manager in Western Maine of the Assurance Division with more than 400 clients . . . and 95 per cent he claims, were referred to him.

Besides being one of 40 Maine men who has sold a $1 million of insurance in one year, he has hired and trained two others.

Packard says he is looking for anyone who wants to work. And though he has hired a man with cerebral palsy, he does not place emphasis on hiring the handicapper.

"I'm an equal opportunity employer," he says in one breath, adding that it was a strange way he met his wife.

"It was one of those rare things. She was standing in the doorway one day looking for employment and I turned around and said 'I'll hire you.'"

Mrs. Connie (Bourque) Packard, who had just graduated from the University of Maine at Gorham (1972) said those were "welcome words" since she had been everywhere looking for a job.

Mrs. Packard began selling insurance and knew her boss on a "strict business relationship for about eight months."

"Then, one night we went out for dinner together . . . things happened . . . and a year later we were married," says Packard.

The chalet, which was meant to be a bachelor's pad, was completed in September of 1973, just a day after their wedding. Having given birth to Elizabeth-Marine last October, Mrs. Packard hasn't sold much insurance lately, but says she plans to in the future.

Packard himself, has no personal philosophy which has helped him in life—just an anonymous poster which he keeps at home:

"Nothing in the world can take the place of persistence . . . Talent will not; nothing is more common than unsuccessful men with talent . . . Genius will not; unrewarded genuis is almost a proverb . . . Education will not; the world is full of educated derelics.

"Persistence and determination are omnipotent. The slogan 'press on' has solved and always will solve the problems of the human race. . . ."

Perhaps that was coined for people like Fred Packard.

THIS IS GOING TO HURT A LITTLE

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. TAYLOR of Missouri. Mr. Speaker, we have now heard the President's state of the Union message with spelled out the serious problems that the Congress and the people of this Nation will have to come to grips with.

A constituent of mine, Mr. Fred DeArmond, has set forth his view of the problem in a succinct summary. I commend it as important reading to my colleagues.

The article follows:

"This Is Going to Hurt a Little"—Inflation Calls for Radical Treatment

(By Fred DeArmond)

In the reception room of a Springfield, Missouri dentist is a sign reading vertically in the manner of Japanese print: "Painless Dentist—Upstairs." The building is one-storey, the painless dentist a fication.

This sign points a lesson to the doctors of economics and their patients: There is no painless cure for inflation. Any treatment that is effective is bound to hurt somebody, as the disease has already hurt millions of others. The pain is at the very core of the cure. And those who will be hurt the worst are for the most part the same individuals who profited most by inflation.

Most of the participants at the Summit Conference on economic issues at Washington were looking for a painless therapy that doesn't exist in heaven or on earth. Many of the specifies they came to advocate would worsen rather than alleviate the disease that afflicts this country. With three or four exceptions, they offered nostrums that somebody else would pay for, but "you mustn't touch me or my group!" They were there to Get but not to Give.

Everyone admits, publicly at least, that the spendthrift habits that have been indulged for 40 years must be reformed. But the presently orthodox method, as my friend and retired businessman Dan Howard describes it, is like that of an adviser to a confirmed alcoholic who would say to the delinquent: "You must find a way to get off the stuff. Here's a quart of Old Standby rye whiskey. See that you use it in moderation as a cure."

If we are to hold to any degree of sense and realism, four principles are essential to any hope of halting or even materially slowing down inflation:

1. Government at all levels must set an example by living within its means. Many of its services are luxuries we cannot now afford.

2. Considerable unemployment will be an inevitable result of any successful curative efforts.

3. Tight money—high interest on borrowed funds—is absolutely essential, temporarily, for cooling off the overheated economy.

4. Inflation cannot be controlled by increasing taxes.

Anyone who has ever struggled to keep personally solvent should know that we cannot go on running up enormously unbalanced budgets year after year, decade after decade, without bringing a crash.

Some degree of unemployment is the first place where the cure will hurt, although it will also pinch the profit nerve of business. But the present excessive concern about unemployment is unjustified. Actually, there is little real unemployment in the United States, in the sense that more work is available than there are hands to perform it. Also the meaningful statistic is number of family breadwinners out of work. The Bureau of Labor Statistics figure can rise by half or more without being a genuine cause of concern except to vote-hungry politicos. When there is some competition among workers for jobs and among employers for help, that is a healthy condition. Employment could be sustained and stabilized by repealing minimum wage laws and making labor contracts with escalation clauses illegal. The politician who is shedding tears over unemployment that might result from proposed anti-inflation measures is thinking in terms of votes first of all.

In truth, the main reason inflation has raged for so long and to such extremes is because so many people don't want it controlled. They believe an easy formula has been discovered, and because it helps them at the expense of others, they don't want it changed. They are so wedded to high wages and salaries and fees and "growthmanship" with all the attendant perquisites—three automobiles and a power boat to a family, cross-continent vacation trips, and heedless high living—that they have come to regard these things as normal for everybody. Actually, this luxuriating in extravagance is abnormal. Someone ought to be thinking about that well-worn abstraction, the general welfare. No literate person can escape the conclusion that to continue this mad pace is to assure disaster for all, and that not far in the future. This overheated economic structure must be cooled off by some means. The sure and only cure is deflation, even if it does hurt a little.

The degradation of the dollar has been defined as the result of too much money (purchasing power) chasing too few goods. Money is loose and becoming looser; to retain its value it must be made tighter. One of the Federal Reserve Board's weapons for winning this fight is its power of controlling the rediscount price of money to banks and thus making capital harder to acquire by loan. This means is being partially utilized right now, but in the face of enormous political pressure for easy money. It means high interest rates for all borrowers. That of course hurts some and helps others. It helps the retired person, for example, trying to weather the storm by living on Social Security and the interest on his savings accumulated while he was active. It also helps every consumer dismayed by the relentless upward push of prices for what he or she buys.

We hear a cackle of voices raised in debate over which group of citizens is hurt most by inflation. Up until quite recently, liberal economists favored an inflationary stance because it provided more jobs for the "lower orders" at higher wages. Lately we've seen the liberal tune change to the claim that inflation is a cruel tax on "the poor." This line ignores the fact that food stamp coverage has expanded in the past four years from 4.3 million to 12.9 million, according to *National Review*.

It cannot be denied that for a time income through wages and salaries did increase at a faster rate than prices of goods. As long as that was the case, in disregard of the fact that the whole nation was living on the cuff, employed persons thought they were serving their selfish ends by resisting anti-inflationary measures. Now there is general agreement that consumer prices have forged ahead of income, and that knocked the props from under the equalitarian claim that the lower classes were benefitting by the situation. A fair estimate seems to suggest that the Keep-up-with-the-Joneses middle classes, living in their $30,000 to $40,000 mortgage-laden homes, are harder hit than the proletarians with their food stamps.

The notion that inflation can be curbed by higher taxes is a basic fallacy embraced by some of the doctors seeking for palliatives. Taxation is the means for raising needed revenue for public functions. That it can in addition be designed as a cybernetic governor of the economy and a redistributor of wealth is one of the shop-worn and now discarded New Deal fallacies. If the additional revenue raised by a federal tax boost were applied toward reducing the national debt it might have a certain deflationary value, since it would lower spending by the private sector. But any American born earlier than yesterday should know that such revenue would not be so used. Instead it would simply go to swell some of the innumerable forms of paternalistic government spending.

Much alarm over a threatened recession is expressed, along with the proposition that an offsetting stimulation could be provided by lowering taxes. This assumption is as fatuous as that higher taxes would slow down inflation. Actually, a mild recession is part of the real cure for our troubles. It would tend to slow the galloping shrinkage in the dollar's purchasing power and at the same time relieve the alarming depletion of our natural resources. Above all, it would come to the aid of beleaguered consumers by providing some real competition among the suppliers of goods and services. Right now we should look upon mildly falling indicators of business activity as a blessing in disguise.

With the dangerously developing prognosis, inflation taxes to the utmost a traditional free enterprise, republican-democratic society. It is so perplexing in its ramifications that men otherwise level-headed and reasonable are spouting nonsense about it in the communications media. Most of the proposals for remedying it would only make a bad situation worse. They amount to a conflicting riot of inconsistencies. At the President's Summit Conference, the chorus of selfish interests and politics was relieved by four sane voices. They were those of FRB Chairman Arthur Burns, Treasury Secretary William E. Simon, Presidential Economic Adviser Alan Greenspan, and Senate Majority Leader Mike Mansfield.

Any remedy worth a nickel at this stage is bound to be politically unpopular. An Executive or a Congress intelligent enough to adopt sound economic measures must also be courageous enough to stand against the clamor of mobocracy egged on by economic illiterates among the opinion makers. The atmosphere is charged with partisanship as it has not been since the Civil War.

Congress has been saying to the President, "It's your problem; what are you going to do about it?" The President might reply, and in effect has been doing so: "It's your headache as much as mine. Why should I and my party take the rap for surgery to correct a condition that has been forty years in the making?" When such a state of affairs is stalemated in a corporation's governing board, wise heads in the organization get ready for bankruptcy.

It's true that the initiative rests with the President. But it's a stale priority as long as Congress is thinking in terms of a game to be won against a hated rival. Maybe this situation is a built-in weakness of a democracy; if so, it's high time to start repairing the fault. The trouble we suffer from is not merely a national indisposition but a malignancy that has already begun to spread into the political and moral as well as the economic tissues of the nation. At this stage, it will respond only to radical therapy. Those dollars men and women are scrambling for so greedily are presently worth around 25 cents, compared to their value at the time the disease struck with the Second World War. Soon they may be down to a dime—and then look out for the Deluge.

A TRIBUTE TO LLOYD SKINNER

HON. JOHN Y. McCOLLISTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. McCOLLISTER. Mr. Speaker, probably the highest tribute a man can receive is to be recognized by his peers. Recently such a singular honor was paid to a great Nebraskan, Mr. Lloyd Skinner.

Familiar to housewives around the country, the Skinner name has always stood for excellence in macaroni products. Now Lloyd Skinner has been honored by the 36th annual U.S. Durum Wheat Show for his many years of effort to improve the quality of pasta products through durum wheat research and development.

At the U.S. Durum Wheat Show in Langdon, N. Dak., 1 day was designated "Lloyd Skinner Day" in recognition of his leadership.

Mr. Speaker I include those excerpts from Milling and Baking News which describes the honor bestowed on Mr. Skinner at this point in the RECORD:

DURUM AWARD TO SKINNER

LANGDON, N. Dak., November 11.—Lloyd E. Skinner, chairman of Skinner Macaroni Co., Omaha, was honored at the 36th annual U.S. Durum Show in Langdon Oct. 22 for his many years of participation in efforts to improve the quality of pasta products through durum wheat research and development. Among durum growers, Mr. Skinner has acquired the reputation of holding to 100% durum in the face of widening cost differentials.

Mr. Skinner was presented a plaque by Mr. Hofstrand at the Oct. 22 afternoon session. In his acceptance comments, Mr. Skinner said he simply wanted to thank the durum farmers. "You went through a hectic year and you gave us a crop," he said. Text of the plaque presented to Mr. Skinner reads as follows: "Presented with sincere appreciation to Lloyd E. Skinner for dedicated efforts which have contributed substantially to understanding and progress in the durum wheat industry, U.S. Durum Show—1974."

WORLD DEMAND FOR PASTA INCREASES—SPEAKERS AT ANNUAL DURUM SHOW SEE GROWTH IN DURUM REQUIREMENTS BUT CITE CONCERN OVER EFFECTS OF BLENDING; FARM HOLDING DEFENDED

LANGDON, N. DAK., November 4.—Burgeoning demand for pasta in the U.S. and around the world holds the promise of increased durum sales and points to the need for continued research and market development or informational services, participants in the 36th annual U.S. Durum Show at Langdon Oct. 21-22 heard from speakers representing all segments of durum-related industries and the academic community. Recurring questioning by the various speakers dealt with the potential effects on pasta consumption of blending because of the wide margin of durum costs over other classes of wheat.

Tuesday, Oct. 22, was designated "Lloyd Skinner Day" in recognition of the active participation over the years by Mr. Skinner, chairman of the board of Skinner Macaroni Co., Omaha, in the promotion of durum utilization and in the Durum Show itself.

Macaroni manufacturers were represented on the program by Nick Rossi, president of Procino Rossi Co., Auburn, N.Y., and president of National Macaroni Manufacturers Association, and Robert M. Green, executive secretary of N.M.M.A. Joseph Halow, executive vice-president of Great Plains Wheat, Inc., spoke on "Exports and the Consumer," and Charles R. Pence, international marketing director of the Grain and Feed Division of Foreign Agricultural Service, U.S.D.A., discussed "Producing for the Market." Melvin Maier, administrator of North Dakota Wheat Commission, pointed to the continued need for market promotion even in periods of world scarcity. Norman Weckerly, member of N.D. Wheat Commission, presented a grower's point of view. Dr. James Quick, plant breeder at North Dakota State University, reviewed durum variety research and Dr. H. R. Lund, assistant director of North Dakota Agriculture Experiment Station, Fargo, discussed research in perspective.

CANNOT ISOLATE SOVIET DEMAND

"There is no way we can isolate our markets from the impact of Soviet grain buying," Mr. Halow told the Monday session. He pointed out that if the U.S. should not sell the grain to the Soviets directly, they would buy it from other sources, creating shortages in other areas which the U.S. would then be called on to supply. He commented further that the Soviets could, if they were unable to purchase all they need on the world markets, then perhaps elect not to meet their own export obligations. This would mean, he said, that "countries such as Poland and Czechoslovakia would turn to the U.S. for wheat which they might otherwise obtain from the Soviet Union." Much of the wheat which these countries bought from the U.S.S.R. in 1972 was, in fact, shipped from the U.S. as part of the orders which the Soviets placed here, he pointed out.

Mr. Halow said it was unfortunate but true that most Americans still see something sinister in grain sales to the U.S.S.R. "Despite the fact that exhaustive investgations proved nothing, most Americans want to think there was something crooked about that sale, or, at least, that the Soviets pulled something over on us." Mr. Halow expressed the view that the Soviets had been "quite candid about the fact that they expect to continue to be grain importers." He commented that in 1970, Great Plains Wheat had correctly forecast that the Soviet Union was grain deficient and would become an importer rather than an exporter of grains.

SEES DISCRIMINATION IN INTERVENTION

Limitation of grain sales to the U.S.S.R. is discrimination, Mr. Harlow asserted, because "This is a restriction placed in no significant manner on any other country."

Speaking of production possibilities for next year, Mr. Harlow said there was some indication that the world could run into a glut of grains by next summer, given normal production weather. He based that assumption on the fact that livestock herds are being reduced and that the world will not be able to build up herds fast enough to consume all the grain which should be produced next year. "We should not forget, however," he commented, "that despite fluctuations over periods of days or months, the wheat consumption trend is up."

BEST OF TWO WORLDS FOR DURUM

Referring specifically to durum, Mr. Halow said, "The durum grower has the best of two worlds, for an improvement in world diets will mean increased demand for durum. This is actually true of all wheat, but pasta is not only a supplement to a meal—it can be the meal itself. Rising meat prices cause consumers to eat more wheat-based foods—a very popular one of which is pasta. Furthermore, if consumption of livestock products continues to increase—as it should—durum growers will benefit also from the strength in the entire grains complex as well as the growing demand for pasta."

PENCE SEES "WONDERFUL OPPORTUNITY"

Mr. Pence of F.A.S. stressed the point that durum products have a "wonderful opportunity to increase sales of their product in world trade." He cited growing consumption of pasta in the world, specifically referring to great expansion in South America. He cautioned that the growth in world pasta consumption was taking place with products using wheat of other classes than durum. "Price relationships are restricting the amount of durum you can sell," he said.

The current year was described as one with a "habit of changing more than any other" by Mr. Pence. He referred to increased acreage last spring when the great concern was how big crops could be moved. At that time, many of us "could not see wheat exports so high and saw surpluses in corn, but Mother Nature took care of all this," he said. Mr. Pence said an effort was being made to keep our doors open for future demand while supplying adequate amounts of grains for needs here at home.

Mr. Pence described the difficulties encountered in coping with seemingly contrary data in reports on exports. The Statistical Reporting Service data, issued under requirements of the current farm legislation, show more sales than we could deliver and still have enough for here at home, he pointed out. But, he said, the figures are inflated and he cited the European Community's aggregate of "more corn on books than they can possibly handle" as an example of grain that won't be shipped.

Much more resistance to price than in the past has been in evidence this year, Mr. Pence pointed out. "This is the first year the consumer has been faced with increased cost of food grains or grains for livestock and some have to cut down," he said, adding that "price resistance is there in the world."

GROWER CONCERN WITH BLENDING

Mr. Weckerly, who recently was a member of a durum team that traveled to Europe and Algeria, reported that "Our foreign friends are just as concerned as our domestic trade over the problem of blending of soft wheats into the semolina and producing an inferior product which could signal a reduction in per capita consumption." This will directly affect the demand for durum, he acknowledged, while countering that "with the alternate crops we have competing for our acreage here in North Dakota, each of us must weigh these facts and decide for ourselves how much of a premium we must have to contribute the acreage to durum to continue to satisfy the demands of our domestic and foreign trade."

MINIMUM POTENTIAL FOR NEW ACREAGE

The potential for any increased durum acreage in Europe is minimal, Mr. Weckerly stated, with the following comments: "In France, we heard that acreage could be up 20% next year. In Italy and Algeria, officials felt that there would not be any increase as they were currently at maximum potential production. In France, the increase in durum acreage will come at the expense of reduced acreages of corn and soft wheats, mainly, with some reduction in sugar beets also. Hence, a tradeoff as far as total agricultural production is concerned.

"We as durum producers have always prided ourselves that on most issues of concern we have kept open the lines of communication with domestic millers, manufacturers and exporters," Mr. Weckerly said. "We are now in an era in which we must broaden our objectives to include more periodic communication with our foreign trader buyers, millers, governments, manufacturers, and also producers to continue to solve the problems which today face the pasta industry."

"UNJUSTLY ACCUSED" OF HOLDING

Mr. Weckerly said that durum growers have been unjustly accused of holding stocks off the market. "To the contrary," he said, "who else in our industry wants to pay the interest and carrying charges on our inventory of grains in the hands of producers, and who could even accomplish this feat? It looks as though we have finally achieved some of our goals of the past, but we had better not be complacent because we have many more challenges in the future for our entire industry."

MAIER: INTO BETTER INFORMATION

Mr. Maier described new market development as being more in the area of information, technical assistance, the exchange of ideas, than in the old concept of sales promotion. He described a "thirst for information" among users of spring wheat and durum in world markets. He cited the need for "knowing our product a little better," the need to do a better job of monitoring and to provide a final crop quality survey faster.

We must maintain one important selling point of U.S. durum, Mr. Maier said, referring to color of semolina.

Pasta consumption is up every where, Mr. Maier pointed out, at the same time expressing concern over the growing trend towards blending.

"HEALTHY INCREASE" FOR PASTA

Mr. Rossi reported that pasta sales in the U.S. are expanding again after a brief interruption and predicted that the year will show a "healthy increase." He also referred to blending with the comment, "In order to hold retail prices, macaroni manufacturers have taken the route of blending with ingredients with cheaper costs. We don't like to blend. We hate to blend. We are forced through the numbers game to blend to keep our businesses healthy—to keep Mrs. Consumer picking up our product."

"I'm not here to say we want lower prices," Mr. Rossi said. "You have a world market and we expect to have to compete. The root of the problem is worldwide inflation."

Mr. Green estimated that pasta consumption increased 20% in the past year in the U.S. durum grind is down, he acknowledged, but "macaroni business is not that bad." A lot of blending is going on, he said, estimating that a third to 40% of the industry's production is on blended products. Mr. Green differentiated between the long-time blending done by C. F. Mueller Co., a macaroni manufacturer that advertises the benefits of its type of blending, and the blending that is done on the basis of price alone.

"My message is this," Mr. Green said. "I have been attending the annual Durum Show since 1949 and the pasta industry needs good quality durum at a fair price."

NEED GREATER NUTRITION EMPHASIS

Dr. Quick outlined plant breeding with three major objectives—resistance to stem rust, yield and good quality. He described two types of quality as physical and nutritional and said not much has been done with respect to nutrition. He said the need is to develop better protein and he said up to 20% could be accomplished without much search for additional germ plasm.

CONGRESSMAN PETER H. B. FRELINGHUYSEN

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. RHODES. Mr. Speaker, it has been observed on both sides of the aisle that a number of distinguished congressional careers were concluded upon adjournment of the 93d Congress.

One such career which I would like to bring to the attention of the House today is that of New Jersey's great Congressman, Peter H. B. Frelinghuysen, a man who has given this institution and our Nation more than two decades of dedicated service.

Peter Frelinghuysen is a member of one of the Nation's most distinguished families, one which has a history of outstanding military and governmental service that began with the founding of the Original Thirteen Colonies. Frelinghuysens have served in the Continental Congress, in the Minutemen militia, as decorated generals in the Revolutionary War, and in the Cabinet. Four members of the family have served in the U.S. Senate, and one, Theodore, was Henry Clay's vice-presidential running mate on the Whig ticket in the presidential election of 1844.

Since he was sworn in as a Member of this body by Speaker Joe Martin in January 1953, Peter Frelinghuysen has lived up to the noble tradition of governmental service which has family has come to symbolize.

For many years he served as the ranking Republican on the House Education and Labor Committee and is the man responsible for bringing minority staffing to that important committee.

Peter Frelinghuysen has also made his mark in the arena of international affairs. Members of the House are familiar with the expertise and dedication he has brought to the House Committee on Foreign Affairs, on which he served as the ranking minority member. His profound insight into the intricacies of international politics and his broad knowledge of both the potential and the limitations of American foreign policy will be sorely missed by Members of Congress, regardless of political affiliation.

Congressman Frelinghuysen's diplomatic skills, however, have extended far beyond the foreign policy decisionmaking of the House. During his tenure as a Member of the American delegation to the United Nations, he singlehandedly persuaded that body to provide badly needed assistance to refugees from Palestine. And, as anyone who has traveled to foreign capitals will know, Mr. Frelinghuysen commands the highest respect from heads of state all across the globe.

Secretary of State Henry Kissinger has expressed his own high regard for Mr. Frelinghuysen's brand of diplomacy, most recently following the Congressman's trip to the Middle East earlier this year. During this trip, he managed to do what few others have accomplished: win the confidence of both the Arabs and the Israelis. Many nations of the world have had a good friend in Peter Frelinghuysen.

There are, of course, many other accomplishments that have marked this career of 22 years in the House. I shall always recall his remarkable ability for bringing about political compromise on controversial issues facing several Republican National Conventions, at which he has chaired important subcommittees of the Committee on Resolutions. New Jersey, the most urban State in the Union, will be eternally grateful to him for personally insuring the preservation of the Great Swamp, which is one of the last and largest spans of totally undisturbed terrains in the Nation.

However, the most important work performed by Mr. Frelinghuysen may well prove to be his efforts to bring about reform of the House of Representatives. His last year in this body largely was devoted to working tirelessly and diligently as a member of the Select Committee on Committees. Many of the internal reforms which have already been adopted and those which this body will hopefully have the courage to institute in the future bear the mark of Peter Frelinghuysen.

Although he is still a relatively young man, Peter Frelinghuysen's decision to retire after 22 years of service in the House is wholly consistent with his desire to revitalize the U.S. Congress.

One would hope that the "new blood" which Congress will receive next year, will have as much courage of conviction and spirit of true reform as Mr. Frelinghuysen.

Peter Frelinghuysen is a good friend and a valued colleague. I am confident that neither the Nation nor New Jersey will lose his ability in the future. One large segment of his career may now be at an end. But the avenues for continued participation—in his party, in government, and in foreign affairs—will remain open to him for many years to come. We all should be hopeful that this dedicated and capable public servant maintain the spirit of service and participation that has been the hallmark of his family.

THE ART OF URANIA CUMMINGS

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. DE LUGO. Mr. Speaker, an article recently appeared in the St. Thomas Daily News telling the remarkable story of Urania Cummings, one of our world-renowned local artists.

Having won numerous prizes and held countless exhibitions throughout the country, Urania Cummings did not take up serious painting until late in life. But her unique creative vision could not be forever repressed and her most recent success has been an exhibition at the very school in St. Thomas, where she was once scolded as a young girl for drawing pictures instead of studying.

I commend to you the following article on Urania Cummings:

[From the St. Thomas (Virgin Islands] Daily News, Dec. 31, 1974]

URANIA CUMMINGS, GRANDAUGHTER HOLDS EXHIBIT

In the year 1889 a remarkable, inspirational woman named Urania Prince was born in St. Thomas, Danish West Indies. At the age of 21 she left the island, returning periodically. While a student at Nisky School, she was reprimanded for drawing instead of studying. Eighty years later Urania Prince, now Cummings, held a one-woman show in that same classroom. In finally realizing her lifelong dream of expressing creative vision through the medium of painting, she has gained world-wide fame. Her tireless efforts and involvements make this uniquely, contemporary great lady a living symbol. This past year, an ART NAIF exhibit of folk art at the Sancisco Museum of Art won praise for her bright paintings of life in the Caribbean. A.H. Riise Art Gallery will hold her exhibit from Dec. 30 through Jan. 11th, '75. Mrs. Cummings extended her creative enthusiasm to include raising three talented children, inspiring 11 grandchildren, and three great-grand children. One of these scholarship winning grandchildren, Sharelle Cummings will show four of her paintings, as well.

Urania Cummings, in 1921, began studying the violin as one of her first pursuits toward a musical career. However she married and reared her children with this love for music, instead. One of her sons,, Arthur E. Cummings, saxophonist, heads the successful Art Cummings Trio. Many years later, after she was already a grandmother, she started night school with a course in public speaking. In her desire to express and inspire her creative reality this was the logical first step. At the age of seventy, she indulged in her first love, painting. For the past 26 years she has been studying art, exhibiting, winning prizes, lecturing and teaching it. A few of her credits include: 15 participations in the Berkeley and San Francisco Art Festivals, prize winning show at Pleasanton Fair, silver cup at the National Convention for her role as Superintendent of Arts and Crafts for Federated Women, honored guest at Oakland Museum for 5th time in '72, won Senior Artist Award in Berkeley, won 7 ribbons in New Mexico, 3 participation shows in the Virgin Islands, and Aug.-Oct. San Francisco Museum of Art. Her paintings of her vivid remembrances of daily life in St. Thomas, cooking, eating, washing, all done under the palms, are so vibrant, joyous, and filled with historical nostalgia, that they speak for themselves.

Sharelle Cummings, a scholarship winning graduate of the California College of Arts and Crafts, now teaches there. She attributes her interest to her grandmother. Sharelle paints with observed realism and an imagined surrealism. She has shown at the Ethnic Studies Art Department in Oakland among others. "Being all of you can be" and being an inspiration to others, especially young people, is what makes life meaningful to Urania Cummings.

AUTOMOTIVE AIR POLLUTION

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. BROWN of California. Mr. Speaker, I have spent many of my days in the past several years on the issue of automotive air pollution. The Clean Air Act Amendments of 1970 were a breakthrough in law and provided hope that the auto would be cleaned up. Now, only a little over 4 years later, it appears that those who opposed the original law have a chance of repealing it. They call this repeal a postponement of the goals, but it

amounts to an abandonment of the goal of clean air because we can achieve the goal of cleaning up the automobile without severe energy losses or economic dislocations, and without a postponement.

It is because I feel strongly about this issue, to which I have given so much of my time, that I was disturbed to see yesterday's lead editorial in the Washington Post. I have sent a short and incomplete rebuttal to the editors of that paper, which I hope is printed.

In any case I would like to insert into the RECORD both the editorial from the January 19, 1975, Washington Post and my letter to the editor, which was mailed today. I will be saying more about this topic later this week, but I would like to have these two items inserted into the RECORD at this time.

The editorial and the letter to the editor follows:

[From the Washington Post, Jan. 19, 1975]

CHOICES ON AIR POLLUTION

Congress is now about to undertake a comprehensive review of the country's environmental protection laws. The immediate impetus comes from President Ford, who thinks the laws ought to be loosened to help meet the energy crisis. But the present standards were written into law by Congress and it is Congress that will have to decide whether to change them.

Easy generalizations do not apply here. Some emissions are much more dangerous to health than others. Relaxation offers real fuel savings in some cases; in others, the savings are spurious. It is quite true that most of the present standards were written at a time when nobody was worrying about energy efficiency. But the central principle for Congress to follow here is that protecting citizens' health is more important than saving fuel. Because of our growing population and the new emphasis on domestic energy production, firm legal sanctions against air pollution have become more important than ever to the national interest.

Ranked in order of manifest danger to human life, the first among the common air pollutants are the sulfur oxides. They are produced mainly by large generating plants burning high-sulfur fuel, and the evidence leaves little doubt about their effects on the people who habitually inhale them. In most large American cities, statisticians have shown a close correspondence between fluctuations in atmospheric sulfur levels and the death rates.

In his State of the Union Message, President Ford said: "We must strike a reasonable compromise on environmental concerns with coal. I am submitting Clean Air Act amendments which will allow greater coal use without sacrificing clean air goals." The basic issue here is when to require electric utilities to run their stack gases through desulfurizing units known as scrubbers. The precise meaning of the President's words is not entirely clear, but it appears that a new truce has been negotiated between the White House and the Environmental Protection Agency. As it is explained by Russell Train, the head of EPA, the truce involves a relaxation of certain rules, but only—and explicitly so—in areas where there is no health hazard. Mr. Train sees an important improvement in the administration's present position since, he says, it now accepts the ultimate necessity for scrubbers on any plant burning high-sulfur coal. In the end clean air is going to make power cost a little more, but the benefit is emphatically worth the price.

The case of the automobile emissions standards is more complex. Present law has put controls on three components of automobile exhaust; carbon monoxide (CO), hydrocarbons (HC), and nitrogen oxides (NOx). The easiest way to get an overview of past progress and present prospects is to consider a brief table comparing (1) the average emissions before the first controls in 1968, (2) the present federal and California standards, (3) the standards that present law mandates for coming years, and (4) the President's proposed substitute standards for 1977 through 1981. All are measured in grams per mile.

	HC	CO	NOx
Pre-1968 average emissions	8.7	87.0	3.5
1975 Federal standard	1.5	15.0	3.1
1975 California standard	.9	9.0	2.0
1977 Federal standard	.41	3.4	2.0
1978 Federal standard	.41	3.4	.4
President's proposed substitute for 1977–81	.9	9.0	3.1

As you can see, the automobile manufacturers are now making cars to two separate standards, one for California and another, somewhat less stringent, for the rest of the country. Although the California cars emit less pollution per mile, they use more gasoline—5 to 15 per cent more, depending on the car's weight. As you can also see, the sharpest reduction in pollution required by the present 1978 standard is in nitrogen oxides. As a matter of engineering it would be difficult to attain and would entail substantial reductions in fuel economy. The present controversy pivots chiefly on the nitrogen oxide standards.

Congress commissioned the National Academies of Science and Engineering to study the present automobile emission standards. Hydrocarbons are not a threat. Carbon monoxide is dangerous, but the Academies' panel found that the 1977–78 standards are tighter than necessary to keep air fit for human consumption. Regarding nitrogen oxides, the technical questions are exceedingly complex and the answers are far from complete. The Academies' report concluded that present evidence does not justify the very tight 1978 standard and that the costs of achieving it would be disproportionately great. Some environmentalists sharply challenge the Academies' findings here and charge that they have understated the potential harm in rising volumes of nitrogen oxides. They will press this point at the hearings that both the EPA and the congressional committees are to hold soon. But the Academies' reports are the most reliable guide to policy at the moment, and according to this guide the President's proposed standards are a reasonably safe concession to an industry in great trouble.

The President overstated the case a bit when he said that this concession is part of a bargain under which the automobile manufacturers will improve fuel efficiency by 40 per cent from 1974 to 1980. In fact, that 40 per cent improvement is merely what the automobile companies think will probably happen. The 1974 cars were scandalously inefficient, and fuel mileage of the 1975 models is already up 13.5 per cent because of the catalytic converter. The companies expect the remainder of that 40 per cent to be achieved mainly through the continuing trend to smaller cars. Mr. Train thinks that the fuel efficiency standard might usefully be written into law. He is, once again, right.

HOUSE OF REPRESENTATIVES,
Washington, D.C., January 20, 1975.

EDITOR,
Editorial Page, Washington Post
Washington, D.C.

DEAR EDITOR: Your editorial of 1–19–75 entitled "Choices on Air Pollution" dealt very unfairly with the question of automotive air pollution. First, and perhaps foremost, you are simply wrong when you state, "Hydrocarbons are not a threat." The dangerous oxidant concentrations that are being reached in dozens of U.S. cities are there because of the hydrocarbon emissions from automobiles. The National Academy of Science report which you cited stated, on hydrocarbons, "At least in the Los Angeles area, the Federal statutory hydrocarbon emission standard of 0.41 gms per mile may not be sufficiently stringent to ensure compliance with the national ambient air quality standard for oxidant." Yet your editorial endorsed a freeze for five years at the 0.9 grams per mile hydrocarbon standard.

Your review of other issues, such as the nitrogen oxide standard, was fair but incomplete. The Committee on Motor Vehicle Emissions of the National Academy of Sciences concluded that there are several ways of reducing auto emissions, including NOx, without a fuel penalty. The MVE–NAS report also showed that 34% of the foreign auto manufacturers already meet both the 1980 fuel economy goals of President Ford, as well as the 1977 emission standards of the Clean Air Act. It appears reasonable to require no less from American auto manufacturers.

But we must not lose sight of the key to this entire question of auto emission controls, and that is that they are to protect the public health. It has been demonstrated that the existing auto emission levels endanger the health of humans, and in oxidant plagued areas like Southern California this is considered more important than the equally important need to control sulfur-related emissions from coal.

Sincerely,

GEORGE E. BROWN, Jr.
Member of Congress.

UKRAINIAN INDEPENDENCE DAY

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. ANNUNZIO. Mr. Speaker, January 22 marks the 57th anniversary of the proclamation of the independence of Ukraine and I am looking forward to joining Chicagoans of Ukrainian descent on January 26 for the annual Ukrainian Independence Day banquet, sponsored by the Ukrainian Congress Committee of America, which promises to be a truly significant tribute to the ideals of human and national freedom. This most important moment in the history of the Ukrainian people is commemorated by over 2 million Americans of Ukrainian descent.

The officers of the Ukrainian Congress Committee of America in Chicago include Julian E. Kulas, president; Michael Panasiuk, vice president; Myron Luszczak, secretary; Myron Kuropas, public relations director; and Wasyl Branznyk, treasurer.

Mr. Speaker, the Ukrainian Congress Committee of America in Chicago has issued a statement on the significance of this inspiring event for freedom-loving peoples everywhere and at this point in the RECORD I am including that statement:

STATEMENT

January 22, 1975, will mark the 57th Anniversary of the Proclamation of the Independence of Ukraine, and the 56th Anniversary of the Act of Union, whereby all Ukrainian ethnographic lands were united into one independent and sovereign state of the

Ukrainian people. Both the Independence of Ukraine and the Act of Union were proclaimed in Kiev, capital of Ukraine, on January 22, 1918 and January 22, 1919, respectively.

Unfortunately, the young Ukrainian democratic republic was short-lived, as it was attacked by Communist Russia, even though the Bolsheviks had officially recognized Ukraine as an independent and sovereign state. The same recognition of Ukraine was given by the Central Powers and a number of the state of the *Entente*, including France and Great Britain, which tendered *de facto* recognition to the Ukrainian republic. For over three years, 1917–1920, Ukraine waged a defensive war against Communist Russia, alone and unaided; deprived of all assistance from abroad and overwhelmed by vastly superior forces of Communist Russian, Ukraine succumbed.

But in destroying the Ukrainian National Republic, Moscow did not dare destroy the state structure of Ukraine. It had created a Communist puppet government in Ukraine, to be known as the "Ukrainian Soviet Socialist Republic," which in 1922 was forced into the "Union of Soviet Socialist Republics" (USSR) as an "equal and sovereign state." In 1945, Ukraine became a charter member of the United Nations, along with the USSR and Byelorussia.

Despite the spurious facade of "independence and sovereignity, Ukraine is an outright colony of Communist Russia, as attested to by the Reds' 50-year bloody rule over Ukraine, characterized by inhuman persecution, Russification and genocide of the Ukrainian people. Stalin tried to decimate the Ukrainian nation by mass deportations, arrests and executions. This policy was continued under Khrushchev, without mass executions, but through arrests and deportations of Ukrainians to Sibera and other parts of Asia.

Cultural and national repression in Ukraine is relentlessly pursued by the Brezhnev-Kosygin regime. From 1970–73 the KGB, the Soviet secret police, arrested some 600 Ukrainian intellectuals under suspicion of conducting "anti-Soviet propaganda and agitation," many of whom have been sentenced to severe terms of imprisonment; some of them have been tortured, such as Valentyn Moroz, 39 year old historian, and Leonid Plyushch, 35 year old mathematician, both of whom are reported to be driven to insanity and slow death. Mr. Moroz went on a hunger strike on July 1, 1974 in Vladimir Prison, and said that he would die from starvation unless he were transferred to a regular camp. He was fed intravenously, beaten and denied proper medical care. He ended his 20-week hunger strike on November 22, 1974, after Soviet authorities promised to improve his prison conditions. But he has lost much weight and is suffering from kidney and heart aliments.

Both Moroz and Plyushch have become symbols or resistance to tyranny, and they have found defenders all over the world. In our own country a number of U.S. Senators and Congressmen have introduced special resolutions in Congress, requesting President Ford to intervene with the Soviet government for the immediate release of Moroz and Plyushch.

January 22 is the greatest national holiday in Ukraine's modern history, for on that day the Ukrainian people established their national state and regained freedom. Both were lost, but the desire and will of the Ukrainian nation to regain these God-given rights are very much alive today. This the Ukrainian people demonstrated during World War II, when they organized the powerful Ukrainian Insurgent Army (UPA), which waged a liberation struggle against Nazi Germany and Communist Russia at the same time; this they manifest today through their resistance to Communist enslavement and for the defense of human and national rights of the Ukrainian people.

Mr. Speaker, Valentyn Moroz, Leonid Plyushch, and many other heroic individuals in Ukraine are risking their lives for the ideals of national independence, Ukrainian cultural integrity, and personal freedom. It was for this reason that I introduced House Resolution 15, to establish in the House of Representatives a Special Committee on the Captive Nations, and House Resolution 14, which resolves:

> That the President is authorized and requested to issue a proclamation designating January 22 of each year as Ukrainian Independence Day, and inviting the people of the United States to observe such day with appropriate ceremonies.

I have also introduced House Concurrent Resolution 4, which resolves:

> That it is the sense of Congress that the President, acting through the United States Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization.

It is with pride that I join my colleagues in the House of Representatives in tribute to the millions of Ukrainians who are continuing their struggle for the blessings of liberty in their own homeland and I am honored to join with Americans of Ukrainian heritage in my own 11th District and all over this Nation who continue to cherish the hope of eventual independence and a free Ukraine. The spirit of the people of Ukraine is testimony to the fact that tyranny, in whatever brutal form it manifests itself, cannot conquer the soul of a nation and its people.

UKRAINIAN INDEPENDENCE

HON. RICHARD F. VANDER VEEN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. VANDER VEEN. Mr. Speaker, Wednesday, January 22, 1975, will mark the 57th anniversary of the proclamation of the independence of Ukraine, and the 56th anniversary of the act of union, whereby all Ukrainian ethnographic lands were united into one independent and sovereign state of the Ukrainian nation. Both the independence of Ukraine and the act of union were proclaimed in Kiev, capital of Ukraine, on January 22, 1918, and January 22, 1919, respectively.

Regrettably, the young Ukrainian democratic republic was immediately attacked by Communist Russia, despite the fact that the new Soviet Russia Government had officially recognized Ukraine as an independent and sovereign state. The same recognition to Ukraine was granted by the Central Powers and a number of states of the Entente, including France and Great Britain. By 1920, Ukraine, alone and unaided, succumbed to the vastly superior forces of Communist Russia, which destroyed the Ukrainian National Republic, created a Communist government in Ukraine known as the Ukrainian Soviet Socialist Republic, and incorporated it forcibly into the Union of Socialist Republics.

Since that time, Ukraina has been harshly controlled by the centralized state in Moscow. Unable to continue developing their own individual art and culture, Ukrainian citizens have found it harder and harder to maintain a sense of their own identity and give to their children an understanding of their past.

Forefront in the struggle to maintain a sense of cultural independence for Ukraina is Vlaentyn Moroz, a Ukrainian author and historian currently imprisoned in the Soviet Union on charges of anti-Soviet agitation and propaganda. The charges are unjust; Moroz deserves to be free.

In light of the historically demonstrable concern that we have for the oppressed people of the world, it is important for our country to take a stand here and do all it can to free Moroz and so aid Ukraina in its long and difficult battle to guard and enhance its own national heritage.

COST OF PRODUCING FOOD

HON. KEITH G. SEBELIUS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. SEBELIUS. Mr. Speaker, we hear a great deal today about the food price problem. We also have a related problem now being confronted by the men whose job it is to produce food in this country. Some time ago, I had occasion to read a letter distributed by the Cooperative Extension Service of Kansas State University in Concordia, Kans., within the district I am privileged to represent.

The latter is addressed to farm managers within the area and shows precisely what kind of economic problems they are facing. I submit it should be required reading for everyone within this body interested in spiraling food costs. The folks within the Concordia, Kans., area extension office should be commended for publicizing this particular problem in language everyone can understand and I commend this article to the attention of my colleagues:

December 4, 1974.

Dear Farm Manager: Association #4 sites the following examples of what is happening to prices and the economic disaster faced by a farmer.

In 1973 he purchased 28 bales of twine to bale the hay to feed his dairy herd. The cost was $6.50 per bale.

28 times $6.50 equal $182.00 cost of year's twine.

Two baby bull calves were sold for over

$100.00 each. This paid for the year's twine with some change left over.

In 1974 he again purchased 28 bales of twine to bale the hay to feed his dairy herd. The cost of the twine from the same supplier was $27.00 per bale.

28 times $27.00 equal $756.00 cost of year's twine.

Two baby bull calves were sold at a local livestock auction. The net sale for these two calves was $36.11.

At this rate it would take the sale of 43 calves to pay for the 28 bales of twine. Last year the sale of 2 calves paid for the same amount of twine.

Sincerely,

EVERETT K. EVERSON, Jr.,
Area Ext. Economist Farm Management.
QUENTIN C. SMITH,
Area Ext. Economist Farm Management.
KENNETH L. STIELOW,
Area Ext. Economist Farm Management.
L. S. GREENE,
Area Ext. Economist Farm Management.

THE SMALL BUSINESS TAX REFORM ACT OF 1975

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. ANDERSON of California. Mr. Speaker, the American small business community produces 43 percent of the gross national product, amounting to over $426 billion in 1972, and provides over 50 percent of the Nation's jobs.

But, in this era of economic uncertainty with a scarcity of resources, record high interest rates, and more and more governmental dictates, the small business is the first to be squeezed out of the marketplace.

The Federal corporate tax structure, rather than encourage small enterprises, is actually geared to benefit the huge conglomerates which can afford the expertise and manpower to take advantage of the complex tax code.

According to Dun & Bradstreet, 9,345 businesses closed their doors for the final time in 1973 as a result of failure due to bankruptcy, et cetera. And that year was considered a good business year. In addition, approximately 350,000 businesses close up voluntarily, leaving an even greater share of the market to the giant corporations.

But small business is not a sacred cow—it must justify its own existence and earn its place in our economic system.

Yet, consider for a moment what we lose if small business is forced to yield to the larger concern:

First, without the existence of a large number of small businesses, we lose the competition necessary to assure the consuming public reasonable prices and quality merchandise.

Second, without small business to keep a check on the conglomerates, we would witness an increase of political and economic power in the hands of fewer individuals, with the resulting ability on their part to eliminate competition by setting prices and allocating markets.

Third, without small business, we lose the opportunity for personal expression, personal initiative, and individual judgment.

Fourth, without the innovative small businessman, we lose the new products and methods which are often developed by individuals in a small business.

Fifth, without the small businessman, and his flexible operation, we lose essential services which are designed to meet individual demands rather than those designed for mass marketing.

As a result, Mr. Speaker, I am convinced that small business has an important and necessary role to play in our economy, and that we must take affirmative action to permit the small enterprise to compete, to keep abreast of new methods and techniques, to diversify, to research and pioneer, to survive during downturns in the economy, to grow, prosper, and flourish.

TAXES DISCOURAGE SMALL BUSINESS

Mr. Speaker, our tax schedule places disproportionate burdens on the small businessman. According to the Federal Trade Commission, small- and medium-size businesses pay tax at about 50 percent of their income, while the largest firms pay at about 35 percent. And one study presented to the House Ways and Means Committee revealed that the largest 4,348 corporations have an effective tax rate of only 26.9 percent.

I find it both economically unsound and morally unfair to permit the largest U.S. corporations, as a class, to pay taxes at half the rates paid by small- and medium-size businesses, as a class.

As a result of this inequity, we find that "big business" is getting richer and "small business" is getting poorer. For example, the billion dollar firms—those with assets exceeding $1 billion—received 28 percent of the corporate profits in 1959. In 1971, almost 55 percent of all corporate profits in America were achieved by the billion dollar corporations—a total of only 260 firms.

In 1971, the 1.4 small corporations averaged a profit of only $1,598, but the Nation's largest corporations averaged a profit of $422,768.

In addition, proliferating tax and Government reporting requirements impose burdens on the small businessman. According to a study conducted by the Senate Select Committee on Small Business, a family-owned restaurant must spend about $820 in accounting fees to fill out the required forms, whether or not it makes a dime of profit.

In 1971, the Congress enacted the Revenue Act, which was designed to spur the economy by giving tax benefits to corporations and individuals alike. However, an estimated 40 percent of the $11.5 billion in annual corporate tax benefits were funneled to less than 400 of the Nation's largest corporations.

We must reverse this trend that has led to discrimination against the small enterprise or we may find thousands of long-established smaller firms closing their doors and thus yielding to the giant corporations an even greater share of the marketplace.

THE SMALL BUSINESS TAX REFORM ACT

Mr. Speaker, in order to provide tax equity for the 8 million small businessmen and women who employ over 50 percent of the workforce in this country, I am introducing the Small Business Tax Reform Act.

First, this bill would establish a permanent Intragovernmental Committee on Tax Simplification for Small Business in order to simplify the regulations, the laws, and the instructions relating to business taxation.

Second, it would create an Office of Small Business Tax Analysis in the Department of the Treasury to examine tax problems from the view of small business and free enterprise, rather than the Government's interest in raising revenue.

Third, my proposal would establish a new corporate normal tax rate which is a graduated scale bringing corporate taxation more nearly into accord with the principle of the ability to pay which has long been in effect for individual income taxes. For example, under current law, a small business with $25,000 taxable income is subject to a 22-percent tax, or $5,500. Under my proposal, the same small business would pay only $3,300 in Federal taxes. Another firm, earning $50,000 income subject to Federal tax, currently pays $17,500 to Federal taxes. Under my proposal, that firm would pay $14,425.

Generally, under my proposal, a firm earning less than $300,000 subject to Federal tax would find its tax burden less than that under current law. A firm with profits over $300,000, however, would find its taxes gradually increasing—especially those million dollar profitmaking companies.

Under my proposal, the normal tax would be the amount determined in accordance with the following table:

PROPOSED GRADUATED CORPORATE NORMAL TAX RATE SCHEDULE

If the taxable income is:	The normal tax is:
Not over $5,000	11% of the taxable income.
Over $5,000 but not over $15,000	$550 plus 12.5% of excess over $5,000.
Over $15,000 but not over $25,000	$1,800 plus 15.0% of excess over $15,000.
Over $25,000 but not over $100,000	$3,300 plus 18.5% of excess over $25,000.
Over $100,000 but not over $200,000	$17,175 plus 22.5% of excess over $100,000.
Over $200,000 but not over $300,000	$39,675 plus 26.5% of excess over $200,000.
Over $300,000	$66,175 plus 26.8% of excess over $300,000.

In addition, Mr. Speaker, I place in the RECORD at this point a table compiled by the Congressional Research Service which shows the present tax liability of corporations and the Federal taxes paid by corporations under my proposal:

COMPARISON OF CORPORATE INCOME TAX LIABILITIES UNDER PRESENT LAW, AND THE NEW RATES AS PROPOSED BY REPRESENTATIVE ANDERSON, FOR SELECTED LEVELS OF TAXABLE INCOME[1]

		Tax under proposed tax rate schedule	
	Tax under present law	Amount	Percentage reduction (−) or increase (+) compared to present law
Selected levels of corporate taxable income:			
$5,000	$1,100	$550	−50.00
$15,000	3,300	1,800	−45.45
$25,000	6,500	3,300	−40.00
$50,000	17,500	14,425	−17.57
$75,000	29,500	25,550	−13.39
$100,000	41,500	36,675	−11.63
$200,000	89,500	85,175	−4.83
$300,000	137,500	137,675	+.13
$400,000	185,500	190,475	+2.68
$500,000	233,500	243,275	+4.19
$1,000,000	473,500	507,275	+7.13

[1] All the tax liabilities reflect both the normal tax and the surtax applicable to corporations.

Fourth, to encourage the establishment of new small business enterprises, the Small Business Reform Act would allow a new small business to exempt $25,000 of income from Federal taxes for the first 3 years, providing that it is reinvested in the business.

Finally, this proposal has several features which are designed to provide encouragement for modernizations, efficiency, and cost reduction.

REVENUE BALANCE

Mr. Speaker, in this time of huge deficit spending, all of us are aware that we simply cannot lower a tax rate for one group without raising taxes on another so that there would be no revenue lost for the Treasury.

This bill which I am offering is balanced in the revenue sense, with slight, immediate, and long term increases of tax revenues through minimally higher normal tax rates on giant corporations and the cultivation of vigorous new small enterprises which will enlarge the tax base in the future.

The revenue gains made possible by the rescaling of normal rates would make it possible to shift a small fraction of the corporate tax—about 1 percent—on the basis of the ability to pay. In fact, the increase levied on a single firm with million dollar profits is enough to equal the benefit which would accrue to 15 firms earning $25,000.

CONCLUSION

The small businessman is the very backbone of our economic system, yet he is in danger of extinction. It has been through his skills, his initiative and enterprise, and his energy that America has become an economic power and that we enjoy the highest standard of living in the world. The small business is a national asset and must be treated as such—not by creating tax loopholes or by giving special treatment—but rather, by providing equity so that he can compete on an equal footing with his brothers in business, commerce, and industry.

As the President has suggested lowering the corporate tax from 48 percent to 42 percent, I feel that a complete overhaul of the system is warranted in order to establish a corporate tax that is based on an ability-to-pay principle.

GOVERNOR BLANTON IS MOVING TO KEEP HIS PROMISES

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. JONES of Tennessee. Mr. Speaker, the people of the State of Tennessee have just seen the inauguration of a new Governor of their State, a man who served in this body for 6 years as a U.S. Representative from Tennessee. Gov. Ray Blanton, returning to public service after a 2-year absence, brings with him a new manner to the Governor's office of Tennessee.

In these times of challenge facing all of our United States, Governor Blanton offers to the people of Tennessee a sense of dedication and responsible leadership demanded by not only Tennesseans, but all Americans. His devotion to sound and nonpartisan government for all the people of Tennessee will provide an example for elected officials at all levels of government throughout our Nation.

At the hour of his inauguration as Tennessee's 44th Governor last Saturday, Ray Blanton had already begun the task of putting together a legislative program aimed at fulfilling his pledges offered to the voters of Tennessee as he crisscrossed the State in primary and general election campaigns.

That program has been labeled as a new populism, but his proposals and his outlook on State government are better described in this newspaper article from the January 19 edition of the Nashville Tennessean which I would like, at this time, to enter into the RECORD:

PREVIEW OF LEGISLATIVE PROGRAM—BLANTON IS MOVING TO KEEP HIS PROMISES

(By Larry Daughtrey)

Out on the campaign stump last summer, Ray Blanton sounded like a new populist, out to reform an antiquated election system, give the consumer a better break, and crack down on monopolists.

Lots of politicians make such promises. The surprising thing about Blanton is that he apparently intends to keep his.

Blanton, of course, was sworn in yesterday as Tennessee's new governor, and tomorrow morning will move into the rectangular office on the first floor of the State Capitol.

Probably later this week he will begin putting the finishing touches on a legislative package which may be the most far-reaching in recent Tennessee history.

Blanton's legislative program has been overshadowed since the election by the selection of his cabinet. But a young aide to the new governor, Elliott Ozment, has been putting Blanton's campaign rhetoric into the form of legislative bills.

Ozment has now completed more than 20 of them, and while some details remain to be worked out, it is an impressive package.

High on the list are four bills designed to wipe from the books the old laws which require price fixing on such items as liquor, cigarettes, milk and hundreds of items sold by brand names.

Those laws, zealously guarded in the legislature by high-paid lobbyists over the years, cost Tennesseans millions of dollars in higher costs at the drug store, grocery store and liquor store.

Blanton said repeatedly during the campaign that he intended to persuade the legislature to repeal those laws, and he has repeated that intention several times since the election.

But Blanton also is planning other bills which may help ease the pressure on inflation-burdened consumers.

One is a bill with almost universal support in the legislature to remove the sales tax on prescription drugs.

Although the bill would cost the state about $5 million per year, a number of legislators, as well as Blanton, made campaign issues of removing the tax, which they say hurts the elderly most.

Blanton also is preparing a bill which would force utility companies which require a deposit in excess of 12 months to pay interest of 6% on the deposits.

Some telephone, gas and electricity companies require such deposits, often for years, without paying interest.

A new approach to helping consumers as they shop is included in the Blanton package. Called a "Truth in Energy" bill, it would require such items as appliances to carry labels describing their true energy consumption.

Ozment explained that this would allow consumers to judge the energy consumption of various items, as well as the price.

In an effort to improve state programs to help consumers, the Blanton administration and State Attorney General Ray Ashley will propose a bill giving Ashley's office new powers to deal with consumer frauds.

The current state consumer affairs law has no teeth, and only two employees in an obscure office in the Department of Agriculture.

Another bill which the Blanton administration may propose also is the result of a campaign promise. It would set up a state anti-trust bill, giving the attorney general new powers to deal with businesses which act in restraint of trade or attempt to set up monopolies.

Apparently the only tax being considered by Blanton administration officials is a tax on nonreturnable bottles, a measure which has been promoted as an ecology measure in other states.

Blanton promised during the campaign to revamp virtually the entire political structure of Tennessee, and the bills to do so are now being drafted.

One of them would force a runoff in primary races for governor if no candidate receives a majority of the vote.

The idea has been debated heatedly for years, but gained momentum last summer when Blanton won a 12-man Democratic primary with only 23% of the vote. He promised then to so something about the situation.

Although the details have not yet been settled, Blanton also will propose a substantial new package of ethics legislation, a subject on which the legislature was never able to agree last year.

Several bills on the subject already have been introduced or discussed in the legislature's organizational session, but it will probably take gubernatorial leadership to pass anything on the subject.

Blanton's bills cover lobbyist regulation, financial disclosure for public officials, an ethical practices act and a campaign financing disclosure act.

Another highly controversial bill will require registration by political party as a requirement for voting in a party primary.

To start the registration, voters would be declared a member of the party in whose primary they voted last August. They would be restricted to voting in that party's primary in the future unless they applied in writing for a change of registration in advance of a primary election.

Blanton also has promised a complete rewriting of the state's presidential primary law to make it comply with national party regulations and give Tennessee one of the nation's first presidential primaries in 1976. That, too, is in the package.

One of the decisions which must be reached by the Blanton administration soon is how far to go with the limited constitutional convention the new governor has promised to ask the legislature to call in 1978.

Among the items considered certain to be placed in the call is an expansion of the homestead exemption for the elderly, a possible exemption for older persons from the state's income tax on stocks and bonds, and popular election of the lieutenant governor.

Aside from the bills on consumer affairs and electoral reform, Blanton also is planning on taking significant steps in an area of special interest to him, energy.

He plans to propose new state regulations covering the location and standards for site for power plants, including nuclear generators like the one at Hartsville.

The state now has no authority to place restrictions on such facilities.

Blanton will try to push through a budget-minded legislature authorization for a new department of state government to deal solely with energy. He will also seek new gubernatorial powers to deal with critical energy shortages.

Almost every bill in the package is loaded with controversy. They invade areas where powerful lobbies dwell, and passing them in the legislature will not be easy, even with the kind of partisan majority Blanton's Democratic Party enjoys.

WORKERS IN PERIL

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, January 20, 1975

Mr. OBEY. Mr. Speaker, today I am including in the Record, the second in a series of four articles from the Washington Post entitled "Workers in Peril."

This article deals with the problem of coke oven emissions. According to data developed by the National Institute for Occupational Safety and Health, individuals working near coke ovens have a death rate from cancers of the respiratory system 2.5 times that of other steelworkers, and those workers who are stationed at the top of the coke ovens have a rate of 7 times that of other steelworkers.

Despite these figures and despite the fact that NIOSH submitted a recommendation in early 1973 for a Government standard protecting these workers, the Federal Government has as yet taken no action in promulgating such a standard.

Also, I am including a second article which puts the problem of coke oven emission in more human terms, describing the health problems confronted by one worker who was subjected to emissions for 15 years at the Sparrows Point plant of Bethlehem Steel Corp.:

[From the Washington Post, Jan. 3, 1975]

Coke Oven Work: Hot—And Deadly

(By Douglas Watson)

"It's the hottest job and the dirtiest job. You're really in that smoke," Isiah A. Kelly said in describing what he did for 23 years as a coke oven worker at Bethlehem Steel Corp.'s Sparrows Point complex near Baltimore.

Kelly, 64, passed out on the job several years ago and had to retire with a medical disability. Now, he spends most of his time in his brick bungalow in north central Baltimore, doing his breathing with one good lung and waiting for his $179-a-month disability check.

A University of Pittsburgh's school of public health study of 59,072 steelworkers at seven mills supports the conclusion that coke ovens are hot, dirty and potentially dangerous. The study reported in 1971 that coke oven workers are 2½ times more likely to die from lung cancer than are other steelworkers.

The continuing study found that the risk of lung cancer depends on how long an individual works near coke ovens and exactly where he works. After five years, the lung cancer death rate for a coke oven worker is up 3½ times the average for other steelworkers.

Workers in the smoke on top of coke ovens have a lung cancer death rate seven times the steelworkers' average. After five years, topside worker lung cancer death rate jumps to 10 times the steelworkers' average.

Coke oven workers also were found to have a death rate eight times higher than other steelworkers from a rare kidney cancer.

Dr. J. William Lloyd, director of occupational health surveillance for the National Institute for Occupational Safety and Health and the person who headed the University of Pittsburgh study before coming to the NIOSH, said of the death statistics for coke oven workers, "We've isolated out as many factors as we possibly could, like smoking or geographic location, and we're still left with these abnormally high cancer death rates."

It thus appears to fall in the category of occupational illness, which is treated by the 1970 Occupational Health and Safety Act. The act aims "to assure so far as possible every working man and woman in the nation safe and healthful working conditions."

The University of Pittsburgh study has prompted labor and management to begin looking for better ways to make coke—the fuel coke ovens make from coal, which goes into blast furnaces with iron ore and limestone and provides the intense heat needed to melt the ore and produce steel.

The April, 1974, contract between the United Steelworkers and the nation's 10 biggest steel companies, including Bethlehem Steel, provides for the first time an agreement that management and labor will seek "to define and delineate the health effects of employment in the environment of the coke plant and to develop preventive measures and appropriate controls designed and directed to resolve the health and safety problems."

Coke ovens convert chunks of coal into coke—a black, solid residue that is mainly composed of carbon and is left after the coal has been heated and the volatile materials distilled away.

Coke ovens are arranged in groups of 10 to 100, forming a coke battery. The Sparrows Point plant has 12 such batteries. Each oven is only about 1½ feet wide but at least 40 feet long and 12 to 20 feet high.

For his last 10 years there, Kelly operated a "larry car," which ran along the top of a coke battery pouring coal down chutes, thus "charging" the ovens.

After 16 to 20 hours of heating at temperatures as high as 2,800 degrees Fahrenheit, a "pushing machine" on one side of the oven shoves the hot orange mass of coke out the other side into a "quench car" on which cooling water is poured, producing billows of steam.

Smoky coal tar emissions that escape from coke ovens are a pollution problem in most steel mills. Such emissions occur during charging and pushing and from leakage out oven doors.

Vacuum ducts meant to draw off dangerous vapors from the coke ovens sometimes become clogged, and when a larry car operator drops his charge of coal into a coke oven, black smoke and gases may shoot 10 feet up from the top of the oven and envelope the larry car.

Kelly recalled that the closed larry car cab would then fill with smoke, causing him to choke and gasp for air. "It can be hell when you drop that charge," said the former $160-a-week worker.

A committee composed of management, labor, government and public representatives held its first meeting in November and met again last month to develop recommendations for better federal standards for emissions from coke ovens, where 10,000 Americans work.

Federal officials concede that the present U.S. limit of two-tenths of a milligram of coal tar pitch volatiles per cubic centimeter of air is an inadequate and largely unmet standard for coke oven emissions.

Idled Worker Blames Fumes

(By Douglas Watson)

David E. Brown is a big man—6 feet, 1½ inches, 238 pounds—who for 15 years did heavy, hard work in a processing mill at Bethlehem Steel Corp.'s Sparrows Point complex.

Brown, 44, has been ill and unable to work much of this year. Instead, he spends most of his time sitting in his brick row house, coughing almost constantly and hoping that he will get well enough to go back to work at "the Point," if only as a janitor.

Like many other Sparrows Point steelworkers, Brown was born in West Virginia. "My father was a coal miner for 36 years. Black lung, that's what he had," Brown recalled recently as he discussed his own lung condition.

Brown has worked since 1959 in Sparrows Point's mammoth "68 mill," where orange-hot slabs of metal with a maximum width of 68 inches are quickly rolled into much thinner and longer strips of steel.

Brown said his job in recent years required him to spend a lot of time working near the 9-foot-deep "pickler" tubs of sulfuric acid, and occasionally, near tubs of hydrochloric acid, in which steel plates are dipped.

Some 200,000 Americans in many industries work with sulfuric acid, and the National Institute for Occupational Safety and Health (NIOSH) says "Concentrated sulfuric acid can burn and char the skin, and its irritant properties are rapidly injurious to the eyes and mucous membranes of the respiratory tract."

NIOSH adds, "Inhalation of high concentrations of sulfuric acid can result in symptoms of bronchitis, conjunctivitis, respiratory infections, emphysema and digestive disturbances."

The fumes from the acid tubs near which Brown worked are powerful and occasionally, workers there got sick and vomited, he said. But for years Brown didn't have any noticeable health problems and continued to work near the tubs.

When six 500-pound plates accidentally fell on a coworker last year, Brown singlehandedly lifted the crushing load off him, perhaps saving the man's life but straining his own back. This resulted in a reprimand rather than commendation from Brown's boss, who said Brown should have summoned help to lift the heavy plates.

"I'd never been sick a day in my life other than when I had an appendectomy in '56 or '57," Brown said. He hasn't smoked since 1967. As he talked he regularly paused to spit out phlegm from his lungs into a coffee tin placed alongside the sofa.

A year and a half ago Brown started wheezing when he breathed, which he continues to do but he kept on working till March 3 when he was reading the Sunday paper at home and suddenly found himself fighting to get a breath. "My head started buzzing and I slid down on the floor, sweating so that I was ringing wet and I could hardly get my breath," Brown said.

He was treated at a local hospital that released him later that day. "They gave me two shots, X-rayed me and said my lungs were full of fluids," said Brown. He went back to work for Bethlehem Steel a month later and didn't have another attack until he resumed working near the acid tubs. Again, he felt like he was smothering and could hardly walk to his car, he said.

Brown continued to be treated by his family doctor and didn't go back to work till Aug. 12. He felt all right for several weeks "till they started painting in the mill and that painting seemed to start me off again," coughing and wheezing and struggling for each breath.

He hasn't worked since Sept. 27 and has seen an allergist who, Brown said, told him he "didn't have any business" continuing to work in a steel mill.

Dr. Jose Ardaiz, Brown's family doctor, said his patient has bronchial asthma. Asked what the cause was, Dr. Ardaiz noted that Brown had long worked close to acid tubs at Sparrows Point and seemed to be bothered most when near their fumes. But Dr. Ardaiz added cautiously, "It would be very difficult to prove" that Brown's illness was caused by his work in the steel mill.

A spokesman for Bethlehem Steel said in regard to inquiries about Brown and several other ill workers, "The medical records available to us do not indicate that these individuals are suffering from work-related illnesses."

Asked why he had never worn a respirator on the job to protect himself from the acid fumes, Brown said, "Well, they never gave me one." The company does make respirators available.

He said the acid tub fumes cause paint to peel off steel beams high overhead in the mill and rust off steel beams high over head in the mill and rust workers' new belt buckles within a couple of days.

Brown earned more than $19,000 in 1973 when he was working steadily and as long as 72 to 80 hours a week on occasion, as he proudly showed by pulling out his pay check stubs. He had $2,000 in the bank when he had to stop work, but that's gone now and he receives $113 a week from the company.

Brown's medical and financial worries, he acknowledged, have made him nervous and jumpy and likely "to fly off the handle." The Browns' three younger children who live at home with them avoid asking their father for spending money any more.

Brown told his story quietly while sitting in his living room which features a big white Bible, a color television set, a "God Bless Our Home" plaque on the wall and trophies Brown won drag racing in previous years. Now, he rarely goes outside. Just walking up the 13 steps to the second-floor usually sets off a coughing spell.

"My doctor told me to move to Arizona," said the big man known as "Brownie" by his fellow workers. However, he added, I just couldn't leave here. Sure, I want to go back to Bethlehem Steel. The union said they'd try to get me a janitor's job there."

SENATE—*Tuesday, January 21, 1975*

The Senate met at 12 o'clock meridian and was called to order by the Vice President.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, we give Thee thanks for this Nation which Thou hast given us for our heritage. Spare us from scorn of the past and from fear of the future. Make us great and strong in the things of the spirit. Show us how to be rich in proportion to the fewness of our wants—how to be strong in devotion to the elemental simplicities of life—home, family, friends, work, play, and worship. By faith and prayer, shape our lives, O Lord, for these testing times that we here may shape a program to lift America to new heights of justice, brotherhood, and peace.

In the Redeemer's name, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, January 17, 1975, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

ACTIVITIES OF THE FBI CONCERNING MEMBERS OF CONGRESS

Mr. MANSFIELD. Mr. President, in connection with recent allegations that the FBI is currently improperly soliciting information concerning Members of Congress or misusing information in FBI files concerning Members of Congress, I ask unanimous consent that a release by FBI Director Clarence M. Kelley, for whom I have an extremely high regard, be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., January 21, 1975.

FBI Director Clarence M. Kelley issued the following statement today:

"In connection with recent allegations that the FBI is currently improperly soliciting information concerning Members of Congress or misusing information in FBI files concerning Members of Congress, I wish to state unequivocally that such statements are erroneous and without any basis in fact.

"The policy of the FBI is that information concerning Members of Congress is collected when Members are the subjects or victims of an investigation or a specific background check is requested concerning the suitability for nomination to a position in the Executive and Judicial Branches. Solicitation of information concerning Members of Congress is done only as necessary to discharge our investigative responsibilities.

"Information concerning Members of Congress is maintained in various files at FBI Headquarters in Washington, D.C. Such files exist because they relate to an investigation or a background check, correspondence with the Member of Congress, or information not solicited by the FBI, but volunteered by the public. In this latter category, unsolicited information is received from time to time making allegations concerning Members of Congress as well as other individuals in public and private life. If such allegations appear to relate to matters within the investigative jurisdiction of the FBI, they are appropriately investigated. If such matters do not reasonably appear to relate to the investigative jurisdiction of the FBI, a reply letter is addressed to the correspondent advising him that his communication was received, but that the matters related do not appear to come within FBI investigative jurisdiction. Such correspondence and the official reply made by the FBI are retained as a record of official action taken by the FBI. Correspondence of this type is filed for record purposes.

"As indicated, Congressmen are treated substantially the same as any other citizen concerning whom the FBI may receive information. However, when information is received concerning employees of the Federal Government or those serving as Government officers in any of the three Branches of Government, as a matter of practice it would be submitted by FBI field divisions to the FBI Headquarters in Washington so that it would be available in the event a check of our records is necessary. Such routine name checks are conducted frequently concerning persons who are being considered for appointment to positions in the Judicial and Executive Branches. It is not possible to predict, when information is received, whether the individual whom it concerns will or will not at some time in the future be given consideration for such appointments. Therefore, all such information voluntarily submitted is retained for record purposes.

"In summary, it is the policy of the FBI to solicit information concerning Members of Congress only when there is investigative jurisdiction to justify the collection of such information. However, unsolicited information received from time to time is appropriately retained for record purposes. Further, it is the policy of the FBI that the use of such information would be limited to assistance in investigations and background checks and is never used to influence the judgment or actions of any Member of Congress.

"Early hearings are being scheduled before the House Judiciary Committee and I welcome the opportunity to appear and dispute the fallacious statements about the FBI's misuse of information concerning Members of Congress. I will be prepared to discuss in detail FBI practices and procedures in this regard."

SENATE RESOLUTION 21—RESOLUTION RELATING TO INVESTIGATION AND STUDY OF GOVERNMENTAL OPERATIONS WITH RESPECT TO INTELLIGENCE ACTIVITIES

Mr. MANSFIELD. Mr. President, I yield to the distinguished Senator from Rhode Island.

Mr. PASTORE. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The VICE PRESIDENT. Is there objection?

Mr. HUGH SCOTT. Mr. President, reserving the right to object, I understand that this is the resolution having to do with the CIA.

Mr. MANSFIELD. With the intelligence community.

Mr. HUGH SCOTT. With the intelligence community.

Mr. MANSFIELD. I do not think we should emphasize the CIA too much, because it is the intelligence community. I think that should be understood.

The VICE PRESIDENT. The clerk will report the resolution.

The legislative clerk read as follows:

Resolved, to establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities.

Mr. MANSFIELD addressed the Chair.

Mr. HUGH SCOTT. Mr. President, I have reserved the right to object.

Mr. MANSFIELD. Mr. President, I ask unanimous consent, so that it will be fully understood, that the resolution be read in full.

Mr. PASTORE. That is right.

The VICE PRESIDENT. The clerk will report the resolution in full.

The legislative clerk read as follows:

S. Res. 21

Resolved, To establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities and of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency of the Federal Government or by any persons, acting individually or in combination with others, with respect to any intelligence activity carried out by or on behalf of the Federal Government.

Resolved, That (a) there is hereby established a select committee of the Senate which may be called, for convenience of expression, the Select Committee to Study Governmental Operations With Respect to Intelligence Activities to conduct an investigation and study of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency or by any persons, acting either individually or in combination with others, in carrying out any intelligence or surveillance activities by or on behalf of any agency of the Federal Government.

(b) The select committee created by this resolution shall consist of eleven Members of the Senate, six to be appointed by the President of the Senate from the majority Members of the Senate upon the recommendation of the Majority Leader of the Senate, and five minority Members of the Senate to be appointed by the President of the Senate upon the recommendation of the Minority Leader of the Senate.

For the purposes of paragraph 6 of Rule 25 of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the select committee shall not be taken into account.

(c) The majority members of the committee shall select a chairman and the minority members shall select a vice chairman and the committee shall adopt rules and procedures to govern its proceedings. The vice chairman shall preside over meetings of the select committee during the absence of the chairman, and discharge such other responsibilities as may be assigned to him by the select committee or the chairman. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointments to it are made.

(d) A majority of the members of the select committee shall constitute a quorum for the transaction of business, but the select committee may affix a lesser number as a quorum for the purpose of taking testimony or depositions.

Sec. 2. The select committee is authorized and directed to do everything necessary or appropriate to make the investigations and study specified in subsection (a) of the first section. Without abridging in any way the authority conferred upon the select committee by the preceding sentence, the Senate further expressly authorizes and directs the select committee to make a complete investigation and study of the activities of any agency or of any and all persons or groups of persons or organizations of any kind which have any tendency to reveal the full facts with respect to the following matters or questions:

(1) Whether the Central Intelligence Agency has conducted an illegal domestic intelligence operation in the United States.

(2) The conduct of domestic intelligence or counter-intelligence operations against U.S. citizens by the Federal Bureau of Investigation or any other Federal agency.

(3) The origin and disposition of the so-called "Huston Plan" to apply United States intelligence agency capabilities against individuals or organizations within the United States.

(4) The extent to which the Federal Bureau of Investigation, the Central Intelligence Agency, and other Federal law enforcement or intelligence agencies coordinate their respective activities, any agreements which govern that coordination, and the extent to which a lack of coordination has contributed to activities or actions which are illegal, improper, inefficient, unethical, or contrary to the intent of Congress.

(5) The extent to which the operation of domestic intelligence or counter-intelligence activities and the operation of any other activities within the United States by the Central Intelligence Agency conforms to the legislative charter of that agency and the intent of the Congress.

(6) The past and present interpretation by the Director of Central Intelligence of the responsibility to protect intelligence sources and methods as it relates to the provision in section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. 403(d)(3)) that ". . . that the agency shall have no police, subpena, law enforcement powers, or internal security functions. . . ."

(7) Nature and extent of executive branch oversight of all United States intelligence activities.

(8) The need for specific legislative authority to govern the operations of any intelligence agencies of the Federal Government now existing without that explicit statutory authority, including but not limited to agencies such as the Defense Intelligence Agency and the National Security Agency.

The nature and extent to which Federal agencies cooperate and exchange intelligence information and the adequacy of any regulations or statutes which govern such cooperation and exchange of intelligence information.

(9) The extent to which United States intelligence agencies are governed by executive orders, rules, or regulations either published or secret and the extent to which those executive orders, rules, or regulations interpret, expand or are in conflict with specific legislative authority.

(10) The violation or suspected violation of any State or Federal statute by any intelligence agency or by any person by or on behalf of any intelligence agency of the Federal Government including but not limited to surreptitious entries, surveillance, wiretaps, or eavesdropping, illegal opening of the United States mail, or the monitoring of the United States mail.

(11) The need for improved, strengthened, or consolidated oversight of United States intelligence activities by the Congress.

(12) Whether any of the existing laws of the United States are inadequate, either in their provisions or manner of enforcement, to safeguard the rights of American citizens, to improve executive and legislative control of intelligence and related activities, and to resolve uncertainties as to the authority of United States intelligence and related agencies.

(13) Whether there is unnecessary duplication of expenditure and effort in the collection and processing of intelligence information by United States agencies.

(14) The extent and necessity of overt and covert intelligence activities in the United States and abroad.

(15) Such other related matters as the committee deems necessary in order to carry out its responsibilities under section (a).

Sec. 3(a). To enable the select committee to make the investigation and study authorized and directed by this resolution, the Senate hereby empowers the select committee as an agency of the Senate (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate, but it may not exceed the normal Senate salary schedules; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpena or otherwise the attendance as witnesses of any persons who the select committee believes have knowledge or information concerning any of the matters or questions it is authorized to investigate and study; (5) to require by subpena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm, or corporation, to produce for its consideration or for use as evidence in its investigation and study any books, checks, canceled checks, correspondence, communications, document, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it, or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm, or corporation to produce before the committee any books, checks, canceled checks, correspondence, communications, document, financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Committee on Rules and Administration, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to make the investigation and study authorized and directed by this resolution; (11) to have direct access through the agency of any members of the select committee or any of its investigatory or legal assistants designated by it or its chairman or the ranking minority member to any data, evidence, information, report, analysis, or document or papers relating to any of the matters or questions which it is authorized and directed to investigate and study in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government, including any department, agency, officer, or employee of the United States Government having the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States and any department, agency, officer, or employee of the United States Government having the authority to conduct intelligence or surveillance within or outside the United States, without regard to the jurisdiction or authority of any other Senate committee, which will aid the select committee to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by the Senate to perform the duties and exercise the powers conferred upon it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpenas may be issued by the select committee acting through the chairman or any other member designated by him, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. The chairman of the select committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

SEC. 4. The select committee shall have authority to recommend the enactment of any new legislation or the amendment of any existing statute which it considers necessary or desirable to strengthen or clarify the national security, intelligence, or surveillance activities of the United States and to protect the rights of United States citizens with regard to those activities.

SEC. 5. The select committee shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than September 1, 1975. The select committee may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the select committee shall have three calendar months to close its affairs, and on the expiration of such three calendar months shall cease to exist.

SEC. 6. The expenses of the select committee through September 1, 1975, under this resolution shall not exceed $750,000 of which amount not to exceed $100,000 shall be available for the procurement of the services of individual consultants or organizations thereof. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee.

The VICE PRESIDENT. Is there objection to the resolution?

Mr. HUGH SCOTT. Mr. President, reserving the right to object, I do so in order, first, to make the point that what we are really trying to do here is agree on a time to vote on this resolution if we can. It may be necessary to object formally to get the matter on the calendar. If so, I will be prepared to object for that purpose.

I am not objecting to the early consideration of the resolution. The distinguished majority leader and I have discussed the possibility of an early vote. I personally am in accord with that.

I should like to ask one question for the benefit of the legislative history: It is my understanding that it would be the intention of the majority that the vice chairman of the committee will be a member of the minority party.

Mr. PASTORE. That is correct, and it is so specified in the resolution.

Mr. HUGH SCOTT. I yield to the distinguished Senator from Texas, if I may, who may also wish to reserve the right to object.

Mr. TOWER. I have nothing to add to what the distinguished Senator from Pennsylvania has said, except to express the hope that when the objection is formally raised, we can consent to get the resolution on the calendar as soon as possible; Monday, if possible.

Mr. HUGH SCOTT. For the purpose of achieving that, I can object now.

I object.

The VICE PRESIDENT. The objection is heard. The resolution will go over under the rule.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that notwithstanding the objection, the resolution be placed on the calendar at this time to save the time of the Senate. I do so because it is not anticipated at the moment that we will be in tomorrow, and perhaps not on Thursday. We will be in Friday. It is for that reason that I make this unanimous-consent request.

Mr. HUGH SCOTT. I have no objection.

The VICE PRESIDENT. Without objection, it is so ordered. The resolution is placed on the calendar.

Mr. MANSFIELD. I have notified Senators STENNIS and MCCLELLAN of what was going to happen today and have also discussed the matter with the distinguished Republican leader and the ranking member of the Armed Services Committee, Mr. TOWER.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. PASTORE. Mr. President, I do want to say, while the resolution is before the Senate, that there is no intention here to conduct a witch hunt. There is no one in the Senate who has more appreciation or more respect for the necessity for a CIA, a civilian intelligence agency, a military intelligence agency, and an FBI in order to guarantee the security and the survival of this great Republic. But in recent weeks and in recent months there have been charges and counter charges spelled out on the front page of every newspaper in this country. The matter has been discussed over television and radio. The people of America are confused. They are asking themselves, "What is actually happening to these organizations which are essential for the security and the survival of our great Nation?"

In order to clear the air, in order to cleanse whatever abuses there have been in the past, so that we can put these agencies on the right track, so that we can recite, once and for all, the proper parameters within which they can function, I am afraid we will do irreparable harm to the security and the survival of the country unless we do this.

It was for that reason, Mr. President, that I introduced this resolution before the Democratic conference. I made it plain at the time that in my judgment there are no three greater Americans than Colby, Helms, and Kelley. I know all three, I have worked with all three, and I have found them to be distinguished gentlemen who are patriotic and love this country as much as any other Americans, without any doubt at all.

But there has been abuse. They have been influenced in making their judgments, and these influences, I am afraid, have come from on high, may times right out of the Oval Room of the White House, and sometimes from some underlings at the White House.

We had the instance before our committee where Ehrlichman called up the Deputy Director of the CIA and instructed him to give disguise paraphernalia to Mr. Hunt. The question is, Under whose authority? Who was Ehrlichman? Was it within the purview of the statute? Was it in conformity with the charter that established the CIA?

These are questions that have to be resolved, because we want the CIA to be responsive to the President of the United States directly, and not indirectly. We want him to be responsible to the Congress that is responsible, in turn, to the people of this country. It is for that reason that this investigation is being conducted and this resolution is before this body.

It was argued by the distinguished Senator from Mississippi that this falls within the purview and the jurisdiction of his own Armed Services Committee. As a matter of fact, when we talk about jurisdiction, we also have the Foreign Relations Committee, we have the Appropriations Committee, and I do not think we are ever going to get around discussing the question of jurisdiction unless we get it into a select committee. If we get it into the Appropriations Committee or the Armed Services Committee, I am afraid we are going back again to the question of seniority, the seniority complex that has disturbed so many people.

I am not against putting senior Members on this select committee, but we have a wealth, we have a reservoir of competence in this body, of people who have not settled their minds or prejudiced themselves one way or the other. Frankly, I must say, from my own contact with these two agencies, I am a little prejudiced, myself, in favor of the CIA, of military intelligence, and of the FBI. I am chairman of the subcommittee that funds the FBI. In my humble opinion, there is no man I respect more than Clarance Kelley. I think he is a fine American, and I think he is an excellent police officer; no question about it. I have no fault to find with him, and fundamentally, I have no fault to find with anybody, except that we want the right thing done.

We are not going to conduct a witch hunt in this case. We are not out to get anyone's scalp. What we are trying to do is to serve America. This is an open society. Even in an open society, sometimes we have to have a secret organization. The big question is, To whom are they responsible? Who got us into Cambodia? Who got us into Laos? Who got us into the Bay of Pigs? Who got us into Chile? Who got us in all over the world, and under whose authority, and why was not the Congress told?

Here we are; we passed the war powers bill in order to restrict the power to declare war and require that Congress be consulted, and we find now they can do it surreptitiously through the CIA or through some other agency of Government. This is all wrong, Mr. President, and it should be rectified. I hope that the majority leader and the minority leader will pick out competent personnel, of whom we have enough here in the Senate, and that they will conduct a hearing, that they will protect the secrecy of the CIA, the FBI, and the military intelligence, and that they will not spread it out publicly and thus injure this Nation.

I think we have that competence. I think we have the responsibility to do that. And after all, the Armed Services Committee, the Appropriations Committee, and the Foreign Relations Committee are not so sanctified that they are the only ones who can do it.

The only thing I am saying is, let us spread this out. Let us widen our scope, and let us pick out men who will devote themselves to this task, who are not already too much involved with other responsibilities in the Senate, and can get on and do this job that needs to be done, and report back to the people.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. KENNEDY. I wonder if I could direct the Senator's attention to certain provisions of the resolution, and ask his interpretation of such provisions.

Mr. PASTORE. The Senator may.

Mr. KENNEDY. The first resolve clause, refers to establishing a "select committee of the Senate to conduct an investigation and study," and then I draw particular attention to these words, "of Government operations with respect to intelligence activities."

I want to find out from the author of the resolution whether he interprets those particular words to include covert actions as well as literal intelligence-gathering activities, including the full range of Central Intelligence Agency activities such as the paramilitary operations, propaganda, subversion, destabilization, operation of proprietary companies, and counterintelligence. The inquiry would thus include, for example, activities like the secret war in Laos, Operation Phoenix, and destabilization of the Government of Chile.

The VICE PRESIDENT. The 10 minutes of the Senator from Montana has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for an additional 10 minutes, and yield that additional time to the distinguished Senator from Rhode Island.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. PASTORE. The answer is "Yes." If they fall within the purview of any of the activities of these agencies; and whether these actions are performed domestically or abroad, the resolution is very specific in that respect. The answer is yes.

Mr. KENNEDY. I thank the Senator. I believe this is again referred to in subsection 2(14) of the resolution, where it concludes with reference to "the extent and necessity of covert intelligence activities in the United States and abroad.

Mr. PASTORE. That is correct.

Mr. KENNEDY. I bring this up because one might later argue that the resolution does not cover some of the activities the CIA has been involved in because they are not literally "intelligence activities," and therefore that they are not subject to the scope of the resolution.

Mr. PASTORE. No.

Mr. KENNEDY. But quite clearly, as I have listened to the Senator here on the floor and also to his explanation in the caucus, the scope of the resolution covers all of these matters I have just referred to, and they would be so included in the inquiry authorized by the resolution.

Mr. PASTORE. That is correct; and the majority leader will address himself to that point, that this is not to be construed in any limited way, that it has to be given a broad interpretation, and that interpretation will be the interpretation of the committee itself, and of nobody else.

Mr. KENNEDY. I thank the Senator.

Mr. GOLDWATER. Mr. President will the Senator yield?

Mr. PASTORE. I yield to the Senator from Arizona.

Mr. GOLDWATER. Serving on the Armed Services Committee, as I do, I can understand the anxiety and the interest of other Members of this body over reports emanating from the New York Times and other newspapers in the country relative to the activities, or at least charged activities, of the CIA.

I expected that such a resolution would be introduced, and I am very glad that it has been introduced, and particularly because my friend, the Senator from Rhode Island, seems to be heading it up.

Now, the point that I am trying to get to is, serving on the Armed Services Committee, there are many times——

Mr. STENNIS. Mr. President, may we have order so that those who wish to can give attention to the debate?

The VICE PRESIDENT. Order.

Mr. GOLDWATER. There are many times, Mr. President, when we are confronted with testimony that we do not want to hear. It is of such a highly classified nature, I do not think, frankly, anyone outside of the intelligence community should hear it.

Now, it is my hope and prayer that during the course of this investigation, first that a proper committee be selected. We do not want to have anyone running for President on this committee, or any other office. We want to have people who are going to be objective and hew to the line.

Mr. PASTORE. That is correct.

Mr. GOLDWATER. Now intelligence is not something that we gather on Americans. It is something we gather on an enemy. Intelligence is a worldwide operation and, I must say, we have already lost from the CIA probably the world's finest intelligence officer, because he was not going to put up with what he thought he would be subjected to in questioning on the CIA.

Mr. PASTORE. Will the Senator from Arizona admit that part of that has already been accomplished by the stories that have appeared?

Mr. GOLDWATER. I am sorry about what happened.

Mr. PASTORE. Absolutely.

Mr. GOLDWATER. What I want to see prevented is a further diminution of the intelligence forces we have had.

I never worked too closely with intelligence but I have worked close enough to know, though, people in these jobs and in this field are very difficult to come by, they are very sensitive to exposure, and are very sensitive to having their records and discussions brought out in the press.

So I would hope, when the majority leader and minority leader get together to select this committee, that they select a committee that will weigh all of the facts and be particularly careful about what is allowed to leak, because the Watergate leaked like an old sieve, and we sure do not want that to happen in an area as sensitive as intelligence.

I might say that we have gone through a lot of criticism or we have suffered through a lot of criticism in this country in the last several years, criticism of the military. Who is responsible for the military to go to Vietnam? It was not the Pentagon; it was the President of the United States who was the only man who could do it.

Who is responsible for the CIA, FBI, and DIA and others getting into fields I have a feeling they did not want to get into? The President of the United States. Now should we go that high? Maybe we should not, but I just wanted to rise on the floor and state as a man who has been exposed to intelligence and who serves on the Armed Services Committee and feels rightly that we need a job there that should have been done, that we did not get too rambunctious in it, we did not make exposures in exploring it; and in the course of selecting the committee and carrying on hearings that we could have a minimum of televised hearings. We could have this investigation done in a way that is going to benefit the CIA, the DIA, and FBI, and our country.

I know that the resolution will be agreed to, and I merely wanted to pass on my feelings as one Member of this body. And again I am grateful that the Senator from Rhode Island, who is a man of great restraint and great patience, is the one who is the author of this resolution.

Mr. PASTORE. I thank the Senator from Arizona. I agree with him implicitly. I have been a member of the Joint Committee on Atomic Energy since 1952. In all these years there has not been a single leak. The best kept secret was the atomic bomb. We can keep it where it belongs if we try, and I think that we have enough respectability, enough responsibility, in this body to achieve that.

It would be an awful day if this became a television spectacular. It would be an awful day if we did this merely for publicity propaganda. What we want is we want to clean up these agencies in a fashion that will at least restore public confidence.

The Senator said some harm has already been done abroad. Would it not be catastrophic if the American people lost their confidence in these agencies which are absolutely necessary for our security and our survival? And that is all I am trying to achieve.

On the question of being a member, I have already disavowed it. I will reject any invitation to become a member of the committee because I submitted this resolution, and I do not want it ever even to appear that I did it because I was looking for another job.

Mr. GOLDWATER. Will the Senator yield for another remark?

Mr. PASTORE. Yes.

Mr. GOLDWATER. I would hope the Senator would not take a cemented position on it. I have spoken on this subject. I have not asked to be on this committee. If I am asked, I think I would serve. I do not think any of us should preclude our being asked. I say we have to have restraint in this committee. I think it would be wise to let the leadership know who is chosen for this committee before we are asked to vote on it.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I will yield, but I want to assure the Senator from Arizona, if I may, that as far as the leadership is concerned, there will be no TV spectaculars in any way, shape, or form.

Mr. GOLDWATER. I thank the Senator.

Mr. CURTIS. Mr. President, I certainly have no authority to suggest who from the majority should be on this committee, but having served with the distinguished Senator from Rhode Island on the Atomic Energy Committee, I want to say that I do hope they will persuade him to serve on this committee and act as its chairman.

Mr. MANSFIELD. Mr. President, the majority leader will take care of that chore and that responsibility to the best of his ability. I yield to the Senator from North Dakota briefly.

Mr. YOUNG. I thank the Senator. I just want to ask one question, and my concern is about confidentiality and leaks from this committee. How big a staff is contemplated?

Mr. MANSFIELD. That would be for the committee to decide, may I say to the distinguished Senator from North Dakota, the ranking member of the Committee on Appropriations, who is well versed in thees matters under discussion, and I would anticipate that the staff would have the highest possible clearance, and would not be too large as to be cumbersome but large enough to carry out its duties.

Mr. YOUNG. I would hope they would have good and proper clearance and not too many, because the more people there are on the committee, the more staff members, the greater the possibility for leaks.

Mr. MANSFIELD. I think clearance is mandatory. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I wonder if the distinguished Senator from Rhode Island will yield for a question relative to the issue of oversight. In the conference the other day, we discussed the question of oversight, and I do not have in my hands a copy of the resolution but, as the Senator knows, there is a brief sentence in the resolution that makes reference to the responsibility of the committee to examine the question of oversight and to make recommendations to the Congress, if they have some to make, respecting the question of oversight.

As the Senator knows, the issue of oversight of intelligence activities in this country has been under discussion for many years. So far as I am personally concerned I have had a resolution to create a joint committee on oversight of all intelligence activities and surveillance within this country since 1971. It has been pending in the Judiciary Committee.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for an additional 10 minutes, with apologies for those who are waiting so patiently.

The PRESIDING OFFICER (Mr. FORD). Without objection, the Senator may proceed.

Mr. NELSON. That resolution was introduced in 1973 and referred to the Committee on the Judiciary, then submitted in a different form and referred to another committee.

Mr. MANSFIELD. Government Operations.

Mr. NELSON. Government Operations. And then Senators MUSKIE, JACKSON, and I submitted it again a couple of weeks ago.

The question is, I just want to be sure with respect to the phrase in the resolution concerning the suggestion that the committee address itself to the question of oversight. I want to clarify the question. It is not intended, is it, to preclude Congress from proceeding in the meantime——

Mr. PASTORE. Not at all——

Mr. NELSON. To adopt a joint resolution or pass legislation on creating a joint committee on oversight if they see fit to do so.

Mr. PASTORE. No.

As a matter of fact, the Senate of the United States is a free agent from this moment on to eternity.

Mr. NELSON. I appreciate that because I think it is important we pass legislation for the creation of a joint committee to conduct oversight on all intelligence operations on American citizens and surveillance within this country at a very early date.

I thank the Senator.

Mr. MANSFIELD. Mr. President, I may say in response to the questions raised by the distinguished Senator from Wisconsin that for many years I, too, have been trying to suggest the creation of an oversight committee specifically applied to the CIA, not for the purpose of denigrating it but for the purpose of protecting it, because there are times when that agency is not in a position to answer allegations or charges and it should have a joint committee, as the Atomic Energy Commission does, to come to so that the truth can be laid out and, wherever necessary, corrections made.

Mr. President, every Member of the Senate is fully aware of the monumental tasks facing this Congress as we address the economic problems of inflation and recession and energy. Members of this body know, too, that the people of America demand, as they should, that their elected representatives in the Congress get on with the job of meeting the energy crisis, of stemming the recessionary spiral and of combating inflation. What is at stake is the vital well-being of the American people now threatened by impoverishment and economic stagnation which is robbing their livelihood.

I am certain, too, Mr. President, that Members of this Senate are also chillingly aware that a zero rate of inflation, economic growth and abundance, and jobs for everyone will mean nothing if we allow our unique and precious rights and liberties as free American citizens to be eroded in the name of "national security."

Unfolding recently, however, has been a whole series of revelations in the press and elsewhere which suggest that such an erosion has indeed begun to occur. These events have made it abundantly clear that we have ignored to our great detriment as free individuals Jefferson's warning a century and three-quarters old that eternal vigilance is the price of liberty.

In this case, vigilance is essential to insure that our intelligence-gathering and law enforcement agencies exercise that license provided them by the representatives of a free people—but no more than that license. Vigilance is essential to insure that the rights and liberties of those granting the license have not been impaired.

Mr. President, I support the resolution that will rectify our past neglect over the role of intelligence in a free society. This resolution will establish a select committee to do the job. It would conduct an investigation and study of "governmental operations with respect to intelligence activities and of the extent, if any, to which illegal, improper, or unethical activities were engaged in by any agency of the Federal Government or by any persons, acting individually or in combination with others, with respect to any intelligence activity carried out by or on behalf of the Federal Government."

The mandate is broad—broad enough to accommodate a task which otherwise would fall to a number of Senate committees. The issues here involved are similarly broad and include constitutional rights, military and domestic security, foreign affairs, and a host of other overlapping concerns.

This resolution provides for the appointment of a bipartisan committee to be composed of 11 Members of the Senate with a chairman to come from the majority party and a vice chairman to come from the Republican Party. The members of the committee are empowered to select a chairman and vice chairman. It will have a degree of autonomy necessary to function freely to assure the committee and its members that it has the full confidence of the leadership of the Senate and of the entire body.

At this point I wish to make it very clear that no authority granted to this select committee under the resolution is intended to, nor will it, constitute an infringement of the present jurisdiction of any other committee of the Senate in relation to the intelligence or law enforcement activities of our Government. Many committees of the Senate have overlapping legislative, oversight, and appropriations jurisdiction and authority, that is, the Committees on Appropriations, Armed Services, Government Operations, Foreign Relations and Post Office and Civil Service. The authority granted by this resolution will in no way impair the responsibilities or duties of those committees in this field—indeed, it cannot under the existing rules of the Senate.

The select committee's task is precise. Neither witch hunt nor whitewash will be here conducted; and there will be no wholesale dismantling of our intelligence community. What we hope to obtain is a full and objective analysis of the role of intelligence-gathering in a free society today measured against current laws, practices, and policies in the intelligence community. It is a task that is long overdue.

Finally, it should be made clear that this committee will only be able to perform its function effectively if the provisions of this resolution are liberally construed by committee and the agencies which are the subject of its investigation. For example, it is not the intent of the drafters of this resolution that words such as "intelligence," "counterintelligence, "domestic intelligence" or "coordination" be technically or restrictively interpreted. I am aware that these terms may have special or limited meaning to certain agencies within the Federal Government but it will be the exclusive responsibility of the committee, not the agencies, to define these terms. It is my hope that the committee will define these terms broadly to encompass all activities which have been the subject of concern in recent months.

To my mind it is also imperative that the provisions of section 2 as to the scope of the inquiry be broadly construed. As the resolution explicitly states, the listing of issues for investigation is not exclusive. By the same token each of the issues clauses should be read broadly. For example, although the second clause speaks of the FBI's counterintelligence program against U.S. citizens, this provision should not be read as a prohibition on the committee to investigate activities by any other agency of the Federal Government such as the Internal Security Division of the Department of Justice or the Special Service Staff of the Internal Revenue Service. Nor would it prohibit the committee from investigating programs operated by the FBI or any other agency where the agency described the program as "intelligence" as opposed to "counterintelligence" or "law enforcement investigative" as opposed to "intelligence."

Furthermore, it is the intent of the drafters that the committee have every legitimate investigative tool at its disposal. Therefore, those provisions of section 3 dealing with the committee's investigative apparatus should be generously construed. For example, it would seem obvious to me that clauses 5 and 11 requiring disclosure of agency materials and permitting access to agency files should be construed so that the classification system should not stand as a bar to the committee's investigation regardless of the level of classification. The committee and its staff would be subject to the disciplinary action of the Senate for any leaks or improper disclosure of information it receives. Furthermore, the committee would not be restricted by section 403(g) or any other provision of the National Security Act or of any other statute which is designed to limit congressional or public access to agency files. Section 403(g) authorizes the administration to withhold budget information from Congress and a restrictive interpretation of its provisions alone would thwart much of the committee's work.

I must emphasize these last few remarks as we in the Senate are here seeking the broadest and most intensive investigation. The intelligence community must be on notice that the Senate will not accept less than the full measure of cooperation and assistance on its part—CIA, FBI, NSA, DIA, and all the rest.

Again, Mr. President, I give my wholehearted support to the resolution offered by the distinguished Senator from Rhode Island, and I commend him for his initiative in this respect and at this time.

Mr. STENNIS. Will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. STENNIS. I would like to address a question to the Senator from Rhode Island.

I call attention to a statement of the Senator from Montana, in which he said, while the Senator from Rhode Island was in the Chamber, that this Senate resolution would in no way impair or diminish the jurisdiction and responsibilities, rules, and activities of any Senate committee, including the Senate Armed Services Committee.

Mr. PASTORE. That is absolutely correct.

Mr. STENNIS. I think the Senator from Rhode Island has the same attitude and position about this matter.

Mr. PASTORE. That is absolutely correct. That question came up in the conference. It was discussed at that time. The answer that I now make is the same answer that I made at that time, that this does not in any way impair the present jurisdiction of any committee with reference to the CIA, FBI, or any other intelligence-gathering agency.

Mr. STENNIS. I felt sure that was still the Senator's position.

Mr. PASTORE. That is correct.

Mr. STENNIS. I did want him to express it again.

May I direct this inquiry to the Senator from Montana: I refer to the Senator's remarks with reference to a generous or liberal construction of, I believe he said, section 3, used in his illustration. I believe, Mr. President, it would really be better not to try to interpret the language generously by debate here if we could have an understanding that the committee, whomever it is, is clearly responsible to the Senate to interpret it the best they can and, when in doubt, refer the matter back to the Senate. I know that judges get in trouble sometimes trying to interpret a very important provision of law. I just believe it is a safe rule to refer back. I mean to refer back for interpretation or further authority. Would the Senator respond to that?

Mr. MANSFIELD. Yes, indeed. May I say that what I was seeking to emphasize was the fullest cooperation on the part of the agencies which would be questioned under the inquiry if it becomes the will of the Senate to approve it.

As far as coming back to the Senate is concerned, I would expect the committee, if it is created, to make that decision. I would be willing to abide by its judgment. I am very certain that we will have the most responsible Members of the Senate—they are all responsible—and I would have faith that this committee, if it is created, which is the servant of the Senate as are all committees, would, if it decides to do so, in its wisdom make a decision as to whether or not a moot point should or should not be referred to the Senate for counsel and advice.

Mr. PASTORE. May I respond to that question, too? If any member of that committee who has reached the point in responsibility of becoming a Senator of the United States ever dared to say, "Give me a list of your informers" I would be the first one to move that the committee be dissolved.

Mr. MANSFIELD. I would agree.

Mr. PASTORE. Let us face it. After all, we are all out to protect the survival of this country and to guarantee its security. I hope no one runs wild on that committee. I have confidence in this body to know that that will not happen.

Mr. MANSFIELD. Mr. President, may I have 5 additional minutes?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. If the Senator will yield further, I am not questioning the capacity or the motives of anyone who becomes a member of the committee. I think that is the key to a lot of the situations. But to instruct here, more or less in debate, for liberal interpretations of various authority granted by the Senate I think should be spelled out the best we can rather than just give them an open door for so-called liberal interpretations. I say that in all deference. I do not think the Senator intends to do that at all, but it could happen. I do not think the Senator from Montana intends for it to happen at all, but certainly could happen just that way. I think laws sometimes have these preambles in them that leave the doors too wide open, too.

Mr. MANSFIELD. May I say in response that all too often restrictions are placed upon the activities of congressional committees by departments, agencies, and bureaus within the executive branch of the Government. I would point out also that the only elected officials of the Government of the United States at the present time just happen to be the House and Senate of the Congress of the United States. I say that with due respect to the President and the Vice President, both of whom have assumed that office under the 25th amendment. That is constitutionally correct and understandable. But I would not demean or degrade the Senate. I have confidence in all 100 Members of this body. I do not expect them to go off the edge. But I do want them to have at their disposal, this committee if it is created, the necessary information by means of which it could arrive at a reasoned and objective judgment. I am sure the Senator from Mississippi feels exactly the same way.

Mr. STENNIS. The Senator is correct. I am just directing my thoughts to the language used here in debate. I just have my reservations about that point of interpretation. I thank the Senator for his answers. The matter of jurisdiction and responsibility is what I am mainly concerned with.

Mr. MANSFIELD. May I say what I expressed was my opinion and what the committee will express, if it is created, will be its judgment.

I thank most especially the distinguished Senator from Oregon for allowing us to take up so much of his time.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. BUMPERS). Under the previous order, the Senator from Oregon (Mr. HATFIELD) is recognized, for not to exceed 15 minutes.

MILITARY INTERVENTION IN THE MIDDLE EAST

Mr. HATFIELD. Mr. President, reports that the administration is considering direct military intervention in the Middle East have occurred with an uneasy frequency in recent weeks. The latest warning came from Secretary of State Kissinger during an interview in which he gives a clear and solemn implication that military forces of the United States would be used against oil producers should the western industrialized world be faced with "some" economic strangulation.

While representing the views of the Ford administration, Dr. Kissinger engaged himself in a familiar, if dangerous, polemic tactic. He first reminded us of the immense dangers surrounding any such unilateral action in the Middle East. He recalled the lessons of the Vietnam tragedy, the catastrophic misuse and overestimation of American military power, the vast difficulties we encountered in trying to extricate ourselves from the jungles of Indochina. Dr. Kissinger then effectively voids his own warning by again giving rise to the specter of U.S. armed aggression: "I am not saying," Dr. Kissinger adds, "that there is no circumstance where we would not use force."

Mr. President, I will not stand before you today and pretend to understand the nuances and subtleties of Dr. Kissinger's moral juxtaposition, or what possible purpose he hopes to achieve by threatening overtly the countries of the Middle East and the fragile peace of a troubled world. For I can sense little reason for hope in the Secretary's remarks.

Let me speak plainly. As every American realizes, Dr. Kissinger is not talking in the abstract about imaginary crises, or hypothetical situations. He is talking and threatening military action.

The Western World is already experiencing grave economic and political repercussions as a result of its dependence on Mideast oil. To say that such is not the case is to deny the obvious—that "some" strangulation of Western industrial economies is occurring right now as a result of high oil prices. It is also perfectly clear to any but the casual viewer that yet another significant increase in the price of oil will cause this strangulation to become more acute. Finally, should war again break out in the Middle East and yet another embargo be drawn against the industrial powers of the West, Dr. Kissinger's "circumstantial" Armageddon will be at hand.

We have entered an area of human history characterized by an international superindustrialism fundamentally dependent on the exploitation of the world's natural resources. It is an era of enormous complexity, an age shadowed constantly by the threat of strategic or total nuclear war. Under the strain of such complexity perhaps some feel it is at times necessary to clear the air, and to contemplate the abandonment of morality and rational judgment to the purposes of war. Perhaps under such pressure some believe it is necessary to reduce international problems to their lowest common denominator—military conflict—and to begin to speak again as if aggression were a necessary, if distasteful, tactical option. If the Secretary is serious, and there is no reason to believe otherwise, might we assume that the psychological groundwork is being laid among the American citizenry for the eventuality of yet another U.S. military intervention of a nation that lies half a world away?

To those who still clearly recall the moral and military catastrophe of Vietnam, the contemplation of using such force may seem preposterous. Dr. Kissinger, they will say, is igniting a cannon without the benefit of ammunition. He is rattling the sabers of American military power for some higher strategic purpose which will somehow serve the interest of world peace and stability. Administration strategists cannot be serious, they will say.

Perhaps not. But I would remind my colleagues today that we have heard remarks such as Dr. Kissinger's before. In the 1930's the world was told by the German nation that renewed German imperialism would be tantamount to political suicide. But by 1938, Hitler controlled the coal mines of the Sudetenland. In 1964 this Nation was assured by its President that American soldiers would not be sent to fight an Asian war. A year later American soldiers were dying in jungles and swamps of Indochina. In each case the world was assured that invasion was politically destructive. In each case intervention occurred. To deny the eventuality of an economic situation which Dr. Kissinger fears, and thus to deny the possibility of renewed American military aggression, is to live in the most imaginary of all political worlds.

We have, then, an obligation to take Secretary Kissinger's remarks seriously. It then follows that we must also set out to explore the immense implications of such action, and its effect on the search for peace.

Mr. President, I have been alarmed recently to hear the commentary of respected writers and Government officials who believe that intervention should occur if, to quote one columnist, "the difference means disaster." This is a valid human reaction to a threat of considerable economic disruption. But, if one struggles to avoid "disaster" through military force, one must be sure that the use of such force will not result in accelerating catastrophe—a catastrophe which would not only bring the Western economic system, but all of global civilization to its knees.

Which of the administration's strategists, it might be asked, does not realize that such a military intervention would endanger, as never before, the ongoing business of civilized man? Who can believe that, should an intervention be launched, the Soviet Union would stand passively by as we fractured the structure of existing international law in an attempt to secure over half of the remaining known oil reserves that the world has left? Who can believe that an immediate nuclear callup would not assuredly follow such an invasion, and that Soviet troops would not be rushed toward an encounter with an outlawed invasion force sent by the United States of America?

Who can state with anything approaching reasonable certainty that such an encounter would not mushroom into a limited or total nuclear confrontation? Which of those who blindly talk of intervention cannot remember the reaction of the United States to the threat of the unilateral involvement of Soviet troops following the outbreak of the October 1973 war? Was not our worldwide retaliatory force put on nuclear alert? Did we not act immediately to dispatch our bombers toward Soviet airspace? Can any strategist seriously believe that a similar response would not occur within the war rooms of the Soviet Union, as the U.S. invasion force moved to control the lifeblood of the world's technological and industrial machinery? Can someone assure me that we will consent to hold back our intervention, as the Soviets did in the Middle East and during the Cuban missile crisis of 1962; if such an alert occurs?

Can those who talk of the ultimate success of such an operation be serious? Is it so difficult to realize the obvious: that even allowing for a successful invasion, there will be nothing to prevent the Arabs from destroying the fields before they are militarily secured? And in the light of those exploding oil fields, who will explain again how we sought only to avoid disaster, and that conquest was necessary for the renewed stability of world order?

Finally, can anyone believe that, even should such an illegal invasion successfully occur, even should a percentage of the fields be left functional, terrorism would not dominate that region of the world for years to come, that tankers carrying the commandeered oil to the West would not be blown apart as they moved through the Persian Gulf, that thousands of miles of pipeline would have to be patrolled, that the Middle East would become an armed camp requiring soldiers, sophisticated defense networks, and armed air and sea patrols to be renewed indefinitely?

What nation would be next? If the price of other minerals essential to the advancement of our material prosperity soars, do we threaten intervention in yet more third and fourth world countries? How soon will it take the world to understand, then that the boundless material needs of advanced industrialism will turn the American democracy into a nation helpless before the dynamism of its own, economic tyranny? Our options will dwindle, until the only alternative is conflict and aggression.

Dorothy L. Sayers has said:

> War is a judgment that overtakes societies when they have been living upon ideas that conflict too violently with the laws governing the universe. . . . Never think that wars are irrational catastrophies: they happen when wrong ways of thinking and living bring about intolerable situations.

Mr. President, we must view our present situation, and Dr. Kissinger's unfortunate remarks, in this context and no other. We must admit to ourselves the obvious: the superindustrialized technologies of the United States and the similar systems of Western nations cannot continue in a perilous economic course that can only lead inexorably toward conflict, fear, and finally war. At our present rate of economic growth the dependence on raw materials and fuel supplies from outside our national boundaries can only intensify. As a result, pressures will grow to extend our economic and military influence throughout the world in an attempt to cheaply secure these resources. If diplomatic and economic influence fails, it is clear that military threats and aggression must form the final solution.

The limits of world oil reserves and the correspondingly high prices are offering us a vision of things to come. For an industrial system which uses 40 percent of the world's primary resources to supply the wants and needs of 6 percent of the population is a system that can only continue to accelerate under the threat of world resource shortages and the breakdown of international relations.

Mr. President, at the Western World's current consumption rate, all known oil reserves in the free world will be dissipated in 24 years. The entire known Mideast oil reserves will be used up in about 14 years. Our known Alaskan oil reserves can be consumed by this country in less than 5 years. These statistics, it will be argued, do not take into consideration exploration and the discovery of potentially new sources of oil. But neither, I might add, do they take into consideration the annual increase in production and consumption that characterizes the industrial economies of the West.

Dr. Kissinger's remarks must provoke greater questions of our ultimate purpose as a nation; questions involving our relationship to other peoples, and our legacy to future generations.

In talking of such transitory military solutions, are we contemplating what our collective future might be like, even beyond the next decade? Are we beginning now to make the efforts and sacrifices needed to insure that industrialism will survive the second millennium? Are we looking into the distant future, even dimly, to see if we will have a future or not? Are we marshalling the forces of our scientific and technological genius to harness the limitless power of the waves and the winds and the sun, instead of stripping wholesale the finite resources of the Earth?

Are we moving to slow the growth of superindustrialism until such an energy transference can be accomplished, or are we blindly pursuing a course of greed and waste that may well insure the collapse of that which we have attained? Are we willing now to admit that, as industrialism accelerates, it destroys and consumes the very foundation on which it rests, or will we pursue the world's resources in a constant, aggressive search for wealth?

Dr. Kissinger's remarks and current world conditions indicate that the time for decisionmaking is growing dangerously short. If we continue to live the 19th-century dream of boundless plenty and wealth, if we continue to view the world as a quarry for our exploitation, if we continue in the sad delusions of our own invincibility, we face a future of grave and constant peril.

Our present course promotes an uneasy madness that is destructive of logic and moral purpose. It legitimizes irrationality; it provokes fear among our people and the nations of the world; it sanctions aggression and threatens the world with a war for which we alone would be responsible.

Mr. President, how long must we remain prisoners of the past and the victims of our own illusions? How long can we continue to imagine the future as only an aggravation of the present?

How long can we continue policies based on the most dangerous of assumptions: That we can invade and control any nation we choose, that we will be free in the future to shape the world in our own image, that we can continue to use the Earth for our own, limitless purpose?

Mr. President, we are not helpless. We can begin again, and together we can reenvision the future. With immense effort and imagination the remaining civilizations of the world, descendants of ancient peoples, can break the chains of the past which bind us to the ageless threats of war and violence. We can proceed with hope toward the third millenium if we but remember that we share custody of the Earth; we do not own it.

To this end we can begin now to fundamentally restructure our domestic economic order so that its prosperity is no longer dependent on the exploitation of limited world resources. And we can shape an international order that functions to insure the just distribution of the world's bounty rather than to protect the power of those who have come to hold it. These things can and must be done if we are to finally unearth the roots of war.

In the growing storms of the present we must find an inner strength equal to resolving the conflicts before us. If we can, through the marriage of courage and wisdom, commit ourselves to the bonds of our common humanity, the future of mankind will unfold with fascination and purpose. If we cannot, the future will be lost.

I gather hope and courage from an ancient source. Long ago a people were told:

> I have set before you life and death, blessing and cursing; therefore choose life, that both thou and thy seed may live.

The choice is again before us. We too must live on. These threats of war must end.

Mr. MANSFIELD. Mr. President, I seek recognition.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. I yield to the distinguished Senator from Oregon. Will the Senator yield?

Mr. HATFIELD. I yield.

Mr. MANSFIELD. I wish to commend the distinguished Senator for the remarks which he has made today. They are in accord with his statements of the past and they are a continuation of a type of logic and understanding which I think is all too lacking in our Nation today.

I note, for example, Mr. President, that the distinguished Senator says:

> How long must we remain prisoners of the past and the victims of our own illusions? How long can we continue to imagine the future as only an aggravation of the present?"

Further on, when he quotes the ancient source, he said:

> I have set before you life and death, blessing and cursing. Therefore, choose life, that both thou and thy seed may live.

The Senator does well to call to the attention of the Senate and the American people, hopefully, the possibilities inherent in the situation in the Middle East at the present time. It is not only a statement made by the Secretary of State in answer to a hypothetical question. It goes much further than that with the idea of a three-ocean Navy, extending our Navy into the Indian Ocean, seeking permanent bases. Just this morning's paper indicated that we are trying to work out an arrangement with the Sultan of Oman by means of which we can acquire some landing rights there for our aircraft.

I hope that there would not be so much emphasis placed on the Middle East, because when we think of oil, we think of the Middle East. But, frankly, about a third of our imports come from the Middle East and the rest come from Africa, Southeast Asia—Indonesia specifically—Canada, and elsewhere. What we have been reading in the newspapers and what the distinguished Senator has been trying to convey, I think, is that there is a connection between oil in the Middle East and our moves there, and there is a connection between oil and the difficulties which confront this Nation in more than one area.

So I commend the distinguished Senator for raising a warning flag at this time before it is too late. I express the hope that, before any moves of a determinate nature are made, Congress or at least the appropriate committees will be consulted. I mean specifically the Committee on Foreign Relations, because that is the committee which has to do with our foreign policies.

May I say, too, in addition to what the distinguished Senator has said, that I have been concerned for a few weeks now about the rumblings in the area of South Vietnam about the supposed request which may or may not come before the Congress for additional hundreds of millions of dollars in expenditures. I had thought that we had left Vietnam 2 years ago next month. I had thought we were finished with that misadventure. I had thought that the price we paid was high—55,000 dead Americans, 303,000 wounded Americans, $140 billion in treasure, an amount which will increase to $362 billion by the year 2045, on the basis of estimates put out in 1973 by the Bureau of the Census, as an agency of the Department of Commerce, in a publication entitled "Statistical Abstract of the U.S., 1973."

I wish to say that I approve of what the Senator has said and I hope he will continue his course in making us aware of areas of possible danger so that if there are decisions to be made, they will not be made downtown in the executive branch alone, but will be made by the executive branch and Congress working together and working for the common good.

I commend the distinguished Senator.

Mr. HATFIELD. I thank the Senator.

Mr. President, I wish to express my appreciation for the generous remarks made by the distinguished majority leader and to associate myself again with his effort, as he has been leading such efforts on the Committee on Appropriations with relation to Diego Garcia and our efforts to expand our military power there.

The distinguished Senator from Montana made reference to the attempts to secure landing rights and various other military power positions in Oman. I ask unanimous consent at this time to print a front-page story from the Washington Post in today's paper relating to that particular action, or that request on the part of our Government to the British Government, and also the fact brought out in this story about our sending in sophisticated antitank missiles into the country of Oman. At this point I ask unanimous consent to have that article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 21]

UNITED STATES ASKS OMAN BASE RIGHTS—AF WOULD USE ISLAND

(By Marilyn Berger)

The United States has asked Britain for landing rights on a strategically located air base in Oman which guards the approaches to the Persian Gulf.

Acquisition of the rights, which is expected, would provide another link in a chain of air and naval staging areas in the Persian Gulf and Indian Ocean being forged by the United States. These moves already have brought sharp expressions of concern in Congress, where critics fear the base areas themselves could become justification for a larger U.S. military role in the region.

Secretary of State Henry A. Kissinger's recent public statement concerning the possibility of using force against the oil producers should the industrialized world face "actual strangulation" has heightened congressional criticism.

Use of the British base, on Masirah Island off the coast of Oman, was discussed when the Sultan of Oman visited Washington two weeks ago. The Sultan, who has the last word on American use of the base, was said to be amenable, provided there was no objection from the British.

A Pentagon spokesman and the British foreign ministry yesterday confirmed the request. Some American officials said the request is for use of the base in "emergencies," while others said it would have a broader purpose. The existing facilities on Masirah, a Pentagon source said, can accommodate all the usual cargo planes, P–30 maritime reconnaissance aircraft and fighter planes.

Shortly after the Sultan of Oman left Washington it was confirmed that the United States had sold "a small number" of TOW wire-guided anti-tank missiles to Oman. Other sales, it was suggested, may come later.

The base request puts the British in a difficult position. It would be highly unusual for London to deny landing rights to its closest NATO ally. But Britain, which has some forces fighting in Oman, is uncomfortable about sharing a base with the United States, particularly since the Kissinger warnings, sources said.

Kissinger's remarks, combined with the move to get new base rights, are expected to lead to hearings in Congress. Rep. Lee H. Hamilton (D.-Ind.), who was chairman of the Middle East subcommittee of the House Foreign Affairs Committee in the last two Congresses, said yesterday that the sale of arms to Oman represents a significant departure from previously stated policy on Oman.

He said he would seek to find out what the threat is, and why at this time arms are being sent, and whether arms and base rights are linked.

Informed sources recalled that the Pentagon had sent a team to Oman about two years ago to observe the sultan's war against the Dhofar rebels. The advice they brought back was that since this was a Vietnam-type of situation the United States should not get involved. Until now the United States has avoided direct involvement in the Omani fighting, preferring to encourage Iran and Jordan to help the sultan.

U.S. presence in the Persian Gulf and Indian Ocean has been growing since the British withdrawal from east of Suez. The United States has a military assistance mission of 500 men in Saudi Arabia and about 1,000 in Iran. It is supplying both countries with billions of dollars worth of sophisticated military equipment.

The United States maintains a naval facility in Bahrain. It is seeking to expand a communications base on Diego Garcia. Congress has authorized $18 million for expansion of this base provided the President declares to Congress that it is in the national interest.

A large task force, including the U.S. aircraft carrier *Enterprise*, is currently in the Indian Ocean.

On Nov. 30, 1973, Defense Secretary James R. Schlesinger forecast that "we intend to reestablish the pattern of regular visits into the Indian Ocean and we expect that our presence there will be more frequent and more regular there than in the past."

The Soviet Union also maintains facilities in the region, in Aden, Somalia and Iraq.

The PRESIDING OFFICER. The Senator's time has expired. Under the previous order, the Chair now recognizes the Senator from Alabama (Mr. ALLEN).

INAUGURAL ADDRESS OF GOVERNOR WALLACE

Mr. ALLEN. Mr. President, yesterday the U.S. Senate was in recess. This gave me the opportunity of returning to Alabama to be on hand for the inauguration of Gov. George C. Wallace for his third 4-year term as Governor of Alabama.

I ask unanimous consent that his inaugural address be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS BY GOV. GEORGE C. WALLACE—INAUGURATION DAY, JAN. 20, 1975

Distinguished guests, officials of government, my fellow Alabamians:

I am filled with the most normal and human of emotions as I speak with you here today:

Pride—Proud that you would honor me by granting me the opportunity of serving as your Governor—the Chief Executive of our State—and especially so, since this marks the third occasion that you have permitted me this rare privilege—a landmark in the history of government in Alabama;

Humility—Humble that you would so honor me and, at the same time, keenly aware and deeply stricken with the duties and responsibilities that are placed on me today—duties and responsibilities to all of you—my fellow Alabamians—who have labored so long, so hard and with such perseverance and determination to make this the great state that it is. It is you to whom I am responsible and it is for you and for you alone that I must and will perform the duties of this high office;

Gratitude—Grateful that you would grant me this unique opportunity for service—grateful to all of those who have supported us in our labors throughout the years and to all Alabamians who join us in the tasks that lie ahead.

So let me indicate to you my pride and humility and, at the same time, express my gratitude for having made this moment possible.

I would be less than human if I did not reflect back today to that cold, wintry day in 1963, when at this same place I first accepted the leadership of Executive Government in this State and beyond that, back to my early home and to my county of origin—and to the many fine men and women of that time and place who, out of generosity and understanding, did so much to enable a young boy, just turning into manhood, to prepare himself in such a manner and fashion that he could later offer himself to his people for a role of leadership. To all of them, some now departed, I offer my special thanks and appreciation on this occasion.

And looking forward from that self-same January day, let us take stock of what has taken place in our great State and in the lives and fortunes of her people in the recent past.

Admittedly, many things have changed. Our citizens have been subjected to many difficult and trying experiences—but, as is usually the case, adversity has made us a more dedicated and unified people. We find in our State today a determination on the part of all our people to work untiringly and in unison for the betterment of Alabama. This, to me, is one of the great advances of this period. In our factories and in our schools—in our legislative chambers and the offices of Executive Government, we find a unity of effort and purpose which can only be to the benefit of this State and her people.

And what of tangible advances? Again, we have come far in this period of time. Although still not a wealthy state, judged purely by materialistic standards, we have developed an industrial base to counterbalance and complement the already tremendous agricultural economy of Alabama. Our industrial development and expansion equals or exceeds almost all states of this region and compares favorably with any state in the Nation. We are developing and realizing return on the many blessings our State possesses in mineral and energy producing resources such as coal, oil, and gas, as well as other rich mineral deposits. We have one of the largest coal reserves in the Nation and only in recent days, exploratory efforts have disclosed the existence of tremendous new oil and gas resources in the southern area of our State. In the light of the energy situation throughout the world, all of this becomes increasingly important.

In the area of navigable streams, industrial water, forest and timber lands, the capacity to produce food and fiber, we possess many assets of great importance to our people as we look to the future.

We are moving rapidly forward in the development of our waterway system and we see signs of hopeful reality in locating a deep water port—our Ameraport—off our southern shore in the Eastern Gulf. The Tennessee-Tombigbee Water Route from the midlands of America to the Gulf of Mexico comes nearer to reality each day.

In fact, Alabama is on the threshold of tremendous development on all fronts.

STATE DOCKS

We must act now to provide an early completion of our State Docks facilities especially in view of related waterways development. A recent study shows that as many as one out of eleven jobs in our state is directly related to the State Docks. Also, the Administrator of the Tennessee-Tombigbee Waterway Development Authority told me he is hopeful this project will receive an even greater appropriation, in line with the policy of providing more public works employment to combat our nation's unemployment. As Chairman of the Tennessee-Tombigbee Authority I will continue to work with the Authority's staff, congressional delegations from those other states involved, and others at the national level in support of an early completion of this project—possibly within the next five years. So we must give urgent priority to completion of the State Docks and the Ameraport so that we can have a complete port and waterways system which will be an invaluable asset to the economy of our nation and especially this region.

HOME RULE

I will ask the Legislature to consider the question of Home Rule, especially in view of our present situation where many of our counties are in more than one legislative district. I feel that some of the duties now performed at the state level—especially appointments to local boards and commissions—can better be done at the local level.

REORGANIZATION OF STATE GOVERNMENT

We will continue to take every possible step to streamline state government, making it as efficient and economical as possible, eliminating any duplication of services, improving its overall operation, and justifying every expenditure. We will continue to implement those recommendations of the Governor's Cost Control Survey which was conducted by a blue-ribbon panel of business and labor representatives of our state.

MEDICAL EDUCATION

We must continue increasing the number of medical and dental students in our universities. We've made a good progress, especially in training nurses, therapists and related medical personnel, and we must continue to meet the critical shortage of doctors and nurses. I also will ask approval of a program to provide attendant care at home for those quadraplegics and paraplegics who need special care but who are often forgotten once they leave our rehabilitation centers and whose lives are shortened because they do not receive adequate care and attention.

CONFIDENCE IN GOVERNMENT

The people of Alabama can respect proper debate and deliberation but in this day and time, with the nation's economy as it is and with the lack of confidence in government, they do not want—nor will they tolerate—a lot of "yak-yak" from politicians in Montgomery. The people want only dedicated, devoted and unselfish service from the people they have chosen to represent them. They expect their public servants to give self-sacrificing study to finding solutions to these major problems that affect their lives and to do so in a serious and deliberate manner without bickering and arguing among themselves.

In the field of education and medicine—the development of parks and recreational facilities—and the providing of a better life and greater job opportunities for all our people, we have moved ever forward since that Inauguration Day in 1963.

We look back with pride of accomplishment—but to look back must only be a momentary pause for reflection—for an individual, a people or a nation that does not continue to press forward will eventually perish and pass away.

Much can be learned from the history of our past but progress can only come from positive actions in the future. We cannot become lost in the daydreams of the past or the satisfaction of the present. To realize our greatness we must always march forward to meet the challenges of the future.

And what of these challenges of the future? They are not insurmountable! A determined and unified people are the equal of any challenge.

At this time, the principal concern of Alabamians, and indeed all Americans, is our discouraging economic situation. Whether it is referred to as inflation or recession all of us realize that positive and affirmative action must be taken to bolster and restore our shaken economy.

The working men and women of Alabama, and other states, must receive a fair compensation for their labors, sufficient to provide those things that are necessary to maintain a decent standard of living for them and their families without turning to charitable handouts and government programs.

Alabamians believe in work—they want to work—and I pledge to do all in my power to see that they are provided this opportunity—and at a decent return for their labors. Our unemployment rate is well below the national average but that is not satisfaction enough. We must work untiringly to provide job opportunities for all Alabamians.

The providers of the goods and services so necessary to the health and well-being of our people must, likewise, be given incentives and inducements for renewed production. We must see an end to artificial or contrived shortages in goods and production. We must see an end to exorbitant profits arising from such situations. We must see a restoration of balance between supply and demand and both the supplier and the consumer must be provided the means of reasonable profit so as to enjoy the benefits of his role in our national economy.

Above all, we need leadership at all levels and in all segments of public and private national life. I address myself primarily to the area of government—but what I say is equally apropos to the private sector.

Our people are discouraged, disillusioned and disenchanted with what they see. They do not believe that we really deserve the situation in which we now find ourselves—in both our economy and in our government. They seek an accounting from those who brought us to this point—and they deserve and will demand this accounting. It is well that the leaders of government heed this message.

The people of Alabama, those who work in the mines and mills, the forests, fields and factories and in the business and industrial positions of power and influence, expect and deserve a government aware of their needs—dedicated to economy, efficiency and restraint in spending—committed to honesty and integrity and working in harmony and with a spirit of co-operation among all branches of our State Government—Executive, Legislative and Judicial.

It is just such a government that I commit myself to here today. I speak, of course, only for the Executive Branch of Government. However, I believe our many friends from the Legislative and Judicial Branches gathered here with us would echo my words in saying to you that during the coming four years the Government of this State will be operated on a sound, economical, efficient and honest basis.

This is important if we are to restore confidence in government so badly shaken by recent events at other levels. The traumatic experience of the past two years has taken its toll throughout the full structure of government—local, state and national. Government is suspect—the good and the bad alike. This, of course, is an inherent unfairness but is part of the price we pay for events of the last few years at the national level.

These things we, of course, cannot undo. But we can certainly conduct the affairs of this State in a manner that is an example of government at its finest—honest, fair, efficient, economical and, above all, mindful of the needs of the people and with conscious and positive efforts to meet these needs.

In simple language, it means that all of us from the highest to the lowest levels of government must rededicate ourselves, redouble our efforts and guarantee to all Alabamians the finest four years in our history. This is the only way.

We are keenly aware of the economic demands on our citizens and, as a consequence, State Government will be conducted in a frugal manner so as to avoid any further taxes on you. I have already directed my cabinet and department heads, and I do so here again today, to see that every economic step possible is taken in operation of their departments and agencies.

This we must do so that, without additional taxes, we may continue to provide the necessary services in the humanitarian areas of responsibility—the aged, the infirm, the mentally disturbed or disadvantaged, the poor. We must demonstrate our care and concern and provide for the needs of those among us who are less fortunate.

It may be that State Government itself is in need of structural and administrative revision. Its bureaus, boards and agencies may have become less effective with the passage of time. I know that much benefit was gained from the efforts during the past four years of the Governor's Cost Control Survey. A majority of the recommendations made by this outstanding group of industrial, business and labor leaders have been adopted and implemented.

As a continuation of this effort, I propose to ask a group of the most knowledgeable persons in the field of governmental operations and organization to study the needed adjustments or revisions in our system and to submit their recommendations to me. I assure all of you that I have an open and receptive mind in this regard and will move forward in any area that benefits the people of this State in providing them a more efficient government.

I pledge to the Legislature and to the Judiciary my full cooperation and I solicit the same in return. I will be responsive to your problems and needs and feel assured that you will have the same attitude and relationship with the Executive Branch. I am confident that the people need and expect our total cooperation and coordination of effort. In my judgment, this is essential if we are to meet the needs of our people in an orderly and responsive manner. I have no doubt we will all be held accountable for any failure in this regard, which I do not anticipate or expect.

I have long said Alabamians also have a vital interest in the conduct of government at the national level.

Programs and policies helpful to our Nation also benefit Alabamians. The opposite is also true—those courses of action taken by our National Government which are ill-advised and detrimental to the American people, likewise, work a hardship on Alabamians. As your Governor, I will have an abiding interest in national affairs—from my seat in the Regional and National Governors' Conference, where I am rapidly becoming a senior member, I will speak out promptly and forcefully on those things I feel important to America and to Alabama in particular.

Through circumstances and events largely controlled by you, the people of Alabama have become recognized as leaders in the fight for responsible government—a people mindful of the needs of the average man and woman. A people who believe in both individual rights and the sovereign rights of local units of government—indeed, the mainstream of the political life of this Nation.

I will continue my interest in all things related to the welfare of this State and this Nation—and will not hesitate to speak out when and where necessary. To do less would be a dereliction of my duties.

In closing, I must, with all the sincerity at my command, again indicate to you my pride and humility on this occasion and express again my gratitude for the honor you do me in choosing me to serve in this manner and for joining us here today for this ceremony.

The words of the great poet, Robert Frost, have provided much inspiration for me throughout my journey which has led to this occasion today. I again would like to conclude with those words which so aptly describe my feelings:

> "But I have promises to keep,
> And miles to go before I sleep,
> And miles to go before I sleep."

In keeping with God's will and with His help and guidance, I will do my utmost to make you a good Governor.

Mr. ALLEN. I yield back the remainder of my time.

ORDER OF BUSINESS

Mr. PEARSON. Mr. President, pursuant to an agreement with the Senator from Michigan (Mr. GRIFFIN), I ask unanimous consent that his time be transferred to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. I say to my distinguished friend from Florida (Mr. CHILES), who is waiting for the floor, that I shall use only a few minutes, for the introduction of a bill.

S. 269—THE NATURAL GAS ACT AMENDMENTS OF 1975

Mr. PEARSON. Mr. President, I introduce for appropriate reference the Natural Gas Act Amendments of 1975. I ask unanimous consent that the text of this bill, together with a section-by-section analysis of its provisions, be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. PEARSON. Mr. President, there has been an impasse in the Congress for many years, highlighted by the differences between those who seek deregulation of wellhead natural gas prices on the one hand; and those, on the other, who believe that cost-based regulation of price should be continued indefinitely.

This proposal is designed as a "middle way," a compromise between the two conventional approaches to wellhead pricing policy. The bill is drafted to expand the supply of gas to the interstate market and to stimulate development of proven reserves to insure long-term stability of supply.

Mr. President, this bill would provide additional price incentives for producers in order to accelerate exploration and development of natural gas reserves in America. But it would balance the interests of more than 160 million American consumers of gas who are concerned about price increases that could occur under deregulation in this period of critically short supply.

Under this bill, I would argue, that producers will eventually achieve their objective of total deregulation of new gas at the wellhead if they are able to develop fully the potential American resources of this fuel. The bill is, in effect, a transition measure to soften the possible new energy inflation which could occur if deregulation were approved before supply is significantly expanded.

There is little doubt that demand for natural gas far exceeds supply. The Federal Power Commission has been forced to institute a "curtailment" policy for the major interstate pipelines in order to protect public health during the current shortages. Net curtailments for the year April 1973 through March 1974 totaled 1.2 trillion cubic feet—an increase of 25 percent over the previous year.

Net curtailments for the September 1974 through August 1975 period will exceed 2.36 trillion cubic feet, and the consequences are being felt throughout the Nation. Thousands of jobs in critically important sectors of the national economy are now in jeopardy. The supply of interstate gas for industrial purposes is dwindling with each passing month.

Mr. President, the proven reserves of natural gas are less than a 10-year supply. Only a decade ago America had an 18-year supply. Not only do we have current shortages because of reduced deliveries to the interstate market, but we have the prospect of massive shortages and severe dislocation within a decade if increased exploration and development do not result in substantial increases in reserves.

This draft bill offered for consideration by our Committee on Commerce would continue traditional Federal Power Commission regulation of wellhead prices for old natural gas. The term "old natural gas," as defined in the bill, includes those supplies of gas which, as determined by the Commission, are dedicated to interstate commerce—before the date of enactment. All natural gas reserves in the United States not already dedicated to interstate commerce on the date of enactment would be defined as "new natural gas," and would be eligible for sale under a national ceiling price control system to be administered by the Federal Power Commission. The Commission would use exclusively those enumerated criteria contained in the bill in setting the national ceiling price.

The Commission further would have authority to modify its national ceiling from time to time in order to reflect in its price control policy changing circumstances within the economy.

Mr. President, I have observed in these remarks that the bill is designed to be a transition measure between historic cost-of-service regulation and a free market economy in the wellhead pricing of new natural gas. In a manner consistent with this philosophy, the bill provides authority for the Commission, after full investigation and opportunity for judicial review, to terminate the national ceiling program and return to a free market economy in new gas at the wellhead.

Mr. President, this is a matter of great complication involving technical and energy economics. This bill is offered as a working paper hoping to attract the attention and the ideas of others of the Senate who sense the urgency of congressional act.

The PRESIDING OFFICER (Mr. BUMPERS). The bill will be received and appropriately referred.

Mr. PEARSON. Mr. President, I yield the floor.

EXHIBIT 1

S. 269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Natural Gas Act Amendments of 1975".

SEC. 2. The Natural Gas Act (15 U.S.C. 717 et seq.) is amended by (1) striking out section 24 thereof (15 U.S.C. 717w); (2) redesignating sections 1 through 23 thereof (15 U.S.C. 717–717v) as sections 2 through 24 thereof; and (3) inserting therein the following new section 1:

"SHORT TITLE

"SECTION 1. This Act may be cited as the 'Natural Gas Act'.".

SEC. 3. Section 2(b) of the Natural Gas Act, as redesignated by this Act (15 U.S.C. 717b), is amended (1) by deleting "The" at the beginning thereof and by inserting in lieu thereof immediately after "(b)" the following: "(1) Except as provided in paragraph (2) of this subsection, the "; (2) by striking "for resale"; and (3) by inserting at the end thereof the following new paragraph:

"(2) Subsequent to the establishment by the Commission of a national ceiling for rates and charges for the sale or transfer to natural gas companies of new natural gas, pursuant to section 25 of this Act, the authority of the Commission to prescribe or determine rates and charges for the sale of natural gas at the welhead pursuant to sections 5 and 6 of this Act, shall cease to exist with respect to, and shall not apply to, new natural gas. Nothing contained in the Natural Gas Act Amendments of 1975 shall modify or affect the Commission's authority in effect prior to the date of enactment of such Act to regulate the transportation or sale in interstate commerce of old natural gas."

SEC. 4. (a) Section 3 of the Natural Gas Act, as redesignated by this Act (15 U.S.C. 717a) is amended by redesignating paragraphs (7)–(9) as paragraphs (10)–(12), and by inserting the following new paragraphs:

"(7) 'New natural gas' means natural gas production which the Commission, in its discretion, determines was not dedicated to interstate commerce prior to the date of enactment of the Natural Gas Act Amendments of 1975.

"(8) 'Old natural gas' means natural gas which, prior to the date of enactment of the Natural Gas Act Amendments of 1975, was dedicated to interstate commerce, as determined by the Commission, in its discretion.

"(9) 'Affiliate' means any person directly or indirectly controlling, controlled by, or under common control or ownership with any other person, as determined by the Commission, in its discretion."

(b) Section 3(6) of the Natural Gas Act, as redesignated by this Act (15 U.S.C. 717a), is amended by striking "for resale".

SEC. 5. (a) Section 5(a) of the Natural Gas Act, as redesignated by this Act (15 U.S.C. 717c(a)), is amended by adding at the end thereof the following new sentence: "The rates and charges made, demanded, or received by natural gas companies for or in connection with a contract for the sale of new natural gas shall be deemed just and reasonable, if they do not exceed the applicable national ceiling in effect at the time when such new natural gas is either first sold or transferred under such contract to a natural gas company pursuant to regulations of the Commission issued under section 25 of this Act: *Provided, however,* That rates and charges in excess of such applicable national ceiling may be authorized by the Commission to provide special relief to meet extraordinary expenses that could not be anticipated at the time the applicable national ceiling was established.".

(b) Section 5(e) of the Natural Gas Act, as redesignated by this Act (15 U.S.C. 717c (e)), is amended by adding at the end thereof the following new sentence: "Notwithstanding the foregoing, the Commission shall have no power (1) to deny, in whole or in part, any rates and charges made, demanded, or received by any natural gas company for or in connection with the sale of new natural gas, or that portion of the rates and charges of such company which relate to such sale, except to the extent that such rates or charges, or such portion thereof, exceed the applicable national ceiling established by regulation of the Commission pursuant to section 25 of this Act, or exceed the rates and charges, or such portion thereof, made, demanded, or received by any person who is not affiliated with such natural gas company; or (2) to order a decrease in the rate or charge made, demanded, or received for the sale or transfer of old natural gas by a natural gas company if such rate or charge shall have been previously determined or deemed to be just and reasonable pursuant to this Act."

SEC. 6. Section 6 of the Natural Gas Act, as redesignated by this Act (75 U.S.C. 717d), is amended by inserting at the end thereof the following new subsection:

"(c) In any case where a natural gas company purchases natural gas from an affiliate, the Commission may disallow, in whole or in part, rates or charges made, demanded, or received by such natural gas company for or in connection with the purchase of new natural gas, to the extent that the rates or charges made, demanded, or received by such affiliate exceed rates or charges for new natural gas which are made, demanded, or received by persons not affiliated with such natural gas company."

SEC. 7. Section 15 of the Natural Gas Act, as redesignated by this Act (15 U.S.C. 717m), is amended by adding at the end thereof the following two new subsections:

"(i) The Commission is further authorized and directed to conduct studies of the production, gathering, storage, transportation, distribution, and sale of natural or artificial gas, however produced, throughout the United States and its possessions whether or not otherwise subject to the jurisdiction of the Commission, including the production, gathering, storage, transportation, distribution, and sale of natural or artificial gas by any agency, authority, or instrumentality of the United States, or of any State or municipality or political subdivision of a State. It shall, insofar as practicable, secure and keep current information regarding the ownership, operation, management, and control of all facilities for such production, gathering, storage, transportation, distribution, and sale; the total estimated natural gas reserves of fields or reservoirs and the current utilization of natural gas and the relationship between the two; the cost of production, gathering, storage, transportation, distribution, and sale; the rates, charges, and contracts in respect to the sale of natural gas and its service to residential, rural, commercial, and industrial consumers, and other purchasers by private and public agencies; and the relation of any and all such facts to the development of conservation, industry, commerce, and the national defense. The Commission shall report to Congress and may publish and make available as provided by subsection (a) the results of studies made under authority of this subsection.

"(j) In making studies, investigations, and reports under this section, the Commission shall utilize, insofar as practicable, the services, studies, reports, information, and programs of existing departments, bureaus, offices, agencies, and other entities of the United States, of the several States, and of the natural gas industry. Nothing in this section shall be construed as modifying, reassigning, or otherwise affecting the investigative and reporting activities, duties, powers, and functions of any other department, bureau, office, or agency in the Federal Government."

SEC. 8. The Natural Gas Act, as amended by this Act, is further amended by adding at the end thereof the following new sections:

"NATIONAL CEILING RATES AND CHARGES

"SEC. 25. (a) The Commission shall by regulation establish, and may from time to time modify, a national ceiling for rates and charges for the sale or transfer of new natural gas to natural gas companies. In establishing such national ceiling each of the following factors, and only those factors, shall be considered—

"(1) the projected costs attributable to exploration, development, gathering, and sale of natural gas;

"(2) the rates and charges necessary to encourage the optimum level of exploration, development, gathering, and maintenance of proven reserves of natural gas;

"(3) the promotion of sound conservation practices in natural gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to the consumer; and

"(4) the rates and charges that will protect consumers of natural gas from price increases that would, in the absence of a national ceiling during periods of actual or anticipated shortages, exceed the rates and charges necessary to achieve the objectives of paragraphs (1) through (3) of this subsection.

"(b)(1) The Commission shall monitor the national ceiling for rates and charges for the sale or transfer to natural gas companies of new natural gas. Commencing on December 31, 1975, the Commission shall report to the Congress not less than semiannually on the effectiveness of such national ceiling.

"(2) Pursuant to section 15 of this Act, the Commission may, at any time, undertake an investigation of the national ceiling. If as a result of such investigation the Commission finds and determines that termination of the national ceiling would not result in rates and charges in excess of those rates and charges which are necessary to encourage the optimum level of exploration, development, gathering, and maintenance of proven reserves of natural gas and the promotion of sound conservation practices in natural gas consumption necessary to contribute to the maintenance of a supply of energy resources at reasonable prices to the consumer, then the Commission may, after notice and opportunity for hearing, terminate such national ceiling. Judicial review of a determination by the Commission to terminate such national ceiling shall be in accordance with the provisions of section 20 of this Act."

"NATURAL GAS FOR ESSENTIAL AGRICULTURAL PURPOSES

"SEC. 26. (a) Notwithstanding any other provision of law or of any natural gas allocation or curtailment plan in effect under existing law, the Commission shall, by regulation, prohibit any interruption or curtailment of natural gas and take such other steps as are necessary to assure as soon as practicable the availability in interstate commerce of sufficient quantities of natural gas for use as a raw material feedstock or process fuel, or which there is no substitute except propane, in the production of fertilizer and essential agricultural chemicals in existing plants (for present or expanded capacity) and in new plants. Except to the extent that natural gas supplies are required to maintain natural gas service to existing residential and small commercial users, as used in this section 'sufficient quantities' means the amounts of natural gas which (1) the Secretary of Agriculture certifies to the Commission are necessary to provide sufficient fertilizer and essential agricultural chemicals to meet domestic requirements; and (2) the Secretary of State certifies to the Commission are necessary to provide sufficient fertilizer and essential agricultural chemicals to meet the Nation's humanitarian commitments abroad.

"(b) Notwithstanding any other provision of law, any regulation promulgated by the Commission to implement subsection (a) of this section shall also apply with respect to the availability of natural gas sold in intrastate commerce in any State which the Commission determines has not, within 180 days after the date of enactment of the Natural Gas Act Amendments of 1975, taken action substantially consistent with the purposes of such subsection."

EXHIBIT 2

SECTION-BY-SECTION SUMMARY—NATURAL GAS ACT AMENDMENTS OF 1975

Section 2. Technical section re designation of Natural Gas Act.

Section 3. Extends Federal Power Commission jurisdiction to direct sales of natural gas by pipelines. The section also provides that traditional FPC cost-based regulation of natural gas prices at the wellhead shall not apply to "new natural gas" as defined in section 4 of the bill.

Section 4. Provides definitions of three additional terms, "new natural gas," "old natural gas," and "affiliate." "New natural gas" is defined as gas production which the FPC determines was not dedicated to interstate commerce prior to the date of enactment of the bill. All remaining natural gas is defined as "old natural gas."

Section 5. FPC jurisdiction over natural gas companies is revised to assure that jurisdictional pipelines can pass through to their customers the full price of new natural gas so long as the wellhead price paid for such gas is at or below the applicable national ceiling established pursuant to section 7 of the bill, as described *infra*. If extraordinary and unanticipated expenses are incurred by a producer subject to the national ceiling, he may be accorded relief.

This section also requires the FPC to permit pipelines to pass through the full price of natural gas paid to those producers affiliated with such pipelines so long as the price paid for such gas does not exceed the national ceiling or the rates and charges paid to independent natural gas companies by such pipelines.

Sanctity of contract is provided for rates or charges previously determined to be just and reasonable pursuant to the Natural Gas Act.

Section 6. Authorizes the FPC to prohibit a pipeline from passing through to its customers a higher price for natural gas produced by its own affiliates than such pipeline is permitted to pass through when it purchases natural gas from an independent producer.

Section 7. Directs the Commission to conduct certain comprehensive studies, report to Congress, and make available to the general public the results of such studies. The principal objective is to secure more accurate information with respect to natural gas reserves available for ultimate consumption in the United States. The relationship between price and conservation of limited energy resources is also an important objective of the section.

Section 8. Directs the Commission to establish a national ceiling price for the sale of new natural gas at the wellhead. The Commission is directed to consider exclusively four criteria in establishing a national ceiling price for the sale of new natural gas at the wellhead. These criteria include projected cost of production; the optimum level of exploration and development needed to assure adequate natural gas supplies; the promotion of sound conservation practices in the consumption of natural gas; and the avoidance of excessively high prices which necessarily would evolve during periods of shortage under free market conditions.

The Commission is authorized to modify the national ceiling price to reflect changing circumstances. It is further authorized to terminate national ceiling price controls after an investigation conducted pursuant to the relevant provisions of the Natural Gas Act. The opportunity for full judicial review of a determination by the Commission to terminate such price control authority over sales of new gas at the wellhead is also anticipated.

This section also directs the Commission to ensure the availability of an uninterrupted supply of feedstock gas for fertilizer and agricultural chemical production. The extent of need for supplies of natural gas for such purposes would be certified by the Secretary of Agriculture, in the case of domestic requirements; and by the Secretary of State, in the case of requirements to meet the nation's humanitarian commitments abroad.

Those fertilizer and agricultural chemical plants dependent upon supplies of natural gas in intrastate commerce are protected from interruption or curtailment by the application of Federal Power Commission enforcement procedures (in the absence of State action to accomplish such objectives within 180 days of enactment of the bill).

ORDER OF BUSINESS

The **PRESIDING OFFICER**. Under the previous order, the Chair recognizes the Senator from Florida (Mr. CHILES) for not to exceed 15 minutes.

THE CONGRESS AND FOREIGN POLICY

Mr. CHILES. Mr. President, I take the floor of the Senate today to defend the role of this body in the conduct of the Nation's foreign policy. In the aftermath of Vietnam and Watergate, the Senate has reasserted its constitutional role in foreign policy. It has done so for good reasons and in a responsible manner. It is my belief that the Senate should continue to play an active role in foreign policy.

In his state of the Union address, President Ford welcomed the advice and cooperation of the Congress in foreign policy and pledged to act in the closest consultation with the Congress in this area. But he went on to say:

> But if our foreign policy is to be successful, we cannot rigidly restrict in legislation the ability of the President to act. The conduct of negotiations is ill suited to such limitations. Legislative restrictions intended for the best motives and purposes can have the opposite result, as we have seen most recently in our trade relations with the Soviet Union.

This statement by President Ford followed by 1 week stories in the press that Secretary Kissinger would ask Congress not to limit his flexibility. The New York Times reported on January 8 that,

> Secretary of State Kissinger has told his closest aides that he wants to make "a massive effort" to persuade Congress to give him more flexibility and end what he regards (as) unwarranted interference in the Ford Administration's day to day conduct of foreign affairs.

I believe these statements are misguided. There is no way that it can be said that the Senate or the Congress has interferred to an "unwarranted" extent in the day-to-day conduct of foreign policy or that the Congress has rigidly restricted the ability of the President to carry out foreign policy. As President Ford said:

> By the Constitution and tradition, the execution of foreign policy is the responsibility of the President.

But by the Constitution and tradition, the formulation of the broad goals and limits of foreign policy is the responsibility of the Congress, and especially the Senate.

This is the legislative body. It is our function to provide the legal foundation for the Nation's foreign policy. In the wake of Watergate and Vietnam, a matter of utmost concern to the people of this country is the degree to which the law is upheld and complied with by public officials. The people want the laws to be clear so that Government officials cannot hide behind vague and confusing legal language as a pretext for doing what they want. The people want public accountability. And precise legislation is the only way to insure a clear standard of accountability.

A good example of what I am talking about is the insistence by the Congress over two Presidential vetoes that the administration terminate further aid to Turkey after the Cyprus crisis. I am sure that this is one example President Ford has in mind when he talks about the Congress rigidly restricting his ability to act.

But I submit to you that the President misunderstood what was important to the American people in that dispute. What was important was not the foreign policy arguments for and against cutting off aid to Turkey or the relative weight of the Greek lobby over the Turkish vote. Rather the issue was compliance with the law.

There were two statutes on the books which required the administration to discontinue aid to a country which had used weapons provided under U.S. military aid for purposes other than self defense. After years of obfuscation on the war in Vietnam, the people wanted to see the law upheld. After months of mistrust over Watergate, the people wanted to see public officials respect the law rather than try to get around it.

The Congress was rightly reflecting the priority the people attached to respect for the law rather than surrendering its authority to the Executive because of the supposed delicacy of the international situation.

The central issue in the United States today is the crisis of confidence in Government. This crisis of confidence is also a major element in our economic difficulties. Restoring confidence in Government is the principal task before us in the Congress and before the President. Rebuilding public confidence will not occur if the people feel that their voices are not being heard in the halls of Government and that their elected representatives are not trying to take their concerns seriously.

The continued role of the Congress in foreign policy is essential to the restoration of confidence in Government. This is so because as you review the record you will see that the contribution of the Congress has been one of translating concerns of the American people into foreign policy. It is the function of the Congress to represent the values and feelings of our people and not simply to follow the requirements of delicate diplomacy.

What the Congress has been reflecting in foreign policy is the fact that the people want a government they can trust, that is accountable to the people, that is not overextended abroad or overcommitted at home, that stays within the bounds of the Constitution and the law, that protects fundamental freedoms and human rights, and that is responsive to the broad public interest rather than the interests of the few.

Mr. President, this is what the Senate and the Congress as a whole has been doing in foreign policy. We have been delivering on the desire of the American people for this kind of government.

Insisting on the promotion of human rights in exchange for trade benefits with the Soviet Union, cutting off military aid to Chile because of gross violations of human rights in that country by the military dictatorship, making nuclear agreements with other countries subject to congressional disapproval, cutting out the grant part of our military aid program, limiting export credits to the Soviet Union and trying to make all Export-Import Bank credits carry a market rather than a subsidized rate of interest, and trying to get the Overseas Private Investment Corporation —OPIC —to bring in private insurance companies to bear some of the risk in foreign countries—all these efforts that the Senate has made during the last Congress represent attempts to rein in the Government from overinvolvement abroad, to reduce the drain on the Federal budget by privatizing many of our foreign programs, to restore the system of checks and balances to Government, and to stand firm on human rights. By these efforts the Senate is trying to give evidence to the American people that their concerns are not only being heard, but that we, as legislators, are trying to act on their concerns. This is vital to the restoration of the people's confidence in their Government.

Because if you listen to the people, they know what they want on these issues. The farmer in America does not want the United States making low interest loans to the Soviet Union so they can build a fertilizer plant when fertilizer and credit are in short supply here at home. The businessman does not want companies investing abroad to get subsidized insurance when companies investing at home pay higher rates. With interest rates and energy prices soaring, all Americans are skeptical of subsidized loans to the Soviet Union to expand their energy production.

With Federal deficits rising every year, most of our people do not want us to give away arms to nations which may use them against each other in war or to give away nuclear technology which may result in the spread of nuclear weapons.

The times require that we look again at what we are doing and not just continue to act like the biggest power broker on the world stage. We need to define what our interests are now, rather than simply look at how we should keep doing what we have been doing since World War II.

There is a message in all this from the people for the President and for the Secretary of State. They need to listen and to heed the people. The people are saying, "do not just look outward at the complexity of the international situation, but look homeward and hear our call for a more responsive government."

For these reasons I am opposed to the Senate abandoning a strong role in foreign policy and disagree with the notion that as a matter of principle the Congress should give the administration greater flexibility in foreign policy. The burden of the argument runs just the other way.

The security of this Nation depends upon its strength which, among other things, depends vitally on the degree of confidence the American people feel in their Government. The effort of the Congress in foreign policy has been to restore confidence in Government by making sure that foreign policy does not go beyond what the people want. This effort must go on and not be dispelled by Presidential admonitions that the Congress is not right a 100 percent of the time. We ourselves in the Congress must be clear that we are not just meddling but are playing a vital role in linking American foreign policy to the concerns of our people. Being sure of this, we must continue forward with this effort.

Mr. MANSFIELD. Mr. President, will the Senator yield briefly?

Mr. PEARSON. I am glad to yield to the distinguished majority leader.

ANNOUNCEMENT OF DEMOCRATIC ASSIGNMENTS

Mr. MANSFIELD. I wish to announce, so it will be in the record, the following assignments: the Senator from South Carolina (Mr. Hollings) to the Democratic Policy Committee in place of Senator Fulbright, Senator Bumpers of Arkansas to the Legislative Review Committee in place of Senator Hollings; Senator Hartke of Indiana to the Legislative Review Committee in place of Senator Hughes; Senator Stevenson of Illinois to the Steering Committee in place of Senator Hartke, and Senator Nelson of Wisconsin to the Steering Committee in place of Senator Proxmire.

I thank the Senator.

ORDER OF BUSINESS

Mr. PEARSON. Mr. President, under the previous order is the Senate now in the morning hour?

The PRESIDING OFFICER. If Mr. Chiles has concluded his remarks. Has he concluded his remarks? Senator Chiles?

Mr. CHILES. Yes.

The PRESIDING OFFICER. In that event, there is one additional order. The Senator from West Virginia (Mr. Robert C. Byrd) was to be recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time allocated to the distinguished Senator from West Virginia (Mr. Robert C. Byrd) be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Kansas.

Mr. PEARSON. Mr. President, under the previous order is the Senate now in the morning hour?

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Vice President laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Armed Services Committee.

(The nominations received today are printed at the end of the Senate proceedings.)

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred as indicated:

Report of the Comptroller General on Deferrals

A letter from the Comptroller General of the United States transmitting, pursuant to law, reports on special messages of the President of the United States on certain proposed deferrals and rescissions (with accompanying papers); held at the desk.

Report of the Secretary of Defense

A letter from the Secretary of Defense transmitting, pursuant to law, a secret report entitled "The Effectiveness of United States Military Aid to Israel (ISMILAID)" (with the accompanying report); to the Committee on Foreign Relations.

Report of the Comptroller General

A letter from the Assistant Comptroller General of the United States reporting, pursuant to law, reporting on a deferral of budget authority contained in the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1975; held at the desk.

Designation of Certain Countries as Beneficiary Developing Countries

A communication from the President of the United States notifying the Senate, pursuant to law, of his intention to issue an executive order designating certain countries as beneficiary developing countries for purposes of the Generalized System of Preferances (with accompanying papers); to the Committee on Finance.

Pocatalico River Basin Joint Study Interim Report, West Virginia

A communication from the President of the United States transmitting the Pocatalico River Basin Joint Study Interim Report, West Virginia (with an accompanying report); to the Committee on Public Works.

Judgments Rendered by the U.S. Court of Claims

A letter from the Clerk of the U.S. Court of Claims transmitting, pursuant to law, a statement of all judgments rendered by the U.S. Court of Claims for the year ended September 30, 1974 (with an accompanying report); to the Committee on Appropriations, and ordered to be printed.

Report of the Assistant Secretary of Defense

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a report of receipts and disbursements pertaining to the disposal of surplus military supplies for the first quarter of the fiscal year 1975 (with an accompanying report); to the Committee on Appropriations.

Budget Estimate of the Consumer Product Safety Commission

A letter from the Chairman of the Consumer Product Safety Commission transmitting, pursuant to law, the Commission's budget estimate for the 3-month transition period July 1, 1976, through September 30, 1976 (with accompanying papers); to the Committee on Appropriations.

Report of the Consumer Product Safety Commission

A letter from the Chairman of the Consumer Product Safety Commission transmitting, pursuant to law, a report of the materials requested by the Office of Management and Budget (with an accompanying report); to the Committee on Appropriations.

Violation of the Antideficiency Act by the Equal Employment Opportunity Commission

A letter from the Chairman, Equal Employment Opportunity Commission, in further reference to his letter dated December 19, 1974, which notified of a violation of the Antideficiency Act by the Equal Employment Opportunity Commission during the fiscal year 1974; to the Committee on Appropriations.

Proposed Transfer of Destroyer U.S.S. "Laffey" to the City of Alexandria, Va.

A letter from the Assistant Secretary of the Navy (Installations and Logistics), reporting, pursuant to law, the proposed transfer of the destroyer U.S.S. *Laffey* (DD–724) to the city of Alexandria, Va.; to the Committee on Armed Services.

Donation of Railroad Equipment to the Hawaiian Railroad Society

A letter from the Deputy Chief, Office of Legislative Affairs, Department of the Navy, reporting, pursuant to law, the intention of the Department of the Navy to donate three diesel electric locomotives, seven boxcars, two tank cars, one track inspection car, and one gondola car to the Hawaiian Railway Society of Honolulu, Hawaii; to the Committee on Armed Services.

Working Capital Funds Report of the Department of Defense

A letter from the Secretary of Defense, transmitting, pursuant to law, a report setting forth the financial condition and operating results of Working Capital Funds of the Department of Defense for the fiscal year ending June 30, 1974 (with an accompanying report); to the Committee on Armed Services.

Report on Property Acquisitions of Emergency Supplies and Equipment, Defense Civil Preparedness Agency

A letter from the Director, Defense Civil Preparedness Agency, reporting, pursuant to law, on property acquisitions of emergency supplies and equipment, for the quarter ending December 31, 1974; referred to the Committee on Armed Services.

Report of the U.S. Soldiers' and Airmen's Home, Fiscal Year 1973

A letter from the Under Secretary of the Army, transmitting, pursuant to law, the annual report of the U.S. Soldiers' and Airmen's Home for fiscal year 1972 (with an accompanying report); to the Committee on Armed Services.

Proposed Standards, Rules, and Regulations Promulgated by the Cost Accounting Standards Board

A letter from the Chairman, Cost Accounting Standards Board, transmitting, pursuant to law, proposed standards, rules, and regulations promulgated by the Cost Accounting Standards Board (with accompanying papers); to the Committee on Banking, Housing and Urban Affairs.

Report of Department of Defense Procurement From Small and Other Business Firms, July–October 1974

A letter from the Assistant Secretary of Defense (Installations & Logistics), transmitting, pursuant to law, a report of Department of Defense procurement from small and other business firms for July–October 1974 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

Report of the Civil Aeronautics Board

A letter from the Acting Chairman, Civil Aeronautics Board, transmitting, pursuant to law, the annual report of the Civil Aeronautics Board covering fiscal year 1973 (with an accompanying report); to the Committee on Commerce.

Report of the National Railroad Passenger Corporation

A letter from the Vice President, Government and Public Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on total itemized revenues and expenses, revenues and expenses of each train operated, and revenue and total expenses attributable to each railroad over which service is provided for the month of September 1974 (with an accompanying report); to the Committee on Commerce.

Report on Endangered and Threatened Plant Species of the United States

A letter from the Secretary, Smithsonian Institution, transmitting, pursuant to law, a report on endangered and threatened plant species of the United States (with an accompanying report); to the Committee on Commerce.

Seventh Annual Report on Medicare

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the seventh annual report on medicare, covering the program's operation during fiscal year 1973 (with an accompanying report); to the Committee on Finance.

Statement of Liabilities and Other Financial Commitments of the United States as of June 30, 1974

A letter from the Fiscal Assistant Secretary, The Department of the Treasury, transmitting, pursuant to law, a statement of liabilities and other financial commitments of the United States as of June 30, 1974 (with accompanying papers); to the Committee on Finance.

International Agreements Other Than Treaties Entered Into by the United States

A letter from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States (with accompanying papers); to the Committee on Foreign Relations.

Foreign Ownership Control and Influence on Domestic Energy Sources and Supply

A letter from the Administrator, Federal Energy Administration, transmitting, pursuant to law, a report on foreign ownership control and influence on domestic energy sources and supply (with an accompanying report); to the Committee on Government Operations.

Reports of the Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on reducing the Marine Corps' logistics system by having the Marine Corps rely more on DOD integrated logistics managers, Department of Defense (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report pointing out that the Department of Defense's methods of purchasing food for the military services are costly and inefficient (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on how civil agencies make limited use of cost-benefit analysis in support to budget requests (with an accompanying report); to the Committee on Government Operations.

Report on Matters Contained in the Helium Act

A letter from the Secretary of the Interior, transmitting, pursuant to law, on matters contained in the Helium Act, fiscal year 1974 (with an accompanying report); to the Committee on Interior and Insular Affairs.

Repayment of Duplicate Rental Payments on Nine Offshore Texas Leases

A letter from the Acting Secretary of the Interior, reporting, pursuant to law, an application to the department for repayment for duplicate rental payments on nine offshore Texas leases totaling $155,520,000 (with accompanying papers); to the Committee on Interior and Insular Affairs.

Proposed Concession Contract for Scotty's Castle Within Death Valley National Monument

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed concession contract under which TWA Services, Inc., a subsidiary of Trans World Airlines, Inc., will be authorized to provide, operate and maintain facilities and services at Scotty's Castle within Death Valley National Monument for a term of approximately 4 years from November 21, 1973, through June 30, 1977, when executed by the Director of the National Park Service (with accompanying papers); to the Committee on Interior and Insular Affairs.

Report on Quality of Water, Colorado River Basin

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a biennial report (Progress Rept. No. 7, dated January 1975) on continuing studies of the quality of water of the Colorado River Basin (with an accompanying report); to the Committee on Interior and Insular Affairs.

Amendment to Agreement for Cooperation Between the United States and Israel Concerning Civil Uses of Atomic Energy

A letter from the Chairman, U.S. Atomic Energy Commission, transmitting, pursuant to law, a proposed amendment to the 1955 "Agreement for cooperation between the Government of the United States of America and the Government of Israel concerning civil uses of atomic energy," including a diplomatic note from the United States to Israel and a reply by Israel, which notes are an integral part of the amendment; a letter from the Atomic Energy Commission to the President recommending approval of the amendment, including the U.S. note; and a memorandum from the President containing his determination that the performance of the amendment, including the notes, will promote and will not constitute an unreasonable risk to the common defense and security and authorizing execution of the amendment, including the U.S. note (with accompanying papers); to the Joint Committee on Atomic Energy.

Report of the Future Farmers of America

A letter from the chairman, board of directors, Future Farmers of America, transmitting, pursuant to law, a report on the audit of the accounts of the Future Farmers of America for the fiscal year ended June 30, 1974 (with an accompanying report); to the Committee on the Judiciary.

Proposed Legislation To Fix Fees and Costs in the U.S. District Courts

A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to authorize the Judicial Conference of the United States to fix fees and costs in the U.S. district courts and for other purposes (with accompanying papers); to the Committee on the Judiciary.

Report of the Federal Metal and Nonmetallic Mine Safety Board of Review

A letter from the Executive Secretary, Federal Metal and Nonmetallic Mine Safety Board of Review, transmitting, pursuant to law, the calendar year 1974 report of the activities of the Federal Metal and Nonmetallic Mine Safety Board of Review (with an accompanying report); to the Committee on Labor and Public Welfare.

Guaranteed Student Loan Program Regulation Amendment

A letter from the Executive Secretary to the Department, Department of Health, Education, and Welfare, transmitting, pursuant to law, regulation amendment to 45 CFP Part 177, guaranteed student loan program (with accompanying papers); to the Committee on Labor and Public Welfare.

Regulations and Guidelines Governing Cooperative Education Programs

A letter from the Executive Secretary to the Department, Department of Health, Education, and Welfare, transmitting, pursuant to law, regulations and guidelines governing cooperative education programs—notice of proposed rule-making (with accompanying papers); to the Committee on Labor and Public Welfare.

State Adult Education Programs—Notice of Proposed Rulemaking

A letter from the Executive Secretary to the Department, Department of Health, Education, and Welfare, transmitting, pursuant to law, state adult education programs—notice of proposed rulemaking (with accompanying papers); to the Committee on Labor and Public Welfare.

Report of the National Center for Deaf-Blind Youths and Adults

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of activities of the National Center for Deaf-Blind Youths and Adults (with an accompanying report); to the Committee on Labor and Public Welfare.

Report of the National Commission on Libraries and Information Science

A letter from the Chairman, National Commission on Libraries and Information Science, transmitting, pursuant to law, a report on the National Commission on Libraries and Information Science (with an accompanying report); to the Committee on Labor and Public Affairs.

Highway Route Studies Report

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Highway Route Studies," December 1974 (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the VICE PRESIDENT:

A petition from the Statewide Committees Opposing Regional Plan Areas, Powell Butte, Oreg., relative to redress of grievances under section 5 of rule VII, U.S. Senate; to the Committee on Government Operations.

ATTENDANCE OF A SENATOR

Hon. SAM NUNN, a Senator from the State of Georgia, attended the session of the Senate today.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HUGH SCOTT:

S. 251. A bill to amend the National Foundation on the Arts and Humanities Act of 1965 to further cultural activities by making unused railroad passenger depots available to communities for such activities. Referred to the Committee on Labor and Public Welfare.

By Mr. MANSFIELD:

S. 252. A bill to authorize the Secretary of the Interior to convey certain lands to August Sobotka and Joseph J. Tomalino of Intake, Mont. Referred to the Committee on Interior and Insular Affairs.

S. 253. A bill for the relief of Janice Elaine Groves and her daughter, Anna Groves. Referred to the Committee on the Judiciary.

S. 254. A bill for the relief of Hong-To Lam and his wife, May-Fung Shum Lam. Referred to the Committee on the Judiciary.

S. 255. A bill for the relief of Ivan Mauricio Mas-Jaccard, his wife, Carmen Mas-Jaccard, and their children, Clifford Mas-Jaccard and Jonny Mas-Jaccard. Referred to the Committee on the Judiciary.

S. 256. A bill for the relief of Hernando O. Macalalad. Referred to the Committee on the Judiciary.

S. 257. A bill for the relief of Josefina Gonzales Batoon. Referred to the Committee on the Judiciary.

S. 258. A bill for the relief of Mrs. Lucy Locke. Referred to the Committee on the Judiciary.

S. 259. A bill for the relief of Antonio O. Sales and his wife Emma Sales. Referred to the Committee on the Judiciary.

S. 260. A bill for the relief of Basile Christopoulos. Referred to the Committee on the Judiciary.

By Mr. YOUNG:

S. 261. A bill for the relief of Dr. Manuel Javier Mariano and his wife, Lilia Zapanta Mariano. Referred to the Committee on the Judiciary.

By Mr. GOLDWATER:

S. 262. A bill for the relief of Linda Anderson. Referred to the Committee on the Judiciary.

By Mr. HASKELL:

S. 263. A bill for the relief of Nestor Manuel Lara-Otoya. Referred to the Committee on the Judiciary.

By Mr. ALLEN:

S. 264. A bill to amend the Egg Products Inspection Act. Referred to the Committee on Agriculture and Forestry.

By Mr. MONDALE:

S. 265. A bill for the relief of Leonardo Falcones. Referred to the Committee on the Judiciary.

S. 266. A bill for the relief of Dr. Jesus Cabrera Yap. Referred to the Committee on the Judiciary.

By Mr. HASKELL:

S. 267. A bill to designate the Flat Tops Wilderness, Routt and White River National Forests, in the State of Colorado. Referred to the Committee on Interior and Insular Affairs.

S. 268. A bill to designate the Eagles Nest Wilderness, Arapaho, and White River National Forests, in the State of Colorado. Referred to the Committee on Interior and Insular Affairs.

By Mr. PEARSON:

S. 269. A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for the consumer, and for other purposes. Referred to the Committee on Commerce.

S. 270. A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kans., for airport purposes. Referred to the Committee on Commerce.

By Mr. BAKER:

S. 271. A bill to provide for a program for the regulation of surface mining of coal to protect the environment, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAKER (for himself and Mr. BROCK):

S. 272. A bill to restore the designation "Oak Ridge National Laboratory" to a national laboratory. Referred to the Joint Committee on Atomic Energy.

By Mr. STEVENS:

S. 273. A bill requiring the Secretary of Defense to convey certain lands to Nome, Alaska. Referred to the Committee on Armed Services.

S. 274. A bill to provide that the laws restricting the coastwise trade to vessels of the United States shall not apply to certain hovercraft on routes over land or over water only as an incidental part thereof. Referred to the Committee on Commerce.

S. 275. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence. Referred to the Committee on Finance.

By Mr. FANNIN (for himself and Mr. TOWER):

S. 276. A bill to repeal the Davis-Bacon Act and related provisions of law. Referred to the Committee on Labor and Public Welfare.

By Mr. TOWER (for himself, Mr. Domenici, and Mr. Humphrey):

S. 277. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, so that benefits for husbands and widowers will be payable on the same basis as benefits for wives and widows. Referred to the Committee on Finance.

S. 278. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record. Referred to the Committee on Finance.

S. 279. A bill to amend title II of the Social Security Act to provide that an insured individual otherwise qualified may retire and receive full old-age benefits, at any time after attaining age 60, if he has been forced to retire at that age by a Federal law, regulation, or other. Referred to the Committee on Finance.

S. 280. A bill to amend title II of the Social Security Act to provide that any individual who has 40 quarters of coverage, whenever acquired, will be insured for disability benefits thereunder. Referred to the Committee on Finance.

By Mr. HARTKE (for himself and Mr. Pearson) (by request):

S. 281. A bill to amend the Regional Rail Reorganization Act of 1973 to increase the financial assistance available under section 213 and section 215, and for other purposes. Referred to the Committee on Commerce.

By Mr. METCALF:

S. 282. A bill to provide for the development of certain minerals on public lands; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HELMS (for himself, Mr. McClure, Mr. Thurmond, Mr. Eastland, Mr. Stennis, Mr. William L. Scott, and Mr. Curtis):

S. 283. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. Nelson, Mr. Burdick, Mr. Mondale, Mr. McGovern, and Mr. Young):

S. 284. A bill to provide price support for milk at not less than 90 per centum of the parity price therefor, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. TUNNEY:

S. 285. A bill to amend the National Labor Relations Act, as amended, to amend the definition of "employee" to include certain agricultural employees. Referred to the Committee on Labor and Public Welfare.

By Mr. BURDICK (for himself and Mr. Hruska) (by request):

S. 286. A bill to authorize additional judgeships for the U.S. Courts of Appeals. Referred to the Committee on the Judiciary.

By Mr. BURDICK (for himself and Mr. Hruska) (by request):

S. 287. A bill to provide for the appointment of additional district court judges and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BURDICK (for himself, Mr. Hansen, Mr. McGee, Mr. Packwood, Mr. Stafford, Mr. Stevens, Mr. Young, and Mr. Gravel):

S. 288. A bill to amend the Land and Water Conservation Fund Act of 1965 so as to authorize the development of indoor recreation facilities in certain areas. Referred to the Committee on Interior and Insular Affairs.

By Mr. McGEE:

S. 289. A bill for the relief of Miss Teruko Sasaki. Referred to the Committee on the Judiciary.

S. 290. A bill for the relief of Nedja Budisavljvich. Referred to the Committee on the Judiciary.

By Mr. HRUSKA:

S. 291. A bill for the relief of Lorenzo Tobias Pelaez-Ibarra, Francisca Carmona Pelaez, Evencio Alejandro Pelaez-Carmona, Maria Cristina Pelaez-Carmona, Fernando Pelaez-Carmona, and Gerardo Nicolas Pelaez-Carmona. Referred to the Committee on the Judiciary.

By Mr. TOWER:

S. 292. A bill for the relief of Cruz Sanchez-Garcia, his wife, Maria Benilda Leal de Sanchez, and their child, Daniel Sanchez-Leal. Referred to the Committee on the Judiciary.

By Mr. HRUSKA:

S. 293. A bill for the relief of Masumi Danzuka. Referred to the Committee on the Judiciary.

By Mr. BIDEN:

S. 294. A bill to amend the Internal Revenue Code of 1954 to increase the effectiveness of the minimum tax for tax preferences. Referred to the Committee on Finance.

S. 295. A bill to amend the Internal Revenue Code of 1954 to eliminate percentage depletion for oil and gas wells over a 3-year period. Referred to the Committee on Finance.

S. 296. A bill to amend the Internal Revenue Code of 1954 relating to the application of the foreign tax credit to taxpayers engaged in the extraction, production, or refining of oil or gas in foreign countries. Referred to the Committee on Finance.

By Mr. CRANSTON (for himself and Mr. Williams):

S. 297. A bill to improve education by increasing the freedom of the Nation's teachers to change employment across State lines without substantial loss of retirement benefits through establishment of a Federal-State program. Referred to the Committee on Labor and Public Welfare.

By Mr. TAFT:

S. 298. A bill to provide for the development and implementation of programs for youth camp safety. Referred to the Committee on Labor and Public Welfare.

By Mr. MANSFIELD (for Mr. Eastland):

S. 299. A bill for the relief of Sui Cheung Au Yeung, his wife, Kam-Ying Au Yeung Chan, and their child, Ray Au Yeung. Referred to the Committee on the Judiciary.

By Mr. BAKER (for himself, Mr. Allen, Mr. Brock, Mr. Sparkman, Mr. Huddleston, and Mr. Eastland):

S. 300. A bill to amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments. Referred to the Committee on Public Works.

By Mr. DOMENICI (for himself and Mr. Montoya):

S. 301. A bill relating to lands in the Middle Rio Grande Conservancy District, N. Mex. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOMENICI:

S. 302. A bill to amend the Federal Food Stamp Act to prohibit any increase in the portion of a household's income that may be charged for food stamps under such act in the case of any household whose members are all 60 years of age or older or in the case of any household in which over one-half of the income is provided by members 60 years of age or older, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. GRAVEL:

S. 303. A bill for the relief of Richard Zorza. Referred to the Committee on the Judiciary.

S. 304. A bill for the relief of Clemente Napolitano. Referred to the Committee on the Judiciary.

S. 305. A bill to permit the Internal Revenue Service to accept a check of the Philippine Commercial and Industrial Bank, Manila, Philippines, for account of the estate of Linnie Jane Hodges. Referred to the Committee on Finance.

S. 306. A bill to terminate the Airlines Mutual Aid Agreement. Referred to the Committee on Commerce.

By Mr. DOMENICI:

S. 307. A bill to achieve fuel economy for motor vehicles, to establish standards and requirements of motor vehicle fuel economy, to assure compliance with such standards, and for other purposes. Referred to the Committee on Commerce.

By Mr. DOMENICI (for himself, Mr. Baker, Mr. Humphrey, Mr. Philip A. Hart, Mr. Burdick, Mr. Schweiker, and Mr. Montoya):

S. 308. A bill to amend title XVIII of the Social Security Act to provide for the coverage, under the supplementary medical insurance benefits program established by part B of such title, of one routine physical checkup each year and for preventive care for individuals insured under such program. Referred to the Committee on Finance.

By Mr. McCLURE:

S. 309. A bill relating to abandonment of mining claims. Referred to the Committee on Interior and Insular Affairs.

S. 310. A bill to amend the Natural Gas Act to extend its application to the direct sale of natural gas in interstate commerce, and to provide that provisions of the act shall not apply to certain sales in interstate commerce. Referred to the Committee on Commerce.

S. 311. A bill to amend the Internal Revenue Code of 1954 in order to tax excess petroleum industry profits, to encourage investments in the expansion of domestic energy supplies, and to create an incentive tax credit for research and development of new or expanded energy sources. Referred to the Committee on Finance.

By Mr. ALLEN:

S.J. Res. 7. A joint resolution to establish a national commission to study and report on the impact of certain regulatory agencies upon commerce, and for other purposes. Referred to the Committee on Government Operations.

By Mr. McGEE (for himself, Mr. Hansen, and Mr. Tower):

S.J. Res. 8. A joint resolution to authorize the President to issue annually a proclamation designating March of each year as "Youth Art Month." Referred to the Committee on the Judiciary.

By Mr. TUNNEY (for himself and Mr. Cranston):

S.J. Res. 9. A joint resolution relating to the development of and the production of petroleum from Naval Petroleum Reserve No. 1, and to direct the exploration of Naval Petroleum Reserves No. 1 and 4, and for other purposes. Referred to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUGH SCOTT:

S. 251. A bill to amend the National Foundation on the Arts and Humanities Act of 1965 to further cultural activities by making unused railroad passenger depots available to communities for such activities. Referred to the Committee on Labor and Public Welfare.

Mr. HUGH SCOTT. Mr. President, today I am introducing a bill to amend the National Foundation on the Arts and Humanities Act of 1965 to further cultural activities by making unused railroad passenger depots available to communities for use as community arts and cultural centers. Representative FRANK THOMPSON, Jr. is offering a counterpart measure in the House of Representatives.

Many old railroad stations have the basic qualities necessary for community center use: First, adequate space; second, sound structure; third, aesthetic design, and fourth, central location. All stations, of course, do not possess these qualities and therefore would not be considered for acquisition. However, I have seen excellent possibilities during my travels about the Commonwealth of Pennsylvania. And I am sure my colleagues can identify their favorite whistle stops that can be recycled into useful, charming cultural depots. As unique expressions of American culture, what place could be more appropriate to enjoy the arts.

With at least half of the 40,000 railroad stations built in the United States already destroyed, these magnificent structures are an endangered species. We must act now to preserve what still remains of the architectural heritage that exists in railroad stations.

Mr. President, with the Bicentennial almost upon us, I urge prompt approval of this legislation so that some of these reminders of a bygone era could be put to good cultural use giving them a new lease on life—one in which they can again serve the public as they did in the past. I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14 of the National Foundation on the Arts and Humanities Act of 1965 is amended to read as follows:

"UTILIZATION OF UNUSED PASSENGER DEPOTS

"SEC. 14. (a) The Chairman of the National Endowment for the Arts (hereinafter referred to as the 'Chairman') shall plan, develop, and carry on a program under which the United States will acquire unused or underused passenger depots now owned by railroad companies in the United States and make them available to communities for cultural activities, such as libraries, musical and dramatic presentations, art exhibitions, adult education programs, providing facilities for meetings of community groups, and providing facilities for carrying on activities supported under Federal laws, including this Act.

"(b) In carrying out subsection (a), the Chairman shall provide for the making of surveys, from time to time, of existing railroad passenger depots in the United States with a view to determining those which are suitable for acquisition under this section, and the approximate acquisition cost thereof. On the basis of the information obtained from surveys, the Chairman shall determine which passenger depots should be acquired under this section, and shall assign a priority for acquisition to each such depot.

"(c) In assigning priorities under subsection (b), the Chairman shall take into consideration, among other things, the following:

"(1) The anticipated cost of the acquisition.

"(2) The suitableness of the depot for the use to which it would be put.

"(3) The extent to which the depot is located in an area which is readily accessible.

"(4) The extent to which public transportation and parking areas are available.

"(5) The extent to which there are assurances that non-Federal financial support will be available for the activities to be carried on.

"(6) The extent to which the acquisition of the depot under this section will contribute to, and support, other federally supported programs and activities.

"(7) The extent to which the acquisition of the depot will enhance and preserve the architectural heritage of the United States.

"(8) The desirability of attaining an equitable distribution of the benefits of this section among the States.

"(9) The availability of other facilities in the community.

"(d) The Chairman shall, within the limits of appropriations made for that purpose, acquire by purchase the passenger station depots referred to in subsection (b), and, insofar as is consistent with the financial interests of the United States, in the order of priority which he has assigned them. When so acquired the Chairman may carry out such repairs, decorations, and minor remodeling as may be necessary to make it suitable for its new use.

"(e) A depot which has been acquired by the Chairman under this section may be leased to any State or political subdivision of a State for use for the purposes described in subsection (a). Such a lease may be for such duration as the Chairman may determine, and shall provide for the payment of such rental as the Chairman deems appropriate, but need not provide for the payment of any rental. Each such lease shall contain provisions necessary to assure that the depot will be used for purposes permitted by this section for the duration of the lease.

"(f)(1) The Chairman shall establish an advisory council to consult with him with respect to carrying out this section. The membership of such advisory council shall consist of representatives from railroad companies, the National Council on the Arts, the National Council on the Humanities, States and their political subdivisions, organizations and agencies using depots acquired under this section, and the public.

"(2) Members of the council shall, while attending meetings or conferences of the council or otherwise engaged in the business of the council, be entitled to receive compensation at a rate fixed by the Chairman but not exceeding the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"(3) The Chairman is authorized to furnish to the council such technical assistance, and to make available to it such secretarial, clerical, and other assistance and such pertinent data available to him, as the council may require to carry out its functions.

"(g) There is hereby authorized to be appropriated for carrying out this section, the sum of $1,000,000 for the fiscal year 1975, and such sums as may be necessary for each succeeding fiscal year."

By Mr. HASKELL:

S. 267. A bill to designate the Flat Tops Wilderness, Routt and White River National Forests, in the State of Colorado. Referred to the Committee on Interior and Insular Affairs.

S. 268. A bill to designate the Eagles Nest Wilderness, Arapaho, and White River National Forests, in the State of Colorado. Referred to the Committee on Interior and Insular Affairs.

Mr. HASKELL. Mr. President, I introduce today legislation to designate two wilderness areas in Colorado: a 237,500-acre Flat Tops Wilderness in the Routt and White River National Forests and a 128,374-acre Eagles Nest Wilderness in the Arapaho and White River National Forests.

These two proposed wilderness areas are rich in spectacular and varied scenery and in wilderness recreation opportunities. Composed of rugged mountains, broad plateaus, deep valleys, river canyons, gentle meadows, timber stands, clear lakes and sparkling streams, these areas epitomize the unique environment which Colorado possesses. The preservation of this environment is a responsibility from which we cannot shirk—for ourselves and the sake of our children. This legislation, by designating these areas as components of the national wilderness preservation system, would provide the permanent protection which they merit.

This legislation is past due. Its history has been lengthy and torturous. A bill calling for a 202,000-acre Flat Tops Wilderness passed the Senate in 1972. My bill designating the larger, 237,500-acre wilderness passed the Senate twice last year, once as an individual bill and once in an omnibus national forest wilderness measure. My Eagles Nest proposal shares a similar history, also having been passed by the Senate once as an individual measure and again in the omnibus bill. This legislation has been considered and passed by the Senate 4 times in the last two Congresses. Last Congress alone the House Interior Committee held two separate hearings on these measures and I, as chairman of the Public Lands Subcommittee, took our subcommittee to Denver for a lengthy field hearing on these proposals.

In addition, Mr. President, these measures have received the most extensive staff investigation ever conducted on individual wilderness proposals. Counsel for my subcommittee was dispatched to Colorado to talk with State and private experts on wildlife management, water development, and mineral resources, to read court records on disputed water rights, and to visit controversial areas within the proposed wilderness accompanied by Forest Service personnel. On the basis of his lengthy report, major changes were made in the legislation in full committee after it had already been unanimously reported from the Public Lands Subcommittee.

Mr. President, these bills have received the full support of Coloradans. The entire Colorado delegation—Senators and Congressmen, Democrats and Republicans, alike—have fully endorsed the legislation. Our last two Governors—John

Love and John Vanderhoff—wholeheartedly endorsed the proposals. I believe it is safe to say that our new Governor and the new Members of our delegation will lend their strong support to the effort to designate these wildernesses.

As the legislative history of these proposals demonstrates, their final enactment has been delayed not by any action of the Senate but by the inaction of the House of Representatives which for two Congresses has failed to proceed beyond the initial hearing stage in considering the legislation.

Late last session, at the time the Senate took up the omnibus national forest wilderness bill which the House had returned to us absent the Flat Tops and Eagles Nest Wilderness proposals and with a 30,000-acre reduction in my third Colorado wilderness proposal—the so-called Weminuche wilderness, I made the following statement:

> Deleted from H.R. 12884 which we will vote on today are the provisions designating the Flat Tops and Eagles Nest Wilderness. Furthermore, the Weminuche Wilderness to be designated by the bill is smaller by more than 30,000 acres than the one I have proposed and which the Senate has twice supported. The reduction in the acreage of my Weminuche proposal is unfortunate, but the opportunity to establish a magnificent 405,031-acre Weminuche Wilderness should not be lost. I am, therefore, willing to accept the position of the House on Weminuche. I hasten to add, however, that I will continue to fight vigorously for the designation of the Flat Tops and Eagles Nest Wildernesses.
>
> Fortunately, I believe that the fate of these two wildernesses is not sealed by any action we may take on H.R. 12884.
>
> Yesterday, I talked with my counterpart, the chairman of the House Subcommittee on Public Lands, Mr. Melcher. He fully agrees with me that it is high time that the Congress act upon the Eagles Nest and Flat Tops Wilderness proposals. He has assured me that his subcommittee will take up the two proposals early next year. I, in turn, hope and expect that we in the Senate can send my Flat Tops and Eagles Nest proposals to the House by early next summer.

I have every reason to believe that the chairman of the House Public Lands Subcommittee will act expeditiously upon his commitment. On my part, I plan to schedule subcommittee hearings here in Washington and field hearings in Colorado early this spring.

I understand that after passage of the legislation in the Senate last year, several major interest groups arrived at a tentative compromise which proposed minor alterations in the boundaries of the proposed areas. In addition, the Forest Service, whose own proposals for the two wildernesses I find to be woefully inadequate, would like to suggest a number of technical alterations in the boundaries of the areas to be designated by the legislation I introduce today.

Mr. President, it is my fervent hope that these last remaining proposals for boundary alterations can be considered in the two hearings this spring and that we can enact the wilderness proposals into law before the 1975 high-country wilderness season.

I ask unanimous consent that the bills be printed in the RECORD at this point.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(b) of the Wilderness Act of September 3, 1964 (78 Stat. 891), the area classified as the Flat Tops Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Flat Tops Wilderness—Proposed", dated October 1973, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the Flat Tops Wilderness within and as part of the Routt and White River National Forests, comprising an area of approximately two hundred and thirty-seven thousand five hundred acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Flat Tops Wilderness with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such map and description may be made.

SEC. 3. The Flat Tops Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Flat Tops Primitive Area is hereby eliminated.

S. 268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(b) of the Wilderness Act (78 Stat, 891; 16 U.S.C. 1132(b)), the area classified as the Gore Range-Eagles Nest Primitive Area, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Eagles Nest Wilderness—Proposed", dated October 1973, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the "Eagles Nest Wilderness" within and as part of the Arapaho and White River National Forests comprising an area of approximately one hundred and twenty-eight thousand three hundred and seventy-four acres.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Eagles Nest Wilderness with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such map and description may be made.

SEC. 3. The Eagles Nest Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Gore Range-Eagles Nest Primitive Area is hereby abolished.

By Mr. PEARSON:

S. 269. A bill to regulate commerce to assure increased supplies of natural gas at reasonable prices for the consumer, and for other purposes. Referred to the Committee on Commerce.

(The remarks of Mr. PEARSON on the introduction of the above bill are printed earlier in the RECORD.)

S. 270. A bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kans., for airport purposes. Referred to the Committee on Commerce.

Mr. PEARSON. Mr. President, I introduce for appropriate reference a bill to authorize the Secretary of Transportation to release restrictions on the use of certain property conveyed to the city of Elkhart, Kans., for airport purposes. I request that the text of this bill be printed in the RECORD immediately following these introductory remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, under the provisions of the old Federal Airport Act—60 Stat. 179, repealed May 21, 1970—the United States conveyed to the city of Elkhart, Kans., certain surplus properties for airport purposes. The deed specifies that the property conveyed for airport purposes shall automatically revert to the United States if such property ceases to be used for such purposes.

This legislation I am introducing today would release the city of Elkhart from the specific restrictions contained in the deed of March 11, 1958, and subject the city to restrictions placed upon use or transfer of this property comparable to those contained in the Surplus Property Act of 1944 and the Airport and Airway Development Act of 1970.

Therefore, Mr. President, if this legislation which I am introducing today becomes law, the city of Elkhart will be under the same limitations and enjoy the same privileges with respect to the use of its airport property as other communities which have obtained Federal property for airport purposes.

Mr. President, Representative JOE SKUBITZ, of Kansas, introduced H.R. 11131 (93d Congress, 1st session), on October 25, 1973. Mr. SKUBITZ' bill was identical to the bill I am today introducing. On October 8, 1974, the Department of Transportation transmitted to the Congress its views on H.R. 11131, and those views were contained in a letter signed by Rodney E. Eyster, General Counsel of the Department.

The following paragraphs are excerpted from the favorable report on Mr. SKUBITZ' identical bill:

> This bill would authorize the Secretary of Transportation to remove the condition contained in the March 11, 1958, deed to the city of Elkhart required by the then effective Federal Airport Act (60 Stat. 179, repealed May 21, 1970, 84 Stat. 235), specifying that Federal property conveyed for airport purposes shall automatically revert to the United States if it ceases to be used for those purposes. The bill further provides that any release from a condition contained in the deed will be subject to section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c) which authorizes the Administrator of the Federal

Aviation Administration to impose upon a release such conditions as he deems necessary to protect the interests of the United States in civil aviation, and also requires that the proceeds of any sale of property to a third party within five years be devoted exclusively to public airport purposes.

Unlike restrictions on conveyances pursuant to the Federal Airport Act such as the conveyance which is the subject of this bill, restrictions placed on transfers under the Surplus Property Act of 1944 may be released by the Secretary in accordance with certain conditions stated in the Act of October 1, 1949 (50 U.S.C. App. 1622c). Similarly, restrictions on conveyances under section 23 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1723(b)), the successor to the Federal Airport Act, may also be released at the option of the Secretary.

This bill therefore, would give the Secretary the same authority to release the restrictions on the Federal Airport Act conveyance to Elkhart that he now has on conveyances made under the current statutes, subject to the conditions of section 4 of the Act of October 1, 1949.

It has been our consistent position that the vesting of this authority in the Secretary is in the best interests of civil aviation. Consequently, we support the enactment of this bill.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report for the consideration of the Committee."

Mr. President, I would urge prompt consideration by the Committee on Commerce of this measure. At the moment the city is uncertain as to the power it has to utilize this property, and timely enactment of the bill will be of material assistance to Elkhart in planning its community development program.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 270

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding section 16 of the Federal Airport Act (as in effect on March 20, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated March 11, 1958, under which the United States conveyed certain property to the city of Elkhart, Kansas, for airport purposes.

By Mr. BAKER:

S. 271. A bill to provide for a program for the regulation of surface mining of coal to protect the environment, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

COAL STRIP MINE CONTROL ACT OF 1975

Mr. BAKER. Mr. President, I send to the desk and ask appropriate referral of a bill to establish a Federal-State partnership to provide control over the environmental impact of coal surface mining in the United States to be known as the Coal Strip Mine Control Act of 1975.

This bill is substantially the same as S. 1163 which I introduced in the 93d Congress and is basically the same as S. 3000 which Senator John Cooper and I cosponsored in the 92d Congress.

Congress has progressed through arduous and sometimes painful consideration in these years and I am pleased that it now appears that a program of Federal surface mine control will be enacted in the near future. That program, if it conforms to the bill which passed both bodies in December, will contain several concepts which I have long maintained are essential to proper control of surface mining and which I have incorporated in each of the bills I have introduced in this and the two previous Congresses.

The bill which I have sent to the desk today recognizes the gravity of the problems associated with coal surface mining and specifically targets this industry for control. The legislation which was recently vetoed by the President, although it was slightly broader, was limited to the surface impacts of coal mining. I am aware, and I am sure the members of the Interior Committees of the House and Senate are too, of the serious problems associated with other extractive industries. But the environmental threat of insufficiently reclaimed coal surface mining and the complexities of drafting a regulatory program dictate that we act immediately to control this specific type of mining.

The bill I have sent to the desk specifies criteria for reclamation designed to restore the stability, character, and use of the mine site. The bill which passed Congress in December also set such standards—standards designed to protect the character and use of the site as well as addressing troublesome offsite impacts.

The bill which I have sent to the desk requires the filing of a performance bond payable to the Government and sufficient in amount to cover the costs of reclamation by a third party should the permittee default. The bond must remain in effect throughout the period of mining and for 5 years thereafter. This bond provides an extremely important tool for effective reclamation. I am pleased that a provision substantially similar to that incorporated in this bill and each of the bills I have sponsored was contained in the bill approved by Congress last December.

One of the most difficult problems involved in surface mine control is the repair of the millions of acres of abandoned mines throughout the Nation. A large portion of these so-called "orphaned mines" are in the Appalachian region. Some of these will be repaired substantially by regulated "restripping" which will stabilize, regrade to some extent, and revegetate these benches. But the great bulk of these mines will have to be addressed directly. It will be an expensive and difficult project, requiring years of effort and genuine dedication.

In response to the need for repair of orphaned mines, especially in the steep mountains of Appalachia, I have included a proposal to vest reclamation authority in the Department of Agriculture Soil Conservation Service in this and my earlier bills.

The SCS possesses the expertise to handle what will be essentially a soil treatment program efficiently and at the least cost. The SCS furnishes technical and financial assistance through soil conservation districts. Under present soil conservation authorities these organizations have been involved in reducing erosion, siltation, and other soil stability problems associated with coal surface mining. The inclusion of a similar program in the bill which passed Congress has given me great hope that this most frustrating and difficult problem will at last be met with a strong remedy. I must add that the concept of funding this program through a small fee charged against coal presently being mined is a responsible and practical approach—entirely consistent with the philosophy of internalizing the real costs and burdens of coal mining.

I ask unanimous consent that my statement regarding this orphaned mines program inserted in the RECORD for March 12, 1973, be placed in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAKER. Mr. President, this Nation is faced with grave economic and energy problems. The legislation which I have introduced today proposes to specify the rules by which America's most abundant domestic energy resource may be produced. These rules will require mining practices which will add to the industry's overhead. Because the rules propose also to prohibit mining where proper reclamation cannot be achieved, some coal which might be mined—at an unacceptable environmental cost—will not be mined.

These facts, and the genuine concern of the American people over our energy problems, have provided some critics of the legislation ammunition for wild attacks upon this and similar regulatory programs—especially the measure passed by Congress in December.

It is clear, however, to those of us who have studied coal surface mining that the "approximate original contour" standard contained in this bill and in the measure endorsed by Congress not only can be met but is being met in hundreds of mines even in the most tortuous terrain of the Appalachian Mountains.

And the critics' charges of astronomical increases in the cost of coal are also unfounded. Chairman Aubrey Wagner of the Tennessee Valley Authority has advised me that TVA has obtained hard and reliable data regarding the cost of back-to-contour reclamation in the mountains of east Tennessee through experimental mine operations. Their production costs per ton of coal were $11.47 at a multiple-seam operation—through December 1973—and $8.65 at a single-seam operation—December 1974. These production costs compare to a present market price for eastern coal of $30 to $40 per ton. With margins such as these and with the competitive advantage of surface mining over deep mining—an advantage recently expanded by the UMW contract settlement—it is safe to assume that the net market effect of total reclamation will be minimal. Mr. President, I ask unanimous consent that a brief report concerning the costs of the single-seam operation prepared by Dr. Thomas

Ripley, Director of Forestry, Fisheries, and Wildlife Development for the Tennessee Valley Authority, be inserted in the RECORD following these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BAKER. During this time of reassessment of our energy policies, it is appropriate and encouraging that the Congress has taken action to control the environmental waste of improperly reclaimed coal surface mining.

The energy crisis is not solely a crisis of too much consumption; it is a crisis of our very attitude toward energy evidenced as much by our callous disregard for the environmental impacts of energy production and use as by wasteful consumption. We have become poor stewards of our resources because they have been so abundant.

It is a hopeful sign that Congress has taken a difficult first step to rectifying one important aspect of our problem with the passage of a stringent reclamation program. In introducing today the Coal Strip Mine Control Act of 1975, I reaffirm my dedication to place production of our domestic coal reserves in a proper environmental perspective. I will support legislation which, like S. 425 in the last Congress, serves that goal.

EXHIBIT 1

SCS HELPS TURN HAZARDOUS MINE SPOILS INTO USEFUL LAND

WASHINGTON, September 14.—Surface-mined land can be transformed from a hazardous eyesore into acreage useful for many farm or community purposes, USDA Soil Conservation. Service Administrator Kenneth E. Grant said today.

More than 10,000 private landowners reclaimed over a third of a million acres from 1965–71 alone, Mr. Grant said. He cited recent SCS reports from each state showing that landowners and mine operators had reclaimed a total of 328,000 acres in the seven-year period.

"Their work has resulted in significant reduction in soil erosion, sedimentation, and acid pollution of streams from these sites," Mr. Grant said. "They have added to the beauty of the countryside. And they have helped turn useless land into valuable property for forest, pasture or range, wildlife habitat, recreation areas, crop production, building sites, and other uses."

Mr. Grant stressed that much more work needs to be done, since more than 4 million acres had been disturbed as of January 1, 1972, in surface-mining operations to harvest coal, sand and gravel, and some 10 other commodities.

"More than 90 percent of this land is privately owned," Mr. Grant said. "It is intermingled with farm, ranch, forest and other land in rural and suburban America—on which SCS already is giving conservation help through districts and in watershed projects and resource conservation and development projects."

Of the total acreage disturbed, Mr. Grant said that 2,181,200 acres needs land shaping, plantings, or water-control structures to prevent further land and water damage. The remaining 1,823,700 acres already have been reclaimed or have stabilized themselves over a period of years. Mr. Grant said that surface mining has been practiced for more than 100 years.

"About 15 percent of the land needing reclamation has been treated in the last seven years," Mr. Grant said. "This is significant progress when you consider that to date there is no formal program for technical and financial help on these problem sites on private land. District cooperators have undertaken mined-land reclamation as part of their overall conservation activities."

Mr. Grant said that about half of the States now have statutes calling for some form of surface-mined land reclamation work. Their provisions vary widely.

SCS participation in surface-mined land restoration began in the 1930's, Mr. Grant said. In addition to recommending vegetative and mechanical measures to restore a mined area, SCS also is active in developing new plants that can survive under the difficult slopes and acid conditions found on most surface-mined land. One of the 20 SCS plant materials centers, at Quicksand, Ky., was established specifically to locate, study, and increase the supply of plants for surface-mined land. Several other centers also are turning out useful plants. Among those found especially well suited are deertongue grass, switchgrass, 'Cardinal' autumn-olive, 'Chemung' and 'Emerald' crown-vetch, 'Latcho' flatpen, 'Arnot' bristly locust, 'Rem' Red Amur honeysuckle, Japanese bush lespedeza, and weeping lovegrass.

"These plants are well adapted to mined-land conditions and provide a higher percentage of surface cover in a shorter period of time than trees," Mr. Grant said. "They also provide excellent food and cover for many species of wildlife. And their flowers and foliage have a high esthetic value."

In addition to the new figures announced today, more details about surface-mined land problems and opportunities are in a 1971 SCS publication, MP-1082, "Restoring Surface-Mined Land." Copies are available from local SCS offices or for 15 cents from the U.S. Government Printing Office, Washington, D.C. 20402.

STATUS OF LAND DISTURBED BY SURFACE MINING IN THE UNITED STATES, AS OF JAN. 1, 1972, BY STATE[1]

[Thousand acres]

State	Land requiring reclamation	Land not requiring reclamation	Total land disturbed
Alabama	127.9	43.1	171.0
Alaska	4.4	6.7	11.1
Arizona	29.7	28.3	58.0
Arkansas	17.1	6.6	23.7
California	69.7	109.5	179.2
Colorado	41.3	14.8	56.1
Connecticut	12.2	5.1	17.3
Delaware	2.2	1.9	4.1
Florida	196.0	58.8	254.8
Georgia	28.1	13.1	41.2
Hawaii	.1	.1	.2
Idaho	16.0	8.1	24.1
Illinois	66.3	102.2	168.5
Indiana	25.0	120.7	145.7
Iowa	32.4	18.3	50.7
Kansas	67.4	13.5	80.9
Kentucky	58.0	187.4	245.4
Louisiana	26.4	9.8	36.2
Maine	26.4	13.2	39.6
Maryland	25.0	12.7	32.7
Massachusetts	30.7	17.8	48.5
Michigan	72.4	22.0	94.4
Minnesota	52.6	72.7	125.3
Mississippi	22.0	10.3	32.3
Missouri	93.0	18.5	112.4
Montana	22.0	9.3	31.3
Nebraska	12.5	10.5	23.0
Nevada	21.7	12.7	34.4
New Hampshire	4.4	4.3	8.7
New Jersey	17.6	10.8	28.4
New Mexico	13.3	8.8	22.1
New York	40.0	18.0	58.0
North Carolina	27.1	15.7	42.8
North Dakota	27.5	17.1	44.6
Ohio	191.6	162.1	353.7
Oklahoma	5.0	25.0	30.0
Oregon	6.6	2.8	9.4
Pennsylvania	240.9	201.5	442.4
Rhode Island	2.6	1.2	3.8
South Carolina	20.0	15.0	35.0
South Dakota	16.0	18.2	34.2
Tennessee	40.0	78.9	118.9
Texas	136.8	34.0	170.8
Utah	3.4	2.8	6.2
Vermont	4.2	2.6	6.8
Virginia	33.0	48.8	81.8
Washington	5.5	3.6	9.1
West Virginia	100.0	170.9	270.9
Wisconsin	35.3	27.2	62.5
Wyoming	11.0	6.7	17.7
Total	2,181.2	1,823.7	4,004.9

[1] Compiled from estimates provided by State offices of the Soil Conservation Service, USDA.

MINED-LAND RECLAMATION WORK IN CONSERVATION DISTRICTS,[1] 1965–71 INCLUSIVE

State	Number of districts involved	Number of cooperators	Area reclaimed (thousand acres)
Alabama	49	205	43.1
Alaska	1	0	.1
Arizona	5	11	4.2
Arkansas	9	14	.5
California	42	58	7.5
Colorado	56	68	2.3
Connecticut	6	14	.3
Delaware	3	28	.8
Florida	12	20	12.5
Georgia	19	169	4.9
Hawaii	0	0	0
Idaho	52	60	1.9
Illinois	60	120	31.1
Indiana	15	223	20.4
Iowa	29	160	3.5
Kansas	42	371	4.5
Kentucky	39	377	14.9
Louisiana	12	141	1.8
Maine	16	100	.7
Maryland	20	139	3.7
Massachusetts	15	200	2.5
Michigan	81	274	2.5
Minnesota	59	121	6.4
Mississippi	14	34	2.0
Missouri	19	50	1.5
Montana	25	150	1.6
Nebraska	62	240	5.4
Nevada	12	2	.3
New Hampshire	10	50	.2
New Jersey	12	18	.8
New Mexico	7	19	.5
New York	56	86	1.2
North Carolina	51	173	1.7
North Dakota	39	375	2.5
Ohio	42	350	10.5
Oklahoma	6	10	1.5
Oregon	15	30	.2
Pennsylvania	50	500	28.0
Rhode Island	3	3	0
South Carolina	8	6	.8
South Dakota	40	700	1.0
Tennessee	18	213	9.1
Texas	107	1,394	13.1
Utah	7	8	.3
Vermont	0	0	0
Virginia	1	100	26.0
Washington	1	1	0
West Virginia	11	2,500	55.2
Wisconsin	72	314	4.7
Wyoming	7	10	.5
Total	1,337	10,218	338.0

[1] Data compiled by Soil Conservation Service, USDA, September 1972.

Mr. BAKER. Mr. President, this widespread interest on the part of private landowners prior to the recent emphasis on the problems associated with mining is significant. It is strong evidence that a sound Federal-State-private program will be locally supported.

Reclamation and conservation treatment of surface mined lands can be accomplished most effectively and efficiently as part of a total soil and water conservation program on privately owned lands. These lands are an integral part of the drainage area in which they are located and their treatment cannot be separated from other lands in the drainage area on which the Department of Agriculture is already giving technical and financial assistance. In short, the Federal organization already exists with longstanding working relationships with State and local governments and private landowners to get on with the job.

The Soil Conservation Service furnishes technical assistance through soil conservation districts to individual landowners and operators under the Soil Conservation Act of 1935. This agency and other USDA agencies also provide both technical and financial assistance for treating surface mined areas in small watershed projects and resource conservation and development projects that are high sediment producing sources. These programs are helpful and have produced good results as illustrated above, but they have not been adequate to treat the many critical areas in the Nation to which this bill would be applicable.

Experience gained under the existing programs has proven that mined areas and the associated spoil banks can be effectively treated. The cost of applying vegetative practices above, however, will vary from $100 to over $300 per acre. Because of the nature of the spoil, the establishment of vegetative cover is unusually slow. Many years will elapse before landowners can expect to realize onsite benefits. Also, in many instances, some structural type measures such as grade stabilization and gully control structures will be required. Hence, on many properties, the onsite benefits cannot be expected to equal the treatment costs. Effective offsite benefits from sediment reduction and pollution control requires action on sizable areas of land constituting small drainage areas or watersheds. Individual efforts are ineffective unless they are a part of a coordinated plan. Group action is, therefore, the logical and practical approach. Federal technical and financial assistance is necessary to activate this work on an adequate scale.

The need for treating the problems on surface-mined lands falls naturally into two categories: Reclaiming lands presently needing conservation treatment and preventing damages on lands to be mined in the future. Here is a task for the private citizen, for industry, and for local, State, and Federal governments. Surface-mined lands are intermingled with forested, agricultural, and other rural lands. This makes it imperative that long-range solutions for surface-mined land reclamation be based on total land-use planning. Plans for treating, developing, and using surface-mined lands must be consistent with plans of adjacent lands and be applied on a watershed basis. Plans must provide for sound multiple use of forest lands, croplands, and grasslands, and should emphasize improvements for fish, wildlife, and outdoor recreation. The impact of land use and treatment on water must receive major attention. It cannot be overemphasized.

Preventing damages on lands and waters to be mined in the future will be dealt with in other bills before the Congress and the expertise of the Department of Agriculture and soil conservation districts should be used in that effort. This bill proposes an immediate attack on an environmental problem that has persisted far too long—cleaning up the past damages.

Since surface mining has been a practice in this country for more than a hundred years, most of the areas needing reclamation were mined prior to the passage of laws requiring reclamation. Twenty-eight States now have laws, some enacted rather recently, which require the restoration of newly surface-mined areas. Such laws do not, however, provide for the reclamation of the large area of old surface-mined lands, sometimes referred to as orphan lands. There is, therefore, a need now for a new approach, a new authority, administered in conjunction with the Department of Agriculture's land and water conservation programs so as to give unified direction to the application of a wholly coordinated program for reclamation and utilization of these surface-mined lands.

The most recent reliable information on costs of reclaiming surface-mined lands is in the report "Surface Mining and Our Environment" resulting from the national study of surface mining completed under Public Law 89-4. This report shows two levels of cost—one for basic reclamation and the other for rehabilitation: Basic reclamation consists of remedial measures necessary to alleviate or eliminate conditions resulting from surface mining, such as erosion, flooding, water pollution, damage to acquatic and wildlife habitat, barriers to access, and hazards to public safety. Rehabilitation comprises land development for parks and recreational areas, residential and industrial sites, scenic improvements, and other specialized land uses contributing to the economic potential, or social improvement of areas.

The report shows costs of $360 per acre for basic reclamation and $600 per acre for rehabilitation. This latter cost includes the amount required for basic reclamation plus the additional costs to develop the land for specialized uses. Although these cost estimates are averages, they are adequate for estimating the costs of applying conservation treatments to the 2.2 million acres of privately owned lands in need of attention. The proportion of these costs to be borne by the Federal and private sectors should be based on the degree of public benefits resulting from applying the treatments. As a general rule, the elimination or abatement of offsite damages will require and justify a higher degree of Federal participation in costs.

A 20-year program for applying basic reclamation on the 2.2 million acres of privately owned lands now needing treatment will cost approximately $36,500,000 annually. If the Federal share of this cost is 75 percent, the annual Federal cost will be approximately $27 million.

It is proposed that the program go forward in a sound and orderly manner with priority assigned to areas most critically in need of reclamation where local interests are ready to assume their responsibilities under the program.

This proposed legislation would authorize Federal assistance in developing and carrying out a comprehensive technically sound plan for the reclamation and rehabilitation of non-federally owned strip- or surface-mined areas. It would assure proper treatment of the areas by providing technical and financial assistance to plan and install needed measures. This would result in reduced erosion and subsequent sedimentation; reduce the contamination of streams and reservoirs by mine acids; improve the habitat for fish and wildlife; contribute to the restoration of productivity and beauty of affected areas; and create a healthful atmosphere for needed recreation, thereby improving the economic base of the people living in the area and substantially benefiting downstream land and water resources and improvements.

The program would produce specific benefits such as:

First. Stabilizing the areas and preventing sediment from washing onto adjacent lands and sediment deposition in the stream channels and reservoirs.

Second. Reducing water pollution resulting from sediment and acid drainage from affected areas.

Third. Reducing air pollution—fumes and smoke from burning coal and refuse in abandoned areas.

Fourth. Eliminating or controlling attractive nuisances created by deep pits and steep spoils which often constitute safety hazards.

Fifth. Restoring much of the natural beauty of the area.

Sixth. Restoring desirable habitats for fish, birds, and wildlife.

Seventh. Restoring the productive functions of watersheds and stream courses damaged by mining in streambeds.

Eighth. Encouraging the States, not having such laws, to enact legislation to assure reclaiming of newly surface mined areas.

EXHIBIT 2

U.S. GOVERNMENT MEMORANDUM—TENNESSEE VALLEY AUTHORITY

To: Mr. Lynn Seeber, General Manager, 411 NSB, Knoxville.

From: Thomas H. Ripley, Director of Forestry, Fisheries, and Wildlife Development, Norris.

Date: December 3, 1974.

Subject: Single Seam "Block-Cut" Project—Koppers Property, Campbell County, Tennessee.

We have completed the compilation of mining and reclamation costs on the single seam Pennsylvania "block-cut" project on the Koppers property. Attached is a breakdown of the distribution of expenses reported by Long Pit Mining Company and verified by Finance.

The coal seam on the test area averaged only slightly more than 19 inches. We have, therefore, recalculated costs to show what they would be had the coal been of more commercial thickness, specifically 30, 36, and 40 inches. Based on this test, the mining, loading, and land reclamation associated with a three-foot seam would average *$8.65* per ton.

Costs reported here are the result of using only bulldozers and front-end loaders as commonly practiced in Pennsylvania. Mr. Long is now testing efficiency improvements in this type mining by utilizing large haul trucks in addition to the dozer and front-end loader. The results of this test work will be available later.

All data and work sheets on these tests are being supplied the Office of Power. Special thanks are due Mr. Bob Smith, Division of Finance, for his thorough job of cost accounting.

THOMAS H. RIPLEY.

Attachment.

SINGLE SEAM BLOCK-CUT PROJECT—KOPPERS PROPERTY—CAMPBELL COUNTY, TENN.

DISTRIBUTION OF EXPENSES FOR THE 10 COMPLETED BLOCKS INCLUDING SUMMARY OF ESTIMATED COSTS FOR COAL SEAM THICKNESSES OF 30, 36, AND 40 INCHES

	Total blocks 1-10	Block No. 1	Block No. 2	Block No. 3	Block No. 4	Block No. 5	Block No. 6	Block No. 7	Block No. 8	Block No. 9	Block No. 10
Drilling and blasting	$25,630.08	$3,162.75	$1,991.45	$1,399.40	$1,627.51	$3,726.61	$3,096.11	$1,694.15	$2,880.82	$4,323.79	$1,727.49
Clearing trees, silt basins, prospecting, build roads	9,119.43	911.95	911.95	911.95	911.94	911.94	911.94	911.94	911.94	911.94	911.94
Removal of overburden	61,276.78	11,581.31	6,740.45	1,427.75	3,192.52	4,742.82	8,033.39	5,453.63	5,802.91	8,621.64	5,680.36
Safety equipment	186.83	37.31	19.32	7.19	10.41	16.16	21.93	15.15	18.23	25.09	16.04
Loading at pit	4,506.93	970.79	313.23	142.87	190.64	286.19	459.71	333.96	715.25	551.65	542.64
Reclaiming	9,885.26	5,686.00	412.22	534.79	412.22	534.79	412.22	534.79	412.22	534.79	411.22
Supervision	2,072.31	413.84	214.28	79.78	115.43	179.25	243.29	168.06	202.26	278.31	177.81
Maintenance and fuel	46,335.72	9,253.24	4,791.11	1,783.93	2,580.90	4,008.04	5,439.81	3,757.83	4,522.37	6,222.89	3,975.60
Office and miscellaneous	12,658.37	2,726.61	879.76	401.27	535.45	803.81	1,291.15	937.99	2,008.88	1,549.38	1,524.07
Total	171,671.71	34,743.80	16,273.77	6,688.93	9,577.02	15,209.61	19,909.55	13,807.50	17,474.88	23,019.48	14,967.17

	Total blocks 1–10	Block No. 1	Block No. 2	Block No. 3	Block No. 4	Block No. 5	Block No. 6	Block No. 7	Block No. 8	Block No. 9	Block No. 10
Average seam thickness (inches)	19.2	18	12	14.4	16.8	14.4	21.6	16.8	24	21.6	24
Tons (estimated)	10,586	2,280	736	336	448	672	1,080	784	1,680	1,296	1,274
Cost per ton	$16.22	$15.24	$22.11	$19.91	$21.38	$22.63	$18.43	$17.61	$10.40	$17.76	$11.75
Average seam thickness (inches)	30	30	30	30	30	30	30	30	30	30	30
Tons (estimated)	16,933	3,800	1,840	700	800	1,400	1,500	1,400	2,100	1,800	1,593
Cost	$174,373.91	$35,390.84	$16,743.91	$6,844.08	$9,726.98	$15,519.46	$20,088.46	$14,069.58	$17,653.69	$23,234.17	$15,102.74
Cost per ton	$10.30	$9.31	$9.10	$9.78	$12.16	$11.09	$13.39	$10.05	$8.41	$12.91	$9.49
Average seam thickness (inches)	36	36	36	36	36	36	36	36	36	36	36
Tons (estimated)	20,320	4,560	2,208	840	960	1,680	1,800	1,680	2,520	2,160	1,912
Cost	$175,815.90	$35,714.40	$16,900.58	$6,903.69	$9,795.09	$15,638.67	$20,216.18	$14,188.79	$17,832.51	$23,234.44	$15,238.55
Cost per ton	$8.65	$7.83	$7.65	$8.22	$10.20	$9.31	$11.23	$8.45	$7.08	$10.83	$7.97
Average seam thickness (inches)	40	40	40	40	40	40	40	40	40	40	40
Tons (estimated)	22,556	5,062	2,451	932	1,066	1,865	1,998	1,865	2,797	2,398	2,122
Cost	$176,767.87	$35,928.13	$17,004.04	$6,942.85	$9,840.22	$15,717.43	$20,300.48	$14,267.55	$17,950.44	$23,488.77	$15,327.96
Cost per ton	$7.84	$7.10	$6.94	$7.45	$9.23	$8.43	$10.16	$7.65	$6.42	$9.80	$7.22

By Mr. BAKER (for himself and Mr. BROCK):

S. 272. A bill to restore the designation "Oak Ridge National Laboratory" to a national laboratory. Referred to the Joint Committee on Atomic Energy.

Mr. BAKER. Mr. President, last month, in one of its last acts before adjournment, the 93d Congress sought to pay an appropriate tribute to one of its most distinguished Members, the Honorable Chet Holifield, on the occasion of his retirement.

In the years since his election to the House of Representatives in 1942, Chet Holifield established an outstanding record of service to his district, his State of California, and our entire Nation. As one of the original members of the Joint Committee on Atomic Energy and as the long-time chairman of that committee, Congressman Holifield has truly been among the pioneers in our Nation's development of nuclear energy. Accordingly, it was decided to pay tribute to him by renaming Oak Ridge National Laboratory in his honor.

No opposition to the measure was anticipated when the 93d Congress acted on the proposal. It was approved in the closing hours of the session by a voice vote. The rapid passage of H.R. 17628 indicates the great admiration and respect in which Chet Holifield is held by his colleagues on both sides of the aisle and in both Houses of Congress.

It was with the best of intentions, then, that the "Holifield National Laboratory" bill was enacted as Public Law 93–616. Subsequent developments, however, have made it evident that greater consideration of the legislation's impact on the national laboratory could well have resulted in a more appropriate means of honoring Congressman Holifield.

The response of the national laboratory staff members and the citizens of the Oak Ridge community to the renaming of ORNL has been overwhelmingly negative—for reasons entirely apart from the stated purpose of the legislation. As an editorial from the January 7 edition of The Oak Ridger points out:

> The total reaction here was about as large and, even more, as unanimous as it has ever been locally relative to an act of Congress, with the possible exception of some of the more definitive legislation during the period of transition to home ownership and self government.

I cannot stress strongly enough that the widespread concern about changing the name of the national laboratory is certainly no reflection on the job Chet Holifield has done. Indeed, the many letters, petitions, telegrams, and telephone calls received by my office and the offices of the other members of the Tennessee delegation have been almost unanimous in their emphasis of this fact and their recommendation that some significant alternative proposal be acted on by the new Congress in recognition of Congressman Holifield's leadership and his support for energy research and development projects at Oak Ridge and throughout the Nation.

The controversy stems entirely from the strong sense of regional, professional, and historical pride in the traditional name and the concern that all of the limited funds available for the national laboratory be allocated for its crucial energy missions.

Since the beginning of the atomic age, the name Oak Ridge National Laboratory has become synonymous with American excellence in energy research and developmnt. The national laboratory had its origin in the Manhattan Project of World War II. A graphite reactor, the first nuclear reactor to be run at power, and a radiochemical plant were the laboratory's initial facilities. In the years following the successful completion of Oak Ridge's wartime mission, the national laboratory has become one of the world's largest multipurpose laboratories and, certainly, America's foremost facility for energy and environmental research and development.

Some 4,300 laboratory employees work in the 2,400-acre complex operated by Union Carbide. According to its information bulletin, the laboratory's activities include "development of research and power reactors, radioisotope production, processing technology development and research in chemistry, chemical engineering, physics, biology, health physics, mathematics, metallurgy and ceramics, and reactor engineering."

During the past few weeks, I have received letters and petitions signed by nearly 2,000 employees of ORNL urging the restoration of the original name of the laboratory. The following passage from one of these petitions succinctly expresses the sentiments of many of the staff members:

> It is our opinion that the identity of the Laboratory, both within its local community and within the international scientific community, would suffer from a change in name after being known for so many years as ORNL. Furthermore, such a change would result in considerable expense which seems unwarranted in view of the present economic problems facing our country. Representative Holifield has long been a friend of the Laboratory, and we are grateful for his support. It would indeed be fitting to recognize his many contributions to the peaceful development of atomic energy. However, it would seem that more appropriate means are available for achieving this purpose than by changing the name of a long established institution.

The views of area citizens are further reflected in the adoption of resolutions by the county court of Roane County, the county in which the laboratory is located, and the city councils of Oak Ridge and Harriman, Tenn., urging the restoration of the original name of the laboratory.

In addition, a similar joint resolution was passed with bipartisan support in the Tennessee State Legislature and signed on January 10, 1975, by Tennessee Gov. Winfield Dunn.

Although the report accompanying the bill redesignating ORNL as Holifield National Laboratory estimated that "the Atomic Energy Commission would incur essentially no cost as a result of this legislation," varying cost estimates have been put forward which range from several thousand dollars to more than a quarter of a million dollars.

Administrators of the national laboratory estimate that, even if the new name is phased in over a number of years, costs would amount to some $10,000. Because of the importance of the laboratory's work, however, it would seem more desirable to make any change as rapidly as possible to avoid confusion and to reeducate the laboratory's many publics. Such an immediate name change could cost some $270,000.

A breakdown of the expenses entailed would include the costs of replacing the following items: Permanent signs, stationery, directories, identification badges, standardized clerical forms, exhibits in the public sector, report covers, information centers, contracts and purchase agreements, shipping containers, procedure manuals, brochures, and recruiting information.

In addition, a change in the name of

an established institution inevitably entails intangible costs which could far exceed the expense of physical changes. The name Oak Ridge National Laboratory is recognized and respected throughout the world. The tradition of excellence embodied in that name is a valuable aid in attracting and recruiting top scientists.

The reputation and instant identification of ORNL in the scientific community is a product of the investment of hundreds of man-years and hundreds of millions of dollars in energy research and development over more than a quarter century. Peer review of funding programs and the utilization of the many scientific papers published each year by the various divisions of the laboratory could be adversely affected in the transition and the time required to fully reeducate the international scientific community.

Ample precedent exists for rescinding name changes. Perhaps the most famous example in recent years is the restoration of the name Cape Canaveral. A more pertinent example, though, is that of the name change at the Jet Propulsion Laboratory.

The Jet Propulsion Laboratory of the National Aeronautics and Space Administration is the center for America's major unmanned space probes. It is located in Pasadena, Calif., and is operated under contract by the California Institute of Technology. In 1972, section 11 of Public Law 92–520 renamed the Jet Propulsion Laboratory the H. Allen Smith Jet Propulsion Laboratory in honor of the retiring ranking minority member of the House Rules Committee.

Congressman Smith represented the district in which the laboratory is located. Coincidentally, that district adjoins the district which was represented by Congressman Holifield. The confusion surrounding the name change at JPL prompted an effort to rescind it the following year. Congressman Smith sent a letter giving his approval in light of the extraordinary situation which had developed. Accordingly, section 3 of Public Law 93–215 restored the original name of the Jet Propulsion Laboratory.

Mr. President, the Energy Research and Development Administration has not yet indicated a timetable for the implementation of the name change from Oak Ridge National Laboratory to Holifield National Laboratory. Prompt action by the Congress, therefore, can provide an economically advantageous remedy to the situation I have described.

For the above reasons, my colleague, Senator BROCK, and I are today introducing a bill to restore the name Oak Ridge National Laboratory. A similar bill has been introduced in the House of Representatives by Congressman JOHN DUNCAN of Tennessee's Second Congressional District.

Our actions are in no way intended to detract from the decision of the Congress to pay tribute to Chet Holifield, a man I have been proud to serve with on the Joint Committee on Atomic Energy. I am certain that a significant alternative proposal to honor Congressman Holifield can be approved which will be heartily endorsed by his many friends in Tennessee and throughout the Nation. Such a solution would not only preserve the historic name Oak Ridge National Laboratory, but would endow a new energy facility with a proud name on which to build a distinguished future.

By Mr. STEVENS:

S. 273. A bill requiring the Secretary of Defense to convey certain lands to Nome, Alaska. Referred to the Committee on Armed Services.

Mr. STEVENS. Mr. President, today I am introducing a bill to authorize the Department of the Army to convey a certain 5.45 acres, more or less, of land back to the city of Nome, Alaska, for $1.

This land, located in downtown Nome, Alaska, was originally sold to the U.S. Air Force Alaska Communications Station along with an additional 13.45 acres for $1 during a critical period of World War II build-up in Alaska. This property was sold to the Federal Government by the people of the city for communication purposes.

Subsequently, the Alaska Communications Station gave the citizens of Nome an opportunity to make a bid for this land. Nome's offer of $10,000 was rejected.

In January 1968, the Nome, Alaska, Communications Station was declared excess to the needs of the U.S. Air Force. Following this announcement, roughly 13.41 acres of this land was reported to the General Services Administration for disposal and later sold in 1972 for $16,000. The remaining 5.45 acres were transferred to the Department of the Army in 1973.

When the land initially was sold to the Federal Government, this transaction was made by the people of Nome in the best interest of the Nation and the State of Alaska for the token price of $1. The generosity of the citizens of Nome was deflated a number of years later when the Government sold this same property at a tidy profit of $16,000.

The people of Nome are extremely anxious to have the remaining portions of their original sale, especially the 5.45 acres in the downtown section, returned to them. They are willing to pay their debt and give the dollar back to the Federal Government.

Mr. President, I urge that these 5.45 acres of land, currently under the control of the Department of the Army, be promptly returned to the people of Nome for the original selling price—$1.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense shall convey, by deed or other appropriate instrument, all right, title, and interest of the United States in and to lots 4 through 15 in block 67; lots 6 through 12 in block 8; and lots 7 through 12 in block 89, located in Nome, Alaska, to the city of Nome, Alaska, upon the payment of $1 by the city of Nome, Alaska, to the Secretary of Defense.

By Mr. STEVENS:

S. 274. A bill to provide that the laws restricting the coastwise trade to vessels of the United States shall not apply to certain hovercraft on routes over land or over water only as an incidental part thereof. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, I am introducing a bill which would exempt air cushion vehicles used in land transportation from the Jones Act. Currently since air cushion vehicles—ACV—are capable of being used as a means of transportation on the water, they are classified as a vessel and subject to the provisions of the Jones Act. This interpretation necessitates an air cushion vehicle be manufactured in America before it could be used to transport supplies and people even within one State. The problem is that currently no ACV are being produced in the United States.

I feel that my bill, if enacted into law, will benefit the Nation as a whole as well as be of particular benefit in developing a feasible transportation system in Alaska.

My bill would allow ACV's being manufactured outside the United States to be used for land transportation. I do not believe that this is contrary to the spirit of the Jones Act since the bill clearly provides that any transportation over water can only be incidental to the basic purpose—land transportation. These ACV's will not compete with American vessels in coastwise trade, since a permit will be granted only by the Commerce Department after a showing is made by the applicant that a land route is involved with only incidental crossing over water.

Alaska's vast size and varied terrain are part of its attraction and strength—but cause a myriad of problems for people in the transportation business.

Less than one-eighth of Alaska is served by roads; in 586,000 square miles, Alaska has only about 2,700 miles of road; not all those miles are paved; not all are passable year round; not all are connected to the contiguous highway system of North America. In the great northern tundra expanses, the snowmobile and dogsled still reign as the only means of transportation on the ground.

Overall, only the airplane unites the farflung villages in Alaska. And, it is particularly in the Arctic—with its ferocious winter snows and water-laden summer tundra—that the airplane suffers from capricious weather and scarcity of landing strips. While the helicopter does not need runways, it still needs good weather to fly—and shares with the airplane the high cost of operation—and passes this price along to the customer.

Despite this lack of surface transportation, new roads and railroad tracks are not in the immediate future for the far northern and western reaches of Alaska. As a U.S. Senator from Alaska, I want to see to it that these people are not isolated but are provided with adequate transportation in all seasons. Through passage of this legislation, this can be accomplished.

Tundra and permafrost challenge the

best engineers, and offer innumerable construction and maintenance problems and costs. While the permafrost is frozen rockhard year round, the surface covering of tundra, which can vary from a few inches to a few feet, melts into a soggy, spongelike state for about 3 months each summer. Since the permafrost absorbs nothing, water from melted snow and thawed tundra remains on the surface. And tundra is not smooth, but pock-marked with millions or holes—all water filled in summer.

There is hardly any gravel in these northern expanses—so every cubic foot must be transported, mainly by air. Another problem is that not all this area is flat—some of the highest and ruggedest mountains in the country are formed across northern Alaska. Also, across this area run hundreds of thousands of streams and rivers, requiring either bridging or ferry crossing for conventional surface transportation.

But even if all the engineering problems were readily solved, there would still be untold ecological problems. Impact studies would have to be conducted, with no guarantee that their findings would be favorable. It may not be practical or wise to criss-cross this virgin country with highway or rail.

So we must turn to a mode of transportation other than the conventional. The ACV seems to offer the most functional solution. While formerly used almost exclusively on water—the ACV has land-transportation abilities, proven in the Canadian Arctic.

Riding on a cushion of forced air, these vehicles can travel up to 55 miles per hour and carry up to a 40-ton cargo load. This is about the same capacity as the C–130 Hercules commonly used for hauling in these areas. The ACV rides across snow, ice, surface water or land with equal ease. It can negotiate ice pressure ridges and mountain passes. And the beauty of its operation—for engineers and ecologists alike—is that there is no disturbing of the surface of the earth.

The cost per ton-mile makes it extremely attractive for long-haul routes. Alaska could have an inland ferry system, carry passengers and freight across areas previously only flown over—for much less the price.

The advantages of the ACV for tundra travel are not confined to cargo and passenger transportation. The overwhelming and pressing need for scientific study in this area of Alaska requires fast, versatile all-terrain modes of transportation. The ACV can be equipped with all manner of scientific instruments, and studies from geology to wildlife can be conducted from these craft.

The promise these vehicles hold for opening up Alaska's vast bush country—to hauling and study—is enormous. Last summer the AVC was operating in Alaska's interior in conjunction with studies being done by the Alyeska Pipeline Co., and a second vehicle was successfully being used in a Pet. 4 project in the Arctic. These craft have proven their worth and reliability in the Canadian north, as well as in their limited use in Alaska. It is my hope that in the not-too-distant future the ACV will become operational throughout Alaska.

Mr. President, I hope that the Senate gives prompt consideration to this proposal and that in the near future hovercraft can provide a vital link in Alaska's transportation network.

I ask unanimous consent that the bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) is amended by striking out the period at the end and inserting in lieu thereof a colon and the following: "*Provided further,* That nothing in this section, or in any other provision of law restricting the coastwise trade to vessels of the United States, shall prohibit the transportation of merchandise or passengers by air-cushion vehicle on any route over land or over water only as an incidental part thereof, if a permit is obtained from the Secretary of Commerce for the purpose of operating pursuant to this proviso in accordance with regulations prescribed by the Secretary. For the purpose of this section the term 'air-cushion vehicle' means a vehicle which travels over land or water on a cushion of air generated by such vehicle.".

By Mr. STEVENS:

S. 275. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, today I wish to introduce a bill to amend the Internal Revenue Code of 1954 to permit a deduction for expenses incurred by a taxpayer in making repairs and improvements on his personal residence.

This bill if it became public law could help to alleviate many existing problems by facilitating home improvements and repairs, by stimulating new economic activity and the creation of additional jobs, and by the conserving of badly needed energy.

Specifically, my bill would permit the deduction of ordinary and necessary expenses paid during the taxable year for the repair or improvement of property used by the taxpayer as his principal residence. Qualified repairs and improvements would include painting, papering, carpentry work, plumbing, electrical insulation work, roofing and glazing, and similar activities. The deduction allowed a taxpayer under this legislation would be limited to $1,000 in any taxable year. As a further limitation, a deduction would not be permitted for capital expenditures incurred in connection with the taxpayer's personal residence. Also, the deduction would apply only to taxable years ending after the date of enactment of this act.

Mr. President, my bill is designed to accomplish several important purposes. First, it would help to alleviate the tremendous financial burden imposed on residental homeowners, who are subject to ever increasing property taxes, special assessments, and other levies. This tax relief would be somewhat analogous to that already provided to the owners of rental and business property under existing law. As you know, such owners are permitted to deduct specified amounts for the depreciation of their property. In addition, section 167(k) of the Internal Revenue Code permits a 5-year depreciation of rehabilitation expenditures incurred in connection with rental property occupied by low- and moderate-income homeowners.

Secondly, this bill would make homeownership more attractive by helping to alleviate prohibitive repair costs. As a result, more people would have the opportunity to experience the pride of homeownership and the sense of community associated with owning and being responsible for one's own dwelling. Moreover, the quality of life in many areas would be significantly improved since more homeowners would have the economic wherewithal to make improvements and repairs which they postponed for lack of sufficient funds.

This legislation should also have a beneficial impact on carpenters, plumbbers, roofers, painters, electricians, and similar workers, all of whom have been adversely affected by the slump in home construction. The beneficial economic consequences to be derived from increased activity in these trades will extend far beyond the workers involved, to many manufacturing and service-related industries which are heavily dependent upon the consumer dollar. Thus, the "ripple" effect should stimulate new activity in many sectors of the economy.

In my State of Alaska, where residential repair costs are from 25- to 50-percent higher than in the lower 48 States, this bill should have a very salutary effect. All of the factors which I have referred to are present but are magnified by our very high cost, often deplorable housing conditions, rigorous natural environment, and high unemployment. As an example, the unemployment rate in my State is usually more than twice the national average, and is even greater in rural Alaska, where it is not uncommon to find villages with from 30- to 100-percent unemployment during certain seasons of the year. In addition, we have more substandard housing than virtually anywhere else under the American flag. In rural Alaska, almost all of the residential dwellings fall far below acceptable standards. It is my hope that this bill will help alleviate these conditions in my own State.

Objection may be raised in some quarters that there will be a significant cost to the Government because of this bill. That is not true. Any cost in tax revenue loss will be more than compensated by the additional income in the construction industry this bill will generate. Of course, such additional income will be taxable. It will directly benefit segments of the American economy who are among the hardest working and most deserving. These are the small laborer, the small contractor, the carpenter, the plumber, the electrician, and the roofer. They are the very people affected by the current economic conditions. This bill will put needed money back into circulation.

Such a program has already been attempted in Alaska. After the 1960 Fairbanks flood, Alaska faced the problem of how to get our people to commence rebuilding their homes. The State government devised a similar incentive. This provided that the State would make a contribution to those people who would agree to commence rebuilding in the winter.

President Ford, himself, has advocated tax relief for those people wishing to make certain energy conserving home improvements. Needless to say, once these home improvements are begun, many people will desire to make other improvements. This bill, if enacted, provides a means whereby individuals can insulate their homes, thus saving badly needed energy as well as providing financial relief for the homeowners who make these important improvements.

These expenses are no more personal than many other expenses now deductible under Federal tax law. These include interest payments and real property taxes. Homeowners have traditionally been able to transfer their basis when they immediately purchase a new principal residence. Such a bill will specifically assist low-income families to own their own homes. This will put the dream of homeownership closer to many families who could otherwise not afford it. This, itself, is a worthy objective. It will also encourage the repair of rental dwellings used by the owners as their principal place of residence, thereby benefiting both owner and tenant.

In a time when millions of Americans live in substandard housing, this bill will permit thousands of homes to be repaired. Although the only repairs authorized under this bill are those that are truly necessary, many poor Americans are unable to afford even the most necessary repairs to their homes. This legislation will upgrade the health, safety, and comfort of all these people.

This bill will equalize the treatment accorded different taxpayers. Landlords renting property may now deduct the cost of repairs to the rental portion of the property as business expenses. This will permit them to do the same for the entire dwelling if they live in it themselves.

Mr. President, for all of the reasons that I have outlined today, I urge favorable consideration of this legislation in the 94th Congress.

I ask unanimous consent that my bill be printed at this point in the Congressional Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as section 220 and by inserting after section 218 the following new section:

"Sec. 219. Repair or Improvement of Taxpayer's Residence.

"(a) Allowance of Deduction.—There shall be allowed as a deduction the ordinary and necessary expenses paid during the taxable year for the repair or improvement (including painting, papering, carpentry work, plumbing, electrical work, roofing and glazing, and any similar items) of property used by the taxpayer as his principal residence.

"(b) Limitations.—The deduction allowed a taxpayer under this section shall not exceed $1,000 for any taxable year. No deduction may be allowed under this section with respect to any capital expenditure."

(b) The table of sections for such part VI is amended by striking out

"Sec. 219. Cross references."

and inserting in lieu thereof

"Sec. 219. Repair or improvement of taxpayer's residence.

"Sec. 220. Cross references."

(c) Section 62 of such Code (relating to definition of adjusted gross income) is amended by inserting after paragraph (8) the following new paragraph:

"(9) Repair or Improvement of Taxpayer's Residence.—The deduction allowed by section 219."

Sec. 2. The amendments made by this Act shall apply only with respect to taxable years ending after the date of the enactment of this Act.

By Mr. FANNIN (for himself and Mr. Tower):

S. 276. A bill to repeal the Davis-Bacon Act and related provisions of law. Referred to the Committee on Labor and Public Welfare.

Mr. FANNIN. Mr. President, I am introducing today legislation for myself and the senior Senator from Texas, Mr. Tower, to repeal the Davis-Bacon Act.

I would like to discuss some of the history of this legislation and the reasons why the act should be repealed. The Davis-Bacon Act was originally enacted in 1931, 2 years after the 1929 crash. The great depression was deepening. Large numbers of people were out of work and could not find employment. Construction work was scarce and building contractors were shaving costs from every angle in order to obtain contracts. In this setting, labor costs were being sharply cut and wages forced downwards. In many areas, the local construction contractors found they were being underbid by contractors from distant States who brought with them cheaper labor from other areas.

At this point in our history many Members of Congress and eminent attorneys did not believe the commerce clause of the Constitution was broad enough to permit the Federal Government to enact a general minimum wage law and consequently, the only permissible basis for wage regulations by the Government was in connection with its authority as a contracting party to require its contractors to observe certain wage requirements.

In order to meet this problem Congress enacted the Davis-Bacon Act in 1931, to require that contractors on Government projects must pay the wages prevailing in the locality for the corresponding classes of laborers and mechanics. When first enacted the act left it up to the contractors to ascertain what rates were "prevailing," but in 1935 the act was amended to require that each contract contain a schedule of wage rates based upon the rates determined by the Secretary of Labor to be prevailing in the area. In 1936, under the same theory, Congress passed the Walsh-Healey Act which provided that all Government contracts in excess of $10,000 for supplies and equipment, must contain stipulations with respect to minimum wages and overtime hours and determinations by the Secretary of Labor similar to those established in Davis-Bacon. The purpose of the act, as later stated by the Supreme Court, was to "use the leverage of the Government's immense purchasing power to raise labor standards."

By 1938, with the composition of the Supreme Court changed, there appeared a strong possibility that the court might place a broader construction upon the commerce clause. It should be remembered that the court in 1935 had found the National Recovery Act to be unconstitutional. In 1938, the Fair Labor Standards Act—wage and hour law—was passed and subsequently held constitutional. This law provided a general minimum wage for employees engaged in commerce or in the production of goods for commerce and also require payment of time and one-half for hours over 40 in 1 week.

The Fair Labor Standards Act effectively supplanted the earlier Davis-Bacon Act. Unfortunately, however Congress took no action to repeal the earlier more limited act. We can only speculate that in 1938 there existed a feeling in Congress that the Federal Government should require higher wage payments to laborers and mechanics working on Government contracts. After all wages were low.

Mr. President, had I been privileged to sit in the U.S. Senate in 1931, I believe I would have voted in favor of the Davis-Bacon Act. Had I been a member of this body in 1938 when the Fair Labor Standards Act was passed, I would have voted to repeal the Davis-Bacon Act.

However, in almost every session of Congress, we have made the Davis-Bacon Act applicable to more laws providing Federal money for construction projects. Davis-Bacon has been written into some 58 Federal laws requiring wage determination by the Secretary of Labor.

Unfortunately, the Department of Labor in setting wage rates under these acts invariably applies the union wage scale in the closest metropolitan center to the site of the work. For example, in setting the wage rates for the Navajo power plant in Page, Ariz., the Labor Department used the union wage scale in effect in Las Vegas, Nev. Page is a small town of some 4,000 population located near the Utah border. The economy for small business in Page during construction of the power plant has been an unhappy one. When the power plant is hiring, the small businessman cannot get workers. when the work at the power plant phases out, there is an oversupply of workers.

The Davis-Bacon Act has become primarily an instrument to assist unions to organize construction workers in nonurban areas and to freeze out from Government contracts any nonunion contractors.

It has been expanded far beyond the original purpose of preventing disruption of local wage rates by importation of low priced labor. It is now used to disrupt local wage practices by importation of higher wage rates from other areas. This was clearly not the congressional intent when Davis-Bacon was passed.

Earlier in this statement I referred to the fact that almost 60 Federal laws require wage determination by the Department of Labor. I shall give a few examples. In the last Congress, we passed a revenue sharing bill providing a lot of money—a lot of taxpayer's dollars—$29.8 billion to the 50 States. The House bill contained the usual Davis-Bacon requirement. The Senate Committee on Finance eliminated the Davis-Bacon provision. It was substantially reinstated during debate on the floor of the Senate. It is too soon to even guess how much less the taxpayer received for his tax dollar because of the Davis-Bacon requirement.

We added Davis-Bacon to the Highway Act and thereby added a cost of at least $3 billion. Just to name a few more Federal laws containing Davis-Bacon requirements—urban mass transit loans and grants, Veterans' Administration hospitals, post offices, public library construction, State and community health centers, armed services contracts, public health research facilities, Area Redevelopment Act.

It is essential that we realize the way in which the Davis-Bacon Act is administered—how it has always been administered under both Democratic and Republican administrations.

It has been and is being administered erratically and capriciously in a manner which works to make federally-funded projects the exclusive domain of large contractors and entrenched labor unions. It is administered in a fashion that attempts to impose the unrealistic, staggering wage rates in the big cities on the economy of smaller communities.

At least six separate studies of prevailing wage determinations made by the General Accounting Office between 1962 and 1970 provide many examples of determinations establishing inappropriately high minimum wages on a variety of federally financed and federally assisted projects. The validity of the GAO studies has been acknowledged by the Department of Labor on several occasions, but there is no tangible evidence that the situation has been improved to any significant degree.

The 1971 Comptroller General's report to Congress states that determining Davis-Bacon rates by using just union contract rates in distant cities rather than actual local rates created an additional cost of $5.2 billion.

Now, look at how this depression era law worked in 1974:

Last year Fremont, Mich., received a Federal grant on a housing for the elderly project. Since the Davis-Bacon Act applied, all local contractors refused to bid. When all the bids were in, the cost ran two and three-quarters million dollars over and the project was canceled.

In Madison County, S. Dak., a hospital was needed and a Federal grant was made under the Hill-Burton Act. The Department of Labor set the minimum rates for crafts. Sheet-metal workers were to receive $1.75 per hour higher than that paid locally. The project was canceled.

In California, the Department of Labor set rates for electricians at $14 per hour plus the very costly fringes.

In Atlanta, Ga., on a low income housing project, electricians were paid $1.65 per hour higher than the actual local rates while laborers received 80 cents per hour more.

The people of San Luis Valley of southern Colorado had to pay 2½ times what they should have to construct a community center because the Department of Labor decreed that the Denver wage rates should apply to the project.

Las Vegas, Nev., wage rates are used to establish the minimum for federally-aided projects in rural Utah.

Prescribing minimum wage rates higher than those prevailing for similar construction in an area not only increases the cost of federally financed construction but also because of the large volume of such construction, tend to have an inflationary impact on the construction industry and the national economy as a whole.

The Davis-Bacon Act provides that its operation may be suspended by the President during a national emergency. From February 23 to March 29, 1971, President Nixon suspended Davis-Bacon on such ground. The law was reinstated when price and wage controls were established. During the recent White House conference on the economy, some 20 major trade organizations advocated that Davis-Bacon be suspended. If there was a national emergency in 1971, there is one in 1975. But, in my opinion, suspension, because of its limit in time and the vagueness of the term "national emergency" is no answer.

Mr. President, most legislation has both advantages and disadvantages, the relative proportions of which vary with time. The Davis-Bacon Act provides one of the more significant examples of a law that, due to changing economic conditions, has lost both its usefulness and efficiency.

Although criticism of maladministration and excessive special interest influence have long characterized the act's history, the adverse economic consequences created by the act are the root problem for consideration. The Davis-Bacon Act strikes at the heart of the free market system by imposing artificial wage rates on Federal construction prescribed by law rather than by customary market forces. This unwarranted Government intervention in the free market adjustment process has had the impact of inflating Federal construction costs on an average of 10 to 15 percent in recent years.

Mr. President, if the Government were free to place contracts with the lowest bidder, an expansion of construction output would soon occur. Competition would increase thus driving construction costs down. With prices at a respective level, owners would build thus creating new and more jobs. We all agree that the current unemployment percentage is dangerously high. Unemployment in the building trades where wages are higher than any other part of the labor force is extremely high—over 12 percent.

In the case of Davis-Bacon, there is no over-riding public interest. Its discernible advantages accrue to a limited special interest group while exacting substantial costs from the general public. It creates inflationary pressures that skim off great sums of revenue that could otherwise be made available for more pressing problems.

Mr. President, I have been unable to obtain with any degree of exactness a dollar figure for the amount that would be saved if the Davis-Bacon Act were repealed and construction wages be determined at the market place level. A study performed by the General Accounting Office in 1971 concluded that the Government had paid $9 billion in excess costs due to the requirements. However, this study covered just 29 major Federal construction projects. My inquiries have produced estimates of between $11 and $12 billion per year by experts who have studied the problem.

Mr. President, the Davis-Bacon Act has outlived whatever justification it may have once had and should be removed from the statute books.

In conclusion, I recommend to my colleagues that they read a just now available book, the Davis-Bacon Act, published by the Wharton School of the University of Pennsylvania. In a foreward to the book, Director Herbert R. Northrup states that an analysis of 10,000 questionnaires—

> The conclusion reached is that the Davis-Bacon Act adds fuel to the inflationary fires in the economy, that it benefits a few at the expense of the many, and that it should be either repealed or drastically amended.

In his conclusions, the principal author, Dr. Armand J. Thieblot states:

> Repeal (of the Davis-Bacon Act) has been recommended by most industry and academic observers. They agree that the act is anachronistic, obsolete, inflationary and unnecessary for normal or expansionary economic conditions.

Mr. TOWER. Mr. President, the senior Senator from Arizona (Mr. FANNIN) and I are introducing legislation to repeal the Davis-Bacon Act. The Davis-Bacon Act, commonly known as the prevailing wage law, was enacted in 1931. The purpose of the act was to protect the local wage standards of workers on Federal construction projects. Shortly thereafter, the act's applicability was extended to any federally assisted project. Therefore, a substantial body of law has been enacted since 1931 requiring the incorporation of Davis-Bacon prevailing wage determinations in contracts to which the Federal Government itself is not a party.

Mr. President, had I been privileged to sit in the U.S. Senate in 1931, I would have voted in favor of the Davis-Bacon Act. The depression of 1929 was the catalyst for the act, for it was clear at that time that the construction contractors with Federal contracts were paying their employees substandard wages. Raging unemployment in those days encouraged such practices. Many contractors with union contracts were underbid by contractors using unorganized labor, often imported from low-wage areas. The intent, therefore, of the Davis-Bacon Act was twofold—to avoid the possibility of the Federal Government being an instrument of the deflation or inflation of wage rates, and, at the same time, to provide an equal opportunity for local contractors to bid on Federal contracts.

Since 1931, the Secretary of Labor has been given the responsibility for determining prevailing wage rates. These prevailing wage rates then must be incorporated by prospective contractors in their bids for federally funded construction projects.

Over the years, Davis-Bacon applicability has been expanded into every conceivable area. First, the traditional area of dams, reservoirs, and buildings to house Federal operations, has burgeoned into such programs as missile and space systems, defense-related institutions and the interstate highway complex. A second major development has been the rapid increase in Federal assistance, through grants and loans, for construction projects on a State and local basis. Federal funds now help construct hospitals, sewage plants, parks, housing, airports, and many other facilities. Much to my dismay, and to the dismay of the Senate Finance Committee which recommended against it, the Davis-Bacon Act was also given applicability to the Revenue Sharing Act which was intended to give State and local governments Federal funds with little or no strings attached to use as they see fit in improving the lives of their citizens and their communities.

The number of wage determinations issued yearly by the Department of Labor increased approximately eightfold between 1945 and 1970. By 1971, an estimated 26,200 wage determinations were being made each year, and for fiscal year 1971, an estimated 59,000 contract awards totaling roughly $30.1 billion were covered by wage determinations. This represents about one-third of all construction expenditures during that fiscal year.

In recent years, particularly over the last decade, a great deal of criticism has been leveled against the Department of Labor's administration of Davis-Bacon. Moreover, the economic community is beginning more and more to challenge the rational basis of a law in the 1970's which protects the most powerful unions in the country against the unorganized, the unskilled, and, to a great extent, the minorities—primarily black and Spanish-speaking—that in most instances have been summarily left out of employment in the construction industry.

The most conclusive research in this area has been undertaken by the General Accounting Office, the congressional watchdog over the executive branch. From 1962 to 1971, the GAO reviewed the administration of the Davis-Bacon Act in 29 selected construction projects, including military family housing, low-rent public housing, federally insured housing, and a water storage dam. The following are some of the criticisms made by the General Accounting Office in a report issued July 14, 1971:

First. Minimum rates prescribed by the Labor Department were significantly higher than prevailing wages in the areas and therefore substantially increased construction costs borne by the Federal Government, by 5 to 15 percent. This violates one major concept of the Davis-Bacon Act: that payment of prevailing wages should not be inflationary.

Some contractors do not bid on federally financed construction projects, according to the report of the General Accounting Office, because the higher wage rates required on such projects lower the morale of workers in their labor forces paid lower wage rates on privately financed projects in the same locality. Morale is also hurt when workers return to lower wage rates after a Federal construction project is completed.

Second. The Labor Department must identify classifications of workers for which determinations should be made. In some cases, the Department has applied the wage rates of one classification to another classification without investigating the actual prevailing wage rates paid to each group.

Third. In defining the geographical area for which prevailing wages were to be determined, the Labor Department in some cases has gone beyond the county where the project was located and has applied rates from other, sometimes nonadjacent counties or from another State having different labor conditions.

Fourth. In many cases the Labor Department has not distinguished between different types of construction such as commercial and residential, although significant variances exist between labor rates applicable to these two types of construction. Often wage determinations have called for the higher rates applicable for commercial-type building construction and have disregarded the rates for residential-type construction.

Fifth. The Labor Department places undue emphasis on wage rates established in prior determinations and rates included in collective bargaining agreements, without verifying whether such rates are representative of the rates prevailing on similar construction in the area. These practices may be attributed to the fact that the Department has not compiled sufficient up-to-date and accurate information on prevailing basic wages and fringe benefits.

Sixth. The Labor Department's wage determinations do not generally prescribe separate rates for helpers and trainees. When local labor practices recognize these categories separate rates may help lower construction costs and encourage contractors to hire semiskilled and untrained persons on Government-financed projects.

Such procedure would be particularly desirable in areas of hardcore unemployment.

Mr. President, at this point, I ask unanimous consent to have printed in the Record two areawide tables detailing a comparison between Davis-Bacon wage determinations and the actual wage rate surveys. The wage rate survey for the Quantico project was conducted by the Navy, and the New England study was one of the many local studies made by the General Accounting Office.

There being no objection, the tables were ordered to be printed in the Record, as follows:

QUANTICO PROJECT WAGE DATA

Craft	Davis-Bacon [1]	Wage rate survey	Percentage that Davis-Bacon exceeds midpoint of area survey wages
Laborer	$2.42	$1.00–$2.40	43
Carpenter	3.67	2.00–3.50	33
Cement mason	3.87	1.75–3.00	63
Bricklayer	4.15	2.75–3.75	28
Plumber	4.16	2.00–3.00	66
Electrician	4.45	2.00–3.50	62
Plasterer	4.10	1.60–3.00	78
Painter	3.84	1.50–2.35	100

[1] Rates are union rates for commercial construction in Metropolitan Washington, D.C.

NEW ENGLAND STUDY WAGE DATA

Craft	Department of Labor determination	GAO private housing survey	Difference
Masons	$4.12	$3.81	$0.31
Carpenters	3.85	3.04	.81
Ironworkers	4.26	2.51	1.75
Lathers	3.90	2.75	1.15
Painters	3.30	2.28	1.02
Plumbers	4.20	3.14	1.06
Plasterers	4.12	3.50	.62
Laborers	2.90	2.23	.67
Steamfitters	4.20	3.00	1.20
Soft floor layers	3.85	3.08	.77
Tile setters	4.05	2.58	1.47
Truck drivers	2.80	2.40	.40

Source: GAO report, op. cit., p. 19, Wage rates are reported to the lowest cent.

Mr. TOWER. Mr. President, clearly our goals of ending inflation and reducing unemployment would be more easily achieved if the Davis-Bacon Act were abolished. It has a deleterious effect on our national economic policy since its restrictive and noncompetitive characteristics help to assure the continuation of inelastic labor supply conditions in a major area of our economy. Its basic tenets contradict a full employment policy since it restricts competitive bidding to large scale concerns which employ workers from very strong union organizations. These factors work to reduce upward mobility in the construction industry and entry thereto by potential workers who have traditionally been left out of this sector of our economy.

I, for one, can no longer countenance a law which forces an employer to pay a worker $7 an hour on a federally assisted project when that same worker is compensated at a rate of $5 an hour on similar construction projects which are privately financed. The hearings held by the Housing Subcommittee clearly revealed instances of this nature, emphasizing that workers often leave privately financed projects to obtain employment on a Federal project.

No doubt many who might agree with what I have said would recommend revision or internal improvements within the Department of Labor. While this would be a step in the right direction, I feel the proper step would be to repeal the law in toto. Only if we now assume that our national policy is to protect monopolistic union organizations and their restrictive practices can a rational basis for the Davis-Bacon Act be formulated.

Our national priorities point toward the type of reform I am advocating. As I have already stated, the General Accounting Office concluded that Davis-Bacon wage determinations increased the cost of Federal projects from 5 to 15 percent. If the GAO's findings from their comprehensive sample were projected to a national formula, it would be calculated that the savings to the Federal budget by the repeal of the Davis-Bacon Act would be a fraction over $3 billion a year in fiscal 1971 money. In addition to this measurable and positive effect on curtailing inflation, repeal would benefit the American consumer when he purchases a house or when his community becomes involved in financing a federally assisted project.

It is unfortunate that at a time when the Federal Government is attempting to provide quality low- and moderate-income housing, another law exists which negates the positive effects of these programs. This is a ludicrous situation.

Mr. President, I urge those of my colleagues who have opposed this legislation in the past to reexamine it. Segments of their constituencies are also greatly hindered by this obsolete law. I would further urge the responsible segments of organized labor to review it once more with the longrun best interests of the labor movement in mind. The very refreshing Labor Day statement by Mr. C. J. Haggerty, president of the AFL–CIO Building Trades Department, encourages me to believe that organized labor can recognize the clear advantages as well as the disadvantages it retains in our society today.

By Mr. TOWER (for himself, Mr. DOMENICI, and Mr. HUMPHREY):

S. 277. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, so that benefits for husbands and widowers will be payable on the same basis as benefits for wives and widows. Referred to the Committee on Finance.

S. 278. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record. Referred to the Committee on Finance.

S. 279. A bill to amend title II of the Social Security Act to provide that an insured individual otherwise qualified may retire and receive full old-age benefits, at any time after attaining age 60, if he has been forced to retire at that age by a Federal law, regulation, or other. Referred to the Committee on Finance.

S. 280. A bill to amend title II of the Social Security Act to provide that any individual who has 40 quarters of coverage, whenever acquired, will be insured for disability benefits thereunder. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, during my tenure in the Senate, I have carefully considered the problems being experienced by my constituents under the Social Security Act, and I have found that there are several provisions of the act which provide inequitable coverage for certain groups of individuals.

Certainly this is not surprising; nor is it unexpected when we consider the fact that the social security program is the most comprehensive, complex, and expensive program the Congress has ever approved. Cash benefits for social security alone amount to more than one-fifth of the total Federal budget, and over 33 million persons—one out of every six Americans—benefit now either as direct recipients, survivors or dependents. Nevertheless, the fact that social security is America's most important domestic program at the Federal level makes it all the more important that it be as fair as possible to each and every person. This requires a continuing reassessment of the program and continuing efforts on the part of Congress to improve its coverage as well as the efficiency of its administration.

Today I am introducing four bills to amend title II of the Social Security Act. These bills are designed to remedy inequities which I have discovered under the current provisions of the act.

The first would eliminate the special dependency requirements for entitlement to husband's or widower's benefits, so that benefits for husbands and widowers would be payable on the same basis as benefits for wives and widows.

Under the present law, a widower must be able to show that half of his support was derived from his wife's earnings in order to qualify for survivors benefits on her social security record. The law presumes that a widow received half her support from her husband's earnings, and no such proof is required.

Considering the number of wives who are presently working and contributing substantially to their family's income, it is no longer appropriate to presume that a widow derived half of her support from her husband's earnings. Survivor's benefits for husbands and widowers should, therefore, be payable on the same basis as benefits for wives and widows. My bill is designed to accomplish this.

The second proposal would permit the payment of benefits to a married couple on their combined earnings record.

Under current law, a wife who works, upon retirement, is permitted to draw on her own working record or that of her husband, whichever is greater. Consequently, in most cases, a woman draws on the account of her husband, since usually his earnings have been greater. She is, therefore, collecting a wife's benefit, which she would have been entitled to draw had she never worked in her life or contributed to the social security fund. Most significantly, however, she is not receiving benefits in proportion to the taxes she paid into social security while employed.

Under this system, obviously, earnings are replaced, but only in a standardized fashion. The social security system fails to consider the total of combined funds paid into the system by the working couple. This measure would permit married couples to combine their social security credits and draw higher benefits based on those combined earnings credits. It would insure that couples in which both partners work and contribute to social security would receive at least as high a benefit as a couple in which only one partner has worked.

My third proposal provides that an insured individual otherwise qualified, may retire and receive full old-age insurance benefits at any time after attaining the age of 60, if he has been forced to retire at that age by a Federal law, regulation, or order.

Under Federal Aviation Administration regulations, for example, airline pilots are required to stop flying at age 60. Many of these individuals are understandably unable to obtain other employment at that age; however, the law specifically states that age 62 is the earliest age of eligibility for retirement benefits, with retirement benefits taken before age 65 reduced to take account of the longer period over which social security recipients in general would be paid.

My proposal today would correct a situation which results from action of the Federal Government; in other words, if the Federal Government requires a pilot to retire, the retirement payment made by the Federal Government should be computed in a way which takes this into account.

While it may be reasonable to assume that most people who retire before 65 do so voluntarily, this is not the situation with the airline pilots. There is nothing voluntary about a pilot's retirement, for neither he nor his employer can do anything to prevent it—it is illegal for a pilot to fly. Therefore, in all fairness, the Government should make a special exception for computing a pilot's benefit, just as it has with respect to his employability after age 60.

The final proposal I am offering today would provide that any individual who has 40 quarters of coverage, whenever acquired, will be insured for disability benefits.

As my colleagues know, one of the requirements of the Social Security Act, in its present form, is that a person whose disability began at age 31 or later must have social security credits for 20 calendar quarters—5 years—of work during a 10-year period ending in or after the calendar quarter in which he became disabled. In essence, this means that if a person is disabled more than 5 years after retirement, no matter how many credits he has amassed, he is ineligible for social security disability coverage.

The bill I am introducing today would simply provide for a relaxation of this rather arbitrary earnings requirement to allow disability coverage to any individual who has worked under social security for 40 quarters or more at any time during his life, in addition to the current allowance for 20 quarters of coverage in the 10 years preceding disability.

Certainly, Mr. President, these four measures in themselves will not remedy all the inequities in the law as presently written. One of the most insurmountable problems we face is, and always has been, the cost of social security to the middle-income family, and this is a problem I have addressed frequently. As important as it is to provide equitable coverage to our social security beneficiaries, we cannot overlook the increasing burden of social security taxes on our working people. In this period of rampant inflation and deepening recession, any major increase in social security taxes will inevitably be unwelcome and unwise. Consequently, we as Members of Congress must weigh our priorities carefully and consider objectively the legislation which comes before us.

Understanding that, I do not intend to ask the committee to expedite these recommendations or even to consider the proposals in their present form. I offer them basically as a means of calling the Senate's attention to the inequities experienced by my constituents today and to ask simply that the committee undertake a thorough review of our social security laws at the earliest possible date for the express purpose of identifying these and any other inequities in the program. I would ask then that we consider legislation to remedy these problems before considering proposals to expand the scope of the program even further. I would like to see legislation acted upon which would remedy these inequities without placing an unconscionable burden on our Nation's taxpayer.

Mr. President, I ask unanimous consent that the full text of each of my four proposals be printed at this point in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 277

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(c)(1) of the Social Security Act is amended—

(1) by adding "and" at the end of subparagraph (B);

(2) by striking out subparagraph (C); and

(3) by redesignating subparagraph (D) as subparagraph (C).

(b) Section 202(c) of such Act is further amended by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) Section 202(p)(1) of such Act is amended by striking out "subparagraph (C) of subsection (c)(1),".

(d) Section 202(s)(3) of such Act is amended by striking out "Subsections (c)(2)(B) and (f)(2)(B)" and inserting in lieu thereof "Subsection (f)(2)(B)".

Sec. 2. (a) Section 202(f)(1) of the Social Security Act is amended—

(1) by adding "and" at the end of subparagraph (C);

(2) by striking out subparagraph (D); and

(3) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(b) Section 202(f) of such Act is further amended by striking out paragraph (2), and by redesignating paragraphs (3) through (7) as paragraphs (2) through (6), respectively.

(c)(1) Section 202(f)(1)(B) of such Act is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (5)".

(2) The subparagraph of section 202(f)(1) of such Act redesignated as subparagraph (F) by subsection (a)(3) of this section is amended by striking out "paragraph (6)" and "paragraph (7)" and inserting in lieu thereof "paragraph (5)" and "paragraph (6)", respectively.

(3) Subparagraph (A) of the paragraph of section 202(f) of such Act redesignated as paragraph (2) by subsection (b) of this section is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraph (4)".

(4) The paragraph of section 202(f) of such Act redesignated as paragraph (4) by subsection (b) of this section is amended by striking out "paragraph (4)" and "paragraph (3)" and inserting in lieu thereof "paragraph (3)" and "paragraph (2)", respectively.

(5) The paragraph of section 202(f) of such Act redesignated as paragraph (6) by subsection (b) of this section is amended by striking out "paragraph (1)(G)" and "paragraph (6)" and inserting in lieu thereof "paragraph (1)(F)" and "paragraph (5)", respectively.

(d)(1) Section 202(k) of such Act is amended—

(A) by striking out "or (f)(5)" wherever it appears in paragraph (2)(B) and (3)(B) and inserting in lieu thereof in each instance "or (f)(4)"; and

(B) by striking out "or (f)(3)" in paragraph (3)(A) and inserting in lieu thereof "or (f)(2)".

(2) Section 202(p) of such Act is amended by striking out "clause (i) or (ii) of subparagraph (D) of subsection (f)(1), or".

(3) Section 202(c)(2) of such Act is amended by striking out "Subsection (f)(4)" and inserting in lieu thereof "Subsection (f)(3)".

(4) Section 202(s)(3) of such Act (as amended by subsection (d) of the first section of this Act) is amended by striking out "Subsection (f)(2)(B) of this section, so" and inserting in lieu thereof "So".

Sec. 3. The amendments made by this Act shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted, on the basis of applications filed in or after the month in which this Act is enacted.

S. 278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202 (a) of the Social Security Act is amended to read as follows:

"(a)(1) Every individual who—

"(A) is a fully insured individual (as defined in section 214(a)),

"(B) has attained age 62, and

"(C) has filed application for old-age insurance benefits or was entitled to disability insurance benefits for the month preceding the month in which he attained age 65,

shall be entitled to an old-age insurance benefit for each month beginning with the first month in which such individual becomes so entitled to such insurance benefits and ending with the month preceding the month in which he dies.

"(2) Except as provided in subsection (q), such individual's old-age insurance benefit for any month shall be equal to his primary insurance amount for such month as determined under section 215(a), or as determined under paragraph (3) of this subsection if such paragraph is applicable and its application increases the total of the monthly insurance benefits payable for such month to such individual and his spouse. If the primary insurance amount of an individual for any month is determined under paragraph (3), the primary insurance amount of his spouse for such month shall, notwithstanding the preceding sentence, be determined only under paragraph (3).

"(3) If an individual and his spouse are living in the same household (as determined by the Secretary on the basis of evidence available to him), and each of them is entitled to benefits under this subsection (or section 223), or one of them is so entitled and the other would upon satisfying subparagraphs (A) and (C) of paragraph (1) be entitled to benefits under this subsection, then the primary insurance amount of such individual, and the primary insurance amount of such spouse (who shall be deemed to be entitled to benefits under this subsection, whether or not satisfying such subparagraphs, beginning with the later of the month in which such spouse attains age 62 or the month in which such individual became entitled to benefits under this subsection), for any month, shall each be equal to the amount derived by—

"(A) adding together such individual's average monthly wage and such spouse's average monthly wage, as determined under section 215(b),

"(B) applying section 215(a)(1) to their combined average monthly wage determined under subparagraph (A) (subject to the next sentence) as though such combined average monthly wage were such individual's average monthly wage determined under section 215(b), and

"(C) multiplying the amount determined under subparagraph (B) by 75 percent.

In no event shall the combined average monthly wage of such individual and his spouse be greater than the average monthly wage that would result under section 215(b) with respect to a person who became entitled to benefits under this subsection (without having established a period of disability) in the calendar year in which the primary insurance amounts of such individual and spouse are determined under this paragraph, and who had the maximum wages and self-employment income that can be counted, pursuant to section 215(e), in all his benefit computation years. The primary insurance amount of an individual and his spouse determined under this paragraph shall not be increased unless there is an increase in the primary insurance amount of either of them pursuant to provisions of this title other than this paragraph.

"(4)(A) Paragraph (3) shall also apply to an individual and his spouse who are not living in the same household for any month with respect to which both such individual and such spouse have indicated, in such manner and form as the Secretary shall by regulations prescribe, that they desire to have their primary insurance amounts determined under paragraph (3).

"(B) Paragraph (3) shall not apply—

"(i) for any month with respect to which an individual or his spouse indicates, in such manner and form as the Secretary shall by regulations prescribe, that he or she does not desire to have his or her primary insurance amount determined under paragraph (3), or

"(ii) for purposes of determining the amount of any monthly benefits which (without regard to section 203(a)) are payable under the provisions of this section other than this subsection on the basis of the wages and self-employment income of an individual or his spouse."

(b)(1) Section 202(e)(2) of such Act is amended by striking out "shall be equal to 82½ percent of the primary insurance amount of such deceased individual" and inserting in lieu thereof "shall be equal to the larger of (A) 82½ percent of the primary insurance amount of such deceased individual for such month as determined under section 215(a), or (B) 110 percent of the primary insurance amount of such individual as determined under subsection (a)(3) of this section (assuming for purposes of this clause that such subsection was applicable) for the month preceding the month in which he died".

(2) The paragraph of section 202(f) of such Act redesignated as paragraph (2) by section 3(b) of this Act is amended by striking out "shall be equal to 82½ percent of the primary insurance amount of his deceased wife" and inserting in lieu thereof "shall be equal to the larger of (A) 82½ percent of the primary insurance amount of his deceased wife for such month as determined under section 215(a), or (B) 110 percent of the primary insurance amount of his deceased wife as determined under subsection (a)(3) of this section (assuming for purposes of this clause that such subsection was applicable) for the month preceding the month in which she died".

(c) Section 203(a) of such Act is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", or", and by inserting after paragraph (3) the following new paragraph:

"(4) when the primary insurance amount of the insured individual is determined under section 202(a) (3), such total of benefits for any month shall not be reduced to less than the larger of—

"(A) that amount determined under this subsection without regard to this paragraph, or

"(B) the amount appearing in column V of the table in section 215(a) on the line on which appears in column IV the amount determined under subparagraph (B) of such section 202(a)(3) for such individual and his spouse (or, if the amount determined under such subparagraph (B) does not appear in column IV, on the line on which appears in column IV the next higher amount)."

(d)(1) Section 215(f)(1) of such Act is amended by inserting "(or section 202(a)(3))" after "determined under this section".

(2) The second sentence of section 215(f)(2) of such Act is amended by inserting before the period at the end thereof the following: ", or as provided in paragraph (3) of section 202(a) if such paragraph is applicable (but disregarding any increase which might result under the second sentence of such paragraph solely from changes in the maximum wages and self-employment income that can be counted in the years involved)".

(e) Section 223(a)(2) of such Act is amended by inserting after "section 215" the following: "or under section 202(a)(3)".

(f)(1) The amendments made by subsections (a), (b), and (c) shall apply only with respect to monthly insurance benefits under title II of the Social Security Act for and after the second month following the month in which this Act is enacted.

(2) In the case of an individual or his spouse who became entitled to benefits under section 202(a) or section 223 of the Social Security Act prior to the second month following the month in which this Act is enacted (but without regard to section 202(j)(1) or section 223(b)(2) of the Social Security Act.) the average monthly wage of such individual or spouse, as the case may be, for purposes of section 202(a)(3)(A) of the Social Security Act, shall be the figure in the column headed "But not more than" in column III of the table in section 215(a)(1) of the Social Security Act in effect immediately prior to the enactment of this Act on the line or which in column IV of such table appears the primary insurance amount of such individual or spouse, as the case may be, for the month in which this Act is enacted, unless the average monthly wage of such individual or such spouse, as the case may be, is, after the enactment of this Act, redetermined under section 215(b) of the Social Security Act.

S. 279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202(a)(2) of the Social Security Act is amended to read as follows:

"(2) (A) has attained age 62, or (B) has attained age 60 and has been required by his employer (after having been employed by such employer for 5 or more years) to retire at such age in compliance with an Executive order of the President, a regulation or order issued by a Federal department or agency and published in the Federal Register, or a Federal law, and".

(b) Section 202 of such Act is further amended by adding at the end thereof the following new subsection:

"Special Rule for Determining Eligibility for Benefits in the Case of Certain Dependents and Survivors

"(w) For purposes of determining entitlement to monthly insurance benefits under subsection (b), (c), (e), or (f), and the amount of such benefits, in the case of any person on the basis of the wages and self-employment income of an individual who is entitled to old-age insurance benefits and who satisfies subsection (a)(2) by reason of clause (B) thereof, such person—

"(1) shall be deemed to satisfy subsection (b)(1)(B), (c)(1)(B), (e)(1)(B)(i), or (f)(1)(B)(i), as the case may be, if he or she has attained the age of 60, and

"(2) shall be deemed for purposes of subsection (q) to have attained retirement age as defined in paragraph (9) thereof at the time such individual first satisfies subsection (a)(2) by reason of clause (B) thereof, at the time such person becomes entitled to such benefits, or at the time such person attains the age of 60, whichever is the latest (but in no event later than the time such person actually attains retirement age as so defined)."

SEC. 2. (a) Section 202(q) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(10) Notwithstanding any other provision of this title, no reduction shall be made under this subsection in the old-age insurance benefit of any individual (or in any other benefit payable under this section to an individual who is also entitled to an old-age insurance benefit) for any month if such individual (upon becoming entitled to old-age insurance benefits) satisfies subsection (a)(2) by reason of clause (B) thereof."

(b)(1) Section 202(q)(1) of such Act is amended by striking out "If" and inserting in lieu thereof "Subject to paragraph (10), if".

(2) Sections 202(q)(3)(A) and 202(q)(3)(E) of such Act are each amended by striking out "If" and inserting in lieu thereof "Subject to paragraph (10), if".

SEC. 3. The last sentence of section 215(b)(3) of the Social Security Act is amended—

(1) by striking out ", any calendar year" and inserting in lieu thereof "(i) any calendar year", and

(2) by inserting before the period at the end thereof the following: ", and (ii) an individual who satisfies section 202(a)(2) by reason of clause (B) thereof after 1971 and before the year in which he or she attained (or would attain) the applicable age specified in clause (A), (B), or (C) of such sentence shall be deemed to have attained such age in the year in which he or she first satisfies such section 202(a)(2)".

SEC. 4. (a) Section (i)(2)(B) of the Social Security Act is amended by inserting before the period at the end thereof the following: "or satisfies section 202(a)(2) by reason of clause (B) thereof".

(b) Section 216(i)(2)(D) of such Act is amended by inserting after "attains age 65" the following: "or satisfies section 202(a)(2) by reason of clause (B) thereof".

SEC. 5. (a) Section 223(a)(1)(B) of the Social Security Act is amended by inserting before the comma at the end thereof the following: "and has not satisfied section 202(a)(2) by reason of clause (B) thereof".

(b) Section 223(a)(1) of such Act is further amended by inserting after "age 65" in the matter following subparagraph (D) the following: "or satisfies section 202(a)(2) by reason of clause (B) thereof".

SEC. 6. The amendments made by this Act shall apply with respect to monthly insurance benefits under title II of the Social Security Act for months after the month in which this Act is enacted; except that, in the case of an individual who is not entitled to a monthly insurance benefit under section 202 of such Act for the month in which this Act is enacted, such amendments shall apply only on the basis of applications filed on or after the date of the enactment of this Act.

S. 280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 223(c)(1) of the Social Security Act is amended by inserting "if he has not less than 40 quarters of coverage or" immediately before "if—".

(b) The amendment made by subsection (a) shall apply only with respect to disability benefits payable under title II of the Social Security Act for months after the month in which this Act is enacted on the basis of application therefore filed in or after the month in which this Act is enacted.

By Mr. HARTKE (for himself and Mr. PEARSON) (by request):

S. 281. A bill to amend the Regional Rail Reorganization Act of 1973 to increase the financial assistance available under section 213 and section 215, and for other purposes. Referred to the Committee on Commerce.

REGIONAL RAIL REORGANIZATION ACT AMENDMENTS OF 1975

Mr. HARTKE. Mr. President, Senator PEARSON and myself are introducing, upon request of the Department of Transportation, a package of emergency amendments to the Regional Rail Reorganization Act. There is also an administration requested amendment to the Rail Passenger Service Act. Because of the great need to act upon these proposals quickly in order to assure the continuation of essential rail services, I ask unanimous consent that they be printed in full at the conclusion of my remarks. These legislative requests will be considered by my subcommittee in a hearing scheduled to begin at 11 a.m. Wednesday, January 22, 1975.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF TRANSPORTATION,
Washington, D.C., January 17, 1975.
Hon. NELSON A. ROCKEFELLER,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a proposed bill, entitled the "Regional Rail Reorganization Act Amendments of 1975", together with a section-by-section analysis of the bill.

This proposed bill is recommended by the Department to provide cash resources (a) to enable all railroads reorganizing under the Regional Rail Reorganization Act of 1973 ("Rail Act") to continue essential transportation services during the planning process called for in the Rail Act, and (b) to perform maintenance and improvements which are necessary for safe and efficient operations.

The railroads reorganizing under the Rail Act have experienced significant losses in revenue and are facing serious cash shortages in 1975 and the first quarter of 1976 as a result of the recent coal strike and the general economic downturn, especially in the automobile industry. Although section 213 of the Rail Act authorized $85 million in financial assistance to meet the cash needs of these railroads, only $4.5 million remains uncommitted. The Department has been closely monitoring the financial condition of these railroads and our analysis reveals that as a minimum, an estimated $245.5 million will be required to enable these railroads to continue essential rail operations through the first quarter of 1976 when the Consolidated Rail Corporation ("Conrail") would begin operations. A breakdown of this estimate is shown in Attachment A.

Further, Penn Central and the other railroads reorganizing under the Rail Act are facing by February 25, 1975 an immediate cash shortage of at least $18.0 million beyond the $4.5 million available under section 213 (assuming no payments by then on a new labor contract). Urgent action is required to meet this need and avoid a complete shutdown of these railroads by the beginning of March.

In an attempt to forestall the cash problem arising from the decline in traffic, the Trustees of the Penn Central Transportation Company have implemented some cost-cutting measures which include reducing the number of employees and freight trains operated consistent with the reduced traffic levels. These management actions were not sufficient to offset revenue losses, and on December 31, 1974, the Penn Central Trustees informed the Department that unless a program for additional Federal assistance was developed, the railroad would be forced to implement severe cuts in its right-of-way and equipment maintenance programs and furlough a significant number of employees to avoid a complete cessation of operations by late February or early March. In letters dated December 30, 1974 and January 10, 1975, we informed the Trustees that the Department was concerned that the Trustees had not explored all cost-cutting measures which management should be employing; we indicated our intent to explore further with the Trustees alternative cost-cutting measures which management might be able to adopt to meet the railroad's cash needs. In the January 10 letter we also requested the Trustees not to institute their proposed cutbacks, indicating our intent to seek from Congress the additional resources necessary to sustain Penn Central through the first quarter of 1976. On January 13, the Trustees advised the Department that they would cancel their program for implementing the proposed cutbacks. However, the Trustees emphasized that if the aid contemplated by the Administration's program does not promptly make cash available to Penn Central it will be necessary for the Trustees to begin to embargo traffic in mid-February, in contemplation of a complete cessation of rail operations for lack of cash in early March.

It is clear that implementation by Penn Central of a severe cutback in its maintenance-of-way program would have been detrimental to the ability of Penn Central (or Conrail) to provide necessary transportation services in a safe and efficient manner. A group of Chief Engineers from six railroads from outside the region recently evaluated the condition of the Penn Central property. The Chief Engineer's team found that Penn Central's rail and tie replacement rate over the past 17 years (deferred maintenance) implies a life which is five times longer than the normal life for rail and three times the normal expected life for ties. The Chief Engineers concluded that:

"The level of maintenance of Penn Central main and branch lines varies from good to very poor. Most yards are in poor condition; some are in a deplorable state. Some of the plant has deteriorated to the point where it must be completely rebuilt; the plant which can be repaired is deteriorating at an increasing rate. As a result, the cost of rehabilitating Penn Central is becoming greater as time passes.

"It should be in the public interest as well as in the interest of Conrail that rehabilitation of the essential properties begin as soon as possible, without waiting for Conrail to assume operational control. Interim financial assistance is required to augment the work which Penn Central is able to fund from its own resources, so that the deterioration of properties can be arrested, service improved, and economies realized."

The proposed bill provides for $250 million in additional funding under the Rail Act to cover impending cash shortages and to prevent cutbacks in critical maintenance programs of the Penn Central and other railroads reorganizing under the Rail Act. The proposed bill would accomplish these objectives by amending the Rail Act as follows:

(a) increase the current authorization in section 213 by $100 million (from $85 million to $185 million) and authorize the imposition of conditions on the assistance used for program maintenance or improvement which will assure that the value added by those improvements will go to Conrail or to the Secretary. Of this authorized amount, $25 million is planned for improvements in the Northeast Corridor to permit the National Railroad Passenger Corporation to sustain existing levels of service under safe operating conditions;

(b) increase the current authorization in section 215 by $150 million (from $150 million to $300 million); broaden the purposes for which section 215 funding can be used; establish conditions to the provision of such funds identical to those which would apply to grants under section 213; and provide the U.S. Railway Association, with the approval of the Secretary of Transportation, the flexibility to provide in the final system plan which loans can be refinanced and on what terms, and the extent to which Conrail shall be released from the requirement to satisfy such obligations; and

(c) to provide in section 303 that the Special Court has jurisdiction to decide, in situations where property maintained or improved with section 213 or section 215 funds is sold, leased or transferred pursuant to the final system plan to an entity other than Conrail, what portion of the proceeds is value attributable to such maintenance or improvement.

The proopsed bill would also amend section 211 to make clear that the U.S. Railway Association has the authority to make loans prior to the effective date of the final system plan, to carry out the goals of the Act.

Adoption of these proposed amendments should enable the Government to deal effectively with the projected financial problems and essential maintenance of the railroads reorganizing under the Rail Act through the start-up of Conrail. I therefore urge favorable consideration of these proposed amendments as soon as possible in order to avoid a cessation of operations by March.

As these amendments are intended to sustain essential transportation services provided by the railroads which are reorganizing under the Rail Act, thereby avoiding the severe economic dislocations inherent in a shutdown, the inflationary impact of these amendments will be minimal.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the President's program.

Sincerely,

CLAUDE S. BRENEGAR.

ATTACHMENT A

ESTIMATE OF POTENTIAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

[In millions of dollars]

	Year 1975	1976 (1st quarter)	Total
Penn Central	$169.7	$52.4	$221.1
Lehigh Valley	6.6	3.1	9.7
Central RR of New Jersey	4.6	3.7	8.3
Ann Arbor	2.9	2.2	5.1
Lehigh & Hudson River	.2	.1	.3
Reading			
Total	184.0	61.5	245.5

By Mr. METCALF:

S. 282. A bill to provide for the development of certain minerals on public lands; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

HARDROCK MINERAL DEVELOPMENT ACT OF 1975

Mr. METCALF. Mr. President, revision of the Mining Law of 1872, which governs development of so-called hardrock minerals on Federal lands has been urged by many people for many years.

Mining often involves the destruction of other resources to some extent. In many cases, timber must be removed, wildlife habitat must be distributed, natural waterways must be changed, overburden must be set aside, wastes must be disposed of, roads must be pushed through undisturbed areas, water must be diverted and may become contaminated, and holes must be drilled. These and other activities are essential to obtain minerals needed by the economy.

Sacrifice of some resources to realize others is not limited to mining. It is characteristic of any intensive use. However, the Mining Law of 1872 fails to have internal controls for weighing the value of these sacrifices. It contains no general requirement for consideration of the other resource values of the lands involved.

The result has been a continuing battle among miners, prospectors, other user groups, administrators, legislators, and the general public. Attempts are made to resolve these incompatible conflicts often simply by barring mineral or nonmineral activity from specific areas. There are also, as a result, a host of special laws, or laws for special situations, governing mining in different types of Federal areas—some national parks, national recreational areas, power site reserves, wilderness areas, and others. It is increasingly apparent that the United States must develop its domestic mineral resources. Public land mineral development must take place within the context of the wide variety of demands being made on Federal lands. This requires accommodations among conflicting uses. It is, and will continue to be, impossible to make everybody happy all the time.

We need to be sure that our policies and procedures assure that this development is as compatible as possible with other uses and values of these lands. How can we achieve this goal?

There is a critical need for comprehensive land use planning. Most people are willing to compromise and allow "undesirable" uses such as mining. However, they do not see the tradeoffs in the case-by-case decisionmaking process. Comprehensive planning displays the alternatives.

Environmental protection must be built in all plans and actions. We must not permit any degradation that can be avoided and we must minimize all unavoidable degradation.

This is the critical weakness of the 1872 mining law. It puts the land use decision entirely in the hands of the miner. He decides that mineral development is the best use of public lands regardless of other values, with no rehabilitation, and no evaluation of alternatives.

We must modify the basic principle of the 1872 mining law that mineral development is always the highest use of land. Existence of minerals in a given tract of land does not necessarily mean that mineral development is the best use.

In sum, we must seek to balance mineral development with other resource values and other potential land uses. For years, the scales have been tipped in favor of the mineral developer.

I believe that the general public will accept the balance principle, with one exception. This is: When in doubt, err on the side of the environment. Deferred development almost always can take place in the future, but environmental damage may be difficult if not impossible to repair.

The mineral developer wants:

First, opportunity to secure public resources;

Second, continuity in terms of conditions;

Third, security in tenure;

Fourth, compensation if use is terminated;

Fifth, reasonable prices; and

Sixth, minimum controls.

I believe that the public and the Congress can support these principles but only with the framework of:

First, the established principles of multiple-use management, sustained resource yield, and environmental protection;

Second, comprehensive land use planning;

Third, public participation and intergovernmental coordination in development and implementation of public land management plans and programs;

Fourth, full consideration of nonconsumptive uses; and

Fifth, receipt of fair market value for public resources.

Under our Constitution the Congress has a special responsibility for the Federal lands. Congress must establish policies and standards to assure that mineral resource development on Federal lands is consistent with the basic policy that the Federal lands are vital national resource reserves held in trust by the Federal Government for all the people.

Legislation to revise or repeal the Mining Law of 1872 has been introduced during the 92d and 93d Congresses. Last year, the Subcommittee on Minerals, Materials and Fuels had 3 days of hearings on these proposals. See Hearings on Legislation to Revise the Laws Governing Mineral Development on Federal Lands—March 27, 29 and April 2, 1974.

I am introducing today the Hardrock Mineral Development Act of 1975 which would repeal the 1872 law and establish a leasing system for hardrock minerals designed to embody the principles I have outlined. It is identical to S. 3085 which was one of the bills considered during last year's hearings. I intend to schedule hearings on it soon.

Mr. President, we can establish laws that will permit compatible mineral development in a manner that is practical, fair, and just. At stake is the management of the public lands in the public interest, which includes a sound, vigorous mining industry.

By Mr. HELMS (for himself, Mr. McCLURE, Mr. THURMOND, Mr. EASTLAND, Mr. STENNIS, Mr. WILLIAM L. SCOTT, and Mr. CURTIS):

S. 283. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree or order, denying or restricting, as unconstitutional, voluntary prayer in any public school. Referred to the Committee on the Judiciary.

Mr. HELMS. Mr. President, the physical and moral strength of the American Republic rests upon our religious heritage. We believe in the ethic of hard work and a just reward for our labors. This is one of the reasons why we are such an industrious and prosperous nation. We are guided by religious principles that underlie our political and legal system. This is one of the reasons why Americans are a generous and humane people. We are indeed a religious people, and this is why we are free.

Throughout the world today, tyranny reigns where the free exercise of religion is prohibited by government. In the totalitarian dictatorships, religious prayer has been replaced by the cult of the personality. The modern utopian regimes, which hold their citizens in bondage, cannot tolerate the existence of religion, and they fear its influence among the people. Indeed, they promote secularism as the state religion.

Even in America the influence of religion is on the decline. We see the rise of secularism among our youth, in our laws, in every aspect of our culture. Is it any wonder that we are engulfed in a wave of crime, drugs, abortion, and pornography?

Mr. President, the unfortunate and unwise decision of the Supreme Court to abolish voluntary prayers in our public schools can only serve to accelerate the decline of religion in America. The rising generation is less influenced by religion today than at any time in our history. For many American children, the public school has been the only place in their daily lives where they were exposed to the great moral principles of our Judeo-Christian tradition. When we prohibit the exercise of voluntary prayer in the public schools, we are promoting secularism and interfering with the free exercise of religion by the individual citizen.

In my view, Mr. President, the American Government has a solemn duty to encourage and promote religion among the people. With this in mind, I send to the desk a bill which will permit the recitation of voluntary, nondenominational prayers in the public schools. This bill has been made necessary by the judicial prohibition announced by the Supreme Court more than a decade ago in *Engel* v. *Vitale*, 370 U.S. 421 (1962). There the Court held that the constitutional prohibition against governmental establishment of religion was violated by the recital of a nondenominational prayer at the beginning of each public school day. This is a complete distortion of our first amendment rights.

To this day, an overwhelming majority of the American people have opposed the Court's decision. I believe that Justice Stewart reflected the views of most Americans when he noted in his dissent that:

> With all respect, I think the Court has misapplied a great constitutional principle. I cannot see how an "official religion" is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation. *Ibid.*, at 445.

More than 10 years have passed since the Engel decision was handed down by the Court. Throughout this period, there have been consistent attempts to restore the true spirit of the first amendment by a constitutional amendment. I have always supported and I shall continue to support such proposed amendments. The amendment process is time consuming, however, and it is replete with procedural encumbrances. When little progress has been made since 1962, it is time we look to an alternative approach provided by our Constitution.

Fortunately, the Constitution provides this alternative under the system of checks and balances. In anticipation of judicial usurpations of power, the framers of our Constitution wisely gave

Congress the authority, by a simple majority of both Houses, to check the Supreme Court through regulation of its appellate jurisdiction. Section 2 of article III states in clear and unequivocal language that the appellate jurisdiction of the Court is subject to "such exceptions, and under such regulations, as the Congress shall make."

THE AUTHORITY OF CONGRESS TO REGULATE THE APPELLATE JURISDICTION OF THE SUPREME COURT

Permit me to point out, Mr. President, that Congress has never doubted its authority to exercise this power. Since the earliest days of the Republic, Members of Congress have proposed and enacted legislation to regulate the appellate jurisdiction of the Supreme Court. The Norris-LaGuardia Act, for example, narrowly restricted the authority of Federal courts to issue restraining orders or injunctions in "a case involving or growing out of a labor dispute," and further provided that "yellow-dog" contracts "shall not be enforceable in any court of the United States and shall not afford any basis for the granting of legal or equitable relief by any such court."

More recently, we have seen an increasing number of such bills introduced by Members of Congress who are concerned about the rise of judicial activism and the decline of State power through judicial edict.

As my colleagues will recall, Representative William Tuck of Virginia, introduced a bill in 1964 which provided that neither the Supreme Court nor any other Federal court should have jurisdiction to change or set aside any apportionment or reapportionment of legislative districts adopted by the State legislatures. On August 19, 1964, the Tuck bill passed the House by a vote of 242-148. Here in the Senate, a similar bill was sponsored by Senators Dirksen, MANSFIELD, STENNIS, and EASTLAND. I call these examples to the attention of my colleagues, Mr. President, to emphasize the fact that Members of Congress have always been cognizant of their responsibilities under the Constitution to check the encroachment of judicial power.

SUPREME COURT ACCEPTANCE OF CONGRESSIONAL REGULATION OF APPELLATE JURISDICTION

Nor has the Supreme Court itself ever entertained any doubts or misconceptions concerning the authority of Congress to regulate the jurisdiction of the Federal courts. Within 10 years after the ratification of the Constitution, the Court observed:

> If Congress has provided no rule to regulate our proceedings, we cannot depart from it. *Wiscart* v. *D'Auchy,* 3 U.S. (3 Dall.) 321, 327 (1796).

Few members of the Supreme Court in the 19th century went beyond Chief Justice John Marshall in asserting the powers and independence of the Federal judiciary. Yet it was Marshall who declared in 1805 that—

> When the Constitution has given Congress the power to limit the exercise of our jurisdiction, and to make regulations respecting its exercise, and Congress under that power has proceeded to erect inferior courts, and has said in what cases a writ or error or appeal shall lie, an exception of all other cases is implied. And this Court is as much bound by an implied as an expressed exception. *United States* v. *More,* 7 U.S. (3 Cranch) 159, 170–171 (1805).

Marshall restated his position in *Durousseau* v. *United States,* 10 U.S. (6 Cranch 307, 314 (1810), where he flatly asserted that—

> The appellate powers of this Court are not given by the Judicial Act, they are given by the Constitution. But they are limited and regulated by the Judicial Act, and by such other acts as have been passed on the subject.

Chief Justice Marshall never allowed that there were any limits to the exceptions and regulations that Congress could prescribe.

Later, the Court went so far as to reaffirm Congress authority over its jurisdiction where Congress had withdrawn jurisdiction after the case had already been argued before the Court. In the well-known case of *Ex parte McCardle,* 74 U.S. (7 Wall.) 514, decided in 1868, the Court promptly dismissed the case for want of jurisdiction. Speaking for a unanimous Court, Justice Davis declared:

> We are not at liberty to inquire into the motives of the legislature. We can only examine its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

The principle laid down in the *McCardle* case has been reaffirmed many times by the Court in subsequent cases down to the present. As the Court observed in the *Francis Wright,* 105 U.S. 381 (1882):

> While the appellate power of this Court extends to all cases within the judicial power of the United States, actual jurisdiction is confined within such limits as Congress sees fit to describe. What these powers shall be, and to what extent they shall be exercised, are, and always have been, proper subjects of legislative control.

In the words of the late Mr. Justice Frankfurter:

> Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while a case is *subjudice. National Mutual Ins. Co.* v. *Tidewater Transfer Co.,* 337 U.S. 582, 655 (1948).

Not once in its history, Mr. President, has the Supreme Court departed from this principle or suggested that there are any limitations to Congress control over the Court's jurisdiction. Indeed, the Constitution itself admits to no limitations.

THE MINORITY VIEW OF CONGRESS AUTHORITY

In spite of these firmly established precedents, we have seen in recent years the sudden appearance of a school of thought which purports to argue that there are, after all, limitations on Congress control over the appellate jurisdiction of the Supreme Court, even though the Court has not recognized them. One line of argument seeks to discredit ex parte McCardle by rallying around the lonely outpost defended by Justice Douglas who assumed in 1956 that ex parte McCardle was still good law, stating that—

> The power of Congress over the appellate jurisdiction of the Supreme Court is complete.

But insisted in 1962 that—

> There is a serious question whether the McCardle case could command a majority view today.

Support for Justice Douglas' minority position is drawn by a few writers from an interpretative analysis of two early cases in the history of the Supreme Court, *Ex Parte Yerger,* 75 U.S. (8 Wall.) 85 (1869) and *U.S.* v. *Klein,* 80 U.S. (13 Wall.) 128 (1871). Although neither one of these decisions overruled McCardle, it is nevertheless maintained that they are in conflict with it and now represent the true feelings of the Supreme Court. In response to this speculative view, suffice it to say that in the Yerger case, the Court at best implied that there might be a limitation on Congress' control of appellate jurisdiction; and in the Klein decision, the Court confronted a different situation from that in McCardle.

Pursuing another line of argument, some writers have also presented the view that Congress may not constitutionally deprive the Supreme Court of appellate jurisdiction so as to make it impossible for a Federal court to protect so-called Federal rights, whether constitutional or statutory, from State action.

CONCLUSIONS ON CONGRESS AUTHORITY

Once again, however, we are dealing with mere speculation and not law. If there are limitations on Congress power to regulate the appellate jurisdiction of the Supreme Court, I do not know what they are; nor does anyone else. And until the Court has reversed its present stand, we should not assume that it has. Writing in the Columbia Law Review, the leading constitutional authority, Prof. Herbert Wechsler, put it this way:

> There is, to be sure a school of thought that argues that "exceptions" has a narrow meaning, not including cases that have constitutional dimension; or that the supremacy clause or the due process clause of the fifth amendment would be violated by an alteration of the jurisdiction motivated by hostility to the decisions of the Court. I see no basis for this view and think it anithetical to the plan of the Constitution for the courts—which was quite simply that the Congress would decide from time to time how far the federal judicial institution should be used within the limits of the federal judicial power; or, stated differently, how far judicial jurisdiction should be left to the state courts, bound as they are by the Constitution as "the supreme Law of the Land . . . any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." Federal courts, including the Supreme Court, do not pass on constitutional questions because there is a special function vested in them to enforce the Constitution or police the other agencies of government. They do so rather for the reason that they must decide a litigated issue that is otherwise within their jurisdiction and in doing so must give effect to the supreme law of the land . . . The difficulty with legislative withdrawal of jurisdiction is not one of constitutional dimension . . .

Perhaps we should also observe, Mr. President, that this school of thought has appeared at a time when Members of Congress have been very active in their efforts to limit the awesome powers of the Supreme Court through control of its appellate jurisdiction. Can it be that this so-called school is motivated simply by a desire to protect the constitutional revolution of the modern court, and to shield the Court from the outraged citizens of this country, who depend upon us to control the Federal judiciary?

In my view, Mr. President, these arguments against the right of this Congress to regulate the jurisdiction of the Courts of the United States amount to little more than an assertion of judicial supremacy. They are based on the assumption—and it is a false as well as a dangerous one—that once the Supreme Court has taken jurisdiction over a class of cases, that we are thereafter helpless to do anything about it except by constitutional amendment. Such an assumption flies in the face of the theory and language of our fundamental law and totally disregards the democratic character of our system. Abraham Lincoln gave this point classic expression in his very first inaugural address, when he spoke of the Dred Scott case in these terms:

> I do not forget the position assumed by some that constitutional questions are to be decided by the Supreme Court, nor do I deny that such decisions must be binding in any case upon the parties to a suit as to the object of that suit, while they are also entitled to very high respect and consideration in all parallel cases by all other departments of the Government. And while it is obviously possible that such decision may be erroneous in any given case, still the evil effect following it, being limited to that particular case, with the chance that it may be overruled and never become a precedent for other cases, can better be borne than could the evils of a different practice. At the same time, the candid citizen must confess that if the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made in ordinary litigation between parties in personal actions the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal. Nor is there in this view any assault upon the court or the judges. It is a duty from which they may not shrink to decide cases properly brought before them, and it is no fault of theirs if others seek to turn their decisions to political purposes.

RESTORING VOLUNTARY PRAYER AND THE FREE EXERCISE OF RELIGION

For these reasons, I am introducing today a bill which would limit the appellate jurisdiction of the Supreme Court, and the original jurisdiction of Federal district courts, in actions relating to the recitation of prayers in public schools. This bill states simply that the Federal courts shall not have jurisdiction to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school. Implicit in the bill is the understanding that the American citizen will have recourse to a judicial settlement of his rights, but this settlement will be made in the State courts of this Nation, and not in the Federal courts. This is where our religious freedoms have always been safeguarded, until they were nationalized by the Supreme Court just a few years ago. From 1789 until 1962, a period of 173 years, the whole matter of what constitutes a religious establishment in the separate States was determined by our State courts, and if I am not mistaken Americans enjoyed their religious freedom throughout this long period of time. In this sense, then, my bill simply restores to the American people and to their respective States those rights which they possessed until the Supreme Court decided a few years ago, without benefit of statute, that the Justices themselves must take jurisdiction.

The limited and specific objective of this bill, then, is to restore to the American people the fundamental right of voluntary prayer in the public schools—and I stress the word voluntary, Mr. President. No individual should be forced to participate in a religious exercise that is contrary to his religious convictions, and the bill takes cognizance of this cherished freedom. At the same time, the bill seeks to promote the free exercise by allowing those who wish to recite prayers—and they are the vast majority of our citizens—to do so, with or without the blessings of Government.

As many critics of the Engel decision have correctly observed, the free exercise of religion was actually denied in that case. As you will recall, no individual was compelled to recite the nondenominational prayer, and dissenters were allowed to excuse themselves from the classroom. But the remaining students were denied the freedom to participate in the recitation of the prayer. The conclusion is inescapable, Mr. President, that in Engel against Vitale, the Supreme Court, in effect, gave preference to the dissenters and at the same time, violated the establishment clause of the first amendment by establishing a religion—the religion of secularism. Public school children are a captive audience. They are compelled to attend school. Their right to the free exercise of religion should not be suspended while they are in attendance. The language of the first amendment assumes that this basic freedom should be in force at all times and in all places. I respectfully urge my fellow colleagues in the Senate to join me in supporting this bill and restoring the free exercise of religion to its full constitutional status.

Mr. President, I ask unanimous consent that the text of the bill which I have introduced be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 283

A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree or order, denying or restricting, as unconstitutional, voluntary prayer in any public school

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"(a) Notwithstanding the provision of sections 1253, 1254, and 1257 of this chapter the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.".

(b) The section analysis at the beginning of chapter 81 of such title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations.".

SEC. 2. (a) Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1363. Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.".

(b) The section analysis at the beginning of chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1363. Limitations on jurisdiction.".

SEC. 3. The amendments made by the first two sections of this Act shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.

By Mr. HUMPHREY (for himself, Mr. NELSON, Mr. BURDICK, Mr. MONDALE, Mr. MCGOVERN, and Mr. YOUNG):

S. 284. A bill to provide price support for milk at not less than 90 per centum of the parity price therefor, and for other purposes. Referred to the Committee on Agriculture and Forestry.

MILK SUPPORT LEGISLATION NEEDED NOW

Mr. HUMPHREY. Mr. President, on January 3, President Ford vetoed S. 4206, a bill I authored in the 93d Congress to raise the milk price support level to 85 percent of parity and provide for a quarterly adjustment of the prices paid to farmers.

My bill, as originally proposed, featured a support level of 90 percent, but we decided, in committee, to reduce the support level to 85 percent of parity in order to enhance the chances of passage.

Today, I am again introducing a bill to establish the support level at 90 percent of parity and include a quarterly adjustment clause so that farmers can stay even with the ever-increasing production costs. I am gratified that Senators NELSON, BURDICK, MONDALE, MCGOVERN, and YOUNG have joined in sponsoring this legislation.

The action of the administration in raising the support level to 80 percent of parity, after vetoing my bill, merely brings the support level to the minimum required under the present law. It hardly meets the intent and full requirement of the existing law.

And the conditions in the dairy industry which prompted my original legislation have not changed nor has the need for swift action decreased.

In 1973, when we wrote the farm act, we required that the milk price support level be set at a point where it would "meet current needs, reflect changes in the cost of production, and assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs."

The Department of Agriculture has chosen to ignore the law in spite of the fact that thousands of dairy farmers have been driven from production.

The administration's establishment of the price support level at 80 percent of parity does not solve the dairy farmer's problem. It merely helps keep him alive for a little longer.

In December 1973, dairy farmers received $7.94 per hundred pounds of milk, while in December 1974 they were receiving only $6.57 per hundred pounds. Raising the support level to 80 percent of parity would push the price received by the farmer to $7.24 per hundred pounds.

While production cost estimates vary, it is clear that most farmers lose at least $1.50 to $2.00 for each hundred pounds of milk produced. One University of Wisconsin study suggests that it costs a farmer $9.65 to produce each hundred pounds of milk.

Production costs for dairy farmers are estimated to have gone up by about 30 percent in 1 year. Many requirements such as twine and fertilizer have doubled or trebled in the past year.

My bill will require a quarterly rather than an annual recomputation of the price which farmers receive under the price support program. This provision will enable adjustments to be made periodically to take into account production cost changes.

This is an important feature which can be implemented easily. And it is widely supported by dairy farmers.

We need to take action without delay.

Our dairy industry is not in a recession, it is in a massive depression. There is a wholesale liquidation of dairy cattle in this country, and, may I say, at prices that are scandalously low.

A milk cow sells in the Midwest today, according to the market reports, for around 12 to 16 cents a pound, which is an incredibly low price when you stop to think what you pay in the supermarket for hamburger.

Furthermore, we are driving many dairy farmers out of business. In Minnesota alone, over 3,700 dairy farmers have had to close down this past year.

Savings accumulated over a lifetime have been wiped out. You cannot imagine the bitterness and discouragement on the part of fine, hard-working people.

And yet no one seems to care about it. When Detroit sneezes, the country catches a cold. But when the farmer hurts no one pays any attention.

Something has to be done before we have a major disaster in rural areas. I ask Senators to remember that depressions are farm-led and farm-fed.

We have had recent hearings in the Congress on the milk price situation, and we will have further hearings during the month of February.

It is not likely, however, that the situation will improve in the near future. With reduced grain reserves, feed prices are likely to remain at their present high levels.

The milk-feed ratio is an important indicator of profitability in the dairy industry. Recently, it has been at its worst level since 1947.

A dairy farmer should be able to buy 170 pounds of feed with 100 pounds of milk if he is to make a profit. Being able to buy 150 pounds is the estimated break-even point. Since the past fall, it is estimated that farmers have been only able to buy 110 to 117 pounds of feed for each 100 pounds of milk produced.

This is a serious loss situation which the administration has distorted by rhetoric about the present availabilities of dairy products. The administration has compounded the problem by increasing imports of milk products in the past year—by 1.3 billion pounds over 1972, a fairly typical year. Because of this gross miscalculation, the CCC has set about purchasing 1.2 billion pounds of milk products, an almost even tradeoff in terms of the level of imports.

It is small comfort for our farmers to be told that the CCC has been making purchases of milk products. If our farmers had not had to face the increased competition of subsidized imports, our milk markets would not be in their present state.

The administration has repeatedly confused the public by making misleading claims as to what effect an increase in the support levels would have on the consumer price levels. There has been no discussion on the part of the administration as to what will happen to the price of dairy products when we have driven more of our family farmers out of business and we end up with a more corporate agricultural structure.

The result will be reduced quantities of dairy products and at considerably higher prices.

I would hope that the Department of Agriculture would be more forthright in explaining the dairy situation to the public so that sound judgments could be reached. Instead, Secretary Butz provides lectures on classical economics which bear little relationship to today's world.

Now he has taken on the new Congress with the suggestion that many members of the Agricultural Committee "can't tell the milk end of a producing cow."

In light of his poor handling of the dairy problem, I would have expected more modesty on his part.

Our Senate Committee on Agriculture and Forestry will be reviewing the dairy situation during its February hearings. This bill is an attempt to find a responsible path to restore the health of our depressed dairy industry.

Mr. President, I ask unanimous consent that the text of my bill to increase price supports for milk to 90 percent of parity and provide for a quarterly adjustment of the prices paid to farmers be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446), as amended, is amended by adding at the end thereof a new subsection as follows:

"(d) Notwithstanding the foregoing provisions of this section, effective for the period beginning with the date of enactment of this subsection and ending on March 31, 1978, the support price of milk shall be established at not less than 90 per centum of the parity price therefor on the date of enactment, and the support price for milk shall be adjusted by the Secretary at the beginning of each quarter, to reflect any change during the immediately preceding quarter in the index of prices paid by dairy farmers for production items, interest, taxes, and wages rates.".

By Mr. TUNNEY:

S. 285. A bill to amend the National Labor Relations Act, as amended, to amend the definition of "employee" to include certain agricultural employees. Referred to the Committee on Labor and Public Welfare.

Mr. TUNNEY. Mr. President, a new spring is rapidly approaching, but instead of a harvest of hope we may have a bitter harvest of renewed conflict in our farmlands. It is the annual struggle for union recognition by the Nation's farmworkers, a tense triangular dispute which places the growers, the United Farm Workers and the Teamsters Union in desperate contention.

In the middle of this heated dispute are the farmworkers themselves. So, too, are American consumers.

The farmworkers have not set electoral process for resolving the jurisdictional dispute between the two unions vying to represent them. And the consumer has no alternative but to pay the higher prices for food which are caused, in part, by the seemingly unending and unyielding conflicts in our farmlands.

The farmers are caught in the Nation's last remaining struggle for recognition by a significant corps of labor. Their crops may go unharvested or undelivered to the market as the dispute rages around them.

The unions, too, suffer in the process, for they expend millions of dollars in the prolonged dispute. In addition, union solidarity, which is their common defense, has been sundered as the AFL–CIO stands with the UFWA against the Teamsters.

And always, simmering in the rising dust of the fields, is the threat of bloodshed and violence.

Cesar Chavez has made a creed of nonviolence, and the Teamsters have said they, too, disavow strongarm tactics. Nonetheless, the collision of wills involved in so monumental a dispute inevitably strikes dangerous sparks.

In short, the showdown in the great farming valleys of California and across the Nation produce only victims, and there will be no resolution until that day when the farmworkers themselves are assured of an orderly procedure by which they can elect the union which they want to represent them. That day depends on affirmative action here in the Congress; we cannot expect a solution to be generated from the continued battles in the fields.

Consequently, I am, once again, introducing legislation to bring the farmworkers under the National Labor Relations Act. I first introduced such legislation in 1969 when I served in the House of Representatives and reintroduced the bill last year as S. 3409. I have been assured that the Senate Labor Committee will hold hearings on the bill early this year.

The reasoned certainties of the NLRA will replace the explosive uncertainties of strikes, picket lines, boycotts, lockouts, and other mass actions, to give farmworkers the security to validate their long-sought goals of decent wages and working conditions.

Mr. President, as I mentioned earlier, the philosophy of nonviolence has inspired much of the organizational efforts among farmworkers, but it now needs the solid support of law to assure workers their right, freely and secretly, to elect the union they believe can most effectively bargain collectively for them, or, if they wish, to choose to remain independent of any union.

Systematic, sanctioned elections, fully regulated under the NLRA, provide the surest procedure for settling jurisdictional disputes and for bringing order and permanence to contractual relations between worker and grower.

As outcasts from the NLRA, the farmworkers have no way, I believe, to achieve lasting representation of their interests. The NLRA will assure them protection and guarantees, which it already provides for 95 percent of the Nation's working force.

All too often, after years of valiant struggle, the voice of farmworkers has been lost in the winds that sweep the valleys, and their aspirations of dignity and opportunity have gone unfulfilled.

I believe, as I have over the years, that farmworkers should be brought within the shelter of the NLRA. A long and oppressive chapter of labor history can, at long last, be closed. I urge swift Senate approval of this legislation.

I ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(3) of the National Labor Relations Act, as amended, is amended by striking out the following phrase: "as an agricultural laborer, or".

By Mr. BURDICK (for himself and Mr. HRUSKA) (by request):

S. 286. A bill to authorize additional judgeships for the U.S. court of appeals. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, this bill is a reintroduction of S. 2991 in the 93d Congress, for Senator ROMAN L. HRUSKA and myself. It is a so-called omnibus circuit court judgeship bill which incorporates the recommendations of the Judicial Conference of the United States that the Congress create nine additional circuit judgeships in circuits other than the fifth and ninth. During the last Congress the Subcommittee on Improvements in Judicial Machinery held 6 days of hearings on this legislation but was unable to complete action on the bill because of its interrelation with legislation affecting the fifth and ninth circuits. It is anticipated that the Committee on the Judiciary will be able to consider this and various other bills relating to the need for additional judges relatively early in this session.

By Mr. BURDICK (for himself and Mr. HRUSKA) (by request):

S. 287. A bill to provide for the appointment of additional district court judges and for other purposes. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, S. 287, which I am introducing for Senator ROMAN L. HRUSKA and myself today, is a reintroduction of the omnibus district court judgeship bill (S. 597) which was under consideration by the Committee on the Judiciary in the last Congress. Seventeen days of hearings were held and testimony was received from many witnesses including the chief judges of 44 judicial districts. Each of these judicial districts were carefully studied by the Subcommittee on Improvements in Judicial Machinery. As shown by the hearing record, in addition to elaborate statistical studies prepared both by the Administrative Office of the U.S. courts and by the subcommittee staff, thorough inquiry was made concerning the workload of the judges of each particular district. Included among the matters of inquiry were the number of days spent on the bench, the use made of magistrates, the use made of various court procedures and techniques leading to the settlement or other disposition of cases, both civil and criminal, and the amount of time spent by the active judges of the particular district in holding court in other judicial districts.

After full consideration and deliberation the subcommittee recommended to the Judiciary Committee the creation of 29 new judgeships and the conversion of one temporary judgeship to a permanent judgeship. The judicial districts affected by these recommendations are set forth in the bill. In other words this bill reflects the recommendations made by the subcommittee. The bill is now introduced in the same form as it was at the expiration of the last Congress in order to permit the Committee on the Judiciary to complete its consideration of this legislation.

Mr. HRUSKA. Mr. President, I am pleased to join Senator BURDICK in the introduction of S. 286 and S. 287, bills to increase the number of Federal circuit and district judgeships. Similar legislation was introduced during the last Congress but unfortunately was not acted upon.

In view of the present serious overload in our Federal courts, I believe this legislation to be among the most important items which are facing the Congress this session.

Senator BURDICK and I, from the vantage point of our membership on the Judiciary Committee and the Commission on Revision of the Federal Appellate System, are well aware of the task that our society imposes upon the Federal judicial system. There is every indication that these demands will continue to increase, as they have been doing in recent years, rather than decrease in the years ahead.

Chief Justice Burger, in his recent year-end statement, well sets out the problems which currently confront the Federal courts.

Mr. President, I ask unanimous consent that a copy of the Chief Justice's remarks be placed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. In response to the burdens besetting the courts, the Improvements in Judicial Machinery Subcommittee, of which Senator BURDICK is chairman, as well as the referred to Circuit Revision Commission have been deeply involved in the study of the nature of these problems. Legislation, which was introduced last year to revise the geographic boundaries of the circuit courts, is being prepared for reintroduction again this Congress. Various other proposals to revise the structure and procedures of the courts are currently being examined. This legislation which we are introducing today, however, represents perhaps one of the most direct and effective means to quickly relieve the heavy caseloads of the individual judges.

Recommendations for the increase in judgeships were made during the last Congress by the Judicial Conference of the United States. S. 286 is similar to S. 2991, introduced by Senator BURDICK and myself last Congress in response to the conference's recommendation of 11 new circuit judgeships. This year the bill would provide for an additional judgeship in the eighth circuit, as now recommended by the conference, bringing the total number of new circuit judgeships provided for to 12.

S. 287, which would increase the number of district judgeships by 29, is similar to S. 597 introduced early in the 93d Congress by Senator BURDICK. However, as introduced last Congress, S. 597 called for the creation of 51 district judgeships. This was based upon the 1972 quadrennial recommendation of the conference.

Since 1964 the conference has conducted a survey of the needs of the district courts, every 4 years, and has made a recommendation to Congress for new district judgeships based on this survey. Prior to 1972, the conference's surveys were based upon the existing need of the districts. However, it soon became apparent that due to the delay in the legislative enactment, the judicial manpower authorization for the courts were generally running at least 2 years behind the actual needs. Such delay is readily exemplified in the case of the present legislation. Therefore, in the 1972, the third quadrennial survey of the conference, the recommendation was based upon future rather than present needs of the district courts, as determined by a projection to the year 1976.

While it is true that no obsolutely foolproof method of forecasting future judicial workload has been established, sound forecasting methods were used in the survey. These methods employ historical data to determine the general workload trend established in past years. This trend is then extended into the future to arrive at a projected caseload figure.

The criteria used by the Judicial Conference utilized the recommendations of the circuit councils, of the chief district judges, and the following statistical data per judgeship:

Current filings;
Weighted filings;
Terminations;
Pending cases;
Trials and trial days, and
A forecast of the district courts' filings in 1976.

Generally, the conference considered that an additional judgeship would be recommended when the 1976 projected filings per judgship reached 400 or more, but no additional judgeship would be warranted if the 1976 projected filings fell below the current national average. This formula was not applied inflexibly and in those instances where the current workload was under the present national average, additional judgeships were not recommended, although the 1976 projections were above 400. Additionally, the conference took into consideration the availability of judges in neighboring districts of the same State, particularly where the districts were served by a roving judgeship and the use of magistrates.

Based on their survey, the Judicial Conference, at its October 1972 meeting, approved for transmittal to Congress, a recommendation for the creation of 51 new judgeships in 33 separate judicial districts, together with a recommendation that a temporary judgeship in the Eastern District of North Carolina be made permanent.

After hearings and consideration of S. 597, the improvements in judicial machinery subcommittee, however, decided to reduce the number of additional judgeships from 51 to 27. The bill was reported to the Judiciary Committee in this form in mid-1973. It was the thought of the subcommittee at the time that the period of projected need—to 1976—was not compatible with desires to predict needs with a close degree of certainty.

While I fully support the requirement for the 29 new judgeships as contained in S. 287, I believe it should be noted this bill is based upon S. 597 as it was reported from subcommittee nearly a year and a half ago. Business has increased in the courts during this time and hence the requirement for new judges has increased. Additionally, it can be expected that the recently enacted Speedy Trial Act which requires criminal cases to be tried within 100 days of arrest, will add substantially to the work of the courts.

Therefore, while I would not wish to slow the enactment of a district court bill, I would suggest that these factors be kept in mind with the thought of perhaps adding to the 29 judgeships presently contained in the bill during its consideration by the Senate.

In any event, I recommend that prompt action be taken upon both of these measures in order that we may promptly respond to the urgent needs of the judicial branch.

The Chief Justice's remarks follow:

YEAR-END STATEMENT

DECEMBER 28, 1974.

(By Chief Justice Warren E. Burger)

The Federal Courts are in the midst of a period of self-study and improvement. Case filings continued to rise this past year and Federal judges and supporting personnel continued to meet these growing demands. The year 1974 saw the contribution of several thoughtful and overdue proposals for court modernization, but 1974 did not see action on these and earlier proposals. I believe action is essential if we are to provide justice in such a way as to sustain a well-ordered society.

In fiscal 1974, 143,284 cases were filed in Federal District Courts, an increase of 1.6 per cent over 1973. Although there has been no increase in district judgeships since 1970, Federal District Judges disposed of 139,159 cases, almost 22,000 more than in 1970.

This accomplishment is one of the least recognized examples of resourcefulness, efficiency and dedicated hard work in a period when those virtues are increasingly needed and scarce in our society. Contributing to the progress of recent years are improvements developed by the courts and auxiliary agencies. The so-called "omnibus pretrial hearing" sets all pretrial motions for one hearing, rather than having them scattered over an indefinite period, which often causes unconscionable delay. The "individual calendar" has helped to reduce the time from filing to disposition by focusing responsibility for cases' progress on individual judges.

After a successful pilot program, the Bureau of Prisons has instituted system-wide an internal "Administrative Remedy Procedure" which has eased to some extent the growing workload of the Federal courts and, more important, has provided a just procedure for hearing inmates' complaints about prison conditions. Rather than litigate complaints in overburdened Federal courts, inmates may now file them with prison officials. To date, 17 per cent of those complaints have been resolved in the inmates' favor by prison wardens. An additional 27 per cent of complaints appealed to a Regional Director were resolved favorably to the inmate. Many of these complaints would otherwise have been presented to Federal courts as civil rights or habeas corpus suits.

The Federal Judicial Center, the respected research, development and training arm of the Federal courts, is directing an increasing part of its effort to the problems of the District Courts, a commitment symbolized by the appointment this year of Judge Walter E. Hoffman, the highly regarded former Chief Judge of the U.S. District Court (E.D. Va.), as Director of the Center. Judge Hoffman has pioneered new developments in his court and contributed his knowledge to other Federal judges through his participation in the Center's Seminars for Newly-Appointed District Judges, as well as by his service on the Center's Board. The high quality of leadership provided by Judge Alfred P. Murrah, Director Emeritus, will be maintained.

The Center's District Court Survey promises to provide the first major exploration of the unresolved problems of caseload processing in the District Courts. The successful pilot projects of a computerized docketing system, developed by the Center, will be expanded. The Center is also proceeding to experiment with computerized stenographic transcription of court proceedings. The Center's study of sentencing disparities is perhaps the most sophisticated exploration of that tremendously important subject to come from a government or private agency.

Over $5 million to the taxpayer and 270,000 hours of jurors' time have been saved due to juror utilization studies of the Center and the Administrative Office of the U.S. Courts, as well as by cooperation fostered by the State-Federal Judicial Councils.

The District Courts by themselves, however, cannot master the complex problems that society demands they resolve. I hope the new Congress will move rapidly on an omnibus judgeship bill in consideration of the request of the Judicial Conference in 1972 and afterward for 52 new district judgeships and 11 new circuit judgeships (based upon statistical analysis of caseloads of each court). The inequity of failure to provide any increase in pay for Federal Judges for almost six years is perhaps felt most extensively in the District Courts, where six judges have resigned in the last thirteen months to return to private or corporate partice.[1] That was as many resignations for such reasons in little more than one year as in the previous thirty-four years.

The Federal Courts will continue to lose judges and fail to attract many promising young attorneys who must be the mainstays of an effective judicial system, and the nation will suffer for it.[2]

Legislation is urgently needed to define and to broaden the responsibilities of United States Magistrates, who can, with proper authorization, relieve District Judges of numerous minor tasks. This will free the District Judges for the more important judicial tasks they alone can process.

Court administrators are being trained in increasing numbers at institutions such as the Institute for Court Management. While Circuit Executives have provided much needed assistance to the Courts of Appeals and at times to District Courts, full-time District Court Executives are also needed to assist large metropolitan District Courts in 22 Federal Districts.

Appellate courts have continued to face an oppressive workload. In fiscal 1974, the Courts of Appeals experienced a five per cent increase in new cases filed; total filings reached an all-time high of 16,436 cases. Yet, authorized circuit judgeships (97) have remained constant since 1968, resulting in an 80 per cent increase in appellate cases per judgeship. Due to innovations and increased efforts, however, the appellate process has become more efficient. There has been a rise of 87 per cent in terminations per judgeship between 1968 and 1974. Nevertheless the Courts of Appeals have had to resort to some draconian measures, such as curtailment of oral argument. Unfortunately, judges remain the captives of their dockets until relief is provided.

In the Supreme Court, the story is much the same. During the past unusually long Term (which ran until July 25, 1974), the cases on the docket exceeded 5,000 for the first time in history. The increase in annual Supreme Court filings since 1969 has been eleven per cent, while cases acted on have increased fourteen per cent. Despite great efforts to keep up, Judges still await a solution to the dilemma of an ever-increasing workload.

Thoughtful studies have illuminated the problems of the appellate courts. In December, 1972, The Study Group on the Caseload of the Supreme Court recommended the creation of a National Court of Appeals to screen cases that presently must be filed with the Supreme Court and to resolve intercircuit conflicts.

On February 6, 1974, the ABA's House of Delegates endorsed, in principle, the report of the ABA's Special Committee on Coordination of Judicial Improvements which also called for a National Court of Appeals, but recommended a court whose appellate jurisdiction would be controlled by the Supreme Court within limits set by Congress.

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[1] Another District Judge resigned to take a government position.

[2] The dramatic decline in Federal Judges' earning power is an unusual problem calling for attention. The two and a half million Federal employees other than judges, legislators, presidential appointees and supergrade employees, have received six comparability salary increases since 1969. Civil Service employees' comparability increases total 38.1 per cent of their March 1969 salary. Including regular in-grade step increases, the average Civil Servant's salary has increased more than 50 per cent since 1969.

Fair-minded citizens will ask if it is equitable to reduce judges' purchasing power each year when many salaries and wages are adjusted to the Consumers' Price Index.

The Advisory Council for Appellate Justice (a council of lawyers and judges sponsored jointly by the Federal Judicial Center and the National Center for State Courts) has recommended a "nationwide" or "multicircuit division" of the Courts of Appeals. This new division would also have powers defined by the Supreme Court, within the boundaries of enabling legislation to decide certain cases or classes of litigation referred to it by the Supreme Court.

Meanwhile the Commission on Revision of the Federal Court Appellate System, chaired by Senator Roman L. Hruska, is also considering some type of national court of appeals.

These propsals reflect concern over the gap between the rapidly growing number of cases decided by the courts of appeals and the relatively constant number of cases decided by written opinion by the Supreme Court. They reflect the desire to add judicial capacity to provide more final authoritative decisions in our national legal system.

Another means of reducing the burden on the Supreme Court is by reduction or elimination of three-judge courts. This has been recommended in varying degrees by such pretigious bodies as the American Law Institute in 1968 and the Freund Commission in 1972. It is hoped that the new Congress will follow the lead of the current Senate in taking action. The concern felt in both legal and academic circles is shown by the plan of the Advisory Council for Appellate Justice to convene a national conference, in January 1975, on the problems of appellate courts. It is clear that the time has come to move from research and study to pertinent discussion and decision. Cases do not cease or politely wait for solutions to judicial problems. Cases continue to be filed and litigants continue to exerecise their deserved right of appeal. Consequently, the courts must be placed in a position to meet these legitimate needs.

By Mr. BURDICK (for himself, Mr. HANSEN, Mr. MCGEE, Mr. PACKWOOD, Mr. STAFFORD, Mr. STEVENS, Mr. YOUNG, and Mr. GRAVEL):

S. 288. A bill to amend the Land and Water Conservation Fund Act of 1965 so as to authorize the development of indoor recreation facilities in certain areas. Referred to the Committee on Interior and Insular Affairs.

Mr. BURDICK. Mr. President, I am introducing today a bill which would vastly increase the benefits received by the public through the Land and Water Conservation Fund Act of 1965. The bill creates new authority for a State to use not more than 25 percent of its total allocation from the fund for the planning and development of shelters for recreation activities normally pursued outdoors. This portion of the State's allocation may be used for indoor recreation only where the Secretary of the Interior determines that climatic conditions provide no feasible or prudent alternative to serve identified, unmet demands for recreation resources and that the increased public use thereby made possible justified the construction of such facilities.

The value of an adequate recreation program to a community is undisputed. To help meet their recreation needs, State and local governments rely upon the responsiveness of the Land and Water Conservation Fund. My bill will give project sponsors the flexibility they need to get the maximum recreation impact for the Federal dollar.

For example, my own State of North Dakota has built 21 swimming pools with Federal matching money from the fund. Of these, only one is of an indoor-outdoor variety—built because local sponsors were fortunate enough to have sufficient funds to construct the pool shelter totally on their own. The remaining 20 pools, unfortunately, can be used for about 55 days per year. The most recent information provided me indicates that 30 to 40 percent more money could enclose and heat a pool in such a fashion as to enable its use year-round. Also, there is some evidence that an indoor pool is more healthy and easier to keep clean.

Of course, the benefits of the Indoor Recreation Act are not restricted to the northern tier of States. In many States having a warmer climate, outdoor ice-skating rinks have a very limited use. With this legislation on the books, covered ice rinks could be provided—significantly augmenting the public recreation resources in many areas. This may be one of the reasons why my bill has received support from outdoor recreation officials in States such as New Mexico and Arizona.

Too, the bill can be of benefit to urban and rural areas alike. In urban areas and central cities the Federal Government will be able to participate in more cost-effective recreational structures and, perhaps, safer ones than can now be built.

This is what the legislation can do. There are several things it will not do. First, I think it should be stressed that this bill will not cost the Federal Government an additional dime. It merely authorizes a new use for money presently available to the States. It makes no change in present cost-sharing requirements.

Further, the bill will not force the States into deals they do not wish to make. The bill's provisions are discretionary on the part of the States. If a State decides to use its money for open space acquisition or some other plan, this bill's provisions will not stand in their way. But it does permit those States that want to, to proceed with an indoor program in addition to the other projects now permitted.

Finally, it has been my view since I first introduced legislation of this sort in 1967 that the money authorized to the State could be used only for enclosing facilities used for outdoor recreation activities. Bowling alleys, billiard rooms, and the like were never intended to qualify for Federal cost sharing under my bill. To make this point clear, the bill contains language suggested by the Department of the Interior which will avoid an overly broad interpretation of its language.

Mr. President, hearings were held before the Senate Subcommittee on Parks and Recreation of the Interior and Insular Affairs Committee in 1972 and again in 1974. The administration as well as public and private groups indicate support for the bill. The legislation was approved as a separate measure by the Senate on May 30 of last year and was incorporated in an omnibus package which passed the Senate on December 18. Additional hearings were held in the House before the Subcommittee on National Parks and Recreation of their Interior Committee and the Senate-passed bill was included in an omnibus bill with only a minor change. That change is also reflected in the bill introduced today. Unfortunately, the legislation was reported too late to be considered in the closing days of the 93d Congress.

In short, the record in favor of the legislation is long and strong. I hope that the bill will be enacted in the early days of this Congress so that quality recreation can be extended to all citizens on a year-round basis.

By Mr. BIDEN:

S. 294. A bill to amend the Internal Revenue Code of 1954 to increase the effectiveness of the minimum tax for tax preferences. Referred to the Committee on Finance.

S. 295. A bill to amend the Internal Revenue Code of 1954 to eliminate percentage depletion for oil and gas wells over a 3-year period. Referred to the Committee on Finance.

S. 296. A bill to amend the Internal Revenue Code of 1954 relating to the application of the foreign tax credit to taxpayers engaged in the extraction, production, or refining of oil or gas in foreign countries. Referred to the Committee on Finance.

TAX REFORM AND THE ECONOMY

Mr. BIDEN. Mr. President, it is not often that the pressures of the moment and long-range needs coincide. But in the area of tax reform, I believe this is one of those rare moments.

Under the economic pressure of severe recession, we must provide tax relief to stimulate the economy. I have already introduced a bill to do so. We must also pay unemployment compensation to the increased numbers of people out of work, provide public service jobs, and make available emergency services to those hurt by recession. The combination of tax relief and higher urgent expenditures can mean greater deficits, with resulting pressure on the interest rate levels. So what we need to do is to raise more revenue to lower the deficit. Now is our chance to do this and reform our tax structure, too.

A country's tax structure is a good indication of the fairness with which that government treats its citizens. It was with good intentions, then, that the progressive income tax was the system chosen by the United States to raise revenue to run the Government.

Embodied in this special type of taxation was the "ability to pay" concept. In short, the wealthier the person, the more he would pay. Like many other programs and policies that began with good intentions, however, our tax system has grown into an uncontrollable monster. It has gotten bigger, more complex, and worst of all, can no longer accurately gage income levels in order to effect the "ability to pay" principle. Since its inception in 1913, there have been so many loopholes and preferences written into the law that favor the wealthy and corporate interests, that its original intent of equitable apportionment of the tax burden has been significantly altered.

It is imperative that current tax provisions be reviewed thoroughly so that a meaningful tax reform can be initiated to replace a system full of subsidies for the wealthy and for big business with a fair tax system. The revenue saved can be used to cut taxes for the average American and to fund vitally needed programs in these times of economic distress.

It is the moderate income taxpayer working to earn a living who bears more of the burden of paying taxes than he should. Working taxpayers earning between $8,000 and $15,000 make up only 26 percent of the population and earn only 20 percent of the Nation's personal income, but pay an extraordinary 36 percent of individual income taxes. Most individuals are unable to use the tax subsidies which are available to the wealthy and the corporate giants.

The existence of these subsidies severely erodes the tax base and hampers the progressivity of the income tax.

The statutory rates in the income tax range from 14 percent to 70 percent. However, studies by tax experts have shown that the effective rate for those with real income over $1 million was 32 percent for 1972. IRS data show that for 1971, in spite of the minimum tax and other reforms enacted in the tax reform act of 1969, that over 80 taxpayers with adjusted gross incomes of over $200,000 paid no income tax.

Studies allege as well that some of the largest corporations pay taxes at unbelievably low rates. According to a study by Representative VANIK based on reports to the Securities and Exchange Commission, which attempts to measure effective tax rates on actual profit, the overall rate for a sample of corporations from the Fortune 500 list of the largest corporations was 29 percent in the face of a statutory rate of 48 percent.

Our tax system depends on the voluntary compliance of millions of American taxpayers. They must not lose faith in the fairness of that tax system, a faith which has been severely shaken by recent events. While it is easy to point an accusing finger at a particular incident, it is the failure of the Congress and the administration to provide a simple and equitable tax system which is the root of the problem. It is time to turn our attention to providing meaningful tax reform and to replace a system full of subsidies for the wealthy and for big businesses with a fair tax system.

The effect of all of these subsidies on the progressivity of the individual income tax system is disturbing. But so too is the complexity of the tax law for all taxpayers. The tax system can be made more equitable and simplified at the same time by repealing and reforming many of the subsidies under the tax system, subsidies which have been shown time and again not only as provisions which diminish the progressivity of the tax system but also as provisions which tend to be inefficient in accomplishing their objectives.

For this reason, I am introducing today tax reform legislation to make a start at remedying the ills in our tax system. Ultimately, we must go even further, but this would be a good start. If enacted, these proposals will also provide us with sorely needed revenues for balancing our budget—but not at the expense of those low- and middle-income taxpayers who for too long have been paying more than their fair share.

I. MINIMUM TAX

Mr. BIDEN. Mr. President, I introduce for appropriate reference, a bill to amend the Internal Revenue Code with regard to the minimum tax.

Mr. President, the minimum tax was a device enacted as part of the Tax Reform Act of 1959 to insure that everyone who was financially able would pay at least some tax on income. It aims specifically at income gained through the use of tax preferences. Many of these preferences or loopholes were originally granted as a spur to provide money to promote the growth of business. It was thought that by providing this incentive, more jobs would become available and more money paid out in wages would get into the economy, resulting in a higher standard of living for everyone. To some extent this is still a valid argument. It has been a long time, however, since many of these laws were passed, and it is imperative that they be reviewed not only to insure that they are achieving their initial objective, but also to ascertain the manner and purpose of their application.

For years it has been obvious that a large number of wealthy individuals have been able to manipulate these loopholes to shield their income in such a way as to avoid much of the tax burden for which they would otherwise be liable. Documented cases of millionaires paying little or no income taxes graphically demonstrate the inequity of our tax system.

Two major categories of income tax loopholes are preference income and exempted income. Preference income is subject to the minimum tax of 10 percent. Examples of this type are capital gains, oil depletion, accelerated depreciation on real property, accelerated depreciation on personal property subject to a net lease, amortization of railroad rolling stock, amortization of certified pollution control equipment, reserves for losses on bad debts of financial institutions, and stock options.

The minimum tax has been largely ineffective, however, for two reasons.

First, there is a $30,000 exemption for income subject to the minimum tax. This has proved to be an unreasonably high figure since virtually the only thing it accomplishes is to allow wealthy taxpayers to avoid paying any tax on the first $30,000 of preference income. I propose lowering the exemption to $10,000. This is sufficient to exempt the middle income taxpayer who has a modest amount of capital gains, et cetera, and still cover larger amounts of money that are currently escaping taxation.

Second, regular income taxes can be deducted from tax preference income. This has created what is sometimes called an "executive suite" loophole. For example, this allows a company executive to shelter his preference income with the regular income tax he pays on his large salary. In such cases persons could have extremely large amounts of preference income and still not pay any minimum tax.

Obviously, some change must be made in the minimum tax if it is to achieve what was intended. As it is presently constituted, this tax is usually circumvented with little effort by people with the means to do so. Although the statutory rate is 10 percent, the effective rate for individuals is approximately 2 percent. I, therefore, think that the deduction for regular income taxes is unwarranted and should be discontinued. Although the concern has been voiced that these measures would unduly hamper business investment, studies have indicated that this would actually reduce effective overall tax rates insignificantly, while at the same time, requiring wealthy persons to pay something closer to the statutory minimum tax rate.

If enacted into law, it is estimated that these provisions would generate additional revenue of approximately $860 million per year.

Finally, the minimum tax has proved ineffective because it fails to include in its base certain items that are now tax exempt. This failure permits many wealthy people to escape paying taxes on income, and allows the operation of a number of tax shelters to continue untouched by the minimum tax. Interest on State and local bonds, intangible drilling costs, investment credit, interest and taxes during construction period of real estate, gain on property transferred at death, and gain on appreciated property given to charity fall into this category.

One of the most glaring omissions in the minimum tax base is interest on State and local government bonds. This tax exempt interest allows an individual with great wealth the opportunity to enjoy a virtually tax free income by investing heavily in this type of security. The provision as it stands now results in a revenue loss of approximately $3.3 billion per year, making it one of our most expensive tax subsidies. Since these bonds are usually expensive and the rate of return comparatively small, they are bought for investment purposes primarily because of their special tax status.

One of the most glaring omissions in tax exempt treatment provides an interest subsidy to the States and local governments. However, the exemption is a very inefficient subsidy since the revenue loss to the Federal Government exceeds the interest savings to the States by an estimated $800 million. This difference, of course, must be borne by those who are unfortunately less affluent. In addition, the subsidy is erratic depending on the marginal tax rate of the recipient. This means that the larger the person's income, the bigger the tax break he receives.

Another item which should be added to the minimum tax base is the expensing of intangible drilling costs of oil and gas. This includes certain expenses incurred in bringing a well into production, such as labor, certain materials, supplies, and repairs. Although these expenses are of a capital nature—expenses for an asset which will produce income over a number of years—they can all be deducted in the current year, rather than being depreciated over the useful life of the asset, which is the normal procedure. In this way taxable income can be substantially lessened. Although it would seem that by doing this, the taxpayer would then have to pay a higher amount of taxes the next year, this is not the case. As long as he continues drilling, he is basically still in the same position of reducing taxable income.

This results in a revenue loss of about $325 million per year. Although it might be said that this could possibly discourage petroleum exploration, in a period of shortage, I disagree. This form of accelerated depreciation, possibly valid at a time when crude oil sold for $2 or $3 per barrel, has no validity at a time when new oil sells for over $10 per barrel. The large increases in the price of oil should be sufficient incentive for continued exploration.

Mr. President, the inclusion of interest on tax-exempt bonds and intangible drilling costs in the minimum tax base would raise an estimated $600 million and $75 million respectively. The bill as a whole then would gather approximately $1½ billion which is now being diverted from the Treasury into the hands of wealthy individuals who have created tax shelters for themselves by manipulation of the tax laws.

The effect of these measures on business would be negligible, and they would introduce a sorely needed measure of fairness into our tax system which still allows plenty of loopholes for those with the money to take advantage of them. I shall continue to seek changes in our present method which places the heaviest burden on the already strapped middle income taxpayer.

Mr. President, I ask unanimous consent to have the bill printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended by—

(1) striking out subsection (a) and inserting in lieu thereof the following:

"(a) In General.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which the sum of the items of tax preference exceeds the excludable amount.";

(2) striking out "$30,000" in subsection (b)(1)(B) and inserting in lieu thereof "$10,000"; and

(3) amending subsection (c) to read as follows:

"(c) Excludable Amount.—For the purpose of subsection (a) of this subsection, the excludable amount shall be $10,000."

(b) Section 57 of such Code (relating to items of tax preference) is amended by inserting after paragraph (10) the following new paragraphs:

"(11) Intangible drilling and development costs.—The amount of the deduction allowable for the taxable year under section 263(c).

"(12) Tax-exempt interest.—The amount of any interest excluded from gross income for the taxable year under section 103.".

Sec. 2. The amendments made by the first section of this Act apply to taxable years bebeginning after December 31, 1975.

OIL DEPLETION

Mr. BIDEN. Mr. President, the preferential tax treatment given to the oil industry must be eliminated because it is no longer justified. Oil and other extractive industries pay far lower taxes than manufacturing companies through tax privileges in the form of percentage depletion, deduction of intangible oil drilling expenses, and the foreign tax credit.

Supporters of the continuance of the tax allowances point out that percentage depletion allowances further national security by providing an incentive to create and maintain a reserve or divertible domestic capacity for military use in time of national emergency. This allowance is also said to be a method of compensation for the unusual risks involved in oil and gas exploration. The oil industry itself claims that the special treatment of the oil industry has made possible the continuance of low gasoline prices to the consumer.

However, a Senate study has found that tax privileges granted the petroleum industry as an incentive to further exploration are inefficient in stimulating new supplies of oil. The report, "An Analysis of the Federal Tax Treatment of Oil and Gas and Some Policy Alternatives," reveals that the tax privileges cost the United States more than $1.5 billion a year in revenue. Additional revenue of about $1 billion is lost each year as a result of foreign tax credits, which allow the companies to deduct from their U.S. taxes taxes paid to other countries, thereby encouraging the refining and distribution of oil abroad at the expense of domestic operations.

The study indicates that the oil depletion tax privilege, along with the deduction of intangible drilling costs, actually discourages exploration for new sources of oil and encourages producers to rely on overdrilling in existing fields instead. Both measures appear to apply only to producing wells and not to so-called wildcat or exploratory wells which prove to be dry.

Our country is in the midst of an energy crisis because we have failed to limit an industry which controls part of our natural resources. We have justified tax privileges to encourage growth and development, but our tax incentives have misfired and resulted in a misallocation of resources.

For these reasons, I am introducing a bill to phase out the current percentage depletion tax over a period of 3 years; in 1976, the depletion allowance will be 15 percent; in 1977, the allowance will be 7½ percent; and after 1977, the allowance will be phased out entirely.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective with respect to taxable years beginning after December 31, 1975, section 613(b)(1) of the Internal Revenue Code of 1954 is amended by striking out subparagraph (A) (relating to oil and gas wells).

Sec. 2. (a) Effective with respect to taxable years beginning in 1976, section 613(b) of the Internal Revenue Code of 1954 (relating to percentage depletion rates) is amended by inserting after paragraph (1) the following new paragraph:

"(1A) 15 percent—oil and gas wells."

(b) Effective with respect to taxable years beginning in 1977, section 613(b)(1A) of such Code (as added by subsection (a)) is amended by striking out "15 percent" and inserting in lieu thereof "7½ percent".

(c) Effective with respect to taxable years beginning after December 31, 1977, section 613(b) of such Code is amended by striking out paragraph (1A).

FOREIGN TAX CREDITS

Mr. BIDEN. Mr. President, the debate over the actions necessary to resolve our energy problems continues, but several of the side effects of these problems seem clear. First, the prices of petroleum products have skyrocketed and show no sign of going down. Second, as consumer costs have increased, so have major oil company profits.

The third element of this perplexing situation is the fact that the Federal Government, as a result of both its action and inaction toward the petroleum industry, bears a large responsibility for this current dilemma. Once again, the consumer is caught in the middle. The man who has to drive to work to support his family, the housewife who has to drive to the grocery store to do the weekly shopping—these are the people who are being squeezed.

Measures are now being initiated at the Federal level to provide an overall energy policy to determine present and future needs, and the best methods of attaining them. It is important, however, that we also assess past actions, to understand and improve our current plight. Because of changing times and circumstances, our laws and regulations must be periodically reviewed to ascertain their current validity to meet the present situation.

One case which is in desperate need of revision is the treatment of foreign tax credits, especially those relating to the petroleum industry.

Years ago, Congress recognized that double taxation of multi-national corporations would be unduly burdensome. Therefore, legislation was enacted which allowed foreign income taxes to be credited on a dollar-for-dollar basis against U.S. income tax liability.

This seemingly sound principle has been grossly expanded, however, to include other charges which can in no way be construed as creditable taxes. Rather than taxes on income, they are actually royalties, money paid by the concessioner for the use of the land. Royalties are fixed, per-barrel charges which are production costs and should be treated as busines expenses and, when appropriate, be deducted from gross income.

The revenue rulings which allowed these production costs—normally passed on to the purchaser—to be credited were promulgated by the Treasury Department as early as 1950. Apparently this was done at the insistence of the State Department which said it was necessary for security reasons.

Although it is moot to ponder the validity of these rulings at the time they were first made 20 years ago, they definitely are not valid today. Furthermore, steps must be taken which will specifically forbid this practice.

The legislation I am introducing today is designed to more precisely define what can and what cannot be treated as creditable income taxes regarding the oil and gas corporations. Royalties and other fixed charges will no longer be creditable, but can be deducted as business expenses. A tax on petroleum companies will be creditable only if it is imposed as part of a general income tax in that country—not one specifically tailored to oil and gas. Charges made in addition to the general income tax will not be creditable. There will be no future carryovers of tax credits because the maximum amount creditable will be the statutory U.S. corporate rate—now 48 percent. Past carryovers will be eliminated.

I am hopeful that passage of this bill will introduce a measure of fairness to both the oil companies and consumers. The oil companies will begin to pay their fair share of taxes, and in so doing relieve some of the pressure from the consumer, who is now suffering the double burden of paying higher petroleum product prices and being forced to recoup Treasury losses due to the current inequitable tax advantages of the oil companies. It will take away an unfair advantage that oil companies operating overseas now have, not only over their domestic counterparts, but also over most other types of corporations as well. It is estimated that approximately $1 billion is lost to the Treasury as a result of treating royalties as creditable taxes.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 296

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 903 of the Internal Revenue Code of 1954 (relating to credit for taxes in lieu of income, etc., taxes) is amended to read as follows:

"SEC. 903. CREDITABLE TAXES.

"(a) Taxes in Lieu of Income, Etc., Taxes.—For purposes of this subpart and of sections 164(a) and 275(a), the term 'income, war profits, and excess profits taxes' includes a tax paid in lieu of a tax on income, war profits, or excess profits otherwise generally imposed by any foreign country or by any possession of the United States.

"(b) Income from Oil and Gas Extraction, Production, and Refinancing.—In the case of income attributable to the extraction, production, or refining of oil or gas in a foreign country—

"(1) for purposes of this subpart and of sections 164(a) and 275(a), no amount paid or accrued to a foreign country as a royalty or as any other fixed per unit charge, and no amount paid or accrued to a foreign country which is normally taken into account as a trade or business expense or as a cost of goods sold, shall be treated as a payment of an income, war profits, or excess profits tax.

"(2) for purposes of this subpart, taxes paid or accrued to a foreign country with respect to such income shall not be taken into account unless such country imposes a tax generally on income derived from sources within such country;

"(3) for purposes of this subpart, that portion of the taxes paid or accrued to a foreign country with respect to such income for any taxable year which exceeds the tax imposed by this chapter with respect to such income shall not be taken into account; and

"(4) for purposes of this subpart, that portion of the taxes paid or accrued to a foreign country with respect to such income which is attributable to—

"(A) a rate of tax (including a surcharge) higher than the rate of tax generally imposed by such country on income derived from sources within such country, or

"(B) a method of computing such taxes which is different from the method of computing the tax imposed by such country on other income derived from sources within such country,

shall not be taken into account."

(b) The table of sections for subpart A of part III of subchapter N of chapter I of such Code is amended by striking out the item relating to section 903 and inserting in lieu thereof the following:

"Sec. 903. Creditable taxes."

SEC. 2. The amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. CRANSTON (for himself and Mr. WILLIAMS):

S. 297. A bill to improve education by increasing the freedom of the Nation's teachers to change employment across State lines without substantial loss of retirement benefits through establishment of a Federal-State program. Referred to the Committee on Labor and Public Welfare.

MOBILE TEACHERS' RETIREMENT ASSISTANCE ACT OF 1975

Mr. CRANSTON. Mr. President, I am today introducing the Mobile Teachers' Retirement Assistance Act of 1975.

Joining me as cosponsor is the distinguished chairman of the Senate Committee on Labor and Public Welfare, Senator HARRISON A. WILLIAMS, JR.

The bill is to protect the retirement benefits of teachers who move across State lines to teach. It is identical to legislation I cosponsored with Senator WILLIAMS in the 92d and 93d Congresses.

It is my fervent hope, Mr. President, that the 94th Congress will enact this legislation. It addresses a serious and growing problem: the inability of teachers to carry earned retirement benefits with them across State lines, thereby hampering employment opportunities wherever they might occur.

Mr. President, the Federal interest in quality education is not limited to materials and programs. The Congress has made a definite and continuing commitment to the development and maintenance of a skilled national teaching force to serve every level of American education.

Mr. President, I firmly believe that our Federal commitment to quality development of the education professions must not be abandoned. Therefore, in addition to the measure I introduce today, I plan to propose legislation within the next few weeks to address the problems of developing and maintaining a quality national teacher force in America.

BACKGROUND

The Education Professions Development Act—EPDA—first passed in 1967, clearly indicated our national attention to improving American education by further development of quality educational personnel. In fact, the passage of EPDA clearly set in motion a Federal policy of educational manpower development.

The congressional mandate of EPDA in 1967 was not the first piece of Federal legislation concerning educational personnel development.

In 1917, Congress passed the Smith-Hughes Act, calling in part for the training of vocational educators.

In 1958, the National Defense Education Act—NDEA—became law, and it contained two provisions for training institutes for educational personnel. In later years, these provisions were extended.

And in 1965, the Congress created a National Teacher Corps to train both experienced and inexperienced teachers to deal with the very special situations in schools where the children are mainly from low-income families, or are otherwise disadvantaged.

Mr. President, I believe these actions by the Congress of the Unieed States are a firm statement of Federal interest in the state of the profession of teaching. And I further believe that places upon each of us, as Senators, the responsibility for helping—wherever we can—ease the problems of one of the most vital public professions in our Nation, which teaching clearly is.

There are some serious problems in the teaching profession right now. There are problems of severe unemployment, inequitable pay, of class size, and of working conditions, particularly in our inner cities.

And one of the most serious problems, Mr. President, is the long-standing difficulty of mobility within the profession itself.

The average American family moves once every 5 years. That means that a great many American children change schools every year and often more than once within a single year. And more and more, as we address the problem of equality of educational opportunity, we have to think in terms of a national supply and demand in the education professions, with all the problems of the labor marketplace.

I believe it is both unrealistic and costly, Mr. President, to recognize—and in many ways, promote—a national mobility, without making sure that the teachers of the Nation's children have the ability to move, unimpeded, where the demand for their skills is greatest or where their professional interests direct them.

That is not possible now. And that is why I am introducing this bill.

In California, about half of California's 218,895 elementary, secondary, and community college teachers taught in other States before moving to California. Nationally, 26 percent of America's teachers have taught in at least two States. Those teachers, who spent an average of 8 years working in other States, lost their retirement benefits when they moved. That loss of benefits means reduced pensions when they retire and discourages teachers with special talents from moving to locations where these talents can be better utilized.

Right now, teachers who become mobile do so at the price of sacrificing hard-earned retirement rights—and, with them, benefits and financial security for their retirement years.

The loss of this retirement credits comes about for two reasons: The "outgoing" State may not allow for early vesting of retirement rights, and the "incoming" State may not grant retirement credit for years of teaching service performed outside its jurisdiction.

A good example of the effect of this is the college teacher in a public college who wishes to cross State lines to accept a special research function in another State college. Without the provisions just outlined, he is forced to reject the offer or lose his retirement rights in accepting it. His counterpart in the private college is generally free to move as he is needed and not sacrifice retirement rights. Another drastic example is the need for specialized teachers or administrators in our deprived urban and rural areas.

Even social security is denied many American teachers with participation denied them in 14 States, because of their participation in a State retirement program that lacks that portability of a Federal pension program.

Several effects of this misguided policy are immediate and clear:

Teachers may choose not to cross State lines to teach, even though their skills and interests beckon elsewhere.

Teachers may choose not to retire when they would like, but keep teaching, to accumulate more years of credit—particularly if they have lost years of credit by making a move. Teachers are penalized, then, for advancement within their own profession, and younger teachers are kept unemployed by colleagues who would rather retire.

The dilemma is no better expressed than by teachers themselves. Listen to these comments from letters written me by California teachers.

From San Diego:

> I have been teaching for eighteen years and find myself with only four years credited to my eventual retirement . . . My previous teaching was done in Iowa and in American Samoa, and when I accepted a teaching position in the San Diego Unified system I lost the contributions made toward retirement made by those systems.

From Fresno:

> My Washington teaching was during the low wages era ($750–$2000 annually) with big classes, poor equipment, long hours . . . Our married years in Los Angeles, I did classroom volunteer work among several handicapped children, daily until my husband's death . . . Now I am penalized with few retirement years' credit, thus an inadequate pension. . . .

Or from Long Beach:

> When I had been out of Missouri 5 years, I was contacted and asked to draw my accumulated retirement out . . . the amount was of no concern to me then, or now, but the 9 years of teaching experience means a great deal.

Mr. President, I believe this situation is not only unfair, but unwise. By failing to act on this problem, now we deny our active public teachers the ability to provide equitably for their retirement. At the same time, I believe we are storing up for the future a massive national problem, as increasing numbers of mobile teachers, denied the benefits of social security because of their participation in a State retirement program, come to retirement with inadequate resources to meet the basic needs of everyday living.

The bill I am introducing today is of enormous importance to teachers across the Nation. Teachers constituents of every Senator and Congressman would be profoundly affected by passage of my bill. In my State of California alone, over 100,000 teachers have taught in other States, but cannot obtain credit under the California State Teachers Retirement System. Though no State corrective legislation has been passed, the California Assembly last year adopted a resolution supporting the bill I am introducing today.

The bill would establish a Federal-State program to assist in the funding of these benefits for public school teachers. It would enable teachers who have taught in two or more States to retire at the end of their careers with benefits substantially the same as they would have received by teaching in a single State for their entire careers.

The bill would extend Federal funds to aid in the financing of recognized out-of-State service credit for those States who wish to participate. In order to qualify for Federal funds, participating States must by law: first, permit teachers to purchase at least 10 years of out-of-State public school teachings not vested elsewhere, whereby the teacher and the employer share in the cost; and second, provide for vesting of retirement rights after not more than 5 years of service in the retirement system.

The stranglehold on the natural mobility of the teaching profession will be greatly alleviated by this sharing of cost in purchasing out-of-State credit and the security of early vesting for deferred benefits.

Many of our fine State retirement systems have made attempts toward alleviating this problem, but the State based nature of American education and the limited funds available have not permitted the States to make any great strides in this direction. Some States utilize the basic concept of out-of-State credit; however, in nearly all cases, the teacher must pay the employer's share, his own share, and an interest fee, which taken together are usually financially beyond the limits of the teacher's income. It should be noted that in any State where an attempt is made to preserve the retirement credits for mobile teachers the methods used are the methods used in this bill. The teacher retirement administrators throughout the country have supported these concepts for nearly a quarter of a century. However, the States, and rightly so, realize that their primary commitment is to utilize their financial resources for improving education within their own boundaries. Therefore, it seems both fitting and proper that the Federal Government assist the States in solving this important interstate problem.

As pointed out by James R. Kirkpatrick, associate secretary of the American Association of School Administrators—an organization supporting the bill—mobility is very much a part of the American way of life. This freedom of movement has often been employed to solve imbalance of labor shortages and needs in various parts of the country. Until now, however, retirement considerations have hindered the staffing problems in many school districts, which mobility might solve. These considerations have been a significant deterrent for many school districts in achieving the staff skills and qualities that are critical to our educational system.

As one witness observed when hearings were held in the House, the bill is sensitive to State prerogatives and the value of State retirement systems. It is not compulsory. It is an incentive bill, which I believe to be most appropriate for Federal legislation in this and other areas of education.

The bill is a result of long and hard work by education organizations, Members and committees of Congress, and representative teacher groups. It carries the full support of the National Education Association's Representative Assembly, the National Council on Teacher Retirement, and other groups.

I feel this bill, if enacted, could be the most significant piece of legislation directly affecting teachers yet to emerge from the Congress.

Mr. President, I ask unanimous consent to have printed in the Record, following my remarks, the text of the bill, a statement of purpose and provisions, and a table showing the current status of vesting and out-of-State credit provisions in the State retirement systems to which teachers belong.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mobile Teachers' Retirement Assistance Act".

FINDINGS AND STATEMENT OF PURPOSE

Sec. 2. The Congress finds that the transfer of qualified teaching personnel between schools operated by public educational agencies in one State and schools operated by public educational agencies in another State is seriously impeded because of the possibility of forfeiture of retirement benefits in the system from which a teacher transfers and that the resulting immobility of teachers impedes the mobility of the Nation's work force by hindering the growth and development of new communities. It is therefore the purpose of this Act to protect commerce by facilitating the interchange of teaching personnel from a public educational agency in one State to a public educational agency in another State by providing Federal financial assistance in the transfer of credits from one State to another State.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "State retirement system" means a State retirement system established under State law, or local public retirement system recognized or established by State law, in which teachers participate.

(2) The term "teacher" means an individual who is employed in a professional educational capacity by a board of education.

(3) The term "covered teacher" means a teacher who is a member of a State retirement system.

(4) The term "board of education" means any board, committee, commission, or agency authorized by State law to direct a public educational system, school, or institution of higher education.

"(5) The term "State" includes the District of Columbia and Puerto Rico, and any other territory of the United States which has a public retirement system which includes teachers.

(6) The term "Commissioner" means the United States Commissioner of Education.

(7) The term "out-of-State service" means public teaching service performed in another State or in elementary or secondary schools operated by the United States Department of Interior and United States Department of Defense and recognized by the system in which the teacher is a member for the purpose of service credit under the terms and conditions of the law governing the operation of such system.

(8) The term "vesting" means a right of a teacher who separates from covered employment after having at least the minimum years of credited service required under the State retirement system, and has left his contributions in the retirement fund of such system, to a retirement benefit upon reaching an age specified in the law governing the terms and conditions of the system, which benefit is based at least in part on public contributions.

SEC. 4. (a) In order to participate in the program provided for in this Act, a State retirement system must—

(1) provide for payment of retirement benefits on account of out-of-State service by a covered teacher as required in section 5(c),

(2) allow covered teachers at least ten years of out-of-State credit for public teaching service not covered by the system which is not vested under another State retirement system, upon payment by the covered teacher by the date of retirement of a portion of the cost involved and payment from public funds of the remainder.

(3) require no more than one year of in-State service for each year of out-of-State service credit granted,

(4) provide that the teacher's payment for out-of-State service credit shall not exceed 25 per centum of the total cost of the out-of-State service credit,

(5) provide for vesting after not more than five years of creditable service in the State retirement system,

(6) provide for making such reports, in such form and containing such information, as the Commissioner may reasonably require to carry out his functions under this Act, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such report.

(b) If the Commissioner determines a State retirement system meets the requirements of subsection (a), he shall approve it for participation in the benefits of this Act.

OUT-OF-STATE CREDIT PROVISIONS

SEC. 5. (a) The Commissioner shall, as soon as practical after the end of each calendar year, make a Federal contribution to each State retirement system which he has approved under section 4(b) on account of each covered teacher who is a member of the system who retired during the fiscal year (or other twelve-month period designated by the system) which ended in such calendar year with credited out-of-State service as a teacher. The Federal contribution on account of each year of each such teacher's credited out-of-State service as a teacher shall be an amount equal to 50 per centum of the total cost as determined by the retirement system at such teacher's age on date of retirement: Provided, That if the teacher has not reached age sixty, the cost shall be determined as if the teacher were age sixty.

(b) The Federal contribution under this section to a State retirement system shall be limited to the reserve required to provide not more than ten years of out-of-State service credit: Provided, That the Commissioner may determine maximum reserve factors at each age, beginning at age sixty, for purposes of the Federal contribution.

(c) The Federal contribution under this section to a State retirement system shall be used for the same purposes, and subject to the same terms and conditions, as are funds of the system derived from other sources. Retirement benefits under such system attributable to service credited under this section shall not be paid on a basis less favorable to the retired teacher than the payments made under such system which are attributable to service other than that so credited.

COST OF ADMINISTRATION

SEC. 6. The Commissioner shall each fiscal year make a grant to each State retirement system which is approved to participate in this Act. Each grant shall be an amount equal to 2 per centum of the Federal contribution made under section 5.

EFFECTIVE DATE

SEC. 7. This Act shall become effective July 1, 1975 with respect to teachers who retired on or after such date.

APPROPRIATIONS AUTHORIZED

SEC. 8. For the purpose of making such Federal payments, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1976, and for each succeeding fiscal year the amount necessary to effectuate the provisions of this Act.

MOBILE TEACHERS' RETIREMENT ASSISTANCE ACT

PURPOSE

To permit teachers to change employment across State lines without substantial loss of retirement benefits.

To participate in the program provided for in this act, a State retirement system must:

(1) Provide for payment of retirement benefits on account of out-of-State service by a covered teacher;

(2) allow covered teachers at least 10 years of out-of-State credit for public teaching service not covered by the system which is not vested under another State retirement system, upon payment by the covered teacher by the date of retirement of a portion of the cost involved and payment from public funds of the remainder;

(3) require no more than 1 year of in-State service for each year out-of-State service credit granted;

(4) provide that the teacher's payment for out-of-State service credit shall not exceed 25 percent of the total cost of the out-of-State service credit;

(5) provide for vesting after not more than 5 years of creditable service in the State retirement system;

(6) provide for making such reports, in such form and containing such information as the Commissioner may reasonably require to carry out his functions under this act.

OUT-OF-STATE CREDIT PROVISIONS

(a) The Commissioner will make an annual Federal contribution to each qualified State retirement system on account of each covered member teacher with credited out-of-State service who has retired during any 12-month period as designated by the system. For each year of credited out-of-State service, the Federal payment will be an amount equal to 50 percent of the total cost as determined by the retirement system at such teacher's age on date of retirement, provided that if the teacher has not reached age 60, the cost shall be determined as if the teacher were age 60.

(b) The Federal contribution to a State retirement system shall be limited to the reserve required to provide not more than 10 years of out-of-State service credit; provided that the Commissioner may determine maximum reserve factors at each age, beginning at age 60, for the purpose of the Federal contribution.

(c) Federal contributions to a State retirement system must be used for the same purposes and be subject to the same terms and conditions as funds derived from other sources and may not be paid on a basis less favorable to the retired teacher.

TABLE 1.—VESTING PROVISIONS AND MAXIMUM OUT-OF-STATE SERVICE IN STATE AND LOCAL RETIREMENT SYSTEMS TO WHICH TEACHERS BELONG

Retirement system (1)	Type of membership [1] (2)	Years of service and/or age requirements for vesting [2] (3)	Maximum years of out-of-State service creditable (4)
1. STATEWIDE RETIREMENT SYSTEMS			
Alabama	T	(a) 15 years at any age; (b) 10 years if in service at age 55.	None.
Alaska [3]	T	10 years	10 years.
Arizona	P	5 years	None.
Arkansas	T	(a) 20 years at any age; (b) 10 years, age 60.	10 years.
California [3]	T	5 years	None.
Colorado [3]	P	do	Do.
Connecticut [3]	T	10 years	10 years (reciprocal).
Delaware	P	20 years	None (4 years may be counted toward 30 years' service retirement requirement).
Florida [4]	P	10 years	None.
Georgia	T	20 years	10 years (reciprocal).
Hawaii	P	5 years	None.
Idaho	P	10 years	Do.
Illinois [3]	T	5 years	10 years.

Footnotes at end of table.

Retirement system (1)	Type of membership[1] (2)	Years of service and/or age requirements for vesting[2] (3)	Maximum years of out-of-State service creditable (4)
Indiana	T	(a) 15 years' service and age 50; (b) 10 years at age 65.	8 years (limit may be exceeded under certain circumstances.)
Iowa	P	(a) 8 years; (b) age 55 regardless of years of service.	None.
Kansas	P	10 years	Do.
Kentucky[3]	T	5 years	8 years.
Louisiana[3]	T	(a) 20 years; (b) 10 years if teacher withdraws to enter public-school teaching in another State.	None.
Maine[3]	P	10 years	10 years.
Maryland	T	15 years	5 years.
Massachusetts[3]	T	(a) 20 years; (b) 6 years i/ if position is abolished or the teacher not reemployed.	10 years.
Michigan	S	(a) 25 years; (b) 10 years and age 50.	15 years.
Minnesota	T	10 years	None.
Mississippi	P	(a) 20 years for full vesting; (b) 16 years for partial vesting.	Do.
Missouri	T	20 years	10 years.
Montana	T	5 years	5 years.
Nebraska	S	5 years	10 years.
Nevada	P	(a) 20 years for full vesting; (b) 15 years with partial benefit.	None.
New Hampshire	P	15 years	Do.
New Jersey	T	do	10 years.
New Mexico	S	5 years	5 years.
New York	T	10 years	10 years.
North Carolina	P	12 years	None.
North Dakota	T	No vesting	Unlimited.
Ohio	T	5 years	None (unlimited credit allowed to meet the eligibility requirements for retirement in Ohio).
Oklahoma	S	20 years	5 years.
Oregon	P	5 years	None.
Pennsylvania	S	10 years	12 years.
Rhode Island	P	do	5 years.
South Carolina	P	15 years	Unlimited.
South Dakota	T	10 years	None.
Tennessee	T	(a) 10 years; (b) 4 years for college and university.	Do.
Texas	S	10 years	10 years.
Utah	P	No vesting	None.
Vermont	T	15 years	None (10 years toward 15-year eligibility for disability retirement).
Virginia	P	5 years	None.
Washington	T	do	Do.
West Virginia	S	20 years	Varies; on same terms as other States provide credit for West Virginia public school service.
Wisconsin	T	Immediate	None for members of combined group (with social security); out-of-State credit available to some separate group members under certain circumstances.
Wyoming	P	4 years	None.
Puerto Rico	T	10 years	Do.
2. LOCAL RETIREMENT SYSTEMS			
California:			
Los Angeles	T	5 years	Do.
San Francisco	P	(a) 10 years; (b) if accumulated contributions exceed $1,000.	Do.
Colorado: Denver	S	10 years	None.
District of Columbia: Washington.	T	5 years	10 years.
Illinois: Chicago	T	(a) 20 years; (b) 10 years and age 55.	Do.
Iowa: Des Moines	T	20 years and age 45	None.
Maryland : Baltimore	P	No vesting	Do.
Michigan: Detroit	S	(a) 15 years' continuous service and age 50; (b) 25 years, with last 10 years continuous; (c) 15 years' continuous service and subsequent retirement from another public agency.	10 years; 15 years if service is in Michigan.
Minnesota:			
Duluth	T	No vesting	None.
Minneapolis	T	7 years	Do.
St. Paul	T	10 years	5 years.
Missouri:			
Kansas City	S	5 years and age 40	None.
St. Louis	S	5 years	Do.
Nebraska: Omaha	S	20 years	5 years.
New York: New York City.	T	15 years	15 years.
Oregon: Portland	T	5 years	None.
Tennessee: Knoxville	P	15 years	Do.
Wisconsin: Milwaukee	T	Immediate	Do.

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[1] In this column, T=teachers and professional school employees only; S=all school employees; P=teachers and other public employees.

[2] The requirements listed are other than those needed for early retirement.

[3] No social security coverage.

[4] In December 1970, Florida consolidated its retirement systems. All new teachers will become members of this system and will automatically be covered by social security. Teachers under the old system had the opportunity to elect coverage in the new system and with it social security coverage.

By Mr. TAFT:

S. 298. A bill to provide for the development and implementation of programs for youth camp safety. Referred to the Committee on Labor and Public Welfare.

YOUTH CAMP SAFETY ACT

Mr. TAFT. Mr. President, on November 12, 1974, the Committee on Labor and Public Welfare reported S. 3639, the Children and Youth Camp Safety Act, to which I expressed strong disagreement in my minority views. As I said in that report (No. 93–1284), I believe that the promulgation and enforcement of safety and health standards affecting youth camps should be properly the role of the States and localities and that the appropriate Federal role lies in the areas of encouragement and assistance, not Federal regulation and enforcement.

On November 22, 1974, I offered a substitute amendment (No. 1993) to the committee bill which I believe more appropriately defined the proper Federal role in youth camp safety activities. Today, I am introducing the substitute amendment as a bill. My proposal includes many provisions similar to S. 3639 as reported—the establishment of an Advisory Council on Youth Camp Safety, the requirement for an annual report, on youth camp safety activities by the Secretary of Health, Education, and Welfare, technical assistance to be provided by the Federal Government, and the publication of Federal youth camp safety standards. It also includes provisions similar to the Ribicoff bill of last Congress, S. 1830.

What it does not contain is a mandatory program of Federal intervention in what is basically a State activity. There is no provision for an inflationary grant program to the tune of $7.5 million each for 6 years—$45 million, and no provision for Federal inspectors entering youth camps investigating compliance with Federal standards, except with permission.

What it does contain are provisions whereby the Secretary of Health, Education, and Welfare will develop youth camp safety standards in consultation with the advisory council and provide technical assistance to States desiring to develop a youth camp safety program. It creates a voluntary program where States will authorize youth camps to advertise compliance with these standards provided they submit an acceptable State plan for a youth camp safety program. In addition, the authorization figure of $1.2 million is a much less inflationary figure given the current state of our economy. The effectiveness of this approach will come from consumers who will demand that youth camps comply with Federal standards and youth camp operators themselves who will demand that States participate in a compliance program so they may advertise such compliance. However, there is no Federal carrot and no Federal stick, but instead a program of Federal guidance and assistance.

The Department of Health, Education, and Welfare in its July 15, 1974, testimony expressed a willingness to:

> Render requested technical assistance in several areas to States, other Federal agencies which control Federal land used for camping purposes and to National camping associations; (develop) model legislation and regulation for adoption by States . . . encourage States through the Council of State Governments and other means, to adopt such legislation and regulation . . . provide technical assistance to States for the development of procedures to monitor serious illness, injury and death among summer youth campers . . . provide consultative services to Federal agencies administering facilities used by the public for camping: (and) . . . provide consultation to States and national camping organizations when the required consultation can best be provided by the Federal Government.

This bill builds on this willingness of the Department to assist the States. It recognizes also that youth camp safety functions are largely State and local public health responsibilities and their regulation will necessarily vary in a myriad of ways with the type of camp and area of the country. The committee recognized this problem and S. 3639, as reported, attempted to solve it by listing eight separate definitions of types of camps and including a provision allowing variations where there are extraordinary circumstances or undue hardship. This is but a small sample of the problem of classifying camps and locating the responsibility within State government for youth camp safety. However, such lack of standardization and information does not warrant transferring responsibility to the Federal Government with the concomitant increase in budget and the bureaucracy. The bill which I am offering today would not do this.

By Mr. DOMENICI (for himself and Mr. MONTOYA):

S. 301. A bill relating to lands in the Middle Rio Grande Conservancy District, New Mexico. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, I rise today to introduce legislation of a technical nature in order to resolve a land ownership matter along the Rio Grande in central New Mexico which has long been misunderstood. I am pleased to be joined by my distinguished colleague, Mr. MONTOYA.

Since the formation in 1927 of the Middle Rio Grande Conservancy District, a political subdivision of the State of New Mexico, it has been believed by all parties that the small scattered tracts within the district were part of larger, privately owned tracts. Consequently, the landowners paid property taxes to the State of New Mexico, and fees based on the acreage to the conservancy district. In some cases, the State of New Mexico received tax deeds to certain tracts based on nonpayment of State taxes. These isolated tracts were regarded as private acreage and not as public lands held by the Bureau of Land Management. However, a detailed survey was conducted and it was discovered that small portions of the valley land were held by the Bureau.

There are no large tracts involved in this matter. In most cases, they are tiny fractions of an acre tracts and in only a few instances are plots of more than 2 or 3 acres involved.

Under the provisions of this legislation, the Bureau of Land Management would be paid $5,626.45, an arbitrary figure arrived at by the principals involved, and the farmer, in turn, would pay the nominal sum of up to $5 per acre to the conservancy district for clear title to the land.

The important factor is that the landowners have, for years, believed this to be privately owned land. They have paid taxes and conservancy district assessments on it. They have irrigated productive tracts. We believe that this legislation offers a suitable solution.

A measure similar in nature was introduced in the 93d Congress. The Committee on Interior and Insular Affairs held hearings on the bill and the Department of the Interior testified favorably, providing three amendments were made. One was of a technical nature and this bill includes this amendment.

Another amendment which the Department recommended was to compensate the United States in the amount of $25,000. This would amount to about $10 an acre for the approximately 2,500 acres of land to be conveyed. We do not feel that this would be fair.

The majority of the "purchasers" of the land covered by this act have already purchased the land—that is to say, at the time they bought what was in most instances a larger tract, they paid for what they believed they were getting title to—an area which normally includes the amount covered by this bill. It was after their initial purchase that it was discovered that title had not technically passed to the portions covered here for the simple reason that title was not vested in the presumed owners from whom they were making the purchase.

We believe the price proposed in our bill is fair and during the markup session before the Public Lands Subcommittee, members of the subcommittee agreed that this price was reasonable.

The third amendment was to delete the words "or immediately adjacent thereto" in section 4. This amendment is necessary to prevent expansion of the scope of the legislation. We intend only to correct title problems within the conservancy district, not unidentified areas outside of the district's boundaries. This deletion has been made in the bill as introduced today.

By Mr. DOMENICI:

S. 302. A bill to amend the Federal Food Stamp Act to prohibit any increase in the portion of a household's income that may be charged for food stamps under such act in the case of any household whose members are all 60 years of age or older or in the case of any household in which over one-half of the income is provided by members 60 years of age or older, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. DOMENICI. Mr. President, last November 26, President Ford announced several budget reductions and recissions which amounted to a total of $4.6 billion.

An increase in the cost of food stamps to recipients was included in this package. Indeed, under the proposed new regulations, the food stamp recipients would be required to pay 30 percent of their disposable income to purchase food stamps.

Under the proposed regulations, one- and two-person households would be the most severely affected. Of all one-person households participating, 74 percent is comprised of persons age 60 or older. Of all two-person households participating in the program, 40 percent are comprised of persons age 60 or older. Of all one- and two-person households combined participating in the program, 54 percent are comprised of persons age 60 or older.

I think it is evident from these figures that the elderly of this Nation will suffer the most under the new regulations. For example, an elderly couple with $270 in adjusted monthly income now pays $64 and receives $84 in food stamps. Under the proposed regulations, this couple would be required to pay $81 for the same $84 worth of food stamps. The effect here, of course, would be to drive this couple out of the program at a time when food costs are rising.

Although I support the administration in its attempt to trim the budget, I cannot stand by and allow the elderly poor to bear an unfair and disproportionate burden caused by our efforts to control the budget.

Consequently, I am today introducing legislation which would exempt the low-income elderly from the change in regulations. This legislation would accomplish the following:

First. Exempt any household where all of the members are 60 years of age or older,

Second. Exempt any household where the majority of the income is provided by household members who are 60 years of age or older, and

Third. Extend the period of eligibility for receipt of food stamps by 12 months for all supplemental security income recipients.

The supplemental security income program is the Federal Government's new assistance program for the aged, blind, and disabled poor. Under current legislation, their eligibility would expire on June 30 of this year.

Mr. President, I ask unanimous consent that the text of my bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 302

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That section 7(b) of the Food Stamp Act of 1964 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provisions of this subsection, the charge imposed on households for coupon allotments under this Act after the date of enactment of this sentence may not exceed, in the case of any household all of the members of which are 60 years of age or older or in which over one-half of the income is provided by members of the household who are 60 years of age or older, the charge that would have been imposed on such household for such coupon allotment under rules and regulations of the Department of Agriculture in effect on January 1, 1975."

SEC. 2. (a) Section 8(a)(1) of Public Law 92–233 is amended by striking out "18-month period" where it appears in the matter preceding the colon and in the new sentence added by such section, and inserting in lieu thereof in each instance "30-month period".

By Mr. GRAVEL:

S. 306. A bill to terminate the Airlines Mutual Aid Agreement. Referred to the Committee on Commerce.

Mr. GRAVEL. Mr. President, today I am introducing a bill to terminate the Airlines Mutual Aid Agreement, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 306

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That section 412 of the Federal Aviation Act of 1958 (49 U.S.C. 1382) is amended by adding the following new subsection:

"(c) The Airlines Mutual Aid Agreement approved by the Board in docket 9977 is adverse to the public interest and hereby terminated."

SEC. 2. The amendments made by this Act shall become effective on the date of enactment.

By Mr. DOMENICI:

S. 307. A bill to achieve fuel economy for motor vehicles, to establish standards and requirements of motor vehicle fuel economy, to assure compliance with such standards, and for other purposes. Referred to the Committee on Commerce.

MOTOR VEHICLE FUEL ECONOMY ACT

Mr. DOMENICI. Mr. President, in the 93d Congress I introduced a motor vehicle fuel economy bill. The need for improved fuel economy still continues and is now more important than at any time in the past. This Nation is facing a continuing energy shortage, so we in Congress must continue to address ourselves to the full scale impact and implications of our less than adequate energy ethic.

The harder we have looked at the alternatives, the more we are forced to fall back on the choice of energy conservation, especially in the short term. If we are as candid as to the prospects for expanding our energy supply, and if we are candid as to our hopes of reducing imports of oil, then we have no choice but to achieve major cuts in consumption through energy conservation. The bill I introduce today to the 94th Congress is designed to facilitate this objective for one of the major and most wasteful forms of energy usage—the automobile.

In this bill, I am not dealing with any amendments to the Clean Air Act. I am not requesting any rollback of the emission levels presently required for 1977–81 model years. The President of the United States in his fact sheet on the state of the Union reported that the Environmental Protection Agency will soon hold hearings on emission controls and fuel economy. I believe that there should be very close scrutiny by the Members of this body to any proposed rollback of standards and I intend to participate actively in that activity.

Many bills have been introduced and several hearings have been held recently on automobile fuel economy. In short, the pros and cons of insuring substantial fuel economy have been well aired in the Congress. I am convinced of the need for prompt legislation to insure that the responsible agencies and automobile manufacturers move as expeditiously as possible to create a firm program for acheiving substantial increases in automobile fuel economy.

At this point, I am not implying that there should or should not be any change in emission requirements. What I am asking for is a legislative commitment to achieve improved fuel economy.

The bill I have introduced is designed to assure flexbility for the automobile manufacturer while assuring that firm commitments to increased fuel economy, subject to regulatory oversight, become reality.

A voluntary method of achieving greater fuel economy is the heart of this bill. The bill I present today has Federal regulatory provisions, but is unique from past bills by providing emphasis on voluntary action by automobile companies.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motor Vehicle Fuel Economy Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that—

(1) each day the United States uses approximately six million barrels of oil more than it produces from domestic sources and in the absence of effective conservation measures oil imports will need to grow in volume;

(2) the need to import increasing volumes of oil from foreign nations makes the Nation prey to arbitrary and exorbitant price fixing by petroleum exporting countries and vulnerable to unreasonable foreign policy pressures and economic chaos from production reductions and embargoes by such countries;

(3) oil-exporting nations acting in concert have raised the price of oil approximately 300 per centum during the past year, causing the United States to suffer enormous deficits in its international balance of payments and contributing to the highest rate of inflation in decades as the increased cost of fuel is passed on to commerce, industry, and the American consumer;

(4) for these reasons, it is an urgent necessity for the United States to reduce the quantities of crude oil and refined petroleum products which it imports; and

(5) automobiles are the single largest and most significant user of petroleum products, but the amount of oil required for automobile transportation should be able to be reduced by more than one million barrels a day through technologically feasible improvements in automobile fuel economy.

(b) It is therefore declared to be the purpose of Congress in this Act to—

(1) encourage the manufacture of automobiles which reduce the amount of fuel consumed per mile traveled without reducing safety, damageability, or environmental standards; and

(2) increase the industrywide average fuel economy for automobiles to achieve at least a 40 per centum improvement in such average by 1980 over the model year 1974 figure and a 65 per centum improvement in such average by 1985 over the model year 1974.

DEFINITIONS

SEC. 3. (a) When used in this Act—

(1) "Fuel" means any material or substance capable of serving as a source of energy for a motor vehicle, including, but not limited to, gasoline, diesel oil, kerosene, natural gas, and propane.

(2) "Fuel economy" means the average number of miles traveled by a motor vehicle per unit of fuel consumed, as determined in accordance with test procedures established by the Administrator.

(3) "Industrywide average fuel economy" means the weighted average fuel economy of all new motor vehicles sold or expected to be sold in all States in a given model year.

(4) "Weighted average fuel economy" means the average fuel economy of a class or classes of new motor vehicles or new motor vehicle engines produced for introduction into commerce or (in the case of any person, except as provided in regulation of the Administrator) imported into the United States by a manufacturer during a specified time period, as determined by considering the total quantity of fuel which would be consumed per unit of distance travelled, assuming an equal distance travelled by each vehicle, by all vehicles in such class.

(5) "Model" means a motor vehicle of particular brand name, body dimensions, style, engine, and drive train.

(6) "Administrator" means the Administrator of the Environmental Protection Agency.

(7) "Secretary" means the Secretary of the Department of Transportation.

(b) Any other terms used in this Act which are defined in the Clean Air Act (42 U.S.C. 1857 et seq.), shall have the same meaning as in such Act.

FUEL ECONOMY STANDARDS

SEC. 4. (a) The Secretary shall by regulation promulgated pursuant to section 553 of title 5, United States Code, prescribe (and from time to time revise) in accordance with the provisions of this section such minimum average fuel economy standards for any class or classes of new motor vehicles or new motor vehicle engines as in his judgment are necessary to assure the efficient utilization of fuels by such motor vehicles or engines.

(b) Regulations established by the Secretary under this section shall be designed to achieve to the maximum extent practicable and feasible, weighted average fuel economy standards for new light duty motor vehicles manufactured during model year 1980, which are an increase of at least 40 per centum of industrywide average fuel economy, and for new light duty motor vehicles manufactured during model year 1985, which are an increase of at least 65 per centum of industrywide average fuel economy, over the industrywide average fuel economy for new light duty motor vehicles manufactured in the 1974 model year.

(c) Any regulation prescribed under this section (and any revision thereof) shall take into consideration the available technology, the period necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance, the economic impact of compliance, the natural resource impact of compliance, and the impact on regulations applicable to the emission of air pollutants from any class or classes of new motor vehicles or new motor vehicle engines established under title II of the Clean Air Act and any applicable safety standards, within such period. In establishing such standards the Secretary shall consult with the Administrator, the Administrator of the Federal Energy Administration, the Secretary of the Treasury, and the Administrator of the Energy Research and Development Administration.

(d) Regulations under this section shall be applicable to new light duty motor vehicles manufactured during model year 1977 and thereafter, and with respect to model year 1977 shall be promulgated not later than 270 days after the date of enactment of this Act.

COMPLIANCE

SEC. 5. (a) If a manufacturer voluntarily achieves the average weighted fuel economy goal established under section 4, the provisions of this section and section 10 are inapplicable to such manufacturer. Achievement of the average weighted fuel economy of any class of new motor vehicles sold by a manufacturer during any model year shall be determined by the Secretary.

(b) Compliance with the standards established under section 4 shall be determined by the Secretary with respect to each class of new motor vehicles or new motor vehicle engines on the basis of the demonstrated fuel economy, as determined by the Administrator, for each model within such class and the total number of each of such models sold by a manufacturer during a model year.

(c) If the Secretary determines that the average weighted fuel economy of any class of new motor vehicles sold by a manufacturer during any model year fails to meet the standards established under section 4 with respect to such class, such manufacturer shall be in violation of such standard.

TESTS

Sec. 6. In order to determine whether new motor vehicles or new motor vehicle engines being manufactured by a manufacturer conform with regulations pursuant to this Act, the Secretary is authorized to test or require testing by such manufacturers of such vehicles or engines. Such tests may be conducted by the Secretary directly, or the manufacturer may be required to perform such tests in accordance with terms and conditions specified by the Secretary.

INFORMATION AND DATA

Sec. 7. (a) The Secretary and the Administrator may require manufacturers of new motor vehicles and new motor vehicle engines to submit in such form, in such manner, and at such time as he may require, information and data as to sales and fuel economy of new motor vehicles and new motor vehicle engines manufactured or proposed to be manufactured, and such other information and data that he may require to ascertain compliance with the requirements of this Act.

(b) Information and data under this section may be required with respect to models and subclasses of motor vehicles as prescribed by regulation.

LABELING

Sec. 8. The manufacturer shall cause to be affixed on each new motor vehicle subject to regulation under this Act a label in a prominent place indicating in an easily legible and readable form the fuel economy applicable to that motor vehicle as determined through testing required by or performed under this Act or under title II of the Clear Air Act, and such other information relating to that motor vehicle's fuel economy as the Secretary may require.

SUSPENSION

Sec. 9. (a) Whenever the Secretary determines in accordance with the regulations that a subclass or model of new motor vehicles, manufactured, or proposed to be manufactured, fails or will fail to achieve the fuel economy reported by the manufacturer for purposes of determining the weighted average fuel economy for all new motor vehicles anticipated to be sold by the manufacturer during the model year; or if the Secretary determines that the sales for any subclass or model are or will be substantially different than those reported by the manufacturer for the purposes of determining the weighted average of fuel economy for all new motor vehicles anticipated to be sold by the manufacturer during the model year, he shall inform the manufacturer of such determination and shall recommend to the manufacturer that corrective action as he determines may be necessary to achieve the standards established under section 4. Such corrective action may include requirements to curtail or suspend sales of models the fuel economy of which falls below the weighted average fuel economy standard under section 4.

(b) If the manufacturer fails to take corrective action necessary to achieve compliance with section 4 within the time required by the Secretary as determined in a proceeding in accordance with section 554 of title 5, United States Code, the Secretary may order the curtailment or suspension of sales of any models manufactured by such manufacturer until such time as the manufacturer demonstrates to the satisfaction of the Secretary that it will meet the standards under section 4.

(c) If the manufacturer fails to comply with an order issued by the Secretary within the time required by such order, the Secretary may commence a civil action for appropriate relief, including permanent or temporary injunction. Any such action brought under this section may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business. Such court shall have jurisdiction to restrain violation of the Secretary's order and to compel compliance.

CONFORMING AMENDMENTS

Sec. 10. The Clean Air Act is amended as follows:

(a) Section 203(a) (2) is amended by adding after the phrase "section 208" the following: "or under section 7 of the Motor Vehicle Fuel Economy Act of 1974";

(b) section 203(a) (4) (A) is amended by adding after the phrase "section 207(c) (3)" the following phrase "and section 9 of the Motor Vehicle Fuel Economy Act of 1974"; and

(c) section 206(c) is amended by adding after the phrase "enforcement of this section" the phrase "and of any regulation under the Motor Vehicle Fuel Economy Act of 1974."

By Mr. DOMENICI (for himself, Mr. Baker, Mr. Humphrey, Mr. Philip A. Hart, Mr. Burdick, Mr. Schweiker, and Mr. Montoya):

S. 308. A bill to amend title XVIII of the Social Security Act to provide for the coverage, under the supplementary medical insurance benefits program established by part B of such title, of one routine physical checkup each year and for preventive care for individuals insured under such program. Referred to the Committee on Finance.

Mr. DOMENICI. Mr. President, today several colleagues and I are offering a bill which I believe can make a major contribution to improving the health status of persons over age 65 and certain disabled persons, and at the same time has the potential of reducing the total cost of care for these population groups. The proposal I am offering would amend the medicare program to authorize payment for one comprehensive physical examination per year for each person enrolled in the supplementary medical insurance program, part B, of medicare.

While I am proposing payment for physical examinations in the context of the medicare program, I am convinced that a similar preventive care feature should be made part of any health insurance program that is developed.

The need for the medicare legislation I am proposing today became obvious during general hearings before the Special Committee on Aging, Subcommittee on Health, which I conducted in my own State of New Mexico on May 25, 1974. Later, on July 25 and 26, more specific hearings were conducted before the same subcommittee regarding the findings of the Abbott-Northwestern Hospital in Minneapolis, Minn. Hospital officials recently became aware of many seniors' inability to pay even the most minimal health expense on their fixed retirement incomes. While health officials knew cost constraints were keeping the aged from health care, they were ignorant of the problem's magitude until they tried a unique experiment. It was decided the hospital would accept medicare payments as total payment for all health care provided. The senior citizen would not have to pay a dime.

An astounding 239-patient load per week replaced the usual 20- to 30-patient load. The number of registered patients grew from less than 1,000 enrolled to almost 10,000. The hospital staff was shocked with the advanced state of many diseases. The patients, many of them retired professionals, could not afford medicare treatment, even with medicare benefits. These people were waiting until they could no longer ignore their disease.

The hospital officials found that medicare would not pay for any physical examination which was not directly related to the illness complained about by the patient. So, although patients who were complaining of headaches were found through the course of examination and lab tests to have terminal cancer of the stomach, the tests could not be paid for by medicare because the patient had not yet complained of stomach pains. I submit that by the time a patient complains of stomach pains and is later found to have cancer, it would most likely be too late—and subsequently very costly.

This provision under present medicare regulations, I believe, exemplifies that old adage, "penny wise, dollar foolish."

Dr. Thomas Wergest from Abbott-Northwestern, stated the problem in his testimony before the subcommittee:

> Medicare encourages only episodic (crisis intervention) medical care. This is not only not beneficial barriers to prevent him from seeking medical aid unless he has a medical crisis, the cost of his medical care will increase dramatically.
>
> The significant example that I can use here is high blood pressure. Hypertension is one of the significant public health problems in this country today, not only in just the geriatric age group. By waiting until target organ damage has occurred, such as stroke or heart attack, the results are disastrous. The early detection and treatment of hypertension significantly reduces the mortality and the morbidity from vascular disease. And, as an additional benefit, it reduces the cost of health care.

Dr. Wergest felt early preventive care to be an imperative for cancer, malnutrition, emphysema, and vascular problems, diseases most effecting the elderly—both from the patient standpoint, and from the cost analysis.

The facts show that medicare provides health insurance protection for virtually all persons age 65 or older. Persons who meet the age requirement but who are otherwise not entitled to coverage may voluntarily obtain hospital insurance protection by paying the full actuarial cost of such coverage. Also, beginning in fiscal year 1974, about 1½ million disabled workers at any age, and certain disabled dependents are also included in medicare.

In total, about 23 million aged and disabled Americans are protected against the potentially devastating effects of the high cost of serious illness.

Medicare covers both institutional and physician costs. But, in particular, the program provides generous benefits for persons requiring hospitalization. Coverage is provided for 90 days of inpatient care, for each "spell of illness" and if additional time is needed, a "lifetime reserve" of 60 hospital days may be drawn upon. A deductible of $92 currently applied to each hospital admission and additional copayment amounts are applied after the 60th day of care. In dollar terms, medicare expended more than $8 billion in fiscal year 1974 to pay for care for the 5.4 million aged and disabled beneficiaries who required hospital care.

Medicare also covers a broad range of diagnostic and remedial items and services provided by physicians and others where directly related to an actual complaint, system, or established diagnosis. In 1974, medicare expended almost $3 billion for these services for the 11.6 million aged and disabled beneficiaries requiring them.

Mr. President, I have reviewed these statistics indicating a gigantic expenditure of Federal dollars, an expenditure which is projected to reach $13.4 billion in 1975, to make one basic point: This entire amount has been and is being expended to provide assistance to medicare beneficiaries once they are ill. No funds are spent to prevent illness or for early detection of disease. The ounce of prevention rhetoric has not found its way into the medicare program.

Mr. President, it is not possible to estimate how much suffering could be avoided, how much pain could be alleviated, how much money could be saved if we invested a fraction of the medicare dollar into preventive care.

My proposal to authorize payment for one comprehensive physical examination per year for each medicare beneficiary can result in early detection of illness and potentially crippling disease. While it will initially increase the demands on physician manpower, preventive care of this sort will soon result in reduced medical demands. We can anticipate an improvement in the general health status of the population and with it a lessening in expensive hospital care.

Some have objected to an annual physical examination for the elderly on the basis that it will result in unnecessary use of medical services. I maintain, Mr. President, that the present system of providing benefits only when people are seriously ill results in avoidable use of medical services.

On both humanitarian and fiscal grounds, my proposal is both sound and prudent. I urge its early enactment.

By Mr. McCLURE:

S. 309. A bill relating to abandonment of mining claims. Referred to the Committee on Interior and Insular Affairs.

Mr. McCLURE. The Bureau of Land Management and the Forest Service have complained that the public domain is cluttered with 5 or 6 million abandoned mining claims, and that these claims are a cloud on the title of the United States to the public domain until the United States establishes their abandonment by contest proceedings. Representatives of the Bureau of Land Management have advised that the necessary investigations required to prepare for contest proceedings and the contest proceedings are very time consuming and require expenditures of very large sums of money by the United States. The proposed bill would provide a simple method for establishing the abandonment of mining claims.

A mining claim is conclusively presumed abandoned if some notice or other instrument is not filed of record in the appropriate county office by or on behalf of the owner of the mining claim within 3 years after the proposed bill is enacted into law. The 3-year period allows a holder of a mining claim ample time to file such an instrument. Three years are allowed not only in fairness to the owner of the mining claim, but also to meet constitutional objections inherent in a shorter period. The bill purposely provides that any kind of notice or affidavit of labor is sufficient, even though it is defective or is not timely filed for record under other Federal or State laws permitting filing or recording thereof. Such an instrument is sufficient because it shows an affirmative intent on the part of the owner not to abandon his mining claim. Moreover, if form or substance of the instrument to be filed were prescribed, then one examining an abstract would be presented with many troublesome problems not existing under the present law. Determinations would then have to be made whether the form and substance of the instrument filed complied with law. These matters are usually unimportant under the present laws, for if there has been no intervening location it is immaterial whether the affidavits of labor or notices were defective.

By Mr. McCLURE:

S. 310. A bill to amend the Natural Gas Act to extend its application to the direct sale of natural gas in interstate commerce, and to provide that provisions of the act shall not apply to certain sales in interstate commerce. Referred to the Committee on Commerce.

Mr. McCLURE. Mr. President, any objective analysis of the present energy crisis must conclude that one basic cause was the 1954 Supreme Court decision concerning price regulation of natural gas. In this decision, concerning Phillips Petroleum Co. against Wisconsin, the Court held that the Federal Power Commission had authority to regulate the prices at which natural gas field producers sold their production to interstate pipeline companies. The Warren court came to this conclusion despite the explicit intent of Congress, expressed by the Natural Gas Act of 1938 in these terms:

> The provisions of this chapter . . . shall not apply to the production or gathering of natural gas. (15 U.S.C. 717(b))

I will not go into the sorry record of the attempts by the Federal Power Commission to regulate wellhead prices. Whether based on some unwieldy costs of service procedures or in setting areawide ceiling prices, involving distinctions between old gas and new gas, the results speak for themselves. The residential natural gas consumer has not been helped by FPC efforts to hold down prices. These efforts have led directly to the present shortage of natural gas and indirectly to shortages of fuel oil, gasoline, and technology for removing sulfur from coal and sulfur dioxide from powerplant exhaust gases.

The time has come to reverse this decline in natural gas reserves. And, the first step in this process is to remove the authority of the Federal Power Commission to regulate wellhead prices for new supplies of natural gas. This will accomplish these vital objectives.

First, it will stimulate exploration and development of new gas fields, plus increase the economic feasibility of existing marginal wells. Second, it will conserve new supplies of natural gas, by discouraging wasteful uses—uses which were created by the cheapness of price-controlled gas. And, third, it will stimulate the search for new sources of clean fuel, particularly from coal, and new techniques for using existing reserves.

My proposal, the Natural Gas Conservation Act of 1975, exempts only gas from new wells, not rededicated supplies. This will, I believe, stimulate necesary exploration and development without imposing additional economic burden on the consumer.

Second, my proposal would leave jurisdiction for a 3-year period over price ceilings with the Federal Power Commission. I believe that this 3-year transition is necessary to protect against possible exorbitant price increases of a temporary nature. After 3 years, supply and demand should maintain competitive levels without this ceiling-setting authority.

Mr. President, to summarize my objection to the present system of regulation and to lend further argument for my proposal, I quote from an article entitled, "The Natural Gas Shortage and the Regulation of Natural Gas Producers," written by Stephen Breyer, professor of law at Harvard Law School, and Paul W. MacAvoy, professor of economics at MIT. This article, printed in the Harvard Law Review in April 1973, is adapted from a book on energy regulation by the authors, funded by the Brookings Institution:

> In sum, the arguments against the present system of gas field market regulation are compelling. Price control is not needed to check monopoly power, and efforts to control rents require impossible calculations of producer costs and lead to arbitrary allocation of cheap gas supplies. In practice, regulation has led to a virtually inevitable gas shortage. It has brought about a variety of economically wasteful results, and it has ended up by hurting those whom it was designed to benefit. Thus, less, not more, regulation is required.

I recommend the complete article to my colleagues as an excellent analysis of this complex subject, and hope that the authors will have the opportunity to testify before the appropriate committees on the proposed legislation.

Conservation of natural gas demands that Federal Power Commission price controls on wellhead production of new supplies be removed. Despite statements to the contrary, the residential consumer will not be hit with outrageous price increases, since higher priced gas will be rolled in with lower priced existing supplies. In that manner, a further deterioration of the existing natural gas supply situation—with its attendant harmful effects on other forms of fuel and energy—can be reversed and future consumers of this clean, valuable energy source will be protected. I urge immediate attention to this legislation, in light of the continuing energy crisis on our Nation today.

By Mr. McCLURE:

S. 311. A bill to amend the Internal Revenue Code of 1954 in order to tax excess petroleum industry profits, to encourage investments in the expansion of domestic energy supplies, and to create an incentive tax credit for research and development of new or expanded energy sources. Referred to the Committee on Finance.

EXCESS PETROLEUM PROFITS TAX ACT OF 1975

Mr. McCLURE. Mr. President, we find ourselves as a nation in a dilemma. On the one hand we have vast untapped domestic fuel sources and the capability to develop the technology necessary to unleash numerous forms of new energy sources. Yet on the other hand, we are bound by a critical energy shortage. Prices for fuel and related products have shot upward. We know from past experience that in such situations some individuals and segments of industries have not been able to resist the temptation to increase prices more rapidly than costs during a period of shortage. The American people can be caught in two ways: By higher prices and by the shortage of fuels.

Meeting our Nation's future energy needs is going to require a tremendous capital investment. The Chase Manhattan Bank has reported that the financial needs of the petroleum industry in the 15-year period from 1970 to 1985 will be $1,350 billion. Such a capital expenditure is staggering, even by congressional standards. And where is this money to come from? From the Government? From private industry?

It is all too obvious what the differences between private enterprise and governmental programs are. I refer to efficiency in the use of funds, speed in arriving at objectives, ability to shift programs, and desire for a more competitive product. It is not in our country's best interest to federalize this program of energy expansion. Instead, we should stimulate the skills and efforts of private enterprise to develop for us a new era—one of sufficient energy through expanded technology. Thus we need to encourage vast sums of investment into expanding our present energy supplies and developing the advanced technology necessary to unlock new forms of energy and energy sources. And there is no better way to start than by utilizing the profits of the petroleum industry. This is precisely what my bill is designed to do.

My bill will levy a 90-percent tax on that income of the petroleum industry which is above an average rate of return for all industries. All corporations with an invested capital structure exceeding $2.5 million are covered by the bill, if theirs is a business primarily involved in any level of the petroleum industry, from exploration and extraction to retail sales. The first taxable year will be 1974.

The index to determine what is a fair rate of return would come from the Federal Trade Commission. It would be based on the average percentage rate of return on invested capital for all manufacturing corporations. The FTC is directed to include this information in its quarterly financial reports for manufacturing corporations. Thus the rate of return available to the petroleum industry, without penalty, would float with the economy and at the same time be readily discernible. In this manner they would remain competitive in their search for new and additional funds.

A special deduction will be allowed when figuring taxable income applicable to the excess profits tax. This deduction will be for new investments made in an effort to increase our domestic energy supply—research, exploration, and development. A 5-year set-aside program is allowed during which these investments must be made, to be free of the excess profits tax.

The opportunity for constructive, and perhaps dramatic, action is great. Without attempting to list them all, my bill points to the areas of location, production, transportation, conversion, processing, utilization, pollution abatement, and conservation. Progress can be and must be made in each of these fields having important impact on our total energy supply.

This proposal also expands the present 7-percent investment tax credit to include investments made for domestic research and development facilities for new or expanded energy sources.

By Mr. McGEE (for himself, Mr. HANSEN, and Mr. TOWER):

S.J. Res. 8. A joint resolution to authorize the President to issue annually a proclamation designating March of each year as "Youth Art Month". Referred to the Committee on the Judiciary.

Mr. McGEE. Mr. President, today my colleagues (Mr. HANSEN and Mr. TOWER) and I introduce a Senate joint resolution to establish the month of March of each year as Youth Art Month and to authorize the President of the United States to issue a proclamation to this effect.

Last year on December 16 the Senate passed an identical resolution, Senate Joint Resolution 41. However, the House of Representatives did not approve the resolution during the final days of the session, so we are submitting it again with hopes that it can be passed in time for the President to issue a proclamation before March of this year.

In my State, the Wyoming Federation of Women's Clubs has sponsored this effort since 1961. It has been an effort to focus upon the importance of art education and public support for quality school art programs. The purpose is to emphasize the value of participating art for the development of all children. We have had a broad base of participation in Youth Art Month in Wyoming which has involved public and private schools, libraries, churches, and municipalities. For 3 consecutive years the Governor of Wyoming has proclaimed the month of March as Youth Art Month. It is my understanding that many other States across the Nation have likewise participated in this worthwhile effort.

The joint resolution which we introduce today has the nationwide support of the Crayon, Water Color & Craft Institute, Inc. and also the National Art Education Association, which has affiliates in virtually every State in the Nation. It is, therefore our hope, Mr. President, that Congress will take immediate action in passing this resolution in time for a Presidential proclamation for March of this year.

I ask unanimous consent that the joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 8

Whereas children are our most priceless asset; and

Whereas childhood is the time to develop interests, skills, and aptitudes that will last a lifetime; and

Whereas, through meaningful school art activities, children develop initiative, self-expression, creative ability, self-evaluation, discipline, and a heightened appreciation of beauty; and

Whereas the importance of art in education is recognized as being necessary for the full development of all children; and

Whereas participation in school art programs develops perceptive qualities and sensitivity, thus producing a more enlightened citizenry; and

Whereas Youth Art Month has been observed nationally since 1961 and has gained wide acceptance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue annually a proclamation designating the month of March of each year as "Youth Art Month", and calling upon the people of the United States and interested groups and organizations to become involved in and give their support to quality school art programs for children and youth.

By Mr. TUNNEY (for himself and Mr. CRANSTON):

S.J. Res. 9. A joint resolution relating to the development of and the production of petroleum for Naval Petroleum Reserve Numbered 1, and to direct the exploration of Naval Petroleum Reserves Numbered 1 and 4, and for other purposes. Referred to the Committee on Armed Services.

Mr. TUNNEY. Mr. President, Senator CRANSTON and I are today introducing legislation to provide for the exploration and development of Petroleum Reserves Nos. 1 and 4 and immediate production at Reserve No. 1 at Elk Hills in California. Similar legislation passed the Senate during the last Congress but was not considered in the House. President Ford, in his recent state of the Union message, reiterated his strong support for tapping our naval petroleum reserves, and I share his hope that the Congress will act quickly.

Our naval petroleum reserves offer an available and proven short-term energy supply which can ease energy shortages. This would allow the development of effective energy conservation programs and also provide, along with the Alaskan oil and gas, the necessary time for longer term orderly and safe exploration and development of the Outer Continental Shelf. It makes no sense to begin a massive OCS leasing program at this time when we have naval petroleum reserves which can be developed and produced more quickly and in an environmentally safe manner.

Estimated reserves in Petroleum Reserve No. 4 in Alaska range from 10 to 33 billion barrels while the potential for Elk Hills exceeds 2 billion barrels.

If the Congress acts quickly Elk Hills can produce 160,000 barrels per day and could swiftly be expanded to over 300,000 barrels per day by 1976.

By early 1978, with the completion of the Alaskan pipeline, 2 million barrels per day will be available. Petroleum Reserve 4, near Prudhoe Bay potentially has 3 times the amount of oil discovered at the North Slope.

The joint resolution introduced today by myself and Senator Cranston indicates our desire to have expeditious action by the Congress.

In summary, the resolution provides the following:

First, the production, at maximum efficient rate, of oil and gas from Elk Hills after a finding by the President that it is needed for the national defense.

Second, a program for exploration at both Elk Hills and at Petroleum Reserve 4 in Alaska.

Third, any disposition of petroleum shall be by competitive bid but special consideration should be given to independents given the economic disparities between them and the major oil companies.

Fourth, a report from the Attorney General describing the rights, duties, and obligations of the United States and any other party having any contractual or other interests in Elk Hills. The resolution also requires a report from the Administrator of the Federal Energy Administration on the estimated costs of production of oil and gas at Elk Hills and methods of avoiding windfall profits by the major oil companies involved as a result of production.

Fifth, a requirement that all pipelines at Elk Hills be made common carriers.

I ask unanimous consent that the full text of the joint resolution be printed at this point in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S. J. Res. 9

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That this joint resolution may be cited as the "Naval Petroleum Reserves Defense Production Authorization Act of 1975".

FINDINGS

Sec. 2. The Congress hereby determines that—

(1) nationwide shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production and other factors now exist;

(2) the threat of disruptions in the availability of imported energy supplies and the high prices for such supplies so imported, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(3) the result of domestic petroleum shortages and the threat of disruptions in the availability of petroleum to the Armed Forces of the United States from sources outside of the United States has been or is likely to deny to the Armed Forces petroleum essential to the national defense;

(4) the state of development of Naval Petroleum Reserve Numbered 1 is not adequate for the production of petroleum in the volume required for national defense; and

(5) Naval Petroleum Reserves Numbered 1 and 4 have the potential to contribute significantly to national defense petroleum requirements, but due to inadequate exploration the full extent of that potential is undetermined.

PURPOSES

Sec. 3. The purposes of this joint resolution are to:

(1) assure the production of Naval Petroleum Reserve Numbered 1 if the Secretary of the Navy, with the approval of the President, finds that such production is needed for national defense;

(2) grant the authorization of the Congress for the production and development of Naval Petroleum Reserve Numbered 1 as is required by chapter 641 of title 10, United States Code, and direct that production be commenced as provided for in this joint resolution; and

(3) authorize and direct the exploration of Naval Petroleum Reserves Numbered 1 and 4.

AUTHORITY FOR PRODUCTION

Sec. 4. If within thirty days following the enactment of this joint resolution the Secretary of the Navy, with the approval of the President of the United States, has transmitted to the Congress a finding that the production of Naval Petroleum Reserve Numbered 1 is needed for national defense, the production of petroleum from such reserve is hereby authorized and directed in order to insure that the needs of national defense are met. Such reserve shall be developed and produced at its maximum efficient rate in accordance with sound engineering and economic principles. Subject to the provisions of section 9 of this joint resolution, such production shall commence within thirty days following the date on which such findings of the Secretary of the Navy are transmitted to the Congress.

DISPOSITION OF PRODUCTION

Sec. 5. Any disposition of the United States share of production authorized by this joint resolution shall be in accord with chapter 641 of title 10, United States Code, and shall be conducted in a manner so as to insure that an amount of petroleum equal to value to the crude oil supplied from Naval Petroleum Reserve Numbered 1 shall be made available to the Armed Forces of the United States for defense purposes. Any disposition shall be effected by competitive bid, and shall be so arranged as to give full opportunity for acquisition of the petroleum by all interested companies, particularly independent oil refineries. Any corporation or other entity operating a pipeline or other mode of transporting oil or gas from Naval Petroleum Reserve Numbered 1 shall, in transporting such oil or gas, be considered a common carrier for purpose of any Federal law.

DISPOSITION OF RECEIPTS

Sec. 6. There is hereby established in the Department of the Treasury a Naval Petroleum Reserve Account. During the period of increased production authorized by this joint resolution or as may be hereafter authorized, there shall be transferred or credited to such account (1) any or all proceeds realized under chapter 641 of title 10, United States Code, from the disposition of the United States share of petroleum or refined products, oil and gas products produced, including royalty products, and the net proceeds, if any, realized from exchanges within the Department of Defense of refined products accruing to the benefit of any of the military departments of the Department of Defense as the result of such exchanges, and (2) such funds as may be appropriated by the Congress for the Naval Petroleum Reserve Account, to remain available until expended. Funds transferred, credited, or appropriated to such fund shall be available for expenditure only to the extent provided from time to time in appropriation Acts.

EXPLORATION

Sec. 7. The Secretary of the Navy shall conduct programs of exploration for oil and gas on Naval Petroleum Reserves Numbered 1 and 4 in order to determine the extent of oil and gas resources therein. These programs shall be completed—

(1) within five years from the date of enactment of this joint resolution in the case of Naval Petroleum Reserve Numbered 1, and

(2) within ten years from the date of enactment of this joint resolution in the case of Naval Petroleum Reserve Numbered 4.

The Secretary of the Navy shall make annual reports to the Committees on Armed Services of the Senate and the House of Representatives regarding the progress, results, and findings of these exploration programs, and shall include in such reports such recommendations as he deems appropriate regarding development, production, sale, exchange, transportation, or storage of oil and/or natural gas found to exist on the naval petroleum reserves.

APPROPRIATIONS

Sec. 8. (a) For the exploration of Naval Petroleum Reserve Numbered 4, as required by this joint resolution, there is authorized to be appropriated to the Secretary of the Navy the sum of $24,000,000 for the fiscal year ending June 30, 1975, and $44,000,000 for the fiscal year ending June 30, 1976, to remain available until expended.

(b) For the production of Naval Petroleum Reserve Numbered 1, as required by this joint resolution, there is hereby authorized to be appropriated to the Secretary of the Navy the sum of $15,500,000 for the fiscal year ending June 30, 1975, and the sum of $12,000,000 for the fiscal year ending June 30, 1976. Funds appropriated under this subsection shall remain available until expended.

(c) For the exploration of Naval Petroleum Reserve Numbered 1, as required by this joint resoltuion, there are authorized to be appropriated to the Secretary of the Navy from the Naval Petroleum Reserve Account established by this joint resolution such sums as are necessary to achieve the purposes of this joint resolution for the fiscal year ending June 30, 1975, and for the three succeeding fiscal years.

(d) For the exploration of Naval Petroleum Reserve Numbered 4, as required by this joint resolution, there are authorized to be appropriated to the Secretary of the Navy from the Naval Petroleum Reserve Account established by this joint resolution such additional sums as are necessary to achieve the purposes of this joint resolution for the fiscal year ending June 30, 1975, and for the nine succeeding fiscal years.

REPORTS

Sec. 9. (a) Within thirty days following the date of the enactment of this joint resolution, the Attorney General shall prepare and submit to the Committee on Armed Services of the Senate and the House of Representatives a report describing the rights, duties, and obligations of the United States and any other party or parties having any contractual or other interests in Naval Petroleum Reserve Numbered 1.

(b) Within thirty days following the date of the enactment of this joint resolution, the Administrator of the Federal Energy Administration shall prepare and submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the estimated costs of production and methods of avoiding excess profits as a result of such production authorized by this joint resolution:

(c) Notwithstanding any other provision of this joint resolution, no funds appropriated pursuant to section 8 for production on Naval Petroleum Reserve Numbered 1 may be expended and no authority contained in sections 4 and 5 may be exercised until after the expiration of the fifteen-day period following the date of the submission of the last of such reports required by subsections (a) and (b) of this section.

DEFINITION

Sec. 10. As used in this joint resolution the term "petroleum" means petroleum, crude oil, and associated gas and other hydrocarbons.

SEPARABILITY

Sec. 11. If any provision of this joint resolution or the applicability thereof is held invalid, the remainder of this joint resolution shall not be affected thereby.

LOW SULFUR OIL

Sec. 12. Insofar as practicable, low sulfur oil produced pursuant to this joint resolution in Naval Petroleum Reserve Numbered 1 shall be made available to areas to meet the requirements of the Clean Air Act.

ADDITIONAL COSPONSORS OF BILLS AND RESOLUTIONS

S. 104

At his own request, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of S. 104, a bill to provide for inclusion of the services of licensed registered nurses under medicare and medicaid.

S. 169

At the request of Mr. Domenici, the Senator from Pennsylvania (Mr. Schweiker) was added as a cosponsor of S. 169, a bill to extend social security outside earnings limitation if those earnings are used for medical expenses.

S. 187

At the request of Mr. Dole, the Senator from South Carolina (Mr. Thurmond) and the Senator from North Carolina (Mr. Helms) were added as cosponsors of S. 187, a bill to provide a priority system for certain agricultural uses of natural gas.

S. 193

At his own request, the Senator from Michigan (Mr. Griffin) was added as a cosponsor of S. 193, a bill to prohibit the shipment in interstate commerce of dogs intended to be used to fight other dogs for purposes of sport, wagering, or entertainment.

SENATE RESOLUTION 11

At the request of Mr. Chiles, the Senator from Maine (Mr. Muskie), the Senator from South Carolina (Mr. Hollings), the Senator from New Hampshire (Mr. McIntyre), and the Senator from Illinois (Mr. Stevenson) were added as cosponsors of Senate Resolution 11, concerning the tariff on imported oil.

SENATE RESOLUTION 20

At his own request, the Senator from Ohio (Mr. Taft) was added as a cosponsor of Senate Resolution 20, a resolution promoting strategic arms control.

SENATE CONCURRENT RESOLUTION 1—SUBMISSION OF A CONCURRENT RESOLUTION IN SUPPORT OF INTERNATIONAL WOMEN'S YEAR, 1975

(Referred to the Committee on the Judiciary.)

Mr. MONDALE submitted the following concurrent resolution:

S. Con. Res. 1

Whereas the United Nations has proclaimed 1975 as International Women's Year during which attention will be focused on means of advancing the status of women and eliminating discrimination against women within the United Nations family of agencies and within each of the one hundred and thirty-five member countries of the United Nations; and

Whereas the United Nations has set three goals for International Women's Year which are in accord with the objectives of the Government and people of the United States: (a) to promote equality between men and women; (b) to insure the full participation of women in the total development effort, both national and international; (c) to recognize the importance of women's increasing contribution to the development of friendly relations and cooperation among States and to the strengthening of world peace; and

Whereas the President of the United States, on January 30, 1974, proclaimed International Women's Year for the United States and called on Federal and State officials, private organizations, and individuals to assist in the observance of International Women's Year by constructive measures for the advancement of the status of women; and

Whereas a United Nations-sponsored International Conference will be held during International Women's Year at Bogotá, Colombia, and other United Nations activities for the year are planned; and

Whereas despite the progress made, especially in recent years, there is urgent need for more equitable utilization of women's talents, particularly at higher levels of government, industry, the professions, labor, the arts, and sports, and for greater recognition of women's potential for contributing significantly to the cultural, economic, and spiritual life of the Nation; and

Whereas constructive observance of International Women's Year is a matter of importance for all citizens—men as well as women—for by advancing the status of women the well-being of the family, the community and the Nation are advanced; for without the active cooperation of men and women toward shared goals and mutual understanding of existing problems no lasting progress will be made:

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) The designation of 1975 as International Women's Year is welcomed and full support is expressed for the goals for the Year as proclaimed by the Secretary General of the United Nations and the President of the United States.

(2) Cooperation in observance of the Year is urged on the part of all concerned people, official and private, men and women, to insure that constructive measures are taken to advance the rights and responsibilities of women during 1975.

(3) A concerted effort should be made to insure that 1975 is a year not only of stocktaking but also a time for the launching of new programs and the forming of new attitudes toward the role of women, with impact reaching well beyond 1975, so as to overcome the obstacles still encountered by women in exercising their full measure of human rights and responsibilities in all fields, including government, business, labor, the professions, education, the arts, and sports, and in enjoying freedom of choice in planning their lives.

(4) Women in more than token numbers should be included on all United States delegations to international conferences or other meetings, and on national commissions and other bodies where positions are filled by Federal appointment.

SENATE CONCURRENT RESOLUTION 2—SUBMISSION OF A CONCURRENT RESOLUTION TO DISAPPROVE 5-PERCENT CEILING ON SOCIAL SECURITY COST-OF-LIVING INCREASES

(Referred to the Committee on Finance.)

Mr. CHURCH (for himself, Mr. Kennedy, Mr. Mondale, Mr. Abourezk, Mr. Leahy, Mr. Bayh, Mr. Brooke, Mr. Brock, Mr. Burdick, Mr. Cannon, Mr. Clark, Mr. Ford, Mr. Cranston, Mr. Eagleton, Mr. Eastland, Mr. Stone, Mr. Philip A. Hart, Mr. Hartke, Mr. Haskell, Mr. Hatfield, Mr. Hathaway, Mr. Humphrey, Mr. Inouye, Mr. Jackson, Mr. McGovern, Mr. Muskie, Mr. Bentsen, Mr. Stevenson, Mr. Javits, Mr. Long, Mr. Magnuson, Mr. McGee, Mr. McIntyre, Mr. Metcalf, Mr. Montoya, Mr. Moss, Mr. Pastore, Mr. Pell, Mr. Proxmire, Mr. Randolph, Mr. Ribicoff, Mr. Schweiker, Mr. Stafford, Mr. Talmadge, Mr. Williams, Mr. Young, Mr. Gary W. Hart, Mr. Robert C. Byrd, Mr. Roth, Mr. Huddleston, and Mr. Taft) submitted the following concurrent resolution:

S. Con. Res. 2

Whereas, the President has proposed that the social security cost-of-living benefit increase scheduled for this July be limited to 5 percent;

Whereas, prices are rising at twice this level, imposing an especially serious burden on those Americans who must rely on social security benefit payments;

Whereas, the proposal for a 5 percent limit on social security benefit increases has caused great concern and distress to many Americans;

Whereas, the original intent of the social security cost-of-living escalator provision was to protect beneficiaries from the uncertainties of the political process during inflationary periods; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that no legislation imposing a ceiling on social security cost-of-living benefit increases be enacted.

Mr. CHURCH. Mr. President, the administration's proposals to stimulate our sagging economy—as spelled out in President Ford's economic speech on January 13 and his state of the Union message—reflect almost a total insensitivity to the needs of older Americans.

Once again, the President has put the elderly at the very bottom of the list of people to be helped.

Worse yet, he has called for cutbacks in benefits due to older Americans at a time when they are struggling against near unprecedented inflation.

His proposal to reduce the July social security cost-of-living adjustment—which is now projected at 8.7 percent—to 5 percent is indefensible.

What would be the impact of this action?

In terms of dollars and cents it would mean about a $2.6 billion reduction in annual benefits for more than 30 million social security beneficiaries.

Under the projected 8.7 percent cost-of-living increase, the average monthly benefit for retired couples would rise from $310 to $337. But under the administration's 5-percent ceiling this would amount to $325, or about $12 less per month.

Retired workers would be similarly affected. The average benefits would increase from $186 to $202 a month under present projections. Under the administration's cutback, their monthly payments would be $195, or $7 less per month to spend on food, medicines, and other essentials.

Aged widows would also receive, on the average, about $7 less each month under the administration's proposal.

Once again, it illustrates the Ford administration's fundamental misunderstanding of social insurance programs, such as social security.

And, this recommendation clearly shows a willingness on the part of the administration to change the rules of the game for the elderly after it has already begun.

As the author of the automatic cost-of-living adjustment mechanism, I want to say here and now that I shall personally lead the fight against the administration's ill-advised proposal.

The distinguished Senator from Massachusetts (Mr. KENNEDY), together with the able Senator from Minnesota (Mr. MONDALE), have joined me today in sponsoring a resolution to express congressional opposition to the 5-percent ceiling on the cost-of-living increase.

We are taking this action at this early date to put the administration on notice that the Congress will not be a silent partner to this ill-conceived recommendation.

This action is also needed to preserve the rights of the elderly under existing law.

The automatic escalator provision was designed to make social security inflation-proof. Democrats and Republicans alike joined me in fighting for this goal. We believe that it assures older Americans of prompt action when needed.

President Ford's proposal, however, strikes at the very heart of the cost-of-living adjustment principle. At a time when the elderly need all the help they can to deal with inflation, the President would put an arbitrary limit on social security increases due to them by law.

But he proposes no such ceiling for the military. Instead, he is considering a record-breaking $103 billion defense budget—or nearly $18 billion above this year's estimated outlays.

Of all the ways in which the administration could have chosen to reduce the budget—and tighter spending controls are certainly needed—it could not have chosen a more inappropriate target than social security, which is almost entirely a self-financing program.

TAXATION PROPOSALS

The President's taxation proposals strike further blows at the elderly.

His plan for a 12-percent across-the-board rebate upon income tax payments is intended to inject more money into our recession-ridden economy at an early date.

Older Americans, I am sure, want additional spending power. Many are desperately in need of a few extra dollars each month to maintain their health and their homes.

But a flat 12-percent rebate would do them precious little good because many have very low incomes. A 12-percent rebate on a very small tax would yield only a tiny amount of relief—typically only a few dollars.

For an adult with insufficient income to file a tax return, the $80 rebate—though welcome—would still not provide the degree of relief which is really needed if our Nation is to resolve the growing retirement income problems affecting millions of elderly persons.

Finally, the administration's proposed income tax rate reduction will be next to meaningless for the vast majority of older Americans. In fact, more than 12 million of the 21 million persons 65 and above do not even file Federal income tax returns.

Surely the administration could have exercised more ingenuity in benefiting low- and moderate-income persons and the overall economy at the same time. Surely there can be little doubt that older Americans would make quick use of such relief to purchase everyday essentials. This, of course, is one of the objectives of the tax cut proposal: to stimulate our economy.

Unfortunately, though, the administration has opted to provide more tax advantages for people who are already advantaged when compared to the elderly.

And so, it will be incumbent upon the Congress to scrutinize these proposals and develop a more equitable approach.

ENERGY PROPOSALS

My third objection deals with the President's recommendation to increase the price of petroleum in the name of cutting back fuel consumption.

Here again the elderly would be hard hit. This measure alone would at least add 10 cents to the price of every gallon of gasoline. But prices of other petroleum products would rise even more rapidly. And the general price jolt would probably be surpassed only by the one imposed on our Nation a year ago by the oil-exporting countries.

Hearings conducted by the Senate Committee on Aging, of which I am Chairman, have demonstrated beyond any doubt that large numbers of elderly persons simply cannot afford to pay for increased fuel costs.

For some, a rise of a few pennies in the price of gasoline may deny them the use of their automobile, even though they have no alternative means of travel.

Programs serving older Americans are also adversely affected. The Committee has received compelling reports that nutrition and volunteer programs have been severely handicapped by recent cost increases. These programs would be dealt a further crippling blow under the Administrator's recommendations.

High heating fuel costs continue to be of special concern to me. I know that many elderly persons face numerous painful decisions every day. They must literally decide whether to heat or eat.

A recent Ford Foundation study revealed that the elderly and other low-income persons pay about 14 percent of their income for energy costs. This is 3½ times the percentage amount paid by other groups.

The net impact is that many older Americans may be unable to purchase sufficient supplies of home heating fuel during this winter because they are unable to withstand the anticipated price increases. Moreover, they do not have the sufficient margin between income and outgo to shift their consumption patterns from nonessential items. Practically everything they buy is a necessity.

For that reason, I was very disturbed when I read a recent article in the Wall Street Journal which said:

> There isn't much disagreement among utilities as to what would happen if the Ford program is approved. In New York, the Edison Electric Institute predicts a rise of about 25 percent in electricity bills for the more than 13.3 million U.S. customers of utilities that rely on oil as their source for generating energy. This would come atop the average of 25 percent that the institute estimates that all electric utilities raised their rates last year from 1973.

This warning should be heeded by President Ford. It should also be a signal to the Congress and the general public of the hidden price of the President's energy proposals.

Mr. KENNEDY. Mr. President, I am joining today with Senator CHURCH, Senator MONDALE and other Senators to submit this sense-of-the-Congress resolution indicating our total opposition to the proposal to limit the social security cost-of-living benefit increases to 5 percent.

When the cost of living last year rose some 12 percent, when the President proposes to reduce corporate taxes from 48 to 42 percent, and when he proposes to raise the Defense Department budget by more than 10 percent, his proposal to limit social security increases to 5 percent to cut Federal spending is indefensible.

Of all the proposals of the President in his economic program and his energy program, this proposal strikes at the group that is least able to defend itself in the current economic crisis.

Elderly Americans have been paying higher prices for food, higher prices for fuel, higher prices for electricity, and now they are being asked to bear perhaps the greatest burden of any group in the land.

The 5-percent ceiling on cost-of-living increases will mean an annual loss of $2.6 billion for the Nation's 30 million social security beneficiaries.

Instead of an increase from $310 to $337 a month for a retired couple, they will receive only $325. Instead of a single retired worker seeing his monthly check rise from $186 to $202, he will receive only $195. Elderly widows would receive a $7 per month reduction if the President's proposal were enacted. It is evident that even the anticipated 9-percent increase in benefits which is scheduled to go into effect in June , will be outpaced by rising inflation. The President's proposal would cut their benefits to 5 percent, depriving elderly individuals of any hopes of coping with inflation.

His proposal also strikes directly at the long-range effort of the Congress to achieve equity for the elderly poor. The automatic cost-of-living clause that Senator Church authored would be voided by the President's proposal. Once more, we would find ourselves year after year trying unsuccessfully on an ad hoc basis to prevent the constantly rising price index from driving elderly citizens into poverty.

This resolution states the clear opposition of the Congress to that action. I do not believe that the President will find many Members of the Congress or of the American people who will defend this proposal. I shall work along with my colleagues to insure that it does not take effect.

Mr. MONDALE. Mr. President, the introduction of this concurrent resolution today effectively seals the fate of President Ford's misguided proposal to limit this year's social security cost-of-living increase to 5 percent.

With more than a majority of the Senate now formally on record against this legislation, the more than 30 million Americans who must rely on social security benefits can be assured that they will receive the cost-of-living increase to which the law now entitles them.

This increase—which is scheduled to begin with the July 1975 benefit checks—is currently estimated at around 9 percent, based on the rise in the Consumer Price Index from the second quarter of 1974 to the first quarter of 1975.

Average monthly benefits would increase from $310 to $337 under the projected 9 percent increase, but only $325 under the administration's proposed ceiling—a cut of $12 per month.

For retired single workers, the average monthly benefit would rise from $186 to $202 under present projections, but to only $195 under the administration's proposal, a cut of $7 a month.

With inflation continuing at double-digit levels, it is difficult to understand how the administration can justify limiting the protection against inflation Congress has provided for those who are most vulnerable. This past year's inflation has fallen more heavily on the elderly than on most others in our society. The prices of food and fuel—which make up an unusually high portion of the budgets of older Americans—have risen much faster than other prices.

It was precisely to protect social security beneficiaries from the uncertainties of the political process in times of high inflation that Congress passed the social security cost-of-living escalator provisions in 1972. President Ford now proposes to undo this hard-won improvement. To be sure, we are told it is only for one year. But if the principle is once established that the cost-of-living escalator provisions can be ignored for short-term fiscal policy reasons, what is to prevent it from happening each time budget-makers begin searching for quick savings?

Beyond this, however, it is difficult to see how the proposed 5-percent lid on social security increases makes sense in terms of the President's expressed goal of increasing consumer purchasing power and stimulating the economy.

First we are told that an immediate $12 billion rebate of 1974 taxes is needed to put more money in the hands of consumers and make up in part for the impact of inflation on their incomes. Then we are told that we must withhold $2.5 billion of the amount social security beneficiaries are scheduled to receive to compensate them for inflation.

Is there some alchemy which makes tax rebates effective devices for increasing consumer purchasing power, but not social security payments?

It is also worth keeping in mind that most social security recipients have taxable incomes so low that they pay little or nothing in Federal income taxes. In fact, more than 12 million of the 21 million persons 65 and over do not even file Federal income tax returns. Not only, therefore, are they denied part of the social security benefits to which they are entitled, but they are also unable to participate fully in the 1974 tax rebates from which most other Americans benefit.

Mr. President, this proposed ceiling of 5 percent is unfair to older Americans, and it makes little economic sense. I am very pleased, therefore, that a majority of the Senate has now joined in opposing this proposal. The 30 million Americans who receive social security payments need no longer worry about this threat to their benefits.

Mr. ROTH. Mr. President, I speak on behalf of the senior Senator from Ohio (Mr. Taft) and the junior Senator from Tennessee (Mr. Brock) as well as myself. We are longtime supporters of the concept of providing automatic cost-of-living adjustments to social security benefits.

Beginning with our terms in the House of Representatives, we helped lead the fight to enact this concept into law after experiencing numerous occasions when the issue of social security increases was bounced back and forth like a political football during every election year. We do not think that this is fair to our senior citizens, to the taxpayers, and to the Congress.

Having established the principle through legislation enacted in 1972 that senior citizens would be provided automatic cost-of-living benefit increases, we must maintain the pledge to protect them from the rising cost of living. To this extent, we must provide some financial assurance to those least able to cope with the changing economic situation.

Therefore, we are today joining in cosponsoring a concurrent resolution stating that it is the sense of Congress that no legislation imposing a lower ceiling on social security benefit increases be enacted. This legislation will put the Congress on record in opposition to the President's proposal to limit social security benefit increases to 5 percent this year.

Although we are deeply disturbed about the prospective budget deficits, we do not believe that limiting the social security cost-of-living increase is an acceptable way to reduce Federal spending.

Senior citizens, especially those on fixed income, have been seriously hurt by the combined effects of inflation and recession, and we believe it is unfair and inequitable to expect them to bear the brunt of our economic policies.

The President and the Congress are faced with difficult decisions in formulating policies to solve our economic problems, but we believe these policies must not be detrimental to the very people who can least afford it.

SENATE RESOLUTION 23—SUBMISSION OF A RESOLUTION DISAPPROVING PROPOSED DEFERRAL OF BUDGET AUTHORITY UNDER THE HOUSING ACT OF 1954

(Ordered to be held at the desk.)

SENATE MUST DISAPPROVE 50 PERCENT IMPOUNDMENT OF SECTION 701 PLANNING FUNDS

Mr. HUMPHREY. Mr. President, today I am reintroducing, for myself and Senator Mathias as well as Senators McGee, Biden, Domenici, Stafford, Symington, Philip A. Hart, Mondale, Kennedy, Tunney, Javits, Johnston, Magnuson, Hathaway, McGovern, Moss, Montoya, Cranston, Garn, Leahy, Metcalf, Stevenson, Beall, Burdick, Haskell, Inouye, Hatfield, Bayh, Case, Abourezk, Pell, and Williams, a Senate resolution disapproving the President's proposed deferral of $50 million in HUD section 701 comprehensive planning grants.

Unfortunately, this resolution, which I first introduced with Senator Mathias and several other cosponsors on December 14, was not acted on prior to the end of the 93d Congress. If allowed to stand, this deferral would mean a reduction of 50 percent from the level of funding appropriated by the Congress for this purpose. It is urgent that we act immediately to assure the full funding of this vital program.

Mr. President, to permit this deferral will result in the gutting of an important ongoing program that is relied upon by thousands of communities, urban and rural, all over this country. This would be a severe injustice and would have a devastating impact. The $50 million budget savings to be gained by this proposed impoundment of appropriated funds is a perfect example of a "penny wise and pound foolish" decision.

The 701 comprehensive planning and management program, since its enactment as part of the Housing Act of 1954, has served as a continuing source of Federal assistance for comprehensive planning by States, counties, cities and regional organizations. It is the only Federal program which allows recipients to plan in a comprehensive manner.

Over the years, the Congress has enacted a number of functional planning programs for transportation, water pollution control, economic development, health, and the like. Something, however, is needed to tie all of these narrowly focused planning programs together to allow for planning in a coordinated, comprehensive manner—in a manner that will be most productive, getting the most bang for the taxpayers' buck. It is a budget-saving program in the real sense.

The 701 program is a national program for all sizes and types of communities, from the largest cities, counties, and States to the smallest Indian reservation. As with most Federal programs, however, it has suffered from a demand greater than the amount of money available.

In fiscal year 1972, Congress recognized that the program needed additional funds to meet this demand. Through a supplemental appropriation, it added $50 million to the $50 million already appropriated as part of the regular HUD appropriations bill, bringing the program level to $100 million. The Congress again appropriated $100 million for fiscal year 1973. For fiscal year 1974, the appropriation was cut by 25 percent because, in the view of the House Appropriations Committee, HUD was not spending the money fast enough. What this has meant, however, is that recipients have had to cut their programs by 25 percent across the board. The Congress recognized the adverse impact this cut was having and restored funding for section 701 to $100 million for fiscal year 1975.

Amendments to the 701 statute enacted as part of the Housing and Community Development Act of 1974 mandate that all 701 recipients include as a part of their comprehensive plan, a land use and housing element. These are entirely new requirements. They will place an additional demand on recipients and, because they are federally mandated, Federal assistance should be provided to assist in their development. We should be increasing funding for 701, and not forcing it to fight for its very life.

The act also authorizes urban counties to apply directly to HUD for 701 assistance, rather than to the States as at present. This will create an additional demand on 701 for the current fiscal year.

And yet, with all the additional demands on 701, as well as the adverse effect which inflation has on static funding levels, the administration is intending to cut the program in half. Such a cut is grossly unfair to current as well as potential applicants for 701 funds.

It is a matter of grave concern to me that this country's commitment to urban and rural planning, as a conscious process of Government at every level, seems to be weakening, despite the fact that crises resulting from unplanned growth and development are deepening throughout the United States.

In terms of numbers of dollars expended by this country in community development and housing assistance, the comprehensive planning and management assistance program, 701, has been relatively small. Over the years, increasing demands have been made of this relatively static program, and it has not kept pace with either the growth of demand for planning funds or the intensification of urban and rural problems with which planning is concerned.

The number of eligible recipients of these small amounts of comprehensive planning and management funds has continuously increased over the years, far out-reaching funds available for even past clients. And this situation is exacerbated every time the administration recommends the use of 701 as a replacement for additionally legislated new planning assistance programs—for example, rural development planning, coastal zone planning, disaster assistance, et cetera.

Society has begun to demand a voice in the decisions affecting its environment. At the same time, society has demanded that proper consideration be given to the economic and social development of this Nation. Planning, therefore, is crucially necessary, if we are going to address ourselves seriously to the many varied programs being proposed for the orderly growth of our communities.

From a congressional point of view, the existence of planning requirements as a condition of Federal financial assistance makes eminent good sense. Planning requirements are a form of insurance designed to protect and make most useful the Federal participation in local projects, whether through categorical grants, block grants, or even revenue sharing. Planning requirements simply say "these things that we are helping to finance must fit together in a thought-through manner and be of long-range benefit." Planning assistance works toward the same ends.

The problem is not to reduce planning requirements or planning assistance, but rather to relate them directly and within the framework of the American political decisionmaking system. Therefore, one of the major reasons for expanding the comprehensive planning program rather than cutting it in half, as the President proposes, is to assist State and local governments in protecting the investment the Federal Government makes in the wide variety of Federal programs.

The 701 comprehensive planning assistance program has had broad successful applications across this country, and I do not believe its track record of accomplishment warrants the proposed gutting. 701 has become a "glue" mechanism to coordinate all functional or more specialized planning and program development.

It has provided a coordinative management framework. It helps produce policy and decisionmaking documents and tools. It has served as a measure for community values. It has worked as a checkpoint of accomplishment, and served as an administrative tool for short-term decisionmaking and long-range policy and goal formulation.

As I stated earlier, the 701 comprehensive planning assistance program has served all levels of government. It has supported the Federal review process, assisted States, counties, and cities of all sizes. It has fostered regional cooperation throughout the country both on a metropolitan and nonmetropolitan basis. It has funded economic development districts and Indian tribal planning councils.

The 25-percent cutback in 701 funds for fiscal year 1974 caused much concern among the various clients, and in many cases the reduction in funds has seriously diminished projects, reduced staffs and hampered the evolution of vital decisionmaking related programs. The impact of this reduced funding created hardships and severe restrictions for many local governments in their efforts to develop effective ongoing planning policy processes. There is an increasing emphasis being placed on comprehensive planning as a major problem solver, yet at the same time this increased emphasis seems to be directly in contradiction with the reduction in Federal funds for comprehensive planning.

Mr. President, the turmoil created by last year's cut, substantial as it was, will pale to insignificance in comparison with what will happen to planning efforts all over this country, if the administration has its way and impounds these 701 funds.

Mr. President, we must strongly register the objection of Congress to this thoughtless attempt to cut the budget at all costs. The momentum toward more and better comprehensive planning of public activity, building over the 20 years since 701 was enacted in 1954, will be reversed, wiped out, unless we act now to restore this vital program to the level of funding which we approved and which the administration requested a few short months ago. I urge all of my colleagues to join me in passing this resolution.

Mr. President, I ask unanimous consent that the text of this resolution be printed at this point in the Record.

I also refer my colleagues to a chart, which was printed in the December 14, Record, pages 39920–39921, providing a detailed breakdown, by State, of section 701 funding in fiscal year 1974.

Finally, Mr. President, I ask unanimous consent that several letters supporting this resolution, from officials and organizations throughout the country, be printed at this point in the Record.

There being no objection, the resolution and material were ordered to be printed in the Record, as follows:

S. Res. 23

Resolved, That the Senate disapproves the proposed deferral of budget authority to carry out the comprehensive planning grants under section 701 of the Housing Act of 1954 (numbered D75–107), set forth in the special message transmitted by the President to the Congress on November 26, 1974, under section 1013 of the Impoundment Control Act of 1974.

State of Minnesota,
Office of the Governor,
St. Paul, Minn., December 13, 1974.

Hon. Hubert H. Humphrey,
U.S. Senate, Senate Office Building, Washington, D.C.

Dear Hubert: The President and the Office of Management and Budget have proposed a deferral of $50 million of the $100 million, F.Y. 1975 appropriation for the Department of Housing and Urban Development's Planning Assistance Program (Section 701). The deferred $50 million would be used in fiscal year 1976, providing only $50 million per year for this important program.

I urge your support for Congressional action to deny this deferral. State, regional and local governments are now facing a bewildering array of problems and issues—housing, energy, public transportation, land use, unemployment, environmental protection, health care, financial support to education. Now is not the time to curtail our comprehensive planning efforts.

The HUD 701 Planning Assistance Program has provided valuable help to elected officials—governors, mayors, county commissioners—in establishing an effective, continuous planning process. It has made possible the professional staff needed to deal with these issues and to manage federal grant-in-aid programs—grant-in-aid programs which more-and-more provide for state and local discretion. Such a severe reduction in funds would seriously hamper the efforts of states and local governments to maintain this planning process.

If this deferral stands, the allocation to Minnesota would be reduced by one-third or almost $300,000. The burden of this reduction would be assumed by the 12 regional development commissions, the Metropolitan Council and other metropolitan agencies, the cities of Minneapolis, St. Paul and Duluth, and the State Planning Agency.

Valuable work has been performed in Minnesota with the financial support of the Planning Assistance Program. It has enabled area-wide planning organizations, like the Metropolitan Council and regional development commissions, to plan effectively for their own growth and development. Major cities have been able to involve local citizens in their planning process. The State Planning Agency has been able to engage in studies on important matters such as energy, state land use, and tax policies and to provide a wide array of technical services to regional and local governments.

Federal funds for comprehensive planning have always been limited. Such an abrupt change in the level of support is unwarranted. Once again, legislature, city councils and county boards will be asked to find the resources to continue these essential tasks.

I urge your attention to this matter and trust the Congress, recognizing the needs of states and local governments, will defeat the proposed deferral.

Sincerely,

WENDALL R. ANDERSON.

DEPARTMENT OF COMMUNITY AFFAIRS,
Trenton, N.J., December 30, 1974.
Hon. HUBERT H. HUMPHREY,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HUMPHREY: I want to thank you for introducing Senate Resolution 451, disapproving the deferral of $50 million from the Comprehensive Planning and Management Program, commonly known as 701, administered by the U.S. Department of Housing and Urban Development. Also, I want to commend you for your articulate statement in the Congressional Record of December 14, 1974 in which you outline the adverse effects which this deferral would produce. In support of your resolution, I sent mailgrams and letters to the following individuals: the entire New Jersey Congressional Delegation; Senators Williams, Case, Proxmire, Muskie, and McClellan; and Representatives Mahon, Boland, and Ullman. A copy of both is enclosed.

Our Department is vitally concerned with the 701 program, since our Divisions of State and Regional Planning and Local Government Services both utilize funds provided through 701. In fiscal year 1974, the Division of Local Government Services, which has administrative responsibility for the 701 grants to many New Jersey municipalities, received requests for $2.3 million; yet, we were only able to distribute $450,000 because of the size of our grant. Inasmuch as our State is the most densely populated in the country the need for expanded planning assistance is of the utmost importance.

Since action was not completed on your resolution, I understand that you will reintroduce it in the 94th Congress. Because this program has such a high priority for our Department, I would like to request that I be given an opportunity to testify at any hearings which the Senate Appropriations Committee schedules on your resolution. By appearing as a witness, I think that I could provide first hand knowledge of the importance of the 701 program to our State.

I appreciate any effort you can make on behalf of this request, and would be happy to provide you with any additional information you might need in arranging for my appearance as a witness.

Very kind personal regards and best wishes for The New Year.

Very truly yours,

PATRICIA Q. SHEEHAN

[Mailgram]

Senator HUBERT HUMPHREY,
Old Senate Office Building,
Washington, D.C.:

I am vitally concerned that the deferral of 50 million dollars in HUD's section 701 comprehensive planning program will do irreparable harm to established ongoing programs of the city of Kansas City, Missouri and the Mid America Regional Council that functions in behalf of the Kansas City metropolitan area. **I urge that the influence of your good offices be used to the utmost to bring about as soon as possible a Senate resolution to immediately terminate the presidential deferral of these essential funds. Your assistance will be very much appreciated.**

CHARLES B. WHEELER, Jr.,
Mayor of Kansas City, Mo.

[Telegram]

Hon. HUBERT HUMPHREY,
Washington, D.C.

I applaud your effort in sponsoring SR451 disapproving the administration's proposed **deferral of 50 million dollars in HUD 701** planning grants. I am urging Senators Hatfield and Packwood to join with you as cosponsors of this vital legislation. Oregon strongly believes in prudent planning—no State can match the progress achieved as a direct result of our planning. A cut of 50 percent in 701 funds or, for that matter, even a **postponement of a continued flow of this planning money for 45 days beyond the convening of the 94th Congress, will deeply wound our planning capabilities and programs. A disruption simply cannot be countenanced.**

TOM McCALL,
Governor of Oregon.

ASSISTANT TO THE MAYOR,
NASHVILLE, TENN.,
December 12, 1974.
Senator HUBERT HUMPHREY,
Washington, D.C.:

The 701 planning and management program in Nashville Davidson County has provided valuable assistance to the county in the development of short and middle range comprehensive physical development plans. This could not have been accomplished without the funding. In light of the new responsibilities being placed on local government in the area of community developments, fiscal year management during an inflationary period and the resource conservation during the energy crisis, we at the local level feel that it would be a grave mistake to reduce or eliminate local 701 planning funds. Therefore, we urge you to support the restoration of funding for the 701 program to its full and original level.

ROBERT A. HORTON.

[Mailgram]

Subject: Proposed deferral of 701 funds.
Sen. HUBERT H. HUMPHREY,
Old Senate Office Building,
Washington, D.C.

The proposed 50 million dollars deferral of 701 (Comprehensive Planning Assistance Program) funds sent to Congress by the President would be disastrous to a number of vital programs in the States which are otherwise being encouraged and stimulated by the administration. For example, here in Utah a viable system of multi-county regions has been developed primarily through self-motivation on the part of local governments but with a strong encouragement and funding motivation of the Office of Management and Budget. These sub-State regions are staffed primarily with 701 funds. Should these funds be deferred, an exciting new concept of communication and cooperation between Federal-State-local government would be dealt a severe blow. In fact, a number of these regions might be forced to discontinue nearly all activities. A-95 reviews would be reduced to a minimum, also.

In another area, the integration of social services has been fostered by HEW. 701 funds have been used to coordinate planning for such integration, and delicate and lengthy negotiations as well as a demonstration project have been undertaken. Should 701 funds be deferred, coordination and further encouragement of such integration would have to be discontinued at a State level. Our State planning coordinator would have only a skeleton staff remaining to handle minimal requirements of State law and Federal grants.

It also seems paradoxical that the President is introducing public employment programs while drastically cutting into those which are currently active as well as crippling our mechanism for implementing any new programs.

A further important area which would be damaged is that of planning for the development of new energy resources. We currently are anticipating the development of two new towns in Utah. Multi-county regions as well as the State planning coordinator are currently involved in planning efforts around the impact and requirements of these developments. Such efforts would be discontinued should 701 funds be deferred.

I understand an anti-deferral resolution is at the desk in the Senate, and I urge immediate favorable action on this resolution before Christmas recess.

Sincerely,

CALVIN L. RAMPTON,
Governor of Utah and Chairman, National Governors Conference.

METROPOLITAN COUNCIL OF
GOVERNMENTS,
Moorhead, Minn., December 4, 1974.
Hon. HUBERT HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: On Tuesday, November 26, President Ford proposed reducing HUD 701 funding from $100 million already appropriated by Congress to $50 million. The President proposes this as a deferral.

The 701 program is vital to the local governments of this metropolitan area. Such a cutback would substantially impact on effective implementation of the Housing and Community Development Act as well as limit coordinative efforts to better plan and utilize public funds for the betterment of the metropolitan community.

We urge you to actively support before adjournment an impoundment resolution disapproving of such a deferral so full funding can be restored.

Sincerely,

FRANK LENZMEIER,
Chairman, Fargo-Moorhead Metropolitan Council of Governments.

Senator HUBERT HUMPHREY,
Senate Office Building,
Washington, D.C.:

It is our understanding that as part of President Ford's November 26 cut back of 4.6 billion dollars in Federal spending, approximately 100 million dollars for FY 75 of HUD

701 Grant Appropriation will be slashed by fifty percent. As a community who is reliant on those planning funds to plan for its future and in view of the fact that we are a title VII new community and must have professional planning staff to guide our local unit of government, I urge you to restore the appropriation to its original spending limits. Should you need additional support and documentation that local units of government, in particular the Village of Park Forest South, are in fact using those funds in a diligent and expeditious manner, we would be most honored to provide you with said data. We would like you to be aware that we are the largest title VII new community with a current population of 5,000. It is imperative that local units of government have the ability to plan and determine the future for the residents who have invested in the new community process.

William F. Nesper,
Village President, Village Hall,
Park Forest South, Ill.

Senator Hubert Humphrey,
Washington, D.C.:

I strongly endorse efforts to disapprove the deferral of funds for the HUD section 701 comprehensive planning program; passage of a bill to restore the program to its full appropriation level of 100 million dollars is urgently needed. The proposed cuts would cut deeply into efforts to effectively carry out citizen participation and neighborhood revitalization in Portland.

Neil Goldschmidt,
Mayor, Portland, Oregon.

Senator Hubert Humphrey,
Washington, D.C.:

President Ford has proposed that DHUD (Section 701) funds be reduced from 100 million appropriated by Congress to 50 million. An impoundment resolution is required to restore deferred funds and to fulfill intent of Congress outlined in Housing and Community Development Act of 1974, HUD's 701 program is most important source of Federal financial support for planning and management related activities for Alabama and its communities. These funds are already limited—Every effort should be made to restore present appropriations.

George C. Wallace,
Governor.

U.S. Conference of Mayors,
Washington, D.C., January 10, 1975.

Hon. Hubert H. Humphrey,
U.S. Senate,
Washington, D.C.

Dear Senator Humphrey: On behalf of the United States Conference of Mayors, I want to express the strong support of the nation's cities for your resolution disapproving of the present deferral of $50 million in Section 701 Comprehensive Planning Assistance. HUD's 701 program has become one of the most important resources for general planning assistance available to the nation's cities.

Since its inception, the 701 program has stimulated many communities to undertake comprehensive housing planning activities, thereby enabling those communities to better respond to their housing problems. Recently, the 701 program has taken on even greater importance for cities as increased emphasis was placed on the use of funds for broad-based planning and management activities at the highest policy-making level of local governments. As the present trend continues at the federal level of placing expanded responsibility upon local governments for the management of various grant-in-aid systems, the capacity building thrust of the 701 program becomes more important to both the federal and local governments.

The current fiscal year 1975 marked the first time that the Congress and the Executive had been able to agree upon an increased level of funding for 701. The rise in the annual program level to $100 million had been sought for several years by both the Administration and the state and local governmental users of the HUD program. Since the agreement by the Congress last summer on the expanded funding level, local governments have moved ahead with plans for use of the additional monies. The abrupt change in the Administration's prior support for the new funding level is already causing serious problems for local governments all across the country.

The United States Conference of Mayors joins with other state and local government representatives in urging the United States Senate to support your resolution and to reverse the deferral of 701 assistance.

Sincerely,

Joseph L. Alioto,
President, Mayor of San Francisco.

ADDITIONAL STATEMENTS

THE NEW HAMPSHIRE CONTROVERSY

Mr. TAFT. Mr. President, I am quite concerned and disappointed by developments to date in this body regarding the seating of Louis Wyman as a Senator from New Hampshire. Certainly the U.S. Senate is in part a political institution by any definition, but that important element of this body should not become so inextricably intertwined with every duty of the Senate to make rational and honest decisions impossible.

The Nation is still recoiling from the shock and bad taste left by Watergate. For the Senate to try to impose its party-line decision as to who is to be New Hampshire's Senator in this case, even though it might technically have such authority, would be arrogant, inconsiderate, and unwise not only for the Democratic majority and the Congress as an institution, but also for the country as it would further undermine America's confidence and trust in Government. The odor of such politics would increase the Watergate stench that already hangs in the air.

The facts of this case have been repeatedly outlined to the Senate regarding the New Hampshire election. Mr. Wyman was victorious last November by a margin of 355 votes. Democratic Party candidate John Durkin subsequently appealed to the New Hampshire secretary of state for a recount and was found to have won by a 10-vote margin, subject to review by the State ballot law commission.

The commission, after a thorough review of the election, including receipt of extensive testimony and evidence, found numerous errors in the previous count, and pursuant to New Hampshire law, rescinded Durkin's conditional certificate of election and certified Wyman the winner. Durkin's legal appeal challenging the constitutionality of the ballot law commission's review was unanimously rejected by a specially appointed three-judge Federal district court last month. Following this rejection Mr. Durkin filed a notice of appeal with the President of the Senate.

The arguments advanced in behalf of Durkin's petition are, or reflection, not only difficult to follow, but in fact truly incredible even to be heard in a country that places such great values in the right and freedom to vote. One wonders whether certain Members of the Senate have given proper consideration to the 17th amendment giving the citizens of the respective States the right to select their Senators. Perhaps the question before this body does not as much concern either Mr. Wyman's or Mr. Durkin's qualifications as a test as to whether the Democratic Party majority can repeal the 17th amendment. Certainly this type of procedure could perpetuate the existing majority in the Senate, regardless of the desires of the electorate as to a two-vote rejection in this case certainly can easily be expanded simply by the whim of the majority party in the future.

Arguments advanced not to seat Mr. Wyman also present serious constitutional problems with respect to the rights of States under article I, section 4 to hold elections for Senators and Representatives. Unquestionably this right must be balanced by the article I, section 5 authority for this body to be the "Judge of the elections, returns and qualifications of its own Members." Here has been to my knowledge, however, no proof presented as to election fraud or misconduct on the part of New Hampshire election officials to compel implementation of this constitutional authority. I take exception with those in this body that would use the article I, section 5 jurisdiction as an absolute right to determine the results of a proper State certified election. I believe the drafters of the constitution did not envision such a provision being used to supersede the legitimate electorial process of the States selecting their representatives simply at the whim of a party that happened to control the Senate. Such a reading would be to submit the minority to the tyrannical control of the majority.

I submit rather that this important constitutional provision should be implemented only as a check in cases where the States abuse their article I, section 4 and 17th amendment right to elect Senators. No such facts are present anywhere in this case.

Great caution should be exercised by the Senate on this question, as not only could an extremely damaging precedent be established for internal rules and proceedings of the Senate, but arbitrary action disregarding Mr. Wyman's right to due process of law under the fifth amendment could invite intervention of the judicial branch.

The legislative branch has already suffered considerable legal setbacks in the courts with regard to its authority to proceed under the doctrine of separation of powers. A case in point is *Powell* v. *McCormack,* 395 U.S. 486 (1969) in which the Supreme Court upheld former Congressman Adam Clayton Powell's action against the House of Representatives finding he was improperly excluded from being seated. More recently in *Consumers' Union of United States* v. *Periodical Correspondents' Association,* (D DC-Civil Action No. 73–1328, Oct. 11, 1973), the power of the Congress to set rules under article I, section 5, was abridged in a suit asserting the first amendment rights of Consumers' Union right to obtain accreditation to the periodical press galleries of the Senate and House. I do not necessarily agree with the latter decision but only point them out to stress potential legal damage that might occur to the Congress as an institution if Mr. Wyman is not accorded due process of law. Unilateral and improper actions by the majority on this question may very well force this question to the Supreme Court for a ruling.

It also is suggested by the majority that Mr. Wyman should not even be seating pending final determination of this question due to precedent. This argument is incredible. In a similar situation the Senator from Indiana, Mr. HARTKE, was seated in 1971 pending final determination of certain election questions. Mr. Wyman is the incumbent. He was appointed by the Governor of New Hampshire to fill the vacant seat of former Senator Norris Cotton. Now the Senate is being told a different rule is to apply. This type of argument reeks of political opportunism by the majority.

Mr. Wyman's certification from New Hampshire is the only one before the Senate. Notwithstanding this valid certification he has stated he would subject himself to a new election to obtain a clear mandate from the people of New Hampshire. The problem is that New Hampshire has, as yet, no legal procedure for a special election. The State senate has approved legislation that would provide for such an election and the New Hampshire House is expected to adopt a similar measure this week. Assuming such legislation becomes law, I believe Mr. Wyman's request should be given serious consideration by the Senate. The New Hampshire Ballot Law Commission has extensively checked the contested ballots under the scrutiny of the Senate Rules Committee staff and declared Mr. Wyman the winner. He should not be subject to further requirements of the ruling of a special Senate commission the choice of last November can only be changed by the people of New Hampshire, and Louis Wyman to his credit, is willing to decide it that way. Apparently, his opponent lacks the confidence to do so.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Foreign Military Sales Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million. Upon such notification, the Congress has 20 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notifications I have just received. A portion of one notification, which is classified information, has been deleted for this public publication.

There being no objection, the notifications were ordered to be printed in the RECORD, as follows:

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., January 14, 1975.

Hon. JOHN J. SPARKMAN,
Chairmaan, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirement of Section 36 (b) of the Foreign Military Sales Act, the following information is provided for proposed FMS case IS–B–WKU:

(a) Country: Israel.

(b) Total Value: $46,075,501.

(c) Description: (deleted) missiles and launchers.

(d) Military Department: Army.

(e) Date report delivered to Congress: 15 January 1975.

Sincerely,

ROBERT B. HAMMOND,
Comptroller.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C., January 14, 1975.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Purusant to the reporting requirement of Section 36 (b) of the Foreign Military Sales Act, the following information is provided for proposed FMS case TK–B–UEZ:

(a) Country: Turkey.

(b) Total Value: $229,911,933.

(c) Description of articles or services offered: 885 kits for conversion of M48/M48A1 tanks to M48A5 tanks with 105MM Gun. Includes conversion gages and fixtures as well as engineering support.

(d) Military Department: Army.

(e) Date report delivered to Congress: 15 January 1975.

Sincerely,

ROBERT B. HAMMOND,
Comptroller.

THE ENERGY CRISIS

Mr. HUGH SCOTT. Mr. President, in our efforts to move forward in our coping with the energy crisis, we find it necessary to reach into the past for solutions.

I ask unanimous consent that an article from the Philadelphia Evening Bulletin on coal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COAL HAILED AS BEST SOLUTION TO ENERGY CRISIS

(By John Dubois)

More homage was paid to king coal last night. He's the monarch people not so long ago kissed off as a relic.

Joseph A. LaSala, administrator for Region III of the Federal Energy Administration, predicted in a speech at Drexel University that America will rely on coal to produce 50 percent of its energy held by Drexel's * * *.

Mining and using coal to produce energy is "the most practical approach" in the foreseeable future to combat the energy crisis, he said. Make no mistake about it, he said, it is a crisis.

IT'S AVAILABLE

"I think you'll see a dramatic development of coal," LaSala told his audience of students and teachers in the school's Matheson Hall. "It's there, there's no doubt about it. It's available and it's available in magnitude."

One of the troubles with oil, he said, is that you drill for it and sometimes come up dry. In the case of coal, you always know where it is, he said.

LaSala was the speaker at the third annual meeting on energy held by Drexel's Evening College Student Branch of the Institute of Electrical and Electronics Engineers, Inc.

REGIONAL ADMINISTRATOR

LaSala, who became the five-state region's administrator in December 1973 predicted President Ford will waive some elements of the Clean Air Act of 1970 in order to allow for the increased use of coal.

In addition, he said he expects that congressmen from Pennsylvania and West Virginia will be presenting "a package" to Congress giving a specific plan for the development of coal.

There will be a struggle between the coal proposers and environmentalists, he said, but he thinks that hassle can be ironed out more satisfactorily than the ones between the ecologists and the campaigners for atomic power and for off-shore oil wells—at least in the near future.

"We have to try to marry the differences," he said. He said the stiffest opposition is coming from people who fear the effects of nuclear power plants.

In the pursuit of fuel LaSala gave second priority, after coal, to off-shore oil. He said the governor of Louisiana told him "we haven't lost a shrimp" as the result of oil drilling in the Gulf of Mexico. "But we've found all the easy oil and gas we're going to find," LaSala said.

He said solar energy could be a "supporting source" in the next 20 years. As for atomic power generators, it's self-deceptive to think they will be much in use soon because of environmental opposition, he said. It will be a dozen years before they will be "on stream."

GUIDELINES FOR THE NEW DEFENSE BUDGET

Mr. NELSON. Mr. President, yesterday the Center for Defense Information made an invaluable contribution to the coming debate over the new defense budget with the publication of a report suggesting possible reductions in the defense budget. The Center for Defense Information, an independent research organization in Washington, D.C., and a project of the Fund for Peace, is directed by Rear Adm. Gene R. La Rocque, U.S. Navy, retired. The report, entitled "Guidelines for the New Defense Budget," suggests that the U.S. defense budget can be limited to $85 billion, several billion dollars less than the Pentagon's anticipated request. The report cites 16 different ways that savings can be made "without jeopardizing national defense."

As the report points out, the issues it raises are particularly relevant to the present economic dilemma which we face:

> With unemployment, inflation, recession and scarcities at crisis levels the need to make hard choices to eliminate any excess from the military budget is obvious.

These suggestions certainly deserve careful review by the Congress and the public. This latest publication of the Center is one of a long series of useful and informative reports which it has released. Admiral La Rocque and his competent staff at the Center are to be commended for providing a much needed service to Congress and the American people.

Mr. President, I ask unanimous consent that the January 1975 issue of the Defense Monitor containing "Guidelines for the New Defense Budget" be printed in the RECORD.

There being no objection, the publication was ordered to be printed in the RECORD, as follows:

GUIDELINES FOR THE NEW DEFENSE BUDGET

DEFENSE MONITOR IN BRIEF

A new military budget of record proportions has been prepared with little public discussion and minimal input from outside the Defense Department. With defense appropriations going above $100 Billion a year, it is now more important than ever for the public and Congress to participate in an informed debate on how much the U.S. can afford to spend on the military. Alternatives and options need to be fully explored before a huge defense budget is locked in. Hard choices need to be made. The Center for Defense Information concludes that a fiscal 1976 Defense Department budget of $85 Billion would provide a strong but not excessive military posture.

Skyrocketing costs of military programs, inflation, unemployment, shortages and changed international circumstances make it necessary to choose among competing programs and priorities. Spending on weapons and forces that contribute to U.S. strength only in a marginal way can no longer be afforded. Obvious non-military threats to the nation's security are more dangerous than many potential military threats. The declining usefulness of military power to cope wtih economic, social, and political problems must be recognized. The Pentagon's budget is filled with old-fashioned remnants of an era of affluent funding and military interventionist inclinations. Military policies and assumptions need to be modernized more than weapons.

Hard choices must be made to terminate unneeded, redundant strategic weapons. New bombers and new land-based missile programs are prime candidates for elimination. The U.S. Army, rather than expanding in size and cost, should be kept at present levels and unnecessary overseas deployments should be terminated. Navy carriers are of declining importance and the Navy needs to carefully assess their role in national defense.

U.S. commitments to project military power overseas cost about $50 Billion a year, $30 Billion for Europe and $20 Billion for Asia. Many of these "commitments" are really one-way commitments that contribute little to the defense of the United States and actually increase the risk of the U.S. becoming involved in conflicts against our interest. U.S. freedom of action and security would be improved by minimizing the locking-in effect of overseas deployments.

Without jeopardizing national defense these options for holding down the military budget are available: cancel the B-1 bomber; build only 1 Trident submarine a year; stop spending on new ICBMs; do not start strategic cruise missile programs; stop ABM spending; set a 10,000 strategic nuclear weapons ceiling (U.S. could have 20,000 by 1985); withdraw many overseas tactical nuclear weapons; terminate obsolescent military treaties such as SEATO; cut troops in Korea and Thailand; keep Army divisions at 13; cancel the AWACS aircraft, SAM-D missile, XM-1 tank, and make substantial cost savings in new tactical aircraft programs; cut unnecessary military aid; and make cuts in the very large ($26 Billion a year) operation and maintenance overhead costs. By these and other measures the fiscal 1976 defense budget can be kept to about $85 Billion, still $2.3 Billion more than the Defense Department received for fiscal 1975.

NEED TO MAKE HARD CHOICES

Defense Secretary James Schlesinger recently told the NATO allies that they must rid their military budgets of "white elephants" and "sacred cows". The U.S. military, however, has its own share of white elephants and sacred cows. U.S. taxpayers can no longer afford to indulge the military with constantly rising budgets and put off hard choices and fundamental reexamination of policies. Our goals and weapons must be affordable and made compatible with a realistic assessment of the U.S. role in the world and the utility of military force.

Unrestrained military expenditures will clearly exceed $100 billion. The time has come to take a fresh look at the whole U.S. military establishment and its costs and purposes to determine what is necessary and what can be eliminated.

The United States must spend what is necessary for defense—but no more. It is particularly important to delineate what is actually for defense and what is primarily to protect interests in foreign countries. The U.S. stake in other parts of the world varies from important to relatively unimportant. On the scale of U.S. interests, Korea and Southeast Asia rank relatively low; Europe and the Mideast are of greater importance.

To keep military spending to affordable levels hard choices have to be made and priorities established among competing weapon systems, among the many areas of the world where the U.S. today is involved, and on the overall size of the U.S. military establishment. For example, the U.S. may no longer be able to afford the luxury of four separate air forces, three separate strategic forces, and two different land forces.

With unemployment, inflation, recession, and scarcities at crisis levels, the need to make hard choices to eliminate any excess from the military budget is obvious. The high cost of weapon systems means that only those weapons which make major contributions to U.S. defense can be developed and procured. It will cost $100 billion just to complete 42 major weapons programs now underway on which $45 billion has already been spent.

In the past Pentagon officials avoided making hard choices among competing programs by giving each of the military services almost everything they asked for. Military perceptions of threats and of the relevance of military force are seldom changed and tend to run in increasingly outmoded patterns. If a realistic defense posture and budget are to be achieved, it is necessary to reexamine some of the customary military assumptions.

The primary purpose of the U.S. military is to protect the United States against a military attack. The Pentagon is still obsessed with threats from the Soviet Union, to the exclusion of almost all other considerations, even though the world has changed considerably since the height of the Cold War. The U.S. and the U.S.S.R., while still competitors in many ways, are no longer the bitter enemies they once were and share important interests in common, particularly the avoidance of nuclear war and nuclear proliferation, reducing the burden of large military budgets, and economic and social interests as relatively affluent countries in a poor world. The military threat posed by the Soviet Union should no longer dominate American foreign policy and defense allocations. The Pentagon's natural inclination to exagerate the threat and paint Soviet intentions and programs in the darkest colors may be especially poisonous in existing circumstances.

The totality of national security is far broader than the narrow military component. Senator John McClellan, chairman of the Senate Appropriations Committee, recently observed that *"inflation is rapidly becoming as great a danger to our national security and the stability of our society as is the danger from any potential foreign foe."* The U.S. is in relatively better shape to deal with military threats than with non-military threats. If we are well off in any area, it is in the capacity to destroy or inflict damage in many ways on many opponents.

PUTTING AN $85 BILLION CAP ON THE ARMS BUDGET

President Ford hailed the Vladivostok strategic arms accord in late 1974 as "a cap on the arms race." The new defense budget could reflect this success and actually put a cap on the arms budget.

Last year President Ford approved an $82.7 billion defense appropriations bill for fiscal year 1975; this year the President could exercise one option by placing an $85 billion ceiling on the defense budget, providing a strong but not excessive military posture.

[In billions]

Fiscal 1975 appropriations

Military personnel	$24.2
Retired pay	6.0
Operation and maintenance	25.3
Procurement	17.2
R.D.T. & E. (research)	8.7
Vietnam military aid	.7
Financing adjustments	.6
	82.7

Fiscal 1976 option

Military personnel	$26
Retired pay	7
Operation and maintenance	25
Procurement	18
R.D.T. & E. (research)	9
	85

The President and the country have another option: accepting the Pentagon rationale on the need for continued growth in military spending. Some military officials have linked the defense budget to GNP and have suggested that as GNP increases, the Defense Department's share of the nation's wealth should rise accordingly. Other military analysis do not accept the proposition that there is a direct relationship between GNP and defense spending, because such a connection would require a cut in defense spending in a period of declining GNP. Of course, in fact there is no relationship between threats to national defense and expansion of the economy.

Forestalling an era of defense budgets over $100 Billion should be a major objective in 1975. A period of inflation provides an opportunity for a reordering of military priorities, a reexamination of obsolescent policies, and a streamlining of the military establishment waste and preserve only what can be completely justified on grounds of national defense.

In an effort to obscure increasing military costs, some military officials talk in terms of "constant dollars" rather than actual dollars. "Constant dollars" used by the Pentagon are meaningless as they are not those published by the Bureau of Labor Statistics or any other government agency. The GAO does not accept the Pentagon's constant dollars. In short, Pentagon constant dollars are of little use in any objective evaluation of military costs. The Chairman of the House Appropriations Committee, Congressman George Mahon, expressed it best when he said to Defense Secretary Schlesinger last year: *"You talk of reduction of the defense budget in terms of constant dollars. Of course, the only dollars we have these days are the current dollars. We cannot do anything about the constant dollars."*

OPTIONS FOR A REALISTIC DEFENSE BUDGET

In recent years, debate over the defense budget has not produced change in the overall dimensions or content of the budget, nor much clarity about the direction that U.S. military policy is taking. Pentagon officials complain about not receiving enough money and about public misunderstanding but temporize and put off difficult decisions. Small, often cosmetic, cost savings are made, but unneeded multi-billion dollar programs and deployments continue and are expanded.

There are few new, extraordinary compelling ideas about how to keep down military spending. The controversey has frequently been repetitious and stale on all sides. This is not to say that there are not numerous ways in which savings in the defense budget could be made. The basic problem is that those who have to make the decisions in the executive branch and in Congress have failed to get serious about demanding a realistic defense budget pruned to the basics.

What is new is that now something has to be done about it. The fact of a $100 Billion military budget and growing consciousness of non-military threats to national security may have sufficiently altered attitudes and strengthened motivation so that some of the following, and other, feasible ways to hold down the military budget will be implemented.

CALLING A HALT TO THE STRATEGIC ARMS RACE

After observing years of frustrating, purposeless conflict and the waste of billions of dollars in the Vietnam war, Senator George Aiken proposed that the best way for the U.S. to extract itself from the Southeast Asian quagmire was to simply declare that the U.S. had won the war and then go home. Perhaps a similar dramatic approach is needed to put an end to the equally endless and purposeless strategic arms race between the U.S. and the Soviet Union. Certainly, it appears that the SALT agreements are serving more to stimulate and legitimize continuing strategic weapons spending than to damp down and reverse the process.

If there is any measure of military power or accumulation of hardware by which the U.S. towers over all other countries in the world, it is in its massive strategic forces. The U.S. currently maintains three distinct strategic nuclear forces, each of which is more than capable of destroying the Soviet Union or any other foe: some 500 bombers, 1054 land-based ICBMs, and 656 sea-based submarine-launched missiles. Together, these delivery vehicles could drop some 8,000 nuclear weapons anywhere in the world. These warheads contain the equivalent in destructive power of about 370,000 Hiroshima-size bombs.

The Soviets, of course, have a smaller but still very destructive strategic force. They have about 140 bombers, 1587 ICBMs, and 666 submarine-launched missiles. These launchers carry only about 2,600 nuclear weapons, however, because the Soviets are far behind the U.S. in MIRV technology. Even when the Soviets begin to deploy MIRVs they will still lag many years behind the U.S.

As General Maxwell Taylor recently observed, the U.S. has unnecessary "strategic redundancies." At a time when the Pentagon should be rigorously eliminating everything from its budget that is not of top priority, clearly the strategic forces are the first place to look. The "Triad" of bombers, land-, and sea-based missiles, each of which costs billions and could deliver thousands of nuclear weapons, needs reexamination. The U.S. does not require the wide variety of overlapping, redundant forces whose destructive capability far out-strips any reasonable need.

Strategic submarines are invulnerable and will remain so for the indefinite future. If hard choices in the strategic weapons area have to be made, as they must, the leading candidates for elimination are programs that are justified as "follow-ons" to existing bomber and ICBM programs. The U.S. should cease spending billions on marginal programs such as the B-1 bomber and new counterforce ICBMs. The need to move away from reliance on land-based systems has been much talked about but the time is at hand to get serious about it and stop wasting billions on low priority weapons. There is also no reason to push the Trident submarine program at more than one per year. The U.S. already have very large strategic forces at sea (about 4,000 nuclear weapons).

While research and development efforts in strategic weapons are essential, the continuing incorporation of expensive marginal improvements in strategic weapons should be curbed. The Pentagon's counterforce program for better accuracy and higher yield warheads is an example of expensive weapons changes which make only marginal contributions to national defense and may be counterproductive.

In 1975 it is crucial that the SALT agreement reached in Vladivostok not be exploited by the Pentagon to step up U.S. strategic momentum. The levels of launchers and MIRVed missiles permitted by the Vladivostok accords are far above required levels and the U.S. and the Soviet Union should be rapidly negotiating much lower ceilings. If the Pentagon is permitted, however, to increase strategic weapons funding in the fiscal 1976 budget, new programs may acquire bureaucratic momentum that will be very hard to turn off at a later date. Strategic arms control agreements should slow the arms race and reduce military outlays now, not at some uncertain time in the future.

OPTIONS FOR A REALISTIC DEFENSE BUDGET

1. *Cancel the B-1 strategic bomber program.* Still under development, the B-1 at nearly $100 million each will not be worth the price. The U.S. already has 8,000 strategic nuclear weapons and 500 bombers.

2. *Stop spending on obsolescent new ICBMs.* Over the next ten years, the U.S. could spend $50 billion on new mobile and heavy throw-weight ICBMs. Existing ICBMs carry more than 2,000 nuclear weapons. The U.S. should be moving away from reliance on ICBMs toward invulnerable strategic submarines.

3. *Do not develop new strategic cruise missiles.* Both the Navy and the Air Force are trying to develop a fourth strategic force in addition to existing bombers and land- and sea-based ballistic missiles that carry 8,000 nuclear weapons. This new channel for the arms race has no military justification and should be closed before billions are wasted.

4. *Stop spending on new ABM (anti-ballistic missile) systems.* The SALT agreements have banned large ABM deployments but the U.S. continues to spend more than $200 million each year on new ABM systems that cannot be deployed without junking the $5.4 billion Safeguard ABM system in North Dakota. ABM defense is and will be impossible.

5. *Slow the Trident strategic submarine program to 1 a year.* One Trident submarine costs more than $1.5 billion. The U.S. already has 4,000 strategic nuclear weapons at sea in invulnerable submarines. There is no threat that requires a hurried Trident program.

6. *Set a 10,000 strategic weapons ceiling.* The U.S. today has 8,000 strategic weapons and will have about 20,000 by 1985 if Defense Department plans go forward. After completing already funded MIRV programs by 1977 the U.S. will have 10,000 deployed strategic weapons, far more than are required.

7. *Reduce overseas tactical nuclear weapons.* The U.S. has more than 10,000 tactical nuclear weapons overseas, many of which could be dropped on the Soviet Union and China. Most weapons are unnecessary and reductions would remove them from vulnerable forward areas and permit better security.

8. *Terminate obsolescent military treaties.* Some of the military treaties that the U.S. entered into at the height of the Cold War, such as SEATO, no longer contribute to U.S. defense and should be reassessed. Outdated military commitments encourage U.S. military intervention and tie the U.S. to authoritarian regimes.

9. *Do not establish new foreign military bases.* The U.S. already has more than 200 major foreign bases but DOD wants to build new ones at Diego Garcia in the Indian Ocean and Tinian in the Pacific. The wise policy of post-Vietnam disengagement from foreign involvements should not be reversed.

10. *Cut marginal overseas military forces.* The U.S. has more than 500,000 troops deployed in foreign countries and many of them could be withdrawn with no harm to U.S. defense. The 66,000 soldiers in Korea and Thailand, costing more than $1 billion a year, are not needed.

11. *Do not increase Army divisions beyond 13.* The Army is undertaking a costly expansion of its combat divisions from 13 to 16. Congress has not examined the need for this build-up. DOD should be finding ways to save money rather than expanding.

12. *Cancel the AWACS (Airborne Warning and Control System) program.* AWACS aircraft will cost $3.0 billion. Their only mission will be to protect troops in Europe but NATO allies are not helping to pay for them. The General Accounting Office has raised doubts about AWACS' technical effectiveness with the shift of mission from defense of U.S. to Europe.

13. *Cancel SAM-D (Surface-to-Air Missile) program.* SAM-D will cost $6.7 billion, the most expensive Army system ever. Both AWACS and SAM-D were originally developed for air defense of the U.S. but were then switched to use in Europe when the Soviet bomber threat declined. The U.S. burden for NATO defense is already too heavy and Europeans should be developing their own defensive weapons.

14. *Cancel XM-1 tank program.* At $6.2 billion for program, each new XM-1 will cost almost five times the M-60 it will replace. With advances in anti-tank weapons, the U.S. should be concentrating on improving the less expensive M-60 tanks which the U.S. and our allies could afford in greater numbers.

15. *Reduce Operation and Maintenance (O&M) costs.* O&M costs for training, logistics, command and support services, civilian pay, etc. come to $26 billion a year. Soviet O&M costs are much less although the Soviet Army is larger. Much waste and fat can be squeezed from O&M overhead.

16. *Cut unnecessary military aid.* Every year the U.S. gives billions of dollars in military aid to countries which contribute little or nothing to the defense of the U.S. In many countries, such as Greece, long-term U.S. defense interests are undermined by U.S. support of unpopular regimes which use U.S. military aid primarily for internal repression.

1. Cancel the B-1 bomber

The B-1 bomber is an example of a weapon that is pricing itself out of existence. The cost of developing and producing 244 B-1s is now estimated at $18.6 billion, or $76 million per plane. It may soon be more than $100 million for each plane. Common sense indicates that at some point any weapon can become too expensive and not worth the price. The B-1 has reached that point.

The expendability of the B-1 is reinforced by the fact that the U.S. already has a more than adequate strategic force that is filled with redundancies. Bombers are of declining importance in an age of missiles. The Soviets have come close to abandoning bombers and the U.S. has just about dismantled its anti-bomber defenses in recognition of the diminishing bomber threat. The Defense Department has not yet committed itself to production of the B–1 bomber and is keeping open options for other, perhaps cheaper, bombers. It would be better to make the hard but well-founded choice that the age of the strategic bomber is over and the door should be closed on all new bombers. Existing B–52s will comprise a very threatening bomber force for many more years in any case. Including European-based and carried-based aircraft, the U.S. has 8 different types of aircraft capable of carrying nuclear weapons in an attack on the Soviet Union.

2. Stop spending on new ICBM's

Dr. Fred Ikle, the head of the U.S. Arms Control and Disarmament Agency, suggested in 1974 that the U.S. should move away from reliance on ICBMs because they are becoming increasingly vulnerable to Soviet attack. Other observers have also proposed that the fixed target status of ICBMs makes them increasingly obsolescent as important components of U.S. strategic forces. Defense Secretary Schlesinger himself recently spoke of the need for a future "restructuring" of U.S. strategic forces away from fixed ICBMs.

But the hard choices are being put off. Different components of the Defense Department are promoting their pet projects for new ICBMs, both mobile and fixed. The danger is that each faction will get its piece of the action and $50 Billion or more will be spent over the next decade on various "modernization" ICBM projects. A hardheaded decision is needed to terminate the whole wasteful process of buying new ICBMs. The existing Minuteman ICBM force already carries more than 2,000 nuclear weapons. That is more than enough for the present and the future. The addiction to "modernization" of ICBMs should be overcome before the new programs for mobile and heavy throw-weight ICBMs become entrenched.

Deemphasis of ICBMs will also facilitate abandonment of pressures to engage in a counterforce arms race. The issue of "Minuteman vulnerability" and first strike fears on both sides could be laid to rest.

3. Stop development of new strategic cruise missiles

Last year the Air Force and the Navy got about $100 million for development of new long-range cruise missiles to deliver nuclear weapons on the Soviet Union. Strategic cruise missiles with ranges up to 1500 miles, air breathing and low flying, will be launched from aircraft or from ships and submarines. It is a multi-billion dollar program which essentially means the development of a fourth strategic force in addition to existing bomber and land- and sea-based ballistic missiles. It opens up a new channel for the arms race that could severely complicate efforts to control and reduce strategic weapons. There is no military justification to deploy still more nuclear weapons on top of the thousands that already exist. It will be much easier to stop the development of strategic cruise missiles now before still more money is spent on the program and before it acquires unstopable bureaucratic momentum.

4. Stop ABM spending

One of the biggest "white elephants" in the U.S. military budget is the continued spending of hundreds of millions of dollars on new ABM systems after the SALT treaty has restricted both the U.S. and the Soviet Union to every small ABM deployment. The Safeguard ABM system in Grand Forks, North Dakota, will be operational in 1975 at a cost of $5.4 Billion but only 100 launchers are permitted ($54 million per launcher). Already the Defense Department is contemplating mothballing Safeguard and beginning to deploy other ABMs instead. For fiscal 1975 the DOD received $209 million for the advanced ballistic missile defense and site defense R&D programs, both of which are proposed to provide an ABM system for the one treaty-authorized ICBM site.

As the U.S. moves away from reliance on ICBMs and recognizes that missile submarines provide an adequate deterrent, it is increasingly wasteful to spend money on ABM systems whose only justification is to protect ICBMs from missile attack. The SALT restriction of only 100 ABM launchers is so small as to be completely inadequate and the U.S. will only be throwing good money after bad if it continues spending on ABMs.

5. Slow trident program to one a year

Next to the B–1 program, the most expensive weapons program in development is the Trident strategic missile submarine, currently estimated to cost $15.4 Billion for ten submarines, each armed with 24 Trident I missiles. The U.S. already has 41 strategic submarines carrying 656 missiles with about 4,000 nuclear weapons. The Soviet Union has 51 strategic submarines which carry 666 missiles with only 666 nuclear weapons. An expensive replacement of Polaris missiles with Poseidon MIRVed missiles has been going on since 1970 and will be completed in 1977, when there will be more than 5,000 nuclear weapons at sea in U.S. strategic submarines. Commencing in 1979, the Pentagon will deploy longer range Trident I missiles on Poseidon submarines.

Existing missile submarines are invulnerable to destruction. Sea-based systems are the most viable segment of the U.S. strategic forces. While the U.S. should be reducing its dependence on land-based ICBM's, this does not mean that the U.S. should feel compelled to engage in a forced-pace, arbitrary expansion of the already very substantial strategic forces at sea. At $1.5 billion or more apiece, each Trident submarine will be the most expensive weapon system in history and each submarine will carry enough nuclear weapons to destroy any country in the world. The U.S. can afford to pursue a careful, deliberate Trident development program, funding only *one* a year. There are still strategic and technical questions about whether the huge Trident submarine is the best route for the U.S. to take for a new strategic submarine. There is no weakness in the current U.S. strategic posture which requires the U.S. to build two new Trident submarines each year.

6. 10,000 strategic weapons ceiling

A ceiling of 10,000 strategic nuclear weapons for the U.S. does not sound like much of a limitation but observance of it could save billions and stop trends toward doubling that number over the next ten years. The U.S. today has about 8,000 strategic nuclear weapons and will have about 10,000 by 1977 when already funded MIRV programs for Minuteman ICBMs and Poseidon sub-launched missiles are completed. With no change in plans, and no established ceiling, the U.S. will have about 20,000 strategic nuclear weapons by 1985. A 10,000 nuclear weapons ceiling could result in cost-saving trade-offs and slow deployments of unneeded new weapons. The Soviet Union probably will not reach 10,000 strategic nuclear weapons until 1985.

7. Reduce overseas tactical nuclear weapons

Substantial savings could be realized by reducing the number of U.S. tactical nuclear weapons based overseas. There are at least 7,000 U.S. tactical nuclear weapons in Europe and another 3,500 in the Pacific.

Cutbacks are feasible and desirable. A thousand tactical nuclear weapons in Europe would be sufficient. The current 7,000 number was reached not on the basis of careful military calculation but because production rates permitted this.

Smaller overseas deployment would require fewer troops to guard them and would increase U.S. security by removing weapons from areas where they are vulnerable to attack or capture. Better protection could be provided if there were fewer weapons in fewer places.

A general reduction would permit the retiring of older weapons and lessen any rationale for expensive programs to develop new tactical nuclear weapons. The Army, for example, wants 2,000 new nuclear artillery shells at a cost of $500,000 *each* to replace those currently deployed. Serious questions have been raised about whether the U.S. should spend billions of dollars on new tactical nuclear weapons that will allegedly be more usable in actual warfare. The Defense Department has yet to develop a coherent concept of how tactical nuclear weapons could actually be used effectively and prevent escalation to general nuclear war. Our NATO allies are dubious about the need for new tactical nuclear weapons.

8. Terminate obsolescent military treaties

In the period after World War II and at the height of the cold war the U.S. entered into military treaties with forty-two countries and made defense pledges and agreements with numerous other nations. Some of these treaties continue to be useful but many are outmoded remnants of a period of U.S. military paternalism. All military pacts should be carefully reexamined to determine what positive benefits if any they provide for U.S. defense. Only a one-year notification is required for withdrawal from most of these pacts. Some military pacts actually have a negative influence in that they threaten to draw the U.S. into conflicts that would not serve our national interests. In the past, military treaties have been used for Presidentially-initiated military action to circumvent Congressional war-making powers. In addition, existing treaties commit the U.S. to support an increasing number of dictatorial and oppressive regimes.

SEATO, the Southeast Asia Treaty Organization, is one treaty that should be terminated. SEATO was originally designed to prevent Chinese military aggression in Southeast Asia and to permit a measure of U.S. hegemony over the area. Those purposes are no longer valid in light of détente between the U.S. and People's Republic of China. SEATO also was used to justify massive U.S. combat operations in Vietnam and could be used as justification for future U.S. military intervention in the area. Only Thailand and the U.S. still have much interest in this moribund alliance. Thailand and the Philippines are experiencing internal problems in which the U.S. would do best to avoid involvement. SEATO does not contribute to the defense of the U.S. and could involve us in a land war in Asia at a time and place not of our own choosing.

The Mutual Defense Treaty between the U.S. and Chiang Kai-Shek's government on Taiwan is also a vestige of an earlier era, and impedes the continued improvement of relations between the U.S. and the People's Republic of China. Furthermore, China lacks the amphibious capability to invade Taiwan and Chiang Kai-shek has formidable military forces of his own. The Taiwan issue should be and can be settled by the Chinese themselves. The treaty with Taiwan does not require the stationing of troops on Taiwan. The 5000 American troops there should be withdrawn. The Formosa Resolution, which authorized the President to protect Taiwan and the Pescadores, has already been repealed by the Congress.

9. No new overseas bases

The Defense Department wants to construct a new naval and air base on Diego Garcia in the Indian Ocean. In 1974 Congress slowed down the project but the DOD will probably continue pressing forward with this $173 million base which stimulates a costly

U.S. military build-up in a relatively unmilitarized area of the world and which will encourage U.S. military intervention. As the late chairman of the Senate Armed Services Committee, Senator Richard Russell, once said: "If we make it easy for the Navy to go places and to do things, we will find ourselves always going places and doing things."

The Pentagon also wants to construct a new base on the island of Tinian in the Micronesian Islands in the Pacific. The first major funds for this base may be in the fiscal 1976 budget.

U.S. overseas bases in such places as Korea, Japan, Iceland, Portugal, Spain, and Greece are constant sources of foreign policy difficulty and controversy. Consistent with the disengagement from unnecessary overseas involvements, the U.S. should be carefully reassessing all existing base arrangements to determine whether they are really useful in promoting U.S. defense. At a minimum, no new base construction should be permitted.

10. Cut marginal overseas forces

The U.S. now maintains 222 major military bases outside the U.S. and has about 500,000 military men stationed abroad. Many of these bases and troops no longer contribute in any significant way to the defense of the U.S. The presence of U.S. forces in foreign countries increases the likelihood of U.S. involvement in undesired wars in third world countries at great cost. In addition many of the host countries, such as Spain, are demanding larger and larger payments in the form of military and economic assistance for continuing U.S. base rights.

The Pentagon maintains 66,000 military personnel in Thailand and South Korea at a cost of more than $1 Billion each year. The presence of these troops on the mainland of Asia contributes little or nothing to U.S. defense. In South Korea U.S. troops help support the unpopular Park regime. They delay the inevitable and necessary accommodation between the North and the South that Koreans in both the North and South want. Disengagement from Korea would reduce the danger of the U.S. being drawn into a political upheaval from which it could gain little. South Korea already has the fifth largest armed forces in the world with 625,000 soldiers.

Twenty-six thousand U.S. military personnel in Thailand are unnecessary. Originally stationed in Thailand to support our war effort in South Vietnam, they have become an expensive anachronism with the end of U.S. combat involvement in that war. Thailand is not threatened by any outside power. The insurgencies in Thailand are small, isolated, and largely products of ethnic and political problems within Thailand. U.S. soldiers and airmen can be of little or no help to the Thai government in dealing with these problems.

11. Don't increase Army divisions

Excessive support personnel in all services make for an inefficient operation. This is particularly true for the Army, whose base and support structure was erected to support a Vietnam-era force twice the size of today's. Currently the Pentagon is converting unneeded support units to costly combat units. The Army is expanding its divisions from the existing 13 to 16.

Formation of 3 new combat divisions will be very expensive (more than $1 Billion a year). Only a very small part of the new cost can be covered by squeezing savings from inbeing forces. To equip and operate whole new divisions and to deploy more combat forces overseas will substantially increase the military budget. It is a decision that requires extensive public and Congressional debate. International conditions are not worsening to the extent that the U.S. should be increasing its number of Army divisions.

12. Cancel AWACS (airborne warning and control system)

Last year Congress cut AWACS in half.

No one, not even Secretary Schlesinger, wants to keep on wasting money on air defense systems when attacking missiles cannot be stopped and the Soviets have only 140 obsolete bombers.

But the program will not go away. For 34 new boeing 707 aircraft could exist long in a wartime environment in an air defense unit in the U.S., the Air Force has found a new rationalization for the program. The AWACS aircraft loaded with electronics are to serve as airborne command posts over Europe.

Expenditure of scarce U.S. funds on the AWACS is not warranted for several reasons. It is doubtful if the AWACS aircraft could exist long in a wartime air environment in Europe. In addition, the General Accounting Office last year said the AWACS radars were subject to ground jamming, greatly lessening the 707's effectiveness. If the AWACS is to be built for combat to protect allied and U.S. forces in Europe, our NATO allies should pay part of the cost. The Air Force has made no clear case of need for the AWACS.

13. Cancel SAM-D (surface-to-air missile)

The SAM-D surface-to-air missile is another weapon system originally conceived for air defense of the U.S. against Soviet bombers but now justified for use in Europe to protect allied and U.S. troops against Soviet air attack. Originally SAM-D was to replace the Nike Hercules missiles to defend American cities against Soviet bombers but the decline of the Soviet bomber threat and the SALT ABM treaties have made their air defense role of the U.S. obsolete.

For the planned 6250 missiles the cost will be $6.7 Billion, or about $1 million per missile. SAM-D is too sophisticated and fragile to operate in the field and protect a field Army. The Improved Hawk can handle that task. Moreover, NATO countries are building their own SAM's for similar purposes at less cost. Reassessment of the burden of defense spending in NATO and of the need for cheaper, more durable, and less complex weapons may make it desirable to rely more heavily on the Europeans for development of new SAMs for use in Europe.

14. Cancel X-1 tank program

The XM–1 is the latest designation for the Army's proposed new main battle tank. Previously it was the MBT–70 and then the XM–803. Both predecessors were cancelled because of cost and technical problems.

The XM–1 is to replace the Army's present tank, the M–60, in Europe. There is much doubt, however, about whether a new tank is needed and whether the Defense Department should continue to invest billions in new tanks. The M–60 proved itself superior to the best Soviet tanks in the October 1973 Mideast War. The Soviets have not introducted a new main battle tank and in the past new Soviet tanks have been a reaction to NATO's development of new tanks.

The cost of the XM–1 will be five times that of the M–60. The total XM–1 program cost will be $6.2 Billion, or $1.9 million dollars each for 3312 tanks. The U.S. would do better to emphasize construction of more of the proven M–60 tanks.

Recent developments in anti-tank weapons and the experience of the 1973 Mideast war indicate that the tank may be of declining importance in conventional warfare. Relatively inexpensive and plentiful anti-tank weapons have overcome protective countermeasures available to tanks. For NATO, it would be more prudent to develop the defensive potential inherent in the alliance's already heavy advantage in anti-tank weapons. The fact that the Soviet military is so dependent on tanks may be more a handicap than an advantage.

15. Reduce O. & M. (operation and maintenance)

There is tremendous potential for making savings in Operation and Maintenance O&M) costs. O&M outlays, about $26 billion in fiscal 1975, pay for such items as training, logistic costs, overhaul and maintenance of equipment, medical care, civilian pay, fuel and travel costs, and the entire spectrum of command, administrative, and support services. There is one civilian for every two uniformed personnel on the Pentagon payroll. In 1974 the Defense Department spent $11 billion on training and education programs alone. The Soviet Union, with more men under arms, spends almost half as much on O&M, or about $14.5 billion in U.S. prices according to CIA estimates compared with the U.S.'s $26 billion. Soviet forces train and exercise much less than do U.S. forces. According to CIA officials: "In all of their forces, they operate much less extensively." Although it tends to attract little Congressional or public attention, operation and maintenance expenditures could be reduced by at least 10% with little adverse impact on U.S. defense posture.

16. Cut unnecessary military aid

In 1974 the U.S. provided more than $2 billion in arms to military dictatorships. The Pentagon requested $2.5 billion for the same countries in fiscal 1975. Whether such aid to authoritarian regimes actually promotes the interests of the United States is doubtful. In some cases the U.S. gets a military base, but receives few political benefits from close identification with dictatorships. The danger of alienating the people of a country as happened in Greece is real. In order to hold on to its Greek military bases the U.S. supported a military dictatorship, but lost the good will of the Greek people and probably weakened its long-term military posture in the area.

Increasingly, military sales are replacing direct military aid programs. Rich oil exporting countries like Iran and Saudi Arabia are buying billions of dollars of arms from eager U.S. arms manufacturers. Anomalies occur such as the arming of oil states at the same time that talk of military intervention in the Mid-East grows. The U.S. does not have a coherent policy on military aid and sales. Proponents are searching for new justifications. A great danger is that in a period of economic difficulty there will be increased pressure to engage in competitive arms exports to many of the world's trouble spots.

U.S. CONVENTIONAL FORCES AND FOREIGN INVOLVEMENTS

The bulk of the defense budget goes primarily to pay for the projection of U.S. military power overseas in support of the many foreign commitments the U.S. has accumulated since World War II. Nearly 75% of the defense budget pays for conventional forces whose primary function is to protect countries in Europe and Asia. Spending for the possibility of war in Europe is the costliest item in the U.S. military budget, about $30 Billion a year. Another $20 Billion is spent each year to prepare for a war in Asia.

After the Vietnam war, most Americans agreed the U.S. needed to redefine its role in the world and cease reporting to military force to solve complicated international problems. For many Pentagon officials, however, the Vietnam war was simply an unfortunate experience that they hope the American people will soon get over.

Secretary Schlesinger says "historical necessity" has thrust upon us the role of maintaining worldwide military equilibrium. "The burden of responsibility," he states, "has fallen on the United States and there is nobody else to pick up the torch if the United States fails to carry it." The idea that the U.S. must project its military power into every corner of the world and preserve "stability" everywhere permeates the Defense Secretary's speeches and budget presentations.

Much of the U.S. apparatus of overseas commitment contributes little to the defense of the United States. It is not in the best interests of the U.S. to involve itself in disputes and conflicts everywhere in the world. The U.S. should be able to live with some instability in the world and need not feel compelled to intervene militarily at every point. Compulsive resistance to change could be very disruptive and damaging to U.S. interests. Gradual disengagement from foreign deployments and reassessment of some "entangling" alliances would improve U.S. freedom of action and ability to apply its military forces at those times and in those areas where U.S. interests would be served.

Is military power the answer to resource scarcities?

The oil embargo and projections of future raw material scarcities have produced Pentagon speculation about the use of military force by the United States to secure access to economic resources in the future. U.S. leaders have hinted at the prospect of military intervention to secure a supply of oil. The prospect of a bitter struggle for scarce resources, including overt and covert military action, cloud the prospects for world peace.

In 1974 the Navy pushed hard for a major base in the Indian Ocean at Diego Garcia, arguing that such a military buildup was necessary to protect the oil "lifelines" of the U.S. and its allies. The military role in a period of resource scarcity will undoubtedly be a marked feature of upcoming budget justifications.

There are serious doubts about whether military force will be useful in resolving economic problems.

Use of military force could threaten international peace and U.S. security even more than existing economic difficulties. If an example of resort to military force were set, other countries would soon follow suit and a widened conflict might be close behind. It should be clear that threatening military operations in order to assure oil and other raw materials could easily backfire and reduce the flow of raw materials from other countries. We need more serious, long-term approaches to solving energy needs. Assistance to the economic and social development of raw material exporting countries would be far more useful to alleviate resource scarcities than threats of military intervention.

KEEPING DOWN WEAPONS COSTS

One of the hardest choices for the U.S. to make is that between a very expensive weapon that incorporates all the latest technological advances and a less costly weapon that is not so "modern" or "advanced". The U.S. military services have almost always preferred the most complex, technologically sophisticated and thus most expensive weapon. In recent years, this phenomenon of preference for maximum technological innovation has caused the unit cost of many new weapons to rise almost out of sight. A fully equipped F–14 Navy fighter aircraft will cost about $28 million. Just to develop and produce each B–1 bomber will cost at least $76 million.

The Pentagon often attributes the entire cause of rising weapons costs to inflation. However, recent studies of U.S. tactical aircraft, for example, demonstrate that most of the rising cost of these weapons is attributable to the increasing technical complexity of the aircraft themselves and the compulsion to incorporate almost everything that is technologically feasible. The result is weapons that are often overdesigned for their mission.

FORMER HEAD OF ARMY PROCUREMENT SAYS $8–$12 BILLION WASTED

Dr. J. Ronald Fox was Assistant Secretary of the Army in charge of procurement during 1969–71. In his recent book *Arming America: How the U.S. Buys Weapons* he points out opportunities for large cost savings on weapons programs:

"Management standards for defense programs are so much lower than for commercial programs that the capabilities of workers to perform other jobs is affected . . . . Estimates have shown that 30% to 50% of program costs can be cut with the introduction of business practices and standards developed for large commercial programs (e.g., large commercial aircraft, ships, and custom turbines). This amounts to a potential cost savings of $8 to $12 billion per year—the cost of building more than 1,000 schools and operating them for 30 years, or the cost of building 2,000 electric power plants, each servicing a town of 60,000 people."

44 MAJOR WEAPONS ALREADY UNDERWAY WILL COST $148 BILLION

(Defense Department Acquisition Cost Estimates.)

Navy: $65.1 Billion:

A–7E aircraft, $2.6 billion.
E–2C aircraft, $1.0 billion.
F–14A aircraft, $6.3 billion.
P–3C aircraft, $2.7 billion.
S–3A aircraft, $3.3 billion.
AEGIS missile, $.5 billion.
CONDOR missile, $.4 billion.
HARPOON missile, $1.2 billion.
PHOENIX missile, $1.2 billion.
POSEIDON missile, $4.8 billion.
SIDEWINDER AIM–9L missile, $.1 billion.
SPARROW III, F missilie, $.8 billion.
TRIDENT missile and submarine, $15.4 billion.
MK–48 torpedo, $1.6 billion.
SSN–668 submarine, $7.9 billion.
DD–963 destroyer, $3.6 billion.
DLGN–38 frigate, $1.6 billion.
LHA helicopter carrier, $1.2 billion.
Patrol Frigate, $5.3 billion.
PHM Patrol Hydrofoil, $1.1 billion.
CVAN carriers, $2.6 billion.

Army: $27.7 Billion:

LANCE missile, $.9 billion.
Improved HAWK missile, $.9 billion.
SAFEGUARD ABM ssytem, $5.4 billion.
SAM–D missile, $6.7 billion.
HLH helicopter, $.2 billion.
UTTAS helicopter, $4.0 billion.
MICV infantry vehicle, $.4 billion.
SCOUT vehicle, $.3 billion.
AAH helicopter, $2.9 billion.
XM–1 tank, $6.2 billion.

Air Force: $55.0 Billion:

A–7D aircraft, $1.6 billion.
A–10 aircraft, $3.1 billion.
B–1 aircraft, $18.6 billion.
F–5E aircraft, $.4 billion.
F–15 aircraft, $10.9 billion.
F–111 aircraft, $7.3 billion.
AWACS aircrat, $3.0 billion.
AABNCP aircraft, $.5 billion.
MAVERICK missile, $.6 billion.
MINUTEMAN III misile, $7.0 billion.
SRAM missile, $1.2 billion.
SIDEWINDER AIM–9L missile, $.2 billion.
SPARROW III F missile, $.5 billion.

512,000 U.S. military personnel outside the United States (DOD also employs 175,000 civilians overseas)

Southeast Asia	26,000
Thailand	26,000
South Vietnam	less than 250
Western Pacific	139,000
Japan (including Okinawa)	52,000
Philippines	18,000
South Korea	40,000
Taiwan	5,000
Afloat	24,000
Other Areas	48,000
Bermuda	1,000
Canada	2,000
Cuba	3,000
Guam	10,000
Panama Canal Zone	10,000
Puerto Rico	5,000
Afloat	10,000
Other	7,000

The U.S has military advisors in 70 countries. Largest number are in Iran, Korea, Thailand, Saudi Arabia, Vietnam, Taiwan, Cambodia, and Ethiopia.

Western Europe and related areas	299,000
Belgium	2,000
Germany	207,000
Iceland	3,000
Italy	12,000
Greece	4,000
Morocco	1,000
Netherlands	2,000
Portugal	1,000
Spain	9,000
Turkey	7,000
United Kingdom	21,000
Afloat	29,000
Other	1,000

Less than 1,000: Australia, Diego Garcia, Greenland, Iran, Midway Island.

Less than 250: Antarctica, Bahamas, Bahrain, Barbados, Brazil, Ethiopia, Johnston Islands, Leeward Islands, New Zealand. Norway, Saudi Arabia.

THE TIP OF THE ICEBERG: CONGRESS' VIEW OF WEAPONS COST

One of the most perplexing problems Congress faces in trying to control military spending and understand the long-term implications of military programs is the difficulty of getting information on the full costs of weapons and programs. Costly programs almost always start small. Today's small research and development program, the tip of the iceberg, is tomorrow's multi-billion dollar weapon system. Hidden costs often exceed the obvious costs in each year's budget.

The Pentagon almost always understates the cost of research and procurement of weapons. As one DOD program manager has said, "if we told the truth to the Congress, we would never get our program approved. So we have to understate the cost and overstate the performance." Recently the Defense Department has begun to release more realistic estimates. The DOD, however, has not yet provided the public and the Congress with complete disclosure of the life-cycle cost of weapons, that is, the cost of operating and maintaining weapons throughout their lifetime and the cost of associated weapons and equipment. For example, an aircraft carrier costing $1 billion is useless without aircraft costing an additional $1 billion and would be easily sunk without accompanying escort ships costing another $1 billion. The yearly operation and maintenance cost of a modern carrier is about $175 million. Thus, the cost of a single carrier, its aircraft, escorts and O&M over its 30 year life is more than $10 billion.

In the case of the B–1 bomber, which is still far from production, simply the cost of developing and producing the bomber itself has reached $76 million per plane and almost $19 billion for the fleet of 244. Bombers need armament and the Air Force will also need to build a new fleet of tankers to refuel the B–1s. To procure the B–1, arm it with SRAM missiles, buy the tankers to refuel it, and operate and maintain the whole force over 30 years will cost about $75 billion, or more than $300 million for each B–1.

A commitment to one weapon system almost always involves even larger associated costs when looked at over the life-cycle of the weapon. In the defense budget, related expenses are kept isolated into "little" pieces and seldom aggregated into one coherent picture. The Defense Department has a great stake in minimizing the visibility of life-cycle costs and in getting Congress to swallow expensive programs piecemeal, without a clear view of the whole cost.

Full cost of B–1 bomber is $75 billion

Fiscal 1975 appropriations: $445 million.

Total appropriations thru fiscal 1975: $2.1 billion.

Future cost of producing 244 B–1s; $16.5 billion.

SRAM missiles for B–1s: $5 billion.

New tanker fleet for fueling: $2.6 billion.

30-year operation and maintenance for tankers: $10.8 billion.

30-year operation and maintenance cost for B–1s: $38 billion.

CHAIRMAN OF SENATE APPROPRIATIONS COMMITTEE CALLS FOR CONTROL OF DEFENSE BUDGET

Senator JOHN MCCLELLAN, October 10, 1974: "The time has come when we must make a reassessment and a determination with respect to which weapons systems are absolutely essential to maintaining the deterrent that is imperative for our defense and survival. Most Americans and their families are now being forced to make reductions in their standards of living in order to cope with the rapid increase in the inflationary spiral. There is every indication that this inflationary situation may grow even more severe before it starts to improve—before we will be able to get it under control. Under these circumstances, *I have strongly reiterated to Secretary Schlesinger and to other military and civilian officials in the Department of Defense that priorities must be revised and budgetary reductions must be imposed*. In dealing with a military budget of the magnitude of that of the United States—$82.5 billion in new funds available, including transfers, for fiscal year 1975—there is certain to be some waste, some extravagance, some duplication and overlapping."

SENATOR HUMPHREY SEES OPPORTUNITY FOR DEFENSE COST CUTTING

"I believe that this nation's very tragic and unfortunate economic crisis now offers the Defense Department an extraordinary opportunity. While I recognize the tremendous toll that inflation takes on the purchasing power of families as well as on governmental agencies, *the nation's inflationary spiral should be permitted to force the Department of Defense to take a critical look at its programs and policies* in light of reduced budgetary levels and sharply declining purchasing power.

"If the President grants the Defense Department the large budgetary increases many military policymakers believe are needed to cushion the impact of inflation, then the profligate waste which we all know exists in the Defense Department will continue.

"Why should the Defense Department be allowed to escape the close examination of its programs and budgetary allocations that inflation now forces upon other agencies and American families? I see no reason why an opportunity for cost cutting, an opportunity for belt-tightening, an opportunity for policy review should be lost at the Pentagon during these tough times. . . .

"Inflation will not weaken our national security if the Pentagon is willing to conduct a proper and thorough review of its procurement programs and personnel policies." October 11, 1974.

SIBERIAN DUCK L'ORANGE

Mr. PROXMIRE. Mr. President, I am pleased to take note of the interest of the Houston Post in my campaign to turn the Matagorda Island bombing range into a wildlife sanctuary.

Matagorda has become a wintering rest area for the small population of whooping cranes still alive in the wild. Bombing on the island was threatening these birds as well as restricting access to civilians.

Due to an economy move, the Air Force has decided to leave Matagorda Island and there now is a possibility that the area will be turned into a wildlife sanctuary under the Department of the Interior and the State of Texas.

While the issue is not yet resolved, it appears that good sense has prevailed and I am optimistic about the outcome.

As a matter of local and statewide interest, several Texas newspapers have carried stories about Matagorda. They have pointed out—correctly as the GAO has determined—that Matagorda Island has long been used as a hunting and fishing resort for high ranking military officers. That now will be stopped.

The Houston Post has put this incident into a framework slightly different than commonly seen. As long as this Nation can retain a sense of humor with itself, we will remain strong, free, and independent. The analysis by Lynn Ashby contributes to this atmosphere. I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Houston (Tex.) Post, Jan. 19, 1975]

WICKED WEBFOOT

(By Lynn Ashby)

Sen. William Proxmire has charged that the U.S. Air Force—the same Air Force that gave us the F–111 and the C–5A—has been using its base on Matagorda Island as a resort for military biggies. He even has an investigation from the General Accounting Office to back up his charge.

The Senator notes that in two years the Air Force spent almost a quarter of a million tax dollars on cooks, game cleaners, guides and assorted recreational employes, just so 14 generals and a flock of others could go duck hunting. And he declares that the next time the Pentagon says its budget cannot be trimmed another cent without endangering national security, the U.S. taxpayer should remember this.

Well, fellow taxpayers, I cannot remain silent any longer. Yes, although sworn to secrecy, I can no longer stand mute in the face of such blatantly unfounded charges. For it is obvious that the esteemed senator from Wisconsin has never heard of Project Wicked Webfoot. There, I've said it. I've let the duck out of the blind, but no matter. Hanging for high treason is scant punishment for setting the record straight. You see, not many people know about Project Wicked Webfoot outside of Henry Kissinger, 14 Air Force generals and myself.

But to begin at the beginning, it came to light that the Russians had developed a breed of wild savage ducks capable of disrupting radar patterns, jamming the Voice of America, causing 747s to circle forever in holding patterns, and even so disrupting the airwaves as to make Eyewitness News sound intelligible. They showed no mercy.

This diabolical plot was discovered by the CIA while routinely monitoring telephone conversations in that hotbed of international intrigue, Tulsa. The CIA's discovery was passed on to the Pentagon through its usual channels, the front page of The New York Times, and the War Room sprang into action within weeks. NORAD began 24-hour-a-day (except on weekends) tracking, waiting for the telltale V in the sky. The Second Marine Division was called back from an MGM sound stage for immediate action.

Meanwhile, on the diplomatic front, Kissinger was busily at work. The Russians, he glumly reported to the White House, refused to admit that Project Wicked Webfoot violated the SALT agreement. Brezhnev's exact quote was: "Hank, we've got you by the tail-feathers," which the Pentagon is still trying to decode.

At 3:45 p.m. on the afternoon of Nov. 9, which, oddly enough, coincided with the first day of the Texas duck season, a flock of the invaders was spotted. NORAD confirmed that they were the dreaded Siberian Duck l'Orange, a unique breed noted for its viciousness, not to mention its ability to go with wild rice and white wine.

Secretary of Defense James Schlesinger, on the secene in the War Room, crisply barked out orders: "Somebody do something!"

It was at this point that the entire Air Force general staff stepped forward. "Sir," they said as one, "this is no job for these kids. The duck stops here." Then they flew to the scene of the battle, accompanied only by their guides, cooks, valets, loaders and, in some cases, their female chauffeurs. It brought moisture to the most cynical eye.

Thus it was that for days, nay, weeks, these hardy troopers held off the best the enemy could throw at them, or drop on them. At the first blush of dawn, one could hear the cry: "Mallard at 12 o'clock high!" Often it was hand-to-web combat. They fought in the fields, they fought in the villages, they fought in the duck blinds. Never have so few done so little for so many. And to think that it was such a top-secret mission, often their very wives and superiors couldn't be told of their heroism.

Yet word of this furious conflict was passed on to a selected few patriots. Soon General Dynamics came up with the anti-duck duck, while North American Aviation unveiled the surface-to-air Drake Brake, an ingenious device formerly known as the top secret Tennis Racket. Dow and DuPont both submitted bids to defoliate the ducks' breeding grounds (Russia, France and North America) while Brown & Root formed a consortium to build duck-proof command posts, cleverly disguished as Officers Clubs.

Sen. Proxmire never heard of this. No, he spouted off in his usual fashion, unknowing and unthinking. He was unaware of the sacrifices these men make, huddled down in their flimsy bunkers, awaiting the next all-out attack from the wily Siberian Duck l'Orange. Sources say that casualties run into the scores, particularly when an antidote known as Wild Turkey is brought into the bunkers.

POTENTIAL SHORTAGE OF FERTILIZER

Mr. HUDDLESTON. Mr. President, with the spring planting season rapidly approaching, farmers are on the threshold of an emergency which may affect us all in the grocery store and on the dinner table later this year. That potential emergency is an increased shortage of fertilizer. With fertilizer prices already up over last year and a shortfall already projected, the situation threatens to worsen unless relief is granted immediately to fertilizer manufacturers whose production has been drastically reduced or terminated entirely in recent weeks due to curtailment of their natural gas supplies.

A general fertilizer shortage of about 6 to 8 percent is now anticipated this year, and the Department of Agriculture has estimated an overall increase in fertilizer costs of 10 to 15 percent for 1975. Natural gas curtailments can only aggravate the shortage and decrease production. My own State of Kentucky and others in the Southeast traditionally served by the plants currently in curtailment could be short 25 to 30 percent of their nitrogen needs. This in turn, means fertilizer prices can be expected to increase even more than estimated for 1975, putting these prices well over 100 percent higher than they were in the fall of 1973. In Kentucky, corn—a feed-grain important to our beef, pork, poultry, and egg production—could be reduced 23 to 28 million bushels and production of tobacco could be affected.

The affect on our food supply and prices could be devastating. Fertilizer use accounts for at least one-third of the agricultural production in the United States. Every pound of fertilizer means 7 to 10 pounds of food. We cannot afford the loss. Americans had to pay $20 billion more for food in 1974 than in 1973. Reduced food production due to a lack of fertilizer would probably assure that the 1975 increase will be at least that much.

Natural gas supplies 70 to 80 percent of the total energy used in fertilizer production, and is irreplaceable in the production of nitrogen fertilizer, which in 1973 required 452 billion cubic feet. Without natural gas, fertilizer production is sure to decrease. And, it is an inescapable reality that less fertilizer means higher fertilizer prices and lower crop yields which, in turn, mean less food at higher prices.

The Federal Power Commission has the authority to break this chain of events at the beginning by granting emergency relief to fertilizer producers who have had their gas turned off or significantly decreased. They used this authority last year to assure fertilizer manufacturers enough natural gas to produce at maximum capacity. This year, however, they have failed to provide emergency natural gas supplies to the affected fertilizer producers, adding to an already bad situation. I have written to Federal Power Commission Chairman Nassikas to urge that the FPC again take whatever administrative steps are necessary to alleviate the current emergency and insure against future threats to vital fertilizer production.

I ask unanimous consent that my letter to Chairman Nassikas be printed in the Record, together with the text of a letter to me from Dr. Charles Barnhart, dean of the College of Agriculture at the University of Kentucky, regarding the potential effect of current curtailments on farming operations in our State.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., January 15, 1975.
Hon. John N. Nassikas,
Chairman, Federal Power Commission,
Washington, D.C.

Dear Mr. Chairman: I request your urgent attention to the increasingly critical situation facing American farmers, food processors, wholesalers, and retailers, and all of us as consumers resulting from the curtailments of natural gas supplies to fertilizer manufacturers.

Curtailments of natural gas basic to the production of nitrogen fertilizer have drastically reduced the output from the U.S. Steel Agrichemical plant at Cherokee, Alabama to 30% of normal production and have closed entirely the Farmers Chemical Association Plant in Tunis, North Carolina. Without relief from the Federal Power Commission, these curtailments are expected to remain in effect until April 1, 1975—too late to provide farmers with fertilizer for this planting season.

The effect on crop yields in the southeastern states, and the resulting effect on food and fiber supplies promises to be disastrous. For my state of Kentucky alone, Dr. Charles Barnhart, Dean of the College of Agriculture, University of Kentucky, estimates that the 25–30% loss in nitrogen fertilizer supplies could mean the loss of up to 28.6 million bushels of corn. Further, if the shortage were spread over the tobacco crop which is of critical economic importance to Kentucky, it could equal a loss of $216,000,000 to our farmers. I am enclosing the full text of Dr. Barnhart's letter to me for your information.

Again, I urge you to act immediately to alleviate the current emergency and to take whatever administrative steps are necessary to insure against future threats to vital fertilizer production.

Sincerely,
Walter D. Huddleston.

University of Kentucky,
Cooperative Extension Service,
Lexington, Ky., January 15, 1975.
Hon. Walter D. Huddleston,
U.S. Senate,
Washington, D.C.

Dear Senator Huddleston: I am very concerned that Kentucky farmers will not be able to purchase enough nitrogen fertilizer to grow their crops this year. This concern grows out of the fact that two of the major nitrogen fertilizer manufacturers supplying Kentucky have either had their natural gas allocation completely withdrawn or cut back to a fraction of last year's use. The Farmers Chemical Association plant in Tunis, North Carolina, which supplies nitrogen to Southern States Cooperative as well as three other large farm supply cooperatives in the Southeastern part of the United States, has been closed since December 31 because their gas supply has been completely withdrawn. Despite appeals to the Federal Power Commission there is no prospect at present for service to be restored until April 1 of this year. The U.S.S. Agrichemical plant in Cherokee, Alabama is currently operating at 30% of its normal production because of a 70% reduction in its natural gas allocation. Its appeal to the Federal Power Commission to have its allocation restored has not yielded any results. They, too, expect to be at this reduced operation level until April 1.

Unless these plants can quickly be put back into operation, it seems certain that Kentucky farmers will face serious reductions in the nitrogen needed for use on the corn and tobacco crops for the 1975 growing season. Our Agronomy Department has calculated that Kentucky farmers are likely to receive only 70 to 75 percent as many pounds of nitrogen as were applied to the 1974 crop. (The January 1-June 30, 1974 use was 112,000,000 lbs. of actual nitrogen distributed among various mixed and straight goods fertilizers.) If all this loss is available fertilizer came from reduced applications of nitrogen to corn, this would mean that 280,000 to 336,000 acres of our usual 1.25 million acre corn crop would receive no nitrogen or the entire crop would receive an equivalent reduction. These scientists predict this would reduce the corn crop by 23,800,000 to 28,560,000 bushels. Included in these calculations is the assumption that a farmer who could not get nitrogen fertilizer would decide not to plant corn because his yields are virtually certain to be so low that he would not recover his costs of production.

If the total shortage of nitrogen was spread over the tobacco crop, we anticipate that tobacco yields would be reduced from 2500 lbs. of leaf per acre to approximately 1500 lbs. per acre. Assuming $1.20 per lb. as a selling price for next year's crop, this equals a potential loss of $216,000,000 to Kentucky farmers.

I hope this description provides a clear picture of the grave threat involved in this matter and communicates the urgency of a quick solution to these nitrogen fertilizer plants being put back into full production. I would greatly appreciate any help you may be able to provide with this urgent problem.

Very truly yours,
Charles E. Barnhart,
Dean.

THE REPORTER'S TRADE

Mr. HUGH SCOTT. Mr. President, Joseph Alsop, in one of his last regular columns discussed the realities of press coverage vis-a-vis advocacy journalism. It is a lesson which we have probably all learned by now, but having a perspicacious reporter like Joe Alsop citing horrifying examples of journalistic coverage of recent news events makes our absolute understanding of this process essential. I ask unanimous consent that this article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

The Reporter's Trade

(By Joseph Alsop)

How stands the fourth estate? There have been a lot of changes in the reporter's trade in the 42 years-plus of my working lifetime. Before bowing out on New Year's Day, I cannot resist the temptation of an overall assessment.

To begin with, the American press of 40 years ago was not the ideal institution the American press always pretends to be. Politically, it was largely published by Roosevelt haters. That did not matter as much as you might suppose because most of the political reporters were Roosevelt lovers. Yet the government did not get an even break in those days any more than the government does at the moment.

To go on, the reporter's trade was already showing signs of that fatal hankering to be fashionable, which is one of the trade's occupational diseases today. As one example, take Walter Duranty, the famous Moscow correspondent of the '30s and the years of World War II.

Duranty, an agreeable man who was a friend of mine, was the foreign correspondent most admired in his time, except by those who had some real idea of the horrors Josef Stalin was perpetrating in Russia. Those who seriously reported the horrors, as William Stoneman reported the hideous government-created famine in the Ukraine, did not last very long in Moscow.

Duranty instead covered up the horrors and deluded an entire generation by prettifying Soviet realities. Hence he was showered with the adulation of American intellectuals who did not want the truth. He was given a Pulitzer Prize. He lived uncommonly comfortably in Moscow, too, by courtesy of the KGB. By diluting an Amrican generation, Duranty also did much harm. It makes me angry to remember him, although I liked him.

Nowadays, moreover, we have what is called "advocacy journalism"—which I think more dangerous than the kind of hankering to be fashionable that mainly motivated Duranty. In this connection, I always remember an old-style Oklahoma congressman who got himself elected long, long ago. He ran on an antipoverty ticket, and the tag line of his winning oration was:

"Send ol' Bill to Washington, or I warn you good people, they will soon be *practicing celibacy* on the public streets of Oklahoma City!"

The point here is that any editor can make celibacy sound like the worst crime in the statute book, if he just has the front page at his disposal, plus an ambitious "advocacy journalist" willing to make celibacy sound criminal. In this connection, consider the case of the Euphronios krater at New York City's great Metropolitan Museum.

The Metropolitan paid a cool million dollars for this magnificient vase, painted by one of the greatest and rarest early Greek Classical masters. The fact that this was a reasonable price was then soon proven when a private collector paid more than $1 million for an exceptionally rare but relatively routine specimen of Chinese blue and white porcelain of the Ming period. If you want such things, you must pay high nowadays.

In front-page story after front-page story—in fact, in what is called a prolonged expose—the Metropolitan Museum was thereupon charged with semi-clandestinely acquiring a product of recent, flagrantly illegal excavation in Italy. Even if this charge had been true, it would have been entirely legal for the Metropolitan to purchase the masterpiece by Euphronios.

Nonetheless, a great storm was caused in the art and museum world. The Metropolitan Museum's reputation was seriously damaged. With great trouble and expense, with many affidavits and much other evidence and after much time, the Metropolitan's staff of lawyers then proved conclusively that the Euphronios krater had been out of Italy many years before the alleged illegal excavation. The only published result was a noncommittal story on Page 50 with a headline reading: "Metropolitan Denies".

I have purposely chosen my two awful examples from the annals of one of the truly great American newspapers, The New York Times, because they prove that even Homer sometimes nods. If Homer nods, lesser fry can be expected to nod more often. And it must be admitted that The Times is more than usually pron to another besetting sin of the reporter's trade, which is an extreme reluctance to admit error.

The Washington Post's Katharine Graham recently wrote an exceptional post-Watergate assessment of the state of the newspaper business. She said in effect that we were all in danger of getting too big for our boots.

I fear that this danger is much worsened nowadays, when too many people in my trade think the best way to make a big reputation is to convict a major public figure or institution of some sort of wrongdoing, which may be no more than the practice of celibacy in the public streets.

These, then, are my concerns about my trade. I must add, God knows, that I have far too often been wrong myself, yet I'm still deeply proud of my trade for reasons to be shown in a final report.

ISRAEL AND WORLD JEWRY

Mr. McGEE. Mr. President, following the Democratic Party's Mid-Term Convention in Kansas City, there appeared an article in the New York magazine written by Richard Reeves.

In essence, Mr. Reeves painted a very bleak picture of what he perceived to be an erosion of support within the Democratic Party for the future independence and security of the State of Israel. Mr. Reeves based his assumptions on one of the issues seminars held at the convention entitled "America and Its Role in the International System." As a member of the panel of that seminar, I can attest to the inaccuracy of Mr. Reeves' conclusions. Apparently, his article was not based upon attendance at the entire session of the seminar.

Therefore, at this time, I would like to take note of a copy of a letter I received from Mr. Frederick Newman Frank who was a delegate to the convention in Kansas City and who participated in this particular issues seminar. Mr. Frank's observations set the seminar in its proper perspective and is an accurate reflection of what was said on the part of various participants.

I might also add, at this point, that the issues seminars at Kansas City were in no way policysetting sessions. In essence, they were established as a sounding board for grassroots Democrats to discuss those particular issues within the context of domestic and foreign policy which were of concern to them. If the issues seminar on "America and Its Role in the International System" is an accurate reflection of grassroots Democrats' attitudes regarding our commitment to Israel, I would say the support was overwhelmingly pro-Israel. But once again, the seminar must be placed in its proper perspective. It was held to air views, not to establish policy. The policies and platform of the National Democratic Party will be drawn up when we meet at our nominating convention in 1976.

In my own estimation, I believe the support for a continued strong and unequivocal U.S. commitment for the independence and security of Israel on the part of the people of this Nation has not eroded in any manner. In fact, I believe the direct opposite has occurred as the commitment has strengthened in light of Israel's difficulties over the past year.

I would hope my colleagues, who did not have the opportunity to be personally present at the issues seminar on "America and Its Role in the International Community" could take the time and read what Mr. Frank had to say about that particular aspect of the Kansas City convention. It is an eloquent and perceptive description of what actually took place.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PITTSBURGH, PA.,
December 23, 1974.

Attention: Letters to the Editor Department.
Editor, New York,
NYM Corp., New York, N.Y.

DEAR SIR: As an admirer of Richard Reeves and *New York* I was surprised by the inaccurate picture of events at the Democratic Mid-Term Convention given "If Jews Will Not Be For Themselves, Who Will Be For Them?" I too was present at the seminar on "America and Its Role in the International System" at the convention. As a delegate of the Jewish faith, I was particularly interested in what was said about Israel and world Jewry. What actually transpired differed substantially from the somber scenario described by Mr. Reeves.

The fact is that while some spoke against the Jews, many spoke for them at Kansas City. The Jewish delegates at the seminar did, in fact, stand up and vigorously defend the State of Israel.

What one of the panel members inferred that the only Americans concerned about Soviet Jews were their U.S. counterparts, I called attention to the fact that the nine major Democratic office holders in the Pittsburgh area (only one of whom is Jewish) had signed a statement on Soviet Jewish rights while the negotiations on the Trade Bill were in progress. When I noted that it was a questions of human rights, not a Jewish question, my comments were greeted with as much applause as any speech that day.

When later in the morning, the anti-Israeli comments were made other Jewish delegates came to the fore. None had any trace of the defensive attitude Mr. Reeves perceives as being so pervasive in American Jewry. One particularly articulate Jewish woman from California clearly was not afraid to establish her identity as she drew an analogy between her pro-Israeli sympathies and the pro-Greek sympathies expressed by Congressman Brademas. Another orthodox Jew from New York made a telling and humorous comparison between the blusterings of General Brown about the Jews and the insulating of Secretary Butz about the Pope. If anyone doubted who he was it was their fault, because he was wearing a yarmulke.

Ambassador Linowitz was far from alone in his expression of support among the panel members. At various times during the seminar, Ambassador Harriman, Senators McGee, Pell, and Muskie and Congressman Brademas all expressed what satisfied me as being unqualified support for the State of Israel and disgust at the recent anti-Israeli actions taken at the United Nations.

What was particularly shocking to me was Mr. Reeves' statement that "In Kansas City, Senator Muskie of Maine and Senator McGee of Wyoming . . . were silent as Israel and Jews were savaged." Either Mr. Reeves was not listening at the afternoon session or just didn't attend. (The anti-Israel comments by speakers he quotes were all in the morning.) In the afternoon session, Senator Muskie made the same point former Prime Minister Meir has been making—you cannot expect Israel to negotiate with the P.L.O. when the P.L.O.'s avowed purpose is to destroy that State. Senator McGee took pain to review with the delegates the United States role during the Truman Administration in the establishment of the State of Israel and the historical commitment we thus have to the Jewish homeland.

Yes, there was anti-Israeli sentiment among a few of the delegates (at least two of the anti-Israeli speakers were not delegates), but they were answered by both the Jews and the non-Jews.

As one who speaks about the State of Israel on behalf of Jewish organizations before the Rotary Club and the Lions (Yes, Mr. Reeves, we had that idea before you suggested it.), I have not found the support for Israel thin among non-Jews as Mr. Reeves asserts. To the contrary, their ardor is sometimes surprising and often exceeds that of my Jewish friends.

There are some naive and ill-informed people who must constantly be for whom they perceive is the underdog and they are buying some of the Arab propaganda. As they are in the minority in the nation as a whole, they were in the minority at Kansas City. Yet they and their potential for harm to the State of Israel cannot be discounted. Therefore, Reeves' essential point—that Jews must vigorously assert whenever they can that U.S. support for Israel is right and moral—is one with which I agree. But, to paint a false picture of what transpired at Kansas City to make a journalistic point does a disservice to both the cause of the State of Israel and the Democratic Party.

Very truly yours,
FREDERICK N. FRANK.

THE UNITED STATES AT WAR AGAINST THE THREAT OF WORLDWIDE DEPRESSION

Mr. JAVITS. Mr. President, the United States is today at war. We are at war against worldwide depression. We are at war against the ominous threat of human want, of depleted resources, of soaring prices, of failure of confidence. We are at war against waste and against the loss of our substances.

But this is a war of opportunity. It offers us the challenge to rally our productive forces and our human spirit on behalf of the preservation of civilized values. It offers us the opportunity to face up to problems long in the making and brought to the point of crisis and recognition by the Arab oil boycott of October 1973. This is a war against worldwide depression.

In past wars we spent of our blood and our resources in order to win the victories that saved the things in which we believed. In this war we must fight to prevent the loss of our young people's lives and to save the resources we have, so that our children and their children will enter a world in which the good life is still possible.

As in all wars we must confront reality. We must respond to reality. We cannot evade the enemy. The enemy is depression. There are specific programs that must be conceived and executed without delay. They are lifesaving programs. They are not optional. They are essential to survival.

Last Tursday I was appalled when the Commerce Department announced that the gross national product—our best measure of economic activity—declined at an annual rate of 9.1 percent and that the last quarter of 1974 was the worst.

This announcement follows the depressing figures of declining industrial production and rising unemployment. To make matters worse, economic predictions are that our Nation is headed for its worst recession in four decades.

In his state of the Union message the President told us he did not have good news for the American people. The President candidly confirmed what too many Americans realized and that is real income is falling, unemployment is rising, and prices continue to soar.

The sobering fact about our present economic situation is not only the steepness of the decline but the fact that it was so unforeseen. Just last October, President Ford was calling for a tax surcharge—a deflationary measure which now runs counter to combating recession. The President, however, was not alone in misjudging the movement of the economy. Many of the most respected professional economists have been caught off guard. For the past 6 months, economists have been revising their projections—downward for the GNP and upward for unemployment.

I believe that although President Ford has presented sound approaches to a number of our problems, some of his proposed solutions fall far short of effective response to the magnitude of the crisis. Programs designed to compromise conflicting views must give way to bolder steps. We cannot afford to gear our economic policies on the basis of the lowest common denominator. We do not do that in war time. And this is an economic war that demands the finest performance from our public officials, coupled with the trust and determination of the American people in a total effort to achieve economic recovery during the months ahead.

During the late 1940's when President Truman sought congressional support for his foreign policy he was joined by many Republicans in the Congress. Senator Arthur Vanderberg made a statement at that time "when the Nation's security is at stake partisanship stops at the water's edge." It is in that spirit that I hope this Congress moves to right our economy during a war against the danger of depression and collapse.

NEEDED CHANGES IN THE PRESIDENT'S TAX PACKAGE

The President bites the bullet in asserting the need for a $16 billion rebate on payment of 1974 tax debts. He has requested that we legislate a $12 billion repayment to individuals and $4 billion to corporations in the form of a temporary increase in the investment tax credit for businesses and farmers. A direct infusion of spending into the economy is definitely dictated by the distressing GNP figures which have just been published.

I will, however, seek several changes in President Ford's proposal to rebate 1974 taxes. First, I am opposed to an across-the-board tax rebate to members of all income groups, including those in the highest brackets. I believe this to be contrary to the reason for the tax rebate—to restore more buying power—and I will urge the Senate to establish a cutoff point of $25,000 of family income as no one should receive a tax rebate that would be greater.

This proposal would limit the maximum rebate from the $1,000 proposed by the President to about $600 per family.

Also, the differences in revenue loss should be used to assist the very poor. The current proposal advanced by the President makes no provision for this group of very low-income individuals—not even those over 65 and the working poor who are not on welfare.

Second, as to the temporary investment tax credit, I support it but with selective emphasis for those industries such as utilities and housing where it is so urgently needed and for industries already producing close to capacity or where production is essential in the public interest.

ENERGY

We must recognize that the era of cheap fossil fuel resources—with the possible exception of coal—is over. Cheap energy over the past 20 years has bred inefficiency and waste and slowed increases in productivity. Until advanced energy systems are developed—gasification of coal, nuclear fusion, solar, oil shale—the United States and the world must use its energy resources more wisely and sparingly. This is a reality which must be accepted and on which major changes of energy use must be based.

I call for an emergency energy development program to be instituted immediately on a crash basis. We must do whatever needs to be done to assure ourselves of alternative energy sources within a period of 3 to 5 years. We cannot permit ourselves or the rest of the industrial and developing world to be without such alternatives and at the mercy of one of the most oppressive cartels the world has ever known.

During World War II, the Manhattan Project, conducted on a "crash" basis, resulted in the development and construction of an atomic weapon within 2 years. A country dedicated to victory in war did what was necessary within the time limits required. We can do no less in this economic war. For if we fail to develop alternative energy sources, whatever they may be—we will have opened the way for even greater dangers and hardships than we face in the immediate future.

We can do this job and we can do it within a set time. But we must proceed with that decisiveness, patriotism, and boldness in the use of our resources which we gave in World War II. That is the price of victory.

Rationing, although appealing from a price viewpoint, cannot solve our energy problems, although it could help to alleviate our balance-of-payments difficulties and may be needed in an embargo or other crisis situation. There is a limit to how much energy the Government can ration without creating even a worse economic drop and a limit even to how much energy use can be cut by gasoline rationing. In World War II there were 30 million cars traveling our roads, now we have more than 100 million.

Hence, as to the near term—1975–77—it is unrealistic to believe that anything we can do will free us of dependence on imported oil as long as it continues to be available even at current prices. Even with the President's optimistic projections, oil imports at the end of 1977 will be 5.8 million barrels per day and that figure includes a cut of 2.2 million barrels a day, 1.6 million of which is based on increased prices. Cuts of greater than that amount will necessarily cut into our economic muscle.

If the economy is to grow, we must remain partially dependent into the mid-term—1977–85—but we can, with a coordinated program, more than cancel out that increase in imports which has occurred over the past 2 years and will continue unless we adopt such a program.

It is to this mid-term that most of the President's proposals are directed. Elimination of inefficiency and waste must continue throughout this period, even as we continue our emergency crash program to find alternative sources for the energy that sustains us.

Given the President's projections for this period, we will be importing about 4.7 million barrels per day in 1985. The reason for the apparently small decrease in imports is that the necessary energy growth in the economy will be supplied by domestic sources.

By 1985, we will have developed a storage capacity to insulate us from a prolonged oil embargo. But, given these facts, it is obvious that if an embargo were imposed in 1975–77, we would have to ration. The turning point for America is around 1980, when our oil storage will be increasing and our imports will have leveled off to near 5 million barrels per day.

Moreover, even when 1985 rolls around, oil and gas prices will have to be high enough—say $11 per barrel, in present dollars—to protect the massive investment which is coming in synthetic fuels and other new sources. Whether or not OPEC lowers prices, the difference will be between our internal expenditures and the payment of dollars abroad.

The President has proposed to guarantee new investment in more expensive fuels by imposing either a price floor or permanent import quotas. I will move for import quotas, but either way, the price of domestic energy materials is likely to rise over the next 10 years substantially. With immediate price increases all marginal production that might not be brought on line until later will be expedited, and all marginal conservation that might not take place until later will be accelerated.

But, tremendous economic dislocations will occur if a price rise is effected entirely in 1975 including disastrous inflationary pressures. Most economists regard the administration's estimate of a 2-percent rise in the CPI as unduly optimistic; counting ripple effects, it will more likely be about 4 percent if all the President's $30 billion package is enacted.

If the price rise is phased in over a 3- to 5-year period, these dislocations and inflationary pressures will be greatly lessened. Individuals and business will have some time to adjust. Moreover, the conservation potential of the program will not be seriously diminished and the acceleration of new supply will not be impeded. The short-term price elasticity of almost all energy consumption is very low. Not only is this the conclusion of economic analysts, but it is also the conclusion of the experience of the past year. The fourfold increase in oil prices has produced only very small cuts in consumption—and very little immediate increases in production.

But petroleum has a much greater long-term price elasticity, especially if alternative energy sources are exempt from the price rises—coal and nuclear. Industry and individuals will adjust to higher energy prices over time by changing methods of production, durable purchases and lifestyles. The adjustment will take place almost as fast if coming price increases are a certainty than if the increases are all imposed immediately. We would lose some amount of conservation at the margin, which could be made up by mandatory allocations, and if the shortfall requires it, gasoline rationing. But we would gain the major economic and social benefits resulting from a phase-in of the increases.

ENERGY PROPOSALS

Specifically I propose:

First. An alternative energy development program targeted to achieve results in 3 to 5 years.

Second. No increase in the import tariff. Prices are already up to $12 to $13 per barrel on imports and most of the near term slack has been eliminated. This will eliminate about $4 to $5 billion from the price increases and reduce regional inequities.

Third. Phase in the $2 domestic oil tax and the corresponding tax on natural gas over 2 years. This would produce about $14 billion over 2 years.

Fourth. Continue to control the price of old crude, but raise the controlled price by $1 a barrel each year for 5 years before considering total decontrol. Prices would increase about $2 billion each year, rather than the $14 billion—without ripple effect—immediate and permanent increase resulting from immediate decontrol. The domestic oil industry would still increase profits substantially to give it all it can reasonably invest. For the same reasons, legislate a phased decontrol of new natural gas prices analogous to the decontrol of old crude over a 5-year period to determine if development is spurred.

Fifth. Use existing mandatory allocation system, import quotas and simplified gasoline rationing, if necessary, to guarantee achievement of 1 million barrels per day reduction of imports in 1975 and 2 million barrels per day reduction by 1977.

Sixth. Enact the windfall profits tax immediately to recapture undue profits caused by the price increases of oil and gas.

Revenues from all these proposals would reach approximately $10 billion this year, compared with the $30 billion figure under the President's proposals. However, the Treasury's annual intake would rise to approximately $25 billion by 1980. As a result, the inflationary effects of the tax would be spread through a longer period, and the shock to the economy of such a large shift in spending would be minimized.

An essential aspect of this program, however, would be a system to redistribute the revenues in a way that accords with our views of what the tax system should look like. And in this regard, I strongly urge that we use this occasion to enact major tax reform which works to redistribute income toward the lower income levels. Included in this tax reform effort should be provision for imparting some progressivity to the social security tax.

The program should also include:

Seventh. Immediate enactment of standby gas rationing authority, ready to be implemented on 30 days notice.

Eighth. Emergency development of a strategic oil storage capacity of enough for 1 year.

Ninth. Enactment of an auto fuel consumption tax on cars with low fuel economy combined with a tax credit on purchases of high fuel efficient cars to encourage automobile buyers.

Tenth. Nationwide peak power pricing and establishment of a national utility grid system to increase efficiency of utility energy use.

Eleventh. Congressional reform of Government regulatory agencies to increase energy efficiency of regulated industries.

ONE MILLION PUBLIC SERVICE JOBS

The Congress and the President must show deep concern and take positive action for our workers who are losing jobs by the thousands each day. I urge the creation of an aggregate of up to 1 million transitional public service jobs—in such vital areas as education, health, law enforcement, child care—during calendar year 1975. At an average federally funded costs of $7,800 per job per year, this would require an aggregate expenditure of $7.8 billion in calendar year 1975.

Presently, under the Emergency Job and Unemployment Assistance Act of 1974, $2.5 billion is authorized for this fiscal year for the creation of approximately 330,000 public service jobs with each job lasting through this calendar year.

These jobs and the new jobs I propose are to be made available through State, county, and city governmental prime sponsors under the Comprehensive Employment and Training Act of 1973.

To date, $878 million has been appropriated and is now being made available under the new act for 111,000 jobs nationally. This is a supplement to the 170,000 jobs previously funded with approximately $1 billion appropriated under title II of the Comprehensive Employment and Training Act—for areas having unemployment exceeding 6.5 percent for 3 consecutive months—and other provisions of that act.

To reach the aggregate of 1 million jobs, I shall seek full appropriations under the $2.5 billion authorization for fiscal year 1975 contained in the Emergency Job and Unemployment Assistance Act, and a 1-year extension of that authority with an authorization for new jobs during fiscal year 1976 to $5.3 billion.

We must tighten the inflationary spiral by giving powers to the Wage and Price Stability Board to subpena witness and to order up to a 60-day standstill cooling off period in each or any wage or price increase materially affecting inflation.

PRODUCTIVITY

Major efforts are urgent, including the establishment of local and industrywide labor-management production councils to stimulate production, produce incentives for it, and deal with the individual worker's morale, absenteeism, alcoholism, and drug abuse. Most important of all, of course, is to establish a positive orientation of the worker to the job.

GLOBAL SURVIVAL PACT PROPOSED

Mr. HUMPHREY. Mr. President, I wish to point out an innovative proposal by Richard N. Gardner involving the vital interests of both the developed and developing nations. The New York Times summarized this proposal in its November 11, 1974, edition.

Proposed at the World Food Conference, this "mutual survival pact" would "strike a great transcontinental bargain in which access to energy and other raw materials, which industrialized countries need, is traded for other kinds of access that developing countries need."

This is the kind of leadership and statesmanship which our Government should have demonstrated at Rome and which is so sorely needed. Unfortunately, we did not speak with a clear voice in Rome, and since that time the administration has been silent on World Food Conference followup measures and the world food problem in general.

When will we begin to see the relationship between food, petroleum, and other raw materials? We must begin to fashion our policies accordingly, and Professor Gardner has made a useful proposal which deserves careful study.

Mr. President, I ask unanimous consent that this article by Clyde Farnsworth be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A GLOBAL "SURVIVAL PACT" AMONG NATIONS IS URGED—A U.S. EXPERT OUTLINES A FOOD-ENERGY ACCORD BY RICH LANDS AND POOR

(By Clyde H. Farnsworth)

ROME, November 10—A Columbia professor who helped launch the United Nations World Food Program more than a decade ago has called for a new program of cooperation in food and energy as part of a "mutual survival pact" between developed and developing countries.

Richard N. Gardner, Professor of Law at Columbia University and formerly Deputy Assistant Secretary of State for International Affairs in the Kennedy and Johnson Administrations, made his proposal in a report released here at midway point in the World Food Conference.

[In Cairo, Secretary of Agriculture Earl L. Butz signed an agreement to provide Egypt with 200,000 tons of wheat.]

In another development, delegates have completed preliminary work on an international early warning system for commodities that could help to smooth out wide fluctuations in prices and help ease impending crises in years of short crops. [Page 3.]

There has been a good deal of formal speechmaking at the 12-day conference, which lasts to the end of next week, but its success still hinges on the willingness of the 130 nations represented here to translate words into action that will serve to increase food production in developing countries.

Mr. Gardner envisions a pact in which the sovereign ties of both the developing and the rich countries are limited to protect the sovereignty of all.

"We need to strike a great transcontinental bargain in which access to energy and other raw materials, which industrialized countries need, is traded for other kinds of access that developing countries need," Mr. Gardner says.

The requirements of the developing countries are access to markets at stable and remunerative prices; access to technology, management skills and investment capital; and access to a fairer share of decision-making in international institutions.

Mr. Gardner writes that the "world survival bargain" must balance assurances by rich countries to conserve energy, food and raw materials with commitments by poor countries to change some "suicidal" demographic, agricultural and environmental practices.

He points out that the Arab world will not be willing to exhaust its precious reserves of oil with a few years of full production so that the United States can continue its wasteful energy ways.

Nor will the United States, he says, be willing to give endless amounts of food to an Indian Government that cuts its family-planning budget, mismanages food production and distribution, and invests scarce resources in the testing of nuclear devices.

Developed countries have stressed their right of access to raw materials essential to their well-being that are found in the developing countries. Yet the nations fail to discharge their trade-and-aid obligations to the developing countries.

Faced with inflation, unemployment and stagnant growth, the rich nations are concentrating more and more on their own internal affairs. In the United States those who denounced the Arab oil embargo after the October, 1973, war are demanding restrictions on American food exports.

But the developed countries cannot expect the developing countries to be cooperative political or economic partners unless they show greater concerns for the developing countries' priorities and interests, Mr. Gardner writes.

He says that governments and citizens around the world have to be educated in the moral, economic and political implications of interdependence.

"We need a systematic effort to bring together the practitioners and the humanists in the search for solutions, combining the skills of the politicians, diplomats, lawyers, economists, businessmen and scientists who run the world with the wisdom of the philosophers, historians, artists and religious leader to shape its basic values," he maintains.

THE DANGER OF A "WATERGATE" CIA TRIAL

Mr. GOLDWATER. Mr. President, several days ago I received an interesting letter from one of Arizona's most able senators, Miss Bess B. Stinson, on the whole subject of events which are taking place in Washington. She, like many other people with whom I come in contact, is disturbed to see the campaign that is currently going on against the CIA. In particular, Miss Stinson was disturbed by Senator PROXMIRE's suggestion that allegations against the CIA should be subjected to another Watergate investigation.

Miss Stinson suggested that much damage was done to our country in the Watergate trial and she would not like to see it repeated.

Because of its timeliness and intelligence, I ask that Miss Stinson's letter, together with a column she enclosed on the CIA, be printed in the RECORD. The column was written by William A. Rusher and appeared in the Arizona Republic of January 1.

There being no objection, the letter and article were ordered to be printed in the RECORD, as follows:

ARIZONA STATE SENATE,
Phoenix, Ariz., January 7, 1975.

Hon. BARRY GOLDWATER,
U.S. Senator
Senate Office Building
Washington, D.C.

DEAR BARRY: It disturbs me as I watch the big guns of the news media zeroing in on the C.I.A. And it disturbs me to listen to Senator Proxmire say that we should have another "Watergate" investigation.

I am convinced that much damage has been done to our country in all of the Watergate trial. It disturbs me to realize that we have an unelected President and an unelected Vice President. I am not sure that either one of them would have been elected by the people, but I am quite convinced that Mr. Rockefeller would never have been elected if people had had the opportunity to vote. The media had much to do with all of that and now they have another need. That need is to tell the people about the surveillance by the C.I.A. of the radicals and the Communists who have penetrated into government, education, the media and everything else in the country. If the radicals are free to roam to other countries and then come back home to engage in their nefarious activities, then I truly fear for the safety of this nation.

I know I don't have to tell you this, but I simply have to tell it to somebody. I hope there are enough of you left up there who understand what the real objectives of these "termites" are. The enclosed column by Mr. Rusher should be read by many people.

Sincerely,

BESS.

[From the Phoenix (Ariz.) Republic, Jan. 4, 1975]

LIBERAL MEDIA SHOW HOW TO MANAGE NEWS

(By William A. Rusher)

The hullabaloo over alleged "illegal" intelligence operations by the Central Intelligence Agency within the United States offers connoisseurs of political propaganda an almost matchless opportunity to watch our liberal media "manage" the news.

Since at least the mid-1960s, leftist and liberal forces in the United States have been conducting a savage public attack on the nation's defensive institutions. One assault has been aimed at the armed forces (through TV smear-documentaries like "The Selling of the Pentagon," exaggerations of command responsibility for the My Lai massacre, etc.).

Another has been directed at the domestic police establishment (through attacks on the FBI and the National Guard), by caricaturing local cops as "pigs," and by condemning prison facilities.

A third front has recently been opened against the CIA, which is America's secret intelligence agency in the ongoing struggle against Communist aggression. At first it seemed possible to tie the CIA to Watergate, and destroy it along with Richard Nixon; but it soon became clear that the agency had kept clean of involvement.

A second opportunity to wing the CIA case along when the Chilean armed forces overthrew the Marxist regime of Salvador Allende last year. Worldwide Communist propaganda promptly accused the CIA of being the coup. America's liberal media, stopping just short of that, charged the CIA instead with various supposedly nefarious efforts to "destabilize" the Allende regime.

The chief journalistic point-man for the CIA hit is a New York Times reporter, Seymour Hersh. Hersh is exactly the kind of "reporter" conservatives are talking about when they object to liberal distortion of the news. Having cut his teeth on the war in Vietnam, Hersh was assigned to Washington and set about redesigning the U.S. government.

Certain secret testimony by CIA officials before a congressional committee, concerning CIA activities in Chile, found its way into the hands of ultraliberal Rep. Michael Harrington, D-Mass., and thence to Hersh. Hersh splashed the story all over the front page of The Times (which treated it as some sort of dreadful revelation), and various liberal echo-chambers took up the cry.

Now Hersh has found another truffle. Some faceless liberal in the vast Washington bureaucracy has slipped him evidence that, during the later years of the Vietnam war, the CIA kept intelligence files on antiwar activists in the United States.

Since the CIA is legally required to confine its activities to foreign countries and leave the United States to the Federal Bureau of Investigation, Hersh calculates that Richard Helms, the CIA director in those days who is now our ambassador to Iran, can be accused of having conducted "illegal" activities.

Now the second-wave troops are wading ashore. You will be hearing an awful lot about "illegal" CIA activities in the United States on your favorite TV news show, in your favorite news-magazine, and on the front page of your local newspaper. That's the way "news" is managed, you see.

IN DEFENSE OF THE JOB OPPORTUNITIES PROGRAM

Mr. MONTOYA. Mr. President, we are in the midst of the most serious recession we have faced in many years. The last 3 months of 1974 found us with our economic output plunging at an annual rate of 9.1 percent. Even administration economists are predicting a further decline in production in the current quarter.

At the same time our inflation is up to an annual rate of 13.7 percent for the last quarter of 1974. That is the worst quarterly rate since the Department of Commerce began keeping quarterly figures in 1947.

What those figures mean to most Americans is quite simple: we are producing less—and we are paying more for what we buy. More and more workers are unemployed—and will be trying to care for families or for themselves with less money. Yet the inflated cost of necessities will make it impossible for them to do that adequately.

While the President believed that our No. 1 enemy was inflation he attempted to reduce Federal spending, and in recent months he has proposed the deferral or recession of billions of dollars which have been appropriated for Federal programs. Now, of course, the administration has finally focused on the fact that we are in a recessionary tailspin—and we are running out of altitude. I think the President would now agree with me that production and jobs must be our first priority for congressional action.

I serve as chairman of the Subcommittee on Economic Development of the Committee on Public Works. During my years on that committee we have again and again provided authority for the kind of public works activity that promotes economic growth and provides jobs. These economic development programs are an antirecession tool which is ready to be used—and which we desperately need now.

I propose that the President withdraw his request for deferrals in the area of public works, I will make recommendations to the Committee on Public Works and to take appropriate action to make mandatory the expenditure of $9 billion in contract authority for waste treatment plant construction and $10.8 billion in Federal aid highway funds. These are funds which the President proposed on September 23, 1974, that we defer. We did not take action on those deferral requests, and I believe it is clear now that we must continue to oppose deferral. Instead, it is time for us to fully utilize these programs for their intended purpose, to stimulate economic development in areas of the country which are hard hit by recession, to increase the production of badly needed public facilities, and to provide jobs.

My own State of New Mexico is a poor State—unemployment is above the national average. Construction unemployment is, of course, also above the alarmingly high, 15 percent national average. The median family income is below the national average. We have a large rural population, much of it lower income families, unemployment compensation reaches a disproportionately small number of those in need.

As I look at my own State, and other States with similar problems, in today's climate of near depression, it does not make sense to me to hold back Federal funds which could create jobs immediately and increase production of goods which are of great value to the people.

Using New Mexico as an example, Mr. President, let me explain what a difference these funds could make.

WASTE TREATMENT PLANT CONSTRUCTION

Under the Federal Water Pollution Control Act Amendments of 1972, $18 billion in contract authority is provided over the 3-year period 1972 to 1975; $9 billion has been held back and $9 billion has been allocated. Of that already allocated New Mexico's portion has been $21.1 million. If the remainder were allocated, New Mexico could expect another $20 million. In addition to the fact that waste treatment facilities are badly needed in my State, $20 million in new construction money in New Mexico today would be a badly needed shot in the arm to a sagging economy.

HIGHWAY FUNDS

The President has proposed to hold back $4.4 billion for fiscal year 1975. The Federal Highway Administration estimates that $10 million of that money would be allocated to highway construction in New Mexico if these funds are released. Fiscal year 1976 deferrals requested are $6.4 billion. Estimates are that New Mexico's share would be $54.8 million. In addition, the Federal Highway Act Amendments of 1974 would add $2.2 million to New Mexico's allocation. It should be noted that these funds do not come from general revenue, but from consumer taxes on gasoline. They could be released with minimum effort, and they would not add to our inflation in any way. But they would provide jobs where they are badly needed.

Nothing is to be gained by deferrals of this kind of Federal spending. On the contrary, we must now expedite funding these programs. I was pleased to see my Democratic colleagues in the House of Representatives, in their excellent "To Revive the Economy: A Congressional Program of Action," urge the speeding up of public works spending:

> It is ironic that the nation suffers increasing unemployment in the building trades and a growing inventory of idle construction equipment, with ever mounting public costs for unemployment payments, at the very time that literally billions of dollars worth of badly needed and Congressionally approved civil works projects (water pollution abatement, flood control, highway, public mass transit and other constructive processing of grant applications. Legislation should be enacted to mandate early administrative funding of such projects already authorized by Congress. Such legislation should dramatically reduce the time lag created by redundant reports and proliferating paperwork and mandate a swift acceleration of construction starts.

When we extended the Public Works and Economic Development Act in 1974, the committee raised the authorization from the fiscal year 1974 level of $480 million to $680 million for fiscal year 1975 and $795 million for fiscal year 1976. However, we face the problem of getting the administration to include funds at a realistic level for these programs. In the past less than half of the authorization was requested—sometimes less than one-third. Yet more than half the counties in the country are eligible for economic development assistance under this act—and this kind of development is exactly what States like New Mexico need desperately. The projects funded by this program—vocational technical schools, industrial parks, and so forth—foster real economic growth, provide jobs, and increase our stability in future years.

Now that unemployment is recognized as a serious threat by the administration, we will undoubtedly be looking at the public service approach whereby Federal money is allocated to the States and local communities for use in providing public service employment. However, I do not think that should be our only approach.

During the closing hours of the 93d Congress, the Senate approved an amendment to the public service jobs legislation which provided authority for a new kind of public employment program—the job opportunities program. This program was designed to create public employment through an amendment to the Public Works and Economic Development Act, by providing jobs through various appropriate Federal agencies and departments; $500 million was authorized and EDA was appropriated $125 million to get started.

Tragically, this supplementary jobs program has been put in cold storage by the President. When he signed the bill into law he announced his intention to ask the Congress to forget about this economic development job opportunities program and to transfer the $125 million appropriated for it to the other public service jobs program.

I was astounded at this statement by the President, and I have informed him of my belief that he misunderstands the program and the opportunities it offers to him in solving unemployment problems quickly and effectively. I ask unanimous consent that the telegram which I addressed to him on January 8, 1975, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MONTOYA. Mr. President, surely, it is not sensible for us to ignore a program which is ready to go to work and which will, at the same time, provide production and economic development in areas where they are desperately needed.

It will take several months to prepare and put into operation even the emergency public service jobs program legislated by the last Congress in December. In the meantime, I urge my colleagues to join me in asking that the administration use the other job program which we have provided for them, and which is ready to go into action immediately: The job opportunities program.

The money has been appropriated.

The need has been clearly established.

The appropriate agencies are already in place, ready to go to work.

All that is needed now is for President Ford to activate the switch which will release these funds.

If he does not, the Congress must mandate this expenditure. I call upon every Member to make clear to the President firmness of our resolve that the intent the urgency of this matter—and the of the Congress is carried out.

EXHIBIT 1

[Telegram]

GERALD R. FORD,
President of the United States
The White House
Washington, D.C.

DEAR MR. PRESIDENT: In your press release of December 31, 1974, announcing your signature to H.R. 16596, the Emergency Job and Unemployment Assistance, you state that you propose to ask Congress to transfer the appropriations from title III to title I of that act.

You state that the job opportunities program amendment "would create an unnecessarily complex and unwieldy administrative mechanism involving program and project reviews by all Federal agencies, regional commissions, and units of General Government." That statement rests on a misinterpretation of congressional intent.

In the first place "all" federal agencies were not intended to participate. Obviously those that can generate jobs quickly in distress areas through their existing programs should get priority consideration. The forest service is an example of an agency that could put 10,000 persons to work quickly on public service employment on important tasks that need doing within the national forests and national grasslands. Agencies with public facility programs that bring about community improvement are excellent vehicles to put people to work.

Second, "units of general government" referred to in your press release has no basis in the amendment. Third, I fail to appreciate how this amendment can be considered an "unnecessarily complex and unwieldly administrative mechanism." It merely supplements existing federal programs that provide opportunities for putting unemployed people to work, doing the very community improvement projects you called for in your earlier proposed community improvement corps. It need not be complex. The secretary of commerce (with the secretary of labor) reviews the proposed plans and projects by agencies to accomplish this coal and promptly allocates the funds to the designated agencies.

It must be emphasized the amendment is not essentially a public works approach to unemployment. These funds would go to a variety of programs, some of which of course would be job-effective public works. The Economic Development Administration is itself a job creation agency, and has a program for short-term, job-effective public works.

Fourth, your intention to request Congress to "transfer" the funds to the Labor Department as part of the public employment bill poses many problems. Delay is our first concern. The clock is already ticking on the 45-day review process during which agencies submit projects and plans to the Secretary of Commerce. I hope you do not propose a deferral of these funds, anticipating that the Congress will subsequently approve such a transfer by appropriate statute. There is much sentiment in Congress for programs to supplement present public service employment with other approaches that lead to the completion of projects or the improvement of community facilities—programs that both provide jobs and also leave evidence of lasting accomplishment. As a member of the Appropriations Committee, I feel members will act quickly to deny a deferral request. But precious days will be lost in any case.

Mr. President, I appreciate that this amendment is administratively challenging. Attached as it was in the closing hours of the 93rd Congress to the Emergency Job and Unemployment Assistance Act, it provides minimum guidance to administrators. Only the seriousness of the times justifies the unusual legislative procedure.

In closing, many of us believe the job opportunities program amendment is innovative. I hope you will change your mind and give it a try. Initially we are talking about no more than $125 million to put people back to some meaningful employment. At a time when some questions are being raised as to the adequacy of the public service approach, it makes good sense to develop more ways to cope with unemployment.

Best wishes for the new year.

Sincerely,

JOSEPH M. MONTOYA,
Chairman, Subcommittee on
Economic Development.

THE STATE OF THE UNION MESSAGE: A SURRENDER TO INFLATION?

Mr. HELMS. Mr. President, the President has made a valiant effort to resolve contradictory actions in his state of the Union message. It is remarkable, in fact, to hear a speech yielding so little to the demands of "political acceptability" and adhering so closely to a coherent diagnosis of the Nation's long-run problems. Although certain aspects of his proposals appear attractive, I just do not think that they will work as a package.

I believe that the plans proposed represent a rehash of the same old belief in the omnipotence of government over the private sector for the purpose of manipulating socioeconomic policy by deficit spending and the inevitable accompanying increase in the size of the bureaucracy.

It is precisely this kind of "big government" policy, accompanied by deficit Federal fiscal policy, which has created our present economic ills: Inflation followed up by recession.

In the past 42 fiscal years, our Government and its bureaucracy have grown by leaps and bounds and the Federal budget—even under the misleading "unified budget" concept of recent years—has enjoyed a surplus only 9 times for a total of $35 billion, but has been in deficit 33 times, for a total of $486 billion. In the process, our Federal budget has grown to where it now plays an overwhelming role in national spending and a dominant role in national borrowing.

Careful scrutiny of the 1975 state of the Union message leads me toward the conclusion that the economic plan is minimally antirecessionary and decidely inflationary. It is more than a change in emphasis from fighting inflation to fighting recession. It is a surrender to inflation. Unless the tax reduction proposed is accompanied by significant reduction in Federal spending, we will experience riotous acceleration of inflation, followed by further economic slowdown and unemployment.

The centerpiece of the economic plan is a $12 billion rebate of the tax bill for 1974 and an additional $16.5 billion in individual tax reduction for the fiscal year 1975. This is a quick way of pumping money into the economy, which means that the Government will raise $28.5 billion less in taxes and $28.5 billion more by borrowing. The tax reduction might stimulate demand—although I am skeptical about it—but the resulting record Federal deficits, in turn, will lead to financing through the private capital market. I am certain that the Government's borrowing in the private capital market will sop up capital necessary for normal economic activities and it will, consequently, bring an escalated credit crunch, especially in housing, and will raise interest rates, and, thus, feed inflation.

The increase in purchasing power, which is not accompanied by the increase in production—supply of goods and services—is definitely fuel on the fire of inflation. The added drag on the economy of higher energy costs will have an adverse effect on industrial and agricultural production, service industry and transportation, threatening jobs and income. The added production costs cannot be counterbalanced at the time of the rapid inflation by a 1-year investment tax credit of 5 percent and corporate tax reduction of 6 percent. With tremendous excess idle production capacity, industry does not need this investment credit, because it does little to stimulate use of either human capital or capital equipment already in place.

The record peacetime budget deficits for fiscal years 1975 and 1976, that would run the 2-year red-ink total to between $77 billion and $100 billion, a shocking level which Federal Reserve Board officials justifiably fear will generate a new round of rapid inflation.

If the President's proposed budget cuts, which I consider insufficient, fail to become law, as generally assumed in Congress, and if the "cap" on Federal pay and programs does not take effect, the fiscal 1976 deficit could rise to about $65 billion.

The fiscal 1975 and 1976 Federal budget deficits would push the national debt past the $600 billion mark by the end of fiscal 1976. During the fiscal year 1975, we will need about $33 billion just to service our national debt. In 1976, we might need at least $40 billion.

I am perturbed by the total absence of any mention of monetary policy in the state of the Union message. Monetary policy is a crucial element of any economic policy. If prudently exercised, namely, if tied to the increase in productivity and the real growth in the GNP—gross national product—it serves as a stimulus to the economic activity and definitely contributes to the national economic balance. However, if practiced in terms of past precedents set by the Federal Reserve Board, it becomes inflationary and disruptive in regard to the normal economic processes. And, of course, unless the Federal Reserve moderately reduces monetary growth, the inflationary effect of immediate Federal deficits cannot be ameliorated. Furthermore, the constant erosion of the purchasing power of the dollar definitely requires positive monetary policy action.

THE ENERGY PROPOSAL

The energy plan of the state of the Union message is enforced energy conservation. Enforced conservation has two important fellow travelers—higher costs and reduced availability. Conservation implies major adjustments in the way we live and in the way we work. In the early stages—up to a 5-year period—it puts a real penalty on growth. The trick is to learn how to produce the same amount of goods and services with less fuel or with new technologies and alternative energy resources.

I believe that the pair of energy plans in the state of the Union message, coupled with the economic plan, may be beyond the Nation's ability to achieve.

The first objective of the energy proposal is to reduce all imports by 2 million barrels a day by the end of 1977. This means a reduction of about 28 percent of our total oil imports.

The misfortune is that the energy proposal is asking the Nation to achieve that goal in the face of falling domestic oil production with no immediate substitute in sight.

The tariff, or "oil import fee," proposes to raise the price of fuel so that the public and industries will buy less. However, if the past 15 months are any guideline, another 12 to 15 cents at the gas pump will do not more than increase the price and temporarily keep gasoline consumption from rising.

By the Government's own account, the gasoline consumption dropped 3.4 percent during the first 9 months of last year and then increased at a rate of about 1.2 million gallons a day for the rest of the year. The increase came in the face of a 40 percent rise in the pump price.

Another price increase of 12 to 15 cents a gallon may again produce the same result, an initial 2 to 3 percent decline in oil usage which will soon wear off, and then everybody goes right back to their old consumption habits and usage starts back up.

Are there alternatives to the imported oil? Can we substantially increase domestic production? Wells in the United States produced 8 percent less oil last year than they did in 1973, and production is still falling.

The Government hopes that stepped-up drilling on land and offshore will take up the slack. However, drilling is now near an all-time peak and is producing few new oil finds. In addition, a shortage of oil rigs and drilling pipe means there can be no domestic increase in exploration in the next few years.

The trade with the Communists has seriously contributed to the shortage of oil exploration and exploitation equipment in this country. The U.S. Export-Import Banks' willingness to finance Soviet trade while unnecessarily financing exports of the same equipment to other parts of the world was in part responsible for shortages of critically needed equipment.

There is the hope that increased coal production will partly offset the oil production decline. But, again, there are constraints that might hold coal output down.

The most likely place for coal to be used is in the electric powerplants. However, since last September's Government proposal to save 1 million barrels of oil a day by converting oil plants to coal, exactly four plants have made the switch. The four conversions have saved the Nation about 38,000 barrels of oil a day.

The second proposed national energy objective is "to end vulnerability to economic disruption by foreign suppliers by 1985."

The United States now imports 7.3 million barrels of the 17 million barrels of oil it consumes a day. That means that we import about 43 percent of our total oil needs. About 11 percent of that amount comes from the Middle East. According to the proposed plan, we must reduce that at least in half by 1985 to get down to a measure of oil independence. That is the figure suggested by all consulted energy experts.

Canada's Minister of Energy, Mines and Resources, Donald S. MacDonald, was quoted in the press as saying that—

> A great deal depends on conservation success and technological breakthroughs—that nobody can put his finger on right at the moment.

There have been few breakthroughs in the last 10 years to suggest energy independence during the next decade. This is especially true in the area of alternative energy sources, such as methane gas from coal. Most energy experts agree that the United States must develop synthetic or manmade fuels from coal in the next 10 years in order to free itself from dependency on oil and natural gas.

The choicest of alternative sources would be gas and liquids extracted from coal, which is our most abundant natural resource. The United States has in reserve as much as 1 trillion tons of coal.

The energy plan envisioned the opening of 250 new coal mines in the next 10 years. Many of them to supply coal for 20 major synthetic fuel plants. However, it now takes 4 years of environmental review to open a single new mine.

The energy proposal also calls for acceleration of nuclear power production to help reduce oil consumption in the next 20 years. The Atomic Energy Commission projected a year ago that there would be 150 million kilowatts generated by nuclear power in the United States by 1980. The way things are going today, we will be lucky to achieve half of this figure.

One reason for the slow pace of nuclear energy powerplant construction is the cost of atomic plants. The price tag has doubled in the last 4 years, and it now costs $1 billion to construct an atomic energy plant and make it operational.

In the conclusion, I would like to stress that, with an all-out effort to develop alternative energy sources and increase domestic production of oil and gas, we will fall short of counterbalancing the loss incurred by reduced imports.

TARIFFS AND TAXES ON OIL AND GAS

The tariff on imported oil and gas could reduce our dependency on foreign energy supplies and, consequently, could serve as a stimulus to our own production of oil and natural gas. The tariff on energy imports provides a subsidy to the domestic producer. However, by taxing—new excise tax on domestically produced oil and natural gas plus a new windfall profit tax—domestic producers, one offsets the benefits accrued to him through tariff.

The case against additional taxation upon oil producers is strengthened by the fact that, in all probability, the Congress will eliminate the oil depletion allowance.

I believe that the decreased availability of energy, coupled with increased prices, will be highly inflationary. In addition to it, the total effect would be to slow economic recovery in 1975 and 1976. There is a historic correlation between energy growth and gross national product. If one assumes that recession will bottom out in the third quarter of this year, this might push the recovery 3 or 4 months further into the future.

Among those hurt by the proposed policy would be utilities dependent on interstate natural gas or imported oil; downstream oil operations; electrical appliances; car and truck makers; tire manufacturers; petrochemicals without captive supply sources; utility and oil-refinery construction, and highway-based industries, such as fast-food companies, resort and vacation operators and motels. In addition, concrete and asphalt roadway-materials producers and the more isolated retail stores would suffer.

THE CAUSES OF OUR ECONOMIC MALAISE

We have elaborated upon the fact that during the past 42 fiscal years our Government has accumulated an enormous national debt. The national debt, at the moment, amounts to about $508 billion. The cause of it is budget deficits. The same budget deficits are directly responsible for our present economic problems: Inflation which, in turn, brought up the recession.

The second cause of inflation and recession is an irresponsible monetary policy characterized by either over-supply of money or disruptive and sudden short-run increases and decreases in money supply.

The monetary expansion does not work as a means of stimulating production, it simply causes inflation. In the regime of floating—flexible—exchange rates, monetary stimulation by the Federal Reserve not only increases wage demands, but is immediately perceived by the foreign-exchange markets, causing depreciation of the dollar. In turn, depreciation of the dollar automatically increases the price of imports. This raises costs and aggravates inflation directly. It also raises wages and, thus, quickly shows up in the Cost of Living Index.

Among the burdens to economic efficiency should certainly be added the amount of paperwork and the excess controls under existing laws and regulations. The new laws to protect environment, safety, and health of employees, consumers, and so forth, are a tremendous interference into economic life of the country. Both old laws and new laws, as well as old regulations and new regulations, tend to distort the normal human and economic processes and, consequently, add to the unproductive costs of commerce, industry, and agriculture. The major victims are small and new businesses, which can ill afford to carry such burdens. The laws and regulations, therefore, are not less responsible for our present inflation and resulting recession.

The level of U.S. taxes has become a drag on economic growth in the United States. The national economy is being choked by taxes. Taxes have increased even while output has fallen, because of inflation. The unemployment has created vast segments of excess productive capacity larger than the size of the entire Belgian economy. If one could put that subeconomy to work, we would not only eliminate the social and economic causes of unemployment, but we could increase aggregate supply sufficiently to reduce inflation. To stop inflation, we will need more goods—not less.

REMEDIES FOR OUR ECONOMIC ILLS

We must not allow ourselves to be deluded into believing that there can be easy and instant solutions. We must realize, however, that it was the Federal Government that caused many of these problems in the first place.

The Federal Government must stop its deficit spending. Balancing the budget is the first and foremost imperative.

To eliminate at least this cause of inflation, the Federal Reserve should gradually reduce its open-market purchases of Government securities, the traditional means through which it increases the basic money supply. The thrust of demand expansion must come from fiscal stimuli; and when the U.S. economy responds to that, growth in the real money supply can come about in step with an increase in productivity and real growth in the gross national product.

At the same time, the reviving U.S. economy would draw money from the Middle East and Europe and, thus, protect the U.S. balance of payments. The dollar would appreciate against foreign currencies, which means the United States would then be able to buy a greater share of the world's goods and services with the same number of dollars. It goes without saying that this would have an extremely beneficial impact on controlling inflation.

The third crucial remedy to our economic ills, as I see it, would be a permanent change in our tax structure. The tax structure should be modified in such a fashion that the taxes on both individuals and corporations would be indexed to correct for future inflation. That is now the practice in Canada, and it proved to be most beneficial to its economy.

In addition to it, I believe that the substantial tax cut across the board, for individuals and corporations, if accompanied by reduction in Federal spending, in magnitude of $25 to $30 billion, is a good remedy. A tax cut of this nature not only increases demand, but increases the incentive to produce. The Government budget recycles tax dollars into the spending stream through expenditures; but, in so doing, it reduces the incentive to produce and lowers total production. With lower taxes, it is more attractive to invest and more attractive to work. Demand is increased, but so is supply.

And, fourth, we need to do away with laws and regulations which place the burden on the productive sectors of the economy in terms of unnecessary nonproductive costs.

AN ALTERNATE ENERGY PLAN

There cannot be economic recovery, and inflation cannot be brought under control, with energy constraints on industries and individual users. As I have pointed out, there is a very minute chance that during the next decade we shall be able to substitute imported energy with domestic ones and newly developed alternate energy resources.

Consequently, in order to provide our economy with necessary oil and gas, we must of course continue to import foreign oil and gas. We should negotiate long-term agreements with major oil-producing countries that will assure us of a steady inflow of needed energy at reasonable costs.

Reasonable cost to the American users definitely precludes any tariffs on energy imports, because of its inflationary and economy crippling impact.

The above measures must be accompanied in our domestic realm by many of the policy recommendations contained in the state of the Union message. Those are:

Deregulation of oil and gas;

Coal strip mining;

Opened Outer Continental Shelf;

Nuclear power plant program;

New coal-fired powerplants; and

New oil refineries.

The investment tax credit should apply to those who build nuclear and coal-fired powerplants, as well as to the new refineries.

The incentive, in form of investment tax credits to the domestic energy industry to perform necessary research and development of new technologies, is an imperative. This will also eliminate a need for the proposed $12 billion for governmental research and development effort. The industry can and will do it much better with its expertise, experience, and available resources. The Government would not only siphon away technological and management skills presently in the industry, but it would also add an enormous sum to its budget deficits.

OMINOUS SIGNS

Big government and big spending mean inflation and eventual social regimentation. Unless we halt inflation, the cries for price controls will become overwhelming. Since price controls do not work, the calls will be for more and more controls of various kinds, which will initiate actions moving us rapidly toward a state capitalism in which the people, as taxpayers, are compelled to support these private industries that they did not, or could not, support as consumers.

The free market economy is an instrument of great utility. The markets are the only mechanism we have for establishing prices, and it is through prices that we can determine costs.

In countries like the Soviet Union, they try to administer prices and costs, assigning an arbitrary value to them, but with millions of different kinds of items to be produced and allocated, the results are confusion, shortages, miscalculations, and—most ironically for a socialist state—great difficulty in planning anything.

As we withdraw great chunks of our own economy from the market and, therefore, from the price and cost system, we begin to encounter the same difficulties that the Soviets have.

To rescue us from the current inflation and slump, there are all sorts of proposals on the table; but I sincerely hope that we will make the right decisions which will not take us down the path of collectivism, socialism, and disaster.

JERRY T. VERKLER

Mr. FANNIN. Mr. President, Jerry T. Verkler recently embarked on a new career in which we all wish him well. Jerry served as a staff director for the Interior Committee for 14 years. During this period, Jerry demonstrated great leadership and consummate skill which earned him praise and admiration. Jerry always was ready to provide any assistance to us and his evenhanded and fair dealings with the minority are appreciated.

Sometimes in the heat of action, staff members become embroiled in partisan issues and lose objectivity, but Jerry avoided this tendency with a true professionalism. Jerry's example and friendly manner helped maintain the spirit of cooperation essential to a staff if it is to function in a sound and orderly manner.

The sturdy foundation which Jerry has laid will make the task of his successor much easier. On behalf of the minority Senators, I want to thank Jerry for his years of dedicated service and assistance to this country, the Congress, and the Interior Committee.

THE PRESIDENT'S 1974 REPORT ON NATIONAL GROWTH AND DEVELOPMENT

Mr. HUMPHREY. Mr. President, Public Law 91–609 requires the President to submit to Congress in February of every even-numbered year a report on national growth. But February 1974 came and went, and we did not see a national report.

It was not until 10 months later that the 1974 biennial report on national growth and development was finally submitted by the administration.

The report leads to only one conclusion: The administration has failed to seize the initiative with respect to long-range policy planning.

If we fail to plan for the future, we

may have one, at least one acceptable to future generations.

This final report, which has been reduced substantially in size and substance from the draft sent to the White House, is long on descriptive analysis, but short on prescrpitive policy recommendations.

Crisis management has become the hallmark of our Federal Government today—which, of course, merely reflects its past failures to anticipate and avoid national policy problems which face us now, such as energy, transportation, income distribution, inflation, and recession.

Managing our Nation's business, crisis by crisis must stop. We must begin to look and plan ahead so we can minimize, if not avoid, more of these crises in the future.

Our present, difficult economic situation requires that some basic and hard choices be made about national priorities, the future growth and development of the country and its diverse regions. This is a time when it is essential that we mount a major national effort to set goals and to assess carefully alternative courses of action.

In the near future I will again introduce, with appropriate revisions, major legislation which includes a provision for the establishment of an Office of Balanced National Growth and Development within the Office of the President.

Its major contribution would be to tie together and coordinate the work of such diverse agencies as the Council of Economic Advisers, the Office of Management and the Budget and the Environmental Quality Council, in order to integrate and streamline delivery of Federal programs.

In addition, the national office would be backed up by a system of multistate regional planning and development commissions which would facilitate planning coordination among Federal, State, and local units of government. Provisions would be made for more direct citizen participation in development and review of national policy.

Finally, the act would create a Joint Congressional Committee on Balanced Growth and Development. This body would be supported by a new Office of Policy and Planning within the Library of Congress, staffed by professionals and experts on national policy matters.

As a whole, this legislation will provide for a detailed and continuous analysis of our national priorities and a coordinated system to plan for national growth and development.

It will provide to all the people of this Nation a meaningful way to participate in the shaping of their own future.

GENERAL COMMENTS ON THE ADMINISTRATION'S NATIONAL GROWTH REPORT

Because of my longstanding concern for balanced growth and development, I acquired a draft of the 1974 growth report and presented comments on it to this body last October 16. I understand from Secretary Lynn that those comments were helpful to the administration in the preparation of the final report which, 10 months after it was due, has at last been transmitted to the Congress.

Mr. President, as we all know, these are trying and difficult times. The problems of growth and development are becoming more and more pressing. Our economic situation requires us to make some basic and hard choices about national priorities and about the future growth and development of the country and its diverse regions.

This is a time when it is essential that we mount a major national effort to set goals and to design and carefully assess alternative courses of action to achieve those goals. The continuing inflation, the increasing levels of unemployment, the ongoing problems of energy supply, and the need to continue efforts to provide equal opportunities to all our citizens and to provide basic human services require that we develop a more rational approach to making important public policy choices and to formulating national goals, priorities, and policies for achieving balanced national growth and development.

In remarks I made before the Senate commenting on the draft of the administration's 1974 report on national growth, I said that continued failure to develop a mechanism for designing and coordinating policies for balanced national growth and development will result in a serious decline in the quality of life of our Nation's citizens. Inflation, unemployment, the slipping GNP, and the threat of shortages suggest that such a decline is already setting in.

I believe that the biennial report on national growth could potentially be a tool for strengthening our capacities to establish priorities and to deal with growth and development in a balanced way. I would like to comment upon how well the 1974 growth report lives up to this expectation.

The report opens by listing a number of documents that have had important things to say about national growth and about improvements in the quality of life in America. It also reiterates some of the key points made in 1970 by the now-dismantled National Goals Research Staff: that we need to set national goals, that domestic problems must be understood in terms of the whole system of which they are parts, that government needs more sophisticated forecasting methods and capabilities, and that quality of life depends on economic growth.

The report then presents an overview of growth, telling us yet another time that growth is a complex matter and that the private sector is important. It also identifies seven major growth-influencing Federal activities: First, grants and loans to State and local governments; second, location and employment levels of Federal installations; third, procurement of goods and services; fourth, direct and indirect Federal construction of public works; fifth, taxation; sixth, credit management; and seventh, regulatory activities.

This is a useful listing because it helps us structure our thinking about growth and development problems and about the levers public policy might use for managing national growth. However, the report immediately adds that we do not know very much about the cumulative long-term effects of Federal actions in these areas, and it makes no suggestions as to how we might set about improving our understanding.

The next section of the report discusses population and identifies policy questions raised by the changing pattern of population. Questions are raised regarding quality of life, income security, demand for consumer goods, demand for educational services and health services, housing, metropolitan and nonmetropolitan growth, rural development and other topics. Many questions are raised, but answers are neither suggested nor hinted at.

The report goes on to discuss Federal influence on growth and quality of life by treating the seven instruments of Federal policy I mentioned above. It says that grants and loans to State and local governments appear to have had only limited effect on growth and development because of conflicting objectives of the various grant and loan programs, because they have been "too limited geographically to allow the application of a rational strategy which recognized the interrelationships of major urban centers and their hinterlands," and because of the relatively small scale of individual government programs when compared to private sector investment. An exception to this, the report correctly points out, is the Federal-aid highway program, which has had a greater influence on growth and development than other programs.

Large-scale projects undertaken directly by the Federal Government or with Federal assistance, says the report, have significant impacts on growth and development in some regions of the country, especially in the South, and the West, although these programs suffer from internal contradictions and are affected by conflicting national policies. The report goes on to identify examples of how location and employment levels of Federal installations and the procurement of goods and services have affected growth and development. The roles of taxation, credit management, and regulatory activities are then briefly discussed.

All in all, the report's treatment of these Federal influences is just too meager. We are told obvious things, things we have all known for some time now, and things that were told us in the 1972 report. But I do not see much evidence that progress is being made toward improving our understanding of matters, which we are told again and again we do not understand very well. I do not see evidence that any effort is being made to improve this state of affairs.

But let us go on to the next part of the report, which discusses various aspects of State and local experience in dealing with growth issues. Among the items covered are reports on States that have created goals commissions, States that have passed population-related legislation or have created population commissions, States that are addressing themselves directly to growth policy and futures assessment, States that have increased their policy planning capabilities, or undertaken legislative or administrative reforms, States that have made large-scale investments for long-term improvements, States that have enacted environmental, land use, and development legislation, States that have been promoting economic growth, and States that have been modifying areawide and local powers to deal with growth. Examples of local growth management and metropolitan reforms are given. Other portions of this section of the 1974 growth report describe the evolution of substate districts, Federal influence on such districts, State policies, and other factors causing pressures for a larger role for such districts.

The final section of the report presents the administration's conclusions drawn from the material presented in the descriptive portions of the 1974 growth report. Before commenting on these conclusions I would like to note for the record that much of the analytical and descriptive material included in the August draft of the 1974 growth report was contained in supplements to the main body of the report. These supplements dealt with a variety of functional areas of importance when considering national growth and development: housing and community development, rural development, energy, transportation, manpower, economic adjustment, natural resources, and others. Although these supplements had weaknesses, which I criticized in my October 16 comments, their inclusion in the draft demonstrated that the administration recognized that linkages existed among these important functional areas and the problems of growth and development. Unhappily, the supplements and most of the information they contained were deleted in preparation of the final report which we have just received.

But rather than reiterate comments made earlier about strengths and weaknesses of the supplemental information which no longer appears in the report, I believe that I should address the remainder of my remarks to the "conclusions" of the 1974 report, which present the administration's recommendations regarding national growth and development. This concluding section of the report presents recommendations which, in the language of the report, are "aimed specifically toward accomplishment" of the objectives of "improving the mechanisms for bringing the necessary range of different policy and program viewpoints to bear on a particular issue," and "more carefully defining the matters each participant in such a process should take into account in arriving at an important policy or programmatic decision." These conclusions or recommendations are presented for each of the various levels of government in the American federal system:

FOR THE NATIONAL LEVEL

The report recommends improving mechanisms for policy and program coordination, and says that the creation of the Domestic Council was a step toward improved policy and program coordination.

I question whether there is better coordination now than there was before the creation of the Domestic Council. It appears to me that the Domestic Council does not have a notable track record, that its role has been diminishing over recent years, and that whatever coordination has been going on over the past couple of years was not being done at the Domestic Council but at the Office of Management and Budget. If the Domestic Council is in fact charged with improving mechanisms for policy and program coordination, and if this is really a matter of importance to the administration, then the 1974 growth report should have offered something more than the vague comment that the Council is "continuing to assess ways in which the executive branch can improve policy and program coordination."

The report does make one clear statement of substance regarding the creation of institutional mechanisms related to national growth and development. It is a negative one. The report opposes the creation of a Cabinet level Department of Domestic Affairs charged with the coordination of domestic policy and programs. This is little more than a straw man. More than that, it is a rather lame substitute for presenting a thoughtful discussion of alternative institutional mechanisms for handling the complex problems of national policy choices.

I do not believe that this portion of the 1974 growth report improves a great deal on the August 1974 draft which was the subject of my remarks to the Senate on October 16. It is timid. Beyond its reference to the Domestic Council it makes no substantive suggestions for mechanisms to achieve the coordination of policies and programs that it correctly says are needed.

However, my proposal, introduced as S. 3050 in the 93d Congress, does make a substantive suggestion. It proposes the creation of an Office of Balanced National Growth and Development in the Executive Office of the President. Let me emphasize that this would not be another line department such as HUD or HEW or the others. It would be part of the Executive Office of the President. Among its functions would be—

First, to provide the policy direction and coordination of all Federal and federally assisted programs for planning and land use development, programs designed to improve human resources, programs designed to allocate resources, and programs designed to develop, allocate or conserve energy resources, within the various departments and agencies of the U.S. Government;

Second, to prepare an annual report, to be known as the Annual Report on Balanced National Growth and Development.

Third, to assess national needs, goals, and priorities;

Fourth, to evaluate the effects of present and proposed Federal tax incentives and State and local government tax policies upon the private industrial mix and location in the context of balanced national growth;

Fifth, to evaluate all present and proposed Federal credit programs, the effects of fiscal and monetary policy and such other economic stabilization tools as may be needed to deal with problems in income change, employment, and the distribution of economic production in the Nation and its regions, and to evaluate the effectiveness of present and proposed agency programs;

Sixth, to assign goals, plans, and programs to departments and agencies generally;

Seventh, to analyze tradeoffs in the adoption of alternative national growth policies;

Eighth, in coordination with the Office of Management and Budget, to develop 3-, 5-, and 10-year planned program projections;

Ninth, to establish multistate regional offices of the Office of Balanced National Growth and Development in order to obtain regional and State implementation and input regarding national goals and policies affecting the allocation of resources, the development of human resources, and environmental protection;

Tenth, to establish for the purpose of coordinated planning and development representative multistate regional bodies, and to encourage the formation of representative multijurisdictions within States;

Eleventh, to establish, within the goals of balanced economic growth, cooperative mechanisms, including appropriate taxation policies, grants, and other incentives, to achieve maximum particpation of private industry;

Twelfth, to establish national growth policies, approved by the President, which would require the office to participate in the review of agency and departmental budgets after they are submitted to the President or the Office of Management and Budget, but before they are submitted to Congress; and

Thirteenth, to establish a nationally coordinated, multijurisdictional comprehensive planning process.

S. 3050 would transfer certain growth and development functions from OMB to the proposed new office; and it would create a nationwide network of multistate regional planning and development commissions which would provide for consultation and joint decisionmaking among Federal, State, and local governments. It would establish a National Citizens Council on the American Future to advise the Office of Balanced National Growth and Development as well as the Congress in the formulation, evaluation, and implementation of national growth policies.

The 1974 growth report also calls for improved delivery of Federal planning assistance, asserting that the current system of Federal planning assistance programs and planning requirements is fragmented and that it serves State and local officials inefficiently. I agree with this finding.

My bill, S. 3050, calls for the provision of uniform planning requirements for the various Federal grant-in-aid programs. But it goes beyond this. In order to strengthen the capacities of State and local governments to fully participate in growth and development decisions, it would provide comprehensive planning assistance to State and local governments in coordination with the existing "701" program.

In a similar manner, the report recommends reforming Federal planning assistance "to help public officials manage development programs after the planning is done." On the surface this proposal looks like a good idea, and I think that it should get a proper hearing.

However, I believe that we should be cautious about taking an action that might lead to weaker planning processes at the State and local level. If governmental management assistance is needed, then perhaps we should consider it as an eligible item under general revenue sharing, rather than as an eligible item under a reformed "701" program. Another alternative would be to design a general government management assistance program.

The growth report does not limit itself to conclusions related to the executive branch. It tosses the ball to Congress to overcome its own fragmentation in dealing with national growth and development. This is a point well taken, but the report does not suggest ways to ameliorate the fragmentation. S. 3050, however, would create a Joint Committee on Balanced National Growth and Development as well as a Congressional Office of Policy and Planning, which would work closely with the Library of Congress, the Office of Technology Assessment, and other organizations on matters related to national growth.

FOR THE MULTISTATE LEVEL

Mr. President, the report has a great deal to say about the value of the various federally initiated and State initiated multistate regional organizations which currently exist in different parts of the country. It describes several functions which such institutions are well suited to perform in formulating growth policy at the interstate level. Drawing on a membership which includes Federal, State, local, and private representatives, they can coordinate individual State plans and programs which affect the quality of life throughout the region. They can develop consensus and information exchange between levels of government.

Multistate regional organizations can implement strategies for location of major new developments that have impact beyond the local or State level. They can coordinate plans and programs for investments to be made by large private and public investors. And, they can regulate such functional areas as water resources and environmental quality.

The report clearly recognizes the value of such activities and implicitly endorses the concept of multistate regional agencies.

When I look at the 1974 report's recommendations with regard to the multistate level, I see that attention is focused on strengthening the Federal regional councils to serve as program coordination centers. They would also play a lead role in continuing efforts to unify Federal planning and management programs, streamline the administration of planning requirements, and provide requested technical assistance to State and local governments.

Mr. President, as I said in my comments of October 16, there is nothing wrong with this recommendation, but it neither goes far enough nor recognizes that unifying Federal planning and management programs is a national problem, not a regional problem. The responsibility lies in Washington, not in 10 separated regional centers. Under the terms of my proposal, this responsibility would lie with the Office of National Growth and Development.

The recommendations also suggest that the FRC's could be expanded to avoid the "uncoordinated proliferation" of multistate organizations such as the title V regional action commissions and voluntary groups such as the Southern Growth Policies Board. The report suggests that in this regard, FRC's might assist States: First, to establish "interstate goals and policies related to interstate aspects of land use, resource development, regional transportation, and similar growth topics"; second, to develop "broad interstate strategies for growth and economic development, which can serve as general guides for private investments as well as the distribution of Federal aid within each region"; third, to formulate "regional positions on interstate aspects of such growth issues as powerplant siting, mining, and coastal management"; and, fourth, to propose "recommendations for the types and levels of future Federal assistance that should be available to the region."

Mr. President, these are all important regional needs, but I question whether the Federal Regional Council is the appropriate mechanism for doing these things. First, the regions served by the FRC's are combinations of States, and we are all aware that State boundaries do not often coincide with the boundaries of regions of common needs and problems. A good example of this is the region served by the Appalachian Regional Commission. Second, I wonder whether Federal regional councils as they are presently constituted are sufficiently sensitive to congressional purposes and whether their administrative mandate can be sufficiently focused on growth and development problems to be of real assistance to the regions they would serve in this regard. There is a potential in the Federal regional councils, but I believe that a great deal of scrutiny ought to be given them to assess how well they could perform in light of their track records.

Mr. President, I can find in the report no significant conflict with the findings of S. 3050 with regard to multistate regional planning and development commissions. In fact, I find tacit support for the purposes such institutions might pursue. The report does express concern for uncoordinated proliferation of regional organizations, a concern I share. Under the provisions of S. 3050, multistate regional organizations would be not proliferated in an uncoordinated way, but with careful coordination by the Office of Balanced National Growth and Development.

FOR THE STATE AND LOCAL LEVEL

Mr. President, the report documents the impressive agenda which the States have set up and followed as they have attempted to help shape their future growth and development. The States have reason to be proud as they are fulfilling their historic function as laboratories for testing new governmental institutions and programs, and they are teaching a lesson which the Federal Government would do well to heed.

As I pointed out in my remarks of October 16, many of these State experiments provide us with a base of experience for some of the undertakings that I proposed in S. 3050. For example, 21 States have established commissions on goals which involve public officials and private citizens in attempts to articulate goals for future development. My own State of Minnesota has established such an agency, the Commission on Minnesota's Future. These commissions are analogous to the National Citizen's Council on the American Future, which would serve the same purpose at the national level.

Several States, such as Utah, are experimenting with "alternative futures assessment," designed to analyze the potential future impact of current trends in population, economic conditions, energy, and other factors. This analysis will be the basis for governmental planning for the future, so that problems will be anticipated and planned for—perhaps prevented—rather than simply reacted to after they occur. In S. 3050 I propose the establishment of a Foundation on the American Future, which would perform the same function at the national level.

Many States—recognizing that once goals are defined and plans for the future are formulated, an organizational structure must be developed to implement these goals and the associated plans—have been reorganizing their executive and legislative branches to that end. Several States have developed staff and organizational capabilities in the Governor's office to deal with comprehensive State development policies. Mr. President, can we at the level of the Federal Government do less

There are some who may ask why the Federal Government should become involved if the States are doing such a good job. There are two answers to that question. One is that there are certain things outside the control of the States but which nevertheless greatly influence their growth and development. For example, national economic conditions such as the current inflation, and the actions taken by the Federal Government to deal with these conditions, will influence the public and private economies of each State.

The current crisis in the housing industry, caused partly by Federal fiscal policies, affects a State's ability to provide decent housing for its residents. The current energy crisis has a broad-scale impact on a State's ability to move forward with economic development and with vital programs to meet the needs of people.

The States cannot control these events but the Federal Government, in dealing with these national conditions, should at least be aware of their possible impact at the State level. The various institutions which I propose in S. 3050 would provide a mechanism for monitoring the consequences of such actions, and for altering and assisting the States in dealing with them.

The second answer is that the Federal Government needs to monitor its own policies and programs at all times to be certain that State growth and development policies are not being impeded as the result of Federal activities. Again, this can only be done in a rational way through institutions such as those that would be created by S. 3050.

The Balanced National Growth and Development Act also recognizes that active State participation in the unified Federal-State-local comprehensive planning system provided for in the act will place additional burdens on their planning agencies and on their general governmental processes. Rather than talking about exploring possibilities for assistance, as does the 1974 growth report, S. 3050 proposes expansion of the comprehensive planning assistance program to help with these activities.

All in all, the aim of S. 3050 is not to usurp State and local responsibilities but to help the States and localities to continue to build on their fine record in dealing with growth and development. Above all, it would make Federal impacts on State growth and development conscious rather than unconscious or inadvertent—thereby making the local and State job easier, not harder.

At the local level, there are clear indications that the citizens of the United States are deeply concerned about the quality of their lives and the effects of growth on that quality. Surely it is time for us at the Federal level to gear ourselves up to respond constructively to that concern and to explore methods to help local government do what needs to be done.

Mr. President, the "conclusions" section of the 1974 growth report closes with a complaint that the Government decisionmaker "rarely pays systematic attention to the effects of his actions except as they relate to his own mission." It adds the apology that "existing laws and regulations do not require and may not permit the consideration of Federal actions on the attainment of goals outside of individual mission areas. Further, the effects of Federal actions are often difficult to ascertain; and they are doubly difficult to predict in advance.

As an aid to overcome some of these sorts of problems, the report offers a "decisionmaker's checklist."

Mr. President, this checklist might have been taken from an elementary college textbook on public administration. That it is offered as the recipe for dealing with the complex problems of national growth and development leaves me a bit puzzled. The suggestion is that if all those in the Government became individually good managers who did not forget about the problems of other Government managers, everything will somehow get better. I just do not think that this is an appropriate closing note for the growth report that is required by Public Law 91–609.

Let me say again, as I said on October 16, that there are some critical issues on which the report does not touch or which it treats only briefly. Although my list could be longer than on October 16, because important supplements to the draft report have now been deleted, I would like to mention only tax policy and inflation.

The structure and function of our tax system at the Federal, State, and local levels of governments are widely recognized as major influences on the magnitude and distribution of growth and development. Nevertheless, the report offers only the sketchiest of treatments of tax matters. The discussion is hardly what could be called sophisticated analysis. It is a shame that the analytical resources of the executive branch are not more evident in the report's treatment of taxation and national growth, especially since the report acknowledges that taxation is one of the principal policy tools available to the Government.

Mr. President, just as in the draft report, a discussion of the impact of inflation upon growth is missing in the final report. This is a great disappointment because of the importance of inflation as a major issue of the day. By ignoring inflation, the report is severely weakened as a useful vehicle for public policy discussion in 1974.

Mr. President, in summarizing the strengths and weaknesses of the 1974 growth report I believe that it is not unfair to say that although the report does identify some important issues, it ignores or gives too little consideration to some of the most important ones. It suggests that the administration is not yet ready to come to grips with the problems of growth and development in America.

As I said on October 16, I am confident that we as Americans have the capacity to meet the difficulties our great Nation faces; but we need more than the textbook recipe offered by the 1974 growth report to handle these difficulties. We need tangible proposals that demonstrate a sensitivity to the complexities of the public policy issues upon which we must make important decisions. We need proposals for institutional development in America, institutional development that would allow us to improve our understanding and to make more informed, rational choices on growth and development issues. The 1974 growth report has failed to help us to move in that direction and it has therefore failed to live up to the potential that Congress created for it.

In this regard, Mr. President, I am convinced that S. 3050 is a proposal worthy of consideration. I do not claim that it is the perfect answer to our growth and development problems, but I do believe that its strengths far outweigh its weaknesses. I intend to address myself to additional refinement of the bill with an eye toward simplification and toward a general strengthening of its provisions. I offer it for the careful scrutiny of my colleagues and my fellow citizens. I would welcome alternative proposals from others in the Congress. I would have welcomed an alternative proposal from the administration in the 1974 growth report, but unhappily such a proposal was not made.

The Congressional Research Service of the Library of Congress, at my request, prepared a report, released on December 27, 1974, which deals with developments in the field of national growth and development, entitled "Toward a National Growth Policy: Federal and State Developments in 1973." The CRS, also at my request, has already begun to survey the trends and developments in this area for 1974, and we expect that their work will be completed and printed by the spring of 1975.

As I stated on the Senate floor on December 17, 1974, I intend to ask the Joint Economic Committee to hold public hearings on the President's 1974 Biennial Report on National Growth and Development early in the 94th Congress. Also, as a part of those hearings I shall ask the Joint Economic Committee to invite comments on this report from each of the standing committees of the House and Senate regarding those policy areas covered by this report that are within their respective jurisdictions.

PRO-LIFE ACTIVITIES

Mr. BUCKLEY. Mr. President, tomorrow, January 22, the second anniversary of the Supreme Court decisions on abortion, many Americans will assemble here to participate in the March for Life Rally, and many more thousands will gather together in cities across the United States to bear witness to life. Individuals representing a broad spectrum of political thought and religious belief will publicly affirm their concern and their compassion for those who cannot speak for themselves.

While their approaches to the solutions to abortion may differ, they are united by the principle that every human life is of infinite value, and that each is entitled to the same measure of protection under the law.

Pro-life activities, however, are not limited to rallies and marches and meetings, and in the 2 years since the Supreme Court decision, it has been the affirmation of life as much as opposition to the Court's ruling that has marked the movement. Organizations such as Birthright have been established to assist pregnant women with the financial and emotional burdens of having a child. They offer direction in the search for counseling, financial assistance, and legal advice for adoptions. In Virginia, the Virginia Society for Human Life was instrumental in saving the life of a newborn infant. Doctors in a hospital had agreed to allow the child, suffering from a congenital disorder, to die by starvation. This situation was brought to the attention of the Tidewater Chapter by a hospital nurse. The hospital was forced to reverse the doctor's orders, and the Right to Life headquarters has been flooded with requests to adopt the child.

Thus, it is clear that the many Americans active in the pro-life movement believe in the sanctity of every human life and repeatedly illustrate this concern in their numerous activities.

Mr. President, I commend these Americans for their many efforts in behalf of unborn children, and I urge them to continue their work, for there is no greater cause to which we can dedicate our lives.

TRANSPORTATION OF FOOD PRODUCTS

Mr. HUDDLESTON. Mr. President, for the past 2 years, the Committee on Agriculture and Forestry's Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, which I have the honor to chair, has been conducting a detailed investigation of what happens to America's food supply between the farm and the supermarket, and between the farm and our overseas customers.

One of the most significant findings of our investigation has been the absolutely critical role America's different forms of transportation play in the movement of food to our domestic and international markets.

The difficulty of moving food to consumers' tables has been intensified by breakdowns in many portions of our rail system, poor country roads, the inability of the truck fleet to substitute for the deteriorating rail system, and the limitation of shipment by water.

These not so subtle problems in the transportation industry have cost farmers money, forced the closure of country grain elevators, decreased the economic viability of many rural towns, and finally, they have cost the American housewife more money for food.

The Penn Central Railroad, along with the five other bankrupt lines currently being restructured under the Regional Rail Reorganization Act of 1973, provides a case in point.

Penn Central alone handles 24.6 percent of all canned and processed fruits, vegetables and seafoods shipped by rail, 23.6 percent of all the daily products that move by rail, and 21.8 percent of all meat, poultry and small game fish shipped by rail.

If these carriers should run out of money before they can be reorganized successfully and have to curtail essential services—which I understand is a very real possibility for Penn Central within 2 months—the effects from a loss of rail service quickly would be felt at the supermarket and on the dinner table.

Last August, my subcommittee visited Kansas City and Houston in an effort to determine why it is at times necessary for grain to lie on the main streets of rural towns in the Midwest, to find out what the prospects are for moving the current crop, and to do some prospecting about the future.

We learned that the railroads have added 28,000 covered hopper cars to the fleet, and that between 70 and 80 percent of our rail-shipped grain is now moving in these jumbo hoppers rather than in small, inefficient boxcars.

However, on many light density lines, the condition of the rail roadbed is so poor that covered hoppers would fall off the tracks. This puts many country elevators in a disadvantaged position, and we have seen evidence that more and more grain is being moved from remote country points by truck, even though it is more expensive.

We also learned that the impact of the bankruptcies of the Penn Central and the other insolvent rail carriers in the Midwest and Northeast United States is felt far beyond the States in which they operate.

In conclusion, the long-term outlook for efficient, economical movement of food will rely principally on the kind of commitment the Nation is willing to make to fill in the collapsing service at Midwest country points and on major segments of track east of the Mississippi River.

On December 17, 1974, I released a report for the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices, entitled, "Report on a Field Study of Problems in Agricultural Transportation and Marketing."

I ask unanimous consent that an article contained in the report, entitled "Rail Reorganization: The Consumer Impact," and written by Lawrence M. Lesser of the Interstate Commerce Commission, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RAIL REORGANIZATION: THE CONSUMER IMPACT

[Lawrence M. Lesser, Government and Industry Liaison Officer, Rail Services Planning Office, Interstate Commerce Commission]

"I'm not asking you to save rail service for Putnam County. I'm down on my knees begging you," a witness testified at Interstate Commerce Commission hearings held March 4, 1974 on reorganization of bankrupt railroads.

In the light of the bankruptcy of the Penn Central Railroad in June of 1970 and the subsequent bankruptcies of seven other rail carriers[1] in the Midwest and Northwest United States[2] the Congress last year passed the Regional Rail Reorganization Act of 1973. This statute, which became law on January 2, 1974, set up the machinery for a complete restructuring of these bankrupt railroads so that they could become a new and hopefully viable rail system. The restructuring also is designed to preserve essential rail passenger and freight services in the region.

The ultimate objectives of the reorganization as stated in the legislation are:

Establishing a financially self-sustaining rail system in the region;

Providing adequate rail service to meet the region's needs;

Improved high speed passenger service, including upgrading the Northeast corridor;

The preservation of existing patterns of service by railroads, to the extent consistent with other goals of the Act, and of existing rail trackage in areas where fossil fuel natural resources are located;

The retention and promotion of competition in rail and other transportation services in the region;

The attainment of satisfactory environmental standards;

The movement of passengers and freight in the region in the most efficient manner; and

The minimization of job losses and unemployment in areas presently receiving rail service.

The Regional Rail Reorganization Act created three new entities to implement these goals—the United States Railway Association, the Consolidated Rail Corporation and the Rail Services Planning Office of the Interstate Commerce Commission.

The first of these new bodies, the USRA, is a government corporation which is responsible for developing the system plans under which the lines of the insolvent rail carriers will be unified.

The second new body is the Consolidated Rail Corporation or Con-Rail, which will be the new rail operating company once the restructuring process is completed.

The third new body is the Rail Services Planning Office, which was created as an independent office within the Interstate Commerce Commission. This Office has the responsibilities of holding hearings on rail service needs, evaluating proposals for rail restructuring made by the Department of Transportation and the USRA, and seeing that the public interest is adequately represented during the restructuring period. The Office also is charged with assisting States and local and regional transportation authorities to determine whether to provide subsidies to maintain in operation particular rail lines not included in the reorganized system.

The planning process officially began one month after enactment of the new law when the DOT, on February 2, 1974, published a massive report which identified approximately 25 percent of the rail trackage in the Midwest and Northeast United States as "potentially excess." According to the DOT, since none of these lines were "financially self-sustaining," they should be considered for abandonment.

Following publication of the DOT report, the RSPO held 104 days of public hearings from March to July in 32 cities throughout the Midwest and Northeast region. Public reaction was overwhelming. More than 3,800 persons from the region as well as from all over the country testified. Between their testimony and the written subcommissions of many others, some 50,000 pages of transcript, exhibits and written statements were accumulated. Most of the testimony strongly supported expanded and improved service, not cutbacks.

On May 2, the Rail Services Planning Office issued an evaluation of the DOT report, as required under the Act. In the report, we took issue with most of the underlying assumptions upon which the DOT report was based—the primary one being that one year's traffic data provides a satisfactory basis for evaluating the viability of rail lines. Moreover, we urged the USRA, which now must prepare a preliminary system plan, to consider, in addition to rail profitability, energy conservation, environmental protection, the impact on employment, passenger service requirements, and the needs of industry and agriculture.

For four months, the USRA's work was hindered by a delay in the appointment of its board of directors and by difficulties in obtaining relevant data from the region's railroads. It now has a board of directors, but the latter problem remains. Therefore, it probably will be early in March 1975, before the plan is completed and the public has its first opportunity to study it and comment on it.

As soon as the USRA completes its interim plan, the Rail Services Planning Office will hold public hearings again and prepare an evaluation of their work.

"The final system plan should be adopted only after the public has had ample opportunity to review and to comment upon a preliminary plan containing most if not all of the Association's system design decisions," George M. Chandler, RSPO Director, recently told key Members of Congress who handle transportation matters.

As the next step after the RSPO issues its evaluation of the preliminary system plan, USRA will be required to develop a final system plan and present it to the Congress. However, the plan will not go into effect unless Congress concurs.

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[1] Railroads undergoing reorganization include the Ann Arbor, Boston & Maine, Central of New Jersey, Erie Lackawanna, Lehigh & Hudson River, Lehigh Valley, Penn Central, and Reading.

[2] The region includes Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, Ohio, Indiana, Illinois, Michigan, Virginia, West Virginia, as well as Louisville, Ky.; St. Louis, Mo.; Kewaunee, Manitowoc, and Milwaukee, Wis.

As the law now stands, the Congress has 60 days from the date of the plan's publication in which to act. If neither the House nor the Senate pass a resolution to disapprove the plan during this 60-day period, it will become effective and ConRail will take over as a new operating railroad. On the other hand, if Congress finds fault, it can order USRA back to the drawing boards. Thirty days after the final system plan is published, the Interstate Commerce Commission will tell Congress what it thinks of the plan.

In anticipation of the possibility that USRA's final system plan might recommend against including unprofitable rail lines, in order to improve ConRail's chances of becoming viable, the Congress provided for subsidies to States in the region so that essential but unprofitable rail services could be continued. As soon as the Congress approves the final system plan, the rail service subsidy provisions of the Act will come into play.

The Act authorizes $90 million a year for two years for subsidies to continue essential rail services not included in the final system plan. The funds will be disbursed to the states by the DOT on a 70 percent Federal/30 percent State matching grant basis. Half of the funds each year will be apportioned on the basis of rail mileage in each State in the region and half at the discretion of the Secretary of Transportation.

Under the apportionment formula set forth in the Act, each State is eligible to receive as much as $4.5 million but not less than $1.3 million annually, provided they meet the requirements spelled out in the Act and by the Secretary (See April 5, 1974 Federal Register, pp. 12528–12532). The discretionary funds will be disbursed by the Secretary to meet additional needs.

Any "responsible" person may offer a subsidy but only a State or local or regional transportation authority is eligible to receive Federal aid for rail service continuation. However, each State must first submit to the DOT a State plan for rail transportation. That plan, which should reflect the plans of local regional transportation authorities, rail users and the public generally, must be approved by the DOT before the recipient becomes eligible to receive a Federal grant.

In order to keep the bankrupt rail carriers operating while the restructuring proceeds, the Congress authorized $85 million in emergency grants to enable these lines to meet interim cash needs. Penn Central already has received $20.5 million and according to the USRA, future requirements of the bankrupt lines may exceed the $85 million by more than $50 million. If the money runs out before the final system plan is implemented, the trains could stop running unless Congress appropriates additional funds.

THE IMPACT OF A SHUTDOWN

What would such a shutdown mean to the Nation?

First of all, a shutdown of Penn Central, the largest of the bankrupts, would affect the metroliners, the 300,000 daily passengers that ride Penn Central trains, the 17 States in which Penn Central operates, and the 20 percent of the Nation's freight that Penn Central hauls. Certainly thousands of travelers and commuters would be inconvenienced and forced to endure personal hardships. But the effect would go much deeper than that.

Take food as an example. A shutdown of the Penn Central and other bankrupt lines would have a definite effect upon the supply and price of food.

Few industries are more sensitive to transportation interruptions or more essential to the Nation's health and safety than food. In the aggregate, food is the Nation's largest and perhaps its most complex business. Consumers presently spend about $100 billion annually on groceries at over 200,000 food stores.

The Department of Labor estimates that for a four person family, between one-third and one-fourth of their total expenditures is for food. For the lower-income family budget, food is the largest single expense; and to those at intermediate or higher income levels, food outlays rank second only to housing.

A significant share of the $100 billion consumers spend each year for food is accounted for by the total distribution costs involved in moving commodities from farm to market. In 1973, these costs amounted to $6.1 billion, according to the United States Department of Agriculture. These costs are a basic component of every food or grocery item on the supermarket shelf. When these outlays go up, as they have in recent years, the increase is reflected in the retail price consumers must pay.

One area where marketing costs for food could be reduced substantially is in the efficiency of rail movements, according to the National Commission on Productivity. In a report last year, a special commission task force found that, although rail rates had increased 33 percent since 1967, railroad cars were still moving food across the country at a slower pace than they did 20 years ago. What's more, the cars were moving only 12 percent of the time and moving with a load only 7 percent of the time.

"Enormous productivity gains could flow from an improved transportation system, not only from faster service but from the more efficient packaging and handling that it would make possible," the commission said.

DISTRIBUTION PATTERNS

The retail food industry itself is characterized by low profit margins and intense competition. Because profit margins are small, averaging around one to one and a half cents on the sales dollar, changes in cost are rapidly passed along to the consumer. To gain a financial and competitive edge, food stores rely primarily on high sales volume and quick turnover. Inventories, particularly at the retail level, must be kept to a minimum in order to avoid tying up capital. Thus, an efficient and reliable transportation network is essential.

On the national level, the retail food industry is comprised of a complex set of brokers, processors, and retailers that link the farmer to the consumer. All require a transportation system capable of delivering a variety of goods, over thousands of miles, on a predictable and regular basis. If traffic managers at all these points are to keep inventories low, they must be certain that goods will be delivered on schedule. The less reliable the transportation network, the more stockpiling is necessary, the lower the efficiency, and the higher retail prices will be.

At the retail level, the shelf life of perishable items is so short that a transport interruption affecting commodities like fresh fruits and vegetables, dairy products, and unprocessed meats and fish is noticeable within days. Today, produce generally is kept in the warehouse for no more than two or three days and in many cases is moved to the retail stores on the same day as it arrives. The point is clear.

Unless a retail grocer could divert perishable shipments to another mode—action that inflates costs and is reflected in higher prices—these items would disappear quickly from the food store shelves.

The problem of perishability is heightened for those commodities that are seasonal in character.

For many products, harvest time is relatively short, and if transportation is not available at the time of seasonal peaking, spoilage is severe. Cling peaches, for example, are canned a few weeks after being picked. If the transportation link between peach orchard and canner is severed, or if canners are unable to get enough tin plate for canning, an entire peach crop can be lost. Similarly, if a shortage of rail freight cars hits the grain areas during harvest, storage space will be inadequate to handle the entire crop. The result would be lost revenue and, in the case of grain for export, a possible lost market. Moreover, a critical shortage of freight cars to move meat, produce and canned goods to domestic markets would ensue, with resultant food shortages and sharp price hikes.

Witnesses who testified at Rail Services Planning Office hearings held earlier this year warned that a loss of essential rail services would boost the cost of shipping agricultural products by as much as 10 to 20 percent.

TRANSPORTATION REQUIREMENTS

In the aggregate, about half of all food moved is transported by rail. For instance, most canned goods and a large share of perishables move by rail, especially over long distances. The largest manufacturer of dry cereals, Kellogg's, ships 95 percent of its nationwide output from its key Battle Creek, Michigan plant by rail.

But trucks play a critical role in the movement of food too. Because of their speed and flexibility, truck shipments are being used today far more extensively than ever before, even for long-distance intercity hauls. And "piggy-back" (the use of rail cars to haul loaded truck trailers) services are becoming more and more widespread.

When railroads and trucks are used jointly, the food distribution chain becomes even more susceptible to transport interruptions, since a break in any one link will cause the entire chain to collapse. And the consequences are immediate and urgent. A canner may be unable to continue production if his supply of tin plate is interrupted. A food distribution center served by the Penn Central may find its stock depleted in short order if the carrier is unable to deliver the goods.

In all, Penn Central handles 24.6 percent of all canned and processed fruits, vegetables and seafoods shipped by rail, 23.6 percent of all the dairy products that move by rail, and 21.8 percent of all meat, poultry and small game fish shipped by rail. If these essentials are prevented from reaching the supermarket, the costs of the disruption eventually will surface at the checkout counter.

Paper and paper products offer another example of the severe impacts a rail shutdown can have. Nearly everything we buy—from the container of milk, the carton of beer or soft drinks, the tray on which meat comes wrapped, the frozen food container, the labels on canned goods, to the box in which products are shipped, and the bags we use to carry our groceries home in—involves products of the paper industry.

Over the years, this industry actually has integrated transportation into its total productive process. With each mode in the network, inventories of materials and completed products are kept to very low levels. A converting plant depends, not on its inventory, but on a continuous inflow of materials from a geographically distant mill. Just as auto assembly plants can remain in operation only about three days without replenishment of their stocks, paper plants have a similarly limited capacity to continue in the event of a cessation in transportation. In each case the reason is the same: transportation has become such an integral part of the assembly line that it is relied upon as a substitute for inventory stockpiling.

This has contributed to greater efficiency, but it also means that if transportation stops, so does production. Moreover, because plants are closely geared to movement by a particular mode, it is difficult and often impossible for paper producers to switch to another mode. At some stages, for example, the cost of transporting particular products by truck rather than rail simply would be prohibitive.

In all, about four percent of the prices paid by consumers for grocery products—about $4 billion of the $100 billion consumers spend every year for food—represents the cost of paper and related products.

There are many other instances where the public is severely affected when rail service is halted. One easily could add to the list of essential items already mentioned: automobiles and auto parts, chemicals for municipal waste and sewage treatment, drugs and many other hospital supplies.

Two fundamental conclusions can be drawn from this information. First, the separate phases of the production processes of nearly every item are so closely interwined that any transportation impediment at one point in the system quickly reverberates throughout the rest of the system. This can and often does lead to hidden extra costs which, sooner or later, exert upward pressures on retail prices.

And second, the many individual links in the manufacturing cycle are joined together by a transportation chain which serves not only to move raw materials and finished products, but also to assure adequate supplies at every stage of the production and distribution process. Our transportation system, and particularly our railroads, occupies so critical a place in our economy that any failure in performance has drastic repercussions not only in terms of economic impact, but also in terms of impact on the health and safety of millions of people.

Perhaps USRA Board Chairman Arthur D. Lewis best summed up the current thinking of the Association toward maintaining essential rail services when he stated recently:

"We want to maintain service wherever possible and to improve it. We will recommend abandonment of service only as a last resort."

A TOUGH ANTI-INFLATION COUNCIL

Mr. ROTH. Mr. President, last night the Democratic Party presented its response to President Ford's economic and energy proposals. During the course of their presentation, they proposed that the Council on Wage and Price Stability be expanded and given subpena power and the authority to delay large price increases for a period of 90 days.

I welcome the Democratic leadership into the circle of supporters of efforts to strengthen the council, but I have to wonder where they have been for the last year. Almost a year ago, I was the first to propose the establishment of an inflation commission, and last summer I was joined by a number of my colleagues in support of efforts to strengthen the authority of the present council. However, each time these proposals came to a vote, a majority of the Senate voted otherwise.

Last spring, as the President's authority to impose mandatory wage and price controls expired and with the inflation rate at 10 percent, I proposed the establishment of a National Commission on Inflation to monitor the economy and to hold public hearings on large wage and price increases. I further proposed that the inflation commission be made up of representatives of all segments of the economy and would work for a national policy to restrain inflation. Dr. Arthur Burns, the Chairman of the Board of Governors of the Federal Reserve System, endorsed my proposal, stating that:

> Our inflationary problem is so serious that we cannot afford to overlook any possible benefits that might be found in a new approach of this kind.

Unfortunately, a majority of the Congress decided that they could afford to overlook the possible benefits, and voted otherwise.

Last August, after repeated urging on my behalf and with the inflation rate running at 11 percent, the President endorsed my idea to establish an inflation council in the form of the Council on Wage and Price Stability.

During congressional hearings before the Senate Banking Committee, Dr. Burns recommended, and Senator Javits and I proposed, that the new council be given subpena power and the authority to delay large price and wage increases until the inflationary impact on the economy could be determined.

However, once again, a majority of the Congress voted against this proposal.

Finally, Senator Javits and I again introduced legislation to expand the Council on Wage and Price Stability last December and urged Congress to act on the proposal prior to its final adjournment.

But now, after months of inflation and inaction, and just as it appears that prices may be on the verge of falling, it appears that a majority of Congress may now endorse last summer's idea. In any event, I hope that the Democratic leadership is serious about their statements, and will act quickly on this proposal. The President has taken the initiative and offered his proposals, and it is now up to the Congress to put aside partisan differences and act quickly to help solve our economic problems.

PUBLIC TELEVISION DEALS WITH MENTAL ILLNESS IN AMERICA

Mr. HUMPHREY. Mr. President, it has been estimated that mental illness strikes 1 out of every 10 Americans and costs the country $20 billion annually.

Even more tragic is the fact that much of the suffering could be prevented—that ignorance and misinformation about mental health are standing in the way of solutions to this serious national problem.

I understand that public television is planning a series of five specials designed to improve the country's awareness of mental illness and help equip Americans to better handle their emotional problems.

The series, which will premiere this spring, is called "The Thin Edge," and it is made possible by an $850,000 grant from Bristol-Myers Co.

The five programs in the series will examine depression, aggression, anxiety, guilt, and sexuality. The science program group at WNET in New York City will produce the programs and the Public Broadcasting Service will transmit them nationally to 250 public television stations.

In addition, in many communities, local public television stations will follow the national broadcasts with programs designed to examine local conditions and point the way to local sources of treatment.

This community outreach project will be supported by more than 35 national health and civic organizations, including the National Institute of Mental Health, the National Association for Mental Health, the American Psychiatric Association, and the American Psychological Association.

Public television and its sponsors are to be commended for this extremely worthwhile undertaking. And I hope "The Thin Edge" will play an important role in helping foster a greater public awareness and understanding of mental health problems. The frank and forthright discussion of mental health issues on television is critically needed to break down barriers which have barred public discussion of these sensitive topics for far too long.

MILITARY GOLF COURSES

Mr. PROXMIRE. Mr. President, the General Accounting Office has found that $13.9 million a year is being spent to maintain 300 military golf courses in 19 foreign countries and the United States.

This GAO data is contained in a report prepared at my request and reflects the situation as of mid-1974.

The $13.9 million comes directly out of the defense budget which the Pentagon claims is at a dangerously low level. An additional $20 million of nonappropriated funds also goes to support golf courses.

There are 20 U.S. military golf courses in Germany alone. Ten have been built in Japan. Korea has six trailed by the Philippines with four, Puerto Rico and Spain with three, two in Turkey, and one each in Morocco, Sicily, Midway, Canada, the Canal Zone, England, Johnson Atoll, Thailand and Italy.

Guam is a special case with golf courses operated both by the Air Force and Navy. The Air Force has one 18-hole course at Anderson Air Force Base with a driving range and putting green. At the Naval Communications Station, there is another 18-hole course and a 9-hole course with a driving range. A second Navy driving range is located at the Naval Station.

Even granting that Guam does not have many of the normal recreational possibilities, the duplication of facilities by two Services is a waste of money.

Many of the military facilities within the United States have been built regardless of the local golf conditions.

In the GAO survey, I requested data indicating the number and location of private and public golf courses nearby the military facility. In many cases the argument that a military course is needed because there was no comparable public facility nearby was found to be inaccurate.

For example, there are 14 public golf courses within 25 miles of the Army course at Ft. Gordon, Ga., which has two 18- and one 9-hole courses plus a driving range. There are 52 private and public courses within 25 miles of the Army course at Selfridge Base, Michigan and there are 69 public courses near the Naval Air Station at Long Beach.

I have no objection to the operation of military recreational facilities such as golf courses, as long as they pay their own way with nonappropriated funds. The use of appropriated funding is a waste of the taxpayers' money in a time of inflation compounded by recession.

If they use taxpayers' funds, they should open up the course to public use on a space-available basis.

In addition to the 300 golf courses here and abroad, there are 163 driving ranges, 178 practice greens, and 19 pitch and putt courses.

Construction of facilities at 77 golf courses is now underway including $24,000 being spent by the Army out of research and development funds and $63,000 from Air Force family housing appropriated funds. One entirely new course is planned at Ft. Sill, Okla. Clubhouses are considered for the Air Force Academy, Shaw Air Force Base, and in Korea.

FIFTY-SEVENTH ANNIVERSARY OF THE INDEPENDENCE OF THE UKRAINE

Mr. ROTH. Mr. President, January 22 marks the 57th anniversary of the independence of the Ukraine. I am proud to join American and Delawarean Ukrainians in commemorating this event.

The Ukraine is one of the captive nations of Europe and one of Eastern Europe's largest nations. Its independence was cut short by its forced absorption into the Soviet Union in 1922. But despite intense Soviet efforts to assimilate the Ukrainians by destroying their religious institutions and extinguishing the memory of their cultural and historical traditions, the Soviets have not been able to stifle the strong determination of men such as Valentyn Moroz and Leonid Plyushch to seek new freedom for their country and countrymen.

It is truly inspiring to see a people, after 50 years of tyranny, sustain their strong sense of nationhood, their deep thirst for freedom, and their pride in their great traditions.

On this anniversary, it is especially fitting that we reaffirm our sympathy and solidarity with the courageous people of the Ukraine and their struggle for fundamental rights and human dignity.

UNEMPLOYMENT

Mr. PELL. Mr. President, the economic news which greeted Rhode Islanders this past weekend was stark and very grim. The jobless rate in Rhode Island has risen to 9.1 percent. There are more than 38,000 unemployed persons in my small State. The rate of unemployment, measured by any and every statistic we know, has been driven up through the roof of the State's ability to provide temporary economic assistance to the unemployed worker and his or her family.

Our Rhode Island State unemployment compensation fund has been exhausted. It has gone bankrupt, if you will, under the strain of providing for this new surge of unemployed workers while at the same time suffering a decline in contributed revenues through the State's tax on employers, which of course provides less support as businesses close down or lay off employees.

In short, Rhode Island is beginning to experience an economic and unemployment collapse. The separate parts of our integrated employment system are caving in on each other, each cave-in leading to greater and greater strains on the remaining portions of the system.

I view this collapse with alarm and shock, as unemployment is increasing at a much faster rate than had been forecast. Indeed, the State government has been forced to ask the Federal Department of Labor for a $3.3 million advance in unemployment compensation insurance emergency funds.

There appears little likelihood either, that the situation of increasing unemployment will soon reverse itself, or will bottom out. This month saw a 112-percent increase in initial unemployment insurance claim filings, which measures new job shutdowns, and new cases of families, whose breadwinners are willing and able to work, losing a means of steady support.

This tragedy is not unique to Rhode Island. The Commerce Department quarterly statistics on the gross national product, issued on the 16th of this month, reported that our national productive output had dropped at the fastest quarterly rate for any quarter in 16 years. Looking into the next 6 months, Assistant Secretary of Commerce James L. Pate said that this recession might be the worst in the last 40 years. Rhode Island and a dozen other States will be in very, very serious shape.

Mr. President, the most tragic element in this is that many of the more than 38,000 unemployment claims in my State represent families, two or three or four persons, who are facing next week without a real paycheck, without the ability to walk into the supermarket to buy the food their children need to grow up strong and healthy and to do well at school. Each statistic means that a family will have to hold off on prompt and complete health care, and much more. Of course, and this is most ironic and frustrating, we know that these figures represent hard-working, willing workers, who are unemployed through no fault of their own, who must wake each morning, wanting to get back to work, but with no work to which to go.

Mr. President, at the end of the last Congress we took tentative steps to provide some initial relief to the dual problems of building up unemployment benefit-levels and programs and of creating some temporary jobs around the Nation.

It is now clear that this limited response will not be sufficient. I intend to introduce or support new legislation in the near future which would increase the number of public service jobs which could be developed, and which would target these jobs into the geographical areas of the country which need them most. The goal is to rebuild and shore up the floor under employment and joblessness where it has already fallen through, on a high priority basis.

I also intend to support or introduce legislation which would allow the Federal Government to expedite loans to States in which the 26 and additional 13 week unemployment insurance programs are already bankrupt.

I am not enthusiastic in any sense about introducing this legislation. It will be costly; it will be controversial. But it is necessary. I do not believe that we can allow our working men and women, or our States' unemployment funds, to drop out of sight. Rhode Island is only one of the first examples we shall see of this urgent and difficult problem, and we must not ignore it, if we are to meet our responsibilities to our constituents.

Mr. President, I ask unanimous consent to have printed in the Record an article from the Providence Evening Bulletin entitled, "9.1% Rhode Island Jobless Rate Is the Worst Since '58."

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Providence Evening Bulletin, Jan. 17, 1975]

9.1% R.I. Jobless Rate Is the Worst Since '58

(By Joseph B. Goodrich)

Rhode Island unemployment rose last month by 6,100 persons to 38,300 to give the state a jobless rate of 9.1 percent, the highest since the 9.5 percent rate in December of the 1958 recession year.

Adding to the deteriorating job situation was a 112 percent increase in initial unemployment insurance claim filings, a reliable measure of new job losses.

Miss Mary C. Hackett, director of the state Department of Employment Security, reported that these initial claims were up to 42,674 in December from 15,846 in the previous month.

The grim picture was reflected in the state Labor Department's employment report which showed a month-to-month decline of 5,600 jobs in December to 352,600. The total is down 11,600 jobs from December, 1973.

In another grim statistic, the DES reported that 2,015 recipients of jobless payments exhausted their benefits last month. That's 27.3 percent more than the 1,583 exhaustees in November, and 53.2 percent higher than the 1,315 in December, 1973.

The figures represent those persons who have exhausted their jobless payments under the regular 26-week benefits program. A DES spokesman said that most of them have probably qualified for the 13-week extended benefits program, although no figures are available to indicate the number eligible.

Initial claims for the 13-week extended benefits program were 2,525 in December, indicating that most of the claimants carried over to that program. They would be ineligible if they either obtained a job or dropped out of the labor market in the interim.

The 13-week extended benefit program is financed on a 50-50 basis by federal and state funds. After an unemployed person exhausts those benefits, if still unemployed, he will be eligible to receive jobless payments under a 13-week emergency benefit program financed by the federal government, giving him a total of 52 weeks of unemployment payments.

In December, 1958, the 9.5 percent jobless rate was computed on a total labor force of 360,100 persons, compared with a total work force of 419,600 persons last month, but at that stage in that year, the state was moving out of the recession after the jobless rate had plunged to a low of 13.4 percent in April.

The worst of the current recession is still ahead.

Yesterday, Rhode Island asked the federal government for a $3.3 million "advance" to cover a shortage in state unemployment funds expected next month—some four to six months earlier than when officials had expected state benefits to run out.

At a press conference this morning, Governor Noel was asked if the need for more financial support for the unemployment compensation fund will bring the first breakthrough against his efforts to hold the line against state tax boosts.

"Absolutely," the governor replied. "There is no way we can live without changing the tax."

Noel stated that under federal programs, states are allowed to borrow interest free from a federal pool but said he has pointed out to federal officials that there is not enough money in the pool to support such loans for more than three states.

"When we borrow, we have in effect raised the tax," the governor said.

He said the fund paid 2.6 million dollars in benefits last week and suggested that the state may have to not only increase the tax on employers but expand the base amount to which the tax applies.

He has pointed out to federal officials, he said, that while the federal government is extending unemployment benefits for 13 weeks beyond the earlier limit of 39 weeks, this will do no good if states cannot support the first 39. He said the state hardly can tell unemployed people that they will get nothing but that if they wait 39 weeks they can start collecting 13 weeks of the federal supplement.

Miss Hackett attributed the higher December unemployment to a combination of temporary seasonal layoffs in construction, jewelry, toys and service industries and a general employment decline reflecting the downslide of the national economy. The 9.1 percent jobless rate compares with 7.7 percent in November.

The seasonal adjusted jobless rate for December was 9.6 percent, confirming that the unadjusted jobless rate is well above the rate that normally would be expected for that month. The seasonally adjusted rate compares with 8.7 percent in November and 7.2 percent for December 1973.

(The seasonally adjusted figure attempts to account for factors such as students entering the labor force in the summer and increased Christmas employment. The adjusted rate is designed to show trends compared with earlier months and years).

Manufacturing jobs which had showed gains for much of last year, weakened substantially last month, declining 3,600 from November to 121,100. Some cracks were beginning to show in the durable goods sector which recorded a month-to-month loss of 1,300 jobs, spread across the metals-machinery spectrum. The continuing strike at the Washburn Wire Co. was a large contributor to a year-to-year decline of 2,100 jobs in the durables sector, although electrical machinery accounted for 1,600 of that year-to-year job decline.

Salvatore T. DiSano, state labor director, made the point that the mid-December employment estimate does not include any layoffs announced during the last four weeks.

Despite the decline in factory jobs, the average work week climbed to 39.4 hours from 39.1 in November.

Non-manufacturing jobs were down 2,000 from November to 231,500, with the big loss 2,300 jobs in contract construction. A plus factor in this non-manufacturing segment in December was the hiring of 1,300 temporary workers by retail stores for the Christmas shopping season. However, historically these temporary hires are laid off in January, a development that will help push the jobless rate higher this month.

INDIA'S ANNEXATION OF SIKKIM

Mr. TAFT. Mr. President, I have great concern for the paths being followed and charted for the people of the Indian subcontinent by certain leaders of the Indian Government. Nothing demonstrates this better than India's recent annexation of Sikkim.

Sikkim is a small and, until recently, independent kingdom in the Himalayas. Since 1950 it has had, by treaty, a special relationship with India; but it has been, nonetheless, a separate and sovereign state. The very existence of a treaty demonstrates Sikkim's sovereignty, treaties being agreements between sovereign entities.

Following unrest in Sikkim in 1973, Indian police forces were, at the request of the king, sent into Sikkim; this was perhaps a legitimate act on the part of India, although many suspect the disorders were incited by India. But what followed was not legitimate—the use of those police to take over the internal administration of Sikkim, disarm the Sikkim police, and set up a fraudulent election to an Indian-created "national assembly."

In September of 1974, India took the final step in her act of blatant aggression and annexed Sikkim as a so-called associate state. The people of Sikkim took to the streets to demonstrate against this annexation; India's answer was the steel-tipped clubs of Indian police. The Chogyal asked India at least to consult the people of Sikkim as to their wishes; India refused. The only newspaper in Sikkim was closed by Indian authorities.

These acts by Mrs. Ghandi's government, a government which loudly preaches peace and nonviolence, parallel Hitler's anschluss of Austria in 1938, and Soviet actions in Czechoslovakia in 1968. The hollowness of Indian pretensions to a "moral" foreign policy are exposed to the world by this imperialism. The responsible elements of the Indian press pointed out the nature of India's action. The Hindustan Times stated that—

> If it is not annexation it comes close to it . . . Sikkim is to be reduced from a protectorate to a colony.

India's action in Sikkim raises many questions about overall Indian intentions. The other Himalayan states increasingly view India as a serious threat to their freedom. One must wonder if India's demands for a "zone of peace" in the Indian Ocean reflect a desire for peace or hegemony. As one Nepalese cabinet minister noted:

> First they—Mrs. Ghandi's government—helped overthrow the King of Afghanistan, then they went nuclear, then they took over Sikkim. If that's not expansionism, what is?

Mr. President, I ask unanimous consent that an article from the Far Eastern Economic Review, and one from the Guardian, detailing India's aggressive acts, be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Far Eastern Economic Review, Sept. 27, 1974]

The Himalayan Knife-Edge

(By Cheng Huan)

Gangtok.—This tiny Himalayan kingdom is sizzling with anger and rife with rumours following its forced "annexation" by India. Discussions with numerous students, intellectuals, politicians and the two remaining journalists, now inactive, have confirmed the widely-held foreign impression that India's official account of recent events in Sikkim is largely a sham. With its extensive control of communications with Sikkim, New Delhi has been able to monopolise the flow of views and news from here. Sikkim's lips are, in effect, Indian sealed.

Among the most prevalent rumours circulating here are reports that threats have been made on the life of Kazi Lendhup Dorji, the pro-Indian Chief Minister; that a guerilla action is contemplated against the Indian occupation forces; and, perhaps most ironically, that the Chogyal (ruler) himself may be compelled to turn to China for at least moral assistance in his fight to preserve Sikkim's independent status. For decades, India was looked upon as the avuncular protector against possible Chinese aggression, but now the tables are turning—not only in Sikkim but also in Nepal and Bhutan.

While much of the Indian press has taken its Government's hand-outs at their word and can proclaim headlines such as "Sikkim moves closer to India—popular will in Sikkim forces new changes," the fact is that in Gangtok the news of the passing of the 36th amendment to the Constitution in New Delhi, which declared Sikkim an associate state of the Indian Union, was so angrily received that demonstrations against India's action here had to be forcibly discouraged. There is also a widespread suspicion that Indian moves towards Sikkim are part of a grander, more ambitious design by New Delhi, with its developing nuclear potential, to control all of the eastern subcontinent, including Bhutan and possibly, Nepal.

The overwhelming odds in favour of India have made Sikkim an easy prey. Nor can the Chogyal escape censure for what has happened. His political acumen has not been sufficient to cope with the wily manoeuvrings of the Indians. He has been unable to break his faith in what he believes to be India's amicable intentions—a faith which was fostered during his many years of close friendship with the late prime minister Jawaharlal Nehru. Today, no one can envisage Prime Minister Indira Gandhi retiring to Sikkim, as her father (Nehru) often contemplated.

Paradoxically, the same 1,200 Central Reserve Police (CRP) that the Chogyal requested India send to Sikkim last year are now being used to stifle demonstrations against New Delhi. The CRP also control all communications with the capital, to the extent that groups of Sikkimese are often refused permission to visit Gangtok.

The four non-military telephone circuits are usually mysteriously "engaged," with rifles and *lathis* (steel-tipped clubs) at the ready, the CRP is in obvious control of Gangtok—they account for one-tenth of the capital's population. The 20,000–40,000 Indian regular troops, which are stationed in other parts of Sikkim, make the remainder of the kingdom equally subservient to New Delhi's wishes. Even the 400 Sikkimese policemen were disarmed last year by the Indian authorities.

It is in this atmosphere of increasing desperation that many young Sikkimese are talking of carrying out guerilla activities as their only hope. India's supposedly free press has not proved much help, and Gangtok's only newspaper, *Sikkim Fortnightly,* was pressured to close last year.

New Delhi's constant justification for its recent policies towards Sikkim has been the demonstrations that flared up last year in Gangtok, partly in a demand for greater democratic government, and partly in criticism of the Chogyal's autocratic powers. Although at the root of the demonstrations there was an element of real disillusionment with the status quo, many observers reported that unfamiliar faces were present and suggested that many of the demonstrators, in fact, emanated from the Indian border towns of Kalimpong and Darjeeling.

The elections earlier this year, which followed those fateful demonstrations, were not only open to suspicion and totally controlled by the Indian Election Commission, but even four months later, Kazi still holds ten of the fourteen portfolios. The unprecedented use of the national flag as an electioneering banner by the pro-Indian Congress party at the elections appears to have confused the largely illiterate electorate: Previously, only the Chogyal and his family used the flag as their personal standard. And when New Delhi maintains that it has now merely given effect to the wishes of the people of Sikkim, it is, perhaps, worth recalling that the issue of incorporation Sikkim into the Indian Union was never an issue at those elections.

With his ten portfolios and the attendant patronage to hand, Kazi is, at the age of 72, the most powerful man in Sikkim—even a threat to the Chogyal. An unfrocked Buddhist abbot, Kazi has never allowed democratic delicacies or political proprieties to stand in the way of his ambitions. His British wife, Elisa Maria Langford-Rae, when she was living in Kalimpong across the Indian border, reputedly egged him on in her parallel ambition to become the equivalent of Sikkim's first lady. But Kazi, as a Bhutia-Lepcha, like the Chogyal, is India's mouthpiece and, some would say, its servant.

As for the amendment to the Indian Constitution which incorporated Sikkim into the Indian Union, it seems certain, if incredible, that the Chogyal and his supporters in the Assembly knew nothing about its preparation until news arrived of its presentation to the Indian Parliament. In addition, it seems that New Delhi executed its constitutional action in a clumsy, back-to-front manner. For, initially, the Government of Sikkim Act, to which the Chogyal was given little choice but to accede, did not give the Indian Government the necessary mandate to pass the 36th amendment.

Consequently, it is possible that the Sikkim Assembly will be asked to declare the New Delhi amendment unbinding and unjustified by the Government of Sikkim Act. But Kazi's men in the Assembly will know how to deal with such a threat.

The longer-term repercussions of India's incorporation of Sikkim may take some time to develop, but what does appear certain is that New Delhi may already be regretting the bolt it has shot. Himalayan politics suddenly have been polarised. India is apparently opting for direct confrontation with China's interests in the area. Peking has always seen Sikkim as "a finger of the Chinese palm." India's concept of the independent Himalayan kingdoms acting as a buffer to possible aggression from the north has been destroyed. As a senior Indian official explained: "The idea of a buffer state is dead. Modern weapons make it an anachronism. Nor are the Himalayas any more a barrier to military actions."

In that case, changing Indian strategic intentions along its northern borders make any chance of an independent, federated Himalaysia out of the question. The growing independence of Bhutan and the fact that the Chinese Chargé d'Affaires in New Delhi attended this year's coronation there, as well as the friendly relations which are developing between Nepal and China, probably drove India to take a total hold of Sikkim.

Conversely, it has been precisely India's growing hostility towards the Himalayan kingdom, and its alleged provision of arms to the Khampa tribesmen in Nepal, that has driven Bhutan and Nepal to seek refuge in closer relations with Peking. Sikkim, with its lesser independent status, never had an equal chance of thwarting Indian ambitions, even though it clearly had, and still has, an equal wish to do so.

[From the Guardian, Oct. 2, 1974]

INDIA ANNEXES SIKKIM

(By Mohan Fam)

NEW DELHI.—"Perhaps there is no need for the common man to ask for bread. He is getting Sikkim."

In these words, a leading Indian daily summed up the spectacle of Indira Ghandi's government rushing to bestow "freedom within India" on the neighboring kingdom of Sikkim while epidemics, slow starvation, pogroms and police riots devastate the people of India.

As a result of a constitutional amendment rammed through the Indian parliament in early September, ostensibly in response to the Sikkimese people's desire for "fuller participation" in India's institutions, this tiny Himalayan kingdom is no longer the Indian "protectorate" that it had been since 1950. It is now an "associate state" of India, a category that the Indian constitution had not previously enjoyed.

Elsewhere in the third world, protectorates are marching toward sovereignty and colonies are achieving independence. But India, itself a third world country with a government that has anticolonialist and anti-imperialist pretensions, is marching to annex its protectorates and acquire colonies.

The whole process of incorporating the kingdom of about 300,000 people into India was accomplished under the cover of "constitutionality" and of "making a positive response to the democratic urges of the people of Sikkim." According to the Indian government's version of events, the Sikkimese people's elected national assembly last June unanimously passed a resolution requesting "fuller participation" in the economic and state institutions of India. In amending the Indian constitution to make Sikkim an "associate state," the Indian government was merely granting the "wish" of the Sikkimese people for "freedom within India."

The actual facts are different: Under a 1950 treaty, Sikkim became a protectorate of India. India was responsible for Sikkim's defense, foreign relations and most sectors of its internal administration. India also gained the right to station its troops on Sikkimese soil. Thus India, in becoming independent from Britain, at the same time took over from Britain its virtually colonial relationship towards its tiny northern neighbor.

There were repeated movements for greater autonomy among the Sikkimese, which each time led the Indian government's apparatus in Sikkim to tighten its grip on the country's affairs. In May 1973 there was an upheaval in Sikkim in favor of democratic reforms of the kingdom's feudal institutions and for a reassertion of Sikkim's distinct identity against Indian control. Under the pretext of "restoring law and order," the Indian government invoked the treaty of 1950 and moved its army into Sikkim to occupy all strategic points and impose a state of martial law.

At the same time, India appointed a "political officer" to take charge of Sikkim government administration and other Indian officials were delegated to draft up a new Sikkimese constitution and devise an electoral system. The elections, held under the watchful eye of the Indian occupational army, not surprisingly produced a Sikkimese "national assembly" whose 32 members overwhelmingly favored absorption by India.

According to a report by an organization of Sikkimese students in India, the walls of the assembly on the day of the crucial vote last June were lined with uniformed Indian troops. The bill was read in English, a language most assembly members do not understand, and six "no" votes were ignored by the assembly president to produce the "unanimous" resolution.

FIGUREHEAD KING

The titular king of Sikkim, who is called the chogyal, has been reduced by the gradual Indian takeover to a figurehead role. In an effort to prevent the Indian parliament from passing the annexation measure, the chogyal traveled to India in early September but was unable to get an appointment with Indian government officials. He issued a statement in Calcutta Sept. 6 stating he had not been informed of the contents of the "associate state" measure, that it did not have his approval and was illegal. Atang Lipcha, vice president of Sikkim's opposition Democratic party, told the press that Gangtok, the capital of Sikkim, was under siege by the Indian police and that a number of prominent Sikkimese political figures, including assembly members, had been placed under house arrest. Two elected members of the national assembly, Lipcha said, had gone on hunger strike to protest the annexation. A number of Sikkimese students in India have held demonstrations to denounce the move.

Reaction from India's neighbors was sharp. Thousands of students in Nepal demonstrated for days outside the Indian embassy. A member of the Nepalese parliament said that Sikkim was losing its identity. "A small state being swallowed by a big country in the present epoch is a matter of concern to us."

The government of Bhutan, which lies directly east of Sikkim and over which India also claims protectorate rights, reacted to the absorption of Sikkim by refusing to accept any further administrative advisers sent by the Indian government. There are senior Indian-appointed advisers attached to Bhutan's ministry of finance, development and trade, and to its army, air force and police. When the terms of the present advisers run out, the Bhutan government said in a Sept. 5 statement, no replacements will be accepted.

The Pakistani government also denounced the absorption of Sikkim, saying that the move was a threat to all of India's neighbors. The foreign ministry of the Peoples Republic of China issued a sharply worded statement that characterized the annexation as "an act of outright expansionism" and a "crime." The move, China said, "is a provocation to the justice-upholding peoples of the world and a challenge to the historical trend of national independence."

The Hindustan Times editorialized that "the Indian government is not going to be able to persuade the world that Sikkim's annexation to India represents the will of the Sikkimese people." Initial world reaction appears to bear out this judgment. So far the only big voice raised in defense of the Indian government's move has been that of the Moscow press agency Tass, which gave its readers exclusively the Indian government's own version of the story and described the swallowing up of Sikkim as a "voluntary incorporation."

TRIBUTE TO SENATOR SAM ERVIN

Mr. LONG. Mr. President, I would like to join with my colleagues in expressing my personal sense of loss on the retirement of, perhaps, the greatest constitutional scholar in the history of this body, Senator Sam Ervin. His lifelong devotion to the protection of our Constitution has earned a place for him in the history of this Nation.

Sam Ervin gave the U.S. Senate 20 years of his life, but it was not just the Congress which benefited so greatly from his selfless service; all Americans benefitted, as well—as will their grandchildren and their grandchildren's grandchildren. He devoted all his energies to protecting individual liberties and providing equal justice for all Americans. I can say without hesitation that he is an inspiration for us all.

I believe his basic philosophy is best expressed in his own words:

> The Founding Fathers rightly believed that the truth alone makes men free. They desired most of all that the people for whom they were creating a government should be politically, intellectually, and spiritually free.
>
> In the nature of things, they could not guarantee that Americans would have the right to know the truth, and make that right effectively by conferring upon the people and denying to the government the power to determine what truth is.

Sam Ervin, the "country lawyer"—as he refers to himself—was a very moving speaker; I would even go so far as to say a spellbinding speaker, as we have been witness to so many times in this Chamber. But, he was not just a man of words. He was a man of action. To list his achievements would take many hours, but I would like to mention just a few of his accomplishments in the legislative area: The Criminal Justice Act of 1964, providing legal counsel for indigent defendants; the Bail Reform Act of 1966; the Military Justice Act of 1968; protecting the rights of military personnel; the 1964 District of Columbia Hospitalization of the Mentally Ill Act; and the Congressional Budget and Impoundment Control Act of 1974.

Senator Sam Ervin was sworn in the U.S. Senate on June 11, 1954, and from that day until his retirement at the close of the 93d Congress I have—as have we all—been the beneficiary of his wise counsel. His understanding of our laws, coupled with his reverence for their underlying principle of freedom for the individal, has earned him a place both in the history books of this Nation and in the hearts of all Americans.

Mr. President, I would like to repeat something Sam Ervin once said which expresses his dedication to our government of law:

> The Founding Fathers left us with a delicate government which if maintained in its proper balance will ensure freedom for generations to come. The vigilance that freedom demands must be provided by each and every citizen—and especially by those of us who love the law.

In closing, Mr. President, I would like to inject a personal note, if I may. My wife, Carolyn, worked for Senator Ervin for many years and has shared with me many heartwarming stories of his decency, graciousness, and humor. He is more than a friend to us; he is a man we both admire and love.

Carolyn joins me in wishing both Sam and his wonderful wife, Miss Margaret, all of God's blessings as he returns home to North Carolina.

VLADIVOSTOK AGREEMENT—SENATE RESOLUTION 20

Mr. TAFT. Mr. President, I am pleased to join my distinguished colleagues, Senator MATHIAS, Senator MONDALE, and Senator KENNEDY, in sponsoring Senate Resolution 20, relating to the Vladivostok Agreement.

The progress of strategic arms limitations negotiations is vital for the United States, the Soviet Union, and the remainder of the world. From the standpoint of the United States, not only do such negotiations contribute to our national security, through reductions in international tensions, but they also enable us to allocate our increasingly scarce resources into areas other than strategic arms. Indeed, the first question the American people should ask of those who seek to sabotage such negotiations and agreements is, Where do we obtain the funds for a major strategic arms race?

Thus, I support the Vladivostok Agreement; and I hope and believe that that agreement should be a step toward further agreements. As the resolution notes, there are three key areas where further negotiations are urgently needed; I would hope the administration would begin such negotiations as soon as possible. I am certain President Ford and Secretary Kissinger are as anxious for further agreements in these areas as are the Members of Congress, the American people and, I believe, the responsible elements among the Soviet leadership.

I hope, further, that the American people will focus their closest attention on those Members of Congress who have announced their opposition to the Vladivostok agreement. It is easy to say that we can, theoretically, conceive of a better accord, in terms of lower limits on strategic arms; but do the gentlemen who reject the Vladivostok agreement believe we can dictate terms to the Soviet Union? Soviet interests—and differing interests within the Soviet Government—must be taken into account if any agreement is to be reached. Are those persons who urge us to "demand" a different agreement prepared to take upon themselves personal responsibility for the failure of negotiations? Are they prepared to explain to the American people either how they will force their terms on the Soviet Union, or how they will pay for a new strategic arms race? Until they are so prepared, they would be wise to keep silent, lest some interpret their actions as a decision to sacrifice the Nation's interests for ephereal political advantage. In addition, as a member of the Armed Services Committee, I would like to put special emphasis on paragraph 3 of section 1, that—

> Any deployment of United States strategic nuclear weapons, up to the limits established by the Vladivostok Agreement, should be based solely upon the actual needs of United States security.

That is to say, the agreement itself determines neither that we need to build up to such levels, nor that we do not need to. That remains an open question, to be decided only after the fullest and most thorough investigation of all facts and possibilities. We cannot automatically assume that the permitted levels are in fact the levels we require.

I am hopeful that this Vladivostok agreement, itself a significant step in arms limitation, will be followed soon by further steps. The whole world, the world of the present, and the world of the future, stand to benefit by a furthering of the arms limitations process. I hope that all elements within our Government and all elements within the Soviet Government will realize this truth.

THE RIGHT TO SAY "NO"

Mr. PROXMIRE. Mr. President, through the good offices of Mr. Richard E. Wiley, Chairman of the Federal Communications Commission, the three broadcasting networks have agreed, starting next fall, to free the first hour of television prime time from programs with violence and sex.

Mr. Wiley publicly has defended his negotiations with the networks, saying it was part of his job.

Actually, the FCC has no direct jurisdiction over networks, having a hold on them only through their "owned and operated" stations. Only stations are licensed; not networks. Those owned and operated stations, however, are very profitable, supplying nearly half of the total income of all three networks.

By merely talking with them, Mr. Wiley exerts tremendous influence.

Now, these remarks are in no way intended to justify sex and violence on television. I want to emphasize that.

Yet, when Government, through its agents, exercise influence over the press—and again, I emphasize that radio and television are a part of the press—the citizens of this country are endangered.

How?

The Boston Globe in its lead editorial last Saturday shows how.

To paraphrase the editorial's argument: if the Government can rule out bad things during a particular time period, it can also rule out good programing.

The editorial asserts that the FCC has such power because television uses "public airwaves." In the past I have refuted that argument. Nowhere in our laws is there a direct claim of public ownership of the airwaves. Without a law, despite what the Supreme Court may say, there can be no public ownership. Controls are based on the Communications Act of 1934 that says licensees must meet the "public interest, convenience, and necessity." And I believe that law has been interpreted in an unconstitutional manner.

It seems to me, that the real "public interest, convenience, and necessity" is for all elements of the press, including radio and television, to remain free of governmental control. The first amendment, which guarantees the right of a free press for the benefit of the American public, was written to protect citizens from the natural proclivity of Government to control more and more elements of society.

It is true that our Government is charged with the duty to promote the general welfare of our people. But when Government can exercise control, even indirectly, over ideas—the stuff of self-government—then Government has gone too far.

We have laws against obscenity. Some would claim that such laws violate the first amendment. I am not prepared to go that far.

To me, there is no reason not to enforce such laws for the common good. If broadcasters violate the obscenity laws, they should be prosecuted. But not by an agency that controls their licenses. That is an important distinction.

There are many programs on television that are of poor quality. To say otherwise would be unrealistic.

There are also many good, culturally elevating programs.

But who is to dictate the tastes of 80 million people watching television at one time.

There are many publics within our population, each of which can be served in a honorable way with programing they like. And each person in each public has a vote on that programing. They cast their votes with their tuning dials.

Even a preliminary step taken by the FCC Chairman for good intentions presents a potential danger worth consideration by all of us.

The Boston Globe editorial is one statement that ought to be discussed and debated.

Last week I introduced legislation to make clear that the first amendment applies equally to broadcasters as well as to publishers. That proposal, too, needs to be given thoughtful consideration.

The editorial and my bill are comments on a single problem.

In drafting my bill, I was more concerned about the news operations of radio and television. But, when it comes to the first amendment, types of programing cannot be divorced from each other. Under my bill, licensees—including the network stations—would be free to program at will, whether for news, instruction, entertainment, sports, or what have you. They would still be covered by the antiobscenity laws.

The Globe editorial shows the interconnection between various types of programing.

Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE RIGHT TO SAY "NO"

It is reliably reported that on almost any given evening some 80 million Americans of all ages may be found watching televsion.

The magnetism of the medium is beyond question. There are few American households without at least one set. And since most households contain a child or children, TV has become, in an ever-increasing number of homes, the electronic parent or built-in baby-sitter. In the majority of such homes, TV-watching begins at a very early age, often before the gift of speech is discovered.

Throughout the ages, excitement has been the "great escape for work-weary masses, but until the advent of TV the people had to go to it—whether in the colosseum, the public square, the sports stadium or arena, or the theater. Except for simple country fairs of comparatively recent vintage, the excitement was hardly amusing and could often be violent indeed.

Now the excitement can be in the home at the touch of a switch and, predictably, it is often violent on some channel at almost any hour of the day.

For some time, pressures that have reached Congress have been building to keep the first hour of so-called evening prime time, from 8 to 9 p.m., free of programs that feature violence, or adult or sexual themes. It would be, in its way, a "family hour" of TV.

By late last week, all three major networks had agreed to such programing effective with next fall's schedules. Some degree of purity in that hour already is reported in effect.

There is no commitment in these columns on the side of violence, and indeed it, its practitioners, and its implements are frequently criticized here.

But we opt for freedom of choice in our excitement or entertainment, or even loosely defined "entertainment," and we especially respect the word "No" when such decisions are presented. With that in mind, products—and this would mean TV programs or newspapers or breakfast cereals or pantyhose or automobiles—should stand or fall on their merits or their place in the general welfare.

TV stations, because they use the public air waves, are subject to regulation and license by the Federal government. Thus, through the quasi-judicial Federal Communications Commission, the public has a right to a voice about what is purveyed on its air waves. A good part of the time, FCC suggestions to networks and stations become policy under the fear of loss of license.

And now the public, or a vocal segment of it, seeks to compel the networks to protect the "family hour" fare which the family itself ought to be policing. (We might also quarrel that our idea of a "family hour" in the TV age ought to be from 7 to 8 p.m. There is even a memory of reading of "the children's hour" of Longfellow's time, which came "as the night is beginning to lower.")

Despite a number of good programs, much of the material on TV continues to be evidence of the "wasteland" that one-time FCC chairman Newton Minow decried some years ago. And parents continue to permit their children to station themselves in front of the tube for hour upon uncreative hour. In many cases the children become almost akin to the legendary lemmings, rushing each day as if by clockwork to touch the magic switch.

To rule out violence during some appointed hour on TV should also rule out, say, a panel discussion of the US defense budget, a colloquium of the Soviet defense budget, motion picture commercials, a documentary on insecticides, the slapstick of the Three Stooges, the annals of slavery, news reports on traffic accidents (in 1973, there were more than 55,000 auto deaths in the United States compared to 19,500 murders), many contact sports, and, as Kurt Vonnegut would write, and so on.

There is no doubt that crime-related violence on the TV screen has an adverse effect on young minds, tending to condition children in their formative years to accept and ultimately emulate, the forms of violence they see. And it may be that some young people can be repulsed by it.

But to make the networks and the stations foster parents is to engage the government in another function with overtones of Big Brother.

"Family hour" or any other period notwithstanding, parents ought to know what programs the children are watching. If the program offends, the switch can be turned, not violently, to another channel, or, gently and firmly, off.

PRESIDENT FORD'S STATE OF THE UNION MESSAGE

Mr. HUGH SCOTT. Mr. President, I would like to insert excerpts from six excellent editorials on President Ford's state of the Union message as reprinted in the Philadelphia Inquirer last Friday. The Wall Street Journal, The New York Times, the Washington Post, the Christian Science Monitor, the Philadelphia Bulletin, and Daily News all echo the theme of leadership, candor, and courage as expressed most effectively by the President in his address to Congress. As President Ford said, "The state of the Union is not good."

Mr. President, these excellent editorials have faced the facts as Mr. Ford has, and as we in Congress must, in order to begin to rebuild a sagging economy. Our economy is weak and it needs our wholehearted support. It needs swift, competent, and strong programs to turn the tide. The President has taken that initiative and now it is Congress' turn to follow through. As the Philadelphia Bulletin so aptly said:

> Mr. Ford's State of the union message challenges the heavily Democratic Congress to work with him in a grim and uncertain period.

I join the Bulletin's plea for cooperation during this most challenging period.

Mr. President, I ask unanimous consent that the reprint from the Philadelphia Inquirer be printed in the RECORD so my colleagues may read these excerpts from six outstanding editorials.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows.

[From the Philadelphia Inquirer, Jan. 17, 1975]

PRESIDENT IS APPLAUDED FOR HIS CANDOR

WALL STREET JOURNAL

The State of the Union address was Gerald Ford's most presidential speech, and his most effective one. It is remarkable, in fact, to hear a speech yielding so little to the demands of "political acceptability" and adhering so closely to a coherent diagnosis of and cogent prescriptions for the nation's longrun problems.

Whether or not President Ford succeeds with the present Congress, he has done the nation an immense service by opening for discussion a great many issues that urgently need to be discussed. His blueprint for solving our urgent problems is on the table, and if Congress rejects it without substituting something equally cogent, at least it will be clear who has discharged his part of the responsibility and who has not.

NEW YORK TIMES

In his address to Congress, President Ford met the first requirement of leadership, which is candor: "The state of the union is not good."

The President also made a fair attempt at satisfying the second requirement of leadership, which is courage to propose the unpopular and, if necessary, to change one's mind. A tax cut such as Mr. Ford proposed is normally a popular move, and in the present context, it is sound. But since it would widen the budget deficit, it is distasteful t those ideological conservatives who bulk so large in the President's own party.

WASHINGTON POST

The good news about Wednesday's state of the Union address lay in the way President Ford presented the bad news. It wasn't so long ago, after all, that the Chief Executive of the land, Mr. Nixon, and his colleague Mr. Agnew, were letting it be known that it was downright unpatriotic to dwell on this nation's problems—which they regarded as being synonymous with "tearing America down."

It was not a pulse-quickening performance, and that perhaps was the best thing about it. After the war and the disorders of the '60s and the scandals and constitutional stresses of the early '70s, what the country may be most in need of is straight talk and realistic ambitions. And that is basically what it got.

PHILADELPHIA DAILY NEWS

He never expected to be even Vice President. Yet there he stood Wednesday, Gerald Ford the football player from Michigan, addressing Congress as the chief executive. Not many months ago he was just one of the 435 members of the House.

We think Jerry Ford finds it sobering. He certainly came across that way in his speech: "I must say to you that the state of the union is not good. . . . I've got bad news, and I don't expect much, if any applause."

Well, Jerry, we applaud you. We applaud your candor and your approach. We applaud the idea of doing something, even if it's wrong, although with all you proposed it will take a while to sort out that we like and dislike.

PHILADELPHIA BULLETIN

President Ford is moving with a new and encouraging degree of forcefulness now to meet the threat of a deepening recession.

In a healthy political sense—one calling for and expecting constructive compromise rather than feisty confrontation—Mr. Ford's State of the Union message challenges the heavily Democratic Congress to work with him in a grim and uncertain period.

CHRISTIAN SCIENCE MONITOR

The most vital point about the economic blueprints given to the nation by President Ford and the congressional Democrats is that no time remains for dallying and debating over fine points or ideological differences.

The areas of agreement—and they are large—should be built on.

REACTION TO THE STATE OF THE UNION SPEECH TO CONGRESS

Mr. CRANSTON. Mr. President, in listening to the President's state of the Union message, I admired his courage in facing up to some hard decisions on economic and energy problems. However, I do not agree with a number of those decisions or the directions he proposes to take.

I am pleased that the President has recognized the seriousness of the recession and has offered strong action to stimulate the economy. I am afraid, however, that his energy proposals amount to an abandonment of the fight against inflation. His recommended tariffs and taxes on crude oil will jolt the economy with the most inflationary cost-price push since the Arab oil boycott.

The economy needs a stimulus and it needs it fast. Unemployment in California now is at 9 percent, up three-tenths of a point over the previous month. Some 787,600 Californians are out of work and are looking for jobs. The tax rebate will help get the economy moving again. I urge that this be our first priority.

I also believe that we must change the formula for the 1974 tax rebate, so that low and middle income people—and people with no income at all—get proportionately larger tax refunds.

I do not believe that a big tax break for big earners, as the President proposes, is fair. Under his plan, a taxpayer earning $8,000 to $9,000, for example, would only get a refund of around $95. Someone earning $15,000 to $20,000 would get a $260 refund. Only taxpayers earning more than $41,000 would get the full $1,000 the President talks about.

I would favor revising the formula to give larger refunds to people in the low- and middle-income brackets. This can be done by using a sliding scale refund instead of the flat 12-percent refund proposed by the President and reducing the maximum refund to $500 instead of $1,000.

Any future and more permanent tax reductions should be linked to tax reforms so as to eliminate huge loopholes, like those for the oil industry and for big earners with large amounts of tax exempt income.

I support the President's conclusion that we must cut consumption of oil. But I don't think we should do this by raising the price on crude oil and by passing on to consumers an annual bill of $30 billion more for gasoline and other petroleum products.

The combined effect of the President's proposed $3 excise tax on crude oil and the removal of price controls on domestic oil will be $30 billion more tacked on to the national oil bill. That is an average increase of 12 cents per gallon for all petroleum products.

In California, increased prices for crude oil will mean an immediate $640 million boost in electric bills. An average family in California can count on an increase of $2.25 a month in their electric utility bills—if the President is permitted to have his way.

Boosting prices in an effort to cut down the use of oil and gasoline is unfair. It hurts those in the low- and middle-income brackets who are already hit hard by inflation.

It will not do much to reduce consumption. It is estimated that the President's price increase for oil will result in a cutback of less than 600,000 barrels a day—well below the 1 million barrel a day goal.

People must continue to drive to work. They have few alternatives. They must continue to heat their homes, to use electricity and to eat food, which requires large amounts of energy to produce, process, and transport. They simply will dig deeper to pay the higher costs asked by President Ford. Of course, those with little or no income will be forced painfully to cut back, while the well-to-do will be able to consume comfortably at their accustomed level.

I think we should instead give serious thought to allocation and rationing of fuel as a fairer and far more effective way of reducing oil consumption without making inflation worse.

I oppose delaying for 5 years higher automobile pollution standards as a fuel saving measure. There is no justification for a 5-year delay.

I know of no study that would support the President's position that we must freeze automobile emission standards in order to conserve fuel. In fact, last October, a joint EPA-DOT study concluded that the President's fuel economy goals can be met by 1980 without having to sacrifice future safety and emission standards. Russell E. Train, Administrator of EPA, referred to this study in a speech made less than two months ago—on November 27, 1974.

Moreover, a policy to halt the fight against air pollution is shortsighted. Slowing our efforts to improve air quality will cost us money—through crop damage, tree losses, and adverse effects on our health. One-fifth of the population are especially vulnerable to diseases and bad health caused by air pollution. These costs will be passed on to the entire economy.

Air pollution also severely reduces farming efficiency. The National Academy of Sciences has studied the adverse effect of air pollution on potato yields in the Connecticut Valley where pollution is high. Legume crops, such as soybeans, are also particularly vulnerable to injury from pollutants, like sulfur dioxide.

On the fiscal front, we should be extremely cautious not to take steps—whether it be tax reduction or increased spending—that would unnecessarily increase the budget deficit and the national debt. As it is, the President's proposed budget deficits for the next 2 years cumulatively may well tower above $76 billion. This will force the Government to borrow more money and will tend to push up interest rates and fuel inflation.

We must finance new programs with increased revenues raised far more equitably than at present. It is disappointing, therefore, that the President did not take the opportunity to offer much needed tax reform proposals except to propose a windfall profits tax on oil producers.

We can and must cut wasteful Government sending. I again urge that we eliminate military aid to foreign dictatorships and extravagant overseas military spending. There are other areas where Congress can promote greater efficiency in Government programs and spending. We should work hard to find those areas and insist that the executive branch take the necessary steps to trim wasteful spending.

In some areas, I agree with the President's call for a 1-year moratorium on new spending programs. I think Congress could spend its time profitably on overseeing existing programs to make sure they are being administered properly and economically.

But a blanket moratorium on all new programs would be most unwise. The Nation has obvious needs that must be met in this emergency. We in Congress have a responsibility to look at each proposal individually and decide each on the specific merits of the case.

I continue to be favorably impressed with the President's approach to Congress. He spoke directly and plainly. If our own debates and decisions are also forceful and direct, the entire Nation will benefit.

PROFITS ARE NOT TOO HIGH

Mr. PROXMIRE. Mr. President, somehow the impression has developed in this country that corporate profits have been excessive. The fact is they have not been. I am not just talking about the corporate outlook for this year. I am talking about corporate profits over the past 5 years.

It is true that recently some industries have enjoyed enormous increases in profits, notably oil, banking, steel, nonferrous metals, and a few others, but overall profits in relation to other income have been in steady decline for 25 years.

In 1950, profits represented 15.6 percent of national income compared to employees' compensation, which was 64.1 percent that year or four times profits. In the ensuing 25 years, profits fell steadily. Last year—viewed by many as a superyear for profits—there were only 9.2 percent of national income compared to 75.1 percent for employee compensation. So last year employee compensation was more than eight times profits.

In other words profits are now about half as large a proportion of wages and salaries as they were 25 years ago.

Mr. President, anyone who has run for office knows that there is a strong public suspicion of excessive profits. And that suspicion can be wholesome and healthy. There undoubtedly has been a killing made on occasion by some industries which have taken advantage of their pricing power or their control over resources to push prices up and extort unreasonable profits.

I have criticized this kind of rip-off in the past and will do so again. But in all fairness, we should appreciate the fact that profits are what drive this great economy. They provide the incentive for investment that is essential for acquiring the capital that in turn provides the technology that enables our country to grow more productive and efficient and support a higher standard of living. Profits also insure the discipline that forces businessmen to hold down costs. And to organize their operations more and more efficiently.

Also, if profits are too low, our economy cannot engender the capital essential for good jobs and an abundance of what we need for the good life.

We have suffered a drop in real wages in the past year for tens of millions of Americans. In the past year, the American farmer has suffered a cruel squeeze from rising costs, just as the farm prices that represent his income have fallen. Six and a half million Americans are out of work. We are and should be acutely aware of this.

But we should not lose sight of the fact that for 25 years corporate profits have been falling in relation to other income shares in our economy, and it would be foolish and counterproductive for us to adopt any policy designed to penalize them further.

I ask unanimous consent that a revealing article that appeared in yesterday's Wall Street Journal on corporate profits be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REVIEW OF CURRENT TRENDS IN BUSINESS AND FINANCE

Business profits, it has been said, have been mighty high recently for a country in a recession. Some have called them "obscene." Some have used more lusty adjectives. So, while the current recession debate rages (How long? How deep?), it may be well to look at the profit picture in historical perspective. And to note a trend that has gone almost unnoticed. After holding fairly steady for two decades, corporate profits as a share of national income have fallen steeply in the 1970s.

It is no small matter. It harbors a threat to your pocketbook and mine. The vast majority of us get our paychecks, our fringe benefits, our vacations, much of our insurance, both life and medical, and a lot of pension money from business employers—all of whom must live or die on profits. Americans who work on their own today are only a minute minority. Some 95% of us are on payrolls.

By far the biggest chunk of national income is compensation of employes. Corporate profit is a very small one. But the important thing is that, in the recent past, it has grown sharply smaller. Here, over a quarter of a century, are the official percentage shares of national income received as (1) compensation of employes and (2) corporate profits (with inventory valuation adjustment). Since there are other sources of income, the two figures do not add up to 100%. The 1974 figures are for the third quarter, the latest.

SHARES OF NATIONAL INCOME

[In percent]

Year	Employee comp.	Corporate profits
1950	64.1	15.6
1952	67.0	13.8
1954	68.6	12.5
1956	69.3	13.1
1958	70.1	11.1
1960	71.0	12.0
1962	70.7	12.2
1964	70.6	12.8
1966	70.2	13.3
1968	72.4	11.8
1970	75.4	8.6
1972	74.8	9.7
1974	75.1	9.2

Note the abrupt shift beginning with 1970. Employe compensation jumped above 75% for the first time. And profits fell below 10% for the first time.

Well, some may say, what's bad about this? Maybe the employes should get it all. After all, profits are just dividends for the wealthy, aren't they. Aren't profits and dividends the same thing? The two are fuzzily equated in many minds. But the answer is of course, that they are not the same—not by a country mile.

The first bite that comes out of profits is the tax bite. And a massive bite it is. The table below traces over a decade the yearly tax liability (billion of dollars) of all corporations, and also their dividend payments, as recorded by the Department of Commerce. The 1974 figures are annual rates in the third quarter, the latest.

CORPORATE TAXES AND DIVIDENDS

Year	Taxes	Dividends
1965	$31.3	$19.8
1966	34.3	20.8
1967	33.2	21.4
1968	39.9	23.6
1969	41.0	24.3
1970	34.8	24.7
1971	37.5	25.0
1972	41.5	27.3
1973	49.8	29.6
1974	62.7	33.2

Over the years above, dividend payments have risen 67%. But corporate taxes have jumped 100%. The bottom line above shows corporations now paying almost twice as much of their profit to tax collectors as to stockholders. Dividends account for only about 3% of total personal income in the United States.

But even taxes and dividends don't tell the whole story of what has to come out of profits. To keep up with growing population and try to keep efficient, employers have to build new factories and buy new machines. The cost of such things has soared mightily. And where does the money come from? Primarily, it has to come from profits retained in the company to meet these bills. These necessarily retained profits that stockholders never see is now almost double dividend payments.

And then there are the wages and salaries—which have to be paid before profits are even counted up. It is taken for granted these days that wages and salaries must be raised every year. This would seem to be based upon the assumption that employer welfare also goes up every year. But this isn't so. Corporate profits go down as well as up and many periods see them fall steeply.

Here are examples. Commerce Department figures are annual rates of after-tax corporate profits in billions of dollars.

CORPORATE PROFIT TUMBLES

Period	Quarterly high	Quarterly low	Down (percent)
1948–49	$23.4	$17.7	24
1951–53	25.2	16.6	34
1956–58	27.7	19.8	28
1959–61	30.8	24.4	21
1966–70	50.7	36.7	28

After reaching an annual rate just above $50 billion in the third quarter of 1966, after-tax corporate profits did not get back above the $50 billion level until the first quarter of 1972—almost six years later. The average weekly wage of nonfarm workers in private industry rose 38% between 1966 and 1972.

Somewhere along the line, people may start to realize that soaking "big business" is really just soaking the sources of their own paychecks and reasonably priced products. They may see that at some point if some workers get super-high pay, many others may have no jobs at all. And they may perceive that if business costs (taxes, wages) get shoved too high, the prices of things producers make may automatically get pushed beyond the ability of people to pay them.

The golden-egg goose, if choked too much, may some day stop laying those eggs.

JOHN O'RILEY.

"HELP YOUNG AMERICA" CAMPAIGN

Mr. HUGH SCOTT. Mr. President, I recently had the pleasure of meeting with representatives of the "Help Young America" campaign. Through this program, six national youth groups have joined in a cooperative drive to win support for the needs and goals of their organizations.

During the drive, members of the Girl Scouts of America, Boy Scouts of America, National 4-H Foundation, and Camp Fire Girls campaign to bolster membership.

This year is the third in which this joint drive is being held, and I believe a cooperative effort such as this benefits all our young people through its example.

These six organizations play a valuable role in the development of our youth, and I am happy to wish them much success in their membership campaign.

WHAT DOES THE GENOCIDE CONVENTION DO?

Mr. PROXMIRE. Mr. President, the Genocide Convention is an international treaty which outlaws mass murder. The convention defines genocide to mean certain acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such. The acts include killing, causing serious bodily of mental harm, inflicting conditions of life intended to bring about physical destruction, imposing measures intended to prevent births, and forcibly transferring children.

A nation that ratifies the Genocide Convention obligates itself to prosecute and punish persons guilty of genocide, and to enact the necessary implementing legislation. This is an important point. The treaty is not self-executing. It merely requires that we consider and adopt appropriate legislation through our traditional processes and consistent with our Constitution to effect this purpose.

In addition to genocide itself, the convention provides that conspiracy, direct and public incitement to commit genocide, the attempt or complicity to commit genocide also become punishable offenses. Here again, the Congress will be guided by the Supreme Court decisions on the first amendment freedoms so that our precious rights of free speech are protected.

While the convention suggests the possibility of an international penal court, such a proposal has not been adopted. Even if one were proposed, it would require Senate approval in the future and thus we can safeguard our sovereignty in this area. At the present time an offender can only be tried in a national court, either where his crime was allegedly committed or in his own nation.

There are a few individuals who have raised some concerns even about this point of trying an individual in the nation where the offense was committed. However, this is the current state of affairs for all nations. Today, if an American is charged with violating the drug laws of another nation, for example, he is tried by the court system of that nation and sentenced according to their own laws. Thus, the convention merely recognizes existing practice.

The final aspect of the treaty focuses upon a pledge by nations not to grant political asylum to fugitives wanted for genocide. Each nation is pledged to add genocide to the list of extraditable crimes as these treaties come up for renewal. Here again, these treaties are considered on an individual basis, with the advice and consent of the Senate. Therefore, if any Senators have reservations about the advisability of such extradition changes, they should raise those objections at that time.

Mr. President, as can be seen, this treaty will not impair our sovereignty or restrict our first amendment freedoms. It deserves our support.

AUSA POSITION PAPER ON INFLATION

Mr. GOLDWATER. Mr. President, every program we have in the Federal Government, State governments, local governments, every program that every household in America has, is plagued with the demon inflation. We have witnessed in the city of Washington an almost 100 percent increase in the cost of the Metro system due largely to inflation. Because we are approaching that time of year when we will be working on military budgets, I think it would be of benefit to my colleagues to understand the problem of inflated costs as it relates to the U.S. Army. The Association of the U.S. Army has prepared a position paper on this, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

INFLATED COSTS—GREATER RISKS

THE NATIONAL SECURITY DILEMMA

It should be news to no one that our economy has emerged between Scylla and Charybdis or—in the more pithy vernacular of today—a rock and a hard place. We are on the horns of a two-pronged dilemma that our country has not faced before. We must fight inflation and recession simultaneously. There appear to be no textbook solutions for our problem. What most economic classicists say is supposed to happen is that shrinking demand, top-heavy inventories and rising unemployment should exert sufficient deflationary checks on the upward push of costs. This has not happened yet. So far government rhetoric on the twin subjects of recession and inflation has far outrun action.

This paper is an effort to identify some of the more devastating impacts of roaring double-digit inflation on our national defense program and the very real dangers thus created to the security of our Nation. To keep discussion within manageable bounds, we will focus primarily on the Army. Parallel application to other services and defense activities will be fairly apparent.

Those who view the subject as too esoteric should be aware of how rapidly and deeply inflation is dipping into every level, nook and cranny of our established order. Its impact on the defense is particularly devastating because we had already pared the defense budget drastically through our legislative process. Reprogramming and other belt-tightening operations within the Services have made the margins for safety even slimmer.

There has been no significant change in either the threats our country faces or our foreign commitments that make it either possible or in fact desirable to accept greater risk to our national objectives by lowering our defense posture. It is essential that we keep our defense geared to the threat and the mission responsibilities which our Military Services have been assigned. We should forever keep in mind that freedom survives in this world by the grace of American power and determination.

When the Military Service budgets are made up in the fall, they are predicated on a Fiscal Year that begins on the following 1 July. Thus, the present FY-75 Defense Budget calling for an outlay of $84.9 billion, was developed in the early fall of 1973. Except for certain investment accounts, the Services and DOD were required, under guidance from the White House Office of Management and Budget, to use June 1973 prices as the basis for estimating FY-75 costs. Since then, the overall inflation in the National economy has averaged 12% per year. So half way through FY-75, the Department of Defense must absorb a $7 billion loss in purchasing power which this inflation has produced. The Army's share of this comes in at $1.2 billion.

FISCAL YEAR 1975 DEFENSE SPENDING

	Amount (billions)	Percent
Personnel costs	$48	55
Operating costs	13	16
Investment (Construction R. & D. procurement)	25	29

Without a substantial increase in the Defense Budget, we are obviously headed for a reduction in the modernization and readiness of the U.S. Armed Forces to a point where we will be forced into a second-class status relative to the Soviet Union. We may see also the necessity to cut arbitrarily some of the foreign commitments which support our National Objectives. If we do, we will reverse the global strategy of the last 20 years which has helped maintain a balance of power, enhanced detente and brought us from an era of belligerent confrontation to a period where negotiation at a variety of levels can be undertaken. This is a strategy which has served well our national interests.

Inflation affects almost every phase of military activity. We can get a better grasp of its total impact if we look briefly at several of the key areas that contribute most directly to the effectiveness of our National Defense.

Military pay is statutorily tied to inflation. When cost-of-living increase are granted, requests for supplemental appropriations to cover them are authorized by law.

DEFENSE MANPOWER

[In millions]

	1964	1968	1970	1972	1975
Military	2.7	3.5	3.0	2.3	2.2
Civilian	1.0	1.3	1.2	1.1	1.0

Defense Manpower has been affected in other ways, however, which can be attributed to the impact of inflation. When the Congress finally passed the FY-75 Defense Budget, they had cut the funds requested by $4.5 million. This reduction resulted cutting Air Force military manpower by 27,000 and the Navy by 17,000, both over a 12-month period. All Services lost civilian personnel for a total of 34,000.

President Ford also recommended recently impounding certain of the FY-75 funds already appropriated by the Congress. Included in his recommendation was a proposal to reduce the Army National Guard from its present authorized level strength of 400,000 to an authorized average of 379,000. This would mean the Guard would have to cut back to about 341,000 by year end in order to meet the average. Similarly, he recommended cutting the Army Reserve from 225,000 to 215,000. The net dollar savings of these two actions would be something around $67 million and so small as to have almost no effect on inflation. Conversely, such cuts would severely damage the readiness, training and morale of these components. It would require a drastic RIF at the very time major recruiting efforts were still under way. For these reasons, the Association of the U.S. Army opposes these recommendations.

In addition to the cuts made by the Congress when they passed the budget, most military commands have had to impose selective hiring freezes in the civilian sector and have deferred implementation of the FY-75 program to civilianize more jobs to free more soldiers for military training. Both of these actions have been needed to generate funds to be applied to other military activities.

Meanwhile, costs of military retired pay continue to mount rapidly. The cost will be about $6 billion this year with a projected annual cost of $14 billion by 1985. This association believes there is a great merit in transferring the retired pay budget to the Veterans Administration so as to simplify consideration and understanding of future defense budgets. Defense should be charged with future defense not residual cost from the past.

Because of inflation-induced cutbacks, we are seeing the beginning of a slippage in the standard of living in the military community. Health care reductions reflect fund shortages. Shorter hours in Post Exchanges and Commissaries further erode service. Utility repairs take lots longer. Essential maintenance of buildings and facilities is being deferred, and, in general, there is a lessening in Service life attractiveness. This impacts not only on the all-volunteer effort but makes it more difficult to keep the good middle-management level of leadership.

We have to conclude that further erosion in these areas is definitely counterproductive. Because of the severe reductions that have already taken place in the military services, serious cuts in the size of the forces cannot be contemplated in the near future. Present planning calls for the active Army to program for the minimum of 785,000 for FY-76. Hopefully, National Guard and Reserve strengths will be maintained at the levels authorized by the Congress in FY-75.

It has been made clear by responsible government authorities, including the President and the Secretary of Defense, that these levels of Army troops are most essential in the months ahead.

Inflation has high visibility in the procurement field. The Department of Defense maintains a shopping list for Congress of 42 Defense Base programs on which close watch is kept to provide estimates of economic escalation. These include most of the major weapons systems in all Services. During the period March to June 1974, the cost to complete all of these programs (ranging out as far as 15 years) had risen $16 billion. The largest single quarter increase since the records have been kept. One example in this Selected Acquisition Report shows the costs to complete the B-1 Bomber rising by $3.63 billion.

One of the principal difficulties with the Army's procurement accounts in the FY-75 budget is the totally unrealistic directed approach to inflation. In the major procurement items, ($200 million or more), in the FY-75 budget, the Army was allowed to include an inflation factor of 4.5%. The actual inflation factor is proving to be around 12%. The difficulties are obvious.

For example, the Congress approved the purchase of 510 M60 A1 tanks as being essential to modernization, and readiness of the Army during the Fiscal Year. Because of inflation, the dollars appropriated will purchase only 439—71 less tanks than all agreed were needed. Tank costs have gone from $267 thousand each in FY-73 to $407 thousand in FY-75, and we can expect them to cost substantially more in FY-76.

In the minor procurement accounts, i.e., trucks, ammunition, fuel (items under $200 million), no inflation factor at all was permitted in developing the budget. These items were all costed at June '73 prices. In actual fact, inflation in these accounts has averaged around 9%.

In considering the impacts on major procurements, we have to be aware that production rates and new systems are pegged to the obsolescence of the systems they are replacing. Thus, one cannot extend the viable life of a given weapon or system simply because replacements cost more than anticipated.

In the Army, the problem of shortages in battlefield tanks has received some prominence in the news. In addition to the greatly increased costs which we already mentioned, several other factors complicate the picture. First as a result of surveying battlefield performance in recent conflicts, we have increased our assessment of our basic requirements for tanks by updating our combat loss factors. Secondly, we've sold more tanks to foreign countries than we have produced in the last 12 months. This was reflected by a drawdown from the Army National Guard for foreign shipment of more than 650 M48A3 and M-60 tanks—enough to equip 10 tank battalions or 2 Armored Divisions. We just can't speed up the production of tanks to meet our needs. We are hindered in this by a serious lack of facilities in this country for producing the necessary hulls and turrets.

While we have used tanks as a primary example of rapidly inflated costs, similar increases are reflected in double-digit inflation in almost every major item the Army procures. The Crawler Tractor T-11 for example has had an inflator of about 35% in the past year. This will cut planned procurement from 201 to 141. 155 Howitzer ammunition is up some 60%. As a result, we will have money to buy 1 million less rounds than we require. Obviously, such a shortage could not be made up promptly if the need arose.

A further major cutback has been suggested by the President who proposes impounding money for the purchase of 48 UH-1 Helicopters provided for in the FY-75 budget.

The total procurement figure is further aggravated by the necessity during this Fiscal Year to request reprogramming of $143.9 million of procurement money to simply meet the existing bills in the military pay, operation and maintenance accounts.

Another major investment area of the Army is in Research and Development. If no other consideration were involved right now, it would take $120 million more than was appropriated to accomplish the level of R&D effort which was approved by the Congress for FY-75.

But that's not all. Some $63.3 million had to be sweated out of FY-75 R&D projects to provide funds to operational accounts to assist in maintaining the readiness of Combat Forces.

In order to maintain an adequate level of effort on the Army's high priority Big 5 Research and Development projects (i.e., XM-1 Tank, Attack Helicopter, Troop Carrying Helicopter, the SAM-D surface to air missile and the Mechanized Infantry Combat Vehicle) funds have had to be diverted from other R&D projects. These are being stretched out in most cases although some may be dropped entirely.

Within the Big 5, examples of inflation factors may be found in estimates of total program costs. The Utility Transport Helicopter is up 23.1%. The XM-1 Tank has an added 24.2% inflation factor. The Attack Helicopter shows 26.2% for inflation. In the case of both of the helicopters, this will result in their programs being restructured and their planned scope substantially reduced.

Here again, the reason the budget is so short is because no inflation factor was permitted in the budget for R&D items under $50 million, and an obviously inadequate factor for those over that figure. We tend to be particularly alert to our immediate shortages and needs, but the fastest way to produce an obsolescent Army and to move steadily toward second-rate status is to continually reduce and constrain the research and development effort. It's essential for our long-term security that adequate funds be applied consistently in this important area.

The impact of inflation on the operations and maintenance activities of the Army equates most closely with the bread and butter inflation issues which every American is confronted with daily. When constraints, such as a shortage of purchasing power, are applied in the operations and maintenance area, we see the consequences most quickly in reduced combat readiness and installation, and personal service support areas.

When the budgets were prepared, no inflation factor for items in Operations and Maintenance were allowed. The actual range of inflation has gone to as high as 300% in the case of ADP Paper. The charts indicate numerous other examples.

Operation and maintenance inflation impacts, from July 1973 to July 1974

[Unit price change in percent]

Utilities:	
Natural gas	21
Electricity	88
Coal	100
Supplies—Overall:	
Tire, ¼-ton truck	56
Tank tracks	110
Blankets	82
ADP paper	300
Electronic items	35
Tank periscopes	79
Howitzer tubes	25
Crankshaft	32
Maintenance, materiel—Overall:	
Building supplies, wood	25
Plumbing supplies, lavatory	43
Construction, asphalt	104
Paint, semi-gloss	56
Contractual services: maintenance contracts	15

Here in the middle of FY-75, it is now estimated that the Army will need $245 million more than was appropriated just to pay current utility bills and fuel costs. This money will have to be reprogrammed from other essential projects.

The consumption of petroleum products by the military forces will be limited as much by price as by any shortage. The Army, which uses 10% of the DOD total POL expenditure has already instructed its units to reduce POL consumption by 15% over the FY-73 rate and further cutbacks may be necessary. The Army is difinitely spending more and driving less.

In terms of depot maintenance and programs to rebuild unserviceable equipment, inflation impacts in two basic ways: (1) Funds are diverted from maintenance to offset inflation-caused shortages in activities directly involved in combat readiness. The Army Materiel Command has already given up $15 million in depot maintenance funds for this purpose in FY-75. (2) Programs are managed so that high priority maintenance items, i.e., tanks, are not unduly affected. This then increases the maintenance backlog in other items causing a long-term decline in maintenance readiness.

During FY-75, Depot Maintenance purchasing power will be reduced an additional $40 million at the going inflation rate. An example: Average cost for tank overhaul increased from $45,300 in FY-73 to $60,800 in FY-74. There is every reason to believe it will cost even more in FY-76.

The cost of repair parts has sky-rocketed and this plays havoc with the Army's stock fund system of supplying repair materials and parts. There is no flexibility in applying inflation impacts to the stock fund. For example, the budget cannot be adjusted automatically to take care of the 110% increase in the cost of tank tracks, so these unbudgeted costs show up in the operation and maintenance accounts of the Services.

Maintenance and rebuild are further affected by the inflation-produced increases in production lead time for parts and components—the producers of parts are more reluctant to tie up capital in inventory.

The primary problem of increased cost of both parts and labor are at depot level and have not hit unit maintenance as yet.

The Army's original request for O&M funds which were approved by DOD was cut some $160 million by the Congress. Inflation has already eaten up another $455 million—so the present problem is a shortage of $611 million in operation and maintenance funding.

If we were to summarize some of the principal degradation in the Operations and Maintenance Area that can be attributed in major part to inflation, the list would include:

a. Readiness condition slippage

b. Troop diversions from training to maintenance

c. Hire freeze & Civilian RIF

d. Cutbacks in civilianization program

e. Increased field maintenance backlog

f. Reduced commissary working hours

g. Data processing systems, reduced or delayed

h. Printing drastically curtailed

i. Diversion of funds to utility costs

j. Reductions in TDY Travel

k. Reduced flying hours

l. Reduced training and exercises

m. Reduced maintenance of real property

Inflation is impacting also on training and readiness but the exact measurement and prediction of how much, how soon, is elusive. There is an obvious time lag between reduced training or maintenance funding, and the degradation of the ability of a unit to perform its misison. It is equally obvious that unless there is fiscal relief, readiness status can be expected to worsen at an increased rate. As learned skills become rusty and equipment condition becomes worse, readiness status can be expected to decline markedly. Measurement will be difficult, but the impact will be real.

The Department of the Army is developing an analysis which it hopes will provide a more accurate appraisal of current operational readiness.

Units in the field have been asked to provide specific quantitative indicators of degradation to readiness being caused by current inflation and reduced funding. As a minimum, these areas are to be examined:

a. Militatry occupational Specialty Qualification due to a lack of funds for school or training travel

b. Adequacy of training area

c. Exercises and inspection

d. Firing and proficiency tests

e. Deadlined equipment

f. Availability of POL

g. Troop diversions caused by a lack of civilian personnel

h. Adequacy of repair parts

i. Proper tools for repair

j. Overhaul capabilities

Double-digit inflation has come at a time when the Army is shifting more troops from support to combat units. This has upped training cost requirements both for individuals and units, plus the costs of additional equipment for the newly formed combat units.

The diversion of equipment from the National Guard and the Reserve for foreign sales has also impacted on the readiness of those components since replacements cannot soon be made.

There can be no question that inflation will take its toll as well in training and readiness. Additional diversion of support money will be hard to come by—so this is a matter to be faced squarely in the FY-76 budget.

Additionally, Congress eliminated $2.6 billion from the FY-75 Defense Budget, and the President has suggested impounding $400 million more. These contrast to the Health, Education and Welfare budget, for example, which has been growing at the rate of 100% every five years.

The Services themselves have put forth an extraordinary effort to tighten belts and manage more efficiently their resources.

One of the more dramatic efforts has been the elimination of headquarters personnel spaces and the allotment of those spaces to additional combat units. Within the next three years, the Army expects to add three combat divisions to the actual force with no increase in the overall strength of the active Army.

We have already mentioned the in-depth study of Army Research and Development programs and the decision to stretch out or drop completely the lower priority projects.

The logistical community of the Army accepted the challenge to streamline its logistical support for the combat structure. Starting in August, 74 senior logisticians from the Office of the Deputy Chief of Staff for Logistics, U.S. Army Materiel Command, the Logistics Center and MTMC directed an effort known as Project LEAP which so far has identified savings in this Fiscal Year of 767 personnel and $2 million. They are currently examining some nine other areas that promise greater savings.

At every level, cost economies are being imposed—almost to the point of being counterproductive. The encouraging thing is that many of these are Army initiatives and will bolster the case for an increased FY-76 budget—sure to be closely scrutinized by the Congress. The Department should be in good shape to authenticate its cost effective management of the resources which it has been provided.

The impact of inflation on the defense establishment is felt very directly in the civilian business community and the labor market. However, the Defense impact on total U.S. economic performance is far smaller than at any time since the 1940's.

During the period that inflation was building in our defense costs over the period 1965–1973, there were changes, too, in the civilian economy that we must keep in mind:

a. Median Family Income Up 73%; b. Per Capita Disposable Income Up 76%; c. Wholesale Prices Up 39%; and d. Consumer Prices Up 40%.

Food, fuel and commodity price explosions, coupled with excessive dollar devaluation, account for the great bulk of the 1973–74 inflation. Actually, the real volume of Federal spending is lower today than in 1972.

Dr. Walter Heller, former Chairman of the Council of Economic Advisors, writing in the *Wall Street Journal* made the point that "the experts are virtually unanimous in their conclusion that short of brutal budget slashing, budget cutting will do very little to reduce inflation. A $5 billion reduction would shave a mere 0.1% or less from the rate of inflation."

Military planners are naturally concerned about the risks engendered by further cuts in the adequacy of our forces for potential contingencies. But the dangers go beyond that consideration. As Philip Odeen pointed out, writing in *Foreign Affairs*: "In a world of summit meetings and whirlwind shuttle diplomacy, the perception of military power by key national leaders plays a far more critical role than the complex calculus of military planners and analysts. Crucial decisions are often based on partially informed and unsophisticated views of policy-makers on the military capabilities of other powers . . . thus, the fact that U.S. Forces are 35% smaller today than five years ago has impact—We must look at our military posture in terms of how well it deters others from threatening our interests, and not only in terms of how well our military could fight in the event a conflict breaks out."

MAJOR COMBAT UNITS

	1964	1974	Percent reduction
Divisions	19	16	16
Aircraft Carriers	24	14	42
Naval vessels	915	520	43
Tactical air wings	40	38	5

So the conclusion can only be that budget cutting is no solution. In fact, if we are to maintain our forces even at their reduced levels, additional dollars, inflated though they may be, will be required in the FY-76 budget. We must, in future budgets, address the inflation problem realistically. Our forces can only remain viable when they can operate, plan and train with stable purchasing power in their budgets.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. CRANSTON. Mr. President, a little over 3 years ago, in a floor colloquy with several other Senators who, like me, had changed their views on rule XXII, I explained my reasons for favoring continuance of the requirement of a two-thirds vote to invoke cloture—at least for the time being.

I stated then, that should the time come that a change occurs in the conditions that prompted me to support continuance of the two-thirds rule, I might advocate making it easier to halt a filibuster. Say, by requiring only a three-fifths vote for cloture—a position I had supported my first year in the Senate.

I believe that conditions have changed. I believe the time has come when we should make it easier to halt a filibuster so as to allow critical, controversial legislation to come to a vote. I favor modifying rule XXII to permit cloture to be invoked by a three-fifths vote.

Let me, once again, explain my reasons.

Three years ago, I warned that governmental powers had gotten dangerously out of balance, that Congress had fallen into a habit of deferring time after time to the Executive, and that Congress—far from being the coequal branch our Constitution intended—had become the weakest element in our Federal structure.

I warned that the concentration of power in a single branch of our Government, much of it in the hands of a single man, was inimical to freedom, especially in this age of computer banks, wiretaps, and nuclear missiles. And especially when so much that goes on in the executive branch goes on in secrecy.

I said that under those circumstances I opposed curtailing further the ability of one Senator—or a small group of Senators—to use the mechanism of debate to slow, and perhaps block altogether, precipitous, unwise, or unconstitutional action by a Congress too subservient to a too-powerful President.

Clearly, the situation has changed. It has changed in the White House, which has been cleansed of men who practiced deceit, duplicity, lawlessness, and the dirty tricks of the totalitarian state in an arrogant lusting for power for its own sake. And it has changed in the Congress which, through such measures as the War Powers Act and the Presidential Recordings and Materials Preservation Act, is reclaiming its rightful authority and responsibilities—as well as its independence and self-respect.

I am confident the new Congress can hold its own in negotiations with—and, should it come to that, in confrontations with—the Executive. I think the Nation, and individual Senators, need have less concern today over possible Presidential usurpation of power with the acquiescence of a supine majority in Congress.

The more pressing, immediate need is for a more efficient Congress, a Congress that is equal of the executive in effectiveness and purpose, a Congress that can act decisively and expeditiously to deal with the critical problems which today plague our country and the world.

Congress, the constitutional bulwark against one-man rule, is threatened today not by an overbearing President but by its own internal weaknesses. Congress must become a more effective instrument of government if it is to remain a major factor in governmental decisionmaking. In these trying times, a feeble, ineffective Congress, incapable of reaching timely, well-informed decisions, will again see its authority wither away and its power forfeited.

Congress has begun to make the requisite institutional reforms through such measures as the Congressional Budget and Impoundment Control Act. I believe the next step toward creating a more effective Congress should be modification of rule XXII.

Filibustering of controversial legislation has become all too easy these days. Ironically, it has become too easy because of the two-track system—itself a reform instituted to speed Senate action on legislation.

I am not being critical of the two-track system. It is a sound reform and I am proud of the role I played in helping bring it about. I believe we should continue the two-track system. But I also believe we must now deal with some of its less desirable consequences.

Back in the old one-track system days, a filibuster was hard on the filibustering Senator or Senators, who had to hold the floor virtually without interruption and without rest.

It was also hard on effective government. All Senate business would grind to a complete halt against the barrier of the filibuster.

The two-track system enables the Senate to circumvent that barrier. The Senate now can continue to work on all other legislation on one "track," while a filibuster against a particular piece of legislation is theoretically in progress on the other "track."

I say "theoretically" because another consequence has been a change in the nature of the filibuster: it is no longer a physical endurance contest. A Senator these days need merely declare his intention to filibuster a piece of legislation for him to effectively block that legislation from coming to a vote.

As a result, the Senate suffers from a growing surfeit of filibusters. Things are rapidly getting out of hand.

Only three filibusters—involving just six cloture votes—were conducted in the 91st Congress, the last under the one-track system.

The number of filibusters tripled in the 92d Congress, with 9 filibusters embroiling the Senate in 20 cloture votes.

By the 93d Congress, the number of filibusters had nearly doubled again—to 16—with 31 cloture votes being called.

If filibusters are going to be all that easy and all that frequent, then I say we had better take some reasonable steps—now—to bring the situation under reasonable control. We should make it easier to stop filibusters and still protect the rights of Senate minorities and assure adequate debate.

After all, we must bear in mind the primary purpose of most filibusters: to prevent a vote on legislation which appears to have majority support.

I believe that reducing the number of votes required for cloture from two-thirds to three-fifths—from 67 Members of the full Senate down to 60—is a fair, moderate, reasonable step to take. Or to put it negatively, I do not think it is at all unreasonable that it require 7 more Members—4 instead of 34—to prevent the Senate from voting on a measure which the majority favors.

I cannot foresee my ever wanting to go below 60 percent. I certainly would never favor cloture by simple majority vote, a move that would effectively eliminate extended Senate debate altogether. Full deliberation must remain a viable part of the Senate arsenal of weapons against arbitrary power and tyranny.

Extended debate and its parliamentary offshoots—unanimous consent and the right of every Senator to offer floor amendments to committee bills—are every Senator's check against potential despots in the White House and potential autocrats in the Senate.

It is the unlimited right of each Senator to seek to amend legislation, as much as his freedom to debate it, that is the distinguishing strength of the Senate, as contrasted with the other body, in avoiding the worst abuses of the committee and seniority systems. We must never give it up.

Extended debate is also every Senator's protection against the tyranny of the majority. Senate debate can be a tool for moderation; it can force compromise in instances where one side or another is so powerful that it does not make reasonable compromises.

Full debate can also give the people time to express their will. Because representation is determined in the Senate by State rather than by population, the view held by a Senate majority may not always reflect the view held by the majority of the people.

The overriding value of extended debate is the protection it affords minority rights. Democracy to me, and to most Americans, means not only majority rule with constitutional limits on governmental powers, but also protection of minority and individual rights.

I believe that full Senate debate, judiciously used and reasonably circumscribed, is an indispensable part of that protection.

EDWARD LEVI

Mr. STEVENSON. Mr. President, not often, but occasionally, there comes before the Senate a Presidential nominee of almost luminous distinction. At such moments, the question before the committee that reviews the nominee—and the question before the full Senate—becomes, not so much whether the nominee can measure up to our standards, but whether we can measure up to his.

So it is with President Ford's nomination of President Edward Levi of the University of Chicago to be Attorney General. In naming Mr. Levi, the President has chosen an eminent lawyer, renowned scholar, and a capable administrator; a man whose ability and integrity will be particularly appreciated at this moment in history.

It is a sad fact that the Department of Justice was a principal victim of the tragic Watergate era. In the past few years, the Department of Justice, whose reputation for professionalism and even-handedness had been carefully built, was abused by those who took it over. The office of Attorney General became, for a time, a headquarters for political dealing; in 2½ years, we had five Attorneys General.

Two were convicted of crimes; one was forced to resign because he refused to bend principle to expediency; a fourth was never even presented to the Senate for confirmation.

I believe that the citizens of the country—and particularly the dedicated professionals of the Department of Justice—deserve a new Attorney General: a leader capable of restoring dignity, respect, and professionalism to the administration of justice. Half a century ago the Justice Department underwent an upheaval not unlike that of recent years, and the Attorney General of that day, Harry Daugherty, was finally ousted. President Coolidge then turned to the Nation's community of legal scholars and chose a distinguished successor, Harlan Fiske Stone, to head the Justice Department. President Ford's choice of Edward Levi is every bit as fortunate.

Mr. Levi's career in the law began almost 40 years ago with his appointment as an assistant professor at the University of Chicago Law School. This began a happy involvement in legal scholarship, which included Mr. Levi's authorship of a classic in jurisprudence, "An Introduction to Legal Reasoning." Not long ago another expert described Mr. Levi as one of the two most brilliant scholars of antitrust law of his generation.

But his achievements have not been confined to ivory tower scholarship. Mr. Levi was the principal draftsman of the atomic energy control law of 1946—and his work provided the basis for a new approach to domestic control of atomic energy. He spent 5 years in the Antitrust Division of the Justice Department as Thurmond Arnold's top assistant and later he served the Congress as Counsel to the House Judiciary Subcommittee on Monopoly Power. Mr. Levi's advocacy before the Supreme Court in cases involving Illinois post-conviction procedures resulted in substantial reform of Illinois' criminal procedure.

And Edward Levi is not only a genius in the law; he is an administrator of proven ability. His stewardship of the University of Chicago Law School led to his appointment as president of the university. He has established a record of innovative but responsible change in curriculum. He has shown a shrewd grasp of budgetary matters in an era of growing financial difficulty for higher education. He has demonstrated, both as dean of the law school and as president of the university, a much-envied ability to attract scholars of the highest quality, to earn the respect of the student body and, in times of stress, to maintain the self-discipline of the university.

What Mr. Levi has brought to a great American university, we urgently need now in the Cabinet: firm and intelligent leadership—and beyond that, distinction of intellect and character. Edward Levi, I am convinced, will bring to the office of Attorney General the scholar's traditional objectivity; a personal probity that is unquestioned; proven administrative skill and valuable experience in the Department he will head.

I congratulate the President, who, with this appointment, has reached toward real distinction. I urge my colleagues in the Senate to confirm President Levi with the dispatch that his ability and character justify and deserve.

THE SUM OF $300 MILLION IN NEW CREDITS FOR THE SOVIET UNION IS NOT "PEANUTS"

Mr. STEVENSON. Mr. President, Soviet repudiation of the 1972 Trade Agreement has been attributed by some to the "Stevenson amendment" to the Export-Import Bank Act. It has also been said that in passing this amendment, the Senate repudiated the so-called Kissinger compromise on emigration from the Soviet Union. Both allegations rest on a misunderstanding of the amendment and the circumstances surrounding its adoption. Developments since then provide useful lessons about the need for candor in the conduct of U.S. foreign policy.

The Stevenson amendment provides, among numerous Export-Import Bank revisions, that if the President wants to extend more than $300 million in Exim credits to the Soviet Union in addition to the almost half billion dollars which has already been granted, he must seek and receive congressional approval. It does not, as has mistakenly been stated, impose a $75 million per year limit on such new credits. It does not, contrary to some impressions, place an absolute ceiling of $300 million on the future availability of such credits. And it does not, despite reports to the contrary, require Congress to approve each such credit in excess of $300 million.

In short, the Stevenson amendment gives the Congress an opportunity to exercise its constitutional role as guardian of the purse if the President wishes to extend more than $300 million in additional Exim credits to the Soviet Union. The amendment is the outgrowth of an effort which I, and a number of other Senators who, like myself, support the objectives of free trade and détente, undertook in order to save and reform the Bank.

The credits authorized for the Soviet Union are not "peanuts," as Secretary of State Kissinger unfortunately chose to characterize them. The amount exceeds the assistance which the Soviet Union is presently seeking from the Bank. Moreover, throughout consideration of the legislation, administration spokesmen made it clear that the provision was one the administration could live with, and Secretary Kissinger, himself, raised no strenuous objection.

Nor can the provision be characterized as discriminatory, as the State Department has maintained. In fact, the Soviet Union, wealthy and largely isolated from the economic distress of the world's democracies, has been one of the Bank's preferred customers. In the space of only a year and a half, it received $469 million in Export-Import Bank loans. In addition, the Soviet Union has received more than $500 million in other U.S. credits for the purchase of American grain on preferential terms. The grand total is thus more than a billion dollars in U.S. credits over the last 2 years, not counting $165 million in subsidies for U.S. grain exporters. And under the Stevenson amendment the Soviet Union could receive virtually unlimited additional Export-Import Bank credits beyond the newly authorized additional $300 million so long as Congress approved.

I was at pains during the Senate debate to point out that the Congress had no intention of discriminating against the Soviet Union. The Congress was merely recognizing that the Soviet Union was in a special class. With a GNP second only to our own, and the resources to generate foreign currencies from the sale of oil, gold, and other commodities, it is able, as purchases from the West Germans have proved, to pay for its imports in cash.

The purpose of the Stevenson amendment is to prevent the imprudent granting of credits without an adequate assessment of U.S. interests by providing an opportunity for congressional review. But such review is triggered only when the amounts involved reach the three-quarters of a billion dollar level. It does not interfere with trade between the United States and the Soviet Union; it merely provides that beyond a certain point, the Export-Import Bank cannot continue to grant preferential credits at the expense of other nations and capital-short industries at home, without giving the Congress an opportunity to reassess the wisdom and direction of U.S. policy.

Reference to the amounts involved as "peanuts" reinforces the need for review. Where does it stop? Is not the expenditure of vast sums of U.S. funds abroad a legitimate congressional concern? I, and others who support this amendment, are quite prepared to use every means at our disposal, including credits, to pursue legitimate foreign policy objectives. But the Congress does not, in the name of executive branch responsibility for foreign policy, have a duty to give this or any other administration a $25-billion blank check on the Export-Import Bank. It has a duty to assure that moneys are expended for sound purposes, and in this case to examine administration programs to assist Soviet development of fertilizer plants, trade centers, energy projects, and truck factories just as it does in the case of foreign-aid projects. While the two are not the same, the dissimilarities between foreign aid and Exim credits tend to disappear as Exim supports large development projects abroad instead of routine sales of finished U.S. goods.

Large Exim investments abroad, made principally in developed nations, can have adverse economic, as well as political, consequences. Why, for example, should the United States export its capital to develop energy in the Soviet Union and increase its dependence upon foreign sources of energy—at the expense of domestic sources—or develop plants in the Soviet Union and elsewhere which in time will produce trucks or other commodities in competition with our own? Such capital exports can have an adverse long-term effect on the balance of payments, make foreign sales more profitable than domestic sales for U.S. companies, and aggravate shortages and the credit crunch at home. Under the new legislation Congress will undertake to review the largest Exim transactions worldwide. Adverse economic consequences can flow from Exim-supported development projects in any country.

If some political purpose is to be pursued with credits, the Congress has a right to ask what purpose and specifically what has been achieved. In this context the administration has focused on the Soviet Union, because it is with the Soviet Union that it pursues détente with cash. It remains to be seen what the United States has gained from the extension of over $1 billion in U.S. credits to the Soviet Union over the last 2 years. So far it has been a highly profitable venture for the Soviets and a highly expensive one for the United States.

That raises a larger question about the propriety of dollar diplomacy, the notion that political objectives can effectively be pursued with cash. The evidence indicates that nations are not likely to alter their external or internal policies for cash—or the withholding of cash. Credits can cultivate trade, development and a relaxation of tensions. But the point here is that in an area of such uncertainty, Congress has a constitutional obligation to exercise the power of the purse responsibly and realistically in pursuit of that process called détente.

In doing so through the Stevenson amendment, the Congress cannot conceivably be said to have repudiated the 1972 Trade Agreement with the Soviet Union. That Agreement never required the unconditional grant of unlimited credits. All it called for was for the United States to make export financing available in accordance with U.S. law. In no way did it preclude the Congress from making laws to protect the national interest.

It was the Soviets who took the step of repudiation. They did so, they contend, because of trade bill provisions regarding emigration. But in doing so, they relieved themselves of the obligation to repay millions of dollars in old debts to the United States. Such action calls into question the wisdom of heavy investment in the Soviet Union for political purposes, for, thus far, such investments appear to have strengthened the Soviet Union's political bargaining position. And that, I might add, was one of the considerations which led to passage of the Stevenson amendment.

Nor did the Stevenson amendment repudiate the so-called Kissinger compromise on emigration from the Soviet Union. It now appears that such a compromise never really existed, except perhaps, in the vaguest of terms. The October letter from Foreign Minister Gromyko to Secretary Kissinger, which was kept from public and congressional view until after the trade and Exim bills were passed, states there would be no change in the Soviet position on this difficult issue and that the Kissinger-Jackson exchange of correspondence on the matter had created a "distorted" picture of the Soviet position. Since Secretary Kissinger did not disclose the Gromyko letter, Congress had no way of knowing that the United States and the Soviet Union were on a collision course with passage of the trade bill. Furthermore, the Stevenson amendment contained no link between credits and emigration. It subtly conditioned future credits after another $300 million on progress across a far broader front.

State Department labeling of the Stevenson amendment as "discriminatory" and the Secretary of State's reference to $300 million in unconditional additional credits as "peanuts" do little to further United States-Soviet relations. Had the Soviets not been moved to repudiate the trade agreement, credits could have continued to flow and most-favored-nation status could have been granted. Misleading statements about the effect of the Stevenson amendment can only serve to harden Soviet attitudes and make progress toward improved relations more difficult.

I am hopeful that with a perception of the truth the Soviet Union will accept a realistic spirit of détente shared fully, I believe, by a large majority in the Congress. And it is my further hope that the debate will now center on facts instead of misleading impressions in order that relations between the legislative and executive branches, as well as relations between the United States and the Soviet Union, are not again needlessly embarrassed.

THE PRICE OF OIL

Mr. STEVENSON. Mr. President, in the December 30 issue of the Washington Post, George McGhee, the former U.S. Ambassador to West Germany, described vividly the threat posed by OPEC energy prices. He recognizes, rightly I believe, that depression and political upheaval among the non-Communist nations will not be prevented by bluffing, cajoling or dealing with symptoms, instead of the cause of looming distress. The cause is the OPEC price for oil. If the administration saw fit to use its authority under the newly enacted Export Administration Act Amendment it might begin, with other consuming nations, a negotiating process that could lead to lower oil prices. Instead, it has recognized the connection between energy prices and depression and then proposed higher domestic energy prices. This madness must be ended, and for reasons which are ably described by George McGhee.

Mr. President, I ask unanimous consent that his article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PRICE OF OIL: ACHILLES HEEL

(By George C. McGhee)

Because of the high OPEC oil price, the free (i.e., non-Communist) world, without really appearing to know what is happening to it, is starting a long slow descent into economic catastrophe. Many commentators have correctly analyzed the seriousness of the problem, however, no one has yet reached what I consider to be the unavoidable conclusion as to what must be done. This is not a problem for the international oil companies. They are helpless. It can only be resolved by governments. Yet world leaders seem mesmerized—hoping the problem will go away. Our foreign ministries and oil experts busily elaborate small schemes around the periphery of the problem. It is seemingly not understood that there is no way in which the problem can be solved by market forces. President Ford and President of France Giscard d'Estaing agreed recently at Martinique to a meeting between oil consuming and producing states. This is in itself a welcome development. However, I believe I can demonstrate that such a meeting holds no hope for a solution unless it leads to a reduction in the price of oil.

Let's look at the alternative solutions held out by conventional wisdom, focusing on the next five years.

1. *Reduction of demand*. Percentage possibilities are small. The U.S. goal of reducing 1 million barrels a day, which is not being met, is only 6%. This will be more than offset by natural decline in U.S. production and announced denial of Canadian supplies. The oil needs of Europe and Japan are mainly for industry, those of the developing world for agriculture and essential energy, and therefore less elastic than ours. The current Japanese goal is a 3% reduction. The Common Market hopes only to limit increases in oil demand over the next 10 years to 3.5% a year.

2. *New oil and other energy sources*. Substantial new non-OPEC oil, from the North Slope, North Sea and offshore U.S., is 4–5 years away—new energy sources 10–15 years. This timing can not be appreciably altered by increased prices. All will be high cost. At no time in the foreseeable future will the world need less OPEC oil than we now consume.

3. *Recycling the OPEC surplus*. The present deficit of the consuming countries with OPEC arising out of their $100 billion a year oil bill is $60 billion, $40 billion for the developed countries and $20 for the undeveloped. No one holds out hope that these deficits can be decreased appreciably over the next five years by increased exports to OPEC. Free world fiscal institutions simply can't stand the strain of recycling the estimated $450 billion OPEC surplus over the next five years. A basic problem with all recycling schemes is that the money doesn't go to the poorer countries who need it to buy oil unless someone guarantees repayment. To the extent that the producing countries do not extend credit directly to the deficit countries, the burden falls on the U.S. and Germany, who alone are in a position to pay. This we couldn't afford to do even if we wanted to.

Even if everything is done that Secretary Kissinger proposed in his Chicago speech of November 14th, and there is no reduction in the oil price, the problem will remain with all of its grim aspects. Italy will still go bankrupt because it can't pay its oil bill and will probably turn either to a Communist or a rightist government. Former German Chancellor Willy Brandt recently proposed that the Common market relegate England and Italy, because of financial difficulties caused principally by their oil deficits, to second-class status. This would be the beginning of the end for the Market. Brazil falters in its economic climb because of oil costs. Starvation in India and Bangladesh, largely a result of a shortage of funds for fertilizer and food because of the oil price, proceeds apace. Because of our high oil bill, the U.S. appears to be "locked into" a recession which would otherwise "bottom out" much sooner.

The world must have its 30-million barrels a day of OPEC oil but cannot find the means to pay the deficit that was created, literally overnight, by the increase in oil prices. No matter how justified it may have been on theoretical economic grounds, the increase simply created too great a hiatus in the world's trade and payments to be assimilated. The international trade in petroleum at current prices equals that of all minerals and foods combined. The price increase levied an onerous tax on every oil consumer. It reduced correspondingly means of payment and hence world demand for other goods and services creating the present world depression, including an estimated 1.2 million of the U.S. unemployed.

Combined action to lower the price is made more difficult because the consuming countries are divided. They look at the same problem from different vantage points.

Some, like Italy and the South Asian countries, are paralyzed into inaction by fear of having their oil cut off.

Others, like France and Japan, seem to have just enough confidence to think they can bluff it through alone—with special deals on oil prices and compensating sales of goods.

Germany and the U.S., the strongest exporters and least dependent on foreign energy, are relatively immune. We could both, if we were on our own, survive the oil price. This makes it even more difficult for our leaders to assume responsibility for those sacrifices required to save the rest of the world before their disaster engulfs us too.

A solution is also made more difficult by the general confusion surrounding the problem—its highly technical nature and the misinformation provided by the self-seeking. There is much sympathy, particularly in the undeveloped world, for the producing countries that have until recently been denied the benefits from their own natural heritage. However, just because the world in recent years paid only $1.50 a barrel for Middle East oil when the U.S. domestic price was close to $3—doesn't mean that we can all now afford to pay between $10 and $11. England, Italy, France and Japan are, as a result, running deficits in their balance of payments of between $7–$10 billion a year. A $10 billion deficit for Italy is, per capita, the rough equivalent of $40 billion for the U.S. Only Germany, of all the leading industrial countries, shows a positive payments balance. The U.S. balance turned negative last month, largely because of the $24 billion that we must now pay for the imported oil.

Some tend to accept the oil price because it is a "market" price, overlooking the fact that it results from an arbitrary quadrupling of the price by a producers' cartel. Others muse that what goes up must come down—that surpluses and deficits go in cycles. There is a complacent theory that inflation in the non-producing countries will level the oil price. Inflation can, like death, solve any problem, but only in the cruelest possible way—by increasing the price of all the needs of the deficit countries. The OPEC countries, moreover, have continued to edge their price along as fast as inflation (35c a barrel at their last meeting). Despite their promised 9 months standstill, they are unlikely to permit much price slippage. Some believe that everything will come out all right if we will just be patient and let the Arabs invest their oil profits in our land and stock market.

But the problem will not "just go away." It goes on inexorably—day and night. It will continue into the future as far as we can see—well beyond the limit of the "time bomb" now ticking away under the free world's economy. The debts arising out of the oil price are cumulative and irreversible. The interest cost on oil debts alone, and the interest on unpaid interest, will "snowball," until it becomes intolerable. The threat posed by the possible withdrawal of recycled funds from our banks and stock markets increases daily, particularly in the U.K. and other weaker countries. A proposal has been made by a knowledgeable group that the producing countries accept half the oil price from deficit countries in local currencies under soft loan conditions. Such a plan should be welcomed if it is the only way a beginning can be made. I regret to say, however, that even if acceptable to the OPEC countries, I believe it will ultimately end in defaults and recriminations.

The plain fact is that there is no real alternative to lowering the OPEC oil price. And this means lowering it substantially—to something between $6–$7 a barrel. Since most OPEC producing costs are negligible, this price will still give the countries collectively more income than they can currently spend internally, with a surplus for investment. This is also just about our present average domestic price, which we should stick with as an example. Such a reduction would save all consuming countries together $45–$55 billion a year in their deficits with OPEC, leaving a balance which could be handled. And this *is* a solution—the *only solution*.

Because this way out is not seen clearly, extremists leap over it and propose more drastic military solutions—the landing of marines and the seizure of the oil fields. This is sheer fantasy. I very much hope that the rumored contingency planning in the Pentagon for such a course has no official status. There are a dozen reasons, apart from the expected Soviet reaction, why military action would not work—why it would result in another Abadan withdrawal-Suez invasion-Vietnam intervention fiasco for the Western powers. None of us nor any combination of us can control and run by force the oil fields of the world. Most importantly—it is not necessary.

The oil states are living in an unreal world. Most of the countries to whom they sell their oil will never be able to repay the loans they are of necessity making. When their credit is exhausted and they can no longer obtain oil, they will turn against the oil producers, who will not be able to withstand the aroused force of world opinion. The rulers of the oil states are vulnerable. There are many rivals for their new wealth. They are not as strong or united as they appear. Although gratitude has never been a redeemable currency in international relations, our record of past support for the key OPEC rulers—and their countries—entitles us to a hearing in behalf of a beleaguered world.

In this situation only the United States can provide leadership. Only we have the major cards to pay. We must in such an endeavor have the backing of Germany, Japan, England and, after Martinique, hopefully, also France. For once developed and developing countries have a basis for a common cause. We must use persuasion, the exertion of moral force in appealing to the reason and highere instincts of the OPEC leaders to cooperate in averting a world crisis by lowering the oil price. We must provide assurances for their countries' security, which would be imperiled by a world depression and economic collapse that could be exploited by the international communism. We must guarantee protection against price inflation in their future purchases from us. We must offer a new regime between producing and consuming countries that will be fair to both and with which both can live. The planned meetings between consumer and producer countries and among consumer countries can assist in this process. I believe that the OPEC leaders can be made to see that it is in their interest as well as the interest of the world's peoples that a supportable price level for oil be set.

But if this approach fails, the consuming countries must proceed to use every political and economic means that we have—which are more powerful than we think—to bring about the necessary price reduction. At the appropriate time it will not be difficult for those responsible to write the scenario as to how this can be accomplished with minimum disruptive effect. The producing countries are totally dependent on the free world industrial states and our companies for the technical and managerial basis for their oil production and ambitious development plans. They need our banks and markets to preserve the value of their surplus funds and to earn a high return. They need our transportation and other international facilities. The Communist block cannot provide similar resources. Indeed, the key producing countries live in a part of the world that has over the centuries been the prime target of Russian expansion. They need our arms, which they are now purchasing on a large scale, and the continued support of our military establishment. They need our political support.

What we otherwise make available gladly, we must be prepared where necessary to withhold—if the alternative is the demise of the free world institutions. There are risks involved and possible unpleasantness, but this must be accepted. If all else fails the "crunch" must come. And if it comes I am convinced that the interests of the free world as a whole will prevail—without war—and that the price of oil will come down. Because it must come down. There is no other way to avert disaster for us all, producers and consumers alike.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I asked the distinguished Senator from Kansas to withhold his request pending the arrival of the distinguished Senator from Massachusetts (Mr. Kennedy), but I understand there is a relationship between what he proposes to do and the end of the morning hour at 2 o'clock.

If the Senator would allow me, I would like to ask the Senator from Kansas be recognized at this time to make the motion I asked him to withhold pending arrival of the Senator on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Does the distinguished majority leader, if he will yield, ask unanimous consent that the motion may be made at this time?

Mr. MANSFIELD. I understood the Senator was going to make the motion and I asked him to withhold it and I asked the Senator from Massachusetts to abstain while the motion is made.

Mr. PEARSON. Very well.

The VICE PRESIDENT. The time for routine morning business has expired. We are still in morning hour.

The Senator from Kansas.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. PEARSON. Mr. President, once again, I move the Senate proceed to the consideration of Calendar Item 1, Senate Resolution 4, amending rule XXII of the Standing Rules of the Senate, with respect to the limitation of debate.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

> A resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

The VICE PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which the clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. MANSFIELD) moves that the credentials of Louis C. Wyman and John A. Durkin and all papers now on file with the Senate relating to the same be referred to the Committee on Rules and Administration for recommendations thereon.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. MONDALE. Mr. President, I move that the Senate proceed to the consideration of Calendar Order No. 1, Senate Resolution No. 4, amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The VICE PRESIDENT. The clerk will report.

The legislative clerk read as follows:

Calendar No. 1, S. Res. 4, to amend Rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Minnesota.

At this point, Mr. HELMS assumed the chair.

Mr. ALLEN. Mr. President, does the Senator plan to make any remarks with respect to his——

Mr. MONDALE. I have already spoken on this matter. I would hope to call up the resolution as the pending business at this point, and I so move.

Mr. ALLEN. Mr. President, the motion which the Senator has made, which he declines to discuss, would bring before the U.S. Senate the resolution to amend the rule, which in all likelihood would soon be followed by a cloture motion.

Mr. President, much has been said on the floor of the U.S. Senate about rule XXII of the Standing Rules of the Senate. Many have felt that rule XXII has granted some measure of unlimited debate. Actually, that is far from being the case. Rule XXII is a rule of limitation, rather than a rule of extension or the conferring of a privilege.

This matter has been coming before the United States for many, many years—the effort which the distinguished Senator from Minnesota is making with respect to amending rule XXII. All these efforts have failed, one reason being that those who would impose a gag rule, such as the distinguished Senator from Minnesota seeks to do, have been unable to amend the Senate rules as provided in the rules of the Senate, and that requirement is made by rule XXXII of the U.S. Senate.

What was the rule with respect to stopping or limiting debate prior to the adoption by the Senate of what is now rule XXII? There was no limitation. Senators could talk on and on and on.

The practice of unlimited debate came into play, in such a way as to cause the Senate to adopt rule XXII, or provisions that were later made rule XXII, during a debate that took place in the U.S. Senate, in this very Chamber, in 1917. At that time, as Senators will recall, the United States was moving toward entry into World War I. President Wilson, responding to the submarine threat to our shipping posed by policies of the German Government, felt that American shipping, our merchant marine, should be armed in order that defense might be made against attacks by German submarines.

To show the rise of executive authority since that time, if a President today thought that guns should be put on the merchant marine vessels, that decision would be made and acted on before breakfast some morning. The President would not come to Congress to ask for permission.

President Wilson, however, recognizing the separation of powers with respect to the executive, the legislative, and the judicial branches of our Government, advocated the passage of legislation that would allow the arming of our shipping. But Members of the Senate who opposed conscientiously and in dedicated fashion any action that would move us closer to that war in Europe discussed this bill.

Mr. KENNEDY. Mr. President, will the Senator yield for a question to be directed to the Chair, without losing his right to the floor?

Mr. ALLEN. Yes. I would be delighted to accommodate the Senator. Let him pose his question.

Mr. KENNEDY. I was wondering whether it would be possible if the motion that was made by the distinguished Senator from Minnesota could be set aside for a few moments, while we have an opportunity to consider another matter briefly. I do not know how long this will take, but we had been assured by the leader that we would at least be able to gain the attention of the President of the Senate at 2 o'clock.

Mr. ALLEN. I say to the distinguished Senator from Massachusetts that he posed his question to the wrong Senator.

Mr. KENNEDY. I am directing to the Senator from Minnesota.

Mr. ALLEN. That is what I state to the Senator. He made the request of the wrong Senator, because the Senator from Alabama has the floor, and he took it because the distinguished Senator from Minnesota declined to speak on his own motion.

The Senator from Alabama would prefer to continue his remarks directed against this motion to proceed to the consideration of Senate Resolution 4.

Mr. MONDALE. Will the Senator yield?

Mr. ALLEN. No, I am sorry, I decline to yield, because I have some matters I wish to bring to the attention of the Senate.

The Senator from Alabama had no idea whatsoever that he was going to be called on to speak with respect to this motion, and he waited as long as he possibly could, hoping that the Senator from Minnesota would find something good to say about his motion. The Senator from Alabama was anxious to hear some good points in favor of this resolution, and he waited as long as he could to see if the Senator from Minnesota would advance any reason whatsoever for the adoption of this resolution.

He declined to do so, putting the burden on the Senator from Alabama to make a few scattered remarks with respect to this resolution.

The Senator from Alabama, before he gets through, is going to seek to point out that this resolution should suffer the fate of all similar efforts in the last two decades to amend the rule. He is going to show, without any fear of successful contradiction, that the Senate precedents indicate that it takes, not the majority vote which the distinguished Senator from Minnesota says it will take to invoke cloture with respect to this resolution; the precedents indicate very clearly that it takes a two-thirds vote to invoke cloture.

Mr. President, before I yielded briefly to the distinguished Senator from Massachusetts, I was talking about the extended debate which took place in the Senate in early 1917. Possibly it was late in 1916, I think, nearly 1917, when Senator George Norris, a great liberal Senator from Nebraska, and Senator La Follette, from Wisconsin, a great liberal Senator, met this issue head on and discussed this ship-arming bill at length. President Wilson was, to say the least, outraged at the debate that was carried on by liberal Senators. Today they would be called, I assume, doves, because they did not want the United States to get drawn into that war. President Wilson used this phrase that was heard so often about a little group of willful men, a little group of willful men, representing no opinion but their own, having ground the great Government of the United States to a halt. And very soon after that, the provisions that now constitute rule XXII were adopted by the Senate.

What does that do? Rule XXII provides that whenever as many as 16 Members of the Senate sign a so-called cloture petition and file it with the clerk, 2 days later—as the rule says, the next legislative day but one—a vote is held in the Senate on the question of bringing that debate to a halt. And if two-thirds of the Senators present—that is, of a quorum—vote to bring the debate to a halt, then it is halted, with certain added limitations where any Senator who wants to may speak for an hour. Effectively, it is halted.

So, Mr. President, rule XXII does not confer the right of unlimited debate. That is what we had before rule XXII. Now we have strictly limited debate. We saw how debate on measures was brought to a close time after time in the 93d Congress, especially toward the end. Why, on the trade bill, Mr. President, without that being debated a single day, a cloture was filed. By a vote of 71 to 19, the Senate voted to halt debate—halt debate before it ever got started. That is what they did. There is no problem if the Senate wants to move. This is not a measure that obstructs legislation, as witness the case of the trade bill.

Then there was another bill, a little tax amendment bill, where cloture was obtained. Cloture was obtained on the supplemental appropriations bill.

There is no difficulty in getting cloture, Mr. President. It is not imposing any burden on those who would gag the Senate by changing this rule.

Mr. President, if we get cloture, if cloture is adopted, right before the vote on cloture, we could very easily make a rules amendment by cutting it down to where we can just have a majority cloture. Debate is on the way out, Mr. President, if this resolution is adopted.

Mr. President, much has been said in the Eastern press and here on the floor about supposed rulings—I am glad to see the distinguished Senator from California (Mr. CRANSTON) come in. Back in 1971, the distinguished Senator from California (Mr. CRANSTON) made one of the best speeches on the floor that has ever been made on behalf of rule XXII and keeping the two-thirds vote requirement. The Senator from California (Mr. CRANSTON) and the Senator from Idaho (Mr. CHURCH), in 1971, took the Senate floor. Both said they had seen the error of their ways in being for three-fifths cloture. They were going back to the old-time religion, Mr. President. They were going to be for two-thirds vote for cloture.

I notice the distinguished Senator from California (Mr. CRANSTON) did not have his name on Senate Resolution 4 at the time it was introduced, though the distinguished Senator from Minnesota said here on the floor that Mr. CRANSTON was going to help him push this resolution.

So apparently the 1971 model Cranston, I would say, is a much superior model Cranston to the 1973 or 1975 Cranston; and as regards the distinguished Senator from California, I would say that 1971 was a very good year, but 1975 is not so good.

I do not believe the distinguished Senator from Idaho (Mr. CHURCH) would object to my saying that he is still standing by his change from advocating a three-fifths cloture to standing by the present provision of rule XXII requiring a two-thirds vote to invoke cloture.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. ALLEN. Yes, I am glad to yield for a question.

PRIVILEGE OF THE FLOOR

Mr. WILLIAM L. SCOTT. If the distinguished Senator is also willing to yield for a unanimous consent request, I ask unanimous consent that Tom Cantrell, of Senator BARTLETT's staff, be accorded the privilege of the floor during the consideration of the amendment of rule XXII.

Mr. ALLEN. Mr. President, I will yield for that purpose only with the understanding that I do not lose my right to the floor, and that the resumption of my remarks not be considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alabama has the floor.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the Senator yielding. The Senator from Alabama is thoroughly familiar with rule XXII, as he is with all the rules of the Senate. I commend him for the effort he is making. I might state my understanding of this resolution, and ask the Senator to correct me if I am wrong in some of the statements I might make.

Looking at Senate Resolution No. 4, it appears to be identical with rule XXII of the Standing Rules of the Senate, with the exception that it provides for three-fifths of the Senators present and voting, whereas the existing rule XXII provides for two-thirds.

I would assume that this is watering down the provisions for cloture here in the Senate. If I understood the distinguished Senator a few minutes ago, he stated that prior to the adoption of rule XXII there was unlimited debate, with no restriction upon debate whatsoever. Is that correct?

Mr. ALLEN. The Senator is correct, yes. And that leads me to this thought, I would say to the distinguished Senator from Virginia: Suppose we were to fall into the error of holding or feeling that the Senate rules have to be readopted every 2 years. If we do not have any rules limiting debate, how in the world would they stop debate on amendments to the rules, even if their contention is correct?

Mr. WILLIAM L. SCOTT. Is it not true that this matter was decided previously by a vote of the Senate? As I understand, then Vice President HUMPHREY ruled that only a majority vote was required, because the Senate was not a continuing body; and then, on an appeal from the ruling of the Chair, the Senate did override its Presiding Officer and, in effect, set a precedent saying that we were a continuing body, and that we needed a two-thirds vote to change the existing rules of the Senate. Is that correct?

Mr. ALLEN. Yes, that is certainly true. That is exactly what happened, and this precedent that has been cited, the ruling of the then Vice President, Mr. HUMPHREY, that it just takes a majority vote to invoke cloture at the so-called beginning of a new Congress, certainly that ruling remained the ruling of the Senate only until the roll could be called on the appeal from that ruling.

Mr. WILLIAM L. SCOTT. A matter of a few minutes.

Mr. ALLEN. And the Senate, of course, promptly overruled the Vice President, Vice President HUMPHREY, on his ruling. I might add that the distinguished majority leader was one of the Senators who voted to override the Vice President's ruling, even though the distinguished majority leader, representing the majority party here in the Senate, was a member of the party of which the Vice President was one of the two titular heads, the Democratic Party. But the distinguished Senator from Montana had the character, the courage, and the conviction to vote to override the Vice President when he tried to come in by the back door, so to speak, in seeking to amend the rules.

Mr. HUMPHREY. Mr. President, will the Senator yield at that point?

Mr. ALLEN. I yield for a question from my distinguished friend from Minnesota.

Mr. HUMPHREY. Would not the Senator say that even the majority leader at times can be mistaken?

Mr. ALLEN. Yes, I would say that, but this was not one of those instances.

Mr. HUMPHREY. I would say to the Senator that the ruling the Vice President then made was based upon the time-honored principle of American parliamentary law known as majority rule. The only time when there is less than majority rule is specified in the Constitution of the United States, when it requires a two-thirds vote for the ratification of treaties, for example, and there are several other instances where majority rule is violated or set aside.

But at any rate, this is an issue that has to be fought over again and again, and I would imagine that this time we might make some constructive progress toward modification of the rule.

Mr. ALLEN. I thank the distinguished Senator.

Mr. LONG. Mr. President, will the Senator yield to me for about a 1-minute statement?

Mr. ALLEN. I am delighted, if it be understood, Mr. President, that I not lose my right to the floor, or that my resumption of my remarks not be considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

DUTY ON IMPORTED PETROLEUM PRODUCTS

Mr. LONG. Mr. President, I have received some information that might be erroneous, to the effect that someone might want to call up a resolution suspending the President's right to change the duty or the fee with regard to imported oil or other products.

In my judgment, that matter ought to be referred to the appropriate committee and there ought to be a hearing, before the Senate is asked to vote on the matter. I ask that the leadership protect all Senators, so that there will not be unanimous consent granted to consent to the immediate consideration of that subject without at least the committee having an opportunity to hold hearings.

Let me say that I would expect to hold a hearing; I have been requested to hold a hearing on that subject, and will do so as soon as the committee is organized and the matter can be scheduled.

As far as I am concerned, we will hold that hearing before we take up any other legislative business. So I would hope no attempt would be made to bypass the committee on that matter. If so, I would have to object to it, because I believe it is of sufficient importance and there is enough controversy about it to justify a hearing.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ALLEN. Mr. President, if the Senator from Virginia has a further question, I am glad to yield to him.

Mr. WILLIAM L. SCOTT. Yes, The distinguished Senator from Minnesota referred to the time-honored majority vote. As I understand, the Senate, by the time-honored majority vote, did override the ruling of the Chair, so that the only precedent we now have before us is that the

Senate is a continuing body and that rule XXII is still in existence, and is a present rule of the Senate until changed.

Mr. President, as I understand the remarks of the distinguished Senator from Alabama, we have had unlimited debate in the Senate until the adoption of rule XXII, and in fact rule XXII restricts debate, or provides a mechanism whereby debate can be brought to a close by a two-thirds vote.

It is a restriction on the individual right of a Senator to speak on, all Senators, to speak as long as they care to on any matter pending before the Senate. So it might be called a gag rule. Would that be a fair classification?

Mr. ALLEN. Yes; I would say to the distinguished Senator from Virginia that, in the judgment of the Senator from Alabama, the distinguished Senator, I might say the distinguished Senators, from Minnesota, are seeking to impose a gag rule on the Senate, yes, something that has never existed before, to the extent that this resolution would carry, because it will be possible, I point out to the distinguished Senator from Virginia, that if only 51 Senators were here when a cloture vote should be taken, 34 Senators could impose cloture on this body under the existing rule, and if this amendment is adopted it would take only three-fifths of that number.

Mr. WILLIAM L. SCOTT. Well now, if we would change from 66⅔ or from the two-thirds rule to bring about, to adopt, a cloture petition, to 60 percent, is there any majesty in 60 percent as distinguished from 66⅔ percent?

Mr. ALLEN. No. The distinguished Senator from Minnesota, when he came here to the Senate, based on speeches that I have read of his in the Record, favored cloture by 51 Senators. I think he has mellowed somewhat as he has matured, but he originally advocated cloture by 51 votes. Now he says 60, but there is nothing to prevent him from going to 51.

Mr. WILLIAM L. SCOTT. Would it be fair to say that in order for a matter which may become the law of the land to be considered thoroughly that at times there is a need for extended debate to bring out the pros and the cons on any matter that is pending before the Senate?

Mr. ALLEN. Yes.

Mr. WILLIAM L. SCOTT. And it is so easy——

Mr. ALLEN. Yes, the Senator is certainly correct. I would like to point out to the distinguished Senator from Virginia in the opening debate on this matter the distinguished Senator from Minnesota (Mr. Mondale) was talking about the Export-Import Bank extended debate that took place here on the floor of the Senate, and he was pointing that out as a bad effort, an effort that was not constructive.

I think, I will say to both the distinguished Senators from Virginia, that was one of the best extended debates that has taken place here on the floor of the Senate because it did put some sort of limitation on a giveaway loan program for Russia to help them develop their oil and gas fields at a time when we need that money to develop our own fields. So I think that was one of the best extended debates that has taken place here on the floor of the Senate.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question only?

Mr. ALLEN. Yes, I will yield for one question.

Mr. HARRY F. BYRD, JR. Did not that extended debate to which the Senator refers result in the Congress approving a position previously taken by the Senate?

Mr. ALLEN. Yes, very definitely.

Mr. HARRY F. BYRD, JR. And had it not been for that very extended debate——

Mr. ALLEN. Yes, that is correct.

Mr. HARRY F. BYRD, JR. It would have lost that position and the points on which the Senate voted would have been discarded in conference?

Mr. ALLEN. That certainly is correct; yes.

Mr. HARRY F. BYRD, JR. I thank the Senator.

Mr. ALLEN. I think that was a very constructive effort, the extended debate that was mounted on that piece of legislation.

It shows another function of extended debate. It shows that compromises can be reached in legislation, but there is no place for compromise if you have got an arrogant majority that can run roughshod over a minority that has firm convictions on its position. But if you have got three-fifths cloture, possibly it will be followed by 51-Senator cloture, and there would be no basis or no opportunity to reach constructive compromise. Well, what is the use of compromising if you have got the votes. That seems to be the belief among many in the Senate.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. ALLEN. For a question, I would be delighted.

Mr. LONG. Is it not true that, once you establish a precedent that all it takes is a majortiy of the Senate to change the rules, then anybody who has a bill on which he is having difficulty achieving a majority vote would be well advised then to simply proceed to change the rule and then to bring up his bill?

Mr. ALLEN. Yes; that is certainly correct.

Mr. LONG. So that, if you vote for the approach that is being advocated here, the Senate has not voted for any 60-percent cloture, but has voted for simple majority cloture?

Mr. ALLEN. That is exactly right; that is correct. If the contention is made and supported here by the Presiding Officer and accepted by the Senate that a majority can bring this debate to a close, that certainly is simple majority cloture, no doubt about that.

Mr. LONG. May I say to the Senator that it was my distinct impression from discussing it with the men who are here at that time if you could have had a simple majority cloture in the Senate that the court-packing scheme, which was very popular when President Roosevelt proposed it and sailed right through in the House under a majority rule, could have sailed through the Senate in the same way if you had majority cloture. But there are restraints in the Senate against hasty decisions of that sort which make it an entirely different matter.

Mr. ALLEN. That is certainly correct.

Mr. LONG. And the same thing is true with other very unsound proposals which sounded very good when the President proposed them but after debate later it was seen they were not so good.

For example, when President Truman came down and said to settle a strike they should draft labor into the Army and the Secretary of the Army put them to work on the railroad that sailed right on through the House as though it were a good measure under the procedures there. Not only that, one of the most conservative Senators, Senator Robert Taft, said the Senate was not going to vote on it in a hurry, but would take more time and give it more time for consideration. That proposal which undoubtedly could have mustered a majority vote on the wave of excitement that occurred at the moment, emotional as it was, when the popular enthusiasm subsided somewhat and reason began to take charge favoring the protection to the right of free debate and the procedures of the Senate, all of that matter was disposed of in a manner far more in the national interest.

Mr. ALLEN. That certainly is correct.

Mr. LONG. Do not those matters indicate the prudence of having procedures in the Senate where a minority can at least restrain the majority long enough for the public to reason about this matter?

Mr. ALLEN. I think that is one of the great strengths and values of filibuster.

Might I say this to the Senator: I believe probably this effort here in the Senate to slow down President Truman's recommendations probably saved him from himself. If it had not been for that effort he probably would not have been elected President in 1948, in my judgment.

Mr. LONG. Might I say to the Senator, in my judgment he is undoubtedly correct about that.

Mr. ALLEN. Yes, I think the Senator is absolutely right.

I would be delighted to yield further to a question by the distinguished Senator from Virginia.

Mr. WILLIAM L. SCOTT. I thank the Senator.

Returning to the question of the desirability of having a full discussion, will the Senator from Alabama agree that we see an example of the need for full and complete discussion at the end of each year in the Senate when we have measures passed hastily because Senators and Members of the other body are anxious to get home, and we sometimes are running out of days to complete the work of one Congress, and so we pass matters in which individual Senators are not aware what they are voting on, and without full discussion, and we may, at times, get bad laws because we have not had ample time for discussion. I have seen this happen each year in Congress, matters going through that perhaps might be decided with some amendments, or in other ways, if the individual Senators knew what they were voting on. But we go ahead and in the rush toward adjournment we pass measures that perhaps have the approval of the leadership or the chairman and the ranking member of each committee. To me this illustrates very well the need for full, frank, and open discussion of each matter that comes before the Senate.

Would the Senator from Alabama agree?

Mr. ALLEN. Yes, I certainly would agree with the distinguished Senator from Virginia that in the final days of a session much unwise and costly legislation is passed, legislation as to which the Senate has regrets in later days as it reads in the paper some of the things it has passed, not even realizing, in some instances, with the voice votes that take place here in the Senate, just what was passed.

So I think the distinguished Senator from Virginia has made a very, very fine point there that we do need some sort of restraint on a majority that is running headlong toward adjournment, and I feel that this is another function of extended debate.

Mr. WILLIAM L. SCOTT. Would the Senator also agree that while we believe in the principle of majority vote, the majority making decisions, that the rights of minorities, too, are entitled to some measure of protection and perhaps when individual Senators or more than a third of the Senate has very strong feelings on a particular matter they are entitled——

Mr. ALLEN. Yes.

Mr. WILLIAM L. SCOTT. To have their views aired in a full and a complete manner?

Mr. ALLEN. I agree with the distinguished Senator and I might say to the distinguished Senator that the Senate is a body of compassionate men and we are concerned with the rights of minorities, but there are some here in the Senate that are not willing to look after or protect the rights of minorities right here in this body.

To protect minorities on the outside, that is fine. We are all compassionate in this area and I want to see minorities protected, let us also protect the minority right here in this body and not cut down on that minority.

Mr. WILLIAM L. SCOTT. Well, now, would it be fair to say that most of the decisions, the vast majority of the decisions that are made in the Senate, are made where time is limited in some manner, by unanimous consent or by agreement between the parties; that the idea of a filibuster or the extended debate is an exception to the general rule?

Mr. ALLEN. That is correct; yes.

Mr. WILLIAM L. SCOTT. Would the Senator have any idea as to how much of our legislation is passed without regard to rule XXII and the effort being made to have a more complete, unrestricted discussion?

Mr. ALLEN. Well, I would really have no accurate estimate, but I do know in the course of a year several thousand measures or issues are passed on in the Senate because we actually have around 544 actual rollcall votes and possibly 10 times or more than the actual rollcall votes are the voice votes and the unanimous-consent agreements.

Even where we have a rollcall vote, it in all likelihood followed after a time limitation. So there are very few instances where resort is made to a lengthy discussion.

Mr. WILLIAM L. SCOTT. Would we have 10 to 15, perhaps 20, petitions for cloture during 1 year in the Senate?

I do not know the number, but it is——

Mr. ALLEN. Very small.

Mr. WILLIAM L. SCOTT. A very small number of cloture petitions.

Mr. ALLEN. A very small number considering the good that is accomplished on the other side of the coin, I might say to the distinguished Senator.

Mr. WILLIAM L. SCOTT. Well, let me say to my friend from Alabama that I am in agreement with what he is attempting to do and commend him on his efforts to preserve rule XXII and the rules that have been adopted. I certainly agree with his point of view and precedent indicates that a majority of the Senate which last voted agreed for the preservation of rule XXII and the concept that the Senate is a continuing body as distinguished from the other body where the Members are elected every 2 years rather than every 6 years, as we are.

Mr. ALLEN. I thank the distinguished Senator.

I would like to point out to the Senator another instance, another precedent, that we have not discussed. That is the 1971 precedent.

Not only has the Senate overruled a Presiding Officer who said that it took just a majority, but less than two-thirds, to cut off debate, but also it has acted with approval with regard to a Presiding Officer who said that it took a two-thirds vote.

That instance took place in 1971 when the President pro tempore Ellender was presiding and he ruled on a cloture motion vote, the vote was greater than a simple majority but less than a two-thirds majority, and the Presiding Officer, President pro tempore Ellender, immediately said that two-thirds of the Senate not having voted to cut off debate, the cloture motion failed.

Well, the distinguished Senator from New York (Mr. JAVITS) immediately rose and being dissatisfied with that ruling appealed the ruling of the Chair.

Who moved to table the appeal? Why, none other than the distinguished Senator from Montana (Mr. MANSFIELD).

I will have to quote the Senator liberally here because I do not have the RECORD before me—I have it in this little package here, but I will not ask the Senate to wait until I dig it out.

The Senator said that he was opposed to a rules change by a simple majority vote, that an effort to overturn the Presiding Officer at this point struck at the very heart of this institution. So he moved to table the appeal of the distinguished Senator from New York, and the Senate by top-heavy vote tabled the appeal of the distinguished Senator from New York.

So approaching it from each side, the Senate has ruled twice in this area, and why keep bringing it up I do not understand. If they expect the new Vice President, the Presiding Officer of the Senate, to depart from precedents here in his first few days of serving here in the Senate, I just believe they have missed the measure of the man.

I believe he is going to follow a precedent. I think he thinks enough of this body that he is not going to break the rules if the Senate has twice held this.

Why would the Vice President say, "Well, the Senate is wrong on this, they held this twice, but I know better, I am not going to rule the way the Senate has ruled, I am not going to rule the way the rule book says, I am going to make a new rule"?

I do not believe the Vice President is going to do that, I say to the distinguished Senator from Virginia.

Mr. WILLIAM L. SCOTT. Well, I would hope that the distinguished Senator from Alabama is correct.

I would note that the majority leader is not among the list of Senators that have brought this Senate Resolution No. 4 before us.

Mr. ALLEN. I know that.

Mr. WILLIAM L. SCOTT. It might be worthy of consideration by some of the colleagues on the other side of the aisle.

Mr. ALLEN. But I might say to the distinguished Senator from Virginia I see the minority leader's name here. I wonder if this is possibly a Republican effort to get the rule amended in view of the fact that the minority leader's name seems to be here.

Mr. WILLIAM L. SCOTT. Of course, the minority leader is in the minority among the Republicans. I just see 9 or 10 Republicans on here and the rest belong to the other party. So it is a majority of the members of the Democratic Party who have brought this before the Senate.

Of course, the principal sponsor, the Senator from Minnesota, is a member of the Democratic Party. I just hope that my constituents in Virginia are able to distinguish between the two stocks.

Mr. ALLEN. I believe the distinguished Senator from Virginia will make that abundantly clear before it is over.

What I was trying to suggest is that the Senate has had this matter presented to it twice in different forms: One where the Presiding Officer says that a simple majority is enough, and the Senate proceeded to slap down that ruling of the Presiding Officer. That took place in 1969. Then the other ruling on the other side of the coin by the Senate. They voted to table an appeal from a ruling by the Presiding Officer that it took a two-thirds majority. So the Senate has approached this from both sides but came up with the exact decision on both occasions.

Mr. President, as I stated on the first day of debate, when four or five of the Senators got up and spoke in favor of this resolution, some of them mentioned the ruling of then Vice President Nixon. The Senator should have heard the praise that these Senators heaped on this ruling. I remarked at the time that it was interesting to hear Senators in the Chamber who had not been very complimentary about Mr. Nixon in recent years who finally found something that they could speak of with approval. That was the so-called ruling of Vice President Nixon. They thought that was fine.

The Washington Post commented favorably on the so-called ruling. I will explain in a moment that it was not a ruling.

The Washington Post spoke with approval. The New York Times spoke with approval about this so-called ruling of Vice President Nixon. They thought that was fine.

I do not recall many instances in recent months or recent years, for that matter, that either of these publications had anything much favorable to say about Mr. Nixon, whether he be Vice President or whether he be President. They have not been profuse in their praise. But they finally found something to commend him on. That was this so-called ruling.

Well, he did not make a ruling, Mr. President. That is the long and short of it. If these Senators and these publications have not known that, it is time that they found out about it. He did not make a ruling.

What he did was to answer a parliamentary question from the floor, indicating he thought that this matter might be submitted to the Senate. He never said that the majority could cut off debate. He never ruled. A ruling, Mr. President, becomes necessary when proceedings have reached the point where the Presiding Officer has to say what the effect of the parliamentary situation is at a given time. It is necessary for a decision to be made in order that the Senate may carry on its business.

A parliamentary inquiry, on the other hand, is not binding. It is not appealable. It is just one man's opinion.

This is what Mr. Nixon had to say on January 31, 1957:

> There can be an appeal from a decision of the Chair on a point of order. There can be no appeal as to any pronouncement by the Chair regarding a parliamentary inquiry. A response by the Chair to a parliamentary inquiry is an opinion. A ruling on a point of order is a decision and is subject to appeal to the Senate.

So, Vice President Nixon did not make a ruling. There was nothing to appeal. Nothing was decided. He gave an opinion.

Mr. President, this took place in 1957. Those who would seek to apply a gag rule to the Senate have been trying since, and before that time, to amend the Senate rules to make it easier to apply the gag rule. Thus far their efforts have been thwarted, either by the Senate in overturning a ruling by the Chair, or else by the Senate in tabling and appeal from an adverse ruling by the Chair. The matter has never come to a vote here in the Senate as regards the question of two-thirds or three-fifths being necessary to invoke cloture.

Mr. President, I was not in the Senate in 1957, nor was I here in 1959. But obviously, the parliamentary response given by Vice President Nixon, which has been applauded so by those seeking to apply the gag rule, apparently gave rise to an amendment of the debate limitation provisions of the rule.

Let us have a look at that situation that existed after 1957.

By the way, Vice President Nixon never had an opportunity to rule on this question because the Senate answered the question on another point. They voted in such a way as to remove it from his decision.

The situation that existed in 1957 when this parliamentary response was made was this:

Rule XXII provided that to invoke cloture, it took not the two-thirds of a quorum present and voting that we have now, but it took a two-thirds constitutional majority. That meant that it took two-thirds of all Senators who had been elected to the Senate. In other words, I think at that time there were 98 Senators, and it took two-thirds of them to invoke cloture. Now, of course, with the 100 Senators, it would take 67, under that old rule. But now, as I have pointed out, it can take as few as 34 to invoke cloture in the U.S. Senate. That seems little enough, and that would be an odd balance that would allow 34 Senators to choke off debate. That could come about only if we had a bare quorum here—that is, 51. Two-thirds of that, I believe, would be 34.

So it was very hard at that time to get the two-thirds of those elected to the Senate. That was something that the gag rule Senators were chafing under.

Then there was another provision—or lack of a provision—and that was that there was no provision for invoking cloture as against a motion to proceed to a rule change, resolution, or motion. In other words, with respect to the very motion we are discussing now, under the old rules, the rules that existed prior to 1959, cloture could not be invoked on a motion to proceed to the consideration of a rules change, motion, or resolution. So that put the gag-rule Senators in a bad position, because they could discuss that interminably, since it did not apply under the old rule.

Those are two circumstances in the rules that worked against those who would apply the gag rule.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. ALLEN. I am delighted to yield.

Mr. WILLIAM L. SCOTT. Mr. President, I have some copies of fact sheets by the Congressional Quarterly, 1967. This reads:

> The biennial controversey over rule XXII, the cloture procedure for ending filibusters, will be repeated in the Senate.

Then the Congressional Quarterly Almanac, 1969, has the heading: "Senate Again Fails to Ease Filibuster Rule."

Then the 1971 Congressional Quarterly Almanac has these words:

> The almost ritualistic attempt by Senate liberals at the beginning of every Congress to relax the rules for cutting off filibusters failed again in 1971.

"Ritualistic." Would the Senator care to comment on this ritural? Is it a ritual we are going through?

Mr. ALLEN. Yes. It is a ceremony somewhat like the Druids of old, where they trot this resolution out and dust it off and make obeisance to it, and then we go up the hill and down the hill; and either the Presiding Officer or the Senate, one or the other, or both, have held that their efforts to amend rule XXII with less than a two-thirds majority just will not sell in the Senate because the rules provide something different.

So, yes, I would say that that is not too far from right. The language that the Senator quoted from the Congressional Quarterly, I assume, is an impartial service for the benefit of Members of Congress and those interested in legislation that is pending and passed in Congress.

Mr. WILLIAM L. SCOTT. As the Senator has indicated, this is a publication which is generally accepted by Members of Congress.

With the Senator's permission, Mr. President, I ask unanimous consent to have printed at this point in the RECORD a portion of the 1971 Congressional Quarterly Almanac which is entitled "Background." It details some of the things that the Senator from Alabama has mentioned about the history and the background.

Mr. ALLEN. Mr. President, reserving the right to object, I do not want to object, and I will withdraw my reservation of objection only if it is understood that I have not yielded the floor by allowing this insertion to be made and that the resumption of my remarks shall not be considered a second speech today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE AGAIN REJECTS CHANGE IN FILIBUSTER RULE

BACKGROUND

The fight over the filibuster involved a question with which the Senate had wrestled for years: Is the Senate, since one-third of its membership is elected every two years, a "continuing body" with a continuing set of rules, or should it adopt new rules by general parliamentary procedure—majority vote—at the beginning of each Congress? If the Senate is a continuing body, rules changes could be talked to death unless two-thirds of the membership is willing to invoke cloture under Rule 22. If it is not a continuing body, a filibuster could be stopped by majority vote at the beginning of a new Congress, and the substantive proposals for changes in the rules could come to a vote. Proponents of rules changes, who have never succeeded in invoking cloture in a Rule 22 fight, hold the latter view.

Of 53 cloture votes taken since the cloture provision of Rule 22 was adopted in 1917, only eight have been successful. If the three-fifths rule had been in effect, 14 would have been successful.

The cloture provision of Rule 22 was adopted in 1917 by a roll call of 76–3 following furor over the "talking to death" in the Senate of President Woodrow Wilson's proposal to arm American merchant ships before U.S. entry into World War I.

The right to extended debate was established in the Senate during the 18th and 19th centuries to afford full and fair hearings on public issues from all geographical and political viewpoints. The tradition continued until 1917, when Senate Rule 22 was amended to provide that two-thirds of Senators present and voting could invoke cloture.

In 1949, the rule was changed to require the votes of two-thirds of the entire Senate membership to invoke cloture. The rule was changed back to the 1917–1948 language in 1959 to allow cloture to be invoked by two-thirds of those Senators present and voting, and the rule was also applied to debate on motions to change Senate rules.

Since 1959, Senate liberals have made biennial attacks on the cloture rule with the convening of each Congress. With the exception of 1965, the Senate has voted every two years since 1959 on an attempt to lower the number of Senators needed to invoke cloture. In 1965, two resolutions aimed at easing Rule 22 were reported adversely by the Senate Rules and Administration Committee, thus ending the 1965 fight.

The most recent votes on Rule 22 were taken in 1969, on a proposal to allow three-fifths of Senators present and voting to invoke cloture, rather than two-thirds of those present and voting. The first vote failed 51–47—15 votes short of the required two-thirds. The second vote was 50–42 in favor of the rule change—12 votes short of the two-thirds requirement.

References. Congress and the Nation Vol. I, p. 1426; Congress and the Nation Vol II, p. 904, 911.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. WILLIAM L. SCOTT. I thank the Senator.

Mr. ALLEN. I thank the distinguished Senator from Virginia.

Mr. President, I pointed out two circumstances with regard to limiting debate that existed in 1957 which were burdensome to those Senators wanting to apply the gag rule.

There may have been some little doubt in some Senators' minds at that time as to whether the Senate was a continuing body and whether it would be necessary, in order to amend the Senate rules, not only to follow the rules of the Senate with respect to amending the rules but also to be subject to the Senate rules with regard to debate and limitation on debate.

So what happened? This is what I call the compromise of 1959. We have had various compromises in the past, Mr. President: The Missouri compromise, the compromise of 1850, various other compromises in our history. This is the compromise of 1959. What does it provide?

This rules change then changed these two points on cutting it down to where it just took two-thirds majority of a quorum present and voting and making a motion to proceed to a resolution seeking to change the rules. That was in the rules change.

Then the third phase of the rules change in the compromise of 1959 was a provision that any amendment of the Senate rules had to be made in accordance with the rules of the Senate.

One does not throw the rule book out every time the Senate meets. I did not quite quote all of that. The Senate rules shall remain in effect from one Congress to the next unless changed as provided in the rules. That now appears in section 32 of the rules and it should lay this matter to rest. Let us see what it says. It is pretty clear. I hope to make it clear.

I read from the second section of rule XXXII:

> The rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.

Now, Mr. President, let us follow these rules. We are all interested in orderly processes, I am sure. The Senate rules state very clearly that the Senate rules remain in full force and effect from one Congress to the next unless amended as provided by the rules.

What is the significance of that? That is that when we start to amend the rules, as the distinguished Senator from Kansas (Mr. PEARSON) and the distinguished Senator from Minnesota (Mr. MONDALE) are seeking to do, we have to amend in accordance with the Senate rules. We just do not throw the rule book out every 2 years. We have to follow the rules as we seek to amend the rules.

What could be more simple? What could be simpler than that? When we amend the rules, follow the rules in amending the rules. That is all we ask. Let us not go in the back door. I do not believe we are going to.

Let us see what Johnson said. President Johnson was then the majority leader of the Senate. He seems to be the man behind this compromise. Let us see what he says about the significance of this rules provision that I have read.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point an excerpt from the Senate cloture rule of 1963, 88th Congress, Document 30, page 46, starting with the words "There were a large group of Senators" in the fourth paragraph on page 46, completing page 46 and all of 47.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

There were a large group of Senators who, like its chief sponsor, Senator Johnson, supported the resolution as a constructive change. He explained:

"The resolution does these things—for these reasons:

"First, it provides that cloture shall be possible on the vote of two-thirds of the Senators present and voting.

"Our present rule provides that cloture can be voted only by two-thirds of the full Senate membership. This necessitates the actual presence in the Chamber of 66 Senators casting affirmative votes. In a body of this size, infirmities and disabilities for one or two Members or more are commonplace. The committee duties of the Senate frequently require some Senators to be absent. The nature of our Nation's world position, also, has resulted in more and more Senators being asked to serve the country at important tasks abroad. Each absent Senator, in effect, cancels two votes of those present.

* * * * *

"Two-thirds is the division by which we provide for amending the Constitution, for ratifying treaties, and for expelling Members from the Senate. It is an established, traditional division and we are maintaining it by this resolution.

"The second provision of this resolution is, perhaps, the most important—although some have chosen to disregard its presence.

"Our present rule XXII specifically exempts from cloture any motion to proceed to consideration of a change in the rules. This is the only such gap in our rules. Cloture can apply to substantive issues. Cloture can apply to a vote on the rules themselves. No cloture, however, can be applied to this one motion.

"Thus, in present form, this means that debate could conceivably run on with no power to limit it when, in effect, there was no real subject matter before the Senate. This invites obstruction which serves no real purpose. It is intolerable to a majority and unnecessary for a minority, where the minority has a case to present.

"The change now proposed would close this remaining narrow gap and permit the majority to maintain a standard of responsibility on this as on more important motions.

"Finally, the third provision of this resolution would write into the rules a simple statement affirming what seems no longer to be at issue. Namely, that the rules of the Senate shall continue in force, at all times, except as amended by the State.

"This preserves, indisputably the character of the Senate as the one continuing body in our policy-making process.

"It precludes the involvement of the Senate in the obstruction that would occur—or could occur—if, at the beginning of each Congress, a minority might attempt to force protracted debate on the adoption of each Senate rule individually" (105 Congressional Record, 493).

On January 12, 1959, the resolution (S. Res. 5) was agreed to by a vote of 72 to 22 (105 Congressional Record 495). As amended, paragraphs 2 and 3 of rule XXII of the Standing Rules of the Senate now provide:

"2. Notwithstanding the provisions of rule III or rule VI or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, or other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

"'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by two-thirds of the Senators present and voting, then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and read prior to that time. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

"3. The provisions of the last paragraph of rule VIII (prohibiting debate on motions made before 2 o'clock) shall not apply to any motion to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate."

Mr. ALLEN. Let us see the significance of this ruling that I have read. What is the legislative history behind it? What did they say it meant when they amended the rules? That is what we need to find out. What is the legislative history of this rule that I have read? I quote President Johnson, then Senator Johnson, majority leader. He sat right here where Senator MANSFIELD sits. He was discussing this third provision, now part of rule XXXII:

> Finally, the third provision of this resolution would write into the rules a simple statement affirming what seems no longer to be at issue.

I wish Senators trying to get this gag rule adopted would read what the majority leader Johnson said at that time:

> Would write into the rules a simple statement affirming what seems no longer to be at issue.

He thought this thing had been buried back in 1959, but that does not seem to be the case.

> Namely—

Said Senator Johnson later President Johnson—

> that the rules of the Senate shall continue in force, at all times, except as amended by the Senate.
>
> This preserves indisputably the character of the Senate as the one continuing body in our policy making processes.
>
> It precludes the involvement of the Senate in the obstruction—

That is a pretty rough word; I hope the Senators pushing this gag rule are not being guilty of obstruction:

> It precludes the involvement of the Senate in the obstruction that would occur—or could occur—if, at the beginning of each Congress, a minority might attempt to force protracted debate on the adoption of each Senate rule individually.

So, he says one does not amend the Senate rules other than by the provisions of the Senate rules that carry over from one Congress to the next. So, Mr. President, the compromise of 1959 was intended to give something to the "gag rule Senators" and something to the "free debate Senators." It was a reasonable compromise. It was made easier to invoke cloture on the one hand—the first two provisions—and confirm the difficulty of invoking cloture on the other hand. So it was a reasonable and fair compromise, something in there for both. For the gag rule Senators, they got the change made that it did not require two-thirds of the elected Membership to vote for cloture; it just took two-thirds of those present and voting, assuming that is a quorum. And that a motion to proceed to the consideration of a proposed rules change was also subject to cloture, which it was not at that time—that was what the compromise provided.

Now, Mr. President, some weeks ago, the San Diego Evening Tribune asked the distinguished Senator from New York (Mr. JAVITS) to write an article or essay or treatise on the question, "Shall Senate filibusters be banned" and to take the affirmative side of that issue.

They called upon me to take the negative side of that issue. I ask unanimous consent that the two articles, the one by the distinguished Senator from New York (Mr. JAVITS) and the other by the junior Senator from Alabama, be printed in the RECORD at this point, for the information of Senators and those who might read the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BAN SENATE FILIBUSTERS?

(By Senator JACOB K. JAVITS)

YES

Many vital issues are considered annually by the Congress. During the last decade, for example, we worked on the Vietnam war, inflation, civil rights, poverty, the housing crisis and nuclear arms limitation. Each year we approve budgets for the same congressional committees.

But in all of these cases, some aspect of the subject matter changed. The war ended but the economy worsened. Public facilities are no longer segregated, but residential suburbs are. We still don't have enough housing, but now we also worry about where to build it and how to finance it, and always, the figures go up in the appropriations bills.

But King Filibuster is always with us.

This issue never changes; the problems remain the same and the arguments for and against the filibuster remain virtually unchanged. Time after time, at the beginning of each new Congress, we have debated the change of a single hyphenated word—"two-thirds"—in our rules of procedure. Biannually we devote six to eight weeks to this problem and seldom even get to vote on its substantive merits.

As most Americans know, a filibuster is a parliamentary tactic employed in the United States Senate to block consideration of certain legislation. It consists of "extended debate" on a measure—or talking it to death—in order to prevent a vote. The only way debate can be brought to a close is by invoking Rule XXII of the Senate rules of procedure, which provides that two-thirds of the senators present and voting may limit further debate after getting an hour's debate—apiece. Hence, 100 hours of debate is the maximum possible once cloture is voted.

The question which we face at the beginning of each new Congress is whether or not to amend Rule XXII so as to allow a majority or even three-fifths of the Senate to bring a measure to a vote and if we want this change, how to accomplish it within the confines of the Constitution and the parliamentary rules.

I have always favored the proposition that a constitutional majority of the Senate—51 senators—should be able to prevail on any issue save those specifically mentioned in the Constitution—such as the ratification of a treaty or the confirmation of a presidential appointee—as requiring a vote greater than a majority—two-thirds.

Nothing in the Constitution contemplates the requirement of a two-thirds vote for the passage of ordinary legislation. Yet under current procedures, a minority of the Senate can block the consideration of any bill by filibuster—that is, continuing to talk in order to prevent a vote—and only a two-thirds vote can end debate. I believe that is not only unwise but unconstitutional.

Further complicating the problem—and presenting a parliamentary nightmare—is the contention of the proponents of Rule XXII that we are bound, at the start of each new Congress, to comply with that rule in attempting to change it.

The House of Representatives reconstitutes itself every two years and adopts new rules by majority vote, while the Senate, since only one-third of its members are newly elected every two years, is considered to be a continuing body whose rules of procedure remain unchanged.

Why is there such strong feeling about the cloture rule, and what is at stake? Usually, attention is focused on Rule XXII when innovative or progressive legislation is at stake. Civil rights is a good example.

Through most of the post-war period there was a clear majority in the Senate for desegregation legislation. Yet, even when we were successful in bringing a measure to the floor, we were stymied by filibusters and ended up either withdrawing or modifying our proposals. In 1964 liberals made a conscious decision not to back down and we rode out an 81-day filibuster before we had the requisite 67 votes to end debate. I often wonder whether the history of race relations in this country would have been any better had that legislation been enacted as soon as it had majority support.

Even today, civil rights bills are still a prime target for filibusters. But, more recently we were prevented from voting on the Consumer Protection Act—twice passed by the House and with clear majority support in the Senate—because of this tactic. Filibusters have also been employed against disarmament legislation, repeal of right-to-work laws, home rule for the District of Columbia and revisions in the welfare system. And in all of these cases, the will of the majority was frustrated, at least for the time being.

A more insidious effect of the filibuster rule is too little noticed. I refer to the dilution of legislation because of the threat of a filibuster. There have been instances when a group of members have threatened to tie up the Senate for a prolonged period of time, "discussing" a bill to which they had objections. Often the parliamentary hassle is avoided by assuring the bill's opponents that certain amendments will be accepted and thus, the final bill is considerably watered down even before Senate consideration begins. This was characteristic of civil rights legislation before 1964, and was apparent as recently as last year.

When Congress reconvenes in January, liberals will once again raise the question of a rules change. Important legislation is at stake—first and foremost, the Consumer Protection Act where we failed to end a filibuster by a single vote last year. Once again, I intended to be part of that effort to enable a majority of the elected members of the Senate to exercise their right to vote as the founding fathers intended and the Constitution purports to guarantee.

BAN SENATOR FILIBUSTER?

(By Senator JAMES B. ALLEN)

NO

William E. Gladstone, the great English statesman of the late 19th century, spoke of the United States Senate as "that remarkable body, the most remarkable of all of the inventions of modern politics." He said, too, that in our creation of an unshackled Senate, we had for the first time in history perfected a legislative body where even a political tyrant would find a barrier.

What is it that makes the Senate remarkable? Nothing more nor less than the free and unlimited debate in the Senate. For the United States Senate is the only parliamentary body in the world where this right still exists. Shall we destroy the one feature that more than any other makes the United States Senate the greatest deliberative body in the world? I say, "No."

Many have heard of Senate Rule XXII and have felt that it is this rule which confers the right of unlimited debate on the members of the Senate. But the reverse of this is true. Without Rule XXII debate would, in fact, be unlimited but under Rule XXII, debate can be cut off by two-thirds of the senators present after two days notice by 16 senators of a motion to apply cloture (cut off debate). Thus Rule XXII provides the method of cutting off debate. In fact, then, there is no such thing as unlimited debate in the Senate. It is unlimited until cut off by invoking cloture.

Between 1807 and 1917, debate in the Senate was in fact unlimited, but Rule XXII was added in 1917, providing a method of silencing protest or discussion.

Between 1807 and 1917, without debate limitation, and since 1917 with a two-thirds requirement for cloture, the United States has fought many wars, endured Reconstruction, panics, depressions, recessions, has seen a full program of civil rights legislation passed, and has moved into the nuclear-space age. During all of this time, the United States Senate has played an important role in these developments. The Senate has seen giants like Clay, Calhoun, and Webster, Hiram Johnson, Borah, George Norris, Richard Russell, Bob LaFollette, Bob Taft, and John T. Morgan and Edmund W. Pettus, both of Alabama and both former Confederate generals, carve their names in history under the Senate's free debate rules. Are senators of today lesser men?

Through the medium of free debate, the Senate provides the machinery by which all measures affecting the welfare of the people of the United States can be put to the critical test of unhurried examination by the collective intellect of a body expressly created as one of our governmental checks and balances. The very purpose of free debate is to provide restraint upon the abuses of unbridled majority rule and to protect the rights of minorities in this nation.

In the United States Senate, proceedings can not only move agonizingly slow, but they can proceed with careless and precipitate speed.

Often bills involving billions of dollars are passed in seconds without discussion and with only a handful of senators on the floor.

Measures involving the creation of vast new bureaucracies or involving the rights, duties and liberties of our people can pass just as easily unless they are subjected to free debate.

Sometimes, as legislation is up for passage, we in the Senate need to shout, "Stop right where you are, let's consider this measure a little more closely, let's give the people of the country time to catch up on what we're doing." That is the function that "extended debate" serves.

Thus, a filibuster gives an opportunity to point out defects in legislation and an opportunity to correct them or to reach a compromise, or to defeat the legislation if sufficient senators support the extended debate.

Also, with the threat of filibuster, the chances are that the legislation will be put forward in as constructive form as possible to be less subject to critical analysis in the filibuster.

For a filibuster to succeed, it must be backed by one third plus one of the senators but, more than that, it must be backed by public opinion—not necessarily public opinion at the outset—but as the debate progresses.

Is a two-thirds vote to cut off debate an unusual requirement? Far from it. The Constitution provides for a two-thirds vote to override a presidential veto, to ratify a treaty, to submit a constitutional amendment, to convict on an impeachment. What's so unusual or unfair in a requirement for a two-thirds vote to cut off free speech in the Senate?

It is interesting that some time ago, two of the ablest senators—Cranston and Church—who had supported moves to amend Rule XXII to allow three-fifths instead of the required two-thirds to cut off debate, announced that they had changed their minds and now favor the present two-thirds requirement.

It is also interesting that in the 92nd Congress, I was able to have brought up for consideration in the Senate an anti-forced bussing bill that was supported by a substantial majority in the Senate. Who showed up to filibuster the bill? Why, it was those two opponents of the filibuster, Sen. Javits and Sen. Cranston. They succeeded in filibustering the bill to death.

So, once again, whether a filibuster is a filibuster or merely extended discussion depends on whose ox is being gored, or whether you are for a bill or against it.

What comes after killing free speech in the Senate? Killing free speech as guaranteed under the First Amendment?

Mr. ALLEN. But, Mr. President, fearing that there might be some danger that some Senators might not turn to the RECORD tomorrow, being so busy with other matters, and read the comments of the Senator from Alabama, I shall take the liberty, Mr. President, of reading this essay by the junior Senator from Alabama now speaking; and then, if the distinguished Senator from New York would like to read his article into the RECORD, I am sure when he gets the floor there will be no objection to that.

William E. Gladstone, the great English statesmen of the late 19th century, spoke of the United States Senate as "that remarkable body, the most remarkable of all of the inventions of modern politics." He said, too, that in our creation of an unshackled Senate we have for the first time in history perfected a legislative body where even a political tyrant would find a barrier.

Mr. President, the President of the United States from time to time—and I do not speak of the present incumbent; I do not think I should—the President of the United States from time to time, and different Presidents, find that their influence in the Senate and in the House of Representatives is very great. Back in the days of Franklin D. Roosevelt, the 100 days here in Congress when much constructive legislation was passed, much of which is still on the statute books, the President had great influence. At other times, the President has had less influence.

Mr. President, this rule of reasonably limited debate is not always going to apply to a situation where Congress has the upper hand vis-a-vis the Chief Executive or the executive department. Somewhere down the line, as the case has existed in the past, a President is going to be able to dominate and control the Congress; and it is at times such as that, in addition to times such as these, where we have the legislative branch in the saddle, that it would certainly be sound political science to have the Members of the Senate require that legislation proceed slowly, with ample opportunity for discussion.

That is what the distinguished English statesman had reference to when he said that for the first time in history, we in the United States had perfected a legislative body where even a political tyrant would find a barrier.

Mr. President, that great English statesman, Gladstone, was pointing out a situation that does not exist in the Senate today, but has existed in the past and may yet exist again. That is where the administration comes forward with a program, and there might be more adherents of that administration and that program here in the Senate than there might be to such a program at this time; and this right to discuss a matter is a barrier or an abutment not only the encroachment of an arrogant majority in the Senate, but it is a barrier and abutment against the power of a powerful and dictatorial executive department, which we do not have at the present time, but which in years to come we might have. That is what Mr. Gladstone was talking about when he said that we had perfected a legislative body where even a political tyrant would find a barrier.

So we are not always going to have a strong Senate. The Senate has got its own ideas of a legislative program. You are going to find some day possibly an administration that is calling the shots and passing legislation which a minority of the Senate might not want.

So this more or less free debate—and it is not free, I use that term loosely, it is freer than it would be if this gag rule is adopted, you need, good government needs, the people need, an opportunity for unwise legislation to be considered here in the Senate on its merits, and to slow things down until such consideration can be given.

Let us go on with this little article. I might condense some of my thoughts into fewer words except, from time to time, I might desire to expand upon that.

Now, Mr. President, let me explain again for the benefit of Senators who have come into the Chamber since I started talking, this motion that we are discussing was made by the distinguished Senator from Minnesota (Mr. MONDALE) a motion that we, in effect, displace the pending business, which is the New Hampshire election situation, lay that aside, and move to a consideration of the rules change. I waited expectantly hoping that the distinguished Senator from Minnesota would speak with respect to his motion. And, of course, sometimes if you do not get up to speak, the gavel can fall and whatever is up can pass.

So I waited as long as I possibly could to see if the Senator from Minnesota was going to speak on his motion, and when he did not choose to speak, well then it fell to the lot of the Senator from Alabama to make some scattering remarks with respect to this motion. That is the situation we have at this time.

What is it that makes the Senate remarkable? Nothing more nor less than the free and unlimited debate in the Senate, for the United States today is the only parliamentary body in the world where this right still exists. Shall we destroy the one feature that more than any other makes the United States Senate the greatest deliberative body in the world.

I say no.

Many have heard of Senate rule XXII, and have felt that it is this rule which confers the right of unlimited debate on the members of the Senate. But the reverse of this is true. Without rule XXII debate would, in fact, be unlimited. But under rule XXII debate can be cut off by two-thirds of the Senators present after two days' notice by 16 Senators of a motion to apply cloture.

Cloture means, of course, cut off debate.

This rule XXII provides the method of cutting off debate. In fact then there is no such thing as unlimited debate in the Senate. It is unlimited until cut off by invoking cloture.

This is an interesting fact I would like to call to the attention of the Senate:

Between 1807 and 1917 debate in the Senate was in fact unlimited.

For 110 years debate in the Senate was unlimited.

But rule XXII was added in 1917 providing a method of silencing protests or suggestions. Between 1807 and 1917 without debate limitation and since 1917 with a two-thirds requirement for cloture, the United States—

Let us see if the country has been handicapped by this right—

the United States has fought many wars, endured reconstruction, panics, depressions, recessions, and seen a full program of civil rights legislation passed and has moved into the nuclear-aerospace age. During all of this time the United States Senate has played an important role in these developments. The Senate has seen giants like Clay, Calhoun, and Webster, Hiram Johnson—

I wish the distinguished Senator from California (Mr. CRANSTON) would follow the lead of that great Senator from his State, Hiram Johnson—

Borah, George Norris, Richard Russell, Bob LaFollette, Bob Taft, and John T. Morgan and Edmund W. Pettis, both of Alabama and both former Confederate generals. The Senate has seen these great Senators carve their names in history under the Senate's free debate rule. Are Senators of today lesser men? Through the medium of free debate the Senate provides the machinery by which all measures affecting the welfare of the people of the United States can be put to the critical test of unheard examination by the collective intellect of a body expressly created as one of our governmental checks and balances. The very purpose of free debate is to provide restraint upon the abuses of unbridled majority rule and to protect the rights of minorities in this Nation.

I hate to see some of the sponsors of this gag rule working against the interests of minorities because they are working against the interests of a minority here in the U.S. Senate to make it less likely they will be able to speak out, to make it easier to cut off their right to speak with regard to legislation affecting them and the people that they represent.

In the United States Senate proceedings cannot only move agonizingly slowly, but they can proceed with careless and precipitate speed. Often bills involving billions of dollars are passed in seconds without discussion and with only a handful of Senators on the floor.

And every Senator in this Chamber knows that that is correct. Bills involving billions of dollars frequently—frequently—are passed here in the Senate with a minimum of discussion and by a simple, a voice, vote.

Measures involving the creation of vast new bureaucracies or involving the rights, duties, and liberties of our people can pass just as easily unless they are subjected to free debate. Sometimes, as legislation is up for passage, we, in the Senate, need to shout, "Stop right where you were. Let us consider this measure a little more closely. Let us give the people of the country time to catch up on what we are doing." That is the function that extended debate serves.

Thus, a filibuster—

Or extended debate, if you please—

gives an opportunity to point out defects in legislation and an opportunity to correct them or to reach a compromise or to defeat the legislation if sufficient Senators support the extended debate.

It does not have to be on a filibuster, although with the threat of filibuster, the chances are that the legislation will be put forward in as constructive form as possible to be less subject to critical analysis in the filibuster.

We had suggested during this discussion, not on Friday but today, about the extended debate that took place here on the floor of the Senate with regard to the Export-Import Bank, and we all recall what happened on that occasion.

Well, one of the Senators seemed to feel that the extended debate that took place with respect to the Export-Import Bank was a good example of improper use of the filibuster and I would like to submit it is a shining example of the good that can be accomplished by a filibuster.

In brief, the Export-Import Bank is an institution supported by the American taxpayer that had authority to make up to $20 billion worth of loans to foreign entities and governments for the purpose of encouraging exports from this country to those foreign countries, and they wanted the authorization raised to $30 billion, an extra $10 billion, and it looked like they were going to use that authority to lend hundreds of millions of dollars to Russia to help them develop their oil and gas fields.

Fabulous sums were mentioned as a possibility and, unquestionably, Export-Import Bank had gone overboard making loans to Russia.

I see the distinguished Senator from Wisconsin (Mr. PROXMIRE) is here and he led this fight, he wanted to put the operations of the Export-Import Bank under the budget, and the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Idaho (Mr. CHURCH), the Senator from Pennsylvania (Mr. SCHWEIKER), they wanted to put a $300 million limitation on how much in loans the Export-Import Bank could make to Russia.

That was the Senate position, but the House wanted to remove the ceiling and it came back to the Senate several times.

The Senate would agree, because it was being discussed at length here on the floor, or the Senate wanted to stand by its position, but the House finally had to agree because of the extended debate here on the Senate floor, to agree to the limitation.

Mr. President, in my judgment, that extended debate saved the American taxpayer hundreds of millions of dollars and if extended debate had not accomplished a single thing but that, it justified its existence and its continuation.

Mr. President, much can be accomplished by——

Mr. LONG. Will the Senator yield?

Mr. ALLEN. Yes, I am delighted to yield for a question.

Mr. LONG. Well, I ask unanimous consent that I might make a brief statement without prejudicing the Senator's rights in any respect whatever because it is a matter of colloquy.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. LONG. Senator, what concerns me most about this effort being made here is that implicit in the method that is to be sought to be implemented is the assumption that we do not have a two-thirds cloture vote anyhow. Implicit in this is the contention that a majority, a simple majority, can shut off all debate and do anything it wants to do right now.

Now, there is no doubt in my mind that that type thing can be done any time a majority of Members of this body think that the situation had reached a point where we have to do violence to our procedures and do violence to our rules. Any time a presiding officer thinks that the Nation's problems are such that he is compelled to rule—that the rules do not mean what they say and a majority would support the Chair, that is, then the Senate has the power to do violence to the rules, and there is not much that the minority can do about it.

Furthermore, any time a majority of Senators really feels that the situation has gone to a point we must to do violence to our own rules, to our own procedures and traditions, they have the power to do that. All it really takes is for a majority just to vote down the Presiding Officer and overrule the Chair.

This Senator has used the cloture rule the three times in the last Congress, saying that time is running out, "If you want to pass these bills, vote cloture." We voted cloture on three major bills before we had even heard a word of debate on the merits of the bills, mainly, to achieve a germaneness rule, but also we limited debate in doing so.

Now, if this procedure being now proposed is to be used, what it means is and the precedent would have been set, that anytime just because a majority thought it might be useful, we are going to do violence to our rules and precedents and assert the power of the simple majority to do something that requires two-thirds majority under the Rules of the Senate.

Now, in my judgment, if these rules are to be changed, they should be changed by the usual procedure where we propose a change of the rules and where the matter is debated, and in due course if we think we ought to do it, we reach an agreement between Senators as to what we want the new rule to be so that we have about a majority or two-thirds willing to vote for cloture, to limit the rights of Senators on this basis.

If on that basis we then said we want a 60-percent cloture rule that is proposed here, that is what our cloture rule would be, I think if we did we still ought to retain the two-thirds requirement for changing the rules so that if we want to change the rule thereafter we would still have the same difficulty we have to begin with of getting a two-thirds majority to shut off debate.

I have been here long enough, and I think anybody else who has been here over a period of time will find where he is in the minority on some things, just like he is in the majority on some things, it is very irritating to be with the majority and find a minority is impeding what one wants to do. But one would be surprised what a statesmanlike thing it is and how attractive it is when one finds himself in the minority and thinks this matter is so very important, that one ought to impede the progress of that legislation to the extent that one is just not going to permit that matter to go to a vote and continue debating it because one does not think this is the kind of thing that should be permitted under any circumstances to happen.

As the Senator knows, it takes the hide of a rhinoceros to stand up there and stand in the way of 75 or even 55 Senators with the storm that can be heaped upon one when he is standing in the well from what a majority has determined they want to do. A great service has been done to this country time and again by protecting us from our own folly and by being what the Senate was intended to be, the body that requires that there be more consideration, more study, more thought; the opportunity for a little cooling time from the time the passion moves a popular measure through the House until someone can analyze the dangers in that matter in the Senate of the United States.

As much as I like to use the cloture rule when I do have the Senate with me, I can recognize the severe dangers in that when something very unwise is being proposed, even though it may be popular at the moment. It takes a little time to persuade people that some measure on which a majority has signed as sponsors poses a threat to the survival of this Union, or this form of government. That rule was there just for a very good reason. It has served this Nation well. We have modified it, as the Senator has spelled out. It is very impressive to me that so many of those who cosponsor this resolution themselves would not be asking for a simple majority cloture because that is what they are proposing to vote for when they say that a simple majority can do that which it requires two-thirds under the rules to do now. One would think if that is what they believe in, why not propose it in their rule? That is basically what they are seeking to do here. What causes great alarm in the eyes of the Senator from Louisiana, is that this procedure can mean nothing else than a simple, straight majority gag rule any time a majority wants it that way.

It is sort of amazing how each administration, each President, more or less wants to remove all the impediments, figuring that this is his day on the scene, this is his day on the stage. He wants to put his program over. Therefore, he wants the Congress to remove any impediment to putting that program on the statute books.

We, I believe, would be well advised to take the view that this Nation should last for thousands of years. If it is going to last over that period of time, we need some restraints on the majority to protect the Nation from our temporary folly. Sometimes that folly lasts longer than just a year or two, I regret to say. I honestly think the Senator has rendered a real service to this Nation in making the points that he has made. Frankly, but for the diligent efforts of the Senator from Alabama, I think I would have been addressing myself to the same subject already.

Mr. ALLEN. I thank the distinguished Senator. He has made a most important contribution to this discussion.

Mr. President, continuing with the article that was written some weeks ago, which appeared December 30—more or less a Christmas present, you might say, Mr. President, to those who wanted some information on this subject—

> For a filibuster to succeed, it must be backed by one-third plus one of the Senators, but more than that it must be backed by public opinion. Not necessarily public opinion at the outset, but as the debate progresses.

There is not a single filibuster that can survive opposition of strong public opinion. It is not just a whim or caprice that causes minorities here in the Senate to give extended debate to issues. If they do not have the backing of public opinion, the filibuster is bound to fail.

I remember a filibuster that was taking place with respect to an issue here in the Senate and it was being discussed at length. The opposition, the ones who were trying to apply the gag rule, said "The only way we are going to win this thing is to hear from the folks back home." On that particular issue, the opposition to the gag rule got stronger and stronger each time they had a vote. So if something is backed by public opinion, if a debate is backed by public opinion, it will, more times than not, succeed. But if it is not backed by public opinion, it will fail.

> Is a two-thirds vote to cut off debate an unusual requirement? Far from it. The Constitution provides for a two-thirds vote to override a Presidential veto.

There was a Presidential veto in the last Congress and I believe there was only one vote to sustain the veto.

Mr. STONE. Will the Senator yield for several questions?

Mr. ALLEN. I will be delighted to yield for questions.

Mr. STONE. In the debate of the proponents for the proposition that the Constitution specifies a majority level for the making of rules, I heard the argument that, because the Constitution sets a two-thirds level for such things as the ratifications of treaties and the overriding of a veto, therefore the silence to specify two-thirds militates in favor of their belief that it is by a majority that all rules should be determined. But is that the content of section 5, paragraph 2?

Mr. ALLEN. No, that is not. All it says there is that each House shall determine its own rules. It does not say that a majority can pass anything at the start of a new Congress. The Senate has complied with that rule. It has passed its rules. It has procedures there for amending the rules.

Mr. STONE. Is it not also the case that had the Founding Fathers wished to specify a majority in that paragraph which structures our determination of rules, that they could have so specified just as they did in the paragraph immediately preceding it for the requirement of a quorum?

Mr. ALLEN. That is certainly a very fine point. As the Senator knows, the Constitution even specifies as to such minutia, you might say, as how many Members of the Senate it takes to get a rollcall vote. It takes 20 percent of the Senators to get a rollcall vote. That is an important provision because the right of the public to know how their officials vote is an important right. But they went into such detail as that.

I think the Senator has made a very fine point. If they had wanted to say a majority, they would have said it.

Mr. STONE. In line with what the distinguished Senator from Louisiana referred to in saying that any time that you wanted to do violence to the rules you could, simply by obtaining a favorable ruling against the rules from the Presiding Officer and then supporting him on an appeal by the majority, did we not have an example of exactly that in the last session of the United Nations, wherein the Presiding Officer did violence to the right of ability to get up and speak by a nation and was sustained by a majority?

Mr. ALLEN. Yes. The Senator certainly is correct.

As the Senator knows, a majority in the General Assembly of the United Nations is certainly opposed to the interests of the United States. I question whether we really are serving our best interests by continuing to place our interests under the control and jurisdiction of the United Nations.

Mr. STONE. But is it not true that whether or not we are for the way the United Nations is structured, in the fashion in which that presiding officer ruled, a majority could do anything, regardless of what the rule specified, and that in his being upheld by the majority, the level of prestige, the level of confidence, the level of reliability of that institution suffered greatly?

Mr. ALLEN. I certainly agree with the distinguished Senator. They have more or less made a kangaroo court out of the General Assembly of the United Nations, and that is certainly something we do not want to see the Senate descend to, I say to the Senator from Florida and to the Presiding Officer. That is something we want to avoid.

Following the rules, the time-honored rules, provided in the rule book certainly is not doing violence to our prestige as a deliberative body. If we depart from following the rules and try to go in the back door from time to time, as we feel expediency might dictate, we are going to make a serious mistake that will come back and haunt us through the years.

Enumerating the two-thirds requirements of the Constitution: A two-thirds vote to override a Presidential veto, to ratify a treaty, to submit a constitutional amendment, to convict on an impeachment. So, what is so unusual or unfair in a requirement for a two-thirds vote to cut off free speech in the Senate?

It is interesting that some time ago, two of the ablest Senators, the distinguished Senator from California (Mr. CRANSTON) and the distinguished Senator from Idaho (Mr. CHURCH)—I believe the distinguished Senator from Maryland (Mr. MATHIAS) participated in that colloquy, but I do not believe he went quite so far as the Senators from California and Idaho—who had supported moves to amend rule XXII to allow three-fifths instead of the required two-thirds to cut off debate, announced that they had changed their minds and favored the present two-thirds requirement. That is applicable to the Senator from Idaho (Mr. CHURCH) and the Senator from California (Mr. CRANSTON). That was their position at that time, in 1971. I understand that the distinguished Senator from California (Mr. CRANSTON) has switched back, so that he favors the 60 percent, but the distinguished Senator from Idaho is standing firm with his 1971 position.

It is also interesting that in the 92d Congress, I was able to have brought up for consideration in the Senate an anti-forced-busing bill that was supported by a substantial majority in the Senate. Who showed up to filibuster the bill? Why, it was those two opponents of the filibuster, the distinguished Senator from New York (Mr. JAVITS) and the distinguished Senator from California (Mr. CRANSTON). They succeeded in filibustering the bill to death.

So, once again, whether a filibuster is a filibuster or merely extended discussion depends upon whose ox is being gored, or whether one is for a bill or against it, as the distinguished Senator from Louisiana pointed out.

What comes after killing free speech in the Senate? Free speech is guaranteed under the first amendment. That is a question that is presented here, Mr. President: What comes after relaxing the rules and having a 60-percent requirement on invoking cloture? Or, as the distinguished Senator from Louisiana has said, by going the route of insisting that 51 Senators, or a bare majority, can invoke cloture on this bill, they will automatically change the cloture rule not to the 60 percent but to the simple majority.

The Senate has not achieved its reputation as a deliberative body by having any rule such as that.

Mr. President, much has been said about the right at each new Congress of the Senate to change its rules. That goes at variance with rule XXXII, which says the rules shall continue in force until changed as provided in the rules. Majority Leader Lyndon Johnson said he thought that was going to lay the matter to rest, but apparently it has not been laid to rest.

Mr. President, let us check the bona fides of the claim that every 2 years the Senate can amend its rules, that it has no rules, that it must start over. It is quite obvious that that is not correct, because I have been in the Senate for 6 years, and I have never, since being here, heard the motion made to adopt the rules of the last Senate, indicating that it is understood that the rules carry over from one Congress to the other.

I have served in legislative bodies in my home State. Those are not continuing bodies. The entire membership is elected every 4 years. So one of the first motions that is made in the House and in the Senate in my home State is a motion that the rules of the preceding legislature shall be adopted as the rules of the current legislature. Mr. President, I have never heard of any motion such as that being made in the Senate. Perhaps it has. Perhaps I was out of the Chamber at the moment. But I have never heard a motion being made to adopt the rules of the Senate of 2 years ago.

By what authority do they carry on, then? They carry on under the provisions of rule XXXII. If the Senators who seek to apply the gag rule actually thought that the rules come up every 2 years and have to be approved in order for them to continue on, why has not any such motion ever been made? Because they know that the rules are carried forward under rule XXXII. Rule XXXII provides that if there are going to be amendments to the rule, they have to be made in accordance with the Senate rules—rules as to debate, rules as to the imposition of cloture.

Mr. President, the precedent is clear. It has been ruled on time and time again. Then Senator Johnson, in 1959, thought that the matter had been laid at rest for all time when the compromise in 1959 was reached.

Mr. President, if those Senators who seek to apply the gag rule can obtain a two-thirds vote to apply cloture to amend these rules—well, rules can be amended in accordance with the rules. Why have one rule for this one issue and another rule for everything that there is other than this one issue? Why contend that there is a different rule every 2 years and then do nothing about it with respect to the other rules? It has been shown pretty conclusively, it is well known that the rules continue in full force and effect until amended as provided here in the rules.

Mr. President, this matter, in all likelihood, will come before the Presiding Officer.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Alabama yield for a request?

Mr. ALLEN. Yes, I will be delighted to yield.

Mr. ROBERT C. BYRD. Mr. President, the distinguished senior Senator from Massachusetts (Mr. KENNEDY) wishes to take the floor for a short time to address the Senate with respect to a matter not germane to the pending business before the Senate. The distinguished Senator from Washington (Mr. JACKSON) would also like to join with the distinguished Senator from Massachusetts (Mr. KENNEDY) in speaking on the subject. Perhaps, if I understand the situation, those Senators would be interested in introducing some legislation.

Will the distinguished Senator from Alabama yield the floor for something like until 5 o'clock, with the understanding that he not lose his right to the floor, that no action be taken in any way on the pending business, in order that the Senator from Massachusetts and the Senator from Washington may address themselves to the subject for which they have prepared news releases. Perhaps they will not need that much time.

Mr. ALLEN. In response to the request of the distinguished assistant majority leader, he knows that I should certainly like to accommodate him and accommodate the senior Senator from Massachusetts (Mr. KENNEDY) and the junior Senator from Washington (Mr. JACKSON) in any way that I possibly can. The distinguished assistant majority leader was not in the Chamber, I do not believe, when the Senator from Alabama took the floor. I wish to state that the occasion for his taking the floor was that the distinguished Senator from Minnesota (Mr. MONDALE), after the unfinished business was laid down, made a motion, which he certainly had a right to do, which is within the rules, that the Senate proceed to the consideration of Senate Resolution No. 4, which is an amendment of rule XXII.

The Senator from Alabama waited patiently, I might say, hoping that the Senator from Minnesota would speak up with respect to his motion. He waited, hoping that the distinguished Senator from Massachusetts (Mr. KENNEDY) would take the floor, because the Senator from Alabama understood that he wished to speak. It was only in that hiatus that the Senator from Alabama moved in and started discussing this issue. He was not prepared to discuss it. He thought that the proponents of the motion would have something to say about it, so he has made a feeble attempt to discuss the issue.

Mr. ROBERT C. BYRD. The Senator never makes a feeble attempt to discuss any issue.

Mr. ALLEN. Understanding, as the Senator said, that the distinguished Senator from Washington (Mr. JACKSON) has already issued a release as to what he has said on the floor, and the Senator from Massachusetts (Mr. KENNEDY) has, as the Senator from Alabama understood from the Senator from West Virginia, also issued releases, the Senator from Alabama is sympathetic to that state of affairs and certainly would not want their releases to speak other than the truth. So he will certainly be delighted to comply with the request of the distinguished assistant majority leader that he yield the floor until 5 o'clock, and that at that time he will have the right to the floor again to discuss this issue further.

In the meantime, he will be able to accommodate the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Washington (Mr. JACKSON), which he wants very badly to do.

Mr. GRIFFIN. Mr. President, reserving the right to object, is there a unanimous-consent request?

Mr. ROBERT C. BYRD. There is none.

Mr. President, I, therefore, ask unanimous consent that the distinguished Senator from Alabama (Mr. ALLEN) yield the floor without losing his right to the floor for a period not to extend beyond—does the Senator want it exactly 5?

Mr. ALLEN. I should like it exactly, because that will give the Senator from Alabama an opportunity to go down and eat lunch.

Mr. ROBERT C. BYRD. Then for a period to extend to 5 o'clock p.m. today, at which time he will again be recognized; I ask also that in the meantime, Mr. KENNEDY and Mr. JACKSON may have the floor to speak on another matter.

Mr. ALLEN. And further, that in the meantime there will be no action with respect to Senate Resolution No. 4.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I wish to extend my appreciation to the Senator from Alabama for his accommodation on this particular issue. I appreciate the leadership's efforts, at least, in permitting the Senator from Washington and myself to pursue a matter of great interest, we believe, not only to ourselves, but at this point, to some 30 other Members of the U.S. Senate. I thank him and the Senator from Alabama for affording us this opportunity to pursue this issue.

PROPOSED PROHIBITION AGAINST IMPOSITION OF TARIFFS ON OIL

Mr. KENNEDY. Mr. President, I intend to introduce for myself and Senator JACKSON and 34 other Senators a joint resolution to delay President Ford's announced program to impose tariffs on oil imports and to lift oil price controls.

In his state of the Union message, President Ford announced that he would act to impose $3 per barrel oil import fees, with the first stage beginning on February 1 and that he intended to lift controls on "old" oil prices completely by April 1. We believe the Congress must have the opportunity to fully examine the consequences of these two actions, which would immediately raise the Nation's home heating, gasoline, and residual fuel oil bills by $32 billion. The ultimate effect of that massive increase in petroleum prices as it ripples through the economy could well be close to $60 billion.

This joint resolution, if enacted, would delay for 90 days the imposition of higher tariffs on oil imports and the removal of crude oil price controls. These are the two elements of the President's energy proposal that he intends to put into effect without any congressional consultation or consideration.

After the 60th day after enactment, a 30-day review period would begin on these proposals if the President has submitted them to the Congress. Either House, acting under the expedited procedures of the Reorganization Act, could prevent those proposals from taking effect by passing a motion of disapproval. If they have not been submitted prior to the 60th day, then the 30-day review period would begin to run on their submission to the Congress.

While we share the President's goal to see a reduction in U.S. oil consumption and a resulting reduction in our import requirements, we have grave doubts that the President's program will achieve any significant reduction in consumption. What it will guarantee, however, is double digit inflation in 1975. American consumers will be assured of paying at least 20 percent more for gasoline, perhaps 30 percent more for home heating oil and 30 percent more for residual fuel oil.

At the same time, this immediate extraction from the economy of billions of dollars will offset much of the projected benefit of the proposed tax rebate designed to stimulate the economy.

We have been suffering from the worst of two worlds—rapid inflation and deepening recession. The President's energy policies will insure the continuation of these economically disastrous conditions.

While we support many of the other energy measures proposed in the President's state of the Union message, many of which were included in legislation previously reported from Senator JACKSON's committee and approved by the Senate, the heart of his energy package will exacerbate our economic difficulties.

An example of why the program should not be approved without full congressional consideration can be found in its impact on my own State of Massachusetts. We face 9.1 percent unemployment today. Our industries are struggling to compete at a time that they are paying 30 percent more for energy than the rest of the Nation. This proposal will virtually insure higher unemployment and more closed factories.

The initial estimate of its cost in Massachusetts is that we will pay close to $800 million more for gasoline, home heating oil, and residual fuel oil. It will cost the average Massachusetts family $238 a year. At the same time, we will find that as these higher energy costs add to the cost of food, transportation, and other goods and services, more than $1.4 billion will be taken out of our economy.

For Massachusetts and New England which relies on oil for 85 percent of its energy needs, compared to the national average of 45 percent, the President's program will be disastrous.

It also will not in any way reach the President's stated goal of reducing consumption. We already have reduced our consumption of home heating oil by 20 percent and our industries have reduced their use of energy by 25 to 35 percent. Therefore, when home heating oil prices and residual fuel oil prices rise by an estimated 30 percent, there cannot be any further reduction in consumption, there only will be higher prices paid. We cannot stop heating our homes or fueling our factories.

Other States along the eastern seaboard face similiar problems as to many of the States in the northern tier of the Midwest which rely heavily on Canadian oil. And all States and all citizens will bear the burden of higher prices for the oil they do use as the average price of a barrel of crude oil floats upward to the new world price plus tariff—nearly a 60-percent increase over today's prices.

We do not believe that the Congress should stand idly by while a major policy change of this magnitude is imposed by the President alone.

Secretary of the Interior Morton said on Sunday that despite these criticisms of the President's energy program:

> Let's get it through the Congress and then if it needs adjusting, let's adjust it.

Part of the unfortunate answer is that the President has not given us the chance to even consider his major proposals, let alone enact them. But more important, I do not believe that we would be acting responsibly if we stand silently while these enormous price hikes are imposed on the Nation's consumers, while 2 to 4 percentage points are added to the level of inflation and while the economy is further retarded. After it is enacted, it may be too late for the Nation's economy and the American people to adjust.

Also, it will be imposed immediately and vast profits will be heaped even higher in the coffers of the major oil companies.

For all of these reasons, we believe it is essential that there be immediate action on this resolution by the Senate and the Congress.

I previously introduced Senate Joint Resolution 3 which now has some 20 cosponsors. It would have removed entirely the President's ability to impose new tariffs without affirmative congressional action. However, that measure cannot be acted upon by the Senate Finance Committee in time to affect the President's February 1 date for commencing the new tariffs.

For that reason, Senator JACKSON and I are introducnig this measure and hope for its consideration by the Senate this week. An identical measure will be introduced in the House of Representatives.

I ask unanimous consent to have placed in the RECORD a copy of the resolution itself, a copy of the press release announcing our intention to file the joint resolution, a copy of the "Dear Colleague" letter which we are circulating today, a fact sheet summarizing the costs of President Ford's $3 per barrel higher tariffs and his plan to decontrol "old" oil prices, and news articles on the subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT RESOLUTION

To prohibit for a period of sixty days the imposition of tariffs, fees and quotas on oil imports and the lifting of all price controls on domestic oil, and to thereafter require the submission to, and the right of approval of the Congress of any such action within thirty days

Whereas, the President's State of the Union message announces his intention to levy new fees on imports of crude oil and petroleum products and to lift all price controls on domestic oil under the authority of existing law;

Whereas, the Congress expressed in the Trade Act of 1974, its desire that public participation be required prior to the use of the President's authority under the national security provisions of the Trade Expansion Act of 1962, as amended;

Whereas, imposing import fees and lifting price controls would increase the price of crude oil and all petroleum products, including home heating oil and residual fuel oils, substantially, thereby creating major inflationary pressures throughout the economy;

Whereas, consumption of home heating oil and residual fuel oil already has been reduced substantially in many areas of the country and therefore imposition of import fees and the lifting of price controls will result in higher prices to consumers with little corresponding reduction in oil consumption;

Whereas, the policy of lifting price controls and using new import fees to reduce energy consumption represents a fundamental policy change as stated by the President in his State of the Union message;

Whereas, the purpose of this Joint Resolution is to permit the Congress a reasonable period of time to review and, if desirable, to develop fair and equitable alternatives to the President's proposals to impose a $3 per barrel oil import fee and to remove all existing price controls on domestic oil by April 1, 1975: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That, after the date of enactment of this Joint Resolution—**

(a)(1) No new tariff, fee or other charge, and no increase in existing tariffs, fees or other charge on imports of crude oil or petroleum products in effect on January 1, 1975, may be imposed except in accordance with subsection (b) of this section;

(2) No new quota or other limitation on imports of crude oil or petroleum product other than those in effect on January 1, 1975, may be imposed except in accordance with subsection (b) of this section; and

(3) No increase in the price permitted for oil now classified as "old" oil under regulations promulgated pursuant to section 4 of the Emergency Petroleum Allocation Act of 1973 (87 Stat. 629) and in effect on January 1, 1975, may be established except in accordance with subsection (b) of this section.

(b) No action covered by the provisions of subsections (a)(1) through (3) may be undertaken unless:

(1) Such action is specifically authorized by law enacted after the date of enactment of this Joint Resolution; or

(2) The specific action proposed to be taken is submitted to both Houses of the Congress then shall have the opportunity to disapprove of such action within thirty days of the receipt of the proposal, pursuant to the procedures provided for in sections 906(a), (b) and (c), 908, 909, 910, 911, and 912, and 913 of title 5 United States Code, except that for the purposes of this Joint Resolution,

(A) the period of Congressional review and opportunity shall be 30 calendar days rather than 60 calendar days; and

(B) any reference in such sections to "reorganization plan" shall be deemed to be a reference to "petroleum pricing actions" which for the purposes of this Joint Resolution shall mean all actions referred to in subsections (a)(1) through (3) of this Joint Resolution.

(C) Such thirty day review period shall begin on the 60th day after enactment or when such action is submitted to the Congress if it is submitted after the 60th day. If such action is disapproved by either House within the thirty day review period, no officer or agency shall have authority to take any action inconsistent with the provisions of subsection (a) of this Joint Resolution.

STATEMENT BY SENATOR EDWARD M. KENNEDY AND SENATOR HENRY M. JACKSON ANNOUNCING PLANS TO INTRODUCE A JOINT RESOLUTION TO DELAY PRESIDENT FORD'S ANNOUNCED PROGRAM TO IMPOSE TARIFFS ON OIL IMPORTS AND TO LIFT OIL PRICE CONTROLS

Senator Edward M. Kennedy and Senator Henry M. Jackson today announced plans to introduce a Joint Resolution on Tuesday to delay for 90 days the effect of any increase in oil import fees, tariffs or quotas and to delay the President's proposal to decontrol "old" oil prices on April 1.

The Senators stated that their proposal was designed to give Congress a reasonable opportunity to consider the impact of the massive price increases the President's proposals would have on consumers, on business, on unemployment, on inflation, and on the economy in general.

The Senators expressed grave doubts that the President's program to greatly increase petroleum prices would achieve any significant reduction in oil consumption and thereby reduce the level of crude oil imports. They also expressed serious concern that the impact of the Ford price increases could cripple an already weakened domestic economy. Even if the economy could withstand the massive hikes in prices for gasoline, home heating oil, electricity and all other goods and services, it is clear that low and middle income families, the poor, the unemployed, and retired persons on fixed incomes would endure severe hardship.

The Senators said they have the support of the Senate leadership in moving the Joint Resolution to the Senate floor for consideration this week. A Joint Resolution when adopted by both Houses of the Congress and signed by the President has the force of law.

Both Senators said that there were a number of energy measures proposed in the President's State of the Union message which they will actively support. These include standby emergency authority to deal with shortage conditions, establishment of a system of strategic oil reserves, improving automobile gasoline mileage, tax credit and other assistance to insulate homes, assistance to low income families in paying rising fuel bills, and a long-term national energy conservation policy.

Attached are copies of a fact sheet and copies of the Joint Resolution.

FACT SHEET

Impact of President Ford's plan for an Oil Import Tariff of $3.00 per barrel and for removing controls on domestic crude oil prices.

I. Impact on direct consumer costs of imposing an oil import tariff fee on February 1, which would rise to $3.00 per barrel by April 1, and of ending all oil price controls on April 1.

Consumer cost

[Billions of dollars]

1. Tariff on Imported Oil of $3.00 (6.5 mmbd x 365 x $3)	$7.2
2. Increase on price of presently controlled oil (5.7 mmbd x 365 x $8.15)	17.0
3. Increase in Price of Presently Uncontrolled oil (3.0 mmbd x 365 x $3)	3.3
4. Less rebate for petroleum products	(1.8)
5. Increase in Price of Uncontrolled Intrastate Natural Gas (.6 x 11.0 tcf x $2.69 x .19)	3.4
6. Increase in Price of Coal (.5 x 540 mmt x 4.27 x $2.69)	3.1
Total cost to consumers of Ford fee and decontrol plan	32.2

II. If these two actions planned by President Ford—imposition of a $3.00 per barrel tariff and decontrol of domestic oil prices by April 1—are undertaken, they would

1. lead to a new inflationary surge by adding at least 2% to the average cost of all goods and services;
2. depress the American economy by depriving American consumers of at least $32 billion in purchasing power;
3. burden middle and lower-income groups unfairly by adding at least $430 per year per family in prices;
4. not significantly curtail U.S. oil consumption;
5. place American business and industry at a competitive disadvantage against foreign firms, which could be offset only by further devaluation of the dollar;
6. result in massive windfalls and unearned income for major oil companies; and
7. constitute an open invitation for OPEC to further raise the price of its oil by at least $3 per barrel, at an additional cost of $24 billion (every $1 per barrel increase takes away $8 billion per year from the American consumer in higher energy costs); and
8. turn effective control over domestic oil pricing policy to OPEC nations by permitting U.S. domestic oil prices to float to the world level (which is unilaterally established by the OPEC cartel) plus the $3.00 per barrel tariff.

U.S. SENATE,
Washington, D.C., January 21, 1975.

DEAR COLLEAGUE: We intend to introduce today a Joint Resolution to delay the imposition of the President's proposed $3.00 fee on imported crude and petroleum products and his proposal to remove all price controls from domestic "old" crude oil until Congress has had a reasonable period of time to consider the import these major policy decisions would have on inflation, consumer purchasing power, business and the economy in general.

This Resolution, assuming the President moved ahead with his program as announced in his State of the Union message, would delay the effective date of those actions for 90 days. Under the Resolution, for 60 days, the discretionary authorities which the President has claimed to permit him to raise fees on imports and to remove price controls from "old" oil prices would be inoperative while Congress considers the President's new program. After the 60 days, the discretionary authorities would be reinstated except that Congress then would have 30 days in which to disapprove by resolution of a majority of either House of Congress under expedited procedures, any new increase in tariffs, fees or quotas on oil imports or the removal of existing oil price controls.

Our concern is that the President's proposals which will initiate a new long-term inflationary cycle as well as present a serious threat to the overriding need to remedy the current recession, have been announced as a *fait accomplis*. While we share many of the goals expressed by the President, we believe that there are better, less disrupting and more equitable ways of reaching those goals. We have particular grave doubts that the announced program will achieve its desired goals of reducing consumption by 1 million barrels per day by the end of this year. And we sharply question the implications of the proposal for the American consumer.

While Senator Kennedy previously introduced S.J. Res. 3 which many of you have co-sponsored to withdraw the President's discretionary authority entirely, and while Senator Jackson has proposed similar action, it is doubtful that these measures can be acted upon by the appropriate committees in both Houses in sufficient time to prevent the President's proposals from taking effect. Therefore, we have offered the attached Resolution as a means to provide the Congress with the time needed to adequately consider the President's proposals.

If you desire to co-sponsor, please notify Mark Schneider or Rubye Allem at 44543 or Joel Merkel at 43464.

Sincerely,

Edward M. Kennedy,
Henry M. Jackson.

[From the New York Times, Jan. 21, 1975]

Ford Challenged by Two Senators on Oil Import Fee—Kennedy and Jackson Plan a Resolution To Delay Levy for 90 Days

(By Richard L. Madden)

Washington, January 20.—President Ford was confronted today with the first specific challenge from Congress over a key part of his economic and energy proposals that would increase fuel prices by imposing higher fees on imported crude oil.

Senators Edward M. Kennedy of Massachusetts and Henry M. Jackson of Washington, both Democrats, announced that they would introduce a resolution, to be acted on by the Senate probably this week, to delay for 90 days the higher fees on oil imports proposed by the President.

On a facet of the President's economic program, the Speaker of the House, Carl Albert of Oklahoma, said tonight in a Democratic party reply to the President's televised address on the economy last week that Mr. Ford's proposal for a rebate on 1974 income taxes would favor "the richest 17 per cent of the population."

CURB ON ENERGY USE URGED

In a related energy matter, the head of the new Energy Research and Development Administration, Dr. Robert C. Seamans Jr., said that the nation would have to slow down its energy consumption if it wished to achieve self-sufficiency.

Senators Kennedy and Jackson said a 90-day delay on the oil import fees would give Congress a chance "to develop fair and equitable alternatives" to the President's plan, which, they contended, would lead to "massive hikes in prices of gasoline, home heating oil and electricity."

Their resolution would have to be passed by both houses and signed by the President, but Mr. Jackson, a contender for the Democratic Presidential nomination in 1976, said he thought there would be enough votes to override a Ford veto.

As opposition to various parts of the President's proposals intensified in Congress, the President made plans to take the initiative in pushing his program.

Ron Nessen, the President's press secretary, announced that Mr. Ford would hold a news conference at 2 P.M. tomorrow and speak here Wednesday night to the Conference Board, an organization of business executives and economists, to discuss his energy and economic proposals.

Mr. Nessen also said that the President was expected to sign this week a proclamation carrying out the first step of his program by the imposition of a $1-a-barrel fee on imported crude oil by Feb. 1, with the fee rising to $2 on March 1 and $3 on April 1—a step that would be delayed if the Kennedy-Jackson resolution is enacted.

Senator Jacob K. Javits, Republican of New York, said in a speech on the Senate floor that Mr. Ford's proposals "fall far short of the magnitude of the crisis."

Mr. Javits proposed, among other things, creation of one million public service jobs at a cost of $7.8-billion, additional authority for the Wage and Price Stability Board to order 60-day cooling-off periods for wage or price increases deemed to be inflationary, and limiting a 1974 tax rebate to families earning $25,000 a year or less.

Mr. Ford has proposed a rebate of 12 per cent of 1974 taxes up to a maximum of $1,000. The effect of the Javits proposal would be to limit the maximum rebate to about $600.

Representative Al Ullman, Democrat of Oregon, the new chairman of the House Ways and Means Committee, said in an interview on the CBS "Morning News" program that he favored cutting 1975 withholding rates on income taxes before acting on the President's proposed rebate of 1974 taxes.

Mr. Ullman also indicated that he would prefer gasoline rationing as "the ultimate objective," rather than the President's proposed higher fees on imported oil.

In addition, Senator Walter F. Mondale, Democrat of Minnesota, said he thought Congress would make a "substantial revision" in Mr. Ford's energy proposal and described rationing as "inevitable" if the President's plan to limit energy use through higher prices was rejected.

Answering questions from reporters at the White House, Mr. Nessen said that the President was "certainly not" reconsidering his energy proposals, despite a Gallup Poll, published in the current issue of Newsweek magazine, showing that 55 per cent of those responding preferred a nationwide rationing program, compared with 32 per cent who preferred taxes that would result in higher gasoline taxes.

PRESIDENT TERMED FIRM

Mr. Nessen said that "the more his plan is looked at and compared with rationing, the more firmly he [the President] believes his is the right way."

Mr. Nessen said that the question was not whether a person preferred rationing or higher taxes, but whether a consumer would prefer a maximum of eight or nine gallons of gasoline a week under rationing or "as much as you want at 10 cents or 12 cents a gallon more."

[From the Washington Star-News, Jan. 20, 1975]

Kennedy, Jackson Try to Block Tariff

(By Walter Taylor and Norman Kempster)

Sens. Edward M. Kennedy and Henry M. Jackson said today that they will attempt to block, at least temporarily, the key energy-saving provision of President Ford's economic recovery program.

The two Democratic leaders said Ford's announced plan to increase oil import fees and to deregulate the prices of domestic petroleum supplies will place undue harships on the American consumer and contribute to inflation.

The "direct, add-on cost" to consumers of oil products such as gasoline and home heating fuel would be $32.2 billion, they charged at a press conference at the Capitol today.

Kennedy, D-Mass., said the "best estimate" available to him on the impact the Ford proposal would have on the price of gasoline would be an increase of "at least" 12 cents per gallon.

In addition to increases in the cost of petroleum products, the senators estimated that the President's program also would result in average price increases of 2 percent in all other sectors of the economy.

"This is the area the President is not talking about," said Jackson, D-Wash. "He's not talking about the costs."

In announcing his proposal for increasing tariffs on imported oil by $3 per barrel and deregulating domestic oil prices, the President said last week that the plan would discourage oil consumption, thus reducing the nation's dependence on foreign petroleum.

Ford said he would impose the increased tariff on foreign oil beginning next month and lift controls on domestic supplies by April 1. Neither action requires congressional approval.

The Kennedy-Jackson measure, which Kennedy will introduce tomorrow, would force Ford to delay his plan for 90 days until Congress can study the impact of the move.

At the White House, Press Secretary Ronald Nessen brushed aside questions about whether Congress has the legal authority to block Ford's energy proposals.

"I don't know whether it is legal but I do know this: The people want action they don't want roadblocks to action."

At the regular White House briefing Nessen said Ford has no plan to reconsider his rejection of gasoline rationing.

"There is an awareness of what people are saying about rationing. The more he compares his program with rationing, the more certain he is that his program is the right way to go," Nessen said.

The spokesman shrugged off opinion polls indicating the public would prefer rationing to Ford's plan which could boost gasoline prices be more than 10 cents a gallon.

"The proper question to ask would be 'Do you want eight or nine gallons of gas a week or all you want at 10 or 12 cents more,'" Nessen said.

"The last time gas rationing was considered at the White House it was under the previous administration and eight or nine gallons was the amount being discussed," Nessen said.

Both Kennedy and Jackson expressed doubts that the plan would achieve any significant reduction in oil consumption, but said it would adversely affect the nation's already weakened economy.

Under their proposal, the President's authority to impose his energy plan would be "inoperative" for a period of 60 days while Congress considers the program.

After the 60 days, the authority—which the senators said was discretionary—would be reinstated. The Congress, however, then would have 30 days in which to disapprove by resolution of a majority of either house of Congress any new increase in tariffs, fees or quotas on oil imports or the removal of existing oil price controls.

Both Kennedy and Jackson acknowledged that they were attempting to obstruct the President's economic recovery plan, which Ford said last week must be implemented quickly.

"We're obstructing on this one issue," said Jackson, because of its "tremendous impact" on the economy. When the American people discover the effect of the President's plan on oil prices, he charged, "I think you're going to see the greatest uprising in the history of the nation."

The two legislators said they are prepared to work with the President on other provisions of his economic package, including granting of standby ration authority, establishing a system of strategic oil reserves, granting tax credits and other assistance to encourage homeowners to conserve fuel and improving gasoline mileage of automobiles.

Jackson told reporters that he is confident that the Democratic proposal had sufficient support to pass both houses of Congress and to override a presidential veto of the measure.

[From the New York Daily News, Jan. 21, 1975]

Two Act To Block Ford's Oil Plan

Washington, January 20.—Two influential Senate Democrats, Henry M. Jackson (Wash.) and Edward M. Kennedy (Mass.), teamed up today in an atempt to block President Ford from imposing a tariff on imported oil and from lifting domestic oil price controls.

At the same time, Chairman Al Ullman (D-Ore.) of the tax-writing House Ways and Means Committee said he favors gasoline rationing to curb fuel consumption rather than the combination of higher taxes and tariffs Ford is pushing.

But the White House, conceding that Ford's antirecession program is complex and needs to be explained to the public, said that

Ford remains convinced that higher fuel prices, not rationing, is the way to hold down gasoline consumption.

PRESS CONFERENCE

In an effort to take his message to the people, the President will hold a nationally televised press conference tomorrow afternoon and will make an economic speech to a gathering of businessmen and economists Wednesday night at the Washington meeting of the Conference Board.

White House Press Secretary Ron Nessen said that Ford is planning to take various steps this week to implement parts of his energy program, including the issuance of a proclamation to raise the duty on imported crude oil and petroleum products by $3 a barrel by April 1.

But Kennedy and Jackson told reporters they would introduce a resolution to block Ford for 90 days from imposing the tariff. They said the delay would give Congress time "to develop fair and equitable alternatives to the President's proposals."

Jackson said there was overwhelming support for such a resolution and enough votes in both the House and Senate to override any Ford veto. He denied that he and Kennedy were adopting an "obstructionist" tactic, contending that the price of oil would skyrocket from $5.25 a barrel (for price-controlled oil) to $13 a barrel.

Kennedy said that he understood that Govs. Hugh Carey of New York, Michal Dukakis of Massachusetts and Reubin Askew of Florida planned to file a lawsuit in the next few days to try to block Ford. Their suit will argue that the 1974 Trade Reform Act requires the administration to hold hearings and for the President to declare that the national security requires it before any such action can be taken. As for Ullman's preference for gasoline rationing over energy taxes, Nessen said the question should be, "Which would you rather have—eight or nine gallons of gas a week maximum, or as much as you want at 10 cents or 12 cents a gallon more?"

KENNEDY ASKS DELAY IN OIL TAX

(By Stephen Wermiel)

WASHINGTON.—Sen. Edward M. Kennedy and Rep. Thomas P. O'Neill Jr. (D-Mass.) have joined forces in an effort to delay for at least 90 days President Ford's planned oil import tax and give Congress an opportunity to review the Administration program.

Kennedy announced the move yesterday at a joint news conference with Sen. Henry Jackson (D-Wash.). Jackson and Kennedy today will introduce a resolution which would force Mr. Ford to delay 60 days, pending congressional review of both the import tax and the proposed deregulation of price-controlled domestic crude oil.

The measure would, in effect, suspend executive authority invoked by the White House for the import tax for 60 days. It would also allow Congress another 30 days to disapprove the energy plan.

O'Neill, majority leader of the House, will introduce the same resolution tomorrow. Aides in the House and Senate said they hoped for speedy consideration of the resolution.

The announcement came as White House press secretary Ron Nessen was telling reporters Mr. Ford would probably sign a proclamation implementing the oil import tax this week—possibly tomorrow.

The proclamation will set a $1 tax on each barrel of imported crude oil in February with the level rising to $2 in March and $3 in April. Through a rebate system, there will be no tax on imported residual and home heating oil next month, a 60-cent tax in March and $1.20 tax in April. Residual oil is used by utilities and industries.

The Federal Energy Administration proceeded yesterday on the assumption that the import tax will be carried out. The FEA announced it will publish regulations on the tax tomorrow and had scheduled a public hearing on it for Feb. 6.

The agency said the proposed regulations were written to "cushion the impact of the higher import fees" in oil-short areas such as New England.

As written, the proposed regulations focus price increases on gasoline and bar importers from * * * price of No. 2 home heating oil, used mostly in the east.

Late yesterday, Rep. Robert Drinan (D-Mass.) said he will file suit Friday to halt the imposition of the import tax.

Drinan told the Associated Press in a telephone interview he will be a plaintiff in the action along with the Boston Edison Co. and the New England Electric Co.

The suit, seeking a temporary restraining order against the first, $1 phase of the new tax, is expected to be filed in US District Court in Washington.

O'Neill in a statement yesterday expressed amazement at the President's proposals which he also described as ill-advised. He said it was a cruel hoax to tell people that any income lost through increased fuel costs will be returned in tax cuts.

Kennedy and Jackson expressed doubt that the President's energy proposals would bring about significant conservation. They said the proposals "could cripple an already weakened economy."

Kennedy and Jackson also disputed estimated costs of the oil import tax, saying the real effect would total $32.2 billion nationwide, not the $30 billion estimated by the White House.

The two Democrats said the energy plan would add 2 percent to the average cost of all goods and services, cause a loss of $32 billion in purchasing power and burden the average family with $430 in extra expenses.

PRESIDENT FACES FIRST SERIOUS CHALLENGE—KENNEDY ACTS TO BLOCK FORD ON OIL

SENATOR JACKSON JOINS FIGHT

(By Richard L. Madden)

WASHINGTON.—President Ford was confronted yesterday with the first specific challenge from Congress over a key part of his economic and energy proposals that would increase fuel prices by imposing higher fees on imported crude oil.

Senators Edward M. Kennedy of Massachusetts and Henry M. Jackson of Washington, both Democrats, announced that they would introduce a resolution, to be acted on by the Senate probably this week, to delay for 90 days the higher fees on oil imports proposed by the President.

Such a delay, both Senators said, would give Congress a chance "to develop fair and equitable alternatives" to the President's plan, which they contended, would lead to "massive hikes in prices of gasoline, home heating oil and electricity."

Their resolution would have to be passed by both Houses and signed by the President, but Jackson, a contender for the Democratic presidential nomination in 1976, said he thought there would be enough votes to override a Ford veto.

As opposition to various parts of his proposals intensified in Congress, the President made plans to take the initiative in pushing his programs.

Ron Nessen, the President's press secretary, said that Ford would hold a news conference at 2 p.m. today and speak here tomorrow night to the Conference Board, an organization of business executives and economists, to discuss his energy and economic proposals.

Nessen also said that the President was expected to sign this week a proclamation carrying out the first step of his program by the imposition of a $1 a barrel fee on imported crude oil by Feb. 1, with the fee rising to $2 on March 1 and $3 on April 1—a step that would be delayed if the Kennedy-Jackson resolution is enacted.

Their resolution would have to be passed by both Houses and signed by Ford, but Jackson, a candidate for the Democratic presidential nomination in 1976, said he thought there would be enough votes to override a Ford veto.

At the same time other members of Congress began advocating other alternatives to parts of Ford's package, which is based on a tax cut to spur the sagging economy as well as higher fuel costs to expand domestic energy production and eventually to end dependence on foreign energy sources.

Sen. Jacob K. Javits (R.-N.Y.) said that Ford's proposals "fall far short of the magniture of the crisis."

Javits proposed creation of one million public service jobs at a cost of $7.8 billion, additional authority for the Wage and Price Stability Board to order 60-day cooling-off periods for wage or price increases deemed to be inflationary, and limiting 1974 tax refunds in families earning $20,000 a year or less.

Ford has proposed a rebate of 12 percent of 1974 taxes up to a maximum of $1000. The effect of the Javits proposal would be to limit the maximum rebate of about $600.

Rep. Al Ullman (D.-Ore.) the new chairman of the House Ways and Means Committee, said on a television interview that he favored cutting 1975 withholding rates on income taxes before acting on Ford's proposed rebate of 1974 taxes.

URGENT NEED TO DELAY PRESIDENT FORD'S ANNOUNCED PLAN TO IMPOSE OIL IMPORT FEE AND TO DECONTROL ALL DOMESTIC OIL PRICES

Mr. JACKSON. Mr. President, today Senator KENNEDY and I are proposing to introduce a joint resolution which would prohibit for a period of 60 days the imposition of new tariffs, fees, and quotas on oil imports and would prevent the proposed removal of all price controls on domestic oil. The resolution would further require that, after the initial 60-day period, any similar proposal regarding oil imports or oil price decontrol must be first submitted to the Congress with right of congressional approval within 30 days.

The President's energy proposals, which he outlined in his state of the Union message on January 15, 1975, would, if implemented, result in a substantial and rapid increase in the basic price of energy consumed in the United States. Based on preliminary calculations it is clear that the magnitude of the shock to the U.S. economy from this program will be nearly as great as the impact of the price increases which accompanied the Arab oil embargo of a year ago. The President plans to implement his proposals to increase the fees on imported oil on February 1—just 11 days from now without any opportunity for congressional review. The decontrol of all domestically produced oil would be accomplished—also through administrative action—on April 1. In neither case would the Congress be permitted a role in these decisions, despite the enormous consequences of the program for American consumers and the American economy.

Based on a conservative estimate of the economic impact of the President's program of import fees and a lifting of domestic crude oil price controls which the President plans to impose without congressional approval, approximately over $32 billion would be added to consumer costs in 1975 at a time when the economy is dangerously depressed. This amounts to nearly $150 for each man, woman and child in the United States, nearly $600 for an average four-person family. These enormous cost increases would affect all petroleum products and would quickly spread to other energy sources which compete with oil in the United States. Thus, price increases would be general, rather than directed to gasoline where the only major potential for savings lies. Consumers who have instituted, for example, measures to conserve heating oil in response to last year's doubling of heating oil prices would have little option to conserve yet would still be faced with the increased costs. The steep climb in electricity rates of the past year would be accelerated with no guarantee that commensurate savings in energy could be achieved.

The President plans the administrative imposition of the most substantial portions of his overall program to increase energy prices. The resolution which Senator KENNEDY and I propose to introduce today would require that the Congress be consulted on these proposals before they are implemented, that each proposal be fully justified as to rationale and impact, and that the right of congressional disapproval be available.

I believe that the program of import fees and domestic oil decontrol by itself contains the seeds of economic disaster for the United States without the promise of any substantial improvement in our energy situation. I believe this because, in my opinion, the administration's program, if adopted, would:

Lead to a new inflationary surge by adding at least 2 percent to the average cost of all goods and services;

Depress the American economy by depriving American consumers of at least $32 billion in purchasing power;

Burden middle- and lower-income groups unfairly by adding at least $600 per year per family in prices;

Not significantly curtail U.S. oil consumption;

Place American business and industry at a competitive disadvantage against foreign firms, which could be offset only by further devaluation of the dollar;

Result in massive windfalls and unearned income for major oil companies;

Constitute an open invitation for OPEC to further raise the price of its oil by at least $3 per barrel, at an additional cost of $24 billion—every $1 per barrel increase takes away $8 billion per year from the American consumer in higher energy costs; and

Turn effective control over domestic oil pricing policy to OPEC nations by permitting U.S. domestic oil prices to float to $3 above the world price level which is unilaterally established by the OPEC cartel.

If the impact were even half what I estimate it to be, the Congress would be ignoring its obligations totally by failing to act. The resolution which Senator KENNEDY and I propose asserts the right of Congress to participate to analyze, to clarify, and to approve or disapprove these proposed actions which promise to so fundamentally alter the lives of our citizens. I strongly urge its early adoption.

Adoption of this joint resolution will permit the appropriate committees of the Congress a reasonable opportunity to develop a hearing record on this subject and develop any alternatives which may be warranted.

Mr. President, the contention has been made on the Senate floor that this joint resolution would somehow violate the constitutional requirement that all bills for raising revenue shall originate in the House of Representatives.

Mr. President, this contention has absolutely no merit whatsoever. First of all, the joint resolution we propose does not grant any new authority to the President or the executive branch. Second, the purpose of the joint resolution we propose is to limit existing legal authority which granted a broad range of discretionary powers to the President in two separate acts. The first of these, the Trade Expansion Act of 1962, granted discretionary authority to the President to impose import fees. The purpose of the resolution is to delay the President's authority to impose such fees on oil imports for a period of 60 days and to provide thereafter that the Congress shall have an opportunity for a period of 30 days to review and disapprove such proposals. The second act, the Emergency Petroleum Allocation Act of 1973, directed the President to control the prices of crude oil and petroleum products during periods of shortages and other dislocations in the competitive market system. Here again, the purpose of the joint resolution proposed today is to limit the discretionary authority of the President under section 4 of the Petroleum Allocation Act to unilaterally decontrol oil prices by either raising permissible levels to the world price or decontrolling under the procedure provided for in section 4(g)(2).

Mr. President, the purpose of this resolution clearly is not to raise revenue. The single purpose is to delay action by the President under the authority of existing law to impose huge import fees and to decontrol prices of domestic oil from $5.25 per barrel to world prices of $12 and up. This delay will permit Congress a reasonable opportunity to evaluate the economic impact of these actions which the President has announced he will undertake on February 1 and April 1.

The Senate, of course, is the final arbiter of all constitutional questions raised under the Senate rules. This joint resolution clearly does not present a constitutional question. I urge my colleagues' support of the resolution to insure that the Senate and the House can act to prevent this precipitous act on the part of the administration and permit the committees of jurisdiction and the normal legislative process to deal with the fundamental policy issues presented in the President's announced plan.

PROHIBITION AGAINST IMPOSITION OF TARIFFS ON OIL

Mr. KENNEDY. Mr. President, I send to the desk a Senate joint resolution, and I ask unanimous consent that it be considered at this time.

The PRESIDING OFFICER. The clerk will state the resolution.

The second assistant legislative clerk read the joint resolution as follows:

> To prohibit for a period of sixty days the imposition of tariffs, fees and quotas on oil imports and the lifting of all price controls on domestic oil, and to thereafter require the submission to, and the right of approval of the Congress of any such action within thirty days.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. GRIFFIN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. GRIFFIN. I make a point of order against the request of the Senator from Massachusetts on the constitutional ground that legislation dealing with revenues—and this deals with tariffs—must originate in the House of Representatives. While I understand and recognize that bills affecting revenues are often introduced, the Senator is asking the Senate to consider this at the present time, and it would seem to me that a point of order should lie against it.

The PRESIDING OFFICER. The Chair will state that a point of order is not in order until a measure is before the Senate.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. If this request were made during the morning hour, as I understand, and objection were raised, it would go over under the rule; is that correct?

The PRESIDING OFFICER. In the first place, this is a joint resolution, and if objection were raised either in the morning hour or now, it would have to go over 1 legislative day.

Mr. GRIFFIN. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Then, if an objection is lodged at this point, what will happen to this joint resolution?

The PRESIDING OFFICER. It will go over 1 legislative day.

Mr. GRIFFIN. And then be called up during the morning hour?

The PRESIDING OFFICER. The Chair is advised that it would not automatically. It would have to be introduced.

Mr. GRIFFIN. I suggest the absence of a quorum.

Mr. ALLEN. Mr. President, will the Senator suspend just a moment?

Mr. KENNEDY. Mr. President, will the Senator withhold his request and yield for a question?

The PRESIDING OFFICER. Does the Senator withhold his suggestion of the absence of a quorum?

Mr. GRIFFIN. No, I press my request.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the unanimous-consent request by the Senator from Massachusetts to proceed with immediate consideration of the joint resolution.

Mr. GRIFFIN. Mr. President, I——

Mr. ROBERT C. BYRD. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I merely want to give the Senator from Massachusetts and the Senator from Washington an opportunity to be on the floor now that the quorum is called off. I yield the floor.

Mr. GRIFFIN. Mr. President, reserving the right to object, if the unanimous-consent request is pending, Mr. President, a parliamentary inquiry. Is an objection in order to the introduction of a joint resolution at this stage in the proceedings of the Senate?

The PRESIDING OFFICER. It will take unanimous consent for the measure to be introduced, the time for the transaction of routine morning business having expired.

Mr. GRIFFIN. So that it requires unanimous consent at this point not only for the immediate consideration of such a joint resolution but also unanimous consent for the introduction of it.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield without his losing his right to the floor?

Mr. GRIFFIN. Yes.

Mr. ROBERT C. BYRD. Would it not also be true that that objection could only be made today, and at the next day of session of the Senate no objection could be lodged against the introduction of the resolution?

The PRESIDING OFFICER. That is correct.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GRIFFIN. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard. The clerk will proceed.

The second assistant legislative clerk resumed the call of the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the unanimous-consent request of the Senator from Massachusetts.

Mr. GRIFFIN. Mr. President, reserving the right to object, may I ask, first of all, whether or not the joint resolution which the Senator from Massachusetts seeks to introduce has been read in full?

The PRESIDING OFFICER. It has not.

Mr. GRIFFIN. Would it be in order, Mr. President, to request that the resolution be read in full?

The PRESIDING OFFICER. As the Senator knows, any Senator can request its full reading.

Mr. GRIFFIN. Then, I so request.

The PRESIDING OFFICER. The clerk will read the joint resolution.

The second assistant legislative clerk proceeded to read the joint resolution as follows:

Whereas, the President's State of the Union message announces his intention to levy new fees on imports of crude oil and petroleum products and to lift all price controls on domestic oil under the authority of existing law;

Whereas, the Congress expressed in the Trade Act of 1974, its desire that public participation be required prior to the use of the President's authority under the national security provisions of the Trade Expansion Act of 1962, as amended;

Whereas, imposing import fees and lifting price controls would increase the price of crude oil and all petroleum products, including home heating oil and residual fuel oils, substantially, thereby creating major inflationary pressures throughout the economy;

Whereas, consumption of home heating oil and residual fuel oil already has been reduced substantially in many areas of the country and therefore imposition of import fees and the lifting of price controls will result in higher prices to consumers with little corresponding reduction in oil consumption;

Whereas, the policy of lifting price controls and using new import fees to reduce energy consumption represents a fundamental policy change as stated by the President in his State of the Union message;

Whereas, the purpose of this Joint Resolution is to permit the Congress a reasonable period of time to review and, if desirable, to develop fair and equitable alternatives to the President's proposals to impose a $3 per barrel oil import fee and to remove all existing price controls on domestic oil by April 1, 1975: Now, therefore, be it

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That, after the date of enactment of this Joint Resolution—

(a)(1) No new tariff, fee or other charge, and no increase in existing tariffs, fees or other charge on imports of crude oil or petroleum products in effect on January 1, 1975, may be imposed except in accordance with subsection (b) of this section;

(2) No new quota or other limitation on imports of crude oil or petroleum product other than those in effect on January 1, 1975, may be imposed except in accordance with subsection (b) of this section; and

(3) No increase in the price permitted for oil now classified as "old" oil under regulations promulgated pursuant to section 4 of the Emergency Petroleum Allocation Act of 1973 (87 Stat. 629) and in effect on January 1, 1975, may be established except in accordance with subsection (b) of this section.

(b) No action covered by the provisions of subsections (a) (1) through (3) may be undertaken unless:

(1) Such action is specifically authorized by law enacted after the date of enactment——

Mr. KENNEDY. Mr. President, I ask that further reading of the resolution be dispensed with.

The PRESIDENT OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, I respectfully object.

The PRESIDING OFFICER. Objection is heard. The clerk will proceed.

Mr. KENNEDY. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Mr. President, on the objections which have been filed by the assistant minority leader, has the effect of these objections been to prohibit the immediate consideration of the joint resolution which is being introduced by the Senator from Massachusetts and the Senator from Washington?

The PRESIDING OFFICER. The Chair would observe that the Senator from Michigan has not objected as yet. He has reserved the right to object.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Under the previous order the Chair defers to the Senator from Alabama; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Recognizing that there remains 2 or 3 pages of the resolution, will not the effect of the continued reading of the resolution be that the Senator from Alabama will be given the floor at 5 o'clock, since it is 1 minute of?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Is not the reasonable interpretation of the actions that have been taken by the minority leader in effect to frustrate an opportunity for consideration of the joint resolution introduced by the Senator from Washington and myself?

The PRESIDING OFFICER. Needless to say, the Chair will not attempt to interpret the motives of the Senator.

Mr. KENNEDY. The Chair will not rule the Senator from Massachusetts out of order or draw that conclusion? [Laughter.]

The PRESIDING OFFICER. The Senator is entitled to draw whatever conclusion he wishes.

The hour of 5 o'clock having arrived, the Senator from Alabama has the floor.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ALLEN. Mr. President, I am somewhat reluctant to resume my discussion of this matter, inasmuch as we had an important matter before the Senate that was almost on the verge of being introduced.

I think that the Senator from Alabama certainly has cooperated in every way. The Senator from Alabama has tried to be most cooperative in this matter. He was requested to yield the floor at 4:15, in order that a resolution——

Mr. STENNIS. Mr. President, may we have order? Senators should be able to hear what the Senator from Alabama has to say.

The PRESIDING OFFICER (Mr. NUNN). The Senate will be in order.

Mr. ALLEN. The Senator from Alabama was asked by the leadership at a quarter after 4 to yield the floor, in order that an important resolution having to do with revenues might be introduced in the Senate. In order to be cooperative, the Senator from Alabama agreed to yield the floor for 45 minutes. He was discussing the matter of precedents with respect to the cloture application in the Senate. Realizing that this is an important matter, he agreed to yield for 15 minutes, provided he had the floor returned to him at 5 o'clock.

The Senator from Alabama understood that the Senator from Massachusetts and the Senator from Washington had already prepared and released press notices of the action on the floor in introducing this resolution and in making statements, so he was most sympathetic and most cooperative in this matter, in allowing 45 minutes for the introduction of the resolution and the making of appropriate remarks. The Senator from Alabama felt that that would be adequate for this purpose.

After the nature of the resolution became known, there seemed to be considerable opposition to the immediate consideration of the resolution. The Senator from Alabama recalls that even while he was discussing this matter earlier in the day, the Senator from Louisiana, the able chairman of the Committee on Finance, requested the Senator from Alabama not to allow this resolution to be passed in the Senate in his absence. The Senator from Alabama never had an opportunity to make that information known. But apparently the rights of the Senator from Louisiana have not been prejudiced, and I trust that he will be in the Chamber when the matter comes up again on the next legislative day.

The Senator from Alabama is delighted that these quorum calls and this discussion have brought more Senators to the floor. He feels that that is wise and in the interest of good government and in the interest of the maintenance of the Senate rules, because the effort of the Senator from Minnesota (Mr. MONDALE) and the Senator from Kansas (Mr. PEARSON), in the judgment of the Senator from Alabama, would seek to tear down some of the provisions, some of the attributes of the Senate that make it the great deliberative body it is.

The Senator from Alabama had no notion today that he was going to speak on this question. He understood that the Senator from Massachusetts (Mr. KENNEDY) wanted some time on a matter and that he was seeking, I believe, some time before 2 o'clock to get in for that purpose. But when the unfinished business was laid before the Senate at 2 o'clock, the Senator from Minnesota (Mr. MONDALE) got the floor and moved to lay aside the unfinished business, which is the motion of the distinguished Senator from Montana (Mr. MANSFIELD) that the credentials and other papers in the New Hampshire case be sent to the Committee on Rules and Administration for further study and investigation and possibly ballot counting.

The Senator from Minnesota then moved, as he had a right to do under the Senate rules—and I am glad that he recognizes the existence of Senate rules. I know he has. I am talking about with regard to whether it takes two-thirds or a simple majority to invoke cloture. The Senator from Minnesota moved to proceed to the consideration of Senate Resolution 4—in other words, to displace the unfinished business, the New Hampshire case, with this unfinished business.

The Senator from Alabama waited to see if the Senator from Minnesota was going to speak in behalf of his resolution. It became obvious that he was not going to do so, and the Senator from Massachusetts (Mr. KENNEDY) made no effort to get the floor. Then it became incumbent upon the Senator from Alabama to get the floor, or the motion to proceed to the consideration of the resolution would have been gaveled through. I use the word "gaveled" with no opprobrium at all, that it would not have taken a rollcall vote if one had been demanded. So it was necessary that the matter be discussed. That is the reason why the Senator from Alabama took the floor.

There are many items of business that need consideration: The CIA resolution in time will need consideration. The resolution of the Senator from Massachusetts and the Senator from Washington will need consideration; also, items popping up all over the floor.

It seems passing strange to the Senator from Alabama that we have to spend the time of the Senate discussing whether or not Senate Resolution 4 shall come up for consideration.

That is an effort that has been tried year in and year out by those who would impose the gag rule in the Senate, but the record will show that these efforts have not received overwhelming support in the Senate. The Senate has never voted that a majority in the Senate can cut off debate no matter when that issue comes up for debate in the Senate. One Presiding Officer ruled in 1969 that a majority could cut off debate and his ruling remained in effect for about 15 minutes, because immediately, an appeal, or vote on appeal—the Presiding Officer did not allow any discussion of it—the vote on the appeal came immediately, and on the rollcall vote, that was no longer the rule in the Senate. So they had slapped down that ruling, Mr. President.

I might say that the distinguished majority leader (Mr. MANSFIELD), then as now the distinguished majority leader, on that issue, with the Presiding Officer being Vice President HUMPHREY, one of the two titular heads of the Democratic Party, the distinguished majority leader being the majority leader of the Democratic Party in the Senate—on that issue, I did not know how the majority leader was going to vote, of course. I had the effrontery to inquire. I did not know the measure of this distinguished Senator. I had been in the Senate only a few days. But the distinguished majority leader voted to overrule the ruling of Vice President HUMPHREY, who had ruled that a majority of the Senate could cut off debate, even though it was not a two-thirds majority.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ALLEN. I shall be delighted to yield to the distinguished majority leader, if I may yield without losing my right to the floor.

May I inquire what matters will be transacted during the 10 minutes?

Mr. MANSFIELD. A unanimous-consent request for a time limitation on the vote on the CIA amendment on Monday, and a resolution by the distinguished Senator from Pennsylvania, the Republican leader.

I ask unanimous consent, Mr. President, that I be recognized for not to exceed 15 minutes—if shorter than that, it will go into operation—and that the distinguished Senator from Alabama, who now holds the floor, will continue to hold the floor after the business is disposed of, if within that time.

The PRESIDING OFFICER (Mr. NUNN). Is there objection?

Without objection, it is so ordered.

25TH ANNIVERSARY CONGRATULATIONS TO RABBI MENACHEM SCHNEERSON

Mr. HUGH SCOTT. If the distinguished Senator from Alabama will yield, I offer a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution congratulating Rabbi Menachem Schneerson on the observance of his 25th anniversary as leader of the Movement of Lubavitch.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HUGH SCOTT. Mr. President, on occasion the Senate has taken notice, by resolution, of significant religious events. Last July, for example, we adopted a resolution commending the members of the Church of Jesus Christ of the Latter-Day Saints on the observance of Pioneer Day.

Tomorrow, Mr. President, marks the 25th anniversary of Rabbi Menachem Schneerson as leader of the Movement of Lubavitch, a 200-year-old Jewish sect. President Ford has prepared a personal message to mark this day and I feel it appropriate for the Senate to take note of it also.

I ask unanimous consent to have President Ford's letter printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, January 17, 1975.

Rabbi MENACHEM SCHNEERSON,
Brooklyn, N.Y.

DEAR RABBI SCHNEERSON: On your twenty-fifth anniversary as Lubavitcher Rebbe, I want to join with those who applaud the dedication and wisdom that have characterized your leadership of this inspiring religious movement.

Your efforts on behalf of education and your countless humanitarian endeavors have greatly benefited and strengthened our society. By giving direction to the movement's commitment to preserve Jewish tradition, you have perpetuated a legacy that is a source of comfort and courage to many of our citizens.

I wholeheartedly commend your quarter-century of distinguished achievement and wish you continued satisfaction from your work in the years ahead.

Sincerely,

GERALD R. FORD.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 22) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 22

Whereas Lubavitcher Chassidism has been a vibrant spiritual and educational force in Judaism for over two hundred years; and

Whereas its world-wide membership and influence transcends denominational boundaries and reaches all of Jewry; and

Whereas the Lubavitcher Rebbe, Rabbi Menachem Schneerson, is the source of inspiration for the growth and activities of Lubavitch; and

Whereas on January 22, 1975 Rabbi Schneerson celebrates his twenty-fifth anniversary as leader of the Movement of Lubavitch;

Now, therefore, be it resolved, that it is the sense of the Senate that Rabbi Schneerson is to be congratulated on reaching this milestone and is to be wished well for the duration of his leadership.

Mr. HUGH SCOTT. I yield back to the distinguished majority leader.

THE LIMITATION AGREEMENT—SENATE RESOLUTION 21

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a 2-hour limitation on Monday next on Senate Resolution 21, a resolution to establish a select committee of the Senate to conduct an investigation and study of governmental operations with respect to intelligence activities, and so forth; that the time begin running at 1 o'clock; that the vote occur on the resolution at 3 o'clock; that the time be equally divided between the minority and majority leaders or whomever they may designate.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Reserving the right to object.

No objection, Mr. President.

Mr. STENNIS. Mr. President, reserving the right to object, and I do not expect to object, I think that the facts are well known in this matter and an hour for each side will be sufficient time for the debate, as far as that is concerned. I have not made any check with others. There may be others who will want more time; I do not know. That will give enough time for anyone who may wish to speak, as I see it.

I have no objection to that time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, then, to reiterate, the debate on Senate Resolution 21, the so-called select committee, will begin at the hour of 1 o'clock on Monday next and the vote will occur at the hour of 3 o'clock on Monday next.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. I thank the distinguished Senator from Alabama for yielding to me. I return the floor to him.

Mr. ALLEN. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for just a moment, with the understanding that he not lose the right to the floor.

Mr. ALLEN. I yield.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Under the order issued previously, the Senate was to begin, at the hour of 2 o'clock on Monday, to debate on the dispute with respect to the Senator from New Hampshire and proceed for 3 hours. I ask unanimous consent that on Monday, debate be limited to 1 hour and that it follow the disposition of the CIA matter, that 1 hour of debate, with no action on that matter——

Mr. GRIFFIN. Reserving the right to object, and I shall not object, the 6 hours that was previously agreed to on the New Hampshire contest would still be available on Tuesday?

Mr. ROBERT C. BYRD. On Tuesday, yes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. ALLEN. Mr. President, I was discussing the precedents regarding this effort to amend the Senate rules, whether or not the present Senate rule, as set forth in rule XXII, would govern the limitation of debate in the Senate by the Senate itself.

I pointed out that when I first came to the Senate on January 3, 1969, one of the first issues that came before the Senate was this very same issue, and that whereas Vice President HUMPHREY ruled that a majority less than a two-thirds majority could invoke cloture, he either overlooked or disregarded the provisions of the second section of rule XXXII, which states very clearly that the rules of the Senate shall remain in force until amended as provided in the rules. I guess I would have to say that the Vice President, Vice President HUMPHREY, disregarded that rule rather than say that he overlooked it, because it was called to his attention several times in the course of the debate.

So, Mr. President, after the Vice President ruled that cloture had been invoked with a majority less than a two-thirds majority voting for cloture——

Mr. ROBERT C. BYRD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ALLEN. That ruling by the Vice President remained in effect for about 15 minutes, until it was overruled by the Senate itself, with the distinguished majority leader being one of those who voted to override the Vice President's ruling.

Mr. President, a great deal has been said here on the floor about an alleged ruling by then Vice President Nixon in 1957. There has been more praise in the eastern press and here on the floor of the Senate about Mr. Nixon on account of that ruling than because of any recent actions by Mr. Nixon. The New York Times and the Washington Post commended that action, the alleged action of Mr. Nixon, to the present Vice President, the President of the Senate. But they overlooked the fact that Vice President Nixon did not make a ruling in this regard. He answered a parliamentary inquiry. The matter never came to him to rule. It was answered by the Senate itself, in voting on a parliamentary maneuver.

Vice President Nixon himself called attention to the difference between a decision of the Chair and an answer to a parliamentary inquiry. I quote from the CONGRESSIONAL RECORD of Thursday, January 3, 1957, when the then Vice President had this to say about the difference between a parliamentary response and a ruling.

> There can be an appeal from a decision of the Chair on a point of order. There can be no appeal as to any pronouncement by the Chair regarding a parliamentary inquiry. . . . A response by the Chair to a parliamentary inquiry is an opinion. A ruling on a point of order is a decision, and is subject to appeal to the Senate.

So he did not make any ruling.

Mr. CURTIS. Mr. President, will the distinguished Senator yield for a question?

Mr. ALLEN. Yes, I am glad to.

Mr. CURTIS. Is it true that if the Senate is not a continuing body, then it would be necessary for the Senate to adopt a full set of rules at the beginning of each 2-year Congress?

Mr. ALLEN. In response to the question of the distinguished Senator from Nebraska, I would say "Yes." I called attention earlier in the day to the fact that while I have been in the Senate, I have never heard a motion made or considered or agreed to that had as its thrust that the rules of the Senate of 2 years ago be adopted as the rules of the current Senate. That indicates to my mind that we are a continuing body; else why are we operating under those rules?

Mr. CURTIS. Is it true that the House of Representatives is chosen by the voters every 2 years, and their organization, under the precedents of that body, is by a vote to adopt the rules of the previous Congress as the rules of the then current Congress?

Mr. ALLEN. That is my understanding. That is the difference between a body that is not a continuing body as their Members are up for election every 2 years, every one of them, and a body such as the Senate, where only a third are up for election every 2 years.

Mr. CURTIS. If the Senator will yield for a further question, has the Senator had occasion to research the question as to whether or not the Senate has ever followed the procedure of the House of Representatives, in adopting rules at the beginning of every 2-year Congress?

Mr. ALLEN. To my knowledge, they have not. They may have, but my investigation has not disclosed a single instance where that happened.

Mr. CURTIS. At least that has not been the practice for many decades?

Mr. ALLEN. That is correct.

Mr. CURTIS. Does not that in itself become a binding rule of the Senate?

Mr. ALLEN. Yes, it would certainly seem so to me.

Mr. CURTIS. Is it not true that for a Presiding Officer to hold that the Senate is not a continuing body and must adopt rules at the beginning of each Congress would be, in effect, a definition that in the previous Congresses the Senate had acted without rules?

Mr. ALLEN. Yes, that would seem to be correct.

Mr. CURTIS. Sometimes, I must admit, it almost seems as if it had acted without rules. But if the Senator will yield further, I would like to ask a further question.

At the present time, in order to invoke cloture, it takes two-thirds of the Senators present and voting?

Mr. ALLEN. Yes, that is correct. That was changed in 1959.

Mr. CURTIS. And what change is contemplated by this action?

Mr. ALLEN. Under the pending resolution, it would be three-fifths, or 60 Senators. But, of course, that might be amended as the proceeding progressed. It could be cut down more than that, by amendment. All we would be deciding now would be whether debate must end on the pending resolution.

Mr. CURTIS. Is it not true that at the present time there have been 99 Senators seated in this Congress?

Mr. ALLEN. Yes.

Mr. CURTIS. And of those 99, 61 are members of the majority party; is that correct?

Mr. ALLEN. I am not sure. I believe that is correct.

Mr. CURTIS. And 38 are members of the minority?

Mr. ALLEN. Yes.

Mr. CURTIS. I am not suggesting that this is about to happen, because issues do not always take an absolute and unwavering party line but, nevertheless, we must consider the effects of our actions and how much power we would delegate to a three-fifths majority.

But, if the pending proposal is adopted, it would be possible for the majority party to silence the minority party, is that right?

Mr. ALLEN. If we all voted the party line, yes, sir.

Mr. CURTIS. Yes. I am not saying it is probable, but it is possible.

Mr. ALLEN. That is correct.

Mr. CURTIS. Of course, in writing rules we have no right to assume that everybody will act as we hope they will. Rules must be written to force compliance; rules must be written so that they are fair and give no opportunity for abuse of power.

Does the Senator believe that it is enough just to assume that never would a majority take such a step? We should not legislate on that basis, should we?

Mr. ALLEN. I think that would be a safe assumption.

Mr. CURTIS. I thank the Senator.

Mr. ALLEN. I thank the distinguished Senator from Nebraska for his contribution to this discussion.

Now, Mr. President, I was discussing the nonruling, you might say, of Vice President Nixon on this question, and I pointed out that the Washington Post and the New York Times in their editorials both, in effect, addressed Mr. Rockefeller, at least called him by name in the editorials, urging that he follow the precedent set by Mr. Nixon and the precedent set by Mr. HUMPHREY.

Well, if those are all the precedents they can find, they have not looked very carefully because those instances are not precedents. Neither of them would be a precedent because one is just a parliamentary response, that is, Mr. Nixon's remarks are one man's opinion.

Mr. HELMS. Mr. President, will the Senator yield for a unanimous consent request on the condition that he not lose his right to the floor?

Mr. ALLEN. I would be delighted to yield under that condition.

Mr. HELMS. Mr. President, I ask unanimous consent that inasmuch as I am going to suggest the absence of a quorum that the distinguished Senator from Alabama not lose his right to the floor thereafter.

The PRESIDING OFFICER. Is there objection?

The Chair hears none and, without objection, it is so ordered.

Mr. HELMS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, as I understand it, under the previous arrangement the Senator from Alabama has the floor.

The PRESIDING OFFICER. The Senator from Alabama is to be recognized following the quorum call.

The Senator from Alabama.

Mr. ALLEN. Mr. President, I was discussing the matter of the precedents on whether or not it takes a two-thirds majority or a simple majority to invoke cloture on an effort to amend the Senate rules. Despite the fact that the Washington Post and the New York Times had recommended to Vice President ROCKEFELLER that he follow the so-called precedents of the action by then Vice President Nixon and then Vice President HUMPHREY in this regard, I pointed out that Vice President Nixon, in fact, had not ruled in this matter, and had merely made a parliamentary response to a parliamentary question.

I pointed out further that the ruling by Vice President HUMPHREY remained effective for approximately 15 minutes because the Senate promptly overruled his ruling that a majority, fewer than a two-thirds majority, could invoke cloture, even at the start of a new Congress, only by a two-thirds vote instead of the majority vote. So the Senate in overruling Vice President HUMPHREY established the precedent, and neither of the other actions were in fact precedents.

Mr. President, I ask unanimous consent that I may yield to the distinguished assistant majority leader without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I am about to make a request, and if it is not agreed to, this will be the situation: On tomorrow, the Senate will be in session. The distinguished Senator from Massachusetts can proceed to introduce his resolution on tomorrow. That could be objected to on tomorrow, in which case on Thursday he could again proceed to introduce the resolution, and no objection against that introduction would then lie. He would automatically be given a first reading that day. On Friday, he could force the resolution on the calendar.

In any event, if this request is objected to, the Senate will be in tomorrow, Thursday, and Friday. The Senator from Massachusetts, using the rule, could force his resolution on the calendar by Friday.

My request, if agreed to, would avoid a session tomorrow and a session Friday and would allow the Senator's resolution to be placed on the calendar Thursday. I shall make the request, and any Senator may reserve the right to object and discuss it further.

Mr. LONG. Mr. President, reserving the right to object—and I will not object to the request—I simply want to make it clear that, so far as the Senator from Louisiana is concerned, he had assured the Senator from Massachusetts that he would be pleased to call the Committee on Finance into meeting as soon as that is practicable and hold a hearing on the proposal of the Senator from Massachusetts, in which the Senator has now been joined by the Senator from Washington.

The Senator from Louisiana is not in a position to judge at this time whether or not he wants to vote for this resolution. I doubt that a majority of those on the committee would be in a position to know how they want to vote until a hearing had been held and the views of the administration had been expressed, in addition to those which, of course, will be made known to us, and to some extent have already been made known to us, by the sponsors of this resolution.

I do not propose to call a hearing on this matter unless the Senate sees fit to entrust this matter to the jurisdiction of the committee having jurisdiction over it, which in this instance would be the Committee on Finance, at least insofar as an import fee is concerned. If that be the will of the Senate, I would do the best I could to do my duty as I see it and to try to accommodate the Senate in according the Senate the opportunity to express its will on the legislative measure, however the Senate felt inclined to vote.

I do not wish to agree to any arrangement whereby this measure would be called from the calendar without ever having been the subject of a hearing, without the committee having jurisdiction having had an opportunity to consider it and to recommend to the Senate what that committee thought should be done about the matter.

I should like to make it clear that while I fully recognize the right of a Senator to object to his resolution going to the committee having jurisdiction over it, in a matter of this significance I personally would have to object to the committee being bypassed, and I would expect to object to any effort to move that measure from the calendar and before the Senate for consideration, before the committee having jurisdiction had had the opportunity to express its judgment and to consider the proposal.

If the Senate, having heard the debate and heard the argument, in due course decides it is not going to permit that committee to do its duty under the rules of the Senate, that is for the Senate to tell us.

I personally would feel compelled not to permit this matter to be brought before the Senate unless and until it has had the proper consideration by at least a hearing. If the hearing is to be dispensed with, or if an effort is made to dispense with the hearing on the matter, I would feel compelled to object to this matter being brought before the Senate, a matter that would deny Senators the right to discuss the propriety of proceeding in this fashion.

I hope the leadership will not proceed in the morning hour, when a motion like this would not be debatable, to try to force this matter before the Senate. If that is done, I hope that the Democratic Policy Committee meeting on the matter would accord to the chairman an opportunity to appear before the policy committee and express confidence in his committee and urge that this matter is one that should be considered in the proper fashion and not in the improper fashion.

As I say, for all I know, I may very well support the resolution when we have had the opportunity to hear both sides of the argument. But I am very proud of the Committee on Finance, on which I have had the privilege of serving for many years, and I think that the new members, who, certainly, as far as the Democratic side of the aisle is concerned, may very well be supporters of the resolution, at least the one that comes from the great State of Maine, should have the opportunity to hear it and make their contribution to the enlightenment of the Senate.

As I say, if the Senator wants his resolution on the calendar, he certainly has the power to move it there. I wish to make it clear, however, that I am not going to conduct a hearing, or at least ask the committee to hold a hearing, on the matter until the Senate sees fit to decide whether it wants that committee having jurisdiction of it to have the measure referred to it.

If the Senate can bypass a committee, it should only do so after that matter has been carefully considered and after everyone, both on the committee and off the committee, has had an opportunity to express himself on the propriety of proceeding in that fashion here, on the Senate floor.

Mr. KENNEDY. Reserving the right to object.

Mr. President, as the sponsor of the resolution along with the distinguished Senator from Washington, I wish to make it extremely clear that we who are the sponsors of the resolution have the greatest confidence in the chairman of the Committee on Finance and in the membership of the Committee on Finance. The situation that we find ourselves in is that the individual who does not have confidence in it is the President of the United States. He has failed to follow the procedures which have been generally followed since the earliest days of the Republic on how to enact legislation. That is to submit it to Congress, let it go to the appropriate committees, which in the Senate would be the Commitee on Finance, permit the Committee on Finance to exercise its will, and then come back to the floor of the U.S. Senate, to permit the people's representatives to express themselves through this particular process.

We are denied that opportunity, Mr. President. The American people are denied that opportunity. All of New England is denied that opportunity. As a result, there are going to be millions of Americans who are going to be paying up to $32 billion in direct payments and approximately $20 billion more as those energy costs ripple through the economy.

Now, all that the Senators from Massachusetts and Washington are attempting to do, and the 34 cosponsors that we have received in a matter of about 6 or 7 hours—and I expect that this number will easily increase by tomorrow—is to provide the Committee on Finance with the time to adequately consider these enormous policy changes proposed by the President.

The Committee on Finance should be making those decisions and they should have the opportunity, through the full hearing process, to do so. I hope that they will have that opportunity and that the President will avoid what quite clearly is a confrontation. I urge him to consider the many members who are cosponsors of this resolution—and as I say, safely over half the members are going to be cosponsors on both sides of the aisle—a President who has said he will walk up Pennsylvania Avenue and walk back down again and welcome the input of the Congress of the United States. I hope he will defer these actions until we permit the Committee on Finance and the Senate to consider their full implications for the Nation's economy. We have had no indication of any willingness of the President to do so. Quite to the contrary, even as of today, in his press conference, he indicated that he was moving ahead. So we find ourselves in this parliamentary dilemma with time running out.

A few hours after the President's state of the Union message was presented to the American people, I went to the distinguished chairman of the Committee on Finance and indicated what I thought was going to be a very considerable burden that would be assumed by New England and other oil importing sections of the country. The distinguished chairman unhesitatingly indicated that the Committee on Finance could be a forum for the exchange of ideas, reserving his own position on the issues, as we well understand and as he does so effectively for the people of the State he represents. He indicated he would undertake a good faith effort to permit those Members of the Senate who had a very particular concern about this issue an opportunity to be heard. For that, New Englanders and other regions of the country and their Senators are grateful.

The measure that we were considering at that particular time was more limited than the joint resolution in one respect, in terms of the areas that it covered. It was perhaps more extensive in the remedies that it actually prescribed going beyond a simple delay and deferral of action, which is all that we are attempting to achieve by this joint resolution.

I wish to indicate that yesterday, after the caucus, I mentioned to the chairman of the Committee on Finance that Senator JACKSON and I intended to introduce this resolution. We talked of the issue generally, that we were considering it. Again, the Senator from Louisiana indicated his willingness to have a hearing. Mr. President, at this particular time, I am hopeful that the consent request that will be made by the Senator from West Virginia will not be objected to. I understand the chairman's position completely in terms of the jealousy with which he guards the jurisdiction of his committee and the strength with which he defends not only its integrity but the ability of its membership.

I wish to say that I am hopeful that there will not be objections made to the proposition that will be stated by the Senator from West Virginia and that we will have at least preserved the rights of all Members of the Senate on this particular issue. I think we can then make a further judgment and the Senate will have an opportunity to make what judgments it will in the future.

Mr. LONG. Will the Senator yield to me?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. LONG. Let me make it clear that as far as the Senator from Louisiana is concerned, in his capacity as chairman of the Committee on Finance, which has not been fully named as yet—at least the minority have not yet named their members of the committee. As chairman of the committee, the Senator from Louisiana undertook to assure the Senator from Massachusetts that this matter would have priority consideration. It would be the first order of business.

Now, usually, Mr. President, the Senator from Louisiana would be satisfied if someone would assure him that this would be the first order of business, that we will proceed immediately to consider and we will decide on the matter as promptly as the committee chairman can press the matter to a decision. I do not know of many Members of this body who would not be satisfied to proceed in that fashion.

I understand that this matter is very vital to the Senator from Massachusetts, and in some respects I believe that what he fears might not really turn out to be as drastic as his present information would lead him to believe. I believe it may be more complicated and not as bad from the point of view of the New England States as the Senator fears. That is something that a hearing would help enlighten us upon.

It may very well be that if the Senate wishes to proceed in its ordinary fashion, with the committee conducting a hearing and considering the measure, the President might want to postpone his Executive order until such time as the committee has had a chance to act and the Senate has had a chance to express itself on this measure. But I think all Senators should know that the right of the Congress to legislate on this matter is rather complete. This is a measure which could be offered on any revenue bill, and there are measures the President is proposing which will necessarily be matters for early consideration, and in the event that this matter should not be decided to the satisfaction of the Senator, it is entirely within the right of the Senate to add an amendment by a simple majority vote to any revenue measure that is passed, to repeal the President's power or to rescind the President's order and to refund any fees collected under it.

So the recourse available to Senators is not as limited as some might think. I would only hope that we would proceed in the proper and orderly legislative fashion.

I would have been pleased if the President had seen fit to conduct a hearing and accord all those who are interested in the matter a chance to pass judgment on the President's proposal before he stated that he proposed to implement this by a $1 increase in oil import fees in February, and $2 in March. But that is the President's decision. It is within his power to sign, as he has proposed to do. But two wrongs do not make a right. If the President has not given people a fair opportunity to express themselves on his action, that still does not excuse the Senate or the Congress for acting without according people an opportunity to express themselves on our activities.

I just do not think that the pressure of time, even now, even with the short date that we have before us, is such that we are justified, without at least according those people who have an interest in this matter an opportunity to be heard, and for that reason this Senator will continue to urge that the matter should be referred to the appropriate committee, and that a proper hearing should be held on it. When we have that information, I believe then that, along with the Senate, we can best make available to all Senators the information which will enable them to cast the best vote.

I have no objection whatever to the President postponing the effective date of his order. That is all right with me. I do insist that the law does give him that right, and I suspect the law under which he is proposing to act might go back to the days when we had a Democrat in the White House. I only would urge that the Senate avail itself of its due process and its orderly procedure, to be sure that the Senate knows just what it is doing in this matter, and that the Senate is well advised and confident that it is doing that which is best for the country.

I am satisfied, Mr. President, that this Senate and this Congress will provide very fine service to the Nation, and I am further convinced that the quality of our service will be improved if we take enough time to be confident that we know what we are doing when we vote on these measures.

Mr. GRIFFIN. Mr. President, reserving the right to object, I have listened with great interest and attention to the campaign speech delivered by the Senator from Massachusetts. Whether the campaign was for the Presidency, I do not know, but at least it was a campaign to obstruct the President in his efforts to implement an energy program. So I guess the confrontation stage is here. It is unfortunate.

The President is proceeding in a very constitutional way, seeking to exercise powers which are clearly within his authority, powers which the Congress has heretofore provided him by legislation. With all due respect, the resolution of the Senator from Massachusetts is not only faulty on the merits, as I see it, but of great concern to me is the fact that he seeks to bypass the Constitution, the House of Representatives, and the committee procedures of the U.S. Senate.

I say that because there is no question that this is a revenue measure. This is a measure which deals with tariffs, and under the Constitution of the United States, such a measure must originate in the House of Representatives. Anyone who has studied anything about civics knows that. I think the Senator from Massachusetts——

Mr. KENNEDY. Mr. President, will the Senator yield, and just tell me what provisions of the resolution raise revenue?

Mr. GRIFFIN. Mr. President, when I finish my presentation I will be glad to yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. I think the Senator should have stated it accurately.

Mr. GRIFFIN. Mr. President, I continue by stating that this is a revenue measure. It does affect the powers of the President to impose duties on imports. It is clearly a measure that under the Constitution must originate in the House of Representatives.

Not only does the Senator from Massachusetts seek to trespass and run around the Constitution and the House of Representatives, but also to bypass the Committee on Finance in this body. This would bypass the opportunity for any witnesses, whether they are in the administration or outside the administration, to provide the expertise that Senators should have. We will have this measure put on the calendar, and presumably an effort will be made to have it brought to the Senate for debate without any opportunity to hear what the adminisration thinks about it or anyone else who is not a Member of the Senate.

I think it is a tragedy that some who are so interested in reform of the rules and procedures of the Senate would proceed in this way to force the Senate to proceed in an unconstitutional way to consider such an important matter. In the process, they would block and obstruct the President in his program—those who have no program to offer of their own to deal with the energy crisis.

I yield to the Senator from Nebraska.

Mr. CURTIS. I would like to point out that the House has always maintained that any measure that affects revenue, either up or down, must originate there. That is very logical because the power to prevent revenue from going in is comparable to the power of raising it.

Also, in reference to the power, of the President, the Senate, within the last 60 days, has reconfirmed that power. The Trade Act gave the power to the President to raise import taxes, which was overwhelmingly approved by the Senate and, as I say, this is recent action, and he is certainly within his constitutional rights in doing what he did.

Mr. GRIFFIN. I recognize, Mr. President, that those who oppose this resolution on its merits and also on procedural ground are between the rock and the hard place. The leadership, as it is its right to do on the majority side, has indicated that the Senate will come in on Wednesday and Thursday and Friday unless this unanimous-consent agreement is agreed to. By following that procedure, because of the rules, this resolution can be placed on the calendar by the Senator from Massachusetts by Friday. I recognize that, and so I will not object. The Senator from Massachusetts has the right to use the rules just as anyone else does, the rules that we have in effect.

I only point out that, and I say it most respectfully, I think it is an abuse of the rule, however, to put the Senate in a position, in a procedural way, to force us to consider what is essentially an unconstitutional measure and bypass the committee process on such an important matter.

So, Mr. President, I yield.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, who has the floor? I have no objection to the colloquy. I simply want to protect the Senator from Alabama.

Mr. ALLEN. The Senator from Alabama has the floor and will call for the regular order any time it goes afield.

Mr. KENNEDY. Mr. President, I hope I will be permitted to respond since my name was mentioned.

Mr. ALLEN. Will the Senator put a time limit on it? I am anxious to make some arguments on this new area.

Mr. GRIFFIN. Not to exceed 10 minutes.

Mr. ALLEN. Suppose we say that the floor will be returned to the Senator from Alabama at a quarter to 7.

Mr. GRIFFIN. With that understanding, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. If I may yield to the Senator from Idaho briefly.

Mr. ALLEN. I asked unanimous consent that I might yield the floor and have it returned to me at a quarter of 7.

The PRESIDING OFFICER. It was granted.

Mr. McCLURE. I thank the Senator from Alabama for that accommodation and I thank the Senator from Michigan for yielding.

I just want to make this comment: Certainly the subject of our approach to the energy shortage has to be an open one in which we have the opportunity for every person in this country to express his views, and to look at the alternatives with which we are confronted.

I do not like an energy tax. I do not like the idea of raising the price of energy. I do not like the idea of gas rationing. I do not like any of the alternatives with which we are confronted. But somewhere we have to get down to making the hard choices of whether rationing will increase supplies, which it will not; and whether rationing of supplies will keep prices down, which it will not; and there has to be an opportunity at some point in debate on this floor and in appropriate hearings before Appropriations Committees of this Congress to expose the alternatives with which we are confronted so that we can make a rational choice of alternatives which none of us would like to choose, but which the events force us to make.

I thank the Senator from Michigan.

Mr. GRIFFIN. I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the comments that I want to make to the Senator from Michigan concern the use of the rules of the Senate. We could have introduced, if we had had the opportunity at either the morning hour today or during the course of business, this resolution and under the rules, with a single objection, we could have achieved, as the Senator from West Virginia has outlined, a protection of our respective rights.

We have waited, or at least I have waited, for nearly 4 hours to be assured of those particular rights. So rather than abusing the rules, we have been frustrated by the parliamentary devices of the distinguished Senator from Michigan and others which have denied us this opportunity.

Finally, Mr. President, one point that I did want to make, and I think should be stressed, is that there exist only 8 working days before this tariff goes into effect. The committees of the Congress basically are not organized at this time, at least in the Senate. So in 8 working days, the President will begin to implement a step-by-step process that will cost the American people $32 billion more for the oil and fuel needs.

I listened with interest to the civics course given by my good friend, the Senator from Michigan, about the constitutional requirements of lawmaking, and following the committee procedures of Congress. But there was also a civics class about taxation without representation that made some impression on the early thinkers of our democracy, and I do say that imposing a $32 billion tax—and it is a tax, you can call it by whatever name you want to, but it is a tax—without the kind of open process that the distinguished Senator from Idaho talked about. And it is a tax where a substantial portion of the proceeds go to the oil companies. I think the decision to impose $3 per barrel is of questionable legality based upon section 127 of the trade bill. This directed, for the first time, the Secretary of the Treasury to provide for publishings and public participation. In that regard, I ask unanimous consent that my letter to the President of January 13, 1975, be printed in the RECORD.

Mr. President, there are only a few days before the President will implement or attempt to implement his power. I have considered the arguments that have been made by the Senator from Louisiana about the opportunity to roll back the prices if we are not satisfied with actions that are taken. But how do you roll back the prices to people who already have paid higher prices at the gasoline pumps or to the people who have paid higher home heating oil bills or paid more for transportation or food because of higher petroleum taxes—fertilizer costs. I daresay it is going to be a vast, complex, difficult problem, one that just by its very nature and description would be virtually impossible to achieve.

The sound and responsible way is to permit the Finance Committee to make its judgment on the question of increased oil duties, and the issue of the decontrol of old oil. I believe they will make a positive and constructive proposal, endorsing the President's message in those areas where it should be endorsed and supported, and providing an alternative where one is needed, and permitting some of us to consider those alternatives. But we are not going to receive that option, Mr. President, prior to the time that the President moves ahead in implementing this program. It is for that reason that we have offered this joint resolution. We believe it will express congressional determination to the President that this action, which will have such a dramatic impact not only on New England but on so many parts of the country, should be deferred.

I thank the Senator.

Mr. GRIFFIN. Mr. President, I think this discussion has been useful. I do not think that we have indicated many areas of agreement, but at least I think that we all understand a little better what is going on.

Now, if the distinguished majority whip wishes to present his consent request—did the Senator want to say anything?

Mr. HANSEN. Mr. President, if the Senator from Michigan will yield, I do have one question. I may not have understood precisely what the distinguished Senator from Massachusetts meant to imply, but I thought the implication was that perhaps the President was doing something that would, by its rather quick implementation, deny Congress the opportunity of reviewing or passing judgment on, and my question to the Senator from Michigan is, has the President suggested or has any proposal been made by the President that would not be in full conformity with the law?

Mr. GRIFFIN. Absolutely not. Of course, there is nothing wrong with the effort by the Senator from Massachusetts, if he seeks to do so, to try to get Congress to change the existing law which does give the President the authority that he has announced he will exercise.

But I think that aside from the merits of his proposal, an important thing is that such an important legislative matter be handled in a way that the Senate will have the benefit of experts in the field. It is a matter where a lot of expertise should be brought to bear and then if the Committee on Finance were given only a brief opportunity to hold some hearings, it seems to me it would be useful for the Senate.

Of course, the Senate would always be free and in a position to discharge the Committee on Finance from further consideration of the measure if it felt the committee were not operating in an expeditious manner, but at least we would have that opportunity.

But of course we are going to be denied that.

The measure will go on the calendar and then we will be put in a position of having to debate it here on the Senate floor without the benefit of any hearings or consideration by the Committee on Finance.

Mr. HANSEN. If the Senator will yield further, I would like to observe, Mr. President, that it does seem to me as though the point is well taken and not to be underscored that every action that has to be proposed by the President has been fully validated by the Congress, it is law. Recognizing that we are in an energy crunch, various proposals have been made, and these among other actions were contemplated, certainly I can say at least by some Senators, and taking steps to make it more costly to bring oil into this country would serve a double purpose.

It would discourage the importation of foreign oil and thereby bring about a conservation effort on the part of people here so that they would be, naturally, inclined to use less oil and petroleum on the one hand and, secondly, it would reduce the balance-of-payments deficit that is of such concern to everyone now.

Now, we can argue from now until the crack of doom about what are the right steps to take, but I say that anyone who is aware of what is going on in this country now must know that people are out of work.

I note that the distinguished Senator from Ohio is presiding and I read just within the week that one of the mills of United States Steel in the great State of Ohio was being shut down, shut down because there is not now sufficient natural gas available to meet all of the requirements of this country. So those users whose supply can be terminated or held in abeyance by the gas company are among the first to suffer.

Twelve hundred men are out of work—I think this was authenticated, I read this several days ago—and that before the week was out another 600 would be laid off—1,800 men.

I do not know how many people that represents, but I would suspect three or four times that many persons would constitute the normal relationship that a worker bears toward members of his family.

Even more importantly, the fact that these 1,800 men multiplied by a factor of 3 to 4 is the fact that this particular mill of United States Steel happens to be producing goods that are important to the oil industry—tubular goods, collars, fittings, and pumps.

Why is that important? It is important because these products are in short supply in this country today. As the chairman of the Finance Committee knows very well, the average independent has discovered between 75 and 85 percent of all of the domestic reserves we have in the United States, and if we want to try to do something about the energy crisis on the one hand, as I gather we all want to do, to become more self-sufficient, this is the sort of activity that has got to take place, and if we want to reduce our balance of payments this is the direction in which we must move.

So I would conclude, Mr. President, simply by saying that the President is doing what he believes is in the best interests of this country and of the people of this country and I do not think it serves any useful purpose for us to say, should the Senate now be given this rather unusual way of dealing with an issue that I think is being met head-on by the President.

His response is in full conformity with the law and we will have plenty of time to debate the politics of what was right and what was wrong.

I happen to believe it is right, though I would say wholeheartedly that the Finance Committee under the very able and astute chairmanship of the Senator from Louisiana is a proper forum, but there is no reason, in the meantime, not to take steps that will bring about a reduction in the use of energy and will bring about less of a balance of payments—imbalance—that will otherwise result.

I thank the Senator.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama was to proceed at this time.

The Senator from Alabama.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. ALLEN. Yes, I am glad to yield to the Senator.

Mr. ROBERT C. BYRD. Mr. President, I shall renew the request, but before I do, I would ask to be pardoned for stating for the record my own viewpoint, very briefly, inasmuch as others have stated their positions.

I agree with the Senator from Wyoming that the President is doing what he thinks is in the best interest of the country and I also agree with the Senator from Wyoming that the President is acting under authority that has been delegated to him by Congress.

But I also have to agree with the distinguished Senator from Massachusetts (Mr. KENNEDY), that, at least in my judgment, the President's approach in imposing an import tariff on oil is a prescription for economic disaster.

What the Senator from Massachusetts and the Senator from Washington are trying to do is to prevent the President from moving in the direction which some of us believe would be very disastrous for the economy.

I personally feel that a $3 tariff on each barrel of oil imported would increase the price of gasoline, would increase the price of home heating fuel, and would have its rippling effect throughout the entire economy.

Bus tickets would go up, airline fares would rise, the cost of fertilizer would increase, the cost of synthetic textiles, petrochemicals, every petro-based product would increase greatly in price. The price of coal and electricity would also be forced upward.

I do not believe we have yet really seen an inflationary spiral in this country that would compare with the increased prices that would ripple throughout the economy as a result of a $3 per barrel tariff on imports of oil.

The President would be doing precisely what we have been criticizing the OPEC cartel for doing—increasing the price of oil—and without any assurance whatsoever that such an increase in price would bring about the desired reduction in the consumption of gasoline.

I am told today that the President has said that he would veto any legislation on the part of the Congress to provide for mandatory gasoline rationing. Well, he has the authority to veto such legislation if it should be enacted, and he would have to bear the responsibility for his action, but he certainly has that authority. I do not presume to say that mandatory gas rationing is the only approach to the energy problem, but I happen to believe, while any medicine is going to be bitter and there is no easy, pat answer to this problem, I think it is absolutely imperative that the consumption of gasoline in this country be greatly reduced—and soon—both from the standpoint of our economy and from the standpoint of our national security.

I do not believe the $3 tariff on each barrel of imported oil is going to have the desired impact on the consumption of gasoline.

We drive up to the pump now and pay 20 cents more per gallon than we did a year ago, and yet the amount of gasoline being consumed in this country today is about the same as it was a year ago.

True, there normally has been an annual increase of 3 or 4 or 5 percent in the use of gasoline on the highways, and perhaps that annual increase has been cut, but with a 15 to 20 cents per gallon increase in the price of gasoline since a year ago, we are still using the same amount of gasoline today that we were using a year ago. I cannot believe, therefore, that a $3 tariff on each barrel of oil imported—which, it is estimated, will increase the cost of gasoline 10 cents per gallon—will result in reduced consumption of gasoline to the degree necessary to protect our country against economic and political blackmail by foreign oil producing countries.

Yet, as I say, I think the inflationary results of such a tariff will be catastrophic. I think there could be some equitable way found to ration gasoline. But there may be other approaches. I do not think we have to say that we are confined to the choice of rationing gasoline, but I do view with great concern the President's proposal to impose a $3 tariff on each barrel of oil imported.

I would hope that the President would simply put off, until some further time, his announced imposition of the $1 tariff, now scheduled to go into effect on February 1. I think it is a matter that ought to be thought through more carefully, because once he starts down that road and imposes that $1 tariff, then I think he is locked in.

So, I would hope that he would delay the imposition of that tariff to a later date, and not put it into effect on February 1, so as to allow time for further study of alternative approaches. Now, as to my unanimous consent request.

Mr. President, as the matter now stands, and for the protection of those who are present and who are in a position to object, Senator ALLEN has the floor. It may be impossible for Senator KENNEDY to get the floor before the Senate adjourns today to introduce his resolution. Therefore, the Senate would have to come in tomorrow.

He could attempt then to introduce his resolution tomorrow, Wednesday, and objection could be made to the introduction of that resolution. On Thursday, the Senate would again come in. He could introduce his resolution on Thursday without objection being made thereto, because no objection would lie on Thursday. There would also be a first reading on that day. On Friday there would be a second reading, and the Senator from Massachusetts could then object to any further proceedings, which would, under the rule, force the measure on the calendar on Friday.

So there is no way under the rules by which, if the Senator from Massachusetts can get recognized tomorrow to introduce his resolution, he can be prevented from forcing this measure on the calendar Friday.

Therefore, I ask unanimous consent—with the understanding that, if the consent request is agreed to, the Senate will not be in tomorrow or Friday—that the Senator from Massachusetts on Thursday may introduce his resolution and that it then be considered as having been read the first and second times and placed on the calendar on Thursday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

And this is with the further understanding, Mr. President, that no motion be in order prior to next week to motion up that matter from the calendar.

Mr. KENNEDY. Will the Senator restate that part?

Mr. ROBERT C. BYRD. I will restate it. It is to this effect: that it be understood, and that it be part of the consent request, that, with the measure going on the calendar Thursday instead of Friday, no motion to proceed to call up that matter from the calendar be in order prior to next week.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 10 A.M., THURSDAY, JANUARY 23, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT ON THURSDAY UNTIL 10 A.M., MONDAY, JANUARY 27, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Thursday, it stand in adjournment until the hour of 10 o'clock a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS BAKER, WEICKER, BUCKLEY, AND HATFIELD

Mr. ROBERT C. BYRD. If the Senator from Alabama will yield to me further briefly, I ask unanimous consent that after the two leaders or their designees have been recognized on Thursday, the following Senators be recognized for not to exceed 15 minutes and in the order stated: Mr. BAKER, Mr. WEICKER, Mr. BUCKLEY, and Mr. HATFIELD.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR TALMADGE ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the four Senators previously mentioned are recognized and their orders are consumed, that Mr. TALMADGE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GRIFFIN ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for recognition of Senators on Thursday that have already been entered, the Senator from Michigan (Mr. GRIFFIN) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the orders for recognition of Senators on Thursday that have already been entered, the Senator from West Virginia (Mr. ROBERT C. BYRD) be recognized for not to exceed 15 minutes; that there then be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT MEMBERSHIP OF COMMITTEES NOT BE PRINTED ON THE CALENDAR UNTIL THURSDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the calendar pages dealing with the standing committees, select committees, and special committees not be printed on the calendar until Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The distinguished majority leader had obtained consent that such matter not appear on the calendar until Wednesday. In view of the fact that the Senate will not be in Wednesday, my request will carry out his purpose and extend his request to Thursday.

Mr. President, the Senator from Alabama has the floor. I thank him for yielding.

Mr. ALLEN. Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I apparently have left off the name of a Senator for an order on Tuesday, but I have obtained 15 minutes for myself. I will yield that order to such Senator, if he so desires.

ADJOURNMENT UNTIL THURSDAY, JANUARY 23, 1975, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 10 o'clock a.m., Thursday.

The motion was agreed to; and at 6:58 p.m. the Senate adjourned until Thursday, January 23, 1975, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate January 21, 1975:

IN THE NAVY

Vice Adm. Frederick H. Michaelis, U.S. Navy, having been designated for commands and other duties of great importance and responsibility commensurate with the grade of admiral within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

Vice Adm. George C. Talley, Jr., U.S. Navy, for appointment to the grade of vice admiral on the retired list, pursuant to the provisions of title 10, United States Code, section 5233.

Rear Adm. Horace B. Robertson, Jr., Judge Advocate General's Corps, U.S. Navy, to be Judge Advocate General of the Navy with the rank of rear admiral, for a term of four years.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapters 35 and 837, title 10, United States Code.

LINE OF THE AIR FORCE

Lieutenant colonel to colonel

Annicelli, Nicholas, Jr., [redacted].
Bagshaw, Herbert N., [redacted].
Boeshore, Ralph E., [redacted].
Bollato, Jerome T., [redacted].
Buckhout, Bertrand J., [redacted].
Cahill, Vincent J., [redacted].
Campopiano, Joseph N., [redacted].
Carroll, James A., [redacted].
Cheever, Earl M., [redacted].
Cochrane, Jerry W., [redacted].
Condaxis, James P., [redacted].
Culbertson, Charles B., [redacted].
Fritsch, Robert E., [redacted].
Gast, William P., [redacted].
Greenwood, Ray P., Jr., [redacted].
Hemmer, William T., [redacted].
Hepker, Robert R., [redacted].
Hepner, Wilmer L., [redacted].
Hurt, Oscar A., [redacted].
Ishimoto, Arthur U., [redacted].
Koontz, Robert E., [redacted].
Loerch, John F., [redacted].
Marooney, Vern T., [redacted].
Mathias, Monroe G., [redacted].
McDaniel, Malcolm R., [redacted].
Neuens, William H., [redacted].
Nolan, Albert L., [redacted].
Riggs, William E., [redacted].
Santos, Albert R., [redacted].
Schwartz, Haskell, [redacted].
Showers, James D., [redacted].
Smith, Harry L., Jr., [redacted].
Spencer, John W., [redacted].
Wainwright, Dale E., [redacted].

CHAPLAIN CORPS

Lawler, John T., [redacted].

DENTAL CORPS

Nahhas, Richard S., [redacted].

MEDICAL CORPS

Burke, Philip B., [redacted].
Ebbinghouse, Joe C., [redacted].
Morgan, Harold C., [redacted].
Rosbolt, James F., [redacted].
Slaughter, Robert L., [redacted].
Weimer, Joseph C., [redacted].

The following persons for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, Title 10, United States Code, with a view to designation under the provisions of section 8067, Title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

To be captain (medical)

Rundell, William K., Jr., [redacted].

To be captain (nurse)

Hotop, Marcella C., [redacted].
Oheir, Owen C., [redacted].

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of Title 10, Sections 3370 and 3383:

ARMY PROMOTION LIST

To be colonel

Barnes, Norman L., [redacted].
Barton, Robert E., [redacted].
Beer, Arthur O., [redacted].
Bell, William D., [redacted].
Bewick, Robert D., Jr., [redacted].
Binnicker, Mabry, [redacted].
Bono, Henry N., [redacted].
Christiansen, Richard O., [redacted].
Cooney, William R., [redacted].
Deich, Robert V., [redacted].
Delano, Joseph F., [redacted].
Doud, Loxie L., [redacted].
Eades, Charles H., [redacted].
Elliott, Frank W., Jr., [redacted].
Ellis, Ernest S., [redacted].
Fitzgerald, Patrick G., [redacted].
Fuller, William W., [redacted].
Graeber, Fritz L., [redacted].
Granas, Morton, [redacted].
Halstead, David K., [redacted].
Hight, Howard E., [redacted].
Holle, Everett H., [redacted].
Houston, John J., [redacted].
Jacob, Walter J., Jr., [redacted].
Jacobson, Henry, [redacted].
Johnson, Gordon E., [redacted].
Lindgren, Milton F., [redacted].
Martini, Albert, [redacted].
McDonald, John W., Jr., [redacted].
Miller, Charles C., [redacted].
Mitchell, William R., [redacted].
Morrison, Robert W., [redacted].
Murray, William C., [redacted].
Nelson, Roy L., [redacted].
Pachter, Milton H., [redacted].
Penix, Sam B., III, [redacted].
Porter, Alfred W., Jr., [redacted].
Redmond, Roy A., [redacted].
Rumsey, William H., [redacted].
Shaw, Earl, [redacted].
Shingleton, Gordon D., [redacted].
Tasset, Warren J., [redacted].
Thiess, Jack L., [redacted].
Tinch, Herman L., [redacted].
Trenkle, Howard, [redacted].
Tyanich, Peter N., [redacted].
Vallari, Gilbert P., [redacted].
Von Berckefeldt, Theodore F., [redacted].
Wagner, Theodore L., [redacted].
Whitson, David A., [redacted].
Wilson, Whitney W., Jr., [redacted].
Wood, Harold R., [redacted].
Yarmoff, Conrad H., [redacted].
Ziebell, Edward W., Jr., [redacted].

CHAPLAIN

To be colonel

Cunniffe, John J., [redacted].
Lyssy, Thomas, [redacted].
Marler, David W., [redacted].
Pippin, James C., [redacted].
Sams, Horace, Jr., [redacted].
Sink, Charles K., [redacted].

ARMY NURSE CORPS

To be colonel

Baker, John P., [redacted].

MEDICAL CORPS

To be colonel

McKeever, Joseph W., [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of Title 10, Sections 3366, 3367, and 3383:

ARMY PROMOTION LIST

To be lieutenant colonel

Alberg, Henry B., [redacted].
Anderson, Johnny D., [redacted].
Anderson, Kenneth B., [redacted].
Arzaga, Angel E., [redacted].
Baker, Carter G., [redacted].
Bauman, Robert D., [redacted].
Beaumont, Richard, Jr., [redacted].
Bennett, W. C., Jr., [redacted].
Berestecky, Boresla, [redacted].
Bevan, Earl D., [redacted].
Bishop, Louis F., [redacted].
Blackwell, John D., [redacted].
Blocker, Richard D., [redacted].
Bonnis, Charles J., [redacted].
Booth, Richard R., [redacted].
Borelli, Raymond F., [redacted].
Bowden, Byron C., Jr., [redacted].
Britt, Dudley H., Jr., [redacted].
Brown, Donald P., [redacted].
Brown, Thomas E., Jr., [redacted].
Bundy, Richard L., [redacted].
Burleson, Richard B., [redacted].
Bush, Charles H., [redacted].
Buteau, Robert T., [redacted].
Butler, Charles B., [redacted].
Byrne, Kenneth J., [redacted].
Campbell, Johnny R., [redacted].
Caplan, Stanley L., [redacted].
Carty, Daniel T., [redacted].
Cioffi, Frederick T., [redacted].
Clemens, Gerald O., [redacted].
Clinkscales, P. A., [redacted].
Cofsky, Frank J., [redacted].
Coleman, William F., [redacted].
Conrow, Emmett R., [redacted].
Cornils, Charles C., [redacted].
Cox, Edwin, [redacted].
Crumpton, Bobby R., [redacted].
Custer, Russell T., [redacted].
Dalche, Richard J., [redacted].
Davis, James L., Jr., [redacted].
Decker, Gilbert F., [redacted].
Dixon, Donald B., [redacted].
Dodson, Roy D., [redacted].
Dolan, James G., [redacted].
Douglass, Harry S., [redacted].
Duel, George C., [redacted].
Duffy, Francis X., [redacted].
Dzinglenski, Norman, [redacted].
Ellsworth, Nylan J., [redacted].
Fery, Robert A., [redacted].
Finegan, James W., [redacted].
Finklea, Hugh C., [redacted].
Finnerty, Albert T., [redacted].
Fleming, David F., II, [redacted].
Fox, James J., [redacted].
Frost, Floyd A., [redacted].
Fuller, James G., [redacted].
Fullwood, Charles J., [redacted].
Gagne, John N., [redacted].
Garner, Joe A., [redacted].
Giesler, John D., [redacted].
Giesregen, Donald J., [redacted].
Gilstad, Clarence A., [redacted].
Glaser, Robert E., [redacted].
Godbold, Edward L., [redacted].
Gorsuch, George W., Jr., [redacted].
Goulet, Bernard T., [redacted].
Graham, John F., [redacted].
Grayson, Webster D., [redacted].
Griffin, James D., [redacted].
Gualtieri, Enea F., [redacted].
Haas, Lloyd E., [redacted].
Haberle, John H., [redacted].
Hall, Ronald L., [redacted].
Harral, Max W., [redacted].
Hawley, William C., [redacted].
Haynes, Richard E., [redacted].
Hayward, George A., [redacted].
Henke, William D., [redacted].
Herman, Gene L., [redacted].
Herndon, Jesse L., [redacted].
Herring, Victor R., [redacted].
Hill, Robert C., [redacted].
Hoff, Stanley A., [redacted].
Holland, Henry M., [redacted].
Houghasian, Harry D., [redacted].
Huxster, William T., Jr., [redacted].
Ince, Henry W., [redacted].
Ingram, Julian T., [redacted].
Innes, Dougles D., [redacted].
Jamar, Roy B., [redacted].
James, Paul H., [redacted].
Jenks, Melvin D., [redacted].
Jones, John L., [redacted].
Jones, Royce W., [redacted].
Knight, Fred G., [redacted].
Korecki, Walter J., [redacted].
Kotcho, John L., [redacted].
Kuchnia, John E., [redacted].
Labuz, Edwin R., [redacted].
Lareau, Paul C., [redacted].
Larsen, Robert W., [redacted].
Lashley, Elmer W., Sr., [redacted].
Leister, Harold D., [redacted].
Liberty, Charles P., [redacted].
Lipson, Alvin S., [redacted].
Little, James M., [redacted].
Little, Raymond M., [redacted].
Loush, Mark A., [redacted].
Lucas, Arnold D., [redacted].
Mabry, Emory S., III, [redacted].
Marshall, Richard W., [redacted].
Martin, Ernest L. S., [redacted].
McArthur, Charlton B., [redacted].
McCary, Robert D., [redacted].
McCauley, G. M., Jr., [redacted].
McDonald, Harold L., [redacted].
McLeese, George B., [redacted].
McNeal, Robert J., [redacted].
McPherron, Thomas E., [redacted].
Merion, Richard D., [redacted].
Meyer, Samuel M., [redacted].
Migneault, Joseph W., [redacted].
Miller, Edward R., [redacted].
Monaco, Joseph J., [redacted].
Moore, Melvin J., [redacted].
Morehead, Robert N., [redacted].
Moten, John E., [redacted].
Murphy, George D., [redacted].
Murphy, Jack, [redacted].
Newman, Willard A., [redacted].
Nixon, Robert E., [redacted].
Nolan, James F., Jr., [redacted].
Nusbaum, Weldon S., [redacted].
O'Connor, Douglas J., [redacted].
Ohlis, Raymond S., Jr., [redacted].
O'Kelley, James T., [redacted].
Oxner, George D., [redacted].
Partington, Richard L., [redacted].
Paulson, Jack C., [redacted].
Perrin, Jack J., [redacted].
Perrin, John T., [redacted].
Pickthall, Russell G., [redacted].
Pierce, Arthur E., Jr., [redacted].
Pieszak, Franklin B., [redacted].
Pisarchick, Edward, [redacted].
Piskos, James A., [redacted].
Planz, James J., [redacted].
Plechner, Richard F., [redacted].
Pleva, John F., [redacted].
Plumb, James P., [redacted].
Pulos, Louis, [redacted].
Pyle, Keller W., [redacted].
Rainville, Raymond A., [redacted].
Raudenbush, Joseph R., [redacted].
Rial, Albert D., [redacted].
Rice, Robert N., Jr., [redacted].
Riley, Donald A., [redacted].
Rinaman, James C., Jr., [redacted].
Ringer, Richard F., [redacted].
Roberts, Richard F., [redacted].
Robertson, John B., [redacted].
Rocha, Manuel, [redacted].
Sabo, Peter J., [redacted].
Saladino, Paul D., [redacted].
Sandler, Roger W., [redacted].
Sarbanes, Anthony S., [redacted].
Schenider, Richard, [redacted].
Schladensky, G. F., [redacted].

Schmidt, Homer C., [redacted].
Schmidt, Robert N., [redacted].
Schwankl, Elmer D., [redacted].
Secskas, Emil C., [redacted].
Seltzer, Irving, [redacted].
Shelmerdine, James W., Jr., [redacted].
Sherwood, Donald L., [redacted].
Silvey, Donald J., [redacted].
Sledge, William T., [redacted].
Smaczniak, Anthony J., [redacted].
Smith, William E., [redacted].
Staats, William D., [redacted].
Staves, Sheldon C., [redacted].
Stein, Sidney, [redacted].
Stewart, Walter B., [redacted].
Stratton, James G., Jr., [redacted].
Strong, Warren R., [redacted].
Stryker, John F., [redacted].
Styron, Donald H., [redacted].
Sykes, Harry E., [redacted].
Taylor, Burrell C., [redacted].
Taylor, Wallace A., [redacted].
Thompson, Orrin S., Jr., [redacted].
Toro, Eddie, [redacted].
Trevino, Alberto, Jr., [redacted].
Turner, Joseph E., [redacted].
Vanwinkle, Herbert, [redacted].
Wallace, William L., [redacted].
Waller, George A., [redacted].
Walmsley, Alan D., [redacted].
Walters, Darrell F., [redacted].
Wasielewski, Edwin G., [redacted].
Watanabe, Orlando K., [redacted].
Watts, Robert, [redacted].
Weagly, C. A., Jr., [redacted].
Webster, Jack D., [redacted].
Weisheit, Herbert W., [redacted].
Welling, Harold M., [redacted].
Wellman, Barclay O., [redacted].
Wells, Hugh B., [redacted].
West, Barry J., [redacted].
Wilhelm, Charles R., [redacted].
Williams, James L., [redacted].
Williams, O. E., Jr., [redacted].
Wilson, George B., [redacted].
Wilson, Paul H., [redacted].
Woehr, William S., [redacted].
Wojtas, Jerome R., [redacted].
Wood, Tommie, [redacted].
Yonno, Eugene J., [redacted].

To be lieutenant colonel

Bonner, William P., [redacted].
Butler, Francis T., [redacted].
Carney, Ralph F., [redacted].
Curtiss, John B., [redacted].
Daniels, Barnabas P., [redacted].
Devenny, Tommy A., [redacted].
Drazin, Israel, [redacted].
Freedlund, C. O., Jr., [redacted].
Frost, Franklin C., [redacted].
Halpern, Harold D., [redacted].
Herlinger, John H., [redacted].
Holland, Jordan W. J., [redacted].
Matthews, Earl L., [redacted].
McPeake, Granville, [redacted].
Montgomery, Dean R., [redacted].
Raisner, Donald E., [redacted].
Threet, James D., [redacted].
Welsh, Donald H., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Brisky, Mary A., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Carter, James H., [redacted].
Hammel, Donald A., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Araneo, Vincent M., [redacted].
Berry, Robert A., [redacted].
Grist, Arthur L., [redacted].
Leitch, Richard L., [redacted].
Marcus, Ronald J., [redacted].
Renner, William H., [redacted].
Romero, Daniel J., [redacted].
Whatley, James H., [redacted].

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., Sections 591, 593, and 594:

MEDICAL CORPS

To be lieutenant colonel

Camp, Thomas F., Jr., [redacted].
Cotlar, Alvin M., [redacted].
Hyder, Nat E., [redacted].
McKay, Mahlon L., [redacted].
Thiessen, Jacob W., [redacted].
Vince, William D., [redacted].

The following-named officers for appointment in the Army of the United States, under the provisions of Title 10, U.S.C., Section 3494:

MEDICAL CORPS

To be colonel

Cotlar, Alvin M., [redacted].

DENTAL CORPS

To be lieutenant colonel

Simich, Robert L., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Ninos, Nicholas P., [redacted].
Nol, Cornelis S., [redacted].
Yamaoka, Ronald M., [redacted].

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., Section 3385:

ARMY PROMOTION LIST

To be colonel

Bedenbaugh, Hubert M., [redacted].
Benage, Paul R., [redacted].
Blankenship, Melvin A., [redacted].
Bohannon, Marvin D., [redacted].
Burkhead, Junior H., [redacted].
Carter, Donald E., [redacted].
Donlan, Robert R., [redacted].
Dow, Richard C., [redacted].
Doyle, Charles P., [redacted].
Galloway, Raymond R., [redacted].
Giddings, Eugene J., [redacted].
Hancock, David W., [redacted].
Ingram, James F., [redacted].
Lanning, Calvin H., [redacted].
Lavell, Harold J., [redacted].
Mahler, William H., [redacted].
Moore, Jesse G., [redacted].
Mulligan, Francis M., [redacted].
Munger, Murl D., [redacted].
Pearson, Oran Y., [redacted].
Peters, Charles S., [redacted].
Reid, Richard R., [redacted].
Sharp, William R., [redacted].
Smith, Ivan F., [redacted].
Stone, Donald E., [redacted].
Threlfall, James E., [redacted].
Winner, Francis L., [redacted].

ARMY PROMOTION LIST

To be lieutenant colonel

Birkeness, Wayne A., [redacted].
Blair, Ollie J., [redacted].
Buchman, Vernon E., [redacted].
Buck, Robert H., [redacted].
Camara, Norman F., [redacted].
Chase, David D., [redacted].
Colwell, Daniel G., [redacted].
Corvette, Wilbur R., [redacted].
Ewald, James C., [redacted].
Faught, Jesse E., [redacted].
Freeman, John E., [redacted].
Frye, Ronald S., [redacted].
Goff, Roy C., [redacted].
Grizzle, Richard A., [redacted].
Guard, Bruce C., [redacted].
Hedgpath, William T., Jr., [redacted].
Hubbard, Wilson J., [redacted].
Johnson, Richard D., [redacted].
King, Huffman B., [redacted].
Lawrence, William J., [redacted].
Lee, William E., Jr., [redacted].
Lidberg, Carl W., [redacted].
Loy, Harold O., [redacted].
Mangels, Robert L., [redacted].
Mason, John T., [redacted].
McArthur, Alvin D., Jr., [redacted].
McCloud, John T., [redacted].
McCormack, David H., [redacted].
McLarty, William I., [redacted].
McLeese, George B., [redacted].
McNamara, John H., [redacted].
Medeiros, Horace, Jr., [redacted].
Miller, Austin E., [redacted].
Mishoe, Sam B., [redacted].
Morell, Alton X., Jr., [redacted].
Padgett, Uriel B., [redacted].
Paquette, Maurice E., [redacted].
Parris, James A., [redacted].
Perkins, Marvin D., [redacted].
Polley, Richard E., [redacted].
Proulx, John F., [redacted].
Sbarboro, Gerald L., [redacted].
Schneider, Richard S., [redacted].
Smith, William M., [redacted].
Takahashi, Morio, [redacted].
Thomas, William H., Jr., [redacted].
Wells, William P., [redacted].
Wulgaert, Edward H., [redacted].

CHAPLAIN

To be lieutenant colonel

Curtis, William E., [redacted].
Daniel, James R., [redacted].
Hughes, Donald R., [redacted].
Willis, Pruitt, [redacted].

DENTAL CORPS

To be lieutenant colonel

Rogers, James L., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Munyan, Earl A., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Jones, Dorothy F., [redacted].

SENATE—*Thursday, January 23, 1975*

The Senate met at 10 a.m. and was called to order by the Vice President.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father who governest the nations of the Earth, remember us not according to our sins and transgressions of Thy law, but according to our love of Thee and our fellow man. Cover our sins with Thy forgiveness. Enable us to live under Thy grace. Raise up leaders to match the challenges of these difficult days. Keep us ever mindful of the poor, the sick, and the underprivileged among us. Grant a holy stewardship to those who manage property or wealth and have power over the destiny of others. Unite the diverse people of this land that we may hallow Thy name, that we may seek first Thy kingdom and Thy righteousness; and that, as Thou givest us to know Thy will, so may we do it. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, January 21, 1975, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

The VICE PRESIDENT. Does the assistant minority leader desire to be recognized?

Mr. GRIFFIN. I do not.

The VICE PRESIDENT. Under the previous order, the Senator from Tennessee is recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be recognized, under the usual courtesy, for not to exceed 5 minutes, so that the Senator from Tennessee, hopefully, can arrive in the Chamber in that period of time.

The VICE PRESIDENT. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR FOR PARLIAMENTARIANS OF THE HOUSE OF REPRESENTATIVES

Mr. MANSFIELD. Mr. President, it is my understanding that the Senate Parliamentarians have the privilege of the House floor. Therefore, I ask unanimous consent, on behalf of the joint leadership, that for the remainder of this Congress, William H. Brown, Parliamentarian of the House of Representatives, and Charles W. Johnson, Assistant Parliamentarian of the House of Representatives, have the privilege of the Senate floor.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, in the special orders for today, the Senator from Tennessee (Mr. BAKER) was scheduled to proceed first, to be followed by the Senator from Connecticut (Mr. WEICKER). I ask unanimous consent that those orders be reversed and that Mr. WEICKER be recognized first.

The VICE PRESIDENT. Without objection, it is so ordered.

Under the previous order, the Senator from Connecticut is recognized for not to exceed 15 minutes.

PROPOSAL FOR A JOINT COMMITTEE ON INTELLIGENCE OVERSIGHT

Mr. WEICKER. Mr. President, I appear today, together with the distinguished Senator from Tennessee (Mr. BAKER), to reintroduce the Baker-Weicker bill calling for a joint congressional committee which would have the oversight responsibility relative to the entire Federal law enforcement intelligence community.

I think the time has come, in addition to factfinding, to act upon the facts we already have. The newspapers have been replete with instances of abuse during the past several months, whether that abuse can be attributed to the CIA, to the FBI or, indeed, to any of the other Federal agencies of a similar vein.

The fact also is that the Select Committee on Presidential Campaign Activities revealed hundreds of abuses of a similar nature committed by the very same agencies. These facts were placed before the Senate, before Congress, before the American people almost a year ago, and to date there has been no legislative response to that factfinding.

It is not enough that we say that the President erred, whether it is President Ford or President Nixon or President Johnson or President Kennedy. We were not elected to be commentators. We were elected to do a job in our own right, and Congress has yet to do the job; nor has Congress even acquiesced to a portion of the blame for what has transpired over these many years.

The oversight responsibility in the Senate relative to these agencies, as we well know, exists basically among four committees: the Committee on the Judiciary, the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations.

I do not fault any one of the Senators on those committees or call him derelict in his duty because of the matters that have transpired or come to public knowledge. What I do say is that the function or the work that I talk about here today cannot be ancillary to any other duty because indeed, by the very nature of their activities—I now talk about the law enforcement intelligence community—by the very nature of their activities, these entities and what they represent conceptually are in direct contradiction to the concept of a free society. If, indeed, the Congress of the United States is going to be hardnosed relative to its investigation of oversight over HUD, over HEW, over the Department of Transportation, which Congress is, then indeed it should be doubly inquisitive as to the FBI, the CIA, and so on.

Last December, I had placed in my hands, Mr. President, a document which one might term a catalog. In that catalog, various pieces of equipment are described in detail. The only general characterization I can give to this equipment is that its sole, its only purpose, is the purpose of assassination. In a cover letter that accompanied the catalog, it becomes clear that this equipment was displayed to individuals of a Federal law enforcement entity. I do not claim that any of the equipment was purchased, but I think it an amazing commentary on these times that equipment which can have no legal purpose can be displayed before Federal law enforcement officers, and the display is taken as a matter of course rather than as a matter of condemnation and, in the case of the individual displaying, detention. It is an amazing commentary that this type of apparatus goes unrebuked when shown to a law enforcement entity of our Government.

This is the problem in the extreme; this is the problem in the extreme. It shows very clearly what happens when we, and others in the executive branch, become derelict in our duty insofar as setting up any aspect of this democracy as a sacred cow.

The job to be done is clearly too big for the present structure. I do not think the distinguished Members of this body who sit on the Committee on the Judiciary, the Committee on Armed Services, and the Committee on Foreign Relations can properly discharge their responsibilities insofar as overseeing the law enforcement and intelligence community as something that we will take care of after we are finished with our principal duties.

The results speak for themselves. This is not a matter of conjecture. Yes, fine, I do not want to be accused of withholding any truth from the American people and so be it, insofar as the Rockefeller panel is concerned, as far as the select committee set up by the Senate, or as far as the select committee set up by the House. But somewhere along the line, somebody is going to ask the question: "All right, what did you do about it?" If the question is asked today relevant to the horrendous revelation of Watergate, the answer has to be nothing—nothing.

Now whose fault is it? Whose fault is it?

On the revelations of the CIA that got everybody into a spin here several weeks ago, I wrote a report to the Watergate Committee that did not deal with the innocence or guilt of Richard Nixon, did not try to resolve conflicting testimony as between witnesses. It set forth the indisputable record of the abuses that had occurred against our structure of government and the agencies of government. This was in June 1974. Let me read from page 65 of that report, which dealt specifically with the various law enforcement intelligence entities:

> On September 17, 1970, an Intelligence Evaluation Committee was set up in the White House. It was to receive information from the CIA, the FBI, the National Security Agency, and other intelligence sections. Notwithstanding the fact that the statutes prohibit the CIA from participating in any domestic intelligence function, it was called upon to evaluate domestic intelligence

gathering by the other agencies when the Intelligence Evaluation Committee was set up. This intelligence was to be digested by the CIA experts and then disseminated for use wherever useful, regardless of the statutory limits placed on the agency that collected the information.

That was in June of 1974. What has to happen? Every week, do we have to have another story? At what point do we act?

So, Mr. President, it is with that in mind—I am through with select committees, I am through with investigations. I go now to what I consider to be normal duties. But my pursuit, which I will not give up on, is this type of legislation. That is my job as a Senator, to see that these facts which abound are put to rest and by put to rest, I mean not swept under the rug, but to assure our children, assure future generations that this cannot happen again in this Nation. Unless Congress acts, it can happen. That is the grim part of the story.

Therefore, I hope that the legislation sponsored by Senator BAKER and myself, and indeed, by Senator NELSON and Senator JACKSON, other forms of legislation—it matters not who gets the credit, but for heaven's sake, let us bring to bear the abilities of this body in behalf of the people of this country to assure that the agencies of Government serve the people of the country and are not set against its own citizens.

I yield back the remainder of my time.

Mr. President, I ask unanimous consent that the documentation I referred to be printed in the RECORD at this point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

2701 FAIRVIEW DRIVE,
Alexandria, Va., June 10, 1974.

MITCH III
MacLand-Dallas Road,
Powder Springs, Ga.

MITCH: Enclosed is a catalog which was put together only after we started working together with Lou Conein. I wrote out this line of "Astro" equipment with you and Lou in mind, and because of the nature of the devices, it is not being given to anyone else. A copy was sent to the Powers Ferry Rd. office and I believe Howard has it. Some of this equipment was demonstrated to Lou in this office about 3 weeks ago.

Also, on 6/4/74, 5 pages listing the items in stock and items being built were sent to the Powers Ferry Rd. office. These items refer to this Conn. Ave. office. Because of the situation there, I bring this to your attention in case you have not yet seen the material. It is a listing of equipment that is available and planned for Lou up here.

MIKE.

2701 FAIRVIEW DRIVE,
Alexandria, Va.

"ASTRO" EQUIPMENT

B. R. Fox Laboratories, Alexandria, Va., manufactures explosive devices in various configurations and with various trigger mechanisms. These are described under our code name of "Astro" equipment. The devices have been designed and manufactured for sale to authorized agencies of the United States Government, specifically intended for application outside of this country.

The items offered are either concealed into everyday type objects, or packaged simply as "black box" pieces of equipment with no labels or indication on the outside other than the necessary actuator switches and sensors. Upon request, this equipment can be delivered in a "sterile" condition for foreign use.

Actuator mechanisms available are as follows:

(1) movement (anti-disturbance)
(2) fix time period
(3) mechanical pressure release
(4) light (either presence or absence of)
(5) audio, be it voice or noise level.

In most of these actuation methods, a sensitivity level control adjust is part of the unit, giving the user complete control to adjust it to the conditions at hand.

The devices offered are complete in their operation, with the exception of the explosive charge which is added by the user. All equipment in our "Astro" category is manufactured to the highest standards in terms of reliability, dependability, lifetime, and performance under most weather variations. Highest grade electronic components are selected and all controls are permanently cemented into sub-miniaturized modules.

All "Astro" equipment has been designed and manufactured by B. R. Fox Laboratories, Alexandria, Virginia, who is the original equipment manufacturer.

We welcome your inquiries.

B. R. Fox Laboratories, Inc., 2701 Fairview Drive, Alexandria, Virginia 22306. Tel: Area 703–765–2680.

The information contained herein is classified by the manufacturer for U.S. Government use only. The handling and storage of this material should be done so mindful of its sensitive nature.

None of the information contained herein is intended, nor should be interpreted, to be an offer to sell. It is presented only as a prospectus of types of devices that are available.

TELEPHONE HANDSET INSERT, MINIATURE ACTIVATOR WITH TIME DELAY

Size: 1.25"x0.75"x0.5"

Use inside telephone handset. Automatic charge fired at — sec. following lifting of instrument handpiece.

Easy and quick installation to underside of mouthpiece. Any desired delay can be preset. No switches, pre-setting, or batteries. Simply install 4-wire module.

Solid-state, epoxied minature unit . . . rugged and durable. All hand wired. Unlimited lifetime with proper handling.

Allow 2 weeks for assembly and shipment upon receipt of order. Price is f.o.b. Alexandria, Va.

"ASTRO"

Model no., item, and activation:

SAD–1, telephone handset insert, telephone use.

SAD–2, remote-controlled sensor, light.

MAD–1, M16 magazine clip, modified, pressure release.

ADD–2, cigarette pack, anti-disturbance.

ADD–1, black box module, fixed time.

TAD–1, black box module, anti-disturbance.

ADD–3, fragmentation ball, anti-disturbance.

ADD–4, flashlight, modified, anti-disburbance.

SAD–3, voice-actuated module, sound level.

MAD–2, camera modified, pressure release.

MODIFIED FLASHLIGHT . . . ANTIDISTURBANCE UNIT

Standard Everyready 2 "D" cell flashlight has anti-disturbance electronics concealed inside where batteries have been removed. Remainder of the battery space is packed with explosive.

The flashlight's normal On/Off switch on the side activates the operation. With slide switch down in the normal Off position, the electronics are not connected and the unit is inert. After the unit has been packed, the switch is moved to the up position, which would normally turn the flashlight On. This actuates an automatic timer within the unit, which is normally factory set for 90 seconds unless specified otherwise.

If at any time during the "count" period of 90 seconds the flashlight is moved, the count recycles back to zero and starts over. Once it reaches the end of its cycle without any disturbance, the electronic charge circuitry automatically becomes active and armed. Any slight movement of the unit after that time sets off the explosive charge.

This is an example of an explosive anti-disturbance dummy unit. Other items desired to be so modified may be submitted for such evaluation.

Unit contains the electronic charge activator, electronic timer, battery pack, and disturbance sensor, all miniaturized and hand-wired. The electronic modules are solid epoxied for ruggedness under all weather conditions, and the unit is subjected to rigorous testing for operational assurance. The internal modification is completely undetectable for the flashlight's external appearance.

Allow 30 days for shipment from receipt of order. Price is f.o.b. Alexandria, Va.

EXPLOSIVE BLACK BOX MODULES

Box size is 4" x 2" x 1". Flat Black finish on metal rectangular modules. One screw at each end secures top on the unit. Top is removed to pack inside with explosive. Single toggle switch on outside of box is the only control, and switching it from its down-off position to the up position turns the unit On. The toggle switch, the only thing on the outside of the otherwise flat rectangular box, is weather protected with a flexible rubber sealant. The inside of the box contains the control electronics, appropriate sensing mechanisms, and power pack. There is ample space for packing of explosive material.

Two types of detonation mechanisms are available:

(A) Anti-Disturbance. Once the external switch is put in the On position, the internal counter begins a factory-set time interval, normally 90 seconds unless otherwise specified with the order. This interval allows for evacuation from the area. Once the count cycle end point is reached without any disturbance having occurred to the unit during that time, the electronic charge automatically becomes armed. Any movement thereafter will set off the explosive. The unit remains armed for a period of 2½ to 3 years.

(B) Set Timing Period. This unit is activated with the external switch in the same manner as above, except that it has a preset timed period, at the end of which the explosive will be fired. It can be factory set for a time period specified in the purchase order, or can be delivered with sub-miniature plug-in pieces to cover a range of timed periods from 1 minute up to 2 years. The user can then select the time interval at the last moment based upon the conditions then present. Time interval, or selection of plug-in timers, must be specified with the order, as well as the allowable tolerance on the stated time interval.

Both units are hand wired, using highest grade solid state components and integrated circuitry. Power pack and electronics and epoxy insulated to withstand weather and environmental conditions.

Allow 2 weeks for shipment from receipt of purchase order. Price is f.o.b. Alexandria, Va.

(Only difference externally between the two units is the timer has a little tit on its bottom, for recognition purposes.)

CIGARETTE PACK—ANTIDISTURBANCE EXPLOSIVE

Electronics and explosive module packed inside cigarette pack. When the pack is lifted or moved in any manner, the explosive is set off.

Simple operation. Only one switch, to the left is off, turn to the right to turn On. A built-in electronic counter is factory set for 90 seconds to allow time for evacuation of the area. Any delay time interval other than 90 seconds can be set if so specified with order. Any disturbance during the 90 second "count" period will automatically reset the count back to zero where it will start over again automatically. Once the delay interval has been reached without disturbance of the cigarette pack, the electronic charge mechanism becomes armed. Any movement after that point will set off the explosive. The circuit will stay armed for a period of 2½ to 3 years.

All electronics are sub-miniaturized solid-state components and integrated circuitry. All are of highest grade, MIL SPEC caliber. The electronic charge, counter, recycle mechanism, and battery pack are all hand wired, and subjected to rigorous testing to assure operational status. Explosives are not included and is the only thing to be added. Unit is delivered in cigarette pack appearance as shown above. Modification of this same operation into other objects may be submitted for evaluation to B.R. FOX.

Allow 2 weeks for shipment from receipt of order. Price is f.o.b. Alexandria, Va.

REMOTE-CONTROLLED, LIGHT-ACTIVATED SENSOR

Unit delivers a pre-determined charge across its output terminals, when activated from a remote location according to its preset code. Use with explosive for firing upon the occurrence of certain conditions relating to light intensity.

Controls

2 switches on front end of module:

Top sw—to the left, unit is Off; switch to the right to turn unit On; miniature lamp to the right of sw goes on for 1–2 sec. then fades off; this indicates power supply (internal) is good (lamp turning On), and that unit is now activated (lamp fading Off).

Bot sw—application switch, to the left counts for *adding* light; to the right counts for *taking away;* light;

Mini-screw adjust—located to right of bottom switch; light sensitivity adjust; turn counter-clockwise for less sensitivity, turn clockwise for greater light sensitivity.

Photo-Cell—located in center on top of module, this is the sensor that causes the output signal to be delivered across the output terminals according to the program set by the 2 switches and screw adjust on the front panel, as above described.

This unit can be activated remotely in many possible ways, since it is light controlled, by either the presence or absence of the light as well as its intensity. Some examples of activation are: indoor light turned on/off, laser light beams (invisible beams at distances up to 8 miles are presently available), day/night cycle, and flashlight or automobile headlights.

This list is only suggestive for there can be many other light variations.

Operation

Internal controls can be set for any number of "counts". The explosive is then attached across its output terminals. The bottom sw is set for adding or taking away light. The screw adjust is set for the appropriate intensity level. The top sw is then moved to the right, the mini-lamp with glow indicating internal battery supply is good, then it will fade. The unit is now activated. For example, if the internal counter were set for "3", and the bottom sw set to the left for adding light, then if a beam of light is passed across the sensor on top it will set off the charge the 3rd time it hits the sensor. Or if it were set at night, the explosive would detonate on the 3rd morning. If the bottom sw were set to the right, for taking light away, and the internal counter set for "5", and the unit laid in the road, the 5th car passing over it would set off the charge.

With the internal count set for "1", and the intensity level set at a high position, the module could be placed behind a window, for example, and a laser beam would remotely activate it at possible distances up to several miles with the proper sighting and as long as it remained line-of-sight.

The unit is all self-contained, with battery supply, electronics, counter (adjustable from 1 to 999), control switches, lamp indicator and sensor in the one black box module. All solid-state, highest grade electronic components are used and all hand wired for highest reliability. The unit is subjected to rigorous testing with all parts encased in a steel epoxy for a lifetime limited only by the 2 to 3 year shelf life of the battery supply inside.

Allow 30 days for assembly and shipment from receipt of order. Price is f.o.b. Alexandria, Va.

BOOBY-TRAPPED, M16 EXPLOSIVE CLIP

Use: A mechanically activated electronic charge circuit is built into a common military item. Upon removal of the single round in the magazine, either by firing or by hand removal, the explosive concealed in the magazine is detonated.

Operation: The clip bottom plate is removed in the normal fashion by depressing a plate inside the plate. The bottom slides off and two wires pop out. Attach the charge to these wires and pack the bottom of the magazine with charge. Insert the single round in the top loading end of the clip. Replace the bottom plate by sliding it back through the grooves which hold it in place. The ammo clip is now activated. When that round is removed from the clip, the spring mechanism and electronics will detonate the explosive.

A type Colt AR–15 ammo clip, M16 Rifle, is used, with miniature electronics and battery pack mounted internally in conjunction with a mechanical activator. Unit is complete with single round. Only explosive is omitted.

Solid state sub-miniature electronics are hand assembled and epoxied as a module for dependability in most any environment and weather conditions. Unit's lifetime from delivery is that of its battery pack shelf life, which is 233 years. Unit of this type should, however, be used within one year from date received.

Allow 30 days for assembly and shipment upon receipt of order.

FRAGMENTATION BALL—ANTIDISTURBANCE UNIT

Unit is similar in its operation as the antidisturbance flashlight, BRF MODEL FD–2. The exception is in the type of explosive charge. A fragmentation ball is attached on top of the electronics box. This is packed with explosive.

The power supply module is connected to the electronics/frag ball module with the banana plug connectors on the two modules. The switch on the frag ball module must be turned outward, to the side closest to which it is mounted. In this position the unit is Off.

After the ball has been packed, and power module connected, turn the toggle switch to the left, towards the supply module. This activates the electronics, where a counter starts. It is factory set for 90 second delay time before the unit will automatically become armed. Any disturbance during the 90 second "count" cycle will set it back to zero and the count will start over again. Once the 90 second period has been reached without any disturbance, the explosive detonation circuitry becomes armed, and any movement thereafter will set off the explosive charge within the fragmentation ball.

Lifetime of the unit is limited only by the shelf life of the batteries, normally 2–3 years. A unit of this type should be used within one year after received. All electronics are solid-state, miniaturized, and of highest grade components. All hand wired, steel epoxied for durability and weather protection, and each unit put through extensive testing for operational assurance.

Allow 2 weeks for shipment from receipt of order. Price is f.o.b. Alexandria, Va.

NEW ITEM ADVANCE SHEET—TECHNICAL REPRESENTATIVE'S COPY ONLY

Sub-Miniature, Voice-Actuator Module. Adaptable to any tape recorder.

Grey pair to Remote On-Off of recorder;

Green pair to Audio Input of recorder;

Red/White pair, mic already attached;

Red/Black pair to power supply, 12 volts;

LED on top of module turns On when tape recorder is On;

Pot on opposite side of module is to adjust sensitivity level; counterclockwise = less sensitive, clockwise = more sensitive.

Operation: Connect 12v supply to red and black pair; LED turns On emitting a light which indicates supply voltage is good. After a few seconds it fades out, and the unit is thus activated.

Any noise thereafter will turn the recorder On to which it is attached, and this will be indicated by the appearance of the light on top of the VOX module.

There is a 10 second "hold" time, after which, if no sound is present, the recorder is automatically turned Off. This is visually indicated by the light going Off on the unit.

Adjust for ambient noise level by turning pot as described above.

Absolute silent operation. All solid-state, sub-miniaturized electronic components. All hand wired. Solid epoxied module has unlimited lifetime with proper handling and use. Unit has 90 day unconditional guaranty on the module itself, excluding microphone which requires proper handling by user.

Specify type and size of plugs for connecting to recorder and make and model of tape recorder to be used, if possible, for optimum impedance matching. Allow 2 weeks for shipment from receipt of order. Price is f.o.b. Alexandria, Va.

Model # VOX–1, 86.00/129.00.

S. 317—PROPOSING THE ESTABLISHMENT OF A JOINT COMMITTEE ON INTELLIGENCE OVERSIGHT

Mr. BAKER. Mr. President, I send to the desk for appropriate reference a bill to create within the Congress a Joint Committee on Intelligence Oversight.

The PRESIDING OFFICER (Mr. Ford). The bill will be received and appropriately referred.

Mr. BAKER. I take this opportunity to thank my colleague, the distinguished junior Senator from Connecticut, for his extraordinarily relevant remarks today, for his diligent contribution to the cause of truth seeking, and now for his dedication to the remedial legislative action that is necessary, I believe, to correct manifest abuses endangering the rights of the citizens of the United States. I have served with Senator Weicker on the Select Committee on Presidential Campaign Activities, which has now concluded its business. I have served with him in this body. I have had the opportunity, probably more than most of our colleagues, to deal with him on matters of high importance and great sensitivity. I believe his dedication to this effort is typical of his concern for this country and its future. It is my honor and privilege to have sponsored with him this measure.

Mr. President, this measure is virtually identical to that introduced by Senator WEICKER and myself during the 93d Congress and known then as S. 4019, which was also a bill to establish a Joint Committee on Intelligence Oversight, with a permanent legislative responsibility. This bill proposes a permanent solution and not a temporary fix. I agree with Senator WEICKER that the intelligence functions of the U.S. Government, whether the CIA, the DIA, the DEA, the Postal Service, the Secret Service, the Treasury Department, the FBI—I understand there are 60 agencies altogether that conduct some sort of intelligence or law enforcement function that we know of—should be unified under the jurisdiction of a single joint committee having unified jurisdiction.

The committee should not take collateral jurisdiction with other committees of the Senate.

These remarks are not meant to be a criticism of the distinguished chairmen of the Appropriations Committee and the Armed Services Committee, nor the ranking minority members of those committees. The duties and responsibilities of those committees are grave, important, time-consuming, and demanding. It would be an unusual thing indeed if they could give the careful scrutiny to intelligence oversight that I believe the far-reaching operations of the Federal Government demand at this time in our history.

I wish carefully to point out the distinction between this measure and the creation of the proposed select Senate committee to inquire into intelligence activities, including those alluded to in the newspapers vis-a-vis alleged spying on American citizens, the dossiers maintained by the FBI, the so-called assassination devices identified by the Senator from Connecticut, and other allegations and charges. This is to be distinguished from an inquiry into those things, and rather to be thought of as a proposal to be referred to the Committee on Government Operations for the reorganization of the legislative department of the Government, that would provide a permanent joint committee for the oversight of the several intelligence functions of the Government.

I am particularly pleased that the distinguished senior Senator from Montana, the majority leader (Mr. MANSFIELD), is a cosponsor of this proposal. He is a pioneer in this field, having attempted many years ago to create a special oversight committee in the Congress of the United States. That proposal came to a vote on the floor of the Senate and was defeated. I very much hope that will not be the fate of this proposal. I hope the columnists will not write, 10 years from now, that once again Congress worked up its courage to face the issue, and then receded at the last moment and maintained the status quo. I hope we do the job this time.

To those who argue that Congress cannot be trusted to participate in the gravely critical and terribly secret operations of the intelligence community, I suggest that they are losing sight of the explicit confidence in which Congress has dealt with national security agencies of the highest order in the past. During World War I, World War II, the Korean War, and even the war in Vietnam, the rule has been confidentiality where required, rather than leaks. Even though this has been known as the city of leaks, there are many instances where Congress has maintained and defended confidentiality with great dignity and effectiveness. At this point I should not fail to mention the Joint Committee on Atomic Energy, on which I am privileged to serve. I believe I am correct in saying there has never been a security leak from the Joint Committee on Atomic Energy, which deals with some of the most sensitive material in the entire annals of the defense establishment, and the national security policy of the U.S. Government.

So Congress can do the job. We can be discreet. Patriotism and responsibility are not the monopoly of the executive department. It can and will work; therefore I am not impressed by those who contend that Congress is not to be trusted with the truth.

There must always be a balance between the requirements of democracy for public knowledge, and the requirements of security and national defense. When there is a doubt, the people's branch, the Congress, must be privy to those requirements and the information that is necessary to make its balancing judgments.

I do not know what the outcome of the select committee inquiry will be. I will dedicate my personal efforts to seeing that it is thorough, that we follow the facts wherever they may lead us without fear or favor. But for those who hear these remarks or read them in the RECORD, I would reiterate once again my personal commitment to the proposition that this will not be a whitewash nor a witch hunt. It will be as fair and evenhanded as I know how to make it.

The most tortured, difficult, painful political experience I have ever endured was to see the virtual incineration of a Republican administration that I had helped elect, as a result of the Watergate Committee investigation. But I felt then as I feel now that the duty and responsibility of a U.S. Senator was to follow the facts wherever they lead us, even in a case where people I had known for many years and who were my political and personal friends were deeply and painfully involved, in some cases losing their liberty, or faced with the threat of it.

Having gone through that, no one should feel that I will draw back now from the necessity of investigating this matter as thoroughly and effectively as possible under the circumstances. At the same time, people should know I am not engaged in a vendetta against the CIA. I believe the CIA is necessary to the security of our national institutions, and that the FBI is a peerless organization, staffed by great people. But as God will give me the light and the sight to see it through, I intend to engage in a fearless inquiry into the allegiations that there have been massive abuses of authority carried out against the private citizens of this country.

As I have stated, during the 93d Congress, my distinguished colleague from Connecticut (Mr. WEICKER) and I, along with 33 of our colleagues, introduced S. 4019, a bill to establish a Joint Committee on Intelligence Oversight, specifically entrusted with the primary oversight authority, authorization responsibility, and legislative jurisdiction over the Federal intelligence agencies, as well as over the intelligence and surveillance activities of all other governmental agencies and departments. In this way, we sought to consolidate the congressional intelligence oversight function into one joint committee, solely charged and fully empowered to insure full and current accountability by the Federal intelligence community.

Mr. President, today Senator WEICKER and myself are reintroducing the Joint Committee on Intelligence Oversight Act.

The Joint Committee on Intelligence Oversight Act, which is modeled upon the Joint Committee on Atomic Energy, would be composed of 14 members evenly divided between the House and the Senate, chosen by the leadership. The joint committee would possess primary authorization and legislative jurisdiction over the activities and operations of first, the Central Intelligence Agency; second, the Federal Bureau of Investigation; third, the U.S. Secret Service; fourth, the Defense Intelligence Agency; fifth, the National Security Agency; and sixth, all intelligence and surveillance operations of any other department or agency of the Federal Government. The bill clearly states that the directors of the agencies and departments subject to the Joint Committee's jurisdiction "shall keep the joint committee fully and currently informed" and that the joint committee may require from any department or agency of the Federal Government periodic written reports regarding activities and operations within the jurisdiction of the joint committee. To reinforce committee requests for relevant information, the joint committee would have full subpena powers.

Furthermore, no legislation and no provision contained in any legislation dealing with matters within the jurisdiction of the joint committee can be considered by either House unless such legislation has been reported by the joint committee or is a floor amendment.

Finally, given legitimate national security considerations, the joint committee would be empowered to take any and all precautions necessary to maintain the confidentiality of sensitive and classified information before it.

While a Joint Committee on Intelligence Oversight will provide increased assurance that the various intelligence and law enforcement agencies are abiding by the Constitution and the Federal statutes by which they were created, I submit that the committee also will strengthen our legitimate intelligence gathering capacity through ensuring better coordination between the CIA, FBI, Secret Service, DIA, NSA, and other agencies possessing intelligence jurisdiction. At this juncture, I think it important to emphasize that I feel that the global realities of this era are such that the maintenance of an effective intelligence capability is a fundamental requirement of national security. Yet, I also believe that there is a continuing and heightened need for an effective legislative oversight mechanism in order to balance the requirements of intelligence and those of a representative democracy.

My concern regarding congressional oversight of the Federal intelligence community, as well as the extent and thoroughness of the information provided Congress by governmental intelligence units, stems, in large part, from my service on the Select Committee on Presidential Campaign Activities. Both the Watergate committee report and other select committee documents contain substantial evidence regarding the activities and abuses of the Federal law enforcement and intelligence gathering community. This evidence is both enlightening and troublesome.

Clearly, the factual circumstances regarding the Watergate-related and other questionable activities of the CIA, the Plumbers Group, the FBI, the IRS, and other agencies are, in some cases, inconclusive and imperfectly understood. Some of these activities, such as the recent disclosure that during the Nixon administration a Special Services Staff was created within the IRS which kept watch upon "subversive, militant, and radical groups," and the more recent allegations regarding CIA domestic activities of questionable propriety, are only now finding their way into the public domain. I believe, however, that this very lack of knowledge and the inadequacy of the explanations provided by the intelligence and law enforcement agencies involved, highlights the need for a regularized, single-purpose oversight capability within the Congress of the United States.

The recommendation of the Select Committee on Presidential Campaign Activities that congressional oversight of the intelligence community be strengthened, as well as my own calling for the creation of a Joint Committee on Intelligence Oversight, were, of course, based on the knowledge before the committee in July of last year. Since that time, the compelling need for increased congressional oversight has been enhanced by the revelation that there are alleged major discrepancies in sworn testimony submitted to the Senate Foreign Relations Committee by high-ranking State Department and CIA officials regarding covert CIA operations in Chile, by the serious allegations that the CIA conducted an extensive domestic spying operation in violation of its charter, and by the acknowledgement that the FBI apparently maintained files on the activities of various Members of Congress.

Furthermore, on December 9 and 10 of last year, the Government Operations Intergovernmental Relations Subcommittee, chaired by my distinguished colleague from Maine (Mr. Muskie), who is a cosponsor of this bill, conducted hearings on legislative proposals, including this bill, designed to strengthen congressional oversight of the intelligence agencies. I believe that it is fair to say that each witness at these hearings, and the witnesses included former intelligence officers and scholars in the field, recognized the necessity of increasing the congressional oversight requirement. Senator Muskie informs me that these hearings will be continued in late January; and I look forward to further examination of this issue.

Mr. President, I recognize that a full scale, thoroughgoing investigation of the previously mentioned alleged domestic spying and misconduct by the CIA, FBI, and other U.S. intelligence agencies seems probable and that the Senate will act Monday upon Senate Resolution 21 introduced by my distinguished colleague from Rhode Island (Mr. Pastore). I am a cosponsor of the original Mansfield-Mathias resolution; and, only partly because it has been announced by Senator Scott that he will appoint me a member of the Select Committee on Intelligence Operations, I sincerely hope that the Pastore resolution will pass. I do not view the impetus for creating a select committee and this legislation to create a Joint Committee on Intelligence Oversight as being inconsistent or mutually exclusive. Indeed, I believe the Pastore resolution and the Joint Committee on Intelligence Oversight Act to be complementary, and reflective of the current and general recognition that we need to create a permanent, general intelligence oversight capability.

Thus, due to the substantial cost of intelligence, the secrecy, the lack of effective and cohesive supervision, the uncertainty of domestic activities, and the extreme difficulty in obtaining access to classified materials, I believe that Congress must strengthen and regularize its oversight capability. I depend on, and possess faith in the wisdom of Congress to fully consider and elaborate this problem and to supply our requirements.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Joint Committee on Intelligence Oversight Act of 1975."

ESTABLISHMENT OF JOINT COMMITTEE ON INTELLIGENCE OVERSIGHT

Sec. 2. (a) There is hereby established a Joint Committee on Intelligence Oversight (hereinafter referred to as the "Joint Committee") which shall be composed of fourteen members appointed as follows:

(1) seven members of the Senate, four to be appointed by the majority leader of the Senate and three to be appointed by the minority leader of the Senate; and

(2) seven members of the House of Representatives, four to be appointed by the majority leader of the House of Representatives and three to be appointed by the minority leader of the House of Representatives.

(b) The Joint Committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship and the vice chairmanship shall alternate between the Senate and the House of Representatives with each Congress. The chairman during each even-numbered Congress shall be selected by the Members of the House of Representatives on the Joint Committee from among their number and the chairman during each odd-numbered Congress shall be selected by the Members of the Senate on the Joint Committee from their number. The vice chairman during each Congress shall be chosen in the same manner from that House of Congress other than the House of Congress of which the chairman is a Member.

(c) A majority of the members of the Joint Committee shall constitute a quorum for the transaction of business, except that the Joint Committee may fix a lesser number as a quorum for the purpose of taking testimony. Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original appointment.

(d) Service of a Senator as a member or as chairman of the Joint Committee shall not be taken into account for the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate.

DUTIES OF THE JOINT COMMITTEE

Sec. 3. (a) It shall be the duty of the Joint Committee to conduct a continuing study and investigation of the activities and operations of (1) the Central Intelligence Agency, (2) the Federal Bureau of Investigation, Department of Justice, (3) the United States Secret Service, (4) the Defense Intelligence Agency, Department of Defense, (5) the National Security Agency, and, (6) all other departments and agencies of the Federal Government insofar as the activities and operations of such other departments and agencies pertain to intelligence gathering or surveillance of persons; and to consider proposals for the improvement and reorganization of agencies and departments of the Federal Government within the jurisdiction of the Joint Committee.

(b) The Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Director of the Secret Service, the Director of the Defense Intelligence Agency, and the Director of the National Security Agency shall keep the Joint Committee fully and currently informed with respect to all of the activities of their respective organizations, and the heads of all other departments and agencies of the Federal Government conducting intelligence activities or operations or the surveillance of persons shall keep the Joint Committee fully and currently informed of all intelligence and surveillance activities and operations carried out by their respective departments and agencies. The Joint Committee shall have authority to require from any department or agency of the Federal Government periodic written reports regarding activities and operations within the jurisdiction of the Joint Committee.

(c)(1) All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the functions of the Central Intelligence Agency, the Federal Bureau of Investigation, the United States Secret Service, the Defense Intelligence Agency, the National Security Agency, or to intelligence or surveillance activities or operations of any other department or agency of the Federal Government shall be referred to the Joint Committee.

(2) No funds may be appropriated for the purpose of carrying out any intelligence or surveillance activity or operation by any office, or any department or agency of the Federal Government, unless such funds for such activity or operation have been specifically authorized by legislation enacted after the date of enactment of this Act.

(3) No bill or resolution, and no amendment to any bill or resolution, and no matter contained in any bill or resolution, in either House, dealing with any matter which is within the jurisdiction of the Joint Committee shall be considered in that House unless it is a bill or resolution which has been reported by the Joint Committee of that House (or from the consideration of which

such committee has been discharged) or unless it is an amendment to such a bill or resolution. Nothing in this subsection shall be construed to deprive any committee of either House from exercising legislative oversight with respect to intelligence and surveillance activities and operations related to the jurisdiction of such committee.

(4) Members of the Joint Committee who are Members of the Senate shall from time to time report to the Senate, and members of the Joint Committee who are Members of the House of Representatives shall from time to time report to the House, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses and which are referred to the Joint Committee or otherwise within the jurisdiction of the Joint Committee.

ADMINISTRATIVE POWERS

SEC. 4. (a) The Joint Committee, or any subcommittee thereof, is authorized, in its discretion: to make expenditures; to employ personnel; to adopt rules respecting its organization and procedures; to hold hearings; to sit and act at any time or place; to subpoena witnesses and documents; with the prior consent of the Federal department or agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency; to procure printing and binding; to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946; and to take depositions and other testimony.

(b) Subpenas may be issued over the signature of the chairman of the Joint Committee or by any member designated by him or the Joint Committee, and may be served by such person as may be designated by such chairman or member. The chairman of the Joint Commitee or any member thereof may administer oaths to witnesses. The provisions of section 102–104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this subsection.

CLASSIFICATION OF INFORMATION

SEC. 5. The Joint Committee may classify information originating within the committee in accordance with standards used generally by the executive branch for classifying restricted data or defense information.

RECORDS OF JOINT COMMITTEE

SEC. 6. The Joint Committee shall keep a complete record of all Joint Committee actions, including a record of the votes on any question on which a record vote is demanded. All records, data, charts, and files of the Joint Committee shall be the property of the Joint Committee and shall be kept in the office of the Joint Committee or such other places as the Joint Committee may direct.

EXPENSES OF JOINT COMMITTEE

SEC. 7. The expenses of the Joint Committee shall be paid from the contingent fund of the Senate from funds appropriated for the Joint Committee, upon vouchers signed by the chairman of the Joint Committee or by any member of the Joint Committee authorized by the chairman.

Mr. PACKWOOD. Mr. President, a few days ago, Senator PASTORE introduced Senate Resolution 21 to set up a select committee to investigate and study governmental operations with respect to intelligence-gathering activities. In his introductory remarks, Senator PASTORE stated that his purpose for suggesting the establishment of such a committee was to "clear the air, in order to cleanse whatever abuses there have been in the past, so that we can put these agencies on the right track, so that we can recite, once and for all, the proper parameters within which they can function." I share those sentiments and will give my full support to the enactment of Senate Resolution 21.

However, Mr. President, while I am concerned with clearing the air and defining the parameters for those agencies involved in the gathering of intelligence information, I am not content to have congressional interest in the CIA, the FBI, the Defense Intelligence Agency, or the National Security Council end on September 1, 1975, with the delivery of the final report of the select committee. For that reason, I join today with my colleagues, Senators BAKER and WEICKER, in the introduction of legislation to provide for the establishment of a Joint Committee on Intelligence Oversight. Thereby insuring that, when the select committee no longer exists, the Congress will still have a vehicle through which information on the activities of the Federal Intelligence Community may be gathered.

For too long, there has been too little knowledge of what those agencies are about. I will agree that secrecy is intrinsic to the successful execution of their designated responsibilities and I am not suggesting that the cover be dropped. However, when I read of the CIA's admitted transgression of her historical foreign-intelligence-gathering boundaries into the domestic sector, I am alarmed. How are we to keep tabs on this kind of departure by the CIA from their specifically legislated area of concern? Are we to hear of it from the New York Times? Are we to learn of FBI files on Senators and Congressmen—and I do not mean security clearance files—years after they have been initiated through an article in the newspaper?

Mr. President, I think the time has most assuredly come for greater vigilance on part of the Congress over the covert activities of the CIA, the FBI, the Defense Intelligence Agency, the National Security Council, and any other Federal agency involved in intelligence gathering, domestic or foreign. It is relatively plain to see that those congressional oversight bodies already in existence were not given complete information on current or ongoing programs by the CIA. Further, the 40 Committee—touted by its supporters as a mechanism of tight control over the clandestine operations of the CIA—is unacceptable as a representative of the will of the American people or the Congress in this area. Among other things, its membership includes the Director of the Central Intelligence Agency and is likely to change with each administration.

We are left then, Mr. President, with the need for a new, bipartisan oversight committee which will represent the concerns of the American people, as well as provide for strong and continuing congressional interest and input into any decision made on behalf of U.S. citizens concerning covert activities carried out for the protection of the national security. Watergate taught us that national security can be so broadly interpreted as to encompass a wide range of badly defined threats of varying degrees of seriousness. Further, and more particularly, we learned that, in responding to those threats, the privileged immunity from full disclosure of its activities—enjoyed by the CIA—could be abused.

We simply cannot permit the Central Intelligence Agency, the FBI, or any other intelligence-gathering Federal agency to go on operating in a vacuum, beyond accountability for its clandestine activities. Mr. President, I suggest that the creation of a Joint Committee on Intelligence Oversight, as envisioned by this legislation, will go a long way toward effectively keeping these agencies on the right track—after they are put there by the select committee—and I would urge the support of the Senate for its enactment.

Mr. BAKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from New York (Mr. BUCKLEY) is recognized for not to exceed 15 minutes.

SENATE JOINT RESOLUTION 10 AND SENATE JOINT RESOLUTION 11—RIGHT-TO-LIFE AMENDMENTS

Mr. BUCKLEY. Mr. President, yesterday marked the second anniversary of the Supreme Court's controversial and far-reaching abortion decisions, Roe against Wade and Doe against Bolton; decisions that Justice White described as an "exercise of raw judicial power" that constituted "an improvident and extravagant exercise of the power of judicial review." I do not think it is necessary for me to describe to you in any detail the wide-ranging and profound effects of that decision on the American people. Suffice it to say that the Supreme Court decision has led many Americans to the conclusion that only a constitutional amendment could guarantee the right to life for all Americans. On May 31, 1973, I introduced with the Senator from Oregon, Mr. HATFIELD, and five others, a constitutional amendment to restore legal protection to all human beings, including their unborn offspring, at every stage of their biological development.

Today, the Senator from Oregon and I are reintroducing this amendment. Joining us as cosponsors are Messrs. HATFIELD, EASTLAND, BARTLETT, CURTIS, HELMS, YOUNG, and GARN. I send our amendment to the desk and ask that it be appropriately referred. I also ask unanimous consent that it be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. FORD). The joint resolution will be received and appropriately referred, and, without objection, will be printed in the RECORD in accordance with the Senator's request.

The joint resolution (S.J. Res. 10) is as follows:

S.J. Res 10

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. With respect to the right to life, the word 'person', as used in this article and in the fifth and fourteenth articles of amendment to the Constitution of the United States, applies to all human beings, including their unborn offspring at every stage of their biological development, irrespective of age, health, function, or condition of dependency.

"SEC. 2. This article shall not apply in an emergency when a reasonable medical certainty exists that continuation of the pregnancy will cause the death of the mother.

"SEC. 3. Congress and the several States shall have power to enforce this article by appropriate legislation within their respective jurisdictions."

Mr. BUCKLEY. Mr. President, I want to thank these gentlemen for joining me in sponsoring the human life amendment; and to express my appreciation for their own individual work over the past 2 years in bringing home to the public the full implications of the action taken by the Supreme Court 2 years ago when, by judicial fiat, it set aside the laws of 50 States and the ethical tradition of more than 2,000 years of Western life.

Mr. President, I would also like to take this opportunity to commend the Senator from Indiana, Mr. BAYH, as chairman of the Subcommittee on Constitutional Amendments, for the thoroughness of the public hearings he has held to date on the proposed amendment, thus launching an exhaustive and deliberative study which I am given to understand will be completed in the relative near future. To date, the subcommittee has heard 11 days of testimony from 64 witnesses—including exports in the fields of medical science, ethics, and constitutional law. These hearings have served to bring together a vast amount of scientific information and ethical analysis for the benefit not only of the Members of Congress, but of all Americans struggling with the many questions posed by the complex issue of abortion. I have long been convinced that once the scientific, medical, ethical, and legal facts were known in their totality, the errors and the dangers of the Supreme Court decision would become glaringly evident. The public hearings that have been held to date have served to confirm my view.

Finally, Mr. President, I wish to pay tribute to the millions of Americans who, in one way or another, have demonstrated by their words and their actions that they consider the right to life to be the major moral issue now confronting our Nation. They understand that if we once accept the debasement of human life at one of its stages, we will soon accept its debasement in others until the whole moral and constitutional fabric of our national life is changed.

From their ranks have come the hundreds of thousands of men and women in every part of the United States who are actively at work in various organizations to reverse the damage unleashed by the Wade and Roe decisions. They have been active in many ways and on many fronts, but the movement of which they are part has come to be known by the term "pro-life." I can think of no more accurate description of these enthusiastic and dedicated men, women, and children than the words "pro-life" for they capture not only the nature of their concern, but the affirmative, positive approach they have taken in working to restore constitutional protection to human life.

After 2 years, it would seem that not much remains to be said about this issue. Yet the public hearings, the media coverage of the abortion controversy, and the effective work of the pro-life movement are bringing to the American people a far better understanding of what is literally a life or death issue. Only a few weeks ago, I came across an article in the New England Journal of Medicine that testified eloquently to the fact that rational debate and personal experience can and often do bring about a change of mind and heart when it comes to the subject of abortion. The article was written by Dr. Bernard Nathanson, a founder of the National Association for the Repeal of Abortion Laws, now known as the National Abortion Rights Action League, and formerly a director of the Center for Reproductive and Sexual Health—at one time considered to be one of the largest abortion clinics in the Western World. In the article, Dr. Nathanson, still an advocate of a liberal abortion policy, concedes that the process of abortion involves the taking of a human life. The center performed 60,000 abortions under his directorship, and Dr. Nathanson candidly admits:

> I am deeply troubled by my own increasing certainty that I had in fact presided over 60,000 deaths. There is no longer serious doubt in my mind that human life exists within the womb from the very onset of pregnancy.

Mr. President, yesterday more than 30,000 men and women met in Washington to mourn the destruction of those 60,000 unborn human lives, as well as the more than 1 million others that have been destroyed in this country since the Supreme Court issued its fateful decisions 2 years ago. The Congress deludes itself if it believes that this is one of those issues that in time will blow away. Yesterday's mass demonstration was even larger than last year's. Too many feel far too deeply about the sanctity of human life that was once one of the root assumptions—one of the self-evident truths—of the American credo. The issue created by the Supreme Court 2 years ago will not evaporate because 1 million men and women and children will not allow it to; and because each day the carnage of a thousand assembly line abortion mills reminds us too starkly of the unavoidable truth that human lives are being snuffed out for no reason other than the convenience of their mothers.

No, Mr. President, the feelings run too deep for the Congress to hope that this is a matter that can be avoided. There is only one way that we can resolve the issue created by a "raw exercise of judicial power" when, on January 22, 1973, the Supreme Court declared the existence of new rights nowhere to be found in prior constitutional law and in the process destroyed ancient rights recognized by virtually every State in the Union. The issue must be submitted to the political process. This only the Congress can do. I, therefore, urge and pray that the 94th Congress will show the courage to adopt a prolife amendment so that the American people, acting through the legislatures of their respective States, may determine for themselves whether they wish this Nation to be rededicated to the proposition that all men are created equal and that they are endowed by their Creator with inalienable rights, the greatest of which is the right to life.

Mr. President, at this point I request unanimous consent that the full text of my introductory remarks of May 31, 1973, including appendixes, be inserted into the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

PROTECTION OF THE UNBORN—INTRODUCTION OF A JOINT RESOLUTION

Mr. BUCKLEY. Mr. President, about 4 months ago, the Supreme Court, in a pair of highly controversial, precedent-shattering decisions, Roe against Wade and Doe against Bolton, ruled that a pregnant woman has a constitutional right to destroy the life of her unborn child. In so doing, the Court not only contravened the express will of every State legislature in the country; it not only removed every vestige of legal protection hitherto enjoyed by the child in the mother's womb; but it reached its result through a curious and confusing chain of reasoning that, logically extended, could apply with equal force to the genetically deficient infant, the retarded child, or the insane or senile adult.

After reviewing these decisions, I concluded that, given the gravity of the issues at stake and the way in which the Court had carefully closed off alternative means of redress, a constitutional amendment was the only way to remedy the damage wrought by the Court. My decision was not lightly taken for I believe that only matters of permanent and fundamental interest are properly the subject for constitutional amendment. I regret the necessity for having to take this serious step, but the Court's decisions, unfortunately, leave those who respect human life in all its stages from inception to death with no other recourse.

To those who argue that an amendment to the Constitution affecting abortion and related matters would encumber the document with details more appropriately regulated by statute. I can only reply that the ultimate responsibilty must be borne by the High Court itself. With Mr. Justice White, who dissented so vigorously in the abortion cases:

"I find nothing in the language or history of the Constitution to support the Court's judgment."

The Court simply carved out of thin air a previously undisclosed right of "privacy" that is nowhere mentioned in the Constitution, a right of privacy which, oddly, can be exercised in this instance only by destroying the life and, therefore, the privacy of an unborn child. As Mr. Justice White remarked last January:

"As an exercise of raw judicial power, the Court perhaps has authority to do what it does today; but in my view its judgment is an improvident and extravagant exercise of the power of judicial review which the Constitution extends to this Court."

In the intervening weeks since the Court's decisions, I have sought the advice of men and women trained in medicine, ethics, and the law. They have given me the most discriminating and exacting counsel on virtually every aspect of the issues involved and have provided invaluable assistance in drawing up an amendment that reflects the latest and best scientific fact, and that comports with our most cherished legal traditions.

Mr. President, before discussing the specific language of my proposed amendment, I believe it necessary first to analyze the effect and implications of Wade and Bolton, and then to place them in the context of current attacks on our traditional attitudes toward human life. At the outset, it is necessary to discuss with some care what the Court in fact held in its abortion decisions. This is, I must confess, not an easy task. For parsing the Court's opinions in these cases requires that one attempt to follow a labyrinthine path of argument that simultaneously ignores or confuses a long line of legal precedent and flies in the face of well-established scientific fact.

The Court's labored reasoning in these cases has been a source of considerable puzzlement to all who have the slightest familiarity with the biological facts of human life before birth or with the legal protections previously provided for the unborn child. The Court's substantial errors of law and fact have been so well documented by others that it would be superfluous for me to attempt to add anything of my own. I shall simply refer Senators to the most incisive summary of the Court's errors that I have encountered. It is in the form of a legal brief filed by the attorneys in the Byrn case that was on appeal to the Supreme Court at the time it handed down its opinions in Wade and Bolton. It presents a devastating historical, legal and scientific indictment of the Court's errors of commission and omission. I ask unanimous consent that this document be printed at the end of my remarks as Appendix A, and urge Senators to give most careful study to its arguments.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See Appendix A.)

Mr. BUCKLEY. Mr. President, the full import of the Court's action is as yet incompletely understood by large segments of the public and by many legislators and commentators. It seems to be rather widely held, for example, that the Court authorized abortion on request in the first 6 months of pregnancy, leaving the States free to proscribe the act thereafter. But such is far from the truth. The truth of the matter is that, under these decisions, a woman may at any time during pregnancy exercise a constitutional right to have an abortion provided only that she can find a physician willing to certify that her "health" requires it; and as the word "health" is defined, that in essence means abortion on demand.

The Court's attempts to distinguish three stages of pregnancy, but upon examination this attempt yields, in practical effect, distinctions without a difference. In the first 3 months, in the words of the Court, "the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman's attending physician." This means, for all intents and purposes, abortion on request. During the second trimester of pregnancy, the State may—but it need not—regulate the abortion procedure in ways that are reasonably related to maternal health. The power of the State's regulation here is effectively limited to matters of time, place and perhaps manner.

Thus, through approximately the first 6 months of pregnancy, the woman has a constitutionally protected right to take the life of her unborn child, and the State has no "compelling interest" that would justify prohibiting abortion if a woman insists on one.

After the period of "viability" which the Court marks at 6, or alternatively 7, months of pregnancy, the State "may"—but, again, it need not—proscribe abortion except "where it is necessary for the preservation of the life or health of the mother." This provision, which appears at first glance to be an important restriction, turns out to be none at all, as the Court defines health to include "psychological as well as physical well-being," and states that the necessary "medical judgment may be exercised in the light of all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being" of the mother. The Court, in short, has included under the umbrella of "health" just about every conceivable reason a woman might want to advance for having an abortion.

It is clear, then, that at no time prior to natural delivery is the unborn child considered a legal person entitled to constitutional protections; at no time may the unborn child's life take precedence over the mother's subjectively-based assertion that her well-being is at stake.

In reaching these findings, the Court in effect wrote a statute governing abortion for the entire country, a statute more permissive than that enacted by the hithero most permissive jurisdiction in the country; namely, my own State of New York. Nor is that all. In the course of its deliberations, the Court found it necessary to concede a series of premises that can lead to conclusions far beyond the immediate question of abortion itself. These premises have to do with the conditions under which human beings, born or unborn, may be said to possess fundamental rights.

I shall have a good deal to say about these extended implications of the Court's decisions in the months ahead, but for the moment, I would like to touch briefly on one or two basic points:

First, it would now appear that the question of who is or is not a "person" entitled to the full protection of the law is a question of legal definition as opposed to practical determination. Thus, contrary to the meaning of the Declaration of Independence, contrary to the intent of the framers of the 14th amendment, and contrary to previous holdings of the Court, to be created human is no longer a guarantee that one will be possessed of inalienable rights in the sight of the law. The Court has extended to government, it would seem, the power to decide the terms and conditions under which membership in good standing in the human race is determined. This statement of the decisions' effect may strike many as overwrought, but it will not appear as such to those who have followed the abortion debate carefully or to those who have read the Court's decisions in full. When, for example, the Court states that the unborn are not recognized by the law as "persons in the whole sense," and when, further, it uses as a precondition for legal protection the test whether one has a "capability of meaningful life," a thoughtful man is necessarily invited to speculate on what the logical extension of such arguments might be.

If constitutional rights are deemed to hinge on one's being a "person in the whole sense" where does one draw the line between "whole" and something less than "whole"? It is simply a question of physical or mental development? If so, how does one distinguish between the child in his 23d week of gestation who is lifted alive from his mother's womb and allowed to die in the process of abortion by hysterotomy, and the one that is prematurely born and rushed to an incubator? It is a well known scientific fact that the greater part of a child's cerebral cortex is not formed, that a child does not become a "cognitive person", until some months after normal delivery. Might we not someday determine that a child does not become a "whole" person until sometime after birth, or never become "whole" if born with serious defects? And what about those who, having been born healthy, later lose their mental or physical capacity? Will it one day be found that a person, by virtue of mental illness, or serious accident, or senility, ceases to be a "person in the whole sense", or ceases to have the "capability for meaningful life," and as such no longer entitled to the full protection of the law?

Mr. President, the list of such questions is virtually endless. The Court in attempting to solve one problem has ended up by creating 20 others. One can read the Court's opinions in the abortion cases from beginning to end and back again, but he will not find even the glimmer of an answer to these questions; indeed, one will not even find the glimmer of an indication that the Court was aware that such questions might be raised or might be considered important.

A second general consideration I should like to raise, Mr. President, has to do with the Court's definition of "health" as involving "all factors—physical, emotional, psychological familial, and the woman's age—relevant to . . . well-being." It is a little remarked but ultimately momentous part of the abortion decisions that the Court, consciously or unconsciously, has adopted wholesale the controversial definition of "health" popularized by the World Health Organization. According to the WHO, "health" is "a state of complete physical, mental, and social well-being, not simply the absence of illness and disease." In this context, the Court's definition acquires a special importance, not only because it can be used to justify abortion any time a women feels discomfort by pregnancy, but because the Court made pointed reference to the "compelling interest" of the State in matters of health in general and maternal health in particular. One is bound to wonder whether the State's interest in maternal health would ever be sufficiently "compelling" to warrant an abortion against a pregnant woman's will. This is no mere academic matter. An unwed, pregnant teenage girl was ordered by a lower court in Maryland just last year, against her will, to have an abortion. The girl was able to frustrate the order by running away. The order was later overturned by a Maryland appellate court; but the important point is that an analog to the compelling State interest argument was used by the lower court to justify its holding.

Let us consider, for example, the case of a pregnant mental patient. Would the State's compelling interest in her health ever be sufficient to force an abortion upon her? What of the unmarried mother on welfare who is already unable to cope with her existing children? Again, Mr. President, I am not raising an academic point for the sake of disputation. In the abortion cases, the Supreme Court breathed life into the notorious precedent of Buck against Bell. The Bell case, it will be recalled, upheld the right of a State to sterilize a mental incompetent without her consent.

The Court held in that case that —

"The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes."

One is necessarily bound to wonder whether, by analogous extension, the principle that sustains compulsory sterilization of mental patients is broad enough to cover compulsory abortion of mental patients; and if of mental patients, then why not, as the lower court in Maryland suggested, of unwed minor girls? And if of unwed minor girls, then why not of any other woman? Just how "compelling" is the state's interest in matters of "health"? Where does the power begin or end? In the abortion cases, Bell, curiously, is cited for the proposition that a woman does not have an unlimited right to her own body, whence the only inference to be drawn is that the reason she doesn't have an unlimited right is that the state may qualify that right because of its "compelling interest" in "health." I find that a strange doctrine to be celebrated by the proponents of women's liberation.

These larger and deeply troubling considerations, Mr. President, may in the long run be as important to us as the special concern that many of us have with the matter of abortion itself. Every premise conceded by the Court in order to justify the killing of an unborn child can be extended to justify the killing of anyone else if, like the unborn child, he is found to be less than a person in the "whole" sense or incapable of "meaningful" life. The removal of all legal restrictions against abortion must, in short, be seen in the light of a changing attitude regarding the sanctity of individual life, the effects of which will be felt not only by the unborn child who is torn from its mother's womb but as well by all those who may someday fall beyond the arbitrary boundaries of the Court's definition of humanity.

This wider context of the abortion controversy was brought to my attention most forcefully by an unusually candid editorial entitled "A New Ethic for Medicine and Society" that was published two and a half years ago in California Medicine, the official journal of the California Medical Association. It was occasioned, as I understand it, by the debate then taking place in our largest State regarding the liberalization of the abortion law.

The thrust of the editorial is simply this: That the controversy over abortion represents the first phase of a head-on conflict between the traditional, Judeo-Christian medical and legal ethic—in which the intrinsic worth and equal value of every human life is secured by law, regardless of age, health or condition of dependency—and a new ethic, according to which human life can be taken for what are held to be the compelling social, economic or psychological needs of others. Mr. President, I ask unanimous consent that the editorial referred to be printed in the RECORD at the conclusion of my remarks as appendix B.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See appendix B.)

Mr. BUCKLEY. Let me for a moment dwell on a crucial point in that editorial. The author writes:

"The process of eroding the old ethic and substituting the new has already begun. It may be seen most clearly in changing attitudes toward human abortion. In defiance of the long held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition, or status, abortion is becoming accepted by society as moral, right, and even necessary. It is worth noting that this shift in public attitude has affected the churches, the laws and public policy rather than the reverse. Since the old ethic has not yet been fully displaced it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death. The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impeccable auspices. It is suggested that this schizophrenic sort of subterfuge is necessary because while a new ethic is being accepted the old one has not yet been rejected.

Lest there be any ambiguity as to the ultimate thrust of the "new ethics," the California Medicine editorial went on to state the following in discussing the growing role of physicians in deciding who will and will not live:

"One may anticipate further development of these roles as the problems of birth control and birth selection are extended inevitably to death selection and death control whether by the individual or by society. . . ."

I find the editorial of a powerful, eloquent, and compelling statement of the ultimate questions involved in the abortion controversy. The question in issue—the Supreme Court to the contrary notwithstanding—is not to determine when life begins, for that is one of scientific fact requiring neither philosophical nor theological knowledge to answer. The question, rather, is what value we shall place on human life in general and whether unborn human life in particular is entitled to legal protection.

Whether or not our society shall continue its commitment to the old ethnic, or transfer its allegiance to the new, is not a question to be decided by a transitory majority of the Supreme Court, but by the people acting through their political processes. I concur in Mr. Justice White's condemnation of the Wade decision as "an exercise of raw judicial power" that is "improvident and extravagant." I concur in finding unacceptable the Court's action in "interposing a constitutional barrier to State efforts to protect human life and—in—investing mothers and doctors with the constitutionally protected right to exterminate it."

The majority of the Court, however, has rendered its decision. We as a people have been committed by seven men to the "new ethic"; and because of the finality of their decisions, because there are now no practical curbs on the killing of the unborn to suit the convenience or whim of the mother, those who continue to believe in the old ethnic have no recourse but to resort to the political process. That is why I intend to do what I can to give the American people the opportunity to determine for themselves which ethnic will govern this country in what is, after all, quite literally a matter of life or death. That is why I send my proposed Human Life Amendment to the desk and ask that it be printed and appropriately referred.

In doing so, Mr. President, may I say how deeply gratified I am to be joined in introducing this amendment by my distinguished colleagues from Oregon, Iowa, Utah, Nebraska, Oklahoma, and North Dakota. Senators HATFIELD, HUGHES, BENNETT, BARTLETT, CURTIS, and YOUNG are known in this body and elsewhere as exceptionally thoughtful and dedicated men whose day-to-day political activities are informed by devotion to first principles. When such a geographically, ideologically, and religiously diverse group of Senators can agree on a major issue like this, it suggests that opposition to abortion is truly ecumenical and national in scope. These Senators honor me by their cosponsorship, and I consider it a privilege to work together with them in this great cause. I would simply like to take this occasion to extend to each of them my personal gratitude for their help and cooperation and to say how much I look forward to working jointly with them in the months ahead.

The text of our amendment reads as follows:

ARTICLE —

SECTION 1. With respect to the right to life, the word 'person', as used in this Article and in the Fifth and Fourteenth Articles of Amendment to the Constitution of the United States, applies to all human beings, including their unborn offspring at every stage of their biological development, irrespective of age, health, function or condition of dependency.

SEC. 2. This Article shall not apply in an emergency when a reasonable medical certainty exists that continuation of the pregnancy will cause the death of the mother.

SEC. 3. Congress and the several States shall have power to enforce this Article by appropriate legislation within their respective jurisdictions.

The amendment's central purpose is to create, or rather, as will be made clear below, to restore a constitutionally compelling identity between the biological category "human being" and the legal category "person". This has been made necessary by two factors: First, the more or less conscious dissemblance on the part of abortion proponents, by virtue of which the universally agreed upon facts of biology are made to appear as questions of value—a false argument that the Supreme Court adopted wholesale; and second, the holding of the Court in Wade and Bolton that the test of personhood is one of legal rather than of biological definition. The amendment addresses these difficulties by making the biological test constitutionally binding, on the ground that only such a test will restrain the tendency of certain courts and legislatures to arrogate to themselves the power to determine who is or who is not human and, therefore, who is or is not entitled to constitutional protections. The amendment is founded on the belief that the ultimate safeguard of all persons, born or unborn, normal or defective, is to compel courts and legislatures to rest their decisions on scientific fact rather than on political, sociological, or other opinion.

Such a test will return the law to a position compatible with the original understanding of the 14th amendment. As the debates in Congress during consideration of that amendment make clear, it was precisely the intention of Congress to make "legal person" and "human being" synonymous categories. By so doing, Congress wrote into the Constitution that understanding of the Declaration of Independence best articulated by Abraham Lincoln; namely, that to be human is to possess certain rights by nature, rights that no court and no legislature can legitimately remove. Chief among these, of course, is the right to life.

On the specific subject of abortion, it is notable that the same men who passed the 14th amendment also enacted an expanded Assimilative Crimes Statute, April, 1866, which adopted recently passed State antiabortion statutes. These statutes, in turn, had been enacted as a result of a concerted effort by medical societies to bring to legislators' attention the recently discovered facts of human conception. The Court's opinion in Wade totally misreads—if the Court was aware of it all all—the fascinating medicolegal history of the enactment of 19th century antiabortion statutes, and ignores altogether the fundamental intention which animated the framers of the 14th amendment.

Section 1 of the proposed amendment would restore and make explicit the biological test for legal protection of human life. The generic category is "human being," which includes, but is not limited to, "unborn offspring—at every stage of their biological development." It is a question of biological fact as to what constitutes "human being" and as to when "offspring" may be said to come into existence. While the basic facts concerning these matters are not in dispute among informed members of the scientific community, the ways in which these facts are to be ascertained in any particular case will depend on the specifications contained in implementing legislation passed consistent with the standard established by the amendment. Such legislation would have to consider, in the light of the best available scientific information, the establishment of reasonable standards for determining when a woman is in fact pregnant, and if so, what limitations are to be placed on the performance of certain medical procedures or the administering of certain drugs.

Some proponents of abortion will seek to characterize the amendment as prohibiting methods of contraception. To such charge, the answer is twofold:

First, there is nothing in the amendment which would, directly or indirectly, expressly or impliedly, proscribe any mode of contraception;

Second, under the amendment, the test in each case will be a relatively simply one; that is, whether an "unborn offspring" may be said to be in existence at the same time when a potentially abortive technique or medicine is applied. Particular standards on this point are to be worked out in implementing legislation.

Section 1, it will also be noted, reaches the more general case of euthanasia. This is made necessary because of the widespread and growing talk of legalizing "death with dignity," and because of the alarming dicta in the Wade opinion by which legal protection seems to be conditioned on whether one has the "capability of meaningful life" or whether one is a "person in the whole sense." Such language in the Court's opinion, when combined with the Court's frequent references to the State's "compelling interest" in matters of "health," is pointedly brought to our attention by the revival in Wade of the notorious 1927 case of Buck against Bell—which upheld the right of the State to sterilize a mentally defective woman without her consent. The Wade and Bolton opinions taken as a whole seem to suggest that unborn children are not the only ones whose right to life is now legally unprotected. Thus, the proposed amendment explicitly extends its protections to all those whose physical or mental condition might make them especially vulnerable victims of the "new ethic."

Regarding the specific subject of abortion, section 2 makes an explicit exception for the life of the pregnant woman. There seems to be a widespread misimpression that pregnancy is a medically dangerous condition, when the truth of the matter is that under most circumstances a pregnant woman can deliver her child with minimal risk to her own life and health. There is, however, an exceedingly small class of pregnancies where continuation of pregnancy will cause the death of the woman. The most common example is the ectopic or tubal pregnancy. It is our intention to exempt this unique class of pregnancies, without opening the door to spurious claims of risk of death.

Under the amendment, there must be an emergency in which reasonable medical certainty exists that continuation of pregnancy will cause the death of the woman. This is designed to cover the legitimate emergency cases, such as the ectopic pregnancy, while closing the door to unethical physicians who in the past have been willing to sign statements attesting to risk of death when in fact none exists or when the prospect is so remote in time or circumstance as to be unrelated to the pregnancy. Contrary to the opinion of the Supreme Court, which assumes that pregnancy is a pathological state, modern obstetrical advances have succeeded in removing virtually every major medical risk once associated with pregnancy. As Dr. Alan Guttmacher himself remarked nearly a decade ago, modern obstetrical practice has eliminated almost all medical indications for abortion. In certain limited instances, however, a genuine threat to the woman's life remains, and it is felt that excepting such situations is compatible with longstanding moral custom and legal tradition.

Mr. President, there is today a broad and growing concern over the consequences of the Wade and Bolton decisions. Scarcely 4 months have passed since the Court's ruling, but already 10 States have petitioned the Congress to adopt an amendment to nullify their effect. They are Maine, North Dakota, South Dakota, Maryland, Utah, Indiana, Nebraska, Minnesota, New Jersey, and Idaho. Moreover, within a few days after the ruling, 17 States joined as amicus curiae in a petition filed by the State of Connecticut seeking, in effect, a reversal of Wade and Bolton. They were Arizona, California, Colorado, Georgia, Kentucky, Louisiana, Massachusetts, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Rhode Island, Utah and West Virginia. Several States have refused to adopt new laws to conform with the dictates of the Supreme Court, their legislators being simply unwilling to bring themselves to ratify the Court's actions. A number of constitutional amendments have already been introduced into the House of Representatives designed to restore protection to the unborn. One of these, the amendment introduced by Congressman Lawrence J. Hogan of Maryland, has already drawn widespread national attention. It seems clear, in short, that the Supreme Court has done anything but "settle" the abortion issue, as some had hoped.

I therefore urge the Committee on the Judiciary to schedule early hearings on my proposed amendment, as well as the Hogan and other amendments which seek to restore the full protection of the law for human life at every stage of development from the time a distinct biologically identifiable human being first comes into existence.

I know there are those, Mr. President, who would argue that it would simply be a waste of time to schedule hearings on proposals for a human life amendment. It is continually being asserted these days that public opinion on the abortion issue has turned the corner, that the Supreme Court decisions in fact reflect current American acceptance of abortion-on-demand. Thus, it is argued, any serious attempt to enact a corrective constitutional amendment would be an exercise in futility.

Some polls have been cited in support of this contention, but these are refuted by the most detailed study of the matter made in recent months. I speak of the one conducted by the University of Michigan's Institute of Social Research last fall which found, among other things, that 58 percent of Americans continue to oppose liberalized abortion, as do a majority of non-Catholic Americans. I mention this last fact in passing because so many today have "bought" the charge made by the proabortionists that only Roman Catholics today oppose what the Supreme Court has accomplished through judicial fiat. For the benefit of those, Mr. President, who may nevertheless feel that the impetus behind the antiabortion movement is exclusively Catholic, I ask unanimous consent that there be printed in the Record, at the conclusion of my remarks, as appendix C, excerpts from various non-Catholic sources affirming the rights of the unborn and condemning liberalized abortion. I also ask unanimous consent that an article in the April 17, 1973, issue of the Washington Star-News describing the University of Michigan study be printed in the Record at the conclusion of my remarks as appendix D.

The Acting President pro tempore. Without objection, it is so ordered.

(See appendix C and D.)

Mr. Buckley. Mr. President, of much greater significance than this study, Mr. President, are the results of referendums last November in which the people of two States, Michigan and North Dakota, were asked to vote on the adoption of liberalized abortion laws. The issue was widely debated, and on election day the people spoke with a decisive voice. They voted to reject permissive abortion by a margin of 3 to 2 in the case of Michigan, and of 3 to 1 in the case of North Dakota.

These votes are of particular significance, because they indicate that the commitment of Americans to the traditional Judeo-Christian ethic is apt to be strengthened after the public has had the advantage of the intensive educational process that results from any actively debated issue. The voters of Michigan and North Dakota came to know the biological facts of human development. By the time they cast their ballots, they had absorbed a knowledge of the subject of abortion and of its implications that is shared today by too few Americans.

Mr. President, I profoundly believe that such popularity, as the idea of abortion as acquired, derives from the ability of the proponents of abortion to dissemble the true facts concerning the nature of unborn life and the true facts concerning what is actually involved in abortion. I further believe that when these facts are fully made known to the public, they will reject abortion save under the most exigent circumstances; that is, those in which the physical life of the mother is itself at stake. In recent weeks, in discussing this matter with friends and colleagues, I have found that, like many of the rest of us, they labor under certain misimpressions created by the proponents of permissive abortion. I, therefore, believe that it would be useful for me to call our colleagues' attention to clinical evidence upon these points.

First, I will quote a particularly felicitous description of the biological and physical character of the unborn child by Dr. A. W. Liley, research professor in fetal physiology at National Women's Hospital, Auckland, New Zealand, a man renowned throughout the world as one of the principal founders and masters of the relatively new field of fetology. Dr. Liley writes:

> In a world in which adults control power and purse, the foetus is a a disadvantage being small, naked, nameless and voiceless. He has no one except sympathetic adults to speak up for him and defend him—and equally no one except callous adults to condemn and attack him. Mr. Peter Stanley of Langham Street Clinic, Britain's largest and busiest private abortorium with nearly 7,000 abortions per year, can assure us that "under 28 weeks the foetus is so much garbage—there is no such thing as a living foetus." Dr. Bernard Nathanson, a prominent New York abortionist, can complain that it is difficult to get nurses to aid in abortions beyond the twelfth week because the nurses and often the doctors emotionally assume that a large foetus is more human than a small one. But when Stanley and Nathanson profit handsomely from abortion we can question their detachment because what is good for a doctor's pocket may not be best for mother or baby.
>
> Biologically, at no stage can we subscribe to the view that the foetus is a mere appendage of the mother. Genetically, mother and baby are separate individuals from conception. Physiologically, we must accept that the conceptus is, in very large measure, in charge of the pregnancy, in command of his own environment and destiny with a tenacious purpose.
>
> It is the early embryo who stops mother's periods and proceeds to induce all manner of changes in maternal physiology to make his mother a suitable host for him. Although women speak of their waters breaking or their membranes rupturing, these structures belong to the foetus and he regulates his own amniotic fluid volume. It is the foetus who is responsible for the immunological success of pregnancy—the dazzling achievement by which foetus and mother, although immunological foreigners, tolerate each other in parabiosis for nine months. And finally it is the foetus, not the mother, who decides when labour should be initiated.
>
> One hour after the sperm has penetrated the ovum, the nuclei of the two cells have fused and the genetic instructions from one parent have met the complementary instructions from the other parent to establish the whole design, the inheritance of a new person. The one cell divides into two, the two into four and so on while over a span of 7 or 8 days this ball of cells traverses the Fallopian tube to reach the uterus. On reaching the

uterus, this young individual implants in the spongy lining and with a display of physiological power suppresses his mother's menstrual period. This is his home for the next 270 days and to make it habitable the embryo develops a placenta and a protective capsule of fluid for himself. By 25 days the developing heart starts beating, the first strokes of a pump that will make 3,000 million beats in a lifetime. By 30 days and just 2 weeks past mother's first missed period, the baby, ¼ inch long, has a brain of unmistakable human proportions, eyes, ears, mouth, kidneys, liver and umbilical cord and a heart pumping blood he has made himself. By 45 days, about the time of mother's second missed period, the baby's skeleton is complete, in cartilage not bone, the buds of the milk teeth appear and he makes his first movements of his limbs and body—although it will be another 12 weeks before mother notices movements. By 63 days he will grasp an object placed in his palm and can make a fist.

Most of our studies of foetal behavior have been made later in pregnancy, partly because we lack techniques for investigation earlier and partly because it is only the exigencies of late pregnancy which provide us with opportunities to invade the privacy of the foetus. We know that he moves with a delightful easy grace in his buoyant world, that foetal comfort determines foetal position. He is responsive to pain and touch and cold and sound and light. He drinks his amniotic fluid, more if it is artifically sweetened and less if it is given an unpleasant taste. He gets hiccups and sucks his thumb. He wakes and sleeps. He gets bored with repetitive signals but can be taught to be alerted by a first signal for a second different one. Despite all that has been written by poets and song writers, we believe babies cry at birth because they have been hurt. In all the discussions that have taken place on pain relief in labour, only the pain of mothers have been considered—no one has bothered to think of the baby.

This then is the foetus we know and indeed each once were. This is the foetus we look after in modern obstetrics, the same baby we are caring for before and after birth, who before birth can be ill and need diagnosis and treatment just like any other patient. This is also the foetus whose existence and identity must be so callously ignored or energetically denied by advocates of abortion.

For those who seek further information on the points raised by Dr. Liley, I would refer them to the detailed description of the unborn child contained in the brief filed as amicus curiae by more than 200 members of the American College of Obstetrics and Gynecology. Mr. President, I ask unanimous consent that the relevant portions of that brief be printed at the conclusion of my remarks as appendix E.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See appendix E.)

Mr. BUCKLEY. Mr. President, finally, for the benefit of those who wish to learn what is actually involved in abortion procedures, I ask unanimous consent that there be provided at the conclusion of my remarks, as appendix F, a recent paper by Dr. Joseph Stanton, M.D., entitled "Abortion—Death Before Birth." Dr. Stanton is associate clinical professor of medicine at Tufts Medical School.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See appendix F.)

Mr. BUCKLEY. So much, Mr. President, for the scientific facts of prenatal life and for the techniques now used to destroy it. They illuminate the true nature of the distinctions we are asked to make in the name of a "new ethic." I urge my colleagues to study these facts with special care in the light of the truly radical implications for our society of the Supreme Court decisions. I ask them to keep in mind that the American people were not consulted before seven justices of the Supreme Court took it upon themselves to overturn a commitment to the sanctity of human life that has been central to our civilization for more than 2,000 years. I urge them to understand that if—as I profoundly believe—a majority of the American people continue to believe in the old ethic, they have no effective recourse except through the amendatory process. I believe, at the very least, we have a duty to give consideration of a human life amendment our highest priority.

Mr. President, one final note, if I may. Opponents of abortion are frequently characterized as being indifferent or callous toward the plight of women with what are called problem pregnancies—such as the pregnant, unwed teenager, or the woman who conceives an unplanned child. I believe such a characterization to be wholly unwarranted. To oppose abortion—save the mother's life is at stake—is by no means to be indifferent to the problems of pregnant women. It is our belief that abortion is in fact a spurious remedy to the problem pregnancy. The substantial medical risks attending abortion, the well-documented psychological trauma which accompanies the destruction of a child in utero, the continuing possibility of repeated problem pregnancies throughout the rest of a fertile woman's life—all these factors suggest that ethical considerations aside, abortion is a superficial and highly dangerous nonsolution to what is admittedly a most serious problem.

I profoundly believe that opponents of abortion have a positive obligation to assist pregnant women who are troubled. The private sector has already produced a number of organizations whose central purpose it is to provide counseling and medical assistance to pregnant women, as well as for the placement of any child who after birth is still unwanted. The most prominent organization of this type is called Birthright, with chapters in many cities and towns across the land. I fully endorse these efforts to provide truly humanitarian assistance to those in need, and I intend to assist their growth in whatever ways I can.

Mr. President, I have spoken at some length because I consider this issue to be of paramount importance. As we stand here on this day, quite literally thousands of unborn children will be sacrificed before the sun sets in the name of the new ethic. Such a situation cannot continue indefinitely without doing irreparable damage to the most cherished principles of humanity and to the moral sensibilities of our people. The issue at stake is not only what we do to unborn children, but what we do to ourselves by permitting them to be killed. With every day that passes, we run the risk of stumbling, willy-nilly, down the path that leads inexorably to the devaluation of all stages of human life, born or unborn. But a few short years ago, a moderate liberalization of abortion was being urged upon us. The most grievous hypothetical circumstances were cast before us to justify giving in a little bit here, a little bit there; and step by step, with the inevitability of gradualness, we were led to the point where, now, we no longer have any valid legal constraints on abortion.

What kind of society is it that will abide this sort of senseless destruction? What kind of people are we that can tolerate this mass extermination? What kind of Constitution is it that can elevate this sort of conduct to the level of a sacrosanct right, presumptively endowed with the blessings of the Founding Fathers, who looked to the laws of nature and of nature's God as the foundation of this Nation?

Abortion, which was once universally condemned in the Western World as a heinous moral and legal offense, is now presented to us as not only a necessary, sometime evil, but as a morally and socially beneficial act. The Christian counsel of perfection which teaches that the greatest love consists in laying down one's life for one's friend, has now become, it seems, an injunction to take another's life for the security and comfort of one's own. Men who one day argue against the killing of innocent human life in war will be found the next arguing in praise of killing innocent human life in the womb. Doctors foresworn to apply the healing arts to save life now dedicate themselves and their skills to the destruction of life.

To enter the world of abortion on request, Mr. President, is to enter a world that is upside down. It is a world in which black becomes white, and right wrong, a world in which the powerful are authorized to destroy the weak and defenseless, a world in which the child's natural protector, his own mother, becomes the very agent of his destruction.

Mr. President, I urge my colleagues to join me in protecting the lives of all human beings, born and unborn, for their sake, for our own sake, for the sake of our children, and for the sake of all those who may someday become the victims of the new ethic.

APPENDIX A

[In the Supreme Court of the United States.
October Term, 1972—No. 72-434]

MOTION TO POSTPONE JURISDICTION UNTIL A HEARING ON THE MERITS

On Appeal From the Court of Appeals of the State of New York

(Robert M. Byrn, as Guardian ad Litem for Infant Roe, an unborn child of less than 24 weeks gestation, whose life is about to be terminated by induced abortion at a municipal hospital of New York City Health & Hospitals Corporation, etc., *Appellant*, versus New York City Health & Hospitals Corporation, Jan Roe and John Roe, parents of said unborn Infant Roe, whose true names are presently unknown, the Hon. Louis J. Lefkowitz, Atty. General of the State of New York, *Appellees*, and Ruth Charney, *et al.*, *Interveners-Appellees*)

Appellant respectfully moves that the Court postpone determination of the question of jurisdiction and of the motions pending before the Court to affirm or dismiss appellant's appeal until a hearing of the case on the merits.

Appellant is the court-appointed guardian *ad litem* for a continuing class of unborn children scheduled for abortion in the municipal hospitals of appellee, New York City Health & Hospitals Corporation. On behalf of his wards, appellant challenged the constitutionality of New York's Elective Abortion Law (New York Penal Law, Sec. 125.05, subdiv. 3); the New York Court of Appeals upheld the validity of the Law, and granted final judgment on the merits to appellees. Appellant's appeal to this Court was docketed on September 14, 1972.[1]

On January 22, 1973, this Court struck down antiabortion statutes in Texas and Georgia in *Roe* v. *Wade*, No. 70-18 (hereinafter "Wade") and *Doe* v. *Bolton*, No. 70-40 (hereinafter "Bolton"). Although unborn children were not parties in either *Wade* or *Bolton*, the opinions of the Court raise doubts affecting the determination of jurisdiction in the instant appeal. The standing or right of appellant's wards to a hearing is inextricably intertwined with the merits of their case (Juris. State., pp. 38a-39a, 65a). That being so, there must not be a prejudgment that the guardian may not be heard because his wards are non-persons. Since jurisdiction in the case at bar depends on the ultimate resolution of that issué, for the reasons hereinafter set forth, determination of jurisdiction should not be made until after a full hearing on the merits.

GROUNDS FOR THE MOTION

I. *Wade* and *Bolton* are neither controlling nor persuasive as to the claims of right of appellant's wards:

A. Unborn children were not parties, individually or as a class, in *Wade* and *Bolton* and those cases are not *res judicata* as to their rights and status. (See, *infra*, IA).

B. *Wade* and *Bolton* contain fundamental errors with respect to crucial issues upon which appellant had previously briefed the Court. Appellant's arguments were not answered in *Wade* and *Bolton:* (See, *infra*, IB).

II. *Fundamental fairness* requires that before an entire class of living human beings be deprived of the protection of law, their claims of right to be heard. (See, *infra*, II.)

III. *Wade* and *Bolton* contain dangerous implications which threaten the continued viability of the Due Process and Equal Protection clauses of the Fourteenth Amendment wherein the claims of right of appellant's wards are rooted. (See, *infra*, III.)

The holding in Wade and Bolton does not affect the right of absent parties, including appellant's wards, to a hearing on the merits before this Court on their federal constitutional rights.

The opinions of the Court in *Wade* and *Bolton* are not decisive of the instant appeal because unborn children were not parties in either case and no guardian was before the Court to represent their interests. *Griswold* v. *Connecticut* is not to the contrary. In that case, this Court recognized the standing of the Planned Parenthood League of Connecticut and a physician to raise the constitutional rights of married people with whom they had a professional relationship. *Griswold* v. *Connecticut*, 381 U.S. 479 (1965). However, *Griswold* involved a defense to a criminal prosecution and this Court noted that if declaratory relief were sought "the requirements of standing should be strict, lest the standards of 'case or controversy' in Article III of the Constitution become blurred." 381 U.S. 479, 481. It seems clear that a decision in *Griswold* adverse to the constitutional rights of those married people (who were not parties) would *not* be *res judicata* in any pending or subsequent suit by married people to assert and vindicate their rights. *Hansberry* v. *Lee*, 311 U.S. 32, 40 (1940).

In *Wade*, the constitutional rights of unborn children were raised by the Texas Attorney General to support Texas' compelling interest in its anti-abortion statute.[2] The Attorney General argued that the question as to when human life begins was unanswerable and best left to the legislature.[3] But the issue before this Court is not when human life begins. It is recognition of the constitutional fact that at the time an abortional decision is executed, death is inflicted, not on potential human life, but on an individual human life with all its potential, that has already begun.

In all, thirteen judges in New York passed on the merits of appellant's case. Although divided in their decisions on the legal issues, on the factual issue of the individual humanity of the unborn child, they found, on an unchallenged—indeed conceded—factual record of expert evidence, that each of appellant's wards is a "live human being" (Queens County Supreme Court, Juris. State, p. 68a), a "child [with] a separate life" (Appellate Division, Second Department, Juris. State., p. 41a, 38 A.D. 2d 316, 324, 329 N.Y.S. 2d 722, 729 [1972]), a "human" who is "unquestionably alive" and "has an autonomy of development and character" (N.Y. Court of Appeals, Juris. State., p. 10a, 31 N.Y. 2d 194, 199, 335 N.Y.S. 2d 390, 392, 286 N.E. 2d 887, 888 [1972]).

It cannot be said that the Texas Attorney General stood in substantially the same position as the class of unborn children whose rights he purported to assert. Clearly he is not a member of the class and he cannot adequately represent the class. *Hansberry* v. *Lee*, 311 U.S. 32, 41, 43. As a public official, his interest is ever subject to the vagaries of legislative action and potentially in conflict with the interests of the unborn child. Appellant-guardian asserts that the interests and nature of the unborn child constitutionally mandate state protection—a position an attorney general, jealous of state's rights, could hardly sponsor. The potentially conflicting interests of State Attorney Generals is clearly illustrated by the recent history of abortion in New York. In 1969, the Attorney General of the State of New York asserted the interests of the unborn child in supporting a law which permitted abortions only when necessary to preserve the life of the mother, *Hall* v. *Lefkowitz*, U.S.D.C., So. Dist. N.Y., 305 Fed. Supp. 1030 (1969). As appellee herein, he now supports New York's elective abortion law which subordinates the lives of appellant's wards to the unfettered discretion of pregnant women and their doctors. A party possessing such potentially conflicting interests cannot represent the fundamental personal interests of an absent party or fairly insure their protection. *Hansberry* v. *Lee*, 311 U.S. 32, 44, 45. Wright and Miller, *Federal Practice and Procedure*, Vol. 7A, No. 1789 at pp. 178–9. Mr. Justice Wight writing for the Court in *Blonder-Tonger Labs* v. *University Foundation*, squarely stated the governing principle in these words:

"Some litigants—those who never appeared in a prior action—may not be collaterally estopped without litigating the issue. They have never had a chance to present their evidence and arguments on the claim. Due process prohibits estopping them despite one or more existing adjudications of the identical issue which stands squarely against their position." 402 U.S. 313, 329 (1971).

I(B). THE FUNDAMENTAL ERRORS

The Court in *Wade* erred at the threshhold when it declined to resolve the crucial question of whether abortion as a matter of fact kills a live human being, even though this is a fact upon which constitutional issues rest (page 15, *infra*). This fundamental error was evidently caused by the Court's misapprehension of the common law of abortion (page 8, *infra*) and the motivation behind early American anti-abortion statutes (page 10, *infra*) which led the Court to ignore the intent of the Framers of the Fourteenth Amendment; to bring within the aegis of the Due Process and Equal Protection Clauses every member of the human race regardless of age, stage or condition of wantedness (page 14, *infra*). The Court left itself without any reliable historical basis for its constitutional interpretation with the result that the Court both omitted to allude to its own prior interpretation of "person" under Section One of the Fourteenth Amendment (page 17, *infra*), and mistook the general status in law of unborn children (page 17, *infra*). Instead, the Court adverted to a number of criteria which it erroneously interpreted as proof that the unborn child is not a person under Section One of the Fourteenth Amendment (pages 19–23, *infra*).

The threshold error is the crucial error. As appellant demonstrates in this motion, the claims of constitutional right of appellant's wards turn on the issue of whether they are all live human beings. When the personal constitutional rights of a party depend on a fact in controversy, the duty rests upon this Court to resolve the fact in controversy for itself. *Napue* v. *Illinois*, 360 U.S. 264, 272 (1959). The Court cannot abdicate that duty without sapping its authority as fact-finder, judge and ultimate arbiter of federal rights.

Referring to another question of life-or-death import, Mr. Justice Marshall observed, "While this fact cannot affect our ultimate decision, it necessitates that the decision be free from any possibility of error" *Furman* v. *Georgia*, 408 U.S. 238, 316 (1972). *Wade* and *Bolton* are not free from error.

1. The historical errors

(a) *Apparent acceptance of the pro-abortionist thesis that abortion was not a crime at common law (Wade, p. 21),*[4] *and may even have been a "right" (Wade, p. 25), when Appellant had previously briefed the Court on the better view of history which is to the contrary.* Apparently relying on a single law review article, the Court in *Wade* concluded that it is "doubtful that abortion was ever firmly established as a common law crime even with respect to the destruction of a quick fetus." (*Wade*, pp. 20–21)

The Court is in error. Appellant has briefed the Court extensively on the common law history of abortion (Appellant's brief, pp. A–8 to A–24). Appellant's Brief shows (i) that at least from Bracton's time onward, the common law sought ways to protect the unborn child from abortion from the moment his existence as a separate, live, biological human being could be scientifically demonstrated; (ii) that problems of proving that the unborn child had been alive when the abortional act was committed and that the abortion had been the cause of the child's death were, in the early law, considered insuperable barriers to prosecution; (iii) that thereafter quickening evolved in the law, not as a substantive judgment on when human life begins, but as an evidentiary device to prove that the abortional act had been an assault on a live human being; (iv) that outside the criminal law, the common law, unburdened of problems of proof, regarded the unborn child as in all respects a human being;[5] (v) that abortion after quickening, though a crime, was not homicide at common law (unless the child were born alive and then died) only because of the difficulty of proving that the abortional act had been the cause of the child's death; (vi) that the liability of the abortionist to a murder conviction, if the aborted child were born alive and then died, establishes that the unborn child was in law a person prior to birth because the common law defined crime as "generally constituted only from concurrence of an evil-meaning mind with an evil-doing hand" (*Morissette* v. *U.S.*, 342 U.S. 246, 251–52 [1952]), and the rule of concurrence means necessarily that the intrauterine victim of the abortional act was at the time of the act a human person, else the result could not be called murder; (vii) that problems of proof aside, abortion at any stage of pregnancy was considered *malum in se*, a secular crime against unborn human life, as evidenced by the application of the common law felony-murder rule to the death of the aborted woman (even prior to quickening)[6]—the theory being "that at common law the act of producing an abortion was always an assault for the double reason that a woman was not deemed able to assent to an unlawful act against herself, and for the further reason that *she was incapable of consenting to the murder of an unborn infant* * * *." *State v. Farnum*, 82 Ore. 211, 161 Pac. 417, 419 (1916) (emphasis added) (Motion for a Stay, pp. 7a–8a); (viii) that the application of the felony-murder rule to abortion belies the Court's statement in *Wade* that "abortion was viewed with less disfavor than under most American statutes currently in effect," (*Wade*, p. 25);[7] (ix) that in the face of the abortion-murder rule and the general medical disapproval of abortion, it cannot be assumed that "throughout the major portion of the 19th century prevailing legal abortion practices were far freer than they are today * * * ." (*Wade*, p. 43), and finally, (x) that the common law is totally consistent with the claims of right of appellant's wards herein.

(b.) *Apparent acceptance of the pro-abortionist thesis that 19th century anti-abortion*

Footnotes at end of article.

legislation was intended solely to protect the pregnant woman (Wade, p. 36, citing only one case), when Appellant had previously briefed the Court on the overwhelming majority of State court decisions to the contrary. The 19th century American anti-abortion legislation is a continuum of the efforts of the common law to protect the unborn child from abortion from the moment his existence as a separate, live, biological human being could be scientifically demonstrated.

The Court in *Wade* asserts that the American Medical Association's outcries against abortion, spanning the years 1859–1871, "may have played a significant role in the enactment of stringent criminal abortion legislation during that period." (*Wade*, p. 26).[8] Yet while so admitting, the Court concludes that "the few state courts called upon to interpret their laws in the late 19th and early 20th centuries focused on the State's interest in protecting the woman's health rather than in preserving the embryo and fetus." (*Wade*, p. 36, citing only *State* v. *Murphy*, 27 N.J.L. 112, 114 [1858]). It is inconceivable that appellant's wards should be bound by such a finding when appellant has heretofore briefed the Court on:

(1) the amendment of the New Jersey abortion statute in 1972 designed "to protect the life of the child also, and inflict the same punishment, in case of its death, as if the mother should die." *State* v. *Gedicke*, 43 N.J.L. 86, 90 (1881). (Motion for a Stay, pp. 4a–6a).

(2) decisions from ten other states—all of which were rendered prior to the abortion "reform" movement of the 1960's ,six prior to 1920, three between 1930 and 1940, and one in 1950)—which explicitly state that protection of the life of the unborn child was at least one of the purposes of the respective States' 19th century anti-abortion statutes. (Appendix A) *.

(3) decisions and statutes rom nine other States (only one of the key decisions being later than 1907) which clearly imply the same intent. (Appendix A).[9]

(4) the better interpretation of early New York anti-abortion statutes as having as at least one of their purposes the protection of unborn children (in refutation of one of the law review articles upon which the Court relied) (Appellant's Brief, pp. (A29–A37)).

Further, appellant submits that it is inconsistent for the Court in *Wade*, on the one hand, to admit that the A.M.A. statements may have influenced the passage of restrictive abortion legislation, and on the other hand, to find, in effect, that the Framers of the Fourteenth Amendment acted in defiance of both the 1859 A.M.A. statement and State legislation and deliberately created an unarticulated right of privacy which included the right to kill unborn children whom the Framers intended to exclude from Fourteenth Amendment protection. If that had been the intent of the Framers, one could hardly imagine three quarters of the State Legislatures ratifying the amendment while they were at the same time contemplating (or had already enacted) restrictive abortion legislation designed to protect unborn human children—especially if such legislation was the product of the A.M.A. statements cited by the Court. Then too, what evidence is there that the Framers did not share "[t]he anti-abortion mood prevalent in this country in the late 19th century * * *" (*Wade*, p. 26)?

Statutory law, common law and the prevalent mood converged in an Iowa case decided in 1868, the year in which the Fourteenth Amendment was ratified. *State* v. *Moore*, 25 Iowa 128 (1868) (Motion for a Stay, pp. 10a–11a), affirmed a conviction of murder for causing the death of a woman by an illegal abortion. The trial court had charged the jury:

"To attempt to produce a miscarriage, except when in proper professional judgment it is necessary to preserve the life of the woman, is an unlawful act. *It is known to be a dangerous act, generally producing one and sometimes two deaths—I mean the death of the unborn infant and the death of the mother.* Now, the person who does this is guilty of doing an unlawful act. If the death of the woman does not ensue from it, he is liable to fine and imprisonment in the county jail (act March 15, 1858, Revision, sec. 4221); and if the death of the woman does ensue from it, though there be no specific intention to take her life, he becomes guilty of the crime of murder in the second degree. The guilt has its origin, in such cases, in the unlawful act which the party designs to commit, and if the loss of life attend it as incident or consequence, the crime and guilt of murder will attach to the party committing such an unlawful act." 25 Iowa at 131–32 (emphasis added).

In upholding the charge, the Iowa court said: "We have quoted the court's language in order to say that it has our approval as being a correct statement of the law of the land." 25 Iowa at 132.

and further: "*The common law is distinguished, and is to be commended, for its all-embracing and salutary solicitude for the sacredness of human life and the personal safety of every human being. This protecting, paternal care, enveloping every individual like the air he breathes, not only extends to persons actually born, but, for some purposes, to infants in ventre sa mere:* 1 Bla. Com. 129.

The right to life and to personal safety is not only sacred in the estimation of the common law, but it is inalienable. It is no defense to the defendant that the abortion was procured with the consent of the deceased.

The common law stands as a general guardian holding its aegis to protect the life of all. Any theory which robs the law of this salutary power is not likely to meet with favor." 25 Iowa at 135–36 (emphasis added).

Although the abortion in *State* v. *Moore* occurred after quickening, "no mention is made of the fact in the opinion," *State* v. *Harris*, 90 Kan. 807, 136 Pac. 264, 266 (1913), and the court was obviously speaking of the "sacred" and "inalienable" right to live of *all* unborn children.

(c) *Omission to allude to the recorded statements of intent of the Fourteenth Amendment Framers.* Unfortunately the Court's errors in *Wade* are cumulative. Having been led astray on the common law and the motivation for 19th century anti-abortion legislation, the Court apparently (and, as it turns out, erroneously) felt that it could safely expound the status of the unborn child under the Fourteenth Amendment without reference to the intent of the Framers.

Fortunately we need not guess at the Framer's intent. It was to protect every live human being regardless of age, stage, or condition of wantedness. Congressman John A. Bingham who sponsored the Amendment in the House of Representatives noted that it is "universal" and applies to "any human being" (Appellant's Brief, p. 38). Congressman Bingham's counterpart in the Senate, Senator Jacob Howard, emphasized that the guarantee of equality in the Amendment protects "the humblest, the poorest, the most despised of the race." (*Id.*)

Appellant submits that it was error for the Court to expound the status of unborn children under the Fourteenth Amendment without reference to the expressed intent of the Framers, as further illuminated by the better view of the common law, the real motivation for the 19th century statutes, and the prevalent mood of the time—that the life of every **unborn child is "sacred"** and "inalienable." *State* v. *Moore, supra;* A.M.A. Statements, *supra.*

2. The errors on the questions of human life and human-legal person

(a) *Failure to resolve the threshold question of fact of whether an abortion kills a live human being.* The Framers intended that every live human being, every member of the human race, even the most unwanted, fall within the aegis of the Due Process and Equal Protection Clauses. History does not support the proposition that the Framers intended to exclude unborn children. The Court observed in *Wade* that "We need not resolve the difficult question of when life begins." (*Wade*, p. 44). But the Court erred at the threshold when it failed to determine whether an individual human life has already begun before an abortion takes place. That was precisely the constitutional fact to be resolved by the Court before it could even address itself to the rights of unborn children. "There is a long line of judicial construction which establishes as a principle that the duty rests on the court to decide for itself facts or constructions upon which federal constitutional issues rest." *Napue* v. *Illinois*, 360 U.S. 264, 272 (1949). (Appellant's Brief, pp. 7–8). What is at issue in the instant appeal is not a "theory of life" (cf. *Wade*, p. 47), but the "fact of life." The lack of "consensus" among those trained in the respective disciplines of medicine, philosophy, and theology" (*Wade*, p. 44) is not a lack of consensus on the fact of the existence of human life before birth—that is established beyond cavil by the unchallenged biological-medical-genetic-fetological evidence in the case at bar—but on the value of a human life already in existence.[10] That value judgment was made over one hundred years ago, on a constitutional level, and as a matter of binding law, by the Framers of the Fourteenth Amendment. A "consensus" is not relevant. "One's right to life * * * depend[s] on the outcome of no elections." *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 638 (1943). (Appellant's Brief, p. 44)

The Court in *Wade* erroneously omitted to resolve the threshold issue of fact—that abortion kills a live human being—which is, by virtue of the statements of intent of the Framers, a fact upon which constitutional issues rest.

(b) *Failure to advert to the Court's own explication of "person" as that term is used in Section One of the Fourteenth Amendment.* Heretofore, the Court's explication of "person" in Section One of the Fourteenth Amendment has been consistent with the intent of the Framers. In *Levy* v. *Louisiana*, 391 U.S. 68, 70 (1968), the Court identified such persons as those who "are humans, live and have their being." By rational, modern, biological-genetic-medical-fetological standards, Appellants wards are humans, live and have their being. (See page 5, *supra*, and see Appellants Brief, pp. 8–19). It is this evidence, not personal or legislative predilection, that controls. "To say that the test of equal protection should be the 'legal' rather than the biological relationship is to avoid the issue. For the Equal Protection Clause necessarily limits the authority of a State to draw such 'legal' lines as it chooses." *Glona* v. *American Guarantee Co.*, 391 U.S. 73, 75–76 (1968). (Appellant's Brief, pp. 33–36)

(c.) *That statement that, "In areas other than criminal abortion the law has been reluctant to endorse any theory that life, as we recognize it, begins before birth or to accord legal rights to the unborn except in narrowly defined situations when the rights are contingent upon live birth."* (*Wade*, p. 46). The Court erred. Appellant has heretofore briefed the Court on cases in which an unwilling pregnant woman was required to submit to a blood transfusion,

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Footnotes at end of article.

despite her religious objections, because "the unborn child is *entitled* to the law's protection." (Appellant's Brief, pp. 21–30, citing, *inter alia, Raleigh Fitkin-Paul Morgan Memorial Hospital* v. *Anderson*, 42 N.J. 421, 201 A.2d 537, 538, *cert. den.*, 377 U.S. 985 [1964], emphasis added). Obviously, the unborn children in these cases were recognized as human persons before birth—only persons are "entitled" to the law's protection—and just as obviously, their rights were not contingent upon birth.

The common law regarded the unborn child as a live human being in all situations except that in the criminal law problems of proof gave rise to the quickening dichotomy. *Hall* v. *Hancock, supra*. The "traditional rule of tort law" that "denied recovery for prenatal injuries even though the child was born alive," (*Wade*, p. 46) is no tradition at all. It was first promulgated in 1884 (*Dietrich* v. *Inhabitants of Northampton*, 138 Mass. 14); it was severely criticized in a scholarly New York Law Revision Commission Study for its misunderstanding of law and science (*Communication of the Law Revision Commission to the Legislature Relating to Prenatal Injuries* 5–6, 24–25 [1935], reprinted in Law Revision Commission; Report, Recommendations and Studies, 449, 453–54, 472–73 [1935]; it was totally discredited in 1946 on the ground that, "From the viewpoint of the civil law and the law of property, a child *en ventre sa mere is* not only regarded as [a] human being, but as such from the moment of conception—which it is in fact," (*Bonbrest* v. *Kotz*, 65 F. Supp. 138, 140 [D.D.C.]); and it is now in all but total disrepute. (Appellant's Brief, p. 36)

The whole thrust in the law, outside the abortion "reform" movement, is to recognize the unborn child for exactly what he is—a live human being.

3. *The errors in the interpretation of criteria purportedly negativing the personhood of unborn children*

(a.) *The statement that "appellee conceded on reargument that no case could be cited that holds that a fetus is a person within the meaning of the Fourteenth Amendment."* (*Wade*, p. 41, footnote omitted). Appellant herein would make two observations:

First, the inability of appellee in *Wade* to cite a case in answer to a question does not mean that the case does not exist, nor can it govern the rights of appellant's wards herein. Appellant has cited to the Court the statement in *Steinberg* v. *Brown*, 321 F.Supp. 741, 746–47 (N.D. Ohio 1970) that, "Once human life has commenced, the constitutional protection found in the Fifth and Fourteenth Amendments impose upon the state the duty of safeguarding it." (Appellant's Brief, p. 5) (Of course an attempt *might* be made to denigrate the *Steinberg* statement as *dictum* and not holding, but this hardly seems relevant in the context of the Court's question in *Wade*). Appellant has also called to the Court's attention statements in *State* v. *Moore*, 25 Iowa 128 (1868) (Motion for a Stay, pp. 10a–11a); *People* v. *Sessions*, 58 Mich. 594, 26 N.W. 293 (1885) (Appellant's Brief, p. A–17; Motion for a Stay, pp. 13a–14a), and *Gleitman* v. *Gosgrove*, 49 N.J. 22, 227 A.2d 689 (1967) (Appelant's Brief, pp. 65–66) which, in paraphrase of the Declaration of Independence, characterize the lives of unborn children of all gestational ages as "sacred" and "inalienable." The Constitution incorporates the basic guarantees of the Declaration (Appellant's Brief, p. 68). Unless we are to assume that the Farmers of the Fourteenth Amendment intended to strip live human beings of their sacred and inalienable right to live, *Moore, Sessions* and *Gleitman* must be interpreted as holding that appellant's words are persons under Section One of the Fourteenth Amendment. Appellant has also cited to the Court the cases requiring a pregnant woman to undergo a blood transfusion because the unborn child is "entitled" to the law's protection. Only human persons are "entitled" to the law's protection, and the blood transfusion cases must be taken as decisions of Fourteenth Amendment significance.

Second, the absence of any such decision should not be influential. As Mr. Justice Brennan stated in another life-or-death context, "The constitutionality of death itself under the Cruel and Unusual Punishments clause is before this Court for the first time; we cannot avoid the question by recalling past cases that never directly considered it." *Furman* v. *Georgia*, 408 U.S. 238, 285, (1972).

(b.) *The statement that, "We are not aware that in the taking of any census under this clause, a fetus has ever been counted."* (*Wade*, p. 42, note 53). Appellant submits that corporations are not counted in a census either, but they too are Fourteenth Amendment persons (discussed under a separate point heading in Appellant's Brief, p. 49).

(c). *The statement that, "When Texas urges that a fetus is entitled to Fourteenth Amendment protection as a person, it faces a dilemma. Neither in Texas nor in any other States are all abortions prohibited."* (*Wade*, p. 42, note 54). Appellant has discussed the relevant doctrine of legal necessity (which applies to postnatal as well as prenatal human beings) under a separate point heading at page 52–54 of Appellant's Brief.

(d.) *The statement that, "Further, the penalty for criminal abortion specified by Art. 1195 is significantly less than the maximum penalty for murder prescribed by Art. 1257 of the Texas Penal Code. If the fetus is a person, may the penalties be different?"* (*Wade*, pp. 42–43, note 54). Indeed, the penalties may be and are different because States are free to recognize "degrees of evil" and treat offenders accordingly. *Skinner* v. *Oklahoma*, 316 U.S. 535, 540 (1942). Killing an unborn child may, in legislative judgment, involve less personal malice than killing a child after birth even though the result is the same (discussed under a separate point heading in Appellant's Brief, pp. 50–51).

(e.) *The statement that "It has already been pointed out, n. 49, supra, that in Texas the woman is not a principal or an accomplice with respect to an abortion upon her."* (*Wade*, p. 42, note 54). The reasons appear to be historical and pragmatic, and totally unrelated to the personhood of the unborn child. *Historically*, abortion was viewed as an assault upon the woman because she "was not deemed able to assent to an unlawful act against herself," *State* v. *Farnum*, 82 Ore. 211, 161 Pac. 417, 419 (1916). As a result the woman was considered a victim rather than a perpetrator of the abortion.[11] *Pragmatically*, conviction of the abortionist would frequently depend upon the testimony of the aborted woman, specially if a subjective element like quickening were at issue. The woman could hardly be expected to testify if her testimony automatically incriminated her. *People* v. *Nixon*, —Mich. App. ——, 201, N.W. 2d 635, 645–46 (Mich. 1972, concurring and dissenting opinion of Burns, J.) The omission to incriminate the woman is no more than a statutory grant of immunity.

(f.) *The statement that, "Montana* v. *Rogers, 278 F.2d 68, 72 (CA 7 1960), aff'd sub nom. Montana* v. *Kennedy, 366 U.S. 308 (1961)" "is in accord" with the proposition "that the word 'person' as used in the Fourteenth Amendment, does not include the unborn."* (*Wade*, p. 43, footnote omitted.) *Montana* was decided under the Citizenship Clause, not the Due Process and Equal Protection Clauses, and is therefore irrelevant (discussed under a separate point heading in Appellant's Brief, pp. 49–50, and *see Byrn* v. *N.Y.C. Health & Hospital Corp.*, 38 A.D. 2d 316, 329, 329 N.Y.S.2d 722, 734 [1972]).

(g.) *The statement that "Keeler* v. *Superior Court, — Cal. —, 470 P.2d 617 (1970) and State* v. *Dickinson, 23 Ohio App. 2d 259, 275 N.E.2d 599 (1970)" are "in accord with" the proposition "that the word 'person,' as used in the Fourteenth Amendment, does not include the unborn."* (*Wade*, p. 43, footnote omitted). Neither *Dickinson* nor *Keeler* was an abortion case. Under a separate point heading in Appellant's Brief, pages 54–55, three reasons are given why the cases are correct on their facts. Appellant will not repeat the reasons here.

None of the seven negative criteria cited by the Court (pages 19 through 22, *supra*) supports a finding that the unborn child is not a person under Section One of the Fourteenth Amendment.

* * * * *

In previous papers submitted to the Court on the instant appeal, appellant has provided the answer to virtually every erroneous proposition advanced by the Court in *Wade*. Appellant submits that fundamental fairness requires that the claims of right of appellant's wards not be summarily dismissed on the basis of precedent containing these fundamental errors; rather appellant ought to be accorded a full hearing on the merits.

II. FUNDAMENTAL FAIRNESS REQUIRES A HEARING.

The constitutional right of life of unborn children was not, and could not, be "inferentially determined in *Vuitch*." (*Wade*, p. 43) and should not be determined by *obiter* in *Wade* and *Bolton*. If the Court should dismiss the instant appeal on the authority of *Wade* and *Bolton*, unborn children, including appellant's wards, will be left rightless without ever having been heard. Such a holding would lower a judicial iron curtain in every court in the nation against the future standing of unborn children to claim protection for their lives. A judicial holding that condemns an entire class of live human beings to oblivion without a hearing is lacking in the fundamental fairness that is the very foundaton of due process.

The crucial constitutional fact before the Court is not when life begins but recognition that an individual human life has begun before the abortion takes place. At least for purposes of postponing jurisdiction until after a hearing on the merits, that fact is as worthy of judicial notice as the notice taken by the court of "the normal 266-day human gestation period" (*Wade*, p. 10) for purposes of giving standing to *Roe*.

Byrn is the only case that directly presents the voice of unborn children, themselves, to the Court. It is certainly not an ordinary case. It is a case of first impression presenting a constitutional issue of great magnitude—the extent to which human life itself is protected under the Constitution. The Court has indicated its awarenes "of the well known facts of fetal development" (*Wale*, p. 41), and knows that ova, sperm and zygotes are not being aborted under New York's Elective Abortion Law. No troublesome judicial notice need be taken in *Byrn*.[12] The medical and scientific testimony of experts is in the record and directly before the Court. It is uncontradicted and was accepted by all of the judges in the Courts below. Only in *Byrn* are the unborn children, whose lives depend on the outcome, directly before the Court. The vital criterian as to the standing of those children is not birth but that they live. There is no superior element in the crude fact of expulsion from a uterus that would render its a satisfactory 20th Century determinant of legal human existence. Life, not birth, is the essential element worthy of recognition.

A matter so grave as excluding live human beings from basic constitutional protections should not become part of the fabric of our jurisprudence without full opportunity for the affected human beings, themselves, to be heard.

Fundamental fairness requires that the Court afford that opportunity to appellant's wards.

III. THE DANGEROUS IMPLICATIONS

A. Compulsory abortion

In *Wade*, the court grounded its holding in "the right of personal privacy," but noted that "this right is not unqualified and must be considered against important state interests in regulation." (*Wade*, p. 39) in support of this qualification and as an example of an appropriate state limitation on the right of privacy, the Court cited *Buck* v. *Bell*, 274 U.S. 200 (1927) which upheld the validity of a state statue providing for compulsory sterilization of mental defectives whose affliction was hereditary (*Wade*, p. 39). *By implication in* Wade *the Court espoused the constitutional validity of State-imposed compulsory abortion of unborn children diagnosed intrautero as mentally defective.* Neither the child's constitutional rights (of which the Court could find none) nor the mother's right of privacy (which the Court found limited by the State's "interest" in preventing the birth of mental defectives) could, according to *Wade*, be interposed to challenge such a statute. The spectre of compulsory abortion assumes additional substance when one reads (within a page of a citation to *Buck* v. *Bell*) that certain enumerated situations "make an early abortion the only civilized step to take.' (Douglas, J., concurring in *Wade* and *Bolton*, p. 8). Presumably, under *Wade*, the State would have an interest, sufficiently compelling, to mandate "the only civilized step to take," i.e., abortion.

B. Execution of a sentence of death upon a pregnant woman

In *Furman* v. *Georgia*, 408 U.S. 238 (1972) it was speculated that capital punishment might not be unconstitutional so long as it was mandatorily imposed (408 U.S. at 413, dissenting opinion of Blackmun, J.). Assuming this to be true, *Wade* would permit a State to execute a pregnant woman (under an appropriate mandatory capital punishment statute) at any time during pregnancy up to the moment before the birth of a child. The sense of reverence for the life of an unborn child, which in the past has underpinned state policies of delaying execution of a condemned pregnant woman until the birth of her child (see Appellant's Brief, pp. 30–32, 62–64, A24–A28), is nowhere evident in *Wade*.

C. Involuntary euthanasia

The Court in *Wade* refused "to resolve the difficult question of when life begins" because "medicine, philosophy and theology are unable to arrive at any consensus," (*Wade*, p. 44)[13] even though the Court had before it in briefs of appellee and *amici* "at length and in detail the well-known facts of fetal development." (*Wade*, p. 41). These well-known facts include the fact that an eight week old unborn child (for instance) is in genetics, in biology, in medical science, and in appearance nothing less than an individuated, irreversible, live human being. (See Appellant's Brief, pp. 8–10) The controversy to which the Court refers, involves not whether abortion kills a live human being, but whether that live human being is worth keeping alive or, to put it another way, whether he may be killed with impunity. The factual judgment is clear and inevitable; what is at issue is a subjective, individual judgment of whether the life of is no mere hobgaoblin. It results from the human beings only by dependency, is "meaningful" (cf. *Wade*, p. 84).[14] The same kind of controversy could, of course, arise at the end of life, Because of illness, age or incapacity to live human being, indistinguishable from other live human beings except by dependency, might be claimed by some in the disciplines of medicine, philosophy and theology to be no longer alive in a "meaningful" way.[15] On the precedent of *Wade* and the Court's unwillingness to recognize the fact of life unless there is a "consensus," a State would seem to be free to remove a live human being (*e.g.* a senile elderly individual) from the law's protection, and the "process of death" (compare the "process of conception," *Wade*, p. 45) could then be hastened by those who found that the care of this live human being had forced upon them "a distressful life and future." (Compare *Wade*, p. 38).

The prospect of involuntary euthanasia is no mere hobgloblin. It results from the Court's abandonment in *Wade* of the constitutional fact doctrine set forth in *Napue* v. *Illinois* (page 16 *supra*). The Court's refusal to resolve the crucial question of the fact of life, because of a lack of "consensus," establishes a precedent that is as far reaching as involuntary euthanasia.

D. Selectivity in Recognizing only some human beings as fourteenth amendment persons

To the extent that *Wade* is to be read to mean that not all live human beings are "persons" within the Fourteenth Amendment Equal Protection and Due Process clauses, it is a dangerous departure from the intent of the Framers and the Court"s own prior interpretation of the word "person" as used therein (Appellant's Brief pp. 33–38). Once these clauses cease to have universal application to all who are humans, live and have their being, the Fourteenth Amendment ceases to be viable. Every unwanted person may justly feel imperiled.

CONCLUSION

Traditional reverence for human life cannot long survive in a society that surrenders to doctors, or anyone else, a choice to determine who shall live and who shall die. Forty-five years ago this Court upheld compulsory sterilization of the feeble-minded in these words:

"The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes." *Buck* v. *Bell*, 274 U.S. 200, 207.

The analogy is clear. *The principle that sustains termination of unwanted pregnancies is broad enough to cover the termination of unwanted lives.*

In Germany, earlier in this century, doctors advanced medico-sociological "final solutions" to the problems of the unwanted. In this way mercy killing of the senile and the incurably insane became an accepted part of "good" medicine. Great numbers of sane intellectuals and middle class professional people accepted a new ethic that demanded "life have quality", and then proceeded to carry that ethic to its logical conclusion until the "Judgment at Nuernberg." Only at its peril does society strike, as ours has started to do, at the fundamental conscience of its doctors. It is not the doctor's province to make a value judgment of a human life. His task is to help where he can, relieve pain and continue to treat illness which is beyond cure. This Court should not give impetus to a new ethic foreign to our traditions and to the reverence for all life embedded in the Declaration of Independence. *Wade* and *Bolton* should be courageously "re-examined without fear and revised without reluctance rather than to have the character of our law impaired, and the beauty and harmony of the system destroyed by the perpetuity of error." 1 Kent's Commentaries 13th Ed. 477.

Wherefore, it is respectfully requested that the Court postpone determination of the question of jurisdiction and of the motions now pending before it to affirm or dismiss the appeal herein until a hearing of the case on the merits.

APPENDIX A

I. Courts which have declared unambiguously that one of the purposes of their early anti-abortion statutes was the protection of unborn children:

Alabama—Trent v. *State*, 15 Ala. App. 485 73 So. 834 *cert. den.*, 198 Ala., 695, 73 So. 1002 (1916)

Colorado—Dougherty v. *People*, 1 Colo. 514 (1872)

Idaho—Nash v. *Meyer*, 54 Idaho 283, 31 P. 2d 273 (1934)

Kansas—State v. *Miller*. 90 Kan. 230, 133 Pac. 878 (1913)

New Jersey—State v. Gedicke, 43 N.J.L. 86 (1881)

Ohio—State v. *Tippie*, 89 Ohio St. 35, 105 N.E. 75 (1913)

Oklahoma—Bowlan v. *Lunsford*, 176 Okla. 115, 54 P.2d 666 (1936)

Oregon—State v. *Ausplund*, 86 Ore. 121, 167 Pac. 1019 (1917), *rehearing den.*, 87 Ore. 649, 171 Pac. 395 (1917) *appeal dismissed* on consent, 251 U.S. 563 (1919)

Vermont—State v. *Howard*, 32 Vt. 380 (1859)

Virginia—Anderson v. *Commonwealth*, 19 Va. 665, 58 S.E. 2d 72 (1950)

Washington—State v. *Cox*, 197 Wash 67, 84 P.2d 357 (1938)

II. Courts which have clearly implied that one of the purposes of their early anti-abortion statutes was the protection of unborn children:

Iowa—State v. *Moore*, 25 Iowa 128 (1868) (1 Harris 631) (1850) (common law)

Maine—Smith v. *State*, 33 Maine 48 (1851)

Maryland—Washington v. *State*, 92 Md. 222, 48 Atl. 355 (1901)

Michigan—People v. *Sessions*, 58 Mich. 594, 26 N.W. 291 (1886)

Indiana—Montgomery v. *State*, 80 Ind. 338 (1881)

Nebraska—Edwards v. *State*, 79 Neb. 251, 112 NW 611 (1907)

New Hampshire—Bennet v. *Hymers*, 101 N.H. 483, 147 A.2d 108 (1958)

Pennsylvania—Mills v. *Commonwealth*, 13 Pa. St. 630 (1 Harris 631) (1850) (common law)

Utah—State v. *Crook*, 16 Utah 212, 51 Pac. 1091 (1898)

FOOTNOTES

[1] The proceedings below and the prior proceedings before the Court are set forth in appellant's Jurisdictional Statement (hereinafter referred to as Juris. State.) filed September 14, 1972, appellant's Motion to Expedite Consideration of Jurisdiction, filed September 14, 1972 and denied October 10, 1972, appellant's Brief in Opposition to Motions to Dismiss, filed October 21, 1972 (hereinafter referred to as Appellant's Brief), and appellant's Application for a Temporary Restraining Order (hereinafter referred to as Motion for a Stay), filed January 5, 1973 and denied by Mr. Justice Marshall January 11, 1973 and by the Court, January 22, 1973 (A–721).

[2] During reargument of *Bolton*, October 11, 1972, the Assistant Attorney General of Georgia stated, "I do not directly represent the unborn children here * * * their representation by a guardian ad litem was denied by the court below." *Doe* v. *Bolton*, Tr. of Rearg. 21–22.

[3] *Roe* v. *Wade*, Tr. of Rearg. pp. 38–39.

[4] Unless otherwise indicated, page references are to the slip opinions in *Wade* and *Bolton*.

[5] "We are also of opinion that the distinction between a woman being pregnant, and being quick with child, is applicable mainly, if not exclusively, to criminal cases * * *." *Hall* v. *Hancock*, 15 Pick. 255, 257 (Mass. 1834).

[6] See the cases collected in *State* v. *Harris*, 90 Kan. 807, 136 Pac. 264 (1913).

[7] The Court also erred when it concluded that prior to the incrimination of pre-quickening abortions in the 19th century, "a woman enjoyed a broader right to terminate a pregnancy than she does today." (*Wade*, p. 25). A lack of criminal prosecution

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Footnotes at end of article.

cannot be translated into an historical right. At common law, larceny by false promise was not a crime, *Chaplin* v. *U.S.*, 157 F. 2d 697, (D.C. Cir. 1946), but few would claim that a thief "enjoyed a broader right" to commit a fraudulent larceny than he does today.

[8] The outcries, of course, were against "the destruction of human life." (*Wade*, p. 26, quoting the 1859 report of the A.M.A. Committee on Criminal Abortion), whether before or after quickening. "We had to deal with human life. In a matter of less importance we could entertain no compromise. An honest judge on the bench would call things by their proper names. We could do no less." (*Wade*, p. 27, quoting the 1871 report of the A.M.A. Committee on Criminal Abortion). No subsequent medical society or bar association statement, referred to by the Court (see *Wade*, pp. 27–32), denies that abortion, as a matter of fact, kills a live human being.

[9] The cases are also set forth in Appellant's Motion for a Stay, pp. 1a–9a and 10a–18a.

[10] Appellant would also point out that the existence of each of his wards has been confirmed by a pregnancy test. (Appellant's Brief, p. 10). We do not deal here with "obscurity," but with the "known rather than the unknown." (Cf. concurring opinion of Douglas, J. in *Wade* and *Bolton*, p. 10). See *State* v. *Sudol*, 43 N.J. Super. 481, 129 A.2d 29, 33, *cert. den.*, 25 N.J. 132, 135 A.2d 248 (1957), *cert. den.*, 355 U.S. 964 (1957), holding that modern science has advanced to a point where a court is justified in taking judicial notice of the accuracy of a confirmed pregnancy test. (See Motion for a Stay, p. 6a)

Appellant, of course, would not concede that *any* human life is *de minimis*.

[11] There is, however, some authority that "the mother may be guilty of the murder of a child in *ventre sa mere*, if she takes poison with an intent to poison it, and the child is born alive, and afterwards dies of the poison." *Beale* v. *Beale*, 1 P.Wms. 244, 246, 24 English Reports 373 (ch. 1713).

[12] Chief Justice Burger, concurring in *Wade* and *Bolton* noted "I am somewhat troubled that the Court has taken notice of various scientific and medical data in reaching its conclusion." Slip Opinion p. 1.

[13] But see *West Virginia State Board of Education* v. *Barnette*, 319 U.S. 624, 638 (1943): "One's right to life * * * depend[s] on the outcome of no elections."

[14] See, *e.g.*, ***Editorial***, California Medicine, Vol. 113, No. 3, p. 68 (Sept. 1970) (Appendix B).

[15] See, *e.g.*, Fletcher, ***Indicators of Humanhood***, The Hastings Center Report, vol. 2, No. 5, p. 1 (November 1972).

Appendix B

(This editorial is preprinted from "California Medicine," Official Journal of the California Medical Association, Volume 113, Number 3, Pages 67–68, September, 1970)

A New Ethic for Medicine and Society

The traditional Western ethic has always placed great emphasis on the intrinsic worth and equal value of every human life regardless of its stage or condition. This ethic has had the blessing of the Judeo-Christian heritage and has been the basis for most of our laws and much of our social policy. The reverence for each and every human life has also been a keystone of Western medicine and is the ethic which has caused physicians to try to preserve, protect, repair, prolong and enhance every human life which comes under their surveillance. This traditional ethic is still clearly dominant, but there is much to suggest that it is being eroded at its core and may eventually even be abandoned. This of course will produce profound changes in Western medicine and in Western society.

There are certain new facts and social realities which are becoming recognized, are widely discussed in Western society and seem certain to undermine and transform this traditional ethic. They have come into being and into focus as the social byproducts of unprecedented technologic progress and achievement. Of particular importance are, first, the demographic data of human population expansion which tends to proceed uncontrolled and at a geometric rate of progression; second, an ever growing ecological disparity between the numbers of people and the resources available to support these numbers in the manner to which they are or would like to become accustomed; and third, and perhaps most important a quite new social emphasis on something which is beginning to be called the quality of life, a something which becomes possible for the first time in human history because of scientific and technologic development. These are now being seen by a growing segment of the public as realities which are within the power of humans to control and there is quite evidently an increasing determination to do this.

What is not yet so clearly perceived is that in order to bring this about hard choices will have to be made with respect to what is to be preserved and strengthened and what is not, and that this will of necessity violate and ultimately destroy the traditional Western ethic with all that this portends. It will become necessary and acceptable to place relative rather than absolute values on such things as human lives, the use of scarce resources and the various elements which are to make up the quality of life or of living which is to be sought. This is quite distinctly at variance with the Judeo-Christian ethic and carries serious philosophical, social, economic and political implications for Western society and perhaps for world society.

The process of eroding the old ethic and substituting the new has already begun. It may be seen most clearly in changing attitudes toward human abortion. In defiance of the long held Western ethic of intrinsic and equal value for every human life regardless of its stage, condition or status, abortion is becoming accepted by society as moral, right and even necessary. It is worth noting that this shift in public attitude has affected the churches, the laws and public policy rather than the reverse. Since the old ethic has not yet been fully displaced it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially abhorrent. The result has been a curious avoidance of the scientific fact, which everyone really knows, that human life begins at conception and is continuous whether intra- or extra-uterine until death. The very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life would be ludicrous if they were not often put forth under socially impecable auspices. It is suggested that this schizophrenic sort of subterfuge is necessary because while a new ethic is being accepted the old one has not yet been rejected.

It seems safe to predict that the new demographic, ecological and social realities and aspirations are so powerful that the new ethic of relative rather than of absolute and equal values will ultimately prevail as man exercises ever more certain and effective control over his numbers, and uses his always comparatively scarce resources to provide the nutrition, housing, economic support, education and health care in such ways as to achieve his desired quality of life and living. The criteria upon which these relative values are to be based will depend considerably upon whatever concept of the quality of life or living is developed. This may be expected to reflect the extent that quality of life is considered to be a function of personal fulfillment; of individual responsibility for the common welfare, the preservation of the environment, the betterment of the species; and of whether or not, or to what extent, these responsibilities are to be exercised on a compulsory or voluntary basis.

The part which medicine will play as all this develops is not yet entirely clear. That it will be deeply involved is certain. Medicine's role with respect to changing attitudes toward abortion may well be a prototype of what is to occur. Another precedent may be found in the part physicians have played in evaluating who is and who is not to be given costly long-term renal dialysis. Certainly this has required placing relative values on human lives and the impact of the physician to this decision process has been considerable. One may anticipate further development of these roles as the problems of birth control and birth selection are extended inevitably to death selection and death control whether by the individual or by society, and further public and professional determinations of when and when not to use scarce resources.

Since the problems which the new demographic, ecologic and social realities pose are fundamentally biological and ecological in nature and pertain to the survival and well-being of human beings, the participation of physicians and of the medical profession will be essential in planning and decision-making at many levels. No other discipline has the knowledge of human nature, human behavior, health and disease, and of what is involved in physical and mental well-being which will be needed. It is not too early for our profession to examine this new ethic, recognize it for what it is and will mean for human society, and prepare to apply it in a rational development for the fulfillment and betterment of mankind in what is almost certain to be a biologically oriented world society.

Appendix C

Contemporary Views on Protecting Unborn Life and Antiabortion

United Nations Declaration on the Rights of the Child, (promulgated by the General Assembly in 1959.) It reads, in relevant part:

"The child . . . shall be entitled to grow and develop in health; to this end, special care and protection shall be provided both to him and to his mother, including adequate *pre-natal and post-natal care*." And elsewhere in the same document it states:

"the child by reason of his physical and mental immaturity, needs special safeguards and care, *including appropriate legal protection, before as well as after birth.*"

"Declaration of Geneva", (medical oath adopted by the General Assembly of the World Medical Association in 1948.) It states, in relevant part:

"I will maintain the utmost respect for human life, from the time of conception; even under threat, I will not use my medical knowledge contrary to the laws of humanity."

Karl Barth (considered by many to be the pre-eminent Protestant theologian of this century): "The unborn child," he wrote, "is from the very first a child. It is still developing and has no independent lift. But it is a man and not a thing . . . He who kills germinating life kills a man."

Dietrich Bonhoeffer (the famed Protestant philosopher and theologian who ended his days in a Nazi concentration camp): "To raise the question whether we are here concerned with a human being or not is merely to confuse the issue. The simple fact is that God certainly intended to create a human being and that this innocent human being has been deliberately deprived of his life. And that is nothing but murder."

Dr. George Hunton Williams (Hollis Professor of Divinity at Harvard University): "The Catholic Church is here defending the very frontier of what constitutes the mystery of our being. At the other end of this front line is the struggle against euthanasia (in the district and deliberate sense). Unless these frontiers are vigilantly defended, the future is grim with all the prospects of man's cunning and contrived manipulation of himself and others. Next to the issue of peace in the world, I feel the opposition to abortion and euthanasia constitutes the second major moral issue of our society (racial integration and the preservation of the family being third and fourth in the American perspective of priorities). In the cause of defending the rights of the unborn, all Christians should be rallied.

"The Catholic position on abortion should not be assailed as 'sectarian' or deplored by some Protestants as 'too harsh' in the present ecumenical climate. Historically the position is in fact Judeo-Christian."

Dr. Billy Graham (widely known and respected contemporary Protestant evangelist): "Murder is murder, whether you shoot the victim with a revolver, or disconnect his life support mechanisms.

"Abortion, like many other questionable things, is a symptom of something more serious than the act itself. It has long been allowed by society, when the life of the mother is endangered, but today, all too often, it is occasioned by the breaking of God's laws on sex. Unwanted pregnancy is the result, not the cause of the difficulty. If you really want to stop 'runaway' abortion, then you must first start with the human heart, not the body. The Bible says, 'Keep thy heart with all diligence, for out of it are the issues of life.' (Proverbs 4:23).

"Physicians say that the complications from a 'vacuum abortion' are relatively few. But when you tamper with the body in what some have called the 'voiceless injustice,' it is also possible to damage the soul.

"Few women plan to have an abortion. It suddenly appears as the answer to a dilemma. But, ask the woman who has had one—it carries a heavy price.

"Even if abortion were legalized, no law could take away the feelings of guilt which inevitably accompany it. You don't violate the sacredness of life with impunity. Any position which doesn't respect the rights of the unborn is a position which opposes those rights. As Deuteronomy 30:19 says, 'See, I have set before you life and death . . . choose life.'"

The Conference of Rabbis of the Chief Rabbinate of the Holy Land: "Abortion, except when necessary to save the mother's life, is in the category of the killing of innocent human life."

The Rabbinical Alliance of America, (supported by the entire Orthodox Rabbinate as well as by Jewish lay groups such as the Agudah Women of America and the National Council of Young Israel) urged the immediate repeal of New York's liberalized abortion law, which it described as "the most vicious and barbaric law" in the history of the state. "Abortion is not as its advocates say a private, personal matter in which the law should not interfere. Where human life is at stake, the law has always interfered and must continue to interfere . . ."

APPENDIX D

[From the Evening Star and Daily News, Apr. 17, 1973]

WOMEN LEAD OPPOSITION TO ABORTION

(By John Lear)

Although the recent Supreme Court decision upholding the legality of abortion was based largely on the argument that women have a constitutional right to make a personal decision concerning the children they will bear. American women themselves are not as determined to exercise that right as men are to guarantee it.

This is perhaps the most surprising finding of a public opinion survey just reported by political scientists at the University of Michigan's Institute for Social Research.

The survey disclosed that only a short time before the Supreme Court in January voted 7–2 in support of the view that the Constitution protects the right to abortion, a majority of the eligible voters of the country were opposed to abortion.

The data came from computer analysis of answers given by a sample of 2,738 citizens questioned between Sept. 15 and Nov. 6, 1972 by IRS surveyors. The sample was statistically representative of the whole electorate, and the weight of preference against abortion was roughly 3–2.

When the responses to the IRS questionnaire were separated according to sex, women in all three of the age brackets covered were found to be slightly more opposed to abortion than were men. Here are the figures:

Over age 60—men 67, women 72.

30 to 60 years of age—men 58, women 60.

Under 30 years of age—men 43, women 49.

Among the respondents in the under-30 age group, where a majority of both sexes favored abortion, the number of women opposed to abortion was 6 percent higher than the number of men.

In June, during the California primary, Dr. Warren Miller of IRS's Center for Political Studies, decided to include the abortion question in the 1972 edition of a pre-election survey IRS has been conducting regularly for a quarter century. By then, abortion not only had attained the status of a nationally debated social problem but seemed likely to become an active issue in the presidential campaign. The IRS surevy received the following percentages of favorable responses to these four statements:

Abortion should never be forbidden—25 percent.

Abortion should be allowed in any case in which the prospective mother would have difficulty in bringing up her child—17 percent.

Abortion should be permited only when the life of the mother would be endangered by the birth—47 percent.

Abortion should never be allowed—11 percent.

Although those absolutely in favor of abortion were more than twice as numerous as those absolutely opposed, the holders of the two extreme positions, together totaled only a shade more than one-third of the population sample.

Since those who expressed a more moderate view accounted for almost two-thirds of the sample, analysts agreed that the most accurate separation of the data would combine the response to the first two statements and juxtapose them against the combined responses to the last two. The result was 42 percent favorable to abortion, 58 percent opposed.

Because opposition to abortion is a tenent of modern Roman Catholic teaching, a substantial component of the opposition sentiment could be expected to be Catholic. The IRS data confirmed that expectation.

Of Catholics in the sample, 67 percent were opposed to abortion. But Catholics make up something less than a quarter of the population of the country and obviously could not alone account for an electoral majority in opposition. The balance had to be made up by non-Catholics. And when all Protestants were counted together, 59 percent of them were found to be lined up with the Catholics. Only Jews were steadfastly in favor of abortion and overwhelmingly so (82 percent).

Other differences became noticeable when the so-called "establishment" Protestants (Congressionalists, Episcopalians, Lutherans, Presbyterians, and several smaller groups) were split off from the more fundamentalist Protestant denominations. The Protestant "establishment" then was seen to have a 1 percent majority in favor of abortion while 63 percent of the far more numerous fundamentalists were opposed.

An even more interesting difference surfaced when the attitudes of Catholics, "establishment" Protestants, and Protestant fundamentalists were measured in terms of frequency of worship. Of "establishment" Protestants who went to church every week or almost every week, 57 percent opposed abortion; of those who appeared in church only a few times a year or not at all, 59 percent favored abortion.

Catholics who went to church every week or almost every week were 83 percent opposed to abortion; those who got to church but once or twice a year or never were 51 percent in favor of abortion. It was the Protestant fundamentalists who most resisted abortion regardless of the regularity of their attendance at church.

Among those who worshipped every week or almost every week, 75 percent were opposed to abortion; when church attendance dropped to only a few times a year or ceased altogether, 56 percent of the Protestant fundamentalists still opposed abortion.

What other elements influential in defining traditional morality in America can be identified in the ISR abortion data?

One is the immediate environment into which people are born and in which they grow up. Within the ISR sample, 72 percent of those reared in a rural setting opposed abortion, 55 percent of those who grew up in towns or small cities opposed abortion, and 54 percent of those who lived in big cities favored abortion.

Education is another factor in moral definition. The more schooling people have the less willing they are to see abortion as an evil. College people are three times as favorable to abortion as are those whose education stopped in grade school. However, those at the college level favor abortion by only a 7 percent margin.

A third face of traditional morality is social class. Sixty-five percent of those who consider themselves members of the working class are opposed to abortion. Those who characterize themselves as middle class are so evenly split on abortion that a majority cannot be said to exist on either side of the question.

Race is a factor, too. Blacks are more anti-abortion than whites are, although only slightly so.

In view of what the ISR study has already revealed, it is not surprising to learn that the older people are, the more they oppose abortion. Here the attitudes are expressed by age bracket:

	Percent in opposition
Over 60 years	72
30 to 60 years	60
Under 30 years	47

[Supreme Court of the United States, October Term, 1971]

No. 70–18

JANE ROE, ET AL., APPELLANTS, VS. HENRY WADE, APPELLEE, ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

No. 70–40

MARY DOE, ET AL., APPELLANTS, VS. ARTHUR K. BOLTON, ET AL., APPELLEES, ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA

Motion for leave to file brief amicus curiae.

PURPOSE OF THE MOTION

All parties in No. 70–18 (the Texas case) have given their written consent to Dr. Bart Heffernan, one of the amici herein, to file an *amicus curiae* brief.[1] The appellants in No. 70–40 (the Georgia case) have never responded to a request for consent. The appellees do not object to these *amici* filing in this cause.[2]

INTEREST OF THE AMICI

1. Identification of the *amici*. Dr. Bart Heffernan has an appeal presently pending before this Court in the case of *Heffernan, et al.* v. *Doe, et al.*, docketed as No. 70–106, October 1971 term, which case involves the constitutionality of the Illinois criminal abortion statute, and is similar to both *Jane Doe, et al.* v. *Wade*, No. 79–18, and Mary Doe, et al. v. *Bolton*, No. 70–40. The Jurisdictional Statement in the *Heffernan* case was filed on March 29, 1971, but no action was taken thereon during the last term of Court.

Any ruling on the merits in the Georgia and Texas cases could profoundly and perhaps adversely affect the outcome of the Illinois case, in which case Dr. Heffernan was appointed *guardian ad litem* for the class of unborn children. He asks leave of this Court to file this *amicus curiae* brief on behalf of his wards.

The other *amici* are physicians, professors and certain Fellows of the American College of Obstetrics and Gynecology who seek to place before this Court the scientific evidence of the humanity of the unborn so that the Court may know and understand that the unborn are developing human persons who need the protection of law just as do adults.

These *amici* also desire to bring to the Court's attention the medical complications of induced abortion, both in terms of maternal morbidity and mortality (as well as the mortality to the child), and to show that these are questions of considerable debate in medicine.

2. The Legal Position of these *Amici* in these cases. The unborn child is a developing human being who is entitled to the law's protection just as is an adult.

3. Justification for Participation as *Amici*. As previously stated, the issues in these cases, as well as the pending case of *Heffernan* v. *Doe*, No. 70–106, October 1971 term, are of the most profound significance dealing with the most basic and fundamental of human rights: The Right to Life.

In reviewing the Briefs filed in both cases it appears that no attempt was made to advise the Court of the scientific facts of life from conception to birth, or of the medical complications of induced abortion, and it is urged that presentation of this information is a reasonable justification for participation by these *amici*.

CONCLUSION

For the reasons stated and for additional reasons as contained in and expanded upon in the Brief itself, these *amici* respectfully request this Court to grant this Motion and grant leave for filing this Brief served herewith.

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[1] Written consents have been filed with the clerk of this court.

[2] Response of appellees has been filed with the clerk of this court.

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APPENDIX E

[Supreme Court of the United States, October Term 1971]

No. 70–18

JANE ROE, ET AL., APPELLANTS, VS. HENRY WADE, APPELLEE, ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA

No. 70–40

MARY DOE, ET AL., APPELLANTS, VS. ARTHUR K. BOLTON, ET AL., APPELLEES, ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS

Brief amicus curiae of certain physicians, professors and fellows of the American College of Obstetrics and Gynecology in support of appellees

(NOTE.—Figures referred to are not printed in the RECORD.)

I. THE HUMANITY OF THE UNBORN OFFSPRING OF HUMAN PARENTS HAS BEEN THE CRITICAL ISSUE IN LOWER FEDERAL COURT ABORTION CASES

The immediate and intended consequence of an induced abortion is the destruction of life of the unborn. It is in the light of this reality that this Court must consider and decide the profound and far-reaching issues in these abortion cases.

The *amici* are concerned physicians, many of whom are fellows of the American College of Obstetrics and Gynecology (FACOG), who *urge* this Court to consider the current medical and scientific evidence of the humanity of the unborn which is contained in this Brief.

The *amici* also urge this Court to give careful consideration to the section of this Brief concerning the medical complications of legally induced abortions. Any consideration of the "safety" of legally induced abortions must consider the full range of medical complications including early and late physical and psychological complications, as well as material and *child* mortality.

The Courts below reached their conclusions without considering whether the victim, i.e., the unborn, of the abortion has constitutionally protected rights. In *Roe* v. *Wade*,[1] the U.S. District Court for the Northern District of Texas, without once mentioning, discussing or considering whether the unborn is a "person" under the Fifth and Fourteenth Amendments, or otherwise has legally protected interests involved, concluded that the Texas Abortion Laws must be declared unconstitutional because they deprive single women and married couples of their right, secured by the Ninth Amendment, to choose whether to have children."

In *Doe* v. *Bolton*,[2] the U.S. District Court for the Northern District of Georgia touched, but only in passing, upon the primary issue in this litigation, i.e. the legal "personality" of the unborn for constitutional purposes. At one point in the opinion, the Court wrote that it did not ". . . (posit) the existence of a new being with its own identity and federal constitutional rights, . . ."[3] Elsewhere in the opinion the Court, in denying a reconsideration of the Court's previous order revoking another's appointment as *guardian ad litem* for the unborn person, wrote that ". . . the Court does not postulate the existence of a new being with federal constitutional rights at any time during gestation".

The *Bolton* Court was thus able to conclude that, while procedures for obtaining an abortion may be controlled, the "reasons for which an abortion may be obtained" may not be regulated "because such action unduly restricts a decision sheltered by the constitutional right to privacy".[4]

The *Bolton* Court did point out that once conception has occurred and the embryo has formed. ". . . the decision to abort its development cannot be considered a purely private one affecting only husband and wife, man and woman".[5]

Other three-judge federal courts presented with the same clash of "rights" between mother and the unborn have not ignored the developments of many areas of the law which have found legal rights in the unborn. For example, in *Steinberg* v. *Brown*[6] the majority gave careful consideration to both the rights of the woman and the unborn, and concluded that ". . . the state has a legitimate interest to legislate for the purpose of affording an embryonic or fetal organism an opportunity to survive."[7] This Court concluded that the state did have that right ". . . and on balance it is superior to the claimed right of a pregnant woman or anyone else to destroy the fetus except when necessary to preserve her own life."[8]

In *Rosen* v. *Louisiana State Board of Medical Examiners*[9] the Court recognized that it was not dealing merely with the question whether a woman has a generalized right to choose whether to bear children ". . . but instead with the more complicated question whether a pregnant woman has the right to cause the abortion of the embryo or fetus she carries in her womb."[10] Without deciding whether the unborn per se is a person protected by the constitution since that was not the issue that Court faced, the *Rosen* Court concluded that the state of Louisiana had intended to and could legitimately protect fetal life against destruction.[11]

In *Corkey* v. *Edwards*[12] the Court concluded also that the issue involved ultimately a consideration of more than just the issue of whether a woman has a right not to bear children:

"The basic distinction between a decision whether to bear children which is made before conception and one which is made after conception is that the first contemplates the creation of a new human organism, but the latter contemplates the destruction of such an organism already created."[13]

Finding protection of fetal life an adequate state interest in invading the woman's claimed right of privacy, the *Corkey* Court concluded:

"To determine the state interest we shall not attempt to choose between extreme posi-

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Footnotes at end of article.

tions. Whether possessing a soul from the moment of conception or mere protoplasm, the fertilized egg is, we think, 'unique as a physical entity', Lucas, Federal Constitutional Limitations of the Enforcement and Administration of State Abortion Statutes, 46 N. C. L. Rev. 730, 744 (1968), with the potential to become a person. Whatever that entity is, the state has chosen to protect its very existence. The state's power to protect children is a well established constitutional maxim. See, *Shelton* v. *Tucker*, 364 U.S. 479, 485, 81 S. Ct. 247, 5 L. Ed. 2d 231 (1960); *Prince* v. *Massachusetts*, 321 U.S. 158, at 166–168, 64 S. Ct. 438, 88 L. Ed. 645. That this power should be used to protect a fertilized egg or embryo or fetus during the period of gestation embodies no logical infirmity, but would seemingly fall within the 'plenary power of government'. *Poe* v. *Ullman*, 367 U.S. 497, at 539, 81 S. Ct. 1752, 6 L. Ed. 2d 989 (Harlan, J., dissenting). That there is a state interest has until recently been taken for granted. History sides with the state."[14]

Even this brief review of five federal decisions involving the constitutionality of state abortion laws makes it clear that whether or not the Court considers the developing humanity of the unborn is critical in its resolution of the issues.[15]

The *amici* therefore ask this Court to consider the material in this Brief concerning the modern medical discoveries of the development of the unborn.

An expansion of the right to privacy to include the right of a woman to have an abortion without considering the interests of the unborn person decides this question against the unborn. The necessary consequence of that expansion would be a direct and unavoidable conflict between the unborn person's right to life and the woman's extended right of privacy. Assuming such a conflict, it is the position of the *amici* that the more fundamental and established of the conflicting rights must prevail where they clash. The right to life is most certainly the most fundamental and established of the rights involved in the cases facing the Court today.

FOOTNOTES

[1] *Roe* v. *Wade*, 314 F. Supp. 1217 (1970) at 1221 (N. D. Tex. 1970).

[2] *Doe* v. *Bolton* , 319 F. Supp. 1048 (N. D. Ga. 1970).

[3] *Ibid*. p. 1055.

[4] *Ibid*. p. 1076.

[5] *Ibid*. p. 1055.

[6] 321 F. Supp. 741 (N. D. Ohio 1970) (J. Green dissenting).

[7] *Ibid*. p. 746.

[8] *Ibid*. p. 746.

[9] 318 F. Supp. 1217 (E. D. Louisiana 1970) (J. Cassibry dissenting).

[10] *Ibid*. p. 1223.

[11] *Ibid*. p. 1225.

[12] *Corkey* v. *Edwards*, 322 F. Supp. 1248 (N. D. North Carolina 1971).

[13] *Ibid*. p. 1252.

[14] *Ibid*. p. 1253.

[15] Even the *Bolton* Court preserved the Georgia statute after alluding in its decision to the creation of a new life after conception, thus making any decision involving abortion one affecting the state since it involved developing human life.

II. THE UNBORN OFFSPRING OF HUMAN PARENTS IS AN AUTONOMOUS HUMAN BEING[1]

Even before implantation in the wall of the uterus the unborn child is responsible for the maintenance of the pregnant state in the maternal metabolism (1). The child whose tissue is antigenically different from the mother sets up protective mechanisms to prevent material immunologic responses from causing fetal distress (2). The newly formed child has a remarkable degree of metabolic autonomy (3). For example, the fetal endocrine system functions autonomously (4).

The recent recognition of this autonomy has led to the development of new medical specialties concerning the unborn child from the earliest stages of the pregnancy (56).

Modern obstetrics has discarded as unscientific the concept that the child in the womb is but issue of the mother. As Dr. H. M. I. Liley, the New Zealand pediatrician, and research assistant to her famous husband, Dr. Albert Liley who perfected the intrauterine transfusion, has said:

"Another medical fallacy that modern obstetrics discards is the idea that the pregnant woman can be treated as a patient alone. No problem in fetal health or disease can any longer be considered in isolation. At the very least two people are involved, the mother and her child." (5 at p. 207.)

The courts have also abandoned that concept (7):

"We ought to be safe in this respect in saying that legal separability should begin where there is biological separability. We know something more of the actual process of conception and foetal development now than when some of the common law cases were decided; and what we knew makes it possible to demonstrate clearly that separability begins at conception.

"The mother's biological contribution from conception on is nourishment and protection; but the foetus has become a separate organism and remains so throughout its life. That it may not live if its protection and nourishment are cut off earlier than the viable stage of its development is not to destroy its separability; it is rather to describe the conditions under which life will not continue."

Yet the attack on the statutes below assume this discredited scientific concept and argues that abortions should be considered no differently than any medical measure taken to protect maternal health (see Texas appellant's brief, pp. 94–98), thus completely ignoring the developing human being in the mother's womb.

It is our task in the next subsections to show how clearly and conclusively modern science—embryology, fetology, genetics, perinatology, all of biology—establishes the humanity of the unborn child. We submit that the data not only shows the constitutionality of the legislature's effort to save the unborn from indiscriminate extermination, *but in fact suggests a duty to do so*. We submit also that no physician who understands this will argue that the law is vague, uncertain or overbroad for he will understand that the law calls upon him to exercise his art for the benefit of his *two* patients; mother *and* child.

A. The Unborn Person Is Also a Patient.

From conception the child is a complex, dynamic, rapidly growing organism. By a natural and continuous process the single fertilized ovum will, over approximately nine months, develop into the trillions of cells of the newborn. The natural end of the sperm and ovum is death unless fertilization occurs. At ferilization a new and unique being is created which, although receiving one-half of its chromosomes from each parent, is really unlike either (8) (6) (9) (10 at p. 18).

About seven to nine days after conception, when there are already several hundred cells of the new individual formed, contact with the uterus is made and implantation begins. Blood cells begin at 17 days and a heart as early as 18 days. This embryonic heart which begins as a simple tube starts irregular pulsations at 24 days, which, in about one week, smooth into a rhythmic contraction and expansion (8) (9) (10) (6).

Straus, et al have shown that the ECG on a 23 mm embryo (7.5 weeks) presents the existence of a functionally complete cardiac system and the possible existence of a Myoneutral or humoral regulatory mechanism. All the classic elements of the adult ECG were seen (11). Marcel and Exchequet observed occasional contractions of the heart in a 6 mm (2 week) embryo. They also obtained tracing exhibiting the classical elements of the ECG tracings of an adult in a 15 mm embryo (5 weeks) (12).

One commentator has indicated that about 4 days postconception under a special microscope the prospective sex can already be determined (10 at p. 23).

Commencing at 18 days the developmental emphasis is on the nervous system even thought other vital organs, such as the heart, are commencing development at the same time. Such early development is necessary since the nervous system integrates the action of all other systems. By the end of the 20th day the foundation of the child's brain, spinal cord and entire nervous system will have been established. By the 6th week after conception this system will have developed so well that it is controlling movements of the baby's muscles, even though the woman may not be aware that she is pregnant. By the 33rd day the cerebral cortex, that part of the central nervous system that governs motor activity as well as intellect may be seen (8) (13) (10).

The baby's eyes begin to form at 19 days. By the end of the first month the foundation of the brain, spinal cord, nerves and sense organs is completely formed. By 28 days the embryo has the building blocks for 40 pairs of muscles situated from the base of its skull to the lower end of its spinal column. By the end of the first month the child has completed the period of relatively greatest size increase and the greatest physical change of a lifetime. He or she is ten thousand times larger than the fertilized egg and will increase its weight six billion times by birth, having in only the first month gone from the one cell state to millions of cells (8) (9) (10) (6) (13). [See Fig. 1.]

Shettles and Rugh describe this first month of development as follows:

"This, then, is the great planning period, when out of apparently nothing comes evidence of a well integrated individual, who will form along certain well-tried patterns, but who will, in the end, be distinguishable from every other human being by virtue of ultra microscopic chromosomal differences." (10 at p. 35.)

By the beginning of the second month the unborn child, small as it is, looks distinctly human. (See Fig. 1.) Yet, by this time the child's mother is not even aware that she is pregnant (6).

As Shettles and Rugh state:

"And as for the question, 'when does the embryo become human?' the answer is that it *always* had human potential, and *no other*, from the instant the sperm and the egg came together because of its chromosomes." (Emphasis in original.) (10 at p. 40.)

At the end of the first month the child is about ¼ of an inch in length. At 30 days the primary brain is present and the eyes, ears and nasal organs have started to form. Although the heart is still incomplete, it is beating regularly and pumping blood cells through a closed vascular system (8). The child and mother do not exchange blood, the child having from a very early point in its development its own and complete vascular system (8) (9) (10) (12) (13).

Earliest reflexes begin as early as the 42nd day. The male penis begins to form. The child is almost ½ inch long and cartilage has begun to develop (8) (9). [See Fig. 2.]

Even at 5½ weeks the fetal heartbeat is essentially similar to that of an adult in general configuration (12) (13). The energy output to about 20% that of the adult, but the fetal heart is functionally complete and normal by 7 weeks (12) (13). Shettles and Rugh describe the child at this point of its development as a 1-inch miniature doll with a large head, but gracefully formed arms and legs and an unmistakably human face (10 at p. 54). [See Fig. 2]

By the end of the seventh week we see a

Footnotes at end of article.

well proportioned small scale baby. In its seventh week, it bears the familiar external features and all the internal organs of the adult, even though it is less than an inch long and weighs only 1/30th of an ounce. The body has become nicely rounded, padded with muscles and covered by a thin skin. The arms are only as long as printed exclamation marks, and have hands with fingers and thumbs. The slower growing legs have recognizable knees, ankles and toes (8) (9) (10) (6). [See Figs. 3 and 4]

The new body not only exists, it also functions. The brain in configuration is already like the adult brain and sends out impulses that coordinate the function of the other organs. The brain waves have been noted at 43 days [14]. The heart beats sturdily. The stomach produces digestive juices. The liver manufacturers blood cells and the kidneys begin to function by extracting uric acid from the child's blood (13) (49), The muscles of the arms and body can already be set in motion (15).

After the eighth week no further primordia will form: *everything* is already present that will be found in the full term baby (10 at p. 71). As one author describes this period:

"A human face with eyelids half closed as they are in someone who is about to fall asleep. Hands that soon will begin to grip, feet trying their first gentle kicks." (10 at p. 71)

From this point until adulthood, when full growth is achieved somewhere between 25 and 27 years, the changes in the body will be mainly in dimension and in gradual refinement of the working parts (8) (46).

The development of the child, while very rapid, is also very specific. The genetic pattern set down in the first day of life instructs the development of a specific anatomy. The ears are formed by seven weeks and are specific, and may resemble a family pattern (16). The lines in the hands start to be engraved by eight weeks and remain a distinctive feature of the individual (45), (49). [See Fig. 3]

The primitive skeletal system has completely developed by the end of six weeks (8) (9). This marks the end of the child's embryonic (from Greek, to swell or teem within) period. From this point, the child will be called a fetus (Latin, young one or offspring) (9). [See Fig. 2]

In the third month, the child becomes very active. By the end of the month he can kick his legs, turn his feet, curl and fan his toes, make a fist, move his thumb, bend his wrist, turn his head, squint, frown, open his mouth, press his lips tightly together (15). He can swallow and drinks the amniotic fluid that surrounds him. Thumb sucking is first noted at this age. The first respiratory motions move fluid in and out of his lungs with inhaling and exhaling respiratory movements (13) (15). [See Fig. 5]

The movement of the child has been recorded at this early stage by placing delicate shock recording devices on the mother's abdomen and direct observations have been made by the famous embryologist, Davenport Hooker, M.D. Over the last thirty years, Dr. Hooker has recorded the movement of the child on film, some as early as six weeks of age. His films show that prenatal behavior develops in an orderly progression (15) (17) (18).

The prerequisites for motion are muscles and nerves. In the sixth to seventh weeks, nerves and muscles work together for the first time (8). If the area of the lips, the first to become sensitive to touch, is gently stroked, the child responds by bending the upper body to one side and making a quick backward motion with his arms. This is called a total pattern response because it involves most of the body, rather than a local part. Localized and more appropriate reactions such as swallowing follow in the third month. By the beginning of the ninth week, the baby moves spontaneously without being touched. Sometimes his whole body swings back and forth for a few moments. By eight and a half weeks the eyelids and the palms of the hands become sensitive to touch. If the eyelid is stroked, the child squints. On stroking the palm, the fingers close into a small fist (17) (15) (13) (64).

In the ninth and tenth weeks, the child's activity leaps ahead. Now if the forehead is touched, he may turn his head away and pucker up his brow and frown. He now has full use of his arms and can bend the elbow and wrist independently. In the same week, the entire body becomes sensitive to touch (7) (15). [See Fig. 6]

The twelfth week brings a whole new range of responses. The baby can now move his thumb in opposition to his fingers. He now swallows regularly. He can pull up his upper lip; the initial step in the development of the sucking reflex (5). By the end of the twelfth week, the quality of muscular response is altered. It is no longer marionette-like or mechanical—the movements are now graceful and fluid, as they are in the newborn. The child is active and the reflexes are becoming more vigorous. *All this is before the mother feels any movement* (5) (64). [See Figs. 5 and 7]

The phenomenon of "quickening" reflects maternal sensitivity and not fetal competence.[2] Dr. Hooker states that fetal activity occurs at a very early age normally in utero and some women may feel it as early as thirteen weeks. Others feel very little as late as twenty weeks and some are always anxious because they do not perceive movement (17).

Dr. Liley states:

"Historically 'quickening' was supposed to delineate the time when the fetus became an independent human being possessed of a soul. Now, however, we know that while he may have been too small to make his motions felt, the unborn baby is active and independent long before his mother feels him. Quickening is a maternal sensitivity and depends on the mother's own fat, the position of the placenta and the size and strength of the unborn child." (5 at pp. 37, 38)

Every child shows a distinct individuality in his behavior by the end of the third month. This is because the actual structure of the muscles varies from baby to baby. The alignment of the muscles of the face, for example, follow an inherited pattern. The facial expressions of the baby in his third month are already similar to the facial expression of his parents (13) (14) (49). [See Figs. 5 and 7]

Dr. Arnold Gesell states that: "By the end of the first trimester (12th week) the fetus is a sentient moving being. We need not pause to speculate as to the nature of his psychic attributes but we may assert that the organization of his psychosomatic self is now well under way." (49 at p. 65)

Further refinements are noted in the third month. The fingernails appear. The child's face becomes much prettier. His eyes, previously far apart, now move closer together. The eyelids close over the eyes. Sexual differentiation is apparent in both internal and external sex organs, and primitive eggs and sperm are formed. The vocal cords are completed. In the absence of air they cannot produce sound; the child cannot cry aloud until birth, although he is capable of crying before (8) (13) (9) (5).

Dr. Liley relates the experience of a doctor who injected an air bubble into unborn baby's (eight months) amniotic sac in an attempt to locate the placenta on x-ray. It so happened that the air bubble covered the unborn baby's face. The moment the unborn child had air to inhale, his vocal cords became operative and his crying became audible to all present, including the physician and technical help. The mother telephoned the doctor later to report that whenever she lay down to sleep, the air bubble got over the unborn baby's face and he was crying so loudly he was keeping both her and her husband awake (5 at p. 50) (15 at p. 75).

The taste buds and salivary glands develop in this month, as do the digestive glands in the stomach. When the baby swallows amniotic fluid, its contents are utilized by the child. The child starts to urinate (8) (13) (19).

From the twelfth to the sixteenth week, the child grows very rapidly (50). His weight increases six times, and he grows to eight to ten inches in height. For this incredible growth spurt the child needs oxygen and food. This he receives from his mother through the placental attachment—much like he receives food from her after he is born. His dependence does not end with expulsion into the external environment (8) (9) (13) (6) (10). We now know that the placenta belongs to the baby, not the mother, as was long thought (5). [See Fig. 8]

In the fifth month, the baby gains two inches in height and ten ounces in weight. By the end of the month he will be about one foot tall and will weigh one pound. Fine baby hair begins to grow on his eyebrows and on his head and a fringe of eyelashes appear. Most of the skeleton hardens. The baby's muscles become much stronger, and as the child becomes larger his mother finally perceives his many activities (8). The childs' mother comes to recognize the movement and can feel the baby's head, arms and legs. She may even perceive a rhythmic jolting movement—fifteen to thirty per minute. This is due to the child hiccoughing (13) (5) (6). The doctor can already hear the heartbeat with his stethoscope (8) (13) (6). [See Figs. 9 and 10]

The baby sleeps and wakes just as it will after birth (63) (5). When he sleeps he invariably settles into his favorite position called his "lie". Each baby has a characteristic lie (5). When he awakens he moves about freely in the buoyant fluid turning from side to side, and frequently head over heel. Sometimes his head will be up and sometimes it will be down. He may sometimes be aroused from sleep by external vibrations. He may wake up from a loud tap on the tub when his mother is taking a bath. A loud concert or the vibrations of a washing machine may also stir him into activity (13). The child hears and recognizes his mother's voice before birth (19) (20). Movements of the mother, whether locomotive, cardiac or respiratory, are communicated to the child (19).

In the sixth month, the baby will grow about two more inches, to become fourteen inches tall. He will also begin to accumulate a little fat under his skin and will increase his weight to a pound and three-quarters. This month the permanent teeth buds come in high in the gums behind the milk teeth. Now his closed eyelids will open and close, and his eyes look up, down and sideways. Dr. Liley feels that the child may perceive light through the abdominal wall (20). *Dr. Still has noted that electroencephalographic waves have been obtained in forty-three to forty-five day old fetuses, and so conscious experience is possible after this date* (14).

The electrophysiologic rhythm develops early. Detailed EEG tracings have been taken directly from the head end of the 16mm (crown rump) human embryo at 40-odd days of gestation in Japan (172).

As one writer said:

"Thus at an early prenatal stage of life the EEG reflects a distinctly individual pattern that soon becomes truly personalized." (173)

In the sixth month, the child develops a strong muscular grip with his hands. He also starts to breathe regularly and can maintain respiratory response for twenty-four hours if born prematurely. He may even have

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a slim chance of surviving in an incubator. The youngest children known to survive were between twenty to twenty-five weeks old (13). The concept of *viability* is not a static one. Dr. Andre Hellegers of Georgetown University states that 10% of children born between twenty weeks and twenty-four weeks gestation will survive (44A and 44B). Modern medical intensive therapy has salvaged many children that would have been considered non-viable only a few years ago. The concept of an artificial placenta may be a reality in the near future and will push the date of viability back even further, and perhaps to the earliest stages of gestation (43) (48). After twenty-four to twenty-eight weeks the child's chances of survival are much greater.

Our review has covered the first six months of life. By this time the individuality of this human being is clear to all unbiased observers. Dr. Arnold Gesell has said:

"Our own repeated observation of a large group of fetal infants (an individual born and living at any time prior to forty weeks gestation) left us with no doubt that psychologically they were individuals. Just as no two looked alike, so no two behaved precisely alike. One was impassive when another was alert. Even among the youngest there were discernible differences in vividness, reactivity and responsiveness. These were genuine individual differences, already prophetic of the diversity which distinguishes the human family." (49 at p. 172)

B. The Doctor Treats the Unborn Just as He Does Any Patient

When one views the present state of medical science, we find that the artificial distinction between born and unborn has vanished. As Dr. Liley says:

"In assessing fetal health, the doctor now watches changes in maternal function very carefully, for he has learned that it is actually the mother who is a passive carrier, while the fetus is very largely in charge of the pregnancy." (5 at p. 202) (65)

The new specialty of fetology is being replaced by a newer specialty called perinatology which cares for its patients from conception to about one year of extrauterine existence (56). The Cumulative Index Medicus for 1969 contains over 1400 separate articles in fetology. For the physician, the life process is a continuous one, and observation of the patient must start at the earliest period of life. (See 42 U.S.C. 289(d).)

A large number of sophisticated tools have been developed that now allow the physician to observe and measure the child's reactions from as early as ten weeks. At ten weeks it is possible to obtain the electrocardiogram of the unborn child (22) (11) (12). At this stage also the heart sounds can be detected with new ultrasonic techniques (45). The heart has already been pumping large volumes of blood to the fast growing child for six weeks. With present day technology, the heart of the child is now monitored during critical periods of the pregnancy by special electronic devices, including radiotelemetry (23) (60). Computer analysis of the child's ECG has been devised and promises more accurate monitoring and evaluation of fetal distress (14). A number of abnormal electrocardiographic patterns have been found before birth. These patterns forewarn the physician of trouble after delivery (57) (58) (62). Analysis of heart sounds through phonocardiography is also being done (25) (53).

With the new optical equipment, a physician can now look at the amniotic fluid through the cervical canal and predict life-threatening problems that are reflected by a change in the fluid's color and turbidity (26) (27). In the future, the physician will undoubtedly be able to look directly at the growing child using new fiber optic devices (through a small puncture in the uterus) and thereby diagnose and prescribe specific treatment to heal or prevent illness or deformity (21) (55).

For the child with severe anemia, the physician now gives blood, using an unusual technique developed by Dr. A. Liley of New Zealand. This life saving measure is carried out by using new image intensifier x-ray equipment. A needle is placed through the abdominal wall of the mother and into the abdominal cavity of the child. For this procedure the child must be sedated (via maternal circulation) and given pain relieving medication, since it experiences pain from the puncture and would move away from the needle if not premedicated. As Dr. H. M. I. Liley states:

"When doctors first began invading the sanctuary of the womb, they did not know that the unborn baby would react to pain in the same fashion as a child would. But they soon learned that he would. By no means a 'vegetable' as he has so often been pictured, the unborn knows perfectly well when he has been hurt, and he will protest it just as violently as would a baby lying in a crib." (5 at p. 50)

The gastro-intestinal tract of the child is outlined by a contrast media that was previously placed in the amniotic fluid and then swallowed by the child (52). We know that the child starts to swallow as early as fourteen weeks (5).

Some children fail to get adequate nutrition when in utero. This problem can be predicted by measuring the amount of estradiol in the urine of the mother and the amount of PSP excreted after it is injected into the child (29). Recent work indicates that these nutritional problems may be solved by feeding the child more directly by introducing nutrients into the amniotic fluid which the child normally swallows (250 to 700 cc a day). In a sense, we well may be able to offer the child that is starving because of a placental defect a nipple to use before birth (30).

The amniotic fluid surrounding the unborn child offers the physician a convenient and assessable fluid that he can now test in order to diagnose a long list of diseases, just as he tests the urine and blood of his adult patients. The doctor observes the color and volume amniotic fluid and tests it for cellura element enzymes and other chemicals. He can tell the sex of his patient and gets a more precise idea of the exact age of the child from this fluid. He can diagnose conditions such as the adrenogenital syndrome, hemolytic anemia, adrenal insufficiency, congenital hyperanemia and glycogen storage disease. Some of these, and hopefully in the future all of these, can be treated before birth (31) (32) (33) (34) (35) (36) (37).

At the time of labor, the child's body can be obtained from scalp veins and the exact chemical balance determined before birth. These determinations have saved many children who would not have been considered in need of therapy had these tests not been done (38) (39). The fetal EEG has also been monitored during delivery (61).

A great deal of work has been done to elucidate the endocrinology of the unborn child. Growth hormone is elaborated by the child at seventy-one days, and ACTH has been isolated at eleven weeks gestation (40). The thyroid gland has been shown to function at ten and a half weeks (51), and the adrenal glands also at about this age (40). The sex hormones—estrogen and andiogen—are also found as early as nine weeks (40).

Surgical procedures performed on the unborn child are few. However, surgical cannulation of the blood vessels in an extremity of the child has been carried out in order to administer blood. Techniques are now being developed on animals that will be applicable to human problems involving the unborn child. Fetal surgery is now a reality in the animal laboratory, and will soon offer help to unborn patients (28) (41) (42).

The whole thrust of medicine is in support of the notion that the child in its mother is a distinct individual in need of the most diligent study and care, and that he is also a patient whom science and medicine treats just as it does any other person (21) (5).

This review of the current medical status of the unborn serves us several purposes. Firstly, it shows conclusively the humanity of the fetus by showing that human life is a continuum which commences in the womb. There is no magic in birth. The child is as much a child in those several days before birth as he is those several days after. The maturation process, commenced in the womb, continues through the post-natal period, infancy, adolescence, maturity and old age. Dr. Arnold Gesell points out in his famous book that no king ever had any other beginning than have had all of us in our mother's womb (49).

Secondly, we have shown that quickening is a relative concept which depends upon the sensitivity of the mother, the position of the placenta, and the size of the child. At the common law, the fetus was not considered alive before quickening,[3] and therefore we can understand why commentators like Bracton and Coke placed so much emphasis on quickening. But modern science has proven conclusively that any law based upon quickening is based upon shifting sands—a subjective standard even different among races. We now know that life precedes quickening; that quickening is nothing other than the mother's first subjective feeling of movement in the womb. Yet the fetus we know has moved before this. In spite of these advances in medicine, some courts and legislatures have continued to consider quickening as the point when life is magically infused into the unborn. (See *Babbitz* v. *McCann*, 310 F.Supp. 2830). No concept could be further from the scientific truth.

Thirdly, we have seen that viability is also a flexible standard which changes with the advance of these new medical disciplines some of which are hardly a half dozen years old. New studies in artificial placentas indicates that viability will become an even more relative concept and children will survive outside of the womb at even earlier ages than the 20–28 weeks in the past. Fetology and perinatology are only a few years old as specialties. Obstetrics is only sixty years old as a specialty.

Fourthly, we have seen that the unborn child is as much a patient as is the mother. In all the literature opting for permissive abortion, this simple truth is ignored. There are many doctors who know that the unborn is also their patient and that they must exercise their art for the benefit of both mother and child. When the physician accepts that he has two patients, he has no difficulty applying his skill for the benefit of child *and* mother. Every doctor practicing can tell this court when in his medical judgment an abortion is necessary to preserve life. There is no medical mystery on that point. A review of the relevant obstetrics texts will list the indications—psychiatric as well—for therapeutic abortion.[4] When the doctor makes the decision he must not consider the unborn as "mere tissue of the mother" or he will certainly weigh it no more in the balance than any other replaceable tissue of the mother.

FOOTNOTES

[1] In this section the citations are according to medical journal practices. The numbers in the parenthesis refer to the correspondingly numbered work in the medical bibliography.

[2] If the Court is interested in the actual medical history of nineteenth century legislative opposition to abortion, it may consult the American Medical Association, *1846–1952 Digest of Official Actions* (edited F. J. L. Blasingame 1959), p. 66, where a list of the repeated American Medical Association attacks on abortion are compiled. It will be

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Footnotes at end of article.

seen that the great medical battle of the nineteenth cenury was to persuade legislatures to eliminate the requirement of quickening and to condemn abortion from conception, see Isaac M. Quimby *Introduction to Medical Jurisprudence,* Journal of American Medical Association, August 6, 1887, Vol. 9, p. 164 and H. C. Markham *Foeticide and Its Prevention,* ibid, Dec. 8, 1888, Vol. 11, p. 805. It will be seen that the Association unanimously condemned abortion as the destruction of "human life" American Medical Association, *Minutes of the Annual Meeting 1859,* The American Medical Gazette 1859, Vol. 10, p. 409.

[3] See 4 Blackstone, *Commentaries on the Laws of England,* 394–95 (1769) where it is said:

"In case this plea is made in stay of execution, the judge must direct a jury of twelve matrons or discreet women to inquire the fact, and if they bring in their verdict 'quick with child' (for barely, 'with child', unless it be alive in the womb, is not sufficient, . . .)"

[4] See Quay, *Justifiable Abortion,* 49 Georgetown Law Journal 173, 1960, pp. 180–241, where the medical reasons for therapeutic abortions as stated in the standard obstetric works from 1903 to 1960 are stated and analyzed. Dr. Guttmacher has stated:

"On the whole, the over-all frequency of therapeutic abortion is on the decline. This is due to two facts: first, cures have been discovered for a number of conditions which previously could be cured only by termination of pregnancy; and second, there has been a change in medical philosophy. Two decades ago, the accepted attitude of the physicians was that if a pregnant woman were ill, the thing to do would be to rid her of her pregnancy. Today it is felt that unless the pregnancy itself intensifies the illness, nothing is accomplished by the abortion." (66 at p. 13) (See also 67).

Dr. Guttmacher has also said:

"Today it is possible for almost any patient to be brought through pregnancy alive, unless she suffers from a fatal illness such as cancer or leukemia and, if so, abortion would be unlikely to prolong, much less save, life." (68 at p. 9).

Dr. Guttmacher has also said:

"There is little evidence that pregnancy in itself worsens a psychosis, either intensifying it or rendering prognosis for full recovery less likely." (69 at p. 121).

APPENDIX F

ABORTION—DEATH BEFORE BIRTH

(By Joseph R. Stanton, M.D., F.A.C.P.)

The magnificent Life Magazine Series "Life Before Birth" with the pictures of the human embryo and fetus by Lennart Nilsson began with the following statement, "The Birth of a Human Life Really Occurs at the Moment the Mother's Egg Cell Is Fertilized by One of the Father's Sperm Cells."

Abortion attempts to destroy the life that begins with conception. It usually but not always results in the death of the growing child within the womb. After the first six months of liberalized abortion in New York City, the Health Department reported "eleven live births after abortion procedure, all infants died within the next day or so.

Two living infants were discharged from hospitals having to be classified as live births rather than as abortions.

During the first 12 weeks of life, abortion is carried out by either (A) D&C or (B) Suction Curettage. After twelve weeks, the fetus is too large to be removed by (A) or (B), so abortion is attempted by (C) Saline Injection, and if this is not effective, (D) Hysterotomy is carried out.

No method of abortion is carried out in any significant number of cases without hazard to the mother. A recent paper from England makes the following statement: "The morbidity and fatal potential of criminal abortion is widely accepted while at the same time the public is misled into believing that legal abortion is a trivial incident, even a lunch hour procedure which can be used as a mere extension of contraceptive practice. There has been almost a conspiracy of silence regarding risks."

Listed as immediate complications are:

1. The birth of a living child.
2. Cervical lacerations—4.2%.
3. Uterine performances—1.7%.
4. Fever—15%.
5. Peritonitis—7.2%.
6. Retained products of conception requiring D&C—5%.
7. Septicemia—0.37%.
8. Endometritis—2.5%.
9. Urinary tract infection.
10. Pulmonary embolism.
11. Amniotic fluid embolism.
12. Hemorrhage greater than 500cc. in 9–17% of abortions done by various methods.

Later, additional complications are depressive reactions, subsequent sterility, subsequent abnormalities of placental implantation and a predisposition to premature labor in future pregnancies. A paper from Czechoslovakia states: "We find the immediate acute inflammatory complications in about 5% of cases—permanent complications in 20–30% of all women who had pregnancy interruptions."

It is believed that this presentation shows abortion for what it is—a negative and destructive approach to life and one of its problems. Those who have portrayed abortion as safe, easy, and almost without psychic trauma have not spoken from the facts. The current efforts of the American drug industry now spending millions of dollars to perfect the prostaglandins so that abortions may be made microscopic should be no less objectionable than the destruction of life at 8 weeks or 12 weeks or 24 weeks—before or after birth. Each one of us began life as a single cell and that biological process has continued without interruption to the moment this line is read. Abortion interrupts, despoils and destroys human life.

A. D&C OR DILATION AND CURETTAGE

A brief history is taken, the blood typed **and a consent** form signed by the patient. The patient is premedicated and an intravenous is started. Anesthesia, either regional or intravenous pentothal is induced. The operative area is cleansed with antiseptics, a retractor is inserted and the mouth of the womb or cervix is grasped with a tenaculum or clamp. A sound or calibrated measure is inserted to measure the depth of the womb. The mouth of the womb is then dilated—"The amount of dilation will depend on the size of the products or conception." A sharp curette—like a long spoon with sharp serrated edges is introduced and the interior of the womb methodically scraped. "Often little tissue comes away at first but the products of conception are loosened and the ovum forceps is used to remove them." An oxytocic is then given to shrink down the uterus and lessen bleeding. The patient is watched until recovery from anesthesia occurs and then sent back to her room. The pathetic pulp in the photos above, what were once fragile, living objects of simple innocence and complex wonder, are consigned to furnace or sewer . . . unwanted, undefended, unknown. What greater sacrifice could the innocent unborn but to lay down their lives for their mothers' convenience.

B. SUCTION CURETTAGE

Preoperative medication and preparation the same as for D&C. Anesthesia is induced usually with intravenous pentothal. A soeculum is inserted in the vagina. The cervix (mouth of the womb, ed.) is grasped with a tenaculum. Pitressin, to cause the womb to contract—is injected. The cervix is forcibly dilated. The suction curette, a tube, is inserted into the uterus, the suction turned on, present at 70 mm Hg. negative pressure. The curette is worked in and out rotating it slowly. "Because the curette and tubing are transparent, the site of implantation can be ascertained from the amount of tissue withdrawn from different areas of the uterus. . . . The procedure is completed by concentrating in the area from which the bulk is obtained." The end point of the procedure is reached when no further tissue is obtained by suction. The embryonic parts, broken and crushed are caught in a tissue trap attached to the machine. A physician long accustomed to witnessing suffering and death has said of suction curettage, that in all his life he has known no more horrible sight or sound than that produced as the little human parts thud into and are caught by the tissue trap.

C. SALINE INJECTION

After twelve weeks, the fetus is so large that D&C and Suction Curettage are too dangerous to the mother. At twelve weeks, there is not enough amniotic fluid in the sac in which the little aquanaut lives and moves to do amniocentisis safely. Usually the physician waits until the unborn child has grown to 16 weeks size. Life Magazine states that it is now 5½ inches long and "quite recognizable now as a human baby." After the patient has emptied her bladder, the abdomen is then prepared with antiseptics. The skin and subcutaneous tissues are injected with a local anesthetic. A long 18 inch gauge needle is inserted through the abdominal wall and the wall of the uterus into the amniotic sac of fluid surrounding the fetus. Four to five ounces of fluid are withdrawn and 5–7 ounces of toxic salt solution 20% saline (more than 23 times the concentration of salt solution that is used for intravenous therapy normally—ed.) is injected. The patient is then given oxytocics to contract the uterus and often also an antibiotic. After the toxic solution is injected, electrocardiographic studies in a New York hospital show that it takes 45 to 120 minutes for the unborn child's heart to stop. When the child dies or the uterus is sufficiently irritated, after a latent period of hours—labor begins and the dead child is born 24 to 28 hours later. A New York physician who does saline abortions has said of this procedure, "I hate to do saline injections—when you inject the saline you see an increase of fetal movements—it's horrible." That increase of fetal movements occurs as the unborn child struggles in his or her death throes.

D. HYSTEROTOMY

If saline injection is ineffective or cannot be completed because of technical difficulty or reaction, abortion is accomplished by Hysterotomy. Hysterotomy has been called the "miniature Caesarean section". The patient is prepared and anesthetized, the abdomen and womb are opened. The fetus is lifted out. The cord is clamped. The fetus struggles for a moment and dies. This is obviously unpalatable, particularly to nurses, so much so that Kaye states "The large fetuses aborted at greater than 22 weeks gestation become abhorrent to the nursing staff. This necessitated the change in policy limiting abortion up to the 20th week." Hysterotomy or Caesarean section has a long and honored history in medicine, often saving the life of the mother and the child. When deliberately used to abort, it destroys the life of the child. Occasionally, at least, it also leads to the loss of the life of the mother.

TERMS AND DERIVATIONS

Abortion—Latin Ab-orior, orire, ortus sum—the one kept from arising.

Embryo—Latin Embryon—the offspring before its birth.

Fetus—Latin Foetus—the young one.

"Products of Conception"—the abortionists' term for the embryo or fetus.

Termination of Pregnancy—abortionists' term for the act of abortion.

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Mr. BUCKLEY. Mr. President, the National Right to Life Committee has been following closely the hearings before the Subcommittee on Constitutional Amendments of the Senate Judiciary Committee. Statements made and questions raised at the hearings have lead the National Right to Life Committee to draft a proposed amendment the intent and goals of which do not differ from my own. I appreciate the serious thought and wide spectrum of opinion represented by the National Right to Life Committee, and I know and respect the quality of the legal talent that was enlisted in the drafting of its proposal.

I, therefore, am pleased also to send to the desk, for proper referral, their draft of a human life amendment. I do so not only as a courtesy to the National Right to Life Committee, but most particularly because I believe it warrants as careful consideration of the Subcommittee on Constitutional Amendments as my own. This is no place or time for pride of authorship. Subtle legal questions are involved, and the subcommittee must avail itself of the best thinking that has been focused on the problem of how we can most effectively protect human life at every stage of its existence. I ask unanimous consent that the National Right to Life Committee's proposed human life amendment, be printed at his point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 11

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. With respect to the right to life, the word 'person', as used in this article and in the fifth and fourteenth articles of amendment to the Constitution of the United States, applies to all human beings, irrespective of age, health, function, or condition of dependency, including their unborn offspring at every stage of their biological development.

"SEC. 2. No unborn person shall be deprived of life by any person: *Provided, however*, That nothing in this article shall prohibit a law permitting only those medical procedures required to prevent the death of the mother.

"SEC. 3. Congress and the several States shall have the power to enforce this article by appropriate legislation within their respective jurisdictions."

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. STONE). Under the previous order, the Senator from Oregon (Mr. HATFIELD) is recognized for not to exceed 15 minutes.

SENATOR BUCKLEY'S RESOLUTION ON HUMAN LIFE AMENDMENT

Mr. HATFIELD. Mr. President, I commend the Senator from New York (Mr. BUCKLEY) for taking the initiative again in this Congress in behalf of a resolution proposing an amendment to the Constitution for the protection of unborn children and other persons.

I also wish to commend the Subcommittee on Constitutional Amendments of the Judiciary Committee for conducting a series of hearings in the last Congress on the several resolutions which address the question of abortion and other life-terminating acts. It is my expectation and hope that the subcommittee will be able to proceed with further hearings as needed and then move rapidly toward reporting out Senator BUCKLEY's resolution or one similar to it.

Although there are significant differences between the resolutions offered in the House and Senate, there is agreement among the sponsors and cosponsors that an amendment ought to be submitted to the State legislatures and ultimately adopted. This would give greater legal protection to the unborn and place limits on abortion during all stages of development after implantation. The differences among various solutions to the problem must not be magnified to suggest that no agreement is possible and no action is needed.

Although the Supreme Court has an indispensable function in the American political system, it was never intended to be the final voice in defining the rights of the people. The provision for amending the Constitution, as cumbersome as it is, was deliberately created to place the ultimate decision on basic questions in the hands of the people. I have no doubt that the position of the Government toward abortion is one such basic question and a constitutional amendment should be referred to the States for action. The personal sentiments of the Members of Congress must not prevent this ultimate referendum from occurring.

Without attempting to deal with the many issues which have been raised in the hearings, I want to comment briefly on the connection between the issues of abortion and of world hunger. The question of population growth and the resulting strain on global resources is frequently raised in defense of unrestricted abortion. While the population growth trend in the United States is fortunately moving toward zero population growth, this cannot, of course, be said for other parts of the world. To acknowledge that the world has a population growth problem and a problem of scarce and poorly distributed resources is not to opt for one particular solution, as many pro-abortionists have done.

Abortion has worked no better than other methods of population control among people in underdeveloped, tradition-bound cultures. People in such cultures typically desire to have a large number of children, because they expect to lose some to disease and starvation. It is estimated that 40 percent of the world's children do not reach the age of 5 because of these hazards. Moreover, a cultural feature of underdeveloped economies is the assumption that family prosperity is achieved by means of large families. Children of families in subsistence economies are expected to offer more in farm and domestic labor than they require for sustenance. The social values in such a culture reinforce the economic factors. People value children highly and look forward to the social and economic security provided by large numbers of children and grandchildren, when they reach old age.

The point of these observations is that economic and social development is a prerequisite to changing people's views about family size. This includes short-range and long-range efforts to distribute and expand food production, so an adequate diet is available to all the people. The symbolic presentation of rice and other staples for distribution to the hungry in the course of yesterday's pro-life observances is a meaningful way of highlighting this need. Along with development efforts must go a sound program of family life education, including the full range of humane methods of birth control.

No one should minimize the seriousness of population growth, but the means does not justify the end, in this area of life or any other. No humane and rational person would advocate war or famine or disease as a desirable method of population control. Nor would there be a serious challenge to efforts to prevent the loss of life from disasters, simply because saving lives adds to the population problem. Abortion as now practiced in many situations is no less violent and unacceptable than those other life-terminating practices.

Mr. President, I recognize that many capable and sincere people are members of organizations working on both sides of the abortion question. Without any thought of singling out one group for greater recognition than another, I ask unanimous consent that the following statement be included in the RECORD. It is a declaration of purpose and an amplification of this statement by the National Youth Pro-Life Coalition. I present it here for consideration because of its admirable scope. It helps us to see that abortion should not be removed from the context of the many issues related to protecting life, including war, euthanasia, and the treatment of the handicapped.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

NATIONAL YOUTH PRO-LIFE COALITION

DECLARATION OF PURPOSE

The National Youth Pro-Life Coalition, through this declaration, proposes to dedicate and commit itself to the conviction that human life in its essence, in every aspect and every age, must be protected, enhanced, loved and embraced by every member of the human community. This revolutionary new thought springs forth at a time in our nation's history when violence to the human person has become predominant.

To meet this challenge, young people from throughout the nation, of varied lifestyles and diverse convictions have found it necessary to create the National Youth Pro-Life Coalition (NYPLC). We are non-sectarian and non-partisan. We are a service organization established to assist member groups to uphold and foster the inherent value of human life. Our member organizations endorse our goals and participate in national policy decisions. We maintain a policy of nonviolence in all of our activities.

The coalition is deeply concerned that our contemporary society is not consistent in its respect for human life. We have come to the agonizing realization that some in our midst have been ruled 'unworthy to exist' and that others are soon to be similarly classified, our concern extends, as well, to the almost routine acceptance of expedient, rather than just, solutions to complex human problems. This trend, which painfully strikes at the core of our common humanity, must be rejected by the National Youth Pro-Life Coalition.

On the other hand, the coalition supports a radically dynamic new direction in our way of being. Through education and political action, we will work toward developing a consistent attitude toward the value and dignity of every human life. We will give our energies to the creation and implementation of positive, nonviolent solutions to human problems.

The National Youth Pro-Life Coalition strongly affirms that human life is a continuum from conception until natural death and that there is no such thing as the human life not worth living.

DIRECTIONAL POSITIONS OF THE NYPLC

The National Youth Pro-Life Coalition has been founded upon the utter confidence that violence and destruction need not be used to solve human problems. It recognizes that only with a basic underlying respect for all human life can constructive and positive solutions be created and made universally applicable. Only in this way, can a pleuralistic nation and world unite in their efforts to achieve truly human progress.

This approach, we realize, is radical and revolutionary. It has never been really attempted. As such, we do not anticipate immediate change in all areas. However, with persistent effort, through example and diligent application of principle, we feel that change will evolve. Because of this evolutionary dimension, it is necessary to look to the positions the NYPLC take on various specific issues as 'directional' in nature. Rather than assume a dogmatic emphasis to these positions, those within and outside of the membership should view them as providing the stimulating and motivating direction through which all of us can progress in a total commitment to human life.

Realistically, we do not have the answer to every human problem. For this, we need not apologize, but rather we openly admit. Nonetheless, we feel that answers do come when people unite, out of a genuine and consistent respect for human life, to find answers. If this consistency is not applied, then history repeats itself and some members of the human community are excluded from consideration. The resultant change is arbitrary and generally the powerful are the only benefactors.

ON POSITIVE SOLUTIONS TO HUMAN PROBLEMS

"We will give our energies to the creation and implementation of positive non-violent solutions to human problems."—NYPLC Declaration of Purpose

The *main* thrust of the Coalition is emphasized in the above quotation from the NYPLC Declaration of Purpose. This cannot be overemphasized! It is imperative that the Coalition and its individual members search out new solutions to human problems so that violence and destruction can be eliminated.

The efforts of the Coalition to construct and implement positive solutions to a particular dilemma underlies and is basic to its involvement in any issue. Furthermore, individual involvement in matters of human concern is strongly supported and encouraged by the NYPLC.

The Coalition emphasizes that its actions never be negative (anti) but always be positive (pro) in its work with other people regardless of their differing points of view.

ON ABORTION

Human life is a continuum from conception to natural death. To deny its existence at any point along this continuum is to say that there are human lives not worth living. The NYPLC sees this as a tragic social and human injustice. In the matter of abortion, there are two human lives to be considered in their fullest: the mother and her child.

The unborn child, as a member of the human community, has certain inalienable rights which he shares with his older brothers and sisters. The right to live is paramount among those rights, for without this, all other rights become plastic and arbitrary.

The NYPLC deeply recognizes the distress which is felt by some women when confronted with an untimely pregnancy. We strongly support the concept that every mother has the right and responsibility to give birth to her unborn child and that those pressures which compel her to destroy her child should be abolished. Her situation demands that those close to her work to protect and enhance her life and that of the child within her.

The NYPLC denounces the violent destruction of unborn humans for reasons of convenience or so-called "unwantedness," for purposes of eugenics or potential deformity, for any "psychiatric" reasons, or when the child is the product of rape or incest. The Coalition opposes the use of abortifacients "contraceptives" since they, too, represent the destruction of a new human.

The NYPLC feels that our society has created and promoted social and economic pressures which powerfully influence women to choose the destruction of their offspring as a solution to a distressful moment. We see these pressures as *very real* and of *great* hardship to many women. However, we do not accept this path and will work actively, through education and political means, to eliminate these pressures. We are dedicated to the creation and implementation of positive, non-violent solutions to these problems. We do not see the child killing as the way to woman's ultimate freedom and will work against the philosophy that implies that abortion is the best we have to offer the woman pregnant and distressed.

Since January 22, 1973, decision of the U.S. Supreme Court declared the unborn human a non-person and explicitly withdrew all legal protection from his right to be, the NYPLC supports the adoption by the U.S. Congress of an amendment to the U.S. Constitution which will protect *all* human life from conception to natural death. The NYPLC will actively seek such amendment and its ratification by the required ¾ majority of states.

The NYPLC feels that abortion is the major issue currently before the American people. Because of this, the majority of our efforts will be directed in this area.

The following positive solutions are supported by the NYPLC:

Education for responsible understanding regarding the meaning of sexuality, marriage and parenthood.

Sensitive counseling and social work for women distressed by their pregnancies, e.g. Birthright.

Fostering an attitude of acceptance and concern for unwed mothers and single parents.

Comprehensive medical, social, economic, educational, vocational and recreational care programs for unwed mothers.

Rubella vaccination programs.

Improvement in adoption procedures (especially inter-state).

Birth insurance.

Antipoverty programs.

Insurance coverage for married and unmarried mothers.

Education of medical students toward a better understanding of human and social problems.

Public health education programs to educate high risk populations to the hazards of illegal abortion and the alternatives to that course of action which are available to the woman considering such action.

Public education (emphasizing the high schools and colleges) regarding the total implications of relaxed abortion laws.

Day care centers that are basically controlled by families who make use of them.

Removal of the term 'illegitimate' from birth certificates.

ON FETAL EXPERIMENTATION

The Supreme Court decision on abortion of January 22, 1973, has opened the door for scientific technology to be misused in its application to the fetal person. Fetal experimentation (often an euphemism for infant experimentation) is totally opposed by the NYPLC.

ON THE ELDERLY, THE MENTALLY AND PHYSICALLY HANDICAPPED AND THE POOR

"The NYPLC, through this declaration, proposes to dedicate itself to the conviction that human life in its essence, in every aspect and every age, must be protected, enhanced, loved and embraced by every member of the human community."

—NYLPC Declaration of Purpose

The NYPLC does not recognize the worth of an individual on the basis of his age, stage, condition or level of productivity but rather on his inherent value and dignity.

THE ELDERLY

Those individuals who are now in the later years of their lives are being isolated at an ever increasing rate, from consideration in the workings of the community. The NYPLC urges that we recognize the unique and full value of elderly persons. They have given a great deal to us and have been instrumental in laying the groundwork for our own development. They hold certain wisdom that only age can bring. And, even if debilitated, provide for us a focus for our love.

THE MENTALLY AND PHYSICALLY HANDICAPPED

With acceptance into the family and the community, handicapped individuals happily attend school, join activities appropriate to their level of functioning and interest, receive vocational training and become contributing members of society. The NYPLC supports their incorporation into the human community and rejects their isolation.

The pervading concept that the retarded (mentally and physically) are 'less than perfect' is rejected by the NYPLC because such claims of lack of perfection are arbitrary and meaningless. The way these people look, walk or talk are only superficial marks of their individuality. The horror expressed by many to these superficial traits is only one example of how we as a people have grown so little over the years. One can hardly argue that their value lies much deeper. They can love and be loved. Their profound ability to give in a way unique to themselves is reason enough to command our respect.

THE POOR

To be poor means to struggle to secure the necessities for even a meager existence. It means that the abundance, the comforts, the opportunities all around are beyond one's grasp. Worst of all, it means hopelessness for the young. Poverty prevents man from realizing his humanity to the fullest degree. The NYPLC recognizes that the only way to help the poor effectively to rise from their subhuman condition is to attack the basic structures of their impoverishment.

In this nation, poverty is passed on from one generation to the next. This cycle must be broken and that can best be accomplished by work with the young. However, it will first require a complete and honest reappraisal of our financial priorities. Money is needed to provide the proper education and training needed to break the cycle. The contemporary drive to reduce the numbers of the poor by various technological means so that the problems of the poor do not have to be confronted is completely rejected by the NYPLC. The poor must become a top priority if we are ever to be constructive in eliminating poverty.

ON EUTHANASIA

"We have come to the agonizing realization that some in our midst have been ruled 'unworthy to exist' and that others are soon to be similarly classified."—NYPLC Declaration of Purpose.

The NYPLC supports the development of programs designed to eliminate the isolation of the elderly, the mentally and physically handicapped and the ill from our society. Furthermore, improved delivery of medical, social, financial and spiritual help for these people is strongly encouraged.

Realizing that all individuals, regardless of stage or condition, have and inherent value and dignity, the NYPLC must oppose any act of euthanasia. While we are working to pass a total human life amendment to the U.S. Constitution, we will also investigate further, with intent on implementation, various programs designed to enhance the life of the aged, retarded, physically handicapped and seriously ill.

ON GOVERNMENT BIRTH REGULATION

The NYPLC believes that family size is a matter to be personally determined by individual couples in consideration of their particular life situation. No government can usurp this right nor shall any government impose on any person the number of children they may have. All attempts at compulsory or coercive birth regulation will be opposed by the NYPLC.

ON ECOLOGY

The NYPLC acknowledges that man has always worked to conquer nature and in his efforts has been destructive to the natural life cycles in land, air and water. This desire to control nature than work with nature has resulted in our current environmental crisis. The NYPLC supports efforts aimed at renewing our respect for nature and programs designed to cooperate with nature. The Coalition urges personal involvement in conserving our environment (both external to the human body and internal to it) and our natural resources. It stresses, too, that industry has a proportionately larger role to play and urges their increased cooperation with nature.

ON PRISONER REHABILITATION

The NYPLC feels that all efforts at prisoner rehabilitation should be motivated by the intrinsic value and dignity of the prisoner-individual and should be directed toward the development of his or her talents. Individual human life can never become devoid of value nor is it ever an over-powering threat to the society. The destruction of human life as a means whereby criminals are punished and/or eliminated as a danger to society is not accepted by the NYPLC.

The work to abolish crime must not begin with abolishing the criminal. The NYPLC supports intensive and extensive research into the complexities of crime, the rehabilitative effect and potential of our prisons and the justice or so-called justice imparted by our legal and judiciary systems. Prisoner rehabilitation gives to society a profound opportunity to respond compassionately and constructively to a most difficult problem.

ON PEACE

The NYPLC encourages efforts to solve international conflicts which are constructive and non-violent in nature. More directly, we seek a deeper understanding of the *real causes* of international violence. Something deep within the human person seeks peace. Lasting peace can only be actualized when we believe in our own lives and in the lives of others.

Inherent in the NYPLC's work for peace is the belief that "there is no human life not worth living" and our opposition to the destruction of human life to solve international conflicts.

Mr. HATFIELD. Mr. President, I thank the Senator from New York, my good friend and my back-row seatmate here, for yielding to me and I trust that Congress will be able to move beyond the emotional questions and divisiveness to act upon the resolution before us.

Mr. BUCKLEY. Mr. President, I rise again to first of all thank the Senator from Oregon for his remarks. I believe that he has, as usual, gotten to the heart of the issue, that is, the need to allow the people to make this decision that affects their lives, that affects the tradition of ethical concern for human life that has been the heart of the American experiment, and that quality of insight that has been the heart of Western civilization.

This is not the sort of issue that the Supreme Court has a right to determine in a split decision, in a decision, moreover, that one Justice described as an extravagant exercise of the power of judicial review.

I want to also say, Mr. President, that the Senator from Oregon is not a sunshine soldier or patriot in this cause. He has individually spent an extraordinary amount of the past 2 years carrying this message across the continent in as eloquent a way as is possible.

I urge the Members of this body to consider his words with thought, put personal feelings aside so that the matter can be referred where it ought to be referred, to the several States.

I also want to say, Mr. President, that there is in this body, in this Chamber, at this moment, another man who has contributed above and beyond the call of duty to this cause. I speak of the Senator from Oklahoma (Mr. BARTLETT) and I am glad to yield to him the remainder of my time.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from New York. I wish to compliment him and the Senator from Oregon for their remarks on this issue of great importance to the Nation.

I think it is most important that we recognize that this is the prime issue and raise the question, is this the direction of leadership that this Nation wants to provide for the rest of the world?

Are we wanting to terminate the lives of so many human beings?

Are we wanting, in my opinion, to discriminate against the poor by this Government financing abortions of so many lives of the poor, of the unborn of the poor?

S. 318—PROHIBITION AGAINST THE USE OF HEW FUNDS FOR ABORTION

Mr. BARTLETT. Mr. President, today I introduce a bill to prohibit the Department of Health, Education, and Welfare from spending or furnishing Federal funds for the performance of abortions, except in cases where the prospective mother's life is in danger.

The PRESIDING OFFICER. Without objection, the bill will be received and properly referred.

Mr. BARTLETT. Mr. President, I know my colleagues remember that I introduced this bill in the form of an amendment to the HEW appropriation bill.

During the debate on the amendment, several issues, such as its constitutionality and the lack of hearings, were raised.

Both of these issues were rejected, and on a 50-to-34 vote a motion to table the amendment failed. The amendment was agreed to and, as part of the HEW appropriation bill, went to conference.

Unfortunately, here is where the real foot shuffling on the amendment began.

Behind closed doors, with no record vote, the conference committee deleted the amendment, saying:

> A majority of the Conferees strongly support the apparent intent of the Senate amendment to prohibit the use of public funds to pay for or encourage abortions. Nevertheless, they are persuaded that an annual appropriation bill is an improper vehicle for such a controversial and far-reaching legislative provision whose implications and ramifications are not clear, whose constitutionality has been challenged, and on which no hearings have been held. The rules and traditions of both the House and the Senate militate against the inclusion of legislative language in appropriation bills. The Conferees urge the appropriate legislative committees of the Congress to give early consideration to the enactment into basic law of carefuly drawn legislation dealing with the subject of abortion.

Frankly, I cannot think of a more appropriate vehicle to cut off funds than in an appropriation bill.

But, be that as it may, I am complying with the wishes of the conference and I am reintroducing this measure of the form of a bill. I trust, in accordance with the pledges of in the conference report, that hearings will be rapidly forthcoming.

It still amazes me that the Federal

Government is funding through medicare some $40 to $50 million a year to perform 270,000 abortions. The point I would like to make in referring to the conference committee report is that no hearings have been held to make these payments and yet their statement in rejecting the amendment was that no hearings had been held on the amendment.

So I would like to point out again that they have not held hearings on the matter of funding abortions for the poor.

This amendment has been criticized by people claiming that it discriminates against the poor of this Nation. My feeling, very strongly, is that the present law, as interpreted, providing funding of abortions to the poor, discriminates against the poor by discriminating against the unborn of the poor.

I feel that we should not discriminate against anybody, but in this case the discrimination is against the fetus because of its size. The prime question in the Supreme Court decision, which literally provided abortion on demand for 6 months, was a question of whether or not we are dealing with human life. The Supreme Court in its deliberations discussed the point that if we were dealing with human life, then their whole contention would fall apart because the 14th amendment would provide the protection for the fetus. They contended that there was no consensus among all the experts of the Nation as to whether or not human life was involved. Some people appreciate this thinking, this fuzzy thinking, of the Supreme Court because then they do have to face up to the real question of whether or not human life is involved. I think it is very obvious, if someone is at all objective or candid, that human life is involved.

Let us look at this rather basic question to the whole problem in a biological way, and let us look at the practice that has been happening for several years in the cattle industry, just looking at it biologically.

In that particular case, because of the desirability of importing certain cattle to this Nation, and because of the health laws involved, there has been delay; there have been bovine implants made in this Nation where the fertilized egg has been taken from a cow in Canada and then transported to Oklahoma and implanted in a cow. Where does life begin? Certainly and obviously it began in Canada. It began with conception.

Let us look at this as far as human life is concerned. We have now in Europe at least five test tube babies, as they are called.

The test tube babies, and there are at least five in Europe, were conceived in a test tube. Conception took place there. Then the fertilized eggs were implanted in a woman. The normal period of childbearing then took place. Where did life begin?

I think the question is very easily answered. I think it is very obvious that the Supreme Court in its fuzzy thinking has taken us down the wrong path.

I believe it is time for this country to face up to what it is doing and what is being done. I know the concern that Americans have over life, but I would like to remind all Americans that in our strong belief in life, liberty, and the pursuit of happiness, liberty and the pursuit of happiness only have full meaning when there is a guarantee to life also.

So, Mr. President, I ask my colleagues to join with me in this bill which hopefully will have hearings and hopefully will be considered soon by the Senate so that we can cut off the funds which are financing this very questionable practice.

I want to again associate myself with the remarks made by the two Senators who have just spoken on this subject, the Senator from New York State and the Senator from the State of Oregon.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. TALMADGE) is recognized for not to exceed 15 minutes.

NATURAL GAS PRIORITY FOR FERTILIZER AND FARM CHEMICAL PRODUCTION

S. 319

Mr. TALMADGE. Mr. President, I am introducing two bills today to provide for a natural gas priority for fertilizer and farm chemical producers. The first of these bills is the same as I introduced during the 93d Congress, namely, S. 4216. It would provide for permanent natural gas priority for fertilizer manufacturers; farm and animal feed chemical producers; and, for agricultural crop drying, next to that now enjoyed by existing residential users. The priority provided in this particular bill would apply to meeting existing "feedstock and process fuel" capacity requirements as well as for expansion of capacity. It also would apply to both interstate and intrastate gas supplies. Furthermore, it would prohibit any new contracts being entered into, upon enactment, involving the use of natural gas or propane as a "boiler fuel."

S. 320

In that provisions of this particular bill will be considered by the Senate Commerce Committee as part of a new, more comprehensive natural gas bill—which undoubtedly will take some months to clear Congress—I am introducing a second bill which would provide interim emergency natural gas relief to fertilizer and farm chemical producers until December 31, 1975. The priority provided in this second bill would also be next to existing residential users, but would be limited to "interstate" natural gas supplies and existing capacity requirements only. I intend to urge the Senate Commerce Committee to act upon this bill first so we can hopefully get our Nation's fertilizer plants back into full production as soon as possible.

A number of fertilizer plants in various parts of the country already either have been completely shut down or are now operating at less than capacity due to natural gas curtailments. These curtailments in production are now resulting in the loss of thousands of tons of ammonia and nitrogen fertilizer materials each month. And given the fact that manufacturers are now in a period of building up inventories of these products, in order to meet the peak demands this spring, each ton of lost production now will mean that much less tonnage available when it is needed by farmers in the spring. And we must also keep in mind, even before these curtailments began, maximum production of these materials throughout this entire year would not have been sufficient to meet anticipated demands during the 1975 crop year.

Current estimates of natural gas curtailments affecting nitrogen fertilizer production in the United States during this year range from a low of 400,000 tons to a high of 1.5 million tons in lost nitrogen production. If this is allowed to occur, as much as 600 million bushels of lost food and feed grain production could occur later this year.

Nitrogen fertilizer plants in the following locations either were, or are now completely shut down, or they are now operating under some degree of natural gas curtailment: Tunis, N.C.; Cherokee, Ala.; Muscle Shoals, Ala.; Clariton, Pa.; Fort Madison, Iowa; Fort Dodge, Iowa; Redland, Calif.; Brea, Calif.; Dodge City, Kans.; Helena, Ark.; Dimmitt, Tex.; Plainview, Tex.; Sioux City, Iowa; and Helena, Oreg.

The fertilizer plants in Tunis, N.C.; Cherokee, Ala., and Muscle Shoals, Ala., all obtain gas from the Transcontinental Gas Pipe Line Corp.—TRANSCO. The Tunis plan was completely shut down on December 31, 1974. The Cherokee, Ala., plant has been cut back to about 35 percent of production capacity since mid-December, 1974. And the Tennessee Valley Authority's plant in Muscle Shoals, Ala., as I have already indicated, has also been placed in curtailment due to natural gas cutbacks.

While I understand TRANSCO has suddenly found some additional natural gas supplies again, which it is now willing to allocate to both the Tunis and Muscle Shoals plants, it will be for only a temporary period—until February 1, 1975. No additional supplies have been found, to the best of my knowledge, for allocation to the Cherokee plant

All of these plants—and others—have filed emergency relief petitions with the Federal Power Commission to see them through the balance of this gas year—April 15, 1975. In hearings held before the Commission last week, Mr. J. Dawson Ahalt of the U.S. Department of Agriculture, appeared to respond to Commission questions regarding some of these petitions. His exchange with the Commission is instructive regarding this matter, and I ask unanimous consent to have it printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PREPARED TESTIMONY OF J. DAWSON AHALT

QUESTION. What is your name and position?

ANSWER. J. Dawson Ahalt, Staff Economist, Office of the Secretary, U.S. Department of Agriculture.

QUESTION. What is the situation regarding the closing of fertilizer plants due to curtailments of natural gas?

ANSWER. The United States Department of Agriculture is greatly concerned over the recent closings, as a result of curtailment in natural gas supplies, of several plants engaged in the production of ammonia used for agricultural fertilizers. Natural gas curtailments have resulted in the closing of several major ammonia plants which mainly serve agricultural accounts. The annual capacities of the plants involved are as follows:

1. Farmers Chemical Association, Tunis, North Carolina—210,000 tons.
2. United States Steel, Agricultural Chemical, Cherokee, Alabama—177,000 tons.
3. Tennessee Valley Authority, Muscle Shoals, Alabama—74,000 tons.

Question. What effect has this had on the production of nitrogen fertilizer?

Answer. The total annual capacity of ammonia of these plants amounts to about 461,000 tons which equates to 378,000 tons of nitrogen. The potential loss of nitrogen from these plants for the three-month period January 1 to March 31, 1975, is estimated to approximate 100,000 tons.

Question. What effect will the curtailment of nitrogen have on the agricultural economy of the Southeast?

Answer. The estimated average response of corn to nitrogen (at 100 lbs. of nitrogen per acre) is one bushel for each three to four pounds of nitrogen. Curtailment of 100,000 tons of nitrogen thus translates into 50 to 75 million bushels of corn or about 1 percent of total production in the United States. If this is priced at current market prices, it would involve a loss of about one quarter billion dollars.

The impact of these closings on the Southeast is particularly severe. Nearly all of the impact of the known curtailment is in the Southeast and results from curtailments on the Interstate Pipeline System—Farmers Chemical Association and United States Steel, Agricultural Chemical and the curtailments to T.V.A. The loss in that area amounts to perhaps 10 percent of the total nitrogen used in 1974 in the Southeast. If the curtailment were allocated among crops in relation to past use of nitrogen, in the Southeast it could result in a 23 percent reduction in corn output, alone, and also adversely affect production of other crops that are important to the economy of this area. The closing of the Farmers Chemical Association plant at Tunis involves a loss of nitrogen of approximately 50,000 tons in the period January 1 to April 16 and could cause one half of this impact in the Southeast.

Question. What do you expect the demand situation for nitrogen to look like this year?

Answer. Nitrogen fertilizer use during fiscal year 1974 was at a record 9.1 million tons of nitrogen—10 percent above the 8.3 million tons used a year before. Demand for nitrogen fertilizer in the United States is expected to increase further in fiscal year 1975. The closing of these plants thus will exacerbate an already nationwide tight supply situation.

Question. Are there other materials used in the agricultural production process that are affected by these curtailments?

Answer. This Department is also concerned about the effect that curtailment of natural gas is having on the production of pesticides. These materials are critical in the production and protection of a number of agricultural commodities.

Question. What position does the Department of Agriculture take with respect to the plant closings?

Answer. The losses in agricultural production which will result from these plant closings comes at a time when the President and this Department have called upon farmers to produce food and fiber to full capacity. Fertilizers and agricultural chemicals are particularly needed to achieve those goals. Accordingly, we recommend that relief be provided to the aforementioned plants involved in the production of these essential items for the agricultural economy.

Mr. TALMADGE. Mr. President, as Senators know, I have addressed the Senate regarding these problems on several occasions over the last 2 months—on December 5, 14, and 18, 1974, and now again today. And while I know a certain amount of time is required for everyone concerned at the Federal level to develop an understanding of these problems and what ought to be done about them, my patience—and that of the agricultural community—is fast running out; unless action regarding the establishment of a natural gas priority system for fertilizer and farm chemical production is accomplished soon, the results later this year could be disastrous.

It is obvious to me that no real relief can be expected from the Federal Power Commission, despite its power to provide such relief. The Commission continues to cling to its 467 B priority system which, in my judgment, is as out-of-date as the one-horse plow.

Mr. President, in closing, I would like to call attention to the conclusions reached in an FPC staff report issued last month which tends, among other things, to support the thrust of the legislation which I am introducing today. In the final paragraph of this report, it states the following:

> Programs designed to cope with declining production (of natural gas) and to ameliorate the consequences of increased reliance on supplemental supplies must, therefore, include: mandatory natural gas conservation measures by Federal, State and local jurisdictions, for all uses of gas, including residential.
>
> Allocation of gas by Federal, state and local jurisdictions to high priority end uses, such as residential, small commercial and essential petrochemical and specialized industrial uses for which no other fuel is available.

The measure, I am introducing today is consistent with both of these recommendations. It would provide for curtailing the use of natural gas for uses such as boiler fuel or where alternative fuels could be substituted. And, it would allocate such supplies for uses where alternate fuels cannot be substituted; namely, the feedstock and process fuel requirements of fertilizer and farm chemical producers.

Mr. President, the final two sentences in the FPC staff report to which I have just referred, sum up the current situation very aptly:

> The hour is very late. The time for action is NOW.

Mr. President, I ask unanimous consent to have printed in the Record at this point the full text of both bills that I have just introduced.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Natural Gas Agricultural Priority Act".

Sec. 2. The Natural Gas Act, as amended (52 Stat. 821; 15 U.S.C. 717 et seq.), is amended by inserting immediately after section 22 the following new sections:

"NATURAL GAS FOR ESSENTIAL AGRICULTURAL PURPOSES

"Sec. 22a. (a) Notwithstanding any other provision of law or of any natural gas allocation or curtailment plan in effect under existing law, the Commission shall—except to the extent that natural gas is required to maintain natural gas service to existing residential and small commercial users—prohibit any interruption or curtailment of natural gas and take such other steps as are necessary to assure as soon as possible the availability in interstate commerce of sufficient quantities of natural gas for use as a raw material feedstock or process fuel in the production of fertilizer (including materials utilized in the production of fertilizer, such as sulfur), animal feed grade chemicals (including defluorinated phosphates and urea), essential agricultural chemicals, and for use in agricultural crop drying, in existing plants (for present or expanded capacity) and in new plants. All such uses are referred to in this Act as 'agricultural requirements'. Any priority granted under this section shall also apply to the use of natural gas to meet existing boiler fuel capacity needs of such agricultural requirements: *Provided,* That it is not feasible to meet such existing boiler fuel requirements with an alternate fuel (other than propane). As used in this section, 'sufficient quantities of natural gas' means the amounts of natural gas which the Secretary of Agriculture certifies to the Commission are necessary (1) to meet such agricultural requirements domestically; (2) to meet certain United States export requirements that are important to maintain, or expand United States imports of materials which are similarly essential to the production of food; and (3) to carry out certain humanitarian objectives in friendly countries under the Agricultural Trade Development and Assistance Act of 1954, as amended.

"(b) Notwithstanding any other provision of law, the rule implemented by the Commission pursuant to subsection (a) of this section shall also apply with respect to the availability of natural gas sold in intrastate commerce in any State which has not, within ninety days after the date of enactment of this section, adopted a rule to implement the purposes of subsection (a). The Commission shall formulate rules and regulations to implement this section.

"(c) In implementing the provisions of this section with respect to intrastate commerce, the Commission shall apply the provisions of section 17 of this Act.

"(d) Nothing in this section shall impair any requirement in any State or Federal law pertaining to safety or environmental protection, and the Commission, in carrying out this section shall not assume that there will be any lessening of safety or environmental requirements established pursuant to State or Federal law.

"NATURAL GAS CONSERVATION

"Sec. 22b. The Commission by rule shall prohibit boiler fuel use of natural gas and propane (except when propane is used for agricultural crop drying purposes) in interstate and intrastate commerce not contracted for prior to the date of enactment of the Natural Gas Agricultural Priority Act by users other than residential or small commercial users unless, upon petition by a user, the Commission determines that—

"(A) such user has a plan to convert as soon as possible to alternative fuels produced in any State; or

"(B) it is not feasible to utilize such alternative fuels at the time of such Commission determination.".

DIRECT COMMISSION AUTHORITY OVER AGRICULTURAL REQUIREMENTS FOR NATURAL GAS

Sec. 3. Section 7(a) of the Natural Gas Act, as amended, is amended by inserting immediately after the words "any person or municipality engaged or legally authorized to engage in the local distribution of natural gas or artificial gas to the public," the words "or to meet agricultural requirements as specified in this Act,".

S. 320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Natural Gas Act of 1975".

SEC. 2. Notwithstanding any other provision of law or of any natural gas allocation or curtailment plan in effect under existing law, the Federal Power Commission shall, within five days of application, grant applications for emergency relief to prevent interruption or curtailment of natural gas used as a raw material feedstock or process fuel, for which there is no substitute except propane, in the production of fertilizer and essential agricultural chemicals in existing plants to the extent required to prevent the impairment of production of fertilizer and essential agricultural chemicals, except to the extent that any such amounts are required to maintain natural gas service to existing residential and small commercial users.

SEC. 3. The provisions of this Act shall be effective on enactment and shall expire on December 31, 1975.

Mr. THURMOND. Mr. President, I am pleased to cosponsor two bills which the distinguished Senator from Georgia, Mr. TALMADGE, is introducing today. The thrust of these bills is to provide that manufacturers of essential agricultural chemicals, including nitrogen fertilizer, will receive a higher priority in the allocation of natural gas which is in increasingly short supply.

One of these bills would provide for permanent, long-range authority to give these essential agricultural uses top priority, next to residential utilization, as recipients of natural gas for feedstock and process fuel purposes. It is anticipated that such legislation will become part of a more comprehensive natural gas bill to be considered by the Senate Commerce Committee, which will take some time to complete. Hence, the second bill introduced by the senior Senator from Georgia is necessary to provide immediate, emergency relief through 1975 to nitrogen fertilizer plants which have been forced to shut down or drastically reduce production due to the inability to obtain sufficient natural gas.

The need for this legislation and its logic are abundantly clear. The United States has been called upon by its President, by its consumer citizens, and by the rest of the world, to increase its agricultural production. To increase the production of food and fiber, it is necessary to apply more fertilizer and other agricultural chemicals, whether the goal is enhanced yields on existing acreage or good yields from additional acreage brought into production. In many cases, the raw material necessarily used as a feedstock or process fuel in manufacturing these essential agricultural chemicals is natural gas.

If this Nation continues to follow a policy of giving low priority to agricultural chemical manufacturers in the use of natural gas as an ingredient, then there is no way that our farmers will have sufficient nitrogen fertilizer and essential pesticides to meet our production goals. The inevitable consequences will be even higher food prices in the grocery stores and less grain and other agricultural commodities available for shipment abroad.

In short, this legislation is vital to the health of the entire Nation and, further, will have a major impact on our ability to meet world food needs. I urge that both of these bills be promptly and favorably considered by the Congress.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. CULVER). Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that any time remaining under my order be transferred to the Senator from Connecticut (Mr. WEICKER).

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. WEICKER. Mr. President, I ask unanimous consent that Jack Harvey of my staff be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 328—MANDATORY GASOLINE RATIONING

Mr. WEICKER. Mr. President, I am today introducing, along with Senators MANSFIELD, CASE, HOLLINGS, METCALF, and HASKELL, a bill that would mandate the President to establish within 60 days a program for the nationwide rationing of motor gasoline. I strongly believe that we must legislate now for a mandatory gas rationing program rather than pass the buck to the President through a grant of standby rationing authority.

In his state of the Union address the President presented a comprehensive program designed to conserve our scarce fuel and to encourage further research and development for alternate sources of energy. Though I do not agree with important elements of the President's program, I commend him for taking decisive action and would emphasize that it is incumbent upon this legislative body, if it is not in agreement with the President, to expeditiously develop its own energy program. Somewhere we must bite the bullet.

I strongly support the President's goal of reducing oil imports by at least a million barrels per day. However, I do not feel that a program of price increases through tariffs can achieve the type of reduction in the consumption of oil that is urgently needed. I am furthermore very concerned about the effects an across-the-board tariff on oil imports will have upon my home State of Connecticut and upon all of New England. New England's over-80-percent dependence upon outside sources of oil for its energy needs has already led to exceptionally high prices for all forms of energy use, in particular for home heating and industrial purposes. I fear that the additional costs imposed by the unilateral imposition of an oil import fee of up to $3 would create an intolerable burden for the people of New England and could directly affect the ability of many businesses and industries in the area to survive.

I believe that it has become quite evident that the most effective way to achieve an immediate and significant reduction in the consumption of oil in this country is to limit the use of motor gasoline at the gasoline pump. Gas rationing is designed to effect the necessary reductions by restricting the daily use of nearly 7 million barrels of motor gasoline for automobile travel. As the President has stated, measures for voluntary restraint have not produced the results that need be achieved. It also seems clear that high prices have not and will not sufficiently dampen demand for gasoline.

Particularly significant is the fact that while gasoline prices—untaxed—have increased across the country upwards of 50 percent since late 1973, demand has shown a corresponding decrease of less than 5 percent. I seriously question whether another price increase in the nature of 10 cents per gallon at the gas pump—the estimated average price increase resulting from enactment of the Administration's program of import fees and excise taxes and decontrol of domestic oil prices—will lead to the type of reduction in the consumption of gasoline that is being called for.

The problem does not lie in the fact that the American people are not willing to sacrifice, but that vacillation in Government policy has failed to inspire the sacrifice that Americans are ready to make. An October Gallup Poll indicated that 75 percent of the persons interviewed would agree to reduce the use of their car(s) by 10 percent. Just recently a Newsweek poll revealed that 55 percent of the persons contacted preferred gas rationing over increased fuel prices as a means to reduce energy consumption. Clearly, the American people are ready to sacrifice, but only if the Government is willing to take the lead by promulgating a coherent national program of mandatory energy conservation.

"The Mandatory Gas Rationing Act of 1975" does not legislate for a specific form of gasoline rationing. In the past I have suggested a plan of sticker rationing that would limit the number of days cars would be allowed on the road. However, I do not wish to legislate administrative decisions thereby reducing the flexibility necessary in the development of an effective rationing program by the executive branch.

The bill does provide for petition in hardship cases, especially for those who are not able to avail themselves of public transportation. In addition, the bill allows for appropriate adjustments in the overall allocation of fuel oil to carry out the purposes of a gasoline rationing program.

There is no easy solution to our "econergy" problems and certainly nobody, least of all myself, wants gasoline rationing. However, as a matter of policy, I am convinced that our Government must adopt a program of mandatory fuel conservation. Unless in the very near future this Nation can effect a major cutback in the consumption of oil, the flow of American money abroad will completely undermine financial stability in the Western world.

Mr. President, I ask unanimous consent that the full text of my introductory statement and of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mandatory Gasoline Rationing Act of 1975".

SEC. 2. Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h)(1) The President shall, within sixty days following the date of the enactment of this subsection, promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment and carrying out of a program for the rationing and ordering of priorities among classes of end-users of gasoline, and for the assignment to end-users of gasoline of rights, and evidences of such rights, entitling them to obtain gasoline in precedence to other classes of end-users not similarly entitled. In promulgating such rule, the President shall take such action as may be necessary in order to meet the needs of individuals who, by reason of their handicapped condition, are unable to avail themselves of public transportation facilities.

"(2) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(3) The President shall provide for procedures by which any gasoline user for whom rationing is established under paragraph (1) of this subsection may petition for a review or modification with respect to his ration. Such procedures may include the use of such State and local officers and boards as may be necessary to carry out the functions of this section.

"(4) No regulation or order under this subsection may impose any tax or user fee, or provide for a credit or deduction in computing any tax.

"(5) Notwithstanding any other provision of this Act, the provisions of this subsection shall terminate upon the expiration of the twelve-month period following the date of the promulgation of such rule required under paragraph (1) of this subsection.".

Mr. WEICKER. Does the Senator from Montana, due to his schedule, care to comment at this time? I will be glad to yield to him.

Mr. MANSFIELD. Yes; if the Senator will allow me to make a few statements and raise a few questions.

Does the Senator think that the American people have been called on up to this time to make any real sacrifice so far as inflation, recession, or the energy issues are concerned?

Mr. WEICKER. In response to the distinguished Senator from Montana, I say to those who inquire as to why the situation has become worse during the past year that it is because we have done nothing. The Senator from Montana and I are standing in exactly the same position, talking about exactly the same issue 1 year later, and no action has been taken. It is good for members of his party and my party to talk about the good things in life, such as tax rebates, but I do not see how we can climb out of our present difficulties unless there is also a little hard news and a little sacrifice.

Mr. MANSFIELD. I am not at all sure that tax rebates are the answer. It appears to me that is the easy way out, and everybody will vote for it. But it does not face up to the problem. It temporarily puts a little extra money in the hands of those who are the recipients of tax relief in that form.

I would hope that consideration would be given to the possibility of reducing taxes this year, rather than a rebate for last year. I think there is much more to it on that basis. Certainly, it calls for no sacrifice to vote for a tax rebate at a time such as this, or at any other time, for that matter.

Is it the Senator's understanding, with respect to the President's proposal to eventually impose an import tax of $3 on imported petroleum—February, March, April—that that tax will automatically increase the price of gasoline at the pump?

Mr. WEICKER. In response to the distinguished Senator from Montana, I say two things: First of all, I agree with and I am glad to hear him comment as the business of the tax rebates. I do not think tax rebaters are the answer, either and I think what he is focusing on is so important. It is that sacrifice has to be involved here. The traditional political responses are probably what has put us into our present predicament, and certainly our holding to them will not get us out of our predicament.

It is my understanding, and I cannot speak for the administration, that, yes, the additional tariff will raise the price of everything associated with oil—not just gasoline, but heating oils and all the products associated with oil. In fact, it will be an inflationary measure in and of itself.

Mr. MANSFIELD. I believe the figures bruited about are anywhere from 10 cents to 20 cents increase in the price for a gallon of gasoline. Does the Senator recall any figures resembling them or approximately them?

Mr. WEICKER. Roughly in that area relative to gasoline, and probably even a greater impact in the area of heating oil.

Mr. MANSFIELD. The President said the other day quite emphatically that if we went to rationing, it would mean 9 gallons a week for individuals who use cars. I have a great respect and affection for the President, but I think that is a very, very, conservative figure because of the amount of petroleum supplies we have on hand and the amount of reserves which have been increased, not to any great extent.

Furthermore, as far as rationing is concerned, it would not be on that kind of a basis of inequality, but on the basis of understanding the needs of the working man who probably has to drive 20, 30, 40, or 50 miles. It would be on the basis of correcting inequities, not on the basis of treating all people equally so that all people would get the same amount of gasoline each week.

Does the Senator know the percentage of self-sufficiency which this Nation, based on its own production, is capable of or is operating on, producing at the present time?

Mr. WEICKER. Yes; I believe the figure is around 75 percent, and this, I think is what really puts the entire picture into proper focus. With the exception of the oil-producing nations themselves, we are probably better off than any other nation in the world. Just with a minimal amount of sacrifice on our part we should be able to do the job here.

Mr. MANSFIELD. The Senator is absolutely correct. My recollection is that the figure was somewhere around 85 percent. What we have been doing is importing most of our needs, not from the Middle East—I want to emphasize that, not from the Middle East, because when the question of oil comes up, it is always the Middle East. We import about 28 percent from Venezuela, about 18 percent from Canada, and half of that is Venezuelan crude, while 9.5 percent comes from Nigeria, 10 percent from Iran, which, in the ordinary sense, is not a Middle East country, 4 or 5 percent from other countries outside the Middle East. The first Middle East country, Saudi Arabia, is responsible for 9.5 percent of the imports; in other words, about a third of our imports come from the area which we describe colloquially as the Middle East.

If we can supply, ourselves, up to 85 percent, which the Europeans cannot do and which Japan cannot do, why do we have to wait until the year 1985 to complete Project Independence? Why can we not become independent within 2 or 3 years? We are wasting, according to studies made by the Ford Foundation and Senator NELSON's subcommittee, between 35 and 40 percent of our energy—wasting it. So we are making no sacrifices. If we tighten our belts just a little, if we reduce gasoline consumption just a little, if we built up our reserves, say, for a period of 3 to 6 months, it would appear to me, contrary to all that is said in the newspapers and downtown, that we do not have to wait until 1985 to become self-sufficient in oil. We have the resources if we have the guts to face up to the realities of the situation and get away from this never-never wonderland in which too many of us have put ourselves.

It is our own fault, absolutely—nobody else's—that we waste this gasoline and that we fear to face up to the realities of the situation.

I commend the distinguished Senator, who, once again, is leading the fight to ask the American people to achieve some degree of stability in the area of petroleum and who is pointing out, quite correctly, that the President's proposal to place a $3 import tax on petroleum is going to increase the price of gas. In other words, it is an indirect tax on gasoline, and the alternative the Senator is offering to the Senate and to Congress, to the people and to the administration, is far more equitable, far more feasible, and certainly is far more understandable.

I have been surprised in the last couple of days—I did not expect this—to get a number of letters and telegrams from my own State of Montana in which my constituents say that now they would prefer rationing rather than having the price of their gasoline at the pump increased, because of the $3 impost on imported petroleum products.

The Senator from Connecticut has led the fight in this area. He is right. I think if we ask the people of America to do something little in the way of sacrifice, they will be more than willing to assume the burden. The primrose path we are following now can lead only to economic disaster; 12.2 percent inflation is not the answer; 7.1 percent unemployment is not the answer. Talk of war in the Middle East is not the answer. Therefore, I hope that we will come back to reality, and do what has to be done.

I wish to assure the distinguished Senator from Connecticut that as far as I am concerned, I will give him every bit of support that I can. He is doing a service.

Mr. WEICKER. I thank the distinguished Senator from Montana. I think he has responded to a fair question that the President of the United States asked, which was: Never mind Congress giving me standby authority; let Congress speak for itself. Let Congress go ahead and toe up to the mark and vote for the various solutions rather than giving me—the President—a variety of alternatives. The Senator from Montana has spoken very clearly as a Member of this body.

I do, too, because the problems of inflation and recession that we are now involved with are not a New England problem; it is not a middle America problem; it is not a black problem; it is an American problem and America must move together to solve our energy crisis.

This Nation's story is a story of the majority, rather than shifting the burden over to the minority, accepting that burden as their own.

There has been no solution to the problem of inflation that is caused by high-priced oil, and the solution, it seems to me, plainly lies in the reduction of consumption. One year of voluntarism has been 1 year wasted, and has represented many hundreds of thousands of jobs lost.

Mr. HASKELL. Mr. President, will the distinguished Senator yield?

Mr. WEICKER. In just a minute. One year of taxing the poor and the elderly is equally no good. The time is now for all to share in the uncomfortable task—and I mean uncomfortable according to political traditions—of conservation. If we do, the price of gasoline will come down. Furthermore, it will hold the line on spiraling fuel prices, while we develop mass transit, while we develop smaller cars, while we reconstruct our architecture so that we do not have air-conditioning all year long, and while we develop alternative sources of energy, such as solar energy. The alternative, as the Senator from Montana has stated, is the continued outflow of dollars to other nations and the economic ruin of this Nation.

I am glad to yield for additional comments or questions to the distinguished Senator from Colorado.

Mr. HASKELL. Mr. President, I thank the distinguished Senator from Connecticut, and I commend both the Senator from Connecticut and the Senator from Montana (Mr. MANSFIELD) for taking the initiative.

I would like to ask the distinguished Senator from Connecticut a question. That is, does the Senator know of any other way, short of rationing, to have an immediate impact to decrease the consumption of petroleum products?

Mr. WEICKER. Absolutely none. And I do not believe that the imposition of these additional taxes is going to reduce consumption one bit. It will breed inflation; it will not significantly reduce consumption.

Mr. HASKELL. I would concur with the distinguished Senator. I have another question: As the distinguished Senator has articulated, conservation and increased production are the two tools we have to meet the problem facing us. I assume that the distinguished Senator would concur with the Senator from Colorado that rationing has the most immediate impact, but conservation generally has a more effective impact in increasing the supply?

Mr. WEICKER. Absolutely. What we have to do right now is hold the line now. Just think: The distinguished Senator from Montana a year ago made comments identical to those he has made today. Where would we be had those comments been heeded? We would be way ahead of our present situation. Somewhere we have to start; for God's sake let us have a mandatory fuel conservation program right now, and not 10 years from now.

Mr. HASKELL. I agree with the distinguished Senator from Connecticut. Actually, in December of 1973 I attempted to get mandatory gasoline rationing on the emergency energy bill which President Nixon later vetoed. If we had had rationing in effect for 12 months, we would probably be $30 billion or more ahead.

I have one further question: Would the Senator agree with me that from a national economic welfare and security viewpoint, we simply cannot afford the transfer of dollars overseas for oil in the amounts that we now have them?

Mr. WEICKER. In response to the question of the Senator from Colorado, every day that goes by without conservation measures is a further display of our weakness to those who are setting the artificially high price. It proves to them that they are right, that they can maintain their inflated price and they can jack it up still farther. Every day that goes by that this Nation does not act shows there is inherent weakness in the Nation.

What I think is unfair is that I do not think the American people are at all weak. But I must confess that the political leadership—both in the executive and the legislative branches—is speaking some very weak language right now. I want to see done what everyone feels in his heart should be done; I want the message to be heard that there is no way we are going to be able to stanch the outflow of dollars unless energy conservation becomes a national ethic.

Mr. HASKELL. Would the Senator concur that raising the price of imported oil by $3, or to a level of $14, and decontrolling of oil prices in the United States—which would inevitably mean that domestic oil would cost $14—would the Senator agree that that would impose an intolerable burden on all of our citizens except the very rich?

Mr. WEICKER. The answer is yes. I would only depart somewhat; we have not discussed the aspect of deregulation, and it is of deep concern to me. But there is no question that the present policies that are being advocated will have a limited effect upon the more fortunate in this country. That is why we say that the fact that we keep on looking at each other in terms of poor, rich, and middle income is a matter that really annoys me, and bespeaks the need of leadership. It is the problem for all of us to solve; it is an American problem. A rationing program will require all Americans to equally sacrifice in this national effort to reduce our energy consumption.

Mr. HASKELL. I would agree. And the rationing proposal is something every one of us in this country, regardless of how we are classified otherwise, will share in the burden equally, and I commend the Senator from Connecticut and the Senator from Montana for the introduction of this measure.

Mr. President, as I have stated, in December 1973, I offered an amendment to an emergency energy bill which would have required the FEO—now the FEA—to report back to the Congress within a specified period of time a plan for gasoline rationing. I got less than the 50 votes required. But I am convinced that if that amendment had carried, and if the energy emergency legislation had been signed instead of vetoed by former President Nixon, our Nation could have avoided a large part of the energy supply crisis that has plunged us into a recession.

This Nation, which was self-sufficient in energy through 1950, now imports 7.3 million barrels of the 17 million barrels of oil it consumes a day. And an increasing portion of that imported oil—nearly 30 percent—comes originally from Arab wells. The actions by the OPEC nations have nearly tripled the price of oil in the past 18 months. The price we pay for importing that oil is leading us to economic disaster.

The transfer of over $30 billion a year of American money to the OPEC nations must be stopped. And it must be stopped now if we are to have any hope of climbing out of our recession.

So far we have clearly lacked the commitment to and the leadership for stiff energy conservation measures. But introduction of this legislation today is ample evidence that the awareness of the need to conserve is increasing rapidly. A recent poll indicates that the American people favor gasoline rationing over higher gas taxes 55 percent to 32 percent. Even though the President has indicated he would veto any legislation containing a mandate to implement gasoline rationing I believe we must persist. We can no longer afford to ignore the inevitable and must bear the responsibility of conveying this sad news to the American people.

In addition to gasoline rationing other stringent conservation measures are urgently needed. The recent final report of the Ford Foundation Energy Policy Project and the Federal Energy Administration's Project Independent Report tell us that if we get tough and do more than talk about energy conservation we can save anywhere from 3.49 million to 4.02 million barrels of oil per day in 1985. That is two-thirds of our total oil imports and it converts to a savings of between $28 million and $38 million now leaving the country daily to buy OPEC oil.

These conservation measures are not far-out ideas cooked up by crazy scientists. For example, a year ago the Treasury Department issued a shopping list of fairly simple energy conservation steps:

Set thermostats 3 degrees higher in summer, lower in winter; increase the efficiency of industrial energy use by a mere 2 percent; improve the energy efficiency of commercial buildings by 10 percent; begin mandatory auto tune-ups every 6 months; use cold water detergents to end hot-water laundering; increase the load factors on commercial aircraft from 50 percent to 70 percent; and encourage car-pooling to increase the average number of auto passengers from the present 1.3 to 2.3.

Those are simple steps. But they could have been saving us 2.6 million barrels of costly foreign oil per day—not in 1985 or even 2 years from now but immediately. They were never implemented.

The only other immediately available tool to save a significant amount of oil is gasoline rationing. Other measures will be necessary in the near to long term, such as establishing a mandatory 20-mile-per-gallon standard for autos and establishing programs to increase use of public transit and discourage generally the wasteful use of the private auto to eliminate the need for rationing. These two steps alone could save from 1.46 to 2.02 million barrels of oil a day by 1985—and more than half that could be saved in 3 years.

But we cannot afford to wait. And the American people cannot afford the President's program of conserving oil by dramatic increases in the price of imported oil. That program would add an inflationary $30 million this year alone. Even if the economy as a whole could stand it the consumers—those hit first and hardest—cannot. We must find an alternative. And in my view rationing is the most direct answer to the problem.

I do not discount the need to work on the supply side of the energy picture. But that has serious lead time problems. The environmental consequences of a go-for-broke supply increase are enormous and must be carefully weighed before we go ahead.

As the issue is discussed further in the coming weeks I intend to pursue several issues which may need to be proposed in the form of amendments to this basic piece of legislation. I hope the sponsors will be amenable to these amendments. They would include:

Setting a specific goal, such as a saving of one million barrels per day, for the rationing program;

Insuring the rationing coupons will be negotiable instruments to guard against the growth of a black market;

Considering ending rationing when this Nation achieves 85 or 90 percent self-sufficiency in energy, instead of cutting the program off after 12 months;

Recognizing tourism as an industry and insuring the coupons will be cumulative so that those who desire to cut corners elsewhere to save for somewhat longer trips will be able to do so; and

Insuring the Congress will have an opportunity to review the administration's proposal before it is implemented. If rationing is forced on the President in spite of his avowed opposition, we will need to take a careful look at the program to insure that it is implemented in accord with our intent—not merely a program designed to fail.

I commend my distinguished colleagues for their willingness to face this most unpleasant issue squarely. Those of us who shy away from carrying the distasteful message to our constituents, to make them understand that we are on the brink of economic disaster, will be held accountable.

We must cut our dependence on foreign oil to avert that disaster. Mandatory rationing is urgently needed and I am pleased to cosponsor this legislation to require it.

Mr. WEICKER. I thank the Senator from Colorado and the Senator from Montana for their foresight. I hope we can have hearings in the Senate, to show that we can act, that the initiative sits here and that the Senate can act.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes of my time to the majority leader.

Mr. MANSFIELD. Mr. President, will the Senator from Connecticut yield?

Mr. WEICKER. I yield.

Mr. MANSFIELD. To sum up, the American people have not, repeat, have not been made aware of the increasing deficit in the balance of payments, which has skyrocketed until it has now quadrupled what it was a little over a year ago.

Furthermore, we are aware that the OPEC countries in Africa, in Latin America, in and around the Middle East, and in Southwest Asia can, if they so desire, turn that spigot off and on. So we have no assurance of a continued oil supply except at extraordinary price levels, and we have not even got that assurance in case of a further breakout of war in the Middle East, as far as that region is concerned.

Of all the oil-producing countries in the Western World outside of OPEC, this Nation is the most fortunate, because it produces, for its own consumption, 85 percent of its needs, whereas Western Europe, even with the North Sea oilfield development, probably is 85 percent deficient, depending upon imports, and Japan is almost totally dependent upon imports, and because of that is now in the process of trying to make arrangements, and probably has, with oil-producing nations so that its economy can keep going.

We are also aware of the fact that there is a 35- to 40-percent wastage of energy in the United States, and certainly, if that is the case—and I think it is, based on reputable studies by the Ford Foundation and by Senator NELSON's committee—there is no reason why we cannot sacrifice just a little through rationing, through cutting down on the thermostats, through using less air-conditioning, through insulating our homes, and do so in a way which, in my opinion—though I could be wrong—would within the next 2 to 3 years make this country self-sufficient in petroleum.

Mr. STONE. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. The Senator from Connecticut has to yield.

Mr. WEICKER. I yield.

Mr. STONE. I wanted to ask a question of either of the two introducing Senators as to whether under their rationing plan wasteful uses of energy are curtailed as opposed to curtailing across the board, the object being, of course, for all of us to find an energy policy that will put people back to work.

How will this fit into the plan of not merely curtailing inflation, which obviously it will help to do, but of attacking recession in the sense that the use of gas and oil will be allowed and fostered for productive use which means job-producing, productive use? How does that fit in?

Mr. MANSFIELD. If the Senator will allow me, to yield—time is running out—I would hope it would produce more car pools. You travel the highways here, one person to a car. You put four or five in a car, you not only save on your rationing so you can take a trip to Florida or some place else during the winter, but you also conserve energy, and you keep the price down.

As far as work is concerned, any system, as during the Second World War when we had an A, B, C, T system, made allowances for those who had to travel distances to work. Everybody was not treated alike, because if that was the case the people in the lower- and middle-income groups would once again get it in the neck, and they would be the ones who would make the greatest sacrifice and they are the ones who in reality should make the least.

Mr. WEICKER. What we have attempted to do in this legislation is to purposely be flexible, not pin a plan on the President. We said it has to be mandatory, it has to apply across the board and then, it seems to me, it is up to the President and Congress to work out the details of the plan. But obviously there are areas such as commercial use, agricultural use, and so forth, where the emphasis has to continue in order that, so productivity can be maintained.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. WEICKER. One minute.

Mr. ROBERT C. BYRD. The distinguished Republican whip yielded 5 minutes, and I ask him to yield 1 minute.

Mr. GRIFFIN. I yield 1 minute.

Mr. WEICKER. I would hope this would be something to be looked at, by both the President and the Congress.

What it boils down to in common parlance is that the United States is the world's greatest oil junkie, and the time comes now when we have to kick the habit, and it is as simple as that. And if there is going to be any economic strangulation, which I think is the term I have heard used, then, as the Senator from Montana has said, we will have done it to ourselves, because—I am my own executioner because—we have the capability to resolve this problem.

I thank the distinguished Senator from Michigan for his courtesy in yielding.

Mr. GRIFFIN. Mr. President, I know that the legislation introduced today has been offered in good faith, with good intention and the best of motives. But, frankly, I am somewhat amazed and mystified by this move on the part of my colleagues.

President Ford has already made it abundantly clear, as recently as his press conference the other day, that after carefully examining the various options available, to deal with the very serious energy problem confronting this Nation, he is convinced that rationing is not the answer.

Now, despite that strong indication by President Ford, my colleagues have introduced a bill that, as I have read it, would require the President within 60 days to impose a rationing program. In effect, the bill would merely call upon the President to devise and implement a "fair and equitable" rationing program.

Now, in light of all the talk in recent months and years about Congress recapturing its powers under the Constitution, this proposal seems very strange—strange in that it would hand to a President outright all the tough decisions about such a rationing program.

On the other hand, President Ford, in effect, said the other day that—

> If the Congress really believes rationing is the answer, then Congress ought to devise its own rationing program.

How should the scarcity of oil to be shared? How can a rationing program be made equitable? How large and what kind of an army of bureaucrats would be necessary to implement and enforce a rationing program?

None of the answers to these tough questions is addressed by the legislation introduced today. It merely directs the President within 60 days to put a rationing program into effect.

Now, the unfortunate fact is that rationing will not provide the answer to our serious energy problem. To propose it only delays the time when we can actually make the difficult decisions as to approach that really need to be made.

I wonder if anyone really thinks the American people would stand still for the regimentation required to enforce rationing—in peacetime—over a period of 5 to 10 years—the period required to achieve energy self-sufficiency.

Keep in mind that other industrialized countries in the free world—with more serious energy problems than we face—have already experimented with rationing and have found it lacking. It is interesting that other major free world countries have tried rationing, but have come to the conculsion that, like price and wage controls, it just does not work.

In the countries such as Japan and the European countries they have found it necessary, in order to dampen and restrain consumption to turn to price constraints.

Mr. MANSFIELD. Mr. President, will the Senator yield there

Mr. GRIFFIN. If I might just make this additional point: Not only will rationing not work, but it does leave room for the incentives that we absolutely need to develop and produce energy from alternative sources.

Mr. President, I yield the remainder of my time to the distinguished majority leader.

Mr. MANSFIELD. No. All I wanted to say was that in certain European countries, France especially, they have increased the price of gasoline per gallon on the basis of the amount which you use and, if my memory serves me correctly, it is somewhere up about $1.75 or $2 a gallon at the present time.

France has practically nothing in the way of petroleum to develop, and it is dependent upon North Africa and the Middle East, North Africa especially, the Algerian fields, to supply its needs. It has no interest in the North Sea, because it does not come down along the French coast and so far, at least, there are no development prospects along the French and the Spanish coasts.

So I would think that what we ought to do—incidentally, I commend the President for coming out with a program even though some of us disagree with it in part. I commend him for stepping out and assuming the cloak of the Presidency, and stating on two occasions what he thought should be done for the American people.

He has also said, if I remember correctly, that if the Congress did not agree with what he was suggesting, then the Congress itself should come up with its own proposals.

This is what the distinguished Senator from Connecticut and I and others are doing. It is nothing new, we tried to do it last year, we got nowhere. But it appears to me that if this country wants to become self-sufficient, it can, on the basis of various reasons given so far, and what we ought to do is fit our needs to our production and not be dependent on imports from the outside.

I thank the Senator for allowing me to make that statement.

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes each.

ORDER FOR ADJOURNMENT TO MONDAY, JANUARY 27, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROHIBITION AGAINST IMPOSITION OF TARIFFS ON OIL

Mr. KENNEDY. Mr. President, I send to the desk a joint resolution for the purpose of introduction and in accordance with the previous order ask that it be considered to have had first and second readings and that it be placed on the calendar. I would send it to the desk on behalf of myself and the Senator from Washington (Mr. JACKSON).

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement, the resolution will be considered as having been read twice and placed on the calendar.

Mr. KENNEDY. Mr. President, I send this measure to the desk on behalf of the Senator from Washington and myself and 50 other Members of the U.S. Senate.

Mr. President, since this resolution has been actually printed and circulated, in the first 4 or 5 hours we were able to get 30 cosponsors and in the remaining hours yesterday, 19 in addition. I daresay that is a clear indication that this represents overwhelming sentiment of the Members on both sides of the aisle.

I stress at the very outset that this resolution has not only the strong support of Senator JACKSON and myself, but also members of the President's own party who urgently ask him at the time of this introduction that he give this resolution the kind of thoughtful consideration that those sponsoring this resolution believe it deserves; to recognize that we who are the cosponsors of the resolution want to play a constructive and positive role with the President of the United States in fashioning an energy program that will meet our national objective and respond to our needs. Those sponsoring this resolution support many of the measures that have been initiated by the President of the United States, and in his state of the Union address. However, we question deeply the import fees and the removing of price controls on oil prices.

Mr. President, this resolution is a response to an emergency situation created by the President of the United States. Unless this joint resolution is enacted on February 1, there will be an immediate increase of $1 in the tariff fees on imported oil, to rise to $3 per barrel by April 1, under a proclamation which the President has indicated he intends to sign today. We have urged him to reconsider that action; although I am not optimistic of that possibility and, in fact, I am told he plans to sign it this afternoon.

However, it is not expected to take

effect until February 1. That means we have barely 8 days to prevent the initiation of a tragically conceived policy which I believe will set forth a tidal wave of inflation through the economy, a policy which also will sink any possibility of our quickly halting the worst recession in this Nation since the 1930's.

I have expressed in the past, in correspondence to the President, and here on the floor of the Senate, my deep questions of the legality of the President's imposing such fees without holding public hearings or some other form of public participation before invoking section 232 of the Trade Expansion Act.

We amended that provision in section 127 of the Trade Reform Act of 1974 to include, for the first time, the provision directing public participation in the decisionmaking process. Our resolution in no way can be interpreted as having accepted the Presidential claim to the power of imposing new tariffs.

For not only the public, but the Congress as well, will be shut out from any consideration of the consequences of this action to consumers, business, or to the economy in general.

But we are not only facing a single barrel shotgun. Besides the imposition of a $3 per barrel on oil imports by Executive action alone, we also are faced with a second barrel—the decontrol of old oil prices. The President is planning to begin a process of lifting the ceiling on the price of old oil from $5.25 per barrel to $13.40 per barrel by April 1—a 155-percent increase.

The American people will get both barrels of a high price policy that will leave gaping holes in an economy that already suffers from the highest inflation since 1946 and the worst recession since the Great Depression. The President told the Nation only a week ago, "the state of the Union is not good." Yet despite the obvious intent of the President to reverse that picture, a $3 per barrel tariff and an $8.15 hike in the price of 60 percent of the Nation's domestic crude oil production will further undercut the state of the Union.

The President has told Congress that he does not want a single new spending program this year. Yet, with two strokes of the pen—one to proclaim new tariffs and one to lift the ceiling price on old oil—he will force the American people to spend $32 billion more this year for fuel. I do not think that is the answer to the Nation's ills and I do not believe the American people are going to accept that answer.

We are not introducing this joint resolution to create a confrontation with the President. He simply has given us no choice but to act in this way to provide us with the time to develop a fair and equitable alternative to these inflationary portions of his energy program.

Many other portions of his energy message, particularly the conservation measures, were positive. Many of them, in fact, have been passed by the Senate and the House but were in bills vetoed or opposed by the Nixon administration last year.

However, the heart of his package, the sky-high pricing of petroleum products through tariffs and the lifting of price controls on old oil, is deeply flawed. In the hopes of reducing consumption by 1 million barrels of oil by year-end, a hope that most experts do not believe will be achieved by the President's proposals, he has virtually doomed the possibility of reversing the recession and preventing the continued rise of unemployment.

The massive increases in oil prices will act as a catalyst to boost the prices of other goods and services as well so that the immediate withdrawal of $32 billion in direct energy costs will be followed by perhaps another $20 billion loss of purchasing power. Nor are we even calculating the cost of deregulating natural gas. The two actions that he intends to take alone will themselves produce a $55 to $60 billion dead weight on the economy.

It is to forestall that result that we have acted. This joint resolution, if enacted, would prevent for 90 days the imposition of higher tariffs on oil imports and the removal of crude oil price controls beyond those already in effect on January 1. Sixty days after enactment, a 30-day review period would begin on these proposals. If the President has submitted them prior to the 60th day, then the 30-day review period would begin ticking on the day of their submission to the Congress.

In this way, we are seeking to give the Congress the time to analyze fully the impact of the President's proposal and the time to develop an equitable and fair alternative; but one which will not produce in its wake, a worsening of our national economic situation.

Mr. President, this measure is absolutely essential. It is the intention of those who are sponsoring this resolution that we will have an opportunity at the first possible moment to permit the Members of the Senate to act to express their will.

We are realistic about the efforts that will be made by those who want to obstruct us. We have seen some of that at the time we introduced the resolution, the rather extraordinary efforts that were made to prevent its early consideration.

We recognize full well the administration will continue to try and frustrate what, as I mentioned, we believe is a constructive and positive expression by the Members of the Senate to provide the time we need to work hand in hand with the President. It will give us a reasonable opportunity to accept his challenge to the Congress of the United States that Pennsylvania Avenue be a two-way street, that we in the Congress who have views about this issue and other important issues will be able to work with the President in their resolution. It is really in that spirit that we offer it.

Mr. President, the measure itself is clear, as I and the Senator from Washington (Mr. JACKSON) have pointed out on the floor during the brief discussion and debate of this past week. All we are asking for is to delay the effective date of the President's recommendation on additional oil import taxes or the decontrol of old oil prices.

We want to permit the orderly processes of the committees in the Congress—the Ways and Means Committee in the House of Representatives and the Committee on Finance of the Senate—to consider the extraordinary economic impact that the President's measures would have on our economy, an economy that already suffers the pains of deep recession. We see that in acute relief in my own State of Massachusetts where we have the highest unemployment in 38 years.

Only this morning I listened to three of the most preeminent economists testify before the Joint Economic Committee, of which I am a member, and warn against taking $32 billion out of the pockets of the consumers in added direct fuel costs and the additional $20-odd billions that would be taken out of the purchasing power of consumers in indirect costs. They felt this would worsen the recessionary trend that we are experiencing in this country.

We are very much concerned about that. We recognize that there is a real emergency; but we believe that the approach we have taken here for a 90-day delay is not an unreasonable request.

Certainly, it is more prudent to have a program that has thoughtful consideration over the period of the next 60 days, rather than precipitously adopting a dangerously iinflationary program with a stroke of the President's pen.

The PRESIDING OFFICER. The 5 minutes of the Senator——

Mr. ALLEN. Mr. President, I ask recognition.

Mr. KENNEDY. Mr. President, Mr. President——

Mr. ALLEN. To the distinguished Senator from Massachusetts——

Mr. KENNEDY. Mr. President, excuse me.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. I am wondering on the time if there is——

Mr. JACKSON. I wonder if I can get about 2 minutes.

Mr. ALLEN. I am delighted to yield 2 minutes to the distinguished Senator, and such time of my 5 minutes as the distinguished Senator from Massachusetts may use.

Mr. GRIFFIN. Mr. President, reserving the right to object and, of course, I shall not object, would the Senator from Alabama consider making 5 minutes available to the junior Senator from Michigan, too?

Mr. ALLEN. Well, the Senator only has 5 minutes under the morning business.

Mr. GRIFFIN. Are other Senators entitled to be recognized in the 5 minutes?

The PRESIDING OFFICER. Yes, unanimous consent is not required.

Mr. ALLEN. I yield 3 minutes to the distinguished Senator from Massachusetts, and 2 minutes to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Fine. I thank the Senator.

Well, Mr. President, I intend to submit my own statement in detail in the RECORD.

I want to make it extremely clear and I shall do so in the statement, that it is the clear intention of the prime sponsors of this resolution that the legal remedies or rights of the Governors in this particular case, or other interested parties, in challenging the authority of the President of the United States to implement this program should be absolutely preserved.

I met earlier this morning with my own Governor of Massachusetts, Governor Dukakis, who, in a joint meeting with the other New England Governors, by a vote of 5 to 1, made the decision to challenge and test the authority of the President to move ahead and implement the program which he has announced. I have reviewed briefly the memorandums which have been prepared by the attorney general of my own State of Massachusetts as well as Rhode Island, which are sound legal arguments challenging the authority of the President to take these actions.

The New England Governors are, at this point, working with Governors in other parts of the country, not only along the eastern seaboard but in the heartland of this country. They are meeting later in the day with the President of the United States.

Quite clearly, this resolution is a clear expression of not only the prime sponsors and the cosponsors, but also of Governors, of consumers, of individual citizens of this Nation, as well as the dynamic industries of this country. It is exceedingly hopeful, as a final comment, that the President will listen to our plea and to our desire to join with us in the Congress in fashioning a program that will be fair, will be equitable, and will be sufficiently strenuous to meet the challenges which we have at hand.

Mr. President, the Trade Expansion Act of 1962 conferred on the President certain powers to take action affecting imports once he determined that the level of those imports threatened to impair the national security of the United States. The delegation, of course, was not without limit, for obviously any such unlimited delegation of legislative authority to the executive branch by the Congress would be an unconstitutional act, as the Supreme Court forcefully reminded the President and the Nation when it struck down the New Deal Agricultural Adjustment Act.

No court has had an opportunity to consider the reach of the delegation contained in the Trade Expansion Act and the resolution does not purport to do so now.

The President has, however, taken action previously in his Executive Proclamation 4210 and proposes to do so again today, we are informed, to impose an import fee, which he chooses to denominate as a license fee, on imported petroleum and petroleum products. Today's action will be taken at a time when foreign produced crude oil and products are selling at substantially higher prices than domestically produced crude and products. This price relationship, of course, is precisely opposite to the price imbalance which normally prevailed when the Trade Expansion Act has been invoked to limit imports. In fact, it is exactly the opposite to the price relationship which prevailed when the President imposed the original mandatory oil import program in 1959. At that time, of course, the President imposed volumetric quotas as a means of limiting the dumping of cheap foreign oil which was in unfair competition with domestic production.

The imposition of dollar fees instead of volumetric limitations at a time when domestic production is substantially cheaper, instead of more expensive than foreign, of course, is quite another matter.

The purpose of the resolution, then, is not to expand or change the authority which the Congress conferred on the President in the Trade Expansion Act of 1962 or in its amendments. The breadth and reach of that delegation will, we understand, soon be tested in the courts.

This resolution does not ratify any previous actions by any President, either, when he relied on the national security provisions of the Trade Expansion Act to impose dollar fees on imports, no matter whether this was done with or without public hearings and no matter whether done by proclamation or in any other way.

I ask unanimous consent to have printed in the RECORD a letter to the President on the subject of his use of section 232 of the Trade Expansion Act of 1962, as amended.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR EDWARD M. KENNEDY ON RELEASE OF LETTER TO THE PRESIDENT PROTESTING PROPOSED ENERGY POLICY

JANUARY 13, 1975.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to express my deep concern about reports that you intend to impose a $3 per barrel tariff on imports of crude oil and petroleum products in the next several months without public hearings or consultation with the Congress. In addition, I understand that you are considering a new excise tax on domestic oil and the removal of price controls on even "old" crude oil production.

Those proposals would impose an unfair burden on Massachusetts and New England and add to the nation's economic difficulties.

Moreover, I believe that the imposition of a tariff, without public hearings, would violate the new trade bill which you signed last month. That measure amended the National Security provisions, Section 232 of the Trade Expansion Act, to require that, except where it might be inappropriate, public hearings be held before final action occurs to limit a particular import on grounds of protecting the national security.

As you will recall, the Report of the Cabinet Task Force on the Oil Import Program in 1970 challenged the National Security justification of the oil import quota program. That report echoed many of the findings of the Senate Subcommittee on Administrative Practice and Procedure urging that objective standards be established and public input guaranteed before any similar executive action in the future. Congress now has enacted the requirement for public participation into law. It is essential to have informed public comment before taking a step by executive order which could add new hardships on the already burdened American consumer.

Therefore, I strongly urge that full public hearings on the tariff proposal be held to determine whether it is the best way to produce a reduction in consumption, to determine whether we can afford its driving up the cost of living while weighing down the economy and to determine whether it spreads the burden of conservation and sacrifice equitably.

A $3 per barrel tariff is estimated by Treasury Department analysts to mean a $15.5 billion hike in the nation's annual oil costs. In New England that will mean $750 million more in oil costs. If you also lift "old" crude oil price controls and allow the price—when an excise tax is included—to float up to the tariff-added price of foreign oil, then the cost would be $28 billion according to Treasury estimates. At a time when we are considering a tax cut to lessen the severity of the current deep recession, it would seem that the double barrel energy policy of a tariff "or foreign tax" along with a new excise domestic tax could wipe out the benefit of a tax cut and worsen the national economic situation.

Fuel prices in New England are already at unconscionable levels, having more than doubled over the past year. Our unemployment rate in Massachusetts is one of the highest in the nation in part reflecting our high energy costs.

Also, Massachusetts citizens already have conserved, cutting our No. 2 fuel oil consumption 20 percent below last year and residual oil consumption by 20 to 35 percent in some cases. Few states can point to as great a reduction in energy consumption. Clearly it is in gasoline consumption that the greatest reductions still can take place; yet the tariff and tax proposals which you reportedly intend to propose would raise the prices of home heating oil and residual oil as well as gasoline. Cutting back further on home heating oil use would mean unacceptably cold homes and cutting back on industrial residual oil use could mean even higher unemployment.

I would urge that equitable alternatives to a tariff and a rise in domestic crude oil be examined which focus on reducing gasoline consumption. Conservation and reduced imports are vital and we have supported those goals in the past and will continue to do so, but we oppose any program that directs the burden more heavily on New England than any other region. All we ask is that the obligation to reduce our energy demand be spread fairly in all sections of the country.

Sincerely,
EDWARD M. KENNEDY,
Chairman, Subcommittee on Administrative Practice and Procedure.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the joint resolution may be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 12

Whereas, the President's State of the Union message announces his intention to levy new fees on imports of crude oil and petroleum products and to lift all price controls on domestic oil under the authority of existing law;

Whereas, the Congress expressed in the Trade Act of 1974, its desire that public participation be required prior to the use of the President's authority under the national security provisions of the Trade Expansion Act of 1962, as amended;

Whereas, imposing import fees and lifting price controls would increase the price of crude oil and all petroleum products, including home heating oil and residual fuel oils, substantially, thereby creating major inflationary pressures throughout the economy;

Whereas, consumption of home heating oil and residual fuel oil already has been reduced substantially in many areas of the country and therefore imposition of import fees and the lifting of price controls will result in higher prices to consumers with little corresponding reduction in oil consumption;

Whereas, the policy of lifting price controls and using new import fees to reduce energy consumption represents a fundamental policy change as stated by the President in his State of the Union message;

Whereas, the purpose of this Joint Resolution is to permit the Congress a reasonable period of time to review and, if desirable, to develop fair and equitable alternatives to the President's proposals to impose a $3 per barrel oil import fee and to remove all existing price controls on domestic oil by April 1, 1975: Now, therefore, be it

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That, after the date of enactment of this Joint Resolution—

(a) (1) No new tariff, fee or other charge, and no increase in existing tariffs, fees or other charge on imports of crude oil or petroleum products in effect on January 1, 1975, may be imposed except in accordance with subsection (b) of this section;

(2) No new quota or other limitation on imports of crude oil or petroleum product other than those in effect on January 1, 1975, may be imposed except in accordance with subsection (b) of this section; and

(3) No increase in the price permitted for oil now classified as "old" oil under regulations promulgated pursuant to section 4 of the Emergency Petroleum Allocation Act of 1973 (87 Stat. 629) and in effect on January 1, 1975, may be established except in accordance with subsection (b) of this section.

(b) No action covered by the provisions of subsections (a) (1) through (3) may be undertaken unless:

(1) Such action is specifically authorized by law enacted after the date of enactment of this Joint Resolution; or

(2) The specific action proposed to be taken is submitted to both Houses of the Congress. Each House then shall have the opportunity to disapprove of such action within thirty days of the receipt of the proposal, pursuant to the procedures provided for in sections 906 (a), (b) and (c), 908, 909, 910, 911, 912, and 913 of title 5 United States Code, except that for the purposes of this Joint Resolution,

(A) The period of Congressional review and opportunity shall be 30 calendar days rather than 60 calendar days; and

(B) Any reference in such sections to "reorganization plan" shall be deemed to be a reference to "petroleum pricing actions" which for the purposes of this Joint Resolution shall mean all actions referred to in subsections (a) (1) through (3) of this Joint Resolution.

(C) Such thirty day review period shall begin on the 60th day after enactment or when such action is submitted to the Congress if it is submitted after the 60th day.

If such action is disapproved by either House within the thirty day review period, no officer or agency shall have authority to take any action inconsistent with the provisions of subsection (a) of this Joint Resolution.

Mr. KENNEDY. Mr. President, I want to say finally what a pleasure it is to join with the distinguished Senator from Washington on this issue. He has made an extraordinary contribution to the country's understanding of the energy issue.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

The Senator from Washington is recognized for 2 minutes.

URGENT NEED TO DELAY PRESIDENT FORD'S PLAN TO IMPOSE OIL IMPORT FEE AND TO DECONTROL ALL DOMESTIC OIL PRICES

Mr. JACKSON. Mr. President, today Senator KENNEDY and I, together with many other Members of the Senate, are introducing a joint resolution which would prohibit for a period of 60 days the imposition of new tariffs, fees, and quotas on oil imports and would prevent the proposed removal of all price controls on domestic oil, unless such proposals were first submitted to the Congress with the right of congressional disapproval within 30 days.

The President's energy price and tax proposals, which he outlined in his state of the Union message on January 15, 1975, would result, if implemented, in a substantial and rapid increase in the price of all energy consumed in the United States. Based on preliminary calculations it is clear that the magnitude of the shock to the U.S. economy from this program will be as great or greater, as the impact of the price increases which accompanied the Arab oil embargo of a year ago. The President announced last night that he will sign a proclamation today to increase the fees on imported oil by $1 per barrel effective on February 1. The decontrol of all domestically produced oil would be accomplished—also through administrative action—on April 1. In neither case would the Congress be permitted a role in these decisions, despite the enormous consequences of the program for American consumers.

A conservative estimate of the economic impact of the President's program of import fees and domestic crude oil price decontrol is that over $32 billion in direct costs would be added to consumer costs in 1975 at a time when the economy is dangerously depressed. This amounts to nearly $150 for each man, woman, and child in the United States, nearly $600 for an average four-person family. These enormous cost increases would affect all petroleum products and would quickly spread to other energy sources—coal, natural gas, uranium—which compete with oil in the United States. These price increases will push up the cost of all goods and services in all regions of the country and in all sectors of the economy.

The resolution which Senator KENNEDY and I introduce today will require that the Congress be consulted on these proposals before they are implemented, that each proposal be fully justified as to rationale and impact, and that the Congress have the right of disapproval.

The President says his administration wants to return to the free market, that he opposes all market interventions in the form of energy price controls, mandatory conservation, rationing, and the allocation of fuels.

In fact, the market interventions the President proposes in the forms of tariffs, crude oil taxes, excise taxes on natural gas, reduction in the corporate income tax, a massive investment tax credit, and a price guarantee for energy producers, are the most unprecedented and fundamental interventions in the free market ever undertaken by any administration. And major portions of this program are proposed to be implemented without an adequate opportunity for congressional review.

These interventions in the marketplace are far more serious than any conceivable programs of mandatory conservation, rationing, quotas, and allocations.

I believe that the President's program of import fees and domestic oil decontrol contains the seeds of economic disaster for the United States. The program does not even contain any promise of substantial improvement in our energy situation. If adopted this program will:

Lead to a new inflationary surge by adding at least 2 percent to the average cost of all goods and services;

Depress the American economy by depriving American consumers of at least $32 billion in purchasing power;

Burden middle and lower-income groups unfairly by adding at least $600 per year per family in prices;

Not significantly curtail U.S. oil consumption;

Place American business and industry at a competitive disadvantage against foreign firms, which could be offset only by further devaluation of the dollar;

Result in massive windfalls and unearned income for major oil companies;

Constitute an open invitation for OPEC to further raise the price of its oil by at least $3 per barrel, at an additional cost of $24 billion—every $1 per barrel increase takes away $8 billion per year from the American consumer in higher energy costs; and

Turn effective control over domestic oil pricing policy to OPEC nations by permitting U.S. domestic oil prices to float to $3 above the world price level which is unilaterally established by the OPEC cartel.

Mr. President, I want to express my deep appreciation to the Senator from Massachusetts for his great leadership in connection with the pending joint resolution. I am very proud to join with him in the sponsorship of the resolution. The President's proposed tariff on oil is the most immediate, most critical problem that we face in the energy area.

The President's premise, if I understand it correctly, is that, putting a $3 tariff on the oil coming into this country, will help curtail the consumption of petroleum.

Mr. President, the trouble with that premise is that the imposition of a $3 a barrel tariff on imported oil hits every aspect of our economy. It is not just the heating oil consumer who will suffer; it is not just the automobile consumer; but it is the electrical utilities, American industry, the whole economy. Instead of zeroing in, Mr. President, on what they were talking about earlier at the White House, that is, a tax on gasoline, to get directly at a means of conserving fuel through taxes and the price system, the administration has gone around the barn and put a tax on imported oil that will hit every aspect of the economy, not just at the gas station. By indirection, the President is doing what he said he would not do a few months ago, and a lot more as well.

We estimate that the inflationary impact of the President's proposal will be at least 2 percent on the average cost of all goods and services produced in the country.

Mr. President, as the Senator from

Massachusetts has pointed out, this will depress the American economy by depriving American consumers of at least $32 billion in purchasing power or disposable income, as the economists refer to it. It will not, however, significantly curtail oil consumption. Thus, the only justification that I can see that the President has come forth with as a basis for asking that this tax be placed on imports, does not justify the program because it will not work.

It is unfair in every respect. It singles out particularly the New England and other areas of the country which are heavily dependent on imported oil. It does affect the whole economy. When the President moves on the proposed excise tax on all oil produced here in the United States of $2 a barrel, that will have that same pervasive effect throughout the entire United States.

I must say further that it is an open invitation for OPEC, the oil producing exporting countries, to further raise the price of oil by at least $3 per barrel at an additional cost to the U.S. economy of $21 billion. Every $1 per barrel increase in the OPEC cartel takes away $8 billion per year from the American consumer in higher energy costs.

Mr. President, I cannot think of any move that will have a more depressive effect on an economy that is already sliding downhill than the tariff proposed by the President of the United States.

I believe it is also clear that a substantial majority of this body wants the tariff delayed. It is also clear that a substantial majority in the House wants the tariff delayed. I hope that the President will reconsider his decision of yesterday in turning down the chairman of the House Ways and Means Committee (Mr. ULLMAN) for a postponement in signing and implementing the proclamation that he has indicated he will issue today.

Mr. KENNEDY. If the Senator has completed his remarks, I wanted to mention to my colleague what I believe will be of interest to the Members of the Senate. It is the expectation that the Ways and Means Committee, if they are able to meet, will have a hearing on this matter tomorrow, get a rule on it on Wednesday next, and have it before the full House of Representatives on Thursday next. I think it is useful for our colleagues who are cosponsors to know the promptness with which that body is moving on this resolution.

The PRESIDING OFFICER. The time of the Senator from Washington has expired.

Mr. GRIFFIN. Mr. President, how much time remains for the transaction of morning business?

The PRESIDING OFFICER. Three more minutes.

Mr. GRIFFIN. Mr. President, it was 461 days ago when the Arab oil embargo was first imposed. Since then, of course, we have seen that embargo lifted. But the possibility or threat of another embargo hangs over the heads of all who live in the United States and other countries dependent in part upon imported oil.

During the period of time, since that Arab embargo was first imposed, 461 days, the Congress has done nothing to curtail or reduce the importation of foreign oil.

Indeed, during that period, our imports have actually increased. Our dependence on foreign sources of oil has been increasing until, at this point, we are importing a record 7 million barrels of oil per day.

Mr. President, after very thoughtful, careful deliberation, the President of the United States has come up with a specific, comprehensive energy program.

As a first step toward implementation of that program, he plans on February 1 to impose a fee of $1 per barrel on imported oil—an action which he has been authorized by Congress to take.

I think it would be counter-productive and a very unfortunate signal, here at home and throughout the rest of the world, if the President were to back off now and not go forward with the imposition on February 1 of the proposed $1 import fee. The first step announced by the President should now be taken. If we fail or delay in taking that important first step, we say to the rest of the world—and to ourselves—that we are not really serious about solving the energy problem, that we really do not intend to face up to it.

Arguments presented here this morning by the distinguished Senator from Massachusetts (Mr. KENNEDY) and the distinguished Senator from Washington (Mr. JACKSON) have completely ignored the fact that, while President Ford has proposed taxes on imported and domestically produced oil which will generate some $30 billion in revenue, he has also proposed that those revenues be returned immediately to the people and to the economy. This is the answer to the argument that the move could be burdensome and highly inflationary.

I can understand that there might be differences as to how that $30 billion should be returned to the American people—arguments about the relative fairness and equity of the tax reform proposals. There is room for differences of opinion in that area. But it seems to me that the overall approach of the President is sound. It is an approach that is based on very careful consideration; it is an approach that would provide the incentives for development and production of alternate sources of energy which we so desperately need—development and production, for example, of gasified coal, and oil from shale. It would also encourage more rapid development of nuclear generating capacity as well as the production of solar energy.

On the other hand, if we do nothing—which is about what we have been doing—the price to the Nation will be very high and ruinous. As a nation, we cannot afford to do nothing.

So, Mr. President, I hope the resolution offered by the Senator from Massachusetts and the Senator from Washington will not be adopted by this body.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Vice President laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE OFFICE OF ALIEN PROPERTY—MESSAGE FROM THE PRESIDENT

The VICE PRESIDENT laid before the Senate a message from the President of the United States transmitting the annual report of the Office of Alien Property, Department of Justice, for the fiscal year ended June 30, 1973, which, with the accompanying report, was referred to the Committee on the Judiciary. The message is as follows:

To the Congress of the United States:

I herewith transmit the annual report of the Office of Alien Property, Department of Justice, for the fiscal year ended June 30, 1973, in accordance with section 6 of the Trading With the Enemy Act, as amended.

GERALD R. FORD.

THE WHITE HOUSE, *January 23, 1975.*

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The VICE PRESIDENT laid before the Senate the following letters, which were referred to as indicated:

APPROVAL OF LOAN TO FINANCE CONSTRUCTION OF CERTAIN GENERATION AND TRANSMISSION FACILITIES

A letter from the Administrator, Rural Electrification Administration, U.S. Department of Agriculture, transmitting, pursuant to law, information relating to a $7,791,000 REA insured loan to N. W. Electric Power Cooperative, Inc., Cameron, Mo., to finance construction of certain generation and transmission facilities (with accompanying papers); to the Committee on Appropriations.

FINAL DETERMINATION IN GILA RIVER PIMA-MARICOPA INDIAN COMMUNITY AGAINST THE UNITED STATES OF AMERICA

A letter from the Chairman, Indian Claims Commission, transmitting, pursuant to law, report of final determination in respect to Docket No. 236–G, Gila River Pima-Maricopa Indian Community, et al., Plaintiff, against The United States of America, Defendant (with accompanying papers); to the Committee on Appropriations.

REPORTS FILED BY DEPARTMENT OF DEFENSE DEPARTMENTS AND AGENCIES, FISCAL 1974

A letter from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a listing of names of persons who have filed the reports for fiscal year 1974 required by section 410(b) of Public Law 91–121 (83 Stat. 212) (with accompanying papers); to the Committee on Armed Services.

PROPOSED REGIONAL RAIL REORGANIZATION ACT AMENDMENTS OF 1975

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Regional Rail Reorganization Act of 1973 to increase the financial assistance available under section 213 and section 215, and for other purposes (with accompanying papers); to the Committee on Commerce.

Annual Report of the Renegotiation Board

A letter from the Acting Chairman, The Renegotiation Board, transmitting, pursuant to law, the 19th annual report of the Renegotiation Board (with an accompanying report); to the Committee on Finance.

International Agreements Entered Into by the United States

A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof (with accompanying papers); to the Committee on Foreign Relations.

Reports of the Comptroller General

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on their audit of the Federal Crop Insurance Corporation, Department of Agriculture, for the fiscal year ended June 30, 1974 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of financial statements of Veterans' Canteen Service for fiscal year 1974, Veterans' Administration (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Vessel Traffic Systems—What Is Needed To Prevent And Reduce Vessel Accidents?", U.S. Coast Guard, Department of Transportation (with an accompanying report); to the Committee on Government Operations.

Proposed Plan for Use and Distribution of Iowa Judgment Funds Awarded in Docket 135, Indian Claims Commission

A letter from the Secretary of the Interior, transmitting, pursuant to law, a proposed plan for the use and distribution of Iowa judgment funds awarded in Docket 135 before the Indian Claims Commission (with accompanying papers); to the Committee on Interior and Insular Affairs.

Proposed Legislation To Provide for the Appointment of Officers and Employees of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court

A letter from the Director, Administrative Office of the U.S. Courts, transmitting a draft of proposed legislation to amend title 28 of the United States Code to provide for the appointment of officers and employees of the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court, and for other purposes (with accompanying papers); to the Committee on the Judiciary.

Proposed Rulemaking for Copyrightable Materials Developed Under Office of Education Programs

A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, notice of proposed rulemaking for copyrightable materials developed under Office of Education programs (with accompanying papers); to the Committee on Labor and Public Welfare.

Report of the Four Corners Regional Commission

A letter from the Federal Cochairman, Four Corners Commission, U.S. Department of Commerce, transmitting, pursuant to law, the seventh annual report of the Four Corners Regional Commission (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the VICE PRESIDENT:

Resolution from the City Council of East Orange, New Jersey, relative to combating juvenile delinquency and improving the juvenile justice system; to the Committee on Appropriations.

Joint resolution from the Legislature of the State of California; to the Committee on Commerce:

"Assembly Joint Resolution No. 93—Relative to Amtrak

"legislative counsel's digest

"AJR 93, Chappie. Northern California Amtrak service.

"Requests the National Railroad Passenger Corporation (Amtrak) to institute passenger service in Yuba, Sutter, Butte, Colusa, Lassen, Sierra, and Plumas Counties.

"Whereas, The institution of Amtrak service to the Counties of Yuba, Sutter, Butte, Colusa, Lassen, Sierra, and Plumas in northern California would extend the benefits of rail passenger service to many people whose only means of transportation presently is the private automobile; and

"Whereas, During these times of fuel scarcities it is especially important that rail passenger service, which is potentially the most efficient means of transportation, be developed and improved to serve the maximum number of people; and

"Whereas, The population of this area is served presently by a dearth of public transportation, and dependence upon the automobile for transportation during the present fuel shortage is precarious at best; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*. That the National Railroad Passenger Corporation is urged to institute Amtrak service to the Counties of Yuba, Sutter, Butte, Colusa, Lassen, Sierra, and Plumas in northern California; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the National Railroad Passenger Corporation."

Joint resolution from the Legislature of the State of California; to the Committee on Foreign Relations:

"Assembly Joint Resolution No. 85—Relative to American Servicemen Missing in Action

"legislative counsel's digest

"AJR 85, Russell. Missing in action.

Memorializes the President and Congress of the United States to determine the status of those missing in action in Vietnam.

"Whereas, Five hundred sixty-six American military prisoners of war have now been released by their Communist captors and have returned to their thankful and grateful nation; and

"Whereas, According to the office of the Secretary of Defense, as of September 29, 1973, 1,233 United States servicemen were unaccounted for and listed as missing in action as a result of the conflict in Vietnam, a nebulous status which has been a continuous source of uncertainty, grief, and despair for the friends, relatives, and loved ones they have waiting in the United States; and

"Whereas, Those members of the armed forces of the United States who have suffered, and may still be suffering, internment as prisoners of war as a result of the war in Vietnam have made great sacrifices for their country; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to take whatever action is necessary to obtain a full accounting from the government of North Vietnam for every American who was listed as missing in action in the Vietnam war prior to the completion of American troop withdrawals from the war in 1973, and to make such information available to the American public; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Joint resolution from the Legislature of the State of California; to the Commitee on Public Works:

"Assembly Joint Resolution No. 78—Relative to the Ventura County Beach Erosion Control Study

"legislative counsel's digest

"AJR 78, MacDonald. Ventura County beach erosion.

"Memorializes President and Congress to give priority to funding the Ventura County Beach Erosion Control Study, and to provide sufficient funding so that the study might be completed and its recommendations implemented at the earliest possible time.

"Whereas, The shoreline of Ventura County has been subject to continuous and extensive problems of beach erosion over a long period of time; and

"Whereas, The continuing erosion of the Ventura County coastline is causing extensive damage to public and private facilities; and

"Whereas, The need for corrective measures has long been recognized by federal, state, and local agencies and by the general public; and

"Whereas, The United States House of Representatives has authorized a beach erosion control study of the Ventura County shoreline by the United States Army Corps of Engineers; and

"Whereas, This study has been endorsed by the California Legislature, which recommended the early funding and completion of the study and the immediate implementation of remedial measures; and

"Whereas, The Ventura County Beach Erosion Control Study has been strongly endorsed by a broad spectrum of public and private agencies and organizations which recognize its importance and urgency; and

"Whereas, The failure to implement remedial measures at an early time will result in the loss of valuable public beaches at a time when the public demand for such facilities are rapidly increasing; and

"Whereas, Immediate action is necessary if this valuable public resource is to be protected in the public interest; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to give priority to funding the Ventura County Beach Erosion Control Study, California, and to provide sufficient funding for this study so that it might be completed and its recommendations implemented at the earliest possible time; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Chief of the United States Army Corps of Engineers, to the Chairmen of Committees on Public Works of the United States Senate and House of Representatives, to the Chairmen of the Committees on Appropriations of the United States Senate and House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ALLEN (for Mr. Cannon), from the Committee on Rules and Administration, without amendment:

S. Res. 13. A resolution authorizing supplemental expenditures by the Special Committee on Aging for inquiries and investigations (Rept. No. 94–2);

S. Res. 25. An original resolution to pay a gratuity to Lillian D. White;

S. Res. 26. An original resolution to pay a gratuity to Hazel W. Diamond;

S. Res. 27. An original resolution authorizing the revision and printing of the Senate Manual for use during the Ninety-fourth Congress;

S. Res. 28. An original resolution increasing the limitation on expenditures by the Committee on Rules and Administration for the procurement of consultants (Rept. No. 94–3); and

S. Res. 29. An original resolution authorizing additional expenditures by the Committee on Rules and Administration for inquiries and investigations (Rept. No. 94–4).

By Mr. EAGLETON, from the Committee on the District of Columbia:

S. Res. 30. An original resolution authorizing additional expenditures by the Committee on the District of Columbia for inquiries and investigations; to the Committee on Rules and Administration.

CHANGE OF REFERENCE—S. 209

Mr. McGEE. Mr. President, I ask unanimous consent that S. 209, a bill for the relief of Willard H. Allen, Jr. and Nicole J. Allen be rereferred to the Committee on Interior and Insular Affairs and that the Committee on Judiciary be discharged from further consideration of the bill.

Last year I introduced an identical bill, S. 3509, which was at that time referred to the Judiciary Committee. With the agreement of the distinguished chairman of the Judiciary Committee, Senator Eastland, and the distinguished chairman of the Interior and Insular Affairs Committee, Senator Jackson, S. 3509 was rereferred to the Committee on Interior and Insular Affairs during the latter part of the 93d Congress.

Since the bill was again inadvertently referred to Judiciary Committee, rather than to the Interior and Insular Affairs Committee, I again ask unanimous consent that S. 209 be rereferred to the Committee on Interior and Insular Affairs.

I have cleared this with the leadership of both committees and the leadership on the floor of the Senate. It was one that we acted upon in this fashion just before Christmas and because the time was so late, they could not complete action and, therefore, we had to do this and go through this process again.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BENTSEN:

S. 312. A bill to amend the Internal Revenue Code of 1954 to provide an optional credit against tax for personal exemptions and to reform the tax treatment of oil and gas producers and foreign source income. Referred to the Committee on Finance.

S. 313. A bill to authorize an exchange of lands for an entrance road at Guadalupe Mountains National Park, Tex., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 314. A bill for the relief of Maria Puebli-to Vega-Lopez. Referred to the Committee on the Judiciary.

S. 315. A bill for the relief of Antoinette L. M. Smith. Referred to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. Gravel):

S. 316. A bill for the relief of Skojo Drazan Banic. Referred to the Committee on the Judiciary.

By Mr. BAKER (for himself, Mr. Weicker, Mr. Muskie, Mr. Mansfield, Mr. Percy, Mr. Mathias, Mr. Javits, Mr. Brock, Mr. Montoya, Mr. Packwood, Mr. Burdick, Mr. Domenici, Mr. Beall, Mr. Stafford, Mr. McIntyre, Mr. Inouye, Mr. Leahy, Mr. Hollings, Mr. Hatfield, Mr. Cranston, Mr. Brooke, Mr. Roth, Mr. Taft, Mr. Proxmire, Mr. Bartlett, Mr Helms, and Mr. Clark):

S. 317. A bill to establish a Joint Committee on Intelligence Oversight. Referred to the Committee on Government Operations.

By Mr. BARTLETT (for himself and Mr. Garn):

S. 318. A bill prohibiting use of HEW funds for abortion Referred to the Committee on Labor and Public Welfare.

By Mr. TALMADGE (for himself, Mr. Allen, Mr. Bayh, Mr. Clark, Mr. Cranston, Mr. Eagleton, Mr. Abourezk, Mr. Bentsen, Mr. Church, Mr. Metcalf, Mr. Stennis, Mr. Eastland, Mr. Hartke, Mr. Haskell, Mr. Helms, Mr. Humphrey, Mr. McGovern, Mr. Magnuson, Mr. Mondale, Mr. Nelson, Mr. Nunn, Mr. Sparkman, Mr. Stevenson, Mr. Stone, Mr. Thurmond, and Mr. Tunney):

S. 319. A bill to provide a priority system for certain agricultural uses of natural gas. Referred to the Committee on Commerce.

By Mr. TALMADGE (for himself, Mr. Allen, Mr. Bayh, Mr. Clark, Mr. Cranston, Mr. Abourezk, Mr. Bentsen, Mr. Church, Mr. Burdick, Mr. Metcalf, Mr. Stennis, Mr. Leahy, Mr. Eagleton, Mr. Eastland, Mr. Hartke, Mr. Haskell, Mr. Helms, Mr. Humphrey, Mr. McGovern, Mr. Mondale, Mr. Nelson, Mr. Nunn, Mr. Sparkman, Mr. Stevenson, Mr. Stone, Mr. Thurmond, and Mr. Tunney):

S. 320. A bill to provide natural gas for essential agricultural purposes. Referred to the Committee on Commerce.

By Mr. PEARSON:

S. 321. A bill to regulate commerce by authorizing, in a period of serious recession, assistance to business concerns whose failure would increase unemployment and economic dislocation and by authorizing development assistance to business concerns and organizations whose existing sources of funds are not adequate, where public purposes will be served thereby. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CHURCH (for himself, Mr. McClure, Mr. Hatfield, and Mr. Packwood):

S. 322. A bill entitled The Hells Canyon National Recreation Area Act. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS (for himself, Mr. Magnuson, Mr. Pastore, Mr. Philip A. Hart, Mr. Tunney, and Mr. Stevenson):

S. 323. A bill to regulate commerce and to protect petroleum product dealers from unfair practices, and for other purposes. Referred to the Committee on Commerce.

By Mr. JACKSON (for himself and Mr. Fannin) (by request):

S. 324. A bill to amend the National Trails System Act by designating the Potomac Heritage Trail located in portions of Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia, as a component of the National Trails System. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON:

S. 325. A bill to amend the Internal Revenue Code to provide a tax rebate for individuals for 1974 and to provide individuals tax relief for 1975 as a stimulus to increase consumer purchasing power, to promote economic recovery, and to halt the Nation's slide into an economic depression. Referred to the Committee on Finance.

S. 326. A bill to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (for himself and Mr. Johnston):

S. 327. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. WEICKER (for himself, Mr. Mansfield, Mr. Case, Mr. Haskell, Mr. Hollings, and Mr. Metcalf):

S. 328. A bill to direct the President of the United States to establish and carry out a program for rationing gasoline. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUGH SCOTT:

S. 329. A bill to direct the Secretary of Commerce to require reports from foreign investors in the United States and their agents, and for other purposes. Referred to the Committee on Commerce.

By Mr. DOLE:

S. 330. A bill to provide tax credit for increased natural gas expenses resulting from changes in regulation of wellhead prices. Referred to the Committee on Finance.

By Mr. HRUSKA (for himself, Mr. Allen, Mr. Buckley, Mr. Curtis, Mr. Dole, Mr. Eastland, Mr. Garn, Mr. Hansen, Mr. Hartke, Mr. Helms, Mr. McClellan, Mr. McClure, Mr. Montoya, Mr. William L. Scott, Mr. Stafford, Mr. Stennis, Mr. Randolph, Mr. Talmadge, and Mr. Thurmond):

S. 331. A bill to redesignate November 11 of each year as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

By Mr. MAGNUSON:

S. 332. A bill to authorize appropriations for the fiscal year 1975 for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

S. 333. A bill to amend the Ports and Waterways Safety Act of 1972, and for other purposes. Referred to the Committee on Commerce.

By Mr. HATHAWAY:

S. 334. A bill to prohibit sex discrimination by educational institutions whose primary purpose is the training of individuals for the military service of the United States. Referred, by unanimous consent, jointly to the Committee on Armed Services and the Committee on Commerce.

By Mr. STEVENS:

S. 335. A bill to establish a fisheries manpower development program and for other purposes. Referred, by unanimous consent, to the Committee on Labor and Public Welfare.

By Mr. HUDDLESTON:

S. 336. A bill for the relief of Vishnu Satram. Referred to the Committee on the Judiciary.

By Mr. CRANSTON:

S. 337. A bill for the relief of Viola J. Stewart, Lois Souby, Jane Robertson, and Norma Jean Ridgeway. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 338. A bill for the relief of Miss Niranjana Thakkar. Referred to the Committee on the Judiciary.

S. 339. A bill for the relief of Miss Navamani Sathasivam. Referred to the Committee on the Judiciary.

S. 340. A bill for the relief of Mrs. Sunil Ratnayake. Referred to the Committee on the Judiciary.

By Mr. EAGLETON (for himself and Mr. Symington):

S. 341. A bill for the relief of Chae Won, Myung Jae, Yoo Jung, Jee Sung, Yoo Sung, and Hong Suk Yang. Referred to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 342. A bill for the relief of Reyna Loera and Gerardo Wenseslao Loera. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 343. A bill to provide for the development and demonstration of programs designed to provide health care for the aged and chronically ill utilizing community chronicare centers. Referred to the Committee on Labor and Public Welfare.

By Mr. TUNNEY (for himself and Mr. Cranston):

S. 344. A bill to designate certain lands in the Sequoia and Inyo National Forests, Calif., as wilderness. Referred to the Committee on Interior and Insular Affairs.

S. 345. A bill to authorize and direct the Secretary of Agriculture to classify as a wilderness area certain national forest lands adjacent to the Ventana Wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. BURDICK:

S. 346. A bill to improve judicial machinery by requiring a minimum $10,000 jurisdiction limit on freight damage actions brought in U.S. District courts, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. WILLIAM L. SCOTT:

S. 347. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer. Referred to the Committee on Finance.

By Mr. TUNNEY:

S. 348. A bill to protect students receiving Federal financial assistance against losses resulting from the closing of certain private educational institutions. Referred to the Committee on Labor and Public Welfare.

S. 349. A bill to amend the Federal Trade Commission Act. Referred to the Committee on Commerce.

By Mr. CURTIS:

S. 350. A bill to authorize the Secretary of the Interior to cancel certain obligations, and to construct, operate and maintain certain works in connection with the Mirage Flats irrigation project and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 351. A bill to amend the Emergency Livestock Credit Act of 1974. Referred to the Committee on Agriculture and Forestry.

By Mr. PELL:

S. 352. A bill to provide for a study of the feasibility of allowing individuals, during their working years, voluntarily to make additional contributions to the social security program established by title II of the Social Security Act and during retirement to receive additional social security benefits based on such additional contributions. Referred to the Committee on Finance.

By Mr. ROTH:

S. 353. A bill to authorize the Federal Power Commission to allocate scarce supplies of natural gas. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself, Mr. Moss, Mr. Philip A. Hart, Mr. Stevens, and Mr. Stevenson):

S. 354. A bill to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition, precedent to using a motor vehicle on public roadways. Referred to the Committee on Commerce.

By Mr. METCALF (for himself and Mr Mansfield):

S. 355. A bill to designate certain lands in the Gallatin and Beaverhead National Forests, in Montana, as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. THURMOND:

S. 356. A bill to require a health warning on the labels of bottles containing certain alcoholic beverages. Referred to the Committee on Commerce.

By Mr. BAYH:

S. 357. A bill to amend title II of the Social Security Act to increase to $4,800 the amount of outside earnings permitted each year without deductions from benefits thereunder. Referred to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. Curtis, Mr. Fannin, Mr. Goldwater, Mr. Hansen, Mr. Helms, Mr. Hollings, Mr. McClure, Mr. William L. Scott, and Mr. Tower):

S. 358. A bill to amend the Food Stamp Act of 1964 in order to prohibit the distribution of food stamps to any household where the head of the household is engaged in a labor strike. Referred to the Committee on Agriculture and Forestry.

By Mr. THURMOND:

S. 359. A bill to amend the Fair Labor Standards Act of 1938, with respect to exemptions for babysitters, and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 360. A bill to amend the Fair Labor Standards Act of 1938, with respect to an exemption for certain employees who are babysitters, and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 361. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder. Referred to the Committee on Finance.

By Mr. BAYH:

S. 362. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to discharge obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances in order to curb illicit international traffic and abuse of such dangerous drugs and for other purposes. Referred to the Committee on the Judiciary.

By Mr. METCALF (for himself and Mr. Percy):

S. 363. A bill to restore the independence of certain regulatory commissions of the Federal Government. Referred to the Committee on Government Operations.

By Mr. McCLURE:

S. 364. A bill relating to certain Forest Service timber sale contracts involving road construction. Referred to the Committee on Public Works.

By Mr. BAYH:

S. 365. A bill for the relief of Fe Ellen Sauro. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 366. A bill for the relief of John Alleyne. Referred to the Committee on the Judiciary.

S. 367. A bill for the relief of Reina Estela Olvera. Referred to the Committee on the Judiciary.

S. 368. A bill for the relief of Sergio Fernando Diaz. Referred to the Committee on the Judiciary.

By Mr. FANNIN:

S. 369. A bill for the relief of Victor Manuel Heredia-Sanchez. Referred to the Committee on the Judiciary.

By Mr. METCALF:

S. 370. A bill for the relief of Anthony LaBarrie. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS:

S. 371. A bill to provide for the striking of medals commemorating the contributions by individuals of various ethnic backgrounds who contributed to the founding of the United States of America. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. McGEE (for himself and Mr. Burdick):

S. 372. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. BUCKLEY (for himself, Mr. Hatfield, Mr. Garn, Mr. Eastland, Mr. Helms, Mr. Bartlett, Mr. Young, and Mr. Curtis):

S.J. Res. 10. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons. Referred to the Committee on the Judiciary.

By Mr. BUCKLEY (for himself, Mr. Garn, Mr. Hatfield, Mr. Eastland, and Mr. Bartlett):

S.J. Res. 11. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons. Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. Jackson, Mr. Pastore, Mr. Magnuson, Mr. Robert C. Byrd, Mr. Hatfield, Mr. Hollings, Mr. Mondale, Mr. Chiles, Mr. Bayh, Mr. Randolph, Mr. Bumpers, Mr. Brooke, Mr. Ribicoff, Mr. Huddleston, Mr. Stafford, Mr. Biden, Mr. Humphrey, Mr. Stevenson, Mr. Pell, Mr. Muskie, Mr. Leahy, Mr. Culver, Mr. Moss, Mr. Williams, Mr. Tunney, Mr. Hathaway, Mr. McIntyre, Mr. Montoya, Mr. Weicker, Mr. Haskell, Mr. McGovern, Mr. Philip A. Hart, Mr. Gary W. Hart, Mr. Stone, Mr. Symington, Mr. Eagleton, Mr. Hartke, Mr. Cranston, Mr. Burdick, Mr. Abourezk, Mr. Nelson, Mr. Mansfield, Mr. Ford, Mr. Glenn, Mr. Church, Mr. Metcalf, Mr. Clark, and Mr. Proxmire):

S.J. Res. 12. A joint resolution to prohibit for a period of 60 days the imposition of tariffs, fees, and quotas on oil imports and the lifting of all price controls on domestic oil, and to thereafter require the submission to, and the right of approval of the Congress of any such action within 30 days. Ordered placed on calendar.

By Mr. ROBERT C. BYRD (for Mr. CANNON):

S.J. Res. 13. A joint resolution authorizing increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes. Referred to the Committee on Armed Services.

By Mr. WILLIAM L. SCOTT:

S.J. Res. 14. A joint resolution proposing an amendment to the Constitution relating to the continuance in office of judges of the Supreme Court and of inferior courts. Referred to the Committee on the Judiciary.

S.J. Res. 15. A joint resolution to authorize and request the President to issue a proclamation designating May 13 of each year as "American Business Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 312. A bill to amend the Internal Revenue Code of 1954 to provide an optional credit against tax for personal exemptions and to reform the tax treatment of oil and gas producers and foreign-source income. Referred to the Committee on Finance.

INDIVIDUAL TAX REDUCTION AND TAX REFORM ACT

Mr. BENTSEN. Mr. President, today I am introducing legislation to reduce the tax burden on the average American wage earner—and at the same time reform some of the tax preferences used by corporations and high-income individuals.

Mr. President, we are in the worst recession since the Great Depression of the 1930's.

There are eloquent statements being made all across this country for getting our great economy moving again—12-percent unemployment in Detroit, Mich.—experienced construction workers picking oranges in Florida because there is no demand for their skills—11,000 public employees being layed off in New York City—3,000 unemployed men and women standing in line for hours in the rain to apply for 200 public service jobs in Atlanta.

I am afraid that there are too many in Washington who view people on the unemployment rolls as lines on a graph—as numbers in a newspaper. They forget what those numbers and lines mean in human terms—what they mean in the way people live—to men and women with a family to feed and clothe and the pride to want to do it for themselves.

The other evening in Washington, two of my staff members were walking home from the Capitol when they were approached by a man who looked and sounded desperate. He was not a panhandler and he was not one of the muggers you hear so much about. He had hunger written all over his face and he had only one question: "Do you know of anyone who needs some work done?"

Mr. President, I do not believe there is anything which speaks with greater force as to the failure of an economic policy or which is any sadder in human terms than millions of Americans who want to work and to contribute to the progress of this country being told our society has nothing useful for them to do.

Mr. President, we have a great deal for them to do—we just have to create the economic conditions in which they can be hired. A tax reduction to stimulate consumer demand, if it is combined with a moderate monetary policy over the next year, can help us create those conditions.

I was pleased to see the President discard his October call for a tax increase and that he is now seeking to combat recession through a tax cut.

But frankly his statement that he is shifting emphasis from fighting inflation to fighting recession does not indicate a full appreciation of where our economy is in these bleak months of 1975.

The American economy is operating at a level so far below its potential that we no longer have to choose between fighting inflation on the one hand or recession on the other. By putting people back to work—and making fuller utilization of our industrial capacity—we will get the productivity increases we need to prevent prices from rising at the rates they did last year. When industry sees some demand for their products they will commit themselves to the expansion necessary to prevent capacity shortages from causing future inflation.

At the present time, there is no weapon which will fight both inflation and recession—and that is economic growth. Our policies must be designed to bring about that growth.

I am today introducing legislation which would provide over $13 billion in tax relief to low- and middle-income taxpayers by creating a permanent $250 tax credit as an option to the existing $750 personal exemption in our Federal income tax law. Under my proposal, a family of four with an income of less than $7,300 would pay no tax, while families making up to $25,000 a year would receive considerable tax reductions. For example, a family of four making $10,000 per year would save about $400 a year in taxes.

Since low- and middle-income Americans are the principal victims of inflation and recession, it is essential that tax relief be focused on these individuals. An optional tax credit of $250 would achieve this objective. More than 70 percent of the tax relief provided by this proposal would go to families with incomes of $15,000 or less. In turn these are the people who, because of the squeeze on family budgets, will necessarily spend these funds which will help stimulate a lagging economy.

This reduction should not be confused with the President's proposals for a one-time rebate of 1974 taxes. Some rebate of last year's taxes is needed to stimulate consumer demand. I believe the Congress will enact such a rebate but that it will be far more progressive than the one which the President has proposed for a $100 refund to a family earning $10,000 and $1,000 refund to a family earning $50,000. But in addition to a one-time rebate, we need to enact a permanent readjustment of tax burdens which my bill will provide.

Americans in the last 12 months—because inflation has placed them in higher tax brackets—have had their taxes increased by over $10 billion. A tax reduction will effectively repeal the tax increase resulting from inflation and restore this purchasing power to those who have suffered most from inflation.

This is the only recession in our history during which the tax burden was actually increasing and this increased burden has contributed to the largest 1-year decline in purchasing power since 1945.

This has been a permanent increase in the percentage of Americans' income that is going to Government and we must have a permanent tax reduction to correct it. I believe that by providing this permanent $13 billion tax reduction to average Americans, we will do more to increase consumer demand and confidence than would a much larger temporary tax cut. The temporary tax reduction will go in the bank—the permanent one into the purchases necessary to put people back to work.

But, Mr. President in addition to readjusting the tax burden to the level it was before the last bout of inflation, I believe we should shift some of the burden of taxes from the backs of the moderate- and low-income families to those better able to pay.

In addition to reducing taxes for average Americans by $13 billion, my bill would collect an additional $3 billion in taxes from corporations and high income individuals through tax reform.

These tax reform proposals, which will be a substantial down payment for additional tax reform later this year, include:

Enactment of an "alternative tax" which would replace the existing "minimum tax" and would help insure that high income persons pay their fair share of taxes and raise $450 million in additional revenues.

Limitation of the percentage depletion allowance for oil to the first 3,000 barrels per day of production. This will retain a necessary tax incentive for small independent producers who currently do a vast majority of domestic exploratory drilling while removing the percentage depletion allowance on 75 percent of the Nation's oil production and raising $1.3 billion in additional revenues.

Major reform of the tax provisions relating to overseas oil and gas income, including the foreign tax credit and raising $450 million in additional revenues.

Overhaul of the Domestic International Sales Corporation—DISC—tax provision and raising $900 million in additional revenues.

Mr. President, I would now like to explain my tax relief and tax reform proposals in greater detail.

TAX RELIEF FOR LOW- AND MIDDLE-INCOME AMERICANS

My proposed $13 billion tax cut will help fight recession, provide a partial offset against inflation, help restore consumer confidence and also hopefully can help moderate excessive wage demands.

Our economy is today in a recession. Six and one half million Americans were unemployed in December. This represents a 7.1 percent jobless rate which is a 13-year high. There are indications now that the rate of unemployment may increase to 8 percent which would add an additional 1 million Americans on the unemployment lists. The Labor Department reported that 813,600 people applied for unemployment compensation during the last week of December which is 135,900 more than a week before and the highest total of new applicants in any week since unemployment insurance first went into effect in the depression year of 1937.

The downturn in business activity across our Nation is underscored by 3 consecutive months of declining orders for durable goods.

Americans are now uncertain about their economic future and are curtailing their spending plans. Reduced consumer demand has resulted in production cutbacks and large layoffs of workers. A moderate tax cut will put more spending money in consumers' pockets and result in increased purchases. This will stimulate the economy and bring us out of the recession.

Tax relief will also provide a partial offset against inflation. Rising prices have made it harder and harder for the average American to make ends meet. With double digit inflation, we have power of the dollar. From the third quarter of 1973 to the third quarter of 1974 real hourly earnings declined by over 3 percent.

Accompanying the high rate of inflation has been a steady rise in dollar incomes and this results in pushing taxpayers into higher tax brackets. For example, a family of four earning $4,300 in 1970 would have paid no taxes but under existing law would now pay $159 in taxes if the family had simply received cost of living increases. This would mean that only 86 percent of the increased income would remain with the family after taxes.

Due to rising prices and higher tax burdens, disposable income has fallen sharply. The decline in real disposable income during the current recession is almost twice as large as any other postwar recession. This sharp decline in purchasing power may portend an even greater than normal drag on the economy and may well dampen a recovery expected now to begin toward the end of 1975.

A moderate tax cut for low and moderate income Americans is now essential to provide a partial offset to rising prices and higher tax burdens. In addition, since a tax cut will provide Americans with greater purchasing power, the tax relief will hopefully help moderate excessive wage demands.

Since there is now substantial excessive slack in our economy and little excess demand, a moderate tax cut will not contribute to inflation. The increased purchasing power from this tax cut will go into more jobs and more output and will not contribute to higher prices. About 60 percent of today's inflation is attributable to higher food and fuel prices. This portion of inflation has very much a life of its own and has essentially remained independent of other economic conditions.

My proposal to give taxpayers the option of taking a $250 tax credit instead of the existing $750 personal exemption in our Federal income tax laws is a very simple and direct method to concentrate tax relief to low- and middle-income families. In fact, more than 70 percent of the tax relief provided by this proposal would go to families with incomes of $15,000 or less.

A family of four making $15,000 per year would save about $300 a year in Federal income taxes under this proposal. A family of four making $10,000 per year would save about $400 a year in taxes and families of four that earn $7,300 or less would be free from any Federal income tax.

Mr. President, at this point, I ask unanimous consent that several tables illustrating the impact of my proposal be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TAX SAVINGS FOR A FAMILY OF FOUR (ASSUMING DEDUCTIBLE PERSONAL EXPENSES OF 15 PERCENT OF INCOME)

Adjusted gross income	Present tax	Tax with $250 credit	Tax savings
$5,000	$98	0	$98
$6,000	245	0	245
$8,000	569	$133	436
$10,000	905	490	415
$12,500	1,309	958	351
$15,000	1,765	1,448	317
$17,500	2,233	1,979	254
$20,000	2,760	2,540	220
$25,000	3,890	3,780	110

ESTIMATED DECREASE IN FEDERAL INDIVIDUAL INCOME TAX LIABILITY RESULTING FROM GRANTING A $250 NONREFUNDABLE OPTIONAL TAX CREDIT IN LIEU OF THE $750 PERSONAL EXEMPTION DEDUCTION, BY ADJUSTED GROSS INCOME CLASS

[1974 income levels]

Adjusted gross income class (thousands)	Number of returns affects (thousands)		Decrease in tax liability (millions)
	Total number with tax decrease	Number made nontaxable	
0 to $3	4,057	3,904	$252
$3 to $5	7,579	2,463	909
$5 to $7	8,273	2,028	1,346
$7 to $10	11,428	1,846	2,591
$10 to $15	15,937	786	4,455
$15 to $20	9,740	80	2,523
$20 to $50	6,715	13	1,084
$50 to $100	6	1	1
$100 and over	1	(1)	(1)
Total	63,735	11,122	13,162

[1] Less than 500 returns or $500,000.

Note: Details will not necessarily add to totals because of rounding.

FEDERAL INDIVIDUAL INCOME TAX BURDEN UNDER PRESENT LAW AND UNDER A $250 NONREFUNDABLE OPTIONAL TAX CREDIT IN LIEU OF THE $750 PERSONAL EXEMPTION DEDUCTION—SINGLE PERSON AND MARRIED COUPLE WITH NO, 1, 2, AND 4 DEPENDENTS (ASSUMING DEDUCTIBLE PERSONAL EXPENSES OF 15 PERCENT OF INCOME)

Adjusted gross income	Tax liability									
	Single person		Married couple with no dependents		Married couple with 1 dependent		Married couple with 2 dependents		Married couple with 4 dependents	
	Under present law	Under the alternative	Under present law	Under the alternative	Under present law	Under the alternative	Under present law	Under the alternative	Under present law	Under the alternative
$3,000	[1] $138	[1] $9	[1] $28	---	---	---	---	---	---	---
$5,000	[1] 491	[1] 383	[1] 322	[1] $69	[1] $208	---	[1] $98	---	---	---
$6,000	[1] 681	[1] 587	[1] 484	[1] 253	[1] 362	[1] $3	[1] 245	---	[1] $28	---
$8,000	[1] 1,100	[1] 1,028	[1] 848	[1] 633	[1] 706	[1] 383	[1] 569	[1] $133	[1] 322	---
$10,000	1,530	1,465	1,190	990	1,048	740	905	490	620	---
$12,500	2,059	2,009	1,628	1,458	1,463	1,208	1,309	958	1,024	$458
$15,000	2,630	2,598	2,095	1,948	1,930	1,698	1,765	1,448	1,435	948
$17,500	3,249	3,231	2,604	2,479	2,416	2,229	2,233	1,979	1,903	1,479
$20,000	3,915	3,915	3,135	3,040	2,948	2,790	2,760	2,540	2,385	2,040
$25,000	5,420	5,420	4,310	4,280	4,100	4,030	3,890	3,780	3,470	3,280

[1] Computed without reference to the tax tables for returns with adjusted gross income under $10,000.

ENACTMENT OF AN "ALTERNATIVE TAX" TO HELP INSURE THAT HIGH INCOME TAXPAYERS PAY THEIR FAIR SHARE OF TAXES

Mr. BENTSEN. Mr. President, one of the highest domestic priorities in the 94th Congress will be to reform our tax laws to insure greater equity and fairness, while at the same time providing reasonable investment incentives to stimulate the economy and to promote economic growth.

Accordingly, the tax legislation that I am introducing today includes the proposal tentatively adopted by the House Ways and Means Committee last year to replace the existing "minimum tax" provision for individuals, trusts and estates with an "alternative tax." This new tax will be an "alternative" to the regular tax, rather than an addition to it. An individual will only have to pay the "alternative tax" if his regular tax liability falls below some appropriate percentage of his economic income. This provision will raise roughly $450 million in additional tax revenues annually by helping to insure that high income Americans pay a fair share of taxes.

Under this proposal, taxpayers will pay the alternative tax only if it exceeds their regular income tax.

The base of the alternative tax will be "economic income" less an exemption and less certain deductions. Economic income is defined as adjusted gross income, plus certain items of tax preference. These preference items are: First, the excluded part of capital gains; second, the excess of deductions for percentage depletion over the adjusted basis of the property; third, the excess of accelerated over straight-line depreciation on certain buildings, other than Government-subsidized low-income housing; fourth, the bargain element in stock options; fifth, rapid amortization of certified pollution control facilities and on-the-job training and child care facilities; sixth, accelerated depreciation on personal property subject to a net lease in excess of straight-line depreciation, and seventh, amortization of railroad rolling stock over depreciation otherwise allowable.

Certain itemized deductions will be allowed under the alternative tax. These are the fair market value of charitable contributions that are deductible under the regular income tax, investment interest, and expenses to the extent of investment income, medical and drug expenses in excess of 5 percent of economic income, and casualty losses—above a $50 deductible—in excess of 3 percent of economic income.

The alternative tax exemption will generally be $20,000—$10,000 for married individuals who file separate returns—but it will be reduced dollar for dollar as economic income less the deductions that are allowable under the alternative rises above $20,000. Thus, the exemption will be zero whenever the excess of economic income over deductions exceeds $40,000. While a large exemption is needed to make sure that only high-income individuals are made subject to the alternative tax, this large exemption should not permit individuals with very high incomes to escape tax on a large amount of their preference income.

The tax rate for the alternative tax will be one-half the regular tax rates on the same amount of taxable income, so that they will range from 7 to 35 percent.

Taxpayers will pay the alternative tax if it exceeds their regular tax prior to tax credits. All tax credits allowable under the regular tax will be allowed to offset alternative tax liability as well.

This alternative tax is a positive step toward greater equity in our tax laws.

REFORM OF THE DOMESTIC OIL DEPLETION ALLOWANCE

Under this legislation, the percentage depletion allowance for oil would be limited to the first 3,000 barrels per day.

The effect of this bill would be to retain a full 22-percent depletion allowance for most of the small independent producers who drilled 88 percent of our explanatory wells last year, while removing percentage depletion on 75 percent of the country's oil production. The bill would raise an additional $1.3 billion in Federal revenue annually. But it would avoid the disastrous effect complete repeal would have on independent producers.

It is essential that the Congress recognize the importance of independent producers to the national energy effort and the difference between their operations and the operations of the major multinational oil companies who derive profits from worldwide production, refining, and marketing of petroleum products.

Independent producers are principally and in most cases solely in the business of drilling for crude oil within the United States. They accounted for 88 percent of the exploratory wells drilled in 1974. And they are not only out looking for oil and gas, they found a great deal of it as well. They were responsible for 80 percent of the 32,000 wells which were successfully completed and added to our Nation's energy supplies last year. That was the highest number of new oil and gas completions since 1969 when the depletion allowance was reduced from 27½ percent to the present 22 percent. This year over 5,000 more wells were completed than in 1973. These numbers tell the story of the response independent producers have made to the national effort to expand domestic energy supplies.

But Mr. President, exploring for oil and gas in unproven areas is a very risky undertaking. Last year only 14.7 percent of the wildcat wells in unproven fields were successful. That is six dry holes for every seven wells drilled and even that was an improvement over the historical rate of eight out of nine. The cost of drilling these wells is rising rapidly. The price of some drilling pipe and other materials have more than doubled in the last year.

Since many independents rely heavily on outside investors to provide the funds for these capital costs, the depletion allowance is essential to continue the present pace of their activity or in many cases just to keep them in business. These outside investors will simply not be willing to risk their capital in exploratory efforts without it.

Without the depletion allowance the independent will lack financing and will be forced out of the business. The vacuum created will be filled by the major oil companies resulting in an unwise concentration of the oil business and a total domination by the major oil companies.

In addition, these independents operate most of the marginal wells which depend upon the percentage depletion allowance to make them economically feasible. Without it, many of these marginal wells which represent one-sixth of our Nation's reserves would have to be abandoned.

Our tax laws have consistently recognized the special needs of smaller businesses and should continue to do so in the case of small independent oil producers.

If we do not recognize their special needs we will see an additional concentration in the petroleum industry. I share the concern of many of my colleagues about the importance of independent refiners and marketers to insuring competition in this industry. But if independents lose the depletion allowance they have not begun to see concentration. Independent marketers and refiners must have the raw material for their products and that is crude oil. We need to maintain conditions under which independent producers as well as independent marketers and refiners can exist. For independent producers, that means saving the percentage depletion allowance for them even though it is repealed on most production.

COMPREHENSIVE TAX REFORM OF FOREIGN OIL AND GAS INCOME

Mr. President, the legislation that I am introducing today will remove from our tax laws special tax preferences that encourage American companies to engage in oil and gas production outside of the North American Continent.

The long lines at gasoline stations last winter clearly demonstrated to every single American the dangers of over-reliance on foreign sources of energy. As part of our national effort to achieve reasonable energy self-sufficiency it is essential that we now reform our tax laws to remove existing incentives which encourage greater overseas oil and gas production and result in greater reliance on foreign sources of energy.

Mr. President, by making four major reforms in the way overseas oil and gas production income is taxed, this proposal will raise close to one-half billion dollars in additional tax revenue annually according to estimates by the staff of the Joint Committee on Internal Revenue Taxation.

Let us briefly look at these provisions which have already been approved by the House Ways and Means Committee after extensive public hearings and study.

First, this bill will substantially limit the ability of international oil companies to use what are known as excess foreign tax credits to avoid American taxes on overseas income from shipping, refining and other related operations.

Second, this bill will eliminate the option that oil companies now have to use a tax procedure known as the per country limitation in computing foreign tax credits. The per country limitation has helped oil companies avoid U.S. taxes on their foreign earnings.

Third, this bill will also limit the ability of oil companies to use foreign losses to reduce U.S. taxes on domestic income.

Fourth, this bill will repeal percentage depletion for oil and gas production outside of the North American Continent.

There are several major reasons why this legislation is essential.

First, we cannot achieve reasonable energy self-sufficiency when our tax laws continue to give a tax advantage to drilling overseas. There is simply no justification for our tax laws to provide more favorable tax treatment to overseas oil and gas production compared to domestic production.

Second, enactment of this legislation would constitute a big step toward greater tax equity and tax fairness. Our system of tax collection, which is the envy of many other nations, is one of voluntary self-assessment and its continued effectiveness depends upon public confidence that our tax laws are fair. We cannot expect to maintain public confidence in our tax laws when American oil companies pay no U.S. tax on their foreign income. This legislation will foster greater public confidence in our tax laws by imposing a reasonable tax on the overseas earnings of oil companies.

There have been abuses with respect to the existing provisions in our tax law dealing with overseas oil and gas income. The Middle East countries have very bright young men heading their oil negotiations. Many of these men have been educated in our Nation's best business schools. They understand our complex tax laws and they study with great interest the actions of the U.S. Congress. As a result, the Middle East nations have been able to structure their oil royalties and oil taxes to take advantage of our tax laws and extract as much of the funds as they can from the oil companies that would otherwise go to U.S. taxes. And the tax lawyers for the companies have certainly been willing partners in this endeavor. The legislation that I am introducing today will help curb these abuses of our tax laws.

LIMITATION ON EXCESS FOREIGN CREDITS

Under our tax laws, an American company receives a dollar-for-dollar tax credit against its U.S. tax liability for taxes paid to a foreign government. This avoids the imposition of a double tax. Although sound as a basic principle, the foreign tax credit is in need of reform. In many cases, it provides an overly generous allowance of foreign taxes and does not contain the refinements and limitations that are clearly a necessary part of a neutral taxing system.

Oil companies have substantial excess foreign tax credits which significantly reduce their U.S. tax obligations. These excess credits result in part at least because of the difficulty under present law of distinguishing deductible royalty payments from creditable taxes.

The difficulty in distinguishing between deductions and credits arises from the fact that in foreign countries the government often retains the rights to natural resources in the ground. If a U.S. corporation drills an oil well in a foreign country, the government can demand a royalty payment from the U.S. corporation just as a U.S. landowner. In computing U.S. taxes, a royalty payment is treated as a deduction against income and reduces tax at the rate of 48 percent. But a foreign tax credit directly reduces the U.S. tax at the rate of 100 percent. Given a choice, it is not a difficult one to make.

When U.S. corporations began their foreign oil operations they usually paid the foreign government only a royalty payment—since there frequently was no generally applicable income tax. However, when the foreign governments later sought to increase these payments, it was concluded that additional payments, should be in the form of taxes, not royalties.

As these taxes have increased—now in many of the foreign oil countries the rates are imposed at a rate of 55 or 60 percent—the U.S. oil companies have generated foreign tax credits which are in excess of the United States and can be used to offset other income.

Because of the existence of these excess credits oil companies find it desirable to acquire business operations in nations where the tax is likely to be low. In these cases, foreign tax credits from oil and gas production are used to offset what would otherwise be U.S. tax on shipping, refining, or other foreign income.

This legislation includes a provision that limits the foreign taxes on foreign oil and gas extraction income which may be used as credits to offset other foreign income to 110 percent of the U.S. tax rate, and it further limits those credits to being applied against other petroleum related income. The effect of this provision is that foreign taxes imposed on oil and gas extraction income which exceeds 52.8 percent of the taxable income are not to be allowed as a tax credit. Foreign governments and the companies can call the payments in excess of 52.8 percent what they like but for purposes of U.S. tax law they will not receive the benefit of a foreign tax credit.

It is estimated that this provision to eliminate excess foreign tax credits will raise about $300 million in additional tax revenue annually.

REPEAL OF THE "PER COUNTRY" LIMITATION

Under present law a multinational taxpayer is allowed to select either what is known as the per country or the overall limitation for the purpose of computing the foreign tax credit.

The per country limitation limits the tax credit to the amount of U.S. tax on the net income from each country. It treats the income from each country as a single unit. Thus, if the rate of tax in any country exceeds the U.S. rate, the excess is not creditable.

The overall limitation on the other hand treats all foreign income and losses as a single unit. The credit is limited to the amount of U.S. tax paid on the total net income from all foreign sources. Thus it permits averaging high and low tax rates in various countries.

In general, to the extent that a company has tax losses in some foreign countries it tends to be better off under the country-by-country limitation.

Many petroleum companies with large intangible drilling expenses abroad find the per country limitation advantageous. In fact, all but three or four of the major oil companies now use the per country limitation. The reason for this is the fact that when such companies have a loss—frequently as a result of intangible drilling expenses—in one or more countries, the loss can offset U.S. income rather than be used to reduce foreign income from other countries for purposes of computing the foreign tax credit.

The use of the per country limitation of 10 permits a U.S. taxpayer who has losses in a foreign country to obtain what in effect is a double tax benefit. Since the limitation is computed separately for each foreign country, these losses do not have the effect of reducing the credit allowed for foreign taxes paid in other foreign countries from which income has derived. Instead, the losses reduce U.S. taxes on domestic income.

In addition, when the business operations in the loss country become profitable, a credit is allowed for the taxes paid in that country against what otherwise would be the U.S. tax on the income from that country. In other words, a U.S. taxpayer with losses from a foreign country using the per country limitation receives one tax benefit when losses arise—in that they are allowed to reduce U.S. tax on U.S. income—and can receive a second tax benefit when income is derived from that foreign country—in that no U.S. tax is imposed on the income to the extent of the foreign taxes on that income. In the case of income from foreign oil and gas production, the foreign taxes on that income are normally in excess of the U.S. effective rate of tax on that income.

Thus, the U.S. oil and gas companies which use the per country limitation are able to reduce their tax on their domestic income by the use of the loss on their foreign drilling projects and in addition pay no U.S. tax on their foreign production when their projects go into production and become profitable.

If the costs of drilling operations are to be used to reduce the U.S. taxes on U.S. income, these operations should be conducted in the United States where the United States can be assured that the oil and gas production is used for domestic needs and the revenue from the production will pay U.S. rather than foreign taxes.

It is not appropriate to continue to permit oil and gas companies to gain a tax windfall by the use of the per country limitation. Instead, these companies should be required to deduct their foreign oil-related losses against their foreign oil-related income.

The legislation that I am introducing today requires all oil and gas companies to use the "overall" limit to compute their foreign tax credit. The overall limit is simpler to compute than the per country limit because it does not require calculations of the source of income and deductions by particular countries. The greater simplicity of the overall limitation is important since it eases compliance and administration.

The "overall limitation" recognizes the integrated nature of the foreign business activities of international oil companies. Each phase of the integrated operation—from producing the crude oil to transporting the oil through pipelines and tankers, refining it, and distributing and selling the final products—is closely linked to the other phases, which may be carried on in a number of different countries. For tax purposes, it seems reasonable to consider the entire process of producing oil unit it reaches consumers as a single entity. The "overall limitation" makes this possible. It is estimated that repeal of the per country limit for oil and gas production will result in a revenue gain of $120 million annually.

RECAPTURE OF LOSSES

The elimination of the per country method of computing the foreign tax credit does not entirely eliminate the tax advantage obtained from overseas drilling operations in those cases where there are not foreign profits against which these drilling operation expenses may be offset. In such a case, even with the removal of the per country limitation, losses may still offset U.S. income. This legislation continues to allow losses from overseas oil and gas production to offset U.S. income.

However, under this legislation the tax benefit derived from the earlier deduction of losses would be "recaptured" by the United States when the company subsequently derives income from abroad. In general this recapture is accomplished by treating a portion of foreign oil-related income which is subsequently derived as income from domestic sources and by denying a foreign tax credit or deduction with respect to that foreign oil-related income.

It is estimated that this loss recapture proposal will increase revenues by about $10 million a year in 1977 and by about $20 million a year in 1978 and 1979.

REPEAL OF PERCENTAGE DEPLETION OUTSIDE OF THE NORTH AMERICAN CONTINENT

This bill repeals the percentage depletion allowance for oil and gas production outside North America which is expected to result in a revenue gain of as much as $30 million annually. There is no justification for percentage depletion in the far corners of the world at a time when we are trying to reduce our dependence on foreign energy sources.

DOMESTIC INTERNATIONAL SALES CORPORATION

Mr. President, I would now like to turn to the Domestic International Sales Corporation provision in our tax code—the DISC provision.

My legislation would also reform the Domestic International Sales Corporation provision by simply limiting this existing tax incentive for exports to the first $10 million of gross receipts of a qualified Domestic International Sales Corporation. This proposal will have the effect of retaining a very desirable export incentive for smaller businesses while at the same time substantially limiting the DISC preference for the very large corporations. This proposal would raise an estimated $900 million in additional revenues in 1975.

There is no evidence that the existing DISC provision has had the effect of encouraging very large corporations to expand exports. However, I believe that there are valid reasons to continue this tax incentive in a manner which will assist smaller businesses. Throughout our history, Congress has recognized the special needs of America's smaller businessmen. This has been particularly true in our tax laws. The bill that I am offering today will retain DISC for smaller businesses while substantially limiting it for giant corporations.

There are several reasons for retaining the DISC provisions for smaller businesses.

First, a 50 percent tax deferral for export income is a significant tax savings for small businesses and would serve as a significant incentive to either begin or expand export operations. This would be particularly true for any smaller corporation that is now weighing the possibility of developing a foreign market. In comparison, this tax incentive has little or no impact on the decision of our giant corporations to export.

Second, DISC would provide smaller businesses with the necessary "start-up" assistance to seek a foreign market. These companies would avail themselves of this tax incentive to help "initiate" an export program. This proposal will help add new exporters to the roster of existing exporters.

Third, this tax incentive will encourage small businesses to compete against the larger American companies. It will help stimulate healthy competition in our economy, particularly with respect to exports.

Fourth, by denying unlimited DISC treatment to large corporations, we would deny large corporations the opportunity to gain a huge tax windfall from this provision.

Mr. President, for these reasons I urge the Congress to enact this reform which simply limits DISC benefits to the first $10 million of export income. It will provide a desirable incentive for smaller companies to export while it will deny a large tax windfall to our major corporations.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD a summary and fact sheet describing my tax proposals.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRIEF SUMMARY OF THE PROVISIONS OF SENATOR LLOYD BENTSEN'S INDIVIDUAL TAX REDUCTION AND TAX REFORM ACT

1. Tax Cut.—Over $13 billion in tax relief to low and middle income taxpayers would be provided by offering every taxpayer a $250 tax credit as an *option* to the existing $750 personal exemption in our Federal income tax law effective January 1, 1975. This would be a permanent change in the tax law. Under this proposal, a family of four with an income of less than $7,300 would pay no tax while families making less than $25,000 a year would receive considerable tax reductions. A family of four making $15,000 per year, for example, would have about $300 a year in Federal income taxes.

Rising unemployment and the continuation of unacceptably high levels of inflation clearly demonstrate the need for immediate enactment of a moderate tax cut for low and middle income Americans to help stimulate the economy and to provide a partial offset against rising prices. Since low and middle income Americans are the principal victims of inflation and recession, it is essential that tax relief be focused on these individuals. An optional tax credit of $250 would achieve this objective. More than 70% of the tax relief provided by this proposal would go to families with incomes of $15,000 or less.

2. Alternative Tax.—This bill includes the proposal which was tentatively adopted by the House Ways and Means Committee last year to replace the existing "minimum tax" provision for individuals, trusts and estates with a new "alternative tax". This new tax will be an "alternative" to the regular taxes an individual owes rather than an addition to it. An individual will only have to pay the "alternative tax" if his regular tax liability falls below some appropriate percentage of his economic income. This provision will raise as much as $450 million in additional tax revenues annually by helping to insure that high income Americans pay their fair share of taxes.

Under this proposal, taxpayers will pay the alternative tax only if it exceeds their regular income tax.

The base of the alternative tax will be "economic income" less an exemption and less certain deductions. Economic income is defined as adjusted gross income plus certain items of tax preference. These preference items are (1) the excluded part of capital gains, (2) the excess of deductions for percentage depletion over the adjusted basis of the property, (3) the excess of accelerated over straight-line depreciation on certain buildings (other than government-subsidized low-income housing), (4) the bargain element in stock options, (5) rapid amortization of certified pollution control facilities and on-the-job training and child care facilities, (6) accelerated depreciation on personal property subject to a net lease in excess of straight line depreciation, and (7) amortization of railroad rolling stock over depreciation otherwise allowable.

Certain itemized deductions will be allowed under the alternative tax. These are the fair market value of charitable contributions that are deductible under the regular income tax, investment interest and expenses to the extent of investment income, medical and drug expenses in excess of 5% (above a 50% deductible) in excess of three percent of economic income.

The alternative tax exemption will generally be $20,000 ($10,000 for married individuals who file separate returns), but it will be reduced dollar for dollar as economic income less the deductions that are allowable under the alternative rises above $20,000. Thus, the exemption will be zero whenever the excess of economic income over deductions exceeds $40,000. While a large exemption is needed to make sure that only high-income individuals are made subject to the alternative tax, this large exemption should not permit individuals with very high incomes to escape tax on a large amount of their preference income.

The tax rate for the alternative tax will be one-half the regular tax rates on the same amount of taxable income so that it will range from 7% to 35%.

3. Reform of the Domestic Oil Depletion Allowance.—The domestic percentage depletion allowance for oil would be limited to the first three thousand barrels per day production which would raise $1.3 billion in additional tax revenues annually. This would deny an unnecessary tax advantage to major oil companies but would retain an important tax incentive for our Nation's small independent oil producers who do as much as 90% of domestic exploratory drilling and who are contributing significantly to the attainment of our goal of reasonable energy self-sufficiency. Denial of percentage depletion to small independent oil producers would dry up their sources of outside capital and lead to substantial curbs in exploratory drilling. The demise of independent producers would lead to excessive concentration in the petroleum industry.

4. Comprehensive Tax Reform of Overseas Oil and Gas Income.—This bill includes the provisions included in last year's House Ways and Means Committee legislation dealing with foreign oil and gas income.

Four major changes in our tax laws are made. First, this bill will repeal percentage depletion for oil and gas production outside of the North American continent. Second, this bill will substantially limit the ability of international oil companies to use what are known as "excess foreign tax credits" to avoid American taxes on overseas income from shipping, refining and other related operations. Third, this bill will eliminate the option that oil companies now have to use a tax procedure known as the "per country limitation" in computing foreign tax credits. The "per country limitation" has helped oil companies avoid U.S. taxes on their foreign earnings. Fourth, this bill will also limit the ability of oil companies to use foreign losses to reduce U.S. taxes on domestic income.

These changes will remove tax incentives which provide more favorable tax treatment to overseas oil and gas production compared to domestic production; provide greater equity and fairness in our tax laws; and raise over $400 million in additional tax revenue each year.

5. Domestic International Sales Corporation.—The Domestic International Sales Corporation provision would be performed by simply limiting this existing tax incentive for exports to the first $10 million of gross receipts of a qualified Domestic International Sales Corporation. This proposal will have the effect of retaining a very desirable export incentive for smaller businesses while at the same time substantially limiting the DISC preference for the very large corporations. This tax incentive will encourage small businesses to compete against the larger American companies with respect to exports. This provision will raise an estimated $900 million in additional tax revenues each year.

Fact Sheet: Senator Lloyd Bentsen's Individual Tax Reduction and Tax Reform Act

1. Tax Cut.—Over $13 billion in tax relief to low and middle income taxpayers would be provided by offering every taxpayer a $250 tax credit as an *option* to the existing $750 personal exemption in our Federal income tax law effective January 1, 1975. This would be a permanent change in the tax law. Under this proposal, a family of four with an income of less than $7,300 would pay no tax while families making less than $25,000 a year would receive considerable tax reductions. A family of four making $15,000 per year, for example, would save about $300 a year in Federal income taxes.

Rising unemployment and the continuation of unacceptably high levels of inflation clearly demonstrate the need for immediate enactment of a moderate tax cut for low and middle income Americans to help stimulate the economy and to provide a partial offset against rising prices. Since low and middle income Americans are the principal victims of inflation and recession, it is essential that tax relief be focused on these individuals. An optional tax credit of $250 would achieve this objective. More than 70% of the tax relief provided by this proposal would go to families with incomes of $15,000 or less.

2. Alternative Tax.—This bill includes the proposal which was tentatively adopted by the House Ways and Means Committee last year to replace the existing "minimum tax" provision for individuals, trusts and estates with a new "alternative tax." This new tax will be an "alternative" to the regular taxes an individual owes rather than an addition to it. An individual will only have to pay the "alternative tax" if his regular tax liability falls below some appropriate percentage of his economic income. This provision will raise as much as $450 million in additional tax revenues annually by helping to insure that high income Americans pay their fair share of taxes.

3. Reform of the Domestic Oil Depletion Allowance.—The domestic percentage depletion allowance for oil would be limited to the first three thousand barrels per day of production which would raise over $1.3 billion in additional tax revenues annually. This would retain a full 22% depletion allowance for the smaller independent producers who drilled 88% of our exploratory wells last year while removing percentage depletion on 75% of the country's oil production. Denial of percentage depletion to small independent oil producers would dry up their sources of outside capital and lead to substantial curbs in exploratory drilling. The demise of independent producers would lead to excessive concentration in the petroleum industry.

4. Comprehensive Tax Reform of Overseas Oil and Gas Income.—This bill includes the provisions included in last year's House Ways and Means Committee legislation dealing with foreign oil and gas income.

These changes will remove tax incentives which provide more favorable tax treatment to overseas oil and gas production compared to domestic production; provide greater equity and fairness in our tax laws; and raise over $400 million in additional tax revenue each year.

5. Domestic International Sales Corporation.—The Domestic International Sales Corporation provision would be reformed by simply limiting this existing tax incentive for exports to the first $10 million of gross receipts of a qualified Domestic International Sales Corporation. This proposal will have the effect of retaining a very desirable export incentive for smaller businesses while at the same time substantially limiting the DISC preference for the very large corporations. This tax incentive will encourage small businesses to compete against the larger American companies with respect to exports. This provision will raise an estimated $900 million in additional tax revenues each year.

The revenue impact of these five changes would be a tax reduction to moderate and low income individuals of $13 billion and $3 billion in additional taxes from corporations and high income individuals through tax reform. The $10 billion revenue loss is equal to the amount the tax burden on individuals has increased over the last year due to inflation placing them in higher tax brackets. These proposals will restore lost purchasing power to the consumer and return the tax burden to its previous level.

By Mr. BENTSEN:

S. 313. A bill to authorize an exchange of lands for an entrance road at Guadalupe Mountains National Park, Tex., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. BENTSEN. Mr. President, Guadalupe Mountains National Park, located in west Texas, was authorized in 1966 and formally established September 30, 1972. This new national park preserves, protects, and provides for public enjoyment the most extensive exposed fossil reef complex on record. It also presents a unique ecological association of plant and animal life. It stands like an island in the desert.

The park idea was initiated with a generous donation of land from Mr. Wallace Pratt in 1958, which included the outstanding McKittrick Canyon. This canyon is exquisite in that the bisected reef formation contains a lush assemblage of plant and animal life, supported by a cold water mountain stream, contrasting sharply with the surrounding dry desert. A myriad of rare plant and animal associations have developed due to changes of elevation ranging thousands of feet; and substantially permanent water sources which permit an established and varied plant life. Due to the capricious and precarious water level, there is a unique and fragile balance between desert life and lush mountain life. The flora and fauna of both desert and the mountains, along with the desert starkness and the mountain tranquillity are blended in natural harmony.

It presents the park visitor with a breathtaking wilderness hike between colorful steep-walled cliffs. It provides a spectacular setting for an outstanding interpretive story, telling of ancient reef geology, and remnant biotic communities which are a holdover from earlier geologic time.

A right-of-way for public access to the mouth of the canyon was included in the donation. However, subsequent surveys revealed that construction of a road along this route would be very costly and difficult because of adverse terrain.

At the present time visitor traffic is utilizing a private 5-mile road to gain access to the mouth of the canyon.

Restrictions were imposed by the landowner because of concern about the large number of visitors crossing the ranch. A daily limit has been imposed and consists of 4 cars on weekdays and 10 cars on the weekends.

Additionally, access to the Government residence near the canyon is now over private land. Visitor travel, although light at the present time, is expected to increase significantly when master plan development proposals for the park are initiated.

Mrs. Fletcher Pratt, present owner of the private land between McKittrick Canyon and U.S. Highway 62–180, has graciously consented to an exchange of land which would permit the public and administrative access road to be located essentially along the present private primitive road route to the canyon. This would provide a feasible route for a public access road to be constructed and be preferable from an environmental standpoint to routing it over undisturbed terrain.

Mr. President, the legislation I introduce today authorizes the National Park Service to negotiate the proposed land exchange with the private landowner. I urge the Senate's expeditious and favorable consideration of this bill.

By Mr. BAKER (for himself, Mr. Weicker, Mr. Muskie, Mr. Mansfied, Mr. Percy, Mr. Mathias, Mr. Javits, Mr. Brock, Mr. Montoya, Mr. Packwood, Mr. Burdick, Mr. Domenici, Mr. Beall, Mr. Stafford, Mr. McIntyre, Mr. Inouye, Mr. Leahy, Mr. Hollings, Mr. Hatfield, Mr. Cranston, Mr. Brooke, Mr. Roth, Mr. Taft, Mr. Proxmire, Mr. Bartlett, Mr. Helms, and Mr. Clark):

S. 317. A bill to establish a Joint Committee on Intelligence Oversight. Referred to the Committee on Government Operations.

(The remarks of Mr. Baker on the introduction of the above bill are printed earlier in the Record.)

By Mr. BARTLETT (for himself and Mr. Garn):

S. 318. A bill prohibiting use of HEW funds for abortion. Referred to the Committee on Labor and Public Welfare.

(The remarks of Mr. Bartlett on the introduction of the above bill are printed earlier in the Record.)

By Mr. TALMADGE (for himself, Mr. Allen, Mr. Bayh, Mr. Clark, Mr. Cranston, Mr. Eagleton, Mr. Abourezk, Mr. Bentsen, Mr. Church, Mr. Metcalf, Mr. Stennis, Mr. Eastland, Mr. Hartke, Mr. Haskell, Mr. Helms, Mr. Humphrey, Mr. McGovern, Mr. Magnuson, Mr. Mondale, Mr. Nelson, Mr. Nunn, Mr. Sparkman, Mr. Stevenson, Mr. Stone, Mr. Thurmond, and Mr. Tunney):

S. 319. A bill to provide a priority system for certain agricultural uses of natural gas. Referred to the Committee on Commerce.

By Mr. TALMADGE (for himself, Mr. Allen, Mr. Bayh, Mr. Clark, Mr. Cranston, Mr. Abourezk, Mr. Bentsen, Mr. Burdick, Mr. Church, Mr. Metcalf, Mr. Stennis, Mr. Leahy, Mr. Eagleton, Mr. Eastland, Mr. Hartke, Mr. Haskell, Mr. Helms, Mr. Humphrey, Mr. McGovern, Mr. Mondale, Mr. Nelson, Mr. Nunn, Mr. Sparkman, Mr. Stevenson, Mr. Stone, Mr. Thurmond, and Mr. Tunney):

S. 320. A bill to provide natural gas for essential agricultural purposes. Referred to the Committee on Commerce.

(The remarks of Mr. Talmadge on the introduction of the above bills are printed earlier in the Record.)

By Mr. PEARSON:

S. 321. A bill to regulate commerce by authorizing, in a period of serious recession, assistance to business concerns whose failure would increase unemployment and economic dislocation and by authorizing development assistance to business concerns and organizations whose existing sources of funds are not adequate, where public purposes will be served thereby. Referred to the Committee on Banking, Housing and Urban Affairs.

ECONOMIC REVIVAL AND DEVELOPMENT ACT OF 1975

Mr. PEARSON. Mr. President, I am today introducing the Economic Revival and Development Act of 1975. This legislation would create a Restoration Finance Corporation to provide loans and loan guarantees to borrowers otherwise unable to obtain credit. Such an enterprise would stimulate the entire economy and serve as a safety brake against a major bankruptcy in the industrial, financial, or economic sectors. It can also be anticipated that it would create new jobs and maximize employment opportunities at every level of the economy.

This Nation is today laboring under the agony of inflation and the torture of recession. Hundreds, perhaps thousands of American businesses are in serious financial trouble as a result of the slumping economy. Intense inflationary pressures and declining production have produced a serious money crunch expected to result in an increasing number of business insolvencies. Sources of new capital needed to underwrite the recovery of many distressed corporations are simply unavailable. Countless firms—potentially healthy firms—are unable to obtain the capital they desperately need to alleviate cash flow stresses, modernize their plants, or open new markets and ventures. Many face severe financial and liquidity problems as a result of factors outside their control: the prohibitive cost of credit, soaring energy costs, declines posted in related industries.

Despite the escalating demand for energy, many utility companies are finding it difficult if not impossible in some cases to raise new funds needed for expansion as a result of declining stock prices, large debts, and the heavy cost of new technologies.

Economic experts estimate the equity requirements of American industry for the foreseeable future at $50 billion a year; yet only one-tenth of this amount is currently being generated. Not only have many individual investors lost confidence in the economy, but U.S. banks are precariously overextended and simply cannot provide the infusion of new equity capital required by American industry.

Mr. President, any large-scale business or financial failures could have a domino effect on the economy, turning the present recession into a grinding depression. At the very least, a sharp rise in corporate involvencies will seriously weaken our already feeble economy, undermining the effectiveness of Government efforts to deal with unemployment and corroding the strength of the dollar on world money markets.

What is needed today is a massive infusion of credit into the economy to provide emergency relief for busines concerns caught in the credit crunch created by the shaky economy. In view of the fact that the economy has posted declines in the gross national product for four successive quarters, a powerful stimulus is needed to pull this Nation out of the current recessionary slump and to promote economic development.

Mr. President, the Restoration Finance Corporation set up by my proposal would be a dynamic instrument which would: First, not only serve as a safety net for business concerns facing receivership; but second, would unlock the untapped potential of the economy, promote economic expansion, reduce unemployment, and contribute to economic stability.

Specifically, this legislation would establish a wholly owned nonprofit Government corporation governed by a seven-member board of directors. The board will be composed of a chairman and three non-Government members appointed by the President and confirmed by the Senate. In addition, there will be three Government members: the Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the Board of Governors of the Federal Reserve System.

I have no desire to create another bureaucracy which will outlive its purpose. Since this RFC proposal is clearly designed as an emergency measure to meet an emergency situation, it has only been given a 5-year life, at which time it will be dissolved unless Congress takes other action.

The Corporation will have a capitalization of $3 billion, raised through the sale of stock. In addition to making direct loans, the RFC will have the authority to provide loan guarantees to business concerns. It may have outstanding at any one time loan guarantees equal to 10 times the corporation's subscribed capitalization.

The rate of interest charged for loans is pegged to the interest paid by Federal Treasury obligations. All loans will be rigorously analyzed and must be secured by adequate collateral.

The chief thrust of the RFC will be its loan guarantee program. The corporation, however, will not be permitted to guarantee more than 50 percent of a loan negotiated by a business concern with a credit institution except under special circumstances, in which case guarantees of up to 80 percent will be permitted. One hundred percent loan guarantees are not provided for in the legislation. This is so that banks and other lending institutions will be more judicious in making loans in view of the fact that they will share the risk with the RFC.

To be eligible for RFC-sponsored loans or loan guarantees, a business concern must not only have exhausted existing sources of credit, but must comply with certain enumerated country building goals of the RFC. These goals include: First, the revival of well-managed, competitive business concerns in need of assistance to avoid bankruptcy and widespread layoffs; second, the creation of new sources of economic strength in high priority sectors of the economy; third, the aiding of business concerns which will increase productivity, create new jobs, reduce inflationary pressures, conserve energy, and contribute to the development of new energy sources; and, fourth, the prevention of business failures which would increase shortages in the economy, reduce competition, and have a serious impact on financial institutions.

Not less than 25 percent of the total lending power of the RFC will be reserved to the agricultural, small business, and housing sectors.

This legislation establishes strong and comprehensive audit and examination procedures to insure that the RFC adheres to tough standards in making loans and loan guarantees to prospective borrowers. Moreover, provision is made for continuous congressional oversight of the operations of the Corporation. The RFC will also be required to file an annual report with both Congress and the President detailing its activities and evaluating the Corporation's problems and effectiveness. If judiciously administered, I am confident that these safeguards will prevent the manipulation of RFC loans or their use as political favors and inducements.

Mr. President, the RFC is not intended as a prop to stave off the bankruptcy of inefficient industries. Distinction will be made between providing capital to deserving firms and, by contrast, bailing out basically unsound companies whose problems are far deeper and require more substantive action. As solely a bailout mechanism, the proposal to establish a new RFC is the wrong piece of legislation for the wrong problem. Poor management, uncompetitive market position, and other problems related to an untenable corporate structure can best be solved by bankruptcy and reorganization in most instances.

Many voices call today for easy solutions, for quick remedies to the economic ills that beset us. But easy solutions are not necessarily the right solutions; and quick remedies rarely make good policies. There are no magic cures for our economic woes. Nothing will automatically deliver us from the problems converging on us today. The creation of a Restoration Finance Corporation will be a step—and I emphasize the word "step"—toward economic recovery. But it is a step, I believe, we should take.

Mr. President, a strong economy is fundamental to our national security and constitutes our major national resource. It is the source of our strength and the basis for our faith in the future. A strong American economy is our hope and the hope of the world.

Mr. President, I ask unanimous consent that the full text of this bill be printed in the RECORD at this point.

There being no objection the bill was ordered to be printed in the RECORD, as follows:

S. 321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economic Revival and Development Act of 1975."

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) The United States economy is currently suffering economically from recession and inflation, and these conditions have combined in their impact to adversely affect interstate commerce and to cause a decline from four successive quarters in the gross national product.

(2) These conditions have compelled business concerns to suspend or abate activities having long-term development requirements, high-risk, or uncertain consequences (because of difficulty in forecasting financial quantifiability or returns) even though such activities offer the best prospects for future economic strength and provide the basis for solving the Nation's energy and other problems.

(3) The collapse and bankruptcy of large numbers of business concerns would unduly burden interstate and foreign commerce.

(b) PURPOSES.—It is therefore declared to be the purpose of Congress in this Act to reduce such burdens on commerce by authorizing financial assistance to unlock the capacities and untapped potential of the American economy, to expand economic opportunity, to stimulate development, to reduce unemployment, and to restore, enhance, and promote the economic stability of the United States.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Board" means the Board of Directors of the Corporation;

(2) "Business concern" means any person which is eligible for assistance under the provisions of this Act. such term shall not include (A) any person receiving financial assistance under the Regional Rail Reorganization Act of 1973; (B) any person which is the dominant entity having substantial market control in a monopolistic or oligopolistic market, other than a regulated entity producing electrical or other forms of energy; (C) any corporation or other person which the Board determines to be reasonably competitive and capable of obtaining financing through ordinary sources on reasonable terms; or (D) any person the preponderance of whose business activity, as defined by the Board, is with the Federal Government;

(3) "Chairman" means the Chairman of the Board of the Corporation;

(4) "Commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in subparagraph (A);

(5) "Corporation" means the Restoration Finance Corporation;

(6) "Holder" means, unless otherwise provided, the holder of an obligation, except that if a bank or trust company is acting as agent or trustee for the holder of an obligation, such bank or trust company shall be regarded as the holder thereof;

(7) "Obligation" means a bond, note, conditional sale agreement, trust certificate, lease obligation, security agreement, or other obligation issued or granted to finance or refinance any needs of a business concern;

(8) "Obligor" means the debtor under an obligation, including the original obligor and any successor or assignee thereof who is approved by the Board;

(9) "State" means a State of the United States or the District of Columbia; and

(10) "United States" means all of the States, except that when used in a governmental sense, the term means the Federal Government.

RESTORATION FINANCE CORPORATION

SEC. 4. (a) ESTABLISHMENT.—There is established, in accordance with the provisions of this section, an independent instrumentality of the United States to be known as the Restoration Finance Corporation (hereafter referred to as the "Corporation").

(b) ADMINISTRATION.—The Corporation shall be directed by a Board of Directors. The individuals designated, pursuant to subsection (d)(2) of this section, as the Government members of such Board shall be deemed the incorporators of the Corporation and shall take whatever steps are necessary to establish the Corporation, including filing of articles of incorporation, and serving as an acting Board of Directors for a period of not more than 60 days after the date of such incorporation.

(c) STATUS.—The Corporation shall be a government corporation subject, to the extent not inconsistent with this Act, to the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29-1001 et seq.). Except as otherwise provided, employees of the Corporation shall not be deemed employees of the Federal Government. The Corporation shall have succession until January 1, 1980, unless earlier dissolved by Act of Congress; shall maintain its principal office in the District of Columbia; and shall be deemed to be a resident of the District of Columbia with respect to venue in any legal proceeding.

(d) BOARD.—The Board shall consist of 7 individuals, as follows:

(1) the Chairman, a qualified individual who shall be appointed by the President, by and with the advice and consent of the Senate;

(2) three Government members, who shall be the Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the Board of Governors of the Federal Reserve System, or their designated and duly authorized representatives; and

(3) three nongovernment members, who shall be appointed by the President, by and with the advice and consent of the Senate.

No member of the Board may have any employment or direct financial relationship with any business concern which has received, directly or indirectly, any assistance under this Act, or which is involved in advising any such business concern. A member of the Board who is not otherwise an officer or employee of the Federal Government may receive $200 per diem when engaged in the actual performance of his duties plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties, together with sufficient funds to enable him to appoint and maintain at the principal offices of the Corporation a personal staff of qualified full-time personnel not otherwise subject to the control of the Corporation. No member of the Board may accept employment or any direct or indirect compensation for services from any business concern to which financial assistance was granted during his term as such member, until not less than 3 years after the termination of his membership on the Board.

(e) TERMS OF OFFICE.—The terms of office of the nongovernment members of the Board shall expire as designated by the President at the time of nomination—one at the end of the second year after the date of incorporation and two at the end of the fourth such year. The term of office of the Chairman shall be 4 years. Successors to members of the Board shall be appointed in the same manner as the original members and, except in the case of government members, shall have terms of office expiring 4 years from the date of expiration of the terms for which their predecessors were appointed or on the date of dissolution of the Corporation, whichever is earlier. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(f) PERSONNEL.—The Corporation is authorized to appoint, fix the compensation, and assign the duties of such officers, attorneys, agents, consultants, and other employees at is deems necessary or appropriate, except that (1) no employee of the Corporation may receive compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code; and (2) no individual may hold a position in violation of regulations which the Attorney General shall establish to avoid conflicts of interest and to protect the interests of the public.

(g) INVESTMENT OF FUNDS.—Uncommitted funds of the Corporation shall be kept in cash on hand or on deposit at an appropriate rate of interest, or invested in obligations of the United States or guaranteed thereby.

(h) EXEMPTION FROM TAXATION.—The Corporation, including its franchise, capital reserves, surplus, security holdings, and income shall be exempt from all taxation now or hereafter imposed by the United States, or by any State or political subdivision thereof, except that any real property of the Corporation shall be subject to taxation to the same extent according to its value as other real property is taxed.

(i) BUDGET.—The receipts and disbursements of the Corporation (other than administrative expenses) in the discharge of its functions shall not be included in the totals of the budget of the United States Government, and shall be exempt from any annual expenditure and net lending (budget outlays) limitation imposed on a budget for such Government. The Chairman shall transmit annually to the Congress a budget for program activities and for administrative expenses of the Corporation. The Chairman shall report annually to the Congress the amount of net lending by the Corporation, and the amount of net guaranteeing of obligations by the Corporation.

(j) ACCOUNTABILITY.—(1) Section 201(a) of the Government Corporation Control Act (31 U.S.C. 856) is amended by (A) striking out "and" at the end of clause (6), by striking out the period at the end of such section and by inserting in lieu thereof a comma and the following: "and (8) the Restoration Finance Corporation."

(2) The Chairman shall transmit annually to the Office of Management and Budget a budget for administrative expenses of the Corporation. Whenever the Corporation submits any budget estimate or request to such Office, it shall concurrently transmit a copy thereof to the Congress. Within budgetary constraints of the Congress, the maximum feasible and prudent budgetary flexibility shall be provided to the Corporation to permit effective operations.

GOALS, POWERS, AND DUTIES

SEC. 5. (a) GOALS.—The Corporation shall act, conduct its activities, and take all steps necessary consistent with its resources and capacity to promote the following goals:

(1) the revival, through loans and guarantees, of business concerns which are well-managed, competitive and important to the Nation's economy but which are in financial difficulty and in need of assistance to avoid bankruptcy and substantial employee layoffs;

(2) the promotion through development assistance loans and guarantees, of new sources of economic strength and productivity in fields responsive to national needs including, but not limited to, energy supplies, pollution-control technology, and housing;

(3) the aiding of any business concern, including, but not limited to, small business and agriculture, which will as a result of such assistance—

(A) create new jobs and maximize employment opportunities;

(B) increase productivity and the gross national product;

(C) reduce costs, prices, and inflationary pressures; or

(D) conserve energy or contribute to energy savings or to the development of new or improved sources of energy;

(4) the prevention of business failures where such failure would have a serious adverse impact on financial institutions or where such failure would create an unfavorable competitive situation in a single market or increase shortages in the Nation's economy.

(b) POWERS AND DUTIES.—To carry out its goals and the purposes of this Act, the Corporation is authorized to—

(1) make loans, in accordance with section 7 of this Act;

(2) guarantee obligations and make commitments to guarantee obligations, in accordance with section 8 of this Act;

(3) Recommend to Congress and the President the authorization or implementation of any other mechanisms for economic revival and development, including, but not limited to, amendments to this Act; changes in or termination of existing Federal agencies, instrumentalities, or policies; the initiation of new such agencies, instrumentalities, or policies; and the coordination of all Federal Government credit programs. No officer or agency of the United States shall have any authority to require the Corporation to submit any such recomendation, any proposed testimony by it, or any comment on any pending legislation or recommendation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations or comments to the Congress;

(4) sue and be sued, complain and defend, in the name of the Corporation and through its own attorneys; adopt, amend, and repeal bylaws governing the operation of the Corporation and such rules and regulations as are necessary to carry out the authority granted under this Act; establish and maintain accessible regional and branch offices; conduct its affairs and carry on operations;

(5) acquire and hold such real and personal property and interests in property as it deems necessary or appropriate in the exercise of its responsibilities under this Act, and to dispose of any such property held by it;

(6) consult with the Chairman of the Federal Trade Commission and the Attorney General, on an ongoing basis, to assess the possible anticompetitive effects of the failure of certain business concerns and of various applications for assistance;

(7) request in writing any department, agency, and instrumentality of the executive branch of the Federal Government and each independent regulatory agency of the United States to furnish, on a reimbursable basis or otherwise, such assistance as the Corporation deems necessary to carry out its responsibilities. Each such department, agency, and instrumentality is authorized and shall give careful consideration to any such request, including, but not limited to, a request for the transfer of personnel with their consent and without prejudice to their position and rating;

(8) appoint and consult with such advisory committees as it deems necessary or appropriate, pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C. App.); and

(9) consult with representatives of science, industry, agriculture, labor, academic, financial, and other groups, as it deems advisable.

(c) SPECIAL ALLOCATION.—Not less than 25 percent of the total lending authority of the Corporation shall be dedicated to those sectors of the economy which involve agricultural, housing, and small business activities. As used in this subsection, "small business" has the same meaning as under section 3 of the Small Business Act.

CAPITALIZATION

SEC. 6. The Corporation is authorized, in accordance with the provisions of this section, to issue from time to time and to have outstanding capital stock of an aggregate purchase price not to exceed $3,000,000,000. Shares of such stock shall be nonvoting and without par value. The Secretary of the Treasury is authorized to and shall subscribe for and acquire on behalf of the United States, upon request of the Board, the full amount of the stock of the Corporation of an aggregate purchase price of $3,000,000,000. The subscription of the United States shall be paid as follows:

(1) not more than 20 percent of such subscription shall be paid at the time the Corporation is organized, to be available as needed by the Corporation in the discharge of its responsibilities; and

(2) the remaining 80 percent thereof shall be paid on call by the Corporation to the extent, and only when, required by it to discharge its responsibilities under this Act. The Secretary of the Treasury is authorized and directed to pay such subscription to stock of the Corporation from time to time when payments are required to be made to the Corporation. For the purpose of making these payments, the Secretary of the Treasury is authorized to use as a public-debt transaction $3,000,000,000 of the proceeds of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act are extended to include such purpose. Payment under this section of the subscription of the United States to the Corporation, in whole or in part, and any repayment thereof, shall be treated as public-debt transactions of the United States. Stock and other securities issued by the Corporation pursuant to this section shall be exempted securities under section 3 of the Securities Act of 1933 (15 U.S.C. 77c).

LOANS

SEC. 7. (a) GENERAL.—The Corporation is authorized, in accordance with this section and such rules and regulations as it shall prescribe, to make loans, upon such terms and conditions not inconsistent with this Act as it may determine, to any business concern—

(1) to enable such business concern to finance plant construction, conversion, or expansion, or the acquisition of equipment, facilities, machinery, supplies, or materials;

(2) to supply such business concern with working capital;

(3) to aid such business concern in the payment of current debts or obligations, if such aid is considered by the Board to be in the public interest;

(4) to enable such business concern to finance development activities; or

(5) to meet any of the goals of the Corporation.

(b) SPECIAL INVESTIGATION.—No loan may be made by the Corporation to any corporation or other entity which has assets of more than $50,000,000 unless such application is referred for investigation and report to a special assessment panel to be established by the Board. Such panel shall make a determination whether such loan would mitigate the financial problems of such corporation or other entity or whether additional action should be undertaken or mandated before the United States should extend any such financial assistance.

(c) APPLICATION.—Each application for such a loan shall be made in writing to the Corporation in such form and with such content and other submissions as the Corporation shall prescribe to protect reasonably the interests of the United States. The Corporation shall publish a notice of the receipt of each such application in the Federal Register and shall afford interested persons an opportunity to comment thereon. The Corporation shall notify each applicant in writing of its determination with respect to the application, and, in connection with the approval of any such application, the Corporation shall give public notice of such approval, including the reasons therefor, in terms of the goals of the Corporation and the purposes of this Act.

(d) TERMS AND CONDITIONS.—Each loan shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Corporation deems appropriate. Such loan shall bear interest at a reasonable rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities issued during the calendar year preceding the date of the loan, plus any additional charge toward covering the costs of the Corporation as the Board may determine to be consistent with the purposes of this Act.

(e) MODIFICATIONS.—The Corporation is authorized to approve any modification of any provision of a loan under this section, including, but not limited to, the rate of interest, time of payment of interest or principal, or security, upon agreement of the recipient of the proceeds of the loan and upon a finding by the Corporation that such modification is equitable and necessary or appropriate to achieve the policy of this Act, not inconsistent with any provisions of this Act, and not prejudicial to the interests of the United States under this Act.

(f) PREREQUISITES.—The Corporation shall make a finding in writing, before making a loan to any applicant under this section, that (1) the loan is necessary in accordance with the goals of the Corporation and the purposes of this Act; (2) the Corporation is satisfied that the business affairs of the applicant will be conducted in a reasonable and prudent manner; and (3) the applicant has offered such security as the Corporation deems necessary to protect reasonably the interests of the United States.

OBLIGATION GUARANTEES

SEC. 8. (a) GENERAL.—The Corporation is authorized, under the provisions of section 7 of this Act to the extent not inconsistent with any provision of this section, and such rules and regulations as it shall prescribe, to guarantee and to make commitments to guarantee the payment of interest on, and/or the principal of, an obligation. Such guarantee or commitment may be made by the Corporation prior to, on, or after the date of execution or the date of disbursement of such obligation. Each application for the guarantee of an obligation shall be made in writing to the Corporation in such form and with such content and other submissions as the Corporation shall prescribe to protect reasonably the interests of the United States. Each such guarantee and commitment shall be extended in such form, under such terms and conditions, and pursuant to such regulations as the Board deems appropriate, consistent with the goals of the Corporation and the purposes of this Act. Each guarantee and commitment to guarantee an obligation shall insure to the benefit of the holder of the obligation to which such guarantee or commitment applies. In no event shall any such holder be entitled to receive or retain payment therefrom in a total amount which, together with any other recovery including, but not limited to, a security interest, exceeds the actual loss to such holder.

(b) MAXIMUM PERMISSIBLE GUARANTEE.—The Corporation may not guarantee payment of the principal of an obligation in an amount in excess of 50 percent of the value of the equipment, facilities, or other requirements of the applicant which are being financed or refinanced thereby, except that the Corporation may guarantee an amount not in excess of 80 percent of such value upon a finding made in writing by the Board, which shall be published with detailed reasons therefor in the Federal Register, that the applicant would not otherwise be able, in its present financial condition to meet such requirements and that such requirements are necessary to be met to achieve the goals of the Corporation and the purposes of this Act.

(c) RATE OF INTEREST.—Interest (exclusive of premium charges for guarantee and service fees) shall be payable on each obligation guaranteed by the Corporation. Such interest shall be payable at a rate not to exceed the annual percentage rate determined by the Board to be reasonable upon consideration of the range of interest rates currently prevailing in the private market for similar obligations and the obligor's ability to meet its debt service payments.

(d) CONDITIONS OF GUARANTEES.—No guarantee or commitment to guarantee an obligation, and no loan under section 7 of this Act, shall be extended by the Corporation unless the obligor first agrees in writing to such reasonable conditions as the Board may prescribe to assure that the business concern involved conducts its activities in the public interest, including, but not limited to, the public interest in the goals of the Corporation, the purposes of this Act, safety, efficacy of goods or services produced or sought to be developed, consumer protection, environmental protection, and equality of employment opportunity. The Corporation is authorized and directed to commence an action to enjoin any activity found by the Board to be in violation of any such condition.

(e) INVESTIGATION CHARGE.—The Corporation shall charge and collect from the obligor such amounts as it may deem reasonable for the investigation of applications for a guarantee, a commitment to guarantee, or a loan. Such charges shall not aggregate more than one-half of one percent of the original principal amount thereof.

(f) PREMIUM CHARGE.—The Corporation shall set a premium charge of not more than one percent per year for an obligation guaranteed under this Act. Such charge shall be computed on the basis of the principal amount of the obligation which is outstanding and shall be paid to the Corporation at regular intervals prescribed by the Board.

(g) EVIDENCE.—No guarantee or commitment to guarantee an obligation entered into by the Corporation pursuant to this Act shall be terminated, canceled, or otherwise revoked, except in accordance with lawful terms and conditions prescribed by the Board. Such a guarantee or commitment shall be conclusive evidence that the underlying transaction is in compliance with the provisions of this Act and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder as of the date when the Corporation entered into it, except as to fraud, duress, mutual mistake of fact, or material misrepresentation by or involving such holder.

DEFAULT

SEC. 9. (a) GENERAL.—If there is a default in any payment by the obligor of principal or interest due under an obligation guaranteed under section 9 of this Act, which has continued for 30 days, the holder of such obligation of his agents have the right to demand payment by the Corporation of the unpaid sums due under such obligation and guaranteed by the Corporation. Such payment may be demanded after or before the expiration of such period as may be specified in such guarantee or related agreement, but not later than 90 days after the date of such default. Within such period as may be specified therein, but not more than 30 days after the date of such demand, the Corporation shall pay to the obligee or his agent the unpaid interest on and the unpaid principal of such obligation, as the case may be, to the extent necessary to discharge the guarantee obligation of the Corporation, except, that the Corporation may in its discretion pay only the actual amount unpaid for a period not to exceed 3 months at which time the entire guarantee obligation shall be paid by the Corporation. The Corporation shall not be required to make any such payment if, prior to the expiration of such period, it finds that there was no default by the obligor in any payment required or that such default has been remedied. Any amount required to be paid by the Corporation pursuant to this subsection shall be paid in cash.

(b) RIGHTS OF CORPORATION.—If the Corporation makes a payment under subsection (a) of this section, or if there is a default in any payment by the obligor of principal or interest due under a loan made by the Corporation under section 7 of this Act, the Corporation shall have all the rights, in any security which it held or to which it was entitled with respect to its guarantee of such obligation of its loan, which were conferred upon it by law or any agreement with the obligor.

(c) ACTION AGAINST OBLIGOR.—If there is a default, the Corporation shall take such action against the obligor involved or any other party liable therefor as is, in its discretion, necessary to protect the interests of the United States. Such a civil action shall be brought in the name of the United States or in the name of the holder. Such holders shall make available to the United States all records and evidence necessary to prosecute any such action. If the Corporation receives, directly or indirectly, an amount greater than the amount paid to the obligee under subsection (a) of this section or than the amount due the Corporation, together with the expenses of collection, the Corporation shall pay such excess to the obligor.

(d) DISPOSITION OF PROPERTY.—Notwithstanding any other provision of law, the Corporation is authorized to perform any acts which in its discretion it considers necessary to complete, repair, maintain, manage, operate, rent, sell, or otherwise dispose of any property or other interests acquired by it under an agreement pursuant to this section or section 8 of this Act.

RECORDS, AUDIT, AND EXAMINATION

SEC. 10. (a) RECORDS.—Each recipient of financial assistance under this Act, whether in the form of loans, guarantees, commitments to guarantee, or other arrangements, shall keep such records as the Corporation shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance and such other records as will facilitate an effective financial audit and a meaningful performance audit.

(b) AUDIT AND EXAMINATION.—The Corporation and the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after the extension of such assistance or the final repayment on any such loan or on any obligation guaranteed under this Act, whichever is later, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Corporation or the Comptroller General may be related to or pertinent to the loans, guarantees, or other arrangements referred to in subsection (a) of this section.

(c) CONGRESSIONAL OVERSIGHT.—Congress, through the duly authorized committees of the Senate and of the House of Representatives, shall exercise continuing oversight over the activities of the Corporation. In the exercise of such oversight, such committees may appoint professional examiners to analyze and evaluate the affairs of the Corporation. Each agency and officer of the Federal Government is directed to assist and cooperate with any such oversight activities.

LIMITATION

SEC. 11. (a) TOTAL LIMITATION.—The Corporation is authorized, with the approval of the Secretary of the Treasury, to issue, and to have outstanding at any one time in an amount aggregating not more than ten times its subscribed capital, its notes, debentures, bonds, or other such obligations. Such obligations shall be fully and unconditionally guaranteed both as to interest and principal by the United States and such guaranty shall be expressed on the face thereof. In the event that the Corporation is unable to pay upon demand, when due, the principal of or interest on any such obligations issued by it, the Secretary of the Treasury shall pay the amount thereof, which is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated. Thereupon, the Secretary of the Treasury shall, to the extent of the amount so paid, succeed to all the rights of the holders of such notes, debentures, bonds, or other obligations. The Secretary of the Treasury is authorized to purchase any such obligations of the Corporation, and for such purpose, he is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond

Act, as amended, and the purposes for which securities may be issued under such Act are extended to include any purchases of the Corporation's obligations hereunder. All redemptions, purchases, and sales by such Secretary of the obligations of the Corporation shall be treated as public-debt transactions of the United States.

(b) INDIVIDUAL LIMITATION.—No particular business concern, including its subsidiaries and affiliates, may receive assistance from the Corporation, directly or indirectly, in an amount which is greater than one percent of the Corporation's subscribed capital stock and its obligations authorized under subsection (a) of this section.

ANNUAL REPORT

SEC. 12. The Corporation shall transmit to the President and the Congress, not later than 120 days after the end of each fiscal year, a comprehensive and detailed report on all activities of the Corporation during the preceding fiscal year. Each such report shall include, but need not be limited to, (1) the Corporation's statement of specific and detailed objectives for the activities and programs conducted and assisted under this Act; (2) the Corporation's reasoned conclusions as to the effectiveness of such activities and programs in meeting the declared goals of the Corporation and the purposes of this Act, measured through the end of the preceding fiscal year; (3) a statistical compilation of the loans made and obligations guaranteed or committed to be guaranteed during the preceding fiscal year and the record of repayments and defaults, if any, on all such loans and guarantees issued by it; (4) a summary of outstanding problems confronting the Corporation, in order of priority, and a detailed statement of plans and projections for the current and succeeding fiscal year; (5) a statement by the Corporation pertaining to the justification of each loan or loan guarantee in accordance with the goals of the Corporation; and (6) any other information required or authorized to be submitted to the Congress pursuant to any other provision of this Act.

By Mr. CHURCH (for himself, Mr. McCLURE, Mr. HATFIELD, and Mr. PACKWOOD):

S. 322. A bill entitled "The Hells Canyon National Recreation Area Act." Referred to the Committee on Interior and Insular Affairs.

THE HELLS CANYON NATIONAL RECREATION AREA ACT

Mr. CHURCH. Mr. President, I send to the desk for appropriate reference a bill to create a Hells Canyon National Recreation Area. I am joined in cosponsorship of this proposal by my distinguished colleague from Idaho (Mr. McCLURE) and the distinguished Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD).

During the 93d Congress, the Senate enacted this bill which we reintroduce today. However, a similar measure, submitted in the House of Representatives during the last Congress, did not receive consideration in the full House of Representatives and the sponsors have reintroduced the proposal.

Last year, a spirit of compromise which lead to common agreement enabled the cosponsors of this bill to fashion a proposal meeting the major objectives of the many different groups vitally concerned over the management of the area. Even at that, changes were made as a result of public hearings held in LaGrande, Oreg., and Lewiston, Idaho, and before the Senate Interior Committee in Washington, D.C. I believe the changes strengthened the bill. In light of the favorable action already given this measure, I am hopeful that the spirit of cooperation will continue to prevail and the questions surrounding the Hells Canyon will finally be resolved.

MAJOR PROVISIONS OF THE BILL

First. Creation of a Hells Canyon National Recreation Area.

The bill contemplates a recreation area along the Snake River from Hells Canyon Dam, Idaho to Asotin, Wash. Just before Oxbow Dam on the Oregon side of the river and at approximately the Hells Canyon damsite on the Idaho side of the river the recreation area boundary begins. Then, surrounding the Hells Canyon, the recreation area continues almost to the northern boundary of the Nez Perce National Forest in Idaho, and within the State of Oregon, to the Washington State border. Finally, the NRA encompasses a quarter mile strip on both sides of the river forming a recreation corridor which ends at the town of Asotin, Wash. Also included within the recreation area is a quarter mile strip on either side of the west fork and main stem of the Rapid River.

Second. Creation within the recreation area of two Hells Canyon Wilderness Areas located on either side of the Snake River. The wilderness area on the Idaho side generally follows—on the southern boundary—the hydrologic divide south of Deep Creek to—on the eastern boundary—the hydrologic divide of the Snake River Canyon and follows that divide with some minor variations on to Pittsburg Landing, the northern boundary of the area is represented by a point approximately 500 feet back from the existing road to Pittsburgh Landing. The boundary was placed back from the road to assure that sufficient flexibility would be allowed for improvement of the road to the landing. On the Oregon side of the river, the wilderness area begins—on the southern boundary—near the Hells Canyon Dam and continues, with minor variations—on the western boundary—along the hydrologic divide of the Snake River Canyon to the Oregon-Washington border. The wilderness area includes within its boundaries the Seven Devils Peaks in Idaho. Black Lake, however, is excluded, although it is included with the recreation area. The lake is currently accessible by a road used by many recreation enthusiasts during the summer months. This use will remain open to the public.

Third. Designation of the Snake River between Hells Canyon Dam and Asotin, Wash., as part of the National Wild and Scenic Rivers system. The river would be divided into three segments: From Hells Canyon Dam to Pittsburgh Landing, designated as wild; from Pittsburg Landing to Dough Creek, as scenic; and, from Dough Creek to Asotin, Wash., as recreational. The land corridors abutting the river are to be generally uniform. This provision in the bill is necessitated because the river boundaries back up to designated wilderness areas on both sides of the Snake River. However, in order to accommodate recreational users of the river, these uniform corridors can be altered to allow for such facilities and structures for public use as are permitted under the Wild and Scenic Rivers Act. The creation of buffer strips thereby avoids the more restrictive requirements found in the Wilderness Act were these river corridor lands to be included in the Hells Canyon Wilderness Areas.

Also to be designated a wild river under the Wild and Scenic Rivers Act is that segment of the Rapid River from the headwaters of the main stem to the national forest boundary and that segment from the headwaters of the west fork to the confluence with the main stem. As to the entire Rapid River drainage, that area is to be administered so as to prevent any activity which would impair the water quality of those portions of the Rapid River included within the Wild and Scenic Rivers System. The Rapid River Salmon Hatchery, located in the Rapid River drainage area, is meant to sustain the anadromous fishery in the Snake, Salmon, and Clearwater drainages. The success of this hatchery is due, in large part, to the water quality of the Rapid River and associated watershed resources. Thus, the watershed itself is to be managed so as to protect the water quality of the river.

Fourth. Construction of any more dams along the Middle Snake River in Hells Canyon is prohibited. Hydroelectric interests have pressed for Federal Power Commission authorization to construct a dam on this stretch of the river. As a result of determined opposition by groups of concerned citizens throughout the Pacific Northwest, the Supreme Court of the United States ruled that the FPC should consider an order issued by that agency in 1964 which licensed construction of the High Mountain Sheep Dam. In 1971, an administrative law judge of the Federal Power Commission recommended that an FPC moratorium be placed on construction of any project until September 11, 1975, in order to give Congress time to work out a management plan for the Hells Canyon region. Last year, during the height of the energy crisis, the administration, and particularly the Federal Energy Administration, came forth, in hearings before the Senate Interior and Insular Affairs Committee, in favor of a prohibition on more dams on this stretch of the Snake River. The time is drawing near and a final legislative decision must be made; otherwise, the deepest gorge on the North American continent could be inundated with the still waters of a reservoir.

Fifth. Language which protects upstream water rights in Idaho. I have insisted that any legislation dealing with Hells Canyon must include language to protect the present and future rights of the water users upstream in the State of Idaho. This bill contains such language as drafted by the water users themselves and given even more protective strength by additions made in the Interior Committee. That language reads:

> 6(a) No provision of the Wild and Scenic Rivers Act, nor of this Act, nor any guidelines, rules, or regulations issued hereunder, shall in any way limit, restrict, or conflict with present and future use of the waters of

the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial uses, whether consumptive or nonconsumptive, now or hereafter existing, including, but not limited to domestic, municipal, stockwater, irrigation, mining, power, or industrial uses.

6(b) No flow requirements of any kind may be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act, of this Act, or any guidelines, rules, or regulations adopted pursuant thereto.

Furthermore, the original bill was modified to make clear that the prohibition on any department or agency of the United States from assisting in any way in the construction of any water resource facility within the recreation area apply only to the NRA and not to a prohibition on the use of Federal funds for upstream water development.

Sixth. Asotin Dam is specifically deauthorized. The Governors of Idaho, Oregon, and Washington, in voicing the opinion of the citizens of their respective States, join us in supporting this deauthorization.

Seventh. Provides that ranching, grazing, farming, and the associated occupation of lands and homes within the recreation and wilderness areas shall be allowed to continue. This provision merely reiterates a right, expressed in the Wilderness Act itself, that such pastoral uses shall be a valid use of the recreation and wilderness areas.

Eighth. Limits the condemnation power of the Forest Service in acquiring private lands in Hells Canyon. The members of the Idaho and Oregon Senate delegation share a common concern over protection of private property rights within the recreation and wilderness areas. Thus, the bill specifically provides that the Forest Service shall not, without the consent of the owner, acquire title to more than 5 percent of the total privately owned land within the recreation area. Notwithstanding the 5-percent limitation on acquiring title to lands, the Forest Service is allowed to acquire scenic easements if necessary. And, once regulations on management of the area have been issued, such easements are the only method by which additional land interests can be acquired. The bill thus attempts to achieve a reasonable balance between the need to retain the natural beauty of the area, without the need for acquiring title to private inholdings.

Ninth. Directs that the area be managed so as to preserve multiple-use management for all parts of the recreation area, except the wilderness areas. The bill also provides that certain designated areas in Oregon, within the recreation area, be studied for possible inclusion within the National Wilderness Preservation System. While these wilderness study areas are to be managed so as not to impair wilderness values, other lands within the recreation area are to be administered in accordance with multiple-use principles, with outdoor recreation given special emphasis. But, there is no restriction against such other uses as timber cutting on a selective basis. The whole recreation area, including the parts designated as wilderness, are to be withdrawn from location, entry or patent of mining claims, subject, of course, to valid existing rights.

Tenth. Directs the Forest Service to develop a comprehensive management plan for the entire recreation area, with consideration given alternative methods of transportation. The use of motorized craft, such as jet boats, is specifically recognized as a valid use and thereby allowed within the recreation area.

Eleventh. Authorizes funds to improve public access to the Hells Canyon.

I am hopeful that this measure, which has already been subject to close public scrutiny, will receive early and favorable action by the Senate. For this and future generations, the rugged beauty of the Hells Canyon should be preserved.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) to assure that the natural beauty, and historical and archeological values of the Hells Canyon Area and the one hundred and one and four-tenths mile segment of the Snake River between Hells Canyon Dam in Idaho and Asotin, Washington, together with portions of certain of its tributaries and adjacent lands, are preserved for this and future generations, and that the recreational and ecologic values and public enjoyment of the area are thereby enhanced, there is hereby established the Hells Canyon National Recreation Area.

(b) The Hells Canyon National Recreation Area (hereinafter referred to as the "recreation area"), which includes the Hells Canyon Wilderness Areas (hereinafter referred to as the "wilderness areas"), the components of the Wild and Scenic Rivers System designated in section 3 of this Act, and the wilderness study areas designated in subsection 8(d) of this Act, shall comprise the lands and waters generally depicted on the map entitled "Hells Canyon National Recreation Area" dated July, 1974, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture. The Secretary of Agriculture (hereinafter referred to as "the Secretary") shall, as soon as practicable, publish a detailed boundary description of the recreation area, the wilderness study areas designated in subsection 8(d) of this Act, and the wilderness areas established in section 2 of this Act in the Federal Register.

SEC. 2. (a) The lands depicted as the "Hells Canyon Wilderness Areas" on the map referred to in subsection 1(b) of this Act are hereby designated as wilderness.

(b) The wilderness areas designated by this Act shall be administered by the Secretary in accordance with the provisions of this act or in accordance with the provisions of the Wilderness Act (78 Stat. 893), whichever is the more restrictive, except that any reference in such provisions of the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the effective date of this Act. The provisions of section 9(b) and section 11 shall apply to the wilderness areas. The Secretary shall make such boundary revisions to the wilderness areas as may be necessary due to the exercise of his authority under subsection 3(b) of this Act.

SEC. 3. (a) The Congress hereby incorporates the Rapid River and the Snake River into the National Wild and Scenic Rivers System in the status listed—

(1) Rapid River, Idaho.—The segment from the headwaters of the main stem to the national forest boundary and the segment from the headwaters of the west fork to the confluence with the main stem, as a wild river.

(2) Snake, Idaho, Oregon and Washington.—The segment from Hells Canyon Dam downstream to Pittsburg Landing, as a wild river; the segment from Pittsburg Landing to Dough Creek, as a scenic river; and the segment from Dough Creek downstream to the town of Asotin, Washington, as a recreational river.

(b) The segments of the Snake River and the Rapid River designated as wild, scenic, or recreational river areas by this Act shall be administered by the Secretary in accordance with the provisions of the Wild and Scenic Act (82 Stat. 906), as amended: *Provided,* That the Secretary shall establish a uniform corridor along such segments and may not undertake or permit to be undertaken any activities on adjacent public lands which would impair the water quality of the Rapid River segment: *Provided further,* That the Secretary is authorized to make such minor boundary revisions in the corridors as he deems necessary for the provision of such facilities as are permitted under the applicable provisions of the Wild and Scenic Rivers Act (82 Stat. 906).

SEC. 4. (a) Notwithstanding any other provision of law, or any authorization heretofore given pursuant to law, the Federal Power Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), within the recreation area: *Provided,* That the provisions of the Federal Power Act, (41 Stat. 1063) shall continue to apply to any project (as defined in such Act), and all of the facilities and improvements required or used in connection with the operation and maintenance of said project, in existence within the recreation area which project is already constructed or under construction on the date of enactment of this Act.

(b) No department or agency of the United States may assist by loan, grant, license, or otherwise the construction of any water resource facility within the recreation area which the Secretary determines would have a direct and adverse effect on the values for which the waters of the area are protected.

SEC. 5. The Asotin Dam, authorized under the provisions of the Flood Control Act of 1962 (76 Stat. 1173), is hereby deauthorized.

SEC. 6. (a) No provision of the Wild and Scenic Rivers Act (82 Stat. 906), nor of this Act, nor any guidelines, rules, or regulations issued hereunder, shall in any way limit, restrict, or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby for beneficial uses, whether consumptive or nonconsumptive, now or hereafter existing, including, but not limited to, domestic, municipal, stockwater, irrigation, mining, power or industrial uses.

(b) No flow requirements of any kind may be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), of this Act, or any other guidelines, rules or regulations adopted pursuant thereto.

SEC. 7. (a) Except as otherwise provided in sections 2 and 3 of this Act, and subject to the provisions of Section 10 of this Act, the Secretary shall administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forests for public outdoor recreation in a manner compatible with the following objectives.

(1) the maintenance and protection of the free-flowing nature of the rivers within the recreation area;

(2) conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit;

(3) preservation, especially in the area generally known as Hells Canyon, of all features and peculiarities believed to be biologically unique including, but not limited to, rare and endemic plant species, rare combinations of aquatic, terrestrial, and atmospheric habitats, and the rare combinations of outstanding and diverse ecosystems and parts of ecosystems associated therewith;

(4) protection and maintenance of fish and wildlife habitat;

(5) protection of archeological and paleontologic sites and interpretation of these sites for the public benefit and knowledge insofar as it is compatible with protection;

(6) preservation and restoration of historic sites associated with and typifying the economic and social history of the region and the American West; and

(7) such management, utilization, and disposal of natural resources on federally owned lands, including, but not limited to, timber harvesting by selective cutting, mining and grazing and the continuation of such existing uses and developments as are compatible with the provisions of this Act.

Sec. 8. (a) Within five years from the date of enactment of this Act the Secretary shall develop a comprehensive management plan for the recreation area which shall provide for a broad range of land uses and recreation opportunities.

(b) In the development of such plan, the Secretary shall consider the historic, archeological, and paleontological resources within the recreation area which offer significant opportunities for anthropological research. The Secretary shall inventory such resources and may recommend such areas as he deems suitable for listing in the National Register of Historic Places. The Secretary's comprehensive plan shall include recommendations for future protection and controlled research use of all such resources. (c) The Secretary shall, as a part of his comprehensive planning process, conduct a detailed study of the need for, and alternative routes of, scenic roads and other means of transit to and within the recreation area. In conducting such study the Secretary shall consider the alternative of upgrading existing roads and shall, in particular, study the need for and alternative routes of roads or other means of transit providing access to scenic views of and from the western rim of Hells Canyon.

(d) The Secretary shall review, as to their suitability or nonsuitability for preservation as wilderness, the areas generally depicted on the map referred to in section 1 of this Act as the "Lord Flat-Somers Point Plateau Wilderness Study Area" and the West Side Reservoir Face Wilderness Study Area" and report his findings to the President. The Secretary shall complete his review and the President shall, within five years from the date of enactment of this Act, advise the United States Senate and House of Representatives of his recommendations with respect to the designation of lands within such area as wilderness. In conducting his review the Secretary shall comply with the provisions of section 3(d) of the Wilderness Act and shall give public notice at least 60 days in advance of any hearing or other public meeting concerning the Wilderness Study Area. The Secretary shall administer all Federal lands within the study areas so as not to preclude their possible future designation by the Congress as wilderness. Nothing contained herein shall limit the President in proposing, as part of this recommendation to Congress, the designation as wilderness of any additional area within the recreation area which is predominantly of wilderness value.

(e) In conducting the review and preparing the comprehensive management plan required by this section, the Secretary shall provide for full public participation and shall consider the views of all interested agencies, organizations, and individuals including, but not limited to, the Nez Perce Tribe of Indians, the States of Idaho, Oregon and Washington. The Secretaries or Directors of all Federal departments, agencies, and commissions having relevant expertise are hereby authorized and directed to cooperate with the Secretary in his review and to make such studies as the Secretary may request on a cost reimbursable basis.

Sec. 9. (a) The Secretary is authorized to acquire such lands or interests in land (including, but not limited to, scenic easements) as he deems necessary to accomplish the purposes of this Act by purchase with donated or appropriated funds with the consent of the owner, from willing sellers, donation, or exchange.

(b) The Secretary is further authorized to acquire by purchase with donated or appropriated funds such lands or interests in lands without the consent of the owner only if (1) he deems that all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and (2) the total acreage of all other lands within the recreation area to which he has acquired fee simple title, or lesser interests therein, without the consent of the owner is less than 5 per centum of the total acreage which is privately owned within the recreation area on the date of enactment of this Act: *Provided*, That the Secretary may acquire scenic easements in lands without the consent of the owner and without restriction to such 5 per centum limitation: *Provided further*, That the Secretary may only acquire scenic easements in lands without the consent of the owner after the date of publication of the regulations required by section 10 of this Act when he determines that such lands are being used, or are in imminent danger of being used, in a manner incompatible with such regulations.

(c) Any land or interest in land owned by the States of Oregon or Washington or any of their political subdivisions may be acquired only by donation. Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired by donation or exchange.

(d) As used in this Act the term "scenic easement" means the right to control the use of land in order to protect esthetic values for the purposes of this Act but shall not preclude the continuation of any farming or pastoral use exercised by the owner as of the date of this Act.

(e) The Secretary shall give prompt and careful consideration to any offer made by a person owning land within the recreation area to sell such land to the Secretary. The Secretary shall specifically consider any hardship to such person which might result from an undue delay in acquiring his property.

(f) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interests therein, located within the recreation area and, notwithstanding any other provision of law, he may convey in exchange therefore any federally owned property within the same State which he classifies as suitable for exchange and which is under his administrative jurisdiction: *Provided*, That the values of the properties so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(g) Notwithstanding any other provision of law, except for the provisions of subsection (a) of this section, the Secretary is authorized to acquire mineral interests in lands within the recreation area, with or without the consent of the owner. Upon acquisition of any such interest, the lands and/or minerals covered by such interest are by this Act withdrawn from entry or appropriation under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(h) Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of this Act.

Sec. 10. The Secretary shall promulgate, and may amend, such rules and regulations as he deems necessary to accomplish the purposes of this Act, but are not limited to—

(a) standards for the use and development of privately owned property within the recreation area, which rules or regulations the Secretary may, to the extent he deems advisable, implement with the authorities delegated to him in section 9 of this Act, and which may differ among the various parcels of land within the recreation area;

(b) standards and guidelines to insure the full protection and preservation of the historic, archeological, and paleontological resources in the recreation area;

(c) provision for the control of the use of motorized and mechanical equipment for transportation over, or alteration of, the surface of any Federal land within the recreation area; and

(d) provision for the control of the use and number of motorized and nonmotorized river craft: *Provided*, That the use of such craft is hereby recognized as a valid use of the Snake River within the recreation area.

Sec. 11. Notwithstanding the provisions of section 4(d)(2) of the Wilderness Act and subject to valid existing rights, all Federal lands located in the recreation area are hereby withdrawn from all forms of location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

Sec. 12. The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States wherein the lands and waters are located except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administrations, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

Sec. 13. Ranching, grazing, farming and the occupation of homes and lands associated therewith, as they exist on the date of enactment of this Act, are recognized as traditional and valid uses of the recreation area.

Sec. 14. Nothing in this Act shall diminish, enlarge, or modify any right of the States of Idaho, Oregon, Washington, or any political subdivisions thereof, to exercise civil and criminal jurisdiction within the recreation area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area.

Sec. 15. The Secretary may cooperate with other Federal agencies, with State and local public agencies, and with private individuals and agencies in the development and operation of facilities and services in the area in furtherance of the purposes of this Act, including, but not limited to, restoration and maintenance of the historic setting and background of towns and settlements within the recreation area.

SEC. 16. (a) There is hereby authorized to be appropriated the sum of not more than $60,000,000 for improvements of—

(1) the existing road from the town of Imnaha, Oregon, to Dug Bar on the Snake River;

(2) the existing road from White Bird, Idaho, over Pittsburg Saddle to Pittsburg Landing on the Snake River;

(3) either the existing road from Imnaha, Oregon, to Five Mile Point or an alternative road following generally the same route to Five Mile Point, and thence to Hat Point Lookout above the Snake River;

(4) the existing road from Riggins, Idaho, to Heaven's Gate Lookout above the Snake River.

(b) There is hereby authorized to be appropriated that sum of not more than $10,000,000 for the acquisition of lands and interest in lands.

(c) There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the development of recreation facilities (principally campgrounds) along the four roads as described in subsection (a) of this section and for the development of interpretive visitors' centers at Hat Point in Oregon and at Heaven's Gate in Idaho.

(d) There is hereby authorized to be appropriated the sum of not more than $1,500,000 for the inventory, identification, development, and protection of the historic and archeological sites described in section 5 of this Act.

SEC. 17. If any provision of this Act is declared to be invalid, such declaration shall not affect the validity of any other provision hereof.

Mr. PACKWOOD. Mr. President, I join today, with Senators CHURCH, HATFIELD, and McCLURE, to introduce legislation to create the Hells Canyon National Recreation Area. This legislation is identical to S. 2233, passed by the Senate on September 26, 1974. I believe we should act quickly and again pass this fine piece of legislation to protect and preserve the countless environmental values of the Hells Canyon Area. The efforts to preserve forever, in a natural state, the yet-free-flowing Middle Snake River which runs through the deepest gorge of the North American Continent have been waged for many years. The Senate now has an opportunity to reaffirm the commitment it made last year to protect this magnificent canyon and wild river.

Mr. President, as you are aware, the Senate-passed bill, S. 2233, failed to clear the House during the last days of the 93d Congress. The debate has been a long and arduous one. For those people involved, it has proved to be a test of commitment and compromise.

We must now insure lasting and well-designed protection for this magnificent canyon and free-flowing river by passing the long-debated legislation before us as we did last fall.

I am greatly encouraged by the solid support for the Hells Canyon National Recreational Area bill, H.R. 30, in the House of Representatives, introduced by the distinguished chairman of the House Ways and Means Committee, Congressman ULLMAN, with several key cosponsors.

Much attention has been addressed to the upstream water rights of many Idaho residents. Legislation introduced during the 92d Congress did not give the protection to these water rights which others felt should be a mandatory part of any bill to designate the area. The important feature of the legislation we are introducing today is the new language in section 6, which the Senate added in passing S. 2233.

I believe we should once again move to save the untarnished natural beauty of Hells Canyon and the Snake River from the encroachments of modern society. Hells Canyon is a continuum of life and land forms entirely unique on this continent and deserving of our votes for preservation. The calm atmosphere and sheer ebony walls rising from the deep canyon floor which cradles the river provide a veritable solitude like few places in the world. Within a few miles of the Middle Snake Canyon are all the life zones of North America, ranging from the alpine tundra in the Seven Devils above to the dry desert country at river level. Hells Canyon is a quiet and reassuring place, and yet at times, a little awesome and frightening.

The essence of the bill we are presenting to our fellow Senators is a complete and total ban of all dams on the 101-mile segment of the Snake River between Hells Canyon Dam and Asotin, Wash. Although part of the history of this area has already ended tragically with the construction of three dams in the upstream reaches of the gorge, Oxbow, Brownlee, and the Low Hells Canyon Dams, this legislation will affirm the desires of many dedicated individuals so that no dams will be built on the Middle Snake River, and that it remain unblemished and free flowing. The High Mountain Sheep Dam will be precluded from construction, as well as the Asotin Dam which is specifically deauthorized under the terms of this bill. The Secretary of Agriculture shall review all the lands designated by this national recreation area and prepare a long-range management plan along with recommendations for future protection of the area. The Secretary shall also review, for possible preservation as wilderness, two areas depicted on the map entitled, "Hells Canyon National Recreation Area", dated July 1974, and named "the Lord Flat-Somers Point Plateau Wilderness Study Area" and the "West Side Reservoir Face Wilderness Study Area".

The 101-mile segment of the Snake River between Hells Canyon and Idaho and Asotin, Wash., will be a component of the National Wild and Scenic River System, with approximately 25 miles of the Snake River classified as "recreational," 45 miles as "scenic," and 30 miles as "wild." The Rapid River in Idaho, from the headwaters of the main fork to the present national forest boundary and from the headwaters of the west fork to its confluence with the main stem of the Rapid River is also designated a wild river.

A national recreation area is established in Oregon and Idaho comprising approximately 700,000 acres, including a Hells Canyon Wilderness Area of approximately 270,000 acres. The Secretary's acquisition authority is also limited to no more than 5 percent of the total privately owned land within the recreation area, although the Secretary may acquire scenic easements without the consent of the owner if such lands are being used or are in imminent danger of being used, in a manner incompatible with the purposes of this act. Under this legislation, authorization is given for appropriation of approximately $81,500,000 for the improvement of existing roads, the acquisition of lands, the development of recreation facilities and visitor centers and for the inventory, identification, development, and protection of historic and archeological sites.

Mr. President, the importance of taking action swiftly and reaffirming the consensus of the Senate is crucial to the future of the Hells Canyon/Snake River. In enacting this measure we will have met the issue head on and provided a lasting testament for the protection of one of America's, and perhaps the world's, most beautiful and majestic creations. The fight to preserve the Snake River National Recreation Area has been long-overdue in gaining success. Mr. President, I firmly believe this legislation is sound and deserves our support.

By Mr. MOSS (for himself, Mr. MAGNUSON, Mr. PASTORE, Mr. PHILIP A. HART, Mr. TUNNEY, and Mr. STEVENSON):

S. 323. A bill to regulate commerce and to protect petroleum product dealers from unfair practices, and for other purposes. Referred to the Committee on Commerce.

FAIR MARKETING OF PETROLEUM PRODUCTS ACT

Mr. MOSS. Mr. President, for myself and five colleagues, I introduce again in this Congress the Fair Marketing of Petroleum Products Act.

The Senate has approved this bill before, and I hope will do so again, promptly.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 324. A bill to amend the National Trails System Act by designating the Potomac Heritage Trail located in portions of Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia, as a component of the National Trails System. Referred to the Committee on Interior and Insular Affairs.

POTOMAC HERITAGE TRAIL ACT OF 1975

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to amend the National Trails System Act by designating the Potomac Heritage Trail located in portions of Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia, as a component of the National Trails System.

Mr. President, this draft legislation was submitted and recommended by the

Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT
OF THE INTERIOR,
Washington, D.C., December 19, 1974.

PRESIDENT OF THE SENATE,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend the National Trails System Act by designating the Potomac Heritage Trial located in portions of Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia, as a component of the National Trails System." We recommend that the bill be referred to the appropriate committee for consideration, and that it be enacted. The draft bill amends section 5(a) and 7(e) of the National Trails System Act of October 2, 1968 (82 Stat. 919; 16 U.S.C. 1241).

The Act of October 2, 1968, established a National Trails System, designated the Appalachian and Pacific Crest Trails as National Scenic Trails and listed 14 additional routes, including the Potomac Heritage Trail, for study as potential National Scenic Trails. The Act also established procedures for establishing additional National Scenic Trails, National Recreation Trails and connecting and side trails in the National Trails System.

The enclosed draft bill implements the recommendations resulting from the Department's study of the Potomac Heritage Trail route. We have concluded that the trail, as studied and presented in the report, meets the criteria for addition to the National Trails System as a National Scenic Trail of approximately 874 miles in length. A copy of the study report is enclosed.

The draft bill would add the Potomac Heritage Trail to the National System as a National Scenic Trail. Overall administration would be assigned to the Department of the Interior, which will consult with the heads of other Federal agencies where lands administered by them are involved, and with State, county and local agencies or private trail organizations.

Under section 2 of the draft bill, only those components of the trail, 323 miles in total length, located within exterior boundaries of federally administered areas (including the District of Columbia) are designated initially. The Secretary would designate lands outside such boundaries as components of the Potomac Heritage National Scenic Trail upon application from the States (including the District of Columbia) or local governmental agencies involved if such components meet established criteria and are administered by such agencies without expense to the United States. Guidelines for the development, management and maintenance of the trail would be prepared by the Secretary within 3 years after the trail is designated. An Advisory Council on the pattern of that established for the Appalachian National Scenic Trail would be constituted.

The draft bill amends the National Trails System Act to render inapplicable to this proposal the authority of the Secretary regarding the establishment of the trail right-of-way outside the exterior boundaries of federally administered areas, since these components would be administered without expense to the United States. Funds to establish initial sections of trail designated under the draft bill would be provided by the Federal administering agencies involved under existing authorities. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of the legislation including mapping the trail, publication of the trail route, guidelines and other such requirements.

The trail route as recommended in the study report runs from Point Lookout, Maryland, and Smith Point, Virginia, generally following the Potomac to the Washington-Alexandria-Arlington metropolitan area; it runs westward from Georgetown to Cumberland, Maryland, on the towpath of the Chesapeake and Ohio Canal; from Arlington to Harpers Ferry, West Virginia, it runs along the south bank of the Potomac. At Oldtown, Maryland, the main trail divides, one branch running south to dual termini at Spruce Knob-Seneca Rocks National Recreation Area and at Blackwater Falls State Park, both in West Virginia. A second, or northern branch, continues from Cumberland, Maryland, to the Youghiogheny River and then north to Braddock's Road, west to Fort Necessity National Battlefield and Ohiopyle State Park, and north along the Laurel Ridge highlands to Conemaugh Gorge near Johnstown, Pennsylvania.

Inasmuch as the Potomac Heritage Trail qualifies for inclusion in the National Trails System as a National Scenic Trail, we urge that the enclosed draft bill be forwarded for appropriate action.

The Office of Management and Budget has advised that this legislative proposal is in accord with the programs of the President.

Sincerely yours,

CURTIS BOHLEN,
Acting Assistant Secretary of the Interior.

By Mr. JACKSON:

S. 325. A bill to amend the Internal Revenue Code to provide a tax rebate for individuals for 1974 and to provide individuals tax relief for 1975 as a stimulus to increase consumer purchasing power, to promote economic recovery, and to halt the Nation's slide into an economic depression. Referred to the Committee on Finance.

EMERGENCY CONSUMER TAX CREDIT

Mr. JACKSON. Mr. President, the Congress and the administration must together take the first step to put the American people and American industry back to work. We need an immediate tax cut that will help the working poor, low- and middle-income people—those who have suffered most from recession and depression.

I am therefore introducing legislation that will provide:

First. An immediate lump sum refund from the U.S. Treasury in an amount equal to 2 percent of the individual or family's 1974 adjusted gross income up to a maximum base of $13,200. This will immediately benefit American consumers in a total amount of approximately $11 billion; and

Second. A tax credit or refund for the year 1975 in an amount equal to 3 percent of the individual's or family's current adjusted gross income, up to the maximum base of $14,100, retroactive to January 1, 1975. This will provide approximately $18 billion in needed tax relief in 1975.

It will be distributed as direct refunds to those whose incomes are so low that they pay no income tax, or whose tax payments are less than the allowable tax credit. Higher income taxpayers will be granted the new tax credit through the income tax withholding system. By providing tax relief throughout the year, this program would permit families to meet their daily needs and to plan their own budgets on an ongoing basis.

This tax cut is an important step on the long road to restructuring our whole tax system in the direction of greater equity and fairness.

This legislation will have the effect of reducing by 50 percent the heavy, regressive burden imposed by flat-rate social security payroll taxes, without in any way intruding on the social security system itself.

With this tax cut we will bring help to those Americans who most need help to meet their daily needs for food, clothing, and shelter—whose spending will stimulate the economy most directly. In addition, this tax rebate will effectively contribute to dampening inflation in at least three important ways.

First, by stimulating consumer demand, the volume of output in depressed industries will rise, bringing unit costs down and reducing upward pressure on prices.

Second, this tax cut will immediately increase the actual take-home pay of American workers. This real tax relief, clearly perceived as being fairly distributed, will help build a new atmosphere of trust, encouraging American labor to maintain the remarkably praiseworthy concern for the national interest that it has demonstrated by its restraint of the past 6 years, when inflation drained worker payrolls faster than new wage agreements could restore them.

Third, this tax cut will effectively stimulate economic activity, reduce unemployment, increase personal and business incomes and lead to increased Government tax revenues from an expanded national tax base.

We will not be creating a budget deficit by implementing this tax cut now. Rather, we will be establishing the groundwork from which we can more quickly move from an unavoidable recession budget deficit to full employment balance. All it takes is enough vision to see 2, 3 and 4 years ahead, instead of concentrating obsessively on only the year ahead.

Finally, the cost of our Federal Treasury of this tax cut can, and I believe should be made up not only by economic growth, but also by meaningful tax reform—real tax reform that will close those loopholes which give lush treatment to the wealthiest taxpayers and corporations and is so long overdue.

I believe that with this tax cut we will be on the way to turning our economy around, to restoring the faith of the American people in their future—and in the fairness of our system.

I ask unanimous consent that this bill and certain tables be printed in the RECORD at the conclusion of my remarks and that the bill be referred to the appropriate committee for prompt consideration.

There being no objection, the bill and tables were ordered to be printed in the RECORD, as follows:

S. 325

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That 26 U.S.C. is amended by adding a new section 43 as follows:

"EMERGENCY CONSUMER TAX CREDIT

"SEC. 43. (a) Effective for taxable years commencing after December 31, 1974, and prior to January 1, 1976, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 3 percent of 'adjusted gross income' or $423 whichever is the lesser, except that in the case of a separate return by a married individual the credit allowed by this subsection shall not exceed 1½ percent of 'adjusted gross income' or $211.50, whichever is the lesser.

"(b) Effective for taxable years commencing after December 31, 1973, and prior to January 1, 1975, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to 2 percent of 'adjusted gross income' or $264 whichever is the lesser, except that in the case of a separate return by a married individual the credit allowed by this subsection shall not exceed 1 percent of 'adjusted gross income' or $132, whichever is the lesser. The credit allowed by this subsection shall be directly refunded under regulations promulgated by the Secretary or his delegate.

"(c) In the event an individual, in accordance with the provisions of section 6012 of this chapter, is not required to file a return, he shall nevertheless be entitled to the credits set forth in subsections (a) and (b) of this section on the amount which would have been his 'adjusted gross income' had he, notwithstanding section 6012 of this chapter, been required to file a return."

TABLE I.—PROPOSED REFUND ON 1974 TAXES TO A FAMILY OF 4

Adjusted gross income	Present tax	Ford proposed refund	Jackson proposed refund	Ford percent savings	Jackson percent savings
$5,600	$185	$22	$112	−12.0	−60.5
$7,000	402	49	140	−12.0	−34.8
$10,000	867	104	200	−12.0	−23.1
$12,500	1,261	151	250	−12.0	−19.8
$15,000	1,699	204	264	−12.0	−15.5
$20,000	2,668	319	264	−12.0	−9.9
$30,000	4,988	599	264	−12.0	−5.3

TABLE II.—TAX SAVING TO A FAMILY OF 4 ON 1975 INCOME

Adjusted gross income	Present tax	Ford new tax	Ford tax saving	Ford percent saving	Jackson tax saving	Jackson percent saving
$5,600	$185	$0	$185	100.0	$168	90.1
$7,000	402	110	292	72.6	210	52.2
$10,000	867	518	349	40.3	300	34.6
$12,500	1,261	961	300	23.8	375	29.7
$15,000	1,699	1,478	221	13.0	423	25.3
$20,000	2,668	2,450	210	7.9	423	15.9
$30,000	4,988	4,837	151	3.0	423	8.4

TABLE III

Adjusted gross income	Total 1974 and 1975 tax reductions		Percent reduction from combined 1974 and 1975 taxes
	Ford	Jac kson	
$5,000	$207	$280	75.7
$7,000	341	350	43.5
$1,000	453	500	28.8
$12,500	451	625	25.8
$15,000	435	687	20.6
$20,000	529	687	12.9
$30,000	750	687	6.9

By Mr. JACKSON:

S. 326. A bill to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I am sending to the desk for appropriate reference, legislation to raise the authorization ceiling for the Trust Territory of the Pacific Islands for fiscal year 1975.

During the last Congress, the Department of the Interior submitted legislation to raise the authorization ceiling for fiscal years 1975 and 1976. Hearings were conducted on that legislation which raised serious questions about the priorities within the trust territory.

No sense of urgency was conveyed to the committee by the witnesses at the hearing; and in order to more fully inform the committee of the present condition of the public works and capital improvement projects in the trust territory, I requested that a seven-man team composed of four special representatives from the General Accounting Office, an investigator from the Permanent Subcommittee on Investigations, the Interior Committee's professional staff man for water and power resources, who is a professional engineer, and the counsel for the Territories and Insular Affairs Subcommittee explore the situation in the trust territory and report their findings to the committee.

I specifically requested that the team explore the situation in countries with similar problems and ascertain whether there actually existed significant supply problems to the various Pacific areas.

The team reported that a portion of the requested authorization increase represented critically needed medical supplies, fuel oil for generators and transportation, hospital construction, and dispensaries. This information was not communicated to the committee during the hearings, and I therefore requested the Department to submit a detailed list of projects to be funded from the proposed increase.

The committee did not receive a response from the Department until the final days of the last Congress, too late for action. I have reviewed the list submitted by the Department and am introducing this legislation to meet those needs which I feel require immediate attention.

The legislation proposes an increase of $5,650,000 of which $500,000 is for medical supplies and referrals; $3,500,000 is for fuel and supplies for powerplants and inter-island ships; $1,484,000 for the hospital in Yap; and $166,000 for dispensary matching funds.

I recognize that there are many other serious needs for the Trust Territory including ships, generators, water and sewer service, road construction, hospitals and dispensaries, and schools, to mention a few; and I would like to assure both the Members of this Congress and the residents of Micronesia, that the committee intends to fully explore the needs of Micronesia and to act on whatever legislation is needed. The purpose of this legislation is not to foreclose consideration of the other items included in the Department's request last year nor of those items not included, but rather this legislation is being introduced so that the Congress can proceed immediately to meet critical health and safety needs.

By Mr. JACKSON (for himself and Mr. JOHNSTON):

S. 327. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, I am sending to the desk for appropriate reference legislation which the junior Senator from Louisiana (Mr. JOHNSTON) and I are introducing to amend the Land and Water Conservation Fund Act of 1965, as amended, to establish the National Historic Preservation Fund, and for other purposes.

Mr. President, this legislation passed the Senate during the last Congress and it is my hope that it can be quickly and expeditiously considered this year.

The Land and Water Conservation Fund, during its 10-year history, has benefited every State. The fund has generated more than $2 billion of investment in recreation by the States during that period, half of that amount coming from the Fund. The Fund has become the sole Federal funding source for land acquisition programs by the Federal agencies involved in managing recreation lands. To date, over $700,000,000 has gone to save areas such as Redwood National Park. States have identified over $45 billion in recreational needs to 1985 and the land acquisition backlog of the National Park Service may very well reach $700 million.

The Historic Preservation Act of 1965 has similarly been an unqualified success, but it too has become unable to fully achieve its goals. Title II of the bill we sponsor today would create a National Historic Preservation Fund to match the over $150 million which States are willing to dedicate to the preservation of our Nation's history.

Mr. President, the needs are apparent, and I pledge my efforts to help meet those needs. A quality life is not too much to promise the children of this Nation as we approach our 200th anniversary. This legislation will help provide that quality life, and I will exert every effort to speed its passage.

I would like to thank the distinguished junior Senator from Louisiana (Mr. JOHNSTON) for his outstanding efforts in guiding this important legislation through the Senate in the 93d Congress. I am indeed pleased that he is joining me in cosponsoring this bill today and know that his able assistance will help in bringing about speedy passage of this much needed measure.

Mr. JOHNSTON. Mr. President, I wish to join in the remarks of the distinguished junior Senator from Washington (Mr. JACKSON) as I have joined with him in introducing this much needed legislation. We are well aware of his deep commitment to protecting our environment and providing adequate recreational facilities, as well as his long involvement with the Land and Water Conservation Fund.

During the floor debate on similar legislation which I introduced in the 93d Congress, I stated:

> Every day, more and more land is lost to development—open land, green land, land where children can play and families can enjoy a nonurban environment.
>
> We can sit back and watch areas such as the Santa Monica Mountains outside Los Angeles, the Cuyahoga Valley between Akron and Cleveland, the Chattahoochee outside Atlanta, and a hundred other open areas outside a hundred other cities disappear; or we can act.
>
> We can condemn the children of our cities to a world of concrete and soot-filled skies, teaching them to play in the streets and alleys; or we can provide recreational facilities.
>
> The choice is ours.

Mr. President, the choice is still ours. Our open land is disappearing and our historic properties are being ravaged. The Congress made a commitment in 1964 with the Land and Water Conservation Fund and in 1966 with the Historic Preservation Act to save and preserve this land and our history for the future. We can turn our back on that commitment or we can act. This is a priority bill, Mr. President, and I join the distinguished Senator from Washington (Mr. JACKSON) in pledging my efforts to rapid passage of this bill.

By Mr. WEICKER (for himself, Mr. MANSFIELD, Mr. CASE, Mr. HASKELL, Mr. HOLLINGS, and Mr. METCALF):

S. 328. A bill to direct the President of the United States to establish and carry out a program for rationing gasoline. Referred to the Committee on Interior and Insular Affairs.

MANDATORY GASOLINE RATIONING ACT OF 1975

(The remarks of Mr. WEICKER and Mr. MANSFIELD and other Senators in connection with the introduction of the above bill appear earlier in the RECORD.)

By Mr. HUGH SCOTT:

S. 329. A bill to direct the Secretary of Commerce to require reports from foreign investors in the United States and their agents, and for other purposes. Referred to the Committee on Commerce.

Mr. HUGH SCOTT. Mr. President, prudence dictates that we put ourselves in a position to protect our Nation's domestic properties at this critical time in our economy from possible encroachment by over-zealous foreign investors.

For this reason, I am introducing legislation today requiring foreign investors in the United States, or their agents, to disclose all their U.S. holdings above a certain value or else face imprisonment, fine, or forced divestiture.

The legislation would empower the Secretary of Commerce to ask the Attorney General to bring an action in a U.S. District Court to compel compliance with the requirements of the act. In cases where any person or his agent has failed to report his holdings, the court could then issue a temporary restraining order or preliminary or permanent injunction without bond after a hearing to gain control over such investments.

The court could then require that any investment made without compliance with the requirements of the act be sold or otherwise disposed of in such a manner and during such period of time as the court may prescribe.

The reports to the Secretary of Commerce would contain the name of the foreign investor and/or agent, the amount of interest in a domestic busines acquired—stated both in dollars and in percentage of outstanding securities of the business, the name of the domestic business, and such other information as the Secretary may require. The reports would be filed quarterly.

I want to state as strongly as possible that this bill is not intended to restrict foreign investment nor to threaten potential foreign investors. To discourage foreign investment would deprive our Nation of badly needed capital. Rather, the intent of this legislation is to guard our legitimate national interests by having full disclosure of the source and direction which foreign investment is taking in the United States.

By Mr. DOLE:

S. 330. A bill to provide tax credit for increased natural gas expenses resulting from changes in regulation of well-head prices. Referred to the Committee on Finance.

TAX CREDIT FOR INCREASED NATURAL GAS EXPENSES

Mr. DOLE. Mr. President, today I am introducing legislation to provide some relief for those retired persons living on meager fixed incomes who would face significant increases in heating costs if the price of natural gas escalates through deregulation or administrative rate increases.

We are all aware of the need to encourage domestic production of natural gas and to reduce the demand for our existing scarce supplies. There have been many proposals to accomplish these goals by increasing or deregulating the well-head price of new natural gas, including a number introduced in the 93d Congress. Now the President, in his state of the Union message, has repeated his call for legislation to deregulate these prices. Action of some sort is expected even if it is only an adjustment by the Federal Power Commission in the regulated price on new natural gas. Such adjustment is within the present authority of the Federal Power Commission.

Increases in regulated prices would not be without impact on all of us. The retail price of natural gas will increase. In fact, it is such an increase that is expected to reduce the demand for natural gas. Admittedly, such an increase may not be unreasonable for the average working American. It may be a realistic price to pay for expanding our ability to meet our energy needs with domestic, environmentally clean fuel supplies. But it is a different situation for retirees living on fixed incomes. For many of these people, who until their retirement were the heart and strength of our working force, an increase in the cost of heating their home will be a significant impact. Many retirees do not have an opportunity for periodic adjustments in their income to provide for inflation as the working force does in one manner or another. Even where cost of living escalators are possible, the advances lag far behind the more immediate cost increases. Nor do most retirees qualify for special assistance under the various social programs provided for the poor.

It is appropriate, therefore, that, to the extent the increase in natural gas prices are related to action of the Federal Government in regulation of wellhead prices, these retirees living on fixed incomes should receive a Federal compensation to offset that portion of the increase. On a national average, this portion is approximately 20 percent of the total retail price of natural gas. Therefore, this legislation will provide a refundable tax credit of 20 percent for all persons 65 years of age and older, living on fixed incomes and below the average income level for their census area. This credit will amount to 20 percent of the increased costs for natural gas over and above their costs for 1974.

Mr. President, the people who will qualify for this credit are not looking for a Federal "handout." They are persons who have proudly been a part of our working force, who are now retired and find themselves unable to affect an increase in their retirement income to offset the increased cost of natural gas resulting from Federal regulation of prices. After contributing to the national economy and welfare all their working years, they now deserve a credit against the Federal taxes they continue to pay.

I hope every Senator will join me in supporting this legislation, and that we can move speedily since the taxpayers who will benefit must be alerted soon in order to save the necessary records they will need for comparison.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) Subpart A of part IV of subchapter I of the Internal Revenue Code of 1954 (relating to credits allowed) is amended by renumbering section 42 as 43, and by inserting after section 41 the following new section:

"SEC. 42. INCREASED NATURAL GAS EXPENSES.

"(a) GENERAL RULE.—In the case of an individual who is 65 years of age or older, there shall be allowed as a credit against the tax imposed for the taxable year, an amount equal to 20 percent of the amount of increased natural gas expenses paid by the taxpayer during that taxable year.

"(b) LIMITATIONS.—

"(1) SOURCE OF INCOME.—The credit allowed under subsection (a) for increased to an individual whose sole source of income natural gas expenses shall be allowed only for the taxable year is retirement income which does not represent compensation for personal services rendered during that year.

"(2) AVERAGE INCOME.—The credit allowed under subsection (a) shall not be allowed to any individual if the amount of retirement income received by such individual during the taxable year exceeds the average income for his Census Area.

"(3) TERMINATION OF CREDIT.—The credit allowed under subsection (a) shall not be allowed after taxable year 1980.

"(c) Definitions.—For purposes of this section—

"(1) Increased natural gas expenses.—The term 'increased natural gas expenses' means the amount by which the amount paid by an individual for natural gas for residential purposes during the taxable year exceeds the amount paid by such individual for the same amount of natural gas for such purposes during the calendar year 1974.

"(2) Retirement income.—The term 'retirement income' means income from—

"(A) pensions and annuities (including the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which is exempt from tax under section 501(a),

"(B) interest,

"(C) rent,

"(D) dividends,

"(E) bonds described in section 405(b)(1) which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax section 501(a), or retirement bonds described in section 409, and

"(F) an individual retirement account described in section 408(a) or an individual retirement account described in section 408(b).

"(3) Average income.—The term 'average income' means the amount of income which represents the average amount of income for an individual by geographic Census Areas in the United States as determined by the Social and Economic Statistics Administration of the Department of Commerce for the most recent calendar year for which such information is available.".

(b) The table of sections for such subpart is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 42. Increased natural gas expenses.
"Sec. 43. Overpayment of tax.".

(c) Section 6201(a)(4) of such Code (relating to assessment authority) is amended by—

(1) inserting "or 42" after "Section 39" in the caption of such section; and

(2) striking out "oil)," and inserting in lieu thereof "oil) or section 42 (relating to tax credit for increased natural gas expenses),".

(d) Section 6401 (b) of the Internal Revenue Code of 1954 (relating to excessive credits) is amended by—

(1) inserting after "lubricating oil)" the following: ", 42 (relating to tax credit for increasing natural gas expenses), "; and

(2) striking out "sections 31 and 39" and inserting in lieu thereof "sections 31, 39, and 42".

(e) The amendments made by this section apply to taxable years beginning after December 31, 1974.

By. Mr. HRUSKA (for himself, Mr. Allen, Mr. Buckley, Mr. Curtis, Mr. Dole, Mr. Eastland, Mr. Garn, Mr. Hansen, Mr. Hartke, Mr. Helms, Mr. McClellan, Mr. McClure, Mr. Montoya, Mr. William L. Scott, Mr. Stafford, Mr. Stennis, Mr. Randolph, Mr. Talmadge, and Mr. Thurmond):

S. 331. A bill to redesignate November 11 of each year as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, on behalf of a number of my colleagues and myself, I am introducing today a bill to restore November 11 as date for observance of Veterans Day each year.

Last year I introduced and reported from the Judiciary Committee an identical bill (S. 4081) which passed the Senate by a vote of 50 to 4 on October 11, 1974. Unfortunately, the other body was unable to act on this measure before the end of the 93d Congress.

It is heartening to note that a number of my colleagues are joining in cosponsoring this measure: Messrs. Allen of Alabama, Buckley of New York, Curtis of Nebraska, Dole of Kansas, Eastland of Mississippi, Garn of Utah, Hansen of Wyoming, Hartke of Indiana, Helms of North Carolina, McClellan of Arkansas, McClure of Idaho, Montoya of New Mexico, Scott of Virginia, Stafford of Vermont, Stennis of Mississippi, Randolph of West Virginia, Talmadge of Georgia, and Thurmond of South Carolina.

Interest in this legislation has resulted from the confusion and resentment caused by passage in 1968 of the Monday holiday law, Public Law 90-363, which established a uniform holiday schedule. Among other things, it moved the Federal celebration of Veterans Day from November 11 of each year to the fourth Monday in October.

The Standing Subcommittee on Federal Charters, Holidays, and Celebrations, of which I am chairman, held public hearings on June 3 and July 11 of last year to receive testimony on the proposals introduced to revise the celebration of this holiday. The testimony indicated that although good results were anticipated from the Monday holiday law, a substantial lack of nationwide uniformity in the celebration of Veterans Day has developed.

Since enactment of the Monday Holiday Law, 41 States have moved to restore the observance of Veterans Day to its traditional date. Two States had never changed to conform with Federal law.

This bill has the full support of the major veterans organizations: The American Legion, Veterans of Foreign Wars, Non-Commissioned Officers Association, Disabled American Veterans, and American Veterans of World War II, Korea, and Vietnam.

Last year, the Judiciary Committee determined, on balance, that the overwhelming majority of Americans want November 11 to be the recognized date for this important event. Although a Monday observance of Veterans Day provides American families with a 3-day weekend, the committee was convinced that a departure from the traditional commemoration has resulted in an unfortunate lessening of participation in Veterans Day events throughout the Nation. The committee concluded, therefore, that passage of this bill, bringing Federal law again into conformity with a vast majority of our States, would aid substantially in the preservation and furtherance of this event which is important to so many of our citizens.

As drafted, this legislation would become effective in 1977. Veterans Day, therefore, would be celebrated as a Monday holiday for the last time next year. It is believed that a 2-year delay should provide ample time for the necessary changes that must be made in returning Veterans Day to its traditional date.

It is my hope that favorable action can be again taken on this legislation at an early date.

Mr. President, I ask unanimous consent that the bill and letters from three major veterans organizations be printed in the Record at this point.

There being no objection, the bill and letters were ordered to be printed in the Record, as follows:

S. 331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective January 1, 1977, section 6103(a) of title 5, United States Code, is amended by striking out—

"Veterans Day, the fourth Monday in October." and inserting in lieu thereof—

"Veterans Day, November 11.".

The American Legion,
Washington, D.C., January 16, 1975.

Hon. Roman L. Hruska,
U.S. Senate,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Hruska: The American Legion is grateful to you for your continuing effort to have legislation enacted to restore Veterans Day to November 11, its traditional date of observance.

On December 11, 1974 the governor of New Jersey signed a bill redesignating November 11 as Veterans Day, and thus became the 43rd state that will observe November 11 in 1975 as Veterans Day. As you know, two states, Mississippi and Oklahoma, never changed their state laws to conform with the Federal Act. An up to date listing of the states who have made the change is enclosed.

The major veterans organizations and many patriotic and other groups residing in the seven states whose legislatures have not as yet acted on the change will continue to observe November 11 as Veterans Day. Thus, for all practical purposes, the date designated by Public Law 90-363 for the observance of Veterans Day generally applies only to federal employees. Restoration of Veterans Day to its traditional date of observance is again a major legislative objective of the Legion and you can count on our continued strong support of you and your Subcommittee in moving a bill through the 94th Congress for this purpose. A copy of our current resolution on this subject is also enclosed.

Sincerely,

Charles E. Mattingly,
Deputy Legislative Director.

The following forty-one states have passed legislation to restore the observance of Veterans Day to November 11:

Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Illinois, Idaho, Indiana, Iowa, Kansas,

Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York,

North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, Wisconsin (Armistice Day), Washington, West Virginia, Wyoming.

Two states—Mississippi and Oklahoma—have not changed their state laws to conform with the Federal Act.

Seven states have not yet enacted legislation on this subject although some have bills pending and some have memorialized the Congress to amend the Federal Act. They are:

Alabama, Colorado, Hawaii, Nevada, Rhode Island, Texas, Utah.

56TH ANNUAL NATIONAL CONVENTION, THE AMERICAN LEGION,
August 20, 21, 22, 1974.
Resolution: No. 109.
Committee: Americanism.
Subject: Observance of Memorial Day on May 30 and Veterans Day on November 11.

Whereas, The Congress, when it enacted Public Law 90–363, changed the traditional dates for observance of Veterans Day from November 11 to the fourth Monday in October and the observance of Memorial Day from May 30 to the last Monday in May; and

Whereas, The sole basis for changing such observance dates was to create the three-day weekend holiday with no connection with the true anniversary (and, in fact, in some instances, made a distortion of American history); and

Whereas, Such an anniversary change diminishes the importance long attached to the historical events; and

Whereas, Forty-two states now observe Veterans Day on November 11; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Miami Beach, Florida, August 20, 21, 22, 1974, that The American Legion urge the President and the Congress to restore the traditional dates for the observance of Veterans Day and Memorial Day.

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Washington, D.C., January 21, 1975.
Hon. ROMAN L. HRUSKA,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR HRUSKA: A big disappointment to the Veterans of Foreign Wars was the failure on the part of the House of Representatives to approve your bill, S. 4081, which would redesignate November 11 of each year as a national holiday.

As you know, S. 4081 was reported after hearings by your Judiciary Subcommittee and passed the Senate without dissent on October 10, 1974. Because the House failed to act, the bill died when the 93rd Congress finally adjourned.

The Veterans of Foreign Wars has for a number of years reaffirmed national resolutions calling for the celebration of Veterans Day on the traditional November 11; in fact, Veterans of Foreign Wars Commander-in-Chief, John J. Stang, has elevated our mandate regarding Veterans Day to a National Legislative Priority Goal for 1975.

It is my understanding that you are preparing to reintroduce a bill, similar or identical to S. 4081, 93rd Congress, in the near future. This is to let you know that the Veterans of Foreign Wars of the United States endorses your proposal. Our position is found in V.F.W. national resolution, identified as No. 101, which was unanimously approved by the delegates representing more than 1.8 million members to our 75th National Convention, which was held in Chicago, Illinois, last August. A copy of V.F.W. Resolution No. 101 is enclosed.

As indicated in V.F.W. Resolution No. 101, some 40 states have voted to return to the traditional date of November 11 as the official national holiday for veterans. The celebrating of Veterans Day on the fourth Monday of October, as established by the Congress in 1968, has caused much confusion throughout the land and is just not working out as anticipated.

The Veterans of Foreign Wars deeply appreciates your holding hearings on Veterans Day bills during the last Congress. A record has been established that veterans want their day to be celebrated on the traditional November 11, the one day of the year which has great significance to all Americans.

The Veterans of Foreign Wars believes the Congress made a mistake when it included changing Veterans Day to the fourth Monday of October in the Monday Holiday Act of 1968, which day has no meaning whatsoever to America's 29 million veterans. November 11 on the other hand, the original Armistice Day, which became Veterans Day by an Act of Congress in 1954, has special meaning to veterans of all wars and is a part of America's history. Of all the days in the year the one day which has the most significance to those citizens who made an extra sacrifice in the national interest by their service in the Armed Forces, is November 11.

For these reasons, it is hoped that the Senate will quickly approve your bill to redesignate Veterans Day as November 11.

With kind personal regards, I am
Sincerely,
FRANCIS W. STOVER,
Director, National Legislative Service.

RESOLUTION NO. 101

RESTORE VETERANS DAY TO NOVEMBER 11

Whereas, 40 states now celebrate Veterans Day as a state holiday on November 11; and

Whereas, there have been 47 bills and resolutions introduced in the 93rd Congress with 130 cosponsors to restore Veterans Day to November 11 as a national holiday; and

Whereas, the President in his Message on Veterans to the Congress on January 28, called upon the Congress to pass legislation returning Veterans Day to November 11; and

Whereas, the present celebrating of Veterans Day on the fourth Monday of October has been repudiated by the great majority of the Nation's veterans; and

Whereas, there has been no formal action taken by either the United States House of Representatives or the United States Senate regarding the many pending bills and resolutions to restore Veterans Day to November 11; and

Whereas, Congressman Keith G. Sebelius of Kansas has filed a petition to have one of these resolutions taken from the House Judiciary Committee and brought direct to the floor of the House for consideration and vote; now, therefore

Be it resolved, by the 75th National Convention of the Veterans of Foreign Wars of the United States, that the Veterans of Foreign Wars reaffirms its position to restore Veterans Day back to November 11; and

Be it further resolved, since the Congress has failed to advance any of the large number of bills to restore Veterans Day to November 11, that the Veterans of Foreign Wars lend its support to the discharge petition of Congressman Sebelius, or similar petitions, which will bring this legislation of extreme importance to 29 million veterans direct to the floor of the House for vote; and

Be it further resolved, that the Veterans of Foreign Wars support any and all actions in the Congress which will bring this Veterans of Foreign Wars goal to a successful conclusion; and

Be it further resolved, that the Congress of the United States declare November 11 to be observed as a National Holiday.

Adopted by the 75th National Convention of the Veterans of Foreign Wars of the United States held in Chicago, Illinois, August 16 through 23, 1974.

DISABLED AMERICAN VETERANS,
NATIONAL SERVICE HEADQUARTERS,
Washington, D.C., January 16, 1975.
Hon. ROMAN L. HRUSKA,
Russell Senate Office Building,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HRUSKA: The most recent National Convention of the Disabled American Veterans adopted the enclosed Resolution No. 215, calling for the enactment of legislation to restore Veterans Day to November 11th.

In accordance with our Convention mandate, we were pleased to support the legislation on this subject which you introduced in the 93rd Congress, and we respectfully request that you do us the honor of reintroducing S. 4081 in the 94th Congress.

Thanking you in advance for your anticipated cooperation, and assuring you of our appreciation for your efforts on behalf of America's veterans, I am
Sincerely yours,
CHARLES L. HUBER,
National Director of Legislation.

RESOLUTION NO. 215

RESTORE VETERANS DAY TO NOVEMBER 11TH

Whereas, forty States now celebrate Veterans Day as a state holiday on November 11th; and

Whereas, there have been 47 bills and resolutions introduced in the 93rd Congress with 130 co-sponsors to restore Veterans Day to November 11th as a national holiday; and

Whereas, the President in his message on veterans to the Congress on January 28th, called upon the Congress to pass legislation returning Veterans Day to November 11th; and

Whereas, there has been no formal action taken by either the United States House of Representatives or the United States Senate regarding the many pending bills and resolutions to restore Veterans Day to November 11th; and

Whereas, the present celebrating of Veterans Day on the fourth Monday in October has been repudiated by the great majority of the Nation's veterans; and

Whereas, Congressman Keith G. Sebelius of Kansas has filed a petition to have one of these resolutions taken from the House Judiciary Committee and brought direct to the floor of the House for consideration and vote; now

Therefore, be it resolved, that the Disabled American Veterans in National Convention assembled at New Orleans, Louisiana, August 5–9, 1974, reaffirm its position to restore Veterans Day to November 11th; and

Be it further resolved, that since the Congress has failed to advance any of the large number of bills to restore Veterans Day to November 11th, that the Disabled American Veterans lend its support to the discharge petition of Congressman Sebelius, or similar petitions, which will bring this legislation of extreme importance to 29 million veterans direct to the floor of the House for vote; and

Be it further resolved, that the Disabled American Veterans support any and all actions in the Congress which will bring this goal to a successful conclusion.

Mr. STENNIS. Mr. President, I am very happy to join with the distinguished Senator from Nebraska, Mr. HRUSKA, in the introduction of a bill to redesignate November 11 as Veterans Day. I have long advocated this and was unhappy to see it changed from November 11 some few years ago.

Most every State in the Union now observes Veterans Day on November 11. Virtually all veterans' groups support this legislation. Since so many of our citizens celebrate this historic day on November 11, it is only fitting that the Congress recognize this and acquiesce by enacting appropriate legislation.

This date is one of the most important and ranks very near July 4 in historical significance, for it was on this date in 1918 that the fighting in World War I ended. For 50 years we observed Veterans Day on November 11. Only to give our citizens a 3-day weekend was it changed. I do not believe that a 3-day weekend is a sufficient reason to celebrate this day on a day other than November 11. We recognized the importance of not tampering with Independence Day on July 4, and as I said before, Veterans Day ranks right up there with July 4.

It is one thing to celebrate a birthday of a famous American on a Monday so as to provide a 3-day weekend for our citizens, but this date of November 11 honors millions of Americans who fought and died on foreign soils to preserve and protect our freedom.

This bill will allow a uniform nationwide observance of a very important day.

I very much support this legislation and I hope the Senate will soon pass it.

Mr. THURMOND. Mr. President, I am pleased to be a cosponsor of this legislation to reinstate the 11th of November as National Veterans Day.

During the 93d Congress, I introduced a bill which was aimed at redesignating November 11 as Veterans Day. Since there were a number of bills pending before the Judiciary Committee which were almost identical, the full committee reported a bill which is being introduced today in the same form as it was last October.

Mr. President, as a member of the Committee on Veterans' Affairs, I have consulted other members of that committee as to their views on this matter. I personally conferred with Senator HARTKE, chairman of the Veterans' Affairs Committee, and Senator HANSEN, the ranking minority member, as to the merits of the bill I originally introduced. Both agreed that the overwhelming sentiment of America's veterans was to seek the course of action as outlined in this bill introduced today. Many veterans across the Nation have contacted individual Senators about this issue.

Many veterans groups such as the American Legion, the VFW, DAV, and the Military Order of the World Wars have written me to endorse the restoration of the traditional date of the Veterans Day observance.

Mr. President, November 11, 1918, was our first "Armistice Day." In 1926, November 11 was officially recognized to commemorate the signing of the armistice which ended World War I. In 1954, the name "Armistice Day" was changed to "Veterans Day," and veterans of all wars were memorialized on November 11. For more than 40 years, the American people have paused on the 11th of November to pay solemn tribute to all veterans.

Legislation was enacted in 1968 to change Veterans Day to the fourth Monday in October, and this law became effective in 1971.

The rationale behind such a law of providing a 3-day holiday may have been admirable; however, I fear the result has been less than intended. Unfortunately, a symbol of our patriotism and historical perspective was diminished. Already a majority of the States have decided to celebrate Veterans Day on November 11 within their jurisdictions.

It is an anomaly for the Federal Government to recognize the fourth Monday in October as Veterans Day while the great majority of our States choose to recognize November 11. Time is long overdue for the Congress to recognize the will of the people and to restore November 11 as Veterans Day.

Mr. President, I urge my colleagues to act favorably upon this bill and thereby return to the American veteran the traditional day of national honor and to the American people a national symbol of our dedication to the cause of freedom.

Mr. HANSEN. Mr. President, the fighting in World War I ended at 11 a.m. on November 11, 1918. Later to be designated as Armistice Day, November 11 became the day to pay tribute to our World War I veterans for their dedicated service.

In 1954, the name of the observance was changed to Veterans Day, and November 11 was reserved as a day for special tribute to and remembrance of the sacrifices made by all American veterans. Every year at 11 a.m. on November 11, church bells and municipal sirens would sound across the Nation. In school after school, a moment of silence was observed for our veterans, remembering those who had sacrificed to protect the freedom and peace we enjoy.

The year 1968 saw a number of national holidays changed to create long weekends, and the observance of Veterans Day was changed to the fourth Monday in October.

But who urged that November 11 no longer be the commemorative day for veterans? It certainly was not the veterans. And veterans organizations are calling for the return of Veterans Day to November 11, the historical date which has special meaning for American veterans. Largely through the efforts of veterans organizations, 42 States have rejected the National Holiday Act of 1968 as it relates to Veterans Day. These 42 States and the vast majority of our Nation's veterans, want to remember veterans on November 11 and have that day observed each year as a holiday.

Mr. President, the veterans of our country should be able to determine the date upon which their dedication, service, and sacrifice is to be commemorated. And our veterans have decided. They want Veterans Day restored to its proper date—November 11. This date belongs to the veterans. We should follow their wishes.

Therefore, I am pleased to add my name as a cosponsor to Senator HRUSKA's bill to accomplish this goal.

Mr. CURTIS. Mr. President, I am pleased to support legislation proposed by my colleague, Mr. HRUSKA, designed to return the celebration of Veterans Day to November 11. I think it is significant as we approach the Bicentennial to preserve the traditions that keep America so rich in custom.

In tampering with the original date of Veterans Day, I believe we have annulled its tremendous historical significance for Americans and for American veterans. Veterans Day, of course, commemorates the end of World War I in 1918.

When this Nation witnessed another world war and the Korean war, Armistice Day grew to become the symbolic date for the ending of all wars and the commemoration of the efforts of all war veterans.

Mr. President, I believe that by the redesignation of November 11 as Veterans Day, we can revitalize this day of commemoration from the standpoint of its traditional, historical, and sentimental significance.

In my research and in my discussions with veterans' organizations, I have discovered that without exception all such organizations favor the return to November 11 as the date to remember our war veterans.

In sheer numbers, the impact should be significant. Veterans and their families, including living dependents of deceased veterans, comprise half of the total population of the United States. There is no other national holiday that honors so many of our citizens for their contribution to our Nation's welfare.

And I repeat: the endorsement among American veterans' organizations is unanimous. An article in the American Legion Magazine of November, 1972, reasoned:

> If we are going to ignore VE and VJ Day and the Korean War ceasefire and the (then) hoped-for Vietnam War end, one is entitled to ask what is wrong with November 11 as the day on which to lump the symbolic meaning of all wars. A war did end on that day, but no war ever ended on the fourth Monday in October.

Veterans Day serves as a reminder that the ultimate end of war must be peace. In wartime we sacrifice all of our natural resources for peace, the greatest resource being the effort and lives of the men who fight for the security not only of our country, but of the world. These men's collective spirit has won our wars. I firmly believe that the attainment of military victory is the result of the valor of our fighting men. The credit for victory cannot merely go, in the end, to superior war machinery or excellent governmental supervision. Victory is the product of the will of our troops. And the will of our veterans is presently directed toward the Federal redesignation of November 11 as Veterans Day.

Last session, we won that victory in the Senate. This session, let us take the battle through both Houses of Congress, and on to the White House, in the finest tradition of Bicentennial spirit.

By Mr. MAGNUSON:

S. 332. A bill to authorize appropriations for the fiscal year 1975 for certain maritime programs of the Department of Commerce. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I am introducing legislation today to authorize appropriations for the Maritime Administration for the present fiscal year 1975. This authorization bill was passed by the Congress last year but was pocket-vetoed by President Ford after the 93d Congress adjourned.

The fiscal year 1975 appropriations measure covering the Maritime Administration programs has been signed by the President and is being funded by continuing resolution through February 28, 1975.

The bill I introduce today is identical to the bill which was approved last month in every respect with the exception of the amendment which was unacceptable to the President. That deleted section required the Federal Government to reimburse U.S.-flag fishing vessel owners for damage to their equipment by foreign flag ships.

Mr. President, this authorization bill will have top priority in the Committee on Commerce. I hope that the committee will approve it and report it back to the Senate without amendment as soon as possible.

By Mr. MAGNUSON:

S. 333. A bill to amend the Ports and Waterways Safety Act of 1972, and for other purposes. Referred to the Committee on Commerce.

TANKER SAFETY IMPROVEMENT ACT

Mr. MAGNUSON. Mr. President, I introduce for appropriate reference a bill to amend the Ports and Waterways Safety Act of 1972 to establish the requirement that vessels of more than 20,000 deadweight tons—dwt—which are documented under the laws of the United States, engaged in the carriage of oil in bulk to ports on internal waters or straits of the United States, and constructed or contracted for after a certain date, must be equipped with a segregated ballast/double bottom system.

Mr. President, the Ports and Waterways Safety Act of 1972 (P.L. 92-340) was passed for two basic purposes. First, title I provided the Coast Guard with authority for establishing vessel traffic control systems in crowded or hazardous ports and waterways. Secondly, title II of the act authorizes the Coast Guard to promulgate comprehensive standards governing the design, construction, alteration, repair, maintenance and operation of vessels carrying oil or other polluting substances in bulk. In short, the general purpose of the act was to foster safe traffic control and vessel construction and operation standards which are designed to prevent or mitigate hazards of life, property, and the marine environment. The scope of authority is broad, and extends to nearly every aspect of ship construction and operation relating to the safety and seaworthiness of vessels carrying polluting substances in bulk.

Although this authority was created in 1972, a provision in the law expressly allows for a delay in implementation of regulations pursuant to the authority of the act. This provision was included for the purpose of allowing an International Conference on Marine Pollution from Ships to complete its work. It is at this point that the issue of double bottoms begins its history. The Coast Guard played a very large role in the preliminary negotiations which led up to the 1973 IMCO Conference on Marine Pollution from Ships. At least a year prior to the Conference in London which finalized a new treaty on the subject, the U.S. delegation—led by the Coast Guard—advocated requiring a segregated ballast/double bottom system on all new tankers as a mandatory provision in the treaty. A double bottom is simply an additional layer of steel between the water and the cargo and is intended to prevent the puncture of cargo tanks in the event the vessel suffers a grounding. A study done by the Coast Guard and presented at a preparatory session for the Conference concluded that if the segregated ballast/double bottom system were fitted on new vessels, operational pollution from those vessels would be reduced 95 percent, accidental pollution would be reduced 35 percent, and total pollution 67 percent. Another paper presented by the Coast Guard at the Conference estimated that if double bottoms, with the height of 1/15 of the beam of each vessel had been built into oil-carrying vessels involved in stranding and grounding incidents in the U.S. navigable waters between 1969 and 1973, oil discharges would have been prevented in 90 percent of the cases and approximately 11,000 of the 12,499 tons of oil—or 87 percent of the pollution—would have been prevented. Unfortunately, because of the newness of this concept, the desire of tanker operators to keep down the cost of vessels, and some strong pressure by major oil companies, the majority of the nations attending the Conference voted down the U.S. double bottom proposal. Despite this setback, substantial arguments favoring the double bottom are still a matter of record. In fact, a total of 34 vessels, either built or soon to be built, will have this feature. (See table 1.)

Because of a desire not to have the United States act unilaterally on matters which were not adopted by the International Conference, the Coast Guard has proposed regulations for tank vessels in the domestic trade which do not include the double bottom requirement. Based on the information presented so far on the issue, I protested the exclusion of this requirement in a hearing in Seattle, Wash., on July 23, 1974.

I indicated to the Coast Guard that I felt the thrust of the Ports and Waterways Safety Act was in the direction of prevention rather than cleanup. Because the largest variable in bigger accidents is human error and because it is quite often difficult to reduce human error to zero, it is best to provide for built-in safety features in tankers wherever possible. Nonetheless, it is the Coast Guard's position that, although they are not opposed to double bottoms, they are not in favor of a mandatory requirement of the feature. Instead, the designer of each vessel is to decide for himself where best to place segregated ballast spaces in the vessel. I must disagree with their decision.

Much misinformation has been spread concerning the question of double bottom vessels. Mr. President, I point to table 1 to show that many companies have concluded that double bottoms are in fact economically viable. I was informed by the president of National Steel & Shipbuilding Co., San Diego, Calif., that NASSCO has been building double bottom tankers of approximately 90,000 deadweight tons at a cost of only an additional 2 percent of the contract price. I later received a letter from Sun Shipbuilding & Drydock Co. that their construction plans for a double-hulled tanker of approximately 120,000 deadweight tons include a double bottom which would add perhaps 2 to 3 percent to the construction cost of the ship. Sun Shipbuilding also estimated that this small additional construction cost would be more than offset by the savings possible from tank cleaning, lowered turn-around time, et cetera. In addition, there have been expressions of support for mandating double bottoms for new tankers from the Department of the Interior, the Environmental Protection Agency, and the Council on Environmental Quality, all of whom have followed closely the double bottom argument.

Mr. President, this past history has led me to the conclusion that double bottoms are indeed a needed and worthwhile feature on tankers to guard against outflow in the event of a grounding. My conviction led me last year to offer an amendment to H.R. 8193, the Energy Transportation Security Act, requiring double bottoms on vessels operating in the hazardous inland waters of the west coast. Both the House and the Senate approved this provision. I also believe that this should be a universal standard, one which is required of all new U.S. tankers. Because H.R. 8193 was vetoed by President Ford, I am reintroducing today, as separate legislation, the double bottom requirement for new U.S. tankers operating in U.S. waters.

As noted earlier, one of the principal purposes of a double bottom is to prevent outflow in the event of a grounding. Groundings are one of the principal causes of oil spillage from tankers, 25 percent of the polluting accidents worldwide studied by the U.S. Coast Guard—resulting in spillage of 250,000 tons of oil during 1969 to 1973—were attributed to groundings. In addition, there have been two very recent grounding accidents: the *Metula* which went aground in August in the Straits of Magellan and is the largest oil pollution incident since the *Torrey Canyon;* and the grounding of the *Showa Maru* which ran aground in the Straits of Malacca on January 5. This *Showa Maru* accident resulted in a major oil spill involving approximately 1 million gallons of light crude oil. Early information on this accident indicated that a double bottom might have been effective in either preventing or reducing the amount of the oil outflow which occurred, although this is denied by the Japanese designers of the vessel.

In any event, Mr. President, I believe that the issue of safer tankers is a major, national problem, one which has been highlighted by the recent Book of the Month Club selection, "Supership." This book documents the "great leap forward" in tanker size and capacity. It also underscores lingering questions about whether this growth is wise and whether it may also be dangerous. As my colleagues know, this has been one of my special interests over the years. During the coming Congress, the Senate Committee on Commerce plans to conduct oversight into the Ports and Waterways Safety Act. We also plan to work closely with the Office of Technology Assessment in determining if the proposed regulations of the Coast Guard are adequate and whether higher standards are necessary to meet the dangers of superships. If higher standards are necessary or if the oil companies refuse to use tankers with double bottoms on Puget Sound, I shall not hesitate introducing new bills to accomplish these goals in the future.

I ask unanimous consent that S. 333 together with the table to which I have referred be printed at this point in the RECORD.

There being no objection, the bill and table were ordered to be printed in the RECORD, as follows:

S. 333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tanker Safety Improvement Act".

SEC. 2. Section 4417a of the Revised Code of the United States, as amended by section 201 of the Ports and Waterways Safety Act of 1972 (46 U.S.C. 391a), is amended by striking paragraph (1) and inserting in lieu thereof the following:

"(1) STATEMENT OF POLICY.—(a) The Congress hereby finds and declares—

"That the carriage by vessels of certain cargoes in bulk creates substantial hazards to life, property, the navigable waters of the United States (including the quality thereof) and the resources contained therein and of the adjoining land, including but not limited to fish, shellfish, and wildlife, marine and coastal ecosystems and recreational and scenic values, which waters and resources are hereafter in this section referred to as the 'marine environment'.

"That existing standards for the design, construction, alteration, repair, maintenance and operation of such vessels must be improved for the adequate protection of the marine environment.

"That it is necessary that there be established for all such vessels documented under the laws of the United States or entering the navigable waters of the United States comprehensive minimum standards of design, construction, alteration, repair, maintenance, and operation to prevent or mitigate the hazards to life, property, and the marine environment.

"(b) All vessels subject to the terms of this Act shall be constructed and operated using the best available pollution prevention technology."

SEC. 3. Section 4417a of the Revised Code of the United States, as amended by section 201 of the Ports and Waterways Safety Act of 1972 (46 U.S.C. 391a), is amended (1) by redesignating paragraphs "(10)" through "(13)" as paragraphs "(11)" through "(14)" respectively; and (2) by inserting therein after paragraph (9) thereof the following new paragraph:

"(10) MANDATORY REQUIREMENT.—Any vessel of more than 20,000 deadweight tons which is documented under the laws of the United States and engaged in the carriage of oil in bulk to ports of the United States situated on internal waters or straits shall, if the construction of such vessel is contracted for or actually commenced after June 30, 1975, be equipped with a segregated ballast capacity which is determined to be appropriate by the Secretary of the department in which the Coast Guard is operating. Such capacity shall be achieved in part by fitting, throughout the cargo length of each such vessel, a double bottom.".

TABLE 1.—DOUBLE BOTTOM TANKERS IN SERVICE OR UNDER CONSTRUCTION, JANUARY 1975

Year built	Number	Deadweight tons (each)	Builder	Owner/Operator	Flag	Remarks
1969–73	6 [1]	212,000	Sasebo, Japan	Mobil Shipping	United Kingdom and Liberia	
1974–76	3 [2]	89,700	NASSCO, San Diego, Calif	Aeron Marine	United States	Foreign trade.
1975–76	4	89,700	do	Third Group	do	Do.
1977	2	89,700	do	Chestnut Shipping	do	Do.
1976	4	89,700	do	Shipmor Association	do	Alaska trade.
1977–78	2	89,700	Todd, San Pedro, Calif	do	do	Do.
1977	2	89,700	do	Energy Tankers	do	Do.
1979	1	89,700	do	U.S. Lines	do	Do.
1978–79	3	89,700	do	Hawaiian Intern	do	Foreign trade.
1975–77	6	35,000	FMC, Portland, Oreg	Chevron	do	Domestic.
1974	1	118,000	Sun Ship, Chester, Pa		do	Alaska trade.
Total	34	3,483,000				
U.S. flag	28	2,210,000				

[1] All in service.

[2] One in service.

By Mr. HATHAWAY:

S. 334. A bill to prohibit sex discrimination by educational institutions whose primary purpose is the training of individuals for the military service of the United States. Referred, by unanimous consent, jointly to the Committee on Armed Services and the Committee on Commerce.

Mr. HATHAWAY. Mr. President, the best military training in the world takes place at the American Service Academies. This training is available for men, some of whom are not even American citizens. It is not available for American women, no matter how dedicated or how well qualified they may be.

The service academies have never satisfactorily explained the reason for this discriminatory policy. They said it is because the mission of the academies is combat training, but most of the training which takes place at the academies is not combat related, and no reason has ever been advanced as to why women are not allowed to receive academy training for the noncombat roles they have been filling for many years. The Department of Defense made the following statement in its report on S. 2351, my bill which passed the Senate last year to allow women to be admitted to the academies:

> There are numerous officer billets in the armed services, other than in combat roles which are necessary to the effectiveness of the military services. Competence in these positions is no less important in combat roles.

Surely the best training for these noncombat roles is also to be found at the service academies. For the good of morale of the services, as well as because of our own beliefs, that training should be equally available to all.

The second reason most often given for excluding women is the expense of remodeling the facilities to accommodate them, but women have been accommodated in the regular army without any particularly burdensome expense. Furthermore, any remodeling expense would be trifling compared to the overall cost of operating the academies.

Mr. President, we have removed discrimination from many other areas. It is time to remove it in this area as well. Today I am submitting a bill to disallow sex as a qualification for admittance to the American Service Academies. I ask unanimous consent that this bill be printed in the RECORD at this time.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 334

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) subsections (a), (b), and (c) of section 4342 of title 10, United States Code, are each amended by striking out the word "sons" wherever it appears in such subsections and inserting in lieu thereof "children".

(b) Section 4346 of such title is amended by adding at the end thereof a new subsection as follows:

"(e) A female who is qualified to be trained in a skill or profession in which females are permitted to serve as commissioned officers in the armed forces shall not be ineligible for or denied admission to the academy on account of sex."

SEC. 2. (a) Subsections (a), (b), and (c) of section 6954 of title 10, United States Code, are each amended by striking out the word "sons" wherever it appears in such subsections and inserting in lieu thereof "children".

(b) Subsection (d) of section 6956 of such title is amended by striking out "men" each time it appears in such subsection and inserting in lieu thereof "members."

(c) Section 6958 of such title is amended by adding at the end thereof a new subsection as follows:

"(d) a female who is qualified to be trained in a skill or profession in which females are permitted to serve as commissioned officers in the armed forces shall not be ineligible for or denied admission to the academy on account of sex."

SEC. 3. (a) Subsections (a), (b), and (c) of section 9342 of title 10, United States Code, are each amended by striking out the word "sons" wherever it appears in such subsections and inserting in lieu thereof "children".

(b) Section 9346 of such title is amended by adding at the end thereof a new subsection as follows:

> "(e) A female who is qualified to be trained in a skill or profession in which females are permitted to serve as commissioned officers in the armed forces shall not be ineligible for or denied admission to the academy on account of sex."

Mr. ROBERT C. BYRD, subsequently said: Mr. President, I ask unanimous consent that a bill introduced by the Senator from Maine (Mr. HATHAWAY) affecting the service academies and including the Coast Guard Academy be jointly referred to the Committee on Armed Services and the Committee on Commerce.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. STEVENS:

S. 335. A bill to establish a fisheries manpower development program and for other purposes. Referred, by unanimous consent, to the Committee on Labor and Public Welfare.

FISHERIES MANPOWER EDUCATION ACT OF 1975

Mr. STEVENS. Mr. President, the legislation I introduce today, the "Fisheries Manpower Education Act of 1975," will promote the interest of American youth in careers in the fishing industry and will improve educational opportunities for such youths and for working fishermen in the science and technology of fishing.

Mr. President, today modern foreign fishing fleets are harvesting stocks of fish off the United States coast. Those vessels are staffed with well-trained fishermen, using the most technological and scientific methods of fish harvesting. Many of those fishermen have attended fishing academies such as the ones sponsored by Japan, Korea, and the Soviet Union. These academies train young men and women in fishing just like U.S. schools prepare our young to be teachers or doctors.

In the United States there are inadequate formal educational opportunities available to your youth and to working fishermen. It is impossible for them to keep pace with technological advances and to be trained in the most scientific methods of fish harvesting. Interest in fisheries careers is declining among young Americans. The United States is not keeping pace. My bill would initiate a means for U. S. fishermen, fisheries technicians, engineers, and scientists, now and in the future, to acquire the skills needed to harvest our Nation's share of the world's food fish stocks.

I first learned that there is a problem in the fisheries manpower field when a progressive fisheries company in Alaska ventured into a major expansion necessitating the use of much larger and more modern vessels than previously needed. It soon found that the proven fisherman-skippers who had grown with the company had no practical way of acquiring the necessary skills to make the transition into the new vessels. Skippers from traditional maritime sources, on the other hand, knew nothing of fishing. After hearing testimony from and talking to fishermen from other States, I find that this situation is widespread.

Statistics published by the National Marine Fisheries Service show that the number of U.S. vessels exceeding 5 net tons increased from 5,562 in 1940, to 11,496 in 1950, to 13,591 in 1970, despite the serious deterrences I have noted. Moreover, I think there is no doubt that extended U.S. fisheries jurisdiction will be achieved soon either through international agreement or interim unilateral action, and that there will be a consequent increase in the larger, more modern vessels and gear. Inevitably, our fisheries labor force, reported by NMPS to include 140,538 fishermen and 86,813 processing and wholesaler workers, has now and will have a growing need for upgrade and entry training.

In order to learn what is being done now in the field of education the Subcommittee on Oceans and Atmosphere, with the assistance of the U.S. Office of Education, in the fall of 1973, conducted a survey of education and training resources in the United States which prepare manpower for the scientific fishing industry. The focus of the survey was on programs that directly produced trained technicians for modernized fishing fleets.

Each chief State school officer was asked to identify such institutions and programs in the State and to include the number of students trained in 1972, the numbers currently enrolled, and the occupation for which training is provided.

That initial survey tends to confirm the view that the output of trained manpower in scientific fishing techniques for U.S. fishing fleets is grossly inadequate for current and projected fish harvesting needs.

The U.S. training resources are currently concentrated in the nine States of Alaska, California, Florida, Maine, New Jersey, Oregon, Rhode Island, South Carolina, and Washington State. In addition, the four States of Connecticut, Georgia, Mississippi, and Texas reported limited training resources at the present time.

In several States having extensive coastlines, Connecticut and Maryland, for example, the industry primarily relies on a father-and-son type of business where training is part of the family way of life.

Most of the instruction in scientific fishing techniques is taking place in public education facilities such as area vocational-technical schools, high schools, community, and junior colleges and universities having programs such as the University of Rhode Island's fisheries and marine technology program.

In my own State of Alaska, Kodiak Community College holds each spring a fisheries institute lasting 5 days at 8 hours per day. A total of 1,400 attended in 1972; attendance was 424 in 1973; and 724 persons attended in 1974. The large attendance at this institute emphasizes that when programs are available, U.S. fishermen have a genuine interest in expanding their knowledge about fish harvesting.

Not all, however, are public education agencies. In Maine, the Fisheries Extension Division of the Department of Sea and Shore Fisheries has an extension service which conducts research in marine gear and works with fishermen and fishing associations in the use and operation of marine gear used in the fishing industry.

Other States reported other programs that directly and indirectly support the U.S. fishing industry. Included in these are baccalaureate and graduate programs in the marine sciences, high school and post-secondary programs in marine technology, as well as marine research programs that support the seafood fishing industries. The Virginia Institute of Marine Science at Gloucester Point engages in an extensive program of public education in the marine sciences in addition to work in research and developmental activities related to the State's seafood industry. Oregon State University's Marine Science Center has similar public education and research programs. In Connecticut, the Marine Science Institutes at Avery Point and at Noank conduct programs of research and training related to the management of commercial fisheries. These are primarily at the graduate level.

In summarizing the results of the survey, the U.S. Office of Education said:

> As vital as these related programs are to the industry, there remains the problem of a shortage of technicians trained in the most up-to-date harvesting methods. Here the Federal Government has a vital role to play in stimulating and, if necessary, providing the resources to establish required training facilities and programs.

The increasing importance of fish protein to the United States and to the world points to the long-range need for the United States to provide more extensive and planned programs of training in scientific fish harvesting methods.

Mr. President, in the summer of 1973 I traveled as a representative of the Senate Commerce Committee to the Soviet Union, specifically to observe the means through which that nation prepares the necessary manpower for its gigantic global fishing operations. As you know, the U.S.S.R. has assigned a top priority for fisheries because of the vast national need for protein. The Soviet Union now ranks second only to Japan in fisheries and shows no sign of slowing down. The educational system necessary to maintain the vast labor force of the fisheries endeavor provides some 10,000 newly trained personnel annually. I visited 2 of the 23 regional fisheries academies which offer 2- to 3-year technical courses leading to junior officer qualifications for graduates. I was most impressed by the work-oriented practical nature of the training, which utilizes 30 training vessels, and by the reported small dropout rates, near 100-percent employment opportunity for graduates, and obvious high prestige enjoyed by Soviet fishermen.

The technical academies and three fisheries universities, I was told by fisheries officials in Moscow, are but part of a complex system through which an individual who has completed elementary school may follow any of a number of combinations of institutional schooling, on-job training and correspondence programs and, depending on his abilities and aspirations, eventually qualify as a fishing vessel crewman, officer, master, administrator engineer, or scientist.

On February 7, 1973, this body passed Senate Concurrent Resolution 11, expressing a national policy of support of the U.S. fishing industry. The legislation later passed the House. Senate Concurrent Resolution 11 cited some of the reasons the United States, which led the world in fish production a few years ago, now ranks sixth or seventh and must import 60 percent of our food fish needs from other nations. Mentioned were such factors as intensive foreign fishing off our coasts, rising operating costs, obsolescence of equipment and methods.

The validity of the premises of Senate Concurrent Resolution 11, and the serious need for increased support of our fisheries industry have been documented in Commerce Committee hearings in various coastal regions of the United States and here in Washington on whether or not our Nation should extend its fisheries jurisdiction to 200 miles. We have repeatedly heard in those hearings that unrestrained foreign fishing operations off our shores will surely result in permanent loss of one species after another unless effective conservation-management practices are imposed on foreign fishermen, as they already have been on our own.

We have heard that much of our fleet is deteriorating because the domestic fisherman cannot see his way clear to invest the large sums of money necessary to upgrade his equipment when the resource is swiftly being destroyed.

Most of the facts arising from these hearings are grim ones. Yet, there also has been a distinct note of promise. In general the fishermen we have heard are far from defeated. The proud spirit which has led the American fisherman to the sea for generations is alive and well. He is confident that if he is allowed to compete on equal terms, under equitable rules and regulations, with his foreign adversaries, he will run them off the water.

Mr. President, I have every confidence that the commitment of Senate Concurrent Resolution 11 will be honored by the Congress, and that piece by piece the economic and regulatory requirements will be provided. The Fisheries Manpower Education Act of 1975 is a very important one of those pieces. In fact, it rightly should be one of the first considered, because education takes time; and skilled manpower must be available on a timely basis to keep pace with the development of the industry.

The proposal I introduce today is to help stimulate the interest of American youth in fisheries careers, and to provide the best possible technical education for them and for working fishermen.

The act fundamentally would involve the National Marine Fisheries Service and qualified advisers from the fisheries community to assure a practical type of training. It would establish within the National Marine Fisheries Service a Fisheries Manpower Development Office which would be responsible for the development of four basic programs. The first of these would be an orientation program, including visual aids, publications, motion pictures, and other materials designed to stimulate the interest of elementary and secondary school students, of coastal communities, in fisheries. I have in mind a fisheries counterpart to inschool programs such as Future Farmers of America. At the next level would be pilot programs, one each in four major fisheries regions of the United States to provide 2-year high school accredited technical training programs at 11th and 12th grade levels for youths 16 to 19 years of age. Also provided would be upgrade training, both institutional and correspondence, for working fishermen in the major fishing regions. Finally, there would be provision for scholarships for selected, motivated individuals planning to pursue fisheries management, engineering, and scientific careers.

Mr. President, I commend the Fisheries Manpower Education Act of 1975 for the consideration of my colleagues as a necessary adjunct to a revitalized U.S. fishing industry and ask unanimous consent that the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, To authorize the Secretary of Commerce to take action necessary to implement this Act which may be cited as the "Fisheries Manpower Educaion Act of 1975."

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the highly mechanized distant water fishing fleets of foreign nations have, in recent years, massively harvested North American fish species without regard to the need to sustain the species;

(2) the United States fishing industry, which prior to heavy foreign fishing off our coasts, had little need for large, modern fishing vessels to harvest nearby stocks, must modernize because it is unable to effectively compete against foreign fleets;

(3) interest in fisheries careers is declining among young Americans;

(4) there is inadequate formal educational opportunity available to working fishermen to enable them to keep pace with technological advances and qualify for the more responsible jobs in the industry;

(5) a largely expanded zone of United States fisheries jurisdiction is possible within the near future either through international treaty or domestic legislation;

(6) possible United States assumption of management authority over an expanded fisheries zone mandate a United States responsibility to assure optimum harvest of fish to help meet the protein needs of mankind, while sustaining the species; and

(7) optimum harvest of the species necessitates a modernization of United States fisheries equipment and methods to an extent not within the present capacity of the fisheries labor market.

(b) It is therefore the purpose of this Act to undertake a pilot program designed to promote the interest of American youth in careers in the fishing industry and designed to develop improved educational opportunities for advancement by such youths and individuals now engaged in commercial fisheries consistent with their personal aspirations and abilities and the needs of the fisheries.

DEFINITIONS

SEC. 3. As used in this Act the term—

(1) "Advisory Council" means the National Advisory Council on Fisheries Manpower Education;

(2) "elementary school" means any such school as defined in section 801(c) of the Elementary and Secondary Education Act of 1965;

(3) "institution of higher education" means any such institution as defined in section 1201(a) of the Higher Education Act of 1965;

(4) "local educational agency" means any such agency as defined in section 1201(a) of the Higher Education Act of 1965;

(5) "Office" means the Fisheries Manpower Development Office established under section 4;

(6) "private vocational training institution" means any institution as defined in section 108(11) of the Vocational Education Act of 1963;

(7) "secondary school" means any such school as defined in section 801(h) of the Elementary and Secondary Education Act of 1965;

(8) "Secretary" means the Secretary of Commerce;

(9) "State educational agency" means any such agency as defined in section 801(k) of the Elementary and Secondary Education Act of 1965; and

(10) "vocational school" means any area vocational education school as defined in section 108(2) of the Vocational Education Act of 1963.

(11) "community college" means any such school as defined in section 1018 of the Higher Education Act of 1965.

ESTABLISHMENT OF THE FISHERIES MANPOWER DEVELOPMENT OFFICE

SEC. 4. (a) The Secretary shall establish within the National Marine Fisheries Service a Fisheries Manpower Development Office. The Office shall be headed by a Director who shall be appointed by the Secretary.

(b) The Secretary shall administer the provisions of this Act through the Office established under this section.

ORIENTATION PROGRAM

SEC. 5 (a) The Secretary is authorized and directed to develop and carry out an orientation program for use in the public elementary and secondary schools of the coastal States of the United States designed to acquaint American youths with the Nation's commercial fishing industry and to stimulate their interest in a fisheries career.

(b) The Secretary is authorized and directed to make available to local educational agencies in coastal States such materials developed pursuant to subsection (a) of this section as he finds will promote the purpose of this Act.

(c) The Secretary is authorized and directed to make grants to and enter into contracts with local educational agencies for the furnishing to such agencies of promotional and instructional materials (including motion pictures, texts, and other materials) designed to carry out the orientation program developed under this section.

TECHNICAL FISHERIES TRAINING

SEC. 6. (a) (1) The Secretary is authorized to enter into contracts with any vocational school, community college, or private vocational training institution for the establishment and operation of not to exceed four pilot projects under which technical training for a fisheries career will be provided for a two-year period to youths who have attained sixteen years of age but are not twenty years of age. Wherever appropriate the training project conducted pursuant to a contract entered into under this subsection shall provide for in-residence training. Such training shall include appropriate training aboard a vessel actively engaged in harvesting fish.

(2) At least one such contract shall be entered into with a vocational school, community college, or private vocational training institution located in the States bordering the east coast of the United States, one in a school or institution located in the States bordering the Gulf of Mexico, one

in a school or institution located in States bordering the Pacific coast of the United States, and one in a school or institution located in Alaska.

(b) Each contract entered into pursuant to this section shall provide for the recruitment, counseling, training, job development, and supportive services of the youths who are enrolled in the project assisted under this section. Supportive services shall include subsistence and housing, books and supplies, medical and dental service, and transportation costs and all other costs related to such recruitment, counseling, training, job development, and supportive services, and where appropriate, uniforms.

(c) (1) No youth shall be eligible to be enrolled in a project assisted under this section who has not completed at least ten grades of elementary and secondary education and who shall further agree to complete a high school diploma or its equivalent subsequent to enrollment, under criteria established by the Secretary the requirement of this paragraph may be waived in appropriate cases.

(2) Each contract entered into under this section shall contain provisions adequate to assure the vocational school, community college, or private vocational training institution will establish an appropriate board consisting of officials of that school or institution (including officials of the State or local educational agency concerned) and fishing vessel operators and fishermen to establish the requirements for the enrollment of youths in the project assisted pursuant to that contract.

(d) The Secretary shall give priority to contracts entered into with vocational schools, community colleges, or private vocational training institutions in which the youths enrolled will be completing the requirements for a certificate of graduation from a school providing secondary education or the recognized equivalent of such a certificate.

UPGRADING TRAINING

SEC. 7. (a) (1) The Secretary is authorized to enter into contracts with any vocational school, community college, or private vocational training institution for the establishment and operation of not to exceed four pilot projects under which working fishermen may acquire additional skills in order to keep pace with technological advances and qualify for more responsible jobs in the industry.

(2) Such training shall be designed in appropriate modules in order to permit flexible entry into the program and exit upon completion of a desired training goal, and may include off-season institutional training and year-round correspondence programs.

(b) At least one such contract shall be entered into with a vocational school, community college, or private vocational training institution located in the States bordering the east coast of the United States, one in a school or institution located in the States bordering the Gulf of Mexico, one in a school or institution located in States bordering the Pacific coast of the United States, and one in a school or institution located in Alaska.

(c) Each contract entered into pursuant to this section shall provide for the recruitment, counseling, training, job development, and supportive services as required of the working fishermen who are enrolled in the project assisted under this section.

(d) Each contract entered into under this section shall contain provisions adequate to assure the vocational school, community college, or private vocational training institution will establish an appropriate board consisting of officials of that school or institution (including officials of the State or local educational agency concerned) and fishing vessel operators and fishermen to establish the requirements for the enrollment of working fishermen in the project assisted pursuant to that contract.

SCHOLARSHIP PROGRAM

SEC. 8. (a) In cooperation with the administration of the national sea-grant program the Secretary is authorized to award scholarships for study at institutions of higher education for both graduate and undergraduate study for persons who plan to pursue a career in the engineering, management, or scientific fields related to the development of the Nation's fisheries.

(b) The Secretary shall allocate fellowships awarded under this section among institutions of higher education in such manner and according to such plan as will, insofar as practicable, (1) provide an equitable distribution of fellowships throughout the United States with particular consideration of institutions located in coastal States, and (2) attract individuals to pursue such a career.

(c) (1) The Secretary shall pay to persons awarded fellowships under this section such stipends (including such allowances for subsistence and other expenses for such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(2) The Secretary shall (in addition to the stipends paid to persons under subsection (c) (1)) pay to the institution of higher education at which such person is pursuing his course of study, in lieu of tuition charged such person, such amounts as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

(d) (1) A person awarded a fellowship under the provisions of this part shall continue to receive payments provided in subsection (c) only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

(2) The Secretary is authorized to require reports containing such information in such form and to be filed at such times as he determines necessary from any person awarded a fellowship under the provisions of this part. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such person is making satisfactory progress in, and is devoting essentially full time to, the program for which the fellowship was awarded.

REPORT

SEC. 9. Not later than six months after the termination of programs authorized by this Act, the Secretary shall prepare and furnish to the President and the Congress a report on all programs authorized by this Act. Such report shall include an evaluation of each program and shall include recommendations for additional legislation as he deems necessary and appropriate.

PAYMENTS

SEC. 10. Payments made pursuant to grants or contracts under this Act may be made in installments, and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

WITHHOLDING

SEC. 11. Whenever the Secretary after giving reasonable notice and opportunity for a hearing to any contractee or grantee under this Act finds—

(1) that the program or project for which payments under such grant or contract was made has been so changed that it no longer complies with the provisions of this Act; or

(2) that in the operation of the program or project there is a failure to comply substantially with any such provision;

the Secretary shall notify such grantee or contractee of his findings and no further payments may be made to such grantee or contractee by the Secretary until he is satisfied that such non-compliance has been, or will promptly be, corrected. The Secretary may authorize the continuation of payments with respect to any program or project assisted pursuant to this Act which is being carried out by such grantee or contractee and which is not involved in the noncompliance.

ADMINISTRATIVE PROVISIONS

SEC. 12. (a) In order to carry out his functions under this Act the Secretary is authorized to—

(1) procure temporary and intermittent services to the same extent as authorized by section 3109 of title 5, United States Code;

(2) secure from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the United States Government, or of any State, or political subdivision thereof, information, estimates, and statistics required in the performance of his functions under this Act;

(3) enter into and perform such contracts, leases, cooperative agreements, or other arrangements as may be advisable without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) and other provisions of law relating to competitive bidding;

(4) appoint such regional advisory councils as he deems appropriate; and

(5) accept and use with their consent, with reimbursement, such services, equipment, and facilities of other Federal agencies as are necessary to carry out such functions efficiently and such agencies are authorized to loan, with reimbursement, such services, equipment, and facilities to the Department of Commerce.

(d) Each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed to furnish such information, estimates, and statistics directly to the Department of Commerce upon written request made by the Secretary.

NATIONAL ADVISORY COUNCIL ON FISHERIES MANPOWER EDUCATION

SEC. 13. (a) There is established an Advisory Council on Fisheries Manpower Education composed of twenty members appointed by the President from among individuals who are widely recognized by reason of experience, education, or training as specially qualified to serve on such Council. In making such appointments the President shall give due consideration to individuals representing coastal States.

(b) The Advisory Council shall make recommendations to the Secretary relative to the carrying out of his duties under this Act.

(c) The Advisory Council shall select its own Chairman and Vice Chairman.

(d) Each member of the Advisory Council who is appointed from private life shall receive $125 per diem (including travel time) for each day during which he is engaged in the actual performance of his duties as a member of the Council. A member of the Council who is in the legislative, executive, or judicial branch of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

AUTHORIZATION

SEC. 14. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act not to exceed three years from the date of enactment.

Mr. GRIFFIN subsequently said: Mr. President, I ask unanimous consent that a bill introduced today by the Senator from Alaska (Mr. Stevens) entitled "Fisheries Manpower Education Act of 1975," be jointly referred to the Committee on Commerce and the Committee on Labor and Public Welfare.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. HUMPHREY:

S. 343. A bill to provide for the development and demonstration of programs designed to provide health care for the aged and chronically ill utilizing community chronicare centers. Referred to the Committee on Labor and Public Welfare.

COMMUNITY CHRONICARE CENTER DEMONSTRATION ACT OF 1975

Mr. HUMPHREY. Mr. President, today I introduce for appropriate reference a bill which addresses the urgent need to establish comprehensive and systematic methods of financing and delivering health services designed to meet the needs of chronically ill and disabled persons. This bill is similar to legislation which I submitted in both the 92d and 93d Congresses.

As this Congress moves toward enactment of comprehensive national health insurance, I believe it is important to understand the distinction between the obvious need to provide protection for all our citizens against the costs of hospital and medical care for acute conditions, and the unique needs of the growing numbers of individuals who are afflicted with chronic illnesses and disabilites. The latter group of course uses hospital services more often and for longer durations than any other. But more importantly, the disabled and chronically ill are more likely to require, on a more or less continuous basis, a whole range of other health and supportive services not only for active treatment of their conditions but also to enable these individuals to attain the maximum degree of independence of which they are capable.

Let us examine for a moment exactly who these individuals are, and what we are presently doing in this country to address their needs.

There are currently some 20 million Americans who suffer from various chronic illnesses and disabilities severe enough to restrict their major activities. Those with the most severe conditions require institutionalization.

For example, more than 1 million persons are patients in nursing homes. Approximately 90 percent of these persons are the infirm elderly. In addition, over 700,000 Americans are long-term hospital patients, many of whom could be more appropriately treated through less expensive methods. The Senate Special Committee on Aging conservatively estimates that at the present time as many as 300,000 persons over age 65 need but cannot obtain nursing home care, and some 2.6 million homebound individuals require home health services, including meals which are not available due to limitations in our current programs. And these figures do not take into account the large numbers of disabled persons under age 65 who are unable to obtain these and other health services under existing programs.

Future population projections are even more sobering and suggest a veritable explosion in the upper age bracket over the next 40 years. Medical advances have lengthened our lifespan, but advanced age carries with it a corresponding increase in the incidence of chronic and disabling physical and mental impairments. At the same time, the birth rate has fallen. The number of persons over age 65 will double in 40 years.

Mr. President, these facts tell me that now is the time when we, in the Congress, must begin in earnest to find new methods of financing and delivering long-term health services to the aged and disabled.

Our response up to this time has been to rely principally on the medicare and medicaid programs to provide health care for the aged and the poor. Medicare has been a lifesaver for the aged in terms of hospital and medical insurance, although even this program has been badly eroded by inflation. But medicare was not designed to meet the longer term health needs of the most infirm members of our society.

Those who need these services over long periods have had to rely upon the medicaid program, which, of course, is limited to the very poor and is hopelessly intertwined with the inequities and indignities of the public welfare programs.

For thousands of our elderly citizens, the onset of poor health has meant the sudden loss of personal and financial independence that had been achieved through a lifetime of hard work.

Mr. President, I believe we can do better than that.

First of all, our coming consideration of national health insurance must include full attention to the question of long-term care. I was delighted to note the introduction of separate legislation in the last Congress by my colleagues Senator Ribicoff, Muskie, and Moss.

Their bills are aimed at expanding the benefits available under medicare to make it a more complete program in the area of long-term care. I commend my colleagues and believe that such an expansion of medicare should be a priority item in connection with any national health insurance plan that this Congress enacts.

Beyond this immediate step, however, future demands in this area dictate that we establish a more comprehensive and predictable system of financing and delivering long-term care to the chronically ill and disabled.

That is the purpose of my reintroduction today of the Community Chronicare Demonstration Center Act. Since my earlier introduction of this legislation in the 93d Congress, several encouraging actions have been taken which I would like to point out to my colleagues.

First, the Comprehensive National Health Insurance Act which was jointly introduced last year by my colleague from Massachusetts, Senator Kennedy, and Representative Wilbur Mills included a broad provision for a long-term care program which is remarkably similar to my bill in its basic approach. That provision of the Kennedy-Mills bill was based on an earlier proposal by Mr. Conable of New York.

Second, I was delighted to note that authority for long-term care demonstration projects was included in the draft proposal on national health insurance which was considered by the House Committee on Ways and Means during August and September of last year.

We know that finding new methods of financing health care are desperately needed. But infusing new money into our present health care system without also taking steps to improve the coordination and distribution of services will only generate rampant inflation of health costs without solving fundamental problems of access to needed services by large segments of our population.

This is a primary consideration which is reflected in the Community Chronicare Center Demonstration Act of 1975. Specifically, the bill would provide funding for eight separate projects for the development and demonstration of community-based programs offering a comprehensive range of both institutional and noninstitutional services to chronically ill residents of selected project areas. As this statement implies, a key feature of each project would be to determine the most appropriate utilization of services which might enable those who would otherwise be institutionalized to continue to preserve the maximum level of independence in their own homes and communities.

I believe these demonstration programs will enable us to find new ways of grouping services and manpower that enable appropriate substitution of less expensive methods of care for more expensive institutional care. While new costs will be incurred in making available such features as diagnostic services, preventive care, outpatient therapies, and home health services, substantial savings may be possible through this systematic approach.

The eight projects authorized in my bill would establish community chronicare centers serving rural, suburban, and urban target areas. Five of the projects would be operated in areas which are currently underserved by long-term health resources. A single special project would be operated in conjunction with a health maintenance organization.

Each community chronicare center would provide directly or by arrangement physician services, dental services, preventive care, optometric services, rehabilitation services, nursing home care, home health and homemaker services, day care, and the services of mental health specialists and social workers, but would not be limited to these.

Access to the services of a community chronicare center would begin with a complete diagnostic service utilizing a team approach. In addition, a therapeutic team would be responsible for establishing and monitoring each individual's total care plan. Direct provision of services or referrals would be based on the findings of the diganostic and therapeutic teams.

The bill authorizes the Secretary of Health, Education and Welfare to enter into contracts with public or private health entities to serve as community chronicare centers for a period of 3 years. In addition, the Secretary will appoint a Chronicare Commission consisting of five members knowledgeable in the provision of long-term health care, including consumer and professional representatives. The Commission will make initial recommendations concerning the scope of each project and conduct oversight and evaluation of each project.

Following completion of this experimental program, the Secretary is directed to issue a detailed report to the Congress together with recommendations for further action.

Mr. President, the purpose of the Community Chronicare Center Demonstration Act is to provide a solid foundation of hard facts and detailed analysis on which to base an ongoing program to provide comprehensive long-term health care for the chronically ill and disabled. These answers must be found for the future. I believe this bill will provide that opportunity. I commend it to my colleagues for their consideration.

Mr. President, I ask unanimous consent that the text of the bill be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Community Chronicare Center Demonstration Act of 1975."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that—

(1) adequate health care for the aged and chronically ill requires the establishment of a health care system which takes into account the special needs of such individuals for continuing health care, as well as other aspects of their physical, mental, social and spiritual well-being; determines the types of care appropriate in each case; and delivers the needed care in a manner designed to preserve personal dignity and freedom;

(2) medical care in this country presently focuses chiefly on the treatment of acute medical conditions and does not adequately provide the full range of care and services needed by the aged and chronically ill on a continuing and systematic basis;

(3) our Nation's aged and chronically ill have a right to high quality health care at a cost to them which does not exceed their reasonable ability to pay while meeting their other financial obligations and retaining a decent standard of living;

(4) it is necessary to develop a system of health care for the aged and chronically ill and in order to do so it is desirable to establish demonstration programs to determine the proper administrative structure, types of services, and costs of such a system.

(b) It is the purpose of this Act to establish demonstration programs to provide a basis for the development of a comprehensive, efficient, and humane national health care system for the aged and chronically ill.

PROGRAM ESTABLISHMENT

SEC. 3. (a) The Secretary shall enter into contracts with public or private health facilities to cover all or any part of the costs of establishing eight projects for the purpose of developing and demonstrating programs designed to provide health care for the aged and chronically ill utilizing community chronicare centers. Such contracts shall be drawn so as to permit the addition and deletion of specific types of health care provided by each project based on determinations as to their usefulness and efficiency during the course of the demonstration program established by this Act. Each project shall serve a designated geographic area with a total population of no less than twenty-four thousand. At least one project shall be located in each of the following: a rural area, a center city area, a suburban area. At least one project shall be operated in conjunction with a health maintenance organization. At least five projects shall be located in areas which are underserved by long-term health resources, as determined by the Secretary.

(b)(1) The Secretary shall appoint a Chronicare Commission consisting of five members knowledgeable concerning the provision of long-term health care and including one representative of each of the following: consumers of long-term health care, the medical profession, another health profession or paraprofession, and institutional providers of long-term care. No more than one member of the Commission shall be an employee of the United States Government and members of the Commission shall not, by reason of such membership, be deemed to be employees of the United States Government. Members of the Commission who are not United States Government employees shall, while engaged in activities of the Commission pursuant to this section, be entitled to receive compensation at the rate of $100 per day including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence equal to that authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) The Commission shall make recommendations to the Secretary as to the initial mix of health care services to be provided by each project established under this Act and on the basis of periodic review and evaluation shall recommend to the Secretary any changes deemed desirable in the types of health care provided by any project or in the allocation of funds among projects.

(c) The Secretary shall periodically review and analyze the operation of the projects established under this Act and shall submit to the Congress no later than July 1, 1978, a full report on such projects which shall include detailed recommendations for further action with respect to the provision of health care by means of community chronicare centers.

ELIGIBLE CONTRACTORS

SEC. 4. (a) In order to qualify as a contractor for the establishment of a community chronicare center, a health facility must be a skilled nursing facility, an intermediate care facility, or a home health agency and must give satisfactory assurances of its capability of providing—

(1) diagnostic services,
(2) the services of a therapeutic team,
(3) inpatient nursing home care,
(4) day care,
(5) rehabilitation services, and
(6) home health care.

The contractor must provide directly (not by subcontract) at least one of the abovementioned services.

(b)(1) Diagnostic services shall be provided to every eligible individual on either an inpatient or outpatient basis upon initial application for health care by a community chronicare center.

(2) Diagnostic services shall include any indicated medical, psychological or social tests and examinations and shall be conducted by a diagnostic service team consisting of—

(A) a physician,
(B) a mental health specialist, and
(C) a medical social worker.

(3) A full report of the tests and examinations conducted and the conclusions of the diagnostic team shall be made and shall be retained by the community chronicare center.

(c)(1) The services of a therapeutic team shall be provided on a continuing basis to all recipients of the health care services of a community chronicare center and shall include—

(A) establishment and maintenance of a complete health care plan following initial diagnostic services,

(B) assessment of patient health status on a continuing basis, and

(C) the involvement of ancillary professionals for the provision of needed care.

(2) The therapeutic team shall consist of—

(A) a physician,
(B) a mental health specialist,
(C) a medical social worker,
(D) a physical therapist,
(E) a registered professional nurse employed by the community chronicare center, and
(F) the administrator of the community chronicare center.

The therapeutic team may include individuals who are also members of the diagnostic services team.

(3) A full report of the determinations of the therapeutic team shall be made and shall be retained by the community chronicare center.

(d) To the maximum extent feasible contractors shall use the services of health paraprofessionals in the delivery of health care services under this Act.

SCOPE OF SERVICES

SEC. 5. The health care services provided by the community chronicare center shall include those set forth in subsection 4(a). In addition, services provided may include, but are not limited to, the following—

(1) physician's services,
(2) dentist's services,
(3) outpatient preventive services,
(4) optometrist services,
(5) durable medical equipment and prosthetic devices,
(6) drugs prescribed on an outpatient basis, and
(7) homemaker services.

COMPATIBILITY OF REPORTS AND RECORDS

SEC. 6. Reports and records of the diagnostic and therapeutic teams and all other reports and records concerning applicants for treatment by a community chronicare center shall be confidential and used only in connection with the provision of health care to the individual or for the purpose of review and evaluation of the operation of the community chronicare center. When used for the purpose of such review and evaluation such reports shall not reveal the name of the individual nor contain a description which would be likely to reveal his identity.

ELIGIBLE INDIVIDUALS

SEC. 7. (a) Every individual who is a resident of the geographic area served by a community chronicare center and who is sixty-five or more years of age or who appears upon initial screening to suffer from a chronic illness or condition shall be entitled to diagnostic services. On the basis of the conclusions of the diagnostic service team, every such individual shall be entitled to any health care service provided (directly or by subcontract) by the community chronicare center which is likely, in the opinion of the therapeutic team, to be of benefit to him.

(b) The Secretary may provide by contract with the community chronicare center for the charging of co-payments to beneficiaries, any such co-payments are to be used for the purpose of increasing the health care services provided by the community chronicare center. Any such co-payments shall be based on the income of the individual, his other financial obligations, and the desirability for the purposes of this demonstration program of encouraging individuals to enter and use the system of health care established by this Act.

DEFINITIONS

SEC. 8. For the purposes of this Act the term—

(a) "Aged" means every individual sixty-five or more years of age;

(b) "Chronically ill" means any person who suffers from a chronic illness or condition.

(c) "Chronic illness or condition" means any illness or condition which is likely to be of long duration and requires periodic treatment or which significantly impairs an individual's physical, psychological or social functioning.

(d) "Day care" means nursing home care and rehabilitative services provided on a regular basis during daytime hours or on a regular basis during nighttime hours, to those not provided twenty-four hour accommodations; and nursing home care provided on an intermittent basis during weekends.

(e) "Dentist's services" means dental services performed by, or under the direction of, a doctor of dentistry legally authorized to practice dentistry in the state where such function is performed;

(f) "Drugs prescribed on an outpatient basis" means any drug or biological (as defined in section 1395x of title 42, United States Code) provided an individual who is not an inpatient of a health facility on a regular twenty-four hour basis and which is prescribed by a person legally authorized to prescribe drugs in the state where such prescription is made.

(g) "Durable medical equipment and prosthetic devices" includes iron lungs; oxygen tents; hospital beds; wheelchairs; crutches and other supportive devices; prosthetic devices which replace all or part of an internal body organ (including colostomy bags and supplies directly related to colostomy care) including replacement of such devices; and leg, arm, back, and neck braces, artificial legs, arms and eyes, including replacements if required because of a change in the patient's physical condition.

(h) "Health maintenance organization" means an entity organized to provide, directly or indirectly, basic and supplemental health services to its members in the following manner:

(1) Each member is to be provided basic health services for a basic health services payment which (i) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (ii) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; and (iii) may be supplemented by such additional nominal payments which may be required for the provision of specific services (within the basic health services).

(2) The services of health professionals which are provided as basic health services shall be provided through health professionals who are members of the staff of the entity or through a medical group (or groups) or individual practice association (or associations), except that this subparagraph shall not apply in the case of health professionals' services which are provided out of the area served by the entity or which are infrequently used.

(i) "Health paraprofessionals" means individuals determined by the Secretary to have special training or experience in providing health care and treatment under the general supervision of a health professional.

(j) "Health professional" means a physician, dentist, podiatrist, optometrist, licensed nurse, or others as determined by the Secretary.

(k) "Home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which—

(1) is primarily engaged in providing skilled nursing services and other therapeutic services;

(2) has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

(3) maintains clinical records on all patients;

(4) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing; and

(5) meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization.

(l) "Home health care" means any of the items or services provided by a community chronicare center (directly or by subcontract) when provided on a part-time or intermitent basis to an eligible individual on a visiting basis in a place of residence used as such individual's home.

(m) "Homemaker services" means care and services provided on a visiting basis in a place of residence used as the home of an eligible individual and includes care for children during the incapacity or absence due to illness of the parent, performing or helping to perform essential household duties, insuring proper nutrition, maintaining a clean and hygenic environment, and providing personal care as prescribed by health professionals.

(n) "Inpatient nursing home care" means skilled nursing services and intermediate care services provided to an individual who is an inpatient of a skilled nursing facility or intermediate care facility on a regular twenty-four hour basis.

(o) "Intermediate care facility" has the same meaning as under section 1396(d) of title 42, United States Code.

(p) "Medical social worker" means an individual who is a graduate of a school of social work accredited or approved by the Council on Social Work Education, has at least one year of social work experience in a health care setting, and is legally authorized to perform the services of a medical social worker in the State in which such services are performed.

(q) "Mental health specialist" means a psychiatrist, psychologist, or other professional mental health practitioner licensed under the laws of the State in which such services are performed.

(r) "Optometrist services" means optometric services provided by, or under the direction of, a doctor of optometry who is legally authorized to practice by the State in which he performs such function.

(s) "Outpatient preventive services" includes health examinations, laboratory tests, innoculations and immunizations, X-rays, dietary, and other counseling performed on an out-patient basis.

(t) "Physical therapy" means physical therapy services provided by a person licensed as a physical therapist in the State in which he is practicing under the general supervision of a health professional.

(u) "Physician" and "physician's services" have the same meaning as under section 1395x of title 42, United States Code.

(v) "Registered professional nurse" means an individual legally authorized to provide the professional services of a registered nurse in the State in which he performs such services.

(w) "Rehabilitative services" includes physical therapy, speech pathology and audiology, reality orientation, psychological and social counseling, and other rehabilitative services.

(x) "Secretary" means the Secretary of Health, Education, and Welfare.

(y) "Skilled nursing facility" has the same meaning as under section 1395x of title 42, United States Code.

APPROPRIATIONS AUTHORIZED

SEC. 9. There are authorized to be appropriated for the purposes of this Act, $48 million for the fiscal year ending June 30, 1976, and $43 million for each of the succeeding two fiscal years. No less than 90 per centum of the funds appropriated pursuant to the authorization of this Act shall be expended under contracts as set out in section 3(a).

By Mr. TUNNEY (for himself and Mr. CRANSTON):

S. 344. A bill to designate certain lands in the Sequoia and Inyo National Forests, Calif., as wilderness. Referred to the Committee on Interior and Insular Affairs.

S. 345. A bill to authorize and direct the Secretary of Agriculture to classify as a wilderness area certain national forest lands adjacent to the Ventana Wilderness. Referred to the Committee on Interior and Insular Affairs.

Mr. TUNNEY. Mr. President, I am today introducing, with Senator CRANSTON, two bills which will designate certain lands in California as wilderness. In addition, I will be offering at a later time, legislation which will direct the Forest Service to study certain other areas for possible inclusion in the national wilderness preservation system. All of these bills will cover the highest priority, most endangered areas in California and I am hopeful that steps to protect and preserve these lands can be undertaken in the near future.

The first bill would add to the present Ventana Wilderness and the second would establish the Golden Trout Wilderness. When it was originally established in 1967, the Ventana Wilderness included a total of 98,000 acres. My bill today will extend this wilderness by adding over 60,000 acres located in the Los Padres National Forest. The proposed additions include the Cone Peak-Coast Ridge, Miller Canyon/Church Creek Canyon, Tassajara Creek, and the Santa Lucia Creek watershed. These areas, if protected as part of the national wilderness preservation system will add a wide variety of unique geologic and botanical features to the existing wilderness.

The Cone Peak area, consisting of approximately 35,000 acres, would add a diversified ecosystem including a substantial portion of the major coast ridge south of the present Ventana Wilderness. Below Cone Peak itself, elevations range from 500 to 5,000 feet in a distance of less than 3 miles from the sea. The roadless area offers a breathtaking view of the coastline on one side, the rugged interior mountains on the other, and the area itself contains a number of stands of Santa Lucia fir and remnant Sierra forest communities. Of great interest also is the fact that the California condor, an endangered species, has been sighted over Cone Peak.

Two very scenic areas of approximately 7,680 acres that will be protected by my bill are Miller Canyon and Church Creek Canyon, both of which are easily accessible by trail and used extensively. Here again, one can find many stands of Santa Lucia fir on the ridges, and in the canyons grassy and bushy areas abound, fed by two major streams which run year round. This area is reported to have been the home of the Esselen Indian Tribe and many of their campsites and other evidence of their lives has already been identified and located. However, local archeologists believe other sites are yet to be found and it is important to protect the area from any undesirable activities until all of these ancient artifacts have been discovered.

The 16,000 acre Santa Lucia Creek Canyon lies in the easterly part of the district and is separated from the present wilderness by a dirt road. The lower end of the canyon is deep and rugged and little used because of its inaccessibility, although an old fire lookout tower and a lookout station on Pinyon Peak, while no longer used, still remain standing.

My second bill would extend wilderness protection to certain lands in the Sequoia and Inyo National Forests by designating them as the Golden Trout Wilderness.

This area, consisting of approximately 260,000 acres, adjoins Sequoia National Park on the south, thereby making a natural extension of the unbroken expanse of wildland which continues all the way south from Yosemite National Park.

The Golden Trout-Grey-Moses area is a magnificent "fossil remain" of the geologic forces which created the Sierra Nevada containing abundant wildlife, vast numbers of fauna, and the unique golden trout for which the area is named.

At its heart, this extraordinary area contains Golden Trout Creek, the native habitat of California's State fish. It is a separate trout species which developed its unique golden brown coloring in isolation from other trout, because of the remoteness of the creek. This fragile species cannot withstand heavy fishing pressure and must be protected.

While the Forest Service did outline an area as the Golden Trout Wilderness Study Area, it included only the northern half of the area which has been proposed as wilderness for many years. The balance of the area is not protected in any way, and has been considered open for "multiple use management." As a result, timber sales and logging roads have been steadily eroding the southern edges of the area.

Mr. President, the intent of Congress in creating the national wilderness preservation system was to emphasize the importance of continuing to preserve the wilderness character of selected areas which survive as reminders of what this country once was. According to the Wilderness Act, conservation is one of the public purposes for which wilderness areas are to be established. Wilderness promotes quality, stable flows of water for municipal, industrial, agricultural, and recreational uses. Many roadless areas, such as those found in my proposed Ventana additions, encompass watersheds of major importance and are also characterized by steep slopes, unstable soils, and fragile ecosystems. Wilderness designation, which precludes development and other disturbance by man, would provide much needed protection for the watershed and easily disturbed ecosystems of these areas.

In addition, roadless areas such as those included in my Golden Trout Wilderness proposal, furnish irreplaceable habitat for rare and endangered species of wildlife which require essentially a wilderness environment to survive. It is worth emphasizing that one of the Forest Service's major policies is to promote the protection and perpetuation of endangered species.

Certainly, California is fortunate to have some of its greatest lands included in the national wilderness system, guaranteeing that future generations will be able to visit and enjoy areas untouched by the hand of man. However, our dwindling wild areas are being subjected daily to increasing environmental pollution, relentless resource and land exploitation, and mushrooming population expansion. Every day of delay brings us closer to the possibility that these lands will be destroyed forever and such a loss would be irreplaceable.

Preservation of those few areas which remain unspoiled is a goal I am personally committed to and I feel that it is essential that proposals such as the extension of the Ventana Wilderness and the designation of a Golden Trout Wilderness, be acted upon by the Congress as quickly as possible.

I ask unanimous consent that both bills be printed at this point in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(b) of the Wilderness Act (16 U.S.C. 1132), certain lands in the Sequoia and Inyo National Forests which comprise about two hundred and sixty thousands acres and which are generally depicted on the map entitled "Golden Trout Wilderness-Proposed", numbered —, and dated —, 75, are hereby designated as wilderness. The map and description of the boundaries of such lands shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture.

Sec. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map of the wilderness area and a description of its boundaries with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

Sec. 3. The wilderness area designated by this Act shall be known as the "Golden Trout Wilderness" and shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of the Interior shall be deemed to be a reference to the Secretary of Agriculture.

Sec. 4. The grazing of livestock within the area comprising the Golden Trout Wilderness, where established prior to January 1, 1975, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture.

Sec. 5. (a) Nothing in this Act shall be construed as affecting the jurisdiction or responsibility of the several States with respect to fish and wildlife in the national forests.

(b) Nothing in this Act shall constitute an expressed or implied claim or denial on the part of the United States as to exemption from State water laws.

S. 345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the area proposed for addition to the Ventana Wilderness as generally depicted on a map entitled "Ventana Wilderness Additions", dated —, 1975, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, are hereby designated for addition to and a part of the Ventana Wilderness, Los Padres National Forest, California, which addition comprises an area of approximately, 60,080 acres.

Sec. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Ventana Wilderness as revised by this Act with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

Sec. 3. The additions to the Ventana Wilderness provided by this Act shall be administered as a part of the Ventana Wilderness by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

By Mr. BURDICK:

S. 346. A bill to improve judicial machinery by requiring a minimum $10,000 jurisdiction limit on freight damage actions brought in U.S. district courts, and for other purposes. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, I am introducing today S. 346, a bill to improve judicial machinery by requiring a $10,000 minimum amount in controversy for freight damage actions brought in U.S. district courts.

Freight damage or loss resulting from shipments in interstate commerce may be brought in either Federal or State courts. Under present law Federal courts are open to these claims regardless of amount, since there is no limit on the amount in controversy as in other Federal jurisdictional law.

The district court in Massachusetts has been particularly affected by these actions. In Massachusetts, as in most Federal courts, these freight damage actions were filed with the State courts because they involved only small amounts. However, in 1968, as a result of a quirk in a judicial decision by a lower court in Massachusetts, the principal litigants began filing these cases in U.S. district court. These cases now account for 6 of every 10 civil cases filed in Massachusetts. In 1972, 2,436 ICC freight damage claims were filed in U.S. district court for Massachusetts, while the total for all 94 district courts was only 3,235.

The situation has grown progressively worse in 1973 and 1974. Of 3,127 of these cases filed in 1973, 2,526 were in Massachusetts. In 1974 Massachusetts had 3,116 filings out of 3,683 filed in all Federal courts.

Judges in the district court for Massachusetts have reported these cases being settled for as little as $65. The Federal courts cannot afford to be forums for small claims such as these, and they were not intended to be small claims courts.

The Carmack amendment, 49 U.S.C. 20(11) and 28 U.S.C. 1337, provide that, suits may be brought against a railroad or motor carirer in Federal court regardless of the amount of damage demanded. This is a basic inconsistency with diversity and Federal question jurisdiction which requires a $10,000 minimum amount in controversy.

A further inconsistency is encountered when a litigant wants to remove one of these actions to Federal court. Under 28 U.S.C. 1445(b) only a $3,000 minimum amount in controversy is required for removal from State to Federal court rather than the normal $10,000 amount in controversy.

In the interests of removing some of the unnecessary caseload from our already inundated Federal courts and in order to provide consistency in our Federal jurisdictional requirements, I am introducing the following bill which would limit trivial freight damage claims to State courts where they belong.

By Mr. WILLIAM L. SCOTT:

S. 347. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer. Referred to the Committee on Finance.

S.J. Res. 14. A joint resolution proposing an amendment to the Constitution relating to the continuance in office of judges of the Supreme Court and of inferior courts. Referred to the Committee on the Judiciary.

S.J. Res. 15. A joint resolution to authorize and request the President to issue a proclamation designating May 13 of each year as "American Business Day." Referred to the Committee on the Judiciary.

Mr. WILLIAM L. SCOTT. Mr. President, I have three measures to send to the desk and ask that they be printed and referred to the appropriate committees. These are measures introduced in the 93d Congress, one of which was passed but not adopted in the other body and the other two also failed of adoption. Nevertheless, I feel that they are worthwhile measures and am reintroducing them in the hope that they will receive favorable consideration this year.

The first is a joint resolution proposing a constitutional amendment to provide 10-year terms for Federal judges with the right of renomination and the confirmation for additional terms. As you know, constitutional judges hold office during good behavior and for all practical purposes, have lifetime tenure, subject only to the impeachment process. Substantially all other public officials from time to time must account for their stewardship within a reasonable period of time: we, every 6 years; Members of the House, every 2 years; the President on a 4-year basis and it seems reasonable, if we believe that ultimate sovereignty resides in the people collectively and that this is a Government where the people rule, that our judges' performances should periodically be reviewed. A 10-year term would enable the judiciary to be independent and tend to eliminate arbitrary action contrary to the will of the people of the country.

A second bill would amend the Internal Revenue Code to exclude interest up to $500 from income taxes. This would tend to encourage the deposit of funds into savings and loan associations, banks, credit unions, or similar thrift institutions and make it available for borrowing for home improvements, purchase of automobiles, and other purposes that would stimulate the economy.

The third proposal is to set aside a special day for business, much the same as we have each year for labor. It seems appropriate that 1 day each year be set aside to honor the contributions made by private business to the economic and social well-being of the country. Mr. Arch Booth, president of the U.S. Chamber of Commerce, has come out in support of an "American Business Day," recalling that American labor has its Labor Day and that "business, too, deserves national recognition." The founding of Jamestown on May 13, 1607, by the Virginia Co. of London is a landmark of history for America—and it is an early example of how private business has contributed to our evergrowing economic and social well-being. Therefore, it seems reasonable to designate May 13 as a time for us to honor American business and its contributions to our free enterprise system.

I hope the committees and the Congress will give serious consideration to these proposals.

By Mr. TUNNEY:

S. 348. A bill to protect students receiving Federal financial assistance against losses resulting from the closing of certain private educational institutions. Referred to the Committee on Labor and Public Welfare.

STUDENT LOAN PROTECTION ACT OF 1975

Mr. TUNNEY. Mr. President, I am reintroducing legislation today for student assistance at vocational and proprietary institutions. The default rate on student loans continues to increase. In part, this is because some students intentionally ignore their repayment obligations. In many instances, however it is the fault of the educational institutions, which themselves default on their obligation to train and instruct.

In California, for example, two vocational institutions were forced to close at midterm. Thousands of students were stranded with no education and crushing loan repayment obligations.

Riverside University—not to be confused with the University of California at Riverside—became a nonprofit, 4-year institution in the fall of 1967. The university was an outgrowth of Riverside Business College, which remained a part of the college. It received a high priority rating for grants from the California Council on Higher Education and was accredited by the Western College Association as a business college. To all appearances, the university gave every indication of being a reputable institution.

In April 1970, however, four former students charged that the school made "false, deceptive, inaccurate, and misleading advertisements regarding its program in shorthand court reporting." They filed suit in Riverside Superior Court for refunds and damages totaling $135,000. The complaint alleged that each student "was wholly unable to receive any semblance of a proper education so as to qualify him as a court reporter."

In May 1971, Riverside University closed 5 weeks before the end of the quarter, and filed for bankruptcy. At the time the school closed, tuition refunds were denied and approximately 1,000 students were left owing on loans that averaged $2,000 and totaled $2 million.

Shortly after the university closed my office was inundated with letters from its students. Many had obtained federally insured loans or veterans' education allowances and sought my assistance in obtaining Federal loan forgiveness. The response I received from the Office of Education, while possibly legally correct, was wholly unhelpful and unsympathetic. According to the Office of Education:

> There is no provision in the Federal Insured Student Loan Program to absolve a student/borrower of his obligation to repay in the rare instance where he chooses to invest the proceeds of his loan in a school which fails to perform on its enrollment contract to provide the education paid for.

Those students who had received veterans' education allowance were denied further benefits and asked by the Veterans' Administration to return the money previously allocated to them for the purpose of attending Riverside University.

According to numerous press accounts, the university allegedly used false advertising, dishonest counseling of prospective students, and deceitful administrative procedures in regard to VA benefits and federally insured student loans. Nevertheless, students were still required to repay their heavy loan obligations.

The West Coast Trade School illustrates another, more recent example of a school closing midterm. West Coast Trade School was a group of five proprietary vocational schools in Los Angeles. The school was the lender, all courses were paid for in full and in advance. The paper was immediately sold to outside financial institutions. When the school's bid for accreditation was not approved its license to issue Government loans was revoked. Approximately 1,000 students were caught with loans amounting to millions of dollars, outstanding, when the school folded midsession.

Obviously, I do not mean to implicate every proprietary or vocational institution in existence. Clearly, however, even one case such as Riverside University or the West Coast Trade School is enough to warrant enactment of the legislation I have introduced.

My bill would provide for the protection of students in federally insured student loan programs when the vocational or proprietary institutions abruptly close. It would also protect students receiving veterans' education allowances.

Under present circumstances, when an institution closes its doors, a student may lose not only an education but thousands of dollars in future earnings.

Four parties are involved when a student contracts for a federally insured student loan: The student, the loaning institution, the educational institution, and the Federal Government. Wherein lies the responsibility for repayment of that loan should the institution cease operation?

Clearly, the initial responsibility lies with the student. He or she has contracted for the purpose of obtaining an education with the hope that, upon its completion, he or she will be able to become employed and repay the loan.

The loaning institution accepts only a small responsibility for the administration and processing of the loan.

The Federal Government has undertaken the responsibility of guaranteeing repayment of the loan should the student fail to do so.

The educational institution has the responsibility of educating the student. But if it closes prematurely, the student is left holding the bag.

My bill presents a viable solution to this problem. It stipulates that no Federal student loans, no federally insured student loans, and no veterans' education allowances may be paid to a vocational or proprietary institution that has been in existence for less than 10 years unless that school has provided assurances—by posting a bond or otherwise—that, in the event the institution ceases operation, it will reimburse the student for the portion of the loan that would cover the education not received.

Let me illustrate this by an example. A student is attending a vocational business college, four quarters per school year. The school is bonded. Three quarters have been completed and the student is 5 weeks into his fourth quarter. The school is forced to close. Under my legislation, the student would be reimbursed by the institution for the portion of the loan which covers the fourth quarter. This would allow him to transfer to another school with sufficient funds to complete a full quarter. In most instances, if the school is accredited—and it must be to receive Federal loans and VA benefits—the units completed can be transferred to another institution, while the partially completed units are not transferable.

My bill is restricted to private vocational and other proprietary institutions because they are much more vulnerable to failure than institutions supported by taxpayer money; that is, State-supported colleges and universities.

My bill also includes a provision which stipulates that only those institutions in existence for 10 years or less must be bonded. Thus, after a reasonable period of time, a new, private educational institution could prove itself to be a viable and reputable institution.

Another portion of my bill directs the Secretary of Health, Education, and Welfare to forgive the portion of loans defaulted because of midterm school closings that have occurred prior to enaction of this legislation. The forgiven portion would cover the education not received. If the loan has already been repaid, the Government would reimburse the student directly.

This latter section was included to provide relief for recent victims of midterm closings. Forgiveness, however, is not the ultimate answer. For the long term we need a solution that provides protection for all parties involved with student assistance. Neither the student, the loaning institution nor the Federal Government should be forced to clean up after an educational institution that has failed its responsibility to educate.

Over the years, the Federal Government has been held responsible for over 116,000 defaulted student loans, a liability which has amounted to $110.5 million of the taxpayers' money. In California alone, 9,923 loans were paid by the Government amounting to $76.6 million. Obviously, only a small portion of these defaults were the result of institutional closings. However, one such instance is one too many. Thousands of students continue to be duped into attending new vocational and proprietary institutions by misleading, hard-sell advertising tactics. Unfortunately, in nearly all cases, the students who are victimized when these schools fail are those who can least afford it, students from low-income families and veterans.

Mr. Chairman, some type of protection is urgently needed. I hope the Senate will give urgent and sympathetic consideration to the legislation I have presented today.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 348

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act be cited as the "Student Loan Protection Act of 1975".

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) The term "Federal student loan" means a loan made by any department or agency of the United States to an individual to assist that individual to attend an educational institution.

(2) The term "federally insured student loan" means a loan which is made by any person or by any department or agency of a State or local government to assist that individual to attend an educational institution and the repayment of which is insured or guaranteed, in whole or in part, by a department or agency of the United States.

(3) The term "veterans educational allowance" means subsistence allowance paid under chapter 31 of title 38, United States Code, and educational assistance allowance paid under chapters 34 and 35 of such title.

(4) The term "educational institution" means any institution which furnishes education or training at the secondary level or above, including vocational schools and correspondence schools.

(5) The term "new private educational institution" means any educational institution which (A) is not an agency of the United States, a State or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, or a possession of the United States, and is not owned and operated by one or more of the foregoing, and (B) which has been in operation for less than 10 years.

(6) The term "academic period" means, with respect to any new private educational institution, a semester, trimester, quarter, or other period of time during which education or training is offered by such institution. In the case of a new private educational institution which does not offer education or training based on an academic period within the meaning of the preceding sentence, such term means, with respect to any individual, that period which begins on the date on which such individual first attends such institution during an uncompleted course of study or training.

(7) The term "Secretary" means the Secretary of Health, Education, and Welfare.

REQUIREMENT OF GUARANTEES BY NEW PRIVATE EDUCATIONAL INSTITUTIONS

SEC. 3. (a) On and after the effective date of this section—

(1) no Federal student loan or federally insured student loan may be made to an individual to assist that individual to attend a new private educational institution, and

(2) no veterans educational allowance may be paid to an individual attending a new private educational institution, unless the new private educational institution has provided assurances satisfactory to the Secretary (by the posting of a bond or otherwise) that, in the event such institution ceases operations, it will make the payments required by subsection (b) with respect to each individual then attending such institution with the assistance of a Federal student loan or a fed-

erally insured student loan or who is receiving a veterans educational allowance.

(b) The amount to be paid with respect to an individual under subsection (a) is an amount equal to the expenses paid by such individual to enable him to attend such institution during the academic period in which such institution ceases operations, but such amount shall not exceed—

(1) in the case of an individual attending with the assistance of a Federal student loan or federally insured student loan, the portion of the loan attributable to such academic period, or

(2) in the case of an individual receiving a veterans educational allowance, the amount of such allowance received which is attributable to such academic period.

(c) The payments required by this section shall be made—

(1) with respect to an individual attending with assistance of a Federal student loan or federally insured student loan, to the lender as repayment of part or all of such loan, except that if such loan has been repaid, the payment shall be made to such individual, and

(2) with respect to an individual receiving a veterans educational allowance, to such individual.

PROTECTION AGAINST LOSSES NOT COVERED BY GUARANTEES

SEC. 4. (a) In the case of an individual who—

(1) was attending a new private educational institution which ceased operations on or before the date of the enactment of this Act,

(2) is attending a new private educational institution which ceases operations after such date and before the effective date of section 3 with respect to such institution, or

(3) is attending a new private educational institution which has failed to give the assurances required by section 3 and which ceases operations after the effective date of that section with respect to such institution, but only if such individual is pursuing education or training which he commenced at such institution before such effective date, the Secretary shall take the action required by subsection (b).

(b) With respect to an individual described in subsection (a)—

(1) who was attending the institution with the assistance of a Federal student loan, the Secretary shall cancel an amount of such loan equal to the amount which would be payable under section 3 if that section applied, except that if such loan has been repaid, the Secretary shall pay such amount to such individual,

(2) who was attending such institution with the assistance of a federally insured student loan, the Secretary shall pay to the lender (as a repayment of part or all of the loan) an amount equal to the amount which would be payable under section 3 if that section applied, or if the loan has been repaid, shall pay such amount to the individual, and

(3) who was receiving a veterans educational allowance, the Secretary shall pay to the individual the amount which would be payable under section 3 if that section applied.

REGULATIONS

SEC. 5. The Secretary, after consultation with the Administrator of Veterans' Affairs, shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 7. This Act shall take effect on the date of its enactment, except that the provisions of section 3 shall take effect with respect to any new private educational institution on the first day of the first academic period of such institution which begins more than 90 days after the date of the enactment of this Act.

By Mr. TUNNEY:

S. 349. A bill to amend the Federal Trade Commission Act. Referred to the Committee on Commerce.

TRUTH IN ENERGY ACT OF 1975

Mr. TUNNEY. Mr. President, I am introducing today the Truth in Energy Act of 1975. This is the most comprehensive energy labeling legislation ever introduced in the Congress. It mandates that consumers be provided at the point of sale clear and concise information as to the average annual operating costs of automobiles, major home appliances, and new residential and commercial buildings.

This legislation could save the American consumer billions of dollars a year, while conserving millions of barrels of oil that otherwise would be wasted.

At a time when energy costs are skyrocketing, and we face an ever-deepening dependence on foreign sources of fuel, it is essential that we provide the American public sufficient information so that they can avoid energy-inefficient products. Yet, as extensive hearings I held last year amply demonstrated, the average consumer still does not know nor can he readily discover prior to purchase the average operating cost of these important products.

Witness after witness at these hearings stated that operating cost labeling would stimulate rapid development of far more energy-efficient products. These energy savings could quickly make these products as much as 35 to 50 percent more efficient without major increases in initial purchasing price.

A recent MIT study has shown that even where initial purchasing price may rise substantially due to energy efficiency improvements, the consumer still may wish to purchase the more expensive model in order to obtain the major energy savings that would then be available. The MIT study found, for example, that the energy use of refrigerators could be cut in half through better insulation and more efficient motors. These improvements would increase the initial price about 20 percent, or $65 on a $300 refrigerator. But savings in electricity would amount to about $25 a year, or $350 over the average 14-year life of the product.

There appears to be a growing consensus as to the need for mandatory labeling legislation. Last session, as part of S. 2176, the National Fuels and Energy Conservation Act, the Senate overwhelmingly passed similar legislation in the area of appliance and car labeling. Further investigation has shown that supplying energy information in the area of new buildings is also necessary.

President Ford also forwarded to the Congress at the time of the state of the Union message, materials endorsing the concept of mandatory energy labeling for cars and appliances. Thus, it would seem that the time appears ripe for quick congressional consideration of this legislation. Heating and cooling our homes, driving our automobiles, and using our appliances accounts for over 40 percent of the total energy requirements of this country—the time for immediate action has clearly arrived.

Mr. President, I ask unanimous consent that the text of this legislation be printed at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Truth in Energy Act of 1975".

SEC. 2. (a) The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by—

(1) striking out section 18 thereof in its entirety;

(2) amending section 1 thereof by inserting at the beginning of the first sentence thereof the following: "b";

(3) inserting a new section 1(a) thereof as follows:

"(a) This Act may be cited as the 'Federal Trade Commission Act'."; and

(4) adding at the end thereof the following new sections:

"SEC. 18. FINDINGS AND PURPOSE.—(a) The Congress finds and declares that—

"(1) The Nation is facing an energy shortage of acute proportions. The problem has already manifested itself in different geographical areas in the form of power blackouts and brownouts, school closings because of a scarcity of fuel, and shortages of gasoline for automobiles and fuel for farm equipment.

"(2) A significant easing of the energy problem can be achieved by elimination of wasteful uses of energy, promotion of more effective uses of energy, and education of consumers as to the importance of conserving energy.

"(3) Climate conditioning systems, automobiles, and household products such as water heaters, room air-conditioners, refrigerators, freezers, stoves, and clothes dryers use significant quantities of energy. Substantial reductions are possible in the energy consumption of many of these systems, automobiles, and products if more attention is paid to energy usage in their design and in their use by consumers.

"(4) Many owners of major energy-consuming products and automobiles, and many owners and lessees of buildings equipped with climate conditioning systems, do not know nor can they readily discover prior to purchase or lease how much each such product, automobile, or system will cost each year to operate (in terms of energy charges) nor are they able to compare in terms of operating cost, competing products, automobiles, or systems using energy sources.

"(b) Since informed consumers are essential to the fair working of the free enterprise system and to the maintenance of balance between the supply of and demand for energy, it is hereby declared to be the intent of Congress to assure, through a uniform national system, noncompliance with which shall be an unfair or deceptive act or practice, meaningful disclosure of the annual operating cost of certain products, automobiles, and systems, so that consumers can readily compare them and thereby avoid purchasing those which unnecessarily waste energy.

"SEC. 19. DEFINITIONS.—As used in sections 18 through 24 of this Act—

"(1) 'Automobile' means a four-wheeled vehicle propelled by fuel which is manufactured primarily for use on the public streets, roads, and highways, except any vehicle operated exclusively on a rail or rails, and which has as its primary intended function the transportation of not more than ten individuals. The term 'automobile' includes a light duty truck rated at 6,000 pounds gross vehicle weight or less, and a multipurpose passenger vehicle which has as its primary intended function the transportation of not more than ten individuals.

"(2) 'Building' means any physical enclosure or portion thereof which is designed for use or used for residential, commercial, industrial, governmental, or public accommodation purposes, including mobile homes, and which is provided or designed to be provided with a climate conitioning system.

"(3) 'Climate conditioning system' means any sysem which is designed to be installed or is installed in a previously unoccupied building for the purpose of artificially controlling temperature or humidity levels within such building or portion thereof. Such systems include electric resistance heating systems, and systems composed of a number of components (such as piping, ducting, furnaces, boilers, fans, heaters, compressors, pumps, controls, and working fluids, such as aid, other gases, water, steam, oils, and refrigerants) which are not designed for or are incapable of controlling temperature or humidity levels within such building until and unless they are connected or combined together.

"(4) 'Communications medium' means any printed or electronic means of communication which reaches significant numbers of people including, but not limited to, newspapers, journals, periodicals, publications, radios, televisions, films, or theater.

"(5) 'Dealer' means any person engaged in the business of selling new automobiles or new major energy consuming products to purchasers who buy for purposes other than resale.

"(6) Estimated 'annual operating cost' means, with respect to a major energy-consuming household product, automobile, or climate conditioning system, the estimated cost of electricity or fuel needed for average usage during a calendar year as determined in accordance with the provisions of section 20 of this Act.

"(7) 'Fuel' means butane, coal, diesel oil, fuel oil, gasoline, natural gas, propane, or steam obtained from a central source; or any other substance which, when utilized, is capable of powering a major energy-consuming household product, automobile, or climate conditioning system.

"(8) 'Fuel economy' refers to the average distance traveled by an automobile per unit of fuel consumed as determined in accordance with the test procedures established by the Environmental Protection Agency.

"(9) 'Lease' means the act or agreement by which (A) a person conveys a building or portion thereof for a period of at least one year to a second party (lessee); and (B) a second party (lessee) agrees to pay the costs incurred for electricity, fuel, or both in the course of operating the climate conditioning system within such building or portion thereof during such period.

"(10) 'Major energy consuming household product' means a product which: (A) is sold or intended to be sold for use in a residence; (B) functions when connected to a readily available source of energy external to the product; and (C) requires, based on average patterns of usage, a significant amount of energy per year as determined by the Commission, after consultation with the Federal Energy Administration.

"(11) 'Supplier' means any manufacturer, importer, wholesaler, direct sale merchandiser, distributor, or dealer of any new automobile, or any new major energy consuming household product; or any engineer or contractor who is designing a climate conditioning system for use in a previously unoccupied building.

"SEC. 20. ESTIMATES OF ANNUAL OPERATING COSTS.—(a) The Commission, after consulting with the Federal Energy Administration, shall, within nine months after the date of enactment of this section, (1) define average-use cycles, and devise procedures by which the average-use cycles of major energy consuming household products may be simulated and by which the energy utilized during any such cycle may be measured or calculated, and (2) adopt the procedure utilized by the Environmental Protection Agency for measuring the fuel economy of automobiles. In developing such procedures, the Commission shall consult with other Federal agencies, appropriate professional engineering societies, and organizations representing the manufacturers of major energy-consuming household products and automobiles in order to enable the Commission to make the best possible utilization of appropriate existing testing procedures and professional expertise.

"(b) The Commission shall direct each manufacturer and importer of major energy-consuming household products and automobiles to conduct tests or calculations on all applicable models of such products and automobiles in accordance with the procedures established under subsection (a) of this section. Beginning as soon as practical, but no later than 15 months after the date of enactment of this section, such manufacturers and importers shall furnish the results of such tests and calculations to the Commission.

"(c) The Commission, after consultation with the Federal Energy Administration, within 9 months after the date of enactment of this section, shall develop and maintain, on a regional, national, or other basis which the Commission finds appropriate, information on the estimated (1) number of average-use cycles performed annually by each major energy consuming household product; (2) distance traveled annually by new automobiles in average usage; and (3) average unit cost of electricity and fuel for those circumstances under which automobiles and major energy consuming household products are expected to be utilized.

"(d)(1) The Commission shall, beginning 9 months after the date of enactment of this section and on an annual basis thereafter, disseminate to all manufacturers and importers of major energy consuming household products and automobiles the information developed under subsection (c) of this section. Such information shall be accompanied by instructions for determining the estimated annual operating cost of a given major energy consuming household product or automobile.

"(2) The determination of the estimated annual operating cost of a given major energy consuming household product or automobile shall be made by the manufacturers or importers. Such determinations may, at the discretion of the Commission, include a range of estimated annual operating costs to reflect geographical differences in usage patterns or energy costs, as determined by the Commission, after consultation with the Federal Energy Administrator. Beginning as soon as practical, but not later than 15 months after the date of enactment of this section, the estimated annual operating cost figures of a given . . . shall be included by the manufacturers or importers as part of the material shipped with each such product or automobile to all the suppliers who carry such product or automobile.

"(3) If a range of estimated annual operating costs is provided to suppliers in accordance with paragraph (2) of this subsection, dealers shall select the estimated annual operating costs applicable to them in accordance with instructions furnished by the Commission.

"(4) Within 18 months after the date of enactment of this section, and periodically thereafter when a revision is deemed necessary or appropriate, a compilation of information provided to or developed by the Commission under subsections (b) and (c) of this section shall be published by the Commission in a public document to be placed on sale at the Government Printing Office. The Commission shall take steps to encourage the widest possible distribution of such document and any revision thereof.

"(e) Within 12 months after the date of enactment of this section, the Commission after consultation with the Federal Energy Administration, shall establish—(1) Model calculation procedures for use by suppliers in determining the estimated annual operating costs of climate conditioning systems, (2) procedures for suppliers to disclose such estimates to their clients. In developing such procedures, the Commission shall consult with appropriate professional engineering societies, and organizations representing the climate conditioning industry so as to allow the best possible utilization by the Commission of appropriate existing procedures and professional expertise. The procedures developed under this subsection shall be distributed or otherwise made available by the Commission at reasonable cost to all applicable suppliers and other interested persons.

"SEC. 21. LABELING AND ADVERTISING.—(a) Beginning eighteen months after the date of enactment of this section, it shall be unlawful for any supplier or person to sell or offer for sale in commerce for purposes other than resale any new major energy consuming household product for which such procedures have been adopted; or new automobile; or to sell or lease, or to offer for sale or lease, any previously unoccupied building for which a climate conditioning system has been designed subsequent to the adoption of such procedures; unless the estimated annual operating cost of such product, automobile, or system is disclosed by the supplier or person prior to any such sale or lease. Such disclosure shall appear on the same label, tag, shelf, display case, counter, contract, estimate, proposal, direct-mail statement, or any other place on which the purchase price or acquisition cost of such product, automobile, or purchase price or rental cost of any previously unoccupied building in which such system has been installed, is stated, in accordance with rules established by the Commission: *Provided*, That if estimated annual operating costs are significantly different in different sections of the country, communications covering more than one such section in the form of mail-order literature, catalogs, brochures, or other media which contain price data shall include national average values of estimated annual operating costs and shall disclose clearly and conspicuously that the estimated annual operating costs of such products for any specific section of the country may be obtained from the supplier.

"(b) Beginning 18 months after the date of enactment of this section it shall be unlawful for any supplier to advertise or cause to be advertised in commerce through any communications medium any new major energy consuming household product for which such procedure has been adopted, or any new automobile, if such advertisement states the purchase price or acquisition cost of such product or automobile, unless the advertisement includes a statement of the estimated annual operating cost of such product in accordance with rules established by the Commission: *Provided*, That if estimated annual operating costs are significantly different in different sections of the country, price advertising covering more than one such section shall include national average values of estimated annual operating costs, and shall disclose clearly and conspicuously that the estimated annual operating costs of such products for any specific section of the country may be obtained from the supplier.

"(c) Beginning 3 months after the date of adoption of procedures for determining fuel economy in accordance with section 20 of this Act it shall be unlawful for any supplier to advertise or cause to be advertised in commerce through any communications medium, the fuel economy of any new automobile, unless such fuel economy has been measured in accordance with procedures established under section 20 of this Act.

"(d) It shall be unlawful for any supplier to give false or misleading information to the Commission or any prospective purchaser with respect to the estimated annual operating cost of any new major energy consuming household product or with respect to fuel economy or estimated annual operating costs of new automobiles; or for any person to give false or misleading information to the Commission or any client or prospective purchaser or lessee, with respect to the estimated annual operating cost of any climate conditioning system; or, in the case of a manufacturer or importer, with respect to tests or calculations conducted in accordance with section 20 of this Act.

"(e) It shall be unlawful for any supplier to fail to comply with any requirement imposed by any rule or regulation issued under this section or section 20 of this Act.

"(f)(1) No requirement with respect to disclosure of the estimated annual operating cost of a new major energy consuming household product or new automobile shall be applicable to any such product or automobile which is shipped in commerce by a manufacturer or importer prior to the date of applicability of any requirement with respect to disclosure of the estimated annual operating cost of such product or automobile.

"(2) The Commission may by rule prohibit a supplier from stockpiling any new major energy-consuming household product or automobile prior to the date of applicability, under paragraph (1) of this subsection, of any requirement with respect to disclosure of the estimated annual operating cost of such product or automobile. For the purposes of this paragraph, 'stockpiling' means shipping a new major energy-consuming household product or automobile between the date of promulgation of a testing procedure of such product or automobile and 6 months subsequent to such date at a rate which is significantly greater (as determined under the rule under this paragraph) than the rate at which such product or automobile was shipped during a base period (prescribed in the rule under this paragraph) ending before the date of promulgation of the testing procedure.

"(g) Nothing in this section shall be construed to give rise to a cause of action for rescission of any contract or for damages, unless the supplier or person fraudulently or knowingly gave the client, purchaser, or lessee false information or annual operating costs, and such client, purchaser, or lessee reasonably relied thereon to his detriment in entering upon such contract.

"(h) Nothing in this section shall be deemed to prohibit a supplier, person, or advertiser from representing orally or in writing that the estimated annual operating costs required to be disclosed by this section are based on average patterns of usage and should not be construed as a precise calculation of annual operating costs to be experienced by an individual client, purchaser, or lessee.

"SEC. 22. PROHIBITED ACTS AND ENFORCEMENT.—(a) Violation of any disclosure provision of section 20 or 21 of this Act shall constitute an unfair or deceptive act or practice under section 5 of this Act and shall be subject to proceedings thereunder.

"(b) The district courts of the United States shall have jurisdiction without regard to the amount in controversy or the citizenship of the parties to restrain any violation of section 20 or 21 of this Act. Such actions may be brought by the Commission in any district court of the United States for a judicial district in which the defendant resides, is found, or transacts business or in which the alleged violation occurred. In any such action, process may be served in any judicial district in which a defendant resides or is found.

"(c)(1) Any person may commence a civil action on his own behalf against (A) any supplier who is alleged to be in violation of any provision of section 20 or 21 of this Act or any regulation thereunder; or (B) the Commission where there is an alleged failure of the Commission to perform any act or duty under such sections which is not discretionary. The district courts of the United States shall have jurisdiction without regard to amount in controversy or citizenship of the parties to grant mandatory or prohibitive injunctive relief or interim equitable relief to enforce such provisions with respect to any supplier or to order the Commission to perform any such act or duty. Such court, in issuing any final order in an action brought under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate. No action may be commenced under this subsection prior to 60 days after the plaintiff has given notice of the alleged violation to the appropriate supplier and the Commission.

"(2) In any action under this subsection, the Commission, if not a party, may intervene as a matter of right.

"(3) Nothing in this subsection shall restrict any right which any person or class of persons may have under any other statute or at common law to seek enforcement of any provision of sections 18 through 24 of this Act or regulation thereunder or any other relief.

"SEC. 23. PREEMPTION.—(a) It is hereby declared to be the express intent of Congress to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for the disclosure of energy consumption, energy efficiency, efficiency ratio, fuel economy, or annual operating cost of any new major energy consuming household product, automobile, or climate conditioning system if there is in effect and applicable a Federal disclosure requirement with respect to such product, automobile, or system.

"(b) Upon petition by any State, or political subdivision thereof, the Commission may, by rule, after notice and opportunity for presentation of views, exempt from the provisions of this subsection, under such conditions as it may impose, any State or local requirement that (1) affords protection to consumers greater than that provided in the applicable Commission rule; (2) is required by compelling local conditions; and (3) does not unduly burden interstate commerce. The Commission shall maintain continuing jurisdiction with respect to those States or political subdivisions thereof which are specifically exempted under this subsection. Any such exemption granted by the Commission shall be withdrawn by it whenever it is determined that the State or political subdivision thereof is not efficiently enforcing its requirements or that such exemption is no longer in the public interest.

"SEC. 24. REPORT AND AUTHORIZATION.—(a) On July 1 of the year following the year in which this Act is enacted and every year thereafter as part of its annual report, the Commission shall report to the Congress and to the President on the progress made in carrying out the purposes of sections 18 through 24 of this Act.

"(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 18 through 24 of this Act, not to exceed $3,000,000 for the fiscal years 1975, 1976, and 1977.".

By Mr. CURTIS:

S. 350. A bill to authorize the Secretary of the Interior to cancel certain obligations, and to construct, operate, and maintain certain works in connection with the Mirage Flats irrigation project, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. CURTIS. Mr. President, more than 25 or 30 years ago, an agency of the Federal Government sponsored an irrigation project in western Nebraska known as the Mirage Flats irrigation project. Certain Government money was put into the project; but, also, the landowners, with a binding contract, agreed to pay certain portions.

Incidentally, the only people I know of who pay for water development in the United States are the irrigators. We improve harbors in the cities. Flood control, by and large, is a totally Federal expenditure, not shared in by anyone else. But the irrigation projects are paid in part by the landowners of the area. In asking for justice for them in any particular situation, we should keep in mind that this is one of our traditional programs in which the farmers, the landowners, pay.

This Mirage Flats project was sponsored by a Government agency. The farmers were led to believe that if they signed the contract and the project was built, they would have adequate water to meet their needs. They did not design it. They were not the engineers. These decisions were made by the Government.

This area has never had a sufficient water supply to take care of the needs of those people who signed a contract to repay.

Mr. President, the landowners and water users of that area have worked on this matter a long time. They have tried to negotiate a new contract. In order to do justice here, it is necessary that we have legislation dealing with it.

Mr. President, I send to the desk a bill the enactment of which would make it possible for the Government to do justice in this case and for the landowners to take such action as will improve the situation that has resulted from poor planning and execution by the Federal Government.

Mr. President, I send the measure to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER. (Mr. BARTLETT). The bill will be received and appropriately referred.

By Mr. CURTIS:

S. 351. A bill to amend the Emergency Livestock Credit Act of 1974. Referred to the Committee on Agriculture and Forestry.

Mr. CURTIS. Mr. President, I send another bill to the desk. This one deals with an amendment to the Emergency Livestock Credit Act of 1974.

Mr. President, the livestock producers of this Nation have been in dire financial straits for over a year, primarily as a result of circumstances beyond their control.

Several months ago, Congress adopted legislation to provide temporary emergency livestock financing through a guaranteed loan program. That program has proven to be somewhat unworkable because of the tight money situation, which has been facing the Nation's commercial lending institutions. The bill I am introducing today makes two minor adjustments to that emergency legislation in order to allow the Federal Financing Bank to act as a secondary market for lending institutions who desire to participate in this program.

I ask unanimous consent to have printed at this point in the RECORD a letter I have received from Hon. William E. Simon, Secretary of the Treasury which outlines the reason these amendments are needed in order to allow the Federal Financing Bank to assist in funneling additional capital into livestock producing areas.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C., December 26, 1974.
Hon. CARL T. CURTIS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CURTIS: This is in further reply to your letter of September 24 regarding use of the Federal Financing Bank to provide a secondary market for emergency livestock loans which are made by commercial lenders with a guarantee from the Farmers Home Administration. This question was raised in a letter to you from Mr. David P. Mueller.

In my reply to you of October 25 I indicated two apparent impediments to Federal Financing Bank financing of emergency livestock loans. First, the 1974 Emergency Livestock Credit Act authorizes the Secretary of Agriculture to guarantee loans made by any "legally organized lending agency" but goes on to provide that this term shall not include the Federal Financing Bank. Second, since the guarantee under the 1974 Act runs to a specified percentage (up to 80 percent) of loss, there is no guaranteed portion of the loan, as such, for which the Federal Financing Bank could provide a secondary market.

These problems have since been discussed by our staffs and the staff of the Farmers Home Administration, and we have concluded that they could be resolved by legislation along the lines of the attached draft amendments. These amendments would make clear the intent of the Congress to permit secondary financing of the guaranteed portion of livestock loans through the Federal Financing Bank.

As Chairman of the Federal Financing Bank, I am concerned with providing the most efficient means of financing Federally-backed obligations in the securities market, though I do not wish to make a judgment in this capacity as to the merits or demerits of any particular Federal credit assistance program or the appropriate extent of the Federal Government's support under such programs. Yet, I am happy to be of service to you in providing the attached draft legislation to deal with the technical problems.

Please let me know if I can be of further assistance.

Sincerely yours,
WILLIAM E. SIMON.

Mr. President, I will be urging the Committee on Agriculture and Forestry, of which I am a member, to act on this legislation at the earliest possible date.

By Mr. PELL:

S. 352. A bill to provide for a study of the feasibility of allowing individuals, during their working years, voluntarily to make additional contributions to the social security program established by title II of the Social Security Act and during retirement to receive additional social security benefits based on such additional contributions. Referred to the Committee on Finance.

HOME SECURITY STUDY ACT

Mr. PELL. Mr. President, today I am reintroducing the Retired Homeowners Protection Trust Fund Study Act. I believe that this legislation would meet one of the great tragedies of our inflationary age, the instance in which a retired homeowner finds that he must sell his home because he cannot keep up payments on a continuing mortgage, or meet higher and higher property taxes or repair and maintenance costs.

This legislation calls for a study of one possible means of avoiding heartbreaking loss of homes by the elderly retired. I propose a study to assess the practicality of allowing individuals covered by social security to make voluntary additional contributions to a retired homeowners protection trust fund. During retirement, these persons could then be eligible for sufficient benefits from the fund to guarantee them against loss of their home caused by an inability to pay continuing property taxes, maintenance costs, and the like.

I believe that this potential solution is worthy of serious study, and therefore I have drafted the Retired Homeowners Protection Trust Fund Study Act, calling for the Secretary of Health, Education, and Welfare to conduct such a study, and report the findings, with his recommendation for appropriate legislative action, to Congress.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Health, Education, and Welfare is directed to conduct a study with a view to determining the feasibility of modifying the program established by title II of the Social Security Act so as to permit individuals who are covered under such program voluntarily to make additional contributions thereto and receive additional benefits thereunder during retirement, thereby providing the means of meeting home mortgage and real property tax payments and similar expenses which they will incur during their retirement years.

(b) The Secretary of Health, Education, and Welfare, shall, not later than one year after the date of enactment of this Act, complete the study authorized by subsection (a) and shall submit to the Congress a full and complete report thereon together with his recommendations for such legislation as he may deem appropriate in light of the findings resulting from such study.

By Mr. ROTH:

S. 353. A bill to authorize the Federal Power Commission to allocate scarce supplies of natural gas. Referred to the Committee on Commerce.

Mr. ROTH. Mr. President, on June 19, 1974, I introduced legislation designed to deal effectively with an imminent and dangerous shortage of natural gas for the current 1974–75 winter heating season. At that time, I reported that natural gas availability to America's homes, farms, businesses, and industries over the past several years had been diminishing in alarming proportions and that efforts by the Federal Power Commission under its existing statutory authorities to forestall this trend had not been successful.

Mr. President, I regret to report today that the forecasts of a major shortage of natural gas made last summer have come true and are imposing severe and adverse impacts on an already staggering American society and economy. Prompt Federal action is needed to provide more responsive solutions to what is already a critical situation. The shortages of natural gas now upon us are severely disrupting productivity and employment in many areas of the country.

Mr. President, the legislation which I am introducing today will equip the Federal Power Commission with the necessary statutory authority to ease the crippling economic impact of shortages of natural gas and provide for an equitable distribution of this scarce resource.

The legislation will direct the Commission to promulgate regulations providing for the mandatory allocation of natural gas when it determines that natural gas is in such short supply in any section of the Nation that the public health, safety, or welfare is threatened. The bill sets forth goals and objectives for the mandatory allocation program to meet including the protection of public health, safety, welfare, and the national defense; maintenance of public services and agricultural operations; minimization of economic distortions or interference; and the protection of jobs.

The bill clearly stipulates that the mandatory allocation program must be structured so as to provide an equitable distribution of natural gas among all regions, States, and sectors of the economy. The intent is to spread the current impacts of natural gas shortages across all sections of the Nation, thus assuring that no single area is crippled by the lack of fuel while others have abundance. In this manner the overall impact of shortages is minimized as much as possible.

The bill requires that natural gas shortages be monitored and that a mandatory allocation program be initiated when supplies threaten the public health, safety, or welfare. It requires the FPC to submit a report to the Congress every 6 months explaining why the Commission believes a mandatory allocation program is unnecessary. The Commission's authority to allocate natural gas expires on July 1, 1979.

Following hearings on the original bill I introduced last June, the National Journal reported that—

> Allocation legislation is likely to end in a stand-off in Congress because of the pull and tug of sectional interests, some of them desperate for additional gas supplies and others sitting pretty with adequate supplies and unwilling to give them up. The petroleum allocation program was passed by Congress last year only because the nation was in the throes of a serious energy shortage caused by the Middle East oil embargo, and it probably will take a crisis of equal proportions to get the gas allocation bill through Congress.

Mr. President, I assure you and my colleagues, that the crisis is here and it is now. We must take decisive action.

Today natural gas represents well in excess of one-third of all energy consumed across the Nation. It serves nearly one-half of our country's industries and 150 million Americans in their homes. Given these statistics, I am sure Congress realizes the very disastrous results which will occur if an equitable and responsive system of distribution of natural gas is not immediately implemented.

But the alarming statistic, in light of our widespread and fundamental use of natural gas by all sectors of our Nation, is that reports received by the Federal Power Commission indicate that supply curtailments in many regions are as much as 50 percent of previous levels.

Just this past Wednesday, January 15, 1975, the Washington Star News reported that an FPC judge, after hearing evidence of natural gas shortages along the mid-Atlantic coast, asked the Governors of six States—Virginia, Delaware, Alabama, Pennsylvania, and North and South Carolina—to declare natural gas emergencies to deal with what he termed shortages "of terrifying proportions." The article further reported that the judge is considering a similar recommendation to six other States served by the same pipeline. Even when these actions are taken, however, the existing crises in these areas can be responded to only in minor terms considering all aspects of the situation.

A graphic illustration of the impact of these curtailments can be shown in a brief review of the current situation in Delaware. The Transcontinental Gas Line which serves Delaware, as well as the other States I noted where emergency procedures were recommended, has indicated to the Federal Power Commission that effective this week it will only be able to provide a little more than one-half the amount of natural gas previously provided to its customers in Delaware in earlier usage periods.

If this situation goes unchecked, gas distributors such as Delmarva Power and Light and Eastern Shore Natural Gas Co. will be forced to curtail and, in some instances, wholly terminate service to their largest business customers. Many industrial firms along the Transcontinental system have no capacity to utilize alternative sources of energy, thus being forced to shut down their operations at a cost of many hundreds of jobs and enormous economic disruptions. In Delaware alone, I am speaking in terms of affecting more than 16,000 jobs with an annual payroll in excess of $180 million.

Mr. President, I recognize that resource allocation is not a viable long-term solution to this Nation's shortage of natural gas. Ultimately, a program with long-range solutions to alleviate future shortages must be developed and I would urge the undertaking of such an effort immediately. As a first step, I recently directed correspondence to President Ford recommending establishment of a task force to review the whole natural gas crisis and develop responsive, long-term solutions. Unfortunately, measures designed to increase supply will take years to show results. Therefore, we must move as quickly as possible with short-term initiatives, the most immediate being the allocation authority contained in this proposal.

I am fully cognizant that the institution of a mandatory allocation program is a drastic measure. However, when compared with the impact of massive shortages, allocation authority is the only logical alternative we have. I need not remind my colleagues of what the people of this Nation have endured in the last year or so.

Mr. President, the introduction of this bill is not an end; it is only a beginning. Natural gas shortages, which have been developing for some time, have reached crisis proportions. It is essential that we enact legislation now to provide short-term solutions, and press forward to develop legislation to improve the long-term supply picture. I welcome this challenge and I look forward to working with my distinguished colleagues on its solution.

Mr. President, due to the urgency of this legislation I ask unanimous consent that this bill be printed in full following my comments along with other documents concerning this situation, in order to make it available to my colleagues and other interested parties in the shortest time practicable.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby determines that—

(1) shortages of natural gas have developed because domestic supplies are not sufficient to meet present and anticipated national needs;

(2) shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of agricultural production, and curtailment of vital public services;

(3) shortages have jeopardized the normal flow of commerce and constitute a supply crisis which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the Federal Government; and

(4) shortages have created an unreasonable burden on certain areas of the country and on certain sectors of the economy, and legislation is needed to provide an equitable solution for these shortages.

(b) The purpose of this Act is to authorize the Federal Power Commission to allocate natural gas to deal with existing and imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare. The authority granted under this Act shall be exercised for the purpose of minimizing the adverse impacts of shortages or dislocations on the American people and the domestic economy.

ALLOCATION AUTHORITY

SEC. 3. (a) Whenever the Federal Power Commission (hereinafter referred to as the "Commission") determines that supplies of natural gas are in such short supply that they pose a threat to the public health, safety, or welfare, the Commission shall promulgate regulations providing for the mandatory allocation of natural gas in amounts specified in (or determined in a manner prescribed by) such regulations.

(b)(1) The regulations authorized under subsection (a), to the maximum extent possible, shall provide for—

(A) protection of public health, safety, and welfare, and the national defense;

(B) maintenance of all public services;

(C) maintenance of agricultural operations;

(D) minimization of economic distortion, protection of jobs, and elimination of inflexibility and unnecessary interference with economic market mechanisms.

(2) To the maximum extent practicable and consistent with the objectives of paragraph (1), the mandatory allocation program established under subsection (a) shall be (A) based on a reasonable base period, and (B) structured so as to result in the equitable distribution of natural gas among all regions, States, and areas of the United States and sectors of the economy so as to minimize the impact of natural gas shortages.

(3) The Commission may, by order, require such adjustments in the mandatory allocation program established under subsection (a) as may be reasonably necessary to accomplish the objectives of paragraph (1) or to prevent any person from taking any action which would be inconsistent with such objectives.

(4) The authority to promulgate the regulations under subsection (a), and to enforce such regulations and any such order, expires at midnight July 1, 1979, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to such time of expiration.

EFFECTIVE DATE OF ALLOCATION PLANS

SEC. 4. The mandatory allocation regulations authorized under section 3(a) shall take effect after thirty calendar days following promulgation by the Commission.

APPLICATION

SEC. 5. The provisions of this Act shall apply to all natural gas produced or transported in the United States over which the Commission has jurisdiction under the provisions of the Natural Gas Act.

REPORT

SEC. 6. If the Commission determines that it is not necessary to promulgate a mandatory allocation program under section 3(a), the Commission shall submit a detailed report to the Congress not later than six months after the date of enactment of this Act, and at the end of each six-month interval thereafter ending prior to the expiration of authority in section 3(b)(4) with respect to the reasons a mandatory allocation program is not needed.

DELMARVA POWER,
Wilmington, Del., January 9, 1975.
Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR SENATOR ROTH: In accordance with our discussion in Senator Biden's office on Tuesday, January 7, 1975 with Mr. Kirk H. Betts of your staff, we have reviewed our gas supply and estimated load projections for the remainder of the winter season from January 1, 1975 through April 15, 1975 and submit the following:

Supply

	Cubic Feet
Contractual volume from Transco at 27.4% curtailment	4,187,900,000
Remaining pipeline storage for period	2,098,224,000
Total available gas from the pipeline	6,286,124,000
Estimated load	6,249,996,000
Surplus	36,128,000

The above load estimate is based on normal winter temperature. One extremely cold day could more than eliminate the indicated surplus of 36,128,000 cubic feet. In order to provide some insurance against colder than normal weather, increased curtailment, or depletion of our pipeline storage, we have been mixing approximately two to three million cubic feet per day of propane with our natural gas. Delivery of our chief source of propane has suffered because of pipeline allocation for heating oil and other products. Our winter supply is, therefore, touch and go.

Our summer supply, as pointed out in our meeting, is in greater jeopardy than our winter supply. For the period from April 16, 1975 through November 15, 1975, our forecasted curtailment is 38.61%. For the 214-day period, our supply would therefore be:

	Cubic feet
Contractual volume for Transco at 38.61% curtailment	7,199,000,000
Estimated firm load	5,658,534,000
	1,540,466,000
Required for storage for 1975–76 winter	2,526,251,000
Deficit	(985,791,000)

Our most critical period is, therefore, in the summer and the only source of gas to replenish storage for 1975–76 winter use is curtailment of industry by approximately 66%. If gas is obtainable through action by the Department of Interior as outlined in our meeting, then Delmarva's requirements at present are 985 million cubic feet.

All of the above figures related to our firm gas customers. Our interruptible customers have not been served any gas since November 1, 1974 and, in fact, were notified in May of 1974 that there would be no more gas available for this type of service subsequent to January 1, 1975. With the above forecast of supply and demand, there will, in fact, be no gas available for this type of service at all. We wish to reiterate the remarks made in our meeting on Tuesday that the gas supply situation is most critical and the Congress is the only authority which can take the necessary action to correct the situation. In our visit to your office in June of 1974, we submitted information with respect to our gas supply and load situation. A copy of that information is enclosed herewith. This situation has only changed for the worse and unless some remedial action is taken quickly, we can only foresee the curtailment of industry with a consequent loss of jobs.

While Delmarva's most critical lack of supply is several months away, it is no less real than that of Chesapeake Utilities and if any action is taken to relieve their situation, like action must also be extended to Delmarva to assure equal treatment for all of Delmarva. While Chesapeake was represented by counsel at the meeting and Delmarva was not, Delmarva can furnish counsel if needed.

We thank you for the time which your staff gave us and assure you that we stand ready to cooperate in any way we can to aid in correcting this most acute situation.

Very truly yours.

C. G. MINICH, Jr.

DELMARVA POWER & LIGHT COMPANY

GAS SUPPLY

Sources of Gas: Transcontinental Gas Pipe Line Corporation (TRANSCO).

Daily firm allotment, 54,000,000 cubic feet.

Pipeline storage—all types, 2,401,787,000 cubic feet.

Local LNG storage, 225,000,000 cubic feet.

Propane air supplementary gas, 78,000,000 cubic feet.

The above storage and propane air supplements are used during the winter period, November through March.

1968—Supply shortage first evident. Unable to obtain 15,000,000 cubic feet per day for proposed industrial customer. Transco unable to supply; likewise, Texas Eastern and Columbia.

Transco able to furnish only 2,000,000 cubic feet of firm gas and 3,000,000 cubic feet of storage gas in lieu of 5,000,000 cubic feet of firm gas requested.

1969—7,000,000 cubic feet of firm gas requested. Transco able to furnish only 4,000,000 cubic feet of firm gas, 3,000,000 cubic feet of storage.

1970—Gas apportioned by Transco. Delmarva's share 1,300,000 cubic feet of firm gas, 3,300,000 cubic feet of storage gas.

1971—Transco apportioned to Delmarva 3,220,000 cubic feet of storage gas.

No additional firm gas or storage service has been available since 1971.

GAS SALES RESTRICTIONS

June 1970—Sales to new industrial and commercial customers banned as well as prohibiting present customers from increasing loads.

Dec. 1971—New residential sales banned. No new sales have been made or honored since that date. Advertising and sale of gas appliances has been discontinued. Additional advertising requesting public conservation of gas has been used effectively.

SUPPLY BETTERMENT EFFORTS

Two closest suppliers, Texas Eastern and Columbia, refused to render service in 1968.

1969—Meetings with Atlantic Seaboard Distribution Companies in New York for liquefied natural gas imports from Venezuela resulted in failure.

Meetings and communications with Distrigas of Boston for LNG imports off and on since 1969. No Distrigas imports to Delaware River Valley to this date.

Supported Transco's drilling fund which was abandoned because of FPC Staff position.

Completed in 1972 liquefied natural gas plant on our property.

Since 1971, many meetings with South Jersey Gas Company for purchase of gas from a substitute natural gas plant. Negotiations remain active. Feed stock for plant is the holdup.

Have had many meetings and discussions with sister utilities and potential suppliers for SNG; all to no avail.

Presently pursuing joint effort exploration and drilling in southwest with South Jersey Gas, Chesapeake Utilities and Piedmont Natural.

TRANSCO CURTAILMENTS

Curtailments of 5 to 7% began in the fall of 1971.

1972—Average curtailment, 8.2%.

1973—Average curtailment, 13%.

1974—To date, 18.5%.

June 1974—26%.

May 1, 1974—Transco, in a meeting with its customers, projected curtailments of 28% for November, 1974, through March, 1975, and 34% for April, 1975, through October, 1975. These projections greatly increased over prior projections with a maximum of 25% with which we could continue to supply firm loads.

With the above projected curtailments, Delmarva faces partial or total curtailment of the following industrial customers. Number of employees and payroll are also indicated.

Customer	Number of employees	Payroll
Phoenix Steel	1,500	$17,000,000
Du Pont-Edgemoor	850	10,000,000
General Motors	4,470	55,000,000
Diamond Shamrock	325	4,000,000
Chrysler	5,300	65,000,000
Forbes	225	2,300,000
Electric Hose	825	(?)
Motor Wheel	250	2,650,000
Total	13,745	155,950,000

As the supply situation worsens, further curtailment of small industrials, commercials and even residential customers could be affected. The proposed curtailment policy of Delmarva Power, to be submitted to the Delaware Public Service Commission on Wednesday, June 19, 1974, is attached herewith.

GENERAL FOODS CORPORATION,
Dover, Del., January 10, 1975.
Hon. WILLIAM V. ROTH, Jr.,
Dirksen Senate Office Building, Washington, D.C.

SIR: I appreciated the opportunity to present to Kirk Betts from your office, together with Stouffer Chemical, City of Dover, Chesapeake Utilities and Delaware Power and Light, the problems that will be encountered when natural gas utilized by industry is completely curtailed.

At the meeting, it becomes obvious that any solution—whether temporary or permanent—would be complex and take a great deal of time to complete. However, I feel satisfied that your office understands the urgency of the problem and will do everything possible to help with the solution.

As I indicated at the meeting, I am most concerned with the absolute lack of information that is reliable and can be used to orderly plan any required transition from both a human and business viewpoint.

The Congress should insist that the Federal Power Commission or the Federal Energy Agency provide the country with the facts about energy and provide Government, education and business with a meaningful allocation and use plan for all forms of energy.

Early in October 1974, I was informed that the General Foods plant in Dover could expect a curtailment of 10–40% in its firm natural gas contract. As a result of this information, plans were made to cut usage by 50% and steps were taken to review the possibility of cutting usage by an additional 25%.

On December 23, we were advised that effective December 27 we could expect a 100% cutback. The immediate result of this news was to unnecessarily jeopardize 377 jobs (1+% of Kent County's workforce) in two major plant areas for a period of time ranging from three to eight months or longer if we could not recapture business abandoned during the shutdown.

The reason I have indicated "unnecessarily jeopardize 377 jobs" is that if we had been given the information received on December 23 earlier in October, we could have made plans to change all of our operations that use natural gas to #2 Oil, revise our production schedule or identify backup facilities by the end of January. In a sense, it is disheartening to have Congress act to temper the effects of unemployment, while other areas of Government—because of a lack of planning or communication—jeopardize employment.

Since the oil embargo of last winter, this plant has undertaken an intensive program to reduce energy usage. Comparing calendar 1974 to calendar 1973, our reduction has been 11.3% with a 20% reduction as our target. I believe this progress indicates that this operation is responsible and concerned. We definitely need direction to be effective and minimize hardships.

Very truly yours,

JOHN W. SIEVERS,
Operations Manager.

CITY OF DOVER, DEL.,
January 6, 1975.

Mr. JOHN JARDINE,
Eastern Shore Natural Gas Company, North DuPont Highway, Dover, Del.

DEAR MR. JARDINE: In our recent discussion regarding emergency gas supply for our Unit 3 at McKee Run Generation Station you requested that the City submit a letter to you answering the following three basic questions:

1. Why is gas needed?
2. What are the dangers if gas is not available?
3. How much gas is required?

The purpose of this letter is to answer the above questions.

1. Why is gas needed?

The steam generator for McKee Run Unit 3 is an 827,000 pound per hour power boiler which is designed to burn either natural gas, No. 6 fuel oil, or crude oil. Each of the eight main burners is equipped with a natural gas igniter.

The steam generator unit is equipped with a sophisticated burner management safety system to prevent unsafe firing conditions which could cause damage to the unit or potential loss of life. The system contains flame scanners, relays, interlocks, etc. which will produce a safe firing procedure when putting burners into use; it also monitors burners during normal operation and shuts them down if unsafe conditions develop. A very basic part of this system during startup is a requirement that each burner's ignitor must be in operation and burning safely before the main burner can be started. To attempt lightoff of a main burner by any other means than the gas fired ignitors would require the bypassing of the safety system.

It should also be remembered that Unit 3 is a new unit just completing construction. During the months of January, February and March initial firing of the unit will take place for boilout, hot hydrostatic testing, chemical cleaning and blowing of the steam piping to the turbine. These operations require that the main burners be operated in relatively low firing ranges and on-off operation. The fact that this is not normal operating procedure, coupled with the fact that all the equipment is new and untried, combines to cause a potentially dangerous condition. Bypassing the safety system under these circumstances could be disastrous.

2. What are the dangers if gas is not available?

We believe the imminent dangers of trying to operate the steam generator unit without gas are pointed out in Paragraph 1 above. Summarizing, these are:

a. The requirement that burners be started by some manual means with the burner management safety system bypassed. It is entirely possible that such deliberate bypassing could impair the City's insurance coverage for the boiler.

b. Potential damage or destruction of equipment due to furnace explosion.

c. Potential loss of human life if an explosion should occur.

3. How much gas is required?

We have discussed this question with our consulting engineer and the steam generator manufacturer. It is their opinion that the maximum gas requirement for the ignitors during the above outlined initial operating procedures, except for hot hydrostatic testing, would be 36,000 cubic feet per day. This consumption is based on the following:

a. Each ignitor uses 3000 cubic feet per hour.

b. One main burner will be stopped and started twice each hour.

c. An ignitor might run 15 minutes for each main burner startup. This allows for false starts, non-light-off of main burner, etc.

d. Twenty four hour operation per day.

For hot hydrostatic testing we would need a maximum of 100,000 cubic feet per day. This is a one time test and would not exceed five consecutive days. It should be noted that these start-up operations will not occur every day, and furthermore the maximum amount would not be required each day because certain start-up procedures will not require 24 hour operation. Also, as the system becomes "broken-in" and the operators gain start-up experience, the running time of the ignitors should be diminished.

We hope the above will provide sufficient answers to your questions so that the City will be able to secure a supply of natural gas for our startup operations.

Very truly yours,

WILLIAM T. JAMES,
City Manager.

STAUFFER CHEMICAL COMPANY,
Westport, Conn., January 9, 1975.

Mr. JOHN W. JARDINE,
Eastern Shore Natural Gas Co.,
Dover, Del.

DEAR MR. JARDINE: In accordance with the request from Senator Joseph R. Biden, Jr.'s staff, we are submitting to you the following information concerning the impact of natural gas curtailments on the Transcontinental Pipeline system upon the Stauffer plant at Delaware City, Delaware and our rayon and cellophane manufacturing customers.

As of January 8, 1975, the Stauffer Delaware City carbon disulfide plant has been totally curtailed in its allocation of natural gas as a consequence of the shortages on the Transco Pipeline system. The Delaware City plant has continued in operation at the minimum technically possible production level since that date through temporary arrangements; however, the most optimistic forecasts at present would permit continued operation only until January 20. Limited quantities of synthetic gas are available, and Stauffer is attempting to purchase a 15-day supply, albeit at five times the present price of natural gas to avoid damage to the plant which would occur during a cold weather shutdown. The price of this synthetic natural gas cannot be sustained by Stauffer or by the rayon and cellophane industries, and operation of the Delaware City plant on synthetic natural gas will require Stauffer to absorb a substantial economic loss. Needless to say, neither Stauffer nor its customers can afford to operate at the price of synthetic gas.

The Stauffer Delaware City plant is totally dependent upon the continued supply of natural gas. To the extent that other fuels can be substituted, they have been. Of the small (and almost insignificant) quantity of natural gas involved—only some 5,000 mcf per day—some 85% is used as raw material which is converted into the product, carbon disulfide, which is the nonsubstitutable raw material for cellophane and rayon. The remaining 15% of natural gas—a maximum of 750 mcf per day—is used for process requirements for which substitution is not technically possible. Although our natural gas requirement to meet historic customer demand is 5,000 mcf per day, our usage has been reduced to 3,000 mcf per day, which is the minimum level at which the plant is operable.

The curtailment of Stauffer Delaware City carbon disulfide production will have a dramatic impact upon the U.S. rayon and cellophane industries which depend upon this Stauffer plant for approximately 50% of their raw material carbon disulfide requirements. (With our other carbon disulfide facility in Alabama, we supply 91% of the domestic requirements.) At stake is approximately $330 million per year in cellophane sales and $583 million per year in rayon sales. The impact in the chain of cellophane manufacture and rayon manufacture is estimated to exceed $8 billion per year. At risk are 16,550 jobs at plants operated by Stauffer's customers. An estimated 175,00 jobs are affected in the chain of commerce. An additional impact of $120 million per year in losses would be experienced by manufacturers of fungicides, agricultural chemicals, fluorocarbon refrigerants, carbon tetrachloride and rubber accelerators for tire manufacturer. Although the impact upon our customers is most significant in this matter, the estimated impact upon Stauffer Chemical will be approximately $37.5 million per year.

Very truly yours,

W. L. TAYLOR,
Vice President and General Manager.

[From the Washington Star-News,
Jan. 15, 1975]

NATURAL GAS CRISIS FACES 12 STATES

(By Lance Gay)

A Federal Power Commission judge has asked Virginia Gov. Mills E. Godwin and the chief executives of five other states to declare natural gas emergencies to deal with shortages "of terrifying proportions."

FPC Administrative Law Judge William Jensen said yesterday the action is needed to head off massive layoffs by industries in the Old Dominion and Delaware, Alabama, Pennsylvania and North and South Carolina that rely on natural gas.

Jensen said he is considering asking the governors of six other states, including Maryland Gov. Marvin Mandel, to issue similar emergency proclamations.

The emergency proclamations would allow the FPC to grant immediate emergency supplies of gas to industries that have been hard-hit by drastic cutbacks already announced by the Transcontinental Gas Pipeline Co., one of the largest suppliers of natural gas to the East Coast.

Under the emergency orders, the governors of the state also could urge homeowners and other industries to curtail gas use by turning down thermostats or using other fuels wherever possible.

Jensen's ruling came on an appeal to the FPC of the Transco cutbacks by three cities, including Danville, Va., and three industries. Danville is one of the few cities in the Old Dominion that has industries that rely almost solely on natural gas for power, such as its textile mills.

Unlike most businesses in other areas, the four major industries in Danville do not have the capacity to switch to other fuels, and city officials there predicted that if the cutbacks were as severe as the 55 percent cut in supplies projected by Transco last month, more than 10,000 workers would be in jeopardy of losing their jobs.

"Clearly, we have an emergency situation of terrifying proportions," Jensen said.

Nortcutt Ely, an attorney for Danville, called Jensen's request "a very healthy thing. . . . I'm very favorably impressed." But Transco attorney Thomas F. Ryan greeted the proposal with skepticism, saying it involved a very complicated and critical supply situation.

In Richmond last night, an aide to the governor said Godwin was studying Jensen's request and would make a decision on the matter today.

A number of other industries and cities throughout the nation that have been told their supplies will be cut back also are planning on filing appeals with the FPC. Most of the gas suppliers to the East Coast have announced cutbacks, but none has been as drastic as the Transco action. Transco provides gas to only a few Washington area consumers.

Jensen said that although the emergency announcement asking people to turn down their thermostats would be voluntary, he expected most residents of the states to do this to avert layoffs at the industries in their states. Hearings on the gas cutbacks were to continue this week before the FPC, with a final ruling to be issued Jan. 24.

The cities of Linden, Ala., and Laurens, S.C. joined Danville in filing the appeal to the FPC. The three industries that also joined in the appeal are the Stauffer Chemical Co. of Delaware City, Del., New Jersey Zinc Co., of Palmerton, Pa., and Farmers Chemical Inc. of Tunis, N.C.

By Mr. MAGNUSON (for himself, Mr. MOSS, Mr. PHILIP A. HART, Mr. STEVENS, and Mr. STEVENSON):

S. 354. A bill to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition, precedent to using a motor vehicle on public roadways. Referred to the Committee on Commerce.

NATIONAL STANDARDS NO-FAULT MOTOR VEHICLE INSURANCE ACT

Mr. MAGNUSON. Mr. President, I introduce for appropriate reference the National Standards No-Fault Motor Vehicle Insurance Act.

This bill needs no introduction, either as to its purpose or content. It is, except for technical corrections, identical to the bill which was passed by the Senate on May 1, 1974, by a vote of 53 ayes to 42 nays, S. 354 of the 93d Congress. Passage was preceded in that Congress by extensive hearings and executive consideration, and the bill was ordered reported favorably, by the Committee on the Judiciary as well as by the Committee on Commerce. There was extensive floor debate.

The former President was fond of saying that "no-fault is an idea whose time has come." He was right, but it is a fact that, largely because of his opposition and the opposition of his administration, no-fault is now an idea whose time is overdue.

America today, as President Ford has said persuasively on many occasions, is paying a hidden tax of monstrous proportions—the hidden tax that is double-digit inflation. We are also in a recession, with millions of Americans unemployed. But the recession has not cured the inflation and its poison continues to corrode purchasing power and erode employment opportunities. We must act with dispatch on all practical measures to fight inflation and save money.

National standards no-fault for motor vehicles is such a measure. It would save American consumers over $1 billion a year in lower premiums. The greatest savings would be enjoyed by the sector of our society which is the hardest hit by inflation—senior citizens living on fixed social security and pension income. Under the present negligence-liability insurance system, these senior citizens are compelled—if they want to drive and millions of senior citizens must because of the lack of adequate public transportation—to pay insurance premiums based on the medical bills that would be incurred and the wages that would be lost by the average citizen whom they might negligently hit and injure. Under this no-fault bill, senior citizens would pay insurance premiums based on the medical bills that they themselves would incur and the wages that they personally would lose if hit and injured in an automobile accident; since medicare pays for most of the medical bills for the elderly and since most are retired and would suffer no wage loss, the premium would be much, much lower.

Mr. President, we owe it to our senior citizens, who through no fault of their own are being made to suffer from inflation, to enact fair no-fault insurance plans nationwide to give them such relief.

This legislation is needed primarily because the present fault-based system is a mess. Out of every $1 the average American pays today in auto insurance premiums, only 44 cents is returned to claimants as benefits. All the rest is eaten up by administrative and lawyer's fee expenses. That is a terrible performance record. As I have said on many occasions, "You can get better odds than that in Las Vegas."

The present system is also painfully slow about paying out its benefits, and in the process of doing so it ties up an enormous percentage of the time of our Federal and State courts and judges. The former Attorney General of the United States, William B. Saxbe, declared last November that:

> No-fault insurance coverage would eliminate a major burden on the civil dockets of the Nation's courts, and free judicial resources to deal more effectively with pressing criminal caseloads.

Attorney General Saxbe further declared:

> A nationwide no-fault plan would also benefit the consumer by eliminating expenses for legal proceedings connected with proving liability.
>
> A recent study done for the Department of Transportaion indicates consumer savings of $1.5 billion if every state had a no-fault plan compatible with the proposed State standards.
>
> This plan would also be a large step toward fighting inflation in the months and years ahead.
>
> My overall view is that no-fault automobile insurance enacted nationwide would result in greater industry efficiency, savings to the consumer, and savings to the taxpayer.

At the rate we are going, that last point—"savings to the taxpayer"—should be changed to "reduction of the Federal budget deficit." It is a fact that the Federal Government is the largest owner and operator of motor vehicles in the United States, and it would therefore save a considerable amount of money from what it now pays as a self-insurer of all those Postal Service, military, and other motor vehicles.

Under this bill, the responsibility for reforming the automobile accident compensation system is allocated between the Federal Government and the 50 State governments in such a way as to minimize the involvement of the Federal Government, limiting it to the setting of basic or core national standards by act of Congress. The executive branch through the Secretary of Transportation, is not authorized to increase those standards in any way by regulations, guidelines, or discretionary grants.

The only rulemaking authority granted to the Secretary of Transportation is restricted to the question of conflict of laws, under section 110(c). The bill grants no regulatory authority to any Federal agency or Federal official, other than an authority in the Secretary of Transportation to determine and certify that a State plan meets or exceeds the national standards, with review of that determination once every 3 years.

The historical role of the State governments as the regulators of insurance is specifically preserved. Each State is given wide latitude to choose its own no-fault plan so long as it adheres to the minimum national standards which are necessary to assure that every American will have his personal injuries properly looked after following an auto accident, regardless of where in the Nation or how far from home that accident occurs. Even if a State does not establish its own no-fault plan in accordance with the national standards, in which case the alternative State no-fault plan under title III of the bill goes into effect in that State, it will be the State, not the Federal Government that will administer, operate, supervise, and tax that alternative no-fault plan and the premiums and insurers who do business in that State under this alternative plan.

In summary outline, the bill provides for:

First, national standards for the restoration and compensation of all persons who suffer injury arising out of the maintenance or use of a motor vehicle. Within the statutory deadlines, each State will establish its own State no-fault plan for motor vehicle insurance which meets or exceeds the national standards, or the alternative State no-fault plan provided for in title III of the act will become applicable and in effect in a State.

Second, benefits. The standards call for a no-fault plan which would pay each victim all of his reasonable medical and rehabilitation expenses, all his wage losses at least up to $15,000 and a reasonable amount to compensate for the cost of hiring others to perform tasks the victim is no longer capable of doing personally because of the accident. In death cases, the standards call for paying a reasonable amount in survivor's losses and up to $1,000 for funeral expenses.

Third, fault-based lawsuits. The victim may sue the person at fault for any economic losses for which he does not receive compensation under the approved and applicable State no-fault plan. In addition, fault-based lawsuits for noneconomic detriment—pain and suffering damages—are permitted in all wrongful death cases and in all cases in which the victim suffers a serious and permanent injury or where he is prevented from engaging in his usual and customary daily activities for more than 90 days as a result of the motor vehicle accident.

Fourth, consumer and victim protections. The no-fault benefits must be paid within 30 days of submission of proof of loss, or else the restoration obligor—insurance company, self-insurer, or obligated government—must, in addition to the benefits, pay interest on the amount due at the rate of 18 percent a year.

If no-fault benefits are overdue, the victim may retain an attorney and the restoration obligor must pay reasonable attorneys fees in addition to the benefits.

A State must maintain a plan to assure that insurance is available to all, including, in the case of the working poor, availability at rates which are affordable.

Cancellation and nonrenewal of insurance policies is restricted.

The State insurance commissioner is to provide comparative price information in reference to auto insurance to consumers in his State.

Victims must be referred to the appropriate vocational rehabilitation agency.

Fifth, deadlines. A State has 4 years from the date of enactment to meet the national standards if it adopts and puts into effect by September 1, 1975, a no-fault law of some sort, or until 9 months after the close of its first regular legislative session which starts after the date of enactment.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 354

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL PROVISIONS

FORMAL PROVISIONS

SEC. 101. (a) SHORT TITLE.—This Act may be cited as the "National Standards No-Fault Motor Vehicle Insurance Act".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS
Sec. 101. Formal provisions.
    (a) Short title.
    (b) Table of contents.
Sec. 102. Declaration of policy.
    (a) Findings.
    (b) Purposes.
Sec. 103. Definitions.
Sec. 104. Required motor vehicle insurance.
    (a) Security covering a motor vehicle.
    (b) Self-insurance.
    (c) Obligated government.
    (d) Obligations upon termination of security.
Sec. 105. Availability of insurance.
    (a) Plan.
    (b) Cancellation, refusal to renew, or other termination of insurance.
Sec. 106. Payment of claims for no-fault benefits.
    (a) In general.
    (b) Release or settlement of claim.
    (c) Time limitations on actions to recover benefits.
    (d) Assignment of benefits.
    (e) Deduction and setoff.
    (f) Exemption of benefits.
Sec. 107. Attorney's fees and costs.
    (a) Fees of claimant's attorney.
    (b) Fees of restoration obligor's attorney.
Sec. 108. Assigned claims.
    (a) General.
    (b) Assigned claims plan.
    (c) Time for presenting claims under assigned claims plan.
Sec. 109. State regulation.
    (a) Rates and rating.
    (b) Public information.
    (c) Accountability program.
    (d) Availability of services.
Sec. 110. Motor vehicles in interstate travel.
    (a) General.
    (b) Conforming coverage.
    (c) Applicable law.
Sec. 111. Rights and duties of restoration obligors.
    (a) Reimbursement and subrogation.
    (b) Duty to pay basic restoration benefits.
    (c) Indemnity.
    (d) Referral for rehabilitation services.
Sec. 112. Jurisdiction of Federal courts.
Sec. 113. Federal motor vehicle.
    (a) General.
    (b) Procedures.
    (c) Definitions.
Sec. 114. Separability.
TITLE II—NATIONAL STANDARDS FOR STATE NO-FAULT MOTOR VEHICLE INSURANCE PLAN
Sec. 201. State no-fault plan in accordance with this title.
    (a) Preemption.
    (b) State plan.
    (c) Determination by Secretary.
    (d) Periodic review.
    (e) Alternative State plan.
    (f) Procedure.
    (g) Exceptions.
    (h) Reporting requirements.
    (i) Financial aessistance to States.
    (j) Authorization for appropriations.
Sec. 202. National standards.
    (a) General.
    (b) Criteria.
Sec. 203. Right to basic restoration benefits.
    (a) Accident within a State.
    (b) Accident outside any State.
Sec. 204. Limitations on benefits.
Sec. 205. Source of basic restoration benefits.
    (a) Applicable security.
    (b) Multiple sources of equal priority.
Sec. 206. Restrictions on tort liability.
    (a) Partial abolition.
    (b) Nonreimbursable tort fine.
Sec. 207. Work loss.
    (a) Regularly employed.
    (b) Seasonally employed.
    (c) Not employed.
    (d) Changes in benefits.
    (e) Definitions.
Sec. 208. Net loss.
    (a) General.
    (b) Tax deduction.
    (c) Allowable expense deduction option.
Sec. 209. Added restoration benefits.
    (a) Optional offering.
    (b) Mandatory offering.
    (c) Territorial applicability.
Sec. 210. Ineligible claimants.
    (a) Converter.
    (b) International injuries.
Sec. 211. Other provisions.
    (a) Included coverage.
    (b) Approval of terms and forms.
TITLE III—ALTERNATIVE STATE NO-FAULT MOTOR VEHICLE INSURANCE PLAN
Sec. 301. Provisions.
Sec. 302. Limitations on basic restoration benefits.
Sec. 303. Restrictions on tort liability.
    (a) Partial abolition.
    (b) Nonreimbursable tort fine.
Sec. 304. Added restoration benefits.
    (a) Optional offering.
    (b) Mandatory offering.
    (c) Territorial applicability.

DECLARATION OF POLICY

SEC. 102. (a) FINDINGS.—The Congress hereby finds and declares that—

(1) motor vehicles are the primary instrumentality for the interstate transportation of individuals;

(2) the intrastate transportation of individuals by motor vehicle over Federal-aid highways and other highways significantly affects interstate commerce, particularly in metropolitan areas encompassing more than one State;

(3) the maximum feasible restoration of all individuals injured and compensation of the economic losses of the survivors of all individuals killed in motor vehicle accidents on Federal-aid highways, in interstate commerce, and in activity affecting interstate commerce is essential to the humane and purposeful functioning of commerce;

(4) to avoid any undue burden on commerce during the interstate or intrastate transportation of individuals, it is necessary and proper to have a nationwide low-cost, comprehensive, and fair system of compensating and restoring motor vehicle accident victims and the survivors of deceased victims;

(5) exhaustive studies by the United States Department of Transportation, the Congress, and some States have determined that the present basic system of motor vehicle accident and insurance law, which makes compensation and restoration contingent upon—

(A) every victim first showing that someone else was at fault;

(B) every victim first showing that he was without fault; and

(C) the person at fault having sufficient liability insurance and other available financial resources to pay for all the losses,

is not such a low-cost, comprehensive, and fair system;

(6) careful studies, intensive hearings, and some State experiments have demonstrated that a basic system of motor vehicle accident and insurance law which—

(A) assures every victim payment of all his medical and rehabilitation costs, and recovery of almost all his work loss plus a reasonable amount of replacement services and survivor's loss; and

(B) eliminates the need to determine fault except when a victim is very seriously injured,

is such a low-cost, comprehensive, and fair system;

(7) nationwide adoption of the system described in paragraph (6) in place of the system described in paragraph (5) would remove an undue burden on commerce;

(8) pursuant to the power vested in it "to regulate Commerce . . . among the several States", the Government of the United States is authorized to require a nationwide low-cost, comprehensive, and fair system of compensating and restoring motor vehicle accident victims and the survivors of the deceased victims;

(9) in all the States there should be uniformity as to the essential elements of the system of motor vehicle accident and insurance law to avoid confusion, complexity, uncertainty, and chaos which would be engendered by a multiplicity of noncomplementary State systems, but the need for a nationwide basic system does not require that the Federal Government itself directly administer, operate, or direct the administration or operation of such system; and

(10) a nationwide low-cost, comprehensive, and fair system of compensating and restoring motor vehicle accident victims can—

(A) recognize, respect, and avoid interfering with the historical role of the States in regulating and exercising legislative authority over the business of insurance; and

(B) save and restore the lives of countless victims by providing and paying the cost of services so that every victim has the opportunity to—

(i) receive prompt and comprehensive professional treatment, and

(ii) be rehabilitated to the point where he can return as a useful member of society and a self-respecting and self-supporting citizen.

(b) Purposes.—Therefore, it is hereby declared to be the policy of the Congress to establish—

(1) at reasonable cost to the purchaser of insurance, a nationwide system of prompt and adequate restoration benefits for motor vehicle accident victims and the survivors of deceased victims; and

(2) minimum standards which each State must meet or exceed so as to assure a nationwide low-cost, comprehensive, and fair system of motor vehicle accident and insurance law and which enables each State to participate legislatively, to administer without interference, and to continue regulating the business of insurance.

DEFINITIONS

Sec. 103. As used in this Act—

(1) "Added restoration benefits" means benefits provided by added restoration insurance in accordance with section 209 or section 304 of this Act.

(2) "Allowable expense" means reasonable charges incurred for, or the reasonable value of (where no charges are incurred), reasonably needed and used products, services, and accommodations for—

(A) professional medical treatment and care;

(B) emergency medical services;

(C) medical and vocational rehabilitation services; and

(D) expense directly related to the funeral, burial, cremation, or other form of disposition of the remains of a deceased victim, not to exceed $1,000.

The term does not include—

(i) that portion of a charge for a room in a hospital, clinic, convalescent, or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless more intensive care is medically required; or

(ii) any amount includable in work loss, replacement services loss, or survivor's loss.

(3) "Basic restoration benefits" means benefits provided in accordance with this Act for the net loss sustained by a victim, subject to any applicable limitations, exclusions, deductibles, waiting periods, disqualifications, or other terms and conditions provided or authorized in accordance with this Act. Basic restoration benefits do not include benefits for damage to property.

(4) "Commissioner" means the commissioner of insurance or the head of the department, commission, board, or other agency of a State which is charged by the law of that State with the supervision and regulation of the business of insurance.

(5) "Department" means the department of motor vehicles or the department, commission, board, or other agency of a State which is charged by the law of that State with the administration of laws and regulations regarding registration of motor vehicles.

(6) "Emergency medical services" means services necessary to mitigate injury to any victim during the period immediately and proximately following an accident (including, but not limited to, communications transportation, and treatment by medical and paramedical personnel through an emergency medical services system), which are supplied or provided in accordance with applicable State law.

(7) "Emergency medical services system" means a system which provides for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery in an appropriate geographical area of health care services under emergency conditions, which is administered by a public or nonprofit private entity which has the authority and the resources to provide effective administration, and which meets the requirements of section 1206(b) (4) of the Public Health Service Act.

(8) "Government" means the government of the United States, any State, any political subdivision of a State, any instrumentality of two or more States, or any agency, subdivision, or department of any such government, including any corporation or other association organized by a government for the execution of a government program and subject to control by a government, or any corporation or agency established under an interstate compact or international treaty.

(9) "Injury" means accidentally sustained bodily harm to an individual and that individual's illness, disease, or death resulting therefrom.

(10) "Insurance" means a contract, self-insurance, or any other legally binding obligation to pay or provide no-fault benefits or any required tort liability.

(11) "Insured" means—

(A) an individual identified by name as an insured in a contract of basic restoration insurance complying with this Act; and

(B) a spouse or other relative of a named insured, a minor in the custody of a named insured, and a minor in the custody of a relative of a named insured if—

(i) not identified by name as an insured in any other contract of basic restoration insurance complying with this Act, and

(ii) in residence in the same household with a name insured.

An individual is in residence in the same household if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

(12) "Insurer" means a legally constituted entity, other than a self-insurer or an obligated government, which is authorized under State law to provide security covering a motor vehicle in such State.

(13) "Loss" means accrued economic detriment resulting from injury arising out of the maintenance or use of a motor vehicle consisting of, and limited to, allowable expense, work loss, replacement service loss, and survivor's loss.

(14) "Loss of income" means gross income actually lost by a victim or that would have been lost but for any income continuation plan, reduced by—

(A) ninety per centum of any income which such individual earns from substitute work;

(B) income which such individual would have earned in available substitute work he was capable of performing but unreasonably failed to undertake; or

(C) any income which such individual would have earned by hiring an available substitute to perform self-employment services but unreasonably failed to do.

(15) "Maintenance or use of a motor vehicle" means maintenance or use of a motor vehicle as a vehicle, including, incident to its maintenance or use as a vehicle, occupying, entering into, or alighting from it. Maintenance or use of a motor vehicle does not include—

(A) conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises; or

(B) conduct in the course of loading or unloading a motor vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(16) "Medical and vocational rehabilitation services" means services necessary to reduce disability and to restore the physical, psychological, social, and vocational functioning of a victim. Such services may include, but are not limited to, medical care, diagnostic and evaluation procedures, physical and occupational therapy, other medically necessary therapies, speech pathology and audiology, nursing care under the supervision of a registered nurse, medical social services, vocational rehabilitation and training services, occupational licenses and tools, and transportation where necessary to secure medical and vocational rehabilitation services. A restoration obligor is not obligated to provide basic restoration benefits for allowable expense for medical and vocational rehabilitation services unless the facility in which or through which such services are provided has been accredited by the department of health, the equivalent government agency responsible for health programs, or the accrediting designee of such department or agency of the State in which such services are provided, as being in accordance with applicable requirements and regulations.

(17) "Motor vehicle" means a vehicle of a kind required to be registered under the laws relating to motor vehicles of the State in which such vehicle is located except that a vehicle having less than four weeks may be specially treated, at the option of a State establishing a no-fault plan for motor vehicle insurance in accordance with title II of this Act, with respect to the requirements and benefits of such plan.

(18) "Net loss" means loss less benefits or advantages required to be subtracted from loss in calculating net loss pursuant to section 208 of this Act.

(19) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage recoverable under the tort law applicable to injury arising out of the maintenance or use of a motor vehicle. The term does not include punitive or exemplary damages.

(20) "No-fault benefits" means basic restoration benefits, added restoration benefits, or both.

(21) "No-fault insurance" means basic restoration insurance, added restoration insurance, or both.

(22) "Owner" means an individual, government, corporation, company, association, firm, partnership, joint stock company, foundation, institution, society, union, club, church, or any other group of persons organized for any purpose, other than a lienholder or secured party, that owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another. The term includes a lessee of a motor vehicle having the right to possession under a lease with option to purchase.

(23) "Restoration obligor" means an insurer, self-insurer, or obligated government providing no-fault benefits in accordance with this Act.

(24) "Replacement services loss" means expenses reasonably incurred in obtaining

ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of himself or his family, if he had not been injured.

(25) "Secretary" means the Secretary of Transportation.

(26) "Secured vehicle" means a motor vehicle for which security is provided in accordance with section 104 of this Act.

(27) "Security covering a motor vehicle", "security covering the vehicles", and "security" mean the security which is provided in accordance with section 104 of this Act.

(28) "Self-insurer" means an owner or any person providing security pursuant to subsections (b) or (c) of section 104 of this Act.

(29) "State" means a State of the United States, the District of Columbia, Guam, and the Virgin Islands.

(30) "State vocational rehabilitation agency" means the agency in the State which administers the State plan for vocational rehabilitation services under the Vocational Rehabilitation Act (29 U.S.C. 35).

(31) "Survivor" means an individual identified in the wrongful death statute of the State of domicile of a deceased victim as one entitled to receive benefits by reason of the death of another individual.

(32) "Survivor's loss" means the—

(A) loss of income of a deceased victim which would probably have been contributed to a survivor or survivors, if such victim had not sustained the fatal injury; and

(B) expenses reasonably incurred by a survivor or survivors, after a victim's death resulting from injury, in obtaining ordinary and necessary services in lieu of these which the victim would have performed not for income, but for their benefit, if he had not sustained the fatal injury,

reduced by expenses which the survivor or survivors would probably have incurred but avoided by reason of the victim's death resulting from injury.

(33) "Victim" means an individual who suffers injury arising out of the maintenance or use of a motor vehicle; "deceased victim" means a victim suffering death resulting from injury.

(34) "without regard to fault" means irrespective of fault as a cause of injury.

(35) "Work loss" means—

(A) loss of gross income of a victim, as calculated pursuant to the provisions of section 207 of this Act; and

(B) reasonable expenses of a victim for hiring a substitute to perform self-employment services, thereby mitigating loss of income, or for hiring special help, thereby enabling a victim to work and mitigate loss of income.

REQUIRED MOTOR VEHICLE INSURANCE

SEC. 104. (a) SECURITY COVERING A MOTOR VEHICLE.—Every owner of a motor vehicle which is registered in a State in which a State no-fault plan for motor vehicle insurance in accordance with title II or title III of this Act is in effect, or which is operated in such State by the owner or with his permission, shall continuously provide security covering such motor vehicle while such vehicle is either present or registered in such State. Security shall be provided for the payment of basic restoration benefits, and at the option of a State establishing a plan in accordance with title II of this Act, for the payment of other benefits or tort liability. The owner or any other person may provide security covering a motor vehicle by a contract of insurance with an insurer or by qualifying as a self-insurer or as an obligated government.

(b) SELF-INSURANCE.—Self-insurance, subject to approval of the commissioner or department, is effected by filing with the department in satisfactory form—

(1) a continuing undertaking by the owner or other appropriate person to pay basic restoration benefits and any tort liability required by State law in amounts not less than those required by such State law, to perform all obligations imposed in accordance with this Act, and to elect to pay such added restoration benefits as are specified in the undertaking;

(2) evidence that appropriate provision exists for prompt and efficient administration of all claims, benefits, and obligations provided in accordance with this Act; and

(3) evidence that reliable financial arrangements, deposits, resources, or commitments exist providing assurance substantially equivalent to that afforded by a contract of insurance complying with this Act for payment of no-fault benefits, any required tort liability, and performance of all other obligations imposed in accordance with this Act.

(c) OBLIGATED GOVERNMENT.—A government may provide security with respect to any motor vehicle owned or operated by it by lawfully obligating itself to pay basic restoration benefits in accordance with this Act, and such added restoration benefits as are specified in the undertaking.

(d) OBLIGATION UPON TERMINATION OF SECURITY.—An owner of a motor vehicle who ceases to maintain the security required in accordance with this Act shall immediately surrender the registration certificate and license plates for the vehicle to the department and may not operate or permit operation of the vehicle in any State until security has again been furnished as required in accordance with this Act. A person other than the owner who ceases to maintain such security shall immediately notify the owner and the department, who may not operate or permit operation of the vehicle until security has again been furnished. An insurer who has issued a contract of insurance and knows or has reason to believe the contract is for the purpose of providing security shall immediately give notice to the department of the termination of the insurance. If the commissioner or department withdraws approval of security provided by a self-insurer or knows that the conditions for self-insurance have ceased to exist, he shall immediately give notice thereof to the department. These requirements may be modified or waived by the department.

AVAILABILITY OF INSURANCE

SEC. 105. (a) PLAN.—(1) The commissioner shall establish and implement or approve and supervise a plan assuring that any required no-fault benefits and tort liability coverages for motor vehicles will be conveniently and expeditiously available, subject only to payment or provisions for payment of the premium, to each individual who cannot conveniently obtain insurance through ordinary methods at rates not in excess of those applicable to similarly situated individuals under the plan. The plan may provide reasonable means for the transfer of individuals insured thereunder into the ordinary market, at the same or lower rates, pursuant to regulations established by the commissioner. The plan may be implemented by assignment of applicants among insurers, pooling, any joint insuring or reinsuring arrangement, or any other method, including a State fund, that results in all applicants being conveniently afforded the insurance coverages on reasonable and not unfairly discriminatory terms.

(2) The plan shall make available added restoration benefits and tort liability coverage together with other contract provisions which the commissioner determines are reasonably needed by applicants and are commonly afforded in voluntary markets. The plan must also assure that there is available through the private sector or otherwise to all applicants adequate premium financing or provision for the installment payment of premiums subject to customary terms and conditions.

(3) All insurers writing no-fault benefits and tort liability coverages in a State shall participate in the plan in such State. The plan shall provide for equitable apportionment, among all participating insurers writing any insurance coverage required under the plan, of the financial burdens of insurance provided to applicants under the plan and the costs of operation of the plan.

(4) Subject to the supervision and approval of the commissioner, insurers may consult and agree with each other and with other appropriate persons as to the organization, administration, and operation of the plan and as to rates and rate modifications for insurance coverages provided under the plan. Rates and rate modifications adopted or charged for insurance coverages provided under the plan shall—

(A) be first adopted or approved by the commissioner; and

(B) be reasonable and not unfairly discriminatory among similarly situated applicants for insurance pursuant to regulations established by the commissioner.

(5) Subject to the supervision and approval of the Commissioner, the plan shall afford required coverages for motor vehicles to any economically disadvantaged individual, at rates as determined by the State, which shall not be so great as to deny such individual access to insurance which it is necessary for him to have in order to earn income and to be or remain gainfully employed.

(6) To carry out the objectives of this subsection, the commissioner may adopt rules, make orders, enter into agreements with other governmental and private entities and individuals, and form and operate or authorize the formation and operation of bureaus and other legal entities.

(b) CANCELLATION, REFUSAL TO RENEW, OR OTHER TERMINATION OF INSURANCE.—(1) Every contract of insurance providing security covering a motor vehicle which is not one of five or more motor vehicles under common ownership insured under a single insuring agreement, except as provided by paragraphs (2) and (5) of this subsection, may not be canceled, modified, or otherwise terminated by the insurer nor may the insurer fail to renew except at specified dates or intervals which may not be less than 6 months after the inception of coverage or thereafter less than 6 months apart.

(2) An insurer may terminate insurance if written notice of termination, including the reasons therefor, is mailed or delivered to the insured at least 30 days before the effective date of termination—

(A) by cancellation at any time within 75 days after the inception of initial coverage;

(B) by cancellation for nonpayment of—

(i) premium when due, or

(ii) any premium installment when due for which reasonable and separate notice has been given; or

(C) by exclusion of an insured whose license to operate a motor vehicle has been revoked, following a hearing and pursuant to State law.

(3) Except as permitted in paragraph (2) of this subsection, any termination of insurance by an insurer which is permitted by the insurance contract and not prohibited by paragraph (1) of this subsection, including any refusal by the insurer to renew the insurance at the expiration of its term and any modification by the insurer of the terms and conditions of the insurance unfavorable to the insured, is nevertheless ineffective, unless written notice of intention to modify, not to renew, or otherwise to terminate the insurance has been mailed or delivered to the insured at least 30 days before the effective date of the modification, expiration, or other termination of the insurance.

(4) For purposes of this subsection a cancellation or refusal to renew by or at the direction of any person acting pursuant to

any power or authority under any premium finance plan, agreement, or arrangement, whether or not with power of attorney or assignment from the insured, constitutes a cancellation or refusal to renew by the insurer.

(5) This subsection dose not limit or apply to any termination, modification, or cancellation of the insurance, or to any suspension of insurance coverage, by or at the written request of the insured or upon the sale or other transfer of the secured vehicle to an individual who is not an insured under the same contract of insurance.

(6) This subsection does not affect any right an insurer has under other law to rescind or otherwise terminate insurance because of fraud or other willful misconduct of the insured at the inception of the insuring transaction or the right of either party to reform the contract on the basis of mutual mistake of fact.

(7) An insurer, his authorized agents and employees, and any person furnishing information upon which he has relied, are not liable in any action or proceeding brought because of any statement made in good faith pursuant to paragraph (2) of this subsection.

PAYMENT OF CLAIMS FOR NO-FAULT BENEFITS

SEC. 106. (a) IN GENERAL.—(1) No-fault benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as allowable expense, work loss, replacement services loss, or survivor's loss is sustained.

(2) No-fault benefits are overdue if not paid within 30 days after the receipt by the restoration obligor of each submission of reasonable proof of the fact and amount of loss sustained, unless the restoration obligor designates, upon receipt of an initial claim for no-fault benefits, periods not to exceed 31 days each for accumulating all such claims received within each such period, in which case such benefits are overdue if not paid within 15 days after the close of each such period. If reasonable proof is supplied as to only part of a claim, but the part amounts to $100 or more, benefits for such part are overdue if not paid within the time mandated by this paragraph. An obligation for basic restoration benefits for an item of allowable expense may be discharged by the restoration obligor by reimbursing the victim or by making direct payment to the supplier or provider of products, services, or accommodations within the time mandated by this paragraph. Overdue payments bear interest at the rate of 18 per centum per annum.

(3) A claim for no-fault benefits shall be paid without deduction for the benefits or advantages which are to be subtracted from loss in calculating net loss in accordance with section 208(a) of this Act, if such benefits or advantages have not been paid or provided to such claimant prior to the date the no-fault benefits are overdue or the no-fault benefits claim is paid. The restoration obligor is thereupon entitled to recover reimbursement from the person obligated to pay or provide such benefits or advantages or from the claimant who actually receives them.

(4) A restoration obligor may bring an action to recover reimbursement for no-fault benefits which are paid upon the basis of an intentional misrepresentation of a material fact by a claimant or a supplier or provider of an item of allowable expense, if such restoration obligor reasonably relied upon such misrepresentation. The action may be brought only against such supplier or provider, unless the claimant has intentionally misrepresented the facts or knew of the misrepresentation. A restoration obligor may offset amounts he is entitled to recover from the claimant under this paragraph against any no-fault benefits otherwise due.

(5) A restoration obligor who rejects a claim for basic restoration benefits shall give to the claimant written notice of the rejection promptly, but in no event more than 30 days after the receipt of reasonable proof of the loss. Such notice shall specify the reason for such rejection and inform the claimant of the terms and conditions of his right to obtain an attorney. If a claim is rejected for a reason other than that the person is not entitled to basic restoration benefits claimed, the written notice shall inform the claimant that he may file his claim with the assigned claims bureau and shall give the name and address of the bureau.

(b) RELEASE OR SETTLEMENT OF CLAIM.—(1) Except as otherwise provided in this subsection, no-fault benefits shall not be denied or terminated because the victim executed a release or other settlement agreement. A claim for no-fault benefits may be discharged by a settlement agreement for an agreed amount payable in installments or in a lump sum, if the reasonably anticipated net loss does not exceed $2,500. In all other cases, a claim may be discharged by a settlement to the extent authorized by State law and upon a finding, by a court of competent jurisdiction, that the settlement is in the best interest of the claimant and any beneficiaries of the settlement, and that the claimant understands and consents to such settlement, and upon payment by the restoration obligor of the costs of such proceeding including a reasonable attorney's fee (based upon actual time expended) to the attorney selected by or appointed for the claimant. Such costs may not be charged to or deducted from the proceeds of the settlement. Upon approval of the settlement, the court may make appropriate orders concerning the safeguarding and disposing of the proceeds of the settlement and may direct as a condition of the settlement agreement, that the restoration obligor pay the reasonable cost of appropriate future medical and vocational rehabilitation services.

(2) A settlement agreement for an amount payable in installments shall be modified as to amounts to be paid in the future, if it is shown that a material and substantial change of circumstances has occurred or that there is newly-discovered evidence concerning the claimant's physician condition, loss, or rehabilitation which could not have been known previously or discovered in the exercise of reasonable diligence.

(3) A settlement agreement may be set aside if it is procured by fraud or if its terms are unconscionable.

(c) TIME LIMITATIONS ON ACTIONS TO RECOVER BENEFITS.—(1) If no-fault benefits have not been paid for loss arising otherwise than from death, an action therefor may be commenced not later than 2 years after the victim suffers the loss and either knows, or in the exercise of reasonable diligence should have known, that the loss was caused by the accident, or not later than 4 years after the accident, whichever is earlier. If no-fault benefits have been paid for loss arising otherwise than from death, an action for further benefits, other than survivor's benefits, by either the same or another claimant, may be commenced not later than 2 years after the last payment of benefits.

(2) If no-fault benefits have not been paid to the deceased victim or his survivor or survivors, an action for survivor's benefits may be commenced not later than 1 year after the death or 4 years after the accident from which death results, whichever is earlier. If survivor's benefits have been paid to any survivor, an action for further survivor's benefits by either the same or another claimant may be commenced not later than 2 years after the last payment of benefits. If no-fault benefits have been paid for loss suffered by a victim before his death resulting from the injury, an action for survivor's benefits may be commenced not later than 1 year after the death or 6 years after the last payment of benefits, whichever is earlier.

(3) If timely action for basic restoration benefits is commenced against a restoration obligor and benefits are denied because of a determination that the restoration obligor's coverage is not applicable to the claimant under the provisions of section 205 of this Act, an action against the applicable restoration obligor or the restoration obligor to whom a claim is assigned under an assigned claims plan may be commenced not later than 60 days after the determination becomes final or the last date on which the action could otherwise have been commenced, whichever is later.

(4) Except as paragraph (1), (2), or (3) prescribes a longer period, an action by a claimant on an assigned claim which has been timely presented in accordance with the provisions of section 108(c) of this Act may not be commenced more than 60 days after the claimant receives written notice of rejection of the claim by the restoration obligor to which it was assigned.

(5) If a person entitled to no-fault benefits is under a legal disability when the right to bring an action for the benefits first accrues, the period of his disability is not a part of the time limited for commencement of the action.

(d) ASSIGNMENT OF BENEFITS.—An assignment of or an agreement to assign any right in accordance with this Act for loss accruing in the future is unenforceable except as to benefits for—

(1) work loss to secure payment of alimony, maintenance, or child support; or

(2) allowable expense to the extent the benefits are for the cost of products, services, or accommodations provided or to be provided by the assignee.

(e) DEDUCTION AND SETOFF.—Except as otherwise provided in this Act, basic restoration benefits shall be paid without deduction or setoff.

(f) EXEMPTION OF BENEFITS.—(1) No-fault benefits for allowable expense are exempt from garnishment, attachment, execution, and any other process or claim, except upon the claim of a creditor who has provided products, services, or accommodations to the extent benefits are for allowable expense for those products, services, or accommodations.

(2) Basic restoration benefits other than those for allowable expense are exempt from garnishment, attachment, execution, and any other process or claim for benefits attributable to loss sustained within the first 60 days following the accident resulting in injury. Other basic restoration benefits (except for items of allowable expense) are exempt to the extent that wages or earnings are exempt under any applicable law exempting wages or earnings from such process or claims.

ATTORNEY'S FEES AND COSTS

SEC. 107. (a) FEES OF CLAIMANT'S ATTORNEY.—(1) If any overdue no-fault benefits are paid by the restoration obligor after receipt of notice of representation of a claimant in connection with a claim or action for no-fault the court determines that the claim or any significant part thereof is fraudulent or so excessive as to have no reasonable foundation, a reasonable attorney's fee (based upon actual time expended) shall be paid by the restoration obligor to such attorney. No part of the attorney's fee for representing the claimant in connection with a claim or action for no-fault benefits may be charged or deducted from benefits otherwise due to such claimant and no part of such benefits may be applied to such fee.

(2) In any such action brought against the claimant by the restoration obligor, the court may award the claimant's attorney a reasonable attorney's fee for defending such action, which shall be paid by the restoration obligor.

(b) FEES OF RESTORATION OBLIGOR'S ATTOR-

NEY.—A restoration obligor shall be allowed a reasonable attorney's fee for defending a claim if the court determines that the claim or any significant part thereof is fraudulent or so excessive as to have no reasonable foundation. The fee may be treated as an offset against any benefits due or to become due to the claimant.

ASSIGNED CLAIMS

SEC. 108. (a) GENERAL.—(1) If a State no-fault plan for motor vehicle insurance in accordance with title II or title III of this Act is in effect on the date when the accident resulting in injury occurs, a victim or the survivor or survivors of a deceased victim may obtain basic restoration benefits through the assigned claims plan established, pursuant to subsection (b) of this section, in the State of principal place of residence, if any, of the victim or deceased victim, or if none, in the State, in which the accident resulting in injury occurs, if basic restoration insurance—

(A) is not applicable to the injury for a reason other than those specified in the provisions on ineligible claimants;

(B) is not applicable to the injury because the victim converted a motor vehicle while he was under fifteen years of age;

(C) applicable to the injury cannot be identified;

(D) applicable to the injury is inadequate to provide the contracted-for benefits because of financial inability of a restoration obligor to fulfill its obligations; or

(E) benefits are refused by a restoration obligor for a reason other than that the individual is not entitled in accordance with this Act to the basic restoration benefits claimed.

(2) If a claim qualifies for assignment under paragraph (1) (C), (D), or (E) of this subsection, the assigned claims bureau or any insurer to whom the claim is assigned is subrogated to all rights of the claimant against the restoration obligor legally obligated to provide basic restoration benefits to the claimant, or against any successor in interest to or substitute for such obligor for succh benefits as are provided by the assignee.

(3) If an individual receives basic restoration benefits through the assigned claims plan for any reason other than because of the financial inability of a restoration obligor to fulfill its obligation, all benefits or advantages that such individual receives or is entitled to receive as a result of such injury, other than life insurance benefits or benefits by way of succession at death or in discharge of familial obligations of support, shall be subtracted from loss in calculating net loss.

(4) An assigned claim of an individual who does not comply with the requirement of providing security for the payment of basic restoration benefits, or of an individual as to whom the security is invalidated because of his fraud or willful misconduct, is subject to—

(A) all the maximum optional deductibles and exclusions required to be offered; and

(B) a deduction in the amount of $500 for each year or part thereof of the period of his continuous failure to provide security, applicable to any benefits otherwise payable except basic restoration benefits for allowable expense.

(b) ASSIGNED CLAIMS PLAN.—(1) Restoration obligors providing basic restoration insurance in a State may organize and maintain, subject to approval and regulation by the commissioner, an assigned claims bureau and an assigned claims plan and adopt rules for their operation and for assessment of costs on a fair and equitable basis consistent with this Act. If such bureau and plan are not organized and maintained in a manner considered by the commissioner to be consistent with this Act and with State law, he shall organize and maintain an assigned claims bureau and an assigned claims plan. Each restoration obligor insurer providing basic restoration insurance in a State shall participate in the assigned claims bureal and the assigned claims plan in that State. Costs incurred shall be allocated fairly and equitably among the restoration obligors.

(2) The assigned claims bureau shall promptly—

(A) assign each claim for no-fault benefits to an assignee who shall be a participating insurer; and (B) notify the claimant of the identity and address of such assignee.

Claims shall be assigned so as to minimize inconvenience to claimants. The assignee thereafter has rights and obligations as if he had issued a policy of basic restoration insurance complying with this Act applicable to the injury or, in a case involving the financial inability of a restoration obligor to perform its obligations, as if the assignee had written the applicable basic restoration insurance, undertaken the self-insurance, or lawfully obligated itself to pay basic restoration benefits.

(c) TIME FOR PRESENTING CLAIMS UNDER ASSIGNED CLAIMS PLAN.—(1) Except as provided in paragraph (2) of this subsection, an individual authorized to obtain basic restoration benefits through the assigned claims plan shall notify the assigned claims bureau of his claim within the time that would have been allowed pursuant to section 106(c) of this Act for commencing an action for basic restoration benefits against any restoration obligor, other than an assigned claims bureau, in any case in which identifiable no-fault insurance coverage was in effect and applicable to the claim.

(2) If timely action for basic restoration benefits is commenced against a restoration obligor who is unable to fulfill his obligations because of financial inability, an individual authorized to obtain basic restoration benefits through the assigned claims plan shall notify the bureau of his claim within six months after his discovery of such financial inability.

STATE REGULATION

SEC. 109. (a) RATES AND RATING.—The commissioner, in accordance with applicable State law, shall regulate restoration obligors providing security covering a motor vehicle in his State. The rates charged for security shall be established, determined, and modified in each State only in accordance with the provisions of the applicable rating law of such State.

(b) PUBLIC INFORMATION.—The commissioner shall provide the means to inform purchases of insurance, in a manner adequate to permit them to compare prices, about rates being charged by insurers for no-fault benefits and tort liability coverage.

(c) ACCOUNTABILITY PROGRAM.—The commissioner, through the State vocational rehabilitation agency, shall establish and maintain a program for the regular and periodic evaluation of medical and vocational rehabilitation services for which reimbursement or payments is sought from a restoration obligor as an item of allowable expense to assure that—

(A) the services are medical and vocational rehabilitation services, as defined in section 103(16) of this Act;

(B) the recipient of the services is making progress toward a greater level of independent functioning and the services are necessary to such progress and continued progress; and

(C) the charges for the services for which reimbursement or payment is sought are fair and reasonable.

Progress reports shall be made periodically in writing on each case for which reimbursement or payment is sought under security for the payment of basic restoration benefits. Such reports shall be prepared by the supervising physician or rehabilitation counselor and submitted to the State vocational rehabilitation agency. The State vocational rehabilitation agency shall file reports with applicable restoration obligor or obligors. Pursuant to this program, there shall be provision for determinations to be made in writing of the rehabilitation goals and needs of the victim and for the periodic assessment of progress at reasonable time intervals by the supervising physician or rehabilitation counselor.

(2) The commissioner is authorized to establish and maintain a program for the regular and periodic evaluation of his State's no-fault plan for motor vehicle insurance.

(d) AVAILABILITY OF SERVICES.—The commissioner is authorized to coordinate with appropriate government agencies in the creation and maintenance of an emergency medical services system or systems, and to take all steps necessary to assure that emergency medical services are available for each victim suffering injury in the State. The commissioner is authorized to take all steps necessary to assure that medical and vocational rehabilitation services are available for each victim resident in the State. Such steps may include, but are not limited to, guarantees of loans or other obligations of suppliers or providers of such services, and support for training programs for personnel in programs and facilities offering such services.

MOTOR VEHICLES IN INTERSTATE TRAVEL

SEC. 110. (a) GENERAL.—An owner of a motor vehicle who has complied with the requirements of security covering a motor vehicle in the State of registration of such vehicle shall be deemed to have complied with the requirements for such security in any State in which such vehicle is operating.

(b) CONFORMING COVERAGE.—(1) A restoration obligor providing security for the payment of basic restoration benefits shall be obligated to provide, and each contract of insurance for the payment of basic restoration benefits shall be construed to contain, coverage sufficient to satisfy the requirements for security covering a motor vehicle in any State in which any victim who is a claimant or whose survivors are claimants is domiciled or is injured.

(2) A restoration obligor providing security for the payment of basic restoration benefits shall be obligated to provide, and each contract of insurance for the payment of basic restoration benefits shall be construed to contain, coverage of $50,000 to protect the owner or operator of a motor vehicle from tort liability to which he is exposed through application of the law of the State of domicile of a victim (or in the State in which the accident resulting in injury or harm to property occurs if a victim is not domiciled in any State), but to which he would not have been exposed through application of the law of the State of registration of the motor vehicle.

(c) APPLICABLE LAW.—(1) The basic restoration benefits available to any victim or to any survivor of a deceased victim shall be determined pursuant to the provisions of the State no-fault plan for motor vehicle insurance in accordance with title II or title III of this Act which is in effect in the State in which the victim had his principal place of residence on the date when the motor vehicle accident resulting in injury occurs. If there is no such State no-fault plan in effect or if the victim does not have his principal place of residence in any State, then basic restoration benefits available to any victim shall be determined pursuant to the provisions of the State no-fault plan for motor vehicle insurance, if any, in effect in the State in which the accident resulting in injury occurs.

(2) The right of a victim or of a survivor of a deceased victim to sue in tort shall be determined by the law of the State in which such victim has his principal place of residence. If a victim is not domiciled in a State,

such right to sue shall be determined by the law of the State in which the accident resulting in injury or damage to property occurs.

RIGHTS AND DUTIES OF RESTORATION OBLIGORS

SEC. 111. (a) REIMBURSEMENT AND SUBROGATION.—(1) Except as provided in paragraphs (2), (3), and (4) of this subsection, a restoration obligor—

(A) does not have and may not contract, directly or indirectly, in whole or in part, for a right of reimbursement from or subrogation to the proceeds of a victim's claim for relief or to a victim's cause of action for noneconomic detriment; and

(B) may not directly or indirectly contract for, or be granted by a State, any right of reimbursement from any other restoration obligor not acting as a reinsurer for no-fault benefits which it has paid or is obligated to pay as a result of injury to a victim.

(2) Whenever an individual who receives or is entitled to receive no-fault benefits for an injury has a claim or cause of action against any other person for breach of an obligation of duty causing the injury or for breach of express or implied warranty, the restoration obligor is subrogated to the rights of the claimant and has a claim for relief or a cause of action, separate from that of the claimant, to the extent that:

(A) elements of damage compensated for by security for the payment of no-fault benefits are recoverable; and

(B) the restoration obligor has paid or become obligated to pay accrued or future no-fault benefits.

(3) Nowithstanding the provisions of paragraph (1) (B) of this subsection, a State may grant a right of reimbursement among and between restoration obligors based upon a determination of fault, where such restoration obligors have paid or are obliged to pay benefits for loss arising out of an accident resulting in injury in which one or more of the motor vehicles is of a type other than a private passenger motor vehicle and by designation the State has determined that the owner of such type would receive an unreasonable economic advantage or suffer an unreasonable economic disadvantage in the absence of the grant of such right of reimbursement: *Provided*, That in such event such right of reimbursement may be granted only with respect to benefits paid for loss in excess of $5,000.

(4) Nothing in this subsection shall preclude any person supplying or providing products, services, or accommodations from contracting or otherwise providing for a right of reimbursement to any basic restoration benefits for allowable expenses.

(b) DUTY TO PAY BASIC RESTORATION BENEFITS.—A restoration obligor providing security for the payment of basic restoration benefits shall pay or otherwise provide such benefits without regard to fault to each individual entitled thereto, pursuant to the terms and conditions of the State no-fault plan for motor vehicle insurance applicable thereto.

(c) INDEMNITY.—A restoration obligor has a right of indemnity against an individual who has converted a motor vehicle involved in an accident, or against an individual who has intentionally injured himself or another individual, for no-fault benefits paid for—

(1) the loss caused by the conduct of that individual;

(2) the cost of processing the claims for such benefits; and

(3) the cost of enforcing this right of indemnity, including reasonable attorney's fees.

(d) REFERRAL FOR REHABILITATION SERVICES.—The restoration obligor shall promptly refer each victim to whom basic restoration benefits are expected to be payable for more than 2 months to the State vocational rehabilitation agency.

JURISDICTION OF FEDERAL COURTS

SEC. 112. No district court of the United States may entertain an action for no-fault benefits unless the United States is a party to the action.

FEDERAL MOTOR VEHICLE

SEC. 113. (a) (1) GENERAL.—Notwithstanding any other provision of law, a claim against the United States as a restoration obligor for injury arising out of the maintenance of use of a Federal motor vehicle which is a secured vehicle shall be governed by this Act. A Federal motor vehicle is a secured vehicle, for purposes of this Act, whenever it is located or operated in the territorial area of any State, Puerto Rico, Canada, or Mexico.

(2) The level of basic restoration benefits which the United States shall pay or provide shall be controlled by the no-fault plan for motor vehicle insurance in effect in the State of domicile of the victim, if any, or if none, in the State in which the accident resulting in injury occurs.

(b) PROCEDURES.—The Secretary, in cooperation with the Administrator of General Services, shall promulgate, and may from time to time revise, regulations with respect to security covering a Federal motor vehicle and administrative procedures to be followed in claims against the United States for no-fault benefits.

(c) DEFINITIONS.—As used in this section—

(1) "Federal agency" means any branch, department, commission, administration, authority, board, or bureau of, or any corporation owned or controlled by, the Government of the United States.

(2) "Federal motor vehicle" means a motor vehicle owned or leased by a Federal agency and operated with its express or implied permission.

SEPARABILITY

SEC. 114. If any provision of this Act or any application thereof to any individual or circumstance is held invalid, the invalidity shall not affect any provision or application of the Act which can be given effect without the involved provision or application, and to this end the provisions of this Act are separable: *Provided*, That if any provision in paragraph (5) of subsection (a) of section 206 of this Act, or any application thereof to any individual or circumstance, is held invalid, this Act shall be interpreted as if such paragraph (5) had never been enacted.

TITLE II—NATIONAL STANDARDS FOR STATE NO-FAULT MOTOR VEHICLE INSURANCE PLAN

STATE NO-FAULT PLAN IN ACCORDANCE WITH THIS TITLE

SEC. 201. (a) PREEMPTION.—Any provision of any State law which would prevent the establishment or administration in such a State of a no-fault plan for motor vehicle insurance in accordance with this title or title III of this Act is preempted.

(b) STATE PLAN.—By the completion of the first general session of the State legislature which commences after the date of enactment of this Act, a State may establish a no-fault plan for motor vehicle insurance in accordance with this title. Upon the establishment of such a plan, the commissioner shall promptly submit to the Secretary a certified copy of such plan, together with all relevant information which is requested by the Secretary.

(c) DETERMINATION BY SECRETARY.—Within 90 days after the Secretary receives a copy of a State no-fault plan established under subsection (b) or (e) of this section, the Secretary shall make a determination whether such State has established a no-fault plan for motor vehicle insurance in accordance with this title. Unless the Secretary determines, pursuant to this section, that a State no-fault plan is not in accordance with this title, the plan shall go into effect in such State on the date designated in the plan. In no event shall such State plan go into effect less than 9 months or more than 12 months after the date of its establishment.

(d) PERIODIC REVIEW.—The Secretary shall periodically, but not less than once every 3 years, review each State no-fault plan for motor vehicle insurance, which has been approved under subsection (c) of this section and for which there is experience, to determine whether such plan is still in accordance with this title and to evaluate the success of such plan in terms of the policy set forth and declared in section 102 of this Act. To facilitate such review, the commissioner in each such State shall submit to the Secretary periodically all relevant information which is requested by the Secretary. The Secretary shall report to the President and Congress simultaneously on July 1 each year on the results of such reviews, including any recommendations for legislation.

(e) ALTERNATIVE STATE PLAN.—(1) The alternative State no-fault plan for motor vehicle insurance (the State no-fault plan in accordance with title III of this Act) shall become applicable following the completion of the first general session of the State legislature which commences after the date of enactment of this Act unless, prior to such date, the Secretary has made a determination that such State has established a no-fault plan for motor vehicle insurance in accordance with this title. The alternative State no-fault plan shall go into effect in a State on the first day of the ninth month after such plan becomes applicable or on a date designated by the Secretary, whichever is earlier.

(2) If, after the alternative State no-fault plan is applicable or in effect in a State, the Secretary, upon petition, makes a determination, pursuant to subsection (c) of this section, that such State has established a no-fault plan in accordance with this title, such State no-fault plan shall go into effect and the alternative State no-fault plan shall cease to be applicable or in effect on a date to be designated by the Secretary.

(3) If, after a State no-fault plan in accordance with this title is in effect in a State, the Secretary makes a determination, pursuant to subsection (d) of this section, that such State no-fault plan is no longer in accordance with this title, then the plan which is no longer in accordance with this title shall cease to be in effect on a date to be designated by the Secretary, and on that date the alternative State no-fault plan shall go into effect in such State.

(f) PROCEDURE.—(1) Before making any determination under this section, the Secretary shall publish a notice in the Federal Register and afford the State and all interested parties a reasonable opportunity to present their views by oral and written submission.

(2) The Secretary shall notify in writing the Governor of the affected State of any determinations made under this section and shall publish these determinations with reasons therefor in the Federal Register.

(3) Any determinations made by the Secretary under this section shall be subject to judicial review in accordance with chapter 7 of title 5, United States Code, in the United States court of appeals for the circuit in which is located the State whose plan is the subject of such determination or in the United States Court of Appeals for the District of Columbia Circuit. Any such review shall be instituted within 60 days from the date on which the determination made by the Secretary is published in the Federal Register.

(g) EXCEPTIONS.—(1) The provisions of this section are inapplicable to the extent inconsistent with this subsection.

(2) Any State which is a no-fault State, as defined in paragraph (4) of this subsec-

tion, may establish a no-fault plan for motor vehicle insurance in accordance with this title by the fourth anniversary of the date of enactment of this Act.

(3) The alternative State no-fault plan for motor vehicle insurance (the State no-fault plan in accordance with title III of this Act) shall become applicable in any State which is a no-fault State, as defined in paragraph (4) of this subsection on the fourth anniversary of the date of enactment of this Act unless, prior to such date, the Secretary has made a determination that such State has established a no-fault plan for motor vehicle insurance in accordance with this title.

(4) As used in this subsection, a "no-fault State" means a State which has enacted into law and put into effect a motor vehicle insurance law not later than September 1, 1975, which provides, at a minimum, for compulsory motor vehicle insurance; payment of benefits without regard to fault on a first-party basis where the value of such available benefits is not less than $2,000; and restrictions on the bringing of lawsuits in tort by victims for noneconomic detriment, in the form of a prohibition of such suits unless the victim suffers a certain quantum of loss or in the form of a relevant change in the evidentiary rules of practice and proof with respect to such lawsuits.

(h) REPORTING REQUIREMENTS.—The Secretary, in cooperation with the commissioners, shall annually review the operation of State no-fault plans for motor vehicle insurance established in accordance with this Act and report on—

(1) the cost-savings resulting from the institution of any such plan which meets or exceeds the national standards set forth in this Act and any subsequent savings resulting from the continuing operation of such plans;

(2) appropriate methods for refunding to members of the motoring public any cost-savings realized from the institution and operation of such no-fault insurance plans;

(3) the impact of no-fault insurance on senior citizens; those who live in farming and rural areas; those who are economically disadvantaged, and those who live in inner cities;

(4) the impact of no-fault insurance on the problem of duplication of benefits when an individual has other insurance coverage which provides for compensation or reimbursement for lost wages or for health and accident (including hospitalization) benefits;

(5) the effect of no-fault insurance on court congestion and delay resulting from backlogs in State and Federal courts;

(6) the impact of no-fault insurance, reduced speed limits, and other factors on automobile insurance rates; and

(7) the impact of no-fault insurance on competition within the insurance industry, particularly with respect to the competitive position of small insurance companies.

The Secretary shall report to the President and Congress simultaneously on July 1 each year on the results of such review and determination together with his recommendations thereon.

(i) FINANCIAL ASSISTANCE TO STATES.—The Secretary is authorized to provide grants to any State for the purpose of reimbursing such State for any governmental cost increases resulting from the implementation or administration of a no-fault plan for motor vehicle insurance in accordance with this Act. The Secretary shall, by regulation, establish procedures for awarding such grants on a fair and equitable basis among the States.

(j) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out his responsibilities under this Act such sums as are necessary, not to exceed $10,000,000, such sums to remain available until expended.

NATIONAL STANDARDS

SEC. 202. (a) GENERAL.—A State establishing a no-fault plan for motor vehicle insurance in accordance with this title shall enact a law which incorporates, at a minimum, title I of this Act, except sections 101, 102, 112, and 113, and this title except this section and section 201. The provisions of these sections, taken together, shall be known as the "national standards" for State no-fault motor vehicle insurance.

(b) CRITERIA.—A state no-fault plan for motor vehicle insurance is in accordance with this title if it meets or exceeds all of the national standards. A provision in a State plan "meets" a provision in the national standards if the substance of the State plan provision is the same as or the equivalent of the corresponding provision in the national standards. A provision in a State plan "exceeds" a provision in the national standards if the substance of the State plan provision is more favorable or beneficial to an insured or a claimant or more restrictive of tort liability than the corresponding provision in the national standards. Any provision in a State plan as to which there is no corresponding provision in the national standards shall not be evaluated in determining whether such plan meets or exceeds national standards provided such provision is not inconsistent with the national standards or the policy set forth and declared in section 102 of this Act.

RIGHT TO BASIC RESTORATION BENEFITS

SEC. 203. (a) ACCIDENT WITHIN A STATE.—If the accident resulting in injury occurs in a State in which a no-fault plan for motor vehicle insurance in accordance with this title or title III of this Act is in effect, any victim or any survivor of a deceased victim is entitled to receive basic restoration benefits.

(b) ACCIDENT OUTSIDE ANY STATE.—If the accident resulting in injury occurs outside a State in which a no-fault plan is in effect, but in any other State, Puerto Rico, Canada, or Mexico, a victim or a survivor of a deceased victim is entitled to receive basic restoration benefits if such victim is or was—

(1) an insured; or

(2) the driver or other occupant of a secured vehicle.

LIMITATIONS ON BENEFITS

SEC. 204. A State establishing a no-fault plan for motor vehicle insurance in accordance with this title—

(a) may not limit basic restoration benefits for allowable expense, as defined in section 103(2) of this Act;

(b) may limit basic restoration benefits for work loss to—

(1) a monthly amount equal to the lesser of the following—

(A) $1,000 multiplied by a fraction whose numerator is the average per capita income in the State and whose denominator is the average per capita income in the United States, according to the latest available United States Department of Commerce figures; or

(B) the disclosed amount, in the case of a named insured who, prior to the accident resulting in injury, voluntarily discloses his actual monthly earned income to his restoration obligor and agrees in writing with such obligor that such sum shall measure work loss; and

(2) a total amount equal to—

(A) $25,000 multiplied by a fraction whose numerator is the average per capita income in the State and whose denominator is the average per capita income in the United States, according to the latest available United States Department of Commerce figures; or

(B) such total amount as may be determined by the State but in no event less than $15,000;

(c) may provide reasonable exclusions from or monthly or total limitations on basic restoration benefits for replacement services loss;

(d) may provide reasonable exclusions from or monthly or total limitations on basic restoration benefits for survivor's loss;

(e) may provide that any contract of insurance for no-fault benefits allow an insurer to offer—

(1) a deductible not to exceed $100 for each individual;

(2) a deductible not to exceed an amount deemed reasonable by the insurance commissioner of such State for each individual if he sustians injury while he is operating a motor vehicle having less than four wheels, is a passenger on such a vehicle, or both; or

(3) a waiting period not to exceed 1 week. Deductibles and waiting periods shall be applicable only to claims of insureds and, in the case of the death of an insured, to the claims of his survivors; and

(f) shall permit any legally constituted entity, which is providing benefits other than no-fault benefits on account of an injury, to coordinate such benefits with benefits payable by any restoration obligor on account of the same injury. In order for such coordination to occur, there must be an equitable reduction or savings in the direct or indirect cost to the purchasers of benefits other than no-fault benefits. If benefits other than no-fault benefits are provided to an individual through a program, group, contract, or other arrangement for which some other person pays in whole or in part, then reduction or savings in the direct or indirect cost to such person of such benefits resulting from coordination shall be returned to such individual or utilized for his benefit.

SOURCE OF BASIC RESTORATION BENEFITS

SEC. 205. (a) APPLICABLE SECURITY.—The security for the payment of basic restoration benefits applicable to an injury to—

(1) an employee, or to the spouse or other relative of an employee residing in the same household as the employee, if the accident resulting in injury occurs while the victim or deceased victim is driving or occupying a motor vehicle furnished by such employee's employer, is the security for the payment of basic restoration benefits covering such motor vehicle or, if none, any other security applicable to such victim;

(2) an insured is the security under which the victim or deceased victim is an insured;

(3) the driver or other occupant of a motor vehicle involved in an accident resulting in injury who is not an insured is the security covering such vehicle;

(4) an individual who is not an insured or the driver or other occupant of a motor vehicle involved in an accident resulting in injury is the security covering any motor vehicle involved in such accident. For purposes of this paragraph, a parked and unoccupied motor vehicle is not a motor vehicle involved in an accident, unless it was parked so as to cause unreasonable risk of injury; and

(5) any other individual is the applicable assigned claims plan.

(b) MULTIPLE SOURCES OF EQUAL PRIORITY.—If two or more obligations to pay basic restoration benefits apply equally to an injury under the priorities set forth in subsection (a) of this section, the restoration obligor against whom a claim is asserted first shall process and pay the claim as if wholly responsible. Such obligor is thereafter entitled to recover contribution pro rata from any other such obligor for the basic restoration benefits paid and for the costs of processing the claim. If contribution is sought among restoration obligors responsible under paragraph (4) of subsection (a) of this section proration shall be based on the number of involved motor vehicles.

RESTRICTIONS ON TORT LIABILITY

SEC. 206. (a) PARTIAL ABOLITION.—Tort liability is abolished with respect to any injury that takes place in a State in which a no-fault plan for motor vehicle insurance in accordance with this title is in effect prior to such injury, if such injury arises out of the maintenance or use of a motor vehicle, except that—

(1) An owner of a motor vehicle involved in an accident remains liable if, at the time of the accident, the vehicle was not a secured vehicle.

(2) A person in the business of designing, manufacturing, repairing, servicing, or otherwise maintaining motor vehicles remains liable for injury arising out of a defect in such motor vehicle which is caused or not corrected by an act or omission in the course of such business, other than a defect in a motor vehicle which is operated by such business.

(3) An individual remains liable for injuring another individual, either intentionally or as a consequence of intending to injure himself.

(4) A person remains liable for loss which is not compensated because of any limitation in accordance with section 204(b)(2), (c), or (d) of this Act. A person is not liable for loss which is not compensated because of limitations in accordance with subsection (b)(1) or (e) of section 204 of this Act.

(5) A person remains liable for damages for non-economic detriment if the accident results in—

(A) death, serious and permanent disfigurement, or other serious and permanent injury; or

(B) more than 90 continuous days of total disability. As used in this subparagraph, "total disability" means medically determinable physical or mental impairment which prevents the victim from performing all or substantially all of the material acts and duties which constitute his usual and customary daily activities.

(6) A person or government remains liable if such injury was caused or not corrected by an act or omission not connected with the maintenance or use of a motor vehicle.

(b) NONREIMBURSABLE TORT FINE.—Nothing in this section shall be construed to immunize an individual from liability to pay a fine on the basis of fault in any proceeding based upon any act or omission arising out of the maintenance or use of a motor vehicle: *Provided,* That such fine may not be paid or reimbursed by an insurer or other restoration obligor.

WORK LOSS

SEC. 207. (a) REGULARLY EMPLOYED.—The work loss of a victim whose income prior to the injury was realized in regular increments shall be calculated by—

(1) determining his probable weekly income by dividing his probable annual income by 52; and

(2) multiplying that quantity by the number of work weeks, or fraction thereof, the victim sustains loss of income during the accrual period.

(b) SEASONALLY EMPLOYED.—The work loss of a victim whose income is realized in irregular increments shall be calculated by—

(1) determining his probable weekly income by dividing his probable annual income by the number of weeks he normally works; and

(2) multiplying that quantity by the number of work weeks, or fraction thereof, the victim was unable to perform and would have performed work during the accrual period but for the injury.

(c) NOT EMPLOYED.—The work loss of a victim who is not employed when the accident resulting in injury occurs shall be calculated by—

(1) determining his probable weekly income by dividing his probable annual income by 52; and

(2) multiplying that quantity by the number of work weeks, or fraction thereof, if any, the victim would reasonably have been expected to realize income during the accrual period.

(d) CHANGES IN BENEFITS.—(1) Sums for work loss shall be periodically increased in a manner corresponding to annual compensation increases that would predictably have resulted but for the injury.

(2) Beginning in 1978, and at 5-year intervals thereafter, whenever a dollar figure limits benefits for work loss, that figure shall be multiplied by a number whose numerator is the average weekly earnings of production or nonsupervisory workers in the private nonfarm economy for that year and whose denominator is the average weekly earnings of this group of workers in the base year 1973, according to the latest available figures published by the Bureau of Labor Statistics of the United States Department of Labor.

(e) DEFINITIONS—As used in this section—

(1) "Probable annual income" means, absent a showing that it is or would be some other amount, the following—

(A) twelve times the monthly gross income earned by the victim from work in the month preceding the month in which the accident resulting in injury occurs, or the average annual income earned by the victim from work during the years, not to exceed three, preceding the year in which the accident resulting in injury occurs, whichever is greater, for a victim regularly employed at the time of the accident;

(B) the average annual gross income earned by the victim from work during the years in which he was employed, not to exceed three, preceding the year in which the accident resulting in injury occurs, for a victim seasonally employed or not employed at the time of the accident; or

(C) the average annual gross income of a production or nonsupervisory worker in the private nonfarm economy in the State in which the victim is domiciled for the year in which the accident resulting in injury occurs, for a victim who has not previously earned income from work.

(2) "Work week" means the number of days an individual normally works in a 7-day period: "weekly income" means income earned during a work week.

NET LOSS

SEC. 208. (a) GENERAL.—Except as provided in paragraph (3) of subsection (a) of section 108 of this Act, all benefits or advantages (less reasonably incurred collection costs) that an individual receives or is entitled to receive from social security (except those benefits provided under title XIX of the Social Security Act), workmen's compensation, any State-required temporary, nonoccupational disability insurance, and all other benefits (except the proceeds of life insurance) received by or available to an individual because of the injury from any government, unless the law authorizing or providing for such benefits or advantages makes them excess or secondary to the benefits in accordance with this Act, shall be subtracted from loss in calculating net loss.

(b) TAX DEDUCTION.—If a benefit or advantage received to compensate for loss of income because of injury, whether from no-fault benefits or from any source of benefits or advantages subtracted under subsection (a) of this section, is not taxable income, the income tax saving that is attributable to such loss of income because of injury is subtracted in calculating net loss for work loss. Subtraction may not exceed 15 per centum of the loss of income and shall be in such lesser amount as the insurer reasonably determines is appropriate based on a lower value of the income tax advantage.

(c) ALLOWABLE EXPENSE DEDUCTION OPTION.—A State no-fault plan for motor vehicle insurance established in accordance with title II of this Act shall include the substantive provisions of this subsection, unless such State finds and reasonably determines, in the course of establishing such plan under section 201(b) of this title, that the inclusion of such provisions in the plan would affect adversely or discriminate against the interests of persons required to provide security covering motor vehicles in such State: Benefits or advantages that an individual receives or is entitled to receive for allowable expense from a source other than no-fault insurance shall be subtracted from loss in calculating net loss for allowable expense where—

(1) such source other than no-fault insurance provides or is obligated to provide such benefits or advantages for allowable expense, as defined in section 103(2) of this Act, without any limitation as to the total amount of such benefits or advantages obligated to be provided;

(2) such benefits or advantages are provided by such source other than no-fault insurance on terms and conditions which comply wholly with the provisions of sections 103 (6), (7), and (16), 109 (c) and (d), and 111(d) of this Act and subject to all authority set forth therein;

(3) such source other than no-fault insurance is required by the applicable State no-fault plan for motor vehicle insurance in accordance with this Act to share, on an equitable basis, in the financial burdens and costs of operation of plans established pursuant to sections 105 and 108 of this Act;

(4) such benefits or advantages are provided by such source other than no-fault insurance through group insurance where the individuals who are likely to be the beneficiaries under such group insurance have received notice that there will be such subtraction; and

(5) the commissioner finds that such subtraction will result in economic benefits greater than those which would result from coordination pursuant to section 204(f) of this Act, on the basis of a hearing in which interested parties present competent evidence, and such finding is reviewed in a similar procedure by the commissioner not less than once every 3 years.

The commissioner shall promulgate rules to assure that the economic benefits found under paragraph (5) of this subsection are realized. As used in this subsection (A), "group insurance" means any plan of insurance offered or provided to members of a group not organized solely for the purpose of obtaining insurance, under the terms of a master policy or operating agreement between an insurer and the group sponsor, and incorporating group average rating, guaranteed issue with or without minimum eligibility requirements, group experience rating, employer contributions, and any other benefit to the members as insureds that they may be unable to obtain in the ordinary channels of insurance marketing on an individual basis; and (B) "group sponsor" means the employer or other representative entity of an employment-based group. Sections 103(10), (11), and (12) of this Act are inapplicable with respect to such definitions.

ADDED RESTORATION BENEFITS

SEC. 209. (a) OPTIONAL OFFERING.—Restoration obligors providing security for the payment of basic restoration benefits may offer or obligate themselves to provide added restoration benefits for injury or damage arising out of the ownership, maintenance, or use of a motor vehicle, including—

(1) loss excluded from basic restoration benefits by limits on allowable expense, work loss, replacement services loss, and survivor's loss;

(2) benefits for damage to property;

(3) benefits for loss of use of a motor vehicle; and

(4) benefits for expense for remedial religious treatment and care.

Subject to the approval of terms and forms by the commissioner, restoration obligors may offer or obligate themselves to provide other added restoration coverages.

(b) MANDATORY OFFERING.—(1) Insurers providing basic restoration insurance shall offer the following added restoration coverage:

(A) for physical damage to a motor vehicle, a coverage for all collision and upset damage, subject to an optional deductible of not to exceed $100;

(B) for the payment of tort liability, if a State determines that security for the payment of tort liability is not required motor vehicle insurance;

(C) for economic detriment, a coverage for work loss sustained by a victim in excess of limitations on basic restoration benefits for work loss; and

(D) for basic restoration benefits, if a State determines that a vehicle having less than four wheels is not a motor vehicle.

(2) The commissioner may adopt rules requiring that insurers providing basic restoration insurance offer, in accordance with State law, any other specified added restoration coverages.

(c) TERRITORIAL APPLICABILITY.—All added restoration coverages are applicable in any State, Puerto Rico, or Canada.

INELIGIBLE CLAIMANTS

SEC. 210. (a) CONVERTER.—(1) Except as provided for assigned claims, a converter of a motor vehicle is ineligible to receive no-fault benefits, including benefits otherwise due him as a survivor, from any source other than a contract of insurance under which he is an insured, for any injury arising out of the maintenance or use of the converted vehicle. If a converter dies from such injuries, his survivor or survivors are not entitled to no-fault benefits for survivor's loss from any source other than a contract of insurance under which the converter is an insured.

(2) For purposes of this subsection and subsection (c) of section 111 of this Act, an individual is not a converter of a motor vehicle if he used it in the good faith belief that he was legally entitled to do so.

(b) INTENTIONAL INJURIES.—(1) An individual who intentionally injures himself or another individual is ineligible to receive no-fault benefits for injury arising out of his acts, including benefits otherwise due him as a survivor. If an individual dies as a result of intentionally injuring himself, his survivor or survivors are not entitled to no-fault benefits for survivor's loss. An individual intentionally injures himself or another individual if he acts or fails to act for the purpose of causing such injury or with knowledge that such injury is substantially certain to follow. An individual does not intentionally injure himself or another individual—

(A) merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of causing injury; or

(B) if the act or omission causing the injury is for the purpose of averting bodily harm to himself or another individual.

(2) For purposes of subsection (c) of section 111 and paragraph (3) of subsection (a) of section 206 of this Act, an individual does not intentionally injure himself or another individual merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of harm.

OTHER PROVISIONS

SEC. 211. (a) INCLUDED COVERAGE.—A contract of insurance covering liability arising out of the ownership, maintenance, or use of a motor vehicle registered in a State includes basic restoration benefits and any other benefit coverages required by the no-fault plan for motor vehicle insurance in effect in such State unless such contract—

(1) provides tort liability coverages only in excess of any of those required by such State no-fault plan; or

(2) is a contract which the commissioner determines by regulation provides motor vehicle liability coverages only as incidental to some other basic coverage.

(b) APPROVAL OF TERMS AND FORMS.—Terms and conditions (including forms used by insurers) of any contract, certificate, or other evidence of insurance sold or issued pursuant to a State no-fault plan for motor vehicle insurance in accordance with this title or title III of this Act and providing no-fault benefits or any required tort liability are subject to approval and regulation by the commissioner in such State. The commissioner shall approve only terms and conditions which are consistent with the purposes of this Act and fair and equitable to all persons whose interests may be affected. The commissioner may limit by rule the variety of coverage available in order to give purchasers of insurance a reasonable opportunity to compare the cost of insuring with various insurers.

TITLE III—ALTERNATIVE STATE NO-FAULT MOTOR VEHICLE INSURANCE PLAN

PROVISIONS

SEC. 301. The alternative State no-fault plan for motor vehicle insurance (the State no-fault plan in accordance with this title), which becomes applicable and goes into effect in a State pursuant to subsection (e) of section 201 of this Act, is composed of title II of this Act, except sections 101, 102, 112, and 113; section 201(d), 203, 204 (e) and (f), 205, 207, 208, 210, and 211 of title II of this Act; and this title, except this section. A State may establish additional requirements provided that they are not inconsistent with the provisions of the alternative State no-fault plan for motor vehicle insurance or the policy set forth and declared in section 102 of this Act.

LIMITATIONS ON BASIC RESTORATION BENEFITS

SEC. 302. Basic restoration benefits payable to a victim or the survivor or survivors of a deceased victim for—

(a) allowable expense, as defined in section 103(2) of this Act, may not be limited;

(b) work loss may not exceed a monthly amount equal to $1,000 multiplied by a fraction whose numerator is the average per capita income in the State and whose denominator is the average per capita income in the United States, according to the latest available United States Department of Commerce figures; and

(c) replacement service loss and survivor's loss may not exceed $200 for the calendar week during which the accident resulting in injury occurs and for each calendar week thereafter.

RESTRICTIONS ON TORT LIABILITY

SEC. 303. (a) PARTIAL ABOLITION.—Tort liability is abolished with respect to any injury that takes place in a State in which the alternative State no-fault plan for motor vehicle insurance is in effect, if such injury arises out of the maintenance or use of a motor vehicle, except that—

(1) An owner of a motor vehicle involved in an accident remains liable if, at the time of the accident, the vehicle was not a secured vehicle;

(2) A person in the business of designing, manufacturing, repairing, servicing, or otherwise maintaining motor vehicles remains liable for injury arising out of a defect in such motor vehicle which is caused or not corrected by an act or omission in the course of such business, other than a defect in a motor vehicle which is operated by such business; and

(3) An individual remains liable for intentionally injuring himself or another individual.

(b) NONREIMBURSABLE TORT FINE.—Nothing in this section shall be construed to immunize an individual from liability to pay a fine on the basis of fault in any proceeding based upon any act or omission arising out of the maintenance or use of a motor vehicle: *Provided*, That such fine may not be paid or reimbursed by an insurer or other restoration obligor.

ADDED RESTORATION BENEFITS

SEC. 304. (a) OPTIONAL OFFERING.—Restoration obligors providing security for the payment of basic restoration benefits may offer or obligate themselves to provide added restoration benefits for injury or damage arising out of the ownership, maintenance, or use of a motor vehicle, including:

(1) loss excluded from basic restoration benefits by limits on allowable expense, work loss, replacement services loss, and survivor's loss;

(2) benefits for damage to property;

(3) benefits for loss of use of a motor vehicle; and

(4) benefits for expense for remedial religious treatment and care.

Subject to the approval of terms and forms by the commissioner, restoration obligors may offer or obligate themselves to provide other added restoration coverages.

(b) MANDATORY OFFERING.—(1) Insurers providing basic restoration insurance shall offer the following added restoration coverages:

(A) for physical damage to a motor vehicle, a coverage for all collision and upset damage, subject to an optional deductible of not to exceed $100;

(B) for physical damage to a motor vehicle, a coverage for all collision and upset damage to the extent that the insured has a valid claim in tort against another identified person; and

(C) for noneconomic detriment to a victim, a coverage in such amounts and upon such conditions as the commissioner directs and the insured selects.

(2) The commissioner may adopt rules requiring that insurers providing basic restoration insurance offer, in accordance with State law, any other specified added restoration coverages.

(c) TERRITORIAL APPLICABILITY.—All added restoration coverages are applicable in any State, Puerto Rico, or Canada.

Mr. MOSS. Mr. President, I am proud to join once again in sponsoring the national no-fault legislation. It is my hope and expectation that this will be the last such introduction. By the time the 95th Congress convenes in January of 1977, nationwide no-fault motor vehicle insurance should be in effect and providing faster, better, fairer benefits for the 100 million Americans who own motor vehicles.

I am proud that this body faced up to the problem of auto insurance and auto accident victims during the last Congress. By a vote of 53 to 42 with one abstention, the Senate passed the bill which is being reintroduced today.

This is an appropriate time to set forth for the record what the 94th Congress disposition of this bill will mean.

Failure to enact the legislation will mean, to my mind, that the Congress and the administration are willing to turn their backs on the thousands of automobile accident victims who receive no benefits whatsoever from the present automobile compensation system, even though collectively all drivers spend more than $16 billion a year for motor vehicle insurance. It means we are willing to see the families of seriously injured auto accident victims spend all of their resources, lose their homes, and even go on welfare, because they have been, by delay in payments and the risk of litigation, compelled to spend every penny to keep a loved one alive. The debate on the previous bills focused on everything but what matters most: the auto accident victim and the shoddy treatment he receives under the fault-based auto insurance system. The lifesaving potential of no-fault, resulting from the fact that insurance dollars will be quickly available to pay for emergency medical services for each and every automobile accident victim, has been largely ignored in the past. The life-restoring potential of an insurance system which provides all victims necessary medical and vocational rehabilitation has been mentioned only in passing.

This year, hopefully, both Houses and the executive branch will think about this human consequences and needs.

Failure to enact nationwide no-fault will mean the rejection of a fairer and more humane method of compensating the hundreds of thousands of Americans and restoring the health of those who are being badly hurt in traffic accidents each year. In a time of recession, increasing unemployment, and widespread personal suffering as a consequence of economic and energy dislocations, the Congress should not forget the suffering that comes from personal injury.

Most importantly, in a time of never-ending inflation, this demon robs the American citizen of purchasing power. The Congress should speedily enact a program that will reduce the cost of one significant item in the budget of the average family: auto insurance.

Those who vote against this bill may piously intone that they favor no-fault motor vehicle insurance, but that this bill intrudes upon the Federal system. I hope that these Members will read section 109(a) of the bill which declares that regulation and taxation of insurance are to be left to the States. The bill does not preempt these powers, but is limited to setting national standards which each State can meet in its own way. The resulting national system will be compatible and guarantee each American both good treatment in case of accident and cost savings in premiums. The bill exemplifies the modern concept of partnership between State and Federal Governments.

The no-fault insurance package provided under the national standards set forth in this bill will provide the American consumer with a much more valuable product than the auto insurance package now available in most States. State no-fault plans in accordance with these standards will save consumers in some States as much as 20 percent—collectively over $1,000,000,000 will be saved by consumers—will compensate as much as 50 percent more injuries, and will pay auto accident victims as much as 50 percent more dollars than does the present system.

It seems incomprehensible to me, in this period of spiraling inflation and stagnation recession, that the Congress and the President could fail to enact a program that would assure American consumers a much more valuable product than the one they are presently buying and at a lower cost than they are presently paying.

Mr. STEVENS. Mr. President, it is a pleasure for me to join again this Congress with Senator MAGNUSON to cosponsor the National Standards No-Fault Motor Vehicle Insurance Act. The no-fault issue has been before the Congress for the last 4 years during which time all interested parties were afforded an opportunity to express views before both the Commerce Committee and the Judiciary Committee as to the merits of the Federal no-fault approach. The Senate approved S. 354, the no-fault legislation of last Congress, by a substantial margin, and I am hopeful that early action will be taken to again secure passage of this important consumer bill.

The no-fault approach contained in the legislation we are introducing today for reformation of our existing motor vehicle accident reparations system provides for creative interaction between the State governments and the Federal Government by reallocating premium dollars now being used for the determination of fault and using them for the payment of benefits to motor vehicle accident victims. The minimum Federal standards approach will retain the autonomy of State legislatures to tailor their no-fault plans, which meet Federal standards, to the needs of their own citizens. The States, therefore, will play a dominant role in the implementation of the no-fault concept, and thereby retain local control over this important national issue.

National no-fault legislation based on minimum Federal standards is consistent with efforts currently being made to meet the economic difficulties which face our country because it will maintain, and, in many States, reduce the amount of insurance premium costs which we now must pay under the present system.

It is a pleasure to again join in cosponsoring this no-fault bill, and I am hopeful that the Senate will take positive steps to pass this legislation of such importance to consumers, and thereby support the ultimate adoption of the minimum Federal standards approach for reformation of the existing accident reparations system.

Mr. PHILIP A. HART. Mr. President, as the saying goes, if you want to know how good any product is, "Ask the man who owns one."

We can do just that when we consider the merits of the no-fault bill which Senator MAGNUSON and several others of us are introducing today.

October 1, 1973, Michigan citizens began to live with a no-fault insurance law virtually identical to that which would be available to all citizens under this bill.

What distinguishes the Michigan bill is that while all medical and rehabilitation expenses are covered for accident victims, there is a limit of $1,000 a month for 3 years for replacement of lost income. The Michigan bill also includes collision in its no-fault coverage and this aspect caused considerable consternation—at least at first.

Last November, the Special No-Fault Study Committee of the Michigan House of Representatives held hearings to review the first year's experience under the law.

Statements of two groups at those hearings I think, presented the strongest and most persuasive testimony for adoption of this plan nationwide that I have seen over the many years we have been discussing this.

Mr. President, I ask unanimous consent that the statements of the Michigan Association of Insurance Companies and the American Insurance Association be inserted in the RECORD at the conclusion of my remarks. But I would like to call special attention to some of the points those statements made.

One of the sections of the Michigan bill which most troubled the Michigan Association of Insurance Companies before its enactment was the provision for unlimited no-fault medical and rehabilitation benefits and the very substantial income loss compensation.

But in November, the association reported those provisions, "created near-ideal economic protection for accident injury victims, and especially for the seriously injured. It is a dramatic improvement over the fault system."

The association reported that in the first year's experience with the bill, more than 135,000 persons were injured in Michigan auto accidents and nearly 1,800 were killed.

Mr. William P. Jamieson, president of the association, pointed out that for all these injuries and deaths no-fault paid all medical and hospital costs, plus income loss or dependency benefits when applicable.

He added:

> Under the fault system only about half of those injured would have been able to collect from someone else.

In highlighting what I have long felt is the most significant benefit of this bill, Mr. Jamieson said:

> The most dramatic effect of the change has been the creation of a new dimension in the role of auto insurance with the critically injured whose only hope for a future with any enjoyment of life, instead of as a helpless bed patient, lies in timely comprehensive rehabilitation.

Under the fault system, these people too often are doomed to being denied the rehabilitation and treatment which could improve their future lives until the court case is settled—and if they are successful, the money for treatment generally comes too late.

As Mr. Jamieson said:

> Now the critically injured are assured immediate access to all necessary treatment and rehabilitation, with all of the cost guaranteed directly by their own auto insurer. A number of such cases already are either in or scheduled to go to the best rehabilitation centers in the country, with their initial treatment and lifetime care costs reserved by their insurers at from $100,000 to $250,000.

The frosting on the cake of this story is that all this is being accomplished with no rise in auto insurance premiums for the Michigan driver.

In fact, a number of classifications of drivers—the young and the older—with low incomes to be insured, have had a considerable decrease in premiums. Those who have elected to have their no-fault auto insurance benefits coordinated with their health insurance have received further reductions.

Mr. President, the American Insurance Association made the story of Michigan's experience under no-fault even more dramatic by citing a few case histories of victims who received compensation and help under this plan who would have been neglected or undercompensated by the tort system.

They include the story of the 18-year-old man, now a quadriplegic, paralyzed from the neck down due to an accident caused when his car skidded on a patch of ice in front of a carwash. The young man has received medical and rehabilitation benefits of more than $19,000 and wage loss in the first year of $3,700. It is anticipated that his total medical and rehabilitation payments will total $500,000.

Under the tort system there would have arisen the possibility of liability for the carwash. But its policy limit is $100,000. As AIA said in its statement:

> Under the tort system, the result would have been another innocent victim being woefully undercompensated even if the maximum possible recovery was ultimately obtained.

Mr. President, after reading these two statements, one question insists on being answered, "How much longer will we continue to deprive all citizens of the benefits of no-fault which Michigan citizens now enjoy?"

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a statement by Patrick J. Casey, Midwest regional counsel of the American Insurance Association.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF PATRICK J. CASEY, MIDWEST REGIONAL COUNSEL, AMERICAN INSURANCE ASSOCIATION

My name is Patrick Casey. I represent the American Insurance Association, an organization of 127 insurance companies writing casualty and property insurance throughout the country. I appreciate the opportunity to appear before you and present our views on no fault auto insurance in Michigan.

It is our understanding that the subject of this hearing is no fault generally and Michigan S.B. 782 specifically. We would like to confine our remarks to S.B. 782.

The American Insurance Association has been a supporter of real no fault auto reparations systems since 1968. We strongly supported S.B. 782 at its inception and throughout the months it was being considered by the legislature. We considered it a good bill at that time; we now consider it the most significant and comprehensive no fault legislation that has been enacted anywhere in the country. The benefits provided to the citizens of Michigan are greater than those provided under any other existing auto reparations system.

In general, the Law has been exceptionally well received in the area of bodily injury claims. In the early months, there appeared to be some criticism of the property damage aspects of the Law—a natural result in light of such a dramatic change in the State's reparations system. In time, this will be remedied as the insurance-buying public gains a greater understanding of the Law and the options provided under it. When that point is reached, the public will be in a position to choose appropriate collision coverage, with or without a deductible, or knowingly elect to absorb any damage themselves. It is our understanding that, in recent months criticism of this aspect of the Law brought to the attention of both the Insurance Department and the press has decreased significantly. Clearly, current criticism is minimal when compared to the benefits and application of the Law.

In order to illustrate the application and benefits of the Law on the citizens of Michigan, we recently compiled a brief list of real situations involving real people. These cases are in the form of a separate statement which you have before you. Although I will not go into these illustrations this time, I would suggest that you review them at your earliest opportunity. They clearly indicate, rather than any extensive discussion of the merits or demerits of no fault the human impact of the Michigan Law. There should be no question that the Law, with its basic concern for those who are injured, is impressive in its application.

We believe that any change in the substance of the Law at this time would be premature. Not only is the Law currently being considered in the courts, but a ruling by the State Supreme Court is expected in early 1975. In the event it becomes necessary, we should, of course, be ready to respond to any decision by promptly providing amendments to comply with the Court's ruling.

In summary, the Michigan No Fault Law is a good law and it is working well; its application in terms of human benefits is unsurpassed anywhere in the country; it is not the kind of a law that warrants change.

NO-FAULT—THE MICHIGAN EXPERIENCE

In any discussion of the subject of no fault auto insurance, the supporters of real no fault have always stated that under such a system, more and better benefits would be provided to more people thru more efficient methods.

Conversely, opponents of real no fault have said that a no fault system would unreasonably restrict the rights and opportunities of the "innocent auto accident victim".

What these opponents don't say is that in a significant number of cases under the prevailing tort system, many "innocent auto accident victims" recover nothing in spite of the fact that they might be seriously injured, require extensive medical treatment, suffer substantial reductions in wage income with resulting economic and personal loss to their families. Another shortcoming of the tort system is that if there is not another party to which the "blame" or fault for the accident can be attributed, that "innocent auto accident victim"—and his family—is out of luck—there is no recovery. If there is another party that can be accused of being at fault, then the issue becomes one of proof, i.e., can that party be considered liable or at fault for the accident. If liability or blame for the accident can be determined, the next question is very basic, i.e., is there insurance coverage or other assets that can be reached to compensate for the loss in question.

In the Fall of 1972, the State of Michigan enacted a no fault law which became effective October 1, 1973. This law, which provides for unlimited medical and rehabilitation benefits and up to three years' wage loss, is the most comprehensive no fault legislation enacted anywhere in the country.

Fortunately, out of the experience gained in Michigan, we begin to see the emergence of real situations involving real people. From these situations, the public, state legislators, and the insurance industry can draw their own conclusions.

Has the Michigan law worked or has it failed to live up to earlier expectations? The best answer to this question are the following examples of actual cases showing the application of the Michigan Law to the citizens of that State:

* * * * *

Driving alone, a woman was forced off the road and into a utility pole by an unknown driver. She suffered a broken neck, a dislocated shoulder, and facial lacerations. To date, medical bills paid by her own auto insurance company have already exceeded $3700. Total benefit payments including wage loss are expected to reach approximately $10,000.

The driver involved in this accident was in no position to identify the vehicle that forced her off the road. She has clearly suffered due to the negligence of another party but under the former tort system, she would have been unable to locate a second party to sue. Assuming she was able to identify the other driver, it is very likely that liability would be denied. Any possible recovery would have to be considered relatively remote as it is generally very difficult to establish liability where there is no contact.

* * * * *

A car being driven by a young man 18 years old skidded on ice formed on the street in front of a car wash. The car slid into oncoming traffic where it was hit by two other vehicles. The driver is now a quadraplegic, paralyzed from the neck down. Medical and rehabilitation benefits paid by his own auto insurer have already exceeded $19,000. Wage loss payments have been paid amounting to $3,700. The young man's auto insurer anticipates total medical and rehabilitation payments of approximately $500,000. Although there is a legitimate question regarding the potential liability of the car wash, it is believed that the limits of that liability policy are only $100,000—clearly inadequate. Under the former tort system, the result would have been another innocent victim being woefully under-compensated even if the maximum possible recovery was ultimately obtained.

* * * * *

A middle-aged driver, married and the father of one child, lost control of his car and was fatally injured in the resulting crash. There were no known witnesses and it was assumed that no other car was involved. Clearly, the tort system would offer no means of recovery. However, under the Michigan No Fault Law, the victim's auto insurance company is currently paying survivor's benefits of $161.40 per week for a period of three years, a total of more than $25,000.

* * * * *

A girl, riding as a passenger on a motorcycle, was seriously injured when the motorcycle crossed the center line and was hit head-on by an oncoming vehicle. The driver of the motorcycle was killed and the girl received multiple injuries including a ruptured spleen, fractured pelvis, fractured vertebrae, fractured right leg, ruptured liver, and chest and trunk injuries. Her left leg was amputated above the knee. Medical expenses are expected to reach almost $30,000. Wage loss payments, not including applicable Social Security Benefits, will probably reach $6,800 over a three-year period. Although there has been a tort claim against the operator of the motorcycle, policy limits on that vehicle are only $20,000. The result is that all of the victim's past and future medical and rehabilitation expenses, in addition to wage loss benefits, are being paid through her own auto no fault policy. If the prior tort system had been in effect, any recovery, when and if obtained, would again have been inadequate to compensate for the injuries suffered.

* * * * *

A 63 year old male driver lost control of his car, struck a railroad track abutment and died two days after the accident. His own no fault auto insurance company paid medical expenses to the time of his death. Under the Michigan Law, his widow will also receive $163.00 per week for three years. There would have been no tort action possible under the former tort system.

* * * * *

An 80-year old pedestrian was struck by an uninsured auto. Because the injured party did not have her own no fault auto policy, her claim was assigned to one of the ten carriers participating in the State's Assigned Claims Plan. The major injury suffered was a fractured hip. Already, medical expenses paid have exceeded $7500 with an additional $3600 being paid for nursing services provided for the care of the victim's aged husband. Prior to the enactment of the No Fault Law, any recovery by an non-auto-owning pedestrian against an uninsured motorist would very likely have been negligible at best.

* * * * *

A husband, wife and their two young sons, 7 and 4, were injured when their pickup truck went off the road and turned over at least once. Initial investigation indicated the wife was driving at the time of the accident and fell asleep at the wheel. The truck was a total loss. The wife suffered a broken shoulder, head and neck injuries, and extensive facial lacerations; the husband's principal injury was a five-inch wide gash from his right shoulder to his hip which will require several skin graft operations. Each boy suffered a broken pelvis. Other injuries included a broken wrist, a lacerated right leg and a ruptured urinary tract—both boys will require extensive further medical treatment. Benefits paid by the father's no fault auto insurer to date include $5400 in medical expenses and $2200 in lost wages. Under the tort system, compensation would have been conditioned upon recovery against a third party, in this case, non-existent.

* * * * *

A car containing six older people was struck in the rear by another car being driven at a high rate of speed. The result was the death of two persons in the first car and severe injuries to the others. Two of those injured were a former Michigan couple now residing in Florida. The husband was seriously injured, suffering head injuries, resulting brain damage and a cervical fracture. He was in intensive care for over a month. The wife suffered a dislocated hip, a broken arm and was hospitalized for one month. Medical bills paid to the husband alone have reached $4700. All of the other four persons injured in the accident are also receiving the benefits of the Michigan No Fault Law through the no fault auto policy of the first car's driver. Liability limits on the second car were $50,000–$100,000. As a result, allowing recovery under the tort system the six victims, two of them dead, and in this case all of them the proverbial "innocent auto accident victims" would have been forced to limit their total recovery to the $100,000 policy limits of the second car. These policy limits, would, of course, also apply to any tort action which might be filed under the current no fault law. In either case, any recovery in tort, either prior to or subsequent to the enactment of the State's No Fault Law, would have been totally inadequate to compensate for the injuries incurred.

* * * * *

These examples of the application of the Michigan No Fault Law are not intended to be a criticism of the tort system as it is generally known. However, the distinction between the two systems should be apparent. Under the Michigan No Fault Law, unlimited medical, up to three years' wage loss, and service benefits are paid immediately—when and to the extent they are needed. Under the tort system, in cases of serious injury or where there are multiple claimants not only must there be a determination of fault, but the liability coverage of the other party is often limited and of no real benefit to those who are injured. In less serious injury cases, the generally required procedures, i.e., investigation, determination of fault, settlement-negotiation, delay, render the system relatively inefficient in today's auto-oriented society.

These examples illustrate that the Michigan No Fault Law is providing real benefits—benefits that can be measured—to the citizens of Michigan. Overall, the law is working well and public acceptance has been good. There is no question its acceptance will be greater once the public becomes more familiar with the benefits and applications of the law. Few, we are certain, if given the option, would choose the former tort system over the present No Fault Law. Who, for example, would take the position that any of the victims referred to in the examples above should not be compensated for their injuries? Conversely, under the tort system, there would be no recovery or a minimal recovery in each of the examples cited. The difference is clear. It is also clear that the Michigan No Fault Law is the most far-reaching and significant piece of auto reparations legislation passed by any state legislature. The law's concern for the injured, whether "innocent" or "guilty" is a welcome and realistic change from the former fault-oriented tort system of auto reparations.

Analysis of First-Year Experience With the Michigan No-Fault Auto Insurance Law and Recommendations For Its Improvement

To Honorable Matthew McNeely, Chairman; Dan Angel, William Hayward, Kirby Holmes, John Engler, John Kelsey, George Edwards, Casmer Ogonowski.

Gentlemen: The Michigan insurance companies were among the first to call for a no-fault law so that the auto insurance dollar could be concentrated on paying the expenses of the injured instead of those of the legal system.

But we expressed serious concern about some aspects of the law as it finally was adopted.

We feared that the revolutionary change which it made would create prolonged constitutionality issues, which would leave the insurance system operating under a cloud of uncertainty and make it impossible to determine the cost effect of the change.

We had grave doubts whether the nature of the law's restriction on injury fault claims and lawsuits would be adequate to support unlimited no-fault benefits without creating additional insurance cost for motorists.

And we questioned whether people would accept the elimination of their right to collect, from an at-fault driver for damage to their vehicles.

Regardless of those reservations, we assured you and your colleagues that, as professional administrators of the insurance system, we would conscientiously provide the people of Michigan with the best possible protection at the least possible cost which the conditions would allow.

We have done that, and because the Michigan companies insure approximately half of the motor vehicles in the state we have had a very broad exposure to the practical application of the new law.

Briefly, this is what has happeend:

1. Your decision to provide unlimited no-fault medical and rehabilitation benefits and very substantial income loss compensation has created near-ideal economic protection for accident injury victims, and especially for the seriously injured. It is a dramatic improvement over the fault system.

2. The law's removal of fault system recovery for damage to motor vehicles has brought angry reaction from the motorist who does not have collision coverage and cannot collect from a negligent driver who smashes his car, or who has a form of collision coverage under which he does not get his deductible when another driver is at fault. This has created a distorted impression of public dissatisfaction with the entire no-fault concept because there are many more instances of vehicle damage than of injury, and the injured who are benefiting from no-fault have not been heard from.

3. Some segments of the law obviously need clarifying amendments. There is a question whether school districts were intended to insure the children on their buses. There is an almost certainly unintended provision for companies to recover no-fault benefits out of pain and suffering awards to their insureds. Mandatory liability limits should be stated in the act itself. And the right of a motorist to voluntarily coordinate his no-fault coverage with some other injury benefits is in doubt.

4. As we feared, the insurance system has been forced to operate without answers to whether the law will be upheld and, if so, in what form. The lack of those answers also has deferred the legal cases which will determine whether the law's provision which is intended to sharply cut the fault system expenses will work. As a result it has been impossible to determine the effect of the law on the cost of auto insurance, and the delay has created a multi-million-dollar possibility of double injury payments.

5. Michigan motorists have had considerable auto insurance cost savings during the first year of no-fault, even through the actual cost effect of the law could not be established. This resulted from company decisions to hold the line or decrease their premium levels until no-fault experience could be established, despite the uncertainties of the law and the impact of soaring inflation on the cost of everything auto insurance pays for.

As we advised you when this committee was created, we appreciate your decision to review the performance of the no-fault law and to consider the possibilities for its improvement, and we offer our fullest cooperation.

We believe the following elaboration upon the highlights of our experience with it should be a practical and important contribution to your considerations. In addition, we would be pleased to answer any questions which you may have, and to consult with you at any time.

MEDICAL, REHABILITATION, AND INCOME LOSS BENEFITS

Without question, this law is abundantly fulfilling the primary objective of the no-fault principle, which is to guarantee prompt, sure, adequate recovery of injury costs for all accident victims.

In the first year of no-fault, more than 135,000 persons were injured in Michigan auto accidents and nearly 1,800 were killed. Among the injured and the dependents of the fatally hurt who were insured by the Michigan companies the no-fault protection was universally well received, and this undoubtedly was true of all others.

Companies have stressed prompt payment and in most instances it has been made within a few days of the receipt of proof of doctor and hospital bills, income loss, and replacement of services which an injured person would have done for himself. Dependency benefits, which are geared to the maximum $1,000 a month for three years income loss benefits, have been quickly established and paid. Under the fault system payment could have been made only if another driver was legally liable and after the total amount of the loss was established, both of which often had to be determined by lawsuit.

In all of these injuries and deaths no-fault has paid all medical and hospital costs, plus income loss or dependency benefits when applicable, except to the extent that workmen's compensation, social security or coordination with health benefits was involved. It has paid regardless of who was at fault or whether anyone was at fault. Under the fault system only about half of those injured would have been able to collect from someone else.

The no-fault benefits have been particularly important for those who have many thousands of dollars of hospital-medical costs which, under the old system, would not have been met by modest auto insurance medical coverage or health insurance, and for those who have extended work loss for which they have little or no other coverage.

The most dramatic effect of the change has been the creation of a new dimension in the role of auto insurance with the critically injured whose only hope for a future with any enjoyment of life, instead of as a helpless bed patient, lies in timely, compretensive rehabilitation.

Under the fault system, auto insurance could do little to meet their treatment needs. Unless someone else was legally at fault for the injury, auto insurance has no role beyond the possibility of medical payments by the injured person's company, usually not more than $5,000. If the injury involved a fault claim, the role of auto insurance was for the other motorist's company to defend its insured and, if he was legally liable, to ultimately pay the determined award.

Now the critically injured are assured immediate access to all necessary treatment and rehabilitation, with all of the costs guaranteed directly by their own auto insurer. A number of such cases already are either in or scheduled to go to the best rehabilitation centers in the country, with their initial treatment and lifetime care costs reserved by their insurers at from $100,000 to $250,000 each.

In cooperation with Chairman McNeely, we have asked a few of those who have experienced the no-fault benefits, or their close relatives, and some of the specialists in rehabilitation treatment to give you at your hearings a firsthand picture of how the law is working.

RESULTS OF NO-FAULT VEHICLE DAMAGE CONCEPT

When the Legislature decided to extend the no-fault principle to include damage to motor vehicles it removed a form of protection which motorists long have accepted and relied upon and about which they generally have strong moral convictions.

Taking away the right to recover from an at-fault driver created a total void in vehicle damage recovery for those without collision insurance and a partial one for those with that coverage. The motorist with an old car to collect is gone. The great majority, who feels he cannot or does not want to pay for collision insurance, and those who ignore collision coverage because they are convinced that any damage would be another driver's fault are accustomed to expect payment when someone else is at fault. Now that right to collect is gone. The great mapority, who buy collision insurance, also expect to recover their deductible along with the rest of the damage if another is at fault. That right also was removed.

This condition has been remedied for most motorists by the offering of two new forms of collision insurance. One, called limited collision, pays for vehicle damage only if another is at fault. The other, called broadened collision, pays the deductible along with the rest of the damage if another is at fault.

When the no-fault law became effective, companies applied limited collision without charge to the policies of those without collision coverage, and broadened collision without charge to those with collision coverage. At the first policy renewal, the new coverages and their rates were explained and motorists were given the option of buying either of these or regular collision coverage with a deductible. Limited collision rates were the lowest of the three. Broadened collision rates were slightly higher than those for standard deductable collision. In addition, some companies provided limited collision with a deductible to give the motorist a lower rate.

The response among motorists differed by company, but in general about 70 to 80 per cent took either regular or broadened collision, 15 to 20 per cent took limited, and 5 to 15 per cent elected to have no collision coverage.

This still leaves those who have no collision insurance unable to collect for any damage to their vehicles, and those who have regular collision or limited collision with a deductible unable to collect the amount of the deductible, and many in this group have been expressing great dissatisfaction.

There are three alternatives for resolving this matter. One is to leave the law as it now is and attempt to educate those who are complaining that, like all others, they received a rate reduction from the elimination of property damage liability and if they want the substitute protection they must pay for it. Another is to restore property damage liability. The third is to make limited collision coverage, without a deductible, a mandatory part of the no-fault law.

If there is a change, it also should involve consideration of the status of the present residual property damage liability coverage and the property protection insurance provision, both of which are part of the overall rates for vehicle damage coverages.

Among the companies, there are differences of opinion as to which might be the better course. We believe it would be helpful to you to hear the different views about this and the reasons for them as you consider this question.

SITUATIONS WHICH NEED CLARIFYING

The question of school bus coverage already is before you in bill form. Those involving subrogation against pain and suffering awards, the liability limit, and coordination of benefits undoubtedly are drafting oversights requiring technical corrections. We would be happy to discuss these with you when you are ready to review the law after your hearings.

EFFECT OF THE CLIMATE OF LEGAL UNCERTAINTY

What has happened on the question of whether the no-fault law is constitutional has become an example of the long-delayed court decisions which were one of the motivations for creating a no-fault system.

Shortly after the law was adopted in October, 1972, the Supreme Court was asked to resolve this issue. It ruled only that the Legislature had acted properly in creating the law. Subsequently, two lawsuits in circuit courts have produced decisions which have clouded the law's status. Now, after more than two years, the issue again must go before the Supreme Court and apparently there is little likelihood that it may act for many more months.

If the law should then be thrown out insurers would be faced with the possibility of fault system claims, on top of the no-fault benefits already paid, in injury cases dating back to the October 1, 1973, effective date of no-fault. For the first year, that double payment potential is estimated at 250 million dollars. By the time there is a decision it could nearly double.

With the constitutionality question unanswered, the other serious legal uncertainty in the law also has been left in limbo. This is the question of whether the provision allowing legal action for pain and suffering damages in instances of "serious impairment of body function" will sharply reduce the fault expenses in the insurance system or whether it may open a floodgate of fault claims and lawsuits.

There has been a sharp drop in injury liability claims the past year, but that does not answer the question. Because of the prospect that the courts might restore the fault system, and with a three-year period in which to file suits, many law firms are known to be "stockpiling" suits rather than testing the language of the new law. In recent months, however, companies have begun to receive claims involving the "serious impairment" question.

How the intent of this language is interpreted by the injured and the courts will be a major factor in how the no-fault law will affect the price of auto insurance. If all manner of minor and temporary disabilities are construed to justify pain and suffering damages the fault system will be largely reimposed upon the no-fault system. This would make financing the new costs of unlimited care for all of the injured out of reduced fault costs obviously impossible.

PRESENT COST EFFECT OF NO-FAULT AND THE PROSPECTS

When no-fault became effective companies adjusted their rates between the new and old coverages to reflect the expected changes in loss exposure. This decreased premiums for those who bought only the mandatory no-fault coverages. It maintained or slightly decreased the former premium for those who also have collision coverage.

In addition, there were larger premium decreases for young drivers, those with low incomes, and retirees, to reflect the fact that they had smaller or less likely exposure to income loss. Retirees are charged only for the risk of services replacement for themselves or an uninsured passenger or pedestrian, or income loss for the latter.

Also, those who have elected to coordinate their no-fault auto insurance with their health insurance have received additional rate reductions.

As a result, the price of Michigan auto insurance, unlike that of almost any other commodity or service, has remained stable or decreased. In most companies rates have not increased since early 1973, for many not since 1971, and some have decreased rates during that period.

The present rates are based on loss experience under the fault system, adjusted to the probable effect of no-fault in the best judgment of the companies, pending the acquiring of adequate actual no-fault experience.

During the past year loss experience generally has improved, but this has had little to do with no-fault. Primarily it has resulted from the sustained decrease in accidents, injuries and deaths produced by the changed driving habits inspired by the energy problem.

Now the effect of the accident decrease is being offset by the sharpest inflation in recent times in the cost of everything which auto insurance pays for. Two graphs depicting the relationship of auto insurance price to those costs are attached. They are based on national figures but are essentially true of Michigan. In the period since last July, where these conclude, doctor's fees have jumped to an annual rate of increase of 19 per cent and hospital charges to an 18 per cent rate. The cost of car repair parts has soared 28 per cent and new car price increases have raised replacement costs some $500 on 1974 models and a like amount for 1975s.

Because of the conflicting factors in the basic cost trend and the threat of staggering double payments and a flood of pain and suffering suits, it is impossible for insurers to predict at this time what the effect may be on the future of auto insurance price. The loss improvement of the past year could easily be removed quickly by the inflation trend alone, and would be wiped out many times over by an adverse answer to either of the legal uncertainties.

CONCLUSIONS

The improvement which the no-fault principle has created in compensating the injured overshadows the conditions which are plaguing it and deserves to be protected by resolving them.

The property damage liability situation should be carefully reviewed to determine how best to relieve those whom it has distressed and to prevent the erosion of confidence in the no-fault principle.

There is nothing you can do, of course, about the constitutionality question, but it is important that you be aware of and understand the threat which it poses to the economics of no-fault protection.

If the "serious impairment" language does become an open invitation to frivolous lawsuits instead of a protection against them we strongly believe that you should reconsider this section of the law.

The people of Michigan now have a tremendously broader and more effective auto injury loss protection at no greater price than the former system and at lesser price for many. Under the conditions it is not possible to predict whether the economics of this change will improve or worsen. If there are savings, the Michigan companies and others are pledged to pass them on to their insured motorists. If the costs increase, we will have no choice but to pass them on also.

Respectfully submitted,

WILLIAM P. JAMIESON,
President, Michigan Association of Insurance Companies.

By Mr. METCALF (for himself and Mr. MANSFIELD):

S. 355. A bill to designate certain lands in the Gallatin and Beaverhead National Forests, in Montana, as wilderness. Referred to the Committee on Interior and Insular Affairs.

Mr. METCALF. Mr. President, I introduce for appropriate reference a bill by Senator MANSFIELD and myself to expand the Spanish Peaks Wilderness Area in the Gallatin and Beaverhead National Forests in Montana. This bill is identical to S. 1721 which we introduced in the 93d Congress.

We are all aware of the enormous pressures which the march of "civilization" is putting on our remaining wilderness. The Forest Service has made final formal recommendations to Congress under its Wilderness Act mandate. There are many more areas which should have been included. One of the more prominent of these is the expanded Spanish Peaks area in Montana.

The Forest Service has recommended inclusion of some 63,000 acres as a Spanish Peaks Wilderness. My bill would nearly double the area, adding land on all sides but principally in the Jack Creek area to the south. Past hearings conducted by the Subcommittee on Public Lands of the Senate Interior Committee have revealed overwhelming public support for the expanded area. Those hearings, conducted in Bozeman, Mont., solicited testimony from those who live closest to the proposed reserve and who know it best.

Mr. President, all the lands I wish to add to the Forest Service proposal are essentially unused rugged lands which belong naturally with the core area. Some private ownership is involved in the southern Jack Creek area, most of it by the Burlington Northern Railroad. Burlington Northern is an absentee owner, having acquired the land in a checkerboard pattern by trades for lands previously given the railroad through Federal subsidy. I continue to be hopeful that the company, which does not presently use the land, will be convinced that it could serve a high public good without prejudicing the company's vital interests. Having traded once for the property, it could certainly negotiate another swap with the Forest Service.

Mr. President, I ask unanimous consent that the proposed legislation be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1132(c)), the following described lands in the Gallatin and Beaverhead National Forests, Montana, comprising about one hundred thirteen thousand one hundred and two acres and depicted on a map entitled "Spanish Peaks Wilderness", dated May 1971, are hereby designated as wilderness:

Beginning at the northeast section corner, section 32, township 4 south, range 4 east, M.P.M.; thence south along section lines approximately 1 mile to the southeast section corner, section 32, township 4 south, range 4 east; thence east along the township line approximately ½ mile to the north quarter section corner, section 4, township 5 south, range 4 east; thence south approximately 2 miles to the south quarter section corner, section 9; thence southeasterly approximately 3½ miles to the east quarter section corner, section 26; thence south along section lines approximately 1 mile to the east quarter section corner, section 35; thence west approximately ½ mile to the center section 35; thence south approximately ½ mile to the south quarter section corner section 35, all in township south, range 4 east;

Thence east approximately ½ mile to the northeast section corner section 2, township 6 south, range 4 east; thence south along section lines approximately 2 miles to the northeast section corner, section 14; thence southwesterly approximately 3½ miles to the center of section 28; thence south approximately ½ mile to the south quarter section corner, section 28; thence west along section lines approximately 2½ miles to the southwest section corner, section 30; thence north approximately 1 mile to the northwest section corner, section 30, all in township 6 south, range 4 east.

Thence west along section lines approximately 1 mile to the southwest section corner, section 24; thence north approximately ½ mile to the west quarter section corner, section 24; thence west approximately ½ mile to the center of section 23; thence north approximately ¼ mile; thence west approximately ½ mile to the sixteenth section corner, section 23; thence north along section line approximately ¼ mile to the northwest section corner section 23; thence north along section line approximately ¼ mile to the sixteenth section corner; thence west approximately ½ mile; thence north approximately ¼ mile to the center of section 15; thence west approximately ½ mile to the west quarter section corner, section 15; thence north along section lines approximately ½ mile to the northwest section corner, section 15; thence west approximately ½ mile to the south quarter section corner, section 9; thence north approximately ½ mile to the center of section 9; thence west approximately ½ mile to the west quarter section corner, section 9; thence north approximately 1 mile; thence west approximately 1 mile; thence south approximately 1 mile to the west quarter section corner, section 8; thence west approximately ¼ mile to the Madison-Gallatin divide; thence southerly along said divide approximately ½ mile to the intersection of the section line common to sections 7 and 18; thence west along section lines approximately ¾ mile to the northwest section corner section 18; thence south along section lines approximately 1¼ miles to the intersection of the Madison-Gallatin divide, all in township 6 south, range 3 east.

Thence southwesterly along the Madison-Gallatin divide approximately 2¾ miles to Lone Mountain in the southwest quarter of section 26; thence northwesterly along spur ridges approximately 4 miles to Fan Mountain in the center of section 19, all in township 6 south, range 2 east.

Thence northwesterly along spur ridges approximately 2¼ miles to the northwest section corner, section 13; thence north along section line approximately 1 mile to the northwest section corner, section 12; thence west along section line approximately 1 mile to the southwest section corner, section 2; thence north along section line approximately 1 mile to the northwest section corner, section 2; thence east along section line approximately 1½ miles to the north quarter section corner, section 1; thence south approximately ¼ mile; thence east approximately ½ mile to the sixteenth section corner, section 1, all in township 6 south, range 1 east.

Thence approximately 1 mile east to the sixteenth section corner, section 6; thence north along section lines approximately ¼ mile to the northwest section corner, section 5; thence east along the township line approximately ½ mile to the north quarter section corner, section 5, all in township 6 south, range 2 east.

Thence north approximately ¾ mile; thence west approximately ½ mile to the sixteenth section corner, section 32; thence west approximately 1 mile to the sixteenth section corner, section 31, all in township 5 south, range 2 east.

Thence west approximately 2½ miles to intersection with the Beaverhead National Forest boundary in section 34; thence north along said boundary approximately 2¼ miles to the north quarter section corner, section 22; thence east along section lines approximately ½ mile to the northwest section corner, section 23; thence north along section lines approximately 1 mile to the southwest section corner, section 11; thence west along section lines approximately 1 mile to the southwest section corner, section 10; thence north along section lines approximately 1 mile to the northwest section corner, section 10; thence west along section lines, approximately 1 mile to the southwest section corner, section 4; thence north along section lines approximately 1 mile to the northwest section corner, section 4, all in township 5 south, range 1 east.

Thence north along section lines approximately 1 mile to the northwest section corner, section 33; thence east along section lines approximately 1½ miles to a point on the north section line of section 34 which is approximately ¼ mile west of the Madison-Gallatin divide; thence southeasterly approximately 1¾ miles through sections 34 and 35 approximately ¼ mile west of the

Madison-Gallatin divide to the south quarter section corner, section 35, all in township 4 south, range 1 east.

Thence southeasterly approximately 2½ miles through sections 2, 11 and 12, approximately ¼ mile west and south of the Madison-Gallatin divide to the sixteenth section corner on the east section line of section 12, all in township 5 south, range 1 east.

Thence northeasterly approximately ¼ mile crossing the Madison-Gallatin divide in the northwest quarter of section 7, township 5 south, range 2 east; thence northeasterly approximately 2 miles along the ridge dividing South Fork Cherry Creek and Alder Creek to the north quarter section corner, section 5, all in township 5 south, range 2 east.

Thence northeasterly approximately 2 miles along the ridge through sections 32 and 33 to the northeast section corner, section 33; thence east along section line approximately 3 miles to the northeast section corner, section 36, all in township 5 south, range 2 east.

Thence east along section lines approximately 1¾ miles to the sixteenth section corner, section 32; thence south approximately ¼ mile; thence east approximately ¼ mile to the sixteenth section corner on the east section line section 32; thence east approximately ¼ mile; thence north approximately ¼ mile to the sixteenth section corner, section 33, all in township 5 south, range 3 east.

Thence east along section line approximately 5¾ miles to the point of beginning.

SEC. 2. The wilderness area designated by or pursuant to this Act shall be known as the "Spanish Peaks Wilderness" and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

By Mr. THURMOND:

S. 356. A bill to require a health warning on the labels of bottles containing certain alcoholic beverages. Referred to the Committee on Commerce.

Mr. THURMOND. Mr. President, during the 92d and 93d Congress, I introduced a bill to amend section 5(e) of the Federal Alcohol Administration Act which would require a health warning on the labels of bottles containing alcoholic beverages. On both occasions, the bill was referred to the Senate Commerce Committee, and the full Senate did not act on the proposed legislation in either Congress.

Almost 4 years have passed since I originally introduced this bill, and during this time, the facts have verified that alcoholism is an ever-increasing problem that is destroying more and more lives with each passing day.

As a result, I am reintroducing this legislation today, and I urge my colleagues to give this bill very careful consideration and join me in supporting it.

Alcoholism is a disease that can strike at any social or economic level, and the result is tragic. No one really knows how many lives it has ruined, how many homes it has broken, or how many healthy people it has adversely affected. Perhaps as many as 10 million people in the last year alone have fallen prey to drinking problems that have touched their lives and the lives of countless others.

Mr. President, all of us are aware of the dangers of drinking and driving. The mixing of alcohol and automobiles has become a killer of major proportions, and it is high time that we warn drinkers of the hazards which result from the use of alcohol.

A health warning label for all bottles of alcoholic beverages containing more than 24 percent of alcohol by volume will be an effective method of informing the public of the dangers involved.

If such a warning label deters a potential alcoholic from taking his first drink or prevents a casual drinker who drives from having a "drink for the road," then the legislation will be effective and worthwhile.

Once again I am pleased that Senators DOLE and RANDOLPH join me as cosponsors of this legislation.

Mr. President, I request that this bill be appropriately referred and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 356

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(e) of the Federal Alcohol Administration Act (49 Stat. 982, as amended; 27 U.S.C. 205(e)), is amended by inserting the following new paragraph immediately before the last full paragraph of such section:

"It shall be unlawful to sell or ship or deliver for sale or shipment, or otherwise introduce in interstate commerce or foreign commerce, or receive therein, or to remove from customs custody for consumption, any bottle containing a beverage having more than 24 per centum of alcohol by volume, unless the label of such bottle contains the following statement: 'Caution: Consumption of alcoholic beverages may be hazardous to your health and my be habit forming.' Such statement shall be located in a conspicuous place on each label, and shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label.".

By Mr. BAYH:

S. 357. A bill to amend title II of the Social Security Act to increase to $4,800 the amount of outside earnings permitted each year without deductions from benefits thereunder. Referred to the Committee on Finance.

Mr. BAYH. Mr. President, I am stating only the obvious when I say that record inflation has had a disastrous impact upon our country's senior citizens. During this past year, I am sure nearly every Member of this body has spoken at some length regarding this subject. Contrary to what the President has proposed, it is time now to take action to ease the burden of older Americans, and one step we can take is to raise the earnings limitations for recipients of social security.

Mr. President, the central fact about social security is that, even with the increased benefits of recent years, it still does not provide enough income for retired people to live decently. Those who have no income other than their social security check live—strictly speaking—in poverty. In all too many cases welfare payments provide the only alternative to actual physical deprivation. And yet despite these undoubted facts, existing law makes it impossible for many older Americans to raise their standard of living to a comfortable level.

The obstacle here is the earnings limitation under title II of the Social Security Act. This provision now allows a beneficiary to earn $2,520 a year without reduction in benefits. Above that amount, however, he or she must sacrifice a dollar in benefits for every $2 earned. This means that a single person between the ages of 65 and 72 who is able and willing to hold down an even modestly paying full time job must give up every cent of the social security benefits to which a lifetime of work and as much as 35 years of paying into the trust fund entitle him.

This latter fact, Mr. President, leads me to an observation concerning the basic philosophical character of our social security system. At the insistence of President Franklin Roosevelt, the system was designed as a contributory insurance plan instead of simply—as some of his advisers urged—an old-age benefit paid out of general revenues. Mr. Roosevelt's point, which he made very explicit, was that if people paid insurance premiums into a special fund out of their own earnings, no future generation of politicians could ever take it away from them by labeling it a Government "handout."

In other words, because of the way the system was consciously designed by one of our greatest Presidents, social security benefits today are a matter of earned right, not Federal largess. It, therefore, seems to me not only mistaken but improper for anyone to try to claim that benefits are and ought to be conditional upon an agreement not to be gainfully employed. Social security was not designed to include a "means test." Its benefits are not predicated upon how much private income one might have. One does not have to plead poverty in order to qualify for a monthly social security check. For those who have paid into the system over these many years, the benefit is a matter of right.

Mr. President, that is the philosophy underlying the social security system. It is clear that an earnings limitation, which so weakens the automatic, rightful character of benefit payments, is inconsistent with that philosophy.

Furthermore, the earnings limitation penalizes only those social security recipients who earn wages or are self-employed. Pensions, no matter how large, are not counted in the limitation. Nor is interest and dividend income. The retired corporation executive can enjoy a pension of $50,000 a year and have investment income double that amount and still not lose one penny of social security. But the cabinetmaker or electrician who wants to continue his life's work and be paid for it may have to give up his entire social security check.

That is not fair. It is not sensible. It is not necessary.

Certainly, Mr. President, I do not begrudge the corporation executive the social security payment to which his own contributions entitle him. But I deeply resent the discrimination practiced against working people by a system that penalizes them for the fruits of their own labor.

There can be no doubt that, if we were designing a brand-new social security system today, most of us would want to eliminate the earnings limitations altogether. Proposals to do so are introduced in every session of Congress. In practical terms, however, given the existing structure of social security financing, complete elimination of the earnings ceiling would, in my judgment, be too costly to be absorbed all at once. I, therefore, propose a very substantial increase—nearly doubling the present amount of exempt earnings—with a view to complete elimination as soon as it is fiscally responsible to do so.

The bill I introduced today, Mr. President, would permit earnings of $4,800 a year without loss of benefits. In monthly terms, the beneficiary could earn $400 a month, instead of the present $210 a month, before his check is reduced. Above $400 a month, benefits would be decreased $1 for every $2 earned.

This would still leave us with some distance to go down the road to full equity for our older citizens who can and want to continue working. But it is certainly a very long step in the right direction. By enacting it now we can renew our commitment to that ideal which lies at the heart of President Roosevelt's great dream. By enacting it now we can reaffirm our intention to move as rapidly as possible toward the goal of true justice for all Americans.

I ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 357

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (f) (3) of section 203 of the Social Security Act is amended by striking out "$200" and inserting in lieu thereof "$400".

(b) Subsection (f) (1), (f) (4) (B), and (h) (1) (A) of such section 203 are each amended by striking out "$200" and inserting in lieu thereof "$400".

Sec. 2. The amendments made by the first section of this Act shall be effective with respect to taxable years ending after December 31, 1974.

By Mr. THURMOND (for himself, Mr. Curtis, Mr. Fannin, Mr. Goldwater, Mr. Hansen, Mr. Helms, Mr. Hollings, Mr. McClure, Mr. William L. Scott, and Mr. Tower):

S. 358. A bill to amend the Food Stamp Act of 1964 in order to prohibit the distribution of food stamps to any household where the head of the household is engaged in a labor strike. Referred to the Committee on Agriculture and Forestry.

Mr. THURMOND. Mr. President, on November 17, 1970, January 26, 1971, and again on January 16, 1973, I introduced a bill to amend the Food Stamp Act of 1964 in order to prohibit food stamp distribution to a household where the head of that household is engaged in a labor strike.

This bill has been referred to the Committee on Agriculture and Forestry, but unfortunately not been reported to the full Senate. I am introducing this bill again today with the hope that it will receive favorable action in the near future.

Mr. President, I do not believe that a majority of our people are aware that striking workers can receive food stamps. When our taxpayers realize this fact, they are outraged because their tax dollars are being used to intervene in a labor dispute.

A strike is a tactic used by one side in a labor dispute. Those going on strike do so in the belief that it will strengthen their position at the negotiating table. By going on strike, they take the risk of loss of salary and other benefits which they receive while they are working. If the Federal Government provides food stamps to these people who voluntary walk off their jobs, it injects itself into the dispute on the side of labor. This is not fair. It is not fair to the other side of the bargaining table and, most of all, it is not fair to the American taxpayer who must bear the cost of the food stamp program.

Mr. President, the country now faces a serious unemployment problem. There are many people who wish to work, but are unable to find employment. It is inconceivable that in this situation, the Federal Government would give aid to those who are employed, but choose to go on strike. To do so is to corrupt the purpose of the food stamp program, which is to assist those who are in need and cannot support themselves and their families. Our tax dollars should not be spent on food stamps for those who voluntarily refuse to work, but should be used to help those who are genuinely in need.

The time has come to reevaluate our priorities in regard to the food stamp program. I hope this bill will receive prompt and favorable consideration.

Mr. President, I request that this bill be appropriately referred and ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 358

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of subsection (c) of section 5 of the Food Stamp Act of 1964, as amended (7 U.S.C. 2013), is amended to read as follows: "Refusal to work at a plant or site subject to a lockout for the duration of such lockout shall not be deemed to be a refusal to accept employment.

Sec. 2. Section 5 of the Food Stamp Act of 1964, as amended, is further amended by adding at the end thereof a new subsection as follows:

"(d) Notwithstanding any other provision of this Act, no household shall be eligible to patricipate in the food stamp program if the head of the household is on strike against his employer as the result of a labor dispute, except where such household was eligible for participation in such program prior to the time the head of the household went on strike against his employer. The provisions of the subsection shall not apply in any case in which the head of a household is not working because of an employer lockout. As used in this subsection the term 'head of the household' means the member of any household who provides over one-half of the support for the household."

By Mr. THURMOND:

S. 359. A bill to amend the Fair Labor Standards Act of 1938, with respect to exemptions for babysitters, and for other purposes. Referred to the Committee on Labor and Public Welfare.

S. 360. A bill to amend the Fair Labor Standards Act of 1938, with respect to an exemption for certain employees who are babysitters, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. THURMOND. Mr. President, in May of 1974 I introduced two bills which would have exempted certain babysitters from the provisions of the minimum wage law. I now reintroduce these bills, and I hope they will receive prompt consideration.

The wage and hour law which went into effect May 1, 1974, extended minimum wage coverage to domestic labor for the first time. Although I felt this extension was unwise, the measure is now law. However, the coverage of babysitters under this law has produced unforeseen, unintended, and disastrous effects.

Mr. President, throughout our country, there are countless families in which both the husband and wife both must work in order to make ends meet. This is becoming increasingly true in these times of economic uncertainty. Many of these families, especially younger ones, have small children who cannot be left home alone, but must be cared for during working hours. If a daycare center is not available, which is often the case, the only solution is a babysitter.

Before the new minimum wage law became effective, this presented no particular problem, as there was a fairly generous supply of babysitters. Typically, these were older women who, for various reasons, were unable to perform other types of employment, but were quite willing to come to a residence and care for a young child or children. Their duties were relatively light and consisted of such things as changing diapers, preparing meals, and otherwise meeting the child's needs. Although these duties were important and certainly necessary, it was the nonstrenuous nature of such duties that enabled these women to perform them. While caring for the child, these babysitters could enjoy the television, radio, and other household conveniences. In most cases, they neither asked for nor received the minimum wage. They were happy to get the work, and the working mothers were pleased and relieved to have them in their home.

The new minimum wage law has upset this pleasant situation. While in theory, the babysitters would make more money and thereby enjoy a higher standard of living; in reality, however, this has not been the case.

Mr. President, many working families cannot allocate a sufficient portion of their budget to paying their babysitters the minimum wage. As a result, many working mothers are quitting their jobs in order to stay at home with their children. Consequently, their babysitters, who would rather be paid less than the minimum wage than not work at all, are finding themselves unemployed.

Mr. President, it is an irrefutable fact that the cost of living differs in various parts of our country, and different workers, accordingly, earn different wages. It is much cheaper to live in a small town in South Carolina than in New York City, and this is reflected in the respective wages paid. Many workers have reasonably concluded that it is not practical for them to work and have to pay almost their entire salary to a babysitter. Instead, they are quitting their jobs, staying at home, and the babysitters are losing their jobs. The immediate effect is unemployment; the long-range effect is a loss of tax revenue and an increase in welfare recipients.

I do not feel this is what the Congress had in mind when it passed this law. However, unless something is done to rectify the situation, the consequences of increased unemployment and further additions to the welfare rolls are inevitable. Therefore, I am reintroducing two bills, either of which I feel will provide the necessary relief.

The first measure would simply exempt all babysitters from the coverage of the minimum wage law. This would be a guaranteed solution to the present problem. I wish to point out, however, that it would have absolutely no effect on other domestic employees such as cooks, butlers, valets, maids, housekeepers, governesses, janitors, laundresses, caretakers, handymen, gardeners, footmen, grooms, and chauffeurs.

The second bill is offered as an alternative to the first. It is not as broad as the first bill, as it would provide relief only in the most severe cases. It would exempt from the coverage of the minimum wage law, only those babysitters who are employed by a person who is, in turn, employed substantially full time and is paid less than twice the minimum wage. Under this bill, a working mother making more than $4 an hour would still have to pay her babysitter the minimum wage. If the babysitter also performed household duties such as washing clothes or cleaning the house to such an extent as to be classified as a "maid" or other type of domestic employee under the law, then he or she would still be entitled to receive the minimum wage. Under this second bill, the only working mothers who would obtain relief are those who are paid low wages themselves.

Both bills offer relief to all those persons who are able to perform babysitting duties, but may be otherwise unemployable. Although they may receive less than $2 an hour, they would still have a job and be drawing a salary.

Mr. President, I emphasize that I am not attempting to "preserve a cheap labor force" or "deny dignity" to any segment of our society. My only purpose is to remove an insurmountable hardship on a very limited group of persons: low-paid working mothers and their babysitters, generally unemployable in other capacities, who take care of their children.

My proposals would not undercut the effectiveness or intent of the new minimum wage law. The provisions of this law would still apply to the vast majority of domestics.

Mr. President, I merely ask my colleagues to correct what seems to have been an oversight. If the purpose of the minimum wage law is to eliminate one inequity, it should not begin by creating another.

Mr. President, I request that these bills be appropriately referred and ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 359

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 13(a)(15) of the Fair Labor Standards Act of 1938 is amended by striking out "on a casual basis".

(b) The amendment made by this Act shall take effect ten days after the date of its enactment.

S. 360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13(a) of the Fair Labor Standards Act of 1938 is amended by striking out the period at the end of paragraph (15) of such section and inserting in lieu thereof a semicolon and the word "or", and by adding at the end thereof the following new paragraph:

"(16) any employee employed in domestic service to provide babysitting services if employed by an employer—

"(A) who is employed substantially full time; and

"(B) who is not paid wages for that employment in excess of 200 per centum of the wage rate in effect under section 6(b)."

By Mr. THURMOND:

S. 361. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder. Referred to the Committee on Finance.

Mr. THURMOND. Mr. President, I am introducing today a bill which would remove from title II of the Social Security Act the limitation upon the amount of outside income which an individual may earn while receiving social security benefits.

Under the present law, social security recipients under the age of 72 who earn in excess of $2,520 per year have the benefits reduced $1 for every $2 earned over the $2,520 minimum. This is the so-called earnings test.

Mr. President, there is no question as to the impact of this limitation. Many older persons are pressured into not working for fear of losing their benefits. As a result, an untold amount of valuable skills acquired through many years of hard, honest work are totally lost to our country.

Such a limitation is in direct contradiction of a fact widely accepted by the Federal Government, gerontologists, and others concerned with the health of the elderly. That fact is that the hiring and retention of older workers in all aspects of the economy is very "good medicine" for the elderly. It should be encouraged in every way possible, and removing this limitation is one way to accomplish this objective.

Mr. President, in my opinion, this aspect of the social security program is extremely inequitable. Investment income is not recognized when determining whether an individual's social security shall be reduced. This allows a wealthy man who received thousands of dollars a year in interest income to collect his full social security benefits. However, an average man who never had the time, much less the money, to enter the world of investments, and who might need to continue working in order to insure the economic survival of himself and his family, cannot work without being subject to this penalty. This is simply not right.

It is said that removal of the earnings limitation will be too costly. In my opinion, this begs the question. The people who receive social security are the same citizens who have worked hard all their lives for their salaries. They have not been on the welfare rolls. These people are the backbone of America—they are the men and women who believe in America and have quietly and loyally contributed their fair share to the social security program all their lives. To deny them the fruits of their labors now, when they need it most, is not only illogical, but unjust.

Mr. President, let us remove this obstacle which stands in the way of thousands of our senior citizens who want to work. Work produces income and income produces tax revenue. Work contributes to the good health of our senior citizens who have many valuable skills to contribute to this country. Removal of the earnings limitation is an equitable and reasonable step.

Mr. President, I urge my colleagues to carefully consider this measure, and to join me in this effort to bring meaningful reform to the social security system. Mr. President, I request that this bill be appropriately referred, and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 361

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsections (b), (d), (f), (h), (j), and (k) of section 203 of the Social Security Act are repealed.

SEC. 2. (a) Subsection (c) of section 203 of the Social Security Act is redesignated as subsection (b); and such subsection as so redesignated is amended—

(1) by striking out "Noncovered Work Outside the United States or" in the heading;

(2) by striking out paragraph (1);

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(4) by striking out "For purposes of paragraphs (2), (3), and (4)" and inserting in

lieu thereof "For purposes of paragraphs (1), (2), and (3)"; and

(5) by striking out the last sentence.

(b) Subsection (e) of such section 203 is redesignated as subsection (c); and such subsection as so redesignated is amended by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsection (b)".

(c) Subsection (g) of such section 203 is redesignated as subsection (d); and such subsection as so redesignated is amended by striking out "subsection (c)" each place it appears and inserting in lieu thereof "subsection (b)".

(d) Subsection (i) of such section 203 is redesignated as subsection (e); and such subsection as so redesignated is amended by striking out "subsection(b), (c), (g), or (h)" and inserting in lieu thereof "subsection (b) or (d)".

(e) Subsection (l) of such section 203 is redesignated as subsection (f); and such subsection as so redesignated is amended by striking out "subsection (g) or (h) (1) (A)" and inserting in lieu thereof "subsection (d)".

SEC. 3. (a) Section 202 (n) (1) of the Social Security Act is amended by striking out "Section 203 (b), (c), and (d)" and inserting in lieu thereof "Section 203 (b)".

(b) (1) Section 202 (q) (5) (B) of such Act is amended by striking 202 (q) (5) (B) of such Act is amended by striking out "section 203 (c) (2)" and inserting in lieu thereof "section 203 (b) (1)".

(2) Section 202 (q) (7) (A) of such Act is amended by striking out "deductions under section 203 (b), 203 (c) (1), 203 (d) (1), or 222 (b)" and inserting in lieu thereof "deductions on account of work under section 203 or deductions under section 222(b)".

(c) (1) Section 202 (s) (1) of such Act is amended by striking out "paragraphs (2), (3), and (4) of section 203 (c)" and inserting in lieu thereof "paragraphs (1), (2), and (3) of section 203 (b)".

(2) Section 202 (s) (3) of such Act is amended by striking out "the last sentence of subsection (c) of section 203, subsection (f)(1)(C) of section 203.".

(d) Section 202(t) (7) of such Act is amended by striking out "Subsections (b), (c), and (d)" and inserting in lieu thereof "Subsection (b)".

(e) Section 208 (a) (3) of such Act is amended by striking out "under section 203 (f) of this title for purposes of deductions from benefits" and inserting in lieu thereof "under section 203 for purposes of deductions from benefits on account of work".

(f) Section 215 (g) of such Act is amended by striking out "and deductions under section 203 (b)".

(g) Section 3(e) of the Railroad Retirement Act of 1937 is amended by striking out "under subsections (g) and (h) (2) of section 203 of the Social Security Act" and inserting in lieu thereof "under subsection (d) of section 203 of the Social Security Act".

(h) Section 5 (i) (1) of the Railroad Retirement Act of 1937 is amended by inserting "or" after the semicolon at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

SEC. 4. The amendments made by this Act shall be effective with respect to taxable years ending on or after December 31, 1974.

By Mr. BAYH:

S. 362. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to discharge obligations under the Convention on Psychotrophic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances in order to curb illicit international traffic and abuse of such dangerous drugs, and for other purposes. Referred to the Committee on the Judiciary.

INTERNATIONAL PSYCHOTROPIC SUBSTANCES ACT OF 1975

Mr. BAYH. Mr. President, I am introducing today the International Psychotropic Substances Act of 1975, which is designed to permit the United States to comply with the provisions of the Convention on Psychotropic Substances signed at Vienna on February 21, 1971, which is now pending before the Senate Foreign Relations Committee. I ask that this bill which amends the Controlled Substances Act of 1970 be appropriately referred.

The Convention on Psychotropic Substances: the halluminogens—such as to the Senate, for its advice and consent to ratification. This Convention has as its purpose the international control of substances that are not included under any of the existing mutilateral opium and other narcotic drug treaties. The Convention governs the so-called psychotropic—or mind-altering—substances: the hallucinogens—such as LSD and mescaline—the amphetamines, the barbiturates, and the tranquilizers. The Convention will come into force 90 days after 40 countries have ratified it.

The aim of the Convention is to limit to medical and scientific purposes the manufacture, distribution and use of psychotropic substances. The structure of the Convention is similar to that of the Comprehensive Drug Abuse Prevention and Control Act of 1970. It lists 32 substances in four schedules depending on the extent of their abuse, their potential for abuse and their therapeutic usefulness. The Convention contains a procedure for adding new substances to schedules, moving them among schedules and deleting them from the schedules. Like the Comprehensive Drug Abuse Prevention and Control Act, the Convention provides gradations of controls, with the most stringent controls applied to Schedule I substances—such as LSD, mescaline and the tetrahydrocannabinols—and lesser restrictions on substances in schedules II, III, and IV. Most of the control provisions are similar to the control of narcotic drugs by other treaties, such as the Single Convention on Narcotic Drugs, 1961.

The specific control measures which the Convention requires each Party to implement are largely satisfied by the provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and the Food, Drug, and Cosmetic Act. For example, under the Convention, each Party must license manufacturers and distributors of psychotropic substances; sections 301 and 304 of the 1970 act provide for registration of these persons. Each party must restrict the use of schedule I—hallucinogenic—substances to scientific and very limited medical purposes; section 303 of the Controlled Substances Act—title II of the Comprehensive Act—limits access to such substances to qualified researchers. Psychotropic substances must be dispensed only upon a physician's prescription; all are subject to prescription requirements under the Federal Food, Drug, and Cosmetic Act. Each Party must require all handlers of psychotropic substances to keep records of all drugs manufactured, distributed or dispensed; section 307 of the act already imposes such recordkeeping requirements. Importation and exportation of psychotropic substances must be controlled in a manner similar to the requirements imposed by the Controlled Substances Import and Export Act, which is title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

In addition to controlling domestic commercial and medical activity, parties must make certain reports to the International Narcotic Control Board, take actions against illicit traffic and apply penal provisions, and where possible, establish programs of drug abuse prevention, treatment, and rehabilitation.

Although the Controlled Substances Act and the Controlled Substances Import and Export Act provide most of the mechanisms to fulfill U.S. obligations under the Convention on Psychotropic Substances, new legislation will be required to satisfy all commitments under the Convention.

In 1971 legislation was introduced on behalf of the administration to accomplish similar purposes. That bill, however, was the subject of considerable controversy. Representatives of the Committee on Effective Drug Abuse Legislation, the American College of Neuro-Psychopharmacology, the American Psychiatric Association, the American Medical Association, and our distinguished former colleague from Iowa, Senator Hughes expressed concern that the enabling legislation failed to adequately protect the confidentiality of patient records; that it failed to adequately protect a private practitioner's right to carry on research with psychotropic substances; that it failed to designate who would determine the application of phrases—in the Convention—like sound medical practice and very limited medical and scientific purposes, and most importantly that it failed to provide an affirmative policymaking role for heath and scientific professionals to balance any restrictions on their role imposed by the Convention.

My bill, as did a nearly identical measure I introduced in April 1973, S. 1646, addresses these important concerns. It was developed to facilitate ratification of the Convention on Psychotropic Substances under circumstances that would adequately protect the confidentiality of patient records, the rights of drug researchers, and guarantee an affirmative role for health and scientific professionals in the drug control decisionmaking process.

Mr. President, during my 4 years as chairman of the Subcommittee to Investigate Juvenile Delinquency, I have conducted an intensive investigation into the diversion and abuse of legitimately produced narcotic and nonnarcotic dangerous drugs. We have made considerable progress during these years. We have obtained a drastic, but necessary, reduction in amphetamine production. We had found that by 1971 nearly 50 percent of the amphetamine produced in the United States was reaching illicit markets and thus our streets and schools. The 1973 quota, based on legitimate scientific and medical needs represents a 92-percent reduction over 1971 levels. We have secured more appropriate control over the production and distribution, including export, of other drugs with high abuse potential, including the barbiturates and methaqualone. In short, these and similar important steps have effectively reduced illicit traffic and domestic clandestine manufacture of controlled drugs.

These measures, however, do not fully assist law enforcement agency efforts to curb illicit traffic of controlled drugs which are not domestic products. During the subcommittee's national investigation of barbiturate traffic and abuse we learned that as with the amphetamines, a significant portion of the barbiturates seized were from Mexico. These so-called Mexican Reds—capsules containing legitimately produced barbiturates, but illicitly repackaged—were unlike the "Mexican" amphetamine which had in former years been of American origins containing barbiturates of legitimate West European origin.

Likewise, during our March 28, 29 and April 16, 1973, hearings on methaqualone, several witnesses indicated that legitimately produced foreign methaqualone was being illegally imported into the United States for sale in the black market and that counterfeit methaqualone was being produced in Canada and Mexico for illicit sale in the United States.

Similar extensive illegal barbiturate and amphetamine operations involving west European purchases of legitimately produced drugs and trans-shipment through Mexico to the United States were revealed at our subcommittee hearing last year on my bill, S. 1646, the International Psychotropic Substances Act of 1973 and S. 2544, introduced by Senator Hruska on behalf of the administration on October 8, 1973. One illicit Mexican operation alone was responsible for the repackaging of many millions of amphetamines eventually sold illegally in at least 14 States in this country.

Last fall in a related development the Drug Enforcement Administration arrested more than 100 individuals in 10 major cities throughout the United States and Mexico and smashed a wide ranging syndicate that had been responsible for smuggling annually more than 3 billion illicit amphetamine tablets into this country. This amounts to nearly 20 times the amphetamine production permitted in this country under the production controls and represents a value of between $1.6 and $2 billion annually on the illicit market.

These and other similar cases—see subcommittee hearing volume "Psychotropic Substances Act," 1974—underscore the need for international controls which will assist the international law enforcement effort to curb the diversion of legitimately produced drugs to illicit markets around the world.

But regardless of the success of our efforts to impose domestic controls on these and other psychotropic substances, the absence of international cooperation and regulation could result in a failure to reduce the illicit availability of dangerous psychotropic substances here at home.

The diversion and abuse of legitimately produced dangerous drugs into channels other than legitimate medical, scientific, and industrial channels should be a primary concern for all citizens. Even if the war on heroin addiction had in fact been won, the epidemic of drug abuse which plagues American society would not be vanquished; for the source of supply for growing legions of addicts and abusers—polydrug abusers who outnumber heroin addicts 17 to 1—is at its origin a legitimate one.

This measure had been carefully studied by the subcommittee staff who have worked closely with representatives of the Departments of State, Justice, and Health, Education, and Welfare as well as many other interested and well qualified individuals and organizations, including the PMA—Pharmaceutical Manufacturers Association—which endorsed the bill.

I intend to give the highest priority to this legislation, which is designed to stop the international criminal diversion of billions of pep pills, sleeping pills and other dangerous drugs, and will do whatever is necessary to bring this measure to the floor as quickly as possible. It is not a panacea, but it is my belief that it will not only help us solve our problem here at home, but will also be of assistance to other nations, whose legitimate production when diverted to illicit markets can wreak havoc in their countries as well as ours.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill, together with the bill be printed at this point in the Record.

There being no objection, the analysis and bill were ordered to be printed in the Record, as follows:

Section-by-Section Analysis of the International Psychotropic Substances Act of 1975

Section 1. This section contains a short title to reflect the amending of the Comprehensive Drug Abuse Prevention and Control Act of 1970.

Section 2 of the bill contains findings and declarations by Congress that (1) there is a need for international collaboration to effectively control psychotropic substances; (2) there is a need for legislation to implement United States obligations under the Convention; and (3) implementation must be accomplished within the framework of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91–513).

Section 3. This section amends section 201 of the Controlled Substances Act (21 U.S.C. 811) to authorize and direct the Attorney General and the Secretary of Health, Education, and Welfare to take steps relative to international controls proposed under the Convention and to prescribe applicable controls on psychotropic substances which are required by United States obligations under the Convention.

Paragraph (3) (A) of section 3 provides that whenever notice is received that the World Health Organization is considering a drug or substance for control under the Convention, the Secretary of Health, Education, and Welfare shall be authorized to comment on the matter to the World Health Organization.

Paragraph (3) (B) of section 3 specifies that in all matters relating to a decision to control a drug or substance by the United Nations Commission on Narcotic Drugs, the recommendations of the Secretary of Health, Education, and Welfare shall be binding on the United States representative, and if the Secretary recommends that a drug or substance should not be controlled in the manner proposed, the United States representative shall vote against such control.

Section 3 also provides that regardless of the outcome of the nation's internal efforts to require control certain minimum national controls must be imposed by the Attorney General, after consultation with the Secretary, once the Commission has notified members of its decision and after all appellate procedures have been exhausted. It permits the Attorney General to withhold any controls under the law which he does not find required by American obligations under the Convention on Psychotropic Substances. This section provides that determination of the definition of 'medical and scientific purposes' and of 'very limited medical purposes' in the Convention resides in the Secretary and that the Attorney General must obtain the written concurrence of the Secretary prior to seeking a review of a Commission decision and that the Secretary's decision shall be guided by the factors referred to in subsection 201(b) of the Act.

Section 4. This section amends section 202 (d) of the Controlled Substances Act to create an additional condition to be satisfied before a psychotropic substance contained in a combination product could be expected, namely that such exception does not conflict with United States obligations under the Convention.

Section 5. This section amends section 306 of the Controlled Substances Act by providing new authority to the Attorney General to gather information regarding the quantities of materials used in the manufacture of substances either not listed or listed in a schedule but excepted from controls and the stocks of these substances held by manufacturers. This section makes certain that the Attorney General can obtain all data necessary to prepare the United States Reports to the Commission on Narcotic Drugs under the Convention.

Section 6. This section amends section 301 of the Controlled Substances Act by requiring the Attorney General to consult with the Secretary before rules and regulations relating to the dispensing of controlled substances are issued.

Section 7. This section amends section 303 (f) of the Controlled Substances Act by providing that the Convention shall not be construed to prohibit research with substances scheduled under the Convention.

Section 8. This section amends section 306 of the Controlled Substances Act by providing that the Attorney General consult with the Secretary regarding the legitimate needs and reserve stocks required for these needs prior to the establishment of production quotas.

Section 9. This section amends section 307 of the Controlled Substances Act by providing that the Convention shall not be construed to modify current recordskeeping requirements under the Act.

Section 10. This section amends Part C of the Controlled Substances Act by adding a new section which authorizes the Attorney General, after consultation with the Secretary, to issue regulations restricting the advertising of psychotropic substances. This section is necessary to comply with Article 10 of the Convention which requires each Party to prohibit, with due regard to the Party's constitutional provisions, the advertisement of psychotropic substances to the general public.

Section 11. This section amends section 402 of the Controlled Substances Act by establishing civil and criminal penalties for violations of the restrictions on advertising.

Section 12. This section amends section 309 of the Controlled Substances Act by providing that prescription controls provided for in Article 9 of the Convention are issued in accordance with sound medical practice as determined by the Secretary, after consultation with the Attorney General.

Section 13. This section amends section 1002 of the Controlled Substances Import and Export Act to permit the Attorney General to comply with Convention requirements that obligates each Party to require prior government authorization for importation of any substance listed in schedule I or II of the Convention. This section permits the Attorney General to impose the import controls on any domestic schedule III, IV or V substances (although schedule I or II under the Convention) without rescheduling the substance and thereby subjecting it to other unnecessary controls.

Section 14. This section amends section 1003 of the Controlled Substances Import and Export Act to permit the Attorney General to comply with Convention requirements that obligates each Party to require prior government authorization for exportation of any substance listed in schedule I or II of the Convention. This section permits the Attorney General to impose the export controls on any domestic schedule III, IV or V substances (although schedule I or II under the Convention) without rescheduling the substance and thereby subjecting it to other unnecessary controls.

Section 15. This section amends section 3 (a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (PL 91-513) by providing that the provisions of the Convention on Psychotropic Substances shall not prevent the protection of the confidentiality of names and identities of research subjects and shall not modify accepted medical practice or research activities regarding psychotropic substances.

Section 16. This section amends section 502 of the Controlled Substances Act (21 U.S.C. 872) by providing that the Convention on Psychotropic Substances shall not be construed as imposing any prohibitions or further restrictions on research involving psychotropic substances, which complies with the registration and other applicable requirements provided in the Controlled Substances Act.

Section 17. This section amends the Controlled Substances Act (21 U.S.C. 841) by providing that the Convention on Psychotropic Substances shall not be construed to require punishment for conduct involving narcotic drugs or psychotropic substances or to limit or forbid treatment alternatives to arrest, prosecution and conviction for such conduct.

Section 18. This section amends section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (PL 91-513) by providing a clarification of the relative role of the Attorney General and Secretary regarding the medical treatment of narcotic addiction.

Section 19. This section amends Federal law to provide that nothing in the Convention on Psychotropic Substances shall be interpreted to prevent drug price communications to consumers.

Section 20. This section establishes the effective date as the date on which the Convention comes into force in respect to the United States.

S. 362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the International Psychotropic Substances Act of 1975".

SEC. 2. The Congress makes the following findings and declarations:

(1) The Congress has long recognized the danger involved in the manufacture, distribution, and use of certain psychotropic substances (such as amphetamines, barbiturates and tranquilizers) for nonscientific and nonmedical purposes, and has provided strong and effective legislation to control illicit trafficking and to regulate legitimate uses of psychotropic substances in this country. Abuse and illicit trafficking of psychotropic substances has become a phenomenon common to many countries, however, and is not confined to national borders. It is, therefore, essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances as well.

(2) The United States has joined with other countries in executing an international treaty entitled the "Convention on Psychotropic Substances", signed at Vienna, February 21, 1971, which is designed to establish suitable controls over manufacture, distribution, transfer, and use of certain psychotropic substances. The convention is not self-executing, and the obligations of the United States thereunder must be performed pursuant to appropriate legislation. It is the intent of Congress that the provisions of this Act will satisfy all obligations of the United States under the convention not already met by existing law and that no further legislation is necessary.

(3) In implementing the Convention on Psychotropic Substances, the Congress is desirous that control of psychotropic substances in the United States should be accomplished within the framework of the procedures and criteria for classification of substances provided in the Comprehensive Drug Abuse Prevention and Control Act of 1970, consistent with the obligations of the United States under the convention. This will insure that (a) availability of psychotropic substances to manufacturers, distributors, dispensers, and researchers for useful and legitimate medical and scientific purposes shall not be unduly restricted; (b) nothing in the convention shall interfere with bona fide research activities; and (c) nothing in the convention shall interfere with ethical medical practice in this country, based on the consensus of the American medical and scientific community as reflected in recommendations of the Secretary of Health, Education, and Welfare.

SEC. 3. Subsection (d) of section 201 of the Controlled Substances Act (21 U.S.C. 811(d)) is amended by adding "(1)" after "(d)" and inserting the following new paragraphs at the end thereof:

"(2) If control is required by United States obligations under the original schedules of the Convention on Psychotropic Substances, signed at Vienna, February 21, 1971, after the convention comes into force, the Attorney General shall issue an order controlling the drug or other substance under the least restrictive schedule meeting such obligations, without regard to the findings required by subsection (a) of this section or section 202 (b) and without regard to the procedures prescribed by subsections (a) and (b) of this section.

"(3) (A) Whenever the Secretary of State receives notification from the Secretary General of the United Nations that information has been transmitted by or to the World Health Organization, pursuant to article 2 of the Convention on Psychotropic Substances, which may justify adding a drug or other substance to one of the schedules of the convention, transferring a drug or substance from one schedule to another, or deleting it from the schedules, the Secretary of State shall immediately transmit the notice to the Secretary. The Secretary shall prepare for transmission through the Secretary of State to the World Health Organization such medical and scientific evaluations as may be appropriate regarding the possible action that could be proposed by the World Health Organization.

"(B) Whenever the Secretary of State receives notification pursuant to article 2 of the Convention on Psychotropic Substances that the Commission on Narcotic Drugs of the United Nations is to decide whether to add a drug or other substance to one of the schedules of the convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State shall transmit timely notice to the Secretary. The Secretary shall evaluate the proposal and furnish a recommendation to the Secretary of State. In making his recommendation the Secretary shall consider the factors listed in paragraphs (2), (3), (6), (7), and (8) of subsection (c) and any scientific or medical considerations involved in paragraphs (1), (4), and (5) of such subsection. The recommendations of the Secretary shall be binding on the United States delegation as to such scientific and medical matters, and if the Secretary recommends that a drug or other substance be controlled or removed from contol, the United States delegation vote shall be cast on the Commission accordingly.

"(C) When the United States receives notification pursuant to article 2 of the Convention on Psychotropic Substances that a drug or other substance has ben added or transferred to the schedule specified in the notification, the Attorney General shall, unless such drug or other substance is already subject to legal controls which meet the requirements of the schedule specified in the notification, initiate proceedings for control in accordance with subsections (a) and (b) of this section.

"(D) If the Attorney General determines, in view of exceptional circumstances, that the United States will not be in a position to give effect to all of the provisions of the Convention on Psychotropic Substances applicable to that drug or substance, he shall transmit notice of his determination and the reasons therefor to the Secretary of State for transmittal to the Secretary General of the United Nations within the time required by the convention. Concurrently with the transmittal of such notice, the Attorney General shall, unless the drug or substance is already controlled under this title or unless the proceedings for control are completed, issue an order, after consultation with the Secretary, controlling the drug or substance under a schedule IV or V, whichever is most appropriate to carry out the United States obligations under article 2, paragraph 7, of the convention, without regard to the findings required by subsection (a) of this section or section 202(b) and without regard to the procedures prescribed by subsections (a) and (b) of this section. As a part of such order, the Attorney General shall by regulation except such drug or substance from the application of any provisions of part C of this title which he finds is not required to carry out the United States obligations under article 2, paragraph 7, of the convention.

"(E) Upon completion of proceedings for control in accordance with subsections (a) and (b) of this section, the Attorney General shall issue a final order controlling the drug or substance under the appropriate schedule as determined by such proceedings: *Provided,* That if the Secretary recommends that such drug or substance not be controlled the Attorney General shall continue control of the drug or substance under schedule IV or V in accordance with paragraph (3)(C) of this subsection: *Provided further,* That the authority to determine the definition of 'medical and scientific purposes' and of 'very limited medical purposes' as required by article 5, section 2, and article 7 of the convention shall reside in the Secretary: *And provided further,* That the Secretary of State shall immediately request the United Nations Economic and Social Council to review the decision of the Commission. The Attorney General shall not request a review of a decision of the Commission without the concurrence in writing of the Secretary. The Secretary's decision to concur or not concur shall be guided by the factors referred to in subsection 201(b)."

"(F) Nothing in the Psychotropic Substance Act of 1973 or the regulations promulgated thereunder shall be construed to preclude requests by the Secretary or the Attorney General through the Secretary of State, pursuant to article 2 or other applicable provisions of the Convention on Psychotropic Substances, for review of scheduling decisions under such convention, based on new or additional information.".

SEC. 4. Subsection (d) of section 202 of the Controlled Substances Act (21 U.S.C. 812(d)) is amended by adding the following before the period at the end thereof: ", and (3) such exception does not conflict with United States obligations under the Convention on Psychotropic Substances, signed at Vienna, February 21, 1971".

SEC. 5. Subsection (d) of section 307 of the Controlled Substances Act (21 U.S.C. 827(d)) is amended by adding "(1)" after "(d)" the first time it appears, and adding the following at the end of the subsection:

"(2) Every manufacturer registered under section 303 shall, at such time or times and in such form as the Attorney General may require, make periodic reports to the Attorney General with respect to non-narcotic-controlled substances which are psychotropic substances subject to the Convention on Psychotropic Substances, signed in Vienna, February 21, 1971. These reports shall include the quantities used in the manufacture of substances either not listed in any schedule or listed in a schedule but excepted from certain controls under section 201(d)(3)(B) or section 202(d), and the stocks of these controlled substances held by the manufacturer."

SEC. 6. Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by adding after the initial sentence the following new sentence: "The Attorney General shall consult with the Secretary before rules and regulations relating to the dispensing of controlled substances are issued."

SEC. 7. Subsection (f) of section 303 of the Controlled Substances Act (21 U.S.C. 823 (f)), is amended by adding the following sentence at the end of the subsection: "Article 7 of the Convention on Psychotropic Substances shall not be construed to prohibit research with substances scheduled under the convention in accordance with this subsection."

SEC. 8. Subsection (a) of section 306 of the Controlled Substances Act (21 U.S.C. 826(a)) is amended by adding the following sentence at the end of that section: "In determining the total quantity and establishing production quotas under this subsection, the Attorney General shall consult with the Secretary regarding the medical, scientific, research, and industrial needs of the United States and the reserve stocks required for these needs."

SEC. 9. Subsection (c) of section 307 of the Controlled Substances Act (21 U.S.C. 827 (c)) is amended by inserting a new first sentence: "No provisions of the Convention on Psychotropic Substances shall be construed to interfere with the exceptions described in this subsection."

SEC. 10. Part C of the Controlled Substances Act is amended by adding the following new section:

"SEC. 310. The Attorney General may, by regulation, after consultation with the Secretary, prescribe restrictions on the advertising to the general public concerning any controlled substance which is a psychotropic substance subject to the Convention on Psychotropic Substances, signed at Vienna, February 21, 1971."

SEC. 11. Subsection (a) of section 402 of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(a) by striking out "or" at the end of paragraph (7);

(b) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; or"; and

(c) by adding the following new paragraph: "(9) to advertise to the general public any controlled substance in violation of regulations issued pursuant to section 310."

SEC. 12. Section 309 of the Controlled Substances Act (21 U.S.C. 829) is amended by adding the following new subsection (e): "The application of the provisions of article 9, paragraph 2, of the Convention on Psychotropic Substances which require that prescriptions for substances in schedules II, III, and IV of the convention 'are issued in accordance with sound medical practice and subject to such regulation, particularly as to the number of times they may be refilled and the duration of their validity,' shall be determined by the Secretary, after consultation with the Attorney General."

SEC. 13. Subsection (b) of section 1002 of the Controlled Substances Import and Export Act (21 U.S.C. 952) is amended by adding the following sentence to paragraph (2): "*Provided, however,* That if a nonnarcotic controlled substance is also listed in schedule I or II of the Convention on Psychotropic Substances it shall be imported pursuant to such import permit requirements as the Attorney General may be regulation prescribe."

SEC. 14. Subsection (e) of section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953) is amended—

(a) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof ";";

(b) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(c) by adding the following new paragraph:

"(4) in any case when a nonnarcotic substance in schedule III, IV, or V is also listed in schedule I or II of the Convention on Psychotropic Substances, it is exported pursuant to such export permit requirements as the Attorney General may by regulation prescribe, instead of the invoice required by subparagraphs (e)(2) and (e)(3) above."

SEC. 15. Section 3(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513) is amended by adding "(1)" before "The Secretary" and inserting the following new paragraph at the end thereof:

"(2) Nothing in the Convention on Psychotropic Substances, or other international treaties or agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local enactment or regulation.".

SEC. 16. Section 502 of the Controlled Substances Act (21 U.S.C. 872) is amended by redesignating subsection (d) as subsection (e), and by adding after subsection (c) the following new subsection:

"(d) Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other international treaties or agreements shall be construed to limit, modify, or prevent the protection of the confidentiality of patient records or of the names and other identifying characteristics of research subjects as provided by any Federal, State, or local enactment or regulation.".

SEC. 17. (a) Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end thereof the following new section:

"APPLICATION OF INTERNATIONAL TREATIES OR AGREEMENTS

"SEC. 412. Nothing in the Single Convention on Narcotic Drugs, the Convention on Psychotropic Substances, or other treaties or international agreements shall be construed to require a specific punishment for conduct involving narcotic drugs or psychotropic substances or to limit the provision of such treatment, education, aftercare, rehabilitation, and social reintegration or other alternatives to arrest, prosecution, conviction or punishment for such conduct as may be authorized by any Act of Congress.".

(b) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting—

"Sec. 412. Application of International treaties or agreements."

immediately after

"Sec. 411. Proceedings to establish previous convictions.".

SEC. 18. Section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513) is amended by inserting "regarding the security and safeguards against diversion of controlled substances" immediately after "Attorney General."

SEC. 19. Subsection (n) of section 502 of the Federal, Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 352(n)), is amended by adding the following new sentence at the end thereof: "Nothing in the Convention of Psychotropic Substances, signed at Vienna, February 21, 1971, shall be construed to prevent drug price communications to consumers.".

SEC. 20. This Act shall become effective on the date the Convention on Psychotropic Substances enters into force in respect to the United States.

By Mr. METCALF (for himself and Mr. PERCY):

S. 363. A bill to restore the independence of certain regulatory commissions of the Federal Government. Referred to the Committee on Government Operations.

REGULATORY COMMISSIONS' INDEPENDENCE ACT

Mr. METCALF. Mr. President, on behalf of the senior Senator from Illinois (Mr. PERCY) and myself I introduce for appropriate reference the Regulatory Commissions' Independence Act.

The purpose of this bill is to restore the independence of certain independent regulatory commissions of the Federal Government. The commissions to which it would apply are the Civil Aeronautics Board, Federal Communications Commission, Federal Maritime Commission, Federal Power Commission, Federal Trade Commission, Interstate Commerce Commission, and Securities and Exchange Commission.

The bill would require the commissions to submit concurrently to the Congress and the Office of Management and Budget their budget estimates and requests and also their legislative recommendations, testimony, and comments on legislation. The bill would also authorize the commissions to supervise, and at their discretion conduct, any civil litigation in their own name, and through their own attorneys.

Under present law and practice, budget requests and legislative comments are submitted by the independent commissions to OMB. Commissions are required to clear all requests for certiorari to the Supreme Court through the Solicitor General of the United States. Generally, commissions are not given the discretion to conduct civil litigation in their own name and through their own attorneys.

This bill was approved by the Government Operations Committee late in the last Congress (S. 704, S. Rept. 93-1319). The legislative history of the bill appears in the two-part hearings in the 92d Congress on S. 448, the Government Operations Committee print, "Regulatory Commissions' Independence Act, S. 704, Compendium of Materials," (93d Congress) and in the hearings on regulatory reform conducted by the committee late last year. I also discussed the legislation in my December 13 remarks in the Congressional Record.

The bill as approved last year and now reintroduced includes modifications recommended by the commissions. I hope that this legislation can be promptly considered and approved. Companion legislation is being introduced in the House by Representative John E. Moss, of California.

By Mr. McCLURE:

S. 364. A bill relating to certain Forest Service timber sale contracts involving road construction. Referred to the Committee on Public Works.

Mr. McCLURE. Mr. President, today I introduce legislation that will permit purchasers of national forest timber to transfer earned but unused purchaser credits between timber sales on the same national forest. While it is little understood by the general public, many of the forest roads that are enjoyed by recreationists on our national forest system are built as a result of roads built to harvest timber sales. Many of these roads are purchaser constructed. Timber sale contracts provide for roads to be substantially completed before timber transport is permitted. This results in large amounts of capital tied up for long periods of time. This legislation will permit forest purchasers who are building roads as part of timber sale contractual requirements to increase their cash flow capability with no cost to the Government. This move to provide more cash flexibility should actually help the ultimate consumer, for this move will free borrowed money and will result in less interest costs to be passed along to the consumer.

This legislation is supported by both large and small business in the timber industry. I urge prompt action on this important legislation.

By Mr. WILLIAMS:

S. 371. A bill to provide for the striking of medals commemorating the contributions by individuals of various ethnic backgrounds who contributed to the founding of the United States of America. Referred to the Committee on Banking, Housing and Urban Affairs.

THE ETHNIC HERITAGE BICENTENNIAL COMMEMORATIVE MEDALS ACT

Mr. WILLIAMS. Mr. President, Henry Wadsworth Longfellow called the opening gun of the American struggle for freedom "the shot heard around the world." So it was, and nowhere was its world-shaking import better heard than in Europe. There, brave and idealistic men, electrified by its message, put aside their affairs, great and small, to offer these distant, struggling Colonies their services. What an example of dedication and sacrifice they left for us, and what distinguished pages they added to the history of the American Revolution.

We remember most clearly the Marquis de Lafayette, enshrined in a hundred place names across the country, whose majestic portrait hangs in a place of honor on the south wall of the Chamber of the Lower House. Lafayette was not 20 years old when he first set foot in America. Yet, within 3 months of his arrival, he received his baptism of fire at the battle of Brandywine and soon joined Washington in his winter quarters at Valley Forge. Tempered by that terrible winter, molded by his close association with George Washington, he grew from a naive young officer to a capable tactician. He rendered his greatest service to the cause of independence in 1781, when, by skillful maneuver, he drew Lord Cornwallis and his British army into the vicinity of Yorktown in Virginia. He held them there until the main Continental Army arrived to administer the coup de grace that ended the war.

Lafayette was matched in his fire and fervor by Casimir Pulaski and Thaddeus Kosciuszko. Pulaski, the daring horseman, organized his own corps of cavalry and fell leading a gallant charge at the siege of Savannah in 1779. Kosciuszko, the brilliant, methodical engineer, designed the fortifications which contributed to the decisive victory at Saratoga. This British defeat tipped French opinion in favor of an open alliance with America. Both these men came from their native Poland at their own expense, to offer their services to the cause of American independence.

The news of the American colonies' struggle also reached Michael Kovats, a 52 year-old Hungarian cavalry officer who had already had a full and distinguished military career in Europe. Inspired by the cause of freedom, he volunteered in a letter to Benjamin Franklin "to serve and die in everlasting obedience." His words were borne out all too soon. As colonel of Pulaski's cavalry corps, he recruited and trained his troops in New Jersey, then led them to the defense of the beleaguered port city of Charleston, S.C. There, the Americans won the battle, but lost their brilliant Hungarian leader, who gave his life for their independence.

Next to these colorful figures, the German Baron von Steuben seems a bit less exciting, as perhaps a drill instructor must. Nonetheless, his contribution was enormous. This skilled Prussian officer had the knowledge and techniques that would change the Continental Army from a ragtag force to an elite corps of infantry, which was a match for any European army.

The call of freedom that crossed the Atlantic was also heard on this continent by a people who stirred at its potential. America's half million blacks, most of whom were in the bondage of slavery, responded eagerly to its call. Free black men, moved by patriotism, and slaves, moved by the promise of liberation, volunteered, and fought in large numbers. Most of them have gone unrecorded by history, but the memory of a few stands out. Peter Salem, the black sharpshooter, shot Major Pitcairn at long range during the battle of Bunker Hill, depriving the British Army of one of its ablest officers. James Armistead, who started out as Lafayette's orderly, went on to become the colonies' most successful intelligence agent and scout. Agrippa Hull learned medicine and surgery dressing the wounded on a dozen fields of battle. They do not often make the popular history works, but they were there and their accomplishments were remarkable.

Two Italians, Francis Vigo and Philip Mazzei, were first attracted to the American Colonies by business opportunities; Vigo in the fur trade and Mazzei in horticulture. When the Revolution began, however, both devoted their time and energies to its success. Vigo went to the aid of George Rogers Clark in Kaskaskia, where he played a decisive role in the memorable campaign that brought an end to British influence in the Northwest Territory. Mazzei, who became active in the struggle for freedom in Virginia, returned to Europe as an agent of Gov. Patrick Henry to solicit support for the American cause.

Haym Salomon, a Jewish financier born in Poland, contributed large sums of money to the Revolutionary government. He negotiated loans from France and Holland to help finance the war effort and personally provided relief to the poor of Philadelphia. Called "the Good Samaritan" by one historian, he never accepted recompense for his generosity.

Black man, white man, Hungarian, Italian, Jew, German, Pole, Frenchman: these are only a few examples of individuals of diverse ethnic backgrounds, whose contributions were crucial to and perhaps decisive in America's struggle for independence. Many have never been formally recognized for their efforts, but Americans who share their heritage may rightfully be proud of their vital achievements.

Mr. President, I am today introducing a bill to authorize the Secretary of the Treasury to strike Ethnic Heritage Bicentennial Commemorative Medals. These medals will commemorate different ethnic heroes of the American Revolution, to be designated by the Bicentennial Administration. As we prepare to celebrate our second century of independence, their dedication can serve as a valid example to us, and their commemoration can brighten and broaden the Bicentennial.

I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in commemoration of the bicentennial of the founding of the United States of America and of those individuals of various ethnic backgrounds who participated in the American Revolution, the Secretary of the Treasury shall strike and furnish to the American Revolution Bicentennial Administration (hereinafter referred to as the "Administration") not more than 25,000 medals with suitable designs, not in excess of 21 different designs, to be determined by the Administration subject to the approval of the Secretary of the Treasury. The medals shall be made and delivered at such times as may be required by the Administration in quantities of not less than 1,000 medals of each design, but no medals shall be made after December 31, 1983. The medals shall be considered to be national medals within the meaning of section 3851 of the Revised Statutes (31 U.S.C. 368).

Sec. 2. The Secretary of the Treasury shall cause such medals to be struck and furnished at not less than the estimated cost of manufacture, including labor, materials, guides, use of machinery, and overhead expenses. Security satisfactory to the Director of the Mint shall be furnished to indemnify the United States for full payment of such costs.

Sec. 3. The medals authorized to be struck and furnished under this Act shall be of such size or sizes and of such various materials as is determined by the Secretary of the Treasury after consultation with the Administration.

By Mr. McGEE (for himself and Mr. Burdick):

S. 372. A bill to restore to Federal civilian employees their rights to participate, as private citizens, in the political life of the Nation, and for other purposes. Referred to the Committee on Post Office and Civil Service.

Mr. McGEE. Mr. President, under current law, no Federal employee in the competitive service or most other positions in the executive branch may play an active role in the affairs of a political party at any level. Specifically, the Hatch Act prohibits those employees from taking "an active part in political management or in political campaigns." In my judgment, that is a denial of not only basic citizenship rights, but basic citizenship responsibility.

Some progress in this general area was made by the 93d Congress as part of the Federal Election Campaign Act Amendments of 1974. As a result of those amendments, State and local officers and employees are no longer prohibited by Federal law from taking an active part in political management and political campaigns. Now it is time for us to again turn our attention to the plight of the Federal employee who since 1939, the date of enactment of the Hatch Act, has been denied his political rights.

The bill that Senator Burdick and I introduce today does not provide for a return to the spoils system. It contains sufficient detailed safeguards to prevent that from happening. What the bill does provide for the Federal employee is, at long last, the right that every other citizen has to take an active part in political campaigns in partisan as well as nonpartisan elections. The bill, with certain limitations, would also give the Federal employee the right to freely and voluntarily make a contribution of money, services, or materials to any candidate for public office.

It is time for us to provide the Federal employee with the right to do those things necessary to make his or her vote meaningful. At a time when we urgently need a rebirth of confidence in Government and participation in its political processes at all levels, it is essential for us to give back to the millions of Federal workers the right to participate in the most essential parts of the political process.

The political bill of rights that would be restored to the Federal employee under this proposed legislation would include:

First. The right to be a candidate for or serve as delegate, alternate, or proxy in any convention or serve as an officer or employee thereof;

Second. The right to participate in the deliberations of any primary meeting, mass convention or caucus, including addressing the meeting, making motions, preparing or assisting in preparing resolutions before the meeting, or taking a prominent part in the meeting;

Third. The right to prepare for, organize, or conduct a meeting or rally, address such a meeting, or take a prominent part therein;

Fourth. The right to membership in political clubs, organize such a club, or serve as one of its officers;

Fifth. The right to distribute campaign literature and distribute or wear campaign badges, except in federally owned or operated facilities normally accessible to the general public;

Sixth. The right to publish or have editorial or managerial connection with any newspaper, write for publication, or publish any letter or article, signed or unsigned, solicit votes in favor of or against any party, candidate, or faction;

Seventh. The right to organize or participate in a political parade;

Eighth. The right to initiate or sign nominating petitions on behalf of a candidate, including canvassing for signatures, except during working hours, while in uniform or otherwise in the exercise of official duty;

Ninth. The right to be a candidate for nomination or election to any national, State, county, or municipal office, except to the extent that such candidacy would infringe upon the employees' official duties and provided that if successful in being elected to a full time salaried office, such employee shall be placed on leave, without pay, during his term in office.

An additional safeguard in the bill would protect the Federal worker from being pressured by his superiors into involuntary political activities. The bill specifically prohibits Federal officials from using their official authority or influence or the facilities, materials, or personnel of their agency for the purpose of interfering with or affecting the result of an election or the electoral process.

This legislation will serve as the vehicle for hearings this session that will be held by the Committee on Post Office and Civil Service, which I chair and of which Senator Burdick is a member. At that time, not only will that portion of title 5 of the United States Code—commonly referred to as the Hatch Act—be the subject of intense scrutiny but we will also be looking into the unduly restrictive regulations of the Civil Service Commission in this area. Our committee will not be starting from scratch as we revise the Hatch Act. We begin with the benefit of earlier hearings held by us at a time when all but one of our present members were on the committee.

This is a time when we must look for ways to renew and strengthen the political process. Certainly, stifling representative democracy by denying millions of Federal employees their inherent right to full-blown participation in partisan elections is inapposite to that critical need. It is high time that Government workers be restored to full-fledged citizenship.

I ask that the bill be printed in full at this point in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees' Political Activities Act of 1975".

Sec. 2. Section 7324 of title 5, United States Code, is amended to read as follows:

"Section 7324. Use of official authority or influence to affect elections prohibited; other political activities permitted

"(a) An employee in an executive agency, an independent agency of the United States Government, United States Postal Service, or an individual employed by the government of the District of Columbia may not use his official authority or influence or the facilities, materials, or personnel of any such agency or government for the purpose of interfering with or affecting the result of any election or any process defined in subsection (c) of this section.

"(b) An employee or individual to whom subsection (a) of this section applies retains the right to vote as he chooses, to express his opinion on political subjects and candidates, and to take an active part in political management or in political campaigns in his role as a private citizen.

"(c) For the purpose of this section, the phrase 'to express his opinion on political subjects and candidates, and to take an active part in political management or in political campaigns' shall mean any partisan or nonpartisan political activity including but not limited to: (1) candidacy for or service as delegate, alternate, or proxy in any convention or service as an officer or employee thereof; (2) participation in the deliberations of any primary meeting, mass convention or caucus, addressing the meeting, making motions, preparing or assisting in preparing resolutions before the meeting, or taking a prominent part therein;

(3) preparing for, or organizing or conducting a meeting or rally, addressing such a meeting or taking any part therein; (4) membership in clubs, organizing of clubs, or serving as an officer therein; (5) distributing literature and distributing or wearing badges: *Provided*, That such literature and badges will not be worn, displayed or distributed by any employee or individual to whom subsection (a) applies who, in the normal course of his employment meets with the general public: And provided further, That such literature and badges will not be worn, displayed, or distributed by such employee or individual in any federally owned and operated facility or portion of federally owned or operated facility which is normally accessible to the general public; (6) publishing or having editorial or managerial connection with any newspaper, and writing for publication or publishing any letter or article, signed or unsigned, soliciting votes in favor of or against any party, candidate, or faction; (7) organizing or participating in any parade; (8) initiating or signing nominating petitions on behalf of a candidate, including canvassing for signatures of others: *Provided*, That such activity will not be conducted by any employee or individual to whom subsection (a) applies during working hours or while in uniform or while otherwise exercising his official duties; (9) candidacy for nomination or election to any National, State, county, or municipal office: *Provided*, That such activity will not unduly infringe upon the exercise of the official duties of an employee or individual to whom subsection (a) of this section applies: And further provided, That such employee or individual who is elected or appointed to a full time, full salaried, National, State, county, or municipal office shall take a continuous leave of absence, without pay, during his term in such office.

SEC. 3. Sections 7326 and 7327 of title 5, United States Code, are repealed.

SEC. 4. Section 7323 of title 5, United States Code, is amended to read as follows:

"Section 7323. Political contributions prohibited; enforcement by Civil Service Commission

"(a)(1) An employee or individual to whom subsection (a) of section 2 applies, an employee appointed by the President, a Member of Congress, an employee of Congress, or an officer of the uniformed services may not request, invite, receive from or give to an employee or indvidual to whom subsection (a) of section 2 applies, an employee appointed by the President, a Member of Congress, an employee of Congress, or an officer of the uniformed services any money or other valuable political thing on account of or to be applied to a political object, except: Provided, That any individual herein described may freely and voluntarily make a contribution of money, services, or materials to any candidate for public office or to support or further those activities described in subsection (b) of section 2.

(2) An individual described in (a)(1) of this section who violates this section shall be subject to the penalities provided in section 7325 of this title.

"(b) The Civil Service Commission shall process complaints arising under subsection (a) of this section and shall, upon receipt of a complaint alleging facts which constitute a violation of subsection (a), investigate the alleged activity.

"(c) Upon a finding that a violation of subsection (a) of this section has occurred, the Civil Service Commission shall—

"(1) in the case of an employe or individual in the competitive service, impose the appropriate penalty under section 7325;

"(2) in the case of others described in section (a) of this section notify the President, the head of the agency in which the employee is employed, and the Congress (A) that a violation of subsection (a) of this section has occurred, and (B) what penalty the Commission has determined is appropriate under section 7325 of this title; and

"(3) refer the case to the attention of the Attorney General for prosecution under section 602 of title 18.".

SEC. 5. Section 7325 of title 5, United States Code, is amended to read as follows:

"Whenever the Civil Service Commission finds that an employee or individual has violated section 7323 or 7324 of this title, the Commission shall impose such penalty as it finds is warranted but not less than 30 days' suspension from his position without pay: *Provided*, That he shall only be removed upon the unanimous vote of the Commission. Funds appropriated for the position from which an employee or individual is removed may not thereafter be used to pay the employee or individual.".

SEC. 6. Section 602 of title 18, United States Code, is amended by inserting "(a)" before the word "Whoever" and by adding at the end thereof the following new subsection:

"(b) Upon receipt of a finding of illegal activity by the Civil Service Commission under section 7323 of title 5, the Attorney General shall prosecute under subsection (a) of this section, unless he shall determine that no factual basis for prosecution exists or that the cause of justice will not be served by such prosecution. If the Attorney General determines not to prosecute in a case referred to him by the Commission, he shall send Congress within sixty days a written report describing the nature of the alleged violation and the reasons for not proceeding with prosecution under subsection (a) of this section.".

By Mr. BUCKLEY (for himself, Mr. HATFIELD, Mr. GARN, Mr. EASTLAND, Mr. HELMS, Mr. BARTLETT, Mr. YOUNG, and Mr. CURTIS):

S.J. Res. 10. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons. Referred to the Committee on the Judiciary.

By Mr. BUCKLEY (for himself, Mr. GARN, Mr. HATFIELD, Mr. EASTLAND, and Mr .BARTLETT):

S.J. Res. 11. A joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons, Referred to the Committee on the Judiciary.

(The remarks of Mr. Buckley on the introduction of the above resolutions are printed earlier in the RECORD.)

By Mr. ROBERT C. BYRD (for Mr. CANNON):

S.J. Res. 13. A joint resolution authorizing increased production of petroleum from the Elks Hills Naval Petroleum Reserve for national defense purposes. Referred to the Committee on Armed Services.

Mr. ROBERT C. BYRD. On behalf of the distinguished Senator from Nevada (Mr. CANNON), I introduce a joint resolution authorizing increased production of petroleum from the Elk Hills Naval Depot Reserve for national defense purposes, and I ask unanimous consent that a statement prepared by him, together with the text of the joint resolution be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR HOWARD CANNON

I am today introducing a joint resolution which would authorize and direct the production of, and the development of, Naval Petroleum Reserve No. 1, which is better known as the Elk Hills Naval Petroleum Reserve, located in Kern County, California. Similar legislation passed the Senate in the 93rd Congress, but was not considered in the House.

As a matter of background, the Elk Hills Reserve was established on September 2, 1912, by Executive Order issued by President Taft. The limits of the reserve were enlarged to include the balance of the then known geological structure of the Elk Hills Field by Executive Order signed by President Roosevelt on October 15, 1942.

The Standard Oil Company of California (SOCAL) is the only remaining owner of lands inside the reserve. As a result of this ownership, they are partners with the United States in the reserve, and are enitled to approximately 22 percent of the production at this time.

Following the enlargement of the reserve in 1942, a unit plan contract was entered into by the Navy and SOCAL for the cooperative exploration, development, and operation of all lands in the reserve. SOCAL, under separate contract with the Navy, operates the reserve at the present ime.

By law, the operation and use of the Naval Petroleum Reserve is limited to: (1) the production, conservation, maintenance and testing of these reserves; and (2) the production of petroleum whenever, and to the extent that the Secretary of the Navy, with the approval of the President of the United States, finds that it is needed for national defense, and the production is authorized by a Joint Resolution of Congress.

It is under this latter provision that this Resolution is introduced.

Last year the Secretary of the Navy made a determination that the production of Naval Petroleum Reserve No. 1 is required because of the needs of national defense and to ease the strain imposed by defense requirements upon the economy.

The requirement of the Department of Defense, at an austere sustaining level, approximates 625,000 barrels of petroleum per day. About half of these needs, or around 300,000 barrels per day come from overseas sources. Approximately 80 percent of this procurement comes either directly, or indirectly, from Arab sources. The production from Elk Hills reserve is no panacea, but will materially aid in satisfying the needs of national defense and will reduce the requirement of foreign oil.

The proposal provides for a closed cycle funding arrangement by the establishment of the Naval Petroleum Reserve Account on the books of the Treasury. Into such an account would go the receipts from the sale of production, and such other funds as may be made available to the Navy for further development of the reserves. The fund would be administered by the Secretary of the Navy. This, of course, would free the reserve from having to compete for appropriations with other Defense programs, but would limit funding for the reserves primarily to receipts generated from the sale of the production therefrom.

It is the responsibility of the Congress to protect the public interest, as well as to provide for the national defense. It is the Navy's responsibility to protect the Naval Petroleum Reserves from unnecessary depletion. The Resolution now before the Senate has been drafted to reflect and fulfill these responsibilities.

S.J. RES. 13

Whereas chapter 641 of title 10, United States Code, directs the Secretary of the

Navy, among other things, to use and operate all properties within the naval petroleum reserves as are or may become subject to the control and use by the United States for production of petroleum whenever and to the extent the Secretary, with the approval of the President, finds such production required for the national defense, and whenever such production is authorized by a joint resolution of the Congress; and

Whereas such a finding of the necessity for such production to the extent herein authorized has been made by the Secretary of the Navy in his action dated November 6, 1973, which finding has been approved by the President: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the production of petroleum (including crude oil and associated gas and other hydrocarbons) from Naval Petroleum Reserve Numbered 1 is hereby authorized at a rate to help insure that the needs of national defense are met, but not to exceed the maximum efficient rate in accordance with sound engineering and economic principles. Such production (to the extent in excess of that otherwise authorized by chapter 641 of title 10, United States Code) is to commence within forty-five days after the date of enactment of this joint resolution.

DISPOSITION OF PRODUCTION

Sec. 2. The Secretary of the Navy shall dispose of the production herein authorized as provided in chapter 641 of title 10, United States Code, by means of sales, uses, or exchanges effected, determined, or agreed upon after the date of enactment of this joint resolution. As required by said United States Code, all sales shall be effected by competitive bid. The terms of the disposition shall be so arranged as to give full and equal opportunity for acquisition of the oil by all interested companies, including major and independent oil refineries alike.

DISPOSITION OF RECEIPTS

Sec. 3. (a) There is hereby established on the books of the Treasury Department the Naval Petroleum Reserve Account. This account shall be administered by the Secretary of the Navy under such regulations as the Secretary of Defense may prescribe. Into such account there shall be transferred or credited during the period of increased production authorized by this joint resolution or as may be hereafter authorized (1) unobligated balances of appropriations made available to the Department of the Navy for fiscal year 1975 for exploration, prospecting, conservation, development, use, and operation of the naval petroleum and oil shale reserves, (2) all proceeds realized under chapter 641 of title 10, United States Code, from the sale of petroleum or refined products, oil and gas products, including royalty products, (3) the net proceeds realized from sales within the Department of Defense of refined petroleum products accruing to the benefit of the Department of Defense as the result of exchanges, and (4) such funds as may be appropriated for the Naval Petroleum Reserve Account. All funds transferred or credited to such account shall remain available until expended.

(b) Funds available in the Naval Petroleum Reserve Account shall be available for the expenses of (1) production, including preparation for production, as authorized by this joint resolution and as may hereafter be authorized, (2) all capital costs necessary for facilities both within and outside the reserve incident to production and delivery of crude petroleum, and (3) exploration, prospecting, conservation, development, use, and operation of the naval petroleum and oil shale reserves as authorized by chapter 641 of title 10, United States Code.

SENATE RESOLUTION 25—ORIGINAL RESOLUTION TO PAY A GRATUITY TO LILLIAN D. WHITE

(Placed on the calendar.)

Mr. ALLEN (for Mr. Cannon), from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 25

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Lilliam D. White, mother of Ronald R. White, an employee of the Senate at the time of his death, a sum equal to three months' compensation at the rate he was receiving by law at the time of his death, said sum to be consider inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 26—ORIGINAL RESOLUTION TO PAY A GRATUITY TO HAZEL W. DIAMOND

(Placed on the calendar.)

Mr. ALLEN (for Mr. Cannon), from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 26

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Hazel W. Diamond, widow of Joseph J. Diamond, an employee of the Architect of the Capitol assigned to duty in the Senate Office Buildings at the time of his death, a sum equal to ten months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 27—ORIGINAL RESOLUTION AUTHORIZING THE REVISION AND PRINTING OF THE SENATE MANUAL

(Placed on the calendar.)

Mr. ALLEN (for Mr. Cannon), from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 27

Resolved, That the Committee on Rules and Administration be, and it is hereby, directed to prepare a revised edition of the Senate Rules and Manual for the use of the Ninety-fourth Congress, that said Rules and Manual shall be printed as a Senate document, and that two thousand additional copies shall be printed and bound, of which one thousand copies shall be for the use of the Senate, five hundred and fifty copies shall be for the use of the Committee on Rules and Administration, and the remaining four hundred and fifty copies shall be bound in full morocco and tagged as to contents and delivered as may be directed by the Committee.

SENATE RESOLUTION 28—ORIGINAL RESOLUTION INCREASING THE LIMITATION ON EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

(Placed on the calendar.)

Mr. ALLEN (for Mr. Cannon), from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 28

Resolved, That section 4 of S. Res. 266, Ninety-third Congress, agreed to February 1, 1974, is amended by striking out "$20,000" and inserting in lieu thereof "$30,000".

SENATE RESOLUTION 29—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON RULES AND ADMINISTRATION

(Placed on the calendar.)

(Mr. ALLEN (for Mr. Cannon), from the Committee on Rules and Administration, reported the following original resolution:

S. Res. 29

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on Rules and Administration, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, for the purposes stated and within the limitations imposed by the following sections, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

Sec. 2. The Committee on Rules and Administration, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, to expend not to exceed $432,600 to examine, investigate, and make a complete study of any and all matters pertaining to each of the subjects set forth below in succeeding sections of this resolution, said funds to be allocated to the respective specific inquiries and to the procurement of the services of individual consultants or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended) in accordance with such succeeding sections of this resolution.

Sec. 3. Not to exceed $180,000 shall be available for a study or investigation of privileges and elections.

Sec. 4. Not to exceed $252,600 shall be available for a study or investigation of computer services for the Senate, of which amount not to exceed $50,000 may be expended for the procurement of individual consultants or organizations thereof.

Sec. 5. The committee shall report its findings, together with such recommendations for legislation as it deems advisable with respect to each study or investigation for which expenditure is authorized by this resolution, to the Senate at the earliest practicable date, but not later than February 29, 1976.

Sec. 6. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 30—ORIGINAL RESOLUTION REPORTED AUTHORIZING ADDITIONAL EXPENDITURES BY THE COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. EAGLETON, from the Committee on the District of Columbia, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 30

Resolved, That, in holding hearings, reporting such hearings, and making investigations as authorized by sections 134(a) and 136 of the Legislative Reorganization Act of 1946, as amended, in accordance with its jurisdiction under rule XXV of the Standing Rules of the Senate, the Committee on the District of Columbia, or any subcommittee thereof, is authorized from March 1, 1975, through February 29, 1976, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee under this resolution shall not exceed $175,000.00, of which amount not to exceed $7,000.00 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1976.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SENATE RESOLUTION 31—SUBMISSION OF A RESOLUTION DESIGNATING JANUARY 22 AS UKRAINIAN INDEPENDENCE DAY

(Referred to the Committee on the Judiciary.)

Mr. SCHWEIKER submitted the following resolution:

S. RES. 31

A resolution designating January 22 as Ukrainian Independence Day, by Mr. SCHWEIKER.

Whereas Ukraine, with a population of forty-seven million is the largest non-Russian nation both in the Union of Soviet Socialist Republics and in Eastern Europe; and

Whereas this nation occupies a significant geographic and economic position in the context of Eurasia, with prominent dimensions toward central Asia, the Caucasus, the Middle East, and central Europe; and

Whereas this second largest Slavic people with a national history extending back to the ninth century, has made substantial contributions to world culture and today possesses immense potentialities and promise for further universal cultural advancement; and

Whereas, in partial recognition of these cultural contributions toward civilization and peace, the Eighty-sixth Congress of these United States of America passed the Shevchenko Memorial resolution, leading to the erection of a statue of Taras Shevchenko, the poet of Ukraine, on public grounds in our Nation's Capital; and

Whereas the critical importance of this non-Russian nation in world affairs has been obliquely reflected in the original charter membership of the Union of Soviet Socialist Republics; that is, the Ukrainian Soviet Socialist Republic, in the United Nations; and

Whereas the contemporary status of Ukraine has been reflected in the Captive Nations Week resolution passed by the Eighty-sixth Congress in July 1959, and signed by President Dwight D. Eisenhower into Public Law 86–90; and

Whereas for the past two decades the Congress, Governors of our major States, and mayors in our largest cities have consistently observed the indomitable spirit of independence and creative assertions of the Ukrainian people; and

Whereas the independent Ukrainian National Republic, which was established by democratic, popular vote and national self-determination on January 22, 1918, was one of the first to proclaim freedom for its people in the area of the traditional Russian Empire; and

Whereas in 1974 the celebration of the Tenth Anniversary of the unveiling of the Schevenenko statue by former President Eisenhower was observed here and in various parts of the country: Now, therefore, be it

Resolved, That the President is authorized and requested to issue a proclamation designating January 22 of each year (the anniversary of the proclamation which declared Ukraine to be a free and independent republic) as Ukrainian Independence Day, and inviting the people of the United States to observe such a day with appropriate ceremonies.

SENATE RESOLUTION 32—SUBMISSION OF A RESOLUTION DISAPPROVING DEFERRAL OF BUDGET AUTHORITY

(Ordered held at the desk.)

Mr. MOSS. Mr. President, in his budget deferral message of November 26, 1974, the President asked that funds for research and development of a nuclear powered artificial heart be deferred. I express my concern over this act because deferral of these funds will actually result in termination of the project rather than "deferral." I find it deplorable that the administration has so misplaced its priorities that it would suggest the termination of one of the most significant health research projects taking place in this Nation today.

Every year in the United States more than 600,000 people die from coronary heart attack. The death toll from heart attack is larger than the combined number of victims of cancer and automobile accidents. A large number of these people could be helped or saved with reliable artificial hearts if they were available. A great number of victims of coronary artery disease, who are otherwise healthy people, could be restored to a useful existence with artificial hearts. People who find this hard to accept should recall that there are more than 14,000 people in the United States today who owe their lives to artificial kidneys; they should also recall the many thousands of people using artificial limbs. Additionally, at the University of Utah substantial progress has been made on the use of externally driven artificial hearts. These artificial hearts which have been placed inside of calves have kept one calf living for 94 days and another for 78 days. In both cases the natural heart had been removed and replaced by an artificial heart.

Mr. President, those who find the possibility of a nuclear powered artificial heart hard to conceive need to be reminded of the nuclear pacemaker that is now in use. The medical profession today is implanting atomic powered pacemakers which have an operational expectancy of 20 years, thereby alleviating the need for replacement surgery every 2 years, formerly a standard practice for pacemaker recipients. A small nuclear powered motor placed inside a person's body with an artificial heart would be expected to endure for many years.

It is extremely disappointing that the President should ask for deferral of this project when the first motor is scheduled to be delivered and implanted in a calf within a few short months; and when the first human implant is expected within 2 years.

Mr. President, I urge my fellow colleagues to consider the seriousness of this deferral. It will terminate one of the most important research projects in health care taking place today.

Certainly when we are so close to finding a partial solution to a major cause of death in this Nation today it should not be terminated. We in the Senate when considering priorities certainly must place this program very high and act to encourage and continue such beneficial research rather than discourage and terminate it. I therefore send to the desk, on behalf of myself and Senator MONTOYA, a resolution disapproving the proposed deferral of funds for the nuclear powered artificial heart project and urge its adoption.

Mr. MONTOYA. Mr. President, I am pleased to join with Senator Moss in the sponsorship of this resolution. His longstanding interest in this project is well-known.

The most obvious reason for objecting to the decision to defer $4,000,000 for ERDA's nuclear-powered artificial heart program is that it kills a program which has the potential of saving the lives of up to 600,000 persons per year.

A laboratory bench-model artificial heart has been produced and has been successfully tested in a calf. Within 2 years, a similar device could be implanted in the chest of a human victim of terminal heart disease and he could live on for many years. But the progress achieved so far and the potential for drastically improving the lives of hundreds of thousands of people each year is going to be eliminated in one stroke of the budget cutter's knife if we do not overrule this deferral.

Every Senator should bear in mind that this deferral was proposed last November. It was one part of a $5 billion reduction in the national budget which the President was proposing then as a cure for inflation. The economic tides have changed, however, and now the President is proposing tax cuts to stimulate the economy. Shall we allow this deferral to stand on last November's justifications?

Shall we put 30 highly competent, highly trained physicians, scientists, and engineers who are working on the artificial heart out of work in order to save $4 million at the same time that we are spending hundreds of millions of dollars to create public service jobs?

Mr. President, I have talked with Dr. Richard Baker at the Los Alamos Scientific Laboratory who has directed the development of the Plutonium-238 fuel source. He tells me that 2 more years of work are needed before the mission of this project can be achieved: the development of a prototype artificial heart suitable for implantation in the human body.

I hope this body will have enough heart of its own to overturn this deferral.

The resolution by Mr. Moss (for himself and Mr. MONTOYA) is as follows:

S. RES. 32

> *Resolved,* That the Senate disapprove the proposed deferral of budget authority for continuing research to develop a nuclear powered artificial heart, which deferral (D-75-115) was set forth in the President's message to the Congress of November 26, 1974, transmitted under authority of section 1013 of the Impoundment Control Act of 1974.

SENATE CONCURRENT RESOLUTION 3—SUBMISSION OF A CONCURRENT RESOLUTION TO AUTHORIZE AN INVESTIGATION OF THE SUPPLEMENTAL SECURITY INCOME PROGRAM

(Referred to the Committee on Finance.)

SSI—THE FAILED PROMISE

Mr. BENTSEN. Mr. President, in October 1972 Congress passed the supplemental security income program, replacing the existing State programs of aid to the aged, blind, and disabled with a single, federally administered benefit program.

At the time we felt that such a program, setting national standards of eligibility and establishing a nationwide minimum for benefits, would eliminate many of the existing inequities. We believed we were acting in the best interests of those who live below the poverty level and suffer from the handicaps of old age, blindness, or disability.

SSI was scheduled to begin on January 1, 1974.

On June 19, 1973, the Senate Finance Committee met with the Secretary of Health, Education, and Welfare, Caspar Weinberger, to discuss the progress of HEW and the Social Security Administration in preparing to implement the SSI program.

Secretary Weinberger assured members of the committee that planning had been extensive and thorough. He further assured us that HEW and SSA were prepared to implement SSI on January 1974.

The Secretary said:

> The planning stage is over. Right now the Social Security Administration is working with state and county welfare agencies throughout the nation on an all-out urgent basis. The law requires that we complete the highly complex administrative responsibility of implementing the new program by next January and we will.

Secretary Weinberger also promised the SSI program would nearly double the number of aged, blind, and disabled aid recipients and would provide financial relief to the States through Federal support for these adult assistance programs. He said:

> With the exception of three or four, the states will be better off fiscally under this program, serving double the caseload.

That was the promise. The reality is quite different.

More than 2 years ago Congress enacted SSI, more than a year after Secretary Weinberger assured us that HEW and the SSA were ready to implement it, SSI is an administrative disaster. It is perpetrating a cruel hoax on some of our most defenseless citizens and draining the financial resources of our States.

I have been receiving distressing reports from around the country.

An alarming number of people who were receiving assistance under State programs of aid to the aged, blind, and disabled are failing to receive SSI benefits. These individuals, who have already been declared in need by the States, have not yet been transferred from the State to the Federal rolls after a year. In addition, many who were estimated to be eligible by HEW are not receiving SSI benefits. These newly eligible individuals are failing to get their benefits though a lack of serious effort on the part of the Social Security Administration to reach them.

A man in a nursing home in my own State of Texas was receiving State aid to the permanent and totally disabled before January 1. It took until April 29 for him to be transferred onto the Federal roll and receive his first SSI check.

During those 4 months he became increasingly concerned about his mounting drug bills. Worried he would be unable to pay them, he lost 37 pounds and became extremely depressed. His condition, which has been improving up to that time, began to deteriorate. He is now considered terminal. His doctor said he could find no physical illness behind the deterioration. The doctor attributed his decline to emotional reasons.

This is what is happening to a number of people we intended to help.

I am also concerned about the unconscionably long delays in processing applications, checks that frequently fail to arrive and benefits that are all too often incorrectly calculated.

HEW and SSA, which were supposedly prepared to implement SSI, are taking 6 months and longer to process many applications. One woman applied for SSI and after waiting 6 months to receive her first check, called the SSI office. A claims representative said "her name sounded familiar" although her record could not be located. A few days later she was told her record was most likely lost and advised to reapply.

The national backlog of pending applications may reach as high as 400,000. In Texas alone, there is a backlog of 20,000 disabled individuals whose medical eligibility has been determined but who have not been reported either eligible or ineligible to the State by SSI.

While we can count the backlog of cases, there is no way to calculate what this backlog means in terms of human suffering. During the first 7 months of this year, New York reported at least six individuals requiring intensive psychiatric treatment and counseling by social workers because they could not cope with the psychological stresses of applying for SSI.

All of us are well aware of the frustrations of dealing with bureaucratic red tape and often inscrutable bureaucrats. We should be ashamed of exposing these individuals who are least able to cope with life to similar frustrations. When we make the process of seeking help so difficult that people are psychologically battered as a consequence, something is very wrong.

Even after being certified as eligible, some SSI recipients fail to receive their checks. In New York the United Cerebral Palsy Association, Inc., reported two suicide cases due to nonreceipt of checks. Other SSI recipients are failing to receive medicaid benefits because the SSA has not notified the States of their eligibility. There are approximately 9,284 of these individuals in Texas alone. Still other SSI recipients receive checks with incorrectly calculated benefits which often require lengthy delays and substantial personal hardships to correct.

For example, an SSI recipient who is confined to a wheelchair thought his SSI check was too low. On three trips to the SSI office he was turned away because of the crowds. On the fourth trip he was referred by a claims representative to the State department of social services where he was referred back to the SSI office. By that time, he had exhausted his available resources and had no money for a taxi so he wheeled himself up and down 4 miles of steep hills to his home.

After an extensive investigation, the New York State Legislature concluded the SSI program in that State had often "created greater dependency, more insecurity and less dignity among an extremely vulnerable segment of the population." I believe this conclusion is not limited to the State of New York. It applies nationally.

Furthermore, human suffering is not the only hardship caused by the administrative inadequacies of the SSI program. Bureaucratic ineptitude is putting a severe and unexpected financial strain on the States.

Over half of our States rely on the State Data Exchange System (SDX), run by the SSA, either to determine medicaid eligibility or to administer the State supplement to SSI. They have a right to expect the information provided by this system to be accurate. However, it has not been in many instances, and the result is substantial misspending of State funds from mandatory overpayments, payments to ineligible individuals and even to nonresidents.

For example, Mississippi reports overpaying recipients by as much as $600 and $900 a month. Louisiana is being required to supplement the SSI benefits of people who have never lived in the State. Alabama estimates overpayments of $1.3 million just for the first quarter of 1974. Other States, such as Nevada, Oklahoma, Massachusetts, and South Carolina, report overpayments because of inaccurate SDX information. This is not confined to a few States; it is a serious, nationwide problem.

And these are not random occurrences When Louisiana was audited recently, the auditors discovered an error rate of 45 percent. The States literally cannot afford this level of inaccuracy. It will threaten their financial solvency if it is not rapidly resolved. Secretary Weinberger had promised the States relief

from the financial burden of aid to the aged, blind, and disabled; however, the program has frequently added to their burden.

Apart from the administrative difficulties in the SSI program, I am troubled by some other consequences in the legislation itself which were not foreseen by the Congress. I refer to the partial loss of benefits by a number of aged residents of public and private nursing homes and loss of benefits by some disabled individuals.

I am particularly concerned that many disabled individuals who qualified for aid to the disabled under the State programs are not eligible for SSI benefits. This is the result of incorporating into the SSI program the definition of disability in the Social Security Act. In the past, many States used a broader definition for determining eligibility for their assistance programs. The new law has disqualified many of those who were formally eligible.

Mr. President, the supplemental security income program is one of the most significant pieces of social legislation passed by Congress in this decade.

It promised dignity and comfort to millions of aged, blind and disabled in their remaining years. These individuals are depending on that promise. We must not fail them.

Therefore, I am today introducing a resolution calling for a congressional investigation of the entire program.

We must move to convert the promise of SSI into reality.

The concurrent resolution is as follows:

S. CON. RES. 3

Whereas, the Supplemental Security Income Program promised financial assistance to millions of the needy aged, blind and disabled; and

Whereas, the Supplemental Security Income Program promised the States relief from the financial burden of adult assistance programs; and

Whereas, many eligible individuals are failing to receive the benefits to which they are entitled due to delays in processing applications; and

Whereas, administrative errors in computing benefits and mailing checks is causing needless suffering for many recipients; and

Whereas, State funds are being spent unnecessarily to supplement benefits because of defects in the State Data Exchange System; and

Whereas, the States are experiencing a severe financial strain as a result; and

Whereas, it appears that the Supplemental Security Income Program is failing to achieve its intended purposes:

Now, therefore, be it resolved,

That it is the sense of the Congress that the appropriate committees of the House and Senate undertake an investigation of the Supplemental Security Income Program to determine the causes of the current problems and recommend suitable remedies.

SENATE CONCURRENT RESOLUTION 4—SUBMISSION OF A CONCURRENT RESOLUTION TO ESTABLISH A JOINT COMMITTEE ON INFORMATION AND INTELLIGENCE

(Referred to the Committee on Government Operations.)

Mr. HATHAWAY submitted the following concurrent resolution:

S. CON. RES 4

Resolved by the Senate (the House of Representatives concurring), That (a) there is hereby established a joint congressional committee to be known as the Joint Committee on Information and Intelligence (referred to in this concurrent resolution as the "joint committee"), to be composed of seven Members of the Senate appointed by the President of the Senate, and seven Members of the House of Representatives appointed by the Speaker of the House of Representatives. In each instance not more than four members shall be appointed from the same political party.

(b) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee, and shall be filled in the same manner as in the case of the original selection.

(c) The joint committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship shall alternate between the Senate and the House of Representatives with each Congress and the chairman shall be selected by the members of the joint committee from the House entitled to the chairmanship. The vice chairman shall be selected in the same manner as the chairman, except that the vice chairman shall be selected by the members of the joint committee from the House not entitled to the chairmanship.

(d) The joint committee may appoint and fix the compensation of such experts, consultants, technicians, and clerical and stenographic assistants as it deems necessary and advisable.

(e) The joint committee is authorized to utilize the services, information, facilities, and personnel of the executive departments and establishments of the United States.

(f) The joint committee is authorized to classify information originating within the joint committee in accordance with standards used generally by the executive branch of the Federal Government for classifying restricted data or defense information.

(g) The joint committee shall keep a complete record of all committee actions, including a record of the votes on any question in which a record vote is demanded. All committee records, data, charts, and files shall be kept in the offices of the joint committee, or such other places as the joint committee may direct, under such security safeguards as the joint committee shall determine to be in the interest of national security.

(h) The joint committee may make such rules respecting its organization and procedures as it deems advisable, but no measure or recommendation shall be reported from the joint committee unless a majority of the members thereof assent.

SEC. 2. (a) The joint committee shall make continuing studies of—

(1) the activities of each information and intelligence agency of the United States,

(2) the relationships between information and intelligence agencies of the United States and United States-based corporations and the effect of such relationships on United States foreign policy and intelligence operations abroad,

(3) the problems relating to information and intelligence programs, and

(4) the problems relating to the gathering of information and intelligence affecting the national security, and its coordination and utilization by the various departments, agencies, and instrumentalities of the United States.

(b) Each information and intelligence agency of the United States shall give to the joint committee such information regarding its activities as the committee may require. Such information shall include data with respect to the amounts, purposes, and recipients of expenditures made by each such agency.

(c) As used in this joint resolution, the term "information and intelligence agency of the United States" means the United States Information Agency, the Central Intelligence Agency, and any unit within any of the executive departments or agencies of the United States conducting information or intelligence activities (including any unit within the Departments of State, Defense, Army, Navy, and Air Force, including the operation of the Federal Bureau of Investigation).

SEC. 3. (a) All bills, resolutions, and other matters in the Senate and House of Representatives relating primarily to any information and intelligence agency of the United States or its activities shall be referred to the joint committee. The joint committee shall make an annual report to both Houses of Congress and shall make such additional reports as it deems necessary in carrying out its duties. The annual report shall include recommendations with respect to matters within the jurisdiction of their respective Houses which are—

(1) referred to the joint committee, or

(2) otherwise within the jurisdiction of the joint committee.

(b) In carrying out its duties under this joint resolution, the joint committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, to require, by subpena or otherwise, the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding and to make such expenditures as it deems advisable. Subpenas may be issued over the signature of the chairman of the joint committee, or by any member designated by him, or by the joint committee, and may be served by any person designated by such chairman or member.

SEC. 4. The expenses of the joint committee shall be paid from the contingent fund of the Senate upon vouchers signed by the chairman.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

John L. Briggs, of Florida, to be U.S. attorney for the middle district of Florida for the term of 4 years (reappointment).

Lutrelle F. Parker, of Virginia, to be Deputy Commissioner of Patents and Trademarks, vice Robert Gottschalk.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Thursday, January 30, 1975, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF ORGANIZATION MEETING OF THE SENATE SMALL BUSINESS COMMITTEE

Mr. NELSON. Mr. President, I announce that the Select Committee on Small Business will meet on Monday, January 27, at 10 a.m. in room 155, Russell Senate Office Building, for the purpose of adopting its rules, subcommittee structure, and work program for the 94th Congress. The meeting will be open to the public.

NOTICE OF OVERSIGHT HEARINGS ON TRUST TERRITORY OF THE PACIFIC

Mr. JACKSON. Mr. President, I would like to notify the Members of the Senate and other interested persons that the Committee on Interior and Insular Affairs has scheduled an oversight hearing for March 10 and 12, 1975, on the Trust Territory of the Pacific.

During the oversight the committee intends to examine the present status of the public works program in that area and review in general the needs of the various districts of the territory.

Anyone wishing to testify at this hearing or to submit a statement for the record should so advise the Interior Committee staff.

The hearing will begin each day at 10 a.m. and will be held in room 3110 of the Dirksen Senate Office Building.

NOTICE OF HEARING

Mr. MOSS. Mr. President, I announce for the information of the Senate that the Senate Consumer Subcommittee will hold a hearing on the impact of the President's energy proposals on the consumer. The public hearing will begin on Friday, January 31, 1975, at 10 a.m. in room 5110, Dirksen Building.

ANNOUNCEMENT OF ORGANIZATIONAL MEETING

Mr. MOSS. Mr. President, I wish to announce that the Committee on Aeronautical and Space Sciences will hold its organizational meeting on Tuesday, January 28, at 9:30 a.m.

ANNOUNCEMENT OF COMMITTEE HEARINGS

Mr. TALMADGE. Mr. President, the Committee on Agriculture and Forestry will hold hearings the weeks of February 3 and February 17 on proposed amendments to the 1973 Agriculture Act and related subjects. As much as possible, witnesses will be heard according to the following schedule:

February 3—General farm organizations and commodity groups.

February 4—General farm organizations and commodity groups.

February 5—Food stamps and commodity distribution program.

February 6—General testimony.

February 7—Dairy.

February 17—Cotton and tobacco.

February 18—Public Law 480 and world food situation.

February 19—Peanuts and livestock, including poultry.

February 20—Secretary of Agriculture.

February 21—Rice.

The hearings will be in room 324, Russel Office Building, beginning at 10 a.m. each day. Because of the large number of witnesses expected to testify, oral presentations will be limited to 10 minutes for all witnesses, including Members of Congress. Witnesses will have the privilege of filing longer statements for the hearing record. Anyone wishing to testify should contact the committee clerk as soon as possible. Witnesses are requested to submit three copies of their statements 3 days in advance of their appearance and to supply 75 copies on the date of the hearing.

ADDITIONAL STATEMENTS

NEW HAMPSHIRE SPEAKS

Mr. GRIFFIN. Mr. President, last evening the Governor of New Hampshire, the Honorable Meldrim Thomson, Jr., signed into law a measure passed by the legislature of his State. Governor Thomson characterized the new legislation as "a precedent-shattering invitation to the U.S. Senate to return to the voters of New Hampshire the resolution" of the dispute over the outcome of last November's New Hampshire senatorial election.

This morning, Governor Thomson went to the Office of the Secretary of the Senate of the United States, here in the Capitol to request physical return of the invalid certificate of election erroneously issued to senatorial candidate John A. Durkin during a preliminary phase of New Hampshire's recounting process. As Governor Thomson has pointed out:

> Congressman Louis C. Wyman . . . holds the only valid certificate of election.

During a press conference later in the morning, Governor Thomson reported on his visit to the Office of the Secretary of the Senate, and released copies of the new State statute providing for a special election if the Senate declares the disputed seat vacant.

In addition, Governor Thomson made available copies of resolutions adopted by the Governor and Executive Council of New Hampshire, which made clear that Louis Wyman holds the only valid outstanding certificate of election issued by the State of New Hampshire.

Mr. President, so that Members of the Senate may have the opportunity to study these several documents, I ask unanimous consent that copies be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY GOV. MELDRIM THOMSON, JR.

I am here in my capacity as the Governor of the sovereign state of New Hampshire. I have come on my own initiative to voice the overwhelming will of the great majority of our people.

We say in Part I, Article 7 of our second oldest state constitution, adopted in 1784, that we are a free, sovereign and independent people except for that sovereignty delegated to the Congress. This constitutional imperative is affirmed for all of the states in the Tenth Amendment of the Federal Constitution.

Last night the people of New Hampshire spoke to the United States Senate in their sovereign capacity when I signed into law at Salem, New Hampshire, at 6:31 p.m., Senate Bill #28, an act providing for a special election for the office of United States senator.

In a recent poll by the Manchester Union Leader newspaper it was found by a margin of 8 to 1 that the citizens of New Hampshire wanted to have a special election in the disputed senatorial contest.

Their duly elected legislative representatives, by a vote of 16 to 8 in their Senate and a vote of 220 to 145 in the House—a vote which saw many legislators crossing party lines—extended a precedent shattering invitation to the United States Senate to return to the voters of New Hampshire the resolution of the Wyman-Durkin senatorial dispute.

Congressman Louis C. Wyman is the duly certified winner by two votes of the senate seat formerly held by Senator Norris Cotton. Mr. Wyman holds the only valid certificate of election.

He has volunteered that he would favor a run-off special election. Mr. John A. Durkin, the ultimate loser in the recount of votes has somewhat reluctantly admitted that he would abide a special election. Most important of all, the sovereign voice of the people of New Hampshire, speaking through its legislators, has said that it wants a special election.

This matter is now before the United States Senate under the provisions of Sections 4 and 5 of Article 1 of the Federal Constitution.

However, it differs from other election disputes before that body in that there has been no allegation of fraud or wrongdoing in the Wyman-Durkin contest.

The only thing that might resemble wrongdoing involves some few United States senators who would misuse a provisional certificate of election given to John A. Durkin by Governor and Council of New Hampshire, following a recount of the November 5th ballots, and that was revoked by the New Hampshire Ballot Law Commission and by Governor and Council when it was lawfully determined by a review of challenged ballots that Wyman was in fact a two-vote victory.

We in New Hampshire do not believe that the United States Senate, in the absence of fraud or wrongdoing, can arbitrarily substitute its will for that of our people by selecting for us our United States senator.

If this were to be adjudged the law, then the Senate could become a self-perpetrating body. Thus the will of senators elected by voters in other states would be substituted for the right of the people of one sovereign state to decide for themselves whom their senator should be.

Throughout the Federal Constitution there are numerous instances in which it is made abundantly clear that ours is a government of people who have the inalienable right to elect their own representatives to the Congress.

Some United States senators are saying that they have the jurisdiction and the power to review the tally of votes which under Section 4 of Article 1 were lawfully counted and checked by state procedures which by state and federal court decisions directly relating to the Wyman-Durkin matter were found to be constitutional and eminently fair.

Under these circumstances we do not believe that the Senate has a right to check a validly certified two vote margin any more than it would have the right to check the lawful tally in all other senatorial elections whether the margin was by two, two thousand or two million votes.

If the Constitution is to be interpreted as making the Senate the elective body of its own membership, then pursuant to the equal protection of the laws guaranteed to the citizens of New Hampshire by the 5th and 14th Amendments, and specifically set forth in Article 4, Section 2, every senatorial election in 1974 should be reexamined in precisely the same manner.

Where the election decision is properly and lawfully certified under the laws of the state and found to be so by the state and federal courts, it cannot then be argued that the citizens of that state are not equal before the law unless the propriety of seating the elected senators from all other states are also subjected to senatorial scrutiny under Article I, Section 5 of the Constitution.

This certainly was not the intent of the Founding Fathers. Such power to scrutinize would carry with it the absolute and arbitrary power to accept or reject membership in the Senate along partisan lines. In time, such a practice if long indulged could erode the elective power of the people.

I consider the matter of state sovereignty a very important ingredient of this particular election dispute.

In discussing this precise power of the Senate, Hamilton in the 62nd Federalist paper points up the importance of state sovereignty. He said:

"The equal vote allowed to each State is at once a constitutional recognition of the portion of sovereignty remaining in the individual States, and an instrument for preserving that residuary power. So far the equality ought to be no less acceptable to the large than to the small States; since they are not less solicitous to guard, by every possible expedient, against an improper consolidation of the States into one simple republic."

Under all the circumstances surrounding the Wyman-Durkin dispute the Governor, the Executive Council, and the Legislature of the State of New Hampshire believe that the ultimate right to settle this matter is a part of the "residuary" sovereignty of our State.

The United States Senate properly had the dispute before it. Having found no fraud or wrongdoing, they should respond to our invitation for a special election and return the problem to New Hampshire for our citizens to resolve.

It is clear and uncontested law that the State of New Hampshire determines the electoral proprieties within its own borders, and in the absence of fraud, is entitled to the representation produced by that process.

So strongly do I believe in this basic sovereign right of our State, that, should it become necessary. I would have no hesitancy to enter a suit in the Supreme Court of the United States, as Governor representing all the citizens who voted in our recent senatorial election.

It would be filed under 28 U.S.C. 1251 (b) (3) against any who might thwart the constitutional electoral franchise of the people of New Hampshire.

Hamilton also said in the Federalist that "it is a misfortune, incident to republican government, though in a less degree than in other governments, that those who administer it may forget their obligations to their constituents."

I cannot help but believe that the United States senators in resolving the Wyman-Durkin dispute will remember their obligations to their respective constituencies; namely, to preserve for their respective states the residuary sovereign rights of the electoral process in senatorial elections.

If this be their course, they will surely accept the legislative invitation of New Hampshire to return the Wyman-Durkin matter for a special election.

Anything less would jeopardize the future electoral rights of each senator's own constituency, just as those of the citizens of New Hampshire are now endangered.

SENATE BILL NO. 28

Introduced by: Sen. Monier of Dist. 9, Sen. Brown of Dist. 19, Sen. Ferdinando of Dist. 16, and Sen. Smith of Dist. 3.

Referred to: Committee on Executive Departments, Municipal and County Governments.

An act providing for a special election for the office of United States senator.

ANALYSIS

This bill provides that, if the United States Senate declares that there is a vacancy in the office of junior senator from New Hampshire:

1. A special election to fill such vacancy shall be held between the dates of February 24 and February 28, 1975, the exact day to be set by the governor and council.
2. The three original candidates, namely, Durkin, Wyman and Chimento will be on the ballot.
3. The governor may appoint a senator to fill such a vacancy but only for a term ending when the winner of the provided for election is determined and he may not appoint any of the three candidates in said election.
4. The existing statutes as to form, manner and conduct of elections shall be applicable to this election.
5. Absentee voting will be allowed.

[State of New Hampshire, in the year of Our Lord one thousand nine hundred and seventy-five]

An act providing for a special election for the office of United States senator

Be it Enacted by the Senate and House of Representatives in General Court convened:

1. Special Election. A special election for the office of United States senator shall be held no sooner than thirty-five days and no later than forty-five days after this act takes effect, on a day, during said period, to be set by the governor and council, provided said day may not be the same day provided by RSA 39:1 for the holding of annual town meetings.

2. Candidates. The candidates on the ballot for that election shall be, John A. Durkin of Manchester, Democrat, Louis C. Wyman of Manchester, Republican, and Carmen C. Chimento of Brookline, American Party.

3. Interim Appointment. The power of the governor to appoint in case of a vacancy under RSA 63:3 is hereby amended for the purpose of this statute only so that the duration of any appointment made by him is limited to the period between the time that the 94th Congress convenes and the winner of the election held pursuant to this statute is seated by the Senate of the United States. The person so nominated shall not be any of the candidates whose names appear on the ballot for the special election.

4. Election Laws Applicable. All other provisions of the New Hampshire Revised Statutes Annotated relating to the form, manner and conduct of elections are hereby specifically made applicable to this election.

5. Absentee Voting. Absentee voting shall be permitted in this election.

6. Effective Date. This act shall take effect immediately upon the declaration, by the United States Senate, that a vacancy exists in the office of United States senator from New Hampshire.

RESOLUTION

Whereas the State of New Hampshire conducted a biennial general election on November 5, 1974, and

Whereas the report of the Secretary of State of the return of the votes cast for United States Senator was duly laid before the Governor and Council on November 21, 1974 as Louis C. Wyman, Manchester, 110,716; John A. Durkin, Manchester, 110,361; and Carmen C. Chimento, Brookline, 1,327; whereupon the Governor and Council ". . . and authorized the Governor to issue election certificates in accordance with the (above) records," and formally declared "Louis C. Wyman, Manchester, having received the largest number of votes cast for United States Senator . . . elected . . . ." and

Whereas formal documentation was not prepared forthwith by the Secretary of State due to the then ongoing official recount in said election, and

Whereas a formal request was made by legal counsel for John A. Durkin, Manchester, on November 6, 1974 for impounding all ballots and a formal request was made by the same parties on November 7, 1974 for an official recount by the Secretary of State, and

Whereas such an official recount was conducted by the Secretary of State on November 18, 1974 through November 26, 1974, and

Whereas upon completion of said official recount the Secretary of State on November 27, 1974 announced that the votes cast for the election of United States Senator were John A. Durkin, Manchester, 110,924; Louis C. Wyman, Manchester, 110,914; and Carmen C. Chimento, Brookline, 1,513; and thereupon the Secretary of State presented these totals to the Governor and Council for certification within an hour, and

Whereas the Governor and Council, acting prudently, on November 27, 1974 sought an informal opinion from the Attorney General of New Hampshire as to when final certification was appropriate and legal, having in mind that a further appellate proceeding still remained available to either Mr. Durkin or Mr. Wyman with the Ballot Law Commission, a State agency, and

Whereas the Attorney General advised the Governor and Council on November 27, 1974 that they should then certify Mr. John A. Durkin as the elected United States Senator at that point in time and on a further request from the Governor and Council the Attorney General stated in an informal opinion that the State Ballot Law Commission would certify direct to the United States Senate and to the participating candidates of any changes in the total votes cast when the Ballot Law Commission reviewed challenged ballots, and

Whereas the Governor and Council then requested the Attorney General to draw up a qualifying resolution providing for a conditional certification for John A. Durkin which was unanimously passed by the Governor and Council and which read, in part . . . "The Governor and Council make this certification aware of the rights of appeal to the State Ballot Law Commission contained in RSA 68," and

Whereas on November 27, 1974 counsel for Louis C. Wyman, Manchester, appealed the declaration of recount of the Secretary of State under RSA 68:4 II, and

Whereas during the ensuing dates between December 4, 1974 and December 23, 1974 the State Ballot Law Commission acted in consideration and review of the challenged ballots, and

Whereas on December 5, 1974 the Governor and Council first were made aware of two sworn affidavits alleging that the Secretary of State in conducting the official recount had failed to count write-in ballots on the voting machines in the town of Exeter, and

Whereas the Secretary of State, under questioning by the Governor and Council, admitted that he had not counted write-in ballots on the voting machines in the town of Exeter nor in the cities of Manchester, Nashua and Portsmouth based on his interpretation of a prior Ballot Law Commission ruling occurring during a previous election which now appears not to have been applicable in this particular election since it applied in multiple-choice elections and not in a "one-choice election," and

Whereas it was clearly apparent to the Governor and Council that all votes cast on November 5, 1974 were therefore not counted in the official recount by the Secretary of State thus creating inaccurate totals in the qualified certification of John A. Durkin, and

Whereas the Secretary of State, under questioning by the Governor and Council, was unable to offer any reason for his failure to advise the United States Senate nor the candidates of the qualified certification drawn by the Attorney General and unanimously passed by the Governor and Council on November 27, 1974 certifying John A. Durkin and which clearly indicated the awareness by the Governor and Council of the availability of a further appelate procedure through the Ballot Law Commission in the event of a request for a review of challenged ballots by either candidate, and

Whereas the Governor and Council felt strongly that until the challenged votes were reviewed by the State Ballot Law Commission and determinations made, and all appeal routes had been exhausted at the State level that certification by the highest executive authority in the State of New Hampshire, namely the Governor and Council, had been premature and inaccurate, and

Whereas the Governor and Council for these reasons then acted on December 5, 1974 to decertify the previous qualified certification of John A. Durkin, Manchester, and

Whereas the Ballot Law Commission has formally announced on December 24, 1974 that the following totals in the election of the United States Senator are final and accurate as in their best judgment reflecting the intent of each voter, and

Whereas under the Constitution of New Hampshire, Part II, Article 62, the Governor and Council is responsible "For ordering and directing the affairs of the State, according to the laws of the land,"

Now therefore the Governor and Council, acting as the highest executive authority in the State of New Hampshire concurs with the State Ballot Law Commission in the issuance of a *Certificate of Changed Declaration* and *Accompanying Report of the New Hampshire Ballot Law Commission* dated December 24, 1974 of the total vote cast as being Louis C. Wyman, Manchester, 110,926; John A. Durkin, Manchester, 110,924; Carmen C. Chimento, Brookline, 1,513; as being an accurate representation of the total votes cast for each candidate in the biennial election held on November 5, 1974 for the office of United States Senator, and

Now therefore the Governor and Council directs the Secretary of State, acting in the capacity of Secretary to the Executive Council (New Hampshire Constitution, Part II, Article 64) and as Clerk and Recording Officer of the New Hampshire State Ballot Law Commission (RSA 68:1) to make this Resolution part of the certification documents of Louis C. Wyman, Manchester, and

Now therefore the Governor and Council authorizes the Governor to declare Louis C. Wyman the elected United States Senator and to issue to him a certificate which will include the following paragraph:

"This certifies that the Governor and Executive Council having reviewed and accepted the findings of the New Hampshire Ballot Law Commission that at the Biennial election held on November 5, 1974, Louis C. Wyman of Manchester received 110,926 votes; that John A. Durkin of Manchester received 110,924 votes; that Carmen C. Chimento of Brookline received 1,513 votes in the contest for United States Senator, hereby declare Louis C. Wyman elected and do authorize the Governor to issue to him a Certificate of Election reflecting the said certification of the Ballot Law Commission."

RESOLUTION

Whereas, the Secretary of State is required by RSA 63:8 and 63:11 to present the figures on the election for office of the United States Senator to the Governor and Executive Council for certification, and;

Whereas, the Secretary of State on 5 December 1974 has advised the Governor and Executive Council that all votes cast for the office of United States Senator were not recounted, and;

Whereas, the Secretary of State has stated that no write-in votes in the balloting machines were tallied on the re-count, and;

Whereas, the Governor and Executive Council have received a notarized statement indicating write-in votes were cast and a notarized statement that write-in votes were counted in the official return of votes for one of the two candidates, and;

Whereas, the Secretary of State has notified the Governor and Executive Council on this date that these same votes were not tallied in the recount, and;

Whereas, on November 27, 1974 Governor and Council did pursuant to Statute certify by Resolution the count given to it by the Secretary of State, which Resolution reads as follows:

"Resolved that the official recount of the ballots cast in the election for United States Senator having been completed and showing the following results:

John A. Durkin	110, 924
Louis C. Wyman	110, 914
Carmen C. Chimento	1, 513

"It is resolved that under the provisions of RSA 63:8 and 63:11 the Governor and Council certify John A. Durkin of Manchester as the winner of said election, further stating that the Governor and Council make this certification aware of the rights of appeal to the State Ballot Law Commission contained in RSA 68."

Whereas, the text of said Resolution was not included in the certification forwarded to the United States Senate and to the senatorial candidates;

Be it hereby resolved that the Governor and Executive Council rescinds the certification of November 27, and instruct the Secretary of State to forthwith notify the United States Senate and the senatorial candidates of this action.

RESOLUTION

On November 21, 1974 the Governor and Council authorized the governor to issue a certificate to Louis C. Wyman as the elected United States Senator from New Hampshire on returns submitted by the Secretary of State.

The certificate was not formalized due to the then ongoing recount as requested by John A. Durkin.

On November 27, 1974 the Governor and council requested an informal opinion from the Attorney General on the announced election of John A. Durkin following the recount conducted by the Secretary of State, and the recommendation of the Attorney General was that a qualified certificate should be provided the United States Senate specifically acknowledging that an appeal procedure involving the New Hampshire State ballot law commission was then still open to both senatorial candidates. The action taken by the Governor and council definitely qualified the certificate of Mr. Durkin.

Subsequently the Governor and Council determined on December 5, 1974 that the qualified certification had been premature and rescinded their prior action of November 27, 1974. The ballot law commission proceeded on the appeal of Louis C. Wyman to determine the intent of the voter in the challenged ballots.

On December 24, 1974 the ballot law commission announced Louis C. Wyman of Manchester to be the elected United States Senator from New Hampshire whereupon the Governor and Council on December 27, 1974 authorized the Governor to issue a certificate of election to Louis C. Wyman.

The Governor and Council considered the qualified certificate issued to John A. Durkin to have been revoked when they rescinded their prior action on December 5, 1974 since the qualified certificate was issued prior to the final totals being determined by the state ballot law commission as provided by New Hampshire statute.

The Governor and Council accordingly request that the qualified certificate sent to the United States Senate in the interests of Mr. Durkin be returned to Governor Meldrim Thomson, Jr. as having no official status.

SECTION 202, PROGRAM—HOUSING FOR THE ELDERLY AND HANDICAPPED

Mr. WILLIAMS. Mr. President, on Monday Secretary James Lynn, of the Department of Housing and Urban Development, announced that the Department would implement the section 202 program for housing for the elderly and handicapped.

This action is most gratifying to those of us who have worked for the past 5 years to have this program reactivated.

In the 1960's, this program was used with enormous success to build more than 45,000 units of comfortable housing which low-income elderly and handicapped people could afford. In the entire history of the 202 program, there has only been one default on a Government loan. Today, 202 housing has proved its value many times over, and there are long waiting lists to get in.

Despite the success of this program, it was put into cold storage in 1969, and it has been almost unused since then.

When the Housing and Community Development Act of 1974 was enacted last August, it included an amendment which I authored to revise and expand the authority for the 202 program. The bill provided $800 million in contract authority for the next several years, and there is currently $215 million available from appropriated funds and from funds in the 202 revolving fund.

I have been quite concerned over the past few months by indications both from within and outside of HUD that the 202 program would not be utilized. Yesterday's decision is heartening, and I am hopeful that we will see HUD move with dispatch in promulgating the necessary regulations.

I am convinced that this program can provide decent, safe, and sanitary housing for our elderly and handicapped persons, and that it will help stimulate our depressed construction industry.

TAX CUT AND TAX REFORM

Mr. BAYH. Mr. President, on January 13, President Ford went on national television to explain his economic program to the American people. He appeared here in Congress 2 days later to explain that program in more detail in his state of the Union address.

I was heartened, Mr. President, to see that the leader of the Republican Party has joined with Democrats in making a firm commitment to fight recession. I was also heartened to see that the President now has endorsed a major tax cut as a principle element of his program.

Although I think we can greatly improve upon the President's proposals for tax reductions, there can be no question that a tax cut is needed. Declining gross national product, record increases in unemployment, collapse of the housing and auto industries, and reduced capital spending leave us no alternative but to prime the economic pump.

I was deeply disappointed, however, by the President's failure to strongly commit himself to significant tax reform. It is inconceivable to me, Mr. President, that we could even conceive of passing a major tax bill without including essential reforms which have been demanded by the public for years.

In meeting with thousands of citizens during my recent campaign in Indiana, nothing was more evident than the disillusionment of our people with Government. The hope of our citizens has turned to skepticism. Enthusiasm has been replaced by disinterest. Watergate and the related campaign scandals have sapped the confidence of the people in the integrity of their Government.

Mr. President, we in Congress must work to restore that confidence, and an essential step toward this goal is the elimination of special treatment for the wealthy and powerful under our tax laws. We must stop the flow of special handouts for special interests and close the loopholes which have been of advantage to the very few at the expense of the many. We must demonstrate that in America, regardless of wealth and power, all citizens bear a fair share of the cost of Government. Now, with the prospect of major tax legislation before us, is the proper time for action.

Tax reform will give us an additional tool in restructuring our tax system to meet our economic problems. The revenues raised from closing loopholes will provide funds we can shift to low and middle income groups which have been hurt most by the illness of our economy, and will provide money to help finance a substantially increased investment tax credit without causing the Federal deficit to become too large and too inflationary.

Further, in times of more prosperity, the revenues raised through permanent tax reform will aid in minimizing and eventually eliminating budget deficits while meeting adequately the needs of the American people.

In my opinion, Mr. President, the action that Congress takes in revising our tax laws in the next few months will be as important as any action it takes this year. I intend to introduce a tax reform package, similar to a package I have introduced on previous occasions, and I hope Congress will consider it and pass it along with the legislation to reduce and rebate taxes.

My tax reform package will include:

Repeal of the oil depletion allowance for the large multinational producers;

Termination of the deduction for intangible drilling costs;

Limiting foreign tax credits for oil companies;

Eliminating the asset depreciation range—ADR;

Strengthening the minimum tax; and

Eliminating provisions for the Domestic International Sales Corporation—DISC.

These measures would produce about $6 billion in new revenues and would permit us to increase the size and extent of tax reductions. I recommend that we proceed with a $12 billion rebate on 1974 taxes but structure that rebate to benefit low- and middle-income taxpayers with an adequate payment to the poor. We should also increase the investment tax credit to 12 percent for 1 year to provide the incentive for new capital purchases to help revive the economy, and, additionally, we should provide for $10 billion in tax reductions on 1975 taxes with emphasis again on low- and middle-income taxpayers. These proposals would result in a gross tax reduction of approximately $26 billion, and when coupled with my tax reform legislation, a net reduction of $20 billion, the amount I believe necessary to get our economy moving forward.

Mr. President, I have heard and read several comments in the last few weeks that tax reform should be taken up after the tax reduction bill is completed. Tax reform is complex, one line of the argument goes, and should receive separate study and debate. To those who make this argument, I point out that every one of the proposals I have made has been the subject of great study and debate on many occasions during the 93d and earlier Congresses. These proposals are not new. We have been discussing them for years, and every Member of Congress with previous service is familiar with the issues involved. For new Members, there is an abundant record which can be studied.

Mr. President, it is also argued that tax reform is controversial and should not be tied to a tax cut that has broad support. In response, I say that we were elected to make difficult and controversial decisions. It is not our job to follow the course of least resistance.

There is no sound argument for separating tax reform from tax reduction. We must not be fooled by reasoning which seeks to postpone reform indefinitely to the benefit of the vested, special interests. Now is the time to enact a full tax package, and I hope the majority of my colleagues will join me in working for legislation that encompasses significant tax reform as well as tax reduction.

PIONEERING APPROACHES TO CONFRONT SEX BIAS IN HOUSING

Mr. BROCK. Mr. President, today I would like inserted in the RECORD a special research project prepared by Betsey Friedman, a second year law student at the Cleveland State University College of Law. This paper will be published early in 1975 in the Cleveland State Law Review—24 Cleveland State Law Review—1975.

This paper deals with sex discrimination in housing, a subject of much importance. Last year I authored an amendment to the Federal Fair Housing Act and S. 3066, the omnibus housing bill, in an effort to eliminate sex discrimination in the housing field.

Various States from Hawaii to New York are anxious to return to their respective legislatures to strengthen their sex discrimination in housing statutes. It is my hope that this insert in the RECORD shall be used to support and justify such efforts.

Mr. President, I ask unanimous consent that this research paper be printed in the RECORD.

There being no objection, the research paper was ordered to be printed in the RECORD, as follows:

PIONEERING APPROACHES TO CONFRONT SEX BIAS IN HOUSING

Of all the services, facilities and other amenities a community provides, few matter more to the individual and his family than the kind of housing he lives in . . . Through the ages, men have fought to defend their homes; they have struggled, and often dared the wilderness, in order to secure better homes.

This feeling underscores the impetus behind the federal government's efforts to provide equal housing opportunities "for all Americans." It is generally accepted that equal housing opportunity has wide repercussions, affecting both educational and employment opportunities. Undoubtedly the most important fair housing legislation is Title VIII of the Civil Rights Act of 1968 (hereinafter the Fair Housing Act), the federal housing statute that prohibits discrimination in most private real estate transactions. Now a long last prohibitions against sex bias in housing are included under the Fair Housing Act, along with other discrimination prohibitions based upon race, color, relgion or national origin. With the inclusion of sex, the congressional declaration in the Act "to provide, within constitutional limitations, for fair housing throughout the United States" can finally have some valid meaning, as women, comprising over half the country's population, are frequent victims of housing discrimination. Congress has finally acknowledged the ignored, but pervasive fact that females are arbitrarily being denied housing opportunities. It is an important step—and a long awaited one.

With an ever growing number of working women, now constituting 40% of the labor force, along with a substantial increase in the number of female-headed families, from 4.2 million in 1955 to 6.6 million in 1973 (with half of the increase in the 1970's), this area of the law will become increasingly active and increasingly important.

This Note will be a national review of the past experiences with and potential action in the area of sex discrimination in residential real estate ransactions. Emphasis will be on sex discrimination in the rental of real property, with a brief review of the more commonly acknowledged problem of credit discrimination in home sale financing. The present suitability of available state remedies will be discussed, with an analysis of the charges filed. And the emergence of Fair Housing Act racial litigation will be explored, with a practical approach for its application to sex discriminaton housing cases.

SCOPE OF THE PROBLEM

Discrimination in housing is not a new subject. Indeed, since 1962 the federal government has become increasingly involved in eradicating such discrimination based on race, color, religion or national origin. Sex discrimnation in housing is by no means new, but recognition of the problem is recent. A survey of the foremost women's research centers reveals that no group has undertaken or formulated immediate plans to approach the problem; such groups are too immersed in what they believe to be the more obvious areas of sex discrimination in employment, education and credit.

The logical agency to conduct such research, the United States Commission on Civil Rights, has just completed a comprehensive study on sex discrimination in home mortgage lending, but has so far by-passed the problem of sex discrimination in the rental of residential property.

It is encouraging to note, however, that the American Bar Association, recognizing that "[w]omen and their families are frequently denied access to housing of their choice by a number of discriminatory practices. . . . ," recently passed by resolution in support of legislation prohibiting sex discrimination in the sale and rental of housing and in related services.

Discrimination in housing specifically refers to the refusal to sell or rent to an individual, discrimination in the terms and conditions of the sale or rental, bias in advertising the property, disparate treatment in home financing or any conduct that otherwise interferes with equal opportunity on account of one's sex. Such discrimination is overwhelmingly against the female sex, although there is an occasional charge of so-called reverse discrimination against a male.

HOME FINANCING BIAS

In contrast to the relatively inactive and ignored field of sex discrimination in home rentals, bias against women in home financing currently in the area which is receiving the most attention regarding lack of equal opportunity in housing. Credit discrimination is inextricably tied to discrimination in the sale of real property. There are two categories of financing bias: first, a real estate broker discriminates in his dealings with a woman because of his assumption that she will be unable to assume a mortgage; second, a mortgage company directly refuses to give a woman a mortgage or discriminates in the terms and conditions of the mortgage. Perhaps the most creditable research in this area is the study recently completed by the United States Commission on Civil Rights on mortgage lending discrimination in Hartford, Connecticut. The Commission found that blatant discrimination by real estate brokers and mortgage lenders is to a great extent responsible for the fact that in 1970, 68% of all families headed by men owned homes as contrasted to 48% of all families headed by women.

As with the other forms of sex discrimination in housing, sex bias in home financing is now prohibited by the federal Fair Housing Act. There is also other legislation pending before Congress that would bar sex-related home financing discrimination. In addition, there is at this time a remedy for home financing discrimination in a number of state statutes, but as the Hartford study reveals, women "by their very status as women, nevertheless are openly considered questionable risks."

A more detailed discussion of credit discrimination is not within the scope of this paper. This article will investigate the less considered, but pervasive sexual bias in the rental or residential housing. It is significant to note that in Ohio, which has a fair housing statute, only 14% of the total charges received by the Ohio Civil Rights Commission concerning sex discrimination in housing involved credit discrimination; a smilar situation exists in other states having fair housing statutes.

The overwhelming number of cases concern rental. This certainly does not negate the existence of a credit discrimination problem—the Hartford study alone is enough evidence to show the pervasiveness of the problem—but it does show that women are not apprised of their rights and their available remedies. And more importantly, it supports the thesis that sex bias in the rental of housing is comparatively more prevalent than home finance discrimination.

RENTAL BIAS

In addition to the recent amendment to the Fair Housing Act, statutes in twenty-five states provide women with legislative protection against discrimination in the rental of housing. It is crucial to look at experiences with sex discrimination in housing at the state level, there being no federal history in this area. Since many of the state statutes have only been enacted within the last several years, it is difficult to assess the total impact of such legislation, but enough time has passed to examine the general categories of the complaints. We should emphasize that the limited experience of the state administrative agencies which enforce these laws should be viewed in comparative terms to gauge the proper perspective of the extent of sex-biased housing discrimination. In such perspective, it is pronouncedly seen that the more pervasive discrimination is in the rental of housing, as opposed to discrimination in home financing.

Pennsylvania, which has had more experience in sex-bias housing cases than most other states, is a prime example of this. In the five years that the Human Relations Commission has had sex discrimination statutes in its jurisdiction, over 90% of the 154 sex-bias housing cases have involved rental, specifically refusals, evictions or conditions. As the Director of the Housing Division observed:

"[T]he overwhelming problem brought to our attention is rental. . . . I intentionally made that 'brought to our attention' because in my experience in lecturing to real estate groups, community groups and the Graduate Realtor Institute, the preponderance of questions have related to financing problems, but to date [August 8, 1974] only 3 instances have resulted in formal complaints. . . ."

Likewise, in Ohio, from the time of the addition of the sex category to its housing statute in December, 1973, through June, 1974, of the 21 total charges received, an overwhelming 86% concerned rental or the terms and conditions thereof. In the first seven month period of 1974, the Division of Human Rights of the State of New York received a total of 18 complaints alleging sex discrimination in housing. Of these, the great majority concerned the rental of housing or terms and conditions thereof, specifically 82% of the charges. In Colorado, which has had the sex prohibition in its fair housing law since 1959, of the 22 housing sex-bias cases filed from mid-1972 to mid-1974, 73% dealt with rental. The experiences of these major commissions may well be reflective of the experiences of the other state agencies.

An examination of several administrative cases, all substantiated by a finding of probable cause, add meaning to the bare statistics. For example, at the Washington State Human Rights Commission a female complainant charged a refusal to rent a house on the basis of her sex. The respondent stated she had doubts about the "[c]omplainant's ability to handle a large old house, her being the sole family supporter, in addition to her role as mother." The Commission found that the complainant's sex (not a man who only could supposedly do home repairs) was a factor in the refusal to rent, and by a conciliation agreement the complainant was awarded $400 damages.

In New Jersey, the Division on Civil Rights found probable cause in the respondent's refusal to rent an apartment to two single females. The respondent argued that the discrimination was not on account of sex and marital status, but rather on the combination of the complainant with her friend, and that as such there was no violation of the law. The commission, and subsequently the Supreme Court of New Jersey in *Zahorian* v. *Russell Fitt Real Estate Agency,* held that the statute intended:

"[t]o insure the rights of two persons of the same sex who constituted themselves into a housekeeping unit and furthermore, that such an arrangement is entirely unexceptional. It is a common practice for young unmarried working girls to make that kind of living arrangement."

The complainant was awarded $180 for economic loss and $750 for pain and suffering.

The Ohio Civil Rights Commission is presently exploring the possible sex discrimination in refusing to rent to a single parent with a child, a very common situation. The Commission's hypothesis is that "though the policy of not renting to single parents is applicable to males and females alike, the policy does have a disparate effect upon females" because a greater number of women in divorce actions receive custody and because of an increase in the number of unwed mothers retaining child custody, all leading to an increase in the number of female-headed families. This study, and subsequent rulings, will have important repercussions in the sex-bias housing field.

A further interesting area of housing bias concerns discriminatory housing regulations, advantages or privileges at universities and colleges. In 1972, the Pennsylvania Human Relations Commission requested and received voluntary compliance from the institutions of higher education in the state for uniform housing regulations. This action abolished a major source of housing complaints.

It is apparent from the statistics given that the sex discrimination prohibitions of the state fair housing statutes have not been greatly used. A common theory advanced by the commission is that the main problem is educational—the public simply does not know that such discrimination is illegal. This is glaringly seen in a report from Hawaii that since 1971, when their fair housing law was amended to include sex, there has not been one complaint. Similarly in Oregon, since October, 1973, when their law was enacted, no cases relating to sex discrimination in housing have been filed. The Oregon commission concedes the lack of knowledge of the law and is attempting to disseminate the information to the public.

The Housing Director of the Pennsylvania Human Relations Commission, noting that "my information suggests a serious problem, but our docket book does not reflect it," offers several explanations for the relatively small number of cases, in addition to the educational problem: staff resistance, especially male staff; reluctance to file in that "a whole psychological spectrum of conditioning has prepared many Americans to accept their rejection without a word"; and that the discrimination is going underground.

The Ohio Civil Rights Commission, aware of the public educational void, instituted a broadcast public service announcement program soon after the sex-bias law was enacted. The effect of such announcements is doubtful, however, as public service announcements are notorious for being aired during periods of minimal viewing.

The state commissions seem to be cognizant of the crucial educational problem, but the state legislatures are perhaps not always so understanding. For example, in Ohio under the present law, the Civil Rights Commission is mandated to prepare an educational program for the public schools and all residents of the state. However, when the legislature added sex discrimination to the commission's jurisdiction, it failed to add the sex category to the educational program provision. Legislation to amend this has been introduced in the House, but passage is uncertain.

Looking at the comparative experiences and statistics of various state commissions, one conclusion that can be drawn is that the preponderance of attention given to sex discrimination in home finance by women's rights and other organizations may be somewhat misguided. While not minimizing the totality of discrimination in home finance, the administrative complaints show more attention and relief must be directed to the area of sex discrimination in the rental of residential housing.

STATE RESPONSES TO SEX-BIASED DISCRIMINATION IN HOUSING

Provisions of the law

Twenty-five states have fair housing legislation. In all but a few of these states, the applicable statute establishes an administrative agency to effectuate the purposes of the statute. The various state statutes all read somewhat similarly, with variation in the extent of coverage, the exemptions and the degree of authority given to the commissions.

Somewhat typical is the Ohio statute. Under the Ohio civil rights legislation, it is an unlawful discriminatory practice to "refuse to sell, transfer, assign, rent, lease, sublease, finance, or otherwise deny or withhold housing accommodation from any person because of the . . . sex . . . of any prospective owner, occupant, or user of such housing"; to indicate there is no housing when it is available; to fail to lend money for financing for home purchase or repair on account of sex, if the individual or corporation is in the business of lending money; to discriminate in the terms or conditions of the sale or rental or in providing services or privileges; to discriminate in the terms and conditions of a home financing loan; to print or circulate a discriminatory statement indicating a preference or limitation as relates to housing; to make an inquiry or keep a record concerning the sex of the applicant; to include in the rental or transfer of housing any restrictive covenant; or to attempt to induce a housing sale by making representations as to the future composition of a neighborhood. Ohio specifically exempts religious and private or fraternal organizations.

Other states have had more initial foresight and have gone much further in their exemptions pertaining to sex. For example, Connecticut legislators have hedged obvious problems with sex discrimination in housing statutes by exempting organizations that rent sleeping accommodations for the exclusive use of one sex. As the statute now reads in Ohio, a dormitory in a state university housing only females would be in violation of the law. A similar provision, exempting dwellings designed exclusively for one sex, is now before the Ohio Legislature.

Iowa has an exemption with a similar effect, though less broad in coverage, excluding housing accommodations where residents of both sexes must use a common bathroom. In addition, many of the states exempt housing accommodations of no more than two families, if the owner or his family resides in one accommodation.

In Ohio, as with other state commissions, there are two avenues of enforcement. First, there is administrative enforcement through the Ohio Civil Rights Commission. Second, and only for the housing provision, there is a private cause of action whereby a person may file a civil action in a court of common pleas. By allowing the private suit, the legislature recognizes the necessity of quick action in housing cases. Due to the transient nature of housing, for effective relief for the aggrieved, immediate enforcement is an absolute necessity.

The Administrative Process

Specifically, in Ohio, a complainant may file a charge with the Commission alleging a discriminatory action. The Commission is empowered to investigate the charge, and if probable case is found, attempt to abolish such practices by "informal methods of conference, conciliation, and persuasion." If this fails, the Commission may hold a public hearing, after which, and only then, the Commission may issue a cease and desist order. The Commission lacks any power of emergency injunctive relief. As it often takes months to investigate a complaint, the housing is frequently unavailable by the time of the order or the complainant has found other housing. Thus the only power of the Commission in housing cases is to stop further discriminatory actions and, if it is still available and desired, obtain the housing for the complainant.

A good many of the states have unsatisfactory injunctive provisions like Ohio. To be effective in the housing area the commissions need the authority to seek a temporary restraining order. The Alaska statute has such a provision:

> "At any time after a complaint is filed . . . the commission may file a petition in the superior court . . . seeking appropriate temporary relief against the respondent . . . including an order . . . restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint."

New York has a similar provision. This authority is an absolute necessity for effective dispositions of housing complaints. Until Ohio receives such authority, its fair housing law will remain only a token effort to achieve fair housing in the state. Every session three or four bills are submitted to the Ohio legislature to add powers to the commission, but few are enacted. At the present time, there is a bill in the Ohio House that would give the Ohio Civil Rights Commission power to seek temporary and preliminary relief as in the Alaska statute.

In addition to the power of injunctive relief, state administrative agencies must have the power to award damages to be truly effective in providing appropriate compensation for the aggrieved. The majority of the commissions have no express statutory provision for damage awards in housing cases. But it is axiomatic that fair housing statutes are to be construed liberally. In this regard, some enlightened state courts have correctly interpreted their civil rights statutes by sustaining the power of the state commission to award compensatory damages. Obviously the deterrent effect of paying damages would also further the purposes of a fair housing statute.

Usually senstitive, the Supreme Court of New Jersey broadly applied the Division of Civil Rights' remedial powers and upheld the Division's award of compensatory economic and pain and suffering damages. Though there was no specific statutory language authorizing such power, the court held "it was fairly to be implied in the light of the 'broad language of the section' and the 'overall design of the act.'" The court disagreed with the appellate division's feeling that such authority to grant minor pain and suffering awards would lead to much more substantial claims. In *Zahorian* v. *Russell Fitt Real Estate Agency*, one of the two reported cases dealing with sex discrimination in housing, the complainant was awarded $180 for economic loss and $750 for pain and suffering.

Similarly, the Massachusetts Supreme Court found nothing improper in the Commission Against Discrimination awarding the complainant $250 for mental suffering for being refused an apartment on account of race. The court implied such authority from a section of the statute empowering the commission to award damages that "shall include, but shall not be limited to, the expense incurred by the petitioner. . . ." The court found such humiliation and frustration supported by substantial evidence and noted the general recognition of mental suffering damages.

The Washington State Human Rights Commission has granted monetary awards in several sex-bias housing cases, the largest amount being $400 for "any and all claims for compensation or damages." The Commission has awarded damages both for loss of rights and for humiliation and suffering.

In New York, the court of appeals reaffirmed its holding that the civil rights statute did empower the division of human rights to award compensatory damages for mental suffering. The court, in stressing the high priority of the state's policy in eliminating discrimination, stated:

> "What we do hold is that due to the strong anti-discrimination policy spelled out by the legislature of this state, an aggrieved individual need not produce the quantum and quality of evidence to prove compensatory damages he would have had to produce under an analogous provision . . . particularly so where . . . the discriminatory act is intentionally committed."

In direct contrast, the courts of Pennsylvania and Ohio failed to so interpret their civil rights statutes. In Pennsylvania, where the matter is presently before the state supreme court, the Human Relations Commission still continues to award damages, though the Commonwealth Court ruled the Commission does not have such power. In *Zamantakis v. Human Relations Commission*, where the complainants were denied an apartment because of race and sex, the court, pointing out the absence of statutory language authorizing compensatory damages and the absence of legislative intent, stressed that a regulatory agency as the Commission cannot exceed the powers given by the legislature. The court rejected the Commission's argument that statutory language authorizing the Commission to take "affirmative action" included the awarding of damages, but rather interpreted the section to mean the Commission could only order the respondent to take affirmative action. In a companion case, *Straw v. Human Relations Commission*, the court acknowledged the similarity of the Pennsylvania statute to the New Jersey statute where such authority was approved, but felt the Pennsylvania case seeking $3,500 damages for suffering disproved the New Jersey Supreme Court which doubted such awards could ever become substantial. In addition, the court stressed the informality of administrative proceedings conducted by persons not necessarily knowledgeable of the law, and as such ruled damage awards must be left to the courts.

Likewise in Ohio, in *Ohio Civil Rights Commission v. Lysyj*, the state supreme court stripped the Ohio Civil Rights Commission of any power to award compensatory or punitive damages. In doing so, it appears the court disregarded the mandate of the legislature to construe the provisions of the statute liberally "for the accomplishment of the purposes thereof. . . ." While the Ohio statute is also quite similar to the New Jersey statute, the court followed Pennsylvania's example and ruled:

> "The authority to take 'affirmative action' may well include extensive powers to effectuate the purpose of the Civil Rights Act, but, under existing statutory language, those powers are to be directed towards ending the unlawful discriminatory practice and securing compliance with the cease and desist order. If the General Assembly had intended to authorize the commission to grant compensatory or punitive damages, it would have been a simple matter to explicitly so provide. . . ."

Lacking such power, the Ohio Civil Rights Commission cannot provide proper relief for a victim of housing discrimination.

The state fair housing statutes routinely provide for judicial review of an administrative order. Any respondent or complainant who feels the final order of the commission is unjust may have the administrative proceedings examined by the court. The court may enforce, modify or set aside the order of the commission. As regards sex-bias housing cases, few cases have been so reviewed, with those mainly concerning administrative questions and not discriminatory questions.

It is interesting to look at the disposition of cases under the administrative procedure. Since Pennsylvania has had its sex-bias housing statute for the comparatively long time of five years it would be valuable to examine its experience. From July, 1969 through June, 1974, the Pennsylvania Human Relations Commission received 154 sex-bias housing charges. Of the 77% that were closed, probable cause was found in 66% of the cases, with 12% of the cases being withdrawn by the complainant or administratively. Five per cent of the probable cases went to public hearing, with the rest adjusted before a hearing. The Commission, recognizing the importance of compensatory damages for adequate relief, has continued to issue orders awarding damages, subject to the final determination of the state supreme court. Despite Pennsylvania's active involvement in the area and its good record of finding probable cause in a majority of the cases, if the Pennsylvania Commission is finally denied the power to award damages, as is presently the case in Ohio, the Commission will not be able to provide satisfactory relief for a housing complainant.

A commission lacking authority to award damages, and in addition lacking emergency injunctive powers to offset the inevitable delays in the administrative process, is not an adequate forum in which the complainant can receive proper treatment. As reported by the Commission Against Discrimination in Massachusetts:

"[I]n every case [sex discrimination in housing] that ended in conciliation, the administrative proceedings took so long that the complainant had found another apartment by the time the case was closed. Thus, the action had little effect on the complainant or the respondent except to experience the bureaucracy of the Commission.

Private cause of action

Under the majority of the state fair housing statutes, a complainant is given an option to file a private cause of action, rather than go through the administrative process. Looking specifically at the Ohio statute, a housing complainant may commence a private suit in a court of common pleas. Because of the present inadequacy of the relief of the Ohio Civil Rights Commission can provide, this is the only effective method for a housing complainant.

Unfortunately many attorneys and many housing complainants are not aware of this avenue of redress. The Ohio Civil Rights Commission states that it is its policy to inform such complainants of this alternative form of relief, but this is not always done. Remarkably, in Ohio, there has been only one such suit initiated in the state courts, and that one was settled in chambers.

Under this procedure, the court may grant a temporary or permanent injunction, temporary restraining order or other appropriate order. Under the Ohio statute the court is also authorized to "grant such relief as it deems appropriate, including . . . actual damages." There is no specific mention of mental anguish or punitive damages, but the absence of a specific exclusion leaves the way open for the discretion of the court.

A hindrance to the statute's effectiveness may be its lack of specific language authorizing payment of attorneys' fees for those not financially able to pay. It is unreasonable to suppose the practicing bar will undertake representation of discrimination victims without reasonable expectation of compensation for their services. It is likewise unreasonable for the housing bias victim to bear the cost of this serious, and often expensive litigation. A few states do have a specific provision for this. No private attorney has ever tried in Ohio to receive such fees, but the avenue is certainly open. Looking to the federal example in this area, federal courts have, in the absence of specific statutory language, awarded attorneys' fees to successful housing plaintiffs to further the purposes of a statute prohibiting discrimination. In *Lee v. Southern Home Sites*, the court of appeals awarded fees for an attorney in a housing discrimination suit brought under the Civil Rights Act of 1866 where the statute was silent on this issue. The court said that "awarding attorney's fees to successful plaintiffs would facilitate the enforcement of that policy [congressional policy against discrimination] through private litigation." In more explicit terms, the Court of Appeals for the First Circuit, in awarding fees, emphasized:

"If a defendant may feel that the cost of litigation, and, particularly, that the financial circumstances of an injured party may mean the chances of a suit being brought, or continued in the face of opposition, will be small, there will be little brake upon deliberate wrongdoing. In such instances public policy may suggest an award of costs that will remove the burden from the shoulders of the plaintiff seeking to vindicate the public right."

With the federal example and with the provision calling for a liberal construction of the Ohio statute, it is entirely foreseeable that Ohio attorneys would receive reasonable fees for private housing suits in the state courts. In addition, there is pending legislation to provide for such fees.

The lack of state law in the housing area is not surprising as the overwhelming majority of private housing cases have been racial cases, these having been brought under the federal Fair Housing Act. Attorneys have generally favored the federal courts:

"In the past, test case litigators usually opted for the federal courts on many grounds: the greater sensitivity of the federal bench to novel constitutional claims; the usually higher intellectual calibre of federal judges; the virtual guarantee of a written and reported opinion; the relatively efficient operation of the federal district courts; the accelerated appellate procedure . . ."

Due to the recent addition of the sex prohibitions to the federal Fair Housing Act, sex-bias housing cases may now be brought in either state or federal courts. Because of the apparent lack of case law in this area, in litigating a sex-bias housing case, one must look to the development of principles and remedies for racial cases brought under federal fair housing law.

FEDERAL RESPONSE TO HOUSING DISCRIMINATION

"States generally took the lead in the enactment of civil rights legislation and this was true of fair housing legislation." The recent inclusion of sex under the Fair Housing Act, while about half the states have had similar statutes for a number of years, shows Congress' lag in this area.

Fortunately, the federal courts have generally taken the lead in the enforcement of fair housing legislation. In the short time since the enactment of the Fair Housing Act in 1968 cases have proliferated. Although the Act previously also prohibited discrimination because of religion and national origin, the important decisions and principles established by these cases involve race and color questions almost exclusively.

Provisions of the law

Basically, the Fair Housing Act reads the same as the Ohio statute, prohibiting discrimination on account of race, color, religion, national origin and now sex in the sale, rental, terms and conditions, advertising and financing of housing or in any other conduct which otherwise interferes with equal housing opportunities. The Act also covers "blockbusting" and the provision of brokerage services. The Act covers virtually all private residential real estate transactions except those concerning religious organizations or private clubs, single family homes sold or rented without the use of a broker and without advertising, and multiple dwellings occupied by no more than four families if the owner lives in one unit.

There are three methods of enforcement. First, the administrative responsibility for enforcing the Act is with the Secretary of Housing and Urban Development (HUD). The aggrieved may file a complaint with HUD, subject to deferral to a state agency that has similar fair housing legislation. HUD will investigate the claim and try to correct the discriminatory practice by informal conference. If this fails, the aggrieved party seeking relief must file a civil action in a United States district court. In this, the federal statute is considerably weaker than the state statutes. States agencies, if conciliation fails, can hold public hearings and issue cease and desist orders and, in some states, award damages. Second, a person may bypass the administrative process and proceed directly to court. Third, the Attorney General may commence a suit if he feels there is a pattern or practice of discrimination.

In federal litigation, the right to equal housing opportunity secured by the Fair Housing Act is a "fundamental guarantee." The Act is the realization of a policy which Congress has accorded the highest national priority. The broad sweep of the Act is apparent from its preface expressing a congressional intention "to provide, within constitutional limitations, for fair housing throughout the United States."

What is also very important in fair housing cases is the direction by the Supreme Court that private lawsuits are the "main generating force" in achieving equal housing opportunity. Due to the inevitable delays of an administrative proceeding and the lack of effective enforcement power in HUD, it may be to the complainant's advantage to immediately seek a private remedy. The real action in fair housing cases has come in private litigation. For litigation of a sex-bias housing case, even in the state courts, one must explore the propositions which have evolved in the federal fair housing cases.

The Sole Factor

A practical situation which the single woman commonly faces is difficulty in apartment rental admission. Sex need not be the only reason for the refusal to rent, but it must be one factor in the refusal, to find discrimination. This may be difficult to prove as many management companies will use prior residency requirements and credit rating as factors in consideration. Although ostensibly objective, these rental standards will be coupled with a "rating" system which will prefer a married couple over a single male, and a single male over a single female. In analogous race housing cases, even if admission rejections were based on legitimate grounds, such as prior residency or credit, the discrimination is not vitiated if race were merely one of a number of otherwise valid factors.

In *Smith v. Sol D. Adler Realty Co.*, the Court of Appeals for the Seventh Circuit rejected the district court's opinion that, though the defendant realty company did not want Negroes in their apartment, an otherwise valid factor, not wishing to rent to a single mother with a child, made such discrimination not total, and thus not unlawful. The court of appeals, in finding race a factor in the refusal, strongly asserted:

> Race is an impermissible factor in an apartment rental decision and . . . it cannot be brushed aside because it was neither the

sole reason for discrimination nor the total factor of discrimination. We find no acceptable place in the law for partial racial discrimination.

Now with sex having become a valid factor under the Fair Housing Act, even the policy of refusing to rent to a single mother with a child may be discriminatory on the basis of sex.

Sex discrimination should be found if a rating system is employed even if the applicant were rejected for reasons inclusive of the objective standards. In fact, under the Fair Housing Act, the law provides that any conduct that otherwise makes unavailable housing is prohibited. As one court held:

"The foregoing phraseology appears to be as broad as Congress could have made it, and all practices which have the effect of denying dwellings on prohibited grounds are therefore unlawful."

A line of fair housing cases have held that the law prohibits "sophisticated as well as simple-minded modes of discrimination." It is apparent, therefore, that housing discrimination statutes are to be treated liberally with close judicial scrutiny of the discriminatory impact of certain conduct.

The Checkers

Admittedly it is difficult to prove discrimination. It is not something people talk about. One of the more conventional, and the most effective, methods of proving housing discrimination is through the process of "checking" or "testing," where a white, in a racial case, similar in situation to the black is sent out soon after a black has been informed that no vacancies exist or, in more blatant circumstances, where a policy of not renting on account of race is stated. Evidence of the experience of checkers has been uniformly admitted to show the existence of a discriminatory policy. In housing cases, the courts have lauded checkers as serving the public interest in achieving fair housing.

Admissibility of checking evidence in housing discrimination is a common sense rule, providing one of the few effective means to determine if illegal practices are being engaged in and deprivations of equal housing opportunities are being perpetrated. It is an expeditious evidentiary dimension in race cases and should be simply and effectively employed in sex discrimination matters. It is significant to note that in the New Jersey sex-bias housing case, *Zahorian v. Russell Fitt Real Estate Agency*, a checker was used to prove discrimination on account of sex. A male, similar in situation to the complainant was told there were available apartments, and thus the hearing examiner concluded that "unrelated male roommates were not regarded either by respondents or their principles as *prima facie* objectionable tenants, female roommates were."

The use of statistics

The use of statistics in housing discrimination cases is employed effectively in establishing *prima facie* cases. Typical in the fair housing decisions using statistics is the oft cited reference to *State of Alabama v. United States:* "In the problem of racial discrimination, statistics often tell much, and Courts listen." The Alabama language has been commonly used in equal housing law.

Thus, if an apartment rents to married or single men, the absence of single females may establish a *prima facie* case of sex discrimination, placing on the landlord the burden to come forward with evidence to show a nondiscriminatory policy on the basis of sex.

Nor will it be legal to limit the number of females in admission requirements. The Fair Housing Act makes no distinctions between the failure to rent to any one class and where several of that class have been previously rented apartments.

The preact policy

Evidence of discriminatory housing occurring before such conduct was illegal is nevertheless admissible as showing that the policy may still exist. This logical approach has resulted as "most persons will not admit publicly that they entertain any bias or prejudice. . . ." Such discrimination merely goes underground once it is proclaimed illegal.

The leading case for this principle is *United States v. West Peachtree Tenth Corp.*, where the court allowed evidence of an admitted policy prior to the effective date of the Fair Housing Act of excluding Negroes.

"When there is a finding of a pre-Act pattern or practice of discrimination, and little or no evidence indicates a post-Act change in such pattern or practice up to the time the suit is filed, a strong inference that the pre-Act pattern or practice continued after the effective date of the Act arises. Such evidence alone does not create a *prima facie* case of post-Act pattern or practice, but it is of significant probative value."

If an owner fails to inform his rental agent of a change in policy after passage of the statute forbidding such discrimination, this may be considered discriminatory conduct. This rule is paramountly significant because of the comparatively recent enactments around the country prohibiting sex discrimination in housing. The use of some of the overt past practices barring single women in apartment rentals is important in proving cases filed under these new laws.

The awarding of damages

The greatest impact in eradicating housing discrimination has come about through the awards of damages to successful plaintiffs. One Cleveland area broker characterizes damage awards in fair housing cases as "the sting," perhaps the most significant deterrent to discriminatory practices.

It has been shown that the various states are in conflict over the power of an administrative agency to make damage awards. And, even if one goes directly to a state court, there may still be a question as to allowable damages, as in Ohio, where the statute only mentions the power of the court to grant actual damages, with no specific provision for punitive damages. In contrast, the Fair Housing Act does make specific allowance for the court to award actual damages plus an additional punitive damage award up to $1,000. Its sister statute, the 1866 Act, while having no explicit statutory authorization for damages, like most state housing discrimination statutes, has been used in awards for discrimination for compensatory and punitive damages.

Some courts have justified damages as the rule for the simple impairment of a federal civil right. Other courts couple the obstruction of the civil right with the humiliation and discomfort of the deprivation. It should be pointed out that if a complainant ultimately is offered the property, the damage element does not become moot.

The humiliating outrage of denial of equal housing opportunities, long having been ignored, has been given special scrutiny by the federal courts in recent years. In *Allen* v. *Gifford*, for example, the plaintiffs were awarded $3,500 in compensatory damages and $5,000 in punitive damages, even though the defendant eventually offered the plaintiffs the desired property. To place housing discrimination in proper legal perspective, one state jury awarded $10,500 in statutory, actual and punitive damages for the refusal to rent to a family on discriminatory grounds. Another court provided for a total of nearly $7,000 in actual, compensatory and punitive damages against a housing management company for discrimination. Compare this with the housing-bias damage awards made by the state administrative agencies: $400 for loss of right by the Washington State Human Rights Commission (which the commission reports is the largest monetary award in a sex-bias housing case); $750 for pain and suffering in a sex-bias housing case by the New Jersey Division on Civil Rights. Clearly the federal courts have a greater sensitivity for the damage caused by a discriminatory act.

Whatever the legal grounds, it appears that the awards for housing discrimination in the federal courts are becoming more substantial as litigation increases.

It is a further sign of increased sensitivity by the bench to curb unlawful housing bias and to make equal housing opportunity a reality. It should be expected that equivalent damage awards will be granted in sex discrimination cases.

The awarding of attorneys' fees

A critical dimension of the broad based judicial enforcement of equal housing opportunity depends on lawyers. As the Supreme Court has candidly recognized, the task of enforcing fair housing is enormous. Under the Fair Housing Act, lawyers can use both the administrative process and file their cases in federal district court at the same time. Thus, the often lengthy administrative delays do not obstruct the expeditious manner in which housing discrimination cases are to be treated.

If the task of fair housing enforcement is as critical as the Supreme Court suggests, implicit in that recognition is the necessity of greater input by the private bar. Accordingly, one of the most effective inducements in its involvement has been the awards of attorneys' fees. While the Fair Housing Act has a specific provision for attorneys' fees, the Civil Rights Act of 1866, like many of the state housing discrimination statutes, has no express statutory provision for the award of fees. Yet, the absence of express authorization of attorneys' fees should not deter involvement because of the successful litigation brought under the 1966 Act. Courts have applied the logic of the Supreme Court in awarding fees even in the absence of a statute provision:

"If successful plaintiffs were routinely forced to bear their own attorneys' fees, few aggrieved parties would be in a position to advance the public interest by involving the injunctive powers of the federal courts."

The evolution of the so-called "private attorney general" theory has been applied in fair housing. Impetus for the award of fees has been given because of the Supreme Court's language that fair housing law suits are important "in vindicating a policy that Congress considered to be of the highest priority." Thus, even without a provision for fees, lawyers should be compensated for vindicating equal housing opportunity violations on the basis of race or sex. With regard to housing bias, one judge explicitly said:

"[P]ublic policy demands that counsel fees be awarded in housing discrimination cases so that prejudiced individuals will not be hesitant in enforcing their rights."

The explicit language of the Fair Housing Act limits fee awards to one "not financially able" to assume the costs of a lawyer. Fortunately courts have recently employed realistic assessments of what "not financially able" really means in equal housing opportunity litigation. One federal judge brought home in clear terms what parameters are *not* to be employed:

"Adoption of indigency as the test would summarily preclude recovery of any fees by persons with the financial ability to own any kind of home or to seriously seek home ownership. Therefore, the Court will consider financial inability within the special context of § 3612(c) to mean a homeowner or prospective homeowner of limited financial abiltiy who clearly lacks the resources to fight a legal battle . . . without endangering his status as a homeowner or potential homeowner."

By and large, the most likely plaintiff will be the moderate income black or female who is required to undertake "this important type of litigation" in order to secure the same rights any white or male has available.

Furthermore, a plaintiff's present ability to pay has been rejected as the only standard of what constitutes "not financially able." His ability to assume such fees must also be considered. One federal appellate court has held in effect that attorneys' fees may be awarded as a matter of course once liability is established. In adopting the logic of *Newman v. Piggie Park Enterprises, Inc.*, which recognizes the futility of successful plaintiffs bearing their own fees, another federal appellate court ordered a lower court to reconsider a $400 fee as too low and awarded $1,000 in addition for the appeal.

What has evolved is a recent body of law supporting the principle that it is often the moderate income person against whom discrimination is perpetrated and for whom attorney's fees should be made available.

CONCLUSION

The major problem that women face in housing is the denial of equal rental opportunities. It is an immediate problem. And it is a problem that has clearly been bypassed. Now with the inclusion of sex-bias prohibitions in the Fair Housing Act, the problem can more readily be approached.

But it has been six years since the Fair Housing Act was enacted and HUD is "just getting started in enforcing provisions of the 1968 Civil Rights Act." It is questionable, in view of its past record, what impact HUD will have on sex discrimination in housing. Likewise, at the state administrative level there has not yet been much progress. In Ohio, "the problem of housing discrimination . . . has not even been tapped. . . .

Parties seeking justice under sex discrimination statutes will encounter hazards regardless of the course of action pursued or the remedy sought. The inclusion of sex-bias proscriptions to the Fair Housing Act make it foreseeable that litigation will be focused at the federal level. Yet attorneys should be cognizant that in some jurisdictions the applicable state statute may be more comprehensive. Ineffective administrative relief, dispensed by federal and state agencies, has forced and, in the future, will force parties searching for meaningful relief into the private litigation arena.

At this point, then, the housing attorney is challenged with the task of pioneering new approaches to equal opportunity in housing. But at this time there are few fair housing attorneys. So it appears that what is needed is a tightening up of the administrative process so that a housing complainant can also find justice in an effective administrative forum. However, a major change in federal and state legislation is not forseeable. Thus, the enforcement of fair housing opportunity will ultimately depend on the practicing bar.

THE 300TH ANNIVERSARY OF WEST JERSEY

Mr. WILLIAMS. Mr. President, as we prepare for our Nation's Bicentennial, we should not forget to also look past the achievements of our Founding Fathers to our democratic heritage which developed in the years before the Revolutionary War. One event in particular which deserves to be commemorated is the 300th anniversary of West Jersey, which was founded on July 1, 1676. The creation of West Jersey and its government represented an important step in development of the individual liberties and democratic traditions which have been so important to all Americans in subsequent generations.

In June 1664, the Duke of York created the province of New Jersey and granted it to Sir George Carteret and John, Lord Berkeley. He named this territory Nova Caesarea to commemorate this island in which Carteret, as Governor in 1650, had sheltered the duke from Puritan England.

One decade later, in 1674, Edward Byllynge, a Quaker, purchased Lord Berkeley's interest in New Jersey. Another Quaker, John Fenwick, arranged to manage the property in exchange for a share in it. Later, Fenwick, dissatisfied with his share, sought the arbitration of William Penn. Penn's assistance led Fenwick to accept a one-tenth interest. However, when Byllynge became involved in debt, he assigned his property rights in trust to Penn and several other Quakers. Penn, believing that the division of property was unfair and desirous of putting into practice some of his own theories on the proper administration of government, instituted the quintipartite deed on July 1, 1676.

This deed divided New Jersey along a line running northwest from "the most southwardly point of the east side of Little Egg Harbor" to the Delaware River at the 41st parallel. The eastern section of 3,000 square miles went to Carteret and became known as East Jersey with its capital at Perth Amboy. Its population consisted primarily of Puritans from New England and Long Island, Scotch Presbyterians, and some Quakers. William Penn and other Quakers received the remaining 4,600 square miles which became known as West Jersey, with its capital and chief port at Burlington. This area was primarily populated by Quakers who had fled persecution and imprisonment in New England.

William Penn's involvement in this area continued to be prominent. Many influential men, including Robert Barclay, George Keith, Robert Turner, and Thomas Lloyd were converted to Quaker beliefs and were greatly influenced by Penn's advocacy of liberty of conscience and humanitarian aid to the needy. As one of the foremost advocates of religious liberty, he was imprisoned for a total of 2 years, between 1667 and 1671. His force of character, his perception, and his comprehensive knowledge of law should be remembered and appreciated by all Americans.

Of particular interest and importance are the governments of these two provinces, for they have molded and influenced the course of our democracy. The "concessions and agreements" of East Jersey was issued by Carteret and Berkeley in 1664–5 and was designed to establish a liberal government which would encourage immigration to the area. This document included fundamental provisions for the guarantee of freedom of conscience, the sale of land on reasonable terms, and the enactment of a criminal code which, by combining restitution and corporal punishment, was much more lenient than most existing New England codes.

However, it was "The Concessions and Agreements of the Proprietors, Freeholders, and Inhabitants of the Province of West New Jersey, March 3, 1676/1677," as drawn up by William Penn and Edward Byllynge, which was the most democratic and modern of all such concessions. Its language was addressed to the common man so that all might understand the liberties and responsibilities involved. As it stated, it was "a foundation for after ages to understand their liberty as men and Christians, that they may not be brought into bondage but by their own consent." Revealing the sincerity and high-mindedness of the Quaker faith, it provided for the establishment of an elected assembly with the power to enact laws. All adult males, with few exceptions, were entitled to vote and it was accepted that the primary duty of an assemblyman was to present the recommendations and grievances of his constituents.

Both the East and the West Jersey "concessions" were liberal documents which guaranteed basic rights, easy access to land, freedom of conscience, freemanship, and patricipation in local and provincial government. Similarly, both established a general assembly with an elected lower house and the power to share in lawmaking. However, the "concessions" of West Jersey made great strides toward insuring the liberties of the individual including trial by jury, security from arbitrary arrest, secret ballot, and an exemplary code of laws.

The creation of West Jersey as a refuge for persecuted Quakers was a noble undertaking. Although it ended in failure, the years 1676 to 1686 were illustrious. The sensible and resourceful leaders of this period should be given great credit for creating an orderly and stable government in the wilderness. The developments of this period played an important role in the origin of our Nation's democratic heritage. The "concessions," in particular, represented the forerunner of many of the fundamental democratic principles upon which our Nation was founded.

ACTIVITIES OF THE JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS

Mr. METCALF. Mr. President, for the past 2 years I have had the privilege of serving as the first Senate chairman of the Joint Committee on Congressional Operations, which Congress created in the 1970 Legislative Reorganization Act.

As Senators know, it is this committee's responsibility to examine the organization and operation of Congress—to find ways to strengthen our National Legislature—and to recommend necessary changes. Since the committee's inception, we have worked hard to carry out this mandate.

Our record of accomplishment must, of course, speak for itself. But I believe that we have built substantially on the solid foundation prepared by Representative JACK BROOKS of Texas, who was the committee's first chairman and whose unflagging support and effective work as vice chairman contributed so much to our efforts during the 93d Congress.

I am also deeply grateful for the dedicated assistance of my Senate colleagues on the Committee—Senators Gravel, Chiles, Taft, and Helms—and the other House Members, Representatives Giaimo, O'Hara, Cleveland, and Dellenback. Any successes that we have must be attributed to their active participation and determined advocacy of improving and strengthening Congress.

Mr. President, I believe that Members of the Senate will wish to have an opportunity to familiarize themselves with the work of our committee, at a time when so much depends on the vitality of this institution. I ask unanimous consent to have a brief description of its activities over the past 2 years printed in the Record.

There being no objection, the material was ordered to be printed in the Record. as follows:

ACTIVITIES OF THE JOINT COMMITTEE ON CONGRESSIONAL OPERATIONS, 93RD CONGRESS

SUMMARY

The Joint Committee on Congressional Operations maintained a full schedule of activities during the 93rd Congress, conducting numerous studies and recommending changes designed to strengthen this institution. Also, in accordance with its statutory responsibilities, the Committee continued to provide personnel placement services and office management assistance to Members, officers, and committees of both Houses. With Senator Lee Metcalf of Montana as its first Senate chairman and Representative Jack Brooks of Texas as vice chairman, the Committee—

Designed, tested, and recommended establishment of a permanent system for transmitting running summaries of House and Senate proceedings via teletype to various offices in both Houses;

Held hearings and reported recommendations on the Constitutional Immunity of Members of Congress;

Held hearings on Congress and Mass Communications and issued an interim report containing recommendations for broadcast coverage of proceedings in the House and Senate chambers;

Held preliminary hearings on Congressional Research Support and Information Services;

Compiled and printed in a single source rules adopted by the committees of Congress;

Prepared and issued a series of reports identifying court proceedings and actions of vital interest to Congress; and,

Revised and reissued Congressional Handbooks containing detailed information on the allowances, emoluments, and privileges accorded Members of both Houses.

The Committee also reviewed and revised operations of the Office of Placement and Office Management, which—in addition to interviewing, testing and referral of job applicants—maintained and distributed a register of applicants for professional staff positions, organized and conducted seminars for new congressional staff employees in both Houses, scheduled educational activities for Capitol Hill interns, and provided management assistance to committees and individual Members of both Houses requesting this service.

Hearings and other activities of the Committee, created by the Legislative Reorganization Act of 1970, are described in greater detail below.

COMMITTEE MANDATE AND ORGANIZATION

Provisions of the 1970 Act give the Committee a broad mandate. As defined in Title IV, part 2, its duties and responsibilities are to—

Make a continuing study of congressional organization and operation; and to recommend improvements designed to strengthen Congress, simplify its operation, improve its relationships with other branches of the United States Government, and enable it better to meet its responsibilities under the Constitution.

Identify any court proceedings and actions of vital interest to the Congress or to either House of the Congress; to call these to the attention of the House of Congress specifically concerned, or to both Houses of Congress; and to make recommendations concerning them.

Control and supervise a congressional Office of Placement and Office Management.

Additionally, in H. Res. 988, approved October 8, 1974, House Members of the Committee were directed to conduct a continuing study of the standing committees of the House and to report any recommendations for more equitable distribution of workload or more rational combinations of jurisdictional responsibilities periodically to the Committee on Rules. H. Res. 988 also created a new 9-Member House Commission on Information and Facilities—to include the House Members of the Committee—and directed it to conduct a two-year study of House space requirements, information needs and services available, and staff capability of the House legislative counsel.

Senator Metcalf and Representative Brooks were elected to serve as chairman and vice chairman, respectively—the chairmanship alternates between the House and Senate every two years—at the Committee's initial organizational meeting on February 6, 1973. The first of 15 days of hearings held by the committee opened on March 21.

Others serving on the Committee during the 93rd Congress were: Senators Mike Gravel of Alaska, Lawton Chiles of Florida, Robert Taft, Jr., of Ohio, and Jesse A. Helms of North Carolina; and Representatives Robert N. Giaimo of Connecticut, James G. O'Hara of Michigan, James C. Cleveland of New Hampshire, and John Dellenback of Oregon.

COMMITTEE ACTIVITIES

Hearings and reports

Summary of Debates—At the initiative of Representative O'Hara, who in late 1972 had inspected legislative information systems being developed in West European parliaments, the Committee began in February to design a system for preparing and distributing summaries of proceedings and debate in the two Houses.

A pilot test of this system, carried out in the House from April 30 to May 24 and in the Senate from May 29 to June 15, 1973, provided both running summaries—transmitted via teletype at 15-minute intervals to various locations in the Capitol and office buildings—and a complete summary of the day's debate and proceedings, which was available in printed form within an hour of the close of each daily session.

In its subsequent report on the pilot study filed June 29, 1973, (H. Rept. 93–356, and S. Rept. 93–294) the Committee, noting the overwhelmingly favorable response to the summaries by Members and staff in both Houses, determined that such a system would fill a need for timely information about Chamber activities, and that its operation would be both feasible and cost effective. Accordingly, the Committee strongly recommended that preparation and publication of a Summary of Proceedings and Debate be made a permanent service to Members of Congress.

The Committee also made a series of specific recommendations for operation of the summary system, including the following:

That the format and style of the Pilot *Summary* be retained and refined;

That transmitting offices be established adjacent to the Chambers of both Houses;

That reporters [congressional employees assigned to prepare the summaries for transmission] be given access to work space in the front of both Chambers;

That unprinted amendments be submitted in typed form to staff reporters prior to introduction on the floor;

That distribution of the final edition of the *Summary* be limited to offices of the Congress and those directly serving Congress;

That each Body provide terminals to the other Body for use by the Leadership and in the Cloakrooms;

That terminals be made available for use by officials of the Congress for transmission of information such as whip notices; notices of hearings; bill status of major legislation; memoranda from committees and offices of House and Senate; news flashes of major importance, etc.

Constitutional Immunity—The Committee opened four days of hearings on Constitutional Immunity of Members of Congress on March 21, 1973. Witnesses and contributors to this study included present and former Members of the House and Senate, a former Associate Justice of the U.S. Supreme Court, spokesmen for the Executive Branch from the Department of Justice, and eminent legal scholars and practitioners. The hearings closed on July 19, when the Committee met with a distinguished panel of experts on Constitutional law for a roundtable discussion of issues raised by Supreme Court interpretations of the Speech or Debate Clause of the Constitution.

In its report (S. Rept. 93–896), filed June 3, 1974, the Committee determined, among other findings, that the Court had "established a narrowed rule of law of legislative immunity" in a series of recent opinions and recommended that—

Congress take action to define legislative activities to reflect the reasonable scope of activities expected of a Member of Congress as a representative of the people in their relationship with the Federal Government;

Careful consideration be given to immunity from both civil and criminal proceedings for legislative activities, with appropriate safeguards to ensure that all rights established by the Constitution are preserved undiminished; and,

Any such action be coupled with the recognition of and commitment to the responsibility placed upon the Congress by the Constitution to hold its Members accountable for their legislative misconduct.

Mass Communications—Preparation for another series of hearings, on Congress and Mass Communications, was begun in December, 1972, when then Chairman Brooks requested the Congressional Research Service to conduct a comprehensive background study describing the historical development of the gap between the communications capabilities of the Legislative and Executive Branches and analyzing some of the consequences of this imbalance. Upon completion of this study—supplemented by staff inspection of the communications facilities and practices of other legislative bodies—the Committee opened hearings on February 20, 1974, to—

Identify various ways, consistent with its lawmaking functions, that Congress might more effectively communicate the meaning of its Constitutional role and daily activities to the American people; and,

Examine any customs or other facets of Congressional operations that may have the effect of discouraging the news media or the public generally from seeing and understanding how Congress works.

Testimony was received from 51 witnesses in six days of hearings, which were broadcast gavel to gavel by National Public Radio. In addition to Members of both Houses of Congress, those appearing included the chief executives of the three major commercial networks and the public broadcasting agencies; the chairmen of the Standing Committee of Correspondents and the various press, television and radio galleries; the Washington bureau chiefs of the national broadcasting networks, public and commercial; and representatives of the National Association of Broadcasters, the National Association of Educational Broadcasters, and the Radio, Television News Directors Association.

A special panel of Washington correspondents discussed problems encountered by the print media in coverage of congressional activities. A group of experts in communications technology and law described the implications of cable television for future public affairs broadcasting. Public broadcasters from two States, Florida and Connecticut, accompanied by members of the states' legislatures, presented videotaped segments of televised legislative floor proceedings and evaluated the results of such coverage for the Committee.

Based on this testimony and supplementary staff study the Committee issued an interim report (H. Rept. 93-1458 and S. Rept. 93-1275) dealing with one aspect of the Committee's inquiry, the question of print and broadcast media coverage of regular proceedings of the House and Senate. Filed on October 10, 1974, this report, among other findings, concluded that—

The potential for bringing more information about congressional activities directly to more Americans through broadcast coverage of activities in the House and Senate Chambers is substantial;

The experience of other legislatures which have permitted such coverage under varying conditions over the past several years has been generally favorable; and,

The technology of communications is sufficiently advanced to provide for televising or recording unobstrusively without disrupting floor proceedings.

Therefore, the Committee recommended a "first step" toward opening the chambers of both Houses to broadcast coverage, as follows:

"All of the evidence suggests that adaption of the system in operation at the United Nations would be most likely to realize the potential of broadcasting—including communications *within* Congress—with the least likelihood of undesirable side effects.

"We believe that the proceedings should be recorded continuously, gavel to gavel, each day, and that the video and audio feed should be available not only to broadcasters but on monitoring devices in the offices of Members of the House and Senate as well. Experience at the State level indicates that the continual presence of live microphones and television cameras—particularly if the talley (red) lights are not used—tends to routinize broadcasting, thus reducing its impact on the proceedings.

"Moreover, we believe that provision should be made for maintaining the audio and video records for historical purposes and for making them available to educational institutions and others interested in congressional activities.

"Due to the uncertainties involved in broadcast coverage and the substantial costs of a permanent installation comparable to the UN's, however, we believe that Congress should conduct and evaluate an experimental project, as a "first step," before deciding on the development and operation of such a system.

"We therefore recommend that Congress move forward with a carefully designed but limited test to determine the ultimate feasibility and desirability of a permanent system for broadcasting activities in the House and Senate Chambers, including:

"First, provision of a continuous video feed, initially serving monitors in a limited number of House and Senate office locations. After a trial period of approximately 60 days to provide for technical adjustments, this feed can be made available to commercial and public broadcasters, network organizations as well as local stations, for use live or recorded on videotape for delayed use in news or public affairs programs as they see fit. Congress should exercise no control over the selection of materials for broadcast use.

"Second, provision of a continuous audio feed, initially carried into each congressional office via existing telephone lines. After a trial period of approximately 30 days, this feed can be made available to commercial and public broadcasters under the same conditions specified above.

"Third, provision of a running summary, of floor debate, daily committee schedules, bill status and other relevant information, transmitted on teletype printers and made available for use in the press galleries, by the wire services and other media outlets, as well as for use by Members of both Houses. A final printed summary, plus principal actions of each committee and subcommittee, can be prepared and made available for distribution shortly after the close of each day's House and Senate session.

"We recommend further that the test begin as soon after the opening of the 94th Congress as possible and continue throughout the First Session. . . . ."

Information Support—In its third series of hearings, which opened on May 16, 1974, the committee reviewed the performance of existing congressional research agencies and information services and invited testimony on present and future needs for information support for the Congress. Particular attention was focused on the new responsibilities for policy analysis and program evaluation given the Congressional Research Service and the General Accounting Office, respectively, in the 1970 Legislative Reorganization Act. In addition, the Committee—in five days of hearings—received testimony on the organization and operation of the Office of Technology Assessment and on the development of computer services and related information systems in the House and Senate. Witnesses also appeared from various private research institutions, including the Brookings Institution, the National Academy of Engineering and the National Academy of Sciences, the National Academy of Public Administration, and the Academy for Contemporary Problems, and sponsors of a proposed Institute for Congress.

Committee Rules—As a convenient reference, the Committee compiled the rules adopted by the various committees of the House and Senate for the 93rd Congress. Made possible by the cooperation of the committee chairmen, who were asked to submit copies of their rules for inclusion, this compilation was issued on October 11, 1973, and contained the rules of 23 House committees, 21 Senate committees, and 3 joint committees.

The hearings and reports of the Committee have been distributed widely. A complete list of those printed in connection with the studies described above follows:

Summary project

Report: *Summary of Proceedings and Debate—A Pilot Study.* (H. Rept. 93-356, S. Rept. 93-294), June 29, 1973.

Constitutional immunity

Hearings: *Constitutional Immunity for Members of Congress,* March 21, 27 and 28, 1973.

Hearings: *Constitutional Immunity for Members of Congress,* Part II, roundtable discussion, July 19, 1973.

Appendix: *House of Representatives Exclusion, Censure and Expulsion Cases from 1789 to 1973.* Prepared for the Joint Committee as a supplemental appendix to hearings by the Congressional Research Service, Library of Congress.

Report: *The Constitutional Immunity of Members of Congress,* with additional and individual views (S. Rept. 93-896), June 3, 1974.

Mass communications

Background Study: *Congress and Mass Communications—An Institutional Perspective,* conducted for the Joint Committee by the Congressional Research Service, Library of Congress, 1974.

Hearings: *Congress and Mass Communications,* February 20 and 21, March 7 and 20, and April 9 and 10, 1974.

Appendix: *Congress and Mass Communications,* 1974.

Interim Report: *Broadcasting House and Senate Proceedings,* with separate views (H. Rept. 93-1458, S. Rept. 93-1275), October 10, 1974.

Information support

Background Study: *Congressional Research Support and Information Services—A Compendium of Materials,* compiled by the Joint Committee staff, May 3, 1974.

Hearings: *Congressional Research Support and Information Services,* May 18, June 18 and 19, and July 30 and 31, 1974.

Committee rules

Print: *Rules Adopted by the Committees of Congress, 93rd Congress,* October 11, 1973.

Identifying court proceedings

Since its inception, the Committee has prepared and issued periodic cumulative reports identifying court proceedings and actions of vital interest to Congress as well as special reports when warranted by the nature of the case or the need for timely reporting.

Each of the cumulative reports lists cases filed since the preceding issue appeared, along with any new action on cases described in the preceding reports. The most recent of these cumulative reports, complete to June 30, 1973, contains a summary of the brief and the status of 67 actions, plus the texts of 15 recent decisions on cases identified for inclusion.

To be issued in January, 1975, the final cumulative report for the 93rd Congress will include texts of 38 decisions in cases which had been pending during the two-year period. It also will contain a summary of the brief and the status of 89 actions in the following areas: Constitutional Qualifications of Members of Congress; Constitutional Immunity of Members of Congress; Powers of Congressional Committees; Constitutional Powers of Congress; Congressional Access to Executive Branch Information; Officers, Employees, and Agents of Congress; and Other Actions Involving Members in Their Representative Capacity.

In addition to the cumulative reports the Committee prepared and distributed three special reports in areas of general interest to many Members. They are:

Opinions of the United States Supreme Court in the Case of Doe v. McMillan, May 29, 1973.

Court challenges to Executive Branch Impoundments of Appropriated Funds (Cumulative to March 15, 1974)

United States v. Richard M. Nixon and *Richard M. Nixon v. United States,* July 24, 1974. (Included in this report are: The decision of U.S. District Judge John J. Sirica of May 20, 1974 in United States v. Mitchell, [Criminal Action No. 74-110 (D.D.C.)]; which was before the Court for review; the briefs filed with the Court on behalf of the President and the Special Prosecutor, Leon J. Jaworski; the reply briefs of each; a trascript of the oral argument before the Court on July 8, 1974; and the full text of Chief Justice Warren E. Burger's opinion, filed on behalf of the eight Justices participating in this case.)

The Committee has arranged to distribute the cumulative and special reports regularly to all Members of both Houses as well as congressional committees, law schools, and other interested individuals and organizations.

OFFICE OF PLACEMENT AND OFFICE MANAGEMENT

The Committee began providing services through its Office of Placement and Office Management—after conducting an extensive survey of personnel placement and office management needs of Members, officers, and committees—in January, 1972.

Personnel placement services

Since then, use of the Office has increased steadily. Some 3,757 job orders have been received to date, and the Placement Office has processed an estimated 24,559 applications from individuals seeking employment in congressional offices. The increase in the use of this service is indicated by the table below:

Job orders received and applications processed:

1972	1,066	7,465
1973	1,208	7,642
1974	1,483	9,452

Situated on the first floor of the House Annex (former Congressional Hotel) and in Room B-46 of the Russell Senate Office Building, the Placement Office provides the following services:

Preliminary applicant interviews and testing for secretarial skills on a walk-in basis.

Maintenance of files of qualified applicants by job categories.

Submission of résumés in response to job orders for review by congressional offices (the Placement Office submits a number of résumés of qualified applicants for each job opening; it does not make final selection among candidates for congressional employment).

In July 1974, the Placement Office began preparing and issuing periodically a listing of applicants for professional staff positions, excluding lawyers, and also including applicants for secretarial/clerical positions with previous congressional office experience. The listing contains a brief résumé of each applicant's training, experience, and job interest—applicants are identified by number only—and is sent each month to approximately 800 Members, committees, and officers of both Houses. The Placement Office maintains a current file of applications from attorneys which is available for review by employers.

The 70-page listing of Applicants for Professional Positions for January, 1975, contained the résumés of 336 individuals.

Management assistance

In November, 1972, the Committee printed and distributed loose-leaf Congressional handbooks consolidating information on allowances and other support services available to Members of the House and Senate. Prepared by the Office of Placement and Office Management, the House and Senate versions of this handbook differ to reflect the different allowances and procedures for obtaining them in the two Houses. Included are sections on: Office, Staff Allowances and Benefits; Office Management, Casework and Communications; Travel, District Office Allowances; Personal Services; Information Sources; Services; and Publications.

The handbooks were revised periodically throughout the 93rd Congress, as needed, and new pages containing updated allowances and procedures were sent to those receiving these publications from the Committee. In November, 1974, the handbooks were completely revised and subsequently reissued to all re-elected, incumbent, and newly elected Members, officers of the House and Senate, and congressional committees.

Upon request, the Office of Placement and Office Management also has provided management assistance—space and equipment utilization, etc.—to committees and individual Members of both Houses. Training for new staff employees was first offered by the Committee through the Office of Placement and Office Management during the second week in January, 1973. The purpose of the training sessions was to acquaint key staff appointees with various problems that can be anticipated in the day-to-day operations of a congressional office.

The *Congressional Handbook* was used as the basic text for these sessions, with discussion leaders selected from among experienced House and Senate staff personnel. Subjects coverd included office organization, constituent relations, casework, and sources of information. The sessions were attended by 125 individuals representing the staffs of 64 Representatives and 12 Senators. Similar training sessions were scheduled for new staff employees in January, 1974.

In another area, the Office offered assistance to sponsors of educational programs for summer interns on Capitol Hill. The Office acted as a clearinghouse for the scheduling of speakers, to avoid meeting conflicts, and helped conduct seminars and lecture sessions led by Members of Congress, experienced congressional staff personnel, and other experts in the legislative process.

Placement office review

On June 12, 1974, to insure that its services were fully meeting the needs of Members of both Houses, the Chairman directed the Committee staff to undertake a thorough review and evaluation of activities and operations of the Office of Placement and Office Management. Subsequently, on August 18, press reports—citing job order forms which had been removed from the files of the Placement Office—alleged that discriminatory employment practices were being followed in certain congressional offices. On August 19, the Chairman—

Ordered that a complete investigation be included in the Placement Office review and evaluation already underway; and,

Directed the Placement Office staff to refuse to accept or process job orders which included requirements other than those related to education, experience, necessary skills, availability, salary requirements, geographical location, and stated political preferences.

In a jointly signed letter, the Chairman and Vice Chairman informed Members of the House and Senate, congressional committees, and officers of the two bodies of this action. Employees of the Placement Office were thoroughly briefed on this directive. The office's job order was redesigned, eliminating sections relating to the preferred sex, age range, marital status and other possibly discriminatory requirements for applicants. Staff members of the Committee responsible for supervising Placement Office operations were directed to monitor carefully the implementation of the new policy and procedures. The staff of the Placement Office was strengthened by the addition of more experienced personnel and the upgrading of others.

The staff of the Placement Office was directed to submit to the Committee more frequent, periodic reports on the operations of the office, including implementation of the anti-discrimination regulations. The staff was also directed to consult, at the earliest opportunity, with experts in the field of fair employment practices as part of a continuing program to enhance employees' understanding of and compliance with the requirements and spirit of anti-job discrimination laws and regulations.

As a result of these changes, in the period since the abuses were revealed, not only has the Placement Office refused to accept discriminatory job orders, there have been only a very few instances where the staff of that office has been asked by an employing office to accept a job requirement that could be interpreted as discriminatory. This can be attributed to an understanding and an acceptance—throughout the Congress—of the efforts the Committee has made to eliminate discriminatory practices in congressional hiring, so far as the operations of the Placement Office are concerned. (The report of the Chairman on this matter appears in the Congressional Record of December 19, 1974. (pp. 41298-41300.))

STUDIES IN PREPARATION

In addition to the work completed, as indicated above, the Committee reviewed results of studies or continued efforts to implement recommendations issued during the 92d Congress and initiated a number of background studies relating to questions upon which the Committee may decide to hold hearings or issue reports.

As an example of its continuing review function, the Committee has closely monitored implementation of provisions of title II of the 1970 act which were intended to give Congress better access to more meaningful Federal fiscal, budgetary, and program data and information. Hearings were held in 1972, and the Committee reported recommendations (H. Rept. 92-1337, *Improving Fiscal and Budgetary Information for the Congress*, August 15, 1972), which were implemented in part, in title VIII of the Congressional Budget Act of 1974. The Committee expects to continue its efforts to ensure that the Executive and Legislative agencies directly responsible for implementation move forward on the title II provisions, as amended, to provide Congress and its committees fiscal, budgetary, and program information when and as needed.

The Committee will also continue its work on matters considered during the 93d Congress, including legislative immunity, Congress and mass communications, and congressional research support and information services.

The Committee has undertaken background studies on a series of questions relating to the investigative powers of Congress.

Included are such topics as the legal problems involved in the issuance of subpoenas, the authority to conduct investigations, the conduct of congressional hearings (e.g., rules of committees, objections of witnesses, claim of privilege, etc.), and prosecution for contempt of Congress.

Among other background studies begun during the past two years are: Federal statutes and rules of the House and Senate governing the conduct and activities of Members and staff; congressional acquiescence in assumption of authority by or excessive delegation of authority to the Executive; coordination of seminars and related activities for newly elected Members of the House and Senate; and activities pertaining to the role of Congress planned for the bicentennial observance.

REPORT ON THE WORLD FOOD CONFERENCE

Mr. DOMENICI. Mr. President, man's concern about food came into sharp focus November 5-16 at the World Food Conference in Rome. The Conference was intended to chart a long-term course for world food problems, even though it had been proposed in September of 1973 at a time of record world harvests. As a result of new production deficits in 1974, especially in the United States, the Conference had assumed a new air of importance and urgency.

After 12 day and night sessions, the delegates to the United Nations-sponsored Conference hammered out a consensus on a program of action which includes a declaration on the eradication of hunger and malnutrition and 22 separate resolutions. Among its achievements, the World Food Conference:

Recommended a goal of 10 million tons of grain per year, beginning in 1975, to serve as food aid, and scheduled a November 29 meeting in Rome to deal with the more immediate problems.

Endorsed a food and agriculture organization proposal to establish a world network of national grain reserves, to get underway in upcoming discussions of a proposed reserves coordinating group.

Decided to establish a global information and early warning system on food and agriculture, and agreed that FAO is the most appropriate organization to supervise the system.

Endorsed establishment of a World Food Council, to be nominated by the UN Economic and Social Council and elected by the UN General Assembly.

The World Food Council is designed as an umbrella organization that will have coordinating, consultative, and advisory powers with respect to food aid, investment, and other foreign assistance. When established, it will provide needed guidance to UN organizations, such as the committees on fertilizer, food aid policies and programs, world food security, and to the agricultural development fund. Multilateral and bilateral aid programs will also come under the purview of the Council.

If this program of action is fully and successfully implemented, then I believe we shall be able to achieve our goal.

You get a new perspective on these problems when you attend, as I did, a gathering such as the World Food Conference. You learn that Americans may not get all they want to eat, as cheaply as they might want, but they get a lot more, and a lot more cheaply, than any other nation on earth. And you learn that one of the real miracles of our history has been the amazing productivity of the American farmer.

Agriculture has been the focus, both at home and in the world, of a lot of attention during the past 2 years. Food prices at the local grocery store, and a real crisis for some nations' food supplies, have made more and more Americans aware of how much this Nation's prosperity depends upon the farmer and rancher. At the World Food Conference, the unseen man in the background, overshadowing all the speeches and resolutions, was the American farmer and rancher—the men and women who now feed one out of every six people in the world, directly or indirectly.

I will outline briefly for you my thoughts about the World Food Conference and then spell out some of my recommendations to the Congress.

First, the World Food Conference proved to me and most impartial observers that America cannot feed the world alone. We simply cannot, despite all the outcry to the contrary, provide enough food to all the needy, by ourselves, either this year or in the future. That is the first fact that Americans must realize.

The natural outgrowth of that fact is that any effort to meet the food need of the poor and starving must be a cooperative effort. This Nation must insist on several conditions: that the Communist nations—especially Russia and Red China—share their fair burden of the attempt to feed the world's poor; that all rich nations join in technology pooling so that the poor nations will get the best help available to improve yields and techniques in their farmlands; that the rich nations start a cooperative effort to make sufficient fertilizer available to grow the new grain varieties in developing nations; and finally, that the poor nations, through a commitment to family planning and a higher priority on agriculture, begin to use all tools available to help themselves.

I do believe, however, that this Nation has a deep moral commitment to help the poor and starving of the world. We must honor that commitment, as we have always honored it in the past. Despite what the representatives of some nations at the World Food Conference said about us, we have been a good and generous people in the past. Our record of help to the needy is unmatched. During the past 20 years this Nation has provided more than $40 billion worth of food to the needy of the world. We have given more than 70 percent of all food aid provided to the developing nations of the world during the past decade. Even this year, given the serious economic difficulties our own people face, we are giving away more than $1 billion of food aid, and many hundreds of millions of dollars in low-cost food. And if the past is any guide, we will forgive many of these loans for that low-cost food aid.

I will now move on to some specific recommendations I plan to make to the Congress and to the President regarding some of the problems raised at the World Food Conference. First, I will recommend that a worldwide food information and early warning system be established. Such a system will demand improved data collection services, more research and analysis of weather forecasting, and the cooperation of all governments in the world.

Second, I will ask for increases in the levels of agricultural research this Nation now undertakes. Improvement of yields in developing nations is one of our most obvious goals. And the research and talent will come from this Nation.

Third, I will ask for help for the poorer nations in the field of rural development. These nations now squander, through ignorance and inexperience, too many of their human and natural resources. We can help them by sharing our research results. Human resources are the most precious resource the developing nations have and they should be utilized more efficiently through extension-type programs.

In summary, I will recommend that this Nation do what it can to help those peoples who face starvation right now. However, I believe that our primary long-term emphasis must be on helping these nations help themselves: Through improved grain varieties, through improved rural development, through increased productivity, and through more intelligent use of resources.

PROPOSED REGULATIONS ON TITLE IX

Mr. BAYH. Mr. President, the proposed regulations for title IX issued by the Department of Health, Education, and Welfare continue to draw interest from various parts of the educational community as well as from the general public.

In order that the ramifications of these regulations are fully examined, I have in the past inserted comments in the CONGRESSIONAL RECORD on the guidelines from a number of organizations. Today, I would like to continue that practice by asking unanimous consent that the comments of the NOW Legal Defense and Education Fund's Special Project on Equal Education Rights be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

NOW LEGAL DEFENSE AND EDUCATION FUND

New York, N.Y. October 14, 1974.

Hon. CASPAR W. WEINBERGER,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: In response to Ms. Gregory's request of October 2 for our comments on the proposed regulation issued under Title IX of the Education Amendments of 1972 (P.L. 92–318), detailed comments on a wide range of issues are attached. In particular, we would commend to your attention our proposal concerning coverage of textbooks and other instructional materials. In support of our proposal, we are attaching proposed language for the regulation itself, and a legal memorandum addressed to the First Amendment questions raised in the Preamble of the proposed regulation. We believe this proposal would not only tackle the most serious aspects of curriculum bias, but it also represents a realistic and constitutional approach.

We do have one general comment on the regulation as a whole. If adequately interpreted and endorsed, Title IX can have a far-reaching impact in ending sex discrimination throughout the nation's education system. Therefore, it is crucial that this regulation make recipient institutions' obligations to end sex bias under Title IX absolutely clear and concrete. As it now stands, the regulation lacks specificity on many important issues such as athletics and application to "assisted organizations." On these and many other issues, the regulation offers little guidance—either to those who believe themselves victims of illegal discrimination or to the institutions which must comply with the law.

Therefore, we make the general recommendation that the regulation be much more specific, and that concrete examples be added to make the meaning clear throughout.

For example, Sec. 86.35(d) on athletics scholarships reads, "Notwithstanding the provisions of this section, separate financial assistance for members of each sex may be provided as part of separate athletic teams for members of each sex *to the extent consistent with Sec. 86.38.*" [Emphasis added.] Sec. 86.38 makes no mention of athletic assistance; what does the reference mean?

Again, we appreciate the opportunity to comment on the proposed regulation and look forward to seeing a stronger, clearer final version.

Sincerely yours,

MARY JEAN TULLY,
President.

HOLLY KNOX,
Project Director.

NOW LEGAL DEFENSE AND EDUCATION FUND COMMENTS ON THE PROPOSED REGULATION FOR TITLE IX, P.L. 92–318

Following the principle of "first things first," we first direct our comments to the issues we believe to be most crucial—the coverage of curriculum materials; physical education and athletics; admission to private undergraduate professional schools; coverage of organizations assisted by recipients; complainants. Comments on the remaining benefits; pregnancy leave; and the rights of complainants. Comments on the remaining issues follow the order in which they appear in the regulation.

COVERAGE OF CURRICULUM MATERIALS

Despite an acknowledgement that "sex stereotyping in curricular and educational materials is a serious matter," the Title IX regulation does not provide any means of overcoming this most damaging form of sex discrimination. This is one of the regulation's most serious deficiencies.

Extensive evidence shows bias against females abounds in textbooks of all kinds. By sex bias we mean, first of all, a portrayal of one sex which, taken as a whole, tends to ridicule or denigrate that sex. This rhyme from a text widely used in elementary schools is a typical example:

'A girl! A Girl!
Oh, go away;
A girl's no good
for work or play.[1]

Text books also reflect sex bias by building up the self-image of one sex at the expense of the other. This is done through the underrepresentation of women—in books covering all subject areas in all grade levels—and through consistently portraying only males as exhibiting the personal qualities valued by our society.

In textbooks, females are dramatically underrepresented, carrying the clear message to students that girls and women have little value or importance. One extensive survey of elementary reading texts revealed some startling ratios:

Boy-centered stories to girl-centered stories, 5:2.

Adult male main characters to adult female main characters, 3:1.

Male biographies to female biographies, 6:1.[2]

A major new study of the textbooks most widely used in the nation's elementary schools found that this underrepresentation pervades textbooks in all subjects. Research by University of California (Davis) sociology professor Lenore Weitzman and Diane Rizzo indicates that in science, math, and spelling—subjects we usually think of a sex neutral—the underrepresentation and sex stereotyping is even more extreme than in reading texts.

Their study also indicated that the representation of adult females sharply decreases as textbooks become more sophisticated and the student becomes more sensitive to adult role model. Statistical analysis of the age distribution in textbooks indicated that the higher the grade level, the larger the percentage of adults. However, the percentage of *female* adults declined as grade level rose (in spelling books, for example, illustrations of adult females dropped from 43% in the second grade to 15% in the sixth). As a young girl increasingly seeks adult role model—to help her development, textbooks present her with fewer and fewer female images to emulate. Textbooks thus convey the impression that the adult world is a world of men; adult women are insignificant.

History texts on all levels further reinforce the impression that adult women are invisible and insignificant. They omit mention of many important women in our history, as well as the social and political movements in which women were in the forefront. The major contribution made by women in the development of our frontiers is almost totally ignored, despite the fact that this was an area where women were most nearly equal. Further, the passage of the 19th "women's suffrage" amendment, if mentioned at all, is generally treated as a right "given" to women, with no recognition of the decades of struggle by many prominent women to win that right.

Where females do appear in textbooks and other materials used daily in the classroom, they tend to be presented as passive, weak and incompetent people. Males, on the other hand, display the valued traits of independence, creativity and skill. In its study of more than 134 elementary reading textbooks, for example, Women on Words and Images showed that traits of industry and problem-solving ability were attributed to boys in 169 instances, to girls in only 47. Passivity and dependence were attributed to boys only 19 times while girls were shown in this manner 119 times. In stories with themes dealing with the acquisition of skills and the development of maturity, boys were the dominant characters 151 times, girls only 53.

Perhaps one of the most damaging aspects of textbook bias is the tendency to how adult females in a severely constricted number of occupational roles, while showing men in a wide and interesting variety of occupations. The Weitzman-Rizzo study, for example, indicated that while men are shown in over 150 occupational roles, almost all the women are the same—they are most always housewives. Thus, while boys are encouraged to dream of themselves in a dazzling array of careers, girls are led to believe that they have no options other than housewife. While many women do find fulfilling careers in the home, 90% of the women in this country work outside the home at some point in their lives, and millions spend their entire working lives outside the home. To encourage girls to think that as adults their future will be limited to housework is a cruel and crippling deception.

We believe textbooks must reflect positive ideas of equality and the value and potential of people of both sexes. They should provide a variety of role models for all students, they should present males and females in numbers which reflect more accurately their numbers in society, and they should attribute desirable and undesirable character traits to both sexes equally.

Our society relies on the educational system to prepare students to be effective, productive citizens, to pass on the essential values which make our society work. Continued use of sex-biased instructional materials perpetuates and reinforces concepts of female inferiority making it difficult for women to fulfill their potential as productive American citizens.

That these negative images of women are damaging to all students cannot be denied. Minority group Americans have long recognized that textbook biases against minorities are severely damaging to their children, and have been in the forefront of the demand for change. The research literature, including *The Silent Language* by Dr. Edward Hall, indicates that children do assimilate the contents and values of their books as they learn to read, without giving it any conscious thought. As the Association of Women Psychologists said in a statement several years ago:

"Psychological oppression in the form of sex role socialization clearly conveys to girls from the earliest ages that their nature is to be submissive, servile, and repressed, and their role is to be servant, admirer, sex object and martyr . . . the psychological consequences of goal depression in young women—the negative self-image, emotional dependence, drugged or alcoholic escape—are all too common. In addition, both men and women have come to realize the effects on men of this type of sex role stereotyping, the crippling pressure to compete, to achieve, to produce, to stifle emotion, sensitivity and gentleness, all taking their toll in psychic and physical traumas."[3]

The Title IX regulation can and should provide relief for students exposed to the damaging portrayal of females now contained in almost all classroom materials. Clearly, when students are required by their schools to read sex-biased textbooks, they are suffering discrimination on the basis of sex within the meaning of Title IX.

The Preamble to the regulation attributes HEW's inaction in this area to a concern that "specific regulatory provisions in this area would raise grave constitutional problems concerning the right of free speech under the First Amendment to the Constitution."

The NOW Legal Defense and Education Fund contends that the First Amendment does not create a blanket prohibition against government control of curriculum and education materials. State and local education agencies already routinely review and select curriculum content. Certainly the power exercised routinely by state and local authorities to select classroom materials is subject to Federal review under the Federal government's broad authority to place conditions on the expenditure of its own funds. For a detailed discussion of these legal issues, see the legal memorandum prepared on our behalf by the Center for National Policy Review (Appendix A.)

The NOW Fund has devised what we believe is a constitutional and practical method for eliminating the use of sex-biased textbooks. Our proposal is narrowly drafted, addresses itself only to public elementary and secondary school systems and utilizes those existing mechanisms for textbook review.

We have limited our proposal to public preschools and elementary and secondary school systems, since First Amendment considerations appear to have different implications when applied to private or postsecondary educational institutions.

In brief, we propose that the regulation require that all *new* textbooks and supplementary materials purchased by public elementary and secondary school systems be free of sex bias. If school systems continue to use existing sex-biased textbooks and materials, they would have to be accompanied by efforts to overcome the effects of those biases. The provision (Appendix B) would:

Cover any textbooks and supplementary materials which are already approved and selected by state and local officials centrally.

Require that, 60 days from the effective date of the regulation, state and local education agencies approve, adopt and purchase only those *new* textbooks and supplementary materials which are free of sex bias.

Provide that state and local agencies may continue to use sex-biased materials they already have, if they are accompanied by a "remedial action program" designed to counteract the adverse effects of sex bias in those materials.

The remedial action program would include activities available to all students using sex-biased textbooks, such as special units on sex bias in materials, supplementary materials and so on. It would also encompass activities designed to help teachers of other educational personnel in counteracting the sex bias in textbooks—in-service manuals, etc. These activities would be carried out pursuant to a remedial action plan to be written and made public within 90 days of the effective date of the regulation.

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[1] New Dimensions in Education, Inc., "Alfphaland"

[2] Women on Words and Images, "Dick and Jane as Victims," Princeton, N.J., 1972.

[3] From printed "Statement, Resolutions and Motions" presented to the American Psychological Association at its convention in Miami, Florida, September, 1970 by the Association of Women Psychologists.

Require HEW to develop and promulgate guidelines to enable state and local officials to evaluate textbooks and supplementary materials for sex bias.

Require the designation of a compliance committee to assure compliance with this section and to adopt, if necessary, interim guidelines for evaluation of textbooks for sex bias until Federal guidelines are available.

Physical Education—Sec. 86.34(a) and 86.38(a)—

The proposed regulation requires that physical education classes be coeducational: "A recipient shall not provide any course or otherwise carry out any of its education program or activity on the basis of sex. . . . including health, physical education. . . ." (Sec. 86.34(a)).

This requirement is absolutely key to assuring equal sports opportunities for females, both in the long run and in the short.

Sex segregated phyiscal education has produced major inequities in physical training for males and females. Physical education for girls tends to deemphasize competition, focus on grace rather than style, and be less physically challenging than physical education for boys.

While boys' gym classes focus on highly challenging and competitive sports such as football and basketball, many girls' classes include more "feminine" activities such as slimming exercises and dance. Segregation in physical education spawned different sports rules for girls' and boys' games resulting in highly restrictive, less challenging, and relatively uninteresting play for girls. In contrast to the high excitement of boys' basketball, for instance, girls' basketball has for years been hampered by rules barring dribbling, shooting by guards, and so on. Perhaps the traditional attitude toward women's physical education is best summed up in *Sports Illustrated's* quote last year from the Georgia State Director of Physical Education, Jack Short, on the goals of girls' physical education:

"I don't think the idea is to get girls interested in competition. I don't think the phys ed program on any level should be directed toward making an athlete of a girl."

At an Ohio high school, administrators cited "no space" as the reason for denying and girls' physical education programs, girls' physical education programs often receive the leftovers in facilities and equipment. Where separate gyms are provided for boys and girls for example, the "girls' gym" is invariably older and smaller, sometimes non-regulation size. A recent study of the Fairfax (Virginia) high school sports program, for example, found striking discrepancies between the amount of gym space allotted for girls and boys. In one school boys had 8,900 square feet of gym space, but girls had only 3,000—a ratio of nearly three to one.[4]

Besides inequities in the content of boys' girls' request for a balance beam, but they did find room for a Universal Weight Machine for the football team. Reports from other schools indicate that girls' physical education classes are often scheduled around boys' classes which receive the first choice of facilities and equipment. Finally, budget for girls' physical education are often substantially smaller: a survey of 60 junior and senior high schools in the state of Washington, for example, found no school where the girls' physical eductaion budget was even 50% of the boys'.

Given these inequities, full integration of presently segregated physical education classes is the one fair solution. As long as our schools and colleges are permitted to treat male and female students as separate groups these institutions will continue to design different programs for them based on traditional sex stereotypes surrounding sports. In addition, since physical education programs are designed to teach young people of widely different capacities and training basic physical and competitive skills, we see no justification for making an exception to the Title IX bar against discrimination.

None of the arguments *against* integrated physical education hold up under scrutiny:

Safety: Girls are smaller and will get hurt playing with boys.

First of all, size and weight differences within each sex are greater than average size and weight differences between the sexes. Second, while women on the average are smaller, they are not frailer nor are their bones more brittle. If it is true that sports injury rates do rise when players are widely mismatched in size, the danger has never seemed serious enough to justify special classes for smaller, lighter boys. Why then should we need special classes for girls?

At any rate, Title IX should not be interpreted to allow classification by sex. All females are not smaller than all males; the regulation should not permit educators to treat them as though they are. Title VI of the Civil Rights Act contains similar anti-discrimination provisions covering discrimination based on race, color or national origin. Would HEW interpret Title VI to allow separate physical education classes for Japanese students, because they are, on the average, smaller than Anglo students?

Competition: Coed physical education will demoralize girls because boys will consistently outplay them.

There is no reason to believe that boys would consistently outplay girls. And in the early grades, of course, boys have no size advantage over girls at all. And despite the serious handicaps of inferior training, negative social pressures, poor facilities and equipment and fewer awards, young women all over the country are showing that they can compete on a par with men. Moreover, students in any given physical education class normally represent a wide range of ability and experience. Less able students are rarely placed in a separate class, at least at the elementary and secondary levels.

There may be initial differences between male and female performance in sports which have not previously been taught to one sex or the other such as football, field hockey, wrestling, badminton, but experiments in coeducation have shown that these differences can be eliminated without much difficulty. In a new coeducational physical education program at the Indiana School for the Deaf, for example, teachers found students of one sex helping the other to learn skills they had missed in the segregated program.

Some sports are not appropriate for both sexes, and they will have to be dropped.

Sports usually mentioned as "inappropriate" include football, soccer, wrestling, dance and badminton.

We do not agree that any of these sports are "inappropriate" for members of one sex; only tradition has associated them chiefly with one sex. In fact, although we have yet to see a surge of male interest in field hockey, females are appearing more and more frequently on women's teams and formerly all-male teams in traditionally male-only sports.

Coeducation would create discipline problems in the locker rooms, as one teacher would not be able to monitor both locker rooms.

Although trivial, this argument is seriously offered by school administrators as a real obstacle to integration. There are many ways to cover both locker rooms without putting a woman teacher in the men's locker room, or vice versa: student monitors, locker room aides, study hall teachers coming into locker rooms at the beginning and end of each period. Probably a little imagination would suggest any number of other ways to solve the problem without violating student's privacy in the locker room.

Women physical educators will be demoted or fired

Many women physical education teachers fear that male teachers will get better jobs, more responsibility and higher pay in integrated physical education departments. We believe this is a real danger, given the experience of many black educators in the South for whom integration meant demotions and assignment to lesser positions than their white peers. However, the threat of one kind of sex discrimination should not be used to justify another. Protection for the rights of women physical educators and coaches can be built into the regulation. (see p. 15 for our recommendations). In the long run, integrated physical education should open up new opportunities for physical education teachers of both sexes.

In sum, we see no justification for Title IX's anti-discrimination provisions to permit sex segregated classes. Continued sex segregation is bound to perpetuate existing inequities in physical training for girls. Women who do not go into competitive interscholastic sports need the physical training and recreational opportunities society has always recognized as valuable for men. For those who do aspire to interscholastic or other athletic competition, full equality of opportunity will only come when young people receive the same athletic training from the youngest age.

As one female high school athlete recently told the Fairfax (Virginia) Commission on Women: "People always claim girls cannot play as well as boys. The reason is because girls are separated from boys at an early age. The girls suffer lack of instruction and course selection in general. It is no wonder they cannot match boys because their talent is left to die."

Recommendation

The provisions in Sec. 86.34(a) and 86.38 (a) requiring coeducational physical education classes should be retained.

Competitive Athletics—Sec. 86.38.—We should begin our discussion on competitive athletics by noting our concern that many of the important values of sports competition have been sacrificed in the growth of elaborate, commercialized spectator sports programs for a small student elite. In high schools and universities around the country, scarce athletics resources are poured into one or two teams (usually football and basketball) at the expense of sports programs for the vast majority of students who could never hope to make these teams. Other sports many of them with more lasting potential for lifelong enjoyment and physical fitness, receive the leftovers. While the National Collegiate Athletic Association would have us believe that in most universities, football revenues pay for all the other sports, the truth is that in most institutions—secondary and postsecondary—these sports are an expensive drain and compete with other sports for scarce resources.

Until this imbalance is righted, opportunities for girls and women—and for most males—will continue to be severely restricted. As institutions move to comply with Title IX, then, we hope its impetus will encourage more balanced athletics programs aimed at providing healthy, enjoyable competitive experiences for many more students of both sexes.

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[4] Fairfax County Commission of Women, "Quality and Equality: A Study of Sex Bias in the Fairfax County Public Schools," April, 1974, p. 84.

Establishment of Competitive Athletics Teams—Secs. 86.38(a), (d), and (e).—One of the central issues surrounding Title IX and in competitive athletics is whether equal opportunity requires that opportunities in any given sport be provided in a segregated or integrated setting. The issue is a very different one from physical education, since no one would be denied the chance to participate in an integrated physical education class. In contrast, where girls' performance is no match for boys' performance, students could be denied the chance to participate on open "competitive" teams—teams where, in the language of Sec. 86.38(a), "selection for such teams is based on competitive skills."

The proposed regulation in itself is rather vague on the question of separate or open teams. Sec. 86.38(d) asks the recipient institution to "make affirmative efforts in such sports and through such teams as will most effectively equalize such opportunities for members of both sexes . . ." It appears to condone either open teams or separate single sex teams, and Sec. 86.38(e) cautions that "a recipient which operates or sponsors separate teams for members of each sex shall not discriminate on the basis of sex therein in the provision of necessary equipment of supplies for each team, or in any other manner." Implicitly, the proposed regulation appears to accept a "separate but equal" doctrine; we see nothing to prevent institutions from maintaining a permanent system of sex-segregated athletics.

We would argue that the Supreme Court's 1954 doctrine in *Brown v. Board of Education* that segregation is inherently unequal applies here too. Thus, while some form of sex segregation is needed now to assure females the chance to participate on competitive athletics teams, segregation should be treated as a temporary measure, with integration the goal. In the meantime, the Title IX regulation should ask institutions to come as close as possible to providing integrated athletics opportunities without penalizing women for past discrimination or for innate physical differences.

Therefore, we urge that the Title IX regulation require recipient institutions to establish in each sport at each level of competition it offers an open team—for which members of both sexes are eligible to be selected without discrimination based on sex. Only if that team is likely to be predominantly single sex should the recipient be required to create an additional team for members of the other sex. The first team would remain open to students of both sexes.

We propose this arrangement for several reasons. First, separate teams are inherently unequal. Second, since sex-segregated teams will be unequal, some of the best athletes will experience discrimination if placed on a less able team because of their sex instead of on the more able team on the basis of merit. Third, while, it is generally agreed that innate biological differences may be a factor in disparate performance records for adult males and females, the effect of those differences appears to be much smaller than tradition would have it.

That separate teams are inherently unequal is demonstrated by the point that if male and female teams were completely equal, including performance levels, they could be fully integrated. The call for separate teams arises from a recognition that in many sports today, women average lower performance levels than men—and that without separate women's teams women would in many cases participate in much smaller proportions than men. Performance level is an important measure of equality, since athletic skill development in part depends on the skill of one's teammates.

Because team performance level is important, the sex segregated teams are bound to deny some athletes the opportunity to play with their peers and, therefore, an equal opportunity for skill development. In almost every case, female athletes will be the ones so disadvantaged since average skill levels on women's teams will be lower in many sports where opportunities for women have been limited.

The final argument for requiring that at least the top team be open to members of both sexes is performance. While innate sex differences may affect athletic performance in some sports, improved experience and training for women is closing the performance gap. When given the opportunity, women do compete successfully with men in many sports where male superiority has commonly been assumed.

As Ann Crittendon Scott reported in a recent article in *MS*,[5] the gap between male and female international recordholders in many sports has narrowed dramatically in recent years. While the men's outdoor world record for the 100-meter dash has improved only .3 seconds in the last 25 years, for example, the women's record has improved by .7 seconds—now only .9 seconds slower than the men's time. In swimming the winning men's time for Olympic 400-meter freestyle was 16% faster than the women's in 1924. By 1972, that had been cut to 7.3%. And when his study of the effects of weight training on strength of male and female college students showed no sex differences in leg strength when adjusted for weight, Dr. Jack Wilmore speculated that other reported sex differences in strength may prove to be more an "artifact of social or cultural restriction imposed on the female . . . than a result of true biological difference in performance potential between the sexes."[6] At the least, a healthy skepticism is certainly required about the established "scientific" wisdom concerning female physical capacities. In 1880, for example, the Amherst Student had this to say in an article entitled "Why a Girl Cannot Play Tennis:"

"The female arm differs from the male arm, also, in that the ulna of the female is much shorter proportionately, than of the male. On this account the female cannot hold the racket on the line with the arm. . . When the ball is returned the action of the arm tends to knock it sidewise. This peculiarity is especially noticeable returning swift balls."

Whatever new evidence remains to be uncovered about the relationship between sex and athletic performance, the fact is that we are finding more and more women able to perform on a par with men. For example:

Eckerd College's (Florida) top varsity tennis player last year was a woman, Wendy McCloskey. She reported that playing on the "men's" team did improve her game.

The New York Times reported last year that Catonsville Community College in Maryland had two female cross-country runners. Their coach fully expected to enter them in the Maryland Junior College title meet.

In another Maryland first, four girls joined the Montgomery County Soccer League in the 9–10 year old bracket last spring. According to the coach, who had been handling the team for 7 years, they were "just as good as the boys."

A year ago, Ellen Cornish, a Frederick, Md. high school senior, was one of the best female distance runners in America, but she could not represent her school since it only had a boys' team. In the spring of 1972, however, she was allowed to enter a two-mile race in a boys' high school meet on an "exhibition" basis—her performance would not count. At the end of the 7th lap, with Cornish fighting for the lead, she was pulled off the track—to protect her male competitors' ego from the possibility she might win, which was likely.

Clearly, Title IX policy cannot permit institutions to exclude women by opening all teams to both sexes. At the same time, given the tremendous athletic potential women are just beginning to realize, it should not allow institutions to bar girls and women from testing their skills against their male peers through a strict system of sex-segregated teams.

Recommendation

We recommend that Sec. 86.38 be amended to provide for a policy on the establishment of teams which:

Requires the recipient to establish one or more "open" teams—open to members of both sexes—in each sport and at each level of competition in which the recipient offers competitive opportunities.

Whenever that open team is or is likely to be predominantly single-sex (because of past discrimination or differences in training, interest or physical attributes, or any other limiting factor), mandates that the recipient establish an additional team for members of the other sex.

Requires that the single sex team be equal to the open team in all respects under the recipient's control, including expenditures.

Provides that the recipient has no obligation to maintain the separate single-sex team at any time that the open team stops being predominately single sex.

Requires the recipient to review its athletic program for sex discrimination.

If it finds evidence of discrimination, the regulation should require the recipient to develop, implement, and make public (within 90 days of the effective date of the regulation) a written remedial action program to overcome the effect of past discrimination for *each sport* in which discrimination has occurred and which the recipient plans to continue.

We are attaching a legal memorandum prepared for us by the Center for National Policy Review on the legal implications of this approach (Appendix C).

Other athletics issues

Determination of Student Interest—Sec. 86.38(b)—

Section 86.38(b) requires the recipient to determine annually in what sports members of each sex want to compete "using a method to be selected by the recipient which is acceptable to the Director." OCR spokespeople have already stated that a full scale survey would not be necessary.

Instead of the language quoted above, the regulation should specify that the determination of interest be designed to reach the greatest number of students possible. More selective methods envisioned by OCR are highly suspect, since sampling only certain groups can distort results substantially.

In addition, the recipient should be required to make the results public. Recipients should determine at what levels students want to compete, as well as in what sports. They should also use the determination mechanism to find out which sports students wish to play in physical education and intramural sports, as well as interscholastic athletics.

The section on interest determination or the Preamble should make it clear that the requirement to determine student interest annually does not preclude normal advance planning.

Intramural teams

A new subsection should be added to make it clear that where intramural teams are noncompetitive, they must be open to both sexes. It should note that intramural teams rep-

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[5] Ann Crittendon Scott, "Closing the Muscle Gap." MS, Vol. III, No. 3. Sept. 1974. p. 45.

[6] Study by Jack Wilmore, University of California at Davis. from Reporter's Transcripts: 64–66. *Hail v. White*, unreported, U.S. Dist. Ct., Northern Dist. Calif., Civ. No. C–73–0369 LHB (1974)

resenting single sex units (dormitories, fraternities, etc.) must be replaced by teams accessible to members of both sexes.

Equality for Separate Teams—Sec. 86.38 (e)—

Sec. 86.38(e) specifies that a recipient offering separate men's and women's teams may not discriminate between them "in the provision of necessary equipment or supplies for each team, or in any other manner."

This section should be redrafted to apply to the provision of an open team and a separate-sex team, consistent with our proposal. It should also spell out the areas where discrimination is prohibited, including equipment (not just *necessary* equipment) and supplies, facilities, scheduling of games and practice times, travel support, award of athletic scholarships, coaching and instruction, medical facilities and services, publicity and recruitment.

We would add to this list awards and *expenditures*. Although we do not believe that expenditures need to be equal down to the last dollar, there is no reason why expenditures should not be comparable for two teams in the same sport at the same level (varsity, junior varsity). Nor should HEW accept financial constraints as a reason for not providing equal expenditures or opportunities. The courts have not accepted cost as a reason for noncompliance with other civil rights laws (Titles VI and VII of the Civil Rights Act, for example)—they are unlikely to do it here.

Nondiscrimination in staffing

As we noted above, there is a danger that women physical educators and coaches will be subject to serious discrimination with the advent of open teams and integrated physical education. To make sure that integration of the sexes in sports does not have the same tragic results for these women as racial integration has had for many black school teachers and administrators in the South, a new subsection should be added to Sec. 86.38 containing specific protections for these women.

HEW policy under Title IV of the Civil Rights Act recognizes the need for action to overcome effects of past discrimination in staffing. HEW's Title VI "Policies" state:

"Where there has been discrimination in professional staffing policies and practices, school systems are responsible for taking whatever positive action may be necessary to correct the effects of the discrimination."

Title IX policy should build on this general principle and spell it out more concretely.

It should specifically state that sex discrimination in the employment, assignment, compensation, training, etc. of coaches and physical education personnel is prohibited. Although this is covered in the employment section, it needs to be reemphasized in the athletics section.

Where past separation of the sexes has resulted in a discrepancy in abilities between male and female teachers and coaches, the recipient should be required to provide remedial inservice training designed to overcome these discrepancies. This would apply where some sports have not been offered for members of one sex, where different rules existed for males and females, where limited competitive opportunities for one sex resulted in limited coaching experience for teachers, and so on.

The regulation should also establish a special grievance procedure to hear and resolve complaints of discrimination in sports staffing.

Finally, the regulation should require the merger of separate administrative units for male and female sports in such a way to preserve full equality for staff in both units. The perpetuation of these units gives segregation of the sexes a permanence which is highly inappropriate under Title IX. It is in itself a form of sex discrimination, since different administration means different treatment, particularly when the background and skills represented in the one unit differs radically from the background and skills represented in another unit. The recipient's remedial action program for athletics should include provisions for carrying out such a merger in a way that guarantees nondiscrimination.

Athletics Scholarships—Sec. 86.35(d)—

This section allows athletic scholarships for members of single sex teams "to the extent consistent with Section 86.38." This is impossibly vague, since 86.38 itself offers little guidance about equal opportunity in athletics generally and it does not mention scholarships at all.

Athletics scholarships represent a substantial benefit now offered almost uniquely to male athletes. The issue is not whether or not offering these scholarships is a desirable policy, nor are the strings frequently attached to these scholarships an issue. Title IX requires equality of the sexes, under good policies and bad. As long as a benefit such as athletic scholarships is offered to one sex, it must be offered to the other sex on an equal basis.

Under the single sex team arrangement now provided in the regulation, where athletic scholarships are made available for single or predominantly single sex teams, an equal number of scholarships of comparable amounts should be made available for teams entirely or predominantly composed of the other sex. Scholarships should not be based on relative proportions of males and females in competitive athletics, since that would produce a disincentive to encourage more women to participate.

Under our proposal for open teams with a separate single sex team when necessary, the regulation should provide that where the nondiscriminatory team is predominantly single sex and a separate team has been established, an equal number of scholarships at comparable levels must be available for members of the separate team or for a separate team in another sport if none is available in that sport.

Admissions to private undergraduate professional and vocational schools—Sec. 86.2 (m) and (n)—

Title IX itself explicitly forbids sex discrimination in admissions to professional and vocational institutions, without exception. Sec. 901(a)(1) of the statute specifies that:

"... in regard to admissions to education institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of higher education."

In contrast, the proposed regulation, in defining "institution of vocational education" and "institution of professional education", specifically exempts admissions to professional or vocational institutions which are undergraduate schools. Since Sec. 901 (a)(1) explicitly covers admission to *public* undergraduate schools, the exemption affects only private undergraduate professional and vocational institutions. As a result, private institutions offering undergraduate training in fields such as architecture, engineering, business, education, and forestry can refuse to accept or discriminate against members of one sex.

The Preamble to the regulation states that:

"... while the admissions section of the statute might be read as including professional degrees whenever they are offered, the statute can also be read as stating, and the legislative history indicates, that admissions to private undergraduate schools were to be totally exempt."

We submit that the exemption for admissions to private undergraduate professional and vocational institutions has no legal basis. The statute is unambiguous and when the statute is clear, there is no reason to look at the legislative history. Moreover, we believe the legislative history indicates no such intention. For a more detailed discussion of this question, see the attached memorandum prepared for us by the Center for National Policy Review (Appendix D).

Finally, it is abundantly clear that Congress covered professional, vocational, and graduate school admissions to ensure that no one would be excluded because of his or her sex from education programs needed for entree into a given occupation. The private undergraduate exemption for professional and vocational programs flies directly in the face of this important principle. It will only perpetuate the difficulties women already face in gaining admission to a number of high-paying, challenging occupations.

Recommendation

86.2 (m) and (n) should be changed to delete the exemption for an "institution of undergraduate higher education."

Affirmative and Remedial Action—Sec. 86.3—

The regulation requires an institution which previously discriminated to take remedial action. It does not ask the institution to determine whether it has previously discriminated, nor must it take any action in the absence of an HEW compliance review.

As it stands, then, an institution which is practicing the most blatant sort of discrimination can feel safe in doing nothing, in the hope that HEW will not undertake a compliance review. A recipient would have excellent grounds for that hope, since HEW's already inadequate enforcement staff will now have new enforcement responsibilities for nearly 17,000 school districts, 2,700 institutions of postsecondary education, and scores of thousands of proprietary schools, not to mention the non-educational institutions covered by Title IX.

Recommendation

To assure that these institutions will act to end discrimination in the absence of HEW action, the regulation should require each recipient to determine whether it has been practicing sex discrimination. The study should be completed within 90 days; the findings should be made public. The study should cover every area covered by the regulation.

If the institution finds that there has been discrimination, it should be required to develop and make public a written remedial action plan to overcome the effects of discrimination as soon as possible. We have already proposed such a plan in the areas of curricular and athletics discrimination—these would be incorporated into the overall remedial action plan. The plan would also cover such other areas as employment, counseling, admissions, courses previously limited to one sex, and so on. The plan should be developed with public participation, including women's groups such as NOW, WEAL, and the like. Provisions similar to those in Revised Order 4, spelling out requirements for affirmative action under Executive Order 11246, should be included.

Services or Benefits Based on Sex—Sec. 86.31(b)—

Sec. 86.31(b) states that "in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex: . . . Provide different aid, benefits, or services . . ."

We are concerned that many institutions may interpret this language to mean that numerous special projects for women or which directly serve women, from counseling to special scholarships for women to programs training women to be administrators, would have to be eliminated. Where these projects are needed to compensate for past exclusion of women, or conditions which have limited their full participation in education, the regulation should explicitly permit their continuation as remedial or affirmative action.

Recommendation

We urge that a new provision be added to Subsection (b) to make it clear that different aid, services, or benefits may be provided on the basis of sex where necessary as remedial action to overcome the effects of conditions which have resulted in limited participation by members of one sex.

Coverage of organizations assisted by recipients—sec. 86.31(b) and (c)

Sec. 86.31(b)(7) bars recipients from assisting any organization "which discriminates on the basis of sex in providing any aid, benefit, or service to students or employees." The Preamble, however, makes it clear that this will only apply in some cases. HEW will determine whether or not this applies depending on the "substantiality of assistance," whether the activity involved could be considered an activity of the recipient itself, and undefined other considerations. HEW officials have explained that this does not cover Boy Scouts' use of a school auditorium, but that each case will be decided individually. There are currently no specific criteria for making those decisions.

The NOW Fund believes that this non-policy represents a gross disservice to all affected by it. We also predict that a failure to set a clear policy will provoke much more outrage than any clear and consistent policy. Hundreds of organizations potentially covered will clamor for individual decisions on their own status. HEW regional staff will make conflicting decisions, or no decisions at all. The result can only be chaos and injustice.

We further believe that there is no legal or policy justification for making exceptions to the ban on assistance to discriminating organizations. We know of nothing in the statute or legislative history that indicates Congress intended such a policy. There is no reason why private, single-sex organizations should receive indirect public subsidies through assistance from federally funded institutions; there are enough opportunities for people to get together with members of their own sex in private, without the need of these subsidies.

Recommendation

The NOW Fund advocates a simple and clear policy: 86.31(b)(7) should be changed to forbid assistance to any discriminatory organization, rather than simply those discriminating against the recipient's own students or employees. HEW should enforce this literally. *Any* assistance to any discriminating organization should be forbidden. No test of substantiality or relatedness to the institution's own policy should be applied.

This is the policy HEW adopted under almost identical provisions of Title VI of the Civil Rights Act of 1964. The law did not justify any exceutions for assisted organizations practicing race discrimination. There should be no exceptions in this case.

Rhodes Scholarship Exemption—Sec. 86.35 (a)(2)—

The regulation forbids recipients to assist in the administration of scholarships limited to members of one sex. However, it makes a special exemption for the prestigious male-only Rhodes Scholarships, as a scholarship operated under a foreign will or trust.

While they do not actually administer the Rhodes scholarship program, American universities and colleges are heavily involved in the program's administration. They publicize it and encourage their own students to apply. Each Rhodes applicant must be officially nominated by his home institution.

While Title IX has no power to affect the Rhodes program directly, it ought to bar any involvement of federally-assisted American institutions so long as the program is limited to men. This does not require meddling in another country's affairs, as the Department suggests. The Rhodes program could undoubtedly continue without the assistance of American institutions, although we understand there is already a move underway in Britain to spur Parliamentary action to change the program to admit women.

Rhodes scholarships are extremely prestigious, and they represent a powerful boost to a scholar's future career. The regulation's gratuitous exemption for these well-known scholarships, therefore, is an extremely damaging symbol undermining the letter and spirit of Title IX.

Recommendation

Section 86.35(a)(2) should be dropped.

FRINGE BENEFITS FOR PART-TIME EMPLOYEES

Although no provision in the regulation specifically covers it, the Preamble states that HEW will ask recipients to offer fringe benefits to part-time workers if its permanent female employees are disproportionately part-time, unless the recipient can show that the failure to offer these benefits is not discriminatory. "Disproportionately" is not defined.

The Secretary requests comments on a different policy, requiring all institutions to offer fringe benefits to permanent part-time workers, whether or not the part-time work force is disproportionately female.

Recommendation

We recommend that the regulation require institutions to provide proportionate benefits for part-time workers across the board, without a prior determination that the part-time work force at each institution is disproportionately female. According to the 1970 cenus, 34.6% of all education employees work part-time, and 72.5% of them are women—nearly three-fourths. Given the overwhelming preponderance of women in part-time education positions, HEW should proceed on the presumption that discrimination against part-time workers does not constitute discrimination against women.

Employers should also be advised to allow part-time employees to pay the remaining share for full-time benefits where a partial benefit may not be sufficient coverage, such as health and life insurance policies. In addition, the language allowing institutions to withhold fringe benefits if they can show that policy is not discriminatory should be deleted as an unnecessary loophole.

Equal Fringe Benefits—Sec. 86.46—The regulation requires employers to offer either equal periodic benefits or equal contributions in their fringe benefit plans. The Equal Employment Opportunity Commission (EEOC), on the other hand, has a stronger provision which requires equal benefits, though contributions may be unequal.

The equal benefits *or* contributions formulation is by far the more damaging and discriminatory. Perhaps the most appalling example of its abuses is the pension arrangement which many universities have with TIAA—the Teachers' Insurance Annuity Association. Under the TIAA plan, employers make the same contributions for women and men. But when it comes to paying out pension benefits, women retirees receive smaller periodic benefits than their male colleagues.

TIAA rationalizes this discriminatory policy on the basis of longevity—the average women lives longer than the average man, so that if TIAA had to pay her equal periodic benefits until she dies, it would cost TIAA more. Therefore, it pays her smaller benefits.

The NOW Legal Defense and Education Fund sees no possible justification for allowing TIAA to continue this outrageous practice. It is clearly discrimination based on sex under the meaning of Title IX, since it involves differential treatment based on sex, and treatment based on stereotyped characterizations of one sex of the kind forbidden in Sec. 86.51.

Moreover, this policy wreaks serious economic hardship on retired women, who may already receive lower pensions than their male peers because of employment discrimination during their working lives. Nor does it cost a woman any less to live than a man. Finally, this arrangement violates EEOC requirements under Title VII of the Civil Rights Act, to which recipients covered by Title IX are also subject.

While EEOC's equal contributions policy is less damaging than the one HEW proposes under Title IX, it too is discriminatory. Under this policy, men and women would receive equal benefits but premiums could be higher for women. This either means an additional financial burden on women, or a disincentive to employers to hire women, or both.

We would argue that the sex discrimination permitted in both policies is unnecessary and illegal. There is no reason why the Title IX regulation should tolerate it. If the regulation requires equality in both contributions and benefits, insurors would quickly drop their sex-based actuarial tables and averages out the risks of employees for both sexes, just as they now do with race, smoking/nonsmoking, or other factors which affect longevity.

Recommendation

Sec. 86.46 should require both equal contributions and equal benefits.

Pregnancy Leave—Sec. 86.47—

Sec. 86.47(c) provides that "a recipient shall treat disabilities caused or contributed to by pregnancy as temporary disabilities for all job-related purposes, including commencement, duration and extensions of leave." This language is identical to the pregnancy provisions in EEOC guidelines under Title VII.

The very next section, however, violates the concept of treating pregnancy-related disabilities as any other temporary disability, by allowing forced leave for pregnant employees. It also places special requirements on pregnant employees which would not be levied on employees with other temporary disabilities. These special provisions do not appear in EEOC guidelines.

Specifically, the regulation allows employers to force a pregnant employee to go on leave without pay at any time unless her physician certifies her health and she notifies her employer of her condition within 120 days of the expected delivery date. Moreover, it allows the employer to prevent an employee on pregnancy leave from returning to work until a physician certifies she can work and for two weeks thereafter. If she is a teacher, the employee can also be kept from returning until the next semester after a physician certifies she can work, even if that certification is given one day after the beginning of a semester.

These special restrictions are unjustified and would certainly constitute sex discrimination. If an employer doesn't ordinarily require doctor's proof that an employee is healthy, why should he/she when an employee is pregnant? This erroneously implies that a pregnant woman is ill or disabled simply because she is pregnant. Why allow an employer to deprive an employee of work and income even after a physician has certified she is healthy, whether for two weeks or a semester? No other temporary disability is treated this way.

The requirement to disclose one's pregnant condition within 120 days of the expected birth date is an unwarranted invasion of privacy. Employees may be unwilling to disclose their condition at this stage for personal reasons, and they should have a right not to. An employer cannot expect to know in advance of any other temporary disability—why allow them to require advance notice here?

Finally, the regulation puts the burden of protecting herself on the employee, not the employer. A pregnant employee could be forced to leave her job at any time if she does not report her pregnancy within the specified time period, even if she were totally ignorant of the law.

Recommendation

The entire section on "Inception and return from pregnancy leave" should be dropped.

Time Limits—Sec. 86.62-5—

Sec. 86.62 states that the Director will make a "prompt investigation" whenever a complaint indicates a possible failure to comply. Despite this, no time limits are set on the initiation or completion of an investigation or on the attempt to secure voluntary compliance. As a result, investigations can—and do—drag on endlessly. By the time a complaint is settled, the complainant may have left the institution, changed his or her job or suffered irrevocable damage to his or her career because of harassment from the institution against which the complaint was filed.

There is ample precedent for setting time limits on these processes. The Equal Employment Opportunity Act of 1972, for example, placed numerous time limits on EEOC enforcement under Title VII.

Recommendation

To avoid the obvious injustices that long delays cause complainants, recipients should be notified with 30 days of the receipt of a complaint, and the Director should be required to initiate an investigation within 90 days after a complaint is received. The investigation of a class action complaint should be completed within 90 days after its initiation; 30 days for an individual complaint. Extensions should be granted by the Secretary only if the recipient has made it difficult to secure the necessary data.

Letters of findings should be issued within 30 days of the completion of the investigation. Sixty days should be allowed to secure voluntary compliance under a class action complaint; 30 days for an individual complaint. If the recipient still won't comply after 60 days, procedures leading toward termination of funds should automatically be initiated at the end of that time period.

RIGHTS OF COMPLAINANTS

The recipient accused of sex discrimination enjoys a number of procedural advantages which the regulation does not extend to complainants. For example, the recipient has the right to request a hearing when HEW's initial judgment goes against it, the right to counsel, the right to introduce and examine evidence and the right to appeal adverse decisions through several layers of appeal. Hearings may be scheduled at a location convenient for the recipient.

In contrast, the aggrieved individual has none of these opportunities. The complainant cannot request a hearing, has no right to counsel, has no right to testify in a hearing except at the government's request or as *amicus curiae*, may not introduce and examine evidence. Hearings will not be located at the complainant's convenience. A complainant has no means of appealing an adverse decision, no right to file exceptions to the initial decision of the administrative law judge, no right to file briefs with the reviewing authority, and no chance to appeal to the Secretary for a review.

Given the complainant's substantial personal stake in the outcome of her/his complaint, complainants should have the same procedural protections as the institution alleged to have discriminated against them. If the complainant receives no redress for the injury done to him or her, he or she may suffer serious professional, psychological or financial harm. The government cannot be assumed to represent consistently the interests of complainants, since there are heavy pressures on the government to accommodate the institution charged with a violation.

Recommendation

Sections 86.64 and 86.65 should be amended to give the complainant the same rights as the recipient: the right to request a hearing, the right to testify, the right to examine and introduce evidence, the right to counsel (Sec. 86.64). The administrative law judge should be permitted to see that hearings are located at the complainant's convenience (particularly since it is more likely to be a hardship for the complainant to travel distances than for the recipient)—Sec. 86.64(b). In addition, the complainants should have the right to file exceptions with the administrative law judge—Sec. 86.65 (a)—file briefs with the reviewing authority—Sec. 86.65(b)—and appeal to the Secretary for a final review—Sec. 86.65(e).

Definition of "Educational Program or Activity"—Sec. 86.2.—Title IX prohibits sex discrimination in any "educational program or activity" receiving federal funds. Because the regulation does not define this term, there is a great deal of confusion about what Title IX covers, and what funds can be cut off when discrimination occurs. Sec. 86.63(c) says the termination of funds must be limited if its effect to "the particular education program or activity" in which noncompliance has occurred.

We have received reports from women around the country that some school administrators insist that the only activities covered are specific activities directly receiving federal aid (the school lunch program, for example, or a Title I ESEA tutoring project). This is a crucial point, since many areas of serious discrimination do not directly receive federal aid (athletics, shop, home economics, most curriculum materials, and so on).

On the other hand, HEW staff tell us that an "education program or activity" benefitting from federal financial assistance is almost anything that goes on in an institution of education. The regulation implies this interpretation, by covering athletics, dorm curfews, and the like, but it nowhere states it.

We are aware that the courts have not made a definitive ruling on this issue under Title VI, and urge that HEW provide clear guidance to the courts in the Title IX regulation. Certainly assistance to one part of an institution benefits another, since it frees up funds to be used in other areas of the school program.

Recommendation

"Educational program or activity" should be defined under Sec. 86.2 to include all activities of an institution whose primary purpose is education.

Coverage of Contractors—Sec. 86.2(g)(5)—

Under the definition of "Federal financial assistance," a federal contractor is only covered by Title IX if the contract "has as one of its purposes the provision of assistance to any education program or activity." It is doubtful that many federal education contracts have "assistance" as one of their explicit purposes. Because Title IX coverage depends on the receipt of "Federal financial assistance," this could mean that federal contractors which hold no grants would not be covered.

We would argue that any contract is in effect a form of assistance, since the contractor receives benefits from a contract over and above payment for its services (overhead, staff hired and trained, enhancement of reputation, etc.).

Recommendation

Sec. 86.2(g)(5) should be changed to delete the language concernnig the purpose of assistance.

Subcontractors Assurances—Sec. 86.4(c)—

The regulation leaves it up to the Director to decide whether assurances of compliance should be submitted by subcontractors and subgrantees covered by Title IX.

Without any formal compliance assurance, it is next to impossible to hold subcontractors accountable for compliance. At the very least, an assurance guarantees that subcontractors are informed of their obligations under the law. The Director of OCR does not now require assurances from subcontractors under Title VI of the Civil Rights Act.

Recommendation

Sec. 86.64 should specifically require assurances from all subcontractors and subgrantees.

Designation of a responsible employee—Sec. 86.8—

This section requires institutions to designate an employee to coordinate its compliance efforts under Title IX. The section provides no guarantees that employees will have the ability to carry out his or her functions. Since it may be in the institution's interest to see that the designated employee cannot operate effectively, the regulation should contain safeguards.

Recommendation

Section 86.8 should specify that designated employees must report directly to the head of the institution, and they must have sufficient released time from their regular duties to do an adequate job. Institutions with over 3,000 students and employees together should be required to have at least one full-time employee working on this.

The regulation should also spell out the duties of the designated employee.

Dissemination of nondiscriminatory policy—Sec. 86.9—

Institutions are required to notify applicants, students, employees, and others that they do not discriminate against students or employees on the basis of sex. The specified means of notification are somewhat limited.

Recommendation

This section should require institutions to notify parents of students. It should also require recipients to put notices in all publications, not just those aimed at recruiting students and employees (Sec. 86.9(b)).

Exemptions for Military Institutions—Sec. 86.13—

Title IX totally exempts any education institution "whose primary purpose is the training of individuals for military service of the United States or for the merchant marine." While the regulation requires institutions seeking a religious exemption to write to the Director and justify their exemption, no similar procedure is provided for military schools. And since many so-called "military schools" at the secondary level actually have college, not military, preparation as their primary purpose, there is bound to be confusion about what schools qualify for the exemption.

Recommendation

The regulation should ask any school which claims this exemption to file a request with the OCR Director, explaining its reasons for claiming the exemption.

Admissions—General Prohibitions 86.2—

The section on specific prohibitions against admissions contains only three specific prohibitions. Additional examples are needed.

Recommendation

The prohibition against numerical limitations, for example (Sec. 86.21(b)(1)(ii)) should say that limitations aimed at guaranteeing an equal number of males and females are not allowed, since even these constitute decision-making based on sex, not merit.

This section should forbid different admissions standards based on sex and policies which are neutral on their face but which have a disproportionate effect on women.

It should also bar preference for students with qualifications which members of one sex have not had an equal opportunity to achieve (such as athletic awards).

Testing—Sec. 86.21(b)(2)—

The regulation provides that sex-biased tests cannot be used unless they are proven to predict validly successful completion of the education program. This provision is not broad enough, nor does it conform with EEOC provisions or with other testing provisions in the Title IX regulation.

Recommendation

The provision should bar irrelevant material likely to have a differential effect on males and females (such as the test for admission to dental school which asked about woodworking courses). The provision should also state that biased tests can only be used if validated *and* if there are no unbiased alternatives. This follows EEOC guidelines, and it would be consistent with the employment test provisions in Sec. 86.42.

Preference in Admission—Sec. 86.22—

Preference to applicants from single-sex or predominantly one-sex institutions is barred *if* it has a discriminatory effect. Once again, the burden of proof is on the government for something which will invariably be discriminatory.

Recommendation

The caveat which permits preference to applicants from single six institutions if it has no discriminatory effect should be dropped. Institutions should also be barred from giving preference to applicant from *groups* which are solely or predominantly single sex, such as veterans.

Recruitment—Sec. 86.23(b)—

Paralleling the "preference" section, this section says a recipient can't recruit students primarily or exclusively at institutions which are solely or predominantly single sex, if it has the effect of discrimination. How could such a recruitment pattern fail to result in discrimination?

Recommendation

The "if" clause should be dropped in Sec. 86.23(b).

Grading—Sec. 86.31(b)—

The regulation contains no specific prohibition against sex discrimination in grading or other assessments of a student's progress. Since there have been reports of discriminatory grading (for instance, the law professor who believed women should not enter law), a specific prohibition should be added.

Recommendation

Sec. 86.31(b) should include a prohibition against discrimination in grading or other assessments related to a course of study.

Compliance Procedures for Programs Not Operated by a Recipient—Sec. 86.31(c)(1)—

This section requires recipients to develop procedures to assure nondiscrimination in programs not operated by the recipient, but which the recipient requires participation in or considers part of its educational program. This requirement is much too limited to make institutions accountable for programs they assist.

Recommendation

These procedures should be required for all programs assisted by the recipient, and they should be spelled out. An assurance of compliance should be required, and a written remedial action plan if there has been discrimination in the past. Procedures should be written and implemented within 90 days of the effective date of the regulation.

Sex Education—Sec. 86.34 (as amended)—

The regulation as amended forbids segregation or exclusion of students by sex in any course except sex education. It provides that elementary and secondary school sessions involving sex education may be sex-segregated.

Since sex education normally involves the presentation of factual physiological information, it can be presented in a coeducational setting as easily as biology sessions on the reproductive systems. While coeducational sex education may initially embarrass some students, it leads over time to much healthier attitudes toward the other sex. If carried out in a segregated setting, sex education can reinforce attitudes that sex is dirty and encourage teaching of a sexual double standard.

recommendation

We recommend that the amendment to Sec. 86.34 permitting segregated sex education sessions be eliminated.

Testing—Sec. 86.34(c)—

This section forbids the use of testing or other counseling materials which use different materials for each sex or use materials which permit different treatment on the basis of sex. This language should be brought into line with the testing provisions of Sec. 86.42, which prohibit the use of materials with an adverse effect, unless they are validated and there are no unbiased alternatives. It should also bar irrelevant materials likely to have a differential effect. Finally, it should be made clear that the provision applies to tests used for grading as well as counseling.

Counseling—Sec. 86.34—

Counseling is not specifically mentioned, except in connection with testing.

Recommendation

The regulation should require that counseling not be based on alleged or stereotyped characterizations of one sex, or on expected difficulties one sex may face in securing education or employment because of illegal discrimination.

Employment Assistance—Sec. 86.35(b)—

Discrimination in assisting students secure employment is forbidden, but the regulation does not spell out what action recipients should take to see that employers do not discriminate.

Recommendation

This section should require recipients to secure an assurance of compliance, information on past employment practices, and if there has been discrimination in the past, a remedial plan to assure no discrimination in the future.

Health, Insurance Benefits and Services—Sec. 86.36—

The regulation indicates that Title IX does not bar recipients from providing services used by a different proportion of students of one sex than the other. However, if an institution provides basic health services, it should be required to include gynecological services, since these are basic to the health needs of women.

Recommendation

Sec. 86.36 should be amended to require recipients which provide basic health services to include gynecological services.

Pregnancy—Sec. 86.37—

Sec. 86.37 permits exclusion of a pregnant student from regular classes if she requests it or if a physician certifies it is necessary for her "physical, mental, or emotional well-being."

This should be the student's decision, not her physician's. Under the current provision, a student could be forced out of classes or of school altogether against her will. A student's parents or even the school itself could secure the necessary physician's certification without the student's consent.

Recommendation

The provision for physician's certification should be dropped.

Recruitment—Sec. 86.43(b)—

This section forbids the recipient to recruit primarily at entities which furnish applicants of only one sex if it would result in discrimination. Such recruitment is bound to result in discrimination, and should not be allowed.

Recommendation

The "if" clause should be dropped.

Compliance Reports—Sec. 86.61(b)—

Section 86.61(b) requires recipients to keep whatever records and submit whatever compliance reports the Director of the Office for Civil Rights deems necessary to ascertain compliance. However, the section does not state what records should be kept and for how long. Nor does it specify content and form of compliance reports. Compliance reports do not have to be made public.

These provisions are unduly vague. Unless the Director notifies recipients promptly either in this regulation or by other means precisely what their record-keeping and reporting responsibilities are, records will not be available when HEW investigators want them. And unless compliance reports are made public, it will be difficult for a recipient's students and employees to help hold it accountable for compliance with the law.

Recommendation

The regulation should specify what information must be kept and that compliance reports should contain kept for 5 years. Recipients should be required to disseminate compliance reports to students, employees and to the public. In addition, the regulation should define "confidentiality" to make it clear that it applies to information about individuals, not institutions.

Filing of Complaints—Sec. 86.62(b)—

The regulation provides that anyone subject to discrimination may file a complaint either by herself/himself or through a representative. The regulation gives complainants 180 days to file after discrimination has occurred.

Individuals and organizations should be permitted to file complaints, even when they do not represent an aggrieved person. Employers are responsible for compliance even when no employee or student is willing to associate her/his name with a complaint.

The 180-day limitation should be dropped, since it could deprive aggrieved individuals of recourse simply because they did not learn their rights in time.

Recommendation

Sec. 86.62(b) should be changed to allow interested individuals and organizations to file a complaint whether or not they are formally representing an aggrieved individual. The 180-day limitation should be replaced by a provision consistent with the statute of limitation; complaints should be accepted within five years of an alleged act of discrimination.

Investigations—Sec. 86.62—

There is no provision to inform the public or interested parties that an investigation is underway. This deprives investigators of valuable sources of information, and prevents interested parties from offering additional evidence investigators may not find on their own.

Recommendation

The institution should be required to notify employees, students, alumni, parents, etc. that an investigation is taking place, and how to contact investigators if they have any relevant information. In addition HEW should itself contact complainants and give them an opportunity to submit additional information.

Intimidation—Sec. 86.62(e)—

While intimidation of complainants and witnesses is prohibited, no specific sanctions are provided. Sanctions should be strong and fast. They should not depend on OCR's ability to undertake an immediate investigation of the complaint.

Recommendation

OCR should be empowered to go immediately to court to prevent or remedy harassment.

Noncompliance—Sec. 86.63(b)—

Complainants need not be notified that HEW has completed its investigation and found a failure to comply with the law.

Recommendation

HEW should send complainants a copy of the letter of finding once investigators have made a determination of noncompliance.

Termination of Federal Aid—Sec. 86.63 (c)—

Sec. 86.63(c) says that suspension or termination of aid must be limited to "the particular education program or activity or part thereof in which such noncompliance has been found." This is confusing, and institutions may conclude that the only funds which would be cut off are funds going to a particular activity, such as a Title I tutoring project.

Recommendation

The regulation should make it clear that since the "education program" in question means an education institution's entire program, all Federal funds to the institution will be terminated.

IMPLICATIONS FOR TITLE VI OF THE CIVIL RIGHTS ACT

In some instances, policies and procedures we have recommended for Title IX go beyond those currently in effect for racial discrimination provisions of Title VI of the Civil Rights Act. For example, our procedural recommendations concerning the setting of time limits and providing equal rights for complainants go beyond current HEW policy under Title VI. Nor has HEW required school districts to evaluate themselves for racial discrimination and submit a remedial action plan under Title VI.

Except for the few cases where sex is a unique case (as in the issue of competitive athletics and personal privacy questions such as separate housing for men and women), the NOW Legal Defense and Education Fund believes that policies under Title VI and Title IX should be equally rigorous. Therefore, we urge the Department of HEW to review its policies under Title VI in light of the recommendations we have made here, and to strengthen its administration of Title VI along these lines.

APPENDIX A

THE CENTER FOR NATIONAL POLICY REVIEW—MEMORANDUM

Re: The Extent of the Federal Government's Authority To Regulate Curricular Materials, as a Condition Upon Expenditure of Federal Funds, Without Infringing the First Amendment.

I.

Statement of facts and issues:

The Department of Health, Education, and Welfare has issued proposed regulations (39 Fed. Reg. 222228 *et seq.*, June 20, 1974) for implementing Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* The regulations conspicuously omit any coverage of sex-biased curriculum materials, despite HEW's own explicit admission that "sex stereotyping in curricula and educational materials is a serious problem to which Title IX could well apply." 39 Fed. Reg. 22230. The Department's stated reason for such omission is that "specific regulatory provisions in this area would raise grave constitutional problems concerning the right of free speech under the First Amendment to the Constitution." *Id.*

This memorandum, prepared at the request of the National Organization For Women and the NOW Legal Defense and Education Fund, disputes HEW's disposition of the curriculum issue. We contend, on behalf of NOW and the NOW Fund, that the First Amendment does not present a complete bar to coverage of curriculum materials in the Title IX regulations. More specifically, this memo contends that narrowly tailored requirements for (1) restricting the purchase of new sex-biased textbooks, or (2) using sex-biased textbooks and instructional materials only in conjunction with other instructional or training efforts designed to counter their adverse effects (both of which we understand to be techniques supported by NOW and the NOW Fund) can constitutionally be included in the Title IX regulations. At least where such carefully constructed requirements are imposed only upon public preschool, elementary, or secondary programs, apply only to curricular materials which as a matter of state or local policy are approved for use by state or local education authorities, and are carefully designed to exclude from coverage literature as well as resource materials which students and teachers generally use by choice rather than because they are basic required sources, no violation of the First Amendment would arise.

II.

State and local education agencies' broad authority to regulate curriculum and curricular materials in public elementary and secondary schools has consistently been upheld against first amendment challenges:

To determine the extent of the state's power over school curriculum, it is necessary to determine the outside limits on this power imposed by the First Amendment. Because the selection of curriculum and curricular materials is so heavily a matter of educational policy, courts will not question the wisdom or desirability of such policies unless there is a clear constitutional violation. *Epperson* v. *Arkansas*, 393 U.S. 97 (1968). When questions concerning the state's powers are litigated, it is because some other group (such as parents, teachers, or students) is asserting rights which they believe are protected by the Constitution. Challenges by these groups define the limits of the state's authority over curriculum.

State regulation of curriculum and curricular materials can be asserted in two ways: either as a positive requirement that a particular subject be taught or a particular book be used in the schools; or as a negative prohibition forbidding the use of a particular book or the teaching of a particular theory or a whole area of subject matter in the schools. First Amendment challenges have been raised against both kinds of government regulation, although a colorable First Amendment issue seems more likely to arise in the second instance, when the state regulates by prohibition.

A. State curriculum regulation expressed as a positive requirement that a particular subject or a particular text be used has been upheld against first amendment challenge—

With only a few narrow exceptions (for example the State cannot require a course or supply a textbook which establishes religion, *Abington School District* v. *Schempp*, 374 U.S. 203 (1963); *Epperson v. Arkansas* 393 U.S. 97 (1968)) the State is free to specify what shall be taught in its schools. In supporting such State power courts have reasoned that the burden on the State which would be created if every parent, student, or teacher were free to design his or her own curriculum would be unmanageable and would frustrate the State's ability to provide an integrated and complete curriculum for all its students. In addition, since a major reason for compulsory education the socialization of students with respect to certain commonly shared values and information, courts have considered it to be the State's prerogative to choose which values and which information its students should receive.

Challenges to the State's power to specify what shall be taught in school, coming primarily from parents, have sought two different kinds of judicial relief: (1) that the individual student concerned not be required to take a particular course, or (2) that the school be prohibited from teaching a particular course or requiring a particular textbook. To some extent courts have been willing to defer to a parent's wishes with respect to what his or her particular child shall be taught where only one course or book is at issue, but only when the school can conveniently excuse the child without prejudicing the rights of other students. In *Kelley v. Ferguson*, 95 Neb. 63, 144 N.W. 1039 (1914) a parent won the right to have his child excused from a required home education course so that she could take music lessons. But in *Mitchell v. McCall*, 273 Ala. 604, 143 So. 2d 269 (1962), the student was not excused from a gym class which she and her parents found offensive.

In the second kind of case, where parents seek to enjoin the State from teaching a particular course or using a particular textbook for all *students* courts have refused to grant relief. In *Medieros v. Kiyosaki*, 52 Hawaii 436, 478 P. 2d 314 (1970), the court held that the state could "adopt and initiate a curriculum of family life and sex education" without invading its citizens' constitutional right to privacy or freedom of religion, and without express legislative action. To the same effect see *Cornwell v. State Bd. of Educ.*, 428 F.2d 471 (1970); *Hopkins v. Handen Bd. of Educ.*, 289 A.2d 914 (1971). See also *Todd v. Rochester Community Schools*, 41 Mich. App. 320, 200 N.W. 2d 90 (1972), where in an elective course the student objected on religious grounds to being taught Vonnegut's *Slaughterhouse 5* and the court supported the school's right to provide the book for other students. Of particular interest is *Rosenberg v. Board of Education*, 92 N.Y.S. 2d 244 (1949) where Jewish parents argued that the school could not use "Oliver Twist" and "The Merchant of Venice" because they were racially or religiously biased against Jews. The court allowed the State broad discretion in its choice of materials, pointing out that endless litigation would ensue if every person offended by school textbooks could prevail. Absent "proof of actual malevolent intent," the court refused to interfere with the government's decision as to what texts were appropriate.

Cases such as *Rosenberg* reflect a longstanding tradition of legal deference to school curricular policy over the specific protests of individual parents with respect not only to controversial textbooks but also to the school's entire curriculum program.[1] After *Rosenberg* particularly, it seems clear that if parents have no rights to have biased materials removed from the State's curriculum, they certainly have no right to demand that the State use biased materials.

B. State curriculum regulation expressed as a prohibition upon the teaching of a particular subject or theory or the use of a particular textbook has been upheld against first amendment challenge—

As a corollary to its traditional power to specify what shall be taught in its schools, the state also has general police power to prohibit a given subject area or the use of a certain book. It is this negative type of regulation which has most often prompted teachers to raise First Amendment claims. Such claims have usually been defeated when balanced against the State's overriding interest in efficient schooling, particularly where the State had a reasonable basis for prohibiting the subject or book at issue.

Two early Supreme Court cases establish rough limits on the State's prohibitory power over curriculum and define some of the conflicting rights and interests of government, parents, teachers, and students in this area: *Meyer v. Nebraska,* 262 U.S. 390 (1923), invalidating, as applied to a private school, a Nebraska statute which prohibited teaching the German language or teaching a subject in German to anyone below eighth grade; and *Pierce v. Society of Sisters,* 268 U.S. 510 (1924), invalidating an Oregon statute which required all students to attend a public school and thus in effect outlawing private education. But as cases concerning only *private* education, *Meyer* and *Pierce* do not directly limit state authority over public education. Both cases affirm broad governmental authority over all schools, public as well as private (*Meyer* at 402–03; *Pierce* at 534). And in public education, where the State is said to act *in loco parentis* and teachers are hired by the State to teach specific subjects with specific materials government power over curriculum is greater than in private education.

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[1] This view was strongly expressed as early as *Trustees of Schools v. People ex. rel. Van Allen*, 87 Ill. 303, 307 (1877): "No parent has the right to demand that the interests of the children of others shall be sacrificed for the interests of his child; and he cannot consequently, insist that his child shall be placed or kept in particular classes, when by so doing others will be retarded in the advancement they would otherwise make; or that his child shall be taught studies not in the prescribed course of the school or be allowed to adopt methods of study that interfere with others in their studies. The rights of each are to be enjoyed and exercised only with reference to the equal rights of others." For another similar statement, see *Kidder v. Chellis*, 59 N. H. 473, 476 (1879).

Several recent cases regarding public education have affirmed broad state authority to prohibit unwanted subject matter and curricular materials from the public schools. In *Epperson* v. *Arkansas,* 393 U.S. 97 (1968), a biology teacher and a parent challenged an Arkansas law making it a misdemeanor and grounds for dismissal for a teacher in any state-supported school or university to teach the theory of evolution or use a textbook that teaches such theory. The Court cited *Meyer* but declined to "explore the implications of that decision" or settle the case on freedom of expression grounds. Instead the Court chose the narrower road of establishment of religion and condemned the Arkansas statute as an establishment of the fundamentalist sectarian belief in Biblical literal truth.

The Court's narrow Establishment Clause holding left open the question of whether Arkansas' statute would have survived attack under other provisions of the Constitution. But the Court suggests that the case would have been more difficult, had the statute been justified by "considerations of state policy" which were non-sectarian and implies that, had Arkansas instead banned the subject matter of the origin of man (and not just Darwin's theory) from its schools, that act might have been religiously neutral and therefore constitutionally permissible. And Justices Stewart and Black, in concurring opinions, give the state wide leeway to determine what "shall or shall not be included in its public school curriculum."

Since *Epperson,* at least three cases have decided curriculum prohibition issues such as those which the Supreme Court left open. A very recent case, *Mercer* v. *Michigan State Board of Education,* 43 U.S. LW. 2065, S.D. Mich., 7/18/74, held that Michigan's statute prohibiting the teaching of birth control in its public schools did not infringe upon the First Amendment rights of public school teachers. Although recognizing that the undoubted right of the state to control curriculum is not absolute, the three-judge court nevertheless decided that the state had not overstepped its boundaries:

"Teachers are hired to impart to the students the various bodies of knowledge contained in and offered by the curriculum. Nothing in the First Amendment gives a teacher the constitutional right to teach beyond the scope of the established curriculum. Certain limitations on what is to be taught are necessary. To determine the constitutional validity of these limitations, the state's interest in heightening the level of the public services it offers by assuring the efficiency of its employees in the performance of their task must be balanced against the teachers' free speech interest. The limited time available in public schools cannot encompass the whole range of knowledge and ideas. Moreover, a student's program must fit together, and to accomplish this, it becomes necessary to make certain choices. School authorities must choose which portions of the world's knowledge will be included in the curriculum and which portions will be left for grasping from other sources, such as the family, peers or other institutions."

Clearly the *Mercer* court believes that a state can, for reasons of educational policy, remove a whole subject area from its curriculum without violating the First Amendment. In addition, two recent textbook cases, one decided before *Epperson* and one after, have reaffirmed the State's power to remove particular books from public school curricula.

Parker v. Bd. of Education of Prince's County, 237 F. Supp. 222 (1965), aff'd 348 F. 2d 464, cert. denied 382 U.S. 1030 (1966), concerned a teacher whose contract was terminated because parents complained about his teaching *Brave New World,* which book was thereafter removed from the school library. The Court confidently asserted that there was no denial of freedom of speech because Parker's personal right to free expression was not inhibited by the school authorities, and went on to say that even if there had been an abridgement of free speech, the First Amendment was not necessarily controlling and the State's actions, in the balance, were constitutional.

"Where the abridgement of the absolute right of free speech results from government action taken for the protection of other substantial public rights, no constitutional deprivation will be found to exist."

This case, of course, may appear somewhat extreme. More significant and better reasoned is *Presidents Council, Dist. 25 v. Community School Board No. 25,* 467 F. 2d 289 (1972), cert. denied 409 U.S. 998 (1972), where a local school board required the removal of *Down These Mean Streets* from the school's library and forbade teachers to use it as a textbook. The Court quoted statutory language giving the local board power to select appropriate textbooks and stated:

"We do not consider it appropriate for this court to review either the wisdom or the efficacy of the determinations of the Board. Our function is purely one of constitutional adjudication on the facts and the record before us: has the Board transgressed the first amendment rights of the plaintiff teachers, parents, librarian, and children."

The court cited *Epperson* as authority for limiting judicial review of government curriculum control to constitutional issues only; and, after careful consideration, found no violation of the First Amendment.

"Some authorized person . . . has to make a determination as to what the library collection will be . . . (N) o matter what choice of books may be made, . . . some other person or group may well dissent. . . . There would be a constant intrusion of the judiciary into the internal affairs of the school."

The court distinguished *Epperson* on three separate grounds, that (1) no establishment or free exercise of religion problem was involved, (2) no particular theory or doctrine was being banned but rather a book and a subject area (crime and sexuality in Spanish Harlem), and (3) the book was removed but no criminal penalties attached to the librarian or teacher—they were simply forbidden to use the book.

"The public school library obviously does not have to become the repository, at public expense, for books which are deemed by the proper authorities to be without merit. . . . If someone authored a book advocating that the earth was flat, it could hardly be argued that the work could not be removed from the public school library. . . . It would seem clear to us that books which become obsolete or irrelevant or were improperly selected initially, for whatever reason, can be removed by the same authority which was empowered to make the selection in the first place."

Thus the *Epperson* case suggests and *Mercer, Parker,* and President's Council clearly confirm that a state can prevent the formal teaching of a given subject matter or prohibit the use of certain textbooks in its schools. In addition, under the cases discussed in II.A. above, the state can specify its curriculum affirmatively and thereby regulate how much attention a particular subject matter or book will receive within the confines of a particular course. The recent case of *Clark v. Holmes,* 474 F.2d 928 (1972), cert, denied 411 U.S. 972 (1973), provides a striking example of how the latter technique can be used to regulate curriculum just as extensively as the former. The Court of Appeals held that a biology teacher at a state university "did not have a constitutional right to override the wishes and judgment of his superiors and fellow faculty members as to proper content of a required health course." The teacher had been warned for "overemphasizing sex" in his course. He stated that he had been asked by students to emphasize sex education and mental health and had agreed to do so and only "touch on" the other topics covered by the assigned text and course syllabus. He continued to teach in this manner and was dismissed; the court concluded that his actions provided the university valid grounds for dismissal.

"Clark construes too broadly the extent of his First Amendment rights and thus slights the interest of the State in providing its educational services according to policies it deems proper. . . . Further, Clark has cited no sound authority for his proposition that he had a constitutional right to override the wishes and judgment of his superiors . . . as to the proper content of the required health course. . . . We do not conceive academic freedom to be a license for uncontrolled expression at variance with established curricular contents." *Id* at 931[2]

C. State curriculum authority is unclear only in relation to private education and higher education.—Since the days of *Meyer* and *Pierce,* II.B. above, where the Supreme Court guaranteed the rights of private schools to operate and the freedom of their teachers to teach and students to learn whatever was not harmful to the public welfare, courts have been reluctant to intrude upon the domain of private education. Though the State retains power to require particular courses in all its schools or to forbid the teaching of particular subjects which are "clearly harmful," it must show a substantial, perhaps compelling, need to interfere. Thus while it is clear that the State can require, for instance, that American history be taught in private schools, it is doubtful that it could constitutionally prohibit the teaching of a particular theory or prevent a certain textbook from being used unless its harmfulness to the State is serious and clearly demonstrated.

Similarly, government regulation of curriculum at the university level could present additional First Amendment problems. Because of the greater experience of college students and the correspondingly less urgent need to indoctrinate them with any specific set of community values, the university is more nearly a "marketplace of ideas," a community of scholars devoted to research and academic discussion of controversial issues. See *Mailloux v. Kiley*, 323 F. Supp. 1387, 1392 (D. Mass. 1971).

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[2] Cases such as *Clark* are to be distinguished from the few cases, such as *Keefe* v. *Geanakos,* 418 F.2d 359 (1st Cir. 1969), which recognized a qualified teachers' right to use teaching methods of their own choosing. Teaching methods have traditionally been subject to far less governmental regulation than curriculum content or materials, and have less impact on the State's interests in maintaining efficiency in and transmitting values through its educational system. Moreover, the limited teacher choice of teaching method recognized in *Keefe* is dependent upon a showing that it serves a "demonstrated educational purpose" and "is plainly permissible" on its face or according to "the weight of (professional) opinion" (*Mailloux* v. *Kiley,* 323 F. Supp. 1387 (D. Mass. 1971))—a showing unlikely ever to be made regarding sex-bias in basic, required curriculum materials.

In the private school realm the relatively more open character of higher education would strengthen the limitations on state power emanating from the *Pierce* and *Meyer* cases. And in the public realm, if there is such a thing as a First Amendment right or constitutionally protected interest in "academic freedom" in the classroom setting, it is at the university level that it would most likely exist. The extent to which such a right or interest might apply is speculative, since there is little case law on the issue. Instead such matters as curriculum control and choice of materials have been settled informally through such organizations as the AAUP and by apparent agreement on the part of both the state and University to allow individual professors wide latitude in choosing teaching materials. Regulation of curriculum materials at this level would pose some inconsistency with these historical policies of noninterference and implicate a relatively untested area of First Amendment freedom.

Since the kind of Title IX regulation presumed by this memorandum would apply only to public preschool, elementary, and secondary schools, these concerns regarding private and higher education would not arise.

III.

The Federal Government's authority to place reasonable conditions on the expenditure of Federal funds can be exercised consistently with the first amendment so as to require limited exercise by State and local educational agencies of their broad curriculum powers:

An underlying premise of all the cases in Part II. A. and B. above is that curriculum decision-making in public education cannot as a practical matter be left to the divergent and often conflicting desires of each individual parent, student, and teacher in the system. The state, as sponsor of the education program, has a strong interest in providing a guiding hand. When Federal funding is involved, however, there is a second sponsor which has a legitimate interest in the functioning of education programs which it aids. Just as the first amendment was viewed in the cases in Part II against a broad backdrop of state powers and interests, it must be viewed in the instant case in light of the Federal government's own powers and interests relating to Federally aided programs.

A. The Federal Government has broad authority under its spending powers to set the terms upon which its funds shall be disbursed—

While the Federal government does not have the same direct regulatory power over schools as do the States, it does have expansive authority under its spending powers to condition Federal grants upon the state's willingness to effectuate Federal education policies. *Stewart Machine Co. v. Davis*, 301 U.S. 548 (1937); *Helvering v. Davis*, 301 U.S. 619 (1937); *School Board of Okaloosa City v. Richardson*, 332 F. Supp. 1263 (N.D. Fla. 1971). "When money is spent to promote the general welfare, the concept of welfare or the opposite is shaped by Congress, not the states." Helvering, supra, at 645. Extensive conditions may be imposed so long as they are "reasonable" and "relevant to federal interest in the project and to the overall objective thereof." *Ivanhoe Irrigation Dist. v. McCracken*, 357 U.S. 275, 295 (1958).

When the Federal government exercises this broad spending power, the Federal interest in the funded program can be sufficiently strong to permit conditions on the states comparable to those which the Federal government could place on employees or beneficiaries of programs it operates itself (or which the State might place on its own employees or program beneficiaries). In *Oklahoma* v. *Civil Service Commission*, 330 U.S. 127 (1947), the Court upheld Congress' application to state employees connected with Federally funded programs, of the same political activity restrictions which Congress applied to Federal employees (or which the state could have applied to its own employees). The Court brushed aside any First Amendment argument by citing a case upholding the Federal government's authority over its own employees, adding only that:

"While the United States is not concerned with, and has no power to regulate, local political activities as such of state officials, it does have power to fix the terms upon which its money allotments to states shall be disbursed. . . . So even though the action taken by Congress does have effect upon certain activities within the state, it has never been thought that such effect made the federal act invalid." (*Id.* at 143.)

In like fashion under Title IX, HEW can impose, upon Federally benefited education programs, curriculum conditions comparable to those it could place upon programs it operates itself or that the State could place on programs which it operates. Thus, within the scope of Federal interest in Federally benefited programs, the Federal government stands essentially in the shoes of the State and can resort to the same First Amendment case laws as states under the Part II cases above.

Of course HEW could not require the States to violate the First Amendment as a condition to receiving Federal funds. But there is no such problem here. A carefully constructed regulation aimed at sex bias in curricular materials would be so considerably easier to justify under the First Amendment than the many curriculum regulations sustained in the Part II cases above. The harm at which such a regulation would be directed is clearer than in any of those cases. The Federal interest, as III.B. below indicates, is at least as strong as that of the States in the Part II cases. The prohibitory aspects of the regulation could be limited to new purchases, whereas the Part II cases were not. The regulation need not reach library books, as was permitted in *Parker* and *President's Council*. The regulation would not require termination of non-complying teachers, as permitted in *Parker* and *Clark*. Nor need the regulation occasion a significant interference with course content as did the action upheld in Clark, or prevent the teaching of an entire subject matter area as did the action upheld in *Mercer*.

B. The Federal Government's long-standing commitment to alleviate the adverse effects of sex discrimination in American life supports a strong Federal interest in covering sex-biased curriculum materials in the title IX regulations—

1. *Legislative*. Congress has evidenced a commitment to equal rights for the sexes as least since its passage of the Nineteenth Amendment and its subsequent ratification in 1920. More recent legislative action has dealt with the problems of sex discrimination on many fronts. In employment Congress has passed Title VII of the Civil Rights Act of 1964 (amended by the Equal Employment Opportunity Act of 1972), the Equal Pay Act of 1963, and Title VII of the Public Health Service Act. On a much broader scale, it has recently passed, for state ratification, the Equal Rights Amendment to the Constitution.

Specifically with regard to curriculum the Women's Educational Equity Act of 1974 provides funds for curriculum development to aid educational equality for women, and declares that "educational programs in the United States . . . are frequently unequitable as such programs relate to women and frequently limit the full participation of all individuals in American society."

Title IX itself is a strong indication of legislative policy opposing sex discrimination. Congress' pledge that "no person in the United States shall on the basis of sex . . . be subject to discrimination under any education program . . . receiving Federal financial assistance" on its face can include sex bias in curriculum as part of the Federal commitment, as HEW recognized by admitting that "sex stereotyping in curricula and educational materials is a serious problem to which Title IX could well apply." (39 Fed. Reg. 22230).

2. *Executive*. The Presidential Proclamation of August 20th, 1973 (38 Fed. Reg. 22369) summarizes and reaffirms the strong executive policy of eradicating sex discrimination in the United States:

"American women, though they represent a majority of our population, still suffer from myriad forms of discrimination.

"In the pursuit of equal rights for women, the Federal Government take the lead and set the example. . . . American women represent an important reservoir of ability and dedication which Government must draw upon to a greater degree.

"While we are making great strides to eliminate outright job discrimination because of sex in the Federal Government, we must recognize that people's attitudes cannot be changed by laws alone. There still exist elusive prejudices born of mores and customs that stand in the way of progress for women. We must do all that we can to overcome these barriers against what is fair and right.

"Because I firmly believe that women should not be denied equal protection of the laws of this Nation and equal opportunity to participate fully in our national life, I reaffirm again my support for the Equal Rights Amendment to the Constitution. This can represent a giant step forward in achieving full equality of opportunity for all Americans as we approach the 200th birthday of our Nation. . . .

"I urge all our people to use this occasion to reflect on the importance of achieving equal rights and opportunities for women and to dedicate themselves anew to that great goal. For the cause of equal rights and opportunities for women is inseparable from the cause of human dignity and equal justice for all."

The proclamation makes a number of points which carry heavy weight in evaluating the governmental interest in regulating sex biased curriculum in the public schools: 1) There is pervasive sex discrimination in the United States; 2) There is a long history, dating back to 1920, of growing Federal action against sex discrimination; 2) The Federal government has a clear interest in eliminating discrimination and opening up the "important reservoir of ability and dedication" which is now lost to the country; and 4) "There still exist elusive prejudices born of mores and customs that stand in the way of progress for women."

3. *Judiciary*. In two recent cases the Supreme Court has acted decisively to strike down statutes which discriminated on the basis of sex. *Reed v. Reed*, 404 U.S. 71 (7971); *Frontiero v. Richardson*, 411 U.S. 677 (1973). Although the Court has not yet defined women as a suspect class under the Equal Protection Clause, it came close in *Frontiero* with four justices emphatically so declaring, three others deferring a decision because of the Equal Rights Amendment's pendency but reaffirming the strong discrimination policy of *Reed*, and yet another calling the sex discrimination at issue "invidious." It appears that the Court agrees, as Justice Brennan wrote in *Frontiero*, that "it can hardly be doubted that, in part because of

the high visibility of the sex characteristic, women still face pervasive, although at times more subtle, discrimination in our educational institutions, on the job market, and, perhaps more conspicuously, in the political arena." See also *Kahn v. Shevin,* 94 S. Ct. 1734 (1974), where the Court made much of "overt discrimination" against women and "the socialization process of a male dominated culture."

Thus all three branches of the Federal Government have recognized that there is a pervasive, subtle, and debilitating pattern of sex discrimination existing in society in general and the educational system in particular, causing irreparable injury to individual girls and women and irreparable loss to the country of a valuable resource. The harm is clear, the need is national in scope, the commitment to end sex discrimination is well established; the Federal interest is extremely strong.

IV.

Conclusion:

Coverage of curriculum materials in the Title IX regulations by techniques such as those set forth at the beginning of this memorandum may affect state perogatives, but it would not infringe personal rights. Such coverage, carefully tailored, could be substantially less extensive than the numerous curriculum regulations and conditional prohibitions sustained in the cases discussed in Part II above. It would be directly related to the protection of Federal spending programs from state actions which would negate their usefulness, and directly related to the strong Federal interest in alleviating the effects of sex bias in American life. To conclude, as HEW has, any coverage of curriculum materials would "raise grave constitutional problems . . . under the First Amendment," is to ignore a long line of court decisions regarding both State and Federal governments, to abdicate the Federal government's responsibility to find acceptable ways to deal with national wrongs, and to impair the power of Congress to take reasonable steps to effect clear national policies.

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(On behalf of the National Organization for Women and the NOW Legal Defense and Education Fund.)

APPENDIX B

PROPOSED REGULATION LANGUAGE ON TEXTBOOKS AND SUPPLEMENTARY MATERIALS

SEC. 86. *Textbooks and Supplementary Materials.*

(a) Definitions. As used in this section:

(1) "textbook" means a book, work book, manual, or other similar set of organized printed matter composed substantially of original material not excerpted from and attributed to other sources, which is written and published, and which is approved or adopted by the recipient or an official, administrator, or committee acting in its behalf, for use as a principal source of study material for individual students in more than one class, group, or course of study;

(2) "supplementary materials" means materials, other than textbooks, composed substantially of original material not excerpted from or based upon other sources, which are designed and produced, and approved or adopted by the recipient or an official, administrator, or committee acting in its behalf, for use for instructional purposes by students in more than one class, group, or course of study;

(3) "sex-biased," as applied to a textbook or item of supplementary material, means a textbook or item of supplementary material which, taken as a whole, portrays one sex in a role or status inferior to or more limited than that of the other; assigns abilities, traits, interests, or activities on the basis of sex stereotypes; denigrates or ridicules one sex to the enhancement of the other; ignores or substantially underrepresents numerically the existence of one sex for reasons not necessitated by the subject matter of the work; or otherwise treats persons in a discriminatory manner on the basis of sex.

(b) *Selection of Textbooks and Supplementary Materials.* Beginning 60 days after the effective date of these regulations, a recipient which is a state or local educational agency shall approve for use, or purchase and use or make available for use, for preschool, elementary, or secondary education, only textbooks and supplementary materials which are not sex-biased.

(c) (1) *Remedial action program.* A recipient which is a state or local educational agency shall use, for preschool, elementary, or secondary education, sex-biased textbooks or supplementary materials purchased prior to the effective date of these regulations only if such books or materials are used in conjunction with a remedial action program meeting the requirements of paragraph (c) (2) of this section.

(2) The remedial action program required by paragraph (c) (1) of this section shall include (i) instruction or activities which are made available during regular school hours to all students using sex-biased books or materials subject to paragraph (c) (1), and which holds reasonable promise of counteracting the sex bias in such books and materials; and (ii) in-service training for teachers, teacher aides, and curriculum specialists, the revision of teaching guides and manuals, or other compensatory strategies designed to assist teachers and teacher aides in counteracting the sex bias in books and materials subject to paragraph (c) (1). The recipient shall devise and make public a written plan for such program, and shall notify the Director of the existence of such program, within 90 days of the effective date of these regulations. Such plan shall be fully implemented as soon as reasonably feasible after the expiration of the 90 day planning period.

(d) *Compliance Committee.* Each recipient shall designate one or more specific officials, administrators, or committees to assure compliance with paragraphs (b) and (c) of this section. In fulfilling this function such official, administrator, or committee shall evaluate textbooks and supplementary materials for sex bias (1) pursuant to Federal guidelines to be promulgated by the Director, or (2) prior to the adoption of such guidelines, pursuant to the recipient's own written, public guidelines which shall (i) include criteria sufficient to identify each of the indicia of sex bias set forth in paragraph (a) (3) of this section and (ii) be devised under procedures providing for the formal participation of students, faculty, parents, and the general public (including groups concerned with sex bias in education, such as the National Organization for Women and the Women's Equity Action League).

APPENDIX C

THE CENTER FOR NATIONAL POLICY REVIEW—MEMORANDUM

Re: Validity of the "Separate but Equal" Policy of the Title IX Regulation on Athletics.

The proposed Title IX regulations sanction the maintenance of sexually segregated athletics teams "where selection for such teams is based upon competitive skill." Section 86.38(a), 39 *Fed. Reg.* 22236, June 20, 1974. Although a recipient operating segregated teams "shall not discriminate on the basis of sex therein in the provision of necessary equipment or supplies for each team or in any manner", Section 86.38(e)), the regulation avoids any specific requirements for equality regarding these factors, or expenditures (Section 86.38(f)), or scholarships (Section 86.35(d)), or any other criterion. The memorandum, submitted on behalf of the National Organization for Women and the NOW Legal Defense and Education Fund, questions the legal soundness of this "separate but equal" concept as applied to competitive athletics.

I. INTEGRATION VERSUS SEGREGATION

Clearly, courts have reached the point where they will closely examine any sex classification in determining its compatibility with the Equal Protection Clause. Although the United States Supreme Court has not yet held sex to be a suspect class, that Court and others have been increasingly sensitive to the dangers inherent in the use of sex classifications.

In *Reed v. Reed,* 404 U.S. 71 (1971), the Supreme Court scrutinized and struck down a state law granting preference to men over women as administrators of estates. Although the Court did not specifically adopt the "suspect class-strict scrutiny" analysis employed in race discrimination cases, it did examine the classification much more closely than traditional equal protection principles would have required. *See Berkelman v. San Francisco Unified School Dist.,* Civ. No. 73-1686, sl. op. pp. 7-8 (9th Cir., July 1, 1974). Subsequently in *Frontiero v. Richardson,* 411 U.S. 677 (1973), when the Court invalidated another sex classification, four Justices found in *Reed v. Reed* "at least implicit support" for the contention that sex, like "classifications based upon race, alienage, and national origin, are inherently suspect and must therefore be subjected to close judicial scrutiny." *Id* at 682. These four Justices specifically adopted this theory in the *Frontiero* plurability opinion, a fifth Justice, though not specifically using the strict scrutiny theory, did call the sex classification "invidious"; and three other Justices, also separately concurring, reaffirmed *Reed* but declined to rule on the applicability of the strict scrutiny theory because of the Equal Rights Amendment's pendency.

The argument supporting close scrutiny of sex classifications has been that sex is an immutable trait which has thrust women into an inferior status without regard to their individual capabilities or characteristics and which serves to place on women a stigma of second-class citizenship similar to that suffered by racial minorities. *See Frontiero v. Richardson, supra,* at 687. At least one court has noted acceptance of this theory in a case concerning sex discrimination in athletics; *Brenden v. Independent School District 742,* 342 F. Supp. 1224, 1231 n.13 (D. Minn. 1972). Prior to *Frontiero* a few lower courts had relied on such arguments to explicitly hold sex to be a suspect classification. *See, e.g., Sailer Inn v. Kirby,* 5 Cal. 3d 1, 485 P.2d 529 (Cal. 1971).

In the last five years there has been a stream of sex classification cases brought by females who have been denied participation on male varsity teams. On several occasions courts have ordered integration. The stage of development of a girls program has been a factor in these decisions, however, and those favorable to the female involved situations where no female varsity team existed. For example, in *Brenden v. Independent School District 742,* 342 F.Supp. 1224, *aff'd.* 477 F.2d 1292 (8th Cir. 1972), the Court granted two female athletes the right to compete on male varsity teams in tennis, cross-country, and cross-country skiing. At the plaintiffs' school there was only a meager extramural tennis program for girls and no girls' cross-country or ski program. The Court expressed no opinion on "whether the schools can fulfill their responsibilities under the Equal Protection Clause by providing separate but equal facilities for females in interscholastic athletics." 477 F.2d at 1295. But the Court did express strong support for mixed competition, 477 F.2d 1299–1301 and implied at minimum that separate but equal would be unjustifiable to the extent it prevented female athletes from competing with persons of comparable skills; *see* 477 F.2d at 1301–1302.

Similarly, in *Haas v. South Bend Community School Corp.*, 289 N.E. 2d 495 (Ind. 1972), a female golfer who was denied participation on the male inter-scholastic golf team for which she qualified was found to have been denied equal protection. Different treatment for females was unconstitutional because no rational which might justify the separation could exist where only one athletic program was provided. *See* also *Reed v. Nebraska School Activities Ass'n,* 341 F.Supp. 258 (D. Neb. 1972).

The significance of all this activity regarding sex classification is this: Courts are becoming increasingly willing to strike down such classifications; the Supreme Court has come within a whisker of calling such classifications suspect; and Congress (as noted in *Frontiero*) has apparently sided with those asserting the invidiousness of sex classifications by passing and submitting the Equal Rights Amendment. If the Court garners one more vote on this side of the debate, or if the ERA is ratified, sex classifications would be subjected to such close scrutiny that separate but equal policies would be of highly doubtful validity. In these circumstances the proposed Title IX regulation's lack of support for integrated competitive athletics, and its explicit resort to a separate (and not equal) philosophy, is legally unwise—especially when the overall thrust of Title IX is one of integration.

II. ACHIEVING EQUALITY IN THE CONTEXT OF "SEPARATE BUT EQUAL"

At first blush, one might conclude from the athletic cases in Part I above that where "equal" programs for females are provided, separate teams may to some extent be constitutionally permissable. But even if such a conclusion can stand in the wake of the judiciary's increasing solicitude for sex discrimination, in practice the dual system may not be possible to maintain.

First, separate teams could be justified at best only in particular sports where there was a substantial, demonstrable reason for segregation. *Reed, Frontiero,* and *Berkelman, supra*. "Subjective conclusions drawn from the physiological difference between the sexes" or "assumption(s) about the qualifications of women as a class" would not provide sufficient reason. *Breden, supra,* 477 F.2d at 1300, 1302. The burden of justifying a dual, segregated team would be considerable:

"The defender of such a system in court, surely could not be successful merely by presenting evidence that the high school track and field records of men are better than those of women. . . . No trial court investigation into the relative athletic demonstration that male track and field champions have historically bettered their female counterparts in the record books. Such evidence cannot support a conclusion that the male sex is athletically superior, An objective observer could not determine which of opposing armies is superior merely by examining the strongest and bravest soldier in each. *For constitutional purposes* (emphasis added), such an investigation would necessarily focus on the causes of any differential in relative performances of male and female athletes." [*Haas v. South Bend Community School Corp.,* 289 N.E. 2d 495, 502–503 (Ind. 1972) (Debuler, J. concurring).]

Second, if under some circumstances separate teams are permissible they must *in fact* provide *equal* opportunities for females, including those with superior skills comparable to top male athletes. In order to gauge the feasibility of attaining equality it is instructive to examine the "separate but equal" racial cases decided prior to *Brown v. Board of Education,* 347 U.S. 483 (1954). These decisions set forth requirements for measuring equality when separate facilities are provided.

Clearly, the equalization of tangible and objective factors will not suffice. For example, in *Sweat v. Painter,* 339 U.S. 629 (1950), the existence of a law school for Blacks did not satisfy the requirements of separate but equal when the plaintiff was denied admission to the all-white University of Texas Law School. After an objective comparison of the two schools, the Court found the white law school superior objectively:

"In terms of number of faculty, variety of courses and opportunity for specialization, size of student body, scope of library, availability of law review and similar activities, the University of Texas is superior." *Id.* at 634.

But the Court then went beyond its objective analysis to consider subjective factors:

"What is more important, the University of Texas possesses to a far greater degree those qualities which are incapable of objective measurement but which make for greatness in a law school. Such qualities, to name a few include reputation of the faculty, experience of administration, position and influence of alumni, standing in community, traditions and prestige." *Id.*

After years of finding that separate was never in fact equal because even if tangible factors are equalized, other factors never can be, the Court finally put the doctrine to rest in *Brown.*

Such intangible factors as prestige have already played a significant role in the determination that separate was, in fact, not equal in the area of sexually-segregated educational institutions, even when the pattern of separation has been traditional and widely accepted. In *Kirstein* v. *Rector and Visitors of the University of Virginia,* 309 F. Supp. 184 (E.D. Va. 1970), the court held that:

"Despite this history, it seems clear to us that the Commonwealth of Virginia may not now deny to women, on the basis of sex, educational opportunities at the Charlottesville campus that are not afforded in other institutions operated by the state. Unquestionably the facilities at Charlottesville do offer courses of instruction that are not available elsewhere. Furthermore . . . there exists at Charlottesville a 'prestige' factor that is not available at other Virginia educational institutions." *Id.*

Tested by these principles the proposed Title IX athletics regulation is clearly unsatisfactory. Not only does it permit the choice of separate teams without requiring any justifications for such choice; it also fails utterly to provide any meaningful criteria, tangible or intangible, for measuring and assuring the equality of separate teams. Nor does it address the problem of the superior female athlete who may never have an "equal opportunity to engage in high level competition if restricted to a sexually segregated team. Thus, even if separate-but-equal were an appropriate policy to adopt, the athletics regulations fail completely to meet the legal requirements which would attach to such a policy.

III. USE OF SEPARATE FEMALE TEAM WHERE FEMALES ARE SUBSTANTIALLY UNDERREPRESENTED ON UNITARY TEAM

It might be argued that the probable predominance of males on unitary (integrated) teams could provide justification for maintaining separate teams. But such a justification would be appropriate only when (and for such time as) females are shown to be substantially underrepresented on a particular team *and* when use of a separate team would not prohibit the superior female athlete from competing with the male-dominated team if she could qualify. *Cf. Brenden, supra.* Since substantial underrepresentation could probably be demonstrated only on the basis of experience with unitary teams, and since the "male" team would have to remain at least theoretically unitary to provide equal opportunity for superior female athletes, the resulting system would be a considerably modified and largely transitional form of separate-but-equal.

Indeed, when substantial underrepresentation of one sex does exist, HEW may have authority to require use of this modified separate team concept, rather than merely making it an option. Where, for instance, the underrepresentation can be attributed to a history of past discrimination against one sex in regard to athletics, affirmative action would be appropriate to alleviate the present effects of such past discrimination—even where such discrimination was done by someone other than the recipient. *See Gaston County* v. *United States,* 395 U.S. 285, 293 n.9 (1968). While in some cases courts have required suspension of skills requirements, *e.g., Gaston County, supra,* in the case of Title IX the underrepresentation could be remedied by requiring use of a modified separate team concept. Such a separate team would withstand a challenge that it is a form of discrimination against males for it is the kind of "benign" discrimination which courts would uphold when employed to overcome the effects of "overt discrimination" against one sex or "the socialization process of a male dominated culture." *Kahn* v. *Shevin,* 94 S. Ct. 1734 (1974).

IV. CONCLUSION

The proposed Title IX regulation on athletics is legally deficient in many particulars. By according insufficient attention to the concept of integration and giving carte blanche recognition to a separate teams concept without even requiring that such teams be equal, the regulation stakes out a position inconsistent with the trend of the law regarding sex classifications and inconsistent with legal requirements pertaining to the definition of equality.

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APPENDIX D

THE CENTER FOR NATIONAL POLICY REVIEW—MEMORANDUM

Re: Scope of Exemption for Private Undergraduate Institutions from Admissions Requirements of Title IX.

The Department of Health, Education, and Welfare has interpreted Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, "as excluding admissions coverage of professional and vocational programs offered at private undergraduate schools," 39 *Fed. Reg.* 22229 (June 20, 1974), and has incorporated this interpretation into the proposed Title IX regulations. (See section 86.2 (1), (m), and (n), 39 *Fed. Reg.* 22232.) Although the Department admits that "the admissions section of the statute might be read as including professional degrees whenever they are offered," it justified its contrary interpretation by arguing that "the statute can also be read as stating, and the legislative history indicates, that admissions to private undergraduate schools were to be totally exempt." 39 *Fed. Reg.* 2229 (1974).

We have analyzed HEW's argument at the request of the National Organization for Women and the NOW Legal Defense and Education Fund. This memorandum concludes, on behalf of these organizations.

that HEW's interpretation is unfounded in either the statute or legislative history and that the regulations based on this interpretation are legally unsound and should be amended. It is clear that any unit of a private undergraduate institution which is an administratively separate professional or vocational school, college, or department is not exempt from Title IX's admissions requirements. It is also reasonable to conclude that administratively united private undergraduate institutions which are predominately professional and/or vocational in character are not exempt.

I. PRIVATE UNDERGRADUATE INSTITUTIONS WITH ADMINISTRATIVELY SEPARATE UNITS OF PROFESSIONAL OR VOCATIONAL EDUCATION

An examination of Title IX indicates that two determinations must be made in order to ascertain whether a particular institution is subject to the prohibition on sex discrimination in admissions.

First, it must be determined whether the institution is an "educational institution", as defined by the statute. Title IX defines an educational institution as "any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each school, college, or department." Title IX, section 901 (c), 20 U.S.C. 1681(c). Thus, a particular school, college, or department may or may not be an "educational institution" depending upon whether it is administratively united with or administratively separate from the larger institution of which it is a part. A university may in fact be composed of several educational institutions under the statute because it consists of several administratively separate units.

Second, a determination must be made whether the educational institution as defined is one of the enumerated institutions to which the admissions criteria extend. The included institutions are institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education. Title IX, section 901(a)(1). 20 U.S.C. 1601 (a)(1).

It is obvious under this two-step process that every administratively separate school, college, or department of professional or vocational education within private undergraduate institutions is subject to the statute's admissions requirements.

A school of engineering, for instance, which is administratively separate from the rest of its university would be an educational institution within the meaning of section 901(c). Since it is an institution of professional education under section 901(a)(1), it would be prohibited from discriminating in admissions on the basis of sex.

The statute is clear on its face on this point, and there is no reason to resort to the legislative history. The plain wording of the statute controls. 2A Sutherland, *Statutory Construction* 46.01–46.07 (Sands ed. 1973). Even if it were appropriate to seek interpretive assistance in the legislative history, however, it would not support HEW's position.

H.R. 7248 (the House version of the Education Amendments of 1972), as referred to the House from the Committee on Education and Labor, contained a title dealing with sex discrimination in education institutions. *H.R. Rep.* No. 554, 92d Cong., 1st Sess. 51–52, 108–109 (1971). The title as then written prohibited sex discrimination "in any education program receiving federal financial assistance, except (1) in educational institutions in which substantially all of the students are of the same sex." *H.R. Rep.* No. 554, 108.

During the course of the floor debates on the bill, Congressman John Erlenborn introduced an amendment which specifically exempted the undergraduate admissions policies of any institution of higher education. As debate progressed, it became evident that the amendment was intended to make private undergraduate institutions of higher education exempt totally from any admissions provisions of the bill. There was much said during the course of this debate to lend support to the HEW position. 117 *Cong. Rec.* 39248–61 (1971). However, ***the Erlenborn amendment was deleted from the bill*** **during the course of the conference, and the statements made concerning it are thus a nullity.**

S. 659 (the Senate version of the bill) as originally reported from the Committee on Labor and Public Welfare did not contain any sex discrimination prohibition. On 6 August 1971, Senator Bayh introduced a sex discrimination amendment, 117 *Cong. Rec.* 30399 (1971), but the amendment was challenged as not germane to the pending bill, and consideration was thereafter discontinued.

On 24 November 1971, when the bill was resubmitted to Committee, Senator Bayh again proposed an amendment dealing with sex discrimination. When the bill was again reported from committee, it still did not have any sex discrimination provision. Senator Bayh called up his amendment on 28 February 1972. 118 *Cong. Rec.* 58039 (1972). It provided in part, "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that: (1) in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education." This is the wording eventually incorporated into the final version of the bill. The definition of "educational institution" was the same as currently in the law, containing the provision that administratively separate units must be considered individually as educational institutions. The amendment also contained a provision requiring the Commissioner of Education to conduct a survey to determine the extent of sex discrimination in educational institutions.

In his statement to the Senate, Senator Bayh indicated that "my amendment allows some exemptions, pending the completion of more extensive investigation of certain specific problems . . . [T]he admissions policies of certain institutions of education are exempted until further study can be made. As a matter of principle our national policy should prohibit sex discrimination at all levels of education. However, problems are presented by the fact that many schools—particularly private undergraduate schools of higher education—have established over many years an identity of tradition as single-sex institutions." 118 *Cong. Rec.* 5807 (1972). The Senator then discussed the various objections and problems raised by the inclusion of these single-sex institutions.

"After these questions have been properly addressed, then Congress can make a fully informed decision on the question of which—if any—schools should be exempted.

"In the meantime, the amendment I am proposing covers admissions to institutions of graduate, professional, and vocational educational institutions and public undergraduate institutions. No one can argue that these schools have any justifiable reason to discriminate against one sex or the other. Admissions policies of other schools are temporarily exempted until further study can be made as to the feasibility of requiring that all admissions policies be sex neutral. For the purposes of such study the amendment requires that the Commissioner of Education conduct a study, with open hearings, on the desired extent of section 1001's coverage, and that he make recommendations to Congress by the end of next year on this question.

"My view is that many of these exemptions will not be supported after further study and discussion. In fact, I hope and expect that the prospect of this study will serve to remind educational institutions that the discussion of their admissions policies is not closed." 118 *Cong. Rec.* 5807 (1972).

The provision for the Commissioner's study was eliminated from the bill in conference. Nevertheless, although the Senator's remarks exhibit an appreciation of the problems expressed by certain single-sex institutions of higher education, they anticipate the elimination of exemptions for such institutions. They also clearly point out a great reluctance on his part to extend any further exemptions to educational institutions.

Following Senator Bayh's formal remarks, Senator Pell asked, "Am I right in saying that a private undergraduate institution which seeks to limit admissions to all of one sex, or a limited amount of one sex, would be excluded from the provisions of the amendment of the Senator from Indiana?" Senator Bayh responded, "The Senator is correct. This amendment does not apply to the admissions policies of private undergraduate institutions." Although Senator Bayh was expressing a general rule of applicability, there is nothing to indicate he was addressing the specific instance of administratively separate unit of professional or vocational education. Nor could there have been, since his amendment clearly stated that such units of private undergraduate schools were to be included within the ban on sex discrimination.

II. PRIVATE UNDERGRADUATE INSTITUTIONS WHICH ARE PREDOMINATELY PROFESSIONAL OR VOCATIONAL IN CHARACTER

The statute does not define the terms "professional education" or "vocational education," and it does not even use the term "private undergraduate higher education." Yet the possible overlap of these terms is obvious: "Professional" and "vocational" education can be provided at the undergraduate level; and "undergraduate" institution can include programs in professional or vocational education. A line must be drawn, but there is nothing in the common meaning of these terms or in the Title IX statute to suggest that the line should totally exclude professional and vocational education from the concept of undergraduate education. A far more reasonable solution, consistent with common usage and the letter and spirit of the statute and legislative history, is to judge each institution in light of its overall character. If a particular institution has within its jurisdiction administratively united departments, schools, or colleges which are not professional or vocational in nature, but the predominant character of the institution is professional and/or vocational, such an institution must abide by the admissions criteria. Thus, for instance, a private undergraduate institution of engineering is an institution of professional education despite the fact that it may have departments of English and history. To adopt a contrary view, as HEW has done, is to permit any administratively united professional or vocational school to escape the law merely by adding on some undergraduate liberal arts or—as the definitions in the proposed regulations seem to indicate—merely by offering some academic study (in *any* field) leading to an associate or baccalaureate degree. (See section 86.2 (1), (m), and (n), 39 *Fed. Reg.* 22232.)

Nothing in the statute or legislative history indicates that Congress intended such a broad interpretation. (See discussion of legislative history, *supra*.) It virtually ignores Congress' explicit use of the terms "professional education" and "vocational education" (in contrast to private undergraduate education, which was not used at all) in the statute and would render these terms inapplicable over a huge spectrum of education where they are normally thought to apply. Not even the brief Bayh-Pell colloquy, *supra*, the only legislative history suggesting a general exclusion for undergraduate education, would support HEW's extreme position.

Senator Bayh was not addressing himself to the problem presented by schools of vocational or professional education existing on the undergraduate level. His remarks do not define "private undergraduate institution", and there is thus no indication that undergraduate schools of vocational or professional education were included in his comment. The very specific mention of these types of educational institutions in his amendment suggests that he viewed such schools as entities separate from "private undergraduate institutions" as he used that phrase in his comment. Event if there were some ambiguity on this point, Senator Bayh's other statements would indicate that the tendency should be toward inclusion within the admissions requirements, since his goal was clearly sex neutral admissions policies for all schools.

III. CONCLUSION

The proposed Title IX regulations' blanket exemption of undergraduate institutions from Title IX admissions provisions is totally unwarranted. The statute and legislative history indicate that private undergraduate institutions offering professional or vocational education must be covered by the regulations at least to the following extent: (1) whenever professional or vocational education is offered through an administratively separate school, college, or department of an undergraduate institution, such administratively separate unit is subject to Title IX admissions requirements; and (2) whenever the administratively united units of a private undergraduate institution are predominately professional and/or vocational in character, the entire institution is subject to Title IX admissions requirements.

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(On behalf of the National Organization for Women and the NOW Legal Defense and Education Fund, October 14, 1974.)

UKRAINIAN INDEPENDENCE DAY

Mr. WILLIAMS. Mr. President, I wish to join my colleagues in marking the 57th anniversary of Ukrainian independence, which occurred in the city of Kiev on January 22, 1918.

For 3½ years, the Ukrainian people waged a gallant struggle in defense of their country before being overwhelmed by the Soviet Army and subjected to the grim tyranny of a puppet regime which was incorporated into the Union of Soviet Socialist Republics in 1923.

The freedom-loving people of the Ukraine have never accepted Soviet domination and have since been fighting to regain their independence by all means accessible to them. In World War II the Ukrainian people organized a powerful underground resistance movement known as the Ukrainian Partisan Army, UPA, which fought not only against the Soviets, but the Nazis as well.

While the relentless persecution of Ukrainian intellectuals, scientists, and journalists continues today, Ukrainians may rest assured that those who cherish freedom and liberty have not forgotten that Ukrainian independence has yet to be obtained. In commemorating Ukrainian Independence Day, Mr. President, we reaffirm our support of the Ukrainian people in their undaunted struggle for human rights and freedom, which are the basic tenets of our democratic society.

THE FERTILIZER SHORTAGE

Mr. ROTH. Mr. President, the value of fertilizers has been understood by the American farmer from the day our earliest settlers learned from the Indians that a well-placed fish under a corn plant would increase yield. Our forefathers first experienced a fertilizer shortage when the number of plants outgrew the number of available fish.

Today, a threatened shortage of available fertilizers to the American farmer is once again endangering our ability to meet current needs for grains, vegetables, and other crops basic to our Nation's stability and growth. Our demands for food are outstripping our capabilities to produce. The American housewife, when grocery shopping for her family, is faced both with diminishing stocks of commodities grown on the farm and with escalated costs for those items available. The critical shortage of worldwide supplies of food are well known to all of us.

Mr. President, fertilizer is a key factor in our ability to raise needed agriculture produce. Current inventories and projections for fertilizer needs and supplies indicate that significant shortages are imminent, notwithstanding the warnings of past years of potential deficiencies and efforts of our agronomists to develop alternative fertilization practices. We now face the serious prospect that a full third of all our major fertilizer plants across the country are threatened with a crippling curtailment of natural gas—the key element in the production of the ammonia needed to derive nitrogen.

The Department of Agriculture and the Fertilizer Institute estimate that as much as 500,000 tons of ammonia will not be produced due to shortages of natural gas. Twenty-three large ammonia-producing plants are being curtailed. As a result, this Nation, with a total capacity of 17.4 million tons of ammonia, will only produce 15.8 million tons. The demand by agriculture alone for ammonia is 13.2 million tons of which only 11.6 million tons will be available.

The effect of this curtailment is obvious. Fertilizer prices will continue to rise even though they have risen more than 300 percent in less than 2 years. Increased costs of production will cause higher food prices. Lack of fertilizer puts the full production concept in jeopardy. The equation we are working with here is clear: Less fertilizer means less food produced at higher costs.

Mr. President, it is no accident that our farms feed more than five times the number of people they fed at the turn of the century. The development of efficient farm machinery, soil conservation practices, educational support, and chemical fertilizers are major factors that have made this possible. But fertilizers are especially crucial. In Delaware it is estimated that without chemical fertilizers yields would be reduced as much as 30 percent.

Mr. President, for the reasons outlined earlier, I join in supporting Senator Dole's proposal in S. 187 to provide for a 1-year emergency natural gas allocation program for fertilizer production. I must hasten to add, however, that significant congressional actions must be taken to assure an adequate supply of natural gas to all natural gas users.

THE LAUNCH OF LANDSAT II

Mr. ABOUREZK. Mr. President, yesterday marked an extremely important date in the progress of man's utilization of satellite technology for solving its problems here on Earth. The second Earth Resources Technology Satellite, ERTS, now called LANDSAT, was launched successfully. Thus far, it is my understanding that all things are going well and that soon LANDSAT II will be transmitting its photographic data back to Earth.

Hardly a Senator or Congressman is not aware of the tremendous success that the first ERTS has enjoyed in its 30 months of operation. More valuable information about the Earth and its increasingly limited resources has been gathered by ERTS than perhaps by any other single source. There can be no question that it is one of the most significant space-related programs ever to be undertaken in the 15 years of U.S. space history.

LANDSAT has shattered the commonly held notion that a program of such significant value to so many millions of people has to cost a large chunk of tax dollars to work. For the money which the United States has spent, few, if any, governmental programs have returned so many benefits so abundantly.

Our hopes for similar success with the LANDSAT II are, naturally, shared by all. However, if we are to continue to provide this country with a continuing flow of data, the LANDSAT II is going to have to operate even longer than the ERTS–1 was expected to operate. Right now, a follow-on satellite is not even in the planning stages which means that LANDSAT II will have to continue to function perfectly for at least 3 years. This is a lot to expect of a satellite whose life expectancy was only 1 to 2 years. A LANDSAT II failure would essentially cause our Earth resources observation program in NASA and the Interior Department to close down their operations.

There can be little question that the need for a LANDSAT III is now undeniable. Even if LANDSAT II functions properly for 3 years, a follow-on satellite will be essential. The program has proved its unlimited potential in its first phase. Now, at the beginning of its second phase, I cannot think of a better time to insure LANDSAT's continuity by funding a third satellite.

THE INTERNATIONAL ASSIGNMENT OF PROPERTY RIGHTS IN OCEAN RESOURCES

Mr. METCALF. Mr. President, among the very capable witnesses who have testified before the Senate Subcommittee on Minerals, Materials, and Fuels on Law of the Sea matters is Dr. Ross D. Eckert, an economist with the Hoover Institution at Stanford, Calif., and the University of Southern California.

A preliminary draft of his paper—"Exploitation of Deep Ocean Minerals: Regulatory Mechanisms and U.S. Policy"—is part of the March 1974 hearings on mineral resources of the deep seabed.

On December 29, 1974, Dr. Eckert presented a paper on "The International Assignment of Property Rights in Ocean Resources" to the law and economics session of the American Economic Association at its annual meeting in San Francisco.

In this paper, Dr. Eckert starts with the idea that the centuries-old doctrine of freedom of access to the high seas by ships of all nations "is gradually being whittled away by the increased jurisdiction of coastal (nation) states."

He notes that—

> Many (nation) states have expanded their sovereignty, the so-called "territorial sea," from 3 to 12 miles and have also claimed the exclusive right to exploit the oceans in "economic zones" of up to 200 miles from their shores.

The United Nations Conference on the Law of the Sea, scheduled to meet again in Geneva on March 17 after an inconclusive session in Caracas last summer, was convened to deal with the problems created by this "enclosure movement of the oceans," according to Dr. Eckert, who continues:

> Some of the main issues at the Conference are to define the seas subject to national as opposed to international jurisdiction, to clarify the rights and duties of coastal (nation) states in controlling navigation and fishing, and to create an international regime to govern access to the mineral and hydrocarbon deposits lying on and under the ocean floor.

In Dr. Eckert's words—

> This paper analyzes the implications for economically efficient resource allocation of alternative definitions of property rights for three resources—navigation, deepsea dredging of minerals, and offshore oil drilling. The rights definitions most likely to induce efficient resource use are then matched with the main elements of United States oceans policy and the international treaty being prepared at the Law of the Sea Conference.

His principal conclusions are that—

> (1) neither U.S. policy nor the treaty are, on the whole, likely to create efficient property arrangements, and
>
> (2) expanded enclosure of the oceans by coastal (nation) states is preferable on economic grounds to increased control by international institutions.

Mr. President, I commend Dr. Eckert's thought-provoking paper to those seriously interested in this complex problem. I ask unanimous consent that it be printed in the Record.

There being no objection, the material was ordered to be printed as follows:

On the International Assignment of Property Rights in Ocean Resources*

(By Ross D. Eckert)

(Note.—For helpful comments and criticism, I must thank Kenneth W. Clarkson, Harold Demsetz, Benjamin Klein, James L. Johnston, Donald L. Martin, Thomas G. Moore, R. David Ranson, Stephen Scharf, Michael M. Stoddard, and the participants in the UCLA Law and Economics Workshop. Responsibility for the views expressed and remaining errors is strictly mine.)

From the times of Elizabeth Tudor to Harry Truman, the access of states and their nationals to the use of most of the world's oceans was governed by the principle of freedom of the high seas. Established by and in the interests of mainly the major maritime powers, this principle allowed states equal rights of access to all seas save a narrow three-mile band adjacent to coasts. In this band, called the territorial sea and based on the range of an 18th-century shore-based cannon, a coastal state was deemed to be sovereign; that is, by general acceptance it could legally restrict ocean use for any purpose just as it could control use of internal waters such as lakes, rivers, harbors, and some bays. The principle of high seas freedoms was often modified by bilateral agreements concerning the use of certain fisheries and occasionally by limitations on navigation. But the general principle was that states, their navies, and their nationals could travel freely and extract and keep the natural resources they found as long as they did not occupy or claim permanent, sovereign, and exclusive rights to any part of the ocean floor itself or the superjacent water column beyond the territorial sea.

The erosion of this historic principle began in 1945 and has accelerated rapidly. In 1945, President Truman proclaimed that the United States had inherent rights to "jurisdiction and control" of the continental shelf—the submerged land mass extending seaward from its coasts. Truman's purpose was to obtain for the U.S. exclusive rights to the hydrocarbon and mineral deposits then believed (and recently proved) to exist on and under its continental shelf. He did not claim that the U.S. had sovereign "ownership" of the coastal seabed itself, and he did not assert an extension of the three-mile territorial sea. However, Truman did claim that the United States had the right to take resources lying on or under the continental shelf, and that these resources were reserved for its exclusive appropriation.[1]

The Truman Proclamation was greeted by other states not with protests, as one might have expected, but with similar and more extensive claims. Some states unilaterally extended their territorial seas from 3 to 12 miles, and their economic zones—the ocean space beyond the territorial sea in which the coastal state claims exclusive rights to exploit resources but not to control navigation—to as much as 200 nautical miles in the case of Peru and other Latin American states, and 50 miles for fisheries in the case of Iceland. A few territorial extensions were codified very vaguely into international law in 1958 at the United Nations (Geneva) Convention on the Outer Limits of the Continental Shelf.[2]

For the past five years, the United Nations Conference on the Law of the Sea, involving nearly 150 states, has attempted to reach a broad international agreement on many issues: the width of the territorial sea, the extent of the economic zone, the use of fisheries, and the functions and powers of a proposed international regime that would govern access to deep ocean resources beyond national jurisdiction (the economic zones). So settled is the trend toward increased coastal state jurisdiction that the United States recently agreed, with some reluctance, to the 12-mile territorial sea and the 200-mile economic zone provided transit rights are not impeded. This reflects concerns voiced by maritime and naval interests over the transit rights of commercial vessels and warships, especially through such important straits as Gibralter and Malacca which are now international waters but would become territorial seas under a 12-mile rule.

Thus, whether by the self-proclaimed fiats of coastal states or by express international agreement, there has been a continual withering of the ocean space governed by high seas freedoms. This trend smacks, if you please, of an "enclosure movement of the oceans."

The questions I want to raise concern the effects this changing pattern of ocean claims and enforcement of rights will have on the economic efficiency with which ocean resources are globally used:

Should property rights be assigned and enforced in order that particular ocean resources be used efficiently? If so, how would rights assignments differ for alternative ocean uses: navigation on high seas or through narrow straits; drilling oil from fixed installations; or deepsea mining from mobile dredges?

In those situations where economic efficiency is likely to follow the assignment of exchangeable rights, should the method of rights assignment and enforcement authority be exercised by unilateral actions, bilateral agreements, multilateral agreements among a consortium of states, or an international regime among scores of states? Which institutions would be most likely to maximize the global value of production from scarce resources?

Sections I, II and III of the paper analyze the efficiency implications of alternative structures of property rights in navigation, dredging minerals from the deep seabeds, and drilling for offshore oil, respectively. Section IV describes existing United States oceans policy and the treaty arrangements under development at the Law of the Sea Conference, and compares them to the efficiency-inducing structures of rights developed in the body of the paper. Section V offers some conclusions.

I. PROPERTY RIGHTS IN NAVIGATION

The oceans have traditionally offered two primary benefits to mankind: utilizing the buoyancy of its water column as a means of communication by shipping, and extracting its living resources for food and wealth. For centuries the availability of ocean space in many areas was so great relative to demand that rationing by processes other than first-come, first-served was probably unnecessary for efficient resource use. Indeed, the vastness of the oceans, especially in ancient times, was probably instrumental in developing the freedom-of-the-seas doctrine.[3] In some situations, however, ocean space has long been an economic good that required rationing by processes that substituted for or supplemented queuing. Its use as an unobstructed "highway" in relatively congested areas, for example, has usually been allocated in part by simple, inexpensively enforced, and generally recognized rules on rights of way, ship lightings, and channel markings. Moreover, throughout ancient and modern history, there have been many agreements between states to allocate rights to the most valuable fisheries.

The desire of coastal states to extend jurisdiction and their willingness to expend resources to enforce claims appears to have several causes. First, enforcement costs have declined owing to the availability of warships of greater speed and range, aircraft, and satellites. Second, the value of coastal waters has risen for both navigation and non-navigation uses. For example, control of navigation is valuable for strategic purposes. Extending the territorial sea universally from three to twelve miles would give coastal nations sovereignty over more than 100 straits that are now deemed to be high seas. This could limit the freedom of navies to deploy strategic submarine and surface forces and to employ tactical antisubmarine measures.[4] Control of navigation might also be valuable for economic purposes—especially for waters of highly concentrated use such as through straits, near important harbors and bays, and along populated coastlines. At the extreme, coastal states might erect dams or other barriers to "blackmail" shippers. More likely, they might exact tolls. The tolls that could be obtained along most coastal areas would be relatively small since the possibility for avoidance is usually great. But tolls could be substantial in the case of such straits as Gibralter or Malacca where the alternative involves a detour of thousands of extra miles.

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The value of coastal waters has also increased due to the rising prices of foods, oil, gas and metals. This has made coastal-state control over these resources more attractive. As oil drilling technologies continue to improve, drilling from fixed installations will move in a few years from depths now limited to less than 200 meters to depths greater than 1,000 meters. By 1980 ocean miners will be dredging mineral nodules containing copper, nickel, and manganese in deep waters from slowly moving, highly specialized ships. Thus, future competition for ocean space will not only involve customary navigation users, whether the ships be fishing trawlers or supertankers, but drastically different nonnavigation uses wherever important mineral or hydrocarbon deposits are located. These nonnavigation uses may conflict with—impose extra costs on—navigation uses and *vice versa*. For example, locating a fixed oil-drilling platform near the mouth of a busy harbor might force shipping to undertake risky detours, especially during bad weather.

As a result of either coastal state control or technological change, the costs of using the oceans and the methods by which scarce space is allocated among competing uses and users are in the process of change. At the nub of the problem is whether these changes warrant, on the ground of promoting the economically efficient use of resources, an international agreement which would guarantee that coastal states dedicated some portion of straits and other congested waters to the exclusive use of navigation. Under such a scheme, navigation rights would be created in certain areas and granted to the international community. Navigation users would secure access to these areas by the traditional method of first-come, first-served, but nonnavigation uses would be excluded on the presumption that efficient resource allocation would thereby be aided. Where exclusion would not promote efficiency, rights would be held and allocated among conflicting uses by coastal states.

For brevity's sake, I will confine the discussion to the problem of narrow, congested straits where the case for assigning navigation rights is probably greatest *a priori*. Kenneth W. Clarkson has proposed that narrow "primary" navigation routes be dedicated strictly to navigation uses. These corridor rights would not be transferable and would be established permanently by an international agreement. Generally, the heavier the navigation traffic in the straits, the wider the primary navigation channel would be, such as room for two ships in parallel motion versus only one ship. Adjacent to each side of the primary corridor would be two "secondary" navigation routes. These would be granted initially to navigation users but would be transferable between navigation and nonnavigation uses. Clarkson states:

"[T]he most efficient international agreement governing the assignment and enforcement of ocean rights [especially through straits] requires a closer tailoring of regulations and other constraints with existing and expected economic conditions . . . For example, the agreement might establish two separate types of navigation rights, one to regulate areas where relative values of navigation and nonnavigation uses are unlikely to change and one where change is more likely to occur. . . . Where navigation uses are likely to remain the highest valued use of the ocean, primary ocean navigation routes with international modification procedures could be instituted. Rights to primary navigation routes would reflect existing and near term future usage and would be defined with respect to location or potential harm (open seas vs. bays) and degree of competition (continental shelf vs. high seas). Furthermore these rights should be *firmly* established requiring renegotiation of the initial international agreement when change is desirable. However, the agreement must also allow for low cost reassignment to higher valued uses when changes in the relative values of navigation and nonnavigation are likely to occur. . . . This may be accomplished by creating secondary, but transferable, navigation rights in areas where navigation is currently less valuable but likely to change. Such areas might include navigation routes bordering the primary navigation routes to facilitate possible increased usage or new technology in ocean vessels." [5]

Whatever the advantages of creating absolute navigation rights may be, the proposal also appears to have at least three disadvantages: (1) Absolute property rights in selected narrow corridors would protect navigation uses at the expense of alternative nonnavigation uses when it is not clear either that the two sets of uses would conflict or, if they did conflict, that navigation would always be the highest-valued use in primary corridors; (2) The proposal would place few obstacles in the way of blackmail of shipping nations by coastal states, which is unlikely in any event; (3) International procedures of a high transactions-cost character would be injected into decisions that would otherwise be under the exclusive jurisdiction of coastal states, thus lowering the prospects for achieving economically efficient outcomes.

The problem of conflicting uses

The proposal to create property rights in navigation appears to rest on at least two premises. First, where navigation and nonnavigation uses may conflict, nonnavigational users represent greater threats to existing navigation users than would additional ships. Second, in such cases economic efficiency would be promoted by replacing a system for allocating oceans space by first-come, first-served with a system based on property rights giving navigation uses absolute priority over nonnavigation uses. I see no reason to accept either premise.

Ships at sea in peacetime face a variety of threats. Some threats, like reefs, are stationary; others, like weather or additional vessels, are mobile. In what sense does a stationary oil drilling platform or a slowly moving dredge constitute a greater risk to a given ship than does a second moving ship nearby or a reef?

A single ship that is neither escorted by warships nor under the protection of friendly shorebased batteries usually cannot affect the number of other ships sailing through the straits at a given moment. Congestion through the passage is a function of its width, depth, natural obstructions, and the time-distribution of demand for its use by other navigators. Thus, some of the threats to navigation use are entirely beyond any single navigator's control and must be taken into account in advance of his decision to use the waters. It is not clear that oil rigs and mining dredges impose costs on navigation users of a uniformly higher order of magnitude than do other moving ships: the oil rig, because it is absolutely immobile, and the dredge, because it is usually moving much more slowly than commercial vessels or warships. Naturally, these users constitute some danger to navigation, especially in hazardous weather. But this applies also to other ships competing for ocean space. For example, does the eleventh ship traversing the straits during the period of time required for passage amount to a greater threat to the ten other ships there than would the first oil drilling platform or the first mobile mining dredge? Unless the fixed or slowly moving obstacles usually present a greater threat to navigation, then navigation uses should not, for reasons of economic efficiency, be uniformly given priority in rights assignments with other users given residual rights.

Generally, economic forces would work to make the nonnavigation use less of a threat to the navigator than might be expected at first glance. Information on the location of nonnavigational users should be inexpensively available to the master of a vessel in advance of his passage through the straits. Oil rigs involve at least two years of lead time in design, engineering, construction, and installation. Dredging operations also have substantial lead time and, once begun, move at a snail's pace.[6] The geographical positions of these activities would be known—precisely for the oil rig and approximately for the dredge—before the ship traverses the straits. Such international insurance clearing-houses as Lloyds would have incentives to gather and disseminate this information.

Owners of rigs and dredges would usually have economic incentives to take into account the risks from navigation users before choosing to operate in straits rather than ocean space that is less valuable for navigation use. They, like the owners of ships, seek to avoid collisions and the destruction of their property. They would position their activities accordingly. The extreme "horror story" of a series of oil rigs at 250-yard intervals crossing the Straits of Gibralter like a strand of pearls is not a high-probability prospect even if the Straits were found to contain deposits of hydrocarbons (they do not contain important minerals). Some drilling might occur but it would take navigation uses (threats) into account before deciding to locate there. In another extreme situation, it might be economically efficient to prevent oil rigs from blocking access to the Golden Gate. But this implausible outcome is not of concern since the Golden Gate is part of the United States' territorial sea. Therefore, these waters would not be candidates for possible reassignment to international uses via treaties. Any regulation needed to prevent blocking these waters would fall under the exclusive municipal jurisdiction of the United States. These arguments apply *a fortiori* to broad channels or open seas where navigation is less constrained than in congested straits or bays.

The expectation of some conflict between different oceans uses would not appear to be sufficient grounds for assigning absolute rights to navigation. Granting priority rights to navigation even in narrow "primary" channels through straits would preclude the use of these channels by nonnavigation uses of possibly higher value. The value of the extra navigational users permitted may not always exceed the value of the displaced nonnavigation uses plus the transactions costs required to create and enforce the property rights scheme. A mixture of navigation and nonnavigation uses throughout the straits might generate a higher total value of oceans use than would occur if one category of use were prohibited in certain corridors.

This criticism of creating property rights can not be answered by arguing that primary navigation channels would be so narrow that there would still be ample space in straits for nonnavigation purposes. This argument fails because the chosen primary navigation corridor might coincide with the location of valuable mineral or hydrocarbon deposits that would make the corridor of higher value to nonnavigation uses.

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Moreover, the narrower the primary navigation route becomes relative to the adjacent secondary routes, the stronger is the presumption that most (perhaps all) of the straits would be of higher value if subjected to a mixture of uses. To carefully select a permanent primary navigation route that avoids deposits of resources also fails to answer the criticism. This is because there is little reason to suppose that the international body selecting the primary route would possess all the information necessary to achieve an economically efficient outcome.

The problem of blackmail

Another reason for favoring the creation of exclusive primary navigation routes might be to "prevent possible blackmail"[7] of maritime states if littoral states were to erect physical barriers to passage or to exact tolls, especially in straits where the alternatives to passage were relatively expensive. Under the property rights scheme, interference with navigation uses would be permissible only in secondary navigation routes, which could be held by either navigation or nonnavigation uses.

What deterrent would an international treaty provide against such conduct by coastal states? Certainly a littoral state which is a signatory to an international treaty incurs a cost when, after pledging to observe certain rights and duties, it goes back on its "solemn oath" by blackmailing international neighbors. But such conduct might occur if the coastal state believed that its vital interests were at stake and that blackmail furthered those interests by generating more gains than costs. In the event, maritime states could open the straits by force, pay the tolls, or strike a political accommodation bilaterally either through lumpsum payments or concessions of other principles. Whether the straits were open or closed to shipping would depend more upon the overall political relationship between the littoral state(s) and the maritime state(s); a treaty supposedly safeguarding navigation routes would probably have little effect in halting the unwanted conduct and certainly would not amount to an absolute deterrent.[8]

The problem of international decisionmaking

To establish property rights to primary navigation routes through an international agreement would inject international decisionmaking procedures into matters that would otherwise be under the exclusive jurisdiction of coastal states. This proposal implies a belief that international processes—for example, scores of nations deciding the number, size, and width of primary vs. secondary navigation routes—would produce overall results that were at least no worse than those achieved if the same resources were placed entirely under the municipal jurisdiction of individual states. I believe this conclusion to be in error. Where some assignment of property rights appears desirable on economic grounds, I will argue that international institutions and agreements are a uniformly inferior device for achieving efficient resource allocation relative to either coastal state jurisdiction or networks of bilateral arrangements between maritime states and coastal states.

It is common among economists to favor the creation of efficiency-inducing property rights in resources outside municipal (national) jurisdiction as if the problems of municipal regulation and international regulation were identical.[9] In fact, the problems are different and the same economic model should not be used for both.

It is mistaken to suggest that the structure of property rights that would improve resource use for a lake in Montana should be applied *mutatis mutandis* to resource use in the Pacific Ocean. In the case of the lake, jurisdiction is limited to one or two political authorities with well-established police powers. It may, of course, be costly to institute efficiency-inducing rights packages owing to high transactions costs in governmental processes or to strong political forces against efficiency. However, owing to clear jurisdiction and police powers, it is at least conceivable that municipal regulation could lead to efficient results and it actually may be efficiency-inducing in some cases.[10]

But the problem of international regulation is distinct. The costs of achieving efficient packages of rights for international use of the Pacific Ocean are enormous relative to the case of the municipality-regulated lake. Efficient international regulation would face most of the same obstacles facing municipal regulation and more. Like the municipal regulatory authority, the international authority would find it expensive to identify efficient outcomes through political processes. When these outcomes could be identified at relatively low cost, regulators would not always have incentives to pursue efficiency singlemindedly. Exchange of rights among uses and users might be made more expensive and in some cases outlawed. Initial rights might be assigned on criteria other than going to highest market value or highest bidders at auction. Exclusivity of rights could be incomplete. Efficient outcomes could be distorted by the imposition of either express monetary taxes or implicit taxes by requiring uneconomic services as a condition of receiving the primary right. Such parameters of rights as their areal extent could be arbitrarily determined and permanently be either too large or small for efficiency purposes if exchangeability and subdivision were constrained.

Aside from the weaknesses that international regulation shares with municipal regulation, international regulation contains special infirmities that further hobble efforts to achieve efficiency. As Professor R. H. Coase has argued, these infirmities derive largely from the higher transactions costs involved.[11] International political processes appear to lie at the end of a continuum of increasing transactions-costs institutions: municipal regulation, bilateral agreements, consortial agreements among only a handful of states, and international agreements among nearly all states. The difficulty in reaching and enforcing agreements increases the greater the number of states that are involved in the bargaining process and the more diverse their national interests are. The larger the number of bargainers, the smaller the prospects for reaching agreements and the more likely it becomes that treaties, if they can be made at all, will be couched in vague wording that is conducive to future misunderstandings and possibly conflicts. More parties may also lead to a broader agenda which lowers the chances for securing agreement on the most important issues.

These principles apply to the ongoing United Nations Law of the Sea Conference. Any attempt to achieve international agreement on such navigational issues as the width of the territorial sea and transit through straits automatically raises transactions costs by involving in the bargaining process the 100-odd states having coastlines. The forum for negotiation is large not because there are many states that border vital straits or have maritime interests, but because early on a political decision was made to "go the international route" to achieve a broad agreement on nearly all important issues. Thus, the number of bargainers was increased to all 148 members of the United Nations plus two states that were not members. Among the participants are roughly 50 states that are either landlocked, such as Switzerland and the Holy See, or shelf-locked, such as West Germany which lacks direct access to high seas without traversing the shelves of other states. Since the number of nations and variance in their interests is great, the possibility of achieving efficiency-inducing rights packages is necessarily small. Not surprisingly, the Conference has become less of an opportunity to improve oceans resource use than a setting for ideological confrontation between the richer and poorer nations, the latter hoping to block action among the former in order to hold out for large distributional gains. Since so few of the bargainers have a real stake in efficient outcomes, it is natural that the negotiations have been largely fruitless and seemingly endless.[12]

It is not clear how such a gathering would decide even the relatively limited issues involved in "firmly" establishing primary and secondary navigation routes. Which straits would be subject to such routes? How many of each type would be created in each strait? What would be the location and width of the routes in various straits? How would the routes be structured so as to avoid potentially valuable nonnavigational uses? How would the secondary rights be initially allocated? Would regulations assure that the transfer of secondary rights among different uses be unfettered at low cost? How could international decisionmaking among so many states closely tailor the transferability of rights among present and future uses when the direction and extent of changes in values are unknown? Could international decisionmakers be expected to institute only efficiency-inducing regulations and to avoid all measures that would subtract from efficient outcomes? Although international institutions may be successful in promoting efficiency in some cases, there is no reason to suppose that they will usually be more successful than coastal states regulating oceans uses in their individual interests.

International organizations face substantial difficulty (cost) in reaching agreement on rules of procedure and agendas, let alone efficiency-inducing outcomes unaffected by other international goals. Many of the "battles" over procedural items are thought by outsiders to be "window dressing" which is not taken seriously by conference participants.[13] But this is not necessarily true. Contention over procedural matters is an important maneuver intrinsic to political processes. Contending forces often bargain for valuable principles or resources by attempting to "wear down" the opposition, thus demonstrating an unwillingness to accept the prices that opponents have offered in exchange for what are deemed to be vital interests. Parties rationally seek their objectives at the smallest total national cost. Minimizing national resource costs may imply protracted bargaining and greatly increased transaction costs, especially for smaller states or other nations that have an interest in delaying final settlement. Economic theory would not predict that the increased transactions costs on procedural issues would reduce the total transactions costs of reaching ultimate agreement on efficient packages of property rights.

Procedural matters aside, a group of 150 diverse states is scarcely the forum to expect the criterion of economic efficiency to regularly dominate non-economic criteria. Efficiency would not be totally ignored, but national leaders are often willing to trade efficiency for other objectives. Why else would poor nations have their own airlines or rich nations retain such institutions as the Interstate Commerce Commission? The willingness of leadership to trade efficiency for other arguments in their utility functions (and occasionally to trade the other way around) would surely be represented at an international conference. These tradeoffs would affect final decisions on the assignment of primary and secondary navigation routes, which ocean routes are likely to have changing future values and thus be made transferable, and so on. These decisions would be influenced but not necessarily (or even usually) dominated by economic criteria.

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In summary, there is reason to expect that few regulatory decisions would be dominated by efficiency criteria in the case of municipal regulation and fewer yet in the case of international regulatory authorities. For efficiency reasons, there should be an express attempt, whenever possible, to avoid bringing important resource issues to international conferences for settlement. In the case of navigation rights, either regulation by coastal states or no regulation appears to be preferable on economic grounds until a case has been made that certain inefficiencies can be reduced only by international control and that the gains from this regulation would exceed all its costs.

II. MANGANESE NODULES IN THE DEEP OCEANS [14]

In addition to providing a medium of communication, the oceans have provided mankind with nonnavigational sources of wealth. The world's largest deposit of minerals—the manganese nodules—lies not on land but on the bottom sediments of the deep oceans. Nodules are ancient, rock-like formations consisting mainly of manganese and iron but also of more valuable metals such as copper, cobalt, and nickel. They have the shape and size of potatoes or cannon balls and are formed through millions of years of precipitation of metallic ions to the abyssal depths, where they collect on such hard objects as pumice and the teeth of sharks. The value of nodules is rising since metals prices have increased and deep-water dredging technologies have advanced. The copper and nickel assays of some nodule deposits are sufficiently greater than land-based sources to make ocean mining a viable industry soon. The interesting questions to economists are whether this industry will, or should, be regulated, and the form that this regulation might take.

There is a widespread belief that regulation, presumably by an international body, should be imposed. Leaders of major powers are concerned that unregulated competition for nodules could lead to international instability or even conflict. Leaders of poorer nations without the technology to exploit believe that these mineral riches should be the "common heritage of mankind" and be mined by an international authority mainly for the benefit of states that are disadvantaged in wealth or geography. Some economists have argued that exploitation would be wasteful without regulations creating exclusive property rights to unmined deposits.

The ocean miners, for their part, have a divided mind on the prospective benefits of regulation. On the one hand, they are concerned that the creation of a strong international regime to control all access to the deep seabeds would attempt to protect land-based minerals producers and possibly discriminate against private-enterprise miners (especially those of the United States). On the other hand, some miners claim their bankers are generally unwilling to extend vast loans without settled seabed property rights as "collateral." [15] Reaching an international agreement soon would resolve some of these issues, at least by indicating how certain hostile regulations could be circumscribed, so that mining operations might proceed.

For all these reasons, regulation of manganese nodules has become one of the urgent issues at the Law of the Sea Conference. Setting aside the problems of international instability, income distribution, and the whims of bankers, I will confine discussion here to whether regulation appears necessary in order for nodules to be exploited with economic efficiency.

Deposits of nodules are highly variable in their location, assays, concentration, depth, and accompanying bottom terrain. They usually occur in irregular "patches" rather than in broad, continuous fields. Concentrations can change significantly over short distances, and deposits having high assays of copper may have low assays of other valuable metals. Generally, the richest deposits are found in the deepest oceans (up to 5,000 meters) and often in canyons of varying slope, making dredging more expensive and risky. The high variability of deposits requires prospective miners to engage in extensive exploration, sampling, and bottom mapping of a number of potential minesites before selecting one for testing their technology or actually dredging. The information gathered by this search process is a valuable proprietary input into the entire process of ocean mining.

The nature of dredging technologies and their relationship to nodule deposits is critical to a decision on economic grounds of whether to regulate the industry. Of the three technologies now under experimentation, two involve ships in motion. One drags a dredgehead at the end of a long pneumatic conduit much like a giant tank-type vacuum cleaner. Nodules are vacuumed up as the ship makes wide, slow sweeps. The other technology drags "buckets" along the ocean bottom. The buckets are attached to a long rope and the device operates like an oversized waterwheel. The third technology places a huge cylinder on the ocean bottom which remains stationary while the dredgehead, attached to a rotating arm like that of a phonograph, makes circular sweeps. The entire device is relocated after most nodules in the area have been dredged, crushed, and pumped to the surface.

The relationship between the technologies and the nature of the deposits is important in two ways. First, none of the technologies can mine all the nodules in a given deposit. Some will float away when the bottom is disturbed, some will be missed by dredging patterns, and others will lie in inaccessible areas. This has led the industry to argue for exclusive rights to large areal blocks of at least 30,000 $km.^2$ to insure a supply of minerals sufficient to warrant investing at least $200 million in dredging and processing equipment that will have a forty-year life. Second, the mining equipment must be "tailored" to the particular deposit. The mobile-pneumatic technology can not be used where nodules are large enough to clog the conduit or are located so close to escarpments that the dredgehead or conduit could be damaged. The stationary dredge requires bottom sediments strong enough to support a heavy engineering device. The bucket technology must be used on smooth, flat terrain that is free of snags. Evidently, the same deposit can be profitably mined by two different miners only if they have nearly identical technologies and information about the nature of the deposit and accompanying terrain.

The current legal regime for ocean mining is one of "open access," where any miner may dredge in international waters as he pleases under traditional high seas rights. Existing law gives the miner secure ownership of his dredges, ships, and shore-based processing facilities—all the resources used in mining save for the nodules lying on the ocean floor. Without new regulations, no miner will have exclusive rights to unowned deposits until he has boated them, and he will certainly not have permanent rights to the ocean bottom where harvesting occurs. The two economic arguments favoring regulation hinge on the absence of exclusive property rights to unmined deposits and whether this absence will lead to nonoptimal investment decisions. The first argument claims that nodule exploitation would be suboptimal owing to the "free-rider" problem, and the second claims that investment would be superoptimal owing to the "common-pool" problem. The suggested solution in each case is to create a property system to remove the inefficiency.

The basic premise of the free-rider argument is that the expensive search activities of the initial miners in finding valuable and technically suitable deposits would become public knowledge once dredging began. Other miners would observe the dredging sweeps of initial miners and would "poach" on "their" deposits rather than search independently. If the dredging of the free-riders were nearly as efficient as that of the initial miners, then the free-riders' rates of return would be greater. Since no miner could fully capture the exclusive benefits of search, the amount of search and investment in the industry would be suboptimal and metals prices would be too high. The solution to this inefficiency would appear to be to create exclusive rights to unmined deposits, thus giving searchers protection from free-riders.

The validity of the free-rider argument hinges on the cost to searchers of keeping their information on nodule deposits private. These date include maps of bottom terrain, samples of ores, and bottom sightings with sonar and closed-circuit television. This information is valuable since detailed searching would usually generate a higher rate of return than random dredging without search. Several economic forces would inhibit free-riding by preventing these "trade secrets" from becoming public knowledge once the initial miner starts to dredge.

First, only in a world of zero information and adjustment costs would each miner have identical information on the location of the most profitable nodule deposits. With non-zero costs, there would be a distribution of beliefs that would lead most miners to "spread out" rather than cluster. Second, miners who did free-ride would give up the opportunity cost of independent search that might reveal deposits of greater value.

Third, the searcher's dredging activity tells the potential free-rider only that the dredger has found a deposit of minimal quality which fits his technology. The free-rider who observes or imitates the dredging activities of another miner does not obtain reliable information about the extent of the field, its average assay of ore, the bottom terrain and sediments three miles down, or the most efficient sweeping patterns for this area. If free-riding yields only minimal valuable information relative to independent search, miners would not forego investment in search out of a fear of free-riding; provided that their accurate data could be kept exclusive even though rights to unmined deposits were not exclusive under an open-access regime of ocean mining. As long as the searcher's costs are nontrivial and can not be copied cheaply by free-riders unless sold or publicly disseminated, then the searcher's investment will be "protected" even in the absence of legal rights to the deposit. Rather than free-riding, it would usually be in the interest of potential miners to purchase data from searchers, buy an equity in them, hire away their employees, or search independently.

Fourth, the dredging technologies of the searcher versus the free-rider may not be tailored to the same deposit. As long as different technologies exist, the free-riders may require stronger bottom sediments, wider canyons, or nodules having different characteristics than found in the deposit being mined by the searcher. The greater these differences are, the less likely miners are to cluster.

Fifth, miners would have incentives to divide deposits among themselves if transactions and enforcement costs were sufficiently low. These costs would vary with the number, size and value of deposits, the number of miners, and monitoring technologies. The cost of making such agreements is likely to be relatively low for the foreseeable future since the number of miners is likely to be small and the number of profitable deposits large. These costs could be lowered further if the developers of mining technologies found it feasible to lease their dredges with territorial restrictions, taking their profits partly in the form of production royalties or some other tie-in arrangement.

In sum, the gains to free-riding are problematical owing to the cost of obtaining reliable information without purchasing it or searching independently, the opportunity costs of foregoing independent search, differences between miners' technologies and the physical characteristics of minesites, and the possibility of de facto agreements to divide deposits. Based strictly on a priori analysis, it is not clear that investment would be suboptimal without regulations creating exclusive property rights. Therefore, the proponents of regulation on this ground have not made a persuasive showing that some form of governmental control is required for efficient resource use.

The inefficiencies of common-pool situations should not be found in ocean mining becaues nodules lack the fugitive characteristics of fish or underground fluids: they do not wander or flow markedly. Unlike the competitive drilling of oil from a common reservoir, dredging nodules at one location should not affect the cost of dredging elsewhere. Therefore, an ocean miner would not have incentives to hasten dredging out of a concern that the nodules in "his" deposit will not stay put. Unlike fish, nodules do not reproduce or grow at rates that significantly affect the present value of the current stock. Hence, there is no problem in determining the maximum sustainable yield (or other formula) necessary to perpetuate a species.

It is also unlikely that there would be a competitive race to dredge unowned deposits out of a fear that other miners would get them first. Ocean miners would not have incentives to dredge at greater-than-optimal rates if: (1) searching and mapping generated a higher rate of return than random dredging without search, and (2) information on deposits were available only at nontrivial costs and could be kept confidential. Exclusive rights to unmined deposits would not be required to bring forth the optimal rate of exploitation provided expensive information could be maintained a trade secret. This applies a fortiori if deposits must be tailored to particular dredging technologies, or vice versa.

There may be too rapid a rate of search to locate profitable deposits. However, this is not due to the absence of exclusive-ownership rights to unmined deposits, but to nonexclusive rights to search. Over-investment in competitive search effort is found in markets for exclusively-owned resources (such as jobs and common stock) as well as nonexclusively-owned resources (such as fish and oil). In each case there is too much search effort because the rights to search are not exclusively assigned—there is effective common-pool ownership of search rights. Without exclusive search rights, there is no reason to suspect that the duplicative search effort for nodules would be greater than for other resources.

Based on the foregoing economic analysis, one cannot a priori give a decisive answer to the claims that the search, investment, and production of nodules would be nonoptimal without exclusive and enforced rights to unmined deposits. But it does suggest that a policy favoring regulation can not be supported on economic grounds until more is known about the industry's costs, technologies, operating conditions, and incentives. It is possible that the gains from search and investment even in the absence of legal protection may be sufficiently large to encourage optimal resource allocations, thus enabling a regulatory apparatus to be avoided.

Even if there were an incentive to over- or under-invest, the pertinent question becomes whether the extent of resource misallocation owing to the unregulated nonoptimal level of investment is greater than the expected level of resource misallocation owing to the imposition of an international regulatory scheme. The main controversy concerning the deep seabeds at the Law of the Sea Conference has not been over whether there should be regulation but over what degree of regulation there should be. Most of the proposed institutional arrangements would fail to create rules that would induce efficient resource use and would have incentives to develop rules that would retard efficiency. Of course, each of these international institutions would involve the relatively high transactions cost elements of decisionmaking discussed earlier.

The tamest of the proposals would be to establish an international registry clearinghouse. All mining claims would have to be recorded with the agency, but it would be powerless to enforce them or to resolve disputes over competing first-in-time claims. This institution would have a perverse effect on efficient exploitation if registration were made mandatory for dredging and data on the deposit had to be made public as a precondition for recording. The gains from freeriding would increase and the returns from independent search would decline accordingly.

The international licensing authority proposed by the United States would grant exclusive and transferable rights to blocks of seabed. Although such limited regulations might not be necessary for efficiency, they probably would not retard it. But it is unlikely that a licensing authority would confine itself to such de minimis efficiency-inducing regulations as these since it would also have the power to impose regulations that would discourage efficiency. Among these would be work requirements (minimal annual expenditures on nodule investment). taxes on production of nodules and the transfer of licenses, and arbitrary selection of the size of areal blocks without provision for subdivision and with constraints on the number of blocks that could be held by one firm or state. If licenses were granted for a suboptimal period of time, exploitation rates would accelerate beyond the economic level as the unexpired portion of the lease became shorter. Decisionmaking in the licensing authority would be made by a group of U.N.-member states selected on the basis on income and geography. The nations intent upon mining would not have veto power. Thus, licenses could be initially assigned according to noneconomic criteria. The quantity of licenses might be limited to protect low-income countries having land-based sources of minerals with which seabed production would compete. An international institution of this sort would appear to have little potential for inducing economic efficiency.

Still fewer efficient outcomes would follow from the creation of an international operating authority. Proposed by many low-income states, this institution would have broad and exclusive powers to undertake all exploitation, production, processing and marketing of metals from the deep seabeds. This seabed monopoly, euphemistically termed the "International Enterprise" by its sponsors, would probably be geared to protecting the interests of land-based minerals producers by controlling seabed production. If the deep seabeds were also found to contain economic deposits of oil the Enterprise might, if spurred by the OPEC countries, attempt to limit the output of seabed hydrocarbons and thus further raise oil and gas prices.

A decision for or against the regulation of ocean mining on economic grounds must include some a priori assessment of the costs and gains of each alternative. The foregoing arguments stress the cost of taking some positive regulatory action relative to the costs (or risks) of a decision not to regulate. This conclusion follows from economic analysis, which suggests that the costs of most of the proposed regulations appear to be positive and perhaps large while the costs of not regulating appear to be trivial or nonexistent. In light of the apparently greater costs associated with the pro-regulatory policy, one must ask whether any form of seabed regulation is desirable economically. Efficiency would probably be promoted by the complete absence of regulation until serious disputes and free-riding develop. In this event, the low-transactions costs solution would be for mining to proceed unimpeded as soon as it becomes economic. Eventually the states having an interest in the industry would, for those areas where disputes occur, reach bilateral or consortial agreements to divide deposits among themselves.[16] But such agreements are not warranted on economic grounds until the technologies settle down and the number of states having ocean mining industries becomes clear. This group of states would consist of those possessing advanced mining technologies and those willing to purchase the technologies and allocate resources to enforce the agreements.[17] This form of regulation would have a greater probability of inducing efficiency since these states would be few in number and would have similar interests as producers and consumers of seabed metals.[18] However, until a single technology becomes dominant or disputes arise, even consortial agreements are inferior on economic grounds to a policy of "masterly inaction" through which an open access regime for deem sea mining is maintained.

III. OFFSHORE DEPOSITS OF HYDROCARBONS

Probably the most valuable source of wealth from the oceans is the oil and gas lying beneath the submerged continents. The technologies for estimating the extent of these deposits are still developing and much of the extant information is proprietary. Moreover, if recent oil prices can be sustained, further exploration will occur. For these reasons, current estimates of deposits are probably understated. Nevertheless, the resources still appear to be vast. The U.S. Geological Survey has estimated that, as of December 31, 1972, roughly 15 percent of proved recoverable reserves of worldwide crude oil were offshore at a depth of less than 200 meters. For the United States alone, about 20 percent of its total proved recoverable reserves were offshore, and at least that much more crude oil would likely be found at depths between 200 and 2,500 meters under the U.S. continental margin.[19] Thus, at current prices, the value of these resources is staggering.

The controlling factor on drilling both for exploration and production appears to be cost rather than improvements in technologies. Existing stationary surface platform technologies now permit routine drilling up to a water depth of 200 meters. These wells are being supplemented by available submersible platform technologies (some of these diverless), allowing drilling at up to 1,000 meters and perhaps 3,000 meters by 1990.[20] Each stationary platform usually permits the drilling of 15–20 wells and sometimes as many as 60. Although platform cost is influenced by such factors as weather, ice, number of wells, and well spacing, the dominant variable is water depth, with respect to which costs are said to increase exponentially.

What institutional arrangements should be designed for these resources? Is the case for regulation of hydrocarbons stronger than for navigation and nodules?

The oil production industry is subject to both the common-pool problem and elements of the free-rider problem. Consider first the situation of U.S. oil production on land. Ex-

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clusive mineral leases give drillers rights to produce within a given area. If the producer's seismic studies indicate that the oil reservoir extends beyond the area of his lease, especially where slant drilling is feasible, he has an incentive to eliminate potential common-pool inefficiencies by purchasing adjacent mineral rights. Failing this, two neighboring holders of mineral rights can, if transactions costs are sufficiently low, divide the costs, risks, and gains of the first producer's well. This avoids the technological externality of two drillers racing to pump from the same pool, lowering underground pressure and raising the pumping costs of each. If voluntary agreement fails, regulations can be introduced as a last resort to "unitize" the field—force all independent producers working the reservoir to act as if it were under sole ownership. Thus, through a variety of voluntary or regulatory schemes, common-pool wastes can be reduced.

There is also a potential for free-riding in land-based drilling but it can be reduced without regulations. When oil companies maintain secrecy over wells in certain areas, potential competitors often hire "scouts" to sit on the fringes of these leaseholds to watch the operations and to engage in friendly conversation with workers at local taverns. But the producer who pays his employees well and dismisses the loquacious ones will find that information about secret wells can often be kept proprietary.[21] Moreover, observations by the scouts give incomplete information about the quality and quantity of oil being drilled, the exact moment when an exploratory well becomes a producer, the number of wells drilled, their slant, and their depth. In the cast of major oil finds such as Alaska, security precautions by drillers are enormous (e.g., avoiding communications with home offices by telephone, cable, or the mails). The attempts of drillers to conceal valuable trade secrets and of competitors to unravel them, combined with the fact that new oil fields and wells are continuously being discovered, suggests that the cost of independent actions to prevent free-riding are positive but often not prohibitive. At least to this extent oil drilling and ocean mining appear to be similar industries: just as the presence of one dredging ship working a certain area usually does not lead another miner to conclude that he also can automatically dredge there at a profit without searching independently, so the presence of one oil installation does not automatically lead another firm to start drilling nearby.

For offshore oil drilling, United States regulations have tended to reduce the potential for common-pool and free-riding problems beyond the situation of land-based drilling. The reasons are two. First, the tracts of ocean space put up for bid may be as large as 5,760 acres.[22] This area is often large enough to eliminate common-pool problems, but unitization can be compelled where fields overlap large tracts. Second, before leases are auctioned off, oil companies are allowed to "nominate" certain tracts for bidding process. As a result of search and seismic efforts, the driller can determine which tracts have the higher probability of profitable wells. However, he is not required to make public this information during the bidding process since he may nominate more tracts than he intends to bid for. This protects his search effort and reduces the likelihood that a nonsearcher will free-ride by bidding on just the tracts that the searcher has nominated. Of course, this protection requires a sealed-bidding procedure that can raise the probability of collusion against the government unless precautions are taken.[23] Thus, it is not surprising that of all the tracts nominated for bidding in the outer U.S. continental shelf, only 40 percent have been struck off.

The implication of this brief survey is to prefer municipal regulations of offshore hydrocarbons, along the lines of the U.S. experience, to international regulation.[24] For the purposes of economically efficient oil drilling, firm and extensive coastal-state jurisdiction appears to be desirable. Since the Law of the Sea Conference appears united on creating an economic zone of 200 miles (or the edge of the continental margin, whichever is further seaward), it is unlikely that this portion of the agreement would have perverse efficiency effects on the use of hydrocarbons, especially for those relatively near the U.S.

However, doubt arises concerning the prospects for achieving efficiency in drilling beyond the economic zone. Without rights analogous to U.S. land-based minerals leases of offshore tracts, common-pool problems could arise. The extent of these inefficiencies would depend on such factors as the number of firms able to drill at great depths relative to the number of known fields of equal extraction cost. Aside from efficiency concerns, the oil companies, like their ocean mining counterparts, are chary of making huge investments that could either be seized by naval powers or be appropriated by the international community if the Conference is eventually able to reach agreement on a strong and comprehensive regime for the deepseas. Oil firms are especially leery of the potential for monopoly control in a seabed regime, apparently preferring to deal bilaterally with individual coastal states than with a single international organization.

Any economic inefficiencies in the exploitation of deepsea hydrocarbons beyonds the limits of municipal jurisdiction could probably be reduced, as in the case of manganese nodules, without resorting to international institutions involving high transactions costs, having uncertain and probably net adverse effect on efficiency, and creating additional international political problems for the oil industry. Since most offshore oil producers are incorporated in one of the few major maritime powers, these few states could make bilateral or consortial agreements to divide among themselves the oil fields lying in deep seabeds beyond coastal economic zones and to regulate individually the activities of their nationals. (Of course, this action would tend to produce outrage, if nothing else, among the poorer nations who consider the seabed resources beyond national jurisdiction to be the common heritage of mankind.) A nation could then choose either to institute relatively pro-efficiency municipal offshore regulations like those of the U.S. or to pursue other objectives. Municipal or consortial regulation is unlikely to be less attractive than international regulation on grounds of promoting efficient resource use and would probably achieve any goals at lower transaction costs.

IV. U.S. OCEANS POLICY, THE CARACAS MEETINGS, AND THE "LAWLESSNESS" OF THE SEA

The previous three sections of this paper have attempted to outline economically efficient structures of property rights and regulations for three important uses of the oceans—navigation, mining, and oil production. The remainder of the paper matches these efficiency-inducing alternatives with current United States oceans policies and the progress to date at the U.N Law of the Sea Conference on reaching an international agreement governing these resources.

Policymaking in the U.S. Government

United States oceans policy has resulted from a blend of its foreign and domestic policies.[25] Although the overall policy goals have been set at the highest levels of the U.S. Government, their implementation has been the charge of the Department of State. State's oceans officials have had to contend with a group of important and often conflicting strategic and domestic interests within the government.

One of the strongest interests has been the Department of Defense. Defense has strived for narrow territorial seas and economic zones, and for free transit through straits.[26] Its concern has been to protect the mobility of the surface and submarine Navy and the right of overflight by the Air Force. A 12-mile territorial sea would force U.S. submarines to surface as they traversed straits and would restrict anti-submarine warfare operations. Moreover, Defense fears that a territorial sea of 12 miles would eventually become 200 miles through the same process of "creeping" unilateral claims that has characterized the oceans since the Truman Proclamation. The Joint Chiefs of Staff firmly believe that an international agreement on free transit is preferable to the alternatives of either asserting U.S. transit rights forcefully or purchasing them through bilateral deals with littoral states (which are claimed to be often unreliable).[27] In exchange for narrow shelves and free transit, Defense has been willing to trade important economic interests: a large seabed subject to the exclusive economic jurisdiction of the international community, a strong international regime to govern exploitation of seabed resources, generous sharing with poorer countries of the revenues obtained from the seabed, substantial access by foreign fishing fleets to U.S. coastal waters, and minimal controls on vessel-source pollution (which might also constrain Naval mobility).

The principal agency opposing Defense has been the Department of the Interior, representing U.S. coastal and resource interests. Interior has favored broader economic zones that would give the U.S. control over greater deposits of oil and fish. This has been supported by U.S. oil companies and the coastal fishing industry, but opposed by the distant-water fishing industries (tuna and salmon). Interior has also supported a weaker international seabed regime to increase the opportunities for the U.S. to secure mineral resources. The U.S. ocean miners have naturally supported this position.

In the Department of State, apparently the overriding argument in the utility functions of oceans policy leadership has been to achieve some international agreement.[28] These officials believe that the nations of the world are becoming increasingly interdependent both politically and economically, and therefore that greater use of international political mechanisms is necessary to maintain a stable world order and harmonious relations with other governments.[29] But achievement of this goal is constrained by State's having to develop a governmentally unified policy and to maintain control over decisionmaking for that policy. This has required State to broker back and forth among the various agencies and domestic interests while keeping an eye to what it can reasonably expect to achieve in the United Nations. This has placed State in the awkward position of having to stall desired diplomatic progress when domestic interests have balked, and to try to bring domestic groups along when it finds itself cornered by international pressures. Thus, what appears to be a weak or vacillating policy is instead the result of a rational, consistent, maximizing process in the face of changing political constraints (relative prices).

In the first Nixon Administration, the inter-agency disputes were resolved in favor of the political-strategic interests over the coastal-economic interests in a policy that generally reflected the clout of both Defense and the National Security Council. Since 1973, however, increased world prices of oil, minerals, and proteins have led to a resurgence of coastal-economic interests and a partial re-evaluation of the policy. In particular, the Office of Management and Budget and the Treasury Department have stressed the U.S. interests in economic efficiency and have argued that the earlier U.S. oceans policy had not been formulated with sufficient regard to its economic implications.[30]

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The upshot has been that the forces bearing on oceans policy within the Executive Branch are now roughly at a stalemate owing to the approximately equal strength of the strategic interests versus the economic interests.

Owing to the necessity of State brokering back and forth in response to changing domestic interests, Congressional forces, foreign pressures and rivalries within the Executive Branch, it is difficult to say at any moment precisely what U.S. oceans policy is. However, the basic elements of this policy as pronounced by the Department of State do not appear to correspond well with the policies that would promote the economically efficient use of the world's scarce resources, including its oceans. The basic elements of this efficiency-retarding policy include State's desire to limit coastal state jurisdiction over navigation and resource use; to create an international licensing authority to govern mineral and oil extraction from the deep seabeds; to stall interim U.S. domestic legislation that would permit ocean mining in deepseas to proceed under municipal regulation until an international agreement is eventually signed and ratified; and to prevent the U.S. from extending its economic zone to include certain coastal fisheries.

"Progress" at Caracas

At the June 1974 Caracas meeting of the Law of the Sea Conference, almost every important issue on the agenda remained unresolved. Although the U.S. said it would yield to the nearly universal demand for a 12-mile territorial sea and a 200-mile economic zone, this concession was tied to a U.S. demand for unimpeded transit throughout the oceans. Unimpeded transit was opposed by many coastal states, especially developing nations. Moreover, there was no agreement on such important rights and duties of coastal states in the economic zone as the protection of foreign investments, pollution controls, and the accessibility to oceans for purposes of scientific research. There is also little prospect of agreement on an efficiency-inducing international regime for the deep seabed. Here the contending forces tend to be nations that are consumers of metals versus those that are producers. The latter group includes both developing and developed states. The speeches of their representatives urged that metals be subjected to world floor prices and production quotas, and that seabed operators become the "slack" producers in this cartel.[31] Since the producing nations have a more concentrated economic interest than consuming nations in the outcome of this debate, they would likely trade their votes on other oceans issues in order to have their way on this one. Thus, if a vote had been taken and the issue had been sharply drawn, it is questionable whether the U.S. position for a weaker regime with specific and limited powers would have prevailed.

A good example of how interests of major powers were hamstrung by seemingly innocent decisions can be seen in the rules for voting agreed to at the Caracas meetings.[32] It would be in the interests of the U.S. for the Conference to have voted on all the various oceans issues in a single, all-or-nothing package. This would have maximized the potential for "horsetrading", which is necessary for the U.S. to achieve the objectives it prizes most highly. A single vote on one treaty specifying all significant issues is important since the Conference is not, or at least is not supposed to be, a continuing parliamentary body; once oceans issues are completed, it is expected to disband. Thus, the possibilities for logrolling are limited to oceans issues and the duration of these meetings, and would be maximized if all oceans questions were combined into a single omnibus treaty that would be voted up or down on one occasion. In this case, bargaining would be confined to the construction of the package of treaty provisions and there would be little difficulty, when the actual vote is taken, for each nation to make sure that his "trading partners" honor the "deals" that they previously agreed to. This procedure would increase the strength of nations that feel strongly about oceans issues, such as the U.S. and other maritime powers.

As it turned out, however, the Conference adopted voting rules that potentially place the major maritime powers in a position of parliamentary weakness. These rules do not require that voting be limited to a single, one-shot, all-encompassing treaty; the rules permit individual issues to be taken serially, one at a time. If serial voting does occur, states that are able to place "their" issue high on the voting agenda would find it relatively inexpensive to abandon the pledges they may have made concerning their votes on items that are low on the agenda. Since this form of behavior will be anticipated by all rational states, the possibilities for logrolling will be reduced accordingly. Moreover, substantive questions are to be decided by the combined consent of (1) two-thirds of all members present and voting and (2) a simple majority of all members of the Conference.

Accordingly, the participation of a high fraction of the nearby 100 developing states is required to determine both the order of voting and whether substantive motions carry or fail. Although these rules taken alone are probably not the death-knell for sustaining U.S. interests in Conference voting, they do not make one more optimistic about the outcome. Perhaps just as important, the rules permit issues of international law to be settled by a simple majority of Conference members rather than the two-thirds of the participants which the U.S. originally proposed. Thus, a rule requiring broad consensus—usually thought to be one of the essential ingredients for creating and maintaining international law—was replaced by a rule allowing weak consensus.

There is one compelling explanation of why the Law of the Sea Conference has been so slow in reaching agreement and why, if agreement is reached, its effects are likely to deviate from efficient resource outcomes: the major powers have either acquiesced, as in the case of Europe and the Soviet Union, or actively insisted, as in the case of the United States, in resolving these issues through an international political system structured on the principle of one-nation, one-vote. International mechanisms of this type make it inexpensive for nations to trade global efficiency interests for objects to which they attach political prestige. The opportunity costs to many states, especially to smaller ones, of voting on the basis of ideology rather than their "pocket" becomes relatively small. There is little reason for, say the Sudan to take as serious an interest in ocean resources as does the Soviet Union, yet the votes of each count equally. Although it is often claimed that the major powers are each able to "deliver" a certain number of votes for "their side" at the Conference, it is an open question whether they could erect a majority coalition on critical issues. Indeed, the poorer nations have banded into what is called the Group of 77 which has often voted as a bloc. Rather than being a rational means of resolving ocean resource allocation, the Law of the Sea Conference is more a vision of how ideological and non-economic decisionmaking would be in any new international institutions that the Conference might create to manage oceans resources.[33]

A question that is legitimate to ask but difficult to answer is why the United States is participating in such a conference, much less why the U.S. was one of its original promoters. For some, including the oceans policy leadership of at least the Department of State, the pursuit of international arrangements per se is a sufficient answer. International procedures are thought to be an intrinsically superior device for making decisions relative to bilateral and, allegedly worst of all, unilateral actions.[34] This view is probably based on the theory that international institutions are a logical extension of democratically based, one-man, one-vote domestic political systems, even though international and domestic politics have little in common.[35] This view, however, is probably dominant in the bureaucracy of the U.S. Government and in the American academy, although it has some important detractors even there.[36]

A different rationale of U.S. involvement is based on a concern for protecting U.S. investments abroad. One of the American negotiators at the Conference has said: "An American mining ship coming into Mexico for repairs could be seized as being liable for stealing the common heritage of mankind." [37] In addition, some nations might undertake boycotts, repudiate debts, or engage in other harassing tactics against the U.S.[38] Since it is presumed that the U.S. would not use force against these hostile actions, the question becomes one of to what extent U.S. interests could be protected by an international oceans treaty. The protection would appear to be small, for several reasons.

First, seizing ships is unlikely to be a rewarding behavior in many instances. Ocean mining dredges will usually operate far from shore, be expensive to find, and be of such a specialized form of capital as to be of little use to the pirating nation.[39]

Second, an oceans treaty would not apply to land-based assets that could also be seized.[40] There is no general provision of international law preventing a sovereign state from confiscating or expropriating the investments of another state lying on its territory. The U.S., however, has proposed that the prospective oceans treaty include articles providing for the "integrity of investments" in the coastal economic zone. Under these provisions, coastal states would have to idemnify owners for seized property. But this concept has been given a cool reception by most states, and it would be difficult to enforce even if it were incorporated into the treaty. Moreover, these articles would not apply to land-based investments which could be seized with or without an enforceable treaty. It would also not apply to the coastal state extorting taxes in lieu of seizure or demanding non-pecuniary "payments," such as a commitment to employ a high quota of its nationals on oil rigs or mining ships.

At base, the behavior of Third World countries in seizing investments or engaging in other anti-U.S. actions depends in each case on whether the country perceives its vital interests to be at stake. When a littoral state finds it sufficiently rewarding or riskless to seize U.S. ocean mining vessels, it is doubtful that a comprehensive United Nations treaty would be much of a deterrent Similarly, the U.S. response to such actions depends on how vital the U.S. considers the threat to be. Whether the U.S. response involves force, a dollar payment, a diplomatic concession, or entirely ignoring the matter, the result can be accomplished unilaterally or bilaterally whether or not a threat exists. Thus, there appears to be no reason in either theory or policy to attempt to "link" oceans issues with other Third World behaviors that might be contrary to U.S. interests.

It is widely agreed that the prospects for achieving agreement at the next, and presumably final, installments of the Law of the Sea Conference at Geneva and Caracas in 1975, on terms put forth by the United States at Caracas in 1974, are very low.[41] Accordingly, the Department of State is left with two alternatives: to accept an agree-

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ment even less congenial to American economic interests than State claimed at Caracas to be minimal, or to accept failure in achieving its diplomatic goal of an international agreement *per se*.

In the first case, State has already announced that its "No. 1 priority" in negotiations is to achieve unimpeded transit through straits and to maintain the mobility of U.S. forces.[42] The straits nations, most of them developing, have been dead-set against this but presumably will trade at some price. In order to up the ante, State can only trade cash and additional U.S. economic interests. Among the candidate economic interests for exchange are a seabeds regime with teeth, less stringent marine pollution controls, more generous revenue-sharing from the seabed and perhaps from the U.S. economic zone, and abandoned protection of U.S. distant-water fishermen. These actions, if taken, will drive up the prices of oil, metals, and foods, all of which will bring forth strong domestic opposition within the Executive Branch and particularly the Congress. Thus, even if this course of action is attempted, State may fail in trading away these resources in sufficient time to meet its self-imposed negotiating deadline of January 1, 1976. "Success" will require trading generously and quickly.

If trading of this sort is successful, who would gain and who would lose? The distribution of gains and losses depends upon the costs of enforcing the ultimate agreement. It might be tempting to argue that the costs of enforcement will be high relative to the gains, and thus that the agreement will have little impact on resource allocation in the oceans. But enforcement costs may turn out to be lower than anticipated. The particular governments, and agencies of those governments, that stand to capture the largest net gains from the treaty package would be willing to allocate the greatest value of economic and political resources to assure compliance with its provisions. In the United States, for example, the principal agencies benefitting from the treaty would appear to be the Departments of State and Defense—State by having achieved a treaty per se, and Defense by having secured worldwide agreement on unimpeded passage through straits. As a result, the U.S. Navy, diplomatic service, and national security machinery would probably work to assure adherence to treaty provisions by disclosing and reducing violations.

If a treaty were enforced successfully, the agencies seeking to promote efficient resource use and the industries seeking to exploit ocean resources would lose. The U.S. oil industry, although concerned mainly with exploitation of the U.S. continental shelf, would lose to the extent that a strong international regime restricted drilling beyond coastal areas subject to the jurisdiction of the U.S. or friendly governments. Some ocean miners might circumvent the regime by adopting "flags of convenience," diplomatic parlance for registering their mining claims and conducting their operations under the authority of a nation that refused to sign the treaty. This action might raise operating costs and reduce the number of miners, but the industry would probably survive. Another principal loser would be U.S. distant-water fishing fleets, whose costs of catching species in the coastal waters of other states would probably rise. Their best remaining hope would be for the U.S. Senate to exercise its Constitutional prerogative by refusing to consent to the treaty. Of course, to the extent that the treaty raised prices of oil, meals, and foods, consumers would also lose.

Anarchy at sea?

What would be the result if in 1975 the Conference failed of unambiguous agreement—producing either no treaty or else articles worded so vaguely as to allow almost any interpretation? The chief result would probably be a continuation of the trend toward enclosing the oceans by coastal states, tinctured by specific bilateral or consortial arrangements where attractive. Such an outcome is thought by some to be akin to anarchy, but it would probably be not all that bad on economic grounds. Professor Ronald H. Coase has made the case best:

". . . As I see it, the United States will be led to adopt a sensible policy because its efforts to promote other policies will fail to secure support either internationally or domestically.

"The proposal to limit extensions of the sovereignty of states over the seas adjoining their coast faces one formidable difficulty: the movement of opinion and, even more, of action is in an opposite direction. Many coastal states are opposed to such a policy and their number steadily increases. Indeed since the same forces are at work in all countries, there can be few, if any, which have not, in one way or another, extended their jurisdiction over the seas adjoining their coasts in recent years (and the United States forms no exception to this statement).

". . . It seems to be generally assumed that placing jurisdiction over ocean resources in the hands of the coast states will be harmful to the economic interests of the United States . . . [or will lead to 'unrestrained exploitation.' I take this term] to mean that organizations engaged in the exploitation of ocean resources do so without regard to the future consequences of their actions. This implies either the absence of a law or an inappropriate law governing their actions. The reasons why this state of affairs would inevitably come about if control is vested in the coastal state but not if it is vested in an international authority is hard to find. In fact, there is no such reason. The laws of some coastal states would undoubtedly define more precisely the rights of exploiting organizations, would be more appropriate to the circumstances and would be better enforced than would the regulations of an international authority. The view that there will be losses from 'conflicting jurisdictional claims' is, of course, right but it is not evident why the period of 'conflicting claims' would be longer or that those that existed would cause more serious harm if the general movement was towards recognition of the claims of coastal states than it would be if an attempt were made to establish an international regime to control the exploitation of ocean resources." [43]

Absence of any international agreement is not likely to deter the use of the oceans for many purposes. Navigation through straits and distant-water fishing would be unaffected unless coastal states forced the issues. While this is likely for fishing in some places, it is less likely than that the transit rights of the United States Navy through straits would be blocked. In either event the solution would be a network of bilateral arrangements between the U.S. and the coastal state similar to the agreements that have been found throughout oceans history.[44] Oil drilling would not be seriously affected since most offshore drilling sites already fall within the continental margins subject to unilateral claims and which the Conference would have agreed to anyway. Ocean mining would proceed either under high seas freedoms or under municipal (unilateral) regulation.

According to some, it is the threat of unilateral municipal regulation, especially by the United States, which represents the greatest peril to the success of the Conference.[45] The U.S. is on the verge of enacting legislation that would unilaterally extend U.S. coastal waters for fisheries to 200 miles (S. 1988) and would regulate ocean mining by U.S. nationals in a fashion similar to offshore oil leases (S. 1134).[46] The latter bill contains a provision to respect the claims of miners of other states that pass similar legislation, and thus would create de facto system of consortial agreements among ocean mining nations. Opponents of this bill claim that it would have either of two undesirable effects. First, it would be looked upon by many members of the Conference as an attempt on the part of the U.S. to "steal" the "common heritage of mankind" and so offend them as to cause the Conference to disband. Alternatively, it could set off a chain of competing unilateral claims by other states that would divide up ocean space among the major powers before the terms of an international seabed regime could be formulated at the Conference.

On the second point, it is unclear whether states make claims to resources simply because someone else has, or whether they make claims only where their vital interests are involved and ignore resources that from their point of view are not candidate "chips" for international bargaining. In any case, as Coase suggests, it is unlikely that a series of unilateral claims or consortial agreements concerning the deep seabed would be a tragedy. My chief objection to S. 1134, however, is that it would spur consortial seabed regulation prematurely before it became evident either that *any* regulation was required for efficient exploitation or that ocean mining firms themselves were not an efficient mechanism for enforcing peaceful exploitation.

There is a temptation to conclude that a failure of U.S. diplomacy to secure an international oceans agreement would be a failure of United States policy. More likely, a failure of this diplomacy would be a success of policy: global economic efficiency would be enhanced; U.S. economic interests would be furthered; and, of the political losses that the U.S. might suffer, few of these could have been redeemed by an international oceans treaty anyway. The end result would not be an oceans "anarchy," unless one interprets that term to mean more carefully delimited rights and duties for resource use under coastal state jurisdiction, a more orderly process of resolving oceans disputes than has existed for the past 20 or 30 years, and a heightened perception of the inherent weaknesses of international political mechanisms, generally.

V. CONCLUSIONS

The control over ocean space and resources has become more important in recent years for two reasons. First, new technologies have lowered the cost to coastal states of policing claims to large ocean areas. Second, rising prices of foods, metals, and hydrocarbons have made this control more valuable. These factors have in part led to an "enclosure movement of the high seas" whereby coastal states have claimed increased jurisdiction over oceans that were previously open at all. In response to this trend, the U.N. Law of the Sea Conference has attempted to reach an international agreement concerning the division of oceans between national and international jurisdiction, the rights and duties of coastal states in the areas subject to national jurisdiction, and the creation of an international regime to govern access to the minerals and hydrocarbons lying in the deep seabeds.

The purpose of this paper has been to analyze the implications for economically efficient resource allocation of alternative definitions of property rights for three resources—navigation, deepsea dredging of minerals, and offshore oil drilling. The analysis questions whether property rights should be created by international agreement and whether any of the three resources should be subjected to international control. Decisions of international regulatory institutions would be made by more than 100 states of wide and diverse interests. Accordingly, the transactions costs for achieving any outcome would be higher than for regulations by individual coastal states, thus lowering the probability of achieving efficient outcomes through international institutions.

In the case of navigation, there is no clear basis for creating priority rights for navigation over competing nonnavigation uses (e.g., oil drilling from fixed platforms) even in congested straits where the presumption is strongest that navigation would be the highest valued use. For deepsea mining, a priori economic analysis does not imply that investment would be nonoptimal absent assigned and enforced property rights to unmined mineral deposits. Even if some amount of nonoptimal investment did occur, it is not clear that the resource misallocation owing to the nonoptimal investment would be greater than the expected resource misallocation owing to the imposition of an international regulatory institution. For offshore oil deposits, most drilling will occur in coastal areas for the time being and thus will be subject to the jurisdiction of coastal states. But drilling that might eventually take place under international jurisdiction would probably be subject to misallocations in addition to those imposed by coastal regulation.

The principal conclusions of the study are that (1) neither U.S. oceans policy (which generally favors increased international control at the expense of coastal states) nor an international treaty are likely to create efficient property arrangements in the oceans, and (2) expanded enclosure of the oceans by coastal states is preferable on economic grounds to increased control by international institutions.

FOOTNOTES

[1] Louis Henkin, "The Changing Law of Sea-Mining," in Inter-University Program of Research on Ferromanganese Deposits of the Ocean Floor, (Washington, D.C.: National Science Foundation, International Decade of Ocean Exploration, Phase I Report, April 1973), at 339.

[2] The definition of the territorial sea is always based on distance from shore, but the definition of the continental shelf is more nebulous. It is often referred to as the continental land mass submerged up to a depth of 200 meters. Beyond the 200-meter shelf is the "continental margin," the area over which the land mass gradually slopes down to the abyssal plain in the deep oceans (about 3,000 meters deep). The particular definition used becomes important in any plan to carve up the seas among individual states. For example, the continental slope of the Western Hemisphere in the Atlantic Ocean is generally gradual but in the Pacific it is precipitous. Thus, a definition of the economic zone based on the depth of 200 meters would create vast exclusive zones along the East coasts of North and South America but trivial zones along the West coasts. This has led many states to favor an economic zone of 200 *miles*.

[3] The history of this doctrine dates back to second-century Rome. An excellent summary of oceans law history can be found in Kenneth W. Clarkson, "International Law, U.S. Seabeds Policy, and Ocean Resource Development," 17 *Journal of Law and Economics* 117 (April 1974).

[4] However, of these 100-odd straits, it has been argued, perhaps only three that are important for military purposes might be closed to U.S. naval operations; of the ten that are economically important, perhaps only five might be threatened with closure. Thus, the adverse effects to the United States of a twelve-mile territorial sea that have been so firmly stated by the U.S. Navy and other navigational interests may be overstated. Unfortunately, space does not permit a full discussion of this issue. See Robert E. Osgood, "U.S. Security Interests and Ocean Law," 2 *Ocean Development and International Law* (Spring 1974), and the sources cited there.

[5] Clarkson, *supra* note 2, at 129–130; letter from Kenneth W. Clarkson to the author dated December 2, 1974.

[6] Mineral dredging will occur only in deep waters, whereas straits such as Gibralter and Malacca are relatively shallow. However, if dredging did occur in shallow seas the argument would still be valid.

[7] *Id.*, at 131.

[8] Osgood, *supra* note 4.

[9] This point of view is typical of the literature on fisheries, for example.

[10] See the discussion of United States regulation of offshore oil drilling in Section III, *infra*.

[11] Ronald H. Coase, "U.S. Policying Regarding the Law of the Seas," in Mineral Resources of the Deep Seabed, Hearings before the Subcomm. on Minerals, Materials and Fuels of the Senate Comm. on Interior and Insular Affairs, 93d Cong., 2d Sess., pt. 2, at 1164 (March 5, 6, and 11, 1974).

[12] One participant in the negotiations, commenting on being away from his family for the fifth consecutive summer, remarked that the Conference was "not so much a subject as a way of life." The gathering was referred to, perhaps ungenerously, in a Wall Street Journal editorial as a "floating crapgame."

[13] An example of the naive view of such proceedings is the common interpretation of the negotiating table at the Vietnam negotiations in Paris in 1968. Most of the laity thought this matter to be trivial and a waste of time, although "both sides" recognized its importance in the overall bargaining process and insisted on a settlement that was satisfactory for their interests.

[14] This section summarizes a more detailed discussion in Eckert, "Exploitation of Deep Ocean Minerals: Regulatory Mechanisms and United States Policy," 17 *Journal of Law and Economics* 143 (April, 1974).

[15] One ocean mining firm, the Summa Corporation (Mr. Howard Hughes), evidently does not rely on outside borrowing and therefore is likely to have the first system in operation.

[16] At least four multinational ocean mining consortia have been formed. It may turn out that the most efficient form of dividing and enforcing claims to deposits would be through self-regulating arrangements among these organizations with little, if any, government intervention. For details on these consortia, see "Tapping the Lode on the Ocean Floor," *Business Week,* Oct. 19, 1974, at 130–134.

[17] I must thank Harold Demsetz for calling this point to my attention.

[18] The likelihood that ocean miners would exert monopolistic or oligopolistic power to raise metals prices is very small since seabed sources would supply only a tiny fraction of world supplies for most of the metals that nodules contain.

[19] Proved recoverable reserves are "identified deposits of oil and gas known to be recoverable." See U.S. Department of the Interior, Geological Survey, *Summary of 1972 Oil and Gas Statistics for Onshore and Offshore Areas of 151 Countries,* U.S.G.S. Occasional Paper 885, 1974, at 2–4, 144, 156–158.

[20] The deepest producing well in the world will soon be completed at a depth of 420 feet in the North Sea, with the deepest in the United States being 373 feet in the Gulf of Mexico. However, a new 700-foot well is planned off the coast of California. The deepest exploratory well, recently plugged, was at a depth of 2,300 feet off Nigeria. To indicate the pace of the industry only a year ago the deepest exploratory well was 1,500 feet. F. Gilman Blake, Report on Current and Projected Technology of Deep Sea Oil and Mineral Production, Washington, D.C., National Science Foundation (Aug. 7, 1973); interview with Mr. Robert Burke, editor, *Offshore,* November 11, 1974.

[21] In industry parlance, wells over which secrecy is maintained are called "tight" wells. Some states require that the logs of these wells be made public after a certain period of time, one year being the case in Texas. In Canada it is two years. I am indebted to Mr. Robert Burke for pointing out to me some of the features of oil drilling contained in this and the following paragraph.

[22] 43 U.S.C. sec. 1337(b) (1966).

[23] This prospect is all the more likely since the number of bidders is absolutely small and the firms have often had prior association including some joint ventures.

[24] However, as is so often the case, regulations that may promote efficiency are tied to other regulations that probably retard it. For example, off-shore oil leases also empower the Secretary of the Interior to institute rules on assignment, transfer, and relinquishment of leases. He must also make difficult tradeoffs between oil production and environmental protection. (*Id.*) In practice, some exchanges of leases have either been prevented or made more expensive. If the Secretary approves, a leaseholder may sell all or an officially-designated subdivision of his tract. But he may not sublet or sell the right to drill below a certain depth, which is common practice in land-based drilling. To circumvent this regulation, offshore drillers have formed "operating agreements" whereby other firms operate a well on the property of the original lessee. See 16 *Rocky Mountain Mineral Law Institute* 421, at 434–435 (1970).

[25] An excellent description of the history of this policy can be found in Ann L. Hollick, "Seabeds Make Strange Politics," *Foreign Policy,* Winter 1972–73.

[26] Statement of General George S. Brown, USAF, Chairman, Joint Chiefs of Staff, before the U.S. Senate Armed Services Committee on S. 1988, October 8, 1974.

[27] *Id.*

[28] This is asserted in Ann L. Hollick's "United States Oceans Politics," *San Diego Law Rev.* 467, at 477–478 (1974).

[29] Leigh S. Ratiner and Rebecca L. Wright, "United States Ocean Mineral Resource Interests and the United Nations Conference on the Law of the Sea," 6 *Natural Resources Lawyer* 1, 17–18 (1973); John N. Moore, Deputy Special Representative of the President for the Law of the Sea Conference, Statement before the Senate Armed Services Committee on S. 1988, the "Emergency Marine Fisheries Protection Act of 1974," October 8, 1974; Statement on Amendment No. 946 to S. 1134, in *Mineral Resources of the Deep Seabed,* Hearings before the Subcomm. on Minerals, Materials and Fuels, of the Comm. on Interior and Insular Affairs, 93d Cong., 2d Sess., pt. 2, at 929–934, 960–961 (March 5, 6, and 11, 1974).

[30] Ann L. Hollick, "The Clash of U.S. Interests: How U.S. Policy Evolved," 8 *Marine Technology Science Journal* 15, at 25–26 (1974).

[31] This point was made by James L. Johnston in a speech before the Marine Technology Society, Washington, D.C., September 26, 1974.

[32] Portions of this and the following paragraph are based on the analysis of Conference voting rules by James L. Johnston, *id.*

[33] This heightened influence of ideology in international decisionmaking runs counter to major tenets of the recent reconstruction of U.S. foreign policy embodied in the Nixon Doctrine. Major elements of the Doctrine include (1) the decline of ideology as a means of dealing with other states, and (2) the reduced importance to the U.S. of the foreign and domestic policies of Third World countries owing to the decline in Cold War competition for their allegiance between the U.S. and the U.S.S.R. (See Michael Armacost and Michael M. Stoddard, *The Foreign Relations of the United States,* at 196–223, esp. 217–219 (1974).) For the U.S. to have an oceans policy which is inconsistent with the Nixon-Kissinger foreign policy, and to have the architects of the oceans policy lodged

at the moment in the Department of State is, to say the least, odd.

[34] See the statements by Mr. John N. Moore, deputy head of the U.S. delegation to the Law of the Sea Conference, *supra* note 29.

[35] An organization such as the U.N. General Assembly could scarcely be said to represent "world public opinion," whatever that means. Public opinion is difficult enough to measure in this nation, let alone in those with differing value systems, different interests, and no Gallup Polls. In no sense can the Assembly be said to be democratic. Some of its member states have governments that are anything but popularly elected. In addition, the Assembly, giving equal voting weight to tiny islands and to giant republics, lacks the usual characteristic of parliaments where military strength, population, and economic productivity are, however imperfectly, controlling. See William P. Gerberding, *United States Foreign Policy: Perspectives and Analysis*, at 193–194 (1966).

[36] One of these, Inis L. Claude, Jr., a leading authority on the United Nations, has written: ". . . The beginning of wisdom for the student of international organization . . . is to learn to avoid the illusion that decisions made by many states, whether they be small or great powers are, simply because of their collective origins, almost automatically superior in wisdom and righteousness to decisions made by individual states." *Swords into Plowshares, The Problems and Progress of International Organizations*, 3d ed., at 24 (1964).

[37] Statement of Mr. Leigh S. Ratiner, quoted from Stanley Meisler, "Law of the Sea: What if Nations Can't Agree on It?," The Los Angeles Times, October 20, 1974.

[38] This argument is made in C. Fred Bergsten, "The Threat from the Third World," *Foreign Policy*, Summer 1973; and remarks at a conference on Conflict and Order in Ocean Relations, Airlie House, Virginia, October 22, 1974.

[39] I am indebted to James L. Johnston for pointing this out to me.

[40] These issues are developed by Clarkson, *supra* note 3, at 138–41.

[41] See John Virtue, "Sea-Law Conference Closes in Deadlock," The Washington Post, August 30, 1974: Stanley Meisler, "Law of the Sea: What if Nations Can't Agree on it?", The Los Angeles Times, October 20, 1974.

[42] Quotation from Mr. John R. Stevenson, head of the U.S. Delegation to The Law of the Sea Conference, The Washington Post, August 30, 1974, at A–30.

[43] Coase, *supra* note 10, at 1161, 1165–1166.

[44] Clarkson, *supra*, note 3, at 118–125.

[45] See statements and testimony of Mr. John N. Moore, *supra*, note 29.

[46] Both bills were introduced in the 93rd Congress.

MISJUDGMENTS IN MIDDLE EAST

Mr. HELMS. Mr. President, if we ignore the lessons of history, our Nation will deservedly suffer consequences too devastating to bear. I am referring to the increasing tensions in the Middle East, and the recent statements by high American officials, including Secretary of State Henry Kissinger and the President himself, that military intervention by the United States is not beyond contemplation in the economic crisis ahead.

In the now famous Business Week interview, Secretary of State Kissinger said:

> I am not saying that there's no circumstances where we would not use force. But it is one thing to use it in the case of a dispute over price, it's another where there's some actual strangulation of the industrialized world . . . Any President who would resort to military action in the Middle East without worrying what the Soviets would do would have to be reckless. The question is to what extent he would let himself be deterred by it. But you cannot say you would not consider what the Soviets would do. I want to make clear, however, that the use of force would be considered only in the gravest emergency.

On Tuesday, the President of the United States reiterated for the third time that he endorsed the Secretary's comments.

These comments have come against a background of military maneuvers in the Indian Ocean and the Mediterranean that will be undoubtedly interpreted by the Middle East nations as saber rattling to match the rhetoric. The dispatch of the 7th Fleet Task Force to the Indian Ocean—where there is no threat to American interests—at a time when our interests in Southeast Asia are under attack strongly suggests a rather clumsy attempt to pressure the oil-producing nations. The activities in the Mediterranean, including practice beach landings by the Marines at Sahara-like training areas in Sardinia, will not fail to be interpreted by the oil-producing nations as practice for landings on their soil. Whether or not these activities were routine and coordinated with the statements of the Secretary and the President, we will find it difficult to convince friendly nations that coordination was absent.

I am greatly concerned that we are making a misjudgment that will be fatal to our long-range interests in the Middle East and perhaps to the future of our leadership in the world. It will not be the first time that this has happened. Dr. Kissinger made similar mistakes in 1973, mistakes which led to the crisis of October 1973. And just as we ignored the growing unity among the oil-producing nations and the Arab states in 1973, the unprecedented alliances between King Faisal, President Sadat, King Hussein, and President Assad, so today we must not ignore the recent visits of King Faisal to Syria, Jordan, and Cairo, and the unprecedented visit of the Shah of Iran to Cairo.

Our policy in the Middle East ought to be one of conciliation and cooperation. Threats will not bring about a reversal of oil-pricing policies. We must recognize that OPEC is not an Arab-dominated organization, and that we must look to Iran, Venezuela, and non-OPEC members such as Canada, for an overall solution to our oil import problems.

CAUSES OF INFLATION

Moreover, we must recognize that inflation cannot be laid solely at the door of oil prices; we ourselves must bear a great deal of responsibility for our foolhardy and headlong rush into deficit spending, which has undermined the dollar at home and abroad, and for our devastating agricultural sales policies, initiated by Dr. Kissinger, which have triggered the international increase in the cost of food.

Our policies instead must work toward a common unity of economic interests with the oil producers—investments both in their countries and ours—so that our countries together will find a common goal. Our technology and our expertise can be directly useful to the oil-producing nations in the development of their economies; our industrial organizations can profit by participating in this development. We have a historic community of interest that can be expanded upon until the antagonism created by the unfortunate cartelization of producers and consumers will disappear.

But such cooperation cannot be created by the statements which we have been hearing.

IMPACT UPON DECISIONS OF FRIENDLY NATIONS

The impact of such statements, not only upon our oil-producing allies, but also upon Middle East oil-consuming nations, such as Israel and Egypt or Jordan, cannot be overestimated and may seriously upset the delicate balance in that tense area of the globe. The practical wisdom which is dispensed by insiders around Washington is that such statements are necessary to provide bargaining leverage with the oil producers' organization, OPEC. But such so-called wisdom is blind indeed to the real effect which such statements have upon the power balance not only in the Middle East, but also upon the détente relationship between the major powers who have interests in the Middle East.

Such statements also seriously misjudge the mood of the American people, which has been bitterly disappointed by the failure to prevent or stop the war in Vietnam, and which will never permit America's youth to be drafted into military adventuring of doubtful necessity and little chance of success. It is so easy, before a war begins, to speak of the ease, speed, and relative cheapness of the victory which is contemplated. But experience has shown that civilian perceptions of military action often fail to encompass the reality, and that political obstacles quickly arise at home to push victory beyond grasp.

MORAL IMPACT

Moreover, the moral impact upon this Nation of a war waged strictly for economic self-interest would be more destructive of our national fiber and character than the austerity and economic confusion which is presented to us as the other alternative. Such a war could not help but transfer the ethnic divisions which have already ravaged the Middle East for centuries into our backyards, and develop new antagonisms in an already divided American people. If America ever must fight a war to defend its shores and its moral freedom, then we will rise to the nobility of the cause and acquit ourselves well. But we will never strengthen our national character by fighting a war to defend only technological convenience and prosperous comfort.

PRESIDENT'S STATEMENT

On Tuesday, the President, in his press conference, turned to the question of a Middle East war and said:

> The United States does feel that the danger of war in the Middle East is very serious, I've said it repeatedly and I say it again here today.

When the question was put to him further about the use of force in such a situation, the President replied:

> Well, the hypothetical question which was put to Secretary Kissinger, a hypothetical

question of the most extreme kind, I think called for the answer that the Secretary gave, and I fully endorse that answer.

Mr. President, this reply does nothing but raise further questions. The President of the United States is for the third time on record as endorsing a solution to a so-called hypothetical question. The problem, of course, is that the Middle Eastern nations do not look upon the situation as hypothetical.

Will not the failure of the Secretary and the President to grasp this point lead the nations of the Middle East to look upon this hypothetical situation as a very real threat? And a threat of force where no military action or invasion against the United States has triggered retaliation can cause each nation to misjudge their reactions in a very unfortunate way. Israel, for example, could misjudge the statements as indicating a hypothetical hostility of the United States toward the Arab world, and stiffen her determinations to resist negotiated and fair concessions. These statements could even be taken as a veiled hint or invitation from the United States that the United States could look sanguinely upon some military action against the Arabs by a third force. The consequences for Israel, for other countries of the area, and even for the United States, could be tragic.

Similarly, Egypt, even though not an oil producer, and other Arab countries, would face strenuous internal political pressures as a consequence of these statements. The moderate and genuinely constructive government of President Anwar Sadat can barely withstand anti-American pressures from within and without. The Soviet Union is obviously tempted to once more establish a massive presence upon the scene, with all the tragic consequences that would follow.

Iran would be caught between both sides. Even though not an Arab country, it is also a Moslem country, a major oil producer, and a leader in the price policies of OPEC. Its military capability is significant among the nations of the Middle East; and its decisions about future alliances might inevitably engage the United States in a wider conflict.

These are all hypothetical reactions to a hypothetical question. Unfortunately, the reactions could become a reality even if the threatened invasion by the United States remains hypothetical. For all the emphasis upon the hypothetical nature of this threat, the United States has taken some actions over the past few weeks that could easily be construed as moving closer to an implementation of the threat. The chronology of such recent events is very interesting, even alarming. I have made such a list so that the timing of actions and statements may be available to all, and the implications obvious. Let us go through these events:

CHRONOLOGY OF EVENTS CONCERNING THE POSSIBLE USE OF U.S. MILITARY FORCE IN THE MIDDLE EAST

1. December 14 & 15, 1974: President Ford's energy advisors, in a meeting at Camp David to prepare energy policy recommendations for the President, discussed the use of military force in the Middle East as a possible policy "option." (This was not reported in the press, however, until January 4, 1975, after the Kissinger statement had been published.)

2. January 3, 1975: The initial Kissinger statement, made in interviews that took place on December 23, is released to the press. The statement later appeared in the January 13, 1975, issue of Business Week, for whom the interview was given.

If the statement were not a significant one, then why did the State Department release it at the time it did, rather than waiting for it to appear later on in Business Week? (It would have reached the newsstands somewhere on or about Monday, January 6, 1975.)

Significant is the fact that Kissinger had brushed aside questions concerning the possible use of U.S. military force in the Middle East in a Newsweek interview that appeared in that magazine on December 30, 1974.

3. January 3, 1975: The White House "Made it clear," according to a Reuters dispatch, "that Kissinger's statements in the interview were supported by President Ford." When questioned about the Kissinger statement, Presidential spokesman Ron Nessen said that President Ford had read the interview and had nothing to add to it. When questioned later in the day on whether his remarks had the President's approval, Kissinger said, "I reflect the views of the President. I do not make a major statement on foreign policy in which I do not reflect his views."

4. January 5, 1975: The Washington Post prints an article by Professor Robert W. Tucker, entitled "American Force: The Missing Link in the Oil Crisis." The article first appeared in the January, 1975, issue of Commentary, the magazine of the American Jewish Committee.

In the article, Tucker raised the use of military force in the Middle East as a viable policy option for the United States, calling military intervention a "time-honored alternative," and discussing an attack upon the Arab states on the Persian Gulf.

5. January 5, 1975: Foreign responses to the Kissinger statement begin to appear. The Iranian newspaper Kahyan, which is described as closely reflecting government thinking in Teheran, headlined "New Threat of Doctor K," and stated that "Iran cannot remain indifferent toward these threatening words, even if they are amended and modified later."

Palestinian Liberation Organization leader Yasser Arafat was quoted in the French newspaper, Le Monde, as charging that "the United States is dangling a threat to intervene militarily to occupy oilwells"; while the Beirut newspaper, Al Moharrer, printed a cartoon showing Kissinger dressed in a Nazi uniform and wearing the Star of David.

The Iraqi newspaper, Tarig Ash-Sha'b charged that Kissinger "threatened to use force against these (oil producing) states if they do not reduce oil prices."

Meanwhile, the statement "provoked angry and worried editorials, news articles, and comments by Government officials" when reported in Germany, according to a New York Times dispatch. "West Germans, even those at the highest levels, are worried about being drawn into an American military adventure in the Middle East and remarks like Mr. Kissinger's make their fears seem real."

In a television interview, Dr. Armin Grunewald, a Government spokesman, said that the Government of Germany was "not interested in any kind of confrontation with the oil countries, but rather in cooperation . . . we do not have the use of force in mind, and do not share such thoughts." And Martin Bangemann, General Secretary of Germany's Free Democratic Party said that Kissinger's remarks reminded him of "gunboat diplomacy."

A German law student probably best summed up the prevailing European reaction to the Kissinger statement when he asked "What did Kissinger mean by that?" and answered his own question by saying "If there were really no possibility the Americans would go to war in the Middle East there Kissinger would have said nothing at all."

6. January 6, 1975: Israeli President Yigal Allon postpones his scheduled meeting with President Ford and Secretary of State Kissinger. The meeting, scheduled originally for Thursday, January 9, was postponed until Wednesday, January 15.

7. January 6, 1975: The nuclear aircraft carrier Enterprise and five other vessels left Subic Bay in the Philippines. The task force headed in a southwesterly direction, away from Indochina, with orders to enter the Indian Ocean by way of the Straits of Malacca. With the Enterprise was a battalion of Marines. The Pentagon refused to disclose the destination of the task force, but indicated that the task force might remain in the Indian Ocean for a considerable length of time.

Included in the task force with the Enterprise and the battalion of Marines were two destroyers, a supply ship, an oiler and the guided missile cruiser, Long Beach.

News of movement by the task force was not reported in American newspapers until January 10.

8. January 7, 1975: The first major Arab response to the Kissinger statement appeared. Egyptian Information Minister Ahmed Kamal Abul Magd said in a news conference in Cairo that Secretary Kissinger's statement had been "unnecessary, untimely, unacceptable on its merits and did not serve the cause of American-Arab relations or the cause of peace in the area." Having opened a new era of good relations with the United States, Abul Magd said that Egypt had gone out of its way to refrain from statements that could jeopardize that friendship, and that the Kissinger statement "does not help improve our relations."

On the same day, Egyptian press gave headlines to what it called Kissinger's "threat" and to rebuttals by various Arab leaders, and especially to the statement of Algerian President Houari Boumedienne. Boumedienne declared that "the occupation of one Arab state would be regarded as an occupation of the entire Arab world," adding that American military aggression would bring about the destruction of the oil fields. The Egyptian government endorsed the Boumedienne statement during the Abul Magd news conference.

9. January 8, 1975: The Shah of Iran began a five-day visit with Egyptian President Anwar el-Sadat in Cairo. The purpose of the visit was to stress Islamic unity—the Shah was switching sides.

January 9, 1975: Egyptian President Anwar el-Sadat, in an interview published in a Beirut newspaper, said that Arab countries would blow up their oil wells before allowing them to fall under control of invading forces from the United States.

Meanwhile, French television ran a television program showing U.S. Marine military maneuvers in the Mediterranean. Depicted was an invasion exercise on the island of Sardinia, involving 2000 Marines. "We don't want to invade, but we are prepared," stated Vice Admiral Frederick Turner. "I assure you in all confidence that we could carry out any mission entrusted to us—any mission," Turner said.

11. January 10, 1975: First press reports of movement by the Enterprise task force appear. The State Department denied speculation that the task force had anything to do with the deteriorating situation in South Vietnam and Cambodia. Meanwhile, speculation was widespread in the Middle East that the task force was moving into the Indian Ocean to add muscle to the Kissinger statement.

12. January 10, 1975: New York Times ar-

ticle interview with several American military officials on the feasibility and potential for success of a U.S. military intervention in the Middle East. "Senior military officers consider the seizure of selected Middle East oil fields militarily feasible but politically disastrous," said one of the generals interviewed in the article.

Nonetheless, "allied officers feared the effect on the North Atlantic Treaty Organization of a unilateral American action. General Johannes Steinhoff, the retired West German Air Force officer who was chairman of NATO's military committee from 1971 to 1974, said the alliance reaction to Mr. Kissinger's words had been an exasperated: 'For God's sake,'" the Times article pointed out in reference to reaction to the statement from military officials outside the United States.

13. January 11, 1975: A U.S. Seventh fleet task force led by the Enterprise passed Singapore en route to the Strait of Malacca and the Indian Ocean, according to a UPI dispatch from Singapore quoting local private ship pilots.

14. January 12, 1975: The Shah of Iran and Egyptian President Anwar el-Sadat called for speedy resumption of the Geneva conference on the Middle East. In a joint communique issued at the end of a five-day state visit, the Shah also joined with Sadat in calling for complete Israeli withdrawal from occupied Arab territories. The Shah also promised Egypt an undisclosed amount of financial assistance.

15. January 12, 1975: Saudi Arabian King Faisal left Riyadh to visit Syrian President Assad in Damascus. On the agenda for the visit were discussions about future Saudi Arabian military aid to Syria. Faisal inspected Russian-made military hardware during the visit. At the end of the involved round of discussions, Faisal promised Assad $150 million for weapon purchases, and an additional $200 million for Syrian economic development. Faisal also met with PLO leader Yasir Arafat during his visit to Damascus.

16. January 15, 1975: Secretary of State Kissinger and Israeli Foreign Minister Yigal Allon opened two days of discussions on the Middle East situation.

17. January 16, 1975: In an interview appearing in Time magazine, President Gerald Ford stated that he backed the view expressed by Secretary of State Kissinger on the possible use of force against the oil-producing countries of the Middle East. "His language said he wouldn't rule out force if the free world or the industrialized world would be strangled," the President said, stating further that the prospects for war in the Middle East were "very, very serious. . . . Every day that passes becomes more dangerous."

18. January 16, 1975: Egyptian President Sadat set a three month deadline for simultaneous Israeli withdrawal from some Egyptian, Syrian and Jordanian territory it occupies. Otherwise, he said, he will abandon U.S. attempts at a step-by-step settlement of the Middle East situation in favor of a Geneva conference on the issue, a plan long advocated by the Soviet Union. "If nothing is accomplished very soon, we will go to Geneva, all of us Arabs, and explode everything there," Sadat said in an interview with the Beirut newspaper An Nahar.

19. January 17, 1975: King Faisal moves on to Jordan where he promises King Hussein of Jordan $57 million for "pressing needs," widely interpreted as military aid.

In a joint communique issued on his departure from Amman Faisal expressed his conviction that it was his duty and the duty of the other Arab states who have the means "to support the confrontation states" and enable them to face any surprise aggression they may be subjected to.

20. January 17, 1975: Israeli Foreign Minister Yigal Allon wound up talks with President Ford, Vice President Rockefeller and Secretary of State Kissinger in Washington. Allon disclosed that Kissigner would visit Israel as soon as possible and discussed Israel's negotiating terms and positions should talks with Egypt reopen.

21. January 19, 1975: King Faisal met with Egyptian President Sadat in the Egyptian town of Aswan. "Thousands of Egyptians, chanting 'Jerusalem, Jerusalem, liberate Jerusalem' and 'Arab oil for the Arabs' thronged the streets of Aswan to greet Faisal," according to a Washington Post dispatch from Beirut.

Talks lasted until January 20. In a joint declaration issued at the end of the talks, Faisal said that it was the duty of the Arab governments to continue financial aid to Egypt, adding that he would use his personal influence to see that such was done.

As the week-long tour of Arab capitals ended, there were rumors to the effect that Faisal had obtained agreement for a four-sided Arab summit meeting in Riyadh in the near future. Rumored to attend the summit were Faisal, Jordan's King Hussein, Egyptian President Sadat, and PLO Leader Yasir Arafat.

22. January 20, 1975: Article by Bernard Gwertzman in the New York Times headlined "Threat of Force Serves as U.S. Weapon," in which Gwertzman stated that "In the weeks since the Business Week interview, despite the controversy, neither Mr. Kissinger nor any of his top aides have expressed regret about the 'strangulation' remark."

23. January 21, 1975: Israel asked the United States for $2 billion in military and economic assistance. This figure includes $1.5 billion in military assistance for each of the next three years, for a total of $4.5 billion in U.S. military aid over the three-year period.

24. January 21, 1975: President Gerald Ford, in his news conference, reaffirmed his support for the Kissinger statement.

CRISIS OF 1973

Mr. President, unless we approach the events in the Middle East very carefully, and analyze them very carefully, we can make tragic mistakes. It should not be forgotten that the present Middle East crisis arises directly from the mistaken assumptions of Dr. Kissinger in the summer of 1973. It was widely believed in governmental circles at that time that there was no imminent danger of war—that the Arab nations were too disunited to sustain an invasion, and that even if they did attempt an invasion they would be crushed instantly. Thus, the United States completely ignored the events leading to the preparations of the military operations in 1973.

Shortly after the nomination of Dr. Kissinger as Secretary of State was announced, King Faisal invited President Sadat to his palace at Riyadh. The so-called experts argued that unity between Saudi Arabia and Egypt was impossible. They pointed out that Saudi Arabia had always been pro-American and oriented toward private enterprise, while Egypt had established a socialist tradition under former President Nasser and did not even maintain diplomatic relations with the United States. Saudi Arabia had wealth as an oil producer; Egypt was not an oil producer and was poor. Yet the leaders of these two nations got together for the first time and quickly found a common language. King Faisal announced: First, that he would use oil as a bargaining instrument in dealing with the West and in joint Arab policies—a position he had consistently rejected in the past; second, that he would increase his financial commitments in support of anti-Israeli Arab efforts; and third, that he would press for Arab unity.

These plain statements of intention were ignored.

Then President Sadat visited other Arab capitals, and brought together Egypt, Syria, and Jordan in a unity-of-action conference in Cairo. This was the first such meeting since the "black September" days of 1970–71 when King Hussein of Jordan crushed the Palestinian guerrillas. King Hussein even agreed to free the guerrillas who had attempted to assassinate him. This was another brilliant diplomatic success by the outstanding Egyptian leader, and it was regarded as unimportant in the West.

The result, of course, was the October war of 1973. And simultaneously, the OPEC announced a conference would be held on October 8, 1973, for the purpose of increasing price agreements. Thus began the oil embargo simultaneously with the war, two prongs of the same action; and that is why the oil price problem can never be successfully separated from the resolutions of the Middle East conflict.

THE SECRETARY'S 1973 MISJUDGMENT

Shortly after the war, Dr. Kissinger said publicly that he had consulted every one of his experts on the Middle East, and not one of them expected that the Arab invasion was imminent.

We know, of course, that the Soviets were well aware of the preparations. Special observation satellites launched by the Soviets had been photographing the preparations for weeks and the regular delivery of Soviet and Communist bloc weaponry. At this period, Dr. Kissinger was in close contact with high Soviet officials, such as Ambassador Dobrynin here in Washington and Soviet Foreign Minister Andrei Gromyko. If they informed Dr. Kissinger about what their observation satellites saw, Dr. Kissinger evidently did not include them among the experts on the Middle East whom he consulted.

In short, the Middle East crisis, the Arab invasion, the oil embargo, the sowing of disunity among Western allies, the racing inflation among all free countries, and startling increase in the cost of living, and the forced austerity upon our lifestyles, with the attendant abridgment of fundamental human freedoms, all were influenced by Secretary Kissinger's admitted misjudgments about the reactions of the Middle East nations.

If Secretary Kissinger is once more making misjudgments about the Middle East and our intentions there, I fear that he is also misjudging the American people. We do not need a war, or the threat of war, to achieve American interests.

THE MIDDLE EAST

Mr. HANSEN. Mr. President, a number of people in Wyoming, and people from other areas, have advised me of their concern at speculation reported in the news media about U.S. participation in a war for oil in the Middle East.

I am in strong disagreement with those who would include a U.S. war in the Middle East as a viable solution to the energy crisis. The remarks that were made by officials of our Government were made hypothetically, but because of the volatile nature of the situation today in the Middle East it is possible that they had greater impact than was intended. But I believe Americans are justified in becoming concerned whenever there is talk of sending American men and resources to war.

We must reassure the American people, and we must reassure our friends in the Middle East—Jew, Persian, and Arab alike—that no such venture is being planned.

To contemplate going to war in order to sustain the special dependency we have upon another peoples' petroleum for our high standard of living violates the moral concepts most Americans have. We have courses of action we can take to secure the energy this country uses. The most sensible is to take steps now to develop our own largely untapped energy supply in this country; and at the same time apply conservation practices.

By doing this, we eliminate all excuse for anybody to consider aggressive steps that could trigger a world war III. We must avoid such a war.

For years, a few Senators have warned against allowing the decline in domestic energy self-sufficiency, and against the increased dependency upon insecure foreign energy sources. But the warnings have not been heeded, and now there is war talk. That is desperation talk. Such talk would seem to reflect a thinking that confuses the issue of national survival with the issue of maintenance of the present extravagant, energy-consuming lifestyle that most Americans enjoy.

If Americans reach the point where they are willing to ignore the general ethics by which we have learned to live, they might just as well talk about taking Canada's oil. It is no more right to discuss taking over an Arab nation, than it is to discuss taking over any other nation. The Arabs are owners of Arab oil, just as the Canadians are owners of Canadian oil.

Let us remember that when people talk of U.S. war in the Middle East they are speculating not only on the probable deaths of thousands of Arabs, and, presuming the involvement of all Middle East nations, the deaths of thousands of Jews and the possible annihilation of Israel; but also on the deaths of thousands of young Americans, and possibly, with escalation always a potential even thousands of young Russians.

Millions of American mothers and fathers put the lives of their sons and daughters far above their concern about Middle East oil. An overwhelming majority of all Americans would prefer to accept the temporary economic hardships that might be imposed by energy shortages while we develop our own energy supply, than to pay so dear a price as war would require.

Nothing is more destructive of human resources, of material resources, and of the environment—not only of this country, but of our entire planet—than war, as this country now has the capability of conducting it.

I have great confidence in the capability of American ingenuity and technology for the wise and early development of our abundant energy resources. We can and will meet this challenge to solve our energy problems without resorting to robbery or killing.

Mr. President, we must maintain an evenhanded approach in the Middle East.

MIDDLE EAST HAWKS—WITHOUT PRINCIPLES

Mr. McCLURE. Mr. President, those Americans who favor military intervention in the Middle East—to take oil by force of arms—should not be deluded into thinking that any worthwhile support exists among the people for their proposals. Whether these Middle East hawks are in the Government, the news media, the academic community, or wherever, they should carefully consider the revulsion that is felt by decent, law-abiding Americans at the thought of the United States sending troops into another country in order to steal oil. As just one expression of this moral feeling, we have the latest nationwide Gallup poll, showing that only 1 in every 10 Americans would favor military intervention in the Arab world. But, anyone who is really in touch with the American people could make such a determination for himself. We are not aggressors. Our military actions—including both World Wars, the Korean war, and the war in Southeast Asia—were fought either to repel aggression or to help another country to repel aggression. They have not been fought for personal enrichment or national conquests. Are these proponents of Middle East intervention saying that the war in South Vietnam would have been justified in their opinion if only the United States had taken over the rice crop and exported it to needy Americans?

The true extent of the moral bankruptcy of such advocates was revealed by a professor at Johns Hopkins University, who proudly described why a Middle East war would be "feasible." On what does he base his "moral" judgment? He bases it on the fact that the gulf coastal region, extending from Kuwait to Qatar "is without trees" and, therefore, "does not bear even remote comparison with the experience of Vietnam." I believe that the term I first used in October 1973—"Vietnam doves, Middle East hawks"—is definitely illustrated here. It also reveals some of the moral basis of those who so violently oppose any efforts to prevent Communist enslavement, but who so blithely talk of conquering small countries, because they have a natural resource we want and which we have refused to develop in our country.

It is also interesting to note that so many of those Americans who are anti-Arab are also anti-Department of Defense. Their actions over the past years have so weakened our military capability that the U.S. Army is having to take tanks out of present inventory for shipment to the Middle East. Mr. President, I ask unanimous consent that an article by John W. Finney from the New York Times of November 20, 1974, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLURE. It will explain in more detail the serious connection between our own military defense capability and the Middle East.

And, in case there are those who believe that this present demand for American equipment will end, I ask unanimous consent that an article from the Washington Post of January 21, 1975, be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. McCLURE. This article states that the Israeli Government is "seeking $1.5 billion in military aid in the form of credit or grants." The article continues that this—

> * * * is part of an Israeli drive to get $1.5 billion during *each* of the next *three years.* (Emphasis added).

Mr. President, it is disturbing to me personally that it is even necessary for an American to stand up and publicly state he is opposed to invading an Arab nation and stealing their oil. The immorality of such a proposal is so evident that I would have expected an outpouring of protests from Government leaders and those in private life who have so violently protested against war in the past. That such an outpouring has not occurred is a serious disappointment, not just for myself, but, I believe, for all decent Americans. I hope that these remarks today—and those of others who share my concern—will help set the United States firmly in the path of law and justice, lest that small minority desiring Middle East war succeed in their efforts to make a mockery of the principles on which this Nation is based.

Exhibit 1

Pentagon Officials Say That Increased Arms Shipments to Israel Leave Some U.S. Military Units Short

(By John W. Finney)

Washington, November 19.—The Defense Department for the first time is finding it difficult to satisfy Israeli requests for armaments and at the same time meet the needs of United States forces.

Inevitably, according to Pentagon officials, the readiness and training of the armed forces have been impaired as weapons in short supply are sent to Israel. But the officials emphasize that the ultimate judgment on how to strike a balance rests with the White House and the National Security Council.

According to officials, tanks are being diverted to Israel from Army and National Guard units that are already short of their established quotas.

An example is the First Battalion of the 210th Armored Brigade, a National Guard unit based in Albany. Representative Samuel S. Stratton of New York, a Democratic member of the House Armed Services Committee, said he had been informed by the Pentagon, after having received protests from National Guardsmen, that the battalion had been ordered to turn over 43 M–48 tanks, which it had received only last year.

The same problem, according to officials, is arising with other weapons that are in short supply, such as TOW antitank missiles, "smart" bombs and late models of the F–4 fighter plane.

It is this diversion of arms supplies that helps explain the outburst of Gen. George S.

Brown, the chairman of the Joint Chiefs of Staff, against the power the pro-Israel lobby has in Congress, according to the general's associates.

In describing the influence of the Israel lobby in a speech at Duke University, General Brown said:

"We have the Israelis coming to us for equipment. We say we can't possibly get the Congress to support a program like this. And they say, don't worry about the Congress, we will take care of Congress."

Air Force associates are still perplexed about why General Brown lapsed from such observations into statements that Jews own "the banks in this country, the newspapers." After an off-the-record meeting yesterday with Defense Secretary James R. Schlesinger, Jewish leaders appeared prepared to accept General Brown's apologies and not press for his dismissal.

In the past the Defense Department could rely on surplus stocks and current production to meet overseas aid requirements. But the situation changed after the Arab-Israeli war last year.

Israel, which had been purchasing on credit about $300 million worth of arms a year, increased her requirements to $2.2 billion worth of arms this year as she sought to reequip her armed forces.

The Pentagon has had to turn to its war reserves as well as equipment in regular and reserve units to provide the arms.

The Pentagon's problem in balancing its own requirements for modernization against Israeli requests is best illustrated in the case of tanks.

The army has an authorized equipment of 10,000 tanks about 8,500 for regular and reserve units and 1,500 for the war reserve. This requirement was increased by nearly 800 tanks as a result of lessons on attrition learned in the Arab-Israeli war.

The Army now has 8,150 tanks, nearly 5,000 of them the new M–60 tanks and the remainder older M–48 tanks. At the current rate of production of 40 tanks a month, the shortage of 1,850 tanks represents more than three years of production.

Meanwhile, according to officials, Israel wants 600 tanks this year on top of 450 tanks that have been shipped by the United States since the war last year. The Pentagon has no way of fulfilling Israeli orders except by taking tanks out of the present inventory, thus postponing the day when the army will meet its authorized strength in tanks.

The Pentagon's problems are further compounded by difficulties in inducing manufacturers to increase tank production to 60 a month, largely because of a shortage of capacity to make the castings for the tanks.

Exhibit 2

Israelis Ask Aid of $2 Billion

Israel has placed a request for $2.2 billion in military and economic assistance from the United States for the fiscal year to begin July 1.

Israeli and American sources said that of the total, Israel is seeking $1.5 billion in military aid in the form of credits or grants. This is part of an Israeli drive to get $1.5 billion during each of the next three years from the United States to build its military strength.

The request was submitted in Israel about 10 days ago and was discussed by Israeli Foreign Minister Yigal Allon during his visit here last week. At a press conference on his departure, he said that his talks here had been fruitful and that he was leaving satisfied with the results.

U.S. officials said the Israeli request is under study.

This year Israel has received approximately $600 million in economic and military aid from the United States. It also has been receiving what remains of the $2.2 billion appropriated during the October, 1973, war.

Israeli sources characterized the request, which amounts to almost three times that appropriated during the current fiscal year, as a preliminary request. The United States has pledged that it would give high priority to Israel's aid requests. Secretary of State Henry A. Kissinger has frequently expressed the conviction that Israel is more likely to be flexible if it feels secure than if it is concerned about its military and economic needs.

Like many other countries, Israel is suffering from very high inflation and balance of payments problems. These are, of course, exacerbated by the high cost of new and sophisticated weapons which Israel is seeking for its arsenal.

RESPONSE TO THE PRESIDENT'S ECONOMIC AND ENERGY MESSAGE

Mr. HUMPHREY. Mr. President, last evening I had the privilege to present a part of the Democratic response, on nationwide television, to President Ford's recent economic and energy message.

In my remarks, I noted that the first priority for congressional action will be a major tax reduction. However, I pointed out that Congress must pass a tax cut measure that is substantially larger and more equitable than that proposed by the President.

My response also addressed the energy tax plan the President has proposed and spelled out the specific inadequacies in this approach. Congress is considering a range of alternatives that make a great deal more sense than raising energy prices to our people by from $45 to $60 billion.

I also focused on a number of additional areas in which prompt and decisive action is needed to restore good health to our economy and prosperity to our people.

I outlined specific steps to deal with high interest rates, inflation, the housing depression, and, most importantly, unemployment.

Mr. President, Congress must take the lead, in cooperation with the President, in forging a national economic policy that will break the back of recession and put America back to work.

I ask unanimous consent that the text of my response to President Ford be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Remarks by Senator Hubert H. Humphrey

RESPONSE TO PRESIDENT'S ENERGY, ECONOMIC MESSAGE, JANUARY 22, 1975, BROADCAST ON CBS–TV

Good evening.

If it were possible for you to talk with me tonight, I think I know what you'd probably say.

"No more speeches, Mr. Humphrey. In the past months all we've heard are words. What we want is some action."

Well if that's your message to me, I hear you loud and clear.

Both Congress and the President have wasted valuable time in getting our economy soundly on the road to recovery. There's no sense denying it. And it's futile arguing over who's more to blame.

We can't change the past. But if you can stand one more speech, I believe you'll be surprised to learn what Congress is planning for the immediate future . . . the decisive action that is long overdue.

I can report broad agreement among Congress and the President as to the need for an individual and corporate tax cut—to stimulate purchasing power, to accelerate business investment, to lower unemployment, to restore economic growth. Moreover, this tax cut can be a reality within four to six weeks.

Until the President's remarks last week, our country was like a seriously ill person whose doctors in the Executive Branch and Congress could agree on neither the diagnosis of the illness nor the proper treatment. President Ford initially proposed a curious remedy—his five-percent surtax. A tax increase in the midst of recession would have bled the country of its economic strength, weakening the patient still further.

Fortunately, Congress rejected this remedy. But while the doctors were arguing over the cure, the patient's health deteriorated rapidly.

At last, the doctors agreed on the source of the disease—the most serious recession since World War II—and at least part of the proper treatment—a large dose of economic penicillin in the form of tax cuts to bring the patient back to full health and normal activity.

The first action of this Congress must be a tax reduction for individuals and business. This can and must be done in the next 30 days.

We have now only to decide on the size and frequency of the tax cut and—most importantly—who gets the benefits.

Under the President's tax cut plan, a family of four with an income of $10,000 a year would receive only $100. Under a bill I have introduced the same family of four would receive a tax cut of $300.

President Ford's tax cut puts 43 percent of the benefits into the hands of the richest 17 percent of the population. This is not only unfair, it is bad economics because it will not stimulate the economy. Congress will not accept the President's plan.

I recommend an overall tax cut of about $20 billion. While some people may consider this too much, they should recall that in 1964 the Congress cut taxes by about $12 billion—when the economy was smaller and the recession less severe. In today's economy, that would be equal to a tax cut of about $26 billion.

If economic penicillin is needed to combat the recession, then we should prescribe a dose large enough to help the patient. And we cannot afford to wait until May and September to get extra money into your pocketbook, as the President advocates. Instead, Congress should provide a reduction of withholding rates, retroactive to January 1, 1975, to increase your take-home pay and to keep it coming on a weekly basis.

The tax cut I have proposed would reduce taxes by 61 percent for those earning under $5,000, by 32 percent for families with incomes ranging from $5,000 to $10,000, by 21 percent for those earning from $10,000 to $15,000, and by 16 percent for taxpayers with $15,000 to $20,000 incomes.

In addition to these individual tax cuts, business and farms need an increased investment tax credit—to provide new buildings, new machinery and equipment, and most importantly, new jobs. On this issue the President and the majority of Democrats stand together.

Next, the Congress should turn its attention to tax reform to provide greater fairness in our tax structure. By this, I mean phasing out the oil depletion allowance, strengthening the minimum tax to ensure that the rich pay their share, and eliminating foreign tax preferences that send jobs and capital abroad. And there are many more.

People have a right to expect that the tax laws will be fair.

Prompt action on a tax cut is only the first step on the Congressional agenda. Six and one-half million persons are presently out of work and that number will surely increase. One thing is certain: a tax cut is of little direct help to a person without a job.

In Congress, Democrats and Republicans alike, are committed to putting more people to work, to getting them off unemployment lines and into jobs where they can support their families and pay their share of taxes.

What America needs are jobs, not "Win" buttons. What Americans want is work, not welfare.

On its own initiative, Congress passed an expanded public service employment program providing 300,000 jobs in hospitals, schools, day-care centers, and other public facilities. Since this program was passed in December, half a million more people have become unemployed.

This simply means that more must be done. Democrats propose that Congress immediately authorize an additional 500,000 public service jobs. And an additional 250,000 jobs for each one-half percentage point rise in the unemployment rate.

Yes, I know that this will cost money, but it costs more to have people unemployed. When you're working, you're producing—you're both a consumer and a taxpayer—you're self-sufficient.

Unemployment is not only the loss of a job and income; it is being told you are not needed. This violates the promise of America.

The President has said that he will veto any new federal spending. He proposed that those on social security shall not receive more than a five percent increase in benefits, even though the cost of living has increased by 12 percent. Those on fixed incomes—the elderly, the blind, and the disabled—have suffered the most from inflation. To deny them an increase in benefits equal to the rise in the cost of living is wrong and unacceptable. The Congress will not permit it.

There is no sense punishing people who rely on a small social security check, or raising the price of food stamps for people who are already struggling to feed their families.

Congress is no less concerned than the President over the growth in federal spending and in controlling a large and wasteful bureaucracy. Last year, for example, we cut the President's budget requests by $5 billion.

There is one basic reason for the record-breaking deficits that have accumulated since 1969.

On two occasions, in 1969–70 and 1973–74, former President Nixon attempted to control inflation by slowing down economic growth. During these deliberately-engineered recessions, as production declined, incomes also went down, profits fell, people lost their jobs and, as a result, federal tax receipts dropped sharply. Unemployed workers and businessmen and farmers operating at a loss don't pay taxes.

In these recession years, the federal deficit grew by leaps and bounds. In just this year and the next we can expect a federal deficit of $80 billion. This is frightening.

The way to end these deficits is to get the economy moving—to get people back to work and business to invest. And we can do this with a prompt tax cut, sensible federal spending, and ample credit with lower interest rates.

These are among the major items on the Congressional economic agenda. They will offer each of you a greater measure of security as America begins the long period of economic recovery. But lasting economic health is impossible unless wise actions are taken in several additional areas.

First, let me discuss money and credit. Tight money and high interest rates have not halted inflation. They have added to it. That's obvious to everyone. But they have choked off economic growth, brought homebuilding to a virtual halt, increased bankruptcies among businessmen and farmers, and created havoc in our capital markets.

Yet in his remarks last week, President Ford was totally silent on the money and credit policies that will make economic recovery possible. I propose that the President convene an emergency conference on monetary policy, attended by the Federal Reserve Board and representatives of business, labor, banking, farming, and the investment community.

This conference should be convened for the express purpose of arriving at monetary policies that are fully consistent with the goal of economic recovery. Unless this is done, the desired economic effect of the tax cut and other economic recovery measures will be largely wasted.

I further propose that the President use the Credit Control Act of 1969 to channel credit into sectors of the economy now starved for funds, primarily housing, state and local government, small businesses, and agriculture.

Now let me say a word about housing.

There is no way out of a national recession while housing is in a depression. Today hundreds of thousands of skilled construction workers are out of their jobs and thousands of contractors are without work.

Yet America needs homes and many of our cities need massive reconstruction.

As early as 1949, Congress established a national goal of a decent home and a suitable living environment for every American family. To achieve these goals and rescue the housing industry, strong action is necessary.

First, Mr. President, release the funds that the Congress has provided for housing.

Second, Congress should consider establishing a National Housing Bank with sufficient funds to provide interest subsidies and other financing for low-and middle-income taxpayers.

Third, the President should use the authority he now has under public law to allocate credit for housing.

Economic recovery also depends on a sound national energy policy that can be supported by every American. This will require a policy that is fair and a policy that works.

I recognize that President Ford and his advisers are grappling with a very difficult problem. Each course of action brings with it certain problems and difficulties. But on the basis of the evidence presented so far, the President appears to have chosen the least desirable set of alternatives. The President's plan would add to our inflation and deepen the recession with no assurance of substantially reducing energy consumption.

The President's energy plan will increase the price of imported oil. It removes price controls from domestic oil and gas and it places heavy new taxes on imported and domestic oil. This means higher prices.

There is simply no hard evidence that consumption of energy would be significantly reduced under the President's plan. But there is no doubt whatever as to its economic impact. A new wave of inflation would sweep through the economy.

In the past 18 months, the price of oil shot up from about $4.50 per barrel to the current average of about $9.50. President Ford's plan would increase oil prices by that much again—to over $14 per barrel.

The direct effects of this price increase add up to about $45 billion, or $15 billion more than the President's proposed tax reductions. Others estimate that the cost may be $55 to $60 billion. But whatever the figures, this simply means that you will be paying out a lot more in higher energy costs than you will be getting back in lower taxes.

For example, for a family of four earning $15,000, the proposed $220 tax reduction under the Ford plan will fall far short of the estimated $800 or more you will be paying for gasoline, heating oil, electricity, and natural gas. Not to mention the added costs for transportation, food, and even clothing. I don't believe your family can afford this extra $580 that the President's plan asks you to pay.

Looked at another way, this will mean consumers and businesses will have to pay an additional 19% for gasoline, 28% for home heating fuel, 20% for diesel fuel, and 42% for jet fuel.

While your costs will increase, the energy industries will profit handsomely—perhaps more than the President himself realizes. Coal and natural gas producers stand to gain at least $12 billion per year in extra profits. The proposed windfall tax on oil producers will be phased out over several years, leaving $2–$3 billion in excess profits to the producers annually.

I can't believe the President and his advisors really thought through what his energy plan will do to consumers and the economy.

Before Congress agrees to travel down the road proposed by the President, we are going to examine the energy map for some alternate routes.

Any course of action will require sacrifice and inconvenience—that's not the issue. But the sacrifices must be fair and they must move us toward the goal of increased energy conservation and independence.

Senator Henry Jackson, for example, suggests an alternate route that merits the most careful consideration. He proposed quarterly targets for gradual, but definite, reduction in oil imports. The steps to achieve these reductions are ranked in order of increasing severity, beginning with voluntary and mandatory conservation action, followed by import quotas, petroleum allocations and gasoline rationing.

If the measures enacted in one quarter fail to achieve their objective, the President is empowered to move to stronger programs to cut consumption in the next quarter. If the first steps succeed, the harsher remedies can be avoided.

This plan seems to make good sense, especially since this approach avoids the economic damage of the President's plan. Congress is at work considering this proposal and a full range of other alternatives.

Cutting energy demand is only half the battle. We must also support a balanced program of expanding domestic energy supplies. This could be done through a National Energy Production Board, similar to the War Production Board in World War II, that would accelerate research and development of new domestic energy sources.

Our goal is to develop a workable and fair energy policy that has the support of the American people. Not one that will increase the cost of living and add to unemployment and recession.

It is only by restoring economic growth that we will make progress against inflation, increase labor productivity, reduce overhead costs, and reduce interest and capital costs.

But we must also restore competition with a vigorous anti-trust policy.

Finally, we need a tough and selective program to shortcircuit the inflationary spiral. The current Council on Wages and Price Stability is a toothless tiger that has no ability to restrain outrageous price and wage increases. We need an agency with subpoena power, the resources to hold extensive public hearings, the authority to delay price or wage increases up to 90 days, and, in extreme cases, to roll back prices and impose controls on a selective basis.

Recession fuels inflation and unchecked inflation brings about recession. It is difficult task to deal with these twin afflictions, but I believe we can make genuine progress with the program I have outlined tonight.

I began these remarks with the analogy of our country as a person who had been taken seriously ill—and that a diagnosis of the illness had finally been agreed upon by Congress and the President.

I'm sure we agree on another point: that we are not faced with a terminal illness. America is basically strong, quite capable of full recovery. But part of the treatment will be for all of us to understand the importance of work productivity, elimination of waste, and self-discipline.

These are unusual times—we have both inflation and recession—we have a Democratic Congress and a Republican President—we have a trillion and a half dollar economy amidst growing unemployment and poverty.

These unusual times require new thinking and new answers.

As Lincoln once said:

"The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty. We must rise with the occasion. As our case is new, we must think anew."

Part of our new thinking should be to put our political differences aside in developing a national economic policy.

What America wants and needs is not partisan argument, but political responsibility.

But we must also remember that government alone cannot provide us with the answers. It must be a partnership of government and the people. We can here and now resolve to put America back to work—to conserve and develop our human and physical resources.

Our present difficulties offer us the opportunity to build a better America.

JERRY T. VERKLER

Mr. MOSS. Mr. President, Jerry T. Verkler has resigned from his position as staff director of the Senate Committee on Interior and Insular Affairs to pursue his career here in Washington, D.C. I certainly wish for Jerry and his wife every happiness and success.

During most of the time that I served on the Interior Committee—some 14 years—Jerry was the staff director, and he did his job with efficiency and courtesy. I am sure he will be greatly missed. During his tenure, Jerry demonstrated great skill and administrative objectivity and moved an immense workload through the committee. With this background, together with his wide experience in other matters, I am sure that Jerry will continue to enjoy the confidence and respect of all with whom he comes in contact.

COMMENTS ON PRESIDENT FORD'S ENERGY AND ECONOMIC PROGRAM

Mr. BARTLETT. Mr. President, President's Ford's energy proposals will have a disastrous negative impact on this country's goal of increasing the supply of domestic energy. The program means higher costs to consumers and effectively lower prices to producers. It guarantees consumers less energy supplies instead of more energy supplies at a time of a severe energy shortage when imports of high cost foreign crude oil, because of the unfavorable balance of trade, and for other reasons must be reduced sharply. The administration's program aggravates our energy shortages.

Although the President has correctly recognized the need for drastic steps to encourage energy conservation, his specific windfall profits tax proposal will effectively roll back the average price of crude by 50 to 75 cents per barrel paid to this country's oil producers. If this tax is enacted as the President has recommended, the oil industry's exploration and drilling efforts will be curtailed immediately, the current exploratory and drilling momentum reversed, and our chances to work gradually out of the energy shortage will be postponed.

Because of this windfall tax, the average value of crude to the producers will fall 50 to 75 cents per barrel; thereby, reducing the amount of capital available to the oil industry for investment in exploration and development.

But more importantly, the most disastrous aspect of the windfall tax is its impact on the producers of the exempt "new, released and stripper" oil.

The $11-per-barrel price of the exempt oil is and has been the prime stimulus for the industry's tremendous surge in drilling activity. The windfall tax will effectively reduce the value of this oil to $6 per barrel and therefore decimate immediate efforts to increase our energy supplies.

It will also retroactively punish those producers who were aggressive and successful enough to develop new production during the last 2 years.

The effective price for "old" oil will be approximately $6.50 per barrel, while the effective price of "new, released, and stripper" oil will be but $6 per barrel. Thus, there is a negative incentive for the drilling; new oil and gas and for continuing and expanding stripper well production.

The sharp drop in effective price for stripper wells will have disastrous results.

The huge drop in effective price will force the abandonment of thousands of small producers and preclude many workovers which would further increase oil production and extend the life of these marginal wells.

It is obvious we will have to pay for energy sufficiency, but the combination of the President's windfall tax, the $2 excise tax on domestic production, and the $2 tariff on imported oil means we will be paying much more for less domestic energy. This energy package will not produce one more gallon of gasoline, but to the contrary, will decrease our domestic energy supply.

Our citizens have not been told this fact.

Our people are willing to pay for energy sufficiency. A free market will cost only 5 cents per gallon of gasoline to the consumer and will eventually insure domestic sufficiency. Under the President's and others' plans, consumers will pay 10 cents or more per gallon of gasoline, yet the shortages will not be reduced.

The people deserve more from a national energy policy than this.

FOOD AID, THE BUREAUCRACY, AND NATIONAL POLICY

Mr. HUMPHREY. Mr. President, I wish to point out a very informative if somewhat disturbing article in the winter issue of Foreign Policy entitled "Washington Dateline: Less Food, More Politics," by Leslie Gelb and Anthony Lake.

The article details very accurately how food-aid decisions were made in the old days when there were ample stocks of commodities and at low prices. There was no difficulty in responding to the world's hungry. In fact, the food-for-peace program was a convenient way of disposing of embarrassing surpluses.

As the availability of food declined, the number of bureaucratic players increased. Different agencies saw food aid in often conflicting lights. The State Department saw it as a bargaining chip and source of budgetary support in Southeast Asia. Elsewhere, food aid was viewed as being in competition with stable consumer prices and food exports which helped the national balance of payments.

During 1974 the struggle over food aid continued. Secretary Kissinger addressed the United Nations on April 15, as did President Ford on September 18. Both speeches, although generous in tone, did not represent firm, well-developed administration positions.

The World Food Conference, in which I participated, reflected the continued stalemate in the U.S. bureaucracy. The leadership of the delegation—Secretary Kissinger keynoted the Conference and Secretary Butz headed the delegation—highlighted the split.

Unfortunately, this situation prevented the United States from speaking out with a clear policy on food aid. Although our delegation was in many ways helpful and certainly hard working, I believe that we missed a unique opportunity by our inability to offer strong leadership in the area of food aid.

This article provides some valuable lessons which we need to keep in mind for the future. We have not yet announced our food-aid levels, even though the crops have been harvested and the fiscal year is more than half gone.

We will need to look for new ways of making policy decisions and dealing with the various bureaucratic claims. Our country cannot meet the entire feeding problem of the world's needy, but we should at least be able to reach a decision on what we can do, our objectives, and how we propose to proceed.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASHINGTON DATELINE: LESS FOOD, MORE POLITICS

(By Leslie H. Gelb and Anthony Lake)

International food aid was not a big political issue in Washington until 1973. There were few hard choices, no winners or losers. It was a simple matter: the Department of Agriculture (USDA) determined crop availability and set aside certain reserve stocks to maintain domestic prices, while the State Department and AID decided questions of foreign need and diplomatic advantage. The farmers got price supports and the world's hungry got our food. It was cheaper to give away or sell food for soft local currencies than to store it. And to complete the circle, the American consumer did not even feel a pinch; food prices at home were well below world prices.

The decisions were virtually automatic. The Secretary of Agriculture would say what food we should export in order to maintain domestic prices. The dispenser was State/AID, which dominated decisions on beneficiaries. (This largess was becoming even more important as the years went on and Congress cut back other forms of aid.) This was all organized under Public Law 480 (PL–480), or the Food for Peace program, established in 1954.

PL–480 consists of a Title I program of credit sales, usually for over 30 years, at slightly over 2 per cent interest, and a Title II grant program. When enacted, the law was a way of unashamedly disposing of huge U.S. government-held crop surpluses.

Then, in 1973, the lid went on. World hunger became a problem of crisis proportion for several reasons: price jumps in both food and fuel, fertilizer shortages, continued population growth, poor harvests in poor countries, the decision by President Nixon and Secretary of Agriculture Earl Butz to eliminate government-held stocks, and the Soviet wheat deal.

Butz argued that eliminating the reserves and returning to the free enterprise system was the best way to deal with the world food shortage. If the farmers were permitted to produce at going prices, they would produce more, So there would be more food for the hungry, more money for the farmer, and more credits in American balance-of-payments accounts. And for good measure, the Federal budget could be reduced by not having to maintain the reserve grain storehouses. In February 1973, when the reserves were almost totally spent, Butz said, "This will be the best position that we have been in since World War II."

All of the threads tied into the mother problem—*inflation*. The prevailing idea in the Nixon Administration that fiscal restraint was the answer to inflation was as important as the Butz free enterprise arguments. Food aid was a billion-dollar program, and if various agencies of the government were being called upon to show restraint, why not cut back food aid as well? Food aid was caught in a budgetary squeeze.

The availability of food for food aid was not the problem. American farmers were producing record crops. The problem was that food aid was now trapped in the web of inflation, concern about balance of payments, and pressures to cut back on government spending. It was also being squeezed because of its direct impact on the American consumer. As Administration officials argued, it was hard to visualize a more inflationary program than PL-480—shipping scarce resources out of the country.

ENTER THE BUREAUCRATS

All this brought a whole new group of bureaucratic actors on the scene—the Office of Management and Budget (OMB), the Council of Economic Advisers (CEA), the Council on International Economic Policy (CIEP), and the Treasury Department. To make the circumstances even more complex, the stakes of the old actors had changed as well. USDA was now torn between its desire to keep up food aid and its fear of being attacked for a lack of concern for the American consumer. Meanwhile, State began to muscle aside its appendage, AID, as food became a big bargaining chip that could be used in international negotiations. AID was primarily concerned with food programs for their own sake, to get the provisions to the needy. State had different fish to fry. PL–480 was used as a major source of budgetary support for South Vietnam and Cambodia.

Thus, instead of a USDA-State/AID handholding operation, there was now a schizophrenic USDA and a desperate State Department, which had to share power with four other parts of the executive branch. There were hard choices to be made: the more food aid, the more inflation; the less food aid, the more starvation. And food aid was becoming a public—if little understood—issue, as headlines about the Sahel, India, and Bangladesh became more dramatic. The politics of food aid had begun in earnest.

In 1973, Henry Kissinger, as National Security Adviser to the President, ordered a National Security Study Memorandum on food. It was completed late in the year.

The study's main conclusion was that further investigation was needed in two overarching areas—reserve food stocks and food aid. The CIEP was given overall responsibility for the new studies. OMB was given the lead on the budget aspects of food aid, and Agriculture was given primary responsibility for reserves. As these studies dragged on during 1974, the bureaucratic structure grew. By autumn, the process confused even its participants:

There was a high-level Food Policy Committee under Kenneth Rush, Deputy Secretary of State, and later economic counselor to Nixon. The status of this committee was made unclear, after Rush departed to be Ambassador to France, by the power struggles within the Ford Administration.

There was a CIEP, overseeing the studies on reserves and food aid. The signals from this group did not always mesh with those from the Food Policy Committee.

There was an Assistant Secretary-level food aid group under Dolph Bridgewater of OMB, with representatives of Agriculture, State, Treasury, and the NSC staff. It coordinated allocations of PL–480 aid.

And, in early 1974, Ambassdor Edwin M. Martin, a skilled career diplomat, assumed his duties as U.S. Coordinator for the World Food Conference to be held in Rome in November. A number of interagency working groups were formed to analyze the issues which would arise at the conference. Their work included consideration of some 85 recommendations by the conference secretariat.

Despite, or perhaps because of this wealth of committees, the policy decisions have been made outside this structure—often without consideration of practical details which would have to be resolved.

Case Study #1—Kissinger's U.N. Speech, April 15, 1974: The immediate intellectual and bureaucratic origins of the speech dated back to the Washington Energy Conference in February 1974.

Kissinger and Treasury Secretary George P. Schultz were the main forces behind the American position for this energy conference. They quickly reached agreement on the American position: to drive the oil prices down. The food problem, particularly for the developing nations, was largely ignored. The focus on oil ignored the fact that wheat prices had doubled, that American soybean exports had been embargoed before the oil crisis, and that the food and fertilizer bill for some less-developed countries (LDC's) was almost as high as their oil bill.

Food entered their thinking in two ways—and then only indirectly. Schultz, in particular, was concerned about the balance-of-payments problems resulting from increased fuel prices, and saw food exports for cash as a major way to build up the credit side of the ledger. Schultz and Kissinger spoke of rising food costs for the LDC's as a lever on OPEC. The more pressure the LDC's would feel from the food and fuel squeeze, the more likely they would be to put pressure on OPEC to roll back prices. There was also general agreement to oppose the proposal by the International Monetary Fund to help the poorer countries by recycling OPEC petrodollars back to the LDC's through long-term, low-interest loans. Top officials in Washington regarded this as a damage-limiting plan that would serve only to undermine a solution to the long-term problem of rolling back oil prices. The idea seemed to be: let the poor countries feel the pinch, so the Arabs could hear the yell.

The break in this phalanx came suddenly in April, a few days before Kissinger was scheduled to speak at a special meeting of the U.N. General Assembly. With prodding from Senator Hubert Humphrey, Robert McNamara, ex-Secretary of Commerce Peter Peterson, and Kissinger's own staff (mainly Winston Lord, Director of the Policy Planning Staff, and Lord's aide, Paul Boeker), Kissinger agreed to press for putting the food problem in a broader perspective. Under Lord's direction, the theme of the speech became the general raw materials scarcity. Warning noises were made to the oil producers, but the speech also noted that the price of American food was rising. The speech draft pledged the United States to make a "major effort" in food aid and to come up with an overall food aid plan.

Kissinger gave the speech on April 15. The question remained: how much new aid would the United States contribute? As debate continued at the United Nations, it became clear an answer should not be delayed.

On Friday, April 26, the Under Secretary's Committee rejected Kissinger's idea of a $4 billion fund for concessional aid to the countries most seriously affected by the food-fuel squeeze. Washington would contribute $1 billion to $1.5 billion of this total, mostly through PL–480. The rejection was based largely on the consensus that had been reached for the Energy Conference—i.e., that first priority had to go to driving oil prices down.

On Saturday, Kissinger said he still wanted to go ahead with his new approach and asked that the Treasury people check with Schultz beforehand. Butz stayed out of the dispute. By now, with Nixon mortally wounded by Watergate, senior members of his Administration were bargaining as independent warlords. Schultz still objected. On Monday, Kissinger decided to go ahead anyway, and sent Schultz a message saying, in effect, "I'll explain later." One warlord did not have the power to stop another, and Kissinger authorized the proposal. The delegation went ahead with it at the United Nations on Tuesday. But the American plan never received a formal hearing, in part because it came just at the end of the special session, in part because of suspicions that it was a last-minute grandstand play (which might divert attention and support from Arab proposals), and in part because the U.S. delegation was poorly briefed and presented the proposal badly.

THE CONVERSION OF HENRY KISSINGER

Several things were significant about this "event." The major opposition to the new approach came from Treasury, an agency concerned with cold hard cash, budgets, and the balance of payments. These concerns were to become the nucleus of future opposition to food aid schemes. Agriculture did not join the opposition. At this time, Agriculture was predicting record wheat and corn crops in the United States. They were not averse to keeping open the safety valve of PL–480 to buy up the surplus crops. There was also the chaos of it all—quintessential last-minute, high-level wheeling and dealing. The bureaucracy was not in place.

But most importantly, the preparation of that speech marked the "conversion of Henry Kissinger"—in his rhetoric and in the promise that he would favor more rather than less food aid even if he did not make it one of his pet issues.

Case Study #2—President Ford's Speech to the United Nations in September 1974: Soon after Kissinger's speech, the bureaucracy began to come together. Agriculture officials went to work on their August 10 crop report, with others eagerly looking on. U.S. embassies were directed to undertake a survey of their countries' needs. Agriculture, OMB, and a member of the CEA who is an agricultural economist, Gary Seevers, studied the effects of various levels of food aid on inflation. The expectation was that by mid-August they could determine availability, world needs, and domestic price impact.

The hope was that the crop reports would be so good that the decisions would be easy. But as the wheat, corn, and rice crops began to be harvested in late June, the word began to spread that corn was looking bad, that wheat would be a record high but not as high as initially predicted, and that only rice would meet original predictions. An ominous price surge was beginning.

There was little agreement on anything within the bureaucracy in June, but by early autumn, when the world hunger survey was in and digested by Agriculture, a consensus emerged that hunger was a genuine problem in tropical Africa, South Asia, and the Central American-Caribbean areas. Still, Butz remained more upbeat than Kissinger, arguing that the poorer countries could do some "belt-tightening."

In June and July, State Department economists were saying that Agriculture greatly overestimated the inflationary effects of increasing food aid. Agriculture said that while the budgeted PL–480 program of about $900 million was not inflationary, anything above that figure would be. State wanted to increase the programmed total to at least $1.8 billion. After numerous studies, agreement was reached that an increase on the order of $500 million would lift the price of a loaf of bread by no more than about one cent. Moreover, it was generally accepted that "surprise" price effects could be moderated somewhat by keeping the extent of the food aid increase secret and by making decisions on actual food aid shipments on a quarterly basis. This would hold down panic buying and allow them to gauge the domestic impact of their decisions more precisely as they went along. But after receiving the August crop reports, all agreed to put off a decision on the American food aid posture until the September 10 crop reports.

The September reports were no more encouraging than the August ones: wheat was a record crop but less than predicted, soybeans and corn were still disappointing despite August rains. But a decision had to be made. The President was scheduled to speak at the U.N. General Assembly on Wednesday, September 18. He would have to say something about food.

On Tuesday, September 17, Ford met with Kissinger, Butz, Roy Ash (Director of OMB) and Alan Greenspan, the head of CEA. Before them was a draft of a speech embodying Kissinger's central point—that the United States could not expect oil producers to expand production and hold down prices unless the United States demonstrated a willingness to do the same and to share its food resources with the needy.

The President bought the theme and tentatively approved an increase in the dollar amount of food aid (the total tonnage due to price increases would still be below last year's) to about $1.5 billion. He would describe this increase to the United Nations as "substantial."

The theme of the speech was a victory for Kissinger, but everything else was a compromise. On the level of increase, the difference was roughly split between Kissinger, who wanted about $1.8 billion as the new total, and Ash and Greenspan, who argued for holding the level at $900 million. In the middle, ranging from advocating less aid to more, were the CIEP, Treasury, and Agriculture. And the $1.5 billion figure was more a general target than a firm decision. Indeed, a month later there was still disagreement about what Ford had decided. The actual amounts would be determined quarterly.

Tough budgetary issues were also ducked. How would the increase be paid for, especially in the face of across-the-board budget cuts? A month after the September 17 meeting, Agriculture officials were still proclaiming their hope that the increase would not come out of the Department's other programs. Other possibilities included a special appropriation for Agriculture or AID or borrowing from Treasury by the Commodity Credit Corporation.

Butz played a curious role, basically supporting Kissinger in the internal debate and yet throwing cold water on his approach for public (and Farm Bureau) consumption. In particular, he claimed that a decision had been made to leave increased food reserves in the hands of private traders and farmers, a particular Butz interest, although, in fact, no final decision on this contentious issue had been reached.

So only a very general commitment was made in Ford's speech, and there was something for almost everyone.

For Agriculture, the speech embodied the principle that other nations must share in the food effort. For Treasury and CIEP, the speech included pointed references to the responsibilities of the oil-rich states on energy matters. But Greenspan and Ash were not happy; the programmed budget ceiling was apparently lifted just as they were trying to get other departments to cut back spending.

A number of observations can be made about this experience. First, Kissinger not only stuck to his April theme but broadened it to state the theme of world economic interdependence—and he carried the new President with him. Second, the traditional bureaucratic practice of making the minimal necessary decision was adopted. Even though the President seemed to recognize that food aid was a long-term problem, he was only prepared to take one short step at a time. Third, the bureaucracy did make a difference. Without their having reached a consensus on the extent of the world food problem and the domestic price impact of increased food aid, it appears very unlikely that Ford would have given the same speech.

Case Study #3—Preparations for the World Food Conference: Whatever their value as decision-making bodies, U.N. sessions and international conferences serve a valuable function in forcing decisions on the American bureaucracy. Kissinger's and Ford's speeches at the United Nations required general policy decisions; similarly, as preparations for the Rome conference went forward, Kissinger's opening speech was becoming the focus for further decisions. And, again while the bureaucracy worked on analyses of the facts, the policy decisions were being made outside the complicated web of food aid committees.

Not that it would be easy to work through the system anyway. In addition to the complex of committees and working groups, there was a new set of participants: by mid-October, State had invited 20 members of Congress to join the American delegation, and this number seemed likely to grow. How Butz, the head of the American party, would allocate the six available seats for the whole delegation remained to be seen. In any case, the congressmen were rarely consulted or even informed about the developing American position.

An important snarl in the process was the entanglement of the food issue in other, broader disputes within the government. The American position on food aid, for example, had to wait in many respects for decisions on the American approach to recycling petrodollars. And our technical assistance programs to increase food production in developing nations—a subject of great interest to these nations—were ensnared in the autumn battles over the aid bill. On September 23—the same day that Ford and Kissinger were giving speeches on energy and food—the Administration called its AID lobbyists off the Hill. It opposed an aid bill that included, besides the political restrictions to which the Administration objected, a $200 million increase in assistance for agricultural development.

The tentative nature of the decision on increased dollar levels of food aid, combined with the uncertain future of the new aid bill, meant that the United States could not commit itself to specific increases in aid. An opportunity was therefore being missed: European and other nations had said they would match such a contribution in an effort to give substance to Secretary General Waldheim's proposal of a $3 billion fund for the most severely affected nations.

As a result of all this, the American position shaped up as stronger in vision and the long term than in practice and the short term. A World Food Council attached to the U.N. Secretary General was expected to be the keystone of the Kissinger approach. But precisely what real powers this Council might have were not be to be specified. Increased dollar levels, but not increased tonnages, of food aid could be promised. The $200 million of technical agricultural assistance could be proffered—but without the cash on hand, while the aid bill remained up in the air. An international food reserve system could be proposed—but without details on how the American reserves would be held.

It was doubtful, in any case, that a conference could reach detailed agreement on food aid, food production assistance, and a reserves system. State officials hoped instead for broad agreement on the dimensions of the problem, on principles governing future action on these issues, and on follow-up institutional arrangements within which to negotiate detailed agreements.

The hope was that these international agreements could be used both with other nations and to move U.S. policy forward. For example, on reserves, State officials were willing to allow Butz his emphasis on holdings by private traders and farmers. But they expected that any shortfall between these holdings and the level to which the United States had committed itself internationally would be made up by the creation of official American food reserves.

So the conference preparations gave promise of continuing bureaucratic uncertainty on the issue. Leadership of the delegation was in effect, split: Butz to lead the delegation and Kissinger to speak. And, once again, the actual program would apparently be decided by bureaucratic guerrilla warfare after the general policy was proclaimed.

PRELIMINARY OBSERVATIONS

While the politics of food aid have not yet settled down into a clear pattern, some preliminary observations can be made. As seems to be the case with fuel politics, they point in the direction of a very distinct variation on the traditional mold of bureaucratic politics. They are more complicated, chaotic, and political than their forebears, both because of the huge number of participants and the tangible domestic tradeoffs.

In traditional political-military decisions, State, the NSC staff, and Defense are the major participants, with an additional speaking role for the CIA. In food aid politics, State, AID, Agriculture, Treasury, OMB, CIEP, and the CEA are all important. The effect of doubling the number of agencies is enormous—in coordination of cables and memos, in possible foul-ups and delays, in the number of senior officials involved, and in the staggering range of interests that must be accommodated. To compound the problem, these officials are not used to working with each other, and are unfamiliar with each other's agency politics.

The decisions on food aid are also more delicate politically than most political-military decisions because what is done abroad has an immediate and direct impact on domestic pocketbooks. In a diplomatic stance, say on détente or SALT, the White House has to worry about the effect on political mood or Senate votes. In defense budget decisions, the impact is usually limited to a particular industry or specific locales. On food aid, the results are now countrywide and visible.

Senior officials are not yet comfortable in this area. It is new and it is complicated. They will therefore be more than usually reluctant to make firm decisions. This must be doubly true for the President.

But whatever decisions they do make, officials are finding that food aid politics are surprisingly insulated from outside or nonexecutive branch influences. As important as the issues are, only two Senators have played an important role, beyond the many public statements of concern made by congressmen. Senator Humphrey has involved himself in PL-480 decisions, and Senator McGovern has tried to use his subcommittee to influence decisions on reserve stocks. But even these Senators and their staffs have a difficult time finding out what is going on inside the bureaucracy. They must wait for the announcement that the President or the Secretary will make a speech on the subject, and then make last-minute attempts at influence, rather than having a steady impact.

Newspapers, particularly The Washington Post and The New York Times, are beginning to pay attention to the substance of the food aid issue, but the government's activities have not developed into a regular beat for reporters. Stories on the bureaucratic fray thus tend to be sporadic. Television and radio have dealt with the problem of world hunger, but not with what is happening on a daily basis within the government.

The role and influence of outside organizations is unclear. Outfits like the Overseas Development Council have done a great deal to educate the interested public and Congress. A World Hunger Action Coalition of some 70 organizations has been active in promoting popular support for a positive U.S. position at the World Food Conference. But just what effect they have had on executive decisions remains to be explored.

Within the bureaucracy, information plays a critical role, and Agriculture has a strange hold here—at least on questions of price and domestic crop availability. Other parts of the bureaucracy rely on the monthly crop report from Agriculture as the sole source of facts. As for foreign crop reports, Agriculture attachés abroad are of principal importance, but information is also received from the Food and Agriculture Organization. As for reports on crops in nations like Russia and China, which do not publish their crop predictions, the CIA is becoming the prime information-gatherer through satellite photography.

In general, Agriculture is primus inter pares within the bureaucracy, if only because it has hundreds more officials working on any particular food issue than any other department. State has about 25 people spending a significant part of their time on food aid. That is more than any other department except Agriculture. And Agriculture has about 30 people in its Food and Grain Division, whereas State has one.

Agriculture thus cannot be outstaffed on an issue; it can only be outgunned at senior levels. This is basically what Kissinger has been doing. But, importantly, Kissinger and Butz have not really squared off against each other. They have a vital area of common interest—the belief that food is a key weapon in diplomacy; that food is power. Despite Butz's protestations to the contrary, he and Kissinger have more or less been allies in the internal debate. Should this alliance break down, State and OID would be alone in arguing for more food aid.

Even with Kissinger and Butz acting roughly in concert, food aid decisions have lacked firmness, consistency, and leadership. There is not and there cannot be a magic bureaucratic formula for reconciling legitimate domestic concern about inflation with legitimate international concern about starvation. It still takes a President to forge the missing links by providing the leadership.

THE AGENCY FOR CONSUMER ADVOCACY

Mr. BAYH. Mr. President, it gives me great pleasure to add my support as a cosponsor of S. 200, the legislation which would create an independent, nonregulatory Agency for Consumer Advocacy. This landmark bill, the product of many months of hard work and compromise during the last Congress, is aimed at assuring a voice for American consumers in matters affecting their own health, safety, and pocketbooks.

Proposed legislation to create a consumer protection agency has been exhaustively considered by the Congress since it was proposed in 1969. The Senate has considered this legislation three times before; it passed a consumer protection bill in 1970 by a vote of 74 to 4, and in 1972 and 1974 votes on similar bills were blocked by filibusters. In each of those instances, I supported this legislation. Now, once again, the Senate has the opportunity to properly protect the interests of consumers within the Federal Government. I am looking forward to the 94th Congress as the Congress which at last sees the enactment of an Agency for Consumer Advocacy.

The most important function of the Agency for Consumer Advocacy under this legislation will be to represent consumer interests before Federal agencies and courts, and to provide the public with information about consumer matters. It will participate as an advocate in Federal agency proceedings, speaking for the financial, safety, and health interests of consumers. The ACA will also be authorized, where necessary to protect consumers' interests, to seek judicial review of an agency proceeding which by prior law is subject to review.

Over the years there have been some who have voiced reservations about the creation of a consumer protection agency, fearful that it would encroach upon the legitimate prerogatives of both Federal agencies and the business community. For those critics I would like to stress that the ACA will in no respect have the power to regulate the activities of business. It will have no authority to force other Federal agencies to take any particular regulatory actions. On the contrary, the ACA will act solely as an advocate and spokesperson for consumer interests.

The need for such a consumer spokesperson is self-evident. Ten to fifteen percent of the consumer's purchasing power is said to be wasted because consumers are unable to get the information they need to find the best buy. An estimated $14 billion annually is wasted in supermarkets alone through deceptive and confusing packaging and labeling practices, which prevent the consumer from finding the best buys. Additional billions are wasted on ineffective drugs, nonnutritious foods, and cosmetics.

Other statistics point to an even more urgent need for a consumer protection agency. About 20 percent of deaths and injuries throughout the country during the last year are said to have been related to household consumer products:

The U.S. Public Health Service estimates that toys injure 700,000 children annually. According to the Toy Manufacturers Association, 15 percent of the toy related accidents are caused by faulty toys;

The National Commission on Product Safety reports that 60,000 people annually are injured by cosmetics severely enough to restrict normal activity or require medical attention;

Approximately 1,500 recall campaigns involving 45,453,823 motor vehicles were initiated by the Department of Transportation over the last 7½ years.

Whenever we experience sky-high mortgage rates or highly inflated price rises or fare hikes, whenever we have a political milk deal or an international wheat deal, the consumer is usually the first to feel the squeeze and often the last to be heard.

In past the consumer experienced these misfortunes because the agencies and departments of the Federal Government have failed to consider adequately the needs and concerns of consumers in the course of the decisionmaking process, and in part consumers experience these misfortunes because there is no agency responsible for the dissemination of consumer-oriented information.

A case in point would be the recent action by the manufacturers of the Dalkon Shield, an intrauterine contraceptive device. Last June, the Food and Drug Administration imposed a sales moratorium on the sale of the Dalkon Shield when evidence indicated the use of this contraceptive caused the development of spetic abortions—a form of blood poisoning which leads to the death of the fetus and sometimes the death of the mother as well. Of the 219 cases reported so far, 14 women have died.

Incredibly, despite the fact that the FDA advisory committee voted 12 to 2 to keep the sales moratorium in effect, FDA Commissioner Schmidt released the remaining stock of the potentially harmful IUD for sales and distribution with no restrictions whatsoever.

If we had a Consumer Advisory Agency, the Agency could petition for judicial review of this determination. The ACA could also disseminate warnings as to the possible dangerous effects of this device to both physicians and to the general public.

While I feel that the consumers of this country deserve to have their own advocate in the halls and meeting rooms of the Federal Government, I have also been concerned with the objections raised by members of the business community to the creation of a new layer of Federal bureaucracy. Particular concern was raised by a number of small businessmen, concerned with the financially burdensome provisions of the disclosure requirements under the legislation. This amendment was adopted, and is retained in the bill we have introduced during the 94th Congress.

Another legitimate concern that has been expressed to me by members of the business community has related to the potential for the ACA to engage in fishing expeditions by seeking unnecessary information from businesses. The ACA is given only limited powers under this legislation to gather consumer related information by sending questionnaires to those engaged in business activities which substantially affect consumers' interest. Business can challenge these requests in court and they will be enforced only if the recipient shows that they are excessively burdensome. Moreover, the ACA cannot use this power if the information is already available publicly or from another agency. The ACA has no independent subpena power, but it does have the same right to ask a host agency to use its subpena power as any other party under the Administrative Procedure Act.

Another legitimate concern expressed by the business community has related to trade secrets. The ACA would be subject to the same criminal liability for the exposure of trade secrets or any other confidential information acquired from another agency if that agency stated that the information is exempt from disclosure under the Freedom of Information Act.

There has also been concern expressed over the effect of the ACA on informal negotiations between Government and business. I should like to point out that under this legislation, the ACA may not request to appear at the same time a member of the business community is making his presentation.

The ACA does have a right to participate in agency proceedings by presenting written or oral submissions in an orderly manner and without causing undue delay.

A majority of businesses have nothing to fear from this legislation. The ACA will help a majority of American businesses keep their good name, and will help promote the consumers' faith in both American business and the governmental process. Because I feel strongly that this legislation deserves the support of the business community, I ask unanimous consent that a copy of an editorial from Business Week magazine be printed in the Record.

Mr. President, I support the fundamental principles of the consumer advocacy bill, and hope that the Senate, after a reasonable period for debate, will enact this much needed legislation.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From Business Week, April 6, 1974]

A Consumer Spokesman

Businessmen understandably are somewhat nervous about the drive to create a federal agency charged with looking out for the interests of the U.S. consumer. But the legislation taking shape this week in the House deserves the support of business as well as the various groups that now speak for the consumer.

Basically, the bill would create an "ombudsman" to represent consumer interests before Congress and most federal regulatory agencies, including the Federal Trade Commission, the Food & Drug Administration, the Interstate Commerce Commission, and the new Product Safety Commission. Consumer interest as defined in the bill would include everything from quality to availability and adequacy of choice.

There is a danger, of course, that another agency would simply multiply the red tape and increase the delays that already frustrate businessmen when they deal with the government. But it is also possible that the new agency could help speed the regulatory process by improving input and clarifying issues.

Beyond that, a consumer agency could improve the level of debate between business and the consumerists. By putting a sharp focus on the vague charges the consumer groups now feel free to make, it could show business where its real problems are. And by equalizing the balance between well-financed, well-organized business groups and the often disorganized consumer spokesmen, it could help restore public confidence in the regulatory process.

The changes of getting a fair and workable bill adopted may be better now than they will be after election. There is no telling what part consumer unrest will play in next November's voting. But as Representative Frank Horton (R.-N.Y.), a co-sponsor of the bill, says, "Prudence dictates moving when the situation is stable and the factors understood."

THE WILDERNESS PROPOSAL FOR THE GREAT SMOKY MOUNTAINS NATIONAL PARK

Mr. BROCK. Mr. President, shortly before Christmas the President sent to Congress 37 proposed additions to the National Wilderness Preservation System. Included among the proposals was one for the Great Smoky Mountains National Park which would make 390,500 acres of the half-million acre park a permanent wilderness area.

There is no doubt of the wisdom nor of the need for preserving America's remaining wilderness areas for future generations. The idea behind the 1964 Wilderness Act is sound and I support it. However, I do have several reservations about the present proposal for the Great Smokies.

First, according to the National Park Service, there have been no formal public hearings on the wilderness proposal since 1966. I believe it is imperative that the public have the maximum possible opportunity to be heard on this proposal. In the last 9 years attitudes toward wilderness areas and outdoor recreation in general have changed drastically. I fear that this change may not be adequately reflected in the current proposal.

Second, Mount LeConte Lodge and the trial shelters along the Appalachian Trail will eventually be closed under the Park Service's present plans. Many Tennesseans have written to me to protest these closings. Mount LeConte Lodge allows those otherwise unable, because of health or age, to enjoy a unique wilderness experience. And if the trail shelters are closed, only those who can afford expensive camping equipment will be able to hike the trail. Furthermore, two Boy Scouts got lost in the park last month during a storm. Had it not been for a trail shelter, they may well have not survived.

Finally, regional and park planners are now developing master plans for both the east Tennessee region and the park as a whole. To enact the present wilderness proposal would reduce the planners' flexibility.

Mr. President, I think the best idea is to defer consideration of the proposal until after the planners' have finished their work. They will hold hearings on the master plan for the park this spring and this would be an excellent opportunity to explore the issues raised by the wilderness proposal.

Mr. President, I ask unanimous consent that a letter from Mr. Leon Dure to Assistant Secretary Reed on the proposal along with two editorials from the Maryville-Alcoa Times, an alternative plan written by Dr. Elgin Kintner and a news release from the Park Service on the habits of park visitors be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

The University of Georgia,
Department of Biochemistry,
Athens, Ga., October 21, 1974.

Hon. Nathaniel Reed,
Assistant Secretary of the Interior,
Washington, D.C.

Dear Mr. Reed: I write to you to express my dismay over the proposal to convert the Great Smokey Mountains National Park (GSMNP) into a wilderness area. I am not familiar with all the details of the proposal, but two aspects of it that I do know about distress me and a number of friends of mine a great deal. These aspects are the proposed destruction of LeConte Lodge and of the shelters along the Appalachian Trail.

I am distressed and dismayed at these two facets of the wilderness concept because I am convinced that they are not in the best interest of the citizenry at large, but represent a knuckling under to pressure from a well-organized, vocal and sanctimonious minority. I imagine that there are some good features in this Wilderness Proposal for the GSMNP, for certainly this Park bears an enormous amount of traffic of all kinds; but those who wish to destroy the lodge and the shelters expose in themselves an incredible degree of elitism and selfishness in my opinion.

Before I outline my reasons for considering the two specific proposals a bad mistake, let me point out that I, along with my children, am an avid backpacker. I have traveled the Appalachian Trail for over 400 miles. I have all the equipment necessary to take off into the wilderness for 10 or so days in any weather; i.e. sleeping bags, stove, tent, clothes, etc., and I don't suppose anyone loves the wilderness or hiking through it anymore than I do. Yet in the case of the GSMNP I don't want it to belong solely to a handful of people like me to the exclusion of those who also love the forests, mountains and streams and enjoy the wilderness experience but who for one reason or another cannot become backpackers.

LeConte Lodge, as you know, is situated at about 6400 feet in a saddle between two of Mt. LeConte's peaks. It is a rather primitive place, without electricity, with only a very rudimentary plumbing system, with its few buildings constructed of materials fabricated on the spot (log cabins, log beds, etc.). It does offer meals, a bed, wood for the fireplace and a great deal of pleasant company and conversation. The views from the rocky shoulders of Mt. LeConte itself are perhaps the finest in the south-eastern United States. And of most importance it can only be reached by hiking 6-8 miles along any of 5 trails that offer a climb of between 2500 and 4000 feet. Consequently, no one goes to the lodge that does not love the majesty of the mountain, of the out-of-doors. The clientele of LeConte Lodge should never be equated with the hordes that descend upon Gatlinburg, TN or Cherokee, N.C. or that overload U.S. Rt. 441 that crosses the Great Smokey ridge line. The clientele in fact is national—not restricted merely to people from nearby Tennessee and North Carolina. In fact, I have met more people from Michigan and Ohio at the lodge than from the southeast. I know one family that twice a year motors non-stop from Milwaukee, Wisconsin to the beginning of Alum Cave Trail, hike up to the lodge, spend two nights there and then return to Milwaukee non-stop. I know of another couple from Delaware that once a year do the same thing. The people that make up the lodge's clientele generally have two things in common—a love of the lodge, its setting and the wilderness experience it affords, and the fact that they are mostly middle aged or older!

In this last fact lay the crux of my argument against the destruction of the lodge. It is the only place in southern Appalachians that offers a genuine outlet into the wilderness for those who are too old or too loaded down with work or responsibilities to become backpackers!

It is not at all unusual to run into individuals at the lodge 55–65 years old who have returned for the 20th–40th time. Their opportunity for this sort of experience is possible only because LeConte Lodge exists. These people appreciate and cherish the forests, streams and mountains as much as anyone and they are willing to (look forward to, in fact) hike 6–8 miles uphill from the nearest road to enjoy this experience. But they are not likely to become backpackers; to assemble the equipment or to develop the skills or to master the logistics involved in backpacking. But are they to be denied their stake in the wilderness because they are too old or because they cannot devote the time to hiking that justifies the expense of backpacking? Thus to destroy the lodge is to remove a unique wilderness experience possibility to a very large segment of the population. It is to relegate them to a view of nature gained from short hikes close to the roads, or to a view of nature from the back seats of automobiles.

As you know, many people over 50 would love to hike into the back country, to climb mountains, but can only do this if there is food and shelter when they arrive. Age alone dictates this in many cases. How many people over 50 could manage a 30 lb. pack over rough country, then be prepared to manage supper over an open fire and finally manage their shelter in a cold rain and high wind?

I could make this point even stronger by mentioning the case of Dr. Rufus Morgan, a Franklin, N.C. minister, who is 88 years old, going blind, but still hikes to the lodge as he has over 125 times in the past 30 years. (Anyone who wants to destroy the lodge should have the opportunity to listen to this old man recite poetry on the cliff tops at 6500 feet as the sun sets.)

Or I could mention the old lady, age 83 (whose name I cannot recall) who has stayed at the lodge over 170 times and is still going. But then I am sure you have heard of these people.

I recognize that the lodge is not wilderness to many of those who want it destroyed. But the wilderness is surely a matter of degree. What is wilderness to an urban apartment dweller is tame to an end-of-the-road farmer. In this regard the lodge is quite primitive and has essentially no impact on the aura of the Smokey Mountains. In fact, the lodge pretty much represents life as it was lived in the mountains 100–200 years ago.

Kerosene lamps light the evening, and the cabins quickly equilibrate in temperature with the outside world when the fires die down. The Sierra Club has a dictum that states that man has a desire or even a need to relieve the way of life of his ancestors from time to time in order to comprehend the continuity of mankind. To me, to relive the experience of one's great grandfathers at LeConte Lodge is just as valid in this sense as to relive the experience of the neanderthal men by sleeping on the ground. In fact, the latter is rather a fraud now days considering the stoves, tents and orange and red plumage that go with backpacking.

In short, to destroy LeConte Lodge is to make the back country of the GSMNP the private domain of backpackers. This would constitute rank elitism. Something must exist for people over 45 who love the back country but who cannot for one reason or another join this elite group. I can certainly sympathize with the desire to minimize the impact of modern, urban, mechanized life on this marvelous area. LeConte Lodge presents a miniscule threat in this respect and allows a back country experience for countless people who otherwise would be deprived of it.

To destroy the lodge in response to pressure from a small group of self-appointed spokesmen for nature lovers is not in keeping with the overall fine reputation of the National Park Service. There must be a middle ground where extremes are not resorted to to satisfy extremists. In this case I feel it involves allowing the continued existence of LeConte Lodge.

As for the shelters along the Appalachian Trail, I, along with many other backpackers I know, do not feel that they detract from the wilderness experience. Rather they add to it. They are a great convenience in that they lessen one's apprehension over the weather. They make it possible not to have to invest $100–$150 in a tent. They act as a haven for those who love the out-of-doors, the flora and fauna of the back country, but are reluctant to sleep on the ground possibly in snow or rain for several nights in a row (i.e. my wife who would not backpack in the GSMNP were the shelters to go).

The Appalachian Trail has a deep tradition among those of us who travel it. A mention of the various shelters in conversation stirs memories in those of us who have stayed in them, for they themselves have their unique attributes, character, tradition. I resent greatly the proposal that they be sacrificed to the few who apparently feel that nothing man-made is worthy, is untainted. The reservation system is working for the shelters in the GSMNP. In fact a case can be made that they lessen the impact on the environment when compared to the same number of tenants in tents. A very strong case can be made that they are more in keeping with the back country than a menage of tents colored red, orange, blue and yellow!

I have talked to at least 100 people who are familiar with LeConte Lodge and the trail shelters. I have yet to find a single individual who was not horrified at the proposal to destroy them. However, we are not organized in the sense that those who wish their destruction are—but we exist and in large numbers. Do not forget us.

Thank you for your patience in reading this over-long letter. I am not in the habit of writing the government about anything, but in this case I feel rather strongly, and I know I represent the feelings of many, many citizens.

Sincerely yours,

LEON S. DURE, III.

TOO MUCH WILDERNESS IN PARK DEPRIVES USE BY MILLIONS

The new Wilderness Plan of the Great Smoky Mountains National Park has taken another 143,500 acres away from general public use to place into the category of wilderness. If the president approves the plan, there will be 390,500 acres of the 514,688 acres within the park reserved for the future.

This stops a new transmountain road in its tracks and takes away trail shelters and the Mt. Le Conte Lodge and cabins. Many amateur hikers will resent this although the backpackers will scarcely miss anything.

Environmentalists have made their play for this additional acreage and they have won out with the professional park people. Vast areas which were under consideration by many of the park's admirers for means of gaining easier access have been removed and perhaps this is best. Heavier and heavier traffic has reduced isolation desired by the trail lovers and escapees from civilization so now more of the park is to be reserved for those who don't want other people around.

A decision evidently has been made by the local and regional park service personnel to turn the use of the land away from the public and into the hands of a very small group of people. National parks, once open to the public and designed for their use and enjoyment, are quite obviously now to be largely reserved only for these hikers in the vast incidences of land use.

Somehow we doubt that Congress ever intended the general public to be excluded from the enjoyment of its national parks to the extent it appears the direction has now been set. Park strategists and planners have been swayed by environmental lobbyists that, instead of planning means of spreading the automobiles over vast areas of scenic views, they have been callously excluded from them.

Several years ago, we wrote an editorial here which requested the National Park Service to examine the direction of the use of national parks and to determine how incoming floods of people would be coped with in the future. The vast majority of visitors to parks come in automobiles, hike a few hundred yards and then leave. Only the hiker stays along the trails and these compose less than five percent of the visitors. Yet the vast acreage of the Great Smokies has now been set aside for the insignificant minority who happen to be vocal, articulate and well-healed enough to have an active lobbying group. The auto group has been taken care of by saying "out."

We fully agree that certain areas of each national park should be assessed as to its value to the wilderness needs of the nation. It must be done so, however, in full recognition that there are other values and needs of the people who visit the park. We doubt that enough consideration has been given this silent majority, a vast number of taxpayers who pay for the park and its personnel.

We can see no evidence of plans to increase the enjoyment of the Great Smokies by the millions of elderly, lame, very young and the feeble, at least to the extent that plans have been made by those who would exclude them from the vast beauties of the loveliest section of the park. There is no way that they can view the park adequately if this wilderness plan is adopted. Washington representatives should be contacted so that these not lose permanently all access to these areas.

Increase the wilderness acreage, yes, but not to the point of disfranchising millions of Americans from the experience of park beauty so that others can have more than their fill. What a price the general public must pay for not belonging to a lobby that will protect its interest!

AVERAGE PARK VISITOR'S NEEDS UNFILLED BY NEW PLANS

Earlier this week, we took issue with the new wilderness proposal of the Great Smoky Mountains National Park in the manner in which it has virtually excluded the vast millions of Americans from the loveliest scenic views within its confines. We do not want to be hypercritical of the park service but we do want to make a plea for greater consideration of the vast majority of park visitors rather than just to say to them, "Sorry, we are out of space for you," while deeding hundreds of thousands of acres to a small, vocal minority.

We do this in hopes that the park service, like other branches of our huge government has done, has not lost sight of the average American, the man on the street who can economically muster only a once-a-year vacation and who can't get away every weekend for a hike when he wants to. We do so not for the commercial aspects of these visitors to our area because we find that the tourist dollar has no great effect on local economics because local governmental services to them often outweigh the income they produce to isolated groups in our resort areas. Retirement programs at the Aluminum Company of America plants account for far more income to the county than does tourist income without the expenses necessary to bring and keep the tourist here.

We plea for greater planning for the majority of visitors who appear now relegated to a smaller area like cattle in a feed lot. We ask for redoubled effort to design roads that would not destroy landscape and ecological values. We plea for more smaller entries into the park as at Cataloochee and Cades Cove, for more one-way roads into the near-wilderness like Parsons Branch and Cherokee Orchard. Planning others like these can easily be done and could allow a one-day transmountain road without destruction of natural values.

We ask for creative planning to look after these park visitors rather than planning the easiest way to get rid of them. Park personnel should realize that many entries into the park, if properly done, will relieve heavy pressure on the most travelled trails and furnish hundreds of thousands of others, millions in years to come, a greater sense of the wilderness and the need to protect it.

The wilderness plan under consideration does little for the 8 million visitors, confining them to bits of acreage each compared to wide expanses for the minority. Some five million visit the park in the summer months when things are really crowded and less than five per cent will go into the newly defined wilderness. This means that there will be an average of 55,500 persons a day of which 95 per cent will be given 2.36 acres each in which to view the Great Smokies and five per cent will be granted 142 acres each. Hardly a sporting proposition and certainly one not planned to look after the average visitor.

Imaginative planning should not be too difficult if directions are clear and defined. We can hardly believe that the direction of the National Park Service has been designed to keep people out of the park even though most parks are swamped with visitors including the backwoods areas. Park personnel must surely know that only a few acres of the wilderness will be used along the trails and these will be packed, causing another change in direction in a few short years. It could well be that adequate planning for the roads cited above might be the wisest plan for they would serve every park user, allowing the hiker to enter into far more wilderness than he would have otherwise.

Statement for Long Range Planning for the Great Smoky Mountains National Park

I am Elgin P. Kintner, M.D. residing in Maryville TN. The recommendations I am about to present are based on my personal observations and studies. I have hiked in the Smokies more than 200 times in the past 20 years and have hiked over 500 miles in the past year. I have camped out with my family in nearly every campground, backpacked into a few back country sites, and either visited or stayed in all of the trail shelters in the park. I have hiked every major trail in all regions of the park and there are a few connecting trails I have not hiked. I am familiar with the park. In addition, with my family, I have visited and camped in every major National Park and have visited and camped in about half the National Monuments in the United States.

My concept of a National Park is that it is an area of unique features which is maintained as much as possible in its natural state as a public attraction and recreational area. A wilderness and preserve, on the other hand, is for the living things already there and man is a visitor.

The Smokies have many features which I would like to list somewhat in their order of value, if that can be done:

1. A wide variety of flora.
2. Mountain top vistas, both natural openings and those associated with towers.
3. Beautiful streams, water falls, leaf color, hoar frost, snows, rocks, etc.
4. A well maintained system of hiking trails and camp sites.
5. Developed campgrounds, picnic areas, shelters, towers, lodge, visitor centers.
6. Birds and animals.
7. Improved roads, access roads, old railroad grades.
8. Remnants of a colonial civilization.
9. Four distinct seasons, each with distinctive features.
10. Geological formations.
11. Out-of-park supportings services.

The aim of the park administration in the past has been to provide facilities for the park visitors to best see the features of the park in its natural state. The park has been well visited, to the extent that a program of dispersing people has been instituted. This dispersion involves mostly back packers and should involve other visitors as well, in my opinion. Most of the visitors are jammed up in a small area on either side of US 441 across the mountain with some along TN 73, near the edge of the park. Campgrounds within the park have been reduced and plans for additional campgrounds have been scrapped. Most visitors must rely on their automobiles in order to see the park, but the roads through and around the park are woefully inadequate to disperse the visitors.

Road building in itself need not spoil the natural beauty of the park. The ability to build one-way roads, road with widely separated lanes and careful planning to prevent undue exposure of deep cuts and undue disturbing of the overstory, is available to us now. The Roaring Fork, Clingman's dome, Cades Cove loop, and Parson's branch roads testify to this ability. Anyone who has hiked near these roads, such as the Clingman's dome road knows that, back a few hundred feet, there is no evidence of disturbance of the natural environment.

The accompanying map shows the Great Smokey Mountains National Park with a portion of the road system of Yellowstone National Park superimposed, the northern loop network. There, major roads are within 20 miles of each other as they cut through the heart of the park and it has not disturbed the natural beauty of that park. Additional major roads through the Smokies would help to disperse visitors here. The proposed road from Bryson City to Townsend does make sense and even a second transmountain highway in the East end might be needed within the planning time of this study. These should be provided for in the wilderness proposal, in event they are needed.

Many park visitors would like to be able to sleep in the park. Commercial campgrounds cannot provide large wooded areas in the heart of the forest for campgrounds. Since the park is the only one that can provide this experience, then the program of campground development should be revived and carried on further. The perimeter, private campgrounds do provide a service to those with large rigs and with those who need just a place overnight before going on. Although established and developed campgrounds do tend to trample the understory in the immediate vicinity, it does not damage the overstory and a few hundred feet from the site, the natural features are preserved. Dispersing visitors in this manner would provide means and access for more trails in more remote areas of the park and again would help in dispersing visitors.

Unlike some Western Parks, the animals of the Smokies are not an important visitor feature. The park is not a game preserve; however, neither is it incompatible with animals. Recreational facilities within the park should not be denied for the sake of the animals that might be scared to a new location within the park.

One of the most important assets of the park that has not been developed to its fullest is winter-type visitation. Most of the winter days, except when a cold front is moving in, are as suitable and often more suitable for visiting the park than the other three seasons of the year. Leaves are off the trees and the warm sun gets through to the visitor and he can see further. Snows, frosts, and ice formations are most unique in the mountains. The least that should be done is to keep access roads, usually open in the summer, open all of the year round. These should be improved, again so that visitors may be dispersed. Campgrounds should remain open in wide areas in the park. Most of these would be at lower elevations where access even during snowy times could be maintained.

The amount of land in the present wilderness proposal is about satisfactory for long ranged planning. However, one defect is that it will require a large number of observation towers and trail shelters to be torn down, which would be adverse to the needs of the park visitors. Advantage should be taken of the principle of strip zones of exception to the present proposal. By removing only a small percentage of the present proposed wilderness land and allowing for these recreational structures as proposed later in this recommendation, the needs for allowing visitors into the park with adequate facilities can be provided for. Otherwise if the present proposal is enacted by Congress, it will make it difficult to provide for adequate development of the park without going back to Congress from time to time to change proposals.

With these opening comments in mind, I would like to list the following future developments which I feel should be provided for in long range planning.

1. Roads: There should be an improved road network to, around and through the park. This would include improving the boundary line road from Cosby to Cove Creek, and from Tallasee to Fontanna. A second transmountain highway from Bryson City to Townsend should be built. The possibility of a third transmountain highway from Cataloochee to the Greenbrier section should be considered. The connector road now planned from Cataloochee to I 40 should be completed.

2. Secondary roads: The following secondary roads should be improved for all years use and to prevent recurring flood damage which now often happens because of improper engineering devices to handle the water: a. The road from US 129 and Look Rock into the Happy Valley area; b. the road from Tuckaleechee Cove across Rich mountain into Cades Cove; c. the road up Middle Prong of Little River to Tremont; d. the Little River road from Elkmont to Fish Camp Prong; e. the Little Pigeon River Road to the base of Greenbrier Pinnacle and Ramsey Cascades trail head; f. and the road from Heintooga Overlook to Straight Fork and Ravensford.

3. Improved Campgrounds: Along with access roads for at least light trailers the following campgrounds should be constructed:

a. Abrams Falls trail head area;
b. Happy Valley;
c. 20 Mile Creek and Upper Flats area;
d. The mouth of Forney Creek;
e. Cataloochee Cove;
f. Big Creek;
g. Walnut Bottom;
h. Greenbrier Pinnacle-Ramsey Cascade trail head area;
i. Porter Flats;
j. Cherokee Orchard;
k. Metcalf Bottoms;

4. Improve the trail shelters on the AT, repairing bunks and protecting the springs from ground water contamination. Construct new shelters along the AT to accommodate more hikers and back packers. Improve the construction of the AT by installing proper engineering devices to prevent erosion and miry conditions on the trail. (Damage to the trail is not coming from too many people on it; it is coming from improper maintenance of the trail.)

5. Renovate LeConte Lodge and construct

a new one in the Spence Field-Thunderhead area.

6. Hiking Trails: There are many old hiking trails which have been allowed to grow up. With a little expenditure of money these could be maintained for additional enjoyment and benefit to park visitors: The old AT from Deal's Gap to Parson's Bald, and the Spur from Dalton's Gap to US 129; Bunker Hill to Chilhowee down Panther creek; the trail along Abrams Creek from the Ranger Station to the mouth at Chilhowee Lake; the lower Thunderhead Mtn trail from Bote Mtn to Defeat Ridge and to Middle Prong of Little River above Tremont, Ramsey Cascade to Mt Guyot, the Breakneck Ridge to Raven Fork trail, and the boundary line trail from the Y to Line Spring entrance.

7. The abandoned railroad bed up Forney Creek should be opened for an electric train means of bringing people in and out of the wilderness area in that region.

8. Modify the present wilderness proposal to allow for strips of non-wilderness designations up to present observation towers, trail shelters, lodges and campgrounds as well as those contemplated for the future. Eleven million acres of land in the National Forests have been designated for Wilderness. This sounds reasonable. The flora and animals of the Smokies and other parks are already protected, so that the need for Wilderness within National Parks is not so great.

I realize that these recommendations are a rather great departure from those apparently planned by the present Park Service. However, I would like to point out they are in line with the direction that the Mission 66 program was taking a few years ago. It seems senseless to me to buy up large areas of private land for recreational needs of the people, and then turn right around and put it in to wilderness restrictions. If recreational facilities were developed in our present parks, it would take care of our needs for a long time. The government already holds large tracts of lands, bigger than some states, which could be used for wilderness, preserves, timber production and natural resource use. I do not buy the idea that we must lock up our public land to all but the sturdy hiker and back packer. Let's return to the spirit of Mission 66 and institute the spirit of 86 for our national parks.

Park Regional Master Plan Survey of Visitor Habits

A visitor use survey is being conducted to collect data for use in preparation of the Regional Recreation Master Plan, jointly sponsored by the states of North Carolina, Tennessee and the National Park Service.

Amusement/Recreation Marketing Services Incorporaed, who is conducting the visitor use survey for the Great Smoky Mountains National Park Region, reports that the majority of visitors questioned are "upscale in terms of social economic station", according to Park Superintendent Vincent Ellis. The average total family income is $10,000 or above according to information obtained during the roadside interviews he said.

The report reveals that visitors tend to have strong family ties. Of those questioned, 86% agree that "vacation time is when a family gets together" and only 29% say they ever take pleasure trips without the family.

Enjoying nature is an important part of the vacation of Great Smoky Mountains National Park visitors. Some like the rugged back-country encounters with their environment. But most park visitors enjoy nature by driving through the countryside. Nearly 75% agree that "the great outdoors is the only place to be on vacation". In spite of their professed love for the great outdoors however, only 14% express interest in tent camping and only 3% in back-country camping.

The activities most frequently participated in by Great Smoky Mountains National Park visitors, besides souvenir shopping, were: picnicking (63%), walking for pleasure (57%), hiking (57%), swimming (45%) and driving for pleasure (43%). It appears that swimming may mean a dip in the motel pool and "hiking", synonymous with walking for pleasure.

More park visitors seemed interested in historical and culture attractions than in physical activities; (29%) visited historical features and (27%) visited museums.

Three in four visitors are interested in good restaurants and 86% have eaten out during their trip. Among the visitors questioned during the survey, 66% reported shopping for souvenirs with an average expenditure of $17. A large proportion say they are more interested in craft shops, (68%), in souvenir shops (52%). It appears that visitors are more interested in regional crafts than stenetyped trinkets.

In general, our visitors seem to feel that prices in the Great Smoky Mountains region are higher than at home, but no higher than other vacation destinations. The majority (55%) think that eating out in the region costs more than in their home area. Only one in four (26%) regards the price of the products and services in the area as higher than in other places they have visited. The survey reveals that while Great Smoky Mountains National Park visitors may be budget conscious, they are not "penny-pinchers". This is brought out by the relatively high expenditure for gift items. Therefore, though they may perceive the prices to be high in some instances, they do not appear to be high enough to deter the type of vacationer who visits the Park.

OIL TARIFFS—THE WRONG ANSWER

Mr. HUMPHREY. Mr. President, the administration's plan to impose a tariff of $3 a barrel on imported oil over the next 3 months and to decontrol the price of domestic "old" crude oil has been subject to swift and strong citicism.

A quick glance at the newspaper headlines tells the story: "Energy Plan To Raise Consumer Costs;" "Ford Plan Could Raise Utility Costs 20 Percent;" "Ford Energy Plan's Costs Could Exceed Estimate;" "Environmentalists and Consumer Advocates Deplore President's Energy Plan."

The President's proposals have been justifiably labeled "inflationary, recessionary, inequitable, and ineffective."

Various bills and resolutions now await action in the Senate and House to subject the President's actions to congressional review. I support those proposals. The issues are too critical to be dealt with merely by executive fiat. Congress must have a reasonable time to consider the real effects on the "stagflating" economy, on the energy crisis, on the individual consumer.

The Trade Act of 1974 provided for public hearings on such Presidential actions, "if it is appropriate." Apparently, the President thought it was not appropriate.

Is it not appropriate to discuss a direct cost to consumers of a $3 tax on all crude oil, approaching $17 billion?

Is it not appropriate to determine the full effects of an inflationary shock wave which could cost the harrassed American consumers a minimum of $43 billion in the first year alone?

Is it not appropriate to publicly appraise estimates of a 15 cents a gallon price increase for gasoline, 10 cents a gallon for heating oil, and 10 cents a gallon for residual fuel—estimates which themselves are increasing every day?

Is it not appropriate to debate whether the increased taxes will actually decrease consumption, or whether the price increases will be equitably distributed over all regions of the country, or whether low-income families will be disproportionately affected?

Mr. President, it is appropriate for these matters to be fully aired. If it takes new legislation to force discussion in a congressional forum, then so be it.

I agree with President Ford that quick action is needed to reduce our energy consumption and end our dependence on foreign oil. But the President's quick action is the wrong action. And Congress should halt it.

I have listened with sympathy to the protestations of my colleagues from New England that the administration's plans would be particularly disastrous to their section of the country. Let me make it perfectly clear, Mr. President, that my own region would also be hard pressed, should the proposed actions go into effect.

The State of Minnesota, for example, is dependent on Canadian crude oil for more than 80 percent of its crude oil needs.

Sixty percent of Minnesota's petroleum products are supplied by Minnesota refineries. That oil supply is being drastically cut back by Canada.

Moreover, that oil is subject to a heavy export tax—making it the most expensive crude oil in the world. A new excise tax on top of that, plus decontrol and the end of the equalization program, will bear most heavily on the refineries in the Northern Tier dependent on Canadian oil. Certainly, if any new tariff is ultimately imposed, some remedy needs to be applied to the already heavily taxed Canadian crude.

The Canadian problem is aggravated by the fact that Minnesota does not have readily available natural gas alternatives. The Canadian cutback in natural gas supplies has placed Minnesota in a worse overall supply situation than many other areas.

The President's proposed actions hurt Minnesota, hurt New England, hurt the entire country. We should move quickly to halt them. And then we should move even more quickly to enact an equitable and effective energy conservation program for America.

RESOLUTION OF STATE OF MAINE LEGISLATURE RELATING TO IMPORT FEES ON CRUDE OIL AND OIL PRODUCTS

Mr. HATHAWAY. Mr. President, my colleague, Senator Muskie, and I have received a copy of a joint resolution recently passed by the Maine State Legislature expressing opposition to the President's increase in the import fees on crude oil and oil products. The State of Maine will be especially hard hit by any such increase in the tariff because, like the rest of the Northeastern sector of the country, it is particularly dependent upon imported oil for home heating, electrical generation, and industrial fuel. Maine residents have already borne the full impact of the prior price increases in petroleum, and has responded admirably on the State and local level to the severe problems caused by those price increases.

A few simple statistics reflect the magnitude of the problem faced by the consumer in the State. Out of approximately 303,000 households in the State over 273,000 use fuel oil or kerosene to heat their homes. Just 2 years ago it cost approximately $307 to heat a home in Maine for a year at average consumption rates and paying the average price in the State for a gallon of oil. At the current price levels, that cost will be approximately $547 for this year. In some areas of the State, the price of heating oil has doubled in the past 2 years. This increase, accompanied by the general price increases which we all have experienced, makes an additional increase in the price of oil an intolerable burden for the residents of Maine. At this time Senator MUSKIE and I ask unanimous consent to have the text of the joint resolution of the State of Maine printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

JOINT RESOLUTION MEMORIALIZING CONGRESS AND THE MAINE CONGRESSIONAL DELEGATION TO OPPOSE INCREASED TAXES ON OIL

We, your Memorialists, the House of Representatives and Senate of the State of Maine in the One Hundred and Seventh Legislature, now assembled, most respectfully present and petition your Honorable Body as follows:

Whereas, the United States Congress will soon consider legislation to promote energy conservation; and

Whereas, among these proposals will be a measure proposed by the President to increase the tax on oil by $1 per barrel for 3 months; and

Whereas, the State of Maine is far more dependent on oil as a source of energy than is most of the nation; and

Whereas, approximately 90% of Maine's energy is produced by oil; and

Whereas, Maine uses 48 barrels of oil per capita per year, compared with the national average of 28 barrels per year; and

Whereas, Maine is a predominately rural state with a widely dispersed population which must travel long distances to work, shop and receive health care; and

Whereas, Maine has few urban transit systems and no passenger rail service to utilize in place of the automobile; and

Whereas, most Maine utilities have requested substantial rate increases in recent months while continuing to pass on to the consumer the sixfold increase in the cost of oil by use of the so-called fuel adjustment clause; and

Whereas, oil costs will also increase the cost of other consumer necessities, particularly food, which must be carried into Maine by truck and train; and

Whereas, Maine's unemployment rate has soared past 8% and inflation shows no signs of abating; and

Whereas, Maine's middle and low income people should not be deprived of their right to travel, work and live a normal life because they are not wealthy; and

Whereas, more fair and equitable methods of conserving energy have been proposed than the policy of conservation based on the inability to pay; and

Whereas, among these methods are oil and gasoline rationing, fuel allocation systems and taxes on nonessential uses of energy; now, therefore, be it

Resolved: That We, your Memorialists, respectfully urge the Maine Congressional delegation to oppose efforts to increase the cost of oil in any form and seek ways to conserve energy in a manner which treats all people, regardless of income, equally; and be it further

Resolved: That a copy of this Resolution, duly authenticated by the Secretary of State, be transmitted forthwith by the Secretary of State to the Honorable Gerald R. Ford, President of the United States and to the Members of the United States Congress from the State of Maine.

PRESIDENT FORD'S ENERGY PROGRAM

Mr. GRIFFIN. Mr. President, now that the specific, comprehensive energy program of President Ford has been laid before the Nation, plenty of questions are being asked about it.

Particularly since many questions on the minds of constituents are being directed at Senators and Representatives, I ask unanimous consent that a document prepared by the administration, setting forth a series of questions and answers on the President's program, be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

QUESTIONS AND ANSWERS OF PRESIDENT FORD'S ENERGY PROGRAM

BACKGROUND

Data history and forecasts

Q. Has demand for petroleum products increased since the embargo?

A. Domestic consumption of energy is now beginning to increase again and is estimated to keep growing, although at a slower rate than prior to the embargo. The latest figures show total domestic demand to be at 18.2 million barrels per day (MMB/D) as compared to 17.7 MMB/D at the close of 1973. Gasoline consumption dropped 3.4 percent during the first 9 months of 1974 (as compared to 1973), but has increased since September by about 300,000 barrels per day.

Q. What about production and import levels?

A. Domestic oil production continues to decline as older fields have reached their peak. During the first eleven months of 1974, domestic production averaged 8.8 MMB/D as compared to 9.2 MMB/D in 1973. As a result, imports continue to rise even with present high prices. We are now importing 7.3 MMB/D (average of 6.8 MMB/D in last quarter of 1974), as compared to 6.5 MMB/D in October, 1973, the month prior to the embargo.

Q. What about coal production?

A. Coal (approximately 20 percent of domestic energy production) was the only major energy source that showed increased output during the first three quarters of 1974. Coal production in October was 5 percent above its level for the same period in 1973. However, the strike in November interrupted coal output and the industry has not yet regained former production levels.

Q. Do you foresee any shortages in the next 6 months?

A. We do not expect shortages of petroleum products but we do project large shortages for natural gas, as high as 14%. The greatest impact will be felt by electric utilities and industries that receive natural gas on an interruptible contract basis. These curtailments of natural gas have already had a serious impact on employment.

Q. How high are current inventories?

A. FEA figures indicate that December, 1974 crude oil stocks were about 20 million barrels higher (this is an adjusted figure to account for disparities between the American Petroleum Institute and FEA reporting methods) than the same period of 1973. Similarly, stocks for refined petroleum products were higher in December 1974 than the corresponding month in 1973 due to reduced demand and increased imports. Coal stocks, however, are down as a result of the recent UMW strike.

NEAR-TERM ACTIONS

Import fee, tax and decontrol

Q. Will the fee on imports create additional profits for the oil companies?

A. No, the import fee, by itself, will not increase industry profits. However, the fee will place an upward pressure on the price for crude. Since the price for uncontrolled domestic crude will rise to meet the world price, industry profits will also rise. This is why we are calling for a windfall profits tax as part of the energy proposals. It will be retroactive to collect any profits caused by Administrative actions.

Q. Won't certain areas of the country which are heavily dependent on crude oil or product imports suffer a disproportionate burden as a result of the tariff?

A. No. The FEA is currently administering a program which substantially equalizes the cost of crude oil to all domestic refiners. This crude equalization program aids refiners with high crude costs at the expense of other refiners which have access to price-controlled domestic crude. Further, the product fees will be less than crude fees; there will be a $3 fee on crude and a $1.20 fee on refined products in April.

Q. How does a tax or fee achieve our national energy goals?

A. As a result of these measures, petroleum products will become more expensive relative to other goods and services, thereby encouraging conservation and discouraging consumption. Also, making imports more expensive than domestic supplies of petroleum encourages the production of domestic crude oil.

Q. Will the fee help to lower world crude prices and protect us from another embargo?

A. The fee program will help to reduce our imports of foreign oil by reducing our overall demand. As a result, we will have less demand for products from some OPEC nations. To this extent, it may affect some prices being charged by certain OPEC nations. But overall, the fee will have a minimal effect on lowering world crude prices in the immediate future.

Q. Why didn't you tighten the mandatory allocation program which you already have authority to administer rather than raising prices? Why not rationing?

A. The mandatory allocation program was designed in response to an emergency situation, and does not address the more basic economic issues. A tighter mandatory allocation program could necessitate a significant increase in the Federal bureaucracy and could mean a return to the long gasoline lines we experienced last winter. Additionally, rationing and price control programs are inevitably discriminatory against those who would enter the market and provide competition.

While the Administration's program, which relies on the market forces, is more effective, the President announced his intention to guarantee reaching the goals by using his authority to limit imports if necessary.

Q. How much more expensive will gasoline and other products be?

A. On the average, if costs of a crude import $3 fee are spread evenly among all products, prices of gasoline and other petroleum products refined from the higher priced imported crude could rise as much as 5 cents per gallon (controlled domestic oil will stay at the same price).

The total tax package and decontrol would ultimately add about $4 a barrel (10 cents per gallon) to the average costs of all products.

Q. What are the limits to the President's power to institute a fee?

A. The President may impose a fee in response to a national security finding and should be established at that amount sufficient to offset the threat to national security.

Q. What additional actions are you asking from Congress?

A. In conjunction with the establishment of the fee, we are asking Congress for an excise tax on domestic crude oil (and will maintain a fee on all imports), the decontrol of old crude oil, deregulation of new natural gas, windfall profits tax, and a natural gas excise tax.

Q. What are the differences between a tax, a fee and a tariff?

A. All three are charges which can be used to produce revenue and all three have the effect of reducing demand. The differences lie in the source of authority to levy the charge. A tax must be levied by Congress for the purpose of raising domestic revenue. A tariff is a charge against imports and must also be authorized by the Congress. A fee is also levied on imported material but may be set for non-revenue purposes and need not be legislated.

Q. How much oil will the combined tax/fee program save?

A. The overall tax-package will save an estimated 1.6 MMB/D in 1977 and about 1.0 MMB/D in 1975.

Q. Will there be rationing?

A. No, not unless another emergency embargo situation necessitates it.

Q. Why not?

A. Rationing will not solve our long-term problems and will create severe energy disruptions in lifestyles and would require a large bureaucracy to administer.

Q. Wouldn't it be better to reduce demand by imposing import quotas instead of raising prices through a fee?

A. No, it would not. Import quotas can cause disparities in the marketplace by mandating specific, allowable levels of products into the country. By raising prices via a fee, the individual consumer can determine in what areas to conserve. While we are not considering the use of import quotas at this time, we will submit legislation requesting the authority to use tariffs, import quotas or other measures to achieve energy price levels necessary to reach our goals. The Message stated that Presidential power to limit oil imports would be used if necessary.

Q. What is the effect of decontrolling domestic old oil?

A. Prices on the domestic market will rise to meet world oil prices, and oil industry profits will also rise. This is why we must have immediate enactment of a windfall profits tax—to preclude this from happening.

Q. Why are you requesting the deregulation of natural gas prices?

A. I want to let the free market work to the maximum extent possible. The deregulation of natural gas prices will greatly encourage higher production levels in the long run. As you know, we are currently faced with a natural gas shortage of 14 percent for this winter. In the short run, higher prices will serve to lessen demand and will therefore mitigate the severity of this projected shortage.

Q. Isn't the ultimate effect of this action going to be increased prices to the consumer?

A. Yes, this will be the effect. We estimate that the typical monthly natural gas bill to the consumer would increase by about $8 by 1985. The alternative to deregulation is less natural gas and higher costs for other fuels, such as petroleum and electricity.

Q. How much will natural gas prices rise in the next few years?

A. We estimate that, as a result of deregulation, the average natural gas prices will rise from 31¢/mcf in the interstate market in 1974, to 35¢/mcf in 1975; 38¢/mcf in 1976; and 41¢/mcf in 1977. The average national natural gas price will be higher, because intrastate gas is not controlled.

The estimated market clearing price for natural gas is 99¢/mcf, and would be reached by 1985.

Q. Why are you placing an excise tax on domestic natural gas?

A. The excise tax on natural gas will approximate the excise tax and import fees on oil on a Btu equivalency basis. It will also inhibit preference for natural gas over oil. This tax will reduce the curtailment problem and lessen negative employment effects.

Q. How much will the production of old oil be stimulated by price control?

A. We estimate that price decontrol could result in an additional 1–2 MMB/D of crude oil production in the next 3–4 years.

Q. What are the advantages of an import fee over a gasoline tax?

A. An import fee covers all crude and product imports and spreads the effects of demand reduction more evenly than a gas tax. The gasoline tax would have to be very large to save an equivalent amount of oil—at least 30¢ per gallon—and it would severely affect the already depressed automobile industry and numerous related industries.

Q. Why doesn't the Administration provide priority treatment in domestic production of crude oil relative to the levying of tariffs and excise taxes? For example, the fee on imported crude could be $2.00 per barrel, whereas, the domestic excise tax would be at $1.50. Won't such action encourage domestic exploration as a result of an additional financial incentive?

A. The immediate import fees will raise the prices of imports relative to domestic production. In the long-run, and at the margin, decontrolled domestic crude would rise to the same selling price as foreign crude, and any differential in taxes would probably only result in additional profits. Further, decontrol of old oil and higher prices should provide sufficient incentives to produce.

Naval petroleum reserves

Q. What is your specific proposal with regard to the Naval Petroleum Reserves?

A. There are two proposals involved. We have asked Congress to permit production of the Elk Hills, California, Naval Petroleum Reserve (NPR–1) under Navy control and are submitting legislation to the Congress to authorize the exploration, development and production of NPR–4 in Alaska. The oil produced from NPR–1 would be used to top off all Defense Department storage tanks with the remainder to be sold at auction or exchanged for refined petroleum products used by the Department of Defense. The production from NPR–4 would provide petroleum for the domestic economy as well as for defense needs.

Q. Who will have Government authority for developing NPR #1?

A. I have asked the Congress to permit production of the Elk Hills Naval Petroleum Reserve under Navy control.

Q. How quickly can NPR–1 and NPR–4 be brought onstream?

A. NPR–1 can produce 160,000 barrels per day within a few months and 300,000 barrels per day by 1977. NPR–4 will take longer to produce as exploration and development must first take place.

Q. Can we use the Trans-Alaska Pipeline to move NPR–4 oil?

A. No. North Slope oil production will fill the capacity of the Trans-Alaska Pipeline and thus new transportation facilities will be needed for NPR–4.

Q. What is the time frame and cost involved in retrieving oil and gas from NPR–4 in Alaska?

A. The development of NPR–4 will require several years and production is not expected before 1982 at the earliest. The cost would be more than $400 million if exploration is done by the Government. If any part of NPR–4 is leased commercially, revenues could more than offset costs. It is estimated that about two million barrels per day can be produced in NPR–4.

MID-TERM PROGRAM

Outer Continental Shelf production

Q. How do you know there are sufficient quantities of oil and gas in the Outer Continental Shelf to make its development worthwhile?

A. We don't know for sure that there are sufficient quantities for development although geological formations indicate that there may be. We are reaffirming our intention to continue an aggressive exploration and development policy.

Q. What will be done to insure that the environmental impacts of oil and gas development in the OCS and other frontier areas will be kept to safe levels?

A. We already have an extensive body of law designed to protect these areas from unacceptable levels of environmental damage and a whole new level of technology (environmental monitoring protection) has been developed in response to these new laws. In the field of oil and gas development technical procedures and equipment are now in use designed to prevent oil spills and to minimize and control them once they occur. In addition the development of environmental baselines and the requirement to monitor the sites under development insures that any adverse effects will be detected early to allow proper and effective counteraction.

The Council on Environmental Quality conducted an extensive study of oil and gas exploration in the offshore areas of the U.S. and concluded that with proper safeguards, these areas can be safely developed. The Department of the Interior has now adopted literally all of the recommendations of the CEQ report.

In addition, new funds are being requested for coastal zone management to investigate and develop further the additional safeguards needed to protect our environment. Of course, before any leasing of frontier areas is done, there will be extensive public hearings and environmental impact statements to advise the public of the safeguards being taken.

Domestic price uncertainty

Q. How would you determine when our vulnerability to pressure from oil exporting countries is high enough to make a price floor or other measure desirable?

A. Our vulnerability becomes unacceptable when our expected level of imports could not be completely replaced by emergency storage and standby actions. If the price of imported oil declines considerably, demand for oil would increase and import levels would get much higher.

Q. What is the difference between a quota and a price floor on imports?

A. A quota is designed to restrict the actual amount of imports into the country while a price floor sets a minimum price for imports so that domestic fuels will remain economically competitive with foreign sources.

Q. Wouldn't price floors maintain oil prices you have claimed are exorbitant?

A. We would have no intention of setting a floor price at current world oil price levels ($11–12 per barrel). Rather price floors could conceivable be set at a significantly lower level and still keep traditional domestic sources economic.

Clean Air Act amendments

Q. Will the Clean Fuels Deficit be eliminated by your proposed energy actions?

A. Yes. The Clean Fuels Deficit is a term used to describe the potential shortage of low sulfur coal needed to meet emission limitations in 1975 and beyond. This shortage of low sulfur coal was at one point estimated to be as high as 200 million tons by mid-1975. The alternatives to these actions would be to curtail coal burning, thereby curtailing electric energy generations, or to import low surfur oil to fill the low surfur coal gaps, thereby increasing our oil imports. The actions I propose include voluntary revision of State emission limitations, implementation of supplementary control systems and extensions of compliance deadlines to eliminate this problem.

Q. By relaxing auto emission requirements, aren't you letting the auto industry off the hook and at the same time lowering the quality of our air?

A. No. We are actually moving to a tougher standard than now in force. I would like to emphasize that compliance with the legislative standards will still be required and cleaner air will thus be achieved. The interim standards set carbon monoxide and hydrocarbon emissions at the current California levels (9.0 grams and .9 grams per mile respectively) and NOx emissions at 3.1 grams per mile for all States except California, where 2.0 grams per mile will still be required. Thus, the quality of our air will not be significantly impaired nor will we be retreating to the uncontrolled emission levels allowed before the passage of the Clean Air Act.

The proposal to extend the time required to comply with the original 1977 auto emission standards is based on the need to balance fuel conservation with the Clean Air Act requirements; simply proceeding with the present schedule for emission controls would have involved the additional consumption of 1½ to 5½ billion gallons of gasoline per year by 1980. By extending the time required to comply with the final emission limitations we achieve fuel conservation in the form of a 40 percent fuel efficiency improvement.

Q. What are your plans for stack gas scrubbers?

A. Certainly some types of scrubbers have not reached the level of effectiveness that other designs have reached. However, scrubbers will play an important role in our future expanded use of coal. By 1985, we expect that all plants which need scrubbers will have them.

Q. Won't the Clean Air Act (CAA) and the Energy Supply and Environmental Coordination Act (ESECA) Amendments which you are proposing mean a retreat from our present efforts to clean the nation's air?

A. No, it will not. There will be a delay in achieving certain standards but the commitment remains firm.

The purpose of these proposed amendments is to facilitate the use of coal thereby reducing our dependence on imported oil and to resolve the clean fuels shortage created by the unavailability of low sulfur coal and stack gas scrubbers. In no way are they intended to trade off our environmental needs for some quick energy solutions.

Q. How will your plan to convert electric utilities from oil to coal affect air quality?

A. There may be an absolute increase in air pollution as a result of converting from oil to coal but the burning of coal itself will not adversely affect air quality since all coal conversion candidates will have to develop plans for complying with primary air quality standards. These plans must be approved by the Environmental Protection Agency before conversion orders may be placed in effect. In certain instances, an oil burning facility required to convert to coal may have difficulty obtaining the necessary low sulfur coal or pollution control equipment. Such facilities will not be converted unless they can comply with ambient air quality standards which protect health.

Q. It has been reported that the delays you propose in auto emission requirements represent a deal with Detroit to gain your 40% fuel efficiency goal—is that true?

A. No, there is no deal involved. But this action is a recognition of the technical limitations that now exist in trying to meet both the auto emission requirements as they presently exist and the 40% increased fuel efficiency goal. By allowing for the delay we are providing for a more gradual and less disruptive development of emission control equipment while at the same time achieving a 40% increase in fuel efficiency.

STRIP MINING LEGISLATION

Q. How will your proposed strip mining bill differ from the proposed bill which Congress developed and you vetoed?

A. On December 30, 1974, I gave my objections to the strip mining bill proposed by Congress. The Congressional bill would have resulted in a reduction in coal production, and also contained too many vague and unclear requirements that could have led to an extensive litigation between the Federal Government and various private interest groups. The bill I will propose will be similar in many respects to the bill developed by Congress but amended to minimize these objections.

Coal leasing and prices

Q. Why do we need increased coal leasing in the United States?

A. In order for the nation to meet the goals I have announced, we must act quickly to remove constraints and provide new incentives for domestic production. We must focus our production capability on coal as it is our most abundant domestic resource. The Federal Government owns over 200 billion tons of coal reserves, but only 6 billion are currently scheduled to support production by 1980. Thus, we should move ahead to design a new program of coal leasing and should speed up production from these leases, providing the environmental impact of these actions is acceptable.

Q. What was the effect of the United Mine Workers strike on coal prices?

A. Coal prices rose substantially on the spot market in anticipation of and during the UMW strike. The cost of the new UMW contract will add approximately $2–3 to the price of a ton of coal in 3 years. Other factors continue to exert upward pressure on coal prices, the most notable of which is the return to the use of less expensive coal in place of higher priced oil by electric utilities.

Q. Even though the reserves are there, can the coal industry produce as much coal as we need in the short term?

A. If we eliminate the uncertainties surrounding coal production, we can substantially close the gap between coal supply and demand. The program I have outlined addresses all these uncertainties (stripmining legislation, coal leasing, Clean Air Act implementation, oil import policy, natural gas pricing policy and electricity demand) and should serve to assure an increased production of coal. We may not, however, be able to assure that coal production meets our demands in the very near future due to the current high oil prices and the shortage of natural gas which heightens coal use. Increased coal production is also constrained by manpower and equipment shortages in the short term.

Electric utilities

Q. What legislative changes are you proposing for electric utility rate structures?

A. The legislation we are proposing will require state regulatory authorities to permit the utilities under their jurisdiction to generate sufficient revenues to cover costs during a period of rapid inflation and heavy capital expansion requirements.

Three of the provisions, including the cost of construction work in progress in the rate base mandating fuel adjustment pass-throughs, and setting a 5 month maximum processing time for regulatory hearings, would require all authorities to adopt procedures that are now being used in many jurisdictions.

The off-peak pricing proposal would prevent authorities from limiting electric utilities in their efforts to increase revenues by selling more power during slack demand periods.

Q. You said you would take further actions to aid electric utilities if necessary. What actions do you anticipate?

A. At this time, more than 60 percent of all planned nuclear plants have been delayed or cancelled. The Energy Resources Council will be working with the utilities and, if warranted, we will propose additional measures to get these plants going again.

Q. Many of these proposals will lead to increases in utility rates. How large will these increases be?

A. The inclusion of Construction Work in Progress in the rate base would add about 11 percent a year to prices and the limitation on rate decision delay would add about 5 percent next year, and probably less thereafter. The other proposals would add 1 to 2 percent to rates. In all, for the first full year in which the charges would take effect, the additional increase would be almost 20 percent.

Q. Why are you proposing rate increases in a time of double-digit inflation?

A. The increases in cost of electricity must be paid either directly by consumers, or indirectly through Government subsidy. Direct increases will cut back demand and reduce the overall increase required. A Government subsidy, on the other hand, means that everybody pays, whether they use more or less. Therefore, price increases for electricity will assure that those who use more, pay more.

Q. I'm using less electricity but paying more. Why?

A. Under last year's unusual circumstances (unprecedented oil price increases) the average per unit cost of electricity to industry rose 55 percent and 20 percent to residential consumers. This increase was so large that it offset most efforts to cut consumption. Rates should not increase as fast this year.

Q. Isn't the electric utility industry already making record profits?

A. Profits did increase through 1973. However, in 1974, they began to decline. For the first three quarters of 1974, aggregate profits for the utility industry declined by about 7 percent from those of the equivalent period of 1973. The critical issue, however, is that investor-owned electric utilities are now earning less than three times their total interest charges. A number of utilities are only barely meeting statutory requirements for interest coverage.

Q. How do you intend to monitor what electric utilities pay for fuel to make sure they are trying to be as cost-conscious as possible?

A. Our proposal calls for the appropriate local regulatory authority to allow a justified fuel pass-through. It will continue to be the function of that authority to oversee these regulations.

Q. If investor-owned utilities are unable to remain solvent without Federal intervention, why aren't you proposing public ownership at the State/municipal level or nationalization?

A. Public ownership as a solution implies that such ownership can solve the problem more cheaply. However, there is no consensus that publicly owned power is cheaper than privately owned power in the United States, except to the extent that it receives subsidization through cheaper capital and lower taxes. Such subsidy would tend to stimulate consumption relative to private ownership, and would be more expensive in the long run.

Q. Aren't you suggesting an infringement of states' rights? Isn't this unconstitutional?

A. While regulation of utility rates has traditionally been under State jurisdiction, the interest of the country as a whole is at stake. Specifically, the Interstate Commerce Clause gives the Federal Government the authority to regulate activities that affect interstate commerce—and it has been determined that consumption of electricity does affect interstate commerce. Most of these proposals are not new and already exist in many states. What we propose will establish uniformity across the nation resulting in more equitable treatment of all public utilities.

Energy facility siting

Q. What will the role of the States be in energy facility siting?

A. Under the proposed facilities siting legislation, States will be required to develop and submit comprehensive management plans to the FEA for the siting and construction of needed energy facilities within their boundaries. Each management plan will have to be approved by the FEA before State implementation may begin.

Q. What if FEA does not approve a plan?

A. If a State fails to formulate an acceptable plan, the FEA Administrator may promulgate an energy facility management program for the State to administer.

Q. Can a State veto an FEA promulgated plan?

A. No.

Q. Will the bill authorize FEA to overturn a State decision on a particular site application?

A. No. If a State fails to comply with the plans requirements in a particular case, the applicant may seek relief in the courts.

Energy conservation

Q. Are the specific conservation measures you've proposed tough enough to provide the petroleum demand reduction necessary to achieve the import goal in 1977?

A. Yes, they are. We are setting a goal to reduce imports by 2 MMB/D by the end of 1977. The savings from increased taxes and import fees amounts to 1.6 MMB/D while coal conversion will bring an 0.3 MMB/D oil saving. The development of Elk Hills Naval Petroleum Reserve will allow us to cut another 0.3 MMB/D from our import needs and additional conservation programs (public information, auto efficiency standards, thermal standards, voluntary appliance standards) will save even more.

Q. Why do we need long term conservation measures if, according to the Project Independence Report, accelerated development of our supplies alone will lead us to energy independence in 1985 if oil prices stay at $11 per barrel?

A. We need long term conservation goals specifically because we do not expect that the future price of world oil will be $11 and we do not want prices that high. Since the world price may drop considerably below $11 per barrel, we must make sure that the resulting increased demand will not increase our imports. We also need to stop using energy wastefully and to preserve our limited oil resources as much as possible.

Q. Will the conservation program you proposed result in attainment of the goal of one million barrels per day savings in imports for 1975 that you established in your energy message to Congress in October, 1974?

A. Yes. If it is all carried out—higher prices resulting from the tariff and excise taxes, combined with the comparatively smaller immediate effects of specific conservation measures, such as the expanded conservation education program, the development of the Elk Hills Naval Petroleum Reserve, and coal conversion should provide us with at least one million barrels per day savings in projected imports by the fourth quarter of 1975.

However, attainment of this very near term goal is not enough. Our attention must turn to the far tougher goals of reducing our vulnerability to foreign supply curtailments through 1977, and eliminating it by 1985.

Q. If energy efficiency improvements in the home effectively reduce fuel costs, why is a tax credit needed for thermal improvements?

A. More and more Americans are highly mobile and do not remain in the same house for long periods of time. Because of this factor, and because it may take a few years to make thermal insulation pay off economically, a tax credit will encourage homeowners to insulate now regardless of how long they reside in the same house.

Secondly, because the economics of insulation do not pay off quickly, homeowners will have to pay higher first costs. In this period of recession many will find it difficult to pay higher first costs and a tax credit will help.

Q. Has the 55 m.p.h. speed limit been effective?

A. Yes. Lower speed limits are directly attributable to lower death rates on our highways and is a factor in reduced gasoline consumption. As you know, the President just signed into law a bill making the 55 m.p.h. speed limit a national mandatory limit for interstate highways and urges all State Governors to vigorously enforce this limit.

Q. What steps are you taking to assure that conservation goals are met by industry?

A. Members of the Administration have been meeting with industrial leaders on a regular basis to work out programs of industrial conservation. We are receiving commitments from these industries to conserve more energy and I am confident that industry is prepared to conserve as much as possible. If savings are not achieved by voluntary means, however, mandatory measures will be considered.

Q. Will the mandatory thermal standards delay recovery for the construction industry anticipated during the second half of 1975?

A. Since the mandatory thermal standards proposed will take six months to formulate, and subsequently will be implemented in a phased program over three years, this conservation action should have no impact on the recovery of construction expected during 1975.

Q. Why did you decide against mandatory appliance standards?

A. As in the case of automobile efficiency standards, before the Government should intervene in the marketplace, industry should be provided an opportunity to demonstrate that it can act responsibly and responsively to the higher value on energy. For this reason, we have allowed a short period for industry to voluntarily institute measures to increase energy efficiency in appliances and have asked the Energy Resources Council to work with industry to establish the voluntary standards.

Q. Why haven't you initiated any new public transportation programs?

A. We are already doing a number of things to stimulate use of mass transit, including a rapid increase in funds for its development. Additional actions have not been taken because they would only result in small additional savings of energy.

Q. Do you think your total energy program places as much emphasis on conservation as it does on resource development?

A. Yes. The program being proposed is a tough mandatory energy conservation program and relies heavily on conservation to reduce imports in the short-term.

EMERGENCY PLANNING MEASURES

Emergency Storage

Q. What kind of specific authority are you requesting with regard to emergency storage?

A. We are requesting authority to create and maintain a strategic reserve capacity of more than 1 billion barrels of petroleum and petroleum products and the authority to determine under what circumstances and to what extent those reserves should be used during emergency situations. This is sufficient to provide 3 million barrels of oil per day for a full year.

Q. What is the benefit of a storage program to safeguard against an embargo if it won't be operational until 1980?

A. While it is true that a storage program won't be fully operational before 1980, it will provide some protection between now and then as stocks are gradually accumulated. Further, we will need the protection provided by a storage program after 1980, as the nation will continue to be dependent upon foreign imports to meet some portion of its energy needs. During this interim period, we will continue our efforts toward stringent conservation by all consuming nations.

Q. How will the program be financed and will the ownership be public or private?

A. We have not firmly established yet how the program will be financed or who will own the storage facilities. These questions will be fully explored later in the planning and engineering stage.

Q. What products will be stored—crude as well as refined products?

A. We currently anticipate that we will store predominantly crude oil, although there will probably be some storage of petroleum products, mainly for the needs of the Northeastern part of our country. The specific amounts of each type of storage will be determined in the planning stages.

Q. Why would oil be stored in salt domes located in the Gulf Coast, when other regions are heavily import dependent?

A. Suitable salt domes provide inexpensive storage facilities and are located near crude oil distribution centers, refineries, and transportation facilities. Thus, during an embargo, oil stored in salt domes will be readily available to all sections of the country at equitable cost.

Q. How will the military be provided for in the event of another embargo?

A. Of the 1.3 billion barrels of petroleum emergency storage capacity, 300 million barrels will be reserved for national defense needs in case of an emergency.

Q. Won't petroleum for storage have to be purchased from high priced foreign oil?

A. No. We will not purchase significant quantities of oil for at least a couple of years, at which time prices may have broken. In addition, our strategic reserves will be partially filled from domestic sources.

Q. Will we store all the oil in salt domes, or will some be stored in conventional tanks?

A. The type of storage facility, location and the mix of crude oil and product to be stored will be determined in a report to Congress one year after enactment of the Strategic Reserve Bill. However, preliminary studies indicate that crude oil will comprise the majority of the reserve and will be stored in salt domes, although there will probably be selected product storage in steel tanks.

Standby authority

Q. What kind of standby authority are you asking for?

A. The main features of the proposed legislation to deal with emergency situations are:

to allocate and control the price of domestic oil;

to ration end use of energy directly if necessary;

to implement energy conservation programs;

to increase domestic oil production and allocate supplies of critical materials; and

to regulate and control petroleum inventories.

This legislation will also contain authority for the U.S. to comply with the International Energy Program requiring international sharing of oil in times of emergency.

Q. Why are you asking Congress for standby energy emergency authorities?

A. In an emergency situation, such as an embargo, the President should have the authority to act quickly and effectively to minimize the impact on this country. Furthermore, standby conservation authority is one of the requirements of the International Energy Plan. I must emphasize, however, that this is "standby" authority to be activated only in a time of crisis.

LONG-TERM ACTIONS

Research and development

Q. What are you doing about solar energy development?

A. Federal funding for solar energy R&D has climbed from approximately $3 million in FY 1972 to approximately $50 million in FY 1975. The recently enacted Solar Heating and Cooling Demonstration Act of 1974 provides an additional $60 million over five years for developing and demonstrating solar heating and cooling technology. Planning is well underway to implement this program. The Solar Research and Development Act which was also just recently enacted authorizes another $75 million in FY 1976 for solar energy R&D. The Administration is continuing to review the requirements of the program to determine the appropriate level of funding that can be usefully spent over the next five years to develop solar energy technology.

Q. What are your specific proposals with regard to increasing nuclear R&D?

A. Nuclear energy holds great promise in satisfying our energy demand. Unfortunately, it now accounts for only 1% of our energy needs due to technical problems, construction delays, and other bottlenecks which have slowed its progress. We are markedly increasing the budget appropriation for nuclear waste disposal and for continued improvements in safeguards.

Q. Will your Synthetic Fuels Commercialization Program encourage oil shale development at the expense of the environment?

A. No. The program could lessen environmental impacts if we can learn to commercialize cleaner types of production, such as in-situ processing of oil shale. In addition, one of the important purposes of this program will be to investigate and determine the environmental problems associated with synthetic fuels development and to identify the solutions.

Only when we have developed commercially useable technologies which are environmentally acceptable will we proceed to the final step of full commercial implementation.

Q. Many environmentalists are concerned about the development and use of the nuclear breeder reactor—what is the Administration's position on this issue?

A. We have continued support of an expanded R&D program for breeder reactors and will spend over $500 million in FY 76 to answer some of these questions.

All projections indicate that nuclear power will become an increasingly important source of electric power generation. However, for such growth to occur, nuclear fuel will need to be readily available, for our supply of economically available domestic nuclear fuel is limited. Thus, we must supplement this domestic supply by developing other supply sources.

The breeder reactor is one such supply source. Other sources of nuclear fuel and other methods for nuclear power generation are also being investigated.

Q. What role will ERDA play in achieving these goals?

A. ERDA's mission is to develop ways of using solar energy, geothermal energy, nuclear power, coal gasification and other new or undeveloped energy sources and will play a major role in achieving our long-term goals.

Economic impact

Q. What impact will be made on the Federal budget by those programs proposed within the energy message?

A. There will be very small budget impacts in FY 75. In FY 76 these programs could increase Federal obligations by 100–200 million dollars, mostly for conservation and facility siting programs, but of course those are more than offset by the revenues raised by the conservation tax measures.

The emergency storage program will be financed from a special fund which will utilize revenues from Naval Petroleum Reserve production.

Q. The Administration expects prices of energy and energy-intensive goods to rise, and plans to offset the impact by reducing income taxes. Won't this affect individuals and income groups differently? Will low-income households tend to be affected more? How does the Administration plan to assist low-income households?

A. Individuals and income groups will be affected differently by these proposals. What we can do and are doing is to provide a level of tax relief that will stimulate the entire economy for the benefit of all citizens. These tax cuts proposed by the Administration will provide relief to low-income households. In addition a rebate of $80 per adult will be provided to individuals whose incomes are so low that they do not pay taxes.

Q. What are the long run and short run effects of the President's program on the regional costs of energy?

A. While there will be some significant fuel price increases in the Northeast, the uneven regional effects will be dealt with through the existing cost equalization program and lower product import fees. In the longer term, regional effects will be handled by decontrolling the price of crude oil and thus eliminating any petroleum price differentials.

Q. What will the effects of the program be on the economy in terms of inflation and recession?

A. This program contains the balancing elements essential to meet the problems inherent in the existing economic environment. It will reduce our balance of payments, increase domestic resource development, and encourage recognition of the need for energy conservation and the fact that energy is no longer abundant. This program will produce higher prices in the short run which will result in a one-time increase in inflation, but will prepare us for dealing with future energy disruptions which could be devastating to our economy.

Q. How much will all your programs increase the average family's bills in a year?

A. This program is estimated to increase the average middle-income family's energy budget by about $250 in 1975.

Q. What will be the effect of this program on the dollar outflow for oil?

A. The United States spent $2.7 billion on petroleum imports in 1970. This dollar outflow rose to $23.6 billion in 1974. If no new actions are initiated, we estimate the petroleum revenue outflow to reach $32.1 billion in 1977 and $32.4 billion in 1985. With this program, we estimate outflows to be $21.3 billion in 1977 and $12.0 billion in 1985.

International

Q. How do you expect the OPEC producing countries to react to your energy program?

A. Most of the OPEC governments have urged on several occasions that the U.S. and other consumer countries adopt policies to encourage conservation and more rational energy use. Many of them have also suggested that the industrial countries accelerate the development of alternative energy sources to reduce demands on their non-renewable petroleum reserves. We believe these features of the President's program will be viewed favorably by the producing countries as well as by other importing countries.

Q. Will we get any North Sea oil? Mexican oil?

A. While the United States will strive to achieve energy independence, we will still have to import some oil and will try to import from relatively secure sources. We will pursue negotiations with Mexico and with North Sea oil producers to add imports from these areas.

Q. Regarding Canada's decision to phase out exporting crude to the U.S., what effect will this have on the U.S., particularly on the Upper Midwest supply and demand situation?

A. Domestic refiners in the upper Midwest will be obliged to obtain their crude oil from alternate sources. This will probably require the construction or expansion of pipeline capacity. Marketers in this region may be able to obtain refined products from Canada should a crude shortfall develop in the interim. Demand will be unaffected unless a severe product shortage arises, with its attendant gasoline lines and other inconveniences. Careful planning and timing should enable the change in supply patterns to take place with a minimum of disruptions in product availability or price.

General

Q. Do you believe that the National Environmental Policy Act (NEPA) is a hindrance to the development of domestic energy production?

A. No, I do not. NEPA was promulgated to insure that environmental concerns were considered in Government decision making. Because of this new, major consideration, decision making will in many instances take more time and require more detailed review than was required in the past. However, this process should ensure that the energy projects selected will maintain the quality of the environment.

Q. What would be the projected profit picture for the oil industry this year if a windfall profits tax were enacted? If one were not enacted?

A. Either way, we estimate that profits will be relatively constant this year. If we maintain price controls but do not enact a windfall profits tax, we can expect industry profits to remain stable. If we decontrol old oil and enact a tax, we can expect a small decrease in profits from last year's levels.

Q. What are you going to do about getting New England to build refineries?

A. The Administration intends to encourage refinery construction in all areas of the country and particularly in those in which there is a significant refining deficit. In New England, for example, it would be beneficial to have refining capability now and particularly if Atlantic OCS production begins. Refineries in that area could offset New England's extensive reliance on product imports and could create jobs.

Q. Why do we say that independence and self-sufficiency can now be attained in 1985 rather than 1980 as was earlier announced by President Nixon?

A. After a thorough review of potential domestic supply and demand for all fuels, on a regional basis, we have concluded that independence by 1980 cannot be attained. The lead-times for exploring and producing oil from new sources and for constructing new facilities is too great to expand domestic supply sufficiently.

Q. How can you propose great increases in resource development when it is a fact that there are acute shortages of materials and equipment throughout the economy?

A. At present, many categories of steel products, plate and tubular goods are in short supply. There is little that can be done to accelerate supply in the next 2–3 years and that is why this program concentrates on reducing demand. Within the 1975–1985 time period, however, new capacity will come on-stream and the problem will be eased.

Q. In compiling your energy message, whose statistical data did you rely on—industry or government?

A. Ours. One of the real achievements in the last year was growth in the capability of the Federal Government to provide its own energy data. The analyses in this program were developed by the government using its own reporting systems and analytical tools.

Q. What can the public do to contribute to the success of your program?

A. I am hoping that all Americans will support this program in every way possible. The most significant contribution the average consumer can make is in the area of energy conservation—by installing thermally efficient insulation in their homes, by lowering thermostats, by driving 55 MPH and by driving less. The greatest contributions will come when we all learn how to conserve which is why I have requested an increase of $4 million in the government's public information program. We will try to explain the rationale and effects of this program to all Americans in the next several weeks.

Q. What is the effect of the Trans Alaska Pipeline on domestic supply plans and will it help the situation? Are there any plans to speed up construction? What about a second pipeline?

A. The Trans Alaska Pipeline will supply more than 2 MMB/D of domestic crude production, almost 20 percent above current production levels. To assure rapid completion of the pipeline, the Administration has already given priority to its requirements of equipment and materials. A second pipeline could be constructed later if necessary.

CIA'S VALUABLE PUBLIC SERVANTS

Mr. CRANSTON. Mr. President, as we proceed with our constitutional duty to oversee the intelligence agencies of the Government, it is also important for us not to lose sight of the valuable service rendered over the years by conscientious public servants in the intelligence community. Mr. Truman saluted their character, patriotism, and integrity—as did the Senator from Rhode Island on Monday of this week.

I ask unanimous consent to have printed in the RECORD a thoughtful article by Dr. Harold P. Ford of Georgetown University. A senior intelligence officer when he left the CIA last year, Mr. Ford calls for the cessation of covert operations.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PIETY AND WIT

(By Harold P. Ford)

The question of CIA covert activities is one of the great practical and ethical dimensions, certainly greater, for example, than was reflected in a recent New York Times article (Ray S. Cline, November 1) that dismissed the public debate which has taken place over CIA activities in Chile as constituting a "surge of sentimental piety" that "has shed more heat than light." To the contrary, the problem is not so much one of piety as of wit. It has not been a case of sentimentality, but of needed public awareness of certain U.S. covert actions that—like so many—have been ill-advised and detrimental to the national interest.

In the Chilean case, public debate has clarified the fact that these have been U.S. government—not just CIA—undertakings and has raised the question of whether sworn testimony to Congress by U.S. officials must contain more responsiveness than obfuscation—and has heightened pressures for more effective Congressional control of U.S. intelligence. These are tangible, constructive public gains, and not at all the mere shedding of more heat than light.

Of course, we live in a cruel world. The U.S.S.R. explicitly rejects the world status quo, and its agents engage in widespread covert activity abroad. It is the continuing cold war—or, more accurately, cold peace—plus self-righteousness and the hypnosis of competition, that has caused us to do so, too. The question is, however, whether responding in kind is the most effective means for dealing with the world's challenges. Although certain U.S. covert activities have doubtless struck some small blows for truth and righteousness, on balance many have tended to:

Reflect a kind of imperial thinking, the paternalistic conviction that the United States has some kind of mandate to reform the world in its own image. Indeed, this is the most important revelation the flap over Chile has produced—the disturbing insight we have all been given into candid Presidential thinking, that is, that everybody engages in covert activities anyway and that the activities in most recent question were carried out "in the best interests of the people of Chile." Such thought patterns, unconscious but imperial, illustrate well Russell Baker's ironic judgment (New York *Times*, October 1) that it is a traumatic experience for the American people, convinced as we are that we are the world's good guys, to have it revealed by someone as authoritative as the President that the pleasant picture we have had of ourselves is, in fact, the picture of Dorian Gray. And, worse, we still insist that we have not lost our innocence. Good intentions simply are not enough when dreaming up covert activities. In reflecting on the fact that such activities seem to go with empire, we should recall, as well, Aleksandr Solzhenitsyn's observation (of the Soviet government) that imperial status has never been historically compatible with the moral health of the country's people.

Embody more risks than rewards. We are all too familiar with the embarrassments and trauma that can result from covert activity failures. But, even in the case of successes, the national benefit has been slight, for the most part. Moreover, covert activity success contributes to creating that dangerous impression, found among certain high-level American officials in our time, Republican and Democrat, that the United States has a greater capability to affect a foreign situation than, in fact, has usually been the case.

Be undertaken irresponsibly, too enthusiastically, without careful, disinterested checking of the proponents' underlying assumptions. Covert activities have often been the product of a hot war—or very cold war—situation. They have sometimes been the result of liberal impulses and sophisticated imagination. But, in many instance, covert activities have sprung from cumulative frustration, an environment of crisis and—not least—effective salesmanship on the part of the particular believers: whether down from above to the CIA, or up from the ranks of CIA to the 40 Committee (or its past equivalents). And, with respect to Cuba, China and other cases, the basic judgments on which the proposed operations rest have not been checked out with CIA or other specialized analysts, whose lenses have been fairly accurate and at least freer of operational distortion than those of their activist colleagues.

Promote the habits of deception and dissimulation. Whatever the demands of secrecy in intelligence operations, it is one thing to deceive foreign adversaries, quite another to mislead appropriate Congressional review.

Help breed technical man: the high-class, amoral apparatchik on ready call.

Be narrow-visioned, producing groupthink and commando mentality in service of immediate goals. The only goal tends to become success of the operation at hand, whatever its nature or wisdom. Enthusiasm, group loyalty, the tyranny of time, on occasion an overarching ideological certainty—these fuel sometimes incredible devotion to duty. The problem is that the particular duty is sometimes incredible: a landing on a Cuban beach, where there was never a ghost chance of receptivity; a small alumni group adept at breaking and entering certain addresses within the United States, and wholly inept as to comprehension of the far larger dimensions and consequences of their endeavor.

Be short-sighted, sometimes leading to or provoking unwanted commitments and consequences. Creation of a covert capability, in terms of agents or complex installations, has at times placed U.S. policy in greater debt or obligation to this or that unlovely regime than the objective dictates of policy-making would have preferred. Even more seriously, covert operations have at times provoked reactions—from the Chinese, the Cubans and the North Vietnamese, for example—that further complicate situations of tension or crisis, and moreover "prove" the innately aggressive nature of the particular adversary.

Make a fetish of stability, thereby contributing to the prevention of peaceful change. Stability is often a god in American foreign policy, insuring the continuance of U.S. military installations, commercial advantages and/or intelligence equities. In the name of this stability, crimes are sometimes committed. The covert activities tail does not wag the policy dog on such occasions, but it often adds its bit to our general, Metternich-like certainty that world change is an evil.

Tie the United States to a world that was underestimating the dynamic of world change afoot in our times. Though we do not share the content of Soviet policy, we should appreciate the procedure whereby Russia's leaders begin policy determination by examining what they call (and think to be) the "objective situation." Here, in broadest compass, Soviet policy can be said to rest on two chief assumptions: that the keynote of a late 20th-century world is rapid, manifold, upsetting change—technical, expectational, social, political; and that such change can be exploited to Soviet benefit. The second of those assumptions may or may not prove accurate. But the first, the primacy of change, cannot realistically be denied. It is, therefore, highly unrealistic of American policy to commission covert and overt activities that seek to preserve certain parties and positions not adapting to change and probably due to be swept away in time, anyway.

Reduce the respect in which the United States is held, and thus undercut an element of U.S. national power. Whether we like it or not, we and the Soviets tend to be judged in the world by different standards. Because we profess goals that are not Hobbesian, shortcomings in our behavior come under sharp criticism.

Even though some of this is often Communist-inspired or fed, the fact remains that various ill-fated covert activities have caused some loss of respect for American acuity and credibility. A somewhat similar situation obtains among some of our own young people, who have been sensitized to questions of morality and public life by Vietnam and Watergate. At home or abroad, a lowering of respect entails lowering of responsiveness, and, hence, the national power is diminished.

Open the United States to charges of interference and hanky-panky, whether there has, in fact, been any or not. The covert finger having writ, not all our piety and wit can cancel out abiding suspicions. The 40 Committee could knock off all covert activities tomorrow, forevermore, and still continue to be blamed for every erupting volcano.

Subvert American distinctiveness, and so contribute to making us become what it is we think we are combating. As the President has told us, the Soviets are into covert activities in a big way—and yet the reaction of Senator Frank Church (D., Idaho) is clearly to be preferred: "I thought there was a difference, and the difference is what it's all about."

Fuel U.S.-Soviet distrust, and thus contribute to diverting American, Soviet and other attention from the future's real adversaries: those problems of environment and resource distribution that threaten us all.

Undermine public confidence in assurances that foolish little adventures abroad are a thing of the past. Having run a house of ill repute for so long, the credibility of the Administration and of Congressional leadership suffers when tinkling piano sounds are occasionally still heard, with no convincing evidence that we have yet learned to say no to the enticements of covert activity.

Rather than continue to be attracted to covert operations, the wisest practical intelligence policy—and one legally and morally less questionable—will be to focus efforts on the most imaginative possible collection and analysis, while leaving the driving of foreign political action to the overt processes of American government and society. For it is there, in the open arena, that crying needs exist to improve that political health that alone can permit us, and other peoples, to confirm confidence in self-government—and so confound Soviet appeals and operations. If such a course be piety, let it at least contain more wit and wisdom than prevailing "realism" has to date.

INTERNATIONAL COOPERATION IN OUTER SPACE

Mr. MOSS. Mr. President, the Stanley Foundation is a nonprofit organization located in Muscatine, Iowa, that is concerned with international organizations and world peace. For the last several years, they have held an annual "Strategy for Peace" conference in which various aspects of this critical problem have been discussed by representative experts from a wide number of disciplines.

Last year's conference, held October 17–20, 1974, included a discussion group on "International Cooperation in Outer Space," chaired by the distinguished scientist Dr. James A. Van Allen, which pursued the subject of how international cooperation in outer space can contribute to world peace.

I was particularly pleased to read their comments on the ERTS system—now designated "Landsat"—and their strong recommendation that NASA should "reactivate and continue its highly successful ATS satellite program." They particularly feel that the "time may now be ripe for the United States to support the establishment of an international center to receive, process, and disseminate ERTS data."

While I do not necessarily agree with all of their recommendations, I would encourage everyone to read and study this thoughtful report.

Mr. President, I ask unanimous consent that the Stanley Foundation report on International Cooperation in Outer Space be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

INTERNATIONAL COOPERATION IN OUTER SPACE: A REPORT OF THE 15TH STRATEGY FOR PEACE CONFERENCE

PARTICIPANTS

Chairman: James A. Van Allen, Head, Department of Physics and Astronomy, University of Iowa.

Rapporteur: Mary M. Allen, Program of Policy Studies in Science and Technology, George Washington University.

Richard J. H. Barnes, Director for International Planning and Programs, Office of International Affairs, National Aeronautics and Space Administration.

George Christie, International Center for Integrative Studies.

Ibrohim Clark, Science Adviser to Representative Richard T. Hanna.

Hamilton DeSaussure, Associate Director, Institute of Air and Space Law, McGill University.

Peter Jankowitsch, Permanent Representative of Austria to the United Nations.

Amrom H. Katz, Assistant Director, U.S. Arms Control and Disarmament Agency.

David A. Kay, Director, International Organization Research Project, American Society of International Law.

David Leive, Senior Legal Advisor, INTELSAT.

John Logsdon, Director of the Graduate Program in Science, Technology and Public Policy, George Washington University.

Josef Nichols, Chief, International and Satellite Communications Unit, United Nations.

Leo S. Packer, Director, Office of Technology, Policy and Space Affairs, U.S. Department of State.

Arvid Pardo, Fellow, Woodrow Wilson International Center for Scholars, Smithsonian Institution.

Marvin Robinson, Deputy Chief, Outer Space Affairs, United Nations.

Peter Trooboff, Attorney, Covington and Burling.

David C. Williams, Director, Legislative Research, Manufacturing Chemists Association.

Glen P. Wilson, Professional Staff Member, Committee on Aeronautical and Space Sciences, U.S. Senate.

Affiliations are listed for identification purposes only. Officials and employees of the United States, foreign countries, or international organizations, although they participate in the discussions, are in no way committed to any position or findings of the discussion group.

The views expressed in this report represent the general consensus of the participants in the discussion group. However, they are not necessarily the views of The Stanley Foundation or of all members of the conference. Moreover, members supporting various parts of the report do not necessarily endorse it in its entirety or specific language.

The discussion group adopted the following questions for consideration:

1) What should be the foreign policy of the United States with regard to communication, remote sensing and other application satellites (economic, social, military, political and legal aspects)?

2) What should be the role of international organization in the field of international cooperation in outer space?

INTRODUCTION

Despite extensive discussion over many years, there is no agreed definition of "outer space." A possible operational definition is the following: Outer space is the limitless region lying beyond the highest altitude in the earth's atmosphere that is accessible to non-ballistic airborne vehicles (about 50 kilometers). A more restricted definition specifies the inner boundary of outer space as the minimum altitude at which an unpropelled satellite can orbit the earth for an extended period (about 250 kilometers).

During the past seventeen years there have been spectacular developments, principally by the United States and the Soviet Union, in the technology of space flight and in the exploitation of such capability in many different ways:

1) Scientific study of the earth and its large scale environment on a global basis.

2) Scientific study of the sun, the moon, the planets, the interplanetary medium and the stars from new and more advantageous sites including the landing of operating equipment on the moon, Venus and Mars and the close fly-by of the planets Venus, Mars, Mercury and Jupiter.

3) The achievement of manned flight into outer space including landing on and return from the moon.

4) The development of direct utilitarian applications of space technology in the fields of telecommunication, navigation, remote sensing and monitoring of physical conditions and large scale human activities on the surface of the earth, subsurface composition and phenomena, and physical conditions within the earth's atmosphere.

Such developments have produced and will continue to produce dramatic effects on many different aspects of human activities—an expansion of intellectual and scientific perceptions on the one hand and immense increases in the efficient performance of humanly useful functions, on the other hand.

Utilitarian applications raise a host of new problems of economic, social, military, political and legal character on both the domestic and international levels. A framework for the preliminary resolution of certain of these problems is embodied in the Outer Space Treaty of 1967. This treaty, in part, forbids national appropriation of any portion of outer space and provides for freedom of utilization of outer space on a non-discriminatory basis by any nation-state in accordance with international law.

There was a difference of opinion as to whether the principles of the Outer Space Treaty are adequate for safeguarding the rights of nation-states.

The United States is committed by statute and repeated Presidential statements to the advancement of peaceful uses of outer space for the benefit of all mankind, and to conduct its civil space activities in cooperation with other nations and groups of nations. Pursuant to this mandate, the National Aeronautics and Space Administration (NASA) has developed an effective and ongoing program of international cooperation in space research and development. However, there are several areas in which further action is needed. The United States must develop an adequate policy for dealing with the many problems that are now being raised in connection with the use of remote sensing satellites and are imminent in the prospective development of direct broadcast and other application satellites. The present state of policy in this regard is one manifestation of the need for a more effective machinery for the formulation and implementation of policies related to issues in which technology and foreign affairs interact. Finally, there is an opportunity for several specific programmatic actions, discussed in more detail below, through which the United States could take new initiatives in using its capabilities in space technology as instruments for increased international cooperation.

REMOTE SENSING SATELLITES

Remote sensing satellites are those designed primarily to obtain by photographic, television, radar, infrared and similar means non-military data concerning the earth's geographic, environmental and other physical characteristics. The group recognizes that reconnaissance satellites have assumed vital importance in monitoring military capabilities and preparedness and that other remote sensing satellites acquire military useful data. The following discussion concerning remote sensing satellites seeks to provide a mechanism for coping with the political and economic problems resulting from the potential uses of the information obtained by such satellites. It does not treat matters of a distinctively military nature.

The development of a significant new technological capability often requires domestic and international adaptations in order to maximize benefits, harmonize interests, and minimize risks. An example is space communications, which originated largely from U.S. research and development, and after several years, as a result of its international impacts and implications, led to the International Telecomunications Satellite Consortium (INTELSAT) system presently comprised of 87 countries.

The technology of remote sensing from

space also has important global implications. It has not yet reached a level of utilization and technological perfection anticipated in its earlier years, yet it shows promise of significant benefits to the United States and to the rest of the world. Although the technology of space launching and of payload design is comparatively mature, the total system is still experimental in that the "soft" technology of image evaluation and interpretation is as yet relatively underdeveloped. The ground segment of an earth resources program—data processing, reduction to usable form, analysis and dissemination—will require more money and effort than the more glamorous, technologically exacting space segment. The multiple uses of such data raise the policy questions of control of data acquisition use and of the scope of participation.

Agencies of more than sixty nations have participated in the U.S. program for the experimental development of remote sensing technology—NASA's Earth Resources Technology Satellite (ERTS)—1, Skylab and ERTS-follow-on satellites—and some of these also operate or intend to acquire ERTS earth stations of their own. While there has been widespread endorsement of this program in the international community, a number of nations have expressed strong concerns about data secured over their territories, and the U.S. policy of unrestricted availability of such data to all who wish to have it. The U.S. government recognizes the existence of these concerns although it does not agree with the underlying reasoning and the risks perceived by other nations in the present U.S. policy.

The time may now be ripe for the United States to support the establishment of an international center to receive, process and disseminate ERTS data. The participants in the center would determine appropriate procedures and safeguards. The United States would continue its ERTS operation, provide a copy of the raw data to the new organization, cooperate in the development of interpretive techniques, and encourage the development of new applications relating to global needs such as: pollution monitoring, resource exploration, crop forecasting and planning, water resources, and land use planning.

Participation in the center would not restrict or reduce domestic uses of ERTS within the United States and would accelerate the international utilization of such data. The Soviet Union is also known to have an ERTS-type system in operation. Also it has indicated, in principle, its support for some type of international center. The creation of such a center would probably be welcomed by nations interested in ERTS applications for their national benefits and could help to allay their fears of exploitation and invasion of sovereign rights. While the United States would continue to disseminate ERTS data to its citizens, appropriate regulations would be adopted concerning the re-dissemination abroad by such citizens of ERTS data and the access by other nations to ERTS data. The U.S. participation in this center would represent a significant expansion of space cooperation and a negligible constraint on U.S. programs and potential uses of remote sensing.

COMMUNICATIONS AND BROADCAST SATELLITES AND OTHER APPLICANTS

There are two interrelated areas of concern here: International cooperation in providing space communications facilities, and international cooperation in developing rules concerning the content of transmissions over these facilities; the latter area is of basic importance but is beyond the scope of this report.

The group felt that the United States should continue to exercise initiative in sharing the practical benefits of its outer space technology with the global community. It is recommended that such leadership take the form of active programs which involve wide international participation and avoid duplication of effort, viz:

1) Basic research and development are essential for the continued development and refinement of future operational communications satellite systems, which can represent a significant contribution of space technology to future world peace and stability. It is therefore recommended that the United States revive the policy of NASA conducting active R & D programs in communications satellites. As a specific first step, NASA should be directed to reactivate and continue its highly successful ATS satellite program, revising upward the level of effort in areas of promising technical relevance.

2) The potential benefits which may be derived from deployment of direct broadcasting satellites utilizing community or group receivers lie in the areas of education, national development, cultural exchange and international cooperation. As indicated by the widepsread interest in the upcoming U.S. India Satellite Instructional Television Experiment (SITE), this satellite application is of particular relevance to the developing nations to serve their domestic requirements. The United States could be of immeasurable assistance to this segment of the global community by supporting the establishment of such systems which can serve as tools for combatting illiteracy and for utilization in other domestic educational endeavors. This action would be complementary to the U.S. commitment to support the INTELSAT system.

It is recommended that the United States, taking into consideration its existing international agreements, and acting jointly with other interested nations, offer to provide financial and technological support for direct broadcast communications satellite capacity to the developing nations. Other nations with the ability to pay, such as the oil-producing nations, should support and participate in such a program by providing financial assistance. In order to accomplish such a program in the most efficient manner, implementation would maximize the utilization of the available facilities and satellite capacities of existing operational organizations and systems.

3) In order to permit the United Nations to improve its capability to respond constructively to international crises and to strengthen efforts toward world order through its peacekeeping and emergency relief endeavors it is recommended that the United States support the United Nations in obtaining efficient and instantaneous global communication services for emergency peacekeeping and disaster relief operations.

4) It is recommended that the United States utilize its technical expertise in satellite communications and associated technologies by providing (at cost and systematically) broader international access to existing specialized services such as:

Low-cost data communications such as the existing network linking forty-two universities and research organizations in the United States and Europe;

Multiple-access, civil engineering computer services such as the Naval Research Laboratory/MIT Inter-American Program;

International computerized medical diagnostic services, such as have been demonstrated in recent experiments;

International, pooled library reference services;

International multiple-access, time-shared, low-cost computer services.

5) It is recommended that the United States continue, for the planned global positioning navigation satellite network, its policy of designing the navigation satellite systems and of providing the required supporting information so that it is possible for any appropriately-equipped user to take advantage of the existence of this capability.

THE ROLE OF INTERNATIONAL ORGANIZATION IN OUTER SPACE

The exploration, use and exploitation of outer space have been conducted on a mainly national basis. Yet by their very nature these activities transcend national boundaries and create problems that can be solved only within an international framework. The uses of outer space have created a vast potential for the solution of problems on a global and regional level and thus require an inherently international approach. This growing awareness has spurred international cooperation.

In particular, the United Nations has enunciated the principle that outer space should be used only for peaceful purposes and for the benefit of all nations irrespective of their technical or economic development.

At present there is significant international cooperation in outer space. Yet the full realization of certain new outer space activities will require new approaches to international organization in order to carry out various regulatory and operational responsibilities. This need arises both from the political problems that purely national and even regional approaches generate and from the technical requirements inherent in fully and efficiently utilizing the potential of outer space activity.

For example, there are various modes in which global uses of application satellites can proceed.

The first and simplest mode is for the national development of satellite systems by such nations as possess and devote the necessary resources to these ends. In this mode, space-faring nations resemble, in the general context of human history, seafaring nations; and the principles embodied in the Outer Space Treaty parallel the freedoms of the high seas.

A second mode embraces bilateral, multilateral, and/or regional collaboration between and among nations. Such collaboration may take various forms for special purposes and for mutual benefit.

A third mode contemplates the development of an international agency or agencies with functions of coordination over modes one and two and with limited regulatory and operational authority.

A fourth and more far-reaching mode envisions the creation of an international system for outer space with full operational control and regulation of outer space activities.

These four modes, while representing a simplified, logical progression are not clearly differentiated in the course of actual development. The present world situation resembles modes one and two although it also reflects some characteristics of mode three. The discussion in the preceeding sections addressed, in the context of specific problems, the inadequacies of this situation and proposals for an evolutionary development toward full achievement of mode three and adoption of appropriate elements of mode four.

CONCLUDING STATEMENT

The group addressed in a forthright manner the many complexities of international cooperation in outer space. It recognized existing realities. But above all it attempted to provide constructive guidance to policymaking and administrative agencies in progressive realization of the great potential for human betterment that is offered by space technology.

UKRAINIAN INDEPENDENCE DAY

Mr. YOUNG. Mr. President, I am deeply concerned about the unfortunate treatment to which Ukrainians have been subjected by Soviet Russia for more than half a century. Yesterday, January 22, marked the 57th anniversary of the independence of the Ukraine and the 56th anniversary of the act of the Union, which united all Ukrainian lands into one independent and sovereign state.

Dr. Anthony Zukowsky, a physician from Steele, N. Dak., the national vice president of the Ukrainian Congress Committee of America, and honorary president of the North Dakota State branch of UCCA, has contacted me regarding the concern he and others have for this improper treatment.

On this anniversary, I want to express my strong support of the Ukrainian people and their courage in continuing to struggle for their rights and freedom.

Mr. President, I ask unanimous consent that a letter written to me by Dr. Zukowsky, in which he very ably outlines the treatment to which those still residing in the Ukraine are subjected, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UKRAINIAN CONGRESS COMMITTEE
OF AMERICA, INC.,
Belfield, N. Dak., January 2, 1975.
Hon. MILTON R. YOUNG,
Senate Office Building,
Washington, D.C.

DEAR MR. YOUNG: January 22, 1975, will mark the 57th anniversary of the proclamation of the Independence of Ukraine, and the 56th anniversary of the Act of Union, whereby all Ukrainian ethnographic lands were united into one independent and sovereign state of the Ukrainian nation. Both the independence of Ukraine and the Act of Union were proclaimed in Kiev, capital of Ukraine, on January 22, 1918, and on January 22, 1919, respectively.

Regrettably, the young Ukrainian democratic republic was immediately attacked by Communist Russia, despite the fact that the new Soviet Russian government had officially recognized Ukraine as an independent and sovereign state. This same recognition to Ukraine was granted by the Central Powers and a number of states of *Entente,* including France and Great Britain. By 1920, Ukraine, alone, and unaided, succumbed to the vastly superior forces of Communist Russia, which destroyed the Ukrainian National Republic, created a Communist puppet government in Ukraine known as the "Ukrainian Soviet Socialist Republic" and incorporated it forcibly into the "Union of Soviet Socialist Republics" (USSR).

The entire history of Soviet dominated Ukraine is a ghastly record in inhumanity, outright persecution and genocide, Russification and violations of human rights on a scale not known in mankind's history. Under Stalin, Ukraine was marked for physical destruction and denationalization; under Khrushchev and Brezhnev-Kosygin, the outright terror was replaced by the subtle process of destroying the Ukrainian national consciousness and identity through Russification, propagation of "fusion" of all non-Russian nations in a spurious "All-Soviet" people which essentially would be the Russian people.

In summing up the Soviet Russian rule in Ukraine, the following results exemplify the enslavement of Ukraine:

a. During the 55-year rule of Moscow over Ukraine, literally millions of Ukrainians have been annihilated by the man-made famines, deportations and outright executions.

b. Both the Ukrainian Autocephalic Orthodox and the Ukrainian Catholic Churches were ruthlessly destroyed and their faithful members were incorporated into the Kremlin-controlled Russian Orthodox Church;

c. All aspects of Ukrainian life are rigidly controlled and directed by Moscow; the Academy of Sciences, all scientific and research institutions, universities, technicums, publications, the press, party and government apparatuses, youth, women's organizations, trade unions, and so forth;

d. Arrests, trials and convictions of hundreds of young Ukrainian intellectuals—poets, writers, literary critics, playwrights, professors and students are charged with "anti-Soviet propaganda and agitation" though, in fact, these people profess loyalty to the Soviet State, but fight against its abuses, violations, and police rule. Among them are noted writers and thinkers such as V. Chornovil, I. Dzuba, I. Svitlychny, E. Sverstiuk, V. Moroz, L. Plushch, and many others. Yuriy Shuhkevych, the son of General Roman Shuhkevych, commander-in-chief of the UPA, has been in and out of Soviet concentration camps since the age of 15; in September 1972, he was again sentenced to ten years of hard labor for refusing to denounce his assassinated father and the ideal for which he was killed—a free Ukraine.

Today, Ukraine, more than ever, is a colony of Communist Russia, a land of inhuman persecution and economic exploitation.

Therefore, we kindly request you to make an appropriate statement on January 22nd on the floor of the House of Senate in support of the Ukrainian people in their undaunted struggle for human rights and freedom, which are the basic presents of our modern and civilized soviety.

Sincerely yours,

DR. ANTHONY ZUKOWSKY,
Honorary President, UCCA State Branch of North Dakota, National Vice President of UCCA.

BOHDAN MAKARUK,
President, UCCA State Branch of North Dakota.

AGNES PALANUK,
Secretary, UCCA State Branch of North Dakota.

HARRY TRUMAN'S WARNING RE THE CIA

Mr. CRANSTON. Mr. President, time and time again in recent years Democrats and Republicans have remarked that "Harry Truman looks pretty good in the light of history." Indeed, he may have been one of our greatest Presidents. In addition to a capacity for great decisions, President Truman had perspective. He knew where we Americans had come from, and this knowledge influenced his view of where we ought to go. Further, he gave us many insights into the nature of the Presidency.

I was reminded of these virtues and contributions when I recently discovered a column he wrote 11 years ago. His subject was the proper role of the Central Intelligence Agency.

Truman as President appreciated the importance of having accurate and up-to-date information on world affairs. He wanted "a special kind of intelligence" product that would not be slanted to suit the biases of any one executive department. So he signed the National Security Act establishing the CIA.

A decade and a half later, Truman as private citizen was not happy with the agency he had set up to be "the intelligence arm of the President." In calling for the termination of the covert operations side of the CIA, Mr. Truman cogently expressed some of the concerns that motivate us today as we go about establishing a select committee to investigate the intelligence agencies of our Government. He wrote:

> I never had any thought when I set up the CIA that it would be injected into peacetime cloak and dagger operations. Some of the complications and embarrassment . . . we have experienced are in part attributable to the fact that this quiet intelligence arm of the President has been so removed from its intended role that it is being interpreted as a symbol of sinister and mysterious foreign intrigue . . .

Harry Truman closed his article by reminding us, as did the majority leader in the Democratic Caucus of January 14, of the historic commitment of the American people to free institutions and an open and decent society. Our ideals are a vital part of our reputation in the world as we go about our international business. We cannot ignore the costs of amorality, of violating this tradition. The practitioners of "Realpolitik" often do not seem to understand this.

I ask unanimous consent that President Truman's remarks be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

HARRY TRUMAN WRITES: UNITED STATES SHOULD HOLD CIA TO INTELLIGENCE ROLE

(By Harry S. Truman)

INDEPENDENCE, MO., December 11.—I think it has become necessary to take another look at the purpose and operations of our Central Intelligence Agency—CIA. At least, I would like to submit here the original reason why I thought it necessary to organize this Agency during my Administration, what I expected it to do and how it was to operate as an arm of the President.

I think it is fairly obvious that by and large a President's performance in office is as effective as the information he has and the information he gets. That is to say that assuming the President himself possesses a knowledge of our history, a sensitive understanding of our institutions and an insight into the needs and aspirations of the people, he needs to have available to him the most accurate and up-to-the-minute information on what is going on everywhere in the world, and particularly of the trends and developments in all the danger spots in the contest between East and West. This is an immense task and requires a special kind of an intelligence family.

Of course every President has available to him all the information gathered by the many intelligence agencies already in existence. The Departments of State, Defense, Commerce, Interior and others are constantly engaged in extensive information gathering and have done excellent work.

But their collective information reached the President all too frequently in conflicting conclusions. At times, the intelligence reports tended to be slanted to conform to established positions of a given department. This becomes confusing and what's worse, such intelligence is of little use to a President in reaching the right decisions.

Therefore, I decided to set up a special organization charged with the collection of all intelligence reports from every available source, and to have those reports reach me as President without departmental "treatment" or interpretations.

I wanted and needed the information in its "natural raw" state and in as comprehensive a volume as it was practical for me to make full use of it. But the most important thing about this move was to guard against the chance of intelligence being used to influence or to lead the President into unwise decisions—and I thought it was necessary that the President do his own thinking and evaluating.

Since the responsibility for decision making was his—then he had to be sure that no information is kept from him for whatever reasons at the discretion of any one department or agency, or that unpleasant facts be kept from him. There are always those who would want to shield a President from bad news or misjudgments to spare him from being "upset."

For some time I have been disturbed by the way CIA has been diversified from its original assignment. It has become an operational and at times a policy-making arm of the Government. This has led to trouble and may have compounded our difficulties in several expansive areas.

I never had any thought that when I set up the CIA that it would be injected into peacetime cloak and dagger operations. Some of the complications and embarrassment that I think we have experienced are in part attributable to the fact that this quiet intelligence arm of the President has been so removed from its intended role that it is being interpreted as a symbol of sinister and mysterious foreign intrigue—and a subject for cold war enemy propaganda.

With all the nonsense put out by Communist propaganda about "Yankee imperialism," "exploitive capitalism," "warmongering," "monopolists," in their name-calling assault on the West, the last thing we needed was for the CIA to be seized upon as something akin to a subverting influence in the affairs of other people.

I well knew the first temporary director of the CIA, Adm. Souers, and the later permanent directors of the CIA, Gen. Hoyt Vandenberg and Allen Dulles. These were men of the highest character, patriotism and integrity—and I assume this is true of all those who continue in charge.

But there are now some searching questions that need to be answered. I therefore, would like to see the CIA be restored to its original assignment as the intelligence arm of the President, and that whatever else it can properly perform in that special field—and that its operational duties be terminated or properly used elsewhere.

We have grown up as a nation, respected for our free institutions and for our ability to maintain a free and open society. There is something about the way the CIA has been functioning that is casting a shadow over our historic position and I feel that we need to correct it.

RICHARD J. WALLACE

Mr. JACKSON. Mr. President, all of us who are dedicated to the cause of improved Atlantic relations will miss Richard Wallace, the director general of the Atlantic Council of the United States and editor of the Atlantic Community Quarterly, who died December 22 from heart failure.

I knew Dick Wallace ever since he went to work for Senator Estes Kefauver in 1951. Throughout the years no one was more diligent and faithful than Dick in working for fruitfully cooperative relations between the nations of the Atlantic community. Formerly the Executive Director of the United States Citizens Commission on NATO, and Secretary-General of the Atlantic Convention of NATO nations, Dick Wallace for the past 12 years headed the nongovernmental Atlantic Council in its efforts on behalf of closer relations in the Atlantic area. He was a tower of strength to those of us in the Congress supporting a strong and progressive Atlantic community. He was a constant help to the U.S. delegations attending the NATO parliamentarians' annual conferences.

A graduate of Memphis State College, Dick Wallace received a law degree from Memphis State University. He then became a political reporter and editorial writer for the Memphis Press-Scimitar during the 1940's and early 1950's. He left this post twice, first to serve in the Armed Forces in World War II, receiving the Commendation Medal, and in 1950 to attend Harvard University, through selection as a Nieman Fellow.

In 1951 he joined Senator Estes Kefauver's staff, serving as administrative assistant to Senator Kefauver from August 1951 to January 1959. During the Senator's two campaigns for the Presidential nomination in 1952 and 1956 he worked as press secretary.

I had the highest respect and admiration for Dick's outstanding professionalism and devotion to the undertakings he believed in.

Mr. President, I wish to read into the RECORD a copy of a resolution adopted by the Board of the Atlantic Council on January 16:

The Board of Directors of the Atlantic Council of the United States:

Deeply conscious of its debt to Richard J. Wallace for his far-sighted practical wisdom, his kindly leadership, and for his dedicated and outstanding contributions toward closer relations between the nations of the Atlantic Community;

Resolves to express in this form its gratitude and appreciation for his twelve years as Director General.

THE CIA BOOMERANG

Mr. GARN. Mr. President, it is popular at this point in the Nation's history to attack the defense and intelligence establishments of the Federal Government. Many individuals, some who ought to know better, feel obliged to pounce on every suspicion raised in the press, and proclaim them as evidence of the repressive nature of our system. These people are apparently unable to distinguish between the CIA and the KGB, and are unwilling to wait until all the evidence is in before passing judgment.

Happily, there are cooler heads. I call the attention of the Senate to a column in the Sunday Washington Post by Mr. Joseph Kraft, certainly not to be confused with a knee-jerk defender of militarism and espionage. As Mr. Kraft points out, the charges of "massive" illegalities do not stand up; further, the information on U.S. citizens which is in the files was collected pursuant to the legitimate activities of the Ceneral Intelligence Agency, as it went about the job given it by the Congress: that of overseeing anti-American activities conducted abroad.

It may be that the CIA needs closer direction, and a more clearly defined mandate; but the legitimate goals of protecting our Nation against subversion will not be accomplished by uncritical acceptance of every charge raised against the intelligence agencies. I ask unanimous consent that Mr. Kraft's column be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE CIA BOOMERANG

(By Joseph Kraft)

"The CIA is not emerging as a secret monster that poses a threat to basic American liberties."

The inquiry into the Central Intelligence Agency has boomeranged on those who promoted the fuss in the first place. To be sure, the agency did go off the reservation.

But it is not emerging as a secret monster that poses a threat to basic American liberties. On the contrary, the CIA is now being shown to lack the clout, over its own personnel and with other agencies, required for its basic mission.

The charges leveled against the agency last month centered around two main themes. First there was the assertion that the CIA had committed illegal actions by spying on Americans in the United States in violation of its charter. In support of that charge, reference was made to break-ins, surveillances, opening of mail, and the maintenance of files on American citizens.

Secondly, it was claimed that the illegalities were "massive." To sustain that imputation, it was repeatedly asserted that the agency file on Americans included nearly 10,000 names.

Both these charges were addressed last week in public testimony by the director of the CIA, William Colby, to a subcommittee of the Senate Appropriations Committee. Mr. Colby said that except in a tiny number of cases, which he enumerated, the surveillances and break-ins had to do with CIA investigation of its own personnel.

Most of the 10,000 names in the file were picked up in pursuit of activities by Americans abroad—some of them in the anti-Vietnam war movement who then returned to the United States. Given the size of the agency's operation, and of this country, the 10,000-name file is not inconsistent with Colby's claim that "the agency did not conduct a massive, illegal domestic intelligence operation."

To be sure, testimony by Mr. Colby is subject to doubt. He has an interest in clearing his agency and his own past, which doesn't exactly smell like Chanel No. 5.

But Secretary of Defense James Schlesinger, who briefly preceded Mr. Colby as director of the agency, has no ax to grind. He had no previous experience at the CIA. He himself uncovered most of the dubious practices and put an end to them. If anything, his interest would dictate exaggerating the wrongdoing he discovered and stopped.

But his testimony to the presidential commission set up after the charges were made seems to bear out the Colby story. After testifying, Mr. Schlesinger told a press conference that while the CIA activities in question were "to be regretted" and "inappropriate," they were not "in such number or so surprising as to be a source of national turmoil."

Even as it developed that the charges were exaggerated, real weaknesses in the CIA emerged. It is clear for one thing that former agency employees are now blabbing in a big way. Since the agency has no control over former employees, there is a genuine danger that much of the CIA's appropriately secret operation will come unraveled.

The more so as grudges nursed over the years are now being indulged in a way that recalls the witch hunts of the McCarthy period. It seems, for example, that at least one CIA operative, James Angleton, was fired for actions which had nothing to do with the charges.

Finally, it appears that the CIA got into some domestic activities because of the special character of the FBI under J. Edgar Hoover. For instance, the inspection of mail, directed by the Eisenhower administration, was assigned to the CIA because at the time

Hoover was feuding with postal officials. In other words, at a time when the country was concerned about the Communist threat to national security, the President was obliged to use the CIA in order to achieve a purpose formally assigned to the FBI.

The correction of these weaknesses—weaknesses which seem to me far more serious than the original charges—can only be achieved by a new set of guidelines for the CIA. None of the groups now looking into the agency can give good guidance on such matters. The regular committees of Congress—which have, or have claimed, oversight responsibilities—are interested parties with very limited competence. They are not to be trusted on such business.

Neither is the presidential commission headed by Vice President Rockefeller. Its mandate is too narrow, its bias is too far to the right, and it lacks, both in membership and in staff, expertise on intelligence matters.

But there is one group which could appropriately set new guidelines for the agency. That is the select committee of the Senate, proposed by Majority Leader Mike Mansfield and the liberal Republican Charles Mathias of Maryland. It can be given the appropriate mandate and be so composed that it will be broadly competent and sensitive to both individual liberty and national security.

THE DECLINE IN REAL EARNINGS DURING 1974

Mr. HUMPHREY. Mr. President, I rise to call attention to one economic statistic just published which summarizes this past year very well. The Department of Labor has revealed that real average spendable income of workers in 1974—their income adjusted for inflation, social security, and income taxes—fell 5.4 percent. That is to say, the average worker in America this past December was actually earning less, in real terms, than he earned the previous December. And the changes was not just a few pennies; the change was over 5 percent.

The decline in real spendable earnings was spread throughout the year. In fact, these real earnings fell 9 of the 12 months during 1974. Even more amazing, since 1965, spendable average weekly earnings have declined almost 4 percent. That is correct. Average real weekly earnings after taxes were higher in 1965 than they are today.

The erosion in real spendable earnings is, of course, largely due to inflation. During 1974, the rise in wages was more than offset by inflation. In addition, taxes increased eight-tenths of 1 percent and the average hourly work week fell 1.6 percent. A bad year indeed.

Consumer prices rose 12.2 percent in 1974. Increases in services and nonfood commodities led the price rises, followed by food and energy items. It was broad based, but several product lines rose much more rapidly than others. For example, fuel oil and coal soared 58 percent last year, while cereals and bakery products rose over 30 percent largely due to higher sugar prices.

I think, Mr. President, these statistics point up better than anything I could say that a major stimulation of production is required. We must raise demand, raise employment and reverse the decline in our real gross national product. Perhaps the greatest fear we have is that the necessary stimulation—a $15 to $25 billion tax cut—will inflame inflationary pressures. It will not. With more people out of work than at any time since 1940, and with capacity worth over $100 billion sitting idle, there is more than enough slackness to soak up that large a tax cut without raising prices. The danger, of course, is that the tax cut will be accompanied by policies designed to push up prices in a bottleneck industry or in an industry exhibiting noncompetitive pricing practices.

Strangely enough, the proposals put forth by President Ford in the energy area will allow energy prices to be determined in a noncompetitive manner—to be set at the level selected by OPEC. As a result of that proposal, prices will be pushed up by another 2 percent this year.

I think the Congress will look long and hard at any proposal like this which rekindles inflationary pressures when working men and women have been so ravaged by inflation this past year. This is particularly true when it appears that the rebates outlined by President Ford are inadequate to offset the decline in real incomes due to higher energy prices. Finally, perhaps the most damaging and eventually fatal aspect of the President's energy provisions is the basic inequity of the tax cut-rebate scheme. I see absolutely no virtue in a scheme which cuts Exxon or Gulf tax burdens by 12 percent, and which cuts $1,000 of a millionaire's income tax, when an auto worker, out of work since last spring, will receive not one dime,

I do not know who advised the President on this scheme, but I do know that Congress will be looking out for that unemployed auto worker first, and not the oil companies or millionaires. The Congress wants to work with the administration to reverse the decline in real incomes and to slow inflation. But, if the administration persists in offering programs which will put money in millionaires' hands and keep it out of the hands of those who are unemployed, then Congress will do the job alone.

AN ERTS BY ANY OTHER NAME

Mr. MOSS. Mr. President, shortly after noon yesterday NASA launched ERTS–B. Now that it is in orbit, this second satellite in the ERTS series will be known as "Landsat 2." I have addressed the Senate on many occasions about the extraordinarily successful ERTS satellite program. Over 30 Governors have written me in support of the program and numerous Senators from both parties have joined me in urging program continuity through the remainder of this decade.

Continuity requires the launch of a third ERTS-type satellite, known up to now as ERTS–C. I believe the administration will decide, and will announce in the fiscal year 1976 budget message, that work will start on ERTS–C.

"Landsat 3" would smell as sweet.

NEW ENERGY SOURCES

Mr. FANNIN. Mr. President, in our quest to resolve the energy shortages we are now suffering, we are looking for new techniques and reevaluating known forms of energy to decrease our dependence on fossil fuels. One source we have specifically mentioned in recent energy research legislation is wind energy. The Arizona Republic recently presented three timely articles on this form of energy which relate progress by the private sector with windmill power generation. Since the use of this powerful natural resource is of great interest to many of my colleagues, I would like to share these articles by having them printed, by unanimous consent, in the Record at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

New Power Sources—Firm To Harness Frisco Wind

(By Philip Hager)

His hair standing on end, his blue knit tie blowing over his shoulder, Robert Dietrich stood proudly beside a 35-foot windmill on a hillside overlooking San Francisco Bay.

"There are very few days out of the year when there's not enough wind," he called out over the whir of the blades in a 20-m.p.h. breeze. "Right now, we're generating about 6,000 watts of power."

On 320 days of the year, the wind blows on Point Richmond, a small community within the larger community of Richmond (population 78,016) that offers a spectacular view of the imposing skyline of San Francisco.

What better places for an experiment of what its owners call "the world's largest commercially manufactured wind generator?" It's a Swiss-built windmill they say will provide electricity for two energy-saving homes to be built here early next year.

Dietrich, a 30-year-old architect, and other members of Interactive Resources, Inc., a multifacet firm dealing in architecture, engineering, general contracting and real estate decided during the nationwide energy shortage last year to get a windmill.

"We have so damned much wind out here," said Dietrich, himself a resident of Point Richmond, "it seemed a shame not to use it."

After nine months, the firm's search finally centered on a $4,000 windmill that had served ski resorts in the remote areas of the Swiss Alps. Three months later the dismantled windmill arrived by ship in the United States and last week it was erected on a lot that the firm owns and ceremoniously toasted with champagne.

The homes will be built in a residential neighborhood on the point that includes both old and new structures. Tools used in the construction will be powered by the windmill. The houses will be owned by other members of the firm.

Their designers say the homes—regular, single-family dwellings—should be self-sufficient in electrical power generated by the windmill; except for water and space heating. These are expected to be provided by a solar energy system.

The windmill electrical system is relatively uncomplicated, according to the firm. The wind turns the propellor blades, or vanes, which are connected to an alternator unit (like the fan and alternator of an automobile) that produces the electricity.

The power is then sent to batteries to be stored and used as needed. The system is fully automatic and when the batteries are full, the balance of the power can be used directly.

Direct current from the storage unit must be converted to alternating current for most home appliances but may be used without modification for lighting circuits.

The electricity storage system will utilize 56 two-volt lead-calcium batteries with a capacity of about 35 kilowatt hours.

The batteries are expected to provide enough power for lights and appliances for up to three windless days.

Sewage Plants May Get Windy

New York.—Nassau County officials are exploring the possibility of using offshore windmills to generate electricity to run two sewage plants because of the increasing costs of fuel oil.

Richard T. Rocchio, of the Bureau of Energy Conservation, said if a study now under way by Polytechnic Institute in Brooklyn proves it is feasible, the county could save about $600,000 a year in fuel oil costs as early as 1977 for the sewage plants.

The plants under consideration are already 40 per cent powered by methane gas derived from processing raw sewage. The windmill generator would provide a projected 30 per cent of the power needed to run the plants at an estimated saving of 50 per cent over fuel oil needed to produce the same amount of power.

California's Device May Produce Energy

(By Ron Hutcherson)

San Diego.—Electricity can be as free as the wind if a rotor-driven generating unit invented by engineer Edmund L. Salter catches on.

He has designed a working prototype capable of generating 7,000 watts of power from a 25 to 28 mile-an-hour wind. Key characteristics are low cost, low maintenance and simplicity.

"The system will be able to provide sufficient energy to fill the needs of a single-family home in locations where the yearly wind velocity average exceeds eight miles per hours," he said.

Units can be hooked up to houses already served by utilities or operated alone in remote mountain, desert or coastal areas where the cost of running in power company wires is prohibitive, the inventor, a mechanical engineer, said.

He kept projected costs down by dispensing with as many parts as possible. The result is a wind turbine which differs radically from slow-turning American farm and Dutch-type windmills.

Salter said he believes his unit would overcome the primary problem of wind utilization—efficiency on an economical basis—by elimination of gear boxes and full-feathering propellers.

The unit has three large rotors, each with three blades and a circular steel rim. When the wind turns the rotors, the rims turn a central hub—for direct, gear-free driving of an alternator.

To avoid damage in high wind, the turbine is equipped with a damping device similar to a door closer. It permits the unit to tilt more and more as the wind speed increases, thereby decreasing the area exposed to the wind.

The turbine will not be in production for about a year, Salter said. He envisioned a generating unit cost of about $2,500, less the highly variable costs of the tower and battery bank. He said mass production might reduce the unit cost substantially.

"We are attempting to develop these units to run for the first five years with no care at all," Salter said. "After that, required maintenance would be very low."

Besides using the units to electrify houses, Salter said possible applications include placing them atop power line towers to augment current in the lines and lining them up in rows at power stations.

He said legal details remained to be worked out, but the technology was available to use the generators at residences already served by power companies. He said home turbine power would be used first, with power company current passing through the meter if the turbine power was inadequate. In the reverse situation, excess power from the turbine would flow onto utility company lines, possibly running the user's meter backwards, he said.

TRUE GRIT: THOMAS HART BENTON

Mr. HUMPHREY. Mr. President, Thomas Hart Benton is dead. His death takes from us a man who perceived and painted America in strong unapologetic terms. Benton's America is portrayed as abundant prairie lands; deep, sleepy rivers; muscled laborers; and rugged, rural faces set against seasons of struggle and harvest. He gave us insight into the way of life of farms and river towns, mountain music festivals, camp meetings, and the earthy side of political life.

I commend to the attention of my colleagues a recent article about this great American. In reading it, I found that his work and his life have lessons for all of us. During the postwar years, Benton's work was increasingly bypassed as being "embarrassingly overdrawn." Besides showing a proper Midwestern disdain for fads, trends, and assorted tastemakers, he did not think twice about changing his style.

Benton stayed clear of closed circles, believing that an artist and his work were always better for remaining in the open and among others.

The Benton legacy is a rich one. Not only are we the beneficiaries of Thomas Hart Benton's unique portrayal of an exciting segment of American life through his art, we fondly remember his namesake and great uncle, Missouri's first U.S. Senator, the first among us to serve 30 consecutive years. His father Maecenas Eason Benton, also served the State of Missouri as a distinguished Member of the House of Representatives.

We mourn the loss of a great artist and a great man. Mr. President, I ask unanimous consent that this article by William A. McWhirter be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From TWA Ambassador, November 1974]

True Grit: Thomas Hart Benton at 85

(By William A. McWhirter)

His passion and home-grown conviction may have sustained Thomas Hart Benton's art for more than half a century, but the pleasure, if not joy, of its combat probably saved the artist.

His lifelong targets, usually summed up by one favorite, colorfully apt and unprintable word, include such splendid public nuisances as "narrow-witted art professors, museum boys, nuts with aesthetic missions, professional intellectuals, psychopathic critical fry." Benton first took them in the furious battles raging within the art and academic worlds of the 1920s and '30s, lived them down during the long, lonely period that plunged him abruptly from fame to critical isolation in the late '40s and '50s, and now, at 85, shrugs off their attempts to bronze him as a Grand Old Man of American Art after the returning tides of reappraisal and national recognition over the past decade.

"Most artists who achieve anything also live long enough to experience something of their own failures," Benton says. "They just become part of the whole damn historical scene. I'm just happy to see the whole thing come around again while I'm still alive."

Benton's America—strong, unapologetic dimensional portraits of groaning prairie lands, deep, sleepy rivers, muscled bare-chested laborers and rugged, rural faces of big, uneven features, set against seasons of struggle and harvest—were, in the early years, the traditional strengths the country wanted to see in itself. Benton sketched his way through farms and river towns, backwater hotels, mountain music festivals, camp meetings and the earthy side of political life (in one memorable furor, he painted Tom Pendergast, a notorious Kansas City political boss, prominently into Missouri's historical mural). His paintings were representational, but their subjects—and their people—were often genuine enough, down to one farmer, Benton remembers, "who used to milk his cows and strain the milk through his dirty handkerchief. He was a real character, poor old Henry."

Tom Benton resembles a figure from one of his own canvasses. Beneath a mane of flowing white hair, the face is imposing, as if its hard, craggy lines had been etched and chiseled from granite. He is slight and wiry, but as taut as good leather harness. In a soft plaid shirt and faded pants, washed and worn probably as often as his brushes, Benton saunters and putters with a loose, unhurried farmer's gait, continually biting off plugs of "chawin' tobacco." He speaks in a rich country twang that would be the envy of a Missouri Senator, cussedly preferring a man's character to his opinions. He likes bourbon, fishing parties, poker games and a good argument. Like his work, Benton is the real product of something now so rare that he seems like an original.

There is, of course, no precise accounting for what happens to public taste, but the post-war years found the U.S. avidly pursuing a new international and industrial role. The country was seized with the possibilities of suburban and city life, corporate expansion and cultural advancement. While one of Benton's own students, Jackson Pollock, became one of the leading figures of a new American art movement, Benton's own work was increasingly bypassed as somewhat embarrassingly overdrawn.

"Then I was written off," he says. "Everyone decided I was a fake, a phony, and no artist. I was a fraud and an isolationist, backward in every way." He was unable to attract commissions, made few sales, and even withdrew from his New York gallery. No setback was more humiliating than the decision by New York's Whitney Museum in 1954 to release the Benton murals in its collection. "They wrote me and simply said they had no use for the works," says Benton, "and more, would I take them off their hands. . . ." Eventually, they found their way to the New Britain Museum of American Art in New Britain, Connecticut, where they are today among the most important of Benton's work. Their current worth is probably for more than $200,000.

Benton was not the only artist affected. So were his two friends and fellow major regionalists, John Steuart Curry and Grant Wood, both of whom died during this period after prolonged bouts of illness and depression. "I think it really ended up killing them both," says Benton, "but neither of them was as tough as I am. I survived."

Benton didn't think twice about changing his style, stayed out in his Kansas City home, began work on his Northwestern mountain scenes, and, with true Missouri grit, dismissed the New York-centered art scene altogether.

Besides showing a proper Midwestern disdain for fads, trends and assorted tastemakers (especially when they were all running the other way), Benton was also able to draw deeply on the fact that he had been schooled in historical turns of fate and hard knocks by a politically skilled family—his father was a Congressman, his great uncle, and namesake, the state's first U.S. Senator. He had always stayed clear of closed circles, anyway, believing that an artist and his work were always better for remaining in the open and among other people; if only because they made better company. He once said as much to a newspaper, suggesting that art might be more effective if hung on the walls of "saloons and bawdyhouses" rather than in museums. For that heresy, the board of the Kansas City Art Institute, where he held a sorely-needed teaching job, promptly assembled and sacked him.

Most importantly, there is Rita Piacenza Benton, his wife for 52 years, hearty, ebullient and steadfastly loyal, who kept Tom going and took charge of everything else. She still handles all their financial affairs, watching over Benton's time and energy as carefully as any manager running the family business. During the lean years, Benton managed to draw a few mural commissions that restored pride if not finances, among them the Niagara Falls Dam and the Truman Library in Independence, Missouri. "We weren't poor," Rita told Mike Wallace during a CBS profile this year. "We just had no money."

Finally, in 1963, for no apparent reason, A Benton marked for $1,200 at a New York auction sale went instead for $10,000. "That proved to be the turning point," says Benton. "Everything changed after that. I could never explain it any more than I could the eclipse. We run in curious fashions and spasms." This spasm, however, is still going strong.

It may be that a reassessment of American realists was long overdue and Benton, still alive and leading them, naturally came first. But in that interval the country was beginning to change, too. Faster than anyone had imagined, the America that Benton had traveled and painted was already fast disappearing. Steam engines and hand tools belonged to exhibits in Americana wings, and rustic small-towns were curiosities to be reconstructed in amusement parks across the country. The lingering scenes were gone, their machinery retired, gone to rust or auctioned off. Benton's country was no longer a reflection, but a fading recollection beginning to stir.

No one, of course, felt that loss more than Benton. He was not a sentimentalist, but he obviously preferred the open, brawling passions of that country to the one he found himself in. As a boy accompanying his father to Congressional sessions in Washington, he sat in the gallery sketching such legendary figures as "Uncle Joe" Cannon, the House Speaker. William Jennings Bryan and Missouri's Champ Clark—"big men," he later wrote, "with huge cigars and larger appetites"—were both visitors to the family home in Neosho, Missouri.

"The machineries of power were visible then," Benton says. "Power of all kinds today is enclosed. A whole clattering engine coming down the road is exciting. Today, it moves under a hood. Walk into a steel factory and you don't see any human action at all. You used to see steel rods, heat and light reflected in the faces, sparks shooting out in all directions with men shoveling. There was action. What can you do with an electric furnace?

"You no longer even see power exposed at a political convention, maybe because they have gotten too smart to show anything. I don't go any more for the simple reason that they are no longer entertaining.

"I admit the American scene has run away from me, but I don't find the young artists getting into it much either. Any artist is puzzled by what to do with a modern setting. Maybe I'm too old, but the younger part of my life just seemed more interesting and adventurous."

That is one reason why Benton, despite his age and two heart attacks, goes down the Buffalo River in northwestern Arkansas every spring with a group of cronies on a grueling, six-hour canoe trip. Last spring, at the finish, he had to be literally lifted out of the boat. "I think I'm through with that," Benton says, but later decides that it may still be too soon to quit. Next year, he will settle instead for four hours of paddling.

Benton, who has seldom been more in demand, also continues to work at the same pace. Only last year, he finished his first mural in more than a decade—an early portrait of Joplin, Missouri, and, to quiet satisfaction, watched its dedication by a New York critic who had once characterized him as "one of the worst cornballs in American art." He is already finished, well ahead of schedule, with the first stages of a second mural, a pageant of hill music, for the new headquarters of the Nashville County Music Foundation.

These days, Benton often works in the details from memory. In the Nashville painting, he included a four-string dulcimer, a delicately-pitched instrument seldom heard beyond the hill country, too soft to be heard in most orchestral arrangements. There is also Casey Jones' engine—the Cannonball 382—he copied from an old clipping in the Yazoo City, Mississippi, Herald.

In 1970 he finished his first self-portrait in more than 40 years, a painting that now hangs in the National Portrait Gallery in Washington, D.C. Only last winter, he decided to try another one. Not that he was dissatisfied with the previous attempt. "I just happened to have on a nice yellow shirt one morning against a gray wall, and it looked good," he says. "You look at yourself sometimes and you find the old face sort of interesting."

But for a man who learned some time ago to live without the public, Benton is not about to change too many of his habits now. Tom Benton is even reluctant to see too many of his works sold, partly because of "the feds" and taxes. Consequently, most original oils and lithographs are still available only through the Bentons' home in Kansas City. "Let them come out to me if they want a painting," says Benton. And they do, including, to his amusement, an old friend in the East "who didn't want a picture for 25 years until they got expensive."

On the average, a Benton oil now sells for between $30,000 and $45,000; recently, a small one the size of a notebook changed hands for $7,500. The Bentons have even stopped sending out signed reproductions as Christmas cards, which they did for years. Some of them were finding their way into the art market, where customers were paying as much as $800 to $1,000 apiece for them. Benton felt the cards, as reproductions, had no honest value and angrily forced one dealer to refund one sale when he heard of it.

Although his art has begun to make him a wealthy man, Benton has misgivings about even the legitimate art market. "I frankly don't think it's healthy for art to be handled as a commodity," he says. "Historically, it never functioned that way. It is true that Roman senators did compete for Greek works, but that also started up a brisk trade in fakes and false copies."

Benton prefers his murals, which, once paid for, usually stay put; he calls them "public jobs." His paintings, which are often bought and sold like real estate, he terms "commodity jobs."

In recent years, with his success again secured, Benton has felt the time was right to begin explaining some of his techniques. The methods were far more complex and sopisticated than his critics had imagined, and it was no doubt a combination of Benton's pride and mischief that left them in the dark. "People think I only painted a bunch of farmers sitting on a rail," he says. In fact, the sculptural effect of Benton's work is meticulously constructed. The murals begin with precisely-scaled dioramic sculptures of the painting, made to tilt, catching the play of light and shadows. Benton showed his first models only after the completion of the Joplin mural; previously he had just busted the clay to use it over again.

The main influences upon the man who was to paint the rural Middle West in the 20th century were not American, but Renaissance artists. Among them was the 16th-century Venetian painter, Tintoretto, El Greco's teacher, who, Benton says, had almost "total influence."

This fall, a major retrospective of Benton's work appeared in book form: *Thomas Hart Benton*, published by Harry N. Abrams, Inc. But Benton did not go on the book-autographing circuit. Instead, he spent only one day at a Kansas City bookshop signing copies.

Despite his success, Benton still distrusts the pretensions of his trade. Three years ago, he finally finished a handsome new studio for himself on their property in Martha's Vineyard, where he and Rita have been spending their summers for the past 50 years. He then added on a garage and guest house. "It might pay its way in case I'm not around," he told a friend last summer. "That way, you could get some use out of it."

A BETTER WAY TO CONTROL U.S. EXPENDITURES FOR FOREIGN OIL

Mr. PHILIP A. HART. Mr. President, I support the resolution to delay for at least 60 days the imposition of quotas or tariffs on oil imports and the lifting of price controls on domestic oil.

Further, I support the provision which would require congressional approval of any such changes in policy after the 60-day period. Given the broad economic effect of President Ford's proposal to increase the cost of fuel to domestic consumers by $40–$45 billion a year, I hope that the administration as well as Congress would welcome time for thoughtful consideration of the plan.

As will be pointed out more than once during the debate on this resolution, the President's proposal to increase the cost of fuel will encourage other inflationary price increases throughout the economy. Even adding the most conservative estimate of resulting price increases to the basic $40 billion jump in fuel costs, the total comes to more than the President would return to consumers through a tax rebate and a reduction in Federal income taxes.

On economic grounds alone, I think the proposal would increase the rate of inflation and push the Nation into an even deeper recession.

Equally important, the President's plan does not deal effectively with problems resulting from the sharp increases in the price of foreign oil.

Today, the shortage of fuel is not a question of supply—there is plenty of oil overseas—nor really one of demand, but one of price set by an international monopoly.

If the price of foreign oil were low enough, we could import enough oil to meet today's demand without seriously affecting our balance-of-payments deficit.

Since the current high price of foreign oil is causing international money problems, our policy should be directed at limiting how much money we spend each year for foreign oil and at encouraging the breakup of the international monopoly.

A quota on the amount of oil we import will not put a limit on how much the United States will spend for foreign oil. The oil exporting countries, like any monopoly, could increase their prices to maintain profits in the face of declining demand. For the same reason, an import quota would not encourage competition among members of the oil cartel to lower oil prices.

A tax to increase the cost of oil and oil products, as proposed by President Ford, falls even farther short of our policy needs. That plan assures us a reduction neither in the amount of oil we import nor in the amount we will spend on foreign oil. And, of course, that approach encourages rather than discourages the cartel to stick together.

Because the country's immediate problem is the outflow of domestic dollars rather than the inflow of foreign oil, the United States should put a limit on the amount of money it will spend for oil imports.

Such a limit can be enforced effectively only if the Federal Government is the sole U.S. purchaser of foreign oil.

Under such a plan, the Federal Government would allocate and sell the imports to domestic firms for distribution. The United States could buy directly from foreign governments, as well as from private companies, but purchase would be the result of sealed bids only. A domestic allocation or rationing program would be established to spread fairly any fuel shortage if the dollar limit did not obtain enough foreign oil.

This approach meets both policy goals needed to deal with the foreign oil problem.

Obviously, a limit on how much money we will spend for foreign oil gives us the ability to control that portion of our balance-of-payments deficit.

By announcing ahead of time how much we will spend for imported oil and by accepting only sealed bids, we might create pressures among the members of the cartel, particularly on those nations with a greater need for our dollars, to seek a greater share of the pie by selling us more oil at a lower per-barrel price.

We could further increase pressures for competitive bidding if the offers were kept secret and our Government were authorized to sell the imported oil at below cost. In that event, the bidders would be uncertain as to whether a member of the cartel was shaving its bid.

Of course, we will still need an intensive effort to increase fuel production and fuel efficiency at home.

An effective conservation-production program will ease any fuel shortage resulting from a limit on the amount the Nation will spend on foreign oil; will reduce our demand for foreign oil and increase pressures on members of the cartel individually to reduce prices to get a share of our shrinking market; and will enable us either to reduce our degree of rationing or our dollar limit on imported oil.

I have asked that legislative language to implement this plan be prepared for introduction shortly. However, I wanted to discuss the general outline now in connection with this resolution.

The merits of this concept, developed by Prof. M. A. Adelman, of the Department of Economics at the Massachusetts Institute of Technology, argue persuasively that Congress ought to give full consideration to alternative proposals before approving any plan.

And when you add up the cost to the consumer and its policy shortcomings, you should ask why anyone is in a hurry to implement the President's program.

Moreover, whether we like the President's program or not, we ought not to rush it through. After all, just last fall the President urged prompt action on a tax increase, and we should be happy that we did not promptly follow that suggestion. I do not know what has happened to give assurance that the policymakers who were wrong in October are right in January.

On the other hand, we should also recognize that one reason why the President may well get his program through piecemeal is that Congress is poorly organized to consider an overall energy policy. Congressional sputtering about an effective alternative to the President's plan is another example of why Congress should have a joint committee on energy where we could at least attempt to hammer out a comprehensive program. I will shortly reintroduce my resolution to create such a committee in the Senate.

DECLARATION OF INDEPENDENCE OF UKRAINE—57TH ANNIVERSARY

Mr. FANNIN. Mr. President, yesterday marked the 57th anniversary of the Declaration of Independence of Ukraine.

Such anniversaries are supposed to be joyous occasions, but this is a very sad one. Ukrainian independence came at the end of World War I and it lasted a brief 2 years.

Since 1920 the Ukrainian people have been under the rule of the Soviet Union. Ukrainians who have fought to regain freedom for their country have suffered greatly.

Persons of Ukrainian descent in my State of Arizona, in other parts of the United States, and in free countries around the world continue to work for and plead for Ukrainian independence. I join them in their desire to see freedom restored to the 47 million Ukrainians in this, the largest of the captive nations.

DISABLED AMERICANS HURT BY DROP IN PRIVATE INSURANCE POLICY PAYMENTS

Mr. HUMPHREY. Mr. President, I want to share with my colleagues an article by G. Christian Hill which appeared in the Wall Street Journal on January 21, 1975.

Despite congressional action to provide vital cost-of-living benefits increases for the aged and the disabled—totaling 68.5 percent since 1968—several hundred thousand disabled American workers who receive both social security benefits and private disability insurance payments have not received 1 cent of the increase.

These are workers whose employers have provided a so-called offset disability insurance plan. Under the provisions of these plans, workers receive a fixed monthly insurance payment in addition to social security.

But hidden in the fine print of these plans, as Mr. Hill points out, is a clause which says that this private payment will be decreased dollar-for-dollar as social security benefits increase.

The saving in reduced payouts amounts to a profit for the insurers. As Mr. Hill says:

> In effect, the companies benefit from inflation while their policyholders suffer.

Mr. President, I am confident that every one of my colleagues will be as shocked over this revelation as I am. We in the Congress have fought for improved legislation to acknowledge and address the dire situation which confronts Americans who rely on a fixed income. Inflation takes its worst toll on citizens in this category.

Congress has enacted cost-of-living increases to help social security beneficiaries keep pace with inflation. Time and time again we have waged vigorous battles with the administration to prevent increases in medicare premiums to the insured, to stop plans to increase the cost of food stamps, and to get these meager increases in social security benefits.

But now we are told that thousands of disabled Americans are not seeing 1 red cent of these increases. This is shocking. It is sad. And we just cannot stand for it.

Mr. Hill reports that a number of companies have switched over to a "frozen" disability insurance plan, whereby the beneficiary receives a certain amount from the private carrier regardless of subsequent increases in Social Security benefits. Those companies which remain with the "offset" plan do so, apparently, to save money, as the frozen plan costs an average of 15 percent more.

A few States have outlawed offset disability insurance plans, but it is obvious to me that additional action is required. I would hope that the appropriate committees of the Congress would undertake an investigation of these charges. According to the article, the House Ways and Means Committee has announced plans for such a study, and I urge that the Senate join in this effort without delay. I, for one, would be the first to sign on in this fight, Mr. President.

Mr. President, I ask unanimous consent that the text of the article, entitled "Disabled Decry Insurance-Plan Benefis That Drop as Social Security Increases," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FINE-PRINT FLAW—DISABLED DECRY INSURANCE-PLAN BENEFITS THAT DROP AS SOCIAL SECURITY INCREASES

(By G. Christian Hill)

Since 1968 Congress has boosted Social Security benefits 68.5% to help the aged and disabled offset the squeeze of inflation.

But many of the nation's two million disabled workers, perhaps several hundred thousand, haven't enjoyed a penny of this cushion. Unable to work, they can only watch helplessly as inflation erodes the purchasing power of disability incomes that they now find are absolutely fixed.

These unfortunates are the men and women whose small Social Security disability benefits are supplemented by the most common type of private disability insurance, most of it provided as a benefit by their employers when they were still working.

Under this so-called offset policy, a disabled worker is granted a fixed monthly benefit in addition to his Social Security. But the fine print in the "continuously offset" policy discloses that for every dollar of future increases in his Social Security benefits, his private insurance benefits decrease a dollar.

Thus, the disabled on these continuously offset plans never get an increase in their total monthly insurance incomes. But the insurance companies selling the plans gain a windfall in the form of reduced benefit payouts whenever Social Security benefits rise. In effect, the companies benefit from inflation while their policyholders suffer.

AN OUTCRY FROM THE DISABLED

There was little fuss about the offset policies before inflation accelerated in recent years, but now the disabled are complaining loudly about what they consider unjust enrichment of the insurers at their expense. Some states have initiated legislation to ban the offsets, and some policyholders are suing insurers over these policies.

The insurers note that they also offer "frozen" disability insurance that doesn't reduce benefits as Social Security increases. But employers, they say, often balk at the premiums for frozen plans, which are typically 15% higher than for continuously offset plans.

Illustrative of the effects of the offset plans is the case of Gary Bierman, a 31-year-old former warehouseman who in 1972 had to leave his job at Granite Rock Inc., Watsonville, Calif., when he was disabled by advanced arteriosclerosis. At the time he left work, he was entitled to monthly benefits of $433, including $177 from his private disability insurance and the rest from Social Security.

During a mandatory six-month waiting period, however, Social Security increases reduced to $125 his benefit from the insurer, Union Mutual Life Insurance Co., Portland, Maine. Since that first payment, his Social Security has gone up another 31%—but Union Mutual has accordingly pared its payment to only $91.

Though a relatively small amount, the money that Union Mutual now saves would mean a lot to Mr. Bierman. Seriously ill, he can't supplement his income by outside work. He ekes out a meager existence in a $150-a-month apartment, drives a $200 car and, according to his father, "can't even look forward to a fishing trip; he needs every dime he's got coming."

OTHERS IN HIS BOAT

Neither insurance industry sources nor the Social Security Administration knows exactly how many disabled Americans are in the same fix as Gary Bierman. When the Social Security Administration last studied such data for is disability beneficiaries back in 1966, it found that about 14% of them had private benefits from disability insurance or pensions, most of them offset plans.

Since that time, the offset pension plans have become rare, partly because the Internal Revenue Service, in 1972, denied tax benefits to certain of the offset plans. But disability insurance, especially under group plans, remains mostly the offset type, and the number of Americans covered by group disability plans rocketed from 2.4 million in 1966 to 8.6 million in 1972, and has grown further since then.

Inevitably, a growing number of disabled people are watching their Social Security increases go right into the coffers of their insurers, in effect. "The federal government's intention was to increase benefits," says one former business executive disabled by a massive heart attack. "Now we're getting nothing from it, nothing."

LEGAL RECOURSE

Some, including Gary Bierman, are mad enough to sue. He has filed a class action against Union Mutual, the insurer, on behalf of himself and other disabled employes with offset plans, asking that the money saved by the company be distributed to the disabled beneficiaries.

In 1973, Fireman's Fund American Life Insurance Co., a unit of American Express Co. was also hit by a class-action suit filed in California Superior Court by disabled former employes of Hughes Aircraft Co. and Garrett Corp., a unit of Signal Cos. Last fall, the suit was settled in a court-approved agreement that prohibited Fireman's Fund from offsetting any cost-of-living increases in Social Security benefits made after Sept. 30, 1974, against benefits paid under the two companies' plans.

Some federal legislators are surprised and indignant to learn about the existence of the offset provisions. "In voting from time to time for the cost-of-living increases for Social Security recipients, I naturally expect those increases to go to the recipients themselves," Sen. Alan Cranston (D., Calif.), said in a recent letter to Mr. Bierman's father. "I believe it is cruel and unjustified for those increased benefits to go to the insurance-company treasuries."

BANS IN SOME STATES

Offset provisions are currently prohibited by law or by regulation in at least three states—Illinois, Massachusetts and New York, according to the Social Security Administration. But a bill to outlaw the offset plans was killed in the California State Assembly in March.

The insurers are extremely sensitive about the offset policies. Many claim that their disability coverage was underpriced anyway until quite recently, in light of claims experience, and that the recent savings on offset plans only help cushion past losses.

"It's true that some insurers didn't assume the rate of improvements in Social Security payments when they designed these programs," says an actuary for one big firm. "But they didn't assume the weight of liability that's emerged either."

Insurers who say they took a bath on their group disability insurance until recently include Fireman's Fund, Union Mutual, CNA Financial Corp., which is 56% held by Loews Corp., and disability-insurance units of INA Corp. and Travelers Corp. Edward W. Ramsden, a Fireman's Fund vice president, describes disability group underwriting as "one of the major catastrophes of the insurance industry."

RELUCTANCE TO RECUPERATE?

The poor underwriting results are blamed on changing social attitudes toward disability. Specifically, the insurers have noticed an unexpected reluctance by workers to return to work after a major illness or accident, and a greater eagerness to turn a temporary disability into a permanent retirement—particularly in economically hard times. Workers are sometimes abetted by their employers in this, the insurers complain.

"Sometimes companies with the benefit use it as an adjunct to their personnel policy," says one insurance executive. "They shop around for the cheapest plan possible, then they use it to grease the skids for people they'd like to put on early retirement, or encourage its use by people no longer in the good graces of new management."

Faced with the heavier-than-expected claims, many insurers now have restored their disability insurance to modest profitability through stiffer underwriting standards and higher premiums.

REBATES TO POLICYHOLDERS

It isn't really clear what insurance companies are doing with their windfall savings besides cushioning previous losses. One insurer, Equitable Life Assurance Society of the U.S., says it rebates its savings to the policyholder on a dollar-for-dollar basis, but other insurers are vague about the subject.

The staff of the House Ways and Means Committee, which prepared a report on disability insurance last year, has said it will soon investigate whether the windfalls have "meant greater profits to the insurance companies, a reduction in premium charges or an increase in dividend payments to policyholders."

Though offset plans still account for the bulk of group disability programs in force, there is a switch toward the frozen-benefits variety. (Mr. Bierman's employer, Granite Rock, and Hughes Aircraft are among those who have moved recently to the frozen programs. Some insurers themselves concede that the offset plans may not be fair to the disabled in today's economy, and they're stressing the frozen plans in their marketing efforts.

CNA's casualty group began this practice after a study it undertook in 1970–71, and 90% of its accounts now are frozen plans. Burton Harris, executive vice president of the group, says the company "saw the built-in inequities" in the offset plans and also felt that frozen ones "will be mandated soon in a lot of states."

A vice president of another insurance company says if he had his way, there wouldn't be a single offset plan on his books. But he says that when he "threw down the gauntlet" to several important accounts, strongly suggesting they switch to frozen plans, he lost their business.

Many corporations still seem to prefer offset disability insurance simply because it's cheaper. One insurer says about 80% of its plans are offset.

Nationwide, employers show little intertht in building into their disability plans the kinds of cost-of-living adjustments that frozen plans afford the disabled. A 1972 Federal Reserve System survey of employee benefits offered by 60 corporations showed that 42 employers provided long-term disability plans of various kinds, but none had adjustments within the plans for cost-of-living increases. Five had made cost-of-living adjustments to their plans on an "ad hoc basis."

Companies that buy the cheaper kind of disability coverage that declines as Social Security benefits increase contend it isn't much of a problem for their workers.

"We feel that a freeze (with Social Security benefit increases actually accruing to the worker) is a very important factor concerning pensions—but not disability benefits," says one major employer, whose continuously offset plan covers about 60% of its 66,000 workers. He explains why he considers the more liberal disability benefits relatively unimportant: "Very few of the seriously disabled live a long, long time."

TIMMONS AND KOROLOGOS—TWO OUTSTANDING AMERICANS

Mr. HARTKE. Mr. President, I am pleased to say a word about two personal friends and two outstanding Americans who left the Government service at the end of last year.

William E. Timmons, who was Assistant to the President for Congressional Affairs, and Tom C. Korologos, who held the position of Deputy Assistant for Congressional Affairs at the White House.

It was with a sense of loss not only personally but also for the Senate and the country that I learned of their pending departures.

I have known Mr. Timmons for a great many years. He is a kind, friendly, and talented man whose behind-the-scenes efforts in behalf of two Presidents are not recorded on the daily pages of the papers, but whose contributions surely have left a major impact on the history of these times.

Likewise, Mr. Korologos. As a staffer and a key member of the Senate Finance Committee, I first came to know of his talents and abilities during the long deliberations of complicated tax and other legislation before us. I spotted talent immediately and others did too, because it was not long before the White House called Mr. Korologos and he assumed his duties as Senate liaison for the President.

You could always trust Tom Korologos and Bill Timmons. Their vast and immeasurable talent was getting along with everybody—a trait that not too many achieve in this place.

So, to both of these warm and good friends, I say good luck and best wishes.

THE DANGER OF INCREASED BUDGET DEFICITS

Mr. GARN. Mr. President, I was gratified with the scope and detail of the President's proposals last week on the economy. However, a good many of us have questioned the wisdom of increased budget deficits at this time of double-digit inflation. In fact, some of the figures suggest that the austerity which has been in effect in recent months may be about to produce the desired reduction in inflation with an accompanying reduction in economic dislocation.

The only justification for the deficits has been the overwhelming need to stimulate consumption. Before reliance is placed on dangerous deficits, we must be clear that they will produce the desired results. In that connection, the columnists Evans and Novak report in the Sunday Post on some preliminary indications now becoming apparent. If these indications are borne out in the end, we will be saddled with burdensome deficits without any corresponding economic stimulation.

In the final analysis, of course, all deficits must be paid for, either through taxation, borrowing, or inflation. As the junior Senator from New York pointed out in his statment on the state of the Union message last week:

> Government borrowing is already absorbing more than 60 percent of the funds available in our capital markets.

Such borrowing makes capital formation difficult, dries up available savings funds, thus driving up interest rates, and causes additional business failures through siphoning off needed liquid capital. The transfer of funds from private capital markets to Government spending is a transfer of money from production to consumption.

This point has been cogently made by George Will, another columnist, in the January 17 issue of the Post. I urge that Senators consider these implications of further deficits carefully before abandoning the fight against inflation, and I ask unanimous consent that the two newspaper columns referred to be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WILL A TAX CUT WORK?

(By Rowland Evans and Robert Novak)

Private polling data now flowing into the White House Oval Office is raising grave questions whether President Ford's proposed massive income tax cut will actually stimulate the dangerously depressed economy—or simply be used to pay off old debts and replenish disappearings savings.

Indeed, so worried are the President's economic advisers that William Seidman, Mr. Ford's assistant for economic affairs, has made arrangements to go to Swarthmore, Pa., to listen in on telephone interviews conducted every evening around the country by the Albert Sindlinger polling organization.

A specialist on consumer spending habits, Sindlinger has been turning up alarming evidence that far more American households now plan to use the President's proposed 12 percent income tax rebates for paying debts on past purchases—and for savings—than for buying new cars or other durables. The main reason: the record low level of consumer confidence in the future of America.

Sindlinger's findings, which are similar to pessimistic forecasts of other economists, means that income tax cuts may not operate as a self-starter to get the economy moving. If true, that drastically undermines the use of tax cuts to revive the economy with a quick fix.

Reports from Sindlinger now under study at the White House show that nearly 53 percent of 1,415 households his telephone interviewers sampled from Jan. 9 to 13 would save, not spend, any income tax windfall. Only 33.6 per cent say they would spend it.

That chilling yardstick of consumer plans not to buy much in the worsening recession resulted from the last of a series of questions regularly asked by Sindlinger. These questions attempt to isolate what consumers plan to do—not what they think everybody else will do about buying consumer durables.

Thus, Sindlinger's first question sets the stage by asking: "Do you think people in general would spend more than save, or save more than spend?" More than two-thirds responded that "people" would spend more.

But on the key question whether they themselves would spend or save, the findings were reversed.

That imperils White House hopes for major stimulation of the economy: a flood of new buyers for automobiles and other heavy durables, such as refrigerators. Instead, most consumers, reacting from fear of the future and lack of confidence in the President's recovery program, may stick their tax cuts in a sock.

PAYING FOR WHAT WE SPEND

(By George F. Will)

President Ford's program for short-term economic stimulation may fail to stimulate the economy, and may aggravate the economy's serious long-term problem of insufficient capital formation.

Mr. Ford's proposed short-term cuts have two major defects: They are too small, and they are not matched by spending cuts.

As a long-term political strategy, sensible citizens should applaud any tax cut. It is clear beyond peradventure that in any year government revenues will be a sum X, and government spending will be a sum Y, Y larger than X. Reducing X is the only way of limiting Y.

Today a tax cut also can be defended as a means of stimulating consumption that has been suppressed by inflation. As recently as mid-1974, installment debt consumed a record share of Americans' discretionary income. And for several years Americans' income has been reduced by relentless, insidious, unlegislated over-taxation as a result of inflation.

Personal taxes have been increasing daily—indeed, minute-by-minute—as inflation depreciates fixed dollar exemptions and pushes the upper slice of individual incomes into higher tax brackets. Businesses have paid unreasonably high taxes because of chimeric inventory "profits" generated by inflation. Tax cuts of $12 billion for persons and $4 billion for businesses will not restore what has been lost.

To get a sense of scale, consider: $12 billion is less than half the purchasing power we are currently exporting annually to oil producing nations. The average family rebate will be less than $200, which is less than half the amount that government-mandated safety and anti-pollution equipment has added to automobile prices in recent years. The average rebate will not match what the average family has lost to inflation in the last six months.

We need, and Mr. Ford favors, a cut in the corporate tax rate from 48 to 42 per cent. Certainly the measure Mr. Ford proposed in his Monday speech—a $4 billion cut through an increase in the investment tax credit—is an inadequate response to the economy's most significant problem: insufficient capital accumulation. Business profits have been declining in real terms for 10 years. Since 1960 U.S. capital formation (including residential) has averaged under 20 per cent of our total output, about the same as in Britain, and less than in France (25 per cent), Germany (26 per cent), Japan (33 per cent).

While excessively high corporate taxes have been reducing businesses' retained earnings, government borrowing—to finance its deficits, and to finance the programs of various "off budget" agencies—has been forcing up interest rates and crowding business out of the capital market.

In fiscal year 1974 the government borrowed $3 billion from the public to finance the $3.5 billion unified budget deficit. But it siphoned an additional $28 billion from the capital market for the "off budget" activities of the Export-Import Bank, the Federal Home Loan Bank Board, and scores of other federal agencies whose enormous drain on the capital market is semisurreptitious—you cannot read it in the budget.

In the last decade, while the government was piling up $104 billion in budget deficits, "off budget" federal agencies were borrowing $142 billion. If you seek a monument to that nearly quarter of a trillion dollars, look around the discombobulated economy. Look quickly at what is left of it, before it is pulverized by $100 billion in deficits in the next two years.

The economy's substantial problems require substantial measures: we need at least $30 billion in tax cuts, at least matched by spending cuts. But cutting government programs, unlike cutting taxes, is not politically risk-free. So the program offered is another dose of the policy that has reduced us to our current condition: we shall continue consuming government services we are unwilling to pay for.

But we will pay. Government borrowing to finance the looming monster deficits probably will impede capital formation (and job creation), force up interest rates (and abort housing recovery), aggravate the deepening business liquidity crisis (resulting in business failures). There are serious economists who believe that we may achieve the impossible—double-digit inflation and double-digit unemployment, simultaneously.

At 8:15 one morning last week in Atlanta 3,000 unemployed persons, many of whom had been waiting in a drizzle since dawn, smashed through two plate glass doors at the Civic Center auditorium in a pell mell rush to apply for 225 public service jobs. In the sound of shattering glass we may have heard the sound of the future.

NEW HAMPSHIRE'S CONTESTED ELECTION

Mr. BENTSEN. Mr. President, the Senate is facing a situation without precedent in the history of this body: the contested election campaign between Louis C. Wyman and John A. Durkin for the seat of U.S. Senator from New Hampshire. The uniqueness of this case is the absence of charges of fraud or illegalities; the key to it is the closeness of the election results and the questionable judgment of the New Hampshire Ballot Law Commission.

Mr. President, the Senate is faced with two sets of credentials for the Senate seat, both signed by the appropriate New Hampshire State officials. After an appeal to the New Hampshire State Ballot Law Commission, a recount was held. However, serious questions have been raised as to the validity of the commission's judgment and allegations of irregularities in the commission's recount only exacerbate an already difficult, delicate, and complex situation.

The actions of the Senate in this case will be critical for the responibility of the Senate to act according to legal guidelines and not on the basis of partisan politics is at stake. An historical precedent is being set. Hence it is imperative that we proceed cautiously, fairly, and scrupulously. It is imperative that the letter of the law be followed.

And the law is clear: the Constitution of the United States gives to the Senate and the Senate alone the authority to determine the qualifications and judge the credentials of its Members. New Hampshire law as well prescribes the U.S. Senate as the last appeal in a contested election.

It is for these reasons, Mr. President, that I support the Mansfield resolution which calls for the Senate Rules Committee to investigate this case, recount the disputed ballots and make its recommendation to the full Senate. The New Hampshire elections were close but the legal final body of review, the U.S. Senate, has not yet made the determination as to whether the election is too close to call. Until that decision is made another election in New Hampshire would be premature and set a dangerous precedent.

Much is at stake, not only for the people of New Hampshire but also for the Nation. Clearly the fairest solution for all concerned is a thorough, nonpartisan investigation of the disputed ballots so that the full Senate may fulfill its constitutional obligation to judge the credentials of its Members.

A TAX CUT

Mr. HATHAWAY. Mr. President, I do not favor a large tax cut at this time. One of the reasons I oppose such a cut is that I do not feel that such tinkering with our economy does anything to relieve the underlying causes of our present economic distress. I feel it may be time to ask some fundamental questions about the relationship of the corporate giants in our private sector to our National Government and our public welfare.

An article by Richard Goodwin in the January 6, 1975, issue of the New Yorker was a very good expression of this sense of the inadequacy of a tax cut to cure our economic ills, and I ask unanimous consent to have that article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New Yorker, Jan. 6 1975]

REFLECTIONS—AWAITING THE COPERNICAN QUESTION

As the earth was fixed at the center of the universe, the task of astronomy in the ancient world was to describe the movement of the other planets and the stars. It would have been more aesthetic—and in later times more helpful to theological persuasion—to assume a model of the universe in which the heavenly bodies moved in perfect circular dignity about the terrestrial focus. The ancients, however, would not allow dogma or preconception to rule the distort the facts of observation; some stars, for example, seemed to change their speed, others to temporarily reverse direction and then resume a normal course. God's universe was more complex than man might wish but not, certainly, too intricate for man's understanding. Gradually, astronomers constructed a model of the universe in which stars and planets moved around each other while moving around the earth: circles within circles within circles; cycles and epicycles—all rotating in one grand design. As new irregularities were observed, the model was modified: an orbit added, relationships adjusted.

This system, known as the Ptolemaic, after the greatest of its builders, lasted for fourteen centuries, until Copernicus hypothesized. What if, for the sake of argument, we assume that the earth moves around the sun? In his great work, "On the Revolutions of the Celestial Orbs," he propounded no decisive new evidence, recorded no observations that could not be explained by the Ptolemaic system. But he asked the right question.

Whenever knowledge appears to be at an impasse—when each new circumstance, each seeming contradiction can be explained only as some complicating variation of an earlier understanding—one must always suspect that the right question is not being asked. These characteristics of a supersedable analysis distinguish much of the current debate over the deterioration of the American economy—the argument between monetarists and Keynesians, Ford Administration counsellors and Democratic Party consultants. "There are no easy answers" declaim the officeholders and candidates of both parties, meaning no answers at all—or, at least, none safe enough for public discussion.

Nor is the suspicion dissipated by the intensity with which contradictory views are asserted. Galileo wrote of those who resisted the new Copernicanism, "The less people know and understand about such matters, the more positively they attempt to reason about them." There is, however, no disagreement that the American economy is in serious trouble. Prices are rising today at an unprecedented annual rate of over twelve per cent. And the rate of inflation has been increasing through every quarterly period for more than two years. (In September of the 1972 Presidential campaign, prices were rising at the rate of three and a fifth per cent.) Even before the oil embargo and the "energy crisis," inflation was more than nine per cent annually—about three-fourths of the present rate.

Along with inflation has come economic decline. The personal income of most Americans—their purchasing power—is falling. Unemployment is moving toward the previous postwar high of seven and a half per cent, and is expected to establish new records. An eight-per-cent-unemployment figure, already within sight, will mean that about seven and a half million people will be without jobs, and that over fifteen million more may be deprived of work for periods of several weeks or months during the year. And in November industrial production itself declined—by two and three-tenths per cent. Whether one looks at production, consumer demand, investment, or stock prices, there are unmistakable signs of growing weakness.

Yet only a decade ago our principal economic problem seemed to be how to arrive at the fairest distribution and wisest use of mounting national wealth. The events and policies of the intervening years have been examined in an effort to explain this reversal. The tax cut of 1964, followed by concealed deficit financing of the Vietnam war, injected huge sums of money into an already expanding economy, pushing prices upward. Food exports to India during the Johnson Administration and to Russia during the Nixon Administration, along with government-induced restrictions on agricultural production, created domestic shortages.

Devaluation of the dollar in 1971 and again in 1973 gave this country's cost of living another push upward. In 1971 and 1972, President Nixon, who usually saw the existing world situation as a continuing reenactment of his personal past, feared that a recession might cause him to lose the election, just as it had, he believed, in 1960. By establishing a halfhearted and ill-devised system of partial wage and price controls, Nixon was able temporarily to evade severe inflation by large and selective public spending. After his landslide victory in 1972, he expressed his gratitude by ending controls and terminating the policies of expansion, thus unleashing on his admiring public the severe inflationary pressures that his election economics had helped to create—pressures that were heightened by the rising cost of imported raw materials.

These explanations, and others of the sort, make sense; they fit. Undoubtedly, the decisions of the last few years helped to precipitate our immediate difficulties. But such explanations must be evaluated with caution. For there are important signs that our present economic deterioration is different from past setbacks—more profound, and less likely to yield to traditional policies.

During the last two years, we have experienced serious inflation, followed by recession. But as far back as the mid-nineteen-sixties the country's post-Depression economic expansion—an only rarely interrupted rise in affluence—had begun to slow down. In the eight years between 1965 and 1973, for example, the weekly income, after taxes, of the average worker in private, nonagricultural business and industry went up about four dollars—only fifty cents a year. But during the preceding five years it had risen four times as fast—a total of ten dollars, or two dollars a year. Growth continued after the middle and late sixties, but around 1967 it began to slow down, while the average worker and the poor received a diminishing proportion of the increases in national wealth.

These hints that our current economic difficulties may represent an acceleration of long-term changes are reinforced by the newly apparent inability of traditional economic policies to cope with the difficulties. At present, the most important techniques of economic management are divided—with overlapping and with exceptions—into the categories of monetary and fiscal policy. Roughly speaking, monetary policy is used to control the supply of money that is in circulation and to change the cost of money (interest rates); fiscal policy is directed toward changing the relationship between government tax revenues and spending—the relationship that determines whether the federal budget shall be balanced, show a surplus, or reflect deficit spending.

The conventional assumption has been that the way to diminish inflation is to reduce the money supply, raise interest rates, and try to balance the budget by means of a reduction in federal spending and/or an increase in taxes. With less money to spend for either consumption or investment, prices should stop climbing, and even begin to fall. On the other hand, it has been generally believed that the proper remedy for economic stagnation or decline is to reverse these policies: provide the economy with additional money and lower the interest rate—thus making it easier for individuals to consume and businesses to invest—and have the federal government distribute, by tax cuts or spending increases, or both, more money than it takes in.

To conduct a rigorous, sustained attack on inflation by deliberately slowing down the economy might seem, at least to the unlearned or the fainthearted, to create a risk of serious recession. Similarly, it might be thought that the application of stimulants to growth by, for example, pouring money into a laggard economy could stimulate prices even more than production. Until recently, however, most economists reacted to such apprehensions with a kind of benign patience—the demeanor of the gentleman expert toward the timid or the economically illiterate, or toward the eccentric, if perhaps brilliant, scholar.

After all, few people could be expected to understand how economic skills matured over decades of experience could maintain the balance—could "fine tune" the economy—so that steady growth would be accompanied by relatively stable prices. Elaborate mathematical formulas were drawn from the most advanced computer circuits of the age to determine the necessary "trade-off" among employment, growth, and rising prices. To reduce inflation x percent would require the loss of y jobs and a change of z percent in the rate of growth. These economic analyses were not wholly theoretical constructs; they were also based on a thoughtful examination of our postwar experience. And, in the midst of economic success, it was easy to ignore the fact that, although such analysis can demonstrate what has happened, it unfortunately cannot tell us why it happened, and certainly cannot tell us what is likely to happen when historical conditions change.

The onset of our present inflationary spiral was met with the customary response: tight money, high interest, a reduction in federal spending. Yet inflation continued to accelerate, and was soon accompanied by a decline in growth, production, income, and employment. New and dangerous weaknesses have begun to appear in important sectors of the economy—automobiles, construction, steel—and there are few people in Wall Street who predict, in any foreseeable future, a substantial and continuing recovery from the biggest drop in stock values since the Depression. More ominously, there is no persuasive evidence that the decline in wealth and jobs and the increase in prices are slowing down, or approaching some natural limit. Indeed, there may be no built-in limit—no reason to believe in the existence of economic laws that provide the United States with some special protection against runaway inflation or serious depression.

The contradiction between economic events and the conventional assumptions of economic policy is reflected in the ambiguities, contradictions, and lack of persuasive force that characterize the programs now being advanced by political officials. The Ford Administration has demanded cuts in federal spending and called for modest adjustments in the tax laws—just enough to encourage investment and give some relief to lower-income groups but not enough to seriously increase the ability and willingness to buy goods—and it has proposed a limited program of public work for the unemployed. Not only does this "policy" incorporate some measures whose effects are likely to cancel each other out but the magnitude of the proposed changes in both taxes and spending seems ludicrously inadequate to modify the erratic stampede of our turbulent one-trillion-four-hundred-billion-dollar economy. In fact, the signs of ominously accelerating deterioration now seem to have made this disproportion apparent within the Administration itself, and the President has sought to nourish the tranquil festivity of the season with a promise of new, and presumably more decisive, measures after the new year.

On December 7th, at its conference in Kansas City, the Democratic Party, in accordance with political protocol, attacked the Ford program and set forth a policy of its own: credit should be eased, but not too much (just enough to achieve "a better balance"); the tax structure should be modified to show greater concern for those of "low and moderate income;" and this concern should be paid for by eliminating "individual and corporate tax privileges and shelters that serve no social purpose"—a qualifying phrase that constitutes quite a loophole of its own. Only a modern Diogenes would even try to find an individual, interest group, corporation, or congressman who had ever argued that a tax break was required simply in order to still unwholesome pangs of private avarice. The Democrats agree with Ford that it is necessary to create public-service jobs for the unemployed, but they say the program should be bigger, fairer, and more generous—and since the Kansas City conference the Democratic Congress has unveiled an "expanded" program that at its present stage in the legislative process covers about one per cent of the unemployed.

Naturally, Democrats also agree that federal expenditures should be kept under control, but insist that cuts should be made with moderation and with a clear sense of priorities. The Democratic document does put forward some slightly more rigorous but still carefully qualified proposals for establishing mandatory conservation of energy, allocating credit to selected "productive enterprises," and making loans to meet the "legitimate" needs of failing businesses, etc. Many of these Democratic proposals are undoubtedly constructive. Some—such as tax reform, which was a popular issue in the 1972 Democratic primaries—long antedate the present crisis. But giving a few more dollars to low- and moderate-income families, cutting federal spending, accepting a small budgetary deficit, supplying public jobs or additional compensation for the unemployed, and even taking steps to conserve energy do not constitute a program that can be reasonably expected to end an inflation of more than twelve per cent, add a couple of hundred billion dollars to the gross national product, and reverse the deteriorating conditions that have left more than five and a half million people without jobs.

The Democratic statement contains an additional proposal—one that, if it accurately expressed the intentions of Party officials and the Democratic congressional majority, would have a substantial, if uncertain, influence on economic conditions. It calls for comprehensive federal controls of prices, wages, profits, executive compensation, and rents. Only three weeks before Kansas City, an economic statement issued by the Democratic Advisory Council of Elected Officials declared a willingness to support such controls only *if* other anti-inflationary measures should prove inadequate and *if* we should "shift" into a wage-price spiral.

Those contingencies and preconditions—amounting to an indefinite postponement—reflected the fact that controls were opposed by most labor leaders and many Democratic officeholders, on the ground that any system of controls will inevitably favor profits at the expense of wages. Even the more imperative language adopted at Kansas City requires that the imposition of controls be accompanied by wage "catch-ups" and price "rollbacks," and that the controls be administered by a special council, independent of the Ford Administration and responsible to Congress. Despite these safeguards, and despite the formal action of the Party conference, opposition to controls has not diminished, and remains the decisive force within the Democratic Party. Party officials had not anticipated a vote on an "economic platform" at Kansas City, and, when the issue emerged—after a difficult and fragile compromise on issues of delegate selection had been achieved—they rushed through a voice-vote approval in order to avoid a debate so disruptive that it might have broken up the conference.

"The only result of Kansas City," a leading Democrat told me, "is that we probably have thirty votes in the Senate for controls instead of twenty-five." The fact is that neither the Republican Administration nor the Democratic Congress supports controls or intends to impose them. The contrary assertion by the Democratic Party conference was a concession to transient political exigencies, not a statement of policy, and the appearance of support for controls dissolved when the conference adjourned.

Neither the proposals of the Ford Administration nor the actual policies of the Democratic Party constitute a program capable of resolving a national economic crisis that is already serious, is getting worse, and holds a possibility of real disaster. This is partly because both policies have been devised to conform to a perception—or, more probably, a misperception—of political realities; this is that the public wants action, or the appearance of action, but will not accept painful or drastic measures.

Moreover, there is a real and increasing doubt about the effectiveness of all the conventional weapons in the armory of accepted economic policy—a doubt reinforced by the discouraging dilemma built into the theory which supports that policy; namely, that measures designed to stimulate the economy aggravate inflation, and steps to halt inflation threaten to further depress the economy. The effort to achieve a "balanced" attack on the two afflictions prohibits a drastic attack on either: one can cut taxes, for example, but not enough so that increased spending by business and consumers will drive up prices; one can raise interest rates, but not so high that business cannot afford new factories or machinery. One must remember, however, that this "dilemma" is a creation of theory, and that, as we have learned, the actual impact of economic policies is far less predictable.

Nevertheless, theory still rules, and shapes official policy, which at present is shifting from a complete concentration on inflation to additional proposals to stimulate the economy. The result of all these considerations—theoretical, psychological, and political—is an absence of any policy decisive enough to justify a realistic hope of success, except, perhaps, among those who think that in the long run things will right themselves. (A wishful conviction often masked in the statement that "the fundamental strength of the economy will reassert itself.")

Yet the sense of hopelessness which must afflict most thoughtful observers of public life should not be allowed to obscure the fact that outside the sterile official policies and the process that produces them a serious and perhaps more relevant debate is beginning to emerge—an intensifying clash between groups now in the process of abandoning the past.

Among the dominant Republican advisers are men who are convinced that almost any intervention by government will worsen economic conditions—that, with the possible exception of some adjustments in the money supply or in interest rates, the economy should be allowed to restore itself. This approach is reminiscent of Herbert Hoover's statement at the end of 1930 that "the fundamental strength of the nation's economic life is unimpaired," and accords with the belief of Hoover's principal financial adviser, Andrew Mellon, that the slump should be allowed to run its course. Nevertheless, it represents a rejection of Keynesianism, and the beginning of an effort to form a new liberalism, to adapt Adam Smith to the modern world.

The demand for controls which was adopted almost by accident at Kansas City hints at the nature of the opposing force in the still largely hidden debate over new policies for dealing with contemporary economic dislocations. That demand originates in a growing belief that mandatory, rigorous, and comprehensively enforced controls—even a total freeze—on wages, prices, and profits, on the domestic production and use of oil, on the allocation of energy, and on the export of commodities are the only possible way to halt inflation: a minimum plan, which, should it be carried out, may well demonstrate that if controls are to "work"—that is, lead toward relatively stable prices within a growing economy—they must be extended to other aspects of economic activity, such as capital investment and the allocation of basic raw materials. Such an extension would amount to the establishment of rudimentary government planning for the entire economy. Then, once prices have been restrained by law, it will become possible to restore economic growth through, *inter alia*, increased spending, job creation, stimulation of investment, and a reduction in the flow of capital to the oil-rich nations.

The fact is that the middle ground of economic thought, the familiar shelter for the conventional wisdom of fiscal and monetary policy, though still dominant, is dwindling. On one side are those who would impose narrow limits on government interference with the economy, and on the other side is an enlarging and increasingly influential group of economists and businessmen who are convinced of the necessity for a drastic increase in public authority.

Furthermore, on the margins of fashionable thought, and largely excluded from public discussion, there exists an economic inquiry that rejects the thinking of both sides—that rejects both the conventional wisdom and the emerging alternatives. The participants, in this inquiry—which is inchoate, fragmented, and too various for classification as a "school" or an "ism"—share a conviction that most of our current debate rests on an analysis of the American economy which, if it was once accurate, is now mistaken in fundamental ways. As a result, these dissidents argue, none of the policies now being advocated can succeed—although some short-term relief is possible—and some of them, if they are adopted, may damage the economy, and even threaten the principles of a democratic society.

After all, the usefulness of a prescription depends upon an accurate diagnosis, and the ability to diagnose requires an understanding of process, of the way things happen. If certain diseases are produced by evil spirits, the proper antidote is witchburning; if prices are rising because too much money is spent by too many people, the appropriate remedy is to reduce the amount of money or the ability to spend, or both. On the other hand, if prices are rising for other reasons—if the cause has been misread—this remedy not only may fail to restore a healthy economy but, by contributing to a general decline in economic activity, may add the afflictions of unemployment and falling production to the distresses of inflation; centuries ago, physicians thought they could eliminate the poisons that pained their king by draining his blood, and at times doctors of unshakable conviction—those determined to "stay the course"—succeeded in halting pain by terminating life.

Our current understanding of the economic process is derived largely from the experiences of the Depression, the Second World War, and the postwar recovery. During the nineteen-thirties, the worldwide collapse of capitalist economies impelled a searth for alternative forms of economic organization and for new, more effective economic theories. In parts of Europe, such as Germany and Italy, the result was Fascism and state capitalism.

In the United States, the Depression led to the New Deal and the gradual ascendancy of Keynesian economics. It was to be expected, therefore, that much of our current discussion should resemble the debate that preceded and accompanied the New Deal—the argument between laissez-faire and the need for increased public regulation and intervention. That argument, it is now contended, has been invalidated even in its contemporary form by events of recent decades, which have transformed our economic structure in fundamental ways. Economies, unlike the processes studied by astronomers, are changed by human history. And when they change we must revise those descriptions of economic activity which we may have become accustomed to thinking of as "theories," or even "laws." If some Divine Force should shift the relationships between heavenly bodies, the laws of modern astronomy and physics could no longer predict the motion of stars and planets. That kind of change is unlikely, but economies are always evolving perceptibly toward basically new forms.

It may be helpful to recall certain principles common to all types of national economies. Every economic system must decide what to produce and how to produce it; that is, how to use the resources and the labor of society. These decisions are not determined entirely by economic necessity. They are shaped by the dominant, if often unacknowledged, purposes of the society, just as our personal use of time and energy—of our personal resources—is influenced by our individual purposes and desires. Ancient Egypt gave priority to the construction of huge pyramids, while modern dictators have preferred armies and police.

The American ideal has been (1) economic growth; (2) a relatively equitable distribution of increasing national wealth and economic opportunity, through profits, wages, taxation, government spending, and so on; and (3) a requirement that economic activities be consistent with the general well-being. For example, society might prefer an increase in leisure time to the wealth that could be produced by intensified labor, or the construction of a nuclear-power plant might be prohibited in order to protect a mere handful of citizens against an explosive end. On the other hand, we built railroads even though it was inevitable that some people would be killed by trains; that was "the price of progress."

Naturally, the possibility of economic decision are not boundless. The impoverished resident of Watts cannot decide to take a summer home in the Hamptons, any more than a hopeless paraplegic can undertake to prepare himself for the Olympic pole vault. In all societies, economic decisions are limited by two factors: the resources and knowledge of the time; and the way economic activity is organized—the nature of those institutions, laws, practices, and relationships which make up our economic life. The first of these limits is self-evident. Jefferson could not have accelerated our exploration of Western resources by substituting air reconnaissance for the expedition of Lewis and Clark.

The second factor—the limit imposed by economic organization—while less obvious, is of even greater relevance to our present condition. The steel that was necessary to industrialize China, for example, could not be produced by back-yard furnaces; large factories were required. An automobile industry based on mass production cannot design a car to the aesthetic satisfaction of every customer. And it is now being argued that the economic structure we have developed over recent decades—the "new" economy—is no longer capable of making substantial progress toward the fulfillment of the traditional American purposes; that, for example, we cannot have both full employment and the present concentrations of economic power, just as we cannot have a petrochemical industry without increasing the incidence of cancer. The goals are mutually exclusive.

The economic "structure" that limits the possibilities of decision consists not only of factories and capital but also of a process for determining how resources shall be used. Every society evolves its own system for making such economic decisions. That system may consist of a dictator's will, of Socialist managers, or of untrammelled operation of the "law of supply and demand." We have relied—at least until recently—upon a regulated market whose animating spirit is the principle of competition. According to the theory of competitive free enterprise, private conflict—the struggle to make money—will impel the most efficient and productive use of resources. It will reward those who best satisfy the needs and wishes of the country and its population, and in this fashion the forces of the market will compel fragmented private power to serve the general good.

Unfortunately, experience has demonstrated that if private power is left alone, it does its best to destroy or evade those market forces—and especially the competitive struggle—which constrain it to serve the *public* interest in the course of pursuing *private* interests. This is what Walter Lippmann meant when he wrote, in the nineteen-thirties, that perfection of the market was the principal task of liberalism. And the history of public regulation and economic policy reflects a continuing effort to protect the market principle from malfunctions and from its own imperfections: to protect competition against encroaching concentrations of economic power; to halt abuses that could not be deterred by the requirements of competition against encroaching concentrations dangerous to health; to remedy—by, for example, permitting labor to organize—those inherent disparities of power which violated new social values; and to assist some of those who, because of personal incapacity or changing economic conditions, could not sustain themselves.

Measures of this kind, however, could not inhibit the curious recurrent tendency of even the best-regulated market to slow down, slide into recession, or burst into a damaging inflation. So during the decades after the Second World War this nation's economists evolved the general fiscal and monetary policies I have described. By cutting taxes or increasing government spending, for instance, we could pump more money into a lagging economy, encouraging people to buy and business to invest and produce. If, on the other hand, the economy became "overheated," the abnormal pressures that threaten to overwhelm natural barriers against inflation could be reduced by, for example, taking money out of the economy through increased taxes, or applying direct federal pressure to restrain big business or big labor—through "jawboning," voluntary wage and price "guidelines," or even by imposing mandatory controls.

The choices that are being presented in our widening public debate over economic policy—tight or easy money, deficit spending or a balanced budget, mandatory controls or nonintervention, tax relief or tax incentives, and so on—are an extension of this customary response: a renewed effort to refashion the regulated market so it will once again operate to enable or coerce those institutions which hold and produce wealth (manufacturing companies, banks, labor unions, even "consumers") to make economic decisions that will, in their combined effort, advance the traditional purposes of American society—growth, fair distribution of wealth and opportunity, and the general well-being.

Those who now challenge the Ptolemaic assumptions that underlie this debate are arguing, in essence, that the institutions that have come to dominate our economy are no longer capable of making decisions consistent with our social goals. In other words, the organization of our current economic life prevents us from using our wealth to "promote the general welfare."

Modern industrial and financial giants, it is argued, are not simply bigger than their predecessors but different in kind. Vast bureaucratic combines of productive power, capital, and labor have become insulated, to some increased and decisive extent, from the compulsions of a regulated economic market. It is generally admitted, for example, that such industries can, within limits, "administer" prices; that is, they can raise prices even when demand is declining, and the new prices will almost invariably be adopted by the entire industry—by all the automobile companies or all the steel companies. One can, perhaps, control this particular power by regulating prices. But the transformation of our economic institutions—the enormous concentration of power over production and capital—has other consequences, more serious, less amenable to public policy.

Outside the regulated market, our society has no way to deter or penalize the wasteful use of resources, to compel technological innovation, or to direct production toward the satisfaction of public wants. Indeed, without competitive challenge, or the threat of such challenge, we cannot even measure waste, inefficiency, or technological stagnation. There is no standard by which to compare actual performance and possible performance. The man who conceived a new method of automotive transportation, let us say, or devised a way to build cars at half the cost in labor and materials, would not be able to establish himself in competition with General Motors. It would cost too much. And he would not find it much easier to persuade General Motors to make drastic changes in its own operation, for in all likelihood such changes would simply reaffirm its power over a market it already controlled.

Nor is the illustration wholly hypothetical. For many years, the automobile industry—an industry that is responsible, directly or indirectly, for about a fifth of our gross national product—insisted that there was no "demand" for small cars; that Americans wanted only roomy, heavy, chrome-and-finned behemoths. As European prosperity was restored, the Volkswagen "invasion" proved that this comfortable assumption had been made possible only by the absence of competition. Growing sales of foreign imports compelled American compaines to make smaller, less profitable automobiles.

After a few eccentric years, however, this unwelcome intrusion of market principles was neutralized by a combination of federal assistance—in the form of import taxes, for example—and the development of an understanding among the major car manufacturers of the industrialized nations, similar to that which had existed among American companies alone. Foreign companies have been allowed a limited share of our market in return for permitting American companies to go abroad. The cost and quality of small cars have been pretty well standardized, and the prices of imported and domestic products alike have been raised substantially, and to about the same level, in order to compensate for the losses caused by the drop in large-car sales.

In one sense, however, the automobile companies were right. During the nineteen-fifties, there was no "demand" for small cars; there can be no demand for a product that is not readily available. Indeed, had the horse-and-buggy industry been as powerfully concentrated as the Detroit manufacturers are today, there might have been no "demand" for the automobile. Among the functions of a competitive market is the expansion of the range of economic choice, by individuals and by the society as a whole. If that market is destroyed or superseded, our possibilities are limited, and the limits are concealed. We are often not even aware of the possible alternative uses for our resources. Compare, for example, the behavior of the automobile companies—in fact, of most major industries—with the semi-conductor industry that manufactures, among other things, hand-held calculators. Because that industry is new and its basic technology (being largely a spinoff from space and defense programs) has not been monopolized through patents, the products have continually improved while prices have gone down.

The absence of a competitive market not only strips us of the authority to decide upon alternative uses for our social wealth but diminishes our capacity to determine whether that demand which does exist and can be expressed could be satisfied at far less cost to the resources of society. There is, naturally, some demand, even a social need, for many products of those large businesses which dominate our economy.

Most of us would admit that the telephone is useful—perhaps even that our own phone system is the best in the world. We cannot admit, because we do not know, that the operation of that system requires a monopoly with sixty-seven billion dollars in assets—the current assets of A.T. & T.—or that a company, or several companies, with assets of a total of thirty billion dollars might provide equivalent service, thus freeing thirty-seven billion dollars for other uses. Much less can we expect A.T. & T. to develop a new technology of personal communication—a wireless telephone, for example—which would reduce the value of its present assets. Without market forces to reward productivity or efficiency, no one—not even the companies themselves—can measure the waste or misuse of resources. In more general terms, this means that there is no way to know whether America's existing wealth—resources, capital, plant and technological capacities—if differently organized and invested, might be able to raise the present standard of life by a factor of two, three, or as much as ten:

In our economic system, this question cannot be settled, or even analyzed, in the abstract—by theories or formulas—but can be resolved only by the economic success of competing institutions and "ways of doing business." Nevertheless, impossible though measurement is, we can be certain that the waste is huge. It is a fundamental assumption of all economic theory—of Adam Smith, of Karl Marx, of Mao Tse-tung—that only a combination of external compulsions and incentives, provided by the market or by public authority, or both, can bring about the productive use of a nation's resources, either to create wealth or to satisfy social purposes.

As even the most fervent advocates of laissez-faire might anticipate, huge combines led by managerial committees are necessarily preoccupied with the preservation and growth of their established power. Their expansion and, ultimately, their survival are dependent upon a continued flow of earnings. The development of these economic giants to the point where they control much of this nation's wealth has, it is argued, largely disarmed the traditional weapons of economic policy.

If we attack inflation by reducing the nation's ability to spend and invest, the argument goes, companies that are selling less must raise their prices in order to sustain earnings. And if prices go up, wages must also rise, in order to protect the income of the workers. At the onset of economic decline, as wealth begins to diminish, the ability to raise prices and wages is, however, increasingly confined to the economically powerful—to big business and big labor—for there is not enough wealth to go around. The consequent distress in other parts of the economy only deepens the general recession.

Nevertheless, we must not misunderstand this process as the consequence of an oppressive conspiracy. The business and industrial concentrations that, it is contended, have transformed the organization of economic life must keep their earnings high in order to survive periods of economic decline. And if things get bad enough—if even their power proves inadequate—they must come to the government for support. Nor in most cases will it be easy to ignore their requests by reference to the iron law of competition—"survival of the finest." There simply is no "fittest;" they are all out of shape.

This analysis suggests the possibility of a movement toward a kind of state capitalism in which the people as taxpayers are compelled to support these private industries that they did not, or could not, support as consumers. The logic of this sequence of events—although speculative and still unfound in accepted economic thought—helps to explain why leaders of organized labor are so hostile to controls. It is easy to blame the "conservatism" of big labor, or even the irascibility of George Meany, for labor's continuing and, thus far, politically effective opposition. But there is a substantial reason for labor to be apprehensive, even though labor leaders have expressed their concern only in general perjorative terms about the prospect of government "injustice" to workers.

For the most part, we have limited prices and wages in the past in order to arrest inflation in a growing economy; for example, during wartime, when employment was high and income was growing, and the diversion of our factories to the production of weapons created a scarcity of other goods. Controls prevented affluent consumers from bidding up prices and businesses from making exorbitant profits. We are now confronted with a far different situation—a proposal to impose controls on a declining economy. Earlier administrators were charged with making a fair distribution of increasing wealth. The controllers of today would be responsible for the allocation of suffering—for deciding who should lose, and how much.

If the decline continued or became more serious, they would have to determine whether to reduce business profits or reduce the income of workers, and, perhaps, choose whether a business should survive or living standards should be seriously depressed. In such a situation, of course, business could argue that the well-being of the country required it to make enough to sustain production, while the worker could only point to his personal welfare. Given the power of large industry and its important influence on political leadership, labor has some justification for wishing to rely on its own power, instead of trusting to the judgment of government officials.

The argument that rejects conventional policies to stop inflation also casts doubt on the potential effectiveness of traditional efforts to stimulate growth—pumping money into the economy and increasing the ability and willingness to spend. For it implies that this money will flow in disproportionate amounts to the economically powerful. To the extent that the large and powerful are also wasteful and unproductive, the stimulative impact will be dissipated. Thus, to some incalculable but disabling degree, both the amount of benefit to the economy as a whole and the number of beneficiaries will be less than had been anticipated. Indeed, this entire approach to a revised understanding of economic life tends toward the conclusion that the dominant repositories of the country's wealth and productive power have a natural long-term tendency toward economic stagnation—and so, as a result, does the economy as a whole. Those who hold this view believe that the changing economic conditions of recent years can be attributed to that tendency. As the economic system as a whole becomes less flexible, less adaptable, the inevitable changes in human needs and in economic circumstances may well precipitate an economic decline, even a collapse.

Large industries have always tried to reduce the hazards of market competition, but now, it is argued, our most important economic institutions have, for the first time, been able to break free of the market itself, and to constitute themselves, in effect, private economies, with considerable influence over national government and policies.

They represent the fulfillment of Lord Keynes' prophecy that "progress lies in the growth and the recognition of semi-autonomous bodies within the states . . . [large business corporations that] when they have reached a certain age and size . . . approximate . . . the status of public corporations rather than that of the individualistic private enterprise." If these "semi-autonomous bodies" are no longer subordinate to the process (the regulated market) by which our economic decisions have been made—indeed, are no longer part of the process—their behavior cannot be decisively influenced by economic policies that are designed to restore and improve that same process. But since, as we have seen, economic decisions must be made, and are being made every day, then, to the extent that our traditional process of decision has lost its authority, the power to decide must have gone elsewhere—primarily to the "semi-autonomous" private bodies. This means that there is now no process of economic decision which is able to advance the interests and objectives of the society as a whole.

Implicit in this nascent formulation of a new economic theory is the assumption that we cannot resolve our difficulties simply by revising the forms of public authority over the economic structure. It will be necessary to reorganize economic life itself—to remodel institutions and relationships that have become fundamentally defective and are now incapable of advancing the interests of America and its people. Unfortunately, this effort to reach a new understanding of the modern economy has not yet progressed far enough to offer us a clear design for a revised economic structure. Although there is no lack of tentative, diverse, and contradictory proposals, ranging from national control over the allocation of investment capital to the "decentralization" and "democratization" of large industry.

So at this stage one can probably do little more than draw upon and expand a precedent set by the New Deal—the establishment, in 1938, of the Temporary National Economic Committee, which evaluated in considerable detail the varied components of the national economy as a preliminary to making recommendations for change. Today, however, there are only a few people who accept the still unconventional economic analysis that seems to require such a step. It appears far more likely that the proponents of wage and price controls will win the current economic debate. If controls are tried, and do not lead to the restoration of the economic process, the failure will be evidence that our difficulties are not caused by remediable malfunctions but are a consequence of irreversible historical developments. At that point, then, we may well feel compelled to initiate drastic changes in the relationship between the States government, its people, and the institutions of the economy.—Richard N. Goodwin.

THE USE OF FORCE IN THE MIDDLE EAST

Mr. CURTIS. Mr. President, in an international atmosphere loaded with tension and violence, it is important that great care be exercised and that words are well chosen.

The situation in the Middle East is full of tension and antagonism and should be treated with a great amount of caution and approached with the language of moderation and understanding, not threats of hypothetical military actions. The primary victims of new excitement and violence will be the people of Israel, Egypt, and other countries of the area standing in direct confrontation since 1948. Everything must be done to prevent a flareup of military activities in the area and statements creating excitement are not contributing constructively to this end. We should do nothing which would result in placing U.S. troops in that part of the world. Let us assume the mission of peace and moderation which is the only way to bring a fair settlement to the problems of this part of the world.

THE 57TH ANNIVERSARY OF THE INDEPENDENCE OF UKRAINE

Mr. BURDICK. Mr. President, January 22 marks the 57th anniversary of the independence of the Ukraine.

North Dakota is proud to claim over 25,000 citizens of Ukrainian descent as residents. They have enriched our State with their cultural heritage, their industry, and their integrity. While making valuable contributions to North Dakota and as well as to the other States in which they reside, Ukrainian-Americans have not forgotten their homeland. Their continued concern for the freedom and human rights of their people should be a feeling shared by all Americans.

NURSING HOME ABUSES

Mr. MOSS. Mr. President, my Subcommittee on Long-Term Care of the U.S. Senate Special Committee on Aging is in the process of releasing a 12-part series of reports dealing with nursing homes entitled, "Nursing Home Care in the United States: Failure in Public Policy."

In November we published our introductory report which details that medicare and medicaid are inadequate and ineffective programs in terms of providing long-term care. Some 600,000 seniors are presently going without the care they need because of their coverage limitations. At the same time the 1 million who are in nursing homes have not received maximum help; in some cases they have encountered life-threatening conditions and even physical abuse. Moreover, the report also criticizes limited efforts by the U.S. Department of Health, Education, and Welfare.

In December, we published our first supporting paper, "The Litany of Nursing Home Abuses and an Examination of the Roots of Controversy."

The subcommittee's supporting paper No. 1 reveals the following were the most important nursing home abuses:

Negligence leading to death and injury;

Unsanitary conditions;

Poor food or poor preparation;

Hazards to life or limb;

Lack of dental care, eye care, or podiatry;

Misappropriation and theft;

Inadequate control of drugs;

Reprisals against those who complain;

Assault on human dignity; and

Profiteering and "cheating the system."

The inevitable conclusion is that such abuses are far from "isolated instances." They are widespread. Estimates of the number of substandard homes—that is, those in violation of one or more standards causing a life-threatening situation—vary from 30 to 80 percent. The subcommittee estimates at least 50 percent are substandard with one or more life-threatening conditions.

An excellent synopsis of this report was carried on the front page of the Miami Herald on January 10. I ask unanimous consent that this article, "The Anguish of Aging," be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

THE ANGUISH OF AGING—NURSING-HOME STUDY CITES BIGOTRY IN UNITED STATES

(By Phil Gailey)

Washington.—It has been said that a society can measure its humanity by the way it treats its elderly.

By this standard, a Senate subcommittee concluded recently, the United States is a disappointment.

In the first of nine reports to be published focusing attention on the appalling conditions found in some of the nation's 23,000 nursing homes, the subcommittee cited what it called a "deeply negative attitude toward aging in the United States."

This attitude, the report added, helps to explain why at least half of the nation's nursing homes, the primary facility for institutionalizing the elderly, are substandard, to a large extent staffed by unskilled and untrained labor and insensitive to their patients' needs as human beings.

The Subcommittee on Long Term Care turned up case after case of mistreatment and abuse of elderly patients in its investigation of the nursing-home industry.

At a nursing home in Maine, the subcommittee said, an aged patient who was "in a coma and taking too long to die" was smothered with a pillow by an operator who "wanted to go on a shopping trip, but wanted to be present when the funeral director came."

Some other cases include:

Homes in some areas spent less on meals per person than did local jails.

A 93-year-old woman in an Illinois nursing home was strapped in a chair despite a doctor's order that she should be in bed. An attendant struck the woman in the face with her fist for spilling a cup of water. Her doctor had her family take her out of the home after the incident, and she died a week later.

Despite a daughter's repeated pleas for staff attention to her mother, she watched her mother's foot blacken and develop gangrene. It was finally amputated.

In proposing both legislative and administrative remedies, the subcommittee also decried the "basic societal drive to isolate and remove from view the diseased and the handicapped" as some primitive tribes once did.

The report concluded, "The roots of the nursing home controversy stem in large part from human attitude toward aging and the aged . . .

"The negative image of nursing homes is not entirely the responsibility of owners and administrators of facilities. Nor is it entirely the fault of government bureaucrats who have neglected to establish standards and minimum protections."

Unfortunately, it added, old people are the victims of a "particularly potent form of bigotry," which Dr. Robert Butler, a Washington psychiatrist and gerontologist, calls "age-ism." In his book, "Age-ism: Another Form of Bigotry," Dr. Butler writes: "Age-ism reflects a deep-seated uneasiness on the part of the young and middle-aged—a personal revulsion to and distaste for growing old, disease, disability, fear of powerlessness, uselessness and death."

Sen. Frank Moss (D., Utah), chairman of the subcommittee investigating the nursing home industry, put it this way:

"It's hell to be old in this country. I heard someone say that not long ago. It's the simple truth for most of our elderly.

"The pressures of living in the age of materialism and the pursuit of the good life have produced a youth cult in America. Our preoccupation with staying young knows virtually no boundary. We spend millions on elixirs and remedies all the way from pep pills to hair transplants and face-liftings. Hang the expense. Drink Pepsi, drive a Ford, smoke Silva-Thins, or do anything else anybody insists will keep you looking young.

"Why this obsession with youth? Some blame the movies. Others blame advertising for the kind of images sold to the public. The real reason goes deeper. Most of us are afraid of getting old. This is true because we have made old age in this country a wasteland. It's T. S. Eliot's rats walking on glass. It's the nowhere in between this life and the great beyond. It's being robbed of our eyesight, your mobility and even your human dignity."

Dr. Carl Eidorfer, chairman of the department of psychiatry at the University of Washington School of Medicine, says the mistreatment of nursing home patients is only a reflection of current attitudes toward the elderly in this "no-deposit, no-return society."

The Senate inquiry detected traces of this attitude even in the medical profession.

"Physicians have, to a large degree, shunned the responsibility for personal attention to nursing home patients," the report said. "One of the reasons for their lack of concern is inadequate training at schools of medicine; another is the negative attitude toward care of the chronically ill in this nation."

A survey of U.S. medical schools by the subcommittee revealed "a serious lack of emphasis on geriatrics and long-term care."

Eighty-seven per cent of the schools surveyed indicated that geriatrics was not now a specialty and that there were no plans to make it one; 74 per cent of the schools had no program for allowing students, interns and residents to work in nursing homes; and 53 per cent reported that their students had no contact at all with nursing home patients.

Dr. Butler believes that Western society's emphasis on individuality and control "makes death an outrage, a tremendous affront to man, rather than the logical and necessary process of old life for new."

He writes, "The Western predilection for 'progress,' conquest over nature and personal self-realization, has produced difficult problems for the elderly and for those preparing for old age.

"This is particularly so when the national spirit of the country and the spirit of this period in time have emphasized and expanded the notion of measuring human worth in terms of individual productivity and power. Old people are led to see themselves as 'beginning to fail' as they age, a phrase that refers as much to self-worth as it does to physical strength."

Dr. Herb Shore, administrator of Golden Acres in Dallas and former president of the American Association of Homes for the Aging, says the "vicious cycle of senility" begins when an aging person is forced to give up his accustomed roles in life, and in effect, his sense of worth.

The next step, he adds, is usually mental and physical deterioration and an increasing dependence on various institutions for care and protection.

Growing old is trauma enough for many, gerontologists say, but to force them into institutions often intensifies their fears and concerns.

"Indeed, for many, nursing home placement may well represent the accumulation of all the fears of a lifetime rolled into one," the Senate report said. "The fear of nursing homes is complex, penetrating both conscious and subconscious levels of awareness. Some fears are almost primal, such as the fear of helplessness, hopelessness, insanity, and death . . ."

Elaine M. Brody, director of the Department of Social Work at the Philadelphia Geriatric Center, has written extensively on how institutions reinforce "ageism."

In a paper called "A Million Procrustean Beds," Mrs. Brody writes:

"Some sense of power—some degree of control over one's own destiny is critical to the integrity of the human personality. The new resident (in a nursing home), by virtue of age-status, pauper-status, patient-status, his losses and impairments, already has experienced an erosion of his sense of autonomy of self-direction. The institution actively participates in reducing the resident to a total lack of power."

So, as the subcommittee report emphasized, the problem is greater than inadequacy of many nursing homes (and it emphasized that not all homes are bad) or the mistreatment of their patients. It also is a problem of attitudes toward the aging.

In its recommendations, the subcommittee called for a national policy on caring for the elderly—a policy that considers the psychological as well as medical needs of the aging.

It also recommended stronger federal regulations and minimum standards to assure that those elderly persons who are placed in institutions are protected from mistreatment and abuse.

And finally, it recommended that nursing home operators and community groups work together to reform public opinion.

Because nursing homes will play an increasing role in caring for the infirm elderly in the future, the subcommittee said, "reform is essential so that patients will be treated like human beings with dignity and a sense of intrinsic worth."

OFFICE OF TECHNOLOGICAL ASSESSMENT

Mr. CASE. Mr. President, the Office of Technology Assessment recently completed its first full year of operations.

In the months ahead, as OTA issues its first reports in such critical areas of national concern as mass transportation, energy, and the development of the Outer Continental Shelf, I think the value of this new congressional arm will become apparent to all my colleagues.

While many in the Congress and throughout the country have assisted in the formation of OTA, I believe it should be recognized that the distinguished Senator from Massachusetts (Mr. KENNEDY) played a unique role in OTA's first and formative year. As the governing board's initial chairman, Senator KENNEDY helped signally, I believe, to establish the principle of bipartisanship that is so essential to the success of an organization of OTA's nature.

A similar appreciation of Senator KENNEDY's contribution was recently voiced by the conservative commentator, James J. Kilpatrick. Since no one, least of all Mr. Kilpatrick, would describe Mr. Kilpatrick as an uncritical supporter of Senator KENNEDY, his judgment in this matter can be considered to be as disinterested as it is outspoken.

I ask unanimous consent that Mr. Kilpatrick's broadcast commentary on the subject be printed in the RECORD.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

COMMENTARY BY JAMES J. KILPATRICK

Have I ever said a kind word to you about Senator Kennedy? I can't remember a one. But stand back. If some one will loan me a knife, fork and bottle of ketchup, I have a small dish of crow to eat.

A couple of years ago, Congress created the Office of Technological Assessment, known for short as the OTA. The idea behind the OTA was that Congress is often helpless in considering legislative proposals in the realm of science and technology. The executive agencies have experts in everything from underground steam to outer space. There are plenty of lobbyists who work full time in technical fields. But congressional committees have no such specialists. OTA was intended to fill the gap.

Senator Kennedy was a leading figure behind the OTA. When Congress finally funded the agency, he became its first chairman. Last year some of us dark suspicious types, meaning me, said: Aha! The Senator intends to rig up a bunch of stacked consultants to bring in reports that will support his pet bills and promote his presidential ambitions. It seemed a reasonable surmise. The Senator was then still in the presidential picture, and everyone knows about hired experts.

Well, bring on the crow and the ketchup. Things haven't worked that way at all. The OTA's only report last year was in the field of generic drugs—a field dear to Mr. Kennedy's heart—but far from bringing in a sycophantic report, saying little but yassuh, boss, the investigative committee brought in a report that poured cold water on the Senator's legislative baby. As for Mr. Kennedy himself, he has kept a very low profile, and when his one-year term as chairman expired a couple of weeks ago, he yielded the chair with some sensible, even statesmanly, comments.

So I take it back. I'm still doubtful that

the OTA will provide scientific background that congressmen couldn't get from a dozen other respectable sources, but maybe the agency will justify its small budget. Anyhow, Senator Kennedy did a good job, and I'm pleased to say so. I'm James J. Kilpatrick.

GARY E. EVERHARDT, NEW DIRECTOR, NATIONAL PARK SERVICE

Mr. McGEE. Mr. President, the National Park Service has a new Director. He is Gary E. Everhardt who comes to Washington from Grand Teton National Park, Wyo., where he had been superintendent for 3 years. Prior to that, Gary was assistant superintendent at Yellowstone National Park, also located in my State of Wyoming.

I welcome this appointment not only because of Gary Everhardt's substantial and excellent record of service in Wyoming's great national parks, but because it represents a return to a policy of placing topflight career professionals in charge of this vitally important Federal Agency.

Gary comes to Washington with 17 years of professional experience in the National Park Service. His frontline field experience in two of the Nation's most heavily visited national parks—Grand Teton and Yellowstone—will be invaluable as head of the National Park Service.

Gary, who is 40, is a native North Carolinian, having been born in Lenoir. He received his bachelor of civil engineering degree from North Carolina State University in 1957. His past assignments with the National Park Service have included the Blue Ridge Parkway in North Carolina, Virginia, and Georgia, engineering positions in the southeast regional office, and in Richmond, Va., and the southwest regional office in Santa Fe, N. Mex., where he was regional chief of maintenance.

In May of 1969, he was appointed assistant superintendent for operations at Yellowstone National Park, Wyo., where he was directly responsible for all park operations. He was appointed superintendent at Grand Teton National Park in January 1972.

Again, I want to reiterate my strong support for Gary Everhardt. A highly capable and skilled individual has taken over the reins at the National Park Service and I look forward to our association in his new capacity.

BREAKTHROUGH IN U.S.-EUROPEAN COOPERATION

Mr. McINTYRE. Mr. President, January 9, 1975, marks a historic event in cooperation between the United States and its European allies. A major weapon system, the short-range air defense system, or Shorads, developed by European companies, has been selected on a competitive basis with European and American systems for adoption by the U.S. Army. In the broadest context this is a major milestone in U.S. and European cooperation, and opens the door wide on the cooperative development and production of military equipment.

Congratulations are in order for Hughes and Boeing, the winning American team of contractors, as well as to Aerospatiale of France and Messerschmidt-Boelkow-Blohm of Germany, who jointly developed the winning Roland short-range air defense system, and who will build the system with American labor under license. I am primarily interested, however, in the fact that a European developed system has been selected and less concerned with which of the three competing European systems won the competition.

My long-term interest in fostering greater cooperation with our European allies in the development and production of military equipment is a matter of record, and has been the subject of numerous statements I have made on the floor of the Senate in recent years. Also, I have been successful in encouraging the Senate Armed Services Committee to support such cooperation in its actions on the annual military procurement authorization request. These cooperative efforts result in substantial savings to the U.S. taxpayer by avoiding unnecessary duplication of development while providing American industry and American labor with work by building the equipment in the United States. They also provide additional benefits to the United States by encouraging our allies to procure military hardware developed and produced either completely or in part in the United States for use by their military forces.

The Department of Defense has stated on numerous occasions that unwarranted duplication of research and development has wasted literally billions of dollars over the years, which could have been saved if real cooperation had been accomplished in the past.

Mr. President, the selection of Roland is a real step in the direction of standardizing military equipment deployed in Europe. However, there is a real challenge to standardization which I must emphasize and which in my mind is a matter of great concern. Even though a common system is adopted initially by several countries, there is a strong tendency for each country to change that system to meet its own needs. Carried to extremes, this would upset the very objectives and economies of standardization, and ultimately result in completely different equipment winding up in the hands of the military forces of each country. There must be a consciousness of this danger and there must be a concerted, deliberate and continuing effort made to resist this tendency. I will strongly emphasize this danger at every opportunity and, with respect to U.S. participation in such programs, do my utmost to prevent it.

I am satisfied that the integrity of the source selection process employed by the Department of Defense has been maintained in the choice of Roland. I must assume that Roland was selected entirely on the basis of its merits and reflects an objective and deliberate procedure. In fact, the competition was wide open. Twenty-one companies were invited to bid and four proposals were submitted, three of which were European developments.

Mr. President, this decision and the continuing interest of the Research and Development Subcommittee, which I chair, should encourage the Department of Defense to consider all candidate weapon systems, including those of European manufacture. This is a clear signal to our European allies that Congress and our Department of Defense does not have a parochial view in this matter and fully supports the objective of buying the best equipment available at the least cost and within the time period required. This was the important message I conveyed to our European partners, not only in statements in the RECORD, but as a personal message delivered by a member of the staff of the Armed Services Committee who, at my direction, visited various European countries both in 1973 and 1974. I think it worth mentioning that on both occasions he reported back that great emphasis was placed by the various European countries on the fact that they considered this program to be the real test of U.S. cooperation and would prove our willingness to adopt a European developed system. The selection of Roland is a direct answer and will leave no doubt in their minds of U.S. intentions in the future.

I look forward with great hopes for a broadening of cooperation with our European allies to our mutual benefit, and for the maximum attainment of standardization in military hardware wherever possible. Our eroding economy demands that such measures be vigorously pursued.

PLAYING POLITICS WITH FOOD STAMPS

Mr. HUMPHREY. Mr. President, on January 17 the administration approved the new regulations which had been proposed to increase the cost of food stamps from the present level, which averages at about 23 percent of net income, to the maximum allowable under the law, which is 30 percent of net income.

This reduction will seriously affect the elderly, the disabled, and the poorest of the poor. The administration response that this change will make it necessary for "certain individuals" to pay "slightly more" for their food stamps is just not accurate.

The Department of Agriculture has now conceded, belatedly, that the new regulations would affect 95 percent of the food stamp recipients. On the average, the increase in cost would be about a third, but for most single persons the increase would run from 35 to 100 percent.

The plan would hit hardest at those individuals whose income is between $154 and $194 per month. These people—who now receive a $10- to $13-a-month benefit on their $46 worth of food stamps—would be eliminated from the program.

It is clear to me that the administration proposal makes little sense at a time when we are fighting recession, and when these people also are among those hardest hit by inflation.

I would like to point out the January 15 Washington Post article, "Crippling the Food Stamp Program," by William Chapman. This article amplifies on the administration thinking concerning food stamps and the likely political results.

Mr. President, I ask unanimous consent that this informative article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 15, 1975]

CRIPPLING THE FOOD STAMP PROGRAM

(By William Chapman)

Someone once said that the last unexplored territory of the United States is the Department of Agriculture. The phrase comes to mind as one attempts to unravel the Department's proposal to dismantle a very large part of the food-stamp program and to understand why it was made at this particular time. This has nothing to do with the recent rule which deprives middle-class college students of their food stamps: it has to do with the order, soon to be promulgated, which will take them away from a very large number of those who need them most, the elderly and the poorest of the poor.

The cut-back was first announced by President Ford who seems to have had no firm grasp on the details of what he was proposing. Mr. Ford said, at a news conference, that this venture in budget-cutting would affect only "certain individuals" who would have to pay only "slightly more" in cash to obtain the stamps. This estimate was soon contradicted by the Department of Agriculture, which acknowledged that 95 per cent of the recipients would be affected to some extent and that the cost to the average user would increase by nearly one-third.

The fact, insofar as an outsider can comprehend it, is that the food stamp program is an unwanted stepchild which the Ford Administration inherited from the 1960s and which the current Secretary of Agriculture, Earl L. Butz, would just as soon disinherit. The scenario ran something like this: The President demanded that several billion dollars be cut from the budget this fiscal year. Each department was required to offer up some sacrifice. Butz looked over his columns, passing quickly by the farm subsidy system and the county agents, and came upon food stamps. He has said several times that this is a *welfare* program which, if permitted to exist at all, should be operated by some other part of the government. It was only natural, then, that the sacrifice the Secretary chose to offer was this odd-ball poverty scheme hatched by, of all persons, Sen. George McGovern (D-S.D.) and somehow allowed to nest in his Department of Agriculture.

The Butz plan to save $650 million a year had a superficial ring of equity: Every food-stamp purchaser would be required to pay a flat 30 per cent of his adjusted income, for whatever amount of stamps he used each month. Under current law, he pays according to a sliding scale, based on his adjusted income. The hitch, outsiders quickly noted, was that this simple formula would mean a substantial added cost for almost everyone in the program. The average purchaser today pays only 23 per cent of his income. So this average person, come March, will find his food-stamp budget increased by nearly one-third.

That would be serious enough, given the low incomes of all food-stamp users, but it is calamitous for the people on whom it falls most heavily. These are the elderly poor, those least capable of defending themselves against such levies. They have been accustomed to patching out their meager budgets with food stamps that cost only 10–20 per cent of their incomes. An elderly couple with, say, $270 in adjusted monthly income can now pay $64 and receive food stamps worth $84. It is a bonus of $20. Under the Butz plan, they will be required to put up $81 to receive the same $84 worth of stamps—a bonus of $3.

It is not difficult to see what lies ahead for persons in such circumstances. They will simply drop out. Who will stand in long lines, fill out a six-page form to become certified, and, once in the supermarket with his stamps, laboriously separate his hamburger from non-qualifying purchases, all for the sake of a $3 savings? It is asking too much, even of those for whom $3 is a not inconsiderable sum. The Department of Agriculture declined to estimate how many of the 15 million persons currently using food stamps might withdraw from the program. The best guess is that of the Community Nutrition Institute, which figures that about 10 per cent, or 1.5 million persons, would find the benefits of food stamps to be so small that they would abandon them completely.

It is the simple-minded miserliness of this proposition that is most offensive but beyond that, Mr. Ford should think ahead to the damaging political consequences of his Secretary's peculiar choice. The food stamp program no longer is an unwanted orphan dependent for its existence on a few earnest do-gooders in Congress: It happens to be the most popular and defensible social welfare program this side of Social Security. Congress is verly likely to rewrite the law and take away the President's unilateral authority to raise the amount that food stamp recipents must pay. Mr. Ford will then be in the position of deciding whether or not to veto an early act of the new Congress in order to support his Secretary's instinctive aversion to welfare programs.

THE DIRECT ELECTION OF THE PRESIDENT AND VICE PRESIDENT OF THE UNITED STATES

Mr. HUDDLESTON. Mr. President, I am pleased to cosponsor Senate Joint Resolution 1, to amend the Constitution to provide for the direct election of the President and Vice President of the United States. Since the founding of the United States almost 200 years ago, the people of this country have gradually improved upon our democratic system of government. Through the process of deliberation and compromise, we have eliminated weaknesses in the system and made it more responsive to the needs of the people.

A democracy is defined as a government which is characterized by formal equality of rights and privileges. From this one would assume that every citizen should be treated equally in the exercise of one of the most important political rights we have—the election of the President. Unfortunately, this is not the case.

The procedure we presently have for electing the Chief Executive bears the seemingly innocuous name of "the electoral college." This procedure may be criticized on two primary points. First, it is inequitable, unjust, and undemocratic. Second, it is fraught with potential pitfalls which could possibly cause serious political disruption under certain conditions.

The electoral college was originally devised to meet a unique set of circumstances which no longer exists. The people of the Nation at that time were scattered in remote areas and communication systems which could inform them about national issues and political figures were extremely limited. Furthermore, the concept of electing an Executive was in itself new and revolutionary and there was a need to compromise on the issue in order to allay the fears of the smaller States that the large States would gang up on them.

Since the inauguration of our democratic form of government, there have been substantial changes which negate the outmoded system we now have imposed upon us. Our sophisticated communication systems assure that every citizen has the opportunity to be fully and completely informed on every issue. In addition, the concept of an Executive who truly represents the needs and interests of the Nation as a whole has become firmly established in our political process.

The disfranchisement of thousands of voters is one of the most appalling aspects of the present procedure for electing the President. Under the general ticket method of selecting electors, the group of electors with a plurality of votes will be appointed and they will not represent any of the voters who supported other candidates. In other words the winner takes all.

Our history contains illuminating examples of the undemocratic results of the electoral college system. The United States has had three Presidents who were elected to the Presidency even though they received a smaller number of popular votes than their closest opponents. Even more disturbing is the fact that in one instance the defeated candidate actually had a majority of the popular vote. Should this happen again I would certainly be hard pressed to explain to my constituents the justification for it.

Under the present system the key States with large numbers of electoral votes have an advantage over the smaller States. These pivotal States usually receive preference in the selection of Presidential candidates. Also, during the campaign these States will usually receive more than their share of the campaign effort. Under a direct election system the large States with high population density would still receive more attention than smaller ones. This system would, however, be more equitable because each vote would be equally weighed. Knowing that every vote is equal will force candidates to pursue them with this in mind.

Faith in our democratic form of government and politicians in general has been severely shaken in the last 2 years due to the tragic affair we now refer to as Watergate. And another serious blow could do irreparable harm. Let us not make the mistake of saying that it could never happen because we once said the same thing about the possibility of a President resigning in disgrace. Previous elections also indicate that we may well be flirting with disaster. Presidents Truman, Kennedy, and Nixon received less than a majority of the popular votes cast and we all remember the narrow margin of victory in the Kennedy-Nixon race.

In the history of this great country we have been fortunate in that on only two occasions has the election of the President fallen into the House of Representatives. On those two occasions we were spared the spectacle of being unable to reach agreement on a choice. How long will our luck hold?

Senate Joint Resolution 1 which Senator BAYH has introduced and which I am happy to cosponsor, will correct the weaknesses and inequities in the electoral college. The amendment would provide that the Presidential and Vice Presidential candidates from each party join together as one candidate and be eligible for election by direct popular vote. The joint candidacy receiving the greatest number of votes would win provided it amassed at least 40 percent of the vote. If none of the joint candidacies received 40 percent of the popular vote, the Congress would choose the President and Vice President with each Member having one vote. The advantages to this procedure are obvious. It is simple, devoid of hidden pitfalls, easy to understand, fair, and democratic.

The proposal to reform the electoral college has received support from almost every quarter. In virtually every Congress since the early 1800's there has been a call for changing the electoral college; the American Bar Association has called the present system "archaic, undemocratic, complex, ambiguous, indirect, and dangerous"; public opinion polls show that a substantial majority of the people want to elect directly the President; and both the Democratic and Republican Party platforms have called for reform in this area.

After the long ordeal of Watergate, we committed ourselves to protecting and reaffirming the fundamental rights of individuals. As we begin this 94th Congress what better way to keep this commitment than to recognize the basic right of the people to elect directly their Chief Executive.

AGENCY FOR CONSUMER ADVOCACY

Mr. CASE. Mr. President, once again I have joined in sponsoring legislation to give the consumer a voice that not only can be heard—but be effective in the Federal Government.

This legislation will establish an independent, nonregulatory agency—to be called the Agency for Consumer Advocacy—to represent the consumer point of view before Federal agencies and the courts.

In addition, the Agency for Consumer Advocacy is charged with receiving and redirecting consumer complaints, developing and circulating information for consumers, and, in general, protecting and promoting the interest of consumers.

When Congress considered similar legislation in previous years, my mail from the business community was heavy with inquiries as to why a consumer agency is necessary, considering the number of Federal regulatory agencies which now exist.

I think all of us know that the regulatory agencies tend—more often than not—to reflect the point of view of the very businesses and industries which they regulate.

The interest of the consumer generally gets short shrift, if it is considered at all.

And it does seem to me that if we kept the well-being of the citizen more firmly in mind, then often our Government and its agencies would come up with imaginative and creative solutions—rather than mind-boggling rules and regulations which is the stuff we call "red tape."

The bill currently before the 94th Congress empowers the Agency for Consumer Advocacy to represent the interest of the consumer in any Federal agency proceeding.

I do think we must start listening more intently to the consumers, and it seems to me that this legislation establishes a procedure whereby our Federal agencies—indeed our whole Government—can hear that important point of view in an orderly and responsive fashion.

JUSTICE FOR OLDER AMERICANS

Mr. WILLIAMS. Mr. President, at a time when double digit inflation is cruelly ravaging the limited budgets of our Nation's elderly, President Ford has proposed an arbitrary cutback in retirement benefit increases due to them by law.

Although I believe strongly in the need to keep tight control of Federal spending, it would be unconscionable to fight inflation by denying elderly Americans the subsistence level income they need to stay alive.

Therefore, I wish to express my wholehearted support for the Senate concurrent resolution introduced by the Senator from Idaho (Mr. CHURCH) expressing strong opposition to the proposal to impose a 5 percent limit on social security cost-of-living benefit increases.

As former chairman of the Senate Special Committee on Aging, and its present ranking member, I am appalled by the tragic fact of the extraordinarily high incidence of poverty among the elderly. Approximately 3.4 million or about a fifth of the elderly live in households with incomes below the official poverty threshhold.

The No. 1 problem facing over 700,000 senior citizens in my own home State of New Jersey is the futile effort to keep up with today's spiraling prices. They are especially hard hit by the rising cost of food, which typically consumes 27 percent of the retiree's income. Senior citizens must also strive to keep pace with steady increases in rents, property taxes, medical costs, and fuel bills. Crushing inflation is now an everyday problem facing older Americans.

I was, therefore, horrified by the lack of sensitivity manifested by President Ford toward the needs of the elderly as he outlined his proposed budget cuts during the state of the Union message. The net result of his proposed 5 percent ceiling on the cost-of-living increases will be a $2.6 billion reduction in annual benefits for more than 30 million social security recipients. The proposed 5 percent limit on social security benefit increases represents only one-half of the anticipated 9 percent increase scheduled to go into effect on July 3.

Under President Ford's proposal, a retired couple's monthly benefits would be increased from $310 to $325, instead of to the anticipated $337. Similarly, a single retired worker's monthly benefits would be increased from $186 to $195, instead of the anticipated $202. Aged widows would also receive approximately $7 less per month under the proposed 5 percent ceiling on benefit increases.

President Ford's proposed cutbacks clearly demonstrate the tragic degree to which the administration has strayed from the objectives articulated at the White House Conference on Aging in 1971. The executive branch has continued to pursue a half-hearted income strategy for our Nation's elderly which comes nowhere near the type of response needed to deal with their serious retirement income problems. Since 1969, the administration has not once taken the initiative in proposing a social security increase which would keep pace with the spiraling cost of living.

Fortunately, Congress has taken major steps in developing a national policy to assure retirement security for all Americans. For years, I and other Members of Congress battled to enact legislation which would tie social security benefits to increases in the cost of living caused by inflation. We were finally successful, and counted the automatic cost-of-living adjustment mechanism as a great victory for elderly Americans who are trapped by fixed incomes during a time of runaway inflation.

Clearly, President Ford's proposal to seriously undermine the cost-of-living adjustment principle strikes a crippling blow at congressional efforts to make our retirement income programs more responsive to the needs of the elderly. The President's suggested cutbacks in retirement benefit increases become even more indefensible at a time when he is simultaneously proposing an unprecedented $103 billion defense budget and a 6 percent reduction in corporate taxes. Once again, the administration is attempting to force our Nation's elderly to bear the heaviest burdens in its efforts to reduce Federal spending.

Therefore, Congress must assume the responsibility in adequately protecting all of our retired citizens from the ravages of inflation. I shall continue to strive along with my fellow Members of Congress to assure every senior citizen the life of dignity and comfort they so richly deserve.

I urge all of my colleagues to join in support of this resolution opposing President Ford's proposal to deny older Americans the increased retirement benefits provided them by law. We should not destroy even the small sense of security which has been promised to them in our Federal retirement programs.

SAHELIAN DROUGHT DISASTER AND THE SUDAN INTERIOR MISSION

Mr. WILLIAMS. Mr. President, on May 8, 1974, the CONGRESSIONAL RECORD included a report on the "Sahelian Drought Disaster" published by the American Council of Voluntary Agencies for Foreign Service.

I have read this report and note that the Sudan Interior Mission was not included as one of the voluntary agencies working in the Sahel.

The Sudan Interior Mission has its U.S. and international headquarters located in Cedar Grove, N.J. During the latter half of 1973 and in 1974, the Sudan Interior Mission contributed $1,608,856 to Ethiopia, Nigeria, Niger, and Upper Volta. These funds were used for grain distribution, initially, when the famine was at its crisis and subsequently is now being used for major rehabilitation programs in these lands.

I ask unanimous consent that the news release detailing the Sudan Interior Mission relief and rehabilitation program in Ethiopia be printed in the RECORD.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

S.I.M. RELIEF & REHABILITATION PROGRAM IN ETHIOPIA

(Story by Allen M. Steely)

The effects of a famine causing suffering and hunger in two million human beings and killing an estimated 250,000 people are long reaching indeed. We praise God that the annual rains which have just finished in Ethiopia were almost normal for the first time in four years. This enabled farmers with seed grain provided by World Vision through the S.I.M. R & R program to plant a crop. Some 5,950 farmers received sorghum seed and 78 tons of teff seed, a local grain, with which to plant their fields. After agricultural scientist, Noel Magor, surveyed seven villages in the Alamatta area he concluded that 87% of the cattle had either starved or been sold during the famine. Nearby, at Bestima an oxen registration and distribution program has been started. At Alamatta and Arabati these fatherless families form 57% of the employed in two shifts daily to plow fields for widows who lost their husbands and supporters during the famine. In some areas these fatherless families form 57% of the population.

Unfortunately the new crops have not gone unmolested. This year there was a plague of invading "armyworms". The armyworm is a variety of caterpillar with an extremely ambitious appetite. Invading in June, they destroyed many crops immediately after they had sprouted, and long before the harvest. Agriculturalist Mike Young reported after taking 150 spaced samples that in hard-hit areas the armyworm averaged 65 per square foot of field surface. DDT was sparsely used because of several cases of poisoning in both cattle and humans due to improper understanding of the chemical by the nationals in the stricken areas. Due to the evacuation of the population from large areas of land there was also a phenomenal increase in the population of rats. Thousands could be seen in a single night, destroying the crops in the fields.

Two agricultural specialists, Adrian Dignam and Noel Magor, have indicated that due to armyworms, rats, and grasshoppers crop yields in some parts of the famine area will be small. Although on a greatly reduced scale, feeding by relief agencies will again be needed before the 1975 crop is harvested.

Now that most of the population is at least temporarily self-supporting rehabilitation has replaced direct relief as the major emphasis of the S.I.M. program. Throughout the centuries Northern Ethiopia has been experiencing famines on approximately an 11 year cycle. It is the goal of the S.I.M. R & R not only to relieve immediate suffering by food distribution and medical aid but to help the famine struck provinces of Wallo and Tigre to become self-sustaining on a long range scale.

With long term goals in mind all of our immediate relief was given on a "family" unit basis rather than an "individual" basis. Careful registration of all people in each village was kept enabling wheat, sorghum, teff, peas, and 250 tons of MAP donated high nutrition foods including Carnation Instant Breakfast, Ensure and Sustacal to be given not only to parents in the food line but in sufficient quantity for the entire family. Whenever possible relief was brought to the people in their own village, rather than encouraging them to desert their homes and join the congested relief camps, besides minimizing cultural upheaval this village based relief reduced the amount of contagious diseases which naturally skyrocket in the unsanitary habitat and weakened bodies of famine victims in overcrowded relief camps.

Recent reports indicate that in direct relief one of the S.I.M. R & R's five feeding stations alone is still providing some 60 tons of grain for 1,825 needy people each month. Of these, however, only 120 are classified as "either severely malnourished or requiring constant medical attention." Totals for all five stations are not yet in.

Currently the Rehabilitation program involves 265 full time workers, 150 of which are Ethiopians. It is our goal to work ourselves out of the job of relief and rehabilitation; this can only be done by the training of Ethiopian co-workers to take over the jobs.

The Rehabilitation program is involved in projects in the following seven areas:

1. Surface and ground water development. With the help of Dr. Otto Langenegger, a hydro geologist, a survey of the famine area was completed and sites were chosen for the TEAR Fund/CBM Halcomast 625 pneumatic drilling rig and the smaller cable tool machine. Site choices were based on geological formations, likelihood of finding water, accessibility for the drilling rig and accessibility and need of the national population. All water added into well holes in the process of drilling was chlorinated to minimize the amount of bacteriological invasion of the existing aquafer; each well was blown clear for a minimum of 45 minutes to ensure that the well would be clear of any foreign or drilled material. Samples of water for chemical and biological analysis and logs of the operations have been sent to the Ethiopian Ministry of Mines. By the first of September, 10 water producing wells had been capped and hand pumps have been installed on each well. In addition to the deep well drilling there are projects for developing surface wells, water storage reservoirs, concrete and rock dams, capping and rechanneling springs, spreader dams, flood control and irrigation, diversion dams for ground water recharge, stock ponds, and off-the-roof water storage systems. Fourteen of these projects were completed in the month of August alone.

2. Agricultural development. In the field we have a number of agricultural scientists working on diversified projects including crop rotation, reforestation, erosion prevention techniques, spray control of armyworm and grasshoppers, irrigation, terracing, cash crops of cotton, sunflowers, peas and beans, seed and stock improvement, crop diversification, plowing techniques, cultivation assistance and an agricultural extension service.

3. "Food for Work" projects. The men in the famine area who were still healthy worked on projects such as construction of roads, wells, water reservoirs, dams, landing-strips, schools and housing, reforestation and cash crops. In return they were twice repaid—first with stockpiles of grain for their immediate use and secondly by the long term benefits of their projects such as having an adequate water supply or a better transportation system.

4. Medical aid. In the famine area there are ten medical clinics offering free medical services. Recent medical reports indicate that the eye disease Trachoma, which can cause blindness if untreated and which is passed on from individual to individual by flies, is rampant in Wallo province. In local areas as many as one out of three people suffers from Trachoma. Tuberculosis is the largest killer, but cases of polio, smallpox, cholera, and typhoid have been treated. Malaria, scabies, dysentry and various tropical skin diseases and worms are common. 2,400 people are registered at the Guffra clinic alone and the daily number of patients ranges between 60 and 240. The medical clinics have extensively used high nutrition foods donated by the Medical Assistance Program in treating pregnant mothers, malnourished children and malnutrition complications caused by diseases such as sleeping sickness and tuberculosis. Medical supplies for each clinic cost close to $1,000 Ethiopian per month.

5. Educational development. Emphasis is being placed on educating the population in the areas of health, personal hygiene, food nutrition and balanced diets, diseases and their causes, and family planning. Usually this teaching is done in conjunction with the medical clinics. There are both general lessons to those who collect for medical help and private instruction to individuals about their personal needs. In other areas the nurses will get the village chief to gather the people for a talk or will work with the government school teachers to give lessons to the school children.

6. Town and Community development. When requested a town planner will assist local communities in self development. Several projects such as water pump and windmill manufacturing, steel plow and ox cart production and a weaving program are either on the drawing boards or have been implemented both to stimulate local industry and more importantly to provide much needed basic aids to agricultural development.

7. Church planning. It has been our relief policy that no person is to be discriminated against in the receiving of aid due to race or religion. However, the S.I.M. is a mission, and stress has been placed on meeting the entire needs of the people—both physical and spiritual. Besides living out our beliefs through our social works we are involved in evangelism, literature distribution, Bible translation, radio broadcasts, youth centers and Bible schools. We praise God that through the witness of sincere Christians, and through the unfortunate sufferings and hardships of the famine, many people have turned to Jesus Christ.

Although current conditions are greatly improved over those of a year ago much remains to be done if the famine area of Northern Ethiopia is to become self-sustaining and free from the threat of future famines. The current rehabilitation is in many ways more difficult and more vitally important than the direct relief has been. We need your prayers, and God's guidance in this vitally important work.

ANALYSIS OF GASOLINE RATIONING

Mr. HUGH SCOTT. Mr. President, at the request of the Federal Energy Administration, I ask unanimous consent that an "Analysis of Gasoline Rationing" be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS OF GASOLINE RATIONING

SUMMARY

Description of rationing system

Each licensed driver in the country would receive an equal monthly allotment of coupons entitling him to purchase 36 gallons/month at the controlled price. These coupons could be freely traded or sold. The coupon market would permit those drivers with needs greater than those represented by the monthly allotment to purchase additional coupons from those who use less than their monthly amount.

Commercial users would receive coupon allotments equivalent to 90 percent of their consumption during the 1973 base period.

For that limited class of users for whose special needs the coupon resale market is not a reasonable solution, 3% of the coupons would be set aside and distributed by the state. This distribution would be based primarily on emergency or hardship.

Coupons would be picked up in person at Post Offices by each eligible individual. They will be invalidated at the pump at time of purchase, and deposited by retailers with banks in a special coupon account. Gasoline deliveries to suppliers will be made to retailers only for amounts equivalent to coupons collected.

Gasoline use data

Estimated consumption in 1975 is 6.4 million barrels per day or 270 millions of gallons per day (MG/D).

Number of licensed drivers in 1974 was 125.1 million. There will be an increase of up to 15 million anticipated if coupon rationing is put into effect.

Without rationing, each driver would use 50 gallons per month.

With the expected increase in licensed drivers and supply limited by 1 million barrels per day, by rationing, the allowance for each licensed driver would be: per day=1.2 gallons; per month=36 gallons; per year=432 gallons.

Problems with gasoline rationing

Gallons per month and price of gasoline:

To save 1 million barrels per day, while assuring adequate fuel for business will mean limiting each licensed driver to about 36 gallons per month, compared to current average of 50 gallons/month. It is expected that the coupons will sell for about $1.20 per gallon. Hence, for those who must purchase more than their basic ration, the effective price of gasoline (pump plus coupon price) is estimated at $1.75/gallon.

Impact on national energy goals:

Gasoline rationing, while it may limit consumption in the short run, makes no contribution to our mid- and long-term goals of energy independence, because it provides no incentives for increasing supply.

Gasoline consumption is only 40% of total petroleum use. Residual and fuel oil comprise substantial amount of total petroleum imports. By concentrating exclusively on private vehicles and gasoline, other fruitful areas for energy conservation are not addressed—such as improved industrial efficiency and better constructed and insulated buildings. In the final analysis, we cannot be independent unless these other petroleum uses are also reduced dramatically.

Potential for inequities:

Each person receives an equal number of coupons, but use of gasoline varies widely among drivers. Thus, rationing inevitably leads to inequities. Some examples are:

A widowed secretary with two children living in the suburbs who commutes 16 miles each way to work in a car that gets 12 mpg will experience a 68% increase in her commuting costs, because she must purchase 17 additional coupons each month at an average cost of $1.20 per gallon. This amounts to about $245/year in additional costs.

A blue-collar worker who owns a car that gets only 9 mpg can drive just over 320 miles/month on his basic ration, and could not easily afford to purchase a new more efficient automobile. On the other hand, an affluent neighbor can readily trade in his equally inefficient old car to purchase one getting better than 22 mpg. This allows him to drive over 790 miles on the same allotment of coupons.

Substantial regional inequities would exist. The average driver in some rural states such as Montana travels nearly 600 miles per month versus about 300 in less rural states such as New York and New Jersey. Similar disparities exist between city dwellers and suburbanites. Under rationing each would receive the same gallonage.

Certain very poor persons, such as migrants, drive large distances each year. They can neither afford to buy additional coupons nor are alternative methods of transportation available to them.

The recreation and tourism industry would be very heavily impacted, as would the auto industry. Automobile sales could decrease 35% from what they would otherwise be.

Increase bureaucracy and complexity:

The Government would be involved in many new aspects of our every day life, adding an inescapable portion of bureaucracy, complexity, and inconvenience.

The Government would decide: if a new business should get fuel; if expanding businesses deserve more fuel; if specific individuals would qualify for more coupons because of hardships.

Gasoline rationing can be implemented but it is complex, expensive, and at best a short term solution. It takes 4–6 months to implement, about 15 to 25,000 full-time people and $2 billion in Federal costs, uses 40,000 Post Offices for distribution, and requires 3,000 state and local boards to handle exceptions.

Because coupons are transferable, they must be picked up by each driver in person quarterly at Post Offices. Long lines and delays are inevitable.

Gas stations, with limited quantities to sell, are unlikely to maintain more than the most limited service hours. Evenings and weekend closings are almost a certainty.

Impact on GNP:

Use of allocation and rationing to reduce imports by one million barrels per day could create a drop of nearly 13 billion dollars in the GNP and place several hundred thousand more workers on unemployment rolls. Also, rationing would have an inflationary impact due to the significantly higher clearing price of gasoline coupons sold by those having excess coupons.

Comparison of gas rationing and President's program

Each option has major regional impacts; rationing hits the mountain states, the southwest and the mid-west hardest. The President's program affects New England and the east coast.

Rationing will reduce consumption in the short term but is inadequate as long term solution. The President's program is effective in both the short and long run.

Both rationing and the President's program transfer about $2 billion to poor families in the first year.

Rationing is costly and complex: the President's program is inexpensive and easy to administer.

Rationing raises the CPI by over 2 percentage points; the President's program by about 2 points.

Rationing could cost the country $13 billion in GNP and a substantial increase in unemployment; the President's program would have negligible effects in each area.

DESCRIPTION OF COUPON RATIONING SYSTEM

At the time of the 1973 embargo an effort was begun to design a rationing plan. After much analysis regarding various possible approaches, that effort culminated in the development of a proposed rationing program and the purchase of 4.8 billion coupons. A description of that proposed plan is outlined below.

I. System operation

A. Entitlements:

An estimated 140 million licensed drivers receive an equal monthly coupon allotment (estimated at 36 gallons per month). These coupons could be freely traded and sold.

Commercial users receive a coupon allotment equivalent to a percentage of base period consumption, estimated at 10% less than 1973 consumption.

State set-aside for special cases (3% of available supply), i.e., migrants, the handicapped, etc.

Government and non-profit organizations included in commercial sector.

Coupons for first quarter are all of the same denomination, and are not serialized. Changes could be made in subsequent quarters.

B. Distribution:

Postal Service would distribute coupons at the 40,000 Post Offices four times a year.

Estimated that 4.8 billion coupons would be needed in first quarter (amount currently in storage).

Under special conditions, an agent could pick up coupons for those not able to do so themselves.

Users would pay a fee of $3.00 per quarter amounting to $1.5 billion. (This would cover most of estimated program cost).

Local Boards throughout the states would handle special appeals from state residents with emergency or hardship gasoline needs.

In first quarter, individuals would turn in self-executed application forms at their Post Office. Postal employees would validate application, examine and mark driver's license, and issue ration coupons.

In subsequent quarters, licensed drivers would receive state-issued authorization cards in the mail, entitling them to pick up ration coupons at their post offices.

For first quarter, commercial users would submit an FEA form to their bank, which would issue them an allotment in the form of a coupon draft. These drafts would be exchanged for coupons at the Post Office. Forms would be forwarded by banks to FEA so that FEA could issue coupon drafts for the second and following quarters.

Forms retained for audit purposes.

U.S. agencies would apply directly to FEA for coupon allotments.

C. Banking system:

Commercial banks would be mainstay of coupon redemption mechanism.

Initially, gas stations take deposit ration coupons received from motorists to local banks and receive gasoline drafts (in gallons) enabling them to purchase additional gasoline from their supplier.

In subsequent quarters, a complete ration banking system would be established, in which commercial, government and non-profit users along with gas stations, and suppliers, would participate.

FEA Processing Centers would handle initial applications and maintain records of all commercial users. These centers would issue drafts for ration coupons in subsequent quarters, through the mail.

D. Coupon resale market:

Unused coupons would be freely traded or sold. Those with excess coupons could sell them to those willing to pay the price.

Federal Government would make no attempt to control or regulate trade in coupons except to identify and prohibit practices which inhibit natural interplay of market forces.

It is estimated that excess coupons would be sought by more than one half of all users.

E. State set-aside:

State set-aside of coupons (about 3%) would be available to recognize claims of users for whom the resale market is not a vehicle for their special needs.

About 3,000 local boards throughout the states would administer the set-asides, replying to applications.

The State set-aside will also be used for organizations or governmental units performing essential public health or safety services.

Federal Government could provide guidelines to assure uniform application of eligibility criteria.

F. Enforcement system:

Vigorous enforcement program would be required to prevent widespread abuses.

The audit program would focus on commercial and non-profit users to detect overstatement of base period volumes, and on gasoline suppliers to detect illegal shipments of gasoline.

There would also be a system to detect multiple applications by individuals.

II. Preliminary estimate of resources required (steady-State annualized basis)

A. Personnel resources:

(1) Federal:

FEA Headquarters—625 positions.

FEA Regions—3,250 positions (1,200 opl; 2,000 enforcmt).

U.S. Post Office—unknown.

Non-FEA Enforcement—2,500 positions.

(2) State and local:

3,000 local boards at 10 each (15,000 volunteers; 15,000 support staff).

51 Department of Motor Vehicles at 100 each 5,100 positions.

[In millions]

B. Costs:

USPS Distribution at $1.60 per transaction	$845
USPS shipping costs	50
Coupon printing serialized	195
Forms printing	30
ADP system	200
Public education materials	10
Total	1,330

Direct salaries:

Federal (6375 at 20K)	127.5
State and local (20,100 at 20K)	402
Grand total (billion)	1.86

Use data:

A. Estimated consumption in 1975:

Millions of barrels per day (MB/D)	6.4 HB/D
Millions of gallons per day (MG/D)	270 MG/D

B. End use categories—volume (MG/D) and percent:

Private use	205	76
Business/Commercial	57	21
Government	8	3

C. Number of registered vehicles in 1975—130.75 million.

D. Number of licensed drivers in 1974 (increase of up to 15 million anticipated if coupon rationing is put into effect)—125.1 million.

Programmatic assumptions for rationing:

A. Will achieve 1 MB/D saving through reduction in gasoline consumption.

B. Business will receive 90% of 1973 gasoline consumption.

C. Coupons will be provided to licensed drivers as opposed to allocations based on registered vehicles.

Key parameters of data and assumptions.

A. Savings target (1 million B/D)	42 MG/D
B. Business and Government allowance:	
Estimated 1975 consumption	65 MG/D
Less 10% of 1973 Consumption	6 MG/D
Allowance	59 MG/D
C. Private use allowance	
Estimated 1975 consumption	205 MG/D
Less reduction	36 MG/D
Allowance	169 MG/D

D. Allowance for each licensed driver:

Gallons: Per day=1.2; per month=36; per year=432.

E. Private use of automobiles by trip purpose:

	Percent
Work trip	31
Recreational trip	31
Family business	34

PROBLEMS WITH GASOLINE RATIONING

Gallons per month and price of gasoline:

To save 1 million barrels per day, while assuring adequate fuel for business will mean limiting each licensed driver to about 36 gallons per month, compared to current average of 50 gallons/month and restricting businesses to 10% less than their last year's use. It is expected that the coupon will sell for about $1.20 per gallon during the first year. Hence, for those who must purchase more than their basic ration, the effective price of gasoline (pump, plus coupon price) is estimated at $1.75/gallon.

Impact on energy conservation goals;

Gasoline rationing, while it may limit consumption in the short run, makes no contribution to our mid- and long-term goals of energy independence.

Rationing limits the consumption of gasoline not through price but through proscription. Thus, an artificial shortage is created, inciting people to attempt to "beat the system" rather than to conserve fuel.

Moreover, because of the inherent complexities in ever the most carefully designed rationing system, and the fluid nature of American society, a rationing scheme is probably limited to a useful life of no more than two years. Thus, even as a conservation tool, it has a limited utility.

Rationing provides no incentive for increasing domestic petroleum supply or bringing on alternate energy sources.

Gasoline consumption is only 40% of total petroleum use. Residual and fuel oil compromise a substantial amount of total petroleum imports. By concentrating exclusively on private vehicles, many other fruitful areas for energy conservation are not addressed—such as improved industrial efficiency, better constructed and insulated buildings, less wasteful use of electricity and natural gas. In the final analysis, we cannot be independent unless those other petroleum uses are also reduced dramatically.

Potential for inequities:

Each person receives an equal number of coupons, but use of gasoline varies widely among drivers. Governmental decisions will be based on statistical averages and broad, objective criteria; they cannot possibly take into account most of the differences in individual needs and preferences. Thus, rationing inevitably leads to inequities. Some examples are:

A widowed secretary with two children living in the suburbs who commutes 16 miles each way to work in a car that gets 12 mpg will experience a 68% increase in her commuting costs, because she must purchase 17 additional coupons each month at an average cost of $1.20 per gallon each. This amounts to about $245/year in additional costs.

A blue-collar worker who owns a car that gets only 9 miles/gallon can drive just over 320 miles/month on his basic ration, and could not easily afford to purchase a new, more efficient automobile. On the other hand, an affluent neighbor can readily trade in his equally inefficient old car to purchase one getting better than 22 mpg. This allows him to drive over 790 miles on the same allotment of coupons.

A single individual with a mid-size car (14 mpg) could drive up to 17 miles/day. If he wanted to take a 500 mile trip over a long 4-day weekend, he could only use his car for that four-day period during that month. He would have to arrange for other transportation for the remaining 26 days of the month, or purchase additional coupons.

A Congressman living in Georgetown has enough gas to drive his 10 mpg car to work by himself 5 days a week and still travel 54 miles on the weekend.

Substantial regional inequities would exist. The average driver in some rural states such as Montana travels nearly 600 miles per month versus about 300 in less rural states such as New York and New Jersey. Similar disparities exist between city dwellers and suburbanites. Under rationing each would receive the same gallonage.

A family of 4 with two licensed drivers and one car which gets 14 mpg moves from New York to California. This move would take 2¾ months of the family coupons. One out of every five families moves every year.

Certain very poor persons, such as migrants, drive large distances each year. They can neither afford to buy additional coupons nor are alternative methods of transportation available to them.

A family in which the husband, wife and two teenage children all drive would receive sufficient coupons to drive approximately 2160 miles per month while the next door neighbor with only one licensed driver could drive only 540 miles per month, assuming both own cars which get 15 mpg.

The recreation and tourism industry would be very heavily impacted, as would the auto industry. Automobile sales would decrease 35% from what they would otherwise be.

A small successful Midwestern sales firm which had increased its business and sales area 50% since 1973 would have the market area it can cover reduced 40% under its basic rationing allotment.

Increased bureaucracy and complexity:

The Government would be involved in many new aspects of our everyday life, adding an inescapable portion of bureaucracy, complexity, and inconvenience.

Gasoline rationing can be implemented but it is complex, expensive, and at best a short term solution. It takes 4–6 months to implement, about 15 to 25,000 full-time people and $2 billion in Federal costs, uses 40,000 Post Offices for distribution, and requires 3,000 state and local boards to handle exceptions.

The Government would decide: if a new business should get fuel; if expanding businesses deserve more fuel; if specific individuals would qualify for more coupons because of hardships.

Because coupons are transferable, they must be picked up by each driver in person quarterly at Post Offices. Long lines and delays are inevitable.

Gas stations, with limited quantities to sell, are unlikely to maintain more than the most limited service hours. Evening and weekend closings are almost a certainty.

The longer a rationing program is in place, the more likely collusive and illegal behavior becomes, such as counterfeiting or pilferage of coupons.

Impact on GNP:

Use of allocation and rationing to reduce imports by one million barrels per day would create a drop of nearly 13 billion dollars in the GNP and place several hundred thousand more workers on unemployment rolls. Also, rationing would have an inflationary impact due to the significantly higher market clearing price of gasoline (pump plus coupon) resulting from reduced supplies.

Rationing leads to distortions in the marketplace as adjustments in business investments, modes of distribution, and purchase are made based on artificial, rationing-imposed costs.

Impact on poor:

Low income people are likely to drive less than average and thus, have excess coupons to sell. If speculators buy large quantities of coupons from the poor at low prices in order to resell them at high prices to the more affluent, the potential income benefits of the rationing program will be garnered by these entrepreneurs rather than by the poor.

Effects of refining runs:

A reduction of 1 million barrels per day in the use of gasoline through rationing would have the following effects on refining production:

—1,500,000 b/d crude imports.

+500,000 b/d product imports (made up of approximately 300,000 b/d residual oil products and 200,000 b/d middle distillates)

Such a reduction is likely to reduce domestic petroleum related employment, increase the cost/barrel of domestic production, and decrease the production rate and efficiency of U.S. refiners.

COMPARISON OF GAS RATIONING AND PRESIDENT'S PROGRAM

There are two principal options for reducing petroleum imports in the short to mid-term. They include the President's program of a petroleum tariff and decontrol of domestic oil prices; and a cap on imports with gasoline rationing and petroleum allocation. This paper briefly describes these options and discusses the impact of each on reducing imports, regional equity, inflationary impact, impact on the poor, administrative complexity and cost, and impact on the recession and employment.

Option A: Import Cap/Rationing

A volumetric limit would be placed on imports equivalent to the reductions called for in the President's program. A reduction of 1 million barrels per day cannot feasibly be allocated without rationing.

The current system of price controls for petroleum would be strengthened, including control of new domestic crude; thus an artificial shortage would be created.

Since price is not used to determine distribution of petroleum products, the government would maintain its system of allocating to retailers, based essentially on historical use for products other than gasoline. The government would also control refinery yields.

To prevent long gas lines, coupon rationing would be introduced. Such a program would include as its basic features:

(1) Each licensed driver would receive an equal monthly coupon allotment; these coupons could be freely traded or sold. The coupon market (the "white market") permits those drivers with needs greater than those represented by the monthly allotment to purchase additional coupons from those who use less than their monthly amount. Thus the market, rather than the government, is responsible for assessing "need" for gasoline above the basic minimum ration. Failure to provide a white market would invite a black market and increase the inequities.

(2) Commercial users, whether they buy in bulk or at the pump, would receive coupon allotments equivalent to a percentage of their consumption during the 1973 base period.

(3) For that limited class of users (migrants, handicapped, etc.) for whose special needs the coupon resale market is not a reasonable solution, a proportion of coupons would be set aside and distributed by the state. This distribution would be based primarily on emergency or hardship needs.

(4) Coupons would be picked up in person at Post Offices by each eligible individual. They will be invalidated at the pump at the time of purchase, and deposited by retailers with banks in a special coupon account. Gasoline deliveries to suppliers will be made to retailers only for amounts equivalent to coupons collected.

Option B: President's program of tariff, tax decontrol and rebate

After April 1975, this program would consist of an additional tariff on petroleum imports of $2 per barrel and an excise tax of $2 per barrel on all domestic petroleum.

Domestic oil prices will be decontrolled and a windfall profits tax implemented to ensure that the revenue generated will accrue to the government, not the oil companies. This will raise the overall price of petroleum by $2 a barrel. The tariff, taxes and decontrol, then, will add $4 to the price of a barrel of oil.

In addition, an excise tax on natural gas equivalent to $2 a barrel would be adopted and new natural gas prices deregulated to equalize the impact on oil and natural gas consumers and decrease natural gas consumption.

$30 billion will be collected by the government from the tariff and taxes. These revenues will all be rebated to consumers and governments.

Regional disparities:

Both options have major regional impacts. There are substantial regional variations in per capita gasoline use. Those in the Middle Atlantic states use less than two-thirds the gasoline of those in the Mountain states. Gasoline rationing as the attached chart shows, weighs more heavily on residents of the mountain states, southwest, and midwest than on other citizens.

Reliance on gasoline to bear the brunt petroleum cutbacks also discriminates against rural dwellers and in favor of those in cities. In the aggregate, rural dwellers use almost twice the gasoline/year of city dwellers.

The President's program, which includes both oil and natural gas, impacts most heavily on the Northeast.

PETROLEUM AND NATURAL GAS USE BY REGIONS OF THE UNITED STATES

Per household per years	Petroleum consumption (bbl)	Natural gas consumption (Mmcf)	Petroleum and natural gas (Btu)
United States (total)	744.03	3.307	7,2384.8
New England	120.57	.071	731.74
Mid-Atlantic	85.81	.156	625.86
East North Central	66.19	.326	688.85
West North Central	74.12	.386	792.61
South Atlantic	88.62	.164	649.80
East South Central	62.34	.299	640.76
West South Central	97.89	1.158	1,694.87
Mountain	80.51	.467	907.81
Pacific	67.97	.280	652.37

Effectiveness in reducing imports in short and long term:

In the mid to long term the elasticity for gasoline is lower than that for other petroleum products. This is because there are fewer substitutes for gasoline than there are for other fuels. This means that an increase in the price of all petroleum products (President's program) will reduce imports more than an equal increase in the price (gasoline tax) of gasoline. In the short term this is not the case.

The reduction in imports from the President's program option is 900,000 barrels per day in 1975, 1.6 million in 1977, and 2.1 in 1985. This estimate is not a guaranteed saving, but is based on econometric studies.

The rationing/allocation option could obviously be adjusted to any level desired. The level considered in this paper is 1 million barrels per day in 1975 moving to 1.5 million in 1977. Because of the complexity of the administration and the limited ability of a rationing program to adjust to changes in the economy (e.g., people moving, new businesses started) it is probably not a viable option for more than one or two years. Hence, it is not really a feasible part of a mid or long term program. Moreover, the longer the system lasts, the more exceptions are made, the more people learn how to evade the rules, and the greater are the opportunities for counterfeiting and abuse.

If we are to reduce significantly our vulnerability to imports in the mid and long term we must adopt an option to reduce consumption of petroleum that can be effective in 1980 and 1985.

Income effect:

Gasoline rationing would have some beneficial impact as lower income people sell their excess coupons to those with higher income who in general use more gasoline. This effect would be somewhat limited by the plan to distribute coupons only to licensed drivers. The actual income transfer effects depend on the size of the shortage and the marginal price of the coupons.

Private sector demand for gasoline in 1975 is estimated to be approximately 206 MG/D. Reducing daily petroleum consumption by 1 MMB/D solely through reductions in gasoline would result in a 17 percent reduction in supplies. The equilibrium price of gasoline would be about $1.75 per gallon ($.56/gal pump price plus $1.19/coupon).

The average "poor" household consumes 404.7 gallons of gasoline per year per vehicle while the "lower," "middle" and "well-off" households average 632.2, 823.1, and 800.8 gallons per year per vehicle, respectively. The average number of gallons of gasoline consumed per vehicle is 727.8. The surplus/shortage of gasoline per household group and the potential income transfer can be calculated by comparing the individual household consumption rates with the average consumption rate. The table shows the average gasoline use, by household income, the surplus/shortage of gasoline, and the net income transfer likely to occur through the sale of coupons.

GASOLINE CONSUMPTION AND INCOME TRANSFER

	Income			
	0 to $5,000	$5,000 to $12,000	$12,000 to $16,000	$16,000-plus
Gallons per Vehicle	404.7	632.2	823.1	800.8
Net surplus/shortage (gallons per vehicle)	+199.4	−28.1	−219.0	−196.7
Net income transfer (billions of dollars)	+2.20	−.20	−.92	1.08

The poor household would have surplus coupons for 1,852 billion gallons of gasoline. The coupons for purchase of gasoline would trade at $1.19/gallon which would result in a net transfer of 2.20 billion dollars to the poor category of households in the first year.

Similarly, the President's program would transfer roughly $2 billion from those with incomes above $12,000 to those with lower incomes, preliminary calculations indicate.

	Income			
	0 to $5,000	$5,000 to $12,000	$12,000 to $16,000	$16,000-plus
Additional cost of energy (millions)	$725	$8,200	$2,900	$7,500
Rebated revenues (millions)	3,520	7,350	3,610	4,520
Net transfer (billions)	+1.36	+.44	−1.06	−.74

Administrative complexity and cost:

The cost and number of people required to implement the President's system of tariffs, taxes and rebates is estimated at about $50 million and 400–500 additional people on the government payroll.

The complexity of administering gasoline rationing and allocation is considerably greater than the other option, both because of the printing, distribution, collection, and control of coupons and because of the exceptions process for the poor necessary in every state and local community. Rationing will require an additional 17,000 government employees and approximately $2 billion per year to administer.

Inflationary impact:

A $2 barrel import tariff plus excise taxes on domestic petroleum and natural gas would increase the Consumer Price Index by about 2 percentage points in 1975. Again, these fees would be returned to consumers so that the overall level of disposable income would not be changed.

Under rationing, the cost of buying an additional coupon should stabilize at the market clearing level of $1.19. Thus, there would be an "inflationary" impact of over 2 percentage points on the Consumer Price Index in 1975.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. All time for the transaction of routine morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended for an additional minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business, not to extend beyond 1 p.m., with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which will be stated.

The legislative clerk read as follows:

> The Senator from Montana (Mr. MANSFIELD) moves that the credentials of Louis C. Wyman and John A. Durkin and all papers now on file with the Senate relating to the same be referred to a Committee on Rules and Administration for recommendations thereon.

Mr. PEARSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PEARSON. What is the pending business?

The PRESIDING OFFICER. The unfinished business has just been laid before the Senate, the Durkin-Wyman motion.

Mr. PEARSON. Mr. President, is it in order now to move for the consideration of Senate Resolution 4?

The PRESIDING OFFICER. It is in order.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. PEARSON. Mr. President, I move that the Senate proceed to the consideration of Senate Resolution 4, item No. 1 on the calendar, amending rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

The PRESIDING OFFICER. The clerk will report the resolution, for the information of the Senate.

The legislative clerk read as follows:

> Calendar No. 1, Senate Resolution 4, to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. KENNEDY. Mr. President, I am pleased to give my full support to the current Senate effort to reform the filibuster rule by allowing a three-fifths majority of the Senate to halt debate and require a vote on any measure.

In my view, we now have the best opportunity we have had in many years to end the reign of the filibuster and eliminate the obstructive and destructive effect it has on the Senate's business and on the vital interests of the Nation.

In the past, the filibuster rule has often made a mockery of the view that the Senate is the "world's greatest deliberative body." On many occasions, because of the filibuster rule, the world's greatest deliberative body has become the world's least decisive body.

Again and again, on extremely vital and important questions, the filibuster rule has prevented urgently needed action on legislation by the Senate. In the past Congress alone, it was the filibuster that—

Killed the Consumer Protection Agency;

Killed a tax cut that might well have halted, or at least alleviated, the current serious recession;

Killed repeal of the oil depletion allowance; and

Killed public financing of elections in the first session of that Congress.

That sorry record is only the beginning of the problem. For every bill that actually dies at the hands of a filibuster, many more bills carry deep scars from their encounter with the filibuster. These filibuster scars are a result of the fact that the majority supporters of legislation are often forced into debilitating compromises and concessions, in return for the acquiescence of those who would otherwise maintain a filibuster. Often, the sponsors of an important bill face the Hobson's choice of no bill at all, or a half-hearted and anemic bill that may fail to do its job.

And, finally, the toll of the filibuster rule is also measured in the number of bills that never see the light of floor debate at all. Especially in the waning days of a Congress, when time is critical, the whispered threat of a filibuster is enough to block a bill from even being called before the Senate.

Thus, the filibuster kills three ways—it can block any action at all; it can emasculate a bill as the price of further action; and it can prevent a bill from even seeing the light of day.

Again and again in recent years, the filibuster has been the shame of the Senate and the last resort of special interest groups. Too often, it has enabled a small minority of the Senate to prevent a strong majority from working its will and serving the public interest.

The simple fact is that the two-thirds majority required under rule XXII, the present cloture rule, is too difficult to obtain. Too much Senate business is too often obstructed. The will of the majority is too easily thwarted. And it is not just the Senate, but the Nation's people, who suffer the consequences.

Perhaps the most instructive argument against the two-thirds requirement of cloture is the comparison with the rare cases in which the Constitution specifically demands a two-thirds vote by the Senate. Thus, in five types of action, the Constitution demands a two-thirds vote;

To override a veto, each House must approve the override by a two-thirds vote;

To ratify a treaty, the Senate must approve the ratification by a two-thirds vote;

To amend the Constitution, each House must approve the amendment by a two-thirds vote;

To convict a President of impeachment, the Senate must approve the impeachment by a two-thirds vote; and

To expel a Member of the House or Senate, the Chamber must approve the expulsion by a two-thirds vote.

There is no substantial objection to the requirement of a two-thirds majority for these five far-reaching actions specified by the Constitution. The requirement works to the advantage of the Nation, by insuring that such important steps are not taken except with the support of a large majority of the House or Senate. They are among the most critical steps that any House or Senate can take. The two-thirds majority requirement is obviously appropriate and desirable as a protection against the shifting passions and partisan efforts of a transient mere majority on such issues.

In addition, the Constitution so specifies numerous actions that Congress cannot take at all, whatever the size of the majority. The most obvious example is the first amendment, which specifies that Congress shall pass no law—no law—abridging freedom of speech or freedom of the press. The Constitution and its amendments contain numerous other examples of actions prohibited to Congress. Together, these prohibitions are the "wise restraints that make us free," the source of our fundamental American freedoms, the guarantee of the rights of the individual against the tyranny of the majority.

But the Constitution enshrines no prohibition on action by the people's representatives in Congress that may be construed as justifying the filibuster rule. Under our fundamental constitutional scheme, the rights of the minority are protected by a series of specific provisions, none of which has any relevance to the general rules by which the House and Senate perform their legislative functions.

As the examples I have cited make clear, the founding fathers knew how to say "two-thirds." But they wisely left the choice of rules in other areas to the Senate and the House, without tying the hands of future generations.

Thus, the filibuster rule is not enshrined in the Constitution. Instead, it is a rule that was made by the Senate, and it is a rule that can be unmade by the Senate.

The only test is the balance the Senate chooses to strike between the needs of the Nation's lgeislative business and the desirability of accommodating a substantial Senate minority.

A balance that was "right" for one Senate and one era in American life may not be "right" for another Senate and another era. A Senate that, a generation ago, chose not to act unless a two-thirds vote of approval could be obtained was responding to the legislative needs of that period in our history. **But I submit** the balance is different today. The need for legislative business to proceed is greater now, and the consequences of our inaction are more crippling to the Nation and its citizens.

To some extent, past factors justifying a two-thirds cloture rule were "external" to the Senate, in the sense that they reflected the desire for a greater degree of consensus before major legislation could be passed, especially in areas where, in the 1920's and 1930's the Congress was enacting pioneering legislation that transformed the laissez faire role of the Federal Government and launched it on the more pervasive course of domestic social legislation we know today.

To some extent as well, the past factors justifying the two-thirds cloture rule were "internal" to the Senate. In the past, there appears to have been a greater reluctance by the minority to press an issue to a filibuster than exists today. Thus, a two-thirds rule that was tolerable when the filibuster rule was sparingly used becomes intolerable when the filibuster is used expansively as a frequent obstructionist tactic.

The frequency of cloture votes under rule XXII makes the point dramatically. Omitting three cloture votes in December 1974, in which cloture was sought to prevent nongermane amendments to a pending bill rather than to shut off a filibuster, the following table shows the pattern of the 97 antifilibuster cloture votes since 1917, when rule XXII was enacted.

I ask unanimous consent to have that printed in the RECORD at this point.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

1917	0	1946	4
1918	0	1947	0
1919	1	1948	0
1920	0	1949	0
1921	1	1950	2
1922	1	1951	0
1923	0	1952	0
1924	0	1953	0
1925	0	1954	1
1926	2	1955	0
1927	5	1956	0
1928	0	1957	0
1929	0	1958	0
1930	0	1959	0
1931	0	1960	1
1932	0	1961	1
1933	1	1962	3
1934	0	1963	1
1935	0	1964	2
1936	0	1965	2
1937	0	1966	5
1938	2	1967	1
1939	0	1968	5
1940	0	1969	2
1941	0	1970	4
1942	1	1971	10
1943	0	1972	10
1944	1	1973	10
1945	0	1974	18

Mr. KENNEDY. Half of all the cloture votes since 1917 have taken place in the past 5 years.

Often, especially in the early years of rule XXII, but even as late as the 1950's whole years passed, sometimes 3 to 5 years in a row, without a single cloture vote. Contrast that record of restraint with the experience of the 1970's, in which use of the filibuster and the cloture vote have suddenly mushroomed, rising almost as fast as the price of Arab oil.

On their face, these figures make the case that the indiscriminate use of the filibuster in recent years has reached an intolerable level as an unnecessarily divisive and delaying tactic.

The time has come for change. Surely when both the disease and cure are clear, the Senate cannot fail to apply the proper medicine and end its present crippled state.

Half a century ago, rule XXII may have been a liberal reform, in the sense that it was born as a result of the frustration over the then-existing Senate rule that allowed no cloture at all.

Although the two-thirds cloture rule may have been a progressive Senate step in 1917 when it was first enacted, it is a reactionary device today that prevents the modern Senate from acting on the Nation's vital business.

Over the year, a number of efforts have been made to limit or even abolish the cloture rule. In 1949, cloture was allowed for all Senate floor procedures, not just the pending business; but as part of the compromise that achieved this reform, the two-thirds requirement was applied to the full Senate, not just the number of Senators present and voting.

In 1959, the cloture rule was eased by again applying the two-thirds requirement to the number of Senators present and voting.

Now, a quarter century after the 1949 reform, 16 years after the 1959 reform, it is time to take a further step to ameliorate the obstructive impact of rule XXII. By reducing the cloture majority from two-thirds to three-fifths, we can achieve a better balance of the four most important factors involved in our own deliberations—the needs of the modern legislative process, the need for full debate, the rights of the majority, and the rights of the minority.

Frequently, in past debates, the balance has been obscured. The principle of full debate has been especially misunderstood. No one objects to full debate. No legislation should be rushed through the Senate without ample opportunity for any Senator to discuss the measure, express his views, and persuade his colleagues. Committee hearings and executive sessions are no substitute for floor debate. Often, in my own experience, extended floor debate has illuminated and crystallized the most difficult issues of our time.

But too often, extended debate has been a euphemism for obstruction; frequently, opponents of a measure use the shelter of rule XXII to block Senate action, long after all relevant arguments have been made, long after all meaningful discussion has taken place, long after any reasonable debate should have been brought to a close.

I yield to none in my view that the Senate has an obligation to guarantee full debate. But the Senate has no obligation to guarantee that debate will never end. Yet the latter position is the position in which the Senate often finds itself today, under the restrictive operation of rule XXII.

In recognition of the need for full debate, a number of compromise reform proposals in the past have sought to apply a shifting cloture formula, to allow cloture by progressively smaller majorities as the length of the debate continues. I have supported such proposals in the past. They have helped to highlight the importance of the dividing line at which opportunity for full debate shades off into opportunity for obstruction.

The crucial question in any filibuster reform proposal is, should a minority of the Senate ever be entitled to obstruct the majority? As a matter of logic, I would answer that question in the negative. I believe that the Senate should operate under the principle of majority rule, except as the Constitution otherwise provides. Majority rule is the heart of our democratic system of government, and it must necessarily be the backbone of our parliamentary procedure in the Senate.

But the issue cannot be settled by logic or by abstract debate on fundamental principles. As Oliver Wendell Holmes so eloquently put it, the life of the law has not been logic, it has been experience. And nearly two centuries of Senate experience have put a gloss of practice on the principle of majority rule in the Senate. The Senate has always operated under the rule that, in effect, a majority is not entitled to override the views of a substantial minority.

Although some would argue we should adopt "majority" cloture now, I do not support that position. In the experience of the Senate, generous respect has always been given to the rights of the minority. Even when the obstructive tactics of the minority have hobbled Senate business so badly that reform was essential, the Senate has moved only by incremental steps toward change, as it did in 1917, in 1949, and in 1959.

Today, at a time when the two-thirds cloture rule is proving too restrictive for modern Senate business, the most proper step, in line with the precedents of the past, is a modest reduction from two-thirds to three-fifths in the majority required to end debate.

Such a step would have had a significant—but not overwhelming—effect on filibusters in the past. Of the 100 cloture votes since the first enactment of the cloture rule in 1917, 20 have been successful in ending debate. Under a three-fifths cloture rule, that number would have risen to 44. In other words, twice as many cloture efforts would have been successful. But in an even larger number of cases—56—cloture would still have failed under a three-fifths rule.

These statistics are hardly evidence that the present reform proposals involve revolutionary change, or that they ride roughshod over the minority. Rather, they demonstrate a careful reform by the Senate of the proper balance between the public's business and the rights of the minority. It is a reform the Senate should not hesitate to adopt, at the beginning of this session.

Apart from this substantive issue of the appropriate majority that should be required for cloture, there is also the important question of how a change in rule XXII may be accomplished. The issue here is whether a simple majority of the Senate is entitled to change its rules at the beginning of a Congress, or whether the present cloture rule itself applies to any effort to change the Senate rules.

My own view of the relevant constitutional provision is that the Senate is entitled to enact new rules and amend its existing rules by majority vote at the beginning of each Congress.

Article 1, section 5 of the Constitution states unequivocally that "each House may determine the rules of its proceedings." The necessary inference is that each House in each new Congress is entitled to set its own rules. Nothing in the Constitution or commonsense suggests that either House may act in a way that binds a future House. Any other position would let the dead hand of the past unconstitutionally govern the present.

By what logic can the Senate of 1917 or 1949 or 1959 bind the Senate of 1975? As Senator Walsh of Montana said during the Senate debate in 1917 on the enactment of the original rule XXII:

> A majority may adopt the rules in the first place. It is preposterous to assert that they may deny to future majorities the right to change them.

Surely, no one would claim that a rule adopted by one Senate, prohibiting changes in the rules except by unanimous consent, could be binding on future Senates. If not, then why should one Senate be able to bind future Senates to a rule that such change can be made only by a two-thirds vote?

The view that a simple majority can change the Senate rules also finds strong support in the precedents set during a number of recent debates on rule XXII. On several occasions in the past, Vice Presidents, both Republican and Democratic, acting as the Presiding Officer of the Senate, have declared their view that a majority of the Senate has the constitutional power to change its rules.

The Senator from Alabama (Mr. ALLEN), the leading opponent of the view that a simple majority of the Senate can change the rules, attempts to dispose of these precedents by arguing that in the past, the Senate has overruled the Chair and reversed such rulings of the Vice President on this point.

But the logical flaw in Senator ALLEN's position is that, although a Vice President's ruling may have been reversed, the reversal was accomplished by a majority of the Senate. In other words, majority rule prevailed on the issue of the Senate's power to change its rules. In effect, a majority of the Senate decided that a two-thirds vote should be required to end debate on proposals to change the cloture rule.

Thus, Senator ALLEN's argument, upon analysis, actually proves to be support for the very ruling he opposes, and the precedent stands that a simple majority of the Senate can change its rules at the beginning of a Congress.

The notion that a filibuster can be used to defeat an attempt to change the filibuster rule cannot withstand analysis. It would impose an unconstitutional prior restraint on the parliamentary procedure on the Senate. It would turn rule XXII into a "Catch 22." It would give the two-thirds filibuster rule itself an undesirable and undeserved new lease on life.

My hope is that this aspect of the cloture issue will be mooted, and that at the appropriate time the Senate will show its broad support for reforming the filibuster rule, by mustering a two-thirds vote for change.

But in the event that the proponents of the existing filibuster rule block that result, the issue will then arise as to whether a simple majority of the Senate is entitled to change the Senate rules. Although the procedural issues are complex, it is clear that this question should be settled by a majority vote.

I hope that in this effort, we shall have the support of a favorable ruling from Mr. ROCKEFELLER, as Vice President and Presiding Officer of the Senate—a ruling that a majority of the Senate has the right to set its rules at the beginning of a Congress.

As I have indicated, the Vice President would be on sound constitutional, legal, and logical grounds in making such a ruling. He has a central role to play in this debate. It is not too much to say that his action may well determine the success or failure of the significant reform we hope to achieve, a reform more important than any other step the Senate can now take, a reform that confirms the Senate's right to act on America's critical needs.

In the end, the question is a simple one. Who is to be the master? The Senate or its rules? I believe that the Senate must be the master, and therefore I believe it is time to change the rules. Neither Congress nor the Nation can afford the luxury of a Senate that is musclebound by its rules, or that allows obstruction to parade falsely in these Halls under the slogan "Freedom of Debate."

And so, I urge the Senate to adopt the current measure, Senate Resolution 4, and thereby open up new avenues of action and decision by the Senate on all the major issues that make up the business we were elected to carry out.

Mr. President, what is the pending business?

The PRESIDING OFFICER (Mr. STONE). The pending question is on agreeing to the motion to proceed to the consideration of Senate Resolution 4.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the convention between the Government of the United States of America and the Government of the Polish People's Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to income, and a related exchange of notes, signed at Washington on October 8, 1974—Executive A, 94th Congress, first session—transmitted to the Senate today by the President of the United States, and that the convention with accompanying papers be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention between the Government of the United States of America and the Government of the Polish People's Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Income as well as related exchange of notes.

I also transmit for the information of the Senate, the report of the Department of State with respect to this Convention.

The Convention was signed on October 8, 1974, during the visit to Washington of Polish First Secretary Edward Gierek and is the first income tax convention between the two countries. The Convention is similar to other income tax conventions recently concluded by this Government and it is expected to encourage and support the growing interest in bilateral trade and investment between the two countries. It provides rules of tax jurisdiction, reduces or eliminates tax liability in certain cases, insures nondiscriminatory tax treatment and provides for administrative cooperation.

I recommend that the Senate give this Convention and related exchange of notes early and favorable consideration and give its advice and consent to ratification.

GERALD R. FORD.

THE WHITE HOUSE, *January 23, 1975.*

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HUDDLESTON). Without objection, it is so ordered.

Mr. HELMS. Mr. President, the Senator from North Carolina listened with great interest to the comments by the distinguished Senator from Massachusetts. I was struck by the fact, Mr. President, that there is a marked difference between the views of the distinguished Senator from Massachusetts and those of that distinguished and eloquent, dedicated statesman, the late Richard Brevard Russell of the State of Georgia.

Certainly, it is not necessary for the

Senator from North Carolina to remind the distinguished occupant of the chair that Senator Russell was one of the giants of the Senate. History has recorded him as such and history will continue to do so and, in the judgment of the Senator from North Carolina, no man has ever sat in the Senate who loved the Senate more or who served it better.

Mr. President, I was going through some files at my home in Raleigh during the Christmas season and I ran across an article published in the New York Times magazine of March 15, 1964. This article was authored by Senator Russell and, as I read it then, I was impressed by the clarity of this great man's vision. And, as I look at it today, I am struck by the contrast between the views of the late Senator from Georgia, Mr. Russell, and those of the distinguished Senator from Massachusetts (Mr. KENNEDY).

The article is entitled "Russell Defends the Filibuster" and it began by saying:

> For the greater part of our history the right of full and free debate in the United States Senate has stood as a vital safeguard over the right of the minority to protest against legislation it believes to be injurious or oppressive.

Now that, Mr. President, is the summary of what this debate is all about, this attempt to deny the obvious truth that the Senate is a continuing body, unlike the House of Representatives, I think the words of Senator Russell, published in 1964, March 15, to be exact, ought to be considered carefully by every Member of this body.

Senator Russell pointed out in his article that since 1841 there have been no fewer than 53 occasions on which Senators have exercised their right of extended debate, popularly known as the filibuster, to oppose some measure that was counter to deeply held convictions. Of course, those were the statistics of that day, nearly 11 years ago. He pointed out that the first filibuster about which much is known occurred in 1841 in opposition to a bill to remove the Senate printers, and that the most subsequent filibuster involved more substantive questions.

In 1863, an unsuccessful filibuster was conducted against a bill involving President Lincoln's wartime suspension of the writ of habeas corpus.

More successful was the prolonged debate in 1890 that resulted in the defeat of the force bill, which would have provided Federal supervision of elections.

Two other celebrated filibusters were the 28-day battle by Senator Robert LaFollette, the elder, against the Vreeland-Aldrich Emergency Currency Act, and that was in the year 1908, and the bitter fight in 1917 that blocked President Wilson's armed-ship bill, to which the distinguished Senator from Alabama has alluded in the past few days.

Senator Russell pointed out further that in more recent years, Senate liberals resorted to the filibuster in their opposition to various measures, in 1953 to the so-called tidelands oil bill of the Eisenhower administration and to the communications-satellite bill sponsored by President Kennedy in 1962.

Of course, Southern Senators have exercised the same parliamentary tactics in opposing so-called civil rights bills over the past two or three decades.

Now, Mr. President, the issues that have generated prolonged debates, or filibusters—the term often depends on which side of the question one is on—cover a vast range of economic, political, and constitutional conflicts.

The filibuster is not the exclusive weapon of any philosophy or party or section. Distinguished Senators of both parties, representing every shade of political thought and every area of the country, have taken part on occasion in extended debates in support of a minority position.

So the filibuster, if that is what it is to be called, or extended debate, which is what it really is, whatever we call it, actually involves the preservation of liberty.

Tyranny comes in many forms, Mr. President. There is a tyranny of the majority. Tyranny, however it is exercised, certainly ought to be of foremost concern to the Senate of the United States.

Going back to the article of March 15, 1964, in the New York Times magazine, written by the late Senator Richard B. Russell, he pointed out, and I quote:

> Some of the towering giants of the Senate have been the most eloquent champions of the right of full and free debate in that body. These men—

And he said that included many of the greatest liberals as well as conservatives of this century—

> believed that limitation of free speech in the Senate—gag rule—would undermine the rights and liberties of all Americans.

Obviously, Mr. President, this is decidedly true.

The late Senator Eugene Millikin of Colorado, a leading and enlightened spokesman of the Republican Party in the 1950's, looked upon freedom of debate in the Senate as an important check on the excesses of an unbridled majority.

In a Senate speech in opposition to one of the periodic attempts to gag the Senate, Senator Millikin declared, and I quote:

> The majority of any party in power would find the suppression of free speech a convenient method of expediting what it considered useful and urgent legislation.

But then, he went on to say, Mr. President:

> It is always annoying to have errors exposed and it would not be long before a majority of one decided that for political purposes it should retain the illusion of infallibility by preventing exposure here—

That is today, in this Senate Chamber—

> of its errors. And then it would not be long until corrupt and even ominous legislation might be shepherded through this Chamber in enforced silence.

Now, Senator Millikin, Mr. President, of course, was an eminent conservative. But his position on this issue was the same as that held generally by the great school of liberals that held sway in the Senate during the early part of the 20th century. Men like William Borah, Robert LaFollette, and George Norris were quite outspoken, Mr. President, in support of the filibuster as a perfectly valid parliamentary device for the protection of the just rights of the minority.

I am very glad, Mr. President, that the distinguished Senator from Alabama made clear the other day that in the beginning there was absolutely no limitation of debate in this body. The two-thirds vote rule—rule XXII—was a concession. But in the beginning there was no restraint whatsoever, and in the judgment of the Senator from North Carolina, the Nation would be well served if there were no limitation now.

Senator Russell in the article to which I alluded earlier pointed out that Senator LaFollette, particularly, was an ardent advocate of unfettered debate in the U.S. Senate. Senator LaFollette once summed up his position in a rather ringing statement:

> Believing that I stand for democracy, for liberties of the people of this country, and for the perpetuation of our free institutions, I shall stand while I am a Member of this body against any closure that denies free and unlimited debate.

Then he said to the Presiding Officer of that day:

> Sir, the moment that the majority opposes the restriction contained in the pending rule—

And that is to say, to limit debate:

> The moment that the majority opposes the restriction contained in the pending rule, that moment you will have dealt a blow to liberty, you will have broken down one of the greatest weapons against wrong and oppression that the Members of this body possess.

Now, Mr. President, the Senator from North Carolina is constrained to emphasize that Senator LaFollette was not a Southerner and he was not a conservative. But he is recorded in history, and properly so, as one of the great statesmen in this Nation's history.

As I watched, prior to coming to this body, and as I now watch as a Member of this body, the repeated efforts to dilute further the safeguard against tyranny by the majority, or the threat of it, I wonder why the proponents who would further water down rule XXII close their ears and their minds to the wisdom of men like Senator LaFollette.

Returning, Mr. President, to the splendid article by the late distinguished Senator from Georgia, Mr. Russell, he said:

> The present rule of the Senate that allows a high degree of freedom on debate—as will be seen later it is not absolute—is the natural outgrowth of the peculiar position that the Senate occupied under our constitutional system. Indeed, the right of an individual Senator to insist on full discussion of any question or issue is the essential element which distinguishes the Senate as the greatest deliberative body yet devised. The unique characteristic and composition of the Senate grew out of one of the most violent controversies to confront the Constitutional Convention of 1787. In fact, the composition of the Senate was the rock that, for a time, threatened to wreck the convention. In the convention the smaller States of the Confederation were determined that they would not be overwhelmed by the sheer force of

> numbers involved in the representation based on population as was prescribed for the House of Representatives.
>
> Delegates from the smaller States wanted assurance that the individual laws, interests, and customs prevailing in their States would not be placed in jeopardy through the surrender of a great amount of their sovereignty to the new Union of States. Under the compromise fashioned by the Founding Fathers every State, regardless of size, population or wealth, was accorded equal representation in the Senate of the United States.
>
> Indeed, great stress was placed on this principle of equal representation in the Senate. Such great stress that the framers included in the Constitution a provision that no State could be deprived of representation in the Upper Chamber without its consent. This is the only section of the Constitution that could be changed only by the unanimous consent of the States.

Returning to the article by Senator Russell, he said:

> The Senate lies at the very heart of the careful division of powers and the delicate system of checks and balances that form the buttress for our Constitutional form of government. It is the forum of the States in which each stands on an equal footing with the others. The principle of equality of representation is protected by the Rules of the Senate that enable a Senator from the smallest and poorest State to speak with the same voice and authority as a Senator from the largest or wealthiest State. If the constant campaign to allow a majority to gag freedom of debate in the Senate should succeed, the cherished principle of equal representation would be greatly weakened. In my judgment, such a gag rule would throw the entire system of checks and balances dangerously out of kilter; it would reduce the Senate to little more than an ineffective appendage to the House of Representatives.

Mr. President, that is it. Frankly, if we are going to be reduced in our procedures to those of the House of Representatives why have a bicameral legislature? Why not save the people the enormous cost of operating the U.S. Senate? Let us have a unicameral legislature, if absolute control is what the Senator from Minnesota (Mr. MONDALE) wants, and if that is what the Senator from Massachusetts (Mr. KENNEDY) wants.

No Mr. President, the Senator from Alabama is absolutely correct. In my judgment, the Senator from Massachusetts, distinguished as he is, is absolutely wrong, as is the distinguished Senator from Minnesota (Mr. MONDALE) in pursuing a matter that the late Lyndon B. Johnson, when he was majority leader of the Senate, said was over and done with on this question.

I dislike seeing the time and energies of the Senate consumed in this manner in a period when so much needs to be done about the travails which beset this Nation. We ought to go to work, Mr. President. We ought to do something about the economy, the energy crisis, and the rest of the problems that are causing so much concern.

No, we have this perennial issue which must once again be put to rest, as it will be, I trust, in due course. This is the perennial attempt to destroy the intent of the Founding Fathers that this, the Senate of the United States, be a body of restraint, the last tribunal on the face of the Earth where free men can speak freely for as long as they wish in defense of or in opposition to matters of concern.

Mr. President, I love this Senate. I was here 20 years ago, or a little more, as administrative assistant to two distinguished Senators. A man or woman cannot be connected with this great body without feeling the sense of history that is so evident here.

I remember so many of the great men of two decades ago whom I knew personally—Senator Harry Byrd, Sr., of the State of Virginia, whose illustrious son now serves in this body with such distinction; Senators Clyde R. Hoey and Willis Smith, of North Carolina; Senator Walter George, of Georgia; Senator Spessard Holland, of Florida; Senator Homer Ferguson, of Michigan; Senator Robert Taft, of Ohio; and many others. All these men, and countless others, understood the meaning and importance of unlimited debate:

> The right of free speech in the Senate is particularly important because the Senate is the *only* institution of the Federal system in which the smaller states exercise an equal influence over the conduct of the affairs of the nation. This is obvious from the makeup of our political and governmental system. It is an elemental fact of political life that the small states are at a disadvantage when it comes to the nomination and election of a President.
>
> As a practical matter, the parties usually look to the larger and pivotal states for their Presidential timber. The last President of the United States who was elected from one of the smaller states of the union was Franklin Pierce of New Hampshire in 1852.
>
> Through the composition of the electoral college, the smaller states have a somewhat larger voice in the Presidential election itself than in the nominating conventions. Yet it is possible for as few as 12 of the most populous states to elect a President even in the face of the solid opposition of the remaining 38 states.

Of course, Mr. President, the preceding paragraphs appear in the article by Senator Russell. They have great relevance, because they are illustrative of the structure, or the intended structure, of the Federal Government.

Senator Russell said in his article, and I hope Senators will consider this:

> I believe few rational thinkers would maintain seriously that under our system of government, the will of the numerical majority should prevail absolutely and at all times. Certainly this was not the intent of the founding fathers—and it is not what the Constitution provides.
>
> Ours is a country of diverse interests as among the several states and the various sections. What may be good for the people of Maine is not necessarily good for the people of California, and what may be right for the people of Georgia may not be right for the people of Hawaii.
>
> The Senate of the United States is the last bastion within our Federal system wherein the rights of the states and the rights of the minorities are protected. Without freedom of debate in the Senate, the United States eventually will go the way of the unlimited democracies; we will reach the stage where a misguided majority can destroy the liberties and rights of individual citizens in the name of some currently popular cause.

Then the Senator from Georgia said, eloquently:

> It should not be forgotten by those who would suppress and gag freedom of debate, that popular opinion can be a fickle instrument. Causes that may be popular today may very quickly sink into a sea of unpopularity as the "noble experiment" of prohibition demonstrated. Those who find themselves on the majority side of an issue today may find themselves cast in the minority position tomorrow.

It is, perhaps, a relatively insignificant example; but I recall how the Senate, in a moment of undue haste, with the majority prevailing, imposed daylight saving time year-round on the people of this country. When it happened, the Senate was in a rush to get home. Nobody paid much attention to it. The majority said, "It looks like a good and dandy thing, so let's do it." The Senate did it and the House did it, and it became law. What happened? The people of the United States very quickly said, "Boys, you fouled up. We don't like our children to stand waiting for a school bus in darkness."

So we made amends as soon as we got back into session, and the error was corrected. But in the meantime, several months had elapsed, the better part of a school year, during which time all the inconveniences and problems resulting from that hasty action in the Senate had occurred.

I do not recall who the general was, but my father used to quote a Civil War general who said:

> When you're in doubt, dismount and check your saddle straps.

Mr. President the Senator from North Carolina feels that the Senate of the United States is not checking its saddle straps often enough, and we are plunging headlong, all too constantly, into affairs that deserve far more consideration than we sometimes give them.

So, Mr. President, I look with concern on this biennial attempt to facilitate further the invocation of cloture. I reiterate that it would alter the very nature of the Senate, so as to convert the Senate into a body where the majority rules absolutely. Absolute rule by any majority is not wise.

I trust that the resolution of the distinguished Senator from Minnesota (Mr. MONDALE), after the Senate has considered it properly, after the Senate has dismounted and checked its saddle straps, will be defeated.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HATHAWAY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUCKLEY. Mr. President, we are engaged at this time in a discussion of the merits of the resolution that has been introduced by the Senator from Minnesota (Mr. MONDALE) and others that would have the effect of amending one of the oldest rules in the Senate, rule XXII, that would have as its effect the reduction of the majority required to terminate debate on any particular issue from two-thirds to three-fifths. This restriction on the right to terminate debate was not casually adopted by this body. I believe its utility has met the test of time. I urge Members of this body to read the summation of arguments for filibustering that are contained on page 55 of a booklet called Senate Cloture Rule which is available to every Member of this body. I should like, if I may, because I think it will be useful for the record, to read the arguments and then comment upon them before addressing myself to some other aspects of the issue that I think, especially in these times, merit close consideration.

The first argument that is listed in the booklet I referred to is the following:

> 1. Minorities have rights which no majority should override. Government is constituted to protect minorities. Obstruction is justifiable as a means of preventing a majority from trampling upon minority rights until a broad political consensus has developed.

Surely, there is no instrument of Government that is more dedicated to the proposition than the Constitution of the United States. In that grand design, we have machinery by which we protect the State from being overridden by the Federal Government; by which we protect the individual representative of individual States from being overridden within the respective bodies of the Federal Government; in which we define certain inalienable rights that no majority may override without the necessity for an amendment to the basic instrument of our Government, the basic guarantee of our rights; namely, the Constitution.

I need not remind Members of this body that if we choose to change any article of the Constitution, it is not simply a matter of being able to muster a majority in the Senate and in the House, or even a majority of the legislatures of the respective States. Rather, if we are to change what we have regarded historically as the guarantee of basic rights, we must muster a two-thirds majority in each of the Houses of Congress and then have the proposed amendment to the Constitution ratified by the legislatures of three-quarters of the States.

I am saying, in short, that we have within our Constitution the most clear-cut guarantee of the proposition that there are minority interests that shall not be overridden by a transitory majority, and we have within the framework of the protections not a figure of three-fifths, but at one level, the congressional level, a requirement that there be a two-thirds expression of opinion and, with respect to the States, three-quarters.

Now, I suggest that if we view what is happening in the House of Representatives at this time, the essential protection that this body, and therefore this Nation, derive from the current rule becomes especially clear. We have a situation in the House of Representatives where more than two-thirds of the membership belongs to one political party, and at the same time we are seeing the rebirth of King Caucus; namely, the proposition that a majority of a particular caucus, on issues of great importance to that political partisan group, shall be binding on every member of the party, irrespective of personal sentiments, under punishment of institutional sanctions such as the deprivation of committee chairmanships; and this is a power that is today in fact being exercised.

What does this mean in terms of the mathematics of the situation? It means that a majority of a majority may dictate policy to the whole, yet that majority of a majority may well be smaller than a majority of the whole, and represent far smaller than a majority sentiment in the United States.

So I suggest, Mr. President, that we are faced with the fact that constitutionally we recognize that there are minority interests that must be protected from being casually overridden, and second, that we have in the structure of the Congress today a potential situation that would allow, in effect, a minority to override another minority in situations that may not be totally transitory in importance, and totally partisan.

The second argument that is advanced in this useful booklet is as follows:

> A Senate majority does not necessarily represent a consensus of the people or even of the states. Frequently popular opinion upon a question has not been formulated or, if it has been, it is often not effectively expressed. Prolonged debate may prevent hasty majority action which would be out of harmony with genuine popular consensus.

Again, Mr. President, we need to look no farther than our present situation and the past election to understand the wisdom of that particular argument.

In the first instance, only 38 percent of the electorate chose to go to the polls and, therefore, in the first instance, we have a House of Representatives that cannot by any stretch of the imagination lay a claim to representing the informed sentiment of the whole population of the United States.

Second, it is a notorious fact of the last election that a number of people were so outraged by the Watergate situation, were so turned off the whole political process, that they stayed home; and it is also notorious that the people who stayed home disproportionately represented one point of view.

So we have, again, a situation where we cannot assume that the makeup of any one of our respective parties in fact represents, on a given issue of great importance, the informed sentiment and the informed opinion of the American public. And I think, too, our society has become so complex and the volume of legislation passing through the Congress so large that even within these bodies we cannot claim that each Member has the necessary information about a controversial bill, about its implications, and about the potential cost that is required for an informed judgment, and this is why, in my judgment and in the historic judgment of this body, it has become important that there be a mechanism by which a determined minority which feels strongly enough about a particular issue may take to the floor and hold the floor until their obvious concerns have communicated, not merely to the other Members of this body, but also the public at large, what is at stake, so that we may have an informed Senate and an informed body politic.

The third argument that is contained in this booklet reads as follows:

> It is the special duty of the Senate, sitting in an appellate capacity, carefully to inspect proposed legislation, a duty not readily performed without freedom of debate. In our system of government, where legislation can be gaveled through the House of Representatives at breakneck speed with only scanty debate under special rules framed by a partisan committee, it is essential that one place be left for thorough-going debate.

This, of course, is the historic value of the Senate and the manner in which it has been constituted.

Unfortunately, Mr. President, if in years past "a rule XXII" were required to insure that the Senate, which used to be known as the world's greatest deliberative body, would in fact have the opportunity to study complex legislation, to understand its implications, it is 10 times more necessary today.

I know in the past year I have taken to the floor of the Senate a number of times to complain at the speed with which important, novel legislation is rushed through, before Members have any opportunity to examine the reports accompanying the legislation so as to develop even an elementary idea of what the law would do, what its pitfalls are, what its strengths are, how it might be improved, what it might cost, and even whether it has true popular support. We have such a congestion of business in the Senate today that too often we cannot truthfully claim to be voting on any kind of informed basis.

This makes it more important than ever that a group of Senators who find themselves concerned about the implications of a particular bill have the opportunity to move the Senate into a position of studying what is involved; and I fear, frankly, that our recent habit of going to a two-track system, by which we handle two layers of legislation at one time, has served to remove some of the benefits, to dissipate some of the strength, of the classic filibuster in its precise role of forcing the Members of this body to study the legislation and understand its meaning.

The fourth argument listed in this booklet reads as follows:

> Filibusters really do not prevent needed legislation, because nearly every important measure defeated by filibusters has been enacted later. With rare exception no really meritorious measure has been permanently defeated and some vicious proposals have been killed. The filibuster has killed more bad bills than good ones.

Mr. President, as I just read, the fourth argument in favor of the filibuster states that historically, legislation subjected to a filibuster that has been deemed, in the light of hindsight, to have been valuable, has not been blocked permanently, whereas historically many vicious proposals have in fact, been killed.

This has been the experience. We have seen time and again men in total good faith arguing a point, but the tide of history and the tide of opinion have been against them, and in due course that consensus developed behind the position with which they disagreed, that ultimately carried the day because at a certain point the Senate under rule XXII does, in fact, have the power to close debate.

During my 4 years here I have seen cloture successfully invoked on a number of occasions. On the other hand, just a few months ago, I saw cloture successfully resisted when a bill that would have created very dangerous precedents for the procedures of this Government, the Agency for Consumer Advocacy, was being urged and I am not convinced to this moment that most Members of this body really understand what is in that legislation, why it will go to defeat the interests of consumers, why it will serve to increase the cost of goods to consumers, why it will create delays that will create expenses across the whole spectrum of our economy, why it would create a czar with unparalleled powers; but the purpose of those who joined together to resist this legislation was to buy time within which, hopefully, the people and even the Senate will come to understand what is in that legislation.

So, as the argument I have just read states, the filibuster technique, which is a legitimate parliamentary procedure, has not historically served to ultimately defeat the enactment of just legislation, whereas it has served to hold the line on emotion, on a passing fancy, and thus protect the Republic from ill-considered legislation.

The fifth argument reads as follows:

> 5. It is the unique function of the Senate to act as a check upon the Executive, a responsibility it could not perform without full freedom of debate. Unrestricted debate in the Senate is the only check upon presidential and party autocracy. It is justified by the nature of our governmental system of separated powers.

Mr. President, at the present time we have a situation in which the Presidency is in the hands of one of our major political parties, whereas Congress is dominated by the opposite party. Therefore, we do not at the moment see the particular danger that is cited in this legislation.

On the other hand, we had a situation just a few years ago when, during the administration of President Lyndon Johnson, you had both the Executive and the Congress under the firm domination of one political party. We saw bill after bill pushed through the Congress in the name of the war against poverty, and if ever there was a devastatingly improvident package of legislation, it was the legislation that paraded under that name.

We are today suffering the economic consequences that are directly attributable to those measures, attributable to the attempt to fight an undeclared war while boosting the whole spectrum of social programs without the self-discipline of imposing taxes to pay the bill.

I would say, Mr. President, that I can only regret, as someone who was not a Member of the body at that time, that the technique of unlimited debate had not been availed of more often to block the tyranny of a majority that time and again forced acceptance of legislation that permanently has changed our concept of what is the appropriate Federal role in any number of areas that before that time had been handled and, I submit, adequately handled by the States.

The sixth argument that is presented reads as follows:

> 6. The constitutional requirement for recording the yeas and nays is a protection of dilatory tactics. The provision of the Constitution which requires the yeas and nays to be recorded in the Journal at the desire of one-fifth of the Members present is an intentional safeguard allowing the minority to delay proceedings.

What this suggests, Mr. President, is that we have within the machinery of this body an absolute guarantee, insofar as such a guarantee is possible in the political process, that those Members of the Senate who avail themselves of the ancient privilege of unlimited debate do so in total good faith, in pursuit of objectives that they deeply believe to be in the best interests not only of their own States but of the public as a whole.

Time and again Members of this body have risen on the floor as a matter of principle to argue against a proposal that is widely acclaimed throughout all of the organs of the media in this country, and I submit that those who have recourse to extended debate, more often than not, are displaying the highest degree of political courage. But again the fact is that they are held accountable. They will have to go back to their own electorate at the next election and justify what they have done. And because they are acting to preserve a right of a minority from being tyrannized by a majority, they have a much higher standard of proof to present.

The next argument, No. 7, reads as follows:

> 7. Majority cloture in the Senate would destroy its deliberative function and make it a mere annex of the House of Representatives.

I believe, Mr. President, that this does speak for itself. We are not merely two comparable bodies the membership of which are elected for differing terms. There is a substantive difference in the responsibilities and functions of these two bodies. It is illustrated in the fact that each State is represented equally in the Senate whereas the population of each State is represented in the House. It is represented by the virtue of the fact that we have this tradition of unlimited debate here. And why? Because the architects of our form of government felt that it was essential to sound representative government to have one body that could devote itself to a more careful, less pressured examination of the issues precisely with the objective of protecting the interest of people throughout the United States against the temporary majorities.

The next argument, Mr. President, No. 8, reads:

> 8. Simple majority cloture would have brought many a decision which would have accorded ill with the sober second thought of the American people.

Actually this is a restatement of an earlier argument. Again it underscores the value of unlimited debate as a means of avoiding hurried emotional action that would soon be regretted, and the distinguished Senator from North Carolina cited as one example the imposition of universal daylight saving time. I can think of some more earthshaking examples, but that certainly is one within the memory of everyone in this Chamber, and it does illustrate the point.

Argument No. 9:

> 9. The Senate, without majority cloture, actually passes a larger percentage of bills introduced in that body than does the House of Representatives, with cloture.

I, in a sense, regret that argument because I believe this body and Congress as a whole enact far too much legislation, far too hastily conceived legislation but, nevertheless, it does make the point. The resort to unlimited debate has not historically had the effect of jamming the prudent flow of business during the course of a year. It has, as I say, in fact, made a tremendous contribution to insure that that flow of business is best designed to serve the public interest.

Argument No. 10:

> 10. To enforce cloture by vote of a chance majority in the Senate might bring greater loss than gain.

What it does suggest is that we could encourage a simple majority to move in at any time and stop argument rather than allowing a full development of the reasons, the rationale, for opposing a particular measure.

The habit of moving immediately to force a vote on any and every issue would be a profound disservice to the country because it would foreclose that elementary exposition of the arguments which the public needs to have in order that its own judgment be focused.

As I suggested earlier, not today, we have seen so many bills presented on this floor so fast and so many of them with such complexity that it is virtually impossible for Members of this body who must vote on them to understand what they mean, what they will do and why, and, let alone, the public at large.

Finally, the 11th argument advanced in this booklet reads as follows:

> Filibusters are justifiable whenever a great, vital, fundamental, constitutional question is presented and a majority is trying to override the organic law of the United States. Under such circumstances, Senators 'as ambassadors of the states' in Congress have a duty to protect the rights of the states.

I think that is important, Mr. President, those phrases, those words, "whenever a great, vital, fundamental, constitutional question is presented."

It occurs to me that in 4 years in this body I have rarely, if ever, heard allusion made to what the Constitution provides in terms of Federal influence, Federal power.

Almost daily we see new legislation proposed that would expand still further the gargantuan scope and grasp of the Federal Government on the lives of the States and of the individuals living in the States.

I believe that there are matters of profound importance that need to be aired and they can only be aired if we have recourse to the privileges that this body entitles each one of us to exercise, namely, that of fully and in detail explaining our own position.

But it also places a focus, a spotlight, if you will, on the responsibilities that are assumed by those who take advantage of this right and, namely, that they make sure that it is not availed of for trivial reasons.

Again, it has been my experience since

I have been privileged to be a Member of this body that the Senate has acted responsibly, that there has not been a preemption of time except on issues that a number of Senators felt very deeply about and that they, therefore, have a right to a demand on the time of their colleagues.

Mr. President, the resolution that is before us is one to cut off debate on a proposed change in rule XXII.

Mr. President, a vote for cloture at the present time is in effect a vote in favor of the proposal that the Senate may terminate debate by a three-fifths vote. I will vote against cloture because I am convinced that the present two-thirds rule is in the best interests of the Senate and of the country.

The indictment raised against the two-thirds rule, however well intentioned, is unfortunately misdirected. To my knowledge, no measure which enjoyed genuine—as opposed to apparent—majority support in the Nation has ever failed to pass because of rule XXII in its present form. A number of important bills have been delayed, to be sure, but there is none which was not better for the delay. This is not to deny that the present rule, like all rules, has been abused in the past; and it may be abused in the future. But if it is abused in the future, many who now support it will vote for a change.

It is true that democracy in the final analysis must rest on majority rule. But nothing in human experience recommends, and certainly nothing in the Constitution requires, that we embrace a mindless majoritarianism. President Jefferson said in his first inaugural address:

> The will of the majority is in all cases to prevail, but that will, to be rightful, must be reasonable.

The ultimate purpose of the two-thirds rule is not to thwart majority rule, but to keep the majority reasonable. The right—as opposed to the power—of the majority to rule rests on its ability to acquire the consent of the minority. When a majority chooses to rule by force rather than by consent, or when a minority refuses to grant its consent when it is justly asked for, representative government faces a crisis which can lead to tyranny or to civil war. It is the avoidance of such a crisis that the two-thirds rule is ultimately dedicated. But this high purpose imposes an obligation upon those who seek the protection of rule 22 to use it prudently and with restraint, reserving its invocation for measures of the gravest national importance. By the same token, members of a would-be majority must pay heed to the right of the minority to demand reasonable concessions.

It will be argued, of course, that the three-fifths proposal will adequately protect minority interests. My study of the problem, however, convinces me that three-fifths would be an inadequate safeguard for the right we seek to protect.

In practice, because of necessary absences, three-fifths of those present and voting will often mean barely more—and sometimes less—than a simple majority of the Senate as a whole. Further—and this is ultimately more important—I have yet to hear an argument against the present two-thirds rule which could not with equal force be applied to the three-fifths proposal were it to be adopted.

Although some proponents of the three-fifths measure will deny it, adoption of the three-fifths rule at the present time would be a fatal step down the road toward cloture by simple majority. And when that day arrives, the distinctive deliberative character of the Senate will have been destroyed, and, with it, one of the bulwarks of the American constitutional system.

The defenders of the two-thirds rule are frequently depicted as reactionary gadflies on the hide of progress. By contrast, the proponents of three-fifths or simple majority cloture are commonly cast in the role of enlightened reformers. But even a cursory glance at the history of the Senate will demonstrate the falsity of this convenient compartmentalization of opponents and proponents. For one thing, the filibuster has in recent years been used with greater effectiveness by liberals than it has by conservatives. For another, the greatest Senate liberals of this century—I have in mind George Norris and Robert LaFollette—wisely and steadfastly opposed shortsighted attempts to diminish the right of extended debate in the Senate. They did so, I might add, in the full knowledge that rule 22 might sometimes work to their own disadvantage. They did so, in short, because they thought it in the best interests of the Senate and of the Nation.

It is true that most liberals today will be found on the side of the three-fifths proposal; some, indeed, go to the extreme of advocating cloture by simple majority. In so doing, they have fallen into a kind of ideological lock-step, preferring the logical consistency of an abstraction to the prudent restraints of commonsense. In so doing, they ignore the teaching of the most famous expositor of liberal ideas of this generation, the late Mr. Walter Lippmann, who has written that:

> The filibuster under the present rules of the Senate conforms with the essential spirit of the American Constitution. It is one of the very strongest practical guarantees we possess for preserving the rights which are in the Constitution.

The ultimate test of the Senate is neither the speed with which it passes laws, nor the quantity of laws it passes. The true test of the Senate, rather, is the ultimate wisdom of its decisions. I believe that Congress in general and the Senate in particular have suffered in recent years from a tendency to embrace ill-considered legislative proposals. Indeed, among the most commonly heard complaints these days across the land—it can even be heard at the White House—is that the Federal Government has undertaken too much. The pressing need at the present hour, it seems to me, is not for more laws, but for better laws. Rule 22 in its present form is one of the few devices at our disposal for seeing to it that the counsels of prudence can prevail over the thoughtlessness of haste. The two-thirds rule, of course, cannot possibly guarantee that all, or even most, legislation will be as well-considered as it ought to be. But it can serve as a salutary restraint upon hasty action and ill-considered schemes. It can serve to moderate passions. It can serve to keep majorities reasonable and minorities contented. It can serve to restore the distinctive character of what has been called the world's greatest deliberative body.

It is commonplace to remark that these are troubled times. Many citizens are understandably perplexed by the variety and complexity of the problems which beset the Nation. Some, unfortunately, seem to have lost confidence in the capacity of government to solve them. But the reasons for this loss of confidence have less to do with the failure of Congress to enact numerous laws than they have to do with the failure of Congress to enact wise laws. Given the confusion which abounds in the land today, and given the passions which may at any moment ignite, this is hardly the time to speed up a process that already suffers from the evils of excessive haste. It is time, rather, to take stock, to proceed cautiously. The two-thirds rule is at present a necessary means to that end.

It is worthy of note, I think, that the respected New Republic, in a principled and forthright editorial in its issue of February 20, 1971, defends the present two-thirds rule. I concur in the spirit which prompted that editorial and enjoin my colleagues, liberal and conservative alike, to pay heed to its arguments. In particular, I enjoin my liberal friends to heed its argument, for, unless they are careful, they may find themselves permanently on the short end of the cloture stick. If the three-fifths proposal carries, the liberals may soon find that they have won a Pyrrhic victory.

Mr. President, I cannot think of a better way to close my remarks than to quote from the concluding paragraph of the New Republic editorial:

> The filibuster could be destructive, if used indiscriminately by incontinent men, or if no majority, however large, were sufficient to overcome it. But all the institutions and devices of our government, not alone the filibuster, have it in them to destroy everything else in the process, once restraint and ultimate civility are gone. And the power of a majority that is large enough and, what is more important, that is confident of the validity of its purposes and correspondingly determined, is ensured by the present Senate rule, under which cloture can be imposed by a two-thirds majority of members present and voting.

Mr. President, I suggest the absence of a quorum.

Mr. BARTLETT. Mr. President, may I be recognized?

Mr. BUCKLEY. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I congratulate the Senator from New York for his very appropriate remarks.

Mr. President, I find this effort to eliminate the scope of debate within this great Senate body most disconcerting. Since early childhood each of us has been taught that the Senate is the one deliberative body of Government which assures that any changes in our system will be carefully examined, carefully debated, and, hopefully, reviewed if found wanting. Debate has been the one refuge within the minority on any issue which the minority has had to insure a careful examination of that issue. Debate, of course, is the means by which we hope to find the best way by which we hope to find the truth. Realistically, debate cannot be used as an obstruction to meaningful legislation. No filibuster or debate can stand the test of an idea whose time has come. Frankly, as a Republican, I am concerned because we are very much a minority in this body, even more so as a result of the 1974 elections.

I believe that if ever the two-thirds rule was a good, sound rule, then it would even be more so today because in the average session of the legislature the two sides are more evenly divided than they are today.

Before, we Republicans have had few in our legions, yet we have known that even though small in number, we might prevail because we might have been right on an issue, because we had the opportunity to prove we were right.

I can think of a number of instances in the short time I have been in this body when extended debate has delayed action on an issue, sometimes, Mr. President, requiring that issue to lay over until the session adjourned, after a recess, at which time people had a chance to learn the facts; during which time the media and Members of this body had a chance to speak out and bring the facts forward so they could be better understood.

Then in the process, after the recess, when normal debate resumed and action was taken, there were changes in the votes of some of the Members of this body.

The majority in this Congress certainly have the opportunity to sweep aside many of the safeguards which, over the years, have developed to protect the dissenting views of the loyal opposition. And by eliminating that thorn in the side I am confident great volumes of legislation can be rushed to passage—but in opting for the expedient and eliminating that thorn, I would ask these people who support eliminating the two-thirds rule and replacing it with a 60-percent rule are they not effectively eliminating one of the great checks in our system of checks and balances.

I found when I was in the State senate in Oklahoma, and I think it is true in the U.S. Senate, it is very difficult to write good legislation, no matter what the subject matter is, to change what is desired to change, to do away with what is desired to do away with, or to retain even the desirable features you wish to retain without upsetting the balances that you desire.

So I think having the unlimited debate, the opportunity to, at the last minute, enter a newly discovered or newly created amendment, is very important.

I can recall very recently having an amendment which I wanted to introduce, which was an amendment which was germane, but I happened to be writing it a little too late so that when cloture was voted my amendment was not appropriate.

In this particular case, I think the amendment perhaps might have failed to have been adopted. But in this case, Mr. President, the opportunity should have been there to offer such an amendment.

Cloture has the effect not only of telescoping the debate but also of limiting the change that can be considered by refusing to accept any new amendments that are not at the desk. This I find to be a very shortsighted rule and one which inhibits the legislative process from considering all the ideas that are being presented. I know of little legislation which of necessity cannot wait an extra day, a week, or even a month, to be tested by the rigors of debate. Yet, to the contrary, legislation passed one day or one speech too soon can prove most disastrous.

I am sure that the senior Members of this body can think of example after example of legislation that was rushed through this body, in the interests of some good cause, which has dealt misery for the American people in many ways. This might have been avoided with extra debate, with more consideration, with more knowledge of the facts.

Mr. President, I implore this body to move slowly on changing our longstanding rule of virtually unlimited debate. I urge the Members of this body to realize that this rule has stood the Senate well for many years; and now, at a time when we have the majority larger than in many years, stronger than in many years, is not the time to weaken this rule. It is a time when the majority, perhaps, can do it.

I may be wrong, but I believe that this body would be diminished and lesser for the action of eliminating this tradition.

Mr. BENTSEN. Mr. President, during recent days, we have once again considered amending rule XXII, by which the Senate can choose to limit debate on the issue before it. As written in 1917, that rule permits two-thirds of the Members present to end debate on a given subject and to bring it to a vote. The rule was designed to permit this body to consider the merits of a given proposal and to decide upon them. In practice, however, cloture has been most difficult to invoke. Instead of two-thirds of the Members of this body asserting their obligation to vote upon a measure, the case has more often been that one-third of the membership has obstructed any action.

Among the first measures introduced in this new Congress was Senate Resolution 4, a resolution to amend rule XXII to permit cloture when three-fifths, rather than two-thirds, of the Members present vote to limit debate. I commend Senators MONDALE, PEARSON, JAVITS, and MATHIAS, the resolution's chief sponsors, for once again leading the floor debate in behalf of this crucial rules change. I am cosponsoring this initiative, and I will be giving it my unequivocal support in the days ahead.

This is not the first occasion in which the Senate has attempted to amend rule XXII. The effort has been made almost biennially since 1959, but each time it has failed. Nor is this the first time I have had the opportunity to support the proposed rules change. As a freshman Senator in 1971, I cosponsored Senate Resolution 9 and signed each of the cloture petitions to end debate on it. Cloture was, in fact, never invoked on the resolution that year, but the debate clearly demonstrated to me that a majority of the Senate endorsed the rules change.

Mr. President, the case to be made in behalf of amending rule XXII remains essentially unchanged, but I believe that the need to take this action is more imperative today than ever before.

Our Nation has recently been through difficult times. Our people have been buffeted simultaneously by both inflation and an ever-worsening recession. Unless this Nation takes forceful and effective action, materials shortages, the energy crisis, and a continued decline in real income threaten a serious decline in the American standard of living, and for the millions of Americans now employed and their families, that fear no longer remains just a threat. It is a reality.

I am confident, however, that those and the other problems that confront this Nation can be solved by men of vision, intelligence, diligence, and good will. The American people are looking to Washington—and, I might add, particularly to the Congress—to declare our goals of recovery, to chart the course as to how they might be obtained, and to lead the Nation in their pursuit. The decisions to be made will not be easy, but the Congress must make them. I want to see each major proposal thoroughly considered, but by the time it reaches the Senate floor, I also want to see it decided upon.

Mr. President, these past 2 years have also been marked by a steady erosion of our people's confidence in their public institutions. Many have had their trust in Government shaken, and many, I believe, are asking just what their Government can do for them, not from any selfish motivation but from a cynicism that is born from their Government's indecisiveness and inaction.

I remain confident, however, that solutions can be found to our problems, that we in the Congress can contribute substantially to finding them, and that America's faith in its Government can be restored. Adoption of Senate Resolution 4 will obviously not by itself bring any of this about, but I believe it will permit this body to deal more decisively and conclusively with the issues that will soon be before us.

Mr. President, I realize that the proposed rules change involves a greater principle. A majority can deal tyrannically with a minority, and insuring that a minority's rights are respected is one of the most crucial issues that a democratic society—and the legislative body which represents it—must resolve. We have in the past professed our commitment to guaranteeing those rights. I believe that the course of this Nation's history has been one of extending those assurances to an ever growing number of Americans, and I want to insure that the progression continues. Hard times must never be reason enough to suspend the rules which guarantee respect for a minority's rights, either in our society or in this body.

Mr. President, the resolution before us maintains the rights of a minority within the Senate, regardless of the issue or the membership of the minority coalesced in its behalf. A three-fifths majority—60 percent of those voting—will be needed to invoke cloture, and if successful, that vote will still permit an additional 100 hours of debate. If prior experience is an accurate test, obtaining cloture by three-fifths vote will hardly be automatic. Since 1917, 100 attempts have been made to suspend debate. Cloture under the present rules has been invoked on only 20 occasions. Were the rules to have permitted a three-fifths majority, cloture would have occurred on 24 additional votes. The number of unsuccessful attempts would thus still have outnumbered the successes.

Mr. President, we would betray an important part of the legacy which this Senate inherits if we were to forsake the rights of a minority among us. We would also betray ourselves, because we will all be part of a minority at various times in the days ahead.

I could not support an attempt to permit cloture by simple majority vote, but I believe Senate Resolution 4 provides a reasonable balance between safeguarding the rights of a minority and ensuring the right of a substantial majority to decide upon an issue, a right that under present rules has too often been denied.

Mr. President, no one has ever accused a democracy of being the swiftest form of government. A democracy is not known for dealing hastily with difficult problems or with making quick decisions. Deliberation, through consideration, and compromise are all essential to its undertakings. But each has its time in the process, and the culmination of that process is the actual decisionmaking, the recorded vote of each of its Members. Senate Resolution No. 4 will in no way jeopardize the deliberation, consideration, and compromise, but I believe that its approval is absolutely necessary if we are to demonstrate the decisiveness that is so essential for making policy decisions and their implementation truly effective.

I urge my colleagues to join with me in support of Senate Resolution 4.

THE APPOINTMENT OF MINORITY PARTY MEMBERSHIP ON SENATE COMMITTEES

Mr. HUGH SCOTT. Mr. President, I submit a resolution and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HATHAWAY). The resolution will be stated.

The second assistant legislative clerk read as follows:

A resolution (S. Res. 24) appointing minority party membership on the standing committees and the Select Committee on Small Business.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

S. RES. 24

Committee on Aeronautical and Space Sciences: Mr. Goldwater, Mr. Domenici, Mr. Laxalt, Mr. Garn.

Committee on Agriculture and Forestry: Mr. Dole, Mr. Young, Mr. Curtis, Mr. Bellmon, Mr. Helms.

Committee on Appropriations: Mr. Young, Mr. Hruska, Mr. Case, Mr. Fong, Mr. Brooke, Mr. Hatfield, Mr. Stevens, Mr. Mathias, Mr. Schweiker, Mr. Bellmon.

Committee on Armed Services: Mr. Thurmond, Mr. Tower, Mr. Goldwater, Mr. Scott, Va., Mr. Taft, Mr. Bartlett.

Committee on Banking, Housing and Urban Affairs. Mr. Tower, Mr. Brooke, Mr. Packwood, Mr. Helms, Mr. Garn.

Committee on the budget: Mr. Bellmon, Mr. Dole, Mr. Beall, Mr. Buckley, Mr. McClure, Mr. Domenici.

Committee on Commerce: Mr. Pearson, Mr. Griffin, Mr. Stevens, Mr. Beall, Mr. Weicker, Mr. Buckley.

Committee on Finance: Mr. Curtis, Mr. Fannin, Mr. Hansen, Mr. Dole, Mr. Packwood, Mr. Roth, Mr. Brock.

Committee on Foreign Relations: Mr. Case, Mr. Javits, Mr. Scott, Pa., Mr. Pearson, Mr. Percy, Mr. Griffin, Mr. Baker.

Committee on Government Operations: Mr. Percy, Mr. Javits, Mr. Roth, Mr. Brock, Mr. Weicker.

Committee on Interior and Insular Affairs: Mr. Fannin, Mr. Hansen, Mr. Hatfield, Mr. McClure, Mr. Bartlett.

Committee on the Judiciary: Mr. Hruska, Mr. Fong, Mr. Scott, Pa., Mr. Thurmond, Mr. Mathias, Mr. Scott, Va.

Committee on Labor and Public Welfare: Mr. Javits, Mr. Schweiker, Mr. Taft, Mr. Beall, Mr. Stafford, Mr. Laxalt.

Committee on Public Works: Mr. Baker, Mr. Buckley, Mr. Stafford, Mr. McClure, Mr. Domenici.

Committee on Rules and Administration: Mr. Hatfield, Mr. Scott, Pa., Mr. Griffin.

Comimttee on Post Office and Civil Service: Mr. Fong, Mr. Stevens, Mr. Bellmon, Mr. Dole.

Committee on District of Columbia: Mr. Mathias, Mr. Bartlett, Mr. Garn.

Committee on Veterans Affairs: Mr. Hansen, Mr. Thurmond, Mr. Stafford, Mr. Scott, Va.

Select Committee on Small Business: Mr. Javits, Mr. Beall, Mr. Roth, Mr. Brock, Mr. Weicker, Mr. Bartlett, Mr. Laxalt.

AMENDMENT OF RULE XXII OF THE STANDING RULES OF THE SENATE

The Senate continued with the consideration of the motion to proceed to consider the resolution (S. Res. 4) to amend rule XXII of the Standing Rules of the Senate with respect to the limitation of debate.

Mr. CURTIS. Mr. President, we have before us the question of changing the rules of the U.S. Senate. These rules are not adopted every time a new Congress convenes, every 2 years. Throughout the years, the Senate of the United States has ratified and re-ratified the principle that we are a continuing body. When we meet here on the first day of a session we move right in with our business. We are unlike the House of Representatives, which is not a continuing body. Everyone there must stand for election every 2 years. One of the first things they do in the House is that their leadership sends a resolution to the desk for adoption that provides that the rules of the last Congress shall become the rules of the new Congress, because until they do that, they have no rules. That has never been the practice in the Senate.

The Senate has reaffirmed and reaffirmed, throughout the years, that we are a continuing body. It was so designed by the framers of our Government.

So this effort to change rule XXII must be considered as a move to change the existing rules of the U.S. Senate, a continuing body. That is the parliamentary situation. I am convinced that the Chair could not find otherwise without repudiating that which has been written into the law of the Senate by having been continuously followed.

After all, that is the essence of the common law upon which our system of law and government is built and recognized.

Mr. President, concerning the question of whether or not we should go from a requirement that two-thirds of the Senators present must vote to end debate to changing that figure to three-fifths—three-fifths is 60 percent. As soon as the Senate seats the Senator from New Hampshire, who has a certificate of election, we will have 100 Senators.

Sixty percent of 100 Senators is 60 Senators. If we adopt this proposal, 60 Senators can tell 40 Senators, "You keep still; we are not going to listen to you; you cannot go on and express your ideas on legislation." That is tyranny of the majority. That is backward. That is reactionary. That is devoid of all liberalism and progressive government. That is tyranny of the majority.

But now there is an additional reason why it would be so wrong to do that. When the lawfully elected Senator of New Hampshire is seated, we will only have 39 Senators on the Republican side. What claim can we make toward our belief in a two-party system if we so amend the rules that the majority party can silence the minority party at any time? That is something for every Republican to think about. That is something for every Republican back home to think about. That is something for every State chairman of the Republican Party, every county chairman, everyone who believes in the Republican Party, to get busy and write their Senators and say, "Do not vote for a provision that would grant to the majority party the right to silence the minority."

It is true that when we invoke cloture, every Senator has an hour. But most legislation is complex; it is involved. It cannot be solved in an hour. A Senator may use his hour, but he cannot yield it to somebody else. Most legislation that comes here comes from a committee where there are Senators who have worked a long time, maybe several years, upon that proposal, one side or the other. They cannot do justice to the debate in 1 hour; they cannot use anybody else's ime. So the practical effect of this proposed change is a grant to the majority party, any time they want to, to silence the minority.

Is that liberalism? Is that a progressive notion of government? Is that in the interest of human freedom, the rights of individuals of the minority? No. It is reactionary. It belongs in the Dark Ages. It has no place in this, the 94th Congress.

I am aware that many people have felt over the years that it would probably be wise to reduce the number from two-thirds to three-fifths. For the sake of argument, let us say that all those arguments are good. The situation has changed now. We have less than two-fifths of the Members of the Senate belonging to the minority party. Now, one would say that in most legislation, the division is not totally Republican or Democratic. Yes, that is true. But we are voting a delegation of power, power of the majority to ride roughshod over the minority.

I appeal to every freedom-loving person in the United States, everyone who believes in defending the minority, everyone who believes in the right of the individual Senator to stand on this floor and speak out his convictions, in the hope that the country will be aroused and look into it farther, and that his convictions might prevail.

Mr. President, this is our task. Let us not surrender to the forces of reaction, and change these rules.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the resumption of routine morning business of not to exceed 30 minutes, with statements therein limited to 20 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

STANDING ORDER DESIGNATING LOCATION IN THE CONGRESSIONAL RECORD FOR THE DAILY STATEMENT OF THE SENATE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that throughout the 94th Congress, my statement of the program appear daily just prior to the motion to adjourn or recess, whatever the motion may be, so that Senators will know where to find that statement when published.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I shall state the program now for Monday next, with the understanding that the statement will appear just prior to the motion to adjourn. My esteemed namesake will thereupon address the Senate today for something like 20 minutes, at which time routine morning business will be closed and the motion to adjourn will be made.

(Statement of the program is printed in today's Record just prior to the adjournment.)

ORDER FOR THE RECOGNITION OF SENATOR HARRY F. BYRD, JR. ON MONDAY, JANUARY 27, 1975

Mr. ROBERT C. BYRD. The distinguished senior Senator from Virginia reminds me that he wishes to have a special order for Monday. I, therefore, ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday, the distinguished senior Senator from Virginia (Mr. Harry F. Byrd, Jr.) be recognized for not to exceed 15 minutes after which the period for routine morning business ensue.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. CURTIS. Mr. President, will the Senator yield further? Will the Senator tell us what the remainder of today's program is?

Mr. ROBERT C. BYRD. Yes. Mr. President, no other rollcall votes are anticipated for today, no other business is anticipated for today. We are in a period for the transaction of routine business at the present time. Mr. Harry F. Byrd, Jr., will shortly address the Senate and he has indicated to me that his remarks will not likely go beyond 20 minutes, and very probably not that long, after which the Senate will adjourn until Monday.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield at that point.

Mr. ROBERT C. BYRD. Yes.

Mr. HARRY F. BYRD, JR. I have been talking with the distinguished Senator from North Carolina, Mr. Helms, and would it interfere with the program that the Senator from West Virginia has outlined for Monday if Senator Helms could have 15 minutes back to back?

Mr. ROBERT C. BYRD. Not at all.

ORDER FOR THE RECOGNITION OF SENATOR HELMS ON MONDAY, JANUARY 27, 1975

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday next after Mr. Harry F. Byrd, Jr., has completed his remarks under the order previously entered, the distinguished Senator from North Carolina (Mr. Helms) be recognized for not to exceed 15 minutes prior to the period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I thank my distinguished friend from West Virginia.

ORDER OF BUSINESS

Mr. ALLEN. Does that still leave the termination of routine business at 1 o'clock?

Mr. ROBERT C. BYRD. Yes, it does.

Mr. ALLEN. The effect of these special orders might be to shorten the time for the transaction of routine morning business.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. ALLEN. I thank the Senator.

Mr. HARRY F. BYRD, JR. Mr. President, I ask that I be recognized.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. I suggest the absence of a quorum, the time to be charged to the Senator from Virginia.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the present period of routine morning business is concluded, the Senator from Virginia (Mr. Harry F. Byrd, Jr.) be recognized to make a motion to adjourn until Monday under the previous order so that all Senators may have the understanding now that there will be no further action today with respect to Senate Resolution 4.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr President, I ask unanimous consent that Mr. Harry F. Byrd Jr., of Virginia retain his right to the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legisative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia is recognized.

THE NATION'S ECONOMY

Mr. HARRY F. BYRD, JR. Mr. President, the speech I am making today is one I do not want to make.

But I feel I should present the Nation's economic situation, as I see it. Nothing would please me more than for time to prove me wrong.

But, as I judge it, President Ford's new economic program not only is a surrender to inflation—but indeed is a blueprint for more inflation.

To understand our predicament, we need to take a look at where we stand today, how we got there, and where we seem to be going.

First, where do we stand today?

I think the fundamental fact about our economic situation is that we are overextended. The Government is overextended; too many banks are overextended; too many individuals are overextended.

As a Nation, we are on an unsound basis—and have been for a long time. The most unsound element of all in the economy is the fiscal situation of the Federal Government.

Today the Federal Government is almost $500 billion in debt. Today the Secretary of the Treasury has asked for an increase in the debt ceiling of more than $100 billion. It will cost $33 billion to pay the interest on that national debt this year.

Of every individual and corporate income tax dollar, 17 cents goes to pay the interest on the debt. To finance its staggering deficits, the Government goes into the money market with a vengeance.

Secretary of the Treasury Simon has confirmed to me that 62 percent of all of the lendable funds in this country are borrowed by the Federal Government. No wonder we have high interest rates and no wonder that homeowners, businessmen, and everyone else, find credit hard to get.

As Secretary Simon said recently:

> Whenever the Treasury enters the private capital market, it goes to the head of the line.

That pushes everyone else to the rear.

To summarize our present plight: the Government is deep in red ink, and its continuing deficits are a major cause of inflation. Interest on the debt costs the taxpayer dearly, and the Government's borrowing creates a credit crunch and keeps interest rates high.

That is where we stand today. How did we get into such a fix?

In the first place, we have not had a balanced budget since Dwight D. Eisenhower was President—15 years ago. Indeed, our budget has been balanced only 5 years out of the past 30.

But the Government's major contribution to this rampaging inflation goes back to the 1960's, when a host of new spending programs were enacted. The problem was compounded by the Nation escalating its involvement in an ill-advised war.

Some of those programs began as mere acorns, but soon grew to mighty oaks of spending.

In the first full year of the food stamps program, 13 years ago, the cost was $49 million. This year the cost is $4 billion. This is an increase of $1 billion, or 33 percent, in 1 year.

The food stamp program has gotten out of hand. It has gone far beyond the original intent of the act.

Strikers and college students are among the beneficiaries, and employers say some workers are showing up for work for less than the normal work week in order to preserve eligibility for food stamps.

A study by the Joint Economic Committee of the Congress shows that by 1977, if we keep on the way we are going, the cost of food stamps may top $10 billion.

Another program of the 1960's which has mushroomed is one called social services. The sponsor of this program said, when he introduced it in 1966, that it would cost about $40 million a year.

The cost is now $2 billion for the current year—50 times the sponsor's original estimate.

The cost of the Department of Health, Education, and Welfare in 10 years has gone from $6 billion to $36 billion.

These are the kinds of Federal programs that have gotten out of control.

During the Nixon and Ford administrations, nothing has been done to halt huge deficit spending.

On the contrary, the accumulated Federal funds deficit for the 7-year period ending in June 1977, will be $195 billion.

That is more than one-third of the entire national debt.

To me, it is highly significant and deeply alarming, that one-third of our entire national debt has been accumulated in the short span of 7 years.

So here we are at the beginning of a new year and a new Congress. The free-spending policies of the past have gotten us into deep trouble, and now we must look to the future.

And what is the remedy proposed for our ills by the President and by the Democratic Congress?

Bigger deficits.

President Ford has asked the Congress to approve the largest peacetime deficit in the history of the United States.

To his credit, he also has asked for a moratorium on new Federal spending programs.

But my fear is that Congress will seize upon the President's tax cut proposals and ignore the request for a moratorium. The result will be that the total deficit for the current fiscal year and the next one will soar well beyond the $80 billion which the President has projected.

I would not be surprised to see the national debt come close to $600 billion by the end of the next fiscal year—on June 30, 1977.

The kind of policy which is now being advocated by President Ford and the Congress is not merely a "change of emphasis" from fighting inflation to fighting recession, as the President suggested.

It is total surrender to inflation.

The President has recommended a one-shot tax reduction of $16 billion.

I do not necessarily oppose a tax cut, but reduction in revenue should be matched by corresponding decreases in Government spending.

As a matter of fact, in realistic terms, it is not possible to have a tax cut without a spending reduction.

The reason is this:

If taxes are cut and spending remains the same or rises, the inevitable result is more inflation. And inflation is a tax. It is a hidden tax and a cruel tax, which hits hardest those on fixed incomes and those in the lower and middle income brackets.

Inflation will promptly soak up any benefits the individual taxpayer might glean from a tax cut.

So the President's policy will leave the Nation more deeply in debt, inflation stronger than ever, and the taxpayer no better off.

Let us look at some other effects of the economic programs now being recommended by the President and certain Members of Congress.

For example, consider the money market.

The huge deficits being proposed will force the Government to borrow even more heavily than it has in the past.

The Treasury plans $28 billion in new borrowing, on top of $17 billion in maturing debt which must be renewed—all before June 30 of this year.

Corporate and individual borrowers will have an even tougher time than they are having now obtaining funds.

In the case of corporations, there is a real irony: the President is proposing an increase to 12 percent in the investment tax credit, a measure designed to spur capital investment. But the Government's heavy borrowing probably will choke off the very investment which the tax credit is supposed to stimulate.

The effect on housing is bound to be adverse. If the Government dominates the money market, where will the funds come from to provide mortgage money for prospective home buyers?

All of this will put the Federal Reserve Board in a cruel predicament. As the governor of monetary policy, the Fed will have two choices:

First, drastically increase the money supply, thereby stimulating inflation;

Or second, hold the line on the money supply, thereby assuring a credit crunch and soaring interest rates.

Either alternative is disastrous.

The consequences of policies now being proposed—tax cuts and heavier spending—are sure to be ruinous in the money market.

And in addition to tax-and-spending proposals, I am concerned about the potential inflationary impact of some parts of the President's energy program.

Imposition of an increased oil import tariff, for example, will have a "ripple effect" throughout the economy. Not only fuel prices, but also the cost of petrochemicals used in the plastics industry and hundreds of other products with a petroleum base will inevitably rise.

So I think we should take a hard look at the energy program from the point of view of its effect on inflation.

Turning to a more intangible area, think about the psychological effect of free-spending Government fiscal policy.

Certainly this policy is bound to reinforce inflationary expectations. Prices will go on rising, and wage demands will keep pace. Thus the inflationary spiral will continue.

Continuing inflation will keep alive the demand for wage and price controls. And that demand, in turn, will keep wage demands and prices up—because no union or company wants to be caught by a surprise imposition of controls.

The Wall Street Journal reported after interviewing a number of businessmen that many companies are indeed keeping prices high—despite reduced demand—because of a fear of controls.

So inflationary psychology feeds on itself.

The economic problems which the President is attempting to solve by his deficit policy are chiefly unemployment and the recent decline in capital investment.

I think it is very doubtful that bigger deficits will do much to remedy either problem. I have already pointed out that Government borrowing will limit funds for industrial expansion, and that surely will block any major increase in new jobs as well.

As to the notion that consumers will rush out in droves to buy with their tax rebates, I find that also pretty dubious. Consumers are heavily in debt, they have been badly burned by inflation and they face large new boosts in fuel costs. Consumers seem to be in the mood for caution.

The fact is that any recovery based on the "funny money" of inflation is no recovery at all.

And that fact will be perceived overseas. I predict that the value of the dollar will decline, relative to other currencies, as inflation continues.

Sooner or later, basic financial facts must be faced.

The aspirin of new and bigger deficits may ease a few pains temporarily, but the restoration of confidence in the economy of the United States is going to require more basic remedies.

What are the proper remedies?

First and foremost, we must reverse the trend toward bigger deficits. We must move toward a balanced budget.

Until this step is taken—until the Government sets an example for the Nation—I do not think that true recovery is possible.

To reach this goal, we must get Federal spending under control. It is totally out of control. There is plenty of room for cutting in the budget.

Foreign aid is a prime target.

The request for foreign aid spending in the current year is approximately $8 billion. I proposed that this total be slashed by 75 percent—for a reduction of $6 billion.

As matters stand now, the United States is sending foreign aid to 100 countries around the world. At a time when inflation is squeezing every American, I do not think that can be justified.

Foreign aid is only one area of the budget in which there is wasteful or inappropriate spending.

For 9 days last October, 1974, I delivered a daily speech in the Senate reporting on Federal spending which I believed to be unjustified.

I cited numerous examples, ranging from $18,000 to hire a German national to set up a nationwide soccer program in South Vietnam, to $4 million to help move Egyptian temples flooded by the Aswan Dam, to $16 million to buy emergency submarine buoys for the Navy, which are too big to fit on the submarines.

While these nine speeches were based on considerable research by my staff, I am sure we only scratched the surface of wasteful and inappropriate spending.

Another area: A sharp reduction in Government travel which now costs $2 billion. I joined with Senator ROTH of Delaware in getting legislation through the Senate to cut Government travel by 25 percent.

There must be a tightening of the belt by every department of the Government.

In addition, I suggest that the Federal Government reduce the number of persons on its payrolls.

From 1964 to 1974, the annual cost of the total Federal payroll more than doubled. It rose from $16 billion to $35 billion.

Today our Federal civilian employees total 2.9 million. We must reduce the total number of employees.

And I believe that there is room for reduction in the 2,150,000 persons in the armed services.

Nearly two-thirds—more than 60 percent—of the military budget goes for personnel and personnel-related expenditures.

I favor a strong national defense. I think the Congress should put pressure on the military to adopt policies that will raise the quality of the Armed Forces, and at the same time reduce the sheer size of the military establishment.

The taxpayers will be better off, and, in my judgment, our defense posture will be enhanced. Historically, our military leaders have rightly regarded personnel as a cheap resource. But that is no longer the case. The annual cost to keep one person in the armed services is $12,500.

These are some of the ways in which I believe we can get Federal spending under control.

I recognize that controlling Federal spending is not the only step needed to curb inflation.

We must marshal our human and technological resources—and our capital—to increase productivity.

The Federal Reserve Board must pursue a cautious monetary policy, neither encouraging further inflation by being too liberal, nor choking off growth by being too restrictive.

This admittedly is a tough job. We must have restraint in prices and wages in the private sector.

Finally, we, as individuals, must practice conservation of fuel and materials.

All these steps are important, but none will be effective—indeed, most of them will not even be taken—until the Federal Government eliminates its huge deficits. The Government must set an example for the Nation. It must encourage development of a healthy economic climate, one in which business and industry can thrive and provide jobs for our citizens. The free enterprise system can bring us soundly based prosperity only if the Government follows sound policies—namely, policies that will stand the test of time.

AUTHORIZATION FOR RECEIPT AND REFERRAL OF BILLS, RESOLUTIONS, AND AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I make the following unanimous-consent request which, in accordance with previous custom and practice, certainly in recent years, will continue these same practices throughout the 94th Congress.

I ask unanimous consent that during the remainder of this Congress it be in order for the proper members of the staff to receive bills, resolutions, and amendments at the desk when signed and presented by a Senator at any time during the day of the session of the Senate when no question is raised thereon, and that in accordance with the rules it be in order to refer them to the appropriate committee or to refer the amendments, order them printed and to lie on the table as requested by the said Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR REFERRAL OF TREATIES AND NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that for the remainder of this Congress it be in order to refer treaties and nominations on the days when they are received from the President, even when the Senate has no executive session that day.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR RECEIPT OF ADDITIONAL STATEMENTS OF SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at any time during the session of the Senate and for the remainder of this Congress for members of the staff at the desk to receive remarks from Senators for insertion in the RECORD when signed by Senators and when presented at the desk by Senators only.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will adjourn today over to Monday next. The Senate on Monday will convene at the hour of 12 o'clock noon. After the two leaders or their designees have been recognized under the standing order on Monday, Mr. HARRY F. BYRD, Jr., and Mr. HELMS will be recognized, each for not to exceed 15 minutes and in the sequence named, after which there will be a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with statements limited during that period to 5 minutes each.

At the hour of 1 p.m., debate will ensue for 2 hours on the adoption of Senate Resolution 21, which would establish a select committee on intelligence activities. The time for that debate will be evenly divided between the distinguished majority leader or his designee and the distinguished Republican leader or his designee.

At the hour of 3 p.m. a vote will occur on the disposition of that resolution. That will be a rollcall vote. The yeas and nays will be ordered prior thereto.

Upon the disposition of Senate Resolution 21 the 1 hour of debate will occur on the unfinished business, which has to do with the New Hampshire election dispute. So there will be at least one rollcall vote on Monday, that vote being on the disposition of Senate Resolution 21. There may be other rollcall votes in connection with that proposition. There may also be further debate on Senate Resolution 4, to amend Senate Rule 22.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. CURTIS. Do I understand the Senator is propounding a unanimous consent request or reciting what already has occurred?

Mr. ROBERT C. BYRD. I am reciting the program for Monday.

Mr. CURTIS. In accordance with agreement?

Mr. ROBERT C. BYRD. In accordance with orders previously entered.

Mr. CURTIS. And no change in that?

Mr. ROBERT C. BYRD. No change.

Mr. President, that about wraps it up so far as the program is concerned for Monday. Other matters, of course, may be debated during the day and rollcall votes other than those I have referred to could conceivably occur.

ADJOURNMENT UNTIL MONDAY, JANUARY 27, 1975

Mr. HARRY F. BYRD, JR. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and at 3 p.m. the Senate adjourned until Monday, January 27, 1975, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 23, 1975:

INTERNATIONAL BANKS

Charles W. Robinson, of California, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years and until his successor has been appointed; and U.S. Alternate Governor of the Asian Development Bank, vice William J. Casey, resigned.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

William I. Greener, Jr., of Virginia, to be an Assistant Secretary of Housing and Urban Development (new position).

DRUG ENFORCEMENT ADMINISTRATION

Jerry N. Jenson, of Illinois, to be Deputy Administrator of Drug Enforcement (new position).

DEPARTMENT OF JUSTICE

Philip H. Modlin, of Virginia, to be a member of the Board of Parole for the term expiring September 30, 1977, vice William T. Woodard, Jr., resigned.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. John Reiley Guthrie, [redacted] U.S. Army.

IN THE NAVY

Rear Adm. James D. Watkins, U.S. Navy, for appointment as Chief of Naval Personnel in the Department of the Navy for a term of 4 years.

Rear Adm. James D. Watkins, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

HOUSE OF REPRESENTATIVES—*Thursday, January 23, 1975*

The House met at 12 o'clock noon.

The Reverend James P. Archibald, pastor, Capitol Hill United Methodist Church, Washington, D.C., offered the following prayer:

O God, with all the demands upon us in these challenging times, we pause now, recognizing our need to be aware of Your will for our lives and our work. Give to each Member of the Congress the insights that are necessary to make responsible decisions. Comfort them in the loneliness that often accompanies positions of leadership. Give direction to their families who, so frequently, make sacrifices in order that leadership can be given. Give us all the ability to make decisions that are right even when they are not popular. Give us a saving sense of humor in times of tension. Help each one in high office to be sensitive to the hungers of the lowliest and forgotten, remembering that they, too, have value and dignity. By Your guidance bring us together in a bond of unity and a search for peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Heit, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced the following appointments:

The Vice President, pursuant to section 2251 of title 42, United States Code, appointed Mr. CASE, Mr. PEARSON, and Mr. BUCKLEY as members of the Joint Committee on Atomic Energy.

The Vice President, pursuant to Public Law 79-304, appointed Mr. TAFT as a member of the Joint Economic Committee in lieu of Mr. PEARSON, resigned.

The Vice President, pursuant to section 2251 of title 42, United States Code, appointed Mr. TUNNEY as a member of the Joint Committee on Atomic Energy.

The President pro tempore, pursuant to Public Law 92-489, appointed Mr. FONG to the Commission on Revision of the Federal Court Appellate System in lieu of Mr. Gurney, retired.

The Vice President, pursuant to Public Law 85-874, appointed Mr. KENNEDY to the National Cultural Center Board.

The Vice President, pursuant to section 1024 of title 15, United States Code, appointed Mr. KENNEDY as a member of the Joint Economic Committee.

CALL OF THE HOUSE

Mr. ROUSSELOT. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. O'NEILL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 7]

Alexander
Anderson, Ill.
Andrews, N.C.
Ashley
Barrett
Bell
Biester
Burgener
Burke, Calif.
Burke, Fla.
Burton, John
Burton, Phillip
Butler
Chappell
Chisholm
Collins, Ill.
Conable
Conte
Conyers
Crane
Daniel, Dan
Diggs
Edwards, Calif.
Eilberg
Erlenborn
Esch
Evans, Colo.
Flynt
Foley
Ford, Mich.
Fraser
Frey
Gibbons
Goldwater
Hansen
Harrington
Hébert
Hillis
Hughes
Jacobs
Jarman
Johnson, Colo.
Ketchum
Kluczynski
Landrum
Leggett
Lent
Levitas
McEwen
Matsunaga
Mills
Mink
Mottl
Myers, Ind.
Nix
Nowak
Obey
O'Hara
Patterson, Calif.
Preyer
Rees
Roush
Roybal
Scheuer
Schroeder
Shuster
Snyder
Solarz
Steiger, Ariz.
Stokes
Teague
Tsongas
Walsh
Whalen
White
Whitehurst
Wiggins
Wilson, Bob
Wilson, Charles, Tex.
Young, Alaska
Young, Ga.

The SPEAKER. On this rollcall 353 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

APPOINTMENT OF MAJORITY WHIP, CHIEF DEPUTY WHIP, DEPUTY WHIPS, AND WHIPS AT LARGE

(Mr. O'NEILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, I take this time to announce that after consultation with the Speaker I am appointing JOHN MCFALL, of California, as majority whip; JOHN BRADEMAS, of Indiana, as chief deputy whip; JIM WRIGHT, of Texas, as deputy whip; RICHARD H. FULTON, of Tennessee, as deputy whip; and SPARK MATSUNAGA, of Hawaii, as deputy whip.

In addition, for the first time, I am appointing three at-large whips to represent women Members, black Members, and freshmen Members. These appointees are BELLA ABZUG, of New York, CARDISS COLLINS, of Illinois, and JOHN JENRETTE, of South Carolina.

DESIGNATING MEMBERSHIP ON CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 83) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 83

Resolved, That the following-named Members, Delegates, and Resident Commissioner be, and they are hereby, elected to the following standing committees of the House of Representatives:

COMMITTEE ON AGRICULTURE: Thomas S. Foley (chairman), Washington; W. R. Poage, Texas; E de la Garza, Texas; Joseph P. Vigorito, Pennsylvania; Walter B. Jones, North Carolina; Ed Jones, Tennessee; John Melcher, Montana; Dawson Mathis, Georgia; Bob Bergland, Minnesota; George E. Brown, Junior, California; David R. Bowen, Mississippi; Charles Rose, North Carolina; Jerry Litton, Missouri; John Breckinridge, Kentucky; Frederick W. Richmond, New York; Richard Nolan, Minnesota; James Weaver, Oregon; Alvin Baldus, Wisconsin; John Krebs, California; Tom Harkin, Iowa; Jack Hightower, Texas; Berkley Bedell, Iowa; Matthew McHugh, New York; Glenn English, Oklahoma; Floyd J. Fithian, Indiana; John W. Jenrette, Junior, South Carolina; Norman D'Amours, New Hampshire.

COMMITTEE ON ARMED SERVICES: Melvin Price (chairman), Illinois; F. Edward Hébert, Louisiana; Charles E. Bennett, Florida; Samuel S. Stratton, New York; Richard H. Ichord, Missouri; Lucien N. Nedzi, Michigan; Wm. J. Randall, Missouri; Charles H. Wilson, California; Robert L. Leggett, California; Floyd V. Hicks, Washington; Richard C. White, Texas; Bill Nichols, Alabama; Jack Brinkley, Georgia; Robert H. Mollohan, West Virginia; Dan Daniel, Virginia; G. V. (Sonny) Montgomery, Mississippi; Harold Runnels, New Mexico; Les Aspin, Wisconsin; Ronald V. Dellums, California; Mendel J. Davis, South Carolina; Patricia Schroeder, Colorado; Abraham Kazen, Texas; Antonio Won Pat, Guam; Bob Carr, Michigan; Jim Lloyd, California; Larry McDonald, Georgia; Thomas J. Downey, New York.

COMMITTEE ON BANKING, CURRENCY AND HOUSING: Henry S. Reuss (chairman), Wisconsin; Wright Patman, Texas; William A. Barrett, Pennsylvania; Leonor K. (Mrs. John B.) Sullivan, Missouri; Thomas L. Ashley, Ohio; William S. Moorhead, Pennsylvania; Robert G. Stephens, Junior, Georgia; Fernand J. St Germain, Rhode Island; Henry B. Gonzalez, Texas; Joseph G. Minish, New Jersey; Frank Annunzio, Illinois; Thomas M. Rees, California; James M. Hanley, New York; Parren J. Mitchell, Maryland; Walter E. Fauntroy, District of Columbia; Lindy (Mrs. Hale) Boggs, Louisiana; Stephen L. Neal, North Carolina; Jerry M. Patterson, California; James J. Blanchard, Michigan; Andrew Maguire, New Jersey; Harold E. Ford, Tennessee; Carroll Hubbard, Junior, Kentucky; John J. LaFalce, New York; Gladys Noon Spellman, Maryland; Les AuCoin, Oregon; Paul E. Tsongas, Massachusetts; Butler Derrick, South Carolina; Philip H. Hayes, Indiana; Mark W. Hannaford, California.

COMMITTEE ON HOUSE ADMINISTRATION: Wayne L. Hays (chairman), Ohio; Frank Thompson, Junior, New Jersey; John H. Dent, Pennsylvania; Lucien N. Nedzi, Michigan; John Brademas, Indiana; Augustus F. Hawkins, California; Frank Annunzio, Illinois; Joseph M. Gaydos, Pennsylvania; Ed Jones, Tennessee; Robert H. Mollohan, West Virginia; Dawson Mathis, Georgia; Lionel Van Deerlin, California; Joseph G. Minish, New Jersey; Mendel J. Davis, South Carolina; Charles Rose, North Carolina; Lindy (Mrs. Hale) Boggs, Louisiana; John L. Burton, California.

Mr. O'NEILL (during the reading). Mr. Speaker, in view of the fact that copies of the resolution are available and that these are simply the names of the chairmen and members of the committees on the Democratic side which were not considered and approved on Monday, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to yield to the majority leader, the gentleman from Massachusetts, for whatever purpose he desires to address the House.

Mr. O'NEILL. I am delighted the gentleman has yielded.

It was the intent of the Democratic leadership, after talking with the chairmen who would be handling legislation, that there would be legislation before tomorrow concerning the tariff acts that the President anticipates on which, I believe, over 150 Members of the Congress have filed resolutions. We had hoped that this would be reported tomorrow and sent over to the Committee on Rules on Wednesday under the rule and acted upon by next Thursday.

If the Republicans have not been elected to committees, it is impossible, of course, to have any legislation in this House. We would like to organize the committees as quickly as we can. We went through sessions of caucuses during the month of December in order that we could get a headstart, and here we are into the third week without bills.

When does the Republican leader, the gentleman from Arizona, intend to bring before this House his committees so that the chairmen may organize?

Mr. RHODES. Of course, the gentleman has made a very good point. I think it might also be mentioned that the House did not begin the session of the 94th Congress until the middle of January, which might be one reason why we have not been organized up to now. The Republican side will be ready to present its resolution for its committee organizations on Tuesday of next week.

The problem which we have is one involving some delicacy as far as the composition of one committee is concerned, which cannot be solved until certain Members return to Washington.

Mr. O'NEILL. If the gentleman will yield further, is there a possibility that the gentleman, on behalf of his party, could file his members of the Committee on Ways and Means today so we could go forward and have some type of program for next week?

Mr. RHODES. The majority leader asks that the minority put in a bobtailed resolution appointing members of one committee only. There is no reason I can think of why that could not be accomplished if that would expedite the business of the Congress.

Mr. O'NEILL. I think it possibly could help expedite the business. If the gentleman would do that, I am sure the House would stay here until such time as he can accomplish that.

Mr. RHODES. The majority leader knows I always try to cooperate and I will try to cooperate and I will do that as soon as possible.

Mr. O'NEILL. I thank the gentleman.

AUTHORIZING PAYMENT OF SALARIES OF CERTAIN COMMITTEE EMPLOYEES

Mr. HAYS of Ohio. Mr. Speaker, I send to the desk a resolution (H. Res. 84) providing for the continuation of the paying of the committee staffs, which is the normal resolution so that they can be paid and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no obection.

The Clerk read the resolution as follows:

H. RES. 84

Resolved, That (a) there shall be paid out of the contingent fund of the House of Representatives for the period beginning January 3, 1975, and ending at the close of March 31, 1975, such sums as may be necessary for the continuance of the same necessary projects, activities, operations, and services, by contract or otherwise (including payment of staff salaries for services performed), and for the accomplishment of the same necessary purposes, undertaken by each standing or select committee of the House in the calendar year 1974 on the same basis and at not to exceed the same rates utilized in 1974.

(b) Payments of salary for services performed in the period beginning January 3, 1975, and ending at the close of March 31, 1975, shall be made to each person—

(1) who, an January 2, 1975, was employed by a standing or select committee in the Ninety-third Congress and whose salary was paid under authority of a House resolution adopted in such Congress; or

(2) who was appointed after January 2, 1975, to fill a vacancy, existing on or occurring after such date, in a position created under authority of such House resolution,

if any such person employed as described in paragraph (1) or appointed as described in paragraph (2) is certified by the chairman of the committee involved as performing such services for such committee during such period.

(c) Salaries authorized to be paid under subsection (b) shall be paid to persons certified under subsection (b)—

(1) at a rate not to exceed the rate any such person was receiving on January 2, 1975;

(2) in the case of a person appointed after January 2, 1975, to fill a vacancy described in subsection (b)(2), at a rate not to exceed the rate applicable on January 2, 1975, to the vacant position; or

(3) in the case of a person appointed to fill a new position established by the amendments made by the Committee Reform Amendments of 1974 (H. Res. 988, Ninety-third Congress, adopted October 8, 1974), at a rate fixed by the chairman of the committee involved, which does not exceed the highest rate of basic pay, as in effect on the date of such appointment, of level V of the Executive Schedule in section 5316 of title 5, United States Code.

SEC. 2. Regulations established by the Committee on House Administration under section 4 shall take into account any change in the jurisdiction or status of any standing committee of the House which was in existence as a standing committee during the Ninety-third Congress, or of any select committee of the House which was in existence as a select committee during the Ninety-third Congress.

SEC. 3. There shall be paid out of the contingent fund of the House of Representatives for the period beginning January 3, 1975, and ending at the close of March 31, 1975, such sums as may be necessary for the operation during such period of any standing committee which was not in existence as a standing committee on the first day of the second session of the Ninety-third Congress, or of any select committee which was not in existence as a select committee on the first day of the second session of the Ninety-third Congress.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with law.

Mr. HAYS of Ohio (during the reading). Mr. Speaker, I ask unanimous consent that the reading of the resolution be dispensed with, and I will give a brief explanation of it, and it will be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. HAYS of Ohio. Mr. Speaker, this is the normal resolution that would be put in by the House Administration Committee as a privileged resolution to continue the payment of the staffs of the committees and unless it is acted upon they will not be paid at the end of this month. I want to be clearly candid with the House. It also provides that those people can be paid who were added by, I do not know whether we would call it the Hansen-Bolling Reform Act or whatever of last month, but the resolution does include such changes as were made by that act, but in other respects it is a simple continuing resolution for the staffs which is submitted now.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, does this include the staff for all the changes made by the Hansen bill?

Mr. HAYS of Ohio. That is right.

Mr. ROUSSELOT. So that all considerations for subcommittee staffing and all are included in this?

Mr. HAYS of Ohio. It is in there.

Mr. ROUSSELOT. For the minority, too?

Mr. HAYS of Ohio. Yes.

Mr. ROUSSELOT. I thank the gentleman.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. HAYS of Ohio. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, does this resolution continue the payment of all standing committees for last year including the new ones, or are only those included in this that were under the Hansen-Bolling Act?

Mr. HAYS of Ohio. It includes the committees that were not changed from last year and the continuing rates for the committees until the committees can approve a supplemental budget, but the committee staff put in language to take care of the statutory requirements of the Hansen-Bolling Act.

Mr. DICKINSON. If the gentleman will yield further, I was just wondering about this. It was my understanding from the statement made last year that one of the so-called special committees on House restaurants would cease to function at the end of the last calendar year. I wonder if this particular resolution refunds that committee?

Mr. HAYS of Ohio. No. It does not in my judgment because it does not exist.

Mr. DICKINSON. I thank the gentleman.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMON CAUSE ET AL. AGAINST E. T. KLASSEN ET AL.

Mr. O'NEILL. Mr. Speaker, I offer a privileged resolution (H. Res. 85) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 85

Whereas in the case of Common Cause et al. against E. T. Klassen et al. (Civil Action 1887–73) pending in the United States District Court for the District of Columbia, the House of Representatives in the 93d Congress was notified by the Speaker on September 30, 1974, that subpenas duces tecum had been issued upon the application of Kenneth J. Guido, attorney for the plaintiffs, and had been served upon Mr. Eli S. Bjellos, Chief, House Publications Distribution Service of the Office of the Doorkeeper; upon Mr. John M. Swenner, Staff Director, Committee on Standards of Official Conduct; upon Mr. Victor G. Smiroldo, Staff Director and Counsel, House Commission on Congressional Mailing Standards; upon Mr. David Ramage, House Majority Clerk, House Majority Room; and upon Mr. Thomas J. Lankford, House Minority Clerk, House Minority Room, directing them to appear as witnesses before the said court on various dates and to bring with them certain papers in the possession and under the control of the United States House of Representatives; and

Whereas plaintiffs subsequently in the 93d Congress filed with the said Court and served upon the aforementioned employees of the House motions to compel the deponents to answer questions and to produce the documents called for in the subpenas duces tecum or to be held in contempt of the said Court; and

Whereas the subpenas duces tecum and the discovery motions filed on behalf of the plaintiff in the 93d Congress called for the production of documentary evidence, within the possession of the House, a large variety and volume of which do not appear to bear any essential relationship to the causes of action and relief requested in the plaintiff's amended complaint in the aforementioned case; and

Whereas the House of Representatives in the 93d Congress adjourned sine die on December 20, 1974, after having adopted House Resolution 1517 on December 18, 1974, which asserted the Constitutional privilege of the House under the separation of powers doctrine with respect to the disclosure, without the permission of the House, of the information called for in the subpenas duces tecum by the aforementioned employees; but which also asserted that the House would take such action to promote the ends of justice consistently with the privileges of the House upon a determination of relevancy by the said Court; and

Whereas said Court has scheduled a hearing in the aforementioned case to be held on Monday, January 27, 1975; therefore be it

Resolved, That by the privileges of this House no evidence of a documentary character under the control and in the possession of the House can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission, and no House employee may be compelled to disclose information obtained pursuant to his official duties as an employee of the House, without the consent of the House; be it further

Resolved, That when it appears by the order of the Court or of the judge thereof that specific documentary evidence in the possession and under the control of the House or testimony by an employee of the House is needful for use in any court of justice or before any judge thereof, for the promotion of justice, or if and when said Court orders any hearing on plaintiff's motions to compel deponents to answer questions and to produce the requested documents, or on any related motions, this House in the 94th Congress will take such action regarding such evidence and testimony as will promote the ends of justice consistently with the privileges and rights of the House; and be it further

Resolved, That the Speaker is hereby authorized to designate counsel to represent the interest of the House and of the aforementioned employees in any proceeding related to the disposition of the subpenas or motions served thereon in this case; and be it further

Resolved, That a copy of these resolutions be submitted to the said Court by the Clerk of the House of Representatives or his authorized representative.

Mr. RHODES. Will the gentleman from Massachusetts yield?

Mr. O'NEILL. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, as I understand this resolution, it actually says to the court that has jurisdiction of the lawsuit, that this resolution pertains to, that the House is willing to consider compliance with any subpena which describes with particularity the information which is to be sought by the court or for other reasons necessary for the proper disposition of the lawsuit.

In effect, the resolution as I read, tells the court that the subpenas which have been issued up to this time are so broad in character and so far reaching, which said material may or may not be relevant, that it is not really possible to comply with this request, commensurate with the doctrine of separation of powers.

Mr. O'NEILL. Mr. Speaker, in answer to the gentleman, the gentleman is correct.

This resolution relates to a civil action brought by Common Cause against the Postmaster General and the Secretary of the Treasury during the 93d Congress.

Certain House documents and House employees have been subpenaed in this case, and the purpose of this resolution is to protect those House documents and the interests of its employees should that become necessary.

The resolution would reiterate the privileges of the House with respect to evidence of a documentary character which is within its possession and control and would permit the Speaker to designate counsel to represent the House and its employees in any proceedings growing out of this case.

The gentleman is correct in this regard.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I ask for this time for the purpose of having the majority leader give the House the program for the rest of the week and the following week.

Mr. O'NEILL. We have had a dialogue in this regard, Mr. Speaker. In view of the fact that the gentleman from Arizona says he is bringing forward in the House Tuesday next the committee assignments, that is the only piece of legislation that was anticipated. If the gentleman from Arizona will come forward this afternoon with his suggestions on the Committee on Ways and Means, I have already talked to the gentleman from Oregon (Mr. ULLMAN) and he will have the committee hearings tomorrow on a House joint resolution prohibiting imposition of tariffs, fees, and quotas on oil imports. It would be helpful to the House if the gentleman from Arizona would also bring forth to the Committee on Rules as to his members. I do not know if the gentleman has given the new members for the Committee on Rules or not; but nevertheless, as I understand, the meeting of the Committee on Rules would be on Wednesday next on the oil import bill.

We would hope that we would have this piece of legislation out of the Committee on Ways and Means and out of the Committee on Rules and on the floor, for Thursday next, if there is any way we can get it under the rules.

That would be the only piece of legislation other than the resolution concerning the members of committees, which we anticipate coming before the House next week.

Mr. RHODES. I thank the distinguished majority leader.

ADJOURNMENT OVER TO MONDAY, JANUARY 27, 1975

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

Mr. Speaker, that of course would be just a perfunctory meeting, a pro forma meeting, and there would be no anticipated business whatsoever. I say that so that the Members will know that.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CONGRESSIONAL COMPLACENCY AND OUR ARMED FORCES

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute nad to revise and extend his remarks and to include extraneous material.)

Mr. GONZALEZ. Mr. Speaker, we live in a rather interesting period of time, a combination of upheaval and yet smugness and complacency. The Congress, I might remind the Members of the House, has never addressed itself to the fundamental question of the conscription of Americans into undeclared war.

The failure of the Congress—which means the American people—to address itself to that fundamental issue may remind us that we might have to confront it again. The pendulum has swung to the other extreme, and we are in an area of complacency which the strong tide of anti-American Military Establishment is in.

I am afraid it is a false sense of security. I am afraid the Nation is very vulnerable, and when war breaks out this spring in the Middle East, I think we ought to be mindful of an article which I shall insert into the RECORD at this point by Brig. Gen. J. McKinley Gibson.

Mr. Speaker, the article follows:

[From the Armed Forces Journal International, January 1975]

BEING REGULAR IS NOT ENOUGH

(By Brig. Gen. J. McKinley Gibson, USA, retired)

"No more Vietnams".

Implicit in the slogan is an attitude that rejects any future involvement in foreign adventures that might lead to the commitment of American military force.

The present Administration's policy of detente with the communist world is applauded. The cold war is said to be over, and there appears to be a general relaxation in the tensions that once posed a threat to world peace. Perhaps so! But has the world really changed that much?

The military might of the Soviet Union continues to grow and become more, not less, threatening. The Middle East is a tinderbox that could explode again at any moment. American troops still stand guard in Korea. An American Army is still committed to the defense of central Europe.

The world fuel and energy crisis only adds to the danger. It is still a very dangerous world; one in which conflict is almost a certainty. And while the involvement of United States forces in another foreign war is not a certainty—it is at least a very strong possibility.

Yet, many Americans either do not view another war involving US Forces as a serious possibility; or if they do, they seem to believe that the matter can be handled next time by our new all-volunteer military establishment. We see evidence of this latter attitude in the current concern about the price of fuel. As the western world agonizes over the threat of a world wide financial depression precipitated by the soaring cost of oil, we begin to hear talk of the eventual need for troops in the Persian Gulf. "Oil blackmail", some commentators are saying, "cannot be permitted indefinitely. If troops are the only remedy, troops ought to be sent".

This is loose talk. At this juncture, it is not being said for the record. But in a mood of despair and frustration over the consequences of another world depression, such thoughts are being expressed. The bankers and financiers who are most prone to view such action as a solution to a terrible dilemma, presume of course, that the troops are available, ready, and willing to go to the Persian Gulf—that they are strong enough and determined enough, to overcome any opposition they may encounter. But are they?

Given the possibility of intervention by the Soviet Union, is there any assurance that a task force of regular troops from the west could pull off such an adventure? Could the professional military plan and execute an operation—this time—without requiring the services of reservists and draftees? Could they assure an anxious nation—this time—that the conflict would not become enlarged and prolonged? Of course not! Even the most cursory review of the Middle East situation makes it evident that a western military expedition in the Persian Gulf would be no small affair. It could easily explode into a major war.

The day is long gone when wars were fought, and victory or defeat was decided, by small regular forces. In every war scenario that can be envisioned, America will be dependent upon the services of large numbers—perhaps millions—of her young men; men who are not now serving, nor who have any intention of volunteering for service.

It will be the sons and grandsons of World War II replacements who will be transported into the battle area next time. They will be there to replace battle losses—to fill the empty spaces in the regular formations—just as their fathers did thirty years ago. Without the services of another generation of draftees no campaign can be sustained for very long; no war can be won. But will they have the same motivation to serve as their fathers did? Will they go willingly into battle time after time? If severely wounded, will they view it as their simple duty to return to combat when physically able to do so? More important—will it be expected of them?

It is patently obvious that men drafted for any future war will come from a society which has undergone great change since World War II replacements disembarked from that landing craft in Normandy, in 1944. In the interim Americans have become better educated, more sophisticated, and much more comfortable. They have become accustomed to their status as citizens of a great world power. They live easily with the threat of a nuclear war. Indeed, they have learned to put the possibility of it almost entirely out of mind.

For many years following WWII they accepted National Service as a necessary implement of National Defense. Now, with no evidence that the world has become any less dangerous, they reject the draft as an unnecessary invasion of privacy. First the Selective Service rules were rewritten to provide gaping loop holes for some to avoid service. Then, when the inequities in these rules become so patently obvious (in the latter years of the Vietnam war) the draft was halted altogether and the machinery for it was put into mothballs.

Americans decided that the Nation could be defended, after all, by a small all-volunteer force. (This despite the fact that their most powerful potential foe in the world—the Soviet Union—bases its armed might on a conscript system which touches the life of almost every one of its male citizens; a system which provides the foundation for a huge military force that casts a shadow across the entire Eurasian landmass—and beyond.)

A recent Gallup Poll has disclosed the 44 percent of Americans queried now believe the United States is spending too much money on National Defense. A nationwide opinion poll, soon to be published in book form by Potomac Associates of Washington, D.C., found that most Americans do not believe the nation will become involved in a major war in the near future. The poll found that 41 percent of those surveyed believe there isn't much danger of a war between the United States and the Soviet Union. Another 39 percent see no danger whatsoever. Answering a question in a recent television interview, the Secretary of Defense said, "I think the departure from Vietnam, and the war in the Middle East, eliminated much of the hostility toward the Defense Department. Now we are faced with a crueler fate which is indifference rather than hostility . . . People just don't care very much."

In this climate, are we still confident that the American people will rise to another challenge from abroad? Can we believe they will expect their sons "to serve honorably and courageously, and do their duty for the duration and six months"—next time? The entire foreign policy of the United States is predicated upon the belief that they will. The alternative is a sure recipe for disaster. So, if we think we have reason to doubt it, we ought to be doing something more than just muttering in our martinis about it.

Certainly, no other group of people in this society has a greater stake in fully understanding the current motivations of the American people than do the military. Preparing for the day when young American draftees must once again be trained and motivated to fight should be uppermost in the minds of professional soldiers. Is it?

It is little wonder that military men can be heard, in private, expressing deep seated doubts about the nation's ability to face up to another emergency. They express concern over what they view as strong currents of pacifism running through the society. They wonder if Americans have become so obsessed with internal problems they will be unable to meet the next major crisis abroad—"at least not until it is too late." They fear there is a likelihood that large numbers of young Americans will refuse service, or will serve poorly if forced to do so.

Frequently, they can be heard to say, "next time we professionals may have to go it alone." In a recent letter to the Military Review a regular officer wrote, ". . . America is rapidly becoming a white collar, post industrial society; warfare, however capital intensive it may become, still requires a significant measure of dirty brutal violence. For an Army to keep itself combat-ready in the midst of an affluent and urbanized society requires a degree of isolation from that society. . . ." This officer is not alone. Others are saying in order to be combat-ready we must not permit our soldiers to be contaminated by a complacent, permissive society. We must erect psychological barriers based upon a code of duty and honor which will be far superior to anything we can expect to encounter beyond the boundaries of our military reservations.

This attitude is entirely understandable. In the last decade the professional military officer has lived through a series of very traumatic experiences. He went to Vietnam when he was told to go. He believes he fought a good fight there—under a very difficult set of rules dictated to him by his civilian superiors. He was outraged at the excesses of the anti-war movement, the widespread efforts to circumvent the draft, the sight of Americans running away to avoid military service. He relearned an old lesson. When it is acceptable—not honorable—but just acceptable in a society to avoid service, to stay at home under one guise or another, this attitude is soon reflected throughout the ranks of an army in the field.

In Vietnam he saw the number of shirkers increase, the court martial rates climb. He watched as even the good soldier hesitated to advance under fire. Even at this writing, several years after the withdrawal of the last American combat unit from Vietnam, he still feels a sense of frustration. He throws up his hands at the thought of amnesty—any kind of amnesty—for deserters and draft dodgers. As he struggles with the problems of a society brought to him by his new recruits—drugs, racial conflict, an attitude of you owe me—it is little wonder that he views a degree of isolation from that society as being essential to the combat-readiness of his organization. But, however understandable this attitude may be, it is the absolute height of folly for a professional soldier to hold it.

Certainly the military must set high standards. It must conduct tough, realistic training. It must preach the importance of honesty and integrity, patriotism and loyalty. Officers and men must be physically hard, resolute, self-confident and thoroughly knowledgeable of the military craft. The motto, "Duty, Honor, Country," says it all. But having said it, does anyone really believe that the American Armed Forces can make its men much different than the society from which they come? Offering them a code to live by, can it expect them to have a totally different outlook; a different set of values? Would it want to, even if it could?

Soldiers serving in an Army drawn from a democratic society will always be influenced by the currents and trends of that society. In the final analysis, the differences between the soldier and the civilian in a democracy, will be one of degree. One may be more service oriented, more patriotic; the other more profit oriented, more self interested—but only to a degree.

More importantly, as stated above a modern war won't be fought to its conclusion, and won, by the regular forces which are in-being at the outset. In a very few short months the regular establishment will be inundated by large numbers of young men from civilian life. First the reserves and then the draftees—they will arrive on our military reservations by the hundreds of thousands. Whether it be a great war in Europe, a great war in the Middle East, or even a threat to our own shores, these men will bring with them the attitudes and outlook toward military service that are fashionable in the American society at the time.

We can't expect them to have changed overnight—to arrive with a strong martial spirit, where none existed before. In a few short weeks at most, the regular Army must mold this raw manpower into battalions and brigades of combat-ready soldiers, imbused with a fighting spirit. That will be the greatest test of the forces in-being; an even greater test, in the long run, than their own initial performance in combat.

The regular officer and non-commissioned officer corps better be prepared to receive these men from civilian life—both physically and psychologically. They had better understand them, know how to motivate them; or like the French Generals on the Meuse River in 1940, they may find their plans unexecuted, their orders disobeyed, the campaign lost, not because of poor profesional leadership, but because their troops were not ready to make the sacrifices that war will demand of them.

Representative Otis G. Pike (D-NY) concluded in an article in the September issue of AFJ by saying ". . . In the event that we get into a position whereby we need our military for any other than peaceful purposes in the near future, God help us. For we have neither the will nor the courage to help ourselves." To the extent that this assessment is correct, our President and his Secretary of State should be put on notice. They should recognize that the nation is dangerously overcommitted.

The lack of will expressed by the Congressman can be translated into severe limitations placed upon the foreign policy of the United States. Better to recognize these limitations, and act now to modify our commitments abroad, rather than wait until another crisis forces us to accept a humiliating defeat. Anything else is sheer bluff; a dangerous bluff that might someday be called. But many of us are prepared to accept this assessment and we feel in our gut that it is entirely too pessimistic, even accepting all our shortcomings.

If we believe that a majority of Americans would rally to another call to arms—particularly if the threat was clear and the call was supported by a declaration of war or other congressional action—then the military profession should be asking itself what it can do to improve its acceptance by the people it exists to serve. What can the Army, in particular, be doing to prepare itself for another conflict in which it will require the services of large numbers of draftees?

The Army can begin by recognizing that it has only limited leverage in this huge multifaceted society of ours. It can also take some comfort in the knowledge that other polls have disclosed a strong residue of goodwill toward the military in this society. Taking cognizance of the kinds of criticism leveled by Representative Pike, and others not so articulate but nonetheless sincere, it can continue to use this period of austerity to put its house in order—to get lean and tough.

It can pursue further the recent revitalization program which has so successfully reduced headquarters and support staffs. As combat strength is augmented by these savings, the Army can find ways to station more units closer to population centers, where they will be seen and appreciated by more Americans. It can come out from behind its large remote reservations in this country, and make a sincere effort to be less isolated from the people it serves.

In doing so it can attempt to influence, in a positive manner, the attitudes toward the military that are currently fashionable in the society. At the same time, it can increase efforts to imbue its soldiers—both officer and enlisted—with a code of duty and honor which can serve as a model for the nation. Reinforced with this code the Army can make a far better effort than it has made thus far, to understand the young long-haired civilians who will be joining its ranks in the next major conflict.

There are also a few things that professional soldiers should not be doing. Most importantly, they should disabuse themselves of any thought that the military holds some higher morality, so fragile it needs to be protected from the society at large; that because warfare "still requires a significant measure of dirty brutal violence," soldiers must live and train apart; that they require a degree of isolation from society in order to master the military art and be combat-ready.

This "us and them" approach to the problem is counterproductive. It could very easily be disastrous, in the event of a crisis requiring sudden mobilization.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. May the Chair state, particularly for the benefit of new Members, that we generally open the proceedings, after the prayer and disposition of the Journal and things which are immediately on the Speaker's desk, by recognizing Members for individual requests and for speeches up to 1 minute.

The Chair habitually and regularly starts at the extreme right and goes all the way around; then comes back and starts over. If Members want to be heard, the Chair wants to take them in that order. So, Members will be recognized in the order from the first seat to the Speaker's right to the last seat on the Speaker's left, and then the process will be repeated, if other Members come in.

THE APPROACH OF THE MAJORITY PARTY ON DEVELOPMENT OF ENERGY POLICY

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RHODES. Mr. Speaker, I would like to express concern about the way majority party Members of Congress seem to be approaching the development of an energy policy for our country. The Ways and Means Committee produced a carefully balanced energy tax package the middle of last year. Although there were elements of controversy in this package, it at least would have resolved many of the uncertainties still working against decision by those involved with energy policy inside and outside the Government. Largely because of disputes among majority party Members, no action was taken and the 94th Congress still has a clean slate upon which to write. With each passing day, delay becomes more costly.

The statements coming out of the 94th Congress so far seem to be primarily of a negative nature. Using powers already accorded him by law, the President has announced steps which will tend to reduce our dependence on foreign oil. I acknowledge these steps carry with them some costs, but the congressional response to date seems to have been to seek to strip him of his policymaking power, rather than to propose affirmative alternatives. I personally am convinced that almost any action settling our energy policy is preferable to continuing drift or congressional obstruction to policy formation. Put another way, Mr. Speaker, the most expensive course of action for the country would be for the Congress to leave our policy undetermined for any extended period of time. Uncertainty is the enemy, but beyond that we can be certain that we cannot continue to import oil at current rates.

PRESIDENT'S ACTION ON OIL TAX PRECIPITOUS

(Mr. VANIK asked and was given permisison to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, I am distressed with the President's decision to move forward with the imposition of a tax on imported oil. His disregard of congressional requests for a reasonable time for consideration is a contribution to confrontation politics, and may be a disservice to the American people.

Every Member of Congress agrees the level of oil imports must be reduced. There can be honest differences in the approach to the problem.

Today, before the Ways and Means Committee it was impossible to determine the full scope and impact of the President's plan or the extent to which it would raise consumer prices.

The President must understand that the Congress cannot be force-fed or pressured into a decision that his plan is best or the only plan for America.

I hope that the House will support legislation introduced by my colleague from Pennsylvania (Mr. Green), to delay the imposition of the import tax for a brief period to permit an orderly discussion of the issue.

ELECTION AS MEMBERS OF COMMITTEE ON WAYS AND MEANS

Mr. RHODES. Mr. Speaker, I offer a resolution (H. Res. 86), and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 86

Resolved, That the following-named Members be, and they are hereby, elected members of the Committee on Ways and Means of the House of Representatives: Herman T. Schneebeli, Pennsylvania; Barber B. Conable, Jr., New York; Jerry L. Pettis, California; John J. Duncan, Tennessee; Donald D. Clancy, Ohio; Bill Archer, Texas; Guy Vander Jagt, Michigan; William A. Steiger, Wisconsin; Philip M. Crane, Illinois; Bill Frenzel, Minnesota; James G. Martin, North Carolina; L. A. Bafalis, Florida.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ASKING THE PRESIDENT TO DELAY ANY INCREASE IN OIL IMPORT FEES

(Mr. McFALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McFALL. Mr. Speaker, today I am reintroducing a sense-of-the-Congress resolution that would call upon the President to hold off on any increase in oil import fees until Congress has had a chance to look at his energy proposals. I first introduced the resolution last week and since then many Members have asked to cosponsor the resolution.

Unfortunately, the President says he has chosen to go ahead unilaterally and today will sign the proclamation raising oil import fees. So it apparently will take a stronger measure than a sense-of-the-Congress resolution to reverse that action. Mr. O'Neill is introducing such a resolution today.

I reintroduce my resolution, nevertheless, to show that 121 Members have cosponsored this measure and gone on record against any increase in import fees at this time by the President.

My resolution calls for a very reasonable delay, until April 1, so that Congress can have time to act legislatively in this matter, if it determines that such action is necessary.

It is unfortunate that the administration should choose to go ahead, piecemeal, with this one aspect of a tremendously complex energy package. President Ford announced his energy proposals only 8 days ago. It was a very complicated package of energy taxes, and gasoline and heating oil price increases, all related to a tax cut and other economic stimulus.

Finally, I would note that the President and his advisers are playing a very strange game with the Congress. Why is it so important to order this $1 tariff increase right now at a time when the President knows we are not organized, although we will be so momentarily. We could be organized today with Republican cooperation. The Democrats have completed their organization. The Republicans have named no committees. Mr. Ford has promised cooperation with the Congress. I am glad the minority leader, Mr. Rhodes, has agreed to name Republican Members to the Ways and Means Committee separately and quickly so that the committees can proceed with the consideration of important legislation, such as this measure, the tax bill, and all of the other economic and energy matters on which Congress wants to move.

We ask once again that the President reconsider his action on oil import fees.

MEMBERSHIP BRIEFING

(Mr. ULLMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ULLMAN. Mr. Speaker, as former chairman of the House Committee on the Budget, I want to extend an informal but important invitation today to those Members interested in this new standing committee and in its mission during the 94th Congress.

On Tuesday, January 28, the senior staff of the committee will conduct a briefing for Members on the revolutionary budget mechanisms and procedures provided Congress in the Congressional Budget and Impoundment Control Act of 1974. The staff will also discuss prospects for implementation of our new budget process in 1975.

All Members can benefit from this information, and all are welcome to attend the briefing.

It should be most useful, however, to those who will be serving on the committee this year and next, for they must bear heavy responsibilities in the weeks immediately ahead.

A prompt decision is imperative on how much of the new budget process to implement in 1975; and Budget Committee hearings on the President's budget proposals should begin in February.

In any case, the Congress will be looking to the committee for guidance as it seeks solutions to the Nation's critical economic problems. Those problems have never been more complex and seldom more severe.

What we in Congress do with the Federal budget this year—where we place Federal tax dollars—will be crucial to the well-being of Americans for years to come.

As the first coordinator of congressional actions on the budget in more than a century, the Budget Committee can contribute powerfully to our ability to make the most responsive, responsible decisions possible. In fact, it is the only unit of the House that can focus debate on the relationship between the economy and the Federal budget as a whole.

Unfortunately, circumstances are delaying organization of the committee. Membership vacancies still must be filled; a new chairman has to be chosen. Because of our rules of selection, another week or more will pass before the Budget Committee is finally constituted. By that time, the start of the new fiscal year, when congressional budget decisions begin to have measurable impact on the economy and the state of the Nation, will be a scant 5 months away.

Mr. Speaker, if the Budget Committee is going to make the kinds of contributions that can help the Congress in this time of economic crisis, its members must be prepared to make important decisions quickly.

For this reason, I join my colleagues Mr. Adams of Washington, and Mr. Smith of Iowa—both leading candidates for the chairmanship of the committee—in urging committee members as well as those who are seeking membership or are otherwise interested in the committee and its new work to attend next Tuesday's briefing.

It is tentatively scheduled to begin at 2:30 p.m. in the hearing room of the Joint Atomic Energy Committee, Room S-407, Capitol.

AN UPDATE ON THE ARMY

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, some Members of the House and of the Senate met informally today with the Secretary of the Army, Mr. Callaway, to receive an update on the Army.

Relative to a question asked of the Secretary, he informed us that of the total number of tanks authorized by Congress, only 48 percent were combat-ready, should we need to use them. Only 48 percent are ready for combat.

This shortage comes about by our policy of selling our combat tanks to other nations or through military aid programs.

Secondly, the shortage is also caused by the closing of open foundries which did not meet environmental standards. There is only one foundry, Mr. Speaker, in the United States that can make tank turrets.

Mr. Speaker, we find ourselves now with an Army that could not fight effectively in the desert or in open terrain because of the shortage of tanks.

I bring this matter to the attention of the Members only because I feel that we find our Army is now in a critical situation.

A PROPOSED TAX DEDUCTION FOR HOME REPAIRS

(Mr. CASEY of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CASEY of Texas. Mr. Speaker, I am again introducing a bill to provide a tax deduction of up to $750 a year for home repairs.

When I first introduced this bill several years ago, I called the attention of my colleagues to two factors that make passage imperative: the prevalence of substandard housing and the state of the economy. The same factors can be cited once again for they are valid now more than then.

The 1970 census figures concerning housing—and there is every indication that the situation has grown far worse since then—show that there are 6,437,000 units of substandard housing in the United States. We have over 4,253,000 units of vacant housing and an additional 2,414,000 dilapidated houses occupied by the owner. Despite all types of Federal programs, the amount of substandard housing increases yearly. It is time for a new approach which will give an incentive to the owner of the house to repair and improve his home.

In addition, the present state of the economy should spur passage of this bill. As usual, it has been the building trades which have suffered most in the present recession. In many States, the construction trades are suffering their greatest rate of unemployment since the depression. In several areas, nearly 15 percent of the construction force stands idle.

Despite this, the need for adequate housing will continue during this recession and as statistics show, it can be met by the rehabilitation of hundreds of thousands of units already built. The policies embodied in this bill will meet the housing needs of the future and the employment needs of the present.

Enactment of this bill will not only provide an economic incentive to get our Nation's construction labor force back to work, it will also result in a savings to the taxpayer himself. Some may say that the loss of revenue will be too great under this proposal. I would remind them that the jobs created and the materials sold will generate as much or possibly more revenue than is lost.

But there is another reason why this bill is more important than ever: The energy shortage. All of us continue to stress the importance of the conservation of energy. In my judgment, the increases in the cost of energy, whether natural gas, electricity, coal, or petroleum, which have already taken place this past year and are expected to continue into the future will insure that we will all be more careful as consumers with the Nation's energy; we cannot afford not to be. My bill will make conservation more bearable, however, since it will allow the homeowner to rewire and insulate his home and recover some small part of that expense.

This is a good and sound bill, not a tax loophole. It allows deductions for improvements, not additions. It is equitable since it applies to everyone's residence, whether a rental unit or an owner occupied dwelling, and it is limited to $750 a year.

We know from experience that subsidies cannot always be relied upon to spur the economy when the need is crucial. We also know that tax policies can work to encourage economic activity. It was Chief Justice John Marshall who wrote so truthfully that "The power to tax is the power to destroy." The time has come to show that it can also be the power to build.

ARBITRARY RULE IN CALIFORNIA PRISONS

(Mr. DELLUMS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DELLUMS. Mr. Speaker, I would like to share with my colleagues a recent case that occurred in the California prison system. The facts of the case speak for themselves. This is a very clear example of the complete lack of respect for the rule of law, and the insistence on bureaucratic privilege over human rights. The issue is out in the open, and shows fundamentally different conceptions of the place of the penal system in our society. Mr. Kempsky of the California Department of Corrections maintains the following:

> We operate on the principle that the courts are responsible for the just and fair conduct of their business, and the department is responsible for the just and fair conduct of its own affairs. The fact that an inmate was acquitted by a judge and jury . . . does not affect the department's right to conduct an independent hearing on the same or related facts. . . . As we consider the separation of judicial and administrative proceedings to be highly desirable and a fundamental feature of our system of separation of powers, we have no intention of changing current practice.

The opposite view is that what Mr. Kempsky calls "separation of powers" is simple rejection of the rule of law. Arbitrary administrative rule is here defying court-protected rights. It is up to us to show that this defiance is met with effective action.

I would like to submit, first, a letter from Richard Korn, Ph. D., executive director for the Center for the Study of Criminal Justice in Berkeley, Calif., setting for the facts of the case, and then the response from the Department of Corrections from which the above quotation was taken:

CENTER FOR THE STUDY OF
CRIMINAL JUSTICE,
Berkeley, Calif., December 4, 1974.

Re William M. Johnson, B-41273.

Mr. NELSON P. KEMPSKY,
Deputy Director for Programs and Policy,
California Department of Corrections,
Sacramento, Calif.

DEAR MR. KEMPSKY: There has just come to me a copy of the correspondence you had recently with Mr. Bill Hamilton of the Committee for Prisoner Humanity and Justice. Mr. Hamilton had written to Director Procunier asking him to look into what seemed to be an injustice against a prisoner at Soledad. The undisputed facts are these: On June 4th of this year William Johnson was serving his fourth year of a six-month to life sentence for the armed robbery of a drug pusher. He had entered the prison at age 19 as a first offender. On June 4th he was within 20 days of appearing before a parole committee which, according to a new law applying to first offenders, would be required to set a definite release date. On June 4th Johnson had every reason to believe that within a scant three weeks he would be able to mark on his calendar the actual day of his release from prison.

At about 8:30 A.M. of that day certain disputed events took place between Mr. Johnson and an officer, and Mr. Johnson was accused of attempting to assault the officer with a prison-made knife. At that point the prison officials could have tried their charges against him at an institutional disciplinary hearing—a situation uniquely favorable to them since it casts them simultaneously in the roles of accuser, prosecutor and judge. But they elected instead to file charges against him in the Superior Court, in the very reasonable expectation that he would receive more time for a new crime. Mr. Johnson spent the next four months in the hole, protesting his innocence. On October 20th he went to trial, pleading not guilty. The jury, after a four day trial, found for the prisoner. Apparently they did not believe that a reasonably sane adult would condemn himself to a life behind bars within 20 days of his first definite prospect of freedom.

Notwithstanding his exoneration, Mr. Johnson was returned to his hole where he remains to this day. His story came to the attention of Mr. Hamilton. Mr. Hamilton could not understand why the prison authorities were refusing to act on the verdict of the court action which they themselves had initiated. As he put it: "(Mr. Johnson's) innocence as determined by a court of law must prevail over the findings of any institutional disciplinary body in light of the Constitutional guarantees of due process and equal protection of the law." When he wrote these words Mr. Hamilton was not aware that Mr. Johnson *had not ever been convicted at an institutional disciplinary hearing.* Apparently sure that he would be convicted in court, the authorities had not bothered to try him in the prison. The higher echelons in Sacramento were also unware of this defect in the record—and this has now lent the case a bizarre bureaucratic twist we must shortly explore.

Mr. Hamilton dispatched his letter on November 4th, and three days later you replied for the Department of Corrections. I find your reply so remarkable that I am persuaded it merits a far wider response than I alone can possibly give it. I think it should be read by every citizen, every legislator, every judge in the state. I think it should start a dialogue that does not end until every potential juror grasps its full implications. For what it does, if I read it right, is to assert a doctrine which would make any jury's verdict irrelevant whenever that verdict, with respect to a prisoner, is for any reason unacceptable to the appointed officials of the Department of Corrections. Without further introduction I reproduce your letter to Mr. Hamilton.

"DEPARTMENT OF CORRECTIONS,
"*Sacramento, November 7, 1974.*

"Re Johnson, William M., B-41273.

"Mr. BILL HAMILTON,
"*Director Prisoner Services Project Committee for Prisoner Humanity and Justice, San Rafael, Calif.*

"DEAR MR. HAMILTON: Thank you for your letter of November 4, 1974 concerning Mr. Johnson. The obvious issue is your statement that, "His innocence as determined by a Court of law must prevail over the findings of any institutional disciplinary body in light of the Constitutional guarantees of due process and equal protection of the law." We do not agree with that statement.

"We operate on the principle that the courts are responsible for the just and fair conduct of their business, and the department is responsible for the just and fair conduct of its own affairs. The fact that an inmate was acquitted by a judge or jury operating under a constitutional requirement of proof beyond a reasonable doubt does not affect the department's right to conduct an independent hearing on the same or related facts based upon a standard of proof of the preponderance of the evidence. As we consider the separation of judicial and administrative proceedings to be highly desirable and a fundamental feature of our system of division of powers, we have no intentions of changing current practice.

"In light of that view, the legitimacy of Mr. Johnson's finding of guilt in the institutional disciplinary hearings and his continued retention in a Security Housing Unit is clear.

"Very truly yours,
"NELSON P. KEMPSKY.
"*Deputy Director, Program and Policy.*"

A little earlier I called your letter remarkable. As a matter of brute fact, the *action* you have taken is not remarkable at all—it is not even unusual. The Department of Corrections has been ignoring verdicts of innocent for many years. Parolees charged with new crimes have frequently had their paroles revoked after a judge and jury found them not guilty. But in the past the authorities have carefully avoided citing the alleged offense as the specific reason for the revocation. Typically, the parolee is summoned back for a "review of his progress". He is then returned to prison for "failure to adjust in the community". Every one privy to this procedure knows it for what it is. Every one involved knows that an offender exonerated in open court can be retried by a tribunal which meets in secret, which permits no cross-examination, and which can condemn a person to the equivalent of a new sentence up to life imprisonment. But no one I know has ever elevated that practice to the status of a principle.

What is remarkable about your letter is that for the first time the procedure is no longer muffled in disarming ambiguity but roundly asserted as a matter of executive right, of "separation of powers". Asserted with sublime insensitivity to the odious associations which have surrounded these words since Watergate. How, by what authority was this precedent promulgated—and by whom? By a minor bureaucrat, with a few strokes of the pen, who set aside 200 years of constitutional protections and then had the open arrogance to claim that usurpation as a constitutional privilege. All of this in the name of a prison system whose mandate is to "correct" those who break laws and violate the rights of others.

Let me now complete the record with an account of what has happened as a result of your letter to Mr. Hamilton. I think that some of this account is not known to you and, to that extent, your ignorance of it may go bail for your good faith.

When Mr. Johnson was accused on June 4th of attempting to assault an officer, institutional charges were filed against him. But these charges were not tried—presumably in view of the pending court action. So Mr. Johnson spent the next four months in the hole without any hearing at all—a clear violation of any modern institutional policy I am aware of. I think that you should know something of the conditions of Mr. Johnson's confinement. Once every two days he is permitted to stretch his legs in the corridor for an hour. Once every two weeks he is allowed an hour under the sky. He is not permitted the distraction of radio or TV. When he meets a visitor behind bullet-proof glass he goes shackled with arm, leg and body irons. (I imagine that he might well have a considerable action against the State of California for the treatment he received after your letter to Mr. Hamilton.)

Mr. Johnson received his court acquittal on October 24th. Now the prison had a problem. He was still in segregation. The institutional charges were still pending. What should be done? On November 4th he was called out of his hole and verbally informed that the prison authorities would "go along" with the court verdict. On November 11th he received an "unofficial" prison document to that effect. (See enclosure.) He was next told that he would be called to a Reclassification Hearing on November 13th. He had every reason now to look forward to his early release from segregation. But November 13th came and went and he was not called.

Something had happened to block his release. On November 7th you had written your famous letter to Mr. Hamilton. A copy of that letter went to the Superintendent of Soledad. Now the Superintendent had a new problem. The prison had earlier decided to follow the court decision. Now Sacramento was promulgating the opposite policy. Worse, it was clear that Sacramento was not even aware that Mr. Johnson had never been tried (much less found guilty) at an institutional hearing.

Apparently the local authorities at Soledad are not up to correcting even the honest mistakes of their superiors. The Superintendent, I must assume, did not inform you of the true situation. What he did do, in the best Nixonian tradition of re-creating reality in the direction of his superior's fantasies, was to bail the system out at the expense of the prisoner.

And so it was that on November 26 Mr. Johnson was for the first time tried in the institution for some version of the offense for which he had been acquitted a month before. At his hearing, which he attended under protest, he was not permitted to have the attorney who had ably defended him in court.[1] The officer whom he had allegedly attempted to assault was not present to accuse him—being at that time conveniently employed at another institution. To my knowledge none of the witnesses who had testified on his behalf in court were present. Then, the unfortunate void in the record having been filled, Mr. Johnson was returned to his hole with every ceremony of retroactive legality.

Such was the impact of your letter on a prisoner in the hands of the Department you have described as "responsible for the just and fair conduct of its own business."

Sincerely yours,
RICHARD R. KORN, Ph. D.,
Formerly Director of Non-Medical Treatment Services, New Jersey State Prison at Trenton.

BOLD ACTION NEEDED BY THE 94TH CONGRESS

(Mr. PERKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PERKINS. Mr. Speaker, it is absolutely vital that the leadership and the House move quickly to shore up and revive this Nation's sagging economy.

In his state of the Union address, and in subsequent policy declarations, the President made it all too clear that decisive and resourceful leadership will not be forthcoming from the executive branch to solve the problems of soaring unemployment, runaway prices, and energy dependence.

The 94th Congress thus becomes the country's last and only hope. No one else is going to do the job.

In this last quarter of the 20th century, no nation is secure, no nation is independent, no nation is completely in charge of its own destiny as long as it is dependent upon external sources of energy.

We have been slow to realize the extent of our dependence upon Middle Eastern oil sources. It started out as a trickle, and then it grew to a substantial flow. So gradually did we slip into dependency upon foreign oil that millions and millions of Americans did not realize it until they found themselves waiting in long lines at the gasoline pumps last February. Oil dependency has triggered the dislocation in our economy, causing so many people to suffer, and will likely wound many more before the situation is righted.

Mr. Speaker, every day this dependency continues, we are playing Middle Eastern roulette with national security.

The irony is that we have, almost beneath our feet, the means of overcoming oil dependence with good, solid, black American coal. We have known for nearly three decades how to produce liquid fuel from coal.

Go back, Mr. Speaker, and read the CONGRESSIONAL RECORD for April 27, 1953, when a little band of us stood on this floor and pleaded with the Eisenhower administration not to wipe out our coal gasification and liquefaction program. The trouble was that the program was too successful. The pilot plants were too efficient, producing liquid fuel at a cost of only 2 cents a gallon more than gasoline from petroleum. That was in 1953. You were here, Mr. Speaker. You remember how we were steamrollered by the Eisenhower administration, whose energy advisory committee headed by an oil company executive, pressed for the elimination of all efforts to produce liquid fuel from coal. No doubt they were well-meaning men calling the shots in those days, but the folly of their action is measured only now in terms of a gravely weakened national security. Now we are dependent upon foreign oil, and now we must start again where we left off in 1953.

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[1] Mr. Jon Siegel, Assistant Public Defender, County of Monterey.

Obviously, the President and his energy advisors fail even today to recognize the importance of coal as the key to energy independence.

One sentence. Just one. That was all that was contained in the President's Monday night speech about coal as a fuels resource, and then he lumped it together with solar, geothermal, and nuclear power development.

I was, of course, pleased to learn this week that the Interior Department has let a $237 million contract to construct a pilot plant for the production of synthetic liquid and gaseous fuel from coal.

This is a step in the right direction, albeit a little one, and a halting one at that.

The proposed plant would process only 2,600 tons of coal a day—producing 3,900 barrels of liquid fuel and 22 million cubic feet of gas. It would subsequently increase capacity to the use of 15,000 to 16,000 tons of coal a day, with correspondingly larger output.

What we should do, Mr. Speaker, is start building plants tomorrow morning—not just one, but several—with a capacity to crack 100,000 tons of coal a day and produce 150,000 barrels of liquid fuel.

This is the kind of bold action that must be taken if we really mean business—if we really want to be independent of the threat of oil blackmail.

The President talks about energy sufficience 10 years from now.

To my way of thinking, 10 years of national jeopardy is intolerable; and it does not have to be endured.

We have the raw materials and we have the technology to make ourselves independent of foreign energy sources within a third of the time envisioned by the President.

There is no question that development of the new mines and construction of the new plants will cost a great deal of money.

But, Mr. Speaker, if we have reached the point where a President of conservative politics can speak calmly and reasonably about a projected $50 billion deficit—than I do not think he would turn a hair at the suggestion of a billion or two for energy independence, and the restoration of our national security and defense integrity.

This is the kind of bold course I have hoped the President would chart for a nation that admires bold leaders. But he came instead with a curious package that will give the American people back $12 billion in tax rebates with one hand, and take away $30 billion in hidden oil taxes with the other. And in 10 years of the status quo in energy, we are going to be even deeper in the hole than we are now.

If we are going into a hole, let us make it a coal mine. For in the coal mines of this country, Mr. Speaker, lie the answer to many of the problems that vex the economy.

I hope the Congress will move swiftly and decisively within the next 60 days to work our way out of energy dependence. That is the most valuable contribution we can make to the country.

GENERAL REVENUE-SHARING PROGRAM BENEFITS CITY OF SOUTH EL MONTE

(Mr. DANIELSON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DANIELSON. Mr. Speaker, the general revenue sharing program which is scheduled to run through December 31, 1976, will be coming up for reconsideration during the 94th Congress. I would like to call to the attention of my colleagues the many fine civic improvements revenue sharing has afforded the city of South El Monte.

The city of South El Monte has demonstrated a positive example of Federal-local cooperation made possible through the general revenue sharing program. I have received a letter from Mayor Thomas D. Duncan illustrating the improvements the young city has undertaken to make the community a better place to live for its citizens.

During the future consideration of the extension of the general revenue sharing program, I hope the example of such fine cities as South El Monte will be recalled. Mayor Duncan's letter reads as follows:

CITY OF SOUTH EL MONTE,
January 9, 1975.

Hon. GEORGE E. DANIELSON,
Senate Office Building,
Washington, D.C.

DEAR CONGRESSMAN DANIELSON: As you know, the City of South El Monte is a small city just sixteen years of age. Upon incorporation, the City was required to embark upon a massive program of public works improvements to reduce the incidence of flood damage, to install sewers and water lines, to construct, reconstruct and widen high-crown two-lane roads and generally to cause to be done all those improvements which in most urban areas already exist. We are still in the process of making these improvements, and much work remains to be done.

All during these years, the citizens of South El Monte have understood that these were the necessary first priority items. And yet during these same years, these citizens, generally middle- and low-income working people, were without parks, recreation facilities, social services facilities and other amenities of a reasonable urban life.

The enactment and continued availability of general Revenue Sharing has made it possible for the City to speed up this process. With Revenue Sharing we have been able to provide recreational facilities long before our capital improvements budget would have allowed.

The City's social services programs have also benefitted from Revenue Sharing. New facilities therefor have been provided, but more important social services programming has been allowed to grow, supported entirely by the City general fund, despite heavy capital expenditures for these needed general-purpose facilities.

Revenue Sharing funds have been used to construct a swimming facility which operated at its capacity from opening day. The high utility of this project has been related to the unavailability of residential pools, the great numbers of working families with young children and the desert heat of our summer days.

Our new Community Center structure, a multi-purpose strutcure which houses a gymnasium (which the children of the City had heretofore been without), meeting rooms and attendant facilities, was assisted by use of Revenue Sharing funds for development of its three acre parking and landscaped area.

The need for such a structure can be seen in its use: school basketball games, physical education classes, and graduations; health fairs and senior citizen services; pre-school and crafts classes and tutoring. The center houses the City's Youth Employment Service and Recreation Department and has been used for civic as well as private functions.

In this new year Revenue Sharing funds will be used to develop an additional acre of Civic Center property with tennis courts, parking and landscaped areas.

The use of Revenue Sharing funds to develop recreational (as well as social service) facilities is important to communities like South El Monte. Prior to Revenue Sharing, the City had one four acre park for its 17,000 residents, well below national standards. Schools were able to offer little in terms of recreational programing due to their own financial condition. And, in point of fact, the only recreation programs occurring at schools sites have been City-run.

In this urban setting, working people have rare opportunities to enjoy even minimal recreation programs and facilities. Only a general purpose government, such as a City, can bring to them such programs and facilities. We have sought to do so.

Our facilities have been designed, moreover, to enhance the provision of social services programs by the City and other agencies, to assist the schools in their programing despite their financial constraints, and to provide for the community facilities of which they can be proud.

This City Council wishes to express to you our support for General Revenue Sharing.

Please accept our profound thanks for your public and active support of the program since its inception. It has been a positive example of federal-local cooperation in the provision of needed services. We hope you will continue to work for the re-enactment of the program.

Sincerely,

THOMAS D. DUNCAN,
Mayor.

COMMUNITY MENTAL HEALTH CENTERS AMENDMENTS OF 1975

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, I am introducing today the Community Mental Health Centers Amendments of 1975, which revises the Community Mental Health Centers Act of 1963. The new legislative authority defines CMHC's and prescribes the comprehensive services that such centers must provide. It further provides four principal forms of assistance for CMHC's, including a center support mechanism for operating as well as staffing costs. The bill additionally revises the provisions of the present authority for assistance for the construction of facilities, offering centers the options to acquire, build, remodel, or lease a new facility, whichever proves to be the least expensive and most expeditious. And, finally, the bill strengthens the present State requirement that assures that a State CMHC plan is consistent with other State health plans, by prescribing that no assistance will be available for CHMC's until a State has such an approved plan. The bill, Mr. Speaker, is needed both to strengthen individual CMHC's and to build a system for provision of mental health services available in each community which has proper cost and quality control mechanisms. If national health insurance is forthcoming shortly, as some say, then such mechanisms are absolutely necessary.

INTERNATIONAL WOMEN'S YEAR

(Mr. McCLORY asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. McCLORY. Mr. Speaker, I am privileged today to introduce a concurrent resolution which states flatly and succinctly the goals which this House of Representatives should establish during 1975—International Women's Year. We should announce these for all the world to acknowledge and appreciate.

Mr. Speaker, it is wholly inadequate to go along with many of the United Nations pronouncements which consist of generous amounts of verbiage and very little concrete action in support of equalizing the sexes and ending discrimination against women in this Nation and in the world.

Mr. Speaker, 1975 should indeed be the year in which we realize the final ratification of the equal rights amendment. In addition, we should announce flatly our determination to discard antiquated thoughts and attitudes toward women—and men.

Mr. Speaker, I have endeavored to set forth directly and clearly the sense of this Congress with respect to our observance of International Women's Year during 1975. I hope indeed that this concurrent resolution may be adopted or that comparable action may be taken by an overwhelming vote of this House of Representatives. Such action would make clear that our Nation stands for equality of legal and constitutional rights for men and women. It is my further hope that we may implement this position in our actions throughout the 94th Congress and in our participation in conferences in this country and throughout the world during International Women's Year.

Mr. Speaker, I am including this concurrent resolution with the hope that other Members of the House will join in sponsoring this or a similar measure:

H. Con. Res. 56

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) in accordance with the United Nations proclamation designating 1975 as International Women's Year, and the President's executive order establishing a national commission on the observance of International Women's Year, 1975 should be the year in which the dramatic advances and contributions made by women in politics, business, sports, science, art, and other areas of human endeavor are finally and fully acknowledged;

(2) the objectives of International Women's Year—equality, integration of women into the social and economic development of all nations, and recognition of women's increasing contributions toward world peace—be reached as fully as possible during 1975;

(3) International Women's Year should be the year in which Congress and the people of the United States, interested groups and organizations, officials of the Federal government and of State and local governments, educational institutions, and all others who can be of help provide for the national observance of International Women's Year with practical and constructive measures for the advancement of women in the United States;

(4) women should receive equal consideration for Federal appointments to Cabinet positions, international delegation, official conferences, Federal commissions and other Federal bodies;

(5) 1975 should be a year of citizen self-analysis where antiquated thoughts are finally discarded to give way to an era of enlightenment with respect to attitudes towards the role of women in society;

(6) during 1975, a renewed effort should be made on the part of the Congress to explore legal inequities between the sexes that can be corrected by legislation; and

(7) 1975, International Women's Year, should be the year in which the Equal Rights Amendment to the Federal Constitution is ratified.

NATIONWIDE BICYCLE TRAIL

(Mr. REGULA asked and was given permission to address the House for 1 minute to revise and extend his remarks and include extraneous matter.)

Mr. REGULA. Mr. Speaker, I with the cosponsorship of 49 of my colleagues am introducing legislation to amend the National Trails System Act to authorize and direct the Secretaries of Transportation, Interior, and Agriculture to conduct studies to determine the feasibility and desirability of establishing national scenic bicycle trails and to report the findings of those studies to the President and to the Congress with recommendations for such additional administrative and legislative action as may be needed.

The bill designates three routes for potential inclusion in the National Trails System as bicycle trails. An east coast trail paralleling U.S. Route 1 from Maine to the Florida Keys, passing through Boston, New York, Philadelphia, Baltimore, Washington, and many other historic places. A west coast trail following U.S. 101 from Olympia, Wash., to San Diego, Calif., passing through Seattle, Portland, San Francisco, and Los Angeles—one of the most scenic trips in the country. A cross-continental trail along the route of the original cross-continental road, the Old Lincoln Highway, Route 30, from Atlantic City, N.J., passing along the route that our pioneer and immigrant forefathers took westward, through Cheyenne and along the Columbia River to Astoria, beyond Portland, Oreg.

During this time of energy scarcity, expanded use of bikes for family vacations and local trips could help to save oil and at the same time provide a healthful experience. Department of Transportation studies show that bicycle transportation is a viable alternative to the use of automobiles. For instance, over one-half of all of the workers in the United States drive less than 5 miles to their places of employment. Many of them could just as easily drive to work on a bicycle as in an automobile. If they did, they would be utilizing a very efficient means of transportation. The U.S. Department of the Interior's Office of Energy Conservation compared the energy efficiency of urban passenger transportation modes and found that bicycling consumes 180 Btu's per passenger mile as compared to 5,060 Btu's per passenger mile for autos.

The Federal Highway Act of 1973 provided $120 million over a 3-year period for bicycle and pedestrian recreational facilities. In my own State of Ohio, $1,773,100 were obligated from fiscal year 1976 funds for this purpose.

The Federal Highways Act Amendments of 1974 included a bikeway demonstration program and provided $10 million for urban bikeway programs.

We can act now and provide the legislative framework to build a network of bicycle and recreational trails to which the several States could connect similar trails systems. The creation of these trails would provide safe and scenic routes for bicyclists and would focus attention on the historic locations in the Nation.

What could be a more fitting contribution to America's 200th birthday celebration than the creation of a recreational and utilitarian vehicle such as a cross country, interconnecting system of bicycle trails that would enable Americans to get a close look at the beauty and heritage of this country and at the same time, have a healthful recreational experience? The text of my bill is as follows:

H.R. 1991

A bill to amend the National Trails System Act to authorize a feasibility study for the establishment of certain bicycle trails.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Trails System Act (16 U.S.C. 1241–1249) is amended by inserting at the end thereof the following:

"Sec. 11. (a) The Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Transportation are authorized and directed jointly to conduct studies for the purpose of determining the feasibility and desirability of establishing national scenic bicycle trails along the routes specified in the succeeding provisions of this section. Such studies shall be made in consultation with the heads of other Federal agencies administering lands through which such additional proposed trails would pass and in cooperation with interested interstate, State, and local governmental agencies, public and private organizations, and landowners and land users concerned. When completed such studies shall be submitted to the President and to the Congress, and shall include recommendations as to such additional administrative and legislative action which should be taken with respect to the establishment of such trails.

"(b) The following routes shall be studied in accordance with the objectives outlined in subsection (a) of this section:

"(1) United States Highway Number 1, extending approximately two thousand four hundred and fifty miles from Kent, Maine, to Key West, Florida.

"(2) United States Highway Number 30, extending approximately three thousand three hundred and fifty miles from Atlantic City, New Jersey, to Astoria, Oregon.

"(3) United States Highway Number 101, extending approximately one thousand five hundred and thirty miles from Olympia, Washington, to San Diego, California."

PROPOSED REFORM OF SOCIAL SECURITY SYSTEM

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, during the past 6½ years, both as a congressional aide and for the past 2 years as a Member of Congress, I have come to realize that if any one of our systems in the Federal Government needs changing, it is definitely the social security system.

Too many people, when they need help and need it right then, are not able to get it. Therefore, over a period of 2 years, I have come to the conclusion that there are some specific changes to which the Committee on Ways and Means and the Congress have to address themselves.

I think we should raise the earnings limitation from the old limit to $7,500 a year. We need to eliminate the 5-month waiting period for disability benefits as well as the reconsideration stage in benefit determinations.

We also should grant permission for adoptive children to qualify for benefits without regard to certain time requirements, and also, we should allow the issuance of duplicate checks where the original ones have been lost or stolen.

I think these changes are desperately needed, and the costs are minimal.

Mr. Speaker, I urge my colleagues of the House of Representatives to take a look at these proposals that have been introduced in the form of a bill for social security reform.

ANNUAL REPORT OF OFFICE OF ALIEN PROPERTY, DEPARTMENT OF JUSTICE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States, which was read and together with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

I herewith transmit the annual report of the Office of Alien Property, Department of Justice, for the fiscal year ended June 30, 1973, in accordance with section 6 of the Trading With the Enemy Act, as amended.

GERALD R. FORD.

THE WHITE HOUSE, *January 23, 1975.*

THE CALIFORNIA DESERT NEEDS PROTECTION

(Mr. PETTIS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. PETTIS. Mr. Speaker, on the opening day of this Congress I introduced legislation designed to protect what remains of the great California Desert. My bill, H.R. 820, will do much to insure that we are able to pass on to our children a great national treasure.

It is with a great deal of pleasure that today I reintroduce my legislation with cosponsors representing all parts of the Nation. Naturally, I am still interested in having other Members of the House join me in this legislative effort.

In the past, environmental interests have focused on the pollution of our oceans, rivers, and air. In the meantime, the California Desert, one of our last great natural resources, has seen its cultural, geological, and archeological qualities eroded due to mismanagement and overutilization. The problems confronting the Bureau of Land Management, which is presently trying to control the 15.6 million-acre desert with only a $923,000 annual budget, are becoming insurmountable.

Considered by many people only a barren wasteland, the California Desert in the past 25 years has become a recreational area for millions of people, a source of livelihood for many, and a home for others. With this wide range of uses, effective management of the desert has become a tremendous problem.

Only last month a motorcycle race across the desert resulted in an unknown amount of damage to the flora and fauna of the California Desert. About 3,000 people participated in the race near Barstow which took place over a 168-mile course. Though the officials of BLM tried valiantly to keep the racers on the course, they were unsuccessful. Scientists are now trying to determine just how severe the environmental damage to the desert is.

The California Desert contains not just flora and fauna, it has one of the largest and richest concentrations of prehistoric art in the world—Indian rock carvings known as petroglyphs. Some of them are thought to be at least 5,000 years old. These ancient carvings are being carried away by souvenir hunters and obliterated by vandals using cans of spray paint. They are even being used for target practice.

But most shocking, they are being pried from the desert rocks with dynamite and high speed drills, carted off in trucks, and sold as decorative pieces. BLM officials estimate that 80 percent of the carvings will be lost in 15 years if protective measures are not taken soon.

My bill would etsablish a "multiple-use program" providing the most judicious use and management of all desert resources. Significantly, the bill legislates "people power" into the bureaucratic decisionmaking process by requiring public hearings on the formation of rules and regulations which will affect the desert area. Lacking sufficient manpower, resources and authority, the Bureau of Land Management, which has responsibility for protecting the California Desert, cannot do an effective job in protecting the petroglyphs and the desert environment generally. My bill will correct these deficiencies.

The destruction of the petroglyphs is, to my mind, analogous to the plundering of the pyramids by Egyptian grave robbers. It is good to know that many of my colleagues here in the House are also concerned about the future of the California Desert and are cosponsoring my California Desert Protection Plan. I welcome the support of others who might be interested.

FOREIGN STUDENTS EXPERIENCE ECONOMIC PROBLEMS ALSO

(Mr. BROWN of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BROWN of California. Mr. Speaker, I am reintroducing a bill today that will, if passed, reverse Immigration Commissioner Chapman's April 1974 decision mandating that foreign students must apply directly to the Immigration Service for work permits, with the result that foreign students can once again apply to their individual school for the permits.

I introduced a similar bill in July of last year, with the hopes of putting a stop to some of the tragic side effects of Commissioner Chapman's decision. Many foreign students, having been refused work permits by the INS had no way to continue their education here due to lack of funds, and were too ashamed to return home without a degree or the money to repay the various loans they had obtained from relatives and friends. These students had been given no warning that the policy would suddenly be changed and had been led to believe that they would be able to help finance their education if necessary. No action was taken on that bill, so I am trying once again.

Commissioner Chapman's main argument for this change in a 20-year-old policy is that the foreign students are taking jobs away from our youth and veterans. There is no available evidence supporting this position. On the contrary, studies by the Council of International Educational Exchange—in particular the Survey of U.S. State Employment Offices in July 1974—have shown that during previous summers, including the summer of 1974, many jobs remained vacant. These jobs are in resort areas, restaurants, and hotels throughout most of our States and are mostly positions such as busboy, maid, or dishwasher. They do not attract many of our American youth and are usually filled by the foreign students. It seems a bit wasteful that these jobs could be taken by foreign students who need the funds so desperately instead of simply remaining vacant.

More important that this argument is that of the impact that Commissioner Chapman's new policy will have on the main purpose for allowing foreign students to study at our universities. In the past 15 years, this country has slowly built up bonds between many countries on a basis of educational and cultural exchange. In 1961, Congress emphasized the need for improving international relations by passing the Mutual Educational and Cultural Exchange Act of 1961. As stated in section 101 of the act—

> The purpose of this Act is to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchange, to strengthen the ties which united us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world; to promote international cooperation for educational and cultural advancement, and thus to assist in the development of friendly, sympathetic, and peaceful relations between the United States and the other countries of the world.

This is my main reason for introducing this legislation. I do not wish to sit and see our strong ties of educational exchange cut because of some hasty decision by the Immigration and Naturalization Service. The good that is achieved through letting foreign students help finance their way through school by working here in the summer, or other vacation period, far outweighs any problem that might be caused through the 17,000 to 20,000 jobs that are being taken by the foreign students. This new policy discriminates against any of the less developed countries that cannot afford to send their students to the United States on total scholarships. If we go along with Mr. Chapman's mandate, we will be agreeing to a program that excludes the poorer students, whose wish for a good education is as strong as his richer fellow student.

I ask my distinguished colleagues to consider this decision. This is a serious matter that warrants your attention.

A NATIONAL DEVELOPMENT BANK: A WAY TO COMBAT UNEMPLOYMENT

The SPEAKER pro tempore (Mr. McFall). Under a previous order of the House, the gentleman from Texas (Mr. Patman) is recognized for 30 minutes.

Mr. PATMAN. Mr. Speaker, any effort to turn our economy around and put people back to work in the shortest time possible must include provisions to establish a method to allocate an adequate amount of credit on reasonable terms to the priority areas. We have simply got to get substantial sums of money flowing into the priority credit areas of low- and moderate-income housing, public works and facilities and small and medium size business and we have got to do it quickly.

In my view, the best way of doing this is to establish a National Development Bank that would provide financial assistance for these and other priority areas when borrowers are unable to obtain credit on reasonable terms from private lenders. I am introducing a bill to do this today. The National Development Bank could make direct loans and in the case of State and local government public works and facilities, it could guarantee bonds or other types of obligations issued to finance these projects.

Mr. Speaker, the national rate of unemployment is reported to be 7.1 percent and climbing. That means that on a nationwide basis, the number of people out of work is approaching the 7 million mark. But there are many areas where unemployment is far worse than this. In Michigan, where the economy is largely dependent on the auto industry, the unemployment rate is 11.2 percent. In California the rate is 9 percent. In New Jersey it is 9.5 percent and in Pennsylvania it is 7.4 percent.

Taken by themselves, these are rather cold abstract figures that tend to mask the fact that they represent millions and millions of people who are desperately seeking work and cannot find it. There are few more agonizing and spiritually damaging experiences than what these people are feeling. We must not hesitate to pull out every stop to help them.

A National Development Bank could play a key role in helping to put an end to these tragic circumstances. For example, its job creating impact could be enormous in the field of public works projects and other types of construction.

The U.S. League of Cities-Conference of Mayors has estimated that an expenditure of $5 billion for public works and facilities creates 1.2 million new jobs in the economy. Of that total, 500,000 jobs would be established for on and off site work directly connected with the project and another 750,000 job opportunities would be created in service, wholesale and retail trades in general.

In addition to the present urgency of our economic problems, it should be clearly recognized that adequate credit on reasonable terms has never been consistently available for low- and moderate-income housing, State and local government public works and facilities and for small- and medium-size business.

UNREALIZED HOUSING GOALS

Adequate credit on reasonable terms has never been consistently available for low- and moderate-income housing, State and local government public works and facilities and for small- and medium-size business. This chronic need for credit has never been filled, even when monetary policy is relaxed to prevent the economy from entering a recessionary stage.

The point, as it applies to housing in general and low and moderate or subsidized housing in particular, is borne out by table 1 which presents housing production figures for the 5-year period 1969–73. Table 1 reveals how actual production, total and subsidized, compares with the housing goals establish by Congress in the Housing Act of 1968 when new subsidized rental and home ownership programs were enacted—sections 235 and 236—and secondary mortgage market vehicles were established to make residential mortgages more competitive market instruments. The overall 10-year housing goal stated in the act called for 26 million new and rehabilitated units, an annual average of 2.6 million units. Of the annual total of 2.6 million units, 500,000 new and 100,000 rehabilitated units were to be subsidized.

TABLE I.—HOUSING PRODUCTION AND GOALS—1969–73

	Total production	Shortfall	Subsidized housing	Shortfal
1969	1,628,500	971,500	191,300	508,700
1970	1,392,400	1,207,600	329,500	270,500
1971	1,838,600	761,400	479,800	120,200
1972	2,365,100	234,900	470,000	130,000
1973	2,374,200	285,800	334,740	360,260
Total	[1] 9,598,800	3,461,200	1,805,340	1,389,660

[1] Production figures do not include mobile homes because they do not, for the most part, meet space and construction standards set for federally insured housing and their rapid depreciation prevents counting them as the solid, long-term investment that is characteristic of sound conventional housing.

Source: "Fifth Annual Report on National Housing Goals."

The shortfall in all production categories has been dismal during the 5-year period. Since then, of course, the situation has become far worse. The heavy corporate demand for loan funds and the stringent monetary policy imposed by the Federal Reserve in 1974, coupled with the moratorium decreed by the administration on all federally subsidized housing programs, has resulted in an expected annual production of only 1.3 million units which represents a shortfall in the same amount or attainment of only 50 percent of the total annual housing goal.

PRICING FAMILIES OUT

A glance at table 2, which shows the range of effective residential mortgage interest rates on conventional as well as FHA insured loans from 1968 to October 1974, also helps to explain the failure to attain our national housing goals. Effective residential mortgage interest rates on conventionally financed new housing, existing homes conventionally financed, and FHA insured new homes increased 30, 37, and 69 percent, respectively, in September.

TABLE 2.—HOME MORTGAGE YIELDS

[In percent]

Period	Conventional mortgage rate		FHA series, new homes
	New homes	Existing homes	
1968	6.97	7.03	6.12
1969	7.81	7.82	7.99
1969:			
November	8.13	8.15	8.35
December	8.25	8.24	8.35
1970:			
January	8.34	8.29	8.55
February	8.41	8.41	8.55
March	8.47	8.43	8.55
April	8.41	8.34	8.55
May	8.45	8.34	8.55
June	8.48	8.36	8.55
July	8.49	8.37	8.60
August	8.52	8.41	8.60
September	8.48	8.42	8.60
October	8.50	8.34	8.50
November	8.41	8.31	8.55
December	8.38	8.26	8.60
1971:			
January	8.18	8.08	7.95
February	7.91	7.80	7.75
March	7.66	7.60	7.60
April	7.49	7.47	7.55
May	7.47	7.45	7.65
June	7.50	7.50	7.70
July	7.66	7.63	7.80
August	7.74	7.71	7.65
September	7.83	7.76	7.85
October	7.83	7.75	7.50
November	7.79	7.69	7.75
December	7.77	7.64	7.70

Period	Conventional mortgage rate		FHA series, new homes
	New homes	Existing homes	
1972:			
January	7.78	7.58	7.60
February	7.60	7.48	7.60
March	7.52	7.44	7.55
April	7.11	7.42	7.60
May	7.53	7.46	7.60
June	7.55	7.49	7.60
July	7.58	7.50	7.65
August	7.59	7.52	7.65
September	7.57	7.55	7.70
October	7.62	7.57	7.70
November	7.64	7.57	7.70
December	7.65	7.59	7.70
1973:			
January	7.68	7.68	7.70
February	7.70	7.72	7.75
March	7.68	7.69	7.80
April	7.71	7.70	7.90
May	7.71	7.77	7.95
June	7.79	7.79	8.05
July	7.87	7.84	8.40
August	7.94	8.01	8.55
September	8.17	8.26	8.95
October	8.31	8.50	8.90
November	8.39	8.58	8.75
December	8.49	8.60	8.75
1974:			
January	8.52	8.64	8.65
February	8.62	8.70	8.54
March	8.64	8.63	8.66
April	8.67	8.60	9.17
May	8.74	8.67	9.46
June	8.85	8.84	9.46
July	8.96	9.40	9.85
August	9.09	9.60	10.30
September	9.19	9.80	10.35

Source: Federal Reserve Bulletins

The added cost to low- and moderate-income homebuyers resulting from increased interest rates on residential mortgages is indicated by table 3. Using a $20,000, 30-year FHA insured mortgage as a base, the table shows that a low- or moderate-income family would pay 24 percent more in monthly payments on such a loan if the interest rate was 11 percent as compared to the payments required on the same loan with a 7½ percent interest rate.

A generally accepted standard among housing experts holds that low- and moderate-income families should not pay more than 25 percent of their income for housing to avoid a cutback of expenditures for other essential items such as food, health care, and clothing. Applying this standard to the monthly payments indicated in table 3 produces a conclusion that a family would have to have an annual income of $12,984 in order to afford a $20,000, 30-year FHA insured mortgage carrying an 11-percent interest rate. At 8 percent, an income of $10,560 would be required.

Data on table 4 indicate that under this criteria, 27 million families, or 49.7 percent of all the Nation's families in 1973, could not have afforded a 7½ percent, $20,000, 30-year FHA mortgage because their incomes did not reach the minimum $10,560 required to afford such a loan.

TABLE 3.—ILLUSTRATION OF MONTHLY INTEREST CHARGES AND SELECTED MORTGAGE RATES

	7½ percent ($20,000, 30 yr)	8 percent ($20,000, 30 yr)	9 percent ($20,000, 30 yr)	9½ percent ($20,000, 30 yr)	9¾ percent ($20,000, 30 yr)	10 percent ($20,000, 30 yr)	11 percent ($20,000, 30 yr)
Principal and interest	$140.00	$146.80	$161.00	$168.18	$171.84	$175.52	$190.47
MIP	8.30	8.30	8.31	8.31	8.31	8.31	8.32
Taxes	26.58	26.58	26.58	26.58	26.58	26.58	26.58
Insurance	8.83	8.83	8.83	8.83	8.83	8.83	8.83
Maintenance	11.81	11.81	11.81	11.81	11.81	11.81	11.81
Utilities	24.50	24.50	24.50	24.50	24.50	24.50	24.50
Total	220.02	226.82	241.03	248.21	251.87	255.55	270.51

Source: Federal Housing Administration 1974 figures.

TABLE 4.—NUMBER OF FAMILIES BY TOTAL MONEY INCOME IN 1971, 1972 AND 1973

Total money income	Number of families			Cumulative percentage of families by total income		
	1971	1972	1973	1971	1972	1973
Total	$53,296,000	$54,373,000	$55,053,000			
Under $1,000	784,000	683,000	826,000	1.5	1.3	1.5
$1,000 to $1,999	1,339,000	1,183,000	965,000	2.5	2.2	1.8
$2,000 to $2,999	2,242,000	2,018,000	1,755,000	4.2	3.7	3.2
$3,000 to $3,999	2,574,000	2,494,000	2,244,000	4.8	4.6	4.1
$4,000 to $4,999	2,888,000	2,670,000	2,491,000	5.4	4.9	4.5
$5,000 to $5,999	3,027,000	2,738,000	2,555,000	5.7	5.0	4.6
$6,000 to $6,999	2,955,000	2,828,000	2,640,000	5.5	5.2	4.8
$7,000 to $7,999	3,327,000	3,030,000	2,709,000	6.2	5.6	4.9
$8,000 to $8,999	6,560,000	6,063,000	5,515,000	12.3	11.2	10.0
$10,000 to $11,999	6,686,000	6,245,000	5,887,000	12.5	11.5	10.7
$12,000 to $14,999	7,674,000	7,947,000	8,152,000	14.4	14.6	14.8
$15,000 to $24,999	10,399,000	12,496,000	14,400,000	19.5	23.0	26.2
$25,000 and over	2,841,000	3,982,000	5,112,000	5.3	7.3	9.3
Median income	10,285	11,116	12,051			

Source: U.S. Department of Commerce statistics.

LONG-TERM BORROWING NEEDS OF STATE AND LOCAL GOVERNMENTS

Just as in the case of housing, the money market conditions of 1974 had devastating effects on the tax-exempt bond market for State and local government debt issues to finance public works and facilities that ranged from the construction of sewer and water systems to schools and health facilities. By mid-December of 1974, the Bond Buyer index of tax-exempt bond yields had risen to a record 7.15 percent. New York City bonds were being traded at what the New York Times reported was "a startling 10.4 percent." Admittedly, this rate partially reflected the budgetary woes of that city, but the paper also pointed out that at the same time, "tax-exempt yields higher than 8.5 percent were readily available on a large variety of bonds issued by State agencies and big cities."

Fifteen-year bonds of the New York State Urban Development Corporation yielded 9.3 percent.

Ten-year Los Angeles airport development bonds yielded 8.5 percent.

Texarkana, Ark., industrial revenue bonds yielded 9.60 percent.

Lafayette, Ga., industrial revenue bonds provided investors with 10 percent.

The degree of market resistance to investment in State and local government tax-exempt bonds is indicated by the fact that a 10.4 percent rate applied by the traders to New York City bonds provides an effective yield of 20.8 percent for an investor in a 50-percent income tax bracket. Virtually all purchasers of tax-exempts are in or above this tax bracket.

THIRTY-PERCENT INCREASE

The Municipal Finance Officers Association found that in March of 1974 interest rates—in the municipal bond market—began a sharp upward climb. Rates by mid-August were about 150 basis points—or 30 percent—higher than 4 months earlier. Upsurging rates have lead to several large postponements. From April 1 to June 28, a total of 51 State and local issues were held back from the market, totaling about $660 million. Subsequently the months of July and August have experienced large displacements. Studies have shown that in prolonged periods of high interest costs, borrowers simply will not bother to advertise sales that they know will be too costly, thus published postponements represent only a part of delayed or abandoned financings. The longer that rates stay around historic highs—or advance to new ones—the larger will be the volume of unpublicized shortfalls in bond sales.

San Francisco Mayor Joseph Alioto, president of the U.S. Conference of Mayors, told the Senate Finance Committee's Financial Markets Subcommittee in August 1974 that during the preceding month the volume of bond financing dropped by 30 percent. He pointed out that in July:

> The city comptroller of Chicago agonized for five hours and finally decided to turn down a bid of 6.95 percent for $40 million in general obligation bonds.

The city's legal bond rating ceiling is 7 percent.

San Antonio offered $85 million in triple A electric and gas revenue bonds carrying a 7-percent rate limitation, but no one bid on the issue.

The Santa Clara, Calif., Redevelopment Agency offered two bond issues totaling $29 million with a 7-percent rate limitation but no bids were offered.

Mayor Alioto labeled the situation as—

> A real story of horror when you cannot borrow the money to build your hospitals, the money to build your police stations, your fire stations, your schools, rehabilitate your sewer systems as we must do, build the parks that you have to build for recreation in our cities, and do the things that all of us have to in connection with the very expensive demands of ecology today.

He added that the demand for public works and facilities has never been higher:

> It is estimated that in 1975, State and local governments will require over $30 billion in long-term borrowing to finance needed capital improvements. This will represent a 163 percent increase in bonds sold over the 1970 period. We do not need these statistics to tell us that the cities need billions and billions of dollars in the immediate years ahead to rebuild their deteriorating public facilities. And we do not have to be reminded of what will happen if we allow our cities to further decay.

REPEAT PERFORMANCE

In point of fact, the situation being faced by State and local governments in 1974 and 1975 is in essence a duplicate of the market conditions that existed during the credit crunch of 1969–70. The similarity led Mayor Alioto to say that—

> Under tight money conditions, the buyer of municipal bonds go elsewhere. This is especially true of the large commercial banks which presently hold over 50 percent of our bonds. As witnessed in the 1969–1970 period of tight money, commercial banks will shift away from the municipal bond market in order to provide the capital needed by their business customers. For State and local governments, the result is substantially increased borrowing costs.

The Tax Foundation Inc., in publishing the "Financial Outlook for State and Local Government to 1980," observed:

> Studies by the Federal Reserve Board have attempted to measure the effects of the difficulties associated with high interest rates, compounded by legal ceilings on interest rates. The results indicate that restrictive monetary conditions and high interest rates led to a net shortfall of $5.2 billion or 28 percent in long-term borrowing below planned levels for fiscal 1970. State-local units planned to borrow $18.5 billion; only $13.3 billion was actually borrowed.

The pattern of State and local government long-term debt financing problems established during the credit crunches of 1974 and 1969–70 and in earlier periods presents an appalling prospect for State and local governments in the future. Table 5 is taken from data compiled by the Tax Foundation showing what State and local governments have borrowed on the bond market since 1950, together with projections indicating what they are expected to borrow in the years 1975 to 1980.

TABLE 5.—*Debt transactions of State-local governments, actual and projected, selected fiscal years, 1950–80* [1]

[In millions]

	Issued [2]
Actual:	
1950	N.A.
1955	$7,221
1960	7,955
1965	11,249
1969	15,453
1970	12,848
Projected:	
1975	25,859
1980	34,745

[1] Outstanding debt as of the end of the fiscal year.

[2] Includes refunding issues (Long-term debt).

Source: *The Financial Outlook for State and Local Government to 1980, Table 9.3,* p. 100.

A recurrence of tight money, high interest rate conditions resulting from restrictive monetary policy could obviously produce the same result in the future. In the absence of any change in the structure of our financial system, State and local governments could find themselves experiencing another 28 or 30 percent shortfall in their long-term borrowing in 1975. Applied to projected borrowing needs of $25.8 billion in 1975, the shortfall could amount to $7.7 billion or more. Applied to projected borrowing needs of $34.7 billion in 1980, the shortfall could amount to $9.7 million or more.

PRIORITY INVESTMENT IMPACT ON EMPLOYMENT

The availability of or the absence of funds to finance public works and facilities, or any other priority area of the economy for that matter, has enormous impact on the level of employment in the Nation.

According to estimates made by the U.S. League of Cities-Conference of Mayors, an expenditure of $5 billion for public works and facilities creates 1.2 million new jobs in the economy. Of that total, 500,000 jobs would be established for on- and off-site work directly connected with the project and another 750,000 job opportunities would be created in service and in wholesale and retail trades in general.

The league has estimated that between 1971 and 1976 a total of $33 to $37 billion would be needed to finance needed community sewage treatment facilities alone. The cost range averages out to $5.8 billion a year for the 6 years in question. If this sum had been added to the public works investments that were being made in 1974, the unemployment rate could have been reduced by approximately 1.4 million, or 21 percent of the total 6.5 million persons officially listed as unemployed at the end of the year. By the same token, had funds been available to meet our national housing goals of 500,000 new low- and moderate-family income units per year, some 3.3 million job opportunities could have been created—more than half the number of unemployed.

SMALL BUSINESS CREDIT NEED AND SOURCES

Of all the priority areas of the economy, one of the most chronically deprived of adequate credit on reasonable terms is small business—commercial, industrial and service firms which generally seek loans of less than $100,000 and have business receipts of under $5 million annually.

In the first of what is planned to be a quarterly publication, the Small Business Administration has begun to report the market share, availability and cost of credit to small business as compared with large corporations. Table 6 lists the relative position of small and large business by types of commerce or industry. Among other things, it discloses that small business constituted 99.7 percent of the total number of all businesses and industries in the Nation and that small business had 40.1 percent of all business receipts in 1970.

Industry	Number of businesses		Annual business receipts	
	Thousands	Percent	Billions	Percent
Agriculture, forestry, and fishery (less farms):				
$5,000,000 and over	0.1	0.1	$2.7	32.1
Under $5,000,000	198.4	99.9	5.7	67.9
Total	198.5	100.0	8.4	100.0
Mining:				
$5,000,000 and over	.3	.4	12.6	65.0
Under $5,000,000	79.7	99.6	6.7	35.0
Total	80.0	100.0	19.3	100.0
Contract construction:				
$5,000,000 and over	2.4	.3	35.1	30.1
Under $5,000,000	872.6	99.7	81.5	69.9
Total	875.0	100.0	116.6	100.0
Manufacturing:				
$5,000,000 and over	30.0	2.4	594.0	83.5
Under $5,000,000	400.0	97.6	118.0	16.5
Total	410.0	100.0	712.0	100.0

Industry	Number of businesses		Annual business receipts	
	Thousands	Percent	Billions	Percent
Transportation communication, electric, gas andf sanitary services:				
$5,000,000 and over	1.2	.3	113.5	81.4
Under $5,000,000	378.8	99.7	25.9	18.6
Total	380.0	100.0	139.4	100.0
Wholesale trade:				
$5,000,000 and over	6.8	1.4	136.0	50.8
Under $5,000,000	483.2	98.6	131.8	49.2
Total	470.0	100.0	267.8	100.0
Retail trade:				
$5,000,000 and over	4.8	2	136.8	35.3
Under $5,000,000	2,205.2	99.8	250.9	64.7
Total	2,210.0	100.0	387.7	100.0
Finance, insurance, and real estate:				
$5,000,000 and over	3.0	.2	79.2	69.5
Under $5,000,000	1,289.0	99.8	34.8	30.5
Total	1,292.0	100.0	114.0	100.0
Services:				
$5,000,000 and over	1.0	.03	23.6	18.8
Under $5,000,000	2,963.0	99.97	102.5	81.2
Total	2,964.0	100.00	126.1	100.0
All industry:				
$5,000,000 and over	29.6	.3	1,133.5	59.9
Under $5,000,000	8,849.9	99.7	757.8	40.1
Total	8,879.5	100.0	1,891.3	100.0
Under $5,000,000 by type of business:				
Proprietor	6,385.1	72.2	196.8	26.0
Partnership	824.1	9.3	71.8	9.5
Corporation	649.7	18.5	489.2	65.5
Total	8,849.9	100.0	757.8	100.

Note: For consistency with available data, small business approximate those with business receipts of less than $5,000,000.

Source: Internal Revenues Service, Statistics of Income—1970, Business Income Tax.

THIRTY-SEVEN PERCENT OF GNP

Table 7, taken from the SBA report, is designed to illustrate the point that business in general produces 86 percent of our gross national product and small business provides 37 percent of that total. If business' share of the GNP is considered alone, large businesses provide 57 percent of that total while small business is responsible for 43 percent.

TABLE 7.—*Gross national product*

Total economy:	
Agriculture	4
Business	86
Small business	37
Large business	49
Other	10

Business portion 86 percent of total GNY:

[In percent]

Small business 43.
Large business 57.

NEARLY HALF THE WORKERS

By the same token, employment opportunities provided by small business nearly equals that of large businesses according to the data contained in table 8—not reproduced in the RECORD. Total business employment during the first three quarters of 1974 ranged from 62.7 million to 63 million. Of that total, large business employment ranged between 33.8 million and 33.9 million while small business employment ranged between 28.9 million and 29.1 million for that period.

ONLY A DROP OF CREDIT

Yet, despite its significance to the national economy, small business commands a comparatively minuscule position regarding the amount of credit extended to such firms by commercial banks. Tables 9 and 10—not reproduced—taken from the SBA report, disclose that small business received only 5.1 percent of the total commercial bank short-term loans made to all business—a decline of nearly 50 percent since February 1972—and 1.8 percent of all long-term commercial bank loans made to all businesses as of August 1974.

Roughly speaking, about two-thirds of all commercial bank loans are made on a short-term basis and one-third on a long-term basis. The Federal Reserve Bulletin of December 1974 reports that outstanding commercial and industrial loans made by all commercial banks as of November 27, 1974, the latest figure available, totaled $185.7 billion. About $123.8 billion, or two-thirds of the total, consisted of short-term loans, and the remainder, $61.9 billion, was in long-term loans. Applying the SBA percentages for the small business share of these sums discloses that only $7.4 billion in commercial bank long- and short-term loans went to this sector of the economy, out of a total of $185.7 billion in loans extended to all business and industry by commercial banks.

NATIONAL DEVELOPMENT BANK

The preceding findings make it obvious that a specific method or methods to allocate credit to priority areas of the economy must be made part of any plan to restructure the Nation's financial system if adequate investment funds on reasonable terms are to be provided for low- and moderate-income housing, State and local governments and small business.

During the 93d Congress, as the economy steadily worsened, some 130 bills were introduced by House and Senate Members to allocate credit to priority areas. Two basic comprehensive approaches to priority area credit problems have emerged. One is embodied in proposals to establish a Federal National Development Bank largely patterned on the former Reconstruction Finance Corporation, to make direct loans and to guarantee loans to businesses and industry which cannot otherwise obtain needed capital on reasonable terms. The other is to require all major types of financial institutions to make prescribed investments in priority areas of the economy.

STRUCTURE OF BANK

Basically, creation of a National Development Bank would constitute establishment of a Federal lending institution of last resort. Its structure would consist of a board of directors appointed by the President with the advice and consent of the Senate. Members of the Board would be required to represent the various priority sectors of the economy, which would be served by the Bank.

The board would be authorized to appoint a Bank president and staff. Headquartered in Washington, D.C., the Bank could establish offices in any area of the Nation where the board considers they are needed. The Bank would also be authorized to utilize the staff and facilities of any Federal department or agency in order to achieve maximum efficiency. In this connection, the Bank, under terms of the legislation creating it, would be mandated to respond to the needs of applicants with the greatest expedition and the least amount of redtape possible.

Capitalization of the Bank would be accomplished through authorization to issue up to $1 billion in stock to be purchased as required by the Treasury. Maximum indebtedness could not exceed 20 times the amount of paid-in capital. The Treasury, on a discretionary basis, would also be authorized to purchase assets of the Bank. In addition, the Bank would be authorized to issue fully guaranteed debt instruments for sale in the open market.

LENDING AUTHORITY

The Bank could issue direct loans on terms that reflect market conditions or provide loans at below market rates when the feasibility of the priority projects requires it. The Bank, as a condition of financial assistance, could require that business and industrial borrowers provide a prescribed number of new job and job training opportunities in depressed urban and rural areas. In all cases of financial assistance, the Bank could require that prevailing wage levels, particularly as these levels are established by labor-management collective bargaining agreements, apply to those employed in projects receiving financial assistance. In no case would the use of financial assistance by the Bank be provided to runaway companies for the purpose of relocating businesses and industries to seek cheap labor in one area at the cost of lost job opportunities in another.

Provisions establishing the Bank would include prohibitions against the bailout of companies, whether large or small, whose financial problems primarily stem from poor management. The Bank would be required to give preference to small- and medium-size businesses and industrial borrowers in situations which require that a choice be made between such applicants and a large company. Additionally, when the Bank receives a priority purpose financial assistance application from a large company, it can, if it deems it advisable, solicit applications from small- and medium-size borrowers, hold public hearings on the project, or take other steps designed to give small- and medium-size business and industry an opportunity to benefit from the resources of the Bank and to improve competition.

In addition to making direct loans to State and local governments to finance construction of public works and facilities, the Bank would be empowered to fully guarantee obligations issued for this purpose by such borrowers. The Bank's ability to provide guarantees would enable State and local governments, no matter how small, to obtain the equivalent of an Aaa market rating resulting in the lowest borrowing cost possible under prevailing economic conditions.

COMPLIANCE WITH DEVELOPMENT PLANS

Legislation establishing the National Development Bank would provide that all projects financed with its assistance comply as far as possible with existing district or regional economic development plans to assure that maximum benefits are derived from its investments. For example, legislation establishing the Bank would require projects financed by the Bank to conform to district development plans established under the auspices of the Economic Development Agency of the Department of Commerce or to similar plans produced by other groups. EDA efforts have resulted in the formation of 157 planning districts comprising about one-half of all the counties in the Nation. In addition, the staff of the Bank would include experts in the field of development planning to coordinate the activities of the Bank with local and regional planning groups and to provide assistance to areas lacking development plans. In this way, safeguards can be established and maintained against investments in projects which are contrary to the aims of development plans or against investments in businesses and industries which provide obsolete or low-market demand goods and services. By the same token, maximum utilization of area human and material resources will be assured.

COMPREHENSIVE HOUSING PROJECTS

Financial assistance for low- and moderate-income family housing projects would be made available to public agencies and nonprofit and profitmaking groups. Permanent mortgage lending to low- and moderate-income families for the purchase of such housing would be administered through existing or newly created local public or nonprofit agencies or groups.

Financial assistance for low- and moderate-income family housing projects would be made available to public agencies and nonprofit and profitmaking groups. Organizations in any of the three categories could receive Bank loans to finance the construction of such projects. Permanent mortgage lending to low- and moderate-income families for the purchase of such housing would be administered through local public or nonprofit agencies or groups established for this purpose. At the Bank's option, servicing of such loans could be undertaken by private residential mortgage lenders.

For the sake of achieving maximum efficiencies in housing produced with Bank assistance and to allow it to provide housing at the lowest possible cost, the Bank would be authorized to require that the most modern materials and construction techniques be utilized in such projects, regardless of the restrictions in local building codes, except as such restrictions apply to safety. This authorization would also apply to other types of construction financed with Bank assistance. Moreover, the availability of financial assistance for housing from the Bank would be predicated, when the Bank deems it necessary, in construction of comprehensive housing projects which would include retail outlets and other commercial retail conveniences as well as community activity facilities such as day-care centers and recreational areas.

The Bank would also require that such housing projects shelter a mix of moderate- as well as low-income families and that the families be permitted to retain their residences in rental dwellings when their income exceeds the levels which earlier had qualified them to have access to housing in these projects. In this way, the mistakes of the past which resulted in creation of new ghettos for the poor in areas isolated from communities amenities can be avoided. To spur upward mobility and to give them a voice in the control of their neighborhoods, residents would be allowed full participation in the management of these housing projects.

So that its services would be utilized to the greatest extent possible, the Bank would be directed to promote knowledge of its existence, its purpose, and its services throughout the Nation.

When necessary to maintain its financial soundness, congressional appropriations would be authorized to make up any shortfall that may exist between the Bank's income from loans and fees and the cost of borrowing funds in the open market. Operations of the Bank would be funded through congressional appropriations.

The Bank would be required to submit to an annual audit if its own accounts and, when necessary, the accounts of its borrowers by the General Accounting Office. It would also be required to make annual reports of its financial condition, its activities, and its planned efforts for the future to Congress and the President.

A CONGRESSIONAL RESPONSE TO THE PRESIDENT'S ENERGY MESSAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BROWN) is recognized for 15 minutes.

Mr. BROWN of California. Mr. Speaker, I wish to take this time to respond to the President's energy message, which was included in his state of the Union address. I believe the President should be commended for having the courage to deal with a variety of wide-ranging proposals. We have not always had such a frank and complete presentation of the President's program in a state of the Union message. Unfortunately, the energy part of the speech was based, in part, upon poor assumptions, and in other sections the President chose unacceptable and unnecessary options to meet the energy goals. There were other parts of this program which I found objectionable, as well as parts which I was pleased to see included. One of the more notable positive inclusions by the President was his endorsement of a negative income tax provision. Other Members of Congress have already responded to the President's message in full, and I believe these responses, and especially the address by you, Mr. Speaker, have put the entire state of the Union message in perspective. It is my purpose today to address the energy proposals specifically, and not duplicate these earlier efforts.

Mr. Speaker, we are at an important historical juncture. We can choose to reorient our governmental policies to direct this Nation, and much of the rest of the world, into a new, steady, reliable economic direction that would move us toward human betterment and social equity. I believe President Ford supports this goal, but some of the energy policies that he has recommended we support are counterproductive to that end.

The combination of action and inaction in the energy program offered by the President would, if adopted, guide the energy investment strategy of this country for years to come. But the implicit strategy, while finally taking some halting steps toward a realistic conservation program, is one with overwhelming emphasis on supply for even the most wasteful energy uses. We now have an opportunity to use the insights of the energy crisis to turn and concentrate our efforts toward the building of quality dwellings, durable goods, efficient industry, and living in harmony with our still beautiful natural surroundings. Instead, the President's program would allocate nearly all our scarce capital and manpower to a short-term binge of carving and gouging ever-scarcer resources from our suffering planet. Rather than pointing this country to a long-term solution of living in a finite world, it directs our vitality toward dangerously uncertain technologies which will only serve to present us with ever more complex crises in the future.

An alternative investment strategy examines first the energy and human welfare return on every dollar invested in a conservation initiative, and looks to new supply only to the extent that high-return conservation investment cannot meet our needs. This alternative is not a strategy of life "in the cold and dark," as critics sometimes argue, but one of striving first to have less drafty homes with lower fuel bills, to provide lighting where there are eyes to see, and to have efficient industry and transport.

Perhaps most importantly, it is an investment strategy in which the returns begin to flow immediately to homeowners and apartment dwellers in the form of lower heating, cooling, and lighting bills, and to commercial and industrial businessmen in lower fuel and raw material costs. This alternative stands in sharp contrast to a supply strategy, in which the returns are channeled to a few giant construction, technology, and financial institutions in the form of payment and interest for energy facilities which could have been avoided. In the following remarks I will try to document these implications about the contrasting strategies, and propose to my colleagues and the administration that we reduce our fixation on energy supply, and take this opportunity to make more decisive moves toward a conserving society.

COSTS AND RETURNS OF THE SUPPLY STRATEGY

What is the effect of the President's program? Though we do not have details, it is not hard to put rough costs on his list of supply actions for the next 10 years:

[In billions of dollars]

Item	Unit cost	Total cost
200 nuclear power plants	$1.0	$200.0
150 coal plants	.5	75.0
30 oil refineries	.5	15.0
20 synthetic fuel plants	.8	16.0
150 coal mines	.1	1.5
"Thousands of oil wells"	.01	100.0

This increased production adds up to more than $400 billion, even under the most conservative estimates, and without adding many of the indirect costs.

What about the conservation part of the President's proposal? For home insulation the President sees a 15-percent rebate costing the Treasury at most $500 million annually for 3 years, representing a total private and governmental investment of $10 billion. The low-income conservation program adds a negligible $55 million per year to this; only $0.5 billion if it is continued for as long as 10 years. To produce cars with 40 percent more fuel economy might cost $400 per vehicle—and mean an investment of at most $40 billion over 10 years, assuming auto production is at the rate of 10 million autos per year. We can find then, a direct investment of $50 to $60 billion in energy conservation resulting from the President's plan, but the same strategy has almost 10 times as much invested into energy supply.

What do we get for the supply investment? From the $200 billion for 200 nuclear powerplants, for instance, we may get generating capacity of 200,000 megawatts of electricity—enough to displace 3 million barrels of oil per day used in home heating. If we compare the capacity saved by a conservation investment, we get generally better return. For instance, the $10 billion investment in home insulation is said by the President to yield a saving of one-half million barrels of oil per day, or $20 billion per million barrel equivalent, in contrast to the $70 billion per million barrel equivalent of the nuclear investment.

But what about the costs of the supply scenario above and beyond the direct capital needs? Most basically a conservation investment has no operating cost. A house built, or an industrial process designed, to conserve a unit of energy will never need that unit, but every opportunity for a conservation investment which is missed will build in a perpetual demand for the nonconserved units of energy. We are coming to realize, moreover, that the price of fulfilling that demand will climb ever more steeply, as we reach deeper and deeper into our store of energy resources and as we approach the limit of the Earth's ability to absorb waste heat. We have learned, too, that the supply scenario is self-reinforcing. Once the investment in supply capacity has been made, there will be every incentive to see it fully used in order to return that investment, and conservation measures will have to battle powerful economic disincentives.

In addition, these direct operating costs are only a part of the hidden costs of the supply investment. It is quite clear that in the absence of dramatic conservation measures our supply needs must be met by coal and nuclear fuels in the near term, and by liquid fuel extracted from shale or coal soon after that. As part of the supply investment strategy we must envision, then, a greatly enlarged nuclear economy with fuel processing, transport, and waste disposal problems far beyond any ever encountered before in our history. The technological arguments as to whether we can cope with these are complex, but the record of performance to date is not. The history of planning, regulating, and operating the nuclear industry is punctuated with accidents, fuel losses, omissions, denials, clarifications, and many other examples of human frailty. There simply has been no evidence at all that a society constituted and organized like our own can deal with a problem like that of monitoring the quantity of nuclear fuel we will be handling, or of storing the deadly wastes with absolute security for thousands of years. We must envision also, in the supply strategy, coal and oil shale mining on a more massive scale than we have ever seen, wasting and polluting water which is already needed for human and agricultural use, and desecrating some of the most delicate and beautiful parts of our landscape. Finally, the President has asked us to compromise procedures for the review of powerplant sites, as well as other health and safety standards, in order to allow the increase in coal and nuclear production.

ENVIRONMENTAL ISSUES

The President's message contained many proposals to amend basic environmental legislation. While any law deserves to be critically reviewed once circumstances change, the amendments to weaken the existing law which were proposed by President Ford are not justified. There have been several significant reviews of aspects of the Clean Air Act completed in the past several months which relate to the President's proposals.

The National Academy of Sciences recently reviewed the national ambient air quality standards that have been promulgated since the enactment of the Clean Air Act Amendments of 1970. That report confined that the existing standards are needed to protect the health of people. The auto emission standards were also reviewed, and they, too, were supported by the evidence.

Another report by the Committee on Motor Vehicle Emissions of the National Academy of Sciences reported late last year that the auto emission standards in the Clean Air Act could be met by existing technology, with no loss in fuel economy. The MVE report contained several other pieces of information that also run contrary to the President's proposed program.

Specifically, the NAS–MVE report stated that there are several technologies now available that can meet the 1977 auto emission standards of 0.4 gram per mile HC; 3.4 grams per mile CO; and 2 grams per mile NO_x. These specific standards, which are roughly twice as stringent as those proposed by President Ford, can be met with the existing technology, with an improvement in fuel economy, and without a substantial increase in costs. One of the more remarkable aspects of the President's proposal is his claim that the auto companies would be continuing to reduce their pollution in the next model year under his proposal. The average emissions in all autos sold in the United States today already meet the President's "improved" auto emissions goal for the next 5 years. In California this year, the average emissions are approaching that of the 1977 standard.

AVERAGE EMISSIONS OF 1975 CERTIFICATION VEHICLES

[As corrected using the 50,000-mile deterioration factor]

	Emissions in gallons per miles			Fraction of standard		
	HC	CO	NO_x	HC	CO	NO_x
Federal 1975:						
AMC	0.65	6.7	2.5	0.43	0.45	0.80
Chrysler	.74	7.7	2.5	.49	.51	.82
Ford	.81	9.2	2.4	.54	.61	.78
GM	.83	8.0	2.3	.55	.53	.74
Weighted average [1]	.80	8.2	2.4	.53	.55	.76
California 1975:						
AMC	.42	4.9	1.7	.47	.54	.87
Chrysler	.48	6.1	1.6	.53	.67	.82
Ford	.52	5.6	1.3	.58	.62	.67
GM	.65	5.5	1.6	.72	.61	.82
Weighted average [1]	.58	5.6	1.6	.64	.62	.78

[1] Weighted average assumes the following market shares: AMC, 3 percent; Chrysler, 16 percent; Ford, 27 percent; and GM, 54 percent.

From: November 1974 "Report by the Committee on Motor Vehicle Emissions", p. 40.

An interesting statistic is that 34 percent of the foreign auto manufacturers already meet the 1977 auto emissions standard and the President's 1980 fuel economy goal. It appears that, as in the past, what is good for General Motors is good for the United States, rather than the other way around. It is appalling that foreign know-how is more effective than American know-how in both cleaning up the automobile and improving fuel economy.

The question of fuel economy is not insignificant. The President justifies the freeze in auto emission standards as a fair trade-off for fuel economy improvements. Besides the absurdity of trading-off health for anything, the "deal" was not even necessary if the Government-sponsored reports on this subject are accurate.

The Department of Transportation and the Environmental Protection Agency reported to the Congress in October 1974 that a more than 40 percent improvement in fuel economy can be achieved by 1980, without a substantial increase in cost, and by meeting the 1977 emission standards of 0.4 gram per mile HC; 3.4 grams per mile CO; and 2 grams per mile NO_x. There was less certainty on meeting the 1978 0.4 gram per mile NO_x standard, but there was no uncertainty on meeting the 1977 emissions standard.

These facts lead one to wonder about the scientific and economic basis for the President's auto emissions proposal. Certainly the National Academy of Sciences, the Department of Transportation and the Environmental Protection Agency did not give him this advice. And if his proposals were not based on the expertise of these agencies, how did they originate? Perhaps this question should not be asked, and we should just regard this proposal as an idea that is best forgotten.

There were other unwise recommendations to amend the Clean Air Act in the President's message. One idea, which was rejected by Congress last year, was to amend the Energy Supply and Environmental Coordination Act of 1974 to permit a Federal override of all State and local air pollution laws until 1985. This proposal, along with the proposal to postpone the use of scrubbers until 1985 are unacceptable threats to the public health. I am disappointed to see such little regard for human life as is shown by this proposal, along with the proposal to extend auto emission standards. I am confident that the American people will not allow such a policy of degradation and abuse to occur.

The President also recommended an accelerated leasing program on the Outer Continental Shelf. Yet he has not yet answered the objections by Members of Congress on the present OCS leasing program, even though those objections were sent to him before Christmas. Our coastal zones are too valuable an ecological niche to allow their destruction, even though such destruction might be incidental to any OCS developmental plans. I am unwilling to support this part of the program until adequate safeguards are in effect.

The President also urged a massive increase in coal production through strip mining. This proposal might be reasonable, except the President vetoed the only only strip mining legislation which have provided some assurances that strip mining would not irreparably destroy the land, nor threaten the area's vital water supply. I did not think the vetoed bill provided enough protection and guarantees of reclamation, and after the President's veto it appears obvious that the administration has no will to enforce any strip mining regulations at all. Unless some guarantees are made about enforcement, I do not believe strip mining should be permitted.

The social and economic impacts of the President's energy and environment proposals would be tremendous. The implications of these proposals are not understood, and the side effects, if history is any teacher, would undoubtedly be very significant, as well as adverse. The issues that have been studied, such as the health effects of air pollutants, clearly demonstrate that some of the President's proposals cannot be implemented safely.

We are at an important turning point in our technological development. We can move now toward a lifestyle that lives with nature, or we can attempt, by a massive infusion of capital and a disregard of the lessons of the past, to continue our historical growth patterns, continue developing boomtowns, and continue to seek the holy grail of the technological fix. Mr. Speaker, I opt for living in harmony with nature, and abandoning the search for the holy grail.

COSTS AND RETURNS OF THE CONSERVATION STRATEGY

If we do not pursue the supply strategy, but instead pursue the alternative investment strategy in conservation measures, what will be the comparable costs and benefits? It is not hard to draw the comparison, of course, because every block of energy preserved by conservation measures directly displaces the need for a block of energy-generating capacity. We have already taken one example from the President's message to show that home insulation is a better supply investment than a nuclear powerplant, based on initial cost alone, but more importantly, the conservation strategy is overwhelmingly favorable when operating and indirect costs are considered. Other estimates of energy-saving potential—in terms of millions of barrels of oil displaced per day—per dollar invested are tabulated below:

POTENTIAL CONSERVATION INVESTMENT AND RETURN, TO 1985

Sector	Potential savings (million barrels of oil per day)	Net investment (billions of dollars)	Direct cost-benefit ratio (billions of dollars/million barrels of oil per day)
Residential	2.5	$50	$20
Commercial	.7	20	28
Industrial	5.0	70	14
Transportation	3.7	(1)	[2] 1

[1] Negligible.

[2] Less than.

Note: These figures are derived from the Ford Foundation Energy Policy Project. Analogous cost-benefit estimates for the Project Independence conservation measures give very similar values. Other studies find capital requirements for conservation scenarios to be generally one-half of those needed to meet the same needs with no conservation steps.

These estimates are of necessity rough, but the important point is that they are generally lower than or close to the estimates for direct capital costs of equivalent generating capacity. Conservation investment makes sense, then, on the surface, before we even begin to look at the positive side effects which would result from an intensive conservation strategy. Moreover, the table lists the total opportunity for conservation measures, and it is easy to see that the needed investment levels are far below those envisioned in the President's program. The President's program does not even begin to provide all of the capital which could effectively be absorbed by a conservation strategy.

We can go beyond this as well, and look at the important indirect benefits of the conservation investment, compared especially to the indirect damage done by the supply strategy. Some of the conservation benefits would be readily noticeable in terms of more comfortable homes and offices, due to better protection from the summer heat and the winter cold. Much of the effort necessary to implement this strategy would be relatively labor intensive, providing satisfying and needed employment in the building and trades industry, which has been so severely crippled by the recession. The jobs created by the conservation strategy would contrast starkly with the ever more capital intensive, and increasingly mechanized, energy industries.

Certainly as important, the conservation strategy would direct the energy users toward more efficient uses of energy, and competition toward reducing energy consumption would be a valuable, long lasting type of competition that would tend to protect jobs from sudden fluctuations in the price or supply of energy. Another positive benefit would be the encouragement of alternatives to fossil fuels, particularly solar heating and cooling in homes and commercial buildings. The investment for these would be much less with already well insulated buildings.

If the conservation strategy was adopted, thousands of oil wells would not have to be drilled, nor acres of prairie strip mined, and large areas would remain available for agriculture instead of being made barren. The risks of the nuclear segment of the energy production economy would be far less if the number of nuclear plants was small. Overall, instead of rushing into energy technologies with many unresolved problems, for each conservation step we would gain time to consider the relative merits of each new technology, and to choose the least damaging of the energy supply technologies.

Finally, we come to the key point raised earlier about the distribution of benefits. Specifically, in a conservation investment program the benefits begin to flow immediately to consumers of energy. The monthly saving in a homeowners fuel bill goes immediately into his pocket, and the commercial and industrial energy saving appears at once on the balance sheet. There is no need for reliance on a complicated theory of "diffusion of benefits" or "filtering down" to bring the fruits of this investment to the average citizen, as there must be when capital flows into the energy supply sector. Also, a conservation strategy would result in lower unemployment, a result that President Ford's advisers apparently failed to tell him about.

Moreover, the release of energy demand that would result from a conservation strategy would help stop the vicious inflationary spiral of all energy and petroleum prices, bringing benefits to consumers not only in the United States but throughout the world. West Germany, certainly a highly industrialized part of the Free World, consumes only 43 percent of the energy per capita of the energy consumed in the United States. Our goal, then, could be to reduce our wasteful use of energy to nearly half of that consumed per capita today.

FINANCING THE CONSERVATION STRATEGY

We need to face the problem of how to direct both private and public capital to the conservation strategy. Though the President has provided a few modest conservation investment incentives, his main thrust is to use tariffs and taxes in a devastating penalty program for all petroleum use, indiscriminate between wasteful and nonwasteful uses, or between fuel or chemical feed stock uses. This will undoubtedly direct some private investment defensively toward conservation, but it also provides a protective umbrella for the development of less net energy production, and it indefinitely props energy prices at the artificial OPEC price levels. The President's proposals insure that the energy supply business will continue to be lucrative, and it will undoubtedly encourage efforts to increase energy use, if for no other reason than to pay back the capital investment. The enormous strain on the capital market inflicted by the expanding energy supply industry will maintain lofty interest rates and provide little hope for the host of individual borrowers who might wish to finance their own conservation efforts. The 15-percent home insulation incentive may turn out to be less significant than the interest penalty disincentive provided by capital being diverted to protected energy supply investments.

The only remedy will be much stronger incentives for energy conservation initiatives. A 100-percent tax credit would be a prudent investment for the Treasury, especially seen with the hindsight of the current "energy crisis" recession. We have emphasized that the returns of the conservation measures go directly and immediately to individuals and businesses, and would represent a source of future taxation to repay the Treasury credit without a net deflationary effect. Such a return, if flowing now, might have served to maintain economic activity without the need of a deficit-creating tax cut. Special "conservation bonds" could also provide the initial borrowing required, and even if unusually high interest rates were needed to attract capital, it would prove well worth the price in terms of future problems avoided. Low interest, long term loans for energy conservation steps would be an essentially similar method, though different in appearance, and would enable individual conservation investors to compete for capital with those hoping to profit from energy supply investments.

CONCLUSION

The President declared that he was presenting an energy plan, but his program represents virtually no plan at all. He will press our energy prices ever higher, and simply see who and what survives. Those for whom energy costs are small will not be seriously hurt, and those with large amounts of capital to invest will profit by directing it to the protected and less regulated energy supply industry. The President has spoken of "conservation," but allocated our Nation's limited resources predominantly toward a energy development strategy of supply. In direct and simple terms, in the climate of the President's program, an individual would probably profit more in dollar terms from purchasing coal mining securities than from insulating his home.

What is perhaps remarkable about President Ford's proposals is his failure to use the resources available to him. President Ford has the same documents available to him that I have available to me. Yet he failed to follow many of his own counselors' best advice. This is his perogative, of course, but the Congress need not agree with the particulars of his proposal. The recommendations I have made are not inconsistent with a coherent national energy policy, nor are they minor objections. I would hope that the Congress substitutes its own judgement in place of the President's on the matters just examined.

The President has often spoken publicly of the need for Congress to consider more deeply the long run, as opposed to the short run, consequences of its actions. In his energy supply strategy, the President has failed to consider the long-run consequences of his proposals. Instead of a strategy to rapidly increase energy supplies, we should be pursuing every possible incentive for energy conservation, seeking new supply only when conservation opportunities are exhausted. The long term benefits of dollars invested now in conservation will bring far higher dividends than those invested in supply, and I counsel the President and my colleagues to take this longer view of the energy crisis.

COMMENTS ON THE STATE OF THE UNION MESSAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 30 minutes.

Mr. McKINNEY. Mr. Speaker, it is not pleasant or easy for a President to have to report to the American people that "the state of the Union is not good." But it was President Ford's duty to acknowledge harsh reality and I commend him for fulfilling that duty with candor and decisiveness. He deserves further commendation for charting a long-range program which he feels, as he said, will turn America in a new direction. His address eliminates any need for debates over what we have to do, leaving only the question of how to go about it.

The President was right when he said the American people want action and that it will take a "new partnership" between the White House and Capitol Hill to provide it. We must abandon partisanship and "politics as usual." We cannot shy away from the tough programs and accept only those that are politically palatable. Some form of tax relief is always popular but what about energy conservation. The President has shown courage in making a series of painful decisions which promise sacrifice, hardship, and expense. Congress must meet his challenge and show similar courage in tackling simultaneously the deepening recession and the Nation's severe energy problems.

The President stressed the urgency of prompt action. The first 100 days of the 94th Congress will be critically important. It is in these 100 days that we need to act upon his program and I pledge to him and my colleagues in this Chamber my support and efforts for the goals which the President has put forth. I, too, want to "turn our economy around and declare our energy independence." This is not to say, however, that I support all aspects of the President's program which is as broad and complex as the problems themselves. Let us now review that program.

I applaud the President's leadership in calling for a moratorium on new programs not clearly of an emergency nature, coupled with a reexamination of programs presently on the books. The 94th Congress must resist the temptation to enact politically attractive new programs which can only lead to a deepening economic malaise and a more prolonged and tumultuous recovery period. Here I might add that we must also examine our regulatory agencies and procedures and eliminate all inflationary biases and anticompetitive practices arising from them.

Beyond establishing a 1-year moratorium on new programs, we must also cut spending to reduce the Federal deficit. The President stated he would recommend cuts in the budget he will submit and the details should be forthcoming in his annual budget message. However, at this time I must take issue with the President's suggestion to limit the cost-of-living increases in the social security payments this year. I believe this is misapplied thrift. President Ford has characterized inflation as "the cruelest tax of all," and never is it more cruel than when it strikes hardest at the elderly, the poor and the handicapped on fixed incomes. In this period of double-digit inflation, I cannot vote in good conscience to limit cost-of-living increases to 5 percent for those needy Americans receiving subsistence and retirement benefits from the Social Security Administration. We must show compassion to those who are already the victims of inflation. Moreover, an increase in social security payments would spur the nation toward economic recovery by increasing buying power just as a tax cut does. This then brings us to the heart of the President's program—tax relief for an immediate boost to the economy and the $4 a barrel tax on crude oil.

I support the 1-year increase in investment credit from 7 to 12 percent, designed to accelerate plant modernization and equipment improvement. To get the most mileage out of this form of stimulus, the 12-percent credit will apply not only to new capacity actually in place but also to orders for equipment to be delivered through the end of 1976. Such an increase in business spending for plant and equipment should stimulate the economy and have a beneficial impact on unemployment.

However, I have serious reservations about the President's proposed retroactive tax cut aimed at remedying the recession. While I support the concept of a tax rebate, I question whether the President's plan is sufficient. While a tax rebate could prove an immediate boost to the economy, particularly if individuals spend a large share of their bonus on heavy durables, I doubt that the President's program will achieve this goal. Cutting 1974 taxes by $12 billion for individuals sounds impressive. But for the average family of four earning $10,000 a year it means a total rebate of $104 which would be split into two payments 6 months apart, in effect deterring purchase of major manufactured goods. Moreover, this tax cut and other disbursals would take effect at the same time as the new energy levies. The higher energy prices resulting from proposed new petroleum taxes will have an inflationary impact as they work their way through the economy, for President Ford's proposals would increase by about $30 billion per year the price that Americans pay for gasoline, heating oil and all other products that are made from petroleum. Gasoline prices might rise a dime a gallon but prices of other petroleum products would increase more, and the general price jolt would be second only to the one that oil-exporting nations imposed on this country a year ago through their embargo. Moreover, there is nothing to prevent the OPEC nations from boosting their own price by the same amount of the proposed tariff increase, thereby touching off yet another shock wave.

It is anticipated that fuel costs, including gasoline, will rise an average $250 annually for a family of four under the President's program. While the proposed tax rebates will provide many Americans with extra cash to pay the higher fuel prices, it is not sufficient even to meet these higher costs much less be an encouragement to consumers to buy major manufactured goods. And the whole purpose of this tax rebate is to stimulate the economy through the purchase of heavy durables, including automobiles, thus encouraging business expansion, creating employment and spurring our economy. However, low- and moderate-income taxpayers will receive, under the President's program, only a minor cost-of-living supplement and these funds will not be used to purchase major goods but instead to pay old debts, to purchase the basic necessities such as food, clothing and fuel and for savings. And it is at the very least questionable whether this rebate will result in increased consumption by higher income taxpayers.

In essence then, under the President's plan only about $20 billion of the $30 billion collected in new energy taxes would be returned to individual taxpayers. Returning only a portion of the energy tax to consumers, with the balance going to corporations—through a reduction in the corporate tax rate to 42 percent—and to State and local governments, would significantly reduce any regenerative effect of the two-stage individual tax rebate for this year. Hence, I simply do not see how we will achieve any net stimulus to economic activity when the Government gives $20 billion with one hand—in the form of tax cuts and payments for business, Government, and individuals—only to take $30 billion in new energy taxes with the other hand. The all too likely result will be even greater inflation with only marginal possibilities for employment expansion.

While, as I have stated, I support the concept of a tax rebate, I believe the tax cut must be geared more toward the lower- and middle-income brackets. That is, rather than a flat 12 percent rate, a progressive sliding scale should be instituted to help the people who have been hurt the most by inflation. It is the low- and moderate-income families whose breadwinners are unemployed today but who will be paying taxes this April on income earned while they were working last year. These are the men and women who need our help now.

While certainly the upper-income brackets face cutbacks in various areas of their lifestyles due to the pinch of inflation, they still have the means to pay a higher price for gasoline, for heating oil, for food, and they can still afford to purchase a major appliance and even a new automobile.

It is middle- and low-income persons who may very well have to choose between warmth or food, who will have to sacrifice even more because they are too poor to do anything else. Just dumping money back into the economy on a mass basis will not help these people who should be first on our list for action. We must gear our proposals toward helping those who are already the worst victims of inflation and are now being attacked again by recession and the prospect of higher food and fuel costs and unemployment.

What may very well be needed is not just a one-shot tax rebate but a reduction in the withholding tax rate to augment the weekly paychecks of low- and middle-income persons throughout the entire year. We must study the feasibility of this suggestion. We must also close large existing loopholes that benefit only major corporations, particularly those available to the oil giants and also raise the tax on wealthy individuals who escape taxes completely under our current law. In this respect, I support repeal of the oil depletion allowance and imposition of a windfall profits tax on the oil industry. Since the increase in oil prices of December 1973, the profits of the oil industry have been inordinate and far greater than necessary to induce the most rapid output expansion permitted by the physical resource constraints. In view of the harsh economic squeeze of inflation and recession on most American families, it is an insult that excessive oil profits should continue to slip through unjustifiable tax loopholes. Moreover, reform of inequitable special-interest tax loopholes would help to restore confidence in Government and in the economy while providing much needed revenues.

Let us turn now to the President's energy package—without doubt the most controversial part of his program.

The aim of the President's energy plan is essentially to drive up prices by dropping controls on domestic oil and subjecting both domestic and imported oil to higher Federal taxes and tariffs. The theory is that the higher prices will deter consumption and curtail dollar-draining oil imports, which the President wants to reduce by 1 million barrels a day from what the United States would otherwise import in the next 12 months and 2 million barrels from what could be imported by the start of 1978.

I support the President's goal of reducing imports, for our Nation imports far too much oil—far more than we can afford. Five years ago, we imported 3.4 million barrels of oil a day. Today that figure is about 6.2 million barrels daily, meaning that approximately 38 percent of all the petroleum we now use is imported from foreign sources. And the cost has risen to reflect demand. Whereas foreign petroleum sold for only about $2.50 a barrel in 1972, the price today is over $10 on the international market. We paid some $25 billion for oil in 1974, more than three times our 1973 bill, for almost the same amount of oil. The suddenness of this fourfold jump in world oil prices is responsible for the disarray of the world economy and is the basis of the present worldwide recession.

The Nation's 1974 trade deficit will exceed $5 billion, compared to the $5 million surplus last year. These payments abroad work like a huge excise tax, taking vast sums of domestic purchasing power which could help overcome unemployment, inflation and recession. This country cannot afford to risk the economic danger of letting those kinds of deficits continue to pile up. Compounding the problem is the possibility of another OPEC embargo which would almost certainly accompany another Arab-Israeli war. Even without a renewal of the embargo by OPEC, unless we sharply reduce consumption we are likely to run short of oil before long as other countries—chiefly Canada—decrease or stop petroleum exports altogether to safeguard their own supplies. On top of these actual and potential problems confronting the United States on the energy front is the reality of falling domestic production of energy.

Granted we must cut our imports and our dependence on foreign oil sources. But is the President's program the answer to our energy problems? Will his plan achieve significant reduction in consumption? And at what price to the economy and the consumer?

The New England Fuel Institute estimates that the President's program will increase home heating oil costs by $420 million per year and residual oil costs by $650 million per year for New England. Of this $650 million residual oil price hike, $330 million will be borne by our utilities. Hence we can anticipate our electric bills to rise by 30 to 40 percent. As of May 1, the President's plan would raise oil costs to consumers in the New England region more than $1½ billion—$1,510,000,000—just for petroleum energy costs.

New England has 5.8 percent of the Nation's total population. Under the President's program, this 5.8 percent would pay 16⅔ percent of the total proposed tax rebate for the entire Nation. In essence, no amount of readjustment, rebate or additional oil entitlements that the administration can offer will undo the harm that an increased oil tariff, oil excise tax and price decontrols will create for New England.

A major problem with increased taxes and price decontrols is that heating and residual oils are already being conserved at high levels in New England and elsewhere. Consumption of heating and residual oil is down significantly—20 and 15 percent, respectively, in New England—as a result of existing high prices, even though new demand has been created for these fuels as a result of massive natural gas curtailments. I might add that New England utilities have been among the leaders in their efforts to free themselves from dependence on foreign oil by moving to develop coal burning ability and increase nuclear generating capability. An increased tax on oil products, therefore, would do little to lower consumption. For those people who have already conserved as much as possible by lowering thermostats and using fewer appliances, this additional increase will be intolerable. Surely such a program is small thanks for our citizens who have voluntarily curbed consumption in the past.

Clearly the President's program will have an extremely prejudicial impact on New England area unemployment, inflation and capital investment. I fear we can expect plant shutdowns and an exodus of industry to those parts of the country where climate does not require such large quantities of energy for residential, industrial, and commercial space heating.

In response to the President's program, some of my colleagues advocate no cost restraints on home heating and residual oil and argue instead that gasoline, which has relatively high elasticity, should bear the brunt of the total cost of any increased tariff. As with the President's proposal, I believe this "money route" to be the wrong approach. Essentially an increased gas tax is being urged: under the President's plan, gasoline would go up about 10 cents a gallon; under the plan offered by some of my colleagues, the cost for a gallon of gasoline would rise by 15 or 30 cents at the most. Under both proposals, tax rebates would be offered to offset the burden of the price hike for low- and moderate-income taxpayers. In effect, we would be imposing an added gasoline tax only to turn around and give rebates to help pay the price of the higher gasoline taxes. That is no spur to the economy. Also, with higher gasoline taxes, who would purchase a new American-made car? How would our automobile industry, a major indicator of our present recession, be helped? Moreover, by raising gasoline taxes we would contribute to inflation since the price hike would be absorbed by all areas of our economy through the ripple effect. Ability to pay, rather than need, will determine fuel allocation patterns, thereby contributing to fuel wastage. Our wasteful driving habits are so ingrained that, finally and most importantly, I doubt that even a 30-cents-a-gallon gas increase would curb consumption by the amount necessary to significantly reduce our oil imports.

In place of the President's program, I advocate placing a ceiling on oil imports, in effect a unilateral reduction of imports, a mandatory allocation system and a gas rationing program. The President can realize his balance of trade and fiscal objectives by simply instituting a quota system, restricting the quantity of foreign oil premitted to enter the United States. We would know exactly what quantity of oil—both imported and domestic—is available and the total amount would then be allocated to the various sections of the country. This allocation would be accompanied by price equalization across the board. Costs of old and new oil, domestic, and imported, would be averaged and the price frozen for a period of time to achieve stability. In other words, under my plan there would be no new tariff or tax on oil; all our oil resources would be pooled, their respective prices averaged, oil allocated to the various sections of the country, and the same averaged price borne equally by all our citizens. This, I believe, constitutes the most equitable plan. Also, by not imposing any additional import tariff we would not be indicating to the OPEC nations that we can absorb further price increases, thereby encouraging them to up their prices and further compounding our economic and energy woes.

To curb consumption a gasoline rationing program must be instituted. Petroleum refined into gasoline represents a large slice of the energy pie. About 38 percent of the oil we use each day—close to 7 million barrels—about 294 million gallons—is burnt up in automobiles. Its use, as reflected in the driving habits of the motoring public, is a very visible symbol of attitudes towards conservation.

There is no method of reducing gasoline consumption which will please everyone but I am convinced gas rationing is the equitable answer to our energy problems for several reasons. The fact that gasoline represents more than a third of our oil consumption makes it only logical that we tackle this large usage in moving toward self-sufficiency. With more than 123 million licensed drivers operating more than 105 million vehicles, rationing could immediately bring about the President's objective of cutting our imports by a million barrels daily. Determination can be made of the quantity of gasoline that needs to be cut and allocations equitably. The average citizen will know the level he can consume and determine his trips accordingly. Rationing would prove an incentive for carpooling, consolidation of trips, utilization of mass transit, and would cause people to personally relate to the conservation ethic. Moreover, rationing is not an inflationary measure.

The rationing program I propose, which for a characterization we can call "the gas rationing plus plan," would allocate a set number of gallons of gasoline to each individual licensed driver per month. The program would be applicable to passenger vehicles and consideration would be given to hardship cases, thereby relieving some of the inequities which would fall on those whose livelihood is dependent on the automobile or who live in remote rural areas. Since we are dealing with a long-term problem, and aiming for energy independence from imports by 1985, I feel it is necessary to initiate the rationing program for a set period of 5 years. The cost for any shorter period would be prohibitive. I believe we would adjust to the curtailed use of fuel during the 5-year span at which time, the rationing program could be dropped.

Perhaps one of the greatest fears surrounding the initiation of a gas rationing plan is that any program is vulnerable to the "black market." In recognition of this problem, I propose that additional gasoline be available to all citizens who find it necessary to use more than their allotted quota, but those taking advantage of this "plus factor" or "add-on" program would pay an additional $1-per-gallon surtax. Revenues raised via this tax would be funneled into general revenues as an aid to reducing the Nation's deficit and offsetting tax rebates.

I am not oblivious to the fact that a rationing program would be a blow to the American auto industry as it is presently constituted. Therefore, contained in my rationing program would be the added incentive to the American public to buy Detroit-made 1975 and 1976 autos. I propose that anyone purchasing these vehicles would get an additional individual ration quota—equal to that issued to an individual licensed driver—for the entire 5-year period. This feature would not only serve to prevent a massive dislocation of the American autoworker and its attendant effects on our entire economy; but it would also provide an added incentive to purchase American cars over the competitive imports.

I do not accept the argument that institution of a rationing plan would lead to chaos and confusion. Studies of possible rationing programs have been underway at the Federal Energy Administration since early last year and, during the past 12 months, the American public has become increasingly aware that rationing might well become a part of their lives in the near future. In fact, recent polls indicate that the majority of the American public would rather face the prospects of rationing rather than have to adjust to the periodic economic game plans presented on an almost quarterly basis.

It must be emphasized that 1975-style rationing will not necessarily be as restrictive as the rationing in World War II. While indeed we are dealing with millions more cars and millions more licensed drivers, the fact that we will not be instituting rationing during a crisis period will, I think, greatly influence the success of the program. It must be remembered that in World War II we were attempting to cut gasoline consumption by 65 percent. Today we are attempting a 15-percent cut and, though we have become increasingly dependent on the automobile during the past 30 years, gasoline is more plentiful and experts will tell you that the larger the supply, the easier it is to ration.

The earlier we start a rationing program, the better off our Nation will be. I fully realize that rationing is not the simplest solution to propose, nor is it without its problems. But given the present emergency and the alternatives, it is inevitable.

Turning to the President's proposed statutory emission reduction schedule, I believe it lacks the substantive guarantees we must have to support Detroit's promise to develop a 40-percent more efficient engine. President Ford has suggested that a modified version of the 1975 California emission levels be maintained through 1980. He said this 5-year suspension will "enable us to improve new automobile gas mileage by 40 percent by 1980." But important questions are left unanswered by this bare plan: How, when, and at what environmental cost will this efficiency be achieved? There is no doubt increased engine efficiency is a must. But I cannot support a complete abandonment of existing emission reduction schedules on the mere hope that a more efficient engine will be the result.

Therefore, I believe Congress must establish the missing causal link between the suspension of emission controls and development of fuel-efficient engines. Further, we must maintain certain emission requirements on some cars to insure that Detroit remains diligent in its search for new technology to meet the goal we must ultimately achieve—a clean, and efficient, engine.

Admittedly, mistakes have been made in the past. Bizarre safety devices and damagability requirements added only costs to new vehicles—and too often diminished fuel economy. On the other hand, it is no secret that Detroit has been a reluctant partner with Government in the development of effective, low-cost safety and antipollution techniques. The auto industry's obvious preference for the more costly, high-profit, luxury options which further reduce fuel efficiency makes it imperative that Congress act to insure that we do not give away emission control progress without exacting the appropriate price—increased fuel efficiency.

To accomplish this, I will introduce legislation to impose a 2-year suspension of the statutory emission reduction schedule, similar to the President's 5-year plan. However, during the third through the fifth years, the suspension would only be granted to those new cars which are, in fact, 40 percent more efficient in the use of gasoline. Less-efficient cars would have to conform to the 1977 emission standards. After 1980, all cars would be required to meet both the new efficiency standard and the 1978 emission control requirements (HC/.4; CO/3.4; NOX/.4).

This progress would be stimulated by two tax measures I plan to introduce as well: an investment tax credit to facilitate the capital expenditures the auto industry must make to expand and retool, and a progressive excise tax on "gas guzzlers"—new vehicles which do not meet the increased efficiency goals.

These are not incompatible or impossible goals. There exists documentation to prove that reduction of car weight, removal of fuel-inefficient options—the average air-conditioner carries a 9-percent fuel economy penalty—and use of existing technology could increase the efficiency of today's engine by almost 40 percent. With the devastating effect recession/inflation has had on the American work force in general—and the auto industry in particular—Detroit and Washington must end their quibbling and cooperate in a program to produce a clean, safe and fuel-thrifty car the American consumer will want to buy. I think this program will allow that welcome result.

Mr. Speaker, let me also state that I fully support the President's call for thermal efficiency standards for buildings, mandatory energy efficiency labels on automobiles and appliances, as well as tax cuts and grants to encourage home heat-saving measures such as storm windows and insulation. I introduced legislation in the 93d Congress to achieve these goals and will continue my efforts for their enactment and speedy implementation.

Finally, as the President stated, we must increase production of oil, coal, and natural gas as well as harness the potential of renewable sources such as water, the Sun, and the Earth's heat. I support the President's call for a massive conversion to coal. Our Nation has in reserve 1 trillion tons of coal, as much of the world's coal as the Middle East has of its oil. We must have a coal program, on a technologically and financially comparable scale to that of the Apollo Moon program, to learn how to use high sulfur coal cleanly, efficiently and inexpensively, and to develop synthetic fuels from coal.

While I do not propose that STEWART MCKINNEY has all of the answers to all of the problems confronting our Nation, I believe I have presented reasonable alternatives which are both equitable and workable. I also know that compromise will be the key to enactment of any legislative solutions. While actively working to promote my proposals, I will also be open to any reasonable alternative which will work to turn this Nation's economy around and to achieve our energy self-sufficiency.

NURSING HOME PATIENTS' BILL OF RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 20 minutes.

Mr. COHEN. Mr. Speaker, I rise to introduce the "Nursing Home Patients' Bill of Rights." I am very pleased to announce that 41 of my colleagues are joining me in sponsoring this basic but vitally needed legislation.

Recently the Subcommittee on Long-Term Care of the Senate Select Committee on Aging issued a report—after months of hearings and research—on the problems of nursing home care in this country. That report: "Nursing Home Care in the United States: Failure in Public Policy," while it should shock and disturb us, should not really come as a surprise. I am sure we have all visited enough of these facilities and received complaints about them to know the potential for neglect and abuse. Nonetheless, the report and its supporting papers are brutally instructive.

For example, a visiting relative found a patient tied to a chair and suffering a 106-degree temperature. She died the next day. A patient's cut foot went unattended, despite the condition being reported to the staff by a family member, and it finally developed gangrene and had to be amputated. A patient who was difficult to handle was held down in bed and a washcloth stuffed in her mouth. Morphine shots were given to keep her continually subdued. In a short period of time the patient sank into a coma and subsequently, her chest filled with fluids and she died.

Such cases, unfortunately, are not isolated horror stories. They have occurred and can reoccur in facilities throughout the country. In fact the Senate report concludes that over 50 percent of the nursing homes in this country are substandard in their treatment or facilities. Among the most common problems listed were: Lack of human dignity in patient care; a lack of activities; untrained and inadequate numbers of staff; ineffective enforcement and inspections; lack of control on drugs; unnecessary or reprisals against those who complain.

Solutions to these problems will not be easily or quickly achieved. What is needed is not just more inspectors, but a national policy for treatment of the infirm elderly which evokes a personal concern and commitment among all of us for the well-being of our older citizens. In the past 20 years advances in medical science have enabled more and more of our older citizens to live well into their eighties or nineties. At the same time, however, our changing style of life has made it increasingly difficult for the elderly to receive the care and assistance they need within the family setting. The result has been a growing demand for long-term care facilities. Congress and the Federal Government have become actively involved in the spawning of these institutions through financial assistance first in construction of nursing home facilities, and then through direct support for medical treatment under the medicare and medicaid programs. Within the next several years, the establishment of a national health insurance program will extend and deepen that involvement still further.

The time has come, therefore, to fulfill the responsibilities we have assumed for the proper care and treatment of our elderly and other citizens in long-term care institutions. A first but vital step in the development and exercise of a national policy is contained in the legislation I am introducing today, the "Nursing Home Patients' Bill of Rights." Until such time as the full social and financial commitment can be met to assure quality care for all patients, we must at least provide the patients and their families, the facilities and their staffs, with the means and encouragement to help themselves in improving conditions and treatment.

The measure I am introducing requires simply that long-care facilities which are certified for medicare and medicaid patients shall adopt, give to their patients and implement through appropriate staff training a statement of patients' rights. These rights include but are not limited to:

First. A guarantee that the patient's civil and religious liberties—including the right to independent personal decisions and knowledge of available choices—will not be infringed and that the facility will encourage and assist in the fullest possible exercise of these rights;

Second. A guarantee of the patient's right to have private and unrestricted communications with his physician, attorney, and any other person;

Third. A guarantee of the patient's rights to present grievances on behalf of himself or others, to the facility's staff or administrator, to governmental officials, or to any other person without fear of reprisal, and to join with other patients or individuals within or outside of the facility to work for improvements in patient care;

Fourth. A guarantee of the patient's right to manage his own financial affairs, or to have a monthly accounting of any financial transactions in his behalf, should the patient delegate such responsibility to the facility for any period of time;

Fifth. A guarantee of the patient's right to receive at least adequate and appropriate medical care, to be fully informed of his medical condition and proposed treatment, and to participate in the planning of all medical treatment, including the right to refuse medication and treatment and know the consequences of such actions;

Sixth. A guarantee of the patient's right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records, and security in storing and using personal possessions;

Seventh. A guarantee of the patient's right to receive courteous, fair, and equal treatment and services and a written statement of the services provided by the facility, including those required to be offered on an as-needed basis;

Eighth. A guarantee of the patient's right to be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized in writing by a doctor for a specified and limited period of time;

Ninth. A statement of the facility's regulations and an explanation of the patient's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of the other patients; and

Tenth. A guarantee that, should the patient be adjudicated incompetent in accordance with State law and not be restored to legal capacity, the above rights and responsibilities shall devolve upon a sponsor or guardian who shall see that the patient is provided with adequate, appropriate, and respectful medical treatment and care and all rights which he is capable of exercising.

As has been pointed out by the American Hospital Association and other groups involved with health care and the elderly, a bill of rights would benefit not only the patient, but also the institution. A patient who is confident in the care he is receiving, understands his medical condition and participates in the planning of his treatment is generally far more cooperative and more responsive medically to the care he receives. For the predominantly elderly population in most nursing homes, the guarantees can help forestall the confusion and lack of orientation often initially experienced by the patients, and counteract the sometimes stupefying atmosphere of apathy and despair of patients who believe themselves consigned to nursing homes only to await death. Such an atmosphere can defeat the efforts of the most understanding and hard-working staffs and frustrate the entire purpose of the nursing home, which is to maintain and improve the physical and mental well-being of their patients to the greatest extent medically and humanly possible. We should not forget that despite the many problems with nursing homes, there are also thousands of such facilities whose administration and staff are truly dedicated to and concerned about providing quality care for their patients. Such officials, I might add, consider a bill of rights to be "just good sense" and do not feel it would work any hardship for good nursing homes.

At the same time, however, a bill of rights can be helpful for patients in danger of substandard medical treatment or personal care. For one it makes it clear to both the individual and the staff that patients retain the rights of other citizens of this country and should be treated with dignity and respect. It encourages the patient—or their sponsors—to bring problems and concerns to the attention of the staff or others without fear of reprisal. It underscores the rights of patients or other individuals to alert Government officials to substandard conditions and to work for improvement with other concerned people, including the patients. Even under unfavorable circumstances, the reassurances and protections these guarantees would provide could do much to help sustain a patient's mental and emotional integrity.

In developing this legislation, I have spoken at length with HEW officials involved in nursing home standards, as well as representatives of groups such as the National Council of Senior Citizens, the American Association of Retired Persons, the American Association of Homes for the Aging and the Association of Nursing Home Administrators. I am pleased to report that since the introduction of this legislation in 1973, regulations on patients' rights have been developed by HEW. However, I and many others concerned about nursing home conditions are convinced that having a bill of rights established in law is essential to assure thorough and effective enforcement of these guarantees. A Federal law would also provide the States, which presently have the bulk of the responsibility for inspecting and licensing health institutions, with model legislation they could adopt for facilities not now under Federal control. A few States, my own State of Maine among them, have enacted such guarantees. But more concerted action is necessary.

Last year well over a billion Federal dollars went to nursing homes under the medicare and medicaid programs. We can anticipate that with the enactment of national health insurance, even larger amounts of Federal funds will be committed for such care. It is my sincerest hope that when national health insurance is established it will contain as a minimum the guarantees provided in the "nursing home patients' bill of rights." I intend to make every effort to see that this is accomplished. But we should not and cannot wait for NHI. Our medicare and medicaid patients need and deserve the basic help and protection provided by a bill of rights. I urgently request therefore the support of all my colleagues to see that the legislation I am introducing today is promptly and favorably considered.

COL. NAPOLEON VALERIANO, A FILIPINO PATRIOT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. TALCOTT) is recognized for 5 minutes.

Mr. TALCOTT. Mr. Speaker, during the dark days of December of 1941 and during the months that followed, while America reeled under the onslaught of the might of the Japanese Empire, one nation, one people stood side by side with us. Despite disaster, despite repression, despite every effort the Japanese made our Filipino brothers refused to waiver. They fought beside us, and they died beside us, and after the defeats of Bataan and Corregidor, they marched beside us to the Japanese prisons.

It is said that no greater love than that one man lay down his life for his brother, but during that war such sacrifice was not uncommon. The devotion shown by both Americans and Filipinos for each other is one of the brightest chapters in our relations with our allies.

This week Col. Napoleon Valeriano, a hero of that war, a Filipino patriot, and a distinguished American died here in Washington. Colonel Valeriano dedicated most of his adult life to service to his native Philippines and to his adopted homeland, the United States. He was one of the few men to ever hold the rank of full colonel in both the United States and Philippine armies. He will be deeply missed.

Mr. Speaker, I include the obituary of this distinguished and highly decorated soldier in the RECORD following my remarks:

[From the Washington Post, Jan. 22, 1975]

NAPOLEON VALERIANO, FILIPINO HERO

(By Jean R. Hailey)

Col. Napoleon D. Valeriano, 58, a combat officer in the Philippines and survivor of the Bataan Death March in World War II, died

Monday at Holy Cross Hospital after a cerebral hemorrhage.

A highly decorated and distinguished soldier and a specialist in international affairs, he held the rank of full colonel in both the U.S. and Philippine armies.

Col. Valeriano was instrumental in saving his country from the Hukbalahap rebellion in the late 1940s and early 1950s.

He was a personal aide and military adviser to President Ramon Magsaysay during 1953–54 and chief of police in Manila in 1954.

He became a permanent resident of this country in 1958 and a naturalized American citizen in 1963. But he remained loyal to his Philippine heritage, and as a lecturer in later years continued to emphasize the friendship and common interests between the two countries.

Col. Valeriano was born Napoleon Diestro Valeriano y Serrano in Manila. He attended the College of Engineering of the University of the Philippines.

A member of a distinguished military family, he graduated from the Philippine Military Academy in 1937 and was commissioned in the Philippine army. After serving as a junior military aide to Philippine Commonwealth President Manuel L. Quezon, he attended the U.S. Cavalry School at Ft. Riley, Kan., where he graduated in 1939.

Col. Valeriano returned to the Philippines, where he held a number of military positions.

During 1941–42, he was in the thick of the battle to defend Bataan against the Japanese. He was taken prisoner after the Bataan surrender, survived the notorious Bataan Death March and then escaped with 62 other POWs from prison camp.

Joining the Filipino resistance and guerrilla movement as a liaison officer and coordinator with Luzon guerrilla forces, Col. Valeriano helped organize escape and rescue systems for three years.

He also worked as an officer of the Allied Intelligence Bureau and organized the famous "Nonita" unit that bore the brunt of the fighting against the Huks.

Col. Valeriano led the so-called "flying column" to Manila to liberate U.S. internees and POWs at Santo Tomas, Bilibid Prison and Malacanang Palace, which was placed under his command after liberation.

When it was turned over by the U.S. Army to the Philippine Commonwealth, he became a liaison officer to Philippine President Serfilo Osmena.

Col. Valeriano graduated from the U.S. Army Command and General Staff College at Ft. Leavenworth, Kan. in 1946. He was demobilized from the U.S. Army, which he had served during the war, and rejoined the Philippine Army that year.

In the early 1950s, the Philippine government sent him to this country, where he was on special detail at the Pentagon, Ft. Monroe, Va., and Ft. Benning, Ga.

While serving as military assistant to President Magsaysay, he was loaned to the U.S. government to help with assistance programs in Indochina.

He was reassigned as military attache to Thailand and as a Philippine representative to the military secretariat of SEATO in Bangkok.

Col. Valeriano saw special duty with the Philippine Embassy in Washington and with the Philippine delegation to the U.N. Security Council during 1956–57.

He resigned his commission with the Philippine Armed Forces in 1958 when he came to this country as a permanent resident.

In the years following, he was with George Peabody and Associates of New York, the Blanderson Corp. of Washington, and the International Police Services, Inc. here.

During 1965–67, the U.S. State Department sent him to Saigon as a member of the Senior Liaison Office at the U.S. Embassy there.

He returned to International Police Services, Inc. in 1968.

Col. Valeriano had lectured at many military institutions, including the National War College, the Air University at Maxwell Air Force Base and the Defense and U.S. Army Intelligence schools. He also had lectured at the International Police Academy.

He was the coauthor of a book, "Counter-Insurgency: The Philippine Experience."

He held the U.S. Distinguished Service Cross and Silver and Bronze Stars and the Gold Cross and the Military Merit Medal of the Philippines.

He is survived by his wife, Emma B., and three sons, Napoleon D., Francisco and Jorge, of the home, 5121 Wickett Ter., Bethesda; another son, Victor, of Oakton, Va.; two daughters, Norma D., of Manila, and Lavinia D. Hansen, of Las Vegas, and his mother, Amanda de Valeriano, of Pasay City, Philippines.

The family suggests that expressions of sympathy be in the form of contributions to CARE.

NEED FOR IMPLEMENTING BUDGET BILL NOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

Mr. RAILSBACK. Mr. Speaker, I have long felt that until Congress takes the initiative in reforming its own budget system, we would continue funding programs with little, if any, idea as to their impact upon the economy. Over the years, we have stumbled along, spasmodically restraining ourselves in one area, only to double—even triple—our outlays in another area. Financial extravagance has been perpetuated year after year.

Fortunately, the 93d Congress enacted legislation—similar to a bill I introduced earlier—creating a new Budget Committee. This provides the mechanism by which Congress will adopt its own limit on spending, and hopefully exhibit some leadership in fiscal responsibility. The law directs the committee to review and make its recommendations on the fiscal year 1977 budget.

In light of our current economic situation, I am convinced it is imperative for the committee to examine the fiscal year 1976 budget. While the committee staff is doing a commendable job in preparing a "dry run" on the fiscal year 1976 budget, I am introducing a bill today that will require them to begin their mandated work 1 year earlier. I urge immediate and favorable consideration of my legislation.

COASTAL STATES FUND LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 10 minutes.

Mr. BAUMAN. Mr. Speaker, I am today introducing legislation which I believe will solve some of the problems which will result from the decision by the Department of the Interior to lease approximately 10 million acres on the Outer Continental Shelf this year. Three and a half million acres are in the Baltimore Canyon trough area off the coast of Maryland, Delaware, and Virginia.

While the events of last winter made it clear that the United States must seek energy self sufficiency, the rapid acceleration of oil and gas leasing along the frontier areas of the Outer Continental Shelf will result in a severe onshore impact. This could tax the present ability of State and local governments to provide essential public services and adequately control development in our fragile coastal areas.

I have supported legislation to encourage the exploration and development of additional domestic energy resources and I commend Secretary of the Interior, Rogers C. B. Morton, for his unceasing efforts in this regard. Certainly, we cannot long be dependent on foreign sources of energy which adversely affect our foreign policy and produce many of our present economic problems.

Studies show that oil and gas development on the Outer Continental Shelf may provide an inexpensive source of additional fuel, at prices approximately $7 per barrel less than the cost of imported crude. The Atlantic coast is a high demand area for energy and the existence of present improved technology almost dictates development of these resources.

I have three basic reservations with the administration's development of the OCS leasing program:

First. They have failed to coordinate leasing plans with the States which will be most seriously affected;

Second. They have ignored the congressional intent expressed in the Coastal Zone Management Act which calls for coordination of Federal and State Government policies involving the coastal zone; and

Third. They have not taken into account the future costs to States and local government which will result from onshore development.

The administration recently has communicated with coastal State Governors, and when requested, with Members of Congress, but this Federal desire to cooperate was brought about by the realization of a concern that had surfaced at the State level. I do not believe that the Department of the Interior accepts the Coastal Zone Management Act as a limitation on the development of any new national energy policy. The act expresses Congress' concern regarding the preservation of coastal areas, including the protection of shellfish as well as ecologically fragile areas of the coast.

The report of the Council on Environmental Quality recommends that each State's coastal zone management agencies and Federal agencies jointly participate in developing State management plans for onshore development induced by OCS operations. The Council also recommended that States give high priority to completing their plans prior to the leasing of OCS tracts. I do not believe this need for comprehensive plans is recognized by the Department of the Interior, which has announced an accelerated timetable of new leases along the Atlantic coast.

The Secretary of the Interior, in testimony before the Subcommittee on the Environment of the House Committee on the Interior, saw no need to delay leasing in order to permit the completion of State management plans. In his opinion actual oil production in the leased areas would not occur for at least 5 to 7 years. But this ignores the fact that pressures to acquire suitable land for related onshore development begins immediately upon the announcement of proposed leased sites. In fact, a major contractor plans to purchase a 2,000-acre tract of land in Virginia for the construction of offshore drilling platforms.

This attitude prompted me last November to introduce legislation to delay offshore leasing until such time as the coastal States which may be affected have had an opportunity to adopt coastal zone management plans for their areas. Hearings were held by the Subcommittee on Oceanography of the House Merchant Marine and Fisheries Committee, of which I am a member. At that time representatives of the Department of the Interior and the Department of Commerce testified in opposition because they believed the Coastal Zone Management Act provides adequate insurance that the States' concerns will be reflected in Federal offshore activities. I do not share this view and I am today reintroducing this legislation.

I question whether anyone has adequately considered the financial impact upon coastal States and local governments as a result of offshore oil and gas development. One CEQ study analyzes the impact upon the Delaware River Region, including rural southern New Jersey, an area similar to parts of the First District of Maryland. Both areas are rural and now contain no refineries or petrochemical plants; agriculture and light manufacturing are important economic contributors to the small towns and villages and the beach resort industry is a major employer. This CEQ study assumes that a refinery capacity would have to be constructed in this area and possibly 30,000 additional persons would move into the two-county area under the prospects of high OCS oil and gas development.

Major changes caused by extreme development pressures could very easily occur in Worcester and Wicomico counties in the First District of Maryland and in other rural coastal areas. Such an impact would shift an area's traditional economy away from tourism, fishing, and agriculture and force local governments to provide schools, hospitals, and related governmental service.

The magnitude of the financial impact of offshore production has been illustrated by studies such as one showing that the State of Texas received $48.9 million in tax revenues from various onshore activities but the cost of providing governmental services was $111 million, leaving an estimated annual deficit of $62.1 million.

Under present economic conditions coastal States will have to scrape hard to finance present levels of governmental services. The failure of the Federal Government to provide these States with a fair share of revenues received from OCS activities will cause serious fiscal crises in many areas.

Because of this, I am today introducing amendments to the Coastal Zone Management Act which I believe will insure the orderly expansion of needed energy resources, protect our coastal zones, and financially assist the coastal States which bear the direct impact of OCS activities.

The bill creates a "coastal States fund" in an amount equal to 10 percent of the Federal OCS oil and gas revenues, not to exceed $200 million in each of fiscal years 1976 and 1977. The fund would be used to offset the costs to States and local governments of providing services necessary for offshore oil and gas operations. Such grants could be used by the States to plan for the total impact likely to occur. States would be encouraged to identify particularly fragile areas of the coasts where it would be unsuitable to locate large facilities for offshore operations, such as storage areas, fabrication plants or refineries. Some areas might be found unsuitable for economic, environmental, or social reasons and the States would be able to select those areas where heavy development could take place with minimum difficulty.

The bill also provides that Federal agencies responsible for Outer Continental Shelf development must share information collected about oil resource location and quantities with the adjoining coastal States. This would answer one of the major complaints I have heard about the secrecy which has surrounded major Federal actions in this area.

To encourage individual States to deal with coastal management problems involving neighboring States, the bill includes a new section which authorizes 100 percent grants to insure high priority for coordinating coastal management efforts on an interstate basis. The amount of $1 million is authorized for fiscal years 1976 and 1977 for this purpose.

I invite my colleagues to join me in cosponsoring this needed legislation, and I am hopeful that the House Merchant Marine and Fisheries Committee will give this measure prompt consideration.

I include the text of the two bills:

H.R. 1777

A bill to amend the Coastal Zone Management Act of 1972 to suspend until no later than June 30, 1976, Federal oil and gas leasing in areas seaward of State coastal zones

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of law, the Secretary of the Interior may not grant any lease for the exploration and development of oil and gas deposits of submerged lands of the Outer Continental Shelf which are seaward of the seaward boundary of any coastal State before whichever of the following dates first occurs:

"(1) the date on which the Secretary finally approves the coastal zone management program of the State pursuant to section 306; or

"(2) June 30, 1976.".

H.R. 1776

A bill to amend the Coastal Zone Management Act of 1972 to authorize financial assistance to coastal states to enable them to study, assess, and plan the effects of offshore energy-related facilities and activities in or on the Outer Continental Shelf on their coastal zones; and to provide for needed public facilities and services; to provide assistance to the coastal states for coordinating coastal zone planning, policies, and programs in contiguous interstate areas; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coastal Zone Management Act Amendments of 1974". The Coastal Zone Management Act of 1972 (86 Stat. 1280) is amended as follows:

SEC. 2. Sections 307, 308, 309, 310, 311, 312, 313, 314, and 315 are redesignated as 309, 310, 311, 312, 313, 314, 315, 316, and 317, respectively.

SEC. 3. A new section 307 is added to read as follows:

"COASTAL STATES FUND

"SEC. 307. (a) There is hereby established in the Treasury of the United States the Coastal States Fund (hereinafter referred to as the 'Fund') to be administered by the Secretary. The Secretary is authorized to make grants from the Fund to coastal states impacted by anticipated or actual oil and gas production and exploration.

(b) (1) The purpose of such grants shall be to assist coastal States impacted by anticipated or actual oil and production to ameliorate adverse environmental effect and control secondary social and economic impacts associated with the development of Federal energy resources in, or on the Outer Continental Shelf adjacent to the submerged lands of such States. Such grants may be used for planning, construction of public facilities, and provision of public services, and such other activities as may be prescribed by regulations promulgated by the Secretary. Such regulations shall, at a minimum, (1) provide that such regulations be directly related to such environmental effects and social and economic impacts; (2) take into consideration the acreage leased or proposed to be leased and the volume of production of oil and gas from the Outer Continental Shelf off the adjacent coastal State; and (3) require each coastal State, as a requirement of eligibility for grants from the fund, to establish pollution containment and cleanup systems for pollution from oil and gas development activities on the submerged lands of each such State.

(b) (2) States receiving grants under this section are encouraged to undertake studies designed to collect onshore economic, environmental, and social data for the purpose of designating onshore areas which are suitable for the location of facilities necessary to support Outer Continental Shelf energy-related exploration or development. This designation shall also include an identification of those areas which are unsuitable for such location because of the potential negative effects which such facilities would have on the economic, environmental, or social aspects of the coastal areas.

(b) (3) To assist the States in carrying out the studies under this section, all Federal agencies shall apprise affected coastal states of information in their possession concerning the location and magnitude of potential resources in or on the Outer Continental Shelf. This information shall be transmitted to the affected coastal States by appropriate Federal agencies within 30 days after it becomes available to the agencies.

(b) (4) Those Federal agencies which have authority to grant licenses, leases, or permits for the exploration or development of resources in or on the Outer Continental Shelf shall make available to affected coastal States all information relating to the timing, location, and magnitude of any licensing, leasing, or permitting activity in which those agencies are planning to engage, including any proposed long-term plans.

(b) (5) In the process of granting licenses, leases, or permits for the exploration or development of resources in or on the Outer Continental Shelf, or of developing long- or short-term programs for the granting thereof, appropriate Federal agencies shall coordinate and consult with all coastal States likely to be affected by such exploration or development and shall utilize, to the maximum extent practical, the data developed by the States under subparagraph (2) of this subsection. Such coordination, consultation, and utilization shall be made an integral part of the agencies' license, lease, or permit process as soon as possible to enable the affected coastal States to plan for and ameliorate the effects of exploration and development on the Outer Continental Shelf.

(c) To be eligible to receive grants under this section, a coastal State must:

(1) be receiving a program development grant under section 305; or be receiving an administrative grant under section 306; and

(2) demonstrate, to the satisfaction of the Secretary, that such grants will be used for purposes directly related to the economic, environmental, and social effects resulting from offshore energy-related facilities and activities.

(d) The Secretary of Commerce in accordance with the provisions of subsection (b) and this subsection, shall, by regulation, establish requirements for grant eligibility; *Provided,* That it is the intent of this section that grants shall be made to impacted coastal States to the maximum extent permitted by subsection (e) of this section and that grants shall be made to impacted coastal States in proportion to the effects and impacts of offshore oil and gas exploration, development and production on such States. Such grants shall not be on a matching basis, but shall be adequate to compensate impacted coastal States for the full costs of any environmental effects and social and economic impacts of offshore oil and gas exploration, development, and production.

(e) Notwithstanding any other provision of law, there shall be deposited in the Fund an amount equal to 10 per centum of the Federal revenues collected under the Outer Continental Shelf Lands Act (67 Stat. 462) to be used for the purpose of providing financial assistance under this section: *Provided,* That the total amount paid into the fund shall not exceed $200,000,000 per year for fiscal years 1976 and 1977. The fund and the annual accruals thereto shall remain available until expended by the Secretary."

SEC. 4. A new section 308 is added to read as follows:

"INTERSTATE COORDINATION GRANTS TO STATES

"SEC. 308. (a) The states are encouraged to give high priority to coordinating state coastal zone planning, policies, and programs in contiguous interstate areas and to study, plan, or implement unified coastal zone policies in such areas. The states may conduct such coordination, study, planning, or implementation through interstate agreements or compacts. The consent of Congress is hereby given to two or more states to negotiate and enter into interstate agreements or compacts, not in conflict with any law or treaty of the United States, upon such terms and conditions, including the establishment of such public agencies, entities or authorities as are reasonable or appropriate, for the purpose of said coordination, study, planning, or implementation: *Provided,* That, such agreements or compacts shall provide an opportunity for participation, for coordination purposes, by Federal and local governments and agencies as well as property owners, users of the land, and the public.

"(b) The Secretary is authorized to make 100 per centum annual grants to the States for the purpose of such coordination, study, planning or implementation.".

SEC. 5. Section 302 is amended by striking the word "and" after the semicolon in subsection (g); by inserting a new subsection "(i)" to read "In meeting the increasing energy needs of the nation it is in the national interest to provide assistance to the coastal States to enable them to (i) study, assess, and plan the effects of offshore energy-related facilities and activities on their coastal zones and to provide for needed public facilities and services, (ii) coordinate coastal zone planning, policies, and programs in interstate and regional areas, and (iii) develop short-term research, study, and training capabilities in support of the management of State coastal resources.".

SEC. 6. Section 304 is amended by striking "307(f)" in subsection (h) and inserting in lieu thereof "307(f)"; and by striking "307 (g)" in subsection (i) and inserting in lieu thereof "307(g)".

SEC. 7. Section 315(a), as redesignated, is further amended by striking "307" and inserting "309"; by striking the word "and" after the word "priority" in subsection (8); by renumbering existing subsection (9) as subsection (10); and inserting the following new subsection (9) to read "an assessment of the onshore economic, environmental, and social effects on those coastal states affected by offshore energy-related facilities and activities; and".

SEC. 8. Section 317(a), as redesignated, is further amended by striking the word "and" after the semicolon in subsection (a)(2); by redesignating subsection "(a)(3)" as "(a)(5)" and striking therein "312" and inserting in lieu thereof "314"; by inserting a new subsection "(a)(3)" to read "the sum of $100,000,000 to the fund for grants under section 307, to remain available until expended;"; by inserting a new subsection "(a)(4)" to read "such sums, not to exceed $1,000,000, for each of the fiscal years ending September 30, 1976, and September 30, 1977, as may be necessary for grants under section 308, to remain available until expended."

THOMAS HART BENTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. WINN) is recognized for 10 minutes.

Mr. WINN. Mr. Speaker, I would like to take this opportunity to call to your attention a man whose accomplishments in the art field, will always stand as a tribute to America and the American individual. Thomas Hart Benton died last Sunday at the age of 85. He was well known for his murals and paintings of America; as they depicted aspects of our country's way of life as well as of the people who make that way of life. I am fortunate and proud to have known such a man. A man whose pride in and appreciation for his country and people will remain always with us, to be shared by thousands every day. I have infinite admiration and respect for him, both as an individual and as an artist. His paintings exhibit his America—the America as he saw it and as he saw himself in it. I think to all of us, Benton, through his paintings, will always stand as a symbol of our country. His paintings are a combination of the truth and reality of American life—the work and toil required of the people combined with the pleasures and beauty of our life. Benton exhibits his bold view of America and her people, adding to this vision his personal devotion for all that America incorporates and offers as a whole. Benton's paintings are an honor to the strength of the American people. I think it only appropriate, particularly as this country is readying itself for its 200th year anniversary, to pay homage to this man for his faith, pride, and allegiance to his country.

THE 57TH ANNIVERSARY OF UKRAINIAN INDEPENDENCE

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) will be recognized for 60 minutes.

Mr. FLOOD. Mr. Speaker, today and throughout this week we commemorate the 57th anniversary of the independence of Ukraine. The date of January 22, 1918, is a vitally important and highly symbolic one for close to 50 million Ukrainians who today are held captive of imperialist Moscow.

It was then that once again in their long history the Ukrainian nation regained its independence from the Russian Empire and established the independent state of the Ukrainian National Republic. A year later, on the same date, in an act of union, all the ethnographic territories of Ukraine were united into this one State. It is not historically true that the U.S.S.R. under Stalin was the first to unite all these territories under the Soviet Ukraine Republic, in itself a sham for Ukrainian independence.

BASIC IMPORTANCE OF EVENT

Why is this annual event so basically important from our own American viewpoint and security interest? Remember that by the end of 1920 this large country was one of the first to be overrun by Trotsky's Red Army in the first wave of Soviet Russian imperiocolonialism. The independent U.N.R. was destroyed and Ukraine was sovietized in preparation for its forced incorporation into the new empire-state called the Union of Soviet Socialist Republics.

Today, Ukraine is the largest captive non-Russian nation not only in the U.S.S.R. but also in Eastern Europe generally. This colonialist base of Moscow's empire is one of the most critical to Moscow's global objectives and doubtlessly deserves our utmost, concentrated attention. As free men, knowing that our freedom cannot be secure unless we are also concerned with the deprivation of the freedom of others, we must act on such occasions to speak in behalf of others.

An additional fact that buttresses the basic importance of this event is the growing ferment among the non-Russian nations in the U.S.S.R. for greater economic self-determination, more cultural freedom, and constitutional respect by Moscow's rulers for fundamental human rights. Forces are underway that even the totalitarian reins of Moscow may not be able to contain.

The hundreds of Ukrainian intellectuals, artists, and others who have been imprisoned these past 5 years—notably Valentyn Moroz himself—attest to the importance of Ukraine in this regard. Every competent Soviet analyst today is aware of this growing development of non-Russian politicoeconomic nationalism in the Soviet Union. This is a real, ingrained development that we cannot afford to ignore or be indifferent toward. This anniversary is our occasion to show our interest in and concern for the yearnings for freedom in Ukraine and the other nations in the U.S.S.R.

NEW DIRECTIONS OF ACTION

Mr. Speaker, as indicated in the letter sent by Dr. Lev E. Dobriansky of Georgetown University and also president of the Ukrainian Congress Committee of America, there are new directions of action we can take. His five points warrant our consideration, and I wish to append to my statement the full text of his letter, which I am certain, many Members have found to be of considerable interest.

Also recent reports on Ukraine are indicative enough of the serious import of my remarks on this occasion. I thus include: First, the text of Dr. Dobriansky's message; second, the New York Times item on Valentyn Moroz; third, an illuminating article in the Gazette of Montreal concerning Soviet incarcerations; fourth, a report on Solzhenitsyn's Ukrainian background; and fifth, a New York Times editorial on "Ukrainian Injustice":

UKRAINIAN CONGRESS COMMITTEE
OF AMERICA, INC.
New York, N.Y., January 13, 1975.

DEAR REPRESENTATIVE: You might not believe it, but what Alexander I. Solzhenitsyn and Andrei D. Sakharov, the two towering Russian freedom advocates, have been revealing to the world about the empire-state of the USSR, this committee, in its educational role, has been disseminating for over two decades. Now, with Congress, much to its credit, taking the leadership and responsibility in linking trade and fundamental human rights, there is every good cause for its Members to indicate a continuing interest in the many different nations that make up the Soviet Union and whose citizens may seek to emigrate. It is no exaggeration to stress that a vitally important triangle of interest has emerged here.

We urge you to express this abiding concern on the occasion of the 57th Anniverasry of the Independence of Ukraine. In all sections of our country this significant anniversary will be observed on January 22. On this date in 1918, the Ukrainian nation declared its independence and founded the Ukrainian National Republic, which, as in the cases of other non-Russian nations, was destroyed in 1920 by Moscow's armed conquest. Today, the 48 million Ukrainian people constitutes the largest non-Russian nation under Moscow's domination, both within and outside the USSR. Its very size and exploited importance to Moscow's global objectives surely makes it deserving of our concentrated interest.

Through various media your inspiring words will reach the people of Ukraine. During the week of the 22nd and by special order this anniversary will be observed in the House through the good offices of Representatives Daniel J. Flood and Edward J. Derwinski. In the Senate, guided by its own rules and graced in past anniversaries by such stalwart supporters as Senators Scott, Humphrey, Percy, Buckley, Javits, Roth and others, individual expressions during this period are cordinally invited in behalf of this large captive nation.

Basic human rights are universal, and no current myth of "non-interference in internal affairs" can becloud this truth for free men. An empire such as the USSR, built and maintained on conquests and foreign domination, cannot logically justify the national, non-interference principle. With our technology, know-how and capital flowing to this empire, we have every right and duty to move forward for (1) a strict Congressional accounting of across-the-board emigration from the USSR (2) an equally strict accounting of deals made by our businessmen who are admittedly confused by present rules in U.S.-USSR trade (3) in the spirit of Senator Jackson's appeal to Brezhnev on Sept. 10, 1974, the release of Valentyn Moroz (4) Congressional hearings on the resurrection of the Ukrainian Orthodox and Catholic Churches genocided by Stalin and (5) a short-term Select Committee on the Captive Nations to crystallize for our citizenry a reality that no amount of diplomacy can conceal.

With much gratitude for your participation and best personal wishes,

Sincerely,

LEV E. DOBRIANSKY,
Georgetown University.

[From the New York Times, Sept. 18, 1974]

SOVIET SAYS JAILED UKRAINIAN NATIONALIST IS ALIVE

(By Christoper S. Wren)

Moscow, September 17.—The family of Valentin Moroz has been informed by the Soviet authorities that the 38-year-old Ukrainian dissident historian is alive. There were rumors earlier this month that he had died from a hunger strike.

The historian's wife, Raisa, received a telegram from the deputy warden of Vladimir prison, east of Moscow, that reported Mr. Moroz was living, but offered no details, dissident sources here said today.

Mrs. Moroz who lives in Ivano-Frankovsk in the Ukraine, had telegraphed the prison the previous Saturday asking about her husband after hearing Western radio reports that he might have died.

The dissident, who has served nearly four years of a 14-year sentence on charges of anti-Soviet agitation, reportedly began his hunger strike on July 1 to win an early transfer from Vladimir prison to a labor camp.

His sentence included six years in prison, three years in a strict-regime labor camp and the final five years in exile. Prison is considered a harsher form of punishment in the Soviet Union than a labor camp.

According to dissident sources, a prisoner recently transferred from Vladimir prison sent word that Mr. Moroz had been moved from a solitary cell to the prison's hospital.

HUNGER STRIKE IN 79TH DAY

Friends of Mr. Moroz have contended that he is in a weakened condition from his hunger strike, which would be in its 79th day.

Mr. Moroz has long been a leading intellectual in the Ukrainian nationalist movement. He was first arrested in 1965 and sentenced to four years in prison, from which he emerged in 1969.

Nine months later he was rearrested after a police search of his home in Ivano-Frankovsk had turned up some of his new nationalist writings, including an essay, "a Chronicle of Resistance," expressing opposition to Russian domination of the Ukraine.

After a closed trial, the 14-year sentence was imposed. He requested his transfer to solitary confinement after having been beaten by criminals in the prison.

The Soviet authorities have been particularly upset by his account of the prison system, "A Report from the Beria Reserve." The title refers to Stalin's secret police chief, Lavrenti P. Beria.

Earlier this year, Andrei D. Sakharov, the dissident physicist, appealed to Leonid I. Brezhnev on Mr. Moroz's behalf, asking the Soviet leader "to intervene and save an honest and courageous man."

[From the Montreal Gazette, Apr. 13, 1974]

WHO DENOUNCES KOSYGIN'S CRIMES? WHILE DIPLOMATS SMILE SOVIETS ARE IMPRISONED IN STALINIST MADNESS

(By Roman Rakhmanny)

Responding to a telephone call from the secretary-general of the World Congress of Free Ukrainians in Toronto, Russian academic Andrei Sakharov promised to take up the case of the imprisoned Ukrainian historian Valentyn Moroz along with other similar cases on the list of his Moscow Committee for Human Rights in the Soviet Union.

The dean of the Toronto Osgoode Hall Law School, Prof. Walter Tarnopolsky, has already collected an impressive list of prominent Canadian names under a petition on Moroz's behalf prepared by the Committee for Human Rights he is heading.

The expulsion of Nobel prize winning writer Alexander Solzhenitsyn from his homeland was but a surgical operation that resulted in chopping off only the tip of a large multinational body of a newly-formed public opinion in most of the 15 Soviet republics.

DOWN TO PRISON

While Solzhenitsyn, for a change, was going up on an escalator to be spirited out of the Soviet Union, many Soviet citizens were riding the escalators which were bringing them down to prisons, asylums for the insane, hard labor camps, or the districts of "voluntary settlement" in remote regions of the Kremlin empire.

The Ukraine, the second largest and most developed among the Soviet Republics (with a population of 47 million on a territory comparable to that of France), once again appears to be the main supplier of the "human goods" for the escalators of totalitarian madness.

After the mass arrests of Ukrainian intellectuals last year, a selective system of imprisoning Ukrainian patriots has been applied since. That system is netting more and more men and women from both intellectual and peasant-worker strata of the society.

Both the United Nations' Human Rights Commission and Amnesty International have, independently, collected impressive records of the identified prisoners in the known post-Stalin places of detention.

PLIGHT NEGLECTED

But while the cause celebre, that of Alexander Solzhenitsyn and of his two famous supporters, Andrei Sakharov and Roy Medvedev, is being given well-deserved publicity in the West, the plight of these lesser known freethinkers of various ethnic backgrounds is neglected.

Consider the case of Valentyn Moroz, a 37-year-old Ukrainian historian and essayist. He is being kept in the toughest Russian prison at Vladimir on the Kliazma River. His prison term of nine years has an additional rider: Five years of banishment from the Ukraine to an undetermined place, probably in the Arctic region of the Soviet Union.

The harsh punishment was meted out to Moroz, at his second secret trial, for his outspoken advocacy of the sovereignty of any individual, that is: The right to think, to speak, to do creative work and arrange personal affairs according to one's own national and cultural background.

Valentyn Moroz made some headlines in Canada three years ago.

MASS DEMONSTRATION

First, when Prime Minister Trudeau was caught on the horns of a dilemma—to raise Moroz's issue with the Kremlin authorities or not to raise it during his visit to Moscow and Kiev in the spring of 1971. Then, retreating before the unyielding Ukrainian-Canadian students in Winnepeg, Mr. Trudeau agreed to intercede in Moroz's behalf during his talks with Soviet Premier Kosygin visiting Canada later in 1971.

Recently, Ukrainian-Canadian students staged a new mass demonstration in front of the Soviet embassy in Ottawa, proving that their interest in the fate of that freethinker has not diminished.

Thus, Jewish escapees from the escalators of madness are, in a way, repaying their moral debt to this Ukrainian intellectual who once rose to urge the Soviet regime to grant a more humane treatment to the Jews in the Ukraine. Moroz wrote in part: "All of us condemn the Nazi crimes perpetrated on the Jews, but, at the same time, we all nonchalantly stroll on the sidewalks paved with the tombstones which had been taken out of the Jewish cemeteries in quite a few of our towns."

In a similar way Valentyn Moroz accused Soviet authorities of willfully destroying Ukrainian landmarks, including the cemeteries of Ukrainian soldiers at the city of Lviv.

When members of the Komsomol (Soviet youth organization), on the orders from "the centre" (in Moscow), began confiscating and destroying even the traditional Ukrainian Easter eggs (pysanky)—in stores and on village bazaars, Moroz publicly denounced that barbaric attempt to obliterate the most essential symbol of Ukrainian culture, with its roots imbedded in the pre-Christian era.

PRESERVE IDENTITY

Not unlike Alexander Solzhenitsyn defending the very essence of Russian culture, Valentyn Moroz seems to epitomize by his protests the will of the Ukrainian people to preserve their own identity in spite of all the attempts of a foreign establishment at annealing the Ukrainians and other nationalities into an amorphous mass.

It is, then, to the credit of Canadian young people that they have been able to recognize the value in the heroic stand of the two intellectuals of two different nationalities.

Solzhenitsyn's case took a more favorable turn, as he is at least safe himself and his family has joined him in exile.

Meanwhile, Valentyn Moroz, like thousands of other freethinkers within the Soviet Union (Ukrainians, Jews, Estonians, Georgians, Latvians, and many Russians as well) is facing the KGB inquisitors who are not satisfied with keeping him behind bars.

What they want from Moroz is a confession of his "guilt" and a written declaration of his repentance. These used to be conveniently extracted from most of the prisoners in the good old days of Stalin's rule.

Now, any Canadian who is sincerely yearning for a lasting peace and cooperation between the nations of the East and the West must keep in mind the harsh fact of hardly changing Soviet reality.

DIPLOMATIC GAME

While the diplomats exchange smiles and pieces of paper, many Soviet citizens are being brought into prison wards by the escalators of the same Stalinist madness.

To acquiesce in Solzhenitsyn's expulsion would mean to become an involuntary accomplice in the crime which was recently defined by that intrepid Russian lady writer, Lydia Chukovskaya. She called such silence, supporting the only important Soviet law—"the law of the preservation of muteness."

The least one may do is to ask oneself the question Prof. James Eayrs of the University of Toronto put before his Canadian readers two years ago: "Khrushchev denounced the crimes of Stalin. Kosygin denounced Khrushchev's crimes. Who denounces the crimes of Kosygin?"

[From Svoboda, the Ukrainian Weekly, Aug. 31, 1974]

SOLZHENITSYN ADMITS TO UKRAINIAN LINEAGE

MUNICH, WEST GERMANY.—In a letter to the faculty and students of the Ukrainian Free University here, Aleksandr Solzhenitsyn politely declined to take part in the summer courses at the University, even though Ukrainian culture is close to his heart since he said he is part Ukrainian.

The Russian writer and Nobel Prize winner was asked by Profs Mykola Stepaneko and Ihor Kamenetsky of Central Michigan University, to be a guest lecturer at the Ukrainian Free University during the school's joint "Munich Project". Mr. Solzhenitsyn said that his work at the present time does not allow him to take on any other assignments.

In his letter to Profs. Stepanenko and Kamenetsky, Mr. Solzhenitsyn said:

"I am deeply moved by your invitation. Ukrainian culture, life and hopes are not foreign to me. My beloved grandfather (the only one I ever knew) was Ukrainian, and his wife was half Ukrainian. In my youth I constantly heard about the Ukrainian cause. Also, I shared with Ukrainians some of the most trying years of my life—I befriended many of them.

"Therefore, if I had the slightest time on hand to accept your invitation, I would undoubtedly have done so. But as you yourselves anticipated, I cannot for a moment leave my present work."

[From the New York Times, Sept. 12, 1974]

UKRAINIAN INJUSTICE

Despite alternating tactics of persuasion and oppression, the Soviet authorities in Moscow still find themselves stymied by the tenacity of the dissident nationalist movement in the Ukraine, second most populous republic of the Soviet Union.

Ukrainian nationalism has had a checkered history in the twentieth century, bounced as it has been between the forces of German fascism and Soviet Communism. In recent years, however, it has gained influential champions among the other dissidents groups of Moscow and Leningrad.

The current symbols of the Ukrainian campaign against Russian domination are a 38-year-old historian named Valentyn Moroz, reportedly held by the Soviet secret police in Vladimir prison, and 35-year-old Leonid I. Plyushch, a cybernetics specialist associated with the Ukrainian Academy of Sciences until his "psychiatric detention" in 1972. Both men were openly engaged in the civil rights struggle which has tied together many of the Soviet dissidents. Such distinguished leaders of that movement as Andrei Sakharov and Pavel Litvinov have repeatedly protested the inhumane and illegal conditions of their detention.

Moroz and Plyushch are not well known in the West, and their plight has attached little attention outside the circles of Ukrainians in ths country and Canada. Perhaps for this reason, Soviet authorities have so far turned deaf ears to pleas in their behalf from international civil libertarian groups. Moscow's policymakers should not be deluded into waiting until some specific outrage against the two Ukrainans makes the protest genuinely universal.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I commend the gentleman from Pennsylvania (Mr. FLOOD) for taking this time for this special order so that we can again commemorate the anniversary of the independence of the Ukraine. I think every year that I have had the privilege of serving in this body I have joined with the gentleman from Pennsylvania in saluting this important occasion.

What is perhaps necessary to point out today is that on this occasion, as the gentleman from Pennsylvania well knows, some of us who have participated in these anniversaries have been chided by other Members who are saying: "Why are you taking the time to make these statements about the captive nations? Is this not a kind of futile gesture?" Well, let me point out that this action is by no means futile. The emphasis that has been made in the House of Representatives and in the other body over the years on some of the problems of the captive nations and the citizens of those captive nations has indeed produced fruit. We succeeded for example, as a result of the continued pressure of Members such as the gentleman from Pennsylvania, in securing the release of Simas Kurdika, the captive Lithuanian who was honored at a reception in the Speaker's dining room only a few weeks ago celebrating his release as a result of remarks in his behalf that have been made repeatedly on the floor of the House. We also came within an ace—perhaps even better—of succeeding in persuading the Soviet Union to change their policy with respect to the emigration of Jewish citizens. And I am certainly hopeful, as I am sure the gentleman from Pennsylvania is hopeful, that as a result of some of our remarks here today we may also soon succeed in achieving the release of Valentyn Moroz, the imprisoned Ukrainian intellectual who has similarly been mistreated and who well deserves to be released.

So I want to emphasize again that these expressions of hope for freedom of individuals and for freedom within the captive nations are not exercises in futility. If we continue to exercise this concern then we can indeed look forward to freedom for these countries.

Mr. FLOOD. I am indebted to the gentleman from New York. I could not have said it better myself. We always welcome the help of the gentleman.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Illinois. The gentleman has always joined this fight with respect to the captive nations.

Mr. DERWINSKI. Mr. Speaker, may I point out to the Members that the gentleman in the well, the gentleman from Pennsylvania (Mr. FLOOD), in my judgment at least, has one of the really great minds in the House on the subject of foreign affairs. He does understand the need for a strong foreign policy based on the premise that all peoples should have the right of self determination and freedom.

It is important that we take the first special order of a new Congress on a subject of this kind, to mark the desire for independence in the Ukraine, the largest of the non-Russian peoples within the U.S.S.R.

I wish the Secretary of State had the same views concerning conditions within the U.S.S.R. as does the gentleman from Pennsylvaia.

Mr. Speaker, I would like to thank my distinguished colleague from Pennsylvania (Mr. FLOOD) for the opportunity to join today in commemorating the 57th anniversary of the proclamation of Ukrainian independence from Communist Russia. On January 22, 1918, the Ukrainian nation asserted their rights of freedom and national independence by founding the Ukrainian National Republic.

However, this dissent from the Communist oppressive policies was soon acknowledged by the Soviet regime who extinguished this freedom to which the Ukrainian people had aspired for two and a half centuries. As a result, the Ukraine was incorporated as a Socialist Republic, as though to obliterate from history the previous existence of the Ukraine as a nation.

Subsequent Soviet policy, designed to destroy Ukrainian cultural and spiritual independence, has exacted a heavy toll in human lives and misery by denying national identity not only to the Ukrainian peoples but also to those in Lithuania, Latvia, Estonia, and other non-Russian nations within the U.S.S.R. Increased Soviet oppression has been shown by the particularly widespread arrest and torture of political dissidents.

In the Ukraine, the names of Valentyn Moroz, a 38-year-old historian, and Leonid Plyushch, a 35-year-old mathematician, have been added to the list of those who have been sentenced to harsh terms of imprisonment for criticizing the Russification of the Ukraine and the gross violation of human rights as defined by the U.N. Universal Declaration of Human Rights.

The fight for human rights applies not only to the Solzhenitsyns, Sakharovs, and Soviet Jews but also to many others within the Soviet yoke who defend the inherent rights of self-determination. The Ukranian peoples continue to aspire to reestablish their cultural and religious freedoms and the resurrection of the Ukrainian Orthodox and Catholic churches. However, any resistance movements have been countered with Soviet authorized deportation, starvation, and execution.

The prime character of the U.S.S.R. is not socialistic but rather technocratic, totalitarian, and militaristic, with most of the Kremlin rulers being trained in the Stalin mold—armed to the teeth, intent on achieving military superiority, and ready to furnish arms to all trouble spots of the world.

An American diplomacy of accommodating compromise, which always results to the net advantage of the Red aggressor, is scarcely a guarantee of continued freedom from communist domination. Treaties, negotiations, cultural exchange, trade and other involvements were rife in relations with Nazi Germany, but all of these failed to alter the course of history. And the injection of the nuclear age does not make such activities any more substantial.

Secretary of State Kissinger has given this definition:

> Détente is a process of managing relations with a potentially hostile country in order to preserve peace.

The main weakness of this concept is that the U.S.S.R., by stated intent and by open and covert action, is hardly just a "potentially hostile country"! Although we long for an easing of global tensions, we must not be so dazzled by détente that we forget the nations within the U.S.S.R., struggling to preserve their identity.

The Ukraine is one of the richest of the captive nations of the U.S.S.R. The Ukrainian territory, covering 232,046 square miles, is a land possessing tremendous agricultural and industrial resources and boasting a cultural background that is centuries old. No fewer than 74 nations have become independent since the close of World War II, and 55 of them are smaller in size than the Ukraine with only 5 having more inhabitants than Ukraine's 48,100,000.

During the five decades since the time of the Russian Communist takeover, the Ukrainian people have not given up hope of once more regaining their freedom and independence. They have steadfastly served the cause of freedom by their refusal to resign themselves to enslavement by giving up the struggle despite overwhelming odds. Mr. Speaker, may I reemphasize to the Members the importance of their support in urging the release of Valentyn Moroz and other political prisoners, and joining in the aspirations of the Ukrainian nation to self-determination, so that the Ukrainian people once again regain their cultural and religious freedoms and live in peace in their homeland.

Mr. CONABLE. Mr. Speaker, I join with my colleagues in marking the 57th anniversary of the proclamation of the independence by the Ukraine on January 22, 1918. This independence was shortlived, having been terminated by Soviet Russia in 1922 when the Ukraine was incorporated into the Union of Soviet Socialist Republics. The Ukraine today is a state of 48 million people. Though Ukraine has not known independent status for 50 years, Ukrainians in the free word continue to press for a return to the status for their homeland. They point to a society there of persecution, inhumanity, intimidation and violation of human rights. They deplore what they see as a subtle effort to destroy the Ukrainian national consciousness and identity.

The treatment of Valentyn Moroz, a 38-year-old Ukrainian historian, and Leonid Plyusch, a 34-year-old Ukrainian mathematician, are cited as prime examples during the past year of the treatment received by Ukrainian intellectuals who insist upon exercising their human rights in their society today. We are informed that both have been imprisoned for long periods and have suffered sharp deterioration of their health as a result of their treatment.

Many of us have supported the efforts for détente with the Soviet Union in the interest of improving relations among men and nations throughout the world. The Soviet Union is sensitive about interference in its internal affairs, as we would be, but this will not deter any of us from continuing to champion freedom and human rights for all individuals wherever they reside. We ally ourselves with the Ukrainians in the free world who continue to insist upon these basic rights for those who remain in their homeland.

Mr. HANLEY. Mr. Speaker, I rise to join my distinguished colleagues in observing the 57th anniversary of the Independence of Ukraine, a time to pay tribute to the struggle of a brave nation.

While it is a day of honor for these great people, the Ukraine will spend this Independence Day under Soviet domination. Today 48 million Ukrainian people must live behind the Iron Curtain, under a puppet government, with the tragic reality that they are slaves in their own country, captives of the Soviet Union. But the efforts of the Soviets to stamp their initials onto the hearts, souls and minds of the proud Ukrainians have proven fruitless. The people of Ukraine live each day with hopes of attaining personal liberty and political freedom, and we as Americans must continue to kindle their spirit.

As we enter this era of closer relations with the Soviet Union our efforts for détente are both admirable and essential. However, we must also be aware of our role as the champion of all free people of the world, and of all those who desire to be free. We must continue to support the people of the world who sustain their fight for freedom. In Congress we must support legislation regarding this matter. Second, we can act as a nation, by pledging ourselves to affording the people of Ukraine a degree of hope that in the end they shall, against all odds, have what is rightfully theirs.

As the people of Ukraine look to America they must be proud of their people who have made a home in this great Nation. I have been honored to represent many of these fine people and they are truly proud of their heritage. On this day of recognition let us not forget that the struggle of an oppressed nation has not ended, and we must continue to offer hope and guidance to the people of Ukraine.

Mr. ANDREWS of North Dakota. Mr. Speaker, I would like to call the attention of the Congress to a recent letter I received from the Ukrainian Congress of North Dakota commemorating the anniversary of the proclamation of the independence of the Ukrainian state on January 22, 1917.

At a time when there is much publicity and celebration over détente with the Soviet Union, we should not forget the terrible sacrifice of human life and freedoms that have taken place in the Soviet Union since the Revolution. We hope that we will be able to prevent military confrontation with the Soviet Union and work to continue cultural exchanges but, we must remember the conditions that the people of the Soviet Union live under.

I admire the Ukrainian people for their ethnic heritage and their deep devotion to their people who still live under tyranny. To recognize their fidelity and long standing concern for Ukrainians who still live in the Soviet Union, I would like to submit this letter for inclusion in the RECORD:

> January 22, 1975, will mark the 57th anniversary of the proclamation of the Independence of Ukraine, and the 56th anniversary of the Act of Union, whereby all Ukrainian ethnographic lands were united into one independent and sovereign state of the Ukrainian nation. Both the independence of Ukraine and the Act of Union were proclaimed in Kiev, capital of Ukraine, on January 22, 1918, and on January 22, 1919, respectively.
>
> Regrettably, the young Ukrainian democratic republic was immediately attacked by Communist Russia, despite the fact that the new Soviet Russian government had officially recognized Ukraine as an independent and sovereign state. This same recognition to Ukraine was granted by the Central Powers and a number of states of *Entente,* including

France and Great Britain. By 1920, Ukraine, alone, and unaided, succumbed to the vastly superior forces of Communist Russia, which destroyed the Ukrainian National Republic, created a Communist puppet government in Ukraine known as the "Ukrainian Soviet Socialist Republic" and incorporated it forcibly into the "Union of Soviet Socialist Republics" (USSR).

The entire history of Soviet dominated Ukraine is a ghastly record in inhumanity, outright persecution and genocide, Russification and violations of human rights on a scale not known in mankind's history. Under Stalin, Ukraine was marked for physical destruction and denationalization; under Khrushchev and Brezhnev-Kosygin, the outright terror was replaced by the subtle process of destroying the Ukrainian national consciousness and identity through Russification, persecution of "Ukrainian bourgeois nationalism" and the propagation of "fusion" of all non-Russian nations in a spurious "All-Soviet" people which essentially would be the Russian people.

In summing up the Soviet Russian rule in Ukraine, the following results exemplify the enslavement of Ukraine:

a. During the 55-year rule of Moscow over Ukraine, literally millions of Ukrainians have been annihilated by the manmade famines, deportations and outright executions;

b. Both the Ukrainian Autocephalic Orthodox and the Ukrainian Catholic Churches were ruthlessly destroyed and their faithful members were incorporated into the Kremlin-controlled Russian Orthodox Church;

c. All aspects of Ukrainian life are rigidly controlled and directed by Moscow; the Academy of Sciences, all scientific and research institutions, universities, technicums, publications, the press, party and government apparatuses, youth, women's organizations, trade unions, and so forth;

d. Arrests, trials and convictions of hundreds of young Ukrainian intellectuals—poets, writers, literary critics, playwrights, professors and students are charged with "anti-Soviet propaganda and agitation" though, in fact, these people profess loyalty to the Soviet State, but fight against its abuses, violations, and police rule, Among them are noted writers and thinkers such as V. Chornovil, I. Dzuba, I. Svitlychny, E. Sverstiuk, V. Moroz, L. Plushch, and many others. Yuriy Shuhkevych, the son of General Roman Shuhkevych, commander-in-chief of the UPA, has been in and out of Soviet concentration camps since the age of 15; in September, 1972, he was again sentenced to ten years of hard labor for refusing to denounce his assassinated father and the ideal for which he was killed—a free Ukraine.

Today, Ukraine, more than ever, is a colony of Communist Russia, a land of inhuman persecution and economic exploitation.

Signed:

Dr. ANTHONY ZUKOWSKY,
Honorary President, UCCA State Branch of North Dakota; National Vice President of UCCA.
BOHDAN MAKARUK,
President, UCCA State Branch of North Dakota.
AGNES PALANUK,
Secretary, UCCA State Branch of North Dakota.

Mr. KOCH. Mr. Speaker, yesterday marked the 57th anniversary of the Proclamation of the Independence of the Ukraine, and we celebrate the efforts of the Ukrainian people to maintain their culture, their heritage, and their beliefs in the face of overwhelming opposition by the Soviet government which seeks to obliterate the identity of the Ukrainian people.

On January 22, 1918, the Ukrainian National Republic was officially established as an independent state. Despite the fact that the new Soviet Government had recognized the Ukraine as politically sovereign, it was attacked by Soviet forces almost immediately. After more than 3 years of continuous warfare, the republic succumbed to the numerically superior forces of the Soviet Union. Its government was replaced by a Soviet regime and, in 1922, it was incorporated into the Union of Soviet Socialist Republics.

In the following half century, the Soviet Union has not been content with its political absorption of the Ukraine. The most abhorrent aspects of its policy have been the efforts to obliterate the cultural identity of the Ukrainian people. Although the U.S.S.R. rarely employs the Stalinist tactics of physical extinction in recent years, the government continues to use the less violent methods of mass arrest, illegal prosecution, and subtle intimidation to destroy Ukrainian national consciousness. Ukrainian life is manipulated by Moscow to prevent any deviation from the dogma of Russian communism.

On September 29, 1974, I marched with thousands of Ukrainian Americans and those who are not Ukrainian, such as myself, in support of human rights for Ukrainians in the Soviet Union. The Soviet Union is engaging in the destruction of some who dissent. Valentyn Moroz and Leonid Plyushch are suffering in Soviet prisons. After the encouraging Vladivostok talks between President Ford and Soviet Party Chief Leonid Brezhnev, I sent a letter to President Ford asking that he use U.S. relations with Russia to secure the release of Moroz and Plyushch. We in the United States who are free have an obligation to speak out against the U.S.S.R. oppression of the Ukrainian people.

However, recent reports have indicated that Soviet policy has failed to discourage the expression of the Ukrainian national consciousness. What we are seeing instead is an amazing display of national will arrayed against the intimidation of superior strength. I salute the anniversary of Ukrainian independence not only to honor the Ukrainian people, but also because it stands as a symbol of the struggle for freedom of thought by the Russian people of many religious and ethnic backgrounds. I am hopeful that 1975 will be a better year for the cause of freedom.

Mr. DINGELL. Mr. Speaker, January 22 was the 57th anniversary of the Proclamation of the Independence of Ukraine, a country which, 2 years after its independence, was engulfed by Communist Russia and thus lost its freedom.

Since the subsequent economic and human destruction of the Ukraine by Moscow, Ukrainians living around the world have struggled for their native country's independence and return to freedom of press, religion, government, business, unions, education, science, and all other freedoms associated with the values of life.

At great sacrifice, the peoples living in the Ukraine, now called by Russia, the Ukrainian Soviet Socialist Republic, have also endured health and economic hardship under Communist rule.

Their fight for freedom and independence continues. It is important that the United States and other free nations be aware of this struggle to regain human rights over oppressive Soviet rule, rule which means not only persecution of the people but also complete exploitation of Ukrainian resources to the benefit only of the U.S.S.R.

Those in the Ukraine who have opposed Soviet usurpation of their freedoms have suffered unduly in Russian concentration camps and due to their loyalty to family and country have been subjected to severe punishment.

I join with Ukrainians throughout the world in appealing for sovereignty and independence for the Ukraine.

Mr. BROOMFIELD. Mr. Speaker, yesterday, freedom-loving people all over this country commemorated the 57th anniversary of the independence of Ukraine.

But, as for the past 55 years, the people of the Ukraine were unable to enjoy this celebration because of continued Soviet oppression. It is sadly ironic that the 48 million Ukrainians living in the homeland are unable to join their brothers around the world in commemorating this historic day.

In 1918 the Ukrainian nation declared its independence and founded the Ukrainian National Republic. For 2 years the people of this young republic enjoyed the fruits of freedom, until the Bolsheviks blatantly and violently overran them in 1920, crushing their fledgling democracy.

While the Communists have denied the Ukrainian people their basic human rights, they will never succeed in dimming the desire for freedom that burns in the hearts of the people of the Ukraine. The memories of that glorious day 57 years ago prevent the Ukrainian people from ever submitting to the tyrannies of dictatorship.

We in this country, who sometimes take our free system for granted, must continue to show these brave people they are not alone in their struggle to regain their basic rights and return to a democratic system.

That is why I am proud to join my many colleagues and the millions of Ukrainian-Americans in commemorating this 57th anniversary of Ukrainian independence. I am hopeful the day will soon come when the people of the Ukraine, who have suffered so long, will once again enjoy the basic human rights of freedom and independence.

Mr. GILMAN. Mr. Speaker, today marks the 57th anniversary of the Ukrainian National Republic. While most independence day observances are traditionally a glad time where free citizens cheerfully celebrate the occasion, there is not that feeling of joy in us today as we honor this special anniversary. Regrettably, for the Ukraine and its 45 million citizens living under Soviet domination, there is little cause for celebration.

The Ukraine is highly important to the Soviet Union because it includes within its borders the Donats Basin, containing a significant portion of the world's iron reserves and virtually inexhaustible deposits of hard coal.

The Ukrainian people are a distinctive, independent group among Slavs; their language being unique and differing from that of Russia and Poland.

We are reminded that in 1914, czarist Russia was defeated and in the ensuing turmoil, the independent spirited Ukrainians announced their intent to declare self-government. With this goal in mind, a national congress met in Kiev in April 1917, electing a Central Council or Rada, which proclaimed that an autonomous Ukrainian Republic would be formed with Myhailo Hrushevsky as its President.

Even though the Ukrainian Central Rada issued a solemn Act of Restoration proclaiming the Ukrainian National Republic on January 22, 1918, and while the Soviet Union, who honors few agreements, agreed to recognize this independent state, it soon attacked the young Republic and overran it in 1920.

After losing their short-lived freedom, the Ukrainian people were subjected to inhumane treatment and persecution by their oppressors.

Because the Ukrainians have recognized their country for some 300 years, there is a strain of nationalism deeply entrenched in the Ukrainian character. The name "Ukrayina" means "borderland" and came into common usage as long ago as the 16th century. Owing to this deep feeling for country that Ukrainians harbor, and their tenacity in clinging to tradition, it is estimated that today there are some 200 Ukrainian dissenters in Moscow's prison camps. Despite this adverse treatment, so alien to the Ukrainian temperament, the profound interest in things Ukrainian continues among citizens of that country with many having dedicated themselves to the reinstatement of their homeland as a sovereign nation.

Our Nation which has traditionally aligned itself with those persons who have little control over their own destiny, fully understands the desire for liberty and freedom that still burns in the hearts of these gallant people. On this anniversary of their short-lived freedom, Ukrainians can be assured of the continued support of the United States and other free nations of the world.

Mr. BIAGGI. Mr. Speaker, today marks the 57th anniversary of the Proclamation of Ukrainian Independence. This declaration of freedom was made in Kiev, capital of Ukraine, on January 22, 1918, and exactly one year later the act of union went into effect—uniting all Ukrainians into one independent and sovereign nation.

It is a tragic irony that this day is still celebrated as Ukrainian Independence Day when for more than 50 years the Ukrainian nation has been under the ruthless and autocratic control of the Union of Soviet Socialist Republics. However it is a tribute to the brave people of this nation that throughout these 50 years they have maintained the dream and desire for freedom in their hearts.

Much has changed in the world in the past 50 years. Global and civil wars have been fought, the era of the superpowers has come and gone, and the world today as we approach the last quarter of the 20th century, is a changing one with much hope in store for the future. Perhaps the most significant international accomplishment in the 1970's has been the birth of détente between the United States and the Soviet Union. This was a concept widely hailed by Americans and Russians alike for it promised the first real hope of good relations between our two nations in more than 25 years.

Yet for the millions of oppressed people living in the Ukraine and other nations of Eastern Europe détente has been a bitter failure. They are no closer to obtaining basic freedoms and rights than they were 10 or even 50 years ago in the case of Ukrainians.

The challenge of détente is to make it a viable policy for all men. We as the champion of the rights of oppressed people must begin to assert ourselves with the Soviets, making future agreements contingent on their allowing their satellite nations the basic right of self-determination.

On this day it is appropriate to salute the accomplishments of the Ukrainian Americans community. Their influence has been felt in all aspects of our society, particularly in the intellectual and cultural fields. Theirs is a proud heritage, one which has been only briefly highlighted with the joys of freedom. Let us hope that in this year their dreams of freedom can finally be realized.

Mr. ROE. Mr. Speaker, on January 22, 1975, freedom-loving people throughout the world joined together in observing the 57th anniversary of the brief 2-year period of the independence of Ukraine. On January 22, 1918, the Ukrainian nation declared its independence and founded the Ukrainian National Republic which was destroyed in 1920 by Moscow's armed conquest.

In my congressional district the cities of Clifton and Passaic, State of New Jersey, have joined in this annual observance of our Ukrainian heritage with the following proclamation:

Joint Proclamation of Cities of Passaic and Clifton

Whereas, January 22nd, 1975 will mark the 57th Anniversary of the proclamation of the free and independent Ukrainian Republic, and the 56th Anniversary of the Act of Union by which Western Ukraine was united with the Ukrainian National Republic in Kiev; and

Whereas, although Ukraine is presently under forcible occupation by Communist Russia, the love of freedom lives on in the hearts of the Ukrainian people, whose heroic resistance to oppression continues unabated; and

Whereas, their struggle for freedom and independence is typical of struggle of all freedom-loving peoples everywhere, and strongly emphasizes for us, the free Americans, that the price of freedom is eternal vigilance against the continuous aggression of Communist Russia which now mortally threatens the security of the United States and all other free nations of the world; and

Whereas, in this nation, citizens of Ukrainian descent have been in the forefront of the battle against Soviet Russian colonialism and imperialism; and

Whereas, Ukrainians in America, upon the occasion of this important anniversary, will honor their long suppressed kindred by appropriate ceremonies and gatherings. I believe it would be fitting for all citizens of Passaic and Clifton, who, as Americans, cherish their own freedom and champion those who are deprived of liberty, to join in the observance and commemoration of this day. Such a demonstration on the part of our fellow-Americans would strengthen the hopes and beliefs of the Ukrainian people in the free world's sympathy for their plight:

Now, Therefore, we, Gerald Goldman, Mayor of the City of Passaic, New Jersey and Frank Sylvester, Mayor of the City of Clifton, New Jersey, do hereby proclaim that Wednesday, January 22nd, 1975, be observed as "Ukrainian Independence Day" and we call on our citizens, regardless of their national background, to observe this day in recognition of the gallant struggle of the Ukrainian people for the most precious goal cherished by our own nation and liberty loving people everywhere: freedom!

Mr. Speaker, in my personal efforts here in the Congress to seek to right the wrongs of tyrannical nations who dominate, through government controls, the personal freedoms of the individual and his right to live and worship in the land of his choice, I have joined with many of our colleagues in pursuing the enactment of legislation as well as administrative remedies to eliminate the oppression of people and their basic human rights.

In the closing hours of the 93d Congress we were successful in having incorporated in the Trade Reform Act a most historic amendment that would deny favored nation treatment to those communist countries who failed to adopt a free emigration policy for their citizens. This was indeed a major breakthrough but as we all know the adoption of this policy is being strenuously objected to by the Soviet Union. It is axiomatic that human values are paramount to our mutual endeavors and responsibilities and we must continue to strive to inculcate human decency, human honor, human rights and human dignity in the hearts and minds of all men.

In recognition of the serious plight of the Ukrainian people residing in the U.S.S.R. and their valiant struggle for national independence and freedom for themselves and future generations to enjoy, I have vigorously and strenuously sought congressional action on the following legislative measures which I introduced in the 93d Congress and reintroduced on the opening day of the 94th Congress:

H. Res. 48

Whereas Valentyn Moroz, historian, writer, and spokesman for the cultural integrity of the Ukrainian people, is currently imprisoned in the Soviet Union on the charges of anti-Soviet agitation and propaganda; and

Whereas such charges are without basis as in his valiant attempts to preserve and defend the rights of the Ukrainian people and the culture of the Ukraine and to defend the principle of basic human rights, Valentyn Moroz has done no more than exercise rights granted him by the Constitution of the Union of Soviet Socialist Republics: Now, therefore, be it

Resolved, That the House requests the President to express the concern of the United States Government for the safety and freedom of Valentyn Moroz, historian, writer, and spokesman for the cultural integrity of the Ukrainian people.

Sec. 2. The Clerk of the House shall transmit copies of this resolution to the President and the Secretary of State.

H. CON. RES. 31

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President, acting through the United States Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization.

Mr. Speaker, during this year's observance of the 57th anniversary of the Declaration of Independence of the Ukrainian National Republic, I appreciate the opportunity to rise in support of these legislative proposals for early action by the Congress and reaffirm my continued dedication and devotion to the noble principle of individual human rights so eloquently expressed in America's own Declaration of Independence and particularly embodied in the basic universal expression of individual principle:

> Know these truths to be self-evident: that all men are created equal. . . .

Mr. BLANCHARD. Mr. Speaker, living in a democracy, one sometimes begins to take freedom and liberty for granted. We sometimes tend to forget that there are those people and those nations of people who are not as fortunate as we are. They are not given the right to choose. They are not given the right to control their own destiny. They are not even given the right to enjoy a spirit or consciousness of nationalism.

One such nation is the Ukraine. Today, January 22, 1975, we commemorate the 57th anniversary of the Proclamation of the Independence of the Ukraine and the 56th anniversary of the Act of Union, which united all Ukrainian lands into one sovereign state. Unfortunately, this little nation was never given a chance to grow, to thrive, or even to survive. The Ukrainian National Republic was attacked by the Soviet Union and incorporated as a satellite state despite the fact that it had been recognized as a sovereign nation.

For over 50 years, the Ukrainians have been forced to endure the rigid restrictions imposed on them by another nation. Every facet of their daily lives are controlled. Their rights have been flagrantly violated and many have lived in constant fear of deportation or execution. Young Ukrainian intellectuals have been stifled and those who do dare to speak out live under the threat of arrest and the concentration camps. Even the Ukrainian Church has not been allowed to survive.

We protest this inhumanity to man. We condemn the persecution the Ukrainian peoples have been forced to suffer. We sympathize with their plight and reaffirm our belief that all peoples should have the right to choose. Our thoughts are with our friends as they courageously continue their fight for freedom.

No, the spirit of nationalism of the brave Ukrainian peoples has not died. The light of liberty still shines brightly. Their candle of hope has not been dimmed. And on this day, we pause to remember the anniversary of the Ukrainian peoples and we fervently pray for the day when they will be reunited as a sovereign nation, independent and free.

Mr. ADDABBO. Mr. Speaker, I rise to join my colleagues in recognizing this day as the observance of Ukrainian Independence Day. Each year we join in the special ceremonies honoring the spirit of freedom shared by the Ukrainian people.

As we remember the history of the Ukraine and its domination by the Soviet Union, we realize the precious nature of freedom and the liberties we tend to take for granted.

Basic human rights must be protected and preserved if they are to have a lasting impact and this is true in all corners of the world. Our own freedom will be more lasting if we recognize and support the rights of the others, particularly those who live in captive nations.

The 48 million people in the Ukraine need our moral support and we need to give it so that the world will know our deep national commitment to liberty. Oppression, wherever it exists, must be protested and this special occasion is a vivid reminder of that fact.

Mr. LAFALCE. Mr. Speaker, democracy is an ideal aspired to by many but achieved by few. We in the United States are exceedingly fortunate to have the blessings of liberty bestowed upon us, but we must never forget that others less fortunate have tried and failed. They have failed not for the lack of intense courage and the will to persevere, but because of the presence of overpowering forces who survive by violently subjugating those who dare to be free.

January 22 commemorates the day, 57 years ago, when a strong and independent people issued their Proclamation of Independence in order to secure for them and for their descendants the rights, privileges, and responsibilities of a free and democratic nation. The dream of freedom from the cruel persecution of the Romanov czars became a reality for the Ukrainian people, but the reality was short-lived, as Czarism was supplanted by Communist tyranny. The Red Army occupied the State of Ukraine, forcibly incorporating the Ukraine into the Soviet Union and attempting to wipe out the vestiges of sovereignty. This latter objective was accomplished in appearance only, as the independent spirit of the Ukrainians prevailed in spite of Soviet efforts.

In the 57-year period that has transpired since the Proclamation of Independence was issued on January 22, 1918, the Ukrainian people have been subjected to mass slayings, arrests, and exile to Siberia. Yet despite these continuing efforts to dominate the Ukrainian people, their spirit has lived on and the dream of democracy may one day become a reality again.

Mr. Speaker, on this day I would like to offer a salute to these brave people whose undaunting spirit in the face of great odds provides an inspiration to freedom-loving people throughout the world.

Mr. McHUGH. Mr. Speaker, January 22, 1975, marked the 57th anniversary of the Ukrainian National Revolution and the independence of the Ukrainian people.

The Ukrainian Rada declared the Ukraine to be an independent republic on January 22, 1918. However, the freedom of the Ukrainians was short-lived. Since 1920, the people of the Ukraine have been under Soviet rule. They have never accepted this rule. The Ukrainians have maintained a strong national consciousness despite the many years of terror they have experienced and despite their constant battle against those who continue to maintain political and economic control over their lives. As a people, they desire to become free and independent again.

The people of the Ukraine are proud of their history, culture and tradition. Today, I am proud to join my colleagues in honoring a self-determined, united people that have struggled for centuries in pursuit of what we as Americans have taken for granted—that is, freedom and independence.

Mr. PATTEN. Mr. Speaker, I rise today to call attention to the date of January 22, which marks the 57th anniversary of Ukrainian independence. For centuries the Ukrainian territory, which embraces 289,000 square miles, has been subjected to autocratic rule from outside of its region. Russian Czars and later individuals such as Joseph Stalin subjected these courageous people to brutal persecution and tyranny in an attempt to break the backbone of a unified and culturally homogeneous region.

January 22 marks a unique time in the history of the these people of the region when the Ukraine achieved its independence. On this date in 1918 the Ukrainian nation rose up and formed the Ukrainian National Republic. Although they lost their freedom in 1920 by Moscow's armed conquest, the Ukrainians all over the world place freedom as one of the most important goals for their people and they have not given up the possibility of achieving their goal.

Despite these strong desires, the government of the U.S.S.R. has fought this and has forbidden the Ukrainians to celebrate the momentous date of January 22.

To the 50 million Ukrainians and their descendants who have longed for freedom and independence, we pay homage to their righteous cause. The world cannot close its eyes on such a legitimate crusade. The just battle must and will continue for Ukrainian independence, especially so that the people of all nationalities know that although they are still living under tyranny they have not been forgotten.

Mr. COTTER. Mr. Speaker, today we celebrate the 57th anniversary of the Proclamation of the Independence of the Ukraine. Further, it marks the 56th anniversary of the Act of the Union, whereby all Ukrainian ethnographic lands were united into one independent and sovereign state of the Ukrainian people.

Today some 45 million Ukrainians survive as the largest captive non-Russian nation both in the U.S.S.R. and Eastern Europe.

The flame of Ukrainian independence flickered for only 3 short years, when it was put out by the Soviet Russians. The Ukrainians fought Russian Communist domination for 3 years, but finally succumbed to the overpowering strength of the Soviet Union.

However, although the Soviets initiated an intensive "Russification" of this area, they could not undo the spirit that was alive in so many of the beautiful Ukrainian traditions and ideals. This same spirit lives until today.

And today I join with all Ukrainian-Americans in praying that their countrymen will some day again enjoy the liberty and freedom to which all men are entitled.

Mr. DELANEY. Mr. Speaker, I am glad, once again, to have this opportunity to join my colleagues in honoring the great Ukrainian people as they commemorate the 57th anniversary of Ukrainian Independence Day.

When the Czarist Government was overthrown by the Revolution of 1917, the Ukrainians seized this opportunity to declare their independence. Unfortunately, the tyranny of the Czars was soon replaced by the tyranny of the Communists, and the Ukrainians were forced to fight the new rulers from Moscow. Faced with overwhelming odds, however, the infant Republic was overthrown by the Red army in 1920. Tragically, it has been a captive nation ever since.

On this anniversary of Ukrainian independence, it is right that we should call to mind our own historic commitment to self-determination; for in so doing, we can contemplate our own good fortune and that of a people who through no fault of their own have failed to achieve freedom and independence.

With the spirit of '76 almost upon us, we can do no less than to stand firm in our support for their freedom and self-determination.

Mr. GIAIMO. Mr. Speaker, I join with over 2 million Americans of Ukrainian descent and over 48 million Ukrainians now under control by the Soviet Union in commemorating the 57th anniversary of the proclamation of the independence of the Ukraine.

It was in 1918 that the people of the Ukraine proudly rose to take their place among the free peoples of the world. Regrettably, their national independence was short-lived as the Soviet Union forcibly incorporated under its rule the territories of the old Czarist Empire. Discrimination against the Ukrainan people and Russification of Ukrainian culture continues today as it did under the czars, but Russian repression cannot kill the Ukraine's national consciousness.

The statistics of oppression bear frightful testimony to the Ukrainians' valiant struggle for political and intellectual freedom. The names of such writers and thinkers as V. Moroz, V. Chornovil, and I. Svitlychny are at the forefront in the fight for human rights, individual dignity and religious freedom. Many others follow in their footsteps; like them, they are suffering for it in Russian prison and labor camps or by the wasting of their lives through continued harassment and intellectual persecution.

The abeyance of basic freedoms, the arbitrary arrest, detention and torture of political dissidents, the suppression of religious rights—rights that are clearly guaranteed in the Soviet Constitution—these are practices that are abhorrent to men and women of decency in every corner of the globe. I am pleased to join with these men and women and with so many of my colleagues in recognizing and paying tribute to the determination of the Ukrainian people to continue their struggle for individual and political liberty. They have not lost confidence in themselves nor in the right of people everywhere to live in freedom and with dignity.

Mr. PEYSER. Mr. Speaker, as we approach the 200th anniversary of our country's birth we all are growing more aware and more appreciative of the freedom our forefathers earned for us almost two centuries ago. Likewise the people of Ukraine are approaching the anniversary of the independence of their country. Yet they cannot approach this day with the sense of accomplishment they rightly deserve for they are under the restraining arm of Soviet domination.

It was 57 years ago today that Ukraine declared her independence. However, soon after Russian Communist forces began an invasion of Ukraine, and 4 years later they succeeded in overthrowing the young nation. Since then the rights of these people have been constantly restricted as their country has been virtually reduced to a colonial state in the Soviet Empire.

And so we are in the situation where we are celebrating the birth of our Nation, yet a similar celebration is impossible in Ukraine because of Soviet oppression. Can we as a free people ignore the plight of these nearly 50 million people? Can we sit back and watch as the freedom we so cherish is denied to others? I know all here will agree that we cannot allow this to happen.

Therefore let us redouble our efforts to help not only the citizens of Ukraine, but to help all citizens of all countries whose freedom is being denied. It is with this pledge that we add our voices to those who protest Soviet presence in Ukraine.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A TRIBUTE TO RABBI SCHNEERSON

The SPEAKER pro tempore. Under a previous order of the House the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 60 minutes.

Ms. HOLTZMAN. Mr. Speaker, yesterday marked the 25th anniversary of the leadership of Rabbi Menachem Mendel Schneerson in the worldwide Chabad-Lubavitch movement. Because many of my colleagues in the House of Representatives have expressed their desire to join in a tribute to Rabbi Schneerson, who has provided such wise and inspired leadership to this worldwide movement of Chassidic Judaism, I have taken out this special order.

Last night at the celebration of his anniversary, Rabbi Schneerson addressed a group of 2,000 people in Crown Heights. This address was broadcast throughout the world—to such diverse places as Australia, Johannesburg, many European countries, as well as the State of Israel. The reverence and spiritual excitement of the enormous crowd of followers reverberated throughout the world, indicating some measure of the extraordinary leadership Rabbi Schneerson has provided.

I am honored to offer Rabbi Schneerson my good wishes on this, his 25th anniversary as leader of the Chabad-Lubavitch movement.

Under Rabbi Schneerson's guidance, the work of Chabad has flourished in the United States, Israel, and throughout the world. The many Lubavitcher Yeshivas, youth centers, settlement houses, and communities testify to the vitality of the movement. They are a tribute to his scholarship, dynamic leadership, and spiritual strength.

Because I am particularly privileged to have the Lubavitch world headquarters located in my congressional district, I have had the opportunity, while working with many of the Rabbi's followers, to see at close hand the contributions of the movement. Lubavitch has brought to the Crown Heights community—as it has elsewhere—stability, strength, and a vital concern for education, religion, and youth. In this regard, I feel a special closeness to the Lubavitch Youth Organization, and of course, to Beth Rivkah.

I know that Rabbi Schneerson's coming years will be as fruitful and filled with achievement as the past 25.

Mr. KOCH. Mr. Speaker, yesterday was the 25th anniversary of Rabbi Menachem Schneerson as leader of the Movement of Lubavitch, a 200-year-old Jewish sect.

I have met with the Lubavitcher Rebbe and I do not know anyone in public office in the city of New York who has not sought his spiritual blessing. He is an extraordinary man, saintly in nature, yet worldy in outlook. His expertise ranges from the religious to the secular. Indeed when I last spoke with him we talked about poetry and the law. His efforts on behalf of Soviet Jewry have been exceptional. The meeting for me was inspirational and I understand why it is that his devoted followers revere his every word.

Mr. ZEFERETTI. Mr. Speaker, 25 years ago, Menachem Schneerson, known throughout the world as the Lubavitcher Rebbe, became the spiritual leader of the Lubavitcher Chasidic movement. This means he is one of the most unique men in our society. Certainly he is revered and respected by members of his faith and others beyond what is normal, even for learned and outstanding men.

The Lubavitcher movement has grown in stature and significance over the centuries, surviving persecution, travail, genocide, and every conceivable form of economic and political prejudice. That survival has been assured because the movement carries a message to every Jew. That message has changed the lives of hundreds of thousands of Jewish people in this and many other countries. Such people have been spiritually reborn through the Lubavitcher movement efforts, which continue today throughout the world.

In the Soviet Union, the Lubavitcher movement has reached around the barriers erected by the Soviet police state, reaching Jews who yearn for a message of religiosity and freedom. In Europe, and other areas of the Western Hemisphere, this movement has touched the lives of those who have desperate need of spiritual brotherhood. In the United States, a burgeoning effort at regenerating Jewish life has sprung from this movement under the leadership of Rebbe Menachem Schneerson.

In my congressional district, I have seen with my own eyes the accomplishments of the Rebbe and his followers. Many people of my own acquaintance have benefited in their own lives through the efforts of this man and his movement.

Always their message is the same to their fellow Jews, "Study and revere the Torah. Always," they say to these people, "live by God's Word." And, wherever someone heeds their message, there is a positive change in the lives of those affected.

The Lubavitcher movement is an elementary force for good whenever it flourishes. Its success in recent years, constantly accelerating, has been due in great measure to the enlightened and heartfelt commitment and leadership of this man. Throughout the long and unique history of the Jewish people, the Almighty has assured their survival in different ways in different eras. Periodically, the Jewish people have produced spiritual leaders through whose voice the noblest expressions of the Jewish faith have been heard.

Therefore, I join in congratulating Rav Schneerson on his 25th anniversary as head of the Lubavitcher movement. May he have many more years of inspired leadership of his people.

Mrs. ABZUG. Mr. Speaker, 25 years ago yesterday a 200-year-old movement gained new life in Brooklyn. It is a movement in celebration of life, and indeed, the lives of many thousands of persons in Brooklyn and throughout the world now center around it.

The movement is the Lubavitcher sect of the Hasidic movement of Judaism. On January 22, 1950, it gathered around a man known to his followers simply as the Rebbe—Rebbe Menachem Schneerson. The Crown Heights area of Brooklyn has since taken on a new and stronger character due to the leadership of the Lubavitcher and their Rebbe.

I wish to express my admiration for the Rebbe, not only for his religious work in keeping a respected set of traditions alive, but also for his efforts, consistent with Hasidic beliefs, to improve the welfare of his community through provision of educational and humanitarian institutions.

I hope that the Lubavitcher's efforts continue for many more years, and I wish the Rebbe a hearty "Mazel Tov" for the future.

Mr. MEZVINSKY. Mr. Speaker, Rabbi Menachem Schneerson celebrated his 25th anniversary as leader of the 200 year old Jewish sect, the movement of Lubavitch on January 22, 1975. Rabbi Schneerson has received wide recognition as an educator and a spiritual guide for the Lubavitcher Chassidism here and throughout the world.

The Senate and the President of the United States have both recognized Rabbi Schneerson's achievements and I take great pride in joining my colleagues in the House in congratulating the Rabbi on this occasion. We extend to him our best wishes for the rest of his service as the Lubavitcher Rebbe and in all other endeavors he may undertake.

Mr. GILMAN. Mr. Speaker, it is with great pleasure that I add my congratulations to those of my colleagues, and extend my warm best wishes to Rabbi Menachem Schneerson on the occasion of his 25th anniversary as the Lubavitcher Rebbe.

Lubavitcher Chassidim has been a vibrant, dynamic spiritual force in Judaism for over 200 years. Their dedication to learning and the reverence of the Lubavitcher Chassidim has permeated throughout all of Judaism and all are the better for it.

Rabbi Schneerson's 25 years of leadership of the Lubavitch movement have inspired educational, religious and humanitarian accomplishments throughout the world.

May the Lubavitcher Chassidim be fortunate enough to continue to have the benefit of the wisdom and learning of their Rebbe, and may Rabbi Schneerson be blessed with many more years of outstanding service to the Lubavitcher Chassidim, as he has so fully served them in the past, with success and fulfillment.

Mr. WAXMAN. Mr. Speaker, January 22, 1975, was a day of historic importance in the history of the American Jewish community. That date marked the 25th anniversary of Rabbi Menachem Mendel Schneerson as leader of the worldwide Lubavitcher movement.

Rabbi Schneerson's revered predecessor, Rabbi Joseph Isaac Schneerson, of blessed memory, set an unparalleled example defending Judaism from the repression of Soviet totalitarianism.

The present Lubavitcher Rebbe, Rabbi Menachem Schneerson, has been a worthy successor to his saintly father-in-law. The Rebbe has fought against alienation and assimilation with the same selflessness his predecessor brought to the battle for authentic Torah-true Judaism.

In my home State and in the congressional district, I represent people of all faiths and respect the work of the Lubavitcher Rebbe and his disciples. The Rebbe's work in California is carried on by more than a score of dedicated young couples working under the dynamic leadership of the Rebbe's senior emmisaries, Rabbi Shmuel David Raichik and Rabbi Shlomo Cunin. Further, the material and spiritual ties between the Lubavitcher movement and Los Angeles Jewry are strengthened by the annual visit of the respected educator, Rabbi Moshe Bogomilsky, who represents the united Lubavitcher Yeshivoth.

All Americans can take pride in the accomplishment of the Lubavitcher Rebbe over the past quarter of a century. May the Almighty continue to inspire and strengthen and bless him with good health and "long days!"

GENERAL LEAVE

Ms. HOLTZMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the subject of my special order today.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentlewoman from New York?

There was no objection.

HAWAIIAN NATIVE CLAIMS BILL REINTRODUCED, WILL SERVE TO FOCUS DEBATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. MATSUNAGA) is recognized for 20 minutes.

Mr. MATSUNAGA. Mr. Speaker, I am today reintroducing, for myself and my colleague from Hawaii (Mrs. MINK) the proposed Hawaiian Native Claims Settlement Act.

This is legislation identical to that which we joined in introducing last year, and which provides that native Hawaiians may be compensated by the Federal Government for lands taken from them at the time of Hawaii's annexation by the United States. It was developed in cooperation with the organization known as ALOHA—Aboriginal Lands of Hawaiian Ancestry—which represents most organized groups of Hawaiians.

The thrust of the bill is to authorize a system for discharging the claims of the native Hawaiians against the U.S. Government. The bill is similar in some respects to the Alaskan Native Claims Act and calls for the creation of an independent corporation to administer a $1 billion claims fund, which will be funded over a period of 10 years.

The measure would also give the corporation an option on any Federal land in Hawaii declared by the Government to be "excess," or not needed for its use.

It is unfortunate that there is no practical means of returning to the native Hawaiians the lands of which they were deprived. The sad fact is that there are only about 6,000 square miles in the entire State of Hawaii, compared to about 570,000 square miles in Alaska. In fact, the land returned to the Alaskan Natives is equal to about 10 times the total land area of the State of Hawaii. That is why my bill focuses on monetary compensation.

To be "Hawaiian" is to be the bearer of an ancient and distinguished ethnic heritage which has shaped the character of the Nation's youngest State as surely as its island geography. The Polynesians who inhabited the Hawaiian Islands before their "discovery" by Captain Cook were imbued with an indefinable and irresistable friendliness and spirit of openness, a willingness to share with all a sense of community, called the "aloha spirit" which remains to this day Hawaii's most valuable resource.

The Hawaiians considered land the "sacred hearth of the gods" to be used for the sustenance of all. Under the stewardship of their leaders—the alii—the land was used for the benefit of all the people.

However, newcomers to the islands in the 19th century brought with them the European concepts of personal ownership and personal profit—concepts that few Hawaiians were able to grasp. Even those who received land in the general distribution in 1848 were, according to a Library of Congress study, "naive in matters of real estate value" and soon sold their land. Others failed to claim the land they occupied and to which they were entitled under the law.

In 1893, a small group of non-Hawaiians overthrew the reigning monarch, Queen Liliuokulani, and "negotiated" a treaty of annexation with the United States. That treaty was withdrawn from Senate consideration by the newly elected President, Grover Cleveland. President Cleveland then sent a special envoy, James H. Blount, to investigate the "revolution" which overthrew the Hawaiian monarchy.

Blount, a longtime Georgia Congressman and chairman of the House Foreign Affairs Committee, flatly concluded that the revolution was the result of a conspiracy between the United States Minister to Hawaii and revolutionary non-Hawaiians in the Islands.

Mr. Speaker, the enactment of the legislation I am introducing today will be no easy task, but I believe it will eventually be enacted, because it seeks to right an historic wrongdoing. We will be taking an important step toward enactment next month, when the distinguished chairman of the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs, the gentleman from Washington (Mr. MEEDS) convenes his subcommittee in Hawaii for field hearings on the bill. I am confident that these hearings will provide the necessary information and evidence which will fully justify the claims set forth in the proposed legislation.

I include at this point the text of the bill:

H.R. 1944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hawaiian Native Claims Settlement Act.".

DECLARATIONS

SEC. 2. Congress finds and declares that—

(a) it is necessary that a fair and just settlement now be made of all claims by Natives and Native groups of Hawaii, which claims are based on the lawless, fraudulent, and forceful acts of agents of the United States, by which acts the lawful and sovereign government of the Kingdom of Hawaii was overthrown, dominion and domain over the people and lands of Hawaii was ultimately assumed by the United States, and thus the independence and sovereignty of the Hawaiian people as a collective social, political, and economic entity was permanently terminated;

(b) the settlement should be accomplished rapidly, with finality and certainty, without litigation, in conformity with the existing economic and social needs of Hawaiian Natives, with maximum participation by Hawaiian Natives in decisions affecting their rights and property, and without creating a wardship or trusteeship on the part of the United States Government; and

(c) all claims against the United States, the State of Hawaii, and all other persons, that are based on acts of agents, agencies, or instrumentalities of the United States which contributed to the overthrow of the government of the Kingdom of Hawaii and enabled the United States to establish dominion and domain over the people and lands of Hawaii, including all claims of aboriginal right, title, use, or occupancy of land or water areas in Hawaii, or that are based on any statute or treaty of the United States relating to annexation of Hawaii by the United States, or that are based on the laws of any other nation, including any such claims that are pending before any Federal or State tribunal, are hereby extinguished.

DEFINITIONS

SEC. 3. As used in this Act the term—

(a) "Hawaiian Native" means a citizen of the United States possessed of the blood of ancestors who were living on the Hawaiian Islands prior to 1778;

(b) "Hawaiian Islands" mean the territory now included in the State of Hawaii;

(c) "Secretary" means the Secretary of the Interior;

(d) "Minor" means a person under the age of eighteen years;

(e) "the corporation" means the Hawaiian Native Corporation established by section 6 of this Act;

(f) "ALOHA" means the A.L.O.H.A. Association, Incorporated, its successors and assigns;

(g) "person" means and includes an individual, firm, corporation, association, partnership, or other legal entity; and

(h) "he" and "his" mean and include he, she, they, and it, and his, hers, their, and its.

HAWAIIAN NATIVE ROLL

SEC. 4. The Secretary shall prepare a roll of Hawaiian Natives within two years of the date of this Act and shall maintain such roll thereafter by eliminating the names of deceased Natives and by adding the names of after born Natives and with the approval of the board of directors of the corporation, of other persons previously omitted subsequently shown to qualify. The right to participate in the benefits of this Act shall belong to the living Hawaiian Natives listed on the roll from time to time and shall not be transferable inter vivos or upon death. In the absence of a sufficient genealogy to establish that an applicant for enrollment is a Hawaiian Native, he may nevertheless be enrolled, if he is generally acknowledged by Hawaiian Natives acquainted with him to be a Hawaiian Native.

HAWAIIAN NATIVE FUND

SEC. 5. (a) There is established in the Treasury of the United States the Hawaiian Native Fund into which the following shall be deposited:

(1) $1,000,000,000 from the general fund of the Treasury, hereby authorized to be appropriated as follows:

(A) $100,000,000 during the fiscal year in which this Act becomes effective; and

(B) $100,000,000 during each of the next nine fiscal years following.

(2) Interest at the rate of 5 per centum per annum, hereby authorized to be appropriated, on any amount authorized to be appropriated under section 5(a)(1) of this Act that is not deposited in the fund within six months after the end of the fiscal year in which due.

(b) Such fund shall be a trust fund and money on deposit therein shall earn interest and be invested and administered by the Secretary in the same manner as trust funds of Indian tribes.

(c) Upon completion of the organization of the corporation, and the election of a board of directors by the members, all money in the fund from time to time shall be subject to, and distributed to such corporation in accordance with, the orders of the board of directors.

HAWAIIAN NATIVE CORPORATION

SEC. 6. (a) There is hereby established a body corporate named the Hawaiian Native Corporation, whose principal place of business shall be located in the State of Hawaii. The corporation shall not be an instrumentality of the United States. The members of the corporation shall be the Hawaiian Natives listed on the Hawaiian Native roll from time to time.

(b) Within two and a half years from the date of this Act, the Secretary shall issue a certificate of membership in the corporation to each Hawaiian Native listed on the roll as of the date of issue. Thereafter, he shall issue such a certificate to each Native added to the roll.

(c) Certificates of minors shall be issued in accordance with the Hawaii Gifts to Minors Act.

(d) Certificates issued pursuant to this section, and rights and benefits appertaining thereto, shall not be sold, assigned, hypothecated, subject to liens or executions, or otherwise alienated. Upon the death of a member, his certificate shall be canceled, but any benefits accrued to the time of his death shall be distributed in his name to his representatives.

(e) The purposes of the corporation are to receive and administer the benefits provided by this Act for the Hawaiian Natives, and to engage in any and all enterprises, businesses, undertakings, and activities that the board of directors deems promotive of their interests and welfare, whether or not directed to the making of monetary profits.

(f) The corporation shall have all rights, powers, privileges, and immunities usually possessed by business for profit corporations and by charitable institutions. Without limitation of the foregoing, the corporation shall have the following specific rights, powers, privileges, and immunities:

(1) to adopt and amend bylaws providing for the structure and governance of the corporation: *Provided,* That for a period of twenty years from the date of this Act, such bylaws and amendments shall be subject to the approval of the Secretary;

(2) to adopt a corporate seal, which shall be judicially recognized;

(3) to sue and be sued in its corporate name;

(4) to engage in businesses and activities for profit and, without restriction, to pay dividends and make other distributions of money and property to members out of capital and earnings;

(5) to acquire, own, hold, manage, invest, hypothecate, and dispose of property, and interests therein, of every kind and description, real, personal, and mixed, tangible, and intangible;

(6) to provide professional and technical assistance to members and to groups and organizations in which members have substantial interests;

(7) to finance and conduct programs, and to aid others in financing and conducting programs, for the purposes, without limitation, of providing housing, education, and

relief from distress to members and their families, and of promoting the economic and social advancement of members and their families and of groups and organizations in which members have substantial interests;

(8) to engage generally in programs and activities designed to enhance the health, wealth, welfare, and education of members and their families;

(9) to be deemed a charitable, tax exempt, institution for the purpose of receiving donations of money and property from others;

(10) to be deemed a public instrumentality and body politic for the purpose of qualifying under acts of Congress authorizing loans, grants in aid, or other assistance to qualified entities for the purpose of carrying out various projects and programs, including without limitation, housing, education, health, and economic development;

(11) to be exempt for a period of twenty years from the date of this Act from the payment of any and all local, State, and Federal taxes;

(12) to make distributions of money and property to members exempt from any and all forms of taxation until the total of such distributions equals the amount authorized to be appropriated by section 5(a)(1) of this Act, after which members shall be subject to tax on distributions to the same extent as would be shareholders of any business corporation receiving distributions of like kinds;

(13) to be exempt for a period of twenty years from the date of this Act from all local, State, and Federal laws regulating corporations: *Provided*, That the Secretary shall require the corporation to include in its bylaws such provisions for audits, reports, proxy solicitations, and other disclosures and controls as he deems necessary to inform and protect members, and others interested in the corporation; and

(14) to assume and discharge, in accordance with secton 8 of this Act, all fair and reasonable unpaid obligations incurred by ALOHA, under lawful written contracts with third persons for the purposes of preparing, presenting, or advocating or securing the enactment of legislation to settle the historic claims of, the Hawaiian Natives, including, without limitation, loans and advances of money, or other things of value, and fees and expenses of attorneys, and other consultants.

(g) The management of the corporation shall be vested in a board of directors. Except for the initial board, which shall be constituted as provided in section 6(h) of this Act, the number, terms, qualifications, and method of election of directors by the members shall be as prescribed in the bylaws of the corporation.

(h) The initial board shall consist of seventeen directors.

(1) At the time he first issues certificates of membership under section 6(b) of this Act, the Secretary shall call for the election of the initial board. Any member, except a minor, who shall submit to the Secretary a written nomination signed by not less than one hundred adult members shall be a candidate for director. The Secretary shall prepare a ballot including the names of all persons so nominated.

(2) Such ballot shall be supplied each member, except a minor member for whom no custodian has been designated under the Hawaii Gifts to Minors Act, who shall be entitled to seventeen votes, which he may distribute, as he sees fit, in whole votes, among any one or more of the candidates on the ballot, not to exceed seventeen.

(3) Candidates shall be declared elected in the following order:

(A) The candidate, if any, who is a resident of the island of Hawaii, who receives more votes than any other candidate, if any, who are also residents of the island of Hawaii.

(B) The candidate, if any, who is a resident of Maui, who receives more votes than any other candidates, if any, who are also residents of Maui.

(C) The candidate, if any, who is a resident of Lanai, who receives more votes than any other candidates, if any, who are also residents of Lanai.

(D) The candidate, if any, who is a resident of Molokai, who receives more votes than any other candidates, if any, who are also residents of Molokai.

(E) The candidate, if any, who is a resident of Oahu, who receives more votes than any other candidates, if any, who are also residents of Oahu.

(F) The candidate, if any, who is a resident of Kauai, who receives more votes than any other candidates, if any, who are also residents of Kauai.

(G) The candidate, if any, who is not a resident of the State of Hawaii, who receives more votes than any other candidates, if any, who are also not residents of the State of Hawaii.

(H) The remaining candidates receiving the most votes, without regard to residence, in number necessary, with those elected pursuant to paragraphs (A) through (G) above, to equal seventeen.

(i) The members of the initial board shall serve for a term of one year and until their successors are elected and qualified.

(j)(1) The initial board shall prepare and adopt bylaws subject to approval of the Secretary.

(2) Such bylaws, among other things, shall—

(A) designate an office and agent of the corporation for the receipt of process and other legal purposes;

(B) provide for the composition and election of the board of directors subsequent to the initial board; and

(C) designate and prescribe the duties of the officers of the corporation, who shall be elected by the board and serve at its pleasure.

SURPLUS LANDS

SEC. 7. Any provision of law to the contrary notwithstanding, the Administrator of the General Services Administration is hereby directed to give to the corporation the first and prior right to acquire any Federal lands located within the State of Hawaii which have been determined by the administrator, in accordance with law, to be "surplus" and not required for the needs and the discharge of the responsibilities of all Federal agencies. If the corporation elects to exercise its right to acquire any surplus Federal lands, the administrator shall convey such surplus Federal lands to the corporation unconditionally and without compensation therefor.

OBLIGATIONS INCURRED BY ALOHA

SEC. 8. (a) Within six months of the date of this Act, any person that claims that ALOHA is indebted to him on an unpaid written contractual obligation incurred by ALOHA for the purposes of preparing, presenting, or advocating or securing the enactment of, legislation to settle the historic claims of the Hawaiian Natives, shall present his claim, together with appropriate documentation to ALOHA and the corporation. In consultation with ALOHA, the corporation shall review and prepare a schedule of all such claims, noting thereon which claims, if any, it questions or disputes, in whole or in part, together with the reasons therefor, which schedule, together with copies of the claims and supporting documents supplied by the claimants, it shall submit to the Secretary within nine months of the date of this Act. Claims not questioned or disputed by the corporation, to which the Secretary takes no exception within one year from the date of this Act, shall thereafter be due and payable by the corporation. In the event the corporation, the claimant, and the Secretary, cannot agree on the settlement of a claim questioned or disputed by the corporation, or to which the Secretary has taken an exception, the same may, upon the application of either the corporation, the claimant or the Secretary, be determined by arbitration under chapter 658 of the Hawaii Revised Statutes.

REPORTS TO CONGRESS

SEC. 9. During a period of twenty years from the date of this Act, the Secretary shall prepare and submit reports annually to Congress on the state of the Hawaiian Natives and the execution and effects of this Act. During the session of Congress next convened after the end of such period, the Secretary shall submit, through the President, a final report on the state of the Hawaiian Natives, which shall include a summary of actions taken and results achieved under this Act, together with such recommendations to Congress as he deems appropriate.

APPROPRIATIONS

SEC. 10. There are authorized to be appropriated such sums as may be necessary to carry out the provisions and purposes of this Act.

REGULATIONS

SEC. 11. The Secretary is authorized to issue and publish such regulations as may be necessary to carry out the provisions and purposes of this Act.

MISCELLANEOUS

SEC. 12. (a) No provision of this Act shall derogate from or diminish any right, privilege, or obligation of Hawaiian Natives as citizens of the United States, or of the State of Hawaii, or relieve, replace, or diminish any obligation of the United States or of the State of Hawaii to protect and promote the rights and welfare of Hawaiian Natives as citizens of the United States or of Hawaii;

(b) No provision of this Act shall be construed to constitute a jurisdictional act to confer jurisdiction to sue, nor to grant implied consent to Hawaiian Natives to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

SUPREMACY AND SEPARABILITY

SEC. 13. In the event of conflict between this Act and any other Acts of Congress or other laws, the provisions of this Act shall control. If any provision of this Act is authoritatively determined to be invalid on its face or as applied, such holding shall not be deemed to invalidate or affect any other provisions of this Act.

H.R. 1287: TO HALT THE IMPORTATION OF RHODESIAN CHROME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRASER) is recognized for 15 minutes.

Mr. FRASER. Mr. Speaker, today, 99 Members are joining in support of an important piece of legislation—important to the long-range political and economic interests of the United States, important to the future of our relations with the vast and strategically vital African continent, and important to the continued development of international law and order.

Specifically, we are joined in an effort to repeal the Byrd amendment which has proved a serious stumbling block to America's good relations with various African nations by allowing the importation of Southern Rhodesian chrome and ferrochrome in violation of United Nations economic sanctions against Southern Rhodesia.

Southern Rhodesia is controlled by the Ian Smith regime which reserves political power to some 250,000 whites, excluding more than 5 million black people from the process. Smith's claim of independence for Rhodesia has never been recognized by Great Britain, or any other country. At the request of Britain, and with the support of the United States, the U.N. Security Council imposed economic sanctions on Southern Rhodesia in 1966 in an effort to induce a nonviolent political change toward majority rule. American compliance with the sanctions was broken in 1971 with the passage of legislation initiated by Congress known as the Byrd amendment.

Supporters of the Byrd amendment argue that access to the Rhodesian chrome market is essential to our economy and that for national security reasons Rhodesia should serve as a safety valve against dependence on the Soviet Union for chrome imports. The record shows clearly, however, that there are satisfactory alternative sources of chrome from other countries—some at prices cheaper than Rhodesia's—and that rather than turning away from the Soviet market, United States purchases of Soviet chrome have increased significantly under the Byrd amendment. The United Steel Workers of America have reported that recompliance with the sanctions would not cause unemployment in the steel industry. The Defense Department states that there is no shortage of chrome in the national strategic stockpile and accordingly, the previous administration requested authority from Congress to sell several million tons of excess stockpile chrome on the open market.

Rhodesia does have the world's largest known natural reserves of chrome ore, and we believe that the United States should indeed be concerned with long-range access to those reserves, as well as to other African markets and sources of raw materials. It seems to us that our long-term interests in a dependable supply from Rhodesia calls for support for majority rule there rather than clinging to an intransigent Smith regime.

The United States is increasingly dependent on other African countries as well for supplies of numerous critical raw materials. Nigeria is one of our very largest suppliers of oil, and we further depend on black African nations for much of our copper, cobalt, manganese, bauxite, aluminum, graphite, iron ore, and uranium. Our stake in all of Africa as well as Rhodesia is clear. What is equally clear is that the Byrd amendment, in Secretary of State Kissinger's words, has "impaired our ability to obtain the understanding and support of many important African nations."

In recent months the walls have been closing in on the Ian Smith regime. The new government in Portugal is moving toward independence for Angola and Mozambique, Rhodesia's black-majority neighbors to the east and west. And even South Africa has shown signs of exerting pressure on the white Rhodesians to reach a settlement. Negotiations are beginning among Ian Smith, Rhodesian black leaders and the black nations of southern Africa. It is vitally important at this time that peaceful pressure on Smith—through the sanctions—be maintained or increased.

During the 93d Congress the repeal of the Byrd amendment was approved by the Senate by a comfortable margin, and in the House was reported favorably by the Foreign Affairs Committee and granted a rule. A vote was not taken in the full House, but the leadership has agreed to schedule it this year as soon as it is eligible. The measure enjoys the active support of President Ford and Secretary of State Kissinger, prominent business leaders such as Henry Ford, the major labor unions, churches and civil rights organizations.

Cosponsorship and support for this measure by other Members will be warmly welcomed. We know others will join us in this important effort. The text of the bill and a list of cosponsors follow:

COSPONSORS OF H.R. 1287 AND IDENTICAL BILLS TO HALT THE IMPORTATION OF RHODESIAN CHROME

Edward G. Biester, Jr. of Pennsylvania.
John Buchanan of Alabama.
Charles C. Diggs, Jr. of Michigan.
Donald M. Fraser of Minnesota.
Frederick W. Richmond of New York.
William M. Brodhead of Michigan.
Richard L. Ottinger of New York.
Stephen J. Solarz of New York.
Jonathan B. Bingham of New York.
Henry S. Reuss of Wisconsin.
Cardiss Collins of Illinois.
Charles B. Rangel of New York.
Robert N. C. Nix of Pennsylvania.
Robert L. Leggett of California.
Robert F. Drinan of Massachusetts.
Charles A. Vanik of Ohio.
Fortney H. (Pete) Stark of California.
Edward I. Koch of New York.
Andrew Young of Georgia.
Ron de Lugo of the Territory of the Virgin Islands.
Lee H. Hamilton of Indiana.
Thomas M. Rees of California.
Parren J. Mitchell of Maryland.
Henry Helstoski of New Jersey.
Bob Eckhardt of Texas.
Gerry E. Studds of Massachusetts.
Antonio Borja Won Pat of the Territory of Guam.
Thomas L. Ashley of Ohio.
John Conyers, Jr. of Michigan.
George E. Brown, Jr. of California.
Robert W. Kastenmeier, Jr. of Wisconsin.
Walter E. Fauntroy of the District of Columbia.
William (Bill) Clay of Missouri.
Benjamin S. Rosenthal of New York.
Patsy T. Mink of Hawaii.
John Brademas of Indiana.
Edward R. Roybal of California.
Paul E. Tsongas of Massachusetts.
Phillip Burton of California.
James C. Corman of California.
Dante B. Fascell of Florida.
Lloyd Meeds of Washington.
Ralph H. Metcalfe of Illinois.
Michael Harrington of Massachusetts.
Joseph P. Addabbo of New York.
John E. Moss of California.
Herman Badillo of New York.
John F. Seiberling of Ohio.
Shirley Chisholm of New York.
Leo J. Ryan of California.
Bella S. Abzug of New York.
William Lehman of Florida.
Patricia Schroeder of Colorado.
Barbara Jordan of Texas.
Don Edwards of California.
James A. Burke of Massachusetts
Harold E. Ford of Tennessee.
Gilbert Gude of Maryland.
Ronald V. Dellums of California.
Donald W. Riegle, Jr. of Michigan
Joe Moakley of Massachusetts.
Louis Stokes of Ohio.
William S. Cohen of Maine.
Yvonne Brathwaite Burke of California.
Frank Thompson, Jr. of New Jersey.
Augustus F. Hawkins of California.
Paul Simon of Illinois.
Gladys Noon Spellman of Maryland.
Martha Keys of Kansas.
Joshua Eilberg of Pennsylvania.
Don Bonker of Washington.
Michael T. Blouin of Iowa.
Abner J. Mikva of Illinois.
Torbert H. Macdonald of Massachusetts.
Millicent Fenwick of New Jersey.
Paul N. McCloskey, Jr. of California.
Charles A. Mosher of Ohio.
Peter W. Rodino, Jr. of New Jersey.
William J. Green of Pennsylvania.
Paul Findley of Illinois.
James J. Howard of New Jersey.
Robert W. Edgar of Pennsylvania.
John L. Burton of California.
Elizabeth Holtzman of New York.
Spark M. Matsunaga of Hawaii.
Claude Pepper of Florida.
George Miller of California.
James G. O'Hara of Michigan.
Frank Horton of New York.
Stewart B. McKinney of Connecticut.
Bob Bergland of Minnesota.
Norman Y. Mineta of California.
Philip H. Hayes of Indiana.
Timothy E. Wirth of Colorado.
Thomas J. Downey of New York.
Helen S. Meyner of New Jersey.
Richard Nolan of Minnesota.
Paul S. Sarbanes of Maryland.
Edward W. Pattison of New York.

H.R. 1287

A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 (a) of the United Nations Participation Act of 1945 (22 U.S.C. 287 c(a)) is amended by adding at the end thereof the following new sentence: "Section 10 of the Strategic and Critical Materials Stock Piling Act (60 Stat. 596: 50 U.S.C. 98–98h) shall not apply to prohibitions or regulations established under the authority of this section."

SUBCOMMITTEE TO INVESTIGATE SURVEILLANCE PRACTICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KASTENMEIER) is recognized for 10 minutes.

Mr. KASTENMEIER. Mr. Speaker, as chairman of the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, I well know that law enforcement and crime prevention require the investigation of suspects and the maintenance of records and files on the activities of those involved in a criminal investigation. No reasonable person would consider such an investigation, when properly conducted, to be an invasion of privacy. Indeed, those charged with the responsibility to apprehend and prosecute violators of the laws have a clear duty to remain informed and active in their pursuits.

However, when the Government investigator reaches his long arm into the personal or political lives of citizens, he steps far beyond the acceptable boundaries of legitimate investigation and into the murky territory of governmental spying. There have been long-standing allegations that politically active Americans have been victimized by pervasive systematic surveillance. During the Vietnam-war era thousands of citizens were photographed, interviewed, and spied upon. Many of these files are still maintained by the FBI. Dozens of political groups were informed on and infiltrated. As many of the recent conspiracy cases have shown, informers and provocateurs were used to intimidate and create a climate of fear within political groups. It has been admitted by the FBI that they do indeed use informers to investigate political groups, and the recent allegations that dossiers on Members of Congress are maintained by the Bureau is an expansion of this political harassment.

Clearly, there is cause for serious concern. Consequently, today I am introducing the Freedom From Surveillance Act. This bill, when enacted, will go a long way toward relieving the active invasion of privacy which political surveillance entails, and the chilling effect which widespread use of spying has on Americans' first amendment rights of free speech, association, and assembly.

The legislation prohibits any employee of the United States from conducting investigations into, maintaining surveillance or records regarding the beliefs, associations, political activities or private affairs of any citizen or group of citizens. Substantial fines and possible prison terms are mandated for violations of the act. Further, civil action is permitted in the case of those who have been unjustly spied upon.

I will hold hearings on this legislation on February 6, beginning what I plan to maintain as an ongoing oversight and legislative program for my subcommittee in the intelligence gathering area.

The Government spy is an abhorrent manifestation of a leadership afraid of its citizens and has no place in a free society. The American public will no longer tolerate official abuse of their basic constitutional rights.

The text of the legislation follows:

H.R. 1864

A bill to enforce the First Amendment and Fourth Amendment to the Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States from exercising surveillance of citizens and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Freedom for Surveillance Act of 1975."

SEC. 2. Domestic surveillance.

(a) Chapter 109 of title 18 of the United States Code, is amended by adding at the end thereof the following new section:

"§ 2237. Use of civil officers of the United States for surveillance prohibited.

"(a) Except as provided in subsection (b) of this section or otherwise required by statute, whoever being a civil officer of the United States willfully conducts investigations into, maintains surveillance over, or maintains records regarding the beliefs, associations, political activities, or private affairs of any citizen of the United States, or regarding the beliefs, membership, or political activities of any group or organization of such citizens, shall be fined not more than $10,000, or imprisoned not more than one year, or both.

"(b) Nothing contained in the provisions of this section shall be deemed either to limit or to enlarge such legal authority of the United States as may exist to:

"(1) collect, receive, or maintain information relevant to an investigation of an individual who has committed or is suspected on reasonable grounds to have committed a felony;

"(2) collect, receive, and maintain information relevant to lawful investigations of persons who are applicants for employment with the United States, who are employees of the United States, or who are contractors, or prospective contractors of the United States."

SEC. 3. Civil Action.

(a) Title 28, United States Code, is amended by adding after chapter 171 the following new chapter:

"Chapter 172. ILLEGAL SURVEILLANCE

"Sec.
"2691. Civil actions generally; illegal surveillance.
"2692. Special class actions; illegal surveillance.
"2693. Venue; jurisdictional amount.

"§ 2691. Civil action, generally; illegal surveillance

"(a) Except as provided in subsection (b) of section 1386, title 18, United States Code, or otherwise required by statute, whoever being a civil officer of the United States conducts investigations into, maintains surveillance over, or maintains records regarding the beliefs, associations, political activities, or private affairs of any citizen of the United States, or regarding the beliefs, membership, or political activities of any group or organization of such citizens shall be liable for damages to any person, group, or organization that has been the subject of a prohibited investigation, surveillance, or recordkeeping in an amount equal to the sum of—

"(1) any actual damages suffered by plaintiff, but not less than liquidated damages at the rate of $100 per day for each day the prohibited activity was conducted;

"(2) such punitive damages as the court may allow, but not in excess of $1,000; and

"(3) the costs of any successful action, including reasonable attorneys' fees.

"(b) Any person, group, or organization that has been the subject of any investigation, surveillance, or recordkeeping in violation of subsection (a) of this section may bring a civil action against the United States for such equitable relief as the court determines appropriate to enjoin and redress such violation.

"§ 2692. Special class actions; illegal surveillance

"Any person, group, or organization that has been the subject of any investigation, surveillance, or recordkeeping in violation of subsection (a) of section 2691 of this chapter, may bring a class action against the United States on behalf of himself and others similarly situated for such equitable relief as the court determines appropriate to enjoin and redress such violations.

"§ 2693. Venue; jurisdictional amount

"(a) A person may bring a civil action under this chapter in any district court of the United States for the district in which the violation occurs, or in any district court of the United States for the district in which such person resides or conducts business, or has his principal place of business, or in the District Court of the United States for the District of Columbia.

"(b) Any Federal court in which a civil action under this chapter is brought pursuant to subsection (a) shall have jurisdiction over such action regardless of the pecuniary amount in controversy."

(c) The analysis of part VI of such title 28 is amended by adding immediately after item 171 the following new item:

"172. Illegal surveillance............ 2691".

(d) Section 1343 of title 28, United States Code, is amended by redesignating paragraph (4) as paragraph (5) and by inserting immediately after paragraph (3) the following new paragraph:

"(4) To recover damages or to secure equitable or other relief under chapter 172 of this title;"

SEC. 4. The civil actions provided by the amendments to title 28, United States Code, made by this Act shall apply only with respect to violations of subsection 2691(a) of title 28, United States Code, as added by this Act, arising on or after the date of enactment of this Act.

SEC. 4. Definitions.

As used in this Act the term:

"(a) 'civil officer of the United States' means any civilian employee of the United States;

"(b) 'investigations' means any oral or written inquiry directed to any person, organization, or agency of the Government;

"(c) 'surveillance' means any monitoring of persons, places, or events by means of electronic interception, overt or covert infiltration, overt or covert observation, photography, and the use of informants;

"(d) 'records' means records resulting from any investigation or surveillance conducted by any governmental agency of the United States or any State or local government;

"(e) 'private affairs' means the financial, medical, sexual, marital, or familial affairs of an individual."

ADMINISTRATION ILLEGALLY IMPOUNDS MEDICAL RESEARCH FUNDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 15 minutes.

Mr. DRINAN. Mr. Speaker, the Office of Management and Budget is once again acting in a lawless way.

On January 16, 1975, Document 94–33 of the 94th Congress contained the full letter from the Assistant Comptroller General, Mr. Phillip S. Hughes, indicating that OMB, as of January 9, 1975, had failed to complete about one-half of the required apportionments for the Department of HEW that by law were required to have been completed on January 6, 1975.

As of January 23, 1975, projected rescissions for the National Institutes of Health have not been submitted to the Congress by the President nor has the President resorted to his other recourse under the Budget Control and Impoundment Act—the introduction of a deferral message. This is contrary to law since the appropriation for HEW for 1975 became law by the signature of the President on December 4, 1974. The Anti-Deficiency Act requires that these appropriations must be apportioned to the Department by January 6, 1975.

I set forth herewith below the proposed rescissions in the NIH 1975 budget. This document, under date of January 16, 1975, is apparently the basis for the present spending levels of NIH. A long conversation between me and Mr. Leland B. May, the Acting Director of the Division of Financial Management of the National Institutes of Health confirms the fact that NIH has already cut back to the level proposed by OMB.

PROPOSED ADJUSTMENTS IN NIH 1975 BUDGET, JAN. 16, 1975

[In millions of dollars]

	1975 appropriation (comparable)	Proposed rescission (net)	Revised 1975 budget
National Cancer Institute	$691.5	$123.0	$568.5
National Heart and Lung Institute	324.0	37.7	286.3
National Institute of Dental Research	49.9	7.5	42.4
National Institute of Arthritis Metabolism and Digestive Diseases	173.1	28.5	144.6
National Institute of Neurological Diseases and Stroke	142.2	30.3	111.9
National Institute of Allergy and Infectious Diseases	119.4	14.0	105.4
National Institute of General Medical Sciences	187.3	30.8	156.5
National Institute of Child Health and Human Development	127.8	24.0	103.8
National Eye Institute	44.1	6.5	37.6
National Institute of Environmental Health Sciences	34.9	6.9	28.0
Research Resources	121.2	40.6	80.6
Fogarty International Center	5.4	1.0	4.4
National Institute of Aging	14.1	----------	14.1
Total	2,034.9	350.8	1,684.1
National Library of Medicine	28.4	.4	28.0
Buildings and Facilities	3.0	----------	3.0
Office of the Director	18.0	----------	18.0
Total, NIH	2,084.3	351.2	1,733.1

In plain fact, this means that $351,200,000 has already been taken out of the budget of NIH by the OMB.

This has been done even before the message of rescission pursuant to section 1012a of Public Law 93–344 has been received by the Congress. This special message must, pursuant to law, give "the reasons why the budget authority should be rescinded." The presidential special message must also reveal "facts, circumstances, and considerations relating to or bearing upon the proposed rescission . . . and the decision to effect the proposed rescission . . . and the estimated effect of the proposed rescission . . . upon the objects, purposes, and programs for which the budget authority is provided."

Needless to say, the proposed rescission of $351,200,000 from research in the area of health will have a catastrophic effect upon many projects, many medical schools, and many individual researchers in the enormously important and urgent research in cancer, heart, lung, arthritis, neurological diseases, child health, and other essential areas.

The General Counsel of OMB claims that a lengthy statement from the Comptroller General of the United States under the date of December 4, 1974—numbered B–115398—justifies the position of OMB that budget authority can be diminished by the NIH and other agencies by the amount of the proposed rescission until Congress acts or until Congress fails to act after the 45 days permitted by law.

What this position of the OMB means is that the President is claiming the right under the Impoundment Control Act of 1974 to diminish an appropriated sum by his proposed rescission during the 45 days in which Congress can act on matters of this kind and, indeed, during the period before the rescission is even proposed to Congress.

Mr. Speaker, this interpretation of the Impoundment Control Act of 1974 appears to me to be precisely the opposite of what Congress intended.

In view of the lawlessness of OMB as unequivocally spelled out by the communication from the Assistant Comptroller General of the United States in Document 94–33, the Congress has the right and indeed the duty to take this document as equivalent to a special message from the President. Section 1015 of the Impoundment Act provides that if the Comptroller General finds that an action or inaction of OMB constitutes a reserve or deferral which has not been reported to Congress in a special message as required, the Comptroller General shall report to Congress on such reserve or deferral. The report of the Comptoller General in such a case will have the same effect as if it had been transmitted by the President in a special message.

Mr. Speaker, the communication of January 16, 1975, by the Assistant Comptroller General does precisely what section 1015 requires of the Comptroller General. This letter also permits, if not requires, the Congress to treat this letter as having the same effect as if it had been transmitted by the President in a special message.

Consequently, Mr. Speaker, it is my interpretation of the law that the 45 days during which the proposed rescission of $351,000,000 from the budget of NIH is before Congress for consideration begins to run, not at some future projected time when the OMB gets around to informing the Congress, but from January 16, 1975, the date at which the Comptroller General gave to the Congress a letter which had all of the same effects as a letter of the President in a special message requesting specific rescissions.

The 20-page document of the Comptroller General referred to above, dated December 4, 1974, concludes with the observation that the construction and interpretation of the Impoundment Act involves "difficult issues of interpretation of statutory language and legislative history." As a result, the Comptroller General suggests "that Congress may want to reexamine the act and clarify its intent through further legislative action."

Mr. Speaker, I have informed the General Counsel and other officials at the OMB that I shall follow the budget of the NIH with closest attention. Four major medical schools in greater Boston, along with specialized research institutes in Massachusetts and across the Nation, depend almost exclusively for their operating budget on the $2,090,418,000 agreed to in the conference committee of the Congress as the budget for NIH for fiscal year 1975. President Ford signed that bill, but now proposes by a series of wholesale rescissions to drop that level of spending to a level below that of 1974 which was $1,786,325,000. President Ford proposed $1,733,100,000 for fiscal year 1975.

Obviously the Ford administration has a new version of how to play the game of impoundment. The Congress should resist, reverse, and repudiate this indefensible conduct on the part of OMB and the President.

BOOSTING FOOD STAMP COST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. MEZVINSKY), is recognized for 5 minutes.

Mr. MEZVINSKY. Mr. Speaker, today I am joining with several of my colleagues to introduce legislation to prohibit the Agriculture Department from implementing its ill-advised plan to boost the cost of food stamps. I do so with a sense of disbelief that such legislation has become necessary; disbelief that as part of the drive for economic recovery the USDA plans to exacerbate the economic plight of the neediest Americans.

Last December, when the USDA announced its proposal to require all food stamp recipients to pay at least 30 percent of their net monthly income for their allotment of food coupons, I took advantage of the "comment period" to strenuously object to the proposition and urged that it be abandoned. Unfortunately, the USDA had disregarded the objections presented by Members of Congress and announced that it plans to raise the cost of food stamps an average of 7 percent.

The human costs of this plan far outweigh the budget savings involved. The USDA's proposal would cut most heavily into benefits for single persons and two-family households, including many elderly Americans. The needy elderly and others on fixed and limited incomes are the hardest pressed by inflation and yet the USDA suggests that their food buying power be further eroded.

The move to increase the cost of food coupons also fails to recognize the established relationship between nutrition and health. This is especially important where senior citizens are concerned and any budget savings resulting from arbitrarily increasing the cost of food stamps would be vastly overshadowed by the human and financial costs of poor health caused by poor diets.

As we consider this legislation, I think it is also important to consider the sad irony of the USDA proposal. In defending the food policies of the USDA Secretary Butz often cites statistics showing that Americans enjoy relatively inexpensive food. The Department of Agriculture tells us that food costs consume an average of about 16 percent of a family's income. I think it is most interesting when juxtaposed against the Department's proposed flat to demand that elderly citizens and others on fixed and limited incomes pay 30 percent—almost double what USDA says is the national average—of their income for food.

Congress must block implementation of the 30 percent regulation and we must act promptly; without approval of this legislation the food stamp price increase will go into effect March 1.

PETROLEUM TAX PROPOSALS: NEED FOR CONGRESSIONAL REVIEW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. DOMINICK V. DANIELS) is recognized for 5 minutes.

Mr. DOMINICK V. DANIELS. Mr. Speaker, I am today joining with my esteemed colleagues Mr. MCFALL and Mr. REUSS in cosponsoring a House concurrent resolution designed to express the sense of the Congress in urging the President to delay the implementation of his plan to raise the fee on all imported crude oil and petroleum products.

I fully share the President's concern about the need for an effective fuel conservation effort in this Nation. However, I am not convinced that crude oil excise taxes proposed by the President will accomplish our national energy conservation objectives. At the same time, I am very concerned that the taxes, as proposed, will only exacerbate our current inflation problems. The President has maintained that his proposals will cost the average consumer approximately $250 a year. While this estimate may accurately reflect the increased cost of gasoline and electricity for most Americans, I do not believe the President has considered the impact of dramatically increased energy prices in the industrial and food production sectors. It is apparent to me that these increased fuel costs will soon be reflected in higher costs for food, textiles, manufactured products which utilize petrochemical feedstocks in the industrial process, and a wide range of consumer goods. Additionally, these higher prices will adversely affect lower-income Americans. The poor and the elderly are already bearing an intolerable economic burden resulting from the cruel combination of inflation, recession, and rising unemployment.

The President's proposals would only add to the misery of these beleaguered Americans by further increasing the cost of heating and lighting their homes, and fueling their automobiles. We must find ways to help lower-income-level Americans cope with rising energy prices. We cannot in good conscience ask them to bear the even heavier economic load that would result from this shortsighted approach to curb energy demand.

The resolution I am cosponsoring today expresses the sense of the Congress that the President should delay the imposition of any tariff or other import restriction on petroleum or petroleum products before April 1, 1975, so as to give the Congress a reasonable period of time in which to act legislatively on such proposals if it determines such action is necessary.

This Nation should not rush headlong down an uncharted path that could lead to economic disaster in pursuit of some illusory energy conservation objective. The steps that we take in developing a rational U.S. energy policy will have political, social, and economic repercussions. We must first determine that the need exists, that the tradeoffs are valid, and that the objective can be achieved. We must not allow the American people to be penalized for the foot-dragging that has characterized this administration's approach to developing a national energy policy. We can afford to take a little more time to determine that we are setting off on the right path. Legislation I introduced earlier this week calls for the establishment of a national energy information system. This attempt by the Ford administration to institute far-reaching national energy policies without adequate economic and energy resource input clearly demonstrates the need for such a system.

None of the President's energy conservation or energy self-sufficiency goals will be achieved without the cooperation and support of the American people. And the American people will not cooperate in a program in which they do not have confidence. This confidence will only result from the public availability of full and accurate information on our national energy situation. The far-reaching implications of our national energy challenge demand that Congress exercise its responsibility to the American public in determining the merit of various energy strategies that are developed by the administration. The resolution I am cosponsoring today testifies to the fact that this Congress does not intend to abdicate its responsibilities to the American people.

INTRODUCTION OF LEGISLATION TO PROHIBIT PRESIDENTIAL IMPOSITION OF TARIFFS, FEES, OR QUOTAS ON OIL IMPORTS FOR 60 DAYS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

Mr. O'NEILL. Mr. Speaker, on behalf of the 25 members of the bipartisan, 6-State, New England Congressional Caucus, I am introducing legislation to prohibit Presidential imposition of tariffs, fees, or quotas on oil imports for 60 days, and to require thereafter that Congress be insured at least 30 days to disapprove of any such Presidential decision.

This legislation is essential to prevent hasty and irreversible action of the President—action undertaken without the advice of Congress or of the American people—action taken under emergency powers clearly designed for different purposes.

We need to spur the economy and to put our energy house in order. Do we really want to raise oil prices by $2 a barrel? Do we want to take $12 billion out of our already depressed economy? Do we not care about the effects on the poor, the middle class, and those on fixed incomes who are already struggling just to make ends meet?

New England would suffer a particularly crippling blow from implementation of the tariff. New England is now afflicted by the highest unemployment in the Nation. It has already affected considerable savings of residual and home heating oil prices. But now New England would bear the brunt of increased oil prices. This would mean disastrously higher prices and unemployment.

The New England Congressional Caucus believes that economic decisions of this magnitude should not be taken by the President unilaterally. We have strong reservations about his legal authority to take such steps without congressional approval. More importantly, we challenge the sense in what the President proposes.

OSSINING: A BANNER VILLAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

Mr. OTTINGER. Mr. Speaker, the village of Ossining, N.Y., had a great deal to be excited about during the recent holiday season. The Greater Ossining Chamber of Commerce got together with the students and teachers at Ossining High School in decorating their town for the holidays as it had never been decorated before. This year, though, there were not any expensive and energy-consuming lights hanging from the street lamps.

Instead, 50 students designed holiday banners depicting scenes and symbols of the holidays of Christmas and Chanukah and hung 250 of them on the streets of Ossining. The only energy consumed by this project was that of the public-spirited students and members of the Greater Ossining Chamber of Commerce who put in many long hours preparing the banners, sewing them together, attaching them to wooden frames contributed by Anthony Fiorito, a member of the chamber, with wire donated by Donald Thomas of the Hudson Wire Co., another member. The chamber itself contributed $600 to the project.

Community efforts such as this one in Ossining are exciting prospects for next year's holiday season. At a time when conserving energy is of such great importance, the example which Ossining has set for towns and villages all over the Nation shines as a light which burns no fuel, but produces much warmth and good will.

For the benefit of my colleagues and their constituents across the Nation, I have inserted in the RECORD an article on this holiday project which Ossining has pioneered, in the hope that next October, when towns in the Nation begin preparing to decorate for the holidays, they will remember the example which this town in my district has set.

[From the Ossining Citizen Register,
Nov. 19, 1974]

DECK THE STREETS . . .

(By Beth Smith)

The Greater Ossining Chamber of Commerce and about 50 Ossining High School students have a hefty retort for those who say lights are a holiday necessity.

About 720 feet's worth.

The students jumped at an idea of the Chamber's to forget the lights and try something new in the way of holiday decorations.

The energy saved by not putting up the thousands of lights has been expended (plus some) by OHS art students in making about

240 three-foot-long banners. They are members of the classes of art teachers Robert Globerman and Ann Stierhout, but it's Mitchell Siegel of the art department who is essentially in charge of the project.

After working during and after school for weeks, the teachers and students happily announce the banners will be completed this week.

The Chamber of Commerce came up with the idea of giving the school $500 and letting the kids think up appropriate decorations.

Regular art instruction was suspended for a couple of weeks while the students (with great difficulty) got hold of plastic-coated oilcloth, thought up the designs and got to work.

Most of the banners depict such holiday symbols as snowflakes, candles, holly leaves, etc. Twelve banners represent the 12 days of Christmas; Globerman's students are painting those designs.

The Chamber wants to spread the banners from Roosevelt Square to at least State Street, possibly to the railroad station; Route 9, from the Arcadian Shopping Center to Eagle Bay; and Spring Street to Broad Avenue and perhaps down Broad to State Street. If there aren't enough banners this year to cover that much area, the Chamber figures the project will keep the school's art department busy next year, and the year after, and the year after.

Once the banners are completed, the high school economic classes will take on the task of sewing them together. Anthony Fiorito of the Chamber has contributed some lumber to which the banners can be attached (with wire donated by Hudson Wire) and the Village of Ossining has agreed to provide the manpower and equipment to hang the banners up.

They'll be stored at the high school after Christmas, where they can be repaired and added to for next year. Each year more streets will be decorated, with perhaps a special touch being given the railroad station.

"It is a classic example of getting the students involved in community affairs and they are to be commended for it," said Albert Schatz, president of the Chamber of Commerce.

THOMAS HART BENTON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. RANDALL) is recognized for 10 minutes.

Mr. RANDALL. Mr. Speaker, I take this time to inform the House of the untimely passing of the most distinguished and nationally famous artist, Thomas Hart Benton. He happened to be a Missourian, but he had earned a fame which was nationwide and certainly not confined to Missouri.

Mr. Benton departed this life last Sunday evening at the age of 85. Our paper in Kansas City, Mo., where Mr. Benton spent his last days, commented that his going was the end of an era of American painting. Perhaps that conclusion is more accurate than it may seem at first appraisal, because there may never be another who can produce murals that are as descriptive of the life of the great Middlewest area of America or as colorful.

Mr. Benton was famous in his own right but he also carried the famous name of his great uncle, Thomas Hart Benton, who was Missouri's first Senator.

The artist lived a life, which had he decided to draw as subject of his paintings, would have resulted in a more varied product than his well-known Civil War era and latter 19th century murals. That is true, Mr. Benton left the rough and tumble mining area of southwestern Missouri to go to Chicago on his own as a youth of 19 and then on to Paris where he spent 3 years. He got back to New York in time to get in World War I. It was in New York that he met Rita Piacenza, a student who became his wife. Thomas Hart Benton became famous for many reasons. These reasons are the many well-known murals that he produced, one of which was at the request of his good friend, Harry S. Truman.

Any of colleagues who attended the many conventions in Kansas City last December and who had occasion to visit the Truman Library on the Thursday evening before the start of that mid-term Democratic Convention saw at the Truman Library his famous mural, "Independence and the Opening of the West." This has always been the focal point of interest to visitors entering the Library foyer.

Another reason for his fame was the work that he did in the Missouri State Capitol Building. Several years ago he was commissioned to produce a painting for the Missouri exhibit at the New York World's Fair. That painting attracted attention of all the visitors and caused the Missouri exhibit to be one of the most popular at the fair.

At the time of his collapse, he had just finished a mural commissioned by the Country Music Foundation of Nashville, Tenn. Back in the thirties, he completed a mural of the State of Indiana 12 feet tall and 200 feet long which was exhibited at the Chicago World's Fair in 1933.

No one had to ever ask what Mr. Benton's paintings were about because the subjects were always depicted very clearly. His work had a warmth notwithstanding the large dimensions and his colors were always most beautiful.

It was only very recently that I discovered that Mr. Benton had done a mural of our beloved Speaker, the gentleman from Oklahoma (Mr. ALBERT). In discussing this with our Speaker, I learned that he had visited in the home of Thomas Hart Benton and was a great admirer of the great artist.

Mr. Benton was not only an artist but was a writer. He was the author of a book entitled "An Artist in America" and he wrote the book because he said that when he sat above the waters of Missouri, he felt that he belonged to them and had to put his thoughts into words.

Thomas Hart Benton was a hard worker. He said the best way to honor him was to put him to work.

He refused to retire. He refused to yield to the miseries of age. His formula to remain young was to form a whole new circle of friends, 25 years younger than one's self.

Mr. Benton's passing is untimely. I say that because the Governor of our State recently commissioned him not only to do some more work for our State but also to assist in a fundraising project to assure that the original paintings of George Caleb Bingham be purchased by Missourians and not be sold by a St. Louis bank outside the State.

We have all suffered a loss in this country with the untimely passing of this great artist.

I speak not only for myself but for all of the Missouri delegation, we all mourn his loss. We extend our deepest sympathy to his lovely and faithful wife, Mrs. Rita Benton and to his son and daughter.

NINTH ANNIVERSARY OF THE SIGNING OF THE CUBAN EXILES' DECLARATION OF FREEDOM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

Mr. FASCELL. Mr. Speaker, today marks the ninth anniversary of the signing on January 23, 1966 in Key West, Fla., of the Declaration of Freedom by Cuban exiles in the United States.

This occasion affords us the opportunity to reflect on the principles which for so many years marked the way of life in Cuba when that country enjoyed freedom and independence. And it also allows us to remind ourselves of the cruel acts of tyranny which have deprived the Cuban people of basic human rights.

In recent months there has been increased speculation about renewed relations between the United States and Cuba. Many, including a number of Congressmen and Senators, have called our present policy inadequate and have urged either a reassessment or have urged outright that our relationship be "normalized." Yet if we compare the principles which free Cuba stood for prior to the Castro takeover and those which freedom-loving Cubans still cherish with the oppressive and repressive policies of the present regime, it seems clear to me that we should not modify our stand against the tyrannical Castro government.

Our colleagues in the Congress must not forget that Castro was and is a cruel dictator who murdered hundreds of his opponents as well as hundreds of his supporters who learned too late that he was not the man he pretended to be. His policies have driven 10 percent of his country's population into exile since he came to power. Thousands of political prisoners continue to rot in his jails—prisoners whose conditions are not subject to even cursory review by the human rights commission of either the United Nations or the Organization of American States or by any of the many respected private international groups.

It is this oppression which the Cubans forced into exile, gathered in Key West to protest. And it is the freedom they had known—the respect for human rights—which they dedicated themselves to restoring. Until that freedom is restored our policy cannot be shifted.

The Cubans in this country have made great contributions to our democracy. We must continue to support their goal of restoring democracy to Cuba.

Mr. Speaker, I call to the attention of our colleagues the full text of the Declaration of Freedom:

DECLARATION OF FREEDOM

In the City of Key West, Monroe County, State of Florida, United States of America,

we the Cuban exiles in the United States, in the name of God Almighty, and speaking both for ourselves and the oppressed people in Cuba, the Martyr Island, do say:

That on January 1st, 1959, the slavery yoke that came from Europe and was extinguished in Cuba at the end of the 19th century, was resumed.

That those responsible for this high treason to our Fatherland and to our People are just a score of traitors who, usurpating the Government of the Country have been acting as mercenary agents for the Sino-Soviet imperialism, and have surrendered to that imperialism our Freedom and our Dignity, also betraying the American Hemisphere.

That as a consequence of this high treason, those who are usurpating the Power in Cuba (as they were never elected by the People), are imposing a regime of bloodshed, terror and hate without any respect or consideration to the dignity of the human being or the most elementary human rights.

That in their hunger for Power, these traitors, following the pattern of totalitarian regimes, are trying, within Cuban, to separate the Family, which is the cornerstone of actual society, and at the same time, are poisoning the minds of the Cuban children and youth, in their hope of extending the length of time for this abominable system.

That the rule of the Law has been wiped out in Cuba, and it has been replaced by the evil will of this score of traitors, who are acting under orders from their masters, the Sino-Soviet imperalists.

In view of the aforegoing, we declare.

First: That the actual Cuban regime is guilty of high treason to our Fatherland and to the ideals of the Freedom Revolution which was started on October 10th, 1868.

Second: That this score of traitors who have committed treason against our Fatherland, in case they survive the downfall of their regime, will have to respond, even with their lives before the Ordinary Courts of Justice of Cuba.

Third: That as the Noble Cuban People will not ever surrender, because that Nation was not born to be slave, we, the Cuban People, hereby make the present declaration of freedom.

We hereby swear before God Almighty to fight constantly, until death comes to us, to free Cuba from communism.

The fundamentals of this Revolution for Freedom are:

First: God Almighty, above all things, in Whom we believe as the essence of Life.

Second: The Fatherland, with all of its Laws, traditions, customs and history as a spiritual value, only surpassed by the concept of God.

Third: The Family, as the cornerstone of the Human Society.

Fourth: Human Rights, for each and every citizen, regardless of race or creed.

Fifth: The Law, as the foundation for the proper development of the Human Society.

Sixth: Democratic Government, with its three independent branches: Legislative, Executive and Judicial.

Seventh: Representative Democracy, through the exercise of Universal Suffrage, Periodically, Free and Secretive, as the expression of Popular Sovereignty.

Eighth: Freedom of Worship, Freedom of Teaching, Freedom of the Press and Free Enterprise.

Ninth: Private Property and Ownership, as the basic expression of Liberty.

Tenth: The improvement of living conditions for both rural and city working masses, with the just and necessary measures, keeping in mind the legitimate interests of both Labor and Capital.

Eleventh: The derogation and eradication of anything which is opposed to the political and religious fundamentals aforementioned, and specifically, the abolition of Communism and any other form of totalitarian manifestation.

Signed and sealed in Key West, Florida, on the 23rd day of January, 1966.

BOB JONES, A CHAIRMAN FOR THE PEOPLE

(Mr. JOHNSON of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. JOHNSON of California. Mr. Speaker, during my service in the House of Representatives, it has been my privilege to be a member of the Committee on Public Works, which has now become the Committee on Public Works and Transportation. During all of these years on the committee I have had a firsthand opportunity to work closely with, and observe the day-by-day actions of, one of the great Members of the House of Representatives, our new chairman, the gentleman from Alabama, the Honorable ROBERT E. JONES.

BOB JONES, during his service of over 28 years in the House, has devoted his public career to helping not only the citizens of his district and of his State but the entire Nation. He is a warmhearted individual with a deep understanding of the problems of all Americans.

His legislative record clearly indicates the support for those programs that the Congress has enacted which will be of benefit to all parts of the Nation. He has been one of the chief sponsors of such major bills as the Appalachian program, which has brought relief and assistance to those citizens who spend their lives in that mountainous area of the United States which is encompassed by the Appalachian chain. This landmark legislation laid the groundwork to bring the people of the Appalachian area into the mainstream of American life. This highly successful program continues to provide them with the economic assistance, health, and social care that is essential to their development as individuals and to the development of the region as a whole.

BOB JONES was one of the chief sponsors of the Public Works and Economic Development Act of 1965, a program that provided, and continues to provide, economic assistance to hard pressed sections of the Nation on a local, State, and regional basis. During the recession of 1962, he was a chief proponent of the Accelerated Public Works Act which provided immediate employment to many individuals in all sections of this country.

Not only has BOB JONES devoted himself to providing a better means of livelihood for all Americans, but his concern for the environment of this country can no more truly be shown than the magnificent leadership he gave when he almost single-handedly passed one of the most significant pieces of environmental legislation in the history of the Congress—The Federal Water Pollution Control Act Amendments of 1972. The leadership he gave to this act on the floor and, in particular, during the grueling days of an intense conference was recognized in a unique fashion when the conferees of both bodies presented him with a plaque for the work he did in this field.

He is known as the man who has been chiefly instrumental for the continuing development of the Tennessee Valley Authority. He provided assistance and help in bringing about the creation of the St. Lawrence Seaway. All who know him he is one of the leading proponents and sponsors in the field of water resources in the Congress.

I could continue in the same vein indefinitely but the record is there in the many legislative acts, which have since become public laws, that bear the imprint of this fine man. He believes that what helps one part of America helps all of America.

I am proud to call him friend, and I am privileged to continue to have the opportunity to work with him, as I have throughout the years, now as the leader and chairman of the Committee on Public Works and Transportation.

A recent article, and an excellent one, that appeared on the editorial page of the Huntsville Times of Huntsville, Ala., on Sunday, January 19, 1975, captures indeed the spirit and character of BOB JONES. This article was written by James Hutsell, associate editor of the Huntsville Times, and he did a firstclass job. Under leave to extend my remarks I include this article from the Huntsville Times.

AT HOME IN THESE HILLS: THE VALLEY'S BOB JONES WILL WIELD IMMENSE POWER AS CHAIRMAN OVER CRUCIAL DEVELOPMENTAL AREAS IN TIME OF NATIONAL CRISIS

(By James K. Hutsell)

For almost 29 years, Robert E. Jones (but a man known invariably as "Bob") has served the northernmost region of Alabama as its congressman. None other has represented the district as long. Re-elected last November to the 94th Congress and yet another term, it was much as if he were being named congressman-by-consensus. But when he went back to Washington for the opening of the new Congress there was a difference, and a new honor for this Scottsboro man: he was to be installed as chairman of one of the most influential and important committees—Public Works and Transportation.

For years, Bob Jones has been also known as "Mr. TVA," because of his stout championship of the Tennessee Valley Authority that worked a classic miracle for a region through cheap power, flood control, massive river dams and water transportation. He is known to colleagues on Capitol Hill, for some reason nobody seems to recall, as "the Reverend." As a chief draftsman of the Appalachia program, the success of which has now spawned four other similar commissions, Bob Jones' concern with ailing low-income areas again has demonstrated his inherent allegiance to the common American. And in any tabulation he is rated as the most liberal of Alabama's congressmen.

As he returns to Washington in a year when economic concern throughout the nation is greater than at any time since the Great Depression, the House Public Works and Transportation Committee, which he now will head, will have a strong and early voice in determining the amount and direction of federal spending.

Jones is deeply concerned with arresting inflation. But he is, as he says, also concerned with the mechanics and programming to continue production and consumption of goods. The acceleration of unemployment must, by all means, be halted, he says.

America's energy programs are grievously fragmented, he says; he believes that one of the greatest of current crises resulted because "we failed to guess the Arab oil situation would develop so suddenly and calamitously."

Public works programs now are becoming imperative—and viable again because of a backlog of needed improvements ignored since the 1940s, in part because of the national preoccupation with Korea and Vietnam.

The congressman terms the record of the Gerald Ford administration's first months as "the greatest disappointment I have witnessed in politics since I have been in Washington."

Of the new President and longtime acquaintance on the Hill, Rep. Jones said that he has long been aware of Ford's "intense partisanism and a provincialism—and some of the latter is natural when a man is elected to represent a district." What apparently disappoints Bob Jones is President Ford's "failure to shed that provincialism, now that he has become the leader of a nation."

Ford's recent veto of the TVA pollution control bill, which would have given relief to the TVA power program based on its expenditures for pollution control facilities at a savings which would have been reflected on the Tennessee Valley consumers' electric bills, incensed the Alabama congressman. Jones was author, floormanager and conferee for that legislation, which passed both the House and the Senate by voice-votes, indicating wide congressional support for the measure.

Jones, however, did see more than a dozen items of major legislation for which he was significantly responsible passed during the two-year life of the 93rd Congress, just ended.

These included the Deepwater Ports Bill, to make possible the building of deepwater ports off coastal states; Disaster Relief Act amendments to aid flood and tornado victims; the Federal-Aid Highway Act, to provide for continued improvement of highway systems and to extend several energy-saving programs. Because of Jones' concern for the environment, he introduced and saw passed a bill to press for possible inclusion of Alabama's West Fork of the Sipsey River in a wild and scenic rivers system and another bill which added 12,000 acres of the Sipsey area of the Bankhead National Forest to the Eastern Wilderness, designed to preserve unspoiled areas of the nation.

Bob Jones' workday in Washington normally begins at 9 a.m., when he walks from his home to his office. Rarely does his day on the Hill end before 7 p.m. In the last six months of the last Congerss, he estimates, there were no more than three times that a working-day ended earlier than 7 p.m. Sometimes, business went on until 2 a.m.

The length of the congressional year grows longer and longer. The time that a representative or senator is able to spend back home and in contact with the people whom he is elected to represent grows less. "That realization can be a gnawing thing," says Jones, "especially to me when I realize that the population in my own district is now in excess of a half-million."

Bob Jones clearly has a deep feeling for his Alabama hills and homelands. "Even after nearly 30 years, Washington is to me a lonesome place. There are times when I get homesick—it's like being a fellow at sea on a long voyage."

Then the congressman will break off wistfully from talk of home and return, when questioned, to the duties that lie ahead for him in the chairmanship of the committee he now will head.

While the House Public Works Committee's present charter goes back only as far as the Reorganization Act of 1946, its roots reach back to the beginnings of the nation, the congressman reminded in an interview last week.

In the country's early days, public works were linked mainly with the needs of commerce in such areas as roads, inland waterways, harbors and navigational aids to promote trade.

The first recorded public works project in the United States, authorized by the first Congress in 1789, was a lighthouse on Cape Henry to guide shipping in and out of Virginia.

The public works program really got under way in America with passage of the General Survey Bill in 1824, permitting federal assistance to state and corporate projects. The first large-scale public works undertaking was the construction of canals. The needs for land and water routes for commerce led to the construction of the Erie Canal and the first national road across the Alleghenies.

Until 1946, House involvement in public works came under the jurisdiction of four separate standing committees: Committee on Flood Control, formed in 1916; Roads, formed in 1913; Rivers and Harbors, formed in 1883; and Public Buildings, formed in 1837.

Then, with the Congressional Reorganization of 1946, functions of the committees were consolidated into subcommittees of the new Committee on Public Works. Subsequent changes in House rules added subcommittees on watershed development, and on investigations and oversight, along with a special subcommittee on economic development programs.

Subcommittees in the last Congress, which ended its work in December, were water resources, transportation, public buildings and grounds, economic development, investigations and review, and energy.

Last year, the House approved a reorganization which changes the name of the committee to Public Works and Transportation. Thus committee responsibility was added for urban mass transit, civil aviation and airports, and the regulatory agencies—Interstate Commerce Commission (ICC) for roads and waterways, the Federal Aviation Administration (FAA) and the Civil Aeronautics Board (CAB).

Bob Jones officially was elected Thursday by the House Democratic Caucus to head the Public Works and Transportation Committee. On a day that saw two powerful House committee chairmen unseated, Jones' lopsided (by a 208–10 vote) obviously represented a major vote of confidence by his fellow Democrats in the House.

At 62, he becomes the first Alabama congressman to chair one of the 20 standing committees in the House of Representatives since 1943. Rep. Henry B. Stegall of Ozark, Ala., headed the House Banking and Currency Committee from 1931 to 1943.

Thus it is that Bob Jones of Scottsboro—"the Reverend"; "the Judge" (he was Jackson County's first county court judge); and "Mr. TVA"—seems on the verge of securing a new title (and one that may become signally impressive in the economic era we are entered upon), the title of "Mr. Public Works."

THE ALASKAN NATIVE CLAIMS SETTLEMENT ACT OF 1971

(Mr. UDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. UDALL. Mr. Speaker, the Alaska Native Claims Settlement Act of 1971 is one of the most significant and far-reaching laws in the legislative annals of our country. The law not only provides for a prompt and just settlement to the longstanding aboriginal rights of Alaskan Natives by providing them with a 40-million-acre land base, but also provides that other Federal lands be set aside by the Congress in the national interest. Section 17(d)(2) directs the Secretary of the Interior to transmit his recommendations to the Congress on what the Interior Department thinks ought to be set aside, by law, as units of the National Park, National Wildlife Refuge, Wild and Scenic Rivers, and National Forest Systems. These recommendations were received in December 1973.

In March 1974, I introduced a bill which contained national interest public land dedications as proposed by various citizen conservation organizations. This was an attempt on my part to establish a framework for legislative discussions on this important matter. The bill I am introducing today is identical to my previous measure and is intended to accomplish the same objective—to establish parameters as my colleagues and myself on the House Committee on Interior and Insular Affairs take up these various proposals during this session of the Congress.

Mr. Speaker, unlike the Department of the Interior, citizens do not have the resources to conduct extensive field studies of their own in a short period of time. While this bill is a countermeasure to that proposed by the Secretary of the Inteiror, it is not to be considered final in any sense of the word. Citizens have been conducting their own field studies of the various areas in question and soon will have assembled detailed data on each national interest area.

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975 INTRODUCED

(Mr. UDALL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. UDALL. Mr. Speaker, today I am reintroducing the "Surface Mining Control and Reclamation Act of 1975," the text of which is identical to the conference report approved by the 93d Congress but pocket vetoed by President Ford.

I introduced this bill on the first day of the Congress with 84 sponsors. Since that time 21 of my colleagues have also agreed to cosponsor the bill and thus I am reintroducing the legislation at this time.

Mr. Speaker, there is strong support for this strip mining bill in the House and the Senate. I am hopeful that the Committee on Interior and Insular Affairs will take quick action so that the House will have an opportunity to act early in this session of the 94th Congress.

H.R. 1457—A BILL TO PREVENT A "SOAK THE NEEDIEST" FOOD STAMP POLICY

(Mr. MELCHER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MELCHER. Mr. Speaker, earlier in this new Congress I introduced H.R. 1457, a bill to prevent the Department of Agriculture from increasing the cost of Food Stamps to the neediest of the needy on March 1.

Just before Christmas, in an announcement that out-Scrooged Scrooge himself, the Secretary of Agriculture announced that the charge for food stamps was to be boosted to 30 percent of income, regardless of how far below the poverty level the family income might be, in order to save the Federal Government $625 million.

Marie Antoinette may have displayed ignorance when she said "let them eat cake," but she did not display the heartlessness of the food stamp edict; she did not say "let them starve." That alternative obviously did not enter her mind. That, however, is the alternative our Department of Agriculture is offering our poorest poor.

Only a few days before the announcement of the food stamp cost increase, it had become apparent that the administration would propose tax relief in the lower income brackets to ease the consequences of inflation on the less affluent people of this country. That is now announced policy, but since its announcement Secretary of Agriculture Butz, after reviewing protests against the food stamp cost rise, has reaffirmed his intention to go through with it. It is completely contrary to the announced tax policy, taking means of subsistence away from people who do not even have enough income to owe any taxes.

I am extremely pleased that chairman-designate TOM FOLEY of the Agriculture Committee has announced his intention of starting hearings and reporting out legislation on the subject as quickly as possible. It should not take much time.

H.R. 1457 includes six sections, intended to make some necessary adjustments in the Food Stamp Act on which I believe there is general agreement. Forty-three Senators have coauthored the same bill. Two of the sections bring the act in line with court decisions. I do not anticipate controversy about the others, but, if there is, and they threaten any delay in action on the first section, I will gladly support separation to get the price increase stopped by March 1.

So Members will understand the additional provisions, I include in the RECORD a section-by-section analysis:

SECTION-BY-SECTION ANALYSIS OF H.R. 1457

SECTION 1

Section One would amend the Food Stamp Act to prevent the recently announced regulation change increasing the cost of food stamps to 30% for all participants from going into effect. The amendment continues the concept that the cost of food stamps should represent a reasonable investment on the part of a household but provides that in no event can that investment be more than the per centum charged a household with the same income under the current schedule.

The amendment would also reduce the maximum charge from 30% of net food stamp income to 25%. In other words, those recipients now paying 10% and 20% of their incomes for stamps would continue to pay that amount while those paying 26–30% would have the price reduced to 25%.

The estimated cost of this provision at current participation levels is $450 million.

SECTION 2

This section of the bill amends Section 3 of the Food Stamp Act of 1964, as amended, which defines the terms used in the Act.

Subsection (e) which defines the term "household" is amended to delete the requirement that household members under age 60 be related in order to qualify for the food stamp program. This requirement was ruled unconstitutional by the Supreme Court in its decision in the case of *Moreno* v. *USDA*, 413 U.S. 528. The amendment will bring the Act into conformance with the Supreme Court decision.

This provision was introduced at the request of the administration in the 93d Congress but no action was taken.

SECTION 3

This section of the bill revises subsection 5(b).

Subsection 5(b) retains the concept that the food stamp program shall be limited to households whose income and resources are substantial limiting factors in the attainment of a nutritionally adequate diet. However, it excludes the housing payment in kind from the standards of eligibility. The inclusion of housing payments in kind not in excess of $25 is most unpopular among the States. To determine the value of in kind income, State agencies must develop expertise in estimating the value of housing or obtain guidance on the matter through other agencies or organizations. In either case, any possible savings to the program are more than offset by the complexities, if not impossibilities, of effectively administering this provision. Further, this provision would permit housing payments in kind to be disregarded for purposes of income, and thus be treated consistently with the way in which other payments in kind are handled under the food stamp and other welfare-type programs.

The revision of Subsection 5(b) further deletes the provision prohibiting the participation of certain tax dependents in the food stamp program. In its decision in the case of *Murry* v. *USDA*, 413 U.S. 508, the Supreme Court ruled that the "tax dependency" provision of the Act is unconstitutional. Thus, the "tax dependency" provision in the current Act is not enforceable.

This provision was introduced at the request of the administration in the 93rd Congress, but no action was taken.

SECTION 4

This section of the bill revises Section 10(e)(7) of the Act.

Subsection (e)(7) is revised to give a State agency an option to establish a system under which a food stamp household may elect to have its charge for the coupon allotment withheld from its public assistance check. The Act now mandates a State agency to offer such a system. This service is costly and of questionable value. An optional system would permit a State to operate the system in an area where it would be helpful, such as rural localities lacking adequate transportation. The State would not be required to bear the cost of administering such a system in larger metropolitan areas where public assistance withholding is not only of minimal usefulness but also subject to abuse. Giving the States this option could serve to gain their increased cooperation in other areas of greater program importance.

This provision was introduced at the request of the administration in 93rd Congress, but no action was taken.

SECTION 5

This amendment deletes from the household definition, Section 3(e), the language on eligibility of supplemental security income recipients. The current temporary provision under which supplemental security income recipients may automatically participate in the program will expire on June 30, 1975. On July 1, 1975, the complicated and costly provisions of Public Law 93–86 will become effective.

Subsection (b) of this section therefore contains a new provision governing the eligibility for food stamps of supplemental security income recipients. It would become effective July 1st.

Under the provision all SSI recipients in all states would be automatically eligible for food stamps. It is estimated that at least 90% of the SSI recipients do in fact have net food stamp income below the national guidlines. The administrative expense of investigating the 1 million SSI participants, to weed out the few ineligibles, would in all probability be greater than certifing for minimum bonus the few SSI recipients slightly above the cut-off line.

Public assistance recipients (AFDC) are automatically eligible under food stamp regulations. This amendment would extend that system to SSI recipients on a permanent basis and elevate the regulation to law.

SECTION 6

Section 6 removes the requirement that food stamp recipients who are housebound, feeble, physically handicapped, or otherwise disabled must be over 60 years of age to use stamps for meals-on-wheels.

Without this section, many incapacitated persons under 60 who receive meals-on-wheels have to pay cash for the meals even though they have food stamps. Purchase of delivered meals with food stamps would still be limited to incapacitated persons.

A BILL TO PROHIBIT INCREASES IN PRICE OF FOOD STAMPS

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD.)

Ms. HOLTZMAN. Mr. Speaker, under a Department of Agriculture directive, to go into effect March 1, 1975, the cost of food stamps will be increased to 30 percent of the recipients' monthly incomes. In order to prevent this callous attack on the elderly and poor by the Ford administration, I am reintroducing today with 46 cosponsors legislation introduced on the first day of the session of the 94th Congress. This legislation prohibits increases in the purchase price of food stamps.

No group has suffered more from inflation than senior citizens. Most live on incomes which are fixed or have risen at a snail's pace, while living costs—particularly for the cheaper kinds of food—have skyrocketed. Instead of being able to live in dignity, some elderly persons have been forced to steal food, others to eat pet food. Many live on the edge of survival.

In the face of this national disgrace, President Ford proposed a brutal and unconscionable cut in food stamp aid to the elderly and the poor. By increasing the amount which more than 90 percent of all recipients must pay for food stamps, the administration hopes to save from $300 million to $1 billion. Nearly every penny of that savings will come from the food budgets of our most desperately poor citizens, most of whom will lose from $8 to $13 per month.

My bill will prevent the administration from taking this action. It will prevent the Department of Agriculture from raising food stamp purchase requirements beyond those currently in effect.

President Ford would take food from the mouths of the elderly and poor, telling them instead to "bite the bullet." I do not believe the American people support this modern version of a "let them eat cake" policy. I urge my colleagues to work for the passage of my bill, and demonstrate that, even in a time of inflation and recession, this Nation will not let its people starve.

The co-sponsors are: Mr. ADDABBO, Mr. BEDELL, Mr. BOLAND, Mr. CARR, Mr. CONYERS, Mr. ECKHARDT, Mr. EDWARDS, Mr. FLORIO, Mr. FORD of Michigan, Mr. FRASER, Mr. GAYDOS, Mr. HELSTOSKI, Mr. HICKS, Mr. MCKINNEY, Ms. MEYNER, Mr. MOLLOHAN, Mr. MURPHY of New York, Mr. REUSS, Mr. ROE, Mr. ROSENTHAL, Mr. SARBANES, Mr. STARK, Mr. STUDDS, Mr. ZEFERETTI, Ms. ABZUG, Mr. AUCOIN, Mr. DIGGS, Mr. DOWNEY, Mrs. FENWICK, Mr. FORD of Tennessee, Mr. FULTON, Mr. GUDE, Mr. HANLEY, Mr. MEZVINSKY, Mr. MINETA, Mr. ROYBAL, Mr. ST GERMAIN, Ms. SCHROEDER, Mr. SIMON, Mr. SOLARZ, Ms. SPELLMAN, Mr. STOKES, Mr. SYMINGTON, Mr. VANDER VEEN, Mr. WIRTH, and Mr. WOLFF.

SPECIAL COUNSEL BILL

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Ms. HOLTZMAN. Mr. Speaker, last week I introduced a bill (H.R. 540) which will provide for the appointment of a special counsel to represent the United States in any litigation involving the tape recordings and other Presidential materials of Richard Nixon.

At the end of the last session, Congress enacted a law which places custody and title of Richard Nixon's Presidential papers and tapes in the United States. This was necessary legislation, and I commend my colleagues on the House Administration Committee for bringing it to the floor.

The recently enacted law, Public Law 93-526, has the effect of abrogating the agreement between Richard Nixon and Arthur Sampson, director of GSA—which gave custody and control to Mr. Nixon of all Presidential papers and tape recordings generated during his administration. The law, thus, does away with one of the troublesome aspects of the aftermath of Watergate.

However, the new law fails to address an equally troubling problem. In any litigation involving these Presidential materials—whether the issue is one of ownership, fair compensation, the validity of the Nixon-Sampson agreement, or public access to these materials—the interests of the United States will be represented by the Justice Department. In fact, litigation is currently in progress between Mr. Nixon and the General Services Administration, and the Justice Department is representing the United States—in a posture adverse to Mr. Nixon.

The problem is that the Justice Department, in a memorandum from Attorney General Saxbe to President Ford, has already taken the position that all tapes and documents created by or in the files of former President Nixon belong to him. The Justice Department has also stated that it intends to represent Richard Nixon in certain civil litigations arising out of charges of misconduct in office. Richard Nixon has accepted this offer.

It is difficult to see how the Justice Department can adequately represent the interests of the U.S. taxpayers when it has already conceded the central issue in the pending tapes case by saying the tapes and papers belong to Richard Nixon. Also, it would be difficult to envision how the Justice Department could vigorously litigate against someone it is defending as a client in other proceedings.

To remedy this situation, my bill provides for the appointment, by the President, with advice and consent of the Senate, of a special counsel to represent the interests of the United States in any litigation involving the Presidential materials of Richard Nixon. The special counsel would be independent of the Justice Department and the Attorney General.

If the courts are to decide the complex and important questions of ownership and custody of, and access to, Presidential materials, the United States is entitled to representation by counsel who has not committed himself publicly to the position of his adversary—Richard Nixon. My legislation will see to it that such counsel is provided.

STATEMENT ON PROHIBITING JUSTICE DEPARTMENT FROM DEFENDING RICHARD NIXON

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the RECORD.)

Ms. HOLTZMAN. Mr. Speaker, on January 14, I introduced a bill (H.R. 1312) to prohibit the Justice Department from using public funds to defend Richard Nixon or any Watergate convict in civil suits arising out of misconduct in office.

This bill is necessitated by the Justice Department's announcement last September that it had offered to defend Richard Nixon in civil suits arising out of Watergate and related matters. Mr. Nixon accepted the offer.

It is ironic that the very conduct which resulted in Mr. Nixon's virtual impeachment and resignation from office in disgrace should at the same time make him the recipient of such generosity by the Government he sought to undermine. It may well result in a situation where the Justice Department and the Special Prosecutor's office find themselves on opposite sides of the courtroom in the same case—for example, if the Justice Department represents Mr. Nixon as a witness in a case being tried by the Special Prosecutor.

Two years ago in a similar situation, Judge Charles R. Richey disqualified the Justice Department from representing Charles W. Colson in a civil action brought by the Democratic National Committee, because the Justice Department was at the same time investigating criminal activities in which Mr. Colson may have participated.

At least five suits have already been filed against Mr. Nixon, all of which the Justice Department has offered to defend. It is noteworthy that the Justice Department refused to release a copy of its letter offering to defend Mr. Nixon, saying that it related to confidential matters between a lawyer and his client.

It is intolerable to see Mr. Nixon become a client of the U.S. Government. It is unconscionable to use taxpayers' moneys to defend a man who resigned in the face of certain impeachment—for his "high crimes" against the American people. I hope that my colleagues will join with me in abrogating these new duties which the Justice Department has assumed.

CHILD CARE DEDUCTION

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the Record.)

Ms. HOLTZMAN. Mr. Speaker, last week, I introduced a bill (H.R. 541) to improve the child care deduction provisions of the Internal Revenue Code. By liberalizing these provisions, my bill will facilitate women's participation in meaningful activity outside the home.

The current deduction for child care expenses is deficient in several respects. First, it is not available to married couples if one spouse is working part-time, even though the other spouse is employed on a full-time basis. Yet, one-quarter of the women in this country, comprising 13 percent of the population, work on a part-time basis. By not allowing the deduction in the case of part-time employment, we penalize these women. Furthermore, the current provision has the effect of forcing women to choose between full-time employment and full-time household and child care duties. It thus discriminates against those women who prefer to spend at least part of the day with their children and part of the day at work.

Second, the deduction is not available where one spouse is a full-time student. This has a harsh impact on women who wish to return to school, after having children, to prepare for a career. It is equally harsh on families where the husband is a full-time student, and the wife has to work full-time.

Third, child care expenses are now deductible only as personal expenses rather than as ordinary business expenses. This means that the deduction is not available to families who use the standard deduction form. Since 74 percent of the families with earnings of $15,000 or less do not itemize deductions—as of 1972—they cannot take advantage of the present child care tax provisions. Yet, these are often the people who most need and most deserve assistance from tax relief.

Finally, the present child care deduction is not available to a person who has been separated from his or her spouse for less than the entire taxable year. Thus, an individual whose spouse has been absent for 11 months of the taxable year does not get the benefit of any part of the deduction.

My bill will correct these deficiencies and will give the benefits of the child care provisions to those who legitimately need them:

First. It makes the child care deduction available to couples who work part-time and to full-time students with working spouses;

Second. It allows the deduction as an ordinary and necessary business expense rather than as a personal expense. The deduction will be available on the same basis as any other business expense deduction subject to such rules and regulations as the IRS may provide;

Third. It makes the deduction available to a person whose spouse has been absent for more than half of the taxable year; and

In addition, my bill makes the following changes for purposes of simplicity: It replaces the monthly limitations on deductible expenses with an annual limitation. This will ease both the filing and administrative process. It abolishes the distinction in present law between care in the home and care outside the home. In addition, it eliminates the adjustment for disability payments.

I believe this bill will advance the cause of women's right to work. It is not intended to replace the necessity of a national child care system. It does not pretend to solve the problems of working parents and child care. Hopefully, comprehensive legislation will be enacted to make available high-quality child care facilities to our Nation's children. In the meantime, my bill will serve to ease the economic burden of countless moderate- and low-income families, eliminate discrimination in present provisions, and make a strong commitment to the special needs of working parents, particularly those women who must or want to work.

PROHIBITION OF INTERVENTION IN FOREIGN AFFAIRS

(Ms. HOLTZMAN asked and was given permission to extend her remarks at this point in the Record.)

Ms. HOLTZMAN. Mr. Speaker, last week I introduced a bill (H.R. 1311) that prohibits any U.S. citizen or resident from offering a contribution to a U.S. Government agency in order to influence elections in a foreign country. My bill also prohibits any U.S. Government agency or employee from soliciting or accepting contributions in order to influence an election for public office in a foreign country.

The need for this bill was made apparent when we learned of ITT's attempt to give heavy financial contributions to the CIA, in an effort to block the election of Salvador Allende as President of Chile in 1970. We were treated to the specter of a Government agency's being used for private purposes.

Recent revelations in the press have made us painfully aware of the dangers—both to our foreign policy and to our democracy—of a supersecret government agency dedicated to undermining and "destabilizing" any country it believes poses a threat to our "national security." Equally serious is the growing tendency of our multinational corporations to use any means necessary to shape the environments in which they do business to conform to their economic needs. The combined power and arrogance of a CIA and an ITT poses a frightening picture of a future world.

This bill passed the Senate in the last Congress. It deserves passage by both Houses and enactment into law.

PROSECUTIONS ON MEDICARE FRAUD

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I have received word from Mr. Thomas M. Tierney, Director of the Bureau of Health Insurance of the Department of Health, Education, and Welfare, that the number of cases referred to the Department of Justice concerning medicare fraud is larger than I had originally understood.

As of September 1974, 250 cases, including physician and hospital cases, as well as nursing home cases, have been referred to the Department of Justice with recommendations for prosecution. Seventy-eight cases have been declined, 13 defendants have been acquitted, and 110 convicted. The remainder of the cases are pending with the various U.S. attorneys' offices.

These figures, in my opinion, indicate that many medicare violations must go undetected, or ignored. Considering the fact that the program has been in operation since 1966, these numbers seem quite low. Hopefully, as the current investigations proceed, improved methods of detection and conviction of violators will emerge.

THE NEED TO REPEAL TRUCK WEIGHT INCREASES

(Mr. KOCH asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on August 20, 1974, the House by a vote of 252 to 159 rejected an increase in the Interstate Highway System's truck weight limitation from 73,280 to 90,000 pounds and a 2,000-pound axle weight increase.

On December 18, in the 11th hour of the 93d Congress, the House found itself in a position of accepting the 2,000-pound axle weight increase and an increase to 80,000 pounds in total truck weights as part of the Federal Aid Highway Act of 1974, a multipurpose highway bill that could not be amended under suspension of the rules.

After the Department of Transportation announced support for the weight increase, the Federal Highway Administration—under DOT—on December 10 and 16, just days before the Congress acted on the bill, asked for bids on contracts to study the potential safety and traffic problems of heavier trucks—in other words, the very weight increases that were maneuvered into the bill. In addition, the National Highway Safety Advisory Committee, chartered by Congress to advise DOT on highway safety, opposed the weight increase and recommended that DOT reverse its policy.

Because of the safety and cost factors involved, the weight increase is also opposed by the American Automobile Association, the National Association of Counties, the Professional Drivers' Council, the National Society of Professional Engineers, the Brotherhood of Teamsters, and the General Federation of Women's Clubs.

Together with Representatives Gilbert Gude, Ken Hechler, and 30 other colleagues, I am introducing legislation today to repeal the increase in the weight limitation. Simply stated, what our bill does is to put us back to where we were before the enactment of the Federal Aid Highway Act of 1974 with respect to truck weight limitations. Our bill also reestablishes the 10,000-pound weight limitation on steering axles that was included in the Senate bill as a safety precaution but was removed by the conference. This provision is particularly important to drivers in controlling their trucks.

We appreciate that this legislation will be referred to the same committee, the Public Works Committee, that favored the higher weights. Thus, if within 45 days after the bill has been referred to committee no hearings are held on it, we are prepared to file a discharge petition. We would prefer, however, that all the safety factors involved in this matter—as well as the estimated multibillion dollar cost the weight increase will mean in highway maintenance—be explored in committee hearings, especially in view of tremendous editorial and other public opposition across the country to the increased weights.

Further information on this may be found in the Congressional Record's of August 20, page 29383, December 16, page 40153, and page 40174, and December 18, page 40905, 1974; and January 20, 1975, page 809.

In addition to Representatives Gude, Hechler, and myself, cosponsors of the legislation to date are Representatives Addabbo, Bingham, Boland, Brown of California, Dominick V. Daniels, Derrick, Derwinski, Dodd, Drinan, Duncan of Tennessee, Edgar, Edwards of California, Fenwick, Holtzman, Krebs, McKinney, Mazzoli, Moorhead of Pennsylvania, Moss, Mottl, Rosenthal, Ryan, Seiberling, Simon, Solarz, Stark, Vanik, Vander Veen, Weaver, and Young of Florida.

For the information of my colleagues, I am appending a resolution by the National Society of Professional Engineers and a sampling of editorial opposition to the increased weights from throughout the country:

Resolution No. 74–19, Adopted by the National Society of Professional Engineers Board of Directors, January 16, 1975

Whereas, over the years numerous proposals have been considered in the Congress to revise Federal law so as to permit states to allow increases in the maximum axle loads and gross weights of trucks using those portions of the Interstate Highway System within their borders; and

Whereas, the previous Congresses have rejected such proposals on the basis of safety and cost considerations detailed by the National Society of Professional Engineers and others; and

Whereas, NSPE has consistently voiced its opposition, formally presenting testimony to the appropriate committees of Congress in July of 1969, March of 1971, December of 1971, and February of 1974, and by contact with legislators and their staff; and

Whereas, the NSPE historically has taken the position that bigger trucks on the Nation's highways would be detrimental as resulting in: An aggravation of safety arising out of the big truck versus smaller automobile mixture; an earlier obsolescence of the highway system with increased ultimate cost to the consuming public; an impossible financial burden on state and local governments arising out of the need to construct new and more frequently repair old off-Interstate streets, bridges, and highways; an increase in danger incident to utilization of state and county roads and bridges presently incapable of sustaining larger loads; and the lack of regulation imposing safety standards dealing with items such as weight to horsepower ratios, braking capacities, coupling systems, acceleration capabilities, jackknife controls, overturn stability, splash and spray generation, etc.

Now, therefore, be it resolved, That the Board of Directors of the National Society of Professional Engineers, assembled at Tucson, Arizona for its January 1975 Winter Meeting expresses grave concern over the consequences of the action of the 93rd Congress in approving legislation which permits states to increase allowable truck weights on the Interstate Highway System. We recommend that the Congress reconsider its action forthwith.

[From the Washington Star-News, Dec. 20, 1974]

INTOLERABLE TRUCK WEIGHTS

The American public should be hotly aggravated with Congress for slipping through a measure in the final hours of this session to expand the weight of big trucks. In fact, this assault on good sense is so offensive that President Ford should veto the highway bill in which—ironically enough—it was sandwiched between provisions for highway safety and beautification. In no way is this 10 percent weight-limit increase in the public interest; it merely testifies to the power of the trucking lobby that has worked tenaciously for years to win this lucrative concession, and finally succeeded with some footwork amid the pre-adjournment scramble.

What we saw in recent days was a legislative shell game augmented by industry muscle. The Senate approved the weight hike, but the House turned it down with a good showing of determination. The notion was prevalent, though, that key House members would cave in on this issue when the $752 million highway bill went to conference, which is just what happened. So the trucking industry has made its biggest haul yet, in the halls of Congress, and if nothing is done to upset this action the public will have suffered a bitter loss. Undoubtedly, highways will be less safe because of the bulkier trucks, which also will inflict more damage on roads and bridges, to be repaired with public funds.

In some degree, this rich reward was bestowed on the truckers as a consolation prize for forcing the 55 m.p.h. speed limit on them, over their shrill objections. Since the highway monsters will be traveling slower, the argument goes, the heavier weights really won't crack the pavement and imperil motorists any more than loads now carried. That thesis would be hard to believe even if there were evidence of the lower speed limit being obeyed by most trucks.

And then, of course, many congressmen simply were in a hurry to adjourn and didn't want to fight this one out. Many are lame ducks with nothing much to lose by voting either way. But, failing a veto of the measure, the mistake still might be undone early in the next Congress. With all those new members coming in, there may be more zeal for defending the public interest in such matters.

[From the Cincinnati Enquirer, Dec. 26, 1974]

THE HIGH COST OF HEAVIER TRUCKS

Congress has done a classic turnabout in departing from its earlier considered decision against increasing the allowable weight limit for large trucks from 73,280 pounds to 80,000. That the reversal will have high attendant costs is an absolute certainty.

In the measure that finally emerged, there are other provisions that are equally dismal. In states where even heavier trucks are permitted on the primary roads, they will also be allowed on the interstate system. The House eliminated a Senate-passed provision that would have held the load limit on a truck's steering axle to 10,000 pounds.

The upshot of this legislation concerns both safety and the ever-increasing costs of highway maintenance. The evidence against its wisdom is just too great to justify any advantages that might result.

Opposing groups such as the Teamsters, state highway engineers and the American Automobile Association have argued convincingly that 40-ton trucks will increase greatly the hazard to motorists using the interstate highways. It stands to reason that accidents involving the larger trucks will be much more likely to result in fatalities and serious injuries, even at the lower speed limits that were made permanent in the bill.

Spokesmen for the Teamsters Union contended that the elimination of the weight limit on the steering axle will make the trucks difficult to control and, consequently, hazardous. The highway engineers are convinced that the additional requirements on the highways and ramps will add significantly to the resultant damage and maintenance costs.

There is no satisfaction in the feeling that the bill's eventual success is a fundamental example of the potentials of a well-organized and well-funded lobbying effort on Capitol Hill. With such weighty evidence on the other side, Congress would be hard pressed to justify its action on the basis of the American Trucking Associations' (ATA) perseverance.

The fact is that this was a bad bill when it failed to carry last August and nothing has happened to change conditions now. Congress would have done its reputation and its credibility far more good by sticking to its guns on this issue.

[From the Denver (Colo.) Rocky Mountain News, Dec. 21, 1974]

RUN OVER BY A TRUCK

If he cares two hoots about traffic safety and public opinion, President Ford will veto as irresponsible a new bill permitting 40-ton trucks on interstate highways.

Signing this outrageous piece of legislation would reflect no credit on the President and no credit on a lame-duck Congress that simply rolled over and played dead for the big-truck lobby.

It's bad enough that the bill raises maximum truck weights from 73,280 pounds to 80,000 pounds on turnpikes and other high-speed highways.

But even less defensible is a provision that allows states to exceed the 80,000-pound limit on interstate highways if they permit bigger trucks to use their other roads.

To make matters worse, the bill imposes no restriction on how much weight may be loaded on the steering axle, despite warnings by the Teamsters Union that loads heavier than 10,000 pounds could be dangerous.

This should be ample reason to put all supertrucks through a rigorous safety test if the President does sign the new bill into law.

Looking back, the obvious question is: How did a highway bill opposed by safety experts, county officials and millions of motorists slide through Congress so easily?

Is no one aware that truck-car collisions are 10 times more likely to result in death than accidents involving cars alone?

Don't politicians know that 80,000-pound trucks will be hard on roads, hard on bridges and hard on the nerves of other drivers?

One answer, of course, is that lobbyists with money to spend on political campaigns command far more attention than they deserve during a congressional election year, as is shown in the Scripps-Howard special report on the trucking lobby carried in today's Rocky Mountain News.

The bill squeezed through because the House—which sharply rejected bigger trucks in August—decided to let the truckers have their way in December.

No doubt the lawmakers will go home for Christmas with stories about all the fine new roads they're going to build for their constituents in 1975.

What they won't be saying is that Congress has been run over by a truck. And the rest of us, sorry to report, may very well be next in line.

[From the Washington Post, Oct. 17, 1974]

HEAVIER TRUCKS?

As if safety-conscious motorists did not have enough to fear already—from poorly designed, booby-trapped highways to vehicles offering limited protection in crashes—they are now being asked to put up with still another potential hazard: heavier trucks. The Senate recently voted to increase the maximum allowable truck weight from 73,280 pounds to 80,000 pounds. The House defeated a similar proposal earlier, but a revived effort is now under consideration by the House Public Works Committee.

Coming at a time when the public is turning to smaller and lighter cars, the prospect for heavier trucks pounding down the highway is even more ominous. According to the Department of Transportation, for every truck driver who died in a truck-passenger car collision in 1972, 31 others died. In addition, a motorist has 10 times greater a chance of being killed in a collision with a large truck than in a collision with another car. What will the figures of death be if a 10 per cent weight increase (which is about what a jump from 73,280 pounds to 80,000 pounds represents) is allowed?

No question exists that trucks are essential to the nation's economy, but there is value also in the lives of motorists and in the easily damaged roadways and bridges over which the giant trucks roll. A federal highway official estimated before the Senate that the new weights would run up the cost of highway maintenance to an additional $50 to $100 million a year. As for bridges, the American Automobile Association points to its 1968 survey in which "38 states and the District of Columbia revealed that two-thirds of all bridges on these routes [used for the great bulk of long distance truck traffic] were inadequate for loads then being moved over them." Catastrophic bridge collapses should not be necessary to make the argument that many bridges are structurally risky now, without the burden of superheavy trucks piling across.

Supporters of the heavier truck bill insist that it is not larger vehicles they want. Instead, as Sen. Lloyd Bentsen (D-Tex.) stated, "we are talking about using the existing trucks more efficiently." That would present no problems, provided trucks had a separate network of highways. But they don't. This was noted by the National Transportation Safety Board when it went on record as opposing an increase in truck weights, stating "that there are inherent in all trucks certain hazards in relationship to the other users of the highway."

Going back to 1968, the Congress has been able to resist the trucking industry's pressures to go heavier. Now, six years later, opponents of the industry's weighty idea offer persuasive reasons for continued resistance. As the AAA states: ". . . available evidence indicates that large trucks pose a grave threat to the safety of all drivers. Furthermore, they have a deleterious effect on bridges never designed to stand up under weights of this magnitude. They will also cause premature destruction of highway pavements."

[From the San Jose (Calif.) News, Dec. 26, 1974]

Making Highways More Hazardous

Most of us give extra attention to highway safety during the Christmas-New Year's holiday period. If President Ford does the same, he will veto the Federal Highway Act of 1974. It contains authorization for a 10 per cent increase in truck weight limits on Interstate Highways, a provision that may wipe out the life-saving effects of another of the bill's provisions: establishment of a permanent, nationwide 55-mile-an-hour speed limit.

Bigger trucks have been fought by the American Automobile Assn. and the National Transportation Safety Board for several years.

Safety is the big concern. Department of Transportation statistics explain why. The fatality rate in accidents involving trucks is twice as high as that for cars alone. When a car and truck collide, the chances for the car driver or his passengers to die are 10 times as high as if they were in an accident with another auto. For every truck driver who dies in such collisions, 31 drivers or passengers die.

Another major concern is increased deterioration of highways and bridges, a maintenance cost that must be borne by individual states. And regardless of how much big trucking firms boast they pay in taxes, Department of Transportation studies indicate that the large truck combinations underpay their fair share of construction costs.

The heavier trucks provision was inserted in the Federal Highway Act in House-Senate Conference. It did not appear in the House version of the bill.

The energy shortage has been used to justify increased truck weights. An easing of overly restrictive regulation of the trucking industry, which has forced many trucks to make return trips empty or to follow gas-wasting routes, would be a wiser and safer way to attack this problem.

[From the Atlanta Journal, Jan. 2, 1975]

Georgia Editors Speak: Here Come the Trucks Again

THE COLUMBUS LEDGER

Congress is about to inflict the nation with even bigger trucks.

It is passing a bill to increase the maximum truck weight limits from 73,280 pounds to 80,000 pounds.

The situation on the highways is bad enough already, without adding this additional hazard.

The American Automobile Association came out strongly in opposition to the increased weight proposal.

One AAA official warned earlier that "available evidence indicates that larger trucks pose a grave threat to the safety of all drivers."

The AAA declared that Congress had "blatantly disregarded the hazardous safety conditions the jumbo trucks will create on the nation's highways."

"Before you know it," some one said, they'll be letting 'em move the whole store down the highway." That's not far from the mark.

Our highways simply won't stand the wear and tear of this added burden. The overriding reason, however, is the safety of drivers and passengers.

We can't see the rationale of the Congress holding down the speed limit to save lives and then voting to put these people-killer trucks on the highways.

REESTABLISHING NOVEMBER 11 AS VETERANS DAY

(Mr. SEBELIUS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker, I would like to take this opportunity to discuss legislation I am introducing to restablish November 11 each year as Veterans Day.

I am aware some may think changing the date of Veterans Day does not represent an issue of real significance. That is precisely the reason that I feel this legislation should be enacted. If all of our citizens could observe this day with the same emotion and feeling that is in the hearts of the majority of our veterans, especially those who served in World War I, the observance of Veterans Day could be very significant and could be observed in such a way so that we can better rededicate ourselves to establishing a permanent framework for peace throughout the world.

The fact of the matter is that this sacred holiday has been sacrificed for materialism and convenience. Rather than another convenient holiday, I believe November 11 should be a day for reflection and personal rededication to peace and our American freedoms and ideals.

There is no question but what this effort has attracted widespread support:

Forty of the States which had previously amended their State laws to conform with public law have subsequently reconsidered and have enacted legislation restoring the observance of Veterans Day to November 11.

Just last session of Congress, the other body passed legislation to redesignate November 11 of each years as Veterans Day.

The legislation has the support of virtually all of our veterans organizations.

Over 60 memorial resolutions have been adopted by various States and cities asking the Congress to restore the observance of this day to November 11.

Last session of Congress, I filed a discharge petition to bring up House Resolution 126 for immediate consideration by this body. Over 100 of my colleagues signed this discharge petition.

I have noted with interest that several of my colleagues have already introduced similar legislation. It seems to me that it is obvious that anticipated good results of changing this holiday have not materialized and that it is time to restore meaning and significance to Veterans Day.

Many veterans of World War I still recall the emotion and feeling in their hearts when the Armistice was announced on the 11th month, the 11th day, and the 11th hour in 1918. If we can recapture that feeling in observing this day nationwide, the cause of peace will be better served.

PROPOSAL OF LEGISLATION TO BENEFIT CITIZENS IN RURAL AND SMALL TOWN AREAS

(Mr. SEBELIUS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SEBELIUS. Mr. Speaker, I would like to take this opportunity to discuss legislation that I feel would be of great benefit to citizens in our rural and small town areas.

Today, when we talk about the obvious need for tax reform, no discussion is complete without mention of our archaic estate tax laws. I think it is important to note our estate tax laws have not been updated since 1938. At that time, the estate tax exemption was set at $60,000; where it is today. According to Library of Congress data, $60,000 in 1938 would be equivalent to $220,000 today.

Unfortunately, our current estate tax laws result in the confiscation of property and savings and actually penalize thrift. A letter I received recently from a farm widow in western Kansas illustrates the inequities and hardships that can result from present estate tax laws. She wrote:

> With the death of my husband we were forced to pay an estate tax on everything we had accumulated over the many years. Holdings upon which we had already paid income tax. Our lifestyle was modest. I didn't take time out for beauty appointments; I purchased very few new clothes; I didn't take time out for clubs or activities. We didn't take vacations. We deprived ourselves of these things because we felt it was more important to provide a better future for our family. If I had wanted to donate something, I would have given it to my children. We have managed to hold on to the farm but it has taken everything we have to do it.

This lady's plight is not unique. Many farm families are faced with the problem of breaking up the family farm unit to pay estate taxes and the cost of estate tax settlement. In other words, this tax discriminates against the family owned enterprise and favors the expansion of corporate involvement. The estate tax reform bill I am introducing today is designed to preserve the family farm and family held business. This bill would:

First, raise the exemption from the Federal estate tax to $200,000.

Second, increase the maximum marital deduction available when a married person dies and leaves property to a surviving spouse. Current law provides that the marital deduction shall not exceed 50 percent of the value of the adjusted estate. My bill raises the maximum marital deduction to $100,000, plus 50 percent of the adjusted value of the estate.

Third, provides a method for valuing farms and woodlands for estate tax purposes on the basis of their current use, rather than potential higher value uses. To qualify for this treatment, the property must have been used for farming, woodland, or scenic open space, for 5 years previous to the death of the decedent and must remain in that use for 5 years after the heir has elected to use this method of estate valuation.

I think everyone would agree that it is in our national interest to preserve and protect the family farm. This is especially important today in that the family farm has time and again proven to be the most productive unit in our entire economy. Yet, we are making it extremely difficult for young people to carry on the family farm operation by allowing a discriminatory tax based on unrealistic inflated land values to continue.

This same problem is by no means exclusive to the farmer. It also applies to the small businessman who finds that high estate taxes make it very difficult for the family business to be carried on from one generation to the next. Under existing law, many times the business is purchased by those who can pay the price and what used to be a family business with a tradition of community service becomes a speculative investment for those who can afford it.

I submit to my colleagues we must change these tax regulations that discriminate against the family-owned enterprise. At present, ranchers, farmers, and small businessmen can seek relief only through lifetime planning and making sure they have enough liquid assets in case of emergency. This path of action is open only to those who can afford to hire tax consultant advice and does not offer any kind of real guarantee to avoid the loss of a family business.

I join my colleagues who have introduced this bill or similar legislation in the belief that this proposal represents a fair solution to the problem. I would remind my colleagues that the gist of my remarks have come from a speech given by former Congressman and Senator Frank Carlson of Kansas who introduced similar legislation some 8 years ago. The need is even greater today. This legislation should receive priority consideration along with other urgently needed tax reform measures.

BLOCK RAILROAD CROSSINGS, GASOLINE AND FUEL WASTE

(Mr. MADDEN asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. MADDEN. Mr. Speaker, fortunately the Congress supported legislation in the mass transit bill to help relieve the traffic congestion caused by railroad freight train blocking of street crossings in the city of Hammond and the industrial Calument region of Indiana. Some of these trains are a mile and half in length which brings about unspeakable congestion. This traffic impediment is in addition to the thousands of cars, buses, and trucks daily coming east and west from and to the city of Chicago.

Mr. Speaker, I would like to enclose a letter I have this date received from Theodore G. Foster, 12627 Artesian Avenue, Blue Island, Ill., which is immediately across the Indiana State line:

Blue Island, Ill., *January 3, 1975.*

Hon. Gerald R. Ford,
President of the United States,
The White House,
Washington, D.C.

Dear Mr. President: I am writing you because of the national concern over the present fuel and energy crisis.

Here in Blue Island, Illinois, we have 30 railroad grade crossings within the 3½ square miles of the city limits. Many of the crossings are blocked every day for periods of 2 to 20 minutes by freight and passenger trains. This causes a daily loss of over 2,000 gallons of gasoline by cars and trucks waiting for the crossings to clear.

If underpasses or overpasses were constructed at these locations, it would save half a million gallons of fuel annually.

I respectfully suggest that our government take action at once to eliminate railroad grade crossings on a nation-wide basis. The fuel savings alone would be enormous.

The State of Illinois has 16,275 open highway railroad grade crossings. This is 25% more than any other state in our country. Ten per cent of these crossings are in Cook County and most of them in suburban areas.

A survey was conducted last year by the local Chamber of Commerce to reveal the seriousness of blocked railroad crossings in Blue Island. It covered only the hours of 8 A.M. to 6 P.M. for a 7 day period at just one crossing. There were times when over 100 cars and trucks were stopped at this location. During the 70 hour period of the survey, at this crossing, 56,344 cars and trucks passed over the tracks. The average number of vehicles per day, delayed by trains was 1,521. The delay averaged 2 hours and 17 minutes for every 10 hour period studied. This totals 20,533 minutes. At the rate of one ounce of gas consumption per minute, per car (average V–8 at low idle) a total of 160 gallons of fuel was wasted in the 10 hour period. Multiply this by just one half of our grade crossings and the fuel loss becomes over 2,000 gallons per day. Very few drivers ever turn off their engines while waiting.

The man-hours loss, for the 7 day period, was figured at 13,147, based on the total of 56,344 vehicles using the crossing and having 2 occupants per car.

More than 1,000 deaths a year occur at rail crossings in the United States. These lives could be saved by developing a federal highway system that would go under or over all railroad crossings.

The railroads themselves would benefit greatly by eliminating the cost of material and labor for maintaining crossing gates and roadway surfaces.

The result of this great effort would be to eliminate crossing deaths, save huge amounts of fuel, provide smooth flowing traffic, including rail traffic, and provide jobs for many thousands of people, similar in effect to the nearly completed interstate highway system.

Because of your tremendous workload, I realize the chances of this letter reaching your personal attention are very remote. However, if it should, I would be pleased and honored to hear from you.

Sincerely yours,

Theodore G. Foster.

HON. WALTER LANGLEY, RETIRING MEMBER OF THE NEW YORK STATE ASSEMBLY

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, the city of Albany and the State of New York recently lost the services of one of their most dedicated and able public servants. State Senator Walter Langley, a native of my hometown of Amsterdam, N.Y., retired on December 31, 1974, from the New York State Senate to return to his private law practice because of reasons of health.

During his 6 years in the State legislature, Walter Langley earned the respect and admiration of all who worked with him, regardless of political party. He was a public official who had not only vision but also guts. Assemblyman Fred Field of Albany described Senator Langley as "one of the greatest guys ever to walk the corridors of the capitol." I would certainly agree with that designation.

Recently, Senator Langley's friends held a testimonial dinner in his honor in Albany at which people from all walks of life and representing all New York State's political parties, joined in paying well-deserved tribute to Walter Langley.

It gives me great pleasure, Mr. Speaker, as a friend and admirer of Senator Langley, to include at this point in my remarks here in the Record some newspaper articles and editorials detailing this significant testimonial dinner for a great public servant and saluting the distinguished achievements of Walter Langley, a very "great guy":

[From the Albany (N.Y.) Knickerbocker-News, Dec. 12, 1974]

Parties Agree: Langley "Great Guy"

Some 450 friends, associates and admirers honored State Sen. Walter Langley of Albany Wednesday night during an often sentimental testimonial dinner at the Albany Hyatt House.

It was a rare display of bipartisan agreement. To all who were present, Langley, who is retiring from his seat in the state's upper house, is, as Assemblyman Fred Field described him, "one of the greatest guys ever to walk the corridors of the Capitol."

The two-hour dinner was sprinkled with political jokes, including numerous mentions of the bipartisan or nonpartisan nature of the guest list. The dinner also allowed Langley's friends to be openly sentimental without fear of criticism.

Quoting from the play, "Tea House of the August Moon," Assemblyman Tom Brown, co-chairman of the event with Fields, said to Langley: "Pain makes men think. Thinking makes men wise. Wise men make life livable. Thank you for that wisdom, Walter."

Langley steps down at the end of the year after six years in the legislature. He declined to run for re-election this year, citing ill health.

He has returned to his law practice and was scheduled to be appointed today to a state Republican party position. State GOP Chairman Richard Rosenbaum declined to say what position Langley has been chosen for, although it is believed he will join a panel of advisers on party policy. The appointment was scheduled to be announced today.

Langley, 53, who came to local prominence as a leader of the CURE reform movement in Albany in the early '60s, was presented a gold watch, a check for $500 and the original of a political cartoon by Hy Rosen depicting Langley. The cartoon was published in Wednesday's editions of the Times-Union.

Langley was profuse in his thanks, especially to his wife, Harriet, whom he described as "my good right arm."

He said, "Nothing is as easy as saying 'Thank you' and nothing is as hard as saying 'Thank you' well. That's how it is tonight. He received a standing ovation.

[From the Albany (N.Y.) Times-Union, Nov. 30, 1974]

Langley Testimonial

When State Senator Walter Langley announced he would retire from politics this year, there was a kind of collective groan throughout the 40th Senate District. And that groan was a non-partisan one—after all, Sen. Langley has proved himself to be one of the most effective legislators this area has seen in many years.

The senator will have served six years in that legislative body when he retires at the end of this month, having been elected three times by large pluralities in what, for years, was considered "safe" Democratic territory. Sen. Langley is a Republican.

A testimonial dinner for the senator has been announced. It will be held Dec. 11 in the Four Seasons Room of the Hyatt House. It's expected that most of the state's top leaders will be in attendance.

A Langley Testimony Committee has been set up and reservations for the dinner are now being accepted. Those who wish to attend may send a check for $10 to the committee, 1375 Washington Ave., Albany 12206.

The Times-Union has long been an admirer of Senator Langley and we now urge everyone to get their reservations in and attend the function honoring a man who has set an example for other legislators on just how best to serve the public.

[From the Albany (N.Y.) Times-Union, Dec. 11, 1974]

HONOR FOR LANGLEY

He "has epitomized the principles and standards that are so often sought for in public officials but so seldom found."

This assessment of the character and professional integrity of State Senator Walter B. Langley of Albany sums up best what is thought of him by his peers. It is indicative of the respect in which the public holds this man to whom hundreds tonight will pay a most deserved tribute at a Hyatt House testimonial dinner.

The Times-Union joins those throughout Capitaland and beyond who tonight salute Walter Langley with deep regret at his retirement from active political life. In his relatively brief tenure, six years, as a state senator, he set an example of diligence, of wisdom and, above all, of integrity on the political scene.

When the occasion called for it, Senator Langley could say "no" in terms that were completely understood. Thus it was that he charged that Nelson Rockefeller, Earl Brydges and Erastus Corning had engaged in a "dirty, rotten, political deal" concerning a measure before the Legislature to provide an elected school board for the City of Albany.

Unlike many other aspirants to a political career who got started in Albany with CURE in 1961, the "Citizens United Reform Effort," Mr. Langley combined persistence with intelligence and handed the local Democrats an upset defeat with his election to the State Senate in 1968.

The community honors tonight a man who has been one of the best state senators, one of the most respected individuals, to ever have given service to an Albany constituency. We wish Mr. Langley long years of success in private practice.

[From the Albany (N.Y.) Times-Union, Dec. 8, 1974]

SENATOR SURRENDERING HIS SEAT, NOT STANCE

(By Vic Ostrowidzki)

He's a maverick, a loner, a rebel. He appeared on the Albany political scene some 13 years ago, hardly a household name, but a worker in the political vineyard who was fighting for what many believed would be a suicidal and a losing cause.

But when Walter B. Langley, a state senator for the past six years, retires at the end of this month, he will leave behind him a record of accomplishment that others may find hard to equal and probably impossible to beat.

A bi-partisan testimonial dinner for Langley will be held Wednesday at the Hyatt House with top state and local officials in attendance.

The co-chairmen of the event are Assemblymen Fred Field, Republican of Colonie and Tom Brown, Albany Democrat. Brown and Langley often clashed in the Legislature.

Langley got into active politics in 1961 as vice chairman and counsel of the Citizens United Reform Effort (CURE) which, as independents, gave the Albany Democrats their first challenge in years.

Serious-minded, rather aloof, seldom gregarious, Langley worked diligently advancing the political careers of others but occasionally permitting the spotlight to fall on himself.

A tax lawyer by profession, a student of medieval theology by avocation, he was an individualist, a man who seldom wavered in dedication to his principles and who stood fast by his beliefs.

He got involved in the unsuccessful 1964 state senate campaign of James Martin, managed the 1965 Assembly primary and a losing election campaign of Edward Rook, and got beat in his own first venture as a candidate for a seat on the county Legislature by 126 votes.

Others, with less perseverance, would have been discouraged if they had batted zero in testing the strength of the Albany Democratic organization.

But Langley stuck to his guns, rolled up his sleeves and went back to work.

Tapped by County Republican Chairman Joseph Frangella to take on the highly popular Julian Erway in the 1968 Senate race, Langley was swept into office in a surprising upset.

During his first two years, Langley came to be known as a legislator who did his homework, was industrious, and went about his business quietly, seeking neither headlines nor applause.

One of the most important local measures he got passed was a bill establishing the Capital District Transportation Authority intended to handle the area's mass transit needs.

In 1970, he was reelected by a comfortable margin, beating former Albany County Sheriff William F. Rice Jr.

Shortly after the start of the 1971 session, Langley's name was in the headlines.

The first headline was his refusal to vote for a mammoth Rockefeller budget. Summoned to a meeting with Rockefeller, Langley came to believe his political career was being threatened. Never one to roll over when threatened, Langley walked out, still pledging to vote against the fiscal document.

Being part of the so-called "establishment" did little to silence his acid tongue when he felt there was hanky-panky going on between the Republican Capitol and the Democratic city hall, a block down Washington Avenue.

He decided to take on some of the biggest politicians in the state, including the head of his own party, then Governor Rockefeller.

In perhaps his most memorable battle the spunky senator charged publicly that Rockefeller, Mayor Erastus Corning, and then Senate Majority Leader Earl W. Brydges had engaged in a "dirty, rotten political deal" involving the election of the Albany Board of Education.

His statement was issued with the same heat and scorn that he leveled at his Democratic foes.

"Who's he?" Rockefeller asked when a reporter mentioned Langley's name at a news conference, the familiar Rockefeller grin a wan one.

At issue was the senator's attack against the governor and the majority leader for partcipation in "a deal" with Albany Democrats to introduce a bill to abolish a law for an elected school board in return for smooth financing of the South Mall in strong language, Langley accused the governor of a "lack of moral courage."

Before Rockefeller left Albany he got to know Langley rather well. The senator, who always insisted his first and only responsibility should be to his constituents, proceeded to vote against many other Rockefeller budgets.

Langley's rebelliousness fueled speculation that none of his bills would be passed or that he would find himself in a primary battle.

None of the predicted liabilities ever came true. In 1972 he was reelected again, with a winning margin four times better than two years before.

But despite his independence and reputation as a "stand-up guy," Langley could also be a team player. As chairman of the Senate Committee on Corporations, Authorities and Public Utilities, he was willing, despite his personal political misgivings, to sponsor in the Senate a bill to give the financially troubled Consolidated Edison Co. up to $800 million.

Earlier this year, Langley tangled with Brown over a local parking authority bill. Despite their bitter political differences, the two have remained good friends.

It is generally believed that the senator would have won reelection this year for another term—if he had run.

But, beset by bad health, Langley announced in June he would not be seeking reelection. A month later, he suffered a heart attack.

He's now a frequent visitor to the Capitol, still working out of his office, tending to his constituent's business.

On Wednesday, many of his constituents will be paying Walter Langley a tribute.

Frangella considers Langley to be "the jewel of his political crown."

And although it is bad policy for a political leader to speak too highly of one politician when he has many to live with, Frangella has told quite a few people that Langley "has epitomized the principles and standards that are so often sought for in public officials but so seldom found."

Langley will hear many such words spoken about him Wednesday at the Hyatt House.

UKRAINIAN INDEPENDENCE DAY

(Mr. STRATTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, on January 22 in 1918, the freedom-loving Ukrainian people threw off the yoke of their Russian oppressors and boldly declared their independence, founding the Ukrainian National Republic. After nearly 250 years of submergence in the vast Russian empire, centuries of dogged resistance to czarist domination were rewarded with the sweet taste of freedom for the valiant citizens of the Ukraine. However, their well-deserved sovereignty was short-lived, crushed 5 years later when Bolshevik military forces stormed the country and began a Communist occupation which continues to this day.

Mr. Speaker, I am proud to join with Ukrainians trapped behind the Iron Curtain and with those in other nations around the world, in renewing our hope for a free Ukraine by commemorating their joyous first day of independence.

Let me stress my belief that these expressions of support from free nations to the brave and vigilant natives of the Ukraine are very necessary. During the last session of Congress we in this body managed to influence the release of Simas Kudirka, a captive Lithuanian seaman who is now safe in the United States.

We also came close to forcing the Soviet Union to open up their emigration policies in return for favored trade status. With these accomplishments in mind, I am hopeful that our resolutions of support for Valentyn Moroz, the imprisoned Ukrainian intellectual, will result in his release in 1975.

Mr. Speaker, our expressions of support do make a difference, and the legitimate hopes and aspirations of the Ukrainian people for self-determination ride with us today. We must not let the spirit of freedom, which still burns brightly in the minds and hearts of the people of the Ukraine, to be extinguished.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Shuster (at the request of Mr. Rhodes), for January 23, on account of appointment as U.S. representative to attend the International Road Safety Cup Award ceremony in London.

Mr. Dan Daniel (at the request of Mr. O'Neill), for Thursday, January 23, and Monday, January 27, on account of official business.

Mrs. Mink (at the request of Mr. O'Neill), for today through January 31, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Patman to address the House for 30 minutes today, and to include extraneous matter.

Mr. Brown of California, to address the House for 15 minutes today.

Mr. Randall, for 10 minutes today, to revise and extend his remarks and include extraneous material.

(The following Members (at the request of Mr. Emery) to revise and extend their remarks and include extraneous material:)

Mr. McKinney, for 30 minutes, today.

Mr. Cohen, for 20 minutes, today.

Mr. Talcott, for 5 minutes, today.

Mr. Railsback, for 5 minutes, today.

Mr. Bauman, for 10 minutes, today.

Mr. Gilman, for 5 minutes, today.

Mr. Winn, for 10 minutes, today.

(The following Members (at the request of Mr. Weaver) and to revise and extend their remarks and include extraneous matter:)

Mr. Flood, for 60 minutes, today.

Ms. Holtzman, for 60 minutes, today.

Mr. Cotter, for 10 minutes, today.

Mr. Matsunaga, for 20 minutes, today.

Mr. Fraser, for 15 minutes, today.

Mr. Kastenmeier, for 10 minutes, today.

Mr. Drinan, for 15 minutes, today.

Mr. Mezvinsky, for 5 minutes, today.

Mr. Dominick V. Daniels, for 5 minutes, today.

Mr. O'Neill, for 5 minutes, today.

Mr. Vanik, for 5 minutes, today.

Mr. Ford of Michigan, for 5 minutes, today.

Mr. Ottinger, for 5 minutes, today.

Ms. Abzug, for 5 minutes, today.

Mr. Leggett, for 30 minutes, today.

Mr. Fascell, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Brown of California, and to include extraneous matter, notwithstanding the fact that it exceeds 3½ pages of the Congressional Record and is estimated by the Public Printer to cost $973.

Mr. Brown of California, and to include extraneous matter, notwithstanding the fact that it exceeds 4¼ pages of the Congressional Record and is estimated by the Public Printer to cost $1,181.50.

Mr. Frenzel, and to include extraneous material.

Mr. Madden, to revise and extend his remarks in one instance.

Mr. Bennett in two instances.

(The following Members (at the request of Mr. Emery), and to include extraneous matter:)

Mr. Gilman in three instances.

Mr. Peyser in 10 instances.

Mr. McKinney.

Mr. O'Brien in 10 instances.

Mr. Derwinski.

Mr. Ashbrook in two instances.

Mr. Carter.

Mr. Horton.

Mr. Hyde in five instances.

Mr. Pettis.

Mr. Symms in three instances.

Mr. Young of Florida.

Mr. Emery.

Mr. Del Clawson in two instances.

Mr. Fish.

Mr. Latta in three instances.

Mr. Railsback.

Mr. Broomfield.

Mr. Heinz.

Mr. Steiger of Wisconsin.

(The following Members (at the request of Mr. Weaver) and to include extraneous matter:)

Mrs. Lloyd of Tennessee in five instances.

Mr. McHugh.

Mr. Phillip Burton.

Mr. Charles H. Wilson of California in three instances.

Mr. Waxman.

Mr. Delaney.

Mr. Blanchard.

Mr. Udall in two instances.

Mr. Rangel in 10 instances.

Mr. Moss.

Mr. Obey.

Mr. Rosenthal.

Mr. Cotter in 10 instances.

Mr. Bolling in two instances.

Mr. Lehman.

Mr. Anderson of California in five instances.

Mr. Gonzalez in three instances.

Mr. St Germain in 10 instances.

Mr. Fraser in 10 instances.

Mr. Hamilton in 10 instances.

Mr. Sarbanes in five instances.

Mr. Drinan in five instances.

Ms. Holtzman in 10 instances.

Mr. Aspin in 10 instances.

Mr. Dingell.

Mr. Wolff in 10 instances.

Mr. Pickle in 10 instances.

Mr. Dent in two instances.

Mr. Dan Daniel.

Mr. Burke of Massachusetts in 10 instances.

Ms. Abzug in two instances.

Mr. Zeferetti in 10 instances.

Mr. Addabbo.

Mr. Jones of Alabama in two instances.

Mr. Roe in three instances.

Mr. Roybal in two instances.

Mr. Nowak in 10 instances.

Mr. Dominick V. Daniels in two instances.

Mr. Wright.

Mr. de Lugo.

Mr. Oberstar in 10 instances.

Mr. Ford of Michigan in two instances.

Mr. LaFalce.

Mr. Murphy of New York.

Mr. Brademas in six instances.

Mr. Gaydos.

Mr. Vanik in two instances.

Mr. Mathis in two instances.

Mr. Mazzoli in two instances.

Mr. Leggett in two instances.

Mr. Won Pat.

Mr. Ashley in four instances.

Mr. Fuqua in five instances.

Mr. Roncalio.

Mr. Conyers.

Mr. Helstoski

Mr. Derrick in three instances.

Mr. Koch in three instances.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS of Ohio, from the Committee on House Administration, reported that that committee did on January 15, 1975, present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 1. Joint resolution extending the time within which the President may transmit the Budget Message and the Economic Report to the Congress.

ADJOURNMENT

Mr. WEAVER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 14 minutes p.m.), under its previous order, the House adjourned until Monday, January 27, 1975, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

163. A letter from the Secretary of Agriculture, transmitting the annual report of the Rural Electrification Administration for fiscal year 1974, pursuant to 49 Stat. 1366; to the Committee on Agriculture.

164. A letter from the Assistant Secretary of Agriculture, transmitting the seventh annual report on operations under the Food Stamp Act of 1964, pursuant to Public Law 90–552; to the Committee on Agriculture.

165. A letter from the Acting Chairman, The Renegotiation Board, transmitting the annual report of the Board for fiscal year 1974, pursuant to section 114 of the Renegotiation Act of 1951, as amended; to the Committee on Banking, Currency, and Housing.

166. A letter from the Chairman, Council of the District of Columbia, transmitting, a copy of an act adopted by the Council; to the Committee on the Distrct of Columbia.

167. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting notice of proposed rulemaking for copyrightable materials developed under Office of Education Programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

168. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on efforts to alleviate world food shortages, pursuant to section 39(a)

of Public Law 93-189; to the Committee on Foreign Affairs.

169. A letter from the Acting Administrator, Agency for International Development, Department of State, transmitting the annual report on foreign assistance transactions for fiscal year 1974, pursuant to section 657 of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

170. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting a report on efforts to strengthen management practices in the foreign aid program, pursuant to section 621(a) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

171. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to Public Law 92-403; to the Committee on Foreign Affairs.

172. A letter from the Secretary of the Interior, transmitting a proposed plan for the use and distribution of Iowa judgment funds awarded in docket No. 135 before the Indian Claims Commission, pursuant to 87 Stat. 466; to the Committee on Interior and Insular Affairs.

173. A letter from the Acting Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of September 30, 1974, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

174. A letter from the Acting Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of October 31, 1974, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

175. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended [8 U.S.C. 1154(d)]; to the Committee on the Judiciary.

176. A letter from the Chairman and members, U.S. Commission on Civil Rights, transmitting a report on efforts of the Department of Health, Education, and Welfare, the Internal Revenue Service, and the Veterans' Administration, to insure equal educational opportunity; to the Committee on the Judiciary.

177. A letter from the Chairman and members, U.S. Commission on Civil Rights, transmitting a report on the current status of minority voting rights in jurisdictions covered under the Voting Rights Act of 1965, as amended; to the Committee on the Judiciary.

178. A letter from the Federal Cochairman, Four Corners Regional Commission, transmitting the seventh annual report of the Commission, pursuant to section 509 of the Public Works and Economic Development Act of 1965; to the Committee on Public Works and Transportation.

179. A letter from the Federal Cochairman, Ozarks Regional Commission, transmitting the annual report of the Commission for fiscal year 1974, pursuant to section 509 of the Public Works and Economic Development Act of 1965; to the Committee on Public Works and Transportation.

180. A letter from the Chairman, U.S. International Trade Commission, transmitting the annual report of the U.S. Tariff Commission for fiscal year 1974; to the Committee on Ways and Means.

RECEIVED FROM THE COMPTROLLER GENERAL

181. A letter from the Comptroller General of the United States, transmitting the audit of the Federal Crop Insurance Corporation, Department of Agriculture, for fiscal year 1974 (H. Doc. 94-37); to the Committee on Government Operations and ordered to be printed.

182. A letter from the Comptroller General of the United States, transmitting a report entitled "Vessel Traffic Systems—What Is Needed To Prevent and Reduce Vessel Accidents"; jointly, to the Committees on Government Operations and Merchant Marine and Fisheries.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GREEN (for himself, Mr. ULLMAN, Mr. O'NEILL, Mr. BURKE of Massachusetts, Mr. ROSTENKOWSKI, Mr. VANIK, Mr. FULTON, Mr. CORMAN, Mr. GIBBONS, Mr. KARTH, Mr. PIKE, Mr. VANDER VEEN, Mr. HELSTOSKI, Mr. RANGEL, Mr. COTTER, Mr. STARK, Mr. JACOBS, Mr. MIKVA, Mrs. KEYS, and Mr. FISHER):

H.R. 1767. A bill to suspend for a 90-day period the authority of the President under section 232 of the Trade Expansion Act of 1962 or any other provision of law to increase tariffs, or to take any other import adjustment action, with respect to petroleum or products derived therefrom; to negate any such action which may be taken by the President after January 15, 1975, and before the beginning of such 90-day period; and for other purposes; to the Committee on Ways and Means.

By Mr. GREEN (for himself, Mr. ULLMAN, Mr. O'NEILL, Mr. EILBERG, Mr. BEDELL, Mr. CORNELL, Mr. DELLUMS, Mr. DOWNEY, Mr. FASCELL, Mr. FORD of Michigan, Mr. FRASER, Mr. MOLLOHAN, Mr. NIX, Mr. O'HARA, Mr. OTTINGER, Mr. PEYSER, Mr. REUSS, Mr. ROSENTHAL, Mr. RUSSO, Mr. TRAXLER, Mr. UDALL, and Mr. VIGORITO):

H.R. 1768. A bill to suspend for a 90-day period the authority of the President under section 232 of the Trade Expansion Act of 1962 or any other provision of law to increase tariffs, or to take any other import adjustment action, with respect to petroleum or products derived therefrom; to negate any such action which may be taken by the President after January 15, 1975, and before the beginning of such 90-day period; and for other purposes; to the Committee on Ways and Means.

By Mr. GREEN (for himself, Mr. ULLMAN, Mr. O'NEILL, Mr. DODD, Mr. GAYDOS, Mr. HARRIS, and Mr. COHEN):

H.R. 1769. A bill to suspend for a 90-day period the authority of the President under section 232 of the Trade Expansion Act of 1962 or any other provision of law to increase tariffs, or to take any other import adjustment action, with respect to petroleum or products derived therefrom; to negate any such action which may be taken by the President after January 15, 1975, and before the beginning of such 90-day period; and for other purposes; to the Committee on Ways and Means.

By Mr. SMITH of Iowa:

H.R. 1770. A bill to require the consideration of environmental and other factors, and the stockpiling and replacement of soil on all public works projects and highway and other projects which are federally assisted, on federally held land, and on projects which affect commerce among the States, or the general welfare and quality of life of the Nation; jointly to the Committees on Public Works and Agriculture.

By Mr. ANDERSON of California:

H.R. 1771. A bill to amend the Internal Revenue Code of 1954 to provide that any resident of the Republic of the Philippines may be a dependent for purposes of the income tax deduction for personal exemptions; to the Committee on Ways and Means.

By Mr. ANDREWS of North Dakota:

H.R. 1772. A bill to amend Public Law 92-181 (85 Stat. 393) relating to credit eligibility for public utility cooperatives serving producers of food, fiber, and other agricultural products; to the Committee on Agriculture.

By Mr. ASHBROOK:

H.R. 1773. A bill to prevent the abandonment of railroad lines covered by the Rail Reorganization Act; to the Committee on Interstate and Foreign Commerce.

By Mr. BADILLO:

H.R. 1774. A bill to require congressional approval of tariffs on petroleum imports; to the Committee on Ways and Means.

By Mr. BALDUS:

H.R. 1775. A bill to provide price support for milk at not less than 100 percentum of the parity price therefor, and for other purposes; to the Committee on Agriculture.

By Mr. BAUMAN:

H.R. 1776. A bill to amend the Coastal Zone Management Act of 1972 to authorize financial assistance to Coastal States to enable them to study, assess, and plan the effects of offshore energy-related facilities and activities in or on the Outer Continental Shelf on their coastal zones, and to provide for needed public facilities and services; to provide assistance to the Coastal States for coordinating coastal zone planning, policies, and programs in contiguous interstate areas; and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BAUMAN (for himself, Mr. BOB WILSON, Mr. YOUNG of Alaska, Mr. LENT, Mr. LAGOMARSINO, Mr. MATSUNAGA, Mr. HELSTOSKI):

H.R. 1777. A bill to amend the Coastal Zone Management Act of 1972 to suspend until no later than June 30, 1976, Federal oil and gas leasing in areas seaward of State coastal zones; jointly to the Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

By Mr. BEVILL:

H.R. 1778. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses; to the Committee on Interstate and Foreign Commerce.

H.R. 1779. A bill to amend the Internal Revenue Code of 1954 to restrict the authority for inspection of tax returns and the disclosure of information contained therein, and for other purposes; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 1780. A bill to authorize the Secretary of the Navy to transfer ownership of two naval vessels no longer needed by the Navy to the city of New York, N.Y.; to the Committee on Armed Services.

By Mr. BINGHAM (for himself, Ms. ABZUG, Mr. BADILLO, Mr. BIAGGI, and Mr. PEYSER):

H.R. 1781. A bill to amend Gateway National Recreational Area in the States of New York and New Jersey, to authorize the inclusion of North Brother Island, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BRINKLEY:

H.R. 1782. A bill to amend the Internal Revenue Code of 1954 to provide a trade or business deduction to firemen for meals which they eat while at their post of duty overnight; to the Committee on Ways and Means.

H.R. 1783. A bill to amend title II of the Social Security Act to provide that full benefits (when based upon the attainment of retirement age) will be payable at age 60 (with such benefits being payable in reduced amounts at age 57 in most cases); to the Committee on Ways and Means.

H.R. 1784. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. BROOMFIELD:

H.R. 1785. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1786. A bill to amend the Internal Revenue Code of 1954 to repeal the excise tax on trucks, buses, and tractors, and parts and accessories for such vehicles; to the Committee on Ways and Means.

By Mr. BROWN of California (for himself, Mr. Drinan, Mr. Fraser, Mr. Frenzel, Mr. Harrington, Mr. Helstoski, Ms. Holtzman, Mr. Mezvinsky, Mr. Mitchell of Maryland, Ms. Mink, Mr. Mosher, Mr. Pickle, Mr. Pritchard, Mr. Railsback, Mr. Rees, Mr. Ryan, Mrs. Schroeder, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Waxman, and Mr. Young of Alaska):

H.R. 1787. A bill to permit any nonimmigrant foreign student to be employed, with the approval of the school attended by such student, during any regularly scheduled school vacation or any school term during which such student is not enrolled; to the Committee on the Judiciary.

By Mr. BURKE of Massachusetts:

H.R. 1788. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $5,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

H.R. 1789. A bill to amend the tax treatment of moving expenses; to the Committee on Ways and Means.

H.R. 1790. A bill to amend the Internal Revenue Code of 1954 to equalize the taxation of certain cooperatives; to the Committee on Ways and Means.

By Mr. BURKE of Massachusetts (for himself, Mr. Addabbo, Mr. Anderson of California, Mr. Annunzio, Mr. Badillo, Mr. Bowen, Mr. Carney, Mr. Conyers, Mr. Davis, Mr. Evans of Colorado, Mr. Fauntroy, Mr. Hechler of West Virginia, Mr. Helstoski, Mr. Hicks, Miss Holtzman, Mr. Madden, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Nix, Mr. Pepper, Mr. Rangel, Mr. Rosenthal, Mr. Sarasin, Mr. Stark, and Mr. Studds:

H.R. 1791. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide for Federal participation in the costs of the social security program, with a substantial increase in the contribution and benefit base and with appropriate reductions in social security taxes to reflect the Federal Government's participation in such costs; to the Committee on Ways and Means.

By Mr. BURLESON of Texas:

H.R. 1792. A bill to amend title XVIII of the Social Security Act to extend for an additional 5 years the existing authority of the Secretary of Health, Education, and Welfare to grant temporary waivers of certain requirements for the purpose of enabling small hospitals in rural areas to qualify under the medicare program; to the Committee on Ways and Means.

H.R. 1793. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax, to increase the estate tax marital deduction, and to provide an alternate method of valuing certain real property for estate tax purposes; to the Committee on Ways and Means.

By Mr. BURLESON of Texas (for himself, Mr. Poage, and Mr. Dominick V. Daniels):

H.R. 1794. A bill to suspend the duty on natural graphite for 5 years; to the Committee on Ways and Means.

By Mr. CARTER:

H.R. 1795. A bill to revise and extend the Community Mental Health Centers Act; to the Committee on Interstate and Foreign Commerce.

H.R. 1796. A bill to amend title 38 of the United States Code to provide that veterans' pension and compensation will not be reduced as a result of certain increases in monthly social security benefits; to the Committee on Veterans' Affairs.

H.R. 1797. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

By Mr. CASEY:

H.R. 1798. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

By Mr. DON H. CLAUSEN:

H.R. 1799. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 1800. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 1801. A bill to amend the Internal Revenue Code of 1954 to relieve employers of 50 or less employees from the requirements of paying or depositing certain employment taxes more often than once each quarter; to the Committee on Ways and Means.

By Mr. CLEVELAND:

H.R. 1802. A bill to establish improved programs for the benefit of producers and consumers of rice; to the Committee on Agriculture.

By Mr. COHEN (for himself and Mr. Gude):

H.R. 1803. A bill to repeal the provisions of House Resolution 457 of the 92d Congress as enacted into law by the Supplemental Appropriations Act, 1972 (relating to allowances of Members, officers, and committees of the House of Representatives); to the Committee on House Administration.

By Mr. COHEN (for himself, Mr. Anderson of Illinois, Mr. Railsback, Mr. Conte, Mr. Gude, Mr. Steelman, Mr. Aspin, Ms. Abzug, Mr. Addabbo, Mr. Koch, Mr. Conyers, Mr. Eckhardt, Mr. Gilman, Mr. Solarz, Mr. Mottl, Mr. Murphy of New York, Mr. Yatron, Mr. Lehman, Mr. Harrington, Mr. Pepper, Mr. Pressler, Mr. Edwards of California, Mr. Richmond, Mr. Burgener, and Mr. Peyser):

H.R. 1804. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop standards relating to the rights of patients in certain medical facilities; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. COHEN (for himself, Mr. Ford of Tennessee, Mrs. Spellman, Mr. Riegle, Mr. St Germain, Mr. Rodino, Mr. Edgar, Mr. Stokes, Mr. Rosenthal, Mrs. Schroeder, Mr. Miller of California, Mr. Roybal, Mr. Downing, Mr. Hinshaw, Mr. Roe, Mr. Dodd, Mr. Studds, and Mrs. Collins of Illinois):

H.R. 1805. A bill to amend the Social Security Act to direct the Secretary of Health, Education, and Welfare to develop standards relating to the rights of patients in certain medical facilities; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. CONTE:

H.R. 1806. A bill to amend the State Technical Services Act of 1965 to make municipal governments eligible for technical services under the act, to extend the act through fiscal year 1976, and for other puposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1807. A bill to provide for the conservation of energy by amending the Internal Revenue Code of 1954 to allow a refundable tax credit for certain building insulation and heating improvements; to the Committee on Ways and Means.

By Mr. CONTE (for himself, Mr. Beard of Rhode Island, Mr. Boland, Mr. Burke of Massachusetts, Mr. Cleveland, Mr. Cohen, Mr. Cotter, Mr. D'Amours, Mr. Downey, Mr. Drinan, Mr. Early, Mr. Emery, Mr. Giaimo, Mr. Harrington, Mrs. Heckler of Massachusetts, Mr. Jeffords, Mr. Macdonald of Massachusetts, Mr. Moakley, Mr. Moffett, Mr. O'Neill, Mr. Ottinger, Mr. Pepper, Mr. Studds, and Mr. Tsongas):

H.R. 1808. A bill to require congressional approval of tariffs on petroleum imports; to the Committee on Ways and Means.

By Mr. CONTE (for himself, Mr. AuCoin, Mr. Badillo, Mr. Cornell, Mr. Dodd, Mr. Duncan of Tennessee, Mr. Fraser, Mr. Guyer, Mr. Hanley, Mr. Hungate, Mr. Jenrette, Mr. O'Hara, and Mr. Richmond):

H.R. 1809. A bill to require congressional approval of tariffs on petroleum imports; to the Committee on Ways and Means.

By Mr. CONYERS (for himself, Ms. Burke of California, Ms. Chisholm, Mr. Clay, Ms. Collins of Illinois, Mr. Dellums, Mr. Diggs, Mr. Fauntroy, Mr. Ford of Tennessee, Mr. Hawkins, Ms. Jordan, Mr. Metcalfe, Mr. Mitchell of Maryland, Mr. Nix, Mr. Rangel, Mr. Stokes, and Mr. Young of Georgia):

H.R. 1810. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. CONYERS (for himself, Ms. Abzug, Mr. Addabbo, Mr. Anderson of California, Mr. Badillo, Mr. Barrett, Mr. Biaggi, Mr. Biester, Mr. Bingham, Mr. Blouin, Mr. Bolling, Mr. Brademas, Mr. Brodhead, Mr. Brown of California, Mr. Phillip Burton, Mr. Carr, Mr. Corman, Mr. Cotter, Mr. Dominick V. Daniels, Mr. de Lugo, Mr. Dodd, Mr. Drinan, Mr. Eckhardt, Mr. Edgar, and Mr. Edwards of California):

H.R. 1811. A bill to designate the birthday ot Martin Luther King, Jr., as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. CONYERS (for himself, Mr. Eilberg, Mr. Fraser, Mr. Gilman, Mr. Harkin, Mr. Helstoski, Ms. Holtzman, Mr. Horton, Mr. Jacobs, Mr. Jenrette, Mr. Koch, Mr. Leggett, Mr. Matsunaga, Mr. Mazzoli, Mr. Mikva, Mr. Miller of California, Mr. Mineta, Mr. Nolan, Mr. Nowak, Mr. Ottinger, Mr. Pepper, Mr. Reuss, Mr Richmond, Mr. Riegle, and Mr. Rodino):

H.R. 1812. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. CONYERS (for himself, Mr. Roybal, Mr. Ryan, Mr. Sarbanes, Mr. Scheuer, Mr. Seiberling, Mr. Simon, Mr. Solarz, Mr. Stark, Mr. Symington, Mr. Thompson, Mr. Tsongas, Mr. Udall, Mr. Waxman, and Mr. Yates):

H.R. 1813. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. CONYERS (for himself, Mr. Anderson of California, Mr. Stratton, Mr. Fish, Mr. Rees, Mr. Beard of Rhode Island, Mr. Madden, Mrs. Mink, Mr. Hannaford, Mr. Wolff, Mr. Harrington, Mr. Hughes, Mr. Downey, Mr. Weaver, Mr. Duncan of Oregon, and Mr. Charles H. Wilson of California):

H.R. 1814. A bill to designate the birthday of Martin Luther King, Jr., as a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. CORMAN (for himself, Mr. Brademas, Mr. Cornell, Mr. Price, Mr. Minish, and Mr. Yatron):

H.R. 1815. A bill to create a national system of health security; to the Committee on Ways and Means.

By Mr. COUGHLIN (for himself, Mr. Crane, Mr. Devine, Mr. Flowers, Mr. Hechler of West Virginia, Mr. Moakley, Mr. Abdnor, Mr. Bafalis, Mr. Boland, Mr. Carter, Mr. Collins of Texas, Mr. Davis, Mr. Dickinson, Mr. Eilberg, Mr. Fascell, Mr. Fish, Mr. Gude, Mr. Hagedorn, Mr. Helstoski, Mr. Hinshaw, Mrs. Holt, Mr. Johnson of Pennsylvania, Mr. Ketchum, Mr. LaFalce, and Mr. Lott):

H.R. 1816. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

By Mr. COUGHLIN (for himself, Mr. Crane, Mr. Devine, Mr. Flowers, Mr. Hechler of West Virginia, Mr. Moakley, Mr. Mathis, Mr. Murtha, Mr. Nedzi, Mr. O'Brien, Mr. Pepper, Mr. Roe, Mr. Sarasin, Mr. Winn, and Mr. Won Pat):

H.R. 1817. A bill to amend the Internal Revenue Code of 1954 and certain other provisions of law to provide for automatic cost-of-living adjustments in the income tax rates, the amount of the standard, personal exemption, and depreciation deductions, and the rate of interest payable on certain obligations of the United States; to the Committee on Ways and Means.

By Mr. DOMINICK V. DANIELS (for himself, Mr. Esch, Mr. Peyser, Mr. Phillip Burton, Mr. Beard of Rhode Island, Mr. Cornell, Mr. Hall, Mr. Cotter, Mr. Danielson, Mr. Dodd, Mr. Drinan, Mr. Evans of Colorado, Mr. Fascell, Mr. Gilman, Ms. Holtzman, Mr. Hughes, Mr. Minish, Mr. Patten, Mr. Roybal, Mrs. Spellman, Mr. St Germain, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Buchanan, and Mr. Scheuer):

H.R. 1818. A bill to provide for the development and implementation of programs for youth camp safety; to the Committee on Education and Labor.

By Mr. DANIELSON:

H.R. 1819. A bill to authorize naturalization for alien servicemen who have to leave the Armed Forces of the United States within 3 years after enlistment because of any disability; to the Committee on the Judiciary.

By Mr. DELLUMS:

H.R. 1820. A bill to establish the office of Assistant Secretary of Defense for Equal Opportunity, to create an Armed Forces Equal Opportunity Evaluation Board, and for other purposes; to the Committee on Armed Services.

By Mr. DENT (for himself, and Mr. Frenzel):

H.R. 1821. A bill to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens who are residing or domiciled outside the United States; to the Committee on House Administration.

By Mr. DEVINE:

H.R. 1822. A bill to amend the Higher Education Act of 1965 to provide that the Commissioner of Education be granted authority to contract private collection agencies to collect claims due and owing under the Guaranteed Student Loan Program and related programs; to the Committee on Education and Labor.

H.R. 1823. A bill to amend title II of the Social Security Act to eliminate the 5-month waiting period for disability benefits, to liberalize the earnings test, to permit adopted children to qualify for benefits without regard to certain time requirements, to eliminate the reconsideration stage in benefit determinations, to provide for the issuance of duplicate benefit checks where the initial checks are lost or delayed, and to provide for expedited benefit payments to disability beneficiaries; to the Committee on Ways and Means.

By Mr. DRINAN:

H.R. 1824. A bill to insure that no public funds be used for the purpose of transporting chemical nerve agents to or from any military installation in the United States for storage or stockpiling purposes unless it is the sense of Congress to do so; to the Committee on Armed Services.

H.R. 1825. A bill to establish a Consumer Savings Disclosure Act in order to provide for uniform and full disclosure of information with respect to the computations and payment of earnings on certain savings deposits; to the Committee on Banking, Currency, and Housing.

H.R. 1826. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Ways and Means.

By Mr. EILBERG:

H.R. 1827. A bill to extend commissary and exchange privileges to certain disabled veterans and the widows of certain deceased veterans; to the Committee on Armed Services.

H.R. 1828. A bill to provide loans for air transportation expenses to the United States for the remains of U.S. citizens who die abroad, and for other purposes; to the Committee on Foreign Affairs.

H.R. 1829. A bill to amend title VI of the Omnibus Crime Control and Safe Streets Act of 1968 to provide for a 10-year term for the appointment of the Director of the Federal Bureau of Investigation; to the Committee on the Judiciary.

H.R. 1830. A bill to provide a penalty for the robbery or attempted robbery of any narcotic drug from any pharmacy; to the Committee on the Judiciary.

H.R. 1831. A bill to insure that a national cemetery is established in each State, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 1832. A bill to provide for orderly trade in antifriction ball and roller bearings and parts thereof; to the Committee on Ways and Means.

H.R. 1833. A bill to amend section 5051 of the Internal Revenue Code of 1954 (relating to the Federal excise tax on beer); to the Committee on Ways and Means.

H.R. 1834. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for annual flu shots; to the Committee on Ways and Means.

By Mr. EVANS of Indiana:

H.R. 1835. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. FLOOD:

H.R. 1836. A bill to amend the Internal Revenue Code of 1954 to provide that the discharge of disaster relief loans by the United States shall not constitute income to the taxpayer and shall not reduce the amount of any casualty loss deduction; to the Committee on Ways and Means.

By Mr. FORD of Michigan:

H.R. 1837. A bill to establish a Federal Employee Labor Relations Board to regulate Federal labor-management relations, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FORD of Michigan (for himself and Mr. Peyser):

H.R. 1838. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials; to the Committee on Government Operations.

By Mr. FORSYTHE:

H.R. 1839. A bill to establish a contiguous fishery zone (200-mile limit) beyond the territorial sea of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. FORSYTHE (for himself, Mr. Dingell, Mr. Downing, Mr. Cohen, Mr. Biaggi, Mr. Pritchard, Mr. Anderson of California, Mr. Young of Alaska, Mr. Ginn, and Mr. Studds):

H.R. 1840. A bill to amend the act entitled "An act to establish a contiguous fishery zone beyond the territorial sea of the United States", approved October 14, 1966, to require that the method of straight baselines shall be employed for the purposes of determining the boundaries of such fishery zone, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. FORSYTHE (for himself and Mr. Dominick V. Daniels):

H.R. 1841. A bill to provide for improved labor-management relations in the Federal service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FRASER (for himself, Mr. Biester, Mr. Buchanan, Mr. Diggs, Mr. Simon, Mrs. Spellman, Mrs. Keys, Mr. Eilberg, Mr. Bonker, Mr. Blouin, Mr. Mikva, Mr. Macdonald of Massachusetts, Mrs. Fenwick, Mr. McCloskey, Mr. Mosher, Mr. Rodino, Mr. Green, Mr. Findley, Mr. Howard, Mr. Edgar, Mr. John L. Burton, Ms. Holtzman, Mr. Matsunaga, Mr. Pepper, and Mr. Miller of California):

H.R. 1842. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; to the Committee on Foreign Affairs.

By Mr. FRASER (for himself, Mr. Biester, Mr. Buchanan, Mr. Diggs, Mr. Studds, Mr. Won Pat, Mr. Ashley, Mr. Conyers, Mr. Brown of California, Mr. Kastenmeier, Mr. Fauntroy, Mr. Clay, Mr. Rosenthal, Mrs. Mink, Mr. Brademas, Mr. Roybal, Mr. Tsongas, Mr. Phillip Burton, Mr. Corman, Mr. Fascell, Mr. Meeds, Mr. Metcalfe, Mr. Harrington, and Mr. Addabbo):

H.R. 1843. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; to the Committee on Foreign Affairs.

By Mr. FRASER (for himself, Mr. Biester, Mr. Buchanan, Mr. Diggs, Mr. Richmond, Mr. Brodhead, Mr. Ottinger, Mr. Solarz, Mr. Bingham, Mr. Reuss, Mrs. Collins of Illinois, Mr. Rangel, Mr. Nix, Mr. Leggett, Mr. Drinan, Mr. Vanik, Mr. Stark, Mr. Koch, Mr. Young of Georgia, Mr. de Lugo, Mr. Hamilton, Mr. Rees, Mr. Mitchell of Maryland, Mr. Helstoski, and Mr. Eckhardt):

H.R. 1844. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; to the Committee on Foreign Affairs.

By Mr. FRASER (for himself, Mr. Biester, Mr. Buchanan, Mr. Diggs, Mr. Moss, Mr. Badillo, Mr. Seiberling, Mrs. Chisholm, Mr. Ryan, Ms. Abzug, Mr. Lehman, Mrs. Schroeder, Miss Jordan, Mr. Edwards of California, Mr. Burke of Massachusetts, Mr. Ford of Tennessee, Mr. Gude, Mr. Dellums, Mr. Riegle, Mr. Moakley, Mr. Stokes, Mr. Cohen, Mrs. Burke of California, Mr. Thompson, and Mr. Hawkins):

H.R. 1845. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; to the Committee on Foreign Affairs.

By Mr. FRASER (for himself, Mr. Biester, Mr. Buchanan, Mr. Diggs, Mr. O'Hara, Mr. Horton, Mr. McKinney, Mr. Bergland, Mr. Mineta, Mr. Hayes of Indiana, Mr. Wirth, Mr. Downey, Mrs. Meyner, Mr. Nolan, Mr. Sarbanes, and Mr. Pattison of New York):

H.R. 1846. A bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome; to the Committee on Foreign Affairs.

By Mr. FRENZEL:

H.R. 1847. A bill to require the Secretary of the Interior to compile and keep current a mineral fuel reserves inventory; to the Committee on Interior and Insular Affairs.

By Mr. FULTON:

H.R. 1848. A bill to grant an alien child adopted by an unmarried U.S. citizen the same immigrant status as an alien child adopted by a U.S. citizen and his spouse; to the Committee on the Judiciary.

H.R. 1849. A bill to amend the Immigration and Nationality Act to facilitate entry into the United States of the alien parent of a minor U.S. citizen if the other parent is a U.S. citizen; to the Committee on the Judiciary.

By Mr. FUQUA:

H.R. 1850. A bill to amend title 10 of the United States Code in order to eliminate or reduce certain deductible payments by patients for treatment under the uniformed services health benefits program; to the Committee on Armed Services.

H.R. 1851. A bill to amend title 28, United States Code, to provide that Madison County, Fla., shall be included in the northern judicial district of Florida; to the Committee on the Judiciary.

By Mr. GAYDOS:

H.R. 1852. A bill to abolish the quadrennial Commission on executive, legislative, and judicial salaries established by section 225 of the Federal Salary Act of 1967, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1853. A bill to provide reduced retirement benefits for Members of Congress who remain in office after attaining seventy years of age; jointly to the Committees on Post Office and Civil Service and House Administration.

By Mr. GILMAN:

H.R. 1854. A bill to provide for the refinancing of indebtedness incurred by producers of agricultural commodities as a result of a natural disaster and to provide for short-term production loans to such producers; to the Committee on Agriculture.

By Mr. GUDE:

H.R. 1855. A bill to amend title 5 of the United States Code to provide that supergrade employees (and certain other Federal employees) whose pay is subject to a special statutory limitation shall be credited, for civil service retirement purposes, with the full amount of the basic pay they would be entitled to receive in the absence of such limitation; to the Committee on Post Office and Civil Service.

By Mr. HEINZ:

H.R. 1856. A bill to amend the Food Stamp Act of 1964 to prohibit, after January 1, 1975, an increase in the amounts required to be paid by households under regulations in effect on January 1, 1975; to the Committee on Agriculture.

H.R. 1857. A bill to insure that each admission to the service academies shall be made without regard to a candidate's sex, race, color, or religious beliefs; to the Committee on Armed Services.

By Mr. HENDERSON:

H.R. 1858. A bill to amend title 5 of United States Code to provide for the designation of the 11th day of November of each year as "Veterans Day"; to the Committee on Post Office and Civil Service.

By Mr. HINSHAW:

H.R. 1859. A bill to provide for the conveyance of certain mineral interests of the United States in property in California to the record owners of the surface of that property; to the Committee on Interior and Insular Affairs.

By Ms. HOLTZMAN (for herself, Ms. Abzug, Mr. AuCoin, Mr. Diggs, Mr. Downey, Mrs. Fenwick, Mr. Ford of Tennessee, Mr. Fulton, Mr. Gude, Mr. Hanley, Mr. Mezvinsky, Mr. Mineta, Mr. Roybal, Mr. St Germain, Ms. Schroeder, Mr. Simon, Mr. Solarz, Ms. Spellman, Mr. Stokes, Mr. Symington, Mr. Vander Veen, Mr. Wirth, and Mr. Wolff):

H.R. 1860. A bill to prohibit increases in the amount required to be paid by households for food stamp allotments; to the Committee on Agriculture.

By Ms. HOLTZMAN (for herself, Mr. Addabbo, Mr. Bedell, Mr. Boland, Mr. Carr, Mr. Conyers, Mr. Eckhardt, Mr. Edwards of California, Mr. Florio, Mr. Ford of Michigan, Mr. Fraser, Mr. Gaydos, Mr. Helstoski, Mr. Hicks, Mr. McKinney, Ms. Meyner, Mr. Mollohan, Mr. Murphy of New York, Mr. Reuss, Mr. Roe, Mr. Rosenthal, Mr. Sarbanes, Mr. Stark, Mr. Studds, and Mr. Zeferetti):

H.R. 1861. A bill to prohibit increases in the amount required to be paid by households for food stamp allotments; to the Committee on Agriculture.

By Mr. JOHNSON of Pennsylvania:

H.R. 1862. A bill to amend the Vocational Education Act of 1963; to the Committee on Education and Labor.

By Mr. JONES of Oklahoma:

H.R. 1863. A bill to amend the Mineral leasing Act of 1920, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KASTENMEIER:

H.R. 1864. A bill to enforce the first amendment and fourth amendment to the Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States from exercising surveillance of citizens and for other purposes; to the Committee on the Judiciary.

H.R. 1865. A bill to exempt from Federal income taxation certain nonprofit corporations all of whose members are tax-exempt credit unions; to the Committee on Ways and Means.

By Mr. KEMP:

H.R. 1866. A bill: State and Local Fiscal Assistance Act of 1975; to the Committee on Government Operations.

By Mr. KOCH (for himself, Mr. Gude, Mr. Hechler of West Virginia, Mr. Addabbo, Mr. Bingham, Mr. Boland, Mr. Brown of California, Mr. Dominick V. Daniels, Mr. Derrick, Mr. Derwinski, Mr. Dodd, Mr. Drinan, Mr. Duncan of Tennessee, Mr. Edgar, Mr. Edwards of California, Mrs. Fenwick, Ms. Holtzman, Mr. Krebs, Mr. McKinney, Mr. Mazzoli, Mr. Moorhead of Pennsylvania, Mr. Moss, Mr. Mottl, . Mr. Rosenthal, and Mr. Ryan):

H.R. 1867. A bill to amend section 127 of title 23 of the United States Code to reduce certain weights permitted on the Interstate System; to the Committee on Public Works and Transportation.

By Mr. KOCH (for himself, Mr. Gude, Mr. Hechler of West Virginia, Mr. Seiberling, Mr. Simon, Mr. Solarz, Mr. Stark, Mr. Vanik, Mr. Vander Veen, Mr. Weaver, and Mr. Young of Florida):

H.R. 1868. A bill to amend section 127 of title 23 of the United States Code to reduce certain weights permitted on the Interstate System; to the Committee on Public Works and Transportation.

By Mrs. LLOYD of Tennessee (for herself, Mr. Evins of Tennessee, Mr. Fulton, Mr. Jones of Tennessee, and Mr. Ford of Tennessee):

H.R. 1869. A bill to designate the national laboratory at Oak Ridge, Tenn., as the "Oak Ridge National Laboratory", and to designate a certain atomic reactor at Oak Ridge, Tenn., as the "Holifield Liquid Metal Fast Breeder Reactor"; to the Joint Committee on Atomic Energy.

By Mr. LOTT:

H.R. 1870. A bill to incorporate the U.S. Submarine Veterans of World War II; to the Committee on the Judiciary.

H.R. 1871. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. LOTT (for himself, Mr. Johnson of Pennsylvania, Mr. Thone, Mr. Charles Wilson of Texas, Mr. Burgener, Mr. Pritchard, Mrs. Holt, Mr. Shipley, Ms. Holtzman, Mrs. Schroeder, Mr. Bauman, Mr. Coughlin, Mr. Murphy of Illinois, Mr. Waxman, Mr. Cochran, Mr. Goldwater, and Mr. Kemp):

H.R. 1872. A bill to amend title II of the Social Security Act to eliminate the 5-month waiting period for disability benefits, to liberalize the earnings test, to permit adopted children to qualify for benefits without regard to certain time requirements, to eliminate the reconsideration stage in benefit determinations, to provide for the issuance of duplicate benefit checks where the initial checks are lost or delayed, and to provide for expedited benefit payments to disability beneficiaries; to the Committee on Ways and Means.

By Mr. McKINNEY:

H.R. 1873. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to dietary supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1874. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income amounts won in State lotteries; to the Committee on Ways and Means.

H.R. 1875. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 1876. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a Formulary Committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

H.R. 1877. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for regular physical examinations; to the Committee on Ways and Means.

By Mr. MATSUNAGA:

H.R. 1878. A bill to provide that poultry and meat products prepared from diseased animals shall be deemed adulterated; to the Committee on Agriculture.

H.R. 1879. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act, to provide that meat or poultry as the case may be, which is inspected in a facility subject to State inspection shall be eligible for distribution in commerce in the same manner as meat or poultry which is inspected in a facility subject to Federal inspection; to the Committee on Agriculture.

H.R. 1880. A bill to extend the Consolidated Farmers Home Administration Act of 1961, as amended, to American Samoa; to the Committee on Agriculture.

H.R. 1881. A bill to amend title 10 of the United States Code to establish procedures providing members of the Armed Forces redress of grievances arising from acts of brutality or other cruelties, and acts which abridge or deny rights guaranteed to them by the Constitution of the United States, suffered by them while serving in the Armed Forces, and for other purposes; to the Committee on Armed Services.

H.R. 1882. A bill to authorize the Secretary of the Navy to construct and provide shoreside facilities for the education and convenience of visitors to the U.S.S. *Arizona* Memorial at Pearl Harbor and to transfer responsibility for their operation and maintenance to the National Park Service; to the Committee on Armed Services.

H.R. 1883. A bill to authorize the Secretary of the Army to make available to the State of Hawaii physical facilities not needed by the Army at Fort De Russy, Hawaii, for the purpose of establishing a mental health clinic in such facilities; to the Committee on Armed Services.

H.R. 1884. A bill to amend the Truth-in-Lending Act to require that statements under open-end credit plans be mailed in time to permit payment prior to the imposition of finance charges; to the Committee on Banking, Currency, and Housing.

H.R. 1885. A bill to amend the National Foundation on the Arts and the Humanities Act of 1965 to provide for the office of Poet Laureate of the United States; to the Committee on Education and Labor.

H.R. 1886. A bill to amend the Civil Rights Act of 1964 to make it an unlawful employment practice to discriminate against individuals who are physically disabled because of such disability; to the Committee on Education and Labor.

H.R. 1887. A bill to improve education by increasing the freedom of the Nation's teachers to change employment across State lines without substantial loss of retirement benefits through establishment of a Federal-State program; to the Committee on Education and Labor.

H.R. 1888. A bill to amend the Occupational Safety and Health Act of 1970 to provide more equitable enforcement procedures; to the Committee on Education and Labor.

H.R. 1889. A bill to amend the National Labor Relations Act to provide that it shall be an unfair labor practice for an employer to advertise for employees during a strike unless such advertisement states that a labor dispute exists; to the Committee on Education and Labor.

H.R. 1890. A bill to amend the Occupational Safety and Health Act of 1970 to require the Secretary of Labor to recognize the difference in hazards to employees between the heavy construction industry and the light residential construction industry; to the Committee on Education and Labor.

H.R. 1891. A bill to permit greater involvement of American medical organizations and personnel in the furnishing of health services and assistance to the developing nations of the world, and for other purposes; to the Committee on Foreign Affairs.

H.R. 1892. A bill to amend the Intergovernmental Cooperation Act of 1968 to improve intergovernmental relationships between the United States and the States and municipalities, and the economy and efficiency of government, by providing Federal cooperation and assistance in the establishment and strengthening of State and local offices of consumer protection; to the Committee on Government Operations.

H.R. 1893. A bill to establish an executive department to be known as the Department of Education, and for other purposes; to the Committee on Government Operations.

H.R. 1894. A bill to promote the peaceful resolution of international conflict, and for other purposes; to the Committee on Government Operations.

H.R. 1895. A bill to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purpose; to the Committee on Interior and Insular Affairs.

H.R. 1896. A bill to declare Kuapa Pond, Hawaii, as not a navigable water of the United States; to the Committee on Interstate and Foreign Commerce.

H.R. 1897. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1898. A bill to amend the War Claims Act of 1948 to provide compensation for the injury, disability, or death of certain civilian American citizens during World War II and for which no compensation has been previously authorized by law; to the Committee on Interstate and Foreign Commerce.

H.R. 1899. A bill to amend the International Travel Act of 1961 to provide for Federal regulation of the travel agency industry; to the Committee on Interstate and Foreign Commerce.

H.R. 1900. A bill to regulate commerce by establishing a nationwide system to restore motor vehicle accident victims and by requiring no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways; to the Committee on Interstate and Foreign Commerce.

H.R. 1901. A bill to provide health services to new Americans; to the Committee on Interstate and Foreign Commerce.

H.R. 1902. A bill to amend the Public Health Service Act to promote the training of bilingual persons in the health, nursing, and allied health professions; to establish bilingual health training centers for such purpose; to provide for a special study of health education institution admissions examinations, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1903. A bill to provide for the compensation of persons injured by certain criminal acts; to the Committee on the Judiciary.

H.R. 1904. A bill to prohibit the importation, manufacture, sale, purchase, transfer, receipt, or transportation of handguns, in any manner affecting interstate or foreign commerce, except for or by members of the Armed Forces, law enforcement officials, and, as authorized by the Secretary of the Treasury, licensed importers, manufacturers, dealers, and pistol clubs; to the Committee on the Judiciary.

H.R. 1905. A bill to amend section 212(b) of the Immigration and Nationality Act to exempt from the literacy requirement of section 212(a)(25) certain additional relatives of U.S. citizens and permanent resident aliens; to the Committee on the Judiciary.

H.R. 1906. A bill to amend section 312 of the Immigration and Nationality Act with respect to certain tests for naturalization; to the Committee on the Judiciary.

H.R. 1907. A bill to provide a minimum level for retirement salaries of certain Federal judges in territories and possessions; to the Committee on the Judiciary.

H.R. 1908. A bill to amend title 5, United States Code, to authorize the payment of increased annuities to secretaries of justices and judges of the United States; to the Committee on Post Office and Civil Service.

H.R. 1909. A bill to amend title 5 of the United States Code in order to provide that certain benefits to which employees of the United States stationed in Alaska, Hawaii, Puerto Rico, or the territories of the United States are entitled, may be terminated under certain conditions, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1910. A bill to amend title 5, United States Code, to protect civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights, to prevent unwarranted governmental invasions of their privacy, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1911. A bill to amend title 5, United States Code, with respect to the pay of prevailing rate employees assigned or detailed to perform duties of positions in grades or pay schedules higher than the grades or pay schedules of their existing positions; to the Committee on Post Office and Civil Service.

H.R. 1912. A bill to amend title 5, United States Code, to provide for the immediate retirement of Federal civilian personnel on oceangoing vessels upon separation from the service after attaining 50 years of age and completing 20 years of service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1913. A bill to modify the decrease in Federal group life insurance at age 65 or after retirement; to the Committee on Post Office and Civil Service.

H.R. 1914. A bill to amend title 5, United States Code, to correct certain inequities in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1915. A bill to encourage earlier retirement by permitting Federal employees to purchase into the civil service retirement system benefits unduplicated in any other retirement system based on employment in Federal programs operated by State and local governments under Federal funding and supervision; to the Committee on Post Office and Civil Service.

H.R. 1916. A bill to amend title 5, United States Code, with respect to the concurrent payment of foreign post pay differentials and nonforeign post cost-of-living allowances, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 1917. A bill to amend the Federal Aviation Act of 1958 to authorize reduced rate transportation for certain additional persons on a space-available basis; to the Committee on Public Works and Transportation.

H.R. 1918. A bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage; to the Committee on Small Business.

H.R. 1919. A bill to direct the Secretary of the Army to provide memorial plots in national cemeteries for certain former members of the Armed Forces and to permit the adjacent burial of certain family members of such former members; to the Committee on Veterans' Affairs.

H.R. 1920. A bill to amend section 3104 of title 38, United States Code, to permit certain service-connected disabled veterans who are retired members of the uniformed services to receive compensation concurrently with retired pay, without deduction from either; to the Committee on Veterans' Affairs.

H.R. 1921. A bill to amend title 38 of the United States Code to provide for cost-of-living adjustments to disability compensation rates payable to veterans residing outside the contiguous United States; to the Committee on Veterans' Affairs.

H.R. 1922. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

H.R. 1923. A bill to amend the Internal Revenue Code of 1954 in relation to deduction for business expenses for care of certain dependents; to the Committee on Ways and Means.

H.R. 1924. A bill to prohibit the withdrawal of merchandise from a customs bonded warehouse for exportation pursuant to retail sales unless such warehouse is located in close proximity to a port, airport, or border-crossing station; to the Committee on Ways and Means.

H.R. 1925. A bill to amend section 1034 of the Internal Revenue Code of 1954 to provide an additional 1-year period for first using a new residence which was purchased during the period provided in such section 1034; to the Committee on Ways and Means.

H.R. 1926. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Ways and Means.

H.R. 1927. A bill to amend the Internal Revenue Code of 1954 to authorize a tax credit for certain expenses of providing higher education; to the Committee on Ways and Means.

H.R. 1928. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer; to the Committee on Ways and Means.

H.R. 1929. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax from $60,000 to $120,000; to the Committee on Ways and Means.

H.R. 1930. A bill to amend the Internal Revenue Code of 1954 to provide reasonable and necessary income tax incentives to encourage the utilization of recycled solid waste materials and to offset existing income tax advantages which promote depletion of virgin natural resources; to the Committee on Ways and Means.

H.R. 1931. A bill to exclude from gross income the first $750 of interest received on deposits in certain financial institutions; to the Committee on Ways and Means.

H.R. 1932. A bill to amend the Internal Revenue Code of 1954 to revise certain provisions concerning the minimum tax for tax preferences, the taxation of capital gains, and the deductibility of certain amounts for interest, depletion, and State and local income taxes; to the Committee on Ways and Means.

H.R. 1933. A bill to amend the Internal Revenue Code of 1954 to permit a parent who supports a handicapped child to take a personal exemption for that child even though the child earns more than $750; to the Committee on Ways and Means.

H.R. 1934. A bill to amend the Internal Revenue Code of 1954 to eliminate, in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development cost, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

H.R. 1935. A bill to amend the Internal Revenue Code of 1954 to provide an exemption from income taxation for cooperative housing corporations and condominium housing associations; to the Committee on Ways and Means.

H.R. 1936. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

H.R. 1937. A bill to amend the Social Security Act to exempt increases in social security benefits from consideration in determining a person's need for public assistance under the programs of aid to the aged, the blind, and the disabled or the program of aid to families with dependent children; to the Committee on Ways and Means.

H.R. 1938. A bill to amend title II of the Social Security Act to eliminate the special dependency requirements for entitlement to husband's and widower's insurance benefits, to provide benefits for widowed fathers with minor children, and to make certain other changes so that benefits for husbands, widowers, and fathers will be payable on the same basis as benefits for wives, widows, and mothers; to the Committee on Ways and Means.

H.R. 1939. A bill to amend the Social Security Act to extend entitlement to health care benefits on the basis of age under the Federal medical insurance program (medicare) to all persons who are citizens or residents of the United States aged 65 or more; to add additional categories of benefits under the program (including health maintenance and preventive services, dental services, outpatient drugs, eyeglasses, hearing aids, and prosthetic devices) for all persons entitled (whether on the basis of age or disability) to the benefits of the program; to extend the duration of benefits under the program where now limited; to eliminate the premiums now required under the supplementary medical insurance benefits part of the medicare program and merge that part with the hospital insurance part; to eliminate all deductibles; to eliminate copayments for low-income persons under the program, and to provide, for others, copayments for certain services or items but only up to a variable income-related out-of-pocket expense limit (catastrophic expense limit); to provide for prospective review and approval of the rates of charges of hospitals and other institutions under the program, and for prospective establishment (on a negotiated basis when feasible) of fee schedules for physicians and other practitioners; to revise the coverage of the tax provisions for financing the medicare program and increase the Government contribution to the program; and for other purposes; to the Committee on Ways and Means.

H.R. 1940. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system; to the Committee on Ways and Means.

H.R. 1941. A bill to provide for additional Federal financial participation in expenses incurred in providing benefits to Indians, Aleuts, native Hawaiians, and other aboriginal persons, under certain State public assistance programs established pursuant to the Social Security Act; to the Committee on Ways and Means.

H.R. 1942. A bill to establish a Consumer Protection Agency in order to secure within the Federal Government effective protection and representation of the interests of consumers, and for other purposes; jointly to the Committees on Government Operations, and Interstate and Foreign Commerce.

H.R. 1943. A bill to amend the Social Security Act to provide for inclusion of the services of licensed (registered) nurses under medicare and medicaid; jointly to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. MATSUNAGA (for himself and Mrs. Mink):

H.R. 1944. A bill to provide for the settlement of historic claims of the Hawaiian natives, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MELCHER:

H.R. 1945. A bill for the relief of certain former members of the Army who participated in the Dengue Fever experiments in the Philippine Islands; to the Committee on the Judiciary.

By Mr. MELCHER (for himself, Mr. Johnson of Colorado, Mr. Traxler, Mr. Thone, Mr. Wright, Mr. Cornell, Mr. Carter, Mr. McKay, Mr. Abdnor, Mr. Ford of Tennessee, Mr. Roncalio, Mr. Yatron, Mr. Obey, and Mr. Howe):

H.R. 1946. A bill to provide for the purchase of animals and animal food products for use in foreign and domestic food relief programs, and for other purposes; to the Committee on Agriculture.

By Mr. MINISH:

H.R. 1947. A bill to provide for annual authorization of appropriations to the U.S. Postal Service; to the Committee on Post Office and Civil Service.

H.R. 1948. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation produces a higher combined benefit; to the Committee on Ways and Means.

By Mr. MOLLOHAN (for himself, Mr. Slack, and Mr. Vanik):

H.R. 1949. A bill to designate the Wheeling Suspension Bridge as a national historic site, and to provide for the administration and maintenance of the site by the Secretary of the Interior in consultation with an advisory commission; to the Committee on Interior and Insular Affairs.

By Mr. MOORE:

H.R. 1950. A bill to prohibit the Federal courts from issuing busing orders based on race, and for other purposes; to the Committee on the Judiciary.

By Mr. MOSS:

H.R. 1951. A bill to restore the independence of certain regulatory commissions of the Federal Government; to the Committee on Government Operations.

By Mr. MOSS (for himself, Mr. Dingell, Mr. Eckhardt, Mr. Corman, Mr. Brodhead, and Mr. Waxman):

H.R. 1952. A bill to establish national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. O'BRIEN:

H.R. 1953. A bill to amend the Vocational Education Act of 1963 to improve the administration of postsecondary vocational education programs, and for other purposes; to the Committee on Education and Labor.

H.R. 1954. A bill to amend title 38 of the United States Code in order to entitle veterans to 45 months of educational assistance for all educational programs under chapter 34 of this title; to the Committee on Veterans' Affairs.

By Mr. PATMAN.

H.R. 1955. A bill to establish a National Development Bank to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full employment economy both in urban and rural America by providing loans for the establishment of small and medium size businesses and industries, and for the construction of low- and moderate-income housing projects, and to provide job training for unskilled and semiskilled, unemployed and underemployed workers; to the Committee on Banking, Currency, and Housing.

By Mr. PETTIS:

H.R. 1956. A bill to establish a national Commission on Regulatory Reform; to the

Committee on Interstate and Foreign Commerce.

By Mr. PETTIS (for himself, Mr. Bell, Mr. Roe, Mr. Conable, Mr. Winn, Mr. Don H. Clausen, Mr. Collins of Texas, Mr. Esch, Mr. Steiger of Arizona, Mr. McCloskey, Mr. Derwinski, Mr. Brown of California, Mr. Danielson, Mr. Talcott, Mr. McKinney, Mr. Mazzoli, Mr. Hinshaw, Mr. Roybal, Mr. Burgener, Mr. Goldwater, Mr. Stark, Mr. Helstoski, Mr. Dingell, Mr. Rees, and Mr. Ruppe):

H.R. 1957. A bill to provide for the establishment of the National Conservation Area of the California Desert and to provide for the immediate and future protection, development, and administration of such public lands; to the Committee on Interior and Insular Affairs.

By Mr. PIKE:

H.R. 1958. A bill to provide for the conservation of petroleum and other natural resources by imposing an excise tax on the sale of certain automobiles and granting a tax credit on the sale of certain automobiles according to the rate at which such automobiles consume fuel, and for other purposes; to the Committee on Ways and Means.

By Mr. POAGE:

H.R. 1959. A bill to require the Secretary of Agriculture to carry out a rural environmental assistance program; to the Committee on Agriculture.

H.R. 1960. A bill to provide for the establishment of a national cemetery at or near Fort Hood, Tex.; to the Committee on Veterans' Affairs.

By Mr. QUILLEN:

H.R. 1961. A bill to authorize the lease and transfer of burley tobacco from marketing quotas to farms within the same State; to the Committee on Agriculture.

H.R. 1962. A bill to amend title 10 of the United States Code to permit senior Reserve officers' training programs to be established at public community colleges; to the Committee on Armed Services.

H.R. 1963. A bill to provide for the crediting of certain past employment by certain persons subject to the National Guard Technicians Act of 1968; to the Committee on Armed Services.

H.R. 1964. A bill to repeal the Occupational Safety and Health Act; to the Committee on Education and Labor.

H.R. 1965. A bill to require the execution of an oath or affirmation or declaration of allegiance before a passport is granted or issued; to the Committee on Foreign Affairs.

H.R. 1966. A bill to provide for payment to compensate county governments for the tax immunity of Federal lands within their boundaries; to the Committee on Government Operations.

H.R. 1967. A bill to create a commission to grant exclusive franchises for the exploration for and the commercial development of geothermal energy and for the right to market any such energy in its natural state, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 1968. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 1969. A bill to amend the Public Health Service Act to authorize the Secretary to provide epileptics medicine for the treatment of epilepsy; to the Committee on Interstate and Foreign Commerce.

H.R. 1970. A bill to repeal the Gun Control Act of 1968; to the Committee on the Judiciary.

H.R. 1971. A bill to limit the jurisdiction of the Supreme Court of the United States and of the district courts to enter any judgment, decree, or order, denying or restricting, as unconstitutional, voluntary prayer in any public school; to the Committee on the Judiciary.

H.R. 1972. A bill to amend title 5 of the United States Code with respect to the observance of Memorial Day and Veterans Day; to the Committee on Post Office and Civil Service.

H.R. 1973. A bill to amend title 38 of the United States Code to redefine the period of war known as the Mexican border period in order to extend veterans' benefits to persons who served in Mexico on or after June 1, 1914; to the Committee on Veterans' Affairs.

H.R. 1974. A bill to require that burials be permitted in national cemeteries on weekends and holidays; to the Committee on Veterans' Affairs.

By Mr. HECHLER of West Virginia:

H.R. 1975. A bill to amend the Wild and Scenic Rivers Act of 1968 (82 Stat. 906) by designating a portion of the Shavers Fork of the Cheat River, E W. Va., for study as a potential addition to the national wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

Mr. Mr. QUILLEN:

H.R 1976. A bill to amend title 38 of the United States Code so as to provide that monthly social security benefit payments and annuity and pension payments under the Railroad Retirement Act of 1937 shall not be included as income for the purpose of determining eligibility for a veteran's or widow's pension; to the Committee on Veterans' Affairs.

H.R. 1977. A bill to create a special tariff provision for imported glycine and related products; to the Committee on Ways and Means.

H.R. 1978. A bill to amend the Internal Revenue Code of 1954 to provide that an individual may deduct amounts paid for his higher education, or for the higher education of any of his dependents; to the Committee on Ways and Means.

H.R. 1979. A bill to amend title II of the Social Security Act to establish more effective procedures for the conduct of hearings, and the appointment of hearing examiners, with respect to claims under such title or title XVIII of such act; to the Committee on Ways and Means.

H.R. 1980. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for amounts paid by an individual for dependent care services to enable him to perform volunteer services for certain organizations; to the Committee on Ways and Means.

H.R. 1981. A bill to amend title II of the Social Security Act to provide for the computation of benefits thereunder on the basis of the worker's 3 years of highest earnings; to the Committee on Ways and Means.

H.R. 1982. A bill relating to the treatment of certain changes in wills and trusts instruments for purposes of the Tax Reform Act of 1969; to the Committee on Ways and Means.

H.R. 1983. A bill to amend title II of the Social Security Act to increase widow's insurance benefits to 100 percent of the insured individual's primary insurance amount, and to provide that such benefits shall be payable at age 50, without actuarial reduction and without regard to disability, in the case of a widow who is otherwise qualified therefor; to the Committee on Ways and Means.

By Mr. GOLDWATER (for himself and Mr. Koch):

H.R. 1984. A bill to protect the constitutional right of privacy of individuals concerning whom identifiable information is recorded by enacting principles of information practices in furtherance of articles I, III, IV, V, IX, X, and XIV of amendment to the U.S. Constitution; to the Committee on the Judiciary.

By Mr. QUILLEN:

H.R. 1985. A bill to extend to all unmarried individuals the full tax benefits of income-splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

H.R. 1986. A bill to amend section 103(c) of the Internal Revenue Code of 1954 to increase the exemption from the industrial development bond provisions for certain small issues; to the Committee on Ways and Means.

H.R. 1987. A bill to amend the Internal Revenue Code of 1954 to provide a limited exclusion of capital gains realized by taxpayers other than corporations on securities; to the Committee on Ways and Means.

H.R. 1988. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

By Mr. RAILSBACK:

H.R. 1989. A bill to amend the Congressional Budget Act of 1974 and certain other laws to accelerate the effective date of the provisions establishing or relating to the congressional budget process, thereby requiring that such process be implemented and placed in full operation beginning with the fiscal year 1976; to the Committee on Rules.

By Mr. REGULA (for himself, Mr. Rhodes, Mr. Fascell, Mr. Quie, Mr. Ullman, Mr. Hechler of West Virginia, Mr. Stratton, Mr. Bell, Mr. McClory, Mr. Johnson of Pennsylvania, Mr. Pepper, Mr. Van Deerlin, Mr. Talcott, Mr. Edwards of California, Mr. Fulton, Mr. Helstoski, Mr. Hicks, Mr. Brown of California, Mr. Meeds, Mr. McEwen, Mr. McCloskey, Mr. Eckhardt, Mr. Winn, Mr. Esch, and Mr. Koch):

H.R. 1990. A bill to amend the National Trails System Act to authorize a feasibility study for the establishment of certain bicycle trails; to the Committee on Interior and Insular Affairs.

By Mr. REGULA (for himself, Mr. Coughlin, Mr. Ruppe, Mr. Gude, Mr. Roncalio, Mr. McCormack, Mr. Peyser, Mr. Seiberling, Mr. Frenzel, Ms. Abzug, Mr. Drinan, Mr. Guyer, Mr. Sarasin, Mr. Moorhead of California, Mr. Lehman, Mr. Bafalis, Mr. Hinshaw, Mr. Stark, Miss Holtzman, Mr. Pritchard, Mr. Waxman, Mrs. Fenwick, Mr. Hall, Mr. Ford of Tennessee, Mr. Ryan, and Mr. Carr):

H.R. 1991. A bill to amend the National Trails System Act to authorize a feasibility study for the establishment of certain bicycle trails; to the Committee on Interior and Insular Affairs.

By Mr. REGULA:

H.R. 1992. A bill to provide that amounts paid by a mine operator to a State in the form of a reclamation fee may be credited against the amount paid to the Secretary of the Interior for the Abandoned Mine Reclamation Fund; to the Committee on Interior and Insular Affairs.

By Mr. REGULA (for himself and Mr. Hillis):

H.R. 1993. A bill to amend the Internal Revenue Code of 1954 to provide for an excess profits tax on the income of corporations engaged in oil production and refining, and to establish the Energy Research, Development, and Exploration Trust Fund; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 1994. A bill to prohibit travel at Government expense outside the United States by Members of Congress who have been defeated, or who have resigned, or retired; to the Committee on House Administration.

H.R. 1995. A bill to amend title 39, United States Code, to provide that the President shall appoint the Postmaster General of the United States, subject to confirmation by the

Senate, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RINALDO (for himself and Mrs. HECKLER of Massachusetts):

H.R. 1996. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 1997. A bill to amend the Internal Revenue Code of 1954 and title II of the Social Security Act to provide a full exemption (through credit or refund) from the employees' tax under the Federal Insurance Contributions Act, and an equivalent reduction in the self-employment tax, in the case of individuals who have attained age 65; to the Committee on Ways and Means.

H.R. 1998. A bill to exclude from gross income the first $1,000 of interest received from savings account deposits in home lending institutions; to the Committee on Ways and Means.

By Mr. ROBERTS:

H.R. 1999. A bill to amend section 110 of title 38, United States Code, to liberalize the standard for preservation of disability evaluations for compensation purposes; to the Committee on Veterans' Affairs.

By Mr. ROBERTS (for himself, Mr. HAMMERSCHMIDT, and Mr. WYLIE):

H.R. 2000. A bill to amend title 38, United States Code, in order to entitle veterans to 45 months of educational assistance for all educational programs under chapter 34 of this title; to the Committee on Veterans' Affairs.

By Mr. ROBINSON:

H.R. 2001. A bill to prohibit travel at Government expense outside the United States by Members of Congress who, after adjournment sine die of the last session of a Congress, are not candidates for reelection in the next Congress; to the Committee on House Administration.

H.R. 2002. A bill to amend section 167 of the Internal Revenue Code of 1954 to provide a special allowance for depreciation with respect to certain byproduct and waste energy conversion facilities; to the Committee on Ways and Means.

By Mr. ROE:

H.R. 2003. A bill to provide for payments to compensate county governments for the tax immunity of Federal lands within their boundaries; to the Committee on Government Operations.

H.R. 2004. A bill to limit the authority of States and their subdivisions to impose taxes with respect to income on residents of other States; to the Committee on the Judiciary.

H.R. 2005. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals who have attained age 65 or who are disabled a refundable tax credit for property taxes paid by them on their principal residences or for a certain portion of the rent they pay for their principal residences; to the Committee on Ways and Means.

H.R. 2006. A bill to amend the Internal Revenue Code of 1954 to allow a deduction for expenses incurred by a taxpayer in making repairs and improvements to his residence, and to allow the owner of rental housing to amortize at an accelerated rate the cost of rehabilitating or restoring such housing; to the Committee on Ways and Means.

H.R. 2007. A bill to amend section 401(j) of the Federal Aviation Act of 1958 to provide that no air carrier shall discontinue service, in whole or in part, unless such discontinuance is found to be in the public interest by the Civil Aeronautics Board after public hearings; to the Committee on Public Works and Transportation.

H.R 2008. A bill to amend the Internal Revenue Code of 1954 to provide an individual tax credit for disaster evacuation expenses; to the Committee on Ways and Means.

H.R. 2009. A bill to amend the Internal Revenue Code of 1954 to provide that employees receiving lump sums from tax-free pension or annuity plans on account of separation from employment shall not be taxed at the time of distribution to the extent that an equivalent amount is reinvested in another such plan; to the Committee on Ways and Means.

H.R. 2010. A bill to amend the Internal Revenue Code of 1954 to provide an additional personal exemption of $750 for certain volunteer firemen; to the Committee on Ways and Means.

H.R. 2011. A bill to provide that service charges paid by property owners to independent sewerage authorities shall be tax deductible as part of the real property tax paid on said properties; to the Committee on Ways and Means.

H.R. 2012. A bill to amend title II of the Social Security Act to permit the payment of benefits to a married couple on their combined earnings record where that method of computation produces a higher combined benefit; to the Committee on Ways and Means.

H.R. 2013. A bill to amend the Internal Revenue Code of 1954 to provide an additional itemized deduction for individuals who rent their principal residences; to the Committee on Ways and Means.

H.R. 2014. A bill to provide that State and local sales taxes paid by individuals shall be allowed as a credit against their liability for Federal income tax instead of being allowed as a deduction from their gross income; to the Committee on Ways and Means.

H.R. 2015. A bill to provide a program of tax adjustment for small business and for persons engaged in small business; to the Committee on Ways and Means.

H.R. 2016. A bill to amend the Internal Revenue Code of 1954 to allow an income tax deduction for depreciation on capital expenditures incurred in connecting residential sewer lines to municipal sewage systems; to the Committee on Ways and Means.

H.R. 2017. A bill to amend title II of the Social Security Act to provide for voluntary agreements between ministers and their employers to treat ministers as employed persons; to the Committee on Ways and Means.

H.R. 2018. A bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder; to the Committee on Ways and Means.

H.R. 2019. A bill to provide income tax incentives for the modification of certain facilities so as to remove architectural and transportational barriers to the handicapped and elderly; to the Committee on Ways and Means.

H.R. 2020. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education; to the Committee on Ways and Means.

H.R. 2021. A bill to amend the Internal Revenue Code of 1954 to relieve employers of 50 or less employees from the requirement of paying or depositing certain employment taxes more often than once each quarter; to the Committee on Ways and Means.

H.R. 2022. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

H.R. 2023. A bill to amend the Internal Revenue Code of 1954 to eliminate, in the case of any oil or gas well located outside the United States, the percentage depletion allowance and the option to deduct intangible drilling and development costs, and to deny a foreign tax credit with respect to the income derived from any such well; to the Committee on Ways and Means.

By Mr. ROSE (for himself, Mr. PERKINS, Mr. DAVIS of South Carolina, and Mr. JENRETTE):

H.R. 2024. A bill to adjust the price support level for tobacco to 75 percent of the parity price; to the Committee on Agriculture.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Ms. COLLINS of Illinois, Mr. CONYERS, Mr. CORMAN, Mr. COTTER, Mr. DIGGS, Mr. DODD, Mr. DOWNEY, Mr. DRINAN, Mr. EDWARDS of California, Mr. EILBERG, Mr. FASCELL, Mr. FORD of Tennessee, Mr. FRASER, Mr. HARRINGTON, and Mr. HECHLER of West Virginia):

H.R. 2025. A bill to amend the Intergovernmental Cooperation Act of 1968 to improve intergovernmental relationships between the United States and the State and municipalities, and the economy and efficiency of government, by providing Federal cooperation and assistance in the establishment and strengthening of State and local offices of consumer protection; to the Committee on Government Operations.

By Mr. ROSENTHAL (for himself, Ms. HOLTZMAN, Mr. KOCH, Mr. OTTINGER, Mr. PEPPER, Mr. PETTIS, Mr. PEYSER, Mr. RANGEL, Mr. RODINO, Mr. RYAN, Mr. SARBANES, Ms. SCHROEDER, Mr. SOLARZ, Ms. SPELLMAN, Mr. WAXMAN, Mr. YATRON, and Mr. ZEFERETTI):

H.R. 2026. A bill to amend the Intergovernmental Cooperation Act of 1968 to improve intergovernmental relationships between the United States and the States and municipalities, and the economy and efficiency of government, by providing Federal cooperation and assistance in the establishment and strengthening of State and local offices of consumer protection; to the Committee on Government Operations.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Ms. COLLINS of Illinois, Mr. CONYERS, Mr. CORMAN, Mr. COTTER, Mr. DERRICK, Mr. DIGGS, Mr. DRINAN, Mr. EDWARDS of California, Mr. FASCELL, Mr. FORD of Tennessee, Mr. FRASER, Mr. HARRINGTON, and Mr. HECHLER of West Virginia):

H.R. 2027. A bill to amend the Federal Trade Commission Act to make sales promotion games unfair methods of competition; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself Ms. HOLTZMAN, Mr. KOCH, Mr. OTTINGER, Mr. PEPPER, Mr. RANGEL, Mr. RODINO, Mr. RYAN, Mr. SARBANES, Ms. SCHROEDER, Mr. SOLARZ, Ms. SPELLMAN, Mr. WAXMAN, Mr. YATRON, and Mr. ZEFERETTI):

H.R. 2028. A bill to amend the Federal Trade Commission Act to make sales promotion games unfair methods of competition; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. ADDABBO, Mr. BRODHEAD, Ms. COLLINS of Illinois, Mr. CONYERS, Mr. CORMAN, Mr. COTTER, Mr. DERRICK, Mr. DIGGS, Mr. DODD, Mr. DOWNEY, Mr. DRINAN, Mr. EDWARDS of California, Mr. FASCELL, Ms. FENWICK, Mr. FORD of Tennessee, Mr. FRASER, Mr. HARRINGTON, Mr. HECHLER of West Virginia, and Ms. HOLTZMAN):

H.R. 2029. A bill to require that certain durable products be prominently labeled as to date of manufacture, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr.

Koch, Mr. Mikva, Mr. Ottinger, Mr. Pepper, Mr. Pettis, Mr. Peyser, Mr. Rangel, Mr. Rodino, Mr. Ryan, Mr. St Germain, Mr. Sarbanes, Ms. Schroeder, Mr. Solarz, Ms. Spellman, Mr. Studds, Mr. Tsongas, Mr. Waxman, Mr. Yatron, and Mr. Zeferetti):

H.R. 2030. A bill to require that certain durable products be prominently labeled as to date of manufacture, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. Addabbo, Mr. Brodhead, Ms. Collins of Illinois, Mr. Conyers, Mr. Corman, Mr. Cotter, Mr. Derrick, Mr. Diggs, Mr. Downey, Mr. Drinan, Mr. Edwards of California, Mr. Eilberg, Mr. Fascell, Ms. Fenwick, Mr. Ford of Tennessee, Mr. Fraser, Mr. Harrington, Mr. Hechler of West Virginia, and Ms. Holtzman):

H.R. 2031. A bill to require that durable consumer products be labeled as to durability and performance life; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. Koch, Mr. Mikva, Mr. Nolan, Mr. Ottinger, Mr. Pepper, Mr. Peyser, Mr. Rangel, Mr. Rodino, Mr. Ryan, Mr. Sarbanes, Ms. Schroeder, Mr. Solarz, Ms. Spellman, Mr. Studds, Mr. Tsongas, Mr. Waxman, Mr. Yatron, and Mr. Zeferetti):

H.R. 2032. A bill to require that durable consumer products be labeled as to durability and performance life; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. Addabbo, Mr. Brodhead, Ms. Collins of Illinois, Mr. Conyers, Mr. Corman, Mr. Cotter, Mr. Diggs, Mr. Downey, Mr. Drinan, Mr. Edwards of California, Mr. Eilberg, Mr. Ford of Tennessee, Mr. Fascell, and Mr. Harrington):

H.R. 2033. A bill to require retailers to provide point of sale information to consumers concerning the recent price history of products and merchandise offered for sale at retail in commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. Hechler of West Virginia, Ms. Holtzman, Mr. Koch, Mr. Ottinger, Mr. Pepper, Mr. Pettis, Mr. Peyser, Mr. Rangel, Mr. Rodino, Mr. Ryan, Ms. Schroeder, Mr. Solarz, Mr. Yatron, and Mr. Zeferetti):

H.R. 2034. A bill to require retailers to provide point of sale information to consumers concerning the recent price history of products and merchandise offered for sale at retail in commerce, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ROSENTHAL (for himself, Mr. Addabbo, Mr. Bingham, Mr. Brodhead, Mr. Brown of California, Mr. Burke of Massachusetts, Ms. Collins of Illinois, Mr. Carney, Mr. Conyers, Mr. Dodd, Mr. Dominick V. Daniels, Mr. de Lugo, Mr. Downey, Mr. Duncan of Tennessee, Mr. Edwards of California, Mr. Fish, Mr. Ford of Tennessee, Mr. Fuqua, Mr. Gilman, Mr. Harkin, Mr. Harrington, Mr. Hawkins, Mr. Hechler of West Virginia, and Mr. Helstoski):

H.R. 2035. A bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation to handicapped persons and persons who are 65 years of age or older, to amend the Interstate Commerce Act to authorize free or reduced rate transportation for persons who are 65 years of age or older and to provide new and improved transportation programs for the handicapped and the elderly; to the Committee on Public Works and Transportation.

By Mr. ROSENTHAL (for himself, Ms. Holtzman, Mr. Johnson of Pennsylvania, Ms. Jordan, Mr. Koch, Mr. Mitchell of Maryland, Mr. Murtha, Mr. Nix, Mr. Ottinger, Mr. Rangel, Mr. Richmond, Mr. Rodino, Mr. Ryan, Mr. Solarz, Ms. Spellman, Mr. Stark, Mr. Studds, Mr. Tsongas, Mr. Waxman, Mr. Charles H. Wilson of California, Mr. Winn, Mr. Won Pat, and Mr. Zeferetti):

H.R. 2036. A bill to amend the Federal Aviation Act of 1958 in order to authorize free or reduced rate transportation to handicapped persons and persons who are 65 years of age or older, to amend the Interstate Commerce Act to authorize free or reduced rate transportation for persons who are 65 years of age or older, and to provide new and improved transportation programs for the handicapped and the elderly; to the Committee on Public Works and Transportation.

By Mr. ROSENTHAL (for himself, Ms. Holtzman, Mr. Koch, Mr. Lent, Mr. Mikva, Mr. Mitchell of Maryland, Mr. Murphy of Illinois, Mr. Ottinger, Mr. Rangel, Mr. Rodino, Mr. Solarz, and Ms. Spellman):

H.R. 2037. A bill to establish the Airport Noise Curfew Commission and to define its functions and duties; to the Committee on Public Works and Transportation.

By Mr. ROSENTHAL (for himself, Mr. Addabbo, Mr. Annunzio, Mr. Brodhead, Mr. Brown of California, Mr. Conyers, Mr. Corman, Mr. Dominick V. Daniels, Mr. Drinan, Mr. Gude, Mr. Harrington, Mr. Hawkins, and Mr. Helstoski):

H.R. 2038. A bill to establish the Airport Noise Curfew Commission and to define its functions and duties; to the Committee on Public Works and Transportation.

By Mr. ROSENTHAL (for himself, Mr. Addabbo, Mr. Conyers, Mr. Corman, Mr. Cotter, Mr. Diggs, Mr. Drinan, Mr. Edwards of California, Mr. Ford of Tennessee, Mr. Fraser, Mr. Harrington, Mr. Hechler of West Virginia, Ms. Holtzman, and Mr. Koch):

H.R. 2039. A bill to repeal the meat quota provisions of Public Law 88–482; to the Committee on Ways and Means.

By Mr. ROSENTHAL (for himself, Mr. Ottinger, Mr. Pepper, Mr. Rangel, Mr. Rodino, Mr. Ryan, Mr. St Germain, Mr. Sarbanes, Mr. Solarz, Mr. Studds, Mr. Tsongas, Mr. Yatron and Mr. Zeferetti):

H.R. 2040. A bill to repeal the meat quota provisions of Public Law 88–482; to the Committee on Ways and Means.

By Mr. ROSENTHAL (for himself, Mr. Addabbo, Mr. Badillo, Mr. Bingham, Mr. Brodhead, Mr. Brown of California, Mr. Conyers, Mr. Edwards of California, Mr. Eilberg, Mr. Ford of Tennessee, Mr. Harrington, Mr. Hawkins, Mr. Hechler of West Virginia, Mr. Helstoski, Ms. Holtzman, and Mr. Koch):

H.R. 2041. A bill to amend the Social Security Act to provide for a minimum annual income (subject to subsequent increases to reflect the cost of living) of $3,850 in the case of elderly individuals and $5,200 in the case of elderly couples; to the Committee on Ways and Means.

By Mr. ROSENTHAL (for himself, Mr. Mitchell of Maryland, Mr. Nix, Mr. Ottinger, Mr. Pattison of New York, Mr. Pepper, Mr. Richmond, Mr. Roe, Mr. Ryan, Mr. Solarz, Ms. Spellman, Mr. Stokes, M8. Waxman, Mr. Charles H. Wilson of California, Mr. Won Pat, and Mr. Zeferetti):

H.R. 2042. A bill to amend the Social Security Act to provide for a minimum annual income (subject to subsequent increases to reflect the cost of living) of $3,850 in the case of elderly individuals and $5,200 in the case of elderly couples; to the Committee on Ways and Means.

By Mr. ROYBAL:

H.R. 2043. A bill to authorize grants to the Deganawidah-Quetzalcoatl University; to the Committee on Education and Labor.

H.R. 2044. A bill to amend title 5, United States Code, to include as creditable service for civil service retirement purposes service as an enrollee of the Civilian Conservation Corps, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 2045. A bill to amend title 38, United States Code, to provide appropriate ceremonies with respect to the burial of veterans in national cemeteries; to the Committee on Veterans' Affairs.

H.R. 2046. A bill to amend title II of the Social Security Act to increase to $4,200 the amount of outside earnings which (subject to further increases under the automatic adjustment provisions) is permitted each year without any deductions from benefits thereunder; to the Committee on Ways and Means.

By Mr. ROYBAL (for himself and Mr. Edwards of California):

H.R. 2047. A bill to amend section 312(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. SEBELIUS:

H.R. 2048. A bill to amend the Internal Revenue Code of 1954 to increase the exemption for purposes of the Federal estate tax, to increase the estate tax marital deduction, and to provide an alternate method of valuing certain real property for estate tax purposes; to the Committee on Ways and Means.

By Mr. STAGGERS:

H.R. 2049. A bill to amend the Public Health Service Act to establish a comprehensive program of health care benefits (including catastrophic coverage) to be available to all individuals and families in the United States at a cost related to their income; to the Committee on Interstate and Foreign Commerce.

H.R. 2050. A bill to amend the Public Health Service Act to establish a comprehensive program of health care benefits (including catastrophic coverage) to be available to all individuals and families in the United States at a cost related to their income; to the Committee on Interstate and Foreign Commerce.

By Mr. STAGGERS (for himself and Mr. Devine):

H.R. 2051. A bill to amend the Regional Rail Reorganization Act of 1973 to increase the financial assistance available under section 213 and section 215, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. STARK:

H.R. 2052. A bill to amend the Bank Holding Company Act of 1956 to make it applicable to alien individuals; to the Committee on Banking, Currency and Housing.

By Mr. STEELMAN:

H.R. 2053. A bill to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions; jointly to the Committees on the Judiciary, and Standards of Official Conduct.

By Mr. STRATTON:

H.R. 2054. A bill to authorize the Secretary of the Navy to transfer ownership of two naval vessels no longer needed by the Navy to the city of New York, N.Y.; to the Committee on Armed Services.

By Mr. STUDDS (for himself, Mr. Adams, Mr. Beard of Rhode Island, Mr. Biaggi, Mr. Boland, Mr. Bolling, Mr. Carr, Mr. Carter, Mr. Clevbland, Mr. Conte, Mr. Cotter, Mr. Dodd, Mr. Drinan, Mr. Early, Mr. Esch, Mr. Forsythe, Mr. Gaydos, Mr. Harkin, Mrs. Heckler of Massachusetts, Mr. Helstoski, Mr. Henderson, Mr. Holland, Mrs. Holt, Mr. Hughes, and Mr. Ichord):

H.R. 2055. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS (for himself, Mr. Jeffords, Mr. Jenrette, Mr. Jones of North Carolina, Mr. Lehman, Mr. Meeds, Mr. Mezvinsky, Mr. Moakley, Mr. Moffett, Mr. Murphy of New York, Mr. O'Neill, Mr. Ottinger, Mr. Rangel, Mr. Rinaldo, Mr. Ryan, Mr. St Germain, Mr. Sarasin, Mr. Thompson, Mr. Tsongas, Mr. Vigorito, Mr. Whitehurst, Mr. Charles H. Wilson of California, Mr. Won Pat, Mr. Yatron, and Mr. Zeferetti):

H.R. 2056. A bill to extend on an interim basis the jurisdiction of the United States over certain ocean areas and fish in order to protect the domestic fishing industry, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. STUDDS (for himself and Mr. Pritchard):

H.R. 2057. A bill to amend the Endangered Species Act of 1973 to make it more consistent with the Marine Mammal Protection Act of 1972; to the Committee on Merchant Marine and Fisheries.

By Mr. TALCOTT:

H.R. 2058. A bill to establish a universal food service and nutrition education program for children; to the Committee on Education and Labor.

H.R. 2059. A bill to amend the Internal Revenue Code of 1954 to restore the provisions permitting the deduction, without regard to the 3-percent and 1-percent floors, of medical expenses incurred for the care of individuals 65 years of age and over; to the Committee on Ways and Means.

H.R. 2060. A bill to amend the Internal Revenue Code of 1954 to authorize a deduction from gross income for certain contributions to the support of an aged parent or divorced mother who is not gainfully employed; to the Committee on Ways and Means.

By Mr. THOMPSON:

H.R. 2061. A bill to direct the Administrator of the General Services Administration to transfer the Old Post Office Building located in the District of Columbia to the National Endowment for the Arts; to the Committee on Public Works and Transportation.

By Mr. UDALL (for himself, Mrs. Mink, Mr. Benitez, Mr. Blanchard, Mr. Boland, Mr. John L. Burton, Mr. Cotter, Mr. Cornell, Mr. Drinan, Mr. Ford of Tennessee, Mr. Heinz, Mr. Holland, Mr. Howard, Mrs. Keys, Mr. Leggett, Mr. Mottl, Mr. Nolan, Mr. Richmond, Mrs. Schroeder, Mr. Shipley, Mr. Studds, Mr. Vander, Veen, and Won Pat):

H.R. 2062. A bill to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. UDALL:

H.R. 2063. A bill to designate certain public lands and waters in the State of Alaska for national conservation purposes to be administered as units of the National Park System, the National Wildlife Refuge System, National Wild and Scenic Rivers System, and the National Forest System; to the Committee on Interior and Insular Affairs.

By Mr. ULLMAN:

H.R. 2064. A bill pertaining to the inheritance of enrolled members of the Confederated Tribes of the Umatilla Indian Reservation of Oregon; to the Committee on Interior and Insular Affairs.

H.R. 2065. A bill pertaining to land consolidation and development on the Umatilla Indian Reservation; to the Committee on Interior and Insular Affairs.

By Mr VANIK (for himself, Ms. Abzug, Mr. AuCoin, Mr. Bevill, Mr. Bell, Mr. Brown of California, Mr. Burke of Massachusetts, Mr. Carney, Mr. Carter, Mr. Cleveland, Mrs. Collins of Illinois, Mr. Coughlin, Mr. Dominick V. Daniels, Mr. Diggs, Mr. Downey, Mr. Edwards of California, Mr. Eilberg, Mr. Esch, Mrs. Fenwick, Mr. Ford of Michigan, Mr. Ford of Tennessee, Mr. Fraser, Mr. Goodling, Mr. Hawkins, and Mr. Hechler of West Virginia):

H.R. 2066. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit or an income tax deduction for certain expenditures of a taxpayer relating to the thermal design of the residence of such taxpayer; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. Helstoski, Mr. Holland, Miss Holtzman, Mr. Horton, Mr. Howe, Mr. Jeffords, Mr. Johnson of Pennsylvania, Mr. Jones of Oklahoma, Mr. Jones of North Carolina, Mr. Lloyd of California, Mr. Long of Maryland, Mr. McCormack, Mr. McKay, Mr. Mann, Mr. Melcher, Mr. Metcalfe, Mrs. Mink, Mr. Mitchell of New York, Mr. Moorhead of Pennsylvania, Mr. Mosher, Mr. Mottl, Mr. Murphy of New York, Mr. Obey, and Mr. Ottinger):

H.R. 2067. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit or an income tax deduction for certain expenditures of a taxpayer relating to the thermal design of the residence of such taxpayer; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. Pepper, Mr. Pritchard, Mr. Quie, Mr. Rangel, Mr. Regula, Mr. Roberts, Mr. Rodino, Mr. Roe, Mr. Ryan, Mr. St Germain, Mr. Santini, Mr. Sarbanes, Mr. Solarz, Ms. Spellman, Mr. Stokes, Mr. Studd, and Mr. Symington):

H.R. 2068. A bill to amend the Internal Revenue Code of 1954 to allow an income tax credit or an income tax deduction for certain expenditures of a taxpayer relating to the thermal design of the residence of such taxpayer; to the Committee on Ways and Means.

By Mr. CHARLES H. WILSON of California:

H.R. 2069. A bill to provide for the Presidential appointment of the Director of the Federal Bureau of Investigation, to limit the Director's term of office, and for other purposes; to the Committee on the Judiciary.

H.R. 2070. A bill to require the destruction of certain files maintained by the Federal Bureau of Investigation with respect to Members of Congress, and to require notice to the Speaker of the House of Representatives and the President pro tempore of the Senate of certain other such files; to the Committee on the Judiciary.

H. R. 2071. A bill to establish standards for the settlement of disputed title claims to certain real properties alleged to be public lands of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. WINN:

H.R. 2072. A bill to amend the Internal Revenue Code of 1954 to treat the amounts paid for custodial care by institutions of certain dependents as amounts paid for medical care; to the Committee on Ways and Means.

By Mr. WON PAT:

H.R. 2073. A bill to provide for the removal of the public debt limitations contained in section 11 of the Organic Act of Guam; to the Committee on Interior and Insular Affairs.

By Mr. YOUNG of Florida:

H.R. 2074. A bill to authorize designated employees of the National Park Service to make arrests for offenses against the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 2075. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

H.R. 2076. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income $500 of interest on savings in the case of an individual taxpayer; to the Committee on Ways and Means.

H.R. 2077. A bill to amend titles II and XVIII of the Social Security Act to include qualified drugs, requiring a physician's prescription or certification and approved by a formulary committee, among the items and services covered under the hospital insurance program; to the Committee on Ways and Means.

By Mr. ECKHARDT (for himself, Ms. Abzug, Mr. Badillo, Mr. Bingham, Mr. Carney, Mr. Conyers, Mr. Danielson, Mr. Dingell, Mr. Dodd, Mr. Downey, Mr. Edgar, Mr. Gibbons, Mr. Hall, Mr. Harrington, Mr. Hechler of West Virginia, Mrs. Lloyd of Tennessee, Mr. Mitchell of Maryland, Mr. Nix, Mr. Rangel, Mr. Rees, Mr. Reuss, Mr. Richmond, Mr. Rodino, Mr. Rosenthal, and Mr. Sarbanes):

H.R. 2078. A bill to provide implementation of the Federal Trade Commission Act to give increased protection to consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ECKHARDT (for himself, Mr. Simon, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Studds, Mrs. Sullivan, Mr. Tsongas, Mr. Howe, and Mr. Drinan):

H.R. 2079. A bill to provide implementation of the Federal Trade Commission Act to give increased protection to consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. McKINNEY:

H.R. 2080. A bill to amend the Automobile Information Disclosure Act to provide for the disclosure of fuel consumption by certain automobiles, under rules prescribed by the Administrator of the Environmental Protection Agency, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BERGLAND (for himself, Mr. Peyser, Mr. Fraser, Mr. Koch, Mr. Weaver, Mr. Abdnor, Ms. Abzug, Mr. Addabbo, Mr. Anderson of California Mr. Aspin, Mr. Bedell, Mr. Biaggi, Mr. Blouin, Mrs. Boggs, Mr. Boland, Mr. Brademas, Mr. Breaux, Mr. Brodhead, Mr. Brown of California, Mr. John L. Burton, Mr. Carr, Mr. Clay, Mr. Conyers, Mr. Cornell, and Mr. Cotter):

H.R. 2081. A bill to amend the Food Stamp Act of 1964; to the Committee on Agriculture.

By Mr. PEYSER (for himself, Mr. Bergland, Mr. Fraser, Mr. Koch, Mr. Weaver, Mr. Diggs, Mr. Drinan, Mr. Edgar, Mr. Edwards of California, Mr. Fascell, Mr. Fish, Mr. Ford of Michigan, Mr. Forsythe, Mr. Fulton, Mr. Harkin, Mr. Harrington, Mr. Hechler of West Virginia, Ms. Holtzman, Mr. Hubbard, Mr. Kastenmeier, Mrs. Keys, Mr. Lehman, Mr. McDade, Mr. McHugh, and Mr. Matsunaga):

H.R. 2082. A bill to amend the Food Stamp Act of 1964; to the Committee on Agriculture.

By Mr. FRASER (for himself, Mr. Bergland, Mr. Peyser, Mr. Koch, Mr. Weaver, Mr. Meeds, Mr. Metcalfe, Mr. Miller of California, Mrs. Mink, Mr. Mollohan, Mr. Moorhead of Pennsylvania, Mr. Morgan, Mr. Moss, Mr. Nix, Mr. Nolan, Mr. Oberstar, Mr. Obey, Mr. Ottinger, Mr. Perkins, Mr. Rangel, Mr. Riegle, Mr. Rodino, Mr. Roe, Mr. Rosenthal, and Mr. Roybal):

H.R. 2083. A bill to amend the Food Stamp Act of 1964; to the Committee on Agriculture.

By Mr. KOCH (for himself, Mr. Bergland, Mr. Peyser, Mr. Fraser, Mr. Weaver, Mr. Ryan, Mr. Sarbanes, Mr. Seiberling, Mr. Simon, Mr. Smith of Iowa, Mr. Solarz, Mrs. Spellman, Mr. James V. Stanton, Mr. Stark, Mr. Stokes, Mr. Stratton, Mr. Studds, Mr. Symington, Mr. Tsongas, Mr. Udall, Mr. Vander Veen, Mr. Vanik, Mr. Vigorito, Mr. Charles H. Wilson of California, and Mr. Wirth):

H.R. 2084. A bill to amend the Food Stamp Act of 1964; to the Committee on Agriculture.

By Mr. WEAVER (for himself, Mr. Bergland, Mr. Peyser, Mr. Fraser, Mr. Koch, Mr. Wolff, Mr. Won Pat, Mr. Yates, Mr. Yatron, Mr. Duncan of Oregon, and Mrs. Chisholm):

H.R. 2085. A bill to amend the Food Stamp Act of 1964; to the Committee on Agriculture.

By Mr. BELL (for himself, Mr. Del Clawson, Mr. Fascell, Mr. Kindness, Mr. Lagomarsino, Mr. McKinney, Mr. Moorhead of California, Mr. Pattison of New York, Mr. Riegle, Mr. Roybal, Mr. Ryan, Mr. Steelman, and Mr. Talcott):

H.J. Res. 119. Joint resolution to authorize the Secretary of the Interior to establish on certain public lands of the U.S. national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BRINKLEY:

H.J. Res. 120. Joint resolution proposing an amendment to the Constitution of the United States to provide for the special election of a Vice President in cases of vacancy in that office; to the Committee on the Judiciary.

By Mr. BURKE of Massachusetts:

H.J. Res. 121. Joint resolution proposing an amendment to the Constitution of the United States for the protection of unborn children and other persons; to the Committee on the Judiciary.

By Mr. CARTER:

H.J. Res. 122. Joint resolution designating the American rose as the national floral emblem of the United States; to the Committee on House Administration.

By Mr. EILBERG:

H.J. Res. 123. Joint resolution to require the Watergate Special Prosecution Force to make available to the public a report on all information it has concerning Richard M. Nixon's alleged offenses against the United States; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.J. Res. 124. Joint resolution proposing an amendment to the Constitution of the United States to repeal the 25th amendment to that Constitution; to the Committee on the Judiciary.

By Mr. MATSUNAGA:

H.J. Res. 125. Joint resolution to declare a U.S. policy of achieving population stabilization by voluntary means; to the Committee on Government Operations.

H.J. Res. 126. Joint resolution proposing an amendment to the Constitution of the United States providing that the term of office of Members of the House of Representatives shall be 4 years, and for other purposes; to the Committee on the Judiciary.

H.J. Res. 127. Joint resolution proposing an amendment to the Constitution of the United States to provide that a citizen shall not be ineligible to the Office of the President by reason of not being native born if he has been a U.S. citizen for at least 12 years and a resident within the United States for 14 years; to the Committee on the Judiciary.

By Mr. MINISH:

H.J. Res. 128. Joint resolution to authorize the President to proclaim the last Friday of April each year as "National Arbor Day"; to the Committee on Post Office and Civil Service.

By Mr. MOORE:

H.J. Res. 129. Joint resolution proposing an amendment to the Constitution of the United States relative to neighborhood schools; to the Committee on the Judiciary.

By Mr. O'NEILL (for himself, Mr. Ford of Tennessee, Mr. Chappell, Mr. Cotter, Mr. Beard of Rhode Island, Mr. Harrington, Mr. Early, Mr. Dodd, Mr. Gibbons, Mr. Emery, Mr. Jeffords, Mr. Giaimo, Mr. Macdonald of Massachusetts, Mr. Lehman, Mr. Moakley, Mr. Vanik, Mr. Vander Veen, Mr. Rangel, Mr. Boland, Mr. Burke of Massachusetts, Mrs. Heckler of Massachusetts, Mr. Tsongas, Mr. Conte, Mr. McKinney, and Mr. Cohen):

H.J. Res. 130. Joint resolution to prohibit for a period of 60 days the imposition of tariffs, fees and quotas on oil imports, and to thereafter require the submission to, and the right of approval of the Congress of any such action within 30 days; to the Committee on Ways and Means.

By Mr. O'NEILL (for himself, Mr. Studds, Mr. St Germain, Mr. Drinan, Moffett, Mr. D'Amours, Mr. AuCoin, and Mr. Mezvinsky):

H.J. Res. 131. A Joint resolution to prohibit for a period of 60 days the imposition of tariffs, fees, and quotas on oil imports, and to thereafter require the submission to, and the right of approval of the Congress of any such action within 30 days; to the Committee on Ways and Means.

By Mr. OBERSTAR (for himself, Mr. McDonald of Georgia, Mr. Bergland, Mr. Nolan, Mr. Hagedorn, Mr. Lagomarsino, Mr. McCollister, and Mr. Hyde):

H.J. Res. 132. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. ROBINSON:

H.J. Res. 133. Joint resolution proposing an amendment to the Constitution of the United States with respect to the attendance of Senators and Representatives at sessions of the Congress; to the Committee on the Judiciary.

By Mr. ROE:

H.J. Res. 134. Joint resolution authorizing increased production of petroleum from the Elk Hills Naval Petroleum Reserve for national defense purposes; to the Committee on Armed Services.

By Mr. SEBELIUS:

H.J. Res. 135. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans' Day; to the Committee on Post Office and Civil Service.

By Mr. TALCOTT:

H.J. Res. 136. Joint resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the United States-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

H.J. Res. 137. Joint resolution designating the square dance as the national folk dance of the United States of America; to the Committee on the Judiciary.

H. J. Res. 138. Joint resolution to amend title 5 of the United States Code to provide for the designation of the 11th day of November of each year as Veterans Day; to the Committee on Post Office and Civil Service.

H. J. Res. 139. Joint resolution to authorize and request the President to issue a proclamation designating May 13 of each year as "American Business Day"; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida:

H. J. Res. 140. Joint resolution proposing an amendment to the Constitution to permit the imposition and carrying out the death penalty in certain cases; to the Committee on the Judiciary.

By Mr. ANDERSON of California:

H. Con. Res. 51. Concurrent resolution; that an imposition of a ceiling on social security benefits not be enacted; to the Committee on Ways and Means.

By Mr. DRINAN:

H. Con. Res. 52. Concurrent resolution expressing the sense of Congress that the contingent of U.S. troops stationed in Europe be substantially reduced; to the Committee on Foreign Affairs.

By Mr. GAYDOS:

H. Con. Res. 53. Concurrent resolution to collect overdue debts; to the Committee on Foreign Affairs.

By Mr. GONZALEZ:

H. Con. Res. 54. Concurrent resolution relating to unaccounted for personnel captured, killed, or missing during the Indochina conflict; to the Committee on Foreign Affairs.

By Mr. HARRINGTON:

H. Con. Res. 55. Concurrent resolution to establish a joint select committee to study governmental operations with respect to intelligence; to the Committee on Rules.

By Mr. McCLORY:

H. Con. Res. 56. Concurrent resolution expressing the sense of the Congress with respect to International Women's Year; to the Committee on Post Office and Civil Service.

By Mr. McFALL (for himself, Mr. Reuss, Mr. Brademas, Mr. Duncan of Tennesee, Ms. Abzug, Mr. Adams, Mr. Addabbo, Mr. Ambro, Mr. AuCoin, Mr. Badillo, Mr. Baldus, Mr. Baucus, Mr. Bennett, Mr. Biaggi, Mr. Bingham, Mr. Breaux, Mr. Brodhead, Mr. Bonker, Mr. Brown of California, Mr. Carney, Mr. Corman, Mr. Cornell, Mr. Cotter, Mr. D'Amours, and Mr. Danielson):

H. Con. Res. 57. Concurrent resolution to express the sense of the Congress that the President should not impose any tariff or other import restriction on petroleum or petroleum products before April 1, 1975; to the Committee on Ways and Means.

By Mr. McFALL (for himself, Mr. Reuss, Mr. Brademas, Mr. Fish, Mr. Davis, Mr. Dent, Mr. Diggs, Mr. Dodd, Mr. Downing, Mr. Drinan, Mr. Duncan of Oregon, Mr. Edgar, Mr. Eilberg, Mr. Evans of Colorado, Mr. Fascell, Mr. Fauntroy, Mr. Fisher, Mr. Ford of Michigan, Mr. Fraser, Mr. Fuqua, Mr. Gaydos, Mr. Haley, Mr. Hannaford, Mr. Harrington, and Mr. Hechler of West Virginia):

H. Con. Res. 58. Concurrent resolution to express the sense of the Congress that the President should not impose any tariff or other import restriction on petroleum or petroleum products before April 1, 1975; to the Committee on Ways and Means.

By Mr. McFALL (for himself, Mr. Reuss, Mr. Brademas, Mr. Harsha, Mr. Helstoski, Mr. Henderson, Mr. Holland, Miss Holtzman, Mr. Hubbard, Mr. Hungate, Mr. Ichord, Mr.

Jenrette, Mr. Jones of North Carolina, Miss Jordan, Mrs. Keys, Mr. Koch, Mr. Krebs, Mr. LaFalce, Mr. Leggett, Mr. Lehman, Mr. Litton, Mr. Lloyd of California, Mrs. Lloyd of Tennessee, Mr. McCormack, and Mr. McKay):

H. Con. Res. 59. Concurrent resolution to express the sense of the Congress that the President should not impose any tariff or other import restriction on petroleum or petroleum products before April 1, 1975; to the Committee on Ways and Means.

By Mr. McFALL (for himself, Mr. Reuss, Mr. Brademas, Mr. McKinney, Mr. Metcalfe, Mr. Miller of California, Mr. Minish, Mr. Mitchell of Maryland, Mr. Moorhead of Pennsylvania, Mr. Morgan, Mr. Moss, Mr. Mottl, Mr. Neal, Mr. Nedzi, Mr. Obey, Mr. O'Hara, Mr. Ottinger, Mr. Patman, Mr. Patten, Mr. Patterson of California, Mr. Pattison of New York, Mr. Pepper, Mr. Perkins, Mr. Rangel, and Mr. Riegle):

H. Con. Res. 60. Concurrent resolution to express the sense of the Congress that the President should not impose any tariff or other import restriction on petroleum or petroleum products before April 1, 1975; to the Committee on Ways and Means.

By Mr. McFALL (for himself, Mr. Reuss, Mr. Brademas, Mr. Richmond, Mr. Rodino, Mr. Roe, Mr. Roncalio, Mr. Rosenthal, Mr. Roybal, Mr. Santini, Mr. Seiberling, Mr. Solarz, Mr. James V. Stanton, Mr. Stokes, Mr. Stratton, Mr. Studds, Mrs. Sullivan, Mr. Tsongas, Mr. Udall, Mr. Vander Veen, Mr. Vigorito, Mr. Charles H. Wilson of California, Mr. Wolff, Mr. Won Pat, and Mr. Yatron):

H. Con. Res. 61. Concurrent resolution to express the sense of the Congress that the President should not impose any tariff or other import restriction on petroleum or petroleum products before April 1, 1975; to the Committee on Ways and Means.

By Mr. McFALL (for himself, Mr. Reuss, Mr. Brademas, Mr. Dominick V. Daniels, Mr. Hughes, Mr. Nix, Mr. Ryan, Mr. Stark, Mr. Traxler, Mr. Zeferetti, and Mr. Boland):

H. Con. Res. 62. Concurrent resolution to express the sense of the Congress that the President should not impose any tariff or other import restriction on petroleum or petroleum products before April 1, 1975; to the Committee on Ways and Means.

By Mr. NOWAK:

H. Con. Res. 63. Concurrent resolution expressing the sense of the Congress that the President, acting through the U.S. Ambassador to the United Nations Organization, take such steps as may be necessary to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization; to the Committee on Foreign Affairs.

H. Con. Res. 64. Concurrent resolution requesting release of two Ukrainian intellectuals; to the Committee on Foreign Affairs.

By Mr. RAILSBACK:

H. Con. Res. 65. Concurrent resolution to establish a Joint Committee on Energy; to the Committee on Rules.

By Mr. TALCOTT:

H. Con. Res. 66. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

H. Con. Res. 67. Concurrent resolution relating to the U.S. fishing industry; to the Committee on Merchant Marine and Fisheries.

By Mr. MINISH:

H. Res. 87. Resolution concerning the safety and freedom of Valentyn Moroz, Ukrainian historian; to the Committee on Foreign Affairs.

By Mr. MATSUNAGA:

H. Res. 88. Resolution providing for senior citizen interns; to the Committee on House Administration.

H. Res. 89. Resolution expressing the sense of the House that Little League Baseball, Inc., should permit foreign countries to participate; to the Committee on the Judiciary.

By Mr. NOWAK:

H. Res. 90. Resolution disapproving the deferral of budget authority relating to comprehensive planning grants (deferral numbered D 75–107) which is proposed by the President in his special message of November 26, 1974, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. PEYSER:

H. Res. 91. Resolution disapproving the deferral of certain budget authority relating to atomic energy which is proposed by the President in his message of November 26, 1974, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. REGULA:

H. Res. 92. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the United States-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. REGULA (for himself and Mr. Hillis):

H. Res. 93. Resolution creating a select committee to conduct a full and complete investigation and study of shortages of materials and natural resources affecting the United States; to the Committee on Rules.

By Mrs. SPELLMAN:

H. Res. 94. Resolution concerning the oversight responsibilities of the committee of the House of Representatives with respect to the locating and relocating of Federal installations and facilities; to the Committee on Rules.

By Mr. STARK (for himself, Mr. Badillo, Mr. Pepper, Mr. Tsongas, Mr. Gilman, Mr. Jenrette, Mr. Breaux, Mr. Litton, and Mr. Conte):

H. Res. 95. Resolution disapproving the deferral of budget authority relating to comprehensive planning grants (deferral numbered D75–107) which is proposed by the President in his special message of November 26, 1974, transmitted under section 1013 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. TALCOTT:

H. Res. 96. Resolution to amend the Rules of the House of Representatives with respect to the estimated cost to the public and nonpublic sectors of legislation and proposed administrative rulemaking; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII.

10. The SPEAKER presented a memorial of the Legislature of the State of California, relative to veterans' pensions; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ADDABBO:

H.R. 2086. A bill for the relief of Daisy Vargas Cole; to the Committee on the Judiciary.

H.R. 2087. A bill for the relief of Antonio and Rosa Corrao and children Vincenzo, Giuseppe, Michele, and Rosa Corrao; to the Committee on the Judiciary.

By Mr. BINGHAM:

H.R. 2088. A bill for the relief of Edward N. Evans; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON:

H.R. 2089. A bill for the relief of Reynaldo Ayala; to the Committee on the Judiciary.

H.R. 2090. A bill for the relief of Edna Pesquera Cezar; to the Committee on the Judiciary.

H.R. 2091. A bill for the relief of Allan Chan, also known as Sui Chan Chan; to the Committee on the Judiciary.

H.R. 2092. A bill for the relief of Robert Dona; to the Committee on the Judiciary.

H.R. 2093. A bill for the relief of Mr. and Mrs. John F. Fuentes; to the Committee on the Judiciary.

H.R. 2094. A bill for the relief of Rhody E. Laigo; to the Committee on the Judiciary.

H.R. 2095. A bill for the relief of Jose Ramon Morales and his wife Joyce; to the Committee on the Judiciary.

H.R. 2096. A bill for the relief of Paz A. Norona; to the Committee on the Judiciary.

H.R. 2097. A bill for the relief of James R. Oom, Jr.; to the Committee on the Judiciary.

H.R. 2098. A bill for the relief of Kai Hung Pun aka Wah Poon; to the Committee on the Judiciary.

H.R. 2099. A bill for the relief of Augustin Robleto-Caldera; to the Committee on the Judiciary.

H.R. 2100. A bill for the relief of Maria Isaura Russo; to the Committee on the Judiciary.

H.R. 2101. A bill for the relief of Joseph Francis Smith; to the Committee on the Judiciary.

H.R. 2102. A bill for the relief of Mildred Del Carmen Gaitan Tijerino; to the Committee on the Judiciary.

H.R. 2103. A bill for the relief of Praskumar A. Doshi and his wife Vasanthi; to the Committee on the Judiciary.

By Mr. CARTER:

H.R. 2104. A bill to waive the statute of limitations with regard to the tort claims of certain individuals against the United States; to the Committee on the Judiciary.

By Mrs. CHISHOLM:

H.R. 2105. A bill for the relief of Ronald V. Johnson; to the Committee on the Judiciary.

H.R. 2106. A bill for the relief of Marlene Pyle; to the Committee on the Judiciary.

By Mr. FULTON:

H.R. 2107. A bill for the relief of Dr. Jesus Fernandez Tirao and his wife Benylin-Lynda Obiena Tirao; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H.R. 2108. A bill for the relief of Angela Barnett; to the Committee on the Judiciary.

H.R. 2109. A bill for the relief of Capt. George Moore, Jr., of the U.S. Air Force; to the Committee on the Judiciary.

By Mr. HENDERSON:

H.R. 2110. A bill for the relief of Joyce Ann Farrior; to the Committee on the Judiciary.

By Mr. JONES of Alabama:

H.R. 2111. A bill for the relief of the estate of Clarence Schrimsher; to the Committee on the Judiciary.

By Mr. KASTENMEIER:

H.R. 2112. A bill for the relief of Bethani Maria Amble; to the Committee on the Judiciary.

By Mr. MELCHER:

H.R. 2113. A bill to authorize the Secretary of the Interior to convey certain lands to August Sobotka and Joseph J. Tomalino of Intake, Mont.; to the Committee on Interior and Insular Affairs.

By Mr. POAGE:

H.R. 2114. A bill for the relief of S. Sgt. George L. Easterwood, U.S. Army (retired); to the Committee on the Judiciary.

By Mr. REUSS:

H.R. 2115. A bill for the relief of Antonio Miguel Callender; to the Committee on the Judiciary.

H.R. 2116. A bill for the relief of Grace

Nien-Tsu Yu; to the Committee on the Judiciary.

By Mr. JAMES V. STANTON:

H.R. 2117. A bill for the relief of Francesco Giuttari; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 2118. A bill for the relief of Cheryl Lynn V. Camacho; to the Committee on the Judiciary.

H.R. 2119. A bill for the relief of Maria Gilda Jiminez-Alcala; to the Committee on the Judiciary.

H.R. 2120. A bill for the relief of Judy Ann Allen, Katherine Adell Cooper, Victoria Machado Davenport, Margaret Agnes Davidson, Linda Mae Epperson, Tom Epperson, Josephine M. King, Ronald Lowell King, Wesley Bryant King, Richard Phillip King, Steven Dale King, Randolph Clark King, Weldon Scott King, Rebecca Laureen King, Russell Eugene King, Sharon Lee Smith, and Delores Y Fernandez Winje; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

11. By the SPEAKER: Petition of the city council, East Orange, N.J., relative to funding for juvenile delinquency programs; to the Committee on Appropriations.

12. Also petition of the Board of Directors, National Council for Urban Economic Development, Washington, D.C., relative to economic revitalization of the Nation's cities; to the Committee on Banking, Currency, and Housing.

13. Also, petition of the North Park Republican Assembly, San Diego, Calif., relative to the United Nations; to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

HARLEM'S NATIONAL BLACK THEATER A VITAL COMMUNITY INSTITUTION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. RANGEL. Mr. Speaker, the Black National Theater in Harlem founded and directed by Ms. Barbara Teer has been one of the most valuable, worthwhile, and exciting programs in our community. Since 1968 they have been a positive force in Harlem, asking people indirectly to confront their own lives and celebrating constantly the achievements and experience of black writers, artists, and scholars.

I would like to submit the following article recently written by Carlos Ortiz of the Community News Service on the accomplishments of the National Black Theater, not only to inform my colleagues of the many activities in which the National Black Theater is involved, but also to honor Ms. Teer and her organization for their genuine dedication to the Harlem community and its undiscovered reservoir of potential writers, artists, and scholars.

The article follows:

HARLEM'S NATIONAL BLACK THEATER STILL GROWING

(By Carlos Ortiz)

OCTOBER 14.—Barbara Ann Teer's dream has already been realized; but the National Black Theater, the embodiment of Ms. Teer's life-long ambitions, has not ceased growing and, under her leadership, continues to expand.

The National Black Theater (NBT) was founded by Ms. Teer in 1968; but a comparison of the present form of this Pan-Africanist cultural institution to the workshop from which it spawned, reveals the extent to which Ms. Teer's carefully cultivated idea has blossomed.

NBT, located at 9 E. 125th Street, has undertaken a series of weekly programs designed "to share, in direct communication, the experience and expertise of Black writers, scholars and artists with the community they serve."

These programs, entitled "Blackenings," are presented every Sunday at 2 p.m., with guest appearances (as lecturers/demonstrators) by different, prominent Blacks each week.

Speakers last year included Stokely Carmichael, Judge Bruce Wright, poetess Sonia Sanchez, writer-performer Nikki Giovanni and musician Alice Coltrane.

This year's series began October 4 and featured internationally known Nigerian artist, Michael Olatunji who was followed on October 13 by Ron Johnson, assistant producer of the television show "Positively Black," and Chester Higgins, author of a number of award-winning photographic documentaries on Black life styles.

This coming Sunday, October 20, NBT will host "The Rwensori's African Review," a 16-member troupe of singers and musicians on tour from Uganda. The evening will mark the first time an East African group of artists will perform in the United States.

"Blackenings" consist of three principal stages: an African market (with various artifacts of African culture, including health foods, incense and jewelry); the guest speaker's presentation and a question and answer session.

NBT, which is a non-profit, tax-exempt organization, also operates an education workshop series, with such courses as acting and video workshops, workshops in "individual liberation and creative expression," "Dimensions in Black Music," and "New Directions in Man-Woman Relationships."

However, the essential force of motivation which rests at the heart of NBT is the belief that the theatre can be used as a tool "to create a wider communication—Black people with Black people—to attempt to reverse the process of negative thinking that has been entrenched within our people and replace it with positive thoughts through the process of self-examination."

It is toward the attainment of that admittedly ambitious goal of raising Black awareness that the 30 members of NBT have strived within the last two years via their travels to Africa and Haiti.

What has emerged from their travels and constant study and re-examination is a philosophy which NBT employs in its performances—the belief that "acting is a study of life" and that Black life throughout American history has evolved through five distinct stages: "nigger, negro, nationalist, militant, revolutionary," said Ms. Hasani, a spokeswoman.

The revolutionary spirit instilled in NBT by its founder and director, Ms. Teer (who was at one time considered "the up and coming Black actress" of the "legitimate" stage) is, undoubtedly, directly responsible for the group's fervor and for its success at obtaining an audience from a wide-ranging spectrum of the Black community.

NBT's future success appears certain, if for no reasons other than the unity and dedication exhibited by the group's cohesive members.

SEEKING CURES FOR THE NATION'S ECONOMIC ILLS

HON. JAKE GARN

OF UTAH

IN THE SENATE OF THE UNITED STATES

Thursday, January 23, 1975

Mr. GARN. Mr. President, President Ford has made a comprehensive statement on the economy, and further details are expected shortly. For their part, the congressional Democrats have taken to the air to broadcast a critique and to offer some alternatives. The details of our actual course of action will be hammered out in tough bargaining among the White House and the two Houses of Congress, with input from economists and the public. While I would not at this time venture specific measures, the following are some principles by which I shall be guided as I evaluate any proposals made:

First. The best way to stimulate the economy in a way that will not be inflationary is to encourage capital investment and production. Federal deficits tend to dry up capital markets and thus make investment difficult. The administration has now announced that it will be borrowing $28 billion this year and has warned that this action will have an adverse impact on interest rates. It seems clear to me that tax cuts and rebates must be matched by cuts in spending.

Second. The marketplace is the fairest, most effective mechanism for allocating scarce energy resources. Rationing would produce inequities and misallocation and would require an expensive administrative bureaucracy. While a rise in gas prices is a bitter pill, it can reduce our dependence on oil and encourage the development of the alternative energy sources so necessary for energy independence.

Third. We must look at the long run and not over-react to a short-term crisis. Unemployment is not desirable, but there is little evidence that double-digit inflation will reduce it. The surest way to a strong employment picture is through a strong economy, free from the distortions produced by Government regulation, and massive deficits.

Fourth. Government spending is almost always spending for consumption, while what we need is production. Consequently, the presumption must be against any new spending programs. Many things are desirable, but few things are essential to the survival of our society. That essentiality must be made the test.

These are the principles I will be bringing to the analysis of the proposals we will be hearing on cures for the Nation's economic ills. I think that they are grounded on sound economics, experience, and commonsense. I invite others to consider them in their own analysis.

CHARLES J. HITCH, PRESIDENT OF THE UNIVERSITY OF CALIFORNIA, ANNOUNCES HIS RETIREMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ANDERSON of California. Mr. Speaker, nearly a century ago Herbert Spencer wrote that education has for its object the formation of character. I am confident, therefore, that he would be pleased to see the actualization of these lofty words personified in the life of one of California's foremost educators, Charles J. Hitch, president of the University of California.

Much of the worldwide reputation which California has earned for her outstanding educational system belongs to people like Charles Hitch who contribute their time and talents to help their fellow man.

I have had the good fortune to have worked with this dedicated individual nearly a decade ago when I served as a regent to the University of California while he was vice president. Since 1968, he has served as president of one of our Nation's largest universities, having an enrollment of over 116,000 distributed throughout its 9 campuses in the State of California.

In addition to his valuable contributions in the field of education, Charles Hitch has also earned a reputation as an outstanding author, having written several books on economics and military matters; as a researcher, having worked as the chairman of the research council for the Rand Corp., one of the Nation's best nonprofit research corporation; and as a professor, having taught at the Universities of San Paulo, Brazil; Yale; and the University of California, at Los Angeles. Currently he holds an appointment as professor of economics at the Berkeley campus.

During World War II, he actively involved himself in our war efforts in numerous assignments, including his participation on Averell Harriman's first lend-lease mission in London. Later, in 1961, President Kennedy appointed him to serve as Assistant Secretary of Defense as a comptroller.

For his valuable contributions, Charles Hitch has won numerous honors and recognitions, among these include his receiving an honorary doctor of laws degree from the Universities of Arizona, Missouri, and Pittsburgh; a doctor of science in commerce from Drexel University; a doctor of humane letters from the University of Judaism; and an honorary Fellow for Queen's College and Worcester College, Oxford.

Mr. Speaker, after many years of dedication to the improvement of the University of California, President Charles Hitch has announced his retirement effective July 1, 1975, in order to assume a new position as president of resources for the Future, Inc. This is a nonprofit corporation dedicated to research and education for the development, conservation, and use of natural resources. At a time when we are becoming more aware of the need to conserve our valuable resources, we can be grateful that we will have a man of Charles Hitch's vast experiences, knowledge, and dedication to work in our behalf.

My wife, Lee, joins me in wishing him, his lovely wife, Nancy, and their daughter, Caroline Winslow, our very best in their future endeavors.

RULES OF THE HOUSE

HON. ROBERT DUNCAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 14, 1975

Mr. DUNCAN of Oregon. Mr. Speaker, during my prior service in the Congress in the early sixties, one of the most difficult votes I cast was against the bill to fund what was then known as the Committee on Un-American Activities—today called the Internal Security Committee. Because of the political climate I knew that I would not be on the prevailing side and that there would be only a few who shared my views.

My vote was based first, on the failure of the House to define properly the scope of the committee's authority, and second, on the deficiencies of the procedures of the committee which I deemed to be a serious threat to the civil rights of all Americans.

I stated then that I supported the right, indeed the duty, of the Congress to conduct investigations for legislative purposes in this area which involves the survival of the Nation. Indeed the oath of office that we all took obligated us to defend the Constitution against all enemies from without and within. I believed in the sixties and I now believe the Judiciary Committee to be best qualified to perform that function. Its recent work on the impeachment question should reassure all Americans that the security of the Nation is in good hands with the transfer of this function to Judiciary.

At the time I was certain that those few who so voted, even though they were not destined to prevail, would eventually grow into such a number that that vestigal remnant of Joe McCarthyism would be banished. I was and am proud of my votes in the sixties. I am happy that I was able to return to Congress so that the then lonely voice could be part of the crescendo of democracy we hear today.

ON THE REGULATION OF OIL TANKERS

HON. EDWARD I. KOCH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. KOCH. Mr. Speaker, I have introduced a bill, H.R. 569, in the 94th Congress to regulate the construction of oil tankers to prevent the pollution of the marine environment. Mr. Eldon Greenberg, who assisted in drafting this legislation, wrote a letter to the New York Times stressing the urgent need for stricter standards for oil tankers as these immense ships pose a growing threat to the quality of our ocean waters. I am including Mr. Greenberg's remarks in the RECORD:.

[From the New York Times, Jan. 17, 1975]

TANKERS IN NEED OF REGULATIONS

TO THE EDITOR: As counsel to a number of national environmental organizations, I have been concerned about the development of regulations designed to reduce the growing threats to the environment posed by oil tankers. The Jan. 7 report on the grounding of a 237,700-ton supertanker outside the Singapore harbor underscores yet again the urgent necessity for imposing stringent environmental controls on such ships.

More than two and one half years ago Congress, in enacting the Ports and Waterways Safety Act, concluded that "existing standards for the design, construction, alteration, repair, maintenance and operation of [oil-carrying vessels] must be improved for adequate protection of the marine environment."

Although the Coast Guard has had the responsibility under such law for promulgating new standards for oil tankers, no final regulations have yet been put into effect. In the case of U.S. tankers engaged in domestic trade, this delay has already exceeded by six months the statutory deadline. Further, the rules proposed to date by the Coast Guard merely adopt compromise international standards, and they have been widely criticized by Members of Congress, State governments and environmental groups.

Every day of delay in adopting strong national rules threatens to frustrate efforts to protect the oceans against the dangers of oil pollution. Literally hundreds of new tankers have been delivered in the past several years, and shipyards are booked with orders through the late 1970's. The Coast Guard has taken the position that existing tankers and those now under contract need not be subject to certain major design and construction requirements. Thus, its delay has the increasing tendency, as a practical matter, to render the rules ineffectual until sometime in the mid- or late 1980's and leave the large fleet of new oil-carrying vessels free to engage in U.S. trade without meeting stringent environmental standards.

It is essential that the Coast Guard take immediate action to promulgate regulations applicable to oil tankers trading in U.S. waters. Such regulations must not be limited by narrow, conservative choices made by the international community but must involve an independent, progressive and tough-minded determination to require that oil tankers trading in U.S. waters incorporate the best available pollution prevention technology. Only if this is done can we begin to ensure the protection of the vital marine environment.

ELDON V. C. GREENBERG,
Center for Law and Social Policy.

HOLDING THE LINE ON FOOD STAMPS

HON. H. JOHN HEINZ III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. HEINZ. Mr. Speaker, I am introducing legislation today to permanently block the Department of Agriculture's plan to increase the cost of food stamps to recipients from an average 23 percent of their budget to 30 percent. At a time when unemployment has risen to 7.1 percent and inflation is running above 12 percent annually, food stamps actually stand between survival and desperation for many of our poor and elderly.

Although I am not convinced that the food stamp approach is any substitute for a reform of our inequitable and discouraging welfare system, it is the best answer we have at the moment to assure some Americans money to buy food. As one measure of the sign of the times, food stamp participation has grown from over 13.5 million in June to 15.1 million in October. Today, the number of food stamp recipients is estimated to be as high as 17 million. The program is costly, but attempts to pare it down will only worsen conditions for many people who now live at the edge of despondency. Surely the administration and the Congress can find some other way to save $650 million from a budget of over $300 billion, than to take it out of the pockets of the poor and aged.

However, on December 6, 1974, the Federal Register carried USDA's proposed amendment to Notice FSP No. 1975 1-1, which would remove the present sliding scale of income percentages to be paid by food stamp buyers and instead would require all recipients to buy their food stamps at a cost of 30 percent of their net monthly income. This proposal, when added to the inflated cost of living, would substantially increase the cost of food to those in need.

For example, an elderly couple presently receiving $200 a month income, would pay 20 percent more for their food stamps. They presently buy $82 worth of stamps for $50. USDA would require them to spend $60 a month.

Despite congressional protest led by Congressmen BERGLAND, FRASER, PEYSER and I urging USDA to withdraw their proposal, I understand that the plan will go into effect in March. Nothing short of legislative action can stop the ruinous course the Department has embarked upon to heap more hardship on those already in need.

I ask that the text of my bill be printed below:

H.R. —

A bill to amend the Food Stamp Act of 1964 to prohibit, after January 1, 1975, an increase in the amounts required to be paid by households under regulations in effect on January 1, 1975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(b) of the Food Stamp Act of 1964 is amended by striking out "but in no event more than 30 per centum of the household's income" in the first sentence and inserting in lieu thereof "but in no event may a household be charged more than the amount charged a household of its size and income under the regulations in effect on January 1, 1975".

SEC. 2. The amendment made by this Act shall become effective as of January 1, 1975.

THE AMERICAN RESPONSE TO ARAB ECONOMIC WARFARE

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. LEHMAN. Mr. Speaker, the oil-producing nations led by Saudi Arabia and other Arab States have begun an economic war against the rest of the world. The exorbitant 400-percent increase in the price of oil is not related to costs or needs. It is an international shakedown.

Both developed nations such as Italy and Britain and developing nations such as India are threatened with economic collapse as a result of the OPEC policy. It is clearly time for this country to take the lead in bringing strong and forceful action to deal with the threats to the stability of Western democracy.

The intelligence and resourcefulness which has made this country great must be utilized to eliminate our need for Arab oil imports as quickly as possible.

One of the keys to America's economic strength is its superior technological base. I believe that a nation which can develop computers, earth satellites, and sophisticated weapons can develop the sources of energy needed to ease the world's dependence on Arab oil.

We should concentrate on the research and development of alternate sources of energy including coal gasification, solar energy, safe nuclear breeder reactors and increased exploration for oil and gas.

Expenditures on energy research and development are now as important for national defense as programs for costly weapons.

In addition to our technical skills, America must utilize its diplomatic skills. Our diplomatic challenge is to unite with Western Europe and Japan in a common effort to overcome the Arab oil threat.

If united action with Western Europe becomes difficult, we should make it clear that we must consider ending our enormous financial commitment to European defense. Those tens of billions of dollars could surely be put to much better use for energy research here at home.

It is my firm hope that we will be able to take united action with the West. A united stand against the Arabs by the developed nations of the West would mean an acceleration of newly announced plans for pooling oil resources in the event of a renewed embargo. It would mean the coordination of energy research and development programs to avoid costly duplication of effort. It would also mean mutual efforts by all nations to limit oil consumption.

SENTENCING AND THE LAW AND ORDER SYNDROME IN SOUTH CAROLINA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. RANGEL. Mr. Speaker, since 1971, the South Carolina Council for Human Rights has been monitoring the administration of justice in South Carolina. Previously, reports were issued on parole, "A Tradition of Abuse," and the administration of LEAA grants in South Carolina, part of "Law and Disorder III." In October 1974 the council published the third in its series of four administration of justice reports. This most recent study, "Sentencing and the Law and Order Syndrome in South Carolina," is part of the council's continued focus on the complex decisionmaking structure within South Carolina's criminal justice system.

Following its exhaustive study of the sentencing practices of a variety of judges the council concluded that judges are aloof from the community, conflicting goals are sought with individual sentences, existing sentences do not contribute to the effectiveness of the criminal justice system, lawmakers provide no directions or guidelines for sentencing decisions, judges do not regulate the administration of various components of the system, and no routine programs exist to equalize sentences or to develop common policy guidelines. The sentencing study covers almost 100 pages and begins with a foreword written by Robert B. McKay, the dean of the New York University School of Law. It is in the best tradition of the important contributions made to the cause of criminal justice by private groups and individuals. I feel that the South Carolina Council for Human Rights is to be commended for undertaking this study in an effort to further the cause of criminal justice reform.

I place in the CONGRESSIONAL RECORD for the interest of my colleagues, Dean Robert B. McKay's foreword to the study, which clearly and forcefully makes the point that sentencing reform is needed not only in South Carolina and New York, but throughout the Nation:

FOREWORD

(By Robert B. McKay)

The decision to deprive a person of life or liberty is the most awesome that a government can make about one of its citizens. It could therefore be expected that the criminal justice system as a whole, and the sentencing process in particular, would get high priority attention. One could assume that in a rational world the social objectives to be served by the imposition of criminal sanctions, in particular the taking of life or the deprivation of liberty, would be carefully thought out. In light of the gravity of the decision to impose capital punishment or a term in prison, at the very least one could anticipate that there would be standards for sentencing, protections against abuse of discretion, and assurance of minimum guarantees of due process. But what we all know—and incredibly nearly all accept the fact without challenge—is that the presumed standards are part of a mythical world.

In the real world the objectives of criminal sanctions are not agreed upon. We talk a bewildering mish-mash of contradictions about retribution and rehabilitation, about deterrence and incapacitation. Yet the most reliable information is that prisons do not rehabilitate; and deterrence as a goal seems a sham in view of recidivism rates that approach 80 per cent in the first five years after release. Retribution is but another word for vengeance, which a civilized society should repudiate. The only things prisons do well are to incapacitate for the period of incarceration and to punish, for every loss of freedom is punishment.

Conceding the necessity for punishment in some—or even many—cases, there remain the difficult questions of whether to release on probation, to impose a fine, or to imprison, and, if so, for how long. But the statutes give little guidance, and judges are left free to exercise their own discretion, to apply their own biases, all without significant assistance in the important question of how best to balance the interest of society against the human values of an individual life. Indeed, there is a general failure to recognize that very often the societal interest is best served by the decision that will be most helpful to the individual wrongdoer. Yet there is almost no guidance toward the making of that crucial and sensitive determination.

Unhappily, this is not a newly discovered truth. Every study has confirmed the point, particularly in the scholarly analysis by Judge Marvin Frankel in his book "Criminal Sentencing" and the studies of former United States Attorney Whitney North Seymour, Jr., as reported in his book "Why Justice Fails." More recently, a detailed study of sentencing among 50 federal district judges in the Southern District of New York demonstrates in convincing and devastating fashion the lack of pattern in sentencing among even this group of capable and high-minded judges.[1] In the absence of guidelines, unchanneled discretion inevitably leads to unfairness.

The same point has now been strikingly made for South Carolina in the study by the South Carolina Council for Human Rights, "Sentencing and the Law and Order Syndrome in South Carolina."

This study is unique in one respect, however. Judges in the study are not anonymous, but named; and fingers are pointed in no uncertain terms. The study is also more ambitious than most in seeking to draw from its relatively small sample (383 sentences studied) a wide variety of conclusions about the entire criminal justice system, from the nature of the judiciary to the quality of the defense bar.

Despite the wide-ranging nature of the commentary (after all, the criminal justice process is unitary), the recommendations are specific and limited to the sentencing process.

CONGRESSIONAL LEADERSHIP

HON. DELBERT L. LATTA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. LATTA. Mr. Speaker, the Wall Street Journal of January 23, 1975, carried the following article in its editorial column. I recommend it to all of my Democratic friends:

CONGRESSIONAL LEADERSHIP

If President Ford's energy proposals accomplish nothing else, they have at least united Senators Henry Jackson and Edward Kennedy. President Ford currently has authority to go ahead with one part of his energy program, the tax on imported oil. But the two Senators have agreed to sponsor legislation that would delay the tax by 90 days.

It's not that the Democrats are ready with a substitute for the Ford program. Indeed, over in the House, the Democratic leaders recently outlined seven approaches to the energy problem but were unable to agree on which to take. A 90-day delay is needed, the announcement by Senators Jackson and Kennedy explained, to give Congress a chance to "develop fair and equitable alternatives."

It is now 461 days since Saudi Arabia embargoed oil shipments to the United States. Congress hasn't figured out what to do about it, but if it can delay things for another 90 days, maybe it will think of something.

NEWSLETTER TO CONSTITUENTS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. WOLFF. Mr. Speaker, periodically, I distribute a newsletter to my constituents in a continuing effort to keep them informed of my activities as their Representative in Washington. And often, I use the newsletter as a vehicle to obtain their views on major issues, thus allowing me to function more effectively on their hehalf on Capitol Hill. I would like to share with my colleagues my latest newsletter:

NEWSLETTER

DEAR FRIENDS AND CONSTITUENTS: A new Congress—the 94th in our nation's history—has convened with a sense of confidence and spirit that it now will exercise its rightful power and obligations as a co-equal branch of government and act to provide meaningful legislation to reconcile the double-barreled problems of inflation and recession.

Behind us lie two years of tumultuous and unprecedented incidents that resulted in the total demise of one Administration and the selection of a new President and a Vice-President, neither of whom was chosen by the electorate.

Is it any wonder America suffered deeply while she struggled to prove that her form of government, founded on a system of checks and balances, can and does work?

The national trauma created by the upheaval within the Executive Branch overshadowed many of the actions your Congress did take to deal with our serious problems.

As your Representative, I am looking forward to the months ahead for I am optimistic that a Congress determined to effect essential change will succeed.

Sincerely,

LESTER WOLFF.

ECONOMIC ILLS PRIME CONCERN OF COUNTRY

Today, Americans from all walks of life share an all-pervasive concern that inflation has not been halted, soaring prices have not stabilized and our nation is now faced with the highest rate of unemployment in decades, with little hope for increased productivity to reverse the recessionary trend.

We must come to grips with this multifaceted problem and eschew cosmetic attempts to cure the grave economic ills that threaten our leadership in the world community as well as jeopardize the very future of the life style we have nurtured and rightly treasure.

Ever since you first elected me to Congress 10 years ago, I have been advocating measures I believe would be effective to revitalize our economy and balance the scales of supply and demand to protect you, as a consumer, from further erosion of your pocketbook and resources. These measures center on extensive tax reforms, a reordering of our spending priorities, and an end to ill-conceived "deals" and "giveaways" with foreign nations that provide us with nothing of substance in return.

While I am a firm proponent of foreign assistance as a valuable asset to assure our own security, and as essential to fulfill our humanitarian responsibilities to those less fortunate, I cannot condone foreign aid being doled out imprudently to buy the tenuous "friendship" of uncooperative nations or to further unfair trade practices that sap our nation's economy.

One case in point is the recent agreement made by the President to provide Egypt and Syria with additional tonnage of American wheat at an annual "giveaway" interest rate of three percent—at the same time oil rich sheiks are surreptitiously seeking ways to invest billions of petrodollars, acquired from us, in western food industries to offset any potential food shortages for their people if a new oil crisis is precipitated.

Is this common sense or sound foreign affairs? I think not.

We must stop these exports of our natural resources and essential supplies to oil producing countries that put the squeeze on us, just as we must stop the "grain deals" with the Soviet Union and the People's Republic of China, nations that continue to generate world crises. My Export Priorities Act would limit these exports to surplus supplies only after domestic needs are met at prices Americans can afford to pay.

Too, we must be firm with foreign nations, primarily Turkey and those of Asia's Golden Triangle, that benefit significantly from our economic aid dollars but do not cooperate fully in our efforts to stop the flow of illegal narcotics to our shores to infect our communities. Turkey has lifted the ban on opium cultivation and says she can control production and distribution of the Spring crop to prevent it from reaching illicit channels; but we must remain alert and be ready to act at the first sign of a renewed French Connection operation.

As you are well aware, the daily life of every American is affected by our policies and commitments abroad. The increasing interdependence of nations is more evident than ever—the days are long past when one country can independently resolve its economic conditions, energy and technological needs, consumer supplies and environmental problems.

If we are to successfully control our destiny as a strong nation and once again flourish economically, we must reexamine and redirect both our national and international policies toward a future course that best serves the American people and secures greater equity for our aid dollars.

WOLFF BILL WOULD CORRECT SSI FLAWS

One of the greatest shortcomings of the present Supplementary Security Income Program (SSI) is its failure to meet the specific needs of the poor and aging, the blind and disabled.

A recipient whose SSI check is lost, stolen or undelivered or who has cashed the check and is robbed, or who suffers the loss of clothing and furniture by theft, fire or other disaster, virtually is left to shift for himself until the next check arrives. Emergency assistance certainly is in order in these instances and towards this goal I have introduced corrective legislation to provide life-supporting funds and necessities.

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[1] Federal Judicial Center, The Second Circuit Sentencing Study: A Report to the Judges of the Second Circuit (August 1974).

A further provision of my bill, HR 17537, would provide "transitional assistance" to a recipient who is moving from a protective environment, such as a hospital or nursing home, to a foster home or apartment. These needy disabled citizens simply do not have resources of their own to acquire the necessary clothing or furniture to maintain themselves. Additionally, my bill would consider the need of many elderly persons who require special diets due to medical problems; would mandate cost of living increases, would prohibit a reduction in SSI payments and restore food stamp eligibility to all SSI recipients.

THE FERTILIZER OUTLOOK

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ASHBROOK. Mr. Speaker, in 1974 America's farmers experienced a serious fertilizer shortage. It is estimated that a 10- to 15-percent shortfall occurred in both nitrogen and phosphates. These shortages caused a major increase in the price of fertilizer. It also resulted in many farmers receiving partial allocation.

I have been concerned by some predictions that the Ohio fertilizer situation for 1975 may be no better than in 1974. I expressed my concern to the Secretary of Agriculture. I urged him to look into the current fertilizer situation and to develop some program which would prevent fertilizer shortages in the future.

Following is the text of my letter and the reply by the Department of Agriculture:

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 20, 1974.

Hon. EARL L. BUTZ,
Secretary of Agriculture, Department of Agriculture, Washington, D.C.

DEAR SECRETARY BUTZ: I am deeply concerned by reports that the Ohio fertilizer situation for 1975 may be no better than in 1974.

As you know, last spring America's farmers experienced a 10 to 15 percent shortfall in both nitrogen and phosphates. There was also a substantial increase in price. I do not believe that during these critical times our nation can afford another year of serious fertilizer shortages.

Therefore I urge you to look into the current fertilizer situation. I also urge you to develop a program which will prevent fertilizer shortages in the future.

Enclosed is a recent statement of my views on the fertilizer problem. Thank you for your consideration.

Sincerely,

JOHN M. ASHBROOK,
Representative to Congress, 17th District.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., December 19, 1974.

Hon. JOHN M. ASHBROOK,
House of Representatives,
Washington, D.C.

DEAR MR. ASHBROOK: Secretary Butz has asked me to thank you for your letter and to respond to your request for a program to prevent fertilizer shortages.

As I am sure you are aware, things are happening in the marketplace that will help the fertilizer situation in the future. During 1975 some 900,000 tons of additional ammonia capacity are scheduled to come on stream. While it will be spring until the plants—either new, reactivated, or enlarged existing facilities—will come into production, some 9 percent more nitrogen fertilizer should be available for use in 1975.

A major problem for this season, however, is the potential curtailment of natural gas in the event of a severe winter. The Secretary is concerned about the possibility of curtailments and has personally discussed this matter with the Federal Power Commission.

A number of other initiatives are underway that should moderate some of the potential problems for the coming season. The Interagency Task Force on Fertilizer has met with industry leaders regarding ways to cut the use of fertilizer for non-farm uses. In this regard, both industry and government are launching strong campaigns to encourage more judicious use of fertilizer. The Administration has also taken steps to facilitate the transportation and distribution of fertilizer for U.S. farmers. The President, in late October, waived the Jones Act in order that fertilizer could be moved from Alaska to the continental United States in foreign bottom ships. While this action will only indirectly help Ohio farmers, the industry has assured the Administration that the changes in some companies' marketing programs that caused dislocations in 1974 will not reoccur in 1975.

You can be sure that the fertilizer issue is receiving top priority by the Secretary of Agriculture as well as other members of the Administration. The Administration stands ready to take whatever steps are feasible to insure that U.S. farmers have the fertilizer they need to generate expanded production of food and fiber in 1975.

Sincerely,

DON PAARLBERG,
Director of Agricultural Economics.

THE WILMINGTON CHAMBER OF COMMERCE CELEBRATES ITS 70TH ANNIVERSARY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ANDERSON of California. Mr. Speaker, on January 30, 1975, the Wilmington Chamber of Commerce will celebrate its 70th anniversary. It is fitting, therefore, that we should pay tribute to this dynamic organization for some of its outstanding contributions to the people of southern California.

Nearly three-quarters of a century ago, this worthwhile organization was established to provide the leadership and hard work necessary to stimulate community involvement and progress.

Naturally, it will not be possible to cite all of the excellent programs and activities sponsored by this important organization; however, a partial listing of a few of their efforts may provide an indication of their dedication to this fine community which I am proud to represent.

Among the numerous activities which the Wilmington Chamber of Commerce has participated in through the years are successful efforts to locate the Harbor College in Wilmington; the establishment and development of an industrial park; efforts to improve streets, parking, and traffic conditions; the extension of the Harbor Freeway to the harbor area; establishment of the Harbor Park and Golf Course; efforts to purchase Banning Park; and many other beautification programs. In addition, they have sponsored numerous community functions such as the Wisteria Festival; the Miss Wilmington Beauty Pageant, which is a part of the Miss Universe Contest; the Christmas street lighting program; and other activities to assist the local schools, businesses, and community.

Mr. Speaker, the newly elected officers for 1975–76 are: Ken Williams, president; Bill Moore, first vice president; Bob Van der Meid, second vice president; Hal Sleet, treasurer; and members of the board of directors: Jack Appelt, Ernest J. Brower, Hallet Brown, Richard Castillejos, James A. Groth, Frank Heckel, John Holland, Dave C. Holmes, Allan R. Ide, Elisa Martinez, Jesse Reyes, Bob Shelland, and Clarence Woods.

I am confident that under their leadership this outstanding organization will continue its excellent program to contribute to the betterment of this fine community in southern California.

"SAINTS" REPRESENT UNITED STATES IN SOUTH AFRICA

HON. SAM STEIGER

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. STEIGER of Arizona. Mr. Speaker, I would like to bring to my colleagues' attention the fact that the "Sun City Saints," a superb women's fast-pitch softball team from my State of Arizona, has been chosen by the International and American Amateur Softball Associations to be the sole representative of the United States at a 3-week exhibition game and teaching clinic tour of South Africa beginning January 31.

It is an important honor, Mr. Speaker. For some time, many people in South Africa have been trying to find some means of abrogating the policy of apartheidism which exists in that country. Through the efforts of South African citizens and the South African Softball Association, the development of softball programs for young people in all the major cities of South Africa on an integrated basis has been used as a means to popularize a breakthrough in this policy. In an effort to promote their program this year, the South African Softball Association asked that an American women's fast-pitch softball team be selected to participate in the tour.

Of all the teams in our country which could have been selected, the "Sun City Saints" were chosen to represent the United States—and Arizona—in this important event. The importance of the occasion cannot be discounted; it is well known that sporting events can have a very positive impact on some governmental policies—witness the ping-pong team's positive effect on United States-China relations.

The integrated "Saints" team came into being in 1966 sponsored by the Sun City Merchant's Association. By the end of their third year, these fine sports-women had endeared themselves to the baseball fans of the area. Revenues at the gate grew to the point that the financial support of the merchants was discontinued. In 1974, the "Saints" finished second in the nationals at Orlando, Fla. They have held the Pacific Coast League Championship since 1973.

Several "Saints" have received All-American and Pacific Coast League All-Star accolades.

The team, with the help of Dr. Richard Sauerbrun of Sun City, has done a tremendous job of raising the funds for their air tickets to South Africa. I am positive that this team of 15 of the finest women athletes the United States has to offer, will well represent the United States in South Africa. I am sure that all of my distinguished colleagues will want to join me in wishing the "Sun City Saints" well in their efforts as America's goodwill ambassadors.

ANDREW BRIMMER ANALYZES THE EFFECT OF STAGNATION ON THE BLACK COMMUNITY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. RANGEL. Mr. Speaker, Mr. Andrew Brimmer is a distinguished member of the faculty of the Harvard Business School who has written often of the economic plight of poor blacks and other minorities. His recent article, "Economic Stagnation, Inflation, and the Black Community," is an excellent and detailed account of the impact of our present economic woes on poor black people.

I would like to submit the following article for the information of my colleagues:

ECONOMIC STAGNATION, INFLATION, AND THE BLACK COMMUNITY

(Remarks by Andrew F. Brimmer,[1] member of the faculty, Harvard University Graduate School of Business Administration, upon receipt of the 1974 Equal Opportunity Award presented by the National Urban League, New York Hilton Hotel, November 19, 1974)

It is with deep appreciation that I accept the 1974 Equal Opportunity Award of the National Urban League. In honoring me tonight, you appear to be saying to the nation at large that you approve of the meager efforts I made to serve the public welfare during my stay of more than eleven years in the Federal Government. I was particularly pleased that—in citing me—you focused on the work I did as part of legislative effort which resulted in the passage of the Civil Rights Bill of 1964. Although the principal thrust of my work in the Federal Government (and especially so after I became a Member of the Federal Reserve Board) was concerned with national economic policy rather than civil rights, I always remained conscious of the ravages of racial discrimination and the need to broaden economic opportunity for all Americans.

In particular, from time to time, I have attempted to provide a report on the economic status of blacks in the United States which goes beyond the mere recitation of Federal Government statistics. I have just completed such an assessment, and I thought it might be helpful to summarize the highlights here.

In general, the combination of inflation and economic stagnation have had a proportionately greater adverse impact on black than on the nation at large. Blacks are carrying a considerably greater share of the loss in jobs and the rise in unemployment. At the same time, the ravages of inflation (which has been so heavily concentrated in foods) have created a desperate situation among poor black families.

In terms of the job situation, it appears that blacks may be in the process of re-living the adverse experience they suffered through during the 1970 recession. That slowdown brought a serious interruption to the steady progress which blacks had made during the 1960's. In fact, between blacks as a group and whites as a group, blacks suffered all of the recession—induced decline in jobs in 1970—while whites made further job gains. From the fourth quarter of 1969 through the fourth quarter of 1970, total employment decreased by 66 thousand. This was the net result of a drop of 174 thousand in the number of jobs held by blacks which was partly offset by an increase of 108 thousand jobs held by whites. During the sluggish recovery of 1971, job gains by blacks lagged considerably and unemployment in the black community continued to rise. Only last year did the rate of job improvement among blacks resume the pace recorded during the 1960's.

So far in 1974, as the economy has struggled with the adverse impact of the oil embargo in the early months of the year and also with a decline in real economic activity over the last three quarters, blacks have also been suffering relatively more than their white counterparts.

For example, between April and October, the total number of jobs rose by 713 thousand; but the number of jobs held by blacks rose by only 50 thousand. Thus, the blacks' share of the gain was only 7 per cent—although they constitute over 11 per cent of the labor force. During the same period, the total number of unemployed workers rose by 1,023 thousand, but the number of jobless blacks rose by 261 thousand. In this case, blacks represented 26 per cent of the increase.

As we look ahead to the coming year, it is obvious that we will continue to face severe inflation, a stagnant economy, and rising unemployment. Consequently, I believe we—as a nation—must take steps promptly to moderate the worse effects of a deteriorating economy. In the concluding section of these remarks, I suggest some of the main elements which should be in such a program. Before doing that, however, we can review briefly the contours of recent changes in the black labor force, employment, and unemployment. This is followed by an assessment of the broad effects of inflation on low income families—among whom blacks are so heavily represented. I then focus briefly on the growing conflict between the campaign for equal opportunity and seniority rules in American industry.

CIVILIAN LABOR FORCE

Last month, there were 10,479 thousand blacks[2] in the civilian labor force—which numbered 92,004 thousand. Thus, blacks constituted 11.4 per cent of the total. So far in 1974 (unlike the situation in 1973), the black work force has expanded somewhat more slowly than the labor force for the nation as a whole. For example, between the third quarter of 1973 and the same period this year, the black labor force rose by 2.3 per cent, compared with 2.7 per cent for the total. The slower expansion was particularly noticeable among adult black men—among whom the year-to-year gain was just over 1 per cent compared with over 1½ per cent for all men 20 years of age and over. But the more moderate pace of expansion was also evident among adult black women. The number of the latter rose by 3½ per cent from the third quarter of 1973 through the same period of 1974. In contrast, the rate of expansion for all adult women was just over 4 per cent. For black youths (age 16–19), the number in the civilian labor force rose by 2½ per cent—compared with 4 per cent for all youths—during the same period.

The slower expansion in the civilian labor force was particularly marked during the first half of the year. To a considerable extent, this was probably a reflection of the drop in labor force participation rates during the second quarter of the year. Although total unemployment was rising during the first quarter (mainly due to the adverse impact of the Arab oil embargo), the labor force participation rate for all black workers edged up slightly in the first quarter. However, a sharp reversal occurred during the April-June months. In this period, the participation of black men of all ages declined significantly as youths and young men 20–24 years of age withdrew from the labor market. Adult black men 25 years of age and over (those most likely to have family responsibilities) also experienced a sharp decline in the degree of labor force participation. Young black women aged 16 to 24 years increased their rate of entry into the labor force, but adult women 25 years or older withdrew on balance. These declines in labor force participation may in part have reflected a pessimistic view of job opportunities.

Among white workers, overall participation was little changed, but their civilian labor force continued to grow because of the increase in working age population. The first quarter increase in their civilian labor force was modest, and about half of the advance was among adult men. In contrast, all the increase in the second quarter was attributable to the entry of adult women—among whom the number of those employed or seeking work rose appreciably—more than offsetting the drop in teenage entry. The adult white male labor force was unchanged over the second quarter.

During the third quarter, the black labor force expanded about in line with the national work force. While the extent of participation by adult black men continued to lag somewhat, that for both adult black women and teenagers registered above-average gains. Among white workers as a group (including adult men), a noticeable expansion was registered.

So, as we moved through the year—and as the worse effects of the oil embargo eased—blacks (along with other workers) began to seek jobs much more actively. However, as already noted, the economy as a whole was weakening throughout the year, and the number of blacks without jobs rose significantly.

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[1] Dr. Brimmer is Thomas Henry Carroll Ford Foundation Visiting Professor in Harvard University's Graduate School of Business Administration. He is a Trustee of Tuskegee Institute and the Ford Foundation; a Director of the National Bureau of Economic Research; a Director and Economic Adviser of the Du Pont Company; and a Director and Member of the Finance Committee of the Equitable Life Assurance Society of the United States. From March, 1966 through August, 1974, he was a Member of the Board of Governors of the Federal Reserve System.

[2] These figures (from the Bureau of Labor Statistics in the U.S. Department of Labor) refer to "Negroes and other races." Blacks constitute over 92 per cent of the total reported.

EMPLOYMENT

In October, 9,335 thousand blacks were employed. In the same month, total employment amounted to 86,462 thousand. Thus, blacks held 10.8 per cent of the total. From the third quarter of 1973 through the same period of 1974, the number of jobs held by blacks rose about 2 per cent—roughly in line with total employment in the nation as a whole. However, for blacks (as for whites) the major share of the gain was made by women. For both groups, the increase amounted to about 3½ per cent. For all men, the increase was roughly 1 per cent, but for black men it was only ½ per cent.

Overall employment advances were modest in the first half of 1974 as real output declined. Job growth was less than 1 per cent (seasonally adjusted annual rate)—following a substantial 3.7 per cent gain during 1973. Again, the employment situation was heavily influenced by the energy shortages early in the year and by reduced demands throughout the first half of the year. Total nonfarm payroll employment, as measured by the Department of Labor's survey of establishments, weakened last winter; it expanded at an annual rate of less than 1 million between January and June—compared with 2.8 million in the preceding year. Much of the slowdown was concentrated in durable goods manufacturing where layoffs were widespread, especially in the automobile and related industries. Service and retail trade industries also reflected the impact of energy shortages during the winter as layoffs were reported by gasoline service stations, automobile dealerships, as well as at hotels, motels, and at certain types of recreational facilities. But, in contrast to manufacturing employment (which remained about unchanged in the second quarter), service-type employment growth resumed in the spring—as the gasoline situation eased.

The impact of the energy shortages and the weakness in real output was evident in the composition of employment changes in the first half of 1974. Employment of adult men showed a net decline, reflecting the sharp drop in industrial production. Teenage employment also dropped off sharply as typically is the case when economic activity is sluggish. In contrast, employment of women continued to expand rapidly in the first half of 1974, in part, because of the rebound of employment growth in service-type industries in the spring.

Similar patterns of employment change were evident among both black and white workers—although the impact of the energy crisis and the reduced level of economic activity was apparently greater for black workers. Black employment declined by almost 50,000 at an annual rate, (or about .5 per cent) during the first half of 1974. Adult black men were the largest job losers, as their employment levels were reduced about 2½ per cent at an annual rate between the end of 1973 and mid-1974. Black teenage workers also experienced a net job loss during the first half of 1974 following a substantial expansion in 1973. In contrast, employment of adult black women continued to increase at a strong pace—about 3.2 per cent (annual rate), although the second quarter gain was considerably slower than the advance of the first quarter.

Total employment of white workers grew slowly—by less than 1 per cent (annual rate), with nearly all of the net increase among adult women. Employment was little changed among men in the first quarter and declined in the second, although not to the same extent as among adult black men. White teenage employment dropped off in the second quarter (although relatively less than their black counterparts) while white women recorded substantial job gains, primarily in the second quarter as employment in service-type industries picked up.

Over the summer months, employment picked up somewhat, but the pace of expansion remained sluggish. Again, the gains were concentrated in services rather than in the production of durable goods.

Employment opportunities for black adult men and teenagers have been relatively more adversely affected by the current slowdown in economic activity than those of their white counterparts. There are several possible explanations for this: Black men are heavily concentrated in blue collar jobs. For example, more than 40 per cent of all blacks work in these occupations as compared to about one-third of all white workers. As is generally known, the economic slowdown has had much of its impact on these blue collar occupations as their unemployment rate rose substantially while joblessness among white collar workers so far has remained little changed. In addition, about 20 per cent of all black workers are employed in private service occupations—in hotels, motels, and other recreational industries. About 10 per cent of all white workers are similarly employed. Thus, the relatively larger concentration of black workers in these blue collar and service occupations which were most affected by the slowdown may account in part for the realtively weaker employment situation among blacks than among white workers.

UNEMPLOYMENT

In October, there were 1,144 thousand black workers without jobs. Total unemployment amounted to 5,542 thousand, so blacks represented 20.6 per cent of the total. This was almost double the black's share of the civilian labor force and of jobs. The unemployment rate among blacks was 10.9 per cent in October. For all civilian workers, the rate was 6.0 per cent, and for whites it was 5.4 per cent. Thus, the black-white proportion is again 2 to 1.

Joblessness among black workers rose substantially during the winter—from 8.6 per cent at the end of 1973 to 9.3 per cent in the first quarter of 1974. However, with declines in the labor force outpacing the drop in employment in the second quarter, the unemployment rate edged off to 9.0 per cent. Adult black men accounted for a large proportion (nearly three quarters) of the first quarter's increase in joblessness as their unemployment rate rose from 6.7 per cent to 7.1 per cent.

Teenagers also experienced increased unemployment, but the number of adult women unemployed declined moderately. In the second quarter, rates for women and teenagers were little changed, and the rate for adult men declined as a result of withdrawals from the labor force. During the third quarter, as the economy continued to weaken, the unemployment rate for the total labor force began to creep up, and the rate for blacks kept pace.

Among white workers, an increase in joblessness among the major groups occurred in the first quarter. Adult men accounted for about 45 per cent of the increase and adult women for about 40 per cent. In the second quarter the jobless rate for both adults and teenagers was unchanged. But during the third quarter, the same pattern observed among blacks prevailed among whites, and their unemployment rate also climbed.

OUTLOOK

In the months ahead there is likely to be upward pressure on the unemployment rate as real economic activity is expected to decline further. In fact, for 1975 as a whole, real output may not register any net gain—and it may decline further. At the same time, the rate of inflation may dampen only moderately. Under these circumstances, the unemployment rate for the labor force as a whole may well reach 7½ per cent by midyear. If so, the unemployment rate for blacks—already in the neighborhood of 11 per cent—could climb to 13 per cent or beyond.

IMPACT OF INFLATION

In the meantime, the raging inflation that has plagued this country for the last several years has had a particularly adverse impact on blacks. It might be recalled that the consumer price index (CPI) rose by 3.3 per cent as recently as 1972—not much different from the annual average increase of 3.0 per cent recorded during the period 1960 through 1971. During 1973, reflecting both on overheated economy and a sharp jump in commodity prices—particularly food, the CPI climbed by 6.2 per cent. During the current year, the degree of excess demand in the economy has moderated noticeably. However, the sharp increase in oil prices and the continued upward pressure on food prices have combined to lift the annual rate of inflation (as measured by the CPI) to the neighborhood of 12 per cent for 1974. Looking ahead to 1975, the pace of inflation may ease somewhat, but the CPI may still increase by more than 9 per cent.

As more and more observers are realizing, inflation in the United States has had a particularly devastating effect on blacks. The reason is not because they are black but because food prices have risen proportionately much more than other prices; blacks are relatively much poorer than whites, and blacks spend a proportionately larger share of their incomes on food. The inflation in food prices has hit the lower income groups relatively harder than the better-off consumer. For instance, among families (four members) with incomes under $3,000 per year, roughly 40 per cent of their income is spent on food. For families earning around $9,000, about 25 per cent of their yearly budget goes toward food. In the higher income group, with an annual income around $18,000, only some 20 per cent goes toward food. Thus, because food prices rose more rapidly over the last two years than any other component of the CPI (except petroleum products), it follows that the poorer families were the hardest hit.

Further insights into the impact of inflation on different categories of consumers are provided by the figures in Table 1 (page 12), showing the food budget for urban families with four members (including two elementary school children). The figures show the amount of money spent weekly for food according to the type of budget (economy, low, middle, and high). Also shown in the table are the percentage increases in food outlays during the two years June, 1972, through June, 1974. These data indicate that during the first year (June, 1972 to June, 1973) food expenditures as reflected in all four types of budgets rose by the same proportion—16 per cent. But in the second year (June, 1973 to June, 1974), food costs rose relatively more for the economy and low budget families (by 17 per cent) than was the case for either middle income families (13 per cent) or higher income families (12 percent). Moreover, while the year-to-year absolute dollar outlays rose by about the same proportion for all types of budgets, in relative terms, this put a much heavier burden on the budgets of lower income families.

COMPETING OBJECTIVES: SENIORITY AND EQUAL OPPORTUNITY

Before concluding these remarks, I would like to focus briefly on an issue of major concern to all of us interested in equal opportunity: at this juncture, it appears that the national campaign to broaden job opportunities for blacks and other minorities—as well as for women—may be an early casualty of the deepening recession. With unemployment mounting, layoffs (especially in the industrial sector) are reaching farther and farther up the seniority ladder. We ordinarily think of employee seniority in terms of trade union agreements which generally require that layoffs be made inversely to the duration of employment.

TABLE 1.—FOOD BUDGET FOR URBAN FAMILY OF FOUR (INCLUDING 2 ELEMENTARY SCHOOL CHILDREN), JUNE 1972–JUNE 1974

Type of budget	June 1972 amount	June 1973		June 1974	
		Amount	Percent increase	Amount	Percent increase
Economy	$26.00	30.20	16.2	$35.30	16.9
Low	32.60	37.80	16.0	44.10	16.7
Middle	41.70	48.60	16.5	55.20	13.6
High	51.40	59.70	16.1	66.90	12.1

Source: U.S. Department of Agriculture.

Since blacks are still relatively recent entrants to numerous industrial occupations, they typically have considerably less trade union-related seniority than their white counterparts. (Of course, there are some noticeable exceptions—such as automobiles and steel where blacks have accumulated a significant amount of seniority). But it is also important to recognize that—even in sectors of the private economy in which only a small fraction of the workers are unionized—custom and usage have led to company-employee relationships that are tantamount to seniority rules. Consequently, we should expect private employers to face increasingly the hard choice between pressing on with the task of expanding opportunities for newcomers and adherence to traditonal seniority practices.

Already a number of employers have been challenged (including the filing of court cases) by spokesmen for blacks and representatives of women's groups who charge that many co-workers are enjoying seniority-protected positions because of a legacy of discrimination by companies. At the same time, the Federal Government (particularly the Equal Employment Opportunity) is intensifying its drive to induce employers to give more weight to affirmative action—despite the existence of seniority provisions in contracts they have signed with trade unions.

Thus, we see shaping up a serious conflict between two objectives both of which rank high on the nation's human and industrial relations goals.

As the chairman of a leading industrial firm observed to me recently, both sets of claimants have very strong cases, and there is no obvious way to resolve them in the short-run. I share this view. For this reason, leaders of American industry will have to exercise an extraordinary degree of imagination in the quest for ways to foster a continued expansion of equal opportunity for women, blacks, and members of other minority groups—while remaining faithful to the seniority commitments they have made to other employees.

CONCLUDING OBSERVATIONS

But, above all, if the economy is permitted to grind down upon itself, both of these objectives—along with a number of others—will be undermined. A deepening recession is the worse kind of environment in which to seek a broadening of economic opportunity. Therefore, the most important task we face at the present time is the adoption of a set of coherent national policies which would prevent the economy from deteriorating further in the coming year. Because of the limitations of time, I cannot set forth in detail the steps which I believe are necessary to improve the performance of the national economy in the year ahead. However, several elements ought to be included in a revamped program:

We should immediately broaden the coverage and increase the benefits available under our unemployment compensation system. After all, we know that joblessness will be both widespread and rising during the coming winter.

We should create a large-scale public service employment program which can provide jobs for at least 800,000 workers. Such a program would be particularly helpful to young people who have few claims to unemployment benefits.

The Federal Administration should abandon the call for a 5 per cent income surcharge on family and corporate incomes above $15,000. With the economy drifting more deeply into recession—with the decline in real consumer spending playing a major role—we should not impose an additional burden on consumer incomes.

Moreover, some modest tax reduction for low income groups should be made. This would help to ease the adverse effect of inflation on those least able to bear it. It will be recalled that such a tax cut was strongly endorsed at the recent White House Conference on Inflation.

Since inflation will remain a major problem (despite the weakening of economic activity), the Council on Wage and Price Stability should be strengthened. It should have authority to delay proposed wage and price increases which seem clearly to be against the public interest. For the time being, I do not believe we need mandatory wage and price controls.

There should be some further easing in monetary policy, and less emphasis should be placed on the achievement of a balanced Federal budget. Again, in a declining economy, the Federal Government itself ought not to aggravate the situation by further shrinking aggregate demand.

The foregoing are only some of the main elements I would include in a national program to help check inflation and moderate the adverse effects of a recession that shows signs of becoming increasingly severe. Of course, I recognize that these moves would not stop inflation, and they would not end the recession. It seems quite evident that—through at least the first half of next year—real economic activity will be declining, and the rate of inflation will remain uncomfortably high. Rather, the actions suggested here would ease somewhat the economic burdens of inflation and recession which now fall so unevenly on different groups in the population.

WARNER'S OFFER BONUS TO EMPLOYEES

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ASPIN. Mr. Speaker, I would like to draw attention to an innovative program to stimulate the economy, recently started by a business in Wisconsin.

The president of Warner Electric Brake and Clutch Co., in Beloit, Wis., has designed a bonus plan for his employees who buy Chrysler and AMC automobiles.

Warner is offering its 1,700 employees a $100 bonus if they will buy a Chrysler or American Motors car, two of Warner's major customers. Participating local automobile dealers will offer a matching incentive of $100. If a Warner employee also takes advantage of a nationwide Chrysler rebate program at the same time, an additional $200 to $400 would be paid bringing the maximum rebate to $700.

This innovative program was announced several days before the major auto manufacturers announced their plans for similar rebate programs, and it has received national recognition for the incentives and model it has provided to other firms.

Less than a week since its first announcement the program is already showing that it can work. I am extremely proud of Wisconsin businesses like Warner Electric, for taking the lead in doing something to get our economy rolling again.

THE FRAUDULENT WAR ON CRIME

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. BROWN of California. Mr. Speaker, the intrusion of the Federal Government into personal and individual civil liberties increasingly becomes a threat to privacy in an advanced and expanding technological society. The Orwellian prophecy of "1984" reminds us of our imperative to scrupulously guard against abuses by the state if we are to retain our fragile free and democratic society. Appalling misdirections in crime control in recent years, largely manifested in central computer data systems which store files on millions of Americans, point with clarity to our obligation to review with care our national purpose in this regard.

Mae Churchill, director of the Urban Policy Research Institute, and Hanna Shields, a San Francisco freelance writer, have made an important contribution toward our understanding of the frightening implications of ill-conceived law enforcement practices. In an article that appeared in the December 21, 1974, issue of the Nation, they point out the failure of the Law Enforcement Assistance Administration, and examine the excesses to which our Government has gone in "crime deterrence," much to the detriment of individual privacy in a free civil society. The article follows, and I highly commend it to my colleagues:

THE FRAUDULENT WAR ON CRIME

(By Hannah Shields and Mae Churchill)

Late in August every year the FBI issues its Uniform Crime Report on the nation's crime experience, an event that inevitably recalls Tallulah Bankhead's, "There's less in this than meets the eye." In 1972, when the number of reported serious crimes dropped mysteriously for the first time in seventeen years, Elliot Richardson, then Attorney General, disputed the accuracy of the report, stating, "It is universally recognized that only a fraction of all crimes committed are reported to the police at all." At the same time—three months before the 1972 Presidential election—an "audit" of Washington, D.C. crime statistics seemed to confirm the Nixon administration's claim that tough law-and-order policies had reduced crime in the nation's capital by 50 per cent. The audit was conducted by Ernst & Ernst, whose key officers contributed more than $16,000 to the Nixon campaign and played a major role in re-election fund raising. Buried in the report was the finding that 40 per cent of citizens' complaints of major crimes were not reported by District police—surely the most simple, direct way of reducing crime, at least statistically.

Veteran crime watchers assume that crime data are manipulated for political purposes. Deliberate under-reporting, exaggerated claims of soaring crime waves, vagaries in reporting methods and even in defining criminal offenses, as well as public reluctance to report criminal activity, have led many to conclude there is a crime rate for all political and budgetary seasons. This year, the annual autumn ceremony of releasing the Uniform Crime Report was unusual in one respect: Attorney General Saxbe chose an audience of big-city police chiefs to announce that the crime rate had risen by 6 per cent in 1973 and by 15 per cent during the first quarter of 1974. He attacked the "grandiose promises" and "patchwork performance" of federal anti-crime efforts, mainly the six-year-old Law Enforcement Assistance Administration (LEAA). He promised a two-year study to "evaluate the effectiveness" of LEAA programs—the traditional euphemism for pulling the plug on politically obsolete federal programs, or relocating them.

While the LEAA grant program may outlive Saxbe as a fixture on the national scene, it is significant that the Attorney General decided to cast doubt on the $3.2 billion program two years before Congressional approval would be needed to keep the bonanza going. When LEAA is finally buried, its chief mourners will be those who have fed well at the pork barrel. In 1970, only two years after LEAA started handing out grants to state and local law-enforcement agencies, the *Reader's Digest*, never known to be "soft" on crime, complained that federal funds were being wasted on such constabulary luxuries as a $3,045 snowmobile for Rio Blanco County in Colorado and a $6,740 outboard motorboat for Union parish in Louisiana. By 1972, *Government Executive* was reporting serious "crime among the crime fighters"—illegal or improper spending of $475,000 in Florida, $593,000 in Alabama, $400,000 in Massachusetts; payment of consultancy fees as high as $75 an hour to such favored firms as Ernst & Ernst; preferred treatment of certain electronics suppliers, such as Motorola, which cornered the LEAA-funded walkie-talkie market in Louisiana and Wisconsin without competitive bids and often at higher than list prices.

Although federal law requires administrative agencies to transfer funds in such a way that little time is lost between receipt and disbursement, many states and cities invested their LEAA largesse in interest-bearing bank accounts and private securities. The House Committee on Government Operations found that, while waiting to disburse LEAA funds, many states invested them in U.S. Treasury bonds—a kind of shell game in which the state agencies profited by lending back to the federal government its own money at the going interest rates. *Government Executive* called it "ripping off the gift horse." [See "Tooling Up for Repression: The Cops Hit the Jackpot" by Joseph C. Goulden, *The Nation*, November 13, 1970.]

Such wasteful, corrupt spending of public funds—which never reached the level of public exposure of, say, a welfare mother claiming one too many dependents—is only a small, easily understood part of the LEAA story. Far more complex and ominous is the legacy which LEAA will leave behind. To understand where the crime fighters may now be heading one must examine where LEAA has been.

In June 1968—at the peak of the anti-war and civil rights movements—Congress enacted the Omnibus Crime Control and Safe Streets Act, the federal government's first comprehensive anti-crime program. This bill laid the groundwork for a massive federal intrusion into local law enforcement, a function constitutionally and traditionally regarded as strictly local. The statute did not pretend to deal with the conditions that breed crime and violence—unemployment, racism, slums, poverty and disease. President Johnson stated in a message to Congress: "We have dedicated ourselves to change these conditions— and we shall—but our responsibilities require us to find more immediate solutions to the rising crime rate that will help us maintain order while we build better foundations for urban life."

Passage of the Safe Streets Act failed to lower the stridency of the law-and-order theme in Nixon's 1968 Presidential campaign. On September 29, 1968, in his first national radio address on crime, Nixon spoke prophetically:

"The truth is that we will reduce crime and violence when we enforce our laws—when we make it less profitable, and a lot more risky, to break our laws. . . . Today only one in every eight crimes results in conviction and punishment. Today an arrest is made in only one in every five burglaries. Today an arrest is made in less than a third of reported robberies. Today it is comparatively safe to break the law. Today all across the land guilty men walk free from hundreds of courtrooms. Something has gone terribly wrong in America."

Three months later the Safe Streets program was in the hands of the Nixon administration, where it has prospered ever since. Understaffed, low-paid, ill-trained police departments across the country eagerly grabbed at the new federal windfall—$63 million the first year, a fourfold increase to $268 million the next year, soaring to $891 million for fiscal 1974.

Where has all the money gone? Considerable amounts have gone to snowmobiles and outboard motors, as well as to motor scooters, helicopters, closed-ciruit TV cameras, patrol cars equipped with "intensifier image orthicon" and other exotic forms of "saturation patrolling" of high-crime areas. Many states received funds for riot control programs—even Montana, Idaho, Vermont and Maine, where riots were not a worry until the federal funds came along. Others developed intelligence systems for predicting civil disorders—a "tension detection and forecasting capability" in Arkansas and Mississippi, and a system in Texas for evaluating where "civil disorder potential exists." A number of grants provided for police training programs; others launched enforcement, treatment and prevention centers for narcotic offenders; relatively small sums were allocated for court reforms and overhaul of the criminal justice system, for adult corrections programs and for juvenile counseling, treatment and diversion projects.

The LEAA was the instrument created to disburse the funds through a new bureaucracy with ten regional offices and a planning agency in each state. As a form of federal revenue sharing, LEAA administers only 15 per cent of the funds directly through discretionary grants; 85 per cent is allocated to the states in the form of block grants based on population. Since most of the federal programs require matching grants by the states and cities, the true cost of LEAA-sponsored programs is unknown and may be incalculable—except that it is far beyond the $5 billion allocated in federal funds alone. Few state or local agencies pick up the tab when demonstration projects are terminated.

Lacking clear priorities or performance standards, LEAA programs have done little to change the substance or direction of the criminal justice system; nor have they retarded the haphazard, oppressive practices of the past or reduced discriminatory treatment of the poor and the minorities. The biggest winners in the LEAA sweepstakes are the manufacturers and suppliers of computers, electronics equipment and surveillance devices—IBM, Burroughs, Motorola, RCA, Westinghouse, Litton, Honeywell, Bell Helicopter, Hughes Aircraft, among many others—which converted much of their military arsenal, field-tested in Vietnam, to the booming law-enforcement market. One estimate places the potential market for police hardware at $14 billion by 1975.

In California, always a bellwether state, LEAA funds in excess of $100 million were used to advance the most sophisticated police technology to be found anywhere in the country—command and control systems, crime laboratories supported by satellite labs, automated manpower and resource allocation systems, helicopter patrols, computerized information systems and intelligence-gathering operations. "The net result of these efforts," concluded a study by the Lawyers Committee for Civil Rights Under Law, "is an increased militarization of the police. The transfer of military terminology and technology to law enforcement, the new advances in surveillance and intelligence gathering are all preparing the police for a combat role. There is a real possibility that the preparations themselves will contribute to conflict between one group of citizens and another."

Eventually, much of the expensive gadgetry and hardware will probably be consigned to the warehouse or the auction block. But some projects will remain, partly because of the huge federal investment in them and also because they are vital to the long-range strategy of the Department of Justice: to beef up the power of police and prosecutors, to strengthen the political power of the law-enforcement community, and to create a unified national police force. Destined to survive are the computerized criminal justice data banks which are proliferating across the country under LEAA auspices. The most important of these was Project SEARCH (System for Electronic Analysis and Retrieval of Criminal Histories).

On the premise that criminals flee at will across state borders, Project SEARCH was launched in July 1969. A study of felon mobility, conducted by SEARCH itself, showed that "a relatively small percentage of offenders are really mobile in a national sense. This fact argues for regional systems interfaced between states rather than a national data bank." SEARCH then set out to demonstrate that a computerized system for exchanging criminal histories, or rap sheets, among the states was feasible and practical. Twenty states joined the demonstration project and became eligible for funds for systems analysis, data collection and conversion, file construction and storage. But according to an evaluation conducted by Data Dynamics, Inc., only ten states officially participated as observers, six states actually conducted demonstrations by entering some 10,000 offender profiles apiece into a central computer, and only New York made any extensive operational use of the system.

SEARCH was designed as an index—an interstate directory and clearing house for information on criminal offenders. It worked as follows: A police officer arrests a suspect in a robbery case. To find out if the man is dangerous, wanted in another state or city, or is a parole violator with a past criminal record, his driver's license or Social Security number is transmitted to the central index. The index responds to the query with personal descriptors and identifying numbers (date and place of birth, sex, occupation, race, height, weight, hair color, skin tone, scars and tattoos, FBI number, Social Security number, driver's license or other identifying numbers), plus a capsule criminal profile, and the name of the state holding the complete criminal record. The inquiring agency then has direct access through its state computer to the complete file in the state holding the record. The full information in this file is transmitted back through the central index to the inquirer's state computer. All this is to occur in a matter of seconds.

SEARCH was also supposed to provide the courts with better, quicker data relevant to granting bail, sentencing, probation and correctional treatment. However, only one court agency had a terminal during the demonstration period, and the participation of court and correction agencies was very limited," according to the DDI evaluation. Moreover, under this data retrieval system, it would not be possible for prosecutors to run the names of witnesses, jurors or other parties through the computer to help "determine the veracity of testimony"—an advantage not available to the defendant or his counsel, who might want to do some electronic frisking of prosecution witnesses.

Since most of the technology was already developed, SEARCH had only to develop a machine-readable format for criminal history data, and within a year SEARCH coordinator Paul Wormeli was able to pronounce the project a success. On July 1, 1970 (in a scene reminiscent of Don Ameche portraying Alexander Graham Bell), Wormeli wired Richard Velde, then associate administrator of LEAA: "The capacity for interstate transference of criminal histories has been demonstrated today." Two weeks later the system was put through its paces for Attorney General Mitchell and J. Edgar Hoover. A fortnight later, President Nixon was treated to a "brief presentation" of the SEARCH system in Denver.

Project SEARCH was important, but not because it did what everyone in the computer communications field knew it could do. It was important for two other reasons: it brought to the surface a power struggle between the Department of Justice and state-local police agencies for control of LEAA funds and policies, and it showed where the Department of Justice stands on individual privacy as affected by computerized data banks.

The man chosen to head the Committee on Security and Privacy of Project SEARCH, Dr. Robert R. J. Gallati, was remarkable not only for his impressive law-enforcement credentials but also for his uncommon sensitivity to the real and potential dangers of computerized criminal justice data systems. Gallati, who holds a doctoral degree in jurisprudence, was for nine years director of the New York State Identification and Intelligence System and for twenty-seven years a member of the New York City Police Department. In 1972, he wrote, "The threat to personal privacy is the greatest challenge facing our nation today," citing as his major fears: "Government manipulation of the public on a scale never before possible; total and continuous surveillance of the people longitudinally over time and in depth on sensitive matters; complete chilling of all dissent; popular abandonment of hope for a new life—redemption rendered hopeless; and final surrender of all individuality without even the scent of a *quid pro quo*." Strong words from a cop.

Gallati's committee developed a code of ethics and four technical reports which faced head-on the issues provoked by the new computer data banks. Recognizing that the same problems apply to *all* sensitive, or partly sensitive, public records, the committee focused on three major areas where privacy and security are of crucial importance:

(1) Unintentional errors, ranging from typographic errors to mistaken identities, are common enough in manual record keeping. But the consequences of computer errors may be amplified since many more persons may have access to the data and "the system response speed may exceed the error-detection and correction speed."

(2) Data can be misused, either out of context or for unlawful purposes, by those who have authorized access to the data, as well as by others who acquire the information surreptitiously. Instances of misuse may increase substantially over those of a manual system because of the increase in users, easy access under present lack of controls, and simply because "the computer itself introduces more opportunities for misuse" by the speed with which it searches and compiles.

(3) Intentional data change, such as destroying or modifying the stored information, increases in proportion to the degree of centralization of the system. A disc or tape file is thus more vulnerable to undetectable changes than the old-fashioned, inefficient paper file. *"It has been suggested that organized crime may attempt to penetrate the system for this purpose."* (Emphasis added.)

Believing that a system so potentially dangerous could still be brought under control, Gallati's committee developed model administrative regulations that would inhibit errors, misuse and tampering with criminal justice files. Among its major recommendations were:

Restriction of data to those concerned with crime prevention, apprehension, adjudication or rehabilitation.

Segregation of criminal justice files (a dedicated system) so they cannot be modified, destroyed, accessed, changed, or overlaid by non-criminal justice terminals.

Provisions for closing or expunging criminal offender files after designated periods of time, depending upon the severity of the crime.

Restrictions on the use of criminal offender information for research purposes.

Maintenance by each criminal justice agency of a log of all agencies and individuals receiving criminal offender information.

Procedures allowing an individual to review and challenge the contents, completeness and accuracy of his own records, including notification of other agencies of errors previously disseminated.

Administrative penalties—suspension, discharge, transfer—for violation of the regulations.

Limitations on dissemination of certain types of data to specified agencies and recognition that dissemination to non-criminal justice agencies carries "the gravest risk of security and privacy compromise."

Sensitivity classification of all data, from highly sensitive to restricted, and personnel clearances in accordance with strict right-to-know and need-to-know principles.

While far from leakproof, the proposed regulations were the most restrictive yet advanced for protecting the security of the data system and the privacy of the individuals named in its files. That being so, they were totally unacceptable to the Department of Justice. On May 8, 1970, Jerome Duant, a chief spokesman for the FBI, found the Gallati committee proposals "very objectionable." Listing sixteen major objections, he stated: "There can be no absolute right to individual privacy. . . . A public pronouncement of the concern of the SEARCH participants for American liberties is not necessary; this should be assumed. . . . It is questionable . . . to suggest that a citizen has the right to inspect and challenge the contents of Project SEARCH files. . . . I question the need for a 'code of ethics' in a test and demonstration project."

Six months later, the FBI took over Project SEARCH. Under authority granted by Attorney General Mitchell, the demonstration project was incorporated into the National Crime Information Center (NCIC) which has been operated by the FBI since 1967. The growing rift between the states and the federal government for control of criminal justice information systems was now wide open.

NCIC was touted by the FBI from the moment it began as "a phenomenal success," "a tribute to cooperative spirit" and "a new and powerful weapon against crime in our time." Actually, NCIC began as a fairly innocent and routine computer file on wanted persons and stolen vehicles, license plates, guns, securities, boats, etc. Through control terminals in all fifty states, the District of Columbia, Canada and all FBI field offices, some 6,000 police agencies (out of perhaps 40,000 nationally) can tap the bank for data on wanted persons and stolen property. NCIC now contains more than 3.7 million such records and handles 75,000 transactions a day with local, state and federal law-enforcement agencies, maintaining a daily average of about 700 positive responses, or, in computer lingo, "hits." Thus, one out of a hundred inquiries elicits some presumably useful information.

The typical use of the wants-and-warrants part of NCIC involves the patrolman on a beat who, for example, may stop a traffic violator with out-of-state license plates. The officer radios his headquarters for a check on the license number, to determine if the car was stolen or if the driver is wanted on another charge. If so, he makes an arrest instead of merely issuing a summons. Even this simplified data retrieval system has its problems. Since local police are responsible for both entering and removing information, a form of Gresham's law goes into effect, with bad information driving out the good. Thus, if a car is stolen in Pittsburgh and recovered in Akron, the Pittsburgh police may be quick to report the theft to NCIC but the Akron police may forget to record the recovery. As a consequence, some car owners are arrested for stealing their own cars. (In California, 90 per cent of stolen cars are "dropped" within eight hours of theft. As the result of computer errors, some $400,000 in false arrest suits were pending in 1973 against the San Francisco Police Department.)

The FBI estimates that by 1978 the NCIC's wanted persons and stolen property files will contain more than 10 million entries, nearly triple its present contents. And by 1984, fulfilling Orwellian prophecy, it will contain 21.7 million records. The FBI's own projection raises an interesting question: if the NCIC is such a "powerful weapon" against crime, why does the FBI anticipate that robberies and fugitives will increase sevenfold within ten years? The answer is that the purpose of NCIC is not to reduce crime but to build an information empire.

By late 1970, when the FBI took over Project SEARCH, the wants-and-warrants file at NCIC had already lost much of its glamour. It was time for NCIC to expand its reach, and expand it did by changing the SEARCH system from a central index of files controlled by the states, to a master repository of all criminal offender records, controlled by the FBI. In November 1971, the FBI jubilantly announced the formation of a Computerized Criminal History (CCH) file, a major expansion of the NCIC network. Again, "rising crime rates and the interstate mobility of criminals" were cited as reasons for the new file. Again, the system was touted as a major step toward fighting crime as well as a step toward "great savings in time and manpower" and "reduction in the number of duplicate records in local, state and federal agencies." CCH was envisioned as the ultimate in criminal justice data banks, with a goal of 8 million criminal history records in the NCIC computer by 1984.

Complete criminal histories contain information on arrest, detention, criminal proceeding, probation, incarceration, parole, or release from custody. But an arrest does not necessarily result in a conviction—only 20 per cent of the 3 million persons arrested every year are found guilty. The charges may be dropped for lack of evidence or the suspect acquitted, but the arrest record remains in the state files and, if the state is one of the few now participating in CCH, it also remains in that computerized system.

The vital part of a criminal record is the disposition of a case, especially in the event of acquittal or dismissal which, as noted, occurs 80 per cent of the time. But dispositions are not entered into the files with any degree of regularity. Neither the courts nor the police are diligent about posting disposition data, partly because of the extra paperwork involved and also because they claim that any arrest data, regardless of evidence or innocence, are useful in future investigations. Only twenty-six states require that dispositions be reported to their own state criminal data bureaus; a few states require reporting to NCIC but none of the requirements is widely or strictly enforced. Thus, a mere arrest qualifies hundreds of thousands of persons annually for a permanent place in the CCH archives.

Speed is the main selling point of CCH; the system can respond to some queries within fifteen seconds, and more than half are answered in less than an hour. Speed also makes the system faulty and deceptive. So far, there is no way to scan and classify fingerprints by electronic transmission. While prints may be sent by facsimile to CCH along with a request for criminal data, there is no assurance of accurate identification until the prints are classified by the FBI's Identification Division, a process which is more of an art than a science and requires a week or two. As the only source of positive identification by fingerprints, the FBI has custody of some 21 million prints of criminals and suspects, plus 40 million civilians, government employees, aliens and passport applicants. Speed thus becomes a dubious asset, unless one doesn't care all that much about accurately identifying suspects and offenders.

A recent study by the Comptroller General's office showed that CCH data are used mostly by judicial and correction agencies for post-arrest purposes, and for occupational licensing, employment checks, verification of identity of deceased persons, routine updating of files, and for testing of the CCH equipment. Only 27 per cent of federal requests and 32 per cent of state requests to CCH are related to pre-arrest investigation or apprehension. The study suggested that "a very quick response time is not vital," especially by federal agencies whose cases are usually protracted, and whose own files provide most information needed quickly.

Unnecessary speed, doubtful accuracy and the inability to supply disposition data are not the only problems that plague CCH. The murkiest area of all is that of dissemination—who has access to such sensitive data as criminal histories and where does it go from there? Under policies adopted in 1971, direct access to the CCH file through a local or state terminal is granted to: police departments at all levels, prosecutory agencies, the criminal courts, correction and probation departments, parole boards and "other agencies" which perform a criminal justice activity as their principal function. At the federal level, such on-line access includes: the Justice Department (Drug Enforcement, Immigration and Naturalization, Criminal Division, U.S. Marshals, Bureau of Prisons and U.S. Attorney's office); the probation office of the federal courts; the Treasury Department (Alcohol, Tobacco and Firearms Division, Bureau of Customs, Internal Revenue and Secret Service); the Postal Inspection Service; the National Park Service and the four military criminal investigative agencies of the Defense Department.

At the state level, access to criminal histories is alarmingly capricious. California gives access to police officers, district attorneys, probation officers, state courts, federal officers and *any* state agency, officer or official "when needed for the performance of official functions," and, commonly, to determine a person's eligibility for licensing or suitability for employment. Florida also provides criminal data for employment and licensing. The Comptroller General's study found in Florida at least thirteen criminal justice agencies that were not complying with state policies on dissemination; seven agencies gave information to unauthorized users, including city agencies and local private employers; other police agencies, contrary to state policy, turned data over to military recruiters and investigators, and one police department's criminal history files were open to the public. In Massachusetts, the probation department responds to phone requests for criminal history information without verifying the identity or authorization of the caller. Investigators were unable to determine who initiated about 10 per cent of the inquiries.

In testimony before the Senate Judiciary Committee in 1973, L. Patrick Gray II, then acting director of the FBI, conceded that arrest and conviction data are disseminated to federal, state and local governmental agencies "for other than law-enforcement purposes." Recipients of such data, mostly for employment screening and licensing purposes, include boards of education, alcoholic beverage control boards, real estate boards, licensing authorities for gun permits, the legal and medical professions "and the like," Gray testified.

CCH files exclude juvenile offenders information, Gray noted, unless the minor has been tried in court as an adult. However, "the massive size of the criminal files of our manual identification system prohibits the segregation of juvenile arrest records from adult arrest records. . . . All contributors of arrest data are aware that the FBI does not have any provisions for keeping juvenile arrest records which have been ordered sealed or which are otherwise required to be kept confidential in a separate file."

Still, Gray proudly noted that some progress had been made in the FBI's record-keeping apparatus during his brief and ill-fated tenure. No longer are records kept on certain minor offenses (drunkenness, vagrancy, disturbing the peace, curfew violations, loitering, false fire alarms, traffic violations not involving drugs, liquor, hit and run or manslaughter, and nonspecific charges of suspicion or held-for-investigation). And, lo and behold, no longer are records kept on persons more than 80 years of age!

The issue of dissemination of the FBI/NCIC arrest data was raised for the first time in a significant way by Dale B. Menard, a 19-year-old Los Angeles college student when he was arrested in 1956 on suspicion of burglary, booked, fingerprinted, held in custody for more than two days, and then released without being charged with any crime. A routine fingerprint card was sent to the FBI with the notation, "Released—unable to connect with any felony or misdemeanor at this time." For nearly a year, Menard and his family were locked in a battle to have his arrest record expunged: the Los Angeles police stubbornly refused to request the return of his record from the FBI unless ordered to do so by the courts, and the FBI will return records only at the request of the arresting agency. Menard took his case to court.

On June 15, 1971, U.S. District Court Judge Gerhard A. Gesell, in the District of Columbia, ruled that Menard's arrest record may not be disseminated to prospective private employers. Gesell held:

"While conduct against the state may properly subject an individual to limitations upon his future freedom within tolerant limits, accusations not proven, charges made without adequate supporting evidence when tested by the judicial process, ancient or juvenile transgressions long since expiated by responsible conduct, should not be indiscriminately broadcast under government auspices. The increasing complexity of our society and technological advances which facilitate massive accumulation and ready regurgitation of far-flung data have presented more problems in this area. . . ."

Attacking the shaky ground on which criminal data collection stands (a 1930 statute codified as 28 USC 534), Gesell said, "It is abundantly clear that Congress never intended to or in fact did authorize the dissemination of arrest records to any state or local agency for purposes of employment or licensing checks." Since there are no criminal or civil sanctions imposed for improper use of data supplied to the FBI, Gesell warned: "Control of the data will be made more difficult and opportunities for improper use will increase with the development of centralized state information centers to be linked by computer to the Bureau."

Still, Gesell denied Menard's petition for expungement of his record, and the case was appealed to the U.S. Court of Appeals. On April 23, 1974—nearly nine years after Menard was arrested—the appellate court ordered the FBI to remove Menard's records from its criminal files. The court stated:

"The FBI cannot take the position that it is a mere passive recipient of records received from others, when it in fact energizes those records by maintaining a system of criminal files and disseminating the criminal records widely, acting in effect as a step-up transformer that puts into the system a capacity for both good and harm. . . ."

Even this decision was settled on procedural grounds and applies only to the FBI practice of dissemination of an arrest record. It does not order expungement of the record from the FBI's criminal identification files nor does it affect the practices of state and local law-enforcement agencies. Possibly fearing that the U.S. Supreme Court may be ready to deal with the issue in a broader way, the Solicitor General decided not to appeal the Menard decision to the High Court. The decision conflicts with the official policy of the Los Angeles Police Department, which still refuses to request return of arrest records from the FBI except in cases of mistaken identity or when ordered to do so by a court of proper jurisdiction.

The FBI no longer boasts that NCIC will hold 8 million computerized criminal histories ten years hence. After four years of operation, only four states—Arizona, California, Florida and Illinois—are fully participating in the CCH system by storing criminal history records in both state and NCIC computers. Forty states have authorized access to the CCH file, even though their own state criminal histories are not a part of it. Six states have been denied access—Arkansas, Colorado, Kansas, Ohio, Kentucky and South Dakota—for failing to meet even NCIC's minimal security and privacy standards, while New York was forced out of CCH for refusing to update its records. Massachusetts refused to participate because CCH standards for privacy and security are much weaker than the state's own; Pennsylvania withdrew its records because conversion to a computerized system was too expensive. CCH now contains some 470,000 criminal histories, 200,000 of them from California alone. Even California's participation is lopsided, since the Los Angeles Police Department is not a part of CCH.

Among the earliest critics of the FBI's takeover of criminal histories were the directors of LEAA's state planning agencies. Speaking for them as chairman of their executive committee, John F.X. Irving of Illinois predicted in 1970 that turning over the collection of criminal histories to the FBI would "convert a cooperative state-federal effort into a federally run system in which the states would play a subordinate role . . . and would result in significant duplication of effort." The state director complained that while losing substantial control over the system, the states would have to bear the main human and financial burden of creating the files entered into the federal system. Since the states, in any event, will proceed with their own comprehensive criminal justice data systems, "a separate federally maintained file will be a wasteful, unjustified duplication" of state files.

Opposition to CCH has piled up ever since. Senator Mathias (R., Md.) called it the "raw materials of tyranny." *Computerworld*, a trade publication editorialized in July that it was "time to bury CCH," noting that the "unwillingness of forty-eight states in the Union to pay for the system demonstrates that it is not needed." Early in 1973, the General Accounting Office in a report to Congress had found that NCIC/CCH represented an open-ended commitment by the federal government "without an accurate forecast of all systems costs and a plan for insuring the completeness of reporting." There is no assurance that the states will be able to meet the heavy financial burden or that the system will provide complete and accurate information, the GAO said, noting that only four states have adequate reporting procedures for both arrests and dispositions. The failure to restrict arrest data which do not contain follow-up disposition is a "serious system deficiency because it permits dissemination of arrest information without showing whether a person was convicted or found innocent." The GAO recommended; halt further expenditures until the reporting system is improved and exact costs for expansion are determined.

But for the most damning word on CCH one must turn to FBI Director Clarence M. Kelley, who wrote on January 31 to the Urban Policy Research Institute, a public interest research organization in California: "A more rapid flow of criminal offender information can bring about more realistic decisions with respect to bail, sentencing, probation and parole. *The detection of criminal suspects is not specifically embraced within this purpose, and there is no evidence available at NCIC by which to measure improved prosecution of criminal suspects through state access to CCH.*" (Emphasis supplied.)

So much for the FBI's "powerful weapon against crime" a popgun that fails to touch serious lawbreakers but scatters buckshot over ordinary citizens, who are often permanently scarred by a "criminal record." It is a system based on a flimsy, forty-four-year-old statute only slightly undercut by the Menard decision; a system that defies regulation and is "out of effective control" as a lower court stated in the Menard case; a system so deviously costly that even the GAO cannot determine its actual costs.

Where will the crime fighters go from here? Attempts are being made to clean up LEAA and dismantle some of its more hokey programs. CCH will limp along because no one can admit that it ranks somewhere between the Edsel and Thalidomide as a national disaster. Federal funds may entice a few more states into the CCH system, and some form of regulatory legislation may be passed, at last, by Congress.

Since 1965, Congress has considered 342 bills dealing with some aspect of privacy in federal agencies, but only two restrictive measures became law: one limited the use of wiretaps to police-related activity; the other gave consumers the right to challenge credit agency files. However, the Watergate revelations finally got the message across. On November 21, both the House and Senate approved by stunning margins the first major privacy legislation. It gave citizens access to many of the government records affecting them, limited the use of Social Security numbers for identification purposes, and restricted the scope of information collected and disseminated by federal agencies. The real showdown, however, is yet to come. Since federal law-enforcement agencies were exempt from the provisions of the recent bills, these agencies will be dealt with in S. 2963 and H.R. 12575, the Criminal Justice Information Control and Privacy Act, which faces lengthy debate in the new Congress. The proposed Act bars computerization of intelligence records; limits the dissemination of criminal records to the complete conviction record; requires updating of records to the extent that it is "technically feasible"; provides citizens with the right to access for purposes of challenge and correction; imposes civil and criminal penalties for violations of the provisions by data bank operators; installs a random audit system conducted by independent computer experts, and creates a new, independent federal-state cooperative agency to oversee enforcement of the Act and to take over policy control of the NCIC. The Department of Justice plans to draft its own bill.

Whatever compromise legislation results cannot keep pace with the data juggernaut which moves ahead relentlessly with more speed, dazzle and mystique than the average citizen can grasp. Already waiting in the wings and beyond the dress-rehearsal stage is still another, more advanced, telecommunication system for law-enforcement agencies. This one is called the National Law Enforcement Teletype System (NLETS), which originally operated entirely on teletype equipment and had no data storage capability.

NLETS is a nonprofit corporation operated by a consortium of states, with each state financing its own participation in a network of administrative message-switching terminals. State teletype terminals accessible to local criminal justice agencies are connected to a central terminal in Phoenix, Ariz. Until recently, NLETS was a private preserve of the states, kept under wraps through its nonprofit corporate status and accountable to no overall governmental authority. Once again, the bogus argument for "high-speed telecommunication" brought $500,000 from LEAA for a NLETS study and $1.5 million to help upgrade the system so that computers can be used to exchange information over high-speed telephone lines. Among the "growth areas" planned for NLETS are computerized criminal histories, interstate exchange of driver-record information, transmission of graphic data through facsimile or video media, the development of intelligence information bases and "criminalistic files."

Again, the FBI is sniffing around what it senses will be the successor to Project SEARCH and CCH. It has proposed that it, rather than the states, operate the central message-switching terminal of NLETS which enables the state computerized information systems to communicate directly. The GAO's legal counsel advised the Attorney General that "it is arguable whether there is adequate legislative authority to support the FBI's proposal to acquire administrative message-switching capability. Moreover, if the FBI obtains [this] capability, there is a question whether NLETS needs to exist." Such counsel has not been persuasive in the past. An FBI takeover of NLETS, which is opposed by the White House, would give the FBI control of all access to and dissemination of criminal data exchanged among the state and local police agencies. Its reign over the entire criminal justice data system would be absolute, since it already controls the nation's fingerprints and the criminal justice data base.

The simple truth is that nearly all computer data systems would have to be scrapped in order to guarantee adequate security and confidentiality. Because maximum speed rather than security and privacy was the rationale of computer design, it may be years before integrity can be built into the system, a development that will reduce efficiency and increase costs. Dr. Michael Munter, research and planning director for automated data and telecommunications in the General Services Administration, warned a conference sponsored by the National Bureau of Standards that the appearance on the scene of new computer networks complicates the problem, since the breach of one computer system can mean a breach in all the others in the network, increasing the likelihood of errors, tapping and tainting with false information. The computer community doesn't know yet what is involved in designing against leaks, Dr. Munter said, "or if we can get there at all."

Another doubter is Frank T. Cary, chairman of the board of IBM, the world's leading supplier of computer hardware. In a June 15th article in *The New York Times*, Cary wrote: "In the past you had to be famous or infamous to have a dossier. Today there can be a dossier on anyone. Information systems, with a seemingly limitless capacity for storing and sorting information, have made it practical to record and transfer a wealth of data on just about anyone. The result is that we now retain too much information. The ambiguous and unverified are retained along with legitimate data."

He concluded: ". . . one way of preventing misuse of personal information is to discourage its collection in the first place."

RUNAWAY LITTER PROBLEM

HON. ROBERT E. JONES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. JONES of Alabama. Mr. Speaker, the runaway problem of litter along streets and highways is becoming a national disgrace to all citizens.

Efforts for beautification and all the virtues this implies are a most commendable public attribute. Yet when we travel up and down the country's public thoroughfares we see a total disregard of beautification with the desecration by cans, bottles, papers, cartons, and every conceivable form of refuse and garbage.

Sufficient public indignation to restrain this disgraceful situation would result in major beautification of every area. Elimination of litter would also free considerable public funds for needed community improvements.

A recent editorial in the Hartselle (Ala.) Enquirer, clearly set forth the extent of the problem and the wasteful costs which result from litter.

Because it is a responsible and informative attack of the kind which will be necessary to stir public indignation and, hopefully, less litter, I submit the editorial for the consideration of my colleagues:

RUNAWAY LITTER PROBLEM

For the Highway Department and the taxpaying citizens of Alabama litter is becoming a staggering problem.

The initial results of a continuing litter study in the state show a litter count of 5,744 pieces per mile. The damage to machinery and tires and resulting employee downtime created by bottles and cans amounted to nearly $10,500 per week for the 23-week mowing period last summer.

To compute figures for the study, litter was picked up from one mile of roadway in each of 45 districts throughout the state in December. Litter from the 45 mile area totaled 258,523 pieces of litter from the combined area. Broken down into categories that amounted to 167,563 pieces of paper, 47,460 cans, 14,144 bottles, 16,563 pieces of plastic and 12,931 miscellaneous items.

Litter removal is essential to the safety and maintenance of our highway system. Grass must be cut periodically for safety and maintenance reasons and litter must be removed (at a cost of a million dollars in the 1972-73 periods) before the grass is cut to avoid as many equipment breakdowns as possible.

What a waste of money considering the problem could be virtually eliminated by the voluntary support of motorists. How much better the money could be used resurfacing worn out roads, upgrading bridges and making our roads safer and more attractive.

TAX INCENTIVES FOR ENERGY-SAVING HOME IMPROVEMENTS

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. VANIK. Mr. Speaker, a strong consensus has been developing in recent days that the 94th Congress must take vigorous measures to reduce our Nation's energy consumption. We have no other short-term alternative of eliminating our dependence on insecure and ruinously high-priced foreign oil supplies. As the Ford Foundation's energy policy project concluded in its recent report on the Nation's energy future:

> Obviously . . . the less energy we consume, the less vulnerable we are to interruption. In the case of the vulnerability problem, energy conservation is an insurance policy taken out against the possibility that diplomacy can fail.

Recently the Federal Energy Administration completed a study on energy conservation policies which could be followed and would reduce our Nation's energy demand without jeopardizing our economic welfare. The findings of this study are significant. The study concluded that beyond measures to curb gasoline consumption, improving the efficiency of residential and commercial space heating was the most significant step the Nation could take to reduce energy consumption.

In 1972, 25 percent of our Nation's energy budget was spent in the household and commercial sectors. Of this total, roughly half is spent for heating, cooling, and ventilating residential buildings. In more concrete terms, these statistics mean that our Nation spends the equivalent of over 4 million barrels of crude oil a day to control the temperature in our homes.

By and large this energy is not being used wisely. A number of recent, comprehensive reports by various private and governmental agencies have found that significant energy savings can be made by ungrading existing homes to make them more "energy efficient." The addition of adequate insulation, storm windows, storm doors and, in some cases caulking material can easily reduce the energy required to heat and cool a home by anywhere from 10 to 20 percent of the energy used in residences. The Department of Housing and Urban Development after closely studying the energy consumption characteristics of a model home concluded:

> The structural modifications necessary to conserve . . . 19 percent of the total annual primary energy consumption within the Characteristic House, were all readily available within current construction practice, and the adaptation of these items would not interfere with the life style of the occupants. The estimated cost of these items would be approximately $550.

Drawing from these studies the FEA in its recent Blueprint Report was emphatic in pointing out the need to upgrade the existing housing inventory, in order to reduce the Nation's energy demand. According to that report:

> Assuming the number of residential units continues to grow about two percent per year, energy conservation measures aimed solely at improving the thermal efficiency of new housing would not be effective in reducing overall demand for several years. To reduce current demand, existing housing must conserve more energy through the installation of energy saving devices which improve the thermal efficiency of the residences.

HIGH FUEL COSTS ARE NOT ENOUGH

As the FEA report makes clear, if we have any hope of reducing energy demand and cooling residences, we must focus our attention at the approximately 50 million owner occupied housing units. The question facing Congress must be whether the Federal Government can be effective in accelerating the improvement, or "retrofitting" of existing homes. Certainly higher fuel costs act as an important inducement to homeowners to upgrade their residences. The FEA reports that during 1973 between 85,000 and 105,000 dwellings were retrofitted with energy-saving improvements. At the same time, FEA concludes somberly:

> Without additional incentives, retrofitting can be expected to continue but at a reduced rate.

In view of the national imperative to conserve energy, Congress must consider legislation to provide an incentive to homeowners. Today with 67 of my colleagues I am introducing legislation to establish a tax credit for homeowners who invest in energy-saving improvements in their residence. Identical legislation has been introduced in the other body by Senator DOMENICI. Briefly speaking, this legislation allows a homeowner to subtract from his Federal income tax liability 25 percent of his investment in storm windows, storm doors, insulation, caulking material, and other energy-saving home improvements. The credit is limited to $250 and can be taken only on the taxpayer's principal residence. In addition, the bill provides a 25 percent credit up to a limit of $1,000 for the homeowner who installs solar heating and cooling equipment in his residence. Finally, the legislation allows the taxpayer an option of electing a tax deduction equivalent to the tax credit.

Mr. Speaker, this legislation is an emergency 5-year program to reduce energy consumption in residential homes. Indications are that response to such a program would be impressive. Recently, a Michigan utility offered to finance additional insulation for its customers. This program did not involve an incentive but rather provided a means for the homeowner to finance the relatively high initial costs of improvement through his monthly utility bill. I understand that roughly 7 percent of the customers responded to the program—an impressive response for this modest program.

According to industry sources, at least 20 percent of the existing homeowners would be willing to participate in some incentive program immediately. That is the equivalent of 10 million residences. Other industry representatives calculate that at least 50 percent of the Nation's homeowners need additional improvements and would be willing to participate in an incentive program. These numbers represent only rough calculations. In my investigations I was able to uncover no definitive estimates of the actual size of the reinsulation market. One conclusion, however, is warranted: the market is formidable.

For the purposes of calculations, I have chosen the figure of 5 million homes which would annually participate under the program I am establishing. Since the average home improvement is calculated at a cost of $600, the tax credit to the average homeowner would be $150. The total annual cost of the program would therefore be approximately $750 million at its outer limits. For this investment the act will provide the upgrading of about 20 million homes—that is nearly half of the total owner-occupied housing stock in our country.

ENERGY SAVING POTENTIAL

According to FEA statistics the potential energy savings from additional residential improvements can be seen in the following table:

POTENTIAL ENERGY SAVINGS FROM HOMEOWNER INVESTMENT

[In thousands of barrels of oil per day]

Type of investment	1977	1980	1985	1990
Insulate ceilings of existing buildings	361.9	337.7	314.9	300.8
Weatherstrip and caulk existing homes	155.1	145.7	141.0	131.6
Install storm windows and storm doors on existing homes	61.1	56.4	56.4	51.7
Total	578.1	535.8	512.3	484.1

As can be seen, the savings potential of this program is greatest in its early years and begins to decline as the existing housing stock improves in energy efficiency. Taking 1977 as a rough calculation the annual oil savings can be calculated at 578,000 barrels of oil a day times 365 or 210 million barrels of oil a year. At the current import price of $11 per barrel, this program can cut roughly $2 billion off the energy bill of the Nation.

Beyond its impressive energy-saving potential, the program will provide an important stimulus to a depressed housing industry. Industry sources indicate that the energy alteration of 4 to 5 million units would be possible in 1975. Again, this is a rough calculation but it indicates the tremendous potential that awaits the incentive program.

WHY IS SUCH A PROGRAM NECESSARY?

Ordinarily, we would expect that a homeowner—like any other consumer—would respond to changes in the marketplace and protect his self-interest. We would anticipate that in view of higher fuel costs, more homeowners would consider cutting their fuel bill by investing in additional energy-savings improvements. However, as the FEA blueprint indicated, retrofitting is occurring, but at only a modest rate. Why?

The homeowner faces difficulties unlike many other consumers. John Moyers, a researcher with the Oak Ridge National Laboratory has analyzed the problem succinctly:

> The individual resident of a housing unit may be unaware of his options, let alone know how to analyze them effectively. Or he may, in fact, have little control over the efficiency of his residence . . . he may suffer at the hands of the builder who seeks to maximize his own profit, or he may misguidedly opt for small savings in initial capital investment instead of much larger savings in operating costs over the long run.

It is important to recognize, therefore, that a program of tax credits such as I propose will perform an important educational function—it will encourage homeowners to think about the energy efficiency of their residences.

Beyond this fact, homeowners have been discouraged from investing in additional insulation because of its high initial cost. Under my proposal one-quarter of the cost of this improvement up to a limit of $250 for conventional improvements and $1,000 for solar equipment will be returned to the taxpayer in the form of lower taxes. This incentive will provide the homeowner with an important boost to hurdle the significant costs of these improvements.

WHY SOLAR HEATING AND COOLING EQUIPMENT?

While we are planning proposals to upgrade the existing housing stock we should also be mindful of new building technology which offers significant hope of reducing fossil fuel demands in the residential sector. Solar heating and cooling equipment is just such a technology. The capability of heating a building from the Sun is well-known. The capability to cool a building is in the latter stages of development. If the Federal Government were to provide incentives to homeowners to adopt this technology, commercialization of solar heating and cooling units will be significantly accelerated. As the solar energy task force report to the Project Independence blueprint stated:

> Widespread utilization of solar energy systems will result in substantial reduction in the consumption of fossil fuels for heating and cooling purposes, thereby releasing fossil fuels for use in those processes for which alternative energy sources are either not practical or not cost-effective.

Providing for the rapid commercialization of solar heating and cooling technology will be a difficult task. Last year Congress passed the Solar Heating and Cooling Demonstration Act—Public Law 93–409—which established a demonstration program to advance this technology. In drafting my program of tax incentives, I have followed closely the mandates of this legislation. For example, a tax credit will be available only for equipment which meets performance standards established by the Secretary of Housing and Urban Development as outlined in Public Law 93–409. This tax credit program will broaden the base of this demonstration program in an urgent and responsible way.

We should consider tax incentives for solar devices as a worthwhile national program. A most unique perspective on this policy was provided by Mr. Sheldon Butt, of the Olin Corp., in testimony before the Senate Interior Committee last year. According to Mr. Butt:

> When a consumer installs solar heating equipment, he becomes an energy producer. He is now in competition with the corporate enterprises who produce and distribute "conventional" energy. His cost is primarily an investment cost. The existing tax laws treat the consumer's investment quite differently from a business investment, particularly so in the area of energy production.

To overcome this tax imbalance it is important that the Federal Government recognize the unique contribution that solar heating and cooling technology can make to the solution of our national energy dilemma.

At present, solar energy systems cost anywhere from $4,000 to $7,000. In order to encourage homeowners to consider and, in some cases, adopt this important new technology, any program allows a taxpayer to credit 25 percent of his investment in such a system, up to a limit of $1,000. The FEA Task Force report calculates that by 1985 an accelerated program of commercialization of solar technology—which would include incentives such as I have proposed—could result in a savings of our annual oil bill of the equivalent of 63 million barrels of oil—assuming oil costs $7 per barrel. By 1990 this savings could grow nearly threefold to 181 million barrels of oil a year.

Mr. Speaker, it is time to stop talking in generalities about our energy problem and start talking about specific programs. The legislation I am introducing today presents such a program. I am hopeful that the President's recommendation yesterday—which is a more modest, but very similar program—will encourage serious, urgent consideration of this tax incentive proposal. This is legislation which can be enacted quickly and which will have an immediate impact on reducing our energy demand.

OPPOSITION TO RAILROAD LINE ABANDONMENTS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ASHBROOK. Mr. Speaker, I have introduced legislation which would place a moratorium until December 31, 1976, on the abandonment of railroad lines that are covered by provisions of the Rail Reorganization Act of 1973.

In the absence of a finalized railroad service plan, I do not think it wise for the U.S. Railway Association to allow rail line abandonments. Once undertaken, line abandonments are expensive and almost impossible to reactivate.

Under the Rail Reorganization Act the Congress has a responsibility to act on the final rail system plan for the railroads of the northeastern part of the United States. The Congress should have the opportunity to vote on the final plan without that decision being prejudiced in any way by abandonments.

By law the U.S. Railway Association is required to present its preliminary system plan by February 26, 1975. This plan is supposed to include rail lines and facilities recommended for the final rail system. With the recent addition of the Erie-Lackawanna Railroad to those being reorganized, this preliminary plan takes on more importance.

On or before July 26, 1975, the U.S. Railway Association is to present its final system plan to Congress for evaluation and approval. The Congress has until September 24, 1975, to reject it or otherwise it becomes effective. I do not think that this method—congressional rejection of the whole plan or it becomes effective—is the best one. Nonetheless, the timetable does allow for more public involvement in the final determination.

My bill will make sure that the local communities served by the railroads in the reorganization plan will not be faced with abandonments that neither they nor their elected representatives in Congress have been able to consider as a part of the finalized railroad reorganization plan.

The text of my bill follows:

H.R. 1773

> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding the provisions of Section 304 (f) of the Regional Rail Reorganization Act of 1973, the United States Railway Association shall not authorize the abandonment of any line of any railroad prior to December 31, 1976.

NATIONAL ALCOHOLISM MONTH

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. O'BRIEN. Mr. Speaker, I would like to draw my colleagues' attention to the fact that January is National Alcoholism Month. Throughout the country, campaigns are on to educate people to the dangers and the heartbreak excessive drinking can cause.

One such campaign is being mounted in my own district by the Iroquois County Mental Health Center. The moving force behind this program is Florence Cordes, a wonderful energetic woman who has served with the center as alcohol coordinator for the past 5 years. Florence has done a tremendous job in helping people to understand that alcoholism is a disease that can be treated and that alcoholics are human beings and can only be helped with understanding and encouragement.

I am very proud of Florence's work and I am sure that the hundreds of people she and the center have helped appreciate her even more.

The following is an article from the Iroquois County Times regarding Alcoholism Month:

CORDES ANNOUNCES ALCOHOLISM MONTH

> January is National Alcoholism Month announced Florence Cordes, alcohol coordinator for the Iroquois County Mental Health Center for the past five years. She feels educating

the public about the alcohol problem will help people seek treatment and seek it earlier. The stigma once placed on alcoholics is becoming less she said and she has seen a definite increase in the patient load in the county in all ages and sexes.

Iroquois County has an active Alcoholics Anonymous group, an Alanon group for family members of an alcoholic, and they did attempt an Alateen for a short while.

She stresses their program offers no magic pills or words. The person has to want to quit drinking and they hope to motivate them to become a responsible member of the community again. They follow the 12 step program and do use Antabuse, a drug that makes a person ill if he attempts to drink in some cases, as well as the group therapy sessions.

She emphasized the most important thing is to realize the problem drinker is a human being who is sick and should be treated that way.

TRIBUTE TO MARVIN M. KARPATKIN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. RANGEL. Mr. Speaker, it is unfortunate that amidst all the flurry of activity surrounding the opening of the 94th Congress that we must interject a sad note. One of the Nation's most prominent civil libertarians died last Monday. Marvin M. Karpatkin met his untimely death at the age of 48, while jogging near his home on Riverside Drive in New York City.

A graduate of Brooklyn College in 1949 and Yale Law School in 1952, Karpatkin founded a law firm in New York City. Together with his wife, he represented many young men in cases dealing with selective service matters. He was always willing to provide legal counsel to all those men who were conscientiously opposed to participating in military action. His desire to see that these men were allowed to exercise their constitutional rights led him to on several occasions argue draft cases for individuals and on behalf of the New York Civil Liberties Union before the Supreme Court.

Karpatkin also was quite active in the civil rights movement. During the 1960's when black people were attempting to gain equality and justice in the South, Karpatkin made the trip to Mississippi to provide legal assistance and moral support at a time when the movement needed a great deal of both. His actions reflected a belief on his part that equality under the law was an attainable goal and should be achieved. This demonstration of moral support as well as legal expertise by Karpatkin shall always be remembered in the black community.

At a time when the public is raising some very valid questions with regards to the integrity of lawyers, Marvin Karpatkin was a sterling example of what lawyers should be. He never failed to wage a battle or come to the defense of an individual because of reasons which went to the probability of being successful. Moral conviction was his strong point and for this his presence in and out of the courtroom shall most definitely be missed. On behalf of my wife and I, I want to extend my deepest sympathy to his wife, Rhoda, and their three children.

VOTED AGAINST PRESIDENTIAL INABILITY AMENDMENT

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. GONZALEZ. Mr. Speaker, we have a situation in this country today that has never existed before, and one which I am sure our Founding Fathers never thought could happen. The President and Vice President of the United States were not elected by the people. Not one vote was cast by any citizen for or against either of these men who hold these high offices. They came to power through the use of the 25th amendment to the Constitution, known as the Presidential inability amendment.

The legislation providing for this amendment was considered in the House in 1965, and I was one of the few Members who voted against this bill. The following is an article from the Texas Observer of May 1965 which explains my vote.

(Congressman Henry B. Gonzalez of San Antonio, was one of a handful of congressmen who voted against the presidential inability bill passed by the Congress to provide a new method of replacing the President with the Vice President. The Observer asked him why he so voted, and this is his reply.)

Thank you for asking. Here is why I voted against the presidential inability bill:

As you probably know I was one of the first Members of Congress to introduce legislation on the subject of a vacancy in the office of the Vice Presidency. My bill, H.J. Res. 893, was introduced on January 21, 1964, and I reintroduced it in the present session as H.J. Res. 53 on January 4, 1965. The procedure described in my bill has been incorporated in the presidential inability bill passed on April 14.

But the bill that was passed goes too far. The section on presidential inability is most objectionable to my mind. It establishes a dangerous precedent which we may one day regret. This section provides for the transfer of executive power from the President to the Vice President in times of the President's inability. The transfer can occur with the President's consent, or against his protest. There is a vagueness in the language of this section which I believe should not be incorporated into our Constitution. The transfer of power is to be brought about upon the President's declaration that he is unable to discharge the powers and duties of his office. Never is the term "inability" defined. In an area as crucial and consequential as the Presidency of the United States, such a lack of definition can be disastrous.

There are far more serious objections to the presidential inability section of this bill. And before it is finally passed by Congress, and acted upon by the state legislatures, this question should be answered: Does the bill set up a new way in which a President might be wrongfully or mistakenly removed from office by the Vice President and a majority of the President's Cabinet?

By the way, as another example of the vagueness of this bill, the bill itself does not use the term "Cabinet." Instead, there is a reference to "the principal officers of the Executive Departments, or such other body as Congress may by law provide." Whatever is meant by "such other body" has never been spelled out or discussed to my satisfaction. It has been widely assumed that the reference is to the Cabinet. But as I read it, Congress could set up almost any group of federal officers under this provision.

In order to answer the question I have raised, it is necessary to understand the mechanism set up in this bill by which a President may be involuntarily removed from office. According to Section 4 of the bill, all that is needed is for the Vice President, joined by a majority of the "principal officers of the Executive Departments," to transmit to the Speaker of the House and President Pro Tempore of the Senate a written declaration that the President is unable to discharge the powers and duties of his office. At that point, immediately and without any further procedure and consideration, without any examination or investigation, the Vice President becomes the Acting President. The bill goes on to set out the steps by which the President may regain his office. These steps include his own written declaration that no disability exists, and the assembling of Congress, within five days, to decide the issue.

The fatal flaw in the bill, in my judgment, is the almost unchecked ease with which the President can be removed by either an unscrupulous or mistaken subordinate. However temporary this removal might be, in this nuclear age of push-button and instantaneous devastation it almost certainly would be too long. It is true that the people of this nation have so far been extremely wise and fortunate in the caliber and moral character of the men we have chosen to be President and Vice President. It would be naive, however, for us to suppose that men are infallible, that men do not make grievous mistakes, or even that bloodless *coups d'etat* have not occurred in other countries during our own lifetimes.

For these reasons I voted against the presidential inability bill, and in the months to follow I hope to help bring about further discussion and a public dialogue on this measure. Probably a year or two will expire before final ratification of the proposed amendment can occur. If the people are informed and awakened, there is still time to correct the mistake that was so blithely steamrollered through Congress.

Today I am introducing a bill to repeal the 25th amendment. Little did I realize that the tide of history would find this amendment in use so soon, and I, like a large number of fellow Americans find the current spectacle of an unelected President and Vice President uncomfortable. Our current situation is certainly an awkward one for a democratic nation such as ours to find itself in, and I strongly feel that we must never let this happen again.

The two men currently in power appear to be honest and I am sure would not want to violate the Constitution. But this does not assure our Nation that some time in the future we could not have a situation that would be otherwise.

As long as the 25th amendment is a part of the Constitution the electorate of our country cannot be sure that the two highest offices in our democratic Government could not be filled by persons who have arrived at these positions through unscrupulous, corrupt, or perhaps even violent means.

Mr. Speaker, I hope my colleagues agree with me on the urgency of repealing the 25th amendment and will work with me to achieve this goal.

TWO-WAY STREET

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. BENNETT. Mr. Speaker, my longtime friend Jerry Dragones has sent to me the following letter which I think is worthy of the consideration of each of us. He is a retired Federal Court official of distinguished service who has been for years a great contributor to a host of civic improvements in Jacksonville.

The article follows:

[From the Jacksonville Times-Union and Journal, Sept. 22, 1974]

TWO-WAY STREET

I read with interest your recent editorial on Cyprus and would like to add the following:

The Island of Cyprus is as Greek as Athens. The Turkish minority of 18 per cent of the population lived in harmony with the Greek majority for centuries, and on the whole they made a prosperous and peaceful state.

The Turks sold the island to the British about 100 years ago and it remained a colony of England until 1960. During World War II the English premier, Winston Churchill, promised Cyprus a union with Greece, but after the war in which Greece fought for years on the side of Western civilization, and was almost wiped off the face of the earth by Italy and Germany, the promise was not kept.

It must be mentioned that while Greece was on the side of the U.S.A. and allies in the First and Second World Wars, Mr. Kissinger's noble ally, Turkey, was lined up with Germany and against the allies in the first, and neutral, collecting benefits from all sides, in the Second World War.

As to her reliability as an ally on the side of NATO I hope, when the chips are down her word will be better than the one she gave our country in stopping the cultivation of the narcotic producing poppies, for which she received many millions of dollars.

The ruthless invasion of a free and sovereign state, such as Cyprus is, will not solve any problems—it will create a lot more. Imagine Castro claiming part of Miami because several hundred thousand Cubans happen to live there, and then to send planes, troops and naval ships, occupy the best part of the city, and then invite the United States to negotiate.

That exactly is what happened in Cyrpus; and England, which had troops on the island, two air bases, naval ships, and was one of the signatories that guaranteed the independence of Cyprus, stood still, and our great Sixth Fleet, which is based in Greece, was all around observing what was going on.

No one expected England and the United States to go to war with Turkey in order to stop the invasion. Mr. Lyndon Johnson stopped them on two previous occasions without a single shot. The Greeks have gone out of their way to have good relations with all their neighbors, and particularly with the Turks.

What has happened to Cyprus actually happened to Greece. The present premier, Const. Caramanlis, is a proven friend of America and the Western world, but he needs real assistance in order to survive politically. Greece needs NATO and NATO needs Greece, but we have to realize that friendship and reliability is a two-way street.

JERRY D. DRAGONES.

REORIENTING OUR ECONOMIC GROWTH

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. BROWN of California. Mr. Speaker, I take this time to discuss our current economic, energy, and ecological goals, and what I see as the means to balance these often conflicting values. President Ford, in his state to the Union address, attempted to deal with these three issues. Unfortunately, for him and for the Nation, his speech failed to understand the true nature of our current problems. The President is not alone in his perceptions of the problem, but neither are the critics, such as myself, alone in our own perceptions of the problem.

The fundamental flaw in the President's program, and in many of the responses of the President's critics is the failure to recognize that the industrial growth of the Western World in the last 100 years, and especially since World War II, cannot continue as it has in the past. The Western World, and the entire planet must recognize this new reality of limits to growth, and adjust our values and institutions to fit this new reality.

The difficulty with discussing the subject of economic growth is that unspoken assumptions get in the way of clear thought and open discussion. One must first recognize what these unspoken assumptions are before any constructive discussion can occur.

Coincidentally, two papers on this general subject were referred to me this past week. The first paper, which I want to insert into the RECORD, was written by Jack J. Combes and published in the National Association of Manufacturers Reports of July 23, 1973. One of the key paragraphs of this paper, which was refreshing to see in an industry publication, was the following:

Quality of life is not determined by the sheer mass of goods and services a people have available. Rather it is determined by the quality, serviceability, low maintenance, and the aesthetic and artistic appearance of the products they are provided with. We must reorient our technology away from quantity to the creation of higher quality products with the characteristics previously described. Conserving and making most effective use of our non-renewable resources, our environment, and our earth, is really living within our means and investing, not wasting and consuming, our capital. To attain this goal American industry must act—not react, it must lead—not follow, for its own benefit and for the benefit of everyone.

The article, "Some Thoughts on Limits to Growth" follows:

SOME THOUGHTS ON LIMITS TO GROWTH

(By Jack J. Combes)

The result of the study, sponsored by the Club of Rome and performed by researchers at the Massachusetts Institute of Technology, to determine if there are any limits to the numbers and activities of man on earth have, since their publication in "The Limits of Growth," caused strong and divergent reactions. And well they might.

The concept that "there are limits to population, industrial and other activities, which cannot be exceeded without serious consequences" is as revolutionary in its time as the concepts that "the earth is round" and "the world is not the center of the universe" were in theirs. Some of the reactions to "The Limits of Growth" were, may I add, very similar to the initial responses to those older, now proven, ideas.

The subject has been seriously discussed at three recent NAM meetings—the joint sessions of the Environmental Quality, Urban Affairs and Natural Resources Committees in New Orleans in November, the annual meeting in New York in December and the Joint Policy Committees meeting in Washington in March. This indicates a tremendous interest among the membership on the subject. At these meetings the definite impression was created, from what was said in audience participation statements and off-the-cuff conversations later, that, although the members wanted to continue growth as before, they were not sure it should continue. Even though many of the speakers—but not all—assured them it should, they seemed to be worried and confused over what might happen if growth continued unabated as before and what would happen if it abruptly stopped.

Certainly there is sufficient reason to be worried and confused. The Club of Rome was sufficiently worried over the possible results of continued exponential growth to sponsor the study. These men are some of the world's most prominent industrialists, scientists, economists, sociologists and educators and at least one of them is prominent in the NAM. Their concern must be taken seriously. Those who conducted the study are highly regarded mathematicians, engineers, economists and skilled researchers from one of our most prestigious universities.

Their study showed any one of five basic factors: "Rapid population growth, environmental deterioration, depletion of nonrenewable resources, industrial production and agricultural production" could generate a situation of "collapse" by the middle of the next century. The projection was arrived at through computerized analysis with the computer models of world functions developed by the MIT study team.

Criticism of the study has two bases: (1) "The computer models were too simplified and, therefore, did not generate a true picture" (2) "The study did not take into account the mitigating effects of technological improvements and breakthroughs."

The study team specifically called attention to the lack of sophistication in the computer model but asserted it was basically correct. Improvements in the model would, I believe, not alter the trends shown but only change the time at which their effects occur.

In regard to the mitigating effects of technology, technology may be likened to a good lawyer. Expert lawyers enable a company to successfully and effectively carry on its complicated activities within the constraints of the law. They cannot enable it to safely break the legal rules and regulations under which it must operate. Similarly, technology is essential for mankind's continued existence in today's complicated physical world in the life style to which the developed peoples have become accustomed and to which most of the rest aspire. It is also essential to the continued improvement of that lifestyle, for which we are all striving, but it certainly cannot show us how to violate immutable physical laws.

Following are some simple examples to refute the aforementioned criticism:

It has historically been pretty well accepted that the economy of the United States must continue to grow at the rate of 4 percent per year in "real dollars" for us to have good economic health. In 1971, or thereabouts, the indicator of the economy, the Gross National Product, passed $1 trillion per year. Our 200th anniversary comes in 1976. There isn't any one of us, I hope, who believes the United States has even reached the middle age as a country. Therefore, at a continuing annual growth rate of 4 percent per year (compounded that is), I wondered what the GNP would be in 2176, when the United States is twice as old as it is now, and what it would be in 2276 when it is 500 years old?

Many European countries are older than 500 years. Very simple calculations—$1 trillion X 1.04 to the 205th power and X 1.04 to the 305th power show the GNP would be just barely under $3000 trillion in 2176 (it would be over in 2177) and slightly over $150,000 trillion in 2276. In 2176 the 4 percent annual increase in the GNP would be 120 times the present total GNP. Obviously, some change in the present growth trend will have to be made long before 2176.

Then consider the power generation increase. It is a generally stated fact that power generation has doubled every 10 years since World War II. If this continued another 200 years, power output would be over 1 million times what it is now. All heat generated, even that effectively utilized as power, ultimately flows to the environment as heat (BTU), but at a lower temperature, just as concentrated thermal pollution in cooling water does. Except for that which radiates into space it raises the environmental temperature. To determine the actual rise in temperature of the biosphere from that heat release would be a more complicated calculation than that of the future GNP, but I am sure the rise is one which we could not endure.

The world is a finite space vehicle with all of its supplies aboard—and its crew keeps increasing in numbers quite rapidly. (The present dip in the birth rate, which has happened before, will have to be sustained for a considerable number of years for it to be any more significant than a temporary dip in the stock market.)

The earth, as a spaceship, does have some advantages over the ones we send out from it. One is that it continuously receives power from the sun to clean and recycle fresh water and to grow (really recycle) its food supply. Another is it is not as crowded as the ones we send up but these, at least, do not continuously become more crowded. Because it is a space ship how can it not be limited in regard to the size of its crew, the consumption of its non-renewable supplies, and the activities carried on aboard? Though the supplies are not completely inventoried their quantity is still limited.

On the basis of our space achievements we may believe technology will enable us to overcome some of these restrictive, natural laws. After all, we have shot space vehicles off the earth which do not fall back. Therefore, haven't we been able to break the law of gravity? We have not. Our space vehicles are operating completely under the law of gravity. When, in their travels, they enter a gravitational field sufficiently more powerful than the earth's or one whose force is coincident with their direction they will be captured by that field and fall into the body generating it.

Still we cannot accept, except in the most dire emergency, the economic and political chaos which will result from an abrupt cessation of growth. (From past experience there is plenty of evidence of what this causes and, in many ways, wastefully) what can we continue to grow as before (exponentially and, in many ways, wastefully) what can we do? I believe there are several things we can start to do which will ultimately lead to a solution of this relatively new problem, of which we have only recently become aware.

In regard to population, since we are the only rational, thinking, planning species, we can voluntarily limit our numbers. There are many ways to do this. Every family should be able to find at least one that is acceptable. The fact that population growth has stopped right now (in the United States and some other advanced countries) shows it can be done and, therefore, can be continued. We don't have to multiply involuntarily until sheer numbers cause collapse. Some have said the earth can hold many more people than it now has. From the standpoint of room alone this is so but do we want our voyage on earth to be as one on a cruise ship or one on a troop ship?

In regard to economic growth, I believe the answer can be found in growing as nature does and in making maximum use of our one unlimited resource—brain power. Economic growth, since it is the growth of production, distribution, and consumption of goods and services for and by all of us, can, I think, be likened to the growth of a living thing. For a living thing the only satisfactory type of growth is natural growth. In nature, exponential physical growth is cancerous and no growth of any kind is death. The GNP, which is a measure of the size of our economy, should grow as a tree does. A vigorous, healthy tree grows asymptotically—each year's growth is a correspondingly smaller percentage of its total size but it doesn't stop growing or decline in total size until it begins to die.

Much more important than growing in size is growing in quality. Quality is an unlimited product of an unlimited resource (ability or brain power) that commands a high price and conserves rather than consumes resources. Industry can, and must, grow in quality by designing and producing products that contain less non-renewable resources, require less power to produce and use, don't pollute the environment in production, use and disposal, provide more satisfactory, trouble free service, and are more recyclable. In devoting its one unlimited resource to an unlimited product, quality, industry is sure to find additional, valuable, quality factors that it can incorporate into its products and services to the advantage of its customers and itself.

Quality of life is not determined by the sheer mass of goods and services a people have available. Rather it is determined by the quality, serviceability, low maintenance, and the aesthetic and artistic appearance of the products they are provided with. We must reorient our technology away from quantity to the creation of higher quality products with the characteristics previously described. Conserving and making most effective use of our non-renewable resources, our environment, and our earth, is really living within our means and investing, not wasting and consuming, our capital. To attain this goal American industry must act—not react, it must lead—not follow, for its own benefit and for the benefit of everyone.

Another paper, which was published in the January 1975 issue of the Center magazine, the house publication of the Center for the Study of Democratic Institutions, is particularly enlightening on the subject of the steady-state political economy. The author, Dr. A. Daniel Burhans, has done an excellent job of explaining the theory of the steady-state paradigm, which is contrasted to the perpetual-material-growth paradigm, and the need to rapidly move our economy toward the steady-state political economy.

I very strongly urge my colleagues, and those who read the Congressional Record, to review this article, which I insert it into the Record at this time.

The article, "The Steady State," follows:

THE STEADY STATE

(By A. Daniel Burhans)

Is the steady-state political economy an idea whose time has come? The numerous and unrelenting anomalies in the neoclassical Keynesian "growth" economy would seem to indicate that it is. Yet while physical scientists and biologists are generally receptive to the steady-state idea, contemporary Keynesian economists are generally opposed.

Much of the discussion at the last few annual conferences of the American Association for the Advancement of the Sciences has focused on a social-political-economic system at peace with the ecosphere—in other words, a steady-state political economy. And yet there has been hardly a mention of the steady state at recent meetings of the American Economic Association.

Many physical scientists and biologists see the earth and all its organisms as a steady-state open system. While growth in young ecosystems is natural and its major emphasis is upon development, productivity, and quantity, mature ecosystems emphasize protection, stability, and quality. Notably, most organisms pass the first, or growth, stage about a quarter of the way through their life's journey. Nature's model, and part of the steady-state's premise, is that the physical dimensions of bodies and artifacts must reach stability and equilibrium at a certain stage. In this view, unlimited growth by any one subsystem would be an aberration and a threat to itself and eventually all other subsystems. It seems obvious to many scientists that these constraints would equally apply to all systems including the economic system. Thus the issue is drawn between finiteness and unlimited growth.

A major guideline for the steady-state political economy is the maintenance of a constant stock of people and physical wealth, or capital. Steady state is not equivalent to stagnation. The steady-state society is open and creative. Stocks do not of themselves remain constant; people die; wealth is physically consumed, worn out, depreciated, replaced. But in a steady-state society, inflow (i.e., birth and production) is carefully and methodically regulated by outflow (death and consumption).

Physical scientists constantly work with systems which are closed-looped, material cycles powered by the sun. It is a reflection on our social scientists, particularly our economists, that while the biologists and physical scientists are concerned with "how to live a good life in a finite earth at peace and without destructive mismatches" (a problem posed by the A.A.A.S.'s 1971 meeting), economists still cling to the "growth" model and to the aim of overcoming "scarcity," all the while ignoring the implications of pollution, the finiteness of natural resources, and the dangerous rise of thermal heat around the planet Earth because of our energy consumption.

In all our talk of the affluent-effluent economy we speak of the infinity of human wants as well as the drive to eliminate scarcity. But at the same time our advertising industry thrives on the perpetuation of the illusion of scarcity by multiplying human wants. A discussion of contrived scarcity versus genuine human needs would be essential to an understanding of the steady state, but one searches the economic journals in vain for that kind of critique and exploration.

A few economists—e.g., Herman Daly of Louisiana State University and Kenneth Boulding of the University of Colorado—tell us it is not realistic to expect traditional economists to face up to the contradictions and anomalies revealed in the present economic system's effect on the ecosphere. According to Daly, a paradigm shift would be most difficult for economists because they would have to sacrifice their intellectual (and material?) vested interests in the perpetual-growth theories and policies of the last forty years.

[According to Thomas Kuhn, paradigms are "universally recognized scientific achievements that for a time provide model problems and solutions to a community of practitioners." Commenting, Michael Roskin in a recent issue of *Political Science Quarterly* says: "A paradigm is the basic assumption of a field; acceptance of it is mandatory for practitioners." The paradigm shift occurs, says Roskin, still commenting on Kuhn, "when researchers, operating under their old paradigm, begin to notice that their empirical findings do not come out the way they are supposed to. . . . Anomalies or counter-instances crop up in the research and throw the old paradigm into doubt. Then an innovator looks at the data from another angle, reformulates the basic framework, and introduces a new paradigm."]

In *The Structure of Scientific Revolutions*, Kuhn notes that paradigm shifts have usually been made by people outside the discipline, by the young, and by people new to the discipline, i.e., "those relatively free from the established preconceptions."

Daly says in his book, *Toward a Steady-State Economy*, that the steady state appeals to physical scientists because they are "viscerally convinced that the world is a finite, open system at balance in a steady state, and they have not invested time and energy in economic growth models."

Perhaps most of us operate within narrow ideological and theoretical frameworks. Many people know that their natural and social environment is rapidly deteriorating. But the solutions we seek generally lie within the narrow confines of a single political economy. All others are dismissed as utopian or subversive. We seem to be harmstrung by an economy which is aggressive toward the environment, demands the "triumph" of man over nature, and is almost totally lacking in ecological perspective. Its central concept, growth, is itself narrowly anthropocentric, but its main error is its insistence that growth will solve any and all problems, including those caused by growth itself, a position that grows increasingly strident as it becomes more obvious that it is self-defeating. Whether the problem is inflation, poverty, unemployment, balance of payments, pollution, depletion, or war, we have been conditioned to think that an ever-expanding gross national product is the all-purpose solution.

But when traditional economists cannot or will not account for the gross anomalies in the present system, we are bound to get pressure for a paradigm shift. Today, such anomalies as pollution and depletion, rather than poverty or unemployment, seem to be the major perceived flaws in the growth model.

Classical economists did believe we would eventually have to have a steady state, because of depletion resulting from increasing costs and diminishing returns. But the weakness of the Keynesian growth paradigm is most profoundly and clearly shown in the despoliation or pollution of the environment. This is not surprising: in a market system, depletion costs are most often private, though increasingly social, while pollution costs are nearly always social. Daly explains it this way:

"On the input side, the environment is partitioned into spheres of private ownership. Depletion of the environment coincides, to some degree, with depletion of the owner's wealth, and inspires at least a minimum of stewardship. On the output side, however, the waste absorption capacity of the environment is not subject to partition or private ownership. Air and water are used freely by all, and the result is a competitive, profligate exploitation—what biologist Garrett Hardin calls 'the commons effect,' and welfare economists call 'external diseconomies,' and what I like to call the 'invisible foot.' Adam Smith's 'invisible hand' leads private interest unwittingly to serve the common good. The 'invisible foot' leads private self-interest to kick the common good to pieces. Private ownership and private use under a competitive market give rise to the visible hand (and foot) of the planner. Depletion has been partially restrained by the invisible hand, while pollution has been encouraged by the invisible foot."

Today, while family planning and zero population growth have been widely accepted and put into practice, our economic growth paradigm continues almost unchallenged and the steady-state political economy has not yet entered the public dialogue.

Both capitalist and socialist nations look to growth for their salvation. This might be excusable in most of the socialist societies because they are poor and need to grow (though not in population). But many of the industrially advanced capitalist nations with their continued overproduction, pollution, and depletion, are adding to international inequities and are the real threat to a healthy ecosphere.

Most of the steady-state guidelines are intended for the Western technological-industrial societies. The others could still benefit from a higher capital growth rate. The less developed nations face another kind of difficulty. Their fertility rate is about 3.0; in the rich nations, it is about 1.5. While in terms of gross national product both are growing at about the same rate, the poor nations' fertility rate defeats all efforts to raise their productivity. So the gap between rich and poor continues to widen and in most cases the poor countries' per-capita annual product (and thus consumption) actually decreases.

The first political economist most closely associated with the steady state is the nineteenth-century thinker, John Stuart Mill. Interestingly, Mill is also one of the great defenders of individual rights. He foresaw, in what he called the stationary state, the realization of far higher human goals. "At the end of the progressive state," he said in his *Principles of Political Economy*, "lies the stationary state; all progress is but a postponement of this, and each step in advance is an approach to it."

The stationary state is needed, Mill says, because "the increase in wealth is not boundless . . . and population must be contained and balanced to enable mankind to obtain, in the greatest degree, all the advantages of both cooperation and social intercourse."

Mills' prescription may be more relevant now than ever. But most of today's biologists and physical scientists argue that the finite quality of natural resources, waste, thermal pollution, and overpopulation are the major reasons for the need of a paradigm shift. Members of the Club of Rome seem to concur. In their most important treatise, *Limits of Growth*, they say: ". . . because our environment—the earth—is finite, growth of human population and industrialization cannot continue indefinitely. This fact must be impressed on the population—for it is not generally recognized how very close we are to the physical limitation which defines the carrying capacity of our globe."

One of the paramount limits to growth to which scientists address themselves is thermal pollution, the waste heat from energy. We must, they say, cut down much of our present industrial production because of this form of pollution. Since we cannot recycle energy (the first law of thermodynamics) and since all energy is eventually converted to waste heat (the second law of thermodynamics), we will always be plagued by some thermal pollution.

The best we can do, scientists contend, is slow down this long-run, universal thermodynamic-heat-death progression. Only a certain amount of waste heat can be absorbed by the surface of the earth. Scientists believe that if we increase our energy consumption by only four per cent for the next 130 years, we would then be releasing heat amounting to one per cent of the incoming solar radiation—enough to increase the temperature of the atmosphere by three-quarters of a degree centigrade. This does not seem like much, but the earth's temperature balance is extremely delicate and critical. An increase of three-quarters of a degree centigrade would likely lead to global climatic upheavals, leading to the further melting of the polar icecaps. Within a thirty-year period, in most cities (e.g., the Los Angeles Basin), there would be an eighteen-per-cent increase in the normal incidence of solar energy.

Thus today's scientists, in the tradition of John Stuart Mill, are playing a progressive role in the development of this new paradigm. Their view regarding the need for the steady state can be summed up fairly accurately in this argument from *Limits to Growth:*

"On a global scale man is presently experiencing an exponential growth in population and in what we will call capital—buildings, roads, cars, power plants, machinery, and ships. Some inevitable consequences of this growth are the exponentially increasing demands for food and energy and also the exponentially increasing additions of pollution to the environment.

"Because we know that there are upper limits to the supply of food and energy the earth can provide and limits also to the amount of pollution that can be absorbed by the environment, it seems obvious that the material growth that brings us toward these limits cannot continue indefinitely. . . . Matters are most urgent since indications are that we will surpass several of these constraints within the next few generations if current growth continues. The growth must stop."

As noted earlier, there are two major stipulations for the steady state: one is a constant stock of people and capital, the other is a low rate of throughput. Since the stocks of both people and capital do not remain constant in themselves (they are always coming and going, both people and goods have definite life cycles), they must be maintained by a rate of inflow (birth and production) equal to the rate of outflow (death and consumption). So beyond specifying the equilibrium of stock, we must also specify *rate of throughput*. If we had a high-speed flow of people this would be an unacceptable ethically; and a high-speed flow of goods would continue to intensify pollution and depletion.

Thus, the steady state needs this additional guideline: stocks (people and capital) should be maintained at the lowest possible rate of throughput. To maintain an equilibrium stock, the average age of death of its members is the reciprocal of the rate of throughput. This can be better understood by visualizing a water tank—the faster the flow through the tank, the shorter time each drop of water has before it is expelled. When we place a high value on a long life expectancy (which seems socially desirable within reason), then we are specifying a low rate of throughput (a low birth rate and an equally low death rate).

On the other hand, a low rate of throughput for the stock of wealth (capital) means low production and equally low consumption. This in turn suggests that we must increase the life expectancy and durability of our goods and use less time to produce them. Given the Puritan work ethic, this raises problems. But it need not mean depreciating totally the value of hard work, only a shift in emphasis away from the production of things in vast quantities to making fewer but higher quality goods. Such a shift should open the way to increased emphasis upon the quality of human relationships and human cultural development—both individually and institutionally—something major religions have been counseling for a long time.

Steady-state economists suggest that we let ecological thresholds guide us in the size of the maintenance flows of matter and energy; that is, in setting tolerable limits in the rates of depletion and pollution. If these limits are exceeded, the system will break down.

In sum, then, the physical qualifications of the steady state are a constant stock of wealth and population maintained by an inflow of low entropy matter-energy (depletion) and an outflow of an equal quantity of high entropy matter-energy (pollution). Both the size of the stock and the rate of the throughput must not be so large relative to the total environment that they obstruct the natural ecological processes which form the biophysical foundations of wealth. The only way to slow down entropy is to use less energy and matter, and this in turn protects our environment from depletion and pollution.

In order to slow down throughput, the durability of goods must be maximized and/or other goods must be recycled. We have the technological ability to increase the durability of goods—it is the same technology which enables manufacturers to build in obsolescence and to design decay. We can, for example, easily extend the lifetime of our automobiles by a factor of three or four, but our economy puts profit before quality and durability.

Extending the durability of goods raises a political and ideological problem of nearly revolutionary proportions. It also treads on the traditional growth paradigm which says that in order to keep profits up (and thus micro- and marco-economic growth), advertising must contrive scarcity by creating "needs." These "needs" are satisfied momontarily (designed decay insures the ephemerality of the satisfaction), and then the "needs" begin all over again.

Often, the very considerable ecological virtues of the steady-state political economy obscure what may be its most important potential advantage, that is, its prospect for a new social perspective. The steady state is intentionally described as a political economy rather than merely a new economic paradigm, for it offers the possibility of a whole new system of power in tune with our highest sense of social and political justice. When it optimizes rather than maximizes production and consumption, the steady-state society's central concern becomes distribution rather than production.

It is then likely that our democratic ideals will at last be applied to our economic as well as our political activities, for the steady state will not permit us to skirt any longer the ethical appeal for equal shares. Gone will be the excuse of the market society—both classical and Keynesian—i.e., that growth will bring both a greater absolute share for everyone and a more equitable relative share (the trickle down theory). While these tenets were perhaps never quite believed neither were they ever dethroned.

In order to redesign a new distributional mechanism, it will also be necessary to shed some of the market system's basic philosophical and social assumptions. First, the notion that man is an infinite desirer of utilities, an infinite appropriator and consumer; second, that inequality is necessary for incentive.

Jeremy Bentham insisted that inequality was both necessary and right to produce incentive and that equal distribution would be incompatible with security of property, including profit, which he saw as the indispensable incentive to productivity. Both these assumptions, basic to a justification of the market system theory, are essentially an outgrowth of Benthamite utilitarianism. Neither the physical nor social environment of the steady state would be amenable to these notions. Thus, as is quite evident, while the steady state makes fewer demands on our environmental resources, it makes very great demands on our moral resources.

Those environmentalists who see the steady state as a solution to their problems come face to face with these ancient social justice questions also. However, they are pushed to a more radical critique of traditional economic and social arrangements for another reason: their movement is under heavy attack from industry. The corporate strategy is designed to put environmentalists in conflict with labor, the poor, and the consumer. Increasingly, corporate spokesmen point to current and future plant closings, loss of jobs, and higher prices as a result of safety and pollution controls. (The facts are that nearly a million new jobs have been created in the environmental control sector, though, no doubt the poor and the consumer will ultimately pay more than their fair share for the damage done to the environment.)

The defensive position of the environmentalists has led them to examine the contemporary political economy as a whole and eventually to focus on the issue of distribution of wealth and income. In the process, it has become evident to them that there were other, far more important, causal factors involved than environmental control measures: for example, corporate subsidies and taxes; corporate control of supply and demand (and other monopoly practices); advertising; government pork barrel; public works projects; discrimination; and a host of other examples of collusion among businesses and between business and government.

With aid from Herman Daly's and Louis Kelso's new studies (*Toward a Steady-State Economy* and *Two Factor Theory*, respectively), environmentalists have begun to challenge the ethnic of flow of wealth through jobs: i.e., that everyone gets a share in the form of wages, interest, rent, or profit, and that it is all quite fair. "What about the stock of wealth?" asks Daly. "Not everyone owns a piece of stock."

Robert Lampman (*The Share of Top Wealthholders in National Wealth*) showed that between 1925 and 1956, seventy-six per cent of all corporate securities in the United States were owned by one per cent of the stockholders. Therefore, most people actually rely on flows engendered by capital.

Louis Kelso, along with a number of other economists (Daly and Galbraith among them), maintains that capital, not labor, plays the dominant role in production in all advanced industrial societies. Thus, a proper or proportional share of the national product is increasingly withheld from the wage earner because the Keynesian redistributional mechanism depends chiefly on wages.

On the income side, there is maldistribution, but it is not quite as extreme. The top fifth of the population gets about forty-three per cent of the income, while the lower fifth gets five per cent. According to Peter Henle of the Department of Labor, there is a persistent trend in the American economy toward actual inequality. Henle shows, for example, that from 1958 to 1970, the share of aggregate wage and salary income earned by the lowest fifth of male workers declined from 5.1 per cent to 4.6 per cent, while the share earned by the highest fifth rose from 38.15 per cent to 40.55 per cent. Herman Daly's conclusion on that kind of evidence is worth quoting:

> "We all produce junk and cajole other people into buying it, not because of an innate love for junk or hatred of the environment, but simply in order to earn an income. This would suggest a look at some alternative principle of income distribution that is independent of and supplementary to the income-through-jobs link."

Thus, environmentalists have gained an important insight into the political nature of all economic distribution. They, and perhaps we, have learned that the problem has systemic roots. Individuals (e.g., environmentalists, wage earners) are not the cause of our cumulative dilemmas; they have merely served as convenient scapegoats, victims of, at best, a holding tactic for an outgoing, cracked and crumbling economic paradigm which was worthy in its day but has been made obsolete by the march of events, and which is now an idea that even may run counter to human and global survival.

The steady state, on the other hand, can offer a way out of our ecological morass with its emphasis on stabilization of population and production and quality of throughput, both human and material. On the social side, the steady state's potential for greater equality of distribution of land, labor, and capital begs to be developed and realized.

The steady state may indeed be an idea whose time has come—and not a moment too soon.

Mr. Speaker, these two articles do more than explain some of the implications of limits to growth, and the direction we will have to move to avoid greater economic, energy, and environmental problems in the future. These two divergent sources also demonstrate that the awareness of this issue is rather widespread, and that the interest in this subject is growing.

I intend to spend more of my time examining this issue, and I am optimistic that others will recognize the need to join me in this effort.

ROBERT GARDINIER: LAWNDALE MAN OF THE YEAR

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. CHARLES H. WILSON of California. Mr. Speaker, John Bunyan said:

> A man there was, tho' some did count him mad, The more he cast away, the more he had.

This is an apt description of Robert Gardinier, a California resident since 1945 who was honored on January 17 as Lawndale, Calif.'s, man of the year.

While not president or vice president of any organization, Bob is active in many areas of community service since he is always available to do the behind-the-scenes work which is essential to the success of any organization. He and his wife Chris and their three sons have lived in the same Lawndale house for over 21 years, a home which has always been open to young people. The Cub Scouts, Little Leaguers, and all the young people who have participated in the Youth Day parades all remember Bob's enthusiastic leadership.

A member of the Lawndale Rotary who received he Non-Board Member Award in 1968–1969, Bob Gardinier has been extremely active in Rotary affairs. He served on the Rotary Head Start party committee 5 years and the Rotary Youth Service Committee. In 1968, he and his family enjoyed hosting three international guests in their home. At present, Bob serves on the Head Start Committee and is Chairman of Student Guests.

A member of the Inglewood Elks Club as well, Bob has helped on ways and means projects, paper drives, and rummage sales. He has received the Mark Twain School PTA Merit Award and Honorary Service Award on behalf of the youth of the community.

As a charter member of the South Bay 25 Club, Bob literally plays Santa Claus during the month of December. Donning his own Santa suit, he visits thousands of children each year. Last year, he visited four schools for the mentally retarded; and, when no toys were available at the South Bay Orthopedic School, he purchased them himself. At this time of year, he also visits the elderly in their homes and rest homes, giving out gifts from the Soroptimist Club.

Knowing that "we gain only as we give," Robert Gardinier is a worthy recipient of the Lawndale Man of the Year award. He has given much to his community and is beloved for his generosity.

WILMINGTON PAYS TRIBUTE TO ALL-AMERICAN STEVE RIVERA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ANDERSON of California. Mr. Speaker, the Los Angeles harbor community of Wilmington will pay tribute on January 30 to one of her outstanding young athletes, All-American Steve Rivera, in recognition of the many honors he has won for himself and this fine community in southern California.

Steve Rivera, presently a junior at the University of California at Berkeley, has repeatedly demonstrated his ability, courage, and determination to lead his teammates to victories over the toughest of competitors.

For his agility and valor, he has won numerous honors; however, rather than listing each of the great accomplishments, I wish to cite a couple as indicative of his talents. In 1971, while a senior at Banning High School, Steve won out in competitions with America's very best athletes by his selection to be on the high school All-American football team. Furthermore, not only was he chosen to play in the North-South Shrine Game, but he also broke several existing records.

In his freshman year with the Golden Bears, he was quickly recognized by being awarded the Most Outstanding Freshman Player. And after being selected the most valuable player at several important games, Steve, this year while still a junior, was selected for the All-American first team by the Associated Press, and to the Pac-8 All-Conference Team.

In addition to his athletic strength on the gridiron, he has also demonstrated his strength of mind and character. Currently a sociology major at the University of California at Berkeley, he plans to continue to involve himself with youth work after graduation.

Mr. Speaker, his parents, Jose and Elizabeth Rivera; his sisters, Karen Ramirez, Donna Garibay, and Leslie; and his brothers, Jens, Christopher, and Mark, have a right to be pleased with this member of their fine family. I am confident that they are as proud of him as are his coaches, Chris Ferragamo and Ed Paculba, and the other faculty and students of the Banning High Pilots, as well as the entire South Bay community.

My wife, Lee, joins me today in paying tribute to Steve Rivera, and in wishing him our very best in his future endeavors. I am sure that we will be hearing a great deal more about this promising young man.

UNDER FORD'S PLAN, THEM THAT HAS GETS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. RONCALIO. Mr. Speaker, here is good reading for RECORD readers. It is from the Denver Post:

UNDER FORD'S PLAN, THEM THAT HAS GETS

(By Leonard Larsen)

WASHINGTON.—"Thank God," said the secretary of the treasury, "the President has come down on the side of freedom of choice."

As the secretary, William Simon, explained it Thursday to a White House meeting of governors, mayors and other state and local officials, coming down on that side—presumably God's side—will "let the system work."

The system, as outlined in major elements of President Ford's program to attack this country's economic sickness, is the same old system which rewards the powerful and privileged in good times and bad and depends on the rest of us out there to pay for the indulgence.

Yes, of course, as President Ford himself told the assembled state and local officials, "this is a time for sacrifice. If everybody doesn't sacrifice a little, we're going to be in trouble."

The actual sacrificing, as the Ford program was submitted to Congress, will be done by those who are accustomed to it—the aged, the jobless, the marginally employed, the minorities, the deprived, all of those whose contributions and whose bare existence might be improved by attention and a federal response to their problems.

Their sacrifices are sternly spelled out in the Ford plan for recovery, as he said in his State of the Union message and as he told the mayors and governors Thursday:

"There will be no new federal programs, period. I am not going to recommend any and if Congress sends any to the White House I will veto them."

Those targeted for the harshest sacrifices will be joined by most of the rest of us who will be guaranteed higher fuel costs and, quite likely, a resulting new round of inflation touched off by the theory that a lot of us will be priced out of the market so the country will use less gasoline and other petroleum products.

The Ford program has not entirely ignored the low and middle income families, but in the proposed system of rebates on 1974 income taxes the economic pecking order is maintained—them that has gets.

Presumably Mr. Ford's vice president, Nelson Rockefeller, will rush out with his $1,000 rebate to help spend the country out of recession.

But those on the bottom of the heap, with rebates of $50 or $25 or nothing at all aren't likely to rush to the shopping center to splurge on a new car or a new TV set or even a new can opener.

If anything, the Ford economic recovery program suggests that those at the pinnacle of power in the national government, are loath to apply it to the economy, that they are worshipfully certain that a little tinkering—with the appropriate "sacrifices"—will make the thing well.

The Ford administration view of gasoline rationing—which helped catapult Colorado's John Love out of office as the federal energy "czar"—illustrates the apparent over-all attitude toward the use of the tools of government.

Simon, in his talk to the mayors and governors, lumped gas rationing with wage and price controls as unworkable examples of "more government and more bureaucracy"—obviously on that other side of God.

Rogers C. B. Morton, the secretary of interior and another participant in the hard sell session at the White House Thursday, asserted that rationing would only "throw a blanket" over the energy problem, that it would have "a depressing effect," that it would be "inequitable" and "almost impossible to administer."

The President suggested that rationing to limit the consumption of gasoline would have to be long term "and I don't think a five-year gas rationing program is sustainable."

And besides, Ford said, gas rationing "wouldn't produce new sources of energy."

So, in the Ford administration plan, the solution to fuel scarcities will be left to the mercies of the marketplace and all of us according to our ability to pay will make our sacrifices there.

Ford stressed in his talk to the state and local officials that it's up to Congress now—"The responsibility is on the shoulder of Congress."

That seems to be so. And Congress ought to come up with something else.

INTRODUCTION OF GUAM DEBT CEILING AMENDMENTS BILL

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. WON PAT. Mr. Speaker, today I have introduced a measure to permit the people of Guam to decide in a referendum whether or not the territory shall incur a public indebtedness in excess of the present limitation of 10 percent of the local government's property valuation. The measure before us today would amend the Guam Organic Act to provide for such action.

I believe that this measure is crucial, especially in these times of financial difficulties for public bodies. As you know, many government agencies are having an extremely difficult time making ends meet. Although I have great faith in the wisdom and financial good sense of my fellow Americans in Guam, the current limitation of only 10 percent is insufficient to permit the kind of expansion which the Government of Guam has in mind to protect the island's development.

In addition to providing potential for additional sources of revenue, this measure will offer the people of Guam the same kind of fiscal control over their local government as have residents of the various States. It is my belief that local governments should not be permitted to issue revenue bonds without permission of the voters. Should Congress agree, my bill will confer on the people of Guam veto control over the actions of their government and thus strengthen the democratic process in Guam.

This measure is identical to H.R. 7205 which I introduced in the prior Congress but was not acted upon.

SOVIET DOUBLEDEALING IN OIL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. GILMAN. Mr. Speaker, a year ago at this time our Nation was suffering through the worst of the Arab oil embargo—an embargo inspired and encouraged, in large part, by the Soviet Union. Today, we are still living with the effects of that embargo and trying to understand what it means for American policy and for the future stability of the Western World.

An interesting clue to this puzzle may be found in an article in Monday's New York Times. This article, by the noted economics professor, Marshall I. Goldman, cites significant evidence that the Soviets, who had urged and vocally supported the Arabs in their embargo action, violated that embargo in their discretion and at their pleasure when they found they could profit by doing so. The U.S.S.R., the world's largest producer of petroleum and its fifth ranking exporter, sold oil to a number of Western nations at prices which had been vastly inflated by the embargo—in short, they exhorted the Arabs into taking the embargo route and then made a quick financial profit from the situation they helped to create.

This article should serve as a stark reminder to our Nation that we are dealing with a power wholly dedicated to its own goals, whether they coincide with our Nation's goals or not. May it also serve as a reminder to spur us on to even greater efforts to achieve true energy independence and to cut down our own imports so as to avoid becoming the victim of this international opportunism.

For the information of my colleagues, I respectfully ask that the text of Marshall Goldman's article of January 20, 1975, be reprinted in this portion of the RECORD:

THE RUSSIANS AND OIL

(By Marshall I. Goldman)

WELLESLEY, MASS.—We may never unravel who sold how much oil to whom during the Arab oil embargo. Even in what used to be normal times, oil producers and oil companies often hid more than they revealed. During the chaos of the oil embargo, secrecy became even more of an operational code. It has been particularly difficult to decipher what the Soviet Union did in the oil markets of the world during that unusual period.

Now, however, by using a crossword-puzzle approach, it has become possible to fill in some of the heretofore unanswered questions. Such analysis reveals that the Soviet Union was every bit as opportunistic as the most manipulating entrepreneur.

While some Soviet officials actively sought to induce the Arab countries to withhold oil from the West, other Soviet traders hunted for the most advantageous markets for their suddenly valuable oil. In many instances this meant selling to embargoed countries at prices as high as $18 a barrel.

Although the Russians apparently were as surprised as anyone by the way oil prices soared after Oct. 14, 1973, it turns out that the Soviet Union was uniquely positioned to take advantage of the situation.

Unlike any of the other industrialized countries, the Soviet Union not only was one of the largest producers of petroleum in the world—it became the largest in 1974—but it produced more than it consumed domestically.

In 1973, the Soviet Union was able to export one-quarter of its total production. While not a member of the Organization of Petroleum Exporting Countries, the Soviet Union was nonetheless the world's fifth largest exporter of petroleum. True, about two-thirds of what the Russians exported went to Eastern Europe and other soft-currency countries, but this was offset to some extent by imports of thirteen million tons from countries like Iraq, Libya, Egypt and Syria, paid for by barter or soft currency.

Because it was both an exporter and an importer of oil, the Soviet Union was ideally situated to benefit from the embargo. On the one hand, the Soviet Union as a supporter and the main armorer for the Arab cause served as an approved outlet for oil from countries like Iraq, which wanted to increase oil output but because of the embargo could not sell it to their traditional customers in the West.

On the other hand, as long as it was discreet, there was nothing to stop the Soviet Union from taking advantage of soaring world oil prices and increasing the sale of its own oil.

When rumors began to circulate about Soviet double-dealings, a writer in the Soviet trade-union publication New Times replied in all umbrage that "oil purchased in Arab countries" was sent with the Arabs' consent only to "other socialist countries."

The Russians may have been telling the truth. However, it is very difficult to segregate one country's petroleum from another's once it enters the international distribution system.

In any case, the Soviet Union has never denied that it sold its own oil to the West during the embargo. Indeed, its hard-currency sales of oil in 1973 were about $1.3 billion. This was an impressive increase of $700 million over 1972 sales. Since the physical volume of oil exports in 1973 increased only slightly over the preceding year, the surge in dollar volume was largely due to the fourfold price increase that went into effect only after the start of the Arab-Israeli war in October, 1973.

This in itself is evidence that a significant portion of Soviet oil sales were made in the midst of the embargo. Moreover, because of the high prices the Soviet Union was able to collect, it appears that its main customers in the last quarter of 1973 were the Netherlands, Denmark, West Germany and Switzerland.

Similarly, again in defiance of the spirit of the embargo, the Soviet Union sold petroleum to the United States. Soviet statistics discreetly omit all mention of such sales, but United States statistics show that we bought $66 million worth of petroleum from the Soviet Union in 1973, and $40 million of that was delivered during the last quarter of the year—right in the midst of the oil embargo.

Past behavior is not always a guide to the future. Nonetheless, the Soviet Union is prone to placing a higher value on economic needs than political niceties. Because it was in serious need of cash to pay its grain and technology bills, it apparently had no qualms about using O.P.E.C. and the Arabs for its own purposes.

BASIC FREEDOMS STILL DENIED IN SOUTH KOREA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVE

Thursday, January 23, 1975

Mr. FRASER, Mr. Speaker, Congress in the 1974 Foreign Assistance Act placed a ceiling on military assistance to South Korea in view of the repressive nature of the Park regime. We placed a ceiling of $145 million for all forms of military assistance to South Korea unless the President reported to Congress that the Government of South Korea had made substantial progress in the observance of international standards of human rights. If such a report were made, the ceiling would be increased to $165 million.

The following article by Don Oberdorfer entitled "Korean Newspaper's 'Phantom Enemy'" indicates the oppressive tactics the Park regime is using to stifle dissent!

[From the Washington Post, Jan. 20, 1975]

KOREAN NEWSPAPER'S "PHANTOM ENEMY"

(By Don Oberdorfer)

SEOUL.—The Dong-A Ilbo, one of the great editorial voices of Asia, is fighting for its life against a phantom enemy, South Korea's secret police.

Beginning in mid-December, major commercial advertisers abruptly cancelled their scheduled ads—first one then another the next day, then a few more, then a host of cancellation notices flooded in. In late December major clients suddenly pulled out of contracts with Dong-A Radio, the paper's electronic subsidiary. By mid-January just about all large firms and countless small ones had withdrawn, reducing advertising revenue by about 60 per cent.

Shamefaced and often-frightened former clients told a soon-familiar story. Company officials had been summoned by the Korean Central Intelligence Agency (KCIA) and ordered to stop their business with Dong-A at once. Many were required to sign written statements that they would not advertise in the forbidden media.

The advertising director of a large texile chain is reported to have been severely beaten and the company president verbally reprimanded when their ads did not stop quickly enough. The same treatment was meted out to a cosmetics company ad director and his president. This firm's staff was then used to notify other companies.

Department stores, banks, large consumer goods manufacturing firms such as General Motors Korea (a 50-50 U.S.-Korea joint venture) and Hyundai Motors (a Ford licensee) were early dropouts from the advertising lists. Officials of government ministries were reported in the campaign—a Ministry of Health official spreading word to pharmaceutical houses, a Ministry of Culture man informing motion picture theaters, an Internal Revenue agent visiting a publishing firm. Several small advertisers who telephoned the newspaper to arrange ads called back to cancel within a few minutes, leading the paper to conclude that a tapping-and-reaction team had been assigned to its telephone lines.

The Dong-A Ilbo was not taken entirely by surprise. This country's largest and most influential daily newspaper, it had consistently dared to be a bit more independent than its competitors since its founding in 1920. The oppressive colonial Japanese suspended it four times, confiscated all copies 489 times and censored 2,059 items and 73 photographs before shutting it down completely in 1940. Three months after Japan's defeat in 1945, the paper was back stronger than ever, brandishing its original platform of nationalism, democracy and cultural enlightenment—only to meet innumerable trials during the autocratic rule of President Syngman Rhee, the confusion and bloodshed of the Korean War and the recent authoritarianism of military coup leader (later elected President) Park Chung Hee.

The two years since Park seized unlimited power under martial law in October 1972 have in many respects been the most difficult of all, replete with overt and covert censorship by the "computerized dictatorship" of Park's secret police. For more than a year KCIA operatives roamed daily through this country's newsrooms, monitoring and controlling the content and headline size (and often, non-appearance) of sensitive stories. A revolt by young journalists led to defiance of the KCIA ban on news or political dissent and ultimately to removal of agents from newsrooms. The government shifted to "emergency decrees" forbidding dissidence—and the press reporting of it—under threat of long prison terms or even death sentences at the hands of closed courts martial.

Park lifted the decrees last summer under domestic and international pressure, but called for self-censorship by the press on grounds of the continuing threat from North Korea. Last October his agents passed word not to report on student demonstrations, labor union activities or the then-prominent internal dissidence in South Vietnam—and when the "suggestions" were violated, editors of Dong-A Ilbo and of Hankook Ilbo were hauled in for tongue-lashing by the secret police.

Another journalists' revolt erupted against "illegal questioning" and "outside interference." Dong-A reporters adopted a strong freedom of the press resolution and forced a temporary shutdown of the paper until management agreed to publish the statement on page one. Hankook newsmen followed suit. Faced with the impending visit of President Ford, the government backed down temporarily. Korean papers began reporting a bit more freely—though still in a restrained and careful manner.

The Dong-A managing editor was warned in October by KCIA Bureau Chief Lee Yong Taek that authorities possessed an efficient, covert and bloodless way to crack down on unwanted independence—a ban on the advertising which contributes the lion's share of newspaper income.

When the display ad "discouragement" campaign began in mid-December, Dong-A blossomed with big white spaces where the ads were to have been, with newspaper mottoes or freedom of the press slogans tucked away in a corner. At the same time a new type of advertising began to appear—hundreds of press freedom "encouragement" ads of a few lines each by citizens, church and civic groups, high school classes, clubs and others taking the paper's side. Many ads were anonymous for fear of reprisals, but the daring and clever messages quickly became the talk of Korea. Dong-A Ilbo newsstand sales jumped.

"The flower of Dong-A will bloom even if you trample it underfoot," wrote a Seoul National University student. "Why are you afraid of a free press?" demanded a tiny ad signed by initials. A taxicab driver wrote, "I skipped my glass of makkolli (Korean wine) to place this ad." Assistant advertising manager Lee Sok-Yol retrieved a small gold ring left in payment by a junior high school girl who placed an ad saying, "the light is brightest in a dark place." He had it appraised (about $15), paid the price of the ring into the paper's coffers and placed the gold band on his finger as a keepsake. "This is my medal of honor, to keep for my daughter until she is old enough to know what happened. She is seven now," he said.

The U.S. embassy bought two display ads in recent days to advertise a USIA magazine and a trade show. Embassy officials say with tight smiles that this is normal practice of seeking greatest exposure at lowest cost, but nearly everyone in Seoul took the ads as a gesture of support. The French embassy, which never advertised in the paper before, bought space to announce a meeting. The Korean Roman Catholic church held a special mass for "freedom of the press" at which priests condemend the suppression. The National Council of Churches of Korea called on Protestants to increase circulation of the paper.

While the "encouragement ads" and extra newsstand sales help the morale of Dong-A Ilbo, they do not make up in financial terms for the loss of commercial advertising. There is no doubt that substantial sums are being lost each day. And as the battle has continued, new difficulties have arisen. Newspaper bundles have disappeared from provincial trains. Police in Inchon and Pusan are reported investigating people who place support ads. The newspaper's senior advertising manager, Kim In Ho, was tailed for a week and then picked up, together with two assistants, by Army investigators.

The ostensible reason was a freedom-of-the-press ad by an anonymous Army lieutenant, presumably a threat to national security because of his sentiment. The three ad men were released after three days of interrogation. They returned to a heroes' welcome from editorial and commercial coworkers who'd stayed at their desks all night each night of their captivity as a gesture of protest.

Officially the government maintains that the campaign is "a business affair between the newspaper company and the advertisers." There is no indication whether Park intends to run the newspaper out of business or whether he will seek a negotiated deal to send the advertisers back in return for editorial silence. Publisher Kim Sang Man has told friends he will not talk to government officials under the pressure of the advertising boycott.

The campaign to throttle Dong-A Ilbo has stiffened the attitudes of its managers and editors as well as the young reporters. They are prepared to see progressive reductions in the number of pages (from the standard eight pages daily) as well as cuts in their pay checks. Some say they will work for nothing, if need be, until the last minute of the last press run.

"Before this happened we were seeking only freedom of the press, to print the news whatever it is," said Hong Sung Myon, the newspaper's senior editor. "Now we also want to keep faith with the people who are supporting us."

ELIOT B. FELDMAN TO BE HONORED BY YESHIVA UNIVERSITY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. WAXMAN. Mr. Speaker, on Sunday evening, February 2, 1975, at the Beverly Hilton Hotel in Beverly Hills, Calif., Los Angeles attorney Eliot B. Feldman will be honored as Man of the Year by Yeshiva University-West Coast Teachers College at the annual dinner of that institution.

Yeshiva University is based in New York City, and is an outstanding nationally famous institution of higher learning. Its president, Dr. Samuel Belkin, is a distinguished scholar. The university's west coast branch was founded in 1962.

Mr. Feldman will be honored for his dedicated efforts on behalf of quality education and his creative leadership in communal and political affairs. Representative leaders of California's civic, religious and political life are scheduled to participate. It is my privilege to join in this tribute.

UNCLE SAM: A LITTLE DOWN, BUT NEVER OUT, SAYS JACK WILLIAMS

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. WRIGHT. Mr. Speaker, nobody is more acutely aware than those of us in this Chamber today of the magnitude and seriousness of our Nation's economic problems. Gripped by continuing inflation, a worsening recession, and a growing energy crisis, we seem beset on every side by trouble.

But as we strive to come up with solutions to these problems, we should keep things in perspective. As bad as our problems are, this Nation has survived far worse—and ultimately grown stronger for having experienced them.

Nowhere has this lesson been set out more clearly than in a message published in Fort Worth newspapers by my longtime friend and valued constituent, Mr. Jack Williams.

Mr. Williams, a leading automobile dealer in Fort Worth, is an exceptional businessman. With judgment born of an incisive mind and years of experience in the commercial marketplace, he is a man with a remarkable sense of perspective. Jack Williams sees the forest, but he also sees the trees.

He knows that times are bad today, but he knows that even today's bad times are very, very good by comparison with other, darker days. Today America has no breadlines, no Wall Street panic, and our children are not sent to school wearing underwear made from flour sacks.

The message composed and published by Jack Williams has a lesson for all of us. Mr. Speaker, I insert it into the RECORD as it was published by the Fort Worth Star-Telegram, the Fort Worth Press, and the News-Tribune.

UNCLE SAM—A LITTLE DOWN, BUT NEVER OUT

(By Jack K. Williams)

With all the talk about Recession, the doomsayers are busy at work trying to talk us into a good one. And, it's true that everything is not rosy in our great land.

Unemployment is up, dollar values are down, and Inflation is the most popular word in the headlines. All of this is not new to some of us old-timers. Cause we grew up in the Thread-bare Thirties. Concerned, yes Scared, no. Americans have always used good ole common sense when adversities arise.

Since World War II, America has been on a growth pattern of fantastic proportions. Most everybody seems to "live" a little better than those days of Hunger, Hovels and Payless Paydays of the 1930's. The great Depression was born in October 1929, when "Wall Street Lays an Egg" (the classic headline of Variety Magazine).

Growing up in the depression was certainly no picnic. Shortages of all kinds, mostly jobs and Money! In those days, adolescence was thought of as a childhood disease our parents hoped we'd outgrow. Wearing underwear made from sacks of Bewley's Best Flour, and a piece of carboard in the bottom of the shoe was quite acceptable.

In 1933, we recall that 4,004 banks in this nation went broke to the tune of $3.5 billion . . . and most depositors wiped out. The same year, 12 to 17 million were jobless. Our population in the mid-thirties was a mere 125,000,000.

The Gross National Product in 1930 stood at $103 billion. Four years later in 1933, it had dropped to $55.6 billion. Breadlines were in the headlines in the industrial Eastern United States, but in Texas, we faired a little better. We were "hit" later, and a little less hard.

President F. D. R. and his New Deal started a series of "alphabet" projects. Like the N.R.A., and the C.C.C., P.W.A. the W.P.A. and dozens of others. The dissenters screamed to high heaven; the A.F.L. and C.I.O. went round and round with the N.L.R.B. The evening meal was usually two 9¢ cents of Campbell's Alphabet Soup.

War clouds in Europe became darker. Our Allies needed help, money and munitions; and Washington asked for payments for old World War I debts; confusion and consternation mounted, while John Doe was still trying to eke out a living at $1.00 per hour wages. Then it all ended with that day of infamy, Dec. 7, 1941.

The problems of living in a democracy (or any other kind of system) have always been quite complex. We can't recall a single decade in our past 199 years that America has not been in some kind of crisis. Americans fought in a dozen wars (big and small) somehow survived numerous Recessions (which seem to occur about every 20 years) . . . and we can't see how our problems in 1975 are any more earthshaking than those encountered by our forefathers.

Yes, the American Dream has dimmed a bit . . . but, then our great land of the free was never designed to be Camelot. Let's take the bull-by-the-horns and get-with-it.

There are many safeguards we have now that we did not have in the depression years. Like—4,804 Savings and Loan Associations in America which have $240 billions on deposit. And it is insured. We have unemployment insurance and supplemental payments to idle workers . . . plus billions more in Social Security and private pension plans . . . a very nice safeguard that pours money into the hands of oldsters so that they are not totally dependent upon their children, as was the case in the 1930's.

Our greatest asset is our enduring faith in America! Here's a quote from Rep. Wm. S. Cohen, R/Maine, a member of House Judiciary Committee, who commented recently on the year 1974: "I think 1975 is going to be a better year than what we've just been through. Thomas Jefferson once said—The Storm that we've just passed through proved that our vessel is indestructable".

"Life, Liberty and the Pursuit of Happiness" is ours, according to the Declaration of Independence and the Constitution of the United States . . . we find no indication that our forefathers had ever promised us a rose-garden!

Doomsayers have been practicing their art throughout recorded history . . . from the Sixth Chapter of Genesis to today's fallible forecasters, who drop the word that we are on a collison course with Doomsday. We don't believe that.

Let's not forget the basic strength of the **American people and the American Economy**. Both have proved to be remarkably resilient and creative, all these past 199 years!

Teamwork is needed. Let's salute—"What's Right With America"; 1975 will be a year of adjustments, with many challenges and sacrifices. But then, Americans have always risen to the occasion in times of difficulty.

Let's think positive, buy something if you need it, help keep free enterprise moving . . we can cut inflation down to bite-size.

Ole Uncle Sam, who is sometimes down, is never out!

RENEW FUNDS FOR ARTIFICIAL HEART PROGRAM

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. PEYSER. Mr. Speaker, in 1972, 752,450 American citizens died from diseases of the heart. As I am sure you are aware, this makes heart disease the No. 1 cause of death in the United States. In the same year, another 3,466,000 Americans were forced to limit their activities because of heart conditions. I know all here will agree that efforts must be made to reduce these figures. One such effort is being carried out by the Atomic Energy Commission in the form of the development of a nuclear powered artificial heart organ to be eventually implanted in the human body.

This program, scheduled to be completed in December 1976, began in 1971 and has been making steady progress ever since. All timetables have been met; all plans have proceeded smoothly. To date 65 percent of the program has been completed, including a working bench model system, and efforts are now underway to produce a version suited for calf-implantation. In addition constant contact is being maintained between this program and the National Heart and Lung Institute to insure that efforts are not being duplicated. As it is now, their work is well coordinated. The two organizations are scheduled to consolidate their programs in December 1976.

Yet despite the importance of, and the progress in the program, it is being terminated because of a deferral of $5 million that has previously been authorized and appropriated for the artificial heart program.

This seems to be an unwise decision. To date, approximately $11 million has been spent for nearly 4 years of work. We are on the verge of receiving the rewards of this tremendous effort. Instead the deferral of $5 million will in effect negate the work done. It is not necessary to enumerate the benefits a working artificial heart system will have for all mankind.

We cannot ignore the progress that has already been made in the program, nor can we ignore the potential that the artificial heart offers.

It is up to us in Congress to insure that this program is not terminated. Therefore, I urge you to adopt the following resolution, which I have introduced today as swiftly as possible:

Resolved, That the House expresses its disapproval of proposed deferral D 75–115 as set forth in the message of Nov. 26, 1974 which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

PRESIDENT ROEBUCK ADDRESSES THE VIRGIN ISLANDS LEGISLATURE IN A STATE OF THE TERRITORY MESSAGE

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. DE LUGO. Mr. Speaker, I wish to call the attention of my colleagues to the recent election of my good friend, the Honorable Elmo Roebuck, as the new president of the Virgin Islands 11th Legislature.

Many of you have already had the opportunity of meeting Senator Roebuck while visiting the islands in the past, particularly those serving with me on the Interior Committee. Hopefully, the future will bring similar opportunities to even more of you.

A dynamic and progressive legislator, Senator Roebuck's election as president in only his second term in office attests to both his demonstrated ability and the respect he has gained in so short a time. A former Commissioner of Housing and chairman of the Finance Committee, his broad legislative and administrative experience gives him solid preparation for the responsibility he will now undertake.

Upon the convention of the 11th legislature earlier this month, President Roebuck addressed his colleagues in a state of the territory message. I was most impressed with his speech and the goals which he announced for the legislature. I hope to share this important speech in its entirety with you over the next few days. First, I would like to share with you the following editorial reaction of one of our leading journals, the St. Thomas Daily News:

SETTING HIGH GOALS FOR THE LEGISLATURE

Monday morning's opening address by the Senate President to the newly convened Eleventh Legislature set high goals for the Virgin Islands' lawmakers. It contained a fairly accurate assessment of the problems confronting us, on the global and national as well as the local scene, and pointed the way for the legislators to confront them in a statesmanlike and responsible manner.

After reviewing the external factors affecting the islands economy, the Senate President directed himself to the internal problems ahead of us—particularly the threat of a minimum $16 million deficit for the fiscal year ending June 30. The senator pointed out that "efficient and effective" use of revenues is the major function of the Legislature, for it is "only" through the legislative branch that budgets can be approved and spending authorized, and called for the establishment of a special accounting staff to give the Senate greater control and knowledge in fiscal matters.

The Senate President directed himself to the essential work of reviewing legislation, and proposed that committees prepare written reports from both minority and majority members on proposed legislation. He also urged the development of greater professionalism in the senatorial process by ensuring that the bulk of its sessions are concentrated between the submission of the budget and the beginning of the new fical year on July 1, rather than being sprawled throughout the year as in the past.

On specific proposals for legislation, the Senate President urged the Legislature to consider ways to develop increased rum sale revenues, stimulate tourism, develop an industrial incentive program that does not require the setting up of an autonomous corporation, earmark land for light industry, and encourage the development of scientific facilities in the islands. He particularly noted there has been "sufficient study" of proposals for improved seaport and airport facilities on all three islands, and called for the Port Authority to submit definite plans for legislative approval prior to the end of the present fiscal year.

The Senate President also focused on the need for an improved court system and upgraded police force, as well as a more practical and useful education system. In the latter area he encouraged a greater role for the Board of Education and urged consideration of the 12 month school year, open classrooms and "classrooms without walls" in which the community itself serves as a classroom.

The goals set forth by the Senate President are high and lofty ones, and if realized by the Eleventh Legislature it will have met his challenge to become known as a "do-SOMETHING" Legislature. Rising to that challenge may prove difficult, but it can be done provided that the legislators and all concerned live up to these words in Senator Roebuck's address:

> "What is needed at this critical time in our history is the dedicated and enlightened leadership of the three branches of government, working together with the private sector and the people of the Virgin Islands to move us forward once again."

THE MARTIN LUTHER KING, JR., NATIONAL HOLIDAY BILL

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. CONYERS. Mr. Speaker, I am again introducing legislation which would designate January 15, the birthday of the late Dr. Martin Luther King, Jr., as a national holiday. With steadily increasing national support, I am joined by 94 of my colleagues from both sides of the aisle in this effort to honor his life and work. The bill's first introduction followed Dr. King's tragic assassination in April of 1968, and it has been reintroduced with a large cosponsorship in the 91st, 92d, and 93d Congresses.

Several States, including Colorado, Delaware, Georgia, Idaho, Illinois, Maine, Michigan, New York, Tennessee, Washington, and the District of Columbia officially honor Dr. King, as do innumerable municipalities and local governments. Millions of individual citizens have signed petitions demanding a day of reverence in his memory. Thousands of Federal employees attend quasi-official ceremonies in the Washington area, and crowds throughout the country appropriately took the occasion of his birthday to appeal to the Government for the ability to earn a living. On this January 15, I joined in a march around the White House which, with the inspiration of King's memory, demonstrated support for urgently needed legislation creating the Federal Government as the employer of last resort.

We seek to set one day aside in the honor of Martin Luther King because we believe his example to be of singular importance to our country. The magnitude of his contribution cannot be questioned. He lived and died by his personal conviction that injustice anywhere is a threat to justice everywhere. He was a man of altruistic but pragmatic wisdom, as his words so eloquently testify:

> Power without love is reckless and abusive. Love without power is sentimental and anemic. Power at its best is love implementing the demands of justice. Justice at its best corrects everything that stands against love.

His struggle for justice was persistent and peaceful, as was his continued dedication to the goals of the brotherhood of man with true freedom and equality of opportunity for all our citizens. In recognition of his monumental work, Dr. King was awarded the Nobel peace prize in 1964, an honor rarely bestowed on humanitarian activists.

Dr. King's tireless activities in both the North and South were largely responsible for the landmark civil rights legislation of the sixties. For example, his campaign in Selma, Ala., for the guarantees of voting rights contributed signally to the adoption of corrective legislation in the Voting Rights Act of 1965, which must be extended this year. Enactment of the Civil Rights Act of 1964 and 1968 were also partially the result of Dr. King's dedicated and selfless efforts. Even his final effort—the poor people's campaign—symbolized the hopes of many and helped bring the neglected plight of millions of impoverished Americans into sharp public focus. He could not believe that the "treasury of justice" was empty, and constantly said "we will not be satisfied until justice rolls down like water and righteousness like a mighty stream."

He and his equally courageous wife, Coretta Scott King, were among the first to actively oppose the illegal war in Indochina, rightly challenging its immoral adventurism. He clearly understood the contradiction of our sending young men to combat after teaching them as children to resolve their differences by reason and nonviolence. Not only did he call for a total withdrawal of U.S. soldiers from South Vietnam, he talked of the need to withdraw from a mentality which resorts to violence to solve human problems. He taught that this militarism, so clearly evidenced by the bloated and swelling defense budget, fosters much of the economic and social illnesses now crippling the country.

By standing up to racism and government lawlessness, Dr. King forced us to recognize the enormous gap between reality and the American ideals of equality and equal opportunity. He described a pervasive system which offers crumbs to the poor while refusing to eliminate the circumstances perpetuating their poverty. Through him, we came to realize that the inherent fault lies not with the poor, but with an affluent society which exploits and consigns them to desperation.

When his life was interrupted, we said we would see that the work he began and the suffering he endured would not be in vain. We said that the people he led would not be abandoned, and the love he lived would be returned. But, when we make an honest review of what has been done and not done, it is painfully apparent that the conditions which Dr. King valiantly struggled against are still existent, some having been cosmetically treated but not surgically removed.

With crime and despair haunting our streets and neighborhoods, we marched for decent housing for our citizens. Yet 17 percent of black housing units still lack some or all plumbing facilities, and 19 percent of black households still live in crowded conditions. Fifty-eight percent of the average black family's income goes to rent, compared to 35 percent for white families, while the Federal Government spends the $1 million required for 66 low-cost houses on one "Huey" helicopter instead. Fifty million dollars of the funds we appropriated for housing programs in 1972 was impounded, but that same sum flowed unimpeded to the Pentagon for the purchase of three aircraft. Twenty-two percent fewer units of housing are being built this year than 25 years ago, despite a population 39 percent higher and a GNP 14 percent greater than in 1950.

We carried banners for universal quality health care, but national health insurance legislation is unattended and the average life expectancy for blacks remains over 7 years less than for white individuals. The maternal and infant death rate for blacks is nearly double that of whites, yet $2.3 billion of our money went, not to erase the 1972 Federal health budget deficiency, but to cover the cost overruns on aircraft and tank production. Blacks die from specific diseases nearly twice as often as whites, while funds cut from training health personnel built the Navy another destroyer and destroyer escort.

We prayed for the elimination of hunger in this country, but were met with empty hands, while the funds which would achieve hunger's disappearance have fueled the C-5A airplane program. The poor are often forced to spend up to 50 percent of their meager income on food, while food stamp allotments shrink continuously and the prices of staples such as dried beans have tripled in a year.

We declared war on poverty, the basic social malaise and root of these other ills, and yet over 27 million Americans still live below the poverty line. The amount necessary to bring every poor American above this line remains unspent, while plans go forth for an equal expenditure on the B-1 bomber.

Data further illustrating this deplorable state of the Nation's people is plentiful but unneeded proof that Dr. King's goals remain beyond the horizon, and the sacrifice of our people's general welfare to the national security continues in ever increasing magnitude. Worse, the progress made in the sixties is in danger of being eroded by our worsening economic crisis. Acknowledged advancement in income, housing, employment, and health care soon may be dissipated. Those most recently on the payrolls are inevitably the first to be laid off: Strained city budgets dictate cutbacks in public education, health services, housing assistance and other essential community services: And college students relying on scholarships face shrinking endowments and contributions to their universities.

Many who formerly marched for peace, integration, and voting rights now stand in the cold demanding jobs, and, as usual minorities comprise a large percentage of the current record number of unemployed. Further damaging setbacks are expected, since the administration has been proposing that we decelerate the very programs which are aimed at insuring an adequate standard of living and quality of life for all Americans.

By following the example of Coretta King, Jesse Jackson, Ralph Abernathy, and the many other compatriots of Dr. King who are fighting for his ideals, we must continue the battle to end oppression, deprivation and racism and give new life to the philosophy which is supposed to guide our Nation. Fortunately, there are men and women who are answering the fervent cry for a continuation of the kind of leadership stirred by the powerful dignity of Dr. King. Without a national devotion to the aims inspired by that leadership, we cannot bring an end to the problems of our society. The meaning that Dr. King's life has for each of us is that we should use our power not to create conditions of oppression that lead to violence, but conditions of hope that lead to peace. We cannot ignore the significance of that one magnificent life.

Ibsen once remarked:

> I hold that man is in the right who is most clearly in league with the future.

And that man is Martin Luther King. We need a reaffirmation of our intent to continue his struggles, a day for all Americans to pause in honor of his life and contributions to mankind. We should pause, not only in respect, but also to evaluate our successes and failures in striving for the goals he set for us. To establish his birthday as a day of national recognition is an excellent way to make those assessments. However, we must not allow the designation of a national day of reverence to become the only way we continue with his plans. We must resolve to eliminate bitterness and hate from our struggles. He told us:

> Hate is just as injurious to the hater as it is to the hated. Like an unchecked cancer, hate corrodes the personality. Hate is too great a burden to bear.

As elected Representatives of this Nation, I hope that we would indicate our support and esteem for Dr. King by designating him as the first black American to be honored with a public legal holiday observance. For the Congress to commemorate the birthday of Martin Luther King would be a gesture commensurate with the respect which he commands throughout the world. Let us truly celebrate his strengthening of the humanitarian ideals which alone will insure the permanence of our society. Let us make real his vision—

> That the dark clouds of racial prejudice will soon pass away and the deep fog of misunderstanding will be lifted from our fear-drenched communities, and in some not too distant tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty.

I here insert both the text of a WMAL radio editorial in support of this legislation, and a particularly appropriate essay by Nikki Giovanni appearing in the February 1974 issue of Encore magazine:

[WMAL AM-FM-TV editorial, Jan. 15, 1975]

DR. MARTIN LUTHER KING, JR., 1929–68

Today is the birthday of Dr. Martin Luther King, Jr.

Martin Luther King, Jr. was with us but 39 years. Yet in those 39 years he affected more lives than most presidents or potentates. But more than changing lives . . . Dr. King changed attitudes which had remained frozen for centuries.

Instead of fading with the years, the legacy of peace and brotherhood that was Martin Luther King, Jr. intensifies with the passage of time. This is indeed the sign of greatness.

Representative John Conyers of Michigan today presents a bill that would make January 15, the birthday of Dr. King, a national holiday. It is only fitting that this great man should be so honored.

WMAL Radio 63 backs Mr. Conyers' proposal and we urge Congress to give the bill its *full* support.

January 15, 1929 was an important day for *all* Americans. It should be a national holiday to be celebrated by *all* Americans for generations to come.

[From Encore magazine, February 1974]

MARTIN LUTHER KING JR.: A DIFFERENT DRUMMER

Had the Reverend Martin Luther King Jr. been a spaceship he would have been petted and pampered, studied and protected, as this nation is very much inclined toward the worship of mechanical devices. But mankind is the last frontier.

Had Martin Luther King Jr. been a diamond mine the very best engineers would have visited him to test and probe, concretely but gently, the worth of the gems within and the means for their extraction. But the spirit of man's soul is the precious essence we are seeking.

Had Martin Luther King Jr. been a medical scientist advocating vivisection, heart and head transplants, and the injection of live deadly virus into human subjects, this nation would have hailed him for his innovative thinking, awarding him grants and degrees. But a new vision of man's worth was his goal.

Martin Luther King Jr. was just a man. To be just a man—not a football player, not a used car salesman, not a movie star or a politician seeking deals to stay in office—to be un-White, not insensitive, and not dumb or unhopeful, made Martin Luther King, to many, an object of scorn.

The difference between the ages of one and ten is the difference between total parasitical dependence and the first glimmer of understanding that you are the only person inside your skin. The difference between ten and twenty is the difference between juvenile and adult, boy and man, innocence and responsibility.

A nation's growth cannot be judged by an individual's growth. Yet there are parallels. In 1953 nothing but his private dream told Martin Luther King Jr. that he would become a bellwether for his people.

Many were sure that Thurgood Marshall would win the *Brown v. Topeka* case, but few were sure what that would mean—perhaps that some youngsters would have a chance to go to better schools. The decision came down from the Supreme Court 9 to 0. There were no dissenters. In our innocence we thought we had reached a pinnacle.

Then we discovered that we could not just bring our hopes, our dreams, and our innocence to America. Hopes without power are meaningless, dreams without aggressiveness are frustrating, innocence after four hundred years in the most technical society in the world is unacceptable, perhaps even itself a form of evil. Watching the world watching America, the Black giant began to stir.

Rosa Parks, an elderly, polite lady who worked as a seamstress, one evening on her way home said "No." *No* is the first word a baby learns that he discovers is a control. "No, I shall not move." A tyrant hates the word *no* more than any material, verbal, emotional, or financial situation he may have to deal with. *No* means there can be no deal. When a people say *no* they are not only feeling, they are thinking; this combination is always a big problem to tyrants. *No.* It is wrong that I move. Which means *Yes,* it is right that I sit. I will not move. Rosa Parks was arrested.

In 1955 the people wanted a leader. As in tribal times in long ago Africa, a voice was sought to take our demands to the King. Had we lived in different times we might have created priests to entreat the gods for us. Had we lived in a different country we might have sought the oracles to divine the meaning of the signs, or spiritualists to prepare the proper sacrifices. But because we lived in 1955 in America we sought a preacher who had enough book learning and soul to once again demand of the state: Let My People Go.

A leader was sought to petition the gods for strength and to beg the worldly powers for relief. King raised his voice for redemptive love, offering his body as perfect sacrifice. He was chosen.

It has been true of all presidential elections since Blacks were emancipated and to some degree enfranchised, that when Black people pick or reject a leader they are essentially correct. Leadership that is good for Blacks is *prima facie* good for the majority of the country, as has been proven from the Black people's love of Lincoln to the Black rejection of Nixon. Montgomery Blacks created a leader who, like his White counterparts of the age, was more than just another man; he was a personification of the soul of mankind. He was a symbol—and a cymbal—of a new time, a different drummer.

The nation embraced King either in love or in fear after the successful completion of the bus boycott. King moved his family back to Atlanta, where he had been born, and headed the Southern Christian Leadership Conference. The SCLC was father to the now defunct Student Nonviolent Coordinating Committee.

Martin Luther King Jr. presided over the last great testimonial of faith at the 1963 march on Washington. On the preceding day W. E. B. DuBois had died in Ghana. Ten years later King's faith was still unrequited, and the struggle had touched everyone, in several unexplained assassinations from John Kennedy and Robert Kennedy to Hale Boggs, the shootings of Stennis and Wallace, and the deaths of Nkrumah, Krushchev, Allende, Malcolm X, various witnesses, small people and large people—if they were in the way of the great streamroller, they were either mowed down or defoliated.

"I have a dream," King's voice resounded to over a quarter of a million people who went to Washington to testify. "I have a dream this morning," he echoed. "Not yesterday or tomorrow, but right now." And why should King not dream? "I have a dream today that one day We Shall Overcome."

Did he dream that ten years after the march and five years after his death we as a people would have fallen so low? Did he die to affirm the right of our college students to flunk out of school because "it's so hard"? Did he dream that the Black crime rate against Blacks would almost triple in ten short years? That our jail population would be 80 percent of all people incarcerated—not for nonviolent or even violent militancy, but for mugging, robbing and raping our own people? It's difficult to think that Rap Brown went to jail, that we buried Malcolm X and Martin Luther King for the right—in New York City—of Black people to be murdered by Black people at the rate of 48 out of every 100,000 of population, while comparably, only 28 Spanish-speaking people murder each other, and only 6 Whites are killed by other Whites.

"I have been to the mountain top," King declared on the eve of his death. But too many of us haven't yet begun to rise from our self-deception and self-hatred. Ten years isn't a long time and five is half of that, but we as a people can no longer afford to indulge in our fantasies about our origins or our future. We would like to think we are the future; perhaps either way we shall be. The history of the past twenty years shows that we are a strong, courageous people willing to apply our minds, our bodies and our souls for our financial, political, and spiritual liberation. We have had men—real flesh and blood men—in our recent past who made "dedication" an active rather than a passive noun. We have a choice. Malcolm X and Martin Luther King knew that one individual who stands up to say *yes* or *no* can make a difference. That is why they stood.

The legacy of King is not necessarily nonviolence or redemptive love, but it is the belief that if we act, and act positively and in good faith for the good of our people, we can change the direction of the sun to make it shine on us.

ANOTHER CAMP SEASON COMING

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. DOMINICK V. DANIELS. Mr. Speaker, another camp season is approaching and once again millions of parents will be sending their children to camps which they usually know very little about. Often, their only information is that which is found in the brochures distributed by the camp operator. It is usually impractical for a parent to visit the camp beforehand and even when that is possible, an untrained eye cannot find the problems.

With very few exceptions, State laws relating to camp safety are grossly inadequate. Only 6 States have comprehensive youth camp safety legislation: California, Colorado, Connecticut, New Jersey, New York, and Texas.

It is ironic that while we have legislation to protect our wildlife and animals used in research, we still have no laws to protect our children in summer camps.

We cannot let this injustice exist any longer. For that reason, I have again introduced the Youth Camp Safety Act, now H.R. 46, which would set up minimum Federal standards to protect campers everywhere. Today, I am putting in the third bill, bringing the number of cosponsors to well over 60.

It is our duty to act now and protect our Nation's greatest resources, our children. We must pass this legislation, summer is growing close and we can wait no longer.

I was very pleased to read Bill Gold's column in the Washington Post today and would like to submit it for my colleague's consideration.

The text of the article follows:

[From the Washington Post, Jan. 21, 1975]

EVEN THE CONGRESS WEARIES OF DELAY

(By Bill Gold)

It sometimes appears that the United States Congress has an infinite capacity for procrastination.

As times change, need for new legislation arises. Public opinion takes form, and hardens. Legislation is introduced in response to constituent demands for action.

Then nothing happens.

There are delays built into the legislative process, and rightly so. Proposals for change may have an adverse effect on some citizens. Those who will be affected deserve a right to be heard before the Congress acts.

The trouble is that, in practice, those who oppose new legislation are heard, then heard again—and again and again. They block action for seemingly endless periods of time.

When the legislative proposals that are thus thwarted are progressive and clearly needed, long delays try the patience of those who believe in the democratic process. When it becomes clear that good legislation is being backed by an overwhelming majority and is being frustrated by a tiny minority with a pocketbook interest in the matter, endless delay becomes intolerable.

This is approximately the status of the Youth Camp Safety Act at this moment.

The need for such legislation was brought to the attention of the Congress many years ago. Some of the camps to which parents send their children are well run. Safety rules are carefully observed. Camp counselors are screened to make sure they have the maturity, training and judgment that qualifies them to oversee the activities of inquisitive youngsters. Swimming, boating, woodcraft and shooting are taught with due regard for the safety of the children.

Other camps are not so well run. Fireproofing costs money. Maintenance and replacement of equipment cost money. It is cheaper to cut corners than it is to give first priority to the safety of the children.

So it has come to pass over the years that many children have been injured and killed in youth camp "accidents." When an inexperienced 16-year-old "counselor" takes boys out into white water in a canoe and drowns them when the canoe upsets, that is regarded as an "accident." When a 15-year-old "counselor" takes boys out on the firing range and a camper is shot because of the careless handling of a weapon, that is also an "accident." When faulty electrical wiring causes a fire in which children lose their lives, we are told that "these things happen in private homes, too."

Those who have been urging the Congress to adopt youth camp safety legislation have advocated that standards of safety be set, and that the various states be encouraged to enact their own safety programs based on the federal standards.

Responsible operators of youth camps were quick to see that these proposals are fair, in the public interest, and in the long run in the interest, too, of those who operate youth camps. With federal and state governments alert to the problem and actively working to safeguard young campers, more parents would feel safe in permitting their children to attend a camp.

So the Youth Camp Safety Act has been supported by the Girl Scouts, the Boy Scouts, the American Camping Association, the National PTA, the National Safety Council, and a host of other respected organizations.

But it has gotten absolutely nowhere in the Congress.

Why? Because a few camp operators—those who feel safety standards would force them to change their present mode of operation—have contributed to the campaigns of a few congressmen who have thereafter taken pains to block youth camp safety legislation. It is as simple as that.

When the 94th Congress convened a few days ago, Rep. Dominick V. Daniels (D-N.J.) reintroduced the Youth Camp Safety Act. It was cosponsored by long-time supporters Rep. Marvin L. Esch (R-Mich.), Rep. Peter A. Peyser (R-N.Y.) and 47 other members of the House from both sides of the aisle.

A select subcommittee held hearings on the bill in the 90th Congress. More hearings were held in the 91st Congress. Opponents were heard again in the 92d Congress. And when calls for action were voiced in the 93d Congress, it was decided to hold more hearings.

But even the Congress eventually wearies of these exercises in futility. Subcommittee Chairman Daniels says:

"We do not intend to hold any more hearings on this bill. The need has been proved. We have a responsibility to protect our children, and I intend to have this legislation enacted before the camping season."

Is Rep. Daniels overstating the case? Judge for yourself. Among the 50 states, 22 have no regulations whatever relating to youth camp safety. If you want to, you can hire convicted sex offenders and drug addicts as counselors.

An HEW study made last year showed that 45 states have no regulations regarding camp personnel; 24 have no health regulations that apply to youth camps, nor any requirement for medical services—not even first aid. Transportation to and from camp is covered by legislation in only five states; 45 leave that area of activity wide open. Camp operators can hire drivers convicted of reckless or drunken driving if they want to.

Yes, the need exists, and parents have been waiting so long for this simple legislation that pressure for action is building up. My guess is that there is a good chance the House will pass the bill, and that the Senate may even bestir itself and pass a bill. But parents should not be misled by developments of this kind.

The real test will come when the two bills go to "conference." At that point, a quiet knife in the ribs can—and often does—kill legislation.

All the great statesmen who voted "aye" can tell their constituents they did their best. But the fact will remain that the Congress has failed in its responsibility to safeguard the interests of the people.

This time around let's zero in on the footdraggers and make sure we know whose interests they're representing—and why.

FORD INTRODUCES LEGISLATION

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. FORD of Michigan. Mr. Speaker, today I am reintroducing legislation to give locally elected school board officials a voice on the Advisory Commission for Intergovernmental Affairs—ACIR. Once again I am joined by my colleague the distinguished gentleman from New York (Mr. PEYSER) in this effort. We first introduced this legislation 3 years ago, in 1972.

As presently constituted, the ACIR consists of 26 members—three of which are appointed from the Senate and three from the House of Representatives. The remaining 20 are appointed by the President as follows: three must be officers of the executive branch and three must be private citizens; four are appointed from a panel of at least eight Governors submitted by the Governor's Conference; three are appointed from a panel of at least six members of State legislative bodies submitted by the Council of State Governments; four are appointed from a panel of at least eight mayors submitted jointly by the American Municipal Association and the U.S. Conference of Mayors; and three are appointed from a panel of at least six elected county officers submitted by the National Association of County Officials—representatives from the whole spectrum of governmental units—with the exception of school boards.

A primary activity of the Advisory Commission on Intergovernmental Relations is to evaluate general revenue sharing payments for the Federal Government. It is estimated that approximately $120 million in general revenue-sharing funds are spent on elementary and secondary education each year. It therefore seems logical that educators from local school districts should be represented on the ACIR.

The legislation which we are introducing today would accomplish this—by giving locally elected school officials a voice in the Advisory Commission on Intergovernmental Relations.

We urge our colleagues to give this legislation the favorable and prompt consideration which it deserves. By adopting this bill we will be extending the same privileges to elected school officials that are now enjoyed by elected officials from virtually every other level of government and we will be making the Advisory Commission on Intergovernmental Relations a more effective advisory body as well.

PATRICIA C. HOLT: LAWNDALE'S WOMAN OF THE YEAR

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. CHARLES H. WILSON of California. Mr. Speaker, "What do we live for, if it is not to make life less difficult for each other?"—George Eliot.

Honored as Lawndale, Calif.'s, Woman of the Year on January 17, Patricia C. Holt has an impressive background of community service. Ever since she moved to Lawndale 18 years ago, she has devoted herself to the betterment of life around her. From her first experience as an active member in her children's school PTA, she has found time from her real estate business to become involved in virtually every aspect of civic service.

One of Mrs. Holt's prime concerns has been improving the quality of health care, and she has served as chairwoman of the Diabetes Clinic, the Nurses Scholarship for El Camino College, the Red Cross, a Christmas party for retarded children, the Cancer Society, and the March of Dimes. The roster of her other activities comprises almost the entire spectrum of Lawndale community life as she is a member of the Lawndale Democratic Club, YMCA, Breakfast Club, Chamber of Commerce, Citizens Goals Committee, and Picnic Committee.

In 1965, Pat was elected first vice president of the Lawndale Women's Club, a post in which she so excelled that she was elected president in 1966. Again, in 1973 and 1974, she was voted president of this organization. Always concerned that women play an active role in civic affairs, she has served as chairwoman of commissions on family living and the status of women.

The Great Western Savings and Loan recognized Pat in 1973 with a Civic Achievement Award for the outstanding woman in community service. And, because of Pat's efforts to beautify the city of Lawndale, last year she received a Certificate of Merit Award in honor of her efforts to make Lawndale a better place to live.

Devoted to her family and therefore understanding of the needs of young people, Pat has helped high schol students who need counseling to seek help through the Lawndale Community Center. And she is now in the process of adopting a teenage girl who is without a home.

Because Pat has been generous with her time, talents, and money to work for the greater good of the community, she is well deserving to be named Lawndale Woman of the Year. Pat Holt is a living example that "charity—is love in action."

RESPONSE TO THE STATE OF THE UNION MESSAGE

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. UDALL. Mr. Speaker, last week we gathered to hear the President's report on the state of the Union, and his legislative program for the 94th Congress. Like all Americans, I was hopeful that my friend and former colleague would offer us a sensible, progressive plan for attacking the demons that plague our Nation.

While I found some specific points on which I could agree with the President, I conclude with regret that, overall, his grand design is a design for failure, one which would yield growing unemployment, deepening recession, and a self-inflicted inflation of staggering proportions. His proposals would bring chaos in the short run and, I fear, collapse in the long run.

But criticism is cheap. The people deserve more of their Congress than an echo of the Executive, but they also deserve more than an assembly of carping spectators. Therefore I offer today a specific, constructive response—a program for the country that can work, that can turn the United States in the direction of prosperity and stability.

The foremost fact we must face is that the absolute prerequisite to economic recovery is substantial and immediate energy conservation. We import nearly 40 percent of our fuel, and the proportion, as well as the absolute quantity, is still increasing. The President's stated goal—reducing oil consumption by 1 million barrels a day this year—is simply inadequate, representing only 5 percent of our oil consumption and just 3 percent of our overall energy demand. The harsh fact is that we must double this cut—save 2 million barrels per day—if we are serious about moving toward stability.

But how can we achieve this? The President has chosen a clumsy, unjust, and economically disastrous route. He would force energy prices sky high, then have the Government turn its back on the problem and let the forces of the marketplace cut energy use across the board. Wasteful and essential uses, uses which create jobs and those that do not, economically crucial uses and totally dispensable ones: All will be affected without any regard to economic consequence.

Let me detail what this means to each American—what the picture would look like if the Congress enacted all the President's proposals:

The price of gasoline would rise at least 10 cents a gallon. That is an increase of 20 percent;

The price of electricity would rise by at least 15 percent;

The price of home heating oil would go up 20 to 25 percent, depending on the region;

The price of decontrolled domestic crude oil would more than double, rising from the present $5.25 a barrel to the $10 uncontrolled level, with a $2 excise tax on top of that; and

The price of decontrolled interstate natural gas will soar to many times the current level—no one can predict exactly how high—with a new excise tax on top of that.

The President's program would raise the Nation's energy bill by $40 to $50 billion annually. His tax package—including the inadequate windfall profits tax—would recapture only $30 billion of that, with the rest—up to $20 billion—remaining in the hands of the energy suppliers.

We need a totally different approach.

First, we need gas rationing. We have skirted the issue long enough. Every economist has a different guess as to how much the President's price increase would save, and we all know that the real burden would fall on those least able to afford it. Rationing is cumbersome; it is a headache. But it can be made to be fair, and more importantly, we know that it will do the job.

Second, we must enact immediate, mandatory energy efficiency standards for industry. The Department of Commerce has concluded that as much as 30 percent of the energy used in industry is wasted and could be eliminated quickly and without loss of jobs.

Third, we must enact an appliance efficiency labeling law, appliance performance standards, and tough thermal standards for new buildings as the President proposed—these I applaud. To this package I would add a new utility pricing system which rewards rather than discourages energy conservation. I would also urge a program of federally guaranteed loans to provide the necessary cash for home energy conservation improvements instead of the tax credit proposed by the President. Finally, Government and industry must cooperate to find a way to improve automobile fuel economy by 40 percent by 1980, and to do it without postponing the emission control standards set by the Clean Air Act. The industry's own 1975 emission control devices demonstrate undeniably that emissions can be controlled without decreasing fuel economy.

I recognize, as does the President, that ending energy waste is not enough. We must expand our domestic energy sources to meet the inevitable rise in demand that will come with the end of the recession. But, where the President's conservation goals are too modest, his production goals are excessive and unrealistic. He ignores land shortages and siting problems, severe water shortages in the West, the overwhelming environmental problems associated with oil shale development and the many serious problems which must be solved before nuclear energy can be depended upon. Above all, the President ignores the enormous burdens such development would place on our already overstrained capital market.

I believe that the President and Congress must put the emphasis on cutting the rate of growth of energy use, rather than climbing back onto the old treadmill, trying to satisfy an unrestrained appetite for cheap energy. Nearly a year ago I introduced legislation to make an explicit commitment to cutting the rate of growth from nearly 5 to 2 percent per year. Since then, two major studies, the Ford energy policy project and the Government's Project Independence blueprint, have concluded that such a limited rate of energy growth can be achieved without economic harm. It is time to stop deluding ourselves, to stop thinking we can bring back the good old days of cheap and abundant energy. They are gone—at least for a generation—perhaps forever—and we must adjust our habits accordingly.

A sound energy program is the biggest single step we could take toward renewed prosperity, but it must be coordinated with a full range of economic measures. Here again the President's program, despite some admirable features, is ultimately misdirected.

The flat 12-percent tax rebate—with a $1,000 ceiling—is welcome, of course, but unfair. We need instead a scaled, progressive program of rebates that will return the most money to those least able to withstand the crippling effect of inflation, rather than the other way around. This is not only more socially just, but it will exert far greater leverage for economic recovery.

The President also proposed a ban on new Federal spending programs. Such a decision would be unrealistic and shortsighted. New programs specifically designed to meet the challenge of serious recession compounded by continuing inflation will be necessary. For example, Congress should consider a large-scale public works effort to rebuild the Nation's railroad system, providing jobs, stimulation to construction industries, and returning its most energy-efficient component to the Nation's transportation system.

Some of the costs of these programs can be recouped through the elimination of some major tax loopholes. The time for a thorough reform of the Federal tax structure is long overdue, and action now could go far toward righting the inequities of our current economic difficulties. I would propose an end to the oil depletion allowance, a windfall profits tax stiffer and more comprehensive than that proposed by the President, tighter tax treatment of foreign income, an end to export subsidies, and the abolition of preferences which benefit only the very wealthy. In addition, we need energy conservation excise taxes. Unlike the President, however, I would aim these at specific wasteful or unnecessary forms of energy use, such as new cars which get less than 20 miles per gallon, not at all oil and gas regardless of the use to which it will be put.

I find myself unable to support the proposed limitations on cost-of-living increases in social security payments and the food stamp program to a level less than half the current rate of inflation, for I believe these will inflict unacceptable hardships.

Finally, I want to say a few words about a crucial issue the President did not mention. The country is bleeding—losing $25 billion each year to pay for oil imports at an artificial and intolerable price. And yet we have given almost no attention to the vast economic and political power we could wield to prevent future embargoes, to minimize the strains of concentrated oil wealth on the international financial system, and to curb the power of the OPEC cartel. The hard fact is that we are more vulnerable to an oil blockade now than we were a year ago. We have not played our economic cards at the bargaining table, and have thereby failed to show the OPEC nations that we will not endure punitive and arbitrary oil prices indefinitely. This failure may well prove to be one of the most damaging lapses of Presidential leadership of our time.

Mr. Speaker, I do not intend by these remarks to be a nitpicker or naysayer. I recognize the agonizing deliberation the President devoted to formulating his proposals, and the courage it took to admit the magnitude of our problems and the failure of his previous approaches. I stand ready to work with the administration and with my colleagues of both parties, to seek a way out of our present straits. But we must approach this task with care, we must direct our solution precisely, and we must strive to spread the burdens of recovery equitably, among all our people. I believe the proposals I have just outlined will do this, and I respectfully submit them for the consideration of the Congress and the country.

YOUNG INTRODUCES CONSTITUTIONAL AMENDMENT TO CHECK CONGRESSIONAL ABSENTEEISM

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. YOUNG of Florida. Mr. Speaker, I have introduced a constitutional amendment, House Joint Resolution 91, designed to check absenteeism in the Congress by requiring the expulsion by the Congress of any Member not present and voting on at least 60 percent of the rollcall votes taken during a session. The only exception would be when a Member was absent due to hospitalization because of illness or accident.

It is generally recognized that the people's faith in their governmental institutions, including the Congress, is at an all-time low. Many things are necessary to restore the public's faith in Government and an excellent place for the 94th Congress to begin is through the passage of House Joint Resolution 91.

Senators and Representatives are elected by the people to represent their interests on the national level. The election process amounts to a job contract executed by the voters. With that contract comes the responsibility of each Senator and Representative to fulfill the terms of the contract: to vote on the issues before each body, each day sessions are held. Thus, the physical presence of each Member of Congress—voting in each House's deliberations—is the only way to assure the voters that the employment contract will be fulfilled.

Voting participation statistics have not always been kept—but since 1953, Congressional Quarterly has compiled such statistics. From 1952 through 1972, the voting participation of Members of Congress has averaged between 79 and 90 percent. In 1973, the average was about 89 percent, while the average for 1974—a campaign year—was about 86 percent, or an absenteeism rate of 14 percent for the year.

Mr. Speaker, most private employers would not tolerate an absenteeism rate of 14 percent, except for extenuating circumstances. Yet, the voters who have elected each of us to the job of representing them often have to put up with an intolerable rate of truancy. The conscience of each Member of Congress should wince at unnecessary absences—absences which slow down the deliberations of both the House and the Senate—in committee work and on the floor.

These days of economic and energy crisis demand the full attention of each Representative and each Senator—more than the 60 percent requirement of my proposed constitutional amendment—a figure chosen because it usually connotes a minimum passing grade. Mr. Speaker, I urge prompt consideration of House Joint Resolution 91 by the Committee on Judiciary as another example of the willingness of the 94th Congress to fully represent the interests of the people.

A SALARY OF $82,500 FOR RTA HEAD "UNCONSCIONABLE"

HON. GEORGE M. O'BRIEN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. O'BRIEN. Mr. Speaker, last spring voters in six northeastern Illinois counties voted to establish a regional transportation authority. Despite overwhelming voter opposition in five of the counties, making up the suburban area around Chicago, a heavy favorable vote in Cook County—Chicago—provided the needed majority and the RTA was established. Voters in my own county of Will voted against RTA by an 8 to 1 margin.

They seem to have had good reason. The recently created RTA board has started out spending money as if it were going out of style. The board fixed the salary of its chairman, Milton Pikarsky, $82,500 a year, which according to the following editorial in the January 23 issue of the Chicago Tribune, makes him the highest paid public official in the country next to President Ford. Even if the country were enjoying the best of times economically, the action of the RTA board would be unduly extravagant. In these times, fraught with anxiety over still climbing prices and growing unemployment, the notion that any public body would approve such a salary level for its top official is incredible and unconscionable.

The editorial follows:

$82,500—Is It Only a Beginning?

> The Regional Transportation Authority board has agreed to pay its chairman-elect, Milton Pikarsky, $82,500 a year, making him the highest paid public official in the country next to President Ford.
>
> Unfortunately for taxpayers in the six-county RTA region, Mr. Pikarsky's new salary looks like only the beginning. The RTA board also created a three-member committee headed by Ernest S. Marsh, the retired chairman of Santa Fe Industries, to determine what kind of fringe benefits should be given the new chairman and other members of the RTA staff. These fringes are likely to include health and life insurance and probably retirement benefits.
>
> It is only reasonable to expect that when the RTA settles in to permanent quarters, the chairman's suite of offices will be lavish enough to be commensurate with a salary of $82,500 a year. And of course there will have to be a chauffeured limousine. After all, who would expect the chairman of the RTA to use public transportation?
>
> All this does little to assuage the fear of suburban taxpayers that the RTA under Mr. Pikarsky will be a big spender. That fear was aggravated, in fact, by the report that Mr. Pikarsky went before the RTA board and suggested that his salary should be between $80,000 and $100,000 a year.
>
> As chairman of the CTA, Mr. Pikarsky was paid $50,000 a year. Even with inflation and the additional responsibilities at RTA, it is hard to justify a 65 per cent increase in pay. And his pay will be reviewed by the RTA board every Jan. 1.
>
> There is one way, however, for the taxpayers—at least of Chicago—to recoup something from the topheavy administrative pay burden. With RTA functioning, the next head of the CTA will not have as much responsibility as before and, as a result, shouldn't need the salary that was paid to Mr. Pikarsky. In addition, RTA eliminates the need to have an expensive board governing the CTA. By cutting the CTA chairman's salary and dropping the board, the saving would at least help to offset the cost of a well-paid RTA staff.
>
> We hope Mr. Pikarsky will prove he is worth $82,500 a year, but he should have proved it before being paid it.

CONTINUING OUR COMMITMENT TO INEXPENSIVE FOOD STAMPS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. UDALL. Mr. Speaker, in this period of rising costs and unemployment, all Americans face financial difficulties. But none of us has to deal with problems as severe as those of the poor who are trying to live from day to day on a subsistence income. Surely, this is not the time to abandon our commitment to the underprivileged by charging them more for food stamps, but that is what the President would have us do.

The President's defense of added food stamp costs does not reflect any degree of sensitivity to the needs of the elderly and the poor of this Nation. For many of these people, food stamps are an essential supplement to their meager incomes. So, I strongly urge the Congress to pass the bill I am cosponsoring to block the President's automatic increase of food stamp prices to 30 percent of each recipient's income on March 1.

As an added incentive for the working poor and those receiving unemployment benefits, this bill also reduces the maximum charge for the stamps to 25 percent.

Equally important is the provision to permanently allow all social security recipients to participate in the food stamp program. Only 10 percent of all social security recipients have incomes higher than that normally allowed to qualify for food stamps so the time and effort required to remove these people from the rolls would be more costly than simply extending the program to them.

At a time when the Congress and the administration are looking for ways to stimulate the economy and return funds to the people and the marketplace, we ought not forget those Americans who have an ever-present need, those Americans who, because of inflation and rampant unemployment, are hungry and who, if the President's proposal is allowed to stand, will be forced out of the food stamp program because of higher prices.

This legislation will give them a remedy and will show that there remain a few who are sensitive to their plight. Immediate enactment of this bill is imperative.

CALL FOR HEARINGS ON NATURAL GAS SHORTAGE IN OHIO

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ASHLEY. Mr. Speaker, I have called upon Chairman STAGGERS to schedule hearings in the Interstate and Foreign Commerce Committee at the earliest opportunity to investigate severe curtailments of natural gas supplies in Ohio.

The situation has reached critical proportions. Columbia Gas, the supplier of 60 percent of the natural gas consumed in Ohio, has cut deliveries to 1,380 large industries by 55 percent this month, posing a threat of layoffs and reduced production at a time when the economy is already in serious decline. In Toledo 189 industries are among those hit, and 1 of them has already announced that it is considering moving to Illinois, taking 150 jobs with it, because there is no natural gas shortage in that State.

Another 1,561 commercial customers, including 105 in the Toledo area, were notified of 40 percent reductions in natural gas deliveries for the balance of the winter and 15 percent cutbacks thereafter.

The impact of these curtailments on business activity could be devastating. And an immediate emergency erupted when Columbia Gas notified the public schools of the Toledo area that they would face the same 40 percent reduction in natural gas, posing the unpleasant choice between shortening the school week or running the risk to students and teachers of unacceptably cold classrooms.

I have asked the Ohio Public Utilities Commission to intercede in this matter, but clearly a solution must be found.

Mr. Speaker, at the same time that Ohio and other States are confronted with this critical problem, most States throughout the country have had no curtailment of natural gas supplies whatsoever. I believe that it is manifestly unfair for Ohio—or any other State—to bear the burden of growing unemployment, loss of industrial output, and closing of schools while neighboring States are totally unaffected. The situation is so serious in fact that a Federal Power Commission just recently urged the Governors of 12 States to declare natural gas emergencies.

I am convinced that congressional hearings must be convened as quickly as possible to explore this situation and ascertain whether there is a true shortage of natural gas and why some States have been singled out for discriminatory treatment. Representatives of the natural gas producers and distributors, State public utility commissioners, consumers and natural gas customers, and officials of the FPC and other Government agencies should be called to testify and enable us to get at the facts. If new legislation is needed, or if a change in the FPC's authority appears advisable, these and other alternatives need to be explored.

I hope that my colleagues from other States hit by this sudden crisis will join me in this call for hearings. I urge the Interstate and Foreign Commerce Committee to expedite consideration of this emergency which threatens severe economic hardships in my congressional district and throughout Ohio.

VIEWS ON THE ENERGY CRISIS

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. COTTER. Mr. Speaker, in early January the President of WTIC Radio, Leonard Patricelli, gave two editorials on the energy crisis.

Pat's editorials received an enthusiastic and warm response, and I want to share them with my colleagues and the readers of the RECORD.

[WTIC editorial, Hartford, Conn., Jan. 3, 1975]

The year 1975 could very well become the most crucial year in America's history. For the first time since we achieved independence the domestic policy of these United States is being dictated by external forces, manipulated by nations apparently bent upon bankrupting the Western World.

Since the close of World War II, we have lived with the threat of "the bomb" . . . the ultimate weapon that could destroy us in a nuclear holocaust. Well, a different bomb has already been dropped, its inner workings consisting of oil that powers our cars and trucks, our homes and our industry. And it is resulting in economic holocaust.

In the last four years, while export prices have risen 55 percent, the income of O.P.E.C., the Organization of Petroleum Exporting Countries, on each barrel of oil has gone up 955 percent. Translated into dollars, in just the last year alone these unfriendly O.P.E.C. nations have built up a monetary reserve of more than 25 billion dollars. If this continues, O.P.E.C. could buy out all companies on the New York Stock Exchange in nine years and all U.S. direct investments abroad in less than two years. The Western World's financial reserves will be entirely spent within—at the most—five years.

The oil-producing nations, particularly the Arab countries, are gripping our economic jugular vein and we must break that hold. At stake is not only our need for oil, but our very survival. Secretary of State Kissinger has already begun preparing the nation and the world for the possibility of armed confrontatoin if the O.P.E.C. nations are unwilling to relent in their price-gouging policies.

Other than to sink or to fight, what are the alternatives? On Monday, we'll consider them.

LEONARD J. PATRICELLI,
President, the Ten Eighty Corp.

[WTIC editorial, Hartford, Conn., Jan. 6, 1975]

When last we spoke to you of the grave consequences facing this country and the Western World as a result of the Arab oil crisis, we indicated we would explore alternatives to our economic devastation by the O.P.E.C., the Organization of Petroleum Exporting Countries.

We must begin with immediate decisive government leadership to conserve the use of oil in this country. It won't solve the problem, but it will buy time.

Let's stop talking about it—let's do it! Let us embark on a crash program, by mobilizing all of the technology at our disposal, to find new sources of oil. Let us encourage off-shore drilling, finance mass transit, and make mandatory its use wherever possible and impose heavy taxes on gas guzzling automobiles.

Again, this might well buy the time needed to harness forces of the oceans and the sun that would make us truly energy free.

Let us strongly support the statement of Secretary of State Kissinger in which he put the oil-rich nations of the world on notice that we will not permit economic strangulation of the industrialized world without taking drastic action.

One thing can be learned from our present crisis. No nation can ever be truly independent again. No one, not even the United States, has a monopoly on the world's resources, whether it be oil or other natural resources essential to our economic survival—or the very air we breathe.

We must lead the way in this fight for our very survival, and we must win. During World War II, as Hitler's stormtroopers marched across Europe, England and France were our buffers and we were their backstop. Today, there are no more buffers and there is no backstop for the United States. The Arab nations have the Soviet Union for a backstop. We have only ourselves. It is you and I—the people of America—who are the backbone and the backstop for democracy and a reasonable peace in this piratical power-hungry world.

LEONARD J. PATRICELLI,
President, the Ten Eighty Corp.

POWER TO THE PEOPLE

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. SYMMS. Mr. Speaker, the President of the Idaho State AFL–CIO, Bob McFarland, made a recent statement on the energy and economic situation facing our Nation. His statement needs little introduction as it speaks for itself.

I commend the following statement to my colleagues in the Congress and urge their utmost attention to its message:

POWER TO THE PEOPLE

There'll come a day when the people of this favored land will curse the Sierra Club and the Friends of the Earth and all those other ecology extremists.

It will be the day when you flip the switch and there is no light. A day when you adjust the thermostat but there is no heat or air conditioning. A day when you go to the plant or the office but there is no work because there is no power to turn the wheel or run the lathe.

This country is, indeed, facing a power shortage. It is not too far away.

Even if we started today to construct the needed facilities, it would be nip and tuck with disaster. It takes time to build a power plant; time to explore and drill for oil; time to develop new sources of energy and power.

Yet in the face of this threat, the posey-pluckers persist in battling every proposal for power plants, every effort to build an oil line from Alaska, every attempt to explore and drill for oil offshore.

They talk, these extreme environmentalists, of exotic sources of energy. They talk through their beanies. Geothermal power fully developed would provide, at most, 10 percent of our needs. Solar energy, in the present state of the art, would require a battery the size of Arizona to supply power to the city of Los Angeles.

The back-to-nature folks talk about charging more for light and gas, this to cut demand. You know who would get it in the neck on that one: the working guy . . . through higher utility bills, higher prices for food and clothes, and higher taxes (schools and hospitals and public buildings use power, too.)

If some folks want to go live in a cave and light their way by candle and tote their stuff by oxen, that's their bag. But they have no right to flip the switch on the rest of us.

To coin a phrase: power to the people . . . and soon.

IDAHO STATE AFL–CIO.

MARTIN LUTHER KING REMEMBERED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. RANGEL. Mr. Speaker, a week ago yesterday, on what would have been his 46th birthday, we remembered and honored Dr. Martin Luther King, Jr.

Rather than speak, and repeat the words spoken by myself and others about the greatness of Dr. King, and of what he did for this country in his too-short lifetime, I will today let Dr. King's words stand alone.

While in an Alabama jail cell in 1963, arrested for leading a nonviolent demonstration, Dr. King penned a letter in response to eight Alabama clergymen's criticisms of his activities.

The letter, in the grandest tradition of Thoreau and Gandhi, offers an explanation of why men protest, why they fight for justice. I now introduce the text of Dr. King's letter in the RECORD in the hope that my colleagues will draw wisdom and strength, from Dr. King and from what he left behind for us all:

DR. MARTIN LUTHER KING, JR.: "LETTER FROM A BIRMINGHAM JAIL" AND "I HAVE A DREAM"

(In the spring of 1963, Dr. Martin Luther King, Jr. went to Birmingham, Alabama, to help stage a massive nonviolent demonstration that would call attention to the complete breakdown of negotiations between whites and Negroes on various desegregation plans. With scores of others, he was arrested and jailed. While in his cell, he read a published statement by eight Alabama clergymen—Christian and Jewish—that criticized his activities as "unwise and untimely." On the margins of the newspaper that carried the statement and on scraps of writing paper, Dr. King composed a stirring reply, here reprinted in part.)

APRIL 16, 1963.

MY DEAR FELLOW CLERGYMEN: I am in Birmingham because injustice is here. Just as the prophets of the eighth century B.C. left their villages and carried their "thus saith the Lord" far beyond the boundaries of their home towns, and just as the Apostle Paul left his village of Tarsus and carried the gospel of Jesus Christ to the far corners of the Greco-Roman world, so am I compelled to carry the gospel of freedom beyond my own home town. Like Paul, I must constantly respond to the Macedonian call for aid.

Moreover, I am cognizant of the interrelatedness of all communities and states. I cannot sit idly by in Atlanta and not be concerned about what happens in Birmingham. Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly. Never again can we afford to live with the narrow, provincial "outside agitator" idea. Anyone who lives inside the United States can never be considered an outsider anywhere within its bounds.

You deplore the demonstrations taking place in Birmingham. But your statement, I am sorry to say, fails to express a similar concern for the conditions that brought about the demonstrations. I am sure that none of you would want to rest content with the superficial kind of social analysis that deals merely with effects and does not grapple with underlying causes. It is unfortunate that demonstrations are taking place in Birmingham, but it is even more unfortunate that the city's white power structure left the Negro community with no alternative.

You may well ask: "Why direct action? Why sit-ins, marches and so forth? Isn't negotiation a better path?" You are quite right in calling for negotiation. Indeed, this is the very purpose of direct action. Nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored. My citing the creation of tension as part of the work of the nonviolent-resister may sound rather shocking. But I must confess that I am not afraid of the word "tension." I have earnestly opposed violent tension, but there is a type of constructive, nonviolent tension which is necessary for growth.

My friends, I must say to you that we have not made a single gain in civil rights without determined legal and nonviolent pressure. Lamentable, it is an historical fact that privileged groups seldom give up their privileges voluntarily. Individuals may see the moral light and voluntarily give up their unjust posture; but as Reinhold Niebuhr has reminded us, groups tend to be more immoral than individuals.

We know through painful experience that freedom is never voluntarily given by the oppressor; it might be demanded by the oppressed. Frankly, I have yet to engage in a direct-action campaign that was "well-timed" in the view of those who have not suffered unduly from the disease of segregation. For years now I have heard the word "Wait!" It rings in the ear of every Negro with piercing familiarity. This "Wait" has almost always meant "Never." We must come to see, with one of our distinguished jurists, that "justice too long delayed is justice denied."

We have waited for more than 340 years for our constitutional and God-given rights. The nations of Asia and Africa are moving with jetlike speed toward gaining political independence, but we still creep at horse-and-buggy pace toward gaining a cup of coffee at a lunch counter. Perhaps it is easy for those who have never felt the stinging darts of segregation to say, "Wait."

But when you have seen vicious mobs lynch your mothers and fathers at will and drown your sisters and brothers at whim; when you have seen hate-filled policemen curse, kick and even kill your black brothers and sisters; when you see the vast majority of your twenty million Negro brothers smothering in an uptight cage of poverty in the midst of an affluent society; when you suddenly find your tongue twisted and your speech stammering as you seek to explain to your 6-year-old daughter why she can't go to the public amusement park that has just been advertised on television, and see tears welling up in her eyes when she is told that Funtown is closed to colored children, and see ominous clouds of inferiority beginning to form in her little mental sky, and see her beginning to distort her personality by developing an unconscious bitterness toward white people; when you have to concoct an answer for a 5-year-old son who is asking: "Daddy, why do white people treat colored people so mean?"; when you take a cross-country drive and find it necessary to sleep night after night in the uncomfortable corners of your automobile because no motel will accept you; when you are humiliated day in and day out by nagging signs reading "white" and 'colored"; when your first name becomes "nigger", your middle name becomes "boy" (however old you are) and your last name becomes "John," and your wife and mother are never given the respected title "Mrs."; when you are harried by day and haunted by night by the fact that you are a Negro, living constantly at tiptoe stance, never quite knowing what to expect next, and are plagued with inner fears and outer resentments; when you are forever fighting a degenerating sense of "nobodiness"—then you will understand why we find it difficult to wait.

There comes a time when the cup of endurance runs over, and men are no longer willing to be plunged into the abyss of despair. I hope, sirs, you can understand our legitimate and unavoidable impatience.

You express a great deal of anxiety over our willingness to break laws. This is certainly a legitimate concern. Since we do diligently urge people to obey the Supreme Court's decision of 1954 outlawing segregation in the public schools, at first glance it may seem rather paradoxical for us to consciously break laws. One may well ask: "How can you advocate breaking some laws and obeying others" The answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. I would agree with St. Augustine that "an unjust law is no law at all."

Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man-made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law. And law that uplifts human personality is just. Any law that degrades human personality is unjust . . .

In no sense do I advocate evading or defying the law, as would the rabid segregationist. That would lead to anarchy. One who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law.

We should never forget that everything Adolf Hitler did in Germany was "legal" and everything the Hungarian freedom fighters did in Hungary was "illegal." It was 'illegal" to aid and comfort a Jew in Hitler's Germany. Even so, I am sure that, had I lived in Germany at the time, I would have aided and comforted my Jewish brothers. If today I lived in a Communist country where certain principles dear to the Christian faith are suppressed, I would openly advocate disobeying that country's antireligious laws.

I must make two honest confessions to you, my Christian and Jewish brothers. First, I must confess that over the past few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the Negro's great stumbling block in his stride toward freedom is not the White Citizen's Counciler or the Ku Klux Klanner, but the white moderate, who is more devoted to "order" than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says: "I agree with you in the goal you seek, but I cannot agree with your methods of direct action"; who paternalistically believes he can set the timetable for another man's freedom; who lives by a mythical concept of time and who constantly advises the Negro to wait for a "more convenient season." Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection.

I had hoped that the white moderate would understand that law and order exist for the purpose of establishing justice and that when they fail in this purpose they become the dangerously structured dams that block the flow of social progress.

I had hoped that the white moderate would understand that the present tension in the South is a necessary phase of the transition from an obnoxious negative peace, in which the Negro passively accepted his unjust plight, to a substantive and positive peace, in which all men will respect the dignity and worth of the human personality. Actually, we who engage in nonviolent direct action are not the creators of tension. We merely bring to the surface the hidden tension that is already alive. We bring it out in the open, where it can be seen and dealt with. Like a boil that can never be cured so long as it is covered up but must be opened with all its ugliness to the natural medicines of air and light, injustice must be exposed, with all the tension its exposure creates, to the light of human conscience and the air of national opinion before it can be cured.

In your statement you assert that our actions, even though peaceful, must be condemned because they precipitate violence. But is this a logical assertion?

Isn't this like condemning a robbed man because his possession of money precipitated the evil of robbery?

Isn't this like condemning Socrates because his unswerving commitment to truth and his philosophical inquiries precipitated the act by the misguided populace in which they made him drink hemlock?

Isn't this like condemning Jesus because his unique Godconsciousness and never-ceasing devotion to God's will precipitated the evil act of crucifixion?

More and more I feel that the people of ill will have used time much more effectively than have the people of good will. We will have to repent in this generation not merely for the hateful words and actions of the bad people but for the appalling silence of the good people. Human progress never rolls on wheels of inevitability; it comes through the tireless efforts of men willing to be coworkers with God, and without this hard work, time itself becomes an ally of the forces of social stagnation. We must use time creatively, in the knowledge that the time is always ripe to do right.

Now is the time to make real the promise of democracy and transform our pending national elegy into a creative psalm of brotherhood.

Now is the time to lift our national policy from the quicksand of racial injustice to the solid rock of human dignity.

You speak of our activity in Birmingham as extreme. At first I was rather disappointed that fellow clergymen would see my nonviolent efforts as those of an extremist. I began thinking about the fact that I stand in the middle of two opposing forces in the Negro community. One is a force of complacency made up in part of Negroes who, as a result of long years of oppression, are so drained of self-respect and a sense of "somebodiness" that they have adjusted to segregation; and in part of a few middle-class Negroes who, because of a degree of academic and economic security and because in some ways they profit by segregation, have become insensitive to the problems of the masses. The other force is one of bitterness and hatred, and it comes perilously close to advocating violence. It is expressed in the various black nationalist groups that are springing up across the nation, the largest and best-known being Elijah Muhammad's Muslim movement.

Nourished by the Negro's frustration over the continued existence of racial discrimination, this movement is made up of people who have lost faith in America, who have absolutely repudiated Christianity, and who have concluded that the white man is an incorrigible "devil."

I have tried to stand between these two forces, saying that we need emulate neither the "do-nothingism" of the complacent nor the hatred and despair of the black nationalist. For there is the more excellent way of love and nonviolent protest. I am grateful to God that, through the influence of the Negro church, the way of nonviolence became an integral part of our struggle.

If this philosophy had not emerged, by now many streets of the South would, I am convinced, be flowing with blood. And I am further convinced that if our white brothers dismiss as "rabble-rousers" and "outside agitators" those of us who employ nonviolent direct action, and if they refuse to support our nonviolent efforts, millions of Negroes will, out of frustration and despair, seek solace and security in black-nationalist ideologies—a development that would inevitably lead to a frightening racial nightmare.

Oppressed people cannot remain oppressed forever. The yearning for freedom eventually manifests itself, and that is what has happened to the American Negro. Something within has reminded him of his birthright of freedom, and something without has reminded him that it can be gained.

The Negro has many pent-up resentments and latent frustrations, and he must release them. So let him march; let him make prayer pilgrimages to the city hall; let him go on freedom rides—and try to understand why he must do so. If his repressed emotions are not released in nonviolent ways, they will seek expression through violence; this is not a threat but a fact of history.

So I have not said to my people: "Get rid of your discontent." Rather, I have tried to say that this normal and healthy discontent can be channeled into the creative outlet of nonviolent direct action. And now this approach is being termed extremist.

But though I was initially disappointed at being categorized as an extremist, as I continued to think about the matter I gradually gained a measure of satisfaction from the label.

Was not Jesus an extremist for love: "Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you and persecute you."

Was not Amos an extremist for justice: "Let justice roll down like waters and righteousness like an everflowing stream."

Was not Paul an extremist for the Christian gospel: "I bear in my body the marks of the Lord Jesus."

Was not Martin Luther an extremist: "Here I stand; I cannot do otherwise, so help me God."

And John Bunyan: "I will stay in jail to the end of my days before I make a butchery of my conscience."

And Abraham Lincoln: "This nation cannot survive half slave and half free."

And Thomas Jefferson: "We hold these truths to be self-evident, that all men are created equal. . . ." So the question is not whether we will be extremists, but what kind of extremists we will be.

Will we be extremists for hate or for love? Will we be extremists for the preservation of injustice or for the extension of justice?

Let me take note of my other major disappointment. I have been so greatly disappointed with the white church and its leadership. Of course, there are some notable exceptions. . . . I do not say this as one of those negative critics who can always find something wrong with the church. I say this as a minister of the gospel, who loves the church; who was nurtured in its bosom; who has been sustained by its spiritual blessings and who will remain true to it as long as the cord of life shall lengthen . . .

I have heard numerous southern religious leaders admonish their worshippers to comply with a desegregation decision because it is the law, but I have longed to hear white ministers declare: "Follow this decree because integration is morally right and because the Negro is your brother."

In the midst of blatant injustices inflicted upon the Negro, I have watched white churchmen stand on the sideline and mouth pious irrelevancies and sanctimonious trivialities.

In the midst of a mighty struggle to rid our nation of social and economic injustice, I have heard many ministers say: "Those are social issues, with which the gospel has no real concern." And I have watched many churches commit themselves to a completely other-worldly religion which makes a strange, un-Biblical distinction between body and soul, between the sacred and the secular . . .

In deep disappointment I have wept over the laxity of the church. But be assured that my tears have been tears of love. There can be no deep disappointment where there is not deep love. Les, I love the church. How could I do otherwise? I am in the rather unique position of being the son, the grandson and the great-grandson of preachers. Yes, I see the church as the body of Christ. But, oh! How we have blemished and scarred that body through social neglect and through fear of being nonconformists . . .

I hope the church as a whole will meet the challenge of this decisive hour. But even if the church does not come to the aid of justice, I have no despair about the future. I have no fear about the outcome of our struggle in Birmingham, even if our motives are at present misunderstood. We will reach the goal of freedom in Birmingham and all over the nation, because the goal of America is freedom.

Abused and scorned though we many be, our destiny is tied up with Americas destiny. Before the pilgrims landed at Plymouth, we were here. Before the pen of Jefferson etched the majestic words of the Declaration of Independence across the pages of history, we were here. For more than two centuries our forebears labored in this country without wages; they made cotton king; they built the homes of their masters while suffering gross injustice and shameful humiliation—and yet out of a bottomless vitality they continued to thrive and develop.

If the inexpressible cruelties of slavery could not stop us, the opposition we now face will surely fail. We will win our freedom because the sacred heritage of our nation and the eternal will of God are embodied in our echoing demands.

I hope this letter finds you strong in the faith. I also hope that circumstances will soon make it possible for me to meet each of you, not as an integrationist or civil rights leader, but as a fellow clergyman and a Christian brother.

Let us all hope that the dark clouds of racial prejudice will soon pass away and the deep fog of misunderstanding will be lifted from our fear-drenched communities, and in some not too distant future tomorrow the radiant stars of love and brotherhood will shine over our great nation with all their scintillating beauty.

Yours for the cause of Peace and Brotherhood,

MARTIN LUTHER KING, JR.

I HAVE A DREAM

(Martin Luther King's historic address at the Lincoln Memorial during the March on Washington, August 28, 1963)

I am happy to join with you today in what will go down in history as the greatest demonstration for freedom in the history of our nation.

Five score years ago a great American in whose symbolic shadow we stand today signed the Emancipation Proclamation. This momentous decree is a great beacon light of hope to millions of Negro slaves who had been seared in the flames of withering injustice. It came as a joyous daybreak to end the long night of their captivity. But one hundred years later the Negro still is not free. One hundred years later the life of the Negro is still badly crippled by the manacles of segregation and the chains of discrimination. One hundred years later the Negro lives on a lonely island of poverty in the midst of a vast ocean of material prosperity. One hundred years later the Negro is still languished in the corners of American society and finds himself in exile in his own land. So we've come here today to dramatize a shameful condition.

In a sense we've come to our nation's capital to cash a check. When the architects of our Republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir. This note was a promise that all men—yes, black men as well as white men—would be guaranteed the unalienable rights of life, liberty and the pursuit of happiness. It is obvious today that America has defaulted on this promissory note insofar as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check, a check which has come back marked "insufficient funds."

But we refuse to believe that the bank of justice is bankrupt. We refuse to believe that there are insufficient funds in the great vaults of opportunity of this nation. So we've come to cash this check, a check that will give us upon demand the riches of freedom and the security of justice.

We have also come to this hallowed spot to remind America of the fierce urgency of now. This is no time to engage in the luxury of cooling off or to take the tranquilizing drug of gradualism. Now is the time to make real the promises of democracy. Now is the time to rise from the dark and desolate valley of segregation to the sunlit path of racial justice. Now is the time to lift our nation from the quicksands of racial injustice to the solid rock of brotherhood.

Now is the time to make justice a reality for all of God's children. It would be fatal for the nation to overlook the urgency of the moment. This sweltering summer of the Negro's legitimate discontent will not pass until there is an invigorating autumn of freedom and equality—1963 is not an end but a beginning. Those who hope the Negro needed to blow off steam and will now be content will have a rude awakening if the nation returns to business as usual.

There will be neither rest nor tranquility in America until the Negro is granted his citizenship rights. The whirlwinds of revolt will continue to shake the foundations of our nation until the bright days of justice emerges. And that is something that I must say to my people who stand on the worn threshold which leads into the palace of justice. In the process of gaining our rightful place we must not be guilty of wrongful deeds. Let us not seek to satisfy our thirst for freedom by drinking from the cup of bitterness and hatred.

We must forever conduct our struggle on the high plane of dignity and discipline. We must not allow our creative protests to degenerate into physical violence. Again and again we must rise to the majestic heights of meeting physical force with soul force. The marvelous new militancy which has engulfed the Negro community must not lead us to distrust all white people, for many of our white brothers, as evidenced by their presence here today, have come to realize that their destiny is tied up with our destiny.

They have come to realize that their freedom is inextricably bound to our freedom. We cannot walk alone. And as we walk we must make the pledge that we shall always march ahead. We cannot turn back. There are those who are asking the devotees of civil rights: "When will you be satisfied?" We can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality.

We can never be satisfied as long as our bodies, heavy with the fatigue of travel, cannot gain lodging in the motels of the highways and the hotels of the cities.

We cannot be satisfied as long as the Negro's basic mobility is from a smaller ghetto to a large one. We can never be satisfied as long as our children are stripped of their adulthood and robbed of their dignity by signs stating "For Whites Only."

We cannot be satisfied as long as the Negro in Mississippi cannot vote and the Negro in New York believes he has nothing for which to vote.

No, no, we are not satisfied, and we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream.

I am not unmindful that some of you have come here out of great trials and tribulations. Some areas where your quest for freedom left you battered by the storms of persecution and staggered by the winds of police brutality. You have been the veterans of creative suffering.

Continue to work with the faith that unearned suffering is redemptive. Go back to Mississippi, go back to Alabama, go back to South Carolina, go back to Georgia, go back to Louisiana, go back to the slums and ghettos of our Northern cities, knowing that somehow this situation can and will be changed. Let us not wallow in the valley of despair.

I say to you today, my friends, though, even though we face difficulties today and tomorrow, I still have a dream. It is a dream. It is a dream deeply rooted in the American dream. I have a dream that one day this nation will rise up, live out the true meaning of its creed: "We hold these truths to be self-evident, that all men are created equal."

I have a dream that one day on the red hills of Georgia, sons of former slaves and sons of former slave-owners will be able to sit down together at the table of brotherhood. I have a dream that one day even the state of Mississippi, a state sweltering with the heat of injustice, sweltering with the heat of oppression, will be transformed into an oasis of freedom and justice.

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character. I have a dream . . . I have a dream that one day in Alabama, with its vicious racists, with its governor having his lips dripping with words of interposition and nullification, one day right there in Alabama little black boys and black girls will be able to join hands with little white boys and white girls as brothers and sisters.

I have a dream today . . . . I have a dream that one day every valley shall be exalted, every hill and mountain shall be made low. The rough places will be made plain, and the crooked places will be made straight. And the glory of the Lord shall be revealed, and all flesh shall see it together. This is our hope. This is the faith that I go back to the South with. With this faith we will be able to hew out of the mountain of despair a stone of hope. With this faith we will be able to transform the jangling discords of our nation into a beautiful symphony of brotherhood. With this faith we will be able to work together, to pray together, to struggle together, to go to jail together, to stand up for freedom together, knowing that we will be free one day!

This will be the day when all of God's children will be able to sing with new meaning, "My country, 'tis of thee, sweet land of liberty, of thee I sing. Land where my fathers died, land of the pilgrim's pride, from every mountain side, let freedom ring." And if America is to be a great nation, this must become true. So let freedom ring from the prodigious hilltops of New Hampshire. Let freedom ring from the mighty mountains of New York. Let freedom ring from the heightening Alleghenies of Pennsylvania. Let freedom ring from the snowcapped Rockies of Colorado. Let freedom ring from the curvaceous slopes of California.

But not only that. Let freedom ring from Stone Mountain of Georgia. Let freedom ring from Lookout Mountain of Tennessee. Let freedom ring from every hill and molehill of Mississippi, from every mountain side. Let freedom ring!

When we allow freedom to ring—when we let it ring from every city and every hamlet, from every state and every city, we will be able to speed up that day when all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands and sing in the words of the old Negro spiritual, "Free at last, Free at last, Great God almighty, We are free at last."

AMERICANS ABROAD LOSE VOTING RIGHTS

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. DENT. Mr. Speaker, it is reliably estimated that there are more than 750,000 American citizens of voting age residing outside of the United States in nongovernmental capacities. These citizens include thousands of businessmen, teachers, missionaries, accountants, engineers, lawyers, and others from all walks of life who serve various American interests abroad. Although these citizens remain subject to U.S. tax laws and all other obligations of American citizenship, they are in many cases strongly discouraged if not outright prohibited from registering to vote and voting in Federal elections.

Currently only 27 States and the District of Columbia have statutes which allow absentee registration and voting by citizens temporarily residing outside of the United States. Even among those States which have such statutes, many requirements and regulations are imposed which are difficult if not impossible to meet. Because of this situation I joined with a number of my colleagues in the 93d Congress in introducing the Overseas Citizens Voting Rights Act. The bill sought to provide uniform procedures for absentee registration and voting in Federal elections for American citizens residing abroad. Unfortunately, due to the crush of legislation at the end of the session, the measure died on the suspension calendar.

Today I am again introducing this legislation along with my colleague from Minnesota, Mr. FRENZEL. I would strongly urge all of my colleagues to join us in our efforts to return the vital right to vote to so many thousands of American citizens residing abroad.

CREDIT REPORTING REFORMS

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ROYBAL. Mr. Speaker, the American people are just beginning to realize how many government and private businesses keep and have access to files containing the most personal information on an individual's life. For years, businesses engaged in gathering information concerning an individual's character, morals, and credit worthiness have been free to resell that information to other people while at the same time refusing inquiries from the individual who is the subject of the file.

I believe that the current practices within the credit reporting industry should be changed. Therefore on the first day of this Congress I introduced legislation to tighten Federal controls on the preparation and release of credit reports. This bill would amend and strengthen the Fair Credit Reporting Act passed in 1970 which has failed to adequately protect a person's right to privacy.

Under current law, investigative agencies produce millions of credit reports a year with virtual immunity from libel or slander suits, even though many of these reports contain serious errors. When an individual applies for a job, insurance, or even apartment rental, he stands a good chance of being investigated without even knowing it. There is nothing in the law which prevents an investigative agency from reselling these reports over and over again. This practice constitutes a very dangerous threat to our right of privacy and free speech.

My bill would correct these gaps in the law by setting up stricter procedures for both "investigative consumer reports" and "consumer reports." An "investigative report" deals with a person's moral character, life style, personal traits and reputation. A "consumer report" is a simple credit check of one's financial situation and credit rating.

Because of the seriousness of the investigative report, the company or employer requesting this report must first obtain the consumer's written consent. The report is then sent simultaneously to both the company and the consumer. In the credit check, the company must inform a person in writing within 3 days that a report may be made. The consumer has the option to ask for a copy of the completed dossier.

For both types of reports, the individual has the right to correct any reporting error or misrepresentation.

The credit reform bill would also recognize a new Federal "course of action" allowing the consumer to sue any reporting firm that "negligently or maliciously publishes any untrue statement or representation."

The credit reform bill would also recognize a new Federal "cause of action" allowing the consumer to sue any reporting firm that "negligently or maliciously publishes any untrue statement or representation." Civil penalties would include a minimum of $1,000 or actual damages, whichever is greater, plus punitive damages. This provision would abolish the doctrine of conditional privilege which rests on a showing of malice and would include negligence as grounds for suit.

Finally, the proposed legislation would create a board of examiners to regulate the credit reporting industry. The board would establish Federal standards for licensing credit investigators and carry subpena powers to probe into credit reporting practices.

Mr. Speaker, I believe this bill will effectively stop the release of reports that brand a person as immoral or irresponsible on the basis of hearsay or some personal grudge against the individual.

ALVARO PINEDA'S LAST MOUNT

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. CHARLES H. WILSON of California. Mr. Speaker, last Saturday I lost a very good friend and the sporting world lost a great jockey when Alvaro Pineda was killed in a freak starting gate accident at Santa Anita. I had known Alvaro since he first came to California in the mid-1960's to begin what became a phenomenal racing career.

For Alvaro Pineda, the stakes proved to be the highest in the hazardous world of horseracing. His beginnings were auspicious since, after apprenticing in Mexico City, he quickly established himself professionally to move out of the "bullrings" of American racing into the top spot at Santa Anita. Yet, in 1969, after winning championships at both Santa Anita and Hollywood Park, he went through a dark period which is not uncommon among those who achieve sudden celebrity as he wrestled with the problem of alcohol abuse.

But, being a person of great self-awareness and determination, Alvaro consulted a doctor who assisted him to conquer this debilitating problem. With renewed dedication, he started to work even harder than before but was sidelined when he broke a wrist. This unlucky accident did not demoralize him, however, for, in his own words—

> It was like being reborn . . . I never doubted my talent. But I doubted myself.

Last year, Pineda had his finest season; his mounts won $2,158,053 and he was honored by Santa Anita's George Woolf Memorial Award given annually to the rider whose career reflects credit upon the profession. Ironically, George Woolf was fatally injured in a 1946 accident, and Alvaro Pineda's tragic death is the first Santa Anita racing fatality since then.

Because Alvaro's life was cut short at age 29, the racing world has lost one of its finest riders, his wife Donna and their two young children have lost a devoted husband and father, and I and many others have lost a close personal friend. But his courage and skill will never be forgotten for, as Gerald Strine of the Washington Post wrote, Alvaro Pineda was "a gentleman in a hard game."

CRISIS IN THE MIDDLE EAST

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. SOLARZ. Mr. Speaker, the dark clouds of war continue to gather in the Middle East and a renewed outbreak of armed hostilities between Israel and her Arab neighbors becomes more of a possibility. The territorial integrity of Israel—in fact, her very existence as an independent nation—is increasingly jeopardized as the Arab States steadily increase their military capabilities and prepare for what most of them consider to be an inevitable armed confrontation with Israel.

Certainly this situation is being seriouly exacerbated by the sale of military hardware by the United States to certain Middle East nations, such as the contract for some 60 F-5 jet fighters—and the training of their pilots—which was recently concluded between this country and Saudi Arabia. The delicate balance in the strife-torn area of the world has been gravely ruptured and the security of Israel is threatened even further.

Recently a very timely and perceptive discourse on the Middle East situation appeared on the Op Ed page of the New York Times. Written by Shimon Peres, the distinguished and very able Israel Defense Minister, this article, I believe, puts the current state of affairs into a proper perspective. While a lasting peace in the Middle East will, of course, require negotiations and some degree of flexibility by all parties, blanket concessions cannot and should not be granted. As Mr. Peres so aptly notes:

> If we [Israel] conceded to Egypt all that she claims, she would still present the demands of the other Arab states as a condition for full peace. If we gave in to Syria, she would continue to present as a condition Israel's compliance with the extremist demands of the Palestinians.

Clearly, whatever agreement Israel may reach with one of her Arab neighbors must be honored by the others and she must not be expected to blithely concede to the demands of one Arab State, only to have another Arab country present a different set of demands. Israel is not adverse to making concessions but wants to receive "something real in return for these concessions."

Mr. Speaker, I believe Mr. Peres' article warrants full and careful consideration by our colleagues and by others as deeply troubled as I am over the ever-worsening crisis in the Middle East. I insert the article herewith for inclusion in the RECORD and commend it to our colleagues' attention:

[From the New York Times, Jan. 9, 1975]

WAR AND PEACE IN THE MIDDLE EAST

(By Shimon Peres)

TEL AVIV.—What characterizes the situation in the Middle East is the dispute over predictions rather than positions. There are some who predict that war is about to erupt. And there are some who say the contrary—that chances have increased for a dialogue, however gradual and prolonged, that will lead to peace, after all.

The truth is that both sides have some basis in reality. The Arab nations seem to have entered a new transitional phase in which the traditional aggression and a new trend toward diplomacy are mingled.

The older, aggressive attitude relies upon numerous armies, the centrality of the militaristic effort in national life, large-scale Soviet supplies, and optimistic interpretations of the outcome of the 1973 war. The effective priority in the Arab world is still the military one.

This military effort is broad and varied: It includes terrorist actions as well as preparation for the renewal of all-out war. Arab leaders assert that their patience for political negotiations is bounded by time. If negotiations are not concluded quickly, and concluded to their satisfaction, the firing will resume.

But there is an opposing trend—faint, hesitant, almost diffident—anchored in the conviction that Arab grandeur is an internal matter related to economic development, social progress, the rehabilitation of cities, the opening of the Suez Canal.

Proponents of this trend add that in the final analysis what they see as a crumbling and wary Israel will have no choice but to surrender to Arab dictates phrased in diplomatic terms.

This trend claims to its credit the disengagement agreements, in which Egypt and Syria gained more territory by negotiation than they had gained by surprise attack.

Supporters of this trend do not yet subscribe to the idea of a compromise that would enable all the nations of the Middle East to live in peace; they still see diplomacy as a weapon in the struggle to bring about Israel's surrender.

The Arab renaissance movement and the Jewish renaissance movement coincided in time—the second half of the twentieth century—and in space.

After a long period of national oppression and social backwardness, the Arabs confronted themselves with a penetrating question: How did it happen that having held a place among the nations of the world foremost in art, language, technology, construction, and war, they had suddenly lost their capacity for progress, lost their political independence, and turned into an underdeveloped nation—backward, enslaved, wretched and oppressed?

What went wrong with the historic pace of the Arabs? Who was to blame for the failure, and where lay the key to overcoming it?

These are burning questions in the thinking of Arabs, who have tended to cast the blame on others and have begun to seek their lost grandeur on the battlefields.

If the Arabs lost their sense of progress, the Jews sought to recover their lost security. Jews had been at the forefront of human advancement.

They had distinguished themselves in many areas of philosophy, science, art and economics, but they had been and remained a quiet, peace-seeking people—a people willing to accept dispersal, ready to obey the laws of the lands they lived in. Despite all this, never was a nation so persecuted, everywhere—including in the Arab world. Jews were degraded, discriminated against, oppressed, threatened. Just as the Arab nation sought advancement, the Jewish nation sought security. In political independence Jews saw the sole guarantee of continued existence—physical and spiritual alike.

The energy that the Arabs invested in war, the Jews channeled into immigration—absorbing Israel's refugees, gathering up the remnants, forming an authentic core of farm and factory workers, builders and creators who would establish their home once again—a refugee for yesterday's oppressed.

What changed after the Yom Kippur war and what will yet change derives from the limits the Arabs have discovered in their new power.

During the war they amassed their maximum forces: a million armed men; thousands of tanks and planes; the peak of Russian technology; and abundant political support—from the Communist bloc, the African Continent, the Moslem community, the European market, the forum of the Big Four, and the assembly halls of the United Nations.

But despite their advantage of surprise and military initiative, they could not win.

The Arabs rank with the rich among nations. The Arab world occupies 8 per cent of the earth's surface. It commands 67 percent of the world's oil resources. It has huge currency reserves. Why has the nation that is wealthiest in resources remained so poor in terms of its populace? Why can oil be used for intimidation and not for advancement?

Oil has not only demonstrated power, it has also raised questions. This tremendous wealth is bound to give rise to new expectations in the Arab world if it hasn't done so already.

It is impossible to invest revenue only in the acquisition of arms and the buying of nations—to say nothing of rather disappointing wars. The fresh disappointment and the new expectations may constitute a latent antithesis to the Arabs' anti-Zionist thesis.

It is becoming increasingly clear that Zionism is not to blame for the Arab lag but that the backwardness is self-inflicted. Zionism does not impede the Arabs; they are held back by the waste of wealth and the disappointment of wars.

As an optimistic Israeli, I believe that the inclination toward dialogue and the development that has become apparent among the Arabs will ultimately lead to their self-deliverance—and self-deliverance is liberation from the folly of war.

But hopes are not to be combined with hard reality. The reality is that the Arabs continue to hoard iron, to forge it, and to raise it in threat.

By all indications, the Arabs intend to enlarge their armies by 50 per cent during the next five years.

Furthermore, the most extreme Arab nation, Syria, is also the most actively equipping herself. Just as we must hope, we must also be prepared. During this transition period, Israel must distinguish between contradictory situations and must do three things simultaneously: foster the new trend toward dialogue; repulse the traditional military threat; and prepare to emerge from the transitional phase, as a strong nation assured of her self-defense.

But fostering the trend toward dialogue is more easily said than done. This means sustaining different things—peace itself, the time required for negotiations, and the interests of the forces that support peace.

If full peace could be achieved with one of the Arab states, or general peace with all of them, I believe that Israel would be willing to agree to many and significant concessions.

However, the difficulty is not in her willingness to make concessions, but in receiving something real in return for these concessions.

If we conceded to Egypt all that she claims, she would still present the demands of the other Arab states as a condition for full peace. If we gave in to Syria, she would continue to present as a condition Israel's compliance with the extremist demands of the Palestinians.

If we accede to Yassir Arafat, we create a new front of Ahmed Jabril, George Habash, and Nayef Hawatmeh, who call for total liquidation of Israel.

In the absence of a real chance for full peace now, we must examine the second alternative—an interval of time—since a period free from war is free for continuation of talks. The acquisition of time should not be underrated. The real problem is its price. There are some who demand that we pay for temporary peace the price of full peace.

The conclusion indicated here is that we can pay for a temporary settlement with a temporary agreement, which can be achieved when the Arabs are convinced that their military option offers them no more than that.

We cannot escape the fact that Israel is likely to be called upon to pay a price, so that other forces, including those friendly to her, can maintain their influence and guarantee their legitimate interests in the Middle East.

There is nothing wrong with that, and there is no point in ignoring a demand of this sort—again, on the condition that Israel not be required to give up assets that she is holding until the advent of real peace.

The chances for peace will flicker and fade the moment the Arab states, some or one of them, think they are militarily capable of defeating Israel.

Therefore, as absurd as it seems, Israel must make the greatest military effort especially at this time. During this transition phase we will have to establish the largest reserve army we have ever had, recruit the best of our sons for career service, fortify the borders of the country, rehabilitate vehicles and weapons, buy new armaments, broaden our independent production, and establish new positions along the new frontiers of the state. In short, we must persuade the Arabs that their grandeur will not be regained by war.

FIRST SECURITY ATTACK ON GOLD

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. SYMMS. Mr. Speaker, I commend the following article from the Lewiston Morning Tribune of Sunday, January 12, 1975, to my colleagues. The column was written by Mr. Ralph Smeed, a noted libertarian economist in the State of Idaho, who as well as writing a column about Idaho politics is also co-editor of the Idaho Compass, a journal of fact and opinion about Idaho affairs.

Mr. Smeed's appraisal of the gold situation, I think, is quite succinct, and I must admit that I have been very amused to watch the mad scramble of money managers, through the vehicle of the news media and paid advertisement, to tell all the American people about the evils of gold. In the long run, there is no question that gold will win out over medicine-man political treatment which only delays facing the real reality—and that reality, of course, is that 2 plus 2 equals 4, not 22.

Three cheers to Mr. Smeed and his insight.

The article follows:

FIRST SECURITY ATTACK ON GOLD

(By Ralph Smeed)

CALDWELL.—"First Security Banks will not sell gold. Why? . . ."

Thus began a series of large ads in newspapers throughout Idaho just prior to the legalizing of gold by the federal government on Dec. 31, 1974. The first time in 40 years it's been legal for U.S. citizens to own gold.

Some banks and other financial institutions have announced plans to sell gold to the public. But not First Security, no siree!

Now then, said ad was several times as large as the bank's usual ads asking citizens for their business. Ever wonder why the above ad was 400 per cent larger than their regular ad, the negative one so much larger than the positive one? And over the signature of the bank president?

For the benefit of readers who didn't see the ad, allow me to excerpt from this community leader and chief executive officer of the bank. I assure you I have no intention to distort the words of George S. Eccles, who signed the ad as president of the bank. So far as I know he is a fine and respected gentleman.

Mr. Eccles' ad said that to sell gold would be "contrary" to the best interests of our depositors, our local economy, and the economic health of our nation. It said ". . . gold no longer functions as money." ". . . a sterile commodity which makes virtually no contribution to the nation's economy and which fluctuates daily and often wildly in price."

The ad goes on, "It is not a surefire hedge against inflation. Gold prices are not regulated in the U.S." Punch line: GOLD is BAD news.

Well, just for openers, gold DOES, too, function as money. This is so obvious I won't comment further. Mr. Eccles may have a point when he says gold ". . . isn't in the best interests of our depositors," i.e., the bank.

Sure, if people trade their savings accounts for gold what will the bank use for its loan money? Good point.

But what Mr. Eccles omitted is: Why are so many people doing just that?

Could it be that they are losing confidence in our printed money? This money has some pretty big risks, too. And just what is a surefire hedge against inflation?

Surely paper money and savings accounts are not being touted by the bank as having performed better.

I have no reason to think the bank nor its president insincere, ignorant, or trying to rip off the public. But the ad grates its size, the vehemence and tone of the message and signed by the First Security Bank's chief officer supervising the chain's some 120 branches in Utah and Idaho. Like Shakespeare's play Hamlet, however, methinks he "protesteth too much."

Let's see if we can figure out why this giant financial institution didn't merely stay out of the gold selling business instead of "protesting" so loudly, implying of course that gold ownership is such very bad news.

In the book "Capitalism The Unknown Ideal," published by the New American Library there is a chapter entitled "Gold and Economic Freedom." It is written by one of the few, perhaps the only, economic advisor to the president of the United States who favors gold, Alan Greenspan.

In a beautiful explanation of "the shabby secret of the welfare state advocate's tirades against gold, one of the paragraphs used by Greenspan stands out as particularly pungent.

"The abandonment of the gold standard made it possible for the welfare statists to use the banking system as a means to an unlimited expansion of credit. They have created paper reserves in the form of government bonds which—through a complicated series of steps—the banks accept in place of tangible assets and treat as if they were an actual deposit, i.e., as the equivalent of what was formerly a deposit of gold. The holder of a government bond or a bank deposit created by paper reserves believes that he has a valid claim on a real asset. But the fact is that there are now more claims outstanding than real assets."

"The law of supply and demand is not to be conned. As the supply of money (of claims) increases relative to the supply of tangible assets in the economy, prices must eventually rise." ". . . When the economy's books are finally balanced, one finds that this loss in value represents the goods purchased by the government for welfare or other purposes (vote buying?) with the money proceeds of the government bonds financed by bank credit expansion."

This column intends no discredit to Mr. Eccles or his chain of banks. Nor does it intend to suggest that he is a statist, or even a liberal interventionist. He may consider himself a conservative. Many bankers do.

It is to suggest that as a business leader, financial and community leader and opinion molder, Mr. Eccles has indeed a responsibility to his country as well as his stockholders as his letter-ad suggested. But is this responsibility furthered by such a wanton disregard for the track record of Uncle Sam's money managers? This is entirely aside from the obvious question of "Who profits from this kind of bank credit expansion?"

I'm not concerned with the "Bilderburgers" or the Communists, real or imagined. I am concerned with nice-guy bankers who should know the cause of our headlong rush to national suicide via money inflation.

MALPRACTICE INSURANCE BECOMING PROHIBITIVE DUE TO INCREASE IN RATES TO PHYSICIANS AND HOSPITALS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. CARTER. Mr. Speaker, the increase in prices of malpractice insurance throughout the United States have been so tremendous as to almost be prohibitive to many physicians and hospitals throughout our country. The largest malpractice insurer, Argonaut, has withdrawn its coverage in many States throughout the country. In one instance, a group of three surgeons were offered insurance for approximately $90,000 per year.

Such charges for a physician to stay in the practice of medicine or surgery will of necessity be passed on to patients who in many cases are already struggling to pay the costs of medical care. A solution must be arrived at which will provide insurance at reasonable levels. There are several alternative ways in which such insurance may be provided: First, by physicians themselves contributing to an insurance fund, the whole of which would be used as a fund to cover malpractice suits; second, the States might, by legislation, provide this insurance; or third, it could be provided by the Federal Government. In any instance it is necessary that the physician who practices in a particular field is well qualified to engage in such practice.

I include for the RECORD a report on the hospital in Richmond, Ky., in which hospital insurance prices jumped by 1,000 percent.

I also include a letter which has just reached me from an able barrister, the Honorable Ben D. Smith, of Somerset, Ky.:

[From the Madison (Ky.) County Newsweek, Jan. 18, 1975]

HOSPITAL INSURANCE PRICE JUMPS BY 1,000 PER CENT

An umbrella coverage insurance policy for Pattie A. Clay Hospital has increased in price by 1,000 per cent, according to David Blackburn, administrator. The policy is called "general and professional liability insurance."

The $1 million in coverage covers the hospital board, the Pattie A. Clay Hospital Auxiliary (PACHA) and all who are employed there, but is exclusive of workmen's compensation and fire insurance.

Blackburn explained it this way. The hospital has been insured with Argonaut Insurance Company, the largest single insurer of hospitals in the nation, estimated at about 25 per cent.

In late December Blackburn said he was notified that the company was in serious financial condition. Within a 24 hour period the company fired their president and chairman of the board. They notified their customers they would be discontinuing all health care insurance due to their loss and would be canceling their least profitable policies.

Blackburn said the company stated no new policies would be written, that they would renew those policies falling due after the first of the year only through March 31, at which time all their policies would be cancelled.

The administrator said this placed PAC in a most difficult situation since their policy expired at midnight January 15. New coverage was immediately sought through local agencies and several insurance brokerage firms.

Argonaut has now increased premium prices 10 fold. Blackburn said for the year 1974 the general and professional liability coverage policy cost the hospital about $7,900.

The new statement from Argonaut projected the annual price at $35,661, which means that for the period from January 16 through March 31, the policy will cost $7,200 which is almost the entire amount paid in 1974, as pointed out by Blackburn.

The only bid which PAC has received thus far for coverage would cost the hospital $79,000. "We would immediately have to come up with a down payment of $58,000," Blackburn stated.

He explained the insurance breaks down into a three part policy:

For the total number of beds (103) in the hospital, $58,000;

For the number of outpatient visits (mainly the emergency room) per year $9,000 which is based on 19,000 visits last year;

For excess coverage $12,000.

This would give a total coverage of $1 million coverage for the umbrella policy.

The $58,000 figure for 103 beds is based on 100 per cent occupancy, meaning that if the hospital fails to have 100 per cent occupancy at the end of the year it would receive a percentage rebate.

Blackburn said it was not feasible the hospital would have 100 per cent occupancy, however, it would still have to pay the $58,000 down payment initially.

For the time being PAC has renewed the policy with Argonaut, but Blackburn says he is continuing vigorously to find an insurance carrier with more competitive prices.

"We are told that the 1,000 per cent price increase is because of large settlements made against some hospitals in the country," Blackburn related. "However, no significant settlements have ever been collected against PAC."

The administrator related that if the hospital had to pay $79,000 for the insurance, eventually room rates would have to be increased to cover operational expenses.

He anticipated room rates would increase by $2.20 per day and emergency room visits by $1.50. Present rate for a semi private room is $53.40. The emergency room fee is now $10.

SMITH AND BLACKBURN,
Somerset, Ky., January 20, 1975.

Hon. TIM LEE CARTER,
Rayburn House Office Building,
Washington, D.C.

DEAR DR. CARTER: I received your interesting letter dated January 9th regarding the medical liability insurance situation in Kentucky. I appreciated the information you gave me regarding the work being done in the different states with reference to the situation. As I stated in my letter a few days ago, if we had to wait until the state of Kentucky works out a solution it would probably be several years in the future and by that time, we might not have any doctors.

Our hospital has finally arranged for a $500,000.00 coverage policy with an enormous premium of $87,514.00 which is certainly unreasonable and of course the patients will have this charge passed on to them. I understand this is cumulative for one year and every time a claim has to be paid if any, the principal sum of $500,000.00 is reduced for the amount of each claim.

I will keep you informed of the local situation.

Sincerely,

BEN D. SMITH.

MAJOR NEED FOR CONFIDENCE

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. BOLLING. Mr. Speaker, I call the attention of my colleagues to the following column on the national economy by Hobart Rowen which appeared in the Washington Post of January 19, 1975:

MAJOR NEED FOR CONFIDENCE

(By Hobart Rowen)

We have now had a dramatic reversal of government economic policy. The same President who a few short months ago argued for a tax increase favors a substantial tax cut. Instead of asking citizens to be prudent budget-cutters (displaying their WIN buttons), President Ford now encourages them to get out there and spend some money to create new jobs.

This is not said in a critical sense. President Ford deserves credit for making the fight against recession the top priority, and giving the anti-inflation struggle second or third place.

But the question is whether the sharp turn in policy will generate a renewal of confidence in government that is necessary to make spenders, rather than savers, out of the average man and woman who gets the jitters as the unemployment rate skyrockets.

Economist Jay Schmiedeskamp, who conducts consumer surveys for the University of Michigan, observes that "people who have been afraid of the future have to believe that (an anti-recession program) will succeed before spending is stimulated."

In the past several months, a great deal of fear has been generated in this country. The collapse of the stock market, the failure of banks here and abroad, and the refusal of President Nixon and—until now—of President Ford to take responsible action have raised the spectre of another depression, 1930s style.

The numbers certainly look bad. Real gross national product suffered a stunning 9.1 per cent decline in the fourth quarter—the fourth consecutive drop. And the slide is far from over.

President Ford himself felt constrained to assure Congress that although the "State of the Union is not good," there would not again be a Great Depression. Most economists in both parties agree with that assessment.

Still, the question of how effective President Ford and Congress can be in meeting the urgent need to get the economy moving again is a nagging one. It is essential, now that the President has confessed that his Oct. 8 WIN program was a bust, for the Democratic-controlled Congress to abandon any thought of partisan gains, and get the tax-cutting job done—and done fast.

Even so, tax action won't start to perk up the cash register before midyear unless there is a good psychological reaction in advance. A White House analysis of how the tax cut and proposed higher energy taxes mesh shows that there will be no significant stimulus to the economy before mid-year.

It therefore is more important to get some kind of tax cut through the Congress than anyone's pet scheme, although a larger cut, and one weighted in favor of low-income groups (as suggested by the labor-management committee and others is more desirable.

This is important not only to stem the extraordinary slide in the economy, but to prevent the forces of recession, already seriously under way in many other parts of the world, from accelerating. President Ford accurately observed that "economic distress is global" and that "the state of the world" depends heavily on the restoration of health to the U.S. economy.

The President and some of his aides have been trying to suggest that the redistribution of $30 billion to be raised by higher eneergy taxes will continue to stimulate the economy after the $12 billion, one-shot rebate (in two installments) is finished with in 1975.

A fact sheet issued by the White House indicates that the stimulus to the economy from the "permanent" tax reductions based on the energy program would boost the economy in a modest way into 1976.

But then it will be totally offset by higher taxes and higher prices for petroleum-based products, which would be equally permanent.

A final point needs to be made in assessing the question of the public's confidence in its government. Much has been made of the fact that the economy has deteriorated with astonishing speed since the President held his economic summit meetings last September, stressing inflation as the "Number One problem." And that is true.

But the country has been in a recession for well over a year, following a period of reduced exuberance as 1973 came to an end. There were many and repeated warnings, going back to early 1974.

Mr. Nixon, beset by Watergate, couldn't admit that the economy was going down the drain. He was aided and abetted by his chief economist, Herbert Stein, and former Treasury Secretary George Shultz.

You can't fight a recession while denying its existence. That has also been the country's problem under Mr. Ford until now. The nation deserves something better than an anti-recession program brought to Congress at least a year after it had started. This points to the need for better economic planning in Washington because, to be effective, the kind of shift in policy Mr. Ford made last week needs to anticipate, not follow, developments in the economy.

Delayed so long, Mr. Ford's new conceptions about what must be done cannot be expected to produce an instant miracle. Policies can be changed 180 degrees overnight, but the American economy is too huge to move that quickly.

PUBLIC ENERGY ACT

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ROYBAL. Mr. Speaker, in the last few months the people of this country have witnessed the crippling side effects of the growing energy crisis. Eight million people are now out of work. We are simultaneously confronted with the worst inflation and deepest recession of the postwar era.

Europe and the rest of the industrialized world are facing similar economic trends. Thus, the energy crisis and its side effects have made us more aware of the importance of energy in our lives and established the significance of certain facts.

First, the American people have learned that each segment of the Nation's economy is interrelated and interdependent, and every part relies on a sufficient and uninterrupted flow of energy.

Second, there is little question that the shortage of energy can be traced in part to the decision of the major oil companies, whether made individually or collectively, not to expand refinery capacity in spite of the growing demand for energy. In the past, the decisions of private entrepreneurs have been motivated by the desire to maximize profits rather than by the welfare of the country. It is intolerable that this country should continue to allow wholly private, profit motivated decisions to determine policy in a commodity that is the lifeblood of this country's economic well-being.

Finally, although almost every American is making some sort of sacrifice to conserve energy and is suffering inconvenience as a result of the energy crisis, the oil companies are not being called upon to make any sacrifice. Rather, they are experiencing a tremendous growth in profits as a result of the shortage. In 1974, each of the seven major oil companies reported significant profit increases over their 1973 results.

The oil industry today provides a textbook example of the economic concentration that can occur in an industry controlled by a few powerful companies. Over the past two decades, concentration in crude oil production has increased dramatically. In 1952, the 20 largest companies accounted for 48 percent of the U.S. crude oil production. By 1960, the figure had climbed to 62 percent, and in 1970, to 70 percent.

The same economic concentration has occurred in the transportation facilities used by the oil companies. Over the past two decades, concentration in crude oil has increased dramatically. In 1952, the 20 largest companies accounted for 48 percent of the U.S. crude oil production. By 1960, the figure had climbed to 62 percent, and in 1970, to 70 percent.

The same economic concentration has occurred in the transportation facilities used by the oil companies. The major oil companies now own or lease approximately 40 percent of the oil tankers in the non-Communist world, amounting to nearly half the tonnage. Further, almost 70 percent of the oil pipelines in the United States, handling most of the bulk land movement of oil, is owned or controlled by the major companies.

Marketing is still the most competitive segment of the oil industry. But even here, there is a disturbing trend toward concentration, as many independent dealers have been forced to close, and some of the major oil companies have announced plans to close their entire operations in some States.

Consistent with the concentration in other elements of the industry, the major oil companies also control the majority of the refineries. In 1920, the top 20 firms controlled 53 percent of the crude domestic refining capacity. In 1950, this figure had reached 80 percent, and by 1970, stood at 66 percent. Today, the four largest oil firms control 33 percent of the refineries, and the top eight, a staggering 53 percent of the refineries.

Today, I have introduced a bill which strikes a balance between the need for energy at a reasonable cost and the need to insure a reasonable rate of return on invested capital for the oil refineries. In 1920, the top 20 firms controlled 53 percent of the crude domestic refining capacity. In 1950, this figure had reached 80 percent, and by 1970, stood at 86 percent. Today, the four largest oil firms control 33 percent of the refineries, and the top eight, a staggering 53 percent of the refineries.

Today, I have introduced a bill which strikes a balance between the need for energy at a reasonable cost and the need to insure a reasonable rate of return on invested capital for the oil refineries. My bill, affecting approximately 129 companies controlling 282 refineries, will end vertical integration in the oil industry, and bring the refining industry under the regulatory umbrella of the public utility concept.

Title I of my bill prohibits any person engaged in refining energy resource products from acquiring an interest in a firm engaged in extracting, transporting, or marketing of energy resource. Firms that are presently vertically integrated are ordered to divest their extracting, transporting, and marketing assets within 3 years of the passage of this bill.

The Attorney General and the Federal Trade Commission are to commence an independent investigation of the relationships of persons now engaged in one or more branches of the energy industry.

Title II of the bill establishes a five-person Federal Energy Commission, with one member to be a representative of consumer interests. The Commission will have the power to divide the country into regional districts which shall be served by the refineries designated by the Commission.

The Commission also has power to set the prices charged by refiners of their products. These prices must insure a fair rate of return on invested capital for the refiner.

The bill prohibits any person from granting an undue preference to any other person with respect to refined products, or maintaining any unreasonable difference in rates between customers.

The Commission may set the price of energy resource products at any point of the chain of sale if it finds that such action is necessary to avoid excessive prices to the ultimate consumer.

Finally, the Commission may set the price of energy resource products imported into the United States if it finds that the action is necessary to avoid serious interference with the operation of the regulatory program established in the bill.

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1975

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. FRENZEL. Mr. Speaker, I rise today, with my distinguished colleague from Pennsylvania, Mr. Dent, to reintroduce the Overseas Citizens Voting Rights Act of 1975.

In the 93d Congress, we took action to eliminate many of the inequities built into our elections system. However, as we know best, there are many problems left to be solved by this and future Congresses. Despite valiant efforts by the gentleman from Pennsylvania, for whose leadership I am particularly grateful, the Overseas Citizens Voting Rights Act of 1975 did not pass the House, even though it passed the Senate by a strong majority.

The bill is intended to correct the current prohibitions on voting in Federal elections faced by many of our American citizens living overseas. The number, as you have been told, is reliably estimated to be over 750,000 and includes people from every walk of life. These people, due to State imposition of local residency requirements in Federal elections, are frequently denied the right to vote, denied freedom of movement to and from the United States, and denied due process and equal protection under the 14th amendment.

Currently, in every State and the District of Columbia, the typical American citizen cannot register and then vote absentee unless he had specifically declared, and could then legally prove a firm intent to return to his previous home State. However, even if he were able to do so, which is frequently not the case, his opportunity to vote is only made feasible in 29 States. These 29, including the District of Columbia, have statutes which specifically provide for absentee registration for those "citizens temporarily residing abroad" who are able to prove their intent to return. Twelve States generally allow absentee registration, but do not specifically refer to overseas rights and, in several cases, impose residency requirements so stringent as to require the maintenance of a home or abode in the State. Eight States allow absentee voting, but not absentee registration, by nongovernmental overseas voters. Two States actually require all nongovernmental overseas voters to register and then vote in person. However, virtually all 50 of the States have provisions permitting military personnel and some other Federal employees to register and vote overseas. The facts paint a picture of discrimination in voting rights which I believe we have the responsibility to reform.

The bill which we are introducing today proposes that to vote by absentee ballot, an American citizen residing abroad must, first, have voted or last been registered to vote in the State applied to or was last domiciled therein; second, comply with the normal requirements for absentee balloting; third, be qualified to vote in the State or district with the exception of failing to maintain a domicile, residence, or place of abode; fourth, not be registered in any State or district; and fifth, possess a valid passport or card of identity and registration issued by the Secretary of State. A standard application form is prescribed but no State is forced to use the model form. The application must be made no later than 30 days prior to any Federal election.

The bill also contains a penalty of $5,000 of 5 years' imprisonment, or both, for impeding the implementation of the act and a $10,000 fine or 5 years' imprisonment, or both, for fraud in voting under the act.

However, I want to make it very clear that the bill will not impose registration where none exists, or prevent a State or election district from adopting a less restrictive system, or affect in any way a citizen's determination of residence for the purpose of any tax lawfully imposed. Its sole purpose is to provide a way for U.S. citizens residing outside of the United States to register and vote without making one, or two, costly trips home to do so.

In guaranteeing basic constitutional rights, it is important that every American citizen residing abroad have a reasonable opportunity to participate in the election process. I, along with my distinguished colleague from Pennsylvania (Mr. Dent), urge all Members to join us in our efforts.

H.R. 16817

A bill to guarantee the constiutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens who are residing or domiciled outside the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Overseas Citizens Voting Rights Act of 1974".

CONGRESSIONAL FINDINGS AND DECLARATIONS

Sec. 2. (a) The Congress hereby finds that in the case of United States citizens domiciled or otherwise residing outside the United States, the imposition and application of a State or local residency or domicile requirement as a precondition to voting in Federal elections and the lack of sufficient opportunities for absentee registration and balloting in such elections—

(1) denies or abridges the inherent constitutional right of citizens to vote in Federal elections;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement to and from the United States;

(3) denies or abridges the privileges and immunities guaranteed under the Constitution to citizens of the United States and to the citizens of each State;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote in Federal elections because of the method in which they may vote;

(5) has the effect of denying to citizens the equality of civil rights and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment to the Constitution; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of Federal elections.

(b) Upon the basis of these findings, Congress declares that in order to secure, protect, and enforce the constitutional rights of citizens residing overseas and to enable such citizens to better obtain the enjoyment of such rights, it is necessary—

(1) to abolish completely for citizens residing overseas the domicile and residence requirements as preconditions to voting in Federal elections, and

(2) to establish nationwide uniform standards relating to absentee registration and absentee balloting by such citizens in Federal elections.

DEFINITIONS

Sec. 3. For the purposes of this Act, the term—

(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, or Resident Commissioner of the Commonwealth of Puerto Rico;

(2) "State" means each of the several States and the District of Columbia;

(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States; and

(4) "citizen residing overseas" means a citizen of the United States who is domiciled, or otherwise residing outside the United States, and who has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State.

RIGHT OF CITIZENS RESIDING OVERSEAS TO VOTE IN FEDERAL ELECTIONS

Sec. 4. (a) No citizen residing overseas shall be denied the right to register for, and to vote by an absentee ballot in any State or election district in any Federal election solely because at the time of such election he is not domiciled or otherwise residing in such State or district and does not have a place of abode or other address in such State or district if—

(1) he last voted or last registered to vote in such State or district, or if he did not so register or vote, was last domiciled in, such State or district prior to his departure from the United States;

(2) he has complied with the requirements concerning the casting of absentee ballots applicable in such State or district (other than any requirement which is inconsistent with this Act); and

(3) he is qualified to vote in such State or district but for his failure to maintain residence, domicile, or place of abode in such State or district;

(4) has not registered to vote and is not voting in any other State or election district or territory or possession of the United States; and

(5) has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State.

ABSENTEE BALLOTS FOR FEDERAL ELECTIONS

SEC. 5. (a) (1) Each State shall provide by law for the registration or other means of qualification of all citizens residing overseas and entitled to vote in a Federal election in such State pursuant to section 4(a) who apply, not later than thirty days immediately prior to any such election, to vote in such election.

(2) Each State shall provide by law for the casting of absentee ballots for Federal elections by all citizens residing overseas who are entitled to vote in such State pursuant to section 4(a), and if required by State law have registered or otherwise qualified to vote under section 5(a)(1), and who have submitted properly completed applications for such ballots not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election. In the case of any such properly completed application for an absentee ballot received by a State or election district, the appropriate election official of such State or district shall as promptly as possible in any event, not later than (i) seven days after receipt of such properly completed application, or (ii) five days after the date the absentee ballots for such election have become available to such official, whichever date is later, mail the following by airmail to such citizen:

(A) an absentee ballot,

(B) instructions concerning voting procedures, and

(C) an airmail envelope for the mailing of such ballot.

(b) (1) In the case of a citizen residing overseas, a State or election district may accept as an application for an absentee ballot-to vote in a Federal election (and as an application for registration to vote in such election, if registration is required by such State or district) a duly executed overseas citizen Federal election postcard in the form prescribed by paragraph (2).

(2) The form of the overseas citizen Federal election postcard referred to in paragraph (1) shall be as follows:

(A) The card shall be nine and one-half inches by four and one-eighth inches in size.

(B) Upon one side, perpendicular to the long dimension of the card there shall be printed in black type the following:

FILL OUT BOTH SIDES OF CARD

POST CARD APPLICATION FOR ABSENTEE BALLOT FOR FEDERAL ELECTIONS

State or Commonwealth of________________

(Fill in name of State or Commonwealth)

(1) I hereby request an absentee ballot to vote in the coming election:

(Presidential) (Congressional)
(General) (Primary)* (Special) Election.
(Strike out inapplicable words)

(2) * If a ballot is requested for a primary election, print your political party affiliation or preference in this box: (If primary election is secret in your State, do not answer)

(3) I am a citizen of the United States, and am qualified to register and vote in the above State in Presidential and Congressional elections, even though I am presently residing outside the above State and the United States and such State may not be my current domicile, and— a. I last voted or was registered to vote in the above State. b. The above State was my last ——— domicile even though such State may not be my current domicile.

(4) I was born on (Day) (Month) (Year.

(5) Until (Month) (Year) my home (not military) residence in the above State was (Street and number or rural route, etc.) in the county or parish of ———. The voting precinct or election district for this residence is (Enter if known).

(6) Remarks:

(7) Mail my ballot to the following address:

(8) I am NOT requesting a ballot from any other State, Territory or Possession of the United States, and am not voting in any other manner in this election, except by absentee process, and have not voted and do not intend to vote in this election at any other address.

(9) (Signature of person requesting ballot).

(10) (Full name, typed or printed).

Passport or Card of Identity and Registration Number ———.

Expiration date ———.

(11) Subscribed and sworn to before me on (Day, month, and year). (Signature of official administering oath). (Typed or printed name of official administering oath). (Title or rank, service number (if any), and organization of administering official).

INSTRUCTIONS

A. Type or print all entries except signatures. FILL OUT BOTH SIDES OF CARD.

B. Address card to proper State official.

C. Mail card as soon as your State will accept your application.

D. NO postage is required for the card if deposited with a U.S. Embassy, consulate, legation or other office of a U.S. Government agency, either within or outside the United States.

E. This card is an application to vote only in FEDERAL ELECTIONS. If you wish to request a ballot for State and local elections, as well as Federal elections, and are qualified to do so in your State, you can use the Standard Federal Post Card Application or other form accepted by your State for this purpose.

(C) Upon the other side of the card there shall be printed in red and blue type the following:

FILL OUT BOTH SIDES OF THE CARD

------------------------------ Official
------------------------------ Mailing
------------------------------ Address

OFFICIAL ELECTION BALLOTING MATERIAL—VIA AIR MAIL

To: (Title of Election Official)
(County or Township)
(City or Town, State)

(c) The overseas citizen Federal election post cards and the absentee ballots, envelopes, and voting instructions provided pursuant to this Act and transmitted to citizens residing overseas, whether individually or in bulk, shall be free of postage, including airmail postage, in the United States mail.

(d) The Administrator of General Services shall cause overseas citizen Federal election post cards to be printed and distributed to carry out the purposes of this Act, and he may enter into agreements with the Postmaster General, with heads of appropriate departments and agencies of the Federal Government, and with State and local officials for the distribution of such cards.

(e) Ballots executed outside the United States by citizens residing overseas, may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postmaster General for this purpose.

ENFORCEMENT

SEC. 6. (a) Whenever the Attorney General has reason to believe that a State or political subdivision undertakes to deny the right to register or vote in any election in violation of section 4 or fails to take any action required by section 5, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate.

(b) Whoever shall deprive or attempt to deprive any person of any right secured by this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000, or imprisoned not more than five years, or both.

SEVERABILITY

SEC. 7. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected.

EFFECT ON CERTAIN OTHER LAWS

SEC. 8. (a) Nothing in this Act shall—

(1) be deemed to require registration in any State or election district in which registration is not required as a precondition to voting in any Federal election, or

(2) prevent any State or election district from adopting or following any voting practice which is less restrictive than the practices prescribed by this Act.

(b) The exercise of any right to register or vote by any citizen residing overseas shall not affect the determination of his place of residence or domicile (as distinguished from his place of voting) for purposes of any tax imposed under Federal, State, or local law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. (a) There are authorized to be appropriated to the Administrator of General Services such sums as are necessary to enable him to carry out his duties under section 5(d).

(b) Section 2401(c) of title 39, United States Code (relating to appropriations for the Postal Service), is amended—

(1) by inserting after "title" a comma and the following: "the Overseas Citizens Voting Rights Act of 1974,"; and

(2) by striking out "Act." at the end and inserting in lieu thereof "Acts.".

EFFECTIVE DATE

SEC. 10. The provisions of this Act shall take effect with respect to any Federal election held on or after January 1, 1976.

CHALLENGING LEGISLATIVE AGENDA

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. DEL CLAWSON. Mr. Speaker, before this Congress has organized to tackle what must surely be the most challenging legislative agenda to face any Congress in recent years, the program begins to shape up more and more like an "instant replay" of the 93d and preceding. The "instant replay" is a useful device for demonstrating how a particular tricky football play was maneuvered, but it is hardly a useful adjunct to the legislative process. At this point in the RECORD I commend to my colleagues in the House the column by George F. Will which appeared in the Washington Post for Saturday, January 18. The article follows:

FAVORING "RELIEF AND REFORM"

(By George F. Will)

Where two or three Democrats are gathered, there you will hear earnest talk about "meaningful leadership." But the day before the Democratic-dominated 94th Congress convened, a House Democratic study group smashed the world indoor record for frivolity.

Speaker Carl Albert released what Democrats call an "economic program." It begins with a bugle call: "The 94th Congress, convening at a moment of historic challenge to the American economy, must assume a responsibility for decisive and meaningful leadership."

Then comes a cataract of rhetoric, a fair sample of which is in the section on "immediate action goals." The Democrats stiffen their sinews, summon their blood, and give President Ford a lesson in sacrifice-seeking leadership. They come out foursquare for . . . "tax relief and reform."

How much relief? What kind of reform? The Democrats, meaningful leaders all, scramble this far out on the swaying limb: "(Relief) can be achieved by increasing the personal income tax exemption, the standard deduction and minimum income allowance, by reducing the weight of payroll tax liabilities upon the working poor, and/or by a system of individual tax credits. The (Ways and Means) Committee may wish to consider alternative or additional proposals."

High-risk politics is a heady vocation. So having endorsed cutting some taxes, somewhat, somehow, the Democrats throw caution to the winds: "The revenue loss thus suffered should be recouped to the extent reasonably possible by closing loopholes that now enable large corporations and wealthy individuals to pay little or no taxes at all."

At the risk of spoiling the fun—and what could be jollier fun than bashing "large corporations" and "wealthy individuals," and calling the bashing "meaningful leadership"?—I suggest that the Democrats read a book. It is Roger Freeman's "Tax Loopholes: The Myth and the Reality" (published by American Enterprise Institute).

Regarding "wealthy individuals," Freeman reports that in 1970 (a representative year) 15,211 (99.3 percent) of the 15,323 individuals filing tax returns reporting adjusted gross incomes of $200,000 or more paid taxes. The adjusted gross income on these returns totaled $6.2 billion. Taxable income totaled $4.5 billion. Tax paid totaled $2.7 billion. These taxpayers paid an average of $177,161, or 44 percent of adjusted gross income, 60 percent of taxable income.

Just 624 returns reported adjusted gross incomes of $1 million or more, and 621 or 99.5 percent of the individuals filing the returns paid taxes. They paid, on average, $984,862, or 46 percent of adjusted gross income and 65 percent of taxable income.

In 1970 the sort of untaxed high incomes from which Democrats are going to "recoup" revenues involved a grand total of 112 returns. The incomes involved totaled just $47.5 million, or 0.8 percent of the $6.8 billion of adjusted gross incomes over $200,000.

Regarding "large corporations," it is worth remembering that most of the tax "loopholes" the Democrats want to close were opened subsequent to 1932, and most of them were opened subsequent to the Second World War. Congress opened almost all of them and tolerated the rest. Democrats have controlled Congress in 38 of these 42 years.

Drained of the emotional gas that politicians love to pump into it, the word "loophole" refers to a tax differential that is designed to provide individuals or corporations an incentive to undertake or increase activities which Congress thinks are in the national interest.

But a congressman only calls a "loophole" a "loophole" when he can profit from the innuendo that a small and unpopular group (e.g., oil companies) has done something corrupt. The "corruption" consists either of responding to a tax incentive (e.g., the oil depletion allowance) legislated by Congress, or of adhering to an Internal Revenue Service ruling (e.g., the ruling 20 years ago that permits oil companies to reduce their U.S. taxes by treating as income taxes various payments to foreign governments) that Congress has condoned.

In terms of broad social impact and cash value (especially for affluent Americans), the largest "loophole" is the provision allowing home owners to deduct interest on mortgages. No congressman denounces this "loophole."

Bear this in mind when reading the Democrats' "economic program." But read it. It is revealing. For that reason, pity the Democrats.

Everything was going swimmingly for them. Then they committed some thoughts to paper. Those whom the gods would destroy, they first give a mimeograph machine.

CHILE REFUSES INTERPARLIAMENTARY UNION

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. FRASER. Mr. Speaker, the 61st Conference of the Inter-Parliamentary Union, meeting in Tokyo in October 1974, adopted a resolution urging the Chilean junta to restore "the Constitution and the rights and freedoms derived from it. * * *" The Conference also established an observer mission to visit Chile. The IPU recently announced that the Chilean Government refused to allow the observer mission to visit Chile.

The Congress has banned U.S. military assistance to the Government of Chile. That decision was in keeping with the IPU's resolution urging "all countries to make efforts to insure that no military assistance and no material or moral support be given to the military junta. * * *"

The wisdom of the decision by Congress to cut off military aid to Chile has now been confirmed by the junta's decision with respect to the IPU mission.

The documents follow:

THE CHILEAN JUNTA REFUSES TO RECEIVE A MISSION OF THE INTERPARLIAMENTARY UNION

After stating that a mission of the Inter-Parliamentary Union could, in accordance with an "open-doors policy", go to Chile whenever its members so desired, the Chilean Government has reversed its decision at the last minute.

The mission was due to arrive in Santiago on January 15.

It was composed of Belgian Senator André Saint-Remy, of the Christian Social Party, Chairman of the Union's Committee on Parliamentary, Juridical and Human Rights Questions, and of the Venezuelan Deputy Luis Herrera Campins, Secretary General of the Association of Latin American Christian Democratic Parties.

The mandate given to the mission by the 61st Inter-Parliamentary Conference was to "ascertain the conditions of detention of the arrested members of Parliament".

The mission was therefore to visit the following 18 political figures who, according to the Inter-Parliamentary Union's information, are being held in various camps and prisons in Chile:

SENATORS

Ernesto Araneda, Luis Corvalan, Hugo Miranda, Jorge Montes, Erick Schnake, Anselmo Sule.

DEPUTIES

Laura Allende, Amanda Altamirano, Julio Anfossi, Carlos Gonzales, Claudio Huepe, Alejandro Jiliberto, Arturo Pérez, Segundo Ruiz, Camilo Salvo, Andrés Sepulveda, Luis Villalobos, Ivan Quintana.

It should be added that 2 members of the Chilean Parliament have been shot, and that some 40 are in exile.

The attitude of the Chilean Government will be made known to the Union's 74 member Parliaments and to its Special Committee which is carrying out an enquiry into the situation in Chile.

On learning of the Junta's decision as he was preparing to leave for Santiago, Senator Saint-Remy stated that he "deeply regretted this decision which deprived him of the possibility of visiting his former colleagues imprisoned in Chile and was likely to be interpreted by Parliaments as a sign that the Chilean Government was hardening its attitude towards the international community and especially towards democratic institutions".

V.—FOR THE REESTABLISHMENT OF REPRESENTATIVE INSTITUTIONS, CONSTITUTIONAL RIGHTS AND FREEDOMS WITH A VIEW TO THE RELEASE OF MEMBERS OF PARLIAMENT AND OTHER POLITICAL DETAINEES IN CHILE

The 61st Inter-Parliamentary Conference,

Animated by the aims, objectives and principles of the Inter-Parliamentary Union,

Seriously concerned by the overthrow, by the military forces, of the constitutional and duly established régime in Chile,

Deeply troubled by the suppression, since September 11, 1973, of citizens' rights and freedoms, in flagrant contradiction of the standards and principles laid down in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights, which was ratified by the Republic of Chile in 1972,

Paying high tribute to the Chilean people, bravely fighting for its democratic rights and liberties,

Deploring that the military Junta, after due negotiations through its representative, denied permission to a mission appointed by the Inter-Parliamentary Union to visit Chile in order to ascertain the conditions of detention of the arrested members of Parliament,

Confirming the Inter-Parliamentary Council's resolution of October 25, 1973,

1. Calls for the immediate liberation of members of Parliament and other Chilean citizens detained because of their opinions;

2. Calls for the restoration of the Constitution and the rights and freedoms derived from it, in accordance with the free will of

the great people of Chile, without any foreign intervention of whatever nature or degree;

3. Decides

(a) to constitute, until the London Conference (September 1975) an *ad hoc* Committee of five members appointed by the Executive Committee to gather, by all means at its disposal, the information concerning the present situation in Chile. This information should be obtained from reliable sources, such as: duly recognized international organizations which have visited that country; in oral or written manner from former parliamentarians of Chile; from the National Groups of the Inter-Parliamentary Union. Two members of this *ad hoc* Committee will, as soon as possible, visit Chile to ascertain the conditions of detention of the arrested members of Parliament;

(b) that the information gathered must be sent to the Inter-Parliamentary Council, which will decide the forwarding of it officially to all the Parliaments and Governments of the world, in order to inform them of the existing conditions in Chile and to obtain from them the necessary moral support to bring about a change in these conditions as soon as possible, and which will take any other appropriate decisions;

4. Calls upon the Inter-Parliamentary Groups of all countries to make efforts to ensure that no military assistance and no material or moral support be given to the military Junta and to report to the Inter-Parliamentary Union on the initiatives they have taken;

5. Appeals to the Inter-Parliamentary Groups of all countries to bring this resolution to the attention of their Parliaments and to contribute to its application.

BLEAK CHIC

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. BOLLING. Mr. Speaker, whether you are optimistic or pessimistic over our Nation's future, I think the following article by Rod MacLeish which appeared in the Washington Post of January 19, 1975, is worth reading:

BLEAK CHIC

(By Rod MacLeish)

One good way to beguile the mind on wet afternoons when there isn't anything else to do is to wonder whether we construct our philosophies from actual experiences or from our crotchets and inner mumblings.

It's a question of some pertinence just now because of a pervasive new philosophy which purports to explain everything and resolve our ambiguities at their lowest level of possibility. It is a philosophy that whimpers instead of banging and assumes that if everything isn't God-awful right now it will be soon. It is the philosophy of Bleak Chic.

As a general doctrine, Bleak Chic is a contrived case of the cosmic blahs. It holds that the past was a lie, the present a dreary swamp of ironies and that the future, if it comes at all, will be a radiant promise of everything frightful from ecological suffocation to The Big Bang.

Philosophically, Bleak Chic is built on two premises: Nothing Works and Everybody Is Suspect (except, of course the apostles of Bleak Chic who invest each other with a smarmy sort of virtue called Honesty or Candor because they believe that everything will turn out for the worst).

Upon these assumptive premises Bleak Chic discerns the world and catalogues all earthy joys:

Anybody who has power is Bad; anybody who believes in the improvability of men, nations and institutions is Out To Lunch; anybody who appears to be striving for the good of others is On An Ego Trip; anybody who loves his wife is looking for a Substitute Mummy; anybody who says he isn't paranoid Needs Help; watching television gives you cancer; Richard Nixon will be back, etc.

This, obviously, isn't your garden variety pessimism. Bleak Chic is a flat, damp place on the upper reaches of American social mobility. To embrace it one must employ the particular intellectual energies of the meritocracy.

Bleak Chic is the philosophy of fashion among people who got bachelor's degrees between 1945 and 1960, who read the top five books on the nonfiction best seller list and several of the leading novels. Bleak Chic-ers subscribe to the Wall Street Journal daily, read the Sunday New York Times and The New York Review of Books. They no longer use the term "empathize"; they still say "media" and "ambience" instead of "atmosphere."

Bleak Chic's adherents have finished psychoanalysis and don't take vacations in Europe because they've Done That. The doctrine appeals to socially prominent pediatricians, Washington correspondents who know too much, middle-level executives, housewives who have cleaning ladies twice a week and people who refer to Arthur Schlesinger Jr. as "Arthur" without knowing him.

Like all other philosophies, Bleak Chic has its own pedants, artists and mimes. Its College of Cardinals is The Club of Rome, an assemblage of experts which issued a fearful report, the details of which were incomprehensible to almost everybody except other experts.

The Erasmus of Bleak Chic is B. F. Skinner, the psychologist who theorized that the only way to keep children from becoming horrible adults is to raise them in boxes. Jean-Paul Sartre is the Aristotle of Bleak Chic because of his fundamental discovery that adults will be horrible no matter what you do to them.

Lennie Bruce is the official martyr of Bleak Chic because he was hassled by the fuzz for beating a snare drum and reciting dirty words in public and eventually died of an overdose which makes everybody else Guilty of Something. If you aren't guilty of Lennie Bruce you're guilty of being over 17 years old.

The principal psychic emission of Bleak Chic is a well-crafted threnody of self pity. Philip Roth is its master and is, therefore, the doctrine's Cervantes. In novel after novel Roth's Don Quixote staggers about the landscape tilting at monsters which are, in reality, the memory of all the rotten things women did to him.

Indeed, sex is Bleak Chic's favorite disappointment. The joyless ruttings of "Last Tango In Paris" illustrate the point; all of life's pleasures will eventually become dismal satiation. There were critical hossanahs not long ago for a movie about four guys who set out to eat themselves to death.

The politics of Bleak Chic—aside from believing that the United States is a terminal case of rot caused by its own hyprocrisy and materialism, by the Congress, the Presbyterian church and Exxon—involves discovering the conventional wisdom of the moment and then refuting it. John F. Kennedy was, in reality, a warmonger, the welfare system is racist, the cover-up is still going on. Bleak Chic's political heroes are raised up more to shock the bourgeoisie than anything else. G. Gordon Liddy for President.

One criticizes Bleak Chic at a certain peril. It is a war with an equally banal optimism which holds, with Walt Disney, that man hasn't many moving parts and that the ones he does have are chrome-plated. The mirror-image of Bleak Chic's gloomy view of America is a sort of Scoop Jackson-truculent assertion of righteousness through military power and progress computed in washing machine sales—love-it-or-leave-it with a college education.

Both doctrines—indeed, all overspills of optimism or pessimism—are designs for intellectual vacations. If you decide that everything is marvelous or that everything is dreadful then you don't have to think about anything.

As Bleak Chic gathers about us, it faces one major problem. Periodically good things happen. 1974 was a tricky year for Bleak Chic. The great, slatternly rumble of Watergate events arrived at a conclusion that was demonstrably just if not pleasant. The bad guys ended in the dock or in exile, the good guys lived on in an afterglow of justification. Power was used virtuously. People kept doing noble things.

And that seems to answer the original question at least as far as Bleak Chic is concerned. It comes not from actual experience but from our crotchets and inner mumblings.

WHAT DOES IT MEAN TO BE AN AMERICAN?

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. WOLFF. Mr. Speaker, the events of the past few years have led many Americans to fear that our young people may have become so disillusioned with our country, its institutions, and even the people themselves that they have lost sight of our historical goals, and lost hope for the future.

But, Mr. Speaker, I am pleased to share with my colleagues today a small but heartening message of hope and dedication to the traditions and ideals of our Nation which I received recently from Miss Kelly Anne Conroy, a sixth-grade student at the Hawthorn School, in Massapequa, N.Y.

I am confident that so long as young people such as Kelly Anne continue to believe in and work for our country, we will remain on our proper path, and that those of us presently striving to lead the Nation need have no fears for the future.

The article follows:

WHAT DOES IT MEAN TO BE AN AMERICAN?

(By Kelly Anne Conroy)

Most people in this country think freedom is only a word. It is much more than that. During colonial times, people in Europe were being persecuted simply because they had a different way of showing God that they loved Him. Many of them banded together and came to America. They fought a long and hard war to earn the right to be free. In the end they had achieved their goal and our founding fathers drew up the "Constitution of the United States."

Under the Constitution, all men and women have the right to practice the religion of their choice, newspapers may print what they want even if it is against our government, people may speak freely and when we are eighteen we can vote for whomever we want. Every person arrested is innocent until proven guilty in a trial by jury. This system of government has worked for one-hundred ninety-eight years.

This country is rich in natural resources. Because of this we depend very little on foreign trade. This did not make us greedy, instead we are generous to less fortunate nations. People from all over the world immigrated to this country to share our land. For this reason we are called "The Melting Pot." Considering we all came from different countries, we get along pretty well.

Freedom is not free. It is a very valuable possession. Many have died to preserve it for us. I am proud to be an American because I am free and I hope when I grow up, America will be proud of me.

BLACK PRESS IN AMERICA

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. PHILLIP BURTON. Mr. Speaker, I want at this time to call the attention of my colleagues to the importance of this Nation's black press. I do so as a salute to the National Newspaper Publishers Association meeting which opens today here in Washington at the Mayflower Hotel and brings together the national leadership of our black press.

Although the black press has been in existence for nearly a century and a half and has been a major force in the advancement of black Americans, it is not as well known and understood as it should be outside the black community.

The following article, authored by my close and long-time personal friend, Dr. Carlton B. Goodlett, president of the National Newspaper Publishers Association, highlights the economic importance of the black press in America today.

Text of article follows:

BLACK PRESS IN AMERICA

(By Dr. Carlton B. Goodlett)

It is time for us to take a new look at Black America, the people served by the Black press, and the changing circumstances which challenge the viability and very existence of the Black press.

We are a nation whose population is roughly 25 million, the second most numerous aggregation of Blacks within the confines of a nation on the face of the earth—second only to Nigeria with its population of 61 million. Only two of Africa's 52 nations are more populous than Black America: Nigeria and Egypt. There are 152 nations in the world whose populations are smaller than Black America's. Closer to home, of the 36 nations of both North and South America only three are bigger than Black America: White USA (184,000,000), Brazil (91,000,000) and Mexico (45,000,000).

HIGHLY DEVELOPED

In terms of education we are the most highly developed of any nation of Black people on earth, with approximately 7,500 physicians, 2,700 dentists, 4,000 attorneys, thousands of academicians and tens of thousands of public school teachers; and our Black youth in institutions of higher learning number 467,000—200,000 more than British students in Great Britain with its population of 55,000,000.

In terms of economics, we are a people with an income 9th largest in the capitalist world. Dr. Andrew Brimmer, member of the Federal Reserve Board, states that in 1972 Black Americans earned $51 billion and, moreover, spent $45 billion. Despite the economic disparity between the White and Black Nations—USA which places Black Americans in a disadvantaged position at home, when viewed internationally among 77 nations of the capitalist world Black America's income for 1972 was topped by only eight other nations, in the following order: United States of America, Japan, the Federal German Republic, France, the United Kingdom, Italy, Canada and India.

PRICE OF INEQUITY

India, with a population 22 times that of Black America, had a Gross National Product of $52,920,000,000, only $1.92 billion greater than the 1972 income of Black America. The Black share of the One Trillion One Hundred Twenty Billion Dollar U.S. Gross National Product was approximately 4.5 per cent, or a short-change of approximately 7.5 per cent. If Black Americans could gain equity and parity in the job market, it has been estimated that our income would increase between $35 and $55 billion a year. Moreover, every dollar placed in the marketplace adds $3 to the GNP. The Black man in America, free of economic discrimination, would be able to enhance the Gross National Product from $105–$165 billion per year. (What a tremendous price the USA pays for racism!)

CHALLENGE IS AWESOME

The awesome circumstances challenging the Black press are perhaps most glaringly illustrated by the new sociological statistics, as Black America progressively becomes an urbanized nation. 25 U.S. cities now have Black populations in excess of 100,000, 16 metropolitan areas have Black populations exceeding 250,000. It is estimated that by 1980, 12 or 14 of America's 20 largest cities will elect Black mayors.

A POTENTIAL FORCE

For the totality of his American experience, the Black man has been caught up in the semantics of "individual freedom" as opposed to "freedom for the Black masses." Our unquestioning acceptance of the myth of individual vs. mass freedom has permitted the White majority to deal with the Blacks as "the 10th American", when in truth our strength lies in the collective concept that we are 11% of America, a force of 25 million.

THE BLACK PRESS

For 111 years since the Emancipation Proclamation the Black press has been a marginal business. It was not until the mid 1920's that Black newspapers began to receive advertising—the life's blood of newspapers in a capitalist society—from the White business community. Prior to this, the great Black newspapers existed entirely on circulation revenue. For the past 50 years White business has given the Black press a token amount of advertisting, reflecting how little it comprehends of the emerging economic viability as well as the size of the Black Nation-USA.

The 20-billion-a-year advertising industry is one of the cornerstones of our society. In 1971, the 100 largest advertising agencies (White) placed $1,900,000,000 worth of national newspaper advertising. Amalgamated Publishers, Inc., the only established national Black newspaper advertising representative, received less and 25.5 million worth of gross business, or less than 0.14% of available national advertising. Remember that a 2% expenditure for advertising based upon $45 billion spent by Blacks in 1972 should have yielded hundreds of millions of dollars in advertising for the Black press (USA).

ADVERTISING IS IMPORTANT

Without advertising, the Black Nation cannot sustain even its present fare of publishing once a week. We are toying with the idea of developing home-delivery newspapers on Monday and Friday, with our paid established newspapers continuing to serve their communities on Wednesday. The Black press-USA is estimated at 200 to 250 publications, of which 90–95 are members of NNPA. More than 90% of all Black newspapers are published only once a week. Three or four are published twice a week. The Atlanta Daily World and the Chicago Daily Defender are the two nationally recognized daily Black newspapers.

The Black newspaper publishers must now demand equity in advertising. The policy of the advertising industry has not been one of reciprocal response to the needs of the Black community, by more equitably distributing the advertising dollar—especially in dealing with the 9th wealthiest nation in the capitalist world, which has an annual income two to three times the present amount of U.S. foreign trade.

MUST CRACK BARRIER

The advertising industry must be charged with special task of instructing its clients in the wisdom of allocating a fair share of sustained advertising to the Black community newspaper. Such constructive efforts by the advertising agencies, prodded by Black entrepreneurship, would reflect the advertising industry's awareness of U.S. business' responsibility to the Black community, which contributes from 10% to 25% toward the gross income of such business as food, clothing, automobiles, alcoholic spirits, entertainment et al, and yet cannot maintain a viable community press because of their disproportionate share of advertising budgets.

CONSUMER MUST ACT

It is the right of every Black consumer to demand promotional and advertising monies derived from Black pocketbooks be returned to the Black community, so that the Black nation may maintain a Black-owned communications media which reflects its $45 billion purchasing power. We predict that the returns in patronage and community goodwill from Blacks will increase the income of the advertisers commensurate with the advertisers' dollars invested in Black-owned community newspapers.

THE BISHOP IS FIGHTING FOR REASON

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. MAZZOLI. Mr. Speaker, Mr. William Willoughby, writing in the Washington Star-News on January 18, 1975, delivers a very thoughtful and perceptive statement on the abortion-on-demand controversy.

Many Americans hold the erroneous belief that opposition to free abortion is a sectarian religious matter. Actually, as Mr. Willoughby demonstrates, opposition to abortion is grounded in natural law.

Since this week marks the second anniversary of the Supreme Court's ruling on abortion, Mr. Willoughby's article is particularly timely and thought-provoking:

THE BISHOP IS FIGHTING FOR REASON

(By William Willoughby)

Before Congressmen knock off their day's work next Wednesday they will have come to realize that there are millions of people around this country who are more than a little bit concerned about what has so rapidly become America's No. 1 killer—abortion.

And by the time 20,000 or more of them march around the Capitol Wednesday afternoon, ostensibly in view of its cross-street neighbor, the U.S. Supreme Court, the nation itself should realize that it is a problem that once and for all is not the concern exclusively of the Roman Catholic Church. Roman Catholics will be the first to hope that America wakes up to the fact. Thousands of Eastern Orthodox and Protestant Christians, along with Jews, will be making the rounds.

Why all the activity on Wednesday? It happens to be the second anniversary of what is known as Black Monday—the day the Supreme Court ruled on some state abortion measure which opened the doors wide for virtually unqualified abortion.

The doors have been opened so wide, in fact, that in some places, as in the District of Columbia, the abortions actually outnumber the births. No right thinking person, it would seem, could feel at ease with that type situation going on and likely to get worse.

It is little wonder that Archbishop William W. Baum branded it a "monstrous evil" when he learned of the figures.

And, as I see it, it is little wonder that Arlington's Bishop Thomas J. Welsh is going to be out there Wednesday afternoon campaigning for all he is worth for an amendment to the Constitution that will guarantee the right to life of all people, particularly those who are unborn.

Welsh admits that it is an unusual thing for a bishop—especially one so recently on the job as he—to get out front with the people in such an effort. But were I a bishop I'm pretty certain I'd be out there with him. Possibly a number of other bishops will dare to brave the tirades of resentment that will come and join him.

The bishop is having read in all the parishes of his new diocese a letter that explains why he is willing to be up front campaigning. In effect the letter says that the teaching of the Catholic Church demands that voices be raised, that the teaching against abortion "has not changed and is unchangeable."

Right away people come up with the usual canard, asking why any religious group should be permitted to foist its particular moral beliefs on the rest of the public, especially in a country so diverse religiously as this country is. No church should.

But first of all, while the Catholic Church and the Eastern Orthodox Churches and the evangelicals among the Protestant churches, as well as the traditionalist Jews, hold strong views against abortion, that does not mean that it is sectarian. Far from it.

Welsh's pastoral letter argues—and any student of law or of nature would come up with this conclusion—that what the Christian Church and antecedent Judaism have codified regarding abortion is but a statement of natural law which can be arrived at by any person who has an ounce of reason within him.

Even if he never has or never will have a baby. Or she does not wear glasses shaped a certain way. Or live life by cliches.

Natural law is binding upon all men and women. Church dogma, in this case, is in line with that which can be discerned to be right by any person, whether that person has any knowledge of or concern for such a thing as Christianity or Judaism. Natural law transcends sectarianism.

The bishop says that, in any case, it is not the facts about abortion that society is arguing about today. "Candid pro-abortion doctors readily admit the humanity of the creature in the womb, and acknowledge that abortion takes the creature's life," he said.

What is at stake in the debate is "whether we shall, as a society, permit the killing to go on," he said. "Shall we classify some creatures that we all acknowledge to be human as less valuable than other humans, and allow them, though they are innocent of any crime, to be eliminated for the convenience of others?"

Welsh says that the Catholic Church has no choice but to answer the question with a resolute no—"not as a matter of political opinion or private speculation, but as a solemn duty before god."

There apparently has been some criticism that he is taking sides in a secular dispute about the country's civil law. Not at all, he says. It is not an optional question of diocesan policy.

"It is because I am taught by the Savior and Redeemer of Mankind that no constitution, no law, that opposes His law on a fundamental matter can be just or legitimate."

Well now, little old religion editors can be called to task for expressing support for such views. But since I have written stories which have gone across the country and have, in a completely unbiased way presented the views of those who are pro-abortion and since I will continue to do so when the occasion arises, I feel no problem in expressing myself a bit concerning Black Monday.

(I know my pro-abortion stories were presented unbiased because some of these groups have used them as reprints to promote their cause.)

But I admit I am biased on the abortion question. But not dishonest.

It is not alone because I happen to see things refracted through a Judeo-Christian prism. The fact that I have been endowed with reason and daily try to use it—at least once—could lead me to the same bias. I can't see any rule against reason that could be reasonable.

I hope those who do take me to task do not take comfort when they view a closeup on television of some of the nuts who inevitably will be attracted to the Black Monday demonstration. You know—you've seen them on television and even in news photos time and time again—the ones who have that hang-jaw look, who carry those ridiculous non-sequitur signs, who pass out those far-out tracts and who carry those oversized Bibles.

I'll have to admit that were I a photographer or a TV news director and if I didn't like the point of view a group represented and I saw some kooks I'd be tempted to get a good crack at them, too.

But that is hardly a fair presentation of the situation on their part.

Wednesday won't be the last Black Monday demonstration, I'm afraid. Another year will go by before the next one and in the meantime there rightfully will be all kinds of humanitarian efforts going on to stem the deaths caused by hunger and cancer and speed on the highways, and even through crime.

It would be unreasonable not to be concerned about the outcome of such efforts and not to do something about them where possible.

Is what Bishop Welsh is in there fighting for any less reasonable? After all, it is the No. 1 killer these days in America.

EXTENDING THE VOTING RIGHTS ACT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. **RANGEL**. Mr. Speaker, for many, many years in the past, blacks, women, and other minorities were deprived of their right to vote either by an outright denial of that right or by discriminatory poll taxes, literacy tests, and registration practices. Gradually, the denial of their right to vote and many discriminatory practices were declared unconstitutional. The Voting Rights Act of 1965 represented a large step in the direction of full voting rights for all Americans. We still have a long road to travel, however. We must make postcard registration available, lengthen the hours that the polls are open, and provide transportation to the polls for those who have no means themselves.

The provisions of the Voting Rights Act of 1965 expire next August. Among these provisions is the ban on all literacy tests. A reinstitution of these tests would be a disastrous denial of the rights of those Americans who may not have had the benefit of a good education. We, as the representatives of the people, must vote to extend the provisions of this act as well as to outlaw other discriminatory practices.

A recent editorial by WPIX has well stated this position and is deserving of our attention.

The WPIX editorial on extension of the 1965 Voting Rights Act follows:

THE VOTING RIGHTS AMENDMENT

The idea that "eternal vigilance is the price of freedom" is normally applied to threats from the outside, but there are internal forces which require vigilance as well. As an example, the voting rights of a goodly number of citizens in New York and Connecticut could again be limited unless the Congress votes to extend some provisions of the United States Voting Rights Act.

This is a complicated and confusing issue, so some background is in order. Because literacy tests and other devices were used to deprive some of our citizens of their right to vote, Congress passed the 1965 Voting Rights Act, which outlawed such tests in a number of Southern states. Despite that, several other states, including New York and Connecticut, continued to use such tests. In 1970, while extending the provisions of the Act, Congress passed an amendment which outlawed all literacy tests in all fifty states. That provision is due to expire in 1975, and that would allow literacy tests to be reinstituted on a state by state basis.

The people who favor lieracy tests are not necessarily bigoted or ethnically prejudiced. They believe that in this complicated age, it is imperative that those who vote have at least have the rudimentary skills required to read the ballot.

On the other hand, those who oppose literacy tests believe that they fly in the face of all that our country stands for. They believe that our efforts should be directed toward getting more people involved in the election process, not less.

After considering the matter, the Management of WPIX comes down on the side of those who favor continuing the ban on literacy tests.

We take that position because while we respect education and learning, we have seen that wisdom does not necessarily come only to those who read and write. Foolishness is often the native tongue of the highly educated, and the best and the brightest are sometimes led astray by the convolution of their own logic.

Mostly we favor continuance of the ban on literacy tests because, philosophical considerations aside, to re-instate them would be to rob some people who have been voting these past four years of a right they have come to cherish.

We believe that the Congress should amend the Voting Rights Act to continue the ban on literacy tests.

What's your opinion? We'd like to know.

ARSENIC IN THE WORKPLACE

HON. DOMINICK V. DANIELS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. DOMINICK V. DANIELS. Mr. Speaker, the fact that arsenic is a poison is hardly newsworthy today. The fact, however, that daily over 1.5 million American workers are exposed in varying degrees to arsenic—a known cancer-producing agent—is indeed newsworthy.

Yet that is precisely the case for workers who earn their livelihood in the smeltering process—where inorganic arsenic is a byproduct—and in industrial operations utilizing inorganic arsenic compounds.

No one disputes that arsenic can cause cancer. With this being the case, the solution seems simple; namely, eliminate exposure to the carcinogen or so minimize its risk that the level of exposure does not endanger the health of workers.

Illustrating this tragic situation in the workplace are Bill Richards and Rachel Scott in an article in the Washington Post, January 12, 1975. I want to call my colleagues' attention to an essential point raised by the authors: Despite strong evidence delineating the dangers of arsenic compounds and the existence of higher incidence rates of certain cancers in persons exposed to arsenic on the job, as compared to nonexposed members of the community, Federal minimum standards of so-called safe exposure levels have been based on a single, questionable 1963 study. This particular study is currently being challenged because employees surveyed were not compared to individuals working outside the smeltering operation to ascertain if there were significant differences in respiratory cancer levels.

The Department of Labor this week finally proposed new and more stringent safety standards concerning maximum limits for arsenic exposure. A hearing by the Occupational Safety and Health Administration is scheduled for April 8, with public comments due by March 3.

Now is the time for vigorous public response to insure that standards adopted will not sacrifice the health of the American worker to other interests. OSHA must hear the full story—of lives needlessly terminated, of suffering endured by families and friends of workers afflicted with arsenic-caused cancers.

The final standards promulgated must require stiff controls on exposure and accurate compilation of health data, call for frequent and regular physical examinations of workers, and include rigid provisions mandating use of protective equipment.

The text of the newspaper article follows:

ARSENIC, INDUSTRY, AND CANCER

(By Bill Richards and Rachel Scott)

Arsenic has gained a certain notoriety over the years as a parlor room poison—death by the teacup, administered by smiling spinsters seeking to polish off their victims in as gracious a manner as possible. But there is nothing gracious in the deadly evidence beginning to emerge, far from the lace and the china teacups, that arsenic causes cancer and that a million or more American workers may be unwittingly putting their lives on the line through daily exposure to the chemical on the job.

Concern began growing last summer when two of the chemical industry's giants—the Dow Chemical Company and the Allied Chemical Corporation—admitted in an unusual display of corporate candor that workers who once handled inorganic arsenic at their Midland, Mich., and Baltimore pesticide plants were dying of lung and lymph cancer at an alarming rate.

Allied reported that among workers retired from its Race Street plant in Baltimore lung cancer was seven times that of other males in the city and lymph cancer rates were six times higher than expected. Dow's separate study at its now-closed Midland plant revealed a 32.9 per cent cancer rate among workers exposed to inorganic arsenic in the 1950s.

While the numbers covered by the studies are relatively small the implications for industry are enormous. Some federal health experts now concede that the inorganic arsenic menace may be as substantial in the workplace as that posed by the more widely publicized vinyl chloride cancer connection discovered a year ago.

Inorganic arsenic is a byproduct of the smelting process. Some 15 copper, lead and zinc smelters ship it to the lone processor in the United States, the Tacoma, Wash., plant owned by the American Smelting and Refining Company (ASARCO). Arsenic trioxide, an inorganic arsenic compound that is the most widely used form of the chemical, shows up in at least 44 different major industries by a federal count, from tinting windshields in Toledo to spraying roses in Texas. The United Steelworkers Union alone estimates that 40,000 or more of its workers may be exposed. Federal estimates of exposed workers run to 1.5 million.

While there are substitutes for arsenic in some secondary industries the most seriously exposed workers—in copper and lead smelters where inorganic arsenic is a major byproduct of the smelting process—are virtually condemned to further exposure, if industry spokesmen are to be believed.

In pleas to federal regulatory officials to keep the present exposure standards—which were in effect for Allied workers—the metal smelting industry claimed any change at this point would be economically disastrous.

MISSED SIGNALS

It is hardly any secret that arsenic can cause cancer. The first suggestion that it might be a carcinogen was raised in 1820. But the Allied and Dow disclosures pose the cardinal question—why were workers exposed to hazardous amounts of arsenic in the first place?

Norman Herington, a spokesman for Allied Chemical, recently supplied one answer. "I'm sorry to tell you," he said, "that until 1973 we didn't have any suspicions that the conditions existing at (Allied's Baltimore plant) were causing cancer." According to Herington, "none of the manufacturers who were making arsenical compounds had any indications" there were cancer problems associated with inorganic arsenic.

Curiously, Allied, Dow, ASARCO and the other manufacturers, with billions of dollars in resources and stables of researchers, apparently managed to miss, or ignored, some disturbing warning signs—reports stretching back to the 1930s linking arsenic with several types of cancers.

"This isn't something new that is just bursting out," Dr. J. William Lloyd, a biostatistician for the National Institute for Occupational Safety and Health, said recently. The reason the companies missed the warning signs, said Lloyd, was because "nobody was looking. Sometimes because they didn't want to look, and sometimes because they didn't think to look."

A few of the missed signals included:

Reports dating back to the 1930s of suspiciously high skin cancer rates among persons who had inorganic arsenic compounds prescribed for skin ailments. One study in 1966 noted that 21 skin cancers were observed among 180 patients who used inorganic arsenic preparations.

Findings by British researchers in 1948 that high lung and skin cancer rates were turning up among factory workers involved in the manufacture of sheep dip, containing inorganic arsenic.

A 1959 study of workers at an English nickel refinery, where ores contained a high arsenic content, showing 45 cases of lung cancer and two of skin cancer over a decade.

A study in 1969 by Drs. Frederick P. Lee and Joseph F. Fraumeni, of the National Cancer Institute, of 8,047 American metal smelter workers. The workers showed a threefold excess of respiratory cancer mortality and, when they were heavily exposed for long periods to inorganic arsenic, as much as eight times the expected mortality rate.

BASIS FOR STANDARDS

The cornerstone study, however, accepted until recently as indisputable evidence on the potency of arsenic and used as the basis for the present arsenic exposure standards, was done by Dr. Sherman Pinto in 1963. Pinto's research team studied 229 deaths among copper smelter workers exposed to .5 milligrams of inorganic arsenic per cubic meter of air at ASARCO's Tacoma plant—the current federal exposure standard—and compared them to other workers at the smelter who he claimed were not exposed. He discovered almost no difference between the two groups and concluded that chronic exposure to arsenic did not cause excess amounts of respiratory cancer.

Industry quickly pounced on the study done by Pinto—who was then medical director of the same ASARCO plant in Tacoma—disregarding the contrary evidence.

Worse still, Pinto's findings became the basis for the present federal standards for inorganic arsenic exposure after they were accepted by the American Conference of Governmental Industrial Hygienists (ACGIH), a quasi-official body which, until 1970, was the only organization setting standards for toxic dusts and fumes in the workplace.

The ACGIH standards were incorporated into the old federal Walsh-Healey Act, which regulated working conditions for plants operating under federal contracts, and were adopted by the states in their regulations as well. With the passage of the Occupational Safety and Health Act of 1970, the Pinto-based standards were again called upon.

Despite the reliance on Pinto's data by the ACGIH and later the Occupational Safety and Health Administration (OSHA), which adopted the current federal arsenic standards, a number of federal investigators are now convinced that the Pinto findings are seriously flawed.

As early as 1969, Lee and Fraumeni pointed out in their study that Pinto's conclusions compared exposed and non-exposed smelter workers but neglected one critically additional step—Pinto failed to compare his two worker groups with others outside the plant. The two researchers noted that while Pinto seemed correct in saying there was little difference between cancer levels inside the smelter, the plant population as a whole showed lung cancer rates as much as three times the general population.

Pinto, contacted last week by The Washington Post, acknowledged that no comparison had been made in his study with people outside the plant. "The criticism has been raised about non-exposed people," he said.

"I don't believe it too much. I don't pay much attention to it."

ASARCO ASSURANCES

At the latest round of federal hearings last September to explore new exposure standards for inorganic arsenic, ASARCO showed up as the major arsenic industry witness, with a panel of experts including Pinto, now a semi-retired consultant to the giant smelting company. Prudently, Pinto kept in the background and let ASARCO's other spokesmen assure the federal representatives that there was little cause for alarm and certainly no reason to tighten up the prevailing standards.

ASARCO once again hauled out the original Pinto study, saying that the findings, and an update also done by Pinto, indicated there did not seem to be any increased mortality from arsenic exposure among the Tacoma smelter workers. With this, ASARCO called for retaining the current exposure standard and suggested an independent study of the findings of their colleagues at Dow and Allied.

What they neglected to mention was that in addition to the heavy criticism of the original Pinto study the update was attacked last year by Dr. Samuel Milham Jr., a chronic disease epidemiologist for the Washington State Health Department, for its lax handling of statistics.

Milham pointed out that Pinto neglected to include in his study of smelter workers the secondary cause of death listed on death certificates. If a worker had pneumonia on his death certificate as the primary cause of death Pinto listed that—and skipped the notation that the man also had lung cancer. "We found that he missed 25 per cent of the lung cancers at a conservative estimate," Milham said. In fact, instead of the 18 lung cancers predicted by standard mortality tables for Pierce County, Wash., smelter workers, Milham discovered 40.

Asked about Milham's findings, Pinto said, "In my own mind I'm quite sure that my material is accurate." Nevertheless, he said he had turned over all the material he had on deaths to Dr. Phillip Enterline, professor of epidemiology at the University of Pittsburgh, for an "outside" analysis.

"The criticism has been raised that I'm not a professional codifier so now the information is in the hands of a professional. He's a highly regarded expert in his field and I think industry is doing the right thing when they get an unbiased opinion like his."

Enterline, Pinto noted, received a contract seven years ago from ASARCO to do consulting research for the company. The choice of the Pittsburgh research this time was suggested, according to Pinto, by ASARCO's vice president, Kenneth Nelson. It was Nelson who testified at the OSHA hearing last fall for ASARCO in defense of Pinto's earlier findings.

Nelson told the OSHA investigators at the hearing that a decision to cut back on exposure levels among its workers could be financially ruinous for the company and later said it could force the shutdown of lead and copper smelters throughout the West.

"There is absolutely no conflict of interest (in the choice of Enterline)," Pinto said last week. "He would be the first to tell me if I were wrong."

THE "22 MILESTONES"

What happens now concerning arsenic is up to OSHA, but the preliminary indications are not encouraging. In an interim report following the hearing the National Institute for Occupational Safety and Health, OSHA's own research arm, flatly declared that inorganic arsenic is a carcinogen and "any exposure to inorganic arsenic in excess of background levels should be considered an unacceptable risk" until new data are available.

OSHA dutifully accepted their comments, filed them away, and embarked on what is known in the agency as the "22 milestones"—the steps it must take before setting out a permanent standard for arsenic exposure. Among those steps is the consideration of relevant research data on arsenic. OSHA staffers handling the project acknowledged recently that high up on the list of research still considered "significant" are the two Pinto studies.

Moreover, there appear to be strong indications that OSHA may end up compromising the safety of workers exposed to inorganic arsenic for the economics of the chemical and smelting industry.

"Whatever we do must be feasible, regardless of what NIOSH recommends," James Foster, a spokesman for OSHA, explained recently. "NIOSH specifically deals with the scientific, medical and technical aspects of this. On the other hand it's our job to look at what this is going to cost industry as well as those other things."

No matter what OSHA decides to do, traveling the 22 milestones is certain to take the agency far into 1975 before any tougher standard is set to protect workers from a known carcinogen. And almost certainly the process will involve another public hearing and yet another appearance of Dr. Sherman Pinto and his arsenic study.

MICHAEL KOMICHAK—MAN OF THE YEAR

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. GAYDOS. Mr. Speaker, the Ukrainian Technological Society recently honored a Pittsburgh area man who has dedicated most of his adult life to fostering and preserving the heritage of the Ukrainian people.

Selected by the society as its 1974 Man of the Year was Mr. Michael Komichak, assistant general manager, chief engineer, and on-the-air personality of WPIT–AM and FM, who has earned the reputation as the "Voice of Ukraine" for thousands of people in Pennsylvania and surrounding States.

Mr. Komichak, who was the unanimous choice for this year's award, cited for his efforts in helping—

Raise $60,000 in western Pennsylvania for the establishment of three professorships in Ukrainian history, literature, and language at Harvard University.

Settle dozens of displaced families fleeing communism after World War II and assisting them in becoming U.S. citizens.

Collect funds for construction of the American Museum of Immigration near the Statue of Liberty in New York City.

Promote activities of Ukrainian fraternal, cultural, and civic organizations throughout Allegheny County, where more than 30,000 people of Ukrainian descent make their homes.

Maintain and promote Ukrainian ethnicity and culture by conducting weekly radio programs for the past 25 years.

Although impressive in its own right, the list does not begin to tell the whole story about Mr. Komichak. A World War II veteran, who served as a radio officer with the rank of lieutenant junior grade in the merchant marine, Mr. Komichak learned the language and history of his parents' native country by attending church-sponsored classes, singing in choirs, and participating in youth activities. He also works closely with other local ethnic organizations and for many years has served as secretary of the Captive Nations Committee in Allegheny County.

Mr. Speaker, Mr. Komichak is more than just a man with a deep interest in the heritages of his father. His compassion for others, his dedication to enrich and improve their lives, and his love of freedom are indicative of all true Americans. His wife, Ann, and his three sons, Raymond, Markian, and Michael, have reason to be proud.

LEIB KHNOKH—SOVIET PRISONER OF CONSCIENCE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. SOLARZ. Mr. Speaker, many of our colleagues are already familiar with the plight of many Jewish citizens of the Soviet Union who have been sentenced to lengthy terms in labor camps because they attempted to freely exercise their religion and sought to emigrate to Israel. These men and women are barely existing under conditions which frequently defy description. These "prisoners of conscience" are confined, in many instances, in cells in which they can barely stand upright; are forced to perform hard labor but are poorly fed and clothed; are normally allowed no visitors; and have their mail tightly censored and restricted.

These courageous people must not be forgotten and the free world must be continually made aware of their condition and their desire to be free. In order to focus attention on the status of prisoners of conscience the Greater New York Conference on Soviet Jewry established a program under which a prisoner is "adopted" by a Member of Congress and other public officials. It has been my honor to adopt Leib Khnokh, a 30-year-old Latvian electrician who is serving a hard 10-year sentence on a number of trumped-up charges.

I have recently received a letter from Mr. Khnokh's brother who resides in Israel. He included excerpts of letters that Leib has written to his family. His comments are very revealing of the conditions he is being forced to endure and I would like to share them with our colleagues in order that they may be aware of the actual status of these hapless but valiant men and women.

Mr. Speaker, I insert herewith, for inclusion in the RECORD, portions of letters from Mr. Khnokh's prison cell and some biographical information regarding this brave young man:

PRISONER'S PROFILE—LEIB KHNOKH

Born: October 4, 1944.
From: Riga.
Marital status: Married; has one son.
Occupation: Electrician.
Arrested: June 1970.
Tried: December 1970 (First Leningrad Trial).

Charges: Article #70—"Anti-Soviet agitation and progaganda . . . of undermining or weakening Soviet authority . . .

Article #72—"Participation in an anti-Soviet organization".

Article #64/15 "Betrayal of the Fatherland".

Article #93/1 "Misappropriation of state or public property on an especially large scale . . ."

Camp: Perm #35.

Camp address: USSR, RSFSR, Moscow, P.O.B. 5110/1 VS 389/35.

Address of Mary Khnokh (wife): Rechov Sharet 25/2 Kiryat Tivon, Israel.

Address of Etta Shvartz: (relative): USSR, Latvian SSR, Rizhsky Rayon, P/O Ulbroke Institut 10/46.

Leib Khnokh was one of the scores of Soviet Jewish activists in cities throughout the Soviet Union who were apprehended on June 15, 1970. In the forest near Priozersk, forty miles from the Finish border, Khnokh, his pregnant wife Meri, and two friends had gas squirted in their eyes, as they were tied to each other, back to back, bundled into waiting trucks and taken to the Leningrad KGB headquarters.

Khnokh had been trained at the Railway Technical Institute and after completing military service, worked as an electrician. He had applied repeatedly for exit visas since 1968, but his requests were ignored. He helped draft appeals to Soviet and Western officials protesting Soviet violation of human rights.

Brought up in a traditional, Yiddish-speaking home, Khnokh believed that the future of Jews, as a people, could be realized only in Israel.

One of the eleven Leningrad defendants, Khnokh was accused of planning an attempted escape to Israel. He protested the distortion of his pre-trial interrogation, claiming that it contained statements he had never made and omitted explanations he had given. Having renounced his Soviet citizenship, Khnokh contended that he was no longer under the jurisdiction of a Soviet court. He refused to answer any questions pertaining to anyone other than the defendants.

The prosecution demanded that Khnokh be given a 13 year term in strict-regime. After world-wide outrage, this harsh sentence was reduced to 10 years.

[Enclosed a postcard, Sept. 3, 1974]

Hello, my dear ones,

Just as before, I get your letters regularly . . . My circumstances have now changed a little, so there are some corrections to make following my requests for parcels. Since I am being transferred to a CTW, which means being kept in special custody . . . please send me a food parcel towards the end of September, what I have asked you for. If there are not enough soybeans to make a kilogramme, some khalva is also allowed. (Khalva is a pressed mixture of some oily grains, crushed, and sugar—Tr.)

Last week I received a registered parcel from the Wendelevich family; it was in the same state as the previous ones; no pens inside, of course.

Yesterday the news came of Sylvia, joyful news for us all. Naturally, we are all glad for her sake; we should like to hope something of the kind will someday happen to us, too. But in the meantime I cannot, as you see, tell you anything joyful about my situation: there is nothing good waiting for me close at hand. Until the end of the year I shall be able to write only once bi-monthly, so my relatives need not worry.

I hope everything is all right with you all. I. must have joined the college. If so, my congratulations. If not, I can only advise her not to despair. The young ones have everything ahead, as the saying goes.

But we are getting old. I, for one, will soon be thirty. I used to hope to face that milestone in our home, but fate will have it otherwise. However, even now I am not in despair—no, I am full of faith. Some day that, too, will pass, anyway. That is the basis of our lives here.

S. and G. will soon celebrate their twenty years' jubilee. As I will not, under the circumstances, be able to write later, I am offering you my congratulations well in advance.

I will try to use the considerable amount of unoccupied time that will now be at my disposal to read some fiction: usually I have always lacked the time to do that. And I will want to study the language more systematically—or—who knows, I might suddenly be sent home ahead of time and find myself unable to come to terms with my own son.

I have just received a postcard from Mendelevich, containing the news no less striking than before. The papers were processed with lightning speed—and the fact that the boys were brought to Moscow. Fantastic—what else can one say. Things being as they are, one can easily believe anything, even that it may soon happen to all the boys. But even if not so soon—or not at all—I am nevertheless very happy for Sylvia and all their family. Please my congratulations over to them.

That is the way the sad and the glad news intertwine. In this case the latter certainly prevail.

My dear ones, my very best wishes go to you all. Greetings to all our relatives, especially the Mendeleviches. . . Au revoir, kiss—

Yours,

ARIE.

[Letter No. 18, Oct. 2, 1974]

Shalom, mummy dear,

To-day, on my thirtieth birthday, I have felt like writing to you. It certainly is very difficult, almost impossible to carry on a candid conversation (or even this monologue) from the place I am in. So, I am thirty years old today, but, frankly speaking, I have somehow failed to feel that something has been left behind. Probably it is because I have no way of marking this day—or because I do not seem to sense any amount of satisfaction from the fact that I am getting older (in years or experience). After all, when I first came here, I was twenty-five. I do not mean to say I have never had those years. I have lived them through, not without profit for myself in more ways than one. Nevertheless, somewhere in my subconscious, there is an ever-present sensation that I am not so much living as waiting. I have no regrets about anything: what was, was to have been, I think. Pity it has been taking somewhat too long.

We have all had a big holiday recently, the release of Sylvia, who will, incidentally, celebrate her thirtieth anniversary in the home. I sent her by congratulations. I hope she received them in time.

The event gives some hopes to the others as well—but the possibility is not excluded that "they" may want to put a full stop after that. S.S. has written to me that you are making some attempts along similar lines. It would be nice to know some details.

I will send this letter out after your next mail comes, as now I am allowed to write only once bi-monthly. The temporary changes in my routine must not worry you. I can assure you things are quite bearable—the other way it is not exactly like a health-resort either . . .

The autumn is uncommonly warm this year, the day temperature has not fallen below 10–15 degrees C. The previous years there was snow at this time.

. . . Almost a week has passed. Every day I was waiting for mail to arrive and then I thought I would go on with this letter. But somehow "they" do not seem to be in a hurry. Nearly a month has passed since . . .

Aunt Emma writes you have been at a sanitarium. I hope it is better for you there, and you will return home quite well. Write about the state of your health in every letter.

I am very grateful to you for mentioning little Igal in each of your letters. I still get too little news of my son. You have not sent me practically any photos of late. But he keeps growing and, surely, is changing fast. And, mum, your pictures, dad's and Aunt Liza's I have not received for as long as a year, I think. Only Pinya keeps sending me photos more or less regularly.

In general, during these months I have received a comparatively small number of letters. Letters from some of my earlier correspondents who used to be so constant, have stopped coming altogether. From Zvi, let us say, for about a year; or from dear Hannah I have not received anything for nearly six months. It is true, two of their letters were confiscated in July. They may have written more.

Oh yes, regarding Karmazin. He writes to me what is an answer to my letter No. 5 which he has read. He believes I concentrate my questions on wrong points. The main thing is the internal problems which are perennially left unsolved; as for the neighbours, it is the easiest thing in the world to reach an agreement with them—provided there is a desire to.

As far as the internal situation is concerned, he quotes abundantly from the "Week" (what is that, by the way?) and frequently refers to it. Me, he advises to realize my earlier transgressions and to repent. A curious letter that, isn't it? Yes, and he also requests that I should answer him. To my regret I cannot answer him personally: strict limit. He lives in Safed, in a Merkaz Klita—at the time of the writing, at least—so please send him my greetings in the meantime, and let him write more—and I shall try to answer him eventually.

Another week passed, and yesterday, at long last, the mail came—the big mail from you all . . . /which included/a congratulatory postcard from Marcus in the Netherlands . . . Yes, and a letter was confiscated from Dukarevich. So I had a big holiday yesterday. I read and then re-read everything over and over again. In general, everything is fine with my correspondents, so I feel fine, too. On a day like that I manage to forget my troubles, and permit my thoughts to carry me over to where they are writing to me from. Our best days here are undoubtedly the mail days.

With the next mail I hope to get news about Sylva, and, possibly straight from herself. Although I realize that, for some time at first, she could not give her attention to us. Please send me her photo. I hope the state of her health is relatively normal. Send her my very best wishes, Mother. . . . And my deep gratitude goes to all of my correspondents. I also got the food parcel yesterday, whatever I had asked for, so everything is all right. . . .

As I have already mentioned, I have learned from S. Z.'s letters that you are taking some concrete steps and, in particular, you are using the services of Mr. Taylor as a lawyer; but I have not learned anything new about it from this mail. . . . So this mail can be said to have caused some disappointment. Which is not the fault of my correspondents by any means. To them I am very grateful, but it is a crime that your letters take so long to reach me.

Mama, tell L. I am grateful to her for her attention. The latest four months have brought me seven letters of hers (out of ten she has sent). Tell her I will write her again as soon as there is a possibility, meantime give her my greetings.

Our dear Sara is also superb, but the rest of them are tired, it seems. Well, that can be understood: time. Now it is the fifth year in progress, four years and almost a half are already behind. I, too, am tired. So there is no one to blame.

Mama, you write Hanna and Zvi come to see you. I have a request to them as well as Sasha. To Bersheva, where they live, Lena has moved; evidently she must be finding things a little difficult in the new place, what with her two children and elderly mother. I ask that they should give her their care; please ask some one of them to tell me of how she is settling down there.

Next day: am going on. What shall I tell you about myself? As I have already written you, my way of life is somewhat different now. Which has its disadvantages—or else they would not put people here. But there are some positive aspects. The chief one is a possibility to read much, and I am fully using it. Of late I have incidentally received a number of books through the "Book by Mail" service, so I have enough reading matter, I am also studying the language, though my progress is as modest as it used to be. But my word stock is nevertheless growing. It may be a good idea to learn with greater intensity now—all of a sudden we may be released, and I am still unable to talk properly. But that is something we can survive all right. I don't mind.

At the same time I am ready (as I was before) to be kept here to the end. But let us trust the better thing will come, and then whatever will be, will be.

As for my health, it is generally fine. Suffice it to say I have never been laid with high fever all these years. Some trifling things may sometimes happen—but then they can happen to anyone and under very different conditions, too, there is no insurance against that. Otherwise all is quite normal, when I come you will see with your own eyes.

I have several times asked Pinya about how he feels, but he writes nothing about that. Mama, please let me know about it.

In my June letter to Sara I asked her a lot of questions, but no answers have come back to any one of them. She may not deserve the reproach, and in her letter (No. 26, confiscated) she may have answered the questions. However that may be, I have not heard her answers to a number of questions that interest me. Let me repeat some. How many settlements are there in the Golans, and how many have sprung up after October? What is the population of the area? How is the construction of the new town going on? And where is it situated? The same about the Rafiakh area? But it must be easier for her to look into my earlier letter, after all.

I have re-read the letter and noticed I am repeating myself towards the end. It means I'd better wind up. It has suddenly become very late these latest days, winter has set in; it has been overdue from the local viewpoint: it is the second part of October. . . . Once again, Mama, please send me stereo—and picture postcards too. How is Dad's health? Is he happy about the change of the residence? . . .

My best wishes to our friends, and in the first place to those who keep writing, who still remember me, too. Mummy dear, don't worry for me. I am being in a "chamber" ("cell"?) room right now, and that seems to be the reason why the letter is what it is. But, generally speaking, everything is O.K. and even better. I am eager to believe this will be all over soon. Mummy dear, have the best of treatment, get well and keep writing.

Au revoir—Kiss—Yours,

ARIE.

FAIR TRADE LAWS DUE FOR HARD LOOK

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. SYMMS. Mr. Speaker, former Gov. Ronald Reagan of California is now writing a column that is syndicated by the Copley News Service. I am very pleased to see Governor Reagan continuing to express his view that the answers to today's problems will be found by reducing government rather than by increasing it.

Ronald Reagan is one of the few leaders in the country that still champions individual freedom and the free market economy—something that once was the cornerstone of the Republican Party.

Following is one of his latest commentaries that points out how government regulations hurt not help the consumer in America. I am pleased to commend the following article to my colleagues in Congress:

SO-CALLED "FAIR TRADE" LAWS OVERDUE FOR HARD LOOK

(By Ronald Reagan)

One of the old-time ventriloquist tricks in vaudeville was done by the fellow who would sing a chorus of "Yankee Doodle Dandy" while drinking a glass of water.

Another version is even trickier: a business or industry argues for free enterprise on the one hand—free, that is, from government regulation—at the same time it asks government to make laws setting minimum prices on the product it sells. This trick is called "fair trade."

Though such laws date back to the turn of the century, federal courts knocked them out in 1911.

They came back 20 years later when California retail druggists were worried about price wars and sought minimum-price legislation to prevent them. Soon after, 43 other states enacted so-called "fair trade" laws.

More recently there have been indications that this trick may be going the way of the vaudeville act. It is estimated that only about 20 large companies use the laws extensively today. Several states have done away with them entirely.

Just the same, 14 states, representing nearly half the nation's retail sales, still have tough, enforceable fair trade laws. This means that a retailer who wants to sell a fair trade item below the minimum price may risk heavy fines or even a jail sentence for cutting his price to the consumer.

Big discount chains usually won't sign fair trade agreements, but small retailers may fear being cut off from supplies of popular brands if they don't observe the fair trade agreements they are asked to sign.

It used to be argued that fair trade laws helped small retailers, such as the corner grocer, from being severely undercut by big chains with superior buying power. It's more likely that independent neighborhood retailers are surviving today because they are convenient than because of a few cents difference in a price on a brand of liquor or lipstick or water glasses.

Pro-fair trade forces argue that the higher margins provided the retailer by fair trade laws result in more retailers carrying the line, and with a broader selection at that.

That may be true, but in an age when advertising has effectively presold so many brand names, is the retailer really providing any extra useful service to the consumer in exchange for that higher margin? It's nice to know that he carries a broad selection, but without fair trade, wouldn't an enterprising merchant carry as broad a line of, say cosmetics as his customers demand?

Former Atty. Gen. William Saxbe said in a recent speech to a grocery manufacturing group, "Whatever feeble justification may have once existed for fair trade, there is today no reason to place such heavy burdens on the consuming public."

Lately, there has been a lot of talk about taking a "hard look" at government regulation in order to weed out those regulations which stifle competition. Good. Let's include the fair trade laws in that review.

Once you invite government to regulate you, in order to protect your economic interests, you're asking for a lot more regulation down the line.

We live in a time when the barnacles of government regulation have added measurably to the cost of goods we buy. Let's rethink the fair trade laws altogether. Eliminate them and some prices should begin going down as a result. That may not "lick" inflation, but it would help.

STATEMENT OF PURPOSE OF THE NATIONAL YOUTH PRO-LIFE COALITION

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. FISH. Mr. Speaker, the National Youth Pro-Life Coalition is an organization of students and other young Americans who are deeply troubled by what they perceive as the willingness of our society to adopt "expedient rather than just solutions to complex human problems." The following statement is an adapted version of an article about the coalition by Dr. Thomas Hilgers, a cofounder and member of the Advisory Board, from the November 1974 issue of Linacre Quarterly:

STATEMENT

A little more than two years ago, 60 young people from nearly 23 states met in Chicago, Illinois, with a common interest in human life. The abortion issue was the main item of concern at the first conference, but it didn't take long to recognize that those in attendance had a great concern for human life at all stages of development and in all strata of social existence. From the first meeting, the first national youth pro-life organization was conceived. At that time, this organization, the National Youth Pro-Life Coalition (NYPLC), adopted three fundamental tenets to its existence; it would be non-violent in its activities; it would espouse that human life was a continuum from conception to natural death; it would promote the concept that "there is no human life not worth living" (taken from the writings of Dr. Viktor Frankl, an Austrian psychiatrist who spent three years in the Auschwitz death camp).

The concern of the NYPLC, which now has chartered groups and affiliate members throughout the United States, lies in the issue of life itself. Dismayed by the inconsistent way human life is valued in our society, the Coalition speaks out for consistency. The membership is aware of the prevailing attitude among young people, especially on college campuses, that ties anti-war pro-civil rights, and pro-abortion feelings all into a tightly knit, supposedly "liberal" bag. Equally discouraging has been the anti-abortion, pro-war, pro-capital punishment attitudes of yet another segment of the population.

In the "respect for life" movement, the Coalition believes that only a real revolution in the vaue and dignity of every human life will produce constructive social and human reform. If human life is to be respected, then all human life is to be respected and arbitrarily eliminating anyone from this respect produces inconsistencies which undermine the basic ground-structure from which true reform emanates.

Recognizing that humanity encounters enormous problems, many of which do not have ready solutions, the very first position of the NYPLC is a call for the creation and implementation of positive, non-violent solutions to human problems. The NYPLC openly admits that it does not have all the answers; nonetheless, it maintains that the use of violence to solve human problems is unconstructive, non-progressive, and ultimately always destructive.

Inspired by a successful national convention last fall highlighted by supporting addresses from human rights activists Dick Gregory, Jesse Jackson, and Dolores Huerta, the members of the National Youth Pro-Life Coalition have come to Washington to lobby for cooperation with nature, for the poor, for the elderly, for the unborn, for the mentally and physically handicapped, and for prisoner rehabilitation and peace.

CHANGING CONCEPTS IN CRIMINAL JUSTICE

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Ms. HOLTZMAN. Mr. Speaker, juvenile delinquency is an oft-cited and complex problem in New York. Many of us who come from urban areas—inside or outside of New York—are seeking new and better solutions for dealing with young offenders. I commend to all my colleagues who are interested in improving systems of juvenile justice the following article by the Honorable Nanette Dembitz, judge of the Family Court in New York City. The article, published in the New York Law Journal of October 29, 1974, is based on her address at an Institute on Criminal Justice presented by the New York State Probation and Parole Officers Association and State University of New York at Binghamton. It reflects her distinguished service and experience on the bench of the family court.

The article follows:

CHANGING CONCEPTS IN CRIMINAL JUSTICE

(By Nanette Dembitz)

In the treatment of criminals there are changing concepts that bear witness to an increasing concern for fairness, equality and rationality in criminal justice. Among these are:

The developing concept that she or he who decides whether a criminal shall be free or incarcerated—whether he shall be treated in or out of jail—must give reasons for that decision.

Increasing emphasis on rehabilitation rather than punishment.

New interest in diversion programs to treat criminals without resort to the criminal justice system, and in their treatment through services in the community instead of prisons.

Along the way here I shall refer to practices in the Family Court, which has juvenile delinquency jurisdiction over all crimes by youths under the age of sixteen that might well be adapted in the adult criminal courts.

With juveniles we nourish more hope for healthful change than with adults, but otherwise the problems and goals are much the same. And while the growing crime rate is discouraging, it is matched by similar figures in every other non-Communist country of the world except Japan and Israel. (The crime figures for the Communist countries are unobtainable.)

1. The Duty to State Reasons:

Now to my first point—the duty to give reasons for a determination that a person will be free or imprisoned.

In a major development in constitutional law, the Supreme Court of the United States and the New York Court of Appeals have ruled that a person's parole or probation can be revoked only after a hearing and a statement of reasons for revocation.[1] This extension of constitutional protection rested on the recognition that a revocation has the same vital impact on a person's freedom as an initial sentence to jail, and that "The touchstone of due process is protection of the individual against arbitrary action of government." [2]

FULD'S OPINION

Former Chief Judge Fuld of New York Court of Appeals also thought that rehabilitation of parolees or probationers is furthered by their belief "in fair and objective procedure . . ., hardly anything could more seriously impede progress . . . than a belief on their part that the law's machinery is arbitrary, too busy or impervious to the facts." [3]

Now lower courts have held that a parole board must not only state its reasons for a revocation of parole but even for an initial refusal to grant it, and it must state those reasons "with sufficient particularity to enable the prisoner to understand how he is expected to regulate his conduct." [4]

This ruling is, I think, likely to be approved by the Supreme Court, for that court recently held that correctional authorities must give reasons even when they only decide that a man has so misconducted himself in jail that he should be deprived of goodtime credit.[5]

To me, the major value of this constitutional progress is that to state a reason, you must have a reason; if you cannot articulate a reason you have not thought it out.

ADDED BURDEN

The due process requirements as to charges, hearings, and reasons for revocation have, of course, put an added burden on probation and parole officers. The great gap is, I think, that the judges who have imposed on others the burden to give reasons have failed to impose on themselves the same burden. That is, everyone imposing imprisonment must state reasons for it except for the trial judge—under present law, he can sentence to prison without giving any reason for his sentence.

The new New York Criminal Procedure Law provides not only for a presentence probation report but a presentence conference with the judge.[6] However, it stops short of providing that the judge must state his reasons for his ultimate sentence.[7]

Family Court judges, responding to appellate rulings,[8] place juveniles in institutions outside their communities only after first exploring with probation officers, generally in a series of hearings, the possibility of treating them through less drastic remedial steps. Here, too, a statement of reasons for the final decision is not required. On the Federal level, the recent Judicial Conference for the Second Circuit was devoted to sentencing, with great interest on the issue of whether the judge should be obliged to state the reasons for the sentence he imposes.

One cause for this concern was that a recent study by the Federal Judicial Center showed that the differences in sentences for the same crime were in part due to the personal predilections of the sentencing judges, rather than to a justifiable effort to individualize the sentences on the basis of the criminal's needs.

REASON FOR SENTENCE

The Legislature, the appellate courts or the Judicial Conference will, I hope, develop both for juveniles and adults the rule that reasons for a disposition or sentence must be stated by the judge. Our progress on the statement of reasons signifies a recognition of the human equality of all of us, regardless of how mean and low our circumstances; no official can be omnipotent or arbitrary or rule by fiat; his will is not law.

Hopefully, besides expressing this great principle of justice, the additional burden of work and time involved in giving reasons will result, as Judge Fuld suggested, in an increased sense of fairness by the person who is the target of the criminal justice system, a lessened sense of helplessness and alienation, and in consequence a greater motivation to control his anti-social behavior.

2. De-emphasis on Punishment:

A standard statement, when I was in law school, was that the purposes of the criminal law are punishment, rehabilitation and deterrence. The desire to punish, to express the community's and the victim's sense of outrage or felt need for revenge, now has a diminished role in social thinking and thus in the operation of the criminal justice system.

Instead, we see public concern with a criminal's history of childhood deprivation and public acceptance of an insanity defense despite the heinousness of a crime; we see the reform of prisons to make them more rehabilitative and indeed more agreeable to prisoners from the standpoint of meals, recreation, and such; and in the legal structure the law of prisoner's rights is developing as well as grievance procedure in prisons.

Incarceration is valued as an instrument of deterrence rather than vengeance (and let me say parenthetically that two rehabilitated first-offenders recently told me that their motivation to "go-straight" was that they never wanted to go back to jail). At the same time we recognize that fear of jail, without substitution of a positive goal, will not be enough to prevent criminality—it never was enough regardless of how dark and dank the dungeon was.

3. Diversion from the Criminal Justice System:

The less punitive attitude toward criminals has contributed not only to greater use of probation and parole but also to emphasis on the approach known as Diversion—the effort to keep the criminal out of the court process altogether. Diversion is to be distinguished from attempts to prevent crime through general social, economic and political reforms; it refers to treatment of a person whose conduct actually brings him within criminal court jurisdiction without subjecting him to such jurisdiction. In the past few years there has been considerable public funding for diversion; but many programs seem, I regret to say, too loosely structured to be successful or to permit an evaluation of their success.

ONLY DIVERSION PROGRAM

The Family Court Act is, I believe, the only New York legislation that formally and specifically establishes a diversion program. The Act, passed in 1962 before the idea of diversion assumed its present popularity, provides that the probation service may "attempt to adjust suitable cases" of apparent juvenile delinquency (that is, of any crime by a youth under the age of 16) "before a petition is filed." [9]

In other words, in an adjusted case the youth is never formally charged with delinquency, nor does he ever appear before the judge nor is he subjected to any finding against him or any court order. According to the most recent New York City monthly figures, 1,328 of 2,444 cases (a majority) were adjusted at the so-called "intake probation" level.[10]

A probation officer in Intake, or working with personnel other than probationers, might well be called a social adjustment worker, or the like; people who have not been found guilty are frequently confused and resentful of referral to a "probation officer."

MORE ACCOUNTABILITY

This estimatable adjustment-diversion service must be improved, I believe, by greater

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Footnotes at end of article.

accountability. At present in New York City, when the Intake probation worker suggests a curfew, for example, to a juvenile, or refers him to an agency for education, medical, or psychotherapeutic assistance, there is no follow-up, no requirement that the youth report back to Intake. The result of this casual approach is to dissipate the impact on the youth of his arrest for crime and of his Court involvement, and to lessen his appreciation of the serious consequences of criminal behavior. Intake's failure to exact standards of conduct from the juvenile when it "adjusts" a juvenile delinquency charge against him, contributes to the substantial number of youths (exact statistics have not been compiled) who commit another delinquency after the Intake adjustment.

It is frequently said that it is only through certainty of adverse consequences that a would-be malefactor is deterred from crime. By the same token an Intake worker would be more effective if he told the juvenile that he *must* conform to certain conditions, that he *must* report back to Intake, and that in the event of his failure to comply, a juvenile delinquency petition *will* be filed against him. I have had personal encouraging results with the approach of "obey the conditions or else" even with youths who have serious crimes.

WEAK PROCEDURE

The lack of teeth in the present Intake adjustment procedure is largely attributable to the theory when the Family Court Act was drafted that any direction by a probation officer to a juvenile would violate his constitutional rights.[11] That viewpoint reflected, I think, an erroneous overreaction against the omnipotence at one time exercised by probation officers. The threat of a juvenile delinquency petition and trial, as a coercion to conform to desirable standards of behavior, is similar to other coercions, such as that involved in plea-bargaining, which permeate the criminal justice system.[12] It is consistent with due process to confront a person with the alternative of accepting conditions, referrals, and the duty to report back to a probation officer, or of subjection to a juvenile delinquency petition and trial.

The Family Court Act and rules should be amended to permit greater accountability in the preliminary intake probation process, and with this change the Family Court adjustment-diversion service could serve as a model for the criminal courts.

4. Keeping Juvenile Delinquents in the Community:

The non-punitive approach to criminals has also contributed to the current emphasis on keeping convicts out of prison and treating them instead in their communities. An open drug rehabilitation center or a supervised group home which the person leaves for work, school or other activities in the community, is obviously beneficial for those who respond to that type of service.

SMALL RESIDENCES

For juveniles I urge residences with seven to ten beds, rather than larger ones in which the child lacks a feeling of personal interest on the part of the houseparents or counselors, and I hope that New York City youths will have the benefit of many small-size group homes. However, I must speak of one development which I regard as a great evil, arising from the keep-him-in-the community approach. This problem relates only to youths and to the Division for Youth.

Consider the case of a juvenile delinquent who is deemed too dangerous to place on probation and who is then rejected by the directors of the supervised residences in the community as unmotivated, aggressive, and dangerous. As a last resort such a juvenile delinquent is placed in a Division for Youth training school. The Division for Youth follows a policy of rapid parole within five to ten months, no matter how many or how serious the delinquencies the youth has committed (a series of hold-ups, for example, or rape at knifepoint) and, in a case before me, in the face of psychiatric reports that the youth was without motivation to change, without remorse and homicidal.

This policy, I am told by the Division for Youth, is based on the theory that the youth should not be separated from his community (despite the circumstance that the primary community of a hard-core delinquent youth is a delinquent gang).

LEARNING FROM OTHERS

The often-repeated point that the juvenile learns criminality from others in a state school, ignores the fact that a hard-core juvenile has lived for years largely on the streets and that he learns about crime from delinquent street companions. In a school there are counsellors and teachers who at least offer other role-models than those on the streets, as well as services which over an extended period would in some cases rehabilitate. Quickly released with insufficient education, training or rehabilitation of any sort, the hard-core delinquent is set for a life of crime. My strenuous objection to DFY policy springs from my belief that some of these youths could be saved through long-term rehabilitative efforts and that DFY in effect is abandoning them.

Even when parole should be granted to a juvenile, it cannot possibly succeed unless the Division for Youth can establish educational and other services adapted to its parolees. An adult generally is paroled only when he has a job possibility; youths are paroled to return to the same schools from which they have truanted for years. Routine rapid paroles as much as the lack of services for parolees, are a disservice to the youths themselves as well as to society and cry out for remedy.

IMPORTANCE OF PREVENTION

I will not review our many problems with regard to securing proper facilities and services for juveniles, but I cannot close without stressing prevention. Individualized school instruction from an early age with outreach from the schools to the home is one of our best hopes for preventing delinquency; truancy has a higher correlation with delinquency than any other social factor. And the schools and the hospitals should be better used to discover flagrantly neglected and deprived children early on, before they are too misshapen to be able to respond to the sun's rays. I once heard the Ohio Commissioner of Welfare say satirically that "A delinquent is a child who is so dumb as to born in a slum of deteriorated parents," and I would add, "whom we are too dumb to rescue in time."

FOOTNOTES

[1] Gagnon v. Scarpelli, 411 U.S. 778. Morissey v. Brewer, 408 U.S. 471, 489; People ex rel. Menechino v. Warden, 27 N. Y. 2d 376.

[2] Morissey, 408 U.S. at p 487.

[3] Menechino, 27 N. Y. 2d at pp. 385–386.

[4] U.S. ex rel. Johnson v. Chairman, N. Y. St. Bd. of Parole, 363 Fed. Supp. 416, 419 (E. D., N. Y. 1974) affd. C. A. 2. June 13, 1974. See also Solari v. Vincent, 77 Misc. 2d 54 (Sup. Ct., Dutchess Cnty) and Cummings v. Ryan, 45 A. D. 2d 415, 417 (3rd Dept.).

[5] Wolff v. McDonnell, U.S. Sup. Ct. dec. June 26, 1974, 42 L. W. 5190.

[6] CPL sec. 400.10. And see CPL 390.40 as to defendant's submission to the court of a pre-sentence memorandum.

[7] CPL 380.50 enacted a new provision that the judge may summarize the factors he considers relevant in imposing sentence; as the Commentary points out, the judge is not required to make a statement.

[8] E. g., Matter of Maurice C., 35 N.Y. 2d 136; Matter of Jeanette P., 34 A. D. 2d 661 (2nd Dept.); Matter of Lloyd. 33 A. D. 2d 385 (1st Dept.); Matter of Benjamin R., 36 A. D. 2d 202 (1st Dept.); Matter of Stanley M., 39 A. D. 2d 746 (2nd Dept.); Matter of Esther W., 44 A. D. 2d 603 (2nd Dept.).

[9] Family Court Act sec. 734. The section applies to a child defined in section 712 as a "Person in Need of Supervision" (PINS) as well as to a juvenile delinquent.

[10] Statistical Report of New York State Family Court for August, 1974, for New York City (mimeo).

[11] The Family Court Act provides that "The probation service may not . . . compel any person to appear at any conference, produce any papers, or visit any place," section 734 (d); see also Fam. Ct. Rule 7.3(c). The term "compel" apparently is construed by the Probation Department to include the coercion of the threat of a petition.

[12] For statement on this viewpoint, see Dembitz, Ferment and Experiment in New York: Juvenile Cases in the New Family Court, 48 Cornell Law Quarterly (1963) 499. 514 at n. 68.

THE STATE OF THE UNION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. MAZZOLI. Mr. Speaker, when the President gave his state of the Union address to Congress, he prefaced his report by saying that "the state of the Union is not good."

That set the tone of his speech. It was a sober, serious discussion of the economic plight of our Republic. President Ford offered a series of proposals he believes will solve the Nation's economic and energy problems.

All but two of the President's suggestions require congressional approval. On his own, the President can decontrol domestic oil prices and can increase by $3 the fee on each barrel of oil imported from abroad.

These two energy programs will cost American consumers billions of dollars. Gasoline prices must inevitably rise—by an expected 10 cents per gallon and maybe even more. The President has also proposed that the Congress agree to decontrol natural gas prices and enact a $2 per barrel tax on domestic oil.

Decontrol means that consumers must pay whatever the market will bear—no watchdog being required to give prior approval—so inevitably the prices will go up to the consumer on everything from gasoline, to plastics, to home heating oil.

My reservations about decontrol are these: First, higher fuel costs may hurt unfairly those of modest incomes. Second, energy companies may not use the increased revenues to produce more energy though encouraging greater energy production is one of the justifications of decontrol. Third, raising domestic fuel prices sets a bad example for oil-producing nations, which we have been pressuring and cajoling to lower their prices. Fourth, higher energy costs worsen inflation however one looks at it.

In my judgment, the fundamental key to our energy problems is 6,000 miles away in the Middle East. Peace in that region constitutes our only real hope for a reliable, uninterrupted oil supply at affordable prices. Yet the President failed to offer any initiatives which might lead to peace in this region.

The President wants to offset higher energy costs and help turn the economy around with a tax reduction. The idea of tax relief has met with general approval in the Congress.

But many Democrats believe that the individual income tax cut must be more heavily weighted to middle and lower income Americans than the President plans. A tax cut such as that Mr. Ford recommends—extending up to $1,000 in cuts for a $40,000 a year family income—would be more acceptable if accompanied by overall tax reform.

Tax reform is long overdue, and a one-time tax cut should not, in my judgment, be an excuse for delaying thorough and meaningful tax reform.

The President's $16 billion break for individuals is linked with corporate tax cuts—notably, a $4 billion increase in the investment tax credit. Many industries need the credit to help them acquire the additional plant and equipment necessary to expand production of goods in short supply.

But, for example, the auto industry has surplus production capacity. It needs markets for its present capacity. So, the investment tax credit should apply only to selected industries, not across the board. The likelihood, in the Democratic 94th Congress, is that the President's individual tax cut will be altered, the investment tax credit passed, and reduced overall corporate taxes rejected by the Congress.

For those who pay no taxes, Mr. Ford proposed $2 billion in direct cash payments. I find this plan sadly inconsistent with the President's plan to cut medical services to the elderly and to raise the purchase price of food stamps. This suggestion would simply take money away from one program and put it in another.

A 1-year moratorium on new spending programs was proposed by the President. I can accept this only as a part of a total effort to hold the line on Federal spending.

The Congress must retain the flexibility to increase or decrease the appropriations level for any program already in existence. And a moratorium—if it is to be more than a high-sounding but hollow effort—must apply to military spending in Southeast Asia and the Mideast.

In conjunction with the spending moratorium, the President proposed a 5-percent ceiling on cost of living increases in many Federal programs, including social security, food stamps, Federal salaries, civil service and military and railroad retirement, and supplemental security income.

This suggestion has not been well received by many Members of Congress. If the incomes of the poor, the elderly, and those living on fixed retirement incomes are subjected to such a ceiling, their modest incomes will be further deteriorated by inflation.

The President proposed to defer for 5 years the scheduled improvements in auto exhaust emission standards. The deferral is likely to be adopted by the Congress, but for a shorter period. Any deferral, intended to improve automobile fuel economy, should be linked to a sliding scale of excise taxes designed to encourage the manufacture of fuel-efficient cars.

Many congressional leaders believe that gasoline rationing is preferable to higher fuel taxes. I do not entirely share their feelings because of the inherent inequities of rationing. But, it may have to be invoked as a last resort.

Overall, the Ford plan is not coordinated. It is not so much a program, but a collection of proposals. The Democratic Congress will accept a few of the President's legislative recommendations, but will undoubtedly generate many original proposals.

UKRAINIAN ANNIVERSARY NOTED

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. NOWAK. Mr. Speaker, this week the 37th anniversary of the proclamation of the independence of Ukraine is being observed by free peoples throughout the world.

As we move forward toward détente, we must not lose sight of existing oppressions, and we must not cease our efforts to correct injustices. I think the following letter from the Buffalo Chapter of the Ukrainian Congress Committee of American, Inc., will be of interest to my colleagues.

JANUARY 15, 1975.

Hon. HENRY NOWAK,
Congress of the United States,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN NOWAK: January 22, 1975, will mark the 57th Anniversary of the Proclamation of the Independence of Ukraine, and the 56th Anniversary of the Act of Union, whereby all Ukrainian ethnographic lands were united into one independent and sovereign state of the Ukrainian people. Both the Independence of Ukraine and the Act of Union were proclaimed in Kiev, capital of Ukraine, on January 22, 1918 and January 22, 1919, respectively.

Unfortunately, the young Ukrainian democratic republic was short-lived, as it was attacked by Communist Russia, even though the Bolsheviks had officially recognized Ukraine as an independent and sovereign state. The same recognition of Ukraine was given by the Central Powers and a number of the states of the *Entente,* including France and Great Britain, which rendered *de facto* recognition to the Ukrainian republic. For over three years, 1917–1920, Ukraine waged a defensive war against Communist Russia, alone and unaided; deprived of all assistance from abroad and overwhelmed by vastly superior forces of Communist Russia, Ukraine succumbed.

But in destroying the Ukrainian National Republic, Moscow did not dare destroy the state structure of Ukraine. It had created a Communist puppet government in Ukraine, to be known as the "Ukrainian Soviet Socialist Republic," which in 1922 was forced into the "Union of Soviet Socialist Republics" (USSR) as an "equal and sovereign state." In 1945, Ukraine became a charter member of the United Nations, along with the USSR and Byelorussia.

Despite the spurious facade of "independence and sovereignty," Ukraine is an outright colony of Communist Russia, as attested to by the Red's 50-year bloody rule over Ukraine, characterized by inhuman persecution, Russification and genocide of the Ukrainian people. Stalin tried to decimate the Ukrainian nation by mass deportations, arrests and executions. This policy was continued under Khrushchev, without mass executions, but through arrests and deportations of Ukrainians to Siberia and other parts of Asia.

Cultural and national repression in Ukraine is relentlessly pursued by the Brezhnev-Kosygin regime. From 1970–1973 the KGB, the Soviet secret police, arrested some 600 Ukrainian intellectuals under suspicion of conducting "anti-Soviet propaganda and agitation," many of whom have been sentenced to serve terms of imprisonment; some of them have been tortured, such as Valentyn Moroz, 39-year-old historian, and Leonid Plyushch, 35-year-old mathematician, both of whom are reported to be driven to insanity and slow death. Mr. Moroz went on a hunger strike on July 1, 1974 in Vladimir Prison, and said that he would die from starvation unless he was transferred to a regular camp. He was fed intravenously, beaten and denied proper medical care. He ended his 20-week hunger strike on November 22, 1974, after Soviet authorities promised to improve his prison conditions. But he has lost much weight and is suffering from kidney and heart ailments.

Both Moroz and Plyushch have become symbols of resistance to tyranny, and they have found defenders all over the world. In our own country a number of U.S. Senators and Congressmen have introduced special resolutions in Congress, requesting President Ford to intervene with the Soviet government for the immediate release of Moroz and Plyushch.

Congressman Nowak, if you have not as yet done so, we urge you to introduce your own resolution, or to join in supporting and cosponsoring the *Flood-Derwinski Resolution* (*H. Con. Res. 649*).

January 22 is the greatest national holiday in Ukraine's modern history, for on that day the Ukrainian people established their national state and regained freedom. Both were lost, but the desire and will of the Ukrainian nation to regain these God-given rights are very much alive today. This the Ukrainian people demonstrated during World War II, when they organized the powerful Ukrainian Insurgent Army (UPA), which waged a liberation struggle against Nazi Germany and Communist Russia at the same time; this they manifest today through their resistance to Communist enslavement and for the defense of human and national rights of the Ukrainian people.

Therefore, we ask you, Sir, to make an appropriate statement in Congress on Ukrainian Independence Day, thus giving your moral support to the brave and gallant people of Ukraine in their struggle for freedom and independence.

Sincerely yours,

WASYL SHARVAN,
President.
MARTA HAWRYLUK,
Secretary.

Today I am introducing two bills which encourage action in this area. One expresses the sense of Congress that the President should take steps to place the question of human rights violations in the Soviet-occupied Ukraine on the agenda of the United Nations Organization, while the other urges the President to use all possible means to obtain the release of Mr. Moroz and Mr. Plyushch. I hope this Congress will enact the legislation.

MAINE LEGISLATURE MEMORIALIZES CONGRESS ON OIL TARIFFS

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. EMERY. Mr. Speaker, the continuing energy crisis has caused great financial hardship and personal inconvenience to the citizens of the United States from coast to coast. We in the State of Maine are particularly hard hit by soaring oil prices. As the Representative of the First District of Maine, I feel that it is important to voice my objections to President Ford's latest energy proposal, especially the proposed $3 tariff on crude oil imports.

A large number of my constituents depend on gasoline to travel to and from work, as well as on fuel oil to heat their homes and cook their food. In my opinion, next to our economic difficulties, there is no greater problem facing the United States today than our energy crisis.

The 107th Maine Legislature on January 16 of this year has passed and forwarded to my office a joint resolution memorializing Congress and the Maine congressional delegation to oppose increased taxes on oil.

It is my hope that President Ford, whom we all know to be a fair and just man, when he examines the great impact that this proposal will have on the State of Maine and the Northeast, will modify his proposal in such a way as to relieve the financial burden that the import tax will impose upon millions of hard working Americans.

The resolution follows:

STATE OF MAINE

JOINT RESOLUTION MEMORIALIZING CONGRESS AND THE MAINE CONGRESSIONAL DELEGATION TO OPPOSE INCREASED TAXES ON OIL

We, your Memorialists, the House of Representatives and Senate of the State of Maine in the One Hundredth and Seventh Legislature, now assembled, most respectfully present and petition your Honorable Body as follows:

Whereas, the United States Congress will soon consider legislation to promote energy conservation; and

Whereas, among these proposals will be a measure proposed by the President to increase the tax on oil by $1 per barrel for 3 months; and

Whereas, the State of Maine is far more dependent on oil as a source of energy than is most of the nation; and

Whereas, approximately 90% of Maine's energy is produced by oil; and

Whereas, Maine uses 48 barrels of oil per capita per year, compared with the national average of 28 barrels per year; and

Whereas, Maine is a predominately rural state with a widely dispersed population which must travel long distances to work, shop and receive health care; and

Whereas, Maine has few urban transit systems and no passenger rail service to utilize in place of the automobile; and

Whereas, most Maine utilities have requested substantial rate increases in recent months while continuing to pass on to the consumer the sixfold increase in the cost of oil by use of the so-called fuel adjustment clause; and

Whereas, oil costs will also increase the cost of other consumer necessities, particularly food, which must be carried into Maine by truck and train; and

Whereas, Maine's unemployment rate has soared past 8% and inflation shows no signs of abating; and

Whereas, Maine's middle and low income people should not be deprived of their right to travel, work and live a normal life because they are not wealthy; and

Whereas, more fair and equitable methods of conserving energy have been proposed than the policy of conservation based on the inability to pay; and

Whereas, among these methods are oil and gasoline rationing, fuel allocation systems and taxes on nonessential uses of energy; now, therefore, be it

Resolved, That We, your Memorialists, respectfully urge the Maine Congressional delegation to oppose efforts to increase the cost of oil in any form and seek ways to conserve energy in a manner which treats all people, regardless of income, equally, and be it further

Resolved, That a copy of this Resolution, duly authenticated by the Secretary of State, be transmitted forthwith by the Secretary of State to the Honorable Gerald R. Ford, President of the United States and to the Members of the United States Congress from the State Maine.

CONSUMER CONTROVERSIES RESOLUTION ACT

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. MOSS. Mr. Speaker, I am today introducing the Consumer Controversies Resolution Act on behalf of myself and Mr. DINGELL, Mr. ECKHARDT, Mr. CORMAN, Mr. BRODHEAD, and Mr. WAXMAN.

For the majority of Americans, redress of grievances is at best a theoretical concept. Mechanisms for resolving disputes involving consumers are largely unavailable or ineffective. Utilization of the courts, and in particular the small claims courts, is in most cases too expensive.

Although the small claims courts were originally geared to provide speedy and inexpensive justice for litigants, their rules and procedures are somewhat complex and their accessibility to consumers is greatly limited. Other devices, such as arbitration and business-sponsored mechanisms, have met with success in most instances, but arbitration remains largely untried and it is fanciful to believe that external business-sponsored forces, like the Better Business Bureau, will cause a retailer, when he believes he is right, to swallow considerable costs in the name of goodwill.

The sorrowful fact is that adequate protections and meaningful remedies are largely not available for the average American consumer. With this in mind we can begin to understand why there is the danger of a loss of faith, on the part of some Americans, in the free enterprise system.

The purpose of the Consumer Controversies Resolution Act is to assure all consumers convenient access to a consumer controversy resolution mechanism which is effective, fair, inexpensive, and expeditious and which will facilitate better representation of consumer interests. It is based on a 2-year study conducted by the National Institute for Consumer Justice which explored the adequacy of existing procedures for resolving disputes arising out of consumer transactions. The institute believes that Congress should assist in encouraging the establishment of effective consumer controversy resolution procedures, and, in particular—

> That Congress should allocate funds for payment to the States to stimulate the establishment and maintenance of effective small claims courts.

We concur with that recommendation.

The legislation which we are introducing would establish a new bureau in the Federal Trade Commission which would administer a program of aid to the States so that they can formulate and effectuate mechanisms for the resolution of consumer disputes. The bill also directs the bureau to conduct experimentation and exploration into ways of better resolving disputes. It is designed to stimulate the reform of the small claims court system and to advance arbitration and business-sponsored self-regulating mechanisms. It is believed that a modest infusion of Federal funds will stimulate those States which have no systems for resolving consumer controversies to develop and effectuate them, and will stimulate those States which have ineffective systems to establish better ones.

American consumers and American business will be the joint beneficiaries of the Consumer Controversies Resolution Act.

WHEN COMPANIES GET TOO BIG TO FAIL

HON. DEL CLAWSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. DEL CLAWSON. Mr. Speaker, the myth that "bigger" is necessarily "better" has been exploded in practice by more than one giant enterprise of recent years, including the biggest of all, the Federal Government. It appears that the time is at hand to weigh the end result of continued subsidy of failure by the Federal Government. The January 27 issue of Business Week contains a commentary on the subject entitled "When Companies Get Too Big To Fail," which I commend to the attention of my colleagues at this point in the RECORD:

IDEAS AND TRENDS—WHEN COMPANIES GET TOO BIG TO FAIL

(By John Cobbs)

In the years before World War I, Germany invested so heavily in battleships that, when the war came, it did not dare let them fight. As the U.S. economy slides deeper into recession, the federal government finds itself in a similar position. The huge U.S. corporations have become such important centers of jobs and incomes that it dare not let one of them shut down or go out of business. It is compelled, therefore, to shape national policy in terms of protecting the great corporations instead of letting the economy make deflationary adjustments.

As many scholars have pointed out, the corporation is the institution that the capitalist nations have chosen to translate rapidly increasing scientific knowledge into jobs, goods, incomes, and consumption. Adolph A. Berle, Jr., lawyer, teacher, businessman, and part-time politician, perhaps said it best in his thoughtful little book *The 20th Century Revolution*, published just over 20 years ago. His theme was that the corporation was doing for the U.S. and other advanced countries what the Russians were trying to achieve with Communism.

Primitive nations such as Russia, said Berle, had to choose Communism as "an instrument by which a vast backward country could be mauled into industrialization." But "the capitalist revolution in which the United States was the leader found apter, more efficient, and more flexible means through collectivizing capital in corporations."

LOSING CONTROL

The past two decades have confirmed Berle's argument that "it is justifiable to consider the American corporation not as a business device but as a social institution in the context of a revolutionary century." In the last five years, however, something has gone badly wrong. Caught in an explosive inflation and wracked by two painful recessions, an increasing number of giant corporations can no longer claim either flexibility or efficiency. They have lost control of their costs, lost their access to capital, misjudged their markets, and diversified into lines of business they do not understand. In desperation they turn to Washington for help, and if they are big enough and shaky enough, they get it. Neither the Administration nor Congress dares allow a major employer to go down the drain—any more than the Kaiser dared to risk one of his expensive battleships.

The mounting number of bailouts—loans, tariffs, import quotas, and tax cuts—blurs the distinction between the capitalist revolution and the Marxist version. A visitor from Mars might see little difference between the government and the ailing corporation it is propping up.

More important, the willingness of the government to shelter a big corporation from the pain of retrenchment takes the flexibility out of the system. A game in which there are no losers puts no premium on good management or good economic policy. This is one reason the U.S. has developed a chronic inflationary bias.

In the days when there were several hundred ambitious auto producers, it did not hurt the economy greatly if a Stutz or a Franklin dropped out. The market could ruthlessly penalize bad judgment, and the system emerged stronger than ever.

There are still industries—electronics is one—where competition can prune out the weak operators and force the strong ones to hustle. But each dropout increases the relative importance of the surviving companies, and in the end, each producer will be so important that its collapse would be an economic disaster.

RESCUE OPERATIONS

When Lockheed Aircraft lost control of its costs and teetered on the edge of bankruptcy, Congress saved it with a $250-million loan guarantee. And when the bankrupt Eastern railroads ran out of cash and threatened to stop running trains, the government bankrolled a federal corporation to take over their essential operations.

And now the auto industry—reduced to three huge companies and one small one—is stuck with acres of 1975 cars that the public does not want. It is following the well-trodden path to Washington. It suggests relaxing emissions and safety requirements, and vigorous stimulation of the economy. Chrysler has called for a cut in income taxes and easier credit for car buyers.

A bad year for autos is a bad year for everyone. But if the government guarantees a no-lose game for autos, it will have to provide some other mechanism by which the economy can correct the mistakes of management and government alike. When a big company brings out a bad product, or when it yields to a powerful union and writes an inflationary wage contract, its management should not end up just as well off as good management. If it does, the economy will have no built-in discipline, no way of confirming good decisions and revising bad ones.

The answer of the dedicated antitrusters is to break up the big companies, but the U.S. probably has gone far beyond the point where that could be done without paralyzing the economy. The real problem, therefore, is to make big corporations more resilient, more capable of correcting mistakes. Ideas for achieving this result are strangely scarce.

Perhaps the trouble is that Berle's forecast was wrong in another respect. "There is solid ground," he said in 1954, "for the expectation that 20 years from now the men of greatest renown in the United States will be the spiritual, philosophical, and intellectual leaders for the sufficient reason that they will be needed more than any other type of men. Society still tends both to produce and to honor the kinds of men it needs most."

He was an optimist.

TRIBUTE TO CONGRESSMAN EDWARD P. BEARD

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ST GERMAIN. Mr. Speaker, on Monday, January 20, my fellow Rhode Islander, EDWARD P. BEARD, celebrated his 35th birthday. Mr. BEARD represents the Second Congressional District after serving 2 years in the Rhode Island General Assembly. The winner of a primary election in September, Mr. BEARD went on to garner 78 percent of the Second District vote in the November general election. The circumstances of Mr. BEARD'S victory were detailed in a feature article in the Providence Journal-Bulletin of December 29, 1974.

In honor of his birthday, I respectfully request the attention of my colleagues to the Journal story, which follows:

MAN OF THE YEAR

(By C. Fraser Smith)

It would be easier, you might say, for a poor man to pass through the eye of a needle than to enter the Kingdom of Congress.

Up-front money for the try averages between $30,000 and $50,000, according to *Congressional Quarterly*. And incumbents go into the contest with an edge of more than $350,000—the value placed on incumbency's emoluments, perquisites and other freebees.

No wonder that even labor-tough workingmen and women from states like Rhode Island have sent the relatively rich and well-educated to represent them in the U.S. Senate. The likes of Theodore Francis Green and Claiborne Pell were not only high rollers but high born as well.

But then, there was John E. Fogarty, the legendary workingman who followed in the trail of Aime Forand to make important contributions to the national health and welfare. Both pioneered in programs like Medicare.

And now comes Eddie Beard, congressman-elect from the state's Second District and perhaps the workingest and poorest congressman of them all. A check of the 435 men and women about to take their seats indicates that Beard is, in fact, the only workingman.

Less than $9,000 smoothed Beard's passage through the needle's eye in his primary campaign against three-term incumbent Robert O. Tiernan. His friend, Joe Cap The Wrecker, formally known as Joseph Capobianco, knocked down houses when wood was needed for campaign signs which Beard's wife, Marsha, made by hand. When the fight was over, Beard had less than $40 in his personal bank account.

Beard has been a workingman since he left Hope High School before finishing one year. While in the Army, he got a high school equivalency certificate and took a course in agriculture because the army, then training him to be a cook, thought he should understand food production from start to finish.

As a younger man, he had thought of becoming a cobbler. His friend Tony Musto, who repaired shoes on Cranston Street just around the corner from his home, was going to be his tutor. But Uncle Sam got in the way. When he was discharged he became a painter, an occupation that took him closer to higher education than he had ever been. He worked for the Rhode Island School of Design until last spring when he took a leave of absence to run for the Congress.

Like many of his constituents, Beard had been a moonlighter before his election to the state House of Representatives in 1972. He painted houses in his spare time, boosting his annual income to the vicinity of $10,000 a year. But after his election, there was no spare time—he spent it all on constituent problems, he says.

Being a state representative was costing Beard money, so he had to get a higher-paying job in Washington. Sometimes, in retrospect, it seems almost that simple. But there were other factors.

Beard's own appeal was great. But he was also the beneficiary of a major split in the heart of the Second District, Providence. He managed to gain the active support of the two major mayoral candidates in the primary, though neither openly supported him. He gained their support by remaining studiously neutral—and because Tiernan had managed to alienate both.

There was also the fabled Beard media magic. "King of the News," they called him at the Newspaper Guild Follies of 1974. Because of his well-covered tours of the Medical Center and his nursing home inspection law, Beard had a stronger image than many who have been in politics in Rhode Island for years. Beard had captured better exposure than money can buy.

On the eve of Beard's election, Louis Harris, the pollster, said a wave of anti-Establishment feeling was going to propel men like Eddie Beard into public office and keep them there for perhaps a decade.

On that same night, one of Senator Pell's aides said Beard was making it because he had made himself an *ad hoc* ombudsman.

"People have the vague, misty feeling that he is going to give them a contact," the aide said. Joe Cap The Wrecker agreed.

"He sets off vi-a-brations in people. He's got those vi-a-brations," Joe says.

You could see it at the Kilmartin Plaza on election night. Beard arrived around 8 p.m. and his mother, Anna, a resident of this housing project for the elderly, was there to meet him at the front door.

Beard made a brief speech, saying he hopes it will be his honor to vote for a national health insurance plan during the next two years. He played the piano and sang *Galway Bay* a cappella. The people, sitting in rows of folding chairs in the 80-degree recreation room, sang with him and laughed when he recalled that he had told his opponent where to get off. Vincent Rotondo, the Republican who was destined to get only 22 percent of the vote, suggested that Beard had been guilty of a crime when he offered a job to a friend. Beard had said Rotondo could go to hell.

Some say Beard cast about for an "issue"—something to make his own. He decided on the elderly, the sick and those who could not speak for themselves. There was calculation in it, but not guile or phony compassion.

"It isn't anything that came along when he got into politics. He has a genuine rapport with older people," says Mrs. Evelyn Clarkson, who lived across from the Beards on Wadsworth Street.

Beard's ability to get his name before the public—as if he were a PR man disguised in painter's overalls—leads some to the conclusion that he is a manipulator of sorts. He does, in fact, recognize his own appeal. After he was elected in November, he returned to his job at the School of Design because the media wanted to take his picture swinging a brush. He manages to remain a bit quaint.

But Beard's success with television and newspaper publicity may rest more squarely in his ability to find shortcomings that an aggressive media should have been finding on its own. It was the same dynamism that swung the legislature. Beard did and demanded what the lawmakers should have been doing and demanding. He visited the state institutions to see how they were operating. Poorly, he thought. He began to say so in front of the television cameras and reporters with note pads—even though he was a Democrat in a Democratic administration.

He invited the media to blast him if he were wrong. They could make their own investigations, couldn't they?

Still, his critics said, he was too shrill. They began to speak of him in sidelong comments, with eyebrows raised, chuckling and calling him a Hitler. He would, they predicted, burn himself out.

On occasion, he offered evidence that they were right. Sometimes his specifics were not specific enough. He charged that an epidemic of pneumonia, brought on by neglect, was killing patients at the state institutions. Later, he had to retract.

But the "vi-a-brations" told people that this man was on their side. They could forgive him for lapses.

Still, even after he was elected there were jokes: Eddie Beard was going to Washington to paint the White House. He was going to paint it red.

Ah, yes, but he was going and the jokers were not. He had come a long way because he had the nerve to try and because he had found a way to draw on the reservoir of barely-contained animosities in this country—for big business; for politicians who are distant, wealthy and perhaps dishonest; for the well-educated bureaucrat who speaks a foreign language and for the opaque, impersonal, infuriating, slipshod and bankrupt institutions. Maybe Beard could not change them. But he could tell them all where to get off. He had proven that.

Beard is not a plastic poor man. He left school because his family needed the money he could earn. He remembers being one of the first recipients of toys from the *Journal-Bulletin* Santa Claus fund.

Going to work, he said, was a given. He had been working for years. With "Mitt," the neighborhood junkman, Beard "pulled ashes out of cellars," collected paper for a dollar a hundred pounds and gathered scrap metal of all kinds. He says he washed every window on Cranston Street from Renee's Beauty Shop to Spike's Restaurant. He also shined shoes in downtown bars.

"He was a great one for carrying bottles back to the store," says Mrs. Clarkson. "One very hot day I remember he couldn't return them in the immediate neighborhood so he went all the way to Parade Street. He was determined to get where he was going. He had integrity. That isn't something you think of in politicians anymore. Perhaps he's been a little brash, but he's gotten there," she says.

His father, who had been stationed in China for many years during a long Army career, died of tuberculosis in 1951. Beard remembers watching the ambulance take him away for the last time. Four months later, his eight-year-old sister, Ann, was drowned. He was with his grandmother when she died in the house at 143 Wadsworth Street, a two-decker with red and green asbestos shingles as siding. There are still gouges in the front made by high-flying hockey pucks fired at a younger Beard who played goal. (There is a thin scar over his right eye to prove it.)

"The people in the West End were real down-to-earth people," he said, "but from a personal point of view there was a lot of tragedy." He said he did not think he could handle going back to explore the inside of the old family house.

His grandfather, he said, taught him that older people have to feel useful.

"He used to sit out there in the back yard pumping a big grinding wheel, sharpening the saw. He was tough with that saw. If you didn't pull it right, if the teeth got caught, he'd raise heck. He was a tough old codger," Beard says.

The A.M.E. Zion Church across from his house was a regular stop on the political tours of the day. Beard remembers Dennis J. Roberts, the former mayor and governor, sitting in his grandmother's parlor having Irish bread and tea. Politics were as much a part of the neighborhood atmosphere as the quarreling between Eddie's grandparents, who came from County Leitrim, and the neighboring McGuire sisters who came from another part of the sod.

Church was and is a major element in Beard's life. His mother cleaned and washed clothes at the rectory. His grandfather used to kneel each time the prayer chimes rang at the church, the Assumption of the Blessed Virgin Mary on Potters Avenue.

Father Dan Trainer, who grew up on Sorrento Street nearby and who now is the Assumption Church administrator, remembers Beard as a moral person. He had standards even then. "I think Eddie will act on principle down there," he said.

The neighborhood folk, he says, are "delighted that one of their own has done what he did."

Count among that number the Slattery sisters (pronounced Slatree), Anna, 86, and Mary, 89. They live over the old variety store, closed since 1956, where Eddie and his pals bought penny candy on the way to and from the Bucklin Street Playground and other haunts.

They assured him recently that they had followed his career in the newspapers, though they had not seen as much of him as in the old days. Except at Mass.

"He always comes over to say hello," says Anna. When her visitors got up to leave, she told the congressman-elect, "Don't do anything I wouldn't do." Beard nodded politely and went on.

Mrs. Clarkson remembers seeing Beard sitting under a big tree in front of Mr. Murphy's garages, thinking. She chuckled at the picture in her mind. A dreamer and brash as well.

But it is a combination of traits that gives off sparks—some of which can be painful to him.

"Eddie's basic problem is that he accepts people too readily. He's fast and he makes mistakes," says a friend. He is loyal and, some say, "innocent" in the sense that he expects others to be as loyal and considerate as he is. Vulnerable is a word that might be used.

Peter K. Rosedale, a local lawyer and politico, took Beard to lunch at the Turk's Head Club and then Beard held his first big, post-election press conference.

The man who some Democrats are hoping has begun his first and last term started badly. All of the Garrahys and McCaffreys and others who think Beard is vulnerable in 1976 must have been giggling as they sat under their own thinking trees and wished the next two years away.

At the press conference, Beard nominated his staff: A virtually unknown school teacher would be his administrative assistant; an unsuccessful mayoral candidate would run his Washington office; there was an accused rapist; a man who had been convicted of disorderly conduct; a senior citizen who had been accused of assault; and a wrecking contractor who had failed, ten years ago, to pay his employment security taxes on time.

"What's going on here?" inquired an incredulous friend. "Is this a Mafia operation? It's like reading the *Boston American*."

Some of these charges were, in fact, dredged up out of the dim past, but they sounded quite serious. And the worst part was that Beard appeared to be caught completely off guard. It turns out that he was advised to run background checks on the men he was about to hire and did not. He had made his own judgment on them and that was all he needed. It was not good judgment. And even writing it off to an excess of loyalty is not enough. Many, particularly political insiders, will judge the man on the way he selects and runs his staff. It seemed likely that there is a limit to the forgiveness factor.

Fortunately, Beard was able to withdraw the appointments pending some sort of investigation. One might argue here that the criminal charges against these men are common enough in the working class world (excluding the rape charge), but they are not nearly so common in political retinues and making the distinction apparently proved painful to Beard, the loyalist.

"My wife says I'm too soft," he had said earlier. These men had been with him when the guys with the well-trimmed nails and the $300-suits were saying he wasn't "fit" for the job. It wasn't in him to say "See ya' later" to all of them.

His theory of representing his district demands able men who can relate to the people.

"I'll have four or five guys in the field, walking in my shoes helping people," he was saying a few days before the disastrous appointment session. "Wouldn't it be nice to have a man in Burrillville? How many times have you heard people say, 'You never see these guys until election time'?

"We will have a situation where Ed Beard can appear in four places at one time. It will be like walking on the water," he said. He was not, then, concerned about the possibility that they might be somewhat watered-down versions of the genuine article.

Then he was off and running toward the University Club in Washington, his temporary digs for the 94th Congress. A local lawyer had suggested it. But what was a guy like Ed Beard doing in a place like the University Club? It seemed a little like finding Claiborne ensconced in a walkup.

Beard is finding that even his choice of lodging is now carefully scrutinized. In Rhode Island he could hide. He was one among 100 state representatives. He could turn the publicity on and off as it suited him. Now he is one of four. It is one of the things that is changing.

On election night, Beard told the residents of Kilmartin Plaza that he couldn't wait to "get right out there and start bitching." And, now that he had the emoluments, perquisites and freebees, perhaps he would have solid homework to use as the basis for his bitching.

He says he will rely on the flourishing relationship he now has with Senator Pell, the only name pol to show up at the Beard election headquarters when the impossible had become a foregone conclusion (the primary being the main event).

"We really get along well," Beard says. "I really believe he likes me and I like him tremendously."

When it was over, Beard and his family went to Florida for a vacation, just like a politician would have done. Beard says he doesn't like the word "politician," but he could be called worse.

There were those who thought he should have been in Rhode Island helping to work out a solution to the strike at the Medical Center. (He had criticized Governor Noel for going to Europe when pressing problems remained unsolved here.) And there were those who thought Eddie should have nailed Noel again when he said the strike, which took at least one life, had not cost the state much at all. Who was going to tell people where to get off if Eddie didn't do it?

Was a new Beard emerging so soon? You couldn't know for sure, any more than you could say whether he would be able to influence affairs in Washington even a little bit. Even those who thought of him as one of nature's noblemen had those concerns.

"It's a new ballgame when he gets to Congress," said Mrs. Clarkson, the woman who lived across the street. "It's a little more sophisticated down there."

It will be a question of balance—how much of the old to retain, how much to abandon. (There were those, for example, who said the staff fiasco was just another case of Beard's failure to do his homework.) But he will have a staff now.

"You give him the ball and he can carry it," says his old friend Jack Smollins. "He's the best ball carrier in the world."

He has carried it, after all, from the cellars of the West End through the needle's eye to the U.S. House of Representatives. It was a perilous passage, guarded by men who were educated and experienced and packaged in ways that Eddie Beard could never be and still be Eddie Beard.

He had a chance to reflect upon his works during the short sojourn in Florida and the meaning of it all came clear to him again, he says, in Disneyland. They had gone through all of the 20-thousand-league adventure trips and then to the Hall of the Presidents:

"Lincoln is sitting down, making a speech about the greatness of the country. There is a circle screen that has tremendous dimension. There is a shot of the Capitol and that's when it all came back to me, the dream. A guy who swung a brush could carry a briefcase and be sworn in on January 3."

JOINT COMMISSIONS WITH FOREIGN COUNTRIES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. HAMILTON. Mr. Speaker, the establishment of joint commissions and working groups with foreign countries became an important instrument of foreign policy in 1974, especially with several states in the Near East and South Asia region.

While it is still unclear what substance will come from these joint ventures, it is apparent that for the next few years they will serve as one focal point of our bilateral ties.

I asked the Department of State to prepare for me some background material on our joint commissions with Egypt, Saudi Arabia, Israel, Jordan, Iran, and India and their work in 1974.

Enclosed are a calendar of meetings held during 1974, organizational charts for the commissions, and summaries of their activities. I hope this information will be of interest to my colleagues. I have asked the Department of State to provide from time to time additional material relating to the work of these commissions involved in the Near East and South Asia.

The letter from the State Department and material submitted follow:

DEPARTMENT OF STATE,
Washington, D.C., December 31, 1974.

Hon. LEE H. HAMILTON,
Chairman, Near East and South Asia Subcommittee, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As a follow-up to our meeting of December 16 dealing specifically with the Indian and Iranian joint commissions, I undertook to provide periodically information on the structure, membership and activities of the several NEA bilateral cabinet-level commissions. I understand that you plan to publish this information from time to time in the *Congressional Record*.

The first installment in response to your request is enclosed. It concentrates on organization and meetings during 1974. Most of the joint commissions have not yet formally met, though their subordinate bodies may have done so. Accordingly, a report on the results of their activities is premature. We expect that all of the joint commissions will have completed one cycle of meetings during the next few months, and we will send a further and fuller report then.

The enclosed information should be considered preliminary. The organizational charts are not final; we are weighing in the light of our early experience what subordinate bodies are requisite.

Sincerely yours,

SIDNEY SOBER,
Acting Assistant Secretary for Near Eastern and South Asian Affairs.

CALENDAR OF MEETINGS OF NEA JOINT COMMISSIONS AND THEIR SUBORDINATE ORGANS, JUNE–DECEMBER 1974

JUNE

June 12, Cairo: U.S.-Egypt Joint Cooperation Commission.

JULY

July 21–23, Riyadh: U.S.-Saudi Arabia Joint Working Group on Industrialization.

July 24–25, Riyadh: U.S.-Saudi Arabia Joint Working Group on Manpower and Education.

AUGUST

August 12–14, Washington: U.S.-Egypt Joint Cooperation Commission and the Joint Working Groups.

August 18, Washington: U.S.-Jordan Joint Commission.

SEPTEMBER

September 4–8, Washington: U.S.-Israel Joint Subcommittees on Capital Investment, Trade, and Raw Materials.

September 14–15, Riyadh: U.S.-Saudi Arabia Joint Working Group on Agriculture.

September 16–17, Riyadh: U.S.-Saudi Arabia Joint Working Group on Science and Technology.

September 17–18, Cairo: U.S.-Egypt Joint Subcommittee on Agriculture.

September 26–28, Washington: U.S.-Saudi Arabia Joint Working Group on Industrialization.

OCTOBER

October 23–29, Jerusalem: U.S.-Israel Joint Subcommittee on Research and Development.

October 24–26, Cairo: U.S.-Egypt Joint Working Group on Cultural Affairs.

October 28–31, Cairo: U.S.-Egypt Joint Working Group on Medical Cooperation.

October 30–November 1, Jerusalem: U.S.-Israel Joint Subcommittees on Capital Investment, Trade, and Raw Materials.

NOVEMBER

November 2, Tehran: U.S.-Iran Joint Commission on Economic Cooperation.

November 3–4, Cairo: U.S.-Egypt Joint Working Group on Technology, Research and Development.

November 3–5, Cairo: U.S.-Egypt Joint Working Group on Economic and Financial Cooperation.

November 10–12, Riyadh: U.S.-Saudi Arabia Joint Commission on Security Cooperation.

November 12, Amman: U.S.-Jordan Joint Commission, meeting of Security Section.

DECEMBER

None.

SAUDI ARABIA

UNITED STATES-SAUDI ARABIA JOINT COMMISSION

Secretary Kissinger, Co-Chairman.

Prince Fahd, Co-Chairman.

Joint Commission on Economic Cooperation

Secretary of the Treasury, Simon.

Minister of State, Aba Al Khayl.

Executive Secretaries, Asst. Sec. Parsky; Dr. Solaim.

Joint Commission on Security Cooperation

Ass't Sec. of Defense for International Security Affairs, Ellsworth.

Vice Minister of Defense, Prince Turki.

Industrialization Working Group

Commerce*, State, Treasury, AID, TVA.

Manpower and Education Working Group

Labor*, HEW, AID, State.

Science and Technology Working Group

National Science Foundation*, State, Interior.

Agriculture Working Group

Agriculture*, Interior-USGS.

Established: June 8, 1974 by Secretary Kissinger and Prince Fahd. Informal meetings during Sec. Simon's July, 1974 visit.

Meetings: Joint Commission on Economic Cooperation: February 1975 (scheduled).

Joint Commission on Security Cooperation: November 10–12, 1974.

Working Groups: Industrialization, July 21-23, 1974; September 26-28, 1974.

Manpower and Education, July 24-25, 1974.

Science and Technology, September 16-17, 1974.

Agriculture, September 14-15, 1974.

EGYPT

U.S.-EGYPT JOINT COOPERATION COMMISSION

Secretary Kissinger—Co-Chairman.

Foreign Minister Fahmy—Co-Chairman.

Working group on economic and financial cooperation

Treasury *, State, AID, Commerce, Agriculture.

Subcommittees—Attached to Working Group on Economic and Financial Cooperation

Investment: Treasury, State, OPIC, Commerce.

Economic Development: AID, State, Treasury, Commerce.

Agriculture: Agriculture, State, AID, Treasury.

Suez Reconstruction: AID, State, Treasury, Commerce.

Trade: Commerce, State, Treasury, AID.

Working group on technology, research and development

State *, AID, NSF, Agriculture, Commerce, AEC, Interior, EPA.

Working group on medical cooperation

HEW *, AID, U.S. Navy, State.

Working group on educational and cultural exchanges

State *, AID, Smithsonian, HEW.

Established: June 14, 1974, in "Principles of Relations and Cooperation Between Egypt and the United States," signed by former President Nixon and President Sadat.

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* Chairman.

Meetings: Joint Cooperation Commission: June 12, 1974 (Cairo); August 13, 1974 (Washington).

Working Groups: Economic and Financial Cooperation, August 13, 1974 (Washington); November 3–5, 1974 (Cairo).

Technology, Research and Development, November 3–4, 1974 (Cairo).

Medical Cooperation, October 28–31, 1974 (Cairo).

Educational and Cultural Exchanges, October 24–26, 1974 (Cairo).

U.S.-JORDAN JOINT COMMISSION

Co-Chairmen: Secretary of State Henry A. Kissinger, Prime Minister Zayd al-Rifa'i.

Members: State (NEA, EB, PM, CU), AID, Commerce, Treasury, Defense, OPIC, USIS.

Economic section

Vice-Chairmen: Administrator of AID, Parker; Crown Prince Hassan.

Security section

Vice-Chairmen: Assistant Secretary of Defense (ISA) Ellsworth; Chief of Staff LTG Ben Shaker.

June 18, 1974: President Nixon and King Hussein agree to establish the Joint Commission in the communique issued at the end of the President's visit to Jordan.

August 18, 1974: First meeting of the Joint Commission in Washington during King Hussein's and Prime Minister Rafa's visit.

Nov. 14, 1974: Security Section of the Joint Commission holds its first meeting in Amman.

Jan. 1975: Economic Section of the Joint Commission holds its first meeting in Amman.

Israel

U.S.-ISRAEL JOINT COMMITTEE FOR INVESTMENT AND TRADE

Secretary Simon, Co-Chairman.

Finance Minister Rabinowitz, Co-Chairman.

Executive Secretary, Asst. Sec. Parsky, Dir. Gen. Agmon.

Subcommittee on Capital Investment

Treasury*, State (EB), Commerce, OPIC.

Subcommittee on Trade

State (EB)*, Commerce, STR, Agriculture, Treasury.

Subcommittee on Raw Materials

State (EB)*, Commerce, Agriculture, Treasury.

Subcommittee on Research and Development

Commerce*, State, NSF, Agriculture.

Established: July 18, 1974, during Secretary Simon's visit to Israel.

Meetings: Joint Committee: January 27–28. 1975 (scheduled).

Subcommittees: Capital Investment, September 4–8, 1974, October 30-November 1, 1974.

Trade, September 4–8, 1974, October 30–November 1, 1974.

Raw Materials, September 4–8, 1974, October 30–November 1, 1974.

Research and Development, October 23–29, 1974.

India

U.S.-INDIA JOINT COMMISSION

Secretary Kissinger, Co-Chairman.

Minister of External Affairs Chavan, Co-Chairman.

Economic and commercial subcommission

State*, Treasury, Agriculture, Commerce, STR, Eximbank.

Scientific and technological subcommission

State*, National Science Foundation, Agriculture, AID (ex-officio), HEW (ex-officio).

Educational and cultural subcommission

Mr. Robert Goheen*, Council on Foundations, Nongovernmental Members, State. HEW.

Established: October 28, 1974, by Secretary Kissinger and Minister of External Affairs Chavan.

Meetings: Joint Commission: March 1975 (scheduled).

Subcommissions: Economic and Commercial, January 20–21, 1975 (Washington) (scheduled).

Scientific and Technological, January 27–29, 1975 (Washington) (scheduled).

Educational and Cultural, February 1–3, 1975 (New Delhi) (scheduled).

Iran

U.S.-IRAN JOINT COMMISSION ON ECONOMIC COOPERATION

Secretary Kissinger, Co-Chairman.

Minister of Finance Ansary, Co-Chairman.

Committee on Agriculture

Agriculture*, State (EB, NEA, OES), NASA, TVA, NSF, Interior, Treasury.

Committee on Science and Education

State (OES)*, NSF, National Bureau of Standards, Other technical agencies.

Committee on Defense and Security

(Under consideration.)

DOD/ISA*, State (NEA, PM, EB), CIA, NSC, Treasury.

Committee on Economic and Financial Affairs

Commerce*, State (EB, NEA), Labor, Treasury, DOD/ISA, OPIC, Interior, Eximbank.

Committee on Nuclear Energy

ERDA*, State (OES, NEA), Nuclear Regulatory Agency.

Committee on Manpower and Technical Cooperation

HEW*, Labor, State (CU, NEA), AID, Commerce, Treasury, USIA.

Established: November 2, 1974, during Secretary Kissinger's visit to Tehran.

Meetings: Joint Commission: November 2, 1974, March 1975 (scheduled).

Committees: : prior to March 1975 (scheduled).

Summary of Joint Commission Activities During 1974

During 1974, the United States established bilateral commissions at the cabinet level with six countries of the Near East and South Asia: Saudi Arabia, Egypt, Jordan, Israel, India, and Iran. The commissions are diverse in character and are tailored to the particular interests and requirements of each partner. In each case, however, the commission demonstrates a mutual desire to develop a special relationship which goes beyond normal diplomatic discourse. With certain of these countries, we have long enjoyed close and friendly ties; we want to strengthen them. With other countries, we want to move to a new relationship of greater amity and greater maturity. We intend under these commissions to encourage connections between all elements of our society and theirs, while broadening cooperation in such fields as cultural exchange, economic and social development, and science and technology.

SAUDI ARABIA

The joint statement of June 8, 1974 (attached), establishing two bilateral commissions discusses the aims of the two governments. Under the Joint Commission on Economic Cooperation several dozen technical experts have gone to Saudi Arabia to assess the situation, investigate areas in which economic cooperation would be useful, and discuss possible programs with the Saudi Government. The joint working groups established under the commission have all met at least once to examine the same questions on a broad basis. Both governments are now reviewing the experience gained during the past six months and digesting the reports of individual experts and teams. A preparatory meeting will take place January 5–6, 1975, in Riyadh to review developments jointly, and lay the groundwork for the first meeting of the Joint Commission in February. It is expected that technical advice provided by the U.S. Government to the Saudi Arabian Government will be on a fully reimbursable basis.

The Joint Commission on Security Cooperation formalizes a long-standing, continuing relationship. The Joint Commission held a successful meeting November 10–12, 1974, in Riyadh, which was promptly followed by a visit to Washington by Prince Turki, Deputy Minister of Defense and Aviation and Saudi co-chairman of the Joint Commission. During his visit Prince Turki conferred with high Administration officials and key Congressional leaders.

EGYPT

The texts of the joint communiques of June 14 and August 19, 1974 (both attached) discuss in considerable detail the work program of the Joint Commission and the aims of the two governments. The results of the Joint Commission meetings held in June and August were reviewed in these communiques. Passage of the Foreign Assistance Act in December 1974 provides the basis for funding a number of the activities planned under the auspices of the Joint Commission. The clearance of obstructions to navigation in the Suez Canal, which was completed in December, was the necessary preliminary to reconstructing the economic life of the canal area. Part of our aid will go for this purpose, and help to support the growth of peace in the Middle East.

JORDAN

The Joint Commission has formalized and consolidated the close cooperation which has characterized U.S.-Jordanian relations. Both security and economic considerations fall within the scope of the Joint Commission's responsibilities. We do not expect the Joint Commission to change the character of our relations, but it will strengthen them along the existing lines.

ISRAEL

The subcommittees formed under the auspices of the Joint Committee all have an economic orientation, and have each met once or twice during the past few months. The work of the subcommittees shares a common aim; to broaden to the private sector already close U.S.-Israel economic relations. The first meeting of the Joint Committee is scheduled to be held January 27–28, 1975, in Washington.

INDIA

The text of the October 28, 1974 agreement establishing the U.S.-India Joint Commission discusses the purposes of the two governments. Meetings are expected to be held as follows:

January 20–21, Washington: Economic and Commercial Subcommission.

January 27–29, Washington: Scientific and Technological Subcommission.

February 3–5, New Delhi: Educational and Cultural Subcommission.

March, Washington: Joint Commission meeting.

IRAN

Through the Joint Commission we seek to enter into a partnership of equals across a broad spectrum of activities. It is expected that technical assistance provided by the United States Government to Iran under the auspices of the Joint Commission will be on a fully reimbursable basis. The five or more committees formed under the Joint Commission are expected to hold their first meetings during January and February, looking toward a meeting of the Joint Commission in March.

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*Chairman.

SEEKS INFORMATION ON MISSING IN ACTION

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. GONZALEZ. Mr. Speaker, today I am introducing a resolution, passed by both the House and Senate in the last Congress but never enacted into law, that would help alleviate the tragic situation surrounding our men missing in action from the Vietnam conflict.

This resolution calls for new efforts by the Government through appropriate diplomatic and international channels to persuade the Government of the so-called Democratic Republic of Vietnam, the so-called Provisional Revolutionary Government of Vietnam, and the so-called Lao Patriotic Front to comply with their obligations with respect to personnel captured or killed during the Vietnam conflict, and that additional efforts should be made to obtain cooperation and assistance in inspecting crash sites and other locations where personnel may have been lost.

It also calls for action by the U.S. Government to do everything it can to bring about reciprocal actions by the parties to the peace agreements, and to bring an end to the abhorrent conduct of the Government of the so-called Democratic Republic of Vietnam, the so-called Provisional Revolutionary Government of Vietnam, and the so-called Lao Patriotic Front regarding our men missing in action.

And it declares Congress support and sympathy for the families and loved ones of the Americans missing in action.

We are no longer debating the question of whether we should or should not have sent troops to Vietnam; that time is past. However, I do wish to argue that the American people whose loved ones have not returned from this conflict have a right to know their whereabouts, and Congress must do everything possible to see that they receive definitive information regarding the MIA's.

On January 27, 1973, the United States signed the Paris Peace Conference Agreement, and at that time almost 2,000 Americans were missing in action or being held as prisoners of war in Southeast Asia.

Today, nearly 2 years later, well over half of these men are still missing and there has been no information of any kind concerning their fate.

We now have a situation in our country where parents, wives, and children continue to ask themselves if it is possible that any of their missing men are still alive. This question continues to plague many of them since there are discrepancies that exist with respect to men whom we know were captured but who are neither released nor accounted for.

It is time that we step up our attempts to assure that everything possible is being done by this country to ease the burden of those families who continue to live in the agony of not knowing the fate of their husbands, sons, and fathers.

I strongly urge my colleagues to support this resolution so that families and friends of our MIA's will continue to believe in our Government's determined efforts in behalf of their loved ones.

GILMAN SEEKS LONG-TERM DISASTER ASSISTANCE FOR FARMERS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. GILMAN. Mr. Speaker, today I am introducing a bill which provides long-term financial assistance for farmers who are confronted with substantial real estate and chattel indebtedness as a result of a natural disaster.

This disaster legislation also provides authority for 1-year crop production loans to enable our farmers to increase their production and to return to profit-making operation.

This legislation addresses itself to a nationwide problem. In my congressional district, the mid-Hudson region of New York State, Hurricane Agnes in June 1972, dealt a severe blow to our small family and corporate farms from which many have not yet recovered.

Another blow is about to be struck.

After the Hurricane Agnes disaster, only short-term production loans were made to our farmers by the Farmers' Home Administration because existing regulations barred long-term financing where a farmer's real estate indebtedness exceeded $300,000. Considering today's high land values, it is obvious that any fair-sized farm is likely to sustain damage and destruction far in excess of $300,000 in a major disaster. This ill-conceived, arbitrary limitation prevented our region's larger farms from securing adequate long-term financing. Farmers throughout the Nation face similar problems.

It was recognized, at the time of these short-term loans, that recovery from the disaster would depend upon our farmers' enjoying optimum harvests and securing renewals of their loans from FHA—renewals which, if necessary, FHA pledged to make each year for up to 5 years.

However, the FHA—Administrator Frank B. Elliott—wrote me in February 1974, that:

> Based on the Department's interpretations of Sections 4 and 10 of Public Law 93-237, which became law on January 2, 1974, FHA will no longer have authority for making subsequent emergency loans after the 1974 crop year.

As a result, our farmers who were just beginning to emerge from the 1972 Agnes disaster, are facing disaster anew.

We must help them. America grew strong and powerful on the strength of her agricultural community. They have never failed us and we must not fail them now, in their hour of need.

Our farmers are facing a double bind. Rising costs of production, coupled with dropping farm prices and lower revenues, are threatening many farms with economic extinction, not even considering the devastating impact of the necessity of the FHA's demand for paying off all farm indebtedness immediately.

This bill provides long-term refinancing assistance to farmers, ranchers, oyster planters, and agricultural corporations and partnerships up to a maximum of $5 million. The proposed period of repayment is 7 years for any loan secured by any interest in personal property, and 40 years for any loan secured by an interest in real property. It also authorizes 1-year crop production loans. The interest rate on these loans shall not exceed 5 percent.

This legislation represents a commitment by our Nation to prevent bankruptcy for farmers who have been inflicted with severe financial losses as a result of a natural disaster. This type of emergency loan program provides significant assistance for the survival of our farmers without imposing any fiscal strain on the budget.

In an era when world food demands are rising inexorably, productive farms are an asset too valuable to waste.

A GASOLINE TAX

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. FRASER. Mr. Speaker, I hope that my colleagues will join me in sponsoring H.R. 1608, the Tax Relief and Energy Conservation Tax Act, which I introduced last week in order to provide a stimulus to our lagging economy and to cut back on oil imports. This legislation would:

First, boost consumer purchasing power by lightening the tax burden of low and moderate income people, and

Second, reduce oil consumption by taxing gasoline an additional 20 cents a gallon.

The 20-cent tax would be refunded to low and moderate income people. Special provisions would be made for car-based businesses and for workers who have to commute unusually long distances. Details of the proposal appear in the CONGRESSIONAL RECORD of January 16, pages 477–478.

A gasoline tax has decided advantages over the President's plan to tax crude oil. The reverberations of a gas tax can be dealt with directly, through rebates such as I have proposed; whereas the inflationary impact of a price increase for all oil products could prove an economic disaster.

Furthermore, a gasoline tax is the most effective way we have of assuring a changeover to smaller, more efficient cars, a move that offers a solution to both our oil-supply and transport problems.

In an article in the January 19 edition of the Washington Post Robert J. Samuelson writes that:

> Clear government policy to restrict gasoline use, especially an increase in the gasoline tax, would create demand for small cars by giving them a significant advantage in operating economies over bigger cars.

Mr. Samuelson characterizes the President's energy program as "soft on the automobile." He fears that this program, based on the President's concern for the near-term health of the auto industry, could imperil the long-term health of the Nation. "In an energy-short world," Mr. Samuelson concludes, "who can doubt that keeping factories running is a more vital use for fuel than feeding greedy cars?"

I include in the RECORD at this point the text of Mr. Samuelson's article:

AUTOS AND FUEL: POSTPONING THE INEVITABLE

(By Robert J. Samuelson)

The last week has provided eloquent testimony to the national reluctance to come to terms with the enormous energy appetite of the automobile.

Contrary to the widespread public impression, President Ford's major energy proposal—his complicated tax and tariff on crude oil, which will raise gasoline prices an estimated 10 cents a gallon—is soft on both the auto industry and the average American driver. Other fuel prices will rise much more in percentage terms.

Rejecting a stiff (probably 30- to 40-cent) increase in the gasoline tax may have been the President's most fateful energy decision. It relieved pressure on the auto industry to break radically with its past: to produce a basic, simple, fuel-efficient car. Shorn of many of today's common accessories, that car would give good fuel mileage but less power and comfort than current automobiles. It would be intended primarily for transportation, not ego gratification, sex appeal, or even driving pleasure.

Like it or not, such a car is probably inevitable, and it is a good bet that a big increase in the gasoline tax—coupled with stiff increases mandated for later years—would have forced the public and the auto industry to accept the inevitable. Postponing it only risks crippling the nation's energy policy. Any program that fails to quench the fuel thirst of American cars—automobiles consume more than one-third of U.S. oil—invites ultimate failure.

That this simple logic has no political appeal is obvious, but, unfortunately, there is a more fundamental problem handcuffing the White House and Congress. Because the auto industry's collapse lies at the heart of the current recession, the more the government makes fuel efficiency an obsession, the more it risks driving the consumer away from today's big cars—in short, prolonging the industry's stagnation and high unemployment A genuine dilemma exists here. The President's response (and Congress', too) is to try to solve both the energy and economic problems simultaneously, but the sad irony is that attempting this feat may end up making both problems worse, not better.

A MODEST GOAL

It is easy to see what has been sacrificed on energy. The administration, tugged between its desire to stimulate economic recovery and its long-term objective of reducing fuel consumption, the administration attempted to reconcile the twin goals by negotiating directly with the auto manufacturers. The White House's target of improving gasoline consumption of new cars 40 per cent by 1980 sounds impressive, but there is less to it than meets the eye.

First, the auto manufacturers gave no ironclad guarantee that they would actually achieve that goal, and even if they do, it would still mean an average of only 18.7 miles a gallon for the Big Three manufacturers. That's not light years ahead of 1950's average of 15 miles a gallon and it's well below that many other auto makers achieve today. Indeed, the other manufacturers (American Motors and importers) pledged to raise fuel consumption to an average of 24 to 25 miles a gallon, resulting in an overall 1980 target of 19.6 miles a gallon.

Part of the reason for the modest increase is the way the Big Three apparently plan to achieve their improvement. According to Raymond E. Goodson, chief scientist of the Department of Transportation, who has seen Detroit's tentative ideas to meet the 1980 target, the Big Three anticipate no dramatic shift to smaller cars; they hope to achieve much of the gain in fuel efficiency by internal engine changes and reductions in the weight of current cars. Goodson says that there might be a 5 per cent to 7 per cent shift to smaller cars, but that basically the manufacturers foresee a sales mix "not too much different from 1974."

The consequences for overall oil consumption in delaying a shift to smaller cars would be felt primarily in the late 1970s and early 1980s. Because there are already more than 100 million cars on the road—and more drivers and cars every year—even a dramatic improvement in new-car fuel efficiency only gradually cuts into total gasoline consumption. The longer the government hesitates in inducing this maximum improvement, the more difficult it makes the future job of managing fuel shortages. The extent of such shortages, of course, is a matter of conjecture, but the instability of the Mideast, the high price of oil and the current economic slowdown—if the economy picks up, so will the demand for fuel—would make a betting man wary of being too optimistic.

All this is understandable, but what is more murky is how an effort to protect the auto industry (by avoiding a huge increase in the gasoline tax) could actually end up hurting it. With thousands of unsold large cars sitting in parking lots, a large rise in the gasoline tax seems nothing more than an act of economic madness, making the bigger cars still more unattractive. On the other hand, the relatively mild treatment of gasoline prices in the energy package, combined with the proposed tax cut, seem a straightforward and understandable strategy to revive the auto industry from its disastrous slumber.

Perhaps the strategy will work, but if it does, the cure may turn out to be only temporary, simply foreshadowing another downturn in car sales later. The reason is the peculiar nature of the current slump, which was unpredicted by auto executives and most economists alike.

THE UNCERTAIN BUYERS

It isn't difficult to sympathize with the auto executives' current confusion and agony. Most standard cars aren't selling well, which isn't surprising, but—contrary to what many of the industry's critics predicted—the smaller cars aren't booming either. The industry's conventional explanations for this (inflation, recession, and federally mandated safety and pollution costs) really don't fully account for the severity of the downturn. The added element is simple uncertainty. Many buyers obviously can't quite resign themselves to paying the higher prices on smaller cars and getting less power, less comfort and less status. But neither are they willing to pay still higher prices for bigger cars without assurances that the cheap gasoline demanded by those cars will be available.

By rejecting both rationing and a stiff gasoline tax, the White House is attempting to dispel this uncertainty. It is also attempting the impossible. As long as fuel shortages remain live possibilities—and that's the foreseeable future—then both rationing and a big excise tax increase will remain on the shelf of likely solutions. Torn now between past preferences and current uncertainty, buyers will remain vulnerable to future attacks of the same paralysis. The auto industry will continue to cling to the illusion that it can accommodate to the new energy reality simply by slimming down its current cars and tinkering with the innards.

"They're scared that Americans simply won't buy small cars no matter how hard they market them," says one government official. But if a new energy crunch comes, the industry is likely to be caught out of step again and the disastrous experience of the past year may simply repeat itself: Buyers will desert larger cars (which will still have relatively poor gas mileage) in droves, causing auto layoffs and assuring that an energy crisis automatically becomes an economic crisis.

What the auto makers desperately need is an end to the current uncertainty that would permit them to gear up—as rapidly as possible—to produce cars for which there is a relatively long-term, assured demand. The only way to create such a climate is for the President to indicate decisively that fuel-inefficient cars—including conventional large cars, even slimmed down—are a luxury that an energy-short America can no longer afford. To do that requires not only tough, clear language, but also the tough, clear action of either a gasoline tax or rationing. Such action, especially an increase in the gasoline tax, would create demand for small cars by giving them a significant advantage in operating economies over bigger cars. As long as new car prices continue increasing and gasoline prices don't, many owners of existing cars won't be tempted to trade in their current models.

NO QUICK RELIEF

None of this, however, necessarily promises any quick relief for the auto industry. Even if they wanted to, the auto makers couldn't shift instantly to full production of smaller cars. Expensive new tooling simply doesn't materialize from thin air; there are two-year to three-year lead times, and the tooling industry itself has limited capacity to produce new equipment. Moreover, the car manufacturers have enormous investment in existing plants and equipment designed to build larger models. A radical change to smaller cars would make obsolete much of this investment; indeed, in its negotiations with the manufacturers, the Department of Transportation appears to have avoided insisting on a maximum conversion.

Faced with all these realities and the further reality of Detroit's bulging parking lots, the President proposed his complicated plan for a tax and tariff on crude oil.

That the plan is soft on the automobile may come as a surprise to most consumers, but a close examination of the intricacies of oil pricing shows that this is so. Such an examination begins with the byzantine pricing structure of crude oil. Rather than one price of oil in America today, there are three: imported oil, which reaches American shores at about $12 a barrel; so called "new" U.S. crude, which is not covered by price controls and sells for about $11; and "old" U.S. crude, whose price is controlled by the government at $5.25 a barrel. The Ford proposal is to end price controls on the "old" oil (which presumably would raise its price to about $11 a barrel, too), then slap a $2 excise tax on U.S. crude and a $2 tariff on imported oil. (The tariff would initially be set at $3 but would be reduced once Congress gives the President authority to impose the excise tax on domestic crude). The final price of all oil would be about $13 to $14 a barrel, about a 50 percent increase from today's average of about $9.

What matters to consumers, of course, is the final price they pay. Here the arithmetic is crucial.

For a variety of reasons, a gallon of gasoline has traditionally cost more than a gallon of most other oil fuels (the reasons include the existing state and federal excise taxes on gasoline and the extra refining and marketing costs for gasoline). This means that passing through the increase in crude oil prices to final fuel products on a roughly equal basis—

the same penny increase on each gallon of fuel—results in a lower percentage increase for gasoline than for most other fuels. The following table shows this (there are 42 gallons in a barrel, meaning a $4.50 increase in a barrel of oil adds 10 cents to every gallon of fuel):

Fuel (per gallon)	Current price (cents)	New price (cents)	Percent increase
Gasoline	52.0	62.0	19.2
Home heating oil	35.6	45.6	28.0
Jet fuel	23.6	33.6	42.3
Diesel fuel	49.6	59.6	20.0

The same arithmetic means that gasoline prices have risen less significantly over the last 18 months than other fuel prices. Since mid-1973, for example, gasoline prices have increased about 37 per cent, but diesel fuel is up 49 per cent, home heating oil 66 per cent, aviation fuel 100 per cent and residual fuel oil (burned by electric utilities and factories) 143 per cent. Most of these increases, of course, are less visible to consumers than rises in gasoline prices—which may be one reason why the President found his tariff-tax proposal so attractive—but they affect the price of almost everything.

The sad thing is that, in trying to avoid the unpleasant shock effect of a large increase in the gasoline tax, the President evolved an alternative policy whose economic impact seems much worse. Given the huge increases that have occurred in most other fuels, common sense suggests that most businesses—and many consumers—have already eliminated the most obvious and least painless forms of energy waste.

Thus, higher prices now will increasingly cause businesses either to increase their own prices or to save fuel simply by cutting back production. The White House estimates that the policy may add 2 per cent to consumer prices. Combined with previous estimates of a 1975 inflation rate of 6 per cent to 9 per cent, this additional increase virtually eliminates any chance of a meaningful reduction in inflation—a decline that administration economists repeatedly have cited as a prerequisite to restoring consumer confidence and leading a sound economic recovery.

Little reliable information exists about how consumers will react to price increases, but common sense suggests that curbing unnecessary driving may have been a less painful and inflationary alternative. If the economy revives, it can only increase the demand for fuel, either causing new shortages or threatening the President's objective of reducing imports.

Likewise, increasing the price of all domestic oil so sharply seems a strange way of convincing the international oil producers that their prices are too high. It tempts them to make further increases of their own. The fact that the President's policy actually treats the automobile relatively mildly will not be lost on foreign officials of both exporting and consuming nations. The chance of enhancing the United States international bargaining position (or at least its moral position) by dealing realistically with the auto—which is seen widely as the most conspicuous example of U.S. energy extravagance—will be lost.

The inability to come to terms with the enormous energy appetite of the auto is not only a quirk of the President's. There has hardly been an outpouring of congressional sentiment for the unpopular steps that might reorient the American consumer and the auto industry. Platitudes about mass transit sound fine but, given America's suburban and rural geography, even the most ambitious transit schemes can relieve only a tiny part of the transportation burden from the car. In an energy-short world, who can doubt that keeping factories running is a more vital use for fuel than feeding greedy cars? That seems a simple truth, but, if so, it's one that Americans are having difficulty seeing and accepting.

WORKERS IN PERIL

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. OBEY. Mr. Speaker, no one knows the exact number of Americans who lose their lives each year as a result of diseases they developed from working in unhealthy surroundings. Some of these diseases may take 20 or 30 years to develop and in many cases they are the result of a combination of factors rather than exposure to a particular chemical. The excessive number of deaths from certain diseases among workers in particular professions, however, has given some indication that the number of Americans who lose their lives from occupational disease may be in excess of 100,000 each year.

The following article, the third in a series from the Washington Post, examines the possible magnitude of the occupational health problem:

[From the Washington Post, Jan. 4, 1975]

100,000 MAY DIE FROM JOB ILLNESSES

(By Douglas Watson)

The two federal agencies with primary responsibility for safeguarding the health of American workers disagree sharply on how many deaths are caused each year by occupational illnesses.

As many as 100,000 Americans may die each year from conditions they are exposed to in their jobs, the National Institute for Occupational Safety and Health (NIOSH) says.

However, the Occupational Safety and Health Administration (OSHA), which establishes and enforces federal safety and health standards after receiving recommendations from the national institute, says that in its first annual survey there were reports of only 330 people dying from illnesses incurred from working conditions.

While standing by their own respective figures, officials in both agencies agree that no one really knows how many Americans are dying or becoming ill each year from occupational diseases.

OSHA says that only six of every reported 100 work-caused fatalities resulted from an illness. The other 94 percent involve on-the-job accidents. However, that may only indicate that accidents generally are reported, while work-related illnesses that quietly sicken unsuspecting workers often aren't.

NIOSH estimates that 390,000 Americans each year develop new occupational illnesses, while OSHA says that in its first national survey it received reports of 255,144 workers in industries other than mining and farming who contracted occupational illnesses.

Who has an occupational illness? A worker who felt sluggish and irritable and was told by his doctor he had arthritis? Bricklayers who often suffer severe sunburns after working in tar and brick dust?

The point is that often nobody really knows what constitutes occupational illness, and few except the workers who are ill really care. Sick employees must prove an illness is work-caused in order to obtain just compensation. Often the employees are the least able to find out what is weakening or killing them.

Here are two examples of what might be occupational illnesses from Bethelehem Steel's Sparrows Point complex near Baltimore, which with 22,000 employees is Maryland's largest private employer.

Herman B. Davis, 60, worked steadily as a Sparrows Point steelworker for 33 years until last April 27 when what he had thought was an arthritic condition suddenly worsened. "It started in my hip. It hit me in the evening in the middle of my shift. I had to drag myself to my car," recalled the 6-foot-2, 215-pound Davis.

He wasn't suffering from a typical case of arthritis, but from a higher than normal level of lead in his system.

For 29 years Davis worked in the galvanizing department of Sparrows Point's rod and wire mill where wire is run continuously through a bath of lead heated to 1,500 degrees Fahrenheit.

Several months before Davis' illness became obvious. United Steelworkers Local 2609 became concerned about lead exposure in the galvanizing department and asked Dr. Edward P. Radford, a professor of environmental medicine at Johns Hopkins University, to examine the work site and employees.

Dr. Radford took blood samples from 15 workers and said in a report sent to Bethlehem Steel on Feb. 15, "Seven of the 15 workers showed definite evidence of occupational exposure to lead, that is, blood levels about 40 micrograms per 100 cubic centimeters . . . There is no question that there has been significant lead exposure in this operation . . ."

The company agreed to follow-up study of lead levels in galvanizing department workers. Finally, on June 27, it reported, "Four employees who were assigned as reelers were found to have blood lead values above 80 micrograms per 100 cubic centimeters. This level has been determined to be the maximum allowable industrial exposure."

The company and its critics disagreed over what constituted too much lead, the oldest recognized industrial poison that can enter and accumulate in the body through inhalation, ingestion or absorption through the skin.

The National Institute for Occupational Safety and Health (NIOSH) says an 80 microgram lead level in the blood is the point "posing a risk of lead poisoning," thus supporting the company's position.

However, other medical experts agree with Dr. Radford that lead exposures of more than 40 micrograms can be hazardous, including Dr. David Rall, director of the National Institute for Environmental Health Sciences.

Davis was one of the four workers found to have blood levels above 80 micrograms.

The effects of a high lead level may go unnoticed for years but can result in hardening of the arteries, kidney disease and death. Those suffering from lead poisoning often seem anemic, irritable, have headaches and generally feel weak.

Davis, who grew up on a south Virginia farm but now lives with his wife and two children in an attractive West Baltimore rowhouse, had been complaining like other men in his department of headaches and nausea. He often felt too sick to eat his lunch and though he said he was normally a mild-mannered man, he had become very irritable at home.

Now, having been away from the galvanizing department for eight months, Davis said he feels better but continues to suffer from an arthritic-like condition that keeps his left ankle swollen and brings pain to his joints, fingers and shoulders. Davis is being treated by a specialist. This specialist has said Davis is not well enough to go back to work at the mill.

Davis' company health benefits, set by contract at $104 a week for a specified time, have run past that time and are now at $33.37

a week, leaving the family relying heavily on Mr. Davis' pay check.

Last spring Bethlehem Steel officials said the lead hazard in the galvanizing department had been eliminated. However, Rachel Scott, then a Baltimore Sun reporter who has written a book on occupational health hazards called "Muscle and Blood," shortly afterward toured the mill.

"Suddenly I noticed there was a lot of white 'snow' floating down from the ceiling," Miss Scott recently recalled. The company's industrial hygienist disagreed at the time that the falling dust contained lead, but analysis by a state laboratory done at Miss Scott's urging, found it contained more than 50 per cent lead.

A company spokesman then said the lead exposure was only temporary, caused by construction under way to improve conditions. However, veteran workers there disagreed.

"The lead condition existed there for the last 20 years," said Davis.

Bethlehem Steel has cleaned the mill and agreed to annual check-ups for galvanizing department through urine tests. Dr. Radford said that blood tests also should be given routinely to check the workers' lead levels.

Carroll Filliaux, like a lot of his fellow 150 bricklayers at Sparrows Point, has been badly burned upon going out into the sun after working with tar-impregnated chrome bricks.

The bricklayers at Sparrows Point regularly reline the mill's many furnaces with bricks, which are subsequently burnt away by the intense heat of steel production.

The furnaces are several stories high with the only exit at the top. Ventilation hoses are used to pump fresh air into the furnaces and to pump brick dust away from the working men, but two bricklayers said much of the dust tends to hang in the air.

The tar-impregnated chrome brick is used to reline the mill's two huge basic oxygen furnaces, which can produce as much steel in 35 minutes as older furnaces do in eight hours.

When working in the basic oxygen furnaces, the bricklayers said, their sweaty skin absorbs some of the tar in the fumes. Al Rush, a bricklayer and union representative, said the burns occur when the bricklayers go out in the sunlight, which apparently sets off a reaction from the absorbed tar that some say results in severe sunburns.

Filliaux, chairman of United Steelworkers Local 2510's safety and health committee, said: "'You're going to get one hell of a burn when you go out the next day into the sunshine. You'll lose a couple of days of work: We're having guys go to the dispensary all the time with burns, and I mean all the time."

The burns go away, he said, but "what the guys are really concerned about is what may be going on inside" them as a result of the dust they must breathe on the job.

When asked about the workers who said they had worked-caused illnesses, a Bethlehem Steel spokesman said, "The medical records available to us do not indicate that these individuals are suffering from work-related illnesses."

Daniel Doherty, chairman of the Maryland Workmen's Compensation Commission, said almost all of the thousands of employees throughout the state who apply for Workmen's compensation benefits are victims of on-the-job accidents, not occupational illnesses.

The Maryland workmen's compensation law says that except in the cases of "silicosis, asbestos or other pulmonary dust disease," employers are not liable for compensation to their workers unless it is shown "to a reasonable degree of certainty" that the illness was caused by the working conditions.

Al Hall, chairman of the workmen's compensation committee of United Steelworkers Local 2609, said, "I think there are many illnesses that are job-related, but companies don't admit liability to these things. You have to prove it medically." Few ill steelworkers even try.

Rep. David R. Obey (D-Wis.) in a recent speech to the Society for Occupational and Environmental Health, listed some possible indicators of the occupational illness threat:

Certain groups of employees, such as the steel industry's coke oven workers, are contracting some diseases at rates many times that of the general population.

Development of new industrial chemicals has occurred so rapidly that little is known about the toxicity of many.

The long latency period of 20 to 30 years between the first exposure to a dangerous chemical and the occurrence of irreversible disease means that it may be several decades before we have a true understanding of what those chemicals have done to the nation's health.

"A steady increasing percentage of Americans of all ages of both sexes—those who don't smoke as well as those who do—are dying of lung, liver, and bladder cancer."

"Perhaps 80 to 90 percent of those cancers are induced by environmental factors."

"Certain nonmalignant diseases of human organs most directly affected by environmental impurities are killing more Americans each year."

Obey told the gathering of health experts, "Many of the people I represent have probably seen front-page headlines tentatively linking hazard 'X' or chemical 'Y' with cancer, but they see them as isolated incidences, not part of the whole. The public does not see the potential overall meaning of the chemical problem."

The Wisconsin congressman said there will be no problem getting funding for occupational health research, as there is now, "Once printers become fully aware of the cancer respiratory disease hazards posed by benzene polychlorinated biphenyls; once machinists understand the possible link between cancer of the scrotum and various cutting oils; once beauticians begin to realize that the unusual incidence of malignancies in their profession may be linked to their unusually heavy exposure to a number of potentially dangerous untested chemicals, and once Americans begin to understand the pattern of it all."

FELLOW ST. LOUISAN ELECTED AS BOARD CHAIRMAN OF NAACP

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. CLAY. Mr. Speaker, it comes with great pride and pleasure that a fellow St. Louisan and personal friend was elected to the high post of chairman of the National Association for the Advancement of Colored People, Margaret Bush Wilson has achieved a victory in being chosen the first black woman to assume leadership of this organization with a membership of 440,000. At a news conference in which the announcement was made, Mrs. Wilson said:

> I assume they elected me because I'm competent and professional. My sex and my race are accidents of my birth. I take them for granted.

As one who came up from the ranks, she is indeed very competent and well qualified to hold this new position. Mrs. Wilson knows the organization she is about to head from first-hand experience. She has served as President of the St. Louis NAACP chapter, State President for 4 years, and has been on the national board for the past several years. On the local level back in 1964 she actively worked in a reform movement in the St. Louis NAACP to bring about civil rights breakthroughs for minorities.

As a prominent St. Louis attorney, Margaret has served as acting director of the city's model cities agency becoming a housing specialist. On the State level she was chosen by the Governor to the Missouri Law Enforcement Assistance Council last year. She was one of 3 St. Louisans named to the 10 member Council on Criminal Justice.

Her brilliant mind combined with her activist nature makes her the most articulate and forceful person to accomplish the task that now confronts her. With her youthful outlook, I know she will provide the NAACP with outstanding leadership in these critical times.

PLO AT THE U.N.: A "CAPITULATION TO TERRORISM"

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. ROSENTHAL. Mr. Speaker, most Americans felt a sense of outrage over the treatment recently afforded the Palestine Liberation Organization at the United Nations.

The General Assembly votes on the creation of a Palestinian state and on the permanent participation of the PLO at the United Nations means the world body has been taken hostage by a gang of terrorists and its accomplices. These are the same terrorists who, while the U.N. was voting, were holding a British plane and its passengers hostage in Tunis and who earlier in the same week had murdered and maimed innocent civilians in the Israeli town of Beit Shean.

The Arabs and the Communist bloc are using oil blackmail to force votes against Israel and to exclude the Jewish state from the world community of nations. The U.N. vote, rather than marking a new beginning in the Arab cause, may actually be the beginning of the end for the United Nations. It is a sellout to terrorism and extortion. It will only delay if not prevent the attainment of a just and lasting peace for all the peoples of the Middle East.

Bayard Rustin, executive director of the A. Phillip Randolph Institute, has termed the PLO reception at the United Nations as a "capitulation to terrorism and murder." He went on to observe that:

> The blatant discrimination against Israel (has) seriously marred the credibility of the U.N. and set back the worldwide cause of social justice and democracy.

Mr. Rustin points out that:

> While the black community is not deeply involved in the Middle East crisis, the overwhelming majority of black Americans are deeply outraged by the slaughter of children and innocent civilians during PLO terrorist raids.

I am inserting in the RECORD at this point Mr. Rustin's recent column, written for the black press, about the issues of terrorism and the changes of Israeli "racism."

The column follows:

THE PLO: FREEDOM FIGHTERS OR TERRORISTS

One of the most distressing reflections of the unhappy state of world politics is the ease with which words can be perverted, stripped of significance, and made to mean their opposite.

Acts of murder and terrorism are transformed into gestures of "liberation." Hijacking and the slaughter of innocent children are carried out in the name of "peace." The word "racism," once so meaningful to the oppressed of the world, has lost all objective value as it is as often applied to democratic, interracial societies as to those which practice the most extreme forms of apartheid.

The distortion of language is, however, but a symbol of a fundamental surrendering of political and humanitarian principles, typified most dramatically by the warm reception accorded Mr. Yasir Arafat and the Palestinian Liberation Organization by the United Nations. For Mr. Arafat to have shot his way into the General Assembly with a machine gun, only to be greeted by an overture of applause would have been almost as ridiculous—and deplorable—as the cheers which greeted his tirade of misrepresentation.

What is, after all, the "legitimate struggle" Mr. Arafat and the PLO is conducting. It is a struggle being waged with the tactics of calculated violence, where military targets are avoided, but women, children, athletes, diplomats, airline passengers—the defenseless and uninvolved—are sought and struck down.

By embracing the PLO, the U.N. has given a solemn amen to organized brutality, encouraging along the way no one knows how many other extremist organizations with a grudge against society.

It should be noted that the PLO's terrorism is practiced on dissidents within the Palestinian community as well as on Israelis and their supporters. Mr. Arafat likes to talk of the PLO goal of establishing a "democratic" state, but here again we must distinguish between a word's actual meaning and Mr. Arafat's definition. The PLO is certainly no model of democracy: no one elected Arafat to represent the Palestinians; its authority is guaranteed by the "freedom fighter's gun" to which Mr. Arafat referred at the U.N.

What, then, of the PLO's charge that Israel is a "racist" nation. This accusation has been repeated so often—Arafat made numerous references to Israeli "racism" and "colonialism" in his U.N. address—that it has achieved a measure of acceptance worldwide, and in the American black community.

The question is what do the Arabs mean by "racism?" The standard definition is the systematic oppression of an ethnic or racial minority, very often justified on the grounds that the minority is inherently less intelligent, less clean, less pure or in some way inferior to the majority.

Applying this measurement, it is apparent that some of the most blatantly "racist" regimes are in Arab lands. In Iraq, Jews were hanged in a public square, while today napalm is employed against the dissident Kurdish minority. Syria rivals Nazi Germany in its brutal treatment of its Jewish citizens, who are confined to a cramped quarter of Damascus, prevented from emigrating, and from time to time murdered with official sanction. And in the Sudan, it was non-Moslem blacks who were the target of a genocidal war in which 500,000 were killed and many thousands more forced to flee their homes.

I would not pretend that the racial situation in Israel, where some 400,000 Arabs live as citizens, is perfect. But given the enormous problems confronting her, this small nation has achieved a level of racial tolerance that is indeed remarkable. The Arabs within Israel enjoy rights and a standard of living unknown to the masses in Moslem nations. They participate politically; elect their own representatives to parliament; receive public education; and belong to Histadrut, the Israeli labor federation. They are, in other words, a part of the progressive institutions of Israeli society.

I believe that the Palestinian people have the right to a homeland, to self-determination, to the resolution of their state of uncertainty. The Jewish people, historically an oppressed people, have the same right. And given the rhetoric and actions of the PLO, there can be little doubt that to accede to the demand of a bi-national state would result in the Jews of Israel being dealt with much like the Jews in Iraq and Syria.

In her brief history, Israel has forged at enviable record of social achievement. At a time when so many appear willing to accept lies as the truth, to reach dishonest conciliation with terrorists, to barter away the most basic ideals of justice and compassion, Israel more than ever deserves the support of people of good will and common decency.

OAK RIDGE NATIONAL LABORATORY

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mrs. LLOYD of Tennessee. Mr. Speaker, I have introduced a resolution in the House of Representatives to restore the historic name of the Oak Ridge National Laboratory. My bill proposes that former Congressman Chet Holifield be honored by renaming the Clinch River Liquid Metal Fast Breeder Reactor in Oak Ridge to the Holifield Liquid Metal Fast Breeder Reactor. Such an action properly acknowledges Representative Holifield's contributions to the nuclear energy field and specifically recognizes his interest and support of the fast breeder reactor program.

I share the pride of all Tennesseans in the monumental achievements of the Oak Ridge National Laboratory in the advancement of science and technology. The accomplishments and historic identity of the national laboratory bring prestige to both the State of Tennessee and our great Nation.

Had I been a Member of Congress last year, I would have opposed the renaming of the Oak Ridge National Laboratory. Certainly I would have consulted with officials of the local community and the national laboratory on such an important matter.

Unlike Representative DUNCAN's bill, my resolution respects Congressman Holifield's work in the nuclear energy field. It is a significant tribute to his efforts in providing the United States with the energy to meet our future needs.

I am pleased to announce that Congressmen JOE EVINS, RICHARD FULTON, ED JONES, and HAROLD FORD have all agreed to cosponsor my resolution. I promise to do everything possible to insure the reinstatement of the Oak Ridge National Laboratory's rightful name.

PRESIDENT'S VETO OF AMENDMENT OF THE TENNESSEE VALLEY AUTHORITY ACT

HON. ROBERT E. JONES

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. JONES of Alabama. Mr. Speaker, the House approved by voice vote and sent to the President H.R. 11929 concerning pollution control expenditures by the Tennessee Valley Authority.

President Ford vetoed the measure December 23, 1974, and issued a memorandum of disapproval which indicates a lack of understanding of the legislation and of the nature of the TVA.

An excellent explanation of H.R. 11929, as approved by the House and Senate, has been set forth in a letter to the President by J. Wiley Bowers, executive director of the Tennessee Valley Public Power Association in Chattanooga, Tenn.

Because the misleading comments of the memorandum of disapproval have been printed in the CONGRESSIONAL RECORD, I submit the letter of Mr. Bowers for the attention of my colleagues:

TENNESSEE VALLEY PUBLIC POWER ASSOCIATION,
Chattanooga, Tenn., January 10, 1975.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am writing to express a vigorous protest against your December 23, 1974 veto of H.R. 11929, the so-called TVA pollution credits bill passed by the Congress.

The veto is history. But because your Memorandum of Dissapproval indicated a lack of understanding not only of the Congressionally-approved legislation but also of the purposes and programs of the TVA, I feel compelled to put on paper the views of the Tennessee Valley Public Power Association on this important matter.

The Tennessee Valley Public Association is a regional organization representing the 110 municipal power systems and 50 rural electric cooperatives that purchase their wholesale power supply from TVA. These 160 locally-owned, locally-managed power distribution systems serve more than 6 million Americans living in parts of seven states.

Your veto message, if we interpret it correctly, made two points:

First, TVA power rates are lower than those in some other parts of the Nation, therefore it is unfair to the rest of the Nation to approve H.R. 11929. It is a fact that TVA rates, although they have risen sharply in recent months due primarily to high fuel prices, are still below the national average. However, the difference in electric rates among the regions of the Nation was not a question in this legislation. Electric rates vary significantly even among individual private power companies.

Second, you believe there is a "fundamental principle" that electricity "should be priced to reflect its cost of production, including the cost of pollution abatement and control," and you oppose a departure from this "principle" in the case of the TVA.

Mr. President, you were misled by advisers who told you about a "fundamental principle" that electric power users—not the general taxpayer—pay for all the cost of pollution abatement and control equipment. Current Federal tax laws are based on the assumption that pollution abatement and control are desirable national objectives, and that the general taxpayer should, therefore, share in the cost of such facilities. The fact, thoroughly documented in the Congressional hearings, is that the Nation's private power companies (as well as other industries) obtain massive Federally-approved writeoffs of the cost of pollution abatement and control equipment.

Therefore, the general taxpayers share a large part of the cost of pollution control equipment installed by private power companies in New York City and Chicago and Louisville—the cities cited in your veto memorandum.

Federal income taxes paid by the Nation's private power companies have declined from 12% of gross revenues in 1955 to only 2.2% in 1973. And you have proposed additional Federal benefits to the private power industry, while vetoing the TVA measure.

You recommended raising the investment tax credit from 4% to 10% for private power companies—an increase of 150% in tax benefits; you recommended an extension of the five-year writeoff of pollution control facilities by private power companies; and you recommended continuation and expansion of the use of tax-exempt financing by private firms for pollution control facilities.

In 1973, about one-fourth (49) of the major private power companies paid not one penny in Federal income taxes. Your proposed fresh subsidies might lead to an embarrassing situation—an entire private power industry that paid no Federal income taxes! Because many private power companies are already tax-free, you recommended that the Federal Treasury actually write a Government check to any private power company whose tax credits exceeded its tax liabilities. Thus, some private power companies, under your proposal, not only would not pay Federal income taxes . . . they would, astoundingly, receive a check from the Federal Treasury for an excess of tax subsidies!

To make this point clear, let me quote from an official Administration release of October 8, 1974, a Treasury Department release outlining your program to control inflation. This Administration statement said the investment tax credit for private power companies should be raised from 4% to 10%, and that other changes should be made in the tax laws to improve things for these companies. After all of this, the release said, "any remaining credits will be refunded directly to the taxpayers." This, the Administration statement explained, "will help companies . . . which get no benefit from credit because they have little or no income tax liability against which to apply it."

The general taxpayer today pays a sizeable piece of the bill for pollution abatement and control equipment installed by private power companies. Yet you veto a modest measure designed to prove some measure of assistance to TVA, for a limited five-year period, in financing its heavy, $150-million annual pollution control expenditures on the grounds that there is some "fundamental principle" that the companies and users pay all the costs of pollution control.

The further fact is that any TVA investment in pollution control equipment is the property of the U. S. Government, representing all of the Nation's taxpayers, while the benefits of pollution-related tax breaks to private firms accrue to private stockholders, not to the general taxpayer.

If you and your economic and environmental advisers are strong and unswerving adherents of the "fundamental principle" that the polluter pays, you should vigorously advocate immediate termination of the use of tax-exempt financing by private firms for pollution control investments—a use of public credit for private benefit that is tending to force up the cost of borrowing for legitimate public purposes. If this "fundamental principle" is such a bedrock of Administration policy that it leads to vetoes of any legislation that violates the "principle", you should quickly propose that the Congress repeal the five-year writeoff of pollution control investments permitted to private firms under present Federal law, and other tax laws that permit private firms to share with the taxpayers a large part of the cost of pollution control equipment. You should not allow such flagrant inconsistencies with a "fundamental principle" to stand on the statute books.

It is, of course, totally unwarranted to suggest that there is a "fundamental principle" that the electric rate payer must pay all of the cost of utility pollution abatement equipment, and that the general taxpayer pays none of this cost. It is inaccurate and misleading to state, as you did in your veto message, that "power consumers elsewhere in the Nation . . . are required to bear the costs attributed to pollution control in their power bills."

The facts are that (a) such a "fundamental principle", while it may exist in theory and might well form the basis for national policy, does not in fact exist under present or proposed Federal laws—indeed, it is directly and soundly contradicted by present Federal law; and (b) power consumers elsewhere in the Nation, if served by private power companies, do not bear all of the costs of pollution control equipment, but depend on the general taxpayer to underwrite a major percentage of such costs.

The primary rationale for your veto—that the TVA measure violated the "fundamental principle" that the user should pay for pollution control equipment—is contradicted time and again in the Senate and House hearings, committee reports, and floor debates.

Said Senator Howard Baker in Senate floor debate on November 19, 1974 (page 36438):

"It has been argued that the measure assails the so-called 'polluter pays principle' . . . S. 3057 does not set policy in this area but merely follows the precedent of past congressional action.

"Private industry is afforded various tax relief devices to ameliorate the cost of pollution control equipment. The Tax Reform Act of 1969 specifically provides relief to private industry in the form of accelerated amortization of 'certified pollution control equipment.'"

Said Senator Edmund Muskie in that same Senate debate (page 36440):

"Mr. President, under existing law the consumers of power sold by private electric utilities receive benefits from existing policies. These include Federal tax credits, rapid amortization, and tax exempt bonds as a means of reducing the cost of complying with Federal and State pollution control requirements. None of these privileges are available to the ratepayers in the TVA . . . TVA ratepayers . . . must pay 100 percent of the cost of pollution control. Private electric utility ratepayers at least have the benefit of having part of their pollution control costs borne by the taxpayers of the Nation as a whole."

Said the Senate Public Works Committee report (Report No. 93-1247 of October 8, 1974):

"The increasing capital burdens of environmental programs has in recent years spurred the Federal Government to provide financial aid in various forms to assist in meeting both State and Federal environmental standards. Direct appropriations are provided for Federal installations such as military bases, naval vessels, government buildings, and recreation areas. Federal grants are provided to State and local governments for many pollution control activities."

House Report 91-413 (Ways and Means Committee) for Public Law 91-172, which provided the 5-year writeoff for certain pollution control expenditures by private firms, stated:

"Congress has addressed itself to the air and water pollution problem in legislation which it has passed in recent years . . . In effect, private industry is being asked to make an investment which in part is for the benefit of the general public . . . your committee believes it is appropriate to provide an incentive to private industry for antipollution efforts . . . Accordingly, your committee's bill provides that the costs of new pollution control facilities (which are appropriately certified by the relevant State and Federal authorities) may be amortized over a 5-year period."

The House Public Works Committee report on H.R. 11929 (Report No. 93-891 of March 12, 1974) contained a lengthy section headed "Fostering national objectives through tax credits" (pages 25-29) that carefully and thoroughly details the Federal tax laws that provide for tax writeoffs for investment by private firms in pollution control equipment.

Representative Robert E. Jones, a major sponsor of H.R. 11929, said at House Public Works Committee hearings on February 26, 1974:

"For some consumers of electric power, the Nation at large shares a portion of the cost of pollution control and other investments in new facilities through reductions in tax liabilities on profits . . . To encourage and achieve various nationally desirable objectives, part of the cost of investment in private industry is transferred to the general public through reductions in liabilities for payments to the Treasury. This is not the case for investments by the Tennessee Valley Authority."

I hope this extensive list of statements from members of Congress will make clear the misleading nature of the advise you received from officials in the executive branch.

This legislation represented months of debate, discussion and compromise among informed members of Congress. Distinguished Congressional leaders such as Senator Howard Baker of Tennessee and Representative Robert E. Jones of Alabama, leading members of the Senate and House Public Works Committees from the Tennessee Valley, applied to this legislation their years of experience and their knowledge of the purposes and programs of the Tennessee Valley Authority.

It is extremely unfortunate that your advisers—who seem to lack understanding of TVA, of the electric utility field, or of Federal tax laws—should have recommended that you veto this measure. It is unfortunate that you accepted their advice, against the counsel of influential Congressional leaders. The Tennessee Valley deserves better than this ill-advised veto.

Sincerely,

J. WILEY BOWERS,
Executive Director.

ON THE NEED FOR NEW ILLEGAL ALIEN LEGISLATION—PART II

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. BIAGGI. Mr. Speaker, I have introduced legislation in the 94th Congress designed to control the grave national problem of illegal aliens in this country. I am pleased to report that 22 of my colleagues have joined me as cosponsors of H.R. 257.

In recent months a great deal of coverage has been donated to the illegal alien problem by newspapers, radio, and television stations across the Nation. One of the finest series was done by the Long Island Press in New York, N.Y. In their final article they spell out their views on the types of proposals which need to be enacted if we are to curb the relentless influx of illegal aliens into this country, and return the 1 million jobs which illegal aliens currently hold back to American workers.

At this point in the RECORD I would like to insert the Press' article entitled "Illegal Aliens—Throw Them Out or Let Them Stay?" I hope my colleagues will take the time to read this article and I hope it will generate some additional support for my bill.

The article follows:

ILLEGAL ALIENS—THROW THEM OUT OR LET THEM STAY?

(By Deborah Orin)

Just what can or should be done about illegal aliens?

Here are some frequent proposals, briefly put:

Keep them from getting in.

Throw them all out.

Let at least some of them stay.

All these proposals call for federal legislation, and none of them can be automatically translated from idea to reality simply by passing a law.

About 95 per cent of illegal aliens come into the U.S. on valid tourist or student visas and overstay them, "melting away" into the general population, according to Immigration and Naturalization Service (INS) officials.

Only 5 per cent of them jump ship here or sneak in over the border without papers, they add.

So many have asked why something can't be done to stop the problem at the source, perhaps just not issue so many visas. State Department aides say it isn't that simple.

Before an alien can get a tourist or student visa, C. D. Scully of the State Department's Visa Bureau recently said, the consular officer overseas must be convinced the alien really intends to go home on time. Job and family ties are key factors in that judgment, he said.

"But determining someone else's intentions is probably one of the most difficult tasks that you can perform," Scully added. "It's very difficult to formulate precise guidelines."

Once the alien enters the U.S., he passes from the jurisdiction of the State Department to the INS. Some say there isn't enough coordination between the two.

At a public hearing about the illegal alien problem in the Elmhurst-Jackson Heights-Corona area, William Donnelly of Elmhurst drew applause and laughter when he asked: "Is it fair to say, then, that the left hand doesn't know what the right hand is doing?"

The INS, however, says the problem isn't lack of coordination, but lack of money.

"At the present time, finding (illegal aliens) is not difficult," said Henry Wagner, investigations chief for the INS. "But being able to hold them or deport them is very difficult because we just don't have the funds."

The INS currently has 201 agents in the New York area, Wagner said, with fewer than half assigned to tracking down illegal aliens. (Others are involved in such areas as criminal and narcotics investigations.)

The INS only has facilities to hold 70 illegal aliens overnight, Wagner added, and others must be released for lack of space.

These manpower and space lacks, according to Wagner, are a major reason why the INS now has a backlog of more than 18,000 complaints about illegal aliens, 796 of them received last month alone. In fact, there's such a heavy volume of complaints coming in from the public that if you call the INS and get a recording, the first thing you'll hear is the special number that handles reports about illegal aliens.

"Most complaints from the public are valid," Wagner said. He estimates that about 25 per cent are erroneous, often due to spite or quarrels or people who don't know that Puerto Ricans are American citizens.

Many complaints, Wagner insists, come from Puerto Ricans and other Hispanics who believe they have lost their jobs to illegal aliens willing to work for less.

If money is a big problem, some say, the solution could be more money. A bill currently before Congress would increase INS funds by $50 million so about 2,000 new agents could be hired. U.S. Atty. Gen. William Saxbe has suggested this could lead to deportation of illegal aliens holding one million jobs.

But deportation can be a very slow process, especially if an alien has access to skilled attorneys.

"Some lawyers say immigration law is as complicated as the internal revenue law," said Harold J. Grace of the deportation section. He added that appeals to both the INS and the courts are allowed at several points, and one current deportation proceeding is dragging into its 14th year.

But most deportation proceedings don't last anywhere near that long—most aliens simply can't afford it. Some are deported the same day they're picked up by the INS. An alien who agrees to leave "voluntarily" may be given a month or 60 days to wind up his affairs here.

(An alien who leaves "voluntarily" pays his own fare home; unlike a deported alien, he does not need the specific consent of the U.S. attorney general to return to this country.)

How many actually are deported? In fiscal 1974, a total of 1,234 aliens were deported and 10,037 left "voluntarily," according to Grace. That's a grand total of 11,271—or somewhat less than 1 per cent of the 1.5 million illegal aliens the INS estimates are living in the metropolitan area.

"More money and manpower would help, but they are not the complete answer," said INS investigations chief Wagner. "We've got to impose penalties on employers who hire illegal aliens."

Many other officials agree. Hiring illegal aliens is generally conceded to be a profitable business. The U.S. Labor Department says illegal aliens have a "depressing effect" on wages, since they'll work for low pay, often below the legal minimum, and can't risk complaining about salary or working conditions.

But the greedy, exploitive businessman isn't the only one who hires illegal aliens—they've even been found working in the kitchens at the U.S. Merchant Marine Academy at Kings Point.

To cut the profit out of hiring illegal aliens, Rep. Peter W. Rodino, Jr., New Jersey Democrat, is sponsoring a bill that would slap fines starting at $400 on employers who knowingly hire them.

(The Rodino bill also would rectify some long-standing inequities in the immigration system. Currently, aliens from all over the world except Latin America can apply for resident status while remaining in the U.S. But Latin Americans must go home, and may have to wait as long as two years.)

Rep. Mario Biaggi, Bronx-Queens Democrat, considers the penalties on employers in the Rodino bill just a "slap on the wrist." He's sponsoring a measure that would make it a felony to knowingly hire an illegal alien.

Others object that this approach could discourage employers from hiring anyone who looks "foreign," or speaks with an accent, and thus lead to discrimination.

Another suggested approach focuses on the Social Security card. An illegal alien currently can get a Social Security number even though he can't legally work. So, it is suggested, if proof of legal resident status were required before the card was issued, illegal aliens would find it harder to get jobs.

But others say the "throw them out" attitude goes against America's tradition. They recall that America is a nation of immigrants—as Franklin D. Roosevelt noted when he shocked the Daughters of the American Revolution by starting a speech with the words, "My fellow immigrants."

Immigration quotas are comparatively recent in this country—the first general numerical quotas were set up in 1924. The U.S. tradition of receiving immigrants, combined with the difficulty of finding and throwing out illegal aliens, has sparked support for an "amnesty" approach.

Amnesty proposals vary. Most would set a cut-off date and call for proof of "productive life" or perhaps family ties in the U.S.

The amnesty approach is being explored by a task force on illegal aliens recently set up by Rep. Benjamin Rosenthal, Elmhurst Democrat. The force is expected to make recommendations in about six months, but Rosenthal has emphasized he doesn't expect any quick or easy answers to the complex problem.

One task force member, Victor Mariduena of the United Hispanic-American/Democratic Club of Queens said:

"These people are here. They love this country and love the liberty of American life, and for that reason they make many sacrifices and live in difficult conditions. Is it so terrible to let them share the benefits that we already have?"

OVERHAUL SOCIAL SECURITY

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. RINALDO. Mr. Speaker, there is no assistance program in our Nation more vital, more important and more sacrosanct than our social security system. For hundreds of thousands of the elderly, the income of social security is their only means of survival. They must eke out a living as best they can from the benefits that in many cases are all too meager and insignificant to sustain life.

The glaring need for an overhaul of the social security system was brought home to me once again by an excellent editorial in the Daily Journal of Elizabeth, N.J. The piece accurately points out that those hurting the most from the inadequacies of the system are the poor and the middle class. The current system the editorial says is something akin to a Rube Goldberg invention—a perpetual motion machine.

I would like to commend to my colleagues at this point in the RECORD, the Elizabeth Journal's editorial:

OVERHAUL SOCIAL SECURITY

Higher federal payroll taxes went into effect on Wednesday.

About 19 million more workers will find that their wages up to $14,100 will be taxed at an across-the-board rate of 5.85 per cent.

By not taxing in a graduated manner, with a higher percentage tax for those in the higher income brackets, and by setting a ceiling at $14,100 instead of taxing all gross earnings on the principle of the progressive income tax, the payroll tax's burden falls excessively on the shoulders of the poor and middle class.

In fact, for some low-income wage earners, the payroll tax takes more out of their pay than the federal income tax, and the trend is getting worse. The Social Security tax has more than doubled over the past four years, from $405.60 maximum in 1971 to $824.85 maximum this year.

Meanwhile, many old people try to eke out an existence on Social Security's less than $3,400 annual average benefit to a retired worker and his wife.

The plight of the aged under Social Security is compounded by grossly discriminatory Catch 22 aspects of the program, which, among other things, penalizes people over 65 who want to continue working, cuts benefits to those over 65 whose income is derived from wages but continues them for those whose income is derived from investments, and slices benefits for married couples where both husbands and wives have had careers as wage earners.

Even the new Supplemental Security Income program (SSI) that went into effect last year only guarantees a minimum of $146 a month to an individual and $219 per month to a couple, sums which, during these inflationary times, can scarcely be said to be enough to sustain life.

The Social Security program as presently constituted is probably incapable of raising sufficient funds to pay reasonable amounts to the elderly.

The Social Security Administration will take in an estimated $68.9 billion in taxes and pay $68.7 billion in benefits this year.

The system was designed to work as a kind of perpetual motion machine, with presently employed people financing through their payroll taxes the payments made to the retired and disabled or their dependents.

But, as Rube Goldberg should have taught us, perpetual motion machines don't work, and the Social Security machine, which now pays benefits to about 30 million people and is expected to grow by a third over the next 15 years, may conceivably soon start operating at a deficit as the declining birth rate results in fewer active workers paying payroll taxes in proportion to the aged.

With the Social Security Administration already overseeing a variety of programs, including Medicare and the black lung program, and with a strong likelihood that it may be put in charge of whatever national health insurance program Congress passes, the time is rapidly approaching for major overhauls.

The present system rips off the poor and the middle class coming and going, taxing them inequitably when they are wage earners and providing grossly inadequate and discriminatory benefits when they reach the age of 65.

The payroll tax should be scrapped so that Social Security benefits could be funded adequately through general revenues provided by the federal income tax.

Benefits should be decent enough to provide the above-poverty-level living standard that all of us would wish for our parents, or ourselves, if they or we were old and broke, with built-in incentive for able-bodied senior citizens to work without financial penalty.

As local members of Congress troop back to Washington for the new session, they should be reminded that the problem of the aged should be a legislative priority.

ON THE NEED FOR NEW ILLEGAL ALIEN LEGISLATION—PART I

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 23, 1975

Mr. BIAGGI. Mr. Speaker, without a doubt the problem of illegal aliens now rates as one of this Nation's most serious domestic problems. Presently there are between 7 and 8 million illegal aliens in this Nation, with as many as 1 million of them holding down jobs which rightfully belong to American workers.

I have introduced legislation, H.R. 257, which addresses itself to this aspect of the problem. For the first time, under my bill, it will be an immediate Federal crime for an employer to knowingly hire illegal aliens. Previous legislation in this area merely imposed warnings on employers and allowed them up to 2 years to get rid of any illegal alien employees. We must begin to get tough with employers so as to make it unprofitable for them to continue employing illegal aliens.

In the coming weeks, I will be discussing other aspects of my legislation. At this point in the RECORD I wish to insert a copy of a New York Times editorial written by William V. Shannon entitled "The Illegal Immigrants." I hope my colleagues will study his recommendations closely and will then join me in cosponsoring H.R. 257.

The article follows:

[From the New York Times, Jan. 14, 1975]

THE ILLEGAL IMMIGRANTS

(By William V. Shannon)

Immigration officials estimate that there are six to seven million aliens in this country who entered unlawfully, including 1.3 million in the metropolitan area. Stated differently, those who have come illegally equal the total of all those who have entered legally over the last 25 years. Lawless entry of this magnitude mocks the nation's immigration law and makes reform imperative.

Most of these illegal immigrants come from Mexico, the Caribbean and Latin America. Others come from a few Asian countries, notably Taiwan, Hong Kong and the Philippines. The motive for emigration is predominantly economic. The United States with its high standard of living is an irresistible magnet for aspiring persons in these poor, overcrowded countries.

Since the incentive is economic, the most effective penalty also has to be economic. Congress ought to impose stiff civil penalties on any employer who employs an illegal alien. Since criminal punishments are rarely imposed for violations of this kind, there is no point in writing criminal penalties into the law. Once employers decide it is too risky and expensive to hire such persons, the word will soon get around the grapevine in communities where aliens live. The flow of illegal entrants can then be expected to diminish correspondingly.

The House of Representatives has twice passed bills to impose such penalties in recent years but the Senate has refused to act. The Senate's failure to respond is due to widespread ignorance about the magnitude of the problem. Another factor is the interest of Senator James O. Eastland, Mississippi Democrat and immigration subcommittee chairman, in making it easy for plantation owners to get cheap foreign labor.

The A.F.L.-C.I.O. has unwittingly contributed to the legislative stalemate by its insistent devotion to the labor certification system unwisely written into the 1965 immigration law. Under this system, jobs are divided into seven categories from professional through skilled and semiskilled to common labor. If the labor market in the community where a would-be immigrant has been promised a job has a surplus of native workers in that category, the would-be immigrant is automatically denied certification by the Department of Labor and denied entry into this country.

The A.F.L.-C.I.O. clings to the illusion that it is protecting the jobs of American workers by this cumbersome, restrictive procedure. All that it actually accomplishes—aside from the multiplication of useless bureaucratic paper-shuffling—is to shut off immigration from Western Europe where would-be immigrants have other alternatives and to discourage law-abiding potential immigrants in every country. Meanwhile, those who live in desperately poor Latin-American countries and who are willing to sneer at the law simply ignore the whole labor certification requirement. They come as tourists and stay to work.

When it reforms the immigration law, Congress would do well to junk the labor certification system. Legal immigrants ought to be issued visas on a first-applied, first-admitted basis with no preferences except for close relatives of American citizens.

Unfortunately, the question of reforming the immigration law has become confused by the separate issue of amnesty for those illegal aliens already here. It will be time enough to provide blanket forgiveness for illegal aliens long resident in this country once the incoming flow of illegal immigrants is drastically reduced.

Such a reduction cannot occur until employers are financially penalized for helping to break the law, until admission procedures for legal entrants are placed on a rational, simplified basis, and until enforcement staffs are greatly strengthened.